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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

NINTH CONGRESS.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

NINTH CONGRESS.

COMPRISING THE PERIOD FROM DECEMBER 2, 1805, TO MARCH 3, 1807, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

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1852.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE NINTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 2, 1805.

MONDAY, December 2, 1805.

The first session of the Ninth Congress, conformably to the Constitution of the United States, commenced this day, at the City of Washington, and the Senate assembled.

PRESENT:

WILLIAM PLUMER and NICHOLAS GILMAN, from New Hampshire.

JOHN QUINCY ADAMS and TIMOTHY PICKERING, from Massachusetts.

JAMES HILLHOUSE, and URIAH TRACY, from Connecticut.

JAMES FENNER, from Rhode Island.

STEPHEN R. BRADLEY and ISRAEL SMITH, from Vermont.

SAMUEL L. MITCHILL, from New York.

JOHN CONDIT and AARON KITCHEL, from New Jersey.

GEORGE LOGAN and SAMUEL MACLAY, from Pennsylvania.

SAMUEL WHITE, from Delaware.

SAMUEL SMITH, from Maryland.

DAVID STONE, from North Carolina.

THOMAS SUMTER and JOHN GAILLARD, from South Carolina.

ABRAHAM BALDWIN, from Georgia.

DAVID SMITH, from Tennessee.

THOMAS WORTHINGTON, from Ohio.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tem.*, as the Constitution provides, and the honorable SAMUEL SMITH was appointed.

The credentials of the following Senators were read, viz:

Of ABRAHAM BALDWIN, appointed a Senator by the Legislature of the State of Georgia, for the term of six years, from the 3d day of March last; of JAMES A. BAYARD, appointed a Senator by the Legislature of the State of Delaware, for the term of six years, from the 3d day of March last; of JAMES FENNER, appointed a Senator by the Legislature of the State of Rhode Island, for the term of six years, from the 3d day of March last; of NICHOLAS GILMAN, appointed a Senator by the Legislature of the State of New Hampshire, for the term of six years, from the 3d day of March last; of AARON KITCHEL, appointed a Senator by the Legislature of the State of New Jersey, to serve during the term limited by the Constitution; of TIMOTHY PICKERING, appointed a Senator by the Legislature of the State of Massachusetts, for the term of six years, to commence on the 4th day of March last; of DANIEL SMITH, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, from the 3d of March last; and of BUCKNER THRUSTON, appointed a Senator by the Legislature of the State of Kentucky.

The oath was administered by the President to the following Senators, as the law prescribes: Mr. BALDWIN, Mr. FENNER, Mr. GILMAN, Mr. KITCHEL, Mr. PICKERING, and Mr. SMITH, of Tennessee; also, to Mr. SUMTER, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the 4th day of March last.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the Vice President, they have elected the honorable SAMUEL SMITH President of the Senate *pro tempore*.

Ordered, That the Secretary make a like communication to the House of Representatives.

Ordered, That Messrs. SUMTER and MITCHILL be a committee, on the part of the Senate, with such committee as the House of Representatives may appoint on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled, and ready to receive any communication that he may be pleased to make to them.

Resolved, That each Senator be supplied during the present session with three such newspapers, printed in any of the States, as he may choose, provided that the same be furnished at the usual rate for the annual charge of such papers.

Resolved, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight

dollars be allowed him weekly for that purpose during the session, and for twenty days after.

Resolved, That two Chaplains, of different denominations, be appointed to Congress, for the present session, one by each House, who shall interchange weekly.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

TUESDAY, December 3.

JOSEPH ANDERSON, from the State of Tennessee; BUCKNER THRUSTON, from the State of Kentucky; and ROBERT WRIGHT, from the State of Maryland, attended.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have appointed NATHANIEL MACON, Esq., one of the Representatives for North Carolina, their Speaker, and are ready to proceed to business. The House of Representatives have appointed a committee on their part, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them. The House of Representatives agree to the resolution of the Senate for the appointment of two Chaplains.

Mr. SUMTER reported, from the committee appointed yesterday to wait on the President of the United States, that they had performed the service, and that the President of the United States informed the committee that he would make his communications to the two Houses at twelve o'clock this day.

The oath prescribed by law was administered to Mr. THRUSTON.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States of America:

At a moment when the nations of Europe are in commotion, and arming against each other, and when those with whom we have principal intercourse are engaged in the general contest, and when the countenance of some of them towards our peaceable country threatens that even that may not be unaffected by what is passing on the general theatre, a meeting of the Representatives of the nation in both Houses of Congress has become more than usually desirable. Coming from every section of our country they bring with them the sentiments and the information of the whole, and will be enabled to give a direction to the public affairs, which the will and the wisdom of the whole will approve and support.

In taking a view of the state of our country, we, in the first place, notice the late affliction of two of our cities under the fatal fever which, in latter times, has occasionally visited our shores. Providence, in his goodness, gave it an early termination on this occasion, and lessened the number of victims which have usually fallen before it. In the course of the several visitations by this disease, it has appeared that it is strictly local, incident to cities and on the tide waters only, incommunicable in the country, either by persons under the disease, or by goods carried from diseased places; that its access is with the autumn, and it disappears with the early frosts. These restrictions, within narrow limits of time and space, give security even to our maritime cities during three-fourths of the year, and to the country always. Although from these facts it appears unnecessary, yet to satisfy the fears of foreign nations, and cautions on their part, not to be complained of in a danger whose limits are yet unknown to them, I have strictly enjoined on the officers at the head of the customs to certify, with exact truth, for every vessel sailing for a foreign port, the state of health respecting this fever which prevails at the place from which she sails. Under every motive from character and duty to certify the truth, I have no doubt they have faithfully executed this injunction. Much real injury has, however, been sustained from a propensity to identify with this endemic, and to call by the same name, fevers of very different kinds, which have been known at all times and in all countries, and never have been placed among those deemed contagious. As we advance in our knowledge of this disease, as facts develop the source from which individuals receive it, the State authorities charged with the care of the public health, and Congress with that of the general commerce, will become able to regulate with effect their respective functions in these departments. The burden of quarantines is felt at home as well as abroad; their efficacy merits examination. Although the health laws of the States should be found to need no present revisal by Congress, yet commerce claims that their attention be ever awake to them.

Since our last meeting the aspect of our foreign relations has considerably changed. Our coasts have been infested, and our harbors watched, by private armed vessels, some of them without commissions, some with illegal commissions, others with those of legal form, but committing piratical acts beyond the authority of their commissions. They have captured, in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off under pretence of legal adjudication; but, not daring to approach a court of justice, they have plundered and sunk them by the way, or in obscure places, where no evidence could arise against them; maltreated the crews, and abandoned them in boats in the open sea, or on desert shores, without food or covering. These enormities appearing to be unreached by any control of their Sovereigns, I found it necessary to equip a force to cruise within our own seas, to arrest all vessels of these descriptions found hovering on our coasts, within the limits of the Gulf Stream, and to bring the offenders in for trial as pirates.

The same system of hovering on our coasts and harbors, under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce. New principles, too, have been interpolated into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to itself a commerce with its own enemy which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and the neutral, having equal right with the belligerent to decide the question, the interests of our constituents, and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations. Indeed, the confidence we ought to have in the justice of others still countenances the hope that a sounder view of those rights will, of itself, induce from every belligerent a more correct observance of them.

With Spain, our negotiations for a settlement of differences have not had a satisfactory issue. Spoliations during a former war, for which she had formally acknowledged herself responsible, have been refused to be compensated but on conditions affecting other claims in nowise connected with them. Yet the same practices are renewed in the present war, and are already of great amount. On the Mobile, our commerce passing through that river continues to be obstructed by arbitrary duties and vexatious searches. Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. While, however, the right is unsettled, we have avoided changing the state of things by taking new posts, or strengthening ourselves in the disputed territories, in the hope that the other Power would not, by a contrary conduct, oblige us to meet their example, and endanger conflicts of authority the issue of which may not be easily controlled. But in this hope we have now reason to lessen our confidence. Inroads have been recently made into the territories of Orleans and Mississippi, our citizens have been seized and their property plundered in the very parts of the former which had been actually delivered up by Spain, and this by the regular officers and soldiers of that Government. I have, therefore, found it necessary, at length, to give orders to our troops on that frontier to be in readiness to protect our citizens, and to repel by arms any similar aggressions in future. Other details, necessary for your full information of the state of things between this country and that, shall be the subject of another communication. In reviewing these injuries from some of the belligerent Powers, the moderation, the firmness, and the wisdom, of the Legislature will all be called into action. We ought still to hope that time and a more correct estimate of interest, as well as of character, will produce the justice we are bound to expect. But should any nation deceive itself by false calculations, and disappoint that expectation, we must join in the unprofitable contest of trying which party can do the other the most harm. Some of these injuries may, perhaps, admit a peaceable remedy. Where that is competent it is always the most desirable. But some of them are of a nature to be met by force only, and all of them may lead to it. I cannot, therefore, but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. Measures have already been taken for furnishing them with heavy cannon for the service of such land batteries as may make a part of their defence against armed vessels approaching them. In aid of these, it is desirable we should have a competent number of gunboats, and the number to be competent must be considerable. If immediately begun, they may be in readiness for service at the opening of the next season. Whether it will be necessary to augment our land forces will be decided by occurrences probably in the course of your session. In the mean time, you will consider whether it would not be expedient, for a state of peace as well as of war, so to organize or class the militia as would enable us, on any sudden emergency, to call for the services of the younger portions, unencumbered with the old and those having families. Upwards of three hundred thousand able bodied men, between the ages of eighteen and twenty-six years, which the last census shows we may now count within our limits, will furnish a competent number for offence or defence, in any point where they may be wanted, and will give time for raising regular forces after the necessity of them shall become certain; and the reducing to the early period of life all its active service cannot but be desirable to our younger citizens, of the present as well as future times, inasmuch as it engages to them in more advanced age a quiet and undisturbed repose in the bosom of their families. I cannot, then, but earnestly recommend to your early consideration the expediency of so modifying our militia system as, by a separation of the more active part from that which is less so, we may draw from it, when necessary, an efficient corps, fit for real and active service, and to be called to it in regular rotation.

Considerable provision has been made, under former authorities from Congress, of materials for the construction of ships of war of seventy-four guns. These materials are on hand, subject to the further will of the Legislature.

An immediate prohibition of the exportation of ammunition is also submitted to your determination.

Turning from these unpleasant views of violence and wrong, I congratulate you on the liberation of our fellow-citizens who were stranded on the coast of Tripoli and made prisoners of war. In a Government bottomed on the will of all, the life and liberty of every individual citizen become interesting to all. In the treaty, therefore, which has concluded our warfare with that State, an article for the ransom of our citizens has been agreed to. An operation by land, by a small band of our countrymen, and others engaged for the occasion, in conjunction with the troops of the ex-bashaw of that country, gallantly conducted by our late Consul Eaton, and their successful enterprise on the city of Derne, contributed, doubtless, to the impression which produced peace; and the conclusion of this, prevented opportunities of which the officers and men of our squadron, destined for Tripoli, would have availed themselves to emulate the acts of valor exhibited by their brethren in the attack of the last year. Reflecting with high satisfaction on the distinguished bravery displayed, whenever occasions permitted, in the late Mediterranean service, I think it would be an useful encouragement as well as a just reward, to make an opening for some present promotion, by enlarging our peace establishment of captains and lieutenants.

With Tunis some misunderstandings have arisen, not yet sufficiently explained, but friendly discussions with their Ambassador, recently arrived, and a mutual disposition to do whatever is just and reasonable, cannot fail of dissipating these. So that we may consider our peace on that coast, generally, to be on as sound a footing as it has been at any preceding time. Still it will not be expedient to withdraw, immediately, the whole of our force from that sea.

The law providing for a Naval Peace Establishment fixes the number of frigates which shall be kept in constant service in time of peace, and prescribes that they shall be manned by not more than two-thirds of their complement of seamen and ordinary seamen. Whether a frigate may be trusted to two-thirds only of her proper complement of men, must depend on the nature of the service on which she is ordered. That may sometimes for her safety, as well as to insure her

object, require her fullest complement. In adverting to this subject, Congress will, perhaps, consider whether the best limitation on the Executive discretion in this case, would not be by the number of seamen which may be employed in the whole service, rather than by the number of vessels. Occasions oftener arise for the employment of small than of large vessels, and it would lessen risk as well as expense, to be authorized to employ them of preference. The limitation suggested by the number of seamen would admit a selection of vessels best adapted to the service.

Our Indian neighbors are advancing, many of them, with spirit, and others beginning to engage in the pursuits of agriculture and household manufacture. They are becoming sensible that the earth yields subsistence with less labor and more certainty, than the forest, and find it their interest, from time to time, to dispose of parts of their surplus and waste lands for the means of improving those they occupy, and of subsisting their families while they are preparing their farms. Since your last session, the northern tribes have sold to us the lands between the Connecticut Reserve and the former Indian boundary, and those on the Ohio, from the same boundary to the Rapids, and for a considerable depth inland. The Chickasaws and Cherokees have sold us the country between and adjacent to the two districts of Tennessee, and the Creeks the residue of their lands in the fork of Ocmulgee, up to the Ulcofauhatche. The three former purchases are important, inasmuch as they consolidate disjoined parts of our settled country, and render their intercourse secure; and the second particularly so, as, with the small point on the river, which we expect is by this time ceded by the Piankeshaws, it completes our possession of the whole of both banks of the Ohio, from its source to near its mouth, and the navigation of that river is thereby rendered forever safe to our citizens settled and settling on its extensive waters. The purchase from the Creeks too has been for some time particularly interesting to the State of Georgia.

The several treaties which have been mentioned will be submitted to both Houses of Congress for the exercise of their respective functions.

Deputations, now on their way to the seat of Government, from various nations of Indians inhabiting the Missouri and other parts beyond the Mississippi, come charged with assurances of their satisfaction with the new relations in which they are placed with us, of their dispositions to cultivate our peace and friendship, and their desire to enter into commercial intercourse with us. A state of our progress in exploring the principal rivers of that country, and of the information respecting them hitherto obtained, will be communicated so soon as we shall receive some further relations which we have reason shortly to expect.

The receipts at the Treasury during the year ending on the 30th day of September last, have exceeded the sum of thirteen millions of dollars, which, with not quite five millions in the Treasury at the beginning of the year, have enabled us, after meeting other demands, to pay nearly two millions of the debt contracted under the British treaty and convention, upwards of four millions of principal of the public debt, and four millions of interest. These payments, with those which had been made in three years and an half preceding, have extinguished of the funded debt nearly eighteen millions of principal.

Congress, by their act of November 10, 1803, authorized us to borrow $1,750,000, towards meeting the claims of our citizens, assumed by the convention with France. We have not, however, made use of this authority; because, the sum of four millions and an half, which remained in the Treasury on the same 30th day of September last, with the receipts which we may calculate on for the ensuing year, besides paying the annual sum of eight millions of dollars, appropriated to the funded debt, and meeting all the current demands which may be expected, will enable us to pay the whole sum of three millions seven hundred and fifty thousand dollars, assumed by the French convention, and still leave us a surplus of nearly a million of dollars at our free disposal. Should you concur in the provisions of arms and armed vessels, recommended by the circumstances of the times, this surplus will furnish the means of doing so.

On the first occasion of addressing Congress, since, by the choice of my constituents, I have entered on a second term of administration, I embrace the opportunity to give this public assurance, that I will exert my best endeavors to administer faithfully the Executive Department, and will zealously co-operate with you in every measure which may tend to secure the liberty, property, and personal safety, of our fellow-citizens, and to consolidate the republican forms and principles of our Government.

In the course of your session, you shall receive all the aid which I can give, for the despatch of public business, and all the information necessary for your deliberations, of which the interests of our own country, and the confidence reposed in us by others, will admit a communication. TH. JEFFERSON.

DECEMBER 3, 1805.

The Message was read and three hundred copies thereof ordered to be printed for the use of the Senate.

WEDNESDAY, December 4.

On motion that it be

Resolved, That a committee be appointed to examine the act, entitled "An act, to enable the people of the eastern division of the Territory Northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes;" and that they have leave to report, by bill or otherwise, the manner, in their opinion, the money appropriated by the said act, ought to be applied:

It was agreed that this motion lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an additional appropriation for the Naval service, during the year one thousand eight hundred and five," in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The Senate proceeded to the election of a Chaplain, on their part, in pursuance of the resolution of the two Houses, and the ballots being collected, were, for Doctor GANTT, 15; Bishop CLAGGETT, 5; Mr. McCORMICK, 2. So the Reverend Doctor GANTT was elected a Chaplain to Congress, on the part of the Senate, during the present session.

TUESDAY, December 5.

BENJAMIN HOWLAND, from the State of Rhode Island, attended.

The bill, entitled "An act making an additional appropriation for the Naval service during the year one thousand eight hundred and five," was read the second time and referred to Messrs. MITCHILL, BRADLEY, and SUMTER, to consider and report thereon.

The following motion was submitted for consideration:

Resolved, That a committee be appointed to inquire into the expediency of appropriating a further sum of money to purchase maps and books for the library.

The Senate took into consideration the motion made yesterday for the appointment of a committee to examine the "Act to enable the people of the eastern division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes;" and Messrs TRACY, ANDERSON, WORTHINGTON, ADAMS, and WRIGHT, were apponted the committee.

Mr. MITCHILL, from the committee to whom was referred this day the bill, entitled "An act making an additional appropriation for the Naval service during the year one thousand eight hundred and five," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Resolved, That the Secretary of the Navy be requested to lay before the Senate the reasons why an additional appropriation is requisite for the Naval service for the current year.

FRIDAY, December 6.

The Senate took into consideration the motion made yesterday for the appointment of a committee to inquire into the expediency of appropriating a further sum of money to purchase maps and books for the Library; and, having agreed thereto, Messrs. MITCHILL, BALDWIN, and TRACY, were appointed the committee.

Resolved, That the committee appointed to inquire into the expediency of purchasing maps and books for the Library, be, and they are hereby, instructed to report what disposition, in their opinion, ought to be made of the one thousand volumes of laws ordered by law to be reserved for the disposal of Congress.

The PRESIDENT laid before the Senate a letter from the Secretary of the Navy, enclosing a report made in pursuance of the resolution of the Senate of yesterday.

The letter and report were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have appointed the Reverend Mr. GLENDIE, a Chaplain to Congress on their part during the present session.

The bill, entitled "An act making an additional appropriation for the Naval service during the year one thousand eight hundred and five," was read the third time and passed.

MONDAY, December 9.

JAMES JACKSON, from the State of Georgia, attended.

JOHN ADAIR, appointed a Senator by the Legislature of the State of Kentucky, in place of JOHN BRECKENRIDGE, Esq., resigned, produced his credentials, which were read; and the oath prescribed by law having been administered, he took his seat in the Senate.

A confidential Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

The depredations which have been committed on the commerce of the United States during a preceding war, by persons under the authority of Spain, are sufficiently known to all. These made it a duty to require from that Government indemnifications for our injured citizens; a convention was accordingly entered into between the Minister of the United States at Madrid, and the Minister of that Government for Foreign Affairs, by which it was agreed that spoliations committed by Spanish subjects, and carried into ports of Spain, should be paid for by that nation; and that those committed by French subjects, and carried into Spanish ports, should remain for further discussion. Before this convention was returned to Spain with our ratification, the transfer of Louisiana by France to the United States took place; an event as unexpected as disagreeable to Spain. From that moment she seemed to change her conduct and dispositions toward us. It was first manifested by her protest against the right of France to alienate Louisiana to us; which, however, was soon retracted, and the right confirmed: then high offence was manifested at the act of Congress establishing a collection district on the Mobile, although, by an authentic declaration, immediately made, it was expressly confined to our acknowledged limits; and she now refused to ratify the convention signed by her own Minister, under the eye of his Sovereign, unless we would consent to alterations of its terms, which would have affected our claims against her for the spoliations by French subjects carried into Spanish ports.

To obtain justice, as well as to restore friendship, I thought a special mission advisable; and accordingly appointed James Monroe, Minister Extraordinary and Plenipotentiary, to repair to Madrid, and, in conjunction with our Minister resident there, to endeavor to procure a ratification of the former convention, and to come to an understanding with Spain as to the boundaries of Louisiana. It appeared at once that her policy was to reserve herself for events, and, in the meantime, to keep our differences in an undetermined state. This will be evident from the papers now communicated to you. After nearly five months of fruitless endeavor to bring them to some definite and satisfactory result, our Ministers ended the conferences, without having been able to obtain indemnity for spoliations of any description, or any satisfaction as to the boundaries of Louisiana, other than a declaration that we had no rights eastward of the Iberville, and that our line to the west, was one which would have left us but a string of land on that bank of the river Mississippi. Our injured citizens were thus left without any prospect of retribution from the wrong-doer; and, as to boundary, each party was to take its own course. That which they have chosen to pursue, will appear from the documents now communicated. They authorize

the inference that it is their intention to advance on our possessions, until they shall be repressed by an opposing force. Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the aggressions, to protect our citizens from violence, to patrol within the borders actually delivered to us, and not to go out of them, but, when necessary, to repel an inroad, or to rescue a citizen or his property; and the Spanish officers remaining at New Orleans are required to depart without further delay. It ought to be noted here, that since the late change in the state of affairs in Europe, Spain has ordered her cruisers and courts to respect our treaty with her.

The conduct of France, and the part she may take in the misunderstandings between the United States and Spain, are too important to be unconsidered. She was prompt and decided in her declarations, that our demands on Spain for French spoliations carried into Spanish ports were included in the settlement between the United States and France: she took at once the ground that she had acquired no right from Spain, and had meant to deliver us none, eastward of the Iberville. Her silence as to the western boundary, leaving us to infer her opinion might be against Spain in that quarter. Whatever direction she might mean to give to these differences, it does not appear that she has contemplated their proceeding to actual rupture, or that, at the date of our last advices from Paris, her Government had any suspicion of the hostile attitude Spain had taken here; on the contrary, we have reason to believe that she was disposed to effect a settlement on a plan analogous to what our Ministers had proposed, and so comprehensive as to remove, as far as possible, the grounds of future collision and controversy on the eastern as well as western side of the Mississippi.

The present crisis in Europe is favorable for pressing such a settlement, and not a moment should be lost in availing ourselves of it. Should it pass unimproved, our situation would become much more difficult. Formal war is not necessary—it is not probable it will follow; but the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It will probably contribute to advance the object of peace.

But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny. To them I communicate every fact material for their information, and the documents necessary to enable them to judge for themselves. To their wisdom, then, I look for the course I am to pursue; and will pursue, with sincere zeal, that which they shall approve.

TH. JEFFERSON.

DECEMBER 6, 1805.

The Message was read, and ordered to lie for consideration.

The PRESIDENT laid before the Senate a letter from the Secretary of the Treasury, enclosing the annual report prepared in obedience to the act, entitled "An act to establish the Treasury Department."

The report was read, and ordered to lie for consideration.

And on motion, the House adjourned.

TUESDAY, December 10.

ANDREW MOORE, from the State of Virginia, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The enclosed documents relating to my Message of the 6th instant, not being ready at that date, I thought it better not to detain the Message, but to communicate these papers afterward as supplementary to those then sent. They are not of a nature to be deemed confidential.

TH. JEFFERSON.

DECEMBER 10, 1805.

The Message and documents were read, and ordered to lie for consideration.

WEDNESDAY, December 11.

The Senate spent the day in the consideration of Executive business.

THURSDAY, December 12.

Mr. BRADLEY gave notice that he should, on Monday next, move for leave to bring in a bill to prohibit the importation of certain persons therein described, into any port or place within the jurisdiction of the United States, from and after the first day of January, which will be in the year of our Lord 1808.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act prohibiting for a limited time the exportation of arms and ammunition from the United States and the Territories thereof," in which they desire the concurrence of the Senate.

The bill mentioned in the message was read, and ordered to a second reading.

FRIDAY, December 13.

The bill, entitled "An act prohibiting for a limited time the exportation of arms and ammunition from the United States and the Territories thereof," was read the second time, and referred to Messrs. BRADLEY, BALDWIN, and JACKSON, to consider and report thereon.

MONDAY, December 16.

GEORGE CLINTON, Vice President of the United States and President of the Senate, attended.

JOHN SMITH, from the State of Ohio, also attended.

A message from the House of Representatives informed the Senate that the House have appointed the Rev. Mr. LAURIE, Chaplain to Congress, on their part, during the present session, in place of the Rev. Mr. GLENDIE, who has declined his appointment.

Agreeably to notice given, on the 12th instant, Mr. BRADLEY asked leave to bring in a bill to prohibit the importation of slaves into any port or

place within the jurisdiction of the United States, from and after the first day of January, 1808.

TUESDAY, December 17.

The Senate resumed the motion made yesterday, for leave to bring in a bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808; and, after debate, the previous question was moved for, to wit: Shall the main question be now put? And the yeas and nays being required by one-fifth of the Senators present, on th previous question, it passed in the affirmative—yeas 16, nays 11, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Fenner, Howland, Kitchel, Logan, Maclay, Mitchill, Plumer, Smith of Maryland, Smith of Tennessee, Smith of Vermont, Stone, Thruston, and Worthington.

NAYS—Messrs. Adair, Adams, Baldwin, Gaillard, Gilman, Jackson, Moore, Pickering, Sumter, Tracy, and Wright.

And the yeas and nays being required, on the main question, by one-fifth of the Senators present, it passed in the affirmative—yeas 18, nays 9, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Fenner, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Plumer, Smith of Maryland, Smith of Tennessee, Smith of Vermont, Stone, Thruston, Worthington, and Wright.

NAYS—Messrs. Adair, Adams, Baldwin, Gaillard, Jackson, Moore, Pickering, Sumter, and Tracy.

So leave was given to bring in the bill, and it was read the first time.

WEDNESDAY, December 18.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Theodorick Armistead," in which they ask the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. LOGAN gave notice that he should to-morrow ask leave to bring in a bill to suspend the commercial intercourse between the United States of America and the French Island of St. Domingo.

On motion, the bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, was read the second time, and the further consideration of the bill was postponed to the first Monday in December next.

THURSDAY, December 19.

The bill, entitled "An act for the relief of Theodorick Armistead," was read the second time, and referred to Messrs. TRACY, BALDWIN, and ANDERSON, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war;" also a bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read and ordered to the second reading.

PROCEEDS OF PUBLIC LANDS.

Mr. TRACY, from the committee to whom was referred the examination of the act, entitled "An act to enable the people of the eastern division of the Territory Northwest of the river Ohio, to form a constitution and State government; and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes;" and to report the manner, in their opinion, the money appropriated by said act ought to be applied, made the following report, which was ordered to lie for consideration:

That, upon examination of the act aforesaid, they find the one-twentieth part of five per cent. of the net proceeds of the lands lying within the State of Ohio, and sold by Congress from and after the 30th day of June, 1802, is appropriated for the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the river Ohio, to said State, and through the same: such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass.

They find that, by a subsequent law passed on the 3d day of March, 1803, Congress appropriated three per cent. of the said five per cent. to laying out and making roads within the State of Ohio, leaving two per cent. of the appropriation contained in the first-mentioned law, unexpended; which now remains for "the laying out and making roads from the navigable waters emptying into the Atlantic, to the river Ohio, to said State."

They find that the net proceeds of sales of land in the State of Ohio, from July 1, 1802, to June 30, 1803, both inclusive, was - - - - - $124,400 92
From 1st July, 1803, to June 30, 1804 - 176,203 35
From 1st July, 1804, to June 30, 1805 - 266,000 00
From 1st July, 1805, to September 30, 1805 - - - - - - - 66,000 00

Amounting in the whole, to - $632,604 27

Two per cent. on which sum amounts to $12,652.

Twelve thousand six hundred and fifty-two dollars were, therefore, on the first day of October last, subject to the uses directed by law, as mentioned in this report—and it will be discerned that the fund is constantly accumulating, and will, probably, by the time regular preparations can be made for its expenditure, amount to eighteen or twenty thousand dollars.

The committee have examined, as far as their limited time, and the scanty sources of facts within their reach would permit, the various routes which have been contemplated for laying out roads pursuant to the provisions of the act first mentioned in this report.

They find that the distance from Philadelphia to Pittsburg is three hundred and fourteen miles by the usual route, and on a straight line about two hundred and seventy.

From Philadelphia to the nearest point on the river Ohio, contiguous to the State of Ohio, which is probably between Steubenville and the mouth of Grave creek, the distance by the usual route is three hundred and sixty miles, and on a straight line, about three hundred and eight.

From Baltimore to the river Ohio, between the same points, and by the usual routes, is two hundred and seventy-five miles, and on a straight line, two hundred and twenty-four.

From this city, (Washington,) to the same points on the river Ohio, the distance is nearly the same as from Baltimore; probably the difference is not a plurality of miles.

From Richmond, in Virginia, to the nearest point on the river Ohio, the distance by the usual route is three hundred and seventy-seven miles; but new roads are opening which will shorten the distance fifty or sixty miles—two hundred and forty-seven miles of the contemplated road, from Richmond northwesterly, will be as good as the roads usually are in that country, but the remaining seventy or eighty miles are bad, for the present, and probably will remain so for a length of time, as there seems to be no existing inducement for the State of Virginia to incur the expense of making that part of the road passable.

From Baltimore to the Monongahela river, where the route from Baltimore to the Ohio river will intersect it, the distance, as usually travelled, is two hundred and eighteen miles, and on a straight line about one hundred and eighty-four. From this point, which is at or near Brownsville, boats can pass down with great facility to the State of Ohio, during a number of months in every year.

The above distances are not all stated from actual mensuration, but it is believed they are sufficiently correct for the present purpose.

The committee have not examined any routes northward of that leading from Philadelphia to the river Ohio, nor southward of that leading from Richmond, because they suppose the roads to be laid out must strike the river Ohio on some point contiguous to the State of Ohio, in order to satisfy the words of the law making the appropriation; the words are, "leading from the navigable waters emptying into the Atlantic, to the river Ohio, to the said State, and through the same."

The mercantile intercourse of the citizens of Ohio, with those of the Atlantic States, is chiefly in Philadelphia and Baltimore; not very extensive in the towns on the Potomac within the District of Columbia; and still less, with Richmond, in Virginia. At present, the greatest portion of their trade is with Philadelphia; but it is believed their trade is rapidly increasing with Baltimore, owing to the difference of distance in favor of Baltimore, and to the advantage of boating down the Monongahela river, from the point where the road strikes it, about seventy miles by water, and fifty by land, above Pittsburg.

The sum appropriated for laying out and making roads is so small, that the committee have thought it most expedient to direct an expenditure to one route only; they have therefore endeavored to fix on that which, for the present, will be most accommodating to the citizens of the State of Ohio, leaving to the future benevolence and policy of Congress, an extension of their operations on this or other routes, and an increase of the requisite fund, as the discoveries of experience may point out their expediency and necessity. The committee being fully convinced that a wise Government can never lose sight of an object so important as that of connecting a numerous and rapidly increasing population, spread upon a fertile and extensive country, with the Atlantic States, now separated from them by mountains, which, by industry and an expense moderate in comparison with the advantages, can be rendered passable.

The route from Richmond must necessarily approach the State of Ohio, in a part thinly inhabited; and which, from the nature of the soil, and other circumstances, must remain so, at least for a considerable time; and from the hilly and rough condition of the country, no roads are, or can can be, conveniently made leading to the principal population of the State of Ohio. These considerations have induced the committee to postpone, for the present, any further consideration of that route.

The spirit and perseverance of Pennsylvania are such, in the article of road-making, that no doubt can remain but they will, in a little time, complete a road from Philadelphia to Pittsburg, as good as the nature of the ground will permit. They are so particularly interested to facilitate the intercourse between their trading capital, Philadelphia, not only to Pittsburg, but also to the extensive country, within that State, on the Western waters, that they will of course surmount the difficulties presented by the Alleghany mountain, Chesnut Ridge, and Laurel Hill, the three great and almost exclusive impediments, which now exist on that route.

The State of Maryland, with no less spirit and perseverance, are engaged in making roads from Baltimore, and from the western boundary of the District of Columbia, through Fredericktown to Williamsport. Were the Government of the United States to direct the expenditure of the fund in contemplation upon either of these routes, for the present, in Pennsylvania or Maryland, it would probably so far interfere with the observations of the respective States, as to produce mischief instead of benefit; especially as the sum to be laid out by the United States is too inconsiderable, alone, to effect objects of such magnitude. But as the State of Maryland have no particular interest to extend their road across the mountains; and if they had it, it would be impracticable, because the State does not extend so far; the committee have thought it expedient to recommend the laying out and making a road from Cumberland, on the northerly bank of the Potomac, and within the State of Maryland, to the river Ohio, at the most convenient place between a point on the easterly bank of said river, opposite to Steubenville and the mouth of Grave creek, which empties into said river Ohio, a little below Wheeling, in Virginia. This route will meet and accommodate the roads leading from Baltimore and the District of Columbia; it will cross the Monongahela river, at or near Brownsville, sometimes called Redstone, where the advantage of boating can be taken, and from the point where it will probably intersect the river Ohio, there are now roads, or they can easily be made over feasible and proper ground, to and through the principal population of the State of Ohio.

Cumberland is situated at the eastern foot of the Alleghany mountains, about eighty miles from Williamsport by the usual route, which is circuitous, owing to a large bend in the Potomac, on the bank of which the road now runs; the distance on a straight line is not more than fifty or fifty-five miles, over tolerable ground for a road, which will probably be opened by the State of Maryland, should the route be established over the mountains as contemplated by this report.

From Cumberland to the western extremity of Laurel Hill, by the route now travelled, the distance is sixty-six miles, and on a straight line about fifty-five; on this part of the route, the committee suppose the first and very considerable expenditures are specially necessary. From Laurel Hill to the Ohio river, by the usual route is about seventy miles, and on a straight line fifty-four or fifty-five; the road is tolerable, though capable of amelioration.

To carry into effect the principles arising from the foregoing facts, the committee present herewith a bill for the consideration of the Senate. They suppose that, to take the proper measures for carrying into effect the section of the law respecting a road or roads to the State of Ohio, is a duty imposed upon Congress by the law itself, and that a sense of duty will always be sufficient to insure the passage of the bill now offered to the Senate.

To enlarge upon the highly important considerations of cementing the union of our citizens located on the Western waters with those of the Atlantic States, would be an indelicacy offered to the understandings of the body to whom this report is addressed, as it might seem, to distrust them. But from the interesting nature of the subject, the committee are induced to ask the indulgence of a single observation.

Politicians have generally agreed that rivers unite the interests and promote the friendship of those who inhabit their banks; while mountains, on the contrary, tend to the disunion and estrangement of those who are separated by their intervention. In the present case, to make the crooked ways straight, and the rough ways smooth, will, in effect, remove the intervening mountains, and by facilitating the intercourse of our Western brethren with those on the Atlantic, substantially unite them *in interest*, which, the committee believe, is the most effectual cement of union applicable to the human race.

Mr. TRACY, also, from the committee last mentioned, reported a bill to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; and the bill was read, and ordered to the second reading.

PUBLIC LANDS.

Mr. BRADLEY submitted the following resolutions; which were read, and ordered to lie for consideration:

Resolved, That one or more land offices be opened for the sale of the lands of the United States, on which the Indian title shall have been extinguished, in the State of Tennessee.

Resolved, That Commissioners be appointed, with ample powers, to settle all disputes relative to the lands ceded by North Carolina to the United States, and to quiet all claims, agreeable to the conditions of the cession.

Resolved, After satisfying all just claims, and the expenses incident thereto, that one —— part of all the public lands belonging to the United States, within the limits aforesaid, ought to be appropriated for the use of a college or university in said State, forever; one —— part for the use of schools for the instruction of children, forever; and five per cent. on the net proceeds of the sales of the public lands, for the purpose of making roads; *Provided*, The State of North Carolina shall consent to the appropriation aforesaid.

On motion the House adjourned.

FRIDAY, December 20.

JOHN SMITH, from the State of New York, attended.

The bill, entitled "An act making provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war," was read the second time, and referred to Messrs. ANDERSON, TRACY, and BALDWIN, to consider and report thereon.

The bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia," was read the second time, and referred to Messrs. BRADLEY, BALDWIN, and TRACY, to consider and report thereon.

The bill to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, was read the second time; and the further consideration of the bill made the order of the day for Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes, as is contained in the second section thereof;" also a bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

TRADE WITH ST. DOMINGO.

Agreeably to notice given on the 18th instant, Mr. LOGAN asked leave to bring in a bill to suspend the commercial intercourse between the United States of America and the French island of St. Domingo.

Mr. L. observed that the attention of Congress had been called to this subject by the President of the United States, at the commencement of the last session of Congress, in the following words:

"While noticing the irregularities committed on the ocean by others, those on our own part should not be omitted, nor left unprovided for. Complaints have been received, that persons residing within the United States have taken on themselves to arm merchant vessels, and to force a commerce into certain ports and countries in defiance of the laws of those countries. That individuals should undertake to wage private war, independently of the authority of their country, cannot be permitted in a well ordered society. Its tendency to produce aggressions on the laws and rights of other nations, and to endanger the peace of our own, is so

obvious, that I doubt not you will adopt measures for restraining it effectually in future."

The first complaint alluded to in the Message of the President, is a letter addressed to the Secretary of State, by the Envoy of Great Britain, dated on the 31st of August, 1804, in which he observes:

"I have received information respecting several vessels which have of late been armed in, and have sailed from the different ports of the United States, some loaded with articles contraband of war, (gunpowder is said to be the general article,) others with cargoes of innocent goods, and others again in ballast. After the diligent inquiry which it has been my duty to make on so important a subject, I think that I can have the honor of stating to you with certainty, that several vessels of the above description, which are mentioned to be schooner rigged, have sailed lately from the port of Baltimore, whilst others of a larger size, even ships of considerable burden, and completely equipped for war, have sailed from the port of Philadelphia, bound to the possessions of His Majesty's enemies in the East as well as West Indies. It is said the object of some of these equipments is to force a trade with the blacks in the Island of St. Domingo, in which attempt the public prints have stated so circumstantially, as to leave no doubt on the subject, that two American vessels have been captured by French cruisers, after making resistance. But I have strong reason to believe, that the destination of others, particularly from the port of Philadelphia, have been with cargoes of contraband articles to the enemies' possessions in the East and West Indies.

"Let their destination, however, be what they may, it cannot, I conceive, but be justly considered, that such armaments, on the part of the citizens of a neutral State, must be attended with consequences prejudicial to a belligerent Power, and may, therefore, be deemed rightly as offensive, for which reason the law of nations has stated one of the first obligations of neutrality to be that of abstaining from all participation in warlike expeditions. The armed vessels alluded to, may become the property of the King's enemies either by capture at sea, or by purchase in the ports to which they are destined, and are thus in readiness to be converted immediately into instruments of hostility against His Majesty, whilst in another point of view they are calculated to protect the vessels when they are loaded with contraband articles, against the lawful search and detention of a lawfully commissioned cruiser, when the latter shall be of inferior force. Indeed, I conceive that it may not be giving too great an extent to the principle of the law of nations, without attending to the nature of the cargo, to consider the very arms, ammunition, and other implements of war, with which such vessels are furnished as contraband articles, when the vessels have been thus equipped without the authority of the nation to which they belong.

"I understand, sir, that the armaments in question have in fact taken place under no commission or authority whatever from the Government of the United States. I have therefore thought it my duty to have the honor of making you acquainted with the information that has reached me on this subject, and if the observations which I have taken the liberty to make upon it should happily be conformable to the sentiments of the American Government, I can safely trust to their justice, as well as to their jealousy of observing the most strict neutrality in the present war, to take such measures as shall appear to them the most proper for suppressing the illegal proceedings complained of on the part of those individuals, citizens of the United States, who shall appear to be concerned in them."

In a letter from the Chargé des Affaires of France dated the 7th of May, 1804, and addressed to the Secretary of State, he observes:

"The undersigned is informed, in a manner which leaves him no room to doubt it, that the American merchants, who pursue this commerce (meaning the commerce with St. Domingo) publicly arm, in the ports of the United States, vessels which are intended to support by force a traffic contrary to the law of nations, and to repel the efforts which the cruisers of the French Republic are authorized to make in order to prevent it. These armaments have also for their object to cover the conveyance of munitions to the revolted of that colony. The Government of the United States cannot be ignorant of these facts, which are public; the consequences thereof have already been manifested in the West Indies, where the public papers advise that there have been actions between the French cruisers and American vessels carrying on this commerce. In considering the matter merely under the view of the law of nations, it is manifest that American citizens, under the very eyes of their Government, carry on a private and piratical war against a Power with which the United States are at peace. The undersigned would be wanting in his duty if he did not vindicate, under such circumstances, the rights and dignity of his Government, which are openly injured, and if he did not call the attention of Mr. Madison to the disagreeable reflection which the French Government would have a right to make, if the silence of the local authorities respecting acts of this nature should be imitated by the Government of the United States."

"The French Government certainly could not see without a profound regret, that after having given to the United States the most marked proofs of the desire to place the good understanding of the two nations upon the most immoveable foundations, by abandoning national interests which might have eventually produced collisions, individual interest should now be permitted to compromit this good understanding. Its regret would be still much greater, if, when the dignity and safety of France are openly injured in the United States, by their citizens, the American Government should preserve, respecting these violations, a silence which would appear to offer an excuse, and even a sort of encouragement, to all the excesses which cupidity may attempt. Besides, that the peace of the two nations cannot but be seriously compromitted by the proceedings of the individuals, and by the reprisals to which they must necessarily lead, this state of things would infallibly tend to diminish the amicable disposition which the two Governments wish to cultivate."

Mr. L. observed that the commerce as carried on by the citizens of the United States is not only a violation of the law of nations, which the United States as an independent nation is bound to obey, but is in direct violation of a treaty made in 1800, between the United States and France: a treaty on the most liberal principles as to the rights of neutrals, and highly advantageous and honorable to both nations.

To remedy the evils complained of, a law was enacted during the last session of Congress to regulate the clearance of armed merchant vessels; this act has operated as a deception, as, since the publi-

cation of the law, the trade with St. Domingo has been carried on to as great if not greater extent than formerly. The only merit of the arming law, is, that in a national view it removes the responsibility from the individual who may be engaged in the trade, to the Government by which it is authorized.

Whilst we are anxious to have our own national rights respected, is it honorable to violate the rights of a friendly Power with whom we are at peace? or is it sound policy to cherish the black population of St. Domingo whilst we have a similar population in our Southern States, in which should an insurrection take place, the Government of the United States is bound to render effectual aid to our fellow-citizens in that part of the Union? Mr. L. concluded by observing that in bringing forward the bill under consideration, he was not influenced by views of friendship towards England or France, but to preserve the immediate honor and future peace of the United States.

Mr. ADAMS.—Mr. President: Had the gentleman who asks leave to introduce this bill, assigned any new reasons as the foundation of his motion, whatever my opinion might have been upon their merits, I should not think it proper to combat them at this time; but the object of the bill is so simple, that its details are immaterial. Its purpose is totally to prohibit a branch of our commerce, which at the last session of the Legislature was proved to be of great importance to the country. Unless, therefore, a majority of the Senate should be of opinion that the bill ought to pass, it appears to me that the present is the stage at which it ought to be arrested: since the mere discussion of the question, and pendency of the measure before Congress, may have an unfavorable effect upon the commercial interest, or at least injuriously affect individual merchants, in the course of their affairs.

It is well known to every member upon this floor, and to the public in general, that the same gentleman who now wishes to introduce this bill, at the last session of Congress made a motion for leave to bring it in at that time, which was rejected; and I expected that on its renewal at this time he would have alleged some new grounds for the measure; but in this expectation I have been disappointed. He tells us, indeed, that unless we do prohibit this commerce it will inevitably lead us into a war with the French Republic. I have certainly no more disposition than any gentleman here to be at war with the French Republic; but, excepting that gentleman's assertion, (to which I am willing to give all the credit which it can be entitled to,) what particle of evidence have we that the St. Domingo trade will expose us to any such danger? What evidence has the gentleman himself alleged in support of his assertion? Why, sir, he has read to us a part of the President's Message, at the opening of the last session of Congress; and a correspondence between the British and French Ministers, and the Secretary of State, six or nine months previous to that time, and complaining that some of our merchant vessels were armed. It is surely needless for me to mention in this House that in consequence of that very passage in the President's Message of last year, and of those very complaints of those foreign Ministers, a bill did actually pass both Houses of Congress, after a long and ample discussion of the subject; which bill was intended to remove those causes of complaint, and is now in force. This bill I have understood was satisfactory on all hands, and it has been within a very few days declared by a member of this body, in his place, to have given satisfaction to the French Government in particular, nor has that information been contradicted. This conclusion indeed may be inferred from the tenor of the President's communication to Congress at the commencement of the present session. If any intimation of complaints from foreign Powers relative to this subject, is contained in this message, it has escaped my attention, and I can indeed safely affirm there is none. And is not this silence itself, a strong, an irresistible proof that no such complaints have been made, but that the measures adopted by Congress at the last session have been satisfactory? Believing it as I do, and that no needless interference of the Government with the regular course of commercial transactions ought ever to be countenanced, I hope the gentleman from Pennsylvania (Mr. LOGAN) will not have leave to bring in this bill.

Mr. JACKSON seconded Mr. LOGAN's motion, and in reply to Mr. ADAMS said, that he wished Mr. LOGAN to make it an annual motion, as Mr. Sawbridge had, in the Parliament of England, to reduce septennial Parliaments, but with more effect, until the trade so highly dishonorable to national character was annihilated. As to Mr. ADAMS's observations that the bill was not allowed to be brought in last session, and that he had heard no new arguments, he would answer the gentleman by asking what new arguments had been advanced on the bill to prohibit the importation of slaves, when leave was given two days since to bring in the bill, and the same arguments had been rung in our ears by Quakers and others, ever since the Constitution had been in operation, and not a new one had been produced. He said that the day would come when this dishonorable traffic would be rued by the United States; that day must arrive when a general peace would take place, when the present hostilities must cease; that it must and would then become the interest of every nation of Europe, having colonies in the West Indies, to extirpate this horde or ship them off to some other place. That the United States, by affording them succor, arms, ammunition, and provisions, must be considered by them as their allies—their supporters and their protectors. That he believed the United States would be viewed in this light by the French Government and by themselves, and that they would demand and expect us to grant them an asylum as allies and protectors, and send them to our coast. This was no novelty, and he had received information from a late celebrated French General, given in a public company at the city of Washton where he boarded, and the General was one who dined there; that arrangements had been made, if General Le Clerc had been victorious, to

send those brigands to the Southern States. This was a melancholy subject for South Carolina and Georgia, and one of those brigands introduced into the Southern States was worse than an hundred importations of blacks from Africa, and more dangerous to the United States.

Mr. S. SMITH.—Mr. President: Had the honorable mover produced any new document, or given us any new information, I certainly should have given my vote that he should have the leave required; or had the Senate been composed of the same members as those of the last year, I should have contented myself by giving a silent vote on the question. An addition being made to the Senate of several new members, it may not be improper to state, that this subject was at the last session presented to the view of Congress by the President. A bill was predicated thereon, and after great consideration and lengthy discussion passed into a law. Has the mover produced to the Senate any document to show that France is not satisfied with what has been done? Does the gentleman know that any new complaint has been made? I know of none, and I, therefore, think it fair to presume that France has been fully satisfied with the law already passed. The gentleman has said that both the French and British Ministers have considered the trade to St. Domingo as contrary to the law of nations. I see nothing of the kind in the note from the British Minister. I have no doubt of the British being disposed to interdict that branch of trade as they have done almost all our other most lucrative commerce. Had the gentleman brought forward a bill to interdict all trade with Great Britain, he might have produced many more reasons in its support than he has been pleased to offer in support of the bill proposed. But what is this law of nations? Is it the written law, or that law assumed by nations who have the most power? If the gentlemen mean the written law, I must believe that they are mistaken. I have somewhere read, that when a part of a State separates itself, and is capable of supporting that separation, forms for itself a government, and fully conducts its own affairs, that other nations do not infringe this law by trading or commencing a friendly intercourse with such part.

We are told that a celebrated French General since here has said, that had General Le Clerc succeeded, he meant to have landed all the blacks of St. Domingo on our southern shores. This may be—but, sir, it is not probable. If such, however, had been his intention, it could not have arisen from resentment on account of our commerce, for we had been of the greatest utility to him and his army, and had then carried on no commerce that was not fully sanctioned by France. Nay, I might say, that owing to the supplies from the United States, the colony of St. Domingo had been preserved to the mother country until the arrival of General Le Clerc. Unless, Mr. President, the honorable mover shall produce some new information, I shall be under the necessity of voting against leave to bring in this bill.

Mr. MITCHILL, in a speech of considerable length and detail, stated his objections to giving leave.

He complimented his friend from Pennsylvania, for the purity of his motives in bringing forward the present motion. But he could not refrain from an expression of his surprise, and even his regret, that the subject had been moved again in the Senate.

During the last session of Congress, the whole of the intercourse with St. Domingo had undergone a full investigation. While the bill regulating the clearance of armed merchant vessels was under discussion, that part of our foreign commerce had been minutely examined. It would be remembered that the bill had been committed, recommitted, amended, and modified, with the utmost labor and skill. Besides the talents which the Senate afforded, all the sources of Executive information had been drained, to aid their researches. And the letters of the British and French Ministers, complaining of the conduct of our merchants in forcing this trade, were opened to our view. The crude material of the bill had been hammered at and worked upon so elaborately, at to have as last received the complete burnish of a law. With all the knowledge that could be derived from so many quarters, the bill was at length passed to check the violence of our navigators, and to restrain the adventurous zeal of our merchants. The provisions of this law, were such as it was deemed just and proper that a neutral nation should take. And this was a liberal condescension to the wishes of the two great maritime and belligerent Powers, without forgetting the respect that we owed to our own. With both these he wished to cultivate peace and good understanding; but to neither of them would he consent to yield any portion of our neutral and national rights.

The difficulties exhibited in the ministerial correspondence, Mr. M. said were thus removed. With a promptitude that deserved to be admired, Congress interposed its authority, for the purpose at once of doing justice to our neighbors, regulating our commerce, and tranquilizing the Mexican seas. With these salutary provisions, he believed the two complaining nations had been satisfied. At least we had done so much that they ought in all reason to be content. Congress had already manifested a due regard to all that France and Great Britain had offered upon the branch of West Indian commerce, and in the true spirit of good neighborhood, and correct principle, had modified and restricted the intercourse with Hayti. And so fully did the Europeans seem to acquiesce in our conduct, that he had not heard any further remonstrances made by either of them about it. He thought the observations of the gentleman from Massachusetts (Mr. ADAMS) very much in point. Under a conviction that we had done as much as public faith and national honor required, he had given his vote against the introduction of a similar bill during the last session. Nothing had occurred from that time to this day, to alter the circumstances of the case, or to make it necessary for him to change his conduct. He thought now,

as he did then, that there was danger of overacting our part and of doing too much; of being good to our neighbors, to such a degree, and in such a manner, as to be very cruel to ourselves.

After all this condescension on our part, after inquiring into the alleged misconduct of our people, and taking immediate measures to prevent the repetition, and after having done all we politically could or that we honorably ought, the subject is once more introduced to the Senate. It comes now, not from the Executive Department, not from the cabinets of the nations concerned, nor from the recommendation of a Senatorial committee, but from the suggestions of an individual member of our own body.

The commerce of the United States, he said, was an astonishing spectacle. It reached from Arctic to Antarctic, and was coextensive with the circumference of the globe. Most of the inhabited countries of the earth were visited by our navigators, and the striped flag of the Union fluttered in the remotest harbors. Our countrymen have made material additions to the science of geography. They have found markets unknown to commercial men before. They have derived cargoes from the depths of the ocean, and laid the cod, the seal, and the whale, under contribution. They have exported the productions of their own happy country, so fertile in the articles which sustain and cherish life, to all places where they were wanted, and brought home the crude materials or the manufactures of those regions in return. By an energy and enterprise unexampled in the history of the human species, they have excited the jealousy of foreigners, who are not only behind them in mercantile exertion, but who cannot weigh an anchor or reef a topsail equal to them.

Such was our situation—peaceful, industrious, and desirous of measuring out liberal justice to all our neighbors. But this was no protection against commercial rivalship. Emulation and competition existed in all callings and professions. Mercantile jealousy had been alarmed by it. Experience had shown to the most active of them that they were unsuccessful competitors. What was the consequence? They had endeavored to interrupt by force or stratagem, that predominant trade which they could not outdo or equal by fair means. In the havens of Britain the port charges were of the most exorbitant kind. The money paid by us for passing their light-houses was excessive. The fees for performing quarantine were out of all proportion to the good expected, or service done. Convoy duties were also frequently exacted; and the custom-houses collected a higher rate of charge upon merchandise exported to the United States than to any part of Europe. In addition to all this, the cruisers of that nation had made the most ungenerous abuse of the power of searching our vessels. They had taken out and impressed into their service emigrants coming to our country. They had violently drawn into their service our seamen, natives of our land. Naturalized foreigners had not been spared. Our neutrality had been violated by their forcing our impressed citizens to fight against the political friends of their country. Our ships had been frequently detained and spoiled on the high seas; and their officers and crews grossly insulted. Vessels bearing the variegated stripes and constellated stars of our Union had been sent to distant British ports for adjudication. Cargoes had been condemned under the most arbitrary pretexts, and our merchants and underwriters, by the process of an *ex parte* trial, stripped of their property. Our ports had been blockaded. The public authority in our very harbors had been defied, and the armed vessels of the nation had been fired at. And, to crown the whole, the same nation, instigated by the like jealous and invidious considerations, seem bent upon prohibiting our carrying trade in colonial produce, and resolved to reduce us once more to the dependence of provinces.

Are we, sir, already come to this? You [the Vice President, Mr. CLINTON, was in the Chair] well remember the effects wrought by the injurious proceedings of the British Parliament in 1774. You bore a noble and manly part in the struggles of freemen against oppression at that day. Thirty years ago, you and your patriotic associates could form a general non-importation agreement, and, despising the luxuries of the mother country, and superior to her prowess, you, spirits of freedom, achieved our glorious Revolution. If the case requires it, may we not do this again? If we must curtail our commerce by our own statutes, it is certainly a better policy to retaliate upon an adversary in that way, than to abandon to her, as the proposed bill contemplates, a lucrative portion of our trade. Surely, laboring as we do, under all these embarrassments, a proposition for lessening our navigation and forbidding our ships to frequent the open ocean, would hardly have been expected from one of our own body.

For my own part, said Mr. M., I think the St. Domingo commerce is no great thing in itself. We might do exceedingly well without it; and I am very far from approving the means by which it has been carried on; but I dislike the idea of forbidding it, at the mandate of a foreign Power. Like our Revolutionary patriots, let us put our foot here, and hence refuse to budge. It is not for us to legislate at the nod or bidding of any nation. I hope we understand our business better than to register edicts for them; while we pay due respect to others, it becomes us also to respect ourselves. The precedent is a dangerous one. If we agree to interdict this intercourse, we may, at the next session, be informed that we ought to withdraw from some other important port or region. When we are found to be so complying to one nation, we shall be subjected to a like request or menace from another, until, sir, our flag shall be furled in one foreign port after another, and nothing be left us but the coasting trade at home. The sad consequences have been ably portrayed by the gentleman from Maryland, (Mr. SAMUEL SMITH.)

There was another reason evincing the unseasonableness of the proposition at the present time. This was a disastrous and eventful era of our commerce. The merchants in every seaport of

the nation were assembling to consider their losses from the rapacity of the belligerent Powers, and submit them to the consideration of Congress. It would be better to wait for the statements that such a practical class of men should make. Our judgments would be aided by the facts which their memorials would contain.

Mr. M. then considered the prohibition in the Constitution on Congress as to the laying of export duties, and said that the exportation of our domestic productions, so necessary to our country, and so cautiously guarded, ought not to be interrupted by any spontaneous regulations of our own. He was an advocate for the *mare liberum*. He wished a wide and open market for the beef, pork, fish, flour, rice, and cotton of the country.

He then adverted to the operation which a restrained commerce would have upon agriculture. With the ceasing of exports, this great spring to the planter's and grazier's industry is at once taken away; the plough would stop; and it would be melancholy to see the fair and enchanting face of our country degenerate to the savage state, and yield naught but the unthrifty crop of weeds and brambles.

Turning, then, to ship-building and its cluster of attendant trades and arts, he feared that it would fall into neglect. That employment which gives, perhaps, the grandest idea of the skill of man, would be discontinued, and the inhabitants of our seaports be forced back to the country to keep them from starving.

Nor was this revenue to be omitted in the enumeration. As far as the imports from Hayti are consumed by our citizens, so far the revenue is aided; and, if exported under drawback, the carrying trade is helped by the transportation, and the return cargo, whether of brandy, wines, hardware, or dry goods, may be expected to afford an ad valorem or specific contribution to the Treasury.

A word or two concerning the situation of France in this affair, he should beg leave to offer. The coffee and sugar of that productive island had reached the ports of that empire in American bottoms. And, in return, the productions and manufactures of France had been carried by the same conveyance to the revolted colony of black freemen. It was presumable such an intercourse would give to France several of the benefits of a direct commerce. And, as our act of the last session had yielded to her the sovereignty, he did not think that, in the exciting intermediate state between rebellion and revolution among the Haytians France had any just cause of displeasure against us. If she had, the numberless captures and depredations done under her flag, must have given her the most ample satisfaction. Under these impressions, he judged it neither politic nor necessary to legislate further on the subject, and should, consequently, say No to the motion.

Mr. HILLHOUSE said, he hoped the question would be taken by yeas and nays, because he confidently expected there would be a great majority of the Senate opposed to giving leave to bring in the bill, for he considered the measure not only as improper, but as ill-timed.

We are informed, by the Message of the President of the United States and the documents before us, that depredations are made on our commerce on all quarters, and our citizens not only robbed of their property, but in some instances subjected to personal insult and injury; it is also well known that Congress have received confidential communications from the President, and are deliberating with closed doors. The general expectation is that something energetic and spirited will be done in defence of our neutral rights and national honor. How great will be the surprise if the first step taken by the Senate of the United States is found to be a further restriction, or a total prohibition, of a lawful and lucrative branch of our commerce? As to restricting or prohibiting this trade to St. Domingo (which no gentleman has produced a single authority from the law of nations to prove to be unlawful) for the purpose of securing our citizens from the personal insults and injuries to which they are exposed in the West Indies, he could not approve it; a more proper and dignified course he thought would be to send armed ships into those seas, to capture or demolish those bucaniers and pirates, who rob us of our property, and insult and murder our citizens. They are a banditti whom no nation will own, or admit, to be acting under their authority, though sailing under their flag, and whom it is not in the power of such nation to restrain.

The gentleman from Georgia has told us that the conflict in St. Domingo is that of masters attempting to reclaim their slaves, and that if the United States suffer the trade to be carried on, we shall be considered as aiding and upholding those slaves, and give offence to France. And that when peace shall take place in Europe, the French will transport those negroes by thousands to the shores of South Carolina and Georgia, to the endangering the lives of the citizens of those States. This Mr. H. considered as a bugbear, with which we ought not to be frightened, for, as to the warfare in St. Domingo being a mere conflict between master and slave, it will be well remembered that the French Republic long ago liberated all the slaves in that island, and declared them free. As to the citizens of the United States carrying arms and military stores to the enemies of France, the law of nations has declared the penalty, which is a forfeiture of the property, and the United States can in no way be implicated thereby. And as to France landing those negroes on our shores, he said there was power, and he believed there would be found a disposition in the people of the United States to repel such an insult; for if we cannot prevent France or any other Power from invading our territory and insulting our national honor, by landing their outcasts upon our shores, we shall no longer deserve the name of an independent nation.

Mr. JACKSON, in reply to Mr. SMITH and Mr. MITCHILL, confessed he had seen no official document, other than what the honorable mover had read, but he had seen at Newcastle, in Delaware, a whole fleet bound to St. Domingo, to force a trade which even captains of vessels, true Americans, cried shame on. That the honorable gentleman had called out, why had not the mover brought forward a resolution against Britain or some other Power who had committed depredations on our commerce! Mr. J. said he wished to begin here, by preventing our own merchants from doing injury to other nations, and then to strike at those who insulted us. He for himself was prepared and willing to attack the first Power who had insulted us with far more superior weapons than arming our ships. He was an agricultural man, and would suffer with the flour makers; but he would call on the honorable gentleman either from Maryland, from New York, from Massachusetts, or Connecticut, to strike at Great Britain or any other nation who had injured us, by a resolution of prohibition of trade or intercourse, and he was the man who would second it and keep it on till the injuring nation should cry *peccavi*—keep it on one twelvemonth, and you would see them all at your feet. Look at the Legislature of Jamaica petitioning their Governor from time to time for American intercourse. Look at Trinidad, the same, in a state of famine. Sir, we have no favors to ask the nations of the earth; they must ask them of us, or their West India colonies must starve.

That however, with respect to documents, he would inform the gentleman from Maryland, that he had seen, though not official, a letter from General Ferrand, Governor of St. Domingo, and which was published in all the principal newspapers of the United States, complaining to the French Government on this subject, and laying all the blame to the American Government, if not in direct, in the most severe indirect terms. That as to the total separation of the self-created Emperor and nation of Hayti, and its independence of the parent country, and under which gentlemen declared our rights of trade founded on the laws of nations—the late attack on that General by the Emperor proved it did not exist: he was defeated, his army scattered and driven to the mountains; that Ferrand held the island as French Governor for the French nation, and the separation was not such as to warrant the arguments used for a right to trade. It would be a fatal argument used against us as respected our Southern States by other Powers. On the same grounds, a parcel of runaways and outcasts from South Carolina and Georgia, to the amount of some hundreds, now collected on or near the Okefonokee swamp in Georgia, might be termed an independent society; or if an insurrection took place in those States, the rebellious horde, on creating an emperor, be supplied with arms and ammunition, as a separate and independent nation. This, as the honorable gentleman from Connecticut had been pleased to term his fears bugbears, might be no bugbear to him, safe and remote from the scene of action, near New Haven; but it was a serious bugbear to him, and would be to the whole southern country, where the horrid scenes of that island would be reacted, their property destroyed, and their families massacred. The honorable gentleman from New York, too, had been pleased to term them bugbears, but had raised up a number of his own to prevent the passing of the bill—he had drawn a most lamentable picture of the state of this country, if this dishonorable trade to this small part of the commercial world was interdicted. Commerce was to languish and agriculture to be annihilated—our fields were to grow up in briers and thorns, and even verdure to disappear. Mr. J. said he did not believe this. The United States, if all the Powers on earth were opposed to us, had within herself enough to eat, to drink, and to clothe her citizens; this was not the case with other Powers. Not a nation existed, which had West India colonies, but was more or less dependent on us, and could not do without us—they must come to our terms or starve. On with your embargo, and in nine months they must lay at your feet. It was certain that we should suffer for that time, but he was willing, and he knew the Southern country willing to submit to it; and at the end of it our fields would resume their usual verdure, and the thorns and briers be rooted out.

The honorable gentleman from Maryland had told us of the blockade of Cadiz, and that Hispaniola was the only vent now for our flour; but he believed even the blockade of Cadiz was not so strict in that respect, as the honorable gentleman had mentioned; he would read a line from Lord Mulgrave to Mr. Monroe on that head. [Here Mr. J. read part of it, but found it more strict than he had thought, and gave that point up.] But Mr. President, said Mr. J., is Cadiz the only market in Europe for our flour? From the Texel to the Baltic and Mediterranean, there are hundreds of ports at which our flour is vented.

Mr. J. made a number of other remarks, and concluded that he thought the passage of the bill absolutely necessary, for the honor and safety of the country; and as to the information he had received from a late celebrated French General, it was corroborated by the acts of Le Clerc and Rochambeau themselves. That the most daring brigands were forced by those officers on board American vessels, the captains of which were compelled to bring them to the United States, contrary to the laws of their own country. This had been a matter of serious alarm, not only to the Southern States, but to the Middle and Northern States. At any rate, he hoped the bill would be received, if it was only to inform merchants trading to Hispaniola, of the sense of Congress, that the trade must cease; this was the point on which the slave bill had been received. That he wished to begin with this trade first, and he believed striking at that was striking at the British, for he had been informed at Newcastle that the St. Domingo fleet, then there, was owned by British merchants, and supplied from British capital, under the protection of our flag, which had to bear all the disgrace of this illicit traffic.

Mr. S. SMITH.—I am not concious, Mr. President, that I said, (as charged by the honorable mover,) that the trade to St. Domingo was the only great, the only important commerce of the United States. It was an assertion that it was

not possible I could have made. I did, however, consider it a branch of commerce highly important to the United States, inasmuch as that island does draw from us all its provisions of every kind; its clothing and luxuries; that is, that half a million of people are almost exclusively supplied with all their wants by the commerce and agriculture of the United States; and that good reasons should be assigned before we ought to be induced to relinquish so important a branch. I did state that flour, salted beef and pork, fish, rice, and tobacco, furnished a considerable portion of the means with which that commerce was pursued; and that if interdicted, it would have a serious operation on the prices of some of them. The gentleman from Georgia has supposed that there would be a sufficient outlet for our flour in the ports between the Texel and the Baltic. Those ports, Mr. President, export wheat; I never knew a barrel of flour shipped from the United States to either of them—they are our competitors. Mr. President, we are advised by the same honorable gentleman to begin by interdicting this trade, and then proceed on to those who have oppressed our commerce. This, sir, is a curious mode, to begin to interdict the trade to those against whom the United States have no cause of complaint, that we may be justified in breaking our commercial relations with those who have oppressed our trade in every quarter of the globe.

The honorable mover has said, let us look at our commerce and see how it is affected. I wish the gentleman had done us that favor—he mentioned the East Indies, but there he stopped short, and left to each of us to look at our commerce in our own way, without the promised benefit of his instruction. I will, Mr. President, take leave to present to the Senate a short view of some of its branches. That to the East Indies, has been conducted in two ways—the one, by exporting specie, and purchasing therewith the cotton goods of the British dominions; the teas, china, and nankeens of China; the sugar, coffee, and pepper, of the Dutch, French, and native possessions: the other mode, by shipping from Europe the goods best suited for India, and vesting their proceeds in the articles already stated, with which our ships proceed to some port in Europe, or return home direct. The most beneficial part of this commerce is now interdicted with Great Britain. Her King says (and his admiralty court obeys) that the ships of the United States shall not carry on a trade in the time of war to the colony of his enemies, not permitted by such enemy in time of peace. From this general rule, he has (as he says) as matter of favor relaxed at different times. During the last war, he relaxed so far as to permit neutrals to carry from their own country to the colony of his enemy, and return direct to the nation of the neutral ships, where he insisted that the cargo must be landed; but consented that it might be reshipped in the same or any other ship for any port in Europe or elsewhere. But he absolutely forbid us to go with our cargoes from India to any other country in Europe than Great Britain.

He has, Mr. President, since the war, withdrawn a part of that high favor; and now the ships of the United States are interdicted by Great Britain from proceeding from Europe with goods to any part of the East Indies. Nay, it is the opinion of one of their most learned doctors of law, that it would even be dangerous for our ships to proceed from Europe to the East Indies with specie. He has interdicted us from proceeding from his enemies' colony, and from the East Indies generally even to his own ports in Europe, or from one port in the East Indies to another; he denies us the liberty of exporting the articles imported into the United States from his enemies' colony in the same ships in which they were imported, (although the same be landed and the duties paid,) or even in any other ship, for account of the person who was the importer. From this view it will appear, that our India trade is greatly restricted. Thus it has lost part of its importance. An important branch of our commerce was, in time of peace, to Cadiz, with flour, part of which flour was reshipped by a company to Cuba; that trade ceased with the war. Great Britain blockades Cadiz, and condemns our ships that attempt to go in. We supply Cuba with flour, rice, and salted meat; and bring from thence sugar, molasses, &c. This trade Great Britain as yet permits (through her great benevolence) provided you go to and come from the single port of Havana; but condemns your ships if they are found coming from any other port in the island. For this pittance of trade to Havana we are at the mercy of Great Britain. She may (agreeably to her law of nations) deprive us of it at any moment, and if we can judge of what she will do, by what she has done, we must expect she will (without notice) cause all our ships found trading with the colony of her enemy, to be seized—her courts will condemn.

Great Britain has interdicted or molested our trade to St. Domingo. It was left for the honorable mover to propose to deprive his country of that valuable branch of our commerce, and he says it out of compliment to what he supposes to be the desire of France. He shows us no document to induce us to believe that nation would wish it. Judging (as I do) from what would be the interest of France, I am induced to believe that she will not be obliged to the mover. It is her interest that Great Britain should not have the benefit of the commerce of St. Domingo. If we interdict this trade, Great Britain will have the whole; she will have the monopoly which she asked, and which Dessalines refused to give her; and she will then aid him against Ferrand—blockade the city of St. Domingo by sea, while the blacks attack him by land. General Ferrand may in such case soon be starved into submission. The supplying that island and drawing all her valuable products into England, will enable Great Britain to pay a handsome annual subsidy to any of the Powers of Europe. The interdiction of our trade will enrich England and do no benefit to France. What effect may it produce, as it respects us, is a serious question. I fear it will

create another piratical Power. The Haytians will have provisions if they are to be found on the ocean; the interdiction will be considered by them as the declaration of war, the worst of all wars; a war with a view to starve them. They will send out their vessels of war, (for they have armed vessels,) they will take your unarmed ships bound to Jamaica, to the Spanish Main, to Curracoa, and molest your trade to Cuba; they are upon the high road of your trade from Europe to New Orleans; they will destroy it; you will compel them to be a maritime power; they will soon make it necessary for you to surround their island with an armed fleet. But, it will be asked, of what advantage is our having the trade to the mother country (France.) I have already stated that we prevent its wealth from going to her enemy; but this is not the only advantage—our ships carry to France the coffee we draw from St. Domingo; the cotton, rice, and tobacco of our country, and receive in return the wines, brandy, soap, and dry goods of France, which are landed in the United States and form a large proportion of the cargoes sent to that island. Thus then France (in truth) supplies "as formerly" the people of St. Domingo with its manufactures and products, to the enriching of that nation. The moment we stop that trade, France will furnish no more. Great Britain will supply the whole. The Haytians will find supplies, whether we are the carriers or not; their coffee will procure them all they want; we shall be exposed to the necessity of keeping an expensive fleet; Great Britain will be enriched, and France will lose the advantage in which she now partakes. These are some of the reasons that have induced me to presume that the silence of France is owing to her knowledge of the consequences that would result from our interdicting that trade.

The gentleman ought to have informed us of the consequences that may result to our finances from his plan; had he informed himself, he would, I must believe, have hesitated. Sir, it will take from the United States a revenue of at least two hundred thousand dollars per annum. Let gentlemen look to the report from the Treasury, they will there see that our neutral position—in other words, our carrying for other nations—has given us a revenue of two millions per annum for three years of the last Presidential term. The year 1802, being a year of peace, our revenue fell short of the average product of the other three years to that amount. St. Domingo contributed at least the sum mentioned (I think much more) towards these two millions gained by the carrying trade.

I again beg leave to mention that we are asked to make this sacrifice without being (so far as we know) requested thereto, either by our own Government or that of France.

After a few replicatory remarks from Mr. LOGAN, the consideration of the subject was postponed to Monday.

MONDAY, December 23.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The Governor and Presiding Judge of the Territory of Michigan have made a report to me of the state of that Territory; several matters in which, being within the reach of Legislative authority only, I lay the report before Congress. TH. JEFFERSON.

DECEMBER 23, 1805.

The Message and report therein mentioned were read, and referred to Messrs. TRACY, WORTHINGTON, and BALDWIN, to consider and report thereon.

TUESDAY, December 24.

Mr. LOGAN presented the memorial of the Chamber of Commerce of the city of Philadelphia, signed Thomas Fitzsimmons, Chairman, stating the expediency of enlarging the piers already constructed in the river Delaware, and of adding to their number, as well as of preventing obstructions from piers heretofore sunk for defence; and praying the interposition of Congress to extend the provisions of a law of the State of Pennsylvania to certain neighboring States, proportionally benefitted by the navigation of the river Delaware; and the memorial was read, and ordered to lie for consideration.

The bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic," was read the second time, and referred to Messrs. MITCHILL, SMITH of Maryland, and BRADLEY, to consider and report thereon.

The bill, entitled, "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes,' as is contained in the second section thereof," was read the second time, and referred to Messrs. ANDERSON, TRACY, and ADAMS, to consider and report thereon.

The bill to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, was considered as in Committee of the Whole; and being reported to the House without amendment,

Ordered That this bill pass to the third reading.

Mr. LOGAN submitted the following motion:

"*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such documents and papers, or other information, as are in his possession, relative to complaints by the Government of France, against the commerce carried on by the citizens of the United States to the French island of St. Domingo."

Ordered, That this motion lie for consideration.

Mr. MITCHILL from the committee to whom was this day referred the bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States by virtue of the Convention of the 30th of April, 1803," reported the same without amendment.

Ordered, That this bill pass to the third reading.

FRIDAY, December 27.

The Senate resumed the motion made on the 24th instant, that they be furnished with certain documents respecting the commerce carried on by the citizens of the United States to the French island of St. Domingo; and

Resolved, That the President of the United States be requested to cause to be laid before the Senate such documents and papers, or other information, as are in his possession, relative to complaints by the Government of France, against the commerce carried on by the citizens of the United States to the French island of St. Domingo.

Ordered, That the Secretary lay this resolution before the President of the United States.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before Congress a report of the Surveyor of the Public Buildings, stating the progress made on them during the last season, and what may be expected to be accomplished in the ensuing one.

DEC. 27, 1805. TH. JEFFERSON.

The Message and report therein referred to were read, and ordered to lie for consideration.

The PRESIDENT communicated a letter and report from the Secretary of the Treasury, in pursuance of a resolution of the Senate of the 2d of March last; which were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Edward Toppan, George Jenkins, and William Currier;" in which bill they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The bill to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, was read the third time; and the blanks having been filled,

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio."

The bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the Convention of the 30th of April, 1803, between the United States and the French Republic," was read the third time and amended.

Resolved, That this bill pass with amendments.

MONDAY, December 30.

The bill entitled "An act for the relief of Edward Toppan, George Jenkins, and William Currier," was read the second time, and referred to Messrs. BRADLEY, BALDWIN, and MITCHILL, to consider and report thereon.

TUESDAY, December 31.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery;" in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

Mr. SMITH, of Maryland, presented the memorial of Philip L. Jones, and others, counsellors at law, and practitioners at the bar of the Supreme Judicial Court of the Territory of New Orleans, stating certain extraordinary services performed by the presiding judge, J. B. Prevost, and praying a remuneration to him therefor; also, an increase of the compensation provided by law to the Presiding and Associate Judges of the said Court; and the petition was read, and referred to Messrs. SMITH, of Maryland, ANDERSON, and TRACY, to consider and report thereon.

Mr. ANDERSON presented the memorial of the House of Representatives of the Territory of New Orleans, praying an alteration in the law passed at the last session of Congress in respect to the titles of lands in that territory; also, some additional provisions by law for encouraging the culture of sugar, and for the establishment of public schools; and the memorial was read, and referred to Messrs. ANDERSON, TRACY, BALDWIN, BRADLEY, and ADAMS, to consider and report thereon.

THURSDAY, January 2, 1806.

The bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery," was read the second time, and referred to Messrs. MITCHILL, SMITH, of Maryland, and HILLHOUSE, to consider and report thereon.

FRIDAY, January 3.

Mr. TRACY, from the committee to whom was referred, on the 19th December last, the bill, entitled "An act for the relief of Theodorick Armistead," reported the bill without amendment.

He also communicated a written report on the same subject, which was read, and ordered to lie for consideration.

Mr. MITCHILL, from the committee to whom was yesterday referred the bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery," reported the bill without amendment.

Ordered, That the consideration thereof be postponed.

The Senate took into consideration the report of the Secretary of the Treasury of the 27th of December last, made in pursuance of their resolution of the 2d of March, 1805; and,

Ordered, That it be referred to Messrs. SMITH, of Maryland, ADAMS, TRACY, MITCHILL, and BALDWIN, to consider and report thereon.

MONDAY, January 6.

Mr. MITCHILL presented the memorial of the merchants of the city of New York, stating the ruinous consequences to the commerce of the United States, by the assumption of new principles in the law of nations, by the construction of the Admiralty Courts of Great Britain; also, certain unlawful and piratical seizures of the property of the American citizens in the West Indies, and even on our own coasts; and, also, the defenceless state of the ports and harbors of the United States, and praying the immediate interposition of Congress; and the memorial was read, and referred to Messrs. MITCHILL, SMITH, of Maryland, ADAMS, ANDERSON, and TRACY, to consider and report thereon, and that the memorial be printed for the use of the Senate.

Mr. SMITH, of Maryland, presented the petition of George Rapp and others, the Society of Harmony, in Butler county, and natives of Wurtemburg, in Germany, praying a grant of land for the cultivation of the vine, and for the establishment of certain manufactories; also, that the time of payment for a tract of land heretofore purchased of the United States may be protracted, for reasons stated in the petition; and the petition was read, and referred to Messrs. SMITH, of Maryland, BRADLEY, and WORTHINGTON, to consider and report thereon.

Mr. SMITH, of Maryland, presented the memorial of the board of trustees, appointed to superintend the education of youth in the City of Washington, praying the aid of Congress in procuring certain lots, suitable for the erection of an academy; also, that a lottery may be granted for the encouragement of the institution; and the petition was read, and referred to Messrs. SMITH, of Maryland, LOGAN, and MOORE, to consider and report thereon.

The bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery, was resumed, the bill reported to the House, and ordered to the third reading.

Mr. BRADLEY, from the committee to whom was referred, on the 30th December last, the bill, entitled "An act for the relief of Edward Toppan, George Jenkins, and William Currier," reported the same without amendment.

TUESDAY, January 7.

JAMES TURNER, appointed a Senator by the Legislature of the State of North Carolina, for the term of six years, from the third of March, 1805, produced his credentials, which were read; and the oath prescribed by law having been administered, he took his seat in the Senate.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Theodorick Armistead," as in Committee of the Whole, and, the said bill having been reported to the House, on the question, Shall this bill pass to the third reading? it was determined in the negative—yeas 5, nays 21, as follows:

YEAS—Messrs. Moore, Smith of Maryland, Smith of Vermont, Thruston, and Wright.

NAYS—Messrs. Adair, Adams, Anderson, Baldwin, Bradley, Condit, Fenner, Gilman, Hillhouse, Kitchel, Logan, Maclay, Mitchill, Pickering, Plumer, Smith of New York, Sumter, Tracy, Turner, White, and Worthington.

The bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery," was read the third time and amended.

Resolved, That this bill do pass with an amendment.

Mr. ADAMS presented the petition of Benjamin Hichborne and others, Directors of the New England Mississippi Land Company, in behalf of themselves and their associates, stating claims to certain tracts of land mentioned in their petition, and praying Congress to adopt measures for their compensation; also the petition of James Sullivan and others, agents for the purchasers of lands under the State of Georgia, praying the attention of Congress to their claims; and the petitions were read.

Ordered, That they severally lie on the table.

Mr. SUMTER presented the memorial of Joseph Rippen, in behalf of the Upper Mississippi Company, on the same subject; which was read, and ordered to lie on the table.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Edward Toppan, George Jenkins, and William Currier;" and, after debate, the Senate adjourned.

WEDNESDAY, January 8.

Mr. LOGAN presented the petition of Oliver Evans, stating that he has invented many useful improvements in the art of manufacturing flour or meal, for which he obtained a patent on the 19th of January 1791, and which expired in January last, and praying an extension of his patent, for reasons stated in his petition; which was read and ordered to lie on the table.

Mr. LOGAN presented the petition of William Levis and Hugh Maxwell, stating that they have on hand a number of copies of the journals of Congress under the Confederation, commonly called Folwell's edition, which they will dispose of for the use of the public; and the petition was read, and referred to Messrs. LOGAN, BRADLEY, and BALDWIN, to consider and report thereon.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Edward Toppan, George Jenkins, and William Currier," and the bill having been reported to the House, on the question, Shall this bill be read the third time? it was determined in the negative—yeas 9, nays 17, as follows:

YEAS—Messrs. Adams, Fenner, Gilman, Hillhouse, Mitchill, Pickering, Smith of Maryland, Smith of Ohio, and White.

NAYS—Messrs. Anderson, Baldwin, Bradley, Condit, Gaillard, Kitchel, Logan, Maclay, Moore, Plumer, Smith of New York, Smith of Tennessee, Smith of Vermont, Sumter, Tracy, Turner, and Wright.

So the bill was lost.

Mr. SMITH, of Maryland, presented the petition of David Glass and others, of the Society of Harmony, not being present on the 6th instant, when the memorial of George Rapp and others was presented, soliciting Congress to consider them as joining in the said memorial; and the petition was read, and referred to the committee to whom was referred the memorial of the said George Rapp and others, with an instruction to the committee that they report on the subject by bill or otherwise.

THURSDAY, January 9.

On motion that it be

Resolved, That a committee be appointed to take into consideration the 23d, 27th, 35th, and 41st articles of the rules for conducting business in the Senate of the United States, and report to the Senate such alterations and amendments, if any, as they shall judge proper;

It was agreed that this motion lie for consideration.

On motion,

That the President of the United States be requested to communicate to the Senate any such information in his possession as he may deem expedient, relative to the interpolation, by any foreign Power, of new principles in the law of nations, injurious to the rights and interests of the United States, and particularly any evidence of recent decisions in the British Courts of Admiralty to that effect, together with such diplomatic communications between this Government and that of Great Britain in relation to this subject as he may think proper;

It was agreed that this motion lie for consideration.

FRIDAY, January 10.

The Senate took into consideration the motion made yesterday for revising the rules for doing business in the Senate; and having amended the same,

Resolved, That a committee be appointed to take into consideration the rules for conducting business in the Senate of the United States, and report to the Senate such alterations and amendments, if any, as they shall judge proper; and

Ordered, That Messrs. ANDERSON, TRACY, BALDWIN, BRADLEY, and ADAMS, be the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the request of the Senate, expressed in their resolution of December 27th, I now lay before them such documents and papers (there being no other information in my possession) as relate to complaints by the Government of France against the commerce carried on by the citizens of the United States to the French island of St. Domingo.

TH. JEFFERSON.

JANUARY 10, 1806.

The Message and documents therein referred to were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for establishing rules and articles for the government of the Armies of the United States," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate resumed the motion made yesterday that the President of the United States be requested to lay before the Senate such information as he may deem expedient relative to the interpolation of new principles in the law of nations; and the motion was adopted.

Ordered, That the Secretary lay the resolution before the President of the United States.

MONDAY, January 13.

The bill, entitled "An act for establishing rules and articles for the government of the Armies of the United States," was read the second time, and referred to Messrs. SUMTER, WHITE, ADAMS, ANDERSON, and WRIGHT, to consider and report thereon.

On motion, it was agreed that the request for leave to bring in a bill prohibiting the commerce of the United States with the French island of St. Domingo, be the order of the day for tomorrow.

On motion, that the petitions of Benjamin Hichborne and others, of James Sullivan and others, and of Joseph Peppin and others, presented on the 7th instant, in behalf of themselves and their associates, stating claims to certain lands ceded to the United States by the State of Georgia, be referred to a committee: the votes of the Senate being equally divided, the PRESIDENT determined the question in the affirmative; and Messrs. BALDWIN, ADAMS, ANDERSON, BRADLEY, and SUMTER, were appointed the committee to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before Congress the application of Hamet Caramalli, elder brother of the reigning Bashaw of Tripoli, soliciting from the United States attention to his services and sufferings in the late war against that State. And, in order to possess them of the ground on which that application stands, the facts shall be stated according to the views and information of the Executive.

During the war with Tripoli, it was suggested that Hamet Caramalli, elder brother of the reigning Bashaw, and driven by him from his throne, meditated the recovery of his inheritance, and that a concert of action with us was desirable to him. We considered that concerted operations by those who have a common enemy were entirely justifiable, and might produce effects favorable to both without binding either to guarantee the objects of the other. But the distance of the scene, the difficulties of communication, and the uncertainty of our information, inducing the less confidence in the measure, it was committed to our agents as one which might be resorted to, if it promised to promote our success.

Mr. Eaton, however, (our late Consul,) on his return from the Mediterranean, possessing personal knowledge of the scene, and having confidence in the effect of a joint operation, we authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet, if he should deem it useful; and as it was represented that he would need some aids of arms and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. In order to avail him of the advantages of Mr. Eaton's knowledge of circumstances, an occasional employment was provided for the latter as an agent for the Navy in that sea. Our expectation was, that an intercourse should be kept up between the ex-Bashaw and the Commodore, that while the former moved on by land, our squadron should proceed with equal pace, so as to arrive at their destination together, and to attack the common enemy by land and sea at the same time. The instructions of June 6 to Commodore Barron show that a co-operation only was intended, and by no means a union of our object with the fortune of the ex-Bashaw; and the Commodore's letters of March 22 and May 19, prove that he had the most correct idea of our intentions. His verbal instructions, indeed, to Mr. Eaton and Captain Hull, if the expressions are accurately committed to writing by those gentlemen, do not limit the extent of his co-operation as rigorously as he probably intended; but it is certain, from the ex-Bashaw's letter of January 3d, written when he was proceeding to join Mr. Eaton, and in which he says, "your operations should be carried on by sea, mine by land," that he left the position in which he was, with a proper idea of the nature of the co-operation. If Mr. Eaton's subsequent convention should appear to bring forward other objects, his letter of April 29th and May 1st, views this convention but as provisional; the second article, as he expressly states, guarding it against any ill effect, and his letter of June 30th confirms this construction.

In the event it was found, that, after placing the ex-Bashaw in possession of Derne, one of the most important cities and provinces of the country, where he had resided himself as Governor, he was totally unable to command any resources, or to bear any part in co-operation with us. This hope was then at an end, and we certainly had never contemplated, nor were we prepared to land an army of our own, or to raise, pay, or subsist, an army of Arabs to march from Derne to Tripoli, and to carry on a land war at such a distance from our resources. Our means and our authority were merely naval, and that such were the expectations of Hamet, his letter of June 29th is an unequivocal acknowledgment. While, therefore, an impression from the capture of Derne might still operate at Tripoli, and an attack on that place from our squadron was daily expected, Colonel Lear thought it the best moment to listen to overtures of peace, then made by the Bashaw. He did so, and while urging provisions for the United States, he paid attention also to the interests of Hamet, but was able to effect nothing more than to engage the restitution of his family, and even the persevering in this demand, suspended for some time the conclusion of the treaty.

In operations at such distance, it becomes necessary to leave much to the discretion of the agents employed, but events may still turn up beyond the limits of that discretion. Unable in such a case to consult his Government, a zealous citizen will act as he believes that would direct him, were it apprized of the circumstances, and will take on himself the responsibility. In all these cases the purity and patriotism of the motives should shield the agent from blame, and even secure a sanction where the error is not too injurious. Should it be thought by any, that the verbal instructions said to have been given by Commodore Barron to Mr. Eaton amount to a stipulation that the United States should place Hamet Caramalli on the throne of Tripoli, a stipulation so entirely unauthorized, so far beyond our views, and so onerous, could not be sanctioned by our Government, or should Hamet Caramalli, contrary to the evidence of his letters of January 3d and June 29th, be thought to have left the position which he now seems to regret, under a mistaken expectation that we were at all events to place him on his throne, on an appeal to the liberality of the nation, something equivalent to the replacing him in his former situation might be worthy its consideration.

A nation, by establishing a character of liberality and magnanimity, gains in the friendship and respect of others more than the worth of mere money. This appeal is now made by Hamet Caramalli to the United States. The ground he has taken being different, not only from our views, but from those expressed by himself on former occasions, Mr. Eaton was desired to state whether any verbal communications passed from him to Hamet, which had varied what we saw in writing. His answer of December 5th, is herewith transmitted, and has rendered it still more necessary, that, in presenting to the Legislature the application of Hamet, I should present them at the same time an exact statement of the views and proceedings of the Executive, through this whole business, that they may clearly understand the ground on which we are placed. It is accompanied by all the papers which bear any relation to the principles of the co-operation, and which can inform their judgment in deciding on the application of Hamet Caramalli.

TH. JEFFERSON.

JANUARY 13, 1806.

The Message and documents therein referred to were read, and ordered to lie for consideration.

And on motion, the House adjourned.

TUESDAY, January 14.

Mr. WORTHINGTON presented the petition of a number of French settlers of Galliopolis, grantees, on the 3d of March, 1795, of 20,000 acres of land, situated on the Ohio river, and nearly opposite the mouth of Little Sandusky, on condition that they settle the same within five years from the date of the letters patent, and stating that they, being ignorant of this condition, are liable to lose their lands, although for the space of four years they have paid the taxes thereon, and praying the interposition of Congress in their behalf; and the petition was read and referred to Messrs. WORTHINGTON, SMITH, of Tennessee, and ADAIR, to consider and report thereon.

The following motion was submitted; and ordered to lie for consideration:

Resolved, That that part of the President's Message which relates to the spoliations of our commerce on the high seas, and informs us of the new principles assumed by the British Courts of Admiralty, as a pretext for the condemnation of our vessels in their prize courts, be referred to a special committee.

And, on motion, the House adjourned.

WEDNESDAY, January 15.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now render to Congress an account of the grant of twenty thousand dollars for the contingent charges of Government, by an act making appropriations for the support of Government for the year 1805. Of that sum nineteen hundred and eighty-seven dollars fifty cents have been necessarily applied to the support of the Territorial governments of Michigan and Louisiana, until an opportunity could occur of making a specific appropriation for that purpose. The balance, of eighteen thousand and twelve dollars fifty cents, remains in the Treasury.

TH. JEFFERSON.

JANUARY 15, 1806.

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress, the Report of the Director of the Mint, of the operations of that institution during the last year.

TH. JEFFERSON.

JANUARY 15, 1806.

The Messages and documents therein referred to were read, and ordered to lie for consideration.

The Senate resumed the consideration of the motion made yesterday, that it be

Resolved, That that part of the President's Message which relates to the spoliation of our commerce on the high seas, and informs us of the new principles assumed by the British Courts of Admiralty, as a pretext for the condemnation of our vessels in their prize courts, be referred to a special committee.

A motion was made by Mr. ADAMS to amend the resolution, by striking out "a special committee," and inserting the words "the committee to whom was referred the memorial from the merchants of New York; and, on appeal to the decision of the PRESIDENT, it was determined that this motion for amendment was not in order, the 15th rule for conducting business in the Senate stating that all committees shall be appointed by ballot and a plurality of votes shall make a choice.

And on the question, Shall this motion be agreed to? it was determined in the affirmative—yeas 25, nays 3, as follows:

YEAS—Messrs Adair, Anderson, Baldwin, Bradley, Condit, Fenner, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Tracy, Turner, White, Worthington, and Wright.

NAYS—Messrs. Adams, Pickering, and Plumer.

So the resolution was adopted; and

Ordered, That Messrs. SMITH of Maryland, MITCHILL, ANDERSON, LOGAN, TRACY, ADAMS, and BALDWIN, be the committee.

Mr. LOGAN presented the memorial of the merchants and traders of the city of Philadelphia, stating "at a moment of distress, and in a season of solicitude, resulting from a novel and peculiar affection of the commercial interests of their country," certain considerations of the ruinous interference of the belligerent nations with neutral commerce; and the memorial was read.

Ordered, That it be referred to Messrs. ANDERSON, LOGAN, SMITH of Maryland, MITCHILL, TRACY, ADAMS, and BALDWIN, to consider and report thereon.

The Senate resumed the consideration of the motion made on the 20th December last, for leave to bring in a bill to suspend the commercial intercourse between the United States and the French island of St. Domingo; and, on the question, Shall leave be given to bring in the bill? it passed in the affirmative—yeas 21, nays 7, as follows:

YEAS—Messrs. Adair, Anderson, Baldwin, Bradley, Condit, Fenner, Gilman, Howland, Kitchel, Logan Maclay, Moore, Smith of Maryland, Smith of New York, Smith, of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Turner, Worthington, and Wright.

NAYS—Messrs. Hillhouse, Mitchill, Pickering, Plumer, Tracy, and White.

So leave was given to bring in the bill, and it was read, and ordered to the second reading.

THURSDAY, January 16.

The bill to suspend commercial intercourse between the United States and the French island of St. Domingo was read the second time, and referred to Messrs. LOGAN, BALDWIN, and GILMAN, to consider and report thereon.

Mr. SMITH, of Maryland, from the committee appointed the sixth instant, on the subject, reported a bill to empower George Rapp and his associates, the Society of Harmony, to purchase certain lands; and the bill was read, and ordered to the second reading.

Mr. WRIGHT gave notice that he should, on Monday next, ask leave to bring in a bill for the protection and indemnification of American seamen.

Mr. SMITH, of Ohio, presented the petition of sundry purchasers of the lands of the United States in the now State of Ohio, praying an extension of the time for their future payment, and a remission of interest on their several instalments, for reasons mentioned in the petition; and the petition was read, and ordered to be referred to Messrs. SMITH of Ohio, BRADLEY, TRACY, BALDWIN, and ANDERSON, to consider and report thereon.

FRIDAY, January 17.

On motion, the galleries were cleared; and the doors of the Senate Chamber were closed; and, after the consideration of the confidential business,

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In my Message to both Houses of Congress at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private; and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usages of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develope these principles and practices, which are producing the most ruinous effects on our lawful commerce and navigation.

The rights of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country, (with the exception of blockaded ports and contraband of war,) was believed to have been decided between Great Britain and the United States, by the sentence of their commissioners mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of the damages awarded by them against Great Britain for the infractions of that right. When, therefore, it was perceived that the same principle was revived, with others more novel, and extending the injury, instructions were given to the Minister Plenipotentiary of the United States at the Court of London, and remonstrances duly made by him on this subject, as will appear by documents transmitted herewith. These were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on rights too evident and too important to be surrendered. In the mean time the evil is proceeding, under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

On the impressment of our seamen, our remonstrances have never been intermitted. A hope existed at one moment of an arrangement which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, had been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our Minister at London now communicated.

TH. JEFFERSON.

JANUARY 17, 1806.

The Message and document therein referred to were in part read, and ordered to lie for consideration.

The bill to empower George Rapp and his associates, in the Society of Harmony, to purchase certain lands, was considered as in Committee of the Whole, and the further consideration thereof postponed.

Mr. WORTHINGTON, from the committee to whom was referred, on the 14th instant the petition of the French settlers of Galliopolis respecting lands located by them on the river Ohio, requested and obtained leave to report by bill.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 31st of December last, the petition of Philip L. Jones and others, lawyers, practising at the bar of the Supreme Judicial Court of the Territory of New Orleans, asked and obtained leave to report by bill.

A confidential message from the House of Representatives, by Messrs BIDWELL and EARLY, two of their members, as follows:

Mr. PRESIDENT: We are directed, by the House of Representatives, in confidence, to bring to the Senate a bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations;" in which they request the concurrence of the Senate.

The bill was read and passed to the second reading.

Ordered, That the message and bill last read, be considered confidential, and that secrecy be observed by the members and officers of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives:

The enclosed letter, from the Minister Plenipotentiary of the United States at the Court of London, contains interesting information on the subjects of my other message, of this date. It is sent separately and confidentially, because its publication may discourage frank communications between our Ministers generally, and the Governments with which they reside, and especially between the same Ministers.

TH. JEFFERSON.

JANUARY 17, 1806.

The Message and letter were read and ordered to lie for consideration.

MONDAY, January 20.

Mr. MITCHILL, from the committee appointed, on the 6th of December last, to inquire into the expediency of appropriating a further sum of money to purchase maps and books for the library, made report in part; and the report was read, and ordered to lie for consideration.

Mr. MITCHILL, from the same committee, also reported a bill making a further appropriation for the support of the library; which was read and ordered to the second reading. The report is as follows:

By the fifth section of the act, entitled "An act to make further provision for the removal and accommodation of the Government of the United States," passed 24th April, 1800, $5,000 were appropriated for the purchase of such books as might be necessary for the use of Congress, then about to remove from Philadelphia and hold its sessions at Washington, and for fitting up a suitable chamber for containing them, and placing them therein. The Secretary of the Senate and the Clerk of the House of Representatives were directed to be the purchasers, pursuant to such directions as should be given, and such catalogue as should be furnished by a joint committee of both Houses of Congress. The account herewith exhibited shows in what manner, and to what amount, the money so appropriated has been expended.

Afterwards, by the sixth section of the "Act concerning the library for the use of both Houses of Congress" passed 26th January, 1802, the unexpended balance of the said $5,000, together with such sums as may be hereafter appropriated to the same purpose, is ordered to be laid out under the direction of a joint committee, to consist of three members of the House of Representatives, for the purchase of books and maps.

The committee almost hesitate to add a sentence, to enforce the propriety of increasing the number already bought for Congress. Every member knows that the inquiries of standing and select committees cannot here

be aided by large public libraries, as in New York, Baltimore, and Philadelphia. Nor has it hitherto appeared that so much benefit is to be derived from private collections at the present seat of Government, as in those large cities. Every week of the session causes additional regret that the volumes of literature and science, within the reach of the National Legislature, are not more rich and ample. The want of geographical illustration is truly distressing; and the deficiency of historical and political works is scarcely less severely felt. There is, however, no danger of realizing the story of a *parliamentum indoctum* in this country, especially if steps be seasonably taken to furnish the library with such materials as will enable statesmen to be correct in their investigations, and, by a becoming display of erudition and research, give a higher dignity and a brighter lustre to truth.

The copy of a letter dated 23d of September, 1805, from Mr. Monroe, the Minister of the United States, to the British Secretary of Foreign Affairs, referred to in the Message of the President of the United States, of the 17th instant, was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an additional appropriation to supply the deficiency in the appropriation for the naval service for the year 1805;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. SMITH, of Ohio, gave notice that he should, to-morrow, ask leave to bring in a bill authorizing the sale of a certain lot of land.

Mr. KITCHEL presented the petition of Samuel Hickendall, a wounded officer in the Revolutionary war, praying that the half-pay of a captain may be allowed him on account of his wounds and disabilities in service; and the petition was read.

Ordered, That it be referred to the committee appointed the 20th December last on the bill, entitled "An act making provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war," to consider and report thereon.

The confidential bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," was read the second time.

Ordered, That the further consideration of this bill be the order of the day for to morrow.

AMERICAN SEAMEN.

Agreeably to notice given on the 16th instant, Mr. WRIGHT asked and obtained leave to bring in the following bill; which was read, and passed to a second reading:

A Bill for the protection and indemnification of American seamen.

Whereas, by the Treaty of Amity, Commerce, and Navigation, made between His Britannic Majesty and the United States, at London, on the nineteenth day of November, one thousand seven hundred and ninety-four, by the first article of said treaty, it is agreed that "there shall be a firm, inviolable, and universal peace, and a true and sincere friendship between His Britannic Majesty, his heirs, and successors, and the United States of America; and between their respective countries, territories, cities, towns, and people, of every degree, without exception of persons or places." And whereas, in direct violation of said treaty, His Britannic Majesty has caused to be impressed out of the ships of the United States, sailing on the high seas, divers citizens of the said United States; and has compelled them to serve on board the ships of war of His said Britannic Majesty, in violation of their liberty, and at the hazard of their lives; and in despite of the remonstrances of the Government of the said United States, continues said unjust practice; and the seamen of the United States so impressed, by force, retains in his service. And whereas the United States are solemnly bound to protect all those who are bound in allegiance to the said United States: Therefore,

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the —— day of —— next, any person or persons, who shall impress any seamen on board any vessel bearing the flag of the United States, upon the high seas, or in any river, haven, basin, or bay, under pretext or color of a commission from any foreign Power, shall, for every such offence be adjudged a pirate and felon; and, on conviction, shall suffer death. And the trial in any such case may be had where the offender is apprehended or may be first brought.

SEC. 2. *And be it further enacted*, That it shall be lawful for any American seaman, sailing under the flag of the United States, on any person or persons attempting to impress him, by force, from on board any vessel of the United States, upon the high seas, or in any river, haven, basin, or bay, to repel such force by shooting, or otherwise killing and destroying the person or persons so attempting to impress him, and shall, as an encouragement to resist, be entitled to a bounty of two hundred dollars, to be paid to him or his order, or legal representatives, out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That, on information being given to the President of the United States, proving satisfactorily to him, that any citizen of the United States, who shall have been impressed or forced by violence or threats, to enter on board any foreign vessel, shall suffer death, or any other corporeal punishment, by the authority of such foreign Power, it shall be lawful for the President of the United States to cause the most rigorous and exact retaliation on any subjects of that Government, whom he is hereby authorized to seize and take for that purpose.

SEC. 4. *And be it further enacted*, That every American seaman, heretofore or hereafter, impressed and compelled to serve on board any foreign ship or vessel, shall be entitled to receive, as an indemnification for his slavery and hardships on board the ship in which he has been, or shall be compelled to serve, from the day of his impressment, the sum of sixty dollars per month, for every month he has or shall serve on board said ship or ships; and that the said seaman, his heirs, executors, administrators, or assigns, shall be entitled to recover the same in the district court of the State in which the port lies from which the vessel cleared for the voyage in which he was taken, by attachment of

any private debt due from any citizen of the United States to any subject of that Government, by whose subjects he had been impressed; and that any sums of money so attached out of the hands of any debtor, shall be a payment of so much of said debt, and may be pleaded in payment or discount to the amount of the said sum so attached, and all the costs of said attachment, which shall be allowed as a payment of that amount in any suit for said debt. And that so much of the Treaty of London, of the nineteenth of November, one thousand seven hundred and ninety-four, as secures the inviolability of such debts, as will be infringed by the attachments or recoveries hereby authorized, shall not (so far as is necessary in the execution of this act only) be regarded as legally obligatory on the Government or citizens of the United States.

On introducing this bill Mr. WRIGHT spoke as follows: Mr. President—As introductory to the consideration of the merits of this bill, I feel it my duty to call the attention of the Senate to the present degraded state of impressed American seamen, thousands of whom have been pressed on board the British ships of war, and compelled, by whips and scourges, to work like galley slaves; whither they have been forced, by the hand of violence, from on board our own ships, sailing on the high seas, under the flag of the United States, carrying the spare productions of the toil of the American planter and merchant, to a foreign market, or returning with their proceeds.

In doing this, I wish not to enlist your sympathies, but only to present to you a correct state of the facts on which this bill is predicated; facts that stand recorded in the official reports of the Secretary of State, the black catalogue of impressments.

I will next present to your view the measures adopted by the Legislative and Executive Departments of the Government of the United States for their redress.

In the year 1796, Congress, by law, (3 vol. 322,) directed Agents to be appointed, to reside in Great Britain, and in such foreign ports as the President might direct, whose duty it should be, to inquire into the situation of such American citizens, or others, sailing conformably to the law of nations, under the protection of the American flag, who had been, or should be impressed, by any foreign Power, and to endeavor by all legal means to obtain their release; and to render an account of all impressments and detentions, to the Executive of the United States.

They also directed the collectors of the several ports, on proof being made of the citizenship of any seaman, to give him a certificate thereof, under a hope that it would have been respected in foreign ports, and have protected him from impressment. This certificate acquired the name of a protection.

They also directed, "That every captain of a 'vessel, in case of any of the crew being impressed, 'shall enter his protest at the first port he shall 'arrive at, with the name and residence of the per-'son, and transmit immediately by post a dupli-'cate of such protest, to the nearest Agent, Min-'ister, or Consul, resident in such country, and 'also, on his arrival in America, to the Secretary 'of State. And that every captain on his arrival 'at any port of the United States, before he shall 'be admitted to any entry of his vessel, shall be 'required by the collector to declare on oath, 'whether any of the crew have been impressed, 'which he shall take under the penalty of one 'hundred dollars, and the collector is bound to 'return a list of all impressments, so communi-'cated to him, to the Secretary of State."

In 1799, the Secretary of State is directed by law, (4 vol. 503,) "To lay before Congress an-'nually, a statement of all impressments reported 'to him, that they might be officially and pre-'cisely informed of the state of our impressed 'seamen."

Under these legislative provisions, and the intervention of our agents appointed for that purpose, hundreds of our seamen no doubt have been discharged by the Board of Admiralty, while at the same time, and under the same authority, the impressments kept pace with the discharges, so that instead of redressing the wrong, it was only inflicted in routine, thereby adding insult to injury. This all-important subject, from its commencement, has also been particularly attended to by the Executive of the United States. Our Ministers at London, during three successive administrations, have been specially charged with it, and we have witnessed their diplomatic exertions to bring this lawless and cruel practice to an end, but all to no effect. And now we are informed by the President of the United States, in his Message of the 17th January last, that "on the im-'pressment of our seamen, our remonstrances 'have never been intermitted; a hope existed at 'one moment, of an arrangment that might have 'been submitted to, but it soon passed away, and 'the practice, though relaxed at times in the dis-'tant seas, has been constantly pursued in those 'in our neighborhood."

This, Mr. President, is the prospect presented to our view, whereby thousands of our unfortuate seamen, that hardy and invaluable class of citizens, are consigned to the most intolerable bondage, by the imperious mandate of a British naval officer, whose word is the supreme law from which there is no appeal; and which gloomy prospect we are now informed, by the highest authority, there is not a spark of hope left to enlighten.

Sir, I have invited you to investigate this subject with the eye of temper, but at the same time, I trust, that the nation's justice will not be compromitted, by exceeding the bounds of moderation, for it has its limits; and we are informed by the laws of nations, (Vat. 433, sec. 352.) "that 'the true and just welfare of the nation is the 'grand rule. Moderation is always laudable in 'itself, but the conductors of nations ought to 'make use of it, only so far as it is consistent with 'the happiness and safety of their people." Under this view of the subject, can we submit to this state of things? That is the question. I have presumed not; and under that presumption, I have brought the subject before this Senate in the shape

it is presented in this bill. Sir, I wish it to be recollected that the infant state of our navy suppresses every hope of redress on the element of our wrongs, and that this is a measure of necessity, not of choice. Wherefore, I trust it will not be thought too nervous, when it is considered that we have just cause of war. I will therefore now, sir, proceed to the consideration of the merits of this bill.

The first clause states that, in violation of the Treaty of Amity, Commerce and Navigation, made at London on the 19th of November, 1794, His Britannic Majesty had caused the impressment of our seamen, sailing under the flag of the United States. The treaty (2d vol. L. U. S., p. 464) secures the inviolability of the citizens and subjects of the respective Powers; and we are informed by the law of nations, (Vat. 655, sec. 39,) "that a nation acts against the nature and essence 'of every treaty of peace, nay, against peace itself, 'by deliberately and wantonly offending him 'with whom peace has been made, and treating 'him or his subjects incompatible with peace, and 'which he cannot suffer, without being wanting 'to himself." But it may be said that this has not been authorized by the British Government. Let us examine that fact. It is declared by the law of nations, (Vat. 252, sect's 73, 74, 76.) "that, 'however, as it is impossible for the best regulated 'State, or for the most vigilant and absolute Sovereign, to model, at his pleasure, all the actions 'of his subjects, and to confine them, on every occasion, to the most exact obedience, it would be 'unjust to impute to the nation or to the Sovereign all the faults of the citizens; we ought not, 'then, to say, in general, that we have received 'an injury from a nation, because we have received it from one of its members."

"But if a nation, or its leader, approves and 'ratifies the fact committed by a citizen, it makes 'the act its own; the offence ought, then, to be 'attributed to the nation as the author of the true 'injury, of which the citizen is perhaps only the 'instrument."

"If the Sovereign disavows the act, he ought 'to inflict on the offender exemplary punishment."

So far I have called in aid the law of nations: I will now refer to the form of the authority in the case of impressment, which is in these words: (Fost. C. L. 156.) "In pursuance of His Majesty's Order in Council, dated the 19th day of January, 1742; we do hereby empower you to impress, or cause to be impressed, so many seamen," &c. And I will refer you to the facts in your own possession, that His Britannic Majesty approves the act, both by continuing the impressments, and by his lately promoting the Captain of the Cambrian frigate, (whom he recalled to appease our complaints on that head,) to the command of a ship-of-the-line; so that in form, in law, and in fact, His Britannic Majesty has caused the impressment of our seamen, or he must have punished and not promoted so notorious an offender. On this point I presume, then, there can be no doubt.

Mr. President, I have thought it neither unprofitable or irrelevant to the present subject, to examine the right of impressing British subjects.

British jurists have more than questioned this right, and the British Parliament have, I presume, decided the question.

Sir Edward Coke (2 Inst. 47) says: "The King 'cannot send any subject against his will out of 'the realm, not even into Ireland, for then, under 'pretence of service, he might send him into banishment." (H. H. P. C. Notes, 679.) In Hales H. P. C., it is declared "repugnant to the liberty of 'an Englishman, and irreconcilable to the established rules of law, that a man, without any 'offence by him committed, or any law to authorize it, should be hurried away, like a criminal, 'from his friends and family, and carried by force 'into a dangerous service."

That the common law did not admit of such a practice, must have been the opinion of the British Parliament, who, in the time of Charles I., passed a statute (16 C. 1, c. 5) "to authorize the 'impressment of soldiers and seamen for sea-service beyond sea," which soon after expired, being of short duration. They might also have been of the same opinion in the time of (2 and 3 Ann, c. 19; 3 and 4 Ann, c. 11; 4 Ann, c. 10; 5 Ann, c. 15; 6 Ann, c. 10) Queen Ann, when a number of statutes, of a very short duration, passed in Parliament, in the same terms as the statute of Charles above stated. I presume they would never have passed laws to have authorized a proceeding that was justifiable by the common law. Judge Foster, who is quoted by Britons as an authority on this point, shall be examined. (Fos. C. L. 157.) He states, in the case of Broadfoot, who was indicted for the murder of Calahan, "that, 'by pressing mariners on one hand, a very useful 'body of men seem to be put under hardships 'inconsistent with the temper and genius of a 'free Government; on the other, the necessity of 'the case seemeth to entitle the public to the service of this body of men, whenever the safety of 'the whole calleth for it. I think the Crown has 'a right to command the service of these people 'whenever the public safety calleth for it; the 'same right that it hath to require the personal service of every man able to bear arms in 'case of sudden invasion or formidable insurrection. The right in both cases is founded on one 'and the same principle, the necessity of the case, 'in order to the preservation of the whole." But, he adds: (Fost. C. L., 154,) "If it be asked, where 'are the adjudged cases, on which he groundeth 'his opinion? he freely confesseth that he hath 'not met with one on which the legality of pressing for the sea-service hath directly come in question. He states that, according to his best apprehension, (having thought much upon the subject,) the right of impressing mariners for the 'public service is a prerogative, inherent in the 'Crown, grounded upon the common law, and 'recognised by many acts of Parliament." With great deference to his honor, I would ask, if anything can be evidence of the common law, but judicial decisions on the point, which he admits

are not to be found? I will also examine the statutes on which he relies as recognising this right. I would here observe that he holds the soldier and seamen alike bound by the same law, and it would (Fost. C. L., 166) seem, by Admiral Seymour's commission, that his power extended to impress ships, captains, masters, pilots, and seamen, as well as all other persons fit for the purpose. This was for the sea and foreign service, and did not extend to land soldiers, as, until the 24th year of Charles II., all the lands were held by military tenures, whereby the tenants were obliged to furnish soldiers and everything necessary for them in war; but by (24 C. II., c. 12) these tenures were abolished; and I question much whether the statute of Charles I. extended to the feudal tenants, who were bound to serve only in England. By statute of Henry VII., (7 H. 7, c. 1) it is enacted that, if any soldier, being no captain immediately retained with the King, which shall be in wages, and retained, or take any *prest* to serve the King upon the sea, or upon the land beyond sea, depart out of the King's service without license from the captain, it shall be adjudged felony.

The statute of Henry VI. (18 H. 6, c. 19) against desertion, was construed to extend to soldiers bound by tenure, or covenant, to serve on land; and a question was made, whether soldiers who had taken *prest* to serve against the rebels in Ireland, were liable to the penalties of that law? which was cleared up in Parliament in these words: "That 'the said statute of Henry VI., in all pains, forfeitures, and penalties, did, doth, and hereafter 'shall, extend as well to every mariner and gunner having taken, or who hereafter shall take, '*prest*, or wages, to serve the Queen's Majesty, 'as it did, or doth, to soldiers; any opinion to the 'contrary notwithstanding." These are the statutes from whence the right is pretended to be inferred—which, I presume, go to show that the mariner and soldier must be enlisted before they are liable to the penalties of desertion, and, that it is by contract, and not by force, the soldier becomes bound to serve, and that the right is founded in the prostitution of the sound of the word (Boy. D. Cow. Inst. J. L. D.) *prest* for the sense, which word means "money paid to a soldier or sailor to enlist." Nor is it at all to be wondered at, that a right founded in necessity—the tyrant's plea—should rest on a pretext so flimsy, or that the barriers of etymology should not be able to withstand—as necessity has no law—the physical force of a press-gang. And although this right of the seaman to be exempt from service but on their enlistment, has been, under the claim of prerogative, substantially violated, yet the form of the commission to impress retains the evidence of this violation. It is in these words: (Fost. C. L. 15 c.) "We do hereby empower and direct you to 'impress, or cause to be impressed, so many seamen, &c., giving unto each man one shilling for 'press money," &c. Thus I have shown that British subjects are not legally bound, unless they receive *prest*, or bounty, to enlist; and, to avoid imposition, it is provided by statute, (5 and 6. W. and M., c. 15) "That no person shall be enlisted 'for the land service, who did not, in the presence 'of a magistrate, high-constable, &c., declare his 'free consent to be enlisted as a soldier."

Can we, then, submit the exercise of this royal prerogative right to be enforced on those sailing under the flag of the United States, without the limits of the British Empire?—a practice, Judge Blackstone informs us, Britons have submitted to with great reluctance—and, will it not be said, that we are wanting to ourselves, if we should not guard our seamen against this outrage by all the means in our power? But it may be said, the British Government has a right to the service of her own subjects. I have shown, not by impressment; and I will now show that they have the right of becoming American citizens, and being protected in that right. (Tuck. Black. 1 vol. p. 145.) "By the law of nature, man is subject to 'no restraints, and may pass into any region." (Vat. 172, sec. 225.) "By the law of nations, 'every subject has a right to expatriate himself, 'and seek his fortune where he can best promote 'his interest." (1 Black. Com. 265, F. N. B. 85.) And by the common law, every Englishman may go out of the realm without the King's leave for any cause he pleaseth; and so far has Britain recognised this right in others, by Parliament, that, by the navigation act, one-fourth of every ship's crew may be foreigners. (6 Ann, c. 37.) By the statute of Ann, three-fourths may be foreigners, and by the statute of George II., (13 Geo. 2, c. 3,) it is provided, "That any foreigner serving on 'board of any merchant ship, or ship of war, for 'two years, in time of war, shall, *ipse facto*, become a British subject, entitled to all the privi-'leges of a native-born subject." Thus, we see, Britain invites foreigners into her service, and secures them in all the privileges of her native subjects, among which, protection is the most important. Can it be, then, that Britain will exercise a right that is not legitimate, or claim for herself what she denies to others? If not, then she admits the right of expatriation, which is established by the law of nature, of nations, and the common law, and tested by the authority of the British Parliament. Can we, then, feel ourselves at a loss for authority to protect those who sail under the flag of the United States, when we see Britain not only inviting foreigners into her service, but securing them protection by the solemnity of a statute? Can we then, I say, want authority or zeal to protect our citizens in their rights, secured to them by the solemnity of a Constitution, under the solemnity of an oath?

Mr. President, permit me here to observe, that all legitimate government is derived from the people, and is founded in compact only, and intended for the good of the whole; that protection and allegiance are reciprocal obligations, each so important, that in all Governments, in all ages, they have been secured by the solemnity of an oath.

I ask, then, is not the conduct of Britain a violation of the rights of our seamen? Are they not secured in these rights by the Constitution? and

are we not bound by the most solemn obligation to protect them to the utmost of our power? (Vat. 251, sec. 1.) "Whosoever uses a citizen ill, indi-'rectly offends the State—which ought to protect 'their citizens—and his Sovereign should avenge 'the injuries, punish the aggressor, and, if possi-'ble, oblige him to make entire satisfaction; since 'otherwise the citizen would not obtain the great 'end of the civil association, which is safety."

I cannot then permit myself for a moment to suppose that a right so important, secured by ties so solemn, and so palpably violated, will not be protected to the utmost of the power of the Congress of the United States by all the legislative means they possess, consistent with the sound principles of legislation and good government.

By the Constitution, Congress are to define and punish piracy. In defining piracy, I wish them not to exercise a wild, but legal discretion, which is itself defined, to "discern by law what is just." I will therefore call their attention to the subject, as it has been considered by the law of nations, the common and statute law of Great Britain. By the law of nations, (Mol. D. J. M. 57,) "the 'attacking a ship at sea and taking away some of 'the men to make them slaves, is piracy."

By the common law, (4 Blac. Com. 72, 3 Inst. 109.) piracy consists in 'committing those acts of 'robbery and depredation upon the high seas 'which if committed upon land would be felony."

"Every community have a right (4 Bl. C., c. '71) to inflict that punishment upon a pirate by 'the rule of self-defence, which an individual 'would in a state of nature have been otherwise 'entitled to, for any invasion of his person or pro-'perty." By the statute of Elizabeth. (43. Eliz.,) it is enacted that "whoever shall hereafter, with-'out lawful authority, take any of Her Majesty's 'subjects against their will and detain them with 'force, or to make a prey or spoil of his person or 'goods, upon deadly feud, or otherwise, should be 'adjudged and taken to be a felon, and should suf-'fer the pains of death without benefit of clergy." This statute was predicated upon a state of things in that country, not more intolerable than the present state of American seamen; nor can it be considered as an incorrect exercise of the discretion of Congress in defining piracy, to declare the impressment of our seamen, and consigning them to so abject a slavery as they are subject to on board British ships of war, piracy—when, by the law of nations, by the common law, and by the statute of Elizabeth, we discover ourselves perfectly justified in so doing; and I trust we can never find ourselves less disposed to protect our citizens than Britain has been to protect her subjects; nor of declaring that act piracy committed on the high sea, that Britain considers a felony of death committed on land. Nor can we feel any difficulty in imposing the pains of death on the offender, for a piracy on personal liberty, when we impose it in all cases of piracy on property, and when we consider that it is the punishment imposed by all nations in every case of piracy. This brings me to the second section of the bill, which justifies the repelling force by force, and gives a premium for destroying the pirate, whom all writers denounce as an outlaw, and hold it lawful to destroy. Sir Edward Coke (3 Inst. 113) says a pirate is "*Hostis humani generis*," which is an enemy to the human race. "That an out-'lawed felon is said to have *caput lupinum*, that 'he might be knocked on the head like a wolf by 'any one that should meet him," (Merr. C. 4, s. 4, Co. Lit. 128;) and Judge Blackstone tells us, in more modern times, (4 Bl. 70.) that "a pirate has 'renounced all the benefits of society and govern-'ment, and has reduced himself afresh to the sav-'age state of nature by declaring war against all 'mankind; all mankind must declare war against 'him, so that every community hath a right, by 'the rule of self-defence, to inflict that punish-'ment upon him which every individual would 'in a state of nature have been otherwise entitled 'to do, for any invasion of his person or property." By the law of nations (Vat. 137, sec. 169) "The 'right of punishing, which in a state of nature 'belonged to each individual, is founded in the 'right of safety. Every man has therefore a right 'to preserve himself from injury, and by force to 'provide for his own security, against those who 'unjustly attack him." Nor are we left to the elementary writers alone to support this doctrine. The very point has been judicially determined in the (Fost. C. L. 151) case of Alexander Broadfoot, who was indicted for the murder of Cornelius Calahan, and acquitted by Judge Foster's direction to the jury. The case was this: "Cap-'tain Hanway had a press warrant, with this di-'rection inserted in the body of it: 'You are not 'to entrust any person with the execution of this 'warrant but a commissioned officer, and to insert 'his name and office in the deputation on the 'other side hereof.' He endorsed: 'I do hereby 'depute A. B. a Lieutenant of the mortar sloop 'to impress, &c.' On 25th April, 1742, Captain 'Hanway being at anchor, in Kingroad, at Bris-'tol, ordered the ship's boat down the channel, to 'press as they should see an opportunity; the 'Lieutenant staid on board with the Captain. In 'the evening the boat came up with the Bremen 'Factor, in that part of the channel in the coun-'ty of the city of Bristol; some of the crew went 'on board in order to press men, who being in-'formed that one or two of the Bremen's men 'were concealed in the hold, Calahan with three 'others went thither in search of them, where-'upon Broadfoot, one of the Bremen's men (who 'had provided a blunderbuss for defence against 'the press gang) called out, and asked them what 'they came for; he was answered by some of the 'press gang: 'We come for you and your com-'rades.' Whereupon he cried out, 'Keep back, I 'have a blunderbuss loaded with swan shot.' 'Upon this the other stopped, but did not retire. 'He then cried out, 'Where is your Lieutenant?' 'and being answered, 'He is not far off,' imme-'diately fired among them. By this shot Calahan 'was killed, and one or two of the press gang 'wounded." In this case, as you perceive, Broadfoot was acquitted by the direction of the Judge. Then, if an Englishman may kill an Englishman

in the attempt to impress him, because the authority was incorrectly executed, can we feel a doubt that an American may kill an Englishman, when by no possibility there can be any color of authority; and that too without the jurisdiction and limits of the British empire, when sailing under the protection of the American flag? I can feel no doubt.

And as to giving a bounty for killing this *hostis humani generis*, wearing the *caput lupinum*, I trust there can be no objection, when we consider the practice of other States and nations, particularly Britain herself, who, by the statute of George II., (8 Geo. 2, c. 24,) gives a bounty to encourage the destruction of pirates. The statute is in these words: "That, to encourage the de-'fence against pirates, the commanders or sea-'men wounded, and the widows of such seamen 'as are slain in any piratical engagement, shall 'be entitled to a bounty, to be divided among 'them, not exceeding the value of one-fiftieth 'part of the cargo on board." Can we then, with the example of Britain before our eyes, giving bounty for the protection of property, feel any reluctance in giving a bounty for the protection of liberty? Can it be possible that Britain shall protect the property of her subjects with more vigilance and circumspection than America will protect the liberty and lives of her citizens? I will not for a moment permit the hateful idea to torment me. It cannot be so. As these provisions are mere declarations of the law, that our seamen may know their rights, and resist the unlawful force with safety; and as the exercise of this repulsive force may induce severities and death itself, it becomes necessary to secure the exercise of it by the provisions of this act. Therefore the next clause is introduced, authorizing the President to retaliate in case of any cruelties exercised on our seamen. This is dictated by the soundest policy, legitimated by the law of nations, and recognised by our own laws. By the law of nations, (Vat. 426, § 341.) "when a sov-'ereign is not satisfied with the manner in which 'his subjects are treated by the law and custom of 'another nation, he is at liberty to declare he will 'treat the subjects of that nation in the same 'manner his subjects are treated; this is called 'the Law of Retortion. There is nothing in this 'but what is conformable to sound politics." (Vat. 432, § 351.) At Athens, the law permitted the relations of him who had been assassinated to seize three of the natives of that country, and detain them till the murderer was punished or delivered up, and our own law recognises this principle. By the act of 3d March, 1799, it is provided, that if any seaman, who shall have been impressed on board any vessel of the Powers at war with France, who shall be taken by France, and hath suffered death, or any corporal punishment by the authority of France or any officer under their authority, the President shall cause the most rigorous retaliation to be executed on any citizen of the French Republic that may be taken under the laws of the United States. But perhaps it may be insisted these were Frenchmen, and not entitled to the same measure of justice as Englishmen. By the law of nations (Vat. 434, § 354) these measures are milder than war, which involves the innocent with the guilty. "The 'Prince, therefore, who attempts this method, in-'stead of coming to an open rupture, is doubtless 'worthy of peace, on account of his moderation 'and prudence; but they who run to arms with-'out necessity, are scourges to the human race, 'barbarians, enemies to society, and rebels to the 'law of nations, or, rather, to the common Father 'of mankind."

This brings me to the last section of the bill, which secures the impressed seaman compensation for his false imprisonment not far beyond the wages in the merchant service, and authorizes the attachment of so much of the debts to British subjects as may be necessary for that purpose, there being no other means of redress. All mankind will declare it just, and Britain herself has judicially established the principle in the case decided by C. J. Pratt, afterwards Lord Camden, (Say. Dam. 219.) The case was in an action for false imprisonment. The Earl of Halifax, one of His Majesty's principal Secretaries of State, granted a warrant, without previous information, against a journeyman printer of North Britain, who was kept six hours and treated civilly; 300 pounds damages were given. On a motion for a new trial, because of excessive damages, Pratt, Chief Justice, declared that, as it was a general warrant and an attack upon public liberty and against Magna Charta, and as they attempted to justify its legality, there ought to be exemplary damages; and in all cases wherever an injury is done under the color of authority, as where an officer under an authority to impress exceeds that authority. Motion overruled.

It will not, then, be said by an American Congress, that, for the false imprisonment of an American seaman sixty dollars per month can be too high, for his bondage on board a British ship of war, exposed to every hardship, when a British subject, for six hours confinement, with civil treatment, had eight hundred dollars damages by a British jury; nor can the method of recovering the same be opposed upon sound principles. (Vat. 431, sec. 350.) By the law of nations, "justice is said to 'be denied, when the subject is not permitted to 'establish his right in the ordinary tribunals of 'justice, or when great and unreasonable delay is 'effected, equivalent to a refusal." And it can never be said that, after ten years spent in fruitless negotiation, and after we have been informed by the President "that every spark of hope is extinguished," and the cup of humiliation drained to its dregs, that the delay is not unreasonable and equivalent to a refusal. And we are authorized by the law of nations (Vat. 151, sec. 1) to retaliate, to enforce, if possible, the making the citizen entire satisfaction. It may be objected, however, that this remedy is in violation of the Treaty of London of 19th November, 1794, which secures the inviolability of British debts; but it will be recollected that this violation on our part is induced by the violation of the same treaty by

Great Britain by an attack on the liberty of the citizen, and it can never be said that we are not justified by claiming the damages we have received by a violation on personal liberty, as a correct set-off against any damages they may receive by a breach of the same contract, by an attack on personal property. It can never be, in the eye of justice and in a land of liberty, that property is more to be respected than liberty, nor can we feel ourselves unauthorized, when the law of retaliation and self-preservation, which are written on the heart of man by the finger of Omnipotence, holds us justified. Nor, when we consider that we ourselves have totally annulled and declared void the Treaty with France, because of her violation of her treaty by the spoliations on our commerce; refusing to do us justice, can we hesitate to make this partial repeal of the Treaty with Great Britain so far only as is necessary to do our oppressed seamen justice, by the sacrifice of British property at the shrine of American liberty, when we reflect that it is the only means whereby we can remunerate our enslaved seamen for their cruel bondage; that the safety of the people is the supreme law, and that we are the sentinels to protect their rights and avenge their wrongs?

TUESDAY, January 21.

Mr. SMITH, of Maryland, gave notice that he should, to-morrow, ask leave to bring in a bill for classing the militia, and assigning to each class its particular duties.

Agreeably to notice given yesterday, Mr. SMITH, of Ohio, asked and obtained leave to bring in a bill authorizing the sale of a certain lot of land; and the bill was read, and ordered to a second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the Governor, Secretary, and Judges, of the Territory of the United States Northwest of the river Ohio;" also, a bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes;" in which bills they desire the concurrence of the Senate.

The bills were read and ordered to the second reading.

The bill, entitled "An act making an additional appropriation to supply the deficiency in the appropriation for the naval service during the year 1805," was read the second time as in Committee of the Whole; and, having been reported to the House without amendment, it was, by unanimous consent, read the third time and passed.

On motion, that it be

Resolved, That a committee be appointed to inquire why the expenditures in the Navy Department, for the year 1805, have so far exceeded the appropriation for the same, and report thereon to the Senate.

Ordered, That this motion lie for consideration.

On motion, that it be

Resolved, That the President of the United States be requested to cause to be laid before the Senate a copy of Mr. Monroe's letter to the Secretary of State, dated October last, which was read in Senate on Friday last, and withdrawn to be laid before the House of Representatives.

It was agreed that this motion lie for consideration.

The bill to empower George Rapp and his associates, in the Society of Harmony, to purchase certain lands, was resumed as in Committee of the Whole; and, an amendment having been proposed,

Ordered, That the consideration thereof be postponed until to-morrow.

The bill for the protection and indemnification of American seamen was read the second time, and the further consideration thereof, as in Committee of the Whole, was made the order of the day for Monday next.

On motion the Senate resumed the second reading of the confidential bill, entitled "An act making provision for any extraordinary expenses attending the intercourse between the United States and foreign nations," as in Committee of the Whole; and the bill having been reported to the House without amendment,

Ordered, That the third reading thereof be the order of the day for Thursday next.

WEDNESDAY, January 22.

The bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes," was read the second time, and referred to Messrs. WORTHINGTON, BALDWIN, WRIGHT, MOORE, and ANDERSON, to consider and report thereon.

The bill entitled "An act for the relief of the Governor, Secretary, and Judges, of the late territory of the United States northwest of the river Ohio," was read the second time, and referred to Messrs. MACLAY, KITCHEL, and SMITH, of Ohio, to consider and report thereon.

Mr. MACLAY stated in his place, that the Legislature of the State of Pennsylvania had passed a resolution, that their Senators in Congress be instructed to obtain an amendment to the Constitution of the United States respecting the Judiciary; and submitted the following motion, which was read and laid on the table:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid, as part of the said Constitution, to wit:

The Judicial power of the United States shall not be construed to extend to controversies between a State and the citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State or the citizens thereof, and foreign States, citizens, or subjects.

The bill authorizing the sale of a certain lot of land was read the second time, and referred to Messrs. SMITH, of Ohio, BALDWIN, and TRACY, to consider and report thereon.

The bill to empower George Rapp and his associates, in the Society of Harmony, to purchase certain lands, was resumed as in Committee of the Whole; and recommitted to Messrs. SMITH, of Maryland, BRADLEY, and WORTHINGTON, further to consider and report thereon.

CLASSIFICATION OF THE MILITIA.

Mr. SMITH, of Maryland, agreeably to notice given yesterday, asked and obtained leave to bring in the following bill, which was read and ordered to a second reading:

A Bill for classing the Militia, and assigning to each class its particular duties.

Be it enacted, &c., That every free, able-bodied white male citizen of the United States, of the age of eighteen years, and under the age of forty-five, whose principal occupation is not on the high sea, or the tide waters within the United States, shall be of the militia for the land service of the United States. The persons so to constitute the land militia, shall be enrolled by their names and ages, in their proper districts, and in books kept for that purpose; such enrollment to be made without delay of those now within the description, and from time to time as to others who shall hereafter become so, always noting the date of enrollment, and placing in a distinct page, or part of the book, those of every different year of age, from forty-five down to eighteen.

The said militia shall be distributed into classes as follows, to wit: The junior class shall be composed of those above twenty-one, and under twenty-six years of age; the middle class of those above twenty-six, and under thirty-five years of age; the senior class of those above thirty-five and under forty-five years of age; and those above eighteen, and under twenty-one years of age shall compose the minor class.

The junior class shall be liable to perform all active services within the United States, or the countries next adjacent, by tours of duty, not to exceed one year in any two; and in order that the said services may be required of them equally, those of every battalion shall, by its commanding officer, be immediately divided by lot into ten parts, or portions, as nearly equal as may be; each portion to be distinguished by its particular number, from one to ten, and to be called into duty in the order of their numbers, such call extending to so many numbers as the exigency may require, and every person so called on, may be assigned to the service of the artillery, infantry, cavalry, or of any other description, as the competent authority shall direct.

In consideration of the assiduous discipline required from the junior class, and of the services they shall have performed, or been liable to perform while in it, they shall never after passing into the middle class, be liable to actual service, but where the junior class for the time being is inadequate to the exigency; and then in their own or one of the adjoining States only, and by tours not exceeding three months in any year: for which purpose they shall be distributed into sections and called on in routine, as is provided in the case of the junior class.

The senior and minor classes shall be liable to be called on to do duty within their own State only, and by tours not exceeding three months in any year, and they shall be separately distributed into portions and numbers, and called on in routine as provided for the other classes.

Exemptions from militia duty, except in cases of religious scruple against bearing arms, shall only extend to the ordinary duties of mustering and disciplining, after having entered the middle or senior class, but all exempts shall be enrolled in their classes and numbers, and when called on for actual military service, shall be bound as others are to perform their due tours.

If any person called on to do the actual duties of his class, shall refuse, or unnecessarily delay to enter on duty, he shall be arrested as a deserter, either by the civil or military authority, shall be delivered to the proper military officer, and either punished as a deserter, or compelled to perform his tour of duty. But any person so called on may compute his personal service, by tendering as a substitute an able-bodied white man, a citizen of the United States, fit for the service in the judgment of the officer who is to command him, and willing to engage therein. And all persons, while engaged in performing a tour of duty, shall have the pay and rations allowed in the army of the United States, and be subject to the rules, regulations, and articles, provided for the government of the same.

SEC. 2. *And be it further enacted*, That all provisions in any law of the United States, or of any particular State, or Territory, inconsistent with those of this act, are hereby repealed; and all provisions in the laws of the United States, or of any particular State or Territory not inconsistent herewith, shall be understood to be left in force, and liable to alteration by their respective enacting authorities.

The Senate resumed the consideration of the motion made yesterday, that the President of the United States be requested to communicate to the Senate a copy of Mr. Monroe's letter to the Secretary of State; and it was agreed to amend the motion as follows:

Resolved, That the President of the United States be requested, if he shall judge the same to be proper, to cause to be laid before the Senate a copy of Mr. Monroe's letter to the Secretary of State, dated 18th of October, 1805, with a postscript, dated 25th, which was read in Senate on Friday last, and withdrawn to be laid before the House of Representatives.

Whereupon, a motion was made that the proposed resolution be referred to a select committee; and, on motion, the Senate adjourned.

THURSDAY, January 23.

Mr. WORTHINGTON, from the committee appointed on the subject, reported a bill to repeal in part the fourth section of an act, entitled "An act to authorize a grant of lands to the French inhabitants at Galliopolis, and for other purposes therein mentioned;" and the bill was read, and ordered to the second reading.

Mr. BRADLEY presented the petition of Seth Harding, commander of a ship in the service of the United States, during the Revolutionary war, in which service he received extreme bodily injury, as is stated at large in his petition, and praying such pecuniary relief as may, to Congress, seem reasonable for a person debilitated by public service; and the petition was read, and referred to Messrs. BRADLEY, TRACY, and SUMTER, to consider and report thereon.

Mr. TURNER communicated the representation of the State of North Carolina, on the subject of certain pensioners on the list of that State, and

suggesting to the justice and wisdom of Congress the propriety of placing them on the pension list of the United States; and the representation was read.

Ordered, That it be referred to the committee appointed the 20th of December last, on the bill, entitled "An act making provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war," to consider and report thereon.

The bill for classing the militia, and assigning to each class its particular duties, was read the second time, and referred to Messrs. SMITH, of Maryland, SUMTER, ADAIR, BRADLEY, and SMITH, of New York, to consider and report thereon.

The following motion was made and seconded, and ordered to lie for consideration:

Resolved, That the report and estimates of the appropriations necessary for the year one thousand eight hundred and six, be referred to a select committee, with instructions to inquire into the specific expenditures of the respective Departments.

The Senate resumed the consideration of the motion that the President of the United States be requested to communicate a copy of Mr. Monroe's letter to the Secretary of State; and, on motion it was agreed that the doors of the Senate should be closed; and, after debate, it was agreed to amend the motion as follows:

Resolved, That the President of the United States be requested, if he shall judge the same to be proper, to make a further communication to the Senate of Mr. Monroe's letter to the Secretary of State, dated 18th October, 1805, with a postscript, dated 25th October, which was read in the Senate on Friday last.

And, on the question to adopt the resolution as amended, it was determined in the affirmative—yeas 23, nays 6, as follows:

YEAS—Messrs. Adair, Adams, Baldwin, Bradley, Penner, Gaillard, Gilman, Hillhouse, Maclay, Mitchill, Moore, Pickering, Plumer, Smith, of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Tracy, White and Wright.

NAYS—Messrs. Anderson, Condit, Kitchel, Logan, Turner, and Worthington.

FRIDAY, January 24.

JAMES A. BAYARD, appointed a Senator for the State of Delaware, for the term of six years, commencing on the fourth of March last, produced his credentials, which were read; and, the oath prescribed by law having been administered, he took his seat in the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

According to the request of your resolution of yesterday, I again communicate the letter of the Minister Plenipotentiary of the United States at London, to the Secretary of that Government for Foreign Affairs, dated October 18th, 1805, with a postscript of October 25th, but still in confidence that the matter of it shall not be made public.

JANUARY 24, 1806. TH. JEFFERSON.

The Message and paper were read and ordered to lie for consideration.

MONDAY, January 27.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 22d instant the bill to empower George Rapp and his associates, in the Society of Harmony, to purchase certain lands, reported the bill amended: and the amendment was read, and ordered to lie for consideration.

Mr. BRADLEY, from the committee to whom was referred, on the 23d instant the petition of Seth Harding, made report; which was read, and ordered to lie for consideration.

Mr. BRADLEY, from the same committee, asked and obtained leave to report a bill for the relief of Seth Harding late a captain in the Navy of the United States; and the bill was read and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend jurisdiction, in certain cases, to State judges and State courts;" Also, a bill, entitled "An act authorizing a detachment from the militia of the United States;" in which bills they desire the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES.

To the Senate of the United States:

According to the desire of the Senate, expressed in their resolution of the 10th instant I now communicate to them a report of the Secretary of State, with its documents, stating certain new principles attempted to be introduced on the subject of neutral rights, injurious to the rights and interests of the United States. These, with my Message to both Houses, of the 17th instant and the documents accompanying it, fulfil the desires of the Senate as far as it can be done by any information in my possession which is authentic and not publicly known. TH. JEFFERSON.

JANUARY 27 1806.

DEPARTMENT OF STATE, *Jan.* 25, 1806.

The Secretary of State, to whom the President has been pleased to refer the resolution of the Senate, dated on the 10th instant, has the honor to make the following report:

The most important of the principles interpolated into the law of nations, is that which appears to be maintained by the British Government, and its prize courts, that a trade opened to the neutrals by a nation at war, on account of the war, is unlawful.

The principle has been relaxed from time to time, by orders allowing as favors to neutrals, particular branches of trade, disallowed by the general principle; which orders have also, in some instances, extended the modifications of the principle beyond its avowed import.

In like manner, the last of these orders, bearing date the 24th of June, 1803, has incorporated with the relaxation a collateral principle, which is itself an interpolation, namely, that a vessel on a return voyage is liable to capture by the circumstance of her having on the outward voyage, conveyed contraband articles to an enemy's port. How far a like penalty attached by the same order to the circumstance of a previous communication with a blockaded port, would likewise be an interpolation, may depend upon the construction under which that part of the order has been, or is to be carried into execution.

The general principle first above stated, as lately applied to re-exportations of articles imported into neutral countries from hostile colonies, or vice versa, by considering the re-exportation in many cases, as a continuation of the original voyage, forms another interpolation, deeply affecting the trade of neutrals. For a fuller view of this and some other interpolations, references may be had to the documents communicated with the message to Congress of the 17th instant.

The British principle, which makes a notification to foreign Governments of an intended blockade, equivalent to notice required by the law of nations, before the penalty can be incurred; and that which subjects to capture vessels arriving at a port, in the interval between a removal and return of the blockading force, are other important deviations from the code of public law.

Another unjustifiable measure is the mode of search practised by the British ships, which instead of remaining at a proper distance from the vessel to be searched and sending their own boat with a few men for the purpose, compel the vessel to send her papers in her own boat, and sometimes with great danger from the condition of the boat, and the state of the weather.

To these instances, without adverting to others of an inferior or less definite character, in the practice of Great Britain, must be added the assumed right to impress persons from American vessels, sailing under the American flag, on the high seas. An explanation of this practice will be found in the extract from the instructions to Mr. Monroe, communicated with the message of the President above referred to.

Among the interpolations introduced by the French Government, is a decree, dated June 6, (18 Prairial, year 13,) importing that every privateer of which two-thirds of the crew should not be natives of England, or subjects of a Power the enemy of France, shall be considered as pirates.

Another is evidenced by the result of an application made by the deputy consul of the United States at Cadiz, through the French consul, to Admiral Villeneuve, for the liberation of some seamen of the United States who were on board the French fleet under his command. The answer of the Admiral, dated 29th August last, (11 Fructidor, 13th year,) states, that "A decision of His Imperial and Royal Majesty provides, that every foreigner found on board the vessels of war or of commerce of the enemy, is to be treated as a prisoner of war, and can have no right to the protection of the diplomatic and commercial agents of his nation."

Other unjustifiable innovations on the law of nations, are exemplified in the decree of General Ferrand, lately passed at the city of St. Domingo, a translation of which is annexed.

The irregular mode of search above described is also practised by the cruisers of France and Spain.

The cruisers of the two latter Powers have harassed the commerce of the United States in various other forms, but as it is not known or believed that their conduct has been prescribed or sanctioned by the public authority of their respective nations, they are not considered as falling within the purview of the resolution of the Senate. JAMES MADISON.

The Message and documents therein mentioned were read and ordered to lie for consideration.

TUESDAY, January 28.

Mr. LOGAN gave notice that he would, on Thursday next, ask leave to bring in a bill for the punishment of persons counterfeiting the current coin of the United States, and for other purposes.

The bills yesterday brought up from the House of Representatives for concurrence, were severally read and ordered to the second reading.

Mr. WORTHINGTON gave notice that he would, to-morrow, ask leave to bring in a bill explanatory of the act, entitled "An act further providing for the government of the District of Louisiana," and the ordinance of Congress of 13th July, 1787.

The PRESIDENT communicated the report of the Secretary of State, made in pursuance of the resolution of Senate of 2d March last; and the report was read and ordered to lie for consideration.

The bill to repeal in part the fourth section of an act, entitled "An act to authorize a grant of lands to the French inhabitants of Galliopolis, and for other purposes therein mentioned," was resumed, as in Committee of the Whole; and having been reported to the House without amendment,

Ordered, That this bill pass to the third reading.

The bill making a further appropriation for the support of the library, was resumed as in Committee of the Whole; and having been amended, was reported to the House, and,

Ordered, That this bill pass to the third reading as amended.

The bill for the relief of Seth Harding, late a Captain in the Navy of the United States, was read a second time, as in Committee of the Whole.

Ordered That the further consideration of this bill be postponed.

The Senate resumed the consideration of the report of the committee to whom was recommitted the bill to empower George Rapp and his associates, of the Society of Harmony, to purchase certain lands; and having adopted the amendment,

Ordered, That this bill pass to the third reading, as amended.

The Senate resumed the consideration of the motion made on the 22d instant, that it be

Resolved, That the report and estimates of the appropriations necessary for the year 1806, be referred to a select committee, with instructions to inquire into the specific expenditures of the respective departments;

And agreed thereto; and

Ordered, That Messrs. TRACY, BALDWIN, ANDERSON, MITCHILL, and SMITH, of Maryland, be the committee to report thereon.

Mr. LOGAN presented the memorial and petition of the President and Directors of the Chesapeake and Delaware Canal Company, stating the importance thereof to the public, and praying the protection and aid of Congress in the completion of the work; and the petition was read and referred to Messrs. LOGAN, BAYARD, and BRADLEY, to consider and report thereon.

Ordered, That so much of the President's Message of the 17th instant, and the papers accompanying the same, as relates to the spoliations of our commerce on the high seas, and informs us of the new principles assumed by the British Courts of Admiralty, as a pretext for the condemnations

of our vessels in their prize courts, be referred to the committee to whom was referred, on the 15th instant, that part of the President's Message relating thereto.

Mr. SMITH, of Ohio, from the committee to whom was referred, on the 22d instant, the bill authorizing the sale of a certain lot of land, reported amendments; which were read and ordered to lie for consideration.

TRADE WITH ST. DOMINGO.

Mr. LOGAN, to whom was referred, on the 16th instant the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo, reported the same amended; which was ordered to lie for consideration.

The bill is as follows:

A Bill to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo.

Be it enacted &c., That all commercial intercourse between any person or persons resident within the United States, and any person or persons resident within any part of the island of St. Domingo, not in possession, and under the acknowledged Government of France, shall be, and from and after due notice of this act at the custom houses respectively, is hereby prohibited. And any ship or vessel, owned, hired or employed, wholly or in part, by any person or persons resident within the United States, or by any citizen or citizens thereof, resident elsewhere, and sailing from any port of the United States after that time, or from any other port in America, after the —— day of —— next; or from any other port whatever, after the —— day of —— next; which, contrary to the intent hereof, shall be voluntarily carried, or shall be destined to proceed, whether directly, or from any intermediate port or place, to any port or place within the island of St. Domingo, and not in possession, and under the acknowledged Government of France; and also any cargo which shall be found on board of such ship or vessel, when detected or interrupted in such unlawful purpose, or at her return from such voyage to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States.

SEC. 2. *And be it further enacted*, That after due notice of this act at the several custom houses, no ship or vessel whatever shall receive a clearance for any port or place within the island of St. Domingo, and not in the actual possession of France: nor shall any clearance be granted for a foreign voyage to any ship or vessel, owned, hired or employed, wholly or in part, by any person or persons, resident in the United States, or by any citizen or citizens thereof resident elsewhere, until the owner or the employer for the voyage, or his factor or agent, with the master, and one or more sufficient surety or sureties, to the satisfaction of the collector of the district, shall give bond to the United States; such owner, employer or factor, with the master, in a sum equal to the value of the vessel and of her cargo; and such surety or sureties in a sum equal to the value of the vessel and of one-third of her cargo, when it shall not exceed ten thousand dollars; and if it shall exceed, then in that sum, with condition that the ship or vessel, for which a clearance shall be required, is actually destined, and shall proceed to some port or place without the limits of such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France, and during the intended voyage shall not be voluntarily carried or permitted to proceed, whether, directly, or from any intermediate port or place, to any port or place within such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France, and shall not, at any such port or place, voluntarily sell, deliver, or unlade any part of such cargo; and generally that such ship or vessel, whilst on such voyage, shall not be employed in any traffic or commerce with or for any person resident within any part of the island of St. Domingo, not in the actual possession, and under the acknowledged Government of France.

SEC. 3. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, and which may be recovered, shall be distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage;" and may be mitigated or remitted in the manner prescribed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties and disabilities, accruing in certain cases therein mentioned."

DEFENCE OF NEW YORK.

Mr. MITCHILL, from the committee to whom was referred the memorial of the merchants of New York, submitted a report on that part of the same which relates to the "defenceless situation of the port of New York;" which was ordered to lie for consideration. The report is as follows:

Early in the history of North America, the harbor of New York was discovered by the Dutch to be a convenient place of resort for ships. Subsequent experience has proved the judgment of the Hollanders to have been good. The place where the North river forms a junction with Long Island Sound, is as well, if not better, adapted to navigation and trade, than any which the Atlantic coast affords.

The city, at the head of the harbor, is about twenty-seven miles from the ocean. The ebb and flow of the tide is about six feet. The saltness of the water is not much inferior to that of the neighboring sea.

The harbor is a bay, or basin, surrounded chiefly by islands, though the space from the foot of the Neversink hills to the river Raritan, and another space, from Bergen Point to Hoboken, are parts of the main land which skirt the shores between the insular positions. The land is mostly low, and is composed principally of gravel, sand, and loam; and in certain spots strata of solid granite appear.

The island of Sandy Hook, where the light-house stands, is little more than a beach, rising not far above the level of spring tides. Staten Island swells into moderate hills, and presents, especially on its eastern side, several bold elevations. Long Island, whose western extremity loses its ridges and hills in the plains of Flatlands and New Utrecht, still retains at the Narrows, where its cliffs are somewhat abrupt and prominent, several positions of considerable strength. In these shores of the two last mentioned islands, the army of the enemy was landed in 1776, and a repetition of such an invasion, might be discouraged by the erection of suitable works to oppose it. Governor's Island has been already much improved by military works, and is the spot on which Fort Jay, and the principal other fortifications, have been erected. Bedlow Island, though very small, has also been considered proper for defensive operations, and in some degree prepared to annoy an enemy. On Manhattan Island, where the city of New York stands, there was once a fort and battery. These have been demolished of late years, under a conviction of their unfitness, as have likewise some more recent breast-works and parapets, which, though constructed but eight or nine years ago, were, within a twelvemonth, destroyed by the people who made them.

Between these islands there are deep channels, and rapid currents. Ships of large force may be brought in from the sea, and anchored in safety abreast of the town. And having once reached that station, there is water enough to convey frigates, or even larger ships, quite to the city of Hudson.

To the saltness, depth, and swiftness of the current, is to be ascribed the openness of the harbor of New York during the winter. In 1780, its surface was covered by a thick, strong, covering of ice. The like has never happened since, not even during the rigorous winter of 1805; and it is remarkable, that, while the Delaware, Patapsco, and Potomac, are frozen, and Philadelphia, Baltimore, and Alexandria, are secured thereby from the fleets of an invader, the bay of New York, though situated further to the northward, possesses, commonly, no such protection, but is accessible from the ocean with but trifling impediment.

The insecurity of the city is evinced by other facts. With a small squadron of ships, in 1674, the English took it from the Dutch. Shortly afterwards, it was retaken with almost equal ease. No cause of attack occurring until the commencement of the Revolutionary war, it was found utterly incapable of defence against a hostile fleet and army, in 1776, and abandoned to the enemy by the troops arrayed for its protection; and that very foe, which then gained the possession, held it as a garrison until 1783, when, on its evacuation, the inhabitants were enabled to return to their homes, after an exile of seven long years.

Since the Revolution, New York has greatly increased in population, extent, capital, and enterprise. The memorialists state, that, there one-third of the national revenue is collected. They hope so important a seaport may be thought worthy of an efficient defence. And they beg that a portion of the public treasure, accumulated in that place, may be expended in rendering both that treasure and the city in which it is kept, more secure.

For the further information of the Senate, the committee beg leave to observe, that, a piece of land has been already purchased by the State, on Staten Island, comprehending the high points on which the signal-poles of the merchants are erected. The greater part of Governor's Island is understood to be the property of the State, a small part of it, only, having been purchased by the nation. On these parcels of ground, the labor of constructing works is the principal matter of expense; and it is in this posture of affairs, that the memorialists, after the State has done so much, ask the nation to bear a proportional part of the charge necessary to provide more formidable means of defence and offence.

Extravagant estimates have been made by certain jobbers and projectors. Artificial islands, and immense piers, and enormous floating batteries, and vast chevaux-de-frises, have been talked of—enough to absorb the whole revenue, and to terrify all sober calculators of the cost. The committee have dismissed those schemes as favoring rather of the visionary and magnificent, than of the useful and feasible. They content themselves with recommending an appropriation, to a moderate amount, for making further military improvements on the sites already purchased, and which the State may hereafter purchase and surrender; in full confidence at the same time, that a due proportion of the heavy artillery, armed ships, and gun-boats of the nation, will be stationed at the harbor of New York.

Under these impressions the following proposition is submitted:

"*Resolved*, That it is expedient to appropriate the sum of $——, to be laid out in such manner, and under such direction, as Congress shall judge proper, in fortifying the harbor and city of New York."

The committee have deemed it to be within the limits assigned them, to recommend another proposition, in favor of the capital of South Carolina:

"*Resolved*, That it is expedient to appropriate the sum of $——, to be laid out in such manner, and under such regulations, as Congress shall judge proper, in fortifying the port of Charleston, in South Carolina."

And for the purpose of providing for other defenceless places, if any such there be, the committee submit another proposition:

"*Resolved*, That it is expedient to appropriate the sum of $——, to be laid out in fortifying such ports and harbors, other than New York and Charleston, as the President of the United States shall think most conducive to the public security.

On motion, that the third reading of the bill entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," be postponed, the Senate were equally divided: yeas 15; nays 15; and the question of postponement was determined by the President in the affirmative.

WEDNESDAY, January 29.

Agreeably to notice given yesterday, Mr. WORTHINGTON asked and obtained leave to bring in a bill explanatory of the act, entitled "An act further providing for the government of the district of Louisiana," and the ordinance of Congress of the 13th of July, 1787; and the bill was read and ordered to the third reading.

The bill, entitled "An act to extend jurisdiction, in certain cases, to State judges and State courts," was read the second time, and referred to Messrs. MITCHILL, TRACY, and BALDWIN, to consider and report thereon.

The bill, entitled "An act authorizing a detachment from the militia of the United States," was read the second time, and referred to Messrs. SUMTER, SMITH, of Maryland, and BALDWIN, to consider and report thereon.

The Senate resumed the consideration of the bill for the relief of Seth Harding, late a Captain in the Navy of the United States, as in Committee of the Whole, and the bill having been reported to the House without amendment.

Ordered, That it pass to a third reading.

The bill to empower George Rapp and his associates, of the Society of Harmony, to purchase certain lands, was read the third time, and passed.

The Senate resumed the consideration of the bill for the protection and indemnification of American seamen, as in Committee of the Whole; and the further consideration of the bill was postponed.

The PRESIDENT communicated a letter from the Treasurer of the United States, with his general account from October 1, 1804, to October 1, 1805; also, the accounts of the War and Navy Departments for the same period; which were read, and ordered to lie on the table.

The following Message was received from the President of the United States:

To the Senate and House of Representatives:

Having received from sundry merchants of Baltimore, a memorial on the same subject with those which I communicated to Congress with my message of 17th instant, I now communicate this also, as a proper sequel to the former, and as making a part of the mass of evidence of the violations of our rights on the ocean.

TH. JEFFERSON.

JANUARY 29, 1806.

The Message and paper therein mentioned were read, and referred, together with the message received on the 17th instant, to Messrs. SMITH of Maryland, MITCHILL, ANDERSON, LOGAN, TRACY, ADAMS, and BALDWIN, the committee to whom was referred, on the 15th instant, that part of the Message of the President of the United States, at the opening of the session, which relates to the violations of neutral rights.

THURSDAY, January 30.

The bill explanatory of the act, entitled "An act further providing for the government of the district of Louisiana," and the ordinance of Congress of the 13th of July, 1787, was read the second time, and referred to Messrs. WORTHINGON, MOORE, and TRACY, to consider and report thereon.

The Senate resumed the consideration of the amendment reported to the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo, as in Committee of the Whole, and the further consideration thereof was made the order of the day for Monday next.

The bill for the relief of Seth Harding, late a Captain in the Navy of the United States, was read the third time and amended, and a further amendment proposed.

The bill, entitled "An act making provision for defraying the extraordinary expenses attending the intercourse between the United States and foreign nations," was read the third time.

A motion was made to amend the bill; after debate,

Ordered, That the further consideration thereof be postponed until to-morrow

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FRIDAY, January 31.

Mr. MACLAY, from the committee to whom was referred, on the 22d instant, the bill entitled "An act for the relief of the Governor, Secretary, and Judges, of the late territory of the United States northwest of the river Ohio," reported the same without amendment.

Ordered, That this bill pass to a third reading.

The Senate resumed the consideration of the report of the committee to whom was referred the bill authorizing the sale of a certain lot of land, as in Committee of the Whole; and the amendments proposed having been adopted, the bill was reported to the House with the amendments.

Ordered, That this bill pass to a third reading as amended.

Resolved, That provision ought to be made by law for the compensation of the witnesses who attended, under process, the trial of the impeachment of Samuel Chase, one of the Judges of the United States; and

Ordered, That Messrs. BAYARD, BALDWIN, and ANDERSON, be a committee to bring in a bill accordingly.

The Senate resumed the consideration of the bill for the protection and indemnification of American seamen.

Ordered, That it be referred to Messrs. WRIGHT, BALDWIN, TRACY, LOGAN, and SMITH, of Maryland, to consider and report thereon.

The third reading of the bill for the relief of Seth Harding, late a Captain in the Navy of the United States, was resumed, and the further consideration of the bill was postponed to Monday next.

The bill to repeal, in part, the fourth section of an act, entitled "An act to authorize a grant of lands to the French inhabitants of Galliopolis, and for other purposes therein mentioned," was read the third time, and passed.

The bill making a further appropriation for the support of the library was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes, relative to the public debt;" in which they desire the concurrence of the Senate.

Agreeably to notice given on the 28th instant, Mr. LOGAN asked and obtained leave to bring in a bill for the punishment of persons counterfeiting the current coin of the United States, and for other purposes; and the bill was read, and ordered to the second reading.

The third reading of the bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," was resumed; and, on the question to amend the bill, as follows: After the words "United States," sec. 1, insert "for the purpose of obtaining by negotiation, or otherwise, as he may deem most expedient, the free navigation of the river St. Lawrence, as His Britannic Majesty's territory, lying south and east thereof, or any other territory lying east of the Mississippi, and south of the aforesaid river St. Lawrence not owned or possessed by citizens of the United States."

It was determined in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Hillhouse, Pickering, Plumer, Smith of Vermont, Tracy, White, and Wright.

NAYS—Messrs. Adair, Anderson, Baldwin, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith, of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Sumter, Thruston, Turner, and Worthington.

On motion to amend the bill by inserting, in sec. 1, after the words "United States," "towards the settling, establishing, and defending, the boundaries of the United States;"

It was determined in the negative—yeas 10, nays 20, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Gilman, Hillhouse, Pickering, Plumer, Smith of Maryland, Tracy, and White.

NAYS—Messrs. Adair, Anderson, Baldwin, Condit, Fenner, Gaillard, Howland, Kitchel, Logan, Maclay, Moore, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Turner, Worthington, and Wright.

MONDAY, February 3.

The bill brought up from the House of Representatives for concurrence, on Friday last, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes relative to the public debt," was read, and ordered to the second reading.

Mr. MITCHILL presented the memorial of the inhabitants of the town of Salem, in the State of Massachusetts, complaining of new principles and expositions of the law of nations, in the Admiralty Courts of Great Britain, and stating the great losses and sufferings induced thereby to neutral commerce, and praying the interposition of Government; and the memorial was read and referred to the committee appointed on the 15th of January last, to whom was also referred the memorial of the merchants of Baltimore, on a similar subject, to consider and report thereon.

Mr. MITCHILL also presented the memorial of the governor of the hospital in the city of New York, stating the inadequacy of the provisions made for the support of American seamen, from time to time admitted into that hospital, and praying an increase of the funds for that purpose; and the memorial was read, and referred to Messrs. MITCHILL, ADAMS, and SMITH, of Maryland, to consider and report thereon.

The bill for the punishment of persons counterfeiting the current coin of the United States, and for other purposes, was read the second time, and referred to Messrs. LOGAN, BAYARD, and TRACY, to consider and report thereon.

Mr. PICKERING presented the memorial of the merchants of Boston, stating great injuries sustained by the aggressions of the belligerent Powers, and particularly from the recent construction of the law of nations respecting neutral commerce, in the Admiralty Courts of Great Britain; and the memorial was read, and referred to the committee appointed on the 15th January, to whom were referred also the memorial of the merchants of Baltimore and of the town of Salem, on the same subject.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

A letter has been received from the Governor of South Carolina, covering an act of the Legislature of that State, ceding to the United States various forts and fortifications, and sites for the erection of forts in that State, on the conditions therein expressed. This letter and the act it covered are now communicated to Congress.

I am not informed whether the positions ceded are the best which can be taken for securing their respective objects. No doubt is entertained that the Legislature deemed them such. The river of Beaufort, particularly, said to be accessible to ships of very large size, and capable of yielding them a protection which they cannot find elsewhere, but very far to the north, is, from these circumstances, so interesting to the Union in general, as to merit particular attention and inquiry, as to the positions on it best calculated for health as well as safety.

TH. JEFFERSON.

FEBRUARY 3, 1806.

The Message and papers referred to were read, and ordered to lie for consideration.

To the Senate and House of Representatives of the United States:

In the course of the last year, the following treaties and conventions for the extinguishment of Indian title to land within our limits, were entered into on behalf of the United States:

A treaty between the United States and the Wyandots, Ottawa, Chippeway, Munsee, Delaware, Shawanee, and Pottawatamy nations of Indians.

A treaty between the United States and the agents of the Connecticut land company on one part, and the Wyandot, Ottawa, Chippewa, Munsee, Delaware, Pottawatamy, and Shawanee nations of Indians.

A treaty between the United States and the Delawares, Pottawatamies, Miamis, Eeel rivers, and Weas.

A treaty between the United States and the Chickasaw nation of Indians.

Two treaties between the United States and the Cherokee Indians.

A convention between the United States and the Creek nation of Indians.

The Senate having advised and consented to the ratification of these several treaties and conventions, I now lay them before both Houses of Congress, for the exercise of their Constitutional powers, as to the means of fulfilling them.

TH. JEFFERSON.

FEBRUARY 3, 1806.

The Message was read, and ordered to lie for consideration.

On motion, the galleries were cleared, and the doors of the Senate Chamber closed; and, after the consideration of the confidential business, the Senate adjourned.

TUESDAY, February 4.

Mr. BRADLEY, from the committee to whom was referred, on the 13th of December last, the bill, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition from the United States, and the territories there-

of," reported the bill with amendments; which were read, and ordered to lie for consideration.

The bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment of lands of the United States, and for other purposes relative to the public debt," was read the second time, and referred to Messrs. TRACY, WORTHINGTON, and BALDWIN, to consider and report thereon.

Mr. BAYARD, from the committee appointed on the 31st of January last, on the subject, reported a bill making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase; and the bill was read, and ordered to the second reading.

Mr. SMITH, of Maryland, from the committee appointed the 31st of December last, to consider the petition of the lawyers practising at the bar of the Supreme Court of New Orleans, asked and obtained leave to report by bill or otherwise; and he reported a bill relating to the salaries of the Judges of New Orleans; which bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for altering the time for holding the circuit court in the district of North Carolina," in which bill they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate took into consideration the amendments reported by the committee, on the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo, as in Committee of the Whole; and, on motion, it was agreed to strike out the first section of the original bill, after the word "that," in the enacting clause; and a motion was made to adopt the amendment reported to the first section, amended as follows:

"All commercial intercourse between any person or persons resident within the United States, and any person or persons resident within any part of the island of St. Domingo not in possession and under the acknowledged Government of France, shall be, and from and after —— is hereby, prohibited: And any ship or vessel, owned, hired, or employed, wholly or in part, by any person or persons resident within the United States, after that time, or from any other port in America, after the —— day of —— next; or from any other port whatever, after the —— day of —— next, which, contrary to the intent hereof, shall be voluntarily carried, or shall be destined to proceed, whether directly, or from any intermediate port or place, to any port or place within the island of St. Domingo, and not in possession, and under the acknowledged Government of France; and also any cargo which shall be found on board of such ship or vessel, when detected and interrupted in such unlawful purpose, or at her return from such voyage to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States:"

It passed in the affirmative—yeas 22, nays 9, as follows:

YEAS—Messrs. Adair, Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Turner, Worthington, and Wright.

NAYS—Messrs. Bayard, Hillhouse, Pickering, Plumer, Smith of Ohio, Smith of Vermont, Stone, Tracy, and White.

And, after debate, the further consideration of this bill was postponed until to-morrow.

The following resolutions were submitted for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement of the value of the merchandise exported from the United States and its territories, to that part of the island of St. Domingo called Hayti, and of the goods imported from thence into the United States; also, of the quantity of tonnage employed in the said trade; also, of the duties levied and collected within the United States and the territories, from said imports.

Resolved, That the President of the United States be requested to cause to be laid before the Senate, if, in his opinion, the same can be done with propriety, copies of such letters as have passed between the Executive of the United States and the French Minister, relative to the trade carried on by the American merchants, to that part of St. Domingo called Hayti.

WEDNESDAY, February 5.

The PRESIDENT laid before the Senate the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board subsequent to their report of 5th February, 1805, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to the Board, dated the 4th of the present month; and in the statements therein refered to, which are herewith transmitted, and prayed to be considered as part of the report. And the report was read, and ordered to lie for consideration.

Mr. SMITH, of Maryland, from the committee appointed the 15th of January last, on that part of the Message of the President of the United States, which relates to the spoliation of our commerce on the high seas, and informs us of new principles assumed by the British Courts of Admiralty, as a pretext for the condemnation of our vessels in their prize courts, made report, and the report was read, and ordered to lie for consideration.

The motion, that it be

Resolved, That a committee be appointed to inquire why the expenditures in the Navy Department, for the year 105, have so far exceeded the appropriations for the same, and report thereon to the Senate;

was resumed and adopted; and ordered that it be referred to the committee appointed on the 28th January last, to make inquiry into the specific expenditures of the respective departments, to report thereon.

The bill making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase, was read the second time, and ordered to the third reading.

The bill, entitled "An act for altering the time of holding the circuit court in the district of North Carolina," was read the second time, and referred to Messrs. ADAIR, STONE, and THRUSTON, to consider and report thereon.

On motion,

That the Sergeant-at-Arms receive for his attendance at the Court of Impeachment for the trial of Judge Chase, compensation for twenty-seven days attendance, at the rate of five dollars per day; and

That the Assistant Doorkeeper receive at the rate of two dollars per day, during the said trial, to be paid out of the contingent funds of the Senate:

Ordered, That this motion lie for consideration.

The Senate took into consideration the first resolution submitted yesterday; and, on the question to agree to the said resolution, as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement of the value of the merchandise exported from the United States and its territories, to that part of the island of St. Domingo called Hayti, and of the goods imported from thence into the United States; also, of the quantity of tonnage employed in the said trade; also, of the duties levied and collected within the United States and the territories, from said imports;

It passed in the negative—yeas 9, nays 22, as follows:

YEAS—Messrs. Adams, Bayard, Hillhouse, Pickering, Plumer, Smith of Ohio, Tracy, White, and Wright.

NAYS—Messrs. Adair, Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Turner, and Worthington.

The Senate took into consideration the second resolution submitted yesterday; and on the question to agree to the said resolution, as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, if, in his opinion, the same can be done with propriety, copies of such letters as have passed between the Executive of the United States and the French Minister, relative to the trade carried on by the American merchants to that part of St. Domingo called Hayti.

It passed in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Adams, Bayard, Hillhouse, Pickering, Plumer, Smith of Ohio, Stone, Tracy, White, and Wright.

NAYS—Messrs. Adair, Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Turner, and Worthington.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act regulating bonds given by marshals;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second ing.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported to the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo; and a motion was made to strike out all the words reported by the special committee as a second section, after the word, "that," in the enacting clause, and to substitute an amendment; and, on motion, the Senate adjourned.

THURSDAY, February 6.

The bill relating to the salaries of the Judges of New Orleans, was read the second time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Since the date of my Message of January 17th, a letter of the 26th of November has been received from the Minister Plenipotentiary of the United States, at London, covering one from the Secretary for Foreign Affairs of that Government, which, being on the subject of that Message, is now transmitted for the information of Congress. Although nothing forbids the substance of these letters from being communicated without reserve, yet, so many ill effects proceed from the publications of correspondences between Ministers remaining still in office, that I cannot but recommend that these letters be not permitted to be formally published.

TH. JEFFERSON.

FEBRUARY 6, 1806.

The Message was read, and ordered to lie for consideration.

The Senate resumed the third reading of the bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations; and,

On motion that the bill, and message from the House of Representatives accompanying the same, be referred to a select committee, with instructions to inquire and report to the Senate their opinion, whether West Florida was or was not included in the cession of Louisiana to the United States by the treaty with France, concluded on the 30th of April, 1803, together with the evidence upon which such an opinion may be supported; it was determined in the negative—yeas 8, nays 23, as follows:

YEAS—Messrs. Adair, Adams, Bayard, Hillhouse, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, Turner, Worthington, and Wright.

On motion to postpone the further consideration of the bill at this time, and to take up the following resolution:

Resolved, That the President be requested to lay before the Senate the instructions given to Messrs. Monroe and Pinckney, late Ministers of the United States to the Court of Spain, together with the facts and arguments exhibited by them, in their negotiation, in support of their claims to territories eastward of the Mississippi, as far as the river Perdido, and of territory on the western side of the Mississippi, as far as the Rio Bravo; the essay of Mr. Cevallos, the Minister of His Catholic Majesty, in answer to our Ministers, in

relation to the western limits; and any other documents in his possession, tending to establish the rightful boundaries of Louisiana.

It passed in the negative.

FRIDAY, February 7.

The bill, entitled "An act relating to bonds given by marshals," was read the second time, and ordered to be referred to Messrs. MITCHILL, STONE, and WORTHINGTON, to consider and report thereon.

Mr. HILLHOUSE presented the petition of Timothy Mix, a lieutenant in the Revolutionary war, and wounded in that service, and praying that his pension, for the remainder of his life, may be made equal to a lieutenant's half-pay, for reasons mentioned in the petition; which was read.

Ordered, That it be referred to the committee appointed on the 20th of December last, to whom was referred the bill, entitled "An act making provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war," to consider and report thereon.

The Senate resumed the third reading of the bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations; and,

On motion to postpone the further consideration of the bill at this time, and to take up the following resolution:

Resolved, That the President of the United States be requested to renew our negotiations with the Spanish Government, in such a manner as may bring every subject in controversy between the two countries to a speedy termination, equally advantageous to both."

It passed in the negative.

On motion to strike out of the bill the words "two millions." section one, and, in lieu thereof, insert "one million;" a division was called for, and the question on striking out was determined in the negative—yeas 13, nays 18, as follows:

YEAS—Messrs. Adair, Adams, Bayard, Bradley, Gilman, Hillhouse, Logan, Mitchill, Pickering, Plumer, Stone, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Condit, Fenner, Gaillard, Howland, Kitchel, Maclay, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Turner, Worthington, and Wright.

On motion to amend the bill, by inserting after the word "applied," in the first section, the words "for the purchase from the Spanish Government of their territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the river Mississippi," it passed in the negative—yeas 9, nays 20, as follows:

YEAS—Messrs. Adair, Adams, Bayard, Gilman, Hillhouse, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Howland, Kitchel, Maclay, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, Turner, Worthington, and Wright.

On motion to postpone the consideration of the bill until Monday next, it passed in the negative.

On motion to agree to the final passage of the bill, it passed in the affirmative—yeas 17, nays 11, as follows:

YEAS—Messrs. Anderson, Baldwin, Condit, Fenner, Gaillard, Howland, Kitchel, Maclay, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Thruston, Turner, Worthington, and Wright.

NAYS—Messrs. Adair, Adams, Bayard, Gilman, Hillhouse, Pickering, Plumer, Stone, Sumter, Tracy, and White.

So it was *Resolved*, That this bill pass.

Ordered, That the Secretary acquaint the House of Representatives with the concurrence of the Senate in this bill.

MONDAY, February 10.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported to the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo; and, having amended the report, it was in part adopted, and the bill was reported to the House accordingly; and the bill having been further amended,

Ordered, That it pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina;" a bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed on the 21st day of December, 1804, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports;" also, a bill, entitled "An act to regulate and fix the compensation of officers of the Senate and House of Representatives;" in which bills they desire the concurrence of the Senate.

The bills brought up for consideration were read, and ordered to the second reading.

Mr. WRIGHT, from the committee to whom was referred, on the 31st of January last, the bill for the protection and indemnification of American seamen, reported it without amendment.

Mr. THRUSTON, from the committee to whom was referred, on the 5th instant, the bill, entitled, "An act for altering the time for holding the circuit court in the district of North Carolina," reported the bill with amendments; which were read, and ordered to lie for consideration.

The Senate resumed the third reading of the bill for the relief of Seth Harding, late a captain in the Navy of the United States; and, on motion, to strike out the word "that," in the third line, to the end of the bill, and insert—

"Seth Harding, formerly a captain in the Navy of the United States, during the war of the Revolution, be placed on the pension list of the United States, and receive, from the first of January last, for and during his life, a pension of the half pay of a captain of ships of twenty guns and upwards, according to the pay established by the resolution of Congress of the 15th of November, 1776:"

It passed in the negative.

On motion to agree to the final passage of this bill, it was determined in the affirmative—yeas 19, nays 8, as follows:

YEAS—Messrs. Adair, Anderson, Bayard, Bradley, Gaillard, Hillhouse, Howland, Kitchel, Logan, Maclay, Mitchill, Smith of Maryland, Smith of Vermont, Sumter, Thruston, Turner, White, Worthington, and Wright.

NAYS—Messrs. Adams, Baldwin, Moore, Pickering, Plumer, Smith of New York, Smith of Tennessee, and Stone.

So it was *Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be "An act for the relief of Seth Harding, a captain in the Navy of the United States."

TUESDAY, February 11.

The bill, entitled "An act to regulate and fix the compensation of officers of the Senate and House of Representatives," was read the second time and referred to Messrs. TRACY, ANDERSON, and BALDWIN, to consider and report thereon.

The bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina," was read the second time, and referred to Messrs. BRADLEY, ANDERSON and TRACY, to consider and report thereon.

The bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed the 21st day of December, 1804, so far as the same relates to the authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports," was read the second time, and referred to Messrs. GAILLARD, STONE, and ADAMS, to consider and report thereon.

The Senate took into consideration the resolutions proposed on the 19th of December last, relative to the opening one or more land offices in the State of Tennessee, for the sale of lands of the United States in that State on which the Indian title shall have been extinguished; and they were referred to Messrs. BRADLEY, TRACY, and ANDERSON, to consider and report thereon.

The bill authorizing the sale of a certain lot of land, was read the third time and passed

The bill making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase, was read the third time and passed.

The bill, brought up from the House of Representatives for concurrence, entitled "An act for the relief of the Governor, Secretary, and Judges, of the Territory of the United States Northwest of the river Ohio," was read the third time, and passed.

The bill to suspend the commercial intercourse between the United States and the French island of St. Domingo, was read the third time and amended; and the bill was committed to Messrs. BALDWIN, LOGAN, and BRADLEY, further to consider and report thereon.

The Senate took into consideration the amendments reported on the fourth instant to the bill, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition from the United States, and the Territories thereof," as in Committee of the Whole; and having adopted the amendments, the bill was reported to the House accordingly, and ordered to the third reading as amended.

WEDNESDAY, February 12.

The amendments reported by the committee to the bill, entitled "An act for altering the time for holding the circuit court in the district of North Carolina," were considered and adopted; and the bill was reported to the House accordingly, and ordered to the third reading as amended.

Mr. MITCHILL, from the committee to whom was referred, on the seventh instant, the bill, entitled "An act relating to bonds given by marshals," reported the bill with amendments, which were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill relating to the salaries of the judges of New Orleans, and the consideration thereof was postponed.

After the consideration of the Executive business, the following resolution was submitted by Mr. SMITH, of Maryland; and having been read, was ordered to lie for consideration:

Resolved, That, from and after the —— day of —— next, it shall not be lawful to import into the United States, on board any foreign ship, any goods, wares, or merchandise, other than such as are the growth, produce, or manufacture, of the nation to which such foreign ship shall belong, except on board the ships of such foreign nations who admit the importation into their ports of goods, although they are not the growth, produce, or manufacture, of the United States, in the ships or vessels of the United States.

Mr. ADAMS gave notice that he should, to-morrow, ask leave to bring in a bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States.

The bill, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition, from the United States and the Territories thereof," was resumed; and the further consideration of the bill postponed until the first day of March next.

BRITISH AGGRESSIONS.

The Senate resumed the report of the committee, of the fifth instant, on that part of the Message of the President of the United States which relates to the spoliation of our commerce on the high seas, and of the new principles assumed by the British Courts of Admiralty, as a pretext for the condemnation of our vessels, in their prize courts, to wit:

1. *Resolved*, That the capture and condemnation, under the orders of the British Government, and adjudications of their Courts of Admiralty, of American vessels and their cargoes, on the pretext of their being em-

ployed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutral rights, and an encroachment upon their national independence.

2. *Resolved*, That the President of the United States be requested to demand and insist upon the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations; and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, and particularly respecting the impressment of American seamen, as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled.

3. *Resolved*, That it is expedient to prohibit by law the importation into the United States of any of the following goods, wares, or merchandise, being the growth, produce, or manufacture, of the United Kingdom of Great Britain and Ireland, or the dependencies thereof, that is to say: woollens, linens, hats, nails, looking glasses, rum, hard-wares, slate, salt, coal, boots, shoes, ribbons, silks, and plated and glass-wares. The said prohibition to commence from the —— day of ——, unless previously thereto equitable arrangements shall be made between the two Governments, on the differences subsisting between them; and to continue until such arrangements shall be agreed upon and settled.

On motion to amend the first resolution reported by the committee, as follows:

Resolved, That the capture of American vessels and their cargoes, for the adjudication, under the orders of the British Government, and their condemnation by their Courts of Admiralty, on the pretext of their being employed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutral rights, and an encroachment upon their national independence:

It passed in the negative.

And, on the question to adopt the first resolution, as reported by the committee, it was determined unanimously in the affirmative—yeas 28, as follows:

YEAS—Messrs. Anderson, Baldwin, Bayard, Bradley, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Tracy, Turner, White, Worthington, and Wright.

THURSDAY, February 13.

Mr. SMITH, of Ohio, presented the petitions of Daniel Clark, John Hays, and John Dawson and others, purchasers of lands of the United States, in the now State of Ohio, praying an extension of the time for their future payment, and a remission of interest on their several instalments, for reasons mentioned in the petition; and the petitions were read.

Ordered, That they severally be referred to the committee appointed on the 16th of January last, on petitions of a similar nature, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom was referred, on the 22d of January last, the bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana," reported the bill with an amendment; which was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill relating to the salaries of the judges of New Orleans; and the bill was amended, and reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the board of wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned."

The bill brought up for concurrence was read, and ordered to the second reading.

The PRESIDENT communicated the report of the Postmaster General "of the post roads which have not produced one-third part of the expense of carrying the mail upon them during the last year;" and the report was read, and ordered to lie for consideration.

Mr. MITCHILL, from the committee to whom was referred, on the 29th of January last, the bill, entitled "An act to extend jurisdiction, in certain cases, to State judges and State courts," reported amendments; which were read.

Ordered, That they lie for consideration.

Mr. MITCHILL presented a memorial, signed Gershom Craft, President of the American Convention for promoting the abolition of slavery, praying certain additional provisions to the laws on that subject; and the memorial was read.

Mr. BALDWIN, from the committee to whom was referred, on the 11th instant, the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo, reported amendments; which were read, and ordered to lie for consideration.

The bill, entitled "An act for altering the time for holding the circuit court in the district of North Carolina," was read the third time as amended.

Resolved, That this bill pass, with amendments.

PRIVILEGES OF FOREIGN MINISTERS.

Agreeably to notice given yesterday, Mr. ADAMS asked and obtained leave to bring in a bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States; and the bill was read, and ordered to the second reading. The bill is as follows:

Be it enacted, &c., That, from and after the passage of this act, if any foreign Ambassador, Minister, or other person entitled to enjoy within the United States the privileges and immunities of a foreign Minister, shall commit any violation of the municipal laws, which, if committed by a person amenable to the ordinary judicial authority of the place where such Ambassador, Minister, or other person, may be at the time of committing such offence, would be indictable by a grand jury, and punishable by death, by corporal punishment, or by imprisonment or confinement to labor, the President of the United States upon application made to him by the Executive authority of the State or Territory where such offence may be committed, or upon the complaint to him of any person injured or aggrieved by such offence so committed, and upon proof of the facts, satisfactory to the said President, being furnished to him in support of such application or complaint, shall be, and he hereby is, authorized to demand of the Sovereign of the said offending Ambassador, Minister, or other person, justice upon the offender, and reparation to any person or persons thus injured or aggrieved; and in case of the refusal or neglect of the said Sovereign, to comply with such demand for justice and reparation, the President of the United States is hereby further authorized to order such Ambassador, Minister, or other person so offending, to depart from the United States and the Territories thereof; or to send him home to his Sovereign, according to the aggravation of the offence, and at his the said President's discretion.

SEC. 2. *And be it further enacted*, That, from and after the passage of this act, if any foreign Ambassador, Minister, or other person entitled to enjoy within the United States the privileges and immunities of a foreign Minister, shall, within the United States or the Territories thereof, commit any act of hostility, or enter into any conspiracy against the Government of the United States, or shall personally insult or treat with disrespect the President of the United States for the time being, the said President shall be, and is hereby authorized, at his discretion, to order the said Ambassador, Minister, or other person so offending, to withdraw from the seat of Government and the Territory of Columbia, or to depart from the United States and the Territories thereof; and in case of refusal or neglect by such Ambassador, Minister, or other person as aforesaid, to obey such order within a reasonable time, of which the said President shall judge, the said President shall be and is hereby further authorized to send the said Ambassador, Minister, or other person as aforesaid, home to his Sovereign; and in either case to demand of the said Sovereign the punishment of such offending Ambassador, Minister, or other person as aforesaid, according to the nature and aggravation of the offence, and conformably to the law of nations.

SEC. 3. *And be it further enacted*, That, in every case, when the President of the United States shall, under the authority of this act, order any foreign Ambassador, Minister, or other person entitled to enjoy within the United States the privileges and immunities of a foreign Minister, to withdraw from the seat of Government and the Territory of Columbia; or to depart from the United States and the Territories thereof; or shall send any such offending Ambassador, Minister, or other person as aforesaid, home to his Sovereign; the said President shall, in the order given to such Ambassador, Minister, or other person as aforesaid to depart, or to withdraw, signify the offence upon which such order shall be founded; and shall assign to the Sovereign of the said Ambassador, Minister, or other person as aforesaid, the reasons for which such order shall have been given, or for which the said Ambassador, Minister, or other person as aforesaid, shall be sent home; particularly specifying that such proceedings are not on account of any national differences, but on account of the personal misconduct of such Ambassador, Minister, or other person as aforesaid.

BRITISH AGGRESSIONS.

The report of the committee, made on the 5th instant, on that part of the Message of the President of the United States which relates to the spoliation of our commerce, and of the new principles assumed by the British Courts of Admiralty, was resumed.

Mr. ISRAEL SMITH said that he was extremely sorry that he could not bring his mind to assent to the second resolution; because he viewed it of great importance that there should be unanimity upon a subject of this nature. He was not opposed to it from any Constitutional objection, arising from a belief that the Senate had no right to give their advice and consent to the Executive as to the course and conditions upon which they desired that an accommodation might be brought about; but he was opposed to it from the peculiar impropriety of so doing, deduced from the whole circumstances of the case, as it now presented itself for consideration. It would be recollected by the Senate, that many of our complaints against the British Government were of long continuance; that they had been the subject of our pointed and repeated remonstrances, and in a particular manner, the impressment of American seamen; that, on a former occasion, they had committed vast spoliations on our commerce, not under the sanction of the laws of nations, as their subsequent transactions with our Government have acknowledged; but under the authority of the particular orders of their Government, thereby subjecting the property of our merchants upon the high seas, not only to the restrictions and forfeitures incurred by the law of nations, but also exposing it to all the vexations and forfeitures growing out of the caprice of British orders of capture. The late encroachments on our rights as a neutral nation, and which are now the subject of consideration, are of a nature similar to those we have before experienced, and proceed from the same unwarrantable cause; and, further, are continued in full force and operation at the very moment our Government is pressing upon their consideration the injustice of their proceedings, by argument, too strong and convincing to admit of doubt. And how are they answered? By procrastination, and hints that the necessity of the case is a sufficient justification. The Executive, indignant at this evasion, and despairing of redress by any further appeal to their justice and magnanimity, has turned to the National Legislature, and informed them that what remained to be done on this interesting subject must rest on the wisdom and firmness of Congress. We have already unanimously resolved, that the conduct of the British Government is an "unprovoked aggression on our neutral rights." What, then, he asked, would be the measures looked for from this body, as proper to repel this outrage? Could any one expect that the first thing sug-

gested to their mind would be, that the Executive should again immediately renew the negotiation? Has he not already told us, that he despairs of obtaining redress by a simple appeal to their justice and magnanimity? Or, is this resolution to be understood as speaking to the Executive a language like this: You have not ably, zealously, and perseveringly exercised the powers vested in you by the Constitution, to bring about an adjustment of the difficulties and misunderstandings subsisting between the two Governments; or you are not sufficiently impressed with the importance of stipulating an indemnification for the losses our merchants have already sustained. Or, that there is some avenues to a sense of justice in this nation, which you have not sufficiently attempted. Surely language like this is disrespectful. We ought not to adopt a resolution on a subject, as important as the present, without being able to assign a substantial reason. Are we fearful that the Executive, after we have afforded the necessary legislative impulse to this negotiation will be slack or unskilful in the application of it? Or, do we, by these officious instructions, wish to derogate from his merit by arrogating to ourselves that applause to which, upon a successful and satisfactory negotiation, he will be justly entitled? Mr. S. hoped that no consideration of this sort would influence the Senate. He believed that there was a disposition in the Executive, when furnished with the necessary aid, to pursue negotiation so long as the least gleam of hope of success remained. Beyond that, no one could ask him to persevere. He believed that each member of the Senate entertained the same opinion. Where then, he asked, is the use of this requisition to the Executive? Is it to be understood, as has been partially hinted by one honorable member, that there is no legislative aids which the Executive, or this nation, can wisely resort to on this occasion? Are we to be told that Congress have no power to lay duties on exports, or in short, that our powers are insufficient; or that we are too weak, or too dependent as a nation, to contend for our rights? We therefore recommend it to the Executive, (after having secured our merchants for past depredations,) to enter into such arrangements and stipulations upon points in controversy by mutual sacrifices; such as shall be likely to meet and promote the views of both parties, and thus recommend justice to be sacrificed to peace. For, he asked, what encroachment upon the rights of that nation, or depredations upon the property of its subjects, have we to give up for the purchase of this, our indubitable right, as a neutral nation, which they have so flagrantly and frequently violated? He hoped there was no disposition in the Senate to commute any of our rights as a nation, by sacrifices to any of the considerations before-mentioned, and in a particular manner, by any abandonment of principles; and yet it appeared to him, if there is any pertinency in the resolution, this must be the interpretation. He observed it was extremely unwise to speak this language, both as it related to our own Government, and that with which we have to contend. The latter will easily read in this resolution the course which the Senate wish to pursue, and efforts will be made accordingly. Should it not be in unison with the views of the Executive of our own Government, it will weaken instead of strengthening his exertions for the public good. We have already experienced the evils resulting from too great an anxiety to enter into commercial regulations with that nation. A former treaty stipulated an indemnity to our merchants for similar depredations; that indemnity has ultimately devolved on our own Government. We purchased the miserable commercial privileges of that treaty (if it contained any,) at the expense of our neutrality; and by doing violence to the obligations imposed upon us by that neutrality, drew down upon ourselves the resentment of a powerful nation, which involved an expense of more than ten million of dollars. He observed it would be better for the Government, in his opinion, to insure our merchants against any depredations which the utmost rapacity of the British would be likely to invite, than again to enter into the unequal, the shameful, and wicked stipulation of the former treaty. He said gentlemen were not to understand that he was for actual hostilities against Great Britain. He deprecated war as much as any man. If mild measures are adopted, the more certain will be the calculation of a perseverance in them; and without a spirit of perseverance little can be hoped from any measure. He hoped that Congress would be disposed on this occasion to wield the only weapon which could promise success; that they may take such measures as will prove to Great Britain that the United States will ultimately have no commerce with them, but upon terms of the most perfect reciprocity. This ground, if once taken, will be easily maintained. It is recommended by being both peaceable and effectual, while all others are doubtful and unequal. He concluded by hoping that the resolution would be rejected, as it appeared to him disrespectful to the Executive, unnecessary, and inconsistent with the public good.

Mr. ANDERSON.—Mr. President: The honorable member from Vermont (Mr. SMITH) seems to entertain an opinion that it will be indelicate toward the President of the United States to adopt the resolution now under consideration. Having been a member of the committee who reported it, I feel somewhat bound to endeavor to obviate this objection; having done which, I shall then proceed to answer some other objections, and offer some reasons in favor of adopting the resolution. I expect it will be conceded, that, if it be Constitutional to pass this resolution, it cannot be indelicate toward the President. Let us examine the language of the Constitution upon this point. The Constitution says that the President shall have power, by and with the advice and consent of the Senate, to make treaties. Now, I contend that the true meaning of this clause is, that the advice should precede the making of the treaty, and that it was couched in the language in which we find it, for the purpose of obtaining the opinion of the Senate as to the principles upon which

the treaty should be made. And, upon examining your Executive Journal, you will find that this construction was given to the Constitution by General WASHINGTON, who, having been the President of the Convention, must reasonably be supposed to have understood the true intent and meaning of the Constitution in all its parts. And, so far did he extend the construction for which I contend, that the Executive Journal will show, in order to ask the advice of the Senate, relative to a treaty he contemplated making, that, in the year 1790, he actually took his seat in the Presidential chair of this body, and asked the advice of the Senate upon sundry articles, which he proposed making the basis of the treaty. Thus it would seem, that the first President of the United States, in discharge of his duty, had given the foregoing construction to the Constitution. Some inconvenience having, however, been found to arise from this mode of asking the advice of the Senate, it has since fallen into disuse. But the latter practice cannot, nor ought not, be considered as condemning the construction of which I conceive the Constitution is fairly susceptible. Because the construction given by the first President so immediately after the adoption of the Federal Constitution must be considered as proceeding from the true sense and correct opinion which he then entertained of the *respective rights* of the treaty-making power.

In support of this construction, Mr. President, I can also show, from your Executive Journals, so late as last session, that the Senate passed a resolution, requesting the President to make a treaty with the Creek nation of Indians. And although it may be said, that the Creeks not being a foreign nation, it is not an apposite case, I however conceive the principle to be precisely the same. For we have always treated the Indians as independent nations, and the same proceedings and formalities had uniformly been had in making the treaties, and ratifying them, as have been had, with other nations. So much, Mr. President, I have thought proper to say, in order to show, that if we pass this resolution, we do not offer any indelicacy to the President. But, on the contrary, will only exercise our Constitutional power, which the peculiar perilous situation of our country seems imperiously to demand. I should not have taken up so much time upon this point, had not the constitutionality of passing the resolution been also objected to by the other honorable member from Vermont, (Mr. BRADLEY.)

In discussing the merits of the resolution now under consideration, it will be necessary that we keep constantly in view the great principle of the one, which has already passed this House, by a unanimous vote, because this second resolution is predicated upon the principle of the first. In the first we declare, that the capture and condemnation, under the orders of the British Government, and adjudication of their Courts of Admiralty, of American vessels and their cargoes, on the pretext of their being employed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of the United States, a violation of their neutral rights, and an encroachment upon their national independence.

In order to show that the ground we have taken is correct, I will take leave to refer to a book (entitled An Examination of the British Doctrine which subjects to capture a neutral trade, not open in time of peace) ascribed to a gentleman high in office, who has deservedly acquired great celebrity in the political world. It will be found that the principle contended for in the resolution I have cited, obtained as early as the first rise of regular commerce, and was even reduced to system, as early as 1338. To this doctrine Great Britain acceded by treaty with Sweden, in 1655, and afterwards, in 1674, she actually claimed and enjoyed the benefit of a free trade, she being at that time in peace and the Dutch in war with France. With what kind of pretext can Great Britain pretend to deprive us of the exercise of the very rights which she herself has claimed and exercised, upon precisely the same principles? Besides, those neutral rights have, by constant and very long usage, become the established law of nations, and have from time to time been ingrafted into many treaties even where Great Britain was herself a party. Upon this doctrine, thus sustained, we request the President to demand and insist upon the restoration of the property of our citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace, and upon the indemnification of such American citizens for their losses and damages sustained by these captures and condemnations. It has been objected that the language of this resolution is too strong, that the words *demand* and *insist* go too far; and that the absolute restoration of our vessels, &c. will, by these words being retained, be made the *sine qua non* of an accommodation with Great Britain. If, sir, we were to express ourselves in less forcible language, we should, in my opinion, subvert our own principles, and recede from the high ground we have taken, which might eventually radically destroy our neutral rights, and completely paralyze our commerce.

The words *demand* and *insist* are diplomatic, and as such most proper to be used, and the more so, as they seem to be appropriate to the principle of the first resolution. But, Mr. President, the latter part of this resolution, by which indemnification may be made, and new arrangements entered into with Great Britain, so far ameliorates those precedent words that the President will possess ample powers, according to a true exposition of the whole taken together, and he will not, in my opinion, be trammelled in the manner the gentleman from Ohio conceives. In settling national differences, it has ever been necessary, in some points to give a little, and in others to take, according to the peculiar circumstances, upon which the negotiation might happen to turn; either upon a point of national honor, or an interesting point of national commerce, or both so connected as not well to be severed. Upon the whole, Mr. President, I do believe it will be highly important that the

Senate should, at this interesting moment, express their opinion upon our national concerns with Great Britain in such language, that the sense we entertain of our injuries cannot be mistaken. The principles and policy of our Government require that we should prefer negotiation in the first instance; and the adoption of the resolution, by a strong vote of this body, will doubtless add great weight to the object. If, however, we should unfortunately be driven to the dernier resort, I trust we shall never recede one point from the ground we have taken, as expressed in our first resolution.

Mr. MITCHILL said he hoped the resolution would be adopted in its full extent. On this subject he differed wholly from the honorable gentleman from Vermont (Mr. ISRAEL SMITH.)

As the proposition recommended to the Senate by the select committee was now before them in its most broad and extensive sense, he should apply his remarks to the principle, rather than to the form of the resolution under debate.

Toward the end of 1803, more than half the articles of the treaty between our Government and that of Great Britain had ceased. Since that event commercial intercourse had been carried on by the two nations, under their respective laws, without any convention or pact between them. Inconveniences had been experienced in various ways from that time to the present. An attempt indeed had been made two years ago to remove a considerable part of them by a repeal of the countervailing duties; but that effort not corresponding with the feelings of the nation, had been relinquished.

The war which was rekindled in Europe soon after the expiration of the temporary articles of the treaty had embarrassed the commerce of the great maritime powers, and thrown into the hands of neutrals an extraordinary proportion of the colonial and carrying trade. The citizens of the United States, among others, had profited by the opportunity, and engaged extensively in this neutral commerce. But it had been the policy of Great Britain, the strongest maritime nation among the belligerents, to interrupt this intercourse of neutrals, with the colonies of her colonies, as if they had been her own colonies. A series of outrageous proceedings had been the result; such as had excited the most lively indignation against them from Maine to Georgia, and roused the nation with one voice to resist and repel them.

Mr. M. said he would enumerate a few of these injurious principles and acts. The great and fundamental regulation, which served as a groundwork for a principal part of the rest, was, that a commerce allowed to neutrals by belligerents, during and on account of the war, ought to be prohibited. The assumption of such a rule, in contradiction of all the practices, acknowledgments, and treaties, among civilized nations, was a dangerous innovation upon their public law. It was however followed by another declaration of theirs, equally unfounded in truth and reason, and this was, that, as the adherence to the principle was rightfully in them, they might relax from the observance of it when they pleased; and that such relaxations were always acts of favor and grace to neutrals.

Another of the extravagant consequences of this doctrine was, that the belligerent might inquire into the intention of the neutral, as to colonial produce exported from his own country under drawback, and if he could not prove to the satisfaction of the prize court, that such produce was originally imported into the neutral country for consumption there, without the design of sending it abroad once more, the ship and cargo should be condemned; thus declaring that two distinct commercial operations, were one and the same continued voyage.

So it has been pretended and insisted by them that a vessel which has escaped their vigilance on a voyage from the neutral to the belligerent port, and has begun her return voyage loaded with the productions (not contraband) of the latter country in exchange for the cargo carried thither, may be captured and condemned, under an allegation that such outward cargo was the produce of an enemy's colony. By this means, the certificate of origin as to French produce, was made the evidence on which the condemnation was grounded in a British court.

The catalogue of grievances, he said, was long and odious; but he would mention the oppressive manner in which the British exercised the right of search, the unjustifiable impressment of seamen wherever they pleased to take them, and their arbitrary proceedings relative to blockaded ports, as tending to wound the feelings of individuals, to excite national irritation, and to revive those sentiments of animosity and hatred which had been dying away ever since the Revolutionary war; and but for these renewed acts of hostility would have risen no more.

With all these difficulties in view, stated and reiterated from all the commercial cities of the nation, the proposition now under consideration had been reported. It was in the nature of an admonition to the President, to make a further effort to accommodate these differences in a just and amicable way. The resolve which passed the Senate unanimously yesterday, comprehended a total denial of the interpolated maxims, and the conduct which they authorized. The resolution now before the Senate was a corollary from the other. It sprang from the former as a natural inference. The two were so intimately connected, that he considered the adoption of the former as a favorable prelude to the reception of this. And having declared that unprovoked aggressions had been made upon the persons and properties of our citizens, there was an evident propriety in endeavoring to negotiate on the subject, and settle the differences by fair discussion.

But an objection had been made, that the Senate was about to proffer advice to the President of the United States. The resolution certainly was written for that purpose, and in this there was the strictest propriety. For, by the Constitution, this body is the council of that high Executive officer. In questions touching our foreign relations, the Senators are declared by the supreme law of the land to be the President's counsellors. In urgent and arduous cases it was not only allowable for them to exercise this right, but it was their duty to do so. By such a measure there was no reflection on the Chief Magistrate; for it was well known he had vigilantly and correctly done his duty. He had left nothing untried that was in his power. Now, however, when another effort was to be made, he believed the President, though firm in the performance of the important trusts reposed in him, would be comforted and strengthened by the approving voice of his Constitutional advisers. With this resolution in his hand, he would speak to a foreign nation in a bolder tone, and employ the energetic language of his united fellow-citizens.

Mr. M. did not think, with the gentleman who preceded him, that the adoption of the proposition would be productive of discord; but, on the contrary, would have a happy tendency to promote harmony, by a candid and patriotic communication of sentiments between these two important organs of the Government.

Of the three resolutions reported by the select committee, the second, which was the one under consideration, was solely of an Executive nature. The two others, to wit: the first which had passed without a dissenting voice, and the third which remained to be acted upon, were of a Legislative complexion. Together, they constituted a series of measures adapted to the present exigencies of the nation. The first declared the wrongs done us; the second proposed to settle the dispute to which those wrongs gave rise, by equitable arrangement or treaty; and the third proposed, in case no settlement could be obtained upon just and honorable terms, to diminish our intercourse with a nation whose administration was so unjust and inflexible. There was another step which might have been the subject of a fourth resolution, and that was war. For his part, he believed the acts of the cruisers and courts of His Britannic Majesty were directly and openly hostile; and it was only necessary for us to consider them so, to make ourselves a party in the strife among the nations. Although the provocation was sufficient to justify us in a declaration of war, Mr. M. said he would at present prefer a different policy. He would in the first place make another overture of civility; and if that did not succeed, our connexion could be discontinued. If, after that, it should be necessary to put ourselves in hostile array, he knew there was courage enough in the nation to make an enemy, now as heretofore, tremble on approaching our shores.

Viewing the subject in this manner, and conceiving the proposition as one of a catenation of measures on a subject of great national importance and uncommon public solicitude, he was earnest in his hope that it would be carried, like the preceding one, not by a mere majority, but by an unanimous vote.

Mr. BAYARD.—Mr. President, if there be any objection to the resolution now before us, it is that it shelters the Executive Government from that responsibility as to its measures which properly ought to attach to it. The duty prescribed by the resolution is of an Executive nature, and the President is charged with the care of those interests for which the resolution provides. By prescribing a course of conduct to the Executive, we release that branch of Government from responsibility as to the event, and take it upon ourselves. But, sir, though I feel this objection, yet at the present moment it is outweighed by other considerations. The state of our public affairs is critical, and at such a time I think it becomes every branch and member of the Government to co-operate with cordiality and zeal in support of each other, and to strive to do more rather than less than their respective duty.

The design of this resolution, sir, presents itself to my mind in a very different point of view from that in which it appears to the gentleman from Vermont (Mr. SMITH.) That honorable member is opposed to it because he thinks it gives just cause of offence to the President: That we prescribe to the President a duty which he ought certainly to perform without our injunction, and of consequence we betray doubts that he will do what belongs to his office without our interference.

For my part, sir, I do not consider the resolution as intended in any degree for the President, but as designed for the British Government. I suppose without the resolution the President would take the course which it marks out. But we intend to manifest by it, that it is not simply the opinion of the President that specific redress should be granted for the wrongs we have suffered, but that it is the concurrent sense of this branch of the Government, that such redress should be insisted on. I do not mean that we should be considered as offering an empty menace to the British cabinet, but a demonstration of the union of different branches of our Government in demanding satisfaction for the wrongs done us. Foreign Governments calculate much on our divisions, our union will disappoint those calculations.

It has been objected by the gentleman from Vermont, that it is improper to pass the resolution, because it is not the ground of any legislative proceeding. The gentleman is too late in making this objection. He has voted for the first resolution, which less than the present is the basis of a legislative act. At present it is designed only as the declaration of our opinion as to the conduct of a foreign nation. But I am not disposed to admit that these resolutions may not become the ground of a legislative act. It belongs to Congress to declare war, and when I give my assent to these resolutions, I consider myself as pledged to vote for war, if redress is not granted to us. In adopting the first resolution, we have gone too far to recede. We have declared that unprovoked aggressions have been committed on the property of our citizens—that our neutral rights have been violated and our national independence trenched upon. This unanimous declaration is recorded in your journals; and can we hesitate whether we will bear the wrongs and affronts put upon us, or hazard the peril of a war?

Can we, sir, after the declaration which we have made, sit quietly down and console ourselves with the meek virtue of suffering with forbearance? For what purpose have gentlemen agreed to the first resolution? To show the world we knew the extent of our injuries, yet from indolence or dread we meant they should pass unredressed and unavenged?

I hope, sir, it will not be thought that I wish for war, or would, without adequate cause, plunge the nation into it. I am contending only that we must learn to insist upon our national rights, or, by and by, none will belong to us. We must learn to defend our honor as a people, or soon we shall be without national character. We are best protected against war when it is known that we are ready to meet it. Let the nations of Europe know that a love of ease, a dread of disaster, or an apprehension of privations, chain you to a state of peace, and they will drain your treasury of its last cent, and make you drink the dregs of humiliation.

I hope the Government will never go to war without a just and sufficient cause. But when that cause does exist, I hope they will not be appalled by the dangers or calamities of war. The resolution before us is not, however, a declaration of war. We have stated in the first resolution the wrongs we have suffered, we here state the redress we expect. I do not consider that the resolution enjoins on the President any particular mode of negotiation, or to demand any specific satisfaction. But it requires something substantial; direct satisfaction, or equivalent indemnity, and some assurance of future security.

I am in favor of the resolution because I think it will facilitate the negotiations of the President. When it is seen that we are united in insisting upon our rights, that rather than abandon them we are resolved to encounter any alternative, it must create an impression and serious reflection abroad. The resolutions justify the President in speaking in a manly tone to the British Government, in holding a language worthy of a great and free people, and I therefore give them my cordial support.

On motion, the Senate now adjourned.

FRIDAY, February 14.

The bill entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the board of wardens for the port of Philadelphia to collect a certain duty on tonnage for the purposes therein mentioned,'" was read the second time, and referred to Messrs. MACLAY, MITCHILL, and LOGAN, to consider and report thereon.

The bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States was read the second time, and referred to Messrs. ADAMS, BALDWIN, SMITH, of Maryland, TRACY, and SMITH, of Vermont, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act for the relief of the Governor, Judges, and Secretary, of the Indiana Territory;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

BRITISH AGGRESSIONS.

The Senate resumed the consideration of the report of the committee, made on the 5th instant, on that part of the Message of the President of the United State which relates to the violation of neutral rights, and the impressment of American seamen.

The second resolution being still under consideration, as follows:

"2. *Resolved*, That the President of the United States be requested to *demand and insist upon the restoration of the property of their citizens, captured, and condemned, on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace: and upon the indemnification of such American citizens, for their losses and damages sustained by those captures and condemnations: and to* enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interest of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled."

Mr. WORTHINGTON—On further consideration of the resolution now before the Senate I confess I feel more opposed to it, and do believe, on the whole, it will be best not to pass it in its present form. The resolution must mean something, or it must mean nothing. It must intend to convey to the President, the opinions and advice of this body, or not to convey it. Now, sir, if it is intended to convey to the President the opinion and advice of the Senate, which is certainly my understanding of it, I beg gentlemen to reflect a little before they adopt it. The advice of this Senate I trust will never be given to the President without having the desired effect; and let me add, sir, that from the intimate connexion which exists between this and the Executive branch of the Government I must believe that the President would not feel himself justified, nor would he be willing to take so much responsibility on himself as entirely to reject it. Sir I could not justify him if he did. We are equally responsible with him in our Executive capacity, and can we for a moment believe that he would act contrary to the decided opinion of the Senate, who can at all times control or defeat him by rejecting a treaty made contrary to their advice and opinions? What, sir, is the object of the resolution?

We request the President "to demand and insist upon the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations:" and afterwards "to enter into such arrangements with the

British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled."

To my mind, sir, the resolution seems to be at war with itself. It is not, Mr. President, the bold ground taken by the first part of the resolution to which I object. It is not, sir, that I am opposed to demanding or insisting on our rights; but it is because I fear the resolution taken together will embarrass the Executive in negotiating a treaty to settle our differences. A gentleman from Maryland has told us, and we know the fact is so, that there are several subjects on which negotiation is necessary. At present we know we have no commercial treaty with Great Britain. If, sir, this subject is intended to be embraced, (and I so understand it) by the resolution, and if it is the opinion of the Senate it should, let us be more explicit. We have such a treaty with Holland, Spain, and France, and I confess I see no good reason why we should not have one with Great Britain if it can be made on terms which will promote the mutual interests of the two nations. Indeed, I cannot imagine how we are to get along without continual jarrings, and probably ultimate war, with all its concomitant evils, unless we know the ground on which we are placed. Whilst I should deplore an event of this kind, yet if, under all the circumstances, the honor and interests of my country made it necessary, I hope I shall be found among those who would firmly resent the insult and vindicate the injuries of any nation on earth. With so wide a field for negotiation, with so many important objects to accomplish, I submit it to the good sense of the Senate, whether it will be proper to tie up the hands of the Executive in the manner contemplated by the resolution. If the resolution passes, the President must in every event "demand and insist upon the restoration of the property of our citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations." This must be made the basis on which all further proceedings are to be founded. I do not wish to be understood as being willing to give up the property which has been unjustly taken from our citizens without an equivalent. An equivalent may be obtained in many ways. If the resolution is adhered to by the Executive, a restitution of the property must be insisted on. Request the President to demand and insist, and he must take this ground, and this only, if we pass this resolution. Although in my opinion this resolution was not intended to censure the Executive, yet, it would seem to bear that construction. But on this ground I will not object to it. It is notorious to every gentleman of the Senate that the President has been, and is now prosecuting a negotiation on the subjects which seem to be the particular objects of this resolution, viz: the condemnation of our vessels and the impressment of American seamen. It would therefore seem improper, on this ground, to pass the resolution in its present form. I know, sir, that what has been so often and so properly repeated is all-important on the present subject, that is, that we should be united in what we do. With this view and with the hope that the same committee can offer to the Senate a resolution varied in its form from the one before us, and embracing the wishes of at least a great majority, and I hope the whole Senate, I move that the resolution be recommitted.

Mr. ADAIR.—Mr. President, the motion before the Senate is to recommit the resolution to a special committee. Gentlemen in favor of the resolution as it stands, have called upon us to point out the alterations we wish to make in it, as a cause of commitment; I will do so by stating my objections to it in its present shape. The first resolution on the paper which I hold in my hand, and which met with a unanimous vote of the Senate two days past, contains a mere declaration of their opinion on an abstract principle; to this resolution I fully and freely assent, although I did not vote for it, being that day unwell and absent. But this second resolution, if it is to have any effect at all, is meant to convey an instruction to the President of the United States. It contains a request to him, not only that he will endeavor to obtain an adjustment of our differences by treaty, but that prior to this he will "demand and insist upon the restoration of the property of our citizens captured and condemned on the pretence of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens for their losses and damages sustained by these captures and condemnations;" that he will enter into arrangements, &c. This, Mr. President, is the part of the resolution I object to. It is going too far. It is circumscribing the powers of the President, and tying him down to a particular point. It is making that the *sine qua non*, the basis on which alone he is to treat; at least it is doing this so far as an opinion of the Senate, expressed in this way, can do it. It really looks to me, as if, on this particular point of the restitution, we were afraid to trust our Chief Magistrate. I presume there is not a member who hears me, who does not fully believe the captures and condemnations alluded to in the resolution were unjust; that they are an infringment of our rights; and that we are entitled to restitution. But let it be remembered that these condemnations are the solemn decisions of a court of very high authority in Great Britain; a court that, it is well known, acts under the councils (if not the control) of the cabinet. May we not then reasonably suppose that the British Government are as fully assured (in their own minds) that these condemnations are just and warranted, under the law of nations, as we are that they are unjust and unwarranted; and that they will be as unwilling to acknowledge in the face of the whole world that they have been

wantonly robbing us of our property, as we will be to acknowledge that we have paid so much without a cause? It has been well observed by an honorable member from Tennessee, that in forming commercial treaties of this kind, there will be various points to consider, and it may not be necessary to contend for strict justice in every punctilio; arrangements or treaties, when there are existing differences to settle, must always be a bargain of compromise and forbearance; in one point we may give a little, that we may obtain an equivalent in another. So it may turn out in settling our disputes with Great Britain. Why then are we not satisfied with expressing our opinion on the great principle of right; and leave it altogether with our Chief Magistrate to enter into and point out the details?

It is asserted by the advocates of the resolution as it now stands, that the part objected to, has been virtually agreed to in the first resolution; and that the latter part of the second resolution so qualifies the first as to prevent it from operating as an instruction to or restriction on the President. To this I answer, that the same principle, so far as it relates to the United States, or to the British Government, is certainly contained in the first resolution, and, therefore, unnecessary to be thus expressed in the second; and if it is not intended to operate as an instruction to the President, why is it so anxiously retained in the resolution? I can see no other reason for this, unless it is intended as a declaration of the Senate, a solemn pledge to be used on some future occasion, by the merchants, whose property has been thus condemned, to show that we are bound to obtain restitution for them from the British Government, or to compensate them ourselves. How far this may be right is not now for me to say. It is a subject not now before the Senate, and I think it too soon to make the declaration. Nor do I like to see such a measure obtain in our resolutions by stealth as it were; unnoticed, because obscured by the brighter blaze of more important objects. In support of the words "demand and insist," an extract has been read from a letter of the President himself to his Minister abroad, in which he uses the same words. But is there no difference between the President's acting officially, giving instructions to his Minister where it is necessary and proper he should enter into the details, and our merely expressing an abstract opinion upon a great principle before it officially comes before us? The President, in using these words, does it with the strictest propriety; and I trust when he instructs a Minister agreeably to the request contained in this resolution, that he will make use of language equally strong. He shall meet with my hearty approbation, nor is there any length in my power that I will not cheerfully go to support him. Yet, still I am unwilling to tie him down to a particular point, or to express an opinion in detail upon the subject of a treaty, which if made must finally be laid before the Senate for their approbation. Let it be remembered that in the first resolution we have solemnly pledged ourselves to a principle of right; we are so far bound, as the Representatives of the nation, to defend this right to our citizens, or to obtain an equivalent. This ought to satisfy all. In this second resolution we request of the President to obtain for us the free exercise of this right by treaty. Let us then confide to him the broad field of negotiation; let us not cramp him. Our rights are secure in the hands of the constituted authorities Should he fail of success, we all know the consequence; the next and last alternative is war; to this we all stand solemnly pledged, and when it comes to this, I trust there will be no difference of opinion. Peace is the first wish of our hearts; it is the soul of our Government. But the man who would not prefer war to oppression, to dishonor and infamy, is not an American. One word more, Mr. President, and I have done: It has been conceded that a unanimity of sentiment and vote is desirable on this subject. If, then, gentlemen are in earnest when they say those exceptionable words mean no more than what is contained in the first resolution, and convey no special instruction to the President, can they not change them for others equally strong as to the principle, and that will meet the approbation of all? Why not strike them out, and in lieu of them request the President to enter into arrangements agreeable to or in conformity to the first resolution? Some such alteration as this would certainly retain the whole idea avowed by the advocates of the present resolution, and as the special direction and restriction would be left out, it would meet with my concurrence. To obtain some such alteration, in words that will be agreeable to all, is the object I have in voting for the commitment; and as one day cannot materially affect us, I hope we will be indulged.

Messrs. J. QUINCY ADAMS, SAMUEL SMITH, PICKERING, TRACY, and MACLAY, delivered their sentiments.

The motion to re-commit the resolution for the purpose of amending it, was lost—yeas 15, nays 16.

Mr. WORTHINGTON then moved to strike out the words in *italics*, from the second to the eleventh line.

Messrs. S. SMITH, and WHITE, opposed the motion, which was disagreed to—yeas 13, nays 16, as follows:

YEAS—Messrs. Adair, Baldwin, Bradley, Gaillard, Howland, Logan, Maclay, Moore, Plumer, Smith of Vermont, Sumter, Turner, and Worthington.

NAYS—Messrs. Adams, Anderson, Bayard, Gilman, Hillhouse, Kitchel, Mitchill, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Thruston, Tracy, White, and Wright.

Mr. THRUSTON moved to postpone the resolution, for the purpose of previously taking up and acting upon the third, which prohibits the importation into the United States of a variety of articles, the growth, produce, or manufactures of Great Britain, after the —— day of —— next, unless equitable arrangements shall be made between the United States and Great Britain.

This motion was lost—yeas 13.

Messrs. ISRAEL SMITH and BRADLEY then spoke against agreeing to the resolution. The principal ground taken by them was that it became the Senate to take stronger ground, and to adopt vigorous measures, before they requested the Executive to resume negotiation.

Mr. TRACY advocated the resolution. He did not think negotiation exhausted. He thought it became the Senate to make one further attempt towards negotiating our differences, before a resort was had to warlike measures. The President would be enabled to take this step, by the Senate, who were a branch of the war-declaring power, expressing their support of the measures he had taken, at the same time that they requested a renewal of the negotiation.

Mr. MOORE moved to strike out the words "and insist;" which motion prevailed.

Mr. WORTHINGTON said that, so modified, he should vote for the resolution.

Mr. KITCHEL observed that he was sorry to intrude upon the patience of the Senate at that late hour; but the observations of the gentleman who had just sat down induced him to beg their indulgence for a few moments. The gentleman, in the course of his observations, seems to have made two propositions as the ground of his objection, viz: that the resolution now under consideration contains a censure upon the President, as not having done his duty in negotiating; and that by passing it we are going to sacrifice the honor and interests of the United States and its citizens.

Mr. President, I would ask in what manner we shall do either? How shall we censure the President? He has negotiated until there appears no prospect of obtaining that justice to which we are entitled; and he has now submitted the matter to Congress to pursue such measures as shall appear to them prudent.

And what are we about to do? Sir, we have already unanimously passed one resolution, in which we say that the capture and condemnation of the vessels and cargoes of our citizens is an unprovoked violation of our independence, and an aggression upon the property of our citizens. And if that declaration is correct what are we to do further? Are we, upon the strength of that declaration, to sit down and fold our hands together, and expect Britain to do us justice, or are we to declare war? Sir, are we prepared at this moment to declare war? Will it be wise? Will it be prudent, without one effort to avoid it, with all its horrors of blood and destruction? Are the people now prepared to meet it, without our making one more attempt to negotiate? Will they say we have acted wisely? I believe not. Sir we are one component part of Congress, who have the sole power of declaring war; and by this resolution we are going to say to Britain—not by ourselves, for we are not by the Constitution authorized to speak to foreign nations in this way; but we are about to request the President, in our behalf, and in our name, and in the name of the whole people of the United States to say to Britain—you have injured us by your unprovoked aggressions, and we demand satisfaction. We can bear these insults no longer; therefore, make us compensation for past injuries, and do us justice in future; and we are willing still to be friends. Wherein does this censure the President? He has pursued negotiation until he finds it unavailing. We now ask of him to make one last effort in our behalf, before we appeal to the last resort of war, and I trust we shall arm him with power that will give energy to this last negotiation. And wherein are we going to sacrifice the honor of the United States or the interests of the citizens? Does it sacrifice our honor to endeavor to settle our differences in an amicable way, rather than to fly to arms and deluge the earth with blood? Will it fix a stigma upon us in the eyes of any rational men or nations? I believe not. And how are we going to sacrifice the interests of our citizens? Do we do it by demanding justice for them of Britain? I believe that they themselves will not view it in that light, when they see it followed by the third resolution, which I hope will be passed. And indeed had it not have been for the expectations of that resolution being carried into effect, in such a manner as to give energy to this, I should have withheld my vote from the first. But, under the full expectation that the third resolution will pass, and as I do not believe it contains any censure upon the President, and as I believe it will do honor to the United States and will have a tendency to secure reparation to our citizens, I shall cheerfully give it my vote.

Mr. SMITH, of Ohio—Mr. President, although the resolution on your table cannot impose a new obligation on the Chief Magistrate of this country in its present form, yet, from its coincidence with the letter and spirit of his message at the opening of the present session—from its presumptive influence at home, and its probable effect abroad, I am induced to believe that its unanimous adoption is important.

The resolution ought not to be construed into an improper interference with Executive prerogative, for it will not sustain that interpretation. It is the Constitutional right and the daily practice of the Senate to advise the Executive to adopt specific measures, as well as to call for information on diplomatic and legislative subjects. What is the object of the resolution? It is, that this branch of the Legislature shall share in the responsibility of employing means to execute the measure proposed. This is magnanimous, as it is voluntary on the part of the Senate, for in adopting the resolution we attach a high degree of responsibility to ourselves in the effects to be produced.

The object of the resolution seems to be further illustrated on two grounds. 1. "That the President demand the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations." What is there in this part of the resolution so objectionable to honorable gentlemen? Is it the restoration of the captured property of our citi-

zens? No! Is it the indemnification of our citizens, for their losses and damages sustained by the captures of which we complain? It cannot be. To what then are exceptions taken? Two honorable gentlemen have given the answer. "The resolution if adopted will be an encroachment upon the Executive branch of the Government." This I shall deny, until convinced of the impropriety of entering into any resolution which expresses to one branch of the Government the views and desires of another. The freedom of communication between the Legislative and Executive branches of the Government, is sanctioned by the law and usage of all nations that are free. The resolution does not assume the boldness of a mandate, but the delicate form of a request. Having obviated this objection, I contend that the seas are the high-road of the world, and that all nations have a right to use it. That we as a neutral nation have a right to trade with all, who are free to trade with us, except with a blockaded port and in articles contraband of war. England has imposed a new restriction beyond the cases of contraband and blockade. In her courts of admiralty, she has taken a lawless distinction between a trade in war and a trade in peace; and that a trade not permitted in peace is unlawful in war. I pronounce it an injurious regulation upon our commerce, and which I trust our Government will not submit to, as it is repugnant to the law of nations and a gross violation of neutral rights.

Of this new and odious principle, the President of the United States has justly complained, and I wish the Senate to unite in bearing testimony against it; and while we do this, let us resort to the means of remunerating our injured citizens. They have been robbed and plundered on the high seas, while sailing under the American flag and engaged in a lawful trade. I feel indignant at this outrage, and cannot silently and deliberately see our flag insulted, our seamen impressed, our citizens ruined, and our trade destroyed. But, it has been said, if we adopt the resolution it will restrict the President to the strong attitude of demanding the restitution of our property taken by British cruisers, and condemnations. Be it so; he will not surely treat with them but on the ground of restitution. We have treated England as the most favored nation, in all our commercial and diplomatic regulations; she has requited us with the imposition of insidious duties, with predatory spoliations at sea, and illegal condemnations on land. Our nation will be avenged, and the greatest objection which I feel to the resolutions is, that they do not go far enough. I would make a provisional declaration of war, to be carried into effect with vigor, not only against England, but against Spain, and any other Power who, under circumstances so aggravated, refuse to redress our wrongs. Sir, I must honestly confess, that I deprecate the flames and ravages of war, that I should lament the necessity of involving the nation as much as any man; but, sir, I wish it avoided on honorable terms; for rather than see the honor and the rights of my country violated, I would wade through rivers of blood and fight till doomsday in their defence. The second ground of illustration appears in the latter part of the resolution, and in the following words, "To enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled." Until this resolution came into debate, I flattered myself that the Senate would have adopted it unanimously. The object of the resolution is so very important that I could not imagine one honorable member of the Senate would be found refusing to support it.

Sir, permit me to ask, can a true American be indifferent to the depredations committed on our neutral rights, and does not the impressment of our seamen deserve the attention of the Senate? Every member must avow it. In what then do we differ? Merely in the phraseology of the resolution. I did hope for unanimity in the Senate, as well upon the form as the substance of this resolution. In this, however, I am disappointed, and as I cannot prevent it, I will sit down and regret it.

Messrs. LOGAN and PICKERING spoke in favor of the resolution, and Mr. ISRAEL SMITH, against it; when, after some verbal amendments, the question was taken upon it, by yeas and nays, and the resolution carried—yeas 23, nays 7, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Bayard, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Tracy, Turner, White, Worthington, and Wright.

NAYS—Messrs. Adair, Bradley, Plumer, Smith of Vermont, Stone, Sumter, and Thruston.

So it was *Resolved*, That the President of the United States be requested to demand the restoration of the property of their citizens captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in a time of peace; and the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations; and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled.

MONDAY, February 17.

Mr. MACLAY, from the committee to whom was referred, on the 14th instant, the bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the board of wardens for the port of Philadelphia to collect a certain duty on tonnage,

for the purpose therein mentioned," reported the bill without amendment.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 23d of January last, the bill for classing the militia, and assigning to each class its particular duties, reported the bill with amendments; which were read, and ordered to lie for consideration.

The bill, entitled "An act for the relief of the Governor, Judges, and Secretary, of the Indiana Territory," was read the second time, and referred to Messrs. WORTHINGTON, BALDWIN, and BRADLEY, to consider and report thereon.

The amendments reported by the committee, on the 12th instant, to the bill, entitled "An act relating to bonds given by marshals," and, after debate, postponed.

Mr. HILLHOUSE presented the memorial of the Chamber of Commerce of the city of New Haven, in the State of Connecticut, representing that they "have observed, with no common degree of surprise and solicitude, the numerous embarrassments which the navigation of the United States hath suffered by the adoption of new principles, respecting neutral nations, in the Admiralty Courts of Great Britain;" and praying the interposition of Congress in the prosecution of such measures as may protect the commerce and defend the sea-coasts of the United States; and the memorial was read.

Ordered, That it be referred to the committee appointed on the 6th of January last, who have under consideration the memorial of the merchants of the city of New York, on similar subjects, to consider and report thereon.

The amendment reported by the committee to the bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, was considered, and, after debate, postponed.

The Senate took into consideration, as in Committee of the Whole, the amendment reported to the bill, entitled "An act to extend jurisdiction, in certain cases, to State judges and State courts;" and having agreed thereto, the bill was amended accordingly, and reported to the House.

Ordered, That the bill pass to the third reading as amended.

The bill relating to the salaries of the Judges of New Orleans was read the third time, and the blank in the first section thereof having been filled with the words "two thousand five hundred," and the blank in the second section with the words "five hundred," and the bill further amended,

Resolved, That this bill do pass, that it be engrossed, and that the title thereof be, "An act relating to the salaries of the Judges of New Orleans."

The Senate took into consideration the amendments reported to the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo; and, after debate, adjourned.

TUESDAY, February 18.

The bill, entitled "An act to extend jurisdiction in certain cases, to State judges and State courts," was read the third time as amended; and having been further amended,

Resolved, That this bill do pass as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

TRADE WITH ST. DOMINGO.

The Senate resumed the third reading and the consideration of the amendments reported to the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo; and the report was in part adopted; and on motion, to agree to the amendment reported by the committee, as a second section, amended as follows:

SEC. 2. *And be it further enacted*, That, after due notice of this act, at the several custom-houses, no ship or vessel whatever shall receive a clearance for any port or place within the island of St. Domingo, and not in the actual possession of France, nor shall any clearance be granted for a foreign voyage to any ship or vessel owned, hired, or employed, wholly, or in part, by any person or persons resident within the United States, until the owner, or the employer for the voyage, or his factor or agent, with the master, shall give bond to the United States, in a sum equal to the value of the vessel and of her cargo, with condition that the ship or vessel, for which a clearance shall be required, is destined to some port or place without the limits of such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France; and, during the intended voyage, shall not be voluntarily carried, or permitted to proceed, whether directly, or from any intermediate port or place, to any port or place within such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France; and in case of being forced by any casualty into any port or place hereby interdicted, shall not, at any such port or place, voluntarily sell, deliver, or unlade any part of such cargo, except so much as may be absolutely necessary to defray the expenses requisite to enable such vessel to proceed on her intended voyage; and, generally, that such ship or vessel, whilst on such voyage, shall not be employed in any traffic or commerce with, or for, any person resident within any part of the island of St. Domingo, not in the actual possession, and under the acknowledged Government of France."

It passed in the affirmative—yeas 16, nays 14, as follows:

YEAS—Messrs. Adair, Baldwin, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Moore, Smith of New York, Smith of Tennessee, Sumter, Turner, and Worthington.

NAYS—Messrs. Adams, Anderson, Bayard, Bradley, Hillhouse, Mitchill, Pickering, Plumer, Smith of Maryland, Smith of Ohio, Smith of Vermont, Tracy, White, and Wright.

On motion, the Senate adjourned.

WEDNESDAY, February 19.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In pursuance of a measure proposed to Congress, by a Message of January 18th, 1803, and sanctioned by their approbation, for carrying it into execution, Captain Meriwether Lewis, of the first regiment of infantry, was appointed, with a party of men, to explore the river Missouri from its mouth to its source, and crossing the high lands by the shortest portage, to seek the best water communication thence to the Pacific Ocean; and Lieutenant Clarke was appointed second in command. They were to enter into conference with the Indian nations on their route, with a view to the establishment of commerce with them. They entered the Missouri, May 14, 1804, and on the 1st of November, took up their winter quarters near the Mandan towns, sixteen hundred and nine miles above the mouth of the river, in latitude 47° 21′ 47″ north, and longitude 99° 24′ 45″ west, from Greenwich. On the 8th of April 1805, they proceeded up the river in pursuance of the objects prescribed to them. A letter of the preceding day, April 7, from Captain Lewis, is herewith communicated. During his stay among the Mandans, he has been able to lay down the Missouri, according to courses and distances taken on his passage up it, corrected by frequent observations of longitude and latitude; and to add to the actual survey of this portion of the river, a general map of the country between the Mississippi and Pacific, from the 34th to the 54th degrees of latitude. These additions are from information collected from Indians, with whom he had opportunities of communicating during his journey, and residence with them. Copies of this map are now presented to both Houses of Congress. With these, I communicate, also, a statistical view, procured and forwarded by him, of the Indian nations inhabiting the Territory of Louisiana and the countries adjacent to its northern and western borders, and of other interesting circumstances respecting them.

In order to render the statement as complete as may be, of the Indians inhabiting the country west of the Mississippi, I add Dr. Sibley's account of those residing in, and adjacent to, the Territory of Orleans.

I communicate, also, from the same person, an account of the Red river, according to the best information he has been able to collect.

Having been disappointed, after considerable preparation, in the purpose of sending an exploring party up that river in the summer of 1804, it was thought best to employ the autumn of that year in procuring a knowledge of an interesting branch of the river called the Washita. This was undertaken under the direction of Mr. Dunbar, of Natchez, a citizen of distinguished science, who had aided, and continues to aid us, with his disinterested and valuable services, in the prosecution of these enterprises. He ascended the river to the remarkable hot-springs near it, in latitude 34° 31′ 4.16″, longitude 92° 50′ 45″ west, from Greenwich, taking its courses and distances, and correcting them by frequent celestial observations. Extracts from his observations, and copies of his map of the river, from its mouth to the hot-springs, make part of the present communications. The examination of the Red river itself, is but now commencing.

TH. JEFFERSON.

FEBRUARY 19, 1806.

The Message and papers therein referred to were read, and ordered to lie for consideration.

The bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts;" was read the second time, as in Committee of the Whole.

Ordered, That it be referred to Messrs. KITCHEL, ADAMS, and CONDIT, to consider and report upon.

The Senate resumed, as in the Committee of the Whole, the second reading of the bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the Board of Wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned," and having reported it to the House without amendment, it was ordered to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Trustees of the Presbyterian Congregation of Georgetown," in which bill they desire the concurrence of the Senate.

The Senate resumed the third reading of the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo: and, on motion, it was agreed to add two new sections thereto.

On motion, by one of the majority, to reconsider the second section adopted yesterday, it passed in the negative—yeas 14, nays 17, as follows:

YEAS—Messrs. Adams, Anderson, Bayard, Bradley, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of Maryland, Smith of Ohio, Tracy, White, and Wright.

NAYS—Messrs. Adair, Baldwin, Condit, Fenner, Gaillard, Howland, Kitchel, Logan, Maclay, Moore, Smith of New York, Smith of Tennessee, Stone, Sumter, Thruston, Turner, and Worthington.

THURSDAY, February 20.

The following motion was submitted for consideration:

Resolved, That a committee be appointed to wait on the President of the United States, and present to him the two resolutions passed on the 13th and 14th instant, February.

Mr. ADAMS, from the committee to whom was referred the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States, reported the same, with the following amendment:

SEC. 4. *And be it further enacted*, That whenever the President of the United States shall, under the authority of the laws of nations and of this act, send any foreign Ambassador, Minister, or other person as aforesaid, so offending, home to his Sovereign, he shall issue his warrant to any officer, civil or military, under the authority of the United States, commanding him to provide for the departure of the said Ambassador, Minister, or other person as aforesaid, so offending: taking due precautions to avoid all improper or unnecessary violence in executing said warrant. And all officers, civil and military, under the authority of the United States, are required to be obedient to such warrant.

The bill brought up from the House of Representatives for concurrence, entitled "An act to incorporate the Trustees of the Presbyterian Congregation of Georgetown," was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act relating to bonds given by Marshals," and the amendment of the special committee having been disagreed to, the bill was reported to the House without amendment.

Ordered, That this bill pass to a third reading.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill for classing the militia, and assigning to each class its particular duties, and agreed thereto; and the bill was reported to the House accordingly.

TRADE WITH ST. DOMINGO.

The Senate resumed the third reading of the bill to suspend the commercial intercourse between the United States and the French island of St. Domingo.

Mr. WHITE.—Mr. President, the Senate have, I believe, decided that this question shall be taken by the yeas and nays, otherwise I will hereafter make to you that motion, in order to place upon the journals my vote against a bill, which, instead of going to inhibit, according to the language of the gentleman from Ohio, (Mr. WORTHINGTON,) a disgraceful commerce, will itself, if passed under present circumstances, as I conceive, be a disgrace to this Government. We have sincerely to regret that the information we sought on this occasion, and considered so necessary to the discussion of the subject, has been denied us; and that denial, I will confess, was the less expected, and the less welcome, it being well understood that the light we wished was entirely within the power of the Executive to impart, if we had only been permitted to ask for it. The reasons that may have induced gentlemen to negative a request apparently so just, and generally granted almost as a matter of course, I presume not to conjecture. They had no doubt strong ones, but were not so obliging as to communicate them to us. I wish not, however, to be understood as making this a subject of complaint; it would be idle to do so. I know that power does usually not only what it wills, but mostly what it can; and the minority here, on any subject, instead of expecting favors, may think themselves well off if permitted to retain and to exercise the rights guarantied to them by the Constitution of the country, and entrenched behind the rules of the Senate. If, therefore, on this occasion, gentlemen have nothing to accuse themselves with, on the score of a want of liberality, it is not my intention to charge them with injustice. It will be recollected that the bill, as originally introduced on this subject by the gentleman from Pennsylvania, (Mr. LOGAN,) was variant in every shape and feature from that now before us. The first bill I considered altogether impotent, and had little or no concern as to its fate; but that now under consideration, as presented by the committee, is of a very different complexion, and goes the full length of interdicting all commerce between this country and the island of St. Domingo. Neither in justice nor in wisdom, sir, is it the duty or the interest of this Government to adopt the present measure. I do not, as some other gentlemen have professed, consider it a measure of policy, nor will I call it a measure of fear; but it certainly savors of the most timid prudence I have ever seen operating in this body, little calculated to acquire us honor abroad, or to prolong our peace at home; and if gentlemen have really persuaded themselves that the decision we are about to make involves merely a question of policy, in my humble opinion they most egregiously mistake. No such construction will be given to it; none such, give me leave to say, is it entitled to bear. The surrender of this commerce has never been asked of us as a temporary sacrifice to the convenience and accommodation of France; but has been demanded of us, in the most insulting and peremptory style, as a matter of right; and passing this bill, under present circumstances, will be an acknowledgment of the right in France to interdict us this trade. It will be a direct abandonment of all right to it on our part, and establishing a precedent against ourselves, that will be holden obligatory upon us in all future cases of the same kind. In this aspect the subject must develope itself to every gentleman as one of the utmost magnitude to the United States. If our commerce with St. Domingo was worth nothing, I would equally resist the present measure; it is the principle I object to. I object, and will forever object, to the solemn recognition on the part of this Government, of a right in foreign Powers that may, and hereafter will be exercised, if now admitted, to the injury of the American commerce, and of the American character. If gentlemen will look for a moment about them, will attend to our position in the world, and to the colonial establishments of the European nations around us, they cannot but be convinced, that cases similar to this must often happen. The sooner we take our ground, therefore, the better; the less difficulty we shall have hereafter; and surely a more suitable opportunity than the present can never be expected to occur; especially, sir, when we reflect upon the most uncourtly, indignant, and domineering manner, by which France has attempted to bully and terrify us into this measure of the gentleman from Pennsylvania—and the gentleman himself, yesterday, unmasked the bill. In his great zeal he told us that we had already tampered too long on the subject; that France had now demanded the measure of us, and its adoption had become a matter of necessity on our part. Degrading idea! Where then has gone our national honor and our boasted independence? What was this but to tell us, that such is now our humbled state, when France commands we have no alternative but obedience; and that even to deliberate is dangerous? [Here Mr. LOGAN observed that he did not recollect having used the word "demanded;" to which another gentleman answered, he certainly had.] I had

expected, Mr. President, as must have been the case with every other gentleman, that the honorable mover of this measure, (Mr. L.,) when he submitted to the Senate a proposition of such infinite importance, would have assigned at least some plausible reasons for doing so; but we are now as much in the dark as when our attention was first called to the subject. The gentleman was indeed pleased to refresh our memories by reading to us some old documents that were presented to Congress at their last session, which were then acted upon, and would perhaps never have been thought of again, but for his kindness and research. Not a single argument, however, has been adduced in support of the bill, that has not, for more than a year past, been losing what little force it might originally have contained; and, most unfortunately for the mover, the very document upon which he principally relies, and to which he has so often referred us, furnishes the strongest argument against him—I mean the President's Message to the last Congress. That the President should have thought it necessary to call the attention of Congress to this subject, at their last session, and not at their present, as is the fact, shows most distinctly his opinion, that whatever reasons required at that time Congressional interference, have since ceased to exist.

I will here cursorily premise, that I must be excused in passing over, without observation, the communications that have been recently made on this subject by the French Minister to our Government, and by Mr. Talleyrand to General Armstrong. They are of a kind not to admit of comments, without provoking such animadversions as the respect due to the exalted stations those gentlemen fill, and to the Government they represent, will not permit me to indulge myself in for a moment. One thing, however, I will say:—that whatever influence their threats and invectives may acquire, certainly their arguments are entitled to none; for they have not condescended to use a single one; but have taken as granted the very points in dispute, viz: that the blacks of St. Domingo are the slaves of the French, and now in such a state of revolt that no nation has a right to trade with them. To these points I will presently give some attention, after a few observations on the subject of our West India commerce, generally, as connected with this question. It is well known, sir, that a considerable portion of the commerce, which of late years has so rapidly enriched our citizens, and advanced, beyond the most sanguine calculations, our national wealth and political consequence, has consisted in the increased intercourse with the West India islands; and this has arisen chiefly from our neutral and neighboring situation toward those islands: from the unrestrained and enterprising spirit of our merchants, and from a combination of circumstances that have been sufficient to involve, and continue in war for a number of years, the most commercial Powers of Europe. So extensive and valuable has our trade become in the West Indian seas, that it has excited, and is daily increasing the jealousies of other nations; and, certainly, in the same gradation, at least, should increase our disposition to protect and to foster it. But what, let me ask, must be the inevitable operation of the measure now before us? To prostrate completely, at a single blow, the most valuable part of it remaining, and to jeopardize the whole. As if not content with the branches that have been lopped off by the British, the French, and the Spaniards, the gentleman from Pennsylvania will himself now lay the axe to the root of the tree; and this, too, at a moment when our commerce is approaching the most crippled and ruinous condition; when the principal commercial nations of Europe are exerting every effort short of actual war to crush it; when your table is loaded with the memorials of your citizens, complaining of the injustice and violence to which they are subjected in every part of the world, and praying the protection of their Government; when the President of the United States is communicating to us message after message upon this very subject; when almost every mail that arrives brings to us the unwelcome intelligence of some additional outrages upon the persons and the property of our countrymen; and scarcely a wind from any quarter of the globe but swells the catalogue of their grievances.

Our local situation, Mr. President, gives to us advantages in the commerce of the West Indies over all the nations of the world; and it is not only the right and the interest, but it is the duty of this Government, by every fair and honorable means, to protect and encourage our citizens in the exercise of those advantages. If, in other respects, we pursue a wise policy, and remain abstracted from the convulsions of Europe, that for many years to come are not likely to have much interval; enjoying, as we shall, all the advantages of peace-wages, peace-freight, peace-insurance, and the other peace privileges of neutral traders, we must nearly acquire a monopoly of this commerce. We can make usually a treble voyage; that is, from this continent to the West Indies, thence to Europe, and back to America again, in the time that the European vessels are engaged in one West India voyage. This circumstance of itself, properly improved, at a period perhaps not very remote, whenever others of those islands may be released from, or refuse longer submission to their present colonial restrictions upon commerce, will enable us to rival even the British in transporting to the markets of Europe the very valuable productions of the West Indies, such as sugar, molasses, coffee, spirits, &c. Again, sir, I state nothing new when I say that the produce of this country is essential to the West India islands, and the facility with which we can convey it to them, must at all times enable us to furnish them much cheaper than they can be furnished by any other people. It requires not indeed the spirit of prophecy to foretell, that the time must come when the very convenient and commanding situation we occupy, in every point of view, relative to the most valuable of those islands, will place in our hands the entire control of their trade; that is, if we pursue a wise and politic

system of measures in relation to them; holding fast upon all the great advantages nature has given us, and promptly availing ourselves of such others as circumstances may throw in our way. As a source of public revenue; as a means of increasing our national capital; and, though last, not least, as a nursery for our seamen, the importance of this commerce to the United States, is incalculable, and should be guarded with a jealous eye; we should never suffer our rightful participation in it to be diminished by others, much less have the folly to diminish it ourselves. Those islands are situated in our very neighborhood, and but for the arbitrary colonial restrictions upon commerce, to which they are now subject, no other nation could hold a successful competition with us in their markets, unless some such ill-judged, baleful, anti-commercial measure, as has now fallen to the genius of the gentleman from Pennsylvania to contrive, should enable them to do so.

I will now, sir, notice the relative hostile situations of France and St. Domingo, and see how far gentlemen are borne out in their positions—that the people of St. Domingo can be considered only as revolted slaves, or, at best, as French subjects now in a state of rebellion; that they are nationally in no respect separated from France; that to trade with them is a violation of the laws of nations, and that we have no right to do so. This, so far as I could understand them, forms a summary of the points that have been urged in support of the present measure, and in opposition to the trade; each of which deserves some attention. If I am wrong in these points, the friends of the bill will please now to correct me; and I hope gentlemen will become convinced during the discussion, that the case which so many of them have stated, of any foreign Power succoring and protecting the revolted slaves of the Southern States, is not the parallel of that before us. As to the first point, it is to be recollected, that some years past, to quote from high authority, "during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberties," when our enlightened sister Republic of France was, in her abundant kindness, forcing liberty upon all the world, and propagating the rights of man at the point of the bayonet, in one of her paroxysms of philanthropy, she proclaimed, by a solemn decree of her Convention, the blessings of liberty and equality to the blacks of St. Domingo too; invited them to the fraternal embrace, and to the honors of a Conventional sitting. The wisdom or the policy of this proceeding, it is not my business to inquire into, but it certainly affords some excuse, if any be necessary, for the subsequent conduct of those unfortunate people. The decree abolishing forever slavery in the West Indies, (French,) and extending all the blessings of citizenship and equality to every human creature, of whatever grade or color, then under the Government of France, passed the Convention in February, seventeen hundred and ninety-four. The existence of such a paper I did not expect would have been doubted here till the gentleman from New Jersey (Mr. KITCHEL) actually denied it. In the new Annual Register, of ninety-four, is the following account of it, page 347: "La Croix rose "to move the entire abolition of slavery in the "dominions of France. The National Convention rose spontaneously to decree the proposition "of La Croix. On motion of Danton, on the 5th, "the Convention resolved to refer to the Committee of Public Safety the decree of emancipation, "in order that they might provide the most effectual and safest means of carrying it into effect." But here is the decree itself, as taken from the Gentleman's Magazine, and furnished to me by a friend: "National Convention, 1794, February "4th. The National Convention decrees that "slavery is abolished in all the French colonies. "It decrees in consequence that all the inhabitants "of the French colonies, of whatever color, are "French citizens, and from this day forward shall "enjoy those rights which are secured to them by "the declaration of rights, and by the Constitution." And this same principle the Convention frequently recognised, by receiving at their bar, in the most complimentary manner, various deputations of blacks from the West Indies, thanking them for the boon conferred upon them. One of these instances, among many others, I will submit, as a curiosity in legislative proceedings, to the Senate: "National Convention. Order of "the day. A band of blacks of both sexes, amidst "the sound of martial music, and escorted by a "great band of Parisians, came into the hall to return thanks to the Legislature for having raised "them to the rank of men. The President gave "the fraternal kiss to an old negress, 114 years "old, and mother of eleven children. After which "she was respectfully conducted to an armed "chair and seated by the side of the President, "amid the loudest bursts of applause." By the original decree, the liberty of the blacks was established. This ceremony, it seems, was only to show their equality; and certainly, sir, the President could not have given a much stronger, or a much kinder evidence of it to the old lady. But, Mr. President, the claim of those people to freedom does not rest here. I have in my hand a document of much more recent date, and even more to be relied upon. It is the proclamation of the then First Consul, now the Emperor and King, to the people of St. Domingo, when General Le Clerc went there, in the winter of 1801, at the head of the French forces, which I will read. First, a short proclamation of General Le Clerc's:

LIBERTY. EQUALITY.

PROCLAMATION.

On board the Ocean, off the Cape, the 15th of Pluviose, 10th year of the French Republic, (Feb. 6, 1802.)

Le Clerc, General-in-chief of the Army of St. Domingo, Captain General of the Colony, to the inhabitants of St. Domingo:

Inhabitants of St. Domingo! Read the proclamation of the First Consul of the Republic. It assures to the blacks that liberty for which they have so long fought; to commerce and to agriculture that prosperity

without which there can be no colonies. His promises will be faithfully fulfilled; to doubt it would be a crime.

The General-in-chief,

LE CLERC, *Captain General.*

By order of the General-in-chief,

LENOIR

—

Extract from the Register of the Deliberations of the Consuls of the Republic, Paris, the 17th Brumaire, 10th year of the French Republic, one and indivisible, (November 8, 1801.)

PROCLAMATION.

The Consuls of the Republic to the Inhabitants of St. Domingo.

Inhabitants of St. Domingo! Whatever may be your origin and your color, ye are all Frenchmen; ye are all free, and all equal before God and the Republic.

France, like St. Domingo, has been a prey to factions, and torn by civil and foreign wars. But all is changed! Every people have embraced Frenchmen, and have sworn to them peace and friendship! All Frenchmen have likewise embraced each other, and have sworn to be all friends and brothers. Come ye, also, and embrace Frenchmen, and rejoice to see your friends and your brothers of Europe.

The Government sends you the Captain General Le Clerc. He carries with him great forces to protect you against your enemies, and against the enemies of the Republic. If it should be told you these forces are intended to tear from you your liberty, answer, the Republic has given us liberty. The Republic will not suffer that it should be taken from us. Rally round the Captain General; he restores you abundance and peace. Rally round him; he who shall dare to separate himself from the Captain General will be a traitor to his country, and the vengeance of the Republic shall devour him as fire devours your dried canes.

Given at Paris, in the palace of Government, the 17th Brumaire, 10th year of the French Republic.

BONAPARTE.

By the First Consul,

H. B. MARET, *Secretary.*

A true copy,

LE CLERC, *Captain General.*

This, sir, is proof irresistible; after which it can never be said that the liberation of those people has been the rash act, or the mere ebullition, of the heat and convulsion of a revolution. We have here their liberty solemnly recognised and proclaimed to the world eight years afterwards by the man who was then and still is at the head of the French Government; or rather, who is now the Government itself. I cite these papers to show that the French have now no claim, either in right, in justice, or in law, to any portion of the people of St. Domingo as slaves; that they are individually free, if the highest authorities in France could constitute them so, which will surely not be questioned; and in order to rebut a fallacious idea that has been taken up, and urged by some, that our merchants are conducting this commerce with slaves, the property of freemen, and not with freemen themselves, thus ingeniously endeavoring to draw a distinction between the situation of St. Domingo and that of any other colony that has ever heretofore attempted to separate itself from the mother country; to make their's, according to the language of the gentleman from Virginia, (Mr. MOORE,) a totally new, unprecedented case, and in this manner to take them out of the humane provisions of the laws of nations. I grant, sir, their case does form a distinction from any other, and in this it consists: the people of St. Domingo are fighting to preserve not only their independence as a community, but their liberty as individuals; to prevent a degradation from the exalted state of freemen to the debased condition of slaves, struggling against the manacles that have been forged for them by the lawless ambition of power. We are told, however, they are at least not free as a people, as a body politic; but in such a state of rebellion that no nation has a right to trade with them. Here it becomes necessary to understand each other as to the correct and definite import of words. Gentlemen, in common parlance, are apt to confound expressions of very different meaning, as has been strikingly the case during the present discussion. Hence the word "rebellion," has been substituted for, and used throughout, as if synonymous with "civil war;" but although rebellion is often the inception of civil war, there is a material distinction between the two. The former consists in the mere unreasonable insurrection of certain discontented individuals; whereas the latter is a people seriously divided among themselves, in a state of war, each party being capable of making a certain military stand against the other; and this is precisely the situation of France and St. Domingo at present, as will appear by the distinction taken in the books when applied to their case: *Vattel's Law of Nations*, b. 3, ch. 18, sec. 292 says: "Custom appropriates 'the term of *civil war* to every war between the 'members of one and the same political society. 'If it be between part of the citizens on the one 'side, and the Sovereign, with those who continue in obedience to him, on the other; provided the malcontents have any reason for taking 'up arms, nothing further is required to entitle 'such disturbance to the name of *civil war*, and 'not that of rebellion. This latter term is applied 'only to such an insurrection against lawful authority, as is void of all appearance of justice." And I will submit with confidence to the high and honorable feelings of this Senate, whether the human mind is capable of conceiving a much stronger reason to induce a people to take up arms than to resist those whose known object it is to reduce them not only to political, but to personal slavery; or whether any other circumstance could give, according to the language of this writer, an equal appearance of justice to their cause. The section thus goes on: "The Sovereign, indeed, never fails to bestow the appellation of 'rebels on all such of his subjects as openly resist 'him; but when the latter have acquired sufficient 'strength to give him effectual opposition, and to 'oblige him to carry on the war against them according to the established rules, he must necessarily submit to the use of the term *civil war*." And certainly it cannot be said that the people of St. Domingo have not such sufficient strength,

when, after a war of so many years with France, we see them not only yet independent, but having now actually besieged the only French force in their country. I might safely have rested the correctness of the definition I have given of the term civil war, upon the four first lines only of the same section, the bearing of which too, upon the present question, will be obvious to the mind of every gentleman. They are as follow: "When 'a party is formed in a State, who no longer obey 'the Sovereign, and are possessed of sufficient 'strength to oppose him; or when, in a Republic, 'the nation is divided into two opposite factions, 'and both sides take up arms; this is called a 'civil war."

Let us now, Mr. President, attend to the present state of St. Domingo; but first to the circumstances that have led to it, and see how far this doctrine will apply. After the bands of the political society that had connected France and her colonies together were broken asunder; when the old Government of that country was completely dissolved, and one usurpation succeeded day after day to the places and to the vices of another; when the axe of the guillotine had extinguished the magic lustre of royalty, and even that grace and beauty, [a very superb likeness of the late Queen of France was hanging directly before him.] that had reigned so long unrivalled, the pride and idol of the nation, had to yield herself to the rudeness of a common executioner, and was humbled in death before a scoffing multitude; when the Constitution that had been recently established by the voice of the nation, and under which it was hoped they would flourish and be happy, had fallen into the ruthless fangs of the Jacobins, and the patriots who supported it had found refuge in exile, or mingled their blood upon the scaffold; when all rightful, civil, and legal authority was at an end, and the Revolutionary sabre alone gave law, the people of St. Domingo, as did the people of these States under other circumstances, declared themselves free and independent, determined to take their stand among the nations of the world, and now refuse allegiance to any foreign Power. They have organized a Government for themselves; they are *de facto* the governors of the country, and in every respect act as an independent people. They have waged, and carried on with France, for many years, a most serious war, in defence of what they say are their rights; and the French, by force of arms, have been endeavoring to subjugate them. And now let me ask if the United States, or any other Power upon earth, is competent to decide this great controversy between them? They each claim to be free and independent, and therefore acknowledge no superior; the struggle is between themselves, and no other nation has a right to interfere by direct acts of hostility, or by any commercial restrictions that can go to affect injuriously either of the parties, and to do so is a departure from neutral ground, and an infraction of the laws of nations, as I think will be within my power to show from the most incontestable authorities. For this purpose I will advert again to *Vattel*. But first let me beg to be understood as not meaning to intimate an opinion that a colony has not a right to separate herself from the mother country, except in a time of such universal confusion. On the contrary, I believe she has the right whenever she has the power; or, what amounts nearly to the same thing, whenever she becomes so far separated as to declare herself free and independent; to organize a government, to proceed in the administration of that government, and to take and pursue measures of self-defence. No other nation has a right to investigate the claim she sets up to freedom; no other nation has a right to judge between the parties, or to say on which side belongs the justice of the case; it is exclusively an affair of their own, and it behooves the rest of the world to stand aloof, the silent and impartial spectators of the conflict, treating in their commercial relations each of the parties with like civility.

Before I proceed to the cases I had noted myself, I must beg leave to tender my acknowledgments to the honorable member from Maryland on my left (Mr. WRIGHT) for one, he has been so obliging as to read to us, and which will be found to be directly in the teeth of the argument he so triumphantly erected upon it. It is in *Vattel*, b. 3, ch. 18, sec. 296: "Foreign nations are 'not to interfere in the internal government of an 'independent State. It belongs not to them to 'judge between the citizens whom discord has 'roused to arms, nor between the Prince and his 'subjects: both parties are equally independent of 'their authority." According to this case, then, the people of France and the people of St. Domingo are equally independent of our authority, and the gentleman adduced it to show that we have no right to interfere in their quarrel. Thus far, sir, we agree precisely, and from this point diverge in precisely opposite directions. Sir, the gentleman exactly mistook the case; the interference here contemplated is not, as he supposed, a neutral's trading, but refusing to trade with a belligerent, situated as are the people of St. Domingo in relation to France. It is a neutral withholding from one of the parties what she grants to the other; giving commercial aid and assistance to one, and denying it to the other. I will ask the gentleman if this bill, the object of which must be to starve the people of St. Domingo into submission to their enemies, is not a direct and most serious interference in their quarrel? More so, Mr. President, give me leave to say, than if you were to invade them with fleets and with armies. Sir, the very object of this case is to show, that between belligerents circumstanced in relation toward each other as are now the people of France and the people of St. Domingo, neutral nations are bound to observe the strictest impartiality; not to grant a benefit to one that they withhold from the other; but to conduct their commerce with each alike unrestrained. And if the gentleman had examined the same section, a few lines further, he would have found this broad principle laid down, that in the event of such a civil war between citizens of the same country,

or between a Prince and his subjects, neutral nations are equally at liberty to assist either party, as if they were two independent nations embarked in war. This principle, and the construction I have given to the gentleman's case, will be well supported by others, I shall now have the honor of submitting to the Senate, from the same author. *Vattel*, b. 2. ch. 4, sec. 56, says: "When 'the bands of the political society are broken, or 'at least suspended, between the Sovereign and 'his people, the contending parties may then be 'considered as two distinct Powers; and since 'they are both equally independent of all foreign 'authority, nobody has a right to judge between 'them. Either may be in the right." B. 3, ch. 15, sec. 295, says: "When a nation becomes divided into two parties absolutely independent, 'and no longer acknowledging a common superior, the State is dissolved, and the war between 'the two parties stands on the same ground in 'every respect as a public war between two different nations." Again, sir, section 293 of the same book and chapter says: "A civil war breaks 'the bands of society and Government, or at least 'suspends their force and effect. It produces in 'the nation two independent parties, who consider each other as enemies, and acknowledge no 'common judge. Those two parties, therefore, 'must necessarily be considered as thenceforward 'constituting, at least for a time, two separate 'bodies, two distinct societies. Though one of 'the parties may have been to blame in breaking 'the unity of the State, and resisting the lawful 'authority, they are not the less divided in fact. 'Besides, who shall judge them? Who shall pronounce on which side the right or the wrong 'belongs? On earth they have no common superior. They stand, therefore, in precisely the 'same predicament as two nations who engage in 'a contest, and, being unable to come to an agreement, have recourse to arms." I will now, sir, cite another highly approved and more modern writer to the same point. *Marten's Law of Nations*, ch. 2, sec. 10, says: "Suppose that the interior troubles of a State come to an open rupture between the Sovereign and his subjects, 'and that the whole nation, or part of it, should 'wish to drive him from the throne: or, suppose 'that a province or territory, subjected to another 'State, refuses obedience to it, and endeavors to 'render itself independent; in either of these 'cases, there are two points which must be separated in determining on the conduct that foreign 'Powers ought to observe. 1st. The conduct to 'be observed towards the old or new Sovereign, 'or towards the people who, after having revolted, have declared themselves independent. '2dly. The assistance to be given to either party. 'With respect to the first of these, a foreign nation, not under any obligation to interfere, do 'not appear to violate its perfect obligations, nor 'to deviate from the principles of neutrality, if, 'in adhering to the possession, without examining 'into its legality, it treats as Sovereign him who 'is actually on the throne, and as an independent 'nation, people who have declared, and still maintain themselves independent. The opposite party, however, never fails to complain of this conduct, as long as he does not himself acknowledge 'by treaty the validity of such possession or independence. As to the second point, viz: the assistance to be given to either party, when once 'obedience has been formally refused, and the refusing party has entered into the possession of 'the independence demanded, the dispute becomes 'the same as those which happen between independent States."

Could authorities, Mr. President, be more fully up to the case, or show more unequivocally our right, or rather the just obligation upon us to observe towards France and St. Domingo, during their present conflict, the strictest impartiality? For I contend, and the cases I have cited go the full length of proving it, that they are to be considered by us, in every respect, as two independent nations; two distinct Powers at war; and as such, it is our right and our duty to treat them. The rights and the duties of neutrals, in such circumstances, are so concisely and explicitly pointed out in the volumes I have just referred to, that I must be permitted to trouble the Senate with a few sections on these subjects likewise. *Vattel*, book 3, ch. 7, sec. 111, says: "Let us now discuss 'another case; that of neutral nations resorting 'to my enemy's country for commercial purposes. 'It is certain, that as they have no part in my 'quarrel, they are under no obligations to renounce 'their commerce for the sake of avoiding to supply my enemy with the means of carrying on 'the war against me. Should they affect to refuse selling me a single article, while at the same 'time, they take pains to convey an abundant 'supply to my enemy, with an evident intention 'to favor him; such partial conduct would exclude them from the neutrality they enjoyed. 'But if they only continue their customary trade, 'they do not thereby declare themselves against 'my interest; they only exercise a right which 'they are under no obligation of sacrificing to me." Same chapter, section 118: "A neutral nation 'preserves towards both the belligerent Powers 'the several relations which nature has instituted 'between nations. She ought to show herself 'ready to render them every office of humanity 'reciprocally due from one nation to another. 'She ought in everything not directly relating to 'war, to give them all the assistance in her power, 'and of which they may stand in need. Such 'assistance, however, must be given with impartiality; that is to say, she must not refuse anything to one of the parties, on account of his being at war with the other." It seems indeed superfluous, sir, but I will here refer once more to *Marten*, b. 8, sec. 8; in treating of neutral commerce, according to the universal laws of nations, he says: "One of the most important points to be 'considered in treating of the laws of neutrality, 'is, the commerce carried on between neutral and 'belligerent nations. The right that a nation enjoys, in time of peace, of selling and carrying all 'sorts of merchandise to every nation that chooses 'to trade with it, it enjoys also in time of war 'provided it remains neuter. It follows, then, 'that a neutral nation may permit its subjects to 'carry all sorts of merchandise, including arms 'and ammunition, to the Powers at war, or to 'that of them, with which this commerce may 'be carried on to the greatest advantage. So long 'as the State, that is, the foreign Power, in a neutral nation, does not interfere, by prohibiting 'commerce with either or all the Powers at war, 'so long, it would seem, the nation does not transgress the laws of neutrality." The universal laws of nations, which formerly licensed neutrals in carrying arms and ammunition, or other articles, properly contraband, to a belligerent, have been modified in that particular, by the modern laws of nations, as may be seen in section 12, of the same book and chapter.

From all these cases, Mr. President, I am well warranted in the following deductions: 1st. That when the bands of Government among a people, by means of civil war, become broken, or for a time suspended, the two parties are to be considered, at least during the contest, as two distinct Powers, as two independent nations, who, being otherwise unable to settle their disputes, make a solemn appeal to arms. 2d. That a revolted colony or province, while holding and exercising the rights of sovereignty, is to be treated by neutral nations as an independent people, without regarding the legality or illegality of their claim to such independence; and, 3dly, That in the disputes of such belligerents, neutrals have no right to interfere, either commercially or otherwise, to the injury of either, but are bound to conduct themselves with the strictest impartiality towards both. And here, sir, we arrive precisely at the point. The present question seems to be the very focus in which the rays of light emitted from those cases naturally meet. They are too plain to require, or even admit of elucidation. I will leave every gentleman to apply them for himself. According to my understanding they have only to be read or to be heard, in order to attach themselves immediately to the subject of our present consideration. It clearly results, then, that we have not only the right, but that we are bound by the laws and usages of nations, to conduct our commerce with St. Domingo, during existing circumstances, precisely as we should with any independent foreign Power that might happen to be engaged in war, and that a contrary conduct, such as that now proposed, would be on their part a just cause of complaint, and even of aggression against us. And I hope it will never be said that this Government, which, according to the polite concession of the French Minister, "has taken for the basis of its political career, the most scrupulous equity, and the most impartial neutrality," will now commit an act in open and direct violation of both; and because the people of St. Domingo may at present be unable to enforce right and justice, do them wrong and injustice.

The gentleman from Pennsylvania farthest from me, (Mr. MACLAY,) in search of arguments to support this measure, has travelled back to the first years of the American Revolution. There I will resort too, sir, and I trust with better success. In the conduct both of France and of England, at that time, we shall find a precedent directly in support of my argument. After these colonies had revolted against the authority of Great Britain, France continued uninterruptedly her commerce with them, other than such as was contraband, till the 6th of February, 1778, when she entered into a Treaty of Amity and Commerce, and another of Alliance, eventually to become a treaty offensive and defensive, with us, under the style and character of the thirteen United States. In the first article of the Treaty of Alliance, France expressly asserts her right to navigate and carry on commerce with the colonies, and declares, that if the British should, "in violation of the rights of nations, attempt to hinder that navigation and that commerce," she would make it a common cause. But to prove unequivocally what was then the opinion of France on this subject, I will refer to one of her own State papers. In the Annual Register for 1778, p. 299, is the note of the French Minister, De Noailles, dated London, March 13th, 1778, communicating to the British Government the Treaty of Amity and Commerce entered into between France and these States, part of which is as follows: "The United States of North America, who are in full possession of independence as pronounced by them on the 4th of July, 1776, having proposed to the King to consolidate, by a formal convention, the connexion begun to be established between the two nations, the respective Plenipotentiaries have signed a Treaty of Friendship and Commerce, designed to serve as a foundation for their mutual good correspondence.

"In making this communication to the Court of London, the King is firmly persuaded it will find new proofs of His Majesty's constant and sincere disposition for peace; and that His Britannic Majesty, animated by the same sentiments, will equally avoid everything that may alter their good harmony; and that he will particularly take effectual measures to prevent the commerce between His Majesty's subjects and the United States of North America from being interrupted, and to cause all the usages received between commercial nations to be in this respect observed, and all those rules which can be said to subsist between the two Crowns of France and Great Britain." So it clearly appears that France then considered herself as not only having a right to trade, but publicly to enter into a commercial treaty with the revolted colonies of Great Britain, upon the ground that they were, for the time at least, holding and exercising the rights of independence. And yet we are now told by the French Minister, that to trade with a revolted colony of France, notoriously in the full possession and exercise of sovereign authority, is "an infraction manifest of law the most sacred, and the best observed by every nation under the dominion of civilization." And gentlemen will find by referring to the justificatory manifesto of the British Government, to be seen, I think, in the Annual Register for 1779, that their acts of

hostility were not commenced against France in consequence of any commerce she did or might carry on with the colonies, but upon the ground of these treaties, and of Mr. De Nonilles's note, which in the manifesto is called an open declaration of war, it being an overt act of France, acknowledging the independence of these States. The gentleman from Pennsylvania, (Mr. LOGAN,) however, tells us that trading with St. Domingo may involve us in a war, and therefore we had better quit it. This argument, sir, would have equal force if urged against a peaceable man's going out into the street, lest somebody should knock him down. But as another means of endangering our peace, he has told us further, that our merchants send arms and ammunition to St. Domingo. This, indeed, if so, I confess is to be regretted, and I wish could be prevented. It is, however, at their own risk, unsanctioned by the Government; they know and must abide the consequences. Such articles, if taken, are liable to confiscation, and this is the course pursued every day throughout the world, under similar circumstances: it is a control over the commerce of neutrals allowed to belligerents by the laws of nations, and has grown out of the necessity of the case. But who ever heard of a nation being involved in war, because a private citizen or subject, of his own mere will, was pleased to sell arms and ammunition to one of the belligerents? If the gentleman's doctrine be correct, to what point would it, or rather would it not, carry us? Whenever any two foreign Powers may choose to engage in war, we shall be under the necessity of interdicting all commerce abroad, on the part of our citizens, lest some rash, adventurous merchant, by vending articles contraband to one of the parties, should likewise involve us in the contest. Sir, such a principle, if I may use the expression, such a phantom of a principle, had never before even the shadow of existence. Its palpable absurdity will not bear the test of a moment's investigation; whereas the principle I have had the honor of stating in relation to contraband goods, is not only that which governs among nations generally, and bottomed on the laws of nations, but is explicitly recognised in the thirteenth article of our treaty with France, in which, after particularizing the articles that shall be deemed contraband between the parties, it is thus expressly stated: "All the 'above articles, whenever they are destined to the 'port of an enemy, are hereby declared to be con-'traband, and just objects of confiscation; but the 'vessel in which they are laden, and the residue 'of the cargo, shall be considered free, and not in 'any manner infected by the prohibited goods, 'whether belonging to the same or a different 'owner." If, then, there is any faith or confidence to be reposed in treaties, the honorable member may quiet his fears as to the danger of private adventures of this kind, involving the nation in a war with France; the two Powers, anticipating the evil, have wisely provided a milder remedy for it in this compact.

I must here inquire if, as gentlemen contend, it is not now lawful to carry on commerce with the people of St. Domingo, when it may probably become so? Suppose, for instance, the French should continue this inefficient kind of warfare upon them, if even such it may be considered, for a century to come, holding as at present but a single post in the island, while the natives are in full possession of the sovereignty of the country, and administering a regular Government? Will it be said, under such circumstances, that no nation is to be allowed to trade with them for a century to come? Or will gentlemen hold them as rebels to all eternity, and never suffer the rest of the world to have intercourse with them? Sir, those people will never be reduced by General Ferrand's war of proclamations; and while on this subject I must be permitted to express my astonishment at a very extraordinary document of this kind that has been recently laid upon our tables, signed by General Ferrand, and purporting to be a proclamation or decree of his, directed chiefly at the citizens and commerce of the United States. It is indeed, throughout, calculated to inspire no other sentiment than contempt; the arrogance and presumption of its style and manner is equalled only by the emptiness of its threats. General Ferrand, shut up in the city of St. Domingo, with scarcely the power of conveying his proclamation beyond the redoubts of his garrison, undertakes to prescribe to all the neutral nations of the earth the extent of their rights, and the manner in which they shall conduct their commerce, and expresses truly great surprise that his former decree on the subject had not been better attended to by them; in which, as he says, he had "left no doubt as to the sentiments of respect due to the freedom of navigation and neutral rights." As if the navigation, the commerce, and all the rights of neutral nations depended now upon the caprice of a French officer, and were, like the police of a camp, to be settled by general orders. And this same Captain General, as he calls himself, *pro tempore*, besieged by a parcel of unarmed, undisciplined, half-starved negroes, without the means of making even a sortie upon them, talks of the *impudence* of our public officers, and threatens with the vengeance of his mighty arm, all the people of the United States that go contrary to his orders. Sir, I can liken this proclamation to nothing but the idle vaporings of a fettered maniac, menacing, from the grates of his cell, the overthrow of the world. If the Pope had issued a bull of excommunication against the whole of us, it could not have been half so ridiculous as this proclamation, upon which the gentleman from Maryland on my left (Mr. WRIGHT) has inadvertently rested as one of the strong holds of his argument; telling us, to use his own words, that it was a requisition too imperious to be resisted. Then, sir, such is the ground we now occupy among nations, that the mandate of a French officer, besieged in the West Indies by a rabble of starving negroes, is a requisition too imperious for us to resist. Were I of opinion with that honorable member, I should at once be for soliciting the protection of those blacks, and praying of them, in Heaven's name, to keep where he

is this mighty warrior, this terror of our land? but, thinking as I do, sir, the imperious manner of this decree is one of the reasons why I should not only resist it if necessary, but treat it with the most marked and sovereign contempt. General Ferrand might have been serious in writing such a proclamation, or decree, expecting it to have some operation upon the feelings and the fears of the ignorant blacks of St. Domingo, but he certainly, even himself, could never have been crazy enough, for a moment to suppose, that any citizen of the United States, arrived at years of maturity, or rather of discretion, would be serious in reading it, or that the Government of this country would give it a moment's serious consideration.

As a sample, Mr. President, of what this proclamation soldier would do, it may not be amiss, while his decree is before us, to examine a few of its most prominent features. By the first article, all neutral vessels bound, or plausibly suspected to be bound to, or coming from, what he calls the rebel ports, are liable to detention; that, in the West Indies, means condemnation. By the 8th article, the officers, passengers, and crews of such vessels, are directed to be sent, as soon as possible, prisoners to the city of St. Domingo, to be prosecuted according to the rigor of the laws. And by the 13th article, a privateer taking one of your vessels from any port in possession of the blacks, is exempted from all duties upon his prize. Here, indeed, it would seem, as if General Ferrand, in the vauntings of his omnipotency, had suspended for a time the laws of nature and of nations, the sacred obligations of treaties, and even the principles of right and justice, in order to settle this great question, uninfluenced by any of their embarrassing regulations. He has threatened your citizens with the ban of the Empire; he has condemned your commerce before it leaves your ports; and, as if the acknowledged prince of pirates, has proclaimed a reward to all such of them as will plunder you. Among the many very extraordinary parts of this most extraordinary document, that is not the least so in which reference is made to the treaty between France and the United States; a garbled quotation is given of the 26th article, and then a case is made to suit it. We are told that "vessels armed, under the Amer-'ican flag, daily convoy and sail in concert with 'vessels of the negroes, bearing a flag unknown 'among the civilized Powers, and consequently 'pirates." This, I confess, is a circumstance I had never heard of before, and to my mind almost incredible, that the citizens of the United States should be so blind to their interest as to become the mere protectors and encouragers of others, in carrying on a commerce that they could carry on themselves to so much greater advantage, especially when the risk to them is precisely the same; and that those negroes should hazard their vessels, their liberties, and their lives, in transacting a business that neutrals are every hour willing, ready, and waiting to transact for them. But even admitting the fact; admitting, for argument sake, that certain negroes of the West Indies may have acted as pirates, and that some vessel or vessels of this country, may have afforded them protection upon the high seas. Is this any ground upon which to inhibit the whole commerce between the United States and St. Domingo? I ask, would any citizen or citizens of the United States, becoming pirates upon the coast of England, or trading, combining, or confederating with pirates there, which, by the 8th statute of George the First, is made the same thing, be any justification on the part of that Government to interdict all intercourse with this country? No man in his senses can believe or say so. It could not, however, have escaped the attention of the Senate, that this circumstance, so much relied upon by General Ferrand, has never been even hinted at, either by the French Minister, or by Mr. Talleyrand, in their recent communications on this subject to our Government: and it would be passing strange indeed, if Mr. Talleyrand, of all other men in the world, should pass over unnoticed an occurrence of this kind, if true, when for the want of causes of complaint, he had to make a dinner, and the toasts of some private company in the city of New York, the subject of one of them. An affair with which Mr. Talleyrand knows well that this Government, or any other free Government, could have nothing more to do than they had with a complaint that was made by Mr. Adet against our Almanac makers, for placing in their Almanacs the name of the British Minister before his. But gentlemen will find, by attending to the 26th article of the treaty, that it has little or no connexion with the present question; scarcely more relation to it than any text in the Apocrypha, but was introduced merely for the punishment of those who should "receive, protect, harbor, conceal, or assist, any pirates within the ports, havens, or towns," of either of the countries, respectively. It is not, sir, the 26th, but the 12th article of the treaty, that bears upon our present subject, part of which I must beg leave now to read: "It shall be lawful for the citizens of either 'country to sail with their ships and merchan-'dise (contraband goods always excepted) from 'any port whatever to any port of the enemy of 'the other, and to sail and trade with their ships 'and merchandise, with perfect security and lib-'erty, from the countries, ports, and places of those 'who are enemies of both, or of either party, with-'out any opposition or disturbance whatsoever, 'and to pass not only directly from the places and 'ports of the enemy, aforementioned, to neutral 'ports and places, but also from one place belong-'ing to an enemy, whether they be under the juris-'diction of the same Power, or under several, 'unless such ports or places shall be actually 'blockaded, besieged, or invested." Here, sir, is given to us explicitly the right, as a neutral nation, of trading with all the enemies of France, and it certainly will not be denied that the people of St. Domingo are such; and not only of trading directly from this country to theirs, but from any one of their ports to any other. If this be not the plain meaning of the article I have read, there is no meaning in words; a treaty is a mere carte

blanche, into which every speculative politician may foist his crude opinions. Our right then to this commerce does not depend merely upon the laws of nations, but upon the solemn obligations of this instrument, that no sophistry can evade nor obscure with the shadow of a doubt.

I hold, therefore, this trade to be lawful; that we have a right to carry it on; and if, in doing so, we are annoyed and robbed by pirates, we have another right, that of arming in order to keep such people off. What do we arm for, sir? Is it to fight the French, to insult the flag, to distress the commerce, or to disturb the quiet and repose of any nation? No, sir; our conduct in this respect is sanctioned by the first law of nature. It is upon the same principle that a private citizen would prepare himself against the apprehended attacks of a highway robber or a midnight assassin. It is to defend our property and our lives against the rapacity and violence of a horde of pirates, who are notoriously armed every hour to assault them, and whose conduct no nation will avow, punish, or atone for.

We have been exultingly told by Mr. Talleyrand, and it has been echoed from this Chamber by the gentleman from New York, (Mr. MITCHILL,) that even the British consider St. Domingo a colony of France, and upon this principle condemn our vessels for trading there. I grant that such a pretext, among many others, has been resorted to in order to destroy our commerce; I grant that such an infringement of our neutral rights has been committed, and the reasons that have induced it must be obvious to the most superficial observer. The British, with a monopoly of this commerce themselves, and those same Englishmen who now condemn our vessels for trading to St. Domingo, upon the ground of its being a French colony, heretofore, when it suited their purposes, so far acknowledged the independence of those very people as to enter into a Commercial Treaty with them, and are now not only in the constant practice of trading there themselves, but of granting licenses to others to do so. I hope, however, the day has not come when our commerce is to be under the control of the Lords of the Admiralty, or our national rights dependent upon the judicial opinions of Sir William Scott; and the learned gentleman from New York must indeed have been pressed with the barrenness of his case when he had to resort to such an argument, derived from such a source. The gentleman from New Jersey, (Mr. KITCHEL,) I must in candor say, has, in support of the present measure, assumed premises totally new and different. His reasons, like most of those we have been accustomed lately to hear, were in the true style of modern legislation, enveloped in all the mysteries of secrecy. He tells us that we had better give up this commerce, because it is not valuable. Where the gentleman obtained this piece of information is utterly beyond the comprehension of my understanding: none such, certainly, has ever been laid before us; nor did he condescend to give us a clue to its source; but as if sufficient to urge it upon our faith with all the confidence of apostolic inspiration—to us who doubted, he refused even an opportunity of acquiring knowledge through any other channel; voted against the propositions of my friend and colleague, which went to ask of the Executive the actual state of this commerce, and to ascertain its real value. To do strict justice to the gentleman's argument, it is simply this that whenever any foreign Power may please to demand of us the surrender of a right, however just and honest it may be; however it may comport with the dignity of the Government to preserve it; if, in a pecuniary point of view; if upon a cool peddling calculation of risk, profit, and loss, it cannot be deemed of high value, we are at once to give it up. This argument, I will confess, is worthy of the bill. So striking, and of such a kind is their affinity, that they seem peculiarly calculated to expose each other, and to excite in every mind valuing the honor, the dignity, and the character of the nation, like sentiments of disgust. The case cited by the gentleman from Pennsylvania, (Mr. MACLAY.) of the Indians, I think in 1755, under the avowed authority, direction, and support of the French Government, ravaging our frontiers, surely can have no relation to the question before us. Has this Government ever furnished arms and ammunition, or done any other act in order to assist and encourage the people of St. Domingo in attacking the countries of their neighbors? I cannot conceive what subject that might have been before Congress during our present session, the gentleman must have had in his mind, to which he supposed this case could apply; certainly not the present; it is infinitely more distant in point of analogy than of date. I have been exerting my imagination to discern any object or bearing it can have, that I might endeavor to meet it, but the total impossibility of the one, will save me the trouble of the other.

A few words now, Mr. President, as to the impolicy of adopting the present measure. I fear and believe it will have a tendency to increase one of the great evils at present so much complained of by our merchants; the number of pirates and freebooters in the West Indian seas. It will have the further effect of throwing into the hands of other nations, especially the British, a valuable commerce, at present conducted by our own citizens. But there is another far more serious consequence, which, in all human probability, may result from it, and to which I beg leave to call the attention of the gentlemen from our Southern country. With the people of St. Domingo we are now at peace; the advantages of our commerce to them, and their immediate dependence upon us for the necessaries of life, form the strongest security we could possibly ask, or have, that no act of hostility will be attempted on their part toward us while we continue to treat them as heretofore; but only restrict or embarrass your commerce with them; only pass a measure like the present, and you wound them in the tenderest part; they will see you, without provocation, aiming a blow at their very vitals; and will consider you as having abandoned your neutral

ground, and sided with their enemies. What will be the consequence? Does any gentleman suppose that nearly a million of people will patiently starve when the seas around them are covered with our defenceless merchantmen, laden with provisions? No, sir, impossible. In addition then to the renegadoes that at present prey upon you there, you immediately bring upon your trade a whole nation of pirates. Those people are now content to stay at home to till their own fields, to fight their own battles, and to depend upon us for supplies. I do not wish to see their views extend further. I do not wish to see them navigating the ocean, or tasting the sweets of maritime plunder. Such things are much easier learned than forgotten; much more readily resorted to than given up; and I consider the general commerce and prosperity of the United States, but more especially the delicate situation of our Southern country, viewing its particular description of population, and convenience to them, as imposing upon us the strongest obligations to offer them no inducements to resort to either. Whatever intercourse takes place between us, I wish to be in their own ports, and will never do an act that shall have a tendency to bring to our shores such visitors, either as friends or as enemies; and I believe this is the true course to avoid the calamity which some gentlemen seem so much to apprehend, and which I should deprecate as sincerely as any man.

I rejoice that the President has expressed, in his late Message, a disposition to take into the protection of the Government the commerce of the United States, though little has yet been done, or attempted. This project of the gentleman from Pennsylvania I hope forms no part of the new system, and he would have acted wisely before he submitted it to have examined better its consequences, and to have looked for a moment at the present condition of our commerce. What is it? Plundered upon every coast and in every sea, your flag, instead of being a protection against insult, seems to have become an invitation to injury. The British, the French, and the Spaniards, in the ratio of their force, treat us with like indignities; this is the only point in which they can agree. The former have adopted, and openly avow a system of measures that, if not counteracted, must go to deprive us of the most important of our neutral rights; while the two latter are anxiously rivalling each other in the most lawless and piratical depredations upon our defenceless trade; even the commissioned vessels of our Government have not been suffered to pass the high seas without insult and violence. The British and the French, whenever it suits their views, blockade our very ports; the British take their position off New York, so as to be convenient to the courts of Halifax; and our friends, the French, to whom the gentleman from Pennsylvania has told us we should be so particularly civil, take occasionally into their holy keeping, the commerce of Charleston and New Orleans, so as to be at a convenient distance from the British. Our trade with St. Domingo, indeed, the French have not been able to stop, nor have even the British yet assumed to themselves this maritime right; but the gentleman from Pennsylvania, in his great good faith and abundant charity, will now anticipate their wishes, and do it for them. This, indeed, surpasses even Christian meekness; it is not only, when smitten upon one cheek, turning the other also, but chastening ourselves, with more than monkish severity, in the most vulnerable part.

On motion, by one of the majority, to reconsider the fourth section, which restricts the operation of the law to one year, it passed in the negative.

On motion, to agree to the final passage of the bill, it was determined in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Sumter, Turner, Worthington, and Wright.

NAYS—Messrs. Adams, Bayard, Hillhouse, Pickering, Plumer, Stone, Tracy, and White.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo."

FRIDAY, February 21.

The bill, entitled "An act to incorporate the Trustees of the Presbyterian Congregation of Georgetown," was read the second time and referred to Messrs. TRACY, MITCHILL, and SMITH of Maryland, to consider and report thereon.

The Senate took into consideration the motion made yesterday, "that a committee be appointed to wait on the President of the United States, and present to him the two resolutions passed on the 13th and 14th instant," and agreed thereto; and Messrs. SMITH of Maryland and MITCHILL were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill for the protection and indemnification of American seamen; and the bill having been reported to the House without amendment, on motion, that the further consideration thereof be postponed until the first Monday in December next, it passed in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Bradley, Condit, Gilman, Kitchel, Mitchill, Moore, Smith of New York, Smith of Ohio, Smith of Vermont, and Turner.

NAYS—Messrs. Adair, Adams, Baldwin, Bayard, Fenner, Gaillard, Hillhouse, Howland, Logan, Maclay, Pickering, Plumer, Smith of Maryland, Stone, Sumter, Thruston, Tracy, Worthington, and Wright.

Ordered, That this bill be referred to Messrs. SMITH of Maryland, WRIGHT, MACLAY, BAYARD, and TRACY, to consider and report thereon.

The following motion was submitted for consideration:

That a committee be appointed to consider and report what further measures are necessary to be adopted by Congress for the protection of American seamen, and have leave to report by bill or otherwise."

The bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the Board of Wardens for the part of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned," was read the third time; and it was agreed that the further consideration of this bill be postponed until Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Philip Nicklin and Robert Eaglesfield Griffith," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read and ordered to the second reading.

On motion that it be

Resolved, That the PRESIDENT of the Senate and the SPEAKER of the House of Representatives be authorized to adjourn their respective Houses on Monday the 10th day of March next:

Ordered, That this motion lie for consideration.

The bill, entitled "An act relating to bonds given by marshals," was read the third time, and the further consideration thereof postponed until Monday next.

The amendment of the House of Representatives to the bill, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati and State of Ohio," was read and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the consideration of the amendment reported to the bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes," and, having disagreed thereto, and reported the bill without amendment,

Ordered, That it pass to a third reading.

MONDAY, February 24.

The bill entitled "An act for the relief of Philip Nicklin and Robert Eaglesfield Griffith," was read the second time and referred to Messrs. SMITH, MACLAY, and BALDWIN to consider and report thereon.

Mr. KITCHEL presented the petition of Samuel Mansfield and others, praying that that part of the district of Perth Amboy which is called the town of Jersey may be made a port of entry; and the petition was read.

Ordered, That it be referred to the committee appointed on the 19th instant, who have under consideration the bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts;" to consider and report thereon.

Agreeably to the order of the day the Senate took into consideration, as in Committee of the Whole, the bill, for classing the militia, and assigning to each class its particular duties; and the bill, having been further amended, was reported to the House accordingly.

Ordered, That it pass to the third reading as amended.

The bill, entitled "An act relating to bonds given by Marshals," was read the third time, and amended; and ordered that the bill, as amended, lie for consideration.

On motion,

"That the Senate now proceed to elect a committee of three members, to execute, jointly with a committee to be appointed by the House of Representatives, the purposes expressed in "the act for the further support of the library:"

It was agreed that this motion lie for consideration.

The bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the Board of Wardens for the port of Philadelphia, to collect a certain duty on tonnage for the purposes therein mentioned, was read the third time; and it was agreed that the second section thereof be struck out.

Resolved, That this bill pass, as amended.

Mr. THRUSTON presented the petition of John James Dufour, stating that he and his associates, some years since, purchased a certain lot of public land, for the cultivation of the vine; and praying that further time may be allowed them for payment of their instalments in arrear; and the petition was read and referred to Messrs. THRUSTON, TRACY, and BALDWIN, to consider and report thereon.

Mr. SMITH of Maryland, from the committee to whom was referred the bill, entitled "An act for the relief of Philip Nicklin and Robert Eaglesfield Griffith, reported it without amendment.

The Senate took into consideration the amendment of the House of Representatives to the bill, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati, and State of Ohio:" and concurred therein.

The bill entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes," was read the third time, and after debate, the Senate adjourned.

TUESDAY, February 25.

Mr. WORTHINGTON, from the committee to whom was referred, on the 17th instant, the bill entitled "An act for the relief of the Governors, Judges, and Secretary, of the Indiana Territory," reported the bill with amendments; which were read and ordered to lie for consideration.

The Senate took into consideration, as in Committee of the Whole, the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States.

Ordered, That the further consideration thereof be the order of the day for Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend an act, entitled 'An act concerning the library for the use of both Houses of Congress," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The Senate resumed the third reading of the

bill, entitled "An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes;" and on the question to agree to the final passage of this bill, it was determined in the affirmative—yeas 15, nays 11, as follows:

YEAS—Messrs Anderson, Baldwin, Condit, Fenner, Howland, Kitchel, Maclay, Mitchill, Smith of New York, Smith of Tennessee, Stone, Sumter, Turner, and Worthington.

NAYS—Messrs. Adair, Adams, Bayard, Bradley, Gilman, Hillhouse, Pickering, Plumer, Smith of Maryland, Smith of Vermont, and Wright.

So it was *Resolved*, That this bill do pass.

The bill for classing the militia and assigning to each class its particular duties, was read the third time; and on motion to amend this clause of the bill: "and be subject to the rules, regulations, and articles, provided for the government of the same," to read as follows: "And be subject to the rules to be provided for the government of the Militia:" it passed in the negative.

On motion to agree to the final passage of the bill as amended, it passed in the negative—yeas 8, nays 19, as follows:

YEAS—Messrs. Adair, Smith of Maryland, Smith of Ohio, Smith of Vermont, Thruston, Turner, Worthington, and Wright.

NAYS—Messrs. Adams, Anderson, Baldwin, Bradley, Condit, Fenner, Gaillard, Gilman, Hillhouse, Kitchel, Logan, Maclay, Mitchill, Pickering, Plumer, Smith of New York, Smith of Tennessee, Stone, and Sumter.

So the bill was lost.

Mr. KITCHEL, from the committee to whom was referred, on the 19th instant, the bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light house on Wood Island or Fletcher's Neck, in the State of Massachusetts," reported the bill without amendment.

The Senate resumed the motion made on the 24th instant, "that a committee be appointed jointly, with a committee to be appointed by the House of Representatives, for the purposes expressed in the act, entitled 'An act for the further support of the library," and the motion was adopted; and

Ordered, That Messrs. MITCHILL, BALDWIN, and ADAMS, be the committee on their part.

WEDNESDAY, February 26.

The bill, entitled "An act to amend an act, entitled 'An act concerning the library for the use of both Houses of Congress," was read the second time, and referred to Messrs. ANDERSON, BALDWIN, and MITCHILL, to consider and report thereon.

The Senate took into consideration, as in Committee of the Whole, the amendments reported by the special committee to the bill, entitled "An act for the relief of the Governor, Judges, and Secretary, of the Indiana Territory;" and the amendments having been amended, were adopted, and the bill was reported to the House accordingly.

Ordered, That it pass to the third reading as amended.

Mr. LOGAN, from the committee to whom was referred, on the 3d instant, the bill for the punishment of counterfeiting the current coin of the United States, and for other purposes, reported the bill without amendment.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act for the relief of Philip Nicklin and Robert Eaglesfield Griffith." And on the question, Shall this bill pass to the third reading? it was determined in the negative. So the bill was lost.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act for altering the time for holding the circuit court in the district of North Carolina," with an amendment, in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine, called the Henrick, and her cargo;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The Senate took into consideration the amendment of the House of Representatives to the amendments of the bill, entitled "An act for altering the time for holding the circuit court in the district of North Carolina," and agreed thereto.

Mr. MITCHILL, from the committee appointed on the subject, submitted to the consideration of the Senate, a report on those parts of the memorials from the merchants of New York, and the Chamber of Commerce in New Haven, which relate to providing a further naval armament for the public defence, as follows:

"In addition to the strong reasons urged in those two memorials, the committee refer to the President's Message of the third day of December last, informing Congress that considerable provision had been made under former authorities, of materials for constructing ships of war, that these were on hand, and subject to the will of the Legislature; and to two communications from the Secretary of the Navy, dated December 16th and 21st, 1805, giving information that large supplies of timber, cannon, copper, and other valuable materials for that object, had been already bought and paid for.

"Calculating the moderate appropriation which will be required to augment, to a very respectable degree, the naval force of the nation; contemplating the insults and depredations, committed by foreigners near our coasts, and at the very mouths of our most frequented harbors; and estimating the protection and security to the territory of the nation, and to the persons and property of its citizens, by an enlargement of the means of maritime defence, the committee recommend an adoption of the following resolution, to wit:

"That it is expedient to make provision by law for the appropriation of any balance which may remain unexpended of the Mediterranean fund, to the purpose of building ships-of-the-line, under the direction of the

President of the United States, agreeably to the provisions of the act of February 25, 1799."

Ordered, That it lie for consideration.

The Senate resumed the consideration of the amendments to the bill, entitled "An act relating to bonds given by marshals;" and the amendments were adopted; and the bill having been further amended, its further consideration was postponed.

THURSDAY, February 27.

The PRESIDENT communicated the report of the Commissioners for the district east of Pearl river, of the British grants of lands lying in that district, in conformity with the 7th section of the "Act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee;" and the report was read, and ordered to lie for consideration.

The bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine, called the Henrick, and her cargo," was read the second time, and referred to Messrs. BRADLEY, BALDWIN, and MITCHILL, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill for the punishment of counterfeiting the current coin of the United States, and for other purposes; and on motion to strike out the fourth section of the bill, as follows:

"SEC. 4. *And be it further enacted*, That if any person shall falsely make any kind of gold or silver coins counterfeit to, or intended to resemble foreign gold or silver coins, which shall not by law be made current money within the United States, with an intent to utter or make payment with the same, by merchandising or otherwise; or who shall utter any foreign coins of gold or silver, counterfeit to, or intended to resemble the foreign gold or silver coins aforesaid, knowing the same to be counterfeit; every such person shall be deemed guilty of a high misdemeanor, and upon conviction thereof, according to due course of law, shall forfeit and pay —— dollars, one moiety thereof to the use of the United States, and the other moiety to the use of the person or persons who shall sue for the same; and, moreover, shall be imprisoned not exceeding —— years."

It passed in the affirmative—yeas 17, nays 11, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Condit, Fenner, Gilman, Howland, Kitchel, Mitchill, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, White, and Wright.

NAYS—Messrs. Bayard, Bradley, Hillhouse, Logan, Maclay, Plumer, Smith of Vermont, Stone, Sumter, Turner, and Worthington.

And the bill having been reported to the House, it was ordered to the third reading, as amended.

Mr. SUMTER, from the committee to whom was referred, on the 13th of January last, the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States," reported amendments thereto; which were read, and ordered to lie for consideration.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 31st of January last, the bill for the protection and indemnification of American seamen, reported it with amendments; which were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes;" also a bill, entitled "An act for the relief of Peter Landais;" in which bills they desire the concurrence of the Senate.

The two bills last brought up for concurrence were read, and ordered to the second reading.

The following motion was submitted for consideration:

Resolved, That —— copies of the Constitution of the United States, with the amendments which have been made thereto, be printed for the use of the Senate.

FRIDAY, February 28.

Mr. LOGAN gave notice that he should, on Monday next, move for leave to bring in a bill to incorporate a National Academy.

Mr. GAILLARD, from the committee to whom was referred, on the 11th instant, the bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed on the twenty-first day of December, in the year one thousand eight hundred and four, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on tonnage of vessels from foreign ports," reported the bill without amendment.

The bill, entitled "An act for the relief of Peter Landais," was read the second time, and referred to Messrs. MITCHILL, SMITH of Maryland, and BALDWIN, to consider and report thereon.

On motion, it was agreed that the report of the select committee recommending additional fortifications, and other means of defence, for the city and harbor of New York, for Charleston, and other places, be made the order of the day for Monday next.

The bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes," was read the second time, and referred to Messrs. WORTHINGTON, KITCHEL, and BALDWIN, to consider and report thereon.

The bill for the punishment of counterfeiting the current coin of the United States, and for other purposes," was read the third time, and the further consideration of the bill postponed.

The Senate resumed the second reading of the bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery; and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts."

Ordered, That this bill pass to a third reading.

The Senate proceeded to consider, as in Committee of the Whole, the amendments reported by the select committee to the bill for the protection

and indemnification of American seamen; and, having progressed therein so far as to strike out all the original bill except the enacting clause, and having disagreed to the first section reported by the special committee as a substitute,

Ordered, That the bill, together with the remaining part of the amendments reported, be recommitted to Messrs BAYARD, SMITH of Maryland, BALDWIN, ADAMS, BRADLEY, MITCHILL, and PICKERING, further to consider and report thereon.

MONDAY, March 3.

Mr. BRADLEY, from the committee to whom was referred, on the 11th of February last, a bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina, together with certain resolutions submitted the 19th day of December last, reported, in part, "A bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described; and to settle claims on the vacant and unappropriated lands within the same;" and the bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act to extend jurisdiction in certain cases to State judges and State courts;" with amendments, in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments to the amendments on the bill last mentioned; and they were referred to Messrs. BALDWIN, MITCHILL, and TRACY, to consider and report thereon.

Ordered, That the bill, entitled "An act prohibiting for a limited time the exportation of arms and ammunition from the United States and the territories thereof," be the order of the day for Monday next.

The bill, entitled "An act relating to bonds given by marshals," was read the third time as amended, and passed.

PRIVILEGES OF FOREIGN MINISTERS.

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee to the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States.

Mr. ADAMS.—There are two points of view, Mr. President, in which it appears to me to be important that the provisions of this bill should be considered—the one as they relate to the laws of nations, and the other as they regard the Constitution of the United States. From both these sources have arisen inducements combining to produce conviction upon my mind of the propriety, and indeed the necessity, of some measure similar in principle to that which I have had the honor to propose. I shall take the liberty to state them in their turns, endeavoring to keep them as distinct from each other as the great and obvious difference of their character requires, and that their combination on this occasion may appear in the striking light which may render it the most effectual.

By the laws of nations, a foreign Minister is entitled, not barely to the general security and protection which the laws of every civilized people extend to the subjects of other nations residing among them. He is indulged with many privileges of a high and uncommon nature—with many exemptions from the operation of the laws of the country where he resides, and, among others, with a general exemption from the jurisdiction of the judicial courts, both civil and criminal. This immunity is, in respect to the criminal jurisdiction, without limitation; and an Ambassador, though guilty of the most aggravated crimes of which the heart of man can conceive or his hand commit, cannot be punished for them by the tribunals of the Sovereign with whom he resides. Should he conspire the destruction of the constitution or government of the State, no jury of his peers can there convict him of treason. Should he point the dagger of assasination to the heart of a citizen, he cannot be put to plead for the crime of murder. In these respects he is considered as the subject, not of the State to which he is sent, but of the State which sent him, and the only punishment which can be inflicted on his crimes is left to the justice of his master.

In a republican Government, like that under which we have the happiness to live, this exemption is not enjoyed by any individual of the nation itself, however exalted in rank or station. It is our pride and glory, that all are equal in the eyes of the law; that, however adorned with dignity, or armed with power, no man owing allegiance to the Majesty of the nation can screen himself from the vindictive arm of her justice; yet, even the nations whose internal constitutions are founded upon this virtuous and honorable principle of equal and universal rights, have, like all the rest, submitted to this great and extraordinary exception. In order to account for so singular a deviation from principles in every other respect deemed of the highest moment and of the most universal application, we must inquire into the reasons which have induced all the nations of the civilized world to this broad departure from the fundamental maxims of their government.

The most eminent writers on the laws of nations have at different times assigned various reasons for this phenomenon in politics and morals. It has sometimes been said to rest upon *fictions* of law. The reasoning has been thus: every Sovereign Prince is independent of all others, and as such cannot, even when personally within the territories of another, be amenable to his jurisdiction. An Ambassador represents the person of his master, and therefore must enjoy the same immunities. But this reasoning cannot be satisfactory; for, in the first place, a foreign Minister does not necessarily represent the person of his master—he represents him only in his affairs; and besides representing him he has a personal existence of his own, altogether distinct from his representative character, and for which, on the principles of common sense, he ought, like every other individ-

ual, to be responsible. At other times, another fiction of law has been alleged, in this manner: the foreign Minister is not the subject of the State to which he is sent, but of his own Sovereign: he is therefore to be considered as still residing within the territories of his master, and not in those of the Prince to whom he is accredited. But this fiction, like the other, forgets the personal existence of the Minister.* It is dangerous, at all times, to derive important practical consequences from fictions of law, in direct opposition to the fact. If the principle of personal representation, or that of *exterritoriality* annexed to the character of a foreign Minister be admitted at all, it can in sound argument apply only to his official conduct—to his acts in the capacity of a Minister, and not to his private and individual affairs. The Minister can represent the person of the Prince, no otherwise than as any agent or factor represents the person of his principal; and it would be an ill compliment to a Sovereign Prince to consider him as personally represented by his Minister in the commission of an atrocious crime. Another objection against this wide-encroaching inference from the doctrine of personal representation, is, that it is suitable only to Monarchies. The Minister of a King may be feigned to represent in all respects the person of his master, but what person can be represented by the Ambassador of a Republic? If I am answered, the *moral person* of the nation, then I reply, *that* can be represented by no individual, being itself a fiction in law, incapable of committing any act, and having no corporeal existence susceptible of representation.† I have said thus much on this subject, because I have heard in conversation these legal fictions alleged against the adoption of the bill on your table, and because they may perhaps be urged against it here.

But it is neither in the fiction of *exterritoriality*, nor in that of personal representation, that we are to seek for the substantial reason upon which the customary law of nations has founded the extraordinary privileges of Ambassadors; it is in the nature of their office, of their duties, and of their situation.

By their office, they are intended to be the mediators of peace, of commerce, and of friendship, between nations; by their duties, they are bound to maintain with firmness, though in the spirit of conciliation, the rights, the honor, and the interests of their nation, even in the midst of those who have opposing interests, who assert conflicting rights, and who are guided by an equal and adverse sense of honor; by their situation they would, without some extraordinary provision in their favor, be at the mercy of the very Prince against whom they are thus to maintain the rights, the honor, and the interest of their own. As the Ministers of peace and friendship, their functions are not only of the highest and most beneficial utility, but of indispensable necessity to all nations having any mutual intercourse with each other. They are the only instruments by which the miseries of war can be averted when it approaches, or terminated when it exists. It is by their agency that the prejudices of contending nations are to be dissipated—that the violent and destructive passions of nations are to be appeased—that men, as far as their nature will admit, are to be converted from butchers of their kind, into a band of friends and brothers. It is this consideration, sir, which, by the common consent of mankind, has surrounded with sanctity the official character of Ambassadors; it is this which has enlarged their independency to such an immeasurable extent; it is this which has loosed them from all the customary ties which bind together the social compact of common rights and common obligations.

But immunities of a nature so extraordinary cannot, from the nature of mankind, be frequently conferred, without becoming liable to frequent abuse. Ambassadors are still beings subject to the passions, the vices, and infirmities of man. However exempted from the danger of punishment, they are not exempt from the commission of crimes. Besides their participation in the imperfections of humanity, they have temptations and opportunities peculiar to themselves, to transgressions of a very dangerous description, and a very aggravated character. While the functions of their office place in their hands the management of those great

* It is manifest, that, if *exterritoriality* were to be allowed to Ministers, in the whole extent of the term, it would entitle them to many rights which they certainly have not: on the other hand, the privileges allowed them extend far beyond what the universal law of nations prescribes in their favor on this ground. Both these positions will be proved hereafter, and also that this extremely loose notion of *exterritoriality* is not always sufficient to ascertain the rights to which a Minister may pretend.—*Martens' Summary of the Modern Law of Nations, book 7, chap. 5.*

† The representative character of the Ambassador is the sign of representation of the Sovereign who sends, addressed to the Sovereign who receives the Minister. Ambassadors being naturally the *mandatories* of the Prince by whom they are sent, the representative character, by the law of nature, consists in the power of transacting any public business in the name and right of the Sovereign, by whom they are sent, with another Sovereign Power: consequently, by the law of nature, an Ambassador is not as it were the same *moral person* as he who sends him, so as to be the same as if his master himself were present; nor is the Prince to whom he is sent bound to consider him as his equal. And as there is no necessity, either for the transaction of business or for the dignity of the sender, which may be preserved without it, of that representative character which consists in the power of representing the person of the sender, neither is the representative character, when stretched beyond the rules of natural law, any part of the voluntary law of nations: and, consequently, if introduced by usage, it is part of the customary law; if by treaty, part of the conventional law of nations. Wherefore, the consequences derived from this character respecting Ambassadors belong neither to the law of nature nor to the voluntary law of nations, much less do they sanction the gratuitous additions by which they are amplified. Hence, no nation is bound to acknowledge them, unless in consequence of express stipulation.—*Wolf. Institutes of the Law of Nature and Nations, part 6, chap. 10, sec. 1242.*

controversies, upon which whole nations are wont to stake their existence; while their situations afford them the means, and stimulate them to the employment of the base but powerful weapons of faction, of corruption, and of treachery, their very privileges and immunities concur in assailing their integrity by the promise of security, even in case of defeat—of impunity, even after detection.

The experience of all ages and of every nation has therefore pointed to the necessity of erecting some barrier against the abuse of those immunities and privileges, with which foreign Ministers have at all times and everywhere been indulged. In some aggravated instances the rulers of the State where the crime was committed have boldly broken down the wall of privilege under which the guilty stranger would fain have sheltered himself, and in defiance of the laws of nations have delivered up the criminal to the tribunals of the country for trial sentence, and execution; at other times the popular indignation, by a process still more irregular, has, without the forms of law, wreaked its vengeance upon the perpetrators of those crimes, which otherwise must have remained unwhipped of justice. Cases have sometimes occurred when the principles of self-preservation and defence have justified the injured Government, endangered in its vital parts, in arresting the person of such a Minister during the crisis of danger, and confining him under guard until he could with safety be removed. But the practice which the reason of the case and the usage of nations has prescribed and recognised, is, (according to the aggravation of the offence,) to order the criminal to depart from the territories whose laws he has violated, or to send him home, sometimes under custody, to his Sovereign; demanding of him that justice, reparation, and punishment, which the nature of the case requires, and which he alone is entitled to dispense. This power is admitted by the concurrent testimony of all the writers on the laws of nations, and has the sanction of practice equally universal. It results, indeed, as a consequence absolutely necessary from the independence of foreign Ministers on the judicial authority, and is perfectly reconcilable with it. As respects the offended nation, it is a measure of self-defence, justified by the acknowledged destitution of every other remedy. As respects the offending Minister, it is the only means of remitting him for trial and punishment to the tribunals whose jurisdiction he cannot recuse; and as respects his Sovereign, it preserves inviolate his rights, and at the same time manifests that confidence in his justice which civilized nations living in amity are bound to place in each other.*

On these principles, thus equitable and moderate in themselves, and thus universally established, is founded every provision of the bill before you, so far as it implicates the law of nations. I have been fully aware that, although by the Constitution of the United States Congress are authorized to define and punish offences against the law of nations, yet this did not imply a power to innovate upon those laws. I could not be ignorant that the Legislature of one individual in the great community of nations has no right to prescribe rules of conduct which can be binding upon all; and therefore, in the provisions of this bill, it was my primary object not to deviate one step from the worn and beaten path—not to vary one jot or one tittle from the prescriptions of immemorial usage and unquestioned authority.

In consulting for this purpose the writers, characterized by one of our own statesmen in a pamphlet recently laid on our tables, as "the luminaries and oracles to whom the appeal is generally made by nations who prefer an appeal to law rather than to power," I found that they distinguished the offences which may be committed by foreign Ministers into two kinds*—the one against

* It seems it may be said on this subject that there is no case in which the ordinary tribunals can extend their jurisdiction over public Ministers, and this with the more confidence, as I find it is the opinion of *Grotius*. This is incontestable with regard to common offences; and as for crimes of State, wherein the Ambassador violates the laws of nations—particularly if he attempt the life of the Prince to whom he is sent—the Sovereign alone, or the Council of State in his behalf, can take cognizance of it—can arrest the traitor in his house, and afterwards send him with the proofs to the Prince his master for punishment.—*Wiquefort's Ambassador, book 1, sec. 29.*

Princes sometimes oblige Ministers to depart from their dominions, and send them away under an armed escort. Queen Elizabeth caused Don Bernardin de Mendoza, Ambassador of Spain, and the Bishop of Ross, Ambassador from the Queen of Scots, to be shipped off. Louis XIV. of France sent under guard to the frontiers of Savoy a Nuncio from the Pope. The King of Portugal dismissed in like manner a Minister from the Pope in 1646. And in 1659, under Cardinal Mazarin, the Resident from the Elector of Brandenburg was ordered to quit the kingdom, and afterwards put into the Bastile, whence he was taken, sent to Calais in custody, and there embarked. In 1667 the Queen Regent of Spain ordered the Archbishop of Embrun, Ambassador to Spain, to withdraw, and would not suffer him to wait in Madrid for the letters which he expected to receive by the first courier. All he could obtain was to stop at Alcala until their arrival, and there he received them.—*Wiquefort, book 1, sec. 30.*

An Ambassador ought to be independent of every Power except that by which he is sent, and of consequence ought not to be subject to the mere municipal laws of that nation wherein he is to exercise his functions. If he grossly offends, or makes an ill use of his character, he may be sent home and accused before his master, who is bound either to do justice upon him or avow himself the accomplice of his crimes.—*Christian's Blackstone, vol. 1, p. 253. See also Montesquieu, Sp. L. 26, 21.*

* Suppose an Ambassador guilty of a crime deserving punishment in a court of justice, where then is he to be accused and punished!

In this question we must distinguish between two sorts of crimes of which an Ambassador may have been guilty. Either he has simply committed an offence, injurious to civil society and the public tranquillity—such as homicide, adultery, or almost any other of the common crimes, as they may be termed—or he has

the municipal laws of the country where they reside, and the other against the Government or State to which they are accredited; and that they recommended a correspondent modification of the manner in which they are to be treated by the offended Sovereign. The first section of the bill therefore directs the mode of treatment towards foreign Ministers guilty of heinous offences against the municipal laws; for, as to those minor transgressions which are usually left unnoticed by other States, I have thought no provision necessary for them. The section points out the mode by which the insulted State or injured individual may apply to the Chief Magistrate of the Union for redress, and by what process the President may obtain reparation from the offender's Sovereign, or, in case of refusal, dismiss the offender from the territories of the United States.*

The second section provides for the case of offences against the Government of the nation. If the insult is direct upon the President of the United States himself, it authorizes him at once to discard the offender; if the injury be against the nation, by any conspiracy or other act of hostility, it offers the means of removing at once so dangerous a disturber of the public tranquillity. This also will be found exactly conformable to the directions in *Vattel*.†

The third section brings me to the consideration of the relation which the bill bears to the Constitution of the United States. It contains a regulation, the object of which is at once to prevent all misunderstanding by the offending Minister's Sovereign of the grounds upon which he should be ordered to depart or sent home, and to mark by a strong line of discrimination the cases when a foreign Minister is dismissed for misconduct, from those when he is expelled on account of national differences. In this latter case, by the general understanding and usage of nations, an order to depart given to a foreign Minister is equivalent to a declaration of war. In the European Governments, where the power of declaring war and that of negotiating with foreign States are committed to the same hands, this nice discrimination of the specific reasons for which a Minister may be dismissed is far less important than with us. The power of declaring war is with us exclusively vested in Congress; and as the order to depart, when founded on national disputes, amounts to such a declaration, it appears to me, by fair inference, that for such cause the President of the United States cannot issue such an order without the express request or concurrence of Congress to that effect. It was from this view of the subject that, in the present bill, the power vested in the President to send home a culpable Minister is so precisely limited to the cases when the Minister shall have deserved that treatment by his personal misconduct. This distinction between the causes for which a foreign Minister may be sent home has been solemnly recognised in a remarkable manner by this Government in the treaty with Great Britain of the 19th November, 1794, in the twenty-sixth article.*

Here, sir, the sending home a Minister for national causes is recognised to be the very test of a rupture, and exactly tantamount to a declaration of war. But the same act, done for the Minister's personal misconduct, is acknowledged to be a right of both parties, which they agree to retain; and it is stipulated that it shall not in that case be deemed equivalent to a rupture. The expressions used imply that the parties did not consider themselves as introducing in this part of the article a new law, but as explaining the old. It is merely declaratory, "for greater certainty," and the previous existence of the right is recognised by the stipulation that both parties shall retain it. This is one of the articles of the treaty which have expired; but as expressing the sense both of our own nation and of Great Britain upon the subject to which it relates, it is as effectual as it ever could be. Its provisions are still binding upon both parties as part of the law of nations, though they have ceased to be obligatory as positive stipulations.

This view of the subject will also furnish me with an answer to the question which has more than once been put to me, and which may perhaps be repeated here. It has been asked, whether the first and second sections of the bill are not superfluous—whether the cases are not already provided for, and whether the President does not, beyond all question, possess the power which they purpose to vest in him?

That the power is beyond question vested in him is, sir, more than I can take upon me to say. Had I thought it beyond all question, I certainly should not have brought forward the bill in its present shape. And I will in candor add, that if, after a due consideration of the subject, the Senate should be of opinion that the power is vested in him beyond all question, they will of course either reject the bill, or reduce it to a mere modification of the manner in which he shall exercise the right, whenever he shall deem it expedient.

By the Constitution of the United States, the Executive power is generally vested in the President, and he is expressly authorized and directed to "receive Ambassadors and other public Ministers." Now, sir, by the general grant of the Executive power, according to the writers who have scrutinized and discriminated with the nicest accuracy the powers of Government, the power of declaring war would of course be included. Such is the opinion, not only of *Montesquieu*, but of *Rousseau*, the most republican of writers on laws and constitutions. The practice of all the Governments in Europe which ever recognised the division of power is conformable to this theory. But our Constitution has expressly made the declaration of war a Legislative act, and, by fair inference, whatever is by the custom of nations equivalent to a declaration of war, we are bound to consider as a Legislative act also. Thus, then, although the President is invested with the executive power, and although he is to receive foreign Ministers, yet, not having the power to declare war, he cannot possess that of ordering away a foreign Minister for causes of national difference, because that is a virtual declaration of war. He is authorized to receive foreign Ministers, and by this grant of power he must be authorized to determine when, how, whom, he will receive as such. He must be considered as possessing the power to determine upon all those cases when a man, coming as an accredited Minister, may by the laws of nations be denied a reception; and he must also be allowed to determine when he will cease to receive a man in that capacity, after he has been admitted. This includes, as it appears to me, the right to request his recall, and even to intimate the wish to a foreign Minister that he would depart; but whether it also includes the power positively to order his departure, and, still more, to send him home by constraint, is not in my mind absolutely beyond a doubt. Ceasing to receive him as a public Minister is not ordering him away, much less is it sending him home. It is clear the President should have the power to send home a foreign Minister in some cases: it has not, in express terms, given him the power in any case. Whether he has it by implication, in the case of a Minister's misconduct, seems to me not absolutely beyond a doubt, and I believe the very doubt in a point of this magnitude would operate to prevent its exercise in a case of the utmost need. That doubt it was my purpose by this bill to remove. To remove it (if it exists) is unquestionably within the power of Congress, and the occasion calls loudly for their interposition. The doubt appears the more rational from the fact that the power has never been exercised. The revocation of exequaturs of two foreign Consuls by President WASHINGTON have been mentioned as cases in point, but are not applicable; for in the first place, Consuls are not entitled to the privileges or immunities of foreign Ministers; and in the next, the revocation of an exequatur is barely equivalent by analogy to the cessation to receive a Minister: it neither sends the man away, nor orders him to depart.

But it has been the fortune of the bill to be attacked from quarters in direct opposition to each other; and while on the one hand it has been censured as vesting in the President a power which beyond all question he possesses already, on the other it has been blamed as putting in his hands a power which beyond all question he has not, and which the Constitution never intended he should have. This construction of our Constitution has been laid down, sir, for our edification and improvement by a foreign Minister in his correspondence with our Secretary of State, which I speak of as a matter of public notoriety, because it has been published in all our newspapers, and remains uncontradicted. I must however observe, that at the time when this bill was introduced, I had never seen and had no knowledge of this learned Spanish commentary upon the Constitution of the United States.

I had not imagined that the true intent and meaning of our great national compact was to be settled by a foreign Minister, neither did it enter my heart to conceive that the Government of the United States was to receive lessons from a Spaniard upon the extent of its Constitutional powers. Yet, sir, so it is. The Spanish Minister has first chosen to construe into an order what he was expressly told was not an order, and next to tell the Secretary of State that this order is contrary to the spirit of the Constitution and Government of this country. I find, however, that there are even American citizens who think with this diplomatic expounder of our laws, that the President in no case has the power to order a foreign Minister to depart from our territories. I have myself always inclined to the opinion, that, for these cases of personal misconduct, the power of removal was given by the spirit of the Constitution, though not perhaps by its letter. That he ought to possess it, is not in my mind a subject of doubt at all; for, con-

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transgressed against the person of the Sovereign, or against the State, which is usually called treason or hostility.—*Byndershoek. De foro Legatorum, with Barbeyrac's Commentary, chap.* 17, *sec.* 6.

* Should an Ambassador forget the duties of his station; should he render himself disagreeable and dangerous, from cabals and enterprises; pernicious to the tranquillity of the citizens, the State, or Prince, to whom he is sent; there are several ways of correcting him, proportionate to the nature and degree of his fault. If he maltreats the subjects of the State—if he commits any acts of injustice or violence towards them—the subjects injured are not to seek redress from the common magistracy, the Ambassador being independent of their jurisdiction; consequently, those magistrates cannot proceed directly against him. On such occasions, the Sovereign is to be applied to; he demands justice from the Ambassador's master, and, in case of a refusal, may order the insolent Minister to quit his dominions.—*Vattel, book* 4, *chap.* 7, *sec.* 94.

† Should a foreign Minister offend the Prince himself—be wanting in respect to him—and by his intrigues raise disturbances in the State and Court, the injured Prince, from a particular regard to the Minister's master, sometimes requires that he should be recalled; or, if the fault be more heinous, the Prince forbids him the Court till he receives an answer from his master; but in important cases, he proceeds so far as to order him to quit his dominions. Every Sovereign has an unquestionable right to proceed in this manner; for, being master in his own dominions, no foreigner can stay at his Court or in his dominions without his permission. And though Sovereigns are generally obliged to hear the overtures of foreign Powers, and to admit their Ministers, this obligation ceases entirely with regard to a Minister who, being himself wanting in the duties incumbent on him from his character, becomes dangerous, or justly suspected by him to whom he is to come only as a Minster of Peace.—*Vattel, book* 4, *chap.* 7, *sec.* 95, 96.

* And for greater certainty it is declared that a rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective Ambassadors or Ministers (if such there shall be) shall be recalled or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degrees of which both parties retain their rights either to request the recall or immediately to send home the Ambassador or Minister of the other, and that without prejudice to their mutual friendship and good understanding.—*Treaty with Great Britain, 19th November,* 1794, *art.* 26.

sidering the nature of a foreign Minister's privileges, and the danger and urgency of the cases wherein men invested with that character most frequently abuse them, to deny the President the exercise of the only means which can control them, is to deny the nation itself the means of self-defence in the most perilous extremities. It may be asked whether this argument would not apply with equal force to the cases in which I deny the President's power to expel a foreign Minister, and in which the bill does not propose to give it? To this, I answer, No. In every possible case when a public Minister could be ordered home on account of national differences Congress must be in session, or must be summoned for that purpose. Such a state of things cannot suddenly arise. It is a measure never to be resorted to, unless with the settled determination of war; and its exercise never can be necessary for the President, to the execution of his Constitutional powers.

But the personal misconduct of a Minister may happen at any time—when Congress is not in session as probably as when it is. It would certainly happen more frequently in the former case than in the latter, if during the recess no power of restraint upon him could be used. These are offences, the detection of which would be often accidental, sudden, unexpected—calling for the instantaneous interposition of a vigorous arm to rescue the country from its danger. Suppose a conspiracy like that of Tarquin's Ambassadors, or that of Cataline at Rome—like that of Bedmar at Venice—like that of Cellamare in France: To say that the President should have no weapon of defence within his reach until Congress should be assembled, would give the conspiring Minister the power to execute at full leisure such orders as Cellamare received from Cardinal Alberoni, and enable him, before his hand could be arrested, to *set fire to all the mines*. It is therefore as clear to me that the President ought to possess the power of expulsion for personal offences, as that he ought not to possess the same power for causes of national controversy. And if the Constitution by its silence has left it questionable, it seems to me incumbent upon Congres to remove every shadow of doubt from the case.

Among the other objections which I have heard alleged against any Legislative act upon this subject, I shall now notice that which I consider as of the least real weight, and that is, that other nations have not made it a subject of legislation. But other nations have made the exemption of foreign Ministers from their civil jurisdiction a subject of legislation, as appears in *Martens*.* And with respect to the criminal jurisdictions in cases of common crimes, it is remarkable that the same *Martens* says the English, for the want of an express law upon the subject, have departed from the usages of all other nations in this particular, and made foreign Ministers amenable to their criminal jurisdiction.* Now, sir, if the English nation are thus charged with a deviation from the practice of all other civilized nations, because they have not made an express law for acceding to it, surely no exception can be taken against us for making precisely such a law as England is said to want. This, law, therefore, instead of a mark of singularity, must be regarded as a test of conformity. Instead of throwing us into a corner with the solitary exception, it introduces us into the general circle of nations. It is not in sullen derogation, but in explicit affirmance of the general usage. It is no variation of our political compass; it is only the steady pointing of our needle to the real pole.

But a still more conclusive answer to this objection is, that other nations have made no law upon the subject, because, conformably to their constitutions, the act of sending home a foreign Minister is in all cases an Executive act and of course an act requiring no Legislative interposition. I have already shown, sir, that by our Constitution it must in some cases be considered as a Legislative act; and hence arises a reason peculiar to ourselves for regulating the whole subject by Legislative sanction—reserving to Congress the power to exercise it when it becomes equivalent to a declaration of war, and leaving it in the hands of the President when it is, upon our own principles, an act purely Executive.

These, sir, are the considerations deduced from the laws of nations, and from our own Constitution, upon which the bill was presented to the Senate in its original shape. The amendment reported by order of the Committee is entirely in the spirit of the bill, and only specifies the precise mode in which the order for the removal of a criminal foreign Minister shall be executed. This section may perhaps be deemed expedient, even if it should be concluded that the abstract power is unquestionably vested in the President. For, even if he has the power without the legalized organs of carrying it into effect, as to all purposes of public benefit, the case is the same as if he had it not. It is, on this supposition, one of those authorities which require an organic law to make it practical. Nor is this the only instance in which the

* The exemption of foreign Ministers from the jurisdiction of the State is regulated in Holland by the ordinances of the States General of the 11th August 1676, and the 9th September 1679; and of the States of Holland of the 8th August 1659, the 30th July and the 14th August 1681. (See the "*Groot Placaat Boek*" under date of these years.) In England, by act of Parliament.—10 *Ann. chap.* 7. In Portugal, by ordinance of 1748.—*Martens' Summary, book* 8, *chap.* 5, *sec.* 3, *note* b.

* In the practice of the European nations, we find, that in cases of private crimes committed by a Minister, it is thought commonly sufficient to demand his recall. Though in England the want of an express law seems to leave Ministers without shelter from a criminal prosecution. In the case of State crimes, it is thought sufficient to seize his person while the safety of the State is in danger, releasing and sending him home afterwards. Even this extremity is not commonly resorted to if the danger is less imminent, and if it will admit the expedient of sending away the Minister, or demanding his recall.—*Martens' Summary, book* 8, *chap.* 5, *sec.* 189, *note* a.

Constitution has left it in the discretion of Congress to prescribe the manner of carrying its injunctions into effect. The very first law in your statute book is an example of the same description. The Constitution had enjoined that all civil officers of the United States and of the several States should be sworn to its support, but had not particularized the manner of administering the oath; and the first act of the first Congress, under our present Constitution, was to provide the necessary regulation.

It may now perhaps be expected, sir, that I should give some explanation of the more immediate circumstances in which the bill originated. And here I am sensible that I tread upon delicate ground. So highly honorable and respectable is the office of a foreign Minister, that to treat him with disrespect in common discourse, and still more in Legislative deliberation, would be without excuse, were his own conduct altogether unexceptionable. Should the occasion ever happen that a foreign Minister, by his own violation of all the common decencies of social intercourse towards the Government to which he was accredited, should forfeit every right to personal respect or esteem, still I hope, sir, I should not forget the consideration due to the credentials of his Sovereign; still I should think myself bound to observe all that moderation of expression which can be consistent with the sentiments of indignation involuntarily excited in my breast by an insult upon the Government of my country.

Within a few days after the Message of the President at the commencement of the present session of Congress was made public, the Spanish Minister addressed to the Secretary of State a letter couched in terms which it cannot be necessary for me to particularize, and containing, not only strictures of the most extraordinary nature upon all the parts of that Message respecting Spain, but complaints no less extraordinary at what it did not contain. Consider this procedure in its real light, sir, and what is it? A foreign Minister takes to task the President of the United States for the manner in which he has executed one of the most important functions enjoined upon him by the Constitution. He not only charges him with misrepresentation in what he did say, but he presumes to dictate to him what he should have said. I forbear all comment upon this conduct as it relates to the present Chief Magistrate. I ask you, sir, and I entreat every member of this Senate to ask himself, What is its tendency as it relates to our country? The Constitution of the United States makes it one of the President's most solemn duties to communicate to Congress correct information relating to the state of our public affairs. In every possible case of disputes and controversies of right between the United States and any foreign nation, the Minister of that nation must have an interest—and the strongest interest, to give a gloss and coloring to the objects in litigation—opposite to the interest of our country. If, whenever the President of the United States, upon the high and solemn responsibility which weighs upon every act of his official duty, gives to Congress that account of our foreign relations which is necessary to enable them to adapt their measures to the circumstances for the general welfare of the Union, a foreign Minister, under color of his official privileges, is to contradict every part of his statements, to impeach the correctness of his facts, and to chide him even for his omissions, to what an abyss of abasement is the Chief Magistrate of this Union to be degraded! The freedom which a Spanish Minister, unreproved, can take to-day, a French Minister would claim as a right to-morrow, and a British Minister would exercise without ceremony the next day. A diplomatic censorship would be established over the Supreme Executive of this nation, and the President would not dare to exhibit to Congress the statement of our national concerns, without previously submitting his Message for approbation to a Cabinet Council of foreign Ministers. Under the British Constitution, the speeches of the Sovereign to his Parliament are all settled in his Privy Council, and the Royal lips are understood to give utterance only to the words of the Minister. The reason of this is, that by the forms of their Constitution the Sovereign himself is above all responsibility, and the Minister is the person accountable to the nation for the substance of the discourse delivered by his master. In their practice, therefore, the speech is made by him on whom the responsibility rests. But if this new assumption of the Spanish Minister is submitted to, our practice will be an improvement on the British theory of a singular cast indeed; for, while the responsibility will rest upon the President who delivers the Message, its contents will be dictated by persons not only loosed from all responsibility to our country, but bound in allegiance, in zeal, in duty, to the very Princes with whom we have to contend. The same control which by this measure is attempted to be usurped over the acts of the President will at the next step, and by an easy transition, be extended to the Legislature; and, instead of parcelling out the Message among several committees for their consideration, we shall have to appoint committees upon every part of the Message relating to any foreign Power to wait upon the Minister of that Power, and inquire what it is the pleasure of his master that we should do.

That such is the inevitable tendency and the real intention of the proceeding will appear, not only from a due consideration of the act itself, but from a proper estimate of its avowed motive, and from the subsequent conduct of the same Minister. He addressed this letter to the Secretary of State, not for the purpose of asking any explanation—not for the purpose of giving any satisfaction—not for any of the usual and proper purposes of a diplomatic communication—but (as he himself declares) for our Government to publish, with a view to counteract the statements of the President's Message. It was a challenge to the President to enter the lists of a pamphleteering war against him, for the instruction of the American people and the amusement of foreign Courts; and having failed in this laudable project he addresses, after the expiration of forty days, a circular letter

to the other foreign Ministers residing in the United States, with copies of his letter to the Secretary of State, as if these foreign Ministers were the regular umpires between him and our Government. Not content however with this appeal, he authorizes them to give copies of his letters to insure that publication with which our Government had not gratified him, and calls at once upon the American people, and upon the European Courts, to decide between the President and him. Here too, sir, I beg gentlemen to abstract the particular instance from the general principle of this transaction. The same act which under one set of circumstances can only excite contempt, under another becomes formidable in the extreme. Of the newspaper appeal to the people I say nothing. The people of this country are not so dull of understanding or so depraved in vice as to credit the assertions of a foreigner, bound by no tie of duty to them—the creature and agent of their adversary—in contradiction to those of their own officer, answerable to them for his every word, and stationed at the post of their highest confidence. But the circular to the other foreign Ministers is a species of appeal hitherto unprecedented in the United States. And what is its object? The information of their Courts; that the Governments of France and Great Britain may learn from him the justice and generosity of his master.

It is probable that both those nations—the ally and the enemy of Spain—have much better materials for estimating the justice and generosity of His Catholic Majesty; but what have they to do in the case? By an anonymous newspaper publication, the idiom of which discovers its origin, a precedent is alleged in justification of this extraordinary step, and the reciprocal communication of diplomatic memorials concerning the affairs of Holland in the years 1786 and 1787, between the Ministers of Great Britain, France, and Prussia, at the Hague, is gravely adduced as warranting this innovation of the Spanish Minister here. The very reference to that time, place, and occasion, would of itself be a sufficient indication of the intent at this time. In the years 1786 and 1787, the three Powers I have just mentioned undertook, between them, not only to interfere in the internal government of Holland, but to regulate and control it according to a plan upon which they were endeavoring to agree. Their Ministers, therefore, very naturally communicated to each other the memorials which they presented to the Dutch Government. And what was the result? Two of those three Powers fixed between themselves the doom of Holland—raised a tyrannical faction upon the ruins of that country's freedom, and marched the Duke of Brunswick at the head of thirty thousand men into Amsterdam, to convince the Hollanders of the King of Prussia's *justice* and *generosity*.

This, sir, is the precedent called to our recollection for the purpose of reconciling us to the humiliation of our condition. We are patiently to behold a Spanish Minister insulting the President of the United States—dictating to him *his* construction of our Constitution—calling upon other foreign Ministers to countenance his presumption—and entrenching himself behind the example of another nation, once made the victim of a like usurpation! The resemblance is but too strong, and will, I hope, not be forgotten by us. If the constitutional powers of a Dutch Stadtholder were prescribed and moulded according to the pleasure and by the interference of foreign Powers, (as undoubtedly they were,) let us remember the fact with a determination never to be so controlled ourselves. It is held up to us as an example: let us take it as warning.

The subsequent proceedings of the Spanish Minister have been all in the same spirit with that under which he presumed to call upon the President to enter the lists of altercation with him before the people of this country. They manifest pretensions to which we ought not to submit—which we ought vigorously to resist. In his last letter to the Secretary of State, he tells him that he will receive no orders but from his own master. Now, if this has any meaning, it must be to deny the United States the right of ordering him away: that is one of the most indisputable rights of every Sovereign Power. When pretensions so destitute of all foundation are advanced, it becomes us immediately to show our sense of them: not to resist them might be construed into acquiescence. It is a virtual dereliction of our rights not to defend them when they are assailed.

I am indeed fully sensible that the operation of the bill I have proposed, should it meet the sanction of Congress, will not be retrospective—that to what has passed no remedy which can now be provided will apply—but we may prevent in future occurrences of a like character, and of much more dangerous consequence. We may prevent the spreading of an evil which threatens the dearest interests of the nation; we may prevent even the repetition of insults and injuries, which, but for the want of the regulations now proposed, in all probability never would have been offered. In my own opinion, the necessity for some Legislative provision upon this subject will force itself upon this Government with additional pressure, from year to year, until it can no longer be resisted. If foreign Ministers are to possess in the United States an unbounded independence of all the tribunals of justice, while the United States on their part are to be deprived of the ordinary means of self-defence, enjoyed and exercised by all other Sovereigns, to check the abuse of those formidable privileges, the course of events will, in my belief, at no very distant day, bring us into that unhappy dilemma which will leave no other alternative than to infringe the laws of nations or to sacrifice our Constitution—to commit violent outrage upon the rights of others, or to make a dastardly surrender of our own.

Mr. President, I ask your forgiveness, and that of the Senate, for having trespassed so long on your and their indulgence. They have now before them the principles and the motives on which the bill was first introduced: it is for them to determine on their justice and propriety. Should they think that my feelings or prejudices have exaggerated the evil for which I am sincerely seeking a remedy, or that the remedy itself is liable to insuperable objections, they will at once dismiss the subject from their deliberations. Should they on the other hand consider the principle of the bill as admissible, they will fashion its details at their pleasure. To their decision, whatever it may be, I shall cheerfully submit, with the full conviction that it will be dictated by a pure and enlightened regard to the honor and welfare of our country.

The amendment was adopted, and the bill ordered to a third reading.

TUESDAY, March 4.

Agreeably to notice given on Friday last, Mr. LOGAN asked and obtained leave to bring in a bill to incorporate a National Academy, and the bill was read, and ordered to the second reading.

Mr. BRADLEY, from the committee to whom was referred, on the second day of December last, the bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia,'" made report; which was read, and ordered to lie for consideration.

Mr. SMITH, of Vermont, presented the petition of Samuel Harrison, agent for the heirs of Captain Jonathan Carver, praying for the recognition of an Indian deed, for a tract of land near St. Anthony's Falls, on the Mississippi; and the petition was read, and referred to Messrs. SMITH of Vermont, BALDWIN, and SMITH of Ohio, to consider and report thereon.

The Senate resumed the consideration of the motion made on the 13th day of February last, that it be

Resolved, That, from and after the —— day of —— next, it shall not be lawful to import into the United States on board any foreign ship, any goods, wares or merchandise, other than such as are the growth, produce, or manufacture, of the nation to which such foreign ship shall belong, except on board the ships of such foreign nations who admit the importation into their ports of goods, although they are not the growth, produce, or manufacture of the United States, in the ships or vessels of the United States.

And having adopted the resolution,

Ordered, That Messrs. SMITH of Maryland, ADAMS, and BALDWIN, be the committee to bring in a bill accordingly.

The bill, entitled "An act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts," was read the third time, and passed.

Mr. BALDWIN, from the committee to whom were yesterday referred the amendments of the House of Representatives to the amendments of the Senate, to the bill, entitled "An act to extend jurisdiction in certain cases to State judges and State courts," made report. Whereupon.

Resolved, That the Senate agree to the said amendments to their amendments.

The bill, entitled "An act for the relief of the Governor, Judges, and Secretary, of the Indiana Territory," was read the third time and further amended.

The Senate resumed the third reading of the bill for the punishment of counterfeiting the current coin of the United States, and for other purposes. And, on the question to amend this clause of the first section: "which by law now are, or hereafter shall be, made current as money within the United States," so as to read, "which by law now are, or hereafter shall be made current, or be in actual use and circulation as money within the United States:" it was determined in the affirmative—yeas 19, nays 9, as follows:

YEAS—Messrs. Adair, Baldwin, Bayard, Bradley, Gilman, Hillhouse, Howland, Logan, Maclay, Moore, Plumer, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Thruston, Turner, White, and Worthington.

NAYS—Messrs. Adams, Anderson, Condit, Gaillard, Mitchill, Pickering, Smith of Maryland, Smith of New York, and Tracy.

And the bill having been further amended, on the question, Shall this bill pass? it was determined in the affirmative—yeas 22, nays 4, as follows:

YEAS—Messrs. Adair, Baldwin, Bayard, Bradley, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Moore, Pickering, Plumer, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Thruston, Turner, and Worthington.

NAYS—Messrs. Adams, Condit, Mitchill, and Smith of Maryland.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act for the punishment of counterfeiting the current coin of the United States, and for other purposes."

Mr. SMITH, of Ohio, gave notice that he should ask leave to bring in a bill to explain the first section of an act, entitled "An act to divide the Indiana Territory into two separate governments."

The bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, was read the second time.

WEDNESDAY, March 5.

Mr. MITCHILL, from the committee to whom was referred, on the 28th February, the bill, entitled "An act for the relief of Peter Landais," reported it without amendment.

Mr. BRADLEY, from the committee to whom was referred, on the 27th of February, the bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark, for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo," reported it with amendment.

The bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, was considered as in Committee of the Whole.

and, on motion, it was agreed that the further consideration thereof be postponed until to-morrow.

The bill to incorporate a National Academy was read the second time, and referred to Messrs. LOGAN, MITCHILL, and ADAMS, to consider and report thereon.

Agreeably to notice given yesterday, Mr. SMITH of Ohio asked and obtained leave to bring in a bill to explain the fifth section of an act, entitled "An act to divide the Indiana Territory into two separate governments," and the bill was read, and ordered to the second reading.

Conformably to the order of the day, the Senate took into consideration the report of the committee on additional fortifications to the harbor of New York; and, after debate, the further consideration of this report was postponed.

The bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States, was read the third time; and, after debate, the Senate adjourned.

THURSDAY, March 6.

Mr. LOGAN, from the committee to whom was referred, on the 5th instant, the bill to incorporate a National Academy, reported it without amendment.

The bill, entitled "An act for establishing rules and articles for the Government of the armies of the United States," was considered as in Committee of the Whole, and the amendments reported by the select committee having been adopted, the bill was reported to the House accordingly.

Ordered, That it pass to the third reading as amended.

The Senate resumed the second reading of the bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, as in Committee of the Whole; and the bill having been amended, the further consideration thereof was postponed till to-morrow.

Mr. SMITH of Maryland, from the committee appointed to consider the resolution of 12th February on the subject, reported the following bill, which was read and passed to a second reading:

A Bill for the encouragement of the shipping and navigation of the United States.

Be it enacted, &c., That, from and after the —— day of —— next, no goods, wares, or merchandise, shall be imported in any foreign ship or vessel into the United States, or the territories thereof, other than goods, wares, and merchandise, of the growth, produce, or manufacture of the nation to which such foreign ship or vessel shall belong, upon the penalty of the forfeiture of all such goods, wares, and merchandise, as shall be imported, in any foreign ship or vessel, contrary to the true intent and meaning hereof, as also of the ship or vessel in which they shall be imported, and of all her tackle, furniture, and apparel, to be disposed of conformably to the ninety-first section of the act to regulate the collection of duties on imports and tonnage, passed the second day of March, one thousand seven hundred and ninety-one. *Provided always*, That this prohibition shall not extend to the ships or vessels of any foreign nation, which admits into its ports the importation, in ships or vessels of the United States, of goods, wares, and merchandise, not being the growth, produce, or manufacture, of the United States: *And provided also*, That any forfeiture which may be incurred by virtue of this act, may be mitigated or remitted in the manner prescribed by the act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned, passed third March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed eleventh February, one thousand eight hundred.

Mr. WORTHINGTON submitted the following motion, which was read, and ordered to lie for consideration:

Resolved, That, in order better to provide for the defence of the Territory of Orleans, a tract of land, not exceeding in any case —— acres, to be located out of a tract of land not exceeding two millions of acres, to be surveyed between the Achafalaya, the Red river, and a meridian line passing by the fort at Natchitoches, shall be given, free of all expenses, other than those of survey expenses and office fees, to every citizen of the United States above twenty-one years of age, and not at present residing either in said Territory or in the Mississippi Territory, who shall, before the —— day of —— next, become an actual settler on such tract, and shall actually improve, and continue to cultivate and reside on the same —— years thereafter; on condition, that such actual settler, and his sons, above the age of eighteen years, at any time or times, during the said period of —— years, be liable to be called into service for the defence of the said Territories of Orleans and Mississippi, and under obligation, during the said period, to continue in such service for any length of time which may be necessary.

The motion made on the 27th of February, for printing —— copies of the Constitution of the United States, was resumed and the further consideration thereof postponed.

The Senate resumed the consideration of the amendments reported to the bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo," as in Committee of the Whole; and the amendments having been adopted, the bill was reported to the House accordingly.

Ordered, That it pass to the third reading as amended.

The Senate took into consideration the bill, entitled "An act for the relief of Peter Landais," as in Committee of the Whole; and, after progress, adjourned.

FRIDAY, March 7.

Ordered. That the third resolution, reported by the committee on the 5th February last, prohibiting the importation of certain goods, wares, and merchandise, from Great Britain and her dependencies, be the order of the day for Monday next.

The bill to explain the fifth section of an act, entitled "An act to divide the Indiana Territory into two separate governments," was read the second time.

Ordered, That this bill pass to a third reading.

Mr. ANDERSON, from the committee to whom was referred, on the 26th February last, the bill, entitled "An act to amend an act, entitled 'An act concerning the library for the use of both Houses of Congress,'" reported it without amendment.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Peter Landais," as in Committee of the Whole; and the bill having been reported to the House without amendment, it was ordered to the third reading.

Ordered. That the bill to authorize the State of Tennessee to issue grants, and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, be the order of the day for Monday next.

The bill for the encouragement of the shipping and navigation of the United States was read the second time, and ordered to the third reading.

Mr. BALDWIN, from the committee appointed January 13, on the petitions of Benjamin Hichborne and others, asked and obtained leave to bring in a bill to carry into effect the provisions of the eighth section of the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee; and the bill was read, and ordered to the second reading.

Mr. HILLHOUSE presented the memorial and representation of John Chester, late supervisor of the revenue of the United States for the Connecticut district, stating that he made considerable disbursements, and performed various services prior and subsequent to his being in office, whereby great addition of revenue accrued to the United States, and praying an equitable remuneration therefor; and the memorial was read, and referred to the Secretary for the Department of the Treasury to consider and report thereon.

PRIVILEGES OF FOREIGN MINISTERS.

The Senate resumed the third reading of the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States.

A motion was made to strike out the first, second, and third sections of the bill. Whereupon, a division of the question was called for; and on the question to strike out the first section, it was determined in the affirmative—yeas 23, nays 7, as follows:

YEAS—Messrs. Adair, Anderson, Baldwin, Bayard, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Moore, Pickering, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, and White.

NAYS—Messrs. Adams, Mitchill, Plumer, Smith, of New York, Tracy, Turner, and Worthington.

And on the question to strike out the second section of the bill, it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Anderson, Baldwin, Bayard, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Moore, Pickering, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Sumter, and Thruston.

NAYS—Messrs. Adair, Adams, Mitchill, Plumer, Smith, of New York, Tracy, Turner, White, and Worthington.

And on the question to strike out the third section of the bill, it was determined in the affirmative—yeas 27, nays 3, as follows:

YEAS—Messrs. Adair, Adams, Anderson, Baldwin, Bayard, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Moore, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, Turner, and White.

NAYS—Messrs. Mitchill, Tracy, and Worthington.

And the bill having been further amended, on the question, Shall this bill pass? it was determined in the negative—yeas 4, nays 24, as follows:

YEAS—Messrs. Adams, Plumer, Smith of Ohio, and Thruston.

NAYS—Messrs. Adair, Anderson, Baldwin, Bayard, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Moore, Pickering, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Tracy, Turner, White, and Worthington.

So the bill was lost.

MONDAY, March 10.

Mr. LOGAN presented the memorial of Philip Nicklin and Robert Eaglesfield Griffith, stating, that, in the year 1797, they, with divers other merchants of Philadelphia, were owners of the ship New Jersey and her cargo, in a joint adventure from the port of Philadelphia to Canton, in China. That, on her return home, the said ship and cargo were captured by a French privateer, and condemned in Hispaniola in the Island of St. Domingo. From which decree of condemnation appeal was duly entered; but that, in prosecuting the said appeal, their hopes of restitution "were blighted by a fatal interposition of General Armstrong, the Minister Plenipotentiary of the United States at Paris;" and that they therefore "confidently believe that they shall not be disappointed in their expectations of indemnity from the virtuous and liberal Government which employed him;" and the memorial was read.

The PRESIDENT laid before the Senate, from the Secretary for the Department of the Treasury, a statement of the emoluments of the officers employed in the collection of the customs for the year 1805; which was read, and ordered to lie for consideration.

Mr. BAYARD, from the committee to whom was referred, on the 28th of February last, the bill for the protection and indemnification of American seamen, reported, as their opinion, that it is advisable to postpone to the next session of Congress the further consideration of the bill, in order to afford an opportunity for further negotiation of the subject; and the report was adopted.

Mr. TRACY, from the committee to whom was referred, on the 11th of February last, the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," reported amendments; which were read, and ordered to lie for consideration.

Mr. TRACY, from the committee to whom was referred, on the 21st of February last, the bill, entitled "An act to incorporate the Trustees of the Presbyterian Congregation of Georgetown," reported it without amendment.

The bill entitled "An act for establishing rules and articles for the government of the armies of the United States," was read the third time; and after progress, the further consideration thereof was postponed.

BRITISH AGGRESSIONS.

The Senate resumed the consideration of the third resolution reported by the committee, on the 5th of February last, to whom was referred that part of the Message of the President of the United States, at the opening of the session, which relates to the spoliations of our commerce.

Mr. S. SMITH.—Mr. President: The subject now before the Senate is the third resolution reported by your committee on that part of the Message which relates to British spoliations. The first resolution is a declaration of our neutral rights, and has passed the Senate unanimously. The second requests the President to send a special mission to Great Britain, to demand restoration of property unlawfully taken from our merchants, and, by a peaceful arrangement, to adjust all differences subsisting between that nation and the United States. The third is now before us. I will take leave to read it.

3. *Resolved*, That it is expedient to prohibit, by law, the importation into the United States of any of the following goods, wares, or merchandise, being the growth, produce, or manufactures of the United Kingdoms of Great Britain and Ireland, or the dependencies thereof, that is to say: woollens, linens, hats, nails, looking-glasses, rum, hardwares, slate, salt, coal, boots, shoes, ribbons, silks, and plated and glass wares. The said prohibition to commence from the —— day of ——, unless, previously thereto, equitable arrangements shall be made between the two Governments, on the differences subsisting between them; and to continue until such arrangements shall be agreed upon and settled.

This resolution is intended, Mr. President, to afford aid to the negotiation recommended in the second. Without this aid, or something similar, I doubt whether Great Britain would not calculate, as heretofore, on an indecisive character in our Government—on its indisposition to lend any aid or protection to commerce; and reasoning thus, whether her Minister might not be induced to believe that he could proceed in safety to the destruction of every part of our commerce with her enemies and their dependencies. This measure, Mr. President, is called a war measure. Is it so? If it is, then does Great Britain maintain a constant war measure against the United States, for she, at at all times, prohibits the importation, into her ports, of every article manufactured within our country. She even prohibits our provisions from being consumed in her kingdoms, except when her wants compel her to admit them. If, then, she has set us the example, and has, by her laws, prohibited every article of our manufacture from being admitted into her kingdoms, how can our prohibiting a part of her manufactures from being imported into the United States, be considered as a war measure? This measure is not intended to take effect immediately. The first of November next is contemplated; which will give full time for negotiation, and for Great Britain to reflect on her cruel and unprovoked conduct towards us—a conduct that has been highly reprobated in England—a conduct, that, when examined, has but too much the appearance of a determination to benefit by the plunder of our property, without the authority of law, and directly contrary to the public sanction given to our neutral trade in a correspondence held between Lord Hawkesbury and Mr. King, in 1801.

Some gentlemen, anxious to defeat this measure, are attempting to create a difference between the agricultural and commercial interest. Such conduct is unworthy of the statesman. The one is absolutely necessary to the other. I will not, Mr. President, discuss a subject so self-evident. I will only remark, that, should this proposition prevail, it will be more severely felt by the merchant than the farmer. The latter can live within his own means; the merchant depends upon his commerce for support; and on this ground, I had expected that the opposition would, and might, with some reason, be given. I believe, however, that the merchants of our country will never be found less ready to make sacrifices for the general good, than their fellow-citizens. Gentlemen call the trade pursued by our merchants a carrying trade. This is not correct. There is a wide difference between the carrying trade and our neutral commerce. The carrying trade is, when ships are employed in carrying, for a freight, the property of others. In this trade the Dutch were engaged in carrying the produce of the French colonies to the mother country, in 1756, on account of the French planter and merchant, in which they were certainly sanctioned by their existing treaty with Great Britain, which fully stipulated their right to be carriers in such case. The British, however, seized their ships. The neutral trade, is that which we pursue, to wit: our ships are laden, for our own account, in the French, Spanish, and Dutch colonies, in which no foreigner has any concern. This is the trade which we claim as a right, in time of war as well as peace, when permitted by the nations to which such colonies belong. If any of our ships are found carrying the property of the enemies of Great Britain, let them be punished, we mean not to defend them.

A firm friendship on the part of the United States, is desirable with all nations—with none more than with Great Britain. We can be mutually useful to each other. Our usefulness to her is self-evident. Her friendship to us would tend greatly to our happiness and peace as a nation, and could in no manner operate to her injury. A mutual good understanding appears to me so necessary to Great Britain, that no trifling consideration ought to induce her to disturb it. Permit me to inquire what are the benefits which result to that nation from our commerce? I have before me the report of the Secretary of the Treasury,

calculated on an average of three years, by which I observe that the United States import annually from all the world, to the amount of seventy-five millions of dollars, of which thirty-six millions are imported from Great Britain and her dependencies; twenty-seven millions four hundred thousand dollars thereof being actually of the articles manufactured in Great Britain. Of the seventy-five millions, (our total imports,) twenty-eight millions are articles re-exported, so that the true amount of importation, for our own consumption, can only be estimated at forty-seven millions. Of this forty-seven millions I am convinced, from the Secretary's report, that at least thirty-millions are imported from Great Britain and her dependencies, and consumed by our citizens. The total amount of exports of the native products of the United States is near forty millions of dollars, of which twenty millions of dollars are exported to Great Britain and her dominions. Out of this sum not more than fifteen millions of dollars can be considered as a regular export for the use of Great Britain and her colonies. For instance, the report of the Secretary states the value of tobacco exported to Great Britain, on the average of three years, at three million two hundred and twenty thousand dollars, when, I believe, it will be admitted that not more than fourteen thousand hogsheads are estimated as her annual consumption. Ships laden with tobacco, although they clear out for England, in many instances only call there for orders, and proceed to the ports on the continent for the sale of their cargoes. Provisions, which can only be admitted into Great Britain in times of real scarcity, cannot be considered as an export to her which may at all times be calculated upon. Their amount in the Secretary's report, is stated at two millions one hundred and sixty thousand. On this subject I will make one other observation. It is this: that our exports are estimated at their present prices. On a return of peace those prices cannot be expected, whereas the price of the goods imported will continue at least as high as they now are. From this view of the subject, and I believe it correct, it will appear that the United States import from Great Britain and her possessions, nearly one-half the amount of her total imports, near two-thirds of all that we import for our own use and consumption, and that Great Britain and her dependencies do not consume of our products more than one-half of the amount of what we import from her. By the same report it will be seen that Great Britain exports to the United States of her manufactures twenty-seven millions four hundred thousand dollars, and consumes only nine millions independent of her colonies; and deducing, as before stated, for tobacco not used, and provisions only admitted in times of scarcity. To make up the balance which we are thus indebted to Great Britain, our merchants are compelled to exercise their talents and their enterprise in seeking other markets; in doing which, in a fair and legal manner, and as sanctioned by Great Britain in 1801, their ships have been met by the British cruisers, carried into port and condemned, under the pretext of new principles, heretofore unknown to them. And yet, Mr. President, with all their industry the balance of trade appears by the Secretary's report to be against the United States. The Secretary has assigned sound reasons to show how this deficiency stated by him, of seven millions against the United States, may be accounted for. He might have added, that the plunder committed on us by the belligerents had essentially contributed to create that balance. He might, with truth, have said, that the seizure and unlawful condemnation of the ships and cargoes of citizens of the United States by the Powers at war, had added at least six millions of dollars, in the three years, towards creating that heavy apparent balance of trade against our country. But for those depredations, the balance would certainly have been much less. But, Mr. President, are those the only advantages arising from our trade to Great Britain? No, sir; almost all our money negotiations go through her merchants. The proceeds of a great part of the cargoes shipped from the United States to other countries are ordered to Great Britain, and either go to pay our debts there, or are drawn from thence by bills of exchange, thus giving to Great Britain a great source of wealth and employment. Mr. President, we are in truth more useful to her than if we were again her colonies, for she enjoys almost all the benefits resulting from our commerce, and incurs no expense in our protection. From Cock's statement, it appears that America imports from Great Britain one-quarter of the manufactures which she exports. For all these advantages, Mr. President, and surely they are important, what return do we receive? We ought to expect that which would be favorable. We receive the reverse. How Great Britain conducts herself towards us shall be a part of my present inquiry.

Pending the last war between Great Britain and France, the latter ordered her cruisers to seize all goods, the manufactures of Great Britain, found on board the ships of neutrals. Great Britain made this a pretext for levying a convoy duty of one half per cent. on goods exported from Great Britain to the nations of Europe, and one per cent. on similar goods when exported to the United States. We asked not their convoy, and seldom accepted it. If convoys however were given and accepted, there was some reason why we should pay double as much as was paid by the Europeans, because the voyage was twice as long. We had every reason to expect that we should be relieved from this imposition on a peace. We were disappointed. In 1802, the year of peace, it was changed by act of Parliament from a convoy duty, to a duty of exports, and thus was imposed upon us without any assignable reason double the duty payable by any other nation. Great Britain, finding that we tamely submitted to this injury, did in 1803, by an act of Parliament, levy a new duty on exports, in which she imposed on her goods exported to Europe a duty of one per cent., and on goods exported to the United States three per cent. By the first act we are charged double the duty paid by other nations, and by the second

we are compelled to pay three times the amount of duty paid by other Powers. It appears, by the report of the Secretary of State now before me, this tax raised a revenue from the United States of $532,727. I had stated on a former occasion that it amounted to a much greater sum; but I had calculated that the duty had been charged on every article exported. The Secretary's report says, it is not, and yet I do believe that our merchants pay on the amount of their invoices. On this subject I may be mistaken, and therefore take the Secretary's report for my guide. It may here be proper to remark that Ireland remonstrated against this export duty, and it was immediately taken off her linen. Ireland will complain loudly if you pass this resolution, and she will be heard.

On whom, Mr. President, does this half million fall? Not on the merchant. No, sir; he puts it on the goods and adds a reasonable profit thereto. The people of the United States are thus taxed to an amount that would have caused a revolt, had Great Britain imposed it when we were Colonies.

Independent—we fold our arms and tamely submit. Had no new grievances occurred, I intended to have proposed, at this session, the very measure now before the Senate, and therefore did call at the last session for the reports of the Secretaries of State and Treasury, which I have referred to. This unwarrantable conduct I had considered of itself sufficient to induce a recrimination, similar to the resolution now under consideration. But to this, Great Britain has added other and more serious injuries, such as we have declared in our first resolution to be a "violation of our neutral rights and an encroachment on our national independence." She has assumed the principle that neutrals have no right to a trade with her enemies in times of war, not permitted to them in times of peace. The Senate have unanimously declared that this principle is unjust and contrary to the law of nations. I have therefore no occasion to go into the consideration of this novel doctrine; it may however be proper to state some facts. In 1801, a decision was had in an inferior court, bottomed on this doctrine; an appeal to the superior court brought the case to the knowledge of our Minister, Mr. King; he immediately remonstrated against it, and after discussion, it was admitted that it was not lawful to carry the doctrine to the extent claimed. Such was the written opinion of the Attorney General of Great Britain. In that opinion it was emphatically stated that neutrals were authorized to trade freely from their own country to a belligerent's colony, (although such trade was not permitted in time of peace.) and from such colony back to such neutral country, where the goods must be landed and the duties paid, or secured to be paid, agreeably to law; that this act neutralized the property, and the goods might be re-shipped in the same vessel in which they were imported, or in any other ship, to any country. This opinion of the Attorney General was considered by the merchants of the United States as if it had been the act of a convention between the two nations. It was their polar star, by which they conducted their commerce and regulated their conduct.

A year of peace, 1802, ensued. On the recommencement of hostilities in 1803, orders were issued to the commanders of the British ships of war, varying from those under which they had acted in 1801, unknown to our merchants—perhaps not understood by the officers to whom they were directed—and not put in execution for two years—which authorized the capture of our vessels, although trading in exact conformity with the opinion of the British Attorney General, delivered in 1801, and under the sanction whereof, our ships were, as was conceived, navigating the seas in perfect security. What shall we call such conduct? May we not say that it was conduct wholly unworthy of a great and powerful nation? Is it such conduct as can be approved by a people so just as the people of Great Britain? No sir! It has been reprobated in England in terms so strong, and language so just and proper, that it probably alarmed the Government. The book I hold in my hand, called "War in Disguise," was published immediately—a book, Mr. President, eminently calculated to seduce and deceive the good people of England—a book written in a style so seductive, that you are hurried along, and have scarcely time to examine or detect the misstatements it contains. It addresses itself to the prejudices and feelings of the English nation, and may have had its effect there. Nay, even here I find some gentlemen have taken for truths, assumed facts, and have attended, perhaps too much, without examining the facts, to the reasoning adduced therefrom. And yet, Mr. President, the American reader has full warning, for, in the thirty-seventh page, we are gravely told, that, the "frugal citizens of America make molasses, for the most 'part, their substitute for sugar, and have learned, 'from habit, to prefer it to the more costly arti-'cle." A story so palpably false and foolish, ought to induce the reader to be cautious of placing much confidence in other assertions of the writer, especially where those assertions are calculated to injure the interest and honor of our country. The writer appears to have believed that our revenue laws, and those of Great Britain, were similar; and he has drawn his arguments, of course, from false premises. In page fifty-nine, he says: "On the arrival of a cargo destined for exporta-'tion, they were allowed to land the goods, and 'even put them in private warehouses, without 'paying any part of the duties, and without any 'farther trouble than that of giving a bond, with 'condition, that, if the goods should not be re-ex-'ported, the duties should be paid." Now, sir, everybody knows this to be misstated. In England the merchant can enter his goods for exportation, and land the same; in the United States he cannot. If landed at all, they must pay, or secure the payment of, the duties, in the same manner as all importations are conducted. There are not two modes of entering goods that are to be landed in the United States.

In page sixty-one, the writer in the case of the Essex, Orne, says: "In this case was found an

'affidavit of the owner stating that the goods had 'been laden on board from stores in Salem, and 'that the duties were paid, or secured, according 'to law. Yet it afterwards appeared, on his own 'admission, that he had only given the usual bond 'on the entry of the cargo from Barcelona, which, 'we have seen, is a security to re-export, rather 'than to pay duties on the cargo, and which had 'accordingly been cancelled on the re-exporta-'tion." No sir! we have seen no such thing. No such bond could be taken under our laws. No such bond, I will venture to assert, has ever been taken, and this the writer might have known, for a certified extract of our law, on that particular case, of our practice under the law, was sent from the Department of State to Great Britain, to meet this very case. In page sixty-two, he proceeds with the same error, thus: "When it was found 'that the duties had been secured, not in a way 'applicable to goods meant to be sold in America, 'but in a mode devised for the special conveni-'ence of importers intending re-exportation, the 'suspicion that the claimant originally meant to 'continue the voyage, as he eventually did, was 'obviously strengthened, if not absolutely con-'firmed." It is not true, Mr. President, that any new mode had been devised for the special convenience of importers intending a re-exportation. The mode practised now, is the same that has been invariably practised in the custom-houses. I never have known any other. I will state the practice, under the laws, for the information of gentlemen who may not have turned their attention to the subject: On the arrival of a vessel in any of the ports of the United States, the master presents himself at the custom-house, and delivers to the collector a manifest of the cargo. In that manifest, if the cargo is intended for re-exportation, it is so declared; in which case, an inspector remains on board such vessel until she departs; no part of the cargo, so declared for exportation, can be landed; no bond for duties is taken, nor any other bond, except one conditioned that no part of such cargo shall be landed within the United States. Few vessels make use, (in times of war,) of this privilege, except those which come from a neutral country, or from the possessions of Great Britain. Those merchants who are acquainted with the British system, and whose vessels arrive in our ports from the country of an enemy of Great Britain, always discharge their cargoes; secure, or pay the duty, and sell, or reship the same, agreeably to our laws. Their own interest compels them to it; for, if they do not discharge such cargoes, they cannot procure insurance under three, four, or five times the usual premium. Of course, no man would be so devoid of common sense as to pay thousands of dollars for insurance, when the same number of hundreds would pay all expenses of landing, and the transit duty of three and a half per cent. on the amount of duty to the United States. It is, therefore, idle to suppose, (as charged by this writer, and as believed by the ignorant,) that any evasions in this way would be attempted. The merchant understands his interest too well to commit such an act of folly. I think it, however, not improbable that a few vessels that had sailed in the year of peace, 1802, and returned in 1803, might have proceeded to Europe without landing their cargoes. But, Mr. President, when a cargo arrives which is intended for sale, or to be landed for any other purpose, there is but one mode of acting. The owner enters his goods at the custom-house, and gives bond with sufficient security, or pays the duties agreeably to law, and puts the goods into his own stores. If he sells them to a person who means to export, or intends to export them himself, a declaration thereof is made at the custom-house, and the goods are shipped under the inspection of the proper officers. When on board, the owner and master give bond that such goods shall not be relanded within the United States, which bond is cancelled on certificates being produced from our consul, at the port of delivery, that such cargo has been landed in such port. Debentures for drawback of duties on goods so exported are granted by the collector, made payable on the same days on which the bonds given for the duty inward shall become due, which debentures are transferable, but are not payable until the bonds on which they are issued shall be paid. This has been our uniform law and practice, and not made, for a convenience, to answer present purposes. The writer of "War in Disguise," as already observed, has taken his premises from English law, and not from our laws; he has, therefore, reasoned on false premises, has probably deceived himself, and certainly has deceived others. The book, Mr. President, is filled with misstatements of our laws and practises under them; but I cannot presume on the patience of the Senate to take up their time in detecting every error. The writer has assumed for fact, that there must be a great deal of Dutch, French, and Spanish property collusively covered by the American merchants; for he says: "Where can America 'have found a capital, or credit, adequate to the 'vast magnitude of her present investments? By 'what means could these new merchants of the 'United States be able to purchase all the costly 'exports of the Spanish colonies?" &c., &c. Nay, Mr. President, I have heard a gentleman in another body triumphantly ask: "Where have these merchants found capital to carry on the trade of the world?" Mr. President, a stranger travelling in South Carolina and Georgia, might with equal propriety ask: "Whence has arisen the immense wealth I now see?" But a few years past, and your planters were not more rich than their neighbors. Now they abound in wealth. The answer would be easy. We have adopted a new article of agriculture; our climate and soil is found proper for cotton; we cultivate that valuable article, and it has yielded great profit. The merchant has his answer as ready, to wit: There has been a war of more than twelve years in Europe; our country has been neutral, which has given us new seas to navigate, and new sources of commerce to pursue. We have pursued them with effect, and our capital has kept pace with our views, thus extended by our peculiarly fortunate situation. But,

sir, how is our commerce carried on? Whence our means? It is conducted, Mr. President, with few exceptions, not more than a drop in the ocean, by American citizens, for their account only, and not on account of foreigners. In addition to the capital of the merchants, there is a bank capital in the United States of at least fifty millions of dollars, very little of which is owned by the active and enterprising merchants, from which they derive great advantages. But, sir, this trade to the Spanish and French colonies in the West Indies, and on the Main, is carried on with very little American capital. The German merchants export to the United States annually, to the amount of seven millions, in goods peculiarly adapted to the trade and taste of the colonies of Spain and France. Those goods are generally sold at six months' and at eight months' credit. Cargoes proper for those markets are made up principally of such goods, assorted with large quantities of British manufactures, purchased at a similar credit; some claret, flour, and salted provisions. The returns for such cargoes are made in sugar and coffee, which may fairly be expected to arrive in three, four, or five months; of course in full time to meet the payment of the goods purchased on a credit. It will be seen, Mr. President, by this view, and it is correct, that the West India trade may be, and in most cases actually is, carried on, with very little of the active capital of our merchants. The trade to the Isle of France is carried on also, in part, by a credit obtained on English goods, which are found to have answered that market. I have known one cargo go to that island, of British manufactures, which cost in London £10,000, and which was sold immediately. Cargoes of such goods, assorted with flour, salted provisions, French wines, and some specie, enable your merchants to bring back cargoes of coffee in time to meet the payment of goods bought on credit, and therefore does not require all the capital that might be supposed by those who are unacquainted with the commerce. The trade to Batavia is carried on with British goods, to a considerable amount, obtained also on long credit; flour, wines, opium, bar-iron, coal, and dollars. This trade, which has been considerable, does require active capital, which those merchants employed in it are well known to be sufficiently wealthy to supply. I do not believe that one dollar of Dutch, Spanish, or French capital is employed therein. Our commerce to Mocha, Muscat, China, and other native countries in the East, requires capital. But, Mr. President, to what does this trade amount, for the conducting of which, it is asserted at home and abroad, the American merchants cannot find capital? Why, sir, only twenty-eight millions of dollars! Let gentlemen judge for themselves. I pray them to look at the Treasury report. It will be there seen that our exports to all parts of the world is sixty-eight millions; of which amount, twenty-eight millions only are articles of foreign produce and manufacture. It is then twenty-eight millions of commerce beyond our own produce and consumption, that we are asked. "Where do these merchants find capital to carry on?" Gracious God! Mr. President, where can that man have lived in America who would ask such a question? Let gentlemen look at the report of the tonnage of the United States now laid on your table; they will find (with a small addition for unregistered vessels, not included,) that the citizens of the United States own 1,200,000 tons of shipping. Allow each ton to be worth fifty dollars, (and this is less than the value,) and the vessels of the United States may be estimated at sixty millions of dollars. Admit that each owner has only capital equal to the value of his ship, (and surely no person will deny us this,) and there would be active capital in the hands of the American ship-owners alone, nearly equal to the whole amount of the annual export trade of the United States, without the aid of the fifty millions of bank capital, or the other facilities that I have mentioned. The truth is, Mr. President, that where there is collusive trade, it will be found almost invariably to be for the account of British subjects, and not for the account of their enemies; but unimportant in either case—the amount not worth mentioning. The charge of Americans covering of property is a mere pretext, made by the British, for condemning our vessels. From this view of our commerce, it will be seen that our merchants vend large quantities of the manufactures of Great Britain to her enemies—I believe to the amount of four millions—and they receive in payment coffee and sugar; that in the transportation thereof to Europe, to raise the means to pay for those very goods, she authorizes the seizure thereof by her cruisers, and thus plunders our merchants whilst in a trade declared fair and lawful by her own Government in 1801.

Suppose, Mr. President, that we should submit to this new principle of Great Britain, will not France assume the same? It must certainly be expected. Great Britain does not, in times of peace, permit American vessels to trade to her West India islands. France may say, as Britain does: "Nor will I permit it in time of war!" What would be the consequence? We should be prevented from supplying the British islands with our produce to the annual amount of six millions of dollars. Great Britain would lose the sale of their rum to us, to the amount of $2,440,000, and her colonies would suffer greatly for the want of a regular and cheap supply. I am confident, sir, that Great Britain would suffer more, were both nations to enforce this new principle, than France. The latter has but two small islands to supply; England has all her own vast possessions, and all the important Dutch colonies, which they would have to provide for, if our cheap and easy manner of supplying them was prevented.

But, sir, it is asked, what advantage is this neutral trade to the nation? It gives, Mr. President, employment to an immense number of vessels, it employs a large capital, it gives wealth, (of course, strength,) to the nation, and it gives $850,000 of a net revenue to the Treasury, as stated by the Secretary—being the only part of our revenue system which is not paid by the people of the United States. They pay no part thereof. For

myself, I am convinced that the neutral trade of the United States pays one and a half millions into the Treasury, and this, I verily believe, will be proved by the difference of revenue on the return of peace, when other nations can trade as well as we can.

I have, Mr. President, thus taken a short view of the injuries offered to the United States in the unjust seizure of their property by order of the Government of Great Britain, and in the imposition of higher duties on goods exported by her to the United States than those imposed on similar goods exported to other nations. I have not taken notice of the outrageous insults committed by the officers of that Government on our national independence, by the impressing of our seamen into their navy, because that subject has already been ably discussed in the Senate during the present session. I cannot, however, forbear to observe, that even the author of "War in Disguise," (written, as it is believed, under the eye of the British Minister,) is compelled again to have recourse to British law to palliate this violent aggression on the liberty of our citizens, which he imposes on the English for the law of the United States. Every American will detect the error. Speaking of British seamen in American employ, he says "but 'when and how have these sailors become Americans? By engaging in her service during the 'last and present war, and sometimes by obtaining 'that formal naturalization, which is gratuitously 'given, after they have sailed two years from an 'American port." A misstatement so gross, so devoid of fact, could deceive no American; it might an English reader; for "a foreign sailor 'serving two years on board a British ship of war, 'becomes from that service a denizen of Great 'Britain." Not so in the United States; a foreign sailor can become a citizen of the United States in no other way than any other alien can. The trouble and difficulty of obtaining the rights of citizenship is such, that I verily believe there never has been ten foreign sailors naturalized within the United States. I do not mean to include herein such foreigners as have become officers in our merchant or naval service.

But why, it may be asked, does Great Britain pursue a system apparently so injurious to her true interest, and so hostile to ours? The answer may be found, Mr. President, in the same book, page 71. "They (Americans) supplant or 'rival the British merchant throughout the continent of Europe, and in all the markets of the 'Mediterranean; they supplant even the manufactures of Manchester, Birmingham, and Yorkshire; for the looms and forges of Germany are 'rivalling us by the ample supplies by the neutral '(meaning American) flag to every part of the New 'World." Here, Mr. President, is shown the true cause of our growing prosperity. Great Britain looks with a jealous, envious eye at our increased and increasing commerce; at the immense commercial tonnage of the United States. It is seen that we have capital equal to our trade, and that we have superior enterprise, and intelligence not inferior to their merchants. Yes, sir, we do supplant (not rival) the British merchant everywhere where we can can meet him on equal terms. Yes, sir, we have set the looms of Germany to work, and with their labor do we supply the New World. Pass this resolution, Mr. President, and the looms of Germany will be continued in motion after a peace. Let the Irish nation consider the effect. Let the manufacturers of Great Britain look well to the consequence of our once being diverted from the consumption of their goods. We may never again return. Let the West India planter look to our consumption of his rum to the amount, annually, of $2,440,000, and let him recollect that French brandy will answer every purpose.

Already, Mr. President, I am sensible that I have taken up too much of the time of the Senate. The importance of the subject, will, I hope, induce gentlemen to continue their further attention, whilst I shall proceed to consider the operation of the resolution on our nation as well as on Great Britain. I am free to confess that this resolution does not go the length I was prepared to go; however, I have been induced, by the reasoning of gentlemen, to confine the prohibition to such goods as could be obtained in other countries, or in our own, on terms nearly as cheap as those we now get them at from Great Britain. The argument used, that we ought to adopt no system that we could not, without injury to ourselves, perpetually maintain, had its influence on my mind, and probably will have a proper effect on Great Britain. It ought to have, for she well knows the difficulty of drawing back a commerce after it has taken another course.

The first article in the resolution now under consideration, and the importation whereof from Great Britain is proposed to be prohibited, is

Woollens—On this article I shall make no other remark than that fine cloths can be procured in France as cheap as they can now be purchased in London. Perhaps gentlemen may not be willing to prohibit the importation of coarse woollens; if they should not, I will not oppose their wishes; the quantity required of coarse woollens could not easily, I believe, be procured on the continent. In many of the States the wants of the people would be supplied by their own industry.

Linens—This important article can be procured in Germany as cheap as in Ireland. The British Government, it is true, give aid to that manufacture by a bounty on export of one penny halfpenny sterling for every yard under the cost of eighteen pence sterling, which make them come on terms something better to the consumer, but not much. It is our taste, it is the habit we have been in, of wearing Irish linens, that induces a preference. Other nations prefer German linens. So shall we, when, by this resolution, we are compelled to make use of them. A short time to make the trial, and our taste may induce a continuance even after just arrangements shall be made with Great Britain. Already a preference is given to German fine linens by those who wear them. No other nation except the British and

American, purchase Irish linens; all others prefer the German and French linens. If you pass this resolution, her best customer is lost to Ireland, perhaps forever. I pray gentlemen to recollect what I have already stated, to wit: That Ireland, sensible that the four per cent. export duty laid on British goods to the United States, would be highly injurious to her, remonstrated against it as destructive of their interest, as an inducement which they feared, and with justice, would divert the Americans from the use of their linens. What was the consequence? An immediate repeal of that duty, so far as it related to linens. Will their remonstrance be less strong when they find we have prohibited their importation altogether? Will they be less heard or attended to? Yes, sir, they will be heard, especially when they can say that this evil is brought on them by an act of injustice on the part of the British Government towards us; and they will ably contribute their aid to obtain for us justice, agreeably to the well known laws of nations.

Rum—This expensive and destructive article is consumed by the English and the citizens of the United States only. If the West India planters lose our custom, they cannot find purchasers elsewhere. We consume of that article, annually, to the amount of $2,444,000. This enables the planter to pay for his provisions for his family and his slaves. Cut off this fund from him, and he will severely feel the loss. I consider this article among the most important proposed; it will cause that valuable class of people, the British colonists, to inquire into the cause; they will find that we have been cruelly oppressed, our property unjustly seized, and they will join their complaints to those of Ireland; they must be heard; yes, Mr. President, they will be heard, when they tell the Minister that French brandy will soon supply the place of their rum; that when the Americans have once taken a taste for French brandy, they never may, and probably never will, return to the use of their rum. But, it is said, that our revenue will suffer by prohibiting the importation of this article. Not one dollar, Mr. President. The law will not take effect until November, and the revenue could not thereby be affected until May, 1807, when the last bonds for duties thereon would become due, before which time brandies from France, Spain, and Italy, would be imported to meet the full amount of duties that might have been raised on rum, if the importation had continued. The brandy of France and Italy would be paid for by our tobacco, flour, and rice; that of Spain by the two latter articles.

Hardware—This article, as suited to our taste, we can procure in no other country than Great Britain. It was supposed, by our committee, that there were sufficient in the country for two years' consumption—before which time a general peace would probably be made.

Hats, nails, glassware, boots and shoes, can be, or already are, made in quantities nearly sufficient for our own consumption; with this encouragement, our own manufacturers will be found equal to all our wants. Nay, we do now export hats, boots, and shoes.

Coal and slate are in great abundance in our own country.

Looking-glasses, ribbons, and silks of all kinds, can be obtained cheaper in France, China, and Italy, than in England; yet, such has been our predilection for British goods, such is the strength of habit, that we have, notwithstanding, gone to England for those goods. This resolution will break the charm, and we shall probably never return there for such goods.

Salt—This is an article highly important, as it respects Great Britain. We import thereof from her dominions, annually, to the value of $162,392, being 2,111,401 bushels. To lose our custom on this highly important article, would be severely felt by Great Britain. By us it would not be felt to any extent, for we should easily replace that quantity from Lisbon, Cadiz, and other parts of Spain, with salt, as I am informed by my learned friend from New York, more wholesome, and certainly much better for all purposes.

Let not gentlemen fear a loss of revenue. I have taken a view of that subject, and am confident the loss will be trifling; it will never be felt. I take leave to submit the following view of this subject:

The duty paid annually on the following articles imported from Great Britain and her dependencies, are—

On linens	$21,429
Rum	1,100,000
Salt	400,000
Coal	20,000
Nails	70,000
Boots and shoes	10,000
	1,621,429
Woollens and the other articles, of which the precise amount of duty cannot be obtained; I presume they might amount to	300,000
	1,921,429

This amount may, and certainly will, be met by the following substitutes, to wit:

Duty on linens from Germany	$21,429
Duty on brandy from Spain, France, and Italy	1,100,000
Duty on salt from Portugal, Spain, Italy, and Cape de Verd Islands	400,000
Duty on silks, fine woollens, ribbons, and looking-glasses, from France, Italy, China, and Spain	100,000
	1,621.429
Probable loss of duties	300,000
	1,921,429

If it should be the opinion of the Senate, that the importation of coarse woollens and hardwares shall not be prohibited, then I do not believe there will be one dollar loss of revenue, if the resolution should pass.

But, Mr. President, no deficiency can be felt in any case prior to the Summer and Autumn of 1807, even if a total prohibition of all importations was intended. I pray gentlemen to attend to this subject. The Spring importation will arrive in a few weeks; of course no effect can be had on that. The goods for the Autumn are now preparing in England; they will come at the usual time; the bonds taken for the duties thereon, will be payable in eight, ten, and twelve months; of course, as usual, in the months of June, August, and October, 1807. Something decisive must happpen before that period; a negotiation will certainly commence, and, if gentlemen choose, a power may be given in the bill to the President to suspend its operation, if it shall appear to him that the British Government are disposed to enter into an equitable arrangement of all disputes between the two nations.

I have thus endeavored, Mr. President (and I hope I have succeeded) to show that the measure proposed is not a war measure; that if carried into effect, it is capable of materially affecting the interest of Great Britain without injuring ourselves; that our revenue will not be affected thereby to any considerable amount; that we have justice on our side; and that the conduct of Great Britain has been unjust and cruel towards the United States. If any gentleman should still doubt as to the law of nations being against the doctrine of Great Britain in the dispute in question, I pray him to read the book laid on our table, to wit: "An Examination of the British Doctrine which subjects to capture a neutral trade, not open in time of peace." A book, Mr. President, written to the understanding, not to the passions, stating incontrovertible facts, on which to form the judgment; a book that will, I have no doubt, be translated into the languages of all the maritime Powers; and will, hereafter, be quoted as containing truths that may be relied upon.

The consideration of the resolution was further postponed.

TUESDAY, March 11.

The bill to carry into effect the provisions of the eighth section of the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee, was read the second time.

The Senate took into consideration, as in Committee of the Whole, the amendments reported on the 4th instant, to the bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia;" and after progress, the bill was committed to Messrs. BRADLEY, TRACY, and BALDWIN, to consider and report thereon.

The Senate resumed the third reading of the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States;" and the bill having been further amended,

Resolved, That this bill pass as amended.

The bill, entitled "An act prohibiting for a limited time, the exportation of arms and ammunition from the United States and the territories thereof," was read the third time; and on the question, Shall this bill pass? it was determined in the negative. So the bill was lost.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act declaring the consent of Congress to 'An act of the State of South Carolina, passed the 21st day of December, 1804, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports.

WEDNESDAY, March 12.

The Senate took into consideration the motion made on the 6th instant, for the location of a tract of land in the Territory of Orleans, to be given as a bounty to actual settlers, who shall be liable to be called into service for the defence of said Territory.

Ordered, That it be referred to Messrs. WORTHINGTON, ANDERSON, ADAIR, BRADLEY, and SMITH, of Maryland, to consider and report thereon by bill or otherwise.

A motion was made,

"That a committee be appointed, to join with such committee as the House of Representatives may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session."

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed the 21st day of December, 1804, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports."

Ordered, That this bill pass to the third reading.

The Senate took into consideration, as in Committee of the Whole, the bill, entitled "An act to amend an act, entitled 'An act concerning the library for the use of both Houses of Congress;" and the bill was ordered to the third reading.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives," as in Committee of the Whole; and having agreed thereto, the bill was reported to the House accordingly.

Ordered, That the bill pass to the third reading as amended.

THURSDAY, March 13.

The Senate took into consideration the motion made yesterday, "That a committee be appointed, to join such committee as the House of Representatives may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session; and the mo-

tion having been adopted, Messrs. WORTHINGTON and BALDWIN were appointed the committee on the part of the Senate.

Mr. ANDERSON, from the committee to whom was referred, on the 10th of January last, the motion for a revision of the rules for conducting business in the Senate, made report; which was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same; and having amended the bill, it was reported to the House accordingly.

FRIDAY, March 14.

The Senate resumed the second reading of the bill to carry into effect the provisions of the eighth section of the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee; and the bill was ordered to a third reading.

The Senate resumed the second reading of the bill to incorporate a National Academy; and it was ordered to a third reading.

Mr. ANDERSON presented the petition of Gilbert C. Russel, a captain in the militia of the State of Tennessee, stating that he was ordered to proceed thence to the Natchez, in the year 1803; and that, in pursuance of this order, he, together with the company under his command, performed divers military services; and that he, moreover, in that service, made considerable pecuniary disbursements for all which he prays compensation; and the petition was read, and referred to the Secretary for the Department of War to consider and report thereon.

The bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo," was read the third time.

Ordered, That the further consideration of this bill be the order of the day for Tuesday next.

The bill, entitled "An act for the relief of Peter Landais," was read the third time; and, on motion to strike out the word "six," and in lieu thereof to insert the word "three," thereby to reduce the sum proposed for his relief to three thousand dollars, it passed in the negative.

On motion, by one of the majority, it was agreed to reconsider the last vote, and to strike out the word "six."

On motion, to fill the blank with the word "five," it passed in the negative; and, on motion, it was agreed to fill the blank with the word "four."

On the question, shall the bill pass as amended? it was determined in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Adair, Adams, Anderson, Bayard, Condit, Gilman, Howland, Kitchel, Maclay, Mitchill, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Thruston, Turner, White, Worthington, and Wright.

NAYS—Messrs. Baldwin, Bradley, Gaillard, Hillhouse, Moore, Pickering, Plumer, Smith of New York, Sumter, and Tracy.

So it was *Resolved*, That this bill pass as amended.

The bill, entitled "An act to amend an act, entitled 'An act concerning the library for the use of both Houses of Congress,'" was read the third time; and, on the question, Shall this bill pass? it was determined in the negative. So the bill was lost.

The bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, was read the third time, and further amended.

On the question, Shall this bill pass? it was determined in the affirmative—yeas 25, nays 2, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Bayard, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Maclay, Mitchill, Moore, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Tracy, Worthington, and Wright.

NAYS—Messrs. Stone and Turner.

So it was *Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be, "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same."

The bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed the 21st day of December, 1804, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports," was read the third time, and the further consideration thereof postponed.

The bill to explain the fifth section of an act, entitled "An act to divide the Indiana Territory into two separate governments," was read the third time, and the consideration thereof postponed.

The bill for the encouragement of the shipping and navigation of the United States was read the third time, and the further consideration thereof postponed until Monday next.

The Senate resumed the second reading of the bill, entitled "An act to incorporate the trustees of the Presbyterian Congregation of Georgetown."

Ordered, That it pass to a third reading.

MONDAY, March 17.

The Senate resumed the consideration of the motion made on the 27th of February last on the subject; and resolved that two hundred copies of the Constitution of the United States, with the amendments which have been made thereto, be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act for the relief of Peter Landais," and insist on their said bill, and request a conference with the Senate thereon, and have appointed managers on their part.

The Senate took into consideration the resolution of the House of Representatives, requesting a conference on the bill, entitled 'An act for the relief of Peter Landais."

Resolved, That they agree thereto, and that Messrs. BRADLEY and MITCHILL be managers thereof on the part of the Senate.

EX-BASHAW OF TRIPOLI

Mr. BRADLEY, from the committee appointed on the 16th of January last, to consider the Message of the President of the United States of the 13th of January, respecting the application of Hamet Caramalli, made the following report:

The ex-Bashaw founds his claim on the justice of the United States, from his services and suffering in their cause, and from his having been deceived and amused with the prospect of being placed on his throne, as legitimate Sovereign of Tripoli, and frequently drawn from eligible situations for the purpose of being made the dupe and instrument of policy, and finally sacrificed to misfortune and wretchedness. The committee, from a full investigation of the documents which have been laid before Congress, with other evidence that has come within their knowledge, are enabled to lay before the Senate a brief statement of facts in relation to the ex-Bashaw, and the result of their deliberations thereon.

This unfortunate prince, by the treason and perfidy of his brother, the reigning Bashaw, was driven from his throne, an exile, to the Regency of Tunis; where the agents of the United States, in the Mediterranean, found him; and as early as August, eighteen hundred and one, entered into a convention to co-operate with him, the object of which was to obtain a permanent peace with Tripoli, to place the ex-Bashaw on his throne, and procure indemnification for all expense in accomplishing the same. This agreement was renewed in November following, with encouragement that the United States would persevere, until they had effected the object; and in eighteen hundred and two, when the reigning Bashaw had made overtures to the ex-Bashaw to settle on him the two provinces of Derne and Bengazi, and when the ex-Bashaw was on the point of leaving Tunis, under an escort furnished him by the reigning Bashaw, the agents of the United States prevailed on him to abandon the offer, with assurance that the United States would effectually co-operate, and place him on the throne of Tripoli.

The same engagements were renewed in eighteen hundred and three, and the plan of co-operation so arranged, that the ex-Bashaw, by his own exertions and force, took possession of the province of Derne; but the American squadron, at that time under the command of Commodore Morris, instead of improving that favorable moment to co-operate with the ex-Bashaw, and to put an end to the war, unfortunately abandoned the Barbary coast, and left the ex-Bashaw to contend solely with all the force of the reigning Bashaw, and who in consequence was obliged, in the fore part of the year eighteen hundred and four, to give up his conquest of Derne, and fly from the fury of the usurper into Egypt. These transactions were, from time to time, not only communicated by our agents to Government, but were laid before Congress in February, eighteen hundred and four, in the documents accompanying the report of the Committee of Claims on the petition of Mr. Eaton, late Consul at Tunis, which committee expressed their decided approbation of his official conduct, and to which report the committee beg leave to refer.

In the full possession of the knowledge of these facts, the Government of the United States, in June, eighteen hundred and four, despatched Commodore Barron, with a squadron, into the Mediterranean, and in his instructions submitted to his entire discretion the subject of availing himself of the co-operation of the ex-Bashaw, and referring him to Mr. Eaton as an agent sent out by Government for that purpose.

After Commodore Barron had arrived on the station, in September, eighteen hundred and four, he despatched Mr. Eaton and Captain Hull into Egypt, to find the ex-Bashaw, with instructions to assure him that the Commodore would take the most effectual measures with the forces under his command, to co-operate with him against the usurper, his brother, and to establish him in the Regency of Tripoli. After encountering many difficulties and dangers, the ex-Bashaw was found in Upper Egypt with the Mamelukes, and commanding the Arabs; the same assurances were again made to him, and a convention was reduced to writing, the stipulations of which had the same objects in view; the United States to obtain a permanent peace and their prisoners, the ex-Bashaw to obtain his throne. Under these impressions, and with the fullest confidence in the assurances he had received from the agents of the United States, and even from Commodore Barron himself, by one of his (the Bashaw's) secretaries, whom he had sent to wait on the Commodore for that purpose, he gave up his prospects in Egypt, abandoned his property in that country, constituted Mr. Eaton general and commander-in-chief of his forces, and with such an army as he was able to raise and support, marched through the Lybian desert, suffering every hardship incident to such a perilous undertaking; and with his army, commanded by General Eaton, aided by O'Bannon and Mann, three American officers, who shared with him the dangers and hardships of the campaign, and whose names their country will forever record with honor, attacked the city of Derne in the Regency of Tripoli, on the twenty-seventh day of April, one thousand eight hundred and five, and, after a well-fought battle, took the same; and for the first time planted the American colors on the ramparts of a Tripolitan fort. And in several battles afterwards, one of which he fought without the aid of the Americans, (they having been restrained by orders, not warranted by any policy, issued as appears by Mr. Lear, the American Consul,) defeated the army of the usurper, with great slaughter, maintained his conquest, and, without the hazard of a repulse, would have marched to the throne of Tripoli, had he been supported by the co-operation of the American squadron, which in honor and good faith he had a right to expect. The committee would here explicitly declare, that, in their opinion, no blame ought to attach to Commodore Barron. A wasting sickness, and a consequent mental as well as bodily debility, had rendered him totally unable to exercise the duties of commanding the squadron, previously to this momentous crisis, and from which he has never recovered; and to this cause alone may be attributed the final failure of the plan of co-operation which appears

to have been wisely concerted by the Government, and hitherto bravely executed by its officers.

But, however unpleasant the task, the committee are compelled, by the obligations of truth and duty, to state further that Mr. Lear, to whom was entrusted the power of negotiating the peace, appears to have gained a complete ascendency over the Commodore, thus debilitated by sickness; or rather, having assumed the command in the name of the Commodore,* to have dictated every measure; to have paralyzed evey military operation by sea and land; and finally, without displaying the fleet or squadron before Tripoli, without consulting even the safety of the ex-Bashaw or his army, against the opinion of all the officers of the fleet, so far as the committee have been able to obtain the same, and of Commodore Rodgers, (as appears from Mr. Lear's letter † to the Secretary of State, dated Syracuse harbor, July 5th, 1805,) to have entered into a convention with the reigning Bashaw, by which, contrary to his instructions, he stipulated to pay him sixty thousand dollars, to abandon the ex-Bashaw, and to withdraw all aid and assistance from his army. And although a stipulation was made that the wife and children of the ex-Bashaw should be delivered to him on his withdrawing from the territories of Tripoli, yet that stipulation has not been carried into execution, and it is highly probable was never intended to be. The committee forbear to make any comment on the impropriety of the orders issued to General Eaton to evacuate Derne, five days previous to Mr. Lear's sailing from Malta for Tripoli, to enter on his negotiation; and the honor of the nation forbids any remarks on the unworthy attempt to compel the ex-Bashaw and General Eaton to give up and abandon their conquest, by withholding supplies from the army at Derne, eight days previous to the commencement of the negotiation; nor will the committee condescend to enter into a consideration of pretended reasons, assigned by Mr. Lear, to palliate his management of the affairs of the negotiation; such as, the danger of the American prisoners in Tripoli, the unfitness of the ships for service, and the want of means to prosecute the war; they appear to the committee to have no foundation in fact, and are used rather as a veil to cover an inglorious deed, than solid reasons to justify the negotiator's conduct. The committee are free to say, that, in their opinion, it was in the power of the United States, with the force then employed, and a small portion of the sixty thousand dollars, thus improperly expended, to have placed Hamet Caramalli, the rightful sovereign of Tripoli, on his throne; to have obtained their prisoners in perfect safety,* without the payment of a cent, with assurance, and probable certainty, of eventual remuneration for all expenses; and to have established a peace with the Barbary Powers, that would have been secure and permanent, and which would have dignified the name and character of the American people.

Whatever Hamet, the ex-Bashaw, may have said, in his letter of June 29th, 1805, to palliate the conduct which first abandoned and then ruined him, the Senate cannot fail to discern that he was then at Syracuse, in a country of strangers to his merits, and hostile to his nation and religion, and where every circumstance conspired to depress him, which, together with the fear of starving, left him scarcely a moral agent.

Upon these facts, and to carry into effect the principle of duty arising out of them, the only remuneration now left in the power of the United States to make, the committee herewith present a bill for the consideration of the Senate. The committee are confident that the Legislature of a free and Christian country, can never leave it in the power of a Mahometan to say that they violate their faith, or withhold the operations of justice from one who has fallen a victim to his unbounded confidence in their integrity and honor.

The report was ordered to lie for consideration.

Mr. BRADLEY, from the same committee, also reported a bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli;" and the bill was read, and ordered to the second reading.

* Extract of a letter from Captain Dent.

"It is generally believed, by the officers in the Mediterranean, that Mr. Lear had a great ascendency over the Commodore in all his measures relative to the squadron; and from frequent observations of Mr. Lear's intimacy with the Commodore, during his debilitated state, I am of the same opinion.

† "I must here pay a tribute of justice to Commodore Rodgers, whose conduct during the negotiation on board, was mixed with that manly firmness and evident wish to continue the war if it could be done with propriety, while he displayed the magnanimity of an American, in declaring that we fought not for conquest but to maintain our just rights and national dignity, as fully convinced the negotiators that we did not ask, but grant peace.

"You will pardon me if I here introduce a circumstance evincive of the spirit of our countrymen. At breakfast this morning, Commodore Rodgers observed that if the Bashaw would consent to deliver up our countrymen without making peace, he would engage to give him two hundred thousand instead of sixty thousand dollars; and raise the difference between the two sums from the officers of the navy, who he was perfectly assured, would contribute to it with the highest satisfaction."

* Extract from a letter of Commodore Rodgers.

"I never thought the prisoners were in danger."

Extract from a letter of Lieutenant Wormeley, then a prisoner in Tripoli.

"I do not believe that there was any danger to be apprehended for our lives, even if General Eaton and Hamet Bashaw had have marched under the walls of Tripoli."

TUESDAY, March 18.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the Constitution provides, and the honorable SAMUEL SMITH was appointed.

Ordered, That the Secretary wait on the President of the United States and acquaint him that the Senate have, in the absence of the VICE PRESIDENT, elected the honorable SAMUEL SMITH President of the Senate *pro tempore*.

Ordered, That the Secretary make a like communication to the House of Representatives.

Mr. BRADLEY submitted the following resolutions for consideration, which were read:

"*Resolved by the Senate and House of Representtives of the United States of America, in Congress assembled*, That Congress entertain a high sense of the patriotism, intrepidity, and valor, of William Eaton, late General-in-Chief of the army of the ex-Bashaw of Tripoli, and of Priestly N. O'Bannon, and George Washington Mann, three American officers, who, with a small number of American marines and the forces of the ex-Bashaw, composed of Greeks and Arabs, courageously marched through the Libyan desert, defeated the Tripolitan army near Derne, and took that city on the twenty-seventh day of April, eighteen hundred and five, and for the first time spread the American eagle in Africa, on the ramparts of a Tripolitan fort, and thereby contributed to release three hundred American prisoners from bondage in Tripoli.

"*Resolved*, As a further testimony of the gratitude of their country, that the President of the United States be requested to cause to be surveyed, within the limits of the public lands of the United States now open for sale, as the said William Eaton shall elect, a township of six miles square, to be called Derne, as a memorial of the conquest of that city, forever; and to cause to be laid out, surveyed, and granted, to the said William Eaton, in one entire tract, within the said township, —— thousand acres; and to Priestly N. O'Bannon and George Washington Mann, each —— thousand acres; and to Arthur Campbell, Bernard O'Brian, David Thomas, and James Owen, the only surviving marines who served as volunteers in that expedition, three hundred and twenty acres each; to be granted to them, respectively, their heirs, and assigns, forever."

Mr. TRACY, from the committee to whom was referred, on the 4th of February last, the bill, entitled "An act to repeal so much of any act or acts to authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes relative to the public debt," reported the bill with amendments, which were read, and ordered to lie for consideration.

Resolved, That the report of the Secretary for the Department of War, dated 15th of January, 1805, respecting the rations of the officers of the army, be referred to a select committee, who are hereby authorized to report by bill or otherwise.

Ordered, That Messrs. TRACY, BRADLEY, and BALDWIN, be the committee.

The amendments reported by the committee to the rules for conducting business in the Senate were considered as in Committee of the Whole; and, having been further amended, were adopted and reported to the House.

Ordered, That they pass to a third reading.

The Senate resumed the third reading of the bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo."

Ordered, That the further consideration of the bill be postponed.

The bill for the encouragement of the shipping and navigation of the United States was resumed, and the further consideration of the bill made the order of the day for Monday the 31st day of March.

The bill, entitled "An act to incorporate the trustees of the Presbyterian Congregation of Georgetown," was read the third time; and, on the question, Shall the bill pass? it was determined in the affirmative—yeas 16, nays 10, as follows:

YEAS—Messrs. Adams, Baldwin, Bayard, Gilman, Hillhouse, Logan, Mitchill, Pickering, Plumer, Smith of Maryland, Smith of New York, Stone, Thruston, Tracy, White, and Wright.

NAYS—Messrs. Anderson, Bradley, Condit, Kitchel, Maclay, Moore, Smith of Tennessee, Smith of Vermont, Sumter, and Turner.

So it was *Resolved*, That this bill pass.

WEDNESDAY, March 19.

The Senate were informed that JAMES JACKSON, one of their members, from the State of Georgia, had deceased the last night, Whereupon,

Resolved, That a committee be appointed to take order for superintending the funeral of JAMES JACKSON, and that the Senate will attend the same; and that notice of the event be given to the House of Representatives; and,

Ordered, That this committee consist of Messrs. ANDERSON, SUMTER, and WRIGHT.

Resolved, *unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of JAMES JACKSON, deceased, late a member thereof, will go into mourning for him one month, by the usual mode, of wearing a crape round the left arm.

The Senate adjourned.

THURSDAY, March 20.

A message from the House of Representatives informed the Senate that the House will attend the funeral of JAMES JACKSON, Esquire, late a Senator of the United States. They have also determined to wear mourning on the left arm, for the space of one month, in testimony of their respect for the memory of that distinguished Revolutionary patriot.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

It was reasonably expected that, while the limits between the territories of the United States and Spain were unsettled, neither party would have innovated on the existing state of their respective positions. Some time since, however, we learnt that the Spanish authorities were advancing into the disputed country to occupy new posts and make new settlements. Unwilling to take any measures which might preclude a peaceable accommodation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river; which, by delivery of its principal post, Natchitoches, was understood to have been itself delivered up by Spain; and, at the same time, to permit no adverse post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer of Natchitoches learning that a party of Spanish troops had crossed the Sabine river, and were posting themselves on this side the Adais, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letter detailing this incident, that they may fully understand the state of things in that quarter, and

be enabled to make such provision for its security as, in their wisdom, they shall deem sufficient.

TH. JEFFERSON.

MARCH 19, 1806.

The Message and papers accompanying it were read, and ordered to lie for consideration.

FRIDAY, March 21.

The bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, was read the second time, and passed to the third reading.

The Senate took into consideration, as in Committee of the Whole, the amendments reported on the 18th instant, to the bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment of lands of the United States, and for other purposes relative to the public debt; and,

Ordered, That the bill and amendments be referred to Messrs. BALDWIN, TRACY, and WORTHINGTON, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom the subject was referred, on the 12th instant, reported a bill making provision for the defence of the Territory of Orleans, and for the disposal of a part of the public land therein; and the bill was read, and ordered to a second reading.

The resolutions proposed on the 17th inst. relative to William Eaton, late General of the Army of the ex-Bashaw of Tripoli, and other American officers therein mentioned, were read the second time, and referred to Messrs. BRADLEY, WRIGHT, and STONE, to consider and report thereon.

The amendments reported to the rules for conducting business in the Senate were read the third time, and further amendment proposed.

Ordered, That the further consideration thereof be postponed.

The Senate resumed the third reading of the bill, entitled "An act enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo;" and, on the question, Shall this bill pass? it was determined in the negative. So the bill was lost.

A message from the House of Representatives informed the Senate that the House have passed "A resolution expressive of the high sense entertained by Congress of the disinterested and benevolent attentions manifested by His Danish Majesty's Consul, residing at Tripoli, to Captain Bainbridge, his officers and crew, during their captivity in Tripoli:" also, a bill, entitled "An act authorizing the erection of a bridge over the river Potomac within the District of Columbia;" in which resolution and bill they request the concurrence of the Senate.

The resolution was read, and ordered to the second reading.

The bill last brought up for concurrence was read, and ordered to the second reading.

On motion, it was agreed that the amendment to the Constitution, proposed 22d January last, be the order of the day for Monday next.

The bill, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives," was read the third time as amended.

Resolved, That this bill pass as amended.

The Senate resumed the third reading of the bill, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed the 21st day of December, in the year 1804, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports."

Resolved, That this bill do pass.

The bill to carry into effect the provisions of the 8th section of the "Act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," was read the third time, and the further consideration of the bill postponed to Monday next.

Mr. SMITH, of Ohio, from the committee appointed on the 13th of February last, on sundry petitions for extending the times of payment of the purchase money for certain public lands, reported that, upon recurrence to the Treasury Department, they find but eight persons, of all those subscribers, owe money to the United States for lands; and, as an innovation upon the system of sales of lands will probably be attended with many evils, and so great a proportion of the petitioners are not purchasers, and can add no weight to the application, the committee are of opinion that they have leave to withdraw their petitions respectively.

Ordered, That this report lie for consideration.

Mr. SMITH, of Ohio, gave notice that he should, on Monday next, ask leave to bring in a bill to suspend the sale of certain lands within the State of Ohio and the Indiana Territory.

CHESAPEAKE AND DELAWARE CANAL.

Mr. LOGAN, from the committee to whom was referred, on the 28th of January last, the petition of the President and Directors of the Chesapeake and Delaware Canal Company, made the following report:

That it appears that a company has been incorporated and established by the concurrent acts of the Legislatures of Pennsylvania, Delaware, and Maryland, for the purpose of cutting a canal across the isthmus separating the waters of the Delaware and Chesapeake bays. The capital of the company consists of two thousand six hundred shares, and $200 constitute a share. The sum, of consequence, contemplated to complete this work, is $520,000. Of this sum nearly $400,000 have been subscribed by individuals, and between five and six hundred shares remain unsubscribed for.

The site of the canal has been fixed, and its embouchures established at Welch Point, on the Elk river, and Mendenhall's ferry, on Christiana creek. It is intended to furnish a navigation to vessels drawing upwards of seven feet water. The work has been commenced, and a canal to supply the necessary water to the main canal has been opened from the head waters of the Elk river, nearly to the line

of the route of the grand canal. This canal of supply communicates with populous and productive tracts of country in the three States of Pennsylvania, Delaware, and Maryland, and is calculated for barge navigation.

The length of the main canal, as the route has been established, is twenty-one miles, and the expense of cutting it is estimated at $25,000 a mile.

The committee are of opinion that the work designed to be accomplished by the Chesapeake and Delaware Canal Company is one of great interest and importance, not only to the three States whose laws have incorporated the company, but generally to the United States. By opening the proposed communication between the two bays, a safe inland navigation of twenty-one miles supplies the place of a circuitous and an exposed navigation of five hundred. The large tracts of country in Virginia, Maryland, Pennsylvania, Delaware, and New Jersey, connected with the waters of the bays, will be furnished with a safe water communication, and will immediately feel the great benefit of the work. In the event of a war, the facility, celerity, safety, and cheapness in the transportation of troops and ordnance and military stores, from remote parts of the United States, present an object at once of sufficient magnitude to interest the General Government in the undertaking. The importance, however, of the proposed canal, though great in itself, is not justly appreciated by considering it as a separate work; it must be viewed as the basis of a vast scheme of interior navigation, connecting the waters of the lakes with those of the most Southern States; a plan certainly within the compass of industry and art; and, if beyond the present means, unquestionably within the growing resources of the country.

The following statement and illustration of the plan the committee have extracted from the memorial, furnishing a correct view of the subject, well deserving the serious consideration of the Senate:

"It is easy, however, to see, by examining any map of the United States, that this extent may be carried much further. To the southward, the canal through the Dismal Swamp, now in execution, will open the communication to the waters of Albemarle Sound, and from thence through the inlets to South Carolina and Georgia. To the northward, a communication is now nearly opened from Albany, up the Mohawk river, to Lake Ontario and all the upper lakes; if a similar one be made from Hudson river to Lake Champlain, it will extend the navigation to Quebec. And to the eastward, if the pass from Buzzard's to Boston Bay be opened, which has been contemplated, it will in like manner extend it to Boston and all the coast of Massachusetts. Thus, with opening only a few short passes, of which the Chesapeake and Delaware Canal is the great and preliminary one, a communication may be made, nearly free from all the dangers of the ocean, along the whole coast of the United States."

The committee are of opinion that it is among the first duties of Government to promote public improvements of a general nature. No work deserves the character of public improvements more than canals. The one proposed by the memorialists is of the first magnitude and importance; it, therefore, well deserves the assistance and encouragement of the Government. Considering that a large capital has been subscribed; that an expensive part of the work is nearly completed; that, probably, without the countenance and aid of Government, the work will cease, to the loss of a number of public spirited individuals, and the destruction of a great public improvement, it is the opinion of the committee that aid ought to be granted to the memorialists.

If it be inconvenient at this moment to spare the money from the Treasury, the United States have it in their power to contribute the assistance prayed for by a grant of land. The grant may be either gratuitous, or the company enjoined to dispose of it, and to credit the United States with shares of stock equal to the proceeds of the land, at the established rate of $200 for each share. The committee, therefore, submit the following resolution:

Resolved, That —— acres of land be granted to the Chesapeake and Delaware Canal Company, upon their giving bond, conditioned to transfer to the United States a number of the shares of the capital stock of said company, at the rate of $200 a share, equal to the proceeds of the sales of lands granted to them; and conditioned to sell the said land within —— years, and to furnish to the Secretary of the Treasury a true account of the sales.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial and petition of the President and Directors of the Chesapeake and Delaware Canal Company, respectfully showeth:

That, by sundry acts of the several Legislatures of the States of Maryland, Delaware, and Pennsylvania, passed in the years 1799, 1801, and 1802, a company was incorporated for the purpose of forming a navigable canal over the important isthmus which separates the Bays of Chesapeake and Delaware; in pursuance of which acts, a large number of subscriptions were made by divers citizens of the United States, and a Board of President and Directors duly elected for carrying the execution of the said canal into effect.

That, in pursuance of their appointment, the said President and Directors procured able engineers and other persons well qualified to make the necessary surveys of the ground and waters across the aforesaid isthmus; and, after the most mature deliberation, fixed upon a route or position for the said canal, calculated in every respect to secure the great and important purpose of an uninterrupted navigation; since which, they have steadily pursued the execution of the said work, and made considerable progress therein.

Your memorialists, however, have already experienced that a public work of such magnitude and importance, and of a kind nearly new in the United States, requires not only more extensive funds, but a greater portion of fortitude and perseverance than the individuals who are embarked in it can be supposed to possess, and demands for its support the aid and countenance of the public.

They are, therefore, at once compelled and emboldened to apply for that aid and countenance to the Legislature of the United States; and beg leave most respectfully to mention to Congress the facts and reasons which appear to them such as highly to merit the attention and interest of your honorable House.

The general utility of those public improvements which rank themselves under the head of political economy, and particularly those of roads and canals, have been so universally acknowledged, and they have become so much the objects of encouragement to the Governments of all free and enlightened nations, that, at this period, they require no argument in their support; but your memorialists beg leave to call the attention of Congress to a few of the great effects which are

known to have been produced by them, and particularly to the immense wealth, power, and resources which they have given to the English nation; to the powerful rivalship and zeal for imitation which the success of them there has created in other nations; to the unceasing attention which is bestowed upon them throughout Europe; and to the conviction which exists in every country there, that, without an attention to these objects, the nation who neglects them must not only cease to increase in its agricultural, commercial, and manufacturing importance, but must sink below the level of its neighbors in its political consequence.

Your memorialists apprehend, that if ever any country or period of time was more particularly interested or proper for the zealous encouragement of these works, it is the United States in its present situation, and at the present period.

The immense public wealth and private happiness which agriculture has already introduced; the vast extent to which this happiness and wealth may be carried; the progress which our manufactures have already made, and the struggles they are yet making to advance to maturity; the resources which our commerce has given us, and the rapid increase it experiences as fast as means can be furnished to supply it—all prove the unbounded spirit and energy of our citizens in everything which can promote the private or public good; and that it is only from the want of population that spirit and energy are repressed. Whatever, therefore, can tend to increase that population, or whatever arts and improvements can supply its place, and assist the productions of labor, are peculiarly appropriate to the present period, and mark it out as the moment for public encouragement.

The situation of the United States is, by nature, one of the most happy that is possessed by any nation of the earth; it extends over almost every climate, and furnishes nearly every production; its many noble bays and rivers diffuse foreign commerce through all its eastern boundary, by which our wants are supplied with the manufactures of other nations, and our produce conveyed abroad; but so near do those bays and rivers approach to each other, that nature seems to have left but a few objects for art to accomplish, in order to establish the incalculable advantages which domestic commerce and internal communication will afford, by creating a universal interchange of produce through all parts of the United States, not only to supply thereby our mutual wants, and give the utmost encouragement to our own agriculture and manufactures, but by mingling the habits, manners, and interests of all the States together in one general commercial and social intercourse, unite their affections, and more and more blend the interests of our common country.

Your memorialists beg leave to remind Congress that each of the States possesses so many local or domestic objects for the application of their respective resources, in opening their rivers and roads to internal communication among themselves, that it seems, with propriety, they look to Congress for the promotion of those works of the same kind whose advantages are of general importance to the Union, and justly designate them as great national objects claiming the protection of the General Government.

Such is the opening of the Chesapeake and Delaware Canal; for if the important isthmus between those waters and another between Trenton and the Raritan in New Jersey, which is also contemplated, be reduced to practicable navigation, an easy and direct communication will be established from the southern limits of the Chesapeake to New York, and from thence by the river Hudson to Albany on the one hand, and by the Sound to the New England States on the other; which communication may be extended both to the southward and northward, so as to form a direct and easy internal navigation from the Lakes of Canada through the whole eastern boundary of the United States.

The easy practicability of the work now immediately placed before the attention of your honorable House admits of proofs so decisive, as to banish every doubt of its execution in a very short period of time; nor does the pass through Jersey, or any others which have been contemplated, furnish any of those important difficulties which have often occurred, and been surmounted in other countries, where, indeed, such has been the improvement in public works of this kind, that no difficulties seem to have retarded, or been unsubdued by human genius.

The utility of a communication through the United States of the kind which your memorialists have mentioned, is so great, and its description diffused under so many heads, that the detail of them would extend far beyond the limits of a memorial; but the more important parts of them are so striking, as at once to be comprehended, and their importance appreciated, from the general view of the subject which has thus been placed before your honorable House. Your memorialists, however, leaving to your honorable House the appreciation of those advantages when confined to a state of peace, and in promoting the general benefit of the United States, cannot but mention the immense accumulation of benefits which must arise from this internal communication in time of war and hostile aggression, which it may be our lot to experience.

It is a fact well known, that, during the late Revolutionary war, no circumstance was so injurious to our defence, or so much assisted our enemies, as the difficult and tedious communication between the Eastern and Southern States; since the advantages possessed by the enemy at sea, to block up our ports, to conquer our maritime towns, to invade us in numerous positions at once, and to convey their armies along our coast with a celerity which no means could guard against or army defend, formed almost every difficulty and the source of every danger we experienced.

But if the communication in question be established, not only would internal commerce be completely retained, and foreign supplies landed in one State be quickly diffused through the rest, but, by securing the mouths of a few rivers, our cities would be protected, and our armies conveyed wherever necessity should call them, and a cheap and easy defence established through the Union.

Your memorialists further beg leave to state, that, though they have exerted every degree of attention, enterprise, and fortitude, to the work under their care, and though no serious difficulty in point of execution has occurred, yet, without the continuance of public patronage, and some aid from your honorable House, they have every reason to fear that their future efforts will be unavailing, and the progress of the work suspended, solely from that despondence, which, in a new country, and with limited fortunes in individuals, will unfortunately depress the hopes and overcome the exertions of private support.

Of how much injury, therefore, the delay of this important work will prove to the Union, how widely the example of its failure will increase the public despond-

ence, and protract for a long period of years all great improvements, your honorable House can fully judge.

Your memorialists beg leave, therefore, most respectfully to state, whether, among all the numerous objects of public patronage and expenditure, any can be found, which, in point of utility and greatness, more forcibly invites the attention of the Government of a great and free country; and to pray that, taking the premises into your serious consideration, you will grant to the Chesapeake and Delaware Canal Company your protection and aid, in such manner as to your honorable House may seem most proper.

By order and on behalf of the President and Directors of the Chesapeake and Delaware Canal Company:

JOSEPH GILPIN,
KENSEY JOHNS.

The report was ordered to lie for consideration.

MONDAY, March 24.

Mr. BRADLEY, from the Managers appointed on the part of the Senate to confer on the amendment to the bill, entitled "An act for the relief of Peter Landais," disagreed to by the House of Representatives, made report: Whereupon,

Resolved, That the Senate do adhere to their amendment to the said bill.

Mr. TRACY, from the committee, to whom was referred, on the 21st instant, the bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt;" together with the amendments thereto, reported a further amendment; which was read, and ordered to lie for consideration.

Ordered, That the bill making provision for the defence of the Territory of Orleans, and for the disposal of a part of the public land therein," be the order of the day for Thursday next.

The bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," was read the second time.

The PRESIDENT communicated the memorial of the Mayor and Corporation of Georgetown, stating the damages that will be consequent on the passage of the bill last read, which, together with the bill and papers from the House of Representatives on the subject, were referred to Messrs. MITCHILL, ANDERSON, BRADLEY, WRIGHT, and TRACY, to consider and report thereon.

The PRESIDENT communicated a report from the Secretary of War, on the petition of Gilbert C. Russel, referred to him for consideration on the 14th instant; and the report was read, and referred to Messrs. ANDERSON, TRACY, and ADAMS, with leave to report by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed," in which they desire the concurrence of the Senate. They agree to the amendments of the Senate to the bill, entitled "An act relating to bonds given by marshals," with amendments thereto, in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives to their amendment to the bill, entitled "An act relating to bonds given by marshals," and

Ordered, That they be referred to Messrs. BAYARD, BRADLEY, and BALDWIN, to consider and report thereon.

The resolution expressive of the high sense entertained by Congress of the disinterested and benevolent attentions manifested by His Danish Majesty's Consul residing at Tripoli, to Captain Bainbridge, his officers and crew, during their captivity in Tripoli, was read the second time.

Ordered, That it pass to the third reading.

The Senate, according to the order of the day, took into consideration the motion submitted on the 22d of January, for an amendment to the Constitution of the United States; and, after debate, the further consideration thereof was postponed to Monday next.

Mr. BAYARD, from the committee appointed this day on the amendments proposed by the House of Representatives to the amendments of the Senate to the bill, entitled "An act relating to bonds given by marshals," made report: Whereupon,

Resolved, That the Senate agree to the two first amendments of the House of Representatives to their amendments, and disagree to the last.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments to the bill last mentioned, and they were referred to Messrs. WRIGHT, WORTHINGTON, and TRACY, to consider and report thereon.

The Senate resumed the third reading of the bill to carry into effect the provisions of the eighth section of the act regulating the grants of land, and providing for the disposal of lands of the United States south of the State of Tennessee.

Ordered, That the further consideration of this bill be postponed.

The Senate resumed the third reading of the bill, to explain the fifth section of an act, entitled "An act to divide the Indiana Territory into two separate governments."

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to explain the fifth section of an act, entitled "An act to divide the Indiana Territory into two separate governments."

The bill to incorporate a National Academy was read the third time, and amended, by striking out, in section one, line three, the words "a national;" and, on motion, the bill was referred to Messrs. BRADLEY, LOGAN, BALDWIN, MOORE, and HILLHOUSE, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate to Congress a letter recently received from the Minister Plenipotentiary of the United States at London, stating some circumstances which bear relation to the subject of my messages of January 17. This paper being original, and to be communicated to both Houses, the return of it is requested.

TH. JEFFERSON.

The Message was read, and ordered to lie for consideration.

TUESDAY, March 25.

Mr. WRIGHT, from the committee to whom were yesterday referred the amendments of the House of Representatives to the bill, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," reported the bill amended accordingly.

Mr. ANDERSON, from the committee appointed on the 20th of December last, to consider the bill, entitled "An act in addition to 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war,'" reported amendments; which were read, and ordered to lie for consideration.

The bill, entitled "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed," was read the second time, and referred to Messrs. STONE, BALDWIN, and MITCHILL, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the amendments to the bill, entitled "An act to repeal so much of any act or acts, as authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes relative to the public debt;" and having adopted the said amendments, the bill was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have considered the amendments of the Senate to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States:" to some of which they agree, and to others they disagree. They agree to the amendments of the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," except to that which goes to the insertion of a new section, next after the first section, to which they do not agree. The House of Representatives insist on their last amendment to the amendments of the Senate to the bill, entitled "An act relating to bonds given by marshals."

On motion,

"That a committee be appointed to inquire into the expediency of repealing all such parts of the several acts providing for the sale of the lands of the United States, as authorize a credit on any part of the purchase-money of said lands; and that they have leave to report by bill or otherwise;"

Ordered, That this motion lie for consideration.

On motion,

"That a committee be appointed to inquire whether any, and what, alterations are necessary or expedient in the laws relating to the District of Columbia; and that the committee have leave to report by bill or otherwise:"

Ordered, That this motion lie for consideration.

The Senate proceeded to consider the last amendment of the House of Representatives to their amendments to the bill, entitled "An act relating to bonds given by marshals," and yesterday disagreed to by the Senate.

Resolved, That they do recede from their disagreement to the said amendment.

The Senate took into consideration their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives;" and,

Resolved, That they do insist on their said amendment, ask a conference thereon, and that Messrs. TRACY and BRADLEY be the managers on the part of the Senate.

WEDNESDAY, March 26.

The President communicated the report of the Secretary for the Department of Treasury, on the memorial of John Chester, late supervisor for the Connecticut district, referred on the 7th instant; and the report was read.

Ordered, That it lie for consideration, and be printed for the use of the Senate.

The Senate resumed the motion made yesterday, that a committee be appointed to inquire into the expediency of repealing all such parts of the several acts providing for the sale of the lands of the United States, as authorize a credit on any part of the purchase-money of said lands; and

Ordered, That the consideration thereof be postponed.

The Senate resumed the motion made yesterday, to consider whether any, and what, alterations are necessary or expedient, in the laws relating to the District of Columbia; and having agreed thereto, Messrs. ADAMS, BALDWIN, and WRIGHT, were appointed the committee.

The Senate resumed the amendments of the House of Representatives to the bill, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;" and agreed thereto.

The Senate took into consideration their amendments disagreed to by the House of Representatives to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States;" and,

Resolved, That they recede from their amendments disagreed to, except the last, on which they

insist; ask a conference; and that Messrs. ANDERSON and TRACY be managers at the conference on the part of the Senate.

The resolution expressive of the high sense entertained by Congress of the distinguished and benevolent attention manifested by His Danish Majesty's Consul residing at Tripoli, to Captain Bainbridge, his officers and crew, during their captivity in Tripoli, was read the third time, and

Resolved, That the Senate concur therein.

RULES OF THE SENATE.

The Senate resumed the amendments reported to the rules for conducting business in the Senate, and having agreed to further amendments, the rules were adopted, as follows:

1. The President having taken the Chair, and a quorum being present, the Journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries.

2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper, while the Journals or public papers are reading, or when any member is speaking in any debate.

3. Every member, when he speaks, shall address the Chair, standing in his place; and, when he has finished, shall sit down.

4. No member shall speak more than twice in any one debate, on the same day, without leave of the Senate.

5. When two members rise at the same time, the President shall name the person to speak; but in all cases the member first rising shall speak first.

6. No motion shall be debated until the same shall be seconded.

7. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President or any member, delivered in at the table, and read by the President, before the same shall be debated.

8. While a question is before the Senate, no motion shall be received unless for an amendment, for postponing the question, or to commit it, or to adjourn: and the motion for adjournment shall always be in order, and decided without debate.

9. If the question in debate contain several points, any member may have the same divided.

10. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reason he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.

11. One day's notice, at least, shall be given of an intended motion for leave to bring in a bill.

12. Every bill shall receive three readings previous to its being passed; and the President shall give notice to each, whether it be the first, second or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise. And all resolutions, to which a concurrence of the House of Representatives is requisite, or which may grant money out of the contingent or any other fund, shall be treated, in all respects, in the introduction and form of proceedings on them in the Senate, in a similar manner with bills.

13. No bill shall be committed until it shall have been twice read, after which it may be referred to a committee.

14. All committees shall be appointed by ballot, and a plurality of votes shall make a choice. But when any subject or matter shall have been referred to a select committee, any other subject or matter of a similar nature, may, on motion, be referred to such committee.

15. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President without debate; but if there be a doubt in his mind, he may call for the sense of the Senate.

16. If a member be called to order for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter.

17. When a blank is to be filled, and different sums shall be proposed, the question shall be taken on the highest sum first.

18. No member shall absent himself from the service of the Senate without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the Senate, when a quorum is convened, shall judge sufficient: and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of Senate, at the legal time of meeting, as to each day of the session after the hour has arrived to which the Senate stood adjourned.

19. All bills, on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in a Committee of the Whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered. And in the absence of the Vice President, when the Senate consider a treaty, bill, or resolution, as if they were in Committee of the Whole, the President *pro tempore* may call a member to fill the chair during the time the Senate shall remain in Committee of the Whole; which chairman is hereby vested, during said time, with all the powers of the President *pro tempore*, were he to remain in the chair.

20. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the President or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introductor.

21. When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof; but no motion for the reconsideration of any vote shall be in order, after a bill, resolution, message, report, amendment, or motion, upon which the vote was taken, shall have gone out of possession of the Senate, nor after the usual message shall have been sent from the Senate, announcing their decision; nor shall any motion for reconsideration be in order unless made on the same day in which the vote was taken, or within the three next days of actual session of the Senate thereafter.

22. At the commencement of each session, a committee, consisting of three members, shall be appointed, whose duty it shall be to examine all bills, amendments,

resolutions, or motions, before they go out of possession of the Senate, and to make report that they are correctly engrossed; which report shall be entered on the journal.

23. Every vote of the Senate shall be entered on the journals, and a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, be also inserted on the journals.

24. The proceedings of Senate, when they shall act in their Executive capacity, shall be kept in separate and distinct books.

25. The proceedings of the Senate, when not acting as in a Committee of the Whole, shall be entered on the journals as concisely as possible, care being taken to detail a true and accurate account of the proceedings.

26. The titles of bills, and such parts thereof only as shall be affected by proposed amendments, shall be inserted on the journals.

27. On a motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the President shall direct the gallery to be cleared; and, during the discussion of such motion, the doors shall remain shut.

28. No motion shall be deemed in order to admit any person or persons whatsoever within the doors of the Senate Chamber to present any petition, memorial, or address, or to hear any such read.

29. Messages shall be sent to the House of Representatives by the Secretary, who shall previously endorse the final determination of the Senate thereon.

30. Messages sent from the House of Representatives by their Clerk shall be received at the bar by the Secretary, and by him be delivered to the President of the Senate.

31. When the Senate are equally divided, the Secretary shall take the decision of the President.

32. Extracts from the Executive records are not to be furnished but by special order.

33. All bills, after the first reading, shall be printed for the use of the Senate.

34. When nominations shall be made in writing by the President of the United States to the Senate, a future day shall be assigned, unless the Senate unanimously direct otherwise, for taking them into consideration. When the President of the United States shall meet the Senate in the Senate Chamber, the President of the Senate shall have a chair on the floor, be considered as the head of the Senate, and his chair shall be assigned to the President of the United Sates. When the Senate shall be convened by the President of the United States to any other place, the President of the Senate and Senators shall attend at the place appointed. The Secretary of the Senate shall also attend to take the minutes of the Senate.

35. All questions shall be put by the President of the Senate, either in the presence or absence of the President of the United States; and the Senators shall signify their assent or dissent by answering, *viva voce*, aye or no.

36. All confidential communications made by the President of the United States to the Senate shall be, by the members thereof, kept inviolably secret; and all treaties which may hereafter be laid before the Senate shall also be kept secret until the Senate shall, by their resolution, take off the injunction of secrecy.

37. Whenever a treaty shall be laid before the Senate for ratification, it shall be read a first time for information only; when no motion to reject, ratify, or modify, the whole or any part shall be received. Its second reading shall be for consideration, and on a subsequent day, when it shall be taken up as in a Committee of the Whole, and every one shall be free to move a question on any particular article, in this form: "Will the Senate advise and consent to the ratification of this article?" or to propose amendments thereto, either by inserting or by leaving out words; in which last case the question shall be, "Shall these words stand as part of the article?" And in every of the said cases the concurrence of two-thirds of the Senators present shall be requested to decide affirmatively. And when through the whole, the proceedings shall be stated to the House, and questions be again severally put thereon for confirmation, or new ones proposed, requiring in like manner a concurrence of two-thirds for whatever is retained. The votes so confirmed shall, by the House, or a committee thereof, be reduced into the form of a ratification, with or without modifications, as may have been decided, and shall be proposed on a subsequent day, when every one shall again be free to move amendments, either by inserting or leaving out words; in which last case the question shall be, "Shall the words stand part of the resolution?" And in both cases the concurrence of two-thirds shall be requisite to carry the affirmative, as well as on the final question to advise and consent to the ratification in the form agreed to.

38. When any question may have been decided by the Senate, in which two-thirds of the members present are necessary to carry the affirmative, any member who votes on that side which prevailed in the question, may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes.

39. Messengers are introduced in any state of business, except while a question is putting, while the yeas and nays are calling, or while the ballots are calling.

40. When an amendment to be proposed to the Constitution is under consideration, the concurrence of two-thirds of the members present shall not be requisite to decide any question for amendments, or extending to the merits, being short of the final question.

FOREIGN COINS.

Mr. ANDERSON, from the committee to whom was referred on the 24th of December last, the bill, entitled "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes,'" as is contained in the second section thereof, made the following report:

That they find, by the law, aforesaid, which passed on the 9th day of February, 1793, in the first section thereof, certain foreign coins are made a legal tender, at the rates therein specified. The said first section closes with these words, viz: "But no foreign coin that may have been, or shall be issued subsequent to the 1st of January, 1792, shall be a tender as aforesaid, until samples thereof shall have been found, by assay at the Mint of the United States, to be conformable to the respective standards required, and proclamation thereof shall have been made by the President of the United States.

The second section of the same law (a repeal of which section is contemplated by the bill referred to the committee) is in the following words, viz: "That, at the expiration of three years next ensuing, the time when the coinage of gold and silver, agreeably to the act, entitled 'An act establishing a Mint, and regulating the coins of the United States,' shall commence at the Mint of the United States, (which time shall be announced by the proclamation of the President of the United States,) all foreign gold coins, and all foreign silver coins, except Spanish milled dollars, and parts of such dollars, shall cease to be a legal tender as aforesaid,"

The committee find that, in consequence of the operations of the Mint having commenced, the President of the United States did, by his proclamation, dated the 22d day of July, 1797, announce the same, pursuant to the directions contained in said second section, and did thereby give notice that, in conformity with said law, all foreign silver coins, except Spanish milled dollars and parts of such dollars, would cease to pass current as money, within the United States, and to be a legal tender for the payment of any debts or demands, after the 15th day of October then next, and that all foreign gold coins would cease to be a tender as aforesaid, after the 31st day of July, in the year 1798.

The committee find that no proclamation has ever been made by the President of the United States, upon the subject of foreign coins which may have issued since January 1st, 1792, as contemplated by the first section of the act aforesaid; nor does it appear that any assay of such coins has been made at the Mint of the United States.

The committee find that, on the first day of February, 1798, Congress passed an act, supplementary to the act, entitled "An act regulating foreign coins, and for other purposes" in the words following, viz: "That the second section of the act, entitled 'An act regulating foreign coins, and for other purposes,' be, and the same are hereby, suspended, for and during the space of three years, from and after the 1st day of January, 1798, and until the end of the next session of Congress thereafter; during which time the said gold and silver coins shall be and continue a legal tender, as is provided in and by the first section of the act aforesaid; and that the same coins shall thereafter cease to be such tender."

On the 30th of April, 1802, Congress passed an act to suspend, in part, the act, entitled "An act regulating foreign coins, and for other purposes," in the words following, viz: "That so much of the act, entitled "An act for regulating foreign coins, and for other purposes," as is contained within the second section thereof, be, and the same hereby is, suspended, for and during the space of three years, from and after the end of the present session of Congress." That session of Congress, the committee find, was closed, and at an end, on the 3d day of May, 1802.

By placing in one view all the laws upon the subject of foreign coins, it appears that, if the first section of the law upon that subject were now in force, no foreign coin whatever, which has *issued subsequent to the first of January*, 1792, is current money or a legal tender—not even Spanish milled dollars and parts of dollars, unless by force of the second section of the same law; which, if suspended or repealed, will throw out of circulation almost the whole of Spanish dollars, and parts of dollars, as but few pieces of those, or of any other foreign coins of a prior date to January, 1792, are in circulation. But, when we consider the act passed on the 1st day of February, 1798, as not only suspending the operation of the second section of the act regulating foreign coins, but positively enacting that all the foreign coins, mentioned in the first section thereof, shall, at the end of the next session of Congress, after three years from the 1st day of January, 1798, *cease to be a tender*, it will be discerned that the first section stands completely repealed, as it respects the legal tender of foreign coins; for the act of the 30th of April, 1802, suspends the operation of the second section only of said act, without reviving the first section.

The legal state of things in the United States, in respect to the currency of foreign coins, then, is as follows, viz: From and after the 3d day of May, 1802, (the end of the session of Congress mentioned in the act of February, 1798,) no foreign coin whatever has been a legal tender, until 3d May, 1805. From the 3d May, 1805, (at which time the last suspension of the second section of the law regulating foreign coins, expired,) Spanish milled dollars, and parts of such dollars, have been a legal tender.

With this view of the subject, which your committee believe is correct, they cannot discern the policy of *repealing* the second section of the said act, as contemplated by the bill referred to them by the Senate. Were this bill to pass, no money would be a *legal tender* to satisfy debts and demands in the United States, except the gold and silver coins which have issued from their Mint. These coins, the committee believe, are not sufficient in quantity and value for a circulating medium, without the aid of Spanish milled dollars and parts of such dollars.

But, since such great quantities of Spanish milled dollars have been exported, and are still exporting, from the United States, and so great a portion of the remaining foreign gold and silver coins, as well as those issued by the United States, are locked up in the cells of the banks, already numerous, and still increasing; your committee believe that measures ought to be adopted by Congress, to increase the quantity of circulating medium beyond our own coins and Spanish milled dollars and parts of such dollars.

In effecting this object, the committee are sensible that caution is requisite to prevent coins, which may not be of a standard weight and value, from becoming a currency, especially as there seems to have been no assay of foreign coins, which have issued subsequent to the 1st day of January, 1792.

The report was ordered to lie for consideration.

Mr. TRACY gave notice that he would, to-morrow, ask leave to bring in a bill in addition to an act establishing a Mint, and regulating the coins of the United States.

The bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt," was read the third time. And a motion was made to strike out the second proviso in the bill, as amended; and, after debate, the Senate adjourned.

THURSDAY, March 27.

Agreeably to notice given yesterday, Mr. TRACY asked and obtained leave to bring in a bill, in addition to "An act establishing a Mint, and regulating the coins of the United States;" and the bill was read and ordered to the second reading.

The bill making provision for the defence of the Territory of Orleans, and for the disposal of a part of the public land therein," was read the second time as in Committee of the Whole, and

having been amended, was reported to the House accordingly; and on the question, Shall this bill pass to the third reading? the Senate were equally divided, and the PRESIDENT determined the question in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," in which they request the concurrence of the Senate. They insist on their disagreement to the amendment of the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives;" they agree to the conference desired by the Senate on the said amendment, and have appointed managers on their part; they insist also on their disagreement to the last amendment of the Senate to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States;" and they agree to the conference desired by the Senate thereon, and have appointed managers on their part.

The bill last brought up for concurrence was read and ordered to the second reading.

Mr. STONE, from the committee appointed on the 25th instant, to consider the bill, entitled "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed," reported the bill without amendment.

On motion, it was agreed that the third reading of the bill to carry into effect the provisions of the eighth section of the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee, be the order of the day for to-morrow.

FRIDAY, March 28.

The President of the United States, on the 31st of December last, approved and signed "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic."

Mr. BRADLEY, from the committee to whom was referred, on the 21st instant, the resolutions relative to William Eaton and others, late officers in the army of the ex-Bashaw of Tripoli, reported the same with an amendment, which was adopted.

Ordered, That the resolution pass to the third reading as amended.

The bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," was read the second time, and referred to Messrs. BALDWIN, MITCHILL, SUMTER, BRADLEY, and TRACY, to consider and report thereon.

Mr. ADAMS, from the committee appointed on the 26th instant, to consider whether any, and what, alterations are expedient in the laws relating to the District of Columbia, reported a bill for the regulation of the fees of attorneys and the officers of the courts of the District of Columbia, and for other purposes; and the bill was read, and ordered to the second reading.

The bill in addition to "An act establishing a Mint and regulating the coins of the United States," was read the second time, and referred to Messrs. TRACY, ADAMS, and KITCHEL, to consider and report thereon.

The Senate resumed the second reading of the bill, entitled "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed."

Ordered, That it pass to a third reading.

The Senate resumed, as in Committee of the Whole, the amendments reported on the 26th instant, to the bill, entitled "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes,' as is contained in the second section thereof:" and the amendments having been adopted, the bill was reported to the House accordingly.

Ordered, That the bill pass to the third reading as amended.

Agreeably to notice given on the 21st instant, Mr. SMITH of Ohio, asked and obtained leave to bring in a bill to suspend the sale of certain lands within the State of Ohio and the Indiana Territory; and the bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year 1806," in which they request the concurrence of the Senate.

The bill first mentioned in the message was read, and ordered to the second reading.

Agreeably to the order of the day the Senate resumed the third reading of the bill to carry into effect the provision of the eighth section of the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee; and, on the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 19, nays 11, as follows:

YEAS—Messrs. Adair, Adams, Bayard, Bradley, Condit, Gilman, Hillhouse, Howland, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Vermont, Stone, Sumter, Thruston, Tracy, White, and Wright.

NAYS—Messrs Baldwin, Gaillard, Kitchel, Logan, Maclay, Mitchill, Moore, Plumer, Smith of Tennessee, Turner, and Worthington.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to carry into effect the provision of the eighth section of the act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee."

SATURDAY, March 29.

The bill for the regulation of the fees of the attorneys and the officers of the courts of the District of Columbia, and for other purposes, was read the second time, and referred to Messrs. ADAMS, BALDWIN, and WRIGHT, further to consider and report thereon.

The bill, entitled "An act making appropriations for the support of Government for the year 1806," was read the second time, and referred to the committee appointed the 28th of January last, to whom were referred the report and estimates of the appropriations necessary for the year 1806, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the amendments reported to the bill, entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war," and it was agreed further to postpone this bill.

The bill, entitled "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed," was read the third time, and amended, by striking out the word "laying," line 4th, and inserting the word "lying."

Resolved, That this bill pass with an amendment.

The President laid before the Senate an account of moneys expended in fitting up the Senate Chamber for the trial of the impeachment of Judge Chase, signed, for B. H. Latrobe, John Lenthall; and the account was referred to Messrs. BAYARD, ANDERSON, and SMITH of Ohio, to consider and report thereon.

MONDAY, March 31.

Mr. WORTHINGTON, from the joint committee appointed on the 13th instant, to consider what business is necessary to be done by Congress in the present session, made report; which was read and ordered to lie for consideration.

The bill to suspend the sale of certain lands within the State of Ohio, and the Indiana Territory, was read the second time and referred to Messrs. SMITH of Ohio, BRADLEY, and BALDWIN, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war;" and having agreed to the amendments reported by the select committee, the bill was reported to the House accordingly.

Ordered, That it pass to the third reading as amended.

Mr. TRACY reported from the Managers appointed on the part of the Senate, to confer on the amendment to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," disagreed to by the House of Representatives, and the report was in part agreed to, and the further consideration thereof postponed.

The Senate resumed the motion made on the 5th of February last, that it be

Resolved, That the Sergeant-at-Arms of the Senate receive for his attendance at the Court of Impeachment for the trial of Judge Chase, compensation for twenty-seven days attendance, at the rate of five dollars per day; and

Resolved, That the assistant Doorkeeper receive at the rate of two dollars per day during the said trial, to be paid out of the contingent funds of the Senate.

And on the question to agree to the first resolution, it was determined in the affirmative.

And on the question to agree to the second resolution, it was determined in the negative.

Mr. ANDERSON reported, from the Managers appointed on the part of the Senate to confer on the amendment to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States," disagreed to by the House of Representatives, "That they have had a conference with the Managers on the part of the House of Representatives, and have agreed that the Senate recede from that part of their amendment of the one hundredth article disagreed to by the House of Representatives, with the following amendment; after the word 'army' add 'but the manner of wearing the hair shall not be considered as a part thereof."

And on motion to adopt the report of the conferees, a division of the question was called for, and so much of the report was agreed to as extends to receding from the amendment insisted on by the Senate.

And on the question to agree to the other member of the report, to wit: "but the manner of wearing the hair shall not be considered as a part thereof:"

It was passed in the negative—yeas 9, nays 21 as follows:

YEAS—Messrs. Anderson, Condit, Gaillard, Holland, Kitchel, Maclay, Sumter, Tracy, and Turner.

NAYS—Messrs. Adair, Adams, Baldwin, Bayard, Bradley, Gilman, Hillhouse, Logan, Mitchill, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, White, Worthington, and Wright.

So it was *Resolved*, That the Senate recede from their said amendment disagreed to by the House of Representatives.

The bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, was read the third time; and, after debate, the consideration of the bill was postponed.

The Senate resumed the consideration of the amendment to the Constitution, submitted on the 22d of January last, agreeably to the order of the day; and the further consideration thereof was postponed to the first Monday in December next.

TUESDAY, April 1.

The bill, entitled "An act to regulate so much of the act regulating foreign coins, and for other purposes,' as is contained in the second section thereof," was read the third time as amended, and passed.

Mr. ANDERSON, from the committee to whom the subject was referred, on the 24th instant, re-

ported "a bill for the relief of Gilbert C. Russel;" which was read and ordered to the second reading.

The Senate resumed the report of the committee of conference on the amendment insisted on by the Senate, to the bill entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives."

Resolved, That they so far recede from their amendment insisted on, as to agree to the modification reported by the Managers at the conference thereon.

In the last line but one of the said first section thereof, and next after the word "each," the first time the word occurs in the line, insert these words: "the first engrossing clerks, respectively, one thousand two hundred dollars each," and in the same line, between the words "their" and "engrossing," insert the word "other."

The bill, entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war," was read the third time as amended and passed.

EX-BASHAW OF TRIPOLI.

The bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, being under consideration, on the question, Shall this bill pass? Mr. BRADLEY having finished his remarks in support of the bill—

Mr. ADAMS said:—Mr. President, when the question was yesterday stated from the Chair, on the final passage of this bill, and I found myself called on to record my assent to or dissent from it, I felt myself bound in duty to call upon the committee by whom it was reported, for the evidence upon which they had rested the claim of Hamet Bashaw to the grant of money which is proposed by the bill to be made to him. Together with the bill the committee had reported, what they term "a brief statement of facts;" upon which they declare the bill itself to be founded, and wherein they consider his claim, not on the generosity, but on the justice of the United States, from his service and sufferings in their cause, and from his having been deceived and amused with the prospect of being placed on his throne, as legitimate Sovereign of Tripoli, and frequently drawn from eligible situations for the purpose of being made the dupe or instrument of policy, and finally sacrificed to misfortune and wretchedness. The bill accordingly makes the grant, expressly in consideration of his services and sufferings in our cause; and, in voting for the bill as it now stands, I should consider myself as sanctioning, as far as my vote would go, the report of the committee, upon which the bill is founded. This I could not do without further information. I thought, sir, and have thought, from the moment when I first saw the report, that the statement it contained, far from being supported by the voluminous documents which have been, in the course of the session, communicated to the Senate, respecting all our transactions with Tripoli, was in many respects contradictory to the whole tenor of those documents; my recollection of the documents was, indeed, only of their general tenor; for, amidst the pressure of the various other important business which we have had before us, I had not found time for a reperusal of them, since I had heard them read at your table. But, of their general complexion, my mind had received a clear and very decided impression, with which I found it impossible to reconcile any part of the committee's report. I presumed, however, that the committee were possessed of evidence, not yet communicated to the Senate, which warranted them in those assertions, which all the papers with which I had been made acquainted tended rather to disprove than to confirm. The chairman of the committee has this day informed the Senate of the grounds upon which the report was drawn up, and has communicated what he considers as the additional evidence in its support. He has also favored us with the arguments upon which he thinks the views of the subject, taken in the report, are fully substantiated. I regret, sir, that neither his arguments nor his evidence have been satisfactory to my mind; but that, after giving them what I deem their full share of weight, I still remain convinced that the report is founded upon a supposed state of facts altogether erroneous, and a view of the whole subject altogether incorrect.

The merits of Hamet Bashaw's claim upon the United States must depend upon the nature of the engagements contracted between the United States and him, and upon the transactions under those engagements. With respect to the nature of the engagements, there is a very striking difference between the statement of the committee and the statement of the President of the United States in his Message of the 13th of January last. The statement of the committee is as much at variance with the ideas of Hamet Bashaw himself as with those of the President, and equally in opposition to those of Commodore Barron and Mr. Lear, as they appear in the printed papers.

With regard to the facts, material to constitute the peculiar character of the ex-Bashaw's claim, the statement of the committee is no less in flat contradiction to the statements of the President, to the acknowledgments of Hamet Bashaw, and to the tenor of the most substantial documents.

As to the nature of the engagements, the committee represent Hamet Bashaw as having been inveigled, deceived, amused with promises to place him on his throne, and finally betrayed and sacrificed. They appear to think the United States were bound, at all events, and, by their exclusive exertions, to restore him to his dignity, and that the mere act of withdrawing their aid, without accomplishing that object, was a treacherous violation of their faith plighted to him.

The President's Message says: [Mr. BRADLEY objected against the reading of the Message, as out of order, it being incompatible with the rules to adduce the opinions of the Executive, to influence the opinion of the Senate. On appeal to the Chair, Mr. ADAMS stated that he did not propose to read the opinions of the Executive, but a

statement of facts by the Executive, for the purpose of showing that it was contradictory to the statement of facts reported by the committee, and with the further view of showing, by the acknowledgment of Hamet Bashaw, and the other documents before the Senate, that the statement of the Executive was the correct one. The PRESIDENT of the Senate decided that he might proceed.]

The President's Message says: "During the 'war with Tripoli, it was suggested that Hamet 'Caramalli, elder brother of the reigning Bashaw, 'and driven by him from his throne, meditated 'the recovery of his inheritance, and that a con-'cert in action with us was desirable to him. We 'considered that concerted operations by those 'who have a common enemy were entirely justi-'fiable, and might produce effects favorable to 'both, without binding either to guarantee the 'objects of the other."

Here, sir, from the President himself, we are told, not that Hamet Bashaw had been deceived, amused, and "drawn from eligible situations," but that the concert of operations was first suggested as desirable to him. Not that the Government ever had a thought of pledging the United States to restore him to his throne, but merely that a concert in action was intended, leaving each party perfectly at liberty as respected the object of the other. The committee, therefore, have altogether mistaken the first negotiations with Hamet; and Mr. Eaton's letters of the 5th of September and 13th of December, 1801, prove the correctness of the President's statement.

The report of the committee asserts, that the agents of the United States in the Mediterranean in August, 1801, entered into a convention with Hamet, to obtain a permanent peace with Tripoli, to place the ex-Bashaw on his throne, and procure indemnification for all expense in accomplishing the same. That this agreement was renewed in November following, and that, in 1802, "when the 'reigning Bashaw had made overtures to the ex-'Bashaw to settle on him the two provinces of 'Derne and Bengazi, and when the ex-Bashaw 'was on the point of leaving Tunis, under an es-'cort, furnished by the reigning Bashaw, the 'agents of the United States prevailed on him to 'abandon the offer, with assurance that the Unit-'ed States would effectually co-operate, and place 'him on the throne of Tripoli."

Now, sir, it is impossible to understand the report any otherwise than intending to convey the idea that these conventions, made by the agents of the United States were authorized and sanctioned by the Government, and the offer of the reigning Bashaw, the escort, the settlement of the two provinces, are represented as one of those eligible situations, which he was prevailed upon to abandon by the agents of the United States, with the promise of his throne.

What is the fact? The conventions alluded to were made by Mr. Eaton, and, instead of being sanctioned, were expressly disavowed by this Government.

[Mr. WRIGHT here said, that Mr. ADAMS was mistaken; and was proceeding to object, when the PRESIDENT of the Senate observed to him that he would have an opportunity to reply after Mr. ADAMS should have finished, and desired the latter to proceed.]

Sir, said Mr. A., the chairman of the committee, the gentleman who drew up the report, will not deny that the conventions, of which I am speaking, were those made in 1801 by Mr. Eaton. [Mr. BRADLEY admitted they were.] Well, sir, I shall now show you that Mr. Eaton's authority was expressly disavowed by this Government.

My evidence in proof of this, is a letter from the Secretary of the Navy, dated 28th of August, 1804, to Commodore Morris, then the authorized superintending agent for negotiating with the Barbary Powers. I take it from a pamphlet, published by Commodore Morris himself. It is not among the documents communicated to us this session by the President, but its authenticity has never been denied; and if any gentleman here now questions it, I shall move for a regular call upon the head of the Navy Department, to remove the doubt. It contains the following words: "In adjusting the terms of peace with the Dey of 'Tripoli, whatever regard may be had to the situ-'ation of his brother, it is not to be considered by 'you of sufficient magnitude to prevent, or even 'to retard a final settlement with the Dey. Mr. 'Eaton, in this affair, cannot be considered an au-'thorized agent of the Government."

At the same time, Mr. Eaton, Mr. Cathcart, and Commodore Morris, were all informed, by despatches from the Secretary of State, of the real nature of the engagements which this Government were willing to make. These were a concert of operations in measures of hostility against the reigning Bashaw, without pledging either party to the cause of the other.

Let us now see what was the real nature of those magnificent offers of the reigning Bashaw to his brother—the armed escort, and the two provinces—upon the abandonment of which, under the influence of our agents, the report raises such a fund of merit and sacrifice on the part of Hamet. The committee take this circumstance from a statement made by Mr. Eaton to the Committee of Claims, in February 7, 1804, printed among the documents of that season. Largely as the chairman of the Committee has drawn from that statement in making his report, it is singular that the following passage in it, page 16, has escaped his attention:

"Meantime, I had wrought upon the Bey's Minister to countenance and aid my project, in consideration of my promise to give him $10,000, on condition of his fidelity, and in case of its success. I thought it good policy to secure the Minister; not so much for the service he would render, as to check the mischief which seemed impending. He confessed it was the intention of the enemy Bashaw, by this illusive overture, to get possession of the rival brother in order to destroy him; and he permitted my dragoman, under an injunction of secrecy, to communicate the design to Hamet Bashaw. This determined him to go to Malta, under a pretext to his people of evading the Swedish and American cruisers."

And are these the overtures? Is this the eligible situation, of such precious value to the ex-Bashaw, that this nation, or its Government, is to be charged with perfidy and treachery because our agents prevailed upon him to abandon them? Even so! The reigning Bashaw sends an escort of forty men, with offers of two provinces, to his exiled brother, for the sole purpose of getting him into his possession to destroy him. Our agents discover the project; apprize the destined victim of his intended fate; rescue him from inevitable destruction—and now, we are to be told, that by this act, we were not conferring, but receiving an obligation which bound us in honor and duty to restore him to his throne.

The report asserts that the Committee of Claims expressed their decided approbation of Mr. Eaton's official conduct in these transactions, and the gentleman, (Mr. BRADLEY,) in his argument this day, has very strenuously insisted on this circumstance as a proof that this Government had then sanctioned them. But the approbation of the Committee of Claims is not thus extensive. It is expressed in a manner which peculiarly confines their applause to his official conduct in his consular agency. He was Consul at Tunis, and the Secretary of the Navy, as I have shown, had explicitly denied his authority for his conventions with Hamet Bashaw.

Thus much, sir, for the nature of the transactions between the agents of the United States and the ex-Bashaw, prior to the year 1804, when Commodore Barron with his squadron were sent into the Mediterranean, and when he was vested with discretionary powers to avail himself of Hamet's co-operation, and referred to Mr. Eaton as an agent sent out by Government for that purpose.

This discretionary power of Commodore Barron, the chairman of the committee has this day strongly contended was altogether unlimited, and such is the idea given of it in the report; but this I apprehend to be a mistake of the utmost importance. It is in direct contradiction to the statement of the President's Message, and to the testimony of Commodore Barron himself. The President's Message says:

"We authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet, if he should deem it useful; and as it was represented that he would need some aid of arms and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. The instructions of June 6th, to Commodore Barron, show that a co-operation only was intended, and by no means an union of our object with the fortunes of the ex-Bashaw; and the Commodore's letters of March 22, and May 19, prove that he had the most correct idea of our intentions."

These letters of Commodore Barron are both to Mr. Eaton; the first in answer to one from him dated the 18th of February, mentioning his intended convention with Hamet, which was not then reduced to writing. Here the Commodore says:

"In the point of view in which I regard the measures already pursued, as well as the subject of the co-operation generally, I conceive we ought to tread with the utmost caution. It is far from my wish, sir, to damp your ardor, or that of your companions in arms, by laying too great a stress upon the cold maxims of prudence, whereby the tide of success is often lost; something, I am aware, should always be left to fortune, in enterprises of this nature; but I must own there are certain things, expressed in your despatches, which, when brought to the test of my instructions from home, give birth to feelings of doubt and uneasiness; these I deem it incumbent on me to point out to you with candor and explicitness, in order that we may be fully understood. You must be sensible that in giving their sanction to a co-operation with the exiled Bashaw, Government did not contemplate the measure as leading, necessarily and absolutely, to a reinstatement of that prince in his rights on the Regency of Tripoli. They appear to have viewed the co-operation in question as a means, which, if there existed energy and enterprise in the exile, and attachment to his person on the part of his former subjects, might be employed to the common furtherance and advantage of his claims and our cause; but without meaning to fetter themselves by any specific and definite attainment as an end, which the tenor of my instructions and the limited sum appropriated for that special purpose, clearly demonstrate. I fear, by the convention which you were about to enter into with Hamet, and by the complexion of other measures, that a wider range may have been taken than is consistent with the powers vested in me for that particular object. These apprehensions may, perhaps, prove groundless, on further representations from you; but, under my present impressions, I feel it my duty to state, explicitly, that I must withhold my sanction to any convention or agreement committing the United States, or tending to impress upon Hamet Bashaw a conviction that we have bound ourselves to place him upon the throne. The consequences involved in such an engagement cannot but strike you forcibly, and a general view of our situation, in relation to the reigning Bashaw and our unfortunate countrymen in Tripoli, will be sufficient to mark its inexpediency.

"I wish you to understand that no guarantee or engagement to the exiled Prince, whose cause, I must repeat, we are only favoring as an instrument to our advantage, and not as an end in itself, must be held to stand in the way of our acquiescence to any honorable and advantageous terms of accommodation which the reigning Bashaw may be induced to propose; such terms being once offered and accepted by the representative of Government appointed to treat of peace, our support to the ex-Bashaw must necessarily cease."

This letter was written upwards of a month before the capture of Derne. I have read thus much of it, because it elucidates most clearly what the intention of the Government was, and shows that this intention was perfectly well understood by Commodore Barron. Mr. Eaton also was aware that the discretion of the Commodore was by no means unlimited as to the sum of money appropriated to this object. That sum was twenty thousand dollars; but after the capture of Derne he answered the Commodore's letter; informed him that nearly thirty thousand dollars had been already spent in getting thus far; called for a further large supply for the purpose of reaching the gates of Tripoli, and even when arrived there, expects the Bashaw could "effect little, without more

'military talents and firmness than exists either in 'himself or the hordes of Arabs who attach themselves to him."

The Commodore's letter of May 19, is in reply to this, and says:

"The business is now arrived at that point where, if the Ex-Bashaw, after being put in possession of Derne, his former government, and the district in which his interest is most powerful, has not in himself energy and talent, and is so destitute of means and resources, as not to be able to move on with successful progress, seconded by our naval force acting on the coast, he must be held unworthy of further support, and the co-operation as a measure too expensive and burdensome, and too little pregnant with hope or advantage, to justify its further prosecution; for whatever, sir, may have been once the intentions of Government on this subject, and whatever your ideas touching those intentions, I feel that I have already gone to the full extent of my authority. The instructions from the Navy Department, on this particular point, with which you are not unacquainted, fall short of that unlimited discretion and power of application, as relates to funds, insisted on in your letter, and are totally silent in regard to the quantity and description of supplies and stores, which you mention to have been in the contemplation of Government to furnish to the Bashaw."

Thus, sir, the discretionary power of Commodore Barron, to avail himself of Hamet's co-operation, was not unlimited—neither by the intention of the Executive, nor in his own understanding. It was limited both as to the nature of the engagement he was to contract, and as to the sum appropriated for the purpose; co-operation is a term of reciprocal import—it certainly means that there should be some operation on both sides. The operation in this case by sea, was to be conducted entirely and exclusively by the squadron of the United States. Hamet Bashaw could contribute, and was expected to contribute, nothing to that. His operation was to be by land; and, upon principles of ordinary reciprocity, it might have been required that this also should be exclusively at his expense. The Government, however, were willing to furnish him some aid even there. And the sum of twenty thousand dollars had been appropriated for that purpose. This was going as far as prudence would warrant, or as good faith could require. Hamet himself could have entertained no other expectation, since, in his letter to Mr. Eaton, of 3d January, he says: "Your operations should be carried on by sea; mine by land." And even after the peace was made, in his letter to Mr. Eaton, of 20th June, he acknowledges, as clearly as language can express it, that the failure of co-operation was not on our part, but his own; that his means had not been found to answer our reasonable expectations; and that he was "satisfied with all our nation has done concerning him."

Indeed, sir, I know not upon what principle of common sense, Commodore Barron could have given to his instructions that unbounded extension which the committee has found in them. The subject of availing himself of Hamet's co-operation, was committed entirely to his discretion, and $20,000 were placed at his disposal for that purpose. Could he possibly understand by this, that after $30,000 had been expended in getting the ex-Bashaw to Derne, $50,000 more should be called for to carry him before the walls of Tripoli, and then be able to do nothing unless men were furnished from the squadron to lead a *coup de main?* What sort of co-operation is this, in which one party does everything and the other thing? Was it possible for the Commodore to suppose that the co-operation was to be with ourselves? and that the meaning of "your operations are to be by sea, and mine by land," is, your operations are to be both by sea and land; mine by neither!

The next assertion of the report, for proof of which I am still to inquire, is, that even after the aid of the Americans was withdrawn from Hamet Bashaw, he "would, without the hazard of a repulse, have marched to the throne of Tripoli, had he been supported by the co-operation of the 'American squadron, which in honor and good 'faith he had a right to expect." Compare this, sir, with the statement in the President's Message: "In the event it was found that, after placing the 'ex-Bashaw in possession of Derne, one of the 'most important cities and provinces of the country, where he had resided himself as Governor, 'he was totally unable to command any resources, 'or to bear any part in co-operation with us. This 'hope was then at an end; and we certainly had 'never contemplated, nor were we prepared, to 'land an army of our own, or to raise, pay, or 'subsist an army of Arabs, to march from 'Derne to Tripoli, and to carry on a land war, 'at such a distance from our resources. Our 'means and our authority were merely naval; 'and that such were the expectations of Hamet, 'his letter of June 29 is an unequivocal acknowledgment."

If Hamet, after the capture of Derne, was totally unable to command any resources, or bear any part in co-operation with us, how can it be said that he would, without the hazard of a repulse, have marched to the throne of Tripoli, had he been supported by the co-operation of our squadron? But, further, I ask what were the means, what were the resources, of this sovereign Prince, from the hour when Mr. Eaton received his orders to withdraw from him? The event sir, is worth a thousand arguments. He could not support himself a day. He was compelled to take instantaneous refuge on board our vessels, and was saved from destruction only by being brought away. Does this look like marching to the throne of Tripoli?

The next, and most exceptionable of all the errors contained in this report, is the imputation it casts upon the characters, and the wounds it must inflict upon the feelings, of highly confidential officers of this Government—one of them absent from the country, at the distance of four thousand miles, unable to defend himself, and without a friend, to my knowledge, to defend him here. The other an officer universally respected, laboring under a long and painful illness, whose infirmities should rather have added sanctity to the

claim of delicacy with which individual character ought to be treated.

[Mr. WRIGHT here said the report was misrepresented. That he had treated Commodore Barron's character with perfect respect.]

Mr. ADAMS resumed. I am aware, sir, that the report has very explicitly declared that no blame ought to attach to Commodore Barron; but it has also declared that a wasting sickness, and consequent mental as well as bodily debility, had rendered him totally unable to command the squadron; that to this cause alone may be attributed the final failure of the plan of co-operation; that Mr. Lear appears to have gained a complete ascendency over him, thus debilitated by sickness; or rather that Lear, having assumed the command, in the name of the Commodore, paralyzed every military operation by sea and land; and they go so far as to impute to Mr. Lear all the letters of Commodore Barron, subsequent to that of 21st of March, 1805. If the gentleman from Maryland considers all this, sir, as perfectly respectful to the Commodore, I can only say that it appears in a different light to me, nor do I imagine it will bear that complexion to the person immediately interested in it. But the chairman of the committee has gone yet further. He has told you, in so many words, that the Commodore was reduced to a state of perfect childhood; has represented him as equally incapable of thought and of action; in a mere state of dotage. And all this upon what evidence? Why, because, in one of his letters, Commodore Barron says he is unable to write with his own hand; and because, from the 19th to the 22d of May, there appear among the documents, five letters, long letters, says the gentleman, and yet the Commodore's secretary had an inflammation in his eyes. Sir, is it possible the gentleman could be serious in dwelling upon, and repeatedly recurring, as he did, to this, as a proof of incapacity in the Commodore, and of criminality in Mr. Lear? Whether he was serious or not, I cannot tell; but his reasoning had no serious impression upon my mind; and when a cause rests upon such arguments as these, it is a strong presumption of its destitution of any better.

[Mr. BRADLEY here said Mr. ADAMS had mistaken him; that his argument had dwelt upon Captain Dent's testimony.]

Mr. ADAMS replied—Sir, every member of the Senate who now hears me, heard what that gentleman had said before. I appeal to them whether he did not urge repeatedly, with great apparent zeal and earnestness, the Commodore's illness and the secretary's sore eyes, as a proof that Mr. Lear must have written all the Commodore's letters; if he did, I am now replying to what he said; if he did not, I am content that what I am saying should pass for absurdity. Suppose the Commodore was unable to write with his own hand, or even to dictate to another every line and sentence of those letters, if the leading ideas were his, might they not be written by any other? Suppose his secretary had sore eyes, was there no other person in the squadron who could read and write but Mr. Lear? Surely, sir, all the common sense and common capacities of the whole squadron, was neither dissolved by the Commodore's illness, nor consumed by the inflammation of his secretary's eyes. As to Captain Dent's testimony, it appears to me that the inference drawn from it in the report, is much more broad and comprehensive than the testimony itself will warrant. With Captain Dent, I have not the pleasure of an acquaintance, and I certainly never heard a syllable to the disparagement of his character. But, sir, permit me to observe, that the letter from him on which the chairman of the committee relies, was not cotemporary with the occurrences to which it alludes; it is a sort of postliminary evidence, drawn up since the appointment of the committee, and doubtless obtained for the purpose of corroborating the view of things previously taken. It is unfortunately too notorious, that among the officers employed in the Mediterranean service, there has been a division into parties, and that a very animated party spirit has mingled itself in all the narratives which have been published and circulated in conversations respecting their transactions. In all such cases, persons influenced by such feelings, though of unimpeachable integrity and of clear understanding, are seldom altogether free from a certain bias. Some allowance must always be made on such occasions, and testimony the most unquestionable on the score of uprightness, must be susceptible of some deduction from the medium through which things are seen. Yet what is the amount of Captain Dent's testimony? In the first place, it is little more than mere opinion. It was the opinion of the officers in the squadron; and it was his own opinion, that Mr. Lear had a great ascendency over the Commodore in his measures relative to the squadron. And on what was this opinion founded? Why, on Mr. Lear's intimacy with him during his debilitated state. Well, sir, and with whom should the Commodore have entertained this intimacy, if not with Mr. Lear? A mutual consultation upon the conduct of the war, and upon the negotiation of the peace, was enjoined upon both by their instructions. What could be more natural, what more proper than this intimacy? and if Mr. Lear did obtain an ascendency to the full extent of Captain Dent's opinion, why is it to be charged upon him as a crime? Let me go one step further. I entreat every member of the Senate to read over attentively those letters communicated to us as Commodore Barron's, but which the report insists upon considering as Mr. Lear's, and then say whether it is at all material who wrote them. Sir, there is in them a fund of good sense, of sober discretion, of clear discernment, of anxious regard for the public welfare, and of vigilant attention to the public interests, which bespeaks an origin from a sound head and a well placed heart. I care not who wrote them; I do not hesitate to say that no official documents presented to the Senate since I have had the honor of a seat in this body, have been stamped with more sterling intrinsic value. The arguments in the letters to Mr. Eaton, on the subject of the co-operation with Hamet Bashaw, and on the subject of Mr. Eaton's

measures, are, to my mind, not only substantial, but unanswerable. Those in the letter to Mr. Lear, on the subject of negotiation with the reigning Bashaw, are cogent and forcible. The report of your committee indeed calls them pretended reasons, and imputes them to Mr. Lear. It says, the committee will not condescend to enter into a consideration of them. Sir, I am very sorry for it. I believe sincerely, that if they had condescended thus far, they would have found the reasons were solid and weighty; that they were well deserving of all the consideration which they thought proper to deny them. They did condescend to speak the language of reproach and bitter censure upon an officer of high trust and confidence, far distant from his country, and thus unable to defend himself. They did condescend thus to accuse him in the face of the President's Message, which declares that he had perfectly understood, and faithfully executed, the real intentions of the Executive whose minister he is. They did condescend to condemn him unheard, upon evidence, to say the least, very questionable; and I cannot think it would have been unbecoming their dignity, to give a moment of consideration to the reasons alleged for his conduct. That condescension which the committee denied him, I hope this Senate will freely grant. It will exalt rather than debase even the Senate of the United States, to consider the reasons alleged in behalf of a fellow-citizen, and fellow-servant of the public, accused of having betrayed his trust and disgraced his country. It is the more surprising, sir, that the committee should have treated with such contempt the reasons for negotiating the peace, when we find by their own statement that the first of these reasons is the danger of the American prisoners in Tripoli. The committee say they think it had no foundation; but if this was their opinion, might not Commodore Barron and Mr. Lear, without being idiots or traitors, have another? It is indeed a little singular that the letter from Commodore Rodgers, which the chairman of the committee has read you, is itself conclusive evidence that the danger in which the prisoners might be, was the decisive reason for concluding the peace. He says, indeed, that he never thought the prisoners in danger, himself; but he explicitly declares that the apprehension of what the Bashaw in his despair might do with them, was the preponderating impulse to the negotiation. The report also contains an extract from a letter of Lieutenant Wormeley, then himself a prisoner, and who likewise says that he does not think their lives were in danger. Well, sir, and what does this prove? That Lieutenant Wormeley is a man of intrepidity, not easily terrified. Of this I have no doubt; but it proves no more; for in the same letter he says he was all the time in close confinement, and had very little means of knowing what the Bashaw's intentions were, or what he was likely to have done. On the other hand, you have the testimony of Captain Bainbridge, and of the Danish consul, Nissen. The chairman of the committee tells you that Captain Bainbridge says nothing of that import himself; but Mr. Nissen says it, in a postscript to a letter written by Captain Bainbridge, and which he therefore must have known of before it was sent; and, besides this, there are several other letters of Captain Bainbridge, among the unprinted documents, in which he assumes the style of a strong suppliant for peace. To the same effect is the following extract from Mr. Lear's letter to the Secretary of State, giving an account of the negotiation—"At 11 A. M., June 1st, our unfortunate 'countryman, Captain Bainbridge, came on board, 'who had been permitted to come off under the 'guaranty of the Danish consul, and Sidi Mahomet Dghies, the Minister of Foreign Affairs. He 'assured me that the Americans would not be 'delivered until a treaty of peace should be made 'with the Bashaw, as peace was more his object 'than the sum he might get for the captives; and 'as it was our intention to conclude a treaty, it 'would be cruel to let our countrymen languish in 'captivity, merely on the punctilio of negotiating 'a treaty before or after their delivery, as whatever 'related to them was already understood." The chairman of the committee has told us that Mr. Nissen, who was merely a consul, could not be so well informed as Mr. Wormeley, whether the prisoners were in danger or not. How his testimony can lose any of its weight from his being a consul, I am at a loss to imagine. He was indeed a consul; he was also that friend of our country, that friend of humanity, whose benevolence and kind attentions to our fellow-citizens in captivity have been acknowledged by a solemn vote of thanks passed by both Houses of Congress during the present session; and from his situation at the time, I should suppose his means of information must have been greater than those of a prisoner in close confinement. Besides, sir, although we now are acquainted with Mr. Wormeley's opinion, it could not be known to Commodore Barron or Mr. Lear, then. He had no access to them, nor they to him. They acted on the information they had, and not on that which they could not have. I will indeed freely acknowledge that my own opinion agrees with that of Mr. Wormeley, and not with that of Mr. Nissen; I do not believe that in any event the Bashaw would have sacrificed the lives of our prisoners. I believe he would have followed the course most useful to himself, and that, at the last extremity, he would rather have turned them to such account as he could, and given them up for peace rather than put them to death. This may have been an error in Mr. Lear; but as far as I can find from the papers before us,

> "The very head and front of his offending
> Had this extent—no more."

Yet, sir, when I consider the extreme solicitude manifested through this whole country for the fate of these our unfortunate fellow-citizens, and how anxious we all were for their redemption, I can excuse that error which consisted in too tender a regard for their situations, though I cannot justify it altogether; I certainly never can brand as treachery, what, at worst, was virtue carried too far, on the borders of weakness.

The President's Message, after stating what were really the intentions of this Government in respect to a co-operation with Hamet—after stating that Commodore Barron had most correctly understood these intentions, refers to Hamet's letter of June 29th, as a proof that he himself had also understood them, and our engagements with him in the same manner; but the report of the committee, after tacitly rejecting the declaration of the President, after undertaking to disqualify Commodore Barron by his illness, concludes with disqualifying Hamet himself, because he was among strangers, in distress, and in fear of starving. They discredit alike both the parties to the contract, and the only person authorized to the negotiation. Commodore Barron was not a moral agent, for he was sick. The ex-Bashaw was not a moral agent, because he was famished. Why the President was not to be credited, they have indeed left us to conjecture; but it is a new mode of establishing facts, to deny the powers of moral agency to all the persons, who are the best possible witnesses to the transactions.

The last assertion of the report, for which I can find no sufficient support in the documents before us, and which I shall now notice, is, that the stipulation of the reigning Bashaw, to deliver up his brother, his wife, and children, has not been carried into execution, and that "it is highly probable it was never intended to be." That they have not been delivered up, I suppose to be true. That they have been demanded, does not appear. That they could be demanded before the ratification of the treaty, is at least questionable; but that they will be demanded and obtained, I do trust and believe, for I hope the ratification of the treaty will give us a perfect right to make the demand. I cannot believe, sir, that it was not intended to be executed. Upon what evidence did the committee form this opinion? Was it upon the assertion in Mr. Eaton's letter to the Secretary of the Navy? That, sir, must, I think, be founded upon some mistake; for it intimates that there was a secret article to that effect. Now, sir, we know that this could not be; as an article of the treaty, if secret, we must have known it in this body. It must have been communicated to us. We know that there is no such article as an agreement between the Bashaw and Mr. Lear, no such agreement could take place. Mr. Lear could not possibly make it. Had he incurred the guilt and folly of assenting to such a bargain, it could not take from us the right of insisting, as I hope we shall effectually do, upon the real and formal stipulation of the treaty. Such an intention must have defeated itself.

There are many other facts stated in this report, sir, against the correctness of which objections might be made, but which, as being of minor importance, I leave unnoticed. There may be, and probably are, others which have escaped my observation. According to my view of the documents, the embarrassment would be, not in selecting those, but in finding any to which the conviction of my mind could assent. Had the bill been constructed upon the only foundation which can, in my opinion, warrant a grant to Hamet Caramalli, I mean the foundation recommended by the President's Message—the liberality and magnanimity of the nation—it would have had my willing vote. But, questionable as the statement of the report appears to me, I see no such principles of duty arising from it, as it alleges, and must therefore vote against the passage of the bill.

WEDNESDAY, April 2.

The bill for the relief of Gilbert C. Russel was read the second time, and ordered to the third reading.

Mr. WORTHINGTON, from the committee to whom was referred, on the 28th of February last, the bill, entitled "An act to continue in force an act, entitled An act to authorize the Secretary of War to issue land warrants, and for other purposes," reported the bill with amendments; which were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have proceeded to consider the modification of the amendment of the Senate to the bill, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives;" whereupon, *Resolved*, That the House of Representatives doth disagree to the said modification, and doth adhere to their disagreement to the said amendment. They have passed a bill, entitled "An act supplementary to the act, entitled 'An act to extend jurisdiction, in certain cases, to the Territorial courts;" also, a bill, entitled "An act to provide for the adjustment of titles of land in the Territory of Michigan and for other purposes;" in which bills they desire the concurrence of the Senate.

The two bills last mentioned were read, and ordered to the second reading.

Mr. BAYARD, from the committee to whom was referred, on the 29th of March last, the account of expenses for fitting up the Senate Chamber, for the trial of the impeachment of Judge Chase, signed, for B. H. Latrobe, John Lenthall, made report; which was read, and ordered to lie for consideration.

The Senate resumed the third reading of the bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli; and, on motion to amend the bill, the Senate adjourned.

THURSDAY, April 3.

The resolution reported by the committee, appropriating a sum to discharge the account for fitting up the Senate Chamber for the trial of the impeachment of Judge Chase, was read the second time, and passed to the third reading.

Mr. BAYARD asked and obtained leave of absence for the remainder of the session.

The bill, entitled "An act supplementary to the act, entitled 'An act to extend jurisdiction in certain cases to the Territorial courts," was read the second time, and referred to Mr. MITCHILL, Mr. ADAMS, and Mr. TURNER, to consider and report thereon.

The bill, entitled "An act to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes," was read the second time, and referred to Mr. TRACY and others, the committee to whom was referred, on the 23d of December last the Message of the President of the United States on this subject, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the amendments reported to the bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes," and having in part adopted the report, the bill was amended and reported to the House accordingly.

Ordered, That the bill pass to the third reading as amended.

Ordered, That Mr. BRADLEY be on the committee appointed to consider the bill, entitled "An act authorizing a detachment from the militia of the United States," in place of Mr. SMITH of Maryland, President *pro tempore*.

The bill for the relief of Gilbert C. Russel was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend the act entitled 'An act to divide the Indiana Territory into two separate governments,' and for other purposes;" also, a bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1806;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives, adhering to their disagreement to the amendment of the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," to wit: the insertion of a section to follow the first section of the original bill.

Resolved, That the Senate recede from their said amendment.

The Senate resumed the third reading of the bill for the relief of Hamet Caramalli, ex Bashaw of Tripoli;" and, on motion, that the bill, together with the report of the committee of the 17th of March last be recommitted, it passed in the affirmative—yeas 15, nays 14, as follows:

YEAS—Messrs. Adams, Baldwin, Condit, Gaillard, Gilman, Howland, Kitchel, Logan, Moore, Plumer, Smith of New York, Smith of Vermont, Stone, Sumter, and Turner.

NAYS—Messrs. Adair, Anderson, Bayard, Bradley, Hillhouse, Maclay, Pickering, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Tracy, White, Worthington, and Wright.

And, on motion, it was agreed that they be referred to the committee who brought in the bill, with the addition of Messrs. ADAMS and SUMTER further to consider and report thereon.

Mr. SMITH of Ohio, from the committee to whom was referred, on the 31st of March last, the bill to suspend the sale of certain lands in the State of Ohio and the Indiana Territory, reported the bill without amendment.

On motion,

Resolved, That the letters of Mr. Eaton, Captain Dent, and Lieutenant Wormeley, in answer to the inquiries stated by the chairman of the committee on the application of Hamet Caramalli, be printed, together with the following letters, to wit:

From Commodore Rodgers to the Secretary of the Navy, of the date of June 8, 1805.

From Hamet Bashaw to Commodore Barron, of February 15, 1805.

From Commodore Barron to Hamet Bashaw, of March 21, 1805.

From Commodore Barron to Captain Hull, of March 23, 1805.

From William Eaton to Commodore Barron, of May 29, 1805.

From Commodore Rodgers to William Eaton, of June 5, 1805.

The remainder of the letter from Tobias Lear to William Eaton, not published before, of June 6, 1805.

From William Eaton to Commodore Rodgers, June 13, 1805.

From Tobias Lear to the Secretary of State, dated July 5, 1805.

From the Secretary of State to Tobias Lear, dated June 6, 1804.

FRIDAY, April 4.

The bill entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1806." was read the second time, and referred to Messrs. STONE, BALDWIN, and ADAIR, to consider and report thereon.

The bill, entitled "An act to divide the Indiana Territory into two separate governments, and for other purposes," was read the second time, and referred to Messrs. WORTHINGTON, TRACY, and BALDWIN, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate to the bill, entitled "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes,' as is contained in the second section thereof." with amendments to the amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France;" also, a bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" in which bills they request the concurrence of the Senate. They have passed a joint resolution "that a committee be appointed to confer with a committee of the Senate, on the time that the two Houses of Congress may adjourn."

The two bills last mentioned in the message were read, and ordered to the second reading.

Mr. MITCHILL presented the petition of Azariah Egleston and others, praying that a post road may be established, for reasons stated in the petition from the city of Albany, in the State of New York,

to the city of Hartford, in the State of Connecticut, on the Farington river road; and the petition was read, and ordered to lie for consideration.

The Senate took into consideration the amendments of the House of Representatives to their amendments to the bill, entitled "An act to regulate so much of the act, entitled 'An act regulating foreign coins, and for other purposes,' as is contained in the second section thereof;" and concurred therein.

The Senate resumed the second reading of the bill to suspend the sale of certain lands in the State of Ohio and the Indiana Territory;" and,

Ordered, That it pass to a third reading.

Mr. TRACY, from the committee to whom was referred, on the 28th of January last, the report and estimates of appropriations necessary for the year 1806, asked and obtained leave to report by bill.

The resolution of the House of Representatives for the appointment of a joint committee to confer on the time Congress may adjourn, was read, and ordered to lie for consideration.

The Senate resumed the third reading of the bill entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt;" and on motion to strike out the first section of the bill, as follows:

"Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for the lands of the United States, shall, from and after the 30th of April, 1806, be repealed: *Provided*, That the right of all persons who may have purchased public lands previous to the passage of this act, to pay for the same in stock, shall in no wise be affected or impaired: *And provided further*, That there shall be allowed on every payment made at or before the same shall fall due, for the lands purchased before the 30th of April, 1806, in addition to the discounts now allowed by law, a deduction equal to the difference at the time of such payment, between the market price of six per cent. stock and the nominal value thereof; which market price shall, from time to time, be stated by the Secretary of the Treasury to the officers of the several land offices:"

It passed in the negative—yeas 7, nays 21, as follows:

YEAS—Messrs. Adair, Adams, Hillhouse, Pickering, Smith of Maryland, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Bradley, Condit, Gaillard, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Plumer, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, Turner, Worthington, and Wright.

On motion to agree to the final passage of the bill as amended, it passed in the affirmative—yeas 22, nays 6, as follows:

YEAS—Messrs. Anderson, Baldwin, Bradley, Condit, Gaillard, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Plumer, Smith of New York, Smith of Tennessee, Smith of Vermont, Stone, Sumter, Thruston, Tracy, Turner, Worthington, and Wright.

NAYS—Messrs. Adair, Adams, Hillhouse, Pickering, Smith of Maryland, and White.

So it was resolved that this bill pass as amended.

The resolution authorizing the payment of the account for fitting up the Senate Chamber for the trial and impeachment of Judge Chase, was read the third time, and agreed to, as follows:

Resolved, That the sum of eight hundred and three dollars and seventeen cents and a half be appropriated, out of the contingent fund, to be applied by the Secretary of the Senate in payment of the balance of the accounts allowed by the President of the Senate for expenses attending the trial of the impeachment of Judge Chase, and remaining unpaid; and to the list of accounts relative to the same object, furnished by John Lenthall for B. H. Latrobe, countersigned by the chairman of this committee.

On motion,

Resolved, That the following documents be printed in addition to those ordered to be printed yesterday:

A letter from Captain W. Bainbridge to Commodore S. Barron, dated 16th March, 1805.

A letter from the Danish Consul, Nissen, to Commodore S. Barron, dated 18th March, 1805.

Letters from Captain W. Bainbridge, to Commodore S. Barron, dated 22d March, 1805, and 1st April.

A letter from S. Barron, to T. Lear, dated 22d May, 1805.

A letter from S. Baron, to John Rodgers, dated 22d May, 1805.

A letter from S. Barron, to John Rodgers, dated 25th May, 1805.

Letters from Commodore John Rodgers, to Commodore S. Barron, dated 28th, 29th, and 30th May, 1805.

A letter from the same, to the same, dated 3d June, 1805.

The bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes,'" was read the third time as amended.

Resolved, That this bill pass as amended.

Mr. BALDWIN, from the committee to whom was referred, on the 28th of March last, the bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," reported the same with amendments; which were read.

The Senate resumed the consideration of the bill for the encouragement of the shipping and navigation of the United States; and the bill was postponed to the first Monday in December next.

The bill making provision for the defence of the Territory of Orleans, and for the disposal of a part of the public land therein, was resumed, and the further consideration of the bill was postponed to the first Monday in December next.

Mr. MITCHILL, from the committee to whom was referred on the 24th of March last, the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," reported it without amendment.

MONDAY, April 7,

The bill, entitled "An act further to alter and establish certain post roads, and for other purposes," was read the second time, and referred to Messrs. ANDERSON, WHITE, and STONE, to consider and report thereon.

The bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France," was read the second time, and referred to Messrs. MITCHILL, MOORE, and ANDERSON, to consider and report thereon.

Mr. TRACY, from the committee to whom was referred, on the 29th of March last, the bill, entitled "An act making appropriations for the support of Government for the year 1806," reported the bill with amendments.

Agreeably to leave given, on the 4th instant, Mr. TRACY reported "A bill to regulate and fix the compensation of clerks, and for other purposes;" and the bill was read, and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives for the appointment of a joint committee to confer on the time when Congress may adjourn; and

Resolved, That they do not concur therein.

Mr. WRIGHT communicated a resolution of the Legislature of the State of Maryland instructing their Senators and Representatives in Congress to use their utmost exertions to obtain an amendment to the Constitution of the United States to prevent the further importation of slaves; whereupon, Mr. WRIGHT submitted the following resolutions for the consideration of the Senate:

Resolved, &c. That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid as a part of the said Constitution to wit:

Resolved, That the migration or importation of slaves into the United States, or any territory thereof, be prohibited after the first day of January 1808.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," and the bill was reported to the House without amendment.

On the question, Shall this bill pass to the third reading? it was determined in the affirmative—yeas 17, nays 11, as follows:

YEAS—Messrs. Baldwin, Bradley, Condit, Gaillard, Gilman, Hillhouse, Howland, Logan, Moore, Pickering, Plumer, Smith, of New York, Smith, of Tennessee, Smith, of Vermont, Stone, Sumter, and White.

NAYS—Messrs. Adair, Adams, Anderson, Kitchel, Maclay, Smith, of Maryland, Thruston, Tracy, Worthington, and Wright.

The bill to suspend the sale of certain lands in the State of Ohio and the Indiana Territory, was read the third time, and the further consideration thereof postponed.

Mr. ADAMS, from the committee to whom was referred, on the 28th of March last, the bill for the regulation of the fees of attorneys, and the officers of the courts of the District of Columbia, and for other purposes, reported the bill with amendments, which were read, and ordered to lie for consideration.

TUESDAY, April 8.

A Message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for erecting certain light-houses in the State of Massachusetts; for building a beacon or pier at Bridgeport, in the State of Connecticut; and for fixing buoys in Pamlico Sound, in the State of North Carolina;" also, "a joint resolution authorizing the President of the Senate, and Speaker of the House of Representatives, to adjourn their respective Houses on Wednesday, the 16th of April instant;" in which bill and resolution they request the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The resolution last brought up for concurrence was read.

Mr. TRACY, from the committee to whom was referred, on the 28th of March last, the bill in addition to the act for establishing a Mint, and regulating the coins of the United States, reported the bill with amendments.

The Senate resumed the third reading of the bill to suspend the sale of certain lands in the State of Ohio and the Indiana Territory; and,

Resolved, That this bill do pass, that it be engrossed, and that the title thereof be "An act to suspend the sale of certain lands in the State of Ohio and the Indiana Territory."

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate to the bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment of lands of the United States, and for other purposes relative to the public debt," with an amendment to the fourth amendment, and disagree to the last amendment, ask a conference thereon, and have appointed managers on their part.

The Senate took into consideration the resolution of the House of Representatives, asking a conference on their amendment to the bill last mentioned; and,

Resolved, That they do agree to the conference, and that Messrs. TRACY and BALDWIN be managers on the part of the Senate.

The Senate took into consideration, as in Committee of the Whole, the amendments reported on the 7th instant, to the bill entitled "An act making appropriations for the support of Government for the year 1806;" and, having agreed thereto, the further consideration thereof was postponed.

The bill to regulate and fix the compensations of clerks, and for other purposes, was read the second time; and passed to the third reading.

WEDNESDAY, April 9.

Mr. STONE, from the committee to whom was referred, on the 4th instant, the bill, entitled, "An act making appropriations for the support of the Military Establishment of the United States for the year 1806," reported the bill without amendment.

Mr. SUMTER, from the committee to whom was referred, on the 29th of January last, the bill entitled "An act authorizing a detachment from the militia of the United States," reported the bill without amendment.

Mr. BRADLEY, from the committee to whom was referred on the 3d instant, the bill for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, together with the report thereon, of the 17th of March last, made report, that the further consideration thereof be postponed until the first Monday in December next; and the report was adopted.

The resolution of the House of Representatives authorizing the adjournment of both Houses of Congress on the 16th of the present month, was read the second time, and the consideration thereof postponed until Saturday next.

The bill entitled "An act for erecting certain light houses in the State of Massachusetts; for building a beacon or pier at Bridgeport in the State of Connecticut; and for fixing buoys in Pamlico Sound, in the State of North Carolina," was read the second time, and referred to Messrs. TURNER, ADAMS, and PICKERING, to consider and report thereon.

The resolution that, on account of the funeral expenses of the honorable James Jackson, late a Senator, the Secretary of the Senate be authorized to pay, out of the contingent fund of the Senate, the amount of such accounts as may be allowed and certified by the Committee of Arrangement, was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act in addition to 'An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee;" a bill entitled "An act to amend, in the cases therein mentioned, the act to regulate the collection of duties on imports and tonnage;" and the bill entitled "An act for establishing trading-houses with the Indian tribes;" in which bills they desire the concurrence of the Senate.

The last three bills brought up for concurrence were read, and ordered to the second reading.

The Senate took into consideration, as in Committee of the Whole, the amendments to the bill for the regulation of the fees of attorneys and the officers of the courts of the District of Columbia and for other purposes;" and, having further amended the bill, it was reported to the House accordingly.

Ordered, That the bill pass to the third reading as amended.

Resolved, That the PRESIDENT of the Senate notify the Executive of the State of Georgia, of the death of JAMES JACKSON, late a Senator of that State for the United States.

The bill to regulate and fix the compensations of clerks, and for other purposes, was read the third time; and, having been further amended,

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to regulate and fix the compensation of clerks, and for other purposes."

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported to the bill, entitled "An act making appropriations for the support of Government for the year 1806;" and, having further amended the bill, it was reported to the House accordingly.

THURSDAY, April 10.

Ordered, That the report of the Secretary of the Treasury, on the memorial of John Chester, be referred to Messrs. HILLHOUSE, BALDWIN, and ANDERSON, to consider and report thereon.

Ordered, That two hundred copies of the letter of the Treasurer of the United States to the Vice President, of the 28th of January, 1806, together with the accounts of the Treasury, War, and Navy Departments, from October 1, 1804, to October 1, 1805, be printed.

The bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," was read the second time, and referred to Messrs. ADAMS, BALDWIN, and STONE, to consider and report thereon.

The bill, entitled "An act to amend, in the cases therein mentioned, 'the act to regulate the collection of duties on imports and tonnage," was read the second time, and referred to Messrs. MITCHILL, BALDWIN, and STONE, to consider and report thereon.

The bill, entitled "An act for establishing trading-houses with the Indian tribes," was read the second time, and referred to Messrs. ANDERSON, SMITH, of Ohio, and STONE, to consider and report thereon.

The Senate took into consideration the resolution submitted on the 7th instant, for an amendment to the Constitution of the United States, for prohibiting, after the first of January, 1808, the further importation of slaves; and the further consideration thereof was postponed until the first Monday in December next.

The Senate took into consideration, in Committee of the Whole, (Mr. ANDERSON having been requested by the PRESIDENT to take the Chair,) the amendments reported by the select committee to the bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise." And, after debate, the PRESIDENT resumed the Chair, and Mr. ANDERSON, from the Committee of the Whole, reported that they had disagreed to the amendments of the select committee, but had agreed to an amendment to the bill; which was read, and the bill was amended accordingly; and, on the question, Shall the bill pass to the third reading, as amended? it passed in the affirmative—yeas 19, nays 9 as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Condit, Gaillard, Gilman, Howland, Kitchel, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Thruston, Turner, and Wright.

NAYS—Messrs. Adair, Bradley, Hillhouse, Pickering, Plumer, Stone, Sumter, Tracy, and White.

The bill, entitled "An act making appropriations for the support of Government for the year 1806," was read the third time as amended.

Resolved, That this bill pass with amendments.

On motion, it was agreed that the third reading of the bill, entitled 'An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," be the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1806;" and the bill having been reported to the House without amendment,

Ordered, That it pass to a third reading.

The Senate resumed the consideration of the resolutions of the 17th of March last, relative to William Eaton, and others, late officers in the army of the ex Bashaw of Tripoli.

Ordered, That the further consideration thereof be postponed until the first Monday in December next.

Mr. ANDERSON, from the committee to whom was referred, on the 7th instant, the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," reported the bill with amendments.

The resolution for defraying the expenses of the funeral of JAMES JACKSON, late a Senator of the United States, from the State of Georgia, was read the second time, and passed to the third reading.

The bill for the regulation of the fees of attorneys and the officers of the courts of the District of Columbia, and for other purposes, was read the third time as amended, and further amendments having been proposed, the consideration thereof was postponed.

FRIDAY, April 11.

Mr. BRADLEY presented the memorial of Ira Allen, stating that he has sustained great damage and sufferings by the capture of a quantity of arms and ordnance, under the authority of the British Government, which were purchased in France, for the supply of the militia of the State of Vermont, in the year 1795, and praying redress; and the memorial was read, and referred to the Secretary for the Department of State, to report thereon.

Mr. TRACY, from the managers at the conference on the amendments to the bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt," made report: Whereupon,

Resolved, That the Senate do agree to the amendment proposed by the House of Representatives to their fourth amendment, and that they insist on their last amendment disagreed to by the House of Representatives.

Mr. MITCHILL, from the committee to whom was referred, on the third of April, the bill, entitled "An act supplementary to the act, entitled 'An act to extend the jurisdiction, in certain cases, to the Territorial courts," reported amendments; which were read.

Mr. MITCHILL, from the committee to whom was referred, on the 7th of April, the bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France," reported the bill without amendment.

The Senate considered, as in Committee of the Whole, the bill, entitled "An act authorizing a detachment from the militia of the United States;" and the bill having been amended, was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress a statement of the militia of the United States, according to the returns last received from the several States and Territories. It will be perceived that some of these are not of recent dates, and that from the States of Maryland and Delaware no returns are stated. As far as appears from our records, none were ever rendered from either of these States. From the Territories of Orleans, Louisiana, and Michigan, complete returns have not yet been received.

TH. JEFFERSON.

APRIL 11, 1806.

The Message and documents were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate for concurrence, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to lands therein described, and to settle the claims to the vacant and unappropriated lands within the same," with amendments, in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act to prohibit the officers of the Army and Navy from holding or exercising any civil office," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

Mr. ANDERSON, from the committee appointed 31st December, to consider the memorial of the House of Representatives of the Territory of Orleans, reported a bill supplementary to the act, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana;" which was read, and ordered to the second reading.

The bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," was read the third time; and, on motion to postpone the further consideration thereof until the first Monday in December next, it passed in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Adair, Adams, Anderson, Baldwin, Gilman, Hillhouse, Howland, Kitchel, Maclay, Mitch

ill, Pickering, Smith of Maryland, Smith of New York, Stone, Sumter, Thruston, Tracy, Worthington, and Wright.

NAYS—Messrs. Bradley, Condit, Gaillard, Moore, Plumer, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Turner and White.

So the bill was postponed.

SATURDAY, April 12.

The Senate took into consideration the report of the committee on the memorial of the President and Directors of the Chesapeake and Delaware Canal Company; and the further consideration thereof was postponed until the first Monday in December next.

The resolution of the House of Representatives authorizing the adjournment of Congress on Wednesday, the 16th of the present month, was resumed and amended, by insertion of Monday, the 21st, in place of Wednesday, the 16th.

Ordered, That it pass to the third reading as amended.

Mr. ANDERSON, from the committee to whom was referred, on the 10th instant, the bill, entitled "An act for establishing trading-houses with the Indian tribes," reported the bill with amendments.

Mr. TRACY, from the committee to whom was referred, on the third instant, the bill, entitled "An act to provide for the adjustment of titles to land in the Territory of Michigan, and for other purposes," reported the bill with amendments.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" and the further consideration thereof was postponed until Monday next.

The bill, entitled "An act to prohibit the officers of the Army and Navy from holding or exercising any civil office," was read the second time; and, on motion to postpone this bill to the first Monday in December next, it passed in the affirmative—yeas 17, nays 10, as follows:

YEAS—Messrs. Adair, Adams, Baldwin, Condit, Gilman, Howland, Kitchel, Logan, Mitchill, Plumer, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Tracy, White, and Wright.

NAYS—Messrs. Anderson, Gaillard, Hillhouse, Maclay, Moore, Pickering, Stone, Sumter, Turner, and Worthington.

So the bill was postponed.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill in addition to "An act for establishing a Mint, and regulating the coins of the United States;" and, having agreed thereto, the bill was reported to the House accordingly.

Ordered, That this bill pass to a third reading as amended.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill, entitled "An act supplementary to the act, entitled 'An act to extend jurisdiction in certain cases, to the Territorial courts;" and, having agreed to the amendments, the bill was reported to the House accordingly.

Ordered, That this bill pass to a third reading, as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Navy of the United States;" a bill, entitled "An act prescribing the effect in each State of the records of judgments and decrees of courts of records of every other State;" and a bill, entitled "An act making a further appropriation towards the completing the south wing of the Capitol at the City of Washington;" in which bills they request the concurrence of the Senate. They insist on their disagreement to the last amendment of the Senate to the bill, entitled "An act to repeal so much of the act entitled 'An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt." They agree to the first, and disagree to all the other amendments of the Senate to the bill, entitled "An act making appropriations for the support of Government for the year 1806," and request a conference on the amendments disagreed to, and have appointed managers on their part.

The three bills last brought up for concurrence, were read, and ordered to the second reading.

MONDAY, April 14.

The bill supplementary to the act, entitled "An act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans and district of Louisiana," was read the second time and passed to a third reading.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1806;" was read the second time, and referred to Messrs. BALDWIN, MITCHILL, and TRACY, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom was referred, on the 6th instant, the bill, entitled "An act to divide the Indiana Territory into two separate governments, and for other purposes;" reported amendments, which were read.

The bill, entitled "An act prescribing the effect in each State of the records of judgments and decrees of courts of record of every other State," was read the second time, and referred to Messrs. ANDERSON, MITCHILL, and SMITH of Vermont, to consider and report thereon.

The bill, entitled "An act making a further appropriation towards completing the south wing of the Capitol, at the City of Washington," was read the second time.

Ordered, That it pass to a third reading.

The Senate resumed the consideration of the amendment to the bill, entitled "An act to repeal so much of any act or acts as authorize the receip of evidences of the public debt in payment fot lands of the United States, and for other purposes

relative to the public debt;" disagreed to by the House of Representatives; and

Resolved, That the Senate agree thereto as amended.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives, to the bill, entitled "An act making appropriations for the support of Government for the year 1806," and their request of a conference thereon; and

Resolved, That the Senate agree to the said conference, and that Messrs. TRACY and BALDWIN be the managers on their part.

The resolution of the House of Representatives, of the 8th instant, on the subject of adjournment, was read the third time; and

Resolved, That the Senate agree thereto, as amended.

The Senate considered the amendments of the House of Representatives to the bill, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;" and,

Resolved, That they concur therein.

The bill, entitled "An act authorizing a detachment from the militia of the United States," was read the third time, as amended, and passed.

The bill for the regulation of the fees of attorneys, and the officers of the courts of the District of Columbia, and for other purposes," was resumed, amended; and, on the question, Shall this bill pass? it was

Resolved, in the affirmative; and that the bill be engrossed, and that the title thereof be "An act for the regulation of the times of holding the courts of the District of Columbia, and for other purposes."

A message from the House of Representatives informed the Senate that the House have passed the following bills, in which they request the concurrence of the Senate: a bill, entitled "An act respecting the claims to land in the Indiana Territory, and State of Ohio;" a bill entitled "An act concerning the further safeguard of vessels in the vicinity of the United States and the territories thereof;" a bill entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians;" and a bill, entitled "An act making appropriations for carrying into effect certain Indian treaties."

The two bills last mentioned were twice read, by unanimous consent, and referred to Messrs. ANDERSON, STONE, and BALDWIN, to consider and report thereon.

The two bills first mentioned were read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES, which was read, and ordered to lie for consideration:

To the Senate and House of Representatives of the United States:

During the blockade of Tripoli by the squadron of the United States, a small cruiser, under the flag of Tunis, with two prizes (all of trifling value) attempted to enter Tripoli, was turned back, warned, and attempting again to enter, was taken and detained as prize by the squadron. Her restitution was claimed by the Bey of Tunis, with a threat of war, in terms so serious, that, on withdrawing from the blockade of Tripoli the commanding officer of the squadron thought it his duty to repair to Tunis with his squadron, and to require a categorical declaration, whether peace or war was intended. The Bey preferred explaining himself by an Ambassador to the United States, who, on his arrival, renewed the request that the vessel and her prizes should be restored. It was deemed proper to give this proof of friendship to the Bey, and the Ambassador was informed the vessels would be restored. Afterwards he made a requisition of naval stores to be sent to the Bey, in order to secure a peace for the term of three years, with a threat of war, if refused. It has been refused, and the Ambassador is about to depart without receding from his threat or demand.

Under these circumstances, and considering that the several provisions of the act of March 25th, 1804, will cease, in consequence of the ratification of the treaty of peace with Tripoli, now advised and consented to by the Senate, I have thought it my duty to communicate these facts, in order that Congress may consider the expediency of continuing the same provisions for a limited time, or making others equivalent.

TH. JEFFERSON.

APRIL 14, 1806.

On motion, it was

Resolved, That the Judges of the District of Columbia be requested to report a fee-bill for the officers and attorneys of the said District, to the Senate of the United States, at their next session.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1806," was read the third time, and passed.

The bill, entitled "An act supplementary to the act, entitled "An act to extend jurisdiction in certain cases to the Territorial courts," was read the third time as amended.

Resolved, That this bill pass with the amendment.

The resolution, first read on the 9th instant, respecting the funeral expenses of James Jackson, was read the third time and agreed to.

The bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States, on the Government of France," was considered.

Ordered, That this bill pass to a third reading.

The bill, entitled "An act for establishing trading houses with the Indian tribes," was considered as in Committee of the Whole; and the amendments having been agreed to, the bill was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

The bill, entitled "An act further to alter and establish certain post roads, and for other purposes," was considered as in Committee of the Whole, and the amendments in part adopted.

Ordered, That the further consideration of this bill be postponed.

Mr. TURNER, from the committee appointed to consider the bill, entitled "An act for erecting

certain light-houses in the State of Massachusetts, for building a beacon or pier at Bridgeport, in the State of Connecticut, and for fixing buoys in Pamlico Sound, in the State of North Carolina," reported the bill without amendment.

TUESDAY, April 15.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act to amend, in the case therein mentioned, the "Act to regulate the collection of duties on imports and tonnage," reported it without amendment.

Mr. MITCHILL communicated the memorial of Augustus B. Woodward, stating the critical situation of the Michigan Territory, and praying that the measures on that subject now under the consideration of Congress, may be adopted; and it was agreed that the memorial, with sundry documents accompanying it, lie on the table, until the bill on the subject shall be considered as in Committee of the Whole.

Mr. TRACY reported sundry modifications from the committee of conference, on the bill, entitled "An act making appropriations for the support of Government for the year 1806;" and the report was adopted; and it was agreed to modify the bill accordingly.

The bill entitled "An act concerning the further safeguard of vessels in the vicinity of the United States and the Territories thereof," was read the second time, and referred to Messrs. BALDWIN, TRACY, and MITCHILL, to consider and report thereon.

The bill, entitled "An act respecting claims to land in the Indiana Territory, and State of Ohio," was read the second time, and referred to Messrs. SMITH of Ohio, BALDWIN, and SMITH of New York, to consider and report thereon.

Mr. ANDERSON, from the committee to whom was referred, yesterday, the bill, entitled "An act making appropriations for carrying into effect a Treaty between the United States and the Chickasaw tribe of Indians;" also, the bill, entitled "An act making appropriations for carrying into effect certain Indian treaties;" reported the bills, severally, without amendment.

The Senate resumed, as in Committee of the Whole, the amendments reported to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" and having agreed thereto, and further amended the bill, it was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The Senate having advised and consented to the ratification of a treaty concluded with the Piankeshaw Indians, for extinguishing their claim to the country between the Wabash and Kaskaskia cessions, it is now laid before both Houses for the exercise of their Constitutional powers, as to the means of fulfilling it on our part. TH. JEFFERSON.

APRIL 15, 1806.

The Message was read, and ordered to lie for consideration.

Mr. BALDWIN, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1806," reported the bill without amendment.

The bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," was read the third time; and the amendment adopted was again considered and rejected.

A motion was made to postpone the bill for the purpose of considering the following resolution:

Resolved, That, in consequence of a more favorable course of conduct on the part of Great Britain, in respect to the disturbance of the trade of the United States; and entertaining a hope that the British Ministry, lately established, will be disposed to a reasonable arrangement of all affairs of difference between the two nations, the Senate do hereby postpone the further consideration of the bill, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," to the first Monday in November next.

And, on the question to agree to this motion, it passed in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Adair, Adams, Hillhouse, Logan, Pickering, Plumer, Sumter, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Condit, Gaillard, Gilman, Howland, Kitchel, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Thruston, Worthington, and Wright.

And on the question, Shall this bill pass? it was determined in the affirmative—yeas 19, nays 9, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Condit, Gaillard, Gilman, Howland, Kitchel, Maclay, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Thruston, Worthington, and Wright.

NAYS—Messrs. Adair, Hillhouse, Logan, Pickering, Plumer, Stone, Sumter, Tracy, and White.

So it was *Resolved*, That this bill pass.

WEDNESDAY, April 16.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats;" in which they request the concurrence of the Senate.

The bill was read the first and second time by unanimous consent.

Ordered, That it pass to a third reading.

Mr. ANDERSON, from the committee to whom was referred, on the 14th instant, the bill, entitled "An act prescribing the effect, in each State, of the records of judgments and decrees of the courts of record of every other State," reported the bill with amendments.

Mr. ADAMS, from the committee to whom was referred, on the 10th instant, the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee," reported the bill with amendments.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments to the bill, entitled "An act to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes;" and the amendments were adopted, and having been reported to the House, the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to amend the act, entitled 'An act to divide the Indiana Territory into two separate governments, and for other purposes."

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

The bill in addition to the act establishing a Mint, and regulating the coins of the United States, was read the third time as amended.

Resolved, That this bill pass, that it be engrossed and that the title thereof be "An act in addition to the act establishing a Mint, and regulating the coins of the United States."

The bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France," was read the third time and passed.

The bill supplementary to the act, entitled "An act for ascertaining and adjusting the titles and claims within the Territory of Orleans and the district of Louisiana," was read the third time and passed.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1806," was resumed.

Ordered, That this bill pass to a third reading.

The bill, entitled "An act for erecting certain light-houses in the State of Massachusetts; for building a beacon or pier at Bridgeport, in the State of Connecticut; and for fixing buoys in Pamlico Sound, in the State of North Carolina," was resumed.

Ordered, That this bill pass to a third reading.

The bill, entitled "An act further to alter and establish certain post roads, and for other purposes," was read the third time as amended and passed.

THURSDAY, April 17.

The Senate resumed, as in Committee of the Whole, the amendments reported to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" and, having adopted the amendments, the bill was reported to the House accordingly.

Ordered, That the bill pass to the third reading as amended.

The Senate resumed the second reading of the bill, entitled "An act to amend, in the case therein mentioned, the act to regulate the collection of duties on imports and tonnage;" and,

Ordered, That it pass to a third reading.

The Senate resumed, as in Committee of the Whole, the amendments reported to the bill, entitled "An act prescribing the effect, in each State, of records of judgments and decrees of the courts of record of every other State;" and, on the question, Shall this bill be read a third time? it was determined in the negative. So the bill was lost.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The Senate having advised and consented to the ratification of a convention between the United States and the Cherokee Indians, concluded at Washington, on the 7th day of January last, for the cession of their right to the tract of country therein described, it is now laid before both Houses of Congress, for the exercise of their Constitutional powers towards the fulfilment thereof. TH. JEFFERSON.

APRIL 17, 1806.

The Message was read, and ordered to lie for consideration.

Mr. ADAMS gave notice, that he would to-morrow ask leave to bring in a bill for the temporary relief of Hamet Caramalli.

On motion, it was

Resolved, That a committee be appointed to take into consideration the expediency of providing by law for the next meeting of Congress, and that the committee have leave to report by bill.

Ordered, That Messrs. ANDERSON, TRACY, and BALDWIN, be the committee.

Mr ANDERSON, from the committee last mentioned, reported a bill to alter the time of the next meeting of Congress, which was read, and ordered to the second reading.

On motion, it was

Resolved, That the Attorney General of the United States be directed to procure and lay before the Senate, at their next session, tables of the fees and compensations paid to the attorneys at law, prothonotaries, registers, and clerks of judicial courts, to sheriffs and coroners, to grand and petit jurors, and to witnesses, in the several States.

On motion, it was

Resolved, That the President of the United States be requested to cause to be laid before the Senate, if in his opinion the same can be done with propriety, a particular statement of the cause of difference between the Bey of Tunis and the Government of the United States, and the communications which have taken place relative thereto.

Ordered, That the Secretary lay this resolution before the President of the United States.

The bill, entitled "An act for erecting certain light-houses in the State of Massachusetts; for building a beacon or pier at Bridgeport, in the State of Connecticut; and for fixing buoys in Pamlico Sound, in the State of North Carolina," was read the third time and passed.

The bill, entitled "An act for establishing trading-houses with the Indian tribes," was read the third time as amended.

Resolved, That this bill pass with amendments.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1806," was read the third time and passed.

The bill, entitled "An act making a further appropriation towards completing the south wing of the Capitol at the City of Washington," was read the third time and passed.

The bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," was read the third time, and referred to Messrs. TRACY, MITCHILL, and ANDERSON, to consider and report thereon.

The PRESIDENT communicated to the Senate a report of the Secretary of State on the petition of Ira Allen, referred to him on the 11th instant; and the report was read.

The Senate resumed, as in Committee of the Whole, the bill entitled "An act making appropriations for carrying into effect certain Indian treaties," and,

Ordered, That it be referred to Mr. ANDERSON, and others, to whom the bill was originally committed further to consider thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," in which bill they request the concurrence of the Senate.

The bill last brought up for concurrence was read and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," with amendments; in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," as in Committee of the Whole; and on the question, to strike out the third section of the bill? it was determined in the affirmative—yeas 20, nays 5, as follows:

YEAS—Messrs. Adair, Adams, Anderson, Condit, Gilman, Hillhouse, Howland, Kitchel, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Vermont, Stone, Sumter, Tracy, White, Worthington and Wright.

NAYS—Messrs. Baldwin, Maclay, Moore, Smith of Tennessee, and Turner.

So the section was struck out; and, the bill having been further amended, was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

The bill for the temporary relief of Hamet Caramalli was, by unanimous consent, read the first time and ordered to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," were read.

FRIDAY, April 18.

Ordered, That the petition of Ira Allen, together with the report of the Secretary of State thereon, be referred to Messrs. SMITH, of Vermont, BALDWIN, and TURNER, to consider and report thereon.

Mr. HILLHOUSE reported, from the committee to whom was referred the memorial of John Chester, that the further consideration thereof be postponed to the next session of Congress; and the report was adopted.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," and,

Resolved, That they disagree to the said amendments, ask a conference thereon, and that Messrs TRACY and WRIGHT be the managers at the same on the part of the Senate.

Mr. ADAIR presented the memorial of the Governor of the State of Kentucky, in behalf of the said State, exhibiting claims on the United States to the amount of twenty six thousand eight hundred and eight dollars and sixty-two cents, for military service; and the memorial was read and, together with the accompanying documents, referred to the Secretary for the Department of War, to consider and report thereon.

Mr. ANDERSON, from the committee to whom was referred yesterday the bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," reported the bill without amendment.

Mr. TRACY, from the committee to whom was referred, on the 17th instant the bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," reported it with amendments.

The bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the second time, and referred to Messrs. MITCHILL, TRACY, and BALDWIN, to consider and report thereon.

The Senate took into consideration, as in committee of the Whole, the bill for the relief of Hamet Caramalli; and, after debate, the PRESIDENT resumed the Chair, and Mr. ANDERSON, from the Committee of the Whole, reported amendments to the bill, which were read in the House, adopted, and the bill was amended accordingly.

Ordered, That the bill pass to the third reading as amended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the request of the Senate, of yesterday's date, I now communicate the entire correspondence between the Ambassador of Tunis and the Secretary of State; from which the Senate will see, that the first application by the Ambassador for restitution of the vessels taken in violation of blockade, having been yielded to, the only remaining cause of difference brought forward by him, is the requisition of a present of naval stores, to secure a peace for three years; after which, the inference is obvious, that a renewal of the presents is to be expected, to renew the prolongation of peace for another term. But this demand has been pressed in verbal conferences, much more explicitly and pertinaciously than appears in the written correspondence. To save the delay of copying, some originals are enclosed, with a request that they be returned.

TH. JEFFERSON.

APRIL 18, 1806.

The Message and documents therein contained, were read and referred to Messrs. BALDWIN, MITCHILL, and SMITH, of Vermont, to consider and report thereon.

The bill, entitled "An act to amend, in the cases therein mentioned, the act to regulate the collection of duties on imports and tonnage," was read the third time.

Resolved, That this bill pass with an amendment.

The bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read the third time and passed.

The Senate resumed the third reading of the bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats;" and,

Resolved, That this bill pass as amended.

The bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," was read the third time as amended; and,

Resolved, That this bill pass with amendment.

The bill to alter the time for the next meeting of Congress, was read the second time. On the question, Shall this bill pass to the third reading? it was determined in the negative. So the bill was lost.

SATURDAY, April 19.

Mr. SMITH, of Ohio, from the committee to whom was referred, on the 15th instant, the bill, entitled "An act respecting the claims to land in the Indiana Territory and State of Ohio," reported the bill without amendment.

On motion, the bill was amended by striking out the third section.

Ordered, That this bill pass to the third reading as amended.

Mr. MITCHILL, from the committee to whom was referred, on the 18th instant, the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," reported the bill without amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes;" in which they desire the concurrence of the Senate. They agree to some, and disagree to other, amendments of the Senate to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" they also agree to some of the amendments with amendments, in which they request a concurrence.

The bill last brought up for concurrence was read the first and second times by unanimous consent.

Ordered, That it pass to the third reading, and that it be committed to Messrs. TURNER, ADAMS, and TRACY, to consider and report thereon.

The Senate took into consideration the amendments disagreed to by the House of Representatives to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" and,

Resolved, That they recede from the amendments disagreed to, and agree to the amendments of the House of Representatives to their amendments.

The bill for the relief of Hamet Caramalli was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be, "An act for the temporary relief of Hamet Caramalli."

Mr. MITCHILL, from the committee to whom was referred the memorial of the governors of New York hospital, praying further compensation for the sick and disabled seamen of the United States, reported, that, owing to the great difficulty of making at present a better provision for sick and disabled seamen than the one which now exists, the further consideration of the subject be postponed until the next session of Congress; and the report was adopted.

Mr. BALDWIN, from the committee to whom was referred, on the 15th instant, the bill, entitled "An act concerning the further safeguard of vessels in the vicinity of the United States and the territories thereof," reported the bill without amendment.

The bill, entitled "An act to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes," was read the third time as amended.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act making appropriation for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," and adhere to their disagreement. The House of Representatives have passed the bill sent from the Senate, entitled "An act to regulate and fix the compensation of clerks, and for other purposes," with amendments, in which they ask the concurrence of the Senate. They agree to the conference on their amendments to the bill, entitled "An act making provision for the compensation of witnesses who

attended the trial of the impeachment of Samuel Chase," and have appointed Managers on their part.

The galleries were cleared, and the doors of the Senate Chamber closed; and, after the consideration of the confidential business, the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," was read the third time.

Resolved, That this bill pass with amendments.

The Senate took into consideration the resolution of the House of Representatives, adhering to their disagreement to the amendments of the Senate to the bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians;" and

Resolved, That the Senate adhere to their amendments to the said bill.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to regulate and fix the compensation of clerks, and for other purposes;" and they agreed thereto.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and, on motion to strike out the first section, it passed in the affirmative—yeas 16, nays 9, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Condit, Gilman, Kitchel, Mitchill, Smith, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Vermont, Thruston, Tracy, and Wright.

NAYS—Messrs. Gaillard, Hillhouse, Howland, Maclay, Moore, Stone, Sumter, Turner, and Worthington.

And having agreed to a further amendment, the bill was reported to the House and amended accordingly.

Ordered, That this bill pass to the third reading as amended.

MONDAY, April 21.

The bill, entitled "An act concerning the further safeguard of vessels in the vicinity of the United States and the territories thereof," was resumed; and, on the question, Shall this bill pass to the third reading? it was determined in the negative. So the bill was lost.

The bill, entitled "An act respecting the claims to land in the Indiana Territory and State of Ohio," was read the third time as amended.

Resolved, That this bill pass with amendments.

On motion, the several committees that have not had an opportunity to perfect their reports, were discharged; and the several reports not acted on, were postponed to the next session of Congress.

Mr. TURNER, from the committee to whom was referred on the 19th instant, the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," reported the bill with amendments; and the bill having been amended accordingly, was read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House disagree to the amendments reported to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" they insist on their disagreement, ask a conference thereon, and have appointed managers at the same on their part.

The Senate took into consideration the resolution of the House of Representatives proposing a conference on the amendment to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers:" and

Resolved, That they agree to the conference, and that Messrs. MITCHILL and TRACY be managers at the same on the part of the Senate.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes;" they insist on their disagreement, ask a conference thereon, and have appointed managers at the same on their part. They have passed a bill sent from the Senate, entitled "An act supplementary to an act entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana," with an amendment, in which they ask the concurrence of the Senate.

The Senate took into consideration the resolution of the House of Representatives asking a conference to the amendment to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes;" and

Resolved, That they agree to the conference, and that Messrs. WRIGHT and TRACY be managers on the part of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and district of Louisiana."

Resolved, That they concur therein.

On motion, it was

Resolved, That Messrs. WHITE and ADAMS be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States and notify

him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Mr. WRIGHT reported from the managers at the conference on the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes." Whereupon,

Resolved, That the Senate recede from their amendment disagreed to by the House of Representatives.

Mr. MITCHILL reported from the managers at the conference on the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers" Whereupon,

Resolved, That the Senate adhere to their amendment disagreed to by the House of Representatives.

Ordered, That the further consideration of the bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina," be postponed until the next session of Congress.

Resolved, That the bill, entitled "An act supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia," be postponed until the next session of Congress.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part to wait on the President of the United States and notify him of the intended recess of Congress.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. WHITE, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

On motion, that everything in the Journal relative to the memorials of S. G. Ogden and William Smith be expunged therefrom, it passed in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Adair, Condit, Gilman, Kitchel, Logan, Mitchill, Smith of Maryland, Smith of New York, Stone, Thruston, Turner, Worthington, and Wright.

NAYS—Messrs. Adams, Baldwin, Hillhouse, Pickering, Plumer, Smith of Ohio, Tracy, and White.

Ordered, That the Secretary inform the House of Representatives that the Senate, having finished the business before them, are about to adjourn.

Whereupon, the Senate adjourned without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE NINTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, DECEMBER 2, 1805.

MONDAY, December 2, 1805.

This being the day appointed by the Constitution for the annual meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—Silas Betton, Caleb Ellis, David' Hough, Samuel Tenney, and Thomas W. Thompson.

From Massachusetts—Joseph Barker, Barnabas Bidwell, Phanuel Bishop, John Chandler, Orchard Cook, Jacob Crowninshield, Richard Cutts, William Ely, Isaiah L. Green, Jeremiah Nelson, Josiah Quincy, Ebenezer Seaver, Samuel Taggart, Joseph B. Varnum, and Peleg Wadsworth.

From Rhode Island—Nehemiah Knight, and Joseph Stanton.

From Connecticut—Samuel W. Dana, John Davenport, jr., Jonathan O. Mosely, John Cotton Smith, Lewis B. Sturges, and Benjamin Tallmadge.

From Vermont—Martin Chittenden, James Elliot, James Fisk, and Gideon Olin.

From New York—John Blake, jr., Silas Halsey, Josiah Masters, Gurdon S. Mumford, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, David Thomas, Uri Tracy, Killian K. Van Rensselaer, and Nathan Williams.

From New Jersey—Ezra Darby, Ebenezer Elmer, John Lambert, James Sloan, and Henry Southard.

From Pennsylvania—Isaac Anderson, David Bard, Robert Brown, Joseph Clay, Frederick Conrad, William Findley, Andrew Gregg, Michael Leib, John Pugh, John Rea, Jacob Richards, John Smilie, Samuel Smith, John Whitehill, and Robert Whitehill.

From Maryland—John Campbell, Leonard Covington, Charles Goldsborough, Patrick Magruder, William McCreery, Nicholas R. Moore, and Joseph H. Nicholson.

From Virginia—Burwell Basset, John Claiborne, John Clopton, John Dawson, John W. Eppes, James M. Garnett, Peterson Goodwyn, David Holmes, John G. Jackson, Joseph Lewis, jr., John Morrow, Thomas Newton, jr., John Randolph, Thomas M. Randolph, John Smith, Philip R. Thompson, and Alexander Wilson.

From Kentucky—George Michael Bedinger, and Thomas Sandford.

From North Carolina—Willis Alston, jr., Thomas Blount, James Holland, Thomas Keenan, Nathaniel Macon, Richard Stanford, Marmaduke Williams, Jos. Winston, and Thomas Wynns.

From Tennessee—William Dickson, and John Rhea.

From South Carolina—Levi Casey, Elias Earle, Thomas Moore, and David R. Williams.

From Georgia—Peter Early, Cowles Mead, and David Meriwether.

From Ohio—Jeremiah Morrow.

Delegate from the Mississippi Territory—William Lattimore.

And a quorum, consisting of a majority of the whole number, being present, the House proceeded, by ballot, to the choice of a Speaker; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of NATHANIEL MACON, one of the Representatives for the State of North Carolina: Whereupon, Mr. MACON was conducted to the Chair, from whence he made his acknowledgments to the House as follows:

"*Gentlemen*: Accept my sincere thanks for the honor you have conferred on me. Permit me to assure you, that my utmost endeavors will be exerted to discharge the duties of the Chair with fidelity, impartiality, and industry; and that I shall rely with confidence on the liberal and candid support of the House."

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was administered by Mr. NICHOLSON, one of the Representatives for the State of Maryland, to the Speaker; and then the same oath or affirmation was administered by Mr. SPEAKER to all the members present.

The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

Ordered, That a message be sent to the Senate to inform them that a quorum of this House is assembled, and have elected NATHANIEL MACON, one

of the Representatives for North Carolina, their Speaker; and that the Clerk of this House do go with the said message.

A message from the Senate informed the House that a quorum of the Senate is assembled and ready to proceed to business; and that, in the absence of the VICE PRESIDENT of the United States, the Senate have elected the honorable SAMUEL SMITH their President pro tempore: the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress, for the present session, one by each House, who shall interchange weekly. The Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the PRESIDENT OF THE UNITED STATES, and inform him that a quorum of the two Houses is assembled, and ready to receive any communication that he may be pleased to make to them.

Resolved, That Mr. JOHN RANDOLPH, Mr. CAMPBELL of Maryland, and Mr. CROWNINSHIELD, be appointed a committee, on the part of this House, jointly, with the committee on the part of the Senate, to wait on the PRESIDENT OF THE UNITED STATES, and inform him that a quorum of the two Houses is assembled, and ready to receive any communication that he may be pleased to make to them.

The House then proceeded, by ballot, to the appointment of a Sergeant-at-Arms to this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOSEPH WHEATON.

Resolved, That THOMAS CLAXTON be appointed Doorkeeper, and THOMAS DUNN Assistant Doorkeeper of this House.

Resolved, That the Rules and Orders established by the late House of Representatives, shall be deemed and taken to be the Rules and Orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

Ordered, That a committee be appointed to prepare and report such standing rules and orders of proceedings as are proper to be observed in this House; and that Mr. VARNUM, Mr. DAWSON, Mr. TALLMADGE, Mr. GREGG, and Mr. HOLLAND, be the said committee.

The following committees were appointed, pursuant to the standing rule and orders of the House, viz:

Committee of Ways and Means—Mr. JOHN RANDOLPH, Mr. NICHOLSON, Mr. JOSEPH CLAY, Mr. QUINCY, Mr. MERIWETHER, Mr. DICKSON, and Mr. MOSELY.

Committee of Commerce and Manufactures—Mr. CROWNINSHIELD, Mr. M'CREERY, Mr. LEIB, Mr. EARLY, Mr. DANA, Mr. NEWTON, and Mr. MUMFORD.

Committee of Elections—Mr. FINDLEY, Mr. ELMER, Mr. EPPES, Mr. CHITTENDEN, Mr. SCHUNEMAN, Mr. BIDWELL, and Mr. ELLIS.

Committee of Claims—Mr. JOHN C. SMITH, Mr. HOLMES, Mr. BEDINGER, Mr. STANFORD, Mr. STANTON, Mr. MOORE of Maryland, and Mr. MOORE of South Carolina.

Committee of Revisal and Unfinished Business—Mr. TENNEY, Mr. ALSTON, and Mr. CLAIBORNE.

Resolved, That a committee be appointed, to consist of three members, to be styled the "Committee of Accounts," whose duty it shall be to superintend and control the expenditure of the contingent fund of the House of Representatives, and to audit and settle all the accounts which may be charged thereon.

And a committee was appointed, of Mr. CONRAD, Mr. DAVENPORT, and Mr. CUTTS.

The SPEAKER laid before the House a letter from the Clerk, accompanying a report of his proceedings, in obedience to a resolution of the House, of the twenty-eighth day of February last, for letting to the lowest bidder the printing work and supplies of stationery for the use of the House, together with sundry documents respecting the same.—Referred to the Committee of Accounts.

On motion of Mr. THOMAS,

Resolved, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a Post Office and Post Roads within the United States; and that the said committee have leave to report by bill, or otherwise:

And a committee was appointed, of Mr. THOMAS, Mr. ROBERT WHITEHILL, Mr. BETTON, Mr. COOKE, Mr. ELLIOT, Mr. KNIGHT, Mr. STURGES, Mr. COVINGTON, Mr. CLOPTON, Mr. SANDFORD, Mr. WILLIAMS of North Carolina, Mr. RHEA of Tennessee, Mr. WILLIAMS of South Carolina, Mr. MEADE, Mr. MORROW of Ohio, Mr. SOUTHARD, and Mr. LEWIS.

Ordered, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers to each member, such as the members, respectively, shall choose, to be delivered at their lodgings; and that if any member shall choose to take any newspaper other than a daily paper, he shall be furnished with as many of such papers as shall not exceed the price of a daily paper.

Mr. JOHN RANDOLPH, from the joint committee appointed to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, reported that the committee had performed that service; and that the President signified to them that he would make a communication to this House to-morrow, at twelve o'clock, by way of Message.

TUESDAY, December 3.

Several other members, to wit: ABRAM TRIGG, from Virginia; GEORGE W. CAMPBELL, from Tennessee; and ROBERT MARION, from South Carolina; appeared, produced their credentials, and took their seats in the House.

The House proceeded to consider the resolution of the Senate for the appointment of two Chaplains of Congress for the present session, one by each House, to interchange weekly, and concurred with the Senate therein.

A Message was received from the President of the United States; which was read, and referred to the consideration of a Committee of the Whole on the state of the Union. [For this Message see Senate proceedings of this day's date, *ante*, page 11.]

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill "making an additional appropriation for the Naval service, during the year one thousand eight hundred and five; which was read twice, and committed to a Committee of the Whole immediately.

The House, accordingly, resolved itself into the said Committee; and, after some time spent therein, the bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

On motion of Mr. J. CLAY,

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire whether any, and what, abuse exists of the privilege of franking letters; and to report such provision as, in their opinion, will tend to remedy the same.

The House adjourned.

WEDNESDAY, December 4.

Two other members, to wit: JOHN ARCHER, from Maryland, and WILLIAM BUTLER, from South Carolina, appeared, produced their credentials, and took their seats in the House.

An engrossed bill making an additional appropriation for the Naval service, during the year one thousand eight hundred and five, was read the third time, and passed.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress, on the part of this House, and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Reverend Mr. GLENDY.

A memorial of the Legislative Council and House of Representatives of the Mississippi Territory was presented to the House and read, praying that a reasonable time may be allowed to the pre-emption claimants for land within the said Territory, under the authority of the act of Congress of the third of March, one thousand eight hundred and three, to make payment for the first instalment due for the said land on the first of January next, after the date of the certificate to be granted therefor.

Also, the petition of sundry inhabitants of the Mississippi Territory, praying a right of pre-emption as occupants of certain public lands which they have, severally, improved and settled.

Ordered, That the said memorial and petition, together with the memorial and petition of the Legislative Council and House of Representatives of the Mississippi Territory, which were presented to this House on the twenty-fifth of January last, be severally referred to Mr. THOMAS M. RANDOLPH, Mr. LATTIMORE, Mr. SMILIE, Mr. OLIN, and Mr. TAGGART.

PRESIDENT'S MESSAGE.

On motion of Mr. J. RANDOLPH, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. VARNUM in the Chair.

Mr. J. RANDOLPH offered the following resolutions:

1. *Resolved*, That so much of the Message of the President of the United States, as relates to the subject of quarantine and health laws, be referred to the Committee of Commerce and Manufactures.

2. *Resolved*, That so much of the Message of the President of the United States as relates to the aggressions committed on our coasts by foreign armed vessels; to the defence of our ports and harbors; to the building of seventy-four-gun ships; and to the prohibiting the exportation of arms and ammunition; be referred to a select committee.

3. *Resolved*, That so much of the Message of the President of the United States as relates to the organization and classification of the militia, and to the augmentation of our land forces, be referred to a select committee.

4. *Resolved*, That so much of the Message of the President of the United States as relates to our Naval Peace Establishment, be referred to a select committee.

Previous to a decision on these resolutions, Mr. BIDWELL rose and said that it was his wish to offer an additional resolution relative to a subject not embraced in them.

The CHAIRMAN observed that the resolutions first offered must, in point of order, be first decided upon, after which the resolution alluded to could be received, or it might be read in argument while they were under consideration.

The foregoing resolutions were then severally read, and agreed to without a division.

Mr. NICHOLSON said he would offer another resolution, the substance of which was not embraced in the resolutions submitted by his friend from Virginia, viz:

Resolved, That so much of the Message of the President of the United States as relates to the conduct of the belligerent Powers towards the United States, and to the unjustifiable construction lately given by some of them to the law of nations, as it regards the rights of neutrals, be referred to the Committee of Ways and Means.

Mr. BIDWELL said this resolution embraced, in some measure, his object; but, as it did not exactly comport with it, he would take the liberty of reading, by way of argument, the resolution which he had prepared. Mr. B. then read the following resolution:

Resolved, That so much of the Message of the President of the United States as relates to injuries done to us as a neutral nation, by the interpolation of new, unjust, and unacknowledged principles into the law of nations, be referred to a select committee, with instruction to inquire in what respects, and to what extent, our neutral rights have thus been violated, and what legislative measures the true interest of the United States requires to counteract such violations.

Mr. BIDWELL remarked that this resolution went further than that offered by the gentleman from Maryland. So far as that resolution went it met his ideas. But he thought it ought to go further;

and, should it not be adopted, he would afterward move the one he had just read. His reason for thinking the House ought to go further was this: We have been informed by the President that new principles have been interpolated by foreign Powers into the law of nations. What these principles are is not stated, except in one instance. To what extent they have been carried, we are not informed. We have, it is true, out-door information on the subject, but not of such a nature as to justify our acting in our legislative capacity. These principles, as well as the injuries we have received, were, in his opinion, a proper subject for the investigation of a committee.

Mr. NICHOLSON said he could not conceive in what the two resolutions differed, except in language. They both embraced the same object. In one respect only they differed. While the resolution of the gentleman from Massachusetts referred the subject to a select committee, his own resolution referred it to the Committee of Ways and Means. The investigation contemplated by the gentleman could be as well made by the Committee of Ways and Means, as by a select committee. Nor was it necessary for this purpose to give them any instructions. If the subject required investigation, it would be their duty to make it, and to lay the result of the investigation before the House. It would be allowed, that it was a subject in which the revenue was most deeply interested, and as such properly the province of the Committee of Ways and Means. For his own part, said Mr. N., he could have no objection to the resolution of the gentleman from Massachusetts; but, as his own resolution embraced the same object and went to the same extent, he perceived no reason against adopting it.

Mr. QUINCY could not agree that the resolution offered by the gentleman from Maryland either embraced the same object, or went to the same length with that proposed by his colleague. He thought that offered by his colleague far preferable, as it was more extensive in its views. He was of opinion, that, whatever committee was appointed should investigate the nature of the principles alluded to in the Message, as well as the measures referred to. The Committee of Ways and Means were not bound to make a special report on the subject; they might content themselves with a general one; and it might be necessary afterward to appoint a new committee to make the requisite investigation. Mr. Q. was the more anxious, as he thought it necessary that a complete investigation should be made in the House of the nature and extent of the principles referred to in the Message.

Mr. ELLIOT said he did not perfectly understand the gentleman from Maryland when he told them that the subject contemplated to be referred, naturally and exclusively fell within the proper jurisdiction of the Committee of Ways and Means.

It would be admitted, on all hands, that the subject was not only important, but likewise novel. Our attention is forcibly called, in the Message, to this as a subject of the first importance:

"New principles, too, have been interpolated into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to itself a commerce with its own enemy, which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and the neutral having equal right with the belligerent to decide the question, the interests of our constituents, and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations."

Our attention is called to the important point of new interpolations into the law of nations, or in other words, to the adoption by the Government of one or more foreign Powers of what is considered as a modification of the ancient laws of nations, as accommodating them to their wishes, and as introducing new principles which they wish to impose upon other nations. How a subject so important naturally and necessarily belongs to the Committee of Ways and Means, it was impossible for him to say. But, says the gentleman, it is a question of revenue. How so? It may affect the revenue incidentally; but the question of revenue, from its comparative unimportance, is at once merged and lost in the more important question, whether we shall passively submit to the introduction of new principles to be imposed upon neutrals, by any Government whatever, however powerful or extensive its influence. On this subject, Mr. E. said, he thought, as it appeared by the Message the Executive thought, that it possessed great importance in itself. Nor did he conceive it possible to present any view more important than that taken by the resolution of the gentleman from Massachusetts. He acknowledged that the Committee of Ways and Means were fully competent to an investigation of the subject; in their ability to investigate it, he had full confidence. But he thought they had sufficient business in their proper sphere to occupy their attention. For these reasons, he hoped the resolution offered by the gentleman from Maryland would be rejected, and that submitted by the gentleman from Massachusetts substituted in its room.

Mr. GREGG thought the gentleman from Massachusetts would fully attain his object by offering a part of the resolution he had read, as an amendment to the resolution before the House. The resolution of the gentleman embraced two distinct parts; the first regarded the objects to be inquired into, and the last instructed the committee how to act. The resolution of the gentleman from Maryland embraces the same object. The end, therefore, of the gentleman from Massachusetts would be fully gained by adding the instructive part of his own resolution to the resolution under discussion. As to the difference between a standing and select committee, it was not so important as it appeared to be to the gentleman from Vermont. The subject, from its character, naturally came before the Committee of Ways and Means; and it was understood that standing committees went through the business referred to them with more regularity than a select committee.

Mr. BIDWELL said, that if gentlemen attentively considered the two resolutions, they would find that the resolution offered by the gentleman from Maryland did not go to the same extent with the resolution which he had the honor of proposing. The former referred to but one principle, and limited the subject to considerations connected with revenue. It appeared to him that, from out-door information, it would be found that various principles had been assumed relative to the law of nations to which we might not as a neutral nation choose to submit. It was true that the subject was connected with the revenue; so, however, was every subject. Every subject, whether connected with a state of peace or war, would necessarily, more or less, affect the revenue. Though this was the case with this subject, it ought not to be considered as primarily connected with revenue. Under present circumstances, we do not consider it principally as connected with finance, but with other subjects. Mr. B. said he had no particular wishes with regard to the committee to be appointed in this instance; but he did wish the subject examined in more extensive views than was contemplated in the resolution.

Mr. NICHOLSON observed that the principal objection made to the resolution he had offered was that the Committee of Ways and Means were not bound to investigate the subject, and submit to the House the result of their investigation. Some gentlemen think it necessary that instructions should be given to the committee to insure such an investigation. Mr. N. said, that he had known instances within the course of the six past years, in which a subject, apparently simple, had produced a voluminous report without any instruction of the House; and he had known other instances in which a subject of great importance had been referred, on which there had been reported a simple resolution, which afterward became the subject of argument within these walls. If in this case an investigation is desired, there is no doubt that the Committee of Ways and Means can make it, and give the result to the House. He recollected, some years ago, a simple resolution was referred to a committee of which he had the honor to be chairman. They considered the subject of vast importance, and thought it proper, in their report, to go at length into it. The report was made, and on it was predicated the extensive purchase of Louisiana. Yet, in this case, there were no instructions given. The committee, notwithstanding, thought it their duty to inquire into the subject; they accordingly did inquire, and made the report alluded to.

In every point of light in which the present subject could be viewed, it would be found to affect the revenue. There are various ways in which we may attack the belligerent nations. We may attack them by land or by sea. The preparations required for this purpose may not sink our present revenue, but render it necessary to resort to the raising additional revenue. Should there be a non-importation act, which had lately been a subject of discussion in the public prints, it would necessarily affect our revenue, and before it could be agreed to or acted on, it would be absolutely necessary for the Committee of Ways and Means to enter into an investigation how the necessary revenue could be obtained. If we resort to the expedient of raising the duties on manufactured articles, he would ask if that were not a proper subject for the Committee of Ways and Means? The measure could not but affect our revenue deeply, and would it not become necessary for the Committee of Ways and Means to inquire to what extent the duties might be laid without producing the necessity of resorting to new taxes. But, as the gentleman from Massachusetts was desirous of instructing the committee, he had no objection so to modify his resolution as to add to it the latter part of the resolution offered by him.

So modified, the resolution was read from the Chair, as follows:

"*Resolved*, That so much of the Message of the President of the United States, as relates to the conduct of the belligerent Powers toward the United States, and to the unjustifiable construction lately given by some of them to the law of nations, as it regards the rights of neutrals, be referred to the Committee of Ways and Means, with instruction to inquire in what respects, and to what extent our neutral rights have been violated, and what legislative measures the true interest of the United States requires to counteract such violations."

Mr. BIDWELL inquired to what committee the defensive measures recommended by the President had been referred?

The CHAIRMAN replied to a select committee.

Mr. BIDWELL said that subject appeared to him as much connected with the revenue, as principles which respected the law of nations. If that subject had been referred, with propriety, to a select committee, surely this might also, as it was not so necessarily connected with revenue as to make it the peculiar business of the Committee of Ways and Means.

Mr. SMILIE remarked that, it appeared that the ideas of both the gentlemen were incorporated in the resolution as it stood; and that the only subsisting difference was as to the committee. This was not of sufficient importance to occupy much of their time. The subject might most properly go to a commercial committee; but, as he believed the Committee of Ways and Means perfectly competent, he should not object to the resolution.

The question was then taken on the resolution, and passed in the affirmative—ayes 56, noes 42.

The Committee rose and reported the resolutions, which the House immediately took into consideration.

The first, second, third, and fourth, were agreed to without a division; and the fifth—ayes 57.

The second resolution was referred to Messrs. DAWSON, N. WILLIAMS, BLOUNT, ELY, DARBY, and FISK.

The third resolution was referred to Messrs.

Varnum, Basset, Sturges, Lambert, Rea of Pennsylvania, Marion, and Blake.

And the fourth, to Messrs. Gregg, Garnett, Bidwell, Goldsborough, Hough, Wynns, and Russell.

Thursday, December 5.

Another member, to wit: James Kelly, from Pennsylvania, appeared, produced his credentials, and took his seat in the House.

A message from the Senate, informed the House that the Senate have appointed the Reverend Mr. Gantt to be one of the Chaplains to Congress, on their part.

Mr. John C. Smith observed that the House at their last session, had had before them a subject of considerable importance, which not having been then definitively acted upon, he thought it would be proper again to take into consideration. He therefore moved the following resolution:

Resolved, That a committee be appointed to inquire whether any, and, if any, what description of claims against the United States are barred by the statute of limitations, which in reason and justice ought to be provided for; and that said committee be authorized to report thereon by bill or otherwise.

This resolution was immediately considered, agreed to, and referred to a committee of seventeen members, viz.

Mr. J. C. Smith, Mr. Holmes, Mr. Bedinger, Mr. Stanford, Mr. Stanton, Mr. Moore of Maryland, Mr. Moore of South Carolina, Mr. Thompson of New Hampshire, Mr. Green, Mr. Chittenden, Mr. Halsey, Mr. Sloan, Mr. Anderson, Mr. Campbell of Tennessee, Mr. Morrow of Ohio, Mr. Meriwether, and Mr. Jackson.

On motion of Mr. Conrad, the following resolution was adopted:

Resolved, That the Doorkeeper of this House be allowed the same sum, as has heretofore been allowed, for the purposes of employing men and horses to enable him to execute the duties of his office.

Mr. Leib moved the following resolution:

Resolved, That a committee be appointed to inquire whether any, and if any, what alterations ought to be made in the act to regulate and fix the compensation of the officers of the Senate and House of Representatives.

Mr. Leib said it would be recollected that at the end of every session heretofore, it had been usual to submit propositions for an extra allowance to the officers of the House. It was desirable that the compensation of the officers should be fixed. That they might be fixed, and that no similar proposition should be offered hereafter, was his reason for offering this resolution.

The House immediately took it up, agreed to it, and referred it to a committee of three members.

On motion of Mr. Lewis the petitions heretofore presented for and against a bridge across the Potomac, at the city of Washington, were referred to a committee of five members, consisting of Mr. Thompson of Virginia, Mr. Campbell of Maryland, Mr. Lewis, Mr. Magruder, and Mr. Butler.

Friday, December 6.

Ordered, That Mr. Joseph Clay be appointed of the committee to whom was referred, on the fifth instant, so much of the Message of the President of the United States as relates to the aggressions committed on our coasts by foreign armed vessels; to the defence of our ports and harbors; to the building of seventy-four gun ships; and to the prohibiting of the exportation of arms and ammunition; in the room of Mr. Hamilton, who is absent.

Mr. Alston remarked that a memorial from a number of merchants from North Carolina, praying for the establishment of a port of entry at Plymouth had been presented at the last session; to which effect a bill had been brought in; but that, owing to the pressure of important business, it had either been rejected or postponed. He wished the subject to be again taken into consideration. To which end he moved the reference of the memorial to the Committee of Commerce and Manufactures.—Agreed to.

ARMY RULES, &c.

Mr. Varnum said it would be recollected that the rules and regulations for the government of the Army had never been revised since the era of the present Government; and that consequently the rules and regulations established during the Revolutionary war still continued in force, though our circumstances had materially changed. From the present aspect of affairs, he thought it became necessary that a revision should take place, that they might be adapted to the provisions under the present Government. An attempt to this effect had been made during the two last sessions; and in this House a bill had passed, which had been rejected in the Senate. He was of the opinion that it became the House, by again attending to the subject, to do their duty; and if neglect should attach anywhere, it should be at the proper door. He, therefore, moved the following resolution:

Resolved, That a committee be appointed to prepare rules and regulations for the government of the Army of the United States, and that they have leave to report by bill or otherwise.

Agreed to, and a committee of seven members appointed.

Mr. Dawson, from the committee on that part of the President's Message that relates to aggressions committed on our coasts, &c., having obtained leave to report by bill or bills, reported in part a bill prohibiting for a limited time the exportation of arms and ammunition from the United States, which was read twice, and made the order of the day for Monday next.

[This bill prohibits the exportation of the ordinary warlike articles until the —— day of ——, and declares all such as do not constitute a part of the equipment of a vessel, forfeited, and in case the same in value exceed —— dollars, declares the vessel forfeited.]

On a motion made to refer to a select committee the memorial of the Ohio Company, presented the last session, the House divided—ayes 63. Carried, and a committee of three members appointed.

COLLECTION OF DUTIES, &c.

Mr. Leib offered the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of so far amending the act to regulate the collection of duties on imports and tonnage, as to extend the time for taking the oath and giving bond in cases of goods exported for drawback; and to authorize the Comptroller of the Treasury to grant relief to those who have forfeited their claims to debentures by exceeding the ten days assigned by law for taking the oath and giving bond, where no intention of fraud shall appear.

Mr. Leib observed that it would be recollected that heretofore at every session of Congress petitions had been offered complaining of hardships under this act and soliciting relief. If redress were to be given, it ought to be under a general and not a special provision. At any rate it would be allowed to be advisable to institute an inquiry into the expediency of making such provision.

Mr. Crowninshield hoped the reference would obtain, as he had been acquainted with several hard cases under the present provisions of law.

The resolution was agreed to.

Mr. Crowninshield attracted the attention of the House to another provision under the same act, that related to the size of the casks and the weight of the packages in which it is made necessary to import sundry articles. He was of the opinion that some of these restrictions were useless for the protection of the revenue, at the same time that they embarrassed the merchant. If this were so they should be dispensed with. To make the proper inquiry on this point he moved the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to consider the expediency of amending the act to regulate the collection of duties on imports and tonnage, so far as relates to the importation of malt liquors, distilled spirits, and loaf and lump sugar, in casks, vessels, or packages of a limited capacity and weight, and to report thereon by bill or otherwise.

The resolution was agreed to.

YAZOO CLAIMS.

Mr. Gregg said he wished to submit to the House a resolution on a subject of considerable importance, which had engaged the House at several of its previous sessions, and which was generally known by the name of the Yazoo claims. The discussions on this subject had occupied much time, and had excited greater irritation than any other subject within these walls. He supposed there was no probability that the subject would be permitted, by the claimants, to sleep, while the act appropriating five millions was permitted to remain in force. His object was, to repeal that act. By this step the claimants would not be placed in a worse situation, as the courts of justice would be open to them. Mr. G. said he did not expect the House immediately to act on this resolution, though he was prepared, at once, to go into it. But as it was important, and related to a subject on which the papers were voluminous, he would be satisfied that it should lie for some time on the table, the more especially, that new members might become acquainted with it. He then offered the following resolution:

Resolved, That so much of an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," as appropriates any portion of said lands for the purpose of satisfying, quieting, or compensating any claims to the said lands, derived from any act, or pretended act of the State of Georgia, and neither recognised by the articles of agreement and cession between the United States and the State of Georgia, nor embraced by the two first sections of the above-mentioned act, be repealed.

Ordered to lie on the table.

INDIAN LANDS.

Mr. Gregg observed that they had been informed by the President, in his communication at the opening of the session, that several purchases of lands had been made from the Indians, which were the more advantageous from their vicinity to thick settlements. It became necessary to make provision for the surveying and disposal of these lands. He believed that some amendments would be found necessary in the existing land laws, particularly with regard to lands in the neighborhood of Detroit. He therefore submitted the following resolution:

Resolved, That a committee be appointed to inquire whether any, and if any, what, alterations or amendments are necessary to be made in the several acts providing for the disposal of the lands of the United States northwest of the Ohio.

Mr. J. Randolph suggested the propriety of permitting the resolution to lie on the table, until the treaties ceding the land had been ratified and carried into effect. It might also, he added, be found that the law for the disposal of the lands southwest of the Ohio required modification.

Mr. Gregg acquiescing in this disposition of the resolution, it was ordered to lie on the table.

EXECUTIVE DOCUMENTS.

A Message was delivered from the President of the United States, by Mr. Coles, his Secretary, as follows:

"*Mr. Speaker:* I am directed by the President of the United States to deliver you a Message in writing."

The Speaker having received and opened a packet of considerable size, observed that the Message was confidential, and thereupon ordered the galleries to be cleared.

In about one hour and a half, the doors were opened, when it appeared that part of the communications made by the President were confidential, and that the members of the House remained under an injunction of secrecy with regard to them; and that another part was not confidential. This part embraces, among others, the following documents:

1. A letter from Governor Claiborne to the Secretary of State, dated October 24, 1805, in which, after stating the preparations making by the Spaniards at Pensacola and other places, he says: "I flatter myself that hostil

ities between the United States and Spain may be avoided, and that an honorable adjustment of our differences may ensue. But I am inclined to think that the Spanish agents calculate on a speedy rupture, and are making all the preparations that their means permit to commence the war in this quarter."

2. Statements respecting the detention of the American gunboats.

3. Correspondence between Governor Claiborne and the Marquis de Casa Calvo, on exempting the Spanish officers from municipal taxes.

4. Correspondence between Governor Williams, of the Mississippi Territory, and Governor Grandpre, with sundry communications to the Secretary of State on outrages committed in the Mississippi Territory.

5. Documents to show that the settlement of Bayou Pierre, on the Red river, at which a principal aggression took place, was originally made by France, while possessing Louisiana, and came to the possession of Spain only by the general delivery of Louisiana to her, and as a part of it.

6. Extract of a letter from C. Pinckney, dated August, 1805, as well as one dated September 22, 1805, respecting Spanish spoliations.

7. Communications from Gov. Claiborne, dated October 24, 1805, respecting obstructions on the Mobile.

8. Copy of a letter from the commandant of the ship Huntress to the Secretary of the Navy.

REVOLUTIONARY PENSIONS.

Mr. Varnum said that during the late Revolutionary war with Great Britain, the Government of the United States thought proper to place on the pension list certain officers and soldiers who had been wounded or disabled in the war. It had so happened that, from a variety of circumstances, a large number of our meritorious officers and soldiers, of this description, had not been placed on the list. A number of them had kept back, and omitted reaping the benefit of this provision, under the expectation of supporting themselves by their own industry, or by the assistance of their friends. He believed that many had been prompted to this by the most laudable motives. Many of them had since found themselves unable to earn a decent subsistence. A number of petitions of this kind had, this morning, been referred to the Committee of Claims. Mr. V. said it was his wish that a general and ample provision should be made for all those who had been disabled in the Revolutionary war. The independence and happy situation of our country were owing to their exertions, and our wealth now enabled us to make an ample provision. He therefore moved:

"That the Committee of Claims be instructed to inquire what further measures are necessary to be adopted to remunerate the meritorious services of the officers and soldiers who were wounded or disabled in the Revolutionary war with Great Britain, with leave to report by bill or otherwise."

The resolution was immediately taken up and agreed to.

Monday, December 9.

Several other members, to wit: from Virginia, Edwin Gray, and Walter Jones; from New York, Henry W. Livingston and Eliphalet Wickes; and from Georgia, Joseph Bryan; appeared, produced their credentials was qualified and took their seats in the House.

Mr. Leib presented a petition of the late crew of the frigate Philadelphia, representing that they have been advised that under the maritime regulations of the United States, persons taken by the Barbary Powers are allowed on their release a pecuniary compensation for clothing received during their captivity, and some small sum for tobacco and other articles, usually called jail-money, for which they have received no compensation; but that these extraordinary expenses have been deducted from their pay, and praying relief.—Referred to the Committee of Claims.

CONTESTED ELECTION.

Mr. Bryan presented a petition from Thomas Spalding, representing that at the late general election in Georgia for Representatives, he had a greater number of the votes given than Cowles Mead, returned as a member, and praying that he may be admitted to a seat. The petition states, that by an act of Georgia it is directed that within twenty five days after the day of election the votes shall be counted, and that the Governor shall thereupon make proclamation of the persons having the greatest number of votes and issue their commissions; that at the expiration of that time the votes of the counties of Camden, Liberty, and Tatnal, were not received at the Executive office, owing to which Mr. Mead had then a majority; but that on receiving them it appeared that the petitioner had 4.504 and the sitting member only 4,465 votes. That the failure to transmit the votes of those counties arose from an act of God; that there was a hurricane on the 8th of December, which flooded the country, swept away the bridges, and rendered the roads impassable, and that it was not until the expiration of the limited time that these obstructions were removed.—Petition referred to the Committee of Elections.

EXPORTATION OF ARMS, &c.

The House resolved itself into a Committee of the Whole on the bill "prohibiting, for a limited time, the exportation of arms and ammunition from the United States."

The Chairman having read the bill, as follows:

Sec. 1. *Be it enacted, &c.*, That it shall not be lawful to export from the United States any cannon, muskets, pistols, bayonets, swords, cutlasses, musket-balls, lead, bombs, grenades, gunpowder, sulphur, or saltpetre; but the exportation of all the aforesaid articles is hereby prohibited until ——.

Sec. 2. *And be it further enacted*, That any of the aforesaid articles, excepting such of them as may constitute a part of the equipment of any vessel which, during the continuance of this prohibition, shall be found on board of any vessel in any river, port, bay or harbor within the territory of the United States, put on board with an intent to be exported from the United States, shall be forfeited, and in case the value thereof shall amount to —— dollars, the vessel on board which the same shall be seized, together with her tackle, apparel, and furniture, shall also be forfeited: *Provided, nevertheless*, That nothing in this act shall be construed to prohibit the removal or transportation of any of the articles aforesaid from one port to another port within the United States, in any vessel having a license as a coasting-vessel, the master, agent or owner of which shall have given bond with one or more sufficient sureties, to the collector of the district from which such vessel is about to depart, in a sum double the value of such vessel, and of such of the said articles as may be laden on board her; that the said articles shall be relanded and delivered in some port of the United States; or to prevent the exportation of any of the above articles on public account, under the direction of the President of the United States.

Sec. 3. *And be it further enacted*, That if any of the articles aforesaid shall, contrary to the prohibitions of this act, be exported from the United States, the vessel in which the same shall have been exported, together with her tackle, apparel and furniture, shall be forfeited; and the captain or master of such vessel, knowingly offending in the premises, shall be liable to indictment, and upon conviction, shall forfeit and pay a sum not exceeding —— dollars; which shall be distributed in like manner as is hereinafter provided, as to other forfeitures incurred under this act.

Sec. 4. *And be it further enacted*, That it shall be the duty of the custom-house officers, and of all persons employed in the collection of the revenue, to attend to the execution of this law, and all forfeitures and penalties incurred under it, and not otherwise directed to be prosecuted and recovered, shall be sued for, prosecuted, adjudged and distributed in like manner as is provided in the act, entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise imported into the United States, and on the tonnage of ships and vessels."

On the motion of Mr. McCreery, the words "pig iron and brass" were inserted in the first section.

On motion of Mr. Dawson, the blank at the end of the first section was filled with the words "the end of the next session of Congress, and no longer;" the blank in the second section with "one hundred," and that in the third section with "one thousand."

On motion of Mr. Dawson, the fourth section was so amended as to strike out the title of the act recited, and to introduce "An act to regulate the collection of duties on imports and tonnage."

Mr. Quincy offered a new resolution, exempting from duty the greater part of the articles enumerated in the bill on their importation into the United States.

Mr. Quincy observed that on examination, the bill before the committee appeared to be the same verbatim with that passed in the year 1797, with the exception of the new section moved by him, which had been omitted. What was the cause of the omission he did not know.

Mr. Dawson said the powers of the committee restricted them to a prohibition of the exportation of military articles.

Mr. Crowninshield hoped the adoption of this new section would not be pressed at this time. The object of the bill under consideration was to prevent the exportation of certain military articles; that of the new section was to render their importation free of duty. He would not say that at a future time he would object to this measure, but he did not think it necessary at present. His mind not having been drawn to the subject he was not prepared to vote on it.

Mr. Quincy said he had made the motion because he considered the new section conformable to the principle of the bill. The object was to insure to the country as large a portion of raw materials as was necessary for the exigency of the times. If any gentleman was of opinion that the quantity on hand is sufficient for this exigency he would be in favor of shutting the door against additional importations, by retaining the existing duties. If, on the contrary, there is not a sufficient quantity on hand, it became necessary and proper that a kind of bounty should be offered for increasing the stock. He had another reason for the section he had offered. The bill, as it now stands, will look to the public, as if the state of the country were not so pressing as it, perhaps, actually was. In 1797, the ground assumed in the new section was taken. If we now pass the bill without it, it will appear, said Mr. Q., as if we did not consider our exigencies as we thought them then. Without making a comparison between that period and this, I think the present exigency such as requires a similar step.

Mr. Smilie did not deem the amendment a proper one at this time. It related to a subject distinct from that referred to the committee that brought in the bill—a subject of sufficient importance to stand by itself. He would not pretend to say that our present circumstances would not justify it. But what had been done at a former period under other circumstances was not a proof of its necessity at present. Before we go into it, we ought to inquire what its effects would be on the revenue, and whether existing circumstances required the sacrifice it would occasion. Indeed he doubted whether the House were prepared to vote one way or the other. If it were found necessary, he would heartily concur in it; but this was the more questionable, as it did not appear from the Message of the President that he viewed it as necessary.

Mr. Bidwell was not, in this stage of the business, prepared to determine the propriety of the measure, as he did not know what its bearing would be on the revenues of the United States. He thought the House ought to be apprized of this, before they could with propriety take a step which might break in on the fiscal arrangements of the Government. The gentleman from Massachusetts says those opposed to his amendment ought to show that there is a sufficiency of the enumerated articles in the country, or that our manufacturers are competent to supply them. On the contrary, it appeared to him that it was incumbent on the friends of the proposition to show that there would be a deficiency, or an inability of our manufacturers to supply our wants, in case this provision should not be adopted.

Mr. Crowninshield observed that we could make in the United States almost all the articles

enumerated in the amendment, and that consequently it might, if adopted, injure our manufactures in a degree not contemplated. We certainly manufactured a great quantity of gunpowder and muskets. The duty on gunpowder was considerable, and the effect of its removal might be extremely prejudicial. With regard to saltpetre and sulphur, he did not know that he would object to suspending the duties imposed upon them, as they were the great raw materials most wanted, and as no duty had been exacted on them until about two years ago, and then on a construction of law. He hoped, however, his colleague would not press the subject at this time, as the House were not prepared for the discussion it might involve, and as it might materially affect the revenue. Though he would say that mere considerations of revenue would not of themselves induce him to vote against the proposed provision. He did not think the general state of the country required it.

Mr. Quincy was glad to hear from gentlemen that the situation of the country was such as did not require the step he had proposed. His own impression had been that it was proper to take such a situation as if the country were on the eve of a war.

Mr. Dawson observed that he was authorized to state that the Government was possessed of five hundred tons of saltpetre, and a large quantity of sulphur; and that he was well informed that there was in the country a sufficient quantity for all the purposes for which it might be wanted. Under these circumstances he did not consider the amendment proper, and hoped that it would be either withdrawn or rejected.

Mr. John C. Smith said he could not vote for the amendment under his present impressions. The sense of the House likewise seemed to be against it in its present shape. But the gentleman could obtain his end by moving to instruct the Committee of Ways and Means to inquire into its expediency. And should his amendment be rejected he hoped he would pursue this course. If, on such investigation, the measure should be found advisable, he had no doubt of its adoption.

Mr. Quincy said that, considering the impressions of gentlemen, he would withdraw his motion.

On motion of Mr. Crowninshield the words "sheet copper," were enumerated in the first section.

On motion of Mr. Dawson a new section was added, declaring that the act shall "commence and be in force from and after the first day of January, 1806."

On this section some diversity of opinion was expressed.

Mr. J. Clay was in favor of the act going into immediate operation. Mr. Crowninshield was in favor of the time stated in the section, and Messrs. Macon and Southard were in favor of a short extension of it. In animadverting on this point, Mr. Macon pronounced it doubtful whether the principle of the bill were Constitutional.

So amended, the committee rose and reported the bill, whose consideration was postponed until to-morrow.

On motion of Mr. Southard, the petition of Stephen Sayre, and the report of the Secretary of State thereon, made the last session, were referred to a Committee of the Whole on Monday next.

Mr. J. Randolph, from the Committee of Ways and Means reported on the petition of Anthony Benezet and others, concluding with a resolution that the prayer of the petition is reasonable, and ought to be granted.—Referred to the Committee of the Whole on Thursday next.

Tuesday, December 10.

Several other members, to wit: from Kentucky, John Boyle; from New Jersey, William Helms; from Connecticut, Timothy Pitkin, junior; and from New York, Philip Van Cortlandt; appeared, produced their credentials, were qualified, and took their seats in the House.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a report and estimates of the revenue and receipts of the United States, for the years 1801, 1802, 1803, 1804, and for three quarters of the year 1805, prepared in obedience to the act entitled "An act to establish the Treasury Department;" which were read, and referred to the Committee of Ways and Means;

A petition of the Legislative Council of the Territory of Orleans was presented to the House and read, praying that all the lands of the United States lying within the limits of the city of New Orleans, and such other lands as the wisdom of Congress may deem adequate, may be appropriated for the establishment and support of colleges, schools, and other seminaries of learning, in the said Territory.—Referred to Mr. George W. Campbell, Mr. Jones, Mr. Bryan, Mr. John Whitehill, and Mr. Wadsworth; and that the said committee have leave to report thereon by bill, or otherwise.

A message was received from the President of the United States, supplementary to his Message of the 6th instant, enclosing sundry documents in addition to those laid before the House, viz:

1. Relative to the detention of the public buildings at New Orleans.

2. Relative to the conduct of Spain in Louisiana, in the establishment of posts, &c.

3. Relative to the obstruction of the commerce on the Mobile.

Which were ordered to be printed, and referred to the same committee to whom the papers previously received were referred.

Mr. J. Clay presented a petition from sundry manufacturers of hats in Philadelphia, remonstrating against the mode pursued by the Superintendent of the Indian Department of vending furs, and requesting that the same may be regulated by law, and that the sale be by public auction.—Referred to the Committee of Commerce and Manufactures.

Mr. Sloan laid the following resolution on the table:

Resolved, That a tax or duty of ten dollars per head be imposed on all slaves hereafter imported into the United States.

Ordered, That the report of the Commissioners under the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," which was made to this House on the thirteenth of February last, be referred to Mr. Thomas, Mr. Wilson, and Mr. Chandler, with leave to report thereon by bill, or otherwise.

EXPORTATION OF ARMS, &c.

The House took into consideration the amendments of the Committee of the Whole to the bill prohibiting, for a limited time, the exportation of arms and ammunition from the United States; in all of which they concurred.

Mr. Cook moved to substitute "five hundred dollars" in the room of "one hundred;" the sum for exporting prohibited articles beyond which is followed by the forfeiture of the vessel—under the impression that the provision was too rigorous.

This amendment was supported by Mr. Crowninshield, and opposed by Mr. Dawson, and lost—77 members concurring in the report of the Committee of the Whole.

On the motion of Mr. Olin, "cannon balls and mortars" were added to the list of prohibited articles.

On motion of Mr. Dawson, an amendment was introduced, applying the penalties of the bill to the exportation of the prohibited articles by land.

On motion of Mr. Nicholson the provisions of the bill were extended to the Territories of the United States.

Mr. Gregg said he understood the bill under consideration was only a report in part. He had no disposition to oppose its passage. He only rose to express his hope that when the committee made a further report, they would lay before the House the information necessary to enable them to act intelligently. It had, from the commencement of the Government, been the practice of the House to call on the Secretary of War to state the amount of military stores on hand, accompanied by his opinion of the further supplies deemed necessary. No such thing had yet been done this session. The House neither knew the quantity of military stores on hand, or could calculate the effects of the bill. They did not know what was the quantity of sulphur and saltpetre on hand, or whether there was a sufficiency of those important raw materials, in case we should be embroiled in a war—

The Speaker here interrupted Mr. Gregg by observing that there was no motion before the House.

After a few remarks from Mr. Nicholson and Mr. Gregg, on the details of the bill, it was ordered, on the motion of the former, to be re-committed to the committee who introduced it, for amendment.

Wednesday, December 11.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of extending the limits of the district of Washington, in North Carolina, so as to include Shell Castle Island, and report their opinion by bill or otherwise.

Another member to wit: Daniel C. Verplanck, from New York, appeared, produced his credentials, and took his seat in the House.

Mr. Dawson reported various amendments to the bill "prohibiting, for a limited time, the exportation of arms and ammunition from the United States," which the House took immediately into consideration, and concurred in, with an amendment, striking out "pig iron," from the prohibited articles.

The bill thus amended, remains the same in substance as it passed the Committee of the Whole. It was ordered to be engrossed for a third reading to-morrow.

Mr. Bidwell said that, in the late war between the United States and Tripoli, distinguished services had been rendered by Mr. Eaton, which had contributed to the peace lately made with that Power. Intimation of this fact was not only derived from its public notoriety, but likewise from the President of the United States. He thought these services worthy the notice of Congress. He therefore submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to present a sword, in the name of Congress, to William Eaton, Esq., as a testimony of the high sense entertained of his gallantry and good conduct in leading a small band of our countrymen, and others, through the desert of Lybia, on an expedition against Tripoli, in conjunction with the ex-Bashaw of that Regency; defeating the Tripolitan army at Derne, with the assistance of a small part of the naval force of the United States, and contributing thereby to a successful termination of the war, and the restoration of our captive fellow-citizens to liberty and their country.

Referred, on the motion of Mr. Varnum, to a Committee of the Whole to-morrow.

On motion of Mr. Sloan the House took up his motion relative to the imposition of a tax of ten dollars on every slave imported into the United States.

Mr. D. R. Williams hoped the consideration of the resolution would be postponed. The law, he said, which had excited such irritation was at present before the Legislature of South Carolina, and would, in all probability, be repealed. If repealed, any resolution of this House would be useless. He therefore moved its postponement until Monday fortnight.

Mr. Sloan said, he had no objection to the postponement, which was carried without a division.

FRENCH SPOLIATIONS.

Mr. J. Randolph observed that, at the first session of the eighth Congress, there had been an appropriation of $3 750.000 for the purpose of paying American claims for spoliations committed by the people of France, which had been assumed in the convention that transferred to the United

States the sovereignty of Louisiana; that bills, in satisfaction of these claims, were daily presented for payment at the Treasury; but that, on the 31st of this month, the appropriation would cease, when the sum remaining unexpended would be carried to the credit of the surplus fund. The Committee of Ways and Means had received a letter, representing the circumstances, from the Secretary of the Treasury, which had induced them to come to a resolution to ask leave to present a bill on the subject.

Leave having been granted—

Mr. J. RANDOLPH made a report, consisting of a letter from the Secretary of the Treasury, representing the facts stated by him, and a bill, "supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic.

The bill provides that the balance of the $3,750,000 remaining unexpended on the 31st of December next shall not be carried to the surplus fund, but shall continue applicable to the satisfaction of the claims until they shall be satisfied.—Referred to the Committee of the Whole on Monday next.

THURSDAY, December 12.

Another member, to wit: JOHN HAMILTON, from Pennsylvania, appeared, produced his credentials, was qualified, and took his seat in the House.

BENJAMIN PARKE having also appeared as a Delegate from the Indiana Territory of the United States, the said oath was administered to him by the SPEAKER, and he took his seat in the House accordingly.

An engrossed bill prohibiting, for a limited time, the exportation of arms and ammunition from the United States, was read the third time, and passed.

Mr. VARNUM, from the committee appointed on the second instant, to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House, made a report thereon; which was read, and committed to a Committee of the whole House on Monday next.

The SPEAKER laid before the House a letter, in the German language, addressed to him, accompanied with two printed books in the same language.—Referred to Messrs. CONRAD, BEDINGER, and SAMMONS.

On the motion of Mr. NEWTON, the House came to the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to take into consideration the case of the brig George, detained in the port of Norfolk, with one thousand two hundred demijohns of brandy on board, and to report thereon by bill or otherwise.

Mr. NEWTON, previous to the adoption of this resolution, explained the peculiar circumstances of the case, arising from the recent British orders relative to the trade of neutrals.

Mr. J. C. SMITH, from the Committee of Claims, instructed to inquire what further steps are proper to remunerate meritorious officers, &c., reported a bill in addition to an act to make provision for persons disabled by known wounds received in the Revolutionary war; which was read twice, and referred to the Committee of the Whole.

[This bill provides that the provisions of the act of the 3d of March, 1803, shall be construed to extend to all persons who received actual wounds in the Revolutionary war, whether as volunteers or militia, and that they shall be placed on the pension list, though they may have resigned, or have been discharged, or have been in captivity at the termination of the war; and to those who, having during the war received wounds, have since become disabled thereby; authorizes the allowance of increased pensions, in cases of such disability, by the Secretary of War, on the certificate of two physicians, provided that such augmentation does not exceed a full pension; and prescribes a full pension to a commissioned officer shall be half the amount of his monthly pay, to a non-commissioned officer or private five dollars per month and that no pension shall exceed the half pay of a lieutenant colonel.]

On motion of Mr. FISK, the House came to a resolution instructing the Committee of Claims to inquire whether any further compensation ought to be allowed to any of the collectors of the direct tax for services by them performed, and whether any compensation ought to be made them for moneys actually paid, in the prosecution of the respective duties of their office, beyond the sums allowed by law.

PUBLIC ROADS.

Mr. JACKSON called the attention of the House to a subject before Congress at their last session, relative to the application of a certain part of the net proceeds of lands of the United States within Ohio, to the making roads, to revive which, he offered the following resolution:

Resolved, That a committee be appointed to *prepare and bring in a bill* making provision for the application of the money heretofore appropriated to laying out and making certain public roads.

Mr VARNUM suggested the propriety of making the reference more general, and moved the substitution of the words "to inquire into the expediency of," in the room of those in *italic*.

Mr. JACKSON could not accede to this amendment, as the plighted faith of the nation was pledged to the application he had stated. He would have no objection to enlarging the powers of the committee so as to enable them to inquire into the expediency of applying additional sums to the same object.

Mr. VARNUM's amendment having prevailed—ayes 60, the resolution, thus amended, passed.

GENERAL EATON.

On the motion of Mr. BIDWELL, the House resolved itself into a Committee of the Whole on

the resolution offered yesterday relative to William Eaton.

The Chairman read the resolution as follows:

"*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President of the United States be requested to present a sword, in the name of Congress, to William Eaton, Esq., as a testimony of the high sense entertained of his gallantry and good conduct in leading a small band of our countrymen and others through the desert of Lybia, on an expedition against Tripoli, in conjunction with the ex-Bashaw of that Regency; defeating the Tripolitan army at Derne, with the assistance of a small part of the naval force of the United States, and contributing thereby to a successful termination of the war, and the restoration of our captive fellow-citizens to liberty and their country."

Mr. BIDWELL moved to amend the resolution by striking out the word "sword," and by inserting in lieu thereof the words "a medal of gold, with proper devices."

Mr. J. CLAY wished the gentleman from Massachusetts would let the word "sword" stand in the resolution. It was only on extraordinary occasions, he believed, that a medal was awarded. He was very willing to vote for presenting a sword on this occasion; but, if a medal was insisted upon, he should be compelled to vote against the resolution.

Mr. ELLIOT requested that the resolution passed at the last session, relative to Commodore Preble, and the officers and marines under his command, might be read.

The resolution was accordingly read, which ordered a medal to be struck, and a sword to be given to each of the officers.

Mr. E. said, that the objection of the gentleman from Pennsylvania (Mr. J. CLAY) to the amendment offered by the gentleman from Massachusetts, (Mr. BIDWELL,) substituting a gold medal in the room of a sword, appeared to be founded on the idea that a medal would be a meed disproportioned to the importance of the services, or the official rank of the gentleman who was the object of the resolution; in other words, that it would be too great a reward. I did not, said Mr. E., anticipate the objection from any quarter of the House, and regret extremely that it has arisen. From the peculiar character with which the gentleman who is intended to be honored by the resolution, was invested by the Government, it becomes a point of no small delicacy, and even of some difficulty, to debate the question at all. We are, indeed, told in the President's Message, that the important services of our gallant countryman undoubtedly contributed to the impression which produced peace with Tripoli. It was proper for the President to say this, and to say no more; but, in order to enable us to pay a proper tribute on our part to merit so conspicuous, it becomes necessary to avail ourselves of information derived from unofficial sources. In everything which we can do upon this subject, we are anticipated by the loud voice of fame, and this consideration has induced me sometimes to doubt the propriety of doing anything whatever. It has, however, always been deemed policy, and even duty in free governments, to distinguish by national honors those citizens who have performed important national services. It is perfectly understood that our brave countryman commanded, in conjunction with the ex-Bashaw of Tripoli, a force sufficiently respectable to be considered as an army, and of course that the popular appellation of General Eaton had been conferred upon good grounds. In that strong point of view in which the subject will be seen by liberal minds, inadequacy of force and means, compared with the greatness of the object and the event, will give greater honor to the achieving of the enterprise. If we act at all, we ought to bestow a mark of distinction suitable for a general officer, or an officer of distinguished rank, to accept. Shall we refuse a medal, the appropriate reward of the brave Preble, and offer a sword, which was given to the subordinate naval officers, when the services of Preble, however meritorious, and greatly meritorious they were, failed of effecting the object which the world believes that Eaton has accomplished? By the modern notions of martial etiquette and honor, a sword is the appropriate token of distinction and reward for officers of subordinate rank. It is believed that a simple and concise vote of thanks, by the Representatives of a free people, is the noblest meed of exalted merit and patriotism.

An army, composed in part of Americans, but chiefly of the descendants of the ancient Grecians, Egyptians, and Arabians; in other words, an army collected from the four quarters of the globe, and led by an American commander to conquest and glory, is a phenomenon in military history calculated to attract the attention of the world, not only by its novelty, but by its real influence and consequence. It ought to be considered, too, that this army, notwithstanding the singularity of its organization and character, and the smallness of its numbers and its means, acted in a cause which might be thought to affect, at least in some remote degree, the general interest of mankind. Since the destruction of Cato, and his little senate at Utica, the banner of freedom had never waved in that desert and barbarous quarter of the globe; and he who carried it so nobly, in the language of the resolution, through the desert of Lybia, and placed it so triumphantly upon the African shore of the Mediterranean, deserves to be honorably distinguished by that country and that Government, to which the enterprise has added lustre. I repeat it, Mr. Chairman, we can do nothing in which we are not anticipated by fame. Fame has already devoted to the name which we are laboring to celebrate, the *monumentum aere perennius*, the imperishable column of glory, which is the just reward of patriots only, and which impartial history denies to the mere conquerors and robbers of mankind.

Mr. SMILIE remarked, that it added to the value of an honor conferred, to have it bestowed by an unanimous vote. It was not, however, his purpose to trouble the House with a speech. He should confine himself to making one or two re-

marks. He considered it correct that honors conferred should be apportioned to merit. It was not so important whether the man, on whom they were bestowed, was the commander of an army, or whether he filled an inferior station. Whatever his station might be, he who conducted himself well in the service of his country, was entitled to her thanks. Mr. S. said he would next examine the advantages which the services of Mr. Eaton had gained to his country, and see whether they were equal to those which we had derived from the services of other great men. From his impression, he thought they had been highly advantageous, and equally so with those rendered by Commodore Preble, and his brave associates, whose conduct he highly approved. He believed that the expedition of Mr. Eaton had greatly contributed to a peace; and if this were so, he did not know a more essential service he could have rendered. For these reasons he was in favor of awarding a medal in preference to a sword.

Mr. Quincy hoped the House would bestow a medal instead of a sword. He would say that, on such an occasion, a medal was more proper than a sword. When the resolution was offered, he had a solid objection to it, which had, in some measure, been removed by the proposed amendment. A sword was not an appropriate reward for the service rendered on this occasion. It was a reward for valor, and mere valor. In this case he considered the valor displayed as a very small part of the distinction of Mr. Eaton. He wished that the motion had been submitted to a select committee, that not only the nature of the compliment, but likewise the form of the expression, might have been better adapted to what he conceived to be the character of the service rendered. He did not think the circumstances stated in the resolution were those which were the most appropriate. He did not consider the leading a small band through the desert of Lybia, the defeating the Tripolitan army at Derne, the contributing to a peace, and the liberation of our countrymen, as characteristic of the services rendered. The peculiar character of those services was this: that Mr. Eaton, being a private citizen, and called upon by no official station or duty, had the greatness of mind to plan a scheme by which the dethronement of an usurper, the restoration of the lawful heir, and the release of our captive countrymen, were to have been effected. A conception of this kind belonged only to great and superior minds; and what was sufficient to fill the minds of most men, the machinery for effecting this plan, was to him but of a secondary nature. He believed it would be for the reputation of the United States to give some select and appropriate reward, such as a man like Eaton ought to receive, and such as it would be to the honor of our country to give.

The question was then taken on Mr. Bidwell's amendment, which was carried by a considerable majority.

Mr. Jackson said, he entertained a high sense of the extraordinary merit of the officer who was the object of the resolution under consideration, and was of opinion that the House should express their highest sentiment of approbation. To do this, he thought the phraseology of the resolution ought to be changed in conformity to the ideas of the gentleman from Massachusetts. He would, therefore, with this view, move that the Committee should rise, with the intention of moving in the House the reference of the resolution to a select committee for such alteration.

The question was taken on the rising of the Committee—yeas 52, nays 54.

Mr. Quincy suggested the propriety of substituting Barca in the room of Lybia, as the latter was an antiquated word, not to be found in modern maps.

Mr. Bidwell observed, that he was not tenacious of the particular form of the expression. If that suggested by his colleague was deemed most correct, he had no objection to it. He would, however, remark that the word Lybia was taken from an expression used by Mr. Eaton in one of his letters. It was certainly a word used in modern times, although it might not be in general use.

As to the general question, Mr. B. hoped that, as some gentlemen thought the resolution went too far, while others thought it did not go far enough, and, as the general sentiment was, that something ought to be done by the House, it would be considered that a middle course between the two extremes was the fittest, and that there would be sufficient mgnanimity to give a unanimous vote in favor of the resolution. For himself he was willing to have it varied so as to make it conform to the general sense of the Committee, for the purpose of insuring unanimity.

Mr. Quincy said he was not particularly tenacious of the form of expression used. He had only risen to state his knowledge as far as it went. Lybia was a word in use among classical men, among poets, but not among men of business.

The question was put on substituting Barca in the room of Lybia, and passed in the negative by a considerable majority. The resolution, as amended, was then agreed to without a division.

The Committee rose and reported it to the House, who immediately took it into consideration.

The amendment for substituting "a gold medal with proper devices," in the room of "a sword," being under consideration,

Mr. J. Clay said, as the Committee of the Whole had reported their agreement to the amendment, and as a desire had been expressed that there might be an unanimous vote on the occasion, he wished more information on the subject than he possessed before he could act upon it. After having obtained this he might very probably vote for the amendment. He, therefore, moved a reference of the resolution to a select committee, who might obtain the information required from the Secretary of the Navy.

Mr. Jackson observed, that the names of other gentlemen, who were before the walls of Derne, had been announced in the newspapers, as having assisted in the achievements that were the object of the resolution under consideration. It was not improper to inquire whether they ought to be associated in the honors awarded by Congress. To insure, therefore, unanimity, and bestow proper praise, he hoped the course pointed out by the gentleman from Pennsylvania would be pursued.

The motion to refer the resolution to a select committee was carried—yeas 69; and Messrs. Bidwell, J. Clay, Thompson, of New Hampshire, Masters, Gray, Archer, and Casey, were appointed a committee.

Friday, December 13.

Two other members, to wit: from Delaware, James M. Broom, and from Kentucky, John Fowler, appeared, produced their credentials, were qualified, and took their seats in the House.

Mr. Thomas, from the committee appointed on the tenth instant, presented a bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia;" which was read twice and committed to a Committee of the whole House on Monday next.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a report and estimates of appropriation necessary for the service of the year 1806; also, a statement of the receipts, and expenditures at the Treasury of the United States, for one year preceding the first day of October, 1805, which were read, and referred to the Committee of Ways and Means.

On motion of Mr. Dawson, the Message of the President relative to the brigantine Henrick, together with the report of the Committee of Claims thereon, made at a former session, were referred to the Committee of the Whole on Wednesday next.

The House went into an election for a Chaplain in the room of Mr. Glendy.

Messrs. Chalmers, Laurie, and Rattoon, were nominated.

The ballots having been taken, the Speaker declared Mr. Laurie elected, he having 62 votes.

THEODORICK ARMISTEAD.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, to whom was yesterday referred the petition relative to a vessel at Norfolk, reported a bill for the relief of Theodorick Armistead, which was referred to a Committee of the Whole to-day.

The bill authorizes the Collector at Norfolk to admit to entry 1200 demijohns of brandy imported by T. Armistead, in the brig George, from the island of Teneriffe.

The House went immediately into Committee of the Whole.

Mr. Newton fully explained the peculiar circumstances of this case, and called for the reading of the documents relative to it; from which it appeared that some time since the owner of the brig George hired her to go to Teneriffe, where he took a cargo for the Havana; hearing subsequently of the late British orders, he thought it prudent to return to Norfolk, where he now lies; but owing to the revenue laws of the United States he is prohibited from entering brandy in quantities as small as those contained in the demijohns. He, therefore, asks permission to land these articles on paying the usual duties.

Mr. Macon (the Speaker) expressed his opinion of the incorrectness of the course pursued on this occasion, on which the Committee of Commerce and Manufactures, contrary to the usual practice of the House, had reported a bill without assigning their reasons in an accompanying report. He wished that such a report might be made, and that it might stand as a precedent, in case other applications should be made, to show the peculiar grounds on which the House acted. It was further his wish that there had been a bill embracing the general principle involved in this case, in preference to one making a special provision. That a detailed report might be made, he moved that the Committee should rise, in order to make way for a motion to recommit the bill to the Committee of Commerce and Manufactures.

Mr. Newton opposed this motion. He represented the case as extremely hard; that the facts were all before the House and were indisputable; that the vessel had been detained since October; that nothing was asked but what was perfectly fair; that the necessity of making the request arose from orders recently issued by a King who, though he could do no wrong to his own subjects, practised great injuries on American citizens. With regard to the general principle, a diversity of opinion, he said, existed in the Committee of Commerce and Manufactures, and to wait until this should be decided might involve great and injurious delay. As to one suggestion of the honorable Speaker, it would be easily obviated by the documents then in the possession of the House, remaining on file, which would clearly discriminate this case from all others which might hereafter come before them.

Mr. J. Clay allowed that this was a hard case, but doubted much whether it was sound policy in the Government to recognise a high insurance, which was demanded in this instance on the exportation of the brandies, as sufficient ground for allowing them to be landed, in contravention of a principle of the revenue system. He remarked that this case did not arise from any fault of the American Government, but from the aggressions committed on our rights by a Government who made their own interests the rule of their conduct towards other nations. He concluded by concurring with the Speaker in the course recommended by him.

Mr. Crowninshield hoped the Committee would not rise. The prayer of the petitioner was very reasonable. All he asked was to land his goods on paying the legal duties on them. He passed over the ground taken by Mr. Newton, and added that if the owner of the goods were driven, by a denial of the indulgence he asked, to export his goods, they might be seized under the plundering order of His Britannic Majesty, and both goods and duties be lost.

Mr. C. said that in the Committee of Commerce and Manufactures he had been in favor of

reporting a bill for making a general provision; but that having been overruled in this point, the members of the committee not having made up their minds on its propriety, it became his duty to make a special report, in which he heartily concurred. He could not conceive why the entry of brandy and several other articles should be refused, unless imported in vessels of a particular size, while other articles of greater value in proportion to their bulk were admitted without restriction.

On the rising of the committee a division took place—yeas 56, nays 47.

The Committee rose, reported that they had made progress, and asked leave to sit again.

Leave being denied, on the motion of Mr. J. CLAY the bill was recommitted to the Committee of Commerce and Manufactures.

MONDAY, December 16.

Two other members, to wit: from South Carolina, O'BRIEN SMITH, and from New York, GEORGE CLINTON, junior, appeared, produced their credentials, were qualified and took their seats in the House.

Ordered, That the act passed by the Legislature of the State of South Carolina, on the twenty-first of December, one thousand eight hundred and four, entitled "An act to authorize the City Council of Charleston, with the consent of Congress, to impose and levy a duty on the tonnage of ships and vessels, for the purpose therein mentioned," presented to this House on the eighth of February last, with the documents accompanying the same, be referred to Mr. MARION, Mr. TRACY, Mr. SMITH, of Virginia, Mr. BROOM, and Mr. COOK; to examine and report their opinion thereupon to the House.

On motion, it was

Resolved, That a committee be appointed to inquire into the expediency of so far amending the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accrued in certain cases therein mentioned," as to extend the powers vested in the District Judges of the United States to the Judges of the Judicial Courts of the several States; and that the said committee be authorized to report thereon by bill, or otherwise.

Ordered, That Mr. SAILLY, Mr. PITKIN, Mr. BARD, Mr. MORROW of Virginia, and Mr. FOWLER, be appointed a committee pursuant to the said resolution.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was recommitted, on the thirteenth instant, the bill for the relief of Theodorick Armistead, made a report thereon: Whereupon,

Ordered, That the said report, together with the bill, be committed to a Committee of the Whole to-morrow.

RULES OF THE HOUSE.

On motion of Mr. VARNUM, the House went into a Committee of the Whole on the Standing Rules of the House.

Mr. ALSTON moved to strike out the following words in one of the rules:

"It shall be the duty of the Committee of Accounts to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House."

This amendment was supported by Messrs. ALSTON and DAWSON, under the impression that this new mode of settling the accounts of the members would be extremely inconvenient, if not impracticable.

It was opposed by Messrs. J. CLAY, FINDLEY, VARNUM, ELMER, and BIDWELL, who stated that, under the former practice of the House, which devolved the duty on the Speaker and Sergeant-at-Arms, errors had been committed; that these would in future be best avoided by a standing committee; that this would relieve the Speaker and Sergeant-at-Arms from a burden at the close of the session, when other presing business necessarily engaged their attention, and would guard the reputations of members from insinuations to their discredit.

During the discussion, the SPEAKER, without expressing any opinion on the prospect of the amendment, made a minute statement of the practice which had heretofore prevailed on this point, in which he observed that but one instance within his knowledge had occurred since he had filled the Chair, of a member who had received a greater compensation for his attendance than he was entitled to; and that this circumstance must have arisen from accident, as it involved his receiving pay for one day more than the length of the session—an error which was immediately after the hurry of business detected. He further stated, that with respect to the mileage account, that was entirely made out in conformity to the representation of the members.

Mr. ALSTON's amendment was disagreed to—yeas 33.

Mr. J. CLAY moved to strike out the words in *italic* in the following rule:

"When a question is under debate, no motion shall be received, unless for the previous question, *to postpone it indefinitely*, to postpone it to a day certain, to lie on the table, to commit it, to amend it, or to adjourn."

Mr. NICHOLSON supported and Mr. VARNUM opposed this motion, which was disagreed to—yeas 44, nays 51.

Mr. SMILIE moved an amendment, prescribing that if the previous question shall be decided in the negative, "the consideration of the main question shall not be resumed during the same session."

Messrs. SMILIE, FINDLEY, and J. CLAY, spoke in favor of, and Messrs. VARNUM and QUINCY against, the amendment, which was disagreed to—ayes 32.

On the motion of Mr. NICHOLSON, the following new rule was adopted—yeas 32:

"When a question is postponed indefinitely, the same shall not be acted upon during the session."

Mr. SMILIE moved to strike out the words in *italic* in the following rule: "On a previous question, *no member shall speak more than once without leave*," and insert in lieu thereof "there shall be no debate."

Messrs. SMILIE and NICHOLSON advocated, and Messrs. BIDWELL, G. W. CAMPBELL, and VARNUM, opposed this motion, which was disagreed to—yeas 35.

Mr. FINDLEY suggested the propriety of instituting a permanent committee, to be charged with whatever respects the lands of the United States, and moved a rule for the appointment of a standing committee of seven members, to be styled "A Committee respecting the Lands of the United States;" which motion was agreed to—yeas 59, nays 31.

The Committee then rose, and asked leave to sit again, which the House granted.

TUESDAY, December 17.

Two other members, to wit: from Virginia, MATTHEW CLAY, and from Kentucky, MATTHEW WALTON, appeared, produced their credentials, and took their seats in the House.

Mr. TENNEY made a report in the name of the Committee of Revisal and Unfinished Business.

Mr. GREGG withdrew a motion, made by him a few days since, relative to the disposition of public lands recently acquired from the Indians, under the impression that the subject would of course go to the standing land committee.

On the motion of Mr. GREGG a standing Committee on Public Lands were appointed.

Mr. STANTON moved the following resolution:

Resolved, That the Committee of Revisal and Unfinished Business be instructed to inquire into the expediency of suspending, for a limited time, so much of an act regulating foreign coins, and for other purposes, as is contained in the second section thereof, with authority to report by bill or otherwise.

Mr. ALSTON observing that this subject was under the consideration of the Committee of Revisal and Unfinished Business, who would probably soon make a report upon it, the resolution was disagreed to—yeas 29.

Mr. J. C. SMITH, from the Committee of Claims, made a report on the petition of the crew of the late frigate Philadelphia, unfavorable to the petitioners, which was referred to a Committee of the Whole to-morrow.

THEODORICK ARMISTEAD.

The House resolved itself into a Committee of the Whole on the bill for the relief of Theodorick Armistead; on which a debate of about one hour's duration ensued.

The bill was supported by Messrs. CROWNINSHIELD, SMILIE, NEWTON, ALSTON, and MCCREERY; and opposed by Messrs. J. C. SMITH and MACON.

The opposition was sustained on the alleged invariable practice of the House, to establish general principles, instead of providing for special cases. As a general principle, which would embrace this case, was pending before the Committee of Commerce and Manufactures, it was contended to be the most proper to wait until a decision should be made on this principle, by which provision would be opened for all similar cases, by taking off the existing restriction on the importation of spirits which precluded their admission in smaller vessels than of ninety gallons.

The friends of the bill declared the case to be an extremely hard one, and explained the peculiar circumstances attending it as we have already stated them on a former day. They represented that delay in this case would be equal to a denial of justice, and would, by the accruing expenses of demurrage, which fell on the petitioner, eat up the value of his brandies; that the general provision alluded to would probably excite much diversity of sentiment, and might, after considerable delay, be rejected.

In the course of the debate Mr. CROWNINSHIELD, alluding to the recent British orders, spoke of them "as novel and strange principles acted on by their courts;" and Mr. NEWTON represented them as "piratical orders issued by the King and Council of Great Britain;" remarking that he could call them by no other name.

After adopting an amendment for securing the payment of the duties, offered by Mr. J. CLAY, the Committee agreed to the bill—nays 27; rose and reported it to the House, who ordered it to be engrossed for a third reading to-morrow.

RULES OF THE HOUSE.

The House again went into Committee of the Whole on the standing rules of the House.

After making a slight amendment in one of the rules, the Committee rose and reported their agreement to the rules, with certain amendments.

The House immediately took up the report.

On the amendment offered by Mr. FINDLEY, relative to the appointment of a standing committee respecting the lands of the United States, a debate of some length ensued, in which the amendment was supported by Messrs. GREGG, NICHOLSON, and SMILIE; and opposed by Mr. BEDINGER.

Mr. BEDINGER suggested his fears, lest a standing committee, vested with the entire business connected with the public lands, should gain such an ascendency over the sentiments and decisions of the House, by the confidence reposed in them, as to impair the salutary vigilance with which it became every member to attend to so interesting a subject.

On the other hand it was contended that the business of the House would, on this point, be greatly facilitated by the institution of a standing committee, whose decisions would be uniform, who would from a long experience become more enlightened than a select committee, and who would be enabled to despatch the business confided to them with greater celerity.

The amendment was agreed to—yeas 87.

The remaining amendments proposed by the Committee of the Whole were agreed to.

Mr. EARLY renewed the amendment, offered yesterday by Mr. SMILIE, to preclude all debate on the previous question; which, after a few remarks from Messrs. EARLY, SMILIE, and VARNUM, was

agreed to—yeas 69; when the House concurred in the whole report as amended. It was as follows:

Rules and Orders for conducting business in the House of Representatives of the United States.

First.—Touching the duty of the Speaker.

He shall take the chair, every day, precisely at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order, and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

He shall preserve decorum and order, in preference to other members, rising from his seat for that purpose, and shall decide questions of order, subject to an appeal to the House by any two members.

He shall rise to put a question, but may state it sitting.

Questions shall be distinctly put in this form, to wit "As many as are of opinion that (as the question may be) say Aye," and, after the affirmative voice is expressed, "as many as are of a contrary opinion, say No." If the Speaker doubts, or a division be called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the Speaker still doubts, or a count be required, the Speaker shall name two members, one from each side, to tell the members in the affirmative, which being reported, he shall then name two others, one from each side, to tell those in the negative; which being also reported, he shall rise, and state the decision to the House.

All committees shall be appointed by the Speaker, unless otherwise specially directed by the House, in which case they shall be appointed by ballot; and if, upon such ballot, the number required shall not be elected by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail; and, in case a greater number than is required to compose or complete the committee shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

In all other cases of ballot, than for committees, a majority of the votes given shall be necessary to an election; and when there shall not be such majority on the first ballot, the ballot shall be repeated until a majority be obtained.

In all cases of ballot by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal, and in case of such equal division, the question shall be lost.

In all cases where other than members of the House may be eligible to any office, by the election of the House, there shall be a previous nomination.

All acts, addresses, and joint resolutions, shall be signed by the Speaker; and all writs, warrants, or subpœnas, issued by order of the House, shall be under his hand and seal, attested by the Clerk.

In case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker (or Chairman of the Committee of the whole House) shall have power to order the same to be cleared.

No person shall be admitted within the lobby or lower gallery but members of the Senate, officers of the General Government, foreign ministers, and such as are introduced by the Speaker, or some other member of the House.

Stenographers shall be admitted, and the Speaker shall assign such places to them on the floor as shall not interfere with the convenience of the House.

Secondly.—Of Decorum and Debate.

When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to Mr. Speaker.

If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain, and the House shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the Chair, shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House.

When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

No member shall speak more than twice on the same question, without leave of the House, nor more than once, until every member choosing to speak shall have spoken.

Whilst the Speaker is putting any question, or addressing the House, none shall walk out of, or across the House; nor, in such case, or when a member is speaking, shall entertain private discourse; nor, whilst a member is speaking, shall pass between him and the Chair.

No member shall vote on any question, in the event of which he is immediately and particularly interested; or, in any case, where he was not present when the question was put.

Upon a division and count of the House on any question, no member without the bar shall be counted.

Every member who shall be in the House when a question is put, shall give his vote, unless the House, for special reasons, shall excuse him.

When a motion is made and seconded, it shall be stated by the Speaker, or, being in writing, it shall be handed to the Chair, and read aloud by the Clerk before debated.

Every motion shall be reduced to writing, if the Speaker or any member desire it.

After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in the possession of the House, but may be withdrawn at any time before a decision or amendment.

When a question is under debate, no motion shall be received, unless for the previous question, to postpone it indefinitely, to postpone it to a day certain, to lie on the table, to commit it, to amend it, or to adjourn.

A motion to adjourn shall be always in order, and shall be decided without debate.

The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by five members; and, until it is decided, shall preclude all amendment and further debate of the main question.

On a previous question there shall be no debate.

When a question is postponed indefinitely, the same shall not be acted upon again during the session.

Any member may call for the division of a question, where the sense will admit of it.

A motion for commitment, until it is decided, shall preclude all amendment of the main question.

Motions and reports may be committed at the pleasure of the House.

No new motion or proposition shall be admitted under color of amendment, as a substitute for the motion or proposition under debate.

When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof.

When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House.

The unfinished business in which the House was engaged at the last preceding adjournment, shall have the preference in the orders of the day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of.

If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member, who shall have spoken twice on the preceding day, shall be permitted again to speak without leave.

Every order, resolution, or vote, to which the concurrence of the Senate shall be necessary, shall be read to the House, and laid on the table, on a day preceding that in which the same shall be moved, unless the House shall otherwise expressly allow.

Petitions, memorials, and other papers, addressed to the House, shall be presented by the Speaker, or by a member in his place; a brief statement of the contents thereof shall verbally be made by the introducer, and shall not be debated or decided on the day of their being first read, unless where the House shall direct otherwise; but shall lie on the table, to be taken up in the order they were read.

Any fifteen members (including the Speaker, if there be one,) shall be authorized to compel the attendance of absent members.

Upon calls of the House, or in taking the yeas and nays on any question, the names of the members shall be called alphabetically.

Any member may excuse himself from serving on any committee at the time of his appointment, if he is then a member of two other committees.

No member shall absent himself from the service of the House, unless he have leave, or be sick and unable to attend.

Upon a call of the House, the names of the members shall be called over by the Clerk, and the absentees noted; after which the names of the absentees shall again be called over, the doors shall then be shut, and those for whom no excuse, or insufficient excuses are made, may, by order of the House, be taken into custody as they appear, or may be sent for and taken into custody, wherever to be found, by special messengers, to be appointed for that purpose.

When a member shall be discharged from custody, and admitted to his seat, the House shall determine whether such discharge shall be with, or without paying fees; and, in like manner, whether a delinquent member, taken into custody by a special messenger, shall, or shall not, be liable to defray the expenses of such special messenger.

A Sergeant-at-Arms shall be appointed to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sitting; to execute the commands of the House, from time to time; together with all such process issued by authority thereof, as shall be directed to him by the Speaker.

The fees of the Sergeant-at-Arms shall be, for every arrest, the sum of two dollars; for each day's custody and releasement, one dollar; and for travelling expenses of himself, or a special messenger, going and returning, one tenth of a dollar per mile.

Seven standing committees shall be appointed at the commencement of each session, viz:

A Committee of Elections, a Committee of Claims, a Committee of Commerce and Manufactures, a Committee of Ways and Means, a Committee on the Public Lands—to consist of seven members each.

A Committee of Revisal and Unfinished Business, and a Committee of Accounts.—to consist of three members each.

It shall be the duty of the Committee of Elections to examine and report upon the certificates of election, or other credentials, of the members returned to serve in this House, and to take into their consideration all such petitions, and other matters touching elections and returns, as shall, or may be, presented, or come in question, and be referred to them by the House.

It shall be the duty of the said Committee of Claims to take into consideration all such petitions and matters or things touching claims and demands on the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report their opinion thereupon, together with such propositions for relief therein, as to them shall seem expedient.

It shall be the duty of the said Committee of Commerce and Manufactures to take into consideration all such petitions and matters or things touching the commerce and manufactures of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report, from time to time, their opinion thereon.

It shall be the duty of the said Committee of Ways and Means to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt; of the revenue and of the expenditures; and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such law; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.

It shall be the duty of the said Committee on the Public Lands to take into consideration all such petitions, and matters or things, respecting the lands of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions for relief therein, as to them shall seem expedient.

It shall be the duty of the said Committee of Revisal and Unfinished Business to examine and report what laws have expired, or are near expiring, and require to be revived, or further continued; also, to examine and report, from the Journal of the last session, all such matters as were then depending and undetermined.

It shall be the duty of the said Committee of Accounts to superintend and control the expenditure of the contingent fund of the House of Representatives, and to audit and settle all accounts which may be charged thereon; and, also, to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House.

No committee shall sit during the sitting of the House, without special leave.

The Clerk of the House shall take an oath for the true and faithful discharge of the duties of his office to

the best of his knowledge and abilities, and shall be deemed to continue in office until another be appointed.

It shall be the duty of the Clerk of the House, at the end of each session, to send a printed copy of the Journals thereof to the Executive, and to each branch of the Legislature of every State.

Whenever confidential communications are received from the President of the United States, the House shall be cleared of all persons, except the members and the Clerk, and so continue during the reading of such communications, and (unless otherwise directed by the House) during all debates and proceedings to be had thereon. And when the Speaker, or any other member, shall inform the House that he has communications to make, which he conceives ought to be kept secret, the House shall, in like manner, be cleared till the communication be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

All questions relating to the priority of business to be acted on, shall be decided without debate.

Thirdly—Of Bills.

Every bill shall be introduced by motion for leave, or by an order of the House, on the report of a committee; and, in either case, a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice, at least, shall be given of the motion to bring in a bill; and every such motion may be committed.

Every bill shall receive three several readings in the House previous to its passage; and all bills shall be despatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day, without special order of the House.

The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be, "Shall this bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.

Upon the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment; and if committed, then a question shall be, whether to a select or standing committee, or to a Committee of the whole House; if to a Committee of the whole House, the House shall determine on what day. But, if the bill be ordered to be engrossed, the House shall appoint the day when it shall be read the third time.

After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted.

All bills ordered to be engrossed shall be executed in a fair round hand.

When a bill shall pass, it shall be certified by the Clerk, noting the day of its passage at the foot thereof.

Fourthly—Of Committees of the Whole House.

It shall be a standing order of the day, throughout the session, for the House to resolve itself into a Committee of the whole House on the state of the Union.

In forming a Committee of the whole House, the Speaker shall leave his chair, and a chairman, to preside in committee, shall be appointed by the Speaker.

Upon bills committed to a Committee of the whole House, the bill shall be first read throughout by the Clerk; and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper, as the same shall be agreed to by the committee, and so reported to the House. After report, the bill shall again be subject to be debated, and amended by clauses, before a question to engross it be taken.

All amendments made to a report, committed to a Committee of the whole House, shall be noted and reported as in the case of bills.

All questions, whether in committee or in the House, shall be propounded in the order in which they were moved; except that, in filling up blanks, the largest sum, and longest time, shall be first put.

No motion or proposition for a tax, or charge upon the people, shall be discussed the day on which it is made or offered, and every such proposition shall receive its first discussion in a Committee of the whole House.

No sum, or quantum of tax, or duty, voted by a Committee of the whole House, shall be increased in the House, until the motion or proposition for such increase shall be first discussed and voted in a Committee of the whole House; and so in respect to the time of its continuance.

All proceedings, touching appropriations of money, shall be first discussed in a Committee of the whole House.

The rules of proceeding in the House shall be observed in a Committee of the whole House, so far as they may be applicable, except the rule limiting the times of speaking; but no member shall speak twice to any question until every member, choosing to speak, shall have spoken.

No standing rule or order of the House, shall be rescinded without one day's notice being given of the motion therefor.

Joint Rules and Orders of the two Houses.

In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their chairmain, meet in the Conference chamber, and state to each other, verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon.

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.

While bills are on their passage between the two Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House, respectively.

After a bill shall have passed both Houses, it shall be duly enrolled on parchment by the Clerk of the House of Representatives, or the Secretary of the Senate, as the bill may have originated in the one or the other House, before it shall be presented to the President of the United States.

When bills are enrolled, they shall be examined by a joint committee of one from the Senate, and two from the House of Representatives, appointed as a

standing committee for that purpose, who shall carefully compare the enrolment with the engrossed bills, as passed in the two Houses, and correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the House of Representatives, then by the President of the Senate.

After a bill shall have been thus signed in each House, it shall be presented by the said committee to the President of the United States for his approbation, it being first endorsed on the back of the roll, certifying in which House the same originated; which endorsement shall be signed by the Secretary or Clerk (as the case may be) of the House in which the same did originate, and shall be entered on the Journal of each House. The said committee shall report the day of presentation to the President, which time shall also be carefully entered on the Journal of each House.

All orders, resolutions, and votes, which are to be presented to the President of the United States for his approbation, shall also, in the same manner, be previously enrolled, examined, and signed, and shall be presented in the same manner and by the same committee as provided in case of bills.

When the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience chamber by the President of the Senate, in the presence of the Speaker and both Houses.

Wednesday, December 18.

An engrossed bill for the relief of Theodorick Armistead was read the third time, and passed.

Mr. Findley, from the Committee of Elections, to whom was referred, on the ninth instant, the petition of Thomas Spalding, of the State of Georgia, complaining of an undue election and return of Cowles Mead, one of the members returned to serve in this House for the said State of Georgia, made a report thereupon; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

On motion, it was

Ordered, That the report of a select committee, made the 17th of February, 1804, on a letter of William H. Harrison, President of a Convention held at Vincennes, in the Indiana Territory, declaring the consent of the people of the said Territory to a suspension of the sixth article of compact between the United States and the said people; also, on a memorial and petition of the inhabitants of the said Territory; be referred to Mr. Garnett, Mr. Morrow of Ohio, Mr. Parke, Mr. Hamilton, Mr. Smith of South Carolina, Mr. Walton, and Mr. Van Cortlandt.

A petition of the Legislative Council and House of Representatives of the Indiana Territory was presented to the House and read, praying that the introduction of slaves into the said Territory may be permitted by Congress; that the right of suffrage therein may be enlarged; that the salt licks and springs in the said Territory may be ceded to them on certain conditions; that a certain description of claimants to land, in the said Territory, may be permitted to make entry thereof in the mode therein stated; that no division of the said Territory may take place; and that the citizens thereof may be permitted to form a State government as soon as their population will permit the measure.

Also, a petition of sundry purchasers of land settled, and intending to settle, on that part of the Indiana Territory west of Ohio, and east of the boundary line running from the mouth of Kentucky river, praying that the said tract of country may be added to and made part of the State of Ohio.

Ordered, That the said petitions be severally referred to the committee last appointed; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. Varnum, from the committee appointed on the sixth instant, presented a bill establishing rules and articles for the government of the armies of the United States; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. Tenney, from the Committee of Revisal and Unfinished Business, made a further report; which was read, and ordered to lie on the table.

Mr. Tenney, from the same committee, presented a bill to revive and continue in force an act, entitled "An act to suspend, in part, an act, entitled 'An act regulating foreign coins, and for other purposes; which was read twice, and committed to a Committee of the Whole tomorrow.

A petition of certain actual settlers on lands lately sold by Congress, as pre-emption lands, lying between the Miamies, in the State of Ohio, was presented to the House and read, praying a remission of interest, and an extension of the terms of payment for their lands.—Referred to the Committee on Public Lands.

On motion of Mr. Southard,

Resolved, That a committee be appointed to inquire whether any and if any, what alterations are necessary in the act respecting the compensation to grand and other jurors summoned to serve in the Courts of the United States.

Mr. Southard prefaced this motion by stating that he had been informed that jurors in the different Courts of the United States received various compensations.

On motion of Mr. Thomas the House resolved itself into a Committee of the Whole on the bill "supplementary to the act entitled an act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia."

This bill directs the following locations of land and patents to be granted:

"To Charlotte Hazen, widow of Moses Hazen, sixteen hundred acres; Elijah Ayre, senior, one thousand acres; Elijah Ayre, jun., three hundred and twenty acres; and Anthony Burk, two hundred and fifty acres."

Mr. Thomas explained the grounds on which this bill is predicated, in virtue of inexecuted resolutions of the old Congress; when the Committee rose and reported it without amendment; in

which report the House immediately concurred, and ordered the bill to a third reading to-morrow.

Mr. Morrow presented a petition, of a very interesting nature, from Francis Messonier, a native of France; stating that from numerous experiments made by him, in the vicinity of Cincinnati, in the State of Ohio, he believes he will be able to cultivate the vine with complete success; that the experiments made have issued in results equal to his most sanguine expectations; that he believes he will be able to supply wines of a quality equal to those of France competent to the demand of the State at one fourth of the price of imported wines; that the fever and ague, so prevalent on the western waters, is, in his opinion, greatly owing to the inability of the people, from the exorbitant price of wine, to consume it in connexion with the bark; that he is convinced that the bottoms of Ohio are as favorable to the cultivation of the grape as the hills of France; and soliciting either the grant, or the sale on an extended credit of section 29, in township No. 3, range 9, on Mad river, a situation which he considers singularly favorable to a vineyard.

Referred to the Committee of Commerce and Manufactures.

REVOLUTIONARY PENSIONERS.

On motion of Mr. John C. Smith the House resolved itself into a Committee of the Whole, on the bill "in addition to an act to make provision for persons that have been disabled by known wounds, received in the actual service of the United States, during the Revolutionary war.

The Committee having passed through the bill, reported it without amendment.

The House immediately took up the report; and on the question to engross the bill for a third reading,

Mr. Alston asked for information with regard to a new principle which appeared to him to be contained in the first section. He observed that it was unknown to him whether the United States had ever placed volunteers or militia on their pension list. If this had not heretofore been done, and it should be done at this late period, he did not know where the business would end. It would be nowise difficult for any person to bring forward some kind of evidence of a disability received in the Revolutionary war, by showing that he had performed some service or other. With regard to those at present on the pension list of the States it would be extremely difficult for them to produce the evidence required by this law; and the States might after the passage of this bill sweep from their list pensioners of the description contemplated in the bill. Unless a proper explanation of these circumstances were made, Mr. A. said he could not vote for the bill.

Mr. Gregg moved to strike out the words relative to the making provision for persons disabled in the militia, or acting under the authority of a particular State. He said that he thought it a forced construction of the act of 1803 to extend its provision to those persons employed in the militia service or who acted under particular States. He read the provisions of that act, and observed that they did not contain a word respecting the militia, or those who acted under the order of States. He could not see the propriety of placing on the pension list those who acted under the authority of the States. There might be some bodies who had been ordered out by particular States, who so far from being recognised by the General Government, had been called out in contravention of their orders. It would, Mr. G. thought, be very extraordinary to place such men on the pension list of the United States. He believed that all proper objects who had been drawn out under State orders, were on State pension lists. If these men were set afloat by this act, they might at this late day, owing to the difficulty of collecting proper evidence, be left without remedy.

Mr. John C. Smith said that the bill under consideration was precisely similar to one which had, at the last session, been agreed to in the House, and had been ordered to be engrossed for a third reading; but which had not been conclusively acted upon. He observed that he had never been very tenacious of the principle on which gentlemen had animadverted; though he believed that the wounds received by the description of persons referred to had been as serious to them, and as important to their country, as those received by soldiers in the actual service of the United States. It had been remarked that some of the States had made provision for this description of persons. Whether this was, or was not the case, he did not know. But if gentlemen would advert to the act of 1796, they would find a provision made for commissioned and non-commissioned officers and privates of the militia who had been in the service of the United States since the Revolutionary war. The principle in this bill was the same with that in the bill passed in 1796. In that instance the militia had been called out for the general service under the authority of particular States. Congress then thought proper to provide for such a case. Mr. S. did not know anything which made it less proper to provide for similar cases which had occurred during the Revolutionary war. It was true that the provision would be applicable to but a few individuals, but this could not affect their claims to the justice of their country. How far this provision might operate unequally, especially on States who had already made provision for their militia, he did not know. He was not acquainted with the facts alluded to. He was perfectly willing that the bill should lie, until correct information should be obtained.

Mr. Marion hoped the words would not be struck out. He perceived no real difference between the claims of the militia and of those in regular service. It was true that some States had made provision for their militia. But every State in the Union ought to bear the burden of the war equally; it ought not to fall exclusively on those States which had been invaded, and whose militia had consequently been the most exposed. Although such States had made a provision, it was more consonant to equity and justice that the Union should bear the burden. Gentlemen should recollect that the section only provided for those who had been engaged in the general service.

The question was then taken on Mr. Gregg's motion, and lost—ayes 16.

It was then ordered, without a division, that the bill be engrossed for a third reading to-morrow.

Thursday, December 19.

An engrossed bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia," was read the third time, and passed.

An engrossed bill in addition to "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war," was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill suppementary to the "Act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic;" and, after some time spent therein, the bill was reported without amendment and ordered to be engrossed, and read the third time to-morrow.

The Speaker laid before the House a letter from William Henry Harrison, Governor of the Indiana Territory, enclosing a resolution of the House of Representatives of the said Territory, stating their objections to a division thereof into two Territories; which were read, and ordered to be referred to Mr. Garnett, Mr. Morrow of Ohio, Mr. Parke, Mr. Hamilton, Mr. Smith of South Carolina, Mr. Walton, and Mr. Van Cortlandt.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, to whom was referred the petition of Edward Toppan, George Jenkins, and William Currier, of Newburyport, in the State of Massachusetts. The Committee rose and reported a resolution thereupon, which was twice read, and agreed to by the House as follows:

Resolved, That the petition of Edward Toppan and others is reasonable, and ought to be granted.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

On motion of Mr. G. W. Campbell,

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary to be made to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers; and that the committee have leave to report thereon by bill, or otherwise.

Ordered, That Mr. George W. Campbell, Mr. Cook, Mr. Goldsborough, Mr. Wickes, and Mr. Jackson, be appointed a committee, pursuant to the said resolution.

On motion of Mr. Cook,

Resolved, That the Committee of Commerce and Manufactures be instructed to consider the several acts relative to the bounties on salted fish, taken in vessels of different sizes, and to consider and report what alterations, if any, be necessary to equalise such bounties; and that the said committee report by bill, or otherwise.

On motion of Mr. Stanton,

Resolved, That the Committee of Ways and Means be directed to inquire whether any, and, if any, what, alterations are necessary to be made in the several acts fixing the salaries and emoluments of the collectors of duties on imports and tonnage; and that the committee be authorized to report by bill, or otherwise.

FOREIGN COINS.

The House went into Committee of the Whole on the bill to revive and continue in force an act, entitled "An act to suspend, in part, the act, entitled 'An act regulating foreign coins, and for other purposes.'" The bill was read as follows:

Be it enacted, &c., That the act, entitled "An act to suspend, in part, the act, entitled 'An act regulating foreign coins, and for other purposes,'" approved on the thirtieth day of April, one thousand eight hundred and two, shall be and the same is hereby revived and continued in force for the term of —— years from the passing hereof.

Mr. Tenney moved the following substitute, after the enacting words:

"That so much of the act, entitled "An act regulating foreign coins," and for other purposes, as is contained in the second section thereof, be and the same is hereby further suspended, during the term of —— years from the end of the present session of Congress."

Mr. Varnum wished that the section referred to, which prohibits any foreign coin, excepting Spanish milled dollars, or parts thereof, from being a legal tender, might, instead of being suspended, be repealed. That provision, he said, had been introduced under the idea that the coin of the United States would be sufficient for the demand, which had been found to be erroneous.

Mr. J. Clay differed so widely from the gentleman from Massachusetts that he entertained strong doubts of the policy even of suspending the provision. There were very few foreign coins in circulation besides Spanish milled dollars and British guineas. If the suspension were, therefore, confined to these, it would be, so far as respected the public convenience, equivalent to a repeal. Every one knew that there had been, for some years past, a large quantity of bad money in circulation. By the proposed repeal, this description of money would be again brought back.

Mr. Macon (Speaker) said, that, if the idea of the gentleman from Pennsylvania were adopted, it would be necessary to go further than he had suggested. In addition to the coins mentioned by him, it would be proper to extend it to Portuguese guineas, which were extensively circulated. But he considered the proposition of the gentleman

from Massachusetts the best. When we can do without foreign coins, we may declare that they shall not be a legal tender. Since last May, when the provision contemplated to be renewed, ceased, there had been no complaints. The necessities of the country required the use of French coins. With regard to our own coin, in many parts of the Union it was as difficult to find a gold, as a flying eagle. Into his part of the country, Mr. M. said, it never found its way.

Mr. Varnum moved to amend the amendment of Mr. Tenney, by striking out the words: "further suspended during the term of —— years from the end of the present session of Congress," and inserting in lieu thereof the word "repealed."

Mr. J. Clay hoped the amendment would not take place. If there were any real inconvenience, it would be entirely obviated by the proposed suspension. He acknowledged that when he was up before, the Portuguese gold had escaped his attention—but it was so clipped and mutilated as scarcely to be considered as coin, and the fact was, that it was chiefly confined to the banks. If the repealing provision should be confined to the gold coins, he should have no great objection to it; but there was no necessity of introducing into the circulation any other silver coin than that now authorized. Some of the foreign coins were so roughly executed as not to furnish a proper protection against counterfeits. The great security attending coins, as well as bank notes, was the excellence of the workmanship.

Mr. Jackson was in favor of the amendment offered by the gentleman from Massachusetts, (Mr. Varnum.) All economical writers agreed that the wealth of nations was intimately connected with the quantity of the circulating precious metals. For this reason, he thought it impolitic to restrict the circulation of foreign coins in the United States. It was, likewise, improper to legislate frequently on the subject. It had been found that the mint could not furnish a sufficient supply of coin for our purposes, especially while such vast quantities went out of the country. All objections made to a repeal were obviated by the consideration that the existing law provides, that foreign coins shall pass by weight. Mr. J. concluded by saying, that it was his opinion, that it was for the interest of the country that money should circulate more extensively than it ever had done.

Mr. Varnum said, that the gentleman from Pennsylvania grounded his objection on the idea that foreign coins were more easily counterfeited than those of the United States. He should, however, recollect that those who resided in the country did not possess that kind of knowledge which belonged to those acquainted with bank transactions. They saw but little money, and always in small quantities, and were as likely to take false coin of the United States as foreign coin. The real situation of the United States, as to money, was this: In some parts of the country there was no specie whatever; there was nothing but paper. In the eastern parts of the Union this was peculiarly so owing to the great number of banks which circulated the greater part of their notes at a considerable distance. This scarcity of specie arose, in a great measure, from foreign coins not being allowed to be a legal tender. He thought it would be highly beneficial to the United States to admit all foreign coins to be a legal tender, under the existing limitations of law. The question was then taken on Mr. V.'s amendment, which was agreed to—ayes 79.

Mr. Tenney's amendment, thus amended, was agreed to, when the Committee rose. The House immediately took up, concurred in their report, and ordered the bill to a third reading to-morrow.

Friday, December 20.

An engrossed bill supplementary to the "Act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April 1803, between the United States and the French Republic," was read the third time, and passed.

An engrossed bill to revive and continue in force an act, entitled "An act to suspend, in part, the act, entitled 'An act regulating foreign coins, and for other purposes," was read the third time.

Resolved, That the said bill do pass, and that the title be, "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes, as is contained in the second section thereof."

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill for the relief of Edward Toppan, George Jenkins, and William Currier; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Crowninshield, from the same committee, presented a bill to extend the time for taking the oath and giving bond, in cases of drawback, and for other purposes; which was read twice, and committed to a Committee of the Whole on Thursday next.

Mr. Findley moved to add a new rule to the standing rules and orders of the House, in the words following, to wit:

"That the first named member of any committee, appointed by the Speaker, or the House, shall be the Chairman; and in case of his absence, or being excused by the House, the next named member, and so on, as the case shall happen, unless the committee, by a majority of their number, elect a Chairman. It shall be the duty of any committee to meet, on the call of any two of their members, if the Chairman be absent, or decline to appoint such meeting."

The House proceeded to consider the said motion at the Clerk's table, and the same being twice read, was agreed to by the House.

On a motion made and seconded,

Resolved, That so much of the rules and orders of this House, under the fourth head "of Committees of the whole House," as is contained in the third paragraph thereof, be amended, by striking out, in the fourth line of the paragraph, the word "title," and inserting, in lieu thereof, the word "preamble."

A petition of George Rogers Clark was presented to the House and read, praying that Congress will confirm to him a grant of lands, made by the chiefs and head men of the Piankeshaw nation of Indians, on the 16th day of July, 1779.

Ordered, That the said petition be referred to the Committee on Public Lands.

Monday, December 23.

A Message was received from the President of the United States, transmitting a report from the Governor and presiding Judge of the Territory of Michigan, relative to the state of that Territory; which were read, and ordered to be referred to Messrs. Jackson, Morrow of Ohio, Smilie, Ellis, and Moore of South Carolina.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill to provide for light-houses in Long Island Sound; and to declare Roxbury, in the State of Massachusetts, to be a port of delivery; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. Gregg, from the Committee on the Public Lands, to whom was referred, on the twentieth instant, the petition of George Rogers Clark, made a report thereon; which was read, and considered: Whereupon,

Resolved, That the prayer of the petition of George Rogers Clark ought not to be granted,

A memorial of the Philadelphia Chamber of Commerce, signed by Thomas Fitzsimons, their President, was presented to the House and read, praying the consent of Congress to an act of the Legislature of the State of Pennsylvania, passed the 15th of March last, entitled "An act to empower the Board of Wardens for the port of Philadelphia, to collect a certain duty on tonnage, for the purposes therein mentioned," the better to enable the memorialists to sink additional piers in the river Delaware, for the security and protection of vessels employed in the commerce of the port of Philadelphia. Referred to the Committee of Commerce and Manufactures.

A memorial of the Mayor, Aldermen, and Commonalty, of the city of New York, was presented to the House and read, praying that prompt and efficient measures may be taken by Congress for putting their city and port into an adequate state of defence.—Referred

A memorial was presented from Samuel Blodget, representing that subscriptions for a University in Washington have already been made to the number of eighteen thousand, and a sum received amounting to $30,000, and requesting Congress to designate the site with the lots or lands that may be intended therefor, and to grant such other patronage as they may think proper.—Referred to a committee of five members.

Mr. Dawson, from the committee appointed on that part of the President's Message which relates to aggressions committed by the vessels of foreign nations, &c., made a report, in part, submitting two letters received from the Secretary of the Navy, and three resolutions, in substance as follows:

1. That a sum not exceeding $150,000 be appropriated to cause our ports and harbors to be protected.

2. That a sum not exceeding $250,000 be appropriated, to cause to be built a number of gunboats, not exceeding fifty, for the protection of our ports and harbors.

3. That a sum not exceeding $660,000 be appropriated to enable the President of the United States to cause to be built six line-of-battle ships.

On motion of Mr. Dawson, these resolutions were referred to a Committee of the Whole on the state of the Union.

Mr. Dawson observed that, in the year 1797, Congress passed an act relative to certain balances due by several of the States to the United States, by which those States were enabled to discharge the balances by expending a part thereof in the defence of their ports and harbors. He understood that one State had made an appropriation to this object; but it was not known what was the issue of the appropriation, or what had been done by other States. That the subject might be elucidated, he offered the following resolution:

Resolved, That the President of the United States be requested to inform this House, whether any and what measures have been taken by the States indebted to the United States to discharge the balances due, under the provisions of the act of the 23d of June, 1797, entitled an act for the further defence of the ports and harbors of the United States.

The House immediately took up the resolution and agreed to it; and the Speaker appointed a committee of two members to present it to the President.

CONTESTED ELECTION.

The House resolved itself into a Committee of the whole House on the report of the Committee of Elections, respecting the contested election of Cowles Mead, one of the members returned to serve in this House, from the State of Georgia.

The following is the report of the Committee of Elections in this case:

The Committee of Elections, to whom was referred the petition of Thomas Spalding, claiming a seat in this House, as a Representative of the State of Georgia, in the place of Cowles Mead, who has been returned, and has taken a seat in the House, having had the same under consideration, and heard the petitioner and sitting member thereon, report:

That, by a standing law of the State of Georgia, the election of persons to represent that State in this House, was required to be holden on the first Monday of October, 1804, in the respective counties throughout the State; that three or more county magistrates were required to preside at the election, in each of the counties, to return the names of the candidates, and the number and names of the voters, with an accurate state of the poll, and to transmit their said returns, by express, to the Governor of the State, within twenty days after closing the poll at said election; that the Governor was required, within five days after the expiration of the said twenty days, to count up the votes from the several counties, or such of them as might have made

returns for each person, and immediately thereafter to issue his proclamation, declaring the persons having the highest number of votes, to be elected to represent the said State in the House of Representatives of the United States, and to grant a certificate thereof, under the great seal of the State, to each of them; that, by an official certificate from the Secretary of said State, it appears that the votes from the counties of Tatnal, Liberty, and Camden, were not returned to the Governor within the said term of twenty days after the election, nor within the said further term of five days thereafter; and that, of the votes given at the said election, and returned to the Governor within the said term of twenty days:

Cowles Mead had - - - - - -	4,438
And Thomas Spalding had - - - -	4,269
Giving the said Mead a majority of -	169

That the Governor, in pursuance of the law aforesaid, counted up the votes so returned to him within twenty days, and thereupon issued his proclamation, declaring that the said Cowles Mead was elected, and granted him a certificate thereof.

By another certificate from the Secretary of said State, it appears that, after the Governor had issued his proclamation as aforesaid, that is, on the 27th day of November, 1804, the returns of the votes given at the said election, agreeably to the law aforesaid, in and by the counties of Tatnal, Liberty, and Camden, were received by the Governor, being transmitted by the presiding magistrates of said counties respectively; that both of the said certificates from the Secretary are in due form of law; that the said returns of votes from the three last mentioned counties, are conformable to law in every respect, except that they were not transmitted to the Governor within the limited time of twenty days after the election; that, of the votes so returned from the said three counties, after the expiration of said twenty days, Cowles Mead had 27, and Thomas Spalding had 235; which, added to their respective numbers of votes, returned to the Governor within the term of twenty days, and counted by him as aforesaid—

Gives to Cowles Mead, in the whole - -	4,465
And to Thomas Spalding, in the whole - -	4,504
Leaving the said Thomas Spalding a majority of - - - - - -	39

The petitioner offered depositions to prove that the cause of the failure in the transmission of the returns from the three last counties to the Governor, within the twenty days after the election, was a hurricane which rendered the roads impassable; but, as the sitting member was not notified to be present at the taking of those depositions, the committee were of opinion that they were not admissible evidence.

The petitioner then proposed to procure other evidence of the same fact; and the sitting member proposed to procure evidence to the contrary, that the roads were passable; but the committee being of opinion that it was not material to the question before the House, whether the said failure was caused by the act of God, as alleged by the petitioner, or by the fault of the returning officers, or the defect of the law, in not providing a penalty upon officers for neglecting their official duty of transmitting the returns, did not receive any evidence on that point.

The sitting member stated to the committee that he could, as he was assured, by sending to Georgia, obtain proof, that the election in the county of Tatnal was irregularly held, so that the whole return of that county ought, for that cause, to be rejected; but, finding by calculation that, if the votes of that county, of which twenty-four were for himself and forty for the petitioner, were set aside, it would not affect the result of the election, he waived that objection, and rested his claim upon the principle that the votes of all the three last mentioned counties are void by the law of Georgia, not having been returned to the Governor within the time prescribed by said law.

There is no suggestion of any fraud or intentional unfairness in the election; and the committee add, with pleasure, that the conduct of both the gentlemen, claiming the contested seat, appears to have been candid and honorable.

Upon the foregoing state of facts, as the Constitution has made this House the judge of the elections and returns, as well as the qualifications of its members; as the returns from the State authorities, therefore, are only *prima facie* evidence of an election, but not conclusive upon this House; as there is, in the present case, satisfactory proof, that the votes of the three counties in question, although the returns thereof were not transmitted to the Governor in season to be considered by him, were originally good, lawful, and Constitutional votes, having been given by qualified voters on the day, at the places, and in the manner prescribed by law; and as neither the voters who gave them, nor the candidates in whose favor they were given, have done or omitted anything on their part to forfeit their respective rights, the committee are of opinion that those votes ought to be allowed, and therefore recommend the following resolution:

Resolved, That Cowles Mead, returned to this House as a member thereof, from the State of Georgia, is not entitled to a seat; and that Thomas Spalding is entitled to a seat in this House, as a Representative of the State of Georgia.

On motion of Mr. Findley,

Resolved, That, in the case of the contested election in the State of Georgia, the memorialist and sitting member shall, if they desire it, be heard by counsel at the bar of the House.

Mr. Mead waived the exercise of this right, and Mr. J. Clay intimated a desire of Mr. Spalding to the same effect; when the Committee of the Whole took up the report of the Committee of Elections in this case; on which a debate ensued, which occupied nearly the residue of the sitting.

Mr. Findley explained, concisely, some of the circumstances on which the report was grounded.

He was followed by Mr. Mead, who, without going into a wide detail of facts, or discussion of principle, noticed briefly a variety of facts, and several principles and precedents, which, he thought, invalidated the conclusion of the report.

Mr. J. Clay made a short speech in favor of the report.

Mr. Early went at considerable length into the principle implicated in the report, with the view of showing that it was unsound, and that it did not belong to the House, without violating the Constitutional powers of the States, to set aside returns made in conformity to their laws.

Mr. Bidwell, in an argumentative and logical speech, defended the principle contained in the report, and contended that the Constitutional power of investigating the returns, made by State officers, resided in the House, who might, according to evidence adduced, affirm or set them aside.

Mr. Sloan and Mr. Ellis spoke against, and Mr. J. Clay, in favor of the report.

After a few replicatory remarks from Mr. Bidwell and Mr. Mead, Mr. Kelly said he still entertained some doubts on the subject, represented that other engagements had precluded his paying that attention to the subject which it merited, and moved that the Committee should rise, report progress, and ask leave to sit again.

This motion being carried—ayes 61; and the House being resumed,

Mr. Meriwether expressed a hope that leave for the Committee to sit again would be refused, in order that the report might be recommitted to the Committee of Elections, and the sitting member be enabled to make explanations on points respecting which there appeared to have been some misconception before the Committee.

Mr. J. Clay and Mr. Elmer were against, and Mr. Gregg in favor of a reference to the Committee of Elections.

The question being put, leave was given to the Committee of the Whole to sit again—ayes 70.

Mr. Bidwell, from the committee to whom had been referred the resolution respecting William Eaton, Esquire, offered a report, recommending the adoption of the said resolution, with the amendment, together with another amendment, striking out the word "before," and inserting in lieu thereof, the words "at the city of Derne."

Report referred to a Committee of the Whole on Wednesday.

Tuesday, December 24.

Another member to wit: Roger Nelson, from Maryland, appeared, produced his credentials, was qualified, and took his seat in the House.

A petition of sundry settlers and purchasers of the lands of the United States Northwest of the Ohio river, was presented to the House and read, praying that further time may be allowed them to make payment of the first instalment, due on the first of January next, for the lands by them respectively purchased.

Ordered, That the said petition be referred to the Committee of Ways and Means.

A petition of Amelie Eugenie de Beaumarchais, heir and representative of Caron de Beaumarchais, deceased, by J. A. Chevallie, her attorney, was presented to the House and read, praying to be relieved against a settlement made by the Comptroller of the Treasury, in which large and unjust deductions have been made from a debt due by the United States to the estate of the said decedent, Caron de Beaumarchais.—Referred to the Committee of Claims.

DRAWBACK ON DEBENTURES.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, to whom was referred on the sixteenth instant, the petition of Isaac Clason, made the following report:

The petitioner, in the month of August last, imported from Havana into the port of New York, one thousand four hundred and twenty boxes of sugar; the duties upon the importation amounted to $15,619 24. On the 31st of the same month, the petitioner having determined to export the said sugar to Amsterdam, in the ship Ambition, gave due notice of such intention, and made a regular entry of the said sugar for exportation; a permit to load the said sugar was issued at the custom-house on the 2d of September, and the sugar was actually laded on board the said ship, under the inspection of the proper officer, and the return thereof made to the collector, the ship receiving her clearance to proceed to sea on the ninth day of September, and actually sailed on the twenty-second day of the same month. At the moment of the clearance being granted to the ship, the yellow fever made its appearance in New York, and a great number of the citizens left the city in the course of a week from that time; and the petitioner, justly alarmed at the danger to which he was exposed, and partaking of the general consternation, fled among the rest. A general interruption and suspension of business in the city took place for several weeks, and the custom-house itself was removed to a place of safety. On the 30th of September, the petitioner applied to the custom-house to receive the debentures for the drawback of the duties on the exportation of the said sugar, and offered to give bond, and take the oath required by law in the cases of goods exported for the benefit of drawback; but the collector refused to receive the oath or bond, or to grant the debentures, alleging that the ten days limited by law had expired, after the clearance of the ship, and that, in consequence thereof, the drawback reverted to the United States.

Repeated and pressing applications, of a similar nature, have been made to Congress, and the number may be expected to increase. In all of them which have, at various times been before the Committee, no intention of fraud has appeared. Some persons have unintentionally overstayed the time, one, two, or three days. Others have been prevented, by dangerous sickness, from attending at the custom-house. In the case now under consideration, the yellow fever afflicted the city of New York. The inhabitants fled before its dreadful ravages. The petitioner partook of the general consternation, and left the city the next day after the clearance of the ship. It did not occur to him that he would, thereby, lose the benefit of drawback on the sugar in question; and, if it had occurred to him, it is not probable that he could then have obtained the debentures by application at the custom-house. It was a time of general alarm and agitation, and every citizen was only eager to save himself and family. The security of property was but a secondary consideration.

The Committee are of opinion the provisions of the law, as it stands at present, are too severe. If the article on which the benefit of drawback is claimed, is really exported out of the limits of the United States, it is all that ought to be required. The merchants are solicitous to obtain the debenture certificates; they become transferable property, being negotiable paper, like promissory notes, and are receivable at the custom-house in lieu of the inward duties. No man would willingly overstay the time limited by law, in which he could apply for his debentures; it is for his interest to apply early, yet it may sometimes happen that he will omit, and overstay the time; but, surely, the United

States do not wish to enrich their treasury in this manner. Our revenue is derived from the foreign articles consumed in the country, and not from exports. Under all the circumstances in which this subject can be placed, the Committee are of opinion that a general, and not a particular bill should be passed, calculated to relieve all the applicants, where no intention of fraud shall appear, and to provide for the extension of the time in taking the oath, and giving bond, in cases of goods intended to be exported for benefit of drawback. The committee, therefore, submit the following resolution:

Resolved, That the petition of Isaac Clason is reasonable and ought to be granted.

The report was read, and ordered to be committed to the Committee of the Whole House, to whom was committed on the twentieth instant, the bill to extend the time for taking the oath, and giving bond in cases of drawback, and for other purposes.

GEORGIA CONTESTED ELECTION.

The House then again resolved itself into a Committee of the Whole, on the report of the Committee of Elections on the contested election of Cowles Mead; when a debate followed of between two and three hours length.

In the course of the discussion, the facts as stated in the report were either considered as perfectly correct, or as partaking so little of error as not to invalidate the conclusions drawn from them. Some small diversity of opinion existed between the Committee of Elections and the sitting member, which was, however, reconciled on explanation.

The debate began in Committee of the Whole, and was afterwards prosecuted in the House. Messrs. J. Clay, Findley, Bidwell, G. W. Campbell, and Elmer advocated; and Messrs. Mead, Early, Sloan, Ellis, N. Williams, Broom, and Quincy, opposed the report.

The opponents of the report represented it as embracing a great Constitutional principle, relative to State sovereignty and the powers of the House. This question arose out of the judicial powers vested by the Constitution in each branch of the Legislature, as to judging of the election of its members. In the first article, fifth section of the Constitution, it is declared, that "each House shall be the judge of the elections, returns, and qualifications of its own members." This section embraces three distinct objects, on which the judicial powers of each House might be exercised; the qualification of persons returned as members, their election as members, and the returns of the person selected. With regard to the point of qualification, that could have no bearing on the present question. As to the election of persons returned to serve as members, the Constitution has given to the several States the power to regulate the time, place, and manner, subject to the interposition of the laws of Congress. As to the returns of members, there is no limitation to the power of Congress to judge of them. What power, then, is given by this section? A judicial power alone. It is worthy of remark that an election and a return are entirely distinct acts; where one ceases the other begins, and *vice versa*. Where, then, is to be found the power in Congress of prescribing the time, place, and manner of making returns? That such a power existed somewhere could not be denied, as without it an election would be nugatory. Will it be contended that this power is vested in the General Government, when it is not recognised by a single word of the Constitution? It is clear, then, that as the Constitution is perfectly silent as to bestowing such a power in the General Government, it does not belong to that Government; neither was it necessary to carry into effect any power specifically given to the General Government. If, then, the power does not belong to Congress, and it must reside somewhere, it follows from the theory of our Government that it must belong to the States, and that the only power in this House on the subject is to judge of the returns; not to decide the time, place, and manner in which they shall be made, much less to dispense with the regulations which the States may make relative to them. But it may perhaps be asked, how the judicial power of this House can be exercised without uniting with it the power contended for on this occasion? To this inquiry the answer is easy. The right to judge, and the rule of decision are distinct things, and while the right to judge may be in one body, the prescription of the rule may be in another. The rule in such cases as these must be a State regulation, when it relates to points on which the States have exclusive legislation. If this case relates to a business in which Georgia has the exclusive right to legislate, there can be no other rule than her legislation. In order to illustrate this case, suppose good votes should be offered after the expiration of the time within which the election was directed to be held by State laws, will it be contended that this House would have a right to direct them to be received? Or that the Constitutional rights of the House would be impaired by being obliged to respect the regulations of a State as to the time, place, and manner of holding elections? Just so as to returns. The Constitutional right of the House to judge of them is not impaired because a rule of judging is prescribed by another authority. Nothing is more common than this; it is, indeed, a leading feature in all the political institutions of the United States. The power to judge being vested in one body, and the prescription of the rule in another. All of our political writers have considered this as one of the most important features in our institutions. If we can dispense in this instance with the time fixed for receiving returns, we may dispense with State regulations in other cases. If we can dispense with one rule, we can dispense with all; and while the States are constitutionally fixing rules, we may be dispensing with them—a conclusion at which common sense revolts.

With regard to the prevalence of the will expressed by a majority of the good votes given, it was observed, that that could be only ascertained by some legal provision, and that the only way of guarding it from abuse was to preserve the laws

of the State inviolate; and that although in some few instances a rigid adherence to them might be productive of some hardship, yet in its general effects it would be productive of much greater good; and, it was added, that that species of reasoning was as novel as unsound, which went to protect the rights of the citizens of a State by prostrating the laws made to secure them.

To show that the law of Georgia, limiting the time within which votes should be received, was obligatory upon the House, an elaborate argument was gone into to prove, by a minute dissection of the Constitution, that inasmuch as all powers not expressly given to the General Government were reserved to the people of the States, and inasmuch as the only power specifically given related to the time, place, and manner of holding elections, and not to the time, place, and manner of making returns, no such power resided in Congress.

From all this reasoning it was contended, that though the House had a right to judge of the returns of its members, that right must be exercised in obedience to the rules fixed by the State of Georgia, which constitutionally possessed the power of prescribing them, and that they must be considered as conclusive, unless revoked or modified by Congress.

The friends of the report remarked that the power of the House on this subject was vested by that part of the Constitution which declares that "each House shall be the judge of the elections, returns, and qualifications of its own members;" and that this power was distinct from that which gave ultimately to the Legislature, in case they saw fit to exercise it, the power of determining the time, place, and manner of holding elections. The words "judging of returns," were comprehensive, unrestricted, and inclusive of every step incidental to making returns. The power could not be confined to the mere judging of the authenticity of the certificate of the returning officer, as that would be nugatory. It must likewise include the manner in which the votes were counted in districts; the manner in which they were transmitted; the place appointed for receiving them, and the ascertaining of their aggregate number. It had been truly said, that where the business of election ceases, that of the returns begin; which, therefore, must be considered as embracing everything after the votes were given. As soon as an election terminates, the candidate is elected, the only thing remaining is to ascertain the result, and this is done by the returns made. What, then, is the right of this House to judge? According to gentlemen, they have not a right to judge of the certificate of the officers of Georgia; they have not a right to judge how the votes are transmitted; but of all this the Governor is to judge, under a law of Georgia. But such a law would be a mere nullity, as it would be in direct opposition to the words of the Constitution, which gives to this House the entire right of judging of the returns of its members. The fact was that the law of Georgia could only be considered as constituting the Governor the organ of information to this House, which is the only tribunal to which the returns can ultimately be made. So considering the subject, there was no reason for the remark, that the principle contained in the report went to set aside the law of Georgia. Should the power of the House in this case be denied, it would prevent us from investigating any case, however characterized by fraud, and would prostrate at the feet of an Executive officer, the power so guardedly bestowed on each House. It is inquired whether we will set aside the law of Georgia by the decision we are about to make; but it does not follow that the adoption of the report will have this effect. The law of Georgia says that the Governor shall count the votes received at a certain day; but it does not say that the House shall not count those received afterwards. We, in fact, then, carry into effect the law of Georgia as far as it goes, and only in case of a failure, supply the deficiency. Could there be a doubt of the principle assumed in the report, it would be removed by a denial of it giving the power to any petty officer of the State, by suppressing the votes, to deprive the member, legally elected, of his seat. Would this be a just principle? Is it not our principle that a majority shall govern? And is it not strange to say that a State shall have the right of violating such a principle?

With regard to a return, it might imply two things; the original certificate of the presiding officer in each election district, and the general certificate of the whole election, the several parts of which were held in different places. It was necessary that these several certificates should be examined by some general authority. As a matter, therefore, of necessity, some authority must reside in the States to count up the whole number of votes, and to certify the persons elected. This power was vested in different ways in the several States. Whoever exercised it could be only considered as the certifying officer, whose certificate was not a decision, but simply a return, subject to the control of this House, which is made by the Constitution the judge of it. The Constitution says the House are to judge of the returns. Can these returns, therefore, be conclusive and binding upon the House? If so, the power of judging is altogether nugatory. If we cannot go out of the returns, and judge of anything not in them, we cannot be said to possess any power over them. But the words of the Constitution are precise; giving the unrestricted power to judge. The House then may receive other evidence to satisfy them than that found on the face of the returns, and on such evidence may either allow that which is not in them, or disallow that which is. A case has been put of votes received in contravention of a State law, after the time fixed for receiving them, and it has been said that these votes ought not to be received. Why? Because the time of holding elections being expressly vested in the State Legislature, in the first instance, and Congress not having changed the prescribed time, the State regulation must prevail. But let the case be pursued fur-

ther. Suppose such votes are not only received, but included in returns made to the Governor, he is not to judge of the legality of the votes given, the State law only directs him to count up the votes returned; whether they ought or ought not to be received he cannot judge. Of this the House is the judge. He cannot receive evidence out of the returns; he therefore counts up the votes, proclaims the person having the highest number, and the returns are forwarded to this body. They are in due form; but votes appear to be admitted which, by the law of Georgia, ought not to have been admitted. Is the House concluded by this return? Are they not, on the contrary, empowered to go out of it, and receive evidence of the fact that such improper votes were admitted? No one will deny it. Further: suppose the presiding officer to have refused votes offered in time; suppose he had refused all the votes given for a candidate in several counties, the Governor could not pay any attention to these votes, for his certificate must be founded exclusively on the votes returned to him. He would be obliged, therefore, to certify as duly elected, the person having the highest number of such votes, although it might be proved that the suppressed votes, if counted, would have given the highest number to another candidate. Could not the House, in this case, go out of the returns of the Governor, and allow the votes fairly given to be counted? Is the election to be affected by such omission or neglect? Clearly not. In the present case, the votes in question, according to the law of Georgia, were lawfully given, and ought to have been returned. Had that law been observed they would have been returned. In one respect only was there a neglect of it. Can that, then, be said to be a violation of the law of Georgia, which consists in giving effect to its provisions where they have failed to be observed? The great principle in judging of elections, ought to be, that the will of the people, fairly expressed, shall govern. And that construction of the Constitution and laws of the United States ought to prevail, which consists in giving effect to good votes, rather than destroying them. This is the principle of the report. The adoption of a hostile principle would be to sacrifice the substance of election to its mere shadow.

The suggestion that the principle of the report is calculated to alarm the jealousy of the States is ideal. The judging of the election of members is a joint authority, residing in the States in the first instance, and ultimately in this House. If the controlling power does not reside here, it resides no where—there is a blank in the Government. It cannot reside in Georgia, for the power is not concurrent, and if not here, the States must inevitably submit to every irregularity that may be practised by subordinate agents. It has been said that the law of Georgia is in force, but it can have no force at the expense of the Constitutional power of the House. But was that law complied with? If so, the present contest would not exist.

It was true that the great principle was a sound one which separates Executive, Legislative, and Judicial power. This might be an argument for the institution of a special tribunal for the trial of contested elections, but it is an abundant answer to show that this has not been done; but that, on the contrary, the Constitution of the General Government, as well as the constitutions of the several States, have made the legislative bodies judges of the elections of their members.

In the course of the discussion, various precedents were quoted from the Journals of the House, some of which were considered as applicable to one side, and some as applicable to the other side of the question at issue; but, on a full examination of them, they shed so faint a light on the subject that we have considered it unnecessary to notice them.

The yeas and nays were then taken on the first member of the resolution submitted by the Committee of Elections, viz: "That Cowles Mead, returned to this House as a member thereof for the State of Georgia, is not entitled to a seat."—Yeas 68, nays 53—as follows:

Yeas—Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Basset, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Samuel W. Dana, John Dawson, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, John G. Jackson, Walter Jones, Nehemiah Knight, Joseph Lewis, jun., Josiah Masters, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, John Smilie, O'Brien Smith, Samuel Smith, Joseph Stanton, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, John B. Varnum, Matthew Walton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Joseph Winston.

Nays—Willis Alston, jun., James M. Broom, John Boyle, Levi Casey, Matthew Clay, George Clinton, jun., Orchard Cook, Richard Cutts, Ezra Darby, John Davenport, jun., Elias Earle, Peter Early, Caleb Ellis, William Ely, Peterson Goodwyn, Isaiah L. Green, William Helms, David Hough, James Kelly, Thomas Kenan, Michael Leib, Henry W. Livingston, Patrick Magruder, Robert Marion, David Meriwether, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Rhea of Tennessee, John Russel, Peter Sailly, James Sloan, John Cotton Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin, Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, David R. Williams, Nathan Williams, and Thomas Wynns.

The question was then put that the House do agree with the Committee of the whole House to the second and last member of the said resolution, in the words following, to wit:

"And that Thomas Spalding is entitled to a seat in this House, as a Representative of the State of Georgia:"

And resolved in the affirmative—yeas 66, nays 52, as follows:

Yeas—Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Basset, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, John Dawson, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, John G. Jackson, Walter Jones, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Josiah Masters, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Randolph, Thomas Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, John Smilie, O'Brien Smith, Samuel Smith, Joseph Stanton, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Matthew Walton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Joseph Winston.

Nays—Willis Alston, jun., James M. Broom, John Boyle, Levi Casey, Matthew Clay, George Clinton, jun., Orchard Cook, Richard Cutts, Ezra Darby, John Davenport, jun., Elias Earle, Peter Early, Caleb Ellis, William Ely, Peterson Goodwyn, Isaiah L. Green, William Helms, James Kelly, Thomas Kenan, Michael Leib, Henry W. Livingston, Patrick Magruder, Robert Marion, David Meriwether, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Rhea of Tennessee, John Russel, Peter Sailly, James Sloan, John Cotton Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin, Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, David R Williams, Nathan Williams, and Thomas Wynns.

Whereupon, the said Thomas Spalding took his seat in the House, as a Representative for the State of Georgia; the oath to support the Constitution of the United States being first administered to him by Mr. Speaker, according to law.

Thursday, December 26.

The House resolved itself into a Committee of the Whole on the bill for the relief of Edward Toppan, George Jenkins, and William Currier.

The bill was reported without amendment and ordered to be engrossed, and read the third time to-morrow.

Mr. Findley, from the Committee of Elections, to whom it was referred to examine the certificates and other credentials of the members returned to serve in this House, made a report, in part, thereupon; which was read and ordered to lie on the table.

The Committee of the Whole House to whom was committed, on the seventeenth instant, the report of the Committee of Claims on a petition of the crew of the late United States' frigate Philadelphia, were discharged from the consideration thereof; and the petitioners had leave to withdraw their petition.

GENERAL EATON.

The House resolved itself into a Committee of the Whole, on the report of the select committee to whom had been recommitted the resolution respecting William Eaton, Esq.

The original resolution is in the following words:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to present a sword, in the name of Congress, to William Eaton, Esquire, as a testimony of the high sense entertained of his gallantry and good conduct in leading a small band of our countrymen, and others, through the desert of Lybia, on an expedition against Tripoli, in conjunction with the ex-Bashaw of that Regency; defeating the Tripolitan army at Derne, with the assistance of a small part of the Naval force of the United States, and contributing thereby to a successful termination of the war, and the restoration of our captive fellow-citizens to liberty and their country.

The select committee recommended amending it by substituting "a gold medal with suitable devices," in lieu of "sword," and striking out the word "at," and inserting in its room, "taking the city of."

On agreeing to the first amendment:

Mr. J. Clay said he was far from wishing to derogate from the merits of Mr. Eaton. On the contrary, no man was more ready to bestow the reward his gallant and good conduct merited. But when he consulted the Journals of Congress, and found that only three medals had been conferred during the whole period of the Revolutionary war, in which our liberties and independence had been achieved, and considered the occasions on which they had been given, he could not consider the present case as entitled to the same expression of national gratitude. He could not, for instance, consider the taking of Derne as equal in importance to the capture of Cornwallis. In the more recent case of Captain Decatur, Congress had only given a sword, though that officer had carried, captured, and burnt the frigate Philadelphia, and was afterward the first man who took a gunboat from the enemy; which exploits were accompanied by exertions such as have scarcely been precedented in similar circumstances. For all this, Congress conferred a sword only. Mr. C. said, he believed that there had, in this instance, been as much gallantry and good conduct displayed as in the case now before the Committee. He, therefore, thought, the reward bestowed in the one case would be adequate to the other. For these reasons, he should be obliged to vote against the amendment.

Mr. J. Randolph rose to express his coincidence of opinion with the gentleman from Pennsylvania. That rewards should be proportioned, not only to the exertions of those claiming them, but to the dignity and importance of the achievement which drew them forth, was not less true than that merit

should be encouraged wherever it might appear. I believe, sir, said Mr. R., that the gentleman who is the object of this resolution would infinitely prefer—I have not the pleasure of his acquaintance—I judge of his feelings by my own—I am persuaded that he would set a far greater value upon any testimony, however small, of the unanimous approbation of this House, than on the highest token of applause which a bare majority could give him. For this reason, I regret that the mover of the resolution has changed a course in which all seemed disposed to follow him, for one which so many were likely to disapprove. It has been stated that but three or four medals had been struck during the Revolutionary war; one, I believe, for Saratoga, another for the capitulation of York; a third, perhaps, upon that occasion, more august, when the Commander-in-Chief of our Armies came to resign into the hands of the civil authority that military power with which he had been intrusted for the salvation of his country. I have always understood that medals were struck, not so much in compliment to an individual, as to commemorate some great national event, and we are now called upon to commemorate the great national event—of what, sir? A skirmish between a few of our countrymen and a handful of undisciplined, half-armed barbarians. As this question is rather a subject of taste and feeling than of argument, I shall not trouble the Committee upon it, further than to suggest that there is a true and false sublime in politics as well as in poetry, and that, by attempting to soar too high, we shall only plunge into bathos.

Mr. Bidwell.—I agree, generally, in the principle assumed by the gentleman from Pennsylvania and the gentleman from Virginia, with regard to the apportionment of rewards to the degree of merit, and the importance of the act performed. When the subject now under consideration first occupied our attention, it appeared to me that a sword was the proper symbol by which to express the national gratitude; but, on more mature reflection, I have formed a contrary conclusion. The presentation of a sword would appear to be more appropriate to services merely military, while a medal is more characteristic of services of a mixed nature, performed with some great object in view. The achievement, which is the object of the present resolution, is not merely military, but partly military and partly diplomatic. A sword would not, in rank, be adequate to the enterprise or equal to the service performed. This service was, in a great measure, voluntary. An expedition was undertaken, in connexion with the ex-Bashaw of Tripoli, and with the tacit consent of our Government. Mr. Eaton commanded the army of the ex-Bashaw. For these reasons, it appears to me, that a medal is more appropriate as emblematical of the gratitude of the country, than a sword would be. In point of examples that may have been set, I shall not go back to the Revolution, to inquire into the distinctions which may have been then made in rewarding different degrees of merit. On a late occasion, we have seen a medal bestowed on Commodore Preble. With the gentlemen who have preceded me, I agree that unanimity would add highly to the gratification of the gentleman who is the object of this resolution, and it would be certainly highly gratifying to me as friendly to it. I am, therefore, sorry that an unanimous vote is not likely to obtain. I merely rose to state the reasons which induced me to vary the motion from its original shape.

At the request of Mr. Stanton, the resolution conferring a gold medal on Captain Truxtun was read:

When the question was taken on striking out "sword," and inserting a "medal of gold with suitable devices," and passed in the affirmative—ayes 56, nays 54.

The Committee rose, and reported their agreement to the report of the select committee, which the House immediately took into consideration.

On the question to concur with the Committee of the Whole, in the amendment,

Mr. J. Clay rose to express a hope that the gentlemen in the majority would agree to conferring a sword instead of a medal. He declared himself as anxious as any gentleman could be, to bestow in this case a proper tribute of respect; but he could not, in conscience or duty, agree to awarding a medal, and he felt himself under the necessity of calling for the yeas and nays.

Mr. Jackson.—Inasmuch as I took the liberty of expressing my approbation of the amendment now under consideration, when this subject was previously before the House, and am now of the opinion that it ought not to be adopted, I think it proper briefly to assign my reasons for the vote I shall give.

On a former occasion, I was governed by a sentiment of feeling, having, at the same time a regard to precedents, without taking into view the case of Captain Decatur. Without derogating from the merits of others, I consider his merits to be as great as those of any other man. I am of opinion if others of not greater merit have received higher testimonials of respect; if we have made a distinction between men of equal merit, and assigned to subordinate merit the same reward as to those who have achieved the liberty of their country, it is time to stop. It is extremely delicate to compare the merits of particular men, where all have deserved well of their country, and deserve its respect and gratitude. As the highest meed is due to those who have rendered the greatest services to their country, we ought not to associate such cases with those of a lower grade, because, we thereby impair the testimony of gratitude and respect so justly due to those who achieved our liberty and independence.

Mr. Varnum.—I agree that every expression of national gratitude ought to be in proportion to the services rendered; but I do not agree that it ought to be in proportion to the rank of those who performed them. This circumstance ought to make no difference in the return of gratitude; or, if it did make a difference, it ought to dignify rather than derogate from the degree of merit. There should be no difference, whether the object of our

gratitude were the highest general or the lowest sentinel. We all know that Mr. Eaton was in the United States three years since; that he then formed the project of embarking the ex-Bashaw in our service; and, by a junction of a land force with our naval armament, to insure peace. This project was thought by many chimerical, yet he was permitted to attempt it. I will ask if a greater enterprise has been undertaken by any general whatever than that executed by Eaton? Look at the whole of the transaction, from his entering Egypt to his going on board the frigate. Look at the enterprise he planned! I do not say it ought to have been warmly entered into by the Government; but, if the arrangements he had made had been supported by two or three thousand men, I have not a doubt but they would have taken Tripoli; perhaps a less number would have been sufficient. The President says: "The band 'under Eaton, and their successful enterprise on 'the city of Derne, contributed, doubtless, to the 'impression which produced peace." Look at the situation in which we still should have been had it not been for this enterprise! There is nothing to justify the idea that it would have been in the power of our navy to reduce our enemy to terms, unless by the co-operation of some force on land. I believe that the force under Eaton had a greater effect than the whole fleet in producing peace. Yet, if we gave Preble a medal, for which I most cheerfully voted, by whom peace was not effected, shall we refuse the same reward to Eaton, who accomplished the object? I do not believe, since our existence as an independent nation, there has been a comparable enterprise. For these reasons, I trust, the amendment will prevail.

Mr. Elmer.—I am not very friendly to things of this kind; I believe we may be too lavish in bestowing them. But, if, on this occasion, there is to be anything further than an expression of the high sense we entertain of the services rendered, a medal and not a sword is the proper testimonial. Of this gentlemen will be convinced, by attending to the conduct of our nation, as well as that of other nations. A sword is given for the display of bravery, to inferior officers; or there is sometimes given a brevet commission. We recollect that, on the storming of Stony Point, General Wayne received a sword, and those who headed the forlorn hope were rewarded with a brevet commission. To deserve the national thanks, it is necessary to combine success with bravery. A medal is expressive not merely of bravery, but of bravery, fortitude, and wisdom; to merit it, there should be a combination of all three. The mere taking of Derne, therefore, would not alone entitle Eaton to great praise; but, if everything connected with the plan and the success which crowned it, be taken into consideration, and anything other than thanks are bestowed, it ought to be a medal. If "sword" stood in the resolution. I should be against it, as an improper expression of the public sentiment.

Mr. J. Randolph offered a few words in explanation, apprehending he had been misunderstood by the gentleman from Massachusetts, (Mr. Varnum.) It was far from his intention to say that rewards should be apportioned amongst men according to rank. With that gentleman, he would be as ready to acknowledge merit in the private sentinel as in the field marshal. It was in the dignity of the action, its importance and value to the community, that he should look, not to the commission of him who performed it. Acts of heroism should never pass unheeded, but every day did not produce a Cocles, or a Mutius. It was to preserve some proportion between the reward and the nature and value of the service that he opposed the resolution in its present shape. He wished the House to be more frugal of the treasure of public applause; it was more precious than that which all seemed ready enough to guard. In such cases it was always safest to err on the side of economy. Already it seemed that a sword, presented in the name of the nation, was held too cheap a recompense for ordinary professional service. Where was this to end? The utmost penury of approbation would not so injure the tone of public sentiment as this lavish prodigality. By being too niggard of praise, enterprise might be repressed, and, in many instances, merit stifled in the germ; but, too great a profusion of honors would almost convert them into a disgrace. would beget an overweening vanity fatal to real greatness. Every man who obtained a trifling advantage over the enemy would conceive himself a Moreau or a Nelson. By setting up this transaction as the *ne plus ultra* of military achievement, as the pillars of Hercules, beyond which none may pretend to pass, we did more to check the spirit of adventurous enterprise than if we took no notice of it at all. But, say gentlemen, the person who is the object of this resolution acted in a twofold capacity, civil and military, and a sword is exclusively appropriated to reward military services. But, without intending a ludicrous allusion, if the gentleman had acted in as many capacities as Lady Bountiful's butler, it would not alter his opinion as to the nature and value of the service. If, indeed, there was such a political repulsion as the gentleman from New Jersey seemed to suppose, between a medal and a sword, like chemical bodies, having no affinity to each other, we should have to give both on this occasion, and have to add a vote of thanks as a basis in which they might unite. Who could doubt that acts of as great personal prowess had been performed on obscure occasions, as in the most important engagements, and yet the one description of service was generally overlooked, while the other was liberally rewarded.

The case of Captain Truxtun had been cited; he remembered perfectly to have voted against it. Of Captain Preble's case, he had no distinct recollection; he had no hesitation, however, in saying that the exploit of Truxtun was a more proper subject for a medal than the present, and that, without entering into any invidious comparison of the conduct and valor of the respective parties, it might be considered in the light of a remarkable national event, the first victory of an

infant navy over an European force, and that force, too, said to be superior to our own. Every Roman history, down to the Compend of Goldsmith, had recorded their first success against the Carthaginian fleet. We might go on lavishing honors until those who wore the insignia of national gratitude would become the multitude, and those who were without them the select few. He deprecated this waste of treasure, which was valuable only in proportion as it was sparingly used. He hoped it would be more carefully husbanded, for he feared, unless we retrenched in this article of expense, that, while we boasted an overflowing Treasury, we should become bankrupt in reputation.

Mr. Varnum.—Gentlemen seem to be of opinion that a medal is the highest testimonial of national gratitude. I think differently. The highest distinction that can be bestowed, is the thanks of the nation; the next a medal; and the last a sword. Gentlemen will find that this is the course pursued as well by this as by other nations.

Mr Kelly next rose. He said I view the affair in a very different light. I consider it of great magnitude and national importance. I consider the report of the committee as containing nothing but what is due to the merits of the gentleman who is the object of it. We know that the Regency of Tripoli was at war with the United States, and that it was considered necessary to fit out an armament to compel that Power to act toward us more consistently with the principles of justice. In the course of the operations that followed, it was the misfortune of one of our national vessels to fall into the hands of the enemy, and of her crew to be taken into captivity. Our captive citizens were in a distressed and perilous situation, exposed to all the hazards of any attempt that might be made. An operation on the town of Tripoli was conducted in a gallant manner by Commodore Preble. On that occasion he not only received the thanks of his country, which gentlemen are pleased to call the highest reward in its power to bestow, but likewise a medal; nor were the services he rendered on that occasion too highly applauded; for his conduct was brave and gallant, and yet he did not effect the purpose for which the enterprise was formed. Eaton had displayed talents seldom united in one man. He had not only conceived a plan, but had conducted it with a degree of propriety and gallantry seldom to be met with, and which the President has recognised as conducing to the conclusion of peace. Such services were not, therefore, of an ordinary or trifling nature, but of a high grade and character. I take the enterprise of Eaton to be a great national event. The United States were engaged in a war attended with great expense, and many of our citizens were in captivity, suffering great hardships. Eaton formed, conducted, and carried a plan into effect for the restoration of peace, and the release of our captive countrymen. If this is not a national event of some consideration, which merits the gratitude of the nation, I know not what is. It amounts to nothing less than the obtaining of peace, so long the desire of the Government. For these reasons, I have no hesitation in voting for the amendment, and I only regret that there is a division of sentiment in the House.

The question was then taken by yeas and nays on the amendment; which was agreed to—yeas 58, nays 53, as follows:

Yeas—Willis Alston, junior, Isaac Anderson, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., James M. Broom, John Chandler, Martin Chittenden, John Claiborne, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, junior, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, James Fisk, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, David Hough, James Kelly, Thomas Kenan, Nehemiah Knight, Joseph Lewis, junior, Henry W. Livingston, Patrick Magruder, Josiah Masters, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, John Russell, Martin G. Schuneman, Ebenezer Seaver, John Smilie, John Cotton Smith, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Joseph Winston,

Nays—John Archer, Burwell Basset, George M. Bedinger, Thomas Blount, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Joseph Clay, Matthew Clay, George Clinton, jun., Ezra Darby, John Dawson, Elias Earle, John W. Eppes, William Findley, John Fowler, Silas Halsey, William Helms, David Holmes, John G. Jackson, Walter Jones, John Lambert, Michael Leib, Robert Marion, David Meriwether, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, James Sloan, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Abram Trigg, Matthew Walton, Robert Whitehill, David R. Williams, Alexander Wilson, and Thomas Wynns.

The other amendment reported by the Committee of the whole House, to strike out, in the said resolution, between the words "army" and "Derne," the word "at," and to insert, in lieu thereof, the words "and taking the city of," was upon the question put thereupon, agreed to by the House.

Mr. Stanton moved further to amend the resolution by adding the following words:

"By which heroic achievement he has shown himself capable of uniting information with talent, reflection with experience, and stratagem with bravery."

This amendment was disagreed to—yeas 1, nays 101, the mover alone voting for it.

Mr. Smilie expressed his regret that on a subject that so eminently called for unanimity, and on which there was no difference of opinion as to the meritorious services of Mr. Eaton, there should be such a diversity with regard to the proper tribute to be bestowed. Considering it highly desirable that the resolution, before it received a final vote, should be so modified as to unite the varying opinions in the House, he moved a recommitment of it to a select committee.

In this motion the House concurred—yeas 57, nays, 55, when the resolution was recommitted to the same committee to which it had been previously referred.

Friday, December 27.

Two other members, to wit: Seth Hastings and William Stedman, from Massachusetts, appeared, produced their credentials, were qualified, and took their seats in the House.

An engrossed bill for the relief of Edward Toppan, George Jenkins, and William Currier, was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery. The bill was reported without amendment and ordered to be engrossed, and read the third time on Monday next.

Mr. John Cotton Smith, from the Committee of Claims, to whom was referred, on the twelfth instant, a resolution to inquire whether any further compensation ought to be allowed to any of the collectors of the direct tax, made a report thereon; which was read, and committed to the Committee of the whole House to whom was committed, on the tenth instant, the report of the Committee of Claims on the petitions of William Mattocks and of Haines French.

A Message was received from the President of the United States, transmitting a report of the Surveyor of the Public Buildings at the City of Washington, on the subject of the said buildings, and the application of the moneys appropriated for them; which was read and referred to Mr. Nelson, of Maryland, Mr. Jones, Mr. Magruder, Mr. Lewis, and Mr. Hastings.

Ordered, That the committee to whom was referred, on the sixth instant, the petition of the Directors and Agents of the Ohio Company, be discharged from the further consideration thereof; and that the said petition be referred to the Committee on the Public Lands.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, to whom was referred, on the sixth instant, the petition of Anthony Benezet, and others; and, after some time spent therein, the Committee rose and reported progress.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred, on the fourth inst. the petitions of William Mattocks and Haines French; and, to which committee it was also referred to inquire whether any further compensation ought to be allowed to any of the collectors of the direct tax; and, after some time spent therein, the Committee rose and reported two resolutions thereupon; which were twice read, and, agreed to by the House, as follows:

"*Resolved*, That the prayer of the petitions, respectively, ought not to be granted."

"*Resolved*, That no further compensation for services performed, or expenses incurred, than what is already provided by law, ought to be allowed to the collectors of the direct tax, or any of them."

Monday, December 30.

Another member, to wit: Christopher Clark, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of erecting the town of Darien, on the Altamaha river, in the State of Georgia, into a port of entry.

An engrossed bill to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery, was read the third time, and passed.

A petition of sundry purchasers of public lands, in the State of Ohio, and in the Indiana Territory, was presented to the House and read, praying that farther and reasonable time may be allowed them to make payment for the lands by them respectively purchased; and that the interest due thereon may be relinquished.—Referred to the Committee of Ways and Means.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;" to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments of the Senate to the bill last mentioned; and the same being severally read at the Clerk's table, were agreed to by the House.

Ordered, That the committee appointed on the twelfth instant, to whom it was referred "to consider and report on the expediency of making provision by law for the application of the money heretofore appropriated to laying out and making certain public roads," be discharged therefrom.

Mr. Gregg observed, that considerable difficulties had arisen in surveying the lands in Louisiana, owing to omissions in the law passed by the last Congress, and that the Committee on Public Lands had received a letter from the Secretary of the Treasury representing these circumstances and stating the necessity of legislative interposition. Mr. G. having read this letter, asked in the name of the committee and obtained leave to present a bill extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes.

The bill was read and referred to a Committee of the Whole.

The bill from the Senate to regulate the laying out and making a road from Cumberland, on the

Potomac, to the river Ohio, in the State of Ohio, was read and referred to a Committee of the Whole on Thursday.

[This bill authorizes the President of the United States to appoint three Commissioners to lay out a road from Cumberland on the Potomac to the river Ohio, in the State of Ohio, to be four rods in width. The Commissioners are directed to make a report to the President of their proceedings, as well as the expense of making the road passable. The President is authorized to accept or reject the report in whole or part. If he shall accept it, he is then authorized to obtain the consent of the States through which the road may pass; and, having obtained such consent, to make a turnpike. Fifty thousand dollars are appropriated, payable first out of the proceeds of the reservation from the sale of lands in Ohio, and, secondly, out of the Treasury of the United States, the last sum to be chargeable to the preceding fund.]

On motion of Mr. J. C. Smith, the House went into a Committee of the Whole on the report of the Committee of Claims on the petition of Return J. Meigs, in favor of allowing the Governor, Judges, and Secretary of the government of the Territory Northwest of the Ohio, compensation for services performed between the adoption of a constitution by the State of Ohio and the meeting of the Legislature under that constitution.

A question arose whether those officers should be compensated by the United States or by the State of Ohio.

On this question considerable debate arose: Messrs. J. C. Smith, Morrow, Bidwell, Sloan, Jackson, and Dana, supporting, and Messrs. J. Clay, Stanford, Smilie, and Alston, opposing the report.

Mr. J. Clay moved that the Committee should rise and ask leave to sit again, that further time might be allowed to consider the subject; which motion having been negatived—ayes 69, noes 59, Messrs. J. Clay and Smilie again spoke against agreeing to the report, when

On motion of Mr. J. C. Smith, the Committee rose and asked leave to sit again, which the House granted.

Tuesday, December 31.

Another member, to wit: Matthew Lyon, from Kentucky, appeared, produced his credentials, was qualified, and took his seat in the House.

The consideration of Mr. Sloan's resolution to lay a tax on slaves imported into the United States, was postponed till Monday next.

A Message was received from the President of the United States, giving the information requested by them relative to the discharge of State balances, and representing that New York is the only State that has discharged any part of the reported balances, and that she has in consequence been allowed a credit of $222,810 on the books of the Treasury.—Referred to the Committee of the Whole on the state of the Union.

A petition of the inhabitants of the City of Washington, in the District of Columbia, was presented to the House and read, praying that a public road may be opened and made at the public expense, so as to connect the northern extremity of Fourteenth street, in the said city, with the public road leading by Rock Creek Church to Fredericktown.—Referred to Messrs. Nelson, of Maryland. Stedman, and Bassett, to examine and report thereupon to the House.

Mr. Elliot moved the following resolution:

Resolved, That it is expedient to provide, by law, for fitting and preparing —— navy yards, belonging to the United States, on or near the shore of the Atlantic ocean, for the reception of the ships and vessels of war of the United States.

Referred to the committee, appointed on the fourth instant, on so much of the Message of the President of the United States as relates to the aggressions committed on our coasts by foreign armed vessels; to the defence of our ports and harbors; to the building of seventy-four gun ships; and to the prohibiting of the exportation of arms and ammunition.

A petition of sundry settlers and purchasers of public lands northwest of the Ohio, and between the Miami rivers, was presented to the House and read, praying the right of pre-emption to certain sections of land, in the said State, which they have respectively improved and settled.—Referred to the Committee on the Public Lands.

On motion, it was

Resolved, That a committee be appointed to inquire whether any, and what, further provision ought to be made, by law, respecting the security required of marshals appointed under the authority of the United States, for the faithful performance of their official duties; and that they have leave to report by bill, or otherwise.

Ordered, That Mr. Tallmadge, Mr. Clark, and Mr. Lyon, be appointed a committee, pursuant to the said resolution.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred, on the sixteenth instant, the memorial of Return Jonathan Meigs, and, after some time spent therein, the committee rose and reported a resolution thereupon; which was again twice read, and agreed to by the House, as follows:

Resolved, That the proper accounting officers be authorized to settle the accounts of the Governor, Secretary, and Judges, of the late Territory of the United States Northwest of the river Ohio, for their services while acting in those capacities, respectively, at any time before the first Tuesday of March, one thousand eight hundred and three.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

JOHN DORR.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, having considered the petition of John Dorr, of Boston, in the State of Massachusetts, referred on the 5th instant, submitted the following report:

The petitioner states that, on the 6th of August last, he imported into the district of Boston and Charlestown, in the ship Jenny, from Antwerp, four boxes of Dutch playing cards, the duties of which amounted to nine hundred and thirty-six dollars. Being ignorant of the existence of any law refusing the drawback on the exportation of playing cards, the petitioner actually shipped the cards for the East Indies, and applied to the custom-house to receive the debenture certificates, when he was, for the first time, informed, that playing cards were not entitled to the benefit of drawback. He pleads ignorance of the law, and has made application to Congress for relief.

The committee find that playing cards are refused the drawback on exportation, under the provision of "the act for imposing more specific duties on the importation of certain articles," &c., passed 27th March, 1804, which act was officially received by the collector at Boston, on the 1st of May, and went into operation on the 1st day of July following. From certificates exhibited in this case, it appears it did not occur to the collector, at the time of shipment, that playing cards were not entitled to the drawback, and the petitioner, also, was unacquainted with the law. The committee are of opinion, however, that the petitioner ought to have known that such a law was in force. It would then have been at his own option to have reported the cards for exportation, and in this case they might have been reshipped in the same bottom, without being landed, and no duties whatever could have been demanded upon them. The same law which prohibits the drawback on playing cards, refuses the drawback on foreign fish and fish oil. The importers or exporters of these articles might, with the same propriety, urge complaints against the law, and request a return of the duties in cases of exportation. If the drawback on playing cards is granted, it would be fair to return it on all the foreign fish and fish oil exported since the act went into operation. There appears to have been ample time for the law to have been generally known; it was nearly eighteen months from its passing to the time of the exportation of the playing cards. Although the committee are convinced that the petitioner was not informed of the existence of the law, and although they are of the opinion that his situation is an unfortunate one, yet, considering the necessity there is of preserving uniformity in decisions of this sort, and taking into view, also, the danger that would arise to the revenue, in repealing the law in this particular instance, without extending it to the other articles named in the same act, they are satisfied that the relief prayed for ought not to be granted, and recommend that the petitioner have leave to withdraw his petition.

The report was agreed to, and the House adjourned to Thursday next.

Thursday, January 2, 1806.

The Speaker laid before the House a letter from the Secretary of State, transmitting a report on the memorial of Peter Landais, referred to him by order of the House, on the 16th ultimo; which was read, and committed to a Committee of the Whole on Monday next.

Mr. John Cotton Smith, from the Committee of Claims, presented a bill for the relief of the Governor, Secretary, and Judges, of the late Territory of the United States Northwest of the river Ohio; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Sailly, from the committee appointed on the 16th ultimo, presented a bill to extend jurisdiction, in certain cases, to the State judges and State courts; which was read twice and committed to a Committee of the Whole on Tuesday next.

Ordered, That the Committee on the Public Lands, to whom was referred, on the eighteenth ultimo, the petition of certain actual settlers on lands lately sold by Congress as pre-emption lands, lying between the Miamies, in the State of Ohio, be discharged from the consideration thereof; and that the said petition be referred to the Committee of Ways and Means.

ARMY REGULATIONS.

The House went into a Committee of the Whole on the bill for establishing rules and articles for the government of the Armies of the United States.

The bill was taken up by sections.

On reaching the eighth article, which authorizes a court martial to punish with death or otherwise any one "who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding officer," Mr. G. W. Campbell moved to strike out the words "death or otherwise."

Messrs. Varnum and Nelson opposed the motion, which was disagreed to without a division.

In a subsequent article, Mr. G. W. Campbell moved to strike out that part, which authorizes a court martial to punish with death any one who offers violence to his officer.

In support of this amendment, Mr. Campbell reprobated the idea of the lives of citizens being in the power of a court martial. He compared soldiers to mere machines, from the severity of the military law; he said almost every article in the bill was stained with blood; he drew a parallel between them, and the civil penal laws; and that when men know how small offences subjected them to death, they would be deterred from or disgusted in serving their country.

Mr. Southard and Mr. Cook followed with similar observations and arguments, in favor of the amendment.

This was strenuously opposed by Mr. R. Nelson, Mr. Smilie, Mr. Macon, and Mr. Tallmadge.

These gentlemen represented the necessity of the bill standing as it had hitherto done in this respect. They drew a picture of the Army without discipline, where every soldier might think himself at his own disposal—of an army being ordered to attack the enemy, and an officer refusing, and drawing his sword on his commanding officer. The necessity of a code of laws for the military differing from the civil law was demonstrated; and having, by the law as it stands, gone through the Revolutionary war with success, and in peace found no ill consequence arising therefrom, they thought it neither prudent nor safe to adopt the amendment.

Mr. TALLMADGE said, that in the Revolutionary war, the disobedience of soldiers to their officers' commands, had, at one time, gone to such a length as threatened a mutiny. The Adjutant General, Lee, was struck by a soldier on being ordered to do his duty. The commander ordered him to be tried by a general court martial. He was found guilty and sentenced to be shot. The army was drawn up, to attend the execution; upon the spot appointed for that purpose General Lee interceded in behalf of the soldier, who was, in consequence pardoned. This, however, produced a good effect in the army. Mr. TALLMADGE, brought forward other instances of danger, when soldiers were not subject to severe laws. Soldiers, he observed, were a description of men that must be ruled with severity—and though officers were invested with this authority, they were ever careful in exerting it. So far from it, that an officer had an esteem for the soldiers he commands—while the soldier himself, acting up to the tenor of his duty, respected his officer.

The question being now called for on Mr. CAMPBELL'S amendment, was lost. The affirmative only 20.

As the Committee progressed in reading the bill, numerous amendments, principally verbal, were made.

The Committee then rose, reported progress, and asked leave to sit again, which was granted.

CLASSIFICATION OF THE MILITIA.

Mr. VARNUM, from the committee to whom was referred so much of the Message of the President of the United States, of the 3d of December, as relates to the organization and classification of the militia, and to the augmentation of the land forces, made the following report, in part:

In relation to a classification and new organization of the militia. The most extensive view of this part of the subject which has occurred to the committee is, a division of the militia into four classes, in the following manner, viz: those between eighteen and twenty-one years of age to compose one class; those between twenty-one and twenty-six to compose a second class; those between twenty-six and thirty-five to compose a third class; and those between thirty-five and forty-five to compose the fourth class; each class to be under a separate organization, and to be commanded by separate corps of officers. To this kind of organization, as it relates to the first class, we are met by a Constitutional objection. By the Constitution of the United States, Congress are empowered "to provide for organizing, arming, and disciplining the militia, reserving to the States, respectively, the appointment of the officers."

By some of the State constitutions it is provided, that the captains and subalterns of the militia shall be chosen by such of the persons who compose the respective companies as are upwards of twenty-one years of age, so that there is no Constitutional provision by which such States can appoint officers to command a class of the militia composed of minors.

Knowledge of tactics, and an acquaintance with subordination and discipline, are acquirements of such importance to our national defence, that the promotion of them among the militia ought to be a primary object with the Government, and, no doubt, is exceedingly desirable in the minds of the individual citizens. But such means ought to be adopted by the Government as are best calculated to effect the object, with as little fatigue and expense to individuals as the nature of the case will admit. It is conceived, that the fatigue and expense of military discipline is, in a very great degree, proportionate to the population of the different parts of the country where the duty is performed, or, in other words, it is proportionate to the distance each individual composing the different corps is compelled to travel to reach his place of parade. Under the present organization of the militia, this idea is fully verified—the difference in the expense of militia meetings, in those parts of the country where the inhabitants are the most dispersed, when compared with similar meetings, in the more populous parts, is very apparent; and, besides, the nature of the case compels us to believe, that the same cause will produce a similar disparity in military acquirement.

These, however, are evils which grow out of the nature of the case, and cannot be remedied, but by the increase of population, because the principles of the organization are calculated to render the formation of the different corps as compact as is consistent with proper military arrangements.

By the organization and classification of the militia, in the manner which has been named, the limits of each corps must be extended over four times the quantity of territory it now occupies, and, consequently, would burden the citizens with a proportionate additional expense in the acquisition of a competent portion of military information, or operate as a proportionate preventive to such acquisition. The subject has been viewed in another point of light—that is, to call on the two senior classes to exercise but once in a year, so as to proportion the quantum of exercise to the extension of the corps. In this case, all the evils attendant on the extension of the different corps over additional territory will attach to the junior classes which could attach to them in the other case, and the consequent hazard of a failure in discipline will remain.

Military knowledge, like that of every other science, without practice, is soon forgotten, and, although it is not probable that the whole of the militia will be needed in the field at any one time, yet, in case of invasion, it is very possible that all who are in the vicinity of the assailants may be necessary; and, as it is uncertain at what point an enemy may make his attack, all should be prepared to meet such an event; but, from a deficiency in discipline, or the want of a competent knowledge in tactics, in the two senior classes only, an important opportunity for a speedy extermination of an enemy might be lost, and the lives of many valuable citizens put in jeopardy. It is, therefore, believed that this experiment is inadmissible.

Another view of this subject has suggested a classification of the militia by ages, under the existing organization, for the sole purpose of designating those persons who are under twenty-six years of age as the only proper objects of militia duty in the field, except in cases of great emergency, and in their particular vicinage. From eighteen to twenty-one years of age is a period of life in which the young men of the United States are employed in completing an education, in pursuit of mechanical information, or in acquiring a necessary acquaintance with some other branch of business, occupation, or profession, on the improvement of which they calculate to obtain a subsistence. From twenty-one to twenty-six, they are improving their previous

acquirements in their various occupations and professions, and thereby laying a foundation for a decent support of themselves and families through life; this is a period, also, at which the young men of the United States generally engage in matrimony, and become chargeable with families, all which renders their time as dear to them, from eighteen to twenty-six years of age, as at any other period of life.

It would seem, therefore, that an arrangement which would compel this class of our citizens to bear the principal part of the burden of national defence, might justly be deemed a departure from that principle of distributive justice which ought to be a paramount characteristic of the Government of the United States.

That young men would better endure the fatigues of a long campaign than those more advanced in life, is not doubted; but whether, on a sudden emergency, they would be more useful in repulsing an enemy than an equal number of enrolled militia, on an average from eighteen to forty-five, is a question of doubt; if, however, it should be considered that the advantage is in favor of the young men, it is confidently believed, that the advantage in that case to the public would be of a sufficient magnitude to justify the Government in imposing on them such an unequal burden.

If the proposed system should be adopted, the total derangement of the existing organization of the militia must be the consequence. It may be proper, here again to remark that, by the Constitution of the United States is vested in the General Government the power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States;" but the same article of the Constitution is express in "reserving to the States, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress." By this arrangement in the Constitution, the powers necessary to produce an efficient militia are divided between the General Government and the State governments. In pursuance of the power vested in the General Government on this subject, Congress did, in the year 1792, pass an act to establish an uniform militia throughout the United States, which act seems to embrace all the principles in the case delegated to Congress. Soon after the passage of that law by Congress, a consideration of the subject was assumed by the Legislatures of all the States, and laws have been passed by all the States for carrying that system into effect, so that, by the co-operation of the General Government and the State governments, the militia are now completely organized and officered throughout the Union. It is now thirteen years since this system has been in operation; the people practising under it have, in a great degree, become acquainted with it, and attached to it; and, in many parts of the Union, military discipline is rapidly progressing under it, and it cannot with propriety be doubted, that the militia of the United States, under the existing organization, are amply competent to a defence against the intrusion of any invading enemy. To derange this system, then, and introduce one totally new and untried, one in which it is not certain that the State Legislatures will concur, and which is of doubtful aspect, as it relates to the approbation of the people, would, in the opinion of the committee, at this important crisis of our national affairs, be putting too much at risk. They, therefore, recommend the following resolution:

Resolved, That it is inexpedient to adopt measures for the classification or new organization of the militia.

Referred to a Committee of the Whole on Monday.

COLLECTION OF DUTIES.

Mr. SAILLY, from the committee appointed to inquire into the expediency of so far amending the act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accrued in certain cases therein mentioned," as to extend the powers vested in the district judges of the United States to the judges of the judicial courts of the several States, made the following report:

That, by the 30th section of a law of the United States, to regulate the collection of duties on imports and tonnage, it is made the duty of any person, having the charge and command of any ships or vessels, to make a report, within twenty-four hours, of the arrival of the said ship or vessel, and within forty-eight hours after such arrival to make another report in form of all the particulars required to be in a manifest, &c.; and that if the said master, or other person having the care of any such ships and vessels, shall neglect or omit to make the said reports, or any of them, he shall, for each and every offence, forfeit and pay the sum of $1,000.

And also, that, by the 50th section of the said law, masters of vessels unloading goods without a permit shall forfeit $400.

That by the 105th and 106th sections of the said act, goods, wares, and merchandise may be imported in the districts on the northern and northwestern boundaries of the United States, in vessels and boats of any burden, and in rafts and carriages of any kind and nature, subject to the like regulations, penalties, and forfeitures, as in other districts.

Your committee observe, that the intercourse by water between the inhabitants on the frontier of the United States, particularly of the district of Champlain, and those of Canada, is, in many instances, effected in small boats or canoes, not exceeding three-quarters of a ton burden; that the intercourse with Canada is not confined to the water communication; that at the place where the line of forty-five degrees of north latitude separates the United States from the British territory, Lake Champlain is sixty miles distant from the river St. Lawrence; that the land of that tract is, at several points, inhabited on both sides of the line.

That, by the act under the consideration of your committee, for mitigating or remitting fines, forfeitures, and disabilities, any person that has incurred fine, penalty, or forfeiture, by force of any law of the United States, for the laying, levying, or collecting any duties or taxes, may prefer his petition to the judge of the district, setting forth the circumstances of his case; and, upon an inquiry, it is made the duty of the said judge to cause the facts which shall appear to be stated and annexed to the petition, and to direct their transmission to the Secretary of the Treasury, who shall thereupon have power to mitigate or remit such fine and penalty, if, in his opinion, the same shall have been incurred without wilful negligence, or any intention of fraud; and to direct the prosecution, if any shall have been instituted, to be discontinued, upon such terms and conditions as he may deem reasonable and just.

Your committee further observe, that the revenue districts on the northern frontier are at a distance of between three and four hundred miles of the place of residence of the district judges and of the district courts; that any petitioners from those districts would be forced

to travel from six to eight hundred miles with their evidences, in order to avail themselves of the benefits contemplated by the law; that the persons who are liable to infringe the laws of the United States, on account of their local situation, are generally poor, or in very moderate circumstances; that they have not the ability to bear the expenses of so long a journey.

That the inhabitants of the northern part of Lake Champlain are in the habit of transporting their produce, such as pork, butter, and cheese, in canoes in the summer months, and in sleighs during the winter; that the distance from a direct route by land, to any of the custom-house offices, often exceeds twenty miles; that in many instances those people will, through neglect, ignorance, or necessity, unload the trifling articles they have imported before a previous declaration to the custom-house is made; in which case they are liable to pay a fine of $1,000 for not giving notice of their arrival into the district within twenty-four hours, and to pay another fine of $400 for unloading without a permit,

That the inhabitant of the frontier may and will often be driven by want to step over the fictitious barrier, in order to obtain from his neighbor, across the line, a single bushel of corn, perhaps the price of his labor; that, by such an act, the poor man makes himself liable to pay the disproportionate penalty of the law, and that the difficulty or impossibility of petitioning for relief is a stimulus to the rapacity of a wicked informer; and that, on the whole, your committee believe that the law for mitigating and remitting penalties is, in its present form, nugatory as it respects the frontier districts, and that the inhabitants of those districts are totally deprived of the means of obtaining relief.

Under these impressions, and agreeably to the opinion of the Secretary of the Treasury, expressed in his letter hereunto annexed, your committee are of opinion that the powers of the district judges, and of the district courts, ought to be extended to the judges and to the judicial courts of the several States, so far as it respects the revenue districts of Champlain, Sackett's Harbor, Oswego, Genesee, Niagara, Buffalo Creek, and Presque Isle; and they have prepared a bill for that purpose.

TREASURY DEPARTMENT, *Dec.* 26, 1805.

SIR: I had the honor to receive your letter of the 19th instant, respecting the propriety of extending the powers vested in the district judges, in relation to the remission of forfeitures and penalties, to the judges of the judicial courts of the several States.

As those forfeitures and penalties can only be incurred on the sea border, or on the northern frontier of the United States, it is only on that frontier that the distance from the residence of the district judge, and from the place where district courts are held, renders it almost impracticable for the parties to avail themselves of the present mode of affording relief.

The inconvenience has been remedied, so far as related to the Territories, by act of last session. There is a district judge in the State of Ohio, and one in that of Vermont. The only part of the frontier where there is just ground of complaint extends from Lake Champlain to the western boundary of Pennsylvania, including the revenue districts of Champlain, Sackett's Harbor, Oswego, Genesee, Niagara, Buffalo Creek, and Presque Isle. I think that it would, on the whole, be in favor of the revenue, as well as of those persons who may inadvertently commit some breach of the revenue laws, were the jurisdiction of the State courts, in those counties which include the above-mentioned districts, extended to all seizures, penalties, and forfeitures, arising under the revenue laws of the United States; and the same powers, in relation to the remission or mitigation of such penalties and forfeitures, given to the presiding judges of those State courts, which have been given to the judges of the district courts of the United States. I have the honor to be, &c.,

ALBERT GALLATIN.

Hon. PETER SAILLY, *Chairman, &c.*

The report was referred to the Committee of the Whole on Tuesday next.

FRIDAY, January 3.

A memorial of the House of Representatives of the Territory of Orleans was presented to the House and read, praying a revision, alteration, and amendment, of the act of the last session, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and District of Louisiana;" that legal provision may be made for securing them in the right of common, in certain lands contiguous to their settlements; that the holders of single concessions may be placed upon the same footing with those to whom double concessions were granted by the Governments of France and Spain; and that Congress will patronize and endow public schools for the education of youth in the said Territory.

Ordered, That the said memorial be referred to the committee appointed, on the tenth ultimo, on the petition of the Legislative Council of the Territory of Orleans; and that Mr. ROBERT WHITEHILL be added to the said committee, in the room of Mr. JOHN WHITEHILL, absent on leave.

A petition of P. H. F. Bastrop, of the Territory of Orleans, was presented to the House and read, praying that he may be indemnified by a grant of lands or money, for the loss of an exclusive privilege, granted him before the cession of the said Territory, to trade with the Indian tribes for a term not yet expired, and which exclusive privilege he is now deprived of in consequence of the said cession.—Referred to the committee appointed, on the nineteenth ultimo, on alterations necessary in the "Act to regulate trade and intercourse with the Indian tribes."

A memorial and petition of John Douglass, chairman of a committee of sundry electors of the first election district of Pennsylvania, composed of the city and county of Philadelphia, and the county of Delaware, was presented to the House and read, complaining of an undue election and return of Michael Leib, one of the members returned from the said district to serve in this House, for the said State of Pennsylvania.—Referred to the Committee of Elections.

The House again went into Committee of the Whole on the bill to establish rules and articles for the government of the armies of the United States.

The Committee, having considered the remaining parts of the bill, section by section, reported the same with sundry amendments, which the House took into immediate consideration, approving some and rejecting others; when the bill was ordered to a third reading on Thursday.

Mr. J. RANDOLPH observed that he had a communication to make, which, according to the rules of the House, required the galleries to be cleared; which the SPEAKER, thereupon, directed to be done.

The galleries continued closed till about three o'clock, when they were opened, and the House adjourned till Monday.

MONDAY, January 6.

The SPEAKER laid before the House a letter received by him from David Rumsey, representing that his son, though possessed of a protection, had been impressed by the British; and that, notwithstanding his most strenuous exertions, he is unable to obtain his release. The letter is couched in unlettered, but pathetic terms, and concludes in the following manner: "I lost an estate by 'lending money to carry on the Revolutionary 'war, and I suffered everything but death by being a prisoner among them (the British) in Canada. I lay fifteen months in close confinement, 'when I bore the rank of a full captain; and if 'this is all the liberty I have gained, to be bereaved of my children in that form, and they 'made slaves, I had rather be without it. I hope 'that Congress will take some speedy methods to 'relieve our poor distressed children from under 'their wretched hands, whose tenderest mercy is 'cruelty."—Referred to the Secretary of State.

Mr. CLINTON presented a memorial of the merchants of the city of New York, signed by their chairman and a numerous committee, by the unanimous order, and on behalf of a general meeting of the said merchants, stating that the commerce of the United States has been deeply aggrieved and injured, and the memorialists themselves subjected to heavy and unforeseen losses, by the new assumed principle, adopted by the British tribunals of admiralty, "that neutrals may be restrained in time of war to their accustomed trade in time of peace;" a principle destructive of the hitherto acknowledged rights of neutrals, and, especially, subversive of the whole export trade to the United States: and that, appealing to the universal and inviolable principle of the law of nations, "that the goods of a neutral, consisting of articles not contraband of war, in a neutral vessel employed in direct trade between neutral countries, and ports of a belligerent country, not invested or blockaded, are protected," the memorialists confide in the wisdom and energy of the National Government to devise efficient means for maintaining and protecting the lawful commerce of the United States, and for placing the ports and harbors thereof in a state of defence and security. —Referred to the consideration of a Committee of the Whole on the state of the Union.

Mr. VARNUM, from the committee on that part of the President's Message which relates to the organization of the militia, the augmentation of the land forces, &c., made a further report in part, submitting a bill authorizing a detachment of the militia of the United States; which was referred to a Committee of the Whole to-morrow.

[The bill authorizes the President of the United States to require the Executives of the respective States to hold their quota of one hundred thousand militia in readiness to march at a moment's warning; authorizes the acceptance of volunteer corps as a part of the detachment, and appropriates —— dollars for the purposes of the act.]

Mr. NICHOLSON presented a memorial from the Board of Trustees for the education of youth in the City of Washington, stating the measures taken by the board in the establishment of an academy, and the contemplated establishment of higher institutions; and requesting Congress to aid their views by the donation of city lots, by authorizing a lottery, and by such other measures as they may see fit to take.—Referred to a committee of five members.

Mr. J. RANDOLPH said that the Committee of Ways and Means had received a letter from the Secretary of the Treasury, with various accompanying documents, on abuses alleged to have taken place in consequence of the evidences of the public debt being receivable in payment for lands; and on the vague provisions at present in force relative to the purchase of the public debt by the Commissioners of the Sinking Fund. Having made a brief explanation of these provisions, Mr. R. presented a bill to repeal the act to authorize the receipt of evidences of the public debt in payment for the lands of the United States, and for other purposes relative to the public debt, which was referred to a Committee of the Whole on Thursday.

[This bill provides that the act to authorize the receipt of evidences of the public debt in payment for the lands of the United States, passed March 3, 1797, and so much of any other acts as authorizes the same, shall be repealed after the 31st of March next, and that the Commissioners of the Sinking Fund shall not be authorized to purchase the public debt at higher rates than sixty per cent. of the nominal value of the three per cents., or than the nominal value of its unredeemed amount for any other species, the eight per cents. only excepted, for which they may give, in addition thereto, at the rate of one half of per cent. on the nominal value, for each quarterly dividend, payable from the time of purchase to Jan. 1, 1809. At the close of the accompanying letter of the Secretary of the Treasury, he states his intention of submitting to the Committee of Ways and Means, a plan for converting the three per cents., the old six per cents., and the deferred stock, into a new stock, bearing an interest of six per cent.; by which means the whole public debt contemplated to be discharged at a certain period, may be extinguished.]

IMPRESSED SEAMEN.

Mr. CROWNINSHIELD observed that, at the last session, there had been a return made to the House

of the American seamen impressed by British vessels, which had not been acted upon. Since that period these impressments had increased in a most astonishing degree. It was a fact that from 2,500 to 3,000 of our best seamen were detained by the British. We want the services of this useful class of men. That the attention of the House may be drawn to the subject, in order that proper measures may be taken by the Government, I have drawn up the following resolution:

Resolved, That the Secretary of State be directed to lay before this House, a return of the number of American seamen who have been impressed or detained by the ships of war, or privateers of Great Britain, whose names have been reported to the Department of State since the statement was made to the House at the last session of Congress, mentioning the names of the persons impressed, with the names of the ships and vessels by which they were impressed, and the time of the impressment, together with any facts and circumstances in relation to the same which may have been reported to him; stating, also, the whole number of American seamen impressed, from the commencement of the present war in Europe, and including, in a separate column, the number of passengers, if any, who may have been taken out of American vessels coming to the United States from Europe.

Mr. ELLIOT said that, in seconding the motion of the gentleman from Massachusetts, he felt it a duty to express a hope that the resolution would not only be adopted with perfect unanimity, but that we should no longer stop at the precise point of the adoption of a simple resolution, calling for information on this interesting subject. The information which was laid before the House at the last session, with that which has since been derived from the public papers, has produced a loud expression of public indignation, which it is our duty to echo with energy. To prefer every consequence to insult and habitual wrong, is a sentiment of the Executive, which has been admitted even by its opponents to be correct and honorable. Has the time arrived when it has become indispensably necessary to reduce this principle to practice? Do we suffer insult and habitual wrong? Our merchants call loudly for the redress of injuries. I hope we shall redress them. Let us extend to them the arm of national protection, but let us extend it also to another class of injured citizens; while we give it to the rich, let us not withhold it from the poor. The groans of our impressed fellow-citizens mingle with the murmurs of every gale from the ocean! The queen of that element ought no longer to be suffered to bespangle her diadem with the tears of American seamen, or to substitute her will and her interest for the laws of nature and of nations. It is to be hoped that, upon this subject, we shall take an attitude worthy of the nation; an attitude not to be abandoned but by obtaining complete justice.

The resolution was then agreed to unanimously.

CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was referred the petition of John Douglass, praying the House of Representatives of the United States to appoint a commission to set in Philadelphia, for the purpose of investigating the election of MICHAEL LEIB, returned as a member of this House from the State of Pennsylvania, that if the same be found illegal, a new election may be granted, reported, that having, according to order, had the same under consideration, they submit the following report:

A petition against the election of any person returned as a member of the House of Representatives, ought to state the ground on which the election is contested, with such certainty as to give reasonable notice thereof to the sitting member, and to enable the House to judge whether the same be verified by the proof, and if proved, whether it be sufficient to vacate the seat; and the petitioner ought not to be admitted to give evidence of any fact not substantially alleged in his petition.

In the present case, the petition contains no direct or specific charge of an illegality in the election. The only allegations are general and indirect; that is, by a history of the proceedings of certain meetings and committees of electors, and by reference to a subjoined report of one of those committees and the documents accompanying it, which documents appear to be seven *ex parte* depositions, not admissible in evidence, and not deemed proper to be considered as parts of the petition, by being generally referred to therein.

The committee are of opinion, that on such a petition there can be no satisfactory trial of the merits of the election in question; and therefore recommend the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and the papers accompanying the same.

The House immediately took the resolution into consideration, and agreed to it without debate or division.

On motion of Mr. J. RANDOLPH the galleries were cleared about one o'clock. The doors continued closed until a short time beyond the usual period of adjournment, when, on motion, the House adjourned.

TUESDAY, January 7.

The House spent the morning in the reception and reference of petitions.

On the motion of Mr. J. RANDOLPH, the galleries were cleared at about twelve o'clock, and continued closed until the House adjourned, about the usual hour.

WEDNESDAY, January 8.

Mr. MARION, from the committee appointed on the sixteenth ultimo, presented a bill declaring the consent of Congress to an act of the State of South Carolina, passed on the twenty-first day of December, in the year of our Lord one thousand eight hundred and four, so far as the same relates to authorizing the City Council of Charleston, to impose and collect a duty on the tonnage of vessels from foreign ports; which was read twice and committed to a Committee of the Whole on Monday next

Mr. TALLMADGE, from the committee appointed on the thirty-first ultimo, presented a bill relating to bonds given by marshals; which was read twice

and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to provide for light-houses in Long Island Sound, and to declare Roxbury, in the State of Massachusetts, to be a port of delivery," with an amendment; to which they desire the concurrence of this House.

Mr. BIDWELL, from the committee to whom was committed a resolution relative to William Eaton, submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That the thanks of Congress be, and hereby are, presented to William Eaton, and his brave associates, for their distinguished services, in the late expedition, planned and conducted by him against Tripoli, in the execution of which they marched from Egypt, through the desert of Lybia, and with the co-operation of the ex-Bashaw, and the assistance of a small part of the naval force of the United States, defeated the Tripolitan army, took the city of Derne, and essentially contributed to the termination of the war, and the restoration of our captive fellow-citizens to liberty and their country.

Referred to a Committee of the Whole House on Saturday.

ARMING THE MILITIA.

Mr. VARNUM observed that it would be found, by the militia returns, that there was in some parts of the Union a considerable deficiency of fire-arms. That inquiry might be made into this subject, and proper arrangements be made for correcting the evil, he moved the following resolution:

Resolved, That a committee be appointed to consider whether any, and, if any, what measures are necessary to be adopted to complete the arming of the militia of the United States.

The House immediately took this resolution into consideration, and agreed to it, with a modification, suggested by Mr. J. C. SMITH, referring it to the committee charged with that part of the Message of the President which relates to the militia.

Mr. VARNUM said, that the inquiry, directed to be made by this resolution, might be facilitated, he would move the following resolution:

Resolved, That the Secretary of War be directed to lay before this House a statement of the number of fire-arms fit for use, the property of the United States, designating the places where they are deposited.

This resolution was immediately agreed to.

ARMY REGULATIONS.

The bill for establishing rules and articles for the government of the armies of the United States was read the third time.

Several verbal amendments were suggested as proper to be made.

Mr. G. W. CAMPBELL moved to recommit the bill to a select committee, with the view of modifying it so as to render more definite the powers of courts martial, and particularly that the power of inflicting the punishment of death should be more guardedly bestowed.

This motion was supported by Mr. FISK, and opposed by Messrs. CONRAD, and EARLY; and lost—yeas 44, nays 57.

Mr. SMILIE then moved a recommitment of the 89th article to the Committee of the Whole House, for the purpose of making the verbal amendments previously suggested.

This motion was carried—yeas 55, nays 47; and the article made the order for this day: When,

At the request of Mr J. RANDOLPH, the galleries were cleared about two o'clock, and remained closed till near 4 o'clock, when the House adjourned.

THURSDAY, January 9.

Mr. GREGG, from the committee appointed on so much of the President's Message as relates to a Naval Peace Establishment, having obtained leave, submitted a bill in addition to an act, entitled an act supplementary to the act providing for a Naval Peace Establishment, and for other purposes; which was referred to a Committee of the Whole House on Tuesday.

[This bill repeals the second and fourth sections of the act recited in the title, authorizes the President to keep in actual service in time of peace so many of the frigates and other public armed vessels, as in his judgment the nature of the service may require, and to cause the residue to be laid up in ordinary, in convenient ports—directs the public armed vessels in actual service in time of peace to be officered and manned as the President shall direct, provided that the officers shall not exceed thirteen captains, nine masters commandant, seventy-two lieutenants, and one hundred and fifty midshipmen, who are to receive no more than half their monthly pay while not under orders for actual service, and provided that the whole number of able seamen, ordinary seamen, and boys, shall not exceed nine hundred and twenty-five; the President being at liberty to appoint for the vessels in actual service, as many surgeons, surgeons' mates, sailingmasters, chaplains, pursers, boatswains, gunners, sailmakers, and carpenters, as may in his opinion be necessary.]

The House resolved itself into a Committee of the Whole on the 89th article of the bill establishing rules and articles of war for the government of the armies of the United States.

Having verbally amended this article, the Committee rose, and the House confirmed the amendment, and ordered the article, so amended, to be engrossed for a third reading to day.

The House took into consideration, and concurred in the amendment proposed by the Senate to the bill providing light-houses on Long Island Sound. The bill therefore, only requires the signature of the President, to be a law. The amendment directs the Secretary of the Treasury to have the lights so constructed as to be distinguished from all other lights in the neighborhood.

When, about twelve o'clock, on the motion of Mr. THOMAS, the galleries were cleared. They remained closed until four o'clock, when the House adjourned.

FRIDAY, January 10.

The eighty-ninth article of the first section of the bill for establishing rules and articles for the government of the armies of the United States was brought up, engrossed, and read the third time.

Resolved, That the said bill do pass, and that the title be, "An act for establishing rules and articles for the government of the armies of the United States."

Mr. HOLMES presented a memorial from the Common Council of Alexandria, praying that the provisions of the third section of the act of Congress relative to quarantines may be extended to the District of Columbia, that there may be erected at Jones' Point, the necessary buildings for the accommodation of sick and disabled seamen, and that a general quarantine establishment may be made at Jones' Point, at the public expense; which was referred to the Committee of Commerce and Manufactures.

Mr. THOMAS presented certain proceedings of the House of Representatives of Pennsylvania, relative to the conveyance of the mails and the imposition of postage, which was referred to the Post Office committee.

At about 12 o'clock the galleries were cleared, and continued closed until past 3 o'clock.

SATURDAY, January 11.

The SPEAKER laid before the House a letter from the Secretary of War, exhibiting a statement of the number of fire-arms, the property of the United States, fit for use, designating the places where they are deposited; by which it appears, that, exclusive of the arms in the hands of the troops in the service of the United States, there are deposited in various places: 113,501 muskets with bayonets, 3,666 rifles, 62 fusils, 1,938 pair of pistols, and 918 carbines.

This communication was referred to the committee appointed on the arming of the militia.

A short time after eleven o'clock, the galleries were cleared. They continued closed until four o'clock, when the House adjourned.

MONDAY, January 13.

Several petitions of sundry inhabitants of the counties of Randolph and St. Clair, in the Indiana Territory, were presented to the House and read, praying, for the reasons therein set forth, that the Surveyor General of the United States may be directed to run a line, commencing at a place called Payssa, above Cahokia, and ending at —— river, below Kaskaskia, in such a manner as will include all the settlements made between those two points; and that the land which shall be so included, may be exempted from the mode of survey and terms of sale to which the other public lands of the United States are subject.—Referred to the Committee on the Public Lands.

A Message was received from the President of the United States comprising a statement of the measures of the Executive relative to obtaining the co-operation of the ex-Bashaw of Tripoli against the reigning Bey, and the application of the ex-Bashaw for compensation for services rendered the United States accompanied by various elucidating documents.

The Message was read, and referred to Mr. JOSEPH CLAY, Mr. JOHN C. SMITH, Mr. ROGER NELSON, Mr. CROWNINSHIELD, Mr. GARNETT, Mr. FISK, and Mr. DICKSON.

A memorial of the Legislature of the State of Georgia was presented to the House and read, stating that great oppression and injury has arisen to sundry citizens of the said State, in consequence of a claim of the State of North Carolina to certain lands lying within the boundary of Georgia; that the rights of Georgia have been no less affected and violated thereby, and praying that Congress will interpose and cause the thirty-fifth degree of north latitude to be ascertained, and the line between the two States to be plainly marked.—Referred to Mr. SPALDING, Mr. GEORGE WASHINGTON CAMPBELL, Mr. THOMAS MOORE, Mr. STANFORD, and Mr. EPPES; to examine and report their opinion thereupon to the House.

About twelve o'clock the galleries were again cleared on motion of Mr. JACKSON. The House did not rise till near five o'clock.

TUESDAY, January 14.

The House commenced their proceedings this morning, at eleven o'clock, in secret sitting, having yesterday adjourned while the doors continued closed, and while confidential business was depending.

The House continued sitting until three o'clock, when the doors were opened, and an adjournment ensued.

WEDNESDAY, January 15.

A Message was received from the President of the United States, transmitting an account of the grant of twenty thousand dollars, for the contingent charges of Government, by an act making appropriations for the support of Government, for the year one thousand eight hundred and five. The Message was read, and referred to the Committee of Ways and Means.

A Message was received from the President of the United States, communicating the report of the Director of the Mint, of the operations of that institution, during the last year. The Message was read, and, together with the report transmitted therewith, ordered to lie on the table.

Ordered, That the Committee of the Whole House to whom was referred, on the second instant, the report of the Secretary of State on the petition of Peter Landais, be discharged from the consideration thereof; and that the said report and petition be referred to the Committee of Claims.

On the suggestion of Mr. BIDWELL, who observed that he had a communication to make that required closed doors, the galleries were cleared about twelve o'clock, and remained closed till four, when the House adjourned.

THURSDAY, January 16.

Mr. J. RANDOLPH, from the Committee of Ways and Means, presented a bill making an additional appropriation to supply the deficiency in the appropriation for the naval service, during the year one thousand eight hundred and five: which was read twice and committed to a Committee of the Whole to-morrow.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his report on the petitions of the Inspectors of the Customs of the cities of New York, Baltimore, and Philadelphia, referred to him on the fifth and twenty-third of December last, and on the eleventh instant.—Referred to the Committee of Ways and Means.

Mr. FINDLEY, from the committee appointed on the tenth ultimo, presented a bill to incorporate the trustees of the Presbyterian Congregation of Georgetown, and for other purposes; which was read twice and committed to a Committee of the Whole House on Monday next.

On motion, it was

Resolved, That a committee be appointed to inquire into the expediency of passing a law, declaring the assent of Congress to an act of the General Assembly of the State of North Carolina, passed on the twenty-second day of December one thousand eight hundred and three, entitled "An act to authorize the State of Tennessee to perfect titles to lands reserved to this State by the cession act, and that the committee be authorized to report by bill, or otherwise.

Ordered, That Mr. ALSTON, Mr. G. W. CAMPBELL, Mr. CHITTENDEN, Mr. TRIGG, and Mr. LYON, be appointed a committee, pursuant to the said resolution.

A memorial of the merchants and traders of the city of Philadelphia, was presented to the House and read, stating the extreme embarrassments which have arisen to the commerce of the United States, in consequence of the new assumed principles by the belligerent Powers, respecting the rights of neutrals, and the restrictions thereby imposed; that, under the pressure of these evils, and the piracies and depredations committed, both in the European and West Indian seas, on their lawful commerce, they look with confidence to the protecting arm of Government, and pray that efficient measures may be devised to maintain the rights and vindicate the honor of the United States.—Referred to a Committee of the Whole on the state of the Union.

The House resolved itself into a Committee of the Whole on the bill to repeal the act to authorize the receipt of evidences of the public debt, in payment for the lands of the United States, and for other purposes relative to the public debt; and after some time spent therein the Committee reported the bill without amendment.

FRIDAY, January 17.

Mr GREGG, from the Committee on the Public Lands, to whom was referred, on the twenty-seventh ultimo, the memorial and petition of the Directors and Agents of the Ohio Company, made a report thereon; which was read, and considered: Whereupon,

Resolved, That the prayer of the memorialists, so far as respects their application for twenty mile-square lots, ought not to be granted, and that they have leave to withdraw their memorial.

Mr. TENNEY, from the Committee of Revisal and Unfinished Business, presented a bill further to continue in force the act, entitled "An act for establishing trading-houses with the Indian tribes;" which was read twice and committed to the Committee of Commerce and Manufactures.

A memorial and petitions of sundry inhabitants of the counties of Randolph and St. Clair, in the Indiana Territory, were presented to the House and read, suggesting the expediency of a division of the Indiana Territory, and the erection into a separate Territorial government of a part thereof; of the formation of a Western State; of the admission of slavery into the said Territory, either unconditional or under such restrictions as Congress may impose; and, also, praying redress against certain oppressive acts of the Executive authority of the said Territory.—Referred to the committee appointed, on the nineteenth ultimo, on a letter from William Henry Harrison, Governor of the Indiana Territory.

Mr. GREGG said that he had early in the session offered a resolution, which he thought had been at the time referred to a Committee of the Whole House. Finding that this was not the case, he rose to move that it should be so referred. This resolution, as follows, was taken into consideration — ayes 58, noes 21—and referred to a Committee of the Whole House on the first Monday in February.

Resolved, That so much of an act entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," as appropriates any portion of said lands for the purpose of satisfying, quieting, or compensating any claims to the said lands, derived from any act, or pretended act of the State of Georgia, and neither recognised by the articles of agreement and cession between the United States and the State of Georgia, nor embraced by the two first sections of the abovementioned act, be repealed.

BRITISH AGGRESSIONS.

Mr. J. RANDOLPH said he had a motion to make which required the galleries previously to be cleared.

The galleries were accordingly cleared, and continued so for about two hours; when the doors were opened, and a Message from the President of the United States was presented by Mr Coles.

This Message, being partly of a public, and partly of a confidential nature, the galleries were cleared for a short time, while the latter part was read. The doors being again opened, the Clerk read the former part of the Message, relative to British aggressions on neutral rights. The Message contains a copy of a letter transmitted by the Secretary of State to Mr. Monroe, dated April 1, 1805, on the impressment of American seamen; and the copy of a letter from the Secretary to Mr. Mon-

roe, dated April 12, 1805, on the doctrine lately set up by Britain, relative to neutral trade. Besides these papers, the Message enclosed memorials from the merchants of New York, of Newburyport, of Philadelphia, and of Charleston, and from the United Insurance Company of New York, from the Newport Insurance Company, and from the Norfolk Marine Insurance Company.

Mr. THOMAS moved the reference of the Message to a Committee of the Whole on the state of the Union.

Mr. NICHOLSON observed that a subject intimately connected with that of the Message had been already referred to the Committee of Ways and Means; and moved the reference of the Message to that committee.

Mr. THOMAS replied, that the memorial from the merchants of the cities of New York and Philadelphia on the same subject, had been referred to a Committee of the Whole on the state of the Union.

The question of reference to a Committee of the Whole House was taken and passed in the negative—ayes 29.

Mr. NICHOLSON then moved to refer the Message to the Committee of Ways and Means.

Mr. CROWNINSHIELD said he could not conceive why a reference should be made to the Committee of Ways and Means. It had no connexion, or a very remote connexion, with revenue. Surely, said Mr. C. we are not going to settle our difference on this point by pounds, shillings, and pence. He concluded by moving a reference to a select committee.

Mr. DANA observed that the Message embraced two distinct points, one relative to spoliations on our trade, which might go to the Committee of Ways and Means, and the other, relative to the impressment of our seamen, which would most properly be referred to a select committee.

Mr. NICHOLSON varied his motion in the way suggested by Mr. DANA.

The House concurred in his motion to refer so much of the Message as relates to spoliations to the Committee of Ways and Means—ayes 59, noes 13.

So much of the said Message as relates to the impressment of seamen was referred to a select committee of seven members.

Mr. GREGG, from the Committee on the Public Lands, made a report on the memorial of the directors and agents of the Ohio Company. The report states that since the date of the memorial legislative provision had been made for all the objects prayed for, except one. This is, that a grant may be made in aid of schools, of a lot of land twenty miles square, in lieu of the existing appropriation of land. The report concludes with a resolution that the prayer of the memorial, so far as relates to the application for a lot of land of twenty miles square, ought not to be granted.

The House immediately considered the report, and concurred in it without division.

MONDAY, January 20.

Mr. OLIN, one of the Representatives from the State of Vermont, presented to the House certain resolutions of the General Assembly of the said State, proposing an article of amendment to the Constitution of the United States, to prevent the importation of slaves, or people of color, from any of the West India islands, from the coast of Africa, or elsewhere, into the United States, or any part thereof; which were read and ordered to lie on the table.

Mr. STANLEY moved the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before the House a general return of all and singular the warlike stores, the property of the United States, within the same, comprehending ordnance for garrisons and floating batteries, of iron and brass, from a forty-two pounder to cannister, grape, &c., with carriages and implements, describing the condition of the same, whether fit or unfit for service, noting the place of deposit, and under whose direction; mortars, howitzers, beds, and travelling carriages, of different calibres, from nine to two pounders, with crinkers, boxes, tumbrels, ammunition-wagons with harness, noting where situated or deposited; shot, shells, grape, and cannister, attached to the different calibres as above; ammunition and composition of powder in magazines, arsenals, and gun-houses.

Ordered, That the said resolution do lie on the table.

On motion of Mr. JACKSON,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the legal adjudication of claims set up by persons in virtue of purchases, or transfers from purchasers, of lands of the United States, previous to the emanation of grants under their authority.

The House resolved itself into a Committee of the Whole on the bill for the relief of the Governor, Secretary, and Judges, of the late Territory of the United States northwest of the river Ohio. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to extend the time for taking the oath and giving bond in cases of drawback, and for other purposes; and, after some time spent therein, the Committee rose and reported the said bill, and obtained leave to sit again, and the bill was recommitted to the Committee of Commerce and Manufactures.

An engrossed bill making an additional appropriation to supply the deficiency in the appropriation for the naval service, during the year one thousand eight hundred and five, was read the third time and passed.

On motion of Mr. NICHOLSON, the House resolved itself into a Committee of the whole House on a bill making an additional appropriation to supply the deficiency in the appropriation for the naval service during the year 1805.

The CHAIRMAN having read over the bill, Mr. NICHOLSON moved to fill the blank with the sum of $350,000, remarking that this sum, added to that already appropriated, amounted to $600,000, which constituted the entire deficiency for the last year.

This motion was agreed to without debate—yeas 78.

The Committee rose and reported their agreement to the bill with the above amendment, which the House immediately took into consideration, and agreed to, and ordered the bill to be engrossed for a third reading this day.

On motion of Mr. GREGG, the House went into a Committee of the Whole on a bill to extend the powers of the Surveyor General to the Territory of Louisiana, and for other purposes.

Mr. GREGG stated that the object of this bill was to place the people of Louisiana with regard to the public lands on the same footing with the people of the Territories of Indiana and Orleans, which object had not been attended to in the acts of Congress recently passed on the subject.

Mr. GREGG moved several amendments, which were agreed to, accommodating the verbal language of the bill to that made use of in the other land laws.

On motion of Mr. PARKE, a new section was introduced, allowing claimants of land either under the French or Spanish Governments, or derived from actual settlements, or from other sources, until the first day of June, to give evidence of their claims and have the same recorded, and declaring all other claims null and void forever.

Mr. GREGG moved so to amend the bill as to allow a salary of $400 to the principal surveyor, in consideration of his being obliged to keep an office, and being thereby disabled from executing many surveys himself.

Motion lost—yeas 26.

Some other subordinate amendments were made, when the Committee rose and reported their agreement to the bill, with sundry amendments.

The House immediately considered the report, and concurred in all the amendments, except that for introducing a new section, offered by Mr. PARKE, to which they disagreed, only ten members rising in favor of it.

Mr. GREGG renewed his amendment for allowing a salary of $400 to the principal surveyor, which was disagreed to—yeas 42, nays 43.

Ordered, That the bill be engrossed for a third reading to-morrow.

ELIZABETH PECKHAM.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, having considered the petition of Elizabeth Peckham, of North Kingston, in the State of Rhode Island, widow of Benedict Peckham, referred to them by the House of Representatives, on the 11th of December, submitted the following report:

The petitioner states that her husband, Benedict Peckham, in the month of August, 1801, sailed from Rhode Island on a voyage to the West Indies, and imported from thence, into Washington district, North Carolina, about twenty-two hogsheads of rum, and there entered and landed the same, and gave bond with William Ross, as surety for the duties, amounting to six hundred and eighteen dollars and forty-four cents. That the markets not answering the expectations of the said Peckham, he reshipped the said rum, and took passage therewith himself for New York, about the 18th of February, 1802. That, soon after, a violent storm came on, and without doubt the vessel and every person on board were lost, as they have never been heard of since that time. That the said Ross was obliged to pay the duties on the rum, and commenced his action therefor, and attached a dwelling-house and four acres of land, situated in North Kingston, in Rhode Island, on which the petitioner resided with her children, and obtained judgment on his suit, and caused the house and land to be sold at auction. The petitioner further states that the said Peckham died in debt to the amount of the remainder of his estate, and that she with her six children are turned out of their home in consequence of this decision.

The petitioner prays that the amount of duty on the twenty-two hogsheads of rum may be refunded.

The committee consider this as a hard case, and if their humanity alone was to be consulted on the occasion, they could not hesitate to recommend that the wished for relief should be granted; but they cannot venture to recommend a deviation from the invariable practice of the House on all similar applications. The decisions have been founded on strict commercial justice. When articles are imported and bonded at the custom-house, the duties form a part of their value, and immediately become an insurable interest. In the case under consideration, the rum might have been insured, (although it is not stated that it was insured,) and the loss would have fallen on the underwriters. It is true it was not consumed in the country; this, however, ought not to make any difference, if it is considered that the article was going from port to port in the United States, with coasting documents, no bonds having been given to export it to a foreign country. If this claim is allowed, it would be equally fair to refund the duties on all goods which may receive damage after importation, and previous to their consumption, and even in cases of loss by fire, storms, and from every accident or injury whatever.

Considering, therefore, the danger that would arise from innovating upon the revenue system of the United States, in a principle of this magnitude, the committee are induced to offer the following resolution:

Resolved, That the petitioner have leave to withdraw her petition.

The report was agreed to.

IMPORTATION OF SLAVES.

The House resolved itself into a Committee of the Whole on a motion of the tenth ultimo, "for imposing a tax or duty of ten dollars per head upon all slaves hereafter imported into any of the United States."

Mr. SLOAN said, he would not take up much of the time of the House in discussing a resolution, the object of which was so plain as rendered it scarcely possible to elucidate it. He would read that section of the Constitution which gave Congress the power of legislating on this subject, which was so clear as to require nothing to be said in addition to it.

The ninth section of the first article is in these words:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808; but a tax or duty may be imposed on

such importation, not exceeding ten dollars for each person."

I conceive, said Mr. SLOAN, that, by this article, slaves are made an article of importation, in common with other articles imported. Congress have the same power to lay a tax of ten dollars a head on them, as they have to lay an unlimited tax on every other imported article. I presume every member of this Committee has duly considered the subject, and has made up his mind on the expediency of the resolution. For my own part I can see no reason why this article of importation should remain without duty, while all others pay one. For these reasons I hope the Committee will agree to the resolution.

The article of the Constitution, together with the resolution, having been read at the request of Mr. DANA, he called upon the mover of the resolution to assign his reasons for using the word *slaves* instead of the word *persons*, the term used in the Constitution.

Mr. CLARK hoped the Committee would not agree to the resolution. He was no advocate for a system of slavery; but he supposed the adoption of this resolution could only be considered as expressing the opinion of Congress, of the impropriety of importing slaves. As to the revenue to be raised, it was too inconsiderable to be worthy of any attention. He was opposed to the resolution, because it appeared to him that it would be partial in its operation, inasmuch as there were only two States, South Carolina and Georgia, which did not prohibit the importation of slaves, at which it most consequently be considered as levelled. The more he reflected on the subject, the more he doubted the propriety of that species of legislation which bore exclusively on a particular section of the United States, nor did it become the Government of the United States to interfere with the internal police of the States, which were, in this respect, sovereign and independent. For these reasons, he trusted the resolution would not prevail.

Mr. EARLY rose barely to correct the gentleman from Virginia, (Mr. CLARK.) in the remark he had made relative to the State of Georgia. There existed no law in that State permitting the importation of slaves; on the contrary, there was an article in their constitution prohibiting it.

Mr. MARION said, this was to be considered as a question of revenue. With regard to the policy of importing slaves, that was left, until the year 1808, exclusively to the States. If this resolution was intended to express the disapprobation of the General Government of the legitimate act of a particular State, he should deem it proper. As well might Congress undertake to express its disapprobation of the election of a Governor chosen in a particular State; his objection arose from the partiality and injustice of the resolution. If in operation it was as extensive as it appeared to be in words, or if he thought it would prevent a single slave from being imported into the United States, it should receive his hearty support; but the very limitation of the tax by the Constitution to ten dollars, was intended to prevent Congress from laying a duty which should prevent the importation; it could not, therefore, prevent the importation of a single slave. It followed that revenue could be the only object. Whether, for this alone, we should lay a tax that would fall exclusively on one State, was worthy of consideration. That State already bore her full proportion of the public burdens, and even more than her proportion. In point of numbers, she contained about one sixteenth part of the Union, and therefore, on the basis of numbers, ought not to be called on to pay a quota of more than six per centum on the whole amount of taxes. Her quota, on the principle on which direct taxes were imposed, ought not to be more than four per centum and four hundredths. On examination, it will be found that the duties paid in South Carolina on imported articles, amount to between one thirteenth, and one-fourteenth part of the whole duties paid into the Treasury, which is between seven and eight per cent. of the whole. When it is considered that no goods are imported into South Carolina for the consumption of the other States, for it was known, Mr. M. said, from the operation of causes which he would not undertake to explain, that goods were considerably higher in Charleston than in the other States, and that, consequently, a cheaper supply of goods could be obtained from other States than from South Carolina; and when, to this circumstance, it was added that South Carolina paid her portion of duties on East India goods, which she derived from the importation of other States, it would be found that she paid a still higher proportion of duties. Under these considerations are Congress prepared to lay a duty on her alone, for such it certainly was? Coming from the State he did, Mr. M. said, it might be supposed he was personally interested in this question; but the fact was, he was as free to act on it as any other member of the House. He had uniformly opposed the importation of slaves, and were he to collect the sentiments of his constituents from the vote of their immediate Representatives on a recent occasion, it would be found that a majority of them were likewise opposed to it. As to himself, he was, in truth, individually interested in preventing the importation of slaves. He never had purchased, nor should he ever purchase a slave. The greater, therefore, the restriction imposed on the importation, the more would it raise the value of those he possessed.

Mr. SOUTHARD declared himself in favor of the resolution. His only regret was, that it was not in the power of Congress to lay a more effectual tax. He thought Congress had a right to declare their opinion of a practice so injurious to the country. The idea was held up in the Constitution that slaves were a proper object of taxation. He believed the tax would prevent few persons from being imported. About two years ago a similar resolution had been agitated in this House. It was then said the Legislature of South Carolina were in session, and that there was a great probability of their repealing the obnoxious law. On this ground the consideration of the resolution

was postponed. Last session, a similar resolution was brought forward, and was, owing to a pressure of business, again postponed. Mr. Southard said there was no doubt, if the resolution had been acted upon two years ago, and Congress had exercised their Constitutional power, it would have prevented a vast number of slaves from being imported. It is said, however, that this resolution will operate partially on South Carolina, but it has not South Carolina particularly in view, but principle; and if that principle be correct, let it operate where it may, let the people of South Carolina feel the weight of it; it is right they should. As the proposed tax may prevent a few, perhaps a single one of these miserable creatures from being torn from the bosom of their family and country, in violation of the ties of nature and the principles of justice, the time of Congress will be well taken up in imposing it, nor has any State a right to complain of such treatment; for, if the traffic is profitable they can well afford to pay for it. Mr. S. concluded, by declaring that, not revenue, but an expression of the national sentiment was his principal object.

Mr. DANA said, that black men were not the only men imported into the United States. If the object of this tax was only to obtain revenue, (and it really appeared to him that we wanted all the revenue we could get,) it might, perhaps, be right to get as much revenue as possible from the importation of men. To have this point elucidated, and to learn the precise grounds of the mover in offering this resolution, he moved to substitute the word *persons*, in lieu of the word *slaves*.

Mr. ALSTON said, in seconding this amendment, his object was to preserve the words of the Constitution, instead of deviating from them into the language of the resolution. He defied gentlemen to show him the word slave in the Constitution: no such word was found in the Constitution. Here Mr. A. read that part of the Constitution already recited, and then proceeded: The word here used, is *person*, not *slave*. Where the gentleman found the latter word, I am altogether at a loss to know. In laying this tax on slaves, we shall defeat a very important part of the Constitution, which says all taxes and duties shall be uniform. From the constitutions of the Southern States, it is impossible for this tax to apply to them; and in many of the other States there is, I believe, a similar provision prohibiting the admission of slaves. Under the constitution of Connecticut, every man is free the moment he puts his foot on their ground. This tax, therefore, cannot apply to that State, unless they alter their constitution, or their steady habits, whichever gentlemen may call them. In Ohio, there is a like prohibition. How then are gentlemen attempting to legislate on the subject? If the object of the resolution were to prohibit the importation of slaves, I believe I should join them in supporting it. I am willing that no more of that description of people should set foot on our shores; but this will not be its effect. On the contrary, it will be partial in its operation, and fall exclusively on South Carolina and a few of the other States, whose constitutions permit the importation of slaves. With these constitutions Congress are presumed to be, and are, acquainted; their acts ought to harmonize with them, and they ought not to pass a law which does not operate equally on all the States. In the present instance, we see South Carolina nearly equally divided in opinion. Is it proper in Congress, under these circumstances, to pass an act to censure them? Can we prohibit the importation? No; we are merely, then, sanctioning the commerce, and imposing a tax that amounts to nothing. What good reason is there for bringing forward this subject at this time? In two years we shall have the power to prohibit the trade altogether. Then this House will be unanimous; no one will object to exercising our full Constitutional powers. But to bring the subject forward in its present shape can only tend to divide us, without doing the least benefit. I hope the motion of the gentleman from Connecticut will prevail, and that we shall adhere to the language of the Constitution.

Mr. SMILIE.—There is no doubt but, by the Constitution, we have a right to prohibit, so far as the imposition of a tax of ten dollars can have the effect, the importation of slaves or freemen, provided we think good policy and humanity justify the measure. And if the House do entertain the opinion, that the policy of the United States requires a prohibition of the emigration of all such persons, they will agree to the amendment; they have a right to do it. But I do not believe this is the disposition of the present House, or of any that has sat under the Constitution. The gentleman rests his amendment on the word *person*, and concludes it to be necessary, because the word slave is not to be found in the Constitution. I rejoice that that word is not in the Constitution; its not being there does honor to the worthies who would not suffer it to become a part of it. What are the facts connected with this business? They are these: When Congress were sitting and legislating for a free people, they determined not to stain the Constitution with that word. The thing was perfectly understood in the Convention. The power, as it stands modified, was the result of that spirit of concession and compromise which, in this as in many other instances, characterizes the Constitution. With regard to the allegation, that this tax would operate partially and severely, I see, on reflection, nothing in it. The right to impose duties on all other articles except this, is unlimited, and the State of South Carolina, in this instance, has the power completely to get rid of this tax. She has only to repeal her law, and she will have no tax to pay. But if that or any other State pursue a trade which justice or good policy forbid, they must submit to the Constitutional powers of Congress. We are placed now in a delicate and trying situation; the resolution is actually before us; and the only question is, whether we will or will not declare our approbation of this iniquitous traffic. As to revenue, it is no object to me. Revenue, no doubt, will grow out of the measure, but that alone would not induce me to patronise it. I have another and a higher

object—to express our disapprobation of this traffic, to manifest to the world that, as the Representatives of a free people, we will, as far as we can, express our opinion of it.

The CHAIRMAN here interrupted Mr. SMILIE, by stating that the question was on the amendment, to which the remarks of gentlemen must be confined.

Mr. FISK hoped that the amendment would not prevail. Gentlemen tell us the resolution must be in the words of the Constitution, and that it is partial. He would consider how far this argument would carry them. It is observed that it is improper to call in question the rights of the States; but, according to the argument of the gentleman from North Carolina, if the State of Massachusetts should prohibit her citizens from consuming tea or coffee, Congress would be under the necessity of repealing the duties on those articles, and in this way many other acts of the States would prevent Congress from exercising their Constitutional powers. These things are in the power of the States; they are free to exercise them or not to exercise them. When they conduce to their benefit, they will exercise them; and when they cease to be beneficial, they will abandon them. Congress have the same right to lay a tax in one case as in the other, according as the public good will be advanced by the imposition, as well of the limited tax on slaves, as of the unlimited tax on other objects. In this resolution there is no partiality; it applies to all the States, as well those who have probibitory laws or constitutions as those who have not. For it is incorrect to say, because some States have Constitutional provisions on the subject, the tax is therefore inapplicable to them, because they have the power of altering their constitutions, and what is in force today may be abandoned to-morrow. To agree to the amendment would be, to hold out the idea to foreigners, about to escape from the tyranny and injustice of Europe, that we meant to refuse them an asylum in our country. It is, indeed, to be presumed that the mover of the amendment is against the whole resolution, and brought forward the one to defeat the other.

Mr. BEDINGER moved that the Committee should rise. He said the subject was important; it was late in the day, and he thought they ought to take more time to reflect on it before they came to a decision.

This motion having been agreed to—ayes 64—the Committee rose, reported progress, and asked leave to sit again.

Mr. DAWSON hoped that they would not have leave, but that the resolution would be postponed till some time in May.

Mr. NICHOLSON said, he hoped the Committee would have leave to sit again, and called for the yeas and nays on the question, which being taken, were, yeas 98, nays 15, as follows:

YEAS—Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, George W. Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, George Clinton, jun., Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., William Dickson, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Michael Leib, Joseph Lewis, jun., Josiah Masters, William McCreery, Nicholas, R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rea, of Pennsylvania, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Henry Southard, Thomas Spalding Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Joseph Winston.

NAYS—Willis Alston, jun., John Campbell, Christopher Clark, John Clopton, John Dawson, Peter Early, Edwin Gray, James Holland, Robert Marion, David Meriwether, Thomas Moore, John Rhea of Tennessee, O'Brien Smith, David Thomas, and David R. Williams.

TUESDAY, January 21.

On motion of Mr. NELSON,

Resolved, That a committee be appointed to inquire whether any, and what, alterations are necessary in the criminal, civil, or equitable jurisdiction of the Circuit Court of the District of Columbia; and that the committee have leave to report by bill, or otherwise.

Ordered, That Mr. ROGER NELSON, Mr. JACKSON, Mr. ELY, Mr. GEORGE W. CAMPBELL, and Mr. ELLIOT, be appointed a committee, pursuant to the said resolution.

Mr. GREGG, from the Committee on the Public Lands, to whom were referred, on the thirteenth instant, the petitions of sundry inhabitants of Randolph and St. Clair counties, in the Indiana Territory, made a report thereon; which was read, and considered; Whereupon,

Resolved, That the prayer of the petitioners ought not to be granted.

An engrossed bill for the relief of the Governor, Secretary, and Judges, of the late Territory of the United States Northwest of the river Ohio, was read the third time and passed.

An engrossed bill extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes, was read the third time and passed.

CONTINGENT EXPENSES.

Mr. EARLY said he held in his hand a resolution instructing the Committee of Ways and Means to inquire into the expediency of requiring the Secretaries of State, Treasury, War, and Navy, to lay before Congress at the opening of every session a detailed statement of the expenditure of the moneys appropriated to the contingent expenses of their departments. He would briefly state his reasons for offering this motion. The moneys for the contingent purposes of the Government were the only description of expenditures which were not controlled by the House. Over every other branch of expenditure the House exercised a control by specifying with definite clearness the respective objects of expenditure when an appropriation was made. But the moneys appropriated for contingent purposes, were left exclusively to the discretion of the different officers presiding over the several departments, in which they were alone governed by their own will and judgment. The only check which could be exercised over this description of expenditures was to require a detailed statement of disbursements. It would be recollected that a committee had been appointed some time since to investigate the accounts of several officers of the Government, and that they made a detailed report to the House. About that time, it had been contemplated to take the step which he now suggested, but for some reasons it had never been taken. Mr. EARLY said he by no means wished to be understood as entertaining the idea that the discretion with which the heads of department were clothed had been abused. He knew of no facts to justify such an opinion. It was on the ground of principle only that he offered this resolution. Through the four great departments which he had mentioned, passed nine-tenths of the whole money appropriated by Congress; and on looking at the statement contained in the estimates of the Secretary of the Treasury, he found that more than one fourth of the whole amount of money estimated as necessary for the several departments, was for contingent purposes. By that statement it appeared that the whole expenses of the Department of State were $27,000, of which $14,400, were for contingent purposes. Under the head of foreign intercourse $182,500, were estimated as necessary; of which $76,000, were for contingent purposes. The estimates for the Treasury Department were $72,100, of which 12,100 were for contingent purposes. The estimates for the War Department were $29,400, of which 2,000, were for contingent purposes. The estimates for the Military Establishment were $900,500, of which 18,000 were for contingent purposes. The estimates for the Navy Department were $21,100, of which 2,700 were for contingent purposes. The estimates for the Naval Establishment were $867,800, of which $411,900, were for contingent purposes. Mr. EARLY said he presumed this view of the subject would justify him in the eyes of the members of the House in offering the resolution. The resolution was agreed to, as follows:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of making provision by law, for requiring the Secretary of State, the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy, to lay before Congress annually a detailed account of the expenditure of the fund appropriated for the contingent expenses of their several Departments, respectively.

POTOMAC RIVER.

Mr. PHILIP R. THOMPSON, from the committee to whom were referred the petition of sundry inhabitants of the county of Alexandria, in the District of Columbia; the petition of sundry citizens of the United States, resident in the Territory of Columbia; the memorial of sundry inhabitants of Georgetown, in the District of Columbia; the memorial of sundry inhabitants of the City of Washington, residing on the west side of Tiber creek; and the memorial of John P. Van Ness, made the following report:

The petitions of the inhabitants of the town and county of Alexandria, and of the citizens resident in the Territory of Columbia, state: That an easy intercourse between the town of Alexandria and the City of Washington, which is at present prevented by the intervention of the river Potomac, is extremely desirable; that this intercourse is especially interrupted at that season of the year when the river is obstructed by ice; that a bridge from Maryland Avenue to Alexander's island would facilitate the communication, shorten the route of the mail at least six miles, and be generally beneficial to the citizens of the United States; that they are persuaded the bridge contemplated by their petitions will, at some period, be carried into effect, and they view the present time as the most favorable, both in relation to their own and the general convenience, and the interests of those who may be affected by the measure; and that, if the scheme shall be authorized by Congress, it will speedily be carried into effect. They pray that a law may pass to incorporate a company for erecting a bridge across the Potomac from the City of Washington to the county of Alexandria, in some convenient situation, under such regulations and restrictions as the Legislature may deem expedient.

In opposition to these petitions, the committee have referred to them the memorial of the proprietors and inhabitants of Georgetown, which states that Georgetown was laid out under the sanction of law, previous to the Revolution; that it was engaged in foreign commerce before the seat of Government was contemplated to be on the Potomac; that, being at the head of tide-water navigation, the proprietors must have made purchases and improvements with a view to foreign commerce, or some of the trade dependent on it, in the confident expectation that the river would remain free and unobstructed by artificial causes; particularly when they saw Maryland and Virginia make a solemn compact, whereby the river Potomac is declared a common highway for the purpose of navigation and commerce, the navigation whereof is not to be injured or obstructed. They consider that their natural and political rights will be infringed on by the adoption of this measure, as the navigation of the river will be injured or obstructed thereby; that from the meeting of the stream and tide water, at the place where the bridge is contemplated, a tendency will be produced in the impeded stream water to deposit the earthy particles with which it is charged in times of freshets, by which they apprehend the entire main and deep channel may be divided into many small and narrow passages, to the great injury of the navigation.

There is, likewise, referred to your committee the

memorial of the inhabitants of the City of Washington, residing on the west side of Tiber creek; which states, that the memorialists have acquired property on the west side of Tiber creek, in the City of Washington, in confidence that the navigation of the Potomac would not be destroyed by artificial means; that the erection of a bridge at the place contemplated would probably greatly injure the navigation above it, and impair the value of the property of the memorialists; that the project of a bridge across the river is unjust, as no place should calculate on being favored with artificial advantages which cannot be afforded without depriving other places of their natural advantages.

They also find among the documents referred to them the memorial of John P. Van Ness, in opposition to the first-mentioned petitions, on the ground of the measure therein proposed being (if carried into effect) an injurious infraction of the private rights of most of those, both within the city and Georgetown, and on the opposite shore, who are interested above the proposed site of the intended bridge.

The contrariety of sentiment and of interest which exists in the Territory of Columbia on the subject of the proposition contained in the petitions, praying that the erection of a bridge across the Potomac may be authorized by law, has induced your committee deliberately to examine the ground on which the pretensions of the petitioners in favor of the bridge are founded, and the reasons advanced by the memorialists in opposition to the measure.

Two inquiries present themselves, on the decision of which the propriety of authorizing the proposition entirely depends;

1st. Whether Congress have a right to pass a law, by which the object contemplated by the petitioners can be effected? And

2d. If that right exists, whether the benefit to the District, and the community in general, will be so great as to counterbalance the injury which individuals may eventually sustain from authorizing the measure?

In investigating the first point, it became necessary to advert to the act of the Virginia Assembly, passed the 3d of January, 1786, and the act of the Assembly of Maryland, passed the 12th of March, in the same year, confirming a compact previously entered into between the two States; from which it appears that, among other stipulations entered into between the States of Virginia and Maryland, by their Commissioners appointed for that purpose, it is agreed, "that the citizens of each State, respectively, shall have full property in the shores of the Potomac river adjoining the lands, with all the emoluments and advantages thereunto belonging, and the privilege of making wharves and other improvements, so as not to obstruct or injure the navigation of the river."

It does not appear to your committee, that the subsequent cession made by the two contracting parties of ten miles square, lying on both sides of the river, under the first article of the Constitution of the United States, to wit: by an act of the Virginia Assembly, passed the 3d day of December, 1791, and by an act of the Assembly of Maryland, passed the 19th day of the same month, in any degree impairs the compact previously made by the two contracting States; but that the United States received the territory, subject to the conditions previously imposed by the former possessors.

Under this impression, your committee considered it a matter of the first importance, in the decision of this question, to inquire whether the fact assumed by the counter-petitioners, that the erection of a bridge will obstruct the navigation of the river above it is founded in truth? In examining this part of the subject, your committee could avail themselves of no other evidence than such as is drawn from analogy.

It appeared to them, that the erection of piers in the river at the place contemplated for the site of the bridge, far from having the effect of occasioning a deposition of earthy matter, and filling the channel, would rather have a tendency to keep the channel open, by the increased velocity of the water passing down the main channel of the river, between the two piers which it seemed practicable to erect on each side of it. It likewise appeared to them, if the erection of the causeway from Mason's island, opposite Georgetown, to the Virginia shore, would produce the effect expected from it, of improving the navigation of the river by means of throwing the whole body of the water of the river into a narrower compass, increasing its velocity, and thereby sweeping out a deeper channel, the same result might reasonably be expected from throwing a greater quantum and force of water into the main channel of the river, between the two piers which would support the bridge across the channel.

Your committee find that the Legislature of Maryland passed a law, on the 29th of December, 1791, previous to the assumption of jurisdiction over the territory by the United States, authorizing the erection of a bridge at or near Georgetown. As the river Potomac is navigable above the town of Georgetown, your committee consider the passage of that law as expressive of an opinion, by the Legislature of Maryland, that the erection of a bridge below the head of tide-water is not such an obstruction or injury as is prohibited by the articles of compact between the two States. And as that arm of the river Potomac between Mason's island and the Virginia shore was navigable previous to the building of the causeway across that branch of the river, your committee have considered the law passed at the last session of Congress, authorizing the erection of that causeway, as declaratory of the right of the Legislature of the United States, (notwithstanding the compact between Virginia and Maryland,) to occlude, in a degree, the navigation of the river within their jurisdiction.

If a bridge can be erected with such a draw as will admit the free passage of vessels of any burden for which there is depth of water in the channel, your committee do not consider the passing a law to authorize such a bridge, under proper restrictions, as any violation of the compact before-mentioned; and, from the best information they have been able to obtain on this point, it seems very practicable to erect a bridge across the river Potomac, with a draw which will permit the passage of such vessels without much detention.

On the second point, whether the benefit to the public would be so great as to counterbalance the inconvenience which might eventually result to individuals from authorizing this measure, your committee have had less difficulty in forming their opinion. From a survey, said to be an accurate one, with which the committee have been furnished, it appears that the distance from Alexandria to Georgetown, (including the river,) by the present route, is eight miles and fifty poles; and from the ferry at Georgetown to the Capitol, three miles and a quarter; making, in the whole, eleven miles three-eighths and fifteen poles. From Alexandria to the Capitol, by the intended bridge, six miles and a half and nine poles, being less than the road at present travelled by five miles and seven-eighths. Hence it results that that distance will be saved to those having communication between Alexandria and that part of the city lying in the vicinity of, and below the Capitol, and to persons travelling from north to south, and *e converso*.

The casualties, the delays, and the dangers to which the mails of the United States, as well as persons having occasion to pass from one side of the river to the other are subjected from the occurrence of storms, and the formation of ice on the river in Winter, (both which occasionally render the Potomac impassable,) are cogent circumstances in favor of the expediency of authorizing the erection of a bridge.

Your committee are not furnished with data whereon to form an accurate opinion of the actual saving of distance which will take place (in case of the erection of a bridge) in the transportation of the mails of the United States. This, however, from the facts just stated, must be considerable; and the diminution of expense will be proportionate to the diminution of distance.

On the whole, your committee are of opinion that the public interests will be greatly promoted by the erection of a bridge across the river Potomac, at or near the termination of the Maryland Avenue, in the City of Washington, to the county of Alexandria on the opposite side; and, in conformity with that opinion, recommend the following resolution:

Resolved, That the prayer of the petitioners, in favor of the erection of a bridge across the Potomac, is reasonable, and ought to be granted.

The report was made the order of the day for Thursday next.

NATHANIEL GOODWIN AND OTHERS.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Nathaniel Goodwin and others, manufacturers of iron hollow ware, in the State of Massachusetts, made the following report:

The petitioners state that they are engaged in the manufacture of iron hollow ware, and as the United States are amply furnished with the materials, and blast furnaces, to supply their inhabitants with that article, they pray that an additional duty may be imposed upon all iron hollow ware, imported from foreign countries.

The committee find that, under existing laws, this article is subject to a duty of seventeen and a half per cent. ad valorem, on importation into the United States in American vessels; and if imported in vessels not of the United States, it is charged with the additional duty of ten per cent. on the duty; making the duty, in this case, amount to nineteen and one quarter per cent. on the invoice value.

There are no documents within the reach of the committee that show the quantity of iron ware imported into the United States in any one year; goods, wares, and merchandise, paying the ad valorem duty, not being particularly designated in the returns from the collectors of the customs; but it is believed the quantity and value have not been very considerable for some years past. It cannot be doubted that the United States are in possession of the material for making iron hollow ware. The native ore is in abundance in many parts of the country, and already furnaces have been established, which bid fair to furnish the fullest supply of that article. The protecting duty imposed on the foreign iron ware, holds out to the skilful manufacturer every encouragement he can reasonably ask for. If this duty was deemed too moderate, and not sufficiently high to give a preference to the domestic manufacture, the committee would deem themselves authorized to propose a further augmentation. The article being not only bulky, but of considerable weight, must be subject to a high freight in proportion to its prime cost; if to this is added the commissions for purchase in Europe, the insurance, and other shipping charges, with the duties payable on its importation here, it will be found that the foreign article comes burdened sufficiently to give a decided advantage to the American manufacturer. Surely the petitioners do not wish to claim a monopoly. A preference they ought to have, and, so far as encouragement has been given to American manufactures generally, the article in question is charged with the highest rate of duties, with a very few exceptions.

If Congress had determined to impose higher duties on imports, with a view of raising additional revenue, or to countervail the extraordinary impositions of other countries, it would be sound policy to single out such articles as could be readily manufactured in the United States; and by making a just discrimination, all might derive a benefit, and none be injured; but as the House have only authorized the committee to report on the subject-matter of the petition, and as they are satisfied that the petitioners may receive a preference in the market for their manufacture, so far as cheapness and the quality of the article will give it to them, when put in competition with the foreign article, they are of opinion that it is at this time inexpedient to augment the duty on iron hollow ware imported into the United States. And the committee recommend that the petitioners have leave to withdraw their petition.

The report was agreed to.

IMPORTATION OF SLAVES.

The House again went into a Committee of the Whole on Mr. SLOAN's resolution for imposing a tax of ten dollars upon every slave imported into the United States.

Mr. CLARK said it was essentially necessary to the passage of a law on this subject that the amendment should prevail. The original resolution contemplated a certain description of persons as slaves; the object of the amendment was to extend it to all persons imported into the United States. Suppose a cargo of slaves should arrive. Will they be entered at the custom-house as slaves? No. They will be recognised as a different description of persons, and by that means the payment of the tax will be evaded, and the law have no possible effect.

Mr. SLOAN said, on opening the business it had not been his intention to take an active part in the debate; but as he had been called on, particularly by the gentleman from Connecticut (Mr. DANA,) he would say a few words in reply. In the first place, he must be permitted to say that he did not consider that gentleman serious—he only considered him as making a display of that agreeable vein of fancy and genius which he had so often before manifested. If he were obliged to consider him as serious, he would in return beg permission to ask him a serious question, what are his views in the amendment he has offered? Are they, said

Mr. SLOAN, in order to prevent the emigration of the subjects of that tyrannic nation from which his predecessors as well as mine, came to this wilderness—choosing rather to risk the dangers of the ocean, of famine and of every other species of hardships than live longer under that tyrannic government? Is he afraid then emigration will crowd our population, or disturb the steady habits of his people? If that is the case I will ease his fears by stating to him that I last year paid a visit to the country west of the mountains, and there beheld the countless millions of acres reserved for the accommodation of poor emigrants. This great tract of country is probably reserved by the Great Author of Nature as the happy asylum for the oppressed subjects of the despotisms of Europe—rather than tax them, let us receive them with open arms, remembering that our ancestors were once like them, strangers in a strange land, and let us give them a welcome reception, into this land overflowing with milk and honey.

Mr. DANA.—Notwithstanding my great desire to gratify the gentleman from New Jersey, to gratify whom would afford me great pleasure, yet in the present case, with the best disposition in the world, I cannot do it. The amendment appears to me to be very consistent with the principles on which the resolution was offered. I understood it as a proposition of revenue relative to the importation of a species of men that is profitable to our merchants. I thought the revenue would be extended by taking in the consumption of a larger class of men, who might, therefore, be very fairly taxed. I could scarcely have expected that the gentleman should have travelled over the mountains, and have there counted the countless millions of acres spread out as a beneficent asylum for poor emigrants from Europe, much less that he should have so eloquently portrayed the oppression of England and France, and blended the number of persons about to occupy those western acres with the simple question of revenue now before the House. Gentlemen have brought this forward as a question of revenue. May we not be permitted to take them on their own ground? If, instead of revenue, their object be a condemnation of the trade let them come out. The gentleman from New Jersey, with his knowledge, cannot be so ignorant as not to know that there are other persons besides slaves brought into the country, who are deemed beneficial to the community; are hardy and industrious, and that the price paid for their passage affords a profit to our merchants. Whether this description of imported persons is so beneficial as in policy, not to be taxed, is one thing. By omitting to tax them, we virtually give a bounty. They may not be so valuable to the State as to justify an exemption from all taxation. The objection of gentlemen to the amendment takes too great a sweep, when they consider it as applicable to all persons coming into the United States. It is only applicable to persons imported; that is, to persons bound to service for a term of years. [Mr. DANA here read the article of the Constitution on this subject.] Do gentlemen think the emigration and importation here stated synonymous terms? Persons imported are not persons migrating. If we look to the second section of the fourth article we shall have the point elucidated. "No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor." Persons imported, therefore, are those only who are held to service by some person holding authority over them. The designation, therefore, applies only to those who are indented servants for a time. The gentleman calls upon me to declare my motive for this amendment. I do not, however, know how he became authorized to make this inquisition, or how my motives can influence the convictions of this House. If the proposition is a good one the motives that produced it ought to have no weight.

Mr. ALSTON said he had but one or two remarks to make, to show the necessity of adopting the amendment. There was a description of persons not embraced by the original resolution, which it had heretofore been thought sound policy particularly to guard against—viz: persons of color from the West Indies. Under the resolution they might be imported, and he would undertake to say, that one hundred of them would be more injurious than ten thousand persons from Africa. This was one reason which induced him to favor the amendment. Another strong reason with him was to make it strictly conformable to the Constitution. Gentleman vaunt the freedom of the Constitution from the word slave, and yet they are for staining every page of the statute book with it.

Mr. SLOAN, in reply to Mr. DANA, said, that although that gentleman would not give his reasons in favor of the amendment, he would give his own against it. His wish was to discriminate between slaves and whites, on the latter of whom he would rather give a bounty than impose a tax.

Mr. FISK moved to amend the amendment by adding, after *persons*, "of color."

Mr. DANA.—I may not perhaps agree with the mover as to the import of the term which he proposes to introduce into the amendment. It has been stated by some students of natural philosophy, that neither black nor white is a color. The intention of the honorable gentleman must be, that the resolution should neither apply to blacks nor whites, and if the gentleman knows the meaning of the term, persons of color, he must know that it does not include blacks, but mulattoes, mustees, &c.

Mr. FISK withdrew his amendment.

Mr. SLOAN moved to add to slaves, "and persons of color."

Mr. MACON (Speaker) said the State of which he was in part a representative, some time after the law now under consideration passed in a neighboring State, came to a resolution for amending the Constitution, to give Congress the power of prohibiting the importation of slaves altogether, which was sent to the Legislature of the several States, many of whom had concurred in it, or in one similar to it. This showed the sense of the States as to this worst of all traffics. No person could more regret the conduct of South Carolina than he did. Perhaps coming from an adjoining

State, his feelings might give him different impressions from that which they ought to do, although he was not sensible that this was the case. But it always seemed to him that this measure was nothing more nor less than arraigning the conduct of a State Legislature, a Legislature that was nearly equally divided, as pointing at them the finger of reprobation of the whole nation. If they had sinned, was it not better and more christian-like to forgive them? On this subject he never had but one opinion, and that was, that such a law ought not to pass. Should it pass, it might perhaps prevent the importation of a few persons.

The CHAIRMAN here reminded the honorable Speaker that the question was on the amendment and not on the resolution, to the former of which the debate must be confined.

Mr. MACON, after vindicating himself from a violation of order, said the subject had been considered in different points of view by the Government. Congress had heretofore felt a difficulty and delicacy in acting upon this subject; so also had the convention that formed the Constitution. In laying on imported goods an ad valorem duty, no duty had been laid on the importation of slaves; it seemed that on this subject Congress and all the Executive officers thought the same way. Congress had, however, passed another law, prohibiting the citizens of the United States from carrying on the trade from one port to another.

There was another question which he believed had not yet been settled, with regard to which he did not profess to be jurist enough to decide the effect of the law. If we lay this duty, could a vessel having slaves on board enter the ports of a State which otherwise she would be prohibited from entering? Suppose such a vessel brought to the port of Wilmington, in North Carolina, which he merely mentioned because nearest to the State of South Carolina. If, in consequence of this tax, she could be entered there, it would be a stronger reason against the measure than had been urged; because it could not be denied that there are some people in North Carolina, who, if these persons could be smuggled in, would purchase them. In the State which he in part represented, there was a portion of this species of property. No one regretted the evil more than he did; but what to do with it was the question. He believed that it was an evil for which the wisest man in the nation could not satisfy himself with a cure. It was an evil which our forefathers had felt, and to which we must submit until an adequate cure was found. It was evident at this time, that the sentiment, he might add, the passion of the nation was against it: the nation had set their faces against it; he was afraid in their decision the House would be governed by this passion. If their only object were to evince their disapprobation of the conduct of South Carolina, instead of imposing a tax, they might pass a resolution expressive of their dissatisfaction, or propose an amendment to the Constitution.

The question was taken on the amendment of Mr. SLOAN, which was lost—yeas 24.

Mr. NELSON said he hoped the amendment of the gentleman from Connecticut would not be adopted; in verity, he could not see any good reason for it; as the object of the amendment was entirely different from the object of the original resolution, which was merely to impose a tax on the importation of slaves. With the honorable Speaker he concurred in regretting that this subject had been agitated; but as it had been brought forward, he should vote for the resolution, provided it were unamended. If the amendment were adopted, he should vote against it.

What do gentlemen who urge the amendment want? Are they about to exclude from the United States the emigration of those unfortunate men who, from poverty or distress, are unable to pay their passage across the Atlantic? Will they add to their misfortunes by burdening them with a new tax? Mr. N. said, that he had heard but one remark which bore the semblance of argument, but which on examination would be found not to be correct. The gentleman from North Carolina (Mr. ALSTON) says, in the Southern States, they are apprehensive of the admission of persons from the West Indies, and that this resolution does not inhibit their introduction. But if they really apprehend danger from this quarter, may they not avert it by prohibiting the importation themselves? Is not the State of South Carolina and every other State competent to this act? Then what occasion is there for the amendment? The original resolution stands as it should do—all the arguments urged go to the main question. Nor are we, said Mr. N., as gentlemen allege, pointing the finger of scorn or disapprobation at any particular State. On the contrary, the object is general. But, say gentlemen, none but South Carolina admits slaves; but does this prove that no other State may not, or will not admit them? And if this should be the case, would not this tax bring us a considerable sum? As to revenue, it is true, it is no great object; though I recollect to have heard a Scotchman say, many mickles make a muckle. I am for the resolution, because I think the people of this country should hold up their hands in disapprobation of the conduct of South Carolina—I am against the amendment, because it would prevent the emigration of a useful and oppressed class of men, and thereby operate cruelly towards them.

Mr. SOUTHARD said, the object of the resolution was to lay a tax of ten dollars on slaves imported into the United States. The amendment did not correspond with the spirit of the Constitution; for it would not be contended that the convention ever meant to place free white persons wishing to emigrate to the United States under the same embarrassment as slaves. The importation of the latter had been considered as a great injury; but he would ask if the emigration of oppressed Europeans was an injury? We have only to look over the United States to see the large number, as well as the respectability of those who have been obliged to pay their passage by binding themselves out for a term of years. It was only necessary for gentlemen to view this subject dispassionately for a moment, to reject the amendment. He would ask, if the amendment carried, whether one member

would vote for the resolution? He believed not, as it would be a greater evil to prevent the emigration of whites than the importation of slaves; as the importation of the latter would be limited to the year 1808, when he had no doubt it would be prohibited by the unanimous vote of Congress.

Mr. DANA.—If I understand the gentleman from New Jersey right, he imagines the amendment is not in compliance with the spirit of the Constitution, inasmuch as he is of opinion that the ninth section of the first article ought to be restricted in fair meaning to slaves. It is in the following words. [Mr. DANA here read the section.] It is, said he, indeed difficult for me to understand, how an amendment in the very words of the Constitution, without the change of a single term, can violate its spirit. Because the same words are used, is it to be inferred it is contrary to the spirit of the Constitution? I am sensible the amendment changes the complexion of the resolution; but while it embraces others, it includes likewise those persons in the resolution. Perhaps it may include some persons who ought to be excluded; but it should be observed that this is only a resolution for settling the principle, and that the subordinate details may be settled in a bill. Gentlemen will not contend that the importation of all descriptions of white persons is beneficial. I recollect one State into which a cargo of convicts was imported, which a law was passed to prohibit. The amendment then merely involves the question, whether the resolution shall be confined to slaves, or be extended to others.

The question was then taken on Mr. DANA'S amendment to substitute persons in the room of slaves, and passed in the negative, only 32 members rising in favor of it.

Mr. EARLY.—I wish for the attention of the Committee while I submit a very few observations on the resolution under consideration, which are intended to go to a single point which has been but slightly noticed by the honorable Speaker, but which may be placed in some points of view that are important. I mean to consider the subject as a matter of feeling, in relation to the State on which it is about to bear. To her it is not unimportant. The object of the resolution certainly is either to point the disapprobation of this nation at the practice in question, or to raise a revenue from that practice. It is either one, or an union of both these ends. If the object be to point the disapprobation of the nation against South Carolina, I pray gentlemen to pause and reflect on the consequences of such a policy; and I beg all to recollect that they are interested as well as South Carolina with regard to such policy. Those who regard either the feelings of one State, or the peace and harmony of the whole nation, will do well to reflect before they adopt a policy bottomed on such a principle.

As it may be, that the measure is entertained as a source of revenue, if this is the object, I will ask one question. Is the price they are to get worth the evil they create? Is the petty sum of $40,000 or $50,000 of so much moment. Is it a sufficient object to this Government to induce them to adopt a measure, which will irritate and wound the feelings of a respectable member of the Confederacy? Forty or fifty thousand dollars is a petty sum to this Government; but it is not so to a State; it is not so to South Carolina. Let gentlemen, if they please, attempt to get round the question, by saying that this resolution is not exclusively confined to South Carolina—the evasion is unworthy of them. The whole nation knows, South Carolina knows, and we know, what is intended by it; and it is the same as if SouthCarolina was on the face of it. The sum, though trifling to the United States, is not so to South Carolina. The revenue intended by this resolution to be drawn from South Carolina, will equal, if it does not exceed, the whole expense of her government. What, then, will be the situation of the people of that State, in case this resolution is adopted? It will be the situation of a people who pay a double tax. They will pay a tax for the support of their own Government; revenue will be drawn from them for national purposes, as from the other parts of the Union; and they will be burdened with an additional tax, equal to the whole expense of their State Government. I will ask now, whether the evils attending such an imposition, and the reflections arising from it, will not necessarily irritate, wound, and offend the feelings of the people of that State? Whether, then, we consider it as a measure to evince the disapprobation of the nation, or as a source of revenue, it flows from a policy equally questionable. The people, sir, of South Carolina cannot avoid the reflection, that the finger of scorn is pointed at them; that a double tax is imposed on them. What will be the consequence? That which every gentleman must foresee. It is not difficult to foresee it, because it is a natural consequence, such as must follow whenever the common feelings of human nature are entertained. The consequence will be, an alienation of attachment to and respect for this Government. I ask gentlemen to put the question home to themselves, whether the revenue they expect is worth the sacrifice? This is a question which ought never to be stirred in our national councils. Though older men than myself might better tell the Committee than I can do, the effect which introducing this subject in any shape invariably has had on the feelings of the Government, or on the Representatives of the nation, I will undertake to give my opinion of it. Sir, I have always understood that this subject was found most difficult to be adjusted in the Federal Convention. I have always understood that, when brought before the councils of the nation, in any period or in any shape, a fervor of feeling and warmth of sentiment never failed to disturb the public harmony. Every man knows the effect of the first application to Congress on this subject, by a man at the head of a noted body of men in Pennsylvania or Delaware, of the name, I believe, of Warner Mifflin. All know the effects of an application of a more recent date, in the other branch of the Legislature, from some friendly people northwardly. All know the effects of the celebrated resolution laid on our table the last session, by the same gentleman who has favored

us with the resolution under consideration, to make free all persons born of a mother in the Territory of Columbia, after a certain period. All will recollect the height to which the feelings of men were wrought on those occasions. It is because the agitation of this subject always had and always will have the same effect, that I think it ought never to be introduced into this House.

There is another idea on this subject, of no small importance. We constantly hear from different quarters of the Union, complaints relative to the unprotected state of trade. Memorials to this effect are every day heaping themselves upon us. I submit then, the question, whether if we legalize this trade, so far as the imposition of tax can legalize it, we shall not become bound to protect it as completely as we are bound to protect any other species of traffic? And whether we shall not receive crowds of memorials to this effect, from negro merchants? I believe we shall; and if, by collecting a revenue, we legalize the traffic, they will have the same rights as other traders.

I have another objection. I consider it as opening an objectionable source of revenue. I consider it objectionable to draw revenue from such a traffic. Are we not told, in a loud tone, that it involves a violation of every principle of moral obligation; that it is a crying sin, which calls for the vengeance of Heaven? Are we not told, on this very floor, that it is so black a sin as ought to induce us to expect signal vengeance? Well, after these things are said and reiterated, will gentlemen contend that this is a proper source of revenue? What! Draw resources for the support of a great State from acts which are declared to be sins against Heaven? If this be correct, then may we go on with this as a precedent, and take the whole catalogue of crimes, and draw revenue from every oath that is broken, and every felony that is perpetrated! Thus, by taxing every crime, we shall support this Government by the commission of crimes. In my opinion, the adoption of a law or resolution to the effect of that on your table, will fix a stain on the records of this House, and on the character of the nation, at which our posterity will blush, and for which we, in our moments of cool reflection, will have ample cause to condemn ourselves.

There are other points which might be noticed; but as they are such as already have been dwelt on, or are familar to the minds of the members, I will not detain the Committee by any remarks on them, but I will conclude by observing, that so far as respects myself, I will give this resolution a more hearty negative that I have ever before given in my life.

[At the request of Mr. SMILIE, the act of Congress passed in the year 1800, was read by the Clerk.]

Mr. BROOM.—I agree with the gentleman from Georgia in expressing the wish that this resolution had never been brought forward, inasmuch as I wish that the State of South Carilina, in imitation of her sister States, had never given occasion for it. It is said that this is a question which has always produced agitation in this House whenever it came before it. If this be any argument at all, it is in favor of bringing the discussion to a close, by extinguishing the cause which produces it; for, until this shall be the case, there will always be found men in this House to offer a similar resolution, the result of which may be a like agitation. The question is not now whether this resolution shall be introduced, but, as it is introduced, whether it shall not be put to sleep forever, by exercising at once our Constitutional powers. It is contended by the gentleman from North Carolina, (Mr. ALSTON,) that this measure is not Constitutional, because it operates partially.

Mr. ALSTON rose to explain. If he had said that he did not consider the resolution as Constitutional, he had expressed what he did not mean to say. He had meant to say, and he believed he had said, it would operate partially and unjustly.

Mr. BROOM.—I am glad the gentleman has saved the time of the House, and me the trouble, of confuting the argument which I had conceived him to have urged. But as, on this point, much honest fear may prevail, I must be permitted to premise, notwithstanding the gentleman's concession, that this resolution is strictly Constitutional. The spirit of the Constitution, if there were no express provision, would embrace the power; and one of the first laws of the Government would have been in consonance with this spirit, to prohibit a trade so repugnant to the uniform tenor of the Constitution, and to its very preamble. The first object of a body, established to guarantee the rights of a free people, but for this provision, would have been at least a prohibition of the extension of slavery.

But, say gentlemen, there is part of the Constitution which declares that all duties shall be uniform; and because this tax will operate on South Carolina alone, it is unconstitutional. I do not know, however, that Congress are bound to say that each State shall pay an exact proportion of the duties; for, in so extensive an union, it would be impossible for any duty to be laid which would affect equally all parts of it. Do you impose a duty on distilled spirits, you raise one part of the Union in arms; do you tax the fisheries, another part of the Union is in ferment; and so with respect to the imposition of a tax upon other articles consumed unequally in different parts of the Union. No tax can, from the nature of things, operate equally on all the States. By uniformity, can only be meant an uniform operation on all the subjects of tax in whatever part of the Union they may be found. It cannot, therefore, be said that this tax is inconsistent with the spirit of the Constitution. It has the very uniformity required by the Constitution, for no part of the Union will be exempted by any act of the Union from its operation. There can be, therefore, no objection to the resolution on this ground. But we have not to resort to general principles to justify a tax expressly provided for by the words of the Constitution.

"The migration or importation of such persons as 'any of the States now existing shall think proper

'to admit, shall not be prohibited by the Congress 'prior to the year 1808; but a tax or duty may be 'imposed on such importation, not exceeding ten 'dollars for each person." Here there is an express provision that this tax may be imposed. Will gentlemen say that it was the intention of the Convention to give a power which was never to be carried into effect? This power so given implied, on the part of the Union, an agreement to limit the amount of the tax and on the part of the States a recognition of and an assent to it.

It is said this measure will be harsh, oppressive, unjust. Why? Because it will operate on South Carolina alone. But I will ask, if such be the characteristics of this power, how this clause became ingrafted on the Constitution? Was there not in the Convention, on this subject, concession on both sides? Did not the Union concede to the Southern States, that prior to the year 1808, there should be no prohibition of the importation of slaves? But did not the States, interested in this traffic, concede to the United States the power of laying a tax of ten dollars upon every imported slave? Gentlemen then bind us to our concession; they say it is harsh, unjust; that it tends to wound, irritate, and harrow up their feelings. If this logic be applied to the private transactions of life, how will it sound? I sell a man a horse; he takes it, and I call upon him for the price he promised to give. Instead of giving me the money, he says it is hard and unjust, and that it tends to wound, irritate, and harrow up his feelings to demand it of him. Why did South Carolina submit to the Constitution, and thereby pledge herself to pay this tax, if she is now unwilling to submit to it?

The gentleman says this ought to be considered as a matter of feeling, and that we ought not thus to point the finger of scorn at the State of South Carolina. What is this but an acknowledgment that the traffic is improper, and that the finger of scorn might be directed to it? I am not saying that the proceedings of the State of South Carolina are wrong; but, if they be wrong, to smother up the transaction without exercising our Constitutional power, is to make this Government a party in the wrong. I do not wish to point the finger of scorn at any State, but are we to be prevented, by this suggestion, from prohibiting, as far as we constitutionally can, a trade disapproved of by the general voice of the country, and disapproved of by the laws of every State in the Union except one? To show the extreme abhorrence of Congress against the slave trade, we have but to turn to the law passed in the year 1794; what does it say? "If any citizen or citizens of the 'United States shall, contrary to the true intent 'and meaning of this act, take on board, receive, 'or transport any such persons as above described 'in this act, for the purpose of selling them as 'slaves, as aforesaid, he or they shall forfeit and 'pay, for each and every person so received on 'board, transported, or sold, as aforesaid, two hundred dollars, to be recovered in any court of the 'United States proper to try the same; the first 'moiety thereof to the use of the United States, 'and the other moiety to the use of such person 'or persons who shall sue for and prosecute the 'same." By this act all citizens are prohibited from fitting out vessels for carrying on this trade, and not only the ship is forfeited, but a penalty is likewise imposed of two hundred dollars. In the year 1800, another act was passed by Congress, which has been read by the Clerk. In this act, Congress have manifested their sense of the inhumanity of this trade, and they have imposed penalties on carrying on a trade in slaves even from one foreign port to another. I ask if this is not exhibiting, in the strongest terms, the disapprobation of Congress against this traffic? When, not contented with prohibiting transactions relative to it, which occur under our own eyes, they inflict severe penalties upon those who pursue it in foreign ports. Every State but South Carolina has passed prohibitory laws on this subject. I presume that the pecuniary interests of other States connected with it, are equal to those of South Carolina. They, however, standing aloof from this pursuit of paltry gain, and actuated by motives of humanity and justice, have entirely interdicted it. South Carolina alone, uninfluenced by the example of her sister States, has opened her doors to the introduction of slaves.

If, then, their object be profit, let us, as far as we can, reduce this profit; let us throw every impediment we can, in the way of it. But it has been said, and with some degree of apparent triumph, in argument, that if we pass the proposed law, we shall thereby regulate this trade, and, in doing so, be bound to protect it. Astonished, sir, I should be to see that standard, heretofore raised in the defence of liberty, now reduced to protect the slave trade. Fortunately, however, we can never be bound to protect this trade, because the United States have solemnly declared that it shall never be carried on in any of our vessels, or by any of our citizens. How, then, protect it? In French, Spanish, or English vessels? Does not the common sense of every man revolt at the idea? By the laws of the land, our own citizens cannot carry on the trade; surely, then, we cannot be called on to protect foreign vessels in practices disallowed to our own citizens. We have, therefore, no reason on earth to fear that our armed vessels will be degraded by convoying a parcel of slaves to this boasted land of liberty.

But it is said that we shall encourage the trade by drawing a revenue from it. I appeal to the correct sense of gentlemen, whether the imposition of a duty upon an article can be considered as encouraging its importation? Have duties imposed upon imported articles ordinarily this effect? No. If this effect is intended, the way is to strip them of duties; and, in the case of a favorite article, always to keep it exempt from duty. To be told, then, because we lay a duty upon the importation of slaves, we, therefore, favor their importation, is the most novel principle I ever heard of.

It is said this duty will not prohibit the importation of slaves. I would be glad if it should have the effect of prohibiting their importation; but I will acknowledge I despair of any great effect being produced in this way. But though it may not have this effect, it may depress the great stimulus the trader has to carry on this trade. It can only be carried on from motives of gain. Will it be said to be no trifling thing to impose a tax of ten dollars a head on a cargo of three or four hundred blacks? Will this be no diminution of profit?

This is all we can do. Let us, then, do all we can, and leave the rest to Providence. Let us not call for help until we have first helped ourselves. Let us not say the Constitution ties our hands from doing anything, when we are stared on the very face of it, with the power to do something. We shall never be able to wipe away the disgrace of encouraging the slave trade, which may be imputed to us, unless we pass, to the full extent of our Constitutional powers, laws to prohibit it. May not the reflection be cast upon us, that, after having achieved our liberty, our first act was to trample under foot the most sacred rights of humanity and justice? If what we shall do will not amount to a prohibition of the trade, is all our labor therefore lost? No, sir; we may draw a revenue from it. We are told that this will be disgraceful; that it will be the price of infamy; and that an honest Government ought not to draw a revenue from so corrupt a source. In answer to this suggestion, I will appeal to the sentiments of every member of this Committee. If it be infamous, as gentlemen contend, the Constitution has tied up our hands; the Constitution has legalized the trade. If there be infamy in it, we are bound to submit to it. Under these circumstances, what does common sense tell us to do? To make the most of the power we possess. There is evil enough, God knows, in the trade, and we can only lessen this evil by extracting as much good from it as we can. Is it just to say a Government patronizes crimes because it derives profit from the labor of her criminal convicts? It is contrary to common sense to draw such a conclusion. Gentlemen say, if you draw revenue from this source, you may as well obtain it from licensing thieves, murderers, and the perpetrators of other crimes. But there is a great difference between the cases. In one case you have a right to punish, and, by punishing, prevent the commission of crimes. But here our hands are tied. Thus far, says the Constitution, you shall go, and no farther. We may prevent, and we do prevent, our own citizens from carrying on the slave trade, but they dare not go further. With this view of the subject, I ask whether imposing a duty can be considered as sanctioning the act? A thief we may punish; but, in this case, we cannot drag to our tribunals men who owe no allegiance to our Government, and who are sheltered under a Constitutional provision.

We impose duties on all articles except those we think proper to encourage. Why, then, exempt this? Unfortunately, a slave is considered by our laws as an article of property, and comes within the class of property imported into the United States. Upon salt, sugar, and other articles of the first necessity, we have laid high and oppressive duties. We have laid a duty of twenty cents on every bushel of salt, and correspondent duties on tea, coffee, sugar, and molasses. I ask, then, when it is considered that these articles are extensively consumed by the poor of our country, do we not take from labor the price of its industry, while we omit to lay any duty on slaves, who, so far from being owned by the poor, are the exclusive property of the rich?—thus exempting this article of luxury, while others of the first necessity, which are consumed by the poor, in common with all descriptions of citizens, are burdened with a heavy duty. While articles allowed to be beneficial to all classes pay high duties, articles which are injurious, used by the rich to pamper their luxury, remain free from duty, and all the efforts of the nation cannot obtain the imposition of even a slight duty on them. How inconsistent is this with the pompous profession of relieving the poor, so long sounded in our ears! We have heard it triumphantly announced that the millennium has arrived, and that poor men are no longer to be oppressed with grievous taxes; and yet, when we propose to lay a duty, whose effect might be to lessen the tax on the necessaries of life, we are told we are not to do it, because it will irritate the rich. I would not wish to wound the feelings of any man, but I do not know why we should trample on the poor in order to privilege the rich. In this country, I know of no such privileged order, and I trust we never shall know it. Viewed in the aspect of revenue, is the duty so small as to be unworthy of notice? If the tax produce only $20,000, it will enable us to take off the tax on pepper; and should it produce only $10,000, we may take off the tax on medicines and a variety of other articles consumed by all classes of our citizens. But it may not be as small as gentlemen imagine. If 10,000 slaves are imported in a year, it will amount to $100,000. It is possible double that sum may arise from it. I affect not, on this point, to speak with precision, but if we reckon on what has occurred in past times, we calculate on improper data. As we shall in a short time possess the power of entirely prohibiting the trade, the present moment will probably be seized as the last days in which this iniquitous trade may be triumphantly carried on. In order to meet future demands, those engaged in it will go to the full extent of their capital—to the whole length of which importations will be made. This is a strong reason for our doing all in our power to repress this trade.

I need not dwell on the great number of slaves concentred in the Southern States. At the time of taking the census they amounted to 832,000. In the State of South Carolina there were 146,000 slaves, and 199,000 whites. I need not expatiate on the greatness of this evil. Not only South Carolina may suffer, but all the other neighboring States may share the evil. Those States who are ashamed to avow a participation in the trade, may be indebted to her for an augmentation of their slaves; and the evil may extend to those States who now believe themselves secure. If these people were to rise on their masters, I ask if

the whole Union would not be bound to assist in putting them down? It is not, therefore, South Carolina alone, but all the members of this Confederacy that may be disturbed by the accumulation of this evil. It is from these considerations—because I wish this traffic to be checked, and because, as an object of revenue, I am for making the most of the evil, and because we may be enabled thereby to exempt articles of the first necessity from at least a part of the duties imposed upon them—that I am of opinion that we ought not, in justice, to exempt this article any longer from duty.

[After the speech of Mr. BROOM, the debate went on during the remainder of this and the greater part of the ensuing day. Having already presented, in the remarks of the preceding speakers, nearly the whole of the prominent facts and ideas disclosed in the debate, we shall, from a necessary regard to other more important matter, pass lightly over that part of it which followed, confining our notice principally to replies and explanations drawn forth from the observations already detailed. This course is pursued to give an impartial sketch of what occurred.—*Editors.*]

Mr. SLOAN spoke at some length, enforcing the ideas previously expressed by him.

Mr. BEDINGER assigned his reasons for being against the resolutions. He viewed the slave trade as a great evil, but he feared the imposition of a duty would rather encourage than repress the importation of slaves. He knew the tax would be disagreeable to his constituents, and he would rather go on without receiving a cent from it than raise money in such a way.

Mr. EARLY said that he was far from intending to charge the mover of the resolution with a disposition to wound the feelings of any member of the House. He had said nothing to that effect. He would on the contrary observe that he considered the manner of the gentleman mild, and such as had not rendered him in the least obnoxious to such a charge. He had said that the feelings of South Carolina would be probably wounded by the measure. He had no disposition, however, to charge the gentleman from New Jersey (Mr. SLOAN) with such an intention. The task of wounding the feelings of South Carolina (if the observations of a gentleman on this floor could wound her feelings) had been reserved for the gentleman's friend from Delaware, (Mr. BROOM,) who had taken occasion to heap on her head, so far as related to the importation of slaves, every term of reproach which his imagination could bring to his aid. If he expected he would be imitated in such a procedure, he would be mistaken. One word in reply to an observation which he had applied to the State of Georgia. He had said that the evil was not confined to South Carolina, but that it extended to the neighboring States—that it extended to the State of Georgia, who, though ashamed to avow her approbation of it, participated, notwithstanding, with South Carolina in it. Give me leave to say, said Mr. E., so far as relates to the State of Georgia, that she has not been—that she never will be—ashamed to avow what she does; and that, so far from approving this trade, she took a step six or eight years back, that had not then been taken by any other State: she prohibited the traffic by an express injunction of her constitution. Let the gentleman from Delaware show anything in his own constitution like this. On this occasion, the opponents of the resolution were disposed to treat the subject with temper. Heretofore, the temper which had been displayed had originated with them, but now it has proceeded from a different quarter.

The debate here closed for this day. The Committee rose about 4 o'clock, and obtained leave to sit again.

WEDNESDAY, January 22.

Mr. P. R. THOMPSON presented a memorial from sundry inhabitants of Alexandria, in the District of Columbia, representing that the fees paid to the officers of the courts are exorbitant and oppressive, and praying that the fees may be reduced to the same amount chargeable in the courts of Virginia.—Referred to the committee appointed yesterday on the resolution offered by Mr. NELSON.

After a few explanatory remarks, the object of which was to show the necessity of uniformity in certain judicial proceedings of the States, Mr. BIDWELL offered the following resolution:

Resolved, That a committee be appointed to consider whether any, and if any, what further provision ought to be made by law for prescribing the manner in which the public acts, records, and judicial proceedings of the respective States shall be proved, and the effect thereof; and that they have leave to report by bill or otherwise.

Agreed to, and referred to a committee of five members.

The House resolved itself into a Committee of the Whole on the bill to extend jurisdiction, in certain cases, to the State Judges and State Courts. The bill was reported with an amendment thereto.

Ordered, That the said bill, with the amendment, do lie on the table.

IMPORTATION OF SLAVES.

The House again went into a Committee of the Whole on Mr. SLOAN'S resolution for imposing a tax of ten dollars upon every slave imported into the United States.

Mr. DAWSON.—Every gentleman who has spoken on this unfinished business has expressed his regret at its introduction—none feel it more than I do; of the sincerity of which declaration I mean to give a proof by the motion which I shall make to you.

If this regret was felt at the introduction, it must be increased by the course which the argument has taken, and by the warmth which has attended it. At a time like this, when depredations are committed on our commerce, coasts, and harbors; when our property is plundered, our citizens and our country maltreated and insulted, it would seem to me to be more wise and more patriotic to cherish a spirit of accommodation, and to unite all our efforts and wisdom in adopting

those measures best calculated to meet this state of things, to support our just claims, to vindicate our violated rights; and not to introduce subjects which will inevitably create division, which will excite one section of the continent, one portion of our fellow-citizens, against another, thereby disturbing that harmony and union of councils so necessary for the good of the whole.

With this view of our situation, in order to take such measures as the state of our country requires, I move to postpone the farther consideration of that resolution until this day week, in order that we may go into Committee of the Whole on the state of the Union.

Mr. LEIB opposed, and Mr. RHEA, of Tennessee, supported the postponement.

Mr. BROOM said that the gentleman from Virginia spoke of a degree of warmth excited by this discussion. I presume, said Mr. B., that in this remark he had some allusion to me. I must confess I am sorry, that any gentleman should have so understood my observations as to suppose them applicable to any member of this House, or any State in the Union. I assure the House I intended my observations should apply to the slave trade as carried on from Africa, and not to any State or member on this floor. I perceived by a law of the United States that this trade was not permitted to be carried on by any State, or citizen of the United States. I therefore could not presume it was so carried on, and could therefore mean no reflection on any State or citizens of the United States. My observations were exclusively applicable to the slave trade.

Messrs. SLOAN, STANTON, FISK, and ELMER, spoke against the postponement, and Mr. TAGGART against the resolution. When the question on postponement was lost—yeas 35.

Mr. DANA took an historical view of the proceedings of Congress on this subject; regretted the rejection of his amendment, and added, that as the sole question was now on the original resolution, a question which he had wished to have parried, but which the committee had determined should be taken, and he was then officially called upon to express his approbation or disapprobation of the slave trade, he could not hesitate for a moment doing the latter. He should therefore vote for the resolution.

Mr. ALSTON placed in a more expanded view his observations of yesterday, and made additional remarks.

Mr. J. C. SMITH supported the resolution, and vindicated the State he represented from any imputation from not having a similar feature in her constitution to that of the constitution of Georgia. He observed that the constitution of Connecticut, having had its origin about two hundred years ago, had not foreseen the present state of things; but he begged permission to say, that Connecticut had never received into her bosom any of the species of property alluded to.

Some recriminations ensued between several members, on the participation of the traders of some of the New England States in carrying on the slave trade.

Messrs. SMILIE and SOUTHARD spoke at considerable length in favor of the resolution.

Mr. T. MOORE said he had not on this occasion expected to have risen; but as he was one of the Representatives of South Carolina, he thought it his duty to offer a few remarks on the subject.

He said it was true he was one of those who had expressed his expectation that the Legislature of South Carolina would pass prohibitory laws against the importation of slaves. He had no doubt other Representatives of the State had expressed in private the same opinion. It was probable, under that expectation, that the House had postponed the further consideration of the resolution the session before the last. Be that as it might, he hoped the House would not charge him with duplicity. He would state some facts not known to every one. It would be recollected, after the postponement had taken place here, in the Legislature of South Carolina a bill had passed the House of Representatives by a large majority, and had been lost in the Senate but by a single vote. The last session of the Legislature, the same thing had occurred. He would ask, if this did not justify the expectation he had expressed? As he was up, Mr. M. said, he could not avoid making a reply to a few of the observations of the gentleman from Delaware, (Mr. BROOM.) He was not a little astonished to hear a gentleman on this floor, express such sentiments of malice and disrespect towards South Carolina and her citizens. He had hoped, from a gentleman who lately came into the House, more prudence. But be his standing what it might, he would tell him his expressions had been felt by the Representatives of that State. He had made a long harangue to make the House believe that a tax of ten dollars would do everything; but there was not a single gentleman in the House, acquainted with business, who could believe that it would prevent the importation of a single slave. Mr. M. said, he would make this single observation, and let the gentleman apply it as he pleased. He would remind him of the anecdote between the bedlamite and the beau, who had a sword swaggering at his side; when the latter was asked what he had that sword for, he said it was to kill his enemies—let them alone, said the former, they will die of themselves. If the gentleman had saved himself the trouble of making the disrespectful epithets in which he had indulged, he might have created less cause for irritation, and everything might, perhaps, have been put on the best footing for passing prohibitory laws.

After a few explanatory remarks from Messrs. SLOAN and SMILIE,

Mr. RHEA of Tennessee entered largely into the field of argument against the resolution.

When the question being put, the resolution was agreed to—yeas 79.

The Committee having risen, and the House being resumed, took the report of the Committee into consideration.

Mr. CLARK, having made a few remarks against agreeing to the resolution, asked for the taking of the yeas and nays.

Mr. ALSTON said, if the resolution were to pass, he hoped it would be made intelligible. What constituted a slave? That which made a slave in one State did not make it in another. A cargo of persons brought into South Carolina became, under her laws, slaves, who would not be slaves under the laws of Massachusetts. Are we then about to pass a law for revenue, that taxes the very persons in South Carolina that are not taxable in Massachusetts?

The main question was then taken by yeas and nays on agreeing to the resolution—yeas 90, nays 25, as follows:

YEAS—Isaac Anderson, John Archer, David Bard, Burwell Bassett, Silas Betton, Barnabas Bidwell, Thomas Blount, James M. Broom, Robert Brown, John Boyle, John Chandler, Martin Chittenden, John Claiborne, George Clinton, jun., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., William Dickson, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Charles Goldsborough, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Rush, Josiah Quincy, John Rea of Pennsylvania, John Russell, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Joseph Winston.

NAYS—Willis Alston, jun., George M. Bedinger, William Butler, John Campbell, Levi Casey, Christopher Clark, Jacob Crowninshield, John Dawson, Elias Earle, Peter Early, James Elliot, James M. Garnett, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Thomas M. Randolph, John Rhea of Tennessee, Thomas Sandford, O'Brien Smith, Thomas Spalding, Thomas W. Thompson, David R. Williams, and Thomas Wynns.

Ordered, That a bill, or bills, be brought in pursuant to the said resolution; and that Mr. SLOAN, Mr. FISK, and Mr. DANA, do prepare and bring in the same.

THURSDAY, January 23.

On motion of Mr. STANFORD,

Resolved, That a committee be appointed to inquire into the expediency of altering the time for holding the Circuit Court in the District of North Carolina.

Ordered, That Mr. STANFORD, Mr. CLARK, and Mr. WILLIAMS, of South Carolina, be appointed a committee, pursuant to the said resolution.

DETACHMENT OF THE MILITIA.

The House resolved itself into a Committee of the Whole on the bill authorizing a detachment of the militia of the United States. Several blanks in the bill were filled up one authorizing the President of the United States to accept as part of the detachment any corps of volunteers who shall engage to continue in service six months after arriving at the place of rendezvous, and another appropriating two millions of dollars for the pay and subsistence of such part of the detachment as may be called into service. When the Committee rose and reported the bill with these amendments, in which the House concurred.

Mr. DANA moved to amend the first section by striking out the following words, in *italic*, relative to the proportions of the detachment to be called from the respective States; "to be apportioned by the President of the United States, *by the militia returns of the last year, in cases where such returns were made, and in cases where such returns were not made the last year, by such other data as he shall judge equitable*," and by substituting in lieu thereof the words, "according to the last census."

Mr. VARNUM stated several reasons against the amendment.

Mr. DANA withdrew his amendment, and moved a modification of it; which he also withdrew on an explanation made by Mr. VARNUM. When the bill was ordered to be engrossed for a third reading on Monday.

Mr. SMILIE said that on the third of December the following resolution had been entered into by the House:

"*Resolved*, That so much of the Message of the President of the United States as relates to the conduct of the belligerent Powers towards the United States, and the unjustifiable construction lately given by some of them to the law of nations as it regards the rights of neutrals, be referred to the Committee of Ways and Means."

Mr. SMILIE said he did not know how this subject came to be referred to the Committee of Ways and Means. He believed it furnished the first instance of a great national principle being referred to any standing or select committee of the House. It had always been usual to refer such principles for settlement, in the first instance, to a Committee of the Whole on the state of the Union, to which committee several memorials on the same subject had been referred. There was another circumstance which it was necessary to state, which was the deranged situation of the Committee of Ways and Means; three members of which were absent from the House. As this was confessedly the most important subject before them, he trusted the motion he was about to make would prevail.

Mr. SMILIE then moved that the Committee of Ways and Means be discharged from the farther consideration of this subject.

Mr. QUINCY said, if the object was to discuss the propriety of the reference of this subject to the Committee of Ways and Means, he doubted whether the motion were in order, as the same point had been before debated at large when the reference obtained. He should suppose the most proper course would be to call on the chairman of the committee to inform the House in what situation the business stood. The chairman might, perhaps, be in his place to-morrow. It appeared to him that this motion might imply a censure upon the committee.

Mr. SMILIE said he meant no disrespect to the committee, and said he would, at the request of the member, withdraw his motion until to-morrow.

DEFENCE OF PORTS AND HARBORS.

On motion of Mr. DAWSON, the House resolved itself into a Committee of the Whole on the state of the Union, on the report of a select committee on that part of the Message of the President that relates to the defending our ports and harbors, &c.

The first resolution was read as follows:

Resolved, That a sum of money, not exceeding one hundred and fifty thousand dollars, be appropriated to enable the President of the United States, to cause our ports and harbors to be better fortified and protected against any insult or injury.

Mr. DAWSON.—At the commencement of the present session, the President of the United States in obedience to his duty, made known to us the state of the nation; he then informed us, that,

"Our coasts have been infested, and our harbors watched, by private armed vessels, some of them without commissions, some with illegal commissions, others, with those of legal form, but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off, under pretence of legal adjudication, but not daring to approach a court of justice, they have plundered and sunk them by the way, or in obscure places, where no evidence could arise against them, maltreated the crews, and abandoned them in boats in the open sea, or on desert shores, without food or covering. These enormities appearing to be unreached by any control of their Sovereigns, I found it necessary to equip a force, to cruise within our own seas, to arrest all vessels of these descripti ons found hovering on our coasts, within the limits of the Gulf Stream, and to bring the offenders in for trial as pirates.

"The same system of hovering on our coasts and harbors, under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce."

"With Spain our negotiations for a settlement of differences have not had a satisfactory issue. Spoliations during the former war, for which she had formally acknowledged herself responsible, have been refused to be compensated but on conditions affecting other claims in nowise connected with them. Yet the same practices are renewed in the present war, and are already of great amount. On the Mobile, our commerce passing through that river continues to be obstructed by arbitrary duties and vexatious searches. Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to."

"Inroads have been recently made into the Territories of Orleans and the Mississippi. Our citizens have been seized and their property plundered in the very parts of the former which had been actually delivered up by Spain, and this by the regular officers and soldiers of that Government."

"In reviewing these injuries from some of the belligerent Powers, the moderation, the firmness, and the wisdom of the Legislature will all be called into action."

This communication excited the honest indignation of all who heard it; and a similar impression seems to have been made in every part of the continent. Already have our constituents expressed their sentiments; daily do our fellow-citizens convey to us declarations of their indignation; already have they offered their lives, their fortunes and their sacred honor, in support of our just claims, and of our violated rights; nor have occurrences since lessened that impression. It now becomes our duty, and a most important one it is, to adopt those measures, and to provide those means, best calculated to meet the state of things; to secure peace, if peace is attainable on terms consistent with our interest and honor; and, if not, to unite the confidence, rouse the zeal, and direct all the energies of our country, if by the folly of some Governments and the vices of others they should become necessary. To this all the wisdom, all the firmness, all the moderation of Congress will be called into action. It well behooves us to be neither rash nor diffident; but, assuming that ground which reason, justice, and our importance as a nation, entitle us to, to maintain it with unbating zeal, an invincible firmness; and rendering justice to all, we have a right to demand it from all.

It is impossible for any person to look back on the injuries and insults which we have received, without feeling much indignation and a spirit for revenge. It is impossible to look forward without feeling much anxiety and much awe. I own to you I have experienced them. I have, however, consoled myself with the pleasing hope, that when we came into a Committee of the Whole, and took a general view of the state of our country, a spirit of accommodation would have discovered itself; that, forgetting all party or local distinction, we should have united our efforts in support of our violated rights, of our plundered property, of our degraded citizens; nor did I doubt, nor do I now, that, with this disposition, the wisdom of Congress was adequate to all their purposes; to support the peace, interest, and honor of our country.

Mr. CLINTON.—It must strike every member of the House that the sum contemplated to be appropriated by the resolution to the protection of our ports and harbors, is altogether inadequate. I did not expect that we should be called upon at this time to take this subject into consideration, and I am not, therefore, prepared to go into the necessary details upon it; but I believe the proposed sum will go but a small way to fortify even the port of New York alone. I believe the fortification of our ports and harbors is an object of the very first importance, which has excited the sensibility of our countrymen from one end of the continent to the other. The attention of Congress has been particularly called to the defence-

less and unprotected state of the port of New York, on which two memorials have been presented, one from the merchants of the city of New York, and the other from the Corporation. I do not wish to be understood as casting any reflection on the opinion of the Secretary of War, or on the respectable committee who has made this report. But before I give a vote on the subject, I wish it could be inquired into more particularly. I could wish that we had previously a statement of the situation of the harbors, and of the sum necessary to protect each port. Before we have this statement, it is impossible for us to decide whether the proposed sum of $150,000 will be competent. I would rather not appropriate a cent, than agree to such a sum as would be a burlesque on the subject.

Mr. Thomas said the sum was certainly inadequate, and the granting it appeared nearly equivalent to doing nothing. He thought the course pursued in this instance an unusual way of making an appropriation. The common way was to leave sums blank, until after principles were decided, and a bill brought in to carry them into effect. After the principle is settled, that we will fortify our ports and harbors; that we will build a number of gunboats, or seventy-fours, or both, a bill might be brought in, and it would be then time enough to fill up the blanks. In order that this course might be pursued, he would move to strike out "$150,000."

Mr. N. Williams.—It may seem strange that so small a sum should be proposed by the committee; but when the precise object of the report is considered, it will not appear so surprising. It was not contemplated in the committee that one hundred and fifty thousand dollars would be adequate to the erection of fortifications for the defence of our numerous harbors. It was only considered as adequate to the repair of the present fortifications, and the fitting up of some additional guns. I am not unaware that the subject is one of the highest importance. The fortification of the ports and harbors of so extensive a country is deservedly considered of the first consideration. When we come to take up the subject in this large point of view, we shall not fix our attention upon so pitiful a sum as that now under consideration.

If that be the intention of my colleague, I shall heartily concur in his motion. If, on the contrary, a majority of the Committee think it best, in the first instance, to attend to the repair of existing fortifications, and the fitting up of some additional guns for immediate use, and hereafter to go into a consideration of more extensive measures of defence, I shall acquiesce. At any rate I am willing that the sense of the Committee shall be taken on this question, and for that purpose I second the motion of my colleague.

Mr. Ely.—I cannot conceive it of much consequence whether the sum appropriated be either $150,000, or one million. The only question is, whether we will make any appropriation. Being one of the committee who made the report, I will take the liberty of stating the motives which governed them.

The committee had no particular predilection for the sum stated in the report; for they knew it was in the discretion of the House to modify it as they saw fit. The committee had a conversation with the Secretary of War on the subject. He was pleased to say that there were some ports as well fortified as could be expected in the present situation of the country; but that, in other places, the fortifications were defective and inadequate. He stated that, at New Orleans, the fortifications were very inadequate; that they had gone out of repair, and it was a question whether it were not best to change their sites. He represented that, at Savannah, there were no works, adding that Georgia had made no cession of land to the United States on which to erect them. He stated that, at Charleston, the works had suffered considerably in consequence of tornadoes. He said there were some works at Norfolk; and likewise stated the situation of New York. From his statement it appeared that but little had been done towards the effectual protection of that harbor; and that it was extremely difficult to do anything to protect it against any considerable force that might be brought against it. He stated that there was some protection at Newport; and that, in the Chesapeake, much was not required; and that, at Boston, the harbor was nearly as well secured as it need be. In addition to this conversation, the Secretary gave an estimate of the sum necessary to be appropriated to repair the works which were going to decay. This estimate was from the mouth of the Secretary. I consider this sum as inadequate, and it is my wish that we should not rest on the opinion of the Secretary of War, but decide for ourselves. I believe that great attention ought to be paid to our ports and harbors. I cannot but think it peculiarly proper to protect a place where one third of our whole revenue is collected, and which I believe now might be laid under contribution by a single seventy-four gun ship. How this is to be done, I cannot pretend to say. The thing alarms me in the present state of our affairs, and I think we are called upon to be prepared for immediate defence. On this point there can be no diversity of opinion. I hope, therefore, that gentlemen, who have taken a full view of the subject, will come forward with an efficient plan.

Mr. Dawson.—The object is to strike out the sum of $150,000, to introduce a larger amount. I am sorry this motion has been made. It is known to you, Mr. Chairman, that more than one million of dollars has already been applied to the defence of New York, provided that State agrees to appropriate the money. It is known to you, also, that many millions have been applied to the defence of our harbors. It is known to you, by the Message of the President, that the most important articles of defence are already in readiness; and that this appropriation is only in aid of another appropriation of $250,000 for gun boats, both being parts of the same system for the protection of our ports and harbors. This estimate

comes from the Secretary of War, who, I believe, is better informed and more disinterested on this subject than any member on this floor.

Mr. Early.—I rise to inquire whether a motion for the Committee to rise will not supersede the motion now under consideration? If so, I will make it, and will briefly detail my reasons therefor.

It appears to me, on a view of the subject embraced by the report, that we are not possessed of sufficient detailed information on which to found a correct decision. The report embraces three distinct objects, contemplated as so many parts of one general system of defence. One respecting fortifications; one respecting ships of the line, and one respecting gunboats. I consider these as constituting different parts of one general system. It is true there is but one resolution now before the Committee, and to that I will direct my attention. On that point the Committee are possessed of too little information to form a correct judgment, in my opinion. They have no information of what harbors in the United States are susceptible of fortification; no data on which to decide. It is not presumable that every port and harbor on our extensive line is susceptible of this species of defence. I understand that it is the opinion of some very eminent military characters that the port of New York is not susceptible of defence in this way. But this is not all. Is there any estimate of the expense of such a general system of defence, or of a single port or harbor? There is not. Gentlemen say that their object is, and that it is now the most correct course, to decide the principle of defending our ports and harbors, and afterwards to fill up the blanks. But permit me to ask those who contend for this mode of procedure, whether they are willing, in the first place, to agree to the fortification of our ports, when they have not only no data to determine the expense, but are likewise without any data on which to judge of the efficacy of the measure? After they shall have proceeded in this course for a time, and shall have expended millions, the plan may turn out to be ineffectual, and every dollar laid out be sunk. The situation of our ports and harbors is represented as alarming, as exposing, not only the property of our citizens, but likewise the revenue of the nation, to the lawless depredations of marauders and privateers. This is true, lamentably true! But in proportion to its truth ought we to proceed guardedly; in proportion to its truth ought we to possess data to convince us that the course we take will prove effectual. For myself I take occasion to say, from the little information I possess, which I allow is very inconsiderable, I am opposed to this mode of defence altogether. I believe that it will be ineffectual; that it will afford no solid protection; and that after having proceeded, even to bankruptcy, we shall be as poorly defended as we were before. For these reasons, and because I want data on which to act, and the information of men more capable of judging on such subjects than I am, I move you that the Committee rise.

Mr. Dawson.—When I called up the report, I should have made an apology to the House for the delay which has taken place in this business, but for the situation in which we have lately been. I trust, now the subject is brought before us, we shall take some effectual measures for rescuing our country from its degraded situation. I know there are some gentlemen in this House, because they have told us so before, who are for doing nothing. I trust, however, their number is very small, and that a great majority will be found ready to do what the exigency of affairs requires. As for the information requested by the gentleman from Georgia, I am at a loss to know for what reason he calls for it. My opinion is that a certain sum should be appropriated to this object, to be expended at the discretion of the Executive. But the gentleman, before he agrees to take this step, requires information of those ports which are defensible. I know of no way in which he can get information, except by converting a committee of this House into a corps of engineers, to go from one end of the country to the other. If a majority of this House are for proceeding at once, according to the recommendation of the President, to the effectual defence of our ports and harbors, they will not agree to any motion whose tendency is to put the measure aside.

Mr. Jackson.—I hope the Committee will not rise until they have further investigated the resolution under consideration, and I think the reasons assigned by the gentleman from Georgia will, on consideration, be deemed by himself an argument against the motion. It is said that we do not now possess sufficient detailed information; but it is not necessary now to have that detailed information which it may be necessary to have when this business assumes the shape of a bill. We are now engaged in fixing the principle; the details of which will follow afterwards. The interests of the nation call aloud to us to attend to this subject. The cries of our impressed seamen join in the general murmur; our commerce, subject to lawless condemnation under admiralty decisions, calls aloud for our attention. It is high time that the representatives of the nation should deliberate on the subject. Let us then sit from day to day, until we shall unite in effectual measures of redress. Let us no longer be indifferent or inattentive to a subject of more importance than any other that can come before us. Let us evince that unanimity which shall insure success to whatever we propose. Shall we, at such a crisis, be creeping on behind the public sentiment, and looking with indifference on scenes which can no longer be submitted to, unless we resign the independence we have acquired? It is not necessary, at present, to go into details. It is only necessary to say whether we will protect our harbors, erect gunboats, and build vessels to protect our commerce on the seas, and not only to repel aggressions, but to chastise those who offer them. I hope there will be found to be but one sentiment in the House, as there is in the nation, and that we will expend the last cent before we submit to the degradations offered to us. I entreat the Committee not to rise until they have fully

deliberated on the subject, and have formed an effectual plan for obtaining redress.

Mr. DANA.—Seven weeks have elapsed since the President addressed Congress, representing the aggressions made upon the rights of our citizens. During these seven weeks, Congress have not informed the nation of anything they have done; nor have they announced that any one thing will be done for the effectual maintenance of the violated rights of their citizens. Now, in considering this resolution, we are called on to decide on the first point mentioned in the Message; not a mere effect to be produced by paper; authorizing a detachment of one hundred thousand militia; but on a real and substantial defence against foreign Powers. On viewing the Message of the President, it will be seen that we have embarrassments with all the principal Powers of Europe; that we are beset with difficulties on every side. Our ports are insulted, our territory invaded, and our seamen impressed. With regard to the whole of these, the Message affords us no reason to expect a speedy adjustment; and since the delivery of the Message, we have received nothing which justifies a reasonable expectation of it.

"In receiving," says the President, "these injuries from some of the belligerent Powers, the moderation, the firmness, and wisdom of the Legislature will all be called into action. We ought still to hope that time and a more correct estimate of interest as well as of character will produce the justice we are bound to expect. But should any nation deceive itself by false calculations, and disappoint that expectation, we must join in the unprofitable contest, of trying which party can do the other the most harm. Some of these injuries may perhaps admit a peaceable remedy. Where that is competent it is always the most desirable. But some of them are of a nature to be met by force only, and all of them may lead to it. I cannot, therefore, but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. Measures have been already taken for furnishing them with heavy cannon, for the service of such land batteries as may make a part of their defence against armed vessels approaching them. In aid of these it is desirable we should have a competent number of gunboats, and the number to be competent must be considerable."

This is the first recommendation made in the Message, and on this point, however on minor topics our citizens may be divided—on this point the President comes forward and assumes a tone and firmness which might well be expected to unite all varying opinions. Whatever divisions may exist among us on minor subjects, we may well expect a general concurrence in measures calculated to defend our rights. Farther: it should be recollected, that Executive power under our Government is of a limited nature. We all know that, to be efficient, it must be sustained by the Legislature. If, then, when the President comes forward, appealing to the Legislature, with all the influence of his name and weight of argument, what will the world think, if you, the Representatives of the people, should shrink from taking the measures necessary for the defence of their rights? I hope we shall not exhibit such an example of hostility to the President of the United States, in a matter so infinitely important to our national character and the maintenance of peace. If you do nothing on this point, it is evident you will do nothing effectual on any other recommended by the crisis of affairs; and you will proclaim to the world that, notwithstanding the millions of which you are plundered, and notwithstanding the loud and just complaints of the violations committed on your rights, you are determined to do nothing. If so, I hope gentlemen will, at least, agree to vote that we are no longer an independent nation.

Mr. NELSON.—It is true, sir, that we have been seven weeks in session, and that we have not decided on any great national question. But if we had been in session seventy-seven weeks, and were unprepared, I should vote against coming to a decision on any question, however important. Is it a reason, because we have been seven weeks in session, without acting upon this subject, that we should now decide blindfoldly on a question of more importance than any which, for a considerable time past, has presented itself for our consideration? Shall we do it merely to gratify a few gentlemen, who are for hurrying us into the adoption of precipitate measures? It is a piece of respect due from one gentleman to another, who is not prepared to vote understandingly on any subject, to indulge him with a moderate allowance of time. One gentlemen has stated, that the Secretary of War made certain communications to the Committee. If he possesses any useful knowledge on the subject, I should wish it communicated directly to the House, and printed; that every gentleman may stand on equal ground. I will ask how many ports and harbors it is necessary to protect? Where they lie? How many men it will take to fortify them, and the number of guns necessary for them? Have we any information on these points? Is any gentleman on this floor ready to say he possesses it? Perhaps the Secretary of War is acquainted with all these details. It is his duty to possess them, and no doubt he does possess them. But I should be glad to have them laid before the Legislature. It is not necessary for me at this time to give an opinion on the proposed measure. It will depend on the information I shall receive whether I shall approve of the expenditure of a dollar. My vote will depend on this. Are the people prepared to expend millions, to guard against that which may be but an imaginary evil? Is our Treasury in such a situation, as to authorize our appropriating millions for the protection of harbors, whose situation we know not? I wish to see the estimates. If the thing can be effected by the expenditure of a moderate sum, I may agree to it; but if the sum required shall be so enormous as not only to eat up our existing revenue, but to require new burdens, I will not vote for a dollar. We know that the House has already appropriated a considerable sum; more than it will probably have at its disposal; and that they have refused to continue a certain tax. I will ask——

Mr. MACON (Speaker) was sorry to interrupt

the gentleman, but he would submit whether, in the remarks he had just made, he was in order.

Mr. NELSON.—I apprehend that in the remarks which I have just made, I have not yet been out of order. If the Committee, or the Chairman say so, I will stand corrected.

The CHAIRMAN.—The gentleman will proceed.

Mr. NELSON.—I say that it is incumbent on us, if we consider ourselves as the true Representatives of the people, before we lay an enormous tax on them, to be sure that it will be of some use. Suppose we appropriate now five millions to the protection of our harbors, &c., and shall be told, after these are expended, that ten millions more are necessary to complete their protection. Are the people of the United States in a situation to pay fifteen millions for this purpose? With the gentleman from Georgia, I am for having correct information before I take a step in this business. If a sum not burdensome to the people will do, I may vote for it; but if the sum necessary shall be so enormous as to subject them to a heavy burden, I will not vote a dollar. The gentleman from Connecticut has brought forward a powerful argument, by asking us if we will not do that which the President recommends to us? How long the honorable gentleman has felt this respect for the President, I know not; but for myself I answer, I would not vote for what I thought wrong, though recommended by the President. If the President should recommend what I think a burden on the people, I should hold up both my hands against it, and his recommendation would be no inducement with me to favor it. So far as I think his recommendation accords with the good of the community, I am for supporting it. When I think it injurious, I must vote against it. I hope the Committee will rise; and I appeal to the candor of gentlemen, whether it is not right and friendly to allow some little time to those who declare themselves uninformed on the subject.

Mr. SMILIE.—I am well pleased the subject has been thus brought before the Committee, as it affords the first opportunity we have had of knowing the opinions of each other on it. I am of opinion that our time will not be ill-spent, in proceeding further in this discussion, although I shall ultimately be in favor of the Committee's rising. Gentlemen were not correct when they told us, that although we had sat seven weeks, we had done nothing with regard to the differences of the United States with foreign nations. I believe we have done something, and I trust that it will prove essential. There is one strong reason on my mind why we should not decide now on the subject before us. This relates to the ground on which we may decide this question. I mean a subject not yet brought forward, [the conduct of Britain,] in relation to which it was my wish to have made a motion before we entered on the business now under consideration. From the issue of that business, we may be able to decide what will be necessary in this. If it shall be thought necessary to go to war, one system of measures will be necessary. If it shall be determined to pursue a different course, a different system will be required. Our minds must remain in a doubtful state until this decision is made. The subject now before us regards principally one nation. What do we complain of? A violation of our neutral rights. And yet that subject is not at present before us. If on that subject we are determined to pursue peaceable measures, our course will be very different from that which would follow from our assuming a warlike attitude. In my opinion it is best that the Committee should rise, and this business be suspended till we shall decide on the ground we mean to take with that nation. I will go farther and say, that it is not my opinion that we are in that unhappy state that will oblige us to go to war with her, and if this shall appear to be the opinion of a majority of the House, it may save us from a great expenditure on the object now under consideration.

Mr. MACON.—I agree with the gentleman from Georgia in the propriety of the Committee's rising. We are called upon for $150,000, and for other sums. In requiring time for information, the gentleman demands nothing which I think unfair, or that can prove injurious. Were I satisfied myself with the report, on so important a question, I would not refuse time to others to satisfy themselves. Do gentlemen mean to make others give votes before they are prepared? Is it proper thus to spend the money of the nation? With regard to the expense of a 74-gun ship, we are furnished on that subject with an estimate. So, with regard to the expense of fortifying our ports and harbors, may not the Secretary of War give a similar estimate? It would not, it is true, be binding upon us, but it would be the information of a man whose duty it is to be well informed on the subject, and who I believe to be well informed. Let him give us this information, and we shall then be well enough informed to judge for ourselves. Let us see the whole length of the route before we begin the journey; before we undertake it let us be satisfied we can perform it. In this way we shall take the most direct course, and the business will be sooner done than by voting on it at present. The Committee have given us an estimate of the expense of building a seventy-four. On this subject there is a difference of opinion, so also is there with regard to defending the port of New York. On this point the head of the War Department may be able to decide. He probably may have had an examination made into the possibility of defending it. He may possibly be of opinion, that it may be defended by fortifications supported by a naval armament. Before, however, we take any steps, I hope we shall get all the information we can. I have seen such a crisis as this before; and if the statute books be consulted, it will be found that at least seven weeks were then suffered to elapse before anything material was done. I am not of opinion that it is sound policy to pass laws as fast as we can. On the contrary, I believe the less legislation the better. As to the recommendation of the President, I agree with the gentleman from Maryland. I am not sent here to obey his mandates, or to carry into effect what he recommends; but to obey the judgment which God

gave me, and that I shall do whoever is President. Is the $150,000 contemplated only as an entering wedge into this business? The same thing was attempted once before; but, then, to use an appropriate expression, the thing would not maul. I hope the Committee will rise, and the subject be recommitted. I hope the select committee who brought in this resolution will agree to this course. They have had a full communication with the Secretary of War on it. If they are satisfied, charity and good neighborhood should induce them to allow the same privilege to others; particularly as it is agreed that this subject is of more importance, and may interest the people in a higher degree, than any other which can come before the House this session.

Mr. DAWSON.—An appeal is made to our candor, which I am sorry I am unable to comply with, and which, it seems to me, the gentleman who has just spoken has but little reason to make. Every gentleman of the House will recollect that on the first topic of the Message, the honorable gentleman declared that he was not for doing any thing, and yet he now calls for information. I do presume that this information can have no influence on his mind. To what, then, are we to ascribe his desire for it, but from his wish that nothing may be done?

The gentleman from Maryland (Mr. NELSON) says that if the sum required for the defence of our ports and harbors will be enormous, he shall be against it, but if otherwise, he may be in favor of it. That gentleman will see in the resolution that the sum contemplated to be expended is only $150,000, and that therefore it can operate no additional burden on the people. These words, indeed, sound very well; gentlemen may talk of burdens imposed on the people, but they know that this measure cannot produce any new burdens.

Mr. MACON.—When I was up before, I explicitly said that I should confine myself to the question under debate. I have no objection to say that I am against the resolution; not meaning, however, to say that facts, which may be at present unknown to me, may not induce me hereafter to alter my opinion; but I confined myself to the resolution under consideration.

The CHAIRMAN remarked that gentlemen must confine themselves to the question before them.

Mr. N. WILLIAMS.—Having been on the committee who brought in the report, and obtained satisfactory information myself, I should be very sorry to deny the same information to others. Indeed, the turn of the discussion seems to require more information. As I before said, the committee did not go into an extensive view of the subject. They thought it only necessary at present to provide for the repair of decayed fortifications, and the fitting up some additional guns. The sum reported was not with a view to erect new fortifications. This every one will perceive to be unattainable by so small an appropriation, when he considers the numerous ports and harbors in the United States.

Mr. G. W. CAMPBELL.—I would not trouble the committee with a single word, were it not for the impression attempted to be produced, that those who call for information wish to do nothing. I hope that the members of this committee who differ from other members as to proper measures to be pursued, will not therefore be considered less friendly to maintaining our rights, or as less ready to protect them. I hope that merely because seven weeks have elapsed, without adopting any effectual measures, we shall not be considered as hostile to their adoption. I believe, with some gentlemen who have already expressed their sentiments, that we have not sufficient information to act upon. The only question is, whether we shall appropriate a sum of money for the protection of our ports and harbors. It is not whether we shall protect them, as that is already provided for by law. By an act passed in the year 1794, the President is authorized to protect certain specified harbors. Before I make an appropriation, I wish to know what has been done under this law; and to know the opinions of well informed persons as to its effect. If, on correct information, it appears that they can be protected by the appropriation of a reasonable sum, I have no objection to grant it; but I am not prepared to say $150,000 will answer any reasonable purpose.

Mr. COOK.—Although I am in favor of the resolution, yet I am also in favor of the Committee rising, as I believe the information we shall receive will unite every member of the House in favor of it.

Mr. SMILIE said he just rose to explain some remarks which had fallen from him, that had been misunderstood. When he alluded to a particular business, he had reference to nothing of a secret nature. Some time since a subject (relative to the invasion of neutral rights by British cruisers) was referred to the Committee of Ways and Means, which ought, in his opinion, never to have been referred to that committee. It involved a great national question, which was properly the province of a Committee of the Whole on the state of the Union. From the deranged state of the Committee of Ways and Means, three members being absent, nothing could be done in the business. His wish was to discharge them from the further consideration of it.

Mr. DANA.—If I understand the subject in the same light with some gentlemen who have expressed their sentiments, I should agree to the rising of the Committee. They consider it as a question of the sum which we shall now appropriate for the defence of our ports and harbors. I consider it as the simple question, whether we are disposed to appropriate anything towards that purpose. With regard to the proper sum to be appropriated, I allow that we want information. I admit that we want information, not only on this subject, but likewise on some others of no small importance. But I consider this Committee as having now the general principle before them, and I did suppose, that on the general principle we should all agree. I applaud the independence of the gentlemen from Maryland and North Carolina; holding the opinions they do, their conduct is certainly correct. But when the President recommended the taking a firm and manly attitude, I did consider his recommendation a strong argument for the prompt co-operation of the Legislature. For, in whatever different lights different gentlemen may be disposed to consider the character of the Executive, even his enemies have never charged him with a disposition to take measures of too warlike a nature. But it is said we have not funds. The President, however, has informed us, that after meeting all the ordinary demands of the Government, a million will remain unappropriated. We have heard in this debate of millions appropriated, but I may say, no millions have been appropriated. The only appropriation we have made, is to supply the deficiency in the naval appropriation for the last year. I have been charged with saying we have done nothing. I did not say we have done nothing, I only said we had not published anything which we have done——

The CHAIRMAN called to order.

Mr. DANA said a few words more against the rising of the Committee, observing that the most decisive argument, perhaps, in favor of the motion, was their having passed the usual hour of adjournment.

Mr. ELMER.—Though the usual hour of adjournment is at hand, I hope the Committee will not rise. I am always for giving information when it can be of any use; but on a general principle like that under consideration, we surely cannot want information. The only question before us is, whether we shall adopt one feature of national defence, by fortifying our harbors. The committee have proposed three modes of defence, of which this is one. Gentlemen say it is necessary to know what particular harbors are susceptible of defence. But surely they may say whether they will do anything, before they are acquainted with all these details. It is only the abstract question, whether we will do anything, that is now before us.

Mr. FISK.—I hope the Committee will rise. I was one of the committee who brought in the report, and am in favor of the resolution now under consideration. I think unanimity desirable on this subject, and although we have been seven weeks here without acting upon it, yet I think it best to delay it for a short time, to insure that unanimity which will be an efficient instrument in our favor. I am not prepared to say we have done nothing. I am not prepared to say that to authorize a detachment of one hundred thousand militia is a mere thing on paper. I am prepared to say that if our enemies should invade us, we are able to drive them out of Canada, Nova Scotia, the Floridas, and every foot of ground they hold on the continent. I hope that the Committee will rise, and that every source of information will be explored, that we may insure the unanimous vote of the House.

The question was then taken on the rising of the Committee, and carried—yeas 86.

The Committee now accordingly rose, and the Chairman reported that they had come to no resolution.

Mr. EARLY moved that the Committee should be discharged from the further consideration of the report, with a view of referring it to a select committee, with instructions to make the inquiry he had stated.

Mr. J. C. SMITH suggested that the most correct and usual course was for the House, and not a select committee, to call on the President for information.

Mr. EARLY declared himself obliged to the gentleman for his suggestion, and withdrew his motion, with the view of moving in the House the resolution to the effect he had stated.

WEDNESDAY, January 24.

A petition of sundry inhabitants of Washington county, in the Mississippi Territory, was presented to the House and read, praying the right of pre-emption as occupants of certain public lands, in the said Territory, which they have severally improved and settled.

Also, a petition of sundry inhabitants of Washington county, in the Mississippi Territory, praying a donation of lands for the education of youth, in the said county; that all surveys of the public lands, required by law, may be made at the public expense; and that persons holding certificates, of certain descriptions, for lands, may, under proper restrictions, be entitled to receive patents therefor.

Ordered, That the said petitions be severally referred to the Committee on the Public Lands.

Mr. LEIB, from the committee appointed on the fifth ultimo, presented a bill supplementary to an act, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was recommitted on the twentieth instant, the bill to extend the time for taking the oath and giving bond in case of drawback, and for other purposes, reported an amendatory bill; which was read twice and committed to a Committee of the Whole on Monday next.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That the Clerk of this House be directed to pay, out of the contingent fund, the sum of two hundred dollars to the Sergeant-at-Arms, and two hundred dollars to the Doorkeeper and Assistant Doorkeeper, each, as a compensation for their extra services, during the last session of Congress.

Ordered, That the consideration of the said resolution be postponed until Monday next.

The House proceeded to consider the amendments reported by the Committee of the Whole on the twenty-second instant, to the bill to extend jurisdiction in certain cases to the State judges and State courts; and the said amendments, being twice read at the Clerk's table, were agreed to by the House.

The bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time on Monday next.

Ordered, That the committee to whom was referred, on the fourth of December last, sundry petitions and memorials from the Mississippi Territory, be discharged from the consideration of so much thereof as relates to the lands of the United States; and, that so much of the petitions and memorials aforesaid as relates to the lands of the United States, be referred to the Committee on the Public Lands.

Mr. Gray offered the following resolution, which was ordered to lie on the table:

Resolved, That any member of this House, who shall in future accept of, solicit, or enter into any contract for the expenditure of any money appropriated by law for the service of the United States, shall, in consequence thereof, be disqualified from a seat in this House.

The House went into Committee of the Whole on the bill declaring the assent of Congress to an act of the State of South Carolina, so far as relates to imposing a duty on tonnage by the City Council of Charleston.

Mr. Marion supported, and Mr. Crowninshield opposed the bill; when the Committee rose without coming to a decision, and obtained leave to sit again, to allow time for printing some documents illustrative of the subject.

DEFENCE OF PORTS AND HARBORS.

Mr. Early.—I rise to comply with the promise I made yesterday. I have waited some time before offering this resolution, in the hope that the gentleman from Virginia (Mr. Dawson) might have taken his seat in the House. I regret that he has not taken his seat; as I should wish him to be present at the time of offering the resolutions which I now hold in my hand, and which I will read:

Resolved, That the President of the United States cause to be laid before this House any information which may be in possession of the Executive Department, relative to the state and condition of the fortifications which may have been erected within the several ports and harbors of the United States; and also the amount of moneys which has been expended on each, as well as the probable expense of completing the same; and also any information of which said Department may be possessed relative to the practicability of defending, by land batteries, such ports and harbors as have, by any former law, been directed to be fortified.

Resolved, That the President cause to be laid before this House a statement exhibiting the amount of money which has been disbursed on account of the navy in each year, since its establishment, and stating particularly the cost of each frigate.

Before I offer these resolutions, I will take the liberty of making a few observations in explanation of some things said by me yesterday, and the replies made to them by several gentlemen. I observed that we were not possessed of that kind of information on the subject-matter of the resolution then under consideration, that would enable us to form a correct and judicious decision on it; that we had no data on which to estimate the expense of the proposed measures, or their efficacy, if adopted. When I took the liberty of intimating a doubt of their efficacy, I did not mean to be understood as doubting the physical possibility of so fortifying our ports and harbors by land batteries as to afford them an effectual protection. But I meant to say that such was their physical situation as to require a quantum of revenue beyond the resources of the nation. I have no doubt but that it is completely in our power to defend New York and our other harbors, if we only possess the pecuniary means. I have no doubt that we might, with ease, make a Cronstadt of it, but I doubt whether any gentleman of the House could be prepared to adopt the principle which has prevailed at Cronstadt and other places, and to the extent to which it would carry us. I doubt whether any gentleman would be prepared to adopt the course pursued by the French Government, with regard to Cherbourg, and along her coast; a course which, after the treaty of Amiens, they were obliged to suspend, from the inadequacy of their resources.

I beg leave to state one or two other additional things. When I suggested the propriety of obtaining information, it was said, that my object was evidently procrastination; that it was unbecoming in the House, after so much time had been already consumed, to attempt further procrastination; for the sentiment of the nation was before us; it dictated our course, and if we hesitated to pursue it, the public indignation would light upon us. In my opinion, all that can be deduced from what has been denominated the sentiment of the nation, in this and other cases, is this: that in this country, where the Government and the nation are the same, the nation will repose its confidence in the Government, and pledge themselves to support those measures which the Government may adopt. All, then, that follows is, that the nation will repose its confidence on this, as on other trying occasions, in the Government. But does it follow that, because the nation reposes unlimited confidence in this Government, that the latter is to rush blindfoldedly into measures without a mature consideration of them? On the contrary, I apprehend, in proportion to this confidence, there is a responsibility in the Government not to abuse it; and, notwithstanding the high degree of confidence reposed in this instance in the Government, we ought not to doubt, because the experience of former times proves it, that when this confidence shall be abused, the people will revoke it. In my opinion, at this time, we are more bound to be cautious in exercising the powers reposed in us, than those who, in former times, held the reins of Government; because they had not the experience that we have, and because the lesson exhibited on that occasion, shows that confidence, improperly used, will be withdrawn by the people. Do gentlemen mean to be understood as intimating that it is our duty, without inquiring into the extent or the grounds on which we proceed, to embark headlong into any measures which the

President may recommend, and which they may consider the confidence of the people pledged to support?

With regard to the second resolution, I will add a word or two. The report on which this discussion is founded, although I believe not so intended, is calculated to be, as I apprehend, a decoy. If we adopt it, we shall first begin with a small appropriation, and we shall afterwards be called upon to go the whole length that shall be deemed necessary to carry the measures we shall have taken into full and complete effect; and we shall be told, unless we appropriate enough money to carry them into this full and complete effect, all that we have done will be lost. Sir, we have some warning monuments against pursuing such a policy. If I am not mistaken, this very House in which we legislate is one of these warning monuments; the fortification of our ports and harbors is another; and, unless I much mistake, the appropriations which we have heretofore made for our naval armaments is also an awful warning. It is to guard against being decoyed into such a conduct that I now offer these resolutions. It is, that we may see the whole ground before us; and that, in the language of the honorable Speaker, we may see the whole extent of the road. It is true, the Committee has given us the estimate of the cost of a seventy-four gun-ship. An estimate! yes, sir, a naval estimate! And is it come to this? after the experience of this country in naval affairs, that this House is to proceed on a naval estimate. I hope not; I hope we shall have something more substantial; that we shall have the actual cost, and not a mere estimate.

Mr. J. C. Smith.—As the House is not much pressed in point of time, it is not, perhaps, to be regretted that the honorable gentleman has, on this occasion, given us a long speech; but it is to be regretted that he did not feel the want of information at an earlier period of the session.

Mr. Dana.—It is unfortunate that the honorable gentleman from Georgia should assume a cause either too feeble to be sustained, or that it should be addressed to a body that he imagines incapable of feeling the force of argument. I presume that, in deciding on measures in this House, the motives of particular gentlemen are not to guide our deliberations; but the intrinsic merit of the measures themselves, and if they can be supported by strong and fair argument, no gentleman would think of appealing to our passions for their support. Whatever may have been my opinion on the general course of measures pursued by the present Administration, is not now the question. The only inquiry proper for us to pursue, relates to the merits of the proposition before us. On the general subject of information, if the gentleman really desires to obtain it, there can be no exception to the call, however we may regret its not having been made earlier. When we, yesterday, considered the report, it was in the general principle whether *any* fortifications should be erected or repaired, without undertaking to say to what extent the business should go. I think we have abundant information to justify our voting on this principle, although, when we descend into the details, we may require more particular information.

Mr. Early.—I have but a word of reply to the gentleman from Connecticut, who first addressed you, who has expressed his regret at my not having made an earlier call for this information; and that is, that I have made the call as early as the subject-matter of the report came into discussion. It was never before yesterday discussed, and, at the earliest period of the debate, I avowed my want of information.

[Some conversation here took place between Messrs. D. R. Williams, Clark, and Crowninshield, on the amendments subsequently made in the details of the resolution.]

When Mr. Dawson said that, not being in the House at the time these resolutions were offered, he regretted that he had not heard the reasons assigned by the mover in support of them. He must, however, be permitted to observe, that it was made the annual duty of the Secretary of the Navy, which duty he performed, to lay before the House these several items of information, called for by the resolutions. He could therefore only consider delay as the effect they were calculated to produce. The simple resolution before the committee yesterday was, do the ports and harbors of the United States require protection? Has not every gentleman declared this to be the fact? Has it not been enforced by every paper in the United States? Does not every day's mail bring us the public sentiment? and is it not likewise enforced by the first authority in the nation? The general necessity of the measure can, then, admit of no doubt. The next question, then, is, is the sum recommended by the committee too large? I believe, said Mr. D., every gentleman will concur with me in opinion, that it is much smaller than was expected. If these are facts, what can the object be, but further delay? It can only be one of two alternatives, either to carry the resolutions calling for information, and thereby from the time which will elapse before it can be received, to give the whole business the go-by; or it must arise from a want of confidence in the Executive in the disbursement of the moneys appropriated. I say the object must arise from either one or the other of these two causes. I hold it my duty here to state that the committee, on their first meeting, directed their chairman to write to the Secretary of War and the Secretary of the Navy for information to guide their decisions. The Secretary of War informed us that the inquiry we called for could not be given in less than seven or eight weeks, and I venture to affirm that, if the resolutions are agreed to, the subject will not be taken up again for that length of time. Is this the wish of gentlemen? I trust that, if it is their wish, a majority of this House will be found to hold different opinions, and will be in favor of proceeding without delay, in a business so interesting to the public welfare.

Mr. D. R. Williams.—As far as I, a fallible man, can understand the infallible ideas of the gentleman from Virginia (Mr. Dawson) I must

disclaim the motives he ascribes to the friends of these resolutions, and declare my total ignorance of any gentleman being influenced by them. Surely that honorable gentleman is not so devoid of charity, as to wish me to vote blindfolded on a subject which he allows to be highly important. What are the verbal communications of the Secretary of War to me? They may have been satisfactory to the committee who heard them; but they surely cannot enlighten those who are altogether unacquainted with them. I hope we shall not proceed with a degree of precipitation that will oblige us to act blindfolded.

Mr. EARLY.—The gentleman from Virginia has told us that the very information we now call for, as far as it applies to the first resolution, was verbally given by the Secretary of War to the select committee. The gentleman from Virginia could not have offered a more forcible argument for adopting the resolution. What! Is this House to decide on the private information of a head of department, given to a committee, when that information too is verbal? Is this the way in which the funds of the nation are to be pledged to an incalculable extent, in the furtherance of measures, whose success is at best problematical? I presume not. Before they are adopted, we ought to be possessed of official documents; and if, after we have acted on the information we have received, we shall find it incorrect, we shall know whom to blame, and on whom to fix the responsibility. But would that be the case, when information was verbally given by a head of department to a committee, and verbally delivered by that committee to the House? Surely not. Was it ever heard of, that the House should act in a measure of such magnitude on the verbal communications of the head of a department, verbally delivered to the House?

Mr. DAWSON said, the gentleman was mistaken in point of fact. He had not said a word against the resolution.

Mr. EARLY begged pardon for his mistake. He had, however, always understood a gentleman to be opposed to a motion when he spoke against it.

After amending the resolution, by adding after the words, within the United States, "the territories thereof," it was agreed to—ayes 88; when the second resolution was also agreed to—ayes 81, after inserting in lieu of frigates, "armed ships or other vessels built or purchased on account of the United States," and adding to the resolution, "and also the amount of moneys that has been expended on each navy yard."

A committee of two members was then appointed to present the said resolution to the President.

Mr. ELLIOT.—I am very happy at the prospect of attaining the information called for in the resolution of the gentleman from Georgia, and I hope, before we have a final decision on the report of the select committee, we shall obtain some further information. Annexed to the report of the committee, I find the estimate of the Secretary of the Navy, of the expense of building a 74, and keeping her in service, and an estimate of the like kind relative to gunboats. This information is very valuable, as far as it goes. I do not perfectly agree with the gentleman from Georgia, as to the intrinsic value of a navy estimate. But I believe we ought to go on more solid ground than a navy estimate; and when our selection is to be made from various plans of defence, it is proper to obtain an estimate of the relative expense of each. It may, possibly, be the intention of a majority of this House, to vote several millions for the building of 74's—while they are disposed to suffer our present naval armament to remain idle. This may be the view of a majority of this House, but I am not yet convinced that it is. There appears to me to be a chasm in the details called for, to fill which I move the following resolution:

Resolved, That the Secretary of the Navy be directed to lay before this House estimates of the expense of repairing, and of the annual expense of manning, and of supporting in actual service the whole of the frigates and smaller vessels of war belonging to the United States.

This resolution was agreed to without a division.

Mr. DAWSON said, that believing the information called for in the resolution just agreed to, could not be had, without the previous lapse of a long time, and considering the state of the country, he held it his duty to move that the House should again resolve itself into a Committee of the Whole on the state of the Union.

This motion having prevailed—ayes 60—Mr. GREGG took the Chair.

The CHAIRMAN stated, that when the Committee before rose, the resolution under consideration was for appropriating $150,000 for the better protection of our ports and harbors.

Mr. THOMAS renewed the motion to strike out this sum, in order to leave it blank.

Mr. CONRAD said he was at a loss to know how to act in this business. A few minutes ago we agreed to a call for information, and now we are required to give a vote in the dark. It was impossible for him, under these circumstances, to act understandingly on the subject. He must, therefore, move that the Committee rise.

Mr. SMILIE hoped that the Committee would rise, and that the business would be postponed for some time. He thought, from the beginning of this business, they had been proceeding incorrectly; that they should be going on in measures of protection, before they determined on the propriety of resorting to warlike measures, appeared to him to be beginning with the wrong end of the business. If they determined on peaceable measures, there would be no necessity for gunboats, or the defending our ports and harbors. If, on the contrary, measures of war were adopted, or such measures as would lead to war, there might be this necessity.

I do not said Mr. S. certainly know, but, as far as I have conversed with the members of this House, there is not a disposition to go to war. Why, then, pursue war measures? I hope the House will not be of opinion, that war is necessary; and, if so, what reason is there at present for adopting warlike measures? Why go into details, whose fitness must depend on higher measures? When I say this, I assure the gentleman, if it shall be necessary to take measures of war, or measures leading to it, I shall be willing to adopt effectual measures One thing is certain, That if we take such measures, we must go much further than the report of the select committee. Before this great question is decided, the determination of all subordinate matters will be useless. I therefore think it best that the Committee should rise, and that the subject now under consideration should be laid asleep for some time.

The question being taken, the Committee agreed to rise; when the Chairman reported, that the Committee of the Whole House had had the state of the Union under consideration, and had come to no resolution thereon.

And on motion, the House adjourned.

MONDAY, January 27.

Mr. SLOAN, from the committee appointed on the twenty-second instant, presented a bill laying a duty on slaves imported into any of the United States; which was read twice and committed to a Committee of the Whole to-morrow.

The House proceeded to consider a motion of the twenty-fourth instant, in the words following to wit:

Resolved, That the Clerk of this House be directed to pay, out of the contingent fund, the sum of two hundred dollars to the Sergeant-at-Arms, and two hundred dollars to the Doorkeeper and Assistant Doorkeeper, each, as a compensation for their extra services during the last session of Congress.

Ordered, That the said motion be committed to Mr. LEIB, Mr. FISK, Mr. TRIGG, Mr. SEAVER, and Mr. THOMAS.

On motion, it was

Resolved, That the Secretary of the Navy be directed to lay before this House a report on the condition of the frigates and other public armed vessels belonging to the United States, distinguishing the frigates fit for actual service; distinguishing such as require repair, and the sum necessary for repairing each; and distinguishing, also, such as it may be the interest of the United States to dispose of rather than repair.

A petition of sundry persons holding property in the western part of the City of Washington, in the District of Columbia, and residing therein, was presented to the House and read, praying that Congress may reject every application for leave to build a bridge across the river Potomac. Also, a petition of sundry inhabitants of Georgetown, owners of property in the western part of the City of Washington, in the District of Columbia, to the same effect. Also, a petition of sundry inhabitants of the counties of Montgomery, Frederick, Washington, and Allegany, in the State of Maryland, to the same effect.—Referred.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was referred, on the twenty-third ultimo, the memorial of the Philadelphia Chamber of Commerce, reported a bill declaring the consent of Congress to an act of the State of Pennsylvania, entitled "An act to empower the Board of Wardens, for the port of Philadelphia, to collect a certain duty on tonnage, for the purposes therein mentioned;" which was twice read and committed to a Committee of the Whole on Wednesday next.

An engrossed bill to extend jurisdiction, in certain cases, to State judges and State courts, was read the third time, and passed.

The House proceeded to consider the bill which lay on the table, to repeal the act to authorize the receipt of evidences of public debt, in payment for the lands of the United States, and for other purposes, relative to the public debt, as reported by the Committee of the whole House, on the sixteenth instant, without amendment: Whereupon, the said bill was amended at the Clerk's table, and, together with the amendments, ordered to be engrossed and read the third time to-morrow.

DETACHMENT OF MILITIA.

An engrossed bill authorizing a detachment from the Militia of the United States was read the third time.

Mr. TALLMADGE, of Connecticut, said he had never recollected an instance, since he had been honored with a seat in that House, when a question of equal magnitude with the present, had passed on, from the report which was first made, to the third reading of the bill, and there had scarcely been a remark submitted to the House to elucidate or justify the measure. We have before us a bill of no trifling import; it provides for organizing, arming, and equipping, a military force of one hundred thousand men, and it appropriates two million of dollars to enable the Government to bring this force into the field. Now this bill contemplates some serious intentions on the part of the Government, or else it is a solemn mockery, a mere political farce. At any rate, we shall hereby, if the bill passes into a law, lock up two million of dollars in the Treasury, which must remain appropriated, and sequestered from any other use, however urgent and pressing the calls of our country may be from any other quarter. Under the present aspect of this bill, as it has been presented to my mind, I shall be constrained to give it my unequivocal negative, unless some gentleman shall be able to remove my objection against its final passage. I, therefore, take the liberty to call on the honorable chairman of the committee, who reported the bill, (Mr. VARNUM, of Massachusetts,) to state to the House the reasons which induced him to submit the bill now under consideration, and to request of him, for my particular information, to answer the two following queries, viz:

1st. What special objects are to be answered by the passage of this bill?

2d. What effect will such a law have upon the militia systems of the different States in the Union?

I make these inquiries of the honorable gentleman from Massachusetts who reported this bill, from a knowledge of the high station which he holds in the militia of that State; and from a hope that he has fully weighed all the relative bearings of this bill, with the advantages and inconveniences thence resulting, that he may be able to confirm the wavering, and to satisfy those who doubt respecting the provisions of this bill.

In the public Message of the President of the United States, communicated to Congress on the third of December last, we are informed that spoliations are committed on our commerce and our seamen are impressed on the high seas; while aggressions and insults are offered to the citizens of the Territories of Orleans and the Mississippi, by the regular officers and soldiers of the King of Spain. Some of these injuries may admit of peaceable remedy, but some of them are of a nature to be met by force only, and all of them may lead to it.

From the fullest examination I have been able to make of this public document, (and I lay no claim to private communications,) I can discover but one point on which this great military force can be brought to bear. Is it possible, then, Mr. Speaker, (and I do hope that the honorable chairman will give us an answer to the inquiry,) is it possible, I say, that an apportionment must be made on all the militia of the United States, from Georgia to the District of Maine, that the President of the United States may be enabled to repel an invasion, or chastise an insult offered to our citizens within the district of Orleans? If this be not the object, the inquiry returns with redoubled force—what is it? Or, are we to conclude that all this parade and expense is to form an army on paper, and to hold out to the world the high sense we entertain of our national honor and dignity, and the promptitude and vigor with which we are ready to defend it? Can it be possible, sir, that gentlemen can be serious in offering this preposterous parade of military defence, when the recommendation of the President, and the voice of our country, call so imperiously for something more efficient? Will the European Powers believe that you are in sober earnest, when they shall read the provisions of this bill? Will the people of our own country be satisfied with this kind of military farce? The former, I am persuaded, will not be deceived by it; the latter cannot fail to be disgusted with this pitiful parade. Whatever may be my opinion of the military defence which our present circumstances call for, it is hardly proper for me now to discuss that question. If the difficulties and objections which so forcibly press upon my mind can be obviated, notwithstanding my general doubts of the efficacy of this measure, I shall vote for the bill on your table.

If I can be convinced that this measure is proper and necessary, if it will add anything to the real defence of our country, I shall be one of the last men in this House to refuse it any support.

I ask again of the honorable Chairman, and hope he will give us an answer—What effect will this law have upon the militia systems of the several States of the Union? By the bill on your table, this body of one hundred thousand militia is called a detachment. Now, a detachment of men, according to the ideas which I had obtained in the Revolutionary war, I have always considered as a body of men set apart or detached for a special purpose, and not liable to be assigned to any other duty until that service was performed.

I ask again of the honorable gentleman, how far such a detachment is to be considered as sufficient for the period contemplated by the bill, and what will be its effects on the remaining body of the militia? In the year 1797, when a similar detachment was made and apportioned upon the several States, it was held out as an encouragement to those who should volunteer, as well as those who should be draughted for the service, that they should not be called upon to perform other military services during the period for which they were so engaged. The consequences which resulted from the measure were very injurious. The principles of obedience and military subordination in this draughted corps were very much laid aside, and as they were not obliged to appear on the usual muster days, they lost in a great measure their discipline—their arms, and their uniforms, through neglect, became also unfit for use. These consequences resulted from the scattered situation of those draughted militia, whose officers could not convene them for discipline without great trouble and expense. There is another consideration which has weight, in my mind. During the period for which this detachment is to be held ready for service (two years) a great portion of the men will have changed their condition very materially. Some in the ordinary course of human nature will have died—others will remove to different and distant places, so that it will be impossible, on any emergency, to assemble them. I would appeal to the honorable gentleman from Massachusetts, who advocates this measure, if he should be appointed to command the detachment from Massachusetts, (and I confess I do not know a more proper person for the purpose) whether he, as a military man, would venture to assure the Executive that he could parade this formidable corps in the space of twenty or even thirty days from the time of receiving notice that their service was needed? Nay, sir, even in case of an invasion, would he not be better able to march the whole division of militia, which he now commands, in the space of two days, toward any given point of attack, and with more effect than he could collect and march the detachment aforesaid in ten times the same period of time.

Again, sir, I ask what necessity there is for this bill? By an act, passed the third of March, 1803, eighty thousand militia were put in requisition, and held subject to the orders of the President of the United States. It will not be pretended that this is not a force adequate to the exigencies of

our country, where it has been threatened. Why, then, are we called upon to enact a new law to authorize this additional detachment, when the law, before quoted, is in full force, and adequate to all the purposes of national defence; at least so far as such a detachment can be called an efficient force? If it should be said that there would be no money appropriated for the purpose, I need not remark that provision can be made in the general appropriation law to meet this object.

If, indeed, this is intended to be a mere paper thing, a formidable force without any real existence, the proposition is too despicable to need a serious reply. I have never been taught to believe that military operations were to be carried on in this way; nor is it by such means that your Government can be made respectable abroad, or your citizens efficiently protected at home.

Mr. T. was scarcely seated, when the question was called for by one of the Representatives from the State of New York, (Mr. THOMAS;) and, Mr. VARNUM, showing no intention to rise, the SPEAKER was about to put the question, when

Mr. DANA rose and said, he had no disposition to burden gentlemen with questions, when they manifested so little readiness to answer those already put to them. He must, however, be permitted to inquire, why the non-commissioned officers of the proposed detachment were to be denied the pay allowed by law to the militia in general, if called into the actual service of the United States? The bill places the detachment on the same establishment with the Army of the United States as to pay and emoluments. Yet there exists a law applicable to the whole militia, which provides particularly for their pay at the rate of six dollars and sixty-six cents per month for the privates. The act was passed in January, 1795, and is to be found in the third volume of the Laws of the United States. I trust I have the right to hear the act read, notwithstanding the promptitude with which the question has been called for. I call, sir, for the reading of the act.

[The Clerk read the three first sections of the act.]

Mr. VARNUM, of Massachusetts, then rose. He said it was difficult for him to enter into all the details, which the questions of the gentlemen implied; it depended upon the situation of the different parts of the country, whether the objections of the gentleman from Connecticut (Mr. TALLMADGE) were applicable. It was not necessary, from the provisions of the act, to cull this out of the great body of the militia of the United States. That in Massachusetts it did not exempt from militia duty in the year 1797. They were only selected and officered, and ordered to be equipped and in readiness to march at a moment's warning. They afterward returned to their ranks and were held to do duty there, in the same manner as if they had not been detached. If the argument of the gentleman was correct relative to a detachment, all the militia of the United States might be undisciplined, as the President had a right to call out the whole. As to the objection made by the other gentleman from Connecticut, (Mr. DANA,) there was some difference in the pay proposed to be allowed by this bill, to the militia, which should compose the detachment, but it was not much less. The difference was small, from that allowed by the existing law. Mr. Chairman, the President has told us of dreadful depredations upon our commerce, and of insults and inroads upon our territories; that our seamen and fellow-citizens are impressed, and ill-treated in a most cruel manner. It becomes us, sir, to take some measure suitable to the occasion, unless we mean to show the world that we possess a servile and degraded spirit. And, in my opinion, this is that measure.

Mr. CHITTENDEN, of Vermont.—Mr. Speaker, what may have been the practice under the law authorizing the former detachment from the militia in that part of the Union, spoken of by the honorable gentleman from Massachusetts, (Mr. VARNUM,) I will not undertake to say; but, in the State which I have the honor to represent, and particularly in that division in which I reside, a different construction was given to the law authorizing that detachment, and a very different course was pursued.

It was there considered that the detachment when made, being under the command and direction of officers selected or appointed for that purpose, could not be subject to the command of their former officers, nor liable to perform the ordinary military duty in the companies from which they were detached. And, sir, this was held out as an encouragement to those who would volunteer in that service, that, although they were liable to be called into actual service, for which they would receive a compensation, they would not be liable to perform the ordinary military duties in the companies from which they were detached. If, sir, any necessity exists for an efficient armed force for the protection of our country, I am perfectly prepared, and, I presume, as willing as any gentleman in this House to grant such aid to the Executive of the United States, as may be amply sufficient to meet any expected invasion, or to support any measure that has the protection or honor of the nation for its object. Neither, sir, am I wanting in my confidence in a well organized militia of our country; but it is from a conviction on my mind that the whole military force of any portion of the United States might be brought into the field to repel any invasion with more facility and with much less expense than the same number of the proposed detachment; one brigade, or at least one division of which might comprehend a whole State.

From their dispersed situation it would be almost impossible that such attention should be paid to their arms, equipment, and discipline, as to render them an efficient force for the protection of our country. This is the reason which operates on my mind against the proposed measure. It is not from an opposition to any measure that shall have for its object the better organization of the militia, but from a well-grounded belief that the bill now on your table will have a

direct tendency to disorganize and diminish the power which the Executive of the United States has, by the existing law, (the law, a repeal of which is contemplated by this bill,) to call out a sufficient force to answer every object which the exigencies of our country may require, that I am decidedly opposed to the passage of the bill now under consideration.

Mr. VARNUM, of Massachusetts.—When I was up before, it was my intention to have stated that the motive to passing this act was an appropriation; that which is contained in the law, the repeal of which was contemplated, having expired by a general provision of law, which makes all appropriations terminate at the end of two years. The committee in paying attention to the old law found that it was permanent, and they thought it more conformable to the Constitution, that all laws creating a military establishment should be temporary. The other provisions of the bill, directing the President to make the apportionment on the different States, was thought to be a more equal and just mode of raising them, rather than as the present act provides to raise them in any part of the United States at his discretion.

Mr. QUINCY, of Massachusetts, said, that the reason given by his colleague, (Mr. VARNUM,) for passing this bill, "that we ought to show in 'the present state of our country, that we do 'not possess a servile degraded spirit," was a principal reason with him against the bill. He believed that if, after all the evidence this House had received of the temper of the people, and of their expectations of efficient, real measures of defence, such a bill as this was to be the first fruit of a seven weeks' deliberation, it would, indeed, indicate that our spirit was servile and degraded—at least, that such was the spirit of this House. And, indeed, in fact, its spirit was, in his opinion, far below the temper and spirit which prevailed in the community. It was, indeed, very extraordinary that, after all the urgent demands made upon us by the people and by the President, for various augmentations of our force, that the first step we publicly take should be, not to increase the power of the Executive arm, but to diminish that which it already possesses. If this was the real character of this bill, he thought the conclusion inevitable, that a House which, in such a state of public affairs as ours, should be guilty of such an act, was actuated by "a servile and degraded spirit." And whatever we may think of it ourselves, I have great fears that both the people and foreign nations will draw that conclusion concerning us. That this was no increase of Executive power, but a real diminution of it was very evident.

The gentleman, my colleague, (Mr. VARNUM,) had stated three reasons for passing the present and repealing the old law. 1st. The want of an appropriation for the expense of the detachment. This is a very good reason for an appropriating act, but it is none at all for an act repealing the provisions of the old law, and re-enacting the same nearly in the same form. 2d. His second reason was, that the former act was permanent—this temporary. The former law had been passed in 1803, by the gentlemen who now constituted the majority in this House. It had been suffered to sleep for three years, and now at the very moment the act is about to be useful, this great Constitutional discovery is made. It is very unlucky that, when the people expect to see us alive to their protection, we are alive to nothing but theoretic questions and Constitutional difficulties. The third reason for this law was the new apportionment of the detachment of militia it contemplates. In this consists the mischief and imbecility of the measure. By the law of 1803, which this bill proposes to repeal, the President is authorized to call out a detachment of eighty thousand militia. He may take the whole from any part of the Union. Wherever the exigency requires, he may there call for all, or any part, of the eighty thousand. By the present law, the detachment made is to consist, indeed, of a hundred thousand men; but this number is to be apportioned upon the States, and whatever is wanted for actual service is to be collected from seventeen independent divisions, in a country fifteen hundred miles in length. Great stress was laid, when this subject was debated in Committee, on the additional number. And my colleague (Mr. VARNUM) asked "are not a hundred thousand men more than eighty thousand? How, then, can this be said not to be an increase of Executive power?" This is not a question to be decided by mere numbers. The true question is, whether this is a real increase of efficient power? Will it enable the Executive to defend any given point or frontier of the United States better or worse than the existing law? Nothing, to my mind, can be clearer than that it will be worse. Suppose an invasion of any frontier—for instance the district of Maine. And let the invading force be twenty thousand men. To resist which, in the opinion of the Executive, thirty thousand would be expedient. As the present law is, the President may detach the whole thirty thousand from the militia of Massachusetts. But, pass this law and he can only detach the quota of Massachusetts, say fifteen thousand, and then must hunt up the deficiency in New York, Connecticut, and Vermont. Can there be a question which gives the most efficient power, the existing, or the proposed act? Take a simple view of the case. Suppose a man has a debt to pay in Massachusetts within a limited time, to make which payment eighty dollars is sufficient. Now, which is the most eligible and efficient power, to have the ability of taking upon credit the whole sum at once in Massachusetts or to be obliged to take it up in seventeen divisions, of five, ten, and fifteen dollars, in each of the United States? In common life no question could arise touching the superiority of the former over the latter power, in facility, convenience, or efficiency. And I can see none in political. I consider this act as no further of importance than as it shows the temper and disposition of this House. The people are anxiously expecting some great exertions from us. While we, not content with

doing nothing, are doing worse than nothing. We are making the small portion of Executive power less. The augmentation of the eighty thousand men to a hundred thousand is "a mere tub thrown to the whale," in the hope that, while amused by this, the real character of the new provisions may escape observation.

Mr. ELMER, of New Jersey, spoke in favor of the bill.

Mr. BIDWELL, of Massachusetts, said that he did not conceive this subject in the same light with his colleague, as a diminution of the efficient power of the Executive. He thought the object was to have the militia in better condition, and to have them in readiness all over the United States. And by this bill a certain proportion would thus be provided to be had in readiness.

Mr. MASTERS, of New York, said that, he hoped the bill would pass; as he thought from the disposition he had seen in the House it was all it was likely to do. He wanted exceedingly to be able to tell his constituents, we had done something. When I go home, and they ask me, "well, have you made provision for fortifying our harbors?" I shall answer with great comfort, no, "but we have authorized a detachment of a hundred thousand militia." Have you raised any troops to repel Spanish aggressions? "No; but we have authorized a detachment of a hundred thousand militia." Have you taken any measures to avenge our impressed fellow-citizens? "No; but we have authorized a detachment of a hundred thousand militia." Have you built any navy for the protection of our commerce? "No; but we have authorized a detachment of a hundred thousand militia." I hope, as we are likely to get nothing else, we shall at least have the satisfaction of this measure.

Mr. DANA.—I had not particularly attended to the present bill before it passed to the third reading, having supposed it conformable to former acts relative to similar subjects. On examination, a material diversity is observable. It differs from the general law, with respect to the pay of non-commissioned officers and privates of the militia when called into the service of the United States. If the allowances to them under that law are found on calculation to be substantially equivalent to the emoluments allowed by law to the troops on the military establishment, as has been suggested by the gentleman from Massachusetts on my left, (Mr. VARNUM,) I ask where is the necessity for varying in this manner from the former law, and thereby giving rise to questions of calculation on the subject of pay and emoluments? But, waiving this consideration, I observe a difference from former laws in two other sections of the bill.

The fifth section purports to authorize the President to call into actual service any portion of the proposed detachment when he shall judge the exigencies of the United States require it. On comparing this with the provisions of the Constitution, where is the authority for giving to the President this power? The Constitution, it will be found, authorizes Congress "to provide for call-'ing forth the militia to execute the laws of the 'Union, suppress insurrections, and repel invasions." The power of the General Government to call the militia into actual service, is constitutionally restricted to the three cases specifically mentioned. Yet the bill undertakes to give the President a general discretionary power of commanding into service any part of the detachment, at his pleasure, for any cause whatever, without any limitation.

The fourth section of the bill renders the detachment liable to be holden in service for six months after they arrive at the place of rendezvous. Yet the established law relative to the militia does not require them "to serve more than three months after their arrival at the place of rendezvous, in any one year." Why should the proposed detachment be subjected to a burden so unequal as that of serving in the field for twice the usual term? Ought they to be thus compelled to perform double duty?

But, my main objection to this bill is the efficacy of its provisions. If any measure is to be adopted for maintaining our national rights, let us contemplate a solid, effectual defence. The present bill holds forth the idea of providing a military force. But the President, by the general law of the Union, is already authorized to call forth the militia in the cases specified by the Constitution. If I considered this bill as adding anything to the efficiency of our militia, I should not oppose the general provision. I have no disposition to disparage our militia; but I deem such a detachment as that to be wholly inadequate to the support of our claims in the places where we may expect attacks, if attacked at all. My objection is not that I do not believe our militia to be brave and zealous for the public welfare. Bravery and zeal alone do not decide the conflicts of armies. Brave as the militia unquestionably are, they should, for operations in the field, be well equipped and disciplined. That they may be of effectual service, especially at a distance from their homes, equipment and discipline are essential. If this bill added anything to the equipment of the militia, or to their discipline, or to the mutual confidence of the officers and men, if in any point of military importance it aided or promised to aid them, I would give to the general principle my support. But I have not been able to discover that the bill makes any such addition, or gives one essential aid to the existing militia system. If this be all the plan of defence proposed to be adopted, I am free to declare I do not consider it as effectively anything. Is there an officer, accustomed to service, who will say that it is? Is there one military man who will assert that, when the project of thus detaching militia was tried formerly, any practical advantage resulted from it? If he should assert this with respect to his part of the country, the case appears to have been very different in other parts. My colleague (Mr. TALLMADGE) has mentioned the effect of making such a detachment in Connecticut. Its operation in another State has been mentioned by the gentleman from Vermont, (Mr. CHITTENDEN.) The effect was injurious rather than beneficial. If I

considered this as an affair of mere paper, I should have less cause for objecting. It would be then but a nullity. At present, I deem it worse than a nullity. It is, therefore, treated favorably when it is spoken of as being merely useless paper.

In reflecting on the state of our public affairs, will any gentleman seriously say that the proposed detachment can be effectively serviceable at the points where hostile enterprises will probably be attempted, if anywhere? The gentleman from Massachusetts, who, as chairman of the select committee, presented this bill (Mr. Varnum) has spoken of the maritime injuries committed by the British, and has referred to the exposed state of our ports and seaboard. Will that gentleman say that this is the species of defence by which such injuries are to be repelled? Are our militia to be marched to the Atlantic border of the Union, and there be ordered, without fortifications, to protect the commerce and ports and coast against the predatory activity of every maritime force under any belligerent flag? We do not seriously propose thus to parade our militia with their muskets along the extent of our shores, in opposition to hostile ships of war.

If anywhere the military force of the Union is to be efficiently employed for maintaining territorial claims, it is on our Southern frontier, or its vicinity, that we should fix our attention. And there, how is the proposed detachment to be rendered effective? In case of hostility in that quarter, it must be either on the island of New Orleans, or in relation to the Floridas, or west of the Mississippi, on some part of the territory claimed as Louisiana. In no other place is there at present any probability of our having a hostile collision on land. But is there a man in this House who will say that there is any Constitutional power vested in the President to march the militia beyond the limits of the United States as fixed by the Treaty of Peace in 1783? Who will adventure to affirm, that our militia can, under the present Constitution, be compelled to march to New Orleans, or below the thirty-first degree of latitude? Is it intended to march them out of the United States to repel any territorial aggressions of the Spaniards, to drive them from the Mississippi eastward beyond the Perdido, or back to the Rio Bravo, on the west? No gentleman, in debate, has pretended, none, I trust, will pretend, that there exists constitutionally such power over the militia.

Thus it appears that, with respect to effective operations, the militia, proposed to be detached, can be of no service in any of the places where there is any probability of our wanting a military force. They cannot be brought to bear upon the points where the force may be requisite.

What, then, is the true character of the present bill as a measure of defence? This is the mystery of the affair. It seems like something. In reality it is nothing. Let us not compliment our own sagacity at the expense of that of the whole people of the United States. This bill ought not to mislead any person. It is not adapted to give to the country any additional security. If it were such as to evince a fixed attention to arrange a system of efficacious measures for assuring the protection of our national rights, if it were such as to excite any sentiment of awe, or to command respect from any foreign Power, if it were fitted to inspire a confidence of security in one man, woman, or child, within the United States, any of these considerations might afford a reason for giving it my vote. But to arrange in legislative form, merely a collection of words, without any possible efficiency or use, and pass them for a measure of defence through this House, is a procedure of laborious nihility, in which I am not willing to co-operate, under the present serious aspect of our public affairs.

The bill was then passed, 79 rising in the affirmative.

Tuesday, January 28.

A petition of the Presidents of the incorporated Marine Insurance Companies, in the city of New York, on behalf of the said companies, was presented and read, praying that provision may be made by law for granting registers to incorporated Insurance Companies for such vessels of the United States as may become their property, without requiring the oath now prescribed to be taken, so that they may be enabled to dispose of such vessels, with all the privileges that belonged to them at the time of their seizure and detention.—Referred to the Committee of Commerce and Manufactures.

The Speaker laid before the House a letter from the Secretary of the Navy, enclosing an estimate of the annual expense of supporting, in actual service, the whole of the frigates and smaller vessels now belonging to the Navy of the United States, in pursuance of a resolution of the House of the twenty-fourth instant; which was read, and committed to a Committee of the whole House on the state of the Union.

Mr. Alston, from the committee appointed on the sixteenth instant, presented a bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina; which was read twice, and committed to a Committee of the Whole to-morrow.

On motion, it was

Resolved, That the committee appointed on the eighteenth day of December last, to inquire whether any, and, if any, what, alterations are necessary in the laws respecting compensation to grand and other jurors, summoned to serve in the courts of the United States, be instructed to inquire whether any, and, if any, what, alterations are necessary in the laws providing compensation to marshals; and that they have leave to report by bill or otherwise.

On motion of Mr. Smilie, the select committee to whom was referred so much of the Message of the President of the United States, of the 17th instant, as relates to the impressment of our seamen, was discharged from its further consideration, and the subject referred to a Committee of the Whole on the state of the Union, without a division.

On motion of Mr. Thomas, the Committee of Ways and Means were discharged from the consideration of so much of the Message of the President as relates to depredations committed on our Colonial trade, and the subject referred to a Committee of the whole House on the state of the Union, without a division.

POTOMAC BRIDGE.

The House went into Committee of the Whole on the report of a select committee, in favor of authorizing a bridge to be erected over the river Potomac, at the City of Washington.

Mr. Ely spoke in favor of the report, and Messrs. Elliot, Findley, and Nelson against it; when the Committee rose, and obtained leave to sit again.

Mr. Smilie renewed his motion for discharging the Committee of Ways and Means from the further consideration of that part of the Message of the President that relates to the invasion of neutral rights.

Mr. Quincy and Mr. J. C. Smith opposed the motion, and Mr. Jackson enforced it. The two first gentlemen having recommended a suspension of the motion until the chairman of the Committee of Ways and Means (Mr. J. Randolph) should be in his place, Mr. Jackson concluded his remarks by moving an adjournment, that the consideration of the motion might be the next day entered upon as unfinished business, and an opportunity be given by the delay to the chairman of the committee to be in his place.

The motion for adjournment prevailed—yeas 69.

Wednesday, January 29

A message was received from the Senate informing the House that the Senate have passed a bill, entitled "An act to empower George Rapp and his associates, of the Society of Harmony, to purchase certain lands;" to which they desire the concurrence of this House.

A Message was received from the President of the United States, enclosing a memorial from the merchants of Baltimore, on the depredations committed on the commerce of the United States, which was referred to a Committee of the Whole on the state of the Union.

NEUTRAL RIGHTS.

Mr. Jackson called for consideration of the unfinished business of yesterday, viz: the motion of Mr. Smilie to discharge the Committee of Ways and Means from the further consideration of so much of the President's Message as relates to the invasion of neutral rights by some of the belligerent Powers. On taking up this business the House divided—yeas 37; carried.

The motion having been submitted from the Chair, Mr. Dawson opposed it. He said the wish of the gentleman from Pennsylvania to bring this subject under the view of the Committee of the Whole on the state of the Union might at any time be gratified by going into that committee and moving any resolution he might see fit, as the Message generally was referred to the Committee of the Whole on the state of the Union. He believed, however, that the floor of the House was not the proper place to make declarations of what is the law of nations. He believed that a volume of such declarations would be of no avail; it was their duty to act and not to declare on such subjects; and whenever the gentleman from Pennsylvania or any other gentleman, would bring forward measures calculated to prevent an infraction of our neutral rights, they should receive his support. At present he must be against adopting the resolution.

Mr. Smilie said he did not expect any opposition to the motion he had made. If the Committee of Ways and Means should be discharged from the business, it would consequently come before the Committee of the Whole on the state of the Union without any motion, as the Message was generally before that committee.

In reply to the remark that this motion would be treating the Committee of Ways and Means with disrespect, Mr. Smilie said, he thought the ground on which he had placed the business would have removed every idea of the kind. He did not say the Committee of Ways and Means were not as competent to the business as any other select or standing committee; but he had declared from the beginning that in his opinion, in point of principle, the reference ought to have been made to the Committee of the Whole. This is the ninth week of the session, and gentlemen charge us with having done nothing. Do not gentlemen see, from the state of the Committee of Ways and Means, that this course has become absolutely necessary? Shall a business of the first importance that can occur during the session, be neglected on this account? Not only the eyes of all America, but likewise of all Europe, are looking with anxiety on the steps which we shall take in this business; for all the maritime Powers of Europe are interested in this great question relative to neutral rights. Are we, then, in consequence of the deranged situation of a select committee, to remain with our hands tied up? For myself I do think, that the interests of our country call upon us to take immediate steps. I repeat it, that on a similar occasion with this, a similar course was pursued. Gentlemen will remember, that in the third Congress, when we before suffered from the misconduct of Great Britain, certain resolutions which became the subject of discussion originated in a Committee of the whole House. What, indeed, are we to expect from the Committee of Ways and Means? Are they in possession of the general sense of the House on this subject, as a guide in making their report? This is not the case, as we have had no discussion of the subject; and until it shall be brought under a view of a Committee of the whole House, it is impossible to tell in what the opinions of members will centre.

Mr. Jackson.—I have but a single observation to make in addition to those which have fallen from the gentleman from Pennsylvania. So far

as relates to myself, it is not my object to discuss in Committee of the Whole, the abstract questions of the law of nations, but to adopt measures for the effectual resistance and punishment of the infraction of those laws, as far as we can. If, according to the course pointed out by my colleague, any resolution should be submitted on this subject in Committee of the Whole, it will be objected that the subject is before a standing committee, and it will be said to be disrespectful to act on it until they shall have reported. If my colleague, therefore, be of opinion, that we should adopt any efficient and prompt measures, the better and speedier way will be for him to join in the motion. I hope the motion will prevail. In the name of heaven, if we are not disposed to do anything, let us tell the people so.

Mr. CROWNINSHIELD.—From the beginning I was opposed to referring this subject to the Committee of Ways and Means. I saw no reason for its going to a standing committee. Without meaning to cast any censure on the Committee of Ways and Means, I am in favor of the motion. We have been in session seven or eight weeks—the reference was made as early as the 6th of December, and we have yet no report. The question is perhaps as interesting a one as has been presented since the establishment of a National Government. What is our situation? Our ships are plundered in every sea, our seamen are impressed, three thousand of them are in the service of one nation. We are a neutral nation, and it is not proper that any belligerent nation should employ them in this manner. Like the gentleman from Virginia, I am ready to act, I want no report to guide my decision. I am prepared—not for war measures, but for a non-intercourse act with Great Britain. I am willing to suspend all intercourse with Great Britain until she shall give back the ships she has stolen from us, and the seamen she forcibly detains. I shall not be more ready to take this step after a report from the Committee of Ways and Means than I am now. The simple question is, whether we shall abandon trade altogether, or resist the unjust aggressions made upon it? But it was not my object in rising, to go any length into the subject; I only rose to express my opinion in favor of the course pointed out by the motion. The Committee of Ways and Means is deranged, disorganized; two members are absent, and the Chairman unfortunately is sick. We have no expectation of a report; it may not come till the end of the session.

Mr. GREGG.—I rise to express a similar opinion with the gentleman who has just sat down.

I am in favor of the motion for the reasons which he has assigned and for another reason; for the sake of consistency. Though the subject be referred to the Committee of Ways and Means, it is likewise referred to the Committee of the Whole on the state of the Union. The memorials from the merchants of New York and Philadelphia have taken this latter course. This brings the subject before a Committee of the Whole. We are under the same obligation to take up the business of our constituents as the Message; and as the business is of the greatest importance I hope the whole subject will be referred to a Committee of the Whole.

Mr. BIDWELL.—The gentleman from Pennsylvania has anticipated me in an idea which I meant to have expressed. As the principal document on this subject is the Message of the President, I think it proper that that should be placed with the same committee charged with the memorials of merchants from different towns. Another reason may be mentioned in favor of this course of procedure. At the commencement of the session there was a strong reason for referring the subject to a special committee. It was a principal object at that time to inquire into the extent and degree of the injuries received from belligerent nations; as since that time we have received full information on those points from the Executive Department, that reason is done away, and there is no necessity for any investigation by a select committee.

The motion to discharge the Committee of Ways and Means was then agreed to—yeas 68.

NON-INTERCOURSE.

Mr. GREGG said, that he considered the insults offered to our Government, and the injuries done to our citizens by some of the belligerent nations, to be of such a nature, as to demand the interposition of Government to obtain redress. It appeared from the memorials and remonstrances of the merchants of New York, Philadelphia, and other of our seaport towns, now on our table, as well as from Executive communications, that vessels the *bona fide* property of citizens of the United States, have been seized by their cruisers, and they and their cargoes condemned, contrary to our rights as a neutral nation, and to what has long been considered as the law of nations on this subject. Great numbers of our fellow-citizens have been impressed, and not withstanding our repeated remonstrances, they are cruelly retained in bondage, and compelled to act in a service, perhaps very abhorrent from their feelings, far from their country and their friends. To these insults and injuries, said Mr. G., we can no longer submit, unless we are willing to surrender that independence which has been, and I trust always will be our pride and our boast. So great are these injuries and aggressions, and so unremittingly are they persevered in, that I do not know but that they might be considered as a sufficient cause, on which to ground a declaration of war. That, however, is not my object. I deprecate war, and will not agree to resort to it, until other means, which we have in our power, are tried in vain. We do, I think, possess means, which, if properly used, cannot fail of accomplishing the object. To these I hope we will now resort, and for the purpose of bringing them into view, I will submit a resolution to the consideration of the House, reserving any further observations on the subject, until the resolution shall be taken up in Committee of the Whole on the state of the Union, to which I intend moving its reference.

Mr. GREGG then offered the following resolution:

Whereas Great Britain impresses citizens of the United States, and compels them to serve on board her ships of war, and also seizes and condemns vessels belonging to citizens of the United States, and their cargoes, being the *bona fide* property of American citizens, not contraband of war, and not proceeding to places besieged or blockaded, under the pretext of their being engaged in time of war in a trade with her enemies which was not allowed in time of peace:

And whereas the Government of the United States has repeatedly remonstrated to the British Government against these injuries, and demanded satisfaction therefor, but without effect;

Therefore, *Resolved*, That until equitable and satisfactory arrangements on these points shall be made between the two Governments, it is expedient that from and after the —— day of —— no goods, wares, or merchandise, of the growth, product, or manufacture of Great Britain, or of any of the colonies or dependencies thereof, ought to be imported into the United States. *Provided*, however, that whenever arrangements deemed satisfactory by the President of the United States shall take place, it shall be lawful for him by proclamation to fix a day on which the prohibition aforesaid shall cease.

The House having agreed to consider this resolution,

Mr. THOMAS said he had seconded the motion of the gentleman from Pennsylvania, and should give it his decided support. It would however have suited him better, had it gone still further, and interdicted all commercial intercourse with that nation, until she should cease to commit depredations on our commerce, impress our citizens on the high seas into her service, and abandon the new principles which she had lately interpolated in the maritime code, and which he considered as unjust as they were unauthorized by the acknowledged law of nations.

But as unanimity in the Legislature of the nation was desirable at all times, and particularly so on great national questions, he was disposed, in order to produce that result on the present occasion, to yield a part of his own opinion to meet the views of other gentlemen.

The present was an important question and he hoped the honorable mover would consent that it should lie a day or two for consideration, and moved that it be printed.

Mr. GREGG said his wish was to refer the resolution to a Committee of the Whole on the state of the Union; and made a motion to that effect which was agreed to without a division, and the resolution ordered to be printed.

POTOMAC BRIDGE.

On motion of Mr. THOMPSON, the House again resolved itself into a Committe of the Whole—on the report of a select committee in favor of authorizing the erection of a bridge over the Potomac.

Messrs. THOMPSON, CLARK and ELMER, advocated; and Messrs. EARLY, SLOAN, and FINDLEY opposed the report; when the Committee rose, without coming to a decision, and obtained leave to sit again.

And on motion, the House adjourned.

THURSDAY, January 30.

The bill sent from the Senate, entitled "An act to empower George Rapp and his associates, of the Society of Harmony, to purchase certain lands," was read twice and committed to a Committee of the Whole on Monday next.

Mr. STANFORD, from the committee appointed on the twenty-third instant, presented a bill for altering the time for holding the circuit court in the district of North Carolina; which was read twice and committed to a Committee of the Whole to-morrow.

A memorial of the inhabitants of the town of Salem, in the State of Massachusetts, signed by a committee, in behalf of the said inhabitants, was presented to the House and read, setting forth that they have beheld, with the deepest regret and anxiety, the aggressions committed on the commerce of the United States, and the consequent violation of neutral rights, under the new assumed principles and adjudications of the maritime courts of Great Britain; that they view with equal abhorrence the impressment of our seamen, the violation of our jurisdiction by captures at the mouths of our harbors, and the insulting treatment of our ships on the ocean, by the same nation, not less hostile than the conduct of other nations, by piratical depredations, and the lawless plunderings of privateers on our coasts; that, while they ask for no measure but what justice approves and reason enforces—claiming merely to pursue a fair commerce, with its ordinary privileges—wishing for peace, for honorable peace, and to support the independence of their country by the acquisitions of lawful industry, they pledge their lives and properties in support of the measures which may be adopted to vindicate the public rights and redress the public wrongs.—Referred to the consideration of a Committee of the Whole on the state of the Union.

The SPEAKER laid before the House the following letter from the Secretary of the Navy addressed to the House.

SIR: In obedience to the resolution of the House of Representatives of the 27th instant directing the Secretary of the Navy "to lay before the House a report on the condition of the frigates, and other public armed vessels, belonging to the United States, distinguishing the frigates fit for actual service; distinguishing such as require repair, and the sum necessary for repairing each; and distinguishing also such as it may be the interest of the United States to dispose of rather than repair," I have the honor to state—

That the frigate Constitution is now in a state of thorough repair, and in all respects prepared for service.

That the frigate Chesapeake has lately been repaired and is fit for service.

That the frigates Adams, Essex, and John Adams, are also fit for service.

That the brigs Syren, Hornet, Argus, and Vixen, the schooners Nautilus and Enterprise, the bombs Spitfire and Vengeance, and all the gunboats are fit for service.

That the frigates President, United States, Congress, Constellation, New York, and Boston, require to be repaired; but it is utterly impossible to form an accurate estimate of the "sum necessary for repairing each."

I know of no vessel belonging to the navy, which I

consider it would be "the interest of the United States to dispose of, rather than repair."

On the motion of Mr. J. Randolph, the first and third sections of the bill to repeal so much of an act as authorizes the evidences of the public debt to be received in payment for public lands, and for other purposes, was referred to a Committee of the whole House.

The discussion which ensued on the details of this bill occupied nearly the whole of the residue of the day.

The committee having reported the bill, with sundry amendments, it was ordered to a third reading to-morrow.

NEUTRAL RIGHTS.

Mr. J. Randolph said it would be recollected that, very early in the session, so much of the Message of the President of the United States as relates to the invasion of neutral rights by belligerent Powers, had been referred to the Committee of Ways and Means. It would also be recollected that another Message on the same subject, or on one connected with it, had been referred to the same Committee of Ways and Means. I understand, said Mr. R. (for my indisposition has not permitted me for some days past to attend to the duties of my seat) that a motion has prevailed to discharge the Committee of Ways and Means from the consideration of that subject. Inasmuch as this discharge may have been effected under an impression that the committee have been delinquent in executing the duty devolved upon them, I feel it my duty before I surrender the papers connected with this subject, to give some account of the proceedings of the committee. On the eleventh of December the committee instructed their Chairman to write a letter to the Secretary of State, which I will read. Mr. R. here read the letter as follows:

Committee Room, *Dec.* 11, 1806.

Sir: The Committee of Ways and Means have instructed me to request you will cause to be laid before them such information, on the subject of the enclosed resolution, as the Department of State can furnish.

The peculiar objects of our research are—

1. What new principles, or constructions, of the law of nations have been adopted by the belligerent Powers of Europe, to the prejudice of neutral rights?

2. The Government asserting those principles and constructions?

3. The extent to which the commerce of the United States has been thereby injured?

I am, with very great respect, sir, yours,

JOHN RANDOLPH.

The Secretary of State.

On Saturday night the 25th instant, the Committee of Ways and Means received an answer to this letter, which I will deliver to the Clerk, in order that it may go to the new committee, to which this business has been referred. It is unnecessary for me to add anything more. The House must be sensible that while the Committee of Ways and Means were in the dark they could not proceed in the discharge of the duties assigned them, and that after receiving information from the Secretary of State so late in the day, it was impossible for them to have made a report by this day; and if I am not mistaken, the motion to discharge the Committee of Ways and Means was made before the answer of the Secretary of State was received.

The Clerk accordingly read the letter of the Secretary of State, as follows:

Department of State, *Jan.* 25, 1806.

The Secretary of State presents his respects to Mr. Randolph, and has the honor to transmit him a copy of a report this day made to the President of the United States, respecting interpolations by foreign Powers, of new and injurious principles, in the law of nations. This report, with the communications made by the President to Congress, particularly that of the 17th instant, will, it is hoped, afford the information requested, for the Committee of Ways and Means, by Mr. Randolph's letter of the 11th ultimo.

When, on motion of Mr. J. Randolph, the papers laid by him on the table were referred to a Committee of the Whole on the state of the Union.

Friday, January 31.

Another member, to wit; William Blackledge, from North Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

The first and third sections of the bill to repeal the act to authorize the receipt of the evidences of the public debt, in payment for the lands of the United States, and for other purposes relative to the public debt, were brought up engrossed. The said engrossed sections, together with the bill, were then read the third time, and passed.

Several petitions of sundry inhabitants of the State of Maryland, residing on and near the river Potomac, whose names are thereunto subscribed, were presented to the House and read, praying that Congress may reject every application for leave to build a bridge across the said river.—Laid on the table.

Mr. Leib, from the committee to whom was referred the resolution respecting compensation to certain officers of the House made a report thereon of an amendatory resolution; which was read, and committed to a Committee of the Whole today.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making a further appropriation for the support of the Library;" and also a bill, entitled "An act to repeal, in part, the fourth section of an act, entitled 'An act to authorize a grant of lands to the French inhabitants of Galliopolis, and for other purposes therein mentioned;" to which they desire the concurrence of this House.

BRIDGE ACROSS THE POTOMAC.

Mr. Leib moved to discharge the Committee of the Whole from the further consideration of the report of a select committee in favor of the erection of a bridge over the Potomac.

Mr. Leib said his reason for this motion was to disengage the House from the tedious discussion of a local and comparatively unimportant

question, that the House might immediately take up business of pressing and national importance, called for by the great interests and anxiety of the people, and the interesting crisis of affairs.

Mr. Lewis opposed the motion. He considered the subject as of considerable importance even in a national point of view; and he trusted that, as so much time had been already consumed, and the stage of the discussion promised so near a termination, the House would not postpone a decision of the question.

Mr. Van Cortlandt advocated the motion, on similar grounds with those urged by Mr. Leib, and particularly under the impression that the state of public affairs loudly called for effectual measures for the defence of our ports and harbors.

The motion was disagreed to—yeas 47, nays 58.

Mr. Van Cortlandt, with the view of maintaining order, and expediting the public business, offered certain resolutions amendatory of the rules of the House.

The first of these amendments prohibited a member from reading in the House any book or printed paper, or writing any letters; the second prohibits the Sergeant-at-Arms from keeping or stating the accounts of the members, or giving receipts in the House, and prohibits the Doorkeepers from coming on the floor to call out members.

The resolutions were laid on the table.

Mr. Gregg said he had had the honor two days since of laying on the table a resolution to prohibit the importation of British goods until arrangements should be entered into to render the continuance of this prohibition unnecessary. Mr. G. said he was of opinion that it was proper at the same time to adopt a permanent system of commercial regulations calculated to meet the measures of foreign Powers. To throw light on this subject, Mr. Gregg moved that the report of the Secretary of State on the commercial relations of the United States with foreign Powers, made in the year 1791, should be printed. This motion was agreed to.

Mr. Holland moved to postpone till the first Monday of March the resolution on the subject of the Potomac bridge. Motion lost—yeas 45, nays 74.

BRIDGE ACROSS THE POTOMAC.

The House then again resolved itself into a Committee of the Whole on the resolution in favor of authorizing the erection of a bridge across the Potomac.

Mr. Lewis.—Mr. Chairman: Two days have already been employed in discussing the propriety of erecting a bridge over the river Potomac, to facilitate and shorten the intercourse between the Eastern and Western States of the Union. Before the question is taken, I am desirous of assigning some of the reasons which will influence my vote. I promise the Committee, however, that my observations shall be as short as the nature of the subject will permit. The very able support given to the resolution upon your table, by the honorable chairman of the committee who reported it, aided by my honorable colleague, (Mr. Clark;) an honorable gentleman from New Jersey, (Mr. Elmer,) and an honorable gentleman from Massachusetts, (Mr. Ely,) will considerably abridge the observations which otherwise I should have thought it my duty to make. It is my wish, sir, to give this subject a fair, candid, and impartial investigation; and if it shall appear that all the numerous evils will result from its adoption, which the people of Georgetown seem to suppose, I will be the last man on this floor to sanction its passage; but if, on the other hand, their objections are chimerical, and have emanated from an unfounded jealousy of their neighbors, I shall give to this measure my most decided and unequivocal approbation, and in this determination I trust I shall be aided by a large majority of the committee.

There is but one point to which, in my opinion, the attention of this Committee ought to be directed: Will the erection of the contemplated bridge injure the navigation of the river Potomac? This is the only question applicable to the subject, and the only pivot upon which it ought to turn. Let us, Mr. Chairman, examine the objections and reasoning of the anti-memorialists upon this point. They say in their memorial that "they consider their natural and political rights will be infringed by the adoption of 'this measure, as the navigation of the river will 'be injured and obstructed thereby; that from 'the meeting of the stream and tide-water, at 'the place where the bridge is contemplated, a 'tendency will be produced in the impeded stream-'water to deposit the earthy particles with which 'it is charged in time of freshes, and by which 'they apprehend the present, entire, main and 'deep channel may be divided into many small 'and narrow passages, to the great injury of the 'navigation." This, sir, is the bare assertion of the counter-memorialists; they have not deigned to state one single fact, or adduce the smallest proof in support of a result which they have taken for granted will be inevitable. Although the proof rests upon the opponents to this measure, and not upon its friends, yet I am willing and prepared to prove, by the best evidence the nature of the case will admit, that the navigation of the Potomac instead of being injured will be greatly benefitted by the erection of this bridge. Sir, the evidence I shall offer is drawn from experience. It is known that in Europe as well as in this country, piers have been sunk for the express purpose of deepening the channel, and improving the navigation of rivers, and if this experiment has succeeded in all other countries and rivers, surely it will not fail in the Potomac. It is not to be believed that the Potomac is unlike every other river in the world. But, sir, if we had not the aid of experience before us, common sense and common reason would revolt at the idea of injuring the navigation in the manner stated by the counter-memorialists. If you oblige vessels of all descriptions to pass through your draw and of course pursue the same channel, will it not have a tendency to deepen and clean the channel, by agitating the sediment

which may have settled there, and which will by that means be swept away by the current? and instead of a number of small channels, will it not have the opposite effect of improving and deepening the only main channel? Surely this must be the effect. But, Mr. Chairman, whilst I am unwilling to believe that the erection of this bridge can in any manner whatever injure the navigation of the Potomac; yet I will candidly admit that the vessels passing to and from Georgetown will experience some little inconvenience at the draw; but that inconvenience will be so very trifling that it will be entirely lost in a comparison with the great general good which will result to the community. Having proved, as I trust, satisfactorily, that the navigation of the Potomac cannot possibly be injured by the adoption of this measure, let us now examine the inconvenience to which vessels passing the draw will be subjected, for this appears now to be the only remaining ground of investigation. We have been told by gentlemen on this floor well acquainted with the building of bridges and of their effects, that little or no detention is experienced in passing the draws. That it frequently happens that vessels pass through without lowering a sail or being detained a single instant when they have a fair wind, and that at no time is it necessary to detain them longer than from five to fifteen minutes. If this information is correct, (and we cannot possibly doubt it,) where, let me ask, is the very great injury to the very few vessels that will have to pass this draw? When I say very few, Mr. Chairman, I have reference to the statement made the other day by my honorable colleague, the chairman of the committee, whose report is now the subject of discussion. He then told us that his statement was taken from absolute entries made at the collector's office at Georgetown for the last seven years, and in that time only twenty-one ships, six brigs, one hundred and thirty-two schooners, and fifty-two sloops had been entered there, making in the whole two hundred and eleven vessels of all descriptions. My colleague at that time omitted to mention, or was not apprized of the fact, that of the vessels entered at Georgetown, a very considerable proportion never went there, but were destined for, and actually loaded at the Eastern Branch. It is very well known that within the last seven years a number of large vessels were loaded at the Eastern Branch by Mr. Barry alone, who was at that time engaged in making large shipments of flour and biscuit to the West Indies; yet all these vessels, as well as a great number employed in removing from Philadelphia the furniture of Congress, of the President, and of the public officers, together with those employed in bringing stores, &c. for the navy yard on the Eastern Branch, were all entered at Georgetown, that being the only port of entry for Georgetown and the City of Washington, thereby giving to Georgetown an appearance of commerce which she is not really entitled to. I have ascertained that some years ago several foreign vessels resorted to the port of Georgetown to carry away the tobacco of that town and Bladensburg, and that the ships used to lay in the Eastern Branch to obtain their cargo from both places. That this trade has declined cannot be denied, for it is an incontrovertible fact that the only ship destined for Georgetown last year, called the William Murdock, Captain Tom, was loaded at Barry's wharf, on the Eastern Branch, because there was not sufficient water over the bar below Georgetown to admit her passage to and from that place. Now, sir, from the whole number of vessels of all descriptions entered at Georgetown for the last seven years, we may fairly deduct one-fourth for those which never went there; there will then remain 158 as having actually passed up the river to that place during that time; which, divided by seven, will be something less than twenty-three vessels in each year, and not quite one for each fortnight. Thus, then, sir, this mighty obstacle—these great delays by a drawbridge—after investigation become very inconsiderable. Indeed the first is proven to be nothing, and the last too trifling to deserve serious consideration. But, Mr. Chairman, in order to remove every objection, or even doubt, which can possibly exist with any part of the Committee, I am willing to insert a clause in the bill obliging the Bridge Company to compensate for any loss by detention at the draw.

I have endeavored to show that the erection of this bridge cannot injure the navigation of the river, nor subject to much inconvenience the very few vessels which may pass it. It is now proper that I should state the advantages which will result to the community at large from its erection. It is hardly necessary, I presume, sir, to state the difference in despatch, in safety, and in comfort, between a bridge and ferry, even where the distance is the same; but when a saving of nearly one-half the distance is effected in favor of the bridge, the advantages are too obvious to be resisted. From a calculation made by my colleague (Mr. THOMPSON) the other day, the public will save, (agreeably to a statement of expense furnished from the General Post Office Department,) in carrying the mail alone, between five and six hundred dollars per annum, and in the mileage of the members of Congress, south of the Potomac, about the same sum. This is certainly no great consideration with the Government, in a pecuniary point of view, but at the same time it ought not to be entirely overlooked. It is worth saving. We ought not to forget the admonition of the gentleman from Maryland, (Mr. NELSON,) the other day, upon the subject of economy. He then told us what his grandfather, an old Scotchman, once told him: "That many mickles would make a muckle—take care of the pence, and the pounds would take care of themselves." I agree perfectly with that gentleman's grandfather, in this particular at least, and think we ought not to waste the public money because the sum may appear trifling.

The saving to travellers of every description will be incalculably great. Those who travel in the public stage or other hired carriages will save (at the rate of stage fare from Georgetown to

Alexandria) at least seventy-five cents going and the same returning, making a dollar and a half for each passenger per day. Every description of travel from New Hampshire to Georgia will save in an equal proportion; but the saving of money bears no proportion to the saving of time. The population of the District is increasing very fast, and shall the eastern and western parts of it be for ever divided by an obstacle so easily surmounted? Shall the Potomac be an eternal barrier to their intercourse, when a bridge can be so easily thrown across it? and at the expense of a company, too, who will ask no aid from the Government. And will you force, not only the inhabitants of the District, but near five millions of your citizens to the south and north of the Potomac, who may occasionally wish to travel in different directions to the seat of Government, to go the circuitous route of Georgetown, over a ferry, at sometimes impassable, and at all times disagreeable, and a road, too, extremely bad indeed, when they can pass with great comfort, safety, and expedition, a good bridge and an even paved road at least four or six miles nearer? Is this city never to increase? Is it forever to be excluded from a communication with the Virginia shore but by a ferry? Are the mails and stages always to be delayed by a ferry? Are the citizens of every description always to be severed, except by a circuitous route and dangerous ferry? I trust not. It is impossible. A bridge must and will be built, at some time or other, and the sooner it is done the better. The people will not remain longer unconnected, and be silent; the public voice demands it at our hands, the public good requires it, and it ought to be done. We have often heard, even upon this floor, the Metropolis of the Union compared to a wilderness. Sir, the comparison is not altogether unjust; it is indeed a wilderness, and I am sorry for it, but I trust and hope it will not long remain so. It is time that the fostering hand of the Government had been extended to its improvement, then indeed we might hope to hear no more expressions of discontent at the situation and accommodation at this place. The erection of a bridge would open to the city a very abundant and cheap market at Alexandria, by which the inhabitants of this place could be enabled to keep better and cheaper boarding-houses, and thereby silence at least one of the objections to the continuance of Congress here. But we are called upon to say "where is there a commercial town above a bridge?" I answer, in almost every direction, both in this country and Europe. I am told, and I believe correctly, that nine-tenths of the city of London is above its bridge, although it has no draw. In almost all the States northward of this, there are bridges of this description, and I am told by gentlemen coming from that country, and well acquainted with their effects, that no serious injury has been experienced by commercial towns above them, nor has the property fallen in value, or improvement been checked in those towns by the erection of their bridges. In Massachusetts alone there are a great many bridges below large and flourishing towns, some of which I will venture to say have ten times the commercial importance of Georgetown. Roxbury, Cambridge, and Charlestown, in Massachusetts, have bridges. The first two are ports of delivery, which is the best evidence of their flourishing situation. There are also in Massachusetts two other bridges, Chelsea and Malden, through both of which you must pass to get to Medford, a town of considerable commercial importance, and we have been told that property above these bridges has experienced no diminution in value in consequence of their erection. But why need we travel to Europe, and to the northward for examples? We have almost within our view several drawbridges, through which vessels pass to commercial towns above them, and yet I have never heard any inconvenience complained of. There is one over the Eastern Branch within this District, and another on Occoquan, at a small town called Colchester, in Virginia. Although the commerce above the first is now very inconsiderable, yet there was a time within my recollection when more vessels were loaded upon the Eastern Branch than at Georgetown at this time. Above the latter bridge at Colchester, and at the head of the navigation, is a little town called Occoquan, in a state of rapid improvement. There are in it two or three very large manufacturing mills, and several stores, and belonging to it several vessels. This little town has started into consequence since the erection of the bridge below it, whilst Colchester, a place of ancient standing, and below the bridge, too, has dwindled into nothing. There is not belonging to it a single vessel nor in it a single store. This is a case precisely in point. Colchester, a place of ancient establishment, and below the bridge, too, has sunk into nothing; whilst the town of Occoquan, only two miles above it, is progressing rapidly to a state of commercial importance. Thus it is plainly proven that bridges have not the injurious effects upon commerce above them, which the people of Georgetown would wish us to believe. No, sir, it is not to these little artificial causes that commercial towns owe their rise or fall, but to enterprise and capital.

We have been told by the counter-memorialists, and it has been reiterated here, "that natural advantages ought not to be injured by artificial means." Upon this subject, Mr. Chairman, the people of Georgetown ought to have been silent; they are not aware of a retort which this objection will force upon them. Will they recollect, sir, that to artificial means alone they are indebted for the greatest part of their commerce? Will they recollect that from artificial means alone the towns of Baltimore and Alexandria have been deprived of their natural advantages to the exclusive benefit of Georgetown? Do they not know that the improvement of the Potomac above them has diverted from its natural course a commerce which belonged to others and which now enriches them? And will they permit me to remind them that even to the erection of a bridge they owe no inconsiderable share of their commerce? Yes, sir, I will remind the peo-

ple of Georgetown of advantages from artificial means which they ought not to have forgotten, because to them, in a great measure, they owe their present commercial standing. The bridge below the Little Falls, and at the head of the navigation of the Potomac, has given to Georgetown a considerable quantity of produce from Virginia which must otherwise have gone to Alexandria. I am very far from objecting to the means by which the importance of Georgetown has been acquired. I was pleased with the erection of a bridge at the Little Falls, because it was a convenience generally, and particularly so to that part of the country from which I come, and from the same principle I should be glad to see a number of other bridges erected, both above and below the Falls. I have always thought and still think there ought to be a bridge at Georgetown, and if the people of that place are of the same opinion, and will propose it, I will promise to vote for it. Is it necessary already to remind the people of Georgetown that for their exclusive benefit one arm of the river Potomac has been entirely closed, by authorizing a dam from Mason's Island to the Virginia shore, which gives to them, in some measure, a monopoly of the flour which comes down the Potomac? and are we now to be told by the same people that we possess no Constitutional right to authorize a bridge across the Potomac for the public good, even with a free passage to vessels of all descriptions, and that even if we possess the right, it would be a wanton and cruel exercise of it? The erection of the dam will certainly prevent flour boats from going to Alexandria at particular seasons of the year, when high winds are frequent, as they will be obliged to go a considerable distance round Mason's Island, exposed to a wide and unprotected sheet of water, which will subject them to considerable danger, even when the wind is moderate; but before the erection of this dam, the boats could go down to Alexandria at almost any season, and with almost any wind, as they could, and did, always keep close to the Virginia shore, and covered by its banks were perfectly secure. This measure, as well as the erection of the bridge at the Falls, was evidently injurious to the interests of Alexandria. Yet, sir, had we any complaints from that quarter? Were our rights questioned by them, and our motives censured? Were we told by them that "no place should calculate on artificial advantages, which cannot be afforded without depriving other places of their natural advantages?" No, sir, they were silent; not even a murmur escaped them; they had no wish to deprive their neighbors of any advantages they could derive from "artificial means," although their interests should in some measure be affected by it; they felt none of those jealousies which appear now to influence their neighbors. It is well known that at the last session of Congress I was in favor of the causeway from Mason's Island to the Virginia shore. I did not believe at that time it could do any injury to the public, and as the people of Georgetown supposed it would benefit them by reclaiming a channel considerably injured by natural causes, I could have no reasonable objection to the experiment, and of course gave to it my support. Mr. Chairman, I have now examined such parts of this subject as have not been generally adverted to by those who have preceded me; I must now be permitted to answer some observations which have fallen from gentlemen on the other side of the question.

The honorable gentleman from Maryland (Mr. NELSON) has made one point of objection to this measure, which I had not expected from any quarter, and particularly from himself. We are now told by that gentleman that we have no Constitutional right to authorize the erection of this bridge; that we are forbidden by the compact between Virginia and Maryland. I do not mean, at this time, to enter into an examination of this objection; I consider it as having been completely refuted and settled by a vote of this House, at the last session of Congress, on the subject of the causeway from Mason's island to the Virginia shore; and I am unwilling to trespass unnecessarily upon the patience of the Committee. But I would ask the gentleman from Maryland how it has happened that he who, at the last session, so ably vindicated the Constitutional right of Congress to build a causeway (which is a complete obstruction) should now deny that right in the case of a bridge, which is no obstruction at all, and which will be of great public utility? The gentleman has, however, acknowledged his error, confessed his sin, and asks forgiveness, and he ought to receive it. But we are again told by the gentleman from Maryland "that the petitions 'upon this subject are old petitions, presented two 'or three years ago; that he had no idea that such 'a measure would be acted upon, and that he was 'taken by surprise." That the petitions are old cannot be denied, but that the gentleman should be taken by surprise is really astonishing. Sir, it was unnecessary to have new petitions; the gentleman ought to recollect that, at the first session of the last Congress, the select committee to whom this subject was referred, made a report in its favor, which, for want of time, was not acted upon during the session; that, at the last session, it was revived, and the committee again reported in its favor; but, from the pressure of important business, it was not acted upon. It has now been called up, as part of the unfinished business of the last session, and referred to another committee, who, after a consideration of six or seven weeks, have again reported in its favor. Can the gentleman from Maryland now say he has been taken by surprise? Certainly not. He has been a member of the House from the commencement of this business, and ought to have known its progress; every committee to whom this subject has hitherto been referred has uniformly reported in its favor, and, I believe, it would be extremely difficult for the Speaker of this House to appoint a committee indiscriminately who would not make the same report. But, says the gentleman again, "Congress may legislate over a part of the Poto-'mac, they may build a causeway, but they have 'no right to build a bridge entirely across the 'river." This is certainly very extraordinary doctrine; if we have a right to a part we certainly have a right to the whole of the Potomac, within the District of Columbia. An honorable gentleman from Georgia, (Mr. EARLY,) also objects to our right to legislate upon this subject; "because," says the gentleman, "by the compact 'between Virginia and Maryland, neither State 'has a right to obstruct the navigation of the Po-'tomac, and the erection of a bridge, even with a 'draw, will be such an obstruction as is prohibit-'ed by that compact;" and, to give us the true definition of the word "obstruct" he has favored us with Johnson's Dictionary as an authority, which is conclusive with him, "because it is the plain, good old English definition," to use the language of the gentleman. In the gentleman's Dictionary, it is found that "obstruct" means to hinder, impede, &c.; and, he has triumphantly asked, if this bridge will not hinder and impede? And if so, whether it will not obstruct? I will, in my turn, ask the gentleman from Georgia, whether Congress has not a right to establish quarantine regulations within the District, and to hinder vessels from proceeding for a certain number of days? And whether they have not a right, if an enemy's squadron was approaching their capital, to prevent their approach, by throwing across the channel a chevaux-de-frise or any other obstruction, they might think proper, for the public safety? Surely this right will not be questioned; and yet by the gentleman's authority, his good old English authority, it would be a hindrance, an impediment; and, of course, such an obstruction as is prohibited by the compact. But, in what light is this subject viewed by the State of Maryland? Has she conceived the erection of a bridge across the Potomac as violating the compact? I believe not, sir. We find that the Legislature of that State passed a law in the year 1791, previous to the assumption of jurisdiction of the territory by the United States, authorizing the erection of a bridge at or near Georgetown. As the river Potomac is navigable for some distance above Georgetown, we must consider the passage of this law as expressive of an opinion of the Legislature of Maryland, that the erection of a bridge below the head of tide water, is not such an obstruction or injury as is prohibited by the articles of compact between the two States. By this law a bridge is authorized as well below as above Georgetown. Indeed, it might have been built at the very place where the present bridge is contemplated.

An honorable gentleman from Pennsylvania (Mr. FINDLEY) also denies the right of Congress to legislate on this subject, but yet he admits the right to improve. Shall we attempt to improve that to which we have no right? Certainly not. He has also attempted to cast an indirect censure on the committee, by insinuating that, as this report differs from a spurious statement, just laid upon your table, they were influenced by improper considerations. How extremely unjust is this imputation! The select committee to whom this subject has been referred, have delayed their report for several weeks, that they might be enabled to procure all the information upon which to form a correct and impartial decision. Their sittings were public and open to all parties, and they formed their opinion from documents alone, submitted to them. If the opponents of this measure had intended to act fairly, they would have attended the committee, and submitted to them their objections and statements, and if there had appeared contradictions as to fact, it would have been the duty of the committee, before they reported, to have investigated the subject, and to have ascertained the truth. But this course, it seems, they did not think proper to pursue; they were afraid of investigation. And they have delayed their statements until the subject is already under discussion, when it is impossible to contradict it by investigation. I will say nothing of the impropriety of this mode of proceeding, or of the indecency of the statement, but will only notice the difference in distance in a survey said to be a correct one, which was furnished the committee three years ago, and by which they have been governed; and, by a survey recently made and secretly circulated among the members of this House only since the discussion of this question. By the first survey, (the correctness of which has never been contradicted,) there appeared to the committee to be a saving of five miles and seven-eighths between the Georgetown route and the bridge route to Alexandria, from the Capitol. But, it is said, by this new and illegitimate survey, which has found its way into this House at a very unseasonable time, and under circumstances of extreme suspicion, that the difference in the two routes is a mere nothing, about a mile, or, perhaps, a little more. I will not vouch for the accuracy of the first survey; it is possible there may be some little mistake in calculation, but I will vouch for the integrity of the gentleman who made it. I have long known him, and an honester man does not exist. But can the committee hesitate in their opinion of the relative correctness of the two surveys under all circumstances? If it be possible, I beg them to cast their eyes to the town of Alexandria, which is due south from the Capitol, and then to Georgetown and over the ferry, which is about three-and-a-half miles in a northwestern direction, and they will find that the original survey cannot be incorrect.

But there is another circumstance which proves indisputably the correctness of the first survey. General Mason, who is certainly more interested in opposing the erection of this bridge than any other person, appeared before a former committee upon this subject to state his objections to it, and I have been told by a member of that committee that he made no objection to the correctness of the survey. But, Mr. Chairman, if it be possible to doubt, as to the correctness of the two surveys, I beg the Committee to afford time for ascertaining the truth by voting for the present resolution, and enable us to bring in a bill, before the discussion of which an opportunity may be given of resurveying the different routes, and which will enable

us to vote understandingly upon the subject. I will now answer an inquiry made by the gentleman from Pennsylvania, (Mr. FINDLEY.) It is asked what is meant by the public interest? Is it, says the gentleman, Georgetown, Alexandria, or the City of Washington? I answer, no; it is neither. I feel no partiality for either place; as a Representative upon this floor, I know them not; but it is the nation at large whose interest it is my wish to promote by this measure; and it is the immediate convenience to my constituents which I am desirous to facilitate and assist. Sir, I have no partiality upon this occasion. If I could be influenced by personal feeling, I know of no place which has a fairer claim than Georgetown, and I should be happy of an opportunity of manifesting it, upon any proper occasion. For its inhabitants generally I have the highest respect, and for those in particular with whom I have had the pleasure of an acquaintance, I will add, partiality and friendship; but considerations of this kind must yield to public duty.

We are assembled here to consult and promote the general good, and I should be unfaithful to my own judgment if I did not give to this measure my decided support.

Mr. QUINCY supported; and Messrs. DAWSON, G. W. CAMPBELL, MAGRUDER, VARNUM, and MASTERS, opposed the resolution; when the question was taken, and the resolution carried—yeas 60, nays 51. The Committee immediately rose and reported their agreement to the resolution. The House took the report into consideration. On concurring in the resolution the yeas and nays were called; and were—yeas 61, nays 49—as follows:

YEAS—Joseph Barker, Burwell Basset, George M. Bedinger, Silas Betton, William Butler, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Ezra Darby, Elias Earle, Ebenezer Elmer, William Ely, James Fisk, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, William Helms, David Hough, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Thomas Newton, jr., John Pugh, Josiah Quincy, Thomas M. Randolph, Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Elphalet Wickes, Nathan Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, junior, Isaac Anderson, John Archer, David Bard, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, Joseph Bryan, George W. Campbell, John Campbell, John Chandler, Samuel W. Dana, John Davenport, jun., John Dawson, Peter Early, James Elliot, John Fowler, Charles Goldsborough, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, James Holland, David Holmes, Patrick Magruder, Robert Marion, Josiah Masters, Jeremiah Morrow, John Morrow, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, jun., John Rea, of Pennsylvana, John Rhea of Tennessee, Thomas Sandford, James Sloan, John Cotton Smith, John Smith, O'Brien Smith, Samuel Smith, Samuel Tenney, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, and Marmaduke Williams.

Ordered, That a bill, or bills, be brought in, pursuant to the foregoing resolution; and that Mr. THOMPSON, of VIRGINIA, Mr. CAMPBELL, of Maryland, Mr. LEWIS, Mr. MAGRUDER, and Mr. BUTLER, do prepare and bring in the same.

Mr. EARLY moved that when the House adjourn, they adjourn till Monday.

Mr. CROWNINSHIELD hoped the motion would not prevail; but that the House would proceed without delay to the great national concerns that demanded their attention.

Messrs. QUINCY, NEWTON, and EARLY, hoped that the motion would prevail; that time might be allowed for reading the voluminous documents presented, and for reflection on the important subject expected to come under view on Monday—the non-importation with Britain.

The yeas and nays were then taken on Mr. EARLY's motion, which was agreed to—yeas 64, nays 54, and the House adjourned until Monday.

MONDAY, February 3.

A memorial of the merchants of the town of Boston, in the State of Massachusetts, was presented to the House and read, stating that they have witnessed, with mingled feelings of indignation towards the perpetrators, and of commiseration for their unfortunate countrymen, the insults and barbarities which the commerce of these States has sustained from the cruisers of France and Spain; but that it is their object, in the present memorial, to confine their animadversions to the more alarming, because more numerous and extensive detentions and condemnations of American vessels, by Great Britain, and to advert to the principles recently avowed and adopted by her courts, relative to neutral trade in articles of colonial produce: principles which, if admitted, or practised upon in all the latitude which may fairly be inferred to be intended, would be destructive of the navigation, and radically impair the most lucrative commerce of our country; and praying that such measures may be adopted by negotiation, or otherwise, in the wisdom of the Government, as will tend to disembarrass our commerce, assert our rights, and support the dignity of the United States.—Referred to the Committee of the Whole on the state of the Union.

A petition of the crew of the late frigate Philadelphia, signed by Christopher Simmons for himself and the rest of the said crew, was presented to the House and read, praying relief in consideration of present distress, occasioned by sufferings sustained while in captivity at Tripoli.—Referred to Messrs. LEIB, GOLDSBOROUGH, and CHANDLER.

Mr. GREGG, from the Committee on Public Lands, made a report on the petition of F. Messonier, praying either a donation of land or an extension of the usual time of payment therefor, to aid him in the cultivation of the vine. The report is unfavorable, not only to the prayer of this individual case, but likewise to the principle on which it is founded.

The House immediately took the report into consideration, and concurred in it without division.

A bill was received from the Senate, making a further appropriation for the support of a library. The bill appropriates, in addition to the unexpended balance of a former appropriation, the yearly sum of $1,000 for five years, to be applied under the direction of a joint committee of three members of the Senate and three members of the House of Representatives, to be appointed every session.—Referred to a Committee of the Whole to-morrow.

A bill was likewise received from the Senate to repeal in part the fourth section of an act to authorize the grants of land to the French inhabitants of Galliopolis, and for other purposes therein mentioned. This bill repeals so much of the act referred to as imposes the condition of actual settlement.—Referred to the Committee on the Public Lands.

On motion of Mr. LEIB, the House went into a Committee of the Whole on the report of a select committee making extra allowances to certain officers of the House for extra services rendered during the last session.

The resolution authorizes the payment of $300 to the Clerk, $200 to William Lambert, Josias W. King, the Sergeant-at-Arms, the Doorkeeper, and the Assistant Doorkeeper, each, and $50 to Elexius Spalding and John Philips, each.

On motion of Mr. FINDLEY, $100 were allowed to JAMES LAURIE, Chaplain.

After a short debate the resolution was agreed to—ayes 47, noes 42.

The Committee then rose, and the House took up their report, and concurred in the resolution as amended—yeas 60, nays 55.

A Message was received from the President of the United States, enclosing a letter from the Governor of South Carolina, stating the cession to the United States of certain sites of forts, &c., on certain conditions.—Referred to the Committee of the Whole on the state of the Union.

A Message was likewise received from the President of the United States, laying before the two Houses, for providing the means of fulfilling them, six Indian treaties, for the extinguishment of Indian rights to lands within the United States.

The President stated that the Senate had advised the ratification of these treaties, viz:

1. Treaty with the Wyandots, &c.; 2. With the same, &c.; 3. With the Delawares; 4. With the Chickasaws; 5. With the Cherokees; 6. With the Creeks.—Referred to the Committee of Ways and Means.

On motion of Mr. STANFORD, the House resolved itself into a Committee of the Whole on the bill altering the time for holding the Circuit Court for the district of North Carolina.

After the blanks were filled, Mr. MACON offered a new section for increasing the salary of the district judge of North Carolina from $1,500 to $2,000.

After debate, this motion was lost by a great majority, as were other motions, successively made, to allow a salary of $1,800, $1,700, and $1,600.

The Committee rose, and reported the bill, and the House ordered it to a third reading to-morrow.

INTERCOURSE WITH GREAT BRITAIN.

Mr. J. RANDOLPH said, the House would recollect better than he did, for he was not present at the time, the very important resolution referred on the motion of the gentleman from Pennsylvania, (Mr. GREGG,) whom he saw in his place, to the Committee of the Whole on the state of the Union. It was no part of his purpose at this time to discuss the merits of that resolution, and it was still further from his purpose to throw any impediment, or create any delay in bringing forward that discussion; the more so, as he considered the whole country south of the seat of Government, and more particularly that part of the country in which he resided, decidedly interested in a speedy and prompt reception or rejection of the proposition. Indeed, such was his opinion of the necessity of its being speedily acted upon, that as soon as he saw the resolution which had been offered, which was not until Friday, when it was laid on their table, the first suggestion of his mind was to move the going immediately into a Committee of the Whole on it; as those gentlemen with whom he had the honor of holding personal and political intercourse would testify. But a more mature reflection had convinced him that before the resolution could receive that ultimate decision which he trusted it would receive, the House stood in need of material information, which, however it might be in the possession of this or that individual, was not possessed by the body of the House. His object in addressing the House was to obtain this information from the proper authority, from the Head of a Department, which was the only way in which information of a satisfactory nature, such as ought to influence the decision of the House, ought to be obtained. Mr. R. then submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the exports and imports of the United States, to and from Great Britain and Ireland, and the American colonies of the same, for the two last years, distinguishing the colonial trade, from that of the mother country, and specifying the various articles of export and import, with the amount of duties payable on the latter.

Mr. SMILIE expressed himself in favor of the resolution, and observed that the species of information called for had not been received by the House later than 1803.

Mr. CROWNINSHIELD was of opinion that it would be best to extend the resolution so as to embrace the British Provinces of Nova Scotia and New Brunswick, and the provinces beyond the Cape of Good Hope.

A conversation of some length ensued between

Messrs. Crowninshield, Bidwell, and Alston, on the one side; and Messrs. J. Randolph and J. Clay on the other, on amending the resolution. The former gentlemen were for amending the resolution so as to embrace a period of peace as well as war, and to obtain information from "all the dependencies of Great Britain," which the latter gentlemen opposed on various grounds, one of which was, that if this additional information were desirable, it could be obtained by a distinct resolution.

On Mr. Crowninshield's motion to amend the resolution, so as to extend it to "British dependencies," generally, the House divided—ayes 43, noes 67.

Mr. Nicholson suggested the propriety of adding the following words to the resolution, in which the mover acquiescing, they were incorporated into it:

"And also a statement, showing in detail the quantity and value of the like articles of import brought into the United States, from other nations respectively, with the rate and amount of duty thereon."

The resolution, thus modified, was agreed to without a division.

Mr. Crowninshield then moved the following resolution. He said, in substance, it was the same with the amendment which he had proposed to the resolution of the gentleman from Virginia:

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the amount of the exports and imports to and from the British dependencies, other than those of America, for the last two years.

This resolution was likewise agreed to without a division.

PETITION OF FRANCIS AMORY.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, to whom was referred, on the 8th instant, the petition of Francis Amory, merchant, of Boston, Massachusetts, made the following report:

The following facts are stated in the documents accompanying the petition. That the petitioner was the owner of the ship Astrea, an American vessel, commanded by Solomon Stanwood, which sailed from Batavia, in the month of December, 1804, bound to Boston, and loaded with a cargo of sugar and coffee. That, on the 17th of January following, being then in the Indian ocean, the ship experienced a violent hurricane, and was dismasted, and otherwise so wrecked and disabled, as to be obliged to put into the Isle of France for the preservation of the lives of the crew, and the property on board. That, upon examination in that island, finding the ship not seaworthy, and that it was impossible to repair her, except at an expense of sixteen or seventeen thousand dollars, which greatly exceeded her then value, the master was obliged to abandon her, and she was condemned and sold for the benefit of the underwriters, and all concerned. The master and supercargo now state, that, as no American bottom could be obtained to transport the cargo to America, they chartered the Swedish ship Pelee, and shipped the same in that vessel to Boston, where she lately arrived. The Collector of Boston charged the alien or foreign duty on the Pelee's cargo, as she was a foreign ship, and it is this additional duty which the petitioner is desirous should be remitted to him, upon the ground that the cargo was originally shipped in an American vessel, and that the change of bottom, which subsequently took place, was an act of necessity beyond his control, and for which he ought not to suffer. It will be observed by the House, that the cargo in question was imported into the United States in a foreign ship, and it is known that the character of the ship determines the amount of duties payable upon the cargo imported in her. The cargo may be American property, but if the ship is sailing under a foreign flag, or even under the flag of the United States, and is not furnished with an American register, the cargo is liable to the extra duty alluded to, and the ship herself is charged with the foreign tonnage duty. By the laws now in force, it will be found that all goods, wares, and merchandise, imported into the United States in vessels not of the United States, are subject to pay the addition of ten per cent. on the amount of duty, chargeable upon similar articles imported in American vessels. The following statement will point out the difference of duty between a foreign and an American ship, and their respective cargoes, upon entering a port of the United States.

American Ship.

For instance: A cargo is imported from a foreign port or place, in an American vessel, and the duty amounts to - - - - - - - - -	$1,000
Tonnage duty for the ship, supposed to be of the burden of 200 tons, at six cents per ton	12
Duty on the cargo, imported in the American ship, including her duty of tonnage - -	1,012

Foreign Ship.

If we presume the cargo to be imported in a vessel not of the United States, the first duty is - -	$1,000
To which add the ten per cent. additional duty for foreign vessels - - - - - -	100
Add, also, the foreign tonnage for 200 tons, at 50 cents per ton - - - - - -	100
And the foreign light money, for the same tonnage, at 50 cents per ton - - - - -	100
The amount of tonnage and the light money, for the foreign ship and the duty on her cargo, will be - - - - - -	1,300

Here, it is manifest, the advantage is on the side of the American vessel, in our own ports; but the disadvantages our vessels suffer in foreign ports, from the extraordinary impositions on our commerce and shipping, more than counterbalance the trifling additional expenses to which foreign vessels are subject upon entering the ports of the United States; and if the United States should, at once, repeal all the alien or additional duties payable by foreign ships, both on imports and tonnage, upon the condition that other nations would adopt the same liberal and just policy towards American ships and cargoes, when entering their ports, placing them on an equal footing with their own, commerce would be free from some of the shackles with which it is at present burdened, and a fair competition in every market would soon determine who could afford to sell cheapest. This is all that is wanted to give to American shipping and commerce the free scope to enterprise, and a ready and advantageous sale of our productions, with cheap returns for the consumer. The committee have been led to make these observations, previous to giving their opinion on the present application for a remission of the additional duties imposed on the cargo of a foreign ship. They seemed to have a bearing on the subject, and are supposed to be of some importance, from a consideration that it would be inexpedient to allow such a claim without first repealing the discriminating law.

If the duty on the cargo is returned, it would certainly be as fair to return the foreign tonnage duties on the ship. The committee are not informed of any one instance where either has been done. It is true, this was a constrained importation, but it is already seen, if the cargo had been brought in any unregistered vessel of the United States, it must have been charged with the additional duty. The cargo came from a foreign port, and was of foreign production, and imported in a foreign built vessel. It having been once on board an American ship seems to make very little difference in its favor. It ought to give it no new or extraordinary privileges. Let the committee be allowed to reverse the case, and to suppose the Astrea had been the foreign ship, and the Pelee the American ship, and all the other circumstances had been similar in every respect. The cargo then is imported in the Pelee, entitled to American privileges, when it might have been imported in the Astrea, if no accident had happened to her on the voyage. Should the American or foreign duties be charged on such an importation? Surely, the American duties. And would it not have been manifestly unjust to have charged the owner with the foreign duties on the cargo of the American ship, merely because it was taken from a foreign ship? And yet, if the principle is correct in one case, it must be so in the other. If, however, the transshipment had been made at sea, from an American to a foreign ship, under circumstances of eminent distress, it would have placed the claim on somewhat higher ground; but, even in this case, the committee would hardly have felt themselves authorized to propose a return of the additional duties. The amount of the duty on this importation is not stated in any documents accompanying the petition. If the cargo was re-exported, the ten per cent. additional duty was retained, besides the usual three and a half per cent. deducted from the drawback.

The committee are satisfied, if this claim was allowed, it would lead to many others of a similar nature, and the law being clear and explicit on this head, they are of opinion that the House ought not to grant the prayer of the petitioner, and they recommend that he should have leave to withdraw his petition, with the documents accompanying it.

The report was referred to a Committee of the Whole on Thursday next.

Tuesday, February 4.

The Speaker laid before the House a letter from the Governor of Orleans, covering a petition from the Regents of the University of that Territory, praying a donation of lands.—Referred to the Committee on Public Lands.

An engrossed bill for altering the time for holding the circuit court in the district of North Carolina was read the third time, and passed.

The House went into Committee of the Whole on the bill respecting bonds given by Marshals. After amending the same the Committee rose, and the House ordered the bill to the third reading.

A Message was received from the President of the United States as follows:

To the House of Representatives of the United States:

Sundry letters relative to Hamet Caramalli, in addition to the documents which accompanied my Message of January 13th, having been sent to the Senate, on their particular request, the same are now transmitted to the House of Representatives also, as the same subject is before them. TH. JEFFERSON.

February 4, 1806.

The said Message was read, and, together with the documents transmitted therewith, referred to the committee appointed, on the thirteenth ultimo, on a Message from the President of the United States respecting the application of Hamet Caramalli, ex-Bashaw of Tripoli.

YAZOO CLAIMS.

Mr. Gregg called for the order of the day on a resolution offered by him to repeal so much of an act as authorizes the appropriation of lands to the Yazoo claimants.

Mr. Smilie moved to postpone the consideration of this resolution to Monday week, that in the mean time the national business might be transacted, undisturbed by the irritation which this subject generally gave rise to.

Mr. Alston declared himself in favor of a compromise by commissioners. If this course should be disagreed to, he would have no objection to agree to the resolution offered by the gentleman from Pennsylvania.

Mr. Gregg trusted the motion for postponement would not prevail. The resolution had been submitted very early in the session. The mover had waived calling it up this day that the national business might be first attended to. In this business the House had progressed to a point, at which it appeared convenient to take up the resolution. Information had been required, which would not probably be received for some days. In the interim a decision might be had on the resolution. The subject had been so long before the House, and had been so fully discussed, that there did not appear to be occasion for much debate, nor did he think the irritation alluded to by his colleague, would take place. He hoped, if the subject was entered upon, the discussion would be conducted with that prudence and temper that were essential to the discovery of truth.

The motion was agreed to—yeas 65.

IMPORTATION OF SLAVES.

On the motion of Mr. Sloan the House went into a Committee of the Whole on the bill imposing a duty on slaves imported into the United States.

A motion made by Mr. Gregg, requiring the duty to be paid at the time of entry, was agreed to—yeas 54, nays 24.

Mr. J. Randolph moved, with the view of getting rid of the business, that the Committee should rise.

The motion was supported by Messrs. J. Ran-

DOLPH, and HOLLAND, and opposed by Messrs. SMILIE, FISK, SLOAN, and SOUTHARD; and disagreed to—yeas 42, nays 61.

Mr. BIDWELL observed, that it had been objected by several gentlemen, particularly by one of his colleagues, against this bill, laying a duty of ten dollars a head on the importation of slaves, that it would virtually sanction and legalize the practice, by making it a source of revenue. The objection, he thought, was not well founded, because the legality or illegality of such importation was not within the control of the General Government. Congress had no power to prevent the importation until the year 1808. All they were authorized, in the meantime, to do towards its prevention was to lay a ten dollar duty. If they had authority to prohibit, and instead of a prohibition, should levy a tax, it might be said, with some propriety, that, by so doing, they comparatively encouraged the trade. Or if, after the time when a prohibition can, by the Constitution, be laid, Congress shall suffer a tax only to be continued, the censure may be incurred. He was, therefore, of opinion that the continuance of the tax ought to be limited to that time. Accordingly, he moved to amend the bill by inserting, after the word "hereafter," in the fourth line, the words "and before the year of our Lord one thousand eight hundred and eight."

Mr. SLOAN said, by way of objection, that it was not yet certain that such a prohibition would then be imposed.

Mr. BIDWELL replied, that whether a prohibition should then be adopted or not, he thought it would be objectionable to continue a tax, as Congress will have the power to prevent the practice by prohibition. Indeed, he was convinced that an act might now be passed prohibiting such importation after a limited time; and, if this amendment should be adopted by the Committee, he would move, as a further amendment, an additional section to that effect.

The amendment was adopted.

Mr. BIDWELL.—Mr. Chairman, the Committee having adopted an amendment, limiting the continuance of the proposed tax to the period preceding the year 1808, I will now, in performance of my promise, move an additional section, to prohibit the importation altogether after that time. Before I submit the motion, I beg leave to state some of the reasons which induce me to make it, and on which its propriety must depend. In doing this, it is not necessary to trace the history of the slave trade. It is equally unnecessary to consider it, as it respects the principles of justice and morality. It is sufficient to view it in the light of policy alone, and that only on a national scale. For with the political interests of the particular States, any further than they make a part of the national policy, we have no concern. It belongs not to Congress, but to the constituted authorities of each State to regulate its own internal affairs, in this as well as other respects. The States have adopted their own systems. A gentleman from Virginia has told us that that State complained of it, as one of the grievances to which they were subjected, under the British Crown, that the King in Council negatived the acts of their Legislature, prohibiting any further importation of slaves; and that, as soon as they were freed from British shackles by the Revolution, they passed a prohibitory act. The policy was honorable and just. Other gentlemen have mentioned similar laws in their respective States. I may be permitted to add, that the State which I have the honor in part to represent in this House, has gone further. Our Constitution has declared that "all men are born free." The construction given to this Constitutional declaration by our Supreme Judiciary is, that no person properly belonging to the States can be a slave. Thus slavery was abolished at once; and however dangerous such an experiment might be in some other States, it was there effected with perfect safety, as the number of slaves was small. Although I rejoice in this total abolition of slavery in Massachusetts, I would not, as an inhabitant or representative of that State, wish to interfere with the internal regulations of other States respecting the condition of their inhabitants; nor would I consider the question of prohibition, now before us, on any other than national grounds. No political truth, however, is plainer to my mind, than that a further importation of slaves is contrary to the true interest of the United States. It will weaken us as a nation; it will render us more vulnerable in many points; it will increase the danger of insurrections within, and invasions from abroad. The maxims of sound policy, therefore, urge us to prevent such further importation, as far as it may be practicable. We ought not to rest satisfied with State prohibitions, even if every State had prohibitory laws. It is a great national interest, and ought to be guarded by an act of the National Legislature, if indeed it is within our Constitutional limits. On this point I am sensible a new doctrine has been broached and held by some gentlemen whose judgments I value very highly in other cases, although I differ from them in this, that the importation of slaves cannot be prohibited by Congress, even after the year 1808. The sum of the reasoning, in which this novel doctrine is attempted to be supported, is, that the clause in the Constitution providing that the importation of such persons as any of the existing States might think proper to admit shall not be prohibited prior to 1808, is a mere negative provision, without any positive words of grant, and does not consequently give Congress a power to lay such a prohibition after that time; and all powers not delegated are reserved. I agree, sir, that this clause grants Congress no authority on the subject although it evidently implies that such authority is granted in some other part of the Constitution; for it would be useless and nugatory to restrain until a certain time the exercise of a power which does not exist, and cannot therefore be exercised at all. The framers of the Constitution must have understood, that, without such a restriction, Congress might proceed to an immediate prohibition; and that, notwithstanding the restriction, a prohibition may be laid after the limited time. The authority in question is undoubtedly vested in Congress: it is fairly included in the general power to regulate commerce with foreign nations. As a part of the regulation of commerce, Congress may directly prohibit the importation of any article of commerce; or may do it indirectly, by prohibitory duties. The prohibition may be applied to any article which is a subject of merchandise, as everything is which is liable to be bought and sold. Such is a slave. The very principle of slavery is that the slave is the property of his master, subject to transfer by bargain and sale. This is indeed to be lamented, as the gentleman from Virginia has justly observed, but it is nevertheless true. Slaves are therefore articles of merchandise, and, as such, their importation may be prohibited.

The Constitutional restriction applies only to the importation, not the exportation, of slaves; and it extends only to the States existing at the date of the Constitution, and not to the Territories of the United States. Accordingly, Congress have already, by law, prohibited the importation of slaves into the Territories. There are also two acts prohibiting the exportation of slaves from the United States to any foreign port or place, and the transportation of slaves by citizens of the United States, or in vessels of the United States, from one foreign port or place to another. Under what authority were these prohibitory laws created? Under the general power to regulate commerce. The same authority will equally warrant a prohibition of the importation of slaves into the United States after the time specified in the Constitution. But can we now pass an act for that purpose? I think we may, consistently with both the spirit and the letter of the Constitution. The object of the restrictive clause was, to secure to every State which might wish to exercise it, a right to admit slaves until the time limited. The limitation has reference to the termination of this right by the commencement of a prohibition, and not to the date of the act by virtue of which such prohibition might be introduced. The words are, the importation "shall not be prohibited by Congress prior to the year 1808." If we now pass an act prohibiting, after that time, such importation, it is clear that, until that time, the law will not take effect—the prohibition will not commence; in other words there will be no prohibition. In the language of the Constitution, the importation will not be prohibited prior to the year 1808. The act will, in this respect, be like many others which go into operation not immediately after their passage, but at a specified future day. This is not an unusual mode of legislation.

Being satisfied that we are now authorized to legislate on the subject, I think it is expedient to adopt a permanent prohibition, and to make it a part of the present bill. This is a delicate and irritating subject. Judging of the sentiments of others by my own, I believe most of us are reluctantly called to act on it at all. But we cannot avoid giving our vote upon the bill; and, while we are about it, let us go through and finish the business. An intermediate tax alone will not complete it. To render the system entire it is necessary to add a final prohibition. To do it on the present occasion, will effect a saving, not only of time, but also of the unpleasant feelings which may otherwise be excited by another agitation of the subject. Some gentlemen have considered the tax objectionable, as they think it has the appearance of being pointed at one State, which alone continues to permit the importation of slaves, and consequently will have all the duty to pay. I submit to those gentlemen whether the addition of a total and permanent prohibition, operating alike upon all the States, without regard to their existing laws, will not remove that objection and reconcile them to the measure? In another point of view, it appears to me reasonable and proper that our system on this subject should be now established, in order that all persons concerned may have seasonable notice of it, that there may be no room for disappointment or surprise, and that the world may know the policy we mean to pursue. For these reasons, and others with which it is not necessary to detain the Committee, I move the following section in addition to the bill under consideration:

Be it further enacted, That, after the last day of December, in the year of our Lord one thousand eight hundred and seven, no person shall directly or indirectly import or cause to be imported, or aid and abet in importing, any person as a slave, into any port or place within the United States, from a port or place without the same; and no person shall sell or buy any person imported as aforesaid into the United States after the said last day of December, one thousand eight hundred and seven, knowing him or her to have been so imported in violation of this act; and every person so offending and being thereof convicted before a district or circuit court of the United States, (which courts shall have cognizance thereof within their respective districts) shall, for every such offence, forfeit and pay a sum not exceeding —— dollars, and suffer imprisonment, for a term not exceeding —— years; and any ship or vessel, which, after the said last day of December, one thousand eight hundred and seven, shall, with the knowledge and consent of the owner or owners thereof, be employed in importing any person, or have on board any person for the purpose of being imported, as a slave, contrary to this act, shall be forfeited, together with her tackle, furniture, and apparel, and may be libelled and condemned in the district or circuit court of the United States, for any district, in which such ship or vessel shall be found.

Mr. J. CLAY was sorry this additional section was brought forward. He had strong doubts whether Congress possessed the Constitutional right to legislate on the object of prohibition prior to the year 1808. If this doctrine prevails, where will it end? The Senate and President have a negative upon all our laws. If we legislate upon a subject before any occasion calls for it, what assurance have we, if it be the wish of the people to repeal our laws, that the President and Senate will concur in their repeal? Have we a right, by an adventitious majority, to bind the Union hereafter? If so, it may be contended that we have a right to bind posterity a hundred years hence. No man was more anxious than himself to prohibit this trade, but he could not consent to violate what he conceived a Constitutional impediment,

to carry a favorite point. He conceived the power at present to pass a prohibitory law beyond their power.

Mr. DANA thought it extremely questionable whether, when the subject-matter was not within their power, they had a right to legislate on it. He should suppose the fair construction of the Constitution was this. The Constitution established a system for the good of all; in delegating powers it says that some shall not be exercised within a given time; that the States may in the mean time act upon the subjects on which they would be most likely to harmonize. If within this time you act upon subjects calculated to excite State jealousies, one great object of the inhibition will be lost. Under this view of the subject, he thought the observations of the gentleman from Pennsylvania most consonant to the true spirit of the Constitution.

The question was then taken on Mr. BIDWELL's amendment, which was disagreed to—yeas 17.

Mr. D. R. WILLIAMS proposed a new section prohibiting the introduction, after the passage of this act, into the Territories of the United States, of slaves hereafter imported into the United States.

After a short debate on this motion, the Committee rose, reported progress, and asked leave to sit again.

Mr. J. RANDOLPH opposed leave being given them to sit again, and Messrs. JACKSON and SMILIE supported it.

Mr. D. R. WILLIAMS hoped the Committee would not have leave to sit again. If the object of bringing forward this business was to give gentlemen an opportunity to vent their spleen against the State of South Carolina, they had enjoyed it, when they had painted her conduct in the most odious and detestable colors their ingenuity could invent; when they had cast on that community, in a most unmanly manner, all the opprobrium applicable to an inhabitant of Newgate; and had applied to a whole community what they dare not apply to a single individual of it. South Carolina deserved a far different character from that given her by those gentlemen who had taken upon themselves the task of abuse. Setting aside this one blot he would call upon gentlemen to compare notes. There was not a State in the Union which had appropriated so much money for objects of munificence and improvement, for the encouragement of literature, for the maintenance of the poor. Was South Carolina backward in the Revolutionary contest, or deficient in the number of her patriots or statesmen? There sits the descendant of as brave an officer as ever lived, and in the other branch of the Legislature is to be seen a man who may be called the hero of liberty; a man who in the worst of times did not despair of the Republic. And are we now to be anathematized as depraved and abandoned? There is another reason for not giving leave to the Committee to sit again. Some gentlemen seem determined to plunge us in a war, whether we will or not. Is this a proper time to destroy the harmony that subsists among the different members of this Confederacy? Shall a man spend time in adjusting the tie of his cravat when the hangman's noose is at his neck? Shall we be engaged in our little divisions when the enemy is at our door? As a pledge of harmony and conciliation, I hope the Committee will be refused leave to sit again.

The question was taken at a late hour, and leave given—yeas 73.

WEDNESDAY, February 5.

Mr. JOHN C. SMITH, from the Committee of Claims, presented a bill making an appropriation for the payment of witnesses, and other expenses, on the impeachment of Samuel Chase; which was read twice and committed to a Committee of the whole House on Monday next.

On motion, it was

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to cause a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying-Pans, and to have such an examination made of them, respectively, as will ascertain the practicability of erecting a light-house, lighted beacon, or buoy, on or near the extreme points of either of them; and that the committee report thereon by bill or otherwise.

Mr. THOMAS M. RANDOLPH, from the committee appointed on the fifth of December last, presented a bill removing the limitation of the right of suffrage in the Mississippi Territory, and empowering the Legislature thereof to increase the number of Representatives in the General Assembly, by a given ratio to that of Electors; which was read twice, and committed to a Committee of the Whole on Wednesday next.

The SPEAKER laid before the House a letter from Charles Goldsborough, Esq., presenting to Congress, in the name of Mr. Robert Henry Goldsborough, of Talbot county, in the State of Maryland, a copy of the works of the late Baron Bynkershoek, to receive a place in their library.

Resolved, That the Librarian be directed to receive and take charge of a set of the works of the late Baron Bynkershoek, presented to Congress by Robert H. Goldsborough, of Talbot county, in the State of Maryland, and that the SPEAKER be requested to acknowledge, by a letter addressed to the said Robert H. Goldsborough, the acceptance of the said books.

Mr. CLARK moved the following resolution, which was agreed to:

Resolved, That the Secretary of the Navy be requested to inform this House of the nature and extent of the services rendered to the captive crew of the frigate Philadelphia, by the Danish Consul at Tripoli.

Mr. VARNUM observed, that considerable light would be thrown on the extent to which colonial products were exported from the United States, by a statement of the amount of exports for which drawbacks were allowed. He therefore moved the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the amount of the revenue derived to the United States from merchandise, the growth, product, or manufacture of any foreign country, which have heretofore been imported into the United States and exported from the same, during the three last years.

This resolution was agreed to.

TRADE WITH GREAT BRITAIN.

Mr. CROWNINSHIELD observed that the House had, on the third instant, directed the Secretary of the Treasury to lay before them a statement of imports and exports from Great Britain to the United States, for the two last years. It was probable the Secretary would not be able to furnish a statement for the year 1805; but that he could make it for the years 1803 and 1804. Mr. C. said, he had been anxious, when this subject was before the House, to have received a statement for the year 1802. Great Britain seizes our ships, loaded with colonial produce, on the idea that we did not enjoy the colonial trade during a period of peace. Whether this is a fact will be decided by the statement he wished to obtain, as the year 1802 was a period of peace. Mr. C. concluded, by moving a resolution directing the Secretary of the Treasury to lay before the House a like statement of exports and imports for the year 1802, as was directed on the third instant, to be furnished for the last two years.

The House immediately considered this resolution, and agreed to it.

NON-INTERCOURSE WITH GREAT BRITAIN.

Mr. J. CLAY.—The gentleman from Massachusetts having laid on the table a resolution arising out of the present state of our foreign relations, and as that subject is one on which I think there cannot be too much deliberation before we act, or of which too many views cannot be taken, I will take the liberty of submitting some resolutions which I have drawn up, and to which I ask the attention of the House. In the present state of our relations with foreign Powers, it appears to me that a system of commercial regulations, mild and yet firm, one which can be carried into permanent effect without much inconvenience to ourselves, will be more effectual than any temporary expedients. If we are disposed to adopt such a system, it will be looked upon by foreign nations as one in which we are likely to persevere. They will consider its probable effects in time of peace upon their colonial possessions, and they may be induced to enter into permanent regulations opening to us a trade with their colonies. The distinction attempted to be made between a war trade and an accustomed trade will be destroyed, and with it the only pretext upon which are founded the vexations and depredations committed on American commerce. The present is a favorable moment for the adoption of such a plan. At this time the ports of the belligerent Powers are open, and the effect of the measures, which I am about to propose, will not have an immediate distressing effect upon the West Indies. If these measures are taken, the Powers of Europe will find that, unless they admit our ships into their colonial ports in time of peace, the trade between their colonies and us will be cut off by a system which will be but slightly injurious to ourselves. I think, I repeat it, that a permanent system, mild but firm, will be more likely to induce Great Britain, in particular, to recede from the unjust pretensions she has set up, than more violent and extreme measures which, from their very nature and their injurious consequences to ourselves, must be necessarily temporary.

Mr. C. concluded, with offering the following resolutions:

Resolved, That after the —— day of —— next, no trade or intercourse in any ship or vessel owned in whole or in part by any citizen or subject of any foreign Government, shall be permitted between the United States or their Territories, and any port or place in the colonies or dominions of any European Power, which trade or intercourse is not permanently permitted by the laws or regulations of such European Power, to be carried on in ships or vessels of the United States.

Resolved, That, after the —— day of —— aforesaid, no goods, wares, or merchandise, shall be exported from the United States or their Territories, in any ship or vessel owned in whole or in part by any citizen or subject of any foreign Government, to any port or place in the colonies or dominions of any European Power, the importation of which into such port or place, in ships or vessels of the United States, is not permanently permitted by the laws or regulations of such European Power.

Resolved, That, after the —— day of —— aforesaid, no goods, wares, or merchandise, shall be imported into the United States or their Territories, in any ship or vessel owned in whole or in part by any citizen or subject of any foreign Government, from any port or place in the colonies or dominions of any European Power, the exportation of which from such port or place, in ships or vessels of the United States, is not permanently permitted by the laws or regulations of such European Power.

Resolved, That, after the —— day of —— aforesaid, no goods, wares, or merchandise, shall be imported into the United States, in any ship or vessel owned in whole or in part by any citizen or subject of any foreign Government, excepting articles of the growth, produce, or manufacture of the colonies or dominions of such foreign Government, unless such importation be expressly permitted by treaty between the United States and such foreign Government, or unless during a war in which the United States may be a party.

The House immediately considered these resolutions, and referred them to a Committee of the Whole on the state of the Union.

IMPORTATION OF SLAVES.

The House again resolved itself into a Committee of the Whole, on the bill imposing a duty of ten dollars on every slave imported into the United States.

Mr. D. R. WILLIAMS said, as the advocates of the bill seemed to think the amendment he had offered intended to defeat it, he would withdraw it, and make it the subject of a distinct resolution.

Mr. JACKSON offered a new section, the object of which was to prohibit the importation into the United States of all slaves, brought either from abroad or from any State, except, in the latter case, by citizens of the United States removing to a Territory to settle therein.

Mr. Jackson viewed this provision as necessary, in consequence of a legal construction given to an act of the last session, which allowed the importation of slaves from abroad into Louisiana.

This motion was opposed by Messrs. Alston, Ely, Morrow, Spalding, and Sloan, who either viewed it as inexpedient in itself, or as proper to be introduced into a distinct bill.

Mr. Jackson said, as it was the wish of his friends he would withdraw the motion, and offer it on another occasion.

No farther amendments having been offered the Committee rose, and reported their agreement to the bill.

The House immediately considered the report.

The amendment limiting the imposition of the tax to the first day of January, 1808, was disagreed to; and the other amendments agreed to.

Mr. Jackson inquired what the effects would be of the forfeiture of the cargo, in case slaves were smuggled into the United States? Would they be kept in the service of the United States? He did not wish to have anything to do with them.

Mr. John C. Smith said, he had voted for the resolution; but the defects in the details of the bill were so glaring, that he hoped it would be referred to a select committee, that it might be so modified as to cure these defects; or, that in case it were found insusceptible of modification, it might be rejected. Mr. S. accordingly moved the recommitment of the bill to a select committee.

Mr. Jackson advocated this motion, and remarked that the proviso of the bill that declared the duty should not be construed as giving a sanction to the importation of slaves, offered an additional reason for either rejecting or recommitting it. How could this language be used with propriety in a law, when the Constitution, the highest authority, authorized the trade?

Mr. Quincy spoke to the like effect, and further inquired, whether it was the intention of gentlemen to apply the provisions of the bill to slaves navigating the ships of the United States.

Messrs. Hastings and Sloan defended the provisions of the bill as perfectly correct. They observed that slaves were considered as property, as merchandise, and could only, therefore, in the bill be treated as such.

The motion to recommit was lost—ayes 39, noes 61.

Mr. Crowninshield spoke against the bill, and moved its postponement to an indefinite day.

Messrs. John C. Smith, Taggart, and Rhea of Tennessee, supported; and Messrs. Sloan, Elmer, and Smilie, opposed the motion; when the yeas and nays were called on it, and were—yeas 42, nays 69, as follows:

Yeas—Willis Alston, jr., George M. Bedinger, Silas Betton, Phanuel Bishop, William Blackledge, Joseph Bryan, William Butler, Levi Casey, Martin Chittenden, Christopher Clark, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Samuel W. Dana, John Davenport, junior, John Dawson, Elias Earle, Peter Early, James Elliot, James M. Garnett, Edwin Gray, James Holland, John G. Jackson, Walter Jones, Thomas Kenan, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Timothy Pitkin, jr., Thomas M. Randolph, John Rhea of Tennessee, Thomas Sanford, O'Brien Smith, Thomas Spalding, Samuel Taggart, Samuel Tenney, David Thomas, Thomas W. Thompson, David R. Williams, and Thomas Wynns.

Nays—Isaac Anderson, John Archer, Joseph Barker, John Blake, jr., Thomas Blount, Robert Brown, John Chandler, John Claiborne, Joseph Clay, Leonard Covington, Richard Cutts, Ezra Darby, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, David Hough, Nehemiah Knight, John Lambert, Michael Leib, Joseph Lewis, junior, Matthew Lyon, Patrick Magruder, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, John Rea of Pennsylvania, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Lewis B. Sturges, Philip R. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Alexander Wilson, and John Winston.

Mr. Jackson moved to strike out the proviso of the bill, which motion was disagreed to; when the bill was ordered to be engrossed for a third reading to-morrow—ayes 69.

Thursday, February 6.

Another member, to wit: from South Carolina, Richard Winn, appeared, produced his credentials, was qualified, and took his seat in the House.

Several petitions of sundry inhabitants of the State of Pennsylvania, were presented to the House and read, praying an amendment of the second section of the third article of the Constitution of the United States, which extends the judicial power of the United States to controversies between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

Ordered, That the said petitions be severally referred to the Committee of the whole House on the state of the Union.

The bill laying a duty of ten dollars on every slave imported into the United States, was read a third time.

Mr. John C. Smith stated, in a more detailed way, the objections previously offered to the provisions of the bill, and moved its recommitment to a select committee, in which the House concurred without a division.

A confidential Message was received from the President of the United States about 12 o'clock: Whereupon, the galleries were cleared. They remained cleared until near 4 o'clock, when the House adjourned.

Friday, February 7.

A memorial and petition of the American Convention for promoting the abolition of slavery, signed by Gersham Craft, their President, was presented to the House and read, praying that the act of Congress, passed on the tenth day of May, one thousand eight hundred, entitled "An act in addition to the act to prohibit the carrying on the slave trade from the United States to any foreign place or country," may be so far amended, that the forfeitures therein declared may inure, one moiety thereof to the use of the informer, and the other moiety to the use of the United States; that written testimony, taken in the form prescribed to maintain civil suits, may be received and have effect in the district and circuit courts of the United States; and that persons convicted of offences against the said act, may be disqualified to hold any office under the United States.

Referred to Messrs. Findley, Stanton, Ely, Marion, and Nicholson, to examine and report their opinion thereupon to the House.

Mr. Gregg, from the Committee on Public Lands, reported that it was expedient to pass without amendment the bill received from the Senate, to repeal so much of an act to regulate a grant of land to the French inhabitants of Galliopolis, as requires the actual settlement of the land.

Mr. Gregg observed that the committee had been induced to make this report in consequence of the terms of a former law not having been complied with, from a number of tracts belonging to minors, and from several tracts being so broken as not to admit of settlement; and inasmuch as no condition of settlement had been attached to any other lands of the United States.

The House ordered the bill to a third reading to-morrow.

On motion of Mr. D. R. Williams the House came to the following resolution:

Resolved, That a committee be appointed to inquire whether any, and if any, what additional provisions are necessary to prevent the importation of slaves into the territories of the United States.

A committee of five members were appointed.

The House then went into a Committee of the Whole on the bill fixing the compensation of the officers of the two Houses.

At the instance of Mr. Tallmadge, the bill was so modified as to repeal the existing law, and to form a new one, fixing the compensation of the respective officers at their present rates, excepting the compensations of the Sergeant-at-Arms, and Doorkeepers of the two Houses, which are fixed at $950 a year, and the Assistant Doorkeepers at $900 each, with an inhibition to make any addition to the fixed compensations of the officers by an allowance out of the contingent fund.

The bill was ordered to be engrossed for a third reading on Monday—ayes 69.

On motion of Mr. Crowninshield the House came to the following resolution:

Resolved, that the Secretary of the Treasury be directed to lay before this House a statement of the exports from the United States of all foreign goods, wares, and merchandise, during the last three years, which have not been particularly directed to be made by the resolution of the third and fifth instant.

On motion of Mr. Marion, the House went into a Committee of the Whole on the bill declaring the assent of Congress to an act of the State of South Carolina, authorizing the imposition of a tonnage duty by the City Council of Charleston.

After considerable debate, the Committee rose and reported the bill with sundry amendments, in which the House concurred, and ordered the bill to be engrossed for a third reading on Monday—ayes 65.

The House resolved itself into a Committee of the Whole on a bill declaring the assent of Congress to an act of the State of North Carolina. The object of the bill is to give to Tennessee power to perfect titles to lands granted by North Carolina, agreeably to a compact between the two States. Having passed through the Committee without amendment, the House took it into consideration: when, after some explanations relative to the nature of the bill, it was ordered to a third reading on Monday.

JOURNAL OF THE HOUSE.

Mr. Lein said he had long been of opinion that the present mode of keeping the Journal of the House was incorrect. He had always thought that the name of the mover of every proposition should appear on the Journal, and that the Journal should be so kept as to enable the people to be fully acquainted with the proceedings of their Representatives. To make an inquiry on this subject, he offered the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of amending the standing rules and orders of the House so far as to prescribe the mode of keeping the Journal.

Mr. Smilie considered the motion as unnecessary.

The question was taken and the motion agreed to—ayes 65—and a committee of five members appointed.

AMENDMENT TO THE CONSTITUTION.

Mr. J. Randolph, agreeably to notice given by him yesterday, made the following motion:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following article be submitted to the Legislatures of the several States, which, when ratified and confirmed by the Legislatures of three-fourths of the said States, shall be valid and binding as a part of the Constitution of the United States:

The Judges of the Supreme, and all other courts of the United States, shall be removed from office by the President, on the joint address of both Houses of Congress requesting the same.

The House having agreed to consider the motion, it was, at the instance of Mr. J. Randolph, referred to a Committee of the Whole on the state of the Union.

Mr. J. Randolph gave notice that he should call up this motion on Thursday.

NAVAL PEACE ESTABLISHMENT.

The House went into a Committee of the Whole on the bill relative to a Naval Peace Establishment.

Mr. Gregg explained at some length the provisions of the bill. The bill he said, corresponded with the intimations of the President relative to giving an opening to the promotion of several officers who had greatly distinguished themselves in the Mediterranean service. He stated that the bill contemplated giving the President power to keep in service nine hundred and twenty-five able and ordinary seamen and boys, making two-thirds of the full complement of six frigates, two of forty-four guns, two of thirty-six, and two of thirty-two; that it contemplated the increasing the number of captains from ten to thirteen; the creation of nine masters commandant, and the increase of lieutenants from thirty-six to seventy-two. This arrangement was proposed, in order to give to the young officers in the navy that rank and reward merited by them, and to enable the doing this, without interfering with the rules of promotion usual in the naval service.

Mr. Lyon spoke against the feature of the bill that augmented the number of officers. It appeared to him, indeed, a pension bill, and to make large allowances without services rendered. It also contemplated the keeping six frigates in service, and provides for them thirteen captains, nine master-commandants and seventy-two lieutenants. He did not consider the Treasury in such a state of overflow as to justify this liberality.

Mr. Gregg said the gentleman had misunderstood his remarks as well as the nature of the bill, which, so far from directing six frigates to be kept in actual service, repealed that part of a former law which contained this provision.

No motion having been made to amend the bill, the Chairman proceeded in the reading of the remaining sections; When

Mr. Goldsborough expressed his opinion that the bill required considerable amendment, and that he had understood from the Secretary of the Navy that its provisions were not consonant to that system which he considered the most conducive to the public service. With a view to obtain fuller information relative to the subject, he moved that the Committee should rise and ask leave to sit again.

This motion obtained, without opposition, when the Committee rose and received leave to sit again.

Monday, February 10.

Another member, to wit: Duncan McFarland, from North Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

The bill sent from the Senate, entitled "An act to authorize a grant of lands to the French inhabitants of Galliopolis, and for other purposes therein mentioned," was read the third time and passed.

An engrossed bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina was read the third time and passed.

An engrossed bill supplementary to "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives" was read the third time and passed.

Mr. Tenney, one of the members for the State of New Hampshire, presented to the House certain resolutions of the Legislature of the State of New Hampshire, "proposing an amendment to the Constitution of the United States, so as to authorize and empower Congress to pass a law, whenever they may deem it expedient, to prevent the further importation of slaves, or people of color, into the United States, or any part thereof;" which were read, and ordered to lie on the table.

The Speaker laid before the House a letter from Christopher Greenup, Governor of the State of Kentucky, transmitting a memorial of the General Assembly of the said State, together with sundry documents in relation to the Ohio Canal Company; which were read and referred to Mr. Boyle, Mr. Dickson, Mr. T. W. Thompson, Mr. J. Morrow, Mr. Hastings, Mr. Trigg, and Mr. Darby; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

A petition of John G. Macan and others, managers on behalf of "the Louisiana Company," inhabitants of the State of Ohio, was presented to the House and read, praying a grant of the public lands, on parts adjacent to the river Mississippi, and in the neighborhood of St. Louis, on such terms and under such restrictions as Congress may judge proper, to aid them in establishing a colony, consisting of all such mechanics and professional characters as may be necessary to the welfare of the intended settlement.—Referred to the Committee on the Public Lands.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and to provide for a light-house on Wood island; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. C., from the same committee, to whom was referred, on the twenty-seventh of December last, a resolution of the House "to inquire into the propriety of erecting the port of Newcastle, in the district of Delaware, into a port of entry," made a report thereon; which was read, and referred to a Committee of the Whole on Thursday next.

On motion of Mr. Dana,

Resolved, That a committee be appointed to consider and report whether any amendments should be made in the standing rules of the House relative to confidential communications.—Referred to a committee of five members.

The bill declaring the consent of Congress to the act of the Legislature of South Carolina authorizing the imposition of a tonnage duty by the City Council of Charleston was read a third time.

Messrs. J. Clay and Marion supported, and Mr. Crowninshield opposed the bill, which, on the question being taken, was passed—yeas 52.

IMPORTATIONS FROM GREAT BRITAIN.

Mr. Nicholson said he wished to lay on the table a resolution relative to the subsisting differences between the United States and Great Britain, on which several resolutions had already been offered. When this subject first came into notice, at an early period of the session, he had foreseen that it might lead to the proposition of plans which might deeply affect the revenue of the Government. He was, therefore, anxious that it might be referred to the Committee of Ways and Means, in whose hands the superintendence of the revenue was placed. To this committee it was referred in the first instance. But the House afterwards thought fit to discharge that committee from its consideration, and to refer it to a Committee of the Whole on the state of the Union.

Mr. N. observed that it was with great deference that he undertook to offer any resolutions embracing objects of such importance as the differences between Great Britain and this country. If the subject had remained with the Committee of Ways and Means, or with any other select committee, a set of resolutions in a digested form might have been expected, and it might have been shown in what manner and to what extent the revenue would probably be affected. When, however, resolutions were offered by individual members, it was impossible to offer any such calculations, and the subject would consequently come before the House in an undigested form.

Mr. N. said he had seen two propositions, neither of which he liked. One was a resolution offered by a gentleman from Pennsylvania, (Mr. Gregg.) When he considered that our importations from Great Britain amounted annually to about twenty-five millions of dollars, and that the whole of this trade was, according to the proposition of the gentleman, to be prohibited; and it was also considered that the average amount of duties on articles imported from Great Britain was twenty per cent., it would at once be seen that the measure would affect the revenue to the amount of five millions annually.

Nor did it, in offering these resolutions, appear to have been taken into view, that while the measure had a very material effect on the revenue, it had likewise an immediate effect on the habits of our citizens who consumed goods imported from Britain. With regard to the single article of cotton, its prohibition would operate in three different ways. In the first place, the wants of our people will be increased in proportion to the prohibition of cotton goods; in the second place, the revenue would be affected by it; and in the last place, it was extremely probable that the foreign demand for the raw material we furnish would be considerably diminished. A single fact would evince this with some force. In the year 1791, there were exported to Liverpool 64 bales of cotton; and in the first nine months of 1805 there had been exported to the same place 93 000 bales. This would show what the effect might be of the prohibition of the importation of articles manufactured from cotton in Great Britain on the demand for the raw material we furnish.

Mr. N. said he had seen another proposition, not offered, indeed, in the House of Representatives, but elsewhere, (alluding, it is supposed, to the report of a committee in the Senate,) which did not go to the extent of the motion by the gentleman from Pennsylvania, and therefore was not so deleterious in its effects, but which, in his judgment, was extremely objectionable. This proposition went to prohibit the importation of woollens of all descriptions, linens, nails, hats, looking-glasses, rum, hardware, slate, salt, coal, boots, shoes, ribbons, silks, plated and glass wares.

In this list there were four articles of great importance with which we are supplied from Great Britain, which our habits, at least, have enrolled on the list of necessaries, and with which we cannot be supplied either by ourselves or by other nations. With coarse woollens we are supplied altogether from Great Britain, and we cannot procure them elsewhere. Mr. N. said he had taken some pains to inquire into the state of the German manufactures, and he was convinced, from the information he had received, that we could get, neither from Germany nor Holland, those coarse cloths which are extensively consumed in the Middle and Southern States, and he presumed throughout the whole country, except by those who moved in the higher walks of life. In Holland and Brabant there were some such manufactures, but they were too narrow to supply us with any considerable quantity of them.

That kind of rum which we derive from Jamaica, Antigua, and Barbadoes, and from which a large revenue is obtained, Mr. N. presumed was not to be got elsewhere; as the whole of this article which was imported into the United States was consumed, and no part of it exported, it followed of course that the revenue would be diminished in proportion to the extent of the prohibition.

The manufactures of Birmingham and Sheffield, going generally by the name of hardware, could be got no where else. The whole of these imported were consumed in the United States, and their prohibition would have the same effect on our revenue.

Of salt, which was imported from different countries, and which amounted annually to three and a half millions of bushels, not more than the one-hundredth part was exported. By diminishing the quantity imported, we both increase the price of the article and decrease the amount of the revenue.

Mr. N. said, that the course which seemed to him most proper, was to select among the manufactures of Great Britain such articles as we import from thence, and can supply ourselves with by our own industry, or obtain from other countries. This would present to Great Britain a plan that would at once be seen to be practicable. By laying a prohibition on the importation of all articles received from Great Britain or her colonies one of two effects must ensue. Either we

shall be laughed at by Great Britain and other European Powers for adopting a system altogether impracticable, because we cannot adhere to it; or we shall furnish to her Minister, whose character for decision is well known, a pretext for sweeping the ocean of every dollar of American property afloat on it.

If, on the contrary, we adopt a system which is practicable, to which it is seen that we can adhere without injuring ourselves, and which will materially affect Britain, we may hope that measures will be taken by her Government for the adjustment of our differences, and the rendering us complete justice.

Mr. N. then submitted the following resolution:

Resolved, That, from and after the —— day of —— next, the following articles, being of the growth, or manufactures of Great Britain or Ireland, or of any of the colonies or dependencies of Great Britain, ought to be prohibited by law from being imported into the United States, or into the territories thereof, viz:

All articles of which leather is the material of chief value; all articles of which tin or brass is the material of chief value, tin in sheets excepted; all articles of which hemp or flax is the material of chief value; all articles of which silk is the material of chief value; woollen cloths, whose invoice prices shall exceed ——; woollen hosiery of all kinds; window glass, and all other manufactures of glass; silver and plated wares; paper of every description; nails and spikes; hats; clothing ready made; millinery of all kinds; playing cards; beer, ale, and porter; and pictures and prints.

Mr. Nicholson concluded by remarking that he would not undertake to say that he had made the best selection of articles. It was with great diffidence he had made the selection. He would, however, offer it at this time that gentlemen might give their attention to it, and be prepared to enter on its discussion when the subject came before the House. He submitted these propositions at this time, to avoid any delay which might arise from withholding them till the House should have entered upon the subject.

This resolution was immediately considered by the House, and referred to a Committee of the Whole on the state of the Union, and ordered to be printed.

On motion of Mr. G. W. Campbell, certain resolutions offered on the 3d of January, 1794, by Mr. Madison, on the differences at that time subsisting between the United States and Great Britain, were ordered to be printed.

WEST INDIA TRADE.

Mr. Crowninshield said, the gentleman from Maryland (Mr. Nicholson) had offered several resolutions prohibiting the importation of sundry articles of British manufactures into the United States. Mr. C. observed that he had another project which he wished to submit, relative to our trade with the British West Indies. He did not mean at this time to discuss the subject, either so as far it was connected with the propositions of the gentleman from Maryland, or with that of the gentleman from Pennsylvania, which went to a much greater extent. But with regard to one idea expressed by the gentleman from Maryland, he thought it proper to say a few words. That gentleman had observed that the proposition offered by the gentleman from Pennsylvania would affect the revenue to the amount of five millions of dollars; and therefore impressed upon the House the duty of being extremely cautious in taking such a step. Mr. C. said he did not believe the adoption of that proposition would affect the revenue to any such extent. He did not believe it would affect the revenue to the amount of a million of dollars. Because, although we should prohibit the importation of British goods, we could get most of the same articles from other countries. We get salt from Cadiz, and Lisbon, and from several other places. Rum could be got from every island in the West Indies; and if we should not be able to get a sufficient quantity of it to supply our wants, we could import from France brandies, which will be a good substitute. We may also get woollens from the continent of Europe, and every article on the list, perhaps at higher prices. It was not, however, Mr. C. said, his object at this time to discuss the merits of either proposition. His chief object was to offer his own project, which related to the West Indies. Every one knows that those islands are dependent on the United States for the necessaries of life; that they cannot get many important articles they absolutely want from other countries. Every one knows that for fish, beef, pork, and lumber, they are dependent on us, inasmuch as they cannot get them elsewhere. How is the trade carried on? Great Britain has adopted a curious commercial principle, bottomed on the principle of her navigation act; which in time of peace almost amounts to a prohibition to introduce into her islands any articles of ours; and which in time of war opens the ports of a few of her islands for the introduction of particular articles for three or six months. Mr. C. said he wished to see this trade permanently open to the citizens of the United States. He thought it probable this might be done by the adoption of his plan. The gentleman from Pennsylvania had offered a proposition which was calculated to meet in part the practices of Great Britain. The first resolution related to trading to the West Indies in foreign vessels, and not in vessels of the United States. Every one knew that in the trade between the United States and the West Indies there were either none, or very few foreign vessels.

Mr. C. then offered the following resolution:

Resolved, That, from and after the —— day of —— next, no goods, wares, or merchandise, shall be exported from, or imported into, the United States or the territories thereof, in any ship or vessel whatever, to or from any European colonies or settlements, situated on the eastern side of the continent of America, or its adjacent seas, northward of the Equator, unless the importation of all articles of the growth, product, or manufacture of the United States and their territories, in American bottoms, is at all times admitted into the said colonies, or settlements, and unless the exportation of the productions of the said colonies, or settlements, is permanently allowed in American bottoms from the same to the United States, and the territories thereof.

The resolution was considered, and referred to a Committee of the Whole on the state of the Union, and ordered to be printed.

DRAWBACK.

The House went into a Committee of the Whole on the bill to extend the time for taking the oath, and giving bond in cases of drawback, and for other purposes.

On the second section, which is as follows:

"That the Secretary of the Treasury be, and he is hereby authorized and empowered to extend the benefit of drawback, in cases which have happened since the passage of the act of March 2, 1799, entitled, "An act to regulate the collection of duties on imports and tonnage," where the persons claiming such benefit have omitted to take the oath and give bond within the ten days prescribed by law: *Provided*, The Secretary of the Treasury shall be satisfied that such omission was caused by unavoidable accident, and that no fraud was intended thereby to be committed against the revenue laws of the United States; and provided, also, that satisfactory proof shall be exhibited to him that the goods, wares, and merchandise, on which the drawback is claimed, have been landed without the limits of the United States.

A long debate ensued, which continued beyond the usual hour of adjournment, in which Messrs. J. Clay, Leib. Elmer, Nicholson, Crowninshield, N. Williams, and Sloan supported; and Messrs. Holland Clark, J. C. Smith, Jackson, Bidwell, Conrad, Macon, and Smilie, opposed the section.

When the question was taken on the striking out the section, and carried—yeas 70.

The second and third sections, bottomed on the second, were also struck out.

The Committee then rose and reported their disagreement to all the sections except the first. The House immediately considered the report.

Mr. J. C. Smith spoke in favor, and Mr. Crowninshield against concurring in it; when the House adjourned without coming to a decision.

Tuesday, February 11.

Mr. J. C. Smith, from the Committee of Claims, presented a bill for the relief of the Governor, Judges, and Secretary of the Indiana Territory; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. S., from the same committee, to whom was referred on the fifteenth ultimo, the memorial of Peter Landais, made a report thereon; which was read, and ordered to be referred to a Committee of the Whole to morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Seth Harding, late a captain in the Navy of the United States;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act for the relief of Seth Harding, late a captain in the Navy of the United States," was read twice and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati, and State of Ohio;" and also, a bill, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati, and State of Ohio," was read twice and referred to the Committee on the Public Lands.

The bill sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," was read twice and committed to the Committee of the Whole to whom was committed, on the fifth instant, the bill making an appropriation for the payment of the witnesses, and other expenses, on the impeachment of Samuel Chase.

Ordered, That the Secretary of the Treasury cause to be printed for the use of the members of both Houses, the report to be made to this House, in pursuance of the several resolutions of the House, passed on the third, fifth, and seventh days of the present month.

DRAWBACK.

The House took up the unfinished business of yesterday, being the report of a Committee of the whole House, to strike out the 2d, 3d and 4th sections of the bill to extend the time for taking the oath, and giving bond in cases of drawback, and for other purposes. The sections are as follows:

"Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and empowered to extend the benefit of drawback, in cases which have happened since the passage of the act of the second day of March, in the year one thousand seven hundred and ninety-nine, entitled "An act to regulate the collection of duties on imports and tonnage," where the persons claiming such benefit have omitted to take the oath and give bond within the ten days prescribed by law: *Provided*, The Secretary of the Treasury shall be satisfied that such omission was caused by unavoidable accident, and that no fraud was intended thereby to be committed against the revenue laws of the United States. *And, provided also*, That satisfactory proof shall be exhibited to him that the goods, wares, and merchandise, on which the drawback is claimed, have been landed without the limits of the United States.

"Sec. 3. *And be it further enacted*, That, before relief shall be granted by the Secretary of the Treasury as aforesaid, the person or persons applying for the same shall take the oath and give bond, in like manner as is now required by law.

"Sec. 4. *And be it further enacted*, That nothing in this act contained shall be construed to extend the allowance of drawback upon any goods, wares, and merchandise, which have been heretofore exported to New Orleans, and upon which the drawback may remain, at this time, unpaid."

On concurring in this report a lengthy debate ensued. Messrs. John C. Smith, Jackson, Bedinger, and Holland, spoke in favor of concur-

ring; and Messrs. Leib, Crowninshield, Newton, Broom, J. Clay, and Elmer, against concurring in the report. When the question was taken by yeas and nays, on concurrence, and carried—yeas 71, nays 45, as follows:

Yeas—Willis Alston, jr., Isaac Anderson, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, Robert Brown, John Boyle, Joseph Bryan, William Butler, Levi Casey, John Chandler, Martin Chittenden, Christopher Clark, Matthew Clay, Frederick Conrad, Samuel W. Dana, John Davenport, jr., William Dickson, Elias Earle, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, John Hamilton, William Helms, James Holland, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, Joseph Lewis, jr., Duncan McFarland, Patrick Magruder, David Meriwether, Thomas Moore, John Morrow, Gideon Olin, Timothy Pitkin, jr., John Rea of Pennsylvania, John Rhea of Tennessee, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Cotton Smith, John Smith, Henry Southard, Thomas Spalding, Richard Stanford, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—John Archer, David Bard, Joseph Barker, Phanuel Bishop, John Blake, jr., James M. Broom, John Claiborne, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Isaiah L. Green, Silas Hasey, Seth Hastings, Michael Leib, Henry W. Livingston, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, John Pugh, Josiah Quincy, Thomas M. Randolph, Jacob Richards, John Russell, O'Brien Smith, Samuel Smith, Joseph Stanton, Samuel Taggart, Philip Van Cortlandt, Daniel C. Verplanck, John Whitehill, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

Mr. J. Randolph said he had a report to make which, according to the rules of the House, required the galleries to be cleared. They were accordingly cleared for a few minutes; when the House adjourned.

Wednesday, February 12.

Mr. Gregg, from the Committee on the Public Lands, to whom was referred, on the eleventh instant, the bill sent from the Senate, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati, and State of Ohio, reported to the House their agreement to the same, without amendment.

Ordered, That the said bill be recommitted to a Committee of the Whole on Monday next.

Mr. P. R. Thompson reported a bill authorizing the erection of a bridge across the Potomac, within the District of Columbia; which was referred to a Committee of the Whole on Friday.

Mr. Magruder presented a petition from sundry inhabitants of Georgetown, praying that if Congress determine to authorize the erection of a bridge across the Potomac, it may be at a point above Georgetown.—Referred to the same Committee.

LIMITS OF GEORGIA.

Mr. Spalding, from the committee to whom was referred, on the thirteenth ultimo, the memorial of the Legislature of the State of Georgia, made a report thereon, which was read, as follows:

The committee to whom was referred the memorial of the Legislature of the State of Georgia, respecting disputed limits between that State and the State of North Carolina, having taken into consideration the matter of the said memorial, as well as such information as the documents attached to the memorial and former reports made to this House afford, beg leave to submit the following report:

Between the latitude of 35 degrees north, which is the southern boundary claimed by North Carolina, and the northern boundary of Georgia, as settled by a convention between that State and South Carolina, intervenes a tract of country supposed to be about twelve miles wide, from north to south, and extending in length from the western boundary of Georgia, at Nicajack, on the Tennessee, to her northeastern limits, on the Tugalo. This tract was consequently within the limits of South Carolina, and in the year 1787 it was ceded to the United States, who accepted the cession. This territory remained in possession of the United States until 1802, when it was ceded to the State of Georgia. From the most correct information relative to the said territory, it appears that it is inhabited by about 800 souls, and (to adopt the words of a former report) it is not shown at what period they made the settlement, nor had they any title to the land on which they settled and made improvements. No such title indeed could have been created, as those lands remained within the boundary of the Cherokees until the year 1798, when a part of this territory was purchased by a treaty held at Tellico. It does not appear that the lines that bound the tract of land in question, and divide it from Carolina, have ever been established by public authority.

After the transfer of this territory by the United States to Georgia, the Legislature of that State, in compliance with the earnest request of those self-governed people, praying that they might be allowed to participate in the civil rights enjoyed in common by the people of the United States, passed an act in the year 1803 to organize the inhabited part of the territory, and to form it into a county, authorizing, at the same time, the Governor to appoint commissioners, to meet such commissioners as should be appointed by the Government of North Carolina, to ascertain and plainly mark the line dividing this territory from North Carolina. The Governor of North Carolina expressed a readiness to accede to the proposition, under the provisions of a former act of the Legislature of that State, but clogged with a condition which the Legislature of North Carolina refused to depart from, and which the Legislature of Georgia refused to accede to. Her reason may be found in a letter from General Pickens, of the State of South Carolina, attached to a report made to the House respecting that territory while the property of the United States. The letter states, that before the people inhabiting that territory settled on the lands, it was surveyed, and grants obtained for most part of it from the State of North Carolina, and probably by men who cared little whether the land was within the Indian claim or the limits

of South Carolina. Your committee conceive that they have no right to enter into the feelings of either of the parties, or to pronounce upon the justice of the condition made by North Carolina on the one part, or its rejection by Georgia on the other, and have therefore confined their attention to that part of the memorial which calls upon Congress to define and mark out the thirty-fifth degree of latitude—the line which North Carolina admits to bound her State—upon the south and north of which Georgia can have no claim of territory. Your committee, after giving to this point the most deliberate consideration, are of opinion that the United States are bound, in good faith, to use their friendly offices with the State of North Carolina for obtaining an amicable adjustment of the limits of the territory, which they have transferred to Georgia, in all parts where such limits may be disputed.

Your committee, therefore, beg leave to offer the following resolution:

Resolved, That the President of the United States be authorized to appoint a commissioner, to meet such commissioners as may be appointed by the States of North Carolina and Georgia, for the purpose of ascertaining and running the line which divides the territory transferred by the United States to Georgia, from North Carolina.

The report was read, and referred to a Committee of the Whole House on Friday next.

DISTRICT OF COLUMBIA.

Mr. Smilie submitted the following resolutions:

"*Resolved*, That it is expedient for Congress to recede to the State of Maryland the jurisdiction of that part of the Territory of Columbia which was ceded to the United States by the said State of Maryland, by an act passed the nineteenth day of December, in the year one thousand seven hundred and ninety-one, entitled 'An act concerning the Territory of Columbia and the City of Washington:' provided the said State of Maryland shall consent and agree thereto.

"*Resolved*, That it is expedient for Congress to recede to the State of Virginia the jurisdiction of that part of the Territory of Columbia which was ceded to the United States by the said State of Virginia, by an act passed the third day of December, in the year one thousand seven hundred and eighty-nine, entitled 'An act for the cession of ten miles square, or any lesser quantity of territory, within this State, to the United States, in Congress assembled, for the permanent seat of the General Government:' provided the said State of Virginia shall consent and agree thereto."

Mr. Smilie stated he had two objects in view in offering these resolutions. The first was, that Congress might be divested of that multiplicity of business which arose from the situation of the territory, which would increase with the growth of population and the progress of society. The other reason was still more important. He wished to see the people of the District restored to their political rights, the deprivation of which was to him a matter of great regret, and which could not be remedied until there was a decided change in their situation. Alluding to the apprehension of the inhabitants that this measure was connected with a removal of the seat of Government, he declared that this was not his object; he, on the contrary, believed the measure would be highly beneficial to the City of Washington.

On considering the resolutions, the House divided—ayes 43, noes 36.

Mr. Smilie moved a reference of them to a Committee of the Whole on the first day of March.

Mr. Lewis moved their postponement indefinitely.

Mr. Lyon hoped an immediate decision would be had upon them.

Mr. Sloan hoped some time would be allowed previous to their decision.

The House determined to refer them to a Committee of the Whole—ayes 56.

Mr. Conrad moved their being made the order for the first Monday in August; which motion was disagreed to—ayes 44, noes 56.

Then on the first Monday of May. Lost—ayes 39.

Mr. Nicholson moved Monday next. He said there was much important business relative to the territory before the House, and if the propositions of retrocession were permitted to remain unacted on, they would supersede all attention to the other objects.

Mr. Smilie acquiescing in making the resolutions the order for Monday next, the House so determined without division.

BRITISH AGGRESSIONS.

Mr. Sloan.—Mr. Speaker: I trust I am correct, first, in saying that the Representatives of the people, in Congress assembled, are the only tribunal to whom they can look for redress of national grievances and protection in their national rights; and secondly, that every member, as a component part of the National Legislature, has a right to introduce resolutions in such form as he may think best calculated to redress existing grievances, or secure them from future insult and injury.

Notwithstanding several resolutions have been laid on the table respecting the impressment of our seamen by the commanders of British armed vessels, and their depredations on our commerce, I have seen none which I consider fully adequate to the purpose proposed, or couched in that firm and decisive language that I conceive the nature of the case requires. Under this impression, I beg leave to offer a resolution; and, previous thereto, ask the indulgence of the House to offer a few reasons.

Are not the people calling on us from almost every part of the Union? Previous to my leaving home to attend this session, I expected the impressment of our seamen by British armed vessels, and their depredations on our commerce, would have been taken up; but, to my astonishment, more than ten weeks have elapsed, and we are only preparing to discuss this important subject. Is this giving immediate attention to the sufferings of our constituents? But what astonishes me still more is, that by conversation I have had with some members, they appear yet unprepared to do anything decisive.

One member, (Mr. Nicholson,) who offered a resolution two days past, objected to a former resolution offered by a gentleman from Pennsylvania, (Mr. Gregg,) from an apprehension that it would

injure our revenue $5,000,000. [Here Mr. Nicholson explained, stating that he had only said that it would affect it to that amount.] Another member, from Massachusetts, (Mr. Crowninshield,) well acquainted with mercantile business, supposed it would not injure it more than $1,000,000.

But I hope, Mr. Speaker, that however pleasing it may be to see our debt diminishing and our revenue increasing, the fear of diminution of revenue will never deter the Congress of the United States from supporting their national rights. I hope we shall not shrink from a temporary evil, to procure a great and permanent benefit.

In hearing the conversation of some members out of doors, and observing the delay that has taken place in the House, this query is extorted from me: Where is the spirit that actuated the noble patriots of Seventy-six, at the risk of life, to oppose the unjust aggressions of Great Britain? Has it fled from our land, or is it only sleeping? I hope the latter; and that it may speedily awake, refreshed and invigorated by its long nap.

But, perhaps, some may conclude that I wish to involve the United States in war. God forbid! I want to prevent war with those horrid engines made to destroy the human species. I want to prevent it by doing to all nations as we would they should do unto us. Are we so doing whilst we permit one of the belligerent Powers to impress and keep on board her vessels of war three thousand of our seamen, to assist in fighting her battles with other belligerent Powers in amity and peace with us? I want the United States to treat Great Britain as they would treat an individual, who, in his dealings, had evidently been unjust; break off all intercourse until reparation is made for past injuries, and security given that they shall not be repeated in future. This line of conduct, I conceive, instead of producing war, would be the most certain means of securing a permanent and lasting peace. In the present state of Europe, can Great Britain do without our trade? Certainly she cannot. It is probable that Bonaparte has, ere this time, prohibited her trade with a considerable part of Europe. Thus circumstanced—trembling for her very existence—if we make a firm, determined demand for reparation of damages, my opinion is that she dare not, that she cannot, or will not refuse.

I will not detain the House, at this time, with a more detailed investigation of the subject; but, knowing it to be the desire of many of our constituents, and hoping that, upon a full examination, it will be the determination of this House to adopt firm and decisive measures for the purpose of obtaining redress for injuries sustained, and to prevent the like in future, I offer the following resolution, hoping the House will commit it to a Committee of the Whole on the state of the Union:

Whereas the commanders of British armed vessels have impressed many American seamen, and compelled them to bear arms on board said vessels, and assist in fighting their battles with nations in amity and peace with the United States; and, also, brought into British ports for adjudication, many merchant vessels sailing under the flag, and owned by citizens of the said United States, where some have been a long time unjustly detained, and others condemned, contrary to justice and the law of nations: For remedy whereof,

Resolved, That in case the Government of Great Britain shall neglect, or refuse, for —— months, to restore all American seamen, impressed and detained as aforesaid, and also discharge all American vessels, detained contrary to the law of nations, making compensation for the loss sustained by such detention, and also, for those condemned as prizes; all trade and intercourse shall thenceforth cease, and be prohibited between these United States and Great Britain and its dependencies, until equitable arrangements shall be made between the two Governments that shall insure a return or compensation for the property unjustly seized and condemned; and also, the restoration of American seamen to liberty and their country. Provided also, that upon such arrangements being made, the President of the United States shall have power, by proclamation, to open trade and commerce, upon the principle of such equitable arrangements between the said United States and Great Britain and her dependencies.

This resolution was immediately considered, and committed to a Committee of the Whole on the state of the Union.

PORT OF PHILADELPHIA.

On the motion of Mr. J. Clay, the House resolved itself into a Committee of the Whole on the bill declaring the consent of Congress to an act of the State of Pennsylvania entitled "An act to empower the Board of Wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned."

[This bill authorizes the imposition of four cents a ton on all vessels clearing out of the port of Philadelphia, for any foreign port, to be expended in building piers in, and otherwise improving the navigation of the Delaware.]

On this bill, a debate of considerable length arose; Messrs. J. Clay, Findley, Leib, and Marion supporting, and Messrs. J. C. Smith, Crowninshield, Quincy, and Ely opposing it.

It was opposed on two grounds—on the ground of unconstitutionality and inexpediency. On the former ground, it was contended that the imposition of the proposed duty was inhibited by that provision of the Constitution which prescribes that, "no preference shall be given by any regulation of commerce, or revenue, to the ports of one State over those of another;" that the object of the bill was, to lay a special tax for the exclusive benefit of the port of Philadelphia—which would be giving a preference to that port over the other ports in the United States; that instead of doing this, in case the navigation of the Delaware required improvement, which was feasible, the better way would be, to draw a sum for this purpose from the general Treasury. It was, however, contended that it was inexpedient to make any provision whatever for this purpose, as it was extremely doubtful whether the object contemplated was practicable, and as the navigation of the Delaware was much better than that of many other streams on which other ports were situated, which,

consequently, had higher claims on the aid of Congress. It was further stated, that the contemplated duty would operate, not merely on vessels belonging to the port of Philadelphia, but likewise on foreign vessels entering therein; and that it was unjust to derive revenue from them for the accomplishment of objects of a local nature.

The advocates of the bill contended that it was strictly Constitutional, in proof of which, they appealed to that part of the Constitution which says, that, "no State shall, without the consent of Congress, lay any duty of tonnage;" which provision exactly met the present case. As to the Constitutional provision quoted on the other side, they observed that it was only made with the view of preventing the adoption of partial regulations of trade or revenue, or the establishment of free ports. They quoted several precedents, by which it appeared, that in several instances, a like authority with that in the bill had been given, and in some cases without any limitation of time. On the ground of expediency, they represented the navigation of the Delaware as seriously obstructed by a shoal, which was every year increasing, and which might, unless measures were taken, operate at some future period to the destruction of the navigation. The tax asked, would be paid exclusively by vessels trading from the port of Philadelphia, and ought not, therefore, to be opposed by those whose interests were not in the least implicated. It was added, that it was strange that, while scarcely a year passed without large appropriations being made from the general Treasury for the erection of light-houses in various parts of the United States, the request of the merchants of Philadelphia to be authorized to subject themselves to a tax for the improvement of the navigation of the only port in Pennsylvania should be opposed.

The question was then put on Mr. Crowninshield's motion to strike out the first section, which was negatived—yeas 27.

Mr. Crowninshield moved to amend the bill, so as to confine the duty to vessels belonging to the port of Philadelphia.

Mr. Crowninshield spoke in favor of, and Messrs. J. Clay, Sloan, Conrad, and Elmer, against this amendment, which was disagreed to—yeas 12.

Mr. Crowninshield offered an amendment, limiting the duration of the bill to three, instead of seven years.

Messrs. Crowninshield, Southard, and Ely, supported; and Messrs. J. Clay, Leib, and Sloan, opposed it; when the question was put, and the amendment disagreed to—yeas 34, nays 56.

The Committee then rose, and the House ordered the bill to be engrossed for a third reading to-morrow.

Thursday, February 13.

Mr. Goodwyn, one of the members from Virginia, presented to the House certain resolutions of the inhabitants of the town of Petersburg, in the said State, expressive of their opinion of the present state of public affairs, and proffering their lives and fortunes in support of the public honor and security, and of such measures of national redress and retribution, as Congress may deem it expedient to adopt; which were read, and referred to a Committee of the Whole on the state of the Union.

An engrossed bill declaring the consent of Congress to an act of the State of Pennsylvania, entitled "An act to empower the Board of Wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned," was read the third time, and passed—yeas 52, nays 27.

A message from the Senate, informed the House that the Senate have passed the bill, entitled "An act for altering the time of holding the circuit court in the State of North Carolina," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the said bill: Whereupon,

Ordered, That the said amendments, together with the bill, be committed to Mr. Boyle, Mr. Stanford, and Mr. Rhea of Tennessee.

On motion, it was

Ordered, That the committee appointed on the letter of William H. Harrison, and the memorials and petitions of the Indiana Territory, be discharged from the farther consideration of so much of those memorials and petitions as relates to the donation and pre-emption rights, and the salt springs in that Territory; and that the same be referred to the Committee on the Public Lands.

The bill making extra compensation to the Governor, Judges, and Secretary of the Indiana Territory, allowing each $300 for compiling a code of laws, having passed through a Committee of the Whole, was ordered to be read a third time to-morrow.

The bill from the Senate, making, in addition to the unexpended balances of $1,200, an appropriation of $1,000 a year, for five years, for the support of a library, was read a third time and passed—yeas 68.

PUBLIC LANDS.

Mr. Lattimore observed, that in addition to the various objects embraced by several petitions which had been referred to the Committee on Public Lands, relative to lands in the Mississippi Territory, there were others, an attention to which seemed necessary, as well to do justice to individuals, as to facilitate the execution of the business of the land office west of Pearl river. In order, therefore, that the subject might undergo a proper investigation, he begged leave to offer the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire,

Whether it be expedient to confirm any claims to lands in the Mississippi Territory, founded upon Spanish warrants or orders of survey, which were not inhabited and cultivated on the twenty-seventh day of October, one thousand seven hundred and ninety-five, agreeably to the first section of the act, entitled "An

act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee:"

Whether it be expedient to repeal so much of the first section of the said act, as precludes persons under the age of twenty-one years, and not heads of families, from the benefits of the provisions of the section aforesaid:

Whether it be expedient to make provision, by law, for reimbursing pre-emption claimants, in such sums as they may have paid to the United States, in the event of their being evicted of the lands for which such sums may have been paid, by a judicial decision in favor of any grant not derived from the United States:

Whether it be expedient to invest the Commissioners west of Pearl river with such extensive equitable jurisdiction, as may enable them to guard, on the one hand, against the admission of claims, which may be supported by a literal construction of legal provisions, though founded in fraud; and to confirm, on the other hand, those which may not be thus supported, though founded upon principles of equity and justice: And, also,

Whether any, and, if any, what, further amendment ought to be made to the act aforementioned; and that they have leave to report by bill, or otherwise.

The resolution was agreed to.

Mr. G. W. CAMPBELL observed that a law had been passed the last session authorizing the President to cause the lands in the Territory of Orleans to be surveyed. The object of this act was to prepare the lands for sale and settlement. Believing that a settlement of that territory would greatly contribute to its security and prosperity, his wish was to bring the subject directly before the House. Whatever doubts may be entertained of the propriety of encouraging the settlement of Upper Louisiana, he believed no difference of opinion existed as to the expediency of fostering the settlement of the Territory of Orleans by citizens of the United States; which end would be best effected by opening land offices for the sale of lands therein.

Mr. CAMPBELL concluded by moving the following resolution:

Resolved, That —— offices be established for the sale of the lands belonging to the United States within the Territory of Orleans.

Referred to the Committee on Public Lands.

SOCIETY OF HARMONY.

The House went into a Committee of the Whole on the bill received from the Senate, the object of which is to authorize the location of a quantity of land in the Indiana Territory by George Rapp and his associates, they paying two dollars therefor, and giving them a credit, without the payment of interest, for six years, when they are to pay one-fourth of the purchase money, and the residue in six annual payments, on condition that, agreeably to prescribed terms, the vine shall be cultivated.

Mr. MCCREERY stated that George Rapp and his associates, amounting to about 3000 persons, were natives of the Electorate of Wirtemburg; that they were Lutherans, who had fled from oppression in that country; that they were mostly cultivators of the vine, and wished an extension of the usual time for paying for public lands, they not having the means of the common payment; they wished to live together, and to cultivate the vine for their principal support, for their prosperity, and for the good of the community, in introducing its culture into this country.

Mr. ELY observed that the bill appeared to give a preference in the sale of the public lands; that the bill was presented from the Senate without the documents or testimony which might justify this preference; he therefore moved that it should be committed to the Committee on Public Lands.

Mr. GREGG.—They obtain a whole township of the best land at only two dollars per acre, and it is proposed to extend to them an unusual indulgence in the time of payment. He would not agree to it.

Mr. FINDLEY spoke in favor of the bill.

Mr. CONRAD.—The indulgence of time for payment is not unprecedented. He showed an act granting twelve years for payment where land was purchased for the same purpose, and that act does not bind the purchasers to plant the vine, whereas this does. It were better to make a present of the land than not have the settlement among us of such persons. If not thus sold, it is more than probable that the land will lie waste and unsold more than the six years.

Mr. OLIN.—If we can be justified in a sale of this kind, why oblige foreigners instead of our own countrymen? We have citizens enough of our own who would be glad to purchase on such terms.

Mr. SLOAN.—Though I drink no wine myself, I have no wish to prevent others, for I think it may often be serviceable. I consider the indulgence as to the time of payment in the light of an encouragement or bounty, that may prove useful to us as well as the applicants.

Mr. SMILIE.—I cannot say with the gentleman from New Jersey that I drink no wine, for I certainly do when I can get it. I do not consider it as a valid objection that the petitioners are foreigners. I am myself an European, who have fled from oppression in the country where I was born. How great a part of Pennsylvania is settled by such characters!

Mr. MCCREERY.—The applicants are men of piety and industry. Let us give them a good chance, for our own sakes as well as theirs, to introduce the culture of the grape here.

Mr. FINDLEY.—If this indulgence be not given, the land will lie waste. We wish to populate the territory. Their settlement will enhance the value of the public lands around them.

Mr. ELY.—I am sorry my motion has occasioned so much debate. I was ignorant of the circumstances relating to this society, and to the character of it; my object was information, not an intention to defeat the bill. We deviate from the usual mode, which is to have the report of a committee in cases of this sort.

Mr. GREGG.—This bill very improperly authorizes a deviation from the established practice of selling public lands—it is a change of principle. I do not wish to see so great a body of foreigners settled together; we shall have a little Wirtemberg; we must legislate for them; they cannot speak our language; they cannot serve as jurymen, and from the information I have received, I am confident they will not proceed in cultivating the vine in that country.

Mr. BEDINGER.—I am a shareholder in a vineyard in Kentucky, and our success has exceeded our most sanguine expectations.

Mr. MACON.—In order to try the sense of the committee, I move to strike out the words "George Rapp and his associates." Why should we not grant bounties for raising wheat or corn as well as the vine? If wine can be made here to advantage, there is no need of the encouragement of this House. A few years since we raised no cotton, but the profit of this culture once known, it has become an article of vast exportation. What claim have these aliens over our own citizens? They have been oppressed; put your finger on any spot of Europe that is not under oppression. If you commence this new system, all the best sections of land will be taken up in this manner. Who will not purchase on such terms?

Mr. LYON.—Lands not belonging to the public may be had for less than one dollar an acre in many places.

Mr. OLIN.—We have men that can cultivate the vine as well as those foreigners. It is a plain, simple thing.

Mr. JACKSON.—If disposed to grant favors, let us grant to those who have the greatest claim. There are many old soldiers of the Revolution, who would rejoice to purchase land on these terms. Why encourage the making of wines? They are luxuries, not necessaries. Lands on the Ohio are from six to eight dollars in many places; this bill gives the petitioners their choice of the best, and they pay no interest for their purchase, at two dollars.

Mr. SLOAN.—This bill will enhance the value of lands adjoining. It will be a humane act.

Mr. JACKSON.—I rise merely to state a fact I have just now learned. There are at this very time men waiting for the passage of this bill, who are ready to give six dollars per acre for much of the very land the bill contemplates.

Mr. HOLLAND.—Some small tracts only may sell for six dollars. We bind the purchasers to plant the first year 9,000 plants, and 3,000 annually after.

Mr. MORROW, of Ohio.—I rise only to reply to the gentleman from Virginia, (Mr. JACKSON.) I never seek for information in the lobby, nor the gallery, nor Pennsylvania avenue. The gentleman is misinformed.

Mr. JACKSON.—My authority is an honorable member near me—an authority at least as respectable as any the gentleman from Ohio can have.

The question was taken—50 for striking out, 51 against it. The Committee rose, and the House considered the bill.

Mr. CROWNINSHIELD.—There is no interest to be received. I have made a calculation that, considering the want of interest to the time of the last payment, we now get only ninety-seven cents per acre. I move to strike out two, and insert three dollars per acre.

The motion was lost—44 only for it.

Mr. CROWNINSHIELD.—There are in a section about 23,000 acres, making 46,000 dollars. I move to insert six per cent. interest till paid.

Mr. NICHOLSON.—Public lands are sold without interest for a certain time. If the money be not punctually paid, I am willing the debt should be on interest after.

Mr. JACKSON.—I move to postpone the consideration of the bill indefinitely.

The ayes and noes were called for, and taken on this motion—yeas 53, nays 59.

Mr. CROWNINSHIELD's motion for the insertion of interest was lost—52 to 49.

Mr. D. R. WILLIAMS moved the insertion of two instead of six years for payment of the land. Motion lost—54 to 45. The bill passed to a third reading for to-morrow.

FRIDAY, February 14.

An engrossed bill for the relief of the Governor, Judges, and Secretary, of the Indiana Territory, was read the third time and passed.

Mr. SLOAN, from the committee to whom was referred the bill imposing a duty of ten dollars on every slave imported into the United States reported a bill, with sundry amendments.

The principal feature of the amended bill is a provision, in the case of smuggling slaves into the State of South Carolina, that the Secretary of the Treasury shall be authorized to remove them into some other State and hire them out for a term of years.

Mr. JACKSON moved to reject the bill.

This motion, after a short debate, was negatived, and the bill referred to a Committee of the Whole.

INDIANA TERRITORY.

Mr. GARNETT, from the committee appointed on the eighteenth of December last, to whom were referred the report of a select committee on the letter of William H. Harrison, made the seventeenth of February, eighteen hundred and four; a memorial of the Legislative Council and House of Representatives of the Indiana Territory, and several petitions of sundry inhabitants of the said Territory; made the following report:

That, having attentively considered the facts stated in the said petitions and memorials, they are of opinion that a qualified suspension, for a limited time, of the sixth article of compact between the original States and the people and States west of the river Ohio, would be beneficial to the people of the Indiana Territory. The suspension of this article is an object almost universally desired in that Territory. It appears to your committee to be a question entirely different from that between slavery and freedom, inasmuch as it would merely occasion the removal of persons, already slaves, from one part of the country to another. The good effects of this suspension, in the present instance, would be to accelerate the population of that Territory, hitherto retarded by the operation of that article of compact, as slaveholders emigrating into the Western country might then indulge any preference which they might

feel for a settlement in the Indiana Territory, instead of seeking, as they are now compelled to do, settlements in other States or countries permitting the introduction of slaves. The condition of the slaves themselves would be much ameliorated by it, as it is evident, from experience, that the more they are separated and diffused, the more care and attention are bestowed on them by their masters, each proprietor having it in his power to increase their comforts and conveniences in proportion to the smallness of their numbers. The dangers, too, (if any are to be apprehended,) from too large a black population existing in any one section of country, would certainly be very much diminished, if not entirely removed. But whether dangers are to be feared from this source or not, it is certainly an obvious dictate of sound policy to guard against them, as far as possible. If this danger does exist, or there is any cause to apprehend it, and our Western brethren are not only willing but desirous to aid us in taking precautions against it, would it not be wise to accept their assistance? We should benefit ourselves, without injuring them, as their population must always so far exceed any black population which can ever exist in that country, as to render the idea of danger from that source chimerical.

Your committee consider the regulation, contained in the ordinance for the government of the Territory of the United States, which requires a freehold of fifty acres of land as a qualification for an elector of the General Assembly, as limiting too much the elective franchise. Some restrictions, however, being necessary, your committee conceive that a residence continued long enough to evince a determination to become a permanent inhabitant, should entitle a person to the rights of suffrage. This probationary period need not extend beyond twelve months.

The petition of certain settlers in the Indiana Territory, praying to be annexed to the State of Ohio, ought not, in the opinion of your committee, to be granted.

It appears to your committee that the division of the Indiana Territory, in the manner directed by the ordinance of 1787, and for which the people of Randolph and St. Clair have petitioned your honorable body, would be inexpedient at this time. The people of the two sections have lately entered into the second grade of government, the whole expense of which would fall on the people of one section, if a division were now to be made. This, in the opinion of your committee, would be neither politic nor just. But, although a division of the Territory appears improper at this time, we think it should be made as soon as the population of either section has increased so far as to entitle them to form a State Government. The petition which prays that such a Government may be formed, by uniting the two sections as soon as their inhabitants shall have augmented so far as to authorize it, your committee conceive ought not to be granted. A Territory, when once erected into a State, cannot be divided or dismembered without its own consent; the formation, therefore, of two States out of this Territory, originally intended by the ordinance of 1787, could not constitutionally be effected, if the two sections were once permitted to form one State, without the consent of that State, however necessary the extent and population of that Territory might render such division.

After attentively considering the various objects desired in the memorials and petitions, the committee respectfully submit to the House the following resolutions:

1. *Resolved*, That the sixth article of the ordinance of 1787, which prohibits slavery within the Indiana Territory, be suspended for ten years, so as to permit the introduction of slaves, born within the United States, from any of the individual States.

2. *Resolved*, That every white freeman of the age of twenty-one years, who has resided within the Territory twelve months, and within the county in which he claims a vote, six months immediately preceding the election, shall enjoy the rights of an Elector of the General Assembly.

3. *Resolved*, That the petition of certain settlers in the Indiana Territory, praying to be annexed to the State of Ohio, ought not to be granted,

4. *Resolved* That it is inexpedient, at this time, to grant that part of the petition of the people of Randolph and St. Clair which prays for a division of the Indiana Territory,

5. *Resolved*, That so much of the petition of the Legislative Council and House of Representatives of the Indiana Territory as prays that the two sections may be united into one State Government, ought not to be granted.

Referred to a Committee of the Whole on Thursday next.

SOCIETY OF HARMONY.

The bill allowing George Rapp and his associates to locate a township of land in the Indiana Territory on certain conditions, was read a third time.

Mr. Clark moved to recommit the bill to the Committee on Public Lands. The bill wants several amendments. There is no penalty, should the petitioners neglect to plant the vines.

Mr. Jackson.—I second the motion of my colleague. These public lands formerly belonged to the State of Virginia; when ceded by that State, the Government of the United States were made trustees "for the common benefit of the Union; faithfully and *bona fide* for that use, and for no other," to use the words of the act granting the cession. This is a contract between Virginia and the United States; we are in the place of trustees; we cannot violate the trust, yet this mode of selling the land for the benefit of individual foreigners is a violation of the trust. This precedent will be quoted hereafter, and will operate most injuriously. Notwithstanding what the gentleman from Ohio (Mr. Morrow) has said, I cannot help saying, that there are men ready at this time to give six dollars per acre for this very land, or land of this description. This bill will give them a whole township, 23,000 acres of land of the first quality. I cannot conceive the cultivation of the vine as a national benefit, as being "for the common benefit of the Union." It will diminish the revenue, should vines be raised in abundance here. Wine is heavily taxed, and the tax is paid by the rich. I am altogether opposed to the bill.

Mr. Smilie.—A new argument indeed is brought forward by the gentleman from Virginia. We can hardly turn round without somehow invading the rights of Virginia. If we talk of building a bridge or erecting a dam, at once the rights of Virginia are invaded. If we wish to dispose of some of our public land in the West as we think

proper, the rights of Virginia are invaded. Virginia claimed lands stretching to the north pole; she took what she wanted, and gave a quit claim to the United States for the rest. Some of the House think this sale, this indulgence in the payment for the purpose of introducing the cultivation of the vine, and of serving these worthy foreigners, will be "for the common benefit of the Union;" some think otherwise; it is merely a matter of opinion, and a majority of opinion must decide.

Mr. Morrow.—There are some small tracts of land, on which what are called *squatters* are settled, and where already improvements have been made, which would sell for four or six dollars per acre; but I doubt whether any township of land would sell for two dollars, even with the usual instalments.

Mr. Parke, of the Indiana Territory.—Even in the settled parts of the Territory, lands are not above three dollars.

Mr. Lyon.—The price of lands is various. I know of 200,000 acres of land on the Wabash, which is offered for sale at twenty cents per acre; yet I have given fifty dollars per acre for several acres near me, which I much wanted.

Mr. Ely.—Gentlemen have said that poor lands were proper for the vine. It may be so; but the petitioner and his associates mention also the raising of hemp, which requires the best bottom lands. I am far from wishing to discourage these settlers; but they are already among us, and will not leave this country. They are represented to be, (and I fully believe the representation,) men of piety and morality; the United States are not beyond improvement in piety and morality; instead of putting them in one, and that a far distant place, let them be scattered over the Union, that all parts may be benefitted. Such a body of men, of one sect, of one language, will wish to seclude itself from the rest of the Union; they will wish what this bill gives them, and what I think injurious, an exclusive territory. We are deviating from our common usage in the sale of land. Is the deviation necessary or proper? Gentlemen have said they were flying from oppression to this land of liberty; liberty was their object; a republican Government; yet it appears that when they left Wirtemberg, their expectation and intention was to settle in Louisiana, then under the Spanish Government. The bill obliges them to plant a certain number of vines; perhaps the expense of this will not be $100, and there is no forfeiture even if they should refuse to comply. It may prove a fine speculation for them; they may get perhaps the finest land and the best salt lick in the territory.

Mr. Nicholson, (after recapitulating the arguments previously adduced:) I have no objection to the settlement of the applicants in one body; nor can I see any probable evil resulting from it. The gentleman from Massachusetts has informed us that the people of the United States are bad enough, and that the distribution of this society over the whole States might prove advantageous to the Union; if not in one body, they must settle on lands for sale in different parts of Kentucky, Tennessee, Ohio, &c. This distribution would be unfair, as Massachusetts has not lands for sale, except perhaps in the district of Maine; hence that State would be deprived of the advantage it might obtain by an improvement of its piety and morality from a distribution of a part of this society among the citizens of that State. I know not why the sale of this land, according to the terms of the bill, should be considered as not conducing to the good of the nation. We have given lands for colleges and schools, and for the support of clergymen; we have also sold lands, the proceeds of which were to be expended for the improvement of roads—roads by which the public at large would be benefitted, though the citizens of Maine or Georgia might never travel them.

The bill was recommitted to a Committee of the Whole—62 to 53, and made the order of the day for Monday next.

Monday, February 17.

The House resolved itself into a Committee of the Whole on the bill declaring the town of Jersey, in the State of New Jersey, to be a port of delivery; and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

A memorial of the Chamber of Commerce, of the town of New Haven, in the State of Connecticut, signed by Henry Dagget, their President, was presented to the House and read, setting forth their surprise and solicitude at the embarrassment to which the commerce of the United States is subjected, by the new assumed principles and doctrines of the admiralty courts of Great Britain, as well as from the depredations of lawless freebooters, and the unwarrantable impressment of our seamen; that, impressed with the necessity of measures for defence, which shall be firm but temperate, and bold, yet marked with a spirit of conciliation, they are ready and desirous to give aid and support to every measure of Government calculated to accomplish this important object.—Referred to the consideration of a Committee of the Whole on the state of the Union.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred the petition of William Breck, junior. The Committee rose and reported a resolution thereupon; which was twice read and agreed to by the House, as follows:

Resolved, That provision ought to be made, by law, for the payment of expenses incurred in bringing to the United States, by order of the American Consuls, the mutineers on board the ship Ulysses; and for the adjustment of the claims made by individuals who may have performed that service.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

The House resolved itself into a Committee of

the Whole on the report of the Committee of Commerce and Manufactures, to whom was referred the petition of John McFadon and Francis Johonnot. The Committee rose and reported a resolution thereupon; which was twice read and agreed to by the House, as follows:

Resolved, That the prayer of the petitioners, so far as relates to their exemption from imprisonment for debts due to the United States, is reasonable and ought to be granted.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, to whom was referred the petition of John McFadon. The Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That the person of John McFadon shall be exempt from arrest on account of any debt owing by him to the United States, for the principal and interest of custom-house bonds, signed by him as surety for John A. Jolly, deceased.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

Ordered, That the Committee of the whole House to whom was committed the report of the Committee of Commerce and Manufactures on a resolution of the twenty-seventh of December last, "to inquire into the propriety of erecting the port of Newcastle, in the District of Delaware, into a port of entry," be discharged from the farther consideration of the said report.

The House then proceeded to consider the said report at the Clerk's table, and the resolution contained therein, in the words following, to wit: "that it is expedient to erect Newcastle into a port of entry" being twice read, was, upon the question put thereupon, agreed to by the House.

The House resolved itself into a Committee of the Whole on the report of the Committee on the Public Lands, to whom was referred the petition of George Ash; and after some time spent therein, the Committee rose and obtained leave to sit again.

FISHING BOUNTY.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was referred the petition of John Earle, jun., and Thomas M. Hazard, of Newport, in the State of Rhode Island, made the following report:

The petitioners, in the month of May, 1805, fitted out the sloop Abigail, of the burden of thirty tons, for a fishing voyage in the straits of Belle Isle, and as they state, though ignorance of law in this particular, the vessel sailed under a coasting licence, and not under a fishing licence, as is provided for by the several acts of Congress, relative to the coasting trade and fisheries.

The vessel was seized by the collector of Newport, on her return to Rhode Island, but was released by the order of the Secretary of the Treasury. The collector refuses to pay the bounty allowed to fishing vessels, alleging that the owners neglected to provide their vessel with the usual document to entitle them to the benefit of the law.

The Committee are satisfied that the collector has performed his duty in the particular alluded to. The bounty cannot be paid to vessels sailing with coasting papers, any more than it could be to vessels clearing out for foreign voyages. When the regulations of law are calculated for the security of the revenue, and are not found to operate injuriously to individuals in general, there would seem to be no necessity for an alteration to meet every deviation from the ordinary practice. If the petitioners had stated to the collector, at the time of clearing out their vessel, that they intended to employ her upon a fishing voyage, he could not have refused to grant the fishing licence; and, as they omitted to do this, it would appear that the relief prayed for from Congress ought not to be granted.

The Committee, therefore, recomment that the petitioners have leave to withdraw their petition.

The report was agreed to.

IMPORTATION OF SLAVES.

Mr. DAVID R. WILLIAMS, from the Committee appointed, on the seventh instant, "to inquire whether any, and, if any, what, additional provisions are necessary to prevent the importation of slaves into the Territories of the United States, made the following report:

That the act of Congress, passed the 7th April, 1798, authorizing the establishment of a Government in the Mississippi Territory, permits slavery within that Territory, by excluding the last article of the ordinance of 13th July, 1787. The seventh section of this act prohibits, after the establishment of a Government, the importation of slaves from any port or place without the limits of the United States; of course, the right to import slaves from any place within the limits of the United States is not restricted.

The act of 2d March, 1805, further providing for the Government of the Territory of Orleans, secures to its inhabitants "all the rights, privileges, and advantages, secured by the ordinance of 13th July, 1787, and now enjoyed by the people of the Mississippi Territory." The importation of slaves, from any place within the limits of the United States, is one of those rights; consequently, the inhabitants of the Territory of Orleans may exercise it also.

The tenth section of the act of 26th March, 1804, "erecting Louisiana into two Territories, and providing for the temporary government thereof," prohibits the introduction of slaves into that Territory, from any place, "except by a citizen of the United States, removing into said Territory, for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves." This tenth section, being repugnant to the first section of the act of 2d March, 1805, was repealed by the last section of said act, which declares: "that so much of an act entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof, as is repugnant with this act, shall, from and after the first Monday of November next, be repealed."

The committee are in the possession of the fact, that African slaves, lately imported into Charleston, have been thence conveyed into the Territory of Orleans; and, in their opinion, this practice will be continued to a very great extent while there is no law to prevent it.

Upon this view of the subject, the committee believe it is expedient to prohibit any slave or slaves, who may be hereafter imported into the United States, from being carried into any of the Territories thereof; they, therefore, respectfully recommend the following resolution:

Resolved, That it shall not be lawful for any person or persons to import or bring into any of the Territories of the United States any slave or slaves that may hereafter be imported into the United States.

The report was referred to the Committee of the Whole to-morrow.

NICKLIN AND GRIFFITHS.

The House went into a Committee of the Whole on the report of the Committee of Commerce and Manufactures on the petition of Nicklin and Griffiths. The report states the following circumstances. The petitioners bought from Joseph Anthony and Co. a vessel, possessed of an American register. Some time after this purchase, it was disclosed that Joseph Anthony and Co. were indebted to —— Coulon, a foreigner, for a part of this ship; in consequence of which the collector refused considering her an American ship. The petitioners pray that this vessel may receive an American register; in which the Committee of Commerce and Manufactures concur,

Messrs. CROWNINSHIELD, J. CLAY, NICHOLSON, and ELY, supported; and Messrs. CONRAD and MACON opposed the report; which was agreed to —yeas 56, nays 31.

The Committee rose and reported their agreement to the report of the Committee of Commerce and Manufactures. The House immediately took up the report, concurred therein, and ordered a bill to be brought in.

SOCIETY OF HARMONY.

The House went into a Committee of the Whole on the bill authorizing George Rapp, and his associates, to locate a township of land in Indiana Territory.

Mr. CONRAD spoke in favor of the bill. To make the bill more agreeable to gentlemen who were opposed to it, he moved an amendment, putting the first time of payment to four years instead of six.—Carried.

Mr. LEIB moved an amendment, obligating Mr. Rapp to make the location of land before the 1st of January next.—Carried.

Mr. CLARK.—I am opposed to the bill, but since gentlemen in favor of it form a majority, I wish to make a further amendment, striking out that part which obliges George Rapp and his associates to plant the vine.

Mr. CONRAD.—This bill is a contract. I wish the experiment of making vines tried.

Mr. FINDLEY.—I am opposed to the amendment.

Mr. CLARK.—The obligation is a hardship on their part. I shall not vote for the bill, but with the amendment I should like it better.

Mr. ELMER.—In favor of the amendment, I do not desire to compel them to cultivate the vine, unless they find it profitable and choose to do it.

Mr. LYON.—I am pleased with the bill as it is. I have no notion of accommodating any gentleman who declares that even with his amendment, he will not vote for the bill, especially when I can see no good reason for it.

Mr. HOLLAND.—It is no objection in my mind that these people speak a different language. The settlement of the Moravians in North Carolina has been of no disservice, but of much benefit. I trust the case will be similar here.

Mr. CROWNINSHIELD moved to insert an amendment, obliging Rapp and his associates to pay interest, after the four years, till the whole sum should be paid.

Mr. SLOAN.—The gentleman from Massachusetts has made a calculation of the amount of interest. Men in his line of business are generally ready reckoners, especially when to their advantage; but the land will yield no interest if not sold, as probably it will not be, for ten years, should this bill not pass.

Mr. NICHOLSON.—They cannot take lands on navigable waters; they must take poor and good lands as every such section is composed of. Their location must be in one place; they cannot, like other purchasers, pick good spots here and there. The sale is to our advantage. Either give them not the credit, or do not oblige them to give interest. The credit will be of no service to them if you charge them interest.

Mr. LYON.—The amendment of the gentleman speaks of interest on the last payments; I know not, among six or seven payments, which can be called the last. The sale will be a good bargain on our part. I am against the insertion of interest.

Mr. CROWNINSHIELD.—The gentleman from Kentucky is perfectly right; the "last payments" can mean only the two last payments. I wish a further amendment, by saying "the last six payments."

Mr. JACKSON.—Would you give this indulgence to several hundred of your own native citizens? No, sir. Why, then, to these aliens? [Mr. J. went largely into the arguments previously used.]

Mr. LYON.—Will any gentleman show where any townships of 23,000 acres together have been sold for 46,000 dollars?

Mr. SLOAN spoke some time in favor of the bill.

Mr. FINDLEY also.

Mr. MASTERS.—Some gentlemen think George Rapp will make a rap, and some think George Rapp will not make a rap; I wish the insertion of interest, and George Rapp may do as he pleases.

The question on interest was taken and lost—For it 43, against it 46.

Mr. BIDWELL.—This is a deviation from our usual rule in the sale of lands, and the fluctuation in the sales will lessen the value of our land.

Mr. JACKSON moved to insert "further," so as to read "for the further introduction of the vine;" because vines are already introduced. Five members for it.

The Committee of the Whole rose, and the House took up the bill. Several new amendments were proposed and lost. The House at

length adjourned, at 4 o'clock, without deciding on the bill.

TUESDAY, FEBRUARY 18.

Mr. TENNEY, from the Committee of Revisal and Unfinished Business, made a further report; which was read and ordered to lie on the table.

Mr. TENNEY, from the same committee, presented a bill to continue in force an act, entitled "An act to authorize the Secretary of War to issue land warrants, and for other purposes;" which was read twice and committed to a Committee of the Whole on Friday next.

Mr CROWNINSHIELD, from the Committee of Commerce and Manufactures, presented a bill for the relief of John McFadon and Francis Johonnot; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. CROWNINSHIELD from the same committee, presented a bill to change the name of the District of Nanjemoy to that of St. Mary's; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. CROWNINSHIELD, from the same committee, presented a bill for the relief of Philip Nicklin and Robert Eagle-field Griffith; which was read twice and committed to a Committee of the Whole to-morrow.

An engrossed bill declaring the town of Jersey, in the State of New Jersey, to be a port of delivery, and for erecting a light-house on Wood Island, off Fletcher's Neck, in the State of Massachusetts, was read the third time: Whereupon, a motion was made, and the question being put, that the said bill be recommitted to a Committee of the Whole immediately, it was resolved in the affirmative.

The House, accordingly, resolved itself into the said Committee; and, after some time spent therein, the bill was reported with an amendment; which was twice read, and agreed to by the House.

Ordered, That the said amendment be engrossed, and, together with the bill, read the third time to-day. The said engrossed bill, together with the amendment, was then read the third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I now communicate to the House of Representatives the information desired by their resolutions of January twenty-fourth, relative to the fortifications erected at the several ports and harbors of the United States and their Territories, and to the Navy and Navy Yards of the United States.

FEB. 18, 1806. TH. JEFFERSON.

The said Message was read, and, together with the documents accompanying the same, referred to the consideration of a Committee of the Whole on the state of the Union.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to extend jurisdiction, in certain cases, to State judges and State courts," with an amendment; to which they desire the concurrence of this House. The Senate have also passed a bill, entitled "An act relating to the salaries of the judges of New Orleans;" to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole, on the Message of the President of the United States, of the fifth of February, one thousand eight hundred and five, respecting the case of the brigantine Henrick, and a report of the Committee of Claims made thereon; and after some time spent therein, the Committee rose, and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That the sum of —— dollars ought to be appropriated, out of any moneys in the Treasury, not otherwise appropriated, to enable the President of the United States to make such restitution as shall appear to be just and equitable, to the owners of the Danish brigantine called the Henrick, and her cargo, which were recaptured by an American armed vessel, in the year one thousand seven hundred and ninety-nine, and sold by order of the Vice Admiralty Court, in the British island of St. Christopher: Provided, the Government of Denmark shall make compensation for the seizure of certain prizes, captured by the armed vessels of the United States, during the late Revolutionary war with Great Britain, and carried into the port of Bergen, in the year one thousand seven hundred and seventy-nine; and which, by order of the Danish Government, were, without a judicial trial, restored to their original proprietors.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

SOCIETY OF HARMONY.

The House resumed the consideration of the bill sent from the Senate, entitled "An act to empower George Rapp and his associates, of the Society of Harmony, to purchase certain lands;" and a motion being made further to amend the said bill by inserting, at the end thereof, the words following:

"And interest, at the rate of six per cent. per annum, commencing from the end of the four years aforesaid, shall be charged on the whole of the six last payments, until the same shall be received into the public Treasury."

The question was taken that the House do agree to the said amendment, and resolved in the affirmative—yeas 62, nays 44, as follows:

YEAS—Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, William Blackledge, John Blake, junior, Thomas Blount, William Butler, John Campbell, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Matthew Clay, Orchard Cook, Jacob Crowninshield, Richard Cutts, John Dawson, Elias Earle, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, James M. Garnett, Peterson Goodwyn, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Patrick Magruder, Robert Marion, Josiah Masters, David Meriwether, John Morrow, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John C. Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, and Alexander Wilson.

NAYS—Willis Alston, junior, David Bard, Silas Betton, James M. Broom, Robert Brown, Joseph Clay, George Clinton, junior, Frederick Conrad, Samuel W. Dana, Ezra Darby, John Davenport, junior, William Dickson, James Elliot, William Findley, Silas Halsey, Seth Hastings, William Helms, James Holland, David Hough, Michael Leib, Duncan MacFarland, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Joseph H. Nicholson, John Pugh, John Rea of Pennsylvania, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smilie, Samuel Smith, Thomas Spalding, Joseph Stanton, Samuel Taggart, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Daniel C. Verplanck, John Whitehill, and Robert Whitehill.

Ordered, That the said amendments, together with the bill, be read the third time to-day.

The said bill, together with the amendments thereto, was read the third time; and, on the question that the bill, as amended, do pass, it passed in the negative—yeas 46, nays 46.

Mr. SPEAKER declaring himself with the nays. And so the said bill was rejected.

Those who voted in the affirmative, are—

David Bard, Frederick Conrad, Leonard Covington, Ezra Darby, John Davenport, junior, James Elliot, William Findley, James Fisk, Isaiah L. Green, Silas Halsey, William Helms, James Holland, Michael Leib, Duncan MacFarland, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Joseph H. Nicholson, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Russell, Peter Sailly, Thos. Sammons, Martin G. Schuneman, James Sloan, John Smilie, Samuel Smith, Henry Southard, Thomas Spalding, Joseph Stanton, David Thomas, Uri Tracy, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

Those who voted in the negative, are—

Willis Alston, jun., Joseph Barker, George M. Bedinger, John Blake, jun., Thomas Blount, William Butler, John Campbell, Levi Casey, John Chandler Martin Chittenden, John Claiborne, Christopher Clark, Matthew Clay, Jacob Crowninshield, Richard Cutts, John Dawson, Elias Earle, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, Peterson Goodwyn, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Robert Marion, David Meriwether, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Thomas Sandford, John Cotton Smith, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Samuel Tenney, Peleg Wadsworth, Matthew Walton, David R. Williams, and Richard Winn.

CHURCH IN GEORGETOWN.

Mr. FINDLEY called up the bill for incorporating the Presbyterian Society in Georgetown.

The bill was long, and was read by sections. One section authorized a lottery for finishing the church.

Mr. CLARK moved to strike out the section; you would not convert your church into a gambling house. I never considered that religion of the best kind which was supported by lotteries.

Mr. SLOAN.—I am for striking out. I never will consent to an act authorizing public gambling.

Mr. CLARK.—Corporations of all kinds, but more particularly ecclesiastical corporations, are objects of my particular hatred. Religion I do not consider of this world. I am no enemy to it, however; I adore it. To try the principle of the bill, I move to strike out the first section.

Mr. SOUTHARD.—I can see no possible objection to an act of incorporation in this as well as other cases. There are many advantages a society of this nature cannot enjoy without incorporation. Donations from the wealthy, who often bequeath sums for the benefit of religion, cannot be held without such incorporation.

Mr. SLOAN.—We have no acts of incorporation in the society in which I was brought up, (the Quakers;) yet we find no difficulty in the management of our affairs—no difficulty in receiving gifts. I abhor all ecclesiastical corporations. Congress never has, and I hope never will, stain its pages with an act of this sort.

Mr. SMILIE.—I hope the gentleman from New Jersey will not frighten himself with the echo of his own words. No evil can result from this act. The opinion of the Quakers is, that no money ought to assist them in their passage to heaven; others believe that money is employed to the best advantage in this way; hence the Quakers never pay those who preach for them, while almost all other classes of Christians do. The gentleman from New Jersey surely does not wish to forbid a clergyman's payment. I hope that citizens of different persuasions may all have a full enjoyment of their modes of religious worship.

Mr. ELMER.—There never was a nation without religious establishments. All sects, except the Quakers, pay their preachers, and if the preachers among the Quakers have not a direct salary, they find means to obtain something of that kind indirectly, though not from direct funds. Considered in a moral, political, and religious view, these acts of incorporation are highly necessary and proper for the well being of society.

Mr. CLARK.—This is the first request that has been made to Congress for a religious incorporation; if we check it now, we may check what may hereafter prove an immense evil. It is from small beginnings that great disasters usually rise. Should this bill pass, I foresee what may perhaps in time come to pass. I can foresee the practice of pious frauds. The priests dressed in their canonicals, attending the rich man on his dying bed, and urging the repenting sinner to part with a portion of his wealth for the good of the church, and for the obtainment of a certain passport to heaven.

Mr. FINDLEY.—This is an accommodation Con-

gress only can grant, and which is enjoyed in all the States.

Mr. Nicholson.—I never knew an application of this kind to be refused in the State, a part of which I have the honor to represent. In the Legislature of that State, half a dozen applications of this sort would have been granted in the time we have already spent in this unnecessary and shameful debate. Why should we refuse? If a society of Hindoos in the District should make such an application, I should not think of refusing them. If the dying rich man believes the bestowment of a part of his wealth for the benefit of religion will be a deed rendering him more acceptable to heaven, shall he be deprived of this right to give, because another thinks otherwise?

Mr. Rhea, of Tennessee, moved to postpone the consideration of the bill till the 1st of May.

Mr. Smilie spoke against postponement.

Mr. Quincy.—I had not intended to open my mouth on a subject that appeared to me so plain; where our duty was so apparent; but the debate has taken so strange a turn that I must make a few remarks. This is a mere civil affair—religion has nothing to do with it, so far as we are concerned in granting or refusing the application. I never knew an application of this kind to be refused—it is an application for the grant of certain powers to a certain number of persons; it is like an application for the incorporation of a bank, or anything similar. Congress have only to inquire whether or not the ends are proper; whether the powers asked are, or are not likely to be, injurious. The gentleman from Virginia (Mr. Clarke) says, that incorporations of all kinds, particularly ecclesiastical, are objects of his great abhorrence. The objects of his abhorrence must then be very numerous, for they almost everywhere abound. In Massachusetts nothing can be more common. The incorporation of a religious society is not for the mere purpose of enabling such a society to receive the gifts that may be bequeathed them; the incorporation is for the purpose of enabling a society, or number of persons, to transact their business, to hold property, to sue and be sued, &c. Property they must hold, and, if not held as a corporate body, they must hold it as joint tenants—tenants in common—or they must have trustees to hold it for them, or a part must hold as trustees for the rest; and hence arise innumerable difficulties, litigations, and disagreements—difficulties that will not arise in corporate bodies. You have only to take care, when an act of incorporation is granted, that no powers be granted that may have an injurious effect.

Mr. Southard.—The incorporation of almost all societies is for the advantage of the public; the incorporation of religious bodies has ever been beneficial to morals and to society at large. It enables them to give and to receive justice; to sue and to be sued. The benefits of incorporation are innumerable; what were society without them? what are we but a corporate body?

The bill passed to a third reading by a large majority.

Wednesday, February 19.

A Message was received from the President of the United States communicating information from Captain Meriwether Lewis, of the first regiment of infantry, who was appointed, with a party of men, to explore the river Missouri from its mouth to its source. The Message was read, and, together with the documents transmitted therewith, ordered to lie on the table.

Mr. John C. Smith, from the Committee of Claims, presented a bill enabling the President of the United States to make restitution to the Government of Denmark for the capture and condemnation of the Danish brigantine called the Henrick; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Gregg, from the Committee on the Public Lands, who were directed by a resolution of the House, of the twentieth ultimo, "to inquire into the expediency of providing, by law, for the adjudication of claims set up by persons in virtue of purchases, or transfers from purchasers of lands of the United States, previous to the emanation of grants under their authority," made a report thereon; which was read, and referred to a Committee of the whole House on Monday next.

Mr. Boyle, from the committee to whom was referred, on the thirteenth instant, the amendments proposed by the Senate to the bill, entitled "An act for altering the time for holding the Circuit Court in the district of North Carolina," made a report thereon; which was read, and ordered to lie on the table.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to extend jurisdiction in certain cases to State judges and State courts:" Whereupon, the said amendment, together with the bill, were referred to Mr. Sailly, Mr. Pitkin, Mr. Bard, Mr. Morrow, and Mr. Fowler.

On motion, it was

Resolved, That a committee be appointed to consider the propriety of amending the fourth section of the act, entitled "An act concerning the Library for the use of both Houses of Congress," so as to extend the privilege of taking books out of the Library, to the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Attorney General of the United States; and that the Committee have leave to report by bill, or otherwise.

Ordered, That Messrs. Joseph Clay, Nicholson, and John C. Smith, be appointed a committee, pursuant to the said resolution.

The bill sent from the Senate, entitled "An act relating to the salaries of the judges of New Orleans," was read twice, and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole, on the report of the Committee of Commerce and Manufactures, to whom was referred, on the eighth ultimo, the petition of Francis Amory. The Committee rose, and reported against the prayer of the petitioner; which was agreed to by the House.

The House took into consideration the amended bill for laying a duty of ten dollars on every slave imported into the United States.

Various amendments were made, when the bill was ordered to a third reading on Monday.

[As the bill now stands, it provides, in case of smuggling slaves into the United States, that the vessel in which they are brought shall be forfeited. It is silent with regard to the forfeiture or liberation of the slaves.]

CHURCH IN GEORGETOWN.

The bill to incorporate the Trustees of a Presbyterian Church in Georgetown was read a third time.

Mr. Elmer supported, and Messrs. Jackson, Sloan, Holland, and Rhea, opposed the bill.

The question was taken by yeas and nays, and the bill passed—yeas 72, nays 40, as follows:

Yeas—David Bard, Joseph Barker, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jun., James M. Broom, Robert Brown, John Campbell, John Chandler, Martin Chittenden, Joseph Clay, Frederick Conrad, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, Michael Leib, Henry W. Livingston, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, junior, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Russell, Thomas Sammons, Martin G. Schuneman, John Smilie, John Cotton Smith, Henry Southard, Thomas Spalding, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, and Thomas Wynns.

Nays—Willis Alston, junior, George M. Bedinger, Phanuel Bishop, Thomas Blount, John Boyle, William Butler, Levi Casey, John Claiborne, Christopher Clark, Matthew Clay, Orchard Cook, Jacob Crowninshield, William Dickson, Elias Earle, Peter Early, John W. Eppes, Peterson Goodwyn, Edwin Gray, Silas Halsey, James Holland, John G. Jackson, Thomas Kenan, David Meriwether, Thomas Moore, Thomas Newton, junior, Gideon Olin, Thomas M. Randolph, John Rhea of Tennessee, Peter Sailly, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smith, Samuel Smith, Richard Stanford, Matthew Walton, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

JOURNALS OF CONGRESS.

Mr. Joseph Clay, from the committee to whom was referred the petition of William Levis and Hugh Maxwell, made the following report:

That, on a member taking his seat in Congress for the first time, it has been heretofore customary to supply him with a copy of the Journals of the Congress under the Confederation. For this purpose, by a joint resolution of the Senate and House of Representatives, approved on the 2d day of March, 1799, the Secretary of the Senate and Clerk of the House of Representatives were authorized and directed to subscribe for four hundred copies of the said Journals, then proposed to be published by Richard Folwell. Those copies were accordingly procured, and have been distributed to members of each Congress, until the present. At the meeting of the present Congress it has been found that only ten copies remain, which are by no means sufficient to supply those members who have not served a former Congress with one copy each.

The petitioners offer to furnish one hundred and thirty copies, bound in boards, to be delivered at Washington, at $16 a set. This is the price, including binding and the expense of transportation, at which former sets were furnished, and is, as the committee are informed, at a much less rate than that at which the Journals could now be printed.

Provision ought, perhaps, to be made for printing at the public expense another edition of these important Journals; this, however, is not a subject on which your committee will, at this time, offer an opinion; but they can see no reason why the members, who have now taken their seats in Congress for the first time should be denied those Journals with which members of every former Congress have been supplied. They, therefore, recommend the following resolution:

Resolved, That the Secretary of the Senate and the Clerk of the House of Representatives be authorized and directed to purchase, for the use of the Senate and House of Representatives, from William Levis and Hugh Maxwell, 130 copies of Folwell's edition of the Journals of the Congress under the Confederation, at such price, not exceeding sixteen dollars per set, as they may deem eligible.

Referred to a Committee of the whole House to-morrow.

Thursday, February 20.

Mr. John C. Smith from the Committee of Claims, to whom was referred on the seventh ultimo, the petition of Willis Wilson, made a report thereon; which was read, and ordered to be referred to the consideration of a Committee of the Whole House to-morrow.

Mr. John C. Smith, from the same committee, presented a bill making provision for extinguishing the debts due from the United States; which was read twice and committed to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill for relief of Philip Nicklin and Robert Eaglesfield Griffith. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

Mr. Joseph Clay, from the committee appointed yesterday, presented, according to order, a bill to amend an act entitled "An act concerning the Library for the use of both Houses of Congress;" which was read twice and committed to a Committee of the Whole to-morrow.

Ordered, That the Committee of the Whole House to whom was committed, on the fifth instant, the bill making an appropriation for the payment of the witnesses and other expenses on

the impeachment of Samuel Chase, and to which Committee of the Whole was also committed, on the eleventh instant, the bill sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," be discharged from the consideration of the said last mentioned bill; and that the said bill be committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati, and State of Ohio. The bill was reported with an amendment thereto; which was twice read and agreed to by the House.

Ordered, That the said bill, with the amendment, be read the third time to-morrow.

On motion, it was

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of granting a pre-emption right to George Ash, of one mile square of land in the Indiana Territory, to include his improvements.

Mr. Newton said, he had been requested to present several resolutions, unanimously adopted by the citizens of Norfolk and Portsmouth, expressive of their indignation at the conduct of Britain on the restrictions and plundering to which our commerce is exposed, and at the degrading situation to which our brave seamen are subjected by arbitrary and illegal impressments; also, expressive of their determination to support, with their lives and fortunes, such measures as the councils of this nation may adopt.

Mr. N. said he was happy, on this occasion, to be made the organ of this communication. The resolutions were characterized, Mr. N. said, by that language which had been used on the birth-day of American freedom and independence; and they breathed a spirit highly honorable to the citizens of a free and independent nation.

The resolutions were then read, and referred to a Committee of the Whole on the state of the Union.

CHARLESTOWN, VIRGINIA.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, made a report on the petition of sundry inhabitants of Charlestown, Virginia, praying that said place may be made a port of entry and delivery.

The report is detailed, and assigns a variety of reasons against the expediency of granting the prayer of the petitioners, and concludes with a resolution that they have leave to withdraw their petition.

The House, having taken the report into consideration—

Mr. Jackson observed that the facts detailed in the report were conceded. It was probable that there would never be a vessel entered at Charlestown from a foreign country. With regard to the success of the prayer of the petitioners, Mr. J. said he should not have been sanguine, but for a Constitutional provision which he considered imperative. No port of entry existed in the western part of Virginia, in consequence of which, vessels sailing from Charlestown were obliged to pay duties at New Orleans. The Constitutional provision, to which he alluded, was this: "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another." Was it not obvious that a preference was given to the ports of one State over those of another by requiring the vessels of the one, to enter and clear in the ports of the other; and was it not also obvious that the latter part of the provision was equally violated? It would be a great convenience to the petitioners to give bonds and take out clearances in the neighborhood of the place where their vessels are built, instead of being obliged to go to a distance of 2,000 miles, where they would find themselves among strangers.

Mr. Crowninshield observed that there were several ports of entry already in Virginia from which vessels might clear without paying duties at New Orleans. He further observed that New Orleans and Natchez were not within the limits of a State, and therefore were not embraced by the Constitutional provision referred to; and added that duties were only paid on the entry of vessels from a foreign country.

Mr. J. C. Smith thought there was sufficient plausibility in the remarks of the gentleman from Virginia, to give the subject a full discussion. He, therefore, moved a reference of the report to a Committee of the whole House on Monday, which was agreed to—yeas 59.

SALARIES OF JUDGES.

The House resolved itself into a Committee of the Whole, on a bill from the Senate, relative to the salaries of the judges of the Territory of Orleans.

The bill increases the salaries of the judges of the superior and district court from two thousand to two thousand five hundred dollars; and allows I. B. Prevost, a judge of the superior court, an additional salary of five hundred dollars, for services heretofore performed by him without the aid of the other judges.

Messrs. Sloan and Meriwether called for information relative to the grounds on which the proposed increase of salaries is made.

Mr. Early replied, that, since the organization of the Territory of Orleans, the President had not been able to obtain any person or persons properly qualified, except Mr. Prevost, who had consequently been obliged to perform all the duties of the court; that it was requisite for the judges not only to understand the laws of their own country, but likewise those of the country to whom the Territory belonged previous to its cession; and, in addition to this, it was necessary for them to be acquainted with the French and Spanish languages. Added to this, the price of living was extremely high, and the climate very unhealthy.

Mr. Findley corroborated this statement.

The Committee rose and reported their agreement to the bill, which was ordered to a third reading this day.

The bill was accordingly read a third time.

Messrs. Meriwether and G. W. Campbell opposed, and Messrs. J. Clay, Clark, and Nicholson, supported the bill.

Mr. Conrad moved a postponement of the bill till to-morrow.

Mr. Jackson hoped the bill would be recommitted to a select committee empowered to pass in review the salaries of all the judges of the United States. He did not think the salaries in this bill too high, but he thought those allowed to the other judges too low.

Mr. Rhea spoke in favor of the bill.

Mr. Leib thought too much celerity should not be given to the passage of an appropriation bill.

Mr. Early spoke against the postponement.

Mr Stanton spoke against the bill.

The question was then taken on the motion to postpone, which was carried—ayes 50.

Friday, February 21.

Mr. Nicholson, from the Committee of Ways and Means, presented a bill making appropriations for the support of Government, during the year one thousand eight hundred and six; which was twice read, and committed to a Committee of the Whole on Monday next.

The bill sent from the Senate, entitled "An act authorizing the sale of a tract of land in the town of Cincinnati and State of Ohio," together with the amendment agreed to yesterday, was read the third time, and passed.

A bill was received from the Senate, to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo. This bill prohibits all commercial intercourse between citizens or inhabitants of the United States and any part of the island of St. Domingo not in the possession and under the acknowledged Government of France; in violation of this provision, the vessel and cargo are to be forfeited. It is limited to one year, and the President is authorized, at any intermediate time, to take off the restraints and prohibitions.

Referred to a Committee of the Whole on Monday.

NICKLIN AND GRIFFITH.

The bill for the relief of Philip Nicklin and R. E. Griffith was read the third time, and passed—yeas 69, nays 40, as follows:

Yeas—Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Phanuel Bishop, John Blake, jr., James M. Broom, Robert Brown, John Campbell, John Chandler, Joseph Clay, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, William Dickson, Peter Early, James Elliot, Ebenezer Elmer, William Ely, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Michael Leib, Henry W. Livingston, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Ebenezer Seaver, John Smilie, Samuel Smith, Henry Southard, Thomas Spalding, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Richard Winn, and Thomas Wynns.

Nays—Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, Thomas Blount, John Boyle, William Butler, Levi Casey, Martin Chittenden, John Claiborne, Frederick Conrad, Ezra Darby, John Davenport, jr., Elias Earle, Caleb Ellis, John W. Eppes, John Fowler, Peterson Goodwyn, Edwin Gray, Joseph Lewis, jr., Matthew Lyon, Duncan McFarland, Patrick Magruder, David Meriwether Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, Martin G. Schuneman, James Sloan, John Cotton Smith, John Smith, Richard Stanford, William Stedman, Thomas W. Thompson, Joseph B. Varnum, David R. Williams, and Alexander Wilson.

SALARIES OF JUDGES.

The bill for increasing the salaries of the judges of the Territory of Orleans, was read the third time, and rejected—yeas 45, nays 68, as follows:

Yeas—Willis Alston, jr., David Bard, William Blackledge, James M. Broom, William Butler, John Campbell, John Claiborne, Joseph Clay, Frederick Conrad, Jacob Crowninshield, John Davenport, jr., Peter Early, William Findley, John Fowler, Isaiah L. Green, Seth Hastings, Michael Leib, Henry W. Livingston, Matthew Lyon, Robert Marion, William McCreery, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newton, jr., Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Martin G. Schuneman, John Smilie, John Cotton Smith, William Stedman, Samuel Taggart, Samuel Tenney, David Thomas, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Eliphalet Wickes, David R. Williams, Nathan Williams, Richard Winn, and Thomas Wynns.

Nays—Isaac Anderson, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, George W. Campbell, Levi Casey, John Chandler, Martin Chittenden, Matthew Clay, Orchard Cook, Samuel W. Dana, Ezra Darby, William Dickson, Elias Earle, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, David Hough, John G. Jackson, Thomas Kenan, Joseph Lewis, jr., Duncan MacFarland, Patrick Magruder, Josiah Masters, David Meriwether, Jeremiah Morrow, John Morrow, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., John Pugh, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, Lewis B. Sturges, Benjamin Tallmadge, Thomas W. Thompson, Uri Tracy, Robert Whitehill, Marmaduke Williams, and Alexander Wilson.

Mr. Jackson observed, that the House having decided against augmenting the salaries of the judges of the Territory of Orleans, in consequence, probably, of the idea that a general review of the salaries of the judges of the several Territories of the United States should be previously made, he would, in correspondence with that impression, offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of increasing the salaries of the officers of the Territories of the United States, and of the District of Columbia, or any of them; and that they be authorized to report by bill or otherwise.

On the question to take this motion into consideration, the House divided—ayes 23.

YAZOO CLAIMS.

Mr. Gregg, agreeably to notice given yesterday, called for the order of the day, on a resolution offered by him on the 6th day of December, for the repeal of so much of an act of Congress regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee, as appropriates any portion thereof to the satisfaction of claims under certain acts of Georgia.

Mr. Meriwether moved a postponement till Monday.

Mr. Epps moved a postponement till the second Monday of March. He said every member knew his sentiments on this subject. He was in favor of the proposition of the gentleman from Pennsylvania. But while so many interesting subjects, in which the national welfare was directly involved, remained unacted upon, he did think that everything calculated to disturb the harmony of the House, ought to be withheld from consideration; that no unpleasant circumstances, or division of opinion on subordinate points, should prevent the concurrence of men of all parties in the adoption of measures called for by the interesting crisis of our affairs.

Mr. Gregg did not know on what ground gentlemen inferred that this proposition was calculated to cause more division among the members of this House than any other proposition which might be offered. It was a plain and simple question, whether it was not best, under all the circumstances of the case, to repeal the law making an appropriation for satisfying the claims under the act proposed to be repealed, that Congress might thus forever be done with the subject? Mr. G. said he had forborne calling up this resolution for the reasons assigned by the gentleman from Virginia. Though he considered the subject important, and that it behooved the Legislature to decide upon it at an early day, he had thought it most advisable not to call it up till the great national business before the House was attended to. This last business had been, unexpectedly to him, delayed from time to time, and he thought it probable that the resolution under consideration could be acted upon before the House were prepared to act on the national business. He regretted that the subject of our differences with one of the belligerent nations had not, before this time, been acted on. He had laid a resolution on the table on this subject, four weeks ago, but it had been delayed by a call for various Treasury statements—which he regretted having consented to ask, as, in his opinion, they had no bearing on the subject.

Mr. Jackson rose to move a postponement indefinitely.

Mr. Leib said, as this motion involved a decision of the main question, he would call for the taking of the yeas and nays.

Mr. Thomas hoped the gentleman from Virginia (Mr. Jackson) would withdraw his motion, as, from its going to reject the resolution, it would produce all the remarks which would arise from a direct discussion of it. For the reasons which had been urged by the gentleman from Virginia, (Mr. Epps,) who had first spoken, which he considered very cogent; and as the subject of compromise was progressing, and might be settled before the second Monday of March, he hoped the motion for an indefinite postponement would be withdrawn, and that for a postponement to the second Monday of March prevail.

Mr. Jackson said if he viewed the subject in the same light with the gentleman who had just spoken, he would agree to withdraw his motion. He could, however, never make principle bend to expediency. Principle had heretofore governed his vote, and should still continue to govern it. Even on the ground of expediency, he doubted the propriety of adopting the resolution. It was known there was another subject, connected with it, before the Legislature. If that should be decided in the negative, it might be proper to agree to this resolution. As there was a probability that that subject would come before the House, he did not wish to bring the subject twice before them in one session. Its discussion had heretofore excited all the malignant passions of the human heart, and it was well calculated to disturb that harmony which ought assiduously to be cherished when they were on the eve of entering on business of the deepest national interest.

Mr. J. said he wished the subject could be avoided altogether. He was heartily sick of it, and wished to get rid of it forever. But he thought it most proper that the question of compromise should first be decided. If that were negatived, the course pointed out by the resolution of the gentleman from Pennsylvania might be necessary.

Mr. Alston hoped the motion for an indefinite postponement would prevail. He said that though his sentiments were not changed on this subject, and though they were the same now as they ever had been, he did believe the tranquillity of the nation depended much on the decision of this question, and the meeting it fairly and fully. He hoped this would take place this session; but with his friend from Virginia, he hoped the subject would not now be taken up. He thought that the other question, relative to a compromise of claims, should be previously discussed. If the question of compromise could not be agreed to, he would agree to that course which would prevent the subject from ever being agitated within these walls, by transferring it entirely to the judiciary tribunals of the country. He would rather make a voluntary return of the whole territory to Georgia than suffer the subject to remain in its present state. Should the compromise be not agreed to, he would, in proper time, lay a proposition to this effect before the House. He thought the interest of the nation required the getting rid of the subject in this way.

Mr. Jackson withdrew his motion. He said his object could be effected by postponing the resolution from time to time, till the question of compromise should be first decided. He was indeed willing that both questions should be decided at the same time.

Mr. Clark was really concerned his colleague had made this motion. The resolution of the gentleman from Pennsylvania had been before them two months, and not a single step taken respecting it, and now we are told we are not to act upon it, till a proposition, not even before us, shall be decided upon. Whatever may be before the other branch of the Legislature, we are not at liberty to argue upon it. What prospect, then, is there to get at this subject, when gentlemen say their object is to postpone it from time to time, till a proposition, in its embryo, shall be decided upon? If the subject were really considered as composed of such inflammable materials as some gentlemen think, the sooner it is decided the better. Mr. C. said he was ready to go at once into the discussion, and he thought, the hotter the battle, the earlier would be the peace that followed it. He was ready to repeal the law, which, in the opinion of some gentlemen, gave a sanction to claims founded in fraud and corruption.

Mr. Gregg said he had no objection to the postponement moved by the gentleman from Virginia, provided they could get at the business contemplated by him. But if this could not be done, he was rather for going into a consideration of the resolution. As to the proposition of compromise, he knew nothing of it. No proposition of this kind had been received, by the House, from the claimants. To postpone, therefore, this resolution for a business they knew nothing about, was very extraordinary. If he was satisfied they could get at this business within the time mentioned, he would be content to let it rest for the present. But as that was uncertain, he hoped the resolution would not prevail.

Mr. G. W. Campbell hoped the motion to postpone would prevail. Business of much more importance claimed a prior attention. He conceived that the resolution, when investigated, would be found to contain a very curious principle which the House would not be likely to adopt. It went, not merely to decide on the rights of others, but, to strip them of the right of deciding upon those rights. He should be against deciding on the resolution until they had previously decided the question of compromise, as he did not think it necessary, before this decision was made, to deprive themselves of the power of allowing claims which might be brought before them. The postponement would leave an opening to Congress to act on these claims as they might see fit. For this reason, and in order that business of greater moment might be taken up in the first instance, he should be in favor of the postponement.

The question was then taken on the postponement, until the second Monday of March, and carried—yeas 73, nays 39.

PAYMENT OF WITNESSES.

The House resolved itself into a Committee of the Whole on the bill from the Senate, providing for the payment of the witnesses on the trial of Samuel Chase.

Mr. J. C. Smith said, at the close of the last session, a bill providing for the payment of the witnesses on the part of the United States, had gone from the House to the Senate, and been disagreed to by them. The Senate on their part, had passed a bill providing for the payment of all the witnesses, to which the House had disagreed. A conference had taken place on the disagreeing votes of the Houses, and the bill had been lost from a want of concurrence. The consequence was, the witnesses still remained uncompensated; some of whom have sustained heavy expenses. Petitions received this session from several witnesses on the part of the prosecution, had been referred to the Committee of Claims, who had reported a bill, which was the same in substance with that adopted by the House the last session; the committee not considering themselves at liberty to depart from the principle then established by the House.

It was for the House to decide how long this unprofitable contest (for unprofitable it surely was to the witnesses) should be kept up. Mr. S. said he was not disposed to go into a consideration of the question, whether the expenses of an impeachment should in all cases be incurred by the Government. He would barely observe that the Senate had been unanimous; and if the House should adhere to the ground they had taken, no compensation would be allowed to the witnesses. He submitted it, whether, under these circumstances, it were proper to keep up such a conflict. It had so happened that many of the witnesses, summoned by the accused, had been used by the managers, and the process of summoning them had been similar on both sides. In the bill, there was an omission to provide for the expenses incurred by the managers. If no other gentleman proposed an amendment, he should think it his duty to offer one, providing for these expenses. He hoped the Committee would agree to the bill. Some gentlemen might think, by agreeing to it, they evinced an opinion of the guilt or innocence of the accused. But such a vote could not be viewed in this light. The House had exercised their Constitutional right by voting an impeachment, while the Senate had exercised the same right in acquitting the accused. The same body who had acquitted, had sent down this bill, involving their opinion that the proposed compensation to witnesses was right. Indeed he considered the bill from the Senate as a taxation of costs by the court who sat on this occasion.

Mr. Macon, with a view to try the question, whether the House would agree to pay all the witnesses, moved to insert after the word *witnesses* the words—"on behalf of the United States." He said the history of this business given by the gentleman from Connecticut was correct. The accused had been acquitted by a Constitutional majority, consisting of a minority of the Senate. It was not, he believed, the practice in any criminal court, of any State in the Union, for witnesses summoned by the defendant, to be paid by the State. The States, in many instances, pay their own witnesses, where the person accused is not convicted, but with respect to the conflict between the two Houses, he was convinced the decision of this House was correct; and that it accorded with the general usage throughout the United States. If there was an exception, he did not recollect it. It was true that one or the other House must give way, or the bill would be lost. He would much rather that it should be rejected by the disagreeing votes of the two Houses, than that it should pass as it then stood. If the Senate had offered this bill, it is equally true that the grand jury, who make a bill, have refused it. The two Houses stood on the same ground. One are the triers and the other the hearers. If Congress agree to pay all the expenses of an impeachment, the impeached may run the expenses to such an amount as to prevent a trial. Why pay the expenses in this case, if not in any other? Shall they be paid because this man is a judge, and not a man arraigned before a judge? When a judge is tried he deserves no more indulgence than a private individual, and though he is acquitted the acquittal is not such as to convince the nation, or any other body of men, that he is innocent. It was not that kind of acquittal which an honest man would wish. It was constitutional, but not by a majority of the Senate. Are we, under these circumstances, obliged to pay the witnesses he has chosen to summon? Believing, as he did, the man guilty, and the charges in many instances, supported, the payment of his witnesses appeared to him a very strange thing. In this, as in every other case, he was willing to yield to a Constitutional decision, but he could never consent to pay the witnesses of the accused.

Mr. Alston said the amendment went to try the question, whether the House would agree to pay all the witnesses summoned on the trial of Judge Chase. Before it was made, the honorable Speaker ought to have told the House whether they could determine which witnesses were summoned on the part of the United States, and which on the part of Judge Chase. From everything which he had seen, (and he had examined all the documents on the subject,) he had found no data upon which to determine what witnesses had been summoned on one side or the other, unless from the recollection of gentlemen, by which he supposed the House would not consent to be governed. When the question was before the House the last session, he had expressed his doubts whether they ought to pay the witnesses of an accused man, whether he was acquitted or convicted; but he was now convinced, that until Congress passed a law, prescribing how witnesses are to be paid, they were bound to pay them. No such law had been passed. He would ask gentlemen learned in the law, whether a witness on the part of Judge Chase could demand compensation from him? Have we passed any law, prescribing how much shall be paid, or how it shall be done? No such law has been passed. Mr. A. said, he thought gentlemen were carrying their prejudices too far in this instance. He had voted for five out of eight of the articles, but the Senate had acquitted him of all of them. He was contented with this decision, and so far as he was acquainted with the sentiments of those he represented, he believed they too were satisfied. It was not now a question how this principle should be settled. If a general law were brought before them, there was no doubt, but that, if a man so conducted himself as to bring himself to a trial, he should pay his own witnesses, provided such law declared how much they should be paid. The honorable Speaker had said there was not a State in the Union in which the witnesses of a person indicted and acquitted were paid by the State. Mr. A. said he believed, in Virginia, when a man was indicted and acquitted, he was not subject to the payment of costs. If this were true, one State at least, and that the largest in the Union, had set a different example; and if precedent was entitled to any influence, it was against the Speaker. Mr. A. said this, however, had no weight with him. The great objection with him, was, that they could not discriminate the witnesses of the United States from those of the accused; and if they could ascertain them, there was no law prescribing how the latter should be paid by the accused.

Mr. Jackson believed Congress bound to render compensation to the witnesses on the trial of Judge Chase, on the abstract principle of justice and right, as well as from precedent and practice. The argument of the honorable Speaker militated against the inference drawn by him. He says the accused may multiply witnesses to such an extent as to defeat a prosecution. If the proposition, however, be examined in all its bearings, it will be found to operate most severely, and almost exclusively, on the man impeached by the House of Representatives, no matter for what cause, or whether he is guilty or innocent. If the House are determined to destroy him, it is only necessary to vote an impeachment, which will impose upon him a ruinous burden. Mr. J. said he did not apply these remarks exclusively to the impeachment of Judge Chase. The Journal of the House would show that he was in favor of his impeachment. But as he had been acquitted by the Constitutional tribunal, clothed with authority to pronounce him guilty or innocent—the dernier tribunal constituted for such cases—he did not consider himself justified to say, after their decision, that he was guilty. He held himself bound by the judicial decisions and laws of the country, though as an individual he might dissent from some of them. The United States might, in case a person acquitted on an impeachment is compelled to pay his witnesses, multiply charges embracing the whole life of the accused, and tracing him from the district of Maine to Georgia, so as to compel him, in order to refute the charges, to adduce ten times as many witnesses as would otherwise be necessary. The true rule is, that the court shall decide what witnesses are proper to be taxed in the costs, and what are not. The Senate, who in this instance are the court, have decided that all shall be taxed. They were perfectly competent to decide whether any witnesses of the accused were brought forward without sufficient cause, or whether they were essential to the defence. It is manifest, by the bill under consideration, that they have made the latter decision. The gentleman from North Carrlina is correct in his statement of precedent. The uniform course in Virginia, is to tax the attendance of witnesses, who are paid out of the public Treasury; and those on the part of the defendant in the same way as those on the part of the prosecution. This practice has been extended so far as to embrace the payment of witnesses from another State. In a late case, although as far as the opinion of the court could go, a man was declared guilty of the crime with which he was charged, yet, the jury having pronounced him innocent, a witness on his part, brought from Kentucky, was paid out of the public Treasury. This is not the case where the individual is convicted. If he possess sufficient property, that is answerable for the expenses.

The Senate, undoubtedly, possess the right to say whether the witnesses adduced are necessary; and if, in any future case, improper witnesses shall be brought forward, they may refuse to tax them. This bill does not provide for all cases of impeachment, but is confined to the case of Samuel Chase. Mr. J. said he would submit whether it was proper or just to compel men at a great expense to attend at the seat of Government in an an inclement season of the year without giving them a compensation. If a law had been previously passed prescribing that the witnesses of the accused should be paid by him, they would have required some assurance from him. But as no discrimination had been made between the witnesses, they came forward in full faith that the Government would allow them a liberal compensation.

Mr. Nicholson said he had but a few observations to make on this subject: indeed, indisposition disabled him from making many. He considered this bill as calculated to establish a great principle—a principle whether, in all cases of impeachment, the United States are to bear the burden. It was not in reference to an individual that he was induced to advocate the amendment of his honorable friend, the Speaker, but because its effect would be to establish a principle that would hereafter govern in similar cases. If the principle were established that in all cases of impeachment the Government is to bear the expense, it will put it in the power of the individual impeached to increase the burden to any extent he pleases. And whenever a man shall be impeached, base enough to hate the Government under which he lives and holds an office, in a case which requires but two witnesses, he may summon two hundred. This bill will establish such a principle, and we shall in all future cases be told that the witnesses of the accused were paid in the case of Chase. It was for this reason, Mr. N. said, he advocated the amendment, and to convince the individual that subjected himself to an impeachment that he must suffer some pains and penalties. For it was not to be presumed that the House of Representatives would impeach any man unless there was some color for it—some reason to induce the nation at large to believe him guilty. An impeachment speaks the language of the nation, expressed through their representatives; and whenever a man in office conducts himself so as to make the nation believe him guilty, it was not desirable to offer the protection held out in the bill, particularly when a majority in the other branch also believed him guilty.

But gentlemen say, this is not the practice in the State courts; and we are told in Virginia, when a man is acquitted, the State pays the expense of his witnesses. Mr. N. said this might be so, though he did not know that it was; it was not so, however, in the courts of the United States. Any gentleman who doubted this, had only to refer to the treasurer's accounts since the Government had been in operation, and he called upon any such gentleman to show a single charge for witnesses in cases of acquittal. It is not the practice in England, nor could it be made to appear by any document, that the witnesses summoned by Warren Hastings, though he was acquitted, had been paid by the Government. But admitting, for argument's sake, the practice to be such in the United States as it is represented to be in the courts of Virginia, would that meet the present case? No. In Virginia there was a reciprocity. There, if a man was convicted, he paid all the costs, and if acquitted, the State pays them. But, in the United States, do we make the convicted pay the costs? Had the accused judge been convicted would gentlemen advocate his paying all the costs? No. In that case he would have been scot free as to the payment of money, though he might have sunk in reputation. In Virginia there is a reciprocity; the convicted either pays the expenses of the prosecution or goes to jail; whereas, in this case, the United States are called upon to bear the whole burden. When Judge Pickering was convicted, was he called on to pay the costs? Such a thing was not then dreamt of. It was then considered proper that the United States should pay their own witnesses. The argument, therefore, fails. The only objection of any weight is that raised by the gentleman from North Carolina. It is said to be impossible to discriminate the witnesses. The gentleman says that he has examined the journals of the Senate, and cannot find any discrimination. But has he looked at the journals of impeachment, where it appears that such witnesses were sworn on the part of the United States, and such on the part of the accused? Besides, if this evidence were not on the journal, it could be got from the parties themselves, who could swear they were summoned on the part of

the United States or the defendant. This was a common thing in the courts of Maryland, and Mr. N. supposed it was likewise so in other courts. He concluded his remarks by expressing a hope that the amendment would be adopted.

Mr. EARLY said it was his misfortune the last session to differ with a majority of the House, and his present opinion was what it then was. His opinion was not founded either on general principles, or on the practice of the several States, or United States courts. It was founded on the peculiar circumstances of this case. Some of these circumstances had already been stated by gentlemen; but there were some important points of view in which they might be considered, which had not been noticed. It was true, as had been stated by the gentleman from North Carolina, that it could not be distinguished which witnesses were summoned on the part of the prosecution, and which on the part of the respondent, from an omission by the Senate, when they prescribed the form of the subpœna, to distinguish, as it is usual, for which party it was issued. This fact was abundantly proved by the form of the subpœna. How, then, were witnesses to know that they were summoned on the part of the United States, or the respondent? They could not know. There were no circumstances by which they could acquire such knowledge. The party did not serve his subpœnas in person, but they were all sent to the marshal of a given State. A number of them were taken out in blank, and sent to the marshals by post. The gentleman from Maryland has endeavored to obviate the force of this fact, by informing us that a discrimination may be made, by the circumstance of the fact on which side the witnesses were sworn. True; but no gentleman knows better than himself that the witnesses summoned on one side, were, in some instances, sworn on the other; and he would call his recollection to the testimony given by Messrs. Tilghman and Rawle.

[Mr. NICHOLSON here explained, and contested the fact. Mr. EARLY agreed that these two witnesses had been summoned both on the part of the prosecution and the respondent.]

Mr. EARLY said, whether he was correct or not as to the particular cases he had alluded to, he was not mistaken as to the general fact. The gentleman from Maryland had endeavored to obviate the force of this argument in another way, by representing that the witnesses might be called on to swear on which side they were sworn. But this could not be done, but by the passage of some law on the subject. There was no authority which would justify the Secretary of the Senate in demanding such an oath, and if the circumstance could be proved, there was no power, under any existing law, by which the witnesses could recover a compensation for their attendance. They were compelled to attend—by whom? By a branch of this Legislature, on pain of imprisonment in case of disobedience. Whence shall they be indemnified? Will any gentleman say they can recover from the respondent? If so, let them point to the law which authorizes such a recovery. Will they say it can be had under the common law? A majority of this House will not bear them out in the argument. For it is a standing principle with us, that the common law is not in force in the courts of the United States. But put this objection aside—how much shall they recover? Where is the law fixing their per diem allowance? There is a perfect chasm in the subject.

Mr. E. repeated that his opinion was governed by the peculiar circumstances of the case; by the omission of the Senate to insert in the subpœna, on whose side the witnesses were summoned, or to provide for making any recovery from the accused; or how much, and where the recovery should be made. He considered the witnesses summoned, owing to this omission, as being without a remedy, from which resulted the obligation on the part of the Government, as they made the omission, to provide a remedy. The gentleman from Maryland, in noticing the observations relative to the practice of Virginia, stated, that if a similar reciprocity existed on impeachments, his objection to this bill in whole or in part would be done away. Mr. E. said, that in his opinion, this observation fortified the ground he had taken. If there were no reciprocity in this case, it was for want of a general provision. Let us then pass a law making this provision, and let it operate in all future cases. This would be equitable. But the want of reciprocity which arose with themselves, was no ground for omitting to make the only provision for the witnesses which the case allowed. When at the last session, in consequence of the disagreeing votes of the two Houses, a committee of conference had been appointed, he recollected that a distinguished member of the other branch, now absent in consequence of an unfortunate accident, took this ground—that the subpœna did not distinguish on which side the witnesses were summoned, and made a proposition that the bill should be so modified as to place the allowance made to the witnesses of the respondent on this peculiar ground. This proposition did not then obtain, but Mr. E. was still for taking such a course. He hoped the amendment of the honorable SPEAKER would not prevail; in which case he would move, by way of preamble to the bill, what would place the allowance on the peculiar ground he had stated, and thus remove the objections of the SPEAKER.

Mr. NICHOLSON made some explanation of what he had previously stated in regard to the practice of courts, and observed that a witness summoned on one side was not permitted to be sworn on the other, until he had been previously examined by the party summoning him. He also passed over the journal of impeachment, to show that the witnesses on the part of the prosecution had all been examined in the first instance, with a few exceptions, which were specially noted, before those on the part of the respondent were called.

Mr. SMILIE, being of opinion that the question was not ripe for decision, moved that the Committee should rise and ask leave to sit again.

This motion having prevailed, the Committee rose, and the House adjourned.

MONDAY, February 24.

A new member, to wit: EVAN ALEXANDER, returned to serve as a member of this House, for the State of North Carolina, in the place of Nathaniel Alexander, appointed Governor of the said State, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion, it was

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of making provision, by law, for defraying the expense, and compensating the services of Isaac Briggs, in exploring the country, and ascertaining the most eligible route for the mail between the State of Georgia and the city of New Orleans; and that they have leave to report by bill, or otherwise.

Mr. LEIB, from the committee appointed on the seventh instant, "to inquire into the expediency of amending the standing rules and orders of the House, so far as to prescribe the mode of keeping the journals," made a report thereon; which was read, and referred to a Committee of the whole House to-morrow.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, presented a bill for establishing trading-houses with the Indian tribes, which was read, and committed to a Committee of the whole House on Thursday next.

The House resolved itself into a Committee of the Whole on the bill to amend an act, entitled "An act concerning the Library for the use of both Houses of Congress." The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act declaring the consent of Congress to an act of the State of Pennsylvania, entitled 'An act to empower the Board of Wardens for the port of Philadelphia, to collect a certain duty on tonnage, for the purposes therein mentioned," with an amendment; to which they desire the concurrence of this House.

INTERCOURSE WITH ST. DOMINGO.

Mr. SLOAN called for the third reading of the bill laying a tax on slaves.

Mr. EARLY.—I wish to postpone the further consideration of this bill till Thursday next. We have received a bill from the Senate, stopping all intercourse with St. Domingo, which demands our prompt attention.

It was moved to postpone till the 1st of June—ayes 23. It was then carried, to postpone till Thursday next. The bill from the Senate, suspending intercourse with St. Domingo, was then called up.

On reading the section which confines the non-intercourse to one year,

Mr. ALSTON moved to strike out the section.

Mr. EARLY.—I hope that motion will not prevail. The Congress must be again in session previous to the end of the year, and can do as they please. If any alteration should be made, it is probable that it will be several weeks before the bill passes, as amended, through the Senate; it is high time this bill was passed; such a bill ought to have passed long ago.

Mr. ALSTON.—I have no doubt but that the Senate will agree to the amendment in ten minutes. I prefer leaving it to the President, who, by the next section, is authorized to restore the intercourse, if he thinks proper.

Mr. NICHOLSON.—I can see no possible reason for retaining this section.

Mr. CLAY.—I have understood that many of the Senate voted in favor of this bill on account of the limitation. We know not what will be the different situation, previous to the end of the year. I hope the bill will pass without any alteration.

Mr. ELMER.—The limitation does not touch the principle of the bill. I hope the motion will not prevail.

Mr. CROWNINSHIELD.—The bill ought to have some limitation. Why leave it to the President? Let us open the intercourse or continue the non-intercourse ourselves, as we think proper.

Mr. JACKSON.—It gives the President too much responsibility; the restoring the intercourse may be the occasion of war. I prefer modifying the motion so as to insert three years, instead of one.

Mr. COOK.—This is an act of experiment; we know not what will be the situation of St. Domingo within a year.

The motion was not carried—ten only for it. The Committee of the Whole agreed to the bill, and rose. The House immediately took it up.

Mr. NICHOLSON thought the security required by the bill for the faithful performance of a voyage, was not sufficient. He, therefore, moved to amend the bill, by adding "with such security as the collector shall approve."

Mr. BIDWELL.—The ground on which the gentleman from Maryland has moved his amendment, does not exist. By the first section of the bill, the vessel and cargo are both forfeited, if the vessel be voluntarily carried to the ports of St. Domingo. And where is the propriety or need of imposing this duty on the collectors?

Mr. NICHOLSON.—If we are sincere in our declarations, let us make the bill so strong that the intercourse will be stopped. If we are inclined to favor the revolt of the blacks in St. Domingo, let us make the bill such that it cannot stop the intercourse. If we are enemies to the revolters, let us make the provisions of the bill such as that they cannot be eluded; as that the intercourse will effectually be stopped.

Mr. J. CLAY wished that, instead of such security as the collector shall approve, a certain sum should be mentioned. He thought $50,000 ought to be the ultimatum of the security required.

Mr. JACKSON.—I have beheld with grief, and with resentment, the continuance of this dishon-

orable, this nefarious trade. It is quite time to put an end to it. I do not think the securities sufficient. The vessel and cargo are liable to forfeiture, but suppose the vessel and cargo are both sold in St. Domingo; where, then, is the security?

Mr. Nicholson moved to postpone the bill till to-morrow.

Mr. Eppes.—We are called on by a nation friendly to us to put a stop to this infamous and nefarious traffic. It is time to do it; let us pass the bill at once.

Mr. Lein.—It will be neither to please France, nor to gratify Monsieur Talleyrand, who may have said this trade was improper, that I shall act. The bill has come to the House but to-day, and is it proper to hasten its passage, before we can have time to examine its features? It wants amendments; I am for postponing, for the purpose of introducing them.

Mr. Bidwell was opposed to the postponement; Messrs. Nicholson, Clay, and Crowninshield, advocated it. It was carried—57 to 53.

AMENDMENT TO THE CONSTITUTION.

Mr. J. Randolph observed that some time had elapsed since he gave notice that he should call up his resolution for amending the Constitution of the United States. The state of his health had not admitted of his taking his seat before this day. He therefore availed himself of the first opportunity to move that the House should resolve itself into a Committee of the Whole on the state of the Union, with the view of taking that resolution into consideration.

Mr. Masters moved a postponement.

The Speaker said there could be no postponement of a subject referred to a Committee of the Whole on the state of the Union, as it was in order every day to take up business so referred.

Mr. J. Randolph said, if gentlemen were unprepared, he had no objection to waive his call until to-morrow.

The Speaker remarked that there could be no debate on the priority of business.

Mr. Conrad moved to discharge the Committee of the Whole from the further consideration of the resolution. He said he would briefly assign his reasons for this motion. The session had progressed, and the season was fast approaching when every man of agricultural pursuits would be anxious to attend to them, unless detained by important business. He did not believe the proposed amendment to the Constitution so important as to require immediate attention. He hoped, therefore, that it would be postponed until the next session, and that the way would thereby be paved for transacting the important national business that claimed their earliest attention.

The Speaker said the first question was on the House resolving itself into a Committee of the Whole.

The question was taken on this motion, and carried—yeas 61.

Mr. Gregg was called to the Chair, and the resolution having been read, as follows:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following article be submitted to the Legislatures of the several States, which, when ratified and confirmed by the Legislatures of three-fourths of the said States, shall be valid and binding as a part of the Constitution of the United States:

The Judges of the Supreme and all other Courts of the United States shall be removed from office by the President, on the joint address of both Houses of Congress requesting the same.

The Committee divided on agreeing to it, without debate—yeas 51, nays 55.

The Committee then rose, and reported their disagreement to the resolution.

The House having agreed to consider the report—

Mr. J. Randolph called for the taking the yeas and nays on the question of concurrence.

Mr. Clark moved a postponement of the consideration of the report to the third Monday of March, merely with the view of making it give place to more important business, which he said must be attended to. He said he had voted against the resolution, not because he was inimical to the principle involved in it. With a small modification, he should be in favor of it; and he hoped the period was not distant when, with such a modification, it would become a part of the Constitution.

Mr. J. Randolph hoped a postponement to so distant a day would not prevail. He was himself desirous that it should be postponed for a few days, in order to give notice to the House, that there might be a full vote on what he considered a most important measure. He appeared in this instance, as in many others, to be in a state of profound error. The amendment, or deterioration of the Constitution, he had always considered to be a point of the greatest importance. But now, judging by the opinions of gentlemen, it seemed to be of lesser importance than the laying a duty of one or two per cent., to continue but for two or three years. It has, said Mr. R., been a subject of extreme concern to me, though not myself able to attend to the public business, to find, on inquiring daily of my colleagues, that the House has refused to do any business, because on a future day they expected some important business to come before them. I understand that a very important resolution of a gentleman from Pennsylvania, on a business so generally denominated the Yazoo as to require no other name, was postponed on the same ground that my colleague now wishes the resolution under consideration postponed. If there is such important business to transact, in God's name, why not progress in it? But notwithstanding this immensely important business, which serves as an excuse for doing nothing, we make no progress in it, if by it I am to understand the state of our foreign relations. I have no wish, nor do I intend to allude to anything which passed while we were sitting in conclave. But I did hope, when one or two members, who were represented as the only hindrances to the despatch of business, were withdrawn from the House for one or two weeks, everything would have been completed. I expected the adoption of very different measures towards Great Britain. Instead of this, I find nothing done. And now, when an amendment to the Constitution is brought forward, which is allowed to be very important, and when the resolution of the gentleman from Pennsylvania is called up, we are told by gentlemen, we cannot attend to these subjects; there is important business which we expect to have at some future day before us, and therefore we are determined in the interim to do nothing.

One word as to the remark of the gentleman on my left, (Mr. Conrad.) He belongs to a class of men which I highly respect, for the plain reason, that I belong to it myself. He says, the time is approaching when every man engaged in agricultural pursuits must be anxious to go home, and therefore he does not wish at present to act on the resolution I have laid on your table. True; but when men, be they agricultural, mechanical, or of any other profession, undertake any business, it is their duty to go through with it at every hazard. I do not know a man in the House who has suffered more than the individual who now addresses you by his attendance here, and if I could have found an apology in my own mind, I should long since have been gone. If the situation of affairs warranted it, I should be willing to adjourn for two or three months. But I never can agree to adjourn in the present perilous state of affairs, and leave the country to a blind and fortuitous destiny. I must first see something like land, some foot-hold, something like certainty, instead of a political chaos, without form or body. Before I consent to go home, I must see something like a safe and honorable issue to our differences with foreign Powers; and I must see, I hope, another thing—something like an attempt to bring the Constitution of this people back to the principles on which this Administration came into power. I take this proposition, and that of the gentleman from Maryland, (Mr. Nicholson,) to be two important means of bringing that Administration back to those principles. My friend from Virginia says, he expects, at a future period, to obtain this reform. I fear, if delay be permitted, that we shall get into the situation of another deliberative assembly, of which every member agrees that reform is necessary, but that the present is not the accepted time. I am afraid that we are in this situation already. I believe it, because I see it. It is a most fortunate circumstance that we made hay while the sun shone; that we got in the harvest at the first session of the seventh Congress; that we did away the midnight Judiciary and the internal taxes. If those institutions were now standing, I believe they would be as impregnable as any part of the system around which gentlemen affect to rally. I believe it, because I believe appointments would have their effect. Yes, it is but too true, that patriots, in opposition, are as apt to become courtiers in power, as courtiers in power are fond of becoming patriots in opposition. So far, then, from wishing to postpone this measure, I believe that delay will only serve to enhance the difficulty of obtaining it. It is a maxim laid down by every man that has written on national policy, that those abuses which are left untouched in the period of a revolution, are sanctified by time, and remain as the nest-eggs of future corruption, until they compel a nation, either to sweep them away, or to sink beneath them. This, without any exception, is the history of all corruptions; and those corruptions and abuses, not reformed at the first session of the seventh Congress, what has become of them? Have they been suffered to sleep? If they have, is it not to be apprehended that they will rise refreshed from their slumbers with gigantic strength? Fortunate it was that, at the first session of the seventh Congress the midnight Judiciary and the internal taxes were done away; and it would likewise have been fortunate, if another measure had been attended to at the same time. It would have been, in my firm persuasion, very different in its issue from that which it has been. If the great culprit, whose judicial crimes or incapacity had called for legislative punishment under the Constitution, and which have given rise to the motion now before us, had been accused at the first session of the seventh Congress, that accusation would have had a very different issue. And why? Because it is perfectly immaterial what a man's crimes are—every day that elapses between their commission and the time he is called to answer, lessens the detestation and horror felt for them, and, of coure, enhances the value of his chance of an escape from punishment. I am persuaded that, in the remarks I have offered, I have been hurried into some observations that do not strictly belong to it. Yet these remarks furnish a sound reason for not deferring the proposition until the time moved by my colleague. I hope, therefore, the House will reject the postponement until the third Monday of March, and that a postponement will take place to some time when the House shall be fuller, when a decision can be made after mature reflection. For, truly, as to the provision under the Constitution, can any man be so mad or foolish as to think of again trying it? I consider the decision of the last session as having established this principle—that an officer of the United States may act in as corrupt a manner as he pleases, without there being any Constitutional provision to call him to an account.

Mr. Gregg.—I feel but little concerned as to the fate of this motion. I am ready at any time to give my vote on the resolution. As it now stands, I shall vote against it; but modified, as I have seen it in the hands of a gentleman from Virginia, I shall vote for it. But my principal reason for rising, is to say that a great part of the censure cast on the House by the gentleman from Virginia for not meeting the national business, is proper and applicable; and I regret that it is so. But if the gentleman reflects on the subject, he will acknowledge that a great part of the delay which has occurred, attaches to himself. I, four weeks ago, submitted a resolution to the House

on some points of dispute between one of the belligerent nations and the United States; I was anxious that it should be taken up and promptly decided, one way or another. The gentleman from Virginia then called for certain statements from the Treasury, which he considered as having a bearing on the subject. Under that impression the consideration of the resolution was deferred from day to day; and the statements have not yet been received. I stated, at the time, that these statements could have no influence on my vote; but other gentlemen said, they would influence theirs. I regret that we have not been able to go on with this business. I do not know how long we are to be kept in this paralytic state. If the gentleman who has called for the statements, and other gentlemen will agree, I am prepared at once, to go into an examination of the subject. But, as the gentleman from Virginia was the first to embark the House in this call, I hope he will take a part of the censure to himself.

Mr. Smilie.—I am sorry the motion of postponement has been made. I do not know any other time better than the present for the discussion of this subject. It is a subject of the last importance to the peace and happiness of the United States. I am a friend to an amendment of the Constitution relative to the Judiciary department. Whether that offered is the best that can be made, or whether it is going too far, I cannot determine until the subject shall have been investigated in this House. For my part, I am so sensible that that part of the Constitution which relates to the power of impeachment is a nullity, that I see the utmost necessity for an amendment. From what we have seen, I do religiously believe that we cannot convict any man on an impeachment. The resolution before you goes to place the Judges of the United States on the same independent footing with those of Great Britain. Whether our situation requires that they should stand upon higher ground, is a proper subject for discussion. I am rather inclined to think they ought not. It is contended, it is true, that, as they have, according to the opinion of some gentlemen, the right of sitting in judgment on our laws, they ought to be placed beyond the reach of a majority of Congress. This subject must, at some time or other, be considered, and some amendment in the Constitution must take place. When the delays and various vexations, attendant on an impeachment, are considered, it will be evident that they will generally discourage the House from taking this step; and when it is likewise considered that a conviction can only take place on the votes of two-thirds of the Senate, let gentlemen say whether there is any chance of making the Constitutional provison effectual. I despair of it. With regard to the particular modification which may be given to this resolution, that is another thing. I sincerely wish the House would take it up and consider it without any great delay.

Mr. Clark.—I hope my colleague will do me the justice to believe that I have not made this motion from hostility to his resolution. With a small modification, I am decidedly for it. I assure him it did not require the remarks he has made to-day, to show the insufficiency of the present system. Of that I had satisfactory proof the last year. But I doubt whether the resolution, in its present state, is correct. I do hope that my colleague will give it a little more consideration, and I assure him I shall be happy to harmonize with him. In the decision by a mere majority, the scales of justice are so near an equilibrium, that it is doubtful often to which side justice inclines. I, therefore, think there ought to be some modification of the principle contained in the resolution. But I principally wish the postponement to prevail, that the House may act on resolutions which I conceive all-important to the whole country, and peculiarly so to that part of the community represented by my colleague and myself. Every day's delay increases the difficulty and urges on the ruin that menaces them. It is well known that there is not the best harmony between the merchants and planters. It is at all times the interest of the former to buy produce as cheap as they can, and never was there a better scheme for speculation to them than that furnished by the resolutions on our table. How easy it is for them to convince the planter that there will be a suppression of intercourse, and that his produce will be soon worth nothing. These are the effects that I wish to prevent. My colleague will do me the justice to believe that I have had no hand in the procrastination. I have offered no project. With regard to the proposed amendment to the Constitution, I repeat it, I am in favor of it, with a small modification. Nor do I wish it postponed for any great length of time. I have no idea of leaving that to be done by our children which we ought to do ourselves. But let us, in the first instance, proceed to the most important business. Let not my colleague authorize gentlemen to say that, to prevent an attention to it, he interposed his favorite scheme. I have another reason for this postponement: There is no reason for acting on an amendment to the Constitution instantaneously. Most of the State Legislatures, before whom it must be carried before it is a part of the Constitution, have broken up, and will not meet again till the Fall. If, therefore, an amendment be passed at any time during the session, it will answer.

Mr. Masters moved a postponement of the resolution indefinitely, for which he concisely assigned his reasons.

Mr. Bedinger called for the yeas and nays on this motion.

Mr. Findley said he was against the indefinite postponement of the subject, though in favor of its being postponed a short time. He thought it was a subject which ought to be fully investigated. He was decidedly in favor of the object of the resolution, but in a different form.

Mr. Conrad was in favor of the indefinite postponement of the resolution. He did not think the subject ought to be acted upon at this session. He was not unfriendly to the principle, but he never could consent that a bare majority of Congress should have the power to remove a judge. If the amendment was so framed as to give the President a discretionary power to remove a judge on the address of a majority of the two Houses, and to make the removal imperative on the vote of two-thirds, he might be for it. At any rate he thought it best to postpone the subject until the next session.

Mr. J. Randolph.—I am perfectly convinced of the correctness and purity of the motives of my colleague on all subjects, and wherever I differ from him in opinion I always consider it a misfortune. But I have principally risen to plead guilty to the charge of the gentleman from Pennsylvania, which is, that I would not act on his motion without any information on it. I confess the fact. There is, however, one circumstance that strikes my mind as of some force. What is there to prevent our discussing the business, and when there shall be occasion to take up business of greater national importance, dispensing with that which may be before us. I ask whether, if we had taken up this resolution or that of the gentleman from Pennsylvania, we should not have had ample time for discussion before the information called for shall be received from the Secretary of the Treasury; and if we have not the right, at any time, to make less important give way to more important business? Is not this the course which every man pursues in the management of his private affairs? Are we to sit here, without receiving information from the Secretary of the Treasury, doing nothing? I am as anxious as any man for a decision of the question implicated in several of the resolutions laid on our table, and for a good reason. My tobacco is unsold. I feel the full force of the observations of my colleague. I know that these resolutions have already given rise to much nefarious speculation. When I called for information, I had no idea of the time it would take to get it; and had I been apprized of it, I do not know whether I should not have preferred acting in the dark to waiting for it.

There is another reason why I wish this subject (amendment to the Constitution) taken up at this session. When I offered this resolution at the last session, it was said to be too near the close of the session to act upon it—this was acknowledged. But, it was said, print it and let it go abroad. This has been done. But the reason for which I wish it acted upon this session is, that the elections intervene between this and the next session. Gentlemen may say what they please of the principle of *quamdiu bene se gesserit*, but I believe if the members of this House held their seats for seven years, their conduct would not be the same as it is under the present tenure. I wish to recur to that good old principle that sends the Representative back to render an account of his actions to his constituents. After the next election gentlemen will obtain credit for two years more of good behaviour. I believe my friend from Virginia will allow this to be a good reason against a postponement.

But I am told this amendment comes forward in a very questionable shape; that, indeed, it is no amendment to the Constitution. But this is the first time I ever knew a legislative body refuse to act on a proposition barely because it may require some amendment. If there are any parts of the proposition exceptionable, while the principle is correct, why not amend them? I confess this thing is beyond my depth. I cannot see into it. I cannot fathom it. As gentlemen have stated the substance of the resolution as a reason for its postponement, I will state its substance as a reason for not postponing it. One gentleman says he will not consent that the judges shall hold their offices subject to the will of a bare majority of the two Houses. But does not everything of importance depend on them? Do they not appropriate millions? Do they not hold the purse and the sword? Or do gentlemen think the woolsack more important? This is most indubitably the case; and I wish to hear any reasoning against giving efficiency to the will of a majority that does not approximate the doctrine of the Polish veto. There can be no reason for this distinction. And, so far from there being danger of this power being abused, the experience of all Governments holds me out in saying that there is greater danger that the power will not be exercised than that it will be abused. For this plain reason: It would require some overt act of notorious misconduct, or an equally notorious imbecility of mind or body, to justify any man in giving such a vote. It is a point of extreme delicacy to give it; and though some men might, I trust a majority of both branches never would give such a vote for light and frivolous reasons. But it may be thought that, as in all free Governments there are parties, a triumphant party would turn out the judges to get into their places. This would be a most humiliating effect. But on what is the probability of such an effect founded? How are the turners out to be turned in? Have they the power to appoint themselves to office? No. And from our experience heretofore, no such inference can be drawn. There is no probability of one triumphant faction putting down another to get their offices. Because a triumphant faction could not rise to power but at the will of a majority; and although they might take offices away from others, they could not bestow them upon themselves. But suppose they did? It would be for the first and last time. It would be a struggle between office-hunters and the people; and I believe all the experience we have heretofore had shows that this description of men are too prone to union for the public to sustain either profit or loss from their divisions. But if in this opinion I am in error, I would recur back to my first principle to support me. Is the power to remove a judge more important than the power of declaring war, of laying taxes, and of effecting various other national objects? This is a doctrine to me totally unintelligible.

Mr. Smilie observed that he regretted that the motion for an indefinite postponement had been made, as it was equivalent to a rejection of the resolution.

The question was then taken, by yeas and nays,

on an indefinite postponement, and passed in the negative—years 42, nays 81, as follows:

YEAS—Willis Alston, jun., Barnabas Bidwell, Phanuel Bishop, James M. Broom, Martin Chittenden, Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., Peter Early, Caleb Ellis, Ebenezer Elmer, William Ely, James Fisk, Seth Hastings, William Helms, David Hough, Joseph Lewis, jun., Henry W. Livingston, Josiah Masters, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Martin G. Schuneman, John Cotton Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, and Nathan Williams.

NAYS—Evan Alexander, Isaac Anderson, David Bard, Joseph Barker, Burwell Basset, George M. Bedinger, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, William Butler, George W. Campbell, John Campbell, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jun., Jacob Crowninshield, John Dawson, William Dickson, Elias Earle, James Elliot, John W. Eppes, William Findley, John Fowler, James M. Garnett, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Michael Leib, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, David Thomas, Uri Tracy, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Thomas Wynns.

Mr. CLARK then varied his motion so as to postpone the resolution to the second Monday in March.

Mr. J. CLAY said he wished the gentleman would withdraw his motion, and move a postponement till next Monday. He was very sensible of the importance of the subject, and was only sorry that there was not a prospect of obtaining a Constitutional majority in favor of the resolution. Mr. C. said they had been told by his colleague (Mr. CONRAD) that he was ready to vest the President with a discretionary power to remove a judge on the address of the two Houses. But if the gentleman had attended to the politics of his own State he would have seen the impropriety of such authority; the consequence of which was that a judge, whose removal had been requested by the two branches of the Legislature, actually held his place at the discretion of the Governor. The other alternative his colleague had suggested was worse than the present provision, as at present a majority of one branch and two-thirds of the other were sufficient to remove a judge. Mr. C. concluded by expressing a hope that the gentleman from Virginia would agree to a postponement till next Monday.

Mr. CLARK said he had no objection.

The question was then put, and the postponement to Monday next carried.

PLURALITY OF OFFICES.

Mr. J. RANDOLPH.—I beg leave to submit a motion to the House—a very important motion—which at present I only mean to lay on the table. The Constitution of the United States has provided that no person holding an office under the Government of the United States shall be capable of holding a seat in either House of Congress. But as the best things are liable to corruption, and as we are told the corruption of the best things is always the worst, so the Constitution of the United States has received in practice a construction which in my judgment the text never did and does not warrant, but which, if warranted by the text, is totally repugnant to the spirit of that instrument, which, composed of the jarring interests of the different States, and settled on the basis of compromise, gave birth to a Government of responsibility, without influence, without patronage, without abuse, without privileges, attached to any individual, class, or order of men. It could not have been the object of such an instrument, that while a man holding an office not exceeding the value of fifty dollars should be excluded from a seat in this House, a contractor living on the fat of the land should be capable under the Constitution of holding one. Look through the whole of the Constitution, and say where such a privilege is to be found. You find there the single principle of republicanism, that he who has the influence derived from power and money shall not have a place in the council of the nation—that placemen and pensioners shall not come on this floor. While this principle scrupulously excludes men holding responsible offices—men known to the whole world—shall it be considered as permitting contractors to creep in through the crevices of the Constitution, and devour the goods of the people? Such a departure from the spirit, if not from the letter of the Constitution—such a gross evasion of principle—calls aloud for remedy. Can a man who holds a contract for fifty or an hundred thousand dollars give an independent vote on this floor? If so, why not admit the Chief Justice and other high officers under the Government to a seat here? Is it for any other reason, but that the Constitution will not permit the influence derived from office to operate here?

The Constitution may be tried by another test. It was made for the good of the people under it, and not for those who administer it. It was never intended to be made a job of, and I hope it never will be suffered by the people to be made a job of. I think it is contrary to the tenor of the Constitution to hold a plurality of office. We sometime since received a petition from a learned institution to exempt books imported by them from duty. What did we say on that occasion? We said, no; we cannot exempt your books from duty. All

must conform to the laws. There is no man too high or too low for them. The same measure must be meted to all. To my extreme surprise, I see a practice even more repugnant to the spirit of the Constitution than a contractor sitting in Congress; and that is, an union of civil and military authority in one person—an union more fatal to a free nation than the union of Executive, Legislative, and Judicial powers.

Having made these remarks, Mr. R. offered the following resolutions, which were referred to a Committee of the whole House on Tuesday next:

"Whereas it is provided by the sixth section of the first article of the Constitution of the United States, that 'no person holding any office under the United States shall be a member of either House of Congress during his continuance in office;' therefore,

"1. *Resolved*, That a contractor under the Government of the United States is an officer within the purview and meaning of the Constitution, and, as such, is incapable of holding a seat in this House.

"2. *Resolved*, That the union of a plurality of offices in the person of a single individual, but more especially of the military with the civil authority, is repugnant to the spirit of the Constitution of the United States, and tends to the introducing of an arbitrary Government.

"3. *Resolved*, That provision ought to be made by law to render any officer in the Army or Navy of the United States incapable of holding any civil office under the United States."

TUESDAY, February 25.

An engrossed bill to amend the act, entitled "An act concerning the Library for the use of both Houses of Congress," was read the third time, and passed.

The House proceeded to consider the amendment proposed by the Senate to the bill declaring the consent of Congress to an act of the State of Pennsylvania, entitled "An act to empower the Board of Wardens for the port of Philadelphia, to collect a certain duty on tonnage, for the purposes therein mentioned:" Whereupon,

Resolved, That this House doth agree to the said amendment.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

MILITARY LAND WARRANTS.

Mr. JACKSON called for the bill to continue in force an act, entitled "An act authorizing the Secretary of War to issue military land warrants, and for other purposes." The bill was gone through with in the Committee of the Whole in a few minutes, and the House immediately took it up. After debating about one hour whether to postpone or recommit the bill,

Mr. SLOAN said—I have listened attentively to the arguments *pro* and *con* relative to a recommitment. One argument in favor of a recommitment, I must adduce, which, I am confident, can be considered no otherwise than conclusive; we were, last week, out of business, we may be so again; but, by thus playing back and forth, by committing, recalling, and recommitting, we shall have something to do, and keep out of the evils of idleness.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-day.

DANISH BRIG HENRICK.

Mr. J. C. SMITH called up the bill for enabling the President to make restitution to the Government of Denmark, for the capture and condemnation of the Danish brigantine Henrick and cargo. She had been captured by a French privateer in 1799, and soon after captured by the American armed ship, the Pickering, and was condemned and sold, contrary to law, it being neutral property.

Mr. SMITH moved to fill the blank with forty thousand dollars.

Mr. CROWNINSHIELD opposed the bill; and Mr. J. C. SMITH defended and explained. Passed to a third reading for to-morrow—71 in the affirmative.

INTERCOURSE WITH ST. DOMINGO.

Mr. EARLY called up the bill prohibiting intercourse with St. Domingo.

Mr. NICHOLSON moved, (to try the sense of the House, whether they really wish to make the provisions of the bill so secure as to prove effectual in stopping the intercourse,) that the owner should be bound in one or more sufficient surety or sureties, to the satisfaction of the collector of the district. If merchants ask protection of us, they must agree to such prohibitions and exactions as we propose. There are many ways by which the law may be eluded; by fraud and by bankruptcy; by increasing the number of securities, and the sum of the bonds, we diminish the chances of evading the law. All our disputes with other countries, (except the detention of the Western posts,) have arisen from our commercial affairs; the Government has expended fifteen or twenty million of dollars, in the erection and maintenance of a navy to support commerce. Can it, then, be considered a hardship that Government should demand ample security? Cannot the honest and respectable merchant obtain it with ease?

Mr. EPPES.—I am opposed to the amendment offered by the gentleman from Maryland. No law can prevent the evasion of our merchants, if they are determined to trade with the inhabitants of that island.

Mr. CROWNINSHIELD.—I am decidedly opposed to the amendment. If the bill passes, as I understand it, there must be a liability to double forfeiture; the vessel and cargo are forfeited, if detected on their passage home from St. Domingo, and the bond is also forfeited. The bill as it now stands will prove extremely burdensome to the commerce of our country; the burdens are heavy and unnecessary. I think I should vote for the bill were it divested of the burdensome exactions. But, pass what law you please, you cannot stop the intercourse between citizens of the United States and the inhabitants of St. Domingo. If they cannot trade directly from the United States they will remove to some of the West India

islands and continue the intercourse, or the intercourse will be continued by agents in those islands. But, I fear the effect the passing this law may have on the inhabitants of that island. I fear that, in the spirit of resentment, when they hear of the passage of this bill, they will turn to a nation of pirates, as it respects us; and that you will either be obliged to send a fleet into the West India seas, for the protection of your commerce, or be obliged to see it sacrificed. I know not why it is necessary for us, at this time, to pass any bill on the subject. I know not why France should wish such a bill. France will herself, probably, be a loser by its passing. I think we have a right to trade with the inhabitants of that island. Suppose the inhabitants of Jamaica, or the black and white inhabitants of any other ——

Mr. Early asked if the gentleman was in order?

Mr. Crowninshield.—I'll stop if the Speaker so decides, or if any gentleman in the House wishes it.

The Speaker.—The gentleman will proceed, if he pleases.

Mr. Crowninshield.—I had but a word to say. Suppose, sir, there should be a revolt in the East Indies, and England should interdict our trade with Calcutta, with Madras, &c., should we obey? But I will not enlarge. I sincerely hope the bill will not pass.'

The yeas and nays on the amendment were—for it 22, against it 95, as follows:

Yeas—David Bard, Burwell Bassett, Robert Brown, John Claiborne, Joseph Clay, Matthew Clay, James M. Garnett, David Holmes, John G. Jackson, Michael Leib, Nicholas R. Moore, Jeremiah Morrow, Joseph H. Nicholson, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, John Smilie, Samuel Smith, Matthew Walton, John Whitehill, Robert Whitehill, and Alexander Wilson.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, William Blackledge, John Blake, junior, Thomas Blount, James M. Broom, William Butler, Levi Casey, John Chandler, Martin Chittenden, Christopher Clark, George Clinton, jun., Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, John Hamilton, Seth Hastings, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, junior, Henry W. Livingston, Matthew Lyon, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Cotton Smith, John Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Elipbalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Richard Winn, and Thomas Wynns.

Mr. Smilie.—Have we, or have we not a right to carry on trade with St. Domingo without the consent of France? That is the question before the House. Either give up the trade, or acknowledge the independence of Hayti. I am of opinion that, while we acknowledge the rights of France over that island, that we cannot trade with its inhabitants without the consent of France.

It was moved that the bill be read the third time to-morrow; which was negatived, and it was ordered to be read this day. The bill being read the third time—

Mr. McCreery opposed its passage in an argument of considerable length.

Mr. Conrad called for the ayes and noes; which were ordered.

Mr. J. C. Smith said, he rose merely to express his satisfaction that the ayes and noes were ordered on this question. I consider, said Mr. S., all discussion of the merits of the bill as perfectly fruitless. The rapid manner in which it has been hurried thus far through the House, utterly precludes all deliberation, and is a sure prognostic of its final passage. It is a measure which will greatly embarrass all our foreign commerce, and if it is to have its intended effect, which I much doubt, because I believe its defective provisions will be easily defeated or evaded, it must prove completely ruinous to a lawful and valuable branch of our trade. But, as a measure of policy, I consider it absolutely destructive of the best and dearest rights of this country. Sir, the secret is out; the fact cannot be concealed that this bill is dictated by the Government of France. The imperious mandate of the French Minister is published to the world; and the connexion between his orders and this act of obedience and submission will be clearly perceived and universally acknowledged. I presume not to arraign the motives of other gentlemen; they, doubtless, have reasons which justify the measure to themselves. Indeed, it is impossible their impressions can be like mine. For myself, I view the bill, under all its circumstances, as a surrender of all the rights of self government; as a sacrifice of the honor and independence of this nation upon the altar of Gallick despotism. To this sacrifice I never can, I never will consent; and it is, therefore, with pleasure I shall record my decided negative upon the Journal of the House.

Mr. J. Clay.—We cannot trade with them without acknowledging their independence. If gentlemen are ready to do this, I shall consider it as a sacrifice on the altar of black despotism and usurpation.

Mr. Dana.—I rise, sir, to declare my approbation of the sentiments expressed by my honorable colleague, Mr. J. C. Smith.

This bill, from the nature of its provisions, I consider as inadequate to prevent the trade with the island of St. Domingo. At the same time, considering the circumstances under which it has been pressed upon our attention, I view it as peculiarly exceptionable in principle, and as involving consequences which may be severely injurious in practice.

I will not attempt, at this time, to state the various possible consequences of passing the bill. Without estimating the probability of its being regarded by those who now rule in Hayti as an act of hostility against them, and, therefore, as a cause for their exercising hostilities against this country; without intimating the tendency of such measures to drive them to attempt maritime enterprises, and thus to raise up in the West Indies a black Algiers, distinguished by activity and ferocity; without presenting to view the consequent dangers to the property of our merchants and the lives of our seamen; the single consideration of the circumstances under which we are now required to act upon this subject, is sufficient to decide my vote against the present bill, even if it were otherwise of no moment. As one of the Representatives of the people of the United States, I hold it not my duty to bow to the mandate of any foreign Power. In this light I view the communications laid before the Senate, from Talleyrand and the French Minister Plenipotentiary, requiring the interdiction of trade with St. Domingo, under the order of their imperial master. With such sentiments, it is impossible for me to be in favor of the present bill.

Mr. Rhea, of Tennessee.—I deny that this bill is the effect of any request or order of the French; it is an act of justice.

Mr. Quincy.—It was my intention to have entered fully into an examination of the principles of this bill, but, like the gentleman from Connecticut, I deem myself precluded from executing this purpose, by the temper and disposition discovered by the House. In a commercial view, it will affect my particular constituents but little. The merchants of Boston have been concerned in this commerce to a very limited degree only. There are, however, principles in the bill affecting commercial convenience generally, which I should have deemed it my duty to have considered, if the course of proceeding adopted by the House, had not convinced me that it was not by argument that this bill was to be carried, or could be defeated. The bill was laid upon our tables yesterday. In half an hour after, we were called into Committee of the Whole upon it, through which it passed instantly without amendment. The report of the Committee was immediately considered, and a motion to postpone for a single day only, was violently opposed by the gentlemen from Virginia, (Mr. Eppes,) and from Massachusetts, (Mr. Bidwell.) It is true, as has been said, this subject has been long before the Senate, but it is the first time that I ever heard that the members of this House were in duty bound to be prepared to act immediately upon an important question, because it had been long under the consideration of the other branch of the Legislature. A similar degree of haste and determination to press this bill to its final passage, has been equally apparent in this day's debate. Considering the magnitude of its principles and consequences, the course adopted is unprecedented. Under other circumstances, and had time been allowed for the investigation, I should have held it my duty to have shown, as I think it might be done, that our restrictions of this commerce ought to extend only to military apparatus, and not to the denial of the ordinary necessities and conveniences of life; that the laws of nations require that we should exercise a strict neutrality between France and Hayti; and that a declaration of non-intercourse was, and probably would be considered, by the inhabitants of that island, as a declaration of war. But opportunity has not been allowed for the examination requisite to the establishment of these points, and there is obviously no disposition to attend to it were it made. I shall, therefore, merely record my negative to the bill.

Mr. Elmer.—I know of no foundation for the declaration, that this bill is the effect of an order from the Minister of France. I believe no such order would affect a single member on this floor. Policy requires, our duty requires, the passing of this bill. The subject has been fully discussed, this and the last session; there is no haste; if gentlemen wish to amend, let their amendments be brought forward; if they wish further to discuss, the House is ready to listen; the principle of this bill is already settled, and has long been. I look not at consequences; I look to what policy and duty require. We must offend France or Saint Domingo; but I see not why St. Domingo should be up in arms at the passage of this bill. I fear the offence of no nation; I fear only doing wrong as a man, and as a legislator; I fear more the consequences of not passing, than I do of passing this bill.

Mr. Early.—I had hoped this bill would pass without such observations as the House has been compelled to hear; I had hoped that the gentleman from Connecticut, (Mr. Smith,) usually so distinguished by the urbanity and correctness of his deportment in debate, would have forborne such expressions of bitterness and wrath. But the gentleman could not omit this opportunity of opposing the present Administration. The gentlemen who now oppose the bill were the cause of its not being adopted the last session. When we wished to pass this bill the last session, gentlemen who are now opposed to it, prevented its passage by saying that there was no cause for it, and we were told to wait till France should remonstrate against the intercourse. Well, France has remonstrated, and now the same gentlemen tell us not to pass the bill, because she has remonstrated. Strange! There may be other grounds of objections to this bill, which gentlemen choose not to avow. There is a disposition, not only in this House, but elsewhere—in the public prints—which fills my mind with awe. After all we can do, the object seems to be to draw down on us the wrath of other Governments. Look at a celebrated publication in the Philadelphia gazettes. What is the object of that; and what is the object

now? Why, to tell the revolters of St. Domingo that they have just cause of offence or of war.

Mr. Epps.—I rise to express my approbation of the novel manner in which some gentlemen have expressed their disapprobation of this bill. A gentleman from Connecticut rejoices to negative this bill; another gentleman from Connecticut coincides with him, and a gentleman from Massachusetts perfectly agrees with him.

Every nation, when injured, has a right to demand redress. Has not France, then, this right? Some gentlemen would declare St. Domingo free; if any gentleman harbors such sentiments let him come forward boldly and declare it. In such case, he would cover himself with detestation. A system that would bring immediate and horrible destruction on the fairest portion of America.

Mr. Ely.—The amount of the trade, and the exact situation of this country, I knew little of till yesterday. I have attended to the observations that have been made; but I have scarcely heard any reason given why this bill should be passed. Hence, I am inclined to think that reason had little to do in the business, unless they are secret reasons. I wish for reasons for passing the bill; but the discussion has only afforded me reasons against them. Have these Haytians no rights? If they were once subjects of a Government that can no longer hold them, has that nation any right to call on us to starve them out; to starve these people into subjection to that Power? Gentlemen have said that we wish war. I trust not. I love a clear sky, good looks, and pleasant feelings. I love peace, and wish it as much as any gentleman in the House. It is suggested, and I fear too truly, that these people, rude, untutored sons of nature, fired with the full force of the *lex talionis*, when they come to hear of this bill, will arm, harass, and will swarm round our West India trade, and thus injure one fourth of our commerce. I deny the right of the French to dictate, as has been done. I deny the necessity or policy of yielding to the orders of the French Minister.

Mr. Smilie.—I deny that the inhabitants of St. Domingo are a nation. Has the United States, or any other nation, acknowledged them so? No. How, then, are they to be considered other than a part of France?

The bill passed—yeas 93, nays 26, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, William Butler, George W. Campbell, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jun., Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Elipha-let Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Thomas Wynns.

Nays—Silas Betton, Martin Chittenden, Jacob Crowninshield, Samuel W. Dana, John Davenport, jr., James Elliot, Caleb Ellis, William Ely, Seth Hastings, David Hough, Henry W. Livingston, Matthew Lyon, William McCreery, Jeremiah Nelson, Timothy Pitkin, junior, Josiah Quincy, John Cotton Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Killian K. Van Rensselaer, Daniel C. Verplanck, and Peleg Wadsworth.

Wednesday, February 26.

An engrossed bill to continue in force an act entitled "An act to authorize the Secretary of War to issue military land warrants, and for other purposes," was read the third time, and the bill recommitted to a Committee of the Whole immediately. The House accordingly resolved itself into the said committee; and, after some time spent therein, the Committee reported an amendment thereto, which was twice read and agreed to by the House.

Ordered, That the said amendment be engrossed, and, together with the bill, read the third time this day.

Mr. Bidwell, from the committee appointed on the twenty-second of January last, presented a bill prescribing the effect in each State of the records of judgments and decrees of the courts of record of every other State; which was then read twice, and committed to a Committee of the Whole on Friday next.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for altering the time for holding the Circuit Court in the district of North Carolina;" Whereupon,

Resolved, That this House do agree to the said amendment with an amendment.

An engrossed bill enabling the President of the United States to make restitution to the Government of Denmark, for the capture and condemnation of the Danish brigantine called the Henrick, and her cargo, was then read the third time, and passed.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That —— dollars ought to be appropriated out of any money in the Treasury not otherwise appropriated, for the immediate relief of Peter Landais, late a captain of one of the armed vessels of the United States, on account of his claim to prize money accruing from the captures made and carried into Bergen, in the year one thousand seven hundred and seventy-nine; which sum shall be deducted from his proportion of the prize money, which may be procured from the Danish Government in satisfaction of the claim aforesaid.

Ordered, That the said resolution be referred to the consideration of a Committee of the Whole this day.

The House accordingly resolved itself into the said Committee, and after some time spent therein, the Committee rose and reported to the House their agreement to the same. Whereupon,

Resolved, That this House do agree with the Committee of the whole House in their agreement to the said resolution.

Ordered, That a bill, or bills, be brought in pursuant thereto; and that the Committee of Claims do prepare and bring in the same.

A message from the Senate informed the House that the Senate have passed a resolution appointing a committee, jointly, with a committee to be appointed on the part of the House of Representatives, for the purposes expressed in the "Act for the further support of a Library."

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland to the State of Ohio." The bill was reported with several amendments thereto.

REMISSION OF DUTIES.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, having considered the petition of Tristram Hussey, of the island of Nantucket, in the State of Massachusetts, made the following report:

The petitioner, with Edward Cary, jun., and others, merchants, of Nantucket, were, and still are, the owners of the ship Union. This vessel has been, for some time past, employed in the whaling business, with an American master and crew, regularly documented as a vessel of the United States. In the year 1801, on the passage to the Brazils, and before they arrived at the Cape de Verd Islands, they obtained eight casks of spermaceti oil, and sent the same to New York in an American vessel. The collector charged seventy-two dollars and fifteen cents duty on the oil, notwithstanding it was the produce of American fisheries. Upon a second voyage in the same ship, in the following year, they procured twenty-seven casks of oil, from whales taken on the passage, prior to passing the Cape de Verd Islands, and shipped the same also in an American bottom to New York, where the collector again demanded a duty on its importation, and they were obliged to pay a further sum of three hundred and twenty-three dollars and twenty-five cents for the duties. In both instances, the oil was not landed at any foreign port. It was actually taken from the ship Union, and put on board American vessels; and the proof exhibited to the committee is incontestable that it was the produce of the American whale fishery. The collector of New York might, with equal propriety, have charged a duty on the whole cargo of oil imported in the Union, had she entered at that port, as in the two cases under consideration. It appears that American oil cannot be subject to any duty whatever. There is no law known to the committee that seems to authorize a similar charge. No duty can be collected on articles of the growth, produce, or manufacture, of the United States; and, wherever any American articles have been returned from foreign countries, the duty is believed to have been invariably remitted, or rather none has ever been demanded. Codfish, taken by American fishermen, in American vessels, are not chargeable with duty, whether imported in the vessel in which they were caught, or on any other American bottom; surely, then, oil of the American fisheries must be entitled to a similar exemption from duty. The committee are of opinion that Congress ought to relieve the petitioners from the payment of the duty charged to them, without the authority of law to warrant it; and they beg leave to submit the following resolution:

Resolved, That the prayer of the petitioner is reasonable, and ought to be granted.

The report was referred to the Committee of the Whole to-morrow.

Thursday, February 27.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a report of the Commissioners for the district east of Pearl river, of British grants for lands lying in the said district, pursuant to the provisions of the seventh section of the act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" which were read, and ordered to be referred to the Committee on the Public Lands.

On motion, it was

Resolved, That a committee be appointed to consider the expediency of amending the law relative to patents for inventions or discoveries in the useful arts; and to report thereon by bill, or otherwise.

Ordered, That Messrs. Dana, Fisk, Spalding, Alexander, and Smilie, be appointed a committee pursuant to the said resolution.

A petition of sundry inhabitants of the Territory of Lousiana was presented to the House and read, praying that such of them as had families, or were actual inhabitants of the said Territory, on or before the 20th of December, 1803, may have granted to them, respectively, a tract of land of one mile square, together with the usual allowance granted to the wife and family of each settler, according to the usages and customs heretofore established in the said Territory.

Also, a petition of sundry inhabitants of the district of Vincennes, in the Indiana Territory, praying, for the reasons therein set forth, that further time may be allowed to them for filing notices, and making proofs of claims to lands within the said district.

Ordered, That the said petitions be severally referred to the Committee on the Public Lands.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, who were directed by a resolution of the House, of the fifth instant, "to inquire into the expediency of authorizing the Secretary of the Treasury to cause a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying Pans," made a report

thereon; which was read, and ordered to lie on the table.

Mr. CROWNINSHIELD, from the same committee, presented a bill directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed; which was read twice and committed to a Committee of the Whole on Monday next.

An engrossed bill to continue in force an act, entitled "An act to authorize the Secretary of War to issue military land warrants, and for other purposes," was read the third time, and passed.

Mr. G. W. CAMPBELL, from the committee to whom were referred, on the tenth of December last, the petition of the Legislative Council of the Territory of Orleans; and, on the third ultimo, a memorial of the House of Representatives of the said Territory, made a report thereon, in part, which was read, and ordered to be referred to a Committee of the Whole House on Monday next.

The House proceeded to consider the resolution of the Senate appointing a committee, jointly with a committee to be appointed on the part of the House of Representatives, for the purposes expressed in the "act for the further support of a library:" Whereupon

Resolved, That this House doth agree to the said resolution, and that Mr. JOSEPH CLAY, Mr. T. M. RANDOLPH, and Mr. DANA, be appointed a committee on their part.

The House resolved itself into a Committee of the Whole on the bill removing the limitation of the right of suffrage in the Mississippi Territory, and empowering the Legislature thereof to increase the number of Representatives in the General Assembly by a given ratio to that of electors; and, after some time spent therein, the Committee rose, and had leave to sit again.

IMPORTATION OF SLAVES.

An engrossed bill for imposing a tax of ten dollars on all slaves hereafter imported into the United States, was read the third time.

A motion was made, and the question being put, that the farther consideration of the said bill be postponed indefinitely, it passed in the negative—yeas 42, nays 69, as follows:

YEAS—Willis Alston, jr., George M. Bedinger, Silas Betton, Phanuel Bishop, William Blackledge, Thomas Blount, Willliam Butler, John Campbell, Levi Casey, Martin Chittenden, Christopher Clark, Matthew Clay, Jacob Crowninshield, Samuel W. Dana, John Davenport, jr., Elias Earle, Peter Early, James Elliot, Caleb Ellis, Edwin Gray, John G. Jackson, Thomas Kenan, Duncan MacFarland, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Gurdon S. Mumford, Timothy Pitkin, jr., John Randolph, John Rhea of Tennessee, Thomas Sandford, John C. Smith, Thomas Spalding, William Stedman, Samuel Tenney, Thomas W. Thompson, David R. Williams, Richard Winn, and Thomas Wynns.

NAYS—Evan Alexander, Isaac Anderson, Jos. Barker, Burwell Bassett, Barnabas Bidwell, John Blake, jr., Robert Brown, John Chandler, John Claiborne, Joseph Clay, Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, William Dickson, Ebenezer Elmer, William Ely, William Findley, James Fisk, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, Walter Jones, Nehemiah Knight, Michael Leib, Joseph Lewis, jr., Matthew Lyon, Patrick Magruder, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Moseley, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Rea of Pennsylvania, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Lewis B. Sturges, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Uri Tracy, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, and Alexander Wilson.

On motion,

Ordered, That the said bill be recommitted to Mr. SLOAN, Mr. FISK, Mr. EPPES, Mr. QUINCY, Mr. J. C. SMITH, Mr. J. CLAY, and Mr. MARION.

PRIZE MONEY.

A bill for the relief of Peter Landais was read a first, second, and third time, and passed. The petitioner claimed prize money due him in 1799; his claim was upward of $12,000.

Mr. SMITH, who reported the bill, stated that he believed the petitioner at present wished but a part of the sum due him; and he would thank any gentleman to name a sum with which to fill the blank.

Mr. NICHOLSON gave a very affecting statement of the petitioner's situation, and moved to fill the blank with $6,000. It was so filled without a dissentient voice.

JOURNALS OF CONGRESS.

Mr. CLAY called for the resolution to purchase one hundred and thirty sets of Folwell's edition of the Journals of Congress under the Confederation.

Mr. JACKSON.—I do not perceive that these Journals are more valuable, in a political view, or more necessary for members of Congress, than many other works that could be mentioned. I see not why the laws of Congress, or the laws of nations, highly valuable and necessary treatises, should not claim a place in point of utility as soon as the Journals of the Old Congress. I am opposed to the resolution, not on account of the sum, but from my dislike of the principle. You may as well take so much money from the Treasury, and purchase what books you please. There are many new members in this House, who are interested; the books are for the new members of this and succeeding Congresses. I have some doubts of the propriety of their voting.

Mr. LEIB.—The new members are interested; so also were the members who have heretofore voted for the purchase of these Journals for themselves. I received, when I became a member of this House, a set of these Journals; I wish those who come after me may also receive them. I would mete to others the measure that is meted to me.

Mr. ALSTON.—Our predecessors have not all

been furnished with these Journals. Perhaps this resolution is intended to favor some printer, who has these volumes, and finds it difficult to dispose of them.

Mr. TALLMADGE.—There are 300 copies of these Journals now in the Library.

Mr. LEIB.—These, I presume, are for the use of the members while here.

Mr. BLOUNT.—They are for the use of members here; here they are wanted. I can see no just title that members can have to take home these Journals, more than any other books they may wish to read or to possess.

Mr. JACKSON.—Why not also deliver every new member copies of the proceedings of Congress, and the laws, since the commencement of the present Constitution? There are three hundred sets of these volumes in the Library, for the use of members. At the commencement of a session any member can take out a set, take them to his lodgings, keep them during the session, and return them at its close. This has been my practice.

Mr. NICHOLSON.—I observe several new members disinclined to vote on this occasion. When I was a new member, I voted in favor of a similar resolution with great readiness. I consider these Journals as the best volumes in my library. I wish a greater extension to the circulation of these volumes. Let the events of those times be more fully known, and remembered, that they may be handed down to posterity. I fear we are forgetting those times; we are forgetting the occurrences of those days; and, sir, forgetting the great principles which governed the Revolution. Let us bring back those principles. Hard, distressing, indeed, were those times; times they truly were in which the souls of men were tried. Such may I never see again; but, would to God I could discover a return of the great and excellent principles that reigned in those days.

Mr. JACKSON.—I rise to make some remarks in reply to the gentleman from Maryland.

Mr. NICHOLSON.—Will the gentleman suffer me to explain? In my observations, I had no reference whatever to the gentleman from Virginia, nor to his arguments.

Mr. JACKSON.—I am extremely sorry that, in the course of my remarks, I should ever be obliged to take notice of the gentleman from Maryland, or of his arguments; it is not from any respect I bear him.

Mr. NICHOLSON.—I much regret that anything which I may have said should have given rise to such ebullition of wrath as has been exhibited by the gentleman from Virginia. I am not desirous of obtaining that gentleman's respect; if I wished it, I might court it by pursuing a line of conduct like his. I might thus obtain his respect; but I prefer the pursuit of my own ways, that I may be able to respect myself.

The yeas and nays were called. The yeas were 76—nays 31, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Isaac Anderson, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., James M. Broom, Robert Brown, John Campbell, Levi Casey, John Chandler, John Claiborne, Chris. Clark, Joseph Clay, G. Clinton, jun., Fred. Conrad, Orchard Cook, Jacob Crowninshield, John Davenport, jun., Elias Earle, Peter Early, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, Silas Halsey, Seth Hastings, David Holmes, Walter Jones, James Kelly, Nehemiah Knight, Michael Leib, Joseph Lewis, junior, Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Joseph H. Nicholson, Timothy Pitkin, junior, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sandford, Martin G. Schuneman, John Smilie, John Cotton Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, John Whitehill, Eliphalet Wickes, Alexander Wilson, and Thomas Wynns.

NAYS—Burwell Bassett, William Blackledge, Thomas Blount, William Butler, Martin Chittenden, Leonard Covington, Richard Cutts, William Dickson, James Elliot, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, William Helms, David Hough, John G. Jackson, Duncan MacFarland, John Morrow, Gideon Olin, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, Samuel Smith, Thomas Spalding, Joseph Stanton, Joseph B. Varnum, Peleg Wadsworth, David R. Williams, and Richard Winn.

Ordered, That a bill, or bills, be brought in pursuant to the said resolution; and that Messrs. CLAY, SANDFORD, and ELLIS, do prepare and bring in the same.

FRIDAY, February 28.

Ordered, That the committee to whom was referred, on the third ultimo, the memorial of the House of Representatives of the Territory of Orleans, be discharged from the farther consideration thereof, and that such part of the said memorial as remains unacted upon, be referred to the Committee on the Public Lands.

Mr. SAILLY, from the committee to whom was referred on the nineteenth instant, the amendment proposed by the Senate to the bill, entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," reported to the House their agreement to the same, with several amendments.

The House proceeded to consider the said amendments and agreed to the same.

The House resolved itself into a Committee of the Whole on the report of the committee, appointed on the seventh instant, "to inquire whether any, and if any, what additional provisions are necessary to prevent the importation of slaves into the territories of the United States;" and, after some time spent therein, the Committee rose and reported a resolution thereupon, which was twice read, and agreed to by the House, as follows:

Resolved, That it shall not be lawful for any person or persons to import, or bring into the Ter-

ritories of the United States, any slave or slaves that may hereafter be imported into the United States.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. DAVID R. WILLIAMS, Mr. JACKSON, Mr. SPALDING, Mr. KELLY, and Mr. BLACKLEDGE, do prepare and bring in the same.

DEFENCE OF PORTS AND HARBORS.

On motion of Mr. DAWSON, the House resolved itself into a Committee of the Whole on the state of the Union.

The resolutions of a select committee relative to the fortification of ports and harbors were read.

The first resolution appropriates one hundred and fifty thousand dollars to this purpose.

Mr. DAWSON advocated the adoption of this resolution.

Mr. CLINTON.—The only question is the most suitable means of defence. If it should be concluded that defence by fixed batteries would be impracticable, let us vote a large sum for the building of gunboats; or go further, and vote a large sum for the increase of our navy. Something must be done. New York has been the scene of pointed insult: seamen have been taken from the bosom of her harbor: and what redress have we had? Why, the President has remonstrated, and the officer who was guilty of this flagrant misconduct has been punished by being taken from a frigate, and placed in the command of a seventy-four. I would have wished that notice had been previously given when this subject would be called up, for I am unprepared to meet it, having left at my lodgings papers relating to it.

Mr. SMILIE.—I shall move that the Committee rise: and I will briefly assign my reasons. I am friendly to the fortification of our ports and harbors; but if we are willing to crouch under all the injuries and insults that have been or hereafter may be imposed upon us, I see no need of fortifying. On the other hand, if there be still left among us some portion of the American character, some of that spirit that was wont to belong to it, then let us defend it by the building of gunboats, the erecting of fortifications, &c. But I first wish to know what this House intend to do, with respect to commercial restrictions and non-intercourse. I think that subject ought to be first settled: I hope therefore the Committee will rise, and have leave to sit again.

Mr. COOK.—I hope we shall prepare for hostility before we provoke it. I trust we shall not compel a declaration of war before we are in a situation to resist. I hope the Committee will not rise.

Mr. DAWSON.—I also hope sincerely that the Committee will not rise. It is to me a matter of astonishment, that in and out of doors nothing is heard but complaints that no effectual measures are adopted, in these times that call so loudly for them: and yet, when an attempt is made to come to something decisive, the first sound that invades our ears is a cry for postponement. If we intend to support the American name and character, it is time something should be done; they are not to be supported by empty declamations, but by energetic measures: and I hope our protection will arise from our measures, and not consist only in words.

Fifty were for the rising of the Committee of the Whole, and fifty-six against it.

Mr. COOK moved to strike out $150,000, the sum to be appropriated to fortifications, for the purpose of inserting $300,000.

Mr. BIDWELL.—I am opposed to striking out. The object of the appropriation is not to put our fortifications in a state of defence against a large fleet; the object is only to repair. I am inclined to distrust the possibility of defending our ports and harbors by land batteries; but I am in favor of repairing. For one, therefore, I hope the motion will not prevail.

For striking out 46—against it 67.

Mr. MACON.—I cannot but consider the present resolution as the commencement of a system of fortifications from one end of the continent to the other. I can see neither the necessity nor the policy of this second trial of the credit of this Government; it was once found that money could not be procured on the credit of the United States for less than eight per cent. per annum.

Three modes of defence are embraced in the resolutions; fortifications, gunboats, and line-of-battle ships. It is in my apprehension much better to expend, if we conclude to expend at all, on one of the proposed ways only. Great Britain has no fortifications of consequence; she places her defence in her navy. No nation can support both.

Gentlemen tell us of an American spirit. I hope I have as much of it as any gentleman; but it is as much the character of the American spirit to conclude cooly, and act accordingly, as to talk loudly. Members of this House are not the only persons to judge of this spirit; our constituents are the proper judges.

We have about a million of dollars to spare in the Treasury; the appropriations which these resolutions contemplate, amount to nearly that sum. Cannot the money be put to a better use? All the money we have spent in fortifications has been useless. If we expend a small sum like this, it will be in vain; we must calculate to a great amount, if we expect completely to fortify. What would $60,000 do towards defending the city of New York? It would effect no defence.

On the subject of the seventy-fours, I am for a different plan. We ought not to think of building till we have navy yards suitable; but, above all, we ought to prepare ourselves to be able to build: We ought to create a vast debt, to fund a debt, for the purpose of building forty or fifty of those seventy-fours. For what can we do with six only in the time of war? They will not dare to venture out. They must be docked here in the Eastern Branch. Six might answer the purpose on the Barbary coasts; but you must have a fleet equal to Great Britain if you expect defence in this way. We cannot build and support such a fleet. I believe it was once demonstrated, by as able a man as ever graced this or any other Legislature, that no nation was ever able to build and maintain a large navy. On the subject of gunboats, I believe them better adapted to the defence of our harbors than any other. If we were now at war with any nation, however gentlemen may be surprised at the declaration, I think we should do well to lend our navy to another nation also at war with that with which we might be at war; for I think such nation would manage it more to our advantage than ourselves.

Mr. DAWSON.—The honorable Speaker has enlarged on the whole of the resolutions instead of confining himself to the one before the House. He calls this the commencement of a system of fortifications. He must know that it commenced under the former, and has been continued by the present Administration.

Mr. COOK.—I am not sorry that this debate has taken the range it has. Indeed the three resolutions are so connected with each other, that many of the arguments which apply to the first, may with equal propriety apply to the others; they all amount to the question of policy or impolicy of adopting or rejecting this system of defence.

I am in favor of the report of the select committee, because it provides for a species of defence, which alone can be brought into action, against every offending nation.

I consider every class of American citizens as equally entitled to the protection of your Government; and that such was the expectation at the adoption of the Constitution. Are not all classes equally bound to obey your Government? Surely they are. They have all then equally a right to your protection; for protection and obedience are reciprocal duties. Your merchants and your mariners are then as much entitled to protection in their pursuits, as are those whose pursuits are agricultural. Shall your laws give protection to your seamen, your merchants and their property, while in your rivers and ports, or within soundings; and will you abandon them on the high seas, the common property of all nations? Where will you draw the line of demarkation beyond which they shall be at the ban of the empire? They must be protected, sir, in all places. Our dominions consist of land and water—we have a property in severalty, and one in common and undivided. The ocean is this property—it is the highway of nations. The limits of a maritime country, sir, are undefinable.

In encouraging and protecting commerce, you equally encourage and protect agriculture. They depend on each other. A wound given to the one, affects the other. Agriculture and commerce, sir, are not, as some suppose, in hostility to each other; they are co-ordinate and co-relative; the speed of the ship is the speed of the plough. Without the active commerce of this country, agriculture would be choked by a surplus of produce and the want of a market. At a time of peace, at this very time, sir, what ships but Americans can transport the indigenous productions of the country, at a common freight and peace premium? There are none, sir, the increased premium is an abatement of the price of exports. Depress the enterprise of the merchant; abandon the protection of your navigation; and the planter will become dependent on the fortuitous arrival of belligerent ships for a market and a price.

What is the consequence if you do not guard your commerce? The rates of premium will be advanced to an incalculable amount. True, the consumer eventually pays; but the consumers are all your people; who would thus indirectly pay a tax perhaps treble or quadruple the amount of cost in providing and maintaining a naval defence; and which is the most honorable? Which will most impair your revenue, already greatly injured from want of protection?

I have said that the ocean is the common highway of nations; such it ought to be; but new principles are interpolated into the law of nations: robbers and pirates now infest every sea. The Mediterranean no longer excites superior dread; spoliations, insults and injuries, are now brought home to our shores: whole kingdoms are about to be declared in blockade; and I know not what will escape being considered as contraband of war. What, sir, are now the rights of neutrals, but the right to complain? The modern law of nations, sir, is now what a single nation chooses to fashion it for maritime domination.

Sir, it is fairly presumable that a large majority of this House are indignant at our wrongs, and disposed to resent them: on the subject of means only we differ.

Many gentlemen are in favor of acts of non-importation. But will this amount to protection? to that protection, sir, to which our commercial brethren are so justly entitled? Our merchants have suffered greatly; some half, and some wholly ruined. Shall we, for their satisfaction, tell them and others, that they may haul their vessels into dock to rot, while a non-importation act may continue to operate? Is this granting them protection? Whence is it that your revenue is derived, by which your national debt is lessened; by which your civil list is paid, your very Government supported? From commerce; and will you muzzle the ox that treadeth out your corn? What but commerce has raised this country to so enviable a height of prosperity? What but commerce, or taxes on commerce, has enabled you to build the navy you have; has empowered you to resist the encroachments and insults of foreign governments; or furnish the means to save our western brethren from the inroads of the savage? Of what benefit was it to the Northern States that millions of the public money were spent in support of a western army, and in defence of Mississippi navigation? This is not a question to be asked; for Government was, and is bound to protect every part, and the rights of every class of citizens. *E Pluribus Unum* is the motto of our Government. If disunion, geographical distinctions, and local interests are nourished, we shall become the dupes of our own sordid views and an easy prey to any foreign assailing foe.

We are the second commercial nation in the world, having upwards of a million tons of shipping. Is our navy any way proportionable? By our commerce and our numbers, compared with other

nations, should we in the same manner proportion our naval strength; on the basis of numbers, we are entitled to thirty ships-of-the-line and seventy frigates.

Some gentlemen are in favor of abandoning commerce to itself. Let commerce take care of itself, say they. If the merchant cannot pursue his occupation in safety and to advantage, let him quit it, retire from the seaports and take hold of the plough. As well might we tell our brethren of the West,—If the Indians harass you, and you cannot pursue your agricultural concerns, come here to our ports, and take to the smack and the fishing-line for support. No, sir, we are not to abandon our different occupations, but to be protected in them.

I hardly should think the request of our merchants unreasonable, if they should hold to you language of this sort: All your revenue is derived from us; give us a naval defence in proportion to the amount of our tonnage, and to the revenue you receive from us. Such a naval defence would very far exceed a hundred large armed vessels. But such is not the demand; their request amounts to but a small part of what can be afforded; a gradual increase of our navy, the expense of which will hardly be felt; which will in part be paid by the additional revenue arising from additional defence and security. Much revenue has been sacrificed for want of naval defence, and hereafter, in proportion to the increase of our commerce will be the increase of our losses, unless that commerce be fostered by a protecting navy.

Great Britain knows the nature of our Government, and its wishes to maintain peace; she expects we shall show our resentment, and seek our redress by the passing some species of non-intercourse act. Let us, sir, disappoint her; the disappointment will have a good effect.

Some gentlemen have supposed the present Executive of the United States unfriendly to commerce. The belief must be unfounded in correctness. No man can believe this after reading the President's report, made while he was Secretary of State. He is friendly to our commerce, and must be friendly to its protection.

There are many gentlemen, who, under the Administration preceding the present, were much opposed to the creation of a navy. They wish to preserve consistency, and hence continue their opposition. But, are not cases altered by circumstances? What might have been highly improper then, may be strictly proper and necessary now.

Gentlemen, and among others the honorable Speaker, have said that we are now about commencing a new system. Surely this is not a question about the creation of a navy. A navy we already have. It commenced under the former Administration; it has been continued by this. The question is, shall we or shall we not increase that navy to meet the exigency of our affairs?

It is said that a naval force tends to the provocation of insults and injuries; and unless it be immense, it must soon be destroyed. It is from nothing past that this argument can be drawn. Where was ever a nation possessed of naval force, whose navy was ever wholly destroyed? Look to all the minor Powers of Europe; I mean minor in naval importance. They may have been partially injured, or greatly crippled, but none of them have been destroyed; although so much nearer to points of collision than we are.

Sir, we are a nation increasing with rapidity in wealth, numbers, and general prosperity. It will indeed be strange, if we expect as we grow great to gain respectability by our pusillanimity. No, sir, the only, or certainly the most sure way, of gaining the respect of other nations, is by adopting the means that all nations adopt to become great; it is by our power that we are to be respected, and our rights and liberties maintained.

A navy equal to that of Great Britain is neither needed nor expected by our merchants, who are anxious for a navy as the only efficient defence against all nations. In future times, if wars cannot be avoided, (and a power to wage war is the best security for peace,) when we may be opposed to England, the other Powers of Europe will be with us; when acting with England against other Powers our force will be irresistible. I believe, sir, that if ever the enormous and gigantic power of the British Neptune is to be curtailed, it must be the work of Americans. Yes, sir, our naval commanders are destined hereafter to reap laurels for victories obtained over British ships. When an armed neutrality was formerly projected, had we then possessed a navy, we might probably have rendered much assistance in checking the naval power of England. They have become the tyrants of the ocean; they have a sway over the seas, far beyond what they ought to possess; it is necessary to lessen that power; and ought we not to yield our proportion of force for that purpose?

We talk much of favoring and protecting the rights of man. Has man no rights on the ocean? Have not our citizens rights on the water as well as on the land? We seem to have one right, and only one, on the water; it is, sir, the right to suffer and complain; we have abundance of this right.

Gentlemen may say that our debt will increase with our navy; and that we shall be unable to pay our national debt as soon as promised. The present Administration, or the present dominant party, if I may so call it, is pledged for the payment of the national debt within a limited time. Sir, I consider such pledge most impolitic. Surely, if we should be invaded, or, if any other great exigency should demand it, we should not hesitate to go millions in debt. This pledge, this promise, can be dispensed with then. And when more than now was there a call for dispensing with this impolitic engagement? When were our rights more insulted? England trampling on them; and Spain threatening to shut up our ports with half a dozen line-of-battle ships. I will ask, suppose Spain or Great Britain should attempt to block up the Chesapeake, or the port of New York, what could be done? Our frigates could do nothing to resist the assault. No, sir, the whole of them would be incompetent to meet the foe. Nor must we always depend on the hostility of foreign nations towards each other, even for a partial defence of our commerce. If we have an efficient force, we shall be respected, our commercial rights will be maintainable, and our alliance courted by other nations. Let us then set our shoulders to the burden; and in the hour of difficulty, if necessary, look round for friends and allies.

An increase of the navy would also have a good domestic effect. Many of our merchants are opposed to the present Administration, erroneously viewing it as inimical to commerce; but, sir, the present Administration are friends to commercial rights; has not diminished the navy, nor has it ever been the opinion of the Executive that it ought to be diminished. His communication relative to seventy-four-gun ships all understand.

Some have said that the liberties of a people were liable to be overthrown by a navy. I cannot discover that it has the least tendency that way. Generals have overthrown the liberties of nations, but I certainly never read of an admiral that made himself a despot. I believe history affords no such examples.

If it should be contended that the creation of a navy would lead to the odious and tyrannical practice of impressing seamen, I would ask what is the important difference between impressing men to go on board your armed vessels and fight your battles, and draughting men, to go, perhaps, into the front ranks of the warmest engagement? In either case, you compel men to fight where they do not wish. But I do not think there is any danger of our being under the necessity of ever entering on the practice of impressing. If it were now necessary to man thirty line-of-battle ships, I have no doubt men enough would voluntarily come forward impatient for battle, and supply all our wants of this description. Our brave mariners have their feelings; they feel an indignation like that which the merchants feel, and like that which this House, I trust, also feels.

Sir, I must repeat that we are but one. I voted for the bill prohibiting intercourse with St. Domingo; I considered the bill as calculated to have a favorable effect on the Southern States. That bill may partially injure some persons at the Northward, concerned in trade with that island; but, in giving my vote, I was governed by the good of the whole. I hope, also, that gentlemen of agricultural habits in the Southern States will consider the subject of defensive measures with an enlarged and national view.

There is no nation in the world so enterprising as America; no nation has so rapidly increased in commerce, and in new resources of commercial enterprise, as has this nation within the last fifteen years. Our prosperity, I had almost said our all, depends on commerce. You must not, you cannot, compel the merchant to abandon his pursuits; it is contrary to his right, and contrary to your interest; contrary to contract; therefore you must protect his rights.

If we ask, what plan of defence is urged by the usage of all other nations? the answer is obvious.

I have, sir, doubts of the efficacy of a non-importation act. While aiming to starve the manufacturers of England, let us advert to our own sufferings. We may starve the butcher and the baker, but shall we not injure our own health. What gainers shall we thereby be? or how will our merchants be redressed by such measures; how will our farmers thus find markets? I might not object to restrictions on importations, so far as is consistent with the preservation of peace; but no further will I go till we are prepared for war. If we do this, we may expect that commercial men will patriotically submit; especially if they can look forward to the short time when the whole community will submit to the expense of supporting that which is the principal support of all.

We are becoming, sir, every day less the customers, and more the rivals of Great Britain. The means of defending our commerce must be eventually wholly naval. We need never fight Great Britain single-handed, but we want that kind of defence which is a protection not only against England, but against every other Power, and that kind of defence to which, after all our sufferings on the ocean, we shall be ultimately compelled to resort.

Some may object to naval coalitions, on the ground that such coalitions are generally fruitless and unsuccessful. But, sir, this has not always been the case. Did Britain always rule? No, sir; Spain and Holland have also had their day; and a De Ruyter and a Van Tromp have vanquished and triumphed as completely as have ever a Nelson or a Rodney.

I believe the best mode of protection will be line-of-battle ships and frigates; these will give greater security to our ports and harbors, than the erection of land batteries. I am not, however, opposed to gunboats; they may do much by way of defence in shallow waters, and may be useful anywhere, and are easily concentrated to a point. Much is expected from us by the nation; the only question can be, what manner of redress and defence shall be adopted; but, whatever may be the final decision on the important questions before us. I sincerely hope that a spirit of candor, liberality, and harmony, may actuate our proceedings, and lead us to a correct decision.

Mr. Sloan.—I think the arguments of the gentleman who has just now taken his seat perfectly refutable by a single observation. I have not the spirit of prophecy, but I have the power of retrospection. Look at the Powers of Europe, whose naval forces are inferior to that of Great Britain; when did they ever gain a great victory over the English navy? Never. And judging from what is past, what will come, they never will conquer that enormous naval force.

Mr. Early.—The gentleman from Massachusetts fears we shall not divest ourselves of local feelings, in discussing and deciding on this subject. I apprehend he has no cause for this fear. This subject is one in which we are all nearly

equally interested. The Northern States have their Boston and New York; the Middle States their Philadelphia and Baltimore; the Southern States their Norfolk, Wilmington, Charleston, and Savannah; and the Western States New Orleans: this cannot be a local question.

By the report of the Secretary of War, it appears that $1,500,000 have been expended on the different fortifications; and that three ports only are in a state of defence; Boston, Philadelphia, and Baltimore. It also appears, by the report, $107,000 have been expended at Newport on fortifications, which are now greatly out of repair, and which, when repaired, can be of no service; there being *three* good channels by which vessels may enter the harbor, and these batteries being altogether unable to annoy an enemy's ship except in *one* channel.

We have expended $1,500,000 on fortifications, and not more than one-eighth part of that sum has had any good effect. I consider the sum of $150,000 as insufficient for any valuable purpose, nor do I believe that the annual appropriation of this sum for many years yet to come, would be of essential service in defending our ports at large.

I should be in favor of this mode of defence, if I thought it would be of utility. If I thought the port of New York alone could be defended by the appropriation of the whole sum mentioned in the resolution, I would cheerfully vote for it; I would cheerfully vote for double that sum; four-fifths of the produce of the State I have the honor in part to represent (Georgia) goes to that port; $340,000 have been expended on the fortifications of that port, and the works are of no utility—a picaroon might pass to the city without much molestation. According to the report of the Secretary of War, the harbor of New York cannot be defended on account of the width of the Narrows, or entrance into the port. Our ports are not susceptible of defence by land batteries. If they were, I should cheerfully vote for this, or much larger sums.

Mr. Varnum spoke in favor of the resolution.

Mr. Clinton moved that the Committee should rise, to allow further time for examining the subject.

Mr. Elmer opposed, and Mr. Macon supported this motion, which was carried.

Mr. Dawson gave notice that he would again call up the subject on Thursday next.

Monday, March 3.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a report and sundry statements, prepared in pursuance of the resolutions of the House of the third, fifth, and seventh ultimo, which were read, and ordered to be referred to the consideration of a Committee of the Whole House on the state of the Union.

The Speaker laid before the House a letter and report from the Postmaster General, on the petition of Henry Weist, referred to him by an order of the House, of the twenty-eighth ultimo, which were read, and ordered to lie on the table.

Mr. J. Clay, from the committee appointed on the twenty-seventh ultimo, presented a bill authorizing the purchase of certain copies of the Journals of Congress, which was read twice, and committed to a Committee of the whole House to-morrow.

POTOMAC BRIDGE.

Mr. Thompson called for the order of the day on the bill authorizing the erection of a bridge over the Potomac.

Mr. G. W. Campbell moved to postpone the bill till Thursday. Motion lost—yeas 36, nays 43.

Mr. C. then moved to postpone it till to-morrow.

Mr. Smilie, and Mr. G. W. Campbell, supported, and Mr. Thompson and Mr. Lewis opposed it.

Mr. Goldsborough moved its postponement till Wednesday. On this last motion the House divided—yeas 44, nays 47.

On postponing the bill till to-morrow, the House divided—yeas 43. Lost; when the House resolved itself into a Committee of the Whole on the said bill.

The bill having been read over, was considered by sections.

Mr. D. R. Williams moved to amend that part of the bill which fixes the site of the bridge, by directing it to be erected at or above Georgetown. This motion was disagreed to—yeas 29; and various amendments were made in the details of the bill.

Mr. Thompson moved to fill the blank in the bill, relative to the time in which the bridge shall be built, with the words "five years." This motion, after a short debate, was agreed to—yeas 49, nays 47.

On fixing the maximum per centage hereafter to be received by the shareholders, debate arose. Motions to allow thirty and twenty-five per cent. were lost, when, without deciding on any other sum, a motion for the Committee to rise prevailed.

The Committee then rose and obtained leave to sit again, and the House adjourned.

Tuesday, March 4.

A petition of sundry inhabitants of the county of Washington, in the District of Columbia, was presented to the House and read, praying, that that part of the county of Washington, now in the District of Columbia, which formerly made part of the county of Montgomery, in the State of Maryland, may be receded to the said State.

Ordered, That the said petition be referred to the Committee of the whole House, to whom was committed, on the twelfth ultimo, a motion to recede to the States of Maryland and Virginia the District of Columbia.

Mr. Gregg, from the Committee on the Public Lands, to whom was referred, on the twenty-ninth of January last, the petitions of the Mayor, Aldermen, and Assistants, of the city of Natchez; of the Board of Trustees of Jefferson College, in the Mississippi Territory; and of William Dunbar, of the said Territory, made a report thereon;

which was read, and referred to a Committee of the whole House on Monday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of the Governor, Judges, and Secretary, of the Indiana Territory," with several amendments; and the bill, entitled "An act relating to bonds given by Marshals," with several amendments, to which they desire the concurrence of this House.

Mr. Sloan, from the committee to whom was referred the bill imposing a tax on slaves imported into the United States, reported a new bill. A motion was made to reject it. Lost—yeas 24.

On making it the order for the 4th of July, moved by Mr. D. R. Williams, the House divided—yeas 34, lost. When the bill was made the order for Monday.

Mr. Gregg, said he had determined to move this day that the House should go into a Committee of the Whole on the state of the Union, with the view of taking into consideration the resolution which he had some time since offered. [On a non-importation of British goods.] At the request, however, of some gentlemen, and inasmuch as the day was already considerably advanced, he said he would not make this motion to-day, but he gave notice he should make it to-morrow.

NEW YORK SLATE COMPANY.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, to whom was referred the petition of the Dutchess County Slate Company, in the State of New York, made the following report:

The petitioners represent that, for four years past, they have been engaged in working and manufacturing slate, in the county of Dutchess, in the State of New York, and are proprietors of quarries containing an inexhaustible quantity, and of a quality superior to any heretofore discovered in this country. They have already advanced upwards of one hundred and twenty thousand dollars, as a capital stock, for carrying on the business, and employ a great number of workmen and laborers. The petitioners state that slate is now getting into general use, in most parts of the United States, and they seem to be of opinion that the interests of our citizens, and the credit of our country, require that we should no longer be under the necessity of importing it from Europe. With a view, therefore, of checking the importation of foreign slate, and as an encouragement to our own, they solicit that additional duties may be imposed on all slate imported from Europe. They recommend that a specific duty should be imposed, in preference to an ad valorem duty, on account of the exceedingly low price at which the slate is procured from the quarries in Wales.

The committee find the House decided on a similar application from the New York and Dutchess County Slate Company, at the last session of Congress. The report was unfavorable to the petitioners, and the House confirmed the decision of the committee, and refused to impose any additional duty upon imported state. It does not appear that any new arguments have been urged, in the present petition, to induce the committee to change their former opinion on the subject. The petitioners confess that the price of foreign slate is now reduced as low as that of American, but they complain that the importation of the former is continued. And can the petitioners reasonably expect that such extravagant high duties should be imposed on the importation of foreign slate as will amount to a prohibition of the article? The committee hope the petitioners have formed no such expectations. In the United States, no monopolies exist, and none ought ever to be permitted to exist. If a duty, amounting to a prohibition, is laid on foreign slate, the American slate will be enhanced in price, just so much as the difference may be between the old and new duty; indeed, it is fair to presume, the price would go beyond that difference; having the whole market themselves, it might be in the power of the manufacturers of slate, in this country, to augment the cost of that article to the purchaser beyond all reasonable bounds.

Imported slate is now charged with a duty of seventeen and a half per cent. ad valorem. In the opinion of the committee, no sufficient reason exists to recommend any addition to this duty. The interests of other persons than those who would be immediately benefitted by the augmentation of the price, are to be consulted in deciding on the merits of this question. The purchaser or consumer must ultimately pay the whole duty; he ought not to be prevented from buying foreign slate, if he prefers it to that of his own country. If the duty is raised considerably, the American manufacturer would have the entire command of the market, and would charge his own prices; competition would cease; the seller would be enriched, at the expense of the buyer, and having secured a monopoly to one class of manufacturers, others might expect similar favors. Such a policy cannot be approved in this country. However, notwithstanding the expression of these opinions, if the existing duty was not deemed to be sufficiently high to afford an advantage to the American slate, (the charges on the importation of foreign slate being at the same time considered as adding greatly to the price,) the committee would probably have been induced to propose some addition, though not to the extent prayed for by the petitioners.

If Congress intended to raise the duties, generally, on articles imported from foreign countries, either with a view to new revenue, or as a further encouragement to domestic manufactures, the committee have no reason to suppose that slate would be omitted. As the committee are convinced that the manufacturers of slate are sufficiently protected already, and being perfectly satisfied that the increased or prohibitory duty on foreign slate would only enhance the price of the article, to their exclusive benefit, but to the manifest injury of the consumer, the following resolution is respectfully submitted:

Resolved, That the Dutchess County Slate Company of New York be permitted to withdraw their petition.

The report was agreed to.

MERRIMACK RIVER.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, reported on the petition of the merchants of Newburyport, representing the inconveniences experienced in navigating the Merrimack, and praying a reimbursement of the expenses incurred by them in the erection of two piers for facilitating the navigation of said river. The report states the erection of the piers to have been undertaken, and the expenditure of money to have been made, independent of the direction of the United States.

Mr. ELY thought there appeared on the face of the report strong reasons in favor of the prayer of the petitioners, and moved, for the purpose of considering the case, a reference of it to the Committee of the whole House.

Mr. CROWNINSHIELD was in favor of the same course, and observed that he had been in the committee in favor of the claim.

Mr. EARLY opposed this course, and supported the immediate concurrence of the House in the report, on the ground stated therein.

Mr. G. W. CAMPBELL advocated a reference of the report to a Committee of the whole House, and expressed his opinion in favor of the application.

Mr. JOHN C. SMITH spoke in favor of a reference to a Committee of the whole House.

Mr. BIDWELL spoke against such a reference, and in favor of the report.

Mr. SLOAN took the opposite side of the question.

On the question being taken, a reference to a Committee of the whole House obtained—yeas 59.

POTOMAC BRIDGE.

The House again resolved itself into a Committee of the Whole on the bill for the erection of a bridge across the Potomac.

The question was taken on limiting the maximum of future tolls to twenty-four per centum per annum, and carried—yeas 47, nays 43.

A motion was made to limit the corporation to fifty years, which after considerable debate was rejected—yeas 29.

A motion was then made for a transfer, after a certain number of years, of the bridge to the United States, on their indemnifying the company, which was likewise disagreed to—yeas 18.

A motion was made to limit the corporation to ninety-nine years, which was not agreed to.

Mr. G. W. CAMPBELL moved a new section, rendering the company liable to all claims of indemnity for injuries arising to private property from any obstruction of the navigation of the Potomac by the erection of the bridge. This motion was lost—yeas 12.

Mr. EARLY moved a new section, making it the duty of the company to keep the channel at the draw of the same depth as it now is, and, if suffered to become shoal, imposing on them a penalty of —— dollars for every week it shall be so suffered to continue. Motion lost—yeas 37, nays 54.

Mr. SLOAN moved an additional section that in case the bridge shall fall into decay or be broken down, the said company shall be bound to remove the said materials out of the channel of the river, so that the navigation may not be obstructed thereby. This motion was likewise disagreed to—yeas 25.

Mr. GOLDSBOROUGH moved an amendment, requiring one hundred thousand dollars to be subscribed previously to the company commencing their operations, which, after debate, was disagreed to—yeas 40, nays 56.

After the proposition of a great variety of other amendments, some of which were agreed to and others rejected, the Committee rose and reported their agreement to the bill.

WEDNESDAY, March 5.

The SPEAKER laid before the House a letter from the Secretary of the Navy, communicating the nature and extent of the services rendered to the captive crew of the late frigate Philadelphia, by the Danish Consul at Tripoli, in pursuance of a resolution of the House, of the fifth ultimo; which was read, and referred to Mr. CLARK, Mr. RICHARDS, and Mr. TALLMADGE.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the punishment of counterfeiting the current coin of the United States, and for other purposes;" to which they desire the concurrence of this House.

Mr. NICHOLSON, presented a petition from the members of the Board of Commissioners of the county of Washington, in the District of Columbia, representing that great inconveniences had arisen from that part of the act incorporating the City of Washington which exempts city property from taxation for county purposes, and representing sundry other circumstances which, in their opinion, require Legislative interposition.—Referred to a select committee of five members.

Mr. DAWSON presented a petition from a number of citizens of Washington county, District of Columbia, praying that the President may be authorized to permit an enclosure of the unoccupied public ground in the City of Washington, on the condition of its cultivation and improvement.—Referred to the committee appointed on the petition of the Board of Commissioners.

Mr. THOMPSON moved that the House should enter upon the consideration of the amendments made in the Committee of the Whole to the bill authorizing the erection of a bridge across the Potomac.

Mr. GREGG moved its postponement till Saturday next.

Mr. SMILIE supported, and Mr. THOMPSON opposed this motion, which prevailed—ayes 54, noes 45.

CHESAPEAKE AND DELAWARE CANAL.

Mr. GREGG, from the committee to whom was referred, on the twenty-eighth of January last, the petition of the President and Directors of the Chesapeake and Delaware Canal Company, made the following report:

That it appears a company has been incorporated by the respective States of Pennsylvania, Maryland, and Delaware, for the purpose of forming a navigable canal over the isthmus, which separates the bays of Chesapeake and Delaware: that in pursuance of the several acts of incorporation, passed by the said States, respectively, a large number of subscriptions were made by divers citizens of the United States, and a board of president and directors were duly elected for carrying the project into effect.

That the said president and directors, in pursuance of their appointment, have procured skilful engineers, to explore and survey the ground across the aforesaid isthmus, and have fixed on a route or position for the canal, calculated, as they conceive, in every respect, to secure the great and important purpose of an uninterrupted navigation, and have made considerable progress in the work. They find, however, that to accomplish it, a greater portion of fortitude and perseverance, and more ample resources will be necessary, than the individuals who are embarked in it, can be supposed to possess. The importance of the undertaking and the immense national advantages which may ultimately result from it, they hope will be sufficient inducements, to prevail on Congress to grant them such assistance as will enable them to complete the business agreeably to their original plan.

The committee cannot hesitate a moment in deciding on the importance and extensive utility of connecting the waters of the Chesapeake and Delaware, by a navigable canal. To adopt a phrase familiarized by use, they consider the project as an opening wedge for an extensive inland navigation, which would at all times be of an immense advantage to the commercial, as well as to the agricultural and manufacturing part of the community. But in the event of a war, its advantages would be incalculable. The reasoning of the petitioners is conclusive on this point. If arguments are necessary, their petition furnishes an ample supply to prove, that no system of internal improvement which has yet been proposed in this country, holds out the prospect of such important national advantages, as naturally result from a successful termination of their undertaking.

Did the finances of the country admit of it, the committee would feel a perfect freedom in recommending to the House the propriety, in their opinion, of extending to the petitioners such aid as the difficulty and importance of their enterprise would be thought to justify. But it is a question, whether, at this moment, the state of the Treasury would admit of any pecuniary assistance being granted. The amount of the public debt, yet to be extinguished, the embarrassed state of our commerce, and the critical situation of the country in relation to foreign Governments, might perhaps be considered as insurmountable objections against applying any public money to internal improvements, at this particular time. Under an impression arising from these circumstances, the committee recommend the following resolution:

Resolved, That it would not be expedient, at this time, to grant any pecuniary assistance to the President and Directors of the Chesapeake and Delaware Canal Company.

The report was referred to a Committee of the Whole on Monday.

IMPORTATIONS FROM GREAT BRITAIN.

The House then, on the motion of Mr. GREGG, resolved itself into a Committee of the Whole on the state of the Union—ayes 72.

Mr. GREGG moved that the committee should take into consideration a resolution, offered by him, on the 29th of January, for a non-importation of British goods.

The Committee having agreed to take up the resolution, and it having been read from the Chair, in the following words:

"Whereas Great Britain impresses citizens of the United States, and compels them to serve on board her ships of war, and also seizes and condemns vessels belonging to citizens of the United States, and their cargoes, being the *bona fide* property of American citizens, not contraband of war, and not proceeding to places besieged or blockaded, under the pretext of their being engaged in time of war in a trade with her enemies, which was not allowed in time of peace;

"And whereas the Government of the United States has repeatedly remonstrated to the British Government against these injuries, and demanded satisfaction therefor, but without effect: Therefore,

"*Resolved*, That, until equitable and satisfactory arrangements on these points shall be made between the two Governments, it is expedient that, from and after the —— day of —— next, no goods, wares, or merchandise, of the growth, product or manufacture of Great Britain, or of any of the colonies or dependencies thereof, ought to be imported into the United States; provided, however, that whenever arrangements deemed satisfactory by the President of the United States shall take place, it shall be lawful for him by proclamation to fix a day on which the prohibition aforesaid shall cease."

Mr. J. CLAY inquired whether it would not be in order to call up a resolution offered by him on the same subject.

The CHAIRMAN said it was not in order, after the Committee had determined to consider the resolution just read.

Mr. GREGG then rose, and said: Mr. Chairman, I cannot but congratulate the Committee on our having at length taken up the business to which I believe the people of this country universally expected we would have turned our attention on the first moment of assembling in our Legislative capacity. Before we left our homes, we had learned, through the channel of newspapers, that outrages of a most atrocious kind had been committed on the persons and property of American citizens, by some of the belligerent nations of Europe. This intelligence has been officially confirmed by sundry communications which we have received from the President of the United States. From these sources we have derived the information that irruptions have been made into our territory, on its southern frontier, by subjects of Spain, and that depredations to a very considerable extent have been committed on our commerce by the cruisers of that nation. The manly spirit with which these irruptions were resisted by the officers of our Government appears, for the present, to have checked the further progress of that evil; and it seems that the system of depredation has been discontinued, in pursuance of instructions issued by the Minister of State and of Marine to the Director General of the Fleet. These orders were issued on the 3d day of September, 1805, and are understood to have been produced by the remonstrances of our Minister at that Court. From these favorable symptoms, a presumption naturally and necessarily arises that an amicable adjustment of the points in dispute between that Government and ours is not to be despaired of. Should we, however, be deceived in this calculation—should similar aggressions be repeated—we are not destitute of means to obtain redress; and on such an event taking place, I presume we would not hesitate in resorting to the complete exercise of these means.

I wish the prospect of an accommodation of our

differences with Great Britain were equally bright and flattering. But the systematic hostility of that Government towards our commerce, and its obstinate perseverance in the impressment of our seamen, notwithstanding the repeated remonstrances of our Ministers, leave no room to expect an accommodation until we resort to such measures as will make her feel our importance to her as the purchasers and consumers of her manufactures, and the great injury she will sustain through a total privation of our friendship.

This, it must be acknowledged, is a very important subject, and one which cannot fail to engage the earnest attention, not only of this Committee, but must also excite the anxious solicitude of every member of the community. On the course we may now take—on the measures we may now pursue—will in a great measure depend, in my view, the determination of the question whether we are to be a free and independent nation, or whether we are to surrender that boasted privilege, and tamely submit to such indignity and oppression as our forefathers, even in their state of colonization, would have resisted with indignation. In the discussion of a question of such magnitude, in the decision of which we are so materially interested, and on which the honor and true interest of our country so much depend, I trust we will divest ourselves of all party feelings, whether arising from our different pursuits in life, from geographical distinctions, or from political considerations, so that our decision may be the result of a sound judgment, uninfluenced either by improper partiality or prejudice.

From the hostile conduct of the nations to which I have alluded, and from the pointed manner in which the President has recommended preparations for defence, an idea appears to have gone forth that we are to be immediately engaged in war. This opinion has received additional currency from a report made by a select committee of the House, recommending an appropriation of money to a considerable amount, for the purpose of erecting fortifications for the defence of our ports and harbors, and for building gunboats and ships-of-the-line. Did my sentiments accord with this opinion, I should certainly give this report my countenance, so far as respects fortifications, which, from their situation, are thought to be capable of affording any substantial protection. Even as things are, I may perhaps be induced to vote in favor of the appropriation for gunboats, to relieve the anxiety of some of our fellow-citizens, whose alarms appear to be greatly excited; and because I believe, from all the information I have been able to collect from naval and military gentlemen, gunboats will afford the most effectual protection, in the event of our being compelled to have recourse to defensive measures, by any occurrences that may hereafter take place.

But here I must be permitted to declare that I have no apprehensions whatever of a war. The present situation of the nations of Europe furnishes no ground for entertaining such apprehensions. Their present engagements furnish ample employment for all their resources, both of men and money. The important contest which now occupies their attention is not likely to be brought to a speedy termination. Even if the minor Powers should withdraw from the confederacy, there is no prospect of a speedy peace between the two great rival nations. They will most probably soon return to the situation they respectively occupied at the commencement of the present campaign. The scene of Boulogne will probably be acted over again. The fleet of the one nation must be employed in guarding its coasts against an invasion by the army of the other. In this situation, neither will be disposed to add to the number of their enemies. Great Britain derives some advantage from that predatory war which she permits and authorizes to be carried on against our commerce and she also experiences some convenience in manning her navy, from the facility with which deficiencies are supplied by impressments of our seamen from on board our trading vessels. Interest and convenience will induce her to pursue this system, so long as we discover a disposition to yield implicit submission; but let a national spirit of disapprobation and resistance once discover itself; let us once tell her, in the proud language of independence, that we will no longer submit to this indignity and oppression, and we will find the practice relinquished, and our fellow-citizens liberated from that degrading bondage in which they are now held, and restored to their country and friends. Great Britain is too well versed in the business of calculation, and too well acquainted with her own interest, to persevere in this lawless system at the hazard of losing customers, whose annual purchases of her manufactures and other merchandise exceeds, I believe, thirty millions of dollars.

In searching for materials to substantiate the facts stated in the preamble to the resolution, it is only necessary to refer to the history of the conduct of the British Government towards us for a very short period. By turning a few pages of that history we will find that a large number of our fellow-citizens have been forcibly taken from their homes—for his ship is a seaman's home—have been put on board British ships of war and compelled to fight her battles against a Power between whom and her own Government there exists no difference. The general notoriety of this truth precludes the necessity of a reference to any particular document to prove the correctness of the statement. Was such a reference necessary, I might point to a report from the Department of State, made at the last session of Congress. In that report we find that, at that time, fifteen hundred and thirty-eight persons, claiming to be American citizens, had been able to extend their application for relief to their own Government; and though Great Britain claimed some of these as her subjects, agreeably to her doctrine of *non-expatriation*, the great mass was acknowledged to be Americans, for whose detention no other cause could be assigned but because she stood in need of their service. And is it not a fair presumption that this number was but a small proportion of those who were actually impressed? Changed

from ship to ship, and the vessels in which they are frequently changing their station, and guarded with the most scrupulous attention, it is almost impossible for them to find any opportunity of applying to their own Government or any of its officers for relief.

This open, this flagrant violation of our rights as men, and as citizens of an independent nation, certainly demands the interposition of Government. To what cause are we to ascribe the neglect with which these unfortunate men have been treated? A few years ago, when some of our people had the misfortune to be made prisoners by the Algerines, and at a later period, when some others fell into the hands of the Tripolitans, the feelings of the Government and of the whole country were alive. All voices united in requiring the energy of the Government to be exerted, and its purse to be opened, so that no means to obtain the liberty of the captives might be left untried. Success has crowned these endeavors, and those who were unfortunately slaves are now enjoying their freedom. In what respect, I would ask, does the situation of those who have been impressed from on board their own vessels, and who are forcibly detained on board British ships of war, differ from that of the Algerine and Tripolitan prisoners? So far as respects the Government, the infringements of its rights are greater in the former than in the latter case. The situation of the individual is no better. A wound inflicted by a British cat-of-nine-tails is not less severely felt than if it had proceeded from the lash of an Algerine. The patient submission with which we have so long endured this flagrant outrage on the feelings of humanity and on the honor of our country, must have excited the astonishment of the whole world; but it must also have impressed them very forcibly with an idea of the moderation of our Government, and of its strong predilection for peace. I trust, however, we will now show them that there is a point beyond which we will not suffer; that even although we may not think it advisable to make reprisals, we will at least withdraw our friendly intercourse from that Government, whose whole system of conduct towards us has been that of distress and degradation; and that, as the business is now taken up, it will be pursued with zeal and ardor, until relief is extended to this unhappy class of sufferers, and security obtained against similar aggressions on their persons in future, by such arrangements as ought to be deemed satisfactory.

In relation to the capture and condemnation of our vessels, contrary to what we consider, and to what I verily believe to be the law of nations, I shall not detain the Committee with many observations. I have no intention of entering into a discussion of the abstract question, whether a trade is justifiable in war which is not open in time of peace. I will only observe, that on the principles of reason and justice, and from such authors as I have had an opportunity of consulting, the right for which we contend does appear to me to be clearly established. In some late publications, this question has received a very luminous and ample discussion, and the right insisted on by us has been placed on such ground, and supported by reasoning so clear, so cogent, and so conclusive, that Great Britain, with all her boasted talents, will find it extremely difficult to find answers for them.

But even admitting the British doctrine to be correct, what, I would ask, has been the conduct of that Government under it? Has it been that of a nation actuated by motives of liberality and friendship? Has it been that of a civilized and polished nation? Has it been such as justice and the fair and honorable conduct of our Government has given us a right to expect? No person, I think, is prepared to answer in the affirmative. It does not appear that the principle was practised on during the last, nor for some time after the commencement of the present war. I will not undertake absolutely to say that they relinquished it, but the trade which it now prohibits was permitted to be carried on to a great extent without any interruption from their cruisers. Numbers, allured by the prospect of gain, were induced to engage in the profitable business, and supposing themselves safe under the protection of law, had their vessels and effects seized to a large amount. The capture and condemnation of their property was to them the first promulgation of the law. Ignorance of what it was impossible for them to know, was imputed to them as a crime, and an honorable dependence on the justice of a Government professing to be friendly, was prosecuted with penalty and forfeiture.

But even independent of our just cause of complaint arising from this principle, apparently new, thus unjustly brought into operation, how has that Government conducted in relation to captures, in which, after the most minute investigation, all the ingenuity of her courts have not been able to discover any principle to warrant the condemnation? The perplexing difficulties, the vexatious delays, and the enormous expense attending the prosecution of a claim through every stage of its progress, place an almost insurmountable barrier in the way of obtaining justice. In fact, all her commercial maxims, and the whole system of her conduct, discover a manifest intention, a fixed determination, to consummate the ruin of the commerce of this country.

I am aware, Mr. Chairman, that many of the captures and condemnations, of which we have heard such loud complaints, are strictly warranted by the law of nations. An immoderate desire of gain very frequently leads the merchants to engage in a trade which the universal consent of all nations has declared to be unlawful. This observation will, however, perhaps apply with more propriety to foreigners, who have fixed their residence among us, to enjoy the advantage of trading under our neutral rights, than to the real American merchant. This description of men, under no influence of patriotism, and too generally unrestrained by any principles of justice, pursue their object, wholly regardless of the interest of the country, or of any injurious consequences to which it might be subjected through

their misconduct. I have no idea of involving my country in any difficulty on account of these people or their trade. As they are citizens of the world, equally attached to every country, I would always willingly surrender them, to be punished according to the laws of whatever country they might be found transgressing. But in withholding protection from these lawless adventurers, let us not withdraw it from the real American merchant. Acting from motives of patriotism as well as of gain, he combines his own interest with that of his country. While he is accumulating wealth to himself, he is adding to the revenue and riches of his country; and while he is searching a market for the productions of the farmers, he is discovering something that may contribute to their convenience and comfort. He is a necessary link in the chain of our society. There is a mutual dependence betwixt him and the farmer. The interest of the one is promoted by the success of the other. This being the case, these two classes should be extremely cautious how they suffer that kind of jealousy to grow up betwixt them, that might eventually prove a source of distress and calamity to them both.

I hope it will not be inferred from anything I have said, that I am going to be an advocate for the protection, even of American merchants, in that wild, extravagant carrying trade, to which some of them appear to extend their views. I shall never agree to risk the peace and safety of the nation in such a cause. Even in doubtful cases, or where the law was not perfectly clear, if they would embark their property, let it be at their own hazard. But, in carrying on the direct trade of our country, and even in the carrying trade, while they confine themselves within the acknowledged law of nations, I think they are entitled to protection.

And, sir, in affording this protection, I take it that we are promoting the real interest of the country. By cherishing navigation, to a certain extent, we secure to ourselves, at all times, the means of procuring a market for such articles as we have for sale; we furnish means for promoting industry, and we make provision for the maintenance of men, on whose bravery and exertions, in the event of war, we must always rely very much for our defence. On this subject, I cannot express my sentiments better than I find them expressed in a report made by the present Chief Magistrate, while Secretary of State, and which I consider as declaratory of the true interests of the nation. I shall therefore take the liberty of reading a paragraph of that report.

"It [that is, navigation, as a branch of industry] is valuable, but, as a source of defence, is essential. Its value as a branch of industry is enhanced by the dependence of so many other branches on it. In times of general peace it multiplies competitors for employment in transportation, and so keeps that at its proper level; and in times of war—that is to say, when those nations who may be our principal carriers shall be at war with each other—if we have not within ourselves the means of transportation, our produce must be exported in belligerent vessels, at the increased expense of war-freight and insurance, and the articles which will not bear that, must perish on our hands,

"But it is as a resource for defence, that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their landboard, and nothing to desire beyond their present rights. But on their seaboard they are open to injury, and they have there, too, a commerce that must be protected. This can only be done by possessing a respectable body of citizen seamen, and of artists and establishments in readiness for ship-building."

From this very brief view of the conduct of the British Government towards us, and I have confined it merely to the points stated in the preamble to the resolution; every candid, every unprejudiced person, I think, must acknowledge, that we are arrived at a crisis; that we have reached a period at which the honor, the interest, and the public sentiment of the country, so far as it has been expressed, call loudly on us to make a stand. The evil we have already suffered is great, and it is progressing. Like a cancerous complaint, it is penetrating still deeper towards our vitals. While we yield year after year, Great Britain advances step by step; yet a little longer and our commerce will be annihilated, and our independence subverted.

Here the great difficulty presents itself. What are the proper steps to be taken? what measures that we can adopt will be most likely to effect the object we have in view, and in its operation produce the smallest inconvenience to ourselves? I, sir, have reflected much on this subject. I have considered, so far as I was capable, the bearing which every measure which I have heard proposed would have on it. The result of my reflections is, that, under all the circumstances of the case, the resolution, which is now the subject of immediate discussion, ought to be adopted. What is the resolution? what does it say? It addresses Great Britain in this mild and moderate, though manly and firm language: You have insulted the dignity of our country by impressing our seamen, and compelling them to fight your battles against a Power with whom we are at peace. You have plundered us of much property by that predatory war which you authorize to be carried on against our commerce. To these injuries, insults, and oppression, we will submit no longer. We do not, however, wish to destroy that friendly intercourse that ought to subsist between nations, connected by the ties of common interest, to which several considerations seem to give peculiar strength. The citizens of our country and the subjects of yours, from the long habit of supplying their mutual wants, no doubt feel a wish to preserve their intercourse without interruption. To prevent such interruption, and secure against future aggressions, we are now desirous of entering into such arrangements as ought to be deemed satisfactory by both parties. But if you persist in your hostile measures, if you absolutely refuse acceding to any propositions of compromise, we must slacken those bonds of friendship by which we have been connected, you must not expect

hereafter to find us in your market, purchasing your manufactures to so large an amount. What will the people of this country say of this proposition? Will they not be ready to exclaim, that it is too mild for the present state of things? What will be the opinion of foreign Governments respecting it? Will they not say that we have extended the principle of moderation too far? What must be its impression on Great Britain herself? Sir, if she is not lost to every sense of national justice, she must acknowledge its equity and fairness. But I would inquire particularly what would be its operation on the people of that country? If carried into effect, I believe it will strike dismay throughout the Empire. Its operation will be felt by every description of people, but more especially by the commercial and manufacturing part of the community. The influence of these too classes is well known in that country. They are the main pillars of its support. They are the sources of its wealth. Their representations, therefore, are always attended to. And what language must they speak on this occasion? It must be evident that a regard to their own interest will lead them to remonstrate loudly against that system, which will produce an annual defalcation in the sale of their manufactures, of thirty millions of dollars. This is their vulnerable part. By attacking them in their warehouses and workshops we can reach their vitals, and thus raise a set of advocates in our favor, whose remonstrance may produce an abandonment of those unjust principles and practices, which have produced the solemn crisis.

But, Mr. Chairman, should Great Britain, contrary to our wishes, and certainly contrary to her own true interest, persist in her ill-starred policy, what must be the effect of such conduct on herself? and how will we be ultimately affected by it? Shut out from British markets, our merchants will obtain a particular supply from other countries, and we will resort to domestic manufactures to make up the deficiency. Should this system be adopted, Britain may find it difficult to recover our custom. It is certainly a subject of serious regret that, owing to the large importation and extensive consumption of British goods, domestic manufactures have nearly vanished. I do not expect to see the establishment of large manufactories in this country. The extensive vacant territory we possess furnishes such powerful inducements for settling on land, that few are to be found willing to be confined within the narrow limits of a manufactory. Should, however, such establishments be set on foot, I have no doubt they would receive a large accession of workmen from the numbers which a non-importation act would compel to leave their present homes, in search of employment in this and other countries. But my present view does not extend to these establishments on so large a scale. I want to see every family a little manufactory, vieing with each other in the excellency of their workmanship, and exhibiting, in their dresses, specimens of their ingenuity and industry.

Mr. Chairman, when I first submitted this proposition to the consideration of this House, I was so forcibly impressed with the propriety of adopting it, that I had no expectation it would meet with any opposition. It was not until a resolution was laid on the table, calling on the Secretary of the Treasury for a statement of our exports and imports to and from Great Britain and her dependencies, that I had any suspicion it would be opposed. When that call was made, I began to presume an opposition was intended, and that the opposition would be grounded on the supposed effect which the adoption of the measure now under discussion would have on the revenue. This was brought particularly into view some days after in the form of a preface to a resolution on this same subject offered by a gentleman from Maryland.

We were told, then, that our imports from Great Britain and her dependencies, amounted annually to $25 000.000, and that, at the average rate of duty of twenty per cent. the revenue would, of course, be affected to the amount of $5 000 000. That the revenue will be partially affected by the proposed measure is readily admitted; and if it should be affected to such an extent, as to retard the extinguishment of the national debt a single day beyond the time fixed by law for its final redemption, I would certainly regret it very sincerely. No person in this country can wish more anxiously to see that debt paid than myself. But, sir, do not believe the effect on the revenue will be by any means so great as has been stated. The average duty on imports from Britain does not, I believe, amount to 20 per cent., and therefore the defalcation in the revenue will not be so great as has been stated, even admitting that we do not import from other countries. But is it to be supposed that the enterprise and industry of the merchants are to be wholly paralyzed by this measure? Will they lay up their vessels in their docks, and shut up their money in their chests? No, sir; when they find themselves excluded by law from British markets, they will resort to other countries, and no doubt they will find goods to answer our purpose quite as well as many of the gewgaws we get from England, and quite as many as we will be able to find money to purchase.

It has been said, also, that the price of our exports is to be greatly affected by this measure. The article of cotton has been particularly mentioned. Why, sir, the resolution does not say a word about exports. It is entirely silent as to them. They are left at liberty to go to those markets where they have heretofore found purchasers, or to search for new ones, as it may suit their convenience. The adoption of the measure may produce a momentary diminution of price, and this inconvenience will be promoted by the representations of designing speculators, who are continually roaming through the country to take advantage of the ignorant and unwary. But, when the first impression is removed, our productions being either necessaries of life, or materials for manufactures, will be in demand, and sought for, and purchased, at a price correspondent to that demand. But,

sir, even admitting that we were to sustain a temporary inconvenience from a small reduction in the price of the produce of our farms, are we to put a few cents difference in the price of a pound of cotton, or tobacco, or a barrel of flour, or a quintal of fish, in competition with the honor and general interest of our country? Is there a member of this House, is there a man in the community, that would submit to see his neighbor dragged into ignoble bondage, merely because it would produce a slight shock in the market for his produce? Such an idea would, I believe, be universally spurned at.

But, Mr. Chairman, the strongest objection I have heard mentioned is, that if we do pass a non-importation act, it cannot be executed, and either we shall be laughed at by Great Britain, or it will afford a pretext to her Minister, whose decision is well known, to let loose his cruisers and sweep the ocean. This is the language used in Britain. Their writers acknowledge that a non-importation act would be to them a serious calamity, but comfort themselves with the reflection that it could not be executed. Now, I ask, what reason can be assigned why it could not be as well executed now as it was in former times? Are we so abject, so degenerate, as to submit to such national indignity rather than forego the pleasure resulting from an indulgence in British luxuries? But it may give offence to the British Minister, who will sweep the ocean with his cruisers. This, to be sure, is a sweeping objection, but how will it apply? What right has the British Minister to take offence at any regulations we may see proper to adopt? We have a moral, and we have a Constitutional right to manage our own commercial concerns in our own way, provided we do not infringe or violate the rights of other nations. This sacred trust has been committed to us by the people of this country, and I hope we will never feel disposed to resign it to any foreign Ministers.

But admitting that great man with all his decision, should let loose his cruisers, what will he gain? Is he not more at our mercy than we are at his? If he attempts to make a general sweep, self-defence will justify reprisals. The debts owing to British subjects, the immense property owned by them in this country, will, of course, be laid hold of. I will perhaps be told here, that, by the treaty of 1794, sequestration of debts is prohibited. True; but if one of the contracting parties violates the contract, the other is released from his obligation. If Britain violates nine articles of the treaty, she cannot consider us bound by the tenth. Besides, her provinces are quite contiguous and open to us, and by securing them we would make ourselves masters of the fur trade, from which she derives such important advantages. Even on the ocean, I doubt whether she would be a gainer in the contest. And this is not mere theory. During the last war our privateers captured more of their vessels than they took of ours with all their navy. Our shipping then was not more than a fourth of what we now possess, and the number of seamen about in the same proportion. And it is worthy of remark that, owing to the difference in the value of their cargoes and ours, the one consisting entirely of bulky articles, necessaries of life, and raw materials for manufactures, and the other made up of these materials after they have received the last touch of art and industry; if we succeeded in taking one for their three, the balance perhaps would be about equal.

The resolution has also been called a war measure. Now, I would ask, what is there warlike about it? Sir, I before have said, and I repeat it, that I deprecate war. With me it will always be a last resort. Recourse should be had to every peaceable means to obtain justice, before an appeal is made to arms. The resolution I consider purely as a measure of that kind, and so it must appear to the British Minister, unless he is determined on war, and then he will find some pretext. It is common for persons going to war to publish a declaration, stating their reasons in justification of their conduct to other nations. Let the British Minister take the resolution and publish it at length, and will any other nation consider it as a sufficient ground for war? It merely states that we consider ourselves injured, and that, in justice to ourselves, we must suspend our intercourse until we obtain redress. The British Minister will never put his reputation and character at hazard on such a foundation.

Mr. Chairman, in every point of view in which I have been able to consider this subject, the propriety of adopting the resolution which has been read, appears to me equally impressive; and, therefore, although it may be opposed, I cannot but hope it will receive the sanction of a large majority of the House. In this hope I am confirmed when I refer to the Journals and see what was done by the House of Representatives, under circumstances somewhat similar to the present, in the year 1794. The same nation, of whose conduct we now complain, was then committing depredations on our commerce. She had, on the 6th of November, issued her celebrated orders; and, it is worthy of remark, that these orders were first published by the cruisers which were acting under them. The late captures, unauthorized by any public orders, but proceeding on a decree of their admiralty court, which it appears was to be considered as the signal for making the sweep, evince a fixed system of hostility towards our commerce, and an ungenerous mode of making its attacks. The unwary and unsuspecting fall a prey to their hidden designs. She was at that time also stimulating the Indians to commit hostilities on our frontiers, and the western posts were not surrendered agreeably to what we considered the true intent and meaning of the Treaty of 1783. To counteract these hostile measures, a proposition was made in the House of Representatives for suspending all commercial intercourse with that nation. That proposition was at that time adopted by a very large majority. All parties united in giving their support. The great political distinction, which has unfortunately prevailed too long in this country, did not, on that occasion,

discover itself a great deal. The representation from the State in which I live, was at that time about equally divided between the two great contending parties, and yet, on that question, their votes were completely blended. The representation from the Southern States, I observe, was generally in favor of that measure. The respectable State of Virginia, in particular, which was represented by a constellation of talents, not only ranged itself on the affirmative side of the question by its vote, but also bore a very distinguished part in the argument in support of the measure. From a similarity of circumstances, are we not now to expect a similar result? Although the evil complained of is, in the first instance, more severely felt in a particular section of the country, its effects will ultimately extend to every part of it. And, so far as the honor of the Government is implicated, a sensibility arising from that source must necessarily be experienced by all its citizens at the same time.

Before I sit down, Mr. Chairman, permit me to say that, although my opinion on this subject is formed on the most mature reflection, yet, if a majority of the Committee think differently, if they prefer something more energetic, or if they have any other system which they consider more efficient to obtain the object, I may, for the sake of unanimity, be disposed to yield my opinion. Unanimity I consider as all-important. We are told, by a document on our table, that the nation, against whose conduct we complain, calculates on our divisions. Her hopes of being able to pursue her system, are built on an idea, that division among ourselves will prevent our adopting any efficient measures. In this hope, I trust, they will now be disappointed, and that we shall show to them and to the world, that however we may differ as to the administration of our internal affairs, on all great national questions, in which the honor and true interest of our country, in relation to foreign governments, is involved, that we are but one people.

Mr. J. Clay.—I had entertained a hope that the call of my colleague would have been delayed for a few days longer, as the documents we have received from the Treasury Department have been but two days on our table, at least in a printed form, and as they are calculated to throw much light on the subject before us. In the few remarks which I am about to offer, I shall not follow my colleague through the detail he has made of the injuries and insults of Great Britain. We all of us well know that the national flag has been grossly outraged, and the national honor violated by her. But I do not conceive that the best mode of obtaining redress for these wrongs is to do that which will be more injurious to ourselves than to her. My objections to this resolution are twofold. The first is, that, if carried into effect, it places greater means of injuring us in the hands of our enemy than she already possesses; and the second, that we shall not be able to maintain the course it points out for any length of time.

By the resolution before us we are prohibited from importing from Great Britain any articles, however necessary or convenient they may be; while, at the same time, we are permitted to carry any articles to her market. The effect will be, that while our productions are accumulating in the hands of the British manufacturers and merchants, they will have no means of paying for them; and of consequence debts to a very large amount will become due from British merchants to American citizens. Even at the present day, I have great doubts whether there are not greater sums due by the merchants of Great Britain to the citizens of the United States than there are recoverable debts due by American citizens to them. If so, what will become of the second expedient proposed to be resorted to by my colleague, that of sequestration? The balance of injury, instead of being in our favor, will be against us. If my colleague had looked over the report of the Secretary of the Treasury, and had attended to the amount of American property afloat, he would have seen that there is not less than one hundred millions of dollars worth of American property at the mercy of the cruisers of Britain. I believe that the naked vessels, independent of the products they carry, amount in value to more than thirty millions of dollars. It will be seen that the commerce of the United States in exports and imports amount to one hundred and fifty millions, of which it is fair to calculate that one-third is constantly exposed on the ocean. Of this amount about forty millions is carried on between the United States and the Power with whom it is proposed to cut off intercourse. With this fact staring us in the face, would it be politic to expose so much property to the retaliation of the British Ministry? When the gentleman spoke of the amount of British depredations, he ought to have stated the amount of those recently committed. I believe I am not very wrong in stating the whole amount of American property detained by British cruisers as not exceeding six millions of dollars. On balancing, therefore their interests, ought the United States to resort to measures of hostility; to measures which, in the opinion of every man, will justify retaliation?

Besides, I would wish my colleague to show us how we are to be supplied with articles heretofore derived from Great Britain. All articles of iron manufacture, hardware, of cotton and coarse woollens, we are obliged to import from that island. From her East India dominions we likewise import a great variety of useful articles; while from her West India islands we import a great portion of one article, spirits which pays one-sixth of our whole amount of duties, the amount which we get from her colonies will be found to be two and a half millions of dollars. From the same document it appears that the whole of this article imported from the British dominions is consumed in the United States. But it is said that we may find a substitute for it. I acknowledge it. We may find this substitute in the products of our domestic distilleries, which pay no duties. Are we prepared to sacrifice so

large a part of our revenue as is derived from the importation? For it will be observed that other kinds of spirits are in a great measure exported from the United States, while all that we import from British settlements is consumed in this country. If the importation of British manufactures is prohibited, I do not know whence we are to be furnished with the articles we stand in need of. It is true that France has some rising manufactures, and she takes off about a fourth part of the cotton exported from the United States. But are we, by this measure, to cut off the market of the agriculturist for this article to the extent of ninety thousand bales at present annually exported to Great Britain?

But the great and material injury to the United States will be from the destruction of revenue occasioned by this measure. The present revenue may be estimated at $12,000,000, of which the sum of $5,400,000 is paid on importations from Great Britain and her dependencies. We have an annual appropriation of $8,000,000 for the payment of the principal and interest of the public debt. We have been engaged in extinguishing this debt for near twenty years, and have so far succeeded.

It is a probable calculation that if we remain at peace, and do not cut off the right hand of our revenue, the debt will be extinguished by the year 1816. To me this is an object as desirable as it can be to my colleague. I do not, therefore, wish to deprive the Government of this large share of revenue derived from duties on merchandise imported from Great Britain.

As to the effects of this measure on Great Britain, I might acknowledge, if it could be permanent that it might raise a clamor among her merchants and manufacturers, which might induce the Minister of that nation to relax in the course now pursued. But I will appeal to any gentleman conversant with the state of the country from the year 1792 to this time, to say whether there is any probability of our being able to endure a non-importation of British goods for any length of time; for more than about six or eight months. We have neither stock enough on hand, nor manufactures, or manufacturers of our own to enable us to do so. It is true that our manufactures are advancing surely, though slowly, and I may state in corroboration of this fact, what may not generally be known, that in the city of Philadelphia, manufactures are now carried on to a greater extent than they were forty years ago in the town of Birmingham. But can we, from this source, or from foreign markets, supply the great demand of our citizens? No. There are some articles which we may obtain elsewhere. Let us then prohibit the importation of these from Britain. Let us carry such a system as this into effect. One which, as it will do us little injury, is likely to be permanent, and will therefore have a permanent influence on Great Britain.

My colleague has alluded to the measures taken in the year 1793. But he will recollect that the orders issued by the British Government at that period went much further than the principle now set up. Besides, in 1793, the spirit of this country was very different from that which now prevails. The Revolution of France had, at that time, rekindled the enthusiasm of our own Revolution, and I believe I shall not be incorrect in saying that a majority of our citizens were in favor of drawing the sword in favor of France. I ask, if that is the case now? If a majority of the people of America are ready to take part with the Emperor Napoleon? And, notwithstanding the measures then taken, in 1794 we concluded a treaty which sacrificed everything we had contended for, and for which I believe my colleague voted, at least for appropriations to carry it into operation. If this was the issue of violent measures, I am not now for taking them. I am not for taking measures which my colleague says will strike at the vitals of Great Britain, but which, he says at the same time, will not be a cause of war. I am, on the contrary, in favor of such measures as we are able to carry into effect, and which may be adopted without permanent injury to ourselves.

Mr. Crowninshield.—The gentleman from Pennsylvania, who has last spoken, regrets that this subject has been taken up so soon, but I regret it has not been taken up an earlier period. Although, after I found certain information called for, I moved for other documents, calculated to shed further light on the subject, yet I then said, and I am still convinced that this information could not influence my decision on the subject under consideration. The documents called for are, however, now before us, and it appears that the balance of trade between the United States and Great Britain is from eleven to twelve millions against us. This difference we are obliged to make up by remittances in cash or bills from other countries; when, if we did not purchase of her more than we sell to her, we should not owe this annual balance, and the amount would surely be returned to the United States, very probably in cash, as a balance in our favor from other European nations. The trade, therefore, with Great Britain, so far as relates to the balance, is disadvantageous to us. The gentleman from Pennsylvania (Mr. Clay) thinks that this resolution will materially injure us, while it will inflict little injury on Great Britain. But there can be no doubt the measure it contemplates will injure Great Britain vastly more than it will injure us. Great Britain has, without any cause whatever, condemned our vessels engaged in the carriage of colonial productions, the *bona fide* property of American citizens. The gentleman has acknowledged that these captures may amount to six millions of dollars. I do not know the amount, but if the adjudications continue, I believe it will soon exceed that sum. But if the amount did not exceed one million, we are bound in duty to protect our merchants. The gentleman, in his remarks goes on the calculation that Great Britain will go to war with us if we adopt this resolution. But I have no such idea. If, however, I held that opinion, I should not on that account withhold my approbation from it. Because I believe if a war should

take place, the United States will have a great advantage over Great Britain. We should be able, in that event, to fit out a great number of privateers, and we should make two captures to their one. If a war should take place, which I do not hesitate to say I should greatly deprecate, we should take twice as much of their property as they would take of ours. But we are not, by the adoption of this resolution, about to enter into war with Great Britain. No such thing is in the contemplation of any gentleman. We are merely about to prohibit the importation of British goods in consequence of her having seized our vessels engaged in carrying on a lawful commerce, and in consequence of her seizure of American citizens protected by the American flag.

With regard to the measure contemplated by the resolution, I hope that Great Britain will not permit it to go into operation; that she will, on the contrary, on mature reflection, give us back the property she has wrongfully taken from us and liberate our seamen from the captivity in which she detains them.

With regard to the observation of the gentleman, relative to our inability to supply ourselves with the goods we get from her settlements in the East Indies, I think it proper to observe that they may be obtained from other colonies in that quarter; and as to spirits, there can be no doubt of our getting a sufficient quantity of spirits, notwithstanding the adoption of this resolution. But suppose we could not obtain a sufficient quantity of rum, or manufactured articles for our ordinary supply, and the revenue should be thereby affected for a time. We ought not to be governed by this consideration. But I believe the industry and enterprise of our merchants would soon obtain from other markets, a sufficient supply of every article, woollen goods, perhaps, excepted.

In November, 1793, Great Britain adopted a similar principle with regard to the colonial trade, except that the orders issued at that time went further than the present principle. In consequence of these orders four or five hundred of our vessels were seized. Every one knows the conduct of the American Government at that time. A treaty was finally made in which Great Britain promised to pay for the aggressions committed by her vessels on neutral rights. But nearly ten years elapsed before our merchants received compensation for their losses. This principle slept till 1801. Great Britain did not find it convenient to call it again into existence before that time. It then appears by a correspondence between Mr. King, then our Minister at the Court of Great Britain, and Lord Hawkesbury, that she attempted to renew it at this time. Mr. King, however, remonstrated; and he finally received a note from Lord Hawkesbury, who had referred the subject to the Attorney General of Great Britain, admitting that the seizure, under this principle, was not warrantable. The opinion is this: that the neutral has a right to carry on a commerce with the enemies' colonies. That the continuity of the voyage is broken when the return cargo is landed in the neutral country, and has paid duties there, and that the goods can afterwards be safely transported to any belligerent country in Europe, in the same bottom on which they were originally imported, or on any other neutral bottom whatever. This appears to have settled the question, and numerous decisions in England both before and since that time have confirmed the principle as a correct one. But notwithstanding all this, to our astonishment, the same adjudications have been renewed, and the same principle, considered as abandoned last war, is now revived. In the early part of the last summer we find it once more brought into existence, and the following case was made use of, as a fit pretext, to warrant the new captures which were intended should be made under this extraordinary decision of the court of appeals: In the latter part of the late war which was terminated by the treaty of Amiens, an American vessel was carried into the Island of New Providence, and adjudicated. An appeal was carried to Great Britain, where the condemnation was affirmed on the ground that she was carrying on a trade during war which was not allowed in time of peace. Under this decision the cruisers of Great Britain have seized a great number of other vessels. I know this case particularly. The vessel I have referred to, was the Essex, Captain Orne. There was a direct importation of her cargo into Salem, in Massachusetts; after remaining stored three or four weeks, the duties having been paid, it was shipped for the Havana. On her passage to Havana, she was seized, and adjudicated in New Providence. There was an appeal, and after remaining nearly four years undecided, the judgment is at last confirmed in England, and the capture of American vessels commences. Can we put up with such decisions? Can we agree to them? If this principle be allowed, I desire to know whether the whole carrying trade of the United States will not eventually be sacrificed? By the carrying trade, I mean the direct trade to and from the colonies, as well as to Europe. If we acquiesce in their capturing a part, Great Britain will extend her captures still further, and make a sweep of our whole trade. For my part, I am not willing to make this sacrifice; if it were no more than a million I could not agree to it.

As to the impressment of our seamen, that too is a subject of most serious complaint. We have called for a document on this point, which unfortunately is not yet on our tables. It is so extensive, and the information drawn from such various sources, that the Secretary of State has not yet been able to present it. We have, however, understood, that the number of our impressed seamen amounts to above 3,000. During the last war Great Britain impressed upwards of 2,000 of our seamen, of which she restored 1,200, proved to be American, and 800 remained in her possession at the peace. In the short period of two years she has impressed 3,000 seamen. I believe that we are bound, by all peaceable means, to obtain the liberation of these men. Lately, one of our frigates was shipwrecked off Tripoli, and 300 men taken captives. We immediately passed a

new appropriation bill, and sent out several additional frigates. The affair has terminated honorably to our country, and our seamen are released. Will we not now do as much for 3,000 seamen, as we then did for 300, which are but a tenth part? After the course we are now taking, should Britain persist in her captures and in her oppressive treatment of our seamen, and refuse to give them up, I would not hesitate to meet her in war. But, as I observed before, I do not believe Great Britain will go to war. Our trade is too valuable to her. She knows, too, that in such an event she will lose her Eastern provinces. The States of Vermont and Massachusetts will ask no other assistance than their own militia to take Canada and Nova Scotia. Some of her West India islands will likewise fall. She knows also other things. Her subjects own sixteen millions of the old public debt of the United States, eight millions of the Louisiana stock, and three or four millions bank stock, and have private debts to the amount of ten or twelve millions; amounting in the whole to nearly forty millions of dollars. Will Great Britain, by going to war, risk her provinces, and this large amount of property? I think she will not put so much to hazard. I believe she will take no other steps than are usual with regard to neutral trade. As I said before, the risk of a contrary course will be too great. Her Minister is now trying a system, the continuance in which will depend on us. He means to see how much we can bear. By this step we shall put an end to it. If, before it goes into effect, we give him time to reflect, he will, rather than experience the injury that menaces his country, pay for the property that has been condemned, and release our seamen. Under these circumstances, and viewing the resolution as a pacific measure, I hope it will be adopted unanimously.

Mr. J. RANDOLPH.—I am extremely afraid, sir, that so far as it may depend on my acquaintance with details connected with the subject, I have very little right to address you, for in truth, I have not yet seen the documents from the Treasury, which were called for some time ago, to direct the judgment of this House in the decision of the question now before you; and, indeed after what I have this day heard, I no longer require that document or any other document—indeed I do not know that I ever should have required it—to vote on the resolution of the gentleman from Pennsylvania. If I had entertained any doubts they would have been removed by the style in which the friends of the resolution have this morning discussed it. I am perfectly aware, that on entering upon this subject, we go into it manacled, handcuffed, and tongue-tied; gentlemen know that our lips are sealed, on subjects of momentous foreign relations, which are indissolubly linked with the present question, and which would serve to throw a great light on it in every respect relevant to it. I will, however, endeavor to hobble over the subject, as well as my fettered limbs and palsied tongue will enable me to do it.

I am not surprised to hear this resolution discussed by its friends as a war measure. They say (it is true) that it is not a war measure; but they defend it on principles which would justify none but war measures, and seem pleased with the idea that it may prove the forerunner of war. If war is necessary—if we have reached this point—let us have war. But while I have life, I will never consent to these incipent war measures, which, in their commencement breathe nothing but peace, though they plunge at last into war. It has been well observed by the gentleman from Pennsylvania behind me (Mr. J. CLAY) that the situation of this nation in 1793, was in every respect different from that in which it finds itself in 1806. Let me ask, too, if the situation of England is not since materially changed? Gentlemen who, it would appear from their language, have not got beyond the horn-book of politics, talk of our ability to cope with the British navy, and tell us of the war of our Revolution. What was the situation of Great Britain then? She was then contending for the empire of the British channel, barely able to maintain a doubtful equality with her enemies, over whom she never gained the superiority until Rodney's victory of the twelfth of April. What is her present situation? The combined fleets of France, Spain, and Holland, are dissipated, they no longer exist. I am not surprised to hear men advocate these wild opinions, to see them goaded on by a spirit of mercantile avarice, straining their feeble strength to excite the nation to war, when they have reached this stage of infatuation, that we are an over-match for Great Britain on the ocean. It is mere waste of time to reason with such persons. They do not deserve anything like serious refutation. The proper arguments for such statesmen are a straight waistcoat, a dark room, water gruel, and depletion.

It has always appeared to me that there are three points to be considered, and maturely considered, before we can be prepared to vote for the resolution of the gentleman from Pennsylvania: First. Our ability to contend with Great Britain for the question in dispute: Secondly. The policy of such a contest: Thirdly. In case both these shall be settled affirmatively, the manner in which we can, with the greatest effect, re-act upon and annoy our adversary.

Now the gentleman from Massachusetts (Mr. CROWNINSHIELD) has settled at a single sweep, to use one of his favorite expressions, not only that we are capable of contending with Great Britain on the ocean, but that we are actually her superior. Whence does the gentleman deduce this inference? Because, truly, at that time when Great Britain was not mistress of the ocean, when a North was her prime minister, a Sandwich the first lord of her admiralty, when she was governed by a counting-house administration, privateers of this country trespassed on her commerce! So, too, did the cruisers of Dunkirk; at that day Suffrein held the mastery of the Indian seas. But what is the case now? Do gentlemen remember the capture of Cornwallis on land, because De Grasse maintained the dominion of the ocean? To my mind no position is more clear, than that if we go to war with Great Britain, Charleston and Boston,

the Chesapeake and the Hudson, will be invested by British squadrons. Will you call on the Count De Grasse to relieve them, or shall we apply to Admiral Gravina, or Admiral Villeneuve to raise the blockade? But you have not only a prospect of gathering glory, and what seems to the gentleman from Massachusetts, much dearer, profit, by privateering, but you will be able to make a conquest of Canada and Nova Scotia. Indeed! Then, sir, we shall catch a Tartar. I confess, however, I have no desire to see the Senators and Representatives of the Canadian French, or of the tories and refugees of Nova Scotia, sitting on this floor or that of the other House—to see them becoming members of the Union, and participating equally in our political rights. And on what other principle would the gentleman from Massachusetts be for incorporating those provinces with us? Or on what other principle could it be done under the Constitution? If the gentleman has no other bounty to offer us for going to war, than the incorporation of Canada and Nova Scotia with the United States, I am for remaining at peace.

What is the question in dispute? The carrying trade. What part of it? The fair, the honest, and the useful trade that is engaged in carrying our own productions to foreign markets, and bringing back their productions in exchange? No, sir. It is that carrying trade which covers enemy's property, and carries the coffee, the sugar, and other West India products, to the mother country. No, sir, if this great agricultural nation is to be governed by Salem and Boston, New York and Philadelphia, and Baltimore and Norfolk and Charleston, let gentlemen come out and say so; and let a committee of public safety be appointed from those towns to carry on the Government. I, for one, will not mortgage my property and my liberty, to carry on this trade. The nation said so seven years ago—I said so then, and I say so now. It is not for the honest carrying trade of America, but for this mushroom, this fungus of war—for a trade which, as soon as the nations of Europe are at peace, will no longer exist, it is for this that the spirit of avaricious traffic would plunge us into war.

I am forcibly struck on this occasion by the recollection of a remark made by one of the ablest (if not the honestest) Ministers that England ever produced. I mean Sir Robert Walpole, who said that the country gentlemen (poor meek souls!) came up every year to be sheared—that they laid mute and patient whilst their fleeces were taking off—but that if he touched a single bristle of the commercial interest, the whole stye was in an uproar. It was indeed shearing the hog—"great cry and little wool."

But we are asked, are we willing to bend the neck to England; to submit to her outrages? No, sir, I answer, that it will be time enough for us to vindicate the violation of our flag on the ocean, when they shall have told us what they have done in resentment of the violation of the actual territory of the United States by Spain—the true territory of the United States, not your new-fangled country over the Mississippi, but the good old United States—part of Georgia, of the old thirteen States—where citizens have been taken, not from our ships, but from our actual territory. When gentlemen have taken the padlock from our mouths, I shall be ready to tell them what I will do, relative to our dispute with Britain, on the law of nations, on contraband, and such stuff.

I have another objection to this course of proceeding. Great Britain, when she sees it, will say the American people have great cause of dissatisfaction with Spain. She will see by the documents furnished by the President, that Spain has outraged our territory, pirated upon our commerce, and imprisoned our citizens; and she will inquire what we have done? It is true, she will receive no answer, but she must know what we have not done. She will see that we have not repelled these outrages, nor made any addition to our army and navy—nor even classed the militia. No, sir, not one of your militia generals in politics has marshalled a single brigade.

Although I have said it would be time enough to answer the question which gentlemen have put to me when they shall have answered mine, yet as I do not like long prorogations I will give them an answer now. I will never consent to go to war for that which I cannot protect. I deem it no sacrifice of dignity to say to the Leviathan of the deep—we are unable to contend with you in your own element, but if you come within our actual limits we will shed our last drop of blood in their defence. In such an event I would feel, not reason, and obey an impulse which never has, which never can deceive me.

France is at war with England—suppose her power on the continent of Europe no greater than it is on the ocean. How would she make her enemy feel it? There would be a perfect non-conductor between them. So with the United States and England—she scarcely presents to us a vulnerable point. Her commerce is now carried on for the most part in fleets—where in single ships they are stout and well armed—very different from the state of her trade during the American war, when her merchantmen became the prey of paltry privateers. Great Britain has been too long at war with the three most powerful maritime nations of Europe not to have learnt how to protect her trade. She can afford convoy to it all—she has eight hundred ships in commission, the navies of her enemies are annihilated. Thus this war has presented the new and curious political spectacle of a regular annual increase (and to an immense amount) of her imports and exports, and tonnage and revenue, and all the insignia of accumulating wealth, whilst in every former war, without exception, these have suffered a greater or less diminution. And wherefore? Because she has driven France, Spain, and Holland from the ocean. Their marine is no more. I verily believe that ten English ships-of-the-line would not decline a meeting with the combined fleets of those nations. I forewarn the gentleman from Massachusetts and his constituents of Salem, that all their golden hopes are vain. I forewarn them of the exposure of their trade beyond the Cape of Good Hope (or now

doubling it) to capture and confiscation—of their unprotected seaport towns, exposed to contribution or bombardment. Are we to be legislated into war by a set of men, who in six weeks after its commencement may be compelled to take refuge with us up in the country? And for what? A mere fungus—a mushroom production of war in Europe, which will disappear with the first return of peace—an unfair trade. For is there a man so credulous as to believe that we possess a capital not only equal to what may be called our own proper trade, but large enough also to transmit to the respective parent States the vast and wealthy products of the French, Spanish and Dutch colonies? It is beyond the belief of any rational being. But this is not my only objection to entering upon this naval warfare; I am averse to a naval war with any nation whatever. I was opposed to the naval war of the last Administration, and I am as ready to oppose a naval war of the present Administration, should they meditate such a measure. What! shall this great mammoth of the American forest leave his native element and plunge into the water in a mad contest with the shark? Let him beware that his proboscis is not bitten off in the engagement. Let him stay on shore, and not be excited by the muscles and periwinkles on the strand, or political bears, in a boat to venture on the perils of the deep. Gentlemen say will you not protect your violated rights? and I say why take to water, where you can neither fight nor swim. Look at France—see her vessels stealing from port to port on her own coast—and remember that she is the first military Power of the earth, and as a naval people second only to England. Take away the British navy, and France to-morrow is the tyrant of the ocean.

This brings me to the second point. How far is it politic in the United States to throw their weight into the scale of France at this moment, from whatever motive—to aid the views of her gigantic ambition—to make her mistress of the sea and land—to jeopardize the liberties of mankind? Sir, you may help to crush Great Britain, you may assist in breaking down her naval dominion, but you cannot succeed to it. The iron sceptre of the ocean will pass into his hands who wears the iron crown of the land. You may then expect a new code of maritime law. Where will you look for redress? I can tell the gentleman from Massachusetts that there is nothing in his rule of three that will save us, even although he should out-do himself, and exceed the financial ingenuity which he so memorably displayed on a recent occasion. No, sir, let the battle of Actium be once fought, and the whole line of seacoast will be at the mercy of the conqueror. The Atlantic, deep and wide as it is, will prove just as good a barrier against his ambition, if directed against you, as the Mediterranean to the power of the Cæsars. Do I mean (when I say so) to crouch to the invader? No! I will meet him at the water's edge, and fight every inch of ground from thence to the mountains—from the mountains to the Mississippi. But after tamely submitting to an outrage on your dominion, will you bully and look big at an insult on your flag three thousand miles off?

But, sir, I have yet a more cogent reason against going to war, for the honor of the flag in the narrow seas, or any other maritime punctilio. It springs from my attachment to the Government under which I live. I declare, in the face of day, that this Government was not instituted for the purposes of offensive war. No! It was framed (to use its own language) "for the common defence and the general welfare," which are inconsistent with offensive war. I call that offensive war, which goes out of our jurisdiction and limits for the attainment or protection of objects, not within those limits, and that jurisdiction. As in 1798 I was opposed to this species of warfare, because I believed it would raze the Constitution to its very foundation—so, in 1806, I am opposed to it, and on the same grounds. No sooner do you put the Constitution to this use—to a test which it is by no means calculated to endure—than its incompetency becomes manifest, and apparent to all. I fear if you go into a foreign war, for a circuitous, unfair carrying trade, you will come out without your Constitution. Have not you contractors enough yet in this House? Or, do you want to be overrun and devoured by commissaries, and all the vermin of contract? I fear, sir, that what are called "the energy men" will rise up again—men who will burn the parchment. We shall be told that our Government is too free; or, as they would say, weak and inefficient. Much virtue, sir, in terms! That we must give the President power to call forth the resources of the nation. That is, to filch the last shilling from our pockets—to drain the last drop of blood from our veins. I am against giving this power to any man, be he who he may. The American people must either withhold this power, or resign their liberties. There is no other alternative. Nothing but the most imperious necessity will justify such a grant. And is there a powerful enemy at our doors? You may begin with a First Consul. From that chrysalis state he soon becomes an Emperor. You have your choice. It depends upon your election whether you will be a free, happy, and united people at home, or the light of your Executive Majesty shall beam across the Atlantic in one general blaze of the public liberty.

For my part, I will never go to war but in self-defence. I have no desire for conquests—no ambition to possess Nova Scotia. I hold the liberties of this people at a higher rate. Much more am I indisposed to war, when, among the first means for carrying it on, I see gentlemen propose the confiscation of debts due by Government to individuals. Does a *bona fide* creditor know who holds his paper? Dare any honest man ask himself the question? 'Tis hard to say whether such principles are more detestably dishonest, than they are weak and foolish. What, sir, will you go about with proposals for opening a loan in one hand, and a sponge for the national debt in the other? If, on a late occasion, you could not borrow at a less rate of interest than eight per cent., when the Government avowed that they would

pay to the last shilling of the public ability, at what price do you expect to raise money with an avowal of these nefarious opinions? God help you, if these are your ways and means for carrying on war! if your finances are in the hands of such a Chancellor of the Exchequer. Because a man can take an observation, and keep a log-book and a reckoning; can navigate a cock-boat to the West Indies, or the East, shall he aspire to navigate the great vessel of State—to stand at the helm of public councils? *Ne sutor ultra crepidam.* What are you going to war for? For the carrying trade? Already you possess seven-eighths of it. What is the object in dispute? The fair, honest trade, that exchanges the product of our soil for foreign articles for home consumption? Not at all. You are called upon to sacrifice this necessary branch of your navigation, and the great agricultural interest—whose handmaid it is—to jeopardize your best interests for a circuitous commerce, for the fraudulent protection of belligerent property under your neutral flag. Will you be goaded, by the dreaming calculations of insatiate avarice, to stake your all for the protection of this trade? I do not speak of the probable effects of war on the price of our produce. Severely as we must feel, we may scuffle through it. I speak of its reaction on the Constitution. You may go to war for this excrescence of the carrying trade, and make peace at the expense of the Constitution. Your Executive will lord it over you, and you must make the best terms with the conqueror that you can. But the gentleman from Pennsylvania (Mr. Gregg) tells you that he is for acting in this, as in all things, uninfluenced by the opinion of any Minister whatever—foreign, or, I presume, domestic. On this point I am willing to meet the gentleman—am unwilling to be dictated to by any Minister, at home or abroad. Is he willing to act on the same independent footing? I have before protested, and I again protest against secret, irresponsible, overruling influence. The first question I asked when I saw the gentleman's resolution, was, "Is this a measure of the Cabinet?" Not of an open declared Cabinet; but, of an invisible, inscrutable, unconstitutional Cabinet, without responsibility, unknown to the Constitution. I speak of back-stairs influence—of men who bring messages to this House, which, although they do not appear on the Journals, govern its decisions. Sir, the first question that I asked on the subject of British relations, was, What is the opinion of the Cabinet? What measures will they recommend to Congress?—(well knowing that whatever measures we might take, they must execute them, and therefore, that we should have their opinion on the subject.) My answer was, (and from a Cabinet Minister too.) "*There is no longer any Cabinet.*" Subsequent circumstances, sir, have given me a personal knowledge of the fact. It needs no commentary.

But the gentleman has told you that we ought to go to war, if for nothing else, for the fur trade. Now, sir, the people on whose support he seems to calculate, follow, let me tell him, a better business, and let me add, that whilst men are happy at home reaping their own fields—the fruits of their labor and industry—there is little danger of their being induced to go sixteen or seventeen hundred miles in pursuit of beavers, raccoons, or opossums, much less of going to war for the privilege. They are better employed where they are. This trade, sir, may be important to Britain, to nations who have exhausted every resource of industry at home, bowed down by taxation and wretchedness. Let them, in God's name, if they please, follow the fur trade. They may, for me, catch every beaver in North America. Yes, sir, our people have a better occupation—a safe, profitable, honorable employment. While they should be engaged in distant regions in hunting the beaver, they dread lest those whose natural prey they are should begin to hunt them, should pillage their property, and assassinate their Constitution. Instead of these wild schemes, pay off your debt, instead of prating about its confiscation. Do not, I beseech you, expose at once your knavery and your folly. You have more lands than you know what to do with, you have lately paid fifteen millions for yet more. Go and work them, and cease to alarm the people with the cry of wolf, until they become deaf to your voice, or at least laugh at you.

Mr. Chairman, if I felt less regard for what I deem the best interests of this nation than for my own reputation, I should not, on this day, have offered to address you, but would have waited to come out, bedecked with flowers and boquets of rhetoric, in a set speech. But, sir, I dreaded lest a tone might be given to the mind of the committee—they will pardon me, but I did fear, from all that I could see or hear, that they might be prejudiced by its advocates, (under pretence of protecting our commerce) in favor of this ridiculous and preposterous project; I rose, sir, for one, to plead guilty; to declare in the face of day that I will not go to war for this carrying trade. I will agree to pass for an idiot if this is not the public sentiment, and you will find it to your cost, begin the war when you will.

Gentlemen talk of 1793. They might as well go back to the Trojan war. What was your situation then? Then every heart beat high with sympathy for France, for *republican France!* I am not prepared to say, with my friend from Pennsylvania, that we were all ready to draw our swords in her cause, but I affirm that we were prepared to have gone great lengths. I am not ashamed to pay this compliment to the hearts of the American people, even at the expense of their understandings. It was a noble and generous sentiment, which nations like individuals are never the worse for having felt. They were, I repeat it, ready to make great sacrifices for France. And why ready? Because she was fighting the battles of the human race against the combined enemies of their liberty; because she was performing the part which Great Britain now, in fact, sustains, forming the only bulwark against universal dominion. Knock away her Navy, and where are you? Under the naval despotism of France, unchecked and unqualified by any an-

tagonizing military power, at best but a change of masters. The tyrant of the ocean, and the tyrant of the land, is one and the same, lord of all, and who shall say him nay, or wherefore doest thou thus thing? Give to the tiger the properties of the shark, and there is no longer safety for the beasts of the forest or the fishes of the sea. Where was this high anti-Britannic spirit of the gentleman from Pennsylvania, when his vote would have put an end to the British treaty, that pestilent source of evil to this country? and at a time, too, when it was not less the interest than the sentiment of this people to pull down Great Britain and exalt France. Then, when the gentleman might have acted with effect, he could not screw his courage to the sticking place. Then England was combined in what has proven a feeble, inefficient coalition, but which gave just cause of alarm to every friend of freedom. Now the liberties of the human race are threatened by a single Power, more formidable than the coalesced world, to whose utmost ambition, vast as it is, the naval force of Great Britain forms the only obstacle.

I am perfectly sensible and ashamed of the trespass I am making on the patience of the Committee; but as I know not whether it will be in my power to trouble them again on this subject, I must beg leave to continue my crude and desultory observations. I am not ashamed to confess that they are so. At the commencement of this session, we received a printed Message from the President of the United States, breathing a great deal of national honor, and indignation at the outrages we had endured, particularly from Spain. She was specially named and pointed at. She had pirated upon your commerce, imprisoned your citizens, violated your actual territory; invaded the very limits solemnly established between the two nations by the Treaty of San Lorenzo. Some of the State Legislatures, (among others the very State on which the gentleman from Pennsylvania relies for support,) sent forward resolutions pledging their lives, their fortunes, and their sacred honor, in support of any measures you might take in vindication of your injured rights. Well, sir, what have you done? You have had resolutions laid upon your table, gone to some expense of printing and stationery—mere pen, ink, and paper, that's all. Like true political quacks, you deal only in handbills and nostrums. Sir, I blush to see the record of our proceedings; they resemble nothing but the advertisements of patent medicines. Here you have "the worm-destroying lozenges," there "Church's cough drops;" and, to crown the whole, "Sloan's vegetable specific," an infallible remedy for all nervous disorders and vertigoes of brain-sick politicians; each man earnestly adjuring you to give his medicine only a fair trial. If, indeed, these wonder-working nostrums could perform but one-half of what they promise, there is little danger of our dying a political death, at this time at least. But, sir, in politics as in physics, the doctor is oftimes the most dangerous disease; and this I take to be our case at present.

But, sir, why do I talk of Spain? There are no longer Pyrenees. There exists no such nation, no such being as a Spanish King, or Minister. It is a mere juggle, played off for the benefit of those who put the mechanism into motion. You know, sir, that you have no differences with Spain; that she is the passive tool of a superior Power, to whom, at this moment, you are crouching. Are your differences, indeed, with Spain? And where are you going to send your political panaceas, resolutions and handbills excepted, your sole arcanum of Government, your king cure all? To Madrid? No—you are not such quacks as not to know where the shoe pinches—to Paris. You know, at least, where the disease lies, and there you apply your remedy. When the nation anxiously demands the result of your deliberations, you hang your head and blush to tell. You are afraid to tell. Your mouth is hermetically sealed. Your honor has received a wound which must not take air. Gentlemen dare not come forward and avow their work, much less defend it in the presence of the nation. Give them all they ask, that Spain exists—and what then? After shrinking from the Spanish jackall, do you presume to bully the British lion? But here the secret comes out. Britain is your rival in trade, and governed as you are by counting-house politicians, you would sacrifice the paramount interests of the country, to wound that rival. For Spain and France you are carriers, and from good customers every indignity is to be endured. And what is the nature of this trade? Is it that carrying trade which sends abroad the flour, tobacco cotton, beef, pork, fish, and lumber of this country, and brings back in return foreign articles necessary for our existence or comfort? No, sir, it is a trade carried on—the Lord knows where, or by whom; now doubling Cape Horn, now the Cape of Good Hope. I do not say that there is no profit in it—for it would not then be pursued—but it is a trade that tends to assimilate our manners and Government to those of the most corrupt countries of Europe. Yes, sir, and when a question of great national magnitude presents itself to you, it causes those who now prate about national honor and spirit to pocket any insult; to consider it as a mere matter of debit and credit; a business of profit and loss, and nothing else.

The first thing that struck my mind, when this resolution was laid on the table, was *unde derivatur?* A question always put to us at school. Whence comes it? Is this only the putative father of the bantling he is taxed to maintain, or, indeed, the actual parent, the real progenitor of the child? Or, is it the production of the Cabinet? But, I knew you had no Cabinet, no system. I had seen despatches relating to vital measures laid before you the day after your final decision on those measures, four weeks after they were received; not only their contents, but their very existence, all that time unsuspected and unknown to men whom the people fondly believe assist with their wisdom and experience at every important deliberation. Do you believe that this system, or rather this no-system, will do? I am

free to answer it will not, it cannot last. I am not so afraid of the fair, open, Constitutional, responsible influence of Government, but I shrink intuitively from this left-handed, invisible, irresponsible influence, which defies the touch, but pervades and decides everything. Let the Executive come forward to the Legislature; let us see while we feel it. If we cannot rely on its wisdom, is it any disparagement to the gentleman from Pennsylvania to say that I cannot rely upon him? No, sir, he has mistaken his talent. He is not the Palinurus on whose skill the nation, at this trying moment, can repose their confidence. I will have nothing to do with his paper, much less will I endorse it, and make myself responsible for its goodness. I will not put my name to it. I assert that there is no Cabinet, no system, no plan; that which I believe in one place, I shall never hesitate to say in another. This is no time, no place, for mincing our steps. The people have a right to know; they shall know the state of their affairs; at least, as far as I am at liberty to communicate them. I speak from personal knowledge. Ten days ago there had been no consultation; there existed no opinion in your Executive department; at least, none that was avowed. On the contrary, there was an express disavowal of any opinion whatsoever, on the great subject before you; and I have good reason for saying that none has been formed since. Some time ago, a book was laid on our tables, which, like some other bantlings, did not bear the name of its father. Here I was taught to expect a solution of all doubts, an end to all our difficulties. If, sir, I were the foe—as I trust I am the friend of this nation—I would exclaim, "Oh, that mine enemy would write a book!" At the very outset, in the very first page, I believe, there is a complete abandonment of the principle in dispute. Has any gentleman got the work? [It was handed by one of the members.] The first position taken is the broad principle of the unlimited freedom of trade between nations at peace, which the writer endeavors to extend to the trade between a neutral and a belligerent Power, accompanied, however, by this acknowledgment: "But, inasmuch as the 'trade of a neutral with a belligerent nation, 'might, in certain special cases, affect the safety 'of its antagonist, usage, founded on the principle 'of necessity, has admitted a few exceptions to 'the general rule." Whence comes the doctrine of contraband, blockade, and enemy's property? Now, sir, for what does that celebrated pamphlet, "War in Disguise"—which is said to have been written under the eye of the British Prime Minister—contend, but this "principle of necessity?" And this is abandoned by this pamphleteer at the very threshold of the discussion. But, as if this were not enough, he goes on to assign as a reason for not referring to the authority of the ancients, "that the great change which has taken 'place in the state of manners, in the maxims of 'war, and in the course of commerce, make it 'pretty certain" (what degree of certainty is this?) "that either nothing will be found relating to the 'question, or nothing sufficiently applicable to deserve attention in deciding it." Here, sir, is an apology of the writer for not disclosing the whole extent of his learning, (which might have overwhelmed the reader) in the admission that a change of circumstances, ("in the course of commerce,") has made (and, therefore, will now justify) a total change of the law of nations. What more could the most inveterate advocate of English usurpation demand? What else can they require to establish all, and even more than they contend for? Sir, there is a class of men—we know them very well—who, if you only permit them to lay the foundation, will build you up, step by step, and brick by brick, very neat and showy, if not tenable arguments. To detect them, it is only necessary to watch their premises, where you will often find the point at issue surrendered, as in this case it is.

Again: Is the *mare liberum* anywhere asserted in this book, that free ships make free goods? No, sir; the right of search is acknowledged; that enemy's property is lawful prize, is sealed and delivered. And, after abandoning these principles, what becomes of the doctrine that a mere shifting of the goods from one ship to another, the touching at another port, changes the property? Sir, give up this principle, and there is an end of the question. You lie at the mercy of the conscience of a Court of Admiralty. Is Spanish sugar, or French coffee, made American property, by the mere change of the cargo, or even by the landing and payment of the duties? Does this operation effect a change of property? And when those duties are drawn back, and the sugar and coffee re exported, are they not (as enemy's property) liable to seizure upon the principles of the "Examination of the British doctrine," &c.? And, is there not the best reason to believe, that this operation is performed in many, if not in most cases, to give a neutral aspect and color to the merchandise?

I am prepared, sir, to be represented as willing to surrender important rights of this nation to a foreign Government. I have been told that this sentiment is already whispered in the dark, by time-servers and sycophants. But, if your Clerk dared to print them, I would appeal to your Journals. I would call for the reading of them, but that I know they are not for profane eyes to look upon. I confess that I am more ready to surrender to a naval Power a square league of ocean, than to a territorial one, a square inch of land within our limits; and I am ready to meet the friends of the resolution on this ground at any time.

Let them take off the injunction of secrecy. They dare not. They are ashamed and afraid to do it. They may give winks and nods, and pretend to be wise, but they dare not come out and tell the nation what they have done. Gentlemen may take notes if they please, but I will never, from any motive short of self-defence, enter upon war. I will never be instrumental to the ambitious schemes of Bonaparte, nor put into his hands what will enable him to wield the world, and on the very principle that I wished success to

the French arms in 1793. And wherefore? Because the case is changed. Great Britain can never again see the year 1760. Her continental influence is gone forever. Let who will be uppermost on the continent of Europe, she must find more than a counterpoise for her strength. Her race is run. She can only be formidable as a maritime Power; and, even as such, perhaps not long. Are you going to justify the acts of the last Administration, for which they have been deprived of the Government at our instance? Are you going back to the ground of 1798-'9? I ask any man who now advocates a rupture with England to assign a single reason for his opinion, that would not have justified a French war in 1798? If injury and insult abroad would have justified it, we had them in abundance then. But what did the Republicans say at that day? That, under the cover of a war with France, the Executive would be armed with a patronage and power which might enable it to master our liberties. They deprecated foreign war and navies, and standing armies, and loans, and taxes. The delirium passed away—the good sense of the people triumphed; and our differences were accommodated without a war. And what is there in the situation of England that invites to war with her? It is true she does not deal so largely in perfectability; but she supplies you with a much more useful commodity—with coarse woollens. With less profession indeed she occupies the place of France in 1793. She is the sole bulwark of the human race against universal dominion; no thanks to her for it. In protecting her own existence, she insures theirs. I care not who stands in this situation, whether England or Bonaparte. I practice the doctrines now that I professed in 1798. Gentlemen may hunt up the journals if they please; I voted against all such projects under the Administration of John Adams, and I will continue to do so under that of Thomas Jefferson. Are you not contented with being free and happy at home? Or will you surrender these blessings that your merchants may tread on Turkish and Persian carpets, and burn the perfumes of the East in their vaulted rooms. Gentlemen say it is but an annual million lost, and even if it were five times that amount, what is it compared with your neutral rights? Sir, let me tell them a hundred millions will be but a drop in the bucket, if once they launch without rudder or compass into this ocean of foreign warfare. Whom do they want to attack? England. They hope it is a popular thing, and talk about Bunker's Hill, and the gallant feats of our Revolution. But is Bunker's Hill to be the theatre of war? No, sir, you have selected the ocean, and the object of attack is that very navy which prevented the combined fleets of France and Spain from levying contribution upon you in your own seas; that very navy which, in the famous war of 1798, stood between you and danger. Whilst the fleets of the enemy were pent up in Toulon, or pinioned in Brest, we performed wonders to be sure; but, sir, if England had drawn off, France would have told you quite a different tale. You would have struck no medals. This is not the sort of conflict that you are to count upon, if you go to war with Great Britain. *Quem Deus vult perdere prius dementat.* And are you mad enough to take up the cudgels that have been struck from the nerveless hands of the three great maritime Powers of Europe? Shall the planter mortgage his little crop, and jeopardize the Constitution in support of commercial monopoly, in the vain hope of satisfying the insatiable greediness of trade? Administer the Constitution upon its own principles: for the general welfare, and not for the benefit of any particular class of men. Do you meditate war for the possession of Baton Rouge or Mobile, places which your own laws declare to be within your limits? Is it even for the fair trade that exchanges your surplus products for such foreign articles as you require? No, sir, it is for a circuitous trade—an ignis fatuus. And against whom? A nation from whom you have anything to fear?—I speak as to our liberties. No, sir, with a nation from whom you have nothing, or next to nothing, to fear; to the aggrandizement of one against which you have everything to dread. I look to their ability and interest, not to their disposition. When you rely on that the case is desperate. Is it to be inferred from all this that I would yield to Great Britain? No. I would act towards her now, as I was disposed to do towards France, in 1798-'9; treat with her, and for the same reason, on the same principles. Do I say I would treat with her? At this moment you have a negotiation pending with her Government. With her you have not tried negotiation and failed, totally failed, as you have done with Spain, or rather France; and wherefore, under such circumstances, this hostile spirit to the one, and this—I will not say what—to the other?

But a great deal is said about the laws of nations. What is national law but national power guided by national interest? You yourselves acknowledge and practice upon this principle where you can, or where you dare—with the Indian tribes for instance. I might give another and more forcible illustration. Will the learned lumber of your libraries add a ship to your fleet, or a shilling to your revenue? Will it pay or maintain a single soldier? And will you preach and prate of violations of your neutral rights, when you tamely and meanly submit to the violation of your territory? Will you collar the stealer of your sheep, and let him escape that has invaded the repose of your fireside—has insulted your wife and children under your own roof? This is the heroism of truck and traffic—the public spirit of sordid avarice. Great Britain violates your flag on the high seas. What is her situation? Contending, not for the dismantling of Dunkirk, for Quebec, or Pondicherry, but for London and Westminster—for life. Her enemy violating at will the territories of other nations, acquiring thereby a colossal power that threatens the very existence of her rival. But she has one vulnerable point to the arms of her adversary, which she covers with the ensigns of neutrality; she draws

the neutral flag over the heel of Achilles. And can you ask that adversary to respect it at the expense of her existence? and in favor of whom? An enemy that respects no neutral territory of Europe, and not even your own. I repeat that the insults of Spain towards this nation have been at the instigation of France; that there is no longer any Spain. Well, sir, because the French Government does not put this in the Moniteur, you choose to shut your eyes to it. None so blind as those who will not see. You shut your own eyes, and to blind those of other people, you go into conclave, and slink out again and say, "a great affair of State!"—*C'est une grande affaire d'Etat!* It seems that your sensibility is entirely confined to the extremities. You may be pulled by the nose and ears, and never feel it, but let your strong box be attacked, and you are all nerve—"Let us go to war!" Sir, if they called upon me only for my little *peculium* to carry it on, perhaps I might give it; but my rights and liberties are involved in the grant, and I will never surrender them while I have life. The gentleman from Massachusetts (Mr. CROWNINSHIELD) is for sponging the debt. I can never consent to it; I will never bring the ways and means of fraudulent bankruptcy into your committee of supply. Confiscation and swindling shall never be found among my estimates to meet the current expenditure of peace or war. No, sir, I have said with the doors closed, and I say so when the doors are open, "pay the public debt;" get rid of that dead weight upon your Government—that cramp upon all your measures—and then you may put the world at defiance. So long as it hangs upon you, you must have revenue, and to have revenue you must have commerce—commerce, peace. And shall these nefarious schemes be advised for lightening the public burdens; will you resort to these low and pitiful shifts; dare even to mention these dishonest artifices to eke out your expenses, when the public treasure is lavished on Turks and infidels, on singing boys and dancing girls, to furnish the means of beastiality to an African barbarian?

Gentlemen say that Great Britain will count upon our divisions. How? What does she know of them? Can they ever expect greater unanimity than prevailed at the last Presidential election? No, sir, it is the gentleman's own conscience that squeaks. But if she cannot calculate upon your divisions, at least she may reckon upon your pusillanimity. She may well despise the resentment that cannot be excited to honorable battle on its own ground; the mere effusion of mercantile cupidity. Gentlemen talk of repealing the British Treaty. The gentleman from Pennsylvania should have thought of that, before he voted to carry it into effect. And what is all this for? A point which Great Britain will not abandon to Russia, you expect her to yield to you—Russia! indisputably the second Power of Continental Europe; with not less than half a million of hardy troops; with sixty sail-of-the-line, thirty millions of subjects, and a territory more extensive even than our own—Russia, sir, the storehouse of the British Navy, whom it is not more the policy and the interest than the sentiment of that Government to soothe and to conciliate—her sole hope of a diversion on the continent, and her only efficient ally. What this formidable Power cannot obtain with fleets and armies, you will command by writ—with pothooks and hangers. I am for no such policy. True honor is always the same. Before you enter into a contest, public or private, be sure you have fortitude enough to go through with it. If you mean war, say so, and prepare for it. Look on the other side; behold the respect in which France holds neutral rights on land; observe her conduct in regard to the Franconian estates of the King of Prussia. I say nothing of the petty Powers—of the Elector of Baden, or of the Swiss—I speak of a first rate Monarchy of Europe, and at a moment, too, when its neutrality was the object of all others nearest to the heart of the French Emperor. If you make him monarch of the ocean, you may bid adieu to it forever. You may take your leave, sir, of navigation—even of the Mississippi. What is the situation of New Orleans if attacked tomorrow? Filled with a discontented and repining people, whose language, manners, and religion, all incline them to the invader—a dissatisfied people, who despise the miserable Governor you have set over them—whose honest prejudices and basest passions alike take part against you. I draw my information from no dubious source; but from a native American, an enlightened member of that odious and imbecile Government. You have official information that the town and its dependencies are utterly defenceless and untenable. A firm belief that (apprized of this) Government would do something to put the place in a state of security, alone has kept the American portion of that community quiet. You have held that post, you now hold it, by the tenure of the naval predominance of England, and yet you are for a British naval war.

There are now but two great commercial nations—Great Britain is one, and the United States the other. When you consider the many points of contact between our interests, you may be surprised that there has been so little collision. Sir, to the other belligerent nations of Europe your navigation is a convenience, I might say, a necessary. If you do not carry for them they must starve, at least for the luxuries of life, which custom has rendered almost indispensable; and if you cannot act with some degree of spirit towards those who are dependent upon you as carriers, do you reckon to browbeat a jealous rival, who, the moment she lets slip the dogs of war, sweeps you at a blow from the ocean. And *cui bono?* for whose benefit? The planter? Nothing like it. The fair, honest, real American merchant? No, sir, for renegadoes; to-day American, to-morrow, Danes. Go to war when you will, the property, now covered by the American, will then pass under the Danish, or some other neutral flag. Gentlemen say that one English ship is worth three of ours; we shall therefore have the advantage in privateering. Did they ever know a na-

tion to get rich by privateering? This is stuff, sir, for the nursery. Remember that your products are bulky, as has been stated; that they require a vast tonnage to transport them abroad, and that but two nations possess that tonnage. Take these carriers out of the market. What is the result? The manufactures of England, which (to use a finishing touch of the gentlemen's rhetoric) have received the finishing stroke of art, lie in a small comparative compass. The neutral trade can carry them. Your produce rots in the warehouse. You go to Eustatia or St. Thomas and get a striped blanket for a joe, if you can raise one. Double freight, charges, and commission. Who receives the profit? The carrier. Who pays it? The consumer. All your produce that finds its way to England, must bear the same accumulated charges—with this difference, that *there* the burden falls on the home price. I appeal to the experience of the late war, which has been so often cited. What then was the price of produce, and of broadcloth?

But you are told England will not make war; that she has her hands full. Holland calculated in the same way in 1781. How did it turn out? You stand now in the place of Holland, then without her Navy, and unaided by the preponderating fleets of France and Spain, to say nothing of the Baltic Powers. Do you want to take up the cudgels where these great maritime States have been forced to drop them? to meet Great Britain on the ocean, and drive her off its face? If you are so far gone as this, every capital measure of your policy has hitherto been wrong. You should have nurtured the old, and devised new systems of taxation, and have cherished your navy. Begin this business when you may, land-taxes, stamp-acts, window-taxes, hearth-money, excise, in all its modifications of vexation and oppression, must precede or follow after. But, sir, as French is the fashion of the day, I may be asked for my *projet*. I can readily tell gentlemen what I will not do. I will not propitiate any foreign nation with money. I will not launch into a naval war with Great Britain, although I am ready to meet her at the Cowpens or on Bunker's Hill—and for this plain reason, we are a great land animal, and our business is on shore. I will send her money, sir, on no pretext whatever, much less on pretence of buying Labrador, or Botany Bay, when my real object was to secure limits, which she formally acknowledged at the peace of 1783. I go further: I would (if anything) have laid an embargo. This would have got our own property home, and our adversary's into our power. If there is any wisdom left among us, the first step towards hostility will always be an embargo. In six months all your mercantile magnims would vanish. As to us, although it would cut deep, we can stand it. Without such a precaution, go to war when you will, you go to the wall. As to debts, strike the balance to-morrow, and England is I believe in our debt.

I hope, sir, to be excused for proceeding in this desultory course. I flatter myself I shall not have occasion again to trouble you. I know not that I shall be able, certainly not willing, unless provoked in self-defence. I ask your attention to the character of the inhabitants of that Southern country, on whom gentlemen rely for support of their measure. Who and what are they? A simple, agricultural people, accustomed to travel in peace to market with the produce of their labor. Who takes it from us? Another people, devoted to manufactures—our sole source of supply. I have seen some stuff in the newspapers about manufactures in Saxony, and about a man who is no longer the chief of a dominant faction. The greatest man whom I ever knew—the immortal author of the letters of Curtius—has remarked the proneness of cunning people to wrap up and disguise in well-selected phrases doctrines too deformed and detestable to bear exposure in naked words; by a judicious choice of epithets to draw the attention from the lurking principle beneath, and perpetuate delusion. But a little while ago, and any man might have been proud to have been considered as the head of the Republican party. Now, it seems, it is reproachful to be deemed the chief of a dominant faction. Mark the magic of words. Head—*chief*. Republican party—*dominant faction*. But as to these Saxon manufactures. What became of their Dresden china? Why the Prussian bayonets have broken all the pots, and you are content with Worcestershire or Staffordshire ware. There are some other fine manufactures on the continent, but no supply, except perhaps of linens, the article we can best dispense with. A few individuals, sir, may have a coat of Louvier's cloth, or a service of Sevres china; but there is too little, and that little too dear, to furnish the nation. You must depend on the fur trade in earnest, and wear buffalo hides and bear skins.

Can any man who understands Europe pretend to say that a particular foreign policy is now right because it would have been expedient twenty, or even ten years ago, without abandoning all regard for common sense? Sir, it is the statesman's province to be guided by circumstances; to anticipate, to foresee them; to give them a course and a direction; to mould them to his purpose. It is the business of a counting-house clerk to peer into the day book and leger, to see no further than the spectacles on his nose, to feel not beyond the pen behind his ear; to chatter in coffee-houses, and be the oracle of clubs. From 1783 to 1793, and even later. (I dont stickle for dates.) France had a formidable marine—so had Holland—so had Spain. The two first possessed of thriving manufactures and a flourishing commerce. Great Britain, tremblingly alive to her manufacturing interests and carrying trade, would have felt to the heart any measure calculated to favor her rivals in these pursuits. She would have yielded then to her fears and her jealousy alone. What is the case now? She lays an export duty on her manufactures, and there ends the question. If Georgia shall (from whatever cause) so completely monopolize the culture of cotton as to be able to lay an export duty of three per cent. upon

it, besides taxing its cultivators, in every other shape, that human or infernal ingenuity can devise, is Pennsylvania likely to rival her and take away the trade?

But, sir, it seems that we, who are opposed to this resolution, are men of no nerve, who trembled in the days of the British treaty—cowards (I presume) in the reign of terror? Is this true? Hunt up the journals; let our actions tell. We pursue our old unshaken course. We care not for the nations of Europe, but make foreign relations bend to our political principles and subserve our country's interest. We have no wish to see another Actium, or Pharsalia, or the lieutenants of a modern Alexander playing at piquet, or all-fours, for the empire of the world. It is poor comfort to us to be told that France has too decided a taste for luxurious things to meddle with us; that Egypt is her object, or the coast of Barbary, and, at the worst, we shall be the last devoured. We are enamored with neither nation; we would play their own game upon them, use them for our interest and convenience. But with all my abhorrence of the British Government, I should not hesitate between Westminster Hall and a Middlesex jury, on the one hand, and the wood of Vincennes and a file of grenadiers on the other. That jury-trial, which walked with Horne Tooke and Hardy through the flames of ministerial persecution is, I confess, more to my taste than the trial of the Duke d'Enghein.

Mr. Chairman, I am sensible of having detained the Committee longer than I ought; certainly much longer than I intended. I am equally sensible of their politeness, and not less so, sir, of your patient attention. It is your own indulgence, sir, badly requited indeed, to which you owe this persecution. I might offer another apology for these undigested, desultory remarks—my never having seen the Treasury documents. Until I came into the House this morning I had been stretched on a sick bed. But when I behold the affairs of this nation instead of being where I hoped, and the people believed, they were, in the hands of responsible men, committed to Tom, Dick, and Harry, to the refuse of the retail trade of politics, I do feel, I cannot help feeling, the most deep and serious concern. If the Executive government would step forward and say, "such is our plan, such is our opinion, and such are our reasons in support of it," I would meet it fairly, would openly oppose, or pledge myself to support it. But, without compass or polar star, I will not launch into an ocean of unexplored measures, which stand condemned by all the information to which I have access. The Constitution of the United States declares it to be the province and the duty of the President "to give to Congress, 'from time to time, information of the state of 'the Union, and recommend to their consideration such measures as he shall judge expedient 'and necessary." Has he done it? I know, sir, that we may say, and do say, that we are independent, (would it were true;) as free to give a direction to the Executive as to receive it from him. But do what you will, foreign relations, every measure short of war, and even the course of hostilities depends upon him. He stands at the helm, and must guide the vessel of State. You give him money to buy Florida, and he purchases Louisiana. You may furnish means; the application of those means rests with him. Let not the master and mate go below when the ship is in distress, and throw the responsibility upon the cook and the cabin-boy. I said so when your doors were shut; I scorn to say less now that they are open. Gentlemen may say what they please. They may put an insignificant individual to the ban of the Republic—I shall not alter my course. I blush with indignation at the misrepresentations which have gone forth in the public prints of our proceedings, public and private. Are the people of the United States, the real sovereigns of the country, unworthy of knowing what, there is too much reason to believe, has been communicated to the privileged spies of foreign Governments? I think our citizens just as well entitled to know what has passed as the Marquis Yrujo, who has bearded your President to his face, insulted your Government within its own peculiar jurisdiction, and outraged all decency. Do you mistake this diplomatic puppet for an automaton? He has orders for all he does. Take his instructions from his pocket to morrow, they are signed "Charles Maurice Talleyrand." Let the nation know what they have to depend upon. Be true to them, and (trust me) they will prove true to themselves and to you. The people are honest—now at home at their ploughs, not dreaming of what you are about. But the spirit of inquiry, that has too long slept, will be, must be, awakened. Let them begin to think—not to say such things are proper because they have been done—of what has been done, and wherefore, and all will be right.

The Committee then rose, and the House adjourned.

Thursday, March 6.

Mr. Conrad, from the committee to whom was referred, on the twelfth of December last, a letter in the German language from David Christoph Mau, addressed to the Speaker, presenting to Congress a copy of his works, made a report thereon; which was read, and considered: Whereupon

Resolved, That the Librarian be directed to receive and take charge of the said books, and that the Speaker be requested to acknowledge by a letter addressed to the said David Christoph Mau, the acceptance of the said books.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the relief of the Governor, Judges, and Secretary of the Indiana Territory:" Whereupon,

Ordered That the said amendments, together with the bill, be committed to a Committee of the whole House on Monday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act relating to bonds given by Marshals:" Whereupon,

Ordered, That the said amendments, together with the bill, be referred to Mr. TALLMADGE, Mr. CLARK, and Mr. HASTINGS.

The bill sent from the Senate, entitled "An act for the punishment of counterfeiting the current coin of the United States, and for other purposes," was read twice, and committed to a Committee of the whole House on Thursday next.

Mr. G. W. CAMPBELL, one of the members from the State of Tennesseee, presented to the House certain resolutions of the General Assembly of the said State, for the opening the Muscle Shoals, in the river Tennessee; which were read, and referred to Mr. G. W. CAMPBELL Mr. VANCE, Mr. WALTON, Mr. LEWIS, and Mr. SPALDING.

Mr. G. W. CAMPBELL, moved the following resolution:

Resolved, That provision ought to be made for opening and improving the navigation of the river Tennessee, through the Muscle Shoals, in the Mississippi Territory.

Ordered, That the said resolution be referred to the committee last appointed.

NON-IMPORTATION OF BRITISH GOODS.

The House resolved itself into a Committee of the Whole on the state of the Union on Mr. GREGG's resolution.

Mr. N. WILLIAMS.—The subject now under consideration calls for a display of all the knowledge and experience of commercial men and statesmen. And although I do not profess to be of either class, yet if I should chance to bestow a mite of information upon a subject of such vast importance to this country, it will no doubt be favorably received by this honorable Committee.

The resolution now under discussion has for its principal object the protection of the active commerce of our country; it therefore becomes us perhaps, before we enter into the merits of the measure proposed, to inquire whether commerce is of itself so important to us, as to demand our protection. This first inquiry might seem unnecessary, and even extraordinary, had we not witnessed so recently, upon this floor, the very light and trivial manner in which the commerce of this country has been treated, and had we not heard the very strange opinion, that it ought to be left to take care of itself.

It is possible that the agricultural class, which embraces a very great and respectable part of the population of our country, will look for some evidence of the benefits to be derived to them from the protected enterprise of our merchants. Those benefits, however, are so obvious to an attentive observer, that very little need be urged to render them apparent. It has been justly said that agriculture and commerce are handmaids to each other. Indeed their interests are strongly and durably interwoven. Commerce has a direct tendency to raise the price of the product of the farmer's labor, by seeking in every part of the world the best markets for our articles of export, and by bringing back and scattering though the country that circulating medium, which cherishes industry, and sweetens the toils of the laborer. If we had not an active commerce among our own citizens, it is evident that foreign merchants and nations only, would be enriched by the profits of our agriculture, would convert us into mere diggers of the soil for their benefit, and would thereby gain the means of insulting and degrading us more abundantly. The price of our produce will lessen in the proportion that we curtail the means of transporting it to the best foreign markets, and the means will assuredly be curtailed if we withdraw our protection from the enterprise of our citizens upon the ocean. Declare to foreign nations that the active commerce of this country meets no longer the fostering care of Government, and you will soon hear of their tenfold insolence upon the seas; and our vessels, frowned from the enjoyment of their rights there, will find an asylum in our harbors only, where they will be left to rot. The produce of our country must share a similar fate, unless we consent to dispose of it to foreign merchants and speculators, at any price they may please to offer for it. But what is not less important, if we have a regard for morals and happiness, a horrid picture here presents itself; that moment you stagnate the vent of your grain, an extensive inland country will be inundated with whiskey and the destructive vices which flow from the free use of it.

Although important, this is far from being the most important view which may be taken of this subject. It is a conceded point, that our Government must by some means or other have revenue. The greatest statesmen and patriots of this country, have united, I believe, in considering commerce as our most fruitful source of revenue and riches. It presents a mode of fiscal exaction, the most in union with the spirit and feelings as well as the interests of the American people—that of indirect taxation. By this mode the consumers of articles of foreign growth and manufacture, contribute freely and copiously to the support of our Government, and to that fund which is destined to the payment of the national debt, and this too without feeling in a great degree the weight of the contribution. But the moment, sir, we give up this source of revenue, or expose it to the cupidity and rapacity of foreign Powers, a resort to modes of taxation less congenial with the spirit of freedom must be inevitable. Let those who are for giving up this, look about and see what other sources of revenue our country can furnish. Experience, that mother of wisdom, has already instructed us, that excise laws are too odious in many parts of our country, to be borne; indeed this source of revenue would at best be trifling. Personal property is of a nature too occult and too liable to shift and change to become a safe and permanent source of revenue. The sale of the public lands, relied on by some, is an expedient which on many accounts will be slow and inefficient; but if the sentiment prevails of leaving commerce to take care of itself, and my notions are correct that such a measure will paralyze the industry of the farmer, it may very justly be doubted, whether our wild lands will meet with a ready market. What then, I would ask, remains, but a land tax, to supply a fund to meet the necessary calls of our Government; a tax so odious in many parts of our country, as to be one of the powerful causes of the overthrow of one Administration, and if again resorted to, may possibly produce the destruction of another.

Should considerations like these, thoroughly pursued, prove insufficient to convince gentlemen that the commerce of this country is worthy to be shielded by her protecting arm, I may despair of doing it perhaps, by any further arguments within my power to adduce. But it is certainly deserving the remembrance of this honorable body, that our Government, by the course it has taken, has long since pledged itself to support the rights and interests of our merchants upon the ocean. Aside of the immense revenues drawn from their enterprise and industry, we may consider the measures alone, adopted by our Government, to protect and guarantee their interests, by compacts with foreign nations and armaments for their defence, as having the direct effect of luring them to embark their property upon the seas with the most implicit security, and with almost a certain assurance that this protection should be continued. In short, I do not see how it can be denied that these privileges are as much entitled to the protection of Government, as those, equally, though not more sacred, which are enjoyed by our fellow-citizens upon land. To relinquish any of them would be taking a step towards a dastardly abandonment of our independence as a nation—and would be announcing to every people on earth, that we have become so tame and submissive that we are willing to be converted into simple tools and instruments for their use and profit, and to desert the defence of our own sacred rights. Whatever course policy or wisdom might have dictated to this nation *a priori* respecting commerce, it is evidently too late now to retrace our steps; nay, we cannot do it, short of treachery towards the mercantile interest, and without rendering ourselves a subject of derision and contempt to all Europe. If we shrink on the present occasion from that bold and energetic course which the times seem to call for, what a respectable figure we shall cut in history! This will be our story:—"The American nation, finding her commerce in the Mediterranean pestered by the petty barbarous Powers surrounding that sea, blustered and talked manfully like Bobadil in the play. Now this hero was invincible, or he would not have talked so valiantly. 'Twenty more—kill them! Twenty more—kill them too!' But the moment their rights upon the ocean were assailed by a nation at once respectable and powerful, they meanly shrunk from the contest, and in vain did their admired Executive endeavor to rally the representatives of the people, in support of the firm and dignified measures which he recommended."

If therefore it is clear, as I trust it is, that commerce is the great supporter of agriculture—that it is at the same time the most rational and most prolific source of revenue and riches to our country, and if, in addition to this, Government has pledged itself to a vast body of respectable citizens, in every part of the United States, to protect their property legally employed in commerce—to say that this commerce shall now be left to take care of itself—of all the insulting mockeries ever offered to this nation, this appears to me the most insulting. But with many, and I do not suffer myself to doubt, with a great majority of this Committee, this question may be considered as at rest. Commerce is worthy of our protection. Our natural situation, and the laudable enterprise of our citizens, which leads them into every sea and to every land, have made it ours, and we cannot abandon it without being guilty of the most palpable folly.

Should any gentleman here really believe, notwithstanding the volumes of evidence which have loaded our tables to the contrary, that our commercial rights have not been injured or insulted by the British nation, I confess I should feel myself at a loss how to address him. If he will discredit what all our merchants, all our statesmen, and the best writers upon the law of nations declare to be true, I should consider him as irrecoverably lost in the region of doubts, where I should be disposed to leave him in the undisturbed enjoyment of his own gloomy imagination. Indeed, so clear does this subject appear to me, that I fear it would be wasting time even to state a grievance so well known to all. Great Britain has for many years styled herself mistress of the ocean. And in truth it cannot be denied that she has erected upon that element a colossus of power which overlooks and would overawe all the nations on the globe. "Rule Britannia" is an old song of her singing; and I have somewhere read that the ballads of a nation go far to portray, if not to form the spirit and propensities of a people. Consequently, jealous of every other commercial nation, this haughty queen would naturally endeavor to suppress the rapid and lofty soaring of the American Eagle. This jealousy has of course given rise to those principles which she attempts to interpolate into the laws of nations, and of which we now complain; such as—that a trade opened to neutrals by a nation at war, on account of the war, is unlawful;—that a vessel on her return voyage is liable to capture, on account of having carried, on her outward voyage, contraband articles to an enemy's port. To these may be added the right which she daringly assumes and cruelly executes, of impressing persons from American bottoms, sailing under the American flag upon the high seas; and other principles not less important though totally destitute of any legal or equitable foundation, and against which this nation ought to lift up her hands to Heaven by way of solemn protest. And what is alarming to all reflecting men is, that the courts of Great Britain, which have hitherto stood high in the estimation of all civilized nations for integrity, and for legal and political knowledge, have been found of late servile enough to attempt to weave into the code of nations, any principles which have been recommended by that Government as favorable to her interests. Now, it appears to me, sir, that the

question is not so much, whether we shall surrender to that nation those particular branches of the carrying trade, which have given rise to our disputes with her, as whether we shall be allowed to retain any free commerce upon the ocean at all. For all must see, that although that nation is slow and cautious in its progress to absolute maritime sovereignty, yet, her strides are firm and determined; and nothing is more certain than this, that whatever rights we resign with tame submission are gone forever. It is alarming to hear it said, as it has been upon this floor, with a kind of triumph, What! shall we quarrel with a powerful nation for so trifling an object as the carrying trade? Such blindness is to me astonishing. That nation and her courts have not till lately insisted, with any hope of establishing, upon the principles now contended for. It is now an experiment only. She will either advance or recede, according to the spirit with which we meet her usurpations. This is only one step in the ladder, and this ladder reaches around the globe. A nation which makes convenience and power the only rule of right and justice, will find no end to her pretensions. To-day she finds it convenient to prohibit our carrying the surplus colonial produce in our markets to foreign countries; to-morrow she will find it convenient to prohibit the carriage of our own produce, in our own bottoms, to foreign markets; and she always has power to enforce the dictates of her convenience. No, sir, I would not surrender one single right which our interest and honor call upon us to defend: and more especially, if by receding one step, we jeopardize all the fair features of our commerce, let us boldly contend for every vestige.

This I hope and trust we shall attempt to do, by every means which God and Nature have so abundantly placed in our power—means, which, if applied with firmness and energy, will doubtless produce the desired effect. But what are these means, is the question. The proposition now under consideration, or something similar in principle, meets, I am told, the approbation of our greatest and wisest statesmen. Those in this House who will take a calm survey of our situation, I am strong in the belief, will also approve this measure, or one not much unlike it. The wisdom and penetration of the British Cabinet will soon perceive, that such a measure, if adopted, is calculated to raise up among them at home and in the West Indies, a host of hungry and clamorous advocates for rights, and they will soon see the policy, if not the necessity, of treating us with justice. But without taking some step which discovers firmness and decision on our part, I would ask, what privilege we can expect to preserve, except that alone which is seldom denied to the weak and contemptible, the privilege of being plundered and insulted without reserve? To talk of offensive war is unnecessary, it is childish. The weapons within our reach are not at present warlike, though capable of wounding deeply. Some, however, are of opinion that this measure will lead to war. I think differently. It will, in my opinion, preserve peace and our commerce at the same time. We have a right surely to say to any nation that injures and offends us, that we will stop all intercourse with her, until she consents to do us justice.

But this project is to lead to measures of defence, and to a loss of revenue! This in a degree is true. And with those who weigh national rights and honor in the same scales with dollars and cents, this may prove an insurmountable objection. But I have calculated, that our ports and harbors will not be left in their present exposed situation, even though this measure should not be adopted. I hope at any rate that we shall find patriotism enough here to preserve us from this national disgrace. As to a loss of revenue, it will be but temporary. But our economical system forbids even this loss! Shall we suffer ourseves to be seduced by this plausible and popular, this sacred word "economy?" I love economy as much as anybody: But let us remember the object of this measure. Shall we, for fear of losing a few millions of dollars devoted to the Sinking Fund, jeopardize that Sinking Fund itself? Those who are solicitious, and none can be more solicitious than myself, to pay the national debt, will prove themselves willing, I hope, to pursue the means, and the only rational means of doing it. Let economy be embraced as far as it can be, in consonance with honor and safety. This is true economy. Another sort may be popular, but I pronounce it dangerous.

I do not pretend to have entered into a detailed account of the loss or gain of revenue, which will follow the adoption of this measure. It would be difficult to do it with accuracy, and, viewing the subject as I have done, it is unnecessary. It is sufficient for me to know that the loss will be but temporary, and such as we can bear, and that the gain will be durable and honorable to our country. With respect to the various resolutions laid upon our table, relative to this subject, I have some difficulty in deciding which I would prefer. Those which affect specific articles, by laying a duty upon them, are not clear of difficulties. You cannot make a selection without materially affecting certain sections of the Union. The resolution now under discussion cuts deep, but I think it deserves a preference.

It is unfortunate, sir, that any gentleman upon this floor should attempt to raise up distinctions among our citizens, or to hold up to the odium of the community a class of men so numerous and respectable as that of our merchants. If mercantile men are avaricious, agricultural gentlemen, I take it, are not totally destitute of greediness. They both labor, no doubt, to preserve their profits, and the honorable gentleman from Virginia himself told us, the other day, that he had not yet sold his tobacco.

Mr. Masters.—I shall not deny that Great Britain has insulted us by impressing our seamen, neither shall I deny that that nation has committed wanton aggressions and depredations on our commerce, and that commerce ought to be protected. That the resolution under consideration is the best course to be pursued for the interest of this nation, I shall contend against.

Restraints and prohibitions between nations have always arisen from two circumstances—the first, to promote their home industry or manufactures. The liberal price of wages, joined with the plenty and cheapness of land, which induces the laborer to quit his employer and become planter or farmer himself, who rewards with the same liberality which induces his laborers to leave their employment for the same reasons as the first: therefore, it is impossible for manufactures to flourish in this country in our present situation.

The case in most other countries is very different, where the price of labor is low, and the rent and the profit consume the wages of the laborer, and the higher order of people oppress the inferior, which I hope never to see in this country.

It may rationally be calculated that some of the Eastern and Middle States will eventually become manufacturing States; some of those States are nearly filled with people, and many individuals have large capitals employed in foreign commerce, to the amount in many instances of two and three hundred thousand dollars each. When peace takes place in Europe, and things come down to their natural standard, and they can no longer employ that capital to advantage in commercial speculations, they will withdraw the same from that employment; they must make use of those capitals somewhere; they cannot vest them to any advantage in our public funds, bank stock or other corporations, beyond a certain extent; they therefore, by the aid of water-works and machinery, will naturally employ those capitals in manufactures, and I trust the time is not many years distant. That is not now the case, and can have no bearing on the present question; indeed it is hardly contended that the resolution is brought forward for that purpose; it must therefore be brought forward for some other purpose.

The other circumstance, which gives rise to prohibitions between nations, arises from the violence of national animosity, which generally ends in war. This circumstance has brought this resolution into existence; the preamble speaks warlike language, and the whole taken together is a prelude to war with a nation who has two hundred ships-of-the-line, four hundred frigates, besides gun-brigs and other armed vessels, whose revenue is between forty and fifty millions sterling, who can go to war with us without any additional expense to themselves, who will sweep the ocean of American commerce, amounting to nearly one hundred million of dollars. What then will be the situation of your carrying trade? What then will be the situation of your commerce and your country?

But the honorable gentleman from Massachusetts (Mr. Crowninshield) has told us "if we go to war, we can do Great Britain the most injury." The navigation of their merchant vessels is principally carried on under convoy. Some individuals may fit out a few privateers and capture now and then a vessel, and put some prize money in their private pockets; it cannot be of any advantage to the nation, which will groan under poverty and distress.

It appears to me a matter of great deliberation how far we ought to adopt the present resolution, by prohibiting the importation of British manufactures. In every country it ever was, and always must be, the interest of the great body of the people to buy whatever they want, of those who sell it cheapest. We cannot procure the same articles so cheap elsewhere; even should the measure not involve us in a war, prohibitions and revenge naturally dictate retaliation, and nations seldom fail to do it. The honorable mover of the resolution (Mr. Gregg) asks us, "how it is to be inferred, we cannot abide by and execute this system?" It is to be inferred from retaliation, and observation of nations who have preceded us. When France, in 1667, laid discriminating duties on Holland, the Dutch retaliated by the prohibition of French wines, brandies, and the like: a war followed, and the peace of Nimeguen regulated their commercial disputes. About that time the English prohibited the importation of lace manufactured in Flanders; the Government of that country, which was then under the dominion of Spain, immediately retaliated and prohibited all importation of English woollens. Soon after this, the French and English mutually began their heavy duties and prohibitions, and have ever since been in commercial disputes, quarrels, and hostilities; and we, with our eyes open, are now going into the same system. The same honorable gentleman has also said it would attack Great Britain in her vitals, in her manufactories and warehouses. It seems a bad method of compensating injuries done to us, to do another worse injury to ourselves, which I believe will be the case by adopting the present resolution; it will have a natural tendency to retaliation and revenge.

It is very problematical whether the carrying trade is advantageous to this nation. Our merchants in that employ transporting foreign produce from Batavia and the West Indies to the United States, and storing the cargoes for some time in warehouses and reshipping the same to Holland, the Hanse Towns, Antwerp in French Flanders, and other ports; and in some instances taking the avails of those cargoes, and proceeding to China, from whence they return with teas; in other instances proceed to England and lay out the avails in British goods; and then making circuitous voyages of two and three years, with those large capitals out of our country, and before they can release those cargoes so as to purchase our domestic produce.

My worthy colleague from New York, who has just sat down, (Mr. Williams,) has observed, "that commerce is essential to this country, and agriculture naturally goes with it;" this proposition, taken abstractedly, I shall not deny; and then asks us, "where is the revenue to support Government?" I will answer that gentleman, by asking him the same question, Where is the revenue to support Government, when nearly one half of that revenue is derived from Great Britain and her dependencies? I would ask that gentleman

where is to be the market for 25,000,000 weight of cotton annually exported, (it is not to be presumed they will not retaliate in every particular;) where is to be the market for your tobacco, potashes, flaxseed, provisions, and other domestic produce, exported from this country to Great Britain, the British East and West Indies, and Newfoundland, to the annual value of between 20 and $30,000,000? Rely on it, if you adopt this measure, you will embarrass all the operations of Government, all the operations of the community, and must have recourse to direct taxation on the farmer, who will be unable to pay, for the want of a price for his produce; your merchants become bankrupts and you distress the agriculturists.

The same honorable gentleman from Pennsylvania has further observed, "it will be such a shock upon Great Britain, she will not be able to endure it." Let that gentleman reflect on the wealth and maritime power of that country. Ever since my memory, the approaching ruin of Great Britain has been frequently foretold; after all the vain attempts, they yet regulate the commerce of the world. I must confess I have but little faith in undertaking commercial regulations with that nation, and I believe we shall show a very pretty figure in the attempt, and be obliged to recede with disgrace, and I cannot vote for the present resolution.

Mr. Smilie.—I am in favor, Mr. Chairman, of the resolution under consideration; and lest it should be supposed I am an enthusiast in respect to commerce, and deserve to be classed among that desperate order of men called merchants, according to the representation which we have had yesterday from the gentleman from Virginia, I beg leave to make a few remarks on the abstract question, whether commerce ought to be considered as beneficial in its relation to the United States. I have long thought that there is an essential difference between what is, in the common language of the world, a splendid, and great, and a happy people. I have been led to think that the situation of the people of the United States, separated from the rest of the world by an ocean of three thousand miles, possessing an immense region of land, having full employment for all her people in the cultivation of the earth—having, from the variety of her climate and the difference of her soil, the means of supplying herself, not only with all the necessaries of life in abundance, but with many of its comforts, and even some of its luxuries—from these considerations, I have been led to think it had been happier if the American people, when they became an independent nation, had found themselves without commerce, and had still remained so. Thus circumstanced, they would certainly have avoided those dangers which flow from the weakness of an extended trade, and those luxuries which have hitherto proved so fatal to morals, happiness, and liberty. In my opinion, we should have been a happier people without commerce. Among the considerations which have induced me to believe that this would have been a happy state, is, that we should have enjoyed a perfect state of safety. We should not have been under the necessity of conflicting with foreign nations; because commerce, and commerce alone, can produce those conflicts. I have expressed this opinion, to show that I have not been led by any particular attachment to commerce, to take that part which I have declared I would do on the present occasion. But what was the situation of the American people when they first found themselves a nation? And what are the duties imposed upon us by the compact we entered into? As to any abstract opinions we may entertain on this subject, they ought to have no influence here upon us. I stand *here* on other ground, and dare not resist the dictates of duty. I was astonished yesterday to hear it mentioned by the gentleman from Virginia, (Mr. J. Randolph,) and boldly asserted, referring to the Constitution, that the American Government was under no obligation to protect any property of its citizens one foot from the shore. I was astonished at this declaration, because I could see to what it went. I saw, if this was the opinion of the Southern States, where it would end. The situation of this people, when they became a nation, was this: The Eastern States might properly be said to be a commercial people, as they lived by commerce; the Middle States were partly commercial and partly agricultural; the Southern States, properly speaking, were agricultural. This opposition of character must have created great difficulty in forming the Constitution, and, in truth, this and other points threw great obstacles in the way of its formation. But a spirit of concession overcame all difficulties. Is it, however, to be believed, that the Eastern States, properly commercial, or the Middle, partaking equally of the commercial and agricultural character, would have united with the Southern States, if they had been told that commerce was to receive no protection? No, sir, it cannot be believed. But I take higher ground—the compact itself, referred to by the gentleman from Virginia. Let us examine the powers vested in Congress under this compact, and decide whether commerce was, or was not intended to be protected. If there was nothing specific in these powers, the first page would show the intention of its framers. "We, the people of the United States, in order to form a more perfect union, 'establish justice, insure domestic tranquillity, 'provide for the common defence, promote the 'general welfare," &c. If we go on to the tenth page, we shall there find the power given to Congress, "to provide and maintain a navy." Is the protection of commerce contemplated here, or is it not? In other parts of the instrument, we perceive the power to regulate commerce vested in Congress. Will any man pretend to say that the power of establishing a navy can be exercised independent of commerce? Every man of common sense knows that a navy cannot even exist without it.

Having sufficiently established the right of commerce to protection under under the Constitution, I come now to consider the resolution under consideration. We find our rights invaded by foreign nations, and an attack made by one nation on our

carrying trade, which, in my opinion, cannot be warranted by the law of nations. I shall not condescend to argue this point. I believe it to be a lawful trade, let whoever may deny it. I have taken some pains to make myself acquainted with the subject, by reading several treatises upon it; and, notwithstanding the contempt with which a certain book was yesterday treated by the gentleman from Virginia, I will venture to predict that, when the mortal part of that gentleman and myself shall be in ashes, the author of that work will be considered a great man. Nor do I judge in this exclusively from my own opinion, but from the opinions of men of distinguished talents, from different and distant parts of the Union, who all concur in saying that the writer has conclusively established the principle he contends for. Indeed, I could not have believed, had I not heard it, that a Representative of the American people, in the face of the Legislature, would have relinquished so precious a principle! But there was a curious feature in all the luminous discoveries yesterday disclosed to us by the gentleman from Virginia, in which he strictly observed the rule of the rhetorician—where a point could not be justified, to get over it as well as he could. On the impressment of our seamen, he said nothing. He knew that the American feelings would not bear it. When I think of what is called the carrying trade, I consider it a small evil compared to this. It has been compared to Algerine slavery, but it is worse. What is this impressment? Your citizens are seized by the hand of violence. and if they refuse to fight the battles of those who thus lay violent hands upon them, you see them hanging at the yard-arm. In the first place, they are obliged to expose their persons to murder, in fighting the battles of a nation to which they owe no allegiance. They are obliged to commit murder, for it is murder to take away the life of a man who has given us no offence, at the same time that they expose their own persons to the commission of murder. This is the true point of light in which I have always considered this horrid and barbarous act, for which, indeed, I cannot find language sufficiently strong to express the indignation I feel. This is the situation of our country. Our commerce depredated upon in every sea, our citizens dragged from their homes, and despoiled of all they hold dear. We are told we are not to mind these things—that the nation who commits the outrages is a powerful nation. But really, as an American, I cannot feel the force of this observation.

The gentleman from Virginia yesterday assumed it as a principle, and the whole of his argument turned on it, that this is a war measure, and that its friends are for going to war. Were I satisfied with the truth of this remark, I should change my mind with regard to the resolution. But is it a war measure? I believe the same duties and obligations exist between nations as between individuals in a state of nature. If my neighbor treats me with injustice, I have a right to decline all intercourse with him, without giving him a right to knock me down. If we deem it our interest not to trade with a particular nation, have we not a right to say so?—a nation with whom we have no commercial treaty, and towards whom, therefore, in regard to trade, we have a right to act as we please? If a commercial treaty existed between us, it would be our duty to observe it; but, without one, we have an undoubted right to say whether we have or have not a use for her productions. If, then, this be a peace measure, why treat it as a war measure? But it is said that it will lead to war. Britain is said to be a great nation, high spirited, and proud, and therefore we must not take this step for fear of the consequences. Trace this argument—see where it leads us. It leads us to this: That, with a powerful nation, we must on no account whatever quarrel, though she may commit ever so many aggressions on our right. No, we must not, let her go whatever length she may, until, on this same principle, we shall be called upon to surrender our independence, because we have to deal with a powerful nation! If we do not make a stand now against her aggressions, when or where shall we do it? But one alternative will remain—to bend our necks, to crouch beneath the tyrant, to submit without murmur to her insolence and injustice.

It is surprising to me to see this resolution scouted by gentlemen, when this same measure has ever been considered as the most proper instrument with which to contend with Great Britain. If we look back to the times of the stamp act, we will see that this was then the opinion of the American people. Voluntarily associating themselves together, they cheerfully and unhesitatingly, as the means of obtaining redress, relinquished the luxuries, and even the necessaries of life drawn from Great Britain. These associations were voluntary, as, from the situation of the colonies, they could not be otherwise. And it is remarkable that Great Britain did not consider this a cause of war, though the people of this country were then her subjects. Coming down to later times, and approaching the period of our national independence, the same measure was resorted to, and considered an effectual expedient to obtain redress of our grievances. In 1776, what was the sense of the people of England on this subject? and how did they feel the effects of the non-importation agreement of the colonists? Let them speak for themselves.

"There scarce was ever any affair debated in a British Parliament in which the public thought themselves more deeply interested, or for the result of which they felt a more impatient anxiety than the present, nor was the rest of Europe, especially the commercial part, inattentive to the event.

"The second speech from the throne, as well as the first, pointed out the American affairs to the Parliament as the principal object of its deliberations: both Houses, by their addresses, showed that they looked upon them in the same important light.

"Petitions were received from the merchants of London, Bristol, Lancaster, Liverpool, Hull, Glasgow, &c., and, indeed, from most of the trading and manufacturing towns and boroughs in the Kingdom. In these petitions, they set forth the great decay of their trade, owing to the new laws and regulations made for Ame-

rica. The vast quantity of our manufactures, (beides those articles imported from abroad, which were purchased either with our own manufactures, or with the produce of our colonies,) which the American trade formerly took off our hands; by all which, many thousand manufacturers, seamen, and laborers, had been employed, to the very great and increasing benefit of the nation. That, in return for these exports, the petitioners had received from the colonies, rice, indigo, tobacco, naval stores, oil, whale fins, furs, and lately potash, with other staple commodities, besides a large balance in remittances, by bills of exchange and bullion, obtained by the colonists for articles of their produce, not required for British market, and therefore exported to other places.

"That, from the nature of this trade, consisting of British manufactures exported, and of the import of raw materials from America, many of them used in our manufactures, and all of them tending to lessen our dependence on neighboring States, it must be deemed of the highest importance in the commercial system of this nation, that this commerce, so beneficial to the State, and so necessary for the support of multitudes, then lay under such difficulties and discouragements, that nothing less than its utter ruin was apprehended, without the immediate interposition of Parliament."

"At the conclusion of our last volume, we saw the nation involved in the most distressful circumstances that could well be imagined; our manufactures at a stand, commerce almost totally annihilated, provisions extravagantly dear, and a numerous populace unemployed, without the means of procuring a livelihood. Such, and so gloomy, was the prospect that opened at home."—*Vol. ix. Ann. Reg.*

Down to the beginning of the American war, this was uniformly considered as the most powerful instrument in our hands to oblige Britain to do us justice. Since that time, it will be found that the same sentiment has been expressed by the House of Representatives of the United States. By a recurrence to the Journals it will be seen that, on the 21st of April, 1794, this resolution was adopted:

"*Whereas*, The injuries which have been suffered, and may be suffered, by the United States, from violations committed by Great Britain, on their neutral rights and commercial interests, as well as from her failure to execute the seventh article of the Treaty of Peace, render it expedient for the interests of the United States that the commercial intercourse between the two countries should not continue to be carried on in the extent at present allowed:

"*Resolved*, That, from and after the first day of November next, all commercial intercourse between the citizens of the United States and the subjects of the King of Great Britain, or the citizens or subjects of any other nation, so far as the same respects articles of the growth or manufacture of Great Britain or Ireland, shall be prohibited."

This resolution was decided by yeas and nays, and I find there were for it 58 yeas, and against it 38 nays. Among those who voted in favor of it, I find my own name associated with the names of men with whom it has always been my pride and pleasure to act. And among these, I find the name of a Madison, a Baldwin, a Nicholas, a Clark, a Venable, a Blount, and a Macon. It will be seen, too, that this resolution went much further than that which is now proposed—that it went to the length of prohibiting all intercourse, while the present resolution is confined to prohibiting imports, and does not apply at all to our exports.

With regard to the effect of this measure upon the revenue, I believe it will have such an effect, to a certain degree, but I am far from believing it will be to the amount talked of. I have no doubt that we will obtain from other countries what will suffice for our wants, without applying to Great Britain. But suppose there should be a greater deficiency in our revenue, and suppose we shall not get from other countries all the articles we want; are we to compare these privations with the sacrifice of our rights as a nation? I, for one, am of the opinion, that if we were not to consume half the luxuries, and many of the conveniences at present imported, we should be as happy as we now are. This would have one excellent effect—it would revive that spirit of industry which our large importations, so far as relates to family manufactures, have almost annihilated. I cannot see what is to prevent every family among us manufacturing what is necessary for their own wear. It is true, we might want the fine clothes we wear, and our wives be deprived of their silk gowns, but would this diminish our happiness? Are such privations to be put into competition with the preservation of our rights? I hope there still remains too much of that ancient virtue which once glowed in the American breast to consider this as an evil. I confess I was exceedingly surprised yesterday, to hear my colleague, (Mr. J. CLAY,) coming from one of the first commercial cities in the Union, expressing his despair of the virtue of the American people—expressing the opinion that our people could not hold out six or eight months against such a measure. Is it possible that such an idea can be correct? Is it possible that a few years have wrought such a change in the character of a people famed for their virtue, and distinguished for the sacrifices they have made? Is it possible that luxury has made such inroads upon us, that all our ancient virtue is gone? I, for one, cannot but believe, that, if the American people are placed in the same situation, they will not shrink from danger. I shall be reluctantly obliged to believe so. I think better of them. I have seen them true to themselves in worse times than these, and I never have yet seen them, in any times, flinch from a performance of their duty.

Another expression of my colleague also surprised me. He said this measure would, in the opinion of every man, justify retaliation. This is pronouncing it a war measure, unless by retaliation he means commercial retaliation. If he means retaliation by means of fleets and armies, it is a most strange opinion, as there is not a feature in the resolution that points to war.

In order to get rid of the effect of the opinion expressed by the Legislature in 1794, the gentleman assigns a most extraordinary reason. He tells you at that time there was such an enthusiasm and attachment to the French nation, that the American people were ready to draw their swords in her favor. I am sure, however, that, by a retrospect of the opinions which at that time prevailed in the city, where that gentleman as well as myself resided, he will perceive the incorrectness of his remark. I never yet met with any man who thought we would be justified in interfering in the contest of France with the despots of Europe. The enthusiasm felt for France I well remember. We considered her as contending for the rights of human nature, and our wishes were ardent for her success. Another circumstance heightened these feelings: we recollected the services she had rendered us in times of distress. But, with regard to entering into the war in her favor, I never knew a man, who I could say was in his senses, for it. This, therefore, could have no effect in carrying the resolution I have just read.

The gentleman from Virginia has told us, that, in adopting this measure, we shall be goaded by commercial interest into a contest with Britain on the seas. For one, I hope we shall have no war. I view this measure as a peaceable measure, and entertain great hopes that it will have the effect we wish. When we consider the situation of Britain, we may be confident that she will not wish to increase the number of her enemies, and it will surely be good policy in her to avoid taking that ground which will have this effect.

But the gentleman from Virginia tells us that the situation of England is different from what it was in 1793. Agreed; but that change is in our favor. Great Britain has at present her hands so full, that she will not wish to increase her enemies. The events of the present contest are extremely uncertain. If the Emperor of France shall prove successful, and make a peace on the continent, to the exclusion of Great Britain, he will undoubtedly shut out British manufactures from every part of Europe. The present, therefore, is the most favorable time for pursuing our measures.

The gentleman also inquires, what will England say of our conduct to Spain? He laments that his lips on this subject are closed. I too lament that mine are closed. I wish to God that every word said while our doors were closed, and that every measure entered into, were known to every man, woman, and child, in America. I shall not on this occasion say more, but to express the hope that the day is not distant when the gentleman's statements will be rectified by a complete disclosure.

The same gentleman has avowed his hostility to a certain nation, and he is willing to go to war with her, because he considers her feeble, and because she has been guilty of aggressions on our rights. Mighty aggression! Which is nothing more than what happened the other day at Detroit, where certain British officers seized a man, with the view of carrying him over the line. I hope such trivial things, the offspring of accident or personal resentment, will never be considered by us cause of war. I hope the American people will never go to war when they can avoid it without a sacrifice of honor or justice. For my part I cannot see what this measure has to do with our affairs with Spain. Have we not a right to manage those affairs independent of England? Have we got to this, that we are to consider England as a party to our transactions with other nations? In our affairs with Spain, we are doing England no injury, and she has no right to interfere with the exercise of our rights as an independent nation.

The gentleman asks will it be politic to strengthen the hands of France, to invigorate the power that threatens the subjugation of the world? How this topic has been brought into view, I cannot tell. I have no predilection to France. I have no attachment to any country but the one in which I live. I am willing to do justice to all nations, and to require it from all. But suppose Bonaparte should succeed in the conquest of Europe? It will be a long time before it can be effected; and if effected, it will be found that a fleet is not the work of a day. It will be found to be the work of years, and years of peace too, before he can possess sufficient ships and seamen to destroy the British navy. And what are the dreadful terrors of the French Government? There appears at the head of her affairs a man who transcends in talents and ambition the other potentates of Europe. But is there anything permanent in this? Much; everything may depend on his brittle life. On his fall, she may become as feeble as she ever was before. The nation we ought to fear, according to the gentleman from Virginia, is not that which has the actual command of the sea. No, the gentleman is not afraid of her, but of the nation which may have the command of it hereafter. I should regret to see any nation of Europe blotted out of existence. I hope that Bonaparte will never conquer England, or England conquer France. But I cannot attach much importance to distant, while I am menaced by present dangers.

The gentleman has also portrayed the great danger to the Constitution from war. I agree with him. I too deprecate war. I consider it one of the worst evils that can befall mankind. But as I have already shown that this is not a war, but a peace measure, his remarks do not apply. I know that war is attended by numerous evils, that it not only exhausts our blood and treasure, but that it has a still more fatal effect on our manners. Still am I not willing to prostrate the dignity, the interest, and the honor of my country, even if war should be the consequence.

The gentleman has also sounded an alarm among us because this is not a measure of the Cabinet. That gentleman, however, knows full well that any member on this floor, without even consulting any of his fellow members, much less the Cabinet, has a right to bring forward any resolution he pleases. But he said at the same time there was no Cabinet. How then could he expect us to consult the Cabinet, when no such thing exists? My friend, who offered this resolution, showed it to me before he presented it. I concurred in it, and I now advocate it, because I think it right, and the gentleman will not deny that every gentleman on this floor has equal rights.

The gentleman has also told us that France in 1793 was doing what England now does, that she

was fighting the battles of the world. For my part I do not believe the world is indebted to either of those nations, much less do I believe that we are. But this same England can do wonders; and it seems we are not to contend for our rights with her, lest she should get out of humor with us. I know the power of the English fleet, and I know we cannot contend with it. Debauched, however, as her Government is, I do not believe she will go to war with us; but if she does not, it will not be owing to the caution we have observed in discussing this subject. Of this nation, thus represented as fighting the battles of the world, I may perhaps have formed a wrong opinion, in the estimate I have formed of her humanity and justice. Go to the East Indies; throw your eyes on Africa; look back on the American Revolution, and talk of her humanity! Applaud her for justice, when there is not a nation on earth at this day so much disposed to be hostile to us! Sir, she will never forgive us for having achieved our independence. Her hostility is invigorated by another circumstance. She is the first trading nation in the world—we are the second. We interfere with her aggrandizement, and she has determined to crush us. She is proceeding step by step in the work of destruction, and if we are so pusillanimous as to submit, she will push on to our ruin and disgrace. The gentleman has told us that if we aid any Power, in her efforts to destroy Britain, we shall endanger ourselves. Indeed, sir, so many evidences of the friendship of this nation are brought before us, that it only wants experience to believe them.

We are told by the same gentleman, that France will do us the honor only to make us the last nation she devours. Why all this clamor about France, when she is not injuring us, while we are so tame to other nations who are violating our dearest rights? I trust we shall know how to respect ourselves with whatever nation we have to deal, and if France acts to us as England has done, that we will treat her as we are now for treating England. But till this time arrives these remarks are misapplied.

I come now to reply to one thing said by the gentleman from Virginia, which I am very sorry I am under the necessity of doing. The fate of this country is placed in irresponsible hands. Tom, Dick, and Harry, ought to be put into straight waistcoats! Whether this language is consistent with the respect due to this House, or to this nation, I leave the gentleman to judge for himself. I will grant that that gentleman has a right to the exercise of his opinion on all political subjects. I will even allow that he has a mind more luminous than belongs to most men. But I will also say, that the rights which he claims for himself he ought to allow to his fellow members. If I entertain an opinion which is wrong, and any man can convince me it is so, I am ready to acknowledge it; but how comes the gentleman to represent all the members on this floor as a set of fools? Why, sir, if I were to pretend to say that John Locke was a fool, that Milton was a bad poet, that Bacon was a miserable lawyer, whatever my intention might be, I should not derogate from their characters. I believe this will be the case with the members of this House, and that the character of no man in it will be affected by his charge. I can look through this body and see many of my fellow members, whose voice is never heard on this floor, on whose judgment I can place as high a reliance, as on those whose talents are the most conspicuously displayed. I beg the Committee will excuse me for the large portion of their time I have consumed on points so little connected with the question under consideration. I will conclude what I have at present to say, reserving to myself the right of making some additional remarks before the question is taken.

Mr. John Randolph.—Mr. Chairman, I did expect, on coming into the House this morning, that the friends of the resolution under discussion would have brought forward some arguments to show (what they had studiously avoided) that the ability to coerce Great Britain is within the compass of this nation's power; that this power ought now to be exerted, and that the proposed measure is equal to the desired effect. It behooves them to demonstrate all this, before they ask for our support. I did not come down to the House with the expectation of listening to a gross misrepresentation of my expressions yesterday, loose and desultory as I allow them to have been; much less was I prepared to hear such misrepresentations from the lips of aged men, whom I have treated with invariable and guarded respect; between whom and myself there has long existed a political friendship—real, on my part, apparent on theirs. I did not, indeed, expect to hear particular expressions, used by me in the ardor of debate, broken and culled from their connecting members, and mutilated and tortured into meanings which cold-blooded malice alone could have devised. Sir, in this way of proceeding (without intending any profane comparison) the Bible itself may be made to preach atheism, to declare that there is no God. "The fool saith in his heart there is no God." Taken together, it is inspired wisdom; dismember it, it is impiety.

It has not been denied, by any member on this floor, that the carrying trade, that the commerce and navigation of these States, ought to be protected. The only question is *quo modo*? Have you the ability to protect them by war, and are they of sufficient value to justify the expense of such protection? We say no; they cannot pay for so dear a defence, rich as they may be. But, above all, they cannot repay us for the loss of our Constitution. It is above all price. We go further—we affirm that trade is now protected by the most efficient means within our power—by discriminating duties, laid by the votes of Southern men; and yet, sir, we are threatened with schism, with a dissolution of the Union, if we do not adopt particular systems, devised by chance, begotten of ignorance or imbecility. Are these the mild and conciliatory plans and ideas of which gentlemen boast? Is this mildness? Is this conciliation? Is this peace? The gentleman from Pennsylvania, (Mr, Smilie,) with a face of wondrous importance, tells you that, by the Constitution, we have power to raise and maintain armies, to build and equip navies; from which he draws the inference that (under whatever circumstances, I suppose) we must actually do what the Constitution allows. And yet, that gentleman, in former times, voted with us against armies and navies! Let him justify himself, if he can, upon his new principles. I repeat it; if the unjust aggressions of a foreign nation, if indignity and insult abroad, are always to produce war, the gentleman was criminal in refusing to support the Administration in 1798. Yes, you were then compelled to drain the cup of humiliation to its very dregs. Did he put that cup by? Did he vote for fleets and armies, or a suspension of commercial intercourse with France? What was the French edition of the laws of nations then? That a bale of British manufacture (without any question of enemy's property) should subject to seizure and condemnation. And what was the British doctrine in 1793? That France was, with one sweep of the pen, in a state of siege and blockade, and that American flour, &c., should not be carried there at all. And yet, against these principles and practices, preposterous and injurious as they were, we did not go to war; at least that gentleman was opposed to such war, if war it may be called, as was waged.

But, whilst I acknowledge the carrying trade to be valuable to a certain extent, I must, unless I abandon every pretension to the character of a politician, act on existing circumstances, on things as they are, not as I believe they ought to be. In casting about, the first thing, or one of the first, to be considered, is revenue. Almost our whole revenue is derived from commerce, that is, from the domestic consumption of imports from abroad. How much comes from the carrying trade? Your statements, I am told, say $800,000. But if our whole consumption were imported in foreign bottoms, the impost would exceed its present amount by eleven or twelve hundred thousand dollars. I warn gentlemen against a misrepresentation of this fact. Am I, therefore, desirous to gain this increase at the expense of our navigation? Far from it. It would be to kill the goose that lays the golden eggs. But what is this branch of the carrying trade, for which gentlemen would sacrifice not only our navigation and commerce, but the agriculture and Constitution of the country? Look at this trade, which is to be guarded at every risk, and the men who follow it. Do they carry your products abroad, and bring back goods for home consumption? No, they plunge their hands into your pockets for drawbacks. During this very session they threatened to plunder the Treasury of millions, by a bill happily arrested on its passage. If our fair trade is not protected, how comes it that it has grown with a rapidity before unheard of in any age, unknown in any nation? That growth has been nourished by protecting duties, fostered by our neutral position. We are the real friends of your navigation. It has grown beneath the shade of discriminating duties; flourished in the sunshine of the neutral character; with the first blight of maritime war it dies.

I am accused too with stigmatizing the merchants of the United States. I deny the charge. Every profession and calling of human life is disgraced by unworthy members. The law has its pettifoggers, the church its hypocrites, medicine and politics, too, sir, have their empirics; and if there be two professions in the world, which can be selected for a tendency to develop the pre-existing germ of imperfection planted in our nature, they are the profession of the lawyer and the occupation of the trader. And wherefore? Because they open the wide field of temptation. The wisest prayer that ever was or can be devised for human infirmity, is that which teaches us to deprecate such trials: "We beseech thee, lead us not into temptation!" What is the fact? Whilst we boast of honor on this floor, our name has become a by-word among the nations. Europe, and Paris especially, swarms with pseudo-Americans, with Anglo and Gallo-Americans, and American French and English, who have amassed immense fortunes by trading in the neutral character, by setting it up to auction and selling to the best bidder. Men of this description, striplings, without connexions or character, have been known to buy rich vessels and their cargoes in Amsterdam and Antwerp, and trade with them, under the American name, to the Indies. Neutral character has constituted one of the best remittances for colonial produce, or the goods which purchase it; and the trade in this commodity of neutrality has proved a most lucrative branch of traffic. This it is that has sunk and degraded the American name abroad, and subjected the fair trader to vexatious seizure and detention. But I am asked if we shall submit to a tame and dastardly abandonment of our rights; and by those, too, who have made a cowardly surrender of our best interests and our honor, when we were well able to maintain them? I beg leave to reply to this question by asking another: Are you prepared to assert them; to go all lengths to enforce them? In what consists true dignity? In vaporing in the newspapers? In printed handbills and resolutions? Or in taking ground which you can and will maintain; which no change of fortune shall compel you to desert? *Aut nunquam tentes, aut perfice.* Does the gentleman want a translation? Here is one truly American: "Stick, or go through." This is true dignity; can he give a better definition? And what constitutes false dignity? Playing the part of a Bobadil—bullying England and truckling to Spain—I beg pardon, there is *no* Spain—bullying England and truckling to France. This you have done; you know it. When gentlemen tell us of their willingness to publish our proceedings, why do they not clear the galleries and take off the injunction of secrecy? Let their private vote correspond with their public profession. And let me tell the gentleman from Pennsylvania (Mr. Smilie) that I would rather have his vote than his speech at any time. Who would suppose, had he not averred it, that he held silence and good sense in such high respect, that he pre-

ferred the calm decisions of quiet wisdom to the effusions of empty garrulity?

The gentleman from New York has told us, that after the call of the Executive for firm measures, he did not expect this opposition. And does he call this a firm measure? What would have been a firm measure? An embargo. That would have gone to the root of the evil. But that, sir, would not have suited your Proteus politicians. There could have been no evasion of that. But your slippery mercantile eels can slide over or under this provision, and leave the whole burden of suffering to fall on the planter, the farmer, and the real American. The whole revenue (we are told) is derived from commerce. Who pays it ultimately but the consumer, and with as large a profit on the merchant's advance of the duties (often a mere advance of credit) as he receives from any other part of his capital? These new ideas of firmness are either above or below my comprehension. And because we are anxious to see the public debt paid off and the true interests of the nation maintained —because we will not abandon the plough, and struggle to restrain Executive influence, we are charged with hostility to all commerce, with insensibility to the honor of our country. When our doors were shut, this is no breach of confidence. One of my colleagues called for the reading of a Message from the President, soon after he came into office. It was the most severe and cutting satire that ever man listened to. I say it was a bitter satire on your proceedings, then and now. It recommended the application of our resources to a speedy discharge of the public debt, a rigid adherence to specific appropriation—tying down the Executive officers to the letter of the law, restricting them to the literal objects and amount of our appropriations. What is the commentary? In time of peace (for I trust no one will call this windmill attack on Tripoli, war) the expenditures of the Navy Department (so far from each item of expense being limited by the specific appropriation for that object) have exceeded the gross sum appropriated for that branch of the public service sixty per cent. And if this is a specimen of the yearly cost of hulks rotting in the mud, what estimate can you make of the disbursements in time of actual war against a powerful maritime State, when your seventy-fours are ready for sea? This is naked truth; it rests on figures. If it be not true, how comes it that we have passed two appropriation laws, to the amount of six hundred thousand dollars, during the present session, to cover the navy deficiencies of the last year, almost the only bills that we have passed? Yes, sir, I am for paying one debt off (the cost of a former war) before I enter into another and score up a second. I confess myself to be among the number of those politicians (gentlemen may style them visionary if they please) who hailed the President of the United States as the political Messiah, sent to convince an unbelieving world that a debt, once funded, might be paid off, without the intervention of a sponge. If in this I was visionary, at least I was not alone. The promise has been large, the nation calls for its performance. Look at the measures of the Government, and when you reckon the Louisiana debt, that created under the British Treaty, and some others, it will appear that you have nearly scored up as much new debt as you have paid off of the old. I speak of principal—paying the interest of a debt is not diminishing it—and my friend from Pennsylvania (Mr. CLAY) must have taken the interest into his large account of yesterday. The amount of principal redeemed is less than eighteen millions. If gentlemen deny this, let them refer to the Treasury statements laid before us at the opening of the session, or call upon the head of that department to state the amount of debt paid and created, within the last five years. But you will be told, for your money you have value received, at least. This I freely acknowledge. I would have given the sum for the Delta of the Mississippi, if it could not have been honorably acquired for less. Of whom did we purchase? From Spain, who had wrongfully withheld our right of deposit? So far from it, that we tell her she has yet to make satisfaction for that injury and insult; we bring it into account against her. No, sir, we purchased from France, the rightful proprietor, against whom we then had no subject of complaint.

I am accused by the gentleman from Pennsylvania (Mr. SMILIE)—this I suppose is a specimen of their candor—(I am reluctant to say anything whilst he is absent; I am sorry he has fled his seat) —of designedly passing over one of the most important considerations presented by the present subject—the impressment of our seamen. And yet what did that gentleman tell you? That he himself (long as he had trespassed on your time) had been compelled to omit many important things, that he intended to say. This realizes the proverb, "One man may steal a horse, whilst another must not look over the hedge." I will tell the gentleman, if I did omit this topic, I had scarcely thrown myself into the carriage that conveyed me home, before I recollected and regretted it. The gentleman may say what he pleases, but he never had no man ever shall have cause to upbraid me with flinching from any question that may be brought on this floor. Now, sir, let gentlemen lay their hands upon their hearts and answer sincerely if they do believe this resolution has the power to take one American seaman out of a British ship of war? Are gentleman hostile to impressment, and yet friendly to a naval war—to systems which must eventuate in the introduction of this system at home, in the subversion of our liberties? Let them examine the profound argument of Judge Foster on this subject. They will find that Great Britain is compelled to resort to it, to maintain her naval power and her existence. And it is because I am opposed to resorting to the same expedient (for will any man pretend that a great navy can be manned without recurring to it?)—because I think it abhorrent to the genius of a free people, that I am against rushing into that naval war, into which gentlemen wish to precipitate us. No, sir, you cannot command seamen for your navy, in time of war, without impressment. The wealth of Cræsus could not sustain the expense; and even if that objection could be removed, the operation by enlistment is too tardy to meet a sudden emergency. If you have difficulty in procuring seamen to serve in the Mediterranean, what will be the case in a war against England? With all their bravery, many a man who would willingly meet the corsairs, or even the Dons and Monsieurs, would feel reluctant to be led to battle against a British fleet—and why, sir? Because, waiving other considerations, a great proportion of our seamen are foreigners—natives of Great Britain—who still feel prejudices for their parent country. Yes, sir, the character of the American seaman, like that of the neutral trader, too often eludes our grasp. The moment you make war, much more if you resort to impressments, the American sailor vanishes, he becomes a subject of Denmark: with the first frost, he disappears in a night.

But if I did not misunderstand the gentleman from Pennsylvania, he said that I had treated the House in a manner, of which, sir, I trust I am incapable of acting towards any assembly, much less, one of your dignity. Am I, indeed, so ignorant of the feelings of man?—of the character and composition of this House? No, sir, I have spoken of certain projects, and their projectors, in language, such only, as I think they deserve, and in which, claiming the same liberty which that gentleman urges and exacts, I will ever speak of such absurd and fantastical systems. The authors are, no doubt, interested in diffusing the ridiculous burden of their disgrace as widely as possible. I cannot blame them for it. Sir, it is natural to wish for partners in our shame. But the great political sin for which I have been denounced by the gentleman from Pennsylvania, is, the opinion which I have expressed of a certain book, which seems to be his political Bible. And, sir, he would have me considered as an inconsiderate person, who would not scruple to call Locke a dunce, Newton a driveller, and Franklin a journeyman printer; and, in an oracular saw, he has pronounced that this book will live when he, and I too, sir, are laid in our graves. But, when he considers his own age, and the frailty of my constitution, he will confess that he has allowed but a short span for the existence of his favorite work. But even though it should live when we are wasting in the silent tomb, there is nothing in my composition that aspires to being considered as its author. Who is the author? Does the gentleman know? Must we have semi-official authority, even for a title-page? No, sir, whatever others may think, I have no ambition to have written such a book as this. I abjure the very idea. Unless my understanding has abandoned me, it involves an abandonment of the very doctrine for which the writer contends. Sir, the very cursory view which I took of this subject yesterday, will compel me into some repetitions, but I must beg to be indulged in some additional remarks. What is the doctrine?

"In times of peace among all nations, their commercial intercourse is under no other restrictions than what may be imposed by their respective laws, or their mutual compacts. No one or more nations can justly control the commerce between any two or more of the others.

"When war happens between any two or more nations, a question arises, in what respect it can affect the commerce of nations not engaged in the war?

"Between the nations not engaged in the war, it is evident that the commerce cannot be affected at all by a war between others.

"As a nation not engaged in the war, remains in the same relations of amity and commercial pursuits, with each of the belligerent nations, as existed prior to the war, it would seem that the war could not affect the intercourse between the neutral and either of the belligerent nations; and that the neutral nation might treat and trade with either, or both the belligerent nations, with the same freedom as if no war had arisen between them. This, as the general rule, is sufficiently established."

Here is a faint endeavor to establish the principle that free ships make free goods. But the writer, as if despairing of his ability to effect it, goes on to say:

"But inasmuch as the trade of a neutral nation with a belligerent nation, might, in certain special cases, affect the safety of its antagonist; usage, founded on the principle of necessity, has admitted a few exceptions to the general rule."

"Usage," founded on what? Reason? right? No, sir! on that law which admits nothing to control it: "Necessity," that cannot stoop to argument. If once you admit that necessity ought, can, or does, establish exceptions to this broad rule, do you not admit all that the British doctrine requires? But, sir, it will be said that the sole legitimate proof of this necessity is *usage*; but usage must have had a beginning, and the small protection which this argument affords is thrown away by the subsequent admission, that a change in circumstances, ("in the course of commerce," for instance,) will justify a departure from established maxims, will warrant the commencement of a new usage. As if all the articles contraband of war were minutely specified, and, by a change in the maxims and implements of war, new and more terrible instruments of annoyance should be fabricated, would they not fall under the head of contraband? And is it not demonstrable, that a direct trade to France, in gunpowder, or any other article contraband of war, would be less beneficial to her, and less injurious to her enemy, than the colonial trade now in dispute? And is not, according to this writer's acknowledgment, the lesser principle involved in the greater? Am I, therefore, the apologist of England? I scorn to boast of my patriotism. It is indigenous; and when I am reduced so low as to plead to the charge of want of love to my country, of natural affection to my birth-place, my pride will tell me to bid you farewell, to go home and hide my shame. Am I the apologist of Britain because your cause has been weakly defended, or treacherously betrayed? No, sir, this "Examiner" is her apologist! I have not minutely dissected the work. There was no occasion for it. It is something like the edifice we inhabit. It is hardly worth while to be examining friezes and cornices, and architraves and

stucco work, when you know the foundation to be rotten—whilst the building is tumbling about our ears, and we are obliged to seek refuge in another. It is not, indeed, sir, worth while to consult the orders of architecture in a miserable cardhouse of an argument which the first puff of wind must demolish.

Sir, the admission that a change of circumstances will justify a departure from the established maxims amongst nations, was an unnecessary and fatal concession, not called for by the nature of the case. What is the "course of commerce" now? Totally changed in a few short years. The marine of France, Spain, and Holland, whether for the purposes of trade or war, is no more. They have no longer navigation or navy. Again, amongst a load of quotations from Grotius, and Puffendorf, and the Lord knows who, we are told it is the duty of the neutral to observe the strictest impartiality, "to behave himself alike to both the belligerent parties." But, is it to behave alike to both parties to carry for him who cannot carry for himself, to throw the ægis of neutrality over a commerce which he can no longer protect; to save him all the danger, expense, and risk of convoy and war insurance? This is a hollow, delphic reciprocity; reciprocity to the ear, but not to the sense. If you carry contraband, or attempt to enter a blockaded port, you are liable to capture. Why? Because justified by necessity. As to the motives of the neutral merchant, they are out of the question. His object, no doubt, like that of every other trader under the sun, is gain. He, sir, is too often the mere ephemeron—the butterfly of the day—who does not care one farthing whether you are at war with this or that nation, with England or with France, provided he can get good returns. His business is to post his books and balance the leger; and whether he deals with the subjects of a white Emperor or a black one—with Bonaparte or Dessalines—it is all one to him. No doubt, sir, it is the right of the neutral to pursue, and he will, he ought to pursue, his own interest. But it is the right of a belligerent, (as conceded by this writer,) to inquire how far such pursuit comes into collision with his interests and his safety. The motive of the neutral may not be hostility to either party engaged in war, but his own benefit. This, however, will not influence the belligerent nation, who takes up the question solely with a view to its effect on itself. What will Great Britain say? That the exigency exists—that it has occurred, *flagrante bello*—that the necessity admits of no delay; that you, yourselves have abandoned the question in dispute; and even if you have not, that she cannot sit down quietly and be extirpated from the face of nations, out of complaisance to Grotius, or Bynkershoek, or in deference to the unknown author of this pamphlet, although he should exceed Bacon in genius, or Newton in intensity of thought! I must defend myself; the knife is at my throat; I have no more time for argument; but if you insist upon it, I will fight you! Sir, I have tried, but I could not get through this work. I found it so wiredrawn; the thread so fine, that I could neither see or feel it; such a tangled cobweb of contradictions, that I was obliged to give it up. The first thing that struck me on opening it, was, the peculiar infelicity with which it had surrendered the matter in dispute; and if this appeared at once to my unlearned eyes, do gentlemen suppose it will not be detected on the other side of the Atlantic? that it will receive no abler examination there, than the feeble and cursory one that I have given it? And after all, what does it contain? A remedy for the evil? No; a formal declaration that we are diseased! Sir, we wanted no ghost to tell us that. It needed no extraordinary exertion of learning or genius to show that we had, indeed, delicate subjects of difference with Great Britain. The question is, How shall they be adjusted? We want the opinion of the doctor on the mode of treatment, and don't choose to be referred to the apothecary because the superior does not choose to risk his reputation in a dubious case.

A gentleman from Pennsylvania has told us that Great Britain is our commercial rival. But does not the gentleman know that the very term implies a correlative. That if she is your commercial rival, you are her commercial rival also. This is the very view that I have been endeavoring to take of the subject, to impress on the Committee; to warn the nation against being drawn into a war of commercial rivalship. Sir, when men fall out about women they are not apt to call in some learned doctor to decide the dispute; they yield to feeling or instinct; just so with nations, commercial nations especially, differing on interest, which is their instinct. And would gentlemen wish to excite this young nation, as yet in the gristle, to a foreign contest with Great Britain, in the full strength of manhood? I speak of foreign war. The will and ability to defend ourselves is one thing, to act three thousand miles off another. They may rely as much as they please upon the French Emperor's making a separate peace with the Continent, to the exclusion of Great Britain. If she puts out her strength, you will feel it. This proposition will subject her to all the evils of an American war, without any of the concomitant advantages. And can you expect a tame acquiescence on her part? If her Minister be not a bastard, if he has one drop of the blood of Chatham in his veins, he will die contending for the liberties of his country sooner than surrender her independence. He will do it. No, sir, whatever I may think of the vices and corruptions of the Government of that country, I must applaud her intelligence and spirit—must admire her ability, wisdom, and strength.

But another gentleman from Pennsylvania (Mr. Smilie) asks if it is not astonishing that a man, whom he allows to possess common sense, whom he represents as trembling at the power of Great Britain, should be making calculations of the future power of France, instead of guarding against the immediate danger? Sir, France may become a naval Power—Great Britain never can be a military one. I ask any practical man, if the day can ever arrive when Great Britain will

be able to threaten the continent of Europe or America, or dictate to either of them? Is it my fault that the gentleman cannot, or will not see this, because (as he tells you) fools and madmen can never be brought to believe that the spirit of God hath passed them by, and enlightened the understandings of other men? But, to show that this is not just cause of war, we are referred to the time of the stamp act and the non-importation agreement of 1774, which did not (it seems) produce immediate war. Is there any analogy between the two cases? We then formed one nation. A man may make a great sacrifice to preserve his friend, but when he has lost him, he will (as has been seen to-day) be denounced as the bitterest enemy. The other instances are equally defective and inapplicable. You may as well go back to the flood. The same gentleman inquires, are you, indeed, so peaceable toward England, who has trampled upon you, and hostile to France who has offered you no injury? Wherefore? On this occasion, I must repeat the old proverb, "it is the still hog that drinks the swill." She finds it convenient to make a miserable stalking-horse, a scarecrow of Spain. The gentleman inquires, how long Great Britain has acted upon these philanthropic principles; this generous, benevolent policy ascribed to her? But, is any man so weak, or so wicked, as to pretend that there is any principle of action between nations except interest? Give Great Britain the power, and she will to-morrow play the same part. Sir, we are not theophilanthropists, but politicians; not dreamers and soothsayers, but men of flesh and blood. It is idle to talk of a sense of justice in any nation. Each pursues its sense of interest, and if you calculate on their acting upon any other principle, you may be very amiable, but you will prove a cully. We are asked, what Great Britain can do to annoy us? We answer, at this moment, more than any other nation of the world, because she commands the ocean, the sole medium of communication between us. But draw her off from that element, and France is not less omnipotent upon it. She is a great military Power, and it is because Great Britain is not, cannot be such a Power, that it is impolitic to break her down. Go to war when you will, you must become the ally of France; you will only put off, by enhancing it, the danger you would guard against. You will but clap a tortoise under your elephant.

The same gentleman tells you that the gigantic power of France hangs on the brittle life of an individual. But, do you believe it? Are you such drivellers in politics as to believe that the fate of such a military despotism hangs on the life of one man? If Mahomet II. had been killed under the walls of Constantinople, would the destiny of the Greek Empire have been changed? Would not the power have passed into the hands of some Solyman or Selim, the terror of the civilized world? Shall we abandon practice for theory?

In some respects we are situated as the successors of Alexander were placed in relation to Rome and Carthage. Here is an iron Republic, or call it what you will, that threatens the liberties of mankind—the Government, above all others, in Europe, to which our own is most hateful and obnoxious. This is beyond dispute. Does it become us to facilitate its designs? I do not inquire as to motives, nor will that Government care about them. If you give it facilities to effect its purposes, those purposes are obtained so far as depends on you. Is this wise, is it proper, is it right? Am I asked for my plan? If I meant to act efficiently, I would have begun with an embargo; I would now do what was done before; I would treat with Great Britain, and for the very reason that I would not have treated with her in the year 1794;—for the same reason that the gentleman, whose resolution is now under discussion, then treated with her, I would not. Now, he is for war, I am for negotiation and peace. And why? Because the state of nations has undergone a momentous change; disastrous changes, indeed, have been effected in the face of things. We often hear of the abuses and corruptions of the British Government, while the Continental despotisms pass unnoticed and unregarded. Let us beware of introducing such abuses into our own. We have no further concern with them. Do gentlemen think worse of the character and motives of William Pitt than of Robespierre? And yet, monster as he was, Robespierre, that cannibal of his own countrymen, was, in his day, the sole bulwark of the human race. And, whatever be her motives or professions, Great Britain stands exactly in the place of France twelve years ago. Take her navy out of the way to-morrow, and where are you? The Secretary of the Navy has indeed reported that the Chesapeake is fit for service, and that the Constitution is in a state of thorough repair. But, would the real Chesapeake, the bay, be fit for use in that case, and what would be the operation on the actual Constitution of the United States? Sir, I am opposed to a French war as well as to a war with England. I would treat with England for another reason. I wish we had not a Commercial Treaty with any nation whatever. I am opposed to them on principle; but the principle is already settled. We have them. By our treaties with her enemies, your hands are tied up from taking against them any such measure as the one proposed; they are to be admitted on the terms of the most favored nation. This is probably one of the principal causes of disgust to England. Again: She made an offer to repeal her discriminating duties, if you would do so too; to trade with us upon even terms. By mercantile clamor you were deterred from meeting her half-way. Moreover, you have refused to ratify treaties with her, after they had been signed by your own Minister. No doubt you had the right to do so. But can you be surprised, under such circumstances, that a haughty commercial rival has been irritated? After your oblations to France, who cannot receive a single pound of sugar or coffee but under cover of your flag, who is dependent upon you for services which she cannot render herself, who is not your rival in commerce, what can you expect

from a jealous competitor in trade who stands not in need of your navigation—whose every advance toward a good understanding has received a mortifying repulse? Sir, you have at this moment a negotiation pending with Great Britain. You have no cause to despair of its success; far otherwise. The plain question is, will you await its issue, or will you, *pendente lite*, precipitate yourself into a measure which must put all negotiation aside, which must eventuate in war? If you want war, there is no doubt that you may have it. Great Britain will not submit to all the hardships and mischiefs of war, because you choose to call it peace. She will prefer open war to war in disguise; and I, sir, have no hesitation in saying that I am for no half-measures. Begin that system when you will, war, or disgrace, must grow out of it. I am for neither. The gentleman, indeed, says, that this, which has been denounced as a war measure, is a measure of peace. Let us have no more *quasi* wars, I beseech you, sir; no half-measures, no intermediate stage, but open war, or peace. I abhor this political quackery. Give us war, or negotiation; if you resort to the one, let us abandon the other. But we are asked if American virtue will so far degrade and debase itself as to treat with the old and corrupt Government of England? There is a plain answer to this. You have a treaty with her now, with every Government, I believe, that would make one with you. But, while we boast of our virtue, let us beware that our own sins are not cast into our teeth. Let us see how far these punctilios are warranted by the conduct of our own agents. Look to the management of the convention of Paris, of the 30th April, 1803. You have all seen the case of the New Jersey, Nicklin and Griffith's ship. It has created a general sensation. And yet, what is the fact? Compared with others, they have almost nothing to complain of. Bad as that case is, it is among the least exceptionable instances of misconduct in your Ministry at Paris. It is true, Nicklin & Griffith's claim was cut down, I believe, one-half, because the sum appropriated would not otherwise (it was feared) be sufficient to answer all the draughts of chicanery upon it. These men were, therefore, mulcted fifty per cent. They are rich merchants, able to make their case known. It has been heard, and has rung through the Continent. There are hundreds of cases even worse than this. The claims intended to be provided for are set aside. Why? Because Government has been represented abroad by unfaithful, dishonest agents. Have they been called to account for their conduct? Three millions seven hundred and fifty thousand dollars, stipulated to be paid, to *bona fide* American citizens—where have they gone? Into the pockets of renegadoes, and the bureaux of Paris. Yes, the traders in neutral character have divided the spoil with the harpies of the French bureaux. These are they in whose favor the bills have been drawn on the Treasury of the United States by their own Minister. Take the case of the Pigou. There was no question, indeed, as to her being American property—but she was captured *flagrante bello*—(when we were taking the Insurgente and Berceau)—she was, therefore, good prize, and was condemned accordingly. Yet the decision of the inferior court was reversed by the Council of Prizes, and this case brought within the convention, to the exclusion, no doubt, of *bona fide* claims, for neutral American property, captured and condemned, and for which the convention was intended to provide. This is a specimen of the mode of doing business at Paris. If gentlemen doubt upon the subject, let them call on the Secretary of State for the correspondence of the Commissioners. Let them call for John Mercer, one of those Commissioners, a man inferior to few in point of talents; in point of character, to none. Put him to the bar and examine him.

Painful as it is to me, I must defend my principles and those of my friends. Open your statute book—what does it say? That the shores and waters of the bay and river Mobile shall form a district. I brought in the bill myself. The Executive had informed us that we had purchased from France as far as the Perdido to the east. We legislated upon it. Whence have arisen your disputes with Spain? From Pensacola or St. Augustine? No; from the very country which the statute book says is yours; in your own collection district are Spanish duties exacted and paid; from this very quarter incursions have been made into the old United States. Do gentlemen believe that this fact will be lost on Great Britain? But we are asked (by Mr. Smilie) what has she to do with differences between us and Spain? What right has she to interfere, to inquire, or even to know, to seem conscious, of what has passed in that quarter? Is this intended as a serious question? Because you have clapped a padlock upon your own mouths, and wilfully shut your eyes, do you expect to hoodwink an eagle-eyed adversary? It is in vain to expect that any nation, in her intercourse with you, will be blind to your conduct towards others. Great Britain must shut her eyes, and ears, too, not to understand the state of things here, at least negatively speaking. She must know that you have taken no imposing attitude towards Spain; done nothing to strengthen the Southern frontiers; made no addition to your naval or military force; left even the militia *in statu quo ante*. Because the doors have been shut, can people be brought to believe that we have raised armies and equipped fleets in conclave? I never heard, sir, but of one army incog., and that was levied by the facetious Mr. Bayes for the service of the stage, not of the State, and from some dramatic specimens which I have lately seen, I should not be surprised to hear of a similar project being started on this floor. Great Britain will see, then, what has *not* been your proceeding towards Spain. She will say, shall I suffer myself to be brow-beaten by a nation clamoring for the right of highway, that has not spirit enough to defend her own domicil? If A acts like a poltroon towards B, who has committed a gross outrage upon him, and shall have a subsequent controversy with C, shall he pretend to bully him, and expect C not to call to mind his cowardly behaviour with B, and treat him accordingly? One foreign nation will be influenced, will be governed in her concerns with you by your concessions to another; and it is the idlest thing in the world to expect that your treatment by one Government will not have an effect on the deportment of others towards you.

One word more, sir, before I conclude. Gentlemen miscalculate if they suppose that mere *authority* (much less at second hand) will do for us. They must show us something better before we swallow their resolution. It is an infirmity, sir, of my nature that I cannot yield to the imposing sound of great names; they never did and they never shall put me to silence, or drive me from my purpose. I am apprized of the secret denunciations which are on foot, and I despise them. They shall never affect me. I came into public life with these principles, and I will leave it with them, leave it when I may.

The Committee rose, and the House adjourned.

Friday, March 7.

Mr. Crowninshield moved a resolution, instructing the Committee of Commerce and Manufactures to inquire into the expediency of amending the eighteenth and seventy-seventh section of the act to regulate the collection of duties on imports and tonnage, so far as to remove the disabilities and restrictions at present imposed on vessels arriving at several ports of entry of the United States from the Cape of Good Hope, and from places beyond the same.

This resolution, after a modification suggested by Mr. Dana, making it more comprehensive, was agreed to.

IMPORTATIONS FROM GREAT BRITAIN.

The House again resolved itself into Committee of the Whole on the state of the Union—Mr. Gregg's resolution still under consideration.

Mr. Sloan.—I do not rise to deny, but to acknowledge myself one of those horn-book politicians, alluded to by a gentleman from Virginia, and to assure this Committee that I do not envy or begrudge that member either his superior genius, talents, or learning; and further, to ask on behalf of myself, and others of this class, the favor of being permitted to deliver our sentiments on this, and other important subjects, in such language as we are capable of, until our constituents may have an opportunity of electing other members, of superior learning and talents, and farther advanced in political knowledge. This is a favor I hope will not be denied, otherwise a great number of American citizens, the remainder of this and the ensuing session, must go unrepresented.

In answer to the assertion that our late conduct respecting Spain was such as we dare not mention; that we dare not take off the injunction of secrecy; that we are ashamed to let the nation know the secret—permit me to assure that gentleman, and this Committee, that I feel neither shame, nor compunction of heart, for the part that I acted in that business, not doubting that, when the injunction is taken off, and the public acquainted with the whole transaction, the real friends of the peace and interest of the United States will fully approve the conduct of the majority, (with whom I had the pleasure to act,) and which, were I, by side-glances and insinuations, to endeavor to impress the public mind with a belief that a majority of their Representatives had acted in a manner they were ashamed of, I conceive my constituents would thenceforth consider me unworthy of their confidence, and consequently, of a seat on this floor.

We are told that we have no Cabinet. Is it necessary? is it recognised by the Constitution? No! The President's powers are defined, and have, for five years, been fulfilled to the satisfaction of the people.

I have heard of British Cabinets, British Ministers, and British Privy Councils. Of their conduct I formed a very bad opinion, before the member alluded to was out of his nurse's arms, and have seen no cause to change that opinion. It is therefore pleasing to me to hear that we have no such institution.

Mr. Chairman, however great my gratitude to the member for his paternal care over the children in politics on this floor, which roused him from his sick bed to give his superior opinion upon this subject before our weak and feeble minds had been misled by Tom, Dick, and Harry, or some other arrogant chap that might have some knowledge of steering a ship at sea, but totally ignorant in navigating our vessel of State—I say, notwithstanding I gave all the attention in my power to his eloquent speech of two hours and forty-eight minutes, there were divers parts which my weak brain could not comprehend, and which I beg leave to lay before this Committee for the purpose of receiving further information.

1. I cannot comprehend how our demanding the release of our impressed seamen, and restitution for unjust captures of our vessels, can be construed as throwing our weight in the scale of France, for the purpose of supporting a set of men who do not support the public weal of the United States.

2. Nor can I possibly discover that Great Britain stands precisely in the same situation that republican France did in '93. For information on this subject, let me ask, was it not British gold and British intrigue that then formed the coalition against republican France? And is it not the same that has formed the present coalition against monarchical France? Have the armies of France, in either case, advanced beyond their own territory, previous to the raising and advancing towards them of powerful armies for the express purpose of subjugating them, and dividing their property among the coalesced Powers? If the accounts received are true, they have not.

But we are told that Britain is now the only barrier against tyranny, and her navy our only security; that the battle off Trafalgar prevented the fleets of France and Spain from laying our seaport towns under contribution, and that the

British navy alone stands between us and their tyranny. Mr. Chairman, if a British subject was admitted on this floor, to advocate his Sovereign's cause, I should, from him, have expected such language; but to hear it from a member of Congress, has astonished me more than anything I ever heard within these walls. I may add, that I believe even a British subject, of common sense and prudence, would not have committed his character by asserting that the combined fleets of Holland, France, and Spain, were so reduced that ten British ships (I expect of the line, was meant) would be glad to meet their whole force.

Neither can I comprehend that language that in one breath asserts that Spain has grossly insulted us on our own territory; that we pocket those insults because they are a favored nation; and in the next breath asserts that she is no nation, but those aggressions are the acts of France.

I here deem it my duty to make some remarks on observations made on this floor, which have a tendency to mislead and alarm the public mind with regard to France and Spain. We have been told that Spain has insulted us on our own territory. I appeal to the gentleman from Virginia whether he has not declared that we do not possess a foot of ground beyond the Iberville? If so, let the world judge of the consistency of his remarks. I ask if Spain has not ordered her cruisers to respect our vessels, and whether France is not on a friendly footing with us? Shall, then, the public mind be deceived with the idea that Congress have not acted towards those nations with spirit? For what? Because our boundaries with Spain are not defined. I trust in God we shall never go to war for that. I repeat it, our affairs are in a train of amicable settlement, and I trust they will be soon settled.

It is asserted that France would be as tyrannical on the ocean as England, had she the same power; that is a point that I have neither foreknowledge or sagacity enough to determine, nor do I consider such assertions either necessary or proper on the present occasion. The degraded point of view in which Spain has been represented, the tyrannical disposition of France, and Britain represented as the only barrier against her tyranny, the forlorn hope of European liberty, I have heard with sorrow, believing such language highly improper to be used in a legislative capacity by any representative of a free people, whose interest it is to cultivate peace and harmony with all nations of the earth.

I shall only trouble the Committee with one more observation upon the learned and eloquent speech first mentioned, in which I think it was alleged that parchment was the only remedy applied to aggressions on our territory, for which a member from New Jersey might receive a vegetable specific. If I am the member alluded to, permit me to reply, that if by dealing in parchment we can continue to purchase as good bargains as Louisiana, and thereby preserve peace, I hope the United States will always prefer dealing in this commodity rather than to imbrue their hands in human blood. Respecting vegetable specifics, I shall only observe, that if that member lives to my age, needing no more specific medicine, either vegetable or mineral, he may consider it a great blessing; but which I think very improbable.

Mr. Chairman, believing it to be my duty to deliver my sentiments in as few words as possible, that other members standing on an equal floor may have an opportunity to deliver theirs, I shall hasten to a conclusion, at the same time not doubting that, if I was disposed so to do, I could take up the time of the Committee as long, and to as little purpose, as any other member within these walls.

I could, under the pretext of explaining, keep the floor two hours and nine minutes, if the Chairman did not order me down, which I hope he will if ever I attempt it.

In explaining, I could declare that I did not mean to stigmatize a respectable class of citizens with dishonesty, or any other reproachful epithet, and immediately compare them to butterflies of the day, and to slippery eels, who will get round and evade any regulations or restrictions that can be made, whose interest is their guide, regardless of the peace and interest of the nation in which they reside.

I could declare that I had not insulted the House, but aimed at certain political characters, and in the next breath charge a majority of the same House with having hoodwinked its members, but unable to do so with foreign nations. I again could charge them with bullying England and truckling to France, and exclaim in an imperious tone, this you have done, and you know it.

Mr. Chairman, I could go on still further, and assert that the little, trifling arguments of my opponents ought to bear no weight, because destitute of reason; that instinct, the guide of the brute creation, was superior to such reason; yet declare that I meant no insult to their understanding.

I could then, in the prophetic line, inform the Committee that if they offended the British Minister he would immediately put forth his strength, and make the United States feel it; and that although France at present appears friendly, she is like the still hog drinking swill, meditating future evil, and will eventually (if in her power) treat us worse than England.

I could in a few words remove this mighty bugbear that the friends of the resolution have made so much ado about—I mean the impressment of three thousand of our seamen—by informing the Committee that it has been the practice of Britain time immemorial; that it has been found indispensably necessary, to enable them to man their fleets; that is to say, without these diabolical means, which none but infernal fiends in human shape could ever use, they could not so effectually have carried fire and sword, devastation and plunder, to every habitable part of the globe, and thereby so greatly increased the quantum of human misery, and the cries of the widows and fatherless.

I could also, if my conscience would permit,

after venting my hatred in the most bitter invectives against the French Emperor that my genius could invent, charging Congress with truckling to him, and bestowing on the Government of England the highest applause for their opposition to French tyranny—repeatedly deny being the apologist of Britain. But a subsequent question arises, would the members of this Committee subscribe to the truth of such declarations?

But, Mr. Chairman, I will detain the Committee no longer with telling them what might be done, but earnestly call their attention to what has been done—to what has been said on this floor. We have been told that France cannot get a pound of coffee or sugar from her own islands, except through the medium of American vessels, and that we have a treaty that obliges us to treat them as one of the most favored nations. This raises the curtain, and gives a full and complete view of the whole scene; this explains, in the most clear and explicit manner, the elaborate speech of two hours and forty-eight minutes, and the explanation of two hours and nine minutes. A horn-book politician may by this clearly discover the intention of the member from Virginia; and Tom, Dick, and Harry, if they have only learned the three first letters of the alphabet, may understand his meaning, and why he would prefer an embargo to even a partial non-importation of British manufactures. It is possible that George the Third, that zealous defender of the most holy faith, by whose most gracious orders the North American colonies were declared out of his protection; and afterwards his paternal care was further manifested in burning their towns, murdering their citizens, and causing their prisoners to perish with famine and pestilence in noisome dungeons and filthy prison-ships—I say it is possible, as the precious life of this great benefactor of mankind is yet preserved, and, we are told on this floor, remains animated with the same benevolent spirit, fighting the battles of liberty against Gallic tyranny, if he should fail by land, his pious zeal may induce him once more to resort to his forlorn hope, as he did in the late war with republican France; declare all her ports and her allies in a state of blockade; cover the ocean with his fleets, in order to effect by a famine what he is unable to do by force of arms. In that case, an embargo on American vessels would facilitate his purpose. But here let me ask this Committee, Can the Congress of the United States countenance such a procedure? I hope not.

Before I sit down, let me ask the members of this Committee, (especially you in whose ears the expiring groans of your brethren in arms—of your beloved fellow-citizens—yet vibrates; slain by the murderous hands of the mercenaries of Great Britain, or more barbarously deprived of life by famine or pestilence.) Can you, while that same monarch reigns, and who, instead of diminishing, has added to the long and black catalogue of crimes set forth in our Declaration of Independence, which induced you to risk your lives in opposition to his tyranny; can you with complacency, or any degree of approbation, sit and hear that Government who continues her tyranny and injustice to these United States—witness the capture of our vessels and impressment of our seamen—held up by a member on this floor, as the only barrier we have against the tyranny of that nation who in our struggle assisted us with vessels of war, arms, ammunition, men, and money; whose soldiers fought by your side, and bled to support American liberty and independence, and whose Government continues friendly towards us? I hope not; I believe you cannot; your hearts must turn indignant from such language. For my own part, I am free to declare, that, since I have had the honor of a seat on this floor, I have heard nothing that has so hurt my feelings. I have borne them in silence. I am happy in obtaining a few moments in my plain unlearned way to express them, that this Committee and all the United States may know that I retain the same abhorrence against British tyranny that I did in the Revolutionary war, and also the same love for the liberty and independence of the United States.

Mr. FINDLEY said he had been long in the habit of observing, that, when a subject was discussed which occasioned numerous arguments, the question was often lost sight of. In the heat of debate, instead of the subject before them, the preceding argument became the text to him that replied, and his to the next who took the floor, and so on, in succession, until some member succeeded in calling the attention of the members to the original subject. Though the present question had but a few days engaged the attention of the Committee of the Whole, yet, in his opinion, several of the speakers on the floor had lost sight of it, further than he had formerly observed in so short a time. He would attempt to draw the attention of the Committee from these desultory excursions, which settle no point in debate, and often have no visible connexion with it, to the important question they were called upon to decide; and in doing so, he would take no notice of anything that had been offered as argument, which was not necessarily connected with the question. He would neither be the advocate or apologist for any one nation of Europe, nor treat any other nation with irritating contempt. Language of the kind that has been used within two days past in this House ought not to be admitted, unless we were employed in discussing a manifesto to support a declaration of war, and even for that purpose it is inconsistent with national dignity. He said, the subject before the House was a resolution, referred to the Committee of the Whole House on the state of the Union, to prohibit all importation of goods the produce or the manufacture of Britain, or any of the British dominions; not to prevent Britain or her dependencies from receiving supplies of provisions, raw materials, &c., from us. It does not go to prohibit exportation; but even this should not be done without a very sufficient cause. Two causes are assigned in the preamble to the resolution; first, the impressment of our seamen; second, commercial aggressions.

Mr. F. asked, Was it ever known, in the history of independent nations, that any one nation im-

pressed the citizens or subjects of another nation into their fleets, to fight against a nation friendly to that from which they had been impressed, and to receive no wages or emoluments unless they would enlist; which few of them ever do, except under the lash of the boatswain, which is applied if they appear reluctant to do the meanest drudgery, and who must of necessity hate the nation for which they fought? No, sir, this cannot be shown. The British Government has long been in the habit of impressing their own subjects for seamen. In France, we have been lately told in this House, conscripts are forced to the army. Perhaps the conscripts are the same that we have been accustomed to call the classes of militia in this country; but it is of their own citizens. Impressments to the navy are a very different thing. It is such an exercise of tyranny that it is hoped will never be exercised in this country. Yet, still, except in the case of our seamen, it is their own subjects: they do not impress Swedes, Danes, or Prussians.

A man impressed is condemned to a slavery of the worst kind. Slavery, for a limited time, is a suitable punishment for crimes; but the sentence with us, and in all nations, civilized or savage, is decided by known and responsible judges to be the breach of some law. But by whom is the sentence of condemnation to slavery passed on our citizens, sailing under the protection of our own flag, chargeable with no crime? Not by a court of justice in any form; not even by an officer of high responsibility; but by some young subaltern of a man-of-war, which is universally admitted to resort to the most arbitrary species of government existing. No other crime is alleged to justify the condemnation, but that he speaks the English language, or has become an American citizen, and no other judge but a lieutenant or midshipman selected for this exertion of tyranny.

We have not long since expressed a just abhorrence of slavery, by a very unanimous vote of this House; we have expressed a very commendable sympathy for the untutored sons of Africa, of a different color from ourselves, stolen or forced from their families and all that is dear to them; and shall we make no exertions to protect our own citizens from a worse kind of slavery? If the planters of South Carolina, or any other State where slaves are employed, should forcibly take any of our sons from the plough, or other lawful and necessary occupation, and set them to work with other slaves in raising cotton or rice, the outrage would be horrid, indeed, but not equal to the impressment of our citizens. The slave to the planter must labor, but he is not obliged to kill those who have given him no provocation, or to be killed himself; and he may be found and redeemed. Money redeemed our captives from the Barbary coast, and we felt for them, and advanced the price.

There is, sir, another point of view presented in the impressment of our seamen which ought to address our attention. It is admitted that several thousand of our impressed citizens are employed on board the British men-of-war, fighting against France. These, it is believed, are sufficient to man five ships-of-the-line. If by our silence we connive at this, or by our wilful neglect of such peaceable means as are within our power to prevent it, may not this be charged as a breach of neutrality—may it not be justly called war in disguise? But I forbear.

Commercial aggressions, such as capturing our merchant ships laden with cargoes of colonial produce, purchased in return for the produce of our own country and the property of our own citizens, and condemning, contrary to the laws and usages of nations, as approved and practised even by the British courts until August last, and openly in her decisions substituting the instructions of the court in the place of the law of nations, contrary to her own former practice, by which it is acknowledged by the opposers of the resolution the British courts have already condemned at least six millions of dollars, of the property of our citizens, on new principles, which, not being known to the owners, it was impossible to provide against the events. Though these aggressions have hitherto been principally committed on cargoes of colonial produce, where only we can find a market for the produce of the Middle and Eastern States, yet the principles are equally applicable to much of our East India trade, and to the trade with France, Spain, and Holland, from which we derive most of the favorable balance of trade, which enables us to discharge the unfavorable balance of trade with Great Britain; and she can so apply them without giving notice of her intention at a time when she knows we have the greatest amount of property on the ocean. We cannot admit the plea of necessity, as suggested in a well known British pamphlet, and advocated without reserve by the gentleman from Virginia. To admit this would justify every possible aggression of the Power at war against neutral nations. We make no war in disguise against Britain; we favor her as much as in our neutral station and commercial situation we can do. We bear with aggressions from her that would not be offered nor borne with from any other nation. The profits accruing from a favorable commercial balance with other nations is cheerfully thrown into her lap, and if we do not continue to do so it is her own fault. Justice and policy require that she should do so. Britain pretends no cause of complaint against us. We have readily removed such as she ever had. By pleading necessity, the aggression on her part seems to be acknowledged. Let her remove the cause.

This question, therefore, naturally arises, are these things wrong; do they not only affect our interest but our national independence? It was confidently expected that to this inquiry every member would answer in the affirmative. One member, however, has gone far to advocate all the aggressions complained of. No doubt, however, a great majority of the members are convinced that the impressment, and the other aggressions, require a remedy; the object of the present deliberation is to discover such measures as will be most expedient, not only to correct the evil, but to procure reasonable redress without war.

Mr. F. added, that it was reasonable to expect some diversity of opinion; that such a diversity does exist is evident from the number and variety of the resolutions referred to this Committee. Of these, some are substitutes for the resolution which is now the subject of debate; they have the same object in view, but vary in the means proposed. Others may be very properly pursued in concurrence with, and in aid of, the resolution under debate; for some of these, with proper modifications, he said he would probably vote. There is certainly a variety of methods in our power of applying an effectual and at the same time peaceable and permanent corrective of our grounds of complaint. The method proposed in the resolution on the table he thought well calculated to produce the effect; that the discussion of it would at least bring the whole subject into view, and prepare their minds for other resolutions.

Mr. F. said perhaps he would be told that it is a war measure, and, as such, ought to be avoided. We have been told so already by a gentleman from Virginia, (Mr. J. Randolph,) who was up yesterday. Mr. F. said his colleague, who introduced the resolution, declared he did not consider it as a war measure, and that he himself was absolutely opposed to war equally with his colleague.

This resolution provisionally proposes terms which it is just and reasonable that Britain should comply with, and which is fully in her power, to prevent the importation of goods the produce and manufactures of the British dominions, until a reasonable accommodation is made by negotiation. It does not go to prevent exportation.

But it may be said, and it is no doubt the opinion of some members, that the subject should at this time be left wholly to negotiation, without being aided by any legislative measure. This is the most important point in view in the subject before us.

Both the supporters and opposers of the resolution agree that an accommodation by negotiation is solely their object. This, he said, was undoubtedly his object, and he would support the resolution on the table, subject to whatever modification the majority of the Committee may think proper to give it, solely with a view to further a favorable negotiation. But will any member say that the President has not already exerted all the powers vested in him, and all the talents of which he is possessed, to accomplish an amicable negotiation? They will not. They will not say that every President of the United States has not done everything in their power, by negotiation, to prevent the impressment of our citizens, since the impressment commenced in 1793—the first time, indeed, in the history of nations, that a power of one independent nation over the citizens of another independent nation was assumed.

The President, in his first Message to this Congress, officially brought the subject before them. In a subsequent Message he informed them of the instructions he had given, of the exertions that had been made, and, in short, that negotiation was exhausted. Why, then, should we refuse such legislative aid as, in the present state of the business, is absolutely necessary to render negotiation successful? Can we expect success without some efficient expression of the national will? Former Presidents did not expect it so from any nation.

Mr. F. said, the gentlemen who have risen in opposition to the resolution have taken no notice of the impressment of our citizens, though it is by far the most aggravated grievance. They seem to give to Great Britain a prescriptive right of that essential portion of our independence. Happily, however, the exercise of that most tyrannical power has been perseveringly protested against by every Administration since that unprecedented tyranny began to be exercised. Indeed, the first instance of acquiescence which has been manifested is by the members who have spoken in opposition to this resolution.

The gentleman from Virginia, yesterday, the second time he has been up on the question, acknowledged the omission, but seemed to make an offset of the conduct of Spain in the Mississippi Territory last Summer to balance the impressment. It appears that two men fled from justice from the settlement possessed by Spain, and were pursued and taken in our territory, but afterwards rescued from the officer of Spain. This might be balanced by the outrage committed by the British at Detroit; but without dwelling on this insult, it is sufficient to observe that the two men are free from bondage, and that there has not been time to remonstrate and negotiate with Spain since the outrage happened, and that a court of justice is competent to decide on it. If Britain had impressed but two men—if she had impressed but two hundred, and had disavowed the intention of doing so any more—if the Court of London had not advocated and avowed persisting in the unprecedented outrage on the laws and usages of nations—if that Government had not vindicated the conduct and refused to sign a convention on that subject (once agreed to) without an inadmissible exception, it may be presumed the case would not have been brought before the Legislature.

The observations of this gentleman, however, so often bring our relations with Spain into view, without explanations, that though they have no connexion with the subject before us, he would shortly add that, in the purchase of Louisiana from France, which the gentleman from Virginia has in strong terms acknowledged was a good bargain, that even the channel of the river was worth the money, &c., yet in the various transfers between France and Spain, and the final transfer to the United States, the boundary lines had never been settled. By a bill reported to the last Congress, it is believed by the gentleman from Virginia himself, which passed into a law, it was made the President's duty to take possession of the Mobile district. He did so, and Spain objected to the boundary, and the affair became a subject of negotiation, as well as the unsettled Western boundary. As soon as this became a subject of negotiation, the President proceeded no further, but left the undecided boundary in the

state it was, until the boundary should be amicably settled.

This, sir, is the way I understand the case to stand; and if I understand it truly, the President has conducted with great correctness, agreeably to the law of nations. Of the truth of this it is not necessary to quote authority, one example for illustration is sufficient: though the Western boundary between the United States and the British territory had been clearly defined in the definitive treaty with Great Britain, yet the Western forts within our acknowledged boundary were forcibly withheld from us by British troops; but while the negotiation conducted by Mr. Jay was in progress at the Court of London, the President, Washington, not only withheld the Federal troops, then engaged in war with the Indians, from advancing, but forbade General Irving from going with a party of Pennsylvania militia to lay out a town on the margin of Lake Erie, in Pennsylvania, where it was not known that ever the British had advanced a claim since the Revolution, or taken possession; but neither had we actually occupied it before, but it was within the acknowledged boundary of that State. Retaining possession until the boundary is settled is no aggression on the part of Spain.

Mr. F. said, we are alarmed with dangers instead of being convinced by argument. If the gentleman from Virginia is, indeed, not much mistaken, we are first to be ruined by war with Britain, and afterwards overwhelmed by France, and distressed with numerous privations. It is true, if Britain or any other nation find it to be their interest and design to go to war with us, they will never be at a loss to assign a cause. We cannot turn our feet in regulating our own commerce, but they can, in a manifesto, give it the coloring of a cause of war. Without imputing to Britain a less degree of justice or honor, or calculating on her possessing a higher sense of national depravity than any other nation, we must all admit that she is a pretty good judge of her own interest, and sufficiently disposed to pursue it. If that is admitted, it is the most evident interest of Britain to cease from her aggressions, and make reasonable restitution, in preference to war or the privations we can make her suffer without going to war. At present, and for a considerable time past, her commerce has been excluded from the greatest extent of the most fertile and wealthy part of Europe, and in these countries manufactures are so much encouraged that the British goods can never again be in the same demand in that quarter. For some of her most extensive and important manufactures she depends on the United States for the raw materials, to the amount of near $5,000,000, besides a large amount of other articles of the first necessity. These manufactures, the great source of her wealth and power, depend for their support upon the consumers as well as on the raw materials. No other nation in the world, probably all the nations of Europe, do not consume so much of her manufactures as the United States do; they not only consume what pays for the vast amount of raw materials of our own produce which Britain receives, but also to the amount of several millions of foreign articles which they purchase from our merchants; but they create a balance against us to a greater amount than the whole annual revenue of the United States, the discharge of which swallows up the profits acquired by our exports to all other countries.

When or by whom was ever non-importation deemed a war measure? Not at any time we know of by Britain, the United States, or probably any other nation. The British Treaty recognises it as a measure of peace. While we were yet colonies we had recourse to non-importation by voluntary agreement, in order to induce Britain to repeal the stamp act, after other methods had been exhausted. It was not considered or treated as a war measure by either party, but by affecting the manufacturing interest, &c., in Britain it procured the repeal of the stamp act. The same measure procured the repeal in part of the revenue acts; what of them remained unrepealed, as a pledge of the sovereign right of the British Parliament to legislate for the colonies, produced the war which established our independence.

During the first session of the third Congress, information of the British orders of the 8th of June, 1798, and the aggressions in pursuance of these orders committed on our commerce, were officially communicated to Congress by the President. In consequence of which, Mr. Madison submitted certain resolutions that are now in the hands of the members, but before any final decision on them had taken place, information was received of the orders of the 6th of November 1793, which authorized a higher degree of aggression than had been heretofore committed. Neither the orders of June or November were otherwise known but by their execution, until after great great damage had been sustained. In consequence of information of these ruinous depredations an embargo for thirty days was laid after two days consideration, with an interval between, with shut doors. The embargo was soon after extended for thirty days longer.

The embargo, however, was not intended as a permanent measure, nor expected to have any permanent effect; it could not have a great effect except on the British West Indies which depended on us for their necessary supplies. The embargo however secured what was yet in our harbors until Congress might have time to deliberate, and Britain did not treat it as a war measure.

The first result of that deliberation was a resolution for sequestrating the debts due to British subjects by citizens of this country, which was at this time a large amount. After this had been considered for a considerable time, and afterwards discussed, it was dropped, and a resolution for a non-intercourse with the British dominions submitted to the House. This resolution was, with frequent intervals, a subject of deliberation for some weeks before the House of Representatives, and in all its stages was supported by a majority. While this subject was before the House, and before a bill was ordered to be reported, information

was received that Britain, on the 8th of January, had favorably revised the orders of the 6th of November preceding, and that our commerce was again admitted to be conducted on such a footing as we have since acquiesced in with little complaint. But the progress of the non-intercourse bill was not therefore stopped; the British Court had issued orders on one principle in June, and upon another principle in November, and a third principle in March. Three orders essentially different from each other in seven months, and might probably have made another change before this information arrived; the bill therefore passed the House by a greater majority than it is believed any other commercial measure during that session. It passed also in the Senate by a respectable majority, till the order for the last reading; when, the votes being equal, the bill was refused the last reading by the Vice President's vote. The President had recently nominated Mr. Jay, Envoy Extraordinary to the Court of London; this induced a number of the members of the Senate to believe that it was not necessary to pass the non-intercourse bill into a law.

Mr. F. said, he had sufficient ground to believe that the President delayed the nomination of an Envoy for a considerable time, waiting for the progress of the bill, and that he did not nominate the Envoy with an intention to defeat the last vote on the bill, but rather to correspond with it. Thus far he well recollected that on the day that the non-intercourse resolution was submitted to the House, in conversation with one of the heads of departments, on the subject of the President sending an Envoy, which was then much talked of, the gentleman said that the President would send an Envoy as soon as Congress had strengthened his hands with any sufficient expression of the public will; that Madison's resolutions appeared suitable early in the session was generally admitted, but they were dropped perhaps as not corresponding to the increased aggressions since November. The resolution for sequestration, he said, he did not approve, but the resolution for non-intercourse, then submitted to the House by Mr. Clark of New Jersey, he thought would answer the purpose, and that if it passed Congress, the President would send an Envoy. It did pass the House of Representatives by a large majority, and the second reading in the Senate before the Envoy was nominated by the President. These circumstances are mentioned to demonstrate that at no period heretofore, either before or since the declaration of independence, was refusing to import or consume the produce or manufactures of any country deemed a war measure; it cannot be so unless some treaty is thereby broken. The British Treaty secures this right to both parties.

Mr. F. said it was true that not only on the occasions abovementioned, but on the discussion of the resolution submitted by Mr. Madison, on the resolutions for an embargo and the opposition to the British Treaty being ratified, there were members and others who declared these measures would lead to war, &c. It was particularly so when the question of the embargo was first discussed. That the measure will lead to war is always the cant word of opposition, and is well calculated to alarm such of the citizens as are not well informed; but enacting such measures are agreeable to the Treaty with Britain, and within the unquestionable rights of sovereignty, therefore cannot of themselves cause war. The resoluton therefore is not objectionable on this ground, whatever it may be on the ground of expediency. But if the British Government should, disregarding the principles of justice, embargo our ships in their harbors, capture them on the ocean, where we have a large amount of property afloat, and even if they should be mad enough to attack our ports and harbors with their fleet, if they should do all that has been suggested by the gentleman from Virginia, we have the power and means of making reprisals. Mr. F. said, that that gentleman had yesterday charged his colleague (Mr. Smilie) with inconsistency, he having formerly opposed a fleet and was now in favor of one, &c. But this was not the case; neither his colleague nor himself were in favor of a fleet, nor would ever vote for one to oppose or make reprisals on Britain, while less expensive and much more certain means of reprisal were in our power. The vast amount of stock that the British subjects owned in our funds and banks, and of debts due from our merchants to her merchants and manufacturers, and her territories of Nova Scotia and Canada, in our neighborhood, which, though of no great value to us, are of incalculable value to her, are all in our power, and are all lawful objects for reprisals, which at least may be justified by excess of provocation. Even supposing Great Britain lost to all sense of justice and national honor, which he did not admit in its whole extent, yet we will all admit that she is sensible of and pursues her own interest; and that it is not her interest to go to extremities with us on the account of all she gains by the aggressions of which we complain, must be admitted by all competent judges.

The gentleman from Virginia has spoken of the character of those engaged in commerce, in an unusual strain of acrimony; he has denounced commercial pursuits, and denied protection to it beyond gunshot from our shores, &c. It is true he yesterday refused protection only to what is usually, though incorrectly, called the carrying trade. Formerly, by the carrying trade was understood to be carrying the property of other nations on freight. In this, Holland, who has little produce of her own to export, was generally greatly engaged. Her merchants were formerly the carriers for all the maritime nations of Europe. Our own shipping merchants also were early engaged in this trade; even before 1793, they contended for the right of doing so; but that is now given up: if any do now engage in it they neither claim nor receive protection from our Government. The name of carrying trade is now applied to that commerce carried on by purchasing goods in one country, bringing them to our country, and, if they are not in demand there, reshipping them to a foreign market, &c., or disposing of them to those who do so.

Mr. F. said that he was astonished to hear this commerce stated as inimical to agriculture, as its rival, &c. Whatever may be said of the manufactures and commerce of Britain being rivals to the landed interest, it will not apply in this country. We have no established manufactures in the country, therefore our own manufactures are not the sources of commerce, as they are in Britain. The produce of agriculture, viz: what can be spared from the farm, or what can be caught in the ocean by the industry of our own citizens, is the sole basis of our commerce, and if agriculture fails, commerce fails with it. What is called with us the carrying trade, and the direct trade, cannot easily be separated. We take from Britain to the amount of near twelve millions of dollars more than she takes from us; how will we pay it? She does not take our flour, meat, or fish, and but very little of anything from the Middle or Eastern States. We sell our flour, meat, &c., chiefly in the French and Spanish West Indies, and bring the returns in sugar, coffee, rum, &c., to our own ports; and what is not consumed in our own country is permitted to be shipped to the European ports, where they can find a market under a neutral character, and the proceeds are transmitted to Britain to pay the balance she has against us, or in part in such goods as can be got where the sales are made. A scarcity of bread sometimes induces Britain to open her ports to our grain and flour, but even then the cargo exported will come far short of paying for a return cargo of her finished manufactures; and it is the same with the bulky raw materials of the Southern States, of which Britain takes a large proportion; the balance has to be paid in the circuitous manner mentioned above. Our provisions, &c., sold in the West Indies, will not purchase return cargoes of coffee, sugar, rum, &c., and but little money can be got; the return cargoes therefore, if more than is necessary for home consumption, must be permitted to find a market in other countries, and for this permission a duty is paid. Thus, what is called the carrying trade is so combined with the direct trade, that it cannot be separated without injury to the farmer as well as the merchant.

Perhaps to those who understand the subject, wagoners constantly employed in hauling merchandise from Philadelphia and Baltimore on the great Western road to Pittsburg, may in some measure illustrate the carrying trade as connected with the exports of our produce to a foreign market. About 300 of five and six horse teams are constantly, at all seasons, employed in hauling goods from these two ports, besides many other teams occasionally; they pass through the dividing ground between the Atlantic and Western waters, as they would otherwise return empty, like a ship in ballast; they take in flour on the way, generally at half the price for carriage at which the flour will sell at the ports; but if they were not to be certain of back loading in returning, they would not take the gift of the flour on condition of hauling it; but if they were to haul no more goods than what the flour would purchase, or than what is consumed in the country, one barrel out of twenty could not be hauled. The goods are taken to Pittsburg, Monongahela, Wheeling, &c., and bonted to the western parts of Virginia, Kentucky, Ohio State, and even to Tennessee. If the carrying trade from the goods brought in the wagons was not permitted, the produce would not find a market, and the imported goods would come much dearer to the consumer. Probably Pennsylvania, in which there are a greater proportion of citizens who reside at a distance from a seaport than in any other State, have felt earlier and more severely the effects of British aggression than the citizens of any other Atlantic State. The flour sells so low since these aggressions commenced that the wagoners return unloaded, and prefer hauling the feed for their horses to hauling flour.

Mr. F. said the protection secured by the Constitution to commerce was well stated and enforced by his colleague, (Mr. Smilie,) and need not be repeated. It is well known that the Eastern and most of the Middle States were engaged in commerce, both direct and circuitous, almost from the commencement of their colonization; that restraints on the commerce by the British Government was one principal cause of declaring Independence. The power to regulate and protect commerce was endeavored to be vested in the old Congress, and the necessity of obtaining that power was the moving cause of changing that form of Government. Therefore, his colleague was right in stating that the commerce of the Eastern and Middle States has an equal claim to protection as the agriculture of the Southern States. If we denounce the character of one class of citizens, such as the merchants as a body have been denounced on this floor, we may go on and denounce another and another class until one State denounces another, and so put an end to the Union, and destroy all confidence between citizens of different professions as well as between different States. Congress is fully vested with the power of regulating commerce with foreign nations, and consequently with the power of protecting and of restraining it. Congress can limit the extent to which what is called either the direct or carrying trade ought to be permitted, but as far as any trade is authorized to be carried on, it is entitled to protection.

Mr. F. said, that though he absolutely denied that the resolution was a measure that in justice, or on the acknowledged principles of the law of nations, led to war more than any other resolution submitted to the Committee did, yet he acknowledged that it would occasion more privations than some of them. It would lessen the supplies of some kinds of such manufactures as we were accustomed to consume. It would, in some measure, change the accustomed channels of commerce. It would for some time, no doubt, lessen in some degree the amount of our revenue, but by no means to the terrific amount suggested by some gentlemen who have spoken in opposition to the resolution. Our merchants, possessed as they are of a sufficient number of ships and a competent

amount of capital will, in the pursuit of their own interest, find a sufficient supply of manufactures from other countries, and thereby encourage a competition with the manufacturers of Britain; and even if for a time they fail in doing this, they will procure British goods from other countries, to which they will be transmitted at a considerable loss to the owners, so that our necessary wants will be supplied and our revenue suffer very little defalcation, and our own manufactures be encouraged. This is, however, supposing the worst that may happen—it is supposing that Britain will have so much lost all respect to her own interest as to persevere in her aggressions contrary to her interest; this she has rarely heretofore done, and her relief is fully in her own power. Let her only act as before last August.

Mr. F. said that, after all, the question is not so much whether we shall adopt the resolution now before the House, as whether we shall agree to any measure of any kind to strengthen the hands of the Executive in negotiating with Britain. That we should do so he considered as absolutely necessary; but the choice of measures would be governed by the view of their expediency, all things considered. What will be the consequence of neglecting to do anything? To answer this question, let us examine how the case stands.

We are officially informed that the President has made every effort in his power to negotiate. Failing in the object of these efforts, he has officially laid the case before Congress, which is exclusively vested with competent powers to prescribe rules in such an emergency. They only have the Constitutional power of declaring war, if that is expedient; but as the intention of declaring war is equally repugnant to the wishes of those who support the resolution as it is to those who oppose it, and as the British Treaty secures to both nations the right of prohibiting importation, it is evident that however the aggressions complained of might justify war, it is the wish of all the members to use every other practicable method to procure redress rather than resort to war; but if no measures are adopted to induce Great Britain to enter into a reasonable negotiation, it had been much better that the President's Message and the documents accompanying it had never been referred to this committee, and that the resolution before us, or any other resolution with a view to the same object, had never been discussed; because, the subject being once discussed, and no measures agreed to calculated to procure redress, Britain will be justified in believing that Congress approve of what the President considered as aggressions, especially as some of the arguments on this floor were not only an apology but a vindication of the adjudications of the British courts, if not of the impressments.

After making some apology for detaining the House so long, Mr. F. requested permission to make a few observations on a subject which, though it had no relation to the question before the House, yet it had more than once been introduced by the gentleman from Virginia, without being called to order. Every member knows that some subjects had been discussed with closed doors early in the session, and that the confidential obligation was not yet removed. The gentleman who introduced the subject, (in language not very decorous) knew that it had no connexion with the question before the House. He would not pretend to arraign the gentleman's motives, but the evident tendency was to excite an unnecessary alarm in the minds of the citizens. Be his intention what it would, it it would not very extensively have that effect. All well-informed citizens knew that the House had a Constitutional authority to close the doors, when the subject in their opinion required secrecy; and every member experienced in public bodies knew, that even an allusion to what was discussed with closed doors was never permitted, however innocently or inadvertently it was done, without an immediate call to order; and for a very good reason, because it could not be replied to. Mr. F. said he had been many years a member of public bodies, and often sat with closed doors, but never before this occasion observed such allusions made to it in public debate without a check. It is well known that the members never, for their own sakes, wish to sit with closed doors. They know that when they do so, some important restraints in favor of decency and order are wanting.

The gentleman from Virginia and other members who sat in the seventh Congress know that a subject was discussed and decided with closed doors, in conducting which that gentleman was a principal agent. The injunction of secrecy was not taken off till after the meeting of the first session of the next Congress, nor even yet is it wholly removed. The gentleman from Virginia knows this, and knows that it has never been complained of, nor in this manner introduced on the floor. It is well known that (with very few exceptions, such as laying an embargo, &c.) the doors are never closed except on foreign affairs, communicated in confidence by the President; that even these are not kept secret on account of our own citizens, but on account of our foreign relations—not only on account of the nation that may happen to be the subject of the communication, but on account of other nations who might interfere to our injury—and sometimes on account of the agent there, from whom important information may have been received. This, the gentleman from Virginia knows well. It is vain, by any such arts, to persuade the citizens that the majority of their representatives would knowingly betray their interests when the doors were closed. Their constituents have a much better security than open doors, or even oaths. They have a common interest with their representatives, and their representatives with them. They could not betray the interests of their constituents without betraying their own. Mr. F. said he was a farmer; his sons and his sons-in-law were farmers; and his grandchildren most probably would be farmers; and his constituents were as generally so as in any other district in the Union; and when he looked around him, he believed the majority of the members depended on agriculture also. The citizens knew this, and therefore knew that the members could

not injure their interest without injuring the interest of themselves and their posterity.

Mr. Early.—Mr. Chairman, it is my intention, in submitting to the Committee those observations which I am about to make, to confine myself entirely to the merits of the question under consideration.

Upon this, as upon another recent occasion, our attention has been summoned at the outset of the discussion to what gentlemen choose to call the spirit of the nation. We are told, that this spirit had been awakened by the events which led to the introduction of the resolution upon the table, and had called upon us in a loud voice, to adopt energetic measures for the vindication of our national honor, and for the protection of our national rights. The facts, sir, are incorrectly represented. The people of this nation, indentified with the Government of the nation, will at all times stand ready to support that Government with the energies of the nation, when a proper occasion shall present itself. Governed by persons of their own immediate choice, they will confidently repose in such persons the determination of that question. Does it follow, that because they have pledged to us the support of the national energies, if in our judgment they are become necessary, that therefore we are called upon to take a course which may render them necessary? It is true that the apprehensions of the public have been excited, lest a period had arrived in which it would be necessary to put to risk the national peace. Yes, sir, it is too true that alarm has been spread through every quarter of the Union. But by what means, and from what sources? It has been by the incorrect views of the nature and state of the interests at stake, with which our public prints have teemed. It has been by magnifying representations of the injuries really sustained on the one part, and on the other, by imposing calculations as to the sacrifices demanded to effect redress. These incorrect views of the subject are believed to have been the offspring of mercantile influence. It is from this source, by these means, and through these channels, that the public apprehension has been roused upon this occasion. But it is our duty to unmask the influence which has produced the evil, and to let the nation know the true state of the question now to be decided. To let them understand what the injuries are which we are called upon to redress, and the nature and extent of the interests which we are called upon to sacrifice in effecting it.

We have been asked to leave out of view in the discussion certain distinctions which exist in the country. These distinctions are of two kinds. First, of classes, agricultural and commercial, and secondly, distinctions arising from geographical position. As to the first: we are told that the agriculture and commerce of a nation, are necessarily dependent upon each other, and therefore the prosperity of both should be equally the object of care to the Government.

Whilst I am willing to acknowledge the correctness of this reasoning in its fullest extent, as applied to the natural and usual trade of a country, to the foreign and domestic trade of consumption; I am very far from being prepared to admit it as applied to the carrying trade. It is believed that however confidently mercantile men pronounce upon this subject, however well they may succeed in convincing each other, by a train of reasoning which takes the circuit of the world before it draws to a conclusion, yet upon minds uninterested in the issue they fail to produce conviction. For myself I very much doubt whether the diversion of our navigation and capital into an unnatural and factitious channel, does not, by diminishing the competition in our own markets, injure the sale and reduce the price of the produce of the country. This idea, sir, is advanced with diffidence, as indeed are those which I may at any time advance upon the probable operation of commercial arrangements. But, Mr. Chairman, do not gentlemen ask too much when they require of us to jeopardize the whole agricultural interest of the nation for the sake of that which in our opinion produces no benefit to that interest? Is it not expecting too much of us to suppose that we will consent to surrender the certainty of good markets and high prices for our produce, and brave the danger of a total stagnation, for the purpose of embarking in a hazardous contest with Great Britain for the carrying trade? Sir, it is too much; gentlemen ought not, cannot expect it. They who are so eagle-eyed, so sensibly alive to whatever concerns themselves, must expect that we will not shut our eyes upon matters so important to ourselves, and to those whose trusts are confided to our fidelity.

We are also asked to leave out of view geographical distinctions. In this Mr. Chairman, gentlemen expect impossibilities; they require us to surrender the principles of self-preservation; to strip ourselves of the leading stimulus to human action. To this requisition we can less accede than to the former. Look to the document from the Treasury which lies before us. It will there be found that the whole amount of domestic produce exported to Great Britain and her dependencies for the year 1802, was $18,727,000; that of this amount, the articles of cotton, tobacco, rice, tar, pitch, and rosin, which are exclusively the product of the southern section of the Union, gave the sum of $8,450,000. For the year 1803, the whole amount exported to the same places was $22,700,000; of which $11,000,000, arose from the articles above enumerated. For the year 1804, the respective amounts were $19,000,000, and $9,400,000. The average of the whole amount for the three years was $20,200,000; the average of the amount upon the enumerated articles for the same time was $9,900,000, of which last amount, the sum of $8,800,000 arose from the articles of cotton and tobacco alone.

Thus, sir, stands the relative amount of the exports to Great Britain and her dependencies of the products of the southern section of the United States and those of the whole Union; and in this relative proportion of course must their different interests be affected by the adoption of the resolution.

Mr. Chairman, there is another view of the operation of the resolution, which we cannot avoid to press upon the attention of the Committee. From the same document it appears that the average amount of the tobacco for the three years, 1802, 1803, and 1804, exported from the United States, was $6,140,000; that of this amount, the proportion of $3,220,000 was exported to Great Britain. That of the article of cotton, the average amount exported for the same three years was $6.970,000, of which $5,630,000, was exported to Great Britain.

Do not gentlemen expect too much when they ask us to shut our eyes upon these facts? Do they not require of us to abandon the best interests of those we represent? And should we not most shamefully betray the sacred trust reposed in us, by acquiescence on our part? The gentleman from Pennsylvania (Mr. Gregg) who moved the resolution, ought least of all to expect this surrender at our hands, when it is recollected how little sacrifice will be imposed upon the agricultural interest of his own State, by the adoption of the proposed measure. The articles of wheat and flour are not subjects of export to Great Britain, unless in times of famine or extreme scarcity.

But the resolution, we are told, only prohibits importation from Great Britain, leaving the exportations from this country to that as they now stand. Very true, sir; this is the operation of the resolution itself, and if it were to produce no reaction, all might end well. But will Great Britain not retaliate? Is she that submissive animal, which would crouch to any hand that might inflict a blow? No, this is not urged; but it seems her manufacturers are so dependent upon us as consumers, and the manufacturing interest in that country so numerous and so powerful, that the British Ministry could not persist in any system of retaliation. The case of the American Revolution has been cited, and extracts from an author of credit read to show the early resistance made by the manufacturers of that country against a prosecution of the war. This citation, as well as the whole history of the war, are unfortunate arguments for those who use them. What, sir, was the fact? Did the manufacturers prevail in their opposition? They did not. The war continued seven years in spite of them. Yes, sir, notwithstanding their most spirited resistance, an unpopular war, conducted by a weak Administration against a spirited and powerful opposition in Parliament, lasted seven years. And what at last brought it to a close? The resistance of the manufacturing interest? No, sir, the peace was produced by an accumulation of more than one hundred millions to her public debt; by the loss of armies; by the universal conviction of the impracticability of accomplishing their purpose. Great Britain, sir, has never shown herself of a temper to yield to the pressure of circumstances. Such a temper is the least characteristic feature in the conduct of her present Minister. Upon what ground then do gentlemen found their hopes? Will a contest with this country be unpopular in England? It will not. The principle for which she contends is a necessary agent in the prosecution of the continental war. She is now fighting for her existence as a nation. The only vulnerable part of her enemy is the commerce of neutrals between that enemy and his possessions. Her opposition to this commerce is founded deep in the struggle she is now making for her own preservation. War with us would be to her a minor evil to the surrender of the ground she has taken. Look at the late celebrated treatise so often cited in this debate. You see there this idea in every page. With this impression firmly riveted upon the minds of the people of the British nation, you have nothing to hope from the popularity of your cause. Have you any ground of hope from the expense of a war to her? It would not cost her a single cent. No man believes she would think of landing an army upon these shores. The war would be on commerce. The high seas would be the theatre of hostilities. Look at her present naval establishment. What is there now to give employment to it? Nothing. The fleets of her enemies are gone—they are annihilated. Your commerce in every sea would enrich her sailors and naval officers. Your revenue would be cut up by the roots, your credit would sink, and your public debt increase beyond calculation. Upon gentlemen's own premises, then, I perceive no hope that we would reduce Great Britain to terms by the adoption of the resolution. But, sir, their premises are not well founded. The manufactures of that country would find their way into this in spite of your resolution. The gentleman from Virginia pointed out to you yesterday the neutral channels through which they would be imported. But, sir, it is not through neutral channels alone, that we should receive them. Are no conclusions to be drawn applicable to this question, from the remarkable circumstance that the French soldiery are even at the present day clad with British woollens? Are no conclusions to be drawn from the act of the British Parliament passed last summer, establishing certain free ports in the West Indies, and especially licensing a trade between them and the ports of her enemy? These things show the disposition of the British nation in relation to any trade necessary to give vent to the surplus manufacture or product of herself and her dependencies. Will it be said that any attempts at a similar conduct in relation to us, might be counteracted by ourselves? Those who are in the habit of trade, and those who understand the evasions which are habitual to the unprincipled part of the mercantile world, tell us no.

The measure contemplated would therefore be weak and inefficient as it would respect Great Britain, and as to ourselves, oppressive and ruinous in the increase of price we should pay for her manufactures.)

But, Mr. Chairman, the impressment of American seamen by British cruisers, is held out as one of the objects of redress in the contemplated measure. This, sir, is a grievance which no man will attempt to deny or palliate. It is an evil calling so imperiously for redress, that almost any sacri-

fice ought to be made, provided it would answer the purpose. But do gentlemen, can they seriously believe that this resolution will produce the desired effect? Can it be for a moment supposed, that a measure at best weak and inefficient—a measure which in its operation must press with fourfold weight upon ourselves, will produce any serious diversion in our favor, by increasing the number of objects, of which you intend to compel the surrender on the part of your adversary? My fear is that it would only make bad worse, and that instead of 1,500 seamen impressed on board British ships of war, we should have as many thousand made captives, and compelled to fight against their own country.

The resolution under consideration proposes an insurance upon terms vastly disadvantageous. The premium and the risk are out of all proportion. What, sir, is the premium? The sum of $800,000, the amount of revenue estimated to accrue from the carrying trade. What is the risk? The almost certain sacrifice of the agricultural interest of the nation—the almost certain event of a war, and the consequent risk of the destruction of the Constitution and liberties of this nation. For one I cannot underwrite such a policy. I will not pledge my constituents to insure upon such terms.

But we are asked, must the carrying trade be surrendered? In return we ask, must the agricultural interest of the country be sacrificed to preserve it? Must we plunge into a war to preserve it? Must we put to risk the Constitution and liberties of the nation to preserve it?

Mr. Chairman, this nation is at peace. We are happy in the enjoyment of our rights at home. We are prosperous beyond the example of any other people in the world. We enjoy the fruits of our own industry, abundantly supplied with all the comforts of life, and increasing rapidly in wealth by good markets for our produce. The merchants receive a profit upon their trade, coextensive with the highest wishes of rational men, and when confined to fair neutral commerce, pursue their occupations with security. Is this a state of things which should be put to the risk of chance for such a boon as the carrying trade? Is this a state of things which should be jeopardized for the profit of a few merchants in a few mercantile towns?

It is known to this House that a negotiation is depending with the Court of St. James upon the subject-matter of complaint. It is also known that at the date of our last despatches, hopes were entertained by our Minister there, that the discussions would assume a feature more favorable than they had heretofore exhibited. Whilst this negotiation is depending, and the issue in total uncertainty, does it comport with even common prudence to be taking measures, which would infallibly blow it up?

Again, sir, I beseech gentlemen to turn their eyes to the continent. Let them consider the magnitude of the events there passing, in such rapid succession, as not to suffer the mind to pause and reflect upon their even probable bearing. Those events must lead to a state of things, which it is not within human sagacity to foresee. That state of things must have an important bearing upon the relations of this country. The war, from the spirit with which it is prosecuted, must either have an early termination, or an entire new direction. If terminated, there is an end of the present difficulties. If a new direction is given to it, what alteration may thereby be produced in the situation of our relations, cannot be even divined. Mr. Chairman, I put it home seriously to gentlemen, whether this is a time—whether such is a situation—whether these are the circumstances in which to take a step which must inevitably lead to a disruption of all the relations between this country and Great Britain? I am sure it is not prudent—I believe it would be the height of madness.

We have been told that the measure could give no just cause of offence. Is it possible that gentlemen who understand so well the temper of the nations of Europe, should place any reliance upon that idea? Do not gentlemen know that the justice of the cause is the last inquiry the governments there make? And can it be expected that Great Britain would make the inquiry at all in a case, where she considers her national existence at stake; and when she has already thrown herself upon the plea of necessity for the very conduct of which we now complain!

Such are the views of the subject which I have thought it proper to take. They are views which come home to the actual condition of the people of this nation. Let that people fairly understand what the sacrifices are, which we are asked to make for the purpose of effecting redress. And let them then decide this question. Gentlemen cannot but know what that decision would be—it would be against their resolution.

For myself, were I to vote in favor of the resolution, I know not with what kind of sensations I should meet my constituents. Upon my return into the bosom of those who sent me here, instead of being hailed with affectionate congratulation, I should expect to meet their reproach, and should add to it the most bitter of all reflections, the consciousness of having deserved it.

Mr. McCreery—Mr. Chairman: I am extremely sorry that the gentleman from Georgia, as well as many others who have spoken on this question, should entertain an idea of the carrying trade so exceedingly erroneous as it respects us. Do gentlemen suppose that every American vessel which has coffee, sugar, or any other West Indian produce on board is engaged in what is called the carrying trade? If our vessels engaged in the West India trade, and which carry out American produce, together with some European goods, sell, as they often do, for double the cost, and bring back much more West India produce than can be consumed at home, what must become of the surplus? We must certainly be permitted to export it; and although it is not the produce of our soil, it undeniably is of our industry, and therefore as much entitled to protection as the other.

But we are told, sir, that our merchants are

covering belligerent property, and to prove this, a celebrated pamphlet called "War in Disguise," is now quoted on this floor as gospel. For my part, sir, I consider that production entirely apocryphal; but, sir, here is a production which I always consider orthodox—here is the report of our Secretary of the Treasury; this I have examined, and what does it say? If, by his report, we shall find that the articles we import from the West Indies do not exceed in value the goods our merchants send thither, where will the author of "War in Disguise" find this so much talked of covered property?

According to this report it appears that in 1804 we imported from the West Indies in

Molasses, gallons 5,747,256, at 25 cents cost there		$1,436,814
Pimento, lbs. 663,648, at 10 cents		66,364
Cocoa, lbs. 1,481,564, at 12 cents		177,787
Coffee, lbs. 46,768,089, at 18 cents		8,407,456
Sugar, 113,434,409 lbs., or 1,012,464 cwt., at $7		7,087,248
Indigo, 282,503 lbs., at $1 25		353,129
Cotton, 2,056,764 lbs., at 20 cents		411,340
Rum, 6,862,347 gallons, at 50 cents		3,431,173
		21,371,311

And we exported to the West Indies in the same year, viz:

In American produce to the amount of	$11,266,163	
Foreign do.	4,587,620	
	15,853,783	
Freight and insurance 33⅓	5,284,294	
		21,139,377
		231,934

I hold it fair to include freight and insurance, for although a man may send his own vessel, and stand his own underwriter, he will always make these calculations before he undertakes an expedition; and considering the nature of the trade we have been carrying on there, this allowance is very moderate. And now, sir, let me ask, what is there left of masked property for the author of "War in Disguise," and my Lord Collingwood? Why, truly, the mighty sum of $231.934!

But, sir, independent of this statement, where is this mighty sum about which so much fuss is made, that we are screening from Great Britain? Why, in France, no doubt! And what does it amount to? I will tell you, sir. Our whole exports to that nation in 1804, consisting of our own and foreign produce, amounted to $8,800,000. Now, sir, I do suppose that most of the coffee we have sent thither came to us from St. Domingo. I would therefore ask the author of "War in Disguise," or any one else, whether they really think the black nobility of St. Domingo have been sending their produce, masked under our flag, to supply their friends in France? The whole of this allegation is too absurd to merit a serious refutation. The fact is, that of this 8,800,000, we receive payment in French goods to the amount of about 1,800,000, and the residue, together with the surplus of our other exports to Europe, is remitted to Great Britain to make up the balance of 12,000,000, which our trade with her annually subjects us to. Now, sir, who has the best right to complain of us in this business? Certainly not England.

We are also told that if this resolution passes, our exports to Great Britain will be materially affected. Although the resolution does not go to prevent us from sending our produce thither, I will examine that part of the argument of the gentleman from Georgia respecting tobacco.

The whole of our export of that article in 1804, was 83,000 hhds., and if you will take your pen and calculate the population where this tobacco is consumed, you will find they amount to about eighty-three millions, which gives to Great Britain the consumption of about 14 or 15,000 hhds. Now, sir, you will find that in 1803 we exported to that nation 50,000 hhds., and on an average we send them near 40,000 hhds. annually. What is the consequence? That by sending more than they can consume, the price is kept below its intrinsic value; whereas, were we wise enough to send them no more than they do consume, the price would be always good: for it is an axiom in trade, that when the medium of consumption is exceeded, the price must fall; whereas, if the supply is deficient, it occasions a competition in the market, which never fails to raise the article above its real value. It will therefore be highly advantageous to the tobacco planter that less of it goes to Great Britain.

On the subject of our revenue, we are often exultingly told that it comes exclusively off the farmer and planter, who are the great consumers. Let us examine this question.

Our imports amounted in 1804 to about eighty millions, whereof fifty-six millions were re-exported. Of the remaining forty-four, how much is consumed by the farmer and planter? I compute the population of our seaports to be about one-eighth of that of the United States, and from the luxury and waste, the extraordinary consumption of liquors, tea, coffee, sugar, &c., &c., and even of salt, of which I do believe one ship commonly consumes as much as ten farmers—that these towns consume one-third; which leaves thirty millions out of sixty to the farmer and planter.

As to the article of cotton, it would appear that of thirty-five millions exported, about twenty-five go to Great Britain; and although I do not know accurately, I believe that part is re-exported the same as imported; but if not, it is well known that Great Britain must and will have it; and when it is considered that they at this moment command Spanish wool and French claret, they will find little difficulty in procuring our cotton.

I thought it incumbent on me to make these few remarks to the Committee, because although they may have occurred to some, I believe they have not to all.

Mr. Elmer.—Mr. Chairman, I will rise to make

a few observations on the subject now under consideration, but I will not detain the Committee more than a few minutes. The resolution on your table is denounced by gentlemen as a war measure, but I cannot discern its tendency to that point. It is acknowledged on all hands that we have received from Great Britain repeated and grievous injuries. The whole American people are alarmed, and their feelings excited by the reiterated acts of oppression and insult. A gentleman from Georgia has told you that our constituents have not dictated any measures; it is true, they have not dictated, but they have complained, and they look up to the collected wisdom of Congress to devise a remedy for the evils under which they are laboring. This is the business upon which we are in part assembled, and it is the most important to which our attention will be called; we should therefore engage in it with all that seriousness and impartiality which its importance demands. Every member should divest himself of all national and party prejudice when he decides on a question in which the interest of his country is so deeply concerned. And can we, as men and as patriots, tamely submit to have our seamen impressed, and forced to fight the battles of a foreign nation, and to have our commerce embarrassed, interrupted, and perplexed, and the property of our citizens engaged therein condemned and made the property of the unjust captors? I trust not.

But we are told that peace is of all things most desirable, and that by stopping importation from Great Britain we shall provoke the wrath of that nation, and plunge our country into a most destructive warfare. But, sir, is this a true state of the case? Will this measure justify Great Britain in retaliating upon us in any hostile acts? Certainly not. I have an unquestionable right to employ or not to employ any mechanic or manufacturer, as my interest or convenience shall direct; and a nation has an equal right to trade or not to trade with another nation, as it may suit their policy so to do. We do not thereby infringe on any of their perfect rights; nay, I do not know that by refusing to receive the products of a nation we do thereby violate any of her imperfect rights. And let it be remembered, that no nation is justified in making war upon another, unless some of her perfect rights are invaded. Nor is every accidental violation of a perfect right considered as a just cause of war. The injury must be repeated, and every other mode of redress exhausted, or at least become extremely precarious, before a nation can justify herself in resorting to force. We have suffered an invasion of a national right, but we only wish to have recourse to peaceable means of redress—to withhold in a degree our intercourse with the nation from whom we have received the injury. If we adopt the resolution, Great Britain will have no pretext for making war. She will know the precise terms upon which she can regain our trade and friendly intercourse. The preamble will direct her inquiries, and lead her to the goal whenever she desires it. She will only have to cease from doing evil—to respect our rights—to do as she wishes to be done by—and an amicable settlement will immediately ensue.

We are, however, told that Great Britain will have no respect to the law of nature, the law of nations, or the principles of justice; that she will measure the rule of right only by the length of her sword; and that she is all-powerful by sea, and able to crush us before her. This is a distressing picture, indeed; but really I do not know that she has become so superlatively corrupt, and I do not believe she has. I trust she has some sense of right and wrong left, and some regard to the opinions of other nations. If I thought otherwise, I should be disposed to break off all intercourse of every kind, and withdraw from the touch of a being so highly polluted. And is her power irresistible? I have had some experience of her power, and I see no just cause to be alarmed. The people of the United States have no such mighty reason to fear her wrath. They know, from experience, her power is not irresistible. They have met it—they have repelled it. I should, indeed, fear to give her just cause of offence, and Congress ought to abstain from doing any improper or unjust act towards her. We ought to do nothing but what we could justify to ourselves, to our God, and to all the nations of the earth. With this confidence, we may safely trust the consequences to the direction of Heaven. It is a sound maxim, that it is better to endure the greatest inconveniences and evils than submit to reiterated wrongs and insults. We have suffered repeated wrongs. The measure before us is justifiable upon every principle of the law of nature or of nations. It is only necessary, then, to inquire whether it is wise and politic to adopt it in the present form. In this inquiry, all our discretion, all our wisdom, and all our patriotism, unfettered by prejudice or partiality, should be called in to our aid. Will the measure react upon Great Britain so as to induce her to relinquish her unjust claim to the capture of our ships and release of our seamen, or will it not? Or will it produce a reaction upon ourselves, which will be felt most sensibly by our citizens, and by our Government? These are the important and the only questions which we have to consider; and it is our duty to consider them fully, with all their bearings and tendencies. I confess I am not without doubts on the subject. That it will give us some shock, cannot rationally be questioned. Our revenue will doubtless be affected in some degree, and its clear amount diminished, at least for a time. Inconveniences will arise from the want of some of those articles of consumption which habit has rendered agreeable and useful; but these evils may and will be cheerfully borne, if they will tend to produce a great national good, and free our commerce from those injuries which it has sustained and continues to sustain from the depredations of Great Britain. If the manufactures of that nation are as important to her prosperity and strength as some of our wisest and best informed statesmen have represented, she will—she must—yield to our equitable demand, or bring upon herself an accumulated weight of distress.

Some gentlemen have said that this is an improper time to react upon Great Britain; that she is now contending with the most powerful despot on earth for her liberties, and for her very existence; that she is now doing that for the freedom of nations which revolutionary France was doing some years ago; and that her sensibility will be excited by every measure which may have a tendency to affect and injure her in her struggle. I confess it would be ungenerous to press her unreasonably at this time, but surely it is not improper to call upon her in any way we think politic for justice, and the free exercise of our independent rights. These we are entitled to, and these she ought to yield us, or she cannot expect our friendship; and this is the most suitable time to call loudly upon her for them. She will, I trust—she must—give up her unjust claims, if we persist in this measure for any considerable time, or the consequences will be more injurious to her than any advantage her present conduct gives her.

If, however, the resolution now under consideration should be thought going too far, let us take up one less extensive and less energetic. A high degree of unanimity is extremely desirable on this important occasion. I am willing to meet gentlemen on any ground which may be thought tenable. If a total non-importation is not advisable, let us resort to a partial one, and adopt a measure embracing the object contemplated by the resolution offered by the gentleman from Maryland. We certainly ought, and we must, do something. Your table, Mr. Chairman, is loaded with complaints from all quarters of grievances and insults too intolerable to be borne by any people. It is true, the gentleman from Georgia has said the citizens of this country have a very imperfect and incorrect view of this subject; and that they have been imposed upon and misinformed by merchants, whose cupidity has led them to sound the alarm; and that, when they shall be correctly informed, and come to have true ideas on the subject of our differences with Great Britain, not one in ten will be found in favor of any measure in the form of the proposition on your table. But I trust the more the people are informed on the subject of their complaints, the louder and the more impressive will they become. It is the injuries they observe and feel, not the representations of interested men, that excite in them the sentiments they have expressed. Under these circumstances, and amidst the variety of complaints, shall we remain quiet? Shall we continue in session four or five months, at the public expense, remaining deaf to the cries of our citizens and depart without affording them any relief? I hope not. We cannot expect to enjoy the privileges and advantages of our independence unless we firmly and resolutely maintain them. As an independent nation, we should feel no partialities towards any of the European nations, but treat them all with justice and humanity, meeting their friendship by returns of friendly actions, and repelling their aggressions by lenient but manly firmness.

Much pains has been taken to represent our complaints as trivial and incapable of redress. It has been said that we are injured only in our carrying trade, which has been represented as of little consequence, and not worth the expense necessary to defend it. This appears to be the idea which the gentlemen from Virginia and Georgia entertain of the business; but the subject presents itself to me in a very different complexion. To me it appears far more important to the United States than they represent. I consider it highly interesting not only to our merchants, but to our agricultural citizens. If we should abandon this trade totally, our wheat, corn, beef, pork, and other products of the Middle States, would shortly become a drug, and the price of them be greatly diminished in our market towns. Perhaps the Southern States might find a market in the ports of Great Britain for their cotton and tobacco: but if the carrying trade should be relinquished, the best market for those other staple productions of our country would be shut to us. By carrying these commodities to a foreign market, there exchanging them for the productions of that country, and after bringing them to our ports, exporting the surplus of them as well as some of our own productions to another foreign country—by which trade we are enabled as well to sell our surplus produce, as to pay for the manufactures of Great Britain which we consume. Further, would it not be highly degrading to our national character to relinquish so just and advantageous a trade to justify the whim, interest, or caprice of any nation? If we permit Great Britain to substantiate her present doctrines, she will most assuredly extend in her demands and the strictness of her doctrines, until she leaves us no trade worth defending, neither circuitous nor direct. But shall we tamely submit, without one effort to escape this degradation? Shall we not rather do what is in our power to ward off the evils that surround us? The gentleman from Georgia has said that he should be ashamed to meet his constituents if he should give his assent to the proposition before us. But whatever may be the sentiments of the people of the South, I believe those to the Eastward would be dissatisfied if we should rise without taking any measures upon this momentous subject. They look for something from our hands, and I hope we shall not rise until we have devised, and put in operation some plan whereby we may redress the grievances under which our citizens groan, and of which they have so loudly complained.

The Committee now rose, and had leave to sit again.

Saturday, March 8.

Mr. Cook submitted a resolution, for the continuance of the duty of two and a half per cent. on goods chargeable with ad-valorem duties, commonly called the Mediterranean fund, on the condition that the same be exclusively applied to the augmentation and support of the naval force, and the protection of our ports and harbors against insults and injuries.—Ordered to lie on the table.

The Speaker laid before the House a letter

from the Secretary of State, accompanying statements of applications made to the British Government, in cases of impressment of American seamen, prepared in obedience of a resolution of the House, of the sixth of January last; which were read, and referred to the consideration of a Committee of the whole House on the state of the Union. The report is as follows:

DEPARTMENT OF STATE, *March* 5, 1806.

The Secretary of State, in compliance with the order of the House of Representatives of the 16th of January, directing him to lay before it "a return of the number of American seamen who have been impressed or detained by the ships of war or privateers of Great Britain, whose names have been reported to the Department of State, since the statement was made to the House, at the last session of Congress; mentioning the names of the persons impressed, with the names of the ships or vessels by which they were impressed, and the time of the impressment; together with any facts and circumstances in relation to the same, which may have been reported to him: stating also the whole number of American seamen impressed, from the commencement of the present war in Europe, and including in a separate column the number of passengers, if any, who may have been taken out of American vessels coming to the United States from Europe," has the honor to transmit herewith the names of nine hundred and thirteen persons who appear to have been impressed from American vessels; and whose names have been reported to the Department of State since the last statement was made to Congress; together with a discrimination in the particulars required by the order, except as hereafter mentioned.

The aggregate number of impressments into the British service, the commencement of the present war in Europe, is found to be two thousand two hundred and seventy-three.

It is not easy to distinguish, with accuracy, how many of these persons were really not citizens of the United States, but the column of remarks, added to the list in lieu of this discrimination, will exhibit some ground for judging of the fact.

It has not been deemed necessary to make a separate column for impressed passengers, as this description of persons have been reported to have been impressed but in the few cases subjoined.

It is proper to observe, that a small part only of the period since the last statement there was an agent for seamen for the Leeward islands at Jamaica; the gentleman who then held the charge having resigned it, and another, who had been appointed to succeed him, having declined accepting it. The agent appointed for Antigua having been absent from that island since his appointment in May last, no returns have been received from the Windward islands. From these circumstances it is very probable, that many impressments have been made in the West Indian seas, which, though of recent date, are not included in the present report.

All which is respectfully submitted.

JAMES MADISON.

A memorial of the Corporation of Georgetown, in the District of Columbia, was presented to the House and read, praying that the Levy Court of the county of Washington may be authorized to levy and collect a tax on taxable property within the City of Washington, for the purpose therein mentioned.—Refered to the committee appointed, on the fifth instant, on the petition of Robert Brent and others, Commissioners of the Levy Court, for the county of Washington.

IMPORTATION OF BRITISH GOODS.

The House again resolved itself into a Committee of the Whole on the state of the Union, on Mr. GREGG'S resolution.

Mr. ELLIOT.—To replace the present question upon the ground which it originally occupied, to examine it with a view to its real merits, and its merits alone, however hopeless might be the task, would certainly be a very useful one. It has indeed been considered as indicative of a species of madness to attempt to stem a torrent which is known to be irresistible; but it is said that there is sometimes method in madness, and there is always honor in a gallant death in a good cause. It is in vain to conceal the fact that this resolution is devoted to destruction; but its supporters owe something to their own feelings, and they owe much more to their country. It will probably be admitted, Mr. Chairman, on both sides of the House—for it will not be pretended that there are more than two sides upon the present occasion, whatever confusion of parties may sometimes appear to exist upon this floor—that a more interesting crisis of our national concerns than the present, in reference to foreign relations, has not existed since the adoption of the present Constitution. Some of the best interests of our country are at stake. But it is not believed by all that our Constitution and liberties are involved in any possible issue of this question. Before we even had a Constitution, while the elements of our political system were almost without form, and void, the liberties of this people were safe in their own hands, and trumphant over the power of that nation whose vengeance, it is said, we shall provoke by the adoption of this resolution. Our Constitution and liberties are safe. The scene is not so awful, but it is impressive. I repeat it, sir, we owe much to our country. The friends of the resolution are prepared for the fate that awaits it; but they have taken their ground from reflection, and they cannot, they will not abandon it against conviction, until overpowered, as indubitably they will be, in the contest.

Two classes of arguments are marshalled in opposition to the motion, one of which is addressed to our hopes, and the other to our fears. To our hopes—of what? Of honorable and successful negotiation, if this measure be abandoned. Great Britain will do us justice if we ask it once more. On what is this hope founded? Let us not go too far back. It was said in ancient times to be dangerous, and doubtless it is dangerous still, to rake open the ashes of a flame not yet extinguished. Do our hopes repose upon events of recent date? Upon the long-continued impressment into her naval service of many of our useful citizens, citizens entitled to the same rights with ourselves, except that they are not delegated to represent the people within these walls? An outrage which no nation but Great Britain practices, and to which no nation but America submits. Upon the constant interpolation of new principles, destructive of our neutral rights, into the venerable code of the laws of nature and nations, or rather the systematic perversion and prostration, to our serious injury, of some of the most sacred principles of those laws. We can soon dismiss this branch of the subject. Coolly and deliberately systematic, severe and unbending, has the injurious conduct of Great Britain toward us long been. Unconnected with strong measures on our part we can discern no reasonable ground for hopes so flattering. Prospects so delusive have no charms for the supporters of the resolution. We repose no confidence upon the justice and liberality of Great Britain, further than as those virtues may correspond with her interest. To that we wish to make an appeal. With myself it has long been a settled opinion, that she would go to war with us whenever it should be her interest to do so. We wish for peace, we raise our voices for negotiation, but for negotiation sustained by measures of an energetic and commanding character.

The other class of arguments is addressed exclusively, permit me, sir, to say exclusively, to our fears. Gentlemen have taken a gloomy view, indeed, of this part of the subject. While we can hope nothing, we must fear everything from the adoption of the measure. We shall injure ourselves greatly, and Great Britain not at all; we shall inflict a deep and fatal wound upon the agriculture of our country; we shall sacrifice the interests of the people of the Southern portion of the Union, by provoking retaliation, to the preclusion of the only market for their staple commodities, besides subjecting them to the deprivation of foreign manufactures without which they cannot subsist; we shall destroy the most productive source of the national revenue; we cannot, after all, support the system; we must abandon it with disgrace, or persist in it to our destruction. It will even produce war with all its horrors, and the destruction of the Constitution. It is at one moment a weak measure, at another a war measure, and sometimes both. Do we get over or go around these objections? Do we not state them in their full force, and meet them fairly? Formidable as they are, we shall even endeavor to repel them. One of those great men of whom modern times have been so justly proud, a writer whose rare combination of the powers of mind, render him at once eloquent and sagacious, has advanced a principle which forms an excellent corner stone for the superstructure of argument on which the friends of the resolution rely. Peace is the natural effect of trade. Two nations in habits of commercial intercourse have reciprocal interests; if one has an interest in buying, the other has an interest in selling; and their mutual wants and interests cement their union. The quotation is not verbal, but substantial; it is from memory. Had the immortal author of the Spirit of Laws been gifted with prophetic powers, he could not have described with more accuracy the relative situation of Great Britain and the United States at the present time. To prove this let us turn to the interesting report of the Secretary of the Treasury, just laid upon our tables. Here is the annual amount of commerce between us and the dominions of Great Britain, calculated on an average for the last three years:

IMPORTS.

From the dominions of Great Britain in Europe, (Gibraltar excepted)	$27,400,000 00
From the British East Indies	3,530,000 00
From the Northern British colonies in America	540,000 00
From the British West Indies	4,570,000 00
	36,040,000 00

EXPORTS.

To Great Britain, in Europe, (Gibraltar excepted,) including clearances for England and a market, and flour and wheat, which are not permanent articles of exportation to Great Britain, and including foreign merchandise re-exported	$15,690,000 00
To the British East Indies	130,000 00
To the Northern British colonies	1,000,000 00
To the British West Indies	6,480,000 00
	23,300,000 00
Total imports	$36,040,000 00
Total exports	23,300,000 00
Balance against us	12,740,000 00
Our annual imports from all the world amount to	75,316,000 00
Of which we import from Great Britain	36,040,000 00
Balance from other countries	39,276,000 00

Almost half our imports, therefore, are from the British dominions, and the balance of trade is twelve millions of dollars against us. However inaccurate or inconclusive may be the ideas sometimes annexed to what is called the balance of trade, it is evident to common sense that the nation which sells to another every year manufactures of the value of twelve millions beyond the whole value of the productions of the other nation which she buys, must be carrying on, in that particular, a very profitable commerce. It was said by sages of old time, that, whoever Deity determined to destroy, he first made mad. Is Great Britain devoted by Providence to destruction? Can she be so mad, so outrageously and incurably mad, as to deprive herself forever of this very gainful commerce, in revenge for our exercising an unquestionable right, in consequence of the wrongs we suffer? Can her wise Government, for wise it certainly is, adopt so strange a course of conduct? But, after all, many are skeptical as to the injury to be done to Great Britain. I am not one of those who anticipate the ruin of her manufacturing establishments from this measure, and perhaps they will not even be paralyzed, but her manufactures will certainly diminish in price, and she will be under the necessity of searching out new channels of trade by which to pour

them off from her shores; this may be the extent of the injury, but it will be sufficiently serious to induce her to do us justice. It is contended that the injury to ourselves will be incalculable. I think it may easily be estimated. It will be nothing more, calculating upon the continuance of peace, than a small augmentation of the price of the articles which we shall obtain as substitutes for British goods, a temporary fall of the prices of some of our own productions, and a small decrease of the revenue. But it is thought by some that we must starve or freeze in six months without British commerce. Are the days of the Revolution so soon forgotten? Of our annual imports from Great Britain, of the value of about twenty-seven millions and a half of dollars, upward of twenty-six millions in value, is composed of goods paying duties ad valorem, and embracing, with inconsiderable exceptions, all the woollen, cotton, linen, silk, metal, earthen, glass, and paper manufactures, and only $1,340,000 of articles paying specific duties, and consisting principally of salt, steel, lead, nails, and porter. These, it is said, cannot be obtained elsewhere, particularly coarse woollens; and we shall be told that our habits have placed them upon the list of necessaries. But our habits can change. Our importations are chiefly composed of the luxuries and conveniences of apparel. If the public good require it, we may dispense with luxuries, or rather our conveniences may become luxuries, our necessaries conveniences. The truth, however, is, that we can obtain similar articles, or tolerable substitutes, on the continent of Europe. From Spain we can get silk handkerchiefs and velvets, as well as wines and fruits. From Portugal, not only fruits and oils, the product of that country and of Italy, but Lisbon salt in any quantity, wine, brandy, and some East India goods. From France, wrought silks, superfine broadcloths, calicoes, and chintzes, printed goods, linens, cambrics, lawns, lace, cotton fabrics, salt, writing paper, brandy, wines, and all the productions of Italy and the Levant. From Germany, Holland, and the north of Europe, several kinds of linen, cotton, and woollen manufactures, broadcloths, kerseymeres, coarse woollens, Russia sheeting, Silesian linens, cambrics, and lawns, damasks and diapers, glass, copper, and some iron manufactures, sheet copper, German steel, cordage, looking-glasses, calicoes, brass kettles, and many other articles. It is admitted that there are some woollen manufactures in Germany, and some cotton ones in France. Almost all the countries of the continent of Europe, if not now manufacturers for exportation, may become such, if circumstances make it for their interest; and such will be the effect of our refusing to import British productions. It will give a stimulus to the manufactures of other countries which will produce great effects; in the natural course of things, it will induce those countries to form new manufacturing establishments, and to extend and improve their old ones. Besides, it will induce them to sell to us a great part of what they now consider as necessaries of life, on account of the advance of price, and to replace them by importations from Great Britain at reduced prices. This increase of the price of articles for our own consumption will be a disadvantage, but we must bear a temporary and partial evil with a view to ultimate and general good.

The effect of this measure upon the revenue is a subject of great alarm; it is to render us bankrupt in fortune as well as reputation. The annual revenue of the United States, on an average of the three last years, has been $11,550,000, of which $5,432,000, are derived from our imports from the British dominions, and $6,118,000 from our imports from the rest of the world. This is certainly a very serious view of the subject; but we believe that this measure will not produce war, and of course that it will not paralyze our commerce. Our merchants will still be enterprising, and will have new inducements to enterprise; our flag will still wave on every sea and in every clime; from new sources and channels of commerce we shall derive articles similar to those now imported from Britain, or tolerable substitutes; and the increased price of those articles will add something to the revenue, while it will be in some degree diminished by the general effect. Gentlemen of great commercial information, have calculated that the revenue will not be diminished to the amount of one million; but let us suppose that it will be lessened two millions, or even $2,550,000. With only nine millions instead of eleven and a half, it is certain we cannot expend three or four millions for the support of Government, and sustain besides the annual appropriation of eight millions for the payment of the national debt. But let us suppose the worst, and what follows? We may submit to the usurpations of Great Britain on the ocean, we may throw at her feet everything but nominal independence and honor, we may disgrace and degrade ourselves in the eyes of the world, and we shall extinguish our national debt in 1816, 1817, or 1818.

On the other hand, we may assume a manly and dignified national spirit, we may recall the principles and the habits of the Revolution, we may arm our Government with sufficient energy to vindicate and maintain our national rights, we may command respect from other nations, and we shall extinguish our national debt in 1824, 1825, or 1826. This may be the alternative in the last resort, but for the present we can increase the ratio, and of course the quantum of the duties which constitute the revenue. In hard times we must expect to bear hard burdens.

The adoption of this measure, we are told, will throw an unequal and unreasonable weight upon our Southern brethren; it is feared that it will not only lessen the price, but utterly preclude the market, of their staple export commodities. Here we ought to pause and reflect; and if such an evil will flow from this source, we ought to abandon the project.

Upon reflection, we do not believe that such will be the consequence. The two great articles of Southern exportation are cotton and tobacco. The value of our annual exports, for the three last years, to the dominions of Great Britain in Europe

only, has been $15,690,000, of which the value of cotton has been $5,640,000, and of tobacco $3,220,000; both together $8,860,000. Deducting from the gross amount of $15,690,000, the sum of $2,260,000, for foreign goods re-exported, we have $13,430,000 for all the articles of domestic produce, and of course the Southern States furnish nearly two-thirds in value of our domestic exports to the European dominions only of Great Britain. But our exports to the British colonies, in all parts of the world, consist of the productions of the Northern and Middle States; of provision and live stock, lumber, naval stores, potash, furs, and foreign merchandise, acquired by the carrying trade. And cotton and tobacco are now exported to other parts as well as Great Britain: the total annual value of the exports of cotton being, $6,940,000, and of tobacco $6,143,000, these two articles (and there are no other of consequence exported from the Southern States except rice, which is comparatively of inconsiderable value) amounting in the whole to $13,083,000, which, deducted from $39,928,000, the whole amount of exports of domestic produce, leaves $26,845,000, for the exports almost exclusively of the Northern and Middle States. It is not believed that this measure will shut up the British market for a raw material so necessary to their manufactures as our cotton. A non-importation is not in itself a non-exportation. Our exports may still go to Great Britain, as it will be her interest to receive them. But suppose she adopts measures of retaliation against her interest, and excludes them. When we know that even in the present war she opens free ports in her colonies for a partial commerce with her enemies, and when we are told that the French armies are now clad in British manufactures, can we doubt that the British Government, with that depth of commercial as well as national policy for which it is distinguished, will, whatever may be its ostensible acts, open some indirect channel of trade by which to supply itself with an article so essential to the system of its manufactures? Besides, as I have already observed, in reference to importation, even the profusion of the British market would open a new one for this article in France and other countries, by holding out an encouragement for them to extend and improve those manufactures of which it forms the raw material. The only effect upon the articles of cotton and tobacco would be a small decrease of their price, and perhaps that only temporary, and would not a similar effect be produced upon the productions of other parts of the Union? Would not the price of the exports of the Northern and Middle States, of our beef, pork, butter, cheese, dried and pickled fish, flour, wheat, corn, lumber, and all other articles, be affected? Unquestionably. We hoped this would have been viewed as a great national question upon a great national scale, and not made a local one. But does not the carrying trade, which we wish to protect, present a local question also? Is it not also exclusively carried on by citizens of the Northern and Middle States?

It is said that this trade produces a revenue of only $850,000. But what is the amount of the trade, and why does it not produce more revenue? The annual value of articles of foreign produce re-exported to all parts of the world, is estimated at $28,533,000. It produces but a small sum, because it has been deemed good policy not to tax it, but to cherish, to patronise it, as a source of industry and profit.

But some gentlemen are not inclined to protect this trade, and some even hazard an opinion that it is injurious to the country. We thought the principle advanced by able writers on political economy was equally settled with men of science and men of common sense, that the amount of the real wealth of a nation is composed of the combined amount of the produce of its land and labor—of its industry upon the ocean, as well as upon the *terra firma*—and that five millions of dollars earned in the carrying trade, the product of labor on the seas, by citizens of the United States, and incorporated into the great stock of our national wealth, were just equal to five millions of dollars acquired by the labor of the husbandman. The impressment of our seamen, too, may be viewed as a local question. Those unfortunate men belong to the Northern and Middle States. Gentlemen seem to consider them as persons of no character or consequence—mere adventurers on the ocean, wandering beyond the limits and the powers of the national jurisdiction and protection. Not so. They are men and citizens; they have friends, connexions, and a home, and are employed in an honest occupation; and surely the impressment of thousands of them, in a state worse than that of African slavery, on board those floating castles which spread terror through the world, is a local question of as much importance as the price of cotton and tobacco. On this subject alone the friends of the resolution are prepared to say that strong measures ought to be adopted, and ought never to be abandoned, until our flag shall be suffered to protect those over whom it waves. If the American eagle is disposed to sink beneath the feet of the British lion, he can expect nothing but contempt and outrage; but it is in his power to take a more elevated situation—to soar out of reach—and be at once secure and triumphant.

Not only are the peculiar interests of our Southern brethren to be sacrificed by this measure, but it is to lead to war with Great Britain! On what is this idea founded? On the cool, calculating character of her celebrated Minister. It will be in itself no cause of war; it is a commercial regulation merely; and we have the same right to adopt it that Great Britain has to pass those laws by which she imposes greater duties on the exportation of goods, wares, and merchandise, to the United States, than are imposed on similar articles exported to the nations of Europe. It is neither more nor less than a commercial regulation—a part of the system of managing our own concerns in our own manner—and it ought not to be presumed that it will produce war. Can Great Britain wish, at the present moment, to add to the number of her enemies? She is, indeed, the soul of a powerful coalition, but she has a powerful enemy to contend with. She is fighting, not the

battles of the human race,; not for the rights and privileges of the people of Europe; least of all for the rights and privileges of the people of America; but for her own national existence. Her wooden walls, like those of ancient Athens, which by the direction of an oracle are said to have preserved that celebrated city from destruction, constitute the only barrier between herself and ruin. Are we the enemies of Great Britain? Not at all, except in war: enemies in war, in peace friends. We love the British people; we should be monsters if we did not, for British blood flows in our veins. We venerate those monuments of British learning and of British liberty which have so long adorned the dark scene of Europe. We respect the power and the ability of the British Government, and we will respect its magnanimity and justice when it shall respect our rights. And are we the eulogists and flatterers of France? The last task we should wish to undertake would be that of adding new gems to the Imperial Crown of the Emperor of France and King of Italy. I speak for myself alone, but I do not believe that the friends of the resolution have any peculiar partiality for Emperors and Kings. We would wish to navigate our political bark to any other port than that bestrode by the Colossus of universal empire. We have differences with other nations besides Britain, but do we prostrate ourselves at their feet? We wish to treat nations as they treat us; for it is impossible for nations to pursue, with success, any other course of conduct. We would use them well or ill, in proportion to the degree of friendship or injury we receive. With other nations, weaker measures may succeed, but the injuries we sustain from Great Britain demand strong measures, and we believe the one which is now proposed will produce the desired effect. Not that we are hostile to negotiation, but we wish to give to the instrument of negotiation a new tone. We fear that if this measure be not adopted, no energetic one will be; and that the report, Mr. Chairman, which it becomes your duty to make, on retiring from that chair every evening, and yielding it to the honorable Speaker, that "the Committee of the Whole have had the state of the Union under consideration, and come to no resolution thereon," will continue to be the lame conclusion of every day's discussion during the present session. Having done our duty in supporting this resolution, we shall be as willing to meet our constituents as those gentlemen who give a different vote. We wish for peace; we are anxious to avoid war; but we cannot submit to national disgrace.

Mr. D. R. WILLIAMS.—Mr. Chairman, I feel the necessity of apologizing to the Committee for that portion of their time which I shall occupy; not presuming to offer reasons to others why this resolution should not be adopted, I beg their indulgence, while I do that which presents itself at the time as a duty, to declare what are my reasons for voting against it; the deep stake my constituents hold in the measure is my apology.

Such is the magnitude of the subject under discussion, spreading itself over a prodigious extent, running to the heart of some of our most valuable institutions, subverting unmeasurably the plighted faith of the Government, and overturning the foundations of a considerable portion of our revenue, that I feel myself inadequate to trace its influence over even a ramification of that vast interest it lays hold of, much less do I pretend to a view of the whole ground; but, imperfect as that comprehension is, it takes in much more than sufficient to fill me with fear and trembling for its consequences.

We have heard, during the last three days of the present discussion, a great deal said about the spirit of the nation, and that it demands energetic measures. Sir, I ask the gentlemen who urge this as an argument, if there had been as much pains taken to apprize the nation of its true position with Great Britain as there has been to alarm it, whether its anxiety would not have been, at least by this time, quieted? If gentlemen, standing in such a responsible situation to their constituents, as they do upon this floor, had, instead of urging war measures, spoke out the plain language of truth, that at the date of Mr. Monroe's last despatches, Lord Mulgrave had acceded to his request to enter upon an examination of the dispute between the two Governments, whether they would now venture to represent the spirit of the nation as excited in every part of the continent? I presume not. But whence do they learn that this spirit is so excited? It is true we have received spirited resolutions from two towns in Virginia, and a few well-written memorials from a few merchants at a few of the seaport towns refuting the British doctrine; but what else do they say? At Baltimore they believe "redress for the past may be found in amicable explanations." From Philadelphia you are called upon for a naval force for the West India station. Why? To defend their trade to St. Domingo, I suppose, for that appears to be the pith of the memorial. The merchants of New York pledge themselves to support "all measures *adapted*," reserving to themselves the right to judge—not such measures as may be adopted by Congress. From Boston "a special mission" is recommended. The inhabitants of the town of Salem tell you "they wish to take no part in the contests which now convulse the world." Where else than from these documents do gentlemen find the spirit of the nation? Certainly not from the Cabinet, nor from the Executive, for if it were good authority to talk about what we hear out of this House, they have no such wishes. Is it fair then to force the passage of this resolution by attributing that to the nation which perhaps it does not feel; which it certainly would not, if it were fully apprized of its situation abroad, and which the memorials on your table do not speak? Does the resolution provide for "amicable explanations," for a "special mission," for a squadron on the West India station? No such thing, sir.

In arguing this subject it is material to ascertain what is the true cause of our present dispute with Great Britain, and to what extent it goes. I say cause of dispute, because it strikes me that,

had not the present difficulty arisen, her insults offered in the impressment of our seamen, were in train for amicable adjustment, and will be arranged when the present uneasiness shall be quieted. It cannot be unknown to gentlemen that an investigation of that subject was nearly completed, and in fact would have been, but for the hasty departure of our then Minister from the Court of St. James.

It is taken for granted that the present aggravations originated in her attempts to cramp, say destroy, if gentlemen like it better, our carrying trade. This is the grand pivot on which the whole machinery of national honor, and dignity, and wrongs, and insults, are made to turn. Yes, sir, this carrying trade which Spain and Portugal once shared, but could not retain; which Holland attempted to monopolize; which Van Tromp and De Ruyter fought for, but which she was obliged to relinquish; this carrying trade is the bone of contention for which the sweat, the blood, the lives and fortunes, of the American people are to be lavished in maintaining. And what is this carrying trade? Is it anything different from a partial right, which but a very small part of the community can enjoy, which but a small portion of that part do improve? Is it not a right which is still problematical—whether the exercise is of real national utility? There are many who believe it has been of no solid advantage to Great Britain herself, notwithstanding she has possessed a much greater share of it than any other nation. Certainly it has been the cause of several long and ruinous wars to her, and if we look back a little upon our own experience we shall see it has been the germ from which has sprung all our difficulties with that Government since the commencement of a political hurricane—the French Revolution. Since that period our commerce has become a rival of increasing strength with that of Great Britain, and finding it to grow in this branch above competition to the exclusion of hers, she has commenced a system to counteract it, and has commenced it, I have no hesitation in saying mildly, to what it will progress, if we drive her to it. Gentlemen are surely not unmindful of the untameable pride of that Ministry; they cannot forget that it is formed of men who never do acts of aggression by halves, and who feel no other restraints than those of power. National rights, injuries, and insults, are not graduated on the scale of their policy. The only inquiries with them are, Can we gain by the war? Is this the time to strike the first blow with the most effect? I need not give an instance of this fact. If Great Britain ever had waited for a just cause of war, that is, when she wished for it, we might console ourselves with our safety in agreeing to this resolution; but it is well known that she never did, and in my opinion, with her present Minister, she never will. Do gentlemen then wish for war? How is it possible they can believe that this measure will not produce it? Sir, I would rather vote for war than for the resolution, and indisputably it would be the better of the two evils, because under the operation of the resolution Great Britain can amuse you with negotiation till she had completed her precautionary measures, and would then break it off, or what is worse, commence the war first, and make that the denouncement to your peace Commissioners; whereas the reverse would be the effect under a prompt declaration of war. Here we should strike the first blow. She holds upwards of $20,000 000 of your public debt. Her merchants and capitalists, notwithstanding the declaration to the contrary by the honorable gentleman from Pennsylvania, (Mr. J. CLAY,) I believe, have additional enormous sums in this country; if you suffer these to slip through your fingers, you may as well whistle as attempt to make an impression upon her afterwards. I know, sir, the Treaty of 1794 bars this measure; but this Committee are not now to learn that Great Britain herself has given frequent proofs that the parchments of peace have no influence over the deeds of war; the order of the day would be to do each other the most harm, and we certainly should not be so squeamish as to be restricted by the provisions of a treaty, which never ought to have been made, from inflicting the worst punishment upon our enemy. But, sir, neither of these measures need be resorted to. If gentlemen will only delay the decision, and they appear very much disposed to do so, just time enough for fair discussion, they will see that this resolution goes to the destruction of the great mass of the community, to the entire sacrifice of the whole of the agricultural interest, to the probable advantage of a small portion of the commercial world. There cannot be a clearer position than this; the whole of the agricultural will be sacrificed to a part of the mercantile interest. A trade which must be supported by such means is not worth preserving; it is in no way reciprocal, and never can be carried on to the advantage of the whole nation, while its circumstances are so desperate as to involve the peace and happiness of the country.

Is it fair to draw a comparison between this favorite branch of commerce, to support which the whole energies of the nation are to be held in requisition, and the other branches? What does it yield to the revenue? The Secretary of the Treasury, eagle-eyed as he is, has searched the whole record through, to the last page, and has not been able to discover more than $850,000 per annum. Are gentlemen prepared thus to relinquish the sources—to cut up by the roots the supplies to Government of at least $6,212,000 to preserve $850,000? To say nothing about the immense disadvantage, the causes of such conduct should be most cogent and necessitous. Are there any such causes? To men whose minds are inflated with those high notions of honor and dignity which have been the burden of every war-speech to the British Parliament, and to maintain which, poor John Bull has waded up to his eyes in national debt and national misery, there may be such causes; but to men of plain understanding, who measure the quantum of national honor and dignity abroad by the degree of national happiness and virtue at home, and who understand nothing more or less by these terms than blood and

taxes on the people, there have been no such causes offered. Sir, I will never vote to plunge this nation into a war—I believe this resolution to be nothing short of it—to preserve the foreign, partial privileges and advantages of any set of men, or the separate interest of any description of the community whatever. By war we can gain nothing; we have everything to lose. Many years should roll over us before we admit more than one cause of war, when negotiation has been exhausted. There is a line round this country, which, when trespassed on, should burst the faculties of every man's soul into hatred—should kindle all the fiery particles of his system into a flame of vengeance and redress. It is upon such an occasion, when the whole mass—when the people are invaded, we should think of war; not when a few merchants find themselves hampered by foreign commercial regulations. There are other remedies for this disease. War is worse than the disease itself. I spurn the thought of relinquishing any one right of our fellow-citizens. I only wish to show that this is not the measure best calculated for the present injuries; and am I therefore an enemy of the merchants? A hatred of war measures does not involve the idea, but I freely declare I am not. There are many among them whom I respect; some I love; and when such permanent commercial regulations shall be proposed, as shall secure to the merchant his rights and privileges, without endangering the peace of the nation, I will then prove as friendly to his interest, as I possibly can be on any other occasion, to any separate interest whatever.

Sir, I am opposed to this resolution, because, when you have deprived the Government of the revenue which is derived from the importations contemplated to prohibit, I know not how the deficiency is to be made good. Gentlemen who have digested this subject, perhaps may. I shall be glad to hear from what source they will secure to the nation the permanent appropriation of $8,000,000 for the redemption of the public debt, How will they effect the disbursements of the civil and the pension lists? How pay the army? How support the navy? (A very important item, sir.) That navy upon which has been, and still is squandered such enormous sums of money, that even the Secretary himself cannot tell what it will cost to repair a single frigate; that navy, for the support of which the expenditures for the last year exceeded the estimates by at least sixty per cent.; that curious navy, indeed, which costs less to keep the whole in service than a part—for such is made to appear by the report of estimates and details of expenditures on the table.

When the advocates of the resolution have done this—when they have provided for the ordinary, I shall be glad to hear from them on the extraordinary expenses of the Government. One party are determined to fortify New York, where immense sums have been already expended; Newport must not be forgotten, for there too has been a scene of prodigious folly and extravagance; Baltimore is not safe; Norfolk is exposed; Charleston is in danger. I have a letter in my pocket, from the Governor of South Carolina, which states, that there is mounted upon the ruined fortifications of Charleston but one gun, and that is a four-pounder on a crazy carriage. At one time, you hear that your ports and harbors must be fortified; at another, with all the solemnity of a death warning, your Navy must be augmented. In the name of God! where is all the money to come from? Is that single, solitary million, about which so much has been said, to do all this? I believe, and I trust there will be a majority with me, that neither of these measures are necessary if you will pursue a line of conduct just to yourselves, prudent and moderate to others. I would rather ask, Why are all these extravagances to be blundered into? Are gentlemen determined on war? If so, let them speak manly and outright—and then we shall understand each other—but I suspect not, considering the quarter the resolution came from. Why, then, all this rashness, all this eagerness to rush into the mischiefs which hastened the ruin of the former Administration; and into war measures, when peace is as desirable now as it ever was, and is as easily maintained? The nation is prosperous and happy, to a degree of prosperity and happiness the annals of the whole world bear no analogy. Is it prudent, is it wise, is it expedient to tear up the foundations of all this prosperity and happiness, when they are not even threatened by the rough, the unhallowed hand of war? God forbid!

Take the British rule, enforced lately in its greatest latitude. It does not affect the exportations of your own products, in the least, nor your imports for domestic consumption, or the exportation of the surplus of that trade, except as to the regulations of reshipment. Those branches of commerce remain as free and as unshackled as formerly. What is the comparative importance of the carrying trade with these? Their interests run parallel with the other great interests of the community, and are so intimately connected that the vibration of a stroke on one, is sensibly felt by all the rest. But this other branch, this carrying trade, carries no principle of reciprocation with it, but is entirely confined to the few merchants who embark in it. In what degree are the general interests of the nation affected, by the right which that honorable gentleman from Massachusetts (Mr. Crowninshield) has, of lading his ship at Batavia with cotton, and carrying it round to Canton upon freight? So far as it yields him a profit I rejoice, and wish to maintain the right for him; but, certainly, not at the expense of the lives and fortunes of the whole people, especially when they are no sharers with him.

We have witnessed, and sorely felt, the injustice and deliberate robbery of Great Britain on a former occasion, to a tenfold greater degree of importance than the present, yet she retracted her errors, and made us amicable adjustment of the injuries. Shall we take the same important stand now, upon a less important occasion, than we did then? I hope not, sir. At any rate, let us go to this work with clean hands. Before we attempt to coerce Great Britain into justice, we should set

her an example of it. Is there any gentleman in this House prepared to say our merchants have not given some cause of aggression? Have they never been detected covering enemies' property? Is it reasonable to believe there is active American capital enough to carry on the trade of France, Spain, Holland, and our own besides? I presume not, sir. We should look well to our own acts before we commence war upon another nation for its injustice towards us.

I cannot vote for this resolution. I believe it calculated to produce greater injuries than are now complained of, and not redress for those already committed. I should abuse the indulgence of the Committee, to show that Great Britain would go to war with you, rather than remain at peace under the operation of a law bottomed on this resolution. There is no proposition clearer to my mind. It would be equally a loss of time, to prove that peace is the true interest of this country; the whole nation attest it. Will you outrage that general sentiment by adopting the measures least calculated to procure a change of her injustice?

The influence of this resolution, if agreed to, will be incalculable. Thousands of innocent persons must inevitably fall sacrifices to its enormous pressure. It will throw convulsions over the whole body politic. It is to avoid these convulsions, to spare the spasms necessarily resulting therefrom, to every neighborhood in the United States, that I vote against it.

What will be its operation on the banking interest? Sir, if it could annihilate the whole system, if it could erase every fragment of its massy walls, without tearing down others, I would rejoice; for I believe the very system to be a national curse, erecting the most potent political engine against the freedom of our institutions that can be devised. But this is impossible. The mercantile world is so enveloped in bank influence, that they feel a run on the banks as they would a shock of electricity. There are established within the United States, not less than eighty banks, which keep afloat, certainly, at least fifty-five millions of paper dollars. Will gentlemen venture on a line of policy which shall promptly stop such an immense circulating representative of specie without previous concert, without previous notice? Indisputably, the merchant would be the first victim; but the destruction would not stop with him, nor can any gentleman say where it would stop, for merchants are so much like bricks which little boys set up in rows for their amusement, knock one down and they all go. When a merchant fails, all within the vortex of his endorsements and his interests fail with him.

I mean not to be presumptuous. It is with great diffidence I ask, What would be the effect of a course of conduct like this? Let the Congress of the United States declare, in a manly and dignified manner, what are the rights of citizens of this country which they are determined to maintain. Let the President of the United States be requested to open a new negotiation with the Court of St. James, and in addition to such representations as he shall think proper to make, to lay this declaration before that Court, together with such commercial regulations as may be adopted. The commercial, the manufacturing interest of that country, understand so thoroughly their connexion with this, it is reasonable to believe that their influence, which is admitted to be very great with the Ministry, will induce it to tread back those steps of wanton and unprovoked injuries they have made upon our fellow citizens, and to which their own sense of justice might not otherwise lead them.

I cannot refrain from entreating the attention of the Committee to an act which passed the last session of Congress, at the special influence of that particular description of merchants who are now loudest in their complaints. It is dated, 22d February, 1805. The second section reads thus:

"That it shall be lawful for any ship or vessel to proceed with any goods, wares, or merchandise, brought in her, and which shall, in the manifest delivered to the collector of the customs, be reported as destined or intended for any foreign port or place, from the district within which such ship or vessel shall arrive, to such foreign port or place, without paying, or securing the payment of any duties upon such goods, wares, or merchandise, as shall be actually re-exported in the said ship or vessel," &c.

From this act may be fairly dated the British doctrine. Not content with the then facilities of their carrying trade, with which they were growing wealthy, they must have them increased; they grew covetous of the small duty they paid to Government for the neutral character it gave their cargoes; they were unwilling that the poor day-laborer who unloaded and reladed their vessels should partake of the blessings of this trade, they grasped at that pittance too. Is it to be expected, sir, that we shall thus extend this branch of commerce, with which we are always clashing with Great Britain, and she will sit still, an idle spectator? Here, then, the merchants understand me. The carrying merchants, and their friends, have dished up their own injuries. For one, I am determined not to work out their salvation at the expense of everything dear to the nation.

Mr. Bidwell.—Mr. Chairman: I came into the House this morning with an intention not to trouble you with any observations on the interesting subject which has been several days under consideration; and I do not now intend to enter into a discussion of the particular measure proposed in the resolution on your table. But the debate has taken such a course that I am induced to request your attention, a few minutes, to the extraordinary view which has been exhibited of our dispute with Great Britain.

A gentleman from Georgia (Mr. Early) yesterday told us that a general alarm had indeed pervaded the nation, respecting our relations with Great Britain; but it had been excited by incorrect views of the state of the dispute, and when the subject should be fairly explained and rightly understood, the alarm would subside. He added, that the carrying trade, out of which our differences have grown, is of little value and not wor-

thy of national protection. The same opinion, in substance, was expressed on a former day by a gentleman from Virginia, (Mr. J. RANDOLPH,) and you have just heard it repeated by the gentleman from South Carolina, (Mr. D. R. WILLIAMS,) who last addressed you.

I agree with these gentlemen that, in order to determine what Legislative measures, if any, are necessary to be adopted, it is important, in the first place, to understand the true nature and extent of the controversy between the two Governments; and, as their understanding of it is very different from mine, I beg the Committee to accompany me in a concise review of it.

The injuries complained of are all on one side, and are entirely without provocation. Great Britain has no cause of complaint against us; our Government has been conducted in such a manner as to give her no occasion for offence.

The claims, on our part, relate to two classes of injuries—the impressment of our seamen, and the seizure and condemnation of our vessels engaged in a neutral trade. The acts thus complained of as injuries, are undeniable facts. It is certain that Great Britain does impress our citizens and compel them to serve on board her ships of war; and that she does also seize and condemn vessels belonging to citizens of the United States, and their cargoes, being the *bona fide* property of American citizens, not contraband of war, and not proceeding to places besieged or blockaded, under the pretext of their being engaged in time of war in a trade with her enemies, which was not allowed in a time of peace.

Against these injuries, our Executive, through the proper organ of negotiation, has offered repeated remonstrances, and made a determined stand in behalf of the United States. These are the two great points in dispute. They were in general terms communicated to us in the President's Message at the commencement of the session, and more particularly in his subsequent Message of the 17th of January, to which I beg leave to recall the attention of the Committee. It is in these words:

"In my Message to both Houses of Congress, at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles derogatory of the rights of neutrals, and unacknowledged by the usage of nations. The memorials of several bodies of merchants of the United States are now communicated, and will develope these principles and practices which are producing the most ruinous effects on our lawful commerce and navigation.

"The right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country, (with the exception of blockaded ports and contraband of war,) was believed to have been decided between Great Britain and the United States by the sentence of their Commissioners mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of the damages awarded by them against Great Britain for the infractions of that right. When, therefore, it was perceived that the same principle was revived, with others more novel, and extending the injury, instructions were given to the Minister Plenipotentiary of the United States at the Court of London, and remonstrances duly made by him on the subject, as will appear by the documents transmitted herewith. These were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason and to insist on rights too evident and too important to be surrendered. In the meantime the evil is proceeding, under adjudications founded on the principle which is denied. Under these circumstances, the subject presents itself for the consideration of Congress.

"On the impressment of our seamen, our remonstrances have never been intermitted. A hope existed, at one moment, of an arrangement, which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, has been constantly pursued in those of our neighborhood. The grounds, on which the reclamations on this subject have been urged, will appear in an extract from instructions to our Minister at London, now communicated."

The instructions here referred to, interesting as they are, need not at present be brought into view. But, to show the precise points in dispute, you will permit me to read the paragraph respecting each of them, from the official and able remonstrance presented by Mr. Monroe, our Minister at the Court of London. On the subject of our neutral trade, he states to Lord Mulgrave, the British Secretary of State, that

"The vessels condemned were engaged in a commerce between the United States and some port in Europe, or between those States and the West India islands, belonging to an enemy of Great Britain. In the European voyage the cargo consisted of the productions of the colonies; in the voyage to the West Indies, it consisted of the goods of the Power to which the colony belonged, and to which the ship was destined. The ship and cargo in every case were the property of American citizens, and the cargo had been landed, and the duty on it paid in the United States. It was decided that these voyages were continuous, and the vessels and cargoes were condemned, on the principle that the commerce was illegal. I beg to refer more especially in this statement to the case of the Essex, an appeal from the judgment of the Vice-Admiralty Court at New Providence, in which the Lords Commissioners of Appeal established this doctrine."

Here is the new principle which Great Britain, through the organ of her Admiralty Courts, directed by the Ministry, has interpolated into her law of nations, and which Mr. Monroe, in behalf of the United States, agreeably to instructions from the Executive, has met with a firm and manly remonstrance. This is, then, the point on which issue is joined between the two Governments. The question relates to the carriage of cargoes, which, though of foreign production, are the *bona fide* property of American citizens, on board American vessels. It has no relation to goods belonging to foreigners shipped in American bottoms. That was once a controverted point, but it is at present entirely out of the question.

During our Revolutionary war, the United States, as well as the Northern Powers of Europe, made efforts to introduce, by conventional arrangements, the doctrine, that free ships should make free goods—that the property of belligerents might be carried on board of neutral bottoms, free from seizure and search. Great Britain refused to admit the principle. By our treaty of 1794, it was solemnly renounced on our part, and has never since been resumed. It would not now indeed be so important as formerly, for then the capital of our merchants was not sufficient to enable them generally to be owners of the cargoes carried in our vessels. Our mercantile capital not being equal to our tonnage, it was an object with our ship-owners to carry the cargoes of other nations, especially of belligerents, on freight. That freighting trade has, in a great measure, ceased. We are no longer mere freighters for foreigners, but have become the carriers of foreign as well as native produce, on our own capital, and for our own account. This is now the general character of our carrying trade.

There are instances, no doubt, although comparatively few of them, of the carriage of property belonging to foreigners in American vessels, on freight. There may be cases of fraudulent attempts to cover belligerent property under American names, with a view to give it an apparent neutral character. Such cases have occurred. There always have been, and so long as human nature continues depraved, there always will be, frauds committed in every line of business, and among every description of men. The covering of property owned by belligerents, under American papers, is by no means confined to articles produced in foreign countries. It is equally applicable, and probably as often in fact applied, to the productions of the United States. It is as practicable, for instance, and the temptation is as strong to conceal under American names and papers, a cargo of Virginia tobacco or Pennsylvania flour, purchased here by a French or Spanish, or Dutch merchant, or his factor, as it would be to give such neutral appearance to a cargo consisting of the produce of any of their colonies. In either case, our laws give no encouragement or protection. We are not called upon to extend the protecting arm of Government, and if we were, we should be under no obligation, and, I presume, should feel no inclination to interpose. No, sir, the persons commencing such frauds, in common with all other violators of the laws of nations, are left to suffer the consequences of their conduct. Their property is liable to forfeiture; such cases, however, are not within the question pending between the United States and Great Britain, although they have been artfully or ignorantly confounded with it, to the prejudice of the claim asserted by our Government. That claim, as Mr. Monroe has correctly stated it, embraces only the *bona fide* property of American citizens, carried in American vessels.

The adjudications, as reported, and as referred to by Mr. Monroe, are bottomed on the principle that, although the property is American, and therefore neutral, yet, as it was produced in an enemy's colony, and is proceeding to the mother country of that colony, or *vice versa*, either directly or after an importation into the United States, with an intention of re-exportation, the trade in which it is so carried, not having been allowed to us by the belligerent in time of peace, as it is in time of war, is an illicit trade, as it respects Great Britain, and the vessels and cargoes engaged in it, therefore, liable to be seized and condemned.

In some cases, the fact assumed, as the ground of condemnation, that the trade was not allowed and enjoyed in time of peace, is not true. It can be proved from authentic documents—the official statements from our Treasury Department—founded on the custom-house returns, that, with some of those countries, we did carry on an important export trade, in a time of peace, before the present war. In those cases, our Government therefore may deny the fact, as well as the principle on which the condemnations have been founded. For the correctness of this observation, gentlemen are referred to the official statements of the Secretary of the Treasury.

But the principle of the adjudications cannot be admitted. The reason alleged in support of it is, that such a trade, in time of war, although not in articles commonly considered contraband, nor with places besieged or blockaded, is beneficial to the belligerent, and increases his means of war. Their reasoning goes beyond their rule, and is equally applicable to other cases, to which it has not yet been applied. The whole trade between a belligerent and a neutral, even in articles produced in the country of the latter, is beneficial to the former. It adds to his ability to prosecute the war; and may, therefore, for the same reason, be interdicted by an opposite belligerent. The principle, carried through, will deny us the transportation, not merely of the produce of belligerent countries, but the whole of our exports and imports to and from those countries, including the produce of our own. It aims a mortal blow at our carrying trade.

We have reason to believe that Great Britain is acting upon a systematic calculation, and with a design to engross the commerce of the world. She calculates upon our local interests, our party divisions, and a continued opposition to our Government, to disable us from uniting in any effectual counteraction of her measures. Under an impression that our Executive will not be effectually supported in the position he has assumed against her claims, she has taken this first step in her system to ascertain, by the experiment, how much we will bear, and how far she can safely go in applying her new principle. If we submit, if we do not make it her interest to stop, she will proceed in her encroachments, as surely and as steadily as time advances.

The gentleman from Georgia says, we had better sacrifice our carrying trade than our agriculture. Indeed, he thinks it a question whether that trade is not, upon the whole, injurious rather than advantageous to us, in a national view. I agree

with that gentleman and the gentleman from Virginia, in one point—the superior importance of agriculture. It is, in my estimation, the most important, the primary interest of the United States, considered in relation either to the numbers employed in it, or the utility and necessity of their employment. This is true of the United States as a nation. I believe it is also true of every particular State. I am sure it is of that with which I am best acquainted—my own native State. It is emphatically so of the district which I have the honor to represent on the floor of this House; for, like the gentlemen from Virginia and Georgia, I stand here as the representative of an agricultural district. My constituents, most of them, are proprietors and cultivators of the soil. But, sir, I am confident that I truly represent them in declaring the opinion, that agriculture and commerce are inseparably connected and mutually dependent. Their connexion and dependence grew out of the natural situation and circumstances of our country, and the immemorial usage and habits of our people. The God of Heaven has here joined them together, and it would be not less impious than impolitic to attempt to disjoin them and set them in hostile array against each other. There is no cause for such an unnatural hostility, but, on the contrary, every rational motive for reciprocal assistance and support. Sir, the produce of our farms, beyond our own consumption, must perish on our hands, or rather there would soon be no such surplus produce, if there were no commerce to carry it to foreign markets, and to bring us, in return, the productions of other countries, which we want and they can spare. This is the very end of commerce. Such a commercial exchange multiplies the comforts and increases the happiness of mankind.

The average annual produce of the United States, beyond what we consume ourselves, according to the late Treasury statement of our exports, amounts in value to about forty millions of dollars. It is carried to market chiefly by our own citizens, and in our own vessels, not a tenth part of our imports or exports being now shipped in foreign bottoms. By the enterprise of our merchants, these native exports are carried to every part of the habitable globe that is open to our trade. We thus have the benefit of a choice of markets, which we would not have were our commerce more limited, as it certainly would be, if it were in the hands of foreigners instead of our own enterprising citizens. Our produce, thus exported, is marketed wherever the greatest demand for it is found. It is not, it cannot be, generally sold for specie. It must be exchanged for the productions or manufactures of the respective countries where the sales are effected. If they were limited to specie, or even to such articles of barter as must be consumed in the United States, the sales would necessarily be less advantageous, and the market prices of our own produce proportionably lower. The commodities received in exchange, constitutes the return cargo. When it arrives here, it is as lawfully and honestly the property of the importing merchant, and as truly the object of legal protection and free disposal as if he had himself raised it out of the soil, or purchased it from the farmers. But the demand for home consumption may be already supplied by other similar importations, or the cargo may not be adapted to our market. In that case it must either be lost or re-exported to a foreign market, and there disposed of for cash, or in exchange for other articles of commerce. The importations into the United States, as stated by the Secretary of the Treasury, amount to seventy-six millions of dollars a year, comparing them by the scale on which the *ad valorem* duties are calculated, that is, by adding from ten to twenty per cent. on the prime cost and charges; but, reckoned according to their cost and charges, their amount is sixty-seven millions. Of these imports, it appears that twenty-eight millions and a half are re-exported, and the residue consumed among us. This re-exportation of imported articles is connected with the sales of our native exports, and indeed grows out of them. By way of remittance, it is also connected with the purchase of, and payment for, the imports which are consumed in the United States. It is, in short, an essential link in the chain of our commerce. It is a fair and valuable part of our carrying trade, and not, as has been represented, a "factitious interest," a "mercantile fungus," a "fraudulent speculation."

Whatever may be the suggestions of theory, it is too late to think seriously of introducing the Chinese policy, and withdrawing our citizens from all commercial pursuits. The United States are not a mere "land animal," to use the figurative description of the gentleman from Virginia, but a water animal also. Our people, from their colonial infancy, have always been a mercantile as well as an agricultural people. If commerce was not originally their natural employment, habit has given it the force of second nature. Before our independence, the restraints imposed on the trade of the colonies, by the operation of the British navigation act, formed one of the sources of our complaint, and one of the causes of the Revolution. The regulation of foreign commerce, not being provided for under the Articles of Confederation, was one of the principal objects for which a convention was called, and the Federal Constitution framed and adopted.

The design of the Constitution, as expressed in the preamble, was, among other things, "to provide for the common defence and promote the general welfare;" not for the exclusive benefit of either farmers, or merchants, or mechanics, or sailors, or any other class of citizens alone; but for the general welfare of all classes, whether at sea or on land; not for the defence of agriculture or manufactures only, but for the common defence of all our national interests, including commerce among the rest. This appears to me to be the fair construction of the Constitution.

The gentleman from Georgia has told us, that this subject bears upon local interests; that it is itself a local question, and is to be so considered and decided. I am sensible there are local interests, and they sometimes influence our deliberations. I was never more sensible of their existence or their influence, than during the present discussion. I think I can discern their operation on that gentleman's opinions and arguments; and he may, perhaps, perceive them in mine; for it is vain to boast of exemption from such prejudices. But, sir, let us obey the injunction of the Constitution, and the dictate of duty. Let us endeavor to guard against those localities and competitions of interest. Let us take a fair view of the whole ground, and bestow the national protection upon agriculture and commerce in proportion to their relative degrees of importance. I am aware that the latter is not susceptible of the same perfect defence as the former, because one is within our own exclusive jurisdiction, and the other is on that element which is the common jurisdiction of all nations. It is, nevertheless, entitled to a reasonable protection, adapted to its nature. That portion of it which is now attacked, is, in the language of the Executive, "too important to be surrendered." There is no need of a surrender. By proper regulations commerce will furnish the means of its own protection.

The second ground of complaint against Great Britain is, the impressment of our seamen.

In addition to the President's communication on this subject, which I have taken the liberty to read, I might here introduce the conclusive argument contained in the instructions from the Secretary of State to our Minister at London. But it is unnecessary, as that interesting document is in the hands of every member. Yet I cannot forbear calling your attention to one paragraph of Mr. Monroe's remonstrance:

"On the topic of impressment, however, the motive is more urgent. In that line the rights of the United States have been so long trampled under foot, and the feelings of humanity in respect to the sufferers, and the honor of their Government even in their own ports, so often outraged, that the astonished world may begin to doubt whether the patience with which these injuries have been borne, ought to be attributed to generous or unworthy motives; whether the United States merit the rank to which, in other respects, they are justly entitled, among independent Powers, or have already, in the very morn of their political career, lost their energy and become degenerate. The United States are not insensible that their conduct has exposed them to such suspicions, though they well know that they have not deserved them. They are aware, from the similarity in the persons, the manners, and, above all, the identity of the language, which is common to the people of both nations, that the subject is a difficult one; they are equally aware to Great Britain also it is a delicate one, and they have been willing, in seeking an arrangement of this important interest, to give a proof, by the mode, of their very sincere desire to cherish the relations of friendship with her."

In this remonstrance, Mr. Monroe has spoken not only the language of our Government, but also the sentiments of every considerate true American.

That cruel, that abominable practice of impressment, in contempt of our unintermitted remonstrances, has been repeated and continued and increased, and is still increasing. There is no prospect even of relaxation. Impressments are now multiplying faster than ever before. They are connected with our other cause of complaint, the infringement on our neutral trade; for, when a vessel is condemned, or detained for trial, it furnishes an opportunity and a pretext for impressing the men thus thrown out of employment. Sailors are likewise taken out of any of our vessels in Europe, and the West Indies, in our coasting trade, and at the very mouths of our harbors, while pursuing their lawful business of carrying to market the lumber and fish of Massachusetts, the beef and pork of Connecticut, the flour of the Middle States, the tobacco of Virginia, the rice and cotton of Carolina and Georgia, and other exports of the United States, or imports from abroad. The number of these unfortunate seamen has arisen to an alarming amount. Though we have not yet received an official statement, which is expected from the Secretary of State, it is understood that between two and three thousand names have been returned to that Department, accompanied with proofs of their American citizenship; and it is believed that the list is necessarily a very partial one. Many poor fellows, impressed, perhaps, when no American witnesses were present, transferred from ship to ship, or removed from one station to another, have probably not yet found an opportunity of making any communications to their friends, and through them to the Department of State. There can be very little doubt that there are a sufficient number of our seamen in the British Navy, serving under impressments, to man at least five ships-of-the-line. They are not only withdrawn from our service, but made the instruments of aiding one belligerent nation in prosecuting their war against another.

American citizens may be voluntarily engaged in British employment, by land and sea, and British subjects may be, and unquestionably are, voluntarily employed on board our vessels, in our shops, and on our farms. That is a kind of intercourse which is not forbidden. It is common among nations, and cannot be a just cause of offence, or of impressment, by way of retaliation.

Gentlemen, I am afraid, have imbibed unreasonable prejudices against our seamen. Some of them, undoubtedly, are profligates and renegadoes. Such characters are found among all professions and denominations. But, in general, our sailors are a hardy, honest, brave, generous, though improvident race of men. Many of them are young men, from respectable families, in the seaports and inland towns. Others have families of their own, as dependent on them and as dear to them, as ours are to us. It is true, they are not generally opulent. If they were, they would be above the necessity of venturing on the stormy element for a livelihood. It is admitted that they are poor; but, is their poverty a sufficient reason for putting them out of the national guardianship? Their occupation is, indeed, a humble, a hazardous one; but it is as lawful and as honest as that of the farmer in his field, or the mechanic in his shop.

They are our fellow-citizens, and have as fair a claim for public protection, as we ourselves can have.

On a late occasion, when two or three hundred of them fell into the hands of the Tripolitans, the sensibility of the nation was touched in every nerve. All branches of the Government partook of the national spirit. Extra expenses were immediately incurred on their account. Yes, sir; you laid a new tax, an addition of two-and-a-half per cent. to the impost, on all articles charged with ad valorem duties. That additional tax was cheerfully paid by our fellow-citizens, for the purpose of redeeming their brethren from captivity. An extraordinary naval armament was sent to the Mediterranean. The services of our heroes, by sea and by land, were exerted, and their exertions were crowned with success. The captives were ransomed, and returned, with tears of joy and gratitude, to their country, their families, their friends, and their business. The whole nation rejoiced at the event. Is there any member of this Committee, who did not participate in the general joy? Is there any American who does not feel proud of this spirited interposition of our Government? What, let me ask, was the occasion? The captivity of three hundred of our seamen. And shall we, then, be passive, and do nothing, when ten times that number, of the same class of our fellow-citizens, engaged in the same occupation, are forced into a worse than African bondage? Sir, I have no personal knowledge of any of these sufferers, or their connexions, living remote from the usual places of their habitation and resort. Probably most of us, from our situations in life, are unconnected and unacquainted with them, and have not, therefore, a very lively sympathy for their sufferings. But, to bring their case home—let every one suppose he had among them, a son, a brother, a friend, or a neighbor, suddenly seized, while pursuing his lawful employment, interrupted in his plans of business, ruined in his affairs—not only prevented from returning but even writing to his friends—confined in a floating prison, obliged to labor without hope of reward; subjected to a discipline naturally rigorous, and rendered more intolerable by his reluctance to submit; treated, perhaps, with daily insult, liable to the blows and lashes of an unfeeling boatswain; and, what is worse, if possible, compelled to expose his limbs and his life in battle, to fight for his oppressor, against nations with whom neither he nor his country has any cause of war; remembering, in his intervals of relaxation, remembering, with painful contrast, the freedom of his native land and the endearments and delights of home, still hoping to be released through the interposition of our Government; but, in the meantime, enduring all the anxiety of suspense. I know not how others feel, but, for myself, I declare, were I reduced to the sad necessity of making a choice, I should prefer a Tripolitan or an Algerine captivity, to an impressment on board a British man-of-war. Sir, I am not describing to you an imaginary scene. Thousands of such cases actually exist. This is a serious fact, of which the world are now witnesses. In the face of the nation, it is officially made known to us, and, with the other subject of national complaint, expressly submitted to our consideration. We cannot shut our eyes against them. We cannot any longer be ignorant of them. We cannot, indeed, avoid acting on them; for, in the existing circumstances, even to do nothing, would be acting. It would be virtually surrendering those rights which the President is insisting on as "too evident and too important to be surrendered." It would be deserting him, on the national ground which he has taken, and on which he ought to be supported by the nation and the States, and every private citizen. It is a common cause. Not only our honor, but our interest is essentially concerned. With Great Britain, too, it is a question of interest. She has occasion for our sailors, to man her fleets and fight her battles. She wants our neutral property for the double purpose of depriving her enemies of the benefits of commerce, and, at the same time, supplying herself with the means of prosecuting the war. She will, therefore, proceed, until we convince her it is for her interest to desist.

It was not my intention, Mr. Chairman, in addressing you at this time, to examine the merits of the proposition immediately before the Committee, or any other particular measure proposed on the subject, but simply to take a view of the nature and extent of our differences with Great Britain, and our obligation to give the Executive some efficient co-operation. The President is performing his duty of negotiation, and for a faithful performance of it, he is responsible to the nation. In the meantime, he has left it with the Representatives of the States, and of the people, to determine what legislative measures, if any, shall be adopted, in aid of his exertions, and in support of our neutral rights. On Congress, then, on each House, on every individual member, so far as the influence of one vote extends, now rests the solemn responsibility of this determination.

The Committee now rose, and had leave to sit again.

MONDAY, March 10.

The Committee of Claims made an unfavorable report on the petition of the representative of Caron Beaumarchais, which was referred to a Committee of the whole House on Thursday.

IMPORTATIONS FROM GREAT BRITAIN.

The House resolved itself into a Committee of the whole House on the state of the Union, on Mr. GREGG'S resolution.

Mr. CLARK.—A sense of duty, prevailing over personal inclination, compels me, Mr. Chairman, to offer a few remarks on the subject under consideration. The measure now under discussion appears to me to involve the best interests of our country; the prosperity, the happiness, and the liberties of America tremble before it. In the hands of the resolution are contained the issues of life

and death, and it would be criminal in me not to throw in my mite to rescue our common country from the impending danger. The course which I shall take will differ in some degree from that pursued by those who have spoken in opposition to the resolution. I shall not attempt to draw any marked discrimination between the varying interests of the country, or invidious distinctions between the agricultural and commercial interests. I think they are so essentially united, that one cannot fall to the ground without tumbling the other headlong into ruins. I shall consider the subject relatively to its general policy, and whether, on the principles of that general policy or conditional compact, as has been contended by gentlemen, we are bound to adopt the resolution. If I shall succeed in convincing a single gentleman now in favor of the resolution, that we are not bound by the Constitution, and that it will be impolitic to adopt it, I shall consider this amongst the happiest events of my life.

The great objects of our federal engagement, in forming the compact under which we now live, were to establish justice, insure domestic tranquillity, and provide for the common defence and general welfare of society. Under this Constitution gentlemen call upon us, under the pretext of promoting the general welfare, to adopt a resolution which manifestly goes to the promotion of a minor interest. This compact, in providing for the general welfare, must mean that of the whole, or at any rate, of the larger portion of the community; it was never designed to promote a subordinate interest at the sacrifice of the general prosperity. Are we then bound by the Constitutional compact to adopt this resolution? I think not. Thus much as to the constitutionality of the question.

I must consider this resolution as a war measure, and viewing the policy and present situation of Great Britain, against which it is pointed, I have no hesitation to say, that in my opinion, it will produce instantaneous war. A maritime war, for such a one she will wage, will not add one item to her present expenses; neither will it embarrass her measures on the continent? It can have no such effect. She has eight hundred ships on the ocean, flushed with victory and conquest, and a part of her navy is at this moment triumphantly sailing almost in sight of your shores, ready at any moment to seize, should that course appear expedient to her, all our vessels navigating the ocean. It cannot affect her continental operations. The war she will wage, will be altogether maritime. Her navy cannot be essential against her continental enemies in Europe. Already have their fleets been annihilated. The victories off Trafalgar and in the West Indies, have cleared the ocean of almost every sail, and there remains no employment for her navy but to depredate your commerce; and she will do it, you may rely upon it. Those are but indifferently acquainted with Great Britain and the genius of the first Minister, who suppose all the power in their hands will not be made use of. Gentlemen tell you this is not contemplated as a permanent system of commercial arrangement, but a temporary expedient, which by its pressure is to bring our rival to a sense of duty, and make her do us justice. But this temporary measure will have on Britain all the effect of war. Declare war to-morrow, and it can only affect her trade. Can you believe that she will, with all her advantages, remain quiet? It is not her character; she will not do it. I should think contemptuously of her if she should. Will she suffer you to take war measures and not retaliate? Will she be more afraid of you with your four thousand troops, dispersed over the whole western country, and your thirteen armed vessels rotting in the Eastern Branch, than of that Power whose conquering arm has extended the limits of his sway beyond former comparison, and whose ambition is bounded only by the habitable world?

What was the conduct of that Government about the year 1801, when an armed neutrality was formed by a coalition of the Northern Powers? This measure was comparatively pacific; but did not the gallant Nelson enforce an abandonment of this measure with cannon at Copenhagen? Will she not do so to you? It is her interest, and will she not be governed by it? She has no other rule of action. Are we not then correct in considering this a war measure? And ought not gentlemen to abandon the vain illusion they have conceived? It is however said, that she will not be willing to increase the number of her enemies. But is she not well apprized, from the genius of the American people, that nothing is more desired by them than peace; and that the moment she does you justice, you will be bound to seize it; and that she may, therefore, calculate on making peace when she pleases? Will she not, therefore, use all her power to bring us first to terms, and then if she fail, come to terms herself whenever she pleases?

So much with regard to this as a war measure—for the irresistible conclusion in my mind is, that it will produce war. But suppose it should not produce war; will it not produce consequences equally fatal? Will it not destroy your commerce? Our exports will not be purchased, as the merchants will not fit out their vessels unless they can get a market for them. For this what are we to gain? The carrying trade. I beg leave here to make some remarks on the position of the gentleman from Massachusetts, and to examine the principle assumed by the British Government, by which it will be seen that the whole carrying trade is not affected by it. What is the ground which the prize courts of Britain take? That a neutral has no right to deliver a belligerent from the pressure of his enemy's hostilities, by trading with his colonies in time of war in a way not authorized in time of peace. This principle, so far as it relates to our Government, is not so unfair as gentlemen seem to imagine. Let us apply it to Britain and France. As to Great Britain she is contending for her liberties and her very existence and although I shall not contend that a nation at war has not the right to regulate her commerce with neutral neighbors in any way

allowed by the law of nations, yet the enemy has certainly the right to prevent every means of relief; to produce, if possible, oppression and poverty, in order to procure peace. Can you expect that Great Britain will permit you to supply France and Holland with commerce, and on such terms as enables them to go the cheapest into the market and convert all their merchant ships into armed vessels to privateer upon her trade? And while France is so relaxed in her system, have we a right to expect any indulgence from Great Britain? War, we know, always brings some evils to a neutral country. Can we therefore so materially blame Great Britain? Then, as to the consequences of this trade. It certainly does not bring more than $170,000 into our Treasury, while it draws from the purchase of our domestic productions a large part of the capital that would be otherwise devoted to it. When I say $170,000, I mean to apply the remark particularly to that trade which has been the object of suppression by the prize courts, for I agree that the revenue arising from the whole carrying trade is stated to amount to $8?,0,000, but no man will say that the duties arising from this species of trade is under estimated. Is the whole value of this trade so important as to justify a sacrifice of all our interests? I will ask gentlemen whether it is correct or proper that the great interests of the country should be given up to a trade only continued in time of war, and in which but a few men are interested? Let it not be here understood that I am the enemy of commerce. No, I am its friend. Without it agriculture would be nothing, and there would be no market for the sale of our surplus produce. We must have trade, but let it be on principles of permanency, and not on such as emerge from a state of war. Great Britain has never affected our direct trade, and my vote shall be always ready to protect it. I agree that a circuitous trade is beneficial to the country, just as money brought into it is beneficial. But let us take the subject up on calculation—I think it a fair subject of calculation, a question of profit and loss—and see whether it ought on that ground to be protected. If it is found that the play is not worth the candle, gentlemen will certainly not wish its preservation. Is it right to protect, at the hazard of every sacrifice, this trade of so precarious a profit, and which cannot continue longer than the period of war? Our exports to Great Britain and her dependencies amount, upon an average of three years, to $20,653,000; of this amount, the two articles of cotton and tobacco, the exclusive produce of the States south of the Potomac, constitute more than one-half. This will be entirely lost, or at least the most considerable part, for I have no expectation of finding a market for anything like this amount in any other country. Cut up at one stroke, under the pretence of temporary expediency, the cultivation of these two articles, and you prostrate the expectation, independence, and industry of thousands; then will be applied to your own industrious and virtuous citizens, what the mover of the resolution supposed would be to the manufacturers of England, a dagger to their vitals. Let us not, for God's sake, ruin our country, under the delusive expectation of injuring our adversaries. Another and very current view may be taken of this subject; it is acknowledged that there are comparatively but few persons immediately interested in this trade, and although to them a lucrative one, yet it must end upon the cessation of hostilities in Europe. It must be unjust that the great interest of the agriculturist should be sacrificed to this trade, or even pledged for its protection and security. I never will agree that one class or profession of people shall underwrite and insure the success of another class, and this too without any premium. This is precisely the case in this instance; the trader gains all under the protecting arm of the farmer, and the loss falls on the farmer, if it should be attended with any.

Let us view this subject in another light. It is contended that if British manufactures are prohibited, that our commerce will still go on; that our merchants will find other markets, and that the security of the revenue will not be affected. But I beg gentlemen seriously to consider the situation of Europe. I do believe that our demands cannot be supplied but from Great Britain; they cannot be supplied elsewhere—because, from the year 1786, the British manufactures introduced into this country have regularly increased; notwithstanding in France labor is cheaper than in Great Britain. Not because an English coat was better than a French one. The fact is, the French manufactures cannot be got on the same reasonable terms as the English. What has been the effect on the price of Liverpool cottons since France has menaced the invasion of England? They have increased in price, because her manufacturers have been taken from their shops and converted into soldiers. What is the situation of Europe? Convulsed to her centre, will Germany afford us the articles we want? Do we not know that her manufactures have always been limited and confined to particular articles? Where then is a supply to be had? Where is a return to be got for our domestic productions, without which our loss will be incalculable? What will its effect be on our Treasury? We know that the British manufactures yield about five millions of revenue, which go to the regular reduction of the public debt, which to this degree must be suspended if they are prohibited. Will gentlemen say, because I hold this language, that I am the apologist of British measures? No. Were I to give way to my feelings on this subject, instead of being governed by my judgment, there is no length to which I would not go. My colleague has told us that Great Britain is fighting our battles and those of the world. I believe so. But not from any good will to us or the world; in fighting their own battles, they fight ours. Let us then suffer them to go on, not out of affection to their Government, which is tyrannical, and which, if it had the power, would lord it over this country as it did when we were colonies; not from attachment to the English Government or its measures, but from a regard to our own country, to which

this measure would be ruinous. If the articles we want can be got from any other country, let us obtain them from it; but do not let us carry our enmity so far to Britain as to ruin ourselves.

But we are told that this is only one cause of complaint against the British Government; that another cause of complaint is the impressment of our seamen. It is a cause, a most serious cause, of complaint. On this subject I have more feeling than on the other. I commiserate the deplorable situation of those men and their friends, and wish most ardently it was in my power to relieve them from it. But there is some apology even here to be made for the British Government. The inhabitants of the two nations are so like each other, and so nearly the same in their language and habits, that it is extremely difficult to distinguish one from the other: and I will ask you if we have not more subjects of Great Britain in our service than they have American citizens in theirs? Let us also recollect their principle—once a subject, always a subject. When, therefore, we give their subjects the privileges of a citizen, by naturalizing them, is it not a counteraction of British policy, and is it not some apology for their conduct in pressing this description of men? I recollect of no instance of their refusing persons allowed by them to be American citizens, whose claim was fully substantiated. Let me again repeat it, that in a state of war, neutral Powers must suffer some injury; when all nature is in conflict, we cannot expect to escape injury. I do not therefore think this ground of complaint a cause of war, for where is the difference between forcibly taking away the citizens of our country, and enticing those of another by the allurement of superior advantage? Every society has the right, and exercises that right, to ordain municipal regulations for its government; and every member of the society is bound by them. By the immemorial usage of England, no subject is allowed the right of expatriation, and they hold the privilege of impressing their sailors wherever they may be found in time of war, and claim their allegiance, whatever may be their condition. We ought not to seduce them. I do not mean this as a justification, but it is undoubtedly a mitigation of the affront. But what is proposed? To go to war in order to obtain the release of a few captive citizens that have been taken on the water; let them get out of the way by turning cultivators of your waste land, in which they can acquire a virtuous and honorable competency. But, sir, what will be the sympathy of the gentlemen who shed tears of grief over your impressed seamen, when they shall view the scenes of devastation produced by war; all your seaport towns in ashes; people of every age and condition mourning over their ruined mansions and fallen fortunes; countries ravaged by a merciless foe, or millions of your citizens slain in fighting your battles; will your carrying merchants then step forth and fight for you? No, indeed, they will not, they are too precious to be made food for gunpowder; they will not be shot at all day for seventeen cents; they will all disappear. Their rule is, wherever money can be made, there is my country. I beseech you then, Mr. Chairman, to guard against that fatal infatuation which hath destroyed the universe.

Mr. EPPES.—After the discussion which has already taken place on this subject, I shall not consider myself authorized to occupy much of the time of the House. As, however, I have on some occasions ventured to express my opinions on this floor, I cannot reconcile to my feelings a silent vote on a question interesting to the people of the United States generally, and particularly so, to that portion of country which I in part represent.

Whatever difference of opinion may prevail within these walls as to the course which ought to be adopted towards a nation which under the pretence of right has commenced a system of warfare and pillage on our commerce, I hope for the honor and interest of our country we shall finally unite in something. If in a free country there is any principle which ought universally to be admitted, to enforce which reasoning or demonstration should be necessary, it is, that every class of citizens is equally entitled to protection. To secure to man his personal rights, and the fruits of his honest industry, are the two most important objects of a free Government. The Government unwilling to use for that security the means of which it is possessed, does not deserve the support of freemen. Our Constitution makes no discrimination between different classes of citizens, nor can we in our legislative capacity. The citizen whose capital is vested in a ship has an equal right to protection in using for his benefit and happiness that ship, with the cultivator of the soil in using his plough. To arrest by violence his ship, and confiscate his property, is to the merchant the same injury as it would be to the farmer to arrest his plough and destroy his crop. In each case the citizen must look to the community for the removal of every obstruction thrown by violence in the way of that perfect freedom in the use of his property which constitutes its value. It is true, and no man will deny the correctness of the principle, that every nation has a right to abandon any particular commerce injurious to its interests or dangerous to its safety. This is the natural right of all nations, and particularly of free countries, where the general welfare of the community is the supreme law. While, however, a commerce remains lawful, the citizen embarks in it with the same right to expect protection as in any other lawful occupation; for a Government to refuse it, is a violation of that fundamental principle in free government: that protection on the part of the Government is the basis of support on the part of the citizen. If we are unable or unwilling to interpose in behalf of our citizens, when their personal rights have been invaded—their property captured and condemned under principles unknown to the law of nations—let us give up the farce of pretending to self-government, and go back to the degraded state of colonies.

The ground of difference between the United

States and Great Britain is too well known for me to dwell on this part of the subject. It has been stated on this floor by a gentleman from Massachusetts in terms clear, forcible, and manly. The impressment and detention of our seamen is an injury which has justly excited the indignation of the people of America for the last ten years. Every attempt to arrest by negotiation this serious injury has failed, and each year adds new victims to the roll of impressed seamen. The recent captures of American property to the amount of six millions of dollars, under doctrines new and manifestly unjust, is a serious injury to the individuals and to the community. And although I have no doubt, as has been eloquently stated on this floor, that American merchants have in some instances disgraced that character by covering the property of the enemies of Great Britain I am equally certain that the injury done to *bona fide* American merchants, trading fairly on American capital, are sufficiently numerous to justify and demand the interposition of this Government.

While, however, I have no doubt as to the right of the citizen on the one hand to demand protection, and of the duty of the Government on the other to extend it to him, I am willing to acknowledge all the difficulties of our present situation. I consider it no disgrace to this infant nation to say we are not able to meet on the ocean a nation—a match on that element for all the world combined. I hope the period will never arrive when the substance of the citizen here shall be squandered on a navy competent to meet on the ocean the navy of Great Britain. Separated from the rest of the world, at too great a distance to fear invasion, possessing a country abounding with productions valuable to the different nations of Europe with whom we have commercial relations—if we are not able to meet on the ocean Great Britain or any other European Power, we can say to them all, respect in your intercourse with us the principles of justice, or we hold no intercourse with you; if you will not traffic with us on principles that are fair, we will neither receive your manufactures, nor send to you our productions. We are now for the first time about to test this principle so important to a nation jealous of fleets and armies. Of the various measures of the kind which may be resorted to—high discriminating duties—a prohibition of certain enumerated articles, a general prohibition, and as a dernier resort a suspension of all intercourse, are the remedies within our reach. It is a mere question of convenience and expediency to which of these we shall resort. I should prefer for myself, as a first step, the mildest. It is not, in my opinion, the interest of this nation to dissolve at a single blow its commercial connexion with Great Britain. The commerce, if carried on, on principles that are fair, is mutually advantageous to the two countries. In Great Britain we find the best market for our most valuable productions, and with us she finds the best market for her manufactures. To prohibit, at a single blow, imports to the amount of thirty-five millions of dollars, however injurious it might be to the manufacturers of Great Britain, would certainly be a serious injury to our own citizens. I cannot but hope that a milder measure will cause the British Government to respect our rights and pursue a course manifestly dictated by a regard to its own interest. If, however, Great Britain is so lost to her own interest as to persevere in a system of injustice calculated to deprive her of the best market for her manufactures—a market daily increasing, with the increasing population of this infant country—let us on our part proceed with that caution and moderation, which shall evince that the course we are determined to pursue is founded on principle, and will never be abandoned until our wrongs are redressed. I am willing to adopt for the present a prohibition of enumerated articles; if that shall fail, to pass hereafter a total prohibition, and finally, to put forth our whole strength, and say, we hold no future intercourse with you; but dissolve forever all commercial relations with a nation, which takes for its national law the base principle of necessity, and makes itself the exclusive judge of that necessity.

As, however, it will not be in order to argue propositions not immediately under consideration, I shall confine my observations to the resolution of the gentleman from Pennsylvania. I am willing to consider this resolution, as its friends profess it to be, a commercial regulation, and not a war measure. Indeed, I should not apprehend war with Great Britain, even if it was adopted. It is not her interest to add to the number of her enemies, and her vessels, numerous as they are, will find sufficient occupation in guarding her own channel, and protecting her own capital. I object to this measure, because I believe that it will be so extremely injurious to the United States in its operation that it ought not to be resorted to until milder remedies have failed. In the remarks I shall make on it, I shall confine myself to its probable operation on the revenue of the United States, and on that class of citizens for whose protection it is principally designed.

From the report of the Secretary of the Treasury, at present on our table, it appears that the imports to this country from Great Britain and its dependencies amount to thirty-five millions nine hundred and seventy thousand dollars. We derive from imposts on this commerce a net revenue of five millions four hundred and thirty-two thousand dollars. The whole net revenue of the United States, derived from our commerce with all other parts of the world, amounts to six millions one hundred and eighteen thousand dollars. This resolution goes to prohibit a commerce from which we derive almost one-half of our net revenue. The carrying trade which this measure is intended to protect, yields a revenue of eight hundred and fifty thousand dollars; so that for the protection of eight hundred and fifty thousand dollars, we put at hazard a net revenue of five millions four hundred and thirty-two thousand dollars. I well know that national honor cannot be estimated in dollars and cents. There is no

man who feels more forcibly than I do the correctness of this principle, or will be more ready on all occasions to acknowledge it. Gentlemen, however, ought to remember that their remedy is a measure of dollars and cents. They profess it to be nothing more than a commercial regulation. In war, millions must be sacrificed to protect thousands; in commercial regulations the risk ought to be in some degree proportioned to the object. A nation, deliberately forming a commercial regulation, by which it risks millions to protect thousands, manifests more zeal than wisdom; nothing short of absolute necessity, and a failure of every other remedy, ought to induce us in our present situation to risk our revenue. We have repealed the whole system of internal taxes. We have set out with professions of economy, and a determination honestly to meet our public debt. This resolution, if adopted, may cause a deficiency in our revenue of five millions of dollars. The permanent revenue of the United States, exclusive of the Mediterranean fund, which I hope soon to see abolished, amounts to eleven millions five hundred thousand dollars; the permanent expense of the Government amounts to eleven millions of dollars; eight millions of dollars appropriated to the payment of the debt, and three millions to the expenses of the Government, including the Naval and Military Establishment. No part of the eight millions can ever be diverted from its object, without abandoning the principles which brought us into this Government, and as there is no probability of our expenses being lessened, the three millions may be considered equally permanent, or the wheels of Government must stop. From eleven millions five hundred thousand dollars, the amount of our present revenue, take five millions four hundred and thirty two thousand dollars, derived from imposts from Great Britain and its dependencies, and there remains six millions and sixty-eight thousand dollars, which falls short of eleven millions of dollars, the permanent expense of the Government, five millions nine hundred and thirty-nine thousand two hundred dollars. Shall we incur this risk, until other measures less injurious in their operation on ourselves shall have failed? Gentlemen have told us of substitutes for British manufactures, and that no great loss will be sustained in our revenue. One gentleman has estimated the loss at a million of dollars; another at two millions, and the same gentleman has furnished us with abundant information as to the places from whence we may procure a substitute for British manufactures. On this subject everything must be mere conjecture. It is impossible for any human being to say what will be the effect of this measure on our revenue. No man can say what will be the situation of Europe six months hence, and particularly of Germany, from whence we are to derive a part of our supplies. I wish not to risk the substance for the shadow. I cannot consent to trust the revenue of the United States to speculative opinions, which may be true or false. The gentleman from Pennsylvania who introduced this resolution, talked of a substitute for British manufactures in home-spun; he wished to see the people of this country clad in articles manufactured in their own families. There is no man who views with more pleasure than I do that species of independence to which this kind of industry gives birth. I wish not, however, to wear home-spun at the expense of a Federal tax upon my land. I know what a Federal land tax is, because I have paid it, and I remember it, because it was the only oppressive tax I ever did pay. If this measure shall not produce its effect on the British Government, and its operation on our revenue be as injurious as there is just cause to fear it will be, either we must repeal our own law, or adhere to a measure manifestly injurious to the United States, and lay a direct tax, or we must divert from its object the annual appropriation for the payment of our debt. Never with my vote shall the fund appropriated to the payment of the debt be diverted from its object until the last dollar shall be discharged. Other gentlemen, I presume, would be as little disposed as myself to resort to a direct tax.

The risk of revenue however is not the only objection I have to this resolution. A total prohibition of British manufactures will be extremely injurious to our own citizens. It puts down at once the occupation and employment of the merchant of small capital. In many parts of our country, and particularly to the south of this place, commerce is carried on principally on credit. That credit is generally in Great Britain. Take away the credit and the commerce is gone. It will seriously affect too the importing merchant of large capital, whose funds are in Great Britain. To withdraw his capital, establish new correspondents, and give an entire new direction to his commerce, would require time, trouble, and expense, and insure at least one year's loss in the profits of his profession. It would operate least injuriously on the merchant whose funds were large, and in this country. With his money he might seek a substitute for British manufactures in other markets, if indeed a substitute can be found. Little or no injury would be done to merchants of this description, while ruin and bankruptcy would be the fate of those deprived, by a general prohibition, of a capital depending on credit. I have no data by which to calculate the number of our merchants embarked in the foreign carrying trade, and of those who are only importers. The whole foreign carrying trade of Virginia amounts to three hundred and fifty thousand dollars. But a small portion of the merchants there of course are interested in the foreign carrying trade. To all the importing merchants throughout the United States, the adoption of this measure would be a serious evil. Supposing one third of the whole number of the merchants of the United States interested in the foreign carrying trade—and this would be a large calculation—by the adoption of this measure we sacrifice the convenience and interest of two thirds even of this class of our citizens. Upon the whole, I have no doubt, but that the adoption of this resolution would be a serious injury to a large major-

ity of the merchants of the United States, although designed for their protection.

What would be the effect on the planter? It would cause an immediate advance on all the articles of first necessity, particularly coarse woollens, which could not immediately be manufactured at home. It is true that during the Revolutionary war a substitute was made. We were driven to it by necessity, and abandoned it as soon as that necessity ceased. While, for all the articles of first necessity, a great additional price must be paid by the farmer or planter, the value of every article of his labor must diminish; his produce be sold at a reduced price or left to rot on his hands, from the inability of the merchant to purchase. This will be the effect on the planter, supposing Great Britain will take no contervailing measure. If however she is disposed to carry her principle to its full extent, she can dispense for a limited time with your exports, except the provision and lumber necessary for the West Indies, with as little inconvenience as you can with her manufactures. Of tobacco she has always two crops on hand. Of cotton she has probably enough to carry her through the present war. A prohibition of these two articles only would be ruinous to the merchants and planters of the Southern country. On occasions of great national necessity such sacrifices must be met with firmness. The citizen who shares the blessings of prosperity, must submit to sacrifices demanded by the interest and honor of his country. While, however, this is the duty of the citizen, it is equally the duty of the Government not to require such sacrifices until milder measures have failed. Let us test the principle how far commercial regulations may be relied on. The resolutions of the gentleman from Maryland is well calculated for this purpose. We know that it will affect our revenue to an extent we can permanently bear. It will be less injurious to our merchants, as involving a smaller part of their capital, and allowing time to give a new direction to their commerce. It will enable us hereafter to decide with more certainty on the effect of measures of this kind on ourselves, and how far they may be relied on as an engine to operate on Great Britain. On this subject, however, my observations shall be suspended until that resolution shall be under consideration.

Mr. Nicholson said, he had been desirous for some days to offer to the Committee his opinions on the subject now under consideration; but as other gentlemen had manifested a similar disposition, he had yielded the floor to them. It was now his intention to offer such remarks as appeared to him pertinent.

The resolution of the gentleman from Pennsylvania, (Mr. Gregg,) in his opinion, was objectionable in all its parts. There was no point of light in which he could view it, in which objections did not present themselves. He read and commented on the preamble; the style of which he said he did not like, because, instead of a spirit of amity and conciliation, it breathed little less than defiance. While we profess to speak the language of peace, we declare to Great Britain, that unless she will meet us at that precise point, which we think proper to mark, we will, in the words of the gentleman from Pennsylvania, stab her in the vitals. While we declare that we approach her as friends, yet our style is that of an enemy. The olive branch that is held out conceals a dagger in its boughs. This threatening manner he said was not calculated to preserve peace in private life, and how could it be expected to succeed between nations? Did gentlemen imagine that Great Britain, even surrounded as she was by her enemies, was yet so tame as to submit to threats? Was the character of her first Minister so little known, as to induce a belief that he would tremble at the rod held over him? No, sir, they are not sunk so low; and if we really wish for an amicable adjustment of our differences, we ought to proceed as friends and not as enemies. A mere commercial regulation, he said, might not, perhaps, produce war; it was the threat held out in the preamble, and the hostility manifested on the floor of the House of Representatives, that were calculated to wound the national pride of Britain, and, therefore, to excite enmity between the two countries. What does the preamble say? We have marked a point from which we will not recede, and to which we demand that you shall come; if you do not, we strike at your most essential interests; in the language of the gentleman from Pennsylvania, we will stab you in your vitals. Is this the way to conciliate? Is this your method of opening a negotiation? Believe me, sir, instead of presenting the olive branch, we carry a firebrand that will kindle a flame which we may find it difficult to extinguish. Great Britain will feel all this—she will at once ask, is it fair, is it manly, is it honorable to threaten me now, when I am contending for all that is dear to me? Will you insult me in my distress, and while you sustain my enemy on one hand, with the other endeavour to unnerve the arm which you acknowledge is raised in defence of its own existence?

If the subsequent parts of the resolution were unobjectionable, the preamble itself would determine me against the whole. To preserve peace, let us proceed to our object in a peaceable manner. If, indeed, gentlemen are for war, then they are right in advocating this measure.

From the course of the debate, Mr. N. said, one who had not attended to the points in dispute (which he feared was too much the case with the great body of the people) would really imagine that all the commerce of the country was at stake; that Great Britain had assumed a principle by which the whole of our trade would be involved in ruin. Commerce and agriculture had been called the handmaids of each other, and high eulogies had been pronounced upon the intimate connexion subsisting between them. No one was so blind or so stupid as to deny that, under the peculiar circumstances of this country, commerce and agriculture were the mutual assistants of each other; but did gentlemen imagine that the people were so blind or so stupid as to believe that the commerce which was connected

with agriculture, was the subject of dispute with Great Britain? Did they suppose that they could cast a veil over the real points of difference, as to produce an impression of this kind? If such was the hope, he trusted it would be defeated. No man would pretend to assert that Great Britain had denied our right to carry the products of our own soil to foreign markets, and to bring home in return such articles as were adapted to the necessity, the convenience, or the taste of our own people. She did not interfere with the carriage of our corn, wheat, tobacco, cotton, provisions, or lumber, to those places where we could meet the readiest sale for them; and had never raised an objection to our returning with the products or manufactures of Europe, or of the East or West Indies. It was the carrying trade alone which was the subject of difference. A trade so slightly, if at all, connected with agriculture, that the connexion, such as it was, did not merit notice in discussing the present question. It was that trade which carried the products of one foreign country to another, which relieved France, Spain, and Holland, from the pressure of war, by carrying on a trade for them which they could no longer carry on for themselves—which carried the coffee and sugar of Batavia and the West India islands, to the respective mother countries in Europe, thereby relieving them from the necessity of convoy, and the expense of maintaining large fleets. This was the trade, he said, upon which Great Britain had committed depredations. It was not the home trade, in articles of our own produce or for our own consumption; but a foreign trade, in foreign articles, for foreign markets, and for foreign use. It was the colonial trade which France, Spain, and Holland, monopolized to themselves in times of peace, but which they could not command in time of war, and had, therefore, permitted us to carry it on for their benefit. It was a trade, therefore, totally unconnected with agriculture, and enjoyed by a few merchants only; and it remained with the American people to determine whether, for its protection, they would involve the agricultural interest, and the revenues of the country, in those embarrassments which would necessarily ensue, upon the adoption of the measure proposed by the gentleman from Pennsylvania. He flattered himself that the people would inquire, and that they would not suffer themselves to be deceived by the misrepresentations which had gone abroad. The question was deeply interesting to them, and he wished them to examine it in all its bearings.

The resolution, he said, embraced two points; the one related to the carrying trade; the other to the impressment of American seamen. The latter had always been a source of great anxiety to him. No man in America had deplored the evil more than he did, and none should be more ready to apply the remedy, when an effectual remedy could be devised. To him, however, it was a matter of no little surprise, that gentleman had so long slept upon a subject, on which they now appeared to manifest so much zeal. He himself twice proposed measures with a view to obtain redress, but he had not been able to carry them through the House. Gentlemen, who now zealously volunteered their services, rendered him no assistance then. At the last session he had introduced a bill on the subject, and such were the variety of objections to it, that it was committed and recommitted several times. Difficulties presented themselves from all quarters; alterations and amendments innumerable were adopted, until finally it was shuffled through the House, in so imperfect a state that it was not worth the time which had been spent on it. Strong measures were not then the order of the day, nor would they be now, if the impressment of American seamen was the only ground of complaint. Great Britain has pursued this practice for ten or twelve years past, but these patriotic merchants, who are now so clamorous, presented you with no memorials on the subject. No, sir. It is the carrying trade alone, which has covered your tables with the memorials of the merchants, because their interests are affected, and it is out of this that the resolution of the gentleman from Pennsylvania has grown. Although I do not admit the correctness of the principle assumed by Great Britain, in relation to the carrying trade, yet I am willing to acknowledge that with me it is an object of secondary importance only, when compared with the other violations of our flag, in the impressment of our seamen.

Why, Mr. Chairman, is the carrying trade a secondary consideration only? Because the depredations committed on it, do not affect the personal rights of our citizens, nor our trade in our own products, or in the products of foreign nations for our own use; but all these are affected, deeply affected, by the impressment of our seamen. It has been said, indeed, that this interruption of the carrying trade was peculiarly hostile, because it struck at *bona fide* American property. In many cases this is true, but in many I believe it is not true; for I have no doubt that much foreign property is covered by our flag. Admitting, however, that it is always American property, yet all seizures of this are not considered acts of hostility. It is conceded by all that the direct trade, between the colony and the mother country, cannot be carried on in neutral bottoms. If, therefore, a cargo of sugar or coffee were purchased at a French island, it would thereby become *bona fide* American property; but by our own acknowledgments it could not be carried directly to France; nor, if it was French property, could it be carried in our vessels, as, in 1794, we surrendered the principle that "free ships make free goods." Seeing then, that we could not carry on the direct trade between the colony and the mother country, even when the property had become American by purchase, and that we could not cover French property under our flag, a new method was invented by our merchants to evade these regulations. They went to the West Indies, purchased their cargoes there, returned with them to this country, and then reshipped them and carried them to France, and Spain, and Holland, thereby yielding them very important assistance

in their warfare against Great Britain. This, Mr. N. said, was the new principle against which Great Britain contended, and although he was not willing to acknowledge the correctness of her proceedings, yet he was more unwilling to sustain our right at the expense of so much injury as we should incur by adopting the proposed resolution. Negotiation, he said, ought to be resorted to; if that failed, then indeed, commercial restrictions might be imposed, but not such restrictions as the gentleman from Pennsylvania and his friends advocated. These, although they might wound Britain, would inflict a still deeper wound on ourselves. It was known that our Minister at the Court of London had the subject under his immediate attention, and we had reason to expect that he would succeed in an amicable settlement of our differences. Mr. King had formerly remonstrated against similar practices by British cruisers, and the report of the Attorney General of England, transmitted by Lord Hawkesbury, fully recognised the justice of our pretensions. No treaty, however, was made, and until a treaty is entered into, regulating all our commercial relations, we cannot expect that our trade will be free from embarrassments. The points in difference now between the two Governments, are fair objects of negotiation. The admissions of Lord Hawkesbury, in his correspondence with Mr. King, give us a fair claim on the British Government; and I have no doubt they will yield, provided the intemperance of our language and our conduct does not furnish them with a pretext still to resist.

What, I ask, will be the effect of this resolution on Great Britain? She will either disregard it, under the conviction that it will operate much more injuriously upon ourselves than upon her, and that therefore we cannot persist in it; or, inflamed by the threats contained in it, and by those used by its advocates on this floor, she will consider it as cause of war. Will it not be good cause of war, when professing peace, you use the language of intimidation, and the mover of the measure tells you, he brandishes a dagger in his hand with which he means to stab her to the vitals? [Mr. GREGG said, he did not say so.] Mr. N. continued; it may not be found in the gentleman's speech, but I find it in my notes, and I believe they are as correct as those of the stenographer. [Mr. GREGG explained, and said he did not use the word dagger.] Mr. N. said it was of no importance, what the instrument was, whether a sword, a dagger, or a knife, if he was to touch the vitals. It was a figurative expression, and the gentleman might select either of the figures which he preferred. He himself had used the word dagger, supposing it the most appropriate, and the most congenial to the gentleman's own mind. [Mr. GREGG said he would take some other opportunity of explaining.] Mr. N.: The gentleman declared the measure was calculated to stab Great Britain in her vitals. I appeal to the Committee if such is not their recollection. The gentleman himself does not deny it; he only says he did not use the word dagger. But if Great Britain believes that we can persist in it, and sees that we are determined to sustain her enemy against her, and to stab her in her vitals, she will consider it as cause of war and will make war.

Are gentlemen prepared, then, to hazard these consequences? Are they ready to go to war for the protection of this carrying trade, in which the great bulk of the nation have no interest? I venture to assert that nineteen-twentieths of the people of this country have no interest whatever in the trade for which we are now about to contend. One consolation, however, yet remains: let this House receive the measure as favorably as they may, the people will condemn it, when they feel its consequences. We may run headlong into war, but we shall not have the trouble of carrying it on. The people will supply our places with other representatives: they will not so readily forgive us. I trust in God they will not.

A gentleman from Massachusetts (Mr. CROWNINSHIELD) thinks the measure will not lead to war; but if he believed it would, this would be no objection with him to the resolution—he would still vote for it. We can convert our vessels, he says, into privateers, and can capture two or three British vessels for one of our own that will be lost. How, I ask, is this to benefit the farmer or the planter? What proportion of these profits is to go into their pockets? The gentleman may vest his capital in privateers, and may make a fortune. Here, sir, he plays the merchant again. Whatever the effect may be on the great body of the people, he is *Shylock* still. The nation may bleed at every pore, but he will have his pound of flesh. This privateering business, however, will not do. Great Britain has eight hundred ships-of-war, and it ought to be remembered that she can fit out as many privateers as we can. But, sir, the idea of our meeting Great Britain on the ocean is too ludicrous to be repelled by serious argument. My friend from Virginia has given the best answer to it, in his prescription of a straight-waistcoat, a dark room, depletion, and water-gruel. It is just as absurd as to talk of fitting out a privateer to fight a seventy-four.

The gentleman from Massachusetts has another measure in reserve to wound Britain. He tells us we must confiscate the public debt. This is a strange doctrine for men who talk so much of national honor. I have always believed it most honorable to pay our debts, instead of swindling our creditors. My determination, however, has long since been taken on this point. I will never consent to lay my hands upon the public debt, but for the purpose of fairly extinguishing it. Let our conflict with Great Britain proceed to what length it may, I will never lend my aid to defraud her subjects of that debt, for the payment of which the national faith is solemnly pledged. The nation may do it, but if it be once done, the violations of the national honor, which are now so loudly complained of, will weigh but an atom in the scale, when compared with the blow you yourselves will level at your own honor. You will set yourselves up as a rare and modern example of the *Punica fides*, for you will so effectually blast

your credit, that I venture to affirm you will make no more loans. Had I millions to lend, I would not trust you with a dollar.

To justify the measure now proposed, we are referred to the years 1793 and 1794; and because a resolution somewhat similar to the present was then adopted, and had well nigh passed into a law, we are called upon to sanction that which is now before us. But will gentlemen undertake to say that our situation at this time will justify such measures as were adopted then? Will they pretend that we have now the same grounds for hostility against Britain, or that the two periods can be compared with each other? What was our situation in 1793 and 1794? We had made a treaty in the year 1783 with Great Britain. Ten years after, some of its most important stipulations on her part were unfulfilled. She had pledged herself to restore to our citizens an immense amount of property which had been taken from them. She had engaged to put us in possession of the western posts. With neither of these engagements had she then complied. Year after year she was active in kindling a destructive war upon our frontier, and had let loose the savages of the wilderness upon our peaceable citizens. The Algerines too were, at the instigation of Britain, committing depredations on our commerce; and, in addition to all this, she directed a blow at our trade, more injurious than that which is now complained of: for she ordered her cruisers to capture all vessels laden with provisions going to the French colonies, or returning from them with the products of those colonies on board. Then it was that the measure alluded to was adopted by one branch of the Legislature, and it is most certain that we had cause enough to go to war. But is our situation at all similar now? Have we any of those outrages to complain of at this time? Not one. A part of our trade, it is true, is affected, but it is that part which is the least interesting to the nation. When I say this, I trust it will not be believed that I am willing to abandon it, or that I mean to palliate the conduct of Great Britain. My only object is to show, that, for this carrying trade, we ought not to bring upon ourselves the calamities of war, nor to pursue a line of conduct, which, though it may affect Great Britain, will operate much more injuriously upon our own country.

It is said, however, that the measure will not lead to war. This I am willing to grant, for argument's sake. Let us, then, take it in the most favorable point of view in which it can be presented, and inquire into its consequences.

Suppose Britain does not consider it a cause of war, but that, nevertheless, instead of relaxing in her system, she should obstinately persist in it. Gentlemen seem to have looked at only one side of the question, and appear to have forgotten that every question has two sides to it. In their anxiety to injure Britain, they have not attended to the effects which their proposition is calculated to produce at home. Should she persist, in what manner are we to be affected by the proposed measure? Let us see how it is to operate on the revenue. And here it would be well to remind gentlemen that almost the whole of our revenue is derived from the duty paid on the importation of foreign merchandise, and that this duty annually amounts to eleven millions eight hundred and fifty thousand dollars.

Our imports from Great Britain amount annually to - - - - - - -	$27,400,000
From the British East Indies to -	3,500,000
From the British West Indies to -	4,570,000
From New Brunswick, Nova Scotia, and Canada, to - - - - -	540,000
Making in the whole - -	$36,010,000
It is uncertain how much is exported, but say - - - - - - -	6,010,000
Leaving for importations - -	$30,000,000

The revenue on which, as appears by the report of the Secretary of the Treasury, amounts to five millions four hundred and thirty-two thousand dollars, or very little less than one-half of our whole revenue derived from imports.

The gentleman from Pennsylvania (Mr. GREGG) thought he had gained an immense triumph, in showing that I had been guilty of an error in stating the average duty on importations from Britain at twenty per cent., which he says is not more than fourteen per cent. It ought to be remembered that I did not pretend to speak with accuracy; for when I made a few observations prefacing a resolution which I submitted some time since, I had no documents from which a calculation could be made. I supposed that the importations from Britain might amount to twenty five millions of dollars, and, taking the average duty at twenty per cent., said five millions of revenue would be affected. Does, however, the detection of the error change the result? It does not; for it appears, by the report of the Secretary of the Treasury, that the revenue derived from this source is five millions four hundred and thirty-two thousand dollars, which is more than I stated it at. Is all this, then, to be put to hazard? Are we to cast it upon the ocean of uncertainty, without helm or chart? And for what? To protect that trade from which the revenue is derived? No, sir. To protect that trade which carries our own products to market and brings home in return the articles of our consumption? No, sir; but to protect a trade interesting only to a few merchants, and, I repeat it again, totally uninteresting to more than nineteen-twentieths of the people of this country. Gentlemen ask, Will you not assist the merchant in recovering his property? I answer, Yes, most willingly, but not at this expense. I will not commit to chance nearly one-half of the revenue of the nation, which we have already pledged for the fair and honorable discharge of the public debt. Sir, when I said, some days ago, that five millions of the revenue would be *affected* by this measure, I was understood by some to have stated that it would be *diminished* to the amount of five millions. This, however, was not my statement; for I well knew that it was not in the power of hu-

man ingenuity to calculate the extent to which it would be affected. But, by prohibiting the importation of goods from the only country that could furnish all of them, you would thereby hazard the whole revenue derived from them, and a part of it would certainly be lost. What amount would be lost, I did not pretend to say; I do not now pretend to say; it is beyond my reach; but that a considerable amount would be lost, seemed to be admitted by everybody, except the gentleman from Massachusetts, who said we should not lose a dollar.

[Mr. CROWNINSHIELD explained, by observing that he had said the measure would not, in his opinion, affect the revenue beyond a million of dollars, and the gentleman had now reduced it to one dollar.]

Sir, said Mr. NICHOLSON, the gentleman declared, when he was addressing you on the resolution, that he had before stated he did not believe the revenue would be diminished one million of dollars, but that he had since thought it would not be diminished a single dollar. He now goes back, however, to his million, and this is the difficulty which constantly presents itself. None of us can tell how much the revenue will be diminished, though every one acknowledges to a very great extent. My fear is, that the loss will be equal, at least, to two or three millions. How strange are the arguments offered to us! One gentleman tells you you ought to protect commerce, because we derive our revenue from it; and yet in the same moment, he advocates a measure which he admits is to destroy a large amount of that very revenue he is so desirous of protecting. Another calls on you to protect the revenue, and warns you against direct taxes, whilst his favorite measure (by destroying a considerable amount of revenue) renders direct taxes necessary. I warn those gentlemen, in my turn, against direct taxes. Let them take care that they do not, by agreeing to this resolution, compel the nation to resort to those taxes, which they say was the rock upon which the former Administration split. Let them remember that the direct tax for two millions of dollars only, which was laid eight years ago, is not yet received into the Treasury. Will they, by adopting this measure, and thereby reducing the revenue, drive us into excise duties as a substitute? They ought to recollect that this, too, was once a favorite scheme of raising revenue, though not a very fortunate or a very popular one, as some gentlemen on the other side of the House can testify. I believe, sir, that they at least will not be very willing to burn their fingers with it a second time. They have their experience on this point. But, when gentlemen call upon us to agree with them in a measure which they admit will considerably diminish the revenue, (though they cannot calculate the extent,) why do they not tell us what they intend to propose as a substitute? I want to see their ways and means for supplying the deficiency. Until they show us these, I, for one, will not consent to cut off our present resources. Are we to borrow? It will not do, Mr. Chairman, to talk of borrowing and of confiscation in the same breath. We shall find nobody to trust us; and if we could, we must still find the ways and means of paying.

Let us, however, pursue this resolution through all its effects, and still continue to consider it in as favorable a point of view as its best friends can wish for; let it be admitted, that we can procure from other countries all those articles which we prohibit the importation of from Great Britain, and of course that the revenue will not be diminished at all. It may yet be worth while to inquire, whether the necessary consequences that must follow, will not operate most injuriously upon the citizens of the United States. I say nothing of the great difficulty which the importing merchants must experience in changing their course of trade, from that channel in which it has been accustomed to flow for eighteen or twenty years; appointing new agents, and forming new correspondence upon the continent of Europe, and the absolute impossibility of obtaining the same credit there, that they enjoy in England; these are minor considerations. But, sir, let us inquire whether the merchants and the agriculturists will experience no loss from this change. We export annually to Great Britain, of domestic produce, more than thirteen and an half millions of dollars, and to her colonial possessions more than six millions, making in the whole upwards of twenty millions of dollars; to all the rest of the world we export, in domestic produce, only about nineteen and an half millions of dollars. From Great Britain we get her manufactures in exchange for our produce, and it is said that we can procure the same articles from other countries; this is admitted for argument' sake; but those other countries will not purchase our domestic produce, they do not want it; it must therefore still go to Great Britain, and her colonies, if, indeed, they will receive it; and it must there be sold. What then will be the state of the case? We shall annually have in England, for produce sold there, and for bills of exchange drawn by the colonies, more than twenty millions of dollars; this sum must be sent to the continent of Europe, to pay for the goods we purchase there. I now, therefore, ask gentlemen if they have calculated the effects of forcing this large sum out of its natural, or rather out of its habitual channel? Have they calculated the effect to be produced on exchange, by sending annually from England more than twenty millions of dollars, over and above the customary remittances? Let them look to a late occurrence: a considerable sum of money was lately to be remitted from England, to pay the British troops on the continent, and it was necessarily done by bills of exchange. It was, as ours will be, a transaction out of the ordinary course; and I am well informed that it had the immediate effect to raise the rate of exchange fifteen per cent. The State of Maryland, within the last year, had three hundred thousand dollars in England to be be remitted to this country, and even for this small amount the State was obliged to pay one per cent. above par. Am I not, then, fully warranted in saying, that when the American merchants will annually have in England more than twelve millions of

dollars, to be remitted to the continent, to be forced out of its ordinary course, into new and extraordinary channels, that it will raise the price of exchange, at least, from six to ten per cent., and that, therefore, an annual loss will be incurred, from twelve hundred thousand to two millions of dollars? This loss will not fall upon those who consume your produce in England, nor I believe upon your own merchants who buy it here; for, when they are making their purchases here, they will calculate the losses they are to sustain abroad, and these will be considered in the prices which they will pay; the necessary consequence therefore is, that the price of American produce must sink in proportion to this great loss, and that the loss will, of course, fall upon American agriculture.

Again, sir, as to the effect upon the market for American produce. We send to England and her colonies large quantities of our native productions; I will instance cotton alone. In 1805, we exported to England 25,770,000 pounds of cotton, valued at $6,184,979; in 1805, it would be still more, because in 1804, we exported to Liverpool, 78,253 bales, and in the three first quarters of the year 1805, the export to Liverpool was 93,614 bales; thus, it appears that England is a great and increasing market for our cotton. We import from England all the cotton goods we use, except the white and stained cottons which come from the East Indies. By diminishing the importation of these fabrics, we of course diminish the demand for our own cotton; for nothing is more clear, than that as soon as we refuse to import her cotton manufactures, she must refuse to buy of us the raw material out of which they are made. The consequence will be a reduction in the price of our cotton, to the amount, probably of fifty or one hundred per cent. With some, however, this reduction in the price may not be very objectionable; I mean with those merchants, who are trading to India with large capitals, and who tell you they can furnish us with cotton goods from thence. For these men say as soon as cotton can be bought in this country at twelve and an half or fifteen cents per pound, it will become a good export to India as a substitute for money. Now, however agreeable it may be, to these merchants to increase their fortunes, by reducing the price of cotton, I imagine it will not be very favorably considered by the planters of the Southern States, who send their cotton to England, and sell it from twenty-five to sixty cents. This is one of the effects to be produced on the Southern States, and the gentleman from Georgia considers them more interested in this measure than the others. This may be true, but I mean to show that the Middle States are very much interested in it likewise. I do not intend to notice the tobacco of Maryland, Virginia, and North Carolina, although in this article we export to England, from two and an half, to four and an half millions of dollars annually. We export to the British West Indies, in flour, corn meal, other provisions, and lumber, annually, about six millions and fifty thousand dollars. We receive in return rum, sugar, and coffee, to the amount of four and an half millions of dollars; the remainder partly in specie, but principally in bills of exchange on England. If we refuse to take these four millions and an half, in the products of these islands, can the West Indian planter purchase our articles at as high a price as he now pays for them? Certainly not, and the inevitable effect will be to reduce the value of all those products which are the growth of the Middle States. In fact, it may be said generally, that when you prohibit the importation into this country of all articles of the growth, produce, or manufacture of Great Britain, you thereby diminish their ability to purchase the products of our own country, for which Great Britain furnishes a greater market than all the rest of the world besides. The more extensive the prohibition, the more extensive the injury to ourselves.

I have examined the resolution of the gentleman from Pennsylvania, under three different views: First. That the manner in which it is expressed, together with the language of those who supported it, would be calculated to produce war. Secondly. That, by adopting it, we should hazard nearly one-half of our revenue, a considerable part of which would be lost. And thirdly. That if neither of these effects were produced, the necessary consequence would be a vast diminution in the value of our own products, which would fall upon the agricultural part of the community alone.

I must now be permitted to recur again to the second point, for the purpose of showing that we cannot be supplied with many important articles from other nations, which we get from Great Britain, and, of course, that the whole of the revenue collected from these, will be sunk to the United States. I am aware, Mr. Chairman, of the difficulty of proving a negative—it can only be done by examining the positions held by your adversaries, and by showing the weakness of their arguments. And here I may be permitted to express a wish, that gentleman who say we can be supplied from other countries, had offered us, instead of their opinions, some proofs, some authorities. But we have had none. Since I offered a resolution, some days ago, for a partial prohibition only, I have been assailed by anonymous letters and anonymous writers in newspapers, attempting to prove that the ground which I then took was not tenable; and, I am sorry to say, that I have found more argument in them than I have heard on this floor.

My position, when I submitted the resolution for a partial prohibition, was, that our revenue was derived from imposts; that nearly one-half of it arose from the articles imported from Great Britain, and that with a great proportion (in amount) of these we could not be supplied by other nations. This position I still maintain, and will endeavor to prove it by the documents now on the table.

From the documents, it appears that, although we exported to Great Britain and Ireland, in the year 1804, of our domestic produce, only $11,787,000, yet that we imported from these two places, in goods paying the ad valorem duty, more than double that sum, embracing with inconsiderable

exceptions, all the woollen, cotton, linen, silk, metal, earthen, glass, and paper manufactures, and amounting to about 26,000,000 of dollars. In that year we imported from all the world (including Britain and Ireland) in the same kind of goods paying the ad valorem duty - $33 772 125
From Great Britain and Ireland - 26,000,000

Leaving this as the amount of imports from all other parts of the world - 7,772,125

In the same year we exported to all Europe, including Great Britain and Ireland, of domestic produce - 23,085,000
Of this we sent to Britain and Ireland - - - - - - - - 11.787.000

Leaving for the export to the continent of Europe - - - - 11,298,000
Supposing the merchant to have gained for his freight, insurance, risk, &c., only thirty-three and a third per cent., and I believe it is more frequently fifty per cent., you must add 3,766,110

Leaving this sum on the continent of Europe at the disposal of our merchants - - - - - - - 15.064.110

Of these fifteen millions of dollars, about one-half are sent to England by means of bills of exchange, to pay for those goods which we get from thence. Now, is it not fair reason, if the goods which we get from Britain and Ireland could be purchased on the continent, that our merchants would supply themselves there, where the money is, rather than be at the trouble, expense, and risk of remitting it to England? If coarse woollen cloths, for instance, are to be had from Germany, why are they not brought to us? And is it not an incontestable fact that we import none of them? It is, sir; at least, such is the information which I have obtained from mercantile men of the first respectability, both on this floor, and in the large trading towns of the United States. In fact, the information which I have received from them, gives the same result as to woollen, cotton, metal, and earthen manufactures. It appears impossible that we could be supplied from the continent of Europe with these articles, when we could sell our own products at better prices, and obtain these goods on better terms, by exchanging the one for the other in the same market. The truth is, that we get none of them. And why? Not because we have not money on the continent to purchase with, but because they are not to be had there.

I offer this as a general argument to meet the assertions of those gentlemen, who say that we can be supplied elsewhere than from Britain.

It has more than once been alleged, that we can get from Germany all the coarse woollen cloths that we require, and Saxony in particular has been mentioned as being capable of furnishing a large supply. I hold in my hand a newspaper containing an extract from a German periodical work. This extract has been published for the purpose of showing that some statements heretofore made by me, relative to the German manufactures, were imperfect. I do not know that it is quite prudent to notice in the House, attacks made upon us in the newspapers, but as there is nothing personal in this, and it is said to contain historical facts, published at this moment for information, I will venture to examine it. What I shall read will be the extracts from the German work. It states that the "Electorate of Saxony has about two mil-'lions of inhabitants. It contains eighty-nine 'large and small towns, the inhabitants of which 'principally subsist by the manufacture of wool. 'The number of persons employed in the woollen 'manufactures are calculated at eighty-five thou-'sand."

As Saxony has been selected, the presumption is that it is one of the most considerable manufacturing States in Germany, and as a fact of very great importance, it is stated that eighty-five thousand of its inhabitants are employed in manufacturing wool. Supposing the same proportion to exist throughout all Germany, between the whole population, and that part of it engaged in the manufacture of wool, it follows that less than one twentieth part are concerned in this branch. How then can the woollen manufactures in Germany bear a comparison with those of England?

The counties in England in which the manufacture of wool is most extensively carried on, are Lancaster, York, Wilts, Gloucester, Somerset, Essex, and Devonshire; and I learn from a work of very high authority, Postlethwayt's Universal Dictionary of Trade and Commerce, that in the parish of Halifax only, in Yorkshire, there are upwards of one hundred thousand persons employed in the manufacture of kerseys alone. If then in a single parish this great number of persons are engaged in manufacturing one species only of coarse cloths, what number may we imagine are employed in the woollen manufacture throughout England? I find from the same authority that not less than one million are engaged in the manufacture of fine cloths only, and as those of a coarser kind are more extensively used, I think it fair to calculate that two millions, at least, of the people of England are employed in the manufacture of woollen cloths. This is equal to one-fourth of their whole population. What then is the consequence? It is this—that in England where one-fourth of the people carry on the manufacture of wool, they can, not only supply their population of eight millions, but also have large quantities for exportation; while in Germany, where it is carried on by a twentieth part only, it is scarcely possible that they can export any, after supplying their own population of about twenty-six millions. I do not believe, however, that they do even supply their own population, and I think this is proved by an extract from the same German work, that I have just read from. "The British manufacturers (says this 'German author) consider the Saxons as danger-'ous rivals. British agents, by making large pur-'chases in shearing, raised the price of fine wool

'in Saxony, in 1804, 19 per cent., and of the coar-'ser kinds between 60 and 70 per cent. They 'endeavored to ruin the Saxon manufacturers. 'and almost succeeded. When the coarsest wool 'cost from four to five rix dollars a piece of coarse 'cloth was sold at 13 to 14 rix dollars. Now the 'same wool costs, by reason of British purchases 'chiefly, 8 to 9 dollars; the price of cloth ought 'therefore, to be 30 rix dollars, but importations 'from England keep it at 16 to 18 rix dollars." What then are the facts disclosed in this extract? They are these, (and I consider them as deciding the question, as to the supply of cloths to be drawn from Germany,) that the British manufacturers can go into Saxony, purchase up the Saxon wool, carry it to England, manufacture it into cloth, return with it again to Saxony, pay the duties with double insurance and double freight, and after all, can undersell the Saxon manufacturer in his own market. Again, sir, Postlethwayt, in his valuable work, says, that in Leipsic, one of the principal cities of Saxony, and certainly among the most commercial in Germany, at their fairs, which are held twice or three times a year, an immense trade is carried on in English cloths. In addition to this, I will state further, that a most respectable German house to whom I applied by letter, say in their answer, "from the best information, we 'can collect, we learn that the coarse cloths which 'are made in Germany, are generally of an indif-'ferent quality, and not faithfully manufactured." Can it then be said, after a knowledge of these facts, that we can be supplied from Germany with those coarse cloths which we now get from England? The finer ones I believe may be had from France and Holland, but not those of a coarser kind.

Gentlemen speak of this resolution as going merely to a prohibition of luxuries; these I shall be willing to surrender as soon as any man. But, sir, the luxury of a substantial cloth coat in a cold winter's day, or a warm woollen blanket in a cold winter's night, I do not wish to see denied to the people of this country. As to woollen blankets, they manufacture none in Germany, except those which are called horse blankets. Those for household use, are all made of cotton, and how readily our habits can be accommodated to these, I am not prepared to say.

I have thus endeavored to show, with what success the Committee must determine, that, by adopting this resolution, we hazard a war; that the course of commerce will be materially, suddenly, and, therefore, injuriously changed; that inasmuch as we cannot procure from other countries many important articles with which Britain supplies us, the revenue will be much diminished; and that the value of our own products will be lessened to an incalculable amount. Having been a considerable time on the floor, I feel extremely exhausted, and will, therefore, close my remarks, although it was my wish to have said much more on this subject; particularly to point out the different effects to be produced by the adoption of the measure now under discussion, and that which was submitted by myself. To my own proposition, however, I am not exclusively attached. I have thought and do still think it the best which has been proposed. This I trust will be the opinion of the House. Believing the conduct of Great Britain towards this country not to be justified, I am willing to unite in such measures as may induce her to do us justice. But I will not go to the extent proposed in this resolution, because I am persuaded it will operate much more injuriously upon ourselves, than upon those whom we intend to affect by it.

Mr. Macon.—Mr. Chairman, I feel myself bound by the call which has been made by three gentlemen from Pennsylvania, (Messrs. Gregg, Smilie, and Findley.) with whom I have long been in the habit of friendship, a friendship on my part sincere, to state the reasons which will govern my conduct on this occasion; whether they may be satisfactory to others or not, they are perfectly so to me. That a difference of opinion subsists between the members with regard to the measures best adapted to the present crisis of our affairs, is evident from the number of resolutions on your table. An attempt has been made to liken this resolution to one agreed to in 1793; but are they alike? I think not. That was general, and operated alike on every part of the Union, while this, in my opinion, is special, and will only operate on one part of the Union; and this partial operation will be severely felt by that section of the country which I in part represent. Besides this clear difference in the two resolutions, will not all the three gentlemen agree that there is a great and striking difference in our affairs with Great Britain—in 1793 and now? Her motives may be as unfriendly now as then; but I speak of facts known to all, not of motives; she then held the western posts, she then detained an immense property belonging to the Southern people, both in violation of the Treaty of Peace. She then instigated the Indians to war on the frontiers, and then, as at this time, impressed our sailors and captured our vessels; besides, the United States had not then relinquished the principle, that free ships should make free goods. In relinquishing this principle, they, in a great measure lost sight of the carrying trade, by peaceable means; but, if gentlemen wish to turn to Europe, they will find that, in 1793, the treaties of Pavia and Pilnitz were in force. Let the facts which I have stated be compared with those of the present day, and all must confess that there is a very considerable difference. I have said this much to show that there is no analogy in the facts of the present time and those of 1793, and that there is no change of opinion in me. If, however, I am mistaken, it is an honest mistake.

This nation, in my opinion, must take her choice of two alternatives; to be happy and contented, without war, and without internal taxes; or to be warlike and glorious, abounding with what is called honor and dignity, or in other words taxes and blood. If it be the first, the people will continue to enjoy that which they have hitherto enjoyed—more privileges than has fallen to the lot of any nation with whose history we are ac-

quainted; they will, as they have done, live plentifully on their farms, and such as choose, will carry on a fair trade, by exchanging our surplus productions for such foreign articles as we may want. If we take the other ground we shall, I fear, pursue the same career, which has nearly, or quite ruined all the other nations of the globe. Look at the people of England, legally free, but half their time fighting for the honor and dignity of the Crown, and the carrying trade, and see whether they have gained anything by all their battles for the nation except taxes, and these they have in the greatest abundance. Look also at France, before the Revolution, and we shall see a people possessing a fertile country and fine climate, having the honor to fight, and be taxed as much as they could bear, for the glory and dignity of the *grand monarque*. Let us turn from these two great nations, and view Switzerland during the same period; though not powerful like the others, we shall see the people free and happy without wars, contented at home, because they had enough to live comfortably on, and not overtaxed. The history of these three nations ought to convince us that public force and liberty cannot dwell in the same country.

I mean not to impute improper motives to any one, nor to examine the Journal after changes, though I am perfectly willing to have it thumbed over, from the day I took a seat in the House to the present, after my name; and if, on examination, it shall appear that I have changed my political principles, or have not uniformly adhered to them, I am willing to bear the name of a political hypocrite. I have formerly been, on very great questions, in very small minorities; on a most important question, in a minority not sufficient to command the yeas and nays. I will say no more on this subject; nothing can be more disagreeable than to talk about one's self, and nothing could justify it but the call which has been made; perhaps I have already said too much on it, but it was impossible to say less.

The dispute with Great Britain is most unquestionably for the carrying trade; a trade which is less beneficial to the nation than any other, and a trade which has produced most of our disputes with foreign nations, and it is the only trade that requires expensive protection. Will any one contend that this trade is half as important as the coasting trade? This cannot and will not be contended, for every one knows that the coasting is the best trade. It not only exchanges the products of one part of the nation for those of another, but it also tends, by making us better acquainted with each other, to connect us more intimately, and to make every part harmonize for the public good. The trade which I consider the next best for a nation to carry on, is the direct trade for home consumption, by which the surplus produce of one country is exchanged for that of another; and in this, as in every branch of trade, this great rule will be adhered to—buy cheap and sell dear if you can. With the coasting and direct trade agriculture is more nearly connected than with any other. But a nation may be agricultural without being commercial. The Swiss cantons and Milan were of this description, and it may be remarked that Milan is the most populous country in Europe. China is said to be of the same character; but, as little is known of that country, I shall not quote it to establish a fact which is clearly established by the other two. A country may also be commercial without being highly agricultural, as was the case with Venice and some other European Powers. But let us pursue that system which our own experience has proved to be the best for the United States; for, since the adoption of the present Constitution, and before this day, we have had trying times. It will be remembered, that during the French Revolution, we had complaints against France. Her Government issued orders of which we justly complained; one of them, I believe, declared all the productions and manufactures of Great Britain to be contraband of war; this, if executed, would have nearly cut off all communication with a nation with whom we carried on the greatest trade. What did we then do? We sent Ministers to France, with two of whom she refused to have any intercourse, but pretended to be willing to negotiate with the other. All the Ministers finally returned home, and we took half way measures against her, which are the worst of all measures, and which produced a sort of half war, which I believe injured us more than her—for besides the actual expense, which may be estimated at not less than $10,000,000, it nearly ruined the agricultural people by reducing the price of produce; flour it reduced from twelve and fourteen dollars per barrel to six; and tobacco, from ten and twelve dollars per hundred to three; and it had no doubt the same effect on other articles of exportation. And how were we relieved from these evils? We again sent Ministers, who were received, and they made a treaty. Besides what has been before stated of the conduct of Great Britain, it will not be forgotten that she declared all France in a state of blockade, and this order would have cut off all commercial intercourse with her, who then wanted much of our produce. To Great Britain, also, a Minister was sent, and he made a treaty. I am now desirous that the same steps should be pursued before we adopt decisive measures. We once laid an embargo, of which we tired. This shows the necessity of acting cautiously, and of taking no measures which we cannot adhere to. All the gentlemen who have supported the resolution now under consideration, have expressed doubts whether it would produce greater effects on Britain or ourselves. This is surely doubting its policy, and if its policy be doubted by its friends, what ought to be the result of our inquiries, especially when it is believed that its adoption will materially injure one part of the country, and that part entirely agricultural? Does the public good, about which we have heard so much, require that a measure which its friends seem to think of doubtful policy, ought to be adopted, when none can doubt but it will injure, if not sacrifice, the real interest of a part of the community? Examine

the report of the Secretary of the Treasury, and it will, at one glance, show from what quarter the great export is made to Great Britain; cut off the import, and you will lessen the price of the export, if it shall be exported. But we are told that we are bound to protect commerce, meaning, I suppose, that this resolution must be adopted. Then if we are really bound, and there is no discretion, nothing of expediency, there is no occasion for this investigation. But gentlemen well know, that on every question, discretion may and will be exercised. But have we really done nothing for commerce and navigation? On this subject I can confidently appeal to those most interested. What, since the adoption of the present Constitution, has made this the second commercial nation in the world? Before that we had but little claim to the character of a commercial people. Has not the protecting duties on the tonnage of foreign vessels, and on goods imported in them, produced the effect? They have secured to our vessels the carrying our own productions, which encourages navigation in proportion to their bulk. Let gentlemen inquire the number of cargoes which tobacco and cotton alone furnish the American vessels. Besides this encouragement given to navigation, has not a law been passed to favor the fisheries, and thereby to form sailors for the use of the merchant service? It may be right here to observe that I neither approved nor voted for that law, but no attempt has ever been made to repeal it. This is the encouragement by which, during a time of peace, we have become the second commercial nation in the world, and this too in the short space of time since the adoption of the present Constitution—say, if you please, since the 3d of March, 1789. One consequence, a little curious, is produced by this encouragement, which is this: When Europe is at peace, the protecting duties prevent any competition by foreign vessels to carry our productions, and when at war, so many of our vessels carry for the belligerent nations, that freight is nearly as high with us as it is with them, so that what the agricultural people pay in time of peace to encourage, they lose the benefit of when Europe is at war, and when it is most wanted.

Among the arguments urged to show the effect of this measure on Great Britain, one is that it will insure us a powerful aid in that country; that the British merchants and manufacturers, whose interest will be seriously affected, will give you all their assistance. This argument has been completely answered by a gentleman from Georgia, (Mr. EARLY.) But if gentlemen really calculate to make friends on the other side of the water, it seems to me that a different plan would produce more effect. Cut off all intercourse between them and us, and adhere to the plan long enough, and you will find the merchants and manufacturers of England, joined by all the inhabitants of the West Indies, to have the intercourse opened. The Assembly of Jamaica have acknowledged that they cannot get supplies in plenty except from the United States; but this plan would operate as much on beef, pork, fish, and flour, as on tobacco or cotton. But this would be too strong for them, while they are desirous to adopt a measure which will have the same effect on cotton and tobacco. What is this but a sacrifice of a part of the agricultural interest of the country to what they believe will be a protection for the carrying trade? I should like it quite as well if the attempt was not to be made solely at the risk of one part of the Union. The evil is felt in one part, but the remedy is to be applied in another. Adopt general measures, which will operate equally in every part of the country, and if the shoe is to pinch, let it pinch all alike, and all will then be willing to have it off as soon as possible.

I am willing to acknowledge that a dollar got by this carrying trade, and made the property of the nation, is just as good as a dollar got any other way, even by the cultivation of land. But does it follow from thence that you are to make more sacrifices to get the dollar in that way than it is worth? I think not. The adoption of the resolution, besides its unjust and partial operation, will considerably affect the revenue, and no ways and means are proposed to meet any deficiency. On the present question we risk a revenue of ten millions of dollars raised on the consumption of foreign articles in the Union, to gain—what? (I speak only of revenue) an additional sum of $850,000, which additional sum you will lose as soon as you depart from your neutrality. It is asked again and again, if we have not a right to the trade about which so much has been said? If the doctrine that free ships should make free goods had obtained, there could be no doubt on the question; but I mean not to examine the right but the effect of the resolution; nor do I mean to deny that the trade is of some use to the nation. Merchants would not so anxiously pursue it, if they made no profit by it; and their profit adds to the national stock, and may affect the price of native articles offered for sale. I am also willing to acknowledge that a cargo of flour or any other native production sent to the West Indies, and there fairly exchanged for sugar, and the sugar brought home, that the sugar is as much ours as the produce of our own soil, and this sugar so obtained we have a right to carry to those that may want it. But the question before the Committee is not a question of right, but of expediency. Is the protection which will be given to this carrying trade, by the adoption of the resolution, of that sort and of such certainty, as to justify the adoption of a measure, which will operate excessively hard on one part of the Union? The right of deposit at New Orleans before we purchased the country, was certainly as well established as our right to carry coffee and sugar to France and Spain, or anywhere else—it was a right acknowledged by treaty. But when the deposit was refused, what did we do? we took pacific measures, and succeeded. We heard then much about honor and dignity, and that it was our duty to enforce our right by arms; but notwithstanding all this, we adopted no measure like the present; we then acted for the general welfare. Does it follow, because I am opposed to the resolution, that I am unwilling for

our citizens to own vessels? It does not. I am willing they may have as many as they please, and do what they please with them, so that they do not involve the nation in war by them. On this subject the interest of the husbandman in New Hampshire and Georgia are the same.

The gentleman who introduced the resolution expressed a wish, that no party or geographical feelings should be brought into the debate. If there was no cause for geographical feelings, why then wish, or why anticipate them? Let the report of the Secretary of the Treasury be examined, and it will be seen that there is cause for this feeling; indeed the statement, made from that document by a gentlemen from Georgia (Mr. Early) must have convinced all of the partial operation of the resolution. On the first page of the report it appears, that the annual exports to Great Britain and her dependencies are estimated at about $15,690,000, of which sum, tobacco and cotton alone make $8,860,000; it also appears, that we exported to the dominions of Great Britain in Europe, for each of the three years ending on 30th of September—in 1802, the sum of $12,066,521; and that cotton, tobacco, rice, pitch, tar, and rosin, made of that sum $8,485,762; in 1803, the sum of $16,459,264, and that the same articles made of that sum, $11,912,493; in 1804, the sum of $11,787,659, and that the same articles made of that sum, $9,443,897. These articles are selected, because they are the produce of one section of the Union. The same part of the country produces the following articles in common with other parts of the nation, but the proportion of each is not known: flour, wheat, beef, pork, staves, heading, boards, plank, scantling, timber, flaxseed, skins, wax, hams, bacon, turpentine, spirits, lard, and Indian meal; and I may add, pickled fish; some of these articles are carried to the Middle and perhaps to the Eastern States, and are there exported, or consumed; and, if consumed, enable them to export more of their own productions.

It has been said, that we have no complaint against any nation, except Great Britain. I wish most sincerely we had not, and that all nations would act as honestly towards us, as we have done and are willing to do towards them; but in examining this subject, we ought not to deceive ourselves; truth, and truth alone, should be our aim and guide.

Have we no complaints against France and Spain, for the conduct of some of their people on the ocean? I mean not to say a word about the conduct of one of them on our Southwestern frontier. What has been the practice at Cuba? to take our vessels and sell them and their cargoes, whether with or without a trial I know not. The owners, I believe, have generally lost both vessel and cargo. And how have they treated your seamen? turned them on the first shore they could, and left them to get home as they could. But it may be said, this is done by picaroons, and without the consent of their Governments, and that these Governments do not justify those who act in this piratical way. The Government of Cuba must have knowledge of these facts; they are committed too near it, and too frequently, to remain long unknown; and we cannot have forgot that Captains Murray and Chauncey have both very lately been cruising on our own coasts to drive these picaroons from it; besides all this, we have heard, that a French fleet lately burnt all the American vessels it met to prevent their giving information of the course it was steering. In this case they treated the crews well, at least I have not heard to the contrary, and promised to pay for the property destroyed. No one will contend that the fleet had a right to destroy this property. These facts are not stated to exculpate Great Britain, but to show that gentlemen are mistaken, when they say we have no complaints except against England; against her, I agree with the gentlemen, we have well founded complaints.

The gentleman first up, from Pennsylvania, has observed, that the contraband trade was generally carried on by foreigners. [Mr. Gregg explained, and said he had observed that he believed this to be the case in many instances.]

Mr. Macon.—I thank the gentleman for the explanation, as I have no wish to misstate what has been observed, but the difference in the statement will not affect the question, that foreigners may be concerned both in illicit and contraband trade. I have no doubt but there are some facts known to all, that will show, that others besides foreigners have been concerned in business not the most honorable. The petition of Nicklin and Griffith, now before the House, contains the proof, that an American, with an American register, covered a vessel for a foreigner, who armed vessels to fight their way into the St. Domingo trade. I have heard it was not a foreigner but an American who fitted out the Leander for Miranda, and who by this act run the risk of committing the peace of the country. I understood that it was an American. In stating these facts I mean no reflection on the merchants; they, like every other class in the community, have among them good, bad, and indifferent. The same gentleman said he was not willing to protect the wild carrying trade. I know not what this wild trade is, unless it be that which will involve the nation in war; it is not the contraband, because that no one will protect.

It has also been said, that if we adopt the resolution, and cannot get what we want from Great Britain, we will manufacture for ourselves. This sounds well on this floor, but I very much doubt the practicability of making this nation manufacture for itself, while we have land enough for every industrious citizen to become a land holder, and a cultivator of the soil. Connecticut and Massachusetts have tried the experiment, and both without success, and both on articles in which it was most likely to succeed; if these States, with their population, could not succeed, what chance of success is there in other States? The practicability ought to be satisfactorily shown before we enter on the plan. It may, as has been said, prevent our wives from wearing silk gowns, and ourselves from wearing broadcloth; whether it will produce this effect is quite uncertain; fashion is as great a tyrant as any we have to contend with; it will,

I fear, be difficult to destroy its influence, by legislating. The gentleman from Pennsylvania (Mr. Smilie) and myself, plain as we are, are both obliged in some degree to yield to it; we can no more contend with it, than we can fly to Europe.

The gentleman from Massachusetts (Mr. Crowninshield) has told us, that the balance of trade between this country and Great Britain is ten or twelve millions annually against us, and endeavors to support the assertion by the report of the Secretary of the Treasury. It is true that the report states a balance against us of $11,710,000, and this the Secretary attempts to account for; no doubt he has done it as well as it can be done from custom-house books. But surely every one must be convinced, that you cannot rely on them for the balance of trade; this balance is always a secret, and depends much on the economy and industry of those concerned in trade. Is it possible that this balance can really be against us, and that it has been against us ever since the establishment of the present Constitution, and that our commercial intercourse should be constantly increasing with that nation? It seems to me to be impossible. If the balance was really so much against us, our merchants would have long since declined the trade. There is a trade carried on with the British dominions in the East Indies from the United States which appears by the report to be more against us than that just mentioned, and I am sure that the gentleman from Massachusetts will not say that the balance of that is against us. The annual exports to which are $130,000, and the annual imports $3,530,000. Here is a greater balance appearing against us, than that stated by him, because the whole exports to the first have been stated to be $15,690,000, and the whole imports are $27,400,000. The India trade I have always understood was very profitable, perhaps as much so as any carried on from the United States. But the same report informs us, that on the whole trade of the nation there appears to be a balance against us, of $6,855,000. Can there be anything more astonishing than this and is it not evident that no reliance can be placed on the custom-house books for the balance of trade? Look at the people, happy and prosperous beyond example; all classes doing well; the old part of the country rapidly improving; the new settling with unheard-of success; the villages growing into towns, and the towns becoming cities; and all this with the last mentioned balance against us. Philosophers and statesmen may talk about the balance of trade, but if they confine themselves to the information to be derived from custom-house books, they might as well read Robinson Crusoe.

The same gentleman said, if war should come, we could take more from Great Britain than she could from us; that we had done so in the Revolutionary war. Without inquiring into past captures, let us examine the situation of both, at both periods. We are certainly much stronger now than we were at any time during the war; we have more men, and more tonnage, and more property on the ocean; and could, if the same naval force could be had to operate on the British navy, now as then, nearly destroy her commerce. But this cannot be had. At that time the navies of France, Spain, and Holland, were all united against her, and the navies of the two first for some time disputed possession of the channel with hers. The navies of these are now gone. But, besides, the armed neutrality acted upon her like a powerful screw; under the pressure of all these she nearly sunk toward the latter end of the war. Playfair's Political Atlas fully demonstrates this. No doubt in case of war, by privateering, we could take many of her vessels; suppose we took more of her vessels than she did of ours, would this be a commerce that would be beneficial to agriculture, or to the merchants engaged in exporting by fair and regular trade the productions of the country? No, it would not. In the regular trade everything is certain, in the other all uncertain.

It has been said we might sequester the debts due from this country to Britain, and thus indemnify ourselves. This, I never will consent to, so long as the treaty made by Mr. Jay is in force; however I may disapprove that instrument, I consider the faith of the nation as much pledged by it, as it can be by any engagement she can enter into with any foreign Power. But, it has been observed, that we may repeal the treaty, and thus, I suppose, get clear of the objection to sequestration, which is derived from it. We have once before tried this plan of repealing a treaty, with other half-war measures; but the repeal did not produce any consequence favorable to the United States. Suppose you repeal the treaty by law, and then undertake to negotiate, and your Ministers are asked, are you, in consequence of the repeal, at war? What answer will be given? This treaty, too, provides against sequestration in case of actual war; what opinions civilians and jurists may entertain of the repeal of such treaty, I know not. But, be this as it may, I never will consent to aid in blasting the fair fame which this nation has deservedly acquired for honesty and fair dealing; in this she is, in my opinion, inferior to none. I sincerely hope the gentleman who used the expression, will, from his known candor, on reflection, take it back.

I very sincerely regret that a gentleman from Pennsylvania, (Mr. Smilie,) ascribed to a sentiment delivered by a gentleman from Virginia, (Mr. J. Randolph,) a tendency to dissolve the Union. In my mind, it had no such tendency. The dissolution of this Union ought not, I conceive, to be mentioned in this House on any pretence whatever, and certainly ought not to be hinted at on slight grounds. I believe every State and every part of the country attached to the Union. Indeed, the Union may be compared to a chain, the value of which depends on its being whole, but may be destroyed by taking any one of its links away; and, whoever breaks the chain by which the States are linked together, will render the whole people miserable.

I come now to that part of the subject where every man must feel the injury done to his fellow-citizens. I mean the impressment of our seamen. Is there a father who does not feel this?

No; not one in the nation; and that man who shall devise a certain remedy for this evil, will deserve the thanks of his country; he will, indeed, be its greatest benefactor; he, like the impressed sailor, will have a place in the tenderest part of the hearts of his countrymen. If a plan to prevent this injury was only made known, the very knowledge of the plan would put an end to the injury. But can gentlemen seriously believe that the adoption of the resolution will produce this effect? The means are not adequate to the end, I conceive; at least, it remains to be shown that they are. I will, without hesitation, state what I believe to be the best remedy for the evil. It is this; to agree with Great Britain that neither country shall employ the sailors of the other; and to agree, also, on the proof that shall be required on both sides; we might expect that Great Britain would adhere to an agreement of this kind, because it would be her interest to do so, and on her interest alone, I should rely. In considering this subject, we must look at things as they really are, and not as we would wish them to be. The British Government exercise the right, or rather the power, of impressing their sailors; and, I believe, in time of war, of prohibiting their going into foreign service. Under these circumstances, it may be advisable for us not to employ them, notwithstanding we may do it with their consent, especially if it would prevent their impressing our countrymen. If the merchants really be the friends of the American sailors, they would willingly agree to such a regulation. If they would not be willing, is it not clear they would employ British sailors at the risk of having ours impressed? On this subject it might not be improper to state that, I have been informed, in some parts of the world, certificates of persons being American citizens are sold, and that the market has been well supplied. I have also been informed that a British officer in Philadelphia actually procured one for the purpose of enabling him to go home. This favored Great Britain. I have given this information, to show that others, besides citizens, may obtain certificates. Impressments, I fear, can only be prevented by negotiation; indeed, I have heard that the two Governments have been engaged on this interesting subject. I hope it will be resumed, and that it will end in securing to our countrymen their safety on the ocean.

We are told that the nation calls for strong measures, that the President has recommended them, and that men of the greatest talents think them requisite. This may be true, but as I have neither seen nor heard of this call of the nation, and as I do not know the opinions of others, I shall certainly pursue my own. The first Message of the President to Congress, most unquestionably pointed as strong toward Spain, as it did to Great Britain; and, hitherto, but little has been said about the usage we received from her. But the recommendation of the President alone, is not always a good reason for legislating, I apprehend, because every President has recommended subjects for the consideration of Congress, on which no act was ever passed. If ever the liberties of this nation are destroyed by strong measures, it will be when the recommendation of the President shall alone be deemed good cause for their adoption. At present, we have choice of all the resolutions on the table, notwithstanding all that has been said in favor of the one now under consideration. No doubt can be entertained, but the mover of each thinks his own the best. From the number, it would seem there was no difficulty in finding remedies for the injuries we have received.

Again: we must adopt this resolution, or we shall be degraded. This is no new phrase to me; I have formerly heard it so often, and on so many occasions, that I have become a sort of a skeptic on it. We shall not be degraded by living in peace with all the world. We shall not be degraded by not following the example of the European nations, by rushing into war, on every opportunity that may offer. War is nothing but another name for blood and taxes; we shall not be degraded, being free and happy at home; but we shall be degraded, if we fail in paying the national debt, or if we refuse to observe treaties constitutionally made. This will be the worst kind of degradation, because it will proceed from a want of morality. In order to induce us to adopt the resolution, we are seriously told that the revenue is derived from commerce. This I deny, and say that it is derived from the whole labor of the community. Stop the laborer in his field, and the revenue is gone. Commerce is useful, it is the means by which our productions are exchanged for the productions of other countries.

It has been said that the land tax overthrew one Administration; adopt this measure, and you may possibly overthrow another. I doubt whether the gentleman who made the assertion is altogether correct in point of fact; it may have aided, but other laws were passed, which undoubtedly had more effect, and were more obnoxious in the part of the country where I live. I mean the attempt to raise an army without an actual war; an army of officers, almost without soldiers; the Alien and Sedition laws. It was also said, we were pledged to protect this carrying trade. This reminds me of what I once heard said before, which is this: that we were pledged to pay the salaries of certain judges, after the law was repealed under which they were appointed. I believe we are as much pledged in one case as in the other, and not more; I know of nothing binding in this country, except the Constitution and the laws. A majority of both Houses of Congress may pass a law to give the carrying trade what protection they please, and that law will be binding. We are also called on to become the champions of the laws of nations, as if all nations would at once agree with us what these laws really are, and as if a majority of them adhered to their principles; when we know that scarcely a nation in Europe pays any regard to them; and that they will, at different times, entertain different opinions on the same subject. Have not most of them formerly declared, that free ships should make free goods, and

have not some of the same nations since given up the principle? Before we undertake this business, would it not be prudent to endeavor to ascertain the opinions of other nations, whose interest may be most like our own? I wish no alliance with any of them; but, if all the nations of Europe should be willing to yield the principle which we are desirous to maintain, no man will be mad enough to say we ought to contend for it. There is certainly a great difference of opinion as to the nature of the measure. Some think it a war measure; others that it may lead to war, and others again, consider it entirely pacific. Without attempting now to inquire which of the three opinions is most correct, it is sufficient for me, that I believe it will not produce the effect intended, and that its operation on the United States will be partial. If, however, it should be adopted, and produce war, that war we must support with all our strength; and if it produce a good effect, I, for one, will rejoice as much as any man in this House. A great many appeals have been made to the spirit of 1776; that spirit was not only the spirit of liberty, but also of magnanimity and justice; all the measures then taken, operated equally on every part of the Union.

It is said, this is the right time to settle all our disputes with Great Britain, because she is now hard pushed. If we wish to make a treaty that may be lasting, we ought not to take any unjust advantage of her situation; if we do, whenever she shall be free from her present embarrassments, she will be discontented and restless under it, and never satisfied until she gets clear of it. The true rule for us, is to take no advantage, and in all cases to act justly.

I agree in opinion with the gentleman from Pennsylvania, (Mr. Smilie,) that war destroys the morals of the people. Hence, I was greatly surprised when he followed this correct sentiment with an assertion, that he would rather have war than loss of national honor. This thing called national honor has ruined more than half the people in the world, and has almost banished liberty and happiness from Europe. Destroy the morals of the people, and we may play over such a game of war as has been played in France; nothing less than to perpetuate the liberty and happiness of the nation ought to induce us to go to war.

It is a little remarkable that the United States have, since the adoption of the present Constitution, become the second commercial Power in the world; when, if we believe the public prints, she has lost capital enough to have ruined the most wealthy nation in Europe. Million after million is lost, and yet her prosperity is unrivalled, either in ancient or modern times. I know full well that, according to the opinions of the writers on the laws of nations, we have just cause of war against Great Britain. I also know as well, that we have heretofore had as good a cause of war against both Great Britain and France. We then preferred peace—the result has been prosperity. What destroyed the prosperity and liberty of Venice, of Genoa, and of Holland? Wars, and wars, too, generally undertaken to protect the carrying trade.

[It being now about half past three o'clock, Mr. Smilie suggested the propriety of an adjournment, in which the House acquiesced, on the intimation of Mr. Macon that indisposition disabled him from finishing the remarks which he wished to offer.]

Tuesday, March 11.

The Speaker laid before the House a letter and petition from Arthur St. Clair, praying to be heard at the bar of the House in support of his petition, presented to this House at the present session; which were read, and ordered to lie on the table.

Mr. Gregg, from the Committee on the Public Lands, to whom were referred, on the eighteenth and twenty-fourth of December last, two petitions of Edwin Lewis; and on the twenty-fourth of January last, two petitions of sundry inhabitants of the Mississippi Territory; and, also, a memorial of the Legislative Council and House of Representatives of the said Territory; made a report thereon; which was read, and referred to a Committee of the Whole on Thursday next.

Mr. Gregg, from the same committee, to whom was referred, on the twenty-fourth of January last, the petition of sundry inhabitants of the county of Washington, in the Mississippi Territory, made a report thereon; which was read and considered: Whereupon,

Resolved, That the prayer of the petitioners, so far as respects locating a section other than number sixteen, in each township, where that number is not vacant, and for locating a section in adjoining townships, for the support of schools in such townships as have no vacant lands, is reasonable, and ought to be granted.

Resolved, That the prayer of the petitioners, so far as respects exonerating individual claimants from the expense of having their surveys executed; and so far, also, as it relates to an application for a tract of land on the Tombigbee, ought not to be granted.

Ordered, That a bill or bills be brought in, pursuant to the first resolution; and that the Committee on the Public Lands do prepare and bring in the same.

On motion, it was

Resolved, The Committee of Commerce and Manufactures be instructed to inquire into the expediency of altering the law in relation to the entrance and clearance of vessels in the following districts of the customs bordering on the Canadas, viz: New Hampshire, Vermont, Champlain, Sackett's Harbor, Oswego, Genesee, Niagara, Buffalo creek, and Presqu' Isle; and, also, of inquiring into the expediency of allowing cattle, sheep, and provisions, to be brought into those districts free of duty.

REMISSION OF DUTIES.

Mr. John C. Smith, from the Committee of Claims, to whom was referred the petition of Pe-

ter A. Guestier, agent of the former owners of the French ship Blaireau and her cargo, made the following report:

It is stated by the petitioner, that the French ship called the Blaireau, owned by a mercantile house in Bordeaux, set sail from St. Pierres, in the island of Martinique, some time in March, 1803, bound on a voyage to Bordeaux, having on board a valuable cargo, consisting principally of sugar and coffee, and consigned to different persons at the port last mentioned. That about the 30th of March in the same year, while the ship was in the prosecution of her voyage, she was met in the night, and run foul of, by a large Spanish ship-of-war, called the St. Julien; in consequence of which accident, so much injury was sustained by the Blaireau, that the captain and crew, after due consultation, abandoned her, and took refuge on board the Spanish ship, which continued her voyage to Spain, where they were all landed. That, on the day following the disaster, an English ship, called the Firm, commanded by William Mason, bound on a voyage from London to Baltimore, met with the Blaireau, thus abandoned by her captain and crew, and, after examining her situation, and perceiving there was a possibility that the injury might be so far repaired as to enable her to be brought into port, the captain put on board a part of his crew; who, on making the requisite repairs, with great labor, and at the imminent risk of their lives, succeeded in conducting her in safety to Baltimore, where she arrived the beginning of May following. That, shortly after the arrival of the Blaireau, a libel was filed in the district court of Maryland, by Captain Mason and crew, for salvage; that, by a decree of the court, salvage was allowed, and for that purpose a sale of the ship and cargo was ordered; and, finally, that the marshal, under whose direction the sale took place, was compelled, by the collector of the port of Baltimore, to pay, out of the proceeds thereof, the sum of $12,112 58, being the amount of duties alleged to be due to the United States. To obtain the restitution of this sum, under the idea that the duties could not legally be collected, is the object of the present application.

The petitioner founds his title to relief upon an opinion pronounced by the district judge of Maryland, when deciding the following case; That part of the Blaireau's cargo, which Captain Mason placed on board the Firm, he omitted to report to the collector of Baltimore. The district attorney, apprehending this omission to be a violation of the collection law, instituted a suit against the captain for the penalty of $1,000, imposed by the statute. On trial of the cause, it appears a verdict was taken for the plaintiffs, subject to the opinion of the court, upon a point saved by the counsel. Judgment was rendered in the following terms: "Mature consideration having been given to this case, it is the opinion of the court that the goods, wares, and merchandises aforesaid, are not chargeable with the payment of any duties to the United States, and, therefore, that the above action cannot be sustained. Judgment for the defendant on the point saved."

It may be safely affirmed, that the opinion of the learned judge was somewhat broader than the case submitted to his consideration. There might be, and there doubtless were, sufficient reasons to excuse the defendant from the penalty of the statute, independently of the question, whether the cargo was chargeable with the payment of duties. The decision, so far as it regards this point, must be deemed extra-judicial, and it remains only to inquire whether, from a sound construction of the statute, duties were chargeable in the present case. The words of the act relative to this subject are, "that, upon all goods, wares, and merchandise, which shall be *brought* into the United States, from any foreign port or *place*, there shall be levied, &c." It is difficult to conceive of language more explicit, more unequivocal. The word "imported" is not here used, and apparently for the purpose of avoiding any expression to which technical narrowness might be applied. The word "place" is introduced, manifestly with the same view; and the plain sense of the passage is, duties shall be paid on goods, &c., brought into the United States from any point without their limits or jurisdiction. A phraseology so simple, so perfectly free from ambiguity, might fairly be presumed to set criticism itself at defiance. The United States have unquestionably a legal right to the duties in this case; and who will say their claim is not equitable, also, when it is considered that, by the sale of the cargo, the amount of the duties has been identified with the price?

It is, perhaps, worthy of consideration, whether the collection law may not require some further provisions applicable to this subject. But such an inquiry is not within the province of your committee, nor is it at all necessary in determining the question submitted to their examination. The cargo, in this case, could not have been disposed of without the intervention of the district court, nor could the sale have been effected but through the instrumentality of the officers of the Government; under these circumstances, their negligence would have been highly culpable if the duties had not been retained.

Your committee are of opinion the prayer of the petition ought not to be granted.

Referred to the Committee of the Whole on Monday next.

IMPORTATION OF BRITISH GOODS.

The House resolved itself into a Committee of the Whole on the state of the Union on Mr. GREGG's resolution.

Mr. MACON.—Permit me, Mr. Chairman, to return my thanks to the Committee for their indulgence yesterday; I was then too much exhausted to have concluded the observations I wished to make. I was then showing the state of a few nations who had attempted to protect the carrying trade by war. It has, I believe, been the fate of all who have made the attempt, Great Britain alone excepted, and she is at this moment engaged in a most tremendous war, almost overloaded with taxes, and tottering under her public debt. Can any fact more clearly illustrate the advantage of the peace over the war system, than a comparison of the tonnage between the United States and Great Britain, in 1789 and now? Ours has been the peace, hers the war system, and we have probably increased ten to her one. It seems to me, that it is impossible for any nation to carry on the whole trade of the world; and every attempt to force trade, is acting under the idea that it can be done. And every attempt to engross the whole carrying trade, is acting under the same impression. The large capitalists in the United States are concerned in this business. I wish not to meddle with it, but leave it, like

every branch of industry, to find its own level. They may dread war, because they may employ their stock in another way. But what is to become of those less rich, especially the young beginners? They must be ruined. If the resolution produces any beneficial effects, it must be on the carrying trade. It does not appear to be intended for anything else, and no one can believe that it will operate favorably to the seamen.

The measure will not only affect the revenue paid on the tonnage of vessels, and on the importations of goods, but it will also affect the revenue to be derived from the sale of the public land; it must very considerably lessen the number of purchases and may ruin many who have already purchased in Ohio. Many, no doubt, who have removed to that State, have sold their property, on a credit, to meet the payments which they were to make for the lands there purchased of the United States. Stop, by your measures, the sale of produce, or reduce the price thereof to almost nothing, and how are these people to get paid for the property sold before they went to Ohio? A disappointment to them may be ruinous; it may cause them to lose the land and all the improvements made on it. They have not quite so quick a remedy against their unfortunate debtors, as the United States will have against them. You may turn the people off the land, and nearly depopulate the State, but you will get no money.

It is pretty evident, from the argument of a gentleman from New York, (Mr. WILLIAMS,) that the resolution is not expected to operate injuriously on the exportation of grain from the Middle States. He told us that we must protect commerce; and that he was in favor of the resolution, (meaning, I suppose, that the resolution would protect it—or, the people in the back country would drink too much whiskey.) If, then, the resolution would protect commerce, and thereby insure the exportation of grain, there will not be grain in the country left to make whiskey. This is, in some measure, acknowledging that for which we have been contending, to wit: that the resolution will operate partially. But I deny that the people in that part of the country are more in the habit of intoxication than their neighbors in other parts of the Union. They are as moral, as industrious, and as honest as those living elsewhere. I do not contend that they are superior, only that they are equal.

Much has been said about the spirit of the nation, and that we are far behind it—meaning, I suppose, those who oppose the resolution. As to my part, I know not how the spirit of the nation has been ascertained. There is no manifestation of it on the table. It is, however, true, that two towns have sent resolutions pledging their lives and fortunes to support whatever measures Congress may adopt. There are, also, several memorials from the merchants and insurance companies; but if gentlemen take these for the manifestation of the national spirit, they are, I think, mistaken. The national spirit is to be found nowhere but among those who are to fight your battles. These people may, for aught I know, be of that number. They may have been before Tripoli, and they may now be ready to enter into the army or navy. Addresses, we well know, will not fight battles, nor fill regiments. We have seen, in former days, the Speaker's table loaded with addresses from almost every part of the Union, pledging, also, their lives and fortunes to support any measures that the then Administration might adopt. What was done? Among other acts, one was passed to raise twelve regiments of infantry. There was no difficulty in getting officers—unless, indeed, it was to make the selection out of the great number who applied—but how was it about privates? Instead of getting enough for the twelve regiments, scarcely enough for four could be enlisted. At that time, too, we heard a great deal about the spirit of the nation, and saw a something of the spirit then talked of, in a corps called the —— Blues. Those who then spoke of the spirit of the nation were deceived. They took the vaporings of the towns and the noise of the addressers to be really the spirit of the nation. But, be assured, sir, that whenever the spirit of this nation shall move, that every individual, in every department of the Government, will move too.

The ocean must be considered a common and undivided property, to which each nation has a right; hence the difficulty of affording the same security and protection there as on land, where each knows the spot, where his dominion ends and his neighbor's begins. It is vain, therefore, the real situation of the United States being considered, to expect from her that perfect protection on the ocean which she can afford within her territorial limits. I believe this cannot be done, even to that part of the ocean from whence we get our exports. Other nations also frequent the same place, for the same purpose. This, like the rest, is joint property. Not so with our land, no nation pretends to claim a right to cultivate that.

Permit me here to remark, though not directly connected with my last observation, that I consider the report of the Secretary of the Treasury to be as correct as any man living could make it; and that from custom-house books, it is impossible to obtain that information which could really show the true balance of trade.

A gentleman from Pennsylvania, (Mr. FINDLEY,) has gravely told us that it would do more harm, since the resolution has been taken into consideration, to reject it, than if it had never been brought forward. This is placing those who do not like it, or who prefer any of the other resolutions to it, in a strange dilemma. The friends of it ought to have thought of this before they went into the discussion. If any injury should be produced, either by the rejection or the adoption, they are to blame, and not those who oppose it. It is their measure, not ours. It is, in fact, endeavoring to throw the blame of their conduct upon us. The same gentleman made a very unfortunate comparison, when he compared wagons, carrying our flour to market, to vessels engaged in the carrying trade. No two things are more unlike. The wagon is only intended to carry our own productions, to our own markets; and the

vessels are engaged in carrying foreign produce to foreign markets. Besides, the nation pays protecting duties, to encourage the owning of vessels, while the owner of the wagon is left to depend on his industry and skill; and if any man should ask the Government to encourage the employment of wagons, he would be laughed at. Yet wagons are certainly as necessary as vessels. The one carries loads of our own productions, to our own markets, while the other, which is engaged in the fair trade, for home consumption, carries cargoes of them to foreign markets.

A gentleman from Maryland, (Mr. McCreery,) in order to induce us to adopt the resolution, has informed us that the towns, in proportion to their numbers, pay more taxes than the country. He did not prove the fact to be so—he cannot. The towns, I apprehend, pay little or no tax. Their merchants and mechanics, who act prudently, calculate on, and generally get, a certain profit. You cannot tax the capital of the merchant. Impose what duty you please on goods, he immediately considers it like first cost, and charges the same profit on it. The consumer not only pays all the tax and charges on merchandise, but he pays them, with a profit, to the merchant. Whenever a merchant shall begin to live on his capital, we all know he will soon eat it out. To the mechanic, the Government has given protecting duties, which secures to him the sale of almost every article he may make, at almost any price. The cultivator of the soil depends on himself, and is often compelled to sell the products of his land for any price he can get; because they will not keep in good condition all the year, like the goods of the merchant and mechanic. From these considerations, it seems to me that it is at least probable, that the towns do not pay more than their proportion, nor even as much.

The same gentleman told us that the nation sustained a considerable loss by sending too much tobacco to England. This seems to me to be a little like what we heard about the balance of trade. But it may be so. I will, however, state my sentiments on the subject; if erroneous, I shall be glad to have them corrected. Merchants, like everybody else, do business with a view to gain, and would they, year after year, send tobacco to England if they could do better by sending it to the continent? I apprehend they would not. They understand their business, and do what is best calculated to promote their interest. In examining this subject, we ought to take into consideration the profit to be made on the whole voyage, and not barely the price of a single article at a particular place. The place where the whole exported cargo can be sold dearest, and the imported one bought cheapest, is the place which will always give the most profit. If a merchant should send a cargo of tobacco to England, and wished a few pieces of Russia sheeting in part of the return cargo, would it not be better to purchase them there, than send his vessel to Russia for them, where they could be bought a little cheaper. He would, I conceive, actually save by so doing. I wish the gentleman had told us the place where the tobacco might have been exported to, so as to save all that he now thinks we lose by sending it to England. I should have been glad to have been informed whether the places were known to possess mercantile capital, and whether merchants of established character lived at them; that sort of character to which a prudent man might with safety consign the most valuable cargo. He did not tell us that we lost by sending cotton to Great Britain. It may, therefore, be presumed, that it could not be sold anywhere else at this time to more advantage. Is there any other country in Europe now prepared to manufacture it? I believe not; nor will it be purchased by any to lay up until able to do it. Before it is possible to manufacture, mechanics, who understand the business, must be obtained. Neither they nor the necessary machinery can be got in a day. It is now well known that, since the introduction of labor-saving machines, manufactures do not depend so much on the number of people as formerly. I ask, what country on the continent of Europe, convulsed as she is to her centre, can offer a market for this article? What country there is now in a situation to commence large and extensive establishments to manufacture for exportation? Is it Germany?—overrun. Or is it France, raising every man she can to make new conquests? If they have mechanics and merchants both, is the skill of the one, or the reputation of the other known? I fear not. Sir, I would to God that we had not so much commercial intercourse with Great Britain, and I sincerely wish our commerce was more equally divided among the nations of the earth than it is; but I know not how this is to be done. Trade thrives best when left to itself. The merchant must be left to trade in the way he most approves, provided he shall not hazard the peace of the country thereby.

The gentleman from Vermont (Mr. Elliot) has told us, that by adopting the resolution, we shall encourage other European nations to manufacture for us. It is, I conceive, quite enough for the agricultural part of the community to pay their money to encourage the manufactures of this country. It is as much as I am willing to do. But what certainty have we, if we adopt the resolution, and give the proposed encouragement, that any of them will leave their present occupation, be that what it may, to take our advice? Each one of them may think that their interest is as well understood at home as we can possibly understand it.

The gentleman from Massachusetts (Mr. Bidwell) stated the case of our prisoners at Tripoli, as a case in point. He is, I think, mistaken. We were at open war with that Power, when the frigate Philadelphia unfortunately struck on the rocks in the harbor of Tripoli. The result is known. The enemy got possession of the vessel, and the crew were made prisoners of war. There then existed a state of actual war between the United States and the Tripolitans. In the present case we have just cause of complaints against Britain, and are endeavoring to have them settled

by negotiation. I will state a case which seems to me to compare better with the situation of our unfortunate countrymen who may be now impressed on board the British ships of war. It is the case of Captain O'Brian and his crew, who were captured by the Algerines, and remained with them so long, that I believe the captain, in the latter part of the time, dated all his letters to his friends by the year of his captivity. I have understood they suffered as much as any people could bear. We had then, I believe, no addresses, no resolutions, nor memorials from the merchants and insurance companies. But this case may not be thought to apply to that part of our complaints which relate to the capture of our vessels carrying coffee and sugar to France and Spain by the British armed ships. I will state one, which I think has some; it is the case of Scott, of South Carolina, which has been decided in this House. He claimed pay for property taken by the Indians at a time when no open and declared war existed. He got nothing from the national Government. The United States in a treaty gave the property up to the Indians. I believe at the time it was taken some hostilities had been committed. Permit me here to observe that no agent was appointed by the Government to endeavor to recover this property, and that I well recollect, when the claim was under debate, that it was stated by a member of the House that one of the Indian agents had got the treaty at his desire so formed, as to relinquish a claim for the property.

I have endeavored to confine my observations to the resolution now under consideration, and to answer some of the arguments urged in its support; though I confess, that, while examining this, I have also paid some attention to the others on the table. I wish gentlemen, before they vote, would seriously consider whether this is the best. I think it is not. When we reflect on the happiness we enjoy, the prosperity of the nation, the growth of the villages, towns, and cities, the improving state of agriculture, the number of turnpike roads, bridges, and canals, which are undertaken in many parts of the Union, and that one improper act may alter for a time this happy state, and retard every improvement, we ought to be cautious before we change the ground on which we stand. Complaints have been made of delay on this important subject; they are, in my opinion, without foundation. It required serious deliberation, and no time has been lost. It is always far better to decide rightly than quickly. It is immaterial to other nations what estimate we form of our own strength—there are two rules by which they will judge: the number of men, and the state of the treasury. Indeed, it seems of late to have become a maxim in war, that the longest purse is the longest sword. It is true that we have a single million in the treasury to spare; it is equally true that resolutions are before us, which, if adopted, will require at least that sum to carry them into execution. In this situation, ought we to take measures which may endanger the revenue without providing ways and means to meet any deficiency? We talk of war with an almost empty treasury; no two things can be less connected, except that they are both bad. I have stated that which appeared to me to be the best plan to secure our seamen from impressment; but the man who shall actually produce the plan, which shall have the effect, will deserve the gratitude of the nation.

In this time of difficulty we are all embarked in the same ship; my ardent prayer is, that whatever shall be done, may promote the interest and happiness of all.

Mr. G. W. Campbell.—Mr. Chairman, I rise to submit to the Committee some of the reasons that will govern my vote on the measure now under discussion. In doing this, it is not my intention to go over the various grounds taken in this debate, or to answer the several arguments that have been advanced, in support of principles to which I am opposed. My object will be to lay before the Committee such a view of the subject as I conceive best calculated to ascertain the true ground on which we stand, and the measures which, in the present crisis of our affairs, it would be advisable to adopt.

I am not disposed, Mr. Chairman, to pursue measures that will crimson the American fields with the blood of her citizens, any more than other gentlemen who have spoken on this subject; nor am I willing that thousands of innocent persons should suffer distress and ruin, for the benefit of a few individuals—a few merchants; which, it has been stated, will be the effect of the measure before you; neither, sir, will I ever give my vote for any measure that shall appear to me calculated to sacrifice the agricultural interest of this nation to that of commerce, or have a tendency to enhance the latter at the expense of the former; and so far as the resolution before you appears to me likely to produce this effect, I shall oppose it. The people whom I have the honor to represent are chiefly agriculturists, and it will always be my wish and my pride, to support their interests, and to cherish and promote the agricultural interest of this country in general, so far as it may be in my power. But I am not, at the same time, prepared to see the nation suffer, without resistance, every indignity with which Great Britain may choose to treat her, and submit patiently to every aggression and outrage her cruisers, under her authority, may choose to commit on our citizens and our commerce. I conceive it our duty to take such measures as will prove to the world a determination on our part to resist injuries and maintain our rights. In regard to the commercial relations of this country with foreign Powers, I deem it proper on this occasion to declare it as my opinion, which I have always entertained, that it would have been better for the American people, if Government had never given protection to commerce, out of sight of our own territory, or beyond the reach of our cannon from our shores. It would have been well for us, sir, if the American flag had never floated on the ocean, under the authority of Government, to waft to this country the luxuries and vices of European

nations, that effeminate and corrupt our people, to excite the jealousies and cupidity of those Powers whose existence, in a great degree, depends on commerce, and to court, as it were, their aggressions, and embroil us in their unjust and bloody contests. If we had guarded against those pending evils by leaving commerce to seek her own protection, except within the limits of our own jurisdiction, we should have had a fair prospect of continuing to flourish a free, independent, and happy nation, much longer than I fear will be our destiny to do, if we continue to become more and more entangled in European politics and intrigues—to be subject to feel the effects of European convulsions, and national contests, in consequence of being deeply engaged in commercial realations with European Powers. If we had adopted this policy, foreign nations would have vied with each other for our commerce and our friendship, and would convey the surplus productions of our country from our storehouses, and furnish us in return with those articles and manufactures of their countries, which our necessities or convenience might require; and we might then behold the collisions of the great Powers on the continent of Europe, and their jarring interests contending for superiority, without endangering our peace or our happiness, and with no other inconvenience than the regret we might feel for the miseries and sufferings of that portion of the human family, with whom, however, we had no immediate connexions.

But, Mr. Chairman, we have assumed the character of a commercial nation, abroad as well as at home. Our Government has, in some degree, pledged the nation to protect commerce, and under this impression our citizens have embarked largely in trade, and made considerable progress therein. The enterprising spirit of our merchants has raised this nation to rank, in regard to commerce, the second in the world, and from this source also, our revenue is chiefly derived. Under these circumstances, I am not prepared to say, this is the propitious moment to retrace our steps, and without even giving notice of our intention to do so, abandon our merchants and their property to the rapacity of a foreign nation. I conceive, on the contrary, it is our duty to afford them such protection as the resources of our country, and the prospects we have heretofore held out, would authorize them to expect.

In examining this subject, the first important inquiry that presents itself, is, in regard to the grounds of complaint which have occasioned the resolution before you to be proposed. There are two. First, the impressment of our seamen; and second, the unjust, and, as we believe, unauthorized aggressions committed on our commerce by the cruisers of Great Britain. If you look at the documents on your table, you will see that our seamen have been impressed by that nation for years past, without the color of right, and in a manner, which it is not pretended, on this floor, is authorized by justice, or sanctioned by the laws or usages of nations. They have been treated in the most unhuman manner, if information is to be relied upon; compelled to perform the hardest duty in her ships of war, and forced against their will to fight her enemies, who were at the same time on terms of friendship with us. They have been taken from sea to sea, and from place to place—from one country or island to another; shifted from ship to ship, and often sent to distant parts of the world, so as to place them beyond the research of their friends or their country, and put it out of the power of either to reclaim them, by producing the proofs required of their citizenship to obtain their liberation. It has been stated that Great Britain has always been willing to deliver up such impressed seamen as were proved to be *bona fide* American citizens. But this is a fallacious pretext on her part, from which little or no benefit can arise to us. She impresses our people, without inquiring in regard to their citizenship, or paying the least regard to their protections. Their friends knew not where to find them, the Government cannot ascertain where they are, and years sometimes pass before it is known whither they have been carried. It has, therefore, in most cases, been found impossible to procure their release, and restore them to their friends and their country; and there are at this moment, unjustly detained by that nation, between two and three thousand of our seamen; who have been impressed without any other pretext, than that they spoke the English language, or resembled, in their persons, the inhabitants of the British empire. Our Government has, in vain, remonstrated, time after time, on this subject to the Court of St. James. No satisfactory arrangements could be obtained, nor is there any fair ground to expect a change in the conduct of that Government in this respect. Complaints have been made and repeated in every quarter of the Union on this subject. The outrages committed on our citizens have made an impression on the public mind, that demands on our part the adoption of some decisive measure to correct the growing evil. It has, indeed, been said by some gentlemen on this floor, that there exists a prospect of the fair adjustment of our differences with Great Britain on this subject. I would ask those gentlemen, upon what information this opinion is founded? For myself, Mr. Chairman, I know of no just ground to authorize such expectation. The documents on your table do not justify a belief, that there is at this time the least prospect of adjustment. They inform us, there was once such a prospect, but that it has long since vanished; and so far as we can collect information, from those documents, as well as from other sources, there is not to be found in the conduct of the British Ministers, the slightest foundation for a belief that they are disposed to relinquish the ground they have taken, unless it is rendered necessary by some effective measures on our part. I would then put it to gentlemen to say, if we are not at this time to take any step whatever, towards vindicating our violated rights, when will be the proper time for us to act? Have we not patiently endured those injuries long enough? And if not, how much longer must we tamely submit to them? What time can be more

favorable than the present to resist them? Will it be when Great Britain has gotten into her possession a greater number of our seamen? When, instead of near three thousand, she will have gotten, six, eight, or ten thousand? Will it then be a more proper time to make a stand—to call upon her by some efficient measure to do us justice—to treat us as an independent nation, or to tell her, that we will at least, cease to treat her as a friend? I presume not, sir. I cannot conceive it proper that we should wait for such an event, before we make a stand in defence of our rights. On the contrary, it is my opinion, there can be no time more likely than the present, to render effectual any measures we may adopt. The present state of the war in Europe, which sufficiently occupies the great Powers in that quarter, if properly considered, and its probable results, in regard to us, duly weighed, ought, it appears to me, to convince any man of reflection that this is the most favorable moment to insist on finally adjusting our differences on this subject with Great Britain. The right of our seamen to protection, while they sail under our flag, is undeniable. It is a perfect right, as much so as the right to be protected within our houses, or in our carriages on the highway. You ought, therefore, never to abandon it, on any pretence whatever; nay, sir, you cannot abandon it, in justice to your citizens, unless, indeed, you are willing to surrender your independence as a nation. The ocean is a highway for all nations, over which no one Power has exclusive jurisdiction. If you resign this right now to Great Britain, what reason have you to believe she will not push her demands further, and urge you to resign another, that may be still more important? It is high time that this business was brought to a final close, for if your seamen are to be seized wherever they are found on the ocean, you had better strip your ships of every sail they carry, confine your citizens within the limits of your own jurisdiction, to fight your own battles, should it become necessary, rather than see them exposed against their will, in fighting the battles of a foreign nation.

The second ground of complaint is the aggressions committed on our commerce, contrary to the law of nations, and in violation of every principle of justice. Great Britain assumes to herself the right to interdict to neutral nations a commercial intercourse with the colonies of her enemies, except under such modifications as she has been pleased to prescribe. She justifies the capture of your vessels on the ground of their being engaged in a commerce, during the war, that was not open to them in time of peace. If this principle be once admitted as correct, and carried to the full extent of which it is capable, it will be found, in its consequences, almost wholly to destroy, not only the commerce of this country as a neutral, but that of every neutral nation in the world. You are told you must not in time of war exceed your accustomed traffic in time of peace. What is the consequence? War, in a great degree, destroys the trade which you were accustomed to enjoy in time of peace, as a great part of it becomes contraband of war; and this new principle shuts up all the avenues of commerce that were opened, in consequence of, or even during the war. What commerce, then, let me ask, will be left to the neutral? None, sir, that will deserve the name of commerce. But the reasons advanced in support of this principle, will go still further to show its destructive consequences. One of the reasons given why you must not carry on this trade, is, because it is beneficial to the enemies of Great Britain, as you thereby furnish them with provisions and other articles of merchandise, which relieve them from the pressure of the war, and prevent her from deriving all the benefits she otherwise would do, from her superiority at sea. If there is any solidity in this reasoning it will go the whole length to prohibit you from carrying the productions of your own farms to any nation the enemy of Great Britain. Your provisions, bread stuffs, beef, and pork, are surely as useful for carrying on war as the produce of the West India islands. She has hitherto, it is true, applied this reasoning only to the productions of the colonies, but it will equally apply to those of your own country. Hence, the injustice and absurdity of the principle must appear evident to every discerning and unprejudiced mind. But she has already, in carrying into effect her new principle, gone further than merely to prohibit neutrals from carrying colonial produce directly to the ports of her enemies. She has laid the ground-work to prevent you from carrying to those ports your own productions. Your vessels are seized and condemned for being engaged in conveying to her enemies colonial produce, which has been fairly purchased and paid for by your citizens, brought to this country, and, according to your revenue laws, made a part of the common stock of the nation. If there is a shade of difference in principle between this case, and that in which the produce of your own farms should be captured on its way to the same enemy's ports, it is as flimsy as can be conceived to exist. When your people have purchased the productions of other countries, and fairly paid for them; brought them into your own, and complied with your municipal regulations respecting them, they become neutralized, and as much a part of the common stock of the nation as if they had been raised on your own farms; and the same principle that would inhibit you from carrying these to the ports of a belligerent, would, by parity of reasoning, prevent you from carrying to the same ports the productions of your own farms.

But, Mr. Chairman, let us for a moment inquire whence Great Britain derives the right, according to any known principle of law or justice, to seize and condemn colonial produce, the property of a neutral, in consequence of its being destined for the ports of the parent State, her enemy? Strangers can acquire no rights against each other, in consequence of the domestic regulations relative to commerce, which a Power independent of them may choose to establish. Suppose France, by law, in time of peace, should prohibit the importation of colonial produce to her ports, on the

continent, except in her own vessels, Great Britain could have no right to capture an American vessel engaged in such trade. France alone could rightfully seize and condemn such vessel for the infraction of her laws; but no other Power could have such right. Suppose such prohibitions removed by France during a war, and the trade declared lawful, could Great Britain thereby acquire a right to capture such vessels for being engaged in a trade now declared lawful, which she could not do when it was unlawful? Certainly she would not. Such doctrine would be contrary to the plainest dictates of reason and common sense. She had no right to capture such vessel, while the prohibition continued, and she could not certainly acquire the right by such prohibition being removed. The intervention of war cannot alter the case, for the rights of neutrals, except as to contraband, remain the same in time of war as they were during peace. I must therefore consider this principle assumed by Great Britain as a flagrant violation of the law of nations, contrary to every principle of justice, and such as ought not to be sanctioned by this or any other independent nation. If you tamely submit in this instance, she will assuredly push her aggressions still further; encroach on your rights, step by step, as her convenience and interest may require, until she has effectually destroyed your commerce, and monopolized to herself the whole of its profits. That part of our commerce that becomes immediately subject to the operation of this new principle, has been stated as very unimportant, and under the name of the carrying trade, has been ridiculed as not meriting the notice of Government. A very few remarks however will, I apprehend, show that it is not so insignificant as has been represented. In our trade with Great Britain, there is a balance in her favor of nearly twelve millions of dollars. This balance must be paid out of the proceeds of the exports of the United States to other countries. Many of those countries that consume a great portion of our produce, cannot give us specie in return. Our merchants must, therefore, in all such cases, return the produce and manufactures of such countries instead of specie; and, as the quantity of foreign produce and goods thus received exceeds the amount necessary to supply the demands for consumption in this country, it becomes important that this surplus should be carried to other markets, where there is a demand for it, and where specie can be obtained in return. This has heretofore been done by our merchants, by first importing such foreign produce into our own country, and then re-exporting the same for a market; and by means of this trade alone have they been enabled to discharge the balance against us in our trade with Great Britain. The annual value of imports into the United States amounts to about seventy-five millions of dollars; of this, twenty-eight millions are re-exported to all parts of the world, and of that amount, eighteen millions go to the dominions of Holland, France, Spain, and Italy. The greater part of which is subject to capture by the new principle of the law of nations acted upon by Great Britain. This is the carrying trade, sir, which gentlemen have considered so unimportant as not to merit the attention of Government. Instead of estimating this trade at $850,000, as gentlemen have done, being the net revenue derived therefrom, (and which is not considered as paid by citizens of the United States,) it may fairly be estimated at nearly eighteen millions, or about one-fourth of the whole of your imports, nearly in the proportion of eighteen million to seventy-five. For if your merchants are not permitted to re-export the surplus foreign produce to those markets where there is a demand for it, it will remain on their hands and rot in their store-houses. This would also sink the price of your own produce, as there could not be a sufficient demand for it, because your merchants would not receive in return foreign produce. Your trade must, therefore, be diminished nearly in the proportion before stated. I ask gentlemen if this trade is cut off, how your merchants are to get specie to meet the balance in favor of Great Britain of twelve millions of dollars? If this cannot be done, your imports must diminish in proportion as the means of remittance fail, and your revenue must also feel the shock, and suffer in the same proportion as your importations are lessened. This is a view of the subject, which I presume deserves at least the serious consideration of gentlemen, and I beg of them to pause before they agree to relinquish, without a struggle, this portion of our national rights—for, if you submit in this instance to the interdiction imposed by Great Britain of carrying colonial produce to the ports of her enemies, she will assuredly advance her pretensions, as already stated, still further, and insist on the right to prohibit you from supplying them with your own; and it may fairly be asked, on the ground she has taken, where is the difference between sending colonial produce to her enemies and sending your own produce? The quantum of injury to her, and of benefit to them, will be the same; and she will have nearly the same right to prohibit in the one case as in the other. This shows the necessity of taking some decisive step that will convince Great Britain that we are determined not to submit to these aggressions; that will tell her, in firm and manly language, thus far you may go, but not farther. On this subject, also, our Government has remonstrated to that of Great Britain without effect. No satisfactory arrangements could be obtained, and there is no greater prospect of an amicable adjustment of our differences with that nation at this moment than there was a year ago, nor have I any idea that we shall find ourselves in a better situation in this respect, one, two, or three years hence, if we tamely acquiesce, than we now are. There is, therefore, no ground for delay; we can derive no benefit from it; this is the time we ought to act, the most propitious that is likely to present itself.

I shall, in the next place, Mr. Chairman, notice the present state of our relations with Great Britain, in order to ascertain whether we are prohibited by any existing treaty or regulation, from

adopting such measures, in regard to her, as the present state of our affairs may seem to require. We have no commercial treaty with that nation, except in relation to her colonies on the continent of America, adjacent to the United States. We are, therefore, at liberty to adopt such regulations in regard to our commerce with her, as our situation may require. We are certainly not bound, before we adopt a commercial regulation, to inquire how Great Britain would approve it? Or that it might affect her interest, except so far as to ascertain its efficiency to induce her to remove the grounds of complaint. We, undoubtedly, have the right to declare with what nation we will carry on commerce, without giving just cause of war. This is a right inherent in every independent nation; and, in the exercise of it, we are not to be guided by the power or weakness of the nation it may affect. The right is the same whether Great Britain has one hundred or one thousand ships of war; and if you resign this right to regulate your own commerce, you may as well resign your independence as a nation. But, in justifying this conduct toward us, does Great Britain pretend that we have acted unfriendly to her? No; she has taken no such ground, except, indeed, in stating that this part of our commerce is beneficial to her enemies, which would equally apply to any other part of our trade with them. There is, therefore, no concession we can make, consistent with our just rights as a nation, that would be likely to produce a relinquishment on her part of the ground she has taken. Believing, therefore, the conduct of Great Britain to be such as requires some efficient measures to be taken on our part, and believing, also, we have a right, without giving just cause of war, to adopt the resolution under consideration, or any other of a similar nature, I shall proceed to inquire the effects such a measure would have on Great Britain, and the probability that it would induce her to do us justice. There is at present annually imported into this country from the dominions of Great Britain, merchandise to the amount of thirty-five millions of dollars; for the greater part of which she receives specie, or American produce, equally valuable, and more necessary for her support as a nation. In this trade there is in her favor a balance of twelve millions of dollars. Surely, sir, it can require no argument to convince any man of the vast importance to Great Britain of a trade that furnishes a market for so great a quantity of her produce and manufactures; supplies her in return with those articles which are most necessary for her support, and produces a balance in her favor of twelve millions of dollars. A total or partial interdiction of this trade would diminish her profits derived therefrom, in proportion to the extent of such interdiction. Her manufactures would remain on hand and rot in her storehouses; there would be no demand for them in European markets, when the like articles are furnished from the manufactures of their own countries, and the resources of the nation would suffer in proportion as the trade was stagnated. If we are to pay any regard to the public prints of that nation, we must conclude such a measure would have a very serious effect upon her interest. They inform us that country would sustain an annual loss of seven millions sterling, by the operation of a measure similar to that before you. Is it likely, sir, her merchants would tamely submit to such a loss? No, they would not; they would call on their Government to remove the cause, and their power and influence there are too well known to believe they would not be heard. Further, Mr. Chairman, such a measure would induce our merchants to seek other markets, where they could vend our produce and receive the necessary supplies. In this Great Britain would discover the dangerous consequences likely to arise from her injustice, and feel sensibly the effects it might produce on her mercantile interest. This measure would have another effect in regard to us. It would render us less dependent than we now are on Great Britain; which, I conceive, would be a very fortunate circumstance; for I cannot consider it the interest of this country to be united too closely with, or rendered dependent on any foreign nation, by means of mercantile connexions with her citizens; and, in proportion as our connexions with, and dependence on, Great Britain would cease in this respect, in the same proportion we should be freed from foreign influence and from the effects produced by her mercantile interest on the public mind, in some portions of this country. Permit me here, Mr. Chairman, to notice an observation made by the honorable Speaker, (Mr. Macon,) when he inquired why our merchants did not go to other markets than those of Great Britain? The answer is obvious, from what has been already said. Many of our merchants are connected with British merchants; many of them the mere factors of British merchants, trading with British capital; such men will not seek other markets, while they are permitted to procure their merchandise in that country, where they have their capital and connexions—where they are better known, and have more extensive credit; our real American merchants have also large connexions and extensive credit there, and they will be unwilling to relinquish these, unless Government shall, by some effective measure, give a new direction to trade and a new impulse to our commercial affairs. But, let this once take place, and I am convinced our merchants will be able to procure most, if not all, of the articles we consume at other European markets—those of France, Spain, Holland, Italy, and Germany, &c., on as good terms; or, the channels of trade once changed, Great Britain will find it difficult to restore them to their former direction. This she must know, and when she sees the conduct she is now pursuing will produce this effect, there is reason to believe she will relinquish the ground she has taken and do us justice. It is her interest, it is her true policy to do so.

It is said, however, that though we interdict importation from Great Britain, she will be able, notwithstanding, to discharge or dispose of all her manufactures; that they will find other markets, and through them find their way to the United

States. This is an evasive and an inconclusive argument. It may be a sound general principle that commerce, on a large scale, will seek its markets and find its level, as the waters do in the ocean: but regulation, such as that before you, will affect its course, change its direction, impede its progress, and determine its channels, so as to deprive some countries of its benefits, in favor of others, in the same manner that mountains, hills, and valleys, change and shape the directions of water courses in their progress to the ocean.

But, it is insisted, this measure will produce war; I consider it entirely in the nature of a commercial regulation, and such as cannot, as already stated, give any just cause of war. But, it is asked, will Great Britain inquire whether it is, or is not, just cause of war? Will she not consider it so, because it is against her interest? If gentlemen will have it that Great Britain has abandoned every principle of justice, it is vain to expect she will, on any occasion, be governed by reason, or motives of propriety, in her conduct toward us; if she is totally regardless of common right, and governed by her interests alone, she waits only a more favorable opportunity to give our commerce a more deadly blow; and it is, therefore, high time to withdraw ourselves from all connexions with her. But, I am not prepared to go this length; I cannot believe a great nation, who holds a dignified rank among the Powers of the earth, would expose herself to the indignation and derision of the world, by abandoning all respect for justice and public right. I must believe she still retains some regard for her national honor; and, if not for her honor, she does for her interest: all that she could say, with any color of justice, would be, that she has the right to adopt other regulations on her part to counteract yours. Let us inquire into the effect of such regulations. She may say, your produce shall not go to her colonies, her islands, or any of her dominions. If she takes this measure, she will prepare the most effectual scourge for her own subjects. She will reduce the inhabitants of those islands not only to a state of starvation, but force them at length, in all probability, into insurrection. We have already witnessed the complaints of those people to the mother country. We have seen the picture they have drawn of their sufferings and distress, and their declarations that they cannot exist without the produce of the United States. How, then, shall Britain retaliate? She cannot do it effectually without injuring herself more than she will you. Hence, I am clearly of opinion, the adoption of proper measures on our part—of measures similar to that before you—would be likely to produce the desired effect in the conduct of Great Britain toward us.

An important inquiry remains to be made; and that is, the effects such a measure, as that now before you, would produce on the commerce of the United States, on the revenue, and on the agricultural interest. It has been insisted that it would destroy your commerce. This must be on the supposition that it would produce war. I have endeavored to show this would not be the necessary nor even the probable consequence of it. I am not, however, prepared to vote for it at this time, in its present shape; but I do not refuse my assent to it because I believe it to be a war measure, nor because I think Great Britain herself would consider it so, but because I conceive it more advisable to adopt a measure that will not so materially affect either your commerce, your revenue, or your agricultural interest. On this ground I would myself prefer a measure that would impose additional duties on British merchandise, or I would agree to interdict the importation into this country of certain specified articles, the growth or manufacture of Great Britain, as proposed by the resolution introduced by the gentlemen from Maryland. This measure would not have a very serious effect upon the commerce of our country, as such articles might be selected, and, indeed, are in the resolution alluded to, as could be conveniently enough procured at other markets. It would, at the same time, paralyze the most valuable and profitable portion of British manufactures, and enlist the mercantile interest of that country against the present unjust proceedings of their Government. The result cannot well be doubted by those who know the powerful influence their merchants have over the affairs of that nation. The amount of duties arising from merchandise imported from Great Britain, paying a duty ad valorem, is somewhat less than three millions and a half of dollars. The articles proposed to be prohibited are chiefly of the description paying such duty, but do not include the whole of them. The introduction will not probably extend to more than one-half the merchandise in value, paying such duty. But, suppose the amount, on the prohibited articles, should be two millions—the only diminution of revenue that could take place must arise from a failure on the part of our merchants to obtain those articles at other markets, and would be only proportioned to such failure. Suppose they should fail in obtaining those articles to the extent of one-fourth of the whole; the loss of revenue would be proportioned, and might be estimated at half a million; though I do not, myself, from the best information I have been able to obtain, believe it would exceed one or two hundred thousand dollars. This loss of revenue is certainly not so important as to prevent us from adopting, and, once adopted, adhering to a measure we deem calculated to vindicate our rights. I shall not descend into details, as to the countries in which those articles can be procured. Mercantile gentlemen have spoken, and differed on this subject; but, from the most correct information to be obtained here, I am of opinion there are few articles now gotten from the dominions of Great Britain, which are necessary for our consumption, that may not be obtained from other markets. Hence, sir, it does appear to me, that such a measure as that above proposed, would not, in any great degree, affect your commerce or your revenue.

I will now submit a few remarks with regard to the effects of such a measure on the agricultural interests of this country. It will here be observed, that no proposition has been made that goes to restrict our exports. They will, of course, continue to seek the best markets, and our produce will find its way to Great Britain, as usual. I admit, however, that commerce and agriculture are so intimately connected, that you cannot give a dangerous blow to the one without its being seriously felt by the other. But, when this is admitted to be the case, it furnishes the strongest ground for extending protection to commerce, lest the agricultural interest should suffer, in consequence of the wound given your commerce. I am also willing to admit it probable, if we prohibit the introduction of British manufactures into this country, it may, in some degree, reduce the price of our produce that goes to Great Britain, but not to such an extent as to be seriously felt. It is also true, that Great Britain now receives the greatest part of the staple articles, cotton and tobacco, exported from the Southern and Western States. But, should the proposed measure be adopted, she will stand in as much need of cotton as she now does. Her manufactures cannot be carried on without the raw materials, and she cannot procure a sufficiency of this article from any other quarter. This interdiction cannot, therefore, affect the price of cotton, or if it should, it must be in a very small degree indeed. I am not, however, for interdicting the importation from Great Britain of cotton manufactures, because I believe it would be difficult to obtain them at other markets. This will remove the greatest objection that has been stated on this subject by the gentleman from Georgia, as Great Britain will still continue to have the same demand for this article. With regard to tobacco, its price cannot be materially affected by this measure; it may, perhaps, in a small degree, as their merchants will not be able to exchange their manufactures for it, but this cannot be such as to be sensibly felt. I cannot, therefore, consider the objections made to adopting such a measure, on the ground of its injurious effects on the agricultural interest, as well founded. I conceive, in the present state of our affairs, the only way in which we can secure and promote the interest of agriculture, is to protect our commerce. But, we are asked if, by this measure, we can expect to produce any considerable effect upon a powerful nation, without its producing some re-action on ourselves? I answer, we must expect, in some degree, to be affected by it, and I believe the American people are prepared to suffer some inconveniences to obtain redress. They do not expect, when measures are taken to vindicate their rights, to be permitted to repose at perfect ease. No nation can be in such a situation as to enable her to act effectively on another Power, so as to bring her to terms, without feeling, in some degree, herself, the re-action of the measures she may adopt. Such a state of things is not to be expected. If this were the case, there would be no necessity to appeal to the public voice or the national feeling on such occasions. You might adopt any measure you deemed proper to obtain your object, without consulting the sense of the nation, if the public at large were to be in no manner affected thereby. But, the people of America sensibly feel the indignity offered to their country, and are as ready to make sacrifices, to obtain redress, as the merchants. When I have said this much, and am willing to go this far, yet I am not disposed to support the mercantile interest to any extravagant extent to which our trade may be carried. I am not disposed to protect our merchants in covering enemy's property. As we have agreed to relinquish the principle, that "a neutral flag shall make neutral property," I am not now disposed to resume it, and insist on its being observed, though I believe we never ought to have abandoned it, so long as we continued a commercial nation. If, therefore, any of our merchants are engaged in such trade—in covering enemy's property—let Great Britain seize and condemn their vessels. This she may do—but let not the innocent suffer with the guilty. I beg leave, Mr. Chairman, to make a few remarks on this subject as it respects other nations. We are told, you must not engage in the colonial trade to France or her allies, because you thereby assist the enemies of Great Britain. If this principle be allowed, let me ask, what will France say? She will tell you, you shall not trade in the products of Great Britain, because you will thereby give aid and assistance to her—the enemy of France. And would not this have more than the appearance of justice in it? Would it not be a fair position? Has not France the same right with Great Britain to say, you shall not furnish supplies to her enemies? And thus you would be stripped of the whole of the colonial trade. But, you are asked, if, when you adopt this resolution, you are prepared to contend with the navy of Great Britain? I was, sir, sorry to hear this remark introduced on this occasion. To hear it said, when you are about making a regulation merely commercial—to direct the affairs of your own country—if you adopt such measures, Great Britain will make war upon you—will, at a single stroke, sweep all your vessels from the ocean! To hear the power of that nation magnified, and her warlike achievements painted in the highest colors, as if to awe and intimidate your own country! Is it, indeed, sir, come to this, that we shall not be permitted to wear a coat, the cloth of which is not made in Great Britain? Shall we not determine for ourselves, without consulting any other nation, with regard to the clothes we shall wear, or the food or liquors we shall consume? If the crisis has arrived, at which we are afraid to decide on those points without having a special regard to the good pleasure of Great Britain, I say, in the name of God, let us resign our independence, return again to the degraded state of Colonies, and only inquire under whose wings we shall place ourselves for protection. But, suppose the power of that nation is so great and formidable (as it has been repeatedly represented by gentlemen) that you are not to take a step without consulting her interest, lest you should offend her. When, let me ask, will this power be diminished? When will the obstacle be removed? She has now nearly eight hundred ships of war on the ocean—in what

degree must they be diminished before you will dare to take the first step in vindication of your violated rights? Or, suppose her navy should be increased, in a few years, to a thousand or fifteen hundred ships of war, shall we shrink from defending our rights in proportion to this increase of her navy? I am not, sir, willing to sanction such a doctrine. However powerful she may be, *right* is still the same, and ought to be maintained inviolate. You have been told, triumphantly, that Great Britain is fighting the battles of the world. On this point, we are not to legislate. We are a neutral nation, and as such, ought not to affect a partiality for either France or Great Britain. I will not, on this occasion, change my vote on the ground that Great Britain is fighting the battles of the world, or that Bonaparte is conquering it. The moment it shall become necessary for us to take part in the war, then, and not till then, I shall be willing to declare on which side we ought to enlist this nation. But, while at peace, it is neither the right nor the duty of a neutral Power to determine which of those nations engaged in war has justice on her side. I conceive we are bound to do equal justice to the one as the other, and not wilfully to aid either, to the prejudice of the other.

It has also been stated on this floor, that your territory has been violated, and your frontiers invaded by Spain; and that you ought to avenge these wrongs, before you take measures to protect your commerce. It is true, sir, some unjustifiable acts have been done, on our Southern and Western frontiers by Spanish subjects, and perhaps by Spanish agents. But it does not appear the acts were authorized or sanctioned by their Government. So far as has come to our knowledge, from the documents on our tables, and from the best information that has been obtained, (and the House are possessed of the same information,) there have been no aggressions or violations of territorial right, committed within the portion of the territory of the United States of which we have taken actual possession, or on our citizens within the same, under the acknowledged authority of the Spanish Government; on the contrary, her officers have explicitly disavowed the aggressions complained of. If the subjects of Spain, and American citizens, have crossed the line of demarkation, alternately, and committed outrages on the territories of each Power without authority from their respective Governments, (which it is believed was the case,) it is a proper subject for judicial investigation, or for amicable adjustment, by the agents of the two Governments, but not a just cause of war, so long as those acts are disavowed by the respective Governments. There is, therefore, no ground for the assertion, that we have tamely submitted to the aggressions and inroads of Spain upon our territory. With regard to the depredations stated to have been committed on our commerce by the cruisers of France and Spain, they are of a nature altogether different from those committed by Great Britain. The former Governments have not sanctioned the conduct of their cruisers in those late cases complained of. They have not authorized them by formal instructions to prey upon our commerce, and seize our vessels engaged in a lawful trade; nor have they introduced into the law of nations a new principle, suited to the present circumstances, to justify aggressions. Since the unauthorized captures, made by the cruisers of those two Governments, which have for a considerable time been in a train of amicable settlement, there is not a case that has come to our knowledge, in which the admiralty courts of France and Spain, in deciding on captures made of American property, have assumed and acted upon a principle contrary to the law of nations, to justify the condemnation of such property, and in which the same was afterwards sanctioned by either of those Governments. On the contrary, it is well known, and so declared by her Minister here, that Spain has issued orders to her cruisers to respect the American flag. What foundation, therefore, is there for the declaration of gentlemen, that you have cringed and shrunk from the contest with France and Spain, and now wish to bully Great Britain? There is none, sir. We have not tamely submitted to injury and insult from those quarters, nor have we deserted the rights of our country. And when the whole proceedings, which have taken place during the present session shall be made public, (which I hope may soon take place) the American people will justify and applaud our conduct, and they will also judge who were disposed to resign their rights, and to submit to national insult and injury.

It has, Mr. Chairman, been observed by a gentleman from New York, (Mr. Masters,) that national animosity produced the resolution before you. I regret that such an idea should be expressed on this floor. I know of no such animosity, but I believe, on the contrary, if a national partiality exists in this country, it is in favor of Great Britain; not that I believe such partiality criminal; but Great Britain being the parent country, speaking the same language with ourselves, and so many of her subjects becoming citizens of this country, there is naturally felt a degree of attachment towards the people of that nation. If these feelings do not go too far, they are laudable; but in regard to a national animosity to Great Britain, I do not believe it exists in this country, at least to any considerable extent. If gentlemen mean that this animosity exists against tyranny, I hope it will eternally exist, so long as its cause exists.

But, Mr. Chairman, I hope we shall not cherish animosity against France, any more than against Great Britain. Nor do I wish us to cherish partiality for either. There was, I believe, sir, a time when the people of this country felt a generous impulse in favor of the French nation. The flame of liberty that issued from the bosom of America, during the Revolution, had kindled up anew in France, and promised for awhile to illuminate the whole world. The American people rejoiced at the prospect, and felt a generous sentiment of enthusiasm towards those who appeared to be advocating the cause of liberty and the freedom of man. But I am not prepared to say, that their flame has continued to burn, or that the expectations it created have been realized; but I may, I presume, say, there is no ground to believe that this nation entertains a criminal animosity against or partiality for either Great Britain or France. The same gentleman has observed, what I admit is too true, that Great Britain governs the commerce of the world. This, however, is the strongest reason that could be advanced, against a tame submission to every act of aggression which that Government may choose to commit on your commerce, unless, indeed, you are willing to acknowledge a national pusillanimity, and an inability to resist injury. If we are unable to oppose Great Britain on the ocean, and she will persist in her unjust violation of our rights, let us withdraw from all connexions with her—confine ourselves within the limits of our territory, and live independent of her luxuries and her commerce, on the productions and manufactures of our own country.

I have one or two remarks to make on an observation of a gentleman from Georgia. The gentleman says, that we are happy beyond all example. I admit the truth of this remark; but is it the way to continue so, to submit to every insult, and cringe to every injury? To shrink from resistance, and estimate the value of our rights by the strength of the British navy; but in an inverse ratio? If we look back to the rise of our liberty, we shall find it sprung from a manly resistance against tyranny. It is our duty, in my opinion, to make the like resistence now; to imitate the conduct of our forefathers, from whose exertions we derived our independence. But then it is repeated, by the same gentleman, that this measure will be considered by Great Britain as a cause of war. This idea seems to be so deeply fixed in the minds of gentlemen, that they seem to see that nation take flame, and make war the moment you touch her sacred interest, her manufactures. I am still, however, unable to discover upon what ground this measure can be considered a cause of war. It is simply a commercial regulation—and you might as well be told, she would consider a law regulating your ordinary internal concerns, a cause of war. It may here be proper to notice one circumstance of some singularity attending the present discussion. Some gentlemen, opposed to this resolution, have expressed their willingness to do something—to adopt a measure less energetic than this is. Yet all their arguments are bottomed on the same principle, and are equally hostile to any effective measure that can be devised, as they are to that before you. If Great Britain has a right to consider a total prohibition of her merchandise into this country, a cause of war, she has the same right to consider a partial prohibition so. The principle is the same; the only difference is in degree, or in regard to the quantum of merchandise to be affected by the measure. Though, therefore, my vote may agree with the votes of those gentlemen on this resolution, it will be given for very different reasons from those they have assigned. I shall vote against it, because, (though I am clearly of opinion,) we have a right to adopt it without giving just cause of war, yet I consider it more advisable, at this time, to adopt a measure that will prove less injurious to our own interest, and may be equally effective in coercing Great Britain to do us justice.

The gentleman from South Carolina (Mr. Williams,) appeared really to think, that war had already been declared—that Great Britain had landed her troops on our shores, and that our people were flying to arms or escaping to the mountains.

Mr. D. R. Williams.—Wherein and how did I say so?

Mr. G. W. Campbell.—The gentleman contended, that this was a war measure; that our seaport towns were defenceless; that the British navy, should it be adopted, would lay them in ashes.

Mr. D. R. Williams.—The gentleman must be mistaken.

Mr. G. W. Campbell.—I have so taken the gentleman's words in my notes; in taking which I am seldom incorrect; but the gentleman has a right to explain his own expressions. He certainly did appear to consider this a war measure, and said our towns were exposed; that thousands of innocent persons would be ruined by it; that Great Britain was fighting our battles.

Mr. D. R. Williams.—The gentleman has certainly mistaken me, it must be some other gentlemen who said so.

Mr. G. W. Campbell.—I am glad that the gentlemen disavows such sentiments. I wish every gentleman in the House would do the same. We are, however, further told, that this war, (which it seems is certainly to take place,) is to be supported by the agricultural interests, and that the merchants in the large seaport towns will reap all the benefit. I assure you, Mr. Chairman, I am not one of those who are for securing the seaport towns, at the expense of agriculture. But, as I have already stated my ideas, on this point, I will not repeat them. I do, however, believe the measure we proposed to take, will, in the first instance, affect the commercial interest, and will only be felt by the agricultural interest in consequence of, and in proportion to the impression it makes on commerce.

Our commerce, sir, is more vulnerable than any other portion of our possessions; it may be considered as encompassing our country, constituting its weak parts, and exposed to the first attacks of an enemy. Every impulse that is given, will be first felt by commerce, and through its medium by every other occupation in society.

But it is said, that this nation, on a former occasion, experienced the robberies of Great Britain, without resorting to such a measure as this. That case when examined, will not justify the declaration. On that occasion, the Representatives of the nation took a stronger ground than that before you. A bill passed this House interdicting all intercourse with Great Britain, and was rejected in the other House, by a single vote, that of the Vice President. But, notwithstanding this, a still stronger ground was taken. An embargo was laid, which was only removed on the commencement of negotiation. Can these proceedings be considered as grounds for our submitting at this time to the injustice of Great Britain? Surely

they cannot—and I hope this House will never sanction such an idea. A remark made by a gentleman from Virginia, (Mr. CLARK,) on the subject of the impressment of our seamen, merits some notice. That gentleman stated, as an excuse, (as I understood it,) for the conduct of Great Britain in this respect, the doctrine she insists on, "that a person once a subject, is always a subject of her Government, and never can can shake off his allegiance." This is a dangerous doctrine to be acknowledged on this floor; and its consequences might involve the best interests of your country, and the lives of a vast number of your citizens. Suppose it once established, and a war should take place between this country and Great Britain; she would consider such of your citizens as had been born in her dominions, as rebels against their country; and when they fall into her hands, would put to death, or otherwise punish them as such, instead of treating them as prisoners of war. Are gentlemen prepared to admit a doctrine that would produce such dangerous consequences? I trust not. It is true Great Britain has contended for this right; but it never has been sanctioned by this Government, and she has been obliged to relinquish it in part, by the decision of her courts of justice, so far as related to persons in this country, at the conclusion of peace with that nation. In reason, it can have no foundation, except during the time such subject may remain without becoming a citizen of another Government, according to the laws thereof. It never ought, or can be admitted as applying to persons in this country, after they have become citizens of the United States, according to our laws. We are then bound to protect them as such.

To conclude my remarks on this subject, I will briefly repeat, that I am decidedly of opinion, the conduct of Great Britain is such, in impressing our seamen, and capturing merchant vessels, on the ground of their being engaged in a trade with her enemies, not open to them in time of peace, is manifestly unjust and unauthorized by the laws of nations. I conceive we have an undoubted right, without giving just cause of war, to regulate our own commerce, and to say from what nations we will, or will not, import articles of consumption; and what description, and under what circumstances. I also believe it our duty at this time to adopt some decisive measure on the subject, that will evince to Great Britain our determination to resist aggression and to maintain our rights. I would, sir, prefer a measure, in which we could, and would persevere, unless it should be found our interest to change it. A measure that would be least likely to paralyze our revenue or affect the agricultural interest. With this view, I would prefer, in the first instance, imposing additional, or discriminating duties on certain specified articles, imported from Great Britain; such as would give the preference to other European markets. Or, if more agreeable to the majority of this House, I would concur in interdicting the importation of such articles. And if this should not prove effectual, I would take still stonger ground. I would prohibit the importation of all merchandise, the growth or manufacture of the British dominions. And should it become necessary, I would cut off all intercourse with that nation; which would effectually starve her West India islands, and compel her to come to just terms, or abandon her colonies to distress and ruin. These measures I am willing to take, and support in succession, as the occasion may require; and in doing so I shall act under the conscientious and perfect conviction that they are for the good of the nation; that they are necessary to vindicate the injured rights and insulted honor of my country; and that country will, I am confident, in this, justify my conduct.

Mr. JACKSON.—My conviction of the importance of this subject will plead my apology for the trespass I shall make on the time of the Committee. I purpose to take a rapid review of the points in discussion between this country and Great Britain, and to touch lightly upon the arguments of gentlemen, who have contended that it is better to surrender them than to assume an attitude of resistance, or to adopt measures perfectly pacific for the purpose of producing a relaxation of the arbitrary systematic attacks upon our neutral rights; for, with one or two exceptions, the objections adduced go to sanction the opinion that the commerce in question ought to be abandoned; and that this Government ought not to do anything to protect it. The measure presented to the consideration of this Committee is calculated to produce a redress of the grievances complained of, with so much justice. First. The capture of our vessels sailing on the high seas, in strict observance and obedience to the law of nations; and, secondly, the impressment of our seamen, bona fide citizens, protected by the flag of the nation. While we are discussing the proposition of resorting to a remedy to redress these evils, we are met by gentlemen who deny that it is right to do anything. First. Because the Executive has not recommended any particular measure; and, secondly, because the trade under consideration is fraudulent, and the citizens impressed are the subjects of Great Britain.

With regard to the first allegation, that the Executive has not recommended any specifie measure, was it not objected under a former Administration that the Executive interfered improperly in legislative measures? Congress possess the Constitutional power of declaring war, and should the Executive recommend a declaration of war to us, I presume we should hear much of the Executive attempting an undue and indecent influence over our legislative powers; for, judging by the past, I have no doubt that whenever such a recommendation shall be made by the Executive, it will be opposed by the same persons who now call for his recommendation, and express dissatisfaction at his withholding it.

But it is asserted this trade is fraudulent, and it is dishonorable to protect it. So much has been said and written on this subject, that it is altogether useless to combat the arguments urged on

this floor; for it is not because a celebrated pamphlet, without an author, has been written on the subject on this side of the water, vindicating the fairness and legality of the trade, or as gentlemen will have it, surrendering the question at the threshold, or because another equally celebrated has been written on the other, declaring it "War in Disguise," that we will consent to be concluded on the question, as they are all free game, and ought to pass for nothing unless their arguments carry conviction to the mind. The question resolves itself into the consideration whether this trade is fraudulent or not. Can we exchange our productions with the colonies of the belligerent nations—bring here theirs, and carry any surplus beyond our wants to other nations? I conceive that we can; common sense sanctions the opinion. Gentlemen, however, say we cannot. That the property is not changed, but still belongs to the original owner of it, and that our neutral flag fraudently covers the enemy's property. But gentlemen deal in a mere coinage of the fancy when they say so. I demand their proofs; they will not accept our opinions; and I with equal propriety reject theirs. How will they show that this is not our property? It is said that a want of capital is a proof of it; but, on investigation, it will be found, that the American capital is fully adequate to the carrying on this trade. Do not we find our merchants engaged in the trade to the East Indies, which requires a capital of three and four hundred thousand dollars, and if the trade to the West India islands be equally profitable, is it not to be presumed that they will likewise engage in it? If this property does not pass by the transfer, as we contend it does, it may be maintained that a horse sold in the open market will be subject to an execution subsequently issued against its previous owner; nay, even that the executor of such owner may sue for and recover it. But this argument shakes every principle involved in commerce to its foundation; its origin is traffic, which induces one man to exchange the surplus beyond what is necessary to him, for that which is necessary, and was the surplus of another; and if the property is not changed by this traffic, nothing is safe, everything is afloat, and no man knows to whom any property belongs which may happen to be in his possession. Such a doctrine must destroy all commeree at a single blow. But, say gentlemen, Great Britain indulges us in pursuing the honest carrying trade. I disclaim the position. How can she be said to indulge us with a right sanctioned by the law of nations; a right inherent in every independent nation? I contend that the trade to which I have just alluded, is as just and honest as any other trade of this country afloat on the ocean.

Great Britain not only imposes on our trade the restriction which interdicts our carrying the products of the colonies of her enemies to the mother country, after incorporating them with our own stock, but she disallows all trade with her enemies in time of war not permitted in time of peace. The gentleman from Virginia argues this is correct. He says Great Britain has a preponderance on the ocean, and inquires whether we have a right to check it by supplying her enemy with anything necessary to relieve his wants. This is going farther than "War in Disguise;" than the time-serving Sir William Scott, who sometimes recollects that he is called on to expound the law of nations as a judge, and at others only to register the orders of the King and Council; or any other man in England. Does not this strike at the root of the whole trade of our country? There is no nation at war that is not more or less supported by our products; they derive from us the means of subsistence, and the carriage of them, it seems, is to be prohibited, because Great Britain has a preponderance on the ocean, and can starve out her enemies if we are not permitted to carry to them. Great Britain says you shall not carry on a trade in time of war not permitted in time of peace. She seizes our vessels; inverts the natural principle of evidence; throws the *onus probandi* of showing that this trade then prosecuted was carried on in time of peace, on the owner of the property, and thus our whole trade afloat is exposed to hazard and vexatious interruptions. But, in defiance of this rule set up by herself, Great Britain opens in war her own islands, whose trade is shut up in time of peace. Test then her principle by her practice. It will not be contended that she connives at a fraudulent trade, or justifies it as lawful with herself, when she declares the same trade relatively to her enemies illicit and subject to condemnation. If then she is not governed by narrow and unjust views, she cannot contend that that is right when it respects herself, which is wrong in relation to another. She has yielded that question by opening her ports in war which were shut in peace, and has made, even if there existed a previous doubt, this trade lawful. But, not confined to going this length, she carries on that trade herself which she denies to us; thus adding another to the numerous outrages committed upon us. If we acquiesce in this doctrine, advocated by Great Britain, sanctioned by her admiralty courts, and enforced by her cruisers, I ask if we shall not violate that honest neutrality which compels us to treat all nations alike? The great principle of a neutral nation, as defined by the law of nations, is, to treat the belligerents with equal impartiality, and not to favor one at the expense of another. By acquiescing in the doctrine that renders this part of our trade liable to capture, we make ourselves a party on the side of one of the nations engaged in war.

This colonial trade is not only lawful, but it is beneficial to the merchant and also the farmer. Gentlemen have attempted to draw a distinction between the mercantile and the farming interests. I shall by and by expose the fallacy of their reasoning; but at this time, I will confine my remarks to proving that this trade is not only beneficial to the merchant but likewise to the farmer. The colonies from which this trade is derived, are fed exclusively from this country—to them we carry our provisions and receive in return their productions. It is not our interest to receive money, if they had it, because we should lose the profit on

the return cargo. If we were not at liberty to purchase beyond the consumption of our country, the extent of our exports would be diminished in the same ratio, for not having money to pay for our provisions they could not purchase them. The consequence would be that the trade would fall into retail hands, and the loss would reverberate on the former, the demand for his productions would be diminished, and they would rot in our warehouses. This shows that the farmer is as deeply interested in the trade as the merchant.

But while we are attempting to obtain justice for this outrage, which some gentlemen admit to be such and others deny, we are told that we are paving the way to war. Will a measure of this kind lead to war? If so, we hold our rights by a feeble tenure. Shall we not be permitted to receive our supplies from other nations as we please? Shall we not be permitted to say to a nation doing injustice to us, we will have no intercourse with you; without giving that nation a just cause of war? Strange principle! If a nation is not allowed to take such measures of redress, without involving herself in war, I cannot conceive in what the rights of a nation consist. I acknowledge myself always to have been a stranger to them. If this measure will have such an effect, anything we can do will have the same tendency. If to prohibit all articles from Great Britain be a war measure, to prohibit any part of them will also be a war measure; and it is therefore but fair to consider the arguments of gentlemen as equally applicable to doing anything. If the scourge of war is held over our heads by such a slender thread, shall the fear of it prevent us from doing that which we consider as but justice to ourselves? But the gentleman says Great Britain will not be injured by a war with us even to the value of a single dollar. Such language I should have scarcely expected to hear, even as coming from the English Chancellor of the Exchequer, upon the floor of Parliament. I am ready to allow, and I firmly believe, that if Great Britain thinks it her interest to go to war with us she will do so, she will first strike the blow, as she did in the case of the Spanish prizes, and declare war afterwards. So the argument goes for nothing. But we are her best customers. We supply her with raw materials which she cannot obtain from other countries. I consider this as giving us a decided advantage over her, of which, if properly used, we may always avail ourselves without giving her a just cause for war. Her writers say a non-intercourse with this country would prove a loss to her of six millions sterling a year. Surely they know what would be the effect of such a measure better than we; and with this assertion staring them in the face, it will not again be said that a war with us would not cost her a dollar. But it is said Great Britain is fighting for her own existence, against an enemy that is most powerful; that she is the only bulwark between France and universal despotism; and thus an attempt is made to enlist our sympathies in her favor. But let her do us justice before she claims our sympathy. Shall we wait until she has subdued the whole continental marine and have triumphed on land, before we demand justice? Shall we fold up our arms, and say we perceive you are convulsed—you are menaced with an invasion; we will patiently wait till you get rid of all these sources of alarm before we press you? Can it be imagined that she is contending for a right in war, pressed, convulsed, and threatened as she is, which she will abandon on a return of peace? This is to suppose that the millenium is approaching, of which Great Britain is to be the harbinger. Practise this system, and in a little time you will have nothing left worth fighting for. Let a nation strike at an important branch of your trade, and trample on rights held dear by every citizen of America, and let her know that you will wait till every alarm which she feels is removed, and then ask for justice; that you deem it dishonorable to make a stand until she has her hands cleared of all other difficulties—let this system or no system be resorted to, and you will not, I repeat it, have a right left that is worth contending for. But, say gentlemen, if we resort to this measure, Great Britain will go to war, and instead of having 1,500 seamen, she will have 15,000 of our citizens groaning in her prison ships. This is truly a degrading picture, which goes to show that we shall not be permitted to resist an encroachment on our rights, because the injury will be increased tenfold. Let Great Britain once know that this is your mode of thinking, and instead of holding in bondage 1,500, she will indeed rob you of 15,000 of your seamen; and instead of capturing 15 millions of property, she will take 150, and you will be as bankrupt in fortune as in character. But, say gentlemen, this right is not worth contending for, and ask triumphantly, shall we lose six millions for the protection of one? But if on this score we hesitate resisting aggressions, we shall soon have no millions to lose. Are we then, indeed, to sit down tamely and count the costs; debit so much for honorable resistance—credit so much for national degradation—balance in favor of pusillanimous acquiescence? Are gentlemen ripe for such humiliation? I consider spirit as essential an ingredient in government as in man. Let a nation, or an individual whose rights are invaded, or whose person is insulted, once say he will not resent the injury because it will cost more than patiently enduring it, he will soon not have a right left worth defending. But say gentlemen, will you go to war for this carrying trade? If the question of war were fairly involved in it, I answer yes—I would as soon go to war to protect it, as to protect the right of highway on terra firma. But, it is asked, will you; in infancy, contend with Britain, who is in her manhood? Sir, if our infancy is not fostered, we shall never arrive at manhood? Better for us to die contending for our rights than submit to such a principle, But I have another answer. We have shown ourselves able to contend with this very nation, when we had as many internal as external foes; and if we succeeded against her then, shall we fear to contend with her now? It is, however, said that by this measure we shall lose a revenue of six millions. It is not, however, probable, that we shall incur such a loss. The articles we receive from Britain are not of the first necessity. They can be got elsewhere, and our refusing to trade with her will open new markets in other countries. It is contended that our exports will be cut off. This, however is evidently erroneous.

We furnish Britain with raw materials which she cannot obtain elsewhere, which, if she could avoid it, she would not obtain from us. She looks to your commercial greatness with a jealous eye, and would not permit a single article to be exported from this country into her dominions, if it could be obtained elsewhere. Where are the cotton and provisions with which she can be supplied? Were she to refuse these productions from this country, she might be likened to an individual who in consequence of a famine in the land could not procure bread except from a single farmer, and because he was his enemy, would, rather than do this, sit down and die. Millions of her subjects depend for bread and support on you. Cut off the exportation of raw materials to that country, or the importation of her manufactures into this, and the effect will be almost as serious as the invasion of Ireland by a French army. Her whole people will be up in tumult against the Government—for what political body can legislate, or what police can guard effectually against starvation; against impending ruin? But the trade with Britain, it seems, ought to be fostered by us. Why? Is it because it presents a great balance against us? For, let gentlemen say what they will, they must allow the balance is in her favor. But, they ask how is this balance made up? From the balances in our favor drawn from the trade with other countries; it is therefore ruinous, for it is a maxim well established and known by Great Britain, that a nation never can accumulate wealth from a trade when the balance of such trade is against her; and that a trade under such circumstances ought almost to be interdicted. But gentlemen say, Great Britain knows the genius of the American people; and if they go to war, we will make peace with her on her own terms. I will admit the genius of the American people is pacific.

[It being now the usual hour of adjournment, Mr. Jackson waived the remainder of his remarks until the next day.]

Wednesday, March 12.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States," with several amendments; to which they desire the concurrence of this House.

Ordered, That the Committee on the Public Lands, to whom was referred, on the twenty-fourth of January last, the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, be discharged from the consideration thereof, and that the said memorial be referred to the Committee of Ways and Means.

IMPORTATIONS FROM GREAT BRITAIN.

The House again resolved itself into Committee of the Whole on the state of the Union—Mr. Gregg's resolution still under consideration.

Mr. Jackson continued his remarks, as follows: Mr. Chairman, when the Committee rose last night, I was replying to an argument drawn from the pacific disposition of this nation, which was used to prove that Great Britain well knew that we would sacrifice anything for peace, and if she declared war, and committed depredations on us, she might profit of these advantages by making peace on her own terms. I admitted, in its fullest latitude, the aversion of the American people to go to war for light and transient causes. They will sedulously foster peace; they will bear and forbear much; viewing war as the scourge of the human race, every honorable exertion will be made by them to avert it; but there is a point of degradation and insult beyond endurance, which no nation can advance to without feeling the vengeance of United America. We have tested this truth by experience. Look to the Revolution, sir, when the noble spirit of the times braved the terrors of treason, misery, and death, rather than tamely submit to the accumulated wrongs that were heaped upon us. I have too much respect for my country to believe that any attempt to rob us of a single right which we then secured, by one of the noblest struggles recorded in the annals of the world, would be tamely surrendered. But it is said the spirit of the nation has been roused by the impositions of the newspapers, influenced by the rapacity of the merchants. No, sir; it is by seeing its rights and the rights of its citizens trampled on—prostrated by a lawless banditti on the ocean, respecting no law but their own interest—acknowledging no rights between them and the tyranny of the seas. Is the capture of our seamen, and vessels, and cargoes on the ocean, an imposition? No, sir; it is a fatal reality, witnessed by the miseries and bankruptcies of thousands; and when an honest burst of indignation is re-echoed from the remotest corners of the Union, we are gravely told that we must make a distinction between commerce and agriculture, which it is alleged exists in fact, and cannot be lost sight of. Let us examine this doctrine. The merchant purchases the produce of the farmer, his beef, and pork, and every surplus which he has, and traverses every sea in search of a market for it; the price abroad produces competition at home; the profits to the merchant being always nearly the same, and by this competition the farmer receive a premium proportionate to the demand abroad; but take away this rivalship at home by abandoning your merchants to the depredations of every freebooter—for, if you once pronounce that they are to be abandoned, every sea and shore will be infested by them—and you compel him to quit the ocean, to employ his capital on land, and our farmers will be obliged to take whatever price foreigners coming into our ports may choose to give, and to purchase the productions of other countries from them at whatever price they may choose to ask. The

interests of agriculture and commerce are, therefore, intimately connected: but another expedient is resorted to. It is said a distinction is to be kept up between the Northern and Southern interests, and this measure will operate on the South alone. Sir, we ought to know nothing of local interests or geographical divisions when the rights of an American citizen are invaded; we ought only to know it and feel it as Americans. Did the North use other language when the navigation of the Mississippi was destroyed by withholding the right of deposit at New Orleans? No, sir, with honorable feelings, their only solicitude was how they should most effectually restore and preserve it. Let us then act with sentiments of the same noble liberality when the pressure of wrongs is most immediately felt by them, but which must and will operate upon us also, for no measure can affect the rights of this nation that will not sensibly injure every part of the Union. If our commerce is disturbed, if our rights on the sea are cut off one by one, and such is the tendency of the present measures of Britain, what will become of our cotton and tobacco? Will they not rot on our hands, or be sold at the price of those who may be pleased to come and purchase them? If commerce languish, agriculture will languish likewise, for one is the handmaid of the other. But, say gentlemen, the value of the trade interrupted by the piratical conduct of Britain, is not worth contending for, is not worth the risk of the present measure, or the hazard of war. I hope, however, we shall not estimate national wrongs by pounds, shillings, and pence. I hope that, when our rights are invaded, we will all be united, not in calculating the cost, but in adopting measures to insure redress. But gentlemen say these aggressions will only last during the war. Sir, the war in Europe, for the last fifteen years, has been almost unintermitted. Were you to hold this language to an individual, and say to him, you are denied free ingress or egress to or from your own mansion, and console you by adding, you can bear with your wrongs, they will last only during your lifetime; he would spurn you from him with indignation. Look at the state of the European world, at its situation for twenty years past, and say what chance have you of peace? I hope our rights will not be thus permitted to be trampled on with impunity, under such a pretext. I hope to see some systematic measures adopted to meet Great Britain, who appears to have formed a deliberate plan to inflict all the injury in her power on this people, whom she looks upon as her most dangerous rival. This step, which she has taken, is a link in the great chain of vassalage, a colossal stride towards effecting that plan which has for its object the dominion of the seas. If we yield one right, as well established as the right to breathe the vital air, it is weak in us to imagine Great Britain will stop here. This would be as contrary to her genius as the genius of this Government is to war.

But it is said Great Britain will countervail our restrictions; in this respect we stand in a very different situation from her. We are her best customers; she sends to us articles which she cannot sell in other places; and we supply her with necessaries which she cannot procure elsewhere. It is in vain, therefore, to suppose Great Britain can affect us by a countervailing policy. If she could there is no doubt she would. If gentlemen will turn their eyes to her islands, they will see that, when she can supply them with provisions from other quarters, she does not permit us to carry our produce to them. It is only when she cannot obtain them elsewhere that she grants this as a favor. But we are told that we cannot supply ourselves with the articles we derive from her in other markets; and, as evidence of this, it is said that the French armies are now clad in British manufactures, notwithstanding the interdictions of the Government of France. But I call for proof of this assertion. I deny it. I assert, from unquestionable authority, that they are clad from head to foot in French manufactures.

But gentlemen say they will not insure this trade at the expense of the Constitution. I do not understand this language. Has the Constitution interposed a barrier to the insurance of the rights of the nation in any situation whatever? So far from this being the case, I believe, on the contrary, the Constitution would be violated if our rights were not maintained in every part of the globe. I believe the reverse of their picture is true; and that if we do not protect our citizens in the enjoyment of their rights, we violate the Constitution, no matter whether those citizens are merchants or farmers. Were we to decide this question by its immediate influence on the finances, by the profit and loss that would flow from it for the moment, it would, indeed, in my opinion, be making us a miserable set of counting-house politicians. And though we might profit by it for a moment, our situation would soon be worse than it was. We would show ourselves penny-wise and pound-foolish. Gentlemen say they will not protect a trade which is worth but a million (though I believe it may be shown to be almost equal to the whole of our exports) at the expense of six millions. But if we legislate on this ground of calculation, we shall soon have no commerce worth protecting. If we yield our rights because their protection will cost more in dollars and cents than they are worth, we shall soon have no commerce remaining. I consider the aggressions which Britain has made upon our trade alone, a sufficient stimulus to induce us to do something. But when I refer to the three thousand seamen she holds in miserable bondage, I consider the destruction of this trade as but a drop in the ocean compared with them. But, on this subject, horrid as it is, I find some gentlemen are the apologists of Britain! One gentleman observes that, inasmuch as her own subjects are in our employ, she has a right to take from us an equal number. But there is no analogy between the cases. The act of her subjects in entering into our service is voluntary, while our citizens are kept in her service by violence. Some of our own citizens reside in Britain, and yet we never dreamed of complaining, because she has not

banished them from her bosom. No man in his senses can say that Britain is justified in keeping our citizens in slavery, on the ground that we employ her subjects in our service. But, forsooth, her conduct is justified by the honorable Speaker, on the ground that the protections of our citizens are fraudulently obtained; that they are sold to the highest bidder. I hope, for the honor of our country, that this allegation will be inquired into.

Mr. Macon here explained, by observing he had said, he had been so informed.

Mr. Jackson—I say the subject loudly calls for inquiry. If the practice is such as is represented, it ought to be known and punished. What says the law on this subject? That the collector shall receive proof, on oath, that the person applying is a bona fide citizen; of course, the collectors alone can be concerned in this fraud. If they are so concerned, let them be punished. But the gentleman says, protections may be sold. This is not possible. The protection granted to one man cannot suit another, as it specifies the size, the complexion, and other characteristics of the person to whom it is given; and I am sure, sir, a description of your person and your size would not suit mine. Great Britain, it seems, says the same thing with the honorable Speaker. If a man has a protection, she says it is fraudulent and tears it to pieces; and if he has not a protection, she declares that conclusive proof that he is not an American citizen. It is very much to be regretted that the law requiring those protections ever passed; and that we had not asserted the right to protect every man sailing under our flag, except the enemies of a belligerent nation. Three thousand of our citizens now groan under this abject slavery! This number have presented their claims to your Government. Besides which, many more are carried from sea to sea, and from one country to another, without being ever able to make their cases known to you. In vain do they endeavor to forward their complaints—an inexorable tyranny denies them the indulgence. It is fair then to infer that the whole number is twice that I have stated, and it really appears to me as if our sensibility were lost in the magnitude of the injury. If there were but a single case of this species of oppression presented to us, it would be more affecting and effective. Draw the picture of a single victim, the only son of aged parents, their staff, the prop of their age, their pride and only support; he toils and labors to obtain a venture, with the pleasing prospect of quadrupling his little capital—they follow him, when ready to leave them, with tears and blessings to the water side, where he embarks; and in a few hours the lessening sail is lost to their view on the bosom of the wide expanded ocean. They return to their cottage, and implore a beneficent God to protect their darling; they count the days of his absence, and when, according to the usual course of events, the period of his return is drawing to a close, each hour awakens new fears and new solicitude. By and by the vessel anchors in its port—they fly to embrace him—but, alas! he is not there—he was, off the harbor's mouth, robbed of his all, impressed by the British, and carried into worse than Algerine slavery—for with those he would only be compelled to work for his master, whilst these make him work, and fight, under a lash more cruel than the barbarian bastinado, and a despotism more unrelenting than the slave driver's exercise. Their golden dreams are vanished with the recital. The soul shrinks back upon itself; they cast a long and wishful look upon the ocean, and with tottering steps reach their once peaceful happy home—but no peace, nor happiness, welcome their return. Hope lingers for a while, and cheers their drooping spirits—it directs their appeal to the Government, which the old man fought and bled in the field to establish, upon the basis of universal justice, and whose principles he impressed on the mind of his child. Year after year it is deaf to their cries; it sits down and calculates the cost of asserting its rights, with the nicety of a leger-keeper, and decides in favor of a pusillanimous acquiescence, because the balance of dollars and cents is struck in its favor. Poverty approaches with rapid strides—their last dollar is laid out to procure the means of subsistence; too proud to beg, and too infirm to labor, they know not how to avert their fate; the little plans they have formed without the means of execution, fly like meteors before them—nature is making a mighty struggle with adversity, when it is announced that their boy fell beneath the thousand lashes which were inflicted on him for attempting his escape; and Death, kindly interposing his friendly arm, grants a respite from their miseries! Does not such a case demand our attention? It is not at all comparable to that of many others. Add to the scene which I have feebly portrayed, the distraction of a tender wife, manacled and confined in the cold damp cells of a lunatic hospital—her children bound out by the parish, and all their prospects of life nipped in the bud, occasioned by the impressment of the husband and the father—and then tell me do we violate the principles of the Constitution, which declares that it is made to provide for the common defence and general welfare, by vindicating those measures which are well calculated to procure redress? This were indeed to play such fantastic tricks before high heaven, as make even angels weep! Shall we, in the Tripoline war, to rescue from bondage three hundred Americans, perform, through the agency of some of our citizens, acts of perseverance, address, and heroism, unsurpassed in the annals of ancient or modern times, at the sacrifice of the lives of many brave men, who, with some of those that survived the conflict, will be enrolled by a grateful country upon the list of the favorite sons of the American nation—when as many thousands are groaning under the cruel oppression of Great Britain, and crying to us for succor, without exciting or producing one manly exertion!

But gentlemen say, let us vindicate our rights first on the land, and then on the ocean. As so much has been urged on this subject, I think it proper to say a few words in reply, and though I had read the documents relating to it, I must say

that gentlemen have so misrepresented the conduct of the Spanish agents, that I am almost induced to believe they alluded to something not in the communications contained in the pamphlet. Take the testimony of the Kempers themselves, who no doubt give it the most unfavorable aspect—what do they say?

"That on the night of the 3d instant, about the hour of twelve, being at the house of Nathan Kemper, within about two miles of Pinckneyville, within the limits of the Mississippi Territory, the house was surrounded, and the doors thereof forced open, by a party consisting of at least nineteen persons, whereof some were negroes, and some white men in disguise. That among the latter he recognised and personally knew the following persons: Louis Ritchie, Miner Butler, Abraham Horton, James Horton, and two others, whose names he did not recollect, but expected soon to be able to ascertain, all of whom are inhabitants of the Mississippi Territory; and Marcus Carr, James Say, Philip Say, and others, residing within the Spanish lines. Of the negroes, whose number amounted to seven at least, three, whose names are William or Bill, Nat, and Moses, and others whose names he did not recollect, he knew to be the property of the above-mentioned Abraham Horton. That the said party, all of whom were well armed, after having forced their way into the house, violently forced him from his bedroom, after a struggle of about fifteen minutes, during which he received several violent blows on the head and face; and, after having torn off his shirt and tied him wtih cords, forced him over the line into the Spanish territory, where they delivered him up, with his two brothers, Nathan and Samuel Kemper, bound in the same manner, to Soloman Alston, who commanded a large party of armed men."

Governor Grandpré, in answer to Governor Williams, says:

"I have received your letter dated the sixth instant, relative to the extraordinary event that happened at Pinckneyville on the 3d instant, viz: the assault on the three brothers, Kempers, by persons unknown, and disguised, it is said, in black, who conducted them on that part of the Territory which it has pleased His Majesty to commit to my charge. The occurrence is singular, and of which I had no information till the night between the seventh and eighth, by one of the commanders of the patrols, who, since the inroads committed by that turbulent banditti, headed by the Kempers, have been stationed near the frontiers, and within the interior settlement of Feliciana; the first gave me information under date of the fifth, that by night he met with a party of men disguised and armed, who were conducting three others, whom they immediately abandoned and retired with precipitation the same way which they appeared to have come, without uttering a single word. His first care was to secure the persons of the three men, whom he found to be the Kempers, and immediately had them conducted to Bayou Tonnica, there to be embarked under an escort, and delivered at my disposal. He added, that on the way the escort was stopped by actual force on the river, very near the eastern shore, by Captain Wilson, military commandant at Point Coupée, where it is said the escort is detained, and also the Kempers. The commander of the patrol also declares that it was impossible for him to know any one of the persons who brought and abandoned the said Kempers, owing to the obscurity of the night, their disguise, and their very prompt departure.

"This is all the information I have as yet, but have despatched an express to procure a more ample knowledge respecting this strange and mysterious violation.

"It is not necessary, I flatter myself, that I should express what pains our Government has taken, and how unceasingly scrupulous it has been to maintain and constantly to preserve with that of the United States, that good understanding and harmony which it ought to be impossible for a few intriguing, perfidious adventurers, thirsting after revenge for private animosities, to interrupt."

I have taken the facts in the strong light they are placed by one of the insulted parties, by which it appears that these acts were committed in the Mississippi Territory by citizens of that Territory. The Spanish Governor regrets the circumstance; speaks of it as a strange and mysterious violation; says that it is not necessary to express the wish, which he had before intimated, that it would not prevent a good understanding with the United States. Here we find that measure disavowed; and admitting that violence had been offered by a Spanish party, even within our limits, the Governor explicitly disavows it, and promises inquiry and satisfaction. But is this the case with Great Britain? No. Far from it. Her violences are not only committed by her cruisers, but by her admiralty judges, who, in the versatility of their decisions, out-Protine Proteus himself. Are the cases analogous? Shall we go to war for an act which is either unauthorized or disavowed, and tamely sit still while the injuries that are inflicted upon us are avowed and vindicated? Have not our citizens been impressed at the mouths of our harbors? Need I refer to the memorable fact that occurred at New York? I believe your citizens were taken from a revenue cutter, and certainly from an American vessel at the mouth of that harbor. We find Great Britain contending that this is right—glorying in it—and, what is more extraordinary, apologists for it on the floor of Congress.

Gentlemen have said that our property and citizens ought not to be defended beyond the reach of our gun-batteries. If this sentiment is correct, why carry on the war with Tripoli? Have you not by this measure told your merchants that their property will be protected? Have they not sailed under this impression, and was not this war commenced for injuries committed in the Mediterranean seas? If this can be their impression, would you violate the assurances which you gave them?

When they saw you with manly spirit take this ground, and maintain it by acts which have never been surpassed, did not that give them reason to believe that they would be protected, so long as they complied with your laws and with the law of nations? It is too late, when, in confidence of your faith, they have run into danger, and are exposed to be deprived of their all, to say that you have abandoned them. But we are told, if you provoke the power of Great Britain she may again reduce you to the colonial state in which

she once held you, or a state more abject and miserable. How is this more effectually to be done than by destroying our commerce, advancing as we recede, first driving us from the ocean, and then hunting us from our shores to the mountains, and from thence to the South Seas? This cannot be effected in a moment. I have no doubt Great Britain looks back to the times of 1776 with lively indignation. If she lashes us, and we cringe beneath the whip, until our best feelings are blunted, at what point will she stop before she has driven us from our posts indeed, and again reduced us to a state of servile dependence!

But gentlemen say Great Britain is the great source of our revenue, and we ought not to take a step which might destroy it. Sir, it were better to be up to the eyes in debt like Great Britain, than hold our revenue by such a tenure. Once declare that you are unable to pay your debts or support your Government, but for the revenue derived from Great Britain, and let gentlemen say where she will stop. She understands this thing as well as we do, and if she sees that we have determined to get out of debt without resorting to taxes; to make no loans, whatever the emergency may be, and that we can get no resources but through her trade, and I fear that in a little time she will make us bear what I am apprehensive will produce no feeling at all. Some gentlemen are good enough to be willing to allow Great Britain a longer time to prey on us. They wish us to negotiate with her with Christian meekness, when she smites us on one ear to turn the other also. But are we not told by the Executive that negotiation has been tried; that with regard to the impressment of our seamen there was a prospect of a successful issue, which was afterwards however shut out from us? It is in vain to expect any other result from negotiation than we have witnessed, without we do something, unless Great Britain entertains the idea that the nation is not identified with the acts of the Executive, but with those of Congress. This, however, cannot be. For omitting what has lately transpired in this House, and which is not known to her at this time, Great Britain knows that the whole nation is ready to support the Executive. The unanimity which prevailed at the late election has testified it. It is not merely to protect the colonial trade, or to redress the impressment of our seamen, that calls for this measure. Everything that connects us with the European world, through the medium of commerce, is involved in it. Viewing her pretensions as the entering wedge, she will, if you submit, advance with steady steps; trample on and violate every right in rapid succession, until she has established her undisputed right to the whole seas, and enforced obedience to her pretensions "that all beneath them is British ground," and compelled those who sail on them previously to ask her permission. But gentlemen say, there is a prospect of adjustment, and appeal to the papers on your table. I say there is no such prospect, and I call for the facts which gentlemen rely on.

It will be observed that the remarks I have made go to prove that we ought to do something to restrict the manufactures of Great Britain. Having established this point, and that it is not a war measure, the question presents itself, what shall be done? My opinion is, that the resolution before you is best calculated to answer our purpose, but in the opinion of some other gentlemen, it is better to resort to something else that will have the same tendency. I agree with them that it is better to advance than to recede, and to take ground which we can maintain and advance on it than to make one retrograde step, and I am willing therefore to vote at present for some regulation that may be more lenient than the one under consideration; to try such a measure first, and if this does not succeed, to attempt others. I am willing to consent to stop all intercourse with her, if redress cannot be obtained even by these means; and if it shall not be obtained even by these means, to exert such power as it has pleased God and nature to give us. I repeat, once more, it is far better to die contending for our rights, than tamely to sit down and crouch under injustice, until all the finer feelings of the nation are blunted, the people are disgusted, our resources destroyed, and the degeneracy of their sons make the fathers of the Revolution look down with contempt upon us, and say: We fought and emancipated our country, we bequeathed to you the fair inheritance of freedom, you prove yourselves unworthy of it: henceforth we disown you; return and be hewers of wood and drawers of water for our former taskmasters, as the fit instruments of slavery.

Mr. Rhea, of Tennessee, said it was with some difficulty he had prevailed on himself to attempt to make any remarks on the resolution now under consideration, but the duty he owed to his fellow-citizens, to this honorable Committee, and to himself, constrained him not to remain silent.

It is not many years since the United States of America, from being obscure colonies of Great Britain, emerged into sovereignty. The treaty of one thousand seven hundred and eighty-three restored peace, and confirmed the independence of these United States; but they were involved in a large debt, incurred by that war, which terminated in their independence. The United States were then possessed of a large, fertile territory; but agricultural industry was injured by the war, and they were without resources and without commerce.

With the return of peace, agricultural industry was revived and enlarged; an extensive, enterprising commerce began to operate and unfold itself. Persevering, active industry, in the business of agriculture, and in that of commerce, in a period of little more than twenty years of peace, has afforded resources for the payment of a large portion of the public debt; has increased the wealth of individuals and of the nation, and has elevated these United States to be the second commercial nation in the world: and for this, there is reason to apprehend, they have incurred the jealousy of that maritime Power whose un-

provoked war hastened them into independence. If the history of commerce is attended to, it will be discovered that it originated with the nations of the East, (as did almost every other effort and speculation of human genius,) and from thence travelled westerly. In its course, it continued certain periods of time with some favored cities, and with some favored nations, and when it departed from one city and nation, it took up its residence with another more to the west. Tyre, Carthage, and Alexandria, were ancient cities, highly favored by commerce in their respective times; Genoa, Venice, and Amsterdam, in modern times; at this time, London is the most favored commercial city in the world. Commerce, in its progress from East to West, was always attended with a spirit of monopoly. With whatever favored city and nation commerce resided, that city and nation soon after became ambitious to monopolize commerce to itself, and to exclude (except so far as it might judge proper for its own interest) all other nations from participating in equal advantages.

To be, or to be rising to be, a nation of commercial influence, has, from time to time, been cause of contention among the nations bordering on the shores of the ocean. That contention for superiority has, in most instances, been attended with desolating war; and, in many cases, ended with the subversion and ruin of a rival commercial Power, or of one which attempted to monopolize commerce to itself. To this cause, in a certain degree, may be attributed the desolation of Tyre, the demolition of Carthage, and the ruin of Alexandria of ancient times; the fall of Genoa, and the declension of Venice in modern times.

It is many years since Great Britain began to be a nation of commercial importance. Agricultural industry, and manufacturing genius, pursued with steady and unremitting attention, gave wings to her commerce. Her merchant vessels, from her insulated position, as from a centre, passed the ocean in all directions, and articles of her manufacturing appeared for sale in the ports of every maritime nation.

Commercial success and favorable maritime events caused the policy of Great Britain to contemplate the dominion of the ocean, necessary to secure the existence and continuance of a commercial monopoly; for this purpose the construction of a navy was, with unabating vigor, attended to.

Great Britain, governed by her favorite policy of acquiring unlimited commerce, has, for ages past, (except some partial intervals,) been engaged in wars with her maritime European neighbors. Any cause has been laid hold of by her to procure the ruin of a commercial rival. To that policy may be attributed the wars between Great Britain and Holland, between Great Britain and Spain, and between Great Britain and France, which caused the loss of the lives of millions of men, and the expense of millions of money. Actuated by this policy, Great Britain progressed until the commerce of every other European maritime nation had been destroyed, or made subservient to her interest, and she had made herself the unrivalled commercial Power in Europe.

No nation ever acquired and possessed commerce as extensively as Great Britain. That wisdom which systematized the plan, and that undeviating, persevering policy, which, notwithstanding internal commotion and external wars, conducted her to the summit of commercial power, will ever command admiration. The acquisition is the effect of the work of ages. Her commercial aggrandizement has been her favorite object; to this her policy for a long series of years has been directed. In this policy may be discovered the cause of all the wars she has been engaged in for centuries past. To monopolize the commerce of the world was her paramount object; to retain it, the energy of her power will be exerted. In acquiring it, her power was the law; in preserving it, the same law will be observed.

The mind cannot without horror contemplate the ravages, carnage, and destruction, that monopolizing policy has occasioned, either directly or indirectly, in every quarter of the earth.

It is to be apprehended that Great Britain sees a new commercial rival emerging into existence in the West, at a distance of three thousand miles; that that rival is the United States of America: a new nation, composed of citizens for the most part derived from the dominions of Great Britain; a nation, who, as it were, in a day has arisen into existence, and carried its commerce to the most distant regions.

It may with propriety be said, there is reason to believe that the increasing commerce of the United States affords more serious cause of inquietude to Great Britain than that of any other nation ever did. The vast territory of these United States, so fertile, and so productive of all the necessaries of life; the extensive forests of lofty timber with which that territory is covered, and the certainty that it contains and will produce all the materials necessary for ship building; the temperate manners and fixed habits of the citizens, their agricultural industry and commercial enterprise, their population increasing in a ratio unexperienced since the first settlement of nations, afford sufficient cause for restless alarm.

With deep and corroding regret, the policy of Great Britain contemplates these things, and foresees a diminution of her commercial power in the prosperity of that of the United States. She has destroyed the commerce of Holland, of Spain, of France, and that of most of the other maritime Powers of Europe. It only remains to restrict the commerce of the United States, and by that means to seize the commerce of the world.

In conformity to her fixed policy, Great Britain has, contrary to all law, from time to time impressed seamen, citizens of the United States, and in consequence of new maritime rules, not recognised by the laws of nations, and which power has enabled her to impose, her armed ships have captured merchant ships and vessels of the United States, not bound to ports blockaded, nor carrying articles termed contraband of war; and the same merchant ships and vessels are condemned by

her Courts of Admiralty, under pretence that a trade not permitted to neutrals in time of peace ought not to be allowed in time of war.

It is to be apprehended that the new regulations imposed by Great Britain are only an ostensible cause for capturing the merchant ships and vessels of the United States, and that there is another cause, proceeding from her policy, of more remote consequence. That cause may be the suppression of the commerce of the United States, or at least to reduce it to a complete dependence on her own commerce. This opinion will appear to be not without reason, if a retrospective view is taken of the policy, the conduct, and persevering industry of Great Britain to destroy the commerce of European Powers.

When the maritime power of Great Britain is contemplated, it may be inquired, what can the United States do to prevent the prostration of their commerce? Mr. R. said he was not sufficiently conversant in the commercial history of Great Britain to know, what quantities of merchandise either Holland, Spain, or France, annually imported from Great Britain, or what quantities of merchandise Great Britain exported to either of those nations, directly or indirectly; but he was induced to believe, that neither of those nations, for that cause, had such strong hold on Great Britain, to induce her to keep in peace, as the United States have. That Great Britain had not such interested inducements to preserve peace with either of those nations, as she had to preserve peace with the United States. Each of those nations was a near neighbor to Great Britain; the United States are west of the Atlantic ocean. Neither of those nations imported annually such great quantities of merchandise from Great Britain and her dominions as the United States do; it is questionable whether any other nation ever did.

Great Britain has commenced her career of injuring the commerce of the United States, not by direct warfare, but by a mode of restraint and spoliation, as efficient in event, if persisted in and suffered. There is reason to believe that these restraining regulations are put in force as a matter of experiment, and if it is perceived that they are submitted to, other new regulations will be invented, adopted, and enforced, until the desired object is obtained.

Great Britain (and every other nation, whatever system be acted on to obtain) is bound only by her own interest. If that interest directs her policy to attempt a diminution or subversion of the commerce of the United States, that attempt will be made. An attempt already has been made to restrain the commerce of the United States, by impressing seamen and capturing ships and vessels. Mr. R. said, it was his opinion, that some principle of reaction ought to be adopted; that it should consist of certain commercial regulations, which may be commensurate with the injury. That this regulation may be a suspension of the importation of goods, wares, and merchandise, from the United Kingdoms of Great Britain and Ireland, and the colonial dependencies thereof, as is declared in the resolution of the gentleman from Pennsylvania, now under consideration. The measure which ought to be adopted should be effectual and within the power of the United States.

Mr. R. said, he was not particularly attached to that resolution, his desire was, that some regulation might be made that would be commensurate to the object.

Every nation has a right to determine whether it will or will not import merchandise from any other nation. If it determine not to import, and did not import, that is not a just cause, nor ought to be any cause of offence to the other nation. It was not his desire that the United States should give cause of offence to, or commence hostilities, or be at war with any nation. He was firmly determined not to surrender any right, which, in his opinion, did belong to the people of the United States.

The United States import annually from Great Britain merchandise to the amount of more than thirty millions of dollars from the dominions of Great Britain. The vending so great a quantity of merchandise to the United States is an object of the first magnitude to Great Britain, and which she would at any time, particularly at the present, be very reluctant to lose. If adequate commercial regulations be adopted, there is reason to believe that Great Britain will be induced, for the preservation of her own interest, to make friendly arrangements, will remove all existing differences, and do justice to the United States, in their commercial concerns, agreeably to the existing, known, used, and accustomed laws of nations.

If, on the reverse, it shall so be, that Great Britain will refuse to make friendly arrangements, and to do that justice which the United States are now entitled to, and will persevere in impressing seamen, citizens of the United States, and will continue to commit injuries on their commerce, one of two things must be the consequence. The United States have either to submit their commerce to the policy of Great Britain, or to call forth their energies to resist the attempt of deprivation. If Great Britain shall hazard a contest, she has much to lose, and a war may terminate as much to her injury as to that of the United States.

In discussing the subject under consideration, arguments had been deduced from geographical divisions of the United States, and from the injury which might be done to the exportation of particular articles of particular States. These geographical distinctions might as well not have been made. These United States on every national question are one. Arguments deduced from any injury which may accrue to the exportation of any particular production of any particular State, are not well founded. In this case is involved the welfare and interest of the United States. The policy of Great Britain may be to suppress the commerce of the United States, if possible, or to reduce it to an entire subserviency on her own commerce.

It has been said that Great Britain is fighting

for her national existence, and that this being so, the United States ought not now to urge their complaints. If it be so, the United States have not been the cause of that war. The United States have not been aiding the enemies of Great Britain; they have preserved an impartial, neutral position. They have not been hostile or inimical to Great Britain in the course of that war. Their conduct has been that of friendship. But Great Britain is said to be fighting for her national existence. If so, to what cause is that war to be assigned? Is the non-performance of the treaty of Amiens, as it related to Malta, a cause of that war? If so, what nation refused the performance? Great Britain or France? The answer is evident. Can Great Britain justify injuries done to her friends? Will Great Britain attempt to justify her unjust attempts to suppress the commerce of the United States? But it is said that Great Britain is fighting for her national existence. Admit it to be so, will any gentleman say, that if, in the event of the war, Great Britain shall lose her national existence, that that loss, in the day of retribution, shall be attributed to the United States? Certainly not.

Agriculture and commerce are mutually assistant to each other: agriculture supports commerce, and commerce gives life and vigor to agriculture. Agricultural industry would become languid and feeble if it were confined to supply the mere necessaries of life. Commerce subservient to the will of another will soon cease to be.

The idea that the commerce of these United States can be suppressed is not to be admitted. That commerce may not be suppressed, it must increase and enlarge itself. Empire and commerce originated in the East, and travelled to the West. A period may not be far distant when commerce will take up her favorite residence in these United States, and these United States then be the greatest commercial nation in the world.

Mr. Gregg.—If no other gentleman is disposed to occupy the floor, I will ask the attention of the Committee for a few moments. Indisposition, if there was no other cause, would prevent me from detaining them longer. I feel myself under some obligation, before the question is taken, to make some explanation of my motives for bringing forward this measure, as I have been particularly called upon to do this by several gentlemen who have taken a part in this debate.

When I had the honor a few days ago of addressing the Committee, I stated that I had reflected maturely on the subject, and that the resolution now under consideration appeared to me the best measure in our power to adopt in the present circumstances of the country. I stated, however, at the same time, that if a majority of the Committee entertained a different opinion, I should be willing to relinquish my own impressions on this subject, as I considered it all-important to combine a strong vote in favor of such measures as we might adopt. I believe that a weak measure carried by a great majority will be more powerful than a strong measure carried by a small majority. Having confined myself to the discussion of the measure under consideration, I expected that it would have been examined on its own merits; but, contrary to this expectation, I was surprised to hear the gentleman from Virginia state in his first breath that this was not a proposition of mine, but a Cabinet measure. I wish the gentleman had deigned to inform us what he meant by a Cabinet. I perceive no such thing in the Constitution or laws. I believe the phrase is peculiar to the Court of St. James, where the Ministers of the King are called the Cabinet. I have heard the Heads of Departments and the Attorney General, assembled by the President on great occasions, called the Cabinet. I have also heard three or four members of this House, who have considered themselves the organs for conducting all its business, called the Cabinet. If it be either of these Cabinets, they have not been consulted by me. The origin of this business is no secret. A number of gentlemen, who thought something ought to be done, showed me a proposition which they wished to submit to the House. I saw several propositions—one in the hands of a gentleman from New Jersey, going to a prohibition of all commercial intercourse with Great Britain, and others embracing a more moderate system of measures. I showed these gentlemen what I had drawn up: they differed from me in opinion, and the result was my putting this resolution upon the table, that it might receive that fair discussion which I conceived its merits entitled to.

The gentleman from Virginia has also brought into view a vote of mine given on the bill making an appropriation for carrying into effect the treaty commonly called Jay's Treaty. I should have taken no notice of this allusion, had it not been made in such a way as appears to be calculated to impress the idea that my vote might have prevented that treaty from going into operation. This is not the fact, as on the final vote there were fifty-one affirmatives and forty-eight negatives. I voted in the affirmative. Had I voted in the negative, the vote would have been fifty to forty-nine. And the sense of the Speaker was well known, as he had previously voted in Committee of the Whole. There was a proposition offered to the House, which I voted for as a preamble to the resolution, the object of which was to express the opinion of the House that the treaty was a bad one; that it was not such as the country had a right to expect; but, that, under all the circumstances, it was better to make the appropriation for carrying it into effect. I believe it was understood, if the preamble was carried, the minority would vote for carrying the treaty into effect; and, though it was not carried, I did not consider that a sufficient reason for voting against it. The treaty had been regularly negotiated: I do not say it was such as it ought to have been, but it was better to let it go into operation than lose it by a small majority. The President had ratified it, and a majority of the Representatives, in Committee of the Whole, approved it. I will ask, then, the gentleman from Virginia, if he will be for putting General Washington, two-thirds of the Senate, and fifty-one Representatives, in straight-jackets? I believe the sense of the nation will revolt at the

idea; and I believe the people, if the subject had been submitted to them, would have voted as I did. How do I infer this? Because every man who voted for the treaty came to Congress again if he chose. I voted for it, and I never was elected by a greater majority. There is no district in the State of Pennsylvania more republican than that which I then represented; for I am now the representative of another district—the man now from it is republicanism itself.

The gentleman from Maryland, in making some observations on the remarks I made on introducing this measure, has ascribed to me an expression which I deny absolutely having made. I wished an opportunity at the time to explain, but the gentleman did not see proper to indulge me; and I believe this is the only instance in which such a refusal has been made. The idea which I expressed, was, that this measure would attack Great Britain in her warehouses and workshops, and would thus reach her vitals. I observed that the merchants and manufacturers were the great support of that nation, and that, if we adopted this measure, it would so affect those two classes of men that they would become our friends, and the advocates of our measures. The gentleman from Maryland has, on the contrary, attributed to me the wish of stabbing Britain to her vitals—ascribing to me the idea of wishing to destroy her Government. I should be sorry to see this effect produced. On the contrary, I wish to see that Government preserved in its vigor, as a check to her great rival Power. I believe a considerable portion of our own safety depends on the two nations checking each other.

I observed that I had no idea this measure would lead to war. I deny that it is a war measure. There is nothing warlike in it. It is a plain commercial measure, which we have a right to establish. But I observed that if Great Britain should view it in a different light, and go to war, she was not so much to be dreaded, as we should be able to take as many of her trading vessels, or at least an equal value of them, by means of our privateers, as she could of ours. From this, the gentleman has inferred that I am for meeting the British navy with the privateers of our citizens, and added, that any man who talked so absurdly ought to be shut up in a dark room, and confined in a straight-waistcoat. I am willing that the gentleman from Maryland should have the credit of being the author of all such flourishes; but, before he undertakes to anathematize other gentlemen, he ought to give some specimen (which I am sure he has not yet done) of his own superior powers.

I have no expectation that this resolution will prevail, as I find many gentlemen who advocate strong ground consider this too strong. As I said, at the beginning, I am ready to meet them on any other ground. Why do they not come out, and propose their measures? If I think the measure they propose will do, I will vote for it. But while we are going on this way, we can never come to the point. Let gentlemen, then, avow themselves for or against this measure. It appears to me that those who object to this measure as too strong, have been answered by unanswerable arguments; and I can hardly see how we can relinquish this ground, and descend to another.

I regret that some things have been said in the course of this discussion, whose natural tendency is to divide instead of uniting us. Of this description is the alleged jealousy between our merchants and farmers; a topic more fitted to destroy than promote conciliation. I wish to bury all kinds of party distinction in the discussion of this subject; I think such topics highly improper; and that every pains ought to be taken to keep out of view such sources of jealousy. I myself am a farmer, a practical farmer; and have no idea of giving up the interests of agriculture to commerce. But I have always considered the two so ultimately connected as to be inseparable. If it were not for the merchants of Baltimore and Philadelphia, the people I represent would be in a perilous condition. What they raise beyond their own wants, they dispose of to them; and were it not for them, their surplus productions would rot on their hands, and they would become indolent and poor.

There is another view of this subject, largely dwelt upon, which I exceedingly regret—the power and importance of Great Britain. I am willing to agree that Great Britain is a powerful nation, and that her navy is invincible. Still I am not willing to resign my rights and the rights of the nation into her hands. We have, on a former occasion, heard almost every argument brought forward in the same manner as on the present occasion; they had not then influence, however, to prevent a similar measure with that under consideration. I regret that they have this influence now. If we shall not adopt this resolution from its influence on our revenue, or any other cause, I hope we shall not regret it, because Great Britain may take offence at it. I wish this consideration had been left entirely out of view; that whatever we do, we may do as the Representatives of the nation, without regard to Great Britain.

The Speaker, in the course of his remarks, has alluded to an observation of mine relative to the sequestration of British debts; regretted that I made it, and expressed his belief that I would not myself agree to the measure. I certainly should not, except in a case of extreme necessity. I said that if Great Britain should violate the treaty between us in every respect but one, she could not consider us as bound by the single remaining article. But should we be released from the treaty it is said to be questionable whether the sequestration would in any case be justifiable. I believe there are extreme cases in which it would, and the Speaker and myself once agreed on that point. If Great Britain should, in violation of the treaty, let loose her cruisers, and seize our property without notice, I believe such a measure would be justifiable, though even then I should take it with reluctance. I have no further observations to make. If gentlemen indisposed to this measure will suggest one that is more moderate, I will exercise my right of judging on it.

Mr. DAWSON.—I have indulged the disposition, which I always feel to be silent, during a very lengthy debate, and have attended to the observations of other gentlemen, sometimes with pleasure—sometimes with pain. I should continue that indulgence, did I not apprehend, that, from the length which the debate seems to promise, I shall not have an opportunity of giving my yea or nay; and as I propose to vote against the resolution, it might be concluded, that I view it as other gentlemen do, who are in the opposition, or that my vote is influenced by any of the reasons or considerations which have been urged by most of them.

I consider that resolution simply as a commercial regulation, which, under the powers granted to Congress by the Constitution, we have a right to to pass, and I hold it to be an internal regulation which it is our duty to pass, whenever the true interest of our country in our judgment shall require it, without inquiring what effect it will have on the feelings of any foreign nation whatever. At present, however, I deem it premature, and I hope it will never become necessary; whenever that necessity shall arrive, I will join the advocates of this resolution in its support, or in the support of any other measures which shall go to injure those who persevere in injuring us; and this has been my conduct during the whole session. I have been in favor of every measure which goes to secure the honor or interest of our country, let that measure be directed against what nation it may; but I repeat, that I hope it will never be necessary. This hope does not arise from any confidence which I have in the magnanimity or forbearance of any nation. I believe that they are all disposed to aggress when they have power, and that that disposition is only checked by the opposition of others acting on their own interest; and a discovery of this spirit on our part, with a manly determination to support our own rights, and a sacred regard for the rights of others, will, I trust, produce that effect at the present crisis; should they not, I repeat that I will join in any measure to support these rights and to obtain justice.

This resolution has been supported by some of its friends, and met by all its opponents, as a war measure. It is extremely difficult to ascertain what gentlemen mean by a war measure. If they mean that it is a measure which we have not a right to adopt without consulting others, and the adoption of it will give just cause for war, I dissent from them *in toto*. I believe it simply to be a commercial regulation intended to meet the present state of things, and that we have a perfect right to pass it, without inquiring what influence it will have at St. James's, or St. Cloud. I believe this is the place intended for the free exercise of all powers granted by the Constitution. If, sir, they mean that it may afford a pretext for war, I, without hesitation, admit that it may and so may either of the resolutions which have been submitted to the Committee, over which you, with so much propriety, preside. I well know that nations, like intoxicated individuals, when blinded by passion or superior power, seldom want pretexts for differing with their friends; to prove this I will not appeal to antiquity, or even to our own Revolution. The history of the present moment—the state of Europe, confirms this important, though melancholy truth. And if, sir, the passing of either of those resolutions, all of which I consider as standing on the same footing as to that power—and one of which I trust will pass—if, I say, that will afford a pretext for a war; if, sir, by the folly or vices of other Governments, we are forced to meet that state of things, I am not among those who are disposed to despond, or ready to acknowledge the superiority of other countries over ours. Armed, sir, with the shield of justice, and fighting in defence of our just rights, while I feel a pleasing confidence that we have more means in our power to injure any nation in Europe, than that nation has to injure us—these means I never wish to use, or to see that state of things; nor do I wish to put our finances or my country to temporary embarrassment or inconvenience, as I believe this resolution would do, especially the southern part of it, until the necessity shall be more apparent, and until it shall be seen that Great Britain perseveres in a system of measures calculated to check and destroy our rising greatness, and eventually the independence of our country. At present, therefore, I am against the adoption of the resolution, under the hope that it will be unnecessary; that we shall obtain justice without it.

Should I be disappointed in this hope, I pledge myself to unite in any measures which shall go to maintain the rights, honor, and interest of that country so dear to us all. Let those measures be directed against what nation they may, I will never surrender a perfect right, or temporize with principle.

Mr. EARLY.—I believe it must be seen by gentlemen that there is now no probability of adopting this measure; and I am convinced that, if adopted, it will not answer the purposes which they themselves intended to answer by it. It is not because it takes too strong ground that I am opposed to it; I am opposed to it on other grounds. On the ground that the measure, if carried into operation, will be weak and impotent, as it respects Great Britain, and ruinous as it respects ourselves. These are the grounds on which my opposition is founded. The gentleman, therefore, who submitted this proposition is mistaken if he supposes I opposed it on the ground that it was too strong; but it is not my intention again to go into the merits of this subject. I have barely risen in consequence of the diversity of opinion expressed by gentlemen, all tending to show that if this measure cannot be adopted, they are willing to meet on other ground, to invite them to give us an opportunity to occupy this ground, which I believe will be found in the resolution of the gentleman from Maryland. It is because I think that eligible ground to occupy; a ground which will not recoil upon ourselves, or do us more harm than our enemy, that I think it time to put an end to the discussion of this first resolution. Gentlemen must have discovered that they cannot carry it. To put the thing then gently to sleep, and to give us an opportunity to occupy more eligible and efficacious ground, I move that the Committee rise. When the House shall be resumed, it is my intention to move to discharge the Committee from the resolution under consideration.

Mr. MACON.—Before the question is taken I beg to be indulged in stating that the gentleman from Virginia has misunderstood me. I stated that the best way in my opinion to prevent Britain from impressing our seamen, was to agree not to employ her sailors, on condition that she would agree not to take ours, relying on her being governed by a sense of interest. I should have thought the sentiment ascribed to me by that gentleman would have been one of the last in the world attributed to me.

Mr. SMILIE.—I am against the motion for the Committee's rising, though I have no objection to postpone the resolution for the purpose of taking up any other. There is a wide difference between postponing a measure to a day certain, and discharging a committee from it. Let me tell the gentleman from Georgia that I am not afraid of the fate of this resolution. It is far from me to undertake to say what that fate will be. I know it not, nor can I know it until the final vote of this House. But should this resolution be negatived, that circumstance will not change my conduct. It is enough for me that I am convinced its adoption will promote the interests of this country, and that I am not responsible for its fate, but only for my own conduct, and that I possess the privilege of recording my name in its favor whenever a decision shall be had upon it. If the gentleman will agree to postpone this resolution to a day certain, in order in the meantime to take up any other resolution on the table, I will agree to it.

As we are now explaining, I am glad to see the gentleman from Virginia in his place. That gentleman, in taking notice of my observations, doubted whether the friendship I entertained for him was sincere. If the declaration will be satisfactory to him, I will declare it was sincere: that friendship is not removed; but I wish the gentleman to understand it properly. Friendship requires an exchange of good offices between man and man; but there is a fund on which even friendship cannot draw—the fund of public good, which is of too sacred a nature to be sacrificed even to friendship; and I declare, that except so far as public duty requires, I am still willing to interchange the offices of friendship with that gentleman.

Mr. JACKSON.—I owe an explanation to the Speaker and the House. My colleague observed that some apology was to be found for the conduct of Great Britain with regard to the impressment of our seamen, from our having more of her subjects in our employ than she had of our citizens in hers. The Speaker stated that protections were a thing in the market—the price of which was as well understood as the price of other articles. Other gentlemen made various allusions to the conduct of Great Britain. I had, therefore, no particular allusion to the Speaker, when I said I was sorry to find apologists of Britain on the floor of Congress.

Mr. MACON.—I understood the remark as applicable to myself. I said the price of getting naturalized was as well understood as anything in the market.

Mr. EARLY.—In reply to the observations of the gentleman from Pennsylvania, I will observe, that if the Committee should rise, it will be in the power of the House to dispose of the resolution as it pleases. The gentleman will there enjoy the same privilege of moving a postponement to a definite time, that I shall to move a discharge of the Committee from its farther consideration. For my part it is not material to me which motion prevails. I shall not oppose the motion to postpone this resolution to a day certain. I am as willing that one course should be pursued as the other.

Mr. CLARK, in allusion to the remarks of Mr. JACKSON, said he had never supposed, from the feelings which he entertained, that he should have been considered as the apologist of Great Britain.

The question was then taken on the rising of the Committee, and passed in the negative—yeas 53, nays 58.

Mr. CROWNINSHIELD.—Mr. Chairman: The question is on the resolution for interdicting the importation of all goods, wares, and merchandises, from Great Britain and her dependencies. It is to be regretted that in the consideration of this subject its opponents have considered it as a war measure, or such as will lead to war. Had I viewed it in this light, I should have never risen in its support. I will take the liberty of saying a few words in reply to the gentleman from Maryland, (Mr. NICHOLSON,) on certain observations which fell from me when this subject was first brought into discussion. What I then said has been misunderstood and misrepresented both by that gentleman and the gentleman from Virginia, (Mr. RANDOLPH.) I am accused of wishing to plunge this nation into a war with Great Britain; I deny the charge, and I believe I said nothing which ought to have led gentlemen to have drawn such an inference from my remark. I am charged by the gentleman from Maryland with saying that our privateers would be a match for British seventy-fours; I did not say so. I said if Great Britain considered this as a hostile measure, and made war upon us, we should fit out privateers, and they would probably be able to capture two vessels to one taken by her. I here alluded to merchant vessels, and had reference to no other description of vessels. The reason I assigned for this was our experience during the last war, and our ability to defend ourselves in this way has certainly not diminished since that time. But could it hence be imagined, by any rational man, that I considered a privateer equal to a man of war? It has also been insinuated that I am in favor of a confiscation of British property, whether there shall be war or not, I suppose. I said

if Britain preferred to consider this as a hostile measure, if she actually made war upon us, we should be obliged to confiscate our debts. If she pursues a hostile course, preys upon our property, and impresses our seamen, shall we be expected to furnish her with all the means in our power to carry on war against us? Shall we continue to pay the debt and interest, when this will be the effect? Though this was a hasty remark, I am convinced on reflection that it was just, and I have no doubt if Britain chooses to hurry us into war, that it will be our duty to take her property on the land, if she takes ours upon the ocean. With regard to the observations of the gentleman from Virginia, of a personal nature, I shall not condescend to answer them, except so far as to observe, that when the gentleman stigmatizes those who held particular opinions, with meriting straight waistcoats, I am sure the Committee did not consider the remark as justified by anything which had been said. I presume no person would wish to put me into a dark room, confine me in a straight waistcoat, and support me on water-gruel. Such places are only fit for madmen. I am not willing to go there; but if I should, I might unfortunately, perhaps, find the gentleman from Virginia along side of me.

Having made these remarks, I shall proceed to consider the main proposition under consideration. It is no declaration of war; nor do I believe, if adopted, Great Britain will think it sufficient to go to war with us. She will not hazard a war with the United States on this account. Her interest is too deeply involved to permit her to take this step. What does it propose? What are our complaints? Great Britain, in the plenitude of her goodness and mercy, seizes American shipping carrying on a lawful commerce, in goods bought in the colonies of the belligerent nations. What has been her conduct ever since the first war against revolutionary France? On the 6th November, 1793, she issued orders to her armed ships to seize all neutral vessels trading with her enemies' colonies, or loaded with colonial produce—not vessels loaded with provisions merely, as has been supposed by some gentlemen, in consequence of which three or four hundred American vessels were captured. On proper representations being made, she acknowledged this conduct to be improper, and allowed the trade on which she had thus depredated to be a lawful trade. In the treaty made with her the following year, she agreed to make compensation, and I believe nearly four millions of dollars was allowed to our suffering merchants for property thus unjustly taken from them. Here was a complete abandonment of the ground she had assumed. Why did she make restitution if the trade was unlawful? How came it that the Commissioners sitting under that treaty, almost without exception, awarded damages in every case of capture prior to the date of that treaty? We heard nothing of this principle till the year 1801, when Great Britain again attempted to revive it in a new form. But on reference to her Attorney General, he declared this ground to be incorrect, and that a neutral had a right to pursue his commerce with the belligerent colony. He makes no distinction as to the outward or homeward cargo. He does not contend that the colonial trade is to be shut or interdicted in time of war, and although the direct trade between the mother country and the colony ought not to be allowed in his opinion, yet he concedes the principle that the commerce is lawful between the neutral country and the colony, and that upon the goods being once landed in a neutral port the continuity of the voyage is broken, and they may then be sent to Europe, even to those nations at war with Great Britain, to the mother country for instance.

The principle, therefore, was again abandoned by Great Britain. It is now, however, once more revived, and under the decisions of her admiralty courts, we find an immense amount of property at stake. We find not only our vessels going from the colonies to the belligerent nations, and from the belligerent nations to the colonies, exposed to capture—but our vessels are seized and condemned when trading between the United States and the colonies, and also when bound direct to Europe from this country, when loaded with colonial productions. We do not know the precise amount of these captures, but we do know it is immense. Our merchants were taken unprepared; they had not insured against such risks. Many of them must be ruined if you do not hold out your protecting hand towards them. Sacrifice this principle, and we know not where it will end. Viewing the United States as increasing in population and wealth, and unjustly considering us as her rival, her object is to destroy our commerce. I have viewed the subject in this light from the first, and I have no doubt that if we give up this right, we shall be pushed to give up others—one demand will be made after another, and we shall lose all our commerce. But we are told that Great Britain is a powerful nation, that she has eight hundred vessels of war. But suppose she had one thousand, is there any independent man on this floor prepared on this account to relinquish our rights? I hope not, Mr. Chairman; but such strange opinions have been delivered, I am prepared for anything. Great Britain is so powerful, and has such a great navy, we ought not to provoke her; we must secure her friendship by concessions, I suppose. We are told by the gentleman from Virginia, (Mr. RANDOLPH,) that if we go to war with her we must hold our seacoast at the will of the conqueror, that we must fly to the mountains for protection. No, sir, we shall not fly to the mountains. We shall meet our enemy at the ocean's edge, we shall there defend our seacoasts. To talk of abandoning our seacoasts is idle. In defence of our coast we shall, if necessary, shed the last drop of our blood. No, sir, we shall not hide behind a hogshead of tobacco, or a bale of cotton, but boldly stand forth and fight for our shores whenever a lawless invader shall touch them.

But Great Britain says, you are carrying on a trade in war, which was not allowed in peace. Is this a fact? It is not a fact? The valuable document from the Secretary of the Treasury proves that it is not. If that document did not prove it, I could from my own personal knowledge, for I have enjoyed the colonial trade in common with thousands of my fellow-citizens during peace and war. In 1802, a year of peace all over Europe, from the returns of the Secretary of the Treasury it appears that you exported colonial and other foreign productions to the amount of thirty-five millions. This was a period of peace, as I have before observed, and demonstrates that you enjoyed this trade in a time of peace. This produce was purchased with American capital, in foreign countries, but chiefly in the colonies belonging to the enemies of Great Britain—very little of it came from the English colonies. Similar property is now seized and condemned upon the presumption that we are not carrying on our accustomed trade. I ask, then, in what other light we can consider this aggression of Britain, than as a part of her regular system of plunder?

Is it true that this trade is a mushroom or fungus that has sprung up in the night? I think it is as valuable as your export trade in tobacco, cotton, beef, or pork. Indeed it is so intimately connected with the trade in our own products that it cannot be separated from it. Your people raise a large surplus beyond their wants. Do gentlemen want this surplus produce to rot in the hands of the farmer or planter? To avoid this what must be done? It must be exported to other markets. Take the case of a cargo of flour sent to the West Indies; they have no money to pay for it, but they are willing to barter sugar or coffee in exchange. The American merchant brings these articles to the United States, but he finds the market so overstocked that he cannot sell them here. He prefers sending them to Europe rather than waiting for a demand which may never come. Now I wish to know whether he has not the same right to send this sugar and coffee to Europe, received in exchange for his flour, as he has to send the flour itself, which is the product of your soil? There can be no doubt of it; it is his own property, sailing under a neutral flag, which, if outraged, he has a right to call on his Government to protect.

I know of a vessel which went last year from Salem, in Massachusetts, to Richmond or Petersburg, in Virginia, I forget which of them, and there took a cargo of tobacco, with a view of going to Manilla, a Spanish port in the Chinese seas. I believe she loaded four or five hundred hogshead of tobacco. This vessel will be compelled to bring back a cargo of sugar and indigo. There will be no dispute as to the neutrality of the ship or cargo—both belong to an eminent merchant of Massachusetts. I am sure the indigo will not be wanted in this country. It will sell higher in Europe; and the owner may wish to send both the sugar and indigo to Spain, to France, or Holland, but it will be exposed to British capture. It will be said it came originally from an enemy's colony. It is contaminated. It cannot be carried to Europe, because it may turn out possibly that the owner intended to send it to Europe when he first undertook the voyage to Virginia, twelve months before. This will be said in a British Court of Admiralty; however true or false it may be, they will judge of the intention, and the whole will be condemned. I ask you, sir, I ask the Committee, whether this is not a fair and a lawful trade? It is an honorable trade. It is a trade in tobacco. The sugar and indigo of Manilla will be purchased with the tobacco of Virginia. It is sent to a distant country on American account. The returns from necessity are made in colonial produce. It will not all sell here. It must be sent abroad; if it is seized on the passage, will a second voyage be attempted? Will any merchant send to Virginia to buy another cargo to ship to an enemy's port, if his property is to be torn from him on its return, or before it can find a market? It would be just as right to seize the tobacco before it reached the enemy's port, as to take the proceeds of that tobacco on a subsequent voyage. Is not agriculture interested, and greatly interested, too, in such voyages as these? It is perfectly clear in my mind that it is. Such a trade as I have described is the trade in dispute between us and Great Britain. Will you abandon it? I hope you will not. You cannot. It is too important, too valuable to be sacrificed.

Some gentlemen, and particularly the honorable Speaker, have conceded all the advocates of this measure wish, in saying we have a right to send a load of flour to the West Indies, and bring back a cargo of coffee in return, and afterwards to send this coffee to Europe. We have a right to this trade as much as to the trade in flour.

[Mr. MACON here explained, and observed he had said that a dollar got in this trade was worth as much to the country as a dollar got in any other way.]

Mr. CROWINSHIELD.—Yes, sir, I understood the gentleman as saying that also. I may, however, be mistaken in the first declaration of what fell from the honorable Speaker; but I took a memorandum of it at the time. Well, this is all the advocates of the resolution contend for—that it is a fair trade—as good a trade as that of tobacco, or flour, or anything else—that a dollar earned by it is as valuable as any other dollar—that it is not a dishonest trade—that it is not the covering trade; in my part of the country it is not known by the name of the carrying trade—the carrying is the freighting trade; and our people do not fit out their ships for the purpose of transporting the property of belligerents on freight. Our merchants are possessed of sufficient capital to load their own ships on their own account. They own the property themselves. It is not a foreign property. There is no want of American capital to carry on our commerce. The British condemnations do not proceed on this ground. They allege we are carrying on a trade in time of war, which was not allowed in time of peace. There is one point of view in which this subject may be considered, which is important; it is this: It will be seen by the committee, that Great Britain condemns both ship

and cargo, when there is no question as to the neutrality of the flag, and the crew are sure to be kept prisoners at the same time. It is not so where the ship is freighted for account of a belligerent. Here she would be paid her freight, and the ship would be acquitted, and the seamen would be left to navigate the ship home, the cargo only being enemies' property would be condemned. By the new principle, the whole is swept away. This is even far worse than the blockade principle. Here the vessel ought to be warned not to enter a blockaded port; she cannot fairly be seized unless the owner or master has been informed of the blockade; and on the return voyage, in my opinion, she must be permitted to go free. Grant to England what she wants, under her new doctrine, and she may give up blockades altogether. She need not blockade Martinique or Guadaloupe in future. She may save the expense of sending her fleets against the enemies' colonies. She has only to watch the ports of New York and Boston with a few frigates, and the thing is done. Here they can prey upon your defenceless vessels with the greatest facility. Your merchant vessels trading with the enemies' colonies, and to Europe, loaded with colonial productions, clearly American property, fall into the hands of British cruisers without any trouble. This takes place every day. What! Shall a neutral ship and cargo be captured and condemned because it was the owner's intention to send the produce to Europe to a better market than his own country afforded him? The principle is monstrous. I revolt at it. It sets reason and justice at defiance. Great Britain condemns both ship and cargo, and in addition seizes our seamen. She has extended the ground of capture. She has condemned our property coming from a belligerent nation to America, or when destined to a neutral country, not our own, on the pretext of intention to trade with the colonies. I assert that all these condemnations are illegal and unjust. I say the trade in which these vessels are engaged is highly valuable, and ought to be protected. It is an important branch of your import as well as export trade. But gentlemen differ on this subject. Comparisons have been made as to the different branches of our commerce. The honorable Speaker said, when he was up on this subject, that the trade which he considered of the most consequence was the coasting trade. This trade is valuable in a certain degree, but it is subordinate to your other commerce. Is the coasting trade in tar and turpentine from North Carolina to Norfolk and New York of so much consequence? But even this trade is put to hazard. Allow the British doctrine to be correct, and their seizures will soon extend to this trade. They want to confine you to a mere coasting trade from State to State. I am not contending for the freedom of commerce for one State more than another. The Northern and Southern, the Eastern and Western States are all interested in this great question. I cannot permit the insults offered to our seamen to be passed over without some remarks. Great Britain, whenever she finds an American seaman without a protection seizes him—whenever she wants men to man her vessels impresses them. Something has fallen from the honorable Speaker, in which I understood him as saying he had been informed, from respectable authority, that protections are an article bought and sold in the markets; but I know that this is not the fact; they are an article which cannot be bought or sold in the market. I do not pretend to say there may not have been some abuses in the protections, but the instances are rare. Under a law of the United States the applicant is obliged to apply to a justice of the peace, and unless he proves to the satisfaction of the magistrate that he is a citizen, the magistrate does not give him a certificate. On proving this, he gives him a certificate, with a description of his height, complexion, age, and place of birth. With this he applies to the custom-house, and receives from the collector his protection, as it is erroneously called, for it is no protection to him—it affords him none. Now, it is impossible, if the man felt so disposed, to sell this protection, as it will not correspond with the description of another person. It will, however, I believe, be agreed, that these protections are totally disregarded by Great Britain. Has she then a right to treat our citizens in this manner? Is it right for a belligerent nation to have three thousand of our citizens on board of her ships of war, fighting her battles against our friends? I have no doubt that at the battles of Aboukir and Trafalgar many of your seamen were engaged in her service; I have no doubt that in the list of killed at Trafalgar are to be found the names of hundreds of your seamen who fought and bled, not in defence of your liberties, but against a friendly Power!—seamen impressed into the service of a foreign nation, without receiving any compensation for their services—for they are not allowed wages unless they voluntarily enter into the service, and there is not one case in a hundred in which they do it voluntarily. No, sir, they have too much respect for their own rights and the honor of their country; they never enter into the British service but under the lash of a boatswain. But the honorable Speaker thinks this measure may be accommodated by resorting to another principle, by our merchants not agreeing to employ British seamen. I think the honorable Speaker said there was no other way to save our seamen than for our merchants not to employ British seamen. But this is impossible; it cannot be done; they could not, they ought not to accede to such a principle. Would you wish to see British seamen delivered up in exchange for your own citizens? They are not numerous. Our seamen in the Eastern States are mostly natives of the country. The foreign seamen in our service enter freely. They come voluntarily among us. We pay them wages. Would you seize them on the wharves or in the streets and deliver them up? Do you recollect the case of Jonathan Robbins, which excited a fermentation in this country almost beyond example? Is the same scene to be acted over again? Upon this principle you may

as well deliver up the cultivators of your soil, who are British subjects. You have many British subjects in the country who do not go to sea. Are these persons to be delivered up to Great Britain in exchange for your seamen? I trust not. If you could procure the release of your citizens on this ground it shall never have my support.

What is the proposition under consideration? A non-importation of British goods at a distant day. For myself and my friends, who are in favour of this resolution, I may say that it is not our wish that it should go into effect at all; we flatter ourselves that before the period arrives at which it is to take effect, Great Britain will do us justice. But gentlemen cry out, this is a war measure. This is their constant argument. But, sir, it is not a war measure, it is a mere commercial regulation, which we have a right to pass, and of which Great Britain cannot justly complain. Great Britain herself adopts commercial regulations, which go to interdict the productions of other countries. This she is in the daily habit of doing—her whole commercial system is a system of monopoly and exclusion. Her East India trade is a monopoly; and our trade to her West India islands is carried on as a favor. In peace she entirely shuts up, and in war opens partially her ports in that quarter. We do not quarrel with her on this account—we do not cry out it is a war measure. Look at her navigation act. She puts the commerce of all other nations in chains. She wants to engross the commerce of the whole civilized world.

If we concede this principle to Great Britain we must make a like concession to France, who will undoubtedly capture our vessels trading to the British islands. France would have the same right to do it that Britain has. If we abandon it, we violate our neutrality, by giving to one of the belligerent nations a right not possessed by her at the beginning of the war.

I believe these unjust aggressions of Britain have arisen from a spirit of commercial rivalry, which is alarmed at our great and increasing revenue. In 1790, our revenue amounted to about two millions—in 1796, it amounted to six millions—in 1804, it amounted to upwards of twelve millions; and for the last year it may be estimated at thirteen millions. Our trade has increased beyond all calculation, and this has excited the jealousy of Britain. We have seventy thousand seamen, and a million tons of shipping. At the peace of 1783, we did not possess over two hundred thousand tons. Our exports and imports have increased in an equal proportion. In the last returns they are stated at seventy-five millions, and there can be no doubt of a great augmentation for the present year. Great Britain makes these aggressions on our rights, calculating on our divisions. Let us be united in resisting them, and we shall hear no more of her injustice. In support of this measure I will endeavor to prove that this trade is carried on with American capital, in opposition to the allegation that it covers enemies' property. If it can be proved to be American property, I suppose gentlemen will be willing to protect it. I rely on the documents of the Secretary of the Treasury. The commercial gentleman from Maryland, (Mr. McCreery) has proved the trade to the West Indies is carried on with American capital. He has shown, from the Treasury statements, that 21,371,311 dollars worth of produce of the West Indies has come to this country the last year, and that an equivalent amount was sent from this country, and sold in the West Indies. The calculation is sufficiently correct. I have examined it. The estimate is made upon the sales of the outward cargoes, and upon the fair cost of the produce in that country. The documents on your table prove this, and the same thing may be established with regard to the trade to Europe. I find by the report of the Secretary of the Treasury, there is exported to France, Spain, Italy, and Holland, to the amount of $24,259,114 in foreign goods, and of our own productions we export to those countries $12,183,000. These two sums, added together, amount to $36,442,114. All these countries are enemies of Great Britain. The amount of importations from these countries is only $25,475,000, the balance being about $11,000,000 in our favor. It follows that we import from these countries eleven millions less than we export to them. There is also the amount gained on the sales in Europe. This may be fairly estimated at four or five millions of dollars. What becomes of the difference? It goes to England in payment of her balance against the United States, amounting on an average to fourteen millions; this balance exceeded fourteen millions the last year. This balance is made up by remittances from the other belligerent countries. You could pay Britain this balance in no other way. Could you get the specie in sufficient quantity from other countries, or from your own to pay this immense balance? You could not do it. It is impossible. It is remitted by bills of exchange from Italy, from Spain, from France, and particularly Holland. And yet, strange to tell, this is the very fund upon which Great Britain is continually making depredations, and which some gentlemen, so fond of the trade we carry on with Britain, are anxious to destroy by withdrawing all protection from it.

The honorable Speaker does not seem to know how this balance stands. He cannot depend on the information he receives from your custom houses. But though he may not rely on the accuracy of your export to particular countries, as a vessel does not always go to the port for which she clears, he may implicitly rely on the state of the imports; there can be no deception in the imports, and the value of the exports cannot be materially erroneous; and he may rest satisfied that if Great Britain seizes property destined to belligerent nations, your merchants will be unable to pay her the balance they owe her. But it is said I do not understand calculation; and the gentleman from Virginia (Mr. Randolph) has made an allusion to a debate on a former occasion, but which has no possible bearing on the present question. On that occasion I said, that if I were to buy three per cents. I should be obliged to give for them

more than one half their nominal amount; but that if I meant to keep them I would not choose to give more—and I say so still. The only question, however, sir, before us is, whether we will interdict the importation of British goods? We are not fixing the value of three or six per cent. stocks. We are driven to the necessity of taking some measures to compel Great Britain to do us justice. Her friends, however, do not wish the non-importation measure ever to go into operation; they hope that Britain will do us justice, rather than submit to the injuries it will inflict upon her. But if she will not release our sailors, and restore or make payment for our ships, I do wish it to go into operation, and to continue until she has restored them. The luxury of a woollen blanket is not such as I wish to enjoy at the expense of the rights and honor of my country. The gentleman from Maryland (Mr. NICHOLSON) may enjoy it if he pleases, and he has told you he does not wish to relinquish a luxury of that nature. But I would rather submit to be clothed in a bear skin—rather than submit to this degradation I would agree not to wear a single article of British manufacture during my life. Sir, I would rather go naked. I ask pardon of the Committee, but I speak the honest sentiments of my heart.

I will not however detain the Committee with many additional remarks: I will only call on gentlemen not to sacrifice the best interests of commerce, by giving way to the principle which Britain has assumed. In sacrificing them, will they not at the same time sacrifice the interests of agriculture? I cannot see a distinction between them. Without we protect commerce, what can we do with our surplus productions? But because we call upon you to protect commerce, are we to be stigmatized as the friends of a fraudulent trade? No; we are willing to let those who cover enemy's property with a neutral flag take care of themselves. I am further charged with a wish to meet Great Britain in war. But, sir, I have no such wish: my only wish is to obtain an honorable compensation for the injuries she has committed. We are charged with going back to the times of the Revolution, and comparing the temper of our country at that time with its present temper. Sir, I was a child when the Revolutionary war commenced—I have scarcely a recollection of the times of the Revolution; but would such language as we have heard on this occasion been then tolerated? That a gentleman should get up and tell us we ought to succumb to Britain, because she had 800 ships on the ocean, is astonishing to me. I cannot comprehend its tendency. Such sentiments were not uttered during the Revolution. Then, with a population of two and a half millions, we boldly met that nation, and triumphed over her arms; and if necessary, we can meet her again, or any other nation that shall treat us with the same injustice. Under like circumstances I would meet France, Spain, or England—I would meet them all collectively, if necessary, and I have no doubt we would be a match for them all, though for saying so I may be denominated a madman. I would hold this language if I belonged to one of the smallest nations of the earth—I would hold it were I a citizen of the petty Republic of St. Marino,—were my rights invaded I would fight till I could fight no longer. Do you want to damp the ardor of the American people, because Great Britain and France are powerful nations, and the former has determined to annihilate our commerce? Mr. Chairman, I am no public speaker, and I have not arranged my ideas, or clothed them in the language I could have wished; but I do say we have reached a crisis which imperiously demands the adoption of measures for the maintenance of our commercial rights, which so far from impairing, will promote the interest of agriculture. For, sir, they are inseparable; they are twin-sisters—children of one birth, of the same parents, begotten by one common father—they must live or die together—you cannot separate them—by sacrificing the one you sacrifice the other. More than this, sir, the people of this country will not submit to these aggressions on their rights. The people are both agricultural and commercial, and they know that the fall of commerce will be soon followed by the destruction of agriculture. And should this Congress or any other abandon their commercial rights, they will send other men to represent them. They ought to do it, and you may be assured they will do it. Mr. Chairman, what is to become of the surplus productions of agriculture? Shall they be suffered to rot or perish in your warehouses or on your plantations? If they cannot be sold abroad, and the returns be permitted to be made to this country, and afterwards re-exported, this will be the case with a large part. What will become of a number of persons employed in agriculture? Will you dispose of the slaves in the Southern States? Gentlemen will not consent to it. Then, I say, afford a reasonable protection to commerce.

Sir, I must have fatigued the Committee—I fear I have been troublesome at this late hour of the day—I hope I will be pardoned. Weak and feeble as has been my defence, and the support I have attempted to give this resolution, I have done what I considered a duty, and I trust my motives will not be called in question. I shall not trouble the Committee any further on this subject.

[It being the usual hour of adjournment, Mr. SMILIE moved that the Committee should rise, and said that he would to-morrow agree to take up in committee the proposition of the gentleman from Maryland. The Committee then rose, and the House adjourned.]

THURSDAY, March 13.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States:" Whereupon,

Ordered, That the said amendments, together with the bill, be referred to Mr. VARNUM, Mr. SAILLY, Mr. KENAN, Mr. COVINGTON, Mr. KELLY, Mr. GOODWYN, and Mr. TALLMADGE.

A message from the Senate informed the House that the Senate have appointed a committee, on their part, to join with such committee as the House of Representatives may appoint, to consider and report what business is necessary to be done by Congress, in the present session.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That Major General Arthur St. Clair be heard at the bar of the House in support of his claim.

Ordered, That the said resolution do lie on the table.

On motion, it was

Resolved, That the Secretary of the Treasury be directed to lay before this House the names of the persons in whose favor bills have been drawn on the Treasury of the United States, by the Ministers of the United States near the Government of France, under the stipulations of the Convention between the United States and France, concluded at Paris, on the thirtieth of April, one thousand eight hundred and three, specifying as far as possible, the amount and nature of each particular claim for which bills were so drawn.

On motion, it was

Resolved That the Postmaster General be directed to lay before this House a list of the names of the persons who have made contracts for carrying the mail of the United States, since the last day of December, one thousand eight hundred and four, specifying the terms and duration of each contract, respectively.

IMPORTATIONS FROM GREAT BRITAIN.

The House again resolved itself into Committee of the Whole on the state of the Union—Mr. GREGG's resolution still under consideration.

Mr. LEIB.—From the course which has been pursued for several days, I am induced to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of this resolution, and that of the gentleman from New Jersey. Without entering into the merits of the resolution, I will confine myself to stating the reasons on which I make this motion. I did expect, when this subject first came under discussion, to have heard something respecting its merits; that a comparison would have been drawn between the advantages and disadvantages likely to ensue to the United States from its adoption, instead of which I found my colleague sailing round the coast without examining its tendency or bearing. He told us it was pacific, and, in the same breath, said it struck a dagger into the vitals of Great Britain. If, Mr. Speaker, I were to strike a dagger at you, would you not consider it a hostile act? And yet this measure is said to be pacific, and it is represented as having no tendency to war. When this measure was first proposed, I was in favor of it; I was impelled by my feelings against Great Britain, whose injuries I sensibly felt. But I have since listened to the arguments adduced in its favor by my colleagues. What are they? Did they speak of its profits and loss; did they show that it would be advantageous to this country? Instead of this they talked of national honor. But, on this subject, I agree with the poet:

"Act well your part, there all the honor lies."

I am not disposed to be a duellist for national honor. I am disposed to view this as a question of profit and loss; and if the loss will be greater than the gain, to reject it; and it is because I think that the United States will incur more loss than profit by it, that I wish to get rid of it. I believe it will have a warlike aspect, and therefore I am against it. I have no idea of fighting all the world. I hope, from the course which this discussion has taken, and from the conviction which it has produced of the inability of the United States to carry this measure into effect, that we will enter on the discussion of some other measure more likely to be effectual. I am willing to get rid of this resolution in the easiest way, and I therefore move you to discharge the Committee from its further consideration.

Mr. ALSTON.—The gentleman bottoms his motion on the idea that this is the most ready way to get rid of the resolution; but, on this motion, the subject remains as much before you as if the discussion were on the resolution. If, however, we are permitted to go into the Committee of the Whole, we may there refuse to take it up without any discussion, and we may then take up any other resolution.

Mr. LEIB.—There is no doubt the gentleman thinks his path the straightest, and his conceptions the most luminous. I do not like, however, this resolution remaining on the table; as it will still remain in the power of the Committee to call it up.

Mr. SMILIE.—Whether the course recommended by my colleague be the best, the House will judge; but he has assigned a curious reason for it. I think he said, at first he was in favor of the resolution.

Mr. LEIB explained, by observing that he had said his impression at first was in favor of the resolution.

Mr. SMILIE.—That was just what I stated. The gentlemen expected, it seems, also, to have heard wonders, which he has not heard. It is possible that that gentleman's mind may take a higher tone than mine; and he may have expected a superior discussion to that which this subject has received; but I am not ashamed to say that I have received light from this discussion. I think, indeed, the question has been pretty well examined. I have, in this business, wished for peace—I have labored for it—and though I approve this resolution above any other, I am willing to part from it to meet those of my brethren, whose sincere wish it is to do something. I know it is best to do something that shall appear to be the sense of the nation. I am willing, therefore, to meet on middle ground. I have another objection to the course recommended by my colleague. Some gentlemen cannot be satisfied without enjoying a triumph. I should be willing to indulge them in these feelings if I thought they deserved one, but I do not think they do. If they wish

peace preserved, and are desirous of serving their country, they will deprecate the effects of a measure which may distress and divide us.

Mr. Early.—I rejoice that this motion is made, as I had, in truth, intended to make it myself. It will be recollected that, when in Committee of the Whole, I made a motion to pave the way for submitting to the House this motion, in part, which I intended to make, as it embraces both the resolutions of the gentlemen from Pennsylvania and New Jersey. I consider the two resolutions as of the same family. It must be apparent to every member of the House that the subject is exhausted, so much so that yesterday we were entertained for several hours with answers made to the arguments of gentlemen who intended to vote on the same side. Gentlemen declare themselves in favor of an accommodation, who, though they cannot vote for this measure, are willing to adopt some other. It was in this spirit that I made a motion yesterday, and it is in the same spirit that I am in favor of the course now proposed. Let us, then, take this business out of the power of the Committee, and place it under the control of the House, who may make such disposition of it as they may think proper. I do not feel particularly anxious as to the course which shall then be pursued. If any gentleman will then move to postpone the resolution to a day certain, I will vote for it.

Mr. Smilie considered the course recommended by the gentleman from North Carolina, (Mr. Alston,) most correct. When in Committee of the Whole, we may agree not to consider the resolution, and to consider some other, The resolution under consideration may, in the meantime, remain before the Committee, subject to being acted upon at any future period, should we agree to no other.

Mr. G. W. Campbell.—I feel a little surprised at the sentiment expressed by the gentleman from Georgia, as I did understand him yesterday, as having expressed himself willing to adopt the course pointed out by the gentleman from North Carolina. I do believe that course most proper, and I do not see any reason for a different course. I am against discharging the Committee of the Whole from the consideration of this resolution. I can see no use in this, unless to give gentlemen the appearance of a triumph. Though I believe there is a decided majority at present against the adoption of either the resolution offered by the gentleman from Pennsylvania, or that offered by the gentleman from New Jersey, I do not know whether in a week hence there may not be a majority in favor of one of them, in consequence of receiving further information. Under this impression, I hope the resolutions will be permitted to lie on the table.

Mr. J. Randolph.—I do not know, Mr. Chairman, that I understand the question, unless the gentleman from Pennsylvania and his friends are willing that their favorite measure should be strangled in the dark, from an unwillingness that it should suffer a political death. The two gentlemen from Pennsylvania have produced between them a bantling, and have offered it to the House. We do not like it, and they are for forcing it upon us. We revolt at this, and what do they say? They allow they cannot carry it; but say that, to discharge the Committee of the Whole from its further consideration, will be to cover certain persons with political disgrace. They are, therefore, for going into a Committee of the Whole, and when they get in Committee, refusing them leave to act upon it. Is this parliamentary? Is it regular for a Committee to refuse to decide on the business submitted to them by the House? Let us either adopt or reject the resolution, or discharge the Committee of the Whole from its further consideration. For what purpose was it referred to a Committee? For the purpose of not being acted on? For the purpose of our going into Committee and then refusing to act upon it? Will gentlemen refuse to discharge the Committee from the very resolution they do not mean to act on? I do not understand this. It is beyond my depth. Gentlemen should have pondered well before they brought forward this measure. They should have felt for the support on which to rest it; and if they are ashamed of now trying this support, they should withdraw their resolution. They ask too much when they complain of the course we propose to pursue. Should the resolution continue in its present state, it is liable to be called up at any hour, when there may be a thin House, and after gentlemen say they do not mean to act upon it. If the House do go into Committee, I hope the resolution will be acted on, and discussed—for though gentlemen have said the subject is exhausted, I do not believe it is exhausted, though they may be.

Mr. Conrad said, his wish was to cultivate harmony He wished this was the sentiment of every member—he hoped it was. If those who were for taking stronger ground, were willing to accommodate, he hoped they would be met in a spirit of amity—he hoped there would be a strong vote in favor of the measures adopted to convince this people and the world we are not so timid as some gentlemen seemed to imagine. He was in favor of the course pointed out by the gentleman from North Carolina.

Mr. Stanton.—Mr. Chairman, the resolution on your table is considered, by the enemies of it, a war measure. Is it possible that men of information or common sense should view it as a hostile measure? I disavow that opinion. The idea is chimerical. It is, in fact, a commercial measure; the regulation of which is vested in Congress by the Constitution. But, we are told, it will lead to war. Such a construction might be put on our revenue laws, and many other of our other public acts. Such inferences are whimsical. Sir, the honorable member from Virginia tells the House, we have a negotiation pending with Great Britain, and we ought to wait the result. I ask how long—seven years—until our commerce is annihilated, and three thousand more of our citizens impressed into the service of Great Britain? The Executive has repeatedly remonstrated, but to no purpose. The gentleman has commenced a volunteer apologist for that unprincipled Government, and tells the House we tried negotiation with Spain, and failed—at the same time avers there is no Spain—it is France and Bonaparte, and Talleyrand; they have bullied Spain out of her existence. He proceeds, and asks the House this question—can you expect Great Britain will respect our neutral flag at the expense of her existence—is she not fighting for her life? and tells us that the combined fleets of Holland, France, and Spain, are no more, and that Great Britain has eight hundred ships-of-the-line, including other smaller vessels of war; and Russia is the second Power of continental Europe, with half a million of hardy troops—with sixty sail of-the-line and thirty millions of subjects; a territory more extensive than our own; that she is a storehouse for the British navy, and solemnly warns us before we enter into a contest public or private, be sure you have fortitude enough to go through with it—if you mean war, say so, and prepare for it. Behold the disrespect in which France holds neutral rights on land! as though we were bound to tamely submit to the unprovoked insults of Great Britain, because France is playing the same game on the continent of Europe—for he smoothly slides over the nefarious conduct of Great Britain, to the impressment of our citizens, and dwells with apparent delight on the omnipotence of the British navy. I am at a loss to account for this miraculous conversion of the gentleman to the British interest. I am ready to say, with astonishment, oh! how is the mighty fallen, how is the fine gold become dim, tell it not in the streets of Askelon, lest the tyrants of Europe and the aristocrats of New England rejoice! Pardon, sir, the digression. He has injudiciously attacked the official invulnerable character of the Executive and Head of Department. I have quoted a line or two from the best of books. Sir, it is to be deplored, that a man of brilliant talents, and great merit should, by his poignant irony, have increased the number of his opponents; but, why should I wonder? That was the case with the celebrated French orator, Mirabeau, whose predominant passion and insatiable thirst for pre-eminence led him into numerous errors and inconsistencies; add to this the gentleman's fondness for Cabinet rank and Utopian glory. But, notwithstanding this dereliction from the principles of the American Revolution, I hope he will not long continue enveloped in the fog of aristocracy, but reassume his former honorable and useful station. Mr. Speaker, is it not a great misfortune that a gentleman of superior talents and elegance should speak day after day without making a single convert or disciple? The gentleman now flatters himself that the friends of the resolution will abandon it; and he affirms that they are ashamed of it, and despair of its adoption. Let that be as it may, I can assure the honorable member I am not ashamed of it, and wish to occupy higher ground and stronger measures—even a non-intercourse with Great Britain—unless she will discontinue her piratical measures against us, by a restoration of property and a liberation of American citizens.

A gentleman from Pennsylvania, on my right, who is in unison with the gentleman from Virginia, tells you the citizens are destitute of fortitude sufficient to abstain from the use of many of the articles contained in the resolution on your table—particularly coarse woollen cloths—the people are so attached to them by habit, sir, if they were given to the laborer they would come dear by paying the tailor's bill for making them up; a seven-knot breeze of wind would blow out the filling, and leave but little remaining.

Sir, the people of New England at the commencement of the Revolutionary war with Great Britain, and previous to an open rupture, possessed fortitude sufficient to totally abstain from the use of British manufactures for years, and the ladies voluntarily discontinued the use of their favorite, delicious India shrub, in order to obtain liberty and independence. The gentleman's age does not permit him to remember these noble acts of patriotism, which are fresh in my recollection.

Sir, the honorable member from Virginia is fully prepared to go to war with all the Powers of Europe, except Great Britain. As for Spain, who he wishes to fight, she is annihilated, and cannot be found; she has sunk under the wing of Talleyrand. I presume the gentleman will possess prudence enough not to risk himself on the watery element, nor near the seashore, lest the voracious shark should attack him, and deprive him of his proboscis. The gentleman generously continues to give you wholesome advice. Get rid of your national debt; it is a dead weight, that cramps your measures—I am free to confess, this is the best part of his harangue, and the only part that has weight in it—and then, he says, you may bid defiance to all the world. Sir, this is comprehensive and strong language; it puts me in mind of the young man who expressed a wish to his father, that all the people in the world were dead, except himself and his brother Jonathan; for then, he said, they would buy and sell land and get money like all the world.

Where a nation is insulted, as we are, the stale doctrine of passive obedience and non-resistance ill becomes an independent nation, much less the American character. Such pusillanimous conduct will not obtain redress. Mr. Chairman, when I take a retrospective view of the nefarious conduct of the British Government toward the United States, and consult my feelings, my very soul is fired with just indignation at the unprovoked insults offered the American flag, and the piratical and systematical plundering system adopted by the Government of Great Britain against neutral rights. I am almost as anxious to make war against Great Britain as the honorable member from Virginia is to make war against Spain, if she was to be found. But, sir, in cooler moments of serious reflection, the little judgment I possess dictates to me to avoid war, as one of the worst evils that can or does afflict a people. The calamities inseparable from war are incalculable. Under this view of the subject, I am induced to believe that the interest of my country, and the happiness of the State I have the honor to represent, will

not permit me to indulge my resentment; being persuaded that nations, as well as individuals, are governed by interest, I am led to hope that the measures contemplated in the resolution on your table will have a favorable effect on our negotiations now pending with Great Britain. I shall give my vote in favor of the resolution.

Mr. Gregg said, he did not feel in the least hurt by the motion made by the gentleman from Georgia. When he had laid the resolution on the table, his wish was that it might receive a fair discussion; and he had undertaken to assign his reasons in favor of it. He should consider a discharge of the Committee of the Whole as equivalent to a rejection of the resolution. He should not consider the friends of the measure involved in disgrace if this motion should prevail. They had done their duty, and he did not think there was any disgrace in being in a minority. The world, the nation, would judge whether their decision was right or wrong. He felt perfectly satisfied that the resolution he had proposed was the most proper, and ought to be adopted. Entertaining these ideas his conscience told him to vote for it, and he was ready to discharge that sacred duty.

Mr. Findley observed, that when a resolution on a similar subject was before the third Congress, which was considered as occupying too high ground, it was disposed of by being ordered to lie on the table. He thought this was the course which ought to be pursued in the present case.

Mr. Blackledge.—Although I am opposed to the resolution of the gentleman from Pennsylvania, under the belief that it will be more injurious to us than others, yet, when I see the friends of this measure willing to unite with those who are for milder measures, I am of opinion that we ought to meet them. In this stage of a discussion, involving the first interests of the nation, shall we be disunited by an altercation as to the mode of proceeding, when we agree in the substance? For this reason, and believing it of importance that the measures which we may take may be adopted by a strong vote, I am against discharging the Committee of the Whole from this resolution.

The yeas and nays were then taken on discharging the Committee of the Whole from the further consideration of Mr. Gregg's resolution, and were—yeas 24, nays 101, as follows:

Yeas—Burwell Bassett, John Campbell, Levi Casey, Christopher Clark, Joseph Clay, Elias Earle, Peter Early, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, David Holmes, Walter Jones, Michael Leib, Joseph Lewis, jr., Josiah Masters, Joseph H. Nicholson, John Randolph, Thomas Sandford, Thomas Spalding, Philip R. Thompson, Daniel C. Verplanck, and David R. Williams.

Nays—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, William Blackledge, John Blake, junior, Thomas Blount, James M. Broom, Robert Brown, John Boyle, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, Matthew Clay, George Clinton, jun., Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Hough, John G. Jackson, James Kelly, Thomas Kenan, Nehemiah Knight, Duncan MacFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

The question was then taken on discharging the Committee from Mr. Sloan's resolution, by yeas and nays—yeas 26, nays 98, as follows:

Yeas—Burwell Bassett, John Campbell, Levi Casey, Christopher Clark, Joseph Clay, Matthew Clay, Elias Earle, Peter Early, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, David Holmes, Walter Jones, Michael Leib, Joseph Lewis, jr., Josiah Masters, Joseph H. Nicholson, John Randolph, Thomas Sandford, John Smith, Thomas Spalding, Philip R. Thompson, Daniel C. Verplanck, and David R. Williams.

Nays—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, junior, Thomas Blount, James M. Broom, Robert Brown, John Boyle, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, George Clinton, jun., Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Hough, John G. Jackson, James Kelly, Thomas Kenan, Nehemiah Knight, Duncan MacFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., Josiah Quincy, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John C. Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

The House then resolved itself into a Committee of the Whole on the state of the Union.

The Chairman put the question on considering Mr. Gregg's resolution, on which the Committee divided—yeas 47, nays 70.

Mr. J Clay moved to consider the resolution offered by himself, and that of his friend from Maryland, (Mr. Nicholson.)

Mr. Smilie moved to consider the latter resolution.

Mr. J. Randolph said he would make a superseding motion, which was, that the Committee should rise, and he would assign his reasons for this motion. I am well aware, said Mr. R., and I consider it the happiest and fairest feature of our policy, that in a deliberate body a majority must govern. This is a position which has often been enforced on me, and which I have sometimes enforced on others; but I hope no majority will be indisposed to act honestly. Though a majority ought to govern, it should not be on motives of caprice, freak, or passion, but wisely; and it ought not, at this time of day, to feel power, and forget right. The reason why I am in favor of the Committee rising, is the same which I advanced the other day against the resolution of the gentleman from Pennsylvania—a reason which, it is astonishing to my mind, does not operate on every member of the Committee—the state of things here and abroad. Is there a member prepared to vote for the resolution of my excellent friend from Pennsylvania, (Mr. J Clay,) or of my worthy friend from Maryland? (Mr. Nicholson.) I believe not. I, for one, am not prepared. The other day, when I said I was disposed to treat with Great Britain for the very reason that I was indisposed to treat with her in 1793, I perceived a sneer on the faces of gentlemen, and that they scouted the idea. But what is the fact? The gentleman from Massachusetts quoted the Message of the President, showing that this business is still *pendente lite*. What information does the President, in that Message give us? That he had tried negotiation and failed? That, as in another quarter, our Minister had been shoved neck and shoulders out of the Cabinet? No! That negotiation is still pending between our Minister and the Minister of Britain. Can then, gentlemen, while the business is *re infecta*, feel disposed to act, either on the resolution of the gentleman from Pennsylvania, or that of the gentleman from Maryland?

Again, must we not every day expect information from Europe; and ought not this information to have an influence on this Assembly, if, indeed, we are a deliberative assembly? Surely it ought. On political empirics, who prescribe the same medicine to every disease, this information may have no effect. But on the minds of sober men, it ought to have, it must have, an effect. The situation of the Powers with whom we have these momentous discussions may have been materially changed by the events of the last ninety days. Will gentlemen undertake to say that motives which influenced the mind of a Bernstoff, ought to have no weight with us? Will they, under these circumstances, go into Committee, to grope in the dark, to catch at something, on a subject of which they know little—in relation to the events of which, they know less? No! This is not the moment to act. The Committee have declared that that moment has not arrived. They have, in their capacity of a House, refused to discharge them from the resolution of the gentleman from Pennsylvania, and have, in the same capacity, refused to act upon it. And what does this prove, but that the moment for action has not come—unless, indeed, this venerable Assembly will condescend to become the wet nurse of the bantling of the two gentlemen from Pennsylvania, who, provided they can maintain it at a distance, hope their indiscretion will be overlooked—a *faux pas*, which, if it can be kept in an obscure farm-house, may be smothered over? I, however, am not disposed to offer it the pap-spoon; still less am I disposed to be disturbed by its cries, or those of its brethren.

It must be obvious to you, Mr. Chairman, that this is not the fit time to decide on our British relations. That, while there is a pending negotiation with her, all such discussion must be premature. These resolutions are the production of a political hot-bed. They are not the growth of a genial sun, but reared in a forcing-house. And I will tell gentlemen, that politics bear forcing as little as the physical productions of nature.

A gentleman from Massachusetts, whom I now see in his place, offered some days ago, to this Committee, a string of observations, which, he declared, were not intended either for a resolution not then before the Committee, or for that offered by the gentleman from Pennsylvania. Now, the Committee having determined not to discuss the resolution offered by the gentleman from Pennsylvania, and as those remarks were not offered on the subject then before the Committee, they may have been left to guess they were intended for the subject now under consideration; and as I believe they were full as applicable to this, as any other question, I hope to be indulged in making a few remarks relative to them. But, at the same time, I disclaim the preface that gentleman prefixed to his remarks, viz.: that he did not mean to examine the question before the Committee. I do mean to examine that question, to show why this is not the proper time for acting on this subject, to show that all discussion on it is premature, and, that we ought to abstain from acting upon it until we have heard from the other side of the Atlantic.

As well as I remember, the gentleman set out by recalling the attention of the House to the Message of the President, of the 17th of January last. Yes, sir, he began in the style of old times—*infandum renovare dolorem*—to call the House back to the Message of the 17th of January. To what part of it? To that part which is public, or to that part which is locked up in the escritoire of the clerk—or is in his breeches pocket, for aught I know—that part which it is his business to keep from the eyes of the nation? Now, what is our situation? A brave Senator, with

our doors open, calls the attention of the House to an amphibious and ambiguous Message, part secret and part public. And is this the situation in which gentlemen would put us? Are we thus to be knocked down with the hammer of Executive infallibility? I hope not. When that Message came, on the 17th of January, how long had we been in conclave? I believe a fortnight? When did the despatches arrive? I undertake to say, because I know it, it was prior to the 20th of December, because I made proper inquiry at the office of the Secretary of State, where I had myself received despatches from London. What are the contents of those despatches? Did they advocate the course this House has pursued, or a course totally different? And yet that very Message has been quoted, under the idea that no man could say to the contrary, and that we would sink beneath the weight of its authority. Those despatches came to this country before the 20th day of December. On that day I returned from Baltimore, and received a communication from their author of a contemporaneous date. I have called at the office of the Secretary of State, and was informed, by the head of that Department, that they had both arrived at the same time. And it was when I discovered that the head of the second Department under the Government did not know they were in existence, much less that his opinion on them had not been consulted, that I declared, what I repeat, that there is no Cabinet. You have no Cabinet. What! the head of the Treasury Department—a vigorous and commanding statesman, a practical statesman, the benefit of whose wisdom and experience the nation fondly believes is always obtained before the great measures of the Government are taken—unacquainted with, and unconsulted on, important despatches, and yet talk of a Cabinet! Not merely unconsulted, but ignorant of the documents! Well, the act passed, and on the 16th of January, was sent to the other House, and on the 17th, despatches came which might have materially changed the decision of the House. And am I, feeling this, and knowing the House had been trifled with, to be denounced for telling you, if you had had the necessary information, your decision would have been different from what it was? I know this; for many gentlemen who voted for the measure adopted, told me their votes would have been different had they had the necessary information. I say, the decision of the House, if we had known what we ought to have known, and which had been received four weeks before, would have been different; and I have no hesitation in saying, there is no Cabinet, when I see a man, second to none for vigorous understanding, and practical good sense, ousted from it. I say, as I have said before, if the Executive wants our confidence, let him give us his. But, when we are excluded from his confidence, let him not demand ours. I will not give mine on these terms, and I have no hesitation in saying so. Yes, sir, I now say, with open doors, what I said when your doors were shut, and what I believe, that it is not for the master and mate (and I speak it without disparagement to any man) in bad weather, to go below, and leave the management of the ship to the cook and cabin-boy. The nation expects to know, they believe they do know, the opinion of the Executive. But do they know it? Where have they got it? Does it appear in this string of resolutions? Have we the opinion of the President? Have we his Constitutional recommendation? No! you have nothing. Let the Clerk produce the budget! But, we shall be told that this House has a right to give a direction to the President. This is the last refinement on courtly flattery. Shall the House act on information neither official or Constitutional—on the stale pretext of giving the Executive a direction, when they believe they are acting on what gentlemen get up, and give us reason to believe are the secret wishes of the Executive? It is out of the question for any persons, who are men of standing, to condescend, under such circumstances, to do the work of the Cabinet or the water-closet. No! tools must be found; and to such tools, such work will be, as it has been uniformly committed. I do not only say they must be, but that they have been found. But, at the threshold of everything I can offer, I am met by these Nestors of the land, by these old coachmen, who love the smack of the whip, who talk of old times, of the stamp act, of the non-intercourse, and other Revolutionary acts. But, let me tell gentlemen, this is all violence and declamation. You would not suppose that the maxims of Chesterfield had been studied by the gentleman from Pennsylvania—and yet, the fact is, that manner is everything. But, I beg you to compare the matter I have offered, with the mild, meek, and peaceable sentiments of gentlemen. Because one gentleman has delivered his sentiments in a voice that freezes before it reaches this quarter of the House, and another mumbles out, "confiscate the national debt," does that affect the principle at issue? And because another man, with some warmth, recommends a different course, are you, therefore, to stone and crucify him?

The gentleman from Massachusetts, to whom I have alluded, has told us what the question between this country and Great Britain is. He says it does not respect enemy's property, but the colonial trade. He says that the tobacco and flour, the rice and cotton, transported by our vessels, come as much within the question *quo ad* enemy property, as the colonial trade. But is there any presumptive evidence that the rice, the cotton, the tobacco, or any other articles of American growth that are carried by our vessels, are enemy's property? There is none. Now take the other side of the question. Recollect that Holland, France, and Spain, have not a ship on the ocean; that the coffee, sugar, and cotton, of their colonies, which find their way to Europe, must go there under the cover of a neutral flag. What is the presumption? That a large part of those productions, thus transported, are relatively to Britain enemy property. How is a discrimination to be made between those products which are, and those which are not the property of an enemy? Is it not a fact that a few disreputable neighbors will bring a stigma on a whole neighborhood? Will any man deny the fact? Are the French and Spanish colonies independent? And what is the fact? That under the neutral flag the whole of the immensely valuable productions of those colonies find a conveyance. What do we say? That we have a right to carry those productions from the colonies to the belligerent nations? No—we say, the bringing them to the United States and paying duties on them, neutralizes the property. But do they? Indisputedly not. The moment you concede the point that you cannot carry on a direct trade, it becomes a question no longer of principle—but a question on which you must treat on the ground of expediency. And you must treat—you will treat—relative to it. There is one consideration, which, whether it has or has not engaged the attention of gentlemen, ought not to be lost sight of, and that is, that our bulky productions can be carried by only two Powers in the world—by ourselves or Great Britain. No other nation possesses the tonnage. Go then into war with Great Britain, and where will you find the tonnage to carry your products? You cannot find it. But, on the other hand, the British fabrics may be brought in Danish bottoms. There will be neutral tonnage enough to bring to your doors the productions of Britain. But where will you find the neutral tonnage to carry your produce abroad?

We are told that this is not a war measure; that Grotius and Puffendorf, and other distinguished civilians, have decided that it is a pacific measure. But it unfortunately happens that great statesmen, on the theatre of active life, will not suffer themselves to be dictated to by the mumblers of antiquity; and gentlemen, who will not be governed by circumstances, who exclaim *fiat justitia ruat cœlum*, must be content with making diagrams in their closets, while these active statesmen are deciding the destiny of nations. They tell us they have Grotious and Puffendorf at their backs; but I would rather have at my back the *posse comitatus* of the ten miles square, weak and inefficient as I know it to be. Yes, it is too true, the gentlemen will not listen for a moment to circumstances. It is in vain that we say Great Britain is armed—that she has a fleet in the West Indies—that she has a ship over every square league in the ocean. They will not consider the propensity of an armed nation to strike. They will listen only to newspapers and pamphlets, and circular letters. Putting all these things out of consideration, they are for playing the part of Bobadil. They will not reflect that circumstances always govern political men—they persist in their abstract theories. These Laputian and Lilliputian politics will not do. What are gentlemen about? While they are disputing whether the egg shall be broken at the big or little end, and whether the Committee shall be discharged from the resolution in the House, or the House shall first go into committee, and the resolution be there discharged, they are pursuing measures which will be felt in Britain, and which will forcibly re-act on ourselves. The gentleman from Massachusetts (Mr. Crowninshield) has told us what he would, and what he would not do, if he was a citizen of the Republic of St. Marino. We would suppose from this declaration that he was an inhabitant of Bleíusco, abut to carry on war with Lilliput. Such a man may be celebrated as a seamen, and may be able to make an able first Lord of the Admiralty over a fleet of privateers; but as a politician he is a Lilliputian delegate.

But we are told again, that this is a peace measure, and that we ourselves are the belligerent parties, who style it a war measure. One of the profoundest statesmen told Joseph the Second, one of your gimerack men, that if he should attempt to force the navigation of the Scheldt, the fort would fire upon him. What said Joseph? I will not stoop to time and circumstances—he talked of natural rights, and go he would—the Dutch would never dare to fire. Compare the relative situation of the little Republic of Holland when her days of glory have passed away, when she has fallen into the hands of a conquerer—compare her present situation with that she enjoyed before the wings of her power were clipped by France. The Emperor Joseph sent out his fleets, and the only intelligence he received of their fate, was that the Dutch had fired. He deemed it impossible—he could not believe that the little Republic of Holland should fire on the Austrian Eagle. He thought as gentlemen think, and he was deceived; and you will be deceived too. For this commercial principle is not a principle of peace, but of war. Gentlemen may go to Carthage, if they please, stop at Genoa, and pass on to London, and they will invariably find it so; and they will find each of those nations commercial in proportion as they were warlike, and warlike in proportion as they were commercial. And why do commerce and war go hand in hand, but because commerce always disposes the nation to go to war, which is not disposed to give up a lucrative trade? The idea of the pacific tendency of commerce is a mere *ignis fatuus*. We find Holland ceased to be a great commercial Power, when she ceased to be able to fight the combined fleets of France and England.

But I shall be told, whithersoever it may lead us, this spirit of commercial monopoly ought never to be extinguished—I shall be told it is a base principle to crouch even in necessity; that we ought to set not only reason and common sense at defiance, but likewise necessity, which knows no law, but prescribes law to all. Well, I am free to confess, if this assertion is not beyond my comprehension, I have for the first time in my life found the reason of the planter's servant, who, on being asked what was the matter with his horse, said he was ashamed because he was dead. The poor animal had ingloriously crouched to the base principle of necessity, and had given up the ghost, when he ought to have kept the field. And this is what we are called upon to do by gentlemen who will not acknowledge the law of necessity, and who scout it as a principle which it does not become us to act upon. If these notions are to prevail, let us take Don Quixotte as our first minister of State, and Sancho Panza as the second in command. These are the natural hands to hold the reins of Government, in case all regard to the principle of

necessity is disclaimed. I hope gentlemen, who hold this doctine, never mean to die, to sleep, or to weep at the distresses of their fellow men, or in any other respect acknowledge the base principle of necessity. But I, who profess to yield a compliance not only to the laws of necessity, but of probabilities, and who consider politics as only a science of probabilities, can no longer find a medium between myself and those who disclaim all regard to the laws of necessity, and am obliged to confess that I am among the number of those who would negotiate with Great Britain.

I am perfectly aware of the tedious time the Committee must have had in listening to my remarks—not more so, I assure you, to them than to myself. I am aware of the arguments offered directly out of doors, and indirectly in this House, against the course which I believe it is for the interest of this nation to pursue. One of the first causes of surprise which presented itself to me on coming to the seat of Government was, that, while the people of the United States thought all eyes were fixed on the shores of the Atlantic, all eyes were in fact fixed on the half-way house between this and Georgetown—that the question was not what we should do with France, or Spain, or England, but who should be the next President. And at this moment, every motion that is made—I do not mean, in the parliamentary sense of the word, at this place—is made with a view to the occupation of that House. And it is for this reason that certain men are to be put down, and certain men are to be put up. As I have said before, I have conceived it the greatest happiness attendant on the Government of this people, that all their political relations, the different parties and their connexions and bearings and effects, could be debated in the face of the nation. Now, we are told from good authority, that there is a certain party called the Federal party, and that there are other parties in the United States, called Republican parties. Well, sir; certain gentlemen have been held up as willing to court the attention and support of the Federal party—men by whom no villain has been spared; let him belong to what party he may—men by whom no villany has been spared, to whatever party it may have attached. So much for Federalism. There is another question relative to what is generally called *quiddism*. I am willing to meet gentlemen on that ground. If we belong to the third party, be it so. I am willing to meet them on other ground.

[There was here a loud call to order, in which Mr. Thomas joined. The Speaker decided that Mr. Randolph was in order. An appeal was taken to the House, who confirmed his decision.]

Mr. Randolph proceeded. I am obliged to the gentleman for the respite he has given me, as I really felt much exhausted. I knew where the shoe pinched. I will take gentlemen on another principle—on the principle of Burrism, as it is called. Will gentlemen attack us on that ground? Will they say we are the rotten part of the Republican party—the go-between of any sects—the solicitors of any office—the tools of any faction? Now, sir, on the subject of Federalism—I mean no imputation to any man or party of men—are we the advocates of Federalism? Does the Administration, and especially the Department of the Navy, or does it not, administer the Government on the principle of Federalism? Has that Department ever been administered, or can it be administered on principles more Federal? There is another department—the Post Office Department—the sweetest engine ever put into the hands of an unprincipled man. Are we for administering the Government on principles of Burrism? This is a delicate subject—I speak with a full consciousness that it is. Now for the last *ism*, *Yazooism*. Are we Yazoo men? Have our enemies ever charged us with this?

[Mr. Randolph here made an allusion, which from the noise in the House was not heard, to a misconception by Messrs. Sumter and Marion of a previous remark made by him relative to militia generals—and then asked—Is there a man that would disdain to sit aside of such men? The allusion I made was fully understood; but those, whom it fitted, were willing to shift it from their own shoulders on those, whom it did no fit.]

I am really sorry, Mr. Speaker, for the time I have occupied. When I came into the House yesterday, it appeared to me as if the proposition before us was to appoint a board of commissioners to settle the account current of every member with the House. We heard a great deal of palaver and blarney; but of that description which can never take me in. I abjure it. I raise my hand against it—I will never become its dupe. I am willing to allow that in the heat of debate, expressions improper for me to use, but not improper in their application to those to whom they referred, may have escaped me—the *verba ardentia* of an honest mind. I scorn to retract them. They were made in the presence of the nation, and in their presence I will defend them. I will never snivel, whatever may be the result. I have moved that the Committee rise, with a perfect knowledge of the existing circumstances. I knew the moment we adjourned over on Saturday, that the old story would be repeated, that gentlemen would seek the Lord—agree upon some given principle, that all might go together. And I have not been disappointed. But it is for you to say, whether at this moment, when you are watching your daily and nightly mails for news from Europe, when you are oscillating between Bonaparte and the coalition—you are prepared to decide ultimately on this subject. I feel for one that I am not. As to the accusation of being the apologist of Britain, it is the idlest charge that ever was made. When I first took a seat in this House I was denounced with being a French partisan, because I opposed those men who then held the reins of Government in their hands in their measures for carrying us into war with that nation; and now that I am for pursuing the same course towards Great Britain, which I was then in favor of pursuing towards France, I am charged with being the apologist of Britain. To this denunciation I am willing to submit, which all men must submit to who are not willing to risk the peace of their country.

Mr. Nicholson.—I second the motion, on a principle which has governed me ever since the beginning of this session. This subject was early referred to a select committee on a motion offered by myself, with a view that the fullest light might be thrown on the subject of our differences with Great Britain, and because I believe it so intimately connected with the revenue and prosperity of the nation, it was that I wished it to be examined by a committee whose peculiar province it is to pay a particular attention to the fiscal affairs of the Government. I had another object in view, which was that the subject might not be hurried. I was of opinion that our differences with Britain ought not to be speedily acted upon; but after the subject had rested for some time with the Committee of Ways and Means, they were, on the motion of some gentlemen when I was absent, discharged from its further consideration. On my way to this place, after an absence for which leave had been granted, I met with a proposition to prohibit the importation of all goods from Britain. I was never so struck with astonishment in my life. If I had heard that the Capitol had tumbled into ruins, I should not have been so much astonished.

This proposition produced several others, one of which I had the honor to submit. As I have before said, I submitted this proposition to meet that of the gentleman from Pennsylvania, that the House and people of this country might take into view its whole course and bearing; and that they might see the manner in which the revenue was likely to be affected by it. I am happy it has produced this effect. Gentlemen after debating this proposition are willing on all hands now to lay it aside. When I understood it was to be called up, I begged the gentleman from Pennsylvania to let it lie—I was anxious to postpone it as long as possible. I was of opinion that our better course was to rise, if we were to meet only four months hence. It is on the same principle that I now advocate the rising of the Committee, and should we now rise, I trust it will not be considered for a long time. I have been uniformly of the opinion, that if we take measures with Britain, it ought to be the last act of the session. I think we ought to wait for news from Europe. We have had information, though in some measure of a private nature, affording us reason to hope that there will be no occasion to proceed to extremities. Knowing this, and that our affairs are in the hands of a man of eminent talents, second to none in this country, I cannot believe there is any necessity to act as speedily as some gentlemen wish to do on this subject. In offering these observations, I mean not to be understood as abandoning the proposition I have had the honor to submit. In my judgment it is the best of those offered. If we do anything I think we had best adopt it, but I do not think we are yet prepared to act on it. We have at least six weeks yet to sit, for if we adjourn before the first of May, it will be the shortest first session under the Government. Why then this hurry—when there is a negotiation depending, and when information may be received within ten days, which may entirely change our course? It is for these reasons that I am for the Committee rising; because I believe that the late events in Europe will have such an effect on Britain, as to put it in the power of our Minister to settle our affairs with her amicably; and if so, I shall be very happy. I was so far from being impressed with the opinion that we ought to act speedily on this subject, that I was prepared to fill the blank in the resolution so as to prevent it from taking effect before the first of January. I flatter myself the Committee will rise, and that we shall refuse to take up the subject for some time.

Mr. Alston.—I cannot see what we are to get by the Committee rising. If I entertained the same ideas with the gentleman from Maryland, I should be for a course directly the reverse of that which he recommends. He says we have an important negotiation depending, and that we may daily expect to hear from our Minister on that subject. If there is a probability of a successful termination of the negotiation, can the measures we now take have any bearing upon it? The gentleman says he is prepared to fill up the blank with the first of January. What effect will this have? If the negotiation be depending, it will show our Minister and the British Administration the voice of the nation. It is no matter then how soon we take our measures—the sooner the better. I have no idea the negotiation has terminated at this moment, or will terminate until we have taken our measures. I hope, therefore, the Committee will not rise, but that we shall take up the motion of the gentleman from Maryland, to which I shall give my most hearty approbation.

Mr. J. Clay then withdrew his motion, observing that he was not anxious that the resolution he had offered should be acted on immediately.

Mr. Alston renewed the motion for taking into consideration the proposition of Mr. Nicholson, prohibiting, after a particular time, the importation of certain specified articles from Great Britain.

Mr. J. Randolph again moved that the Committe should rise. Motion lost—yeas 58 nays 62.

The question was put on Mr. Alston's motion, and the Committee, without a division, agreed to take up the proposition submitted by Mr. Nicholson.

Friday, March 14.

A petition of Robert Peters and others, proprietors of squares and lots in the City of Washington, in the District of Columbia, was presented to the House and read, praying that an act may be passed to authorize the recording, in the Surveyor's office of the city, of all divisions of squares into lots, or subdivisions of lots already laid off; and that a certified transcript thereof may be admitted as evidence, in the courts of the United States, or elsewhere.—Referred to Mr. Dawson, Mr. Magruder, and Mr. Van Rensselaer.

A petition of Bushrod Washington and Lawrence Lewis, of the State of Virginia, acting ex-

cutors of the will of General George Washington, in behalf of themselves and the other devisees under the said will, was presented to the House and read, praying that an act may pass for the purpose of confirming the title of the said executors to certain lands on the northwest side of the river Ohio, on or near the Little Miama, granted to their testator, in the year one thousand seven hundred and ninety, by the said State of Virginia, and which are found to be within the territory ceded by the said State to the United States.—Referred to the Committee on the Public Lands.

The House proceeded to consider a motion made yesterday, in the words following, to wit: "That Major General Arthur St. Clair be heard at the bar of the House in support of his claim:"

Resolved, That this House doth agree to the same, and that Monday next, at twelve o'clock, be assigned for that purpose.

The House proceeded to consider a resolution of the Senate, of yesterday, for the appointment of a joint committee of the two Houses, to consider and report what business is necessary to be done by Congress, the present session: Whereupon,

Resolved, That this House doth agree to the said resolution, and that Mr. Early, Mr. John Randolph, Mr. Gregg, Mr. John C. Smith, and Mr. Crowninshield, be appointed a committee, on the part of this House.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Peter Landais," with an amendment; to which they desire the concurrence of this House.

IMPORTATIONS FROM GREAT BRITAIN.

Mr. Kelton called for the order of the day, for the House to resolve itself into a Committee of the Whole on the state of the Union.

Mr. Clark moved to postpone this order till Monday.

The Speaker declared it out of order to postpone such an order of the day.

The question of going into a Committee was then put and carried—yeas 70.

The Committee having agreed to take up the resolution submitted by Mr. Nicholson—

Mr. Mumford said: Mr. Chairman, it is with great diffidence I rise to speak on this question. I am a merchant, unaccustomed to speak in a public body. But, sir, when I see the dearest interests of my country unjustly attacked by a foreign nation, I must beg the indulgence of this Committee while I express my sentiments on the serious aspect of our foreign relations. Sir, I do not wish to extenuate the conduct of any nation. I have no predilection for one foreign nation more than another. I shall endeavor to speak the language of an independent American.

Sir, I had indulged the hope that the ninth Congress of the United States had assembled to deliberate on the momentous affairs of their country as Americans; but, sir, it gives me pain, and I regret extremely, to see gentlemen so far forget the interest of their own country in defending the pretended rights of others. That there should be a difference of opinion respecting our own regulations, was to be expected, but when your lawful commerce is attacked by what the honorable gentleman from Virginia so emphatically terms "the Leviathan of the Ocean," and attacked, too, contrary to their own acknowledged principles, as laid down in the correspondence between your late worthy Minister, Mr. King, and the British Minister, Lord Hawkesbury, I beg leave to call on the Clerk to read that part of the Boston memorial which relates to that correspondence. [The Clerk read the article.*]

* "In 1801, in consequence of a decree of the Vice Admiralty Court at Nassau, condemning the cargo of an American vessel going from the United States to a port in the Spanish colonies, with a cargo consisting of articles the growth of old Spain, our highly respectable and able Minister at the Court of London immediately addressed Lord Hawkesbury, His Majesty's Secretary for Foreign Affairs, and remonstrated in a respectful, but firm and dignified manner, against this infringement and violation of the rights of neutrals.

"The remonstrance met that prompt attention from the British Government which its merits demanded; the subject was referred to the consideration of the Advocate General, who reported that the sentence of the Vice Admiralty Court at Nassau was founded in error; that it was now (1801) distinctly understood, and had been repeatedly so decided by the High Court of Appeals, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence even to the mother country of such colony; and in like manner, the produce and manufactures of the mother country may, in this circuitous route, legally find their way to the colonies; that a direct trade had not been recognised as legal, and the decision of what was, or was not a direct trade, was a question of some difficulty, and that the High Court of Admiralty had expressly decided, and the Advocate General saw no reason to expect the Court of Appeals would vary the rule, that landing the goods, and paying the duties in the neutral country breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country.

"The report of the Advocate General was accepted by the British Government, immediately transmitted by Lord Hawkesbury to Mr. King, and by His Majesty's express command, communicated by the Duke of Portland, the principal Secretary of State, to the Lords Commissioners of the Admiralty, with the information that it was His Majesty's pleasure that the doctrine laid down in the Advocate General's report should be immediately made known to the several judges of the Vice Admiralty Courts, setting forth to them what is held to be law upon the subject by the superior tribunals, for their future guidance and direction.

"Thus are obtained so recently as within five years the deliberate opinions, on the subject under discussion, of the most eminent English civilians, and of the High Court of Admiralty, corroborated (if one of the first law officers of the Crown may be credited) by the repeated decisions of the same court of appeals which, by its late and contradictory decree in the case of the Essex, Orne, has caused so disastrous an arrestation and condemnation of American property.

"Judgment thus perspicuously stated and enforced by this high authority, it was fair to consider as intended for a beacon to the channel through which neutral commerce might be prosecuted with security. It is hoped the event will not prove they were a mere *ignis fatuus* to ensnare the innocent and unsuspicious.

"At any rate, whether the doctrine were sound or not, or whether it injured Great Britain or not, it cannot become the integrity and magnanimity of a great and powerful nation at once, and without notice, to reverse her rule of conduct towards other States, and to prey upon the unprotected property of a friendly Power, the extension of whose commerce had been invited by the formal avowal of her intentions, and prosecuted under a reliance on her good faith, and from the confidence reposed that her courts, uniform in their principles, would never be influenced by the time-serving politics of the moment.

"But whatever may have been the motives for the proceedings on the part of Great Britain, the effect is notorious. From her recent conduct great losses have been sustained; our commerce has been checked and embarrassed, and large quantities of produce are now remaining locked up in this country which were purchased for foreign markets, because our merchants cannot send it abroad without taking risks on themselves which prudence would not justify, or without paying such rates for insurance as the trade of the country cannot afford."

This is no fiction, sir; it is a mere matter of fact. After all this I must confess I am astonished to find gentlemen in an American Congress palliating the impressment of our seamen, and the indiscriminate condemnation of our vessels and cargoes. Are we prepared to present an humble address to his most gracious Majesty on the throne, praying he would vouchsafe to take us in his holy keeping, pardon our former transgressions, and accept of us as liege subjects who have erred from the right way? No, sir. We are not colonists; we are an independent nation. Your acts and laws speak of thirty years of independence. I wish we could conquer our prejudices as easily as we did our enemies. Shall we never get rid of the idea of colonists and dependents on Great Britain?

I shall now commence my observations on our unfortunate fellow-citizens in British bondage; and in answer to the honorable gentleman from Maryland, whom I very much respect, I do frankly acknowledge that amongst all the petitions presented to you by the merchants of the United States, there is not one word about our impressed seamen, Salem and another port excepted. But, sir, I beg leave to inform this Committee, and that honorable gentleman, that before we enter our vessels at the custom-house, we are called upon to witness the recording of this tale of human wo before a notary public, stating all the seamen impressed during the voyage. This is immediately transmitted to the Secretary of State, for the correctness of which I refer you to the documents from that department now on your table. Sir, is it decorous, is it candid, is it liberal, is it respectful to the Committee to impute such unworthy motives to the merchants as we have heard expressed on this floor? They are men, sir; and I believe candor will allow them their share of sensibility, and that they sympathize for suffering humanity as much as a planter, a farmer, a lawyer, or any class of the community. Sir, I feel as much as any man for the sufferings of this meritorious class of citizens, having been an eyewitness to the barbarous treatment inflicted by the officers of the British Government on one of them. He was lashed to a scaffold on the gunwale of a boat, and whipped from ship to ship, until he had received five hundred lashes. What was the consequence? He expired the next morning. What was his crime? He had been impressed into their cruel bondage, and had endeavored to regain his liberty! We are asked, what is the remedy for this outrage? There is but one, sir. Demand satisfaction for the past, and in future make your flag protect your citizens, at least on the high seas, the common high road of all nations. Your merchants can insure their property against this "Leviathan of the Ocean;" but there is no alternative for the poor sailor, he is inevitably doomed to cruel slavery.

I now come to speak of foreign nations. We are told that the American merchants cover Spanish property. This may be the case. I believe it; but it is to a very limited amount. The Spanish merchants have little capital at present to dispose of. Their Government owes them considerable sums of money, and the paper currency of that Government is at such a discount (I believe from 40 to 50 per cent.) that they are not able to extend their commerce, if they were ever so much disposed to do so.

Respecting the French merchants, a great proportion of them in France are bankrupts, in consequence of heavy taxes, contributions, forced loans, and all the impositions of imperial ingenuity. That country depends not on commerce for her revenue; she collects one hundred and twenty millions of dollars per annum, of which twelve millions only are levied upon commerce, being but ten per cent. on the whole revenue. Their merchants have it not in their power to extend their business for want of a capital, which is a fact that will be acknowledged by all commercial men. They are by no means the favorites of the Emperor; he grants them no indulgences, of which the late transactions at the national bank are a sufficient evidence.

Respecting Holland, every person conversant in business knows the cautious calculation of the Dutch merchants; they trade very little on their own account in time of war, but are constantly soliciting the American merchants to make consignments of property to sell on commission. And yet we are told in that oracle, the celebrated pamphlet, "War in Disguise," that France, Spain, and Holland, carry on the war against Great Britain with property covered by Americans! Will any rational man believe them?

I now come to Great Britain, sir; not one word has been said about property covered for

her. She is immaculate; she is innocent; she can do no wrong. I have good authority for this last expression. The King says so, and others repeat it. Sir, immediately upon the coalition being formed on the continent of Europe, she seized upon your unsuspecting commerce, and surprised it with new principles and new doctrines in her Courts of Admiralty, which operated with her ships of war in the same manner as though they had actually received orders from the Lords of the Admiralty (how insidious! but they understand *decoy*) to capture and bring in all American vessels bound to enemy's ports; and if by chance any of them escape their fangs, after a mock trial, they are compelled to pay enormous charges, from five hundred to six hundred guineas, and sometimes more. This operates as a premium to carry in all your vessels, knowing beforehand they will have nothing to pay; for, although you gain your cause, you must pay the costs. This, sir, discourages your cautious and best merchants, and they are thus compelled to abandon and decline pursuing a lucrative and lawful traffic.

If there be any property covered for Great Britain, I have every reason to believe, from facts I will state to the committee, that it appertains almost exclusively to some British merchants lately adopted citizens of the United States, for they take good care to keep all their business in their own hands. They are the honest merchants who own the honest vessels we have heard so much about, and they are engaged in exporting cotton, tobacco, and other produce of our country. Why should they have the preference? it will be asked. I will not tell you what I do not know, (as has been said in this Committee,) but I will tell you what I do know. Sir, the real American merchants cannot enter into competition with them. They have their particular friends in England, who are interested, and will of course give them the preference. By a variety of ways they obtain all the freights, to the exclusion of your vessels. Sir, we are often compelled to take in ballast along side of those very ships who have full freights engaged. Thus, sir, the real American merchant is the dupe of these honest adopted British citizens. These are your slippery-eel merchants, so justly denominated by the honorable gentleman from Virginia, whose cast of mind I much admire. They were indeed, sir, so slippery in some of your districts, that it was found necessary to pass a law excluding all of them who resided in foreign countries from owning any ship or vessel belonging to the United States; for a number of them, after having made fortunes out of your neutrality, had slipped off to Great Britain to spend the money and the remainder of their days. And in order that we might not compromit our neutrality in this deceptive business, our National Legislature has been careful to pass a law in the first session of the eighth Congress, dated 27th March, 1804, to correct the abuse, which has in some measure put a check to it; and yet we are emphatically told it is only coffee, sugar, and East India goods that are guilty of the sin of interfering with British merchants, those monopolizers of the commerce of the whole world.

I mention these facts, sir, to vindicate the character of the real American merchants; it will stand the test with that of any other nation in the world. Sir, look at your revenue system, examine all the records of your district courts, see how very few fines and forfeitures they have incurred, and then compare them with any class of citizens you please, and you will, I am confident, Mr. Chairman, exculpate them from such disingenuous reflections as have been animadverted upon in this Committee. Sir, they make it a point of honor to discourage smuggling, knowing the whole revenue of their country to depend upon that fidelity which they have never ceased to inculcate. I cannot but persuade myself that, on mature reflection, gentlemen will not withhold from that class of the community the protection guarantied to them by the constitution of their country. It is a fact well known to this Committee that the Federal Constitution, under which we now hold our seats in this House, grew out of the great inconveniences we then experienced in our commercial affairs with foreign nations. Surely they are not outlawed. I trust not sir. I hope better treatment from the hands of my country.

I now come to the true history and the cause of the aggressions of Great Britain. It is very difficult to trace her in all her ramifications of fraud on your neutrality and of injustice on your commerce. Sir, when the present continental coalition was concluded, the "lords of the ocean" with that colossus the East India Company, the merchants trading from London to the continent of Europe, the West India merchants, and some of our honest adopted citizens from Great Britain, all agreed with common consent to be in the fashion; and they formed a coalition against your commerce, and ordered a book to be written, in which they took a conspicuous part, called "War in Disguise." This was truly on their part *war in disguise*, and the first act of hostility they commenced upon your unsuspecting commerce; and I hope they may ultimately meet the fate of all other coalitions, at least as far as respects our country. They had ordered, as all coalitions do, a large supply of ammunition; one hundred thousand copies of this instrument of death to your commerce were distributed, at sixpence each, to all parts of the British dominions, in order that your property might be plundered for the use of the naval commanders, who could no longer find any other property on the ocean. This book says, "they must retire on a handsome competency at the close of the war," no matter from whom it is taken.

Next comes the East India Company, that colossus of mercantile avarice, whose monopoly draws into its vortex all the demand for East India produce in Europe. Your lawful commerce to those markets interfered with them, and was considered incompatible with this monopoly and must be doomed to destruction.

Next come the merchants trading from London to the continent of Europe. They attend the public auctions, purchase your condemned vessels

and their cargoes, procure a license from their Government, and send the same cargo on their own account to the very market your own citizens intended it for.

I now come to some of those honest adopted British merchants; and in order to elucidate that subject, I will beg leave to read a copy of a letter from one of the first houses of respectability in London, said to be in the confidence of the Minister:

"This Government has granted licenses to neutral vessels, who take in a proportion of their cargoes in Great Britain, to proceed to the Spanish colonies to the south of the line, provided the returned cargoes are to be brought to this country; and I have now several expeditions of this nature under my direction for the account of houses on the continent, who prefer subjecting themselves to the conditions Ministers have imposed for the toleration of that trade, to the risk of detention and its consequences even in the event of restitution."

This is no fiction, sir, it is a fact. It cuts your commerce like a two-edged sword, involves your neutrality, and prevents your own merchants from going to the same market, the profit on which ultimately centres in Great Britain. There are at this moment British agents in two of your commercial cities, and I suppose more in other parts of the United States as well as in Europe, for they swarm on the industry of all nations. They are acting in concert to carry on this licensed trade with the Spanish colonies, their enemies jeopardizing your neutrality, to the manifest injury of the real American merchants. This is a very valuable branch of commerce, as you may readily suppose from the price that sagacious calculating nation sets upon it. What is the result of all this? Why, sir, if it were not for the interference of this very Government, so much extolled at the expense of your own, we should enjoy the benefit ourselves. They themselves license vessels to carry on a commerce, which if pursued by your citizens, without their permission, is sure to be plundered. Thus, sir, that Government assails your commerce at home, and condemns it abroad, on the most vexatious and unwarrantable pretensions.

Sir, I beg leave to call the attention of the Committee to an important fact. Examine your treaty with Spain, your treaty with France, your treaty with Holland, your treaties with some of the Northern Powers, what do they say? "Free ships make free goods." What does Great Britain say? "You shall give up the goods of my enemies," and you accede to it. Is this reciprocal? Is it just? Is it not a humiliating concession? Is this cause of war? What says that oracle, that celebrated pamphlet, on this occasion? Not a word, sir; it is as silent as the grave. Who now has the greatest cause of complaint, Great Britain or her enemies? Her motto is "Universal domination over the seas"—the common highway of all nations—and, unless you assert your rights, you will be swept into the general vortex. We are told that this is a war measure. If it be true, and commercial regulations are of that nature, we are at war with Great Britain at this very moment, for she imposes four per cent. on her exports to our country. You cannot impose any on your exports to that country; it is unconstitutional.

In the course of debate on this subject, the honorable gentleman from Virginia observed: "Is 'there a man so credulous as to believe that we 'possess a capital not only equal to what may be 'called our own proper trade, but large enough 'to transmit to the respective parent States the 'vast, wealthy products of the French, Spanish, 'and Dutch colonies?" I will not pretend to say how much of this wealth we do carry in our own vessels. I am sure we do not transport the whole of it; but the following statement of the capital employed in the carrying trade, (so called,) will show that we have sufficient funds to load our own vessels, and that it is worth our while to give it protection:

Agreeably to the Secretary of the Treasury's report, it appears we had the last year, 672,000 tons of shipping employed in foreign commerce, the net revenue of which has been called the carrying trade $850,000

Deduct, to make it average with the tonnage of the last thirteen years of neutrality - 105,000

745,000

Five hundred and fifty thousand tons of American shipping have been employed in foreign commerce, per Treasury reports, will average for the last thirteen years neutrality, calculating at the low estimation of one voyage per annum (some vessels make two voyages, and others are lost,) it will leave an average of fourteen dollars per ton net gain to the United States for each year, is - - $7,700,000

Freight to Europe, average - - - - -	22
East Indies, do - - - - -	50
West Indies, do - - - - -	15
	87
Deduct wages, provisions, commissions, insurance, &c. - - - - - - - - -	45
Average per ton - - - - - - -	42

Calculating thirteen years of neutrality, from February, 1793, to February, 1806, on 550,000 tons, the average, as above stated, makes $8,445,000 per annum, gained in the carrying trade. It must be understood that the freight is calculated on the produce of our own soil, as well as the foreign produce carried in our vessels. No reference to profit is made; it is uncertain, but may be presumed to be at least as much as the freight - - - $104,445,000

Add to this, about the actual capital of all the banks in the United States - 35,000,000

To this must be added fifty per cent., as most of the banks divide from eight to nine per cent. per annum; and as they are only allowed six per cent. per annum on the capital, they must of course loan out this amount to the merchants and others, which answers all the purposes of money - - - - - 17,500,000

Total - - - - - - 156,945,000

Is not this sufficient capital to export the produce of our own soil, and import that of other nations, at least so far as our tonnage extends? There may be some inaccuracies in the above statements; but I believe they are substantially correct.

That celebrated book, "War in Disguise"—the oracle of some gentlemen—asserts that we do not use sugar in this country. How far that is true, I will leave the Committee to decide. I believe when the premises are found to be false, we may conclude that very little reliance can be placed on the other assertions. I believe, sir, that this book was designed to operate a double purpose; first, to attack your commerce with one hand, and with the other throw the firebrand between your agricultural and commercial interests.

Gentlemen may talk about a foreign Government fighting for its very existence. I believe it; but, sir, I entreat them to look at home. See what this book and the emissaries of that nation aim to accomplish. Beware of them! I believe it is a deadly blow aimed at your own existence by promoting discord and dissensions among the clashing interests of your extensive country, the issue of which no human foresight can predict.

After all this, shall we not relieve our citizens who are held in slavery? Shall we let commerce protect itself? Shall we do nothing? Yes, sir, we will demand satisfaction. The love of country is not yet extinguished in the breast of Americans. No, sir, it is their birthright; it is inherent in their very nature.

We have heard a great deal about neutral rights among nations. There is no such thing at this day. Sir, I consider them all alike. Power is right. The following will show it:

The ship Little Cornelia, belonging to the district which I have the honor to represent, was taken and carried into Great Britain. The captain informed his owner she was likely to be condemned. The news of the capitulation of Ulm arrives; the decree of the Court of Admiralty is suspended. A few days afterwards Lord Nelson's victory is announced; and, when the court met, she was condemned, vessel and cargo. You can no more depend upon the doctrines of her Courts of Admiralty than you can upon her Ministry. Witness the correspondence between your late Minister, Mr. King, and Lord Hawkesbury. Sir, there is a kind of legerdemain in all this business to filch you of your property. Sir William Scott, whose private character (out of office) is very much respected, is, if I am correctly informed, one of the Privy Council; and it is there, sir, that your neutral rights are arbitrated, according to the favorable or adverse news they may have received.

Sir, I will not pledge myself for this gentleman's or that gentleman's resolution; but, sir, I will agree to adopt such strong measures as shall command redress. I will not tamely submit to such lawless aggressions. No, sir, I will not. We are not sent here to legislate for any particular section of our country; we are sent to promote the general welfare. I hope, and do repose that confidence in this honorable body, that we shall unite in one common cause, and rally round our Constitution; give protection to the North, to the South, to the East, and to the West; and, as the storm threatens, place full powers in the hands of our political captain to guide the ship, weather out the storm, and conduct the bark to her desired haven.

Mr. Chandler.—Mr. Chairman, unaccustomed as I am to public speaking, it is with extreme diffidence that I rise to make a few observations on the measures now under consideration; but the subject is so important that I am unwilling to give a silent vote.

It appears to be acknowledged by all the gentlemen who have spoken before me, that we have just cause of complaint against Great Britain; that she has impressed our seamen and compelled them to serve on board her ships of war, to the number of several thousand; that she holds them in the most degrading servitude, and compels them to fight her battles against a nation with whom we are at peace, and that she has seized and condemned, contrary to the laws of nations, and usage, our ships and property to a very large amount. This fact, Mr. Chairman, is so evident and notorious, that it would be trifling with the time of this Committee, were I to attempt to introduce new evidence to prove it.

This point being conceded, it then remains to be determined whether we will tamely submit to these wanton aggressions upon our rights as an independent and a neutral nation, or have recourse to measures of some kind calculated to obtain redress for the past, and security for the future. The first, Mr. Chairman, ought to be put out of the question. To submit, without opposition, to so wanton and so flagrant violation of our rights, would render us unworthy the name of Americans. For what did we contend with this same Great Britain in 1775 and the succeeding years? When we were few in numbers, and at first without arms, without ammunition, without money, or other established resources, and without allies? Sir, a Warren, a McClary, a Montgomery, a Mercer, and a host of heroes, fought, and bled, and died—for what? For the rights, the liberties, the freedom, and independence of our country. And shall we, Mr. Chairman, without one effort, surrender those dear-bought rights and privileges, the price of which was the best blood of our countrymen? No, sir, we shall not, we will not do it; our faces would be covered with shame, and disgrace as well as injury descend to our children. But, sir, this Committee will not consent to a surrender of those rights, which they are constituted to guard and protect. They will, I presume, at least a great majority of them, be disposed to take measures sufficiently strong to compel that haughty nation to do us justice.

I believe, Mr. Chairman, the only difference in opinion with most of us is, what measures will be most likely to have the desired effect, with the least injury to ourselves. For my own part I was in favor of the resolution laid on the table by the gentleman from Pennsylvania. I allude to

the one which has been several days under discussion. I was in favor of it, because I believe it would be the most effectual; and no man I think can doubt our right to adopt such a measure, it being only a commercial regulation, such as every independent nation may rightfully make whenever her interest or convenience require it. It would, in my opinion, be most likely to effect our object, because it would most deeply touch that tender point, their interest; and it is their interest which governs them. If we forsake their workshops and warehouses, it will materially affect their manufactures and trade. Indeed, to use the language of the gentleman from Pennsylvania, it will reach the vitals of her commerce; and if it were to go to the vitals of their nation, the fault is not ours; they are the aggressors, we act on the defensive only. If, sir, that nation has two million of people employed in the cloth manufacture alone, as was stated by a gentleman from Maryland, (which number, however, I think too large,) she must at least have four millions in the whole employed in manufactures of all kinds. We take from her of these manufactures to the amount of thirty millions annually—a market for which she cannot find elsewhere. Interdict the importation of her goods, and what is the consequence? She cannot pay, and therefore cannot employ her workmen. She will not find her account in manufacturing goods annually to the amount of thirty millions of dollars more than she can find a market for; therefore her workmen, at least one million of them, will be out of employment. How are they to subsist? How can they get their bread? Other means they have not; they cannot find any other occupation; and, if they could, they are not fitted for them. This derangement of business must be severely felt; their merchants and manufacturers will, I believe, be persuasive advocates for us. They will feel the evil, and will powerfully press the Government to do us justice. The Minister will be convinced of the danger. He will be careful not to suffer our custom to be diverted from England; for he knows if the channel of our trade is once turned, it will not easily, if ever, be restored. He will pause before he finally drives his best customer to the necessity of leaving him; for he cannot be ignorant that our trade, consisting of the exportation of raw materials, and the importation of wrought manufactures, will be courted by other nations, who will soon find it for their interest to accommodate us with a supply of our demands on satisfactory terms. I consider, Mr. Chairman, that our commerce is and will be so available to the nations of Europe, as to furnish us the means of commanding respect and procuring justice by commercial regulations. I have no fear that Great Britain will venture on a war with us; but if, from a predetermination to quarrel with us at all events, she should make a commercial regulation, or any other of our measures, a pretext for hostilities, notwithstanding all that has been said on the floor of this House by certain gentlemen, to disparage the troops or militia of our own country, and of our weakness, inferiority, and inability to defend ourselves, and to prove the invincible power of Great Britain, yet I trust she would still find us Americans.

Have gentlemen, who speak so degradingly of the American character, forgotten Bunker's Hill, Bennington, Bemen's Height, Saratoga, Eutaw Springs, King's Mountain, Yorktown, Tripoli, Derne, and many other places, which have witnessed the heroism of our citizen soldiers and seamen? If they have, Great Britain has not, nor has the American nation. Our country possesses ample means of defence, and will be found to have spirit enough to use them when necessity requires it.

Mr. Chairman, whatever measures we may adopt, I consider it of importance that we should enter upon them with a majority as nearly approaching to unanimity as possible, and, therefore, although I should prefer a total non-importation to this proposition for prohibiting certain enumerated articles of British manufactures, yet as the principle is the same, and the difference is only in the degree of its application, I am willing to meet other gentlemen on this middle ground. Perhaps this measure may prove efficacious; if so we shall be satisfied; if not, I presume the nation and Congress, at another session, will be prepared and determined to have recourse to such measures as the God of nature has placed within our power to protect our national rights. Under this impression I shall give my vote for the resolution, and wait the event.

Mr. J. Randolph.—I should have been better plensed if the gentleman who has so eloquently painted the wrongs which we have received from Britain had, instead of telling us of the disease, pointed out the remedy. The gentleman a few days ago offered himself as a collateral security for the facts stated by the President and our illustrious Minister at the Court of London. Did the gentleman believe that what we could not take from them, we should accept from him? That our commerce has been pirated upon and our seamen impressed we all knew before. But where is the remedy? Gentlemen say they are for taking commanding ground, that will insure respect. Where is it? Let them give in their project. Is this the remedy, or is this the time? Gentlemen tell us we ought not to stop short of indemnity for the past and security for the future. Are they then for going to war with Britain on the same ground which Mr. Pitt took with the French Republic? Do they expect success in their project? And is peace to be destroyed, and the interests of this people compromitted, until what they please to call indemnity and security shall be obtained? Are they for going to war with Spain and France, and making a similar convention with them that we some time since made with Britain for spoliations committed on our commerce, and then by a kind of legerdemain draw from our own pockets wherewith to pay for those very spoliations? Is this the indemnity they expect to obtain? I want none of it. I almost dread to see a convention with any Power across the Atlantic, with a stipulation to pay money, as I fear its only tendency

would be to deprive us of that we have left. Make any sort of convention you please, and something will scarcely fail to fall out between the cup and the lip, by which you will have to pay the debts due to you by others. By some sort of legerdemain, the money of your bona fide citizens will get into the pockets of your diplomatists or their creatures on this and the other side of the water, into the hands of bureau men, of counting-house politicians. But I find gentlemen undertake to say, because I am indisposed to go to war, I am the advocate and apologist of Great Britain; and because I quote the able pamphleteer, who stands forth the godfather of the doctrines contained in it, I abjure them; and so far from costing me six cents, they cost me one hundred and fifty; and I consider that a better bargain than the other pamphlet, which did not cost me a sous. Am I to be considered as the apologist of Britain, because the defence of this country has been committed to weak advocates, or because its cause has been weakly defended or treacherously abandoned? No; I am the advocate of the circumstances of the times—of the Constitution of this people—of common sense—of expediency. What does the gentleman from New York tell you? I admire the resentment he feels for the wrongs committed on our country; and I entertain a respect for him. He tells you everything I have told you—that American merchants are employed in covering enemy's property. No, he draws a distinction between native and adopted merchants; and says that he considers the latter as the root of the evil. I agree that this trade is carried on by foreigners naturalized among us. But the gentleman says the other nations of Europe treat us on the principle that free ships make free goods; while Great Britain treats us on the opposite principle, and contends for the principle of contraband of war, and the liability of enemy's property to seizure. Why is there this difference? Because those who treat on the principle of the *mare liberum* find it their interest to treat on this principle. But do they who have the mastery of the ocean consider it as their interest? And yet the gentleman arraigns one country for being governed by her own interest, while he applauds another for being governed by the same feelings.

But the gentleman says the Federal Constitution grew out of commerce. Indeed! I have always understood it grew out of the feeble and lax state of our Federation. I have no doubt the regulation of commerce, and the hope of obtaining an adequate revenue, aided its formation. But will the gentleman undertake to say the Constitution was made to give us the mastery of the seas? If so, I will be glad to see how he makes it out. Will he say the finger of Heaven points to war?

The gentleman informs us that Great Britain lays an export duty. This is the best reason the gentleman could have urged against his own idea. It proves her conviction that no other nation can rival her in her manufactures. But it is said you cannot lay such a duty on your articles. Thank God, you cannot—may it always be so. In the first session in which I was in Congress, I heard a gentleman from Massachusetts, then in the Chair of this House, deplore our inability to carry on war measures with France, when, if we could only have laid a duty of one or two dollars a hogshead, on tobacco, we might have been enabled to carry them on. I said, then, I was glad we were prohibited from laying such a duty. I now say so. I think it the wisest provision in the Constitution. It was the opinion of the greatest man that ever lived, or ever will live, that the cause of the advantages of England over France in 1756, was, that France, instead of being satisfied with her superiority on the continent, by attempting to protect commerce and distant colonies, strove for the mastery of the sea. This infatuation carried her from her proper element, and enabled Great Britain to aggrandize herself on the ocean. The moment that France attempts to cope with Great Britain on the ocean, she lays bare the heel of Achilles, and exposes her most vulnerable point to her adversary; and this it was that, in the opinion of Chatham, turned the fate of that war so memorably conducted under his auspices. But it seems the late news from Europe is to have some effects on our discussions. On this news the fate of this nation is to be suspended. But, from its complexion, I draw a conclusion diametrically opposite from that inferred by gentlemen. I cannot help it. Gentlemen may call me a British partisan, as, when the doors were closed, they called me a Spanish partisan; or as, when I first came into public life, I was called a French partisan. Be it so. I cannot agree to take these measures for the defence of a trade which does not amount to more than eight per cent. upon our whole commerce. For such is the state of our tonnage, that the foreign tonnage does not exceed fourteen per cent. of the whole. What is our fair proportion? Fifty per cent. Instead of this, we have eighty-five per cent., and for the other fourteen. For this grasp-all, lose-all principle, the nation is now to be plunged into a war. I say I am unwilling to grasp at a shadow and lose the substance—to jeopardize the whole commerce of the United States in a vain attempt to engross the commerce of the world. But, whatever may be the decision of Congress in relation to this business, I hope to see one thing done before we rise: I hope to see the resolution which was under consideration yesterday acted on affirmatively or negatively, or withdrawn; and not for a light reason. It hangs as a dead weight on the price of every article of our produce. It has already depressed the prices of your rice, cotton, flour, and tobacco. And I am astonished to see measures permitted to be hung up *in terrorem* for no possible good purpose whatever.

The gentleman from New York has given us an animated picture of the despotism of the British on the ocean. Would that that despotism did not exist! But will the gentleman, supposing success on our part possible, say, that if we succeed in breaking down the tyranny of Great Britain on the ocean, another Power will not succeed to its mastery? No; its only effect will be, that the same Power which is now the tyrant of the

land, will be then also the tyrant of the ocean. It will be still her interest to drive us from the ocean; to vex and oppress our trade—there will be only a change of masters—with this difference, that there will remain no Power to balance that of our enemy. But gentlemen reiterate the question, Will you do nothing? I have always thought it better to remain idle than to do what would be worse than nothing. But I would take this course: I would remonstrate with Britain; I would tell her of the wrongs done to the American people; I would tell her how absurd it was for her, under existing circumstances, to compel us to throw our weight into the scale of her enemy; I would put this question home to her, Are you mad enough to increase the number of your enemies? Do you value public opinion as nothing? This is the language I would hold, and would treat with her on fair, on reciprocal principles; not on the principles of the Delphic oracle—a reciprocity to the ear, but not to the sense. But, truly, if gentlemen are for going to war, for enforcing a right bottomed on the principle that free ships make free goods, they may make war till there is not a British plank on the ocean; for they never will cede, they never ought to cede, this principle. I say they ought not, for I take it for granted that nation will be governed by Ministers of common sense; and no such Minister but must see a death-blow to British greatness in the establishment of it. Are you, therefore, the advocates of this nation, because you say they ought not to give up what they never will surrender—what they cannot give up without committing a *felo de se*? Yes, sir, I have said what I am willing to do. There is a pending negotiation; and the late events in Europe, while they will greatly facilitate that negotiation, make it your interest not to co-operate in putting down this people, unless you think it the safest for the world that the sceptre of the sea and the land should be in the same hands.

Mr. J. Clay said he was sorry the Committee were determined to press this subject. He believed a delay of four or five days would be important; he therefore moved that the Committee should rise.

Mr. Alston said, it would certainly be unnecessary for the Committee to rise, with a view to decide upon the resolution offered by the gentleman from Pennsylvania, (Mr. Gregg.) The Committee having refused in the first instance to take up this resolution, and having acted upon that which had been submitted by the gentleman from Maryland, (Mr. Nicholson,) was a sufficient evidence of the sense of this House as to its final adoption or rejection. The newspapers emanating from this place to all parts of the United States would convey the sense of the House as fully upon the resolution as though a final vote should have been taken; and should the resolution offered by the gentleman from Maryland be now decided upon, and agreed to, every one would be satisfied that the one offered by the gentleman from Pennsylvania would not be adopted.

Mr. A. said it was time—high time—that this House had come to some determination upon this important subject. It was time that the public mind was put to rest. It was time that the American people were informed of the extent that we intended to go, and of the steps we intended to take towards Great Britain, in order to meet the aggressions committed by that Government upon the commerce of our country. He verily did believe the resolution submitted by the gentleman from Maryland, the merits of which it was in order upon the present motion to discuss, better calculated to have the desired effect upon that Government on whom it was intended to operate, than any other plan or project which had been submitted or talked of, inasmuch as it was only a commercial regulation or restriction acknowledged by all Governments in the world to be perfectly within the control of every independent nation. Some gentlemen had thought it not sufficiently strong—that something more efficient should be adopted. For his part, he did believe it much stronger, as to the effect it would have in bringing Great Britain to terms of amicable adjustment, than that which had been submitted by the gentleman from Pennsylvania, and which was now sleeping on the table. This, Mr. A. said, was that kind of commercial regulation that carried with it the appearance of a determination to persevere in it; and, in his humble opinion, it was well calculated to distress that nation who had so long persisted in a regular system of aggression towards us. On the contrary, that which had been submitted by the gentleman from Pennsylvania was such a one as Great Britain would plainly discover we ourselves did not mean to persevere in, because it would readily be seen, that, while it distressed her, it would be equally injurious to us. Another reason suggested itself why he would prefer the resolution now under discussion. It seemed to be understood, on all sides, let which should be adopted, or whatever course should be pursued, that no system was to go into operation immediately—that full time was to be given for an attempt at friendly negotiation. It was intended as an expression of public sentiment. It was, therefore, of great importance to this nation, that the sentiment expressed should be with as much unanimity as possible. It was evident to all that the resolution offered by the gentleman from Pennsylvania, from the violent opposition it had met with, could not, if carried at all, be carried by that majority that the one now under discussion could. If, therefore, he in the first instance had been in favor, he should, after the discussion which had already taken place, think himself, for the sake of harmony alone, perfectly justified in abandoning it. The resolution now under discussion, which was offered by the gentleman from Maryland, could not be objected to, as the other had been, on the ground of its being in any manner whatever calculated to produce war, if adopted in the full extent in which it was submitted. The object of the present resolution is a prohibition of certain articles, the growth and manufacture of Great Britain and her dependencies, from being imported into the United States; most of which articles, Mr. A. said, he was advised by those better ac-

quainted than himself with mercantile transactions, could be obtained from other countries; and those which could not be obtained, we could either do very well without, or raise within ourselves. What effect, then, would this measure have upon Great Britain? No person would deny that it would lessen in her own country the value of her manufactures. Whilst our citizens at home were perfectly content, the voice of the artisan, the manufacturer, and the laborer in Great Britain, would be raised against the aggressions committed by their own Government, which caused us, and in fact compelled us, in self-defence, to enter into the regulation proposed.

It has been said by the gentleman from Georgia, (Mr. Early,) and also the gentleman from Maryland (Mr. Nicholson,) that the agriculturist was not interested in the carrying trade. Although, Mr. Alston said, he knew very little about commercial matters, never having been concerned in mercantile transactions, yet he thought he could prove to the Committee, and to the world, that they were inseparably connected together, and the price which the agriculturist obtained for his produce greatly depended upon the encouragement and protection given by Government to this very carrying trade. Whether the produce raised by the constituents of the gentleman from Georgia and the gentleman from Maryland is carried first to the West Indies, and exchanged for articles the growth and manufacture of those islands, and then brought to this country and reshipped to European markets, he would not pretend to say; but this much he would say, and say it truly, that the greater part of the produce raised by his constituents first found a market in the West Indies, was there exchanged for the productions of those islands, and then carried to the mother countries; by which means the value was greatly enhanced. On the contrary, if this carrying trade shall not be protected, and this mode of exchange of produce is put an end to, what will become of the large quantity of corn and pork raised in this country, which finds a market nowhere else?—Everybody knows there is not specie in those islands sufficient to purchase it, and if exchanged for West India produce, our markets are already overstocked; no merchant will buy our produce, to exchange for an article that must rot in his warehouse. It must, therefore, evidently appear to everybody that unless our corn and our pork are exchanged for West India produce, and that produce permitted to be sent abroad to find a market, large quantities must and will be wasted in the barns and granaries of those who raise it.

It could not, therefore, Mr. A. said, be expected from him, to abandon to Great Britain the principle by her contended for, when the greater part of the produce raised by his constituents consisted in the articles of corn and pork. He believed he might say with safety, that no part of the United States, for the same extent of territory, raised an equal proportion of those two articles with that he had the honor of representing upon this floor. He thought it, therefore, clearly proved, that if produce of this country now carried to the West India islands was to be disposed of for nothing but specie, and for articles which were only to be consumed in the United States, that a great depression of the price of our produce must inevitably follow. On the contrary, by affording a proper and necessary protection to the carrying trade, our produce would be exchanged for that of others which finds a market in various parts of the world, where the enterprise of our countrymen carries it.

It had been stated that, notwithstanding any prohibitions or restrictions we may adopt, the manufactures of Great Britain will find their way into our country. This, for aught we know, might be the case, either by taking a circuitous route, or by being smuggled; and should that be the case the same thing would attend your produce, should its importation into Great Britain be prohibited. He could not see but that the account on that score would be fairly balanced.

Mr. A. said he did not think this measure, if adopted and persevered in, would have a material effect upon the revenue of our country. Gentlemen were alarmed lest that system, which had been in his opinion so wisely established by this Government for the extinguishment of the national debt, should be broken in upon, and consequently an increase of the national debt be the effect. If in his opinion this measure would endanger the system of extinguishing that debt, he would be one of the last men found in supporting it; and he believed, weak and delicate as his constitution appeared to be, that by a firm adherence to the system established, he should live to see the debt finally wiped away. The system for extingushing the national debt had, when adopted, his hearty assent, and it was with pleasure that he looked back to the vote he had given upon that occasion.

If gentlemen will give themselves the trouble to examine the several articles contemplated to be prohibited by this resolution, they will find that on the subject of woollen cloths there is a blank in the resolution, which he hoped would be filled with such a sum as would admit the importation of all such woollen cloths as were found absolutely necessary for clothing the laboring part of the community; fine cloths would be obtained from other countries, and on them no diminution of duty would take place; the revenue of course would not be affected on the article of woollen cloths. He would not, however, examine at this time the several articles separately, as this could be better attended to at a future stage of the business, after the principle should be decided. If the other blank in the resolution should be filled with the first of December or January next, he could see no necessity for delaying a decision, as the time for the system to go into operation would afford ample time for an attempt at negotiation.

From what had fallen from his colleague, the honorable Speaker, upon the other resolution, he supposed he was against the one now under discussion. Although the honorable Speaker and himself were near neighbors, yet the interest of those they represented might be very different; and while the Speaker, in protecting the interest

of his constituents, thought it best to abandon the principle contended for, he, Mr. A., thought it all important to his constituents not to abandon it; and although he differed very widely from his colleague upon the present question, he hoped he should be found at all times supporting such measures as should not abandon the interest of those he represented, whatever might be the respect he had for the interest and opinion of others. He thought it unnecessary for the honorable Speaker to have risen for the purpose of defending himself against a charge of inconsistency, for every person knew, without a defence, that his honorable colleague was consistency itself.

Mr. Alston concluded by observing, that although it had been asked in the present discussion, if we were ready to plunge the nation into war, as he did not believe it was intended to apply to the present resolution, he thought it unnecessary to make any remarks in reply to this question.

Mr. Smilie hoped the Committee would not rise. He said he had heard no arguments urged in favor of the motion, which had any weight; and the late events in Europe, so far from recommending delay, enforced the propriety of prompt measures. This was the auspicious moment for acting, and he hoped it would be seized.

The question was taken on the Committee's rising, and it passed in the negative—yeas 48, nays 63.

Mr. J. Clay.—I confess for my own part, when I see men possessed of so little information so confident, and thus determined to hurry on this discussion, I feel extremely diffident of my opinion. With several of the gentlemen who have preceded me in the debate, I have considered the resolution now under consideration as best calculated to obtain redress for the injuries we have received from the cruisers of Great Britain. I believe that while it did little injury to ourselves it would have a very different operation on Great Britain. I was also in favor of it, as it pointed out a course short of serious collision with her. I had also hoped that the Committee would have agreed to have taken up the resolution which I had the honor some time since to lay on the table, as the ground-work of a permanent system. From the course this discussion had taken, I had flattered myself some little information as to the situation of our foreign commerce, would have been given. I am no merchant myself, nor am I acquainted with commercial subjects. I did expect that those who were conversant with those subjects, and particularly the gentleman from Massachusetts, would have condescended to give us some detailed information. As I have been disappointed in this respect, I will hereafter take up a little time in showing that as to our foreign relations, the gentlemen on both sides have been egregiously misled by incorrect statements.

In these remarks I do not mean to attach any blame to the document from the Secretary of the Treasury, as the statements in that report have not been viewed in their proper light by gentlemen who have taken a part in this debate. I might here dilate upon the advantages that flow to us from the carrying trade, but as the usual hour of adjournment is approaching, I shall avoid going into this question.

Instead of there being a balance of six or seven millions annually against us, I believe it can be shown that there is a balance of two millions, annually, in our favor. We have 670,000 tons of shipping employed in foreign trade, and it would not be unfair to calculate the profit of this freight at eight millions, founded not on war prices, but on the usual peace prices, and calculating but one voyage a year. Under this view it must appear that our commerce is of more importance than it seems to be in the opinion of those with whom I have the honor to vote on this occasion. But there is another question worthy of consideration. Is there no course which we can pursue, which, without injuring ourselves, shall induce Great Britain to give up her pretensions, and her unjust violation of the law of nations? Believing that that there is, I opposed the resolution of my colleague (Mr. Gregg;) I consider, on the other hand, the resolution of the gentleman from Maryland as well calculated to answer this purpose. I am, therefore, in favor of acting, but not now, on this subject; and I am of opinion that by the beginning of next month it is probable we shall have information that will enable us to act decisively. It being my intention to remark more fully on this subject, as the usual hour of adjournment is at hand, I again move that the Committee rise.

Mr. Early advocated the rising of the Committee.

Mr. Findley declared himself in favor of the motion, not, however, that the subject be postponed, but merely because they had reached the ordinary time of adjournment.

Mr. Lyon inquired whether the object of the motion was postponement. If so, he should vote against it.

Mr. J. Clay said his object was to postpone the subject till Monday.

Mr. Lyon then spoke against the rising of the Committee, and took occasion to assign his reasons for being decidedly in favor of the resolution under consideration.

Mr. Mumford opposed the rising of the Committee, and said he had received a very important letter from the President of the Marine Insurance Company of New York, which he read. The letter expresses the deep apprehension entertained by the merchants of New York, that Congress will rise without adopting effectual measures for the protection of commerce against the depredations of the belligerent nations, and particularly those of Britain.

Messrs. Stanton and Jackson likewise spoke against the rising of the Committee, and urged the strong necessity of prompt and vigorous measures.

When the question was taken—yeas 65, nays 47, and the House adjourned, a short time after 3 o'clock, to Monday.

Monday, March 17.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the the same;" to which they desire the concurrence of this House.

Mr. Varnum, from the committee to whom was referred, on the thirteenth instant, the amendments proposed by the Senate to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States," made a report thereon; which was read, and ordered to lie on the table.

The Speaker laid before the House a letter from William Eaton, praying that an examination may be had of the several documents accompanying the said letter, in support of his claim against the United States, for expenses incurred in the execution of his consular duties at Tunis; which was read, and referred to the Committee of Claims.

The bill sent from the Senate, entitled "An act to authorize the State of Tennessee to issue grants, and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;" was read twice and referred to the Committee on the Public Lands.

On motion, it was

Resolved, That the Postmaster General be directed to report to this House the state and condition of the post route from Athens, in Georgia, to New Orleans, with the difficulties and obstructions which are encountered in transmitting the mail along said route; and, also, what will be the probable expense of opening a horse road between the above named points.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the relief of Peter Landais:" Whereupon,

Resolved, That this House doth disagree to the amendment proposed by the Senate to the said bill.

Resolved, That this House doth insist on the said bill, as sent to the Senate, and doth desire a conference with the Senate, on the subject-matter of the said amendment; and that Mr. John C. Smith, Mr. Nicholson, and Mr. Smilie, be appointed managers at the said conference, on the part of this House.

Resolved, That the order of the day to hear Arthur St. Clair at the bar of this House, in support of his claim, be postponed indefinitely.

EXTENSION OF PATENT RIGHTS.

Mr. Crowninshield, from the Committee on Commerce and Manufactures, to whom was referred the petition of George Dodge and others, merchants of Salem, in the State of Massachusetts, submitted the following report:

The petitioners were the proprietors of the valuable nail factory at Amesbury, in the State of Massachusetts. They have owned the works about three years, with the patent granted originally to Jacob Perkins, of Newburyport, for a new and useful improvement in the mode of manufacturing nails; and they also are the assignees of another patent, granted to Samuel Guppy and John Warren Armstrong, for a further improvement in the manner of cutting nails, discovered by the said Jacob Perkins. They have expended large sums of money in repairs and additions to their buildings; and the whole was in a capital state of improvement, when, on the 24th of December last, the buildings accidentally took fire, and were entirely consumed, with all their tools, machinery, and a considerable quantity of stock on hand. The loss is estimated at a sum exceeding $30,000. This was a most useful establishment; it supplied the neighboring country with large quantities of nails at a reasonable price, as they could be sold at a cheaper rate than the imported nails; and the works being on an extensive plan, the supply was abundant. The petitioners are disposed to rebuild their works if they could be encouraged to proceed; and it would be a great inducement with them to commence the undertaking, if they could be permitted to renew their patent rights for a period of seven or fourteen years from the time they will expire by the present limitation.

The first patent was granted on the 20th December, 1794, and will expire on the 14th December, 1808; and the second is dated 14th February, 1799, and will expire on the 14th February, 1813, each being limited to a period of fourteen years, agreeably to the act entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose, passed the 21st February, 1793."

In considering the merits of this application, the Committee on Commerce and Manufactures will not give an opinion on a case not properly before them; they may be permitted to observe, that, had the loss actually happened to the original patentee, they should probably have deemed themselves justified in proposing to the House to grant the extension of the patents for a short period of time, with a view to encourage the inventors of useful machines to prosecute and extend their discoveries. But, although the committee acknowledge the present petitioners have sustained a severe loss, they do not seem justly entitled to a renewal of their patents after the limitation may expire. No consideration could have been paid to the inventor at the time of the purchase of the patent right for the use of it beyond the stipulated period of fourteen years. It is understood that the right will then be in the public; every individual in the community ought then to be entitled to make use of the machine. Indeed, after being deprived of its advantages for fourteen years, unless under a title acquired by purchase from a patentee, it might be supposed that the citizens of the United States have a fair claim to participate in the enjoyment of a right, and in the free use of an invention, the benefits of which may have been so long exclusively withheld from them. It might be objected, also, that other applications would be made to Congress should the rule once be established that the purchaser of a patent right might calculate on its extension, although no compensation had been allowed at the time of making the purchase, for the use of it beyond the period fixed by law. Under this view of the subject, the committee are induced to recommend that the petitioners have leave to withdraw their petition and the documents which accompany it.

The report was agreed to.

IMPORTATION OF BRITISH GOODS.

The House again resolved itself into a Committee of the Whole on the state of the Union, on Mr. Nicholson's resolution, submitted on the 10th of February.

Mr. Sloan addressed the Chair as follows:

Mr. Chairman: As I wish always to do to others as I would be done unto, and as I do not love to be kept in suspense myself, I will not keep this Committee in suspense respecting my opinion of the present resolution. I am opposed to it, because it does not mention what I consider the principal cause of our complaint against Great Britain—I mean the impressment of our seamen—at the same time declaring that I will eventually vote for any measure that I shall consider better than none. This is a line of conduct that I have thought it my duty to adopt in all cases since I have had a seat on this floor. From the course that other members have pursued in this debate, I expect I shall be permitted to give my reasons in favor of a non-intercourse with Great Britain, in preference to the prohibition of certain articles of their manufactures, contemplated by the present resolution.

Mr. Chairman, notwithstanding I am conscious of my inability to do justice to a subject of greater magnitude, as it respects the character, the interest, and the peace and happiness of that beloved country that gave me birth, than any that has ever claimed the attention of the Congress of the United States since I have had the honor of a seat on this floor, I say I am happy, nevertheless, in having an opportunity to cast my mite into that treasury which, having been instituted upon a principle of perfect equality, the widow's mite is, or ought to be, as acceptable as the greatest gift from the superabundant treasures of the rich. In the observations that I shall make, it is not my intention, directly or indirectly, to charge those who differ with me in opinion, whether in a majority or minority, with ignorance or evil design, much less to stigmatize or reproach them with contemptible epithets. No, Mr. Chairman, I consider it my duty to consider many members on this floor as my superiors and none as my inferiors. I consider it my duty, after having given my reasons for or against any subject in discussion, to cheerfully submit to the decision of a majority; and I also consider it my duty to treat every member of the Legislature of the Union with that respect due to fellow-citizens standing on an even floor. I consider it my duty instead of holding up the interest of the Northern States as opposed to the interest of the Southern, or the Eastern to the Western, to view them all as members of the same body; consequently, one cannot suffer without the whole being affected. I consider it my duty, instead of taking advantage of local situations, and different occupations, productive, at certain times, of temporary jarring interests, to array one part of our fellow-citizens in opposition to another part; contrarywise, to endeavor to show that such temporary inconveniences cannot long remain, but like water seeking its level, the inequality will soon be removed. This I conceive to be my duty, in order to promote that love and harmony amongst members of this House, and citizens of the United States in general, which I consider as the only efficacious cement of our Union, by which our present happy form of Government can be continued, and the rights and liberties we enjoy handed down unimpaired to future generations. A contrary line of conduct is, in my opinion, derogatory to the character of any person honored with a seat in this House, and injurious to the peace, liberty, and happiness of the United States.

Having briefly proposed the premises which I mean to observe as the rule of my conduct, I shall offer my reasons in favor of non-intercourse with Great Britain, in case she persists in these insults and injuries, which is the subject of the present discussion, and which, in my opinion, the United States has already suffered too long.

In offering my reasons, I shall not bring into view the conduct of other nations to justify Great Britain; neither shall I assert that Bonaparte is an usurper and a tyrant; that he has annihilated Spain, and is now aiming at the conquest of the world; but is graciously pleased to leave the United States for the last victim he means to devour! All I have to say to this (if it be true) is, to acknowledge my gratitude for his having determined to give us the longest time to repent of our sins, of which there is great need; and to give it as my opinion, that we have no right to interfere with the form of government in France; the people there having as good a right to choose an Emperor as we a President.

I shall not take up the time of the Committee in reading documents to prove the magnitude of the grievance, (that having been done in a former part of this discussion by my friend from Massachusetts, Mr. Bidwell,) and those documents having been long in the possession of members, render it unnecessary; but shall first endeavor to prove that it is our duty, as Representatives of the people, to apply an effectual remedy to existing grievances, and to prevent their repetition in future; that we are called upon not only by the sufferings of our constituents, but by the sacred obligation we owe to the character of our country, and by our indispensable duty to preserve that character without spot or blemish, in our intercourse with foreign nations; which can only be done by a system of justice and equality, granting no peculiar favor to one that we do not to others; and, on the other hand, submitting to no insult or injury from one nation that we do not submit to from others.

And, secondly, that we can, at this time, obtain redress of grievances without any risk or probability of war with Great Britain, because it would be contrary to her interest, and because, in case of war, she must eventually be the loser; and, also, that if she could act so contrary to her interest, as to suffer a non-intercourse law to go into operation, it would be a great benefit to the United States, by encouraging home manufactures.

And, thirdly, call the attention of the Committee to the sufferings of our impressed seamen.

And, fourthly, endeavor to show that the opin-

ion of some members, who are opposed to non-intercourse, because it would operate partially on different sections of the Union, are not well founded.

And, lastly, that it is our duty to lay aside all local ideas, and consider the United States as one body politic, and that if but one limb be injured, the whole is bound, both in interest, in justice, and in policy, to unite in the means of obtaining redress.

If, in delivering my sentiments on this subject, any member of this Committee should conceive that I discover too much warmth, I desire it may be attributed solely to the abhorrence and detestation with which I have long viewed the insolent and injurious conduct of Great Britain towards the United States—not to her suffering subjects, them I love, and their sufferings I pity; but the deceptive, oppressive, and tyrannical administration of her Government, I do most decidedly and conscientiously abhor and hate.

Mr. Chairman, when I laid a resolution on the table for the purpose of prohibiting intercourse with Great Britain, in case she should refuse to enter into any arrangement for the amicable settlement of existing differences, I queried what was become of the spirit of '76, because I considered a portion of that spirit that gained our liberty necessary to retain it. I renew the query: What has become of that independent spirit that chose rather to part with life than inherent rights? Have we, with the merchandise of Great Britain, imported the servile disposition of her oppressed and degraded subjects? Is it possible that her fascinating gewgaws and fripperies are so powerful as to induce the Representatives of the United States in Congress assembled, rather than suffer a temporary privation, to permit the rights and liberties of their constituents to be trampled on with impunity by that haughty, tyrannical nation? I say the Representatives are convinced, beyond a doubt, that a great majority of the citizens are not barely willing and ready to support any just and firm measures that Congress shall adopt for the purpose of obtaining redress of grievances and support of their just rights, but anxiously looking out for the adoption of decisive measures.

Shall we, then, chosen by them as temporary guardians of their rights and liberties, neglect, or treat with indifference, the numerous memorials that have been presented from various parts of the Union? I hope not. I hope we shall adopt such firm and decisive measures as will compel the British Government to make restitution for past injuries, and enter into just arrangements for the prevention of similar injuries in future.

But, Mr. Chairman, we have been frequently told that such a plan would produce war with Great Britain. This is no new doctrine to me. I have been frequently charged with acting contrary to my peaceable principles, because I have taken an active part in opposing oppression, injustice, and every infringement of the inherent rights of the people; this I have done with a view to prevent war. Injustice and oppression I consider as the principal predisposing causes of war, and that the best way to prevent the effect is to remove the cause.

Those causes I have lately seen raise the political thermometer in the United States nearly to war heat; but, thank God! I have lived to see it cooled down to a temperate state, and the cause greatly diminished—not by those destructive weapons that spread destruction over a land, and multiply the tears of widows and orphans, but by the force of truth and reason, those bloodless conquerors, more powerful than the sword! I wish the Government of the United States to use justice, truth, and reason; these are the weapons that become the representatives of a free people, and the only ones I conceive to be necessary to preserve that liberty and independence lately purchased at the price of blood.

Separated, by the Atlantic, three thousand miles from the oppressive Governments of Europe, which originated in war, and can only be supported by carnage and bloodshed—possessed of an extensive and fertile country, embracing so many climates as not only to produce all the necessaries, but also most of the luxuries of life—what have we to fear from Great Britain? What can she deprive us of? What but gewgaws and fripperies, that we are much better without, which tend to promote pride and idleness, those prolific parents of a numerous train of attendant vices, contrary to the principle of a Republican Government, and derogatory to the character of a free and independent nation?

But it is alleged, that non-intercourse with Great Britain would injure our revenue; to this I answer, that I have no apprehension that Government would act so contrary to her interests, as to let such a law go into operation; but, admitting they should, for every million of revenue immediately lost, the United States would eventually gain five, and probably much more, by increasing home manufactures, which can only make us in fact a rich, free, and independent nation. For I contend our independence is incomplete, while we are dependent for so great a part of our clothing, on a nation possessed of so powerful a marine, as to assume the exclusive jurisdiction of the ocean, and that envies our liberty and increasing wealth.

I am sensible, Mr. Chairman, that I am running counter to a strong current of public opinion; that it is our interest to pursue agriculture and commerce; leaving manufactures to old nations whose numerous population reduces the price of labor; but, I am happy in beholding this false theory daily falling before the irresistible power of fact. The cheapness of food in many parts of the United States, overbalances the high price of labor so much, as to enable various kinds of home manufactures to be sold lower than those of the same quality imported from Great Britain. Witness shoes, which have nearly excluded importation; and I am credibly informed, that coarse home made linen, can at this time be purchased lower than imported, of the same quality. As a further

proof of my position, I will detain the Committee with but one more fact. Some time after the Revolutionary war, when large quantities of cotton were imported for our own consumption, a manufacture of that article was begun at Wilmington, and brought to such perfection, that a merchant in Philadelphia informed me, that he could purchase various kinds of cotton lower, and of superior quality to those he imported from England; and that a British agent, on viewing some of those goods, in his store, observed, that would never do; we, says he, (meaning the merchants of Great Britain) must put a stop to this—and shortly after the factory was burned down! Here let me ask the members of this Committee, whether if at that time, when a manufacturer of cotton had to import it under a heavy duty, and could nevertheless rival the British, he could not now, when many millions of pounds, the growth of our own soil, are exported annually, which might be obtained free of duty; and when labor-saving machines are brought to so much greater perfection? And secondly, whether any free and independent citizen would not prefer a temporary sacrifice of interest to a servile dependence upon a haughty tyrannical nation, whose influence and gold have not only greatly injured the infant manufactures of the United States, but ruined many in various parts of the world? And thirdly, let me ask you, my Southern brethren—who, I am told, are rapidly making fortunes by raising and exporting cotton—would it not give you additional pleasure to sell this raw material (of which I am informed five thousand dollars' worth, when manufactured, makes one hundred thousand) to your brethren of the Middle and Eastern States, and receive it manufactured from them—whereby the industrious poor of our own citizens would be supported—rather than from a foreign nation? I have no doubt but that you would.

Before I dismiss this subject, let me ask what raised Great Britain to affluence and power? Was it not by giving such encouragement to manufactures as to induce manufacturers, from various parts of Europe, to emigrate to that island, whereby their internal strength has been greatly increased, and their fleets and armies principally supported by the product of their manufactures? These are facts that I trust no member on this floor will deny.

I am told that Great Britain charges an export duty of four per cent. on all cotton goods imported into the United States, and but one and a half on those exported to other countries. This induces me to renew the query, where is the spirit of '76? Has it fled from our land? Are we disposed cheerfully to submit to every species of insult and injustice that nation chooses to impose upon us? What peculiar advantage do we derive from their trade, to induce us to submit to higher duties than any other nation? Is it because the balance of that trade is eleven or twelve millions of dollars per annum against us? Or is it because the credit they give has induced many of our farmers and mechanics to leave their useful occupations which they understood, and flock into populous cities, go largely into trade, and business which they did not understand; and, after living in pride and luxury a few years, prove insolvent, and wrong their creditors out of many thousand dollars? Mr. Chairman, the more I consider and investigate this subject, the more I am astonished at the conduct of the United States towards Great Britain—the more I am astonished at the conduct of the Representatives in Congress assembled. In this astonishment, bear with me while I address this Committee, in the language of one formerly to the Galatians. Oh! foolish Americans, who hath bewitched you, thus to submit to injury and insult, from a nation whose trade subjects you to a loss of eleven or twelve millions of dollars per annum, and who charges four per cent. on the goods you import from her, and but one and a half to all other nations?

My friend, the Speaker, attempted to explain this paradox, or rather rejected the premises as an impossibility, that the United States should increase in wealth, when nearly one half of their foreign trade, instead of producing profit, threw a balance of eleven or twelve million of dollars against them. But, he might have avoided the Herculean task, of producing to the Committee that which was impossible, because it never existed, by recurring to the fact adduced by my friend from Massachusetts, (Mr. Bidwell,) and the statement of the Secretary of the Treasury on our tables, viz: that this deficiency was overbalanced by our more profitable trade carried on with other nations. I do not rely barely upon the information given upon this floor, or the documents before us, to establish this fact. I rely also upon preceding documents, and the information I have received from merchants, and others well acquainted with the nature of our trade with Great Britain. All agreeing, that with some rare exceptions, the balance is so much against the United States, that were it not for the more profitable trade carried on with other nations, instead of growing rich, we should be reduced to a state of poverty.

For this reason, I am in favor of non-intercourse, rather than a prohibition of her manufactures; because, if we cannot do without them, we could, in my opinion, procure them from other nations second hand, upon more advantageous terms than under the present duties, we do now, immediately from them; and because I consider gratitude, justice, and the interest of our country, obligatory upon us, to encourage trade with those nations who deal with us upon fair and honorable terms, and to discourage it with those who do not. And lastly, because I am fully persuaded it would soon induce Great Britain to open a fair and permanent trade with her West India islands, much more advantageous to the United States than the trade to the mother country. I shall conclude this subject with returning my sincere thanks to the Speaker, for the very able and decisive manner in which he has supported my premises in favor of American manufactures, by informing the Committee that they do not now, as formerly, depend on a great number of

hands, by reason of labor-saving machines being brought to so much greater perfection. This appears to me a conclusive reason, founded upon fact.

Mr. Chairman, during the present session I have heard, with surprise and regret, members of this House represent the condemnation of our property and the impressment of our seamen as things of trivial consequence; and that the alarm was principally raised by the merchants, for the purpose of speculation; that if they could induce Congress to prohibit intercourse with Great Britain, they would raise their goods one hundred per cent., and country produce fall in proportion, by which means, instead of losing, they would be greatly benefitted. This language, I repeat, has exceedingly hurt my feelings, since this subject has become a common topic of conversation, for two reasons: First, it has a direct tendency to alienate the affections of one class of useful and respectable citizens from the other, and more numerous classes, and thereby lessen that confidence, unity, and harmony, that is as necessary to continue amongst the various members of our body politic, for the preservation of national strength and vigor, as that the various parts of an animal body should harmoniously act together. And, secondly, if we judge of things to come by things past, these insinuations will not be realized; the reverse, in my opinion, will be the case; the diminution of sales will overbalance the advanced price. I know of but one class of merchants that would be benefitted; that is, those who wish to leave business, having on hand a large stock of goods, which, sold at an advanced price, they would consequently be gainers; but those of small capitals who wish to increase them by continuing in trade, would suffer at least in equal proportion with farmers. I have also heard it alleged, that it is only in carrying foreign articles from one belligerent port to another, and not in directly transporting our own commodities to any belligerent port, that the British take, and condemn our vessels; and by that trade the merchants only are benefitted; therefore it is improper for our Government to run any risk to support them in that trade. This, Mr. Chairman, appears to me a very extraordinary and absurd mode of reasoning. So far from being entitled to no support from Government, I consider it an extra benefit, and therefore entitled to an extra support. To explain my meaning on this subject, let me ask this question:—If our merchants provide vessels sufficient to transport all the produce we can spare to foreign markets; and the return cargoes brought into our ports is more than we want for home consumption; which surplus they re-export, and by these extra exertions gain one million of dollars annually, is not the property of the United States increased in that proportion? Shall we then by neglect, damp or check this enterprising spirit in that class of citizens, who, by their extraordinary exertion, have greatly increased our revenue and wealth? I hope not. I hope Congress will unite in applying an efficacious remedy for past losses, and a sufficient preventive in future.

I shall now call the attention of the Committee to the conduct of the commanders of British armed vessels, pressing our seamen, confining them on board ships of war, and obliging them to assist in fighting their battles with nations in amity and peace with the United States. These are crimes of so horrid a nature, as can only be perpetrated by infernal spirits, actuating human bodies, supported by a Government which, as I have before observed, was founded in war, and is supported by tyranny, oppression, and the effusion of human blood! Let none say that I am painting this scene in too deep colors, or attaching greater infamy to the actors than they deserve. It is impossible. If you doubt this, accompany me in a short visit to the lonely cottage, where sit weeping two aged parents for the loss of their only son, whose filial love induced him to take a voyage to sea, hoping to procure a more comfortable subsistence for his parents in the decline of life. Attend to their mournful tale:—We received a letter from our dear son, informing us that he had a prosperous voyage, was returning home, hoping shortly to see his native land; but alas! met by a British ship of war, he was inhumanly forced on board, and carried we know not where—our only hope is blasted and the remainder of our days consigned to poverty, grief and wo!

One more visit to a still more affecting scene, I conceive will fully establish my position, that the actors in this infernal tragedy cannot be too much execrated. It is to the small chamber of a disconsolate widow, bathed in tears, surrounded by helpless orphans—with faltering voice, interrupted by many a bitter sigh, she relates the cause of her woe: My dear husband, finding he could make more by following the sea than by staying on shore, had been absent more than twelve months, when I received a letter, informing that his voyage had been prosperous; that he expected soon to arrive with sufficient property to place me, and these dear children, in a comfortable situation; but, oh! how shall I relate the dreadful reverse? When in sight of his native land, met by a British armed vessel, compelled by a gang of inhuman monsters, in human shape, to go on board a ship of war, to assist in fighting their battles; where he received a mortal wound, of which he languished, of which he died, and with him died all my joy, all my comfort, and all my hope!

Perhaps I shall be told that I am addressing the passions. Be it so. But let it be remembered, that I am not addressing them with fiction, or the enthusiastic flights of imagination; but presenting a feeble portrait of those real and horrid tragedies, that we have too long suffered to be acted with impunity upon our defenceless fellow-citizens.

Mr. Chairman, near thirty years has passed away, since the citizens of these United States have suffered under this degrading oppression and cruelty, peculiar to the British Government. In proof I shall read a memorial of two of the venerable patriots of that day:

"For the sake of humanity it is to be wished, that men would endeavor to alleviate, as much as possible

the unavoidable miseries attending a state of war. It has been said that among the civilized nations of Europe the ancient horrors of that state are much diminished; but the compelling men by chains, stripes, and famine, to fight against their friends and relations, is a new mode of barbarity, which your nation alone had the honor of inventing; and the sending American prisoners of war to Africa and Asia, remote from all probability of exchange, and where they can scarce hope ever to hear from their families, even if the unwholesomeness of the climate does not put a speedy end to their lives, is a manner of treating captives that you can justify by no other precedent or custom, except that of the black savages of Guinea. We are your Lordship's most obedient servants, B. FRANKLIN, S. DEANE."

"Lord Viscount STORMONT."

To the above letter the following reply was made: "The King's Ambassador receives no letters from rebels, except when they come to ask 'mercy.'" At that time the event of the war was undecided; it was not in the power of Congress to prevent that cruel, inhuman, practice; not so at this time, it is now in our power. Shall we suffer that nation, after acknowledging our independence, to continue the same arbitrary and tyrannical cruelty over our seamen, sailing under protection of our own flag, that they did at that time, when they insolently styled us rebels? I hope we shall not.

Here let me call the attention of the Committee to the capture of the frigate Philadelphia, whereby upward of three hundred of our citizens became prisoners to the Bashaw of Tripoli. How was this account received by the members of Congress? What sensations did it produce, and what was the effect? I need not inform this Committee. Every member, by turning to his Journal, may satisfy himself that prompt and decisive measures were adopted to procure their release from captivity. This case has been, by some members, contrasted with the impressment of our seamen. Let us analyze the two cases, and see what similarity there is between them. Our captives at Tripoli had entered voluntarily on board a frigate of the United States, then at war with that Power; and in that war were taken prisoners, and when so, were neither inhumanly beaten, nor compelled to bear arms against any nation, although the war was vigorously carried on by the United States, to reduce the town in which they were prisoners. Did they suffer anything but what their voluntary will subjected them to—captivity, a frequent attendant, and always a possible consequence of war? Will their case bear any comparison with that of a passenger, who, to avoid the tyranny of a European despot, had left his native land, hoping to find a peaceful asylum in the United States the remainder of his days; supposing himself secure under the protection of their flag, escaped from the danger of the sea, in sight of land, with American seamen, endeared to him by their kindness on the passage; together forced by a press-gang on board a ship of war, and there compelled to bear arms against their friends? It will not; it sinks into insignificance; it is like a drop to the ocean. Shall we then treat with indifference an account laid on our tables, that three thousand of our seamen are not only taken captive, but many of them ignominiously beaten with many stripes, and compelled to assist in fighting the battles of the British Government, with nations with whom we are at peace? If the case of our captives at Tripoli was sufficient to excite such tender sensations in the minds of the members of Congress, as to induce them immediately to adopt efficient measures to obtain their release, will not the insolence and barbarity of British armed vessels, pressing our seamen in the mouths of our harbors, after a perilous voyage, rejoicing in beholding again their native land—enjoying by anticipation the pleasing company of their long absent friends—expecting, in a few hours, the completion of their happiness, in the rapturous embraces of their bosom friends, and beloved offspring? But, alas! from their native land, and from all the most near and dear connexions in life, they are inhumanly rent asunder, perhaps never again to see their hearts' delight, but forced on board one of those infernal machines called a British ship of war, and there compelled to imbrue their hands in human blood—in the blood of those with whom they have no difference—they receive mortal wounds—they languish—they die—without any tender friend to sympathize with them in their affliction, or tenderly close their dying eyes! Will not, I say, reflecting on such scenes as these, not only excite a superior degree of sympathy and tender feelings of humanity, but raise an honest indignation and decided detestation for the actors of those horrid scenes, and for that Government who pretends to be the principal supporter of liberty, and that holy religion, which enjoins upon its adherents to do unto all men as they would be done unto; and yet persists in those base and barbarous acts of injustice, which are disavowed and rejected by all other Christian nations! I hope it will. I hope there yet remains in this Committee some of the sparks of the sacred fire of liberty, that, on the 4th of July, 1776, arose into an irresistible flame, burned and destroyed that servile dependence on the haughty, oppressive, and tyrannical Government of Great Britain, who wished to bind the colonies in all cases whatsoever. May the remaining sparks be rekindled, and burn up the residue of the dregs of British tyranny! May the first session of the ninth Congress of the United States evince to the world that they are worthy of, and mean to support that liberty and independence, lately purchased at the price of blood; which we have now in our power to do, without the effusion of human blood; only by doing what I conceive to be our indispensable duty—to act justly and impartially toward all nations with whom we have intercourse, and to withhold intercourse from any nation that will not, in turn, deal justly, upon terms of perfect reciprocity.

Mr. Chairman, our situation on the map of the world places us in a commanding attitude—and our principal exports being the substantial necessaries of life, renders them essentially necessary to those European despots, many of whose wretch-

ed subjects, instead of being peaceably permitted to cultivate the soil, are hired, or compelled to leave this innocent occupation, and imbody themselves for the purpose of learning more completely the infernal art of inhumanly butchering the human species, and to destroy, in a short time, the productions of great and fertile countries, whereby always want, and sometimes famine is produced! Thus situated, the United States can, without shedding of human blood, and without permanent injury to her revenue, or citizens, compel the haughty tyrant of the ocean to do us that justice which several of the most powerful nations of Europe have long strove in vain to effect, by equipping large fleets, and raising mighty armies. For the United States of America is reserved by the Allwise Disposer of Events, that glorious work of effecting by peaceable means, a cessation from injustice and injuries, which war measures have only tended to increase. To prove this fact, we need only recur to the history of the last century; there we find three of the most powerful maritime nations of Europe—Holland, France, and Spain—contending with England, severally and jointly, for the sovereignty of the seas; and what has been the effect? Let the blood-stained ocean, and the numerous vessels of war, built and equipped by those nations that have heretofore, and do at this time, make component parts of the British navy, answer the question.

Perhaps I shall be told that I have given up the argument, by acknowledging that the three greatest maritime Powers during the last century, by opposing the tyranny of Britain, only increased her power at their own expense and loss. No, Mr. Chairman, I adduced this fact to show that they attacked her in the only point where she was invulnerable; they attacked her wooden walls, raised by her manufactures and supported in part by the plunder of foreign nations; they attacked the effect, let us attack the cause; remove the cause, and the effect will cease. This is not a sentiment peculiar to my weak brain; I believe it to be a sentiment adopted by a great majority of the most enlightened and best informed citizens of the United States. I believe so from verbal communications, and from public prints—an extract from one of these I shall now read:

"It is expected, (says the Independent Chronicle,) that, on the meeting of Congress, the important business of national commerce will be adopted, to give protection to our property and seamen; that the British nation will feel the force of our trade, not only within their manufacturing towns, but the islands. We have a strength in this species of warfare, which would command the attention and respect of that nation. Our imports of their fantastical articles of fashion, which only serve to vitiate our habits, and introduce idleness and dissipation among our citizens, are the mainsprings which enable them to enrich themselves at our cost. Let us only cease to barter our national honor for gewgaws and articles of foppery, and we might bid defiance to that Power, which now wantonly sports with our sovereignty and independence. The suppression of a cargo of British manufactures would be more powerful than ten sail-of-the-line; for the latter might be captured, and occasion a loss of millions, but the former would enforce its operation with an efficacy too powerful to be concealed, attended with the saving of millions of dollars, which are yearly remitted for superfluities. Let us know our strength, as it relates to Britain, and we should not hesitate long in putting it into operation. Ships of war are the strength of Britain, but a non-intercourse would soon dismount every cannon of their navy."

However chimerical this may appear to the eulogists of Britain, who suppose her power invincible, and her resources inexhaustible, they are as certain and inevitable consequences as that water will quench fire, or, that taking away the fuel will cause it to go out. But, suppose Great Britain should, contrary to her interest, refuse to enter into just and amicable arrangements with the United States; should let a non-intercourse law go into operation; should put forth her strength, as we have been told she will do, and make us feel it. What would be the consequence? In my opinion, a horn-book politician, that has only learned his A, B, C, (if he has not learned them in the school of a British Minister,) may discover the certain and inevitable consequence, that as their oppression and injustice to the Colonies produced a partial independence, their continuance therein would complete the system. I say a partial independence, and conceive myself fully authorized in adopting this language, as long as members of Congress hold up an idea that we cannot exist without importing British manufactures; that non-intercourse would injure the United States more than Great Britain, and that if we offend her Minister, he will put forth his strength, and make us feel it.

But, Mr. Chairman, as I desire not to trespass on the patience of this Committee, I will, in a few words, state what appears to me to be the real grounds of opposition to a non-intercourse law, which I consider as the only effectual measure. One member has told us, his tobacco is not sold. Another, that it would sacrifice at least one year's crop; and a third, that it will operate harder upon his constituents than in any other part of the Union. And here I must anticipate the situation of a fourth class, that has not sold their wheat. And another class of citizens, I should have added, to this list of anticipated sufferers, if we had not been informed, from high authority, that they were like slippery eels, that could slip round and evade any law: I mean the merchants, who, doubtless, have on hand large quantities of beef, pork, &c. But, as we are told, they are cool, calculating rogues, and, therefore, well able to help themselves, I shall leave them to manage their own business in their own way, and close the catalogue of sufferers with the case of my immediate constituents in New Jersey; they are, many of them, poor tenants, who depend upon paying high rents, and supporting their families by raising produce for market, and can only, by steady industry and rigid economy, pay their rents, and support their families. If produce falls one hundred per cent. what must their situation be? Will not they merit at least an equal share of commis-

eration with rich landholders, who clear, by raising tobacco, cotton, or rice, from five to ten, or fifteen thousand dollars per annum? I hope no member on this floor will conclude they do not. Yet, Mr. Chairman, I am bold to say, on their behalf, that, if it depended on their voice, they would say, pass the law. They would say, as some of their fathers said at the commencement of the Revolutionary war, we will put on our old clothes, and wear them over again; we will reject her manufactures, and forego the sweets of her islands, rather than submit to her insolence, and the cruelty of her commanders of armed vessels, pressing our fellow-citizens in the mouths of our harbors, and, by stripes and cruelty, compelling them to assist in fighting their battles against nations in amity and peace with us! This, I believe would be their language, and not theirs only, but a great majority of the citizens of the United States. So far am I from believing with my friend from Georgia, (Mr. Early,) that if all the people of the United States were fully informed of the conduct of Great Britain, nine-tenths would reject the present resolution; nineteen-twentieths would call upon us to pass a non-intercourse law, to prohibit trade with that nation, until she restored our seamen, and entered into arrangements to trade with us in future upon terms of perfect reciprocity.

A peace neutrality, a non-intercourse law to enforce the resolutions sent by the Senate to our President, will be more efficacious than fifty ships-of-the-line, and one hundred frigates. The voice of a respectable class of citizens, (the merchants,) who more immediately suffer loss of property; the voice of humanity; the sighs of aged parents, lamenting the absence of their beloved offspring; the heart-rending cries of tender females, for the loss of their bosom friends—all supported by the eternal, immutable principles of equal justice, united, call aloud to the Congress of the United States to apply an effectual remedy to this horrid scene of injustice, oppression, and tyranny! God grant that we may no longer turn a deaf ear or treat with indifference these calls.

As I do not intend to impose upon the Committee by frequent communications, I must beg their attention a few minutes longer.

Mr. Chairman, the confident declamation of a member (Mr. Randolph,) who has taken up the time of the Committee more than three times as long as any other, has brought to my remembrance the language of one, who, in his day, was called the wisest of men, (Solomon:) "Wo to thee, oh land, when thy King is a child." Wo to these United States, if ever that day should arrive when a majority of her Legislature should be children, rocked on downy pillows, dandled in the lap of pleasure, and fed at the table of luxury; whose knowledge is all theoretic, acquired by reading, seated in easy chairs. These are the mushrooms, the fungusses, the premature hot-bed productions, that we have been so often told of; notwithstanding they have had the assurance (may I not more properly say insolence?) on this floor, to treat the arguments of all who differ from them, as trifling, and unworthy of notice; and those resolutions, which other members have introduced, as spurious illegitimate productions, and their authors and supporters as horn-book politicians, not having learned their A, B, C, and, what is much worse, they never can; being so void of reason, that they ought to be put in straight-waistcoats, and kept in dark rooms. But, one ray of comfort, doubtless, strikes every honest mind, in observing, that this number of arrogant dictators is small. God grant that they may not barely remain small, but, (if they continue their late insolent conduct,) at the next election, be removed.

Mr. Chairman, members of this House who frequently take a retrospective view of the Revolutionary war, whereby the colonies of North America became free and independent States—who remember the time when the American Army, reduced to a skeleton, a handful of men, dispirited by defeats, and hard pressed by a powerful and victorious army crossed the Delaware at Trenton; and, in addition to the reduced state of the Army, a mortal disorder raged in various parts, which caused some to observe, that it appeared as if the hand of Providence was turned against us—but, in the sequel, had thankfully to acknowledge, that not by their own power, but through the mercy of the Allwise Disposer of Events, this powerful army was turned back again, and, finally, obliged to leave this land, with shame and disgrace! I say, those members will not rise on this floor and assert, that that Government, headed by the same Monarch, is now fighting the battles of liberty, and is the only barrier we have against Gallic tyranny; neither will they pour torrents of abuse upon the Government of that nation which was instrumental in procuring their freedom, and still manifests a friendly disposition to treat our citizens with respect, and our commerce with justice.

No, Mr. Chairman, I hope and trust there yet remains in this House, and in this nation, a great majority who believe in the existence of a Supreme Omnipotent Power, that not only reigns above, but doth whatsoever he sees meet among the children of men! These will not depend upon the fleets and armies of Great Britain to defend us from Gallic, or other tyranny; these will be concerned to act justly and impartially toward all nations, depending upon the God of justice, truth, and mercy, to bless their honest endeavors, and to preserve them and their constituents from all harm. With this class, however they may be despised by the wise and learned in their own conceit, it is my joy, my comfort, and my glory to act. These I salute as my beloved brethren, and for their encouragement, under the torrents of abuse that they have received, let them remember that the just man's path is a bright and shining light, that shines more and more unto the perfect day, and that all who walk in it walk safely, and have nothing to fear! I shall conclude with recommending to the perusal and attention of those wise and learned members, before alluded to, one verse of that justly celebrated prayer, composed by Alexander Pope:

"Let not this weak, unknowing hand
Presume thy bolts to throw,
And deal damnation round a land,
On each I judge thy foe."

Mr. J. Clay.—Several reasons induce me to advocate the resolution on your table, one of the principal of which is, that I believe it to be the best means of vindicating that right which is inherent in us as an independent and neutral nation, the right of freely navigating the ocean in our own ships, and carrying our own property. A view of the subject, in its proper aspect, will enable us to see what that right is, its real and legitimate extent, and, consequently, wherein it has been violated. In taking this view, I shall be led to consider the doctrine of neutral rights in a different light from that in which some gentlemen have taken it. It is much to be regretted that the original ground, of free ships making free goods, has ever been abandoned by us. Had this doctrine been established, an end would have been put to the vexations, and spoliations on neutral commerce, which have been committed under the pretext of covered property. As the neutrality of the ship would have insured the safety of the cargo, no temptation could possibly exist for fraudulent practices—no ground for the accusation. I believe this doctrine is the best supported by reason, and by the considerations of justice due to neutral by belligerent Powers. Nothing is more certain than, that a nation at war has no right to take enemy's property on neutral ground. No nation has ever claimed a right to violate the territory of a friend, in order to seize the property of an enemy; and it appears to me, that a ship, sailing under a neutral flag, ought to be considered in the same light as a part of the territory of the nation to which that flag belongs. The only inquiry which a belligerent is justified in making, is, whether the ship sails under false colors, or not? and this would be sufficiently shown by her papers. I believe this has been conceded by all nations, at least, as far as it respects ships of war. That it has been conceded by Great Britain, appears from the celebrated case of Jonathan Robbins, otherwise called Thomas Nash. By the Treaty of 1794, a person committing murder in the territory of one of the contracting parties, and fleeing to the other, was to be given up to the nation in whose territory the murder was committed. Under that treaty, this person was claimed as one of the mutineers on board the "Hermione," and was surrendered to the British by this Government. He could not have been demanded on a charge of piracy, it must have been on a charge of murder; and nothing can be clearer than that he was surrendered under the idea, that the ship, on board of which the murder had been committed, was British territory. If the act had been merely a piratical one, he could not have been demanded. This nation, as well as that, would have been competent to punish him; all nations having a concurrent jurisdiction over acts of piracy committed on the high seas. He must, therefore, have been demanded and surrendered under the Treaty of 1794, on the charge of murder, and both nations must have considered the ship as British ground. This, then, I take to be the true and legitimate extent of the claim of a neutral nation: that her ships shall be considered as a part of her territory, and, that if no fraud is committed in carrying the flag, they have a perfect right to pass unmolested. But, unfortunately, the right in this full extent, has been abandoned by our nation, and, however we may regret it, we are bound by the surrender.

It has been justly observed by my friend from Virginia, (Mr. J. Randolph,) that the nation who has the mastery of the sea, always finds it her interest to narrow down the rights of neutrals, and, indeed, attempts have been made by different nations totally to cut off all commerce with their enemies. So with Britain. We find, as early as the year 1688, that this was insisted upon by Great Britain. In her treaty with Holland of that year, she agreed to prohibit all trade with France, and it was attempted to be justified upon the same ground as is now set up as a pretext for her present aggressions—the ground of necessity and the inordinate ambition of the French Monarch. This was not submitted to by the neutral Powers. Sweden and other northern nations remonstrated, and their remonstrances were, I believe, successful.

In the year 1757, the man who has so often been alluded to by the epithet of "back stairs," the present Earl of Liverpool, wrote a book in vindication of the conduct of Great Britain towards neutral nations, and from it we may gather his sentiments on the treaty just mentioned. After quoting the second and third article of the convention, in which it was agreed that they, (Holland and England,) "would take any ship or vessel, whatever King or State it may belong to, that shall be found sailing into, or out of, the ports of France, and condemn both vessel and merchandise as legal prize; and, that this resolution should be notified to all neutral States," he proceeds:

"Such, therefore, at this time, was the avowed opinion of Holland, and England was induced to join with her in this convention, exceeding thereby those bounds of equity and moderation which she had almost always practised, in this point, before, and which she will, I hope, most faithfully observe for the future. The Northern Crowns, who were particularly affected by this prohibition, contended very vehemently against it. In answer to their objections, were urged the circumstances of affairs, the danger of Europe, and the mighty strength of that ambitious Power, which, if some extraordinary effort was not made, would bring mankind under its subjection. It is remarkable that Puffendorf, who owed his fortune and employment to one of those Northern Crowns, was of opinion, in this case, against them, and thought that the convention might be justified. It is not meant here, at present, either to censure or commend it. Circumstances may sometimes make a thing lawful, which, considered by itself, would be unjust. But, such times are truly unhappy, when necessity must be pleaded in support of a right."

Such was the opinion of the Earl of Liverpool, in the year 1757.

But, after having abandoned the doctrine of free ships making free goods, we must be content with endeavoring to examine what rights remain to

neutrals. Writers upon national law, who have supported the opposite principle, have attempted to show the extent of neutral rights in their commerce with the belligerent nations, and the principal restrictions are, that they cannot carry enemy's property, or goods contraband of war. Various definitions of contraband articles have been given. As long as the production or fabrication of warlike stores and arms were in the hands of a few nations, the application of the principle to them might have been just; but when they have become common to almost all nations, they are placed in the same situation as provisions and other articles of commerce, and it has become extremely doubtful whether the reasoning of modern politicians in regard to them is correct, particularly when nations on the eve of war, always provide themselves with sufficient magazines for carrying it on. But, even those who agree in the principle of confiscating contraband articles, find it difficult to regulate its extent. At one time, it is so restricted as to exclude from the list even naval stores and saltpetre; at another, it is carried to a ridiculous extent. Spain, at one time, undertook to define the list of contraband, and declared that tobacco should be included. This became a ground of offence to England, and Bynkershoek, who mentions the fact on the authority of Zouch, says, that the English, on this occasion, granted letters of reprisal against the Spaniards. The grave Dutchman then condescends to be jocose, and observes, "whether this 'controversy about tobacco ended in smoke or no, 'I am ignorant. This, however, I know, that I 'do not agree with the Spaniard in opinion, as no 'use was ever made of tobacco to kill an enemy."*

Now, when the doctrine of contraband may be carried to such dangerous, and even ludicrous lengths, does it not appear proper to abandon it altogether?

But recurring to the same authority to which I have already referred, we shall find what Great Britain herself understood to be the right of neutrals in the year 1757:

"It cannot, I think, be doubted, that according to those principles of natural equity, which constitute the law of nations, the people of every country must always have a right to trade in general to the ports of any State, though it may happen to be engaged in war with another, provided it be in their own merchandise, or on their own account, and that under this pretence they do not attempt to screen from one party the effects of the other, and on condition also that they carry not to either of them any implements of war, or whatever else, according to the nature of their respective situations, or the circumstances of the case, may be necessary to them for their defence. As clear as this point may be, it has sufficiently appeared by the facts deduced above, that amid the irregularities of war, the rules of equity in this respect were not always enough regarded; and that many Governments, in time of war, have often most licentiously disturbed, and sometimes prohibited totally, the commerce of neutral nations with their enemies."—*Discourse on the conduct of Great Britain.*

Here is no mention of accustomed trade. Enemy's property and contraband goods alone are mentioned as forbidden to be carried by the neutral. If a man had written a treatise in defence of American commerce he could not have been more explicit; he could not now have taken a different ground. We claim the right of carrying our own property—the products of our own industry and enterprise—to the ports of France, Spain, and Holland, in our own ships, and of importing goods from the belligerent Powers into our own country. This is all for which we contend. We send money to the East Indies and provisions to the West Indies, and we receive in return their coffee and sugar, which yields us a profit, and of which we obtain greater quantities than are required for our own consumption. What then? Are the United States bound to keep on hand the whole surplus? If so, we must abandon the trade altogether, for the accumulation would destroy it. No. These goods once landed become part of the stock of the nation, and she acquires the same right to export them to foreign countries, that she has to export her native productions. She has the same right to send them to Hamburg, to Holland, to France, and to Spain. When this is done another profit is obtained by our merchants, who import from Spain, France, and Holland, certain articles which, on their arrival in the United States, are found to be beyond our wants, or better suited to other markets, and are again exported. Are we to be deprived of this right too?

Here I might incidentally notice the impressment of our seamen, but as this subject has been dilated upon very fully, I shall make but a single remark. Although we have given up the doctrine that the national flag shall protect belligerent property on board of our ships, yet no man will contend that this relinquishment has gone so far as to admit the cruisers of a nation at war to take from our ships the goods, much less the persons of friends. And in a case where we find a British officer uniting in himself the characters of party, accuser, and judge, I do think the national feelings ought to be called forth. Having thus, as I think, succinctly stated the right to carry our own property in our own ships, I hope I shall be indulged in making a few remarks on the advantage to the nation of that species of trade most affected by the principle assumed by the British Government.

A distinction has been attempted to be drawn between the agricultural and commercial interests of the community. But it has been conceded, that if by this trade the national wealth has been increased, it is as much entitled to protec-

* "De tabaco magnis animis inter Hispanos et Anglos quæ si tum esse refert Zoucheus, (part 2, *de jure fec.*, Sec. 8, Q. 12,) et ab Hispanis, judicatum inter res veritas esse, adeo propterea indignantibus Anglis, ut etiam contra Hispanos repressalias, concesserint. Sed an ea controversia de tabaco tandem in fumam abierit, nescio; hoc scio me Hispanis non conscentire, quia verum est tabaci nullum usum esse ad cædendum hostem."—*Bynkershoek, Quæst. juris publice, Lib. I. Cap. X.*

tion as the profit which springs from the productions of the soil. If it were possible to confine our commerce to the exportation of the surplus of our agricultural products, and to the introduction of those foreign articles of which we are in want, there is no man but would agree that it would be advantageous to carry on this trade by our own merchants, and in our own ships, as both the freight and the profit would be saved to the national stock. For instance, cotton, on which the average profit may be stated on every pound exported at not less than two and a half cents, and the freight at three cents. If, therefore, the carriage of this article is made in our own ships, we save on every pound of cotton exported five and a half cents, which, if transported by foreign merchants in foreign vessels, would go into the pockets of foreigners. The same thing may be said with regard to the importation of foreign commodities from foreign countries. There can, therefore, be no difference of opinion respecting the advantages of this, which may be called the direct carrying trade.

We now come to the second branch of the carrying trade, which has been so much reprobated; this consists in importing foreign products, and re-exporting the surplus of those products beyond our own consumption. This may be called the circuitous branch of it. Independent of the profit of this trade to the merchant, there are other advantages arising from it to the consumer. Where there is a fair competition in the market, an importation of any article much beyond the wants of the people, naturally tends to reduce the price, even although it should be intended to export the excess. For if the importer can get a reasonable profit, he will prefer selling at home to encountering the perils of the sea, and the uncertainties of a foreign market. A surplus of imported productions, therefore, is a circumstance which naturally brings them down to their minimum value. This is the first advantage, and is sensibly felt by the planter. The second arises from the peculiarity of our own situation. Most of the manufactures which we want are imported from England; the proceeds of our exports to other countries of Europe are ordered to Great Britain, and there constitute a fund from which the importing merchant pays debts due there. In proportion to the accumulation of this fund, the price of exchange falls, and the merchant is enabled to import more with the same capital; the quantity imported will exceed the demand here, and those manufactures will again be kept at their minimum value. These are the advantages to the consumer, and are but slightly connected with the mercantile profit on the trade. But there is an advantage independent of mere profit, which I have hinted at, but which has not been noticed in this debate—I mean the freight. From a statement on your table it appears, that in the foreign trade, six hundred and seventy thousand tons of American shipping are annually employed. The price of freight in time of peace from Great Britain to America might be estimated at £2 sterling per ton. Taking this as an average rate, if we reckon it at as much out, and calculate upon two voyages a year, this would be £8 sterling per ton; but supposing only half the shipping to be employed, and reckoning at this old peace average, the amount of freight would be upwards of eleven millions of dollars; seamen's wages may perhaps be not inaccurately estimated at about three millions of dollars, deducting which, it will be found on this moderate calculation that there is an annual benefit drawn from this freight-trade of eight millions of dollars. I ask, then, if this trade is not worth protecting? I might further show the advantage of this trade to the agricultural interest, by stating that the increase of capital from the profits of it enables the merchant to give a higher price for the productions of the planter and farmer.

The next question is, whether the course contemplated by the resolution will be adequate to procure a redress of the injuries of which we complain. In every discussion of this kind the first consideration is whether the measure which we are about to adopt will be the most distressing to ourselves or to our adversary, and the second, whether it will be such as to induce the Power injuring us to desist from her aggressions. I gave my reasons on a former occasion for believing that a total prohibition of British goods will not answer our purpose; I believe, however, the measure now proposed will. By the report of the Secretary of the Treasury, it appears that in the trade between this country and Great Britain there is a balance in her favor of twelve millions of dollars per annum. There are some considerations which induce me to think this estimate overrated. All goods paying ad valorem duties imported from the East Indies are estimated at the custom-house by adding twenty per cent. to their original cost, and those imported from Europe by adding 10 per cent. on the invoice price; deducting this advance from the amount of goods paying duties ad valorem, imported from British dominions, and the sum will be diminished two or three millions. The true balance of trade carried on in our own ships is best shown by the difference between the amount of goods imported at the cost at the places from which they are brought, and the amount of products exported at the places to which they are carried; and the freight always constituting a part of the price, a trade may be advantageous to a nation merely by saving the carriage. But the profit ought at least to be taken into view. I may be incorrect, but I believe not much, in supposing the profit on cotton exported to Great Britain to be two cents a pound, it would amount, upon an average of three years, to half a million of dollars per annum. This ought also to be deducted from the balance as reported by the Secretary. In this way the relative difference between the amount of exports and imports to and from the British dominions is materially diminished; and after this calculation I believe it will be found that this difference does not exceed ten millions of dollars. This excess of imports over exports must be made up from our trade to other countries—from our trade to Holland, France, Spain, and so on. Nor is this source inadequate. Taking only two articles of our export to those countries—I mean cotton and coffee—of the first of which France takes about one-fourth of all which we ship, and making the same deductions which I have before stated on goods imported and paying duties ad valorem, and without calculating the profit on other articles, I think I may be warranted in stating the whole amount of our exports to all parts of the world, estimated upon the Secretary's report, for three years, at an average of seventy-two millions of dollars per annum, and our imports at seventy millions, leaving a balance to the United States of about two millions of dollars. This sum added to what I have said arises from our freight, namely, eight millions of dollars, produces a clear sum of ten millions of dollars as the annual average profit to the nation on our trade with the whole world. This is the fruit of thirteen years neutrality, and it is this sum which, accumulating in the hands of our merchants, has formed the capital which enables them to carry the commerce of the world, and effectually contradicts the charge of covering property.

If I am right in stating the balance of trade between us and Great Britain at ten millions of dollars in her favor, every step which we may take tending to reduce this balance, will so far operate to her injury. This may be done by adopting the course recommended in the resolution before us. In doing this, it behooves us to single out such articles as we can do without, or which we can procure from other countries. This will affect Great Britain without materially injuring ourselves. The prohibition in the resolution is confined to articles which may be got from the continent of Europe, or manufactured at home. In this way we may diminish the balance against us in our British trade, and if we could so far reduce it, it would be an annual loss to that nation of ten millions of dollars, while it would injure us but little. It will, therefore, be her interest to prevent the effects of this measure by desisting from her aggressions, and by adopting a system founded in justice and mutual advantage to the neutral and to the belligerent.

But while I am in favor of this resolution, I wish it had been accompanied by some measures connected with a permanent system of navigation laws, such as I had the honor of introducing. It is said, however, that your navigation is so far protected that foreign shipping is almost banished from your ports. This is true; but this effect does not flow from our commercial regulations. It arises from the circumstances of the times—from the war between the great maritime nations of Europe. Their ships must be armed; they must have more men; provisions with them are dearer than with us; they cannot sail as cheap as we can, and to this inability must be added the difference in the rate of insurance. These are the causes of the decrease of foreign tonnage in our trade. Another consideration shows that this effect does not proceed from our commercial regulations. Great Britain lays higher discriminating duties on goods imported into the United Kingdom, in American ships, than the difference paid in duties on goods brought to the United States in foreign and American vessels. On some articles it amounts to one-third of the duty; add to this that our vessels are charged port duties, light-money, and other duties much beyond those which are paid by her ships in our ports. Combining all these circumstances together, it will be found that American vessels, in the trade carried on to Great Britain, sail under great disadvantages from commercial arrangements, and are exposed to greater burdens in her ports than British vessels are in ours. The same observations apply in a great degree to our intercourse with the other belligerent Powers. Besides, we are prohibited from trading to the British colonies in our own ships. We are not permitted to go there unless by proclamations of their Governors, dictated sometimes by necessity, and often by caprice. By the English navigation act we cannot carry anything but articles of the growth or product of our own country, while we permit everything to be brought from Great Britain. I should suppose it would be right to meet her regulations by adopting reciprocal ones, and to prohibit any articles being brought by her vessels into the United States, which are not the growth, produce, or manufacture of the British dominions. I hope a provision of this nature will at some future day make a part of our permanent navigation system. I have declared myself in favor of the resolution on your table; yet, however inconsistent it may appear to some gentlemen, I must be indulged in expressing a hope that the final question will be delayed for a few days. It has been already said that a great length of time (nearly four months) has elapsed since we have heard from our Minister at the Court of Great Britain, and from the importance of the events which are passing on the great theatre of Europe, it is probable they will have no inconsiderable effect on her measures towards us. Our Minister is now engaged in a negotiation, the result of which I should wish to know before we act on this resolution. I therefore hope, that after we have made a little further progress in this discussion, the Committee will rise, and take some future time to deliberate on the subject.

Mr. Eppes hoped the Committee would not rise. The subject had been long before the Committee, and they were perfectly ripe for a decision; the subject pressed for a decision. After a vote on the resolution, a bill must be brought in, on every item of which a discussion may take place, and then it will still remain to be discussed in the other branch. As to any change of affairs in Europe, they ought to have no influence upon our affairs in this decision. I wish that Great Britain knew at this moment the step which the nation is about to take, that she might learn that when our rights are invaded, we will not hesitate to take measures for obtaining redress.

Mr. Smilie likewise opposed the motion. He asked whether it became them to wait for a state

of affairs more favorable to Britain than the present, and whether the United States would then be enabled to meet her on better ground. Supposing even there was a probability of a favorable treaty being formed, it ought to have no influence on their decision, for it was known that as soon as a treaty was ratified, it became the law of the land, and repealed all interfering laws. One thing, however, was important, that even supposing a treaty to be formed, Great Britain should see we were determined not to be trampled on, but to resist her aggressions.

The motion for the Committee to rise having been rejected, the question was taken on the resolution originally proposed by Mr. NICHOLSON, when the Committee rose, and the House concurred in its adoption—yeas 87, nays 35, as follows:

YEAS—Evan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, William Butler, George W. Campbell, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jr., Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, Michael Leib, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Silas Betton, Phanuel Bishop, James M. Broom, John Campbell, Levi Casey, Martin Chittenden, Leonard Covington, Samuel W. Dana, John Davenport, jr., Elias Earle, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Hough, James Kelly, Joseph Lewis, jr., Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, jr., Josiah Quincy, Thomas Sandford, John Cotton Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Daniel C. Verplanck, and Peleg Wadsworth.

Mr. EARLY moved that the resolution be referred to the Committee of Ways and Means to bring in a bill.

Messrs. ALSTON, SMILIE, LEIB, and SOUTHARD, opposed this reference, and advocated a reference to a select committee.

The motion of reference to the Committee of Ways and Means was disagreed to without a division; when the reference to a select committee of five members, composed of Messrs. MUMFORD, BIDWELL, SMILIE, EPPES, and ALSTON, obtained.

Mr. EARLY laid a resolution on the table, declaring it expedient, in the opinion of the House, to adjourn on the first Monday in April.

Mr. GREGG observed that as it appeared to be the sense of the House, not to go further this session than to carry into effect the resolution just agreed to, and as it was the wish of some gentlemen to discharge the Committee of the Whole from the resolution which he had had the honor to submit, he would move that the Committee of the Whole should be discharged from that resolution.

Mr. SLOAN having acquiesced in the same course with regard to his resolution, the Committee were discharged, without a division, from the further consideration of both those propositions.

These resolutions having been, by this vote, again brought before the House, Mr. EARLY moved to postpone them indefinitely, but withdrew his motion, on Mr. GREGG and Mr. SLOAN agreeing to withdraw their respective resolutions.

TUESDAY, March 18.

Mr. JACKSON, from the committee appointed, on the twenty-third of December last, on a Message from the President of the United States, transmitting a report from the Governor and Presiding Judge of the Territory of Michigan, relative to the state of that Territory, made a report thereon; which was read, and ordered to lie on the table.

Mr. JACKSON, from the same committee, presented a bill to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes; which was read twice and committed to a Committee of the Whole on Monday next.

A message from the Senate, informed the House that the Senate agree to the conference desired by this House on the subject-matter of the amendment proposed by the Senate to the bill, entitled "An act for the relief of Peter Landais," and disagreed to by this House; and have appointed managers at the said conference on their part.

POTOMAC BRIDGE.

The House proceeded to consider the amendments reported from the Committee of the whole House, on the fourth instant, to the bill authorizing the erection of a bridge over the river Potomac, in the District of Columbia: Whereupon, the amendments to the first, third, fourth, fifth, seventh, eighth, ninth, and tenth sections of the said bill being again read, were, upon the question severally put thereupon, agreed to by the House.

The amendment to the last proviso in the eleventh section of the said bill being under consideration, the said proviso was read, in the words following, to wit:

"*And provided further*, That, if the net annual revenue arising from the said tolls shall, at any time, exceed the average rate of —— per centum per annum upon the capital stock actually subscribed for, after deducting the annual expense of keeping and maintaining the said bridge, properly repaired, and furnished with all necessary attendance and implements, of compensating the officers, agents, and servants, of the said company, and other incidental annual expenses in carrying on the business of the said company; then, and in that case, the rates of toll may be thereafter altered and regulated as Congress may judge proper; and the President and Directors of said company shall lay before Congress the annual accounts of their receipts and expenditures, as also of the capital employed in the erection of the said bridge:"

The question being taken that the House do agree with the Committee of the whole House in their amendment to fill up the blank in the said proviso, for the rate per centum therein to be allowed, with the words "twenty-four:" it passed in the negative—yeas 49, nays 53, as follows:

YEAS—George M. Bedinger, Silas Betton, James M. Broom, William Butler, Martin Chittenden, Christopher Clark, Joseph Clay, Matthew Clay, Elias Earle, Caleb Ellis, Ebenezer Elmer, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jun., Matthew Lyon, Thomas Moore, Jonathan O. Mosely, Joseph H. Nicholson, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, John Cotton Smith, Thomas Spalding, Richard Stanford, William Stedman, Samuel Taggart, Philip R. Thompson Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

NAYS—Evan Alexander, Willis Alston, junior, David Bard, Joseph Barker, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Campbell, John Chandler, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Samuel W. Dana, Ezra Darby, John Davenport, junior, William Dickson, Peter Early, James Elliot, William Ely, William Findley, James Fisk, Charles Goldsborough, Edwin Gray, Isaiah L. Green, John Hamilton, Michael Leib, Duncan MacFarland, Patrick Magruder, Josiah Masters, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, Timothy Pitkin, junior, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smith, Samuel Smith, Henry Southard, Benjamin Tallmadge, Samuel Tenney, Joseph B. Varnum, Matthew Walton, Robert Whitehill, Marmaduke Williams, and Nathan Williams.

A motion was then made, and the question being put, to fill up the blank in the said proviso with the word "twenty," it was resolved in the affirmative.

The other amendments to the said eleventh section being under consideration, were, upon the question severally put thereupon, agreed to by the House.

A motion was then made, and the question being put, further to amend the said bill, by adding, at the end thereof, a new section, in the words following, to wit:

"*And be it further enacted*, That, in case said bridge should, at any time hereafter, be destroyed, and the corporate property of the said company should thereby prove insufficient to pay the debts owing by said company, each creditor of said company, after having obtained judgment against said company for the debt owing to him, may levy his execution on the persons or private property of the individuals composing said company at the time of the destruction of said bridge, and have satisfaction from each of said individuals for a sum that shall have the same proportion to the amount of said judgment as the share, or number of shares, in the said bridge, owned by the individual upon whom the execution be levied, bears to the whole number of active shares in the same:"

It passed in the negative—yeas 44, nays 65, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, John Blake, jr., Thomas Blount, Robert Brown, George W. Campbell, John Campbell, John Chandler, Jacob Crowninshield, Samuel W. Dana, Ezra Darby, Peter Early, James Elliot, Caleb Ellis, William Findley, John Fowler, Charles Goldsborough, Isaiah L. Green, David Holmes, David Hough, Michael Leib, Duncan MacFarland, Patrick Magruder, Josiah Masters, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, jr., John Rhea of Tennessee, Thomas Sandford, James Sloan, John C. Smith, Samuel Smith, Joseph Stanton, Samuel Tenney, Thomas W. Thompson, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, and Marmaduke Williams.

NAYS—Evan Alexander, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William Blackledge, James M. Broom, William Butler, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jun., Frederick Conrad Richard Cutts, John Davenport, jr., William Dickson, Elias Earle, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, James M. Garnett, Peterson Goodwyn, Andrew Gregg, Silas Halsey, Seth Hastings, William Helms, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, jun., Matthew Lyon, Robert Marion, Nicholas R. Moore, Thomas Moore, Jonathan O. Moseley, Gurdon S. Mumford, Thomas Newton, jr., Joseph H. Nicholson, John Pugh, Josiah Quincy, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Eliphalet Wickes, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

The House proceeded further to amend the said bill: when, an adjournment being called for, the House adjourned.

WEDNESDAY, March 19.

A petition of sundry inhabitants of the county of Prince William, in the State of Virginia, was presented to the House and read, expressive of their wishes, and praying that the bill authorizing the erection of a bridge over the river Potomac, in the District of Columbia, may be passed into a law.

Ordered, That the said petition do lie on the table.

Mr. STANTON, one of the members from the

State of Rhode Island, presented to the House several resolutions of the General Assembly of the said State, disagreeing to certain resolutions of the Legislatures of the States of Kentucky and Pennsylvania, proposing an amendment to the Constitution of the United States, so as to confine the judiciary power of the courts of the United States to certain cases in the said resolution specified; which were read, and ordered to lie on the table.

Mr. Gardenier, from the Committee on the Public Lands, to whom was referred, on the fourth ultimo, the memorial of the regents of the University of Orleans, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Saturday next.

On motion, it was

Resolved, That the committee to whom was referred so much of the Message of the President of the United States "as relates to the organization and classification of the militia, and to the augmentation of our land forces, be directed to inquire into the expediency of passing a declaratory act relating to the exemption of mariners actually employed in the sea service of any citizen or merchant within the United States from militia duty; and that the committee have leave to report by bill, or otherwise.

The House resumed the consideration of the bill authorizing the erection of a bridge over the river Potomac, in the District of Columbia.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate, having been informed that the honorable James Jackson, Esq., one of the Senators from the State of Georgia, died yesterday, have appointed a committee to take order for superintending his funeral.

The House then proceeded to consider the said message: Whereupon,

Resolved, unanimously, That this House will attend the funeral of James Jackson, Esq., late a member of the Senate of the United States.

Resolved, unanimously, That the members of this House do wear mourning on the left arm for the space of one month, in testimony of their respect for the memory of that distinguished Revolutionary patriot.

CANAL AT THE RAPIDS OF THE OHIO.

Mr. Boyle, from the committee appointed, on the tenth ultimo, on the memorial of the Legislature of the State of Kentucky, made a report thereon; which was read, and referred to the Committee of the Whole, to whom was committed, on the fifth instant, the report of a select committee on the petition of the President and Directors of the Chesapeake and Delaware Canal Company. The report is as follows:

That, of the practicability of opening the proposed canal, and of its preference to one contemplated on the opposite side of the river, as well on account of the greater facility of its accomplishment, as of the superior advantages that would result to the navigation of the river, when accomplished, may, in the opinion of the committee, be correctly estimated by reference to a draught of part of the river, and notes explanatory thereof, which accompany the memorial. Of the immense utility of the proposed canal no one can doubt who reflects for a moment upon the vast extent of fertile country which is watered by the Ohio and its tributary streams, and upon the incalculable amount of produce which must, of course, necessarily find its way to market by descending that river and encountering the danger and difficulties of passing its rapids. But, besides the general advantages which would result from the completion of the proposed canal, it is, in the opinion of the committee, particularly interesting to the United States, inasmuch as it would greatly enhance the value of the public lands northwest of the Ohio. There can be but little doubt that, by the additional value it would give to the public lands, the United States would be more than remunerated for the aid which the Legislature of Kentucky have solicited.

From these considerations the committee would not hesitate to recommend a donation or subscription of shares to the amount contemplated by the law of the Legislature of Kentucky incorporating the Ohio Canal Company, if they believed the state of the public finances was such as to justify it. But, from the applications already made for aid in opening canals, it is probable that, if the United States enter upon expenses of this kind, those expenses cannot be inconsiderable; and, as the revenue of the United States is already pledged, almost to the full amount, for purposes, though not more useful, yet more urgent, the committee are induced to submit the following resolution:

Resolved, That it is inexpedient to grant, at present, the aid solicited by the Legislature of Kentucky, in opening a canal to avoid the rapids of the Ohio.

Thursday, March 20.

A Message was received from the President of the United States, communicating information in relation to innovations of Spanish troops on the Sabine. The Message was read, and, together with the documents transmitted therewith, ordered to lie on the table.

The Speaker laid before the House a letter and report from the Postmaster General, transmitting a list of the names of persons who have made contracts for carrying the mail of the United States, since the last day of December, one thousand eight hundred and four, showing the terms and duration of each contract, respectively; made in pursuance of a resolution of the House of the thirteenth instant; which were read, and ordered to lie on the table.

Mr. Clark, from the committee to whom was referred, on the fifth instant, a letter from the Secretary of the Navy, communicating the nature and extent of the services rendered to the captive crew of the late frigate Philadelphia, by his Danish Majesty's Consul at Tripoli, made a report thereon; which was read and considered: Whereupon, the resolution contained in the said report, in the form of a joint resolution of the two Houses being twice read at the Clerk's table, in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to cause to be made known to Nicholas C. Nissen, Esq., his Danish Majesty's Consul, residing at Tripoli, the high sense entertained by Congress of his disinterested and benevolent attentions manifested to Captain Bainbridge, his officers, and crew, during the time of their captivity in Tripoli.

Ordered, That the said resolution be engrossed and read the third time to-morrow.

Friday, March 21.

Several petitions of the inhabitants of the city of New York, signed by sundry of the said inhabitants, in behalf of the several wards of the said city, were presented to the House and read, praying that permanent defence for the city and port of New York, may be speedily commenced, on a scale that will insure protection against national hostility, or predatory incursions; and that the harbor of New York may be made the station of such ships of war as are not otherwise employed.—Referred to a Committee of the whole House on the state of the Union.

Mr. Mumford, from the committee appointed on the seventeenth instant, presented a bill to prohibit the importation of certain goods, wares, and merchandise; which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. Thomas, from the Committee on the Post Office and Post Roads, presented a bill further to alter and establish certain post roads; which was read twice and committed to a Committee of the whole House on Monday next.

The Speaker laid before the House a letter from the Postmaster General, showing the obstructions to the transmission of the mail from Athens, in the State of Georgia, to New Orleans; and giving an estimate of the probable expense of opening a horse road between the same points, made in pursuance of a resolution of the House, of the seventeenth instant; which were read, and referred to the Committee of the whole House, to whom was committed, on the twentieth ultimo, the bill making appropriations for the support of Government, for the year one thousand eight hundred and six.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill for erecting certain light-houses in the State of Massachusetts, and for building a beacon or pier at Bridgeport, in the State of Connecticut; which was read twice and committed to a Committee of the Whole House on Monday next.

The engrossed resolution, in the form of a joint resolution of the two Houses, expressive of the sense of Congress of the disinterested and benevolent attentions of his Danish Majesty's Consul at Tripoli, to Captain Bainbridge, his officers, and crew, during their captivity at Tripoli, was read the third time

Resolved, unanimously, That the said resolution do pass, and that the Clerk of this House do carry the same to the Senate, and desire thir concurrence.

Mr. Early offered the following resolution:

Resolved, That the standing and select committees be directed to report on all the business heretofore referred to them, and now depending, before the last Wednesday of the present month.

Mr. J. C. Smith opposed this motion, and suggested the propriety of acting on the resolution relative to an adjournment.

Mr. Early withdrew his motion, and said that he would pursue this course.

Mr. E. then withdrew the resolution offered by him a few days since, relative to an adjournment, and substituted in lieu thereof a resolution directing the President of the Senate and the Speaker of the House of Representatives to adjourn the two Houses on the first Monday of April.

Mr. Smilie moved a postponement of the consideration of this resolution until Monday week, to allow, in the interim, time for the adoption of the national business before the House.

Mr. Early disclaimed any intention to defeat the measure alluded to by the gentleman from Pennsylvania.

After some further debate the motion of postponement prevailed.

RULES OF THE HOUSE.

Mr. Thomas said he wished to submit a motion to amend the rules of the House and he would, in a few words, state the reason which influenced him.

The bill, said Mr. T., for a partial non-importation of the products and manufactures of Great Britain, is now before us, and we shall soon be again engaged on the subject of our differences with that nation: a subject which has been, and probably will be again, embraced as a theme on which much of the precious time of this House has been spent, and I think its dignity prostrated; in talking about, and animadverting on all the little local party divisions, which have been artfully attempted to be raised in different sections of this Union by designing individuals and newspaper writers, but which, as to principle, do not in reality exist: in attempting, by low epithets and personal allusions, to criminate the present Chief Magistrate of this country, who not only possesses the entire confidence, and is the pride and boast of almost unanimous America, but has been eulogized throughout Europe, and the whole civilized world, for the salutary measures which he has recommended and adopted, to lessen his own patronage, to lighten the burdens of the people, to preserve peace, and to render their independence, freedom, and happiness, permanent and secure, and whose political life will be transmitted to posterity, in the fairest pages of history, as a model of public virtue, and true patriotism: In canvassing for the election of another President; in attempting to excite jealousies, and disturb the harmony and unanmity of the nation, at this momentous crisis—besides the low personal abuse, which, while that subject was before under consideration, has been levelled at a great number of the most respectable members of this House—all of which, I deem a gross violation of its dignity, and the honor of the nation,

and which I will set my face against, while I am honored with a seat on this floor.

Our rules, on this subject, are either misconstrued or they are defective—I shall, therefore, propose an alteration.

But by this, said Mr. T., I wish not to be understood, as having any reference to the low invectives directed at myself, the other day, by a member, whom I, exercising a Constitutional right, called to order, when, in my opinion, he was outraging decency and decorum—for I viewed that only as a stroke in the desperate struggle of one, who, from disappointment and chagrin, was politically strangled by his own hands, and just expiring. I feel far above being affected by anything of this kind, individually, but I feel for the dignity of this House and for the reputation of the American Government—and in order, if possible, to prevent this kind of transgression in future, by bringing questions of order fairly before the Chair and the House, I will submit the following resolution:

Resolved, That when a member is called to order by another, he shall immediately sit down, and the member calling the other to order shall then be allowed to state the points which he objects to, as being out of order, so that the decision of the Chair and the House may be taken thereon.

The resolution was ordered to lie on the table.

POSTMASTER GENERAL.

Mr. Clark said: Mr. Speaker, I rise to lay a resolution on the table, which I have for some time past kept in my drawer. I will do this with a view of affording this House an opportunity of exercising one of its Constitutional powers. I consider the House of Representatives as the immediate guardians of the rights of those whom they represent. They are more dispersed throughout the United States than any other class of public men, and from them on their return home the people may rationally expect a more complete information of what is passing here than from any other persons. In so extensive a country there is a better chance of their affairs being known through this organ than through licentious presses. With regard to the public character, who is the object of this resolution, I have long had suspicions, and I have since found, from what I consider good authority, these suspicions confirmed. I have good reason to believe that a man high in office, no other man than the Postmaster General of the United States, has been combining and machinating against the representatives of the people, and that he has used his efforts to seduce a press (Mr. Clark is understood to have alluded to the Aurora) to aid him in a claim depending before this House. I know of one authority which could relieve this House from the necessity of discharging what may be considered an unpleasant duty, by getting rid of what may be called a public nuisance—I mean the President of the United States. It is because I believe that great and good man, whose greatest fault, if he has a fault, consists in his goodness, has not been fully informed on this subject, that this course is rendered necessary. I have such confidence in the President, that I believe, if he had received this information, he would not have suffered his officer to remain a moment in place. But good, just, and honest himself, he listens to earwigs who surround him, who extol this officer, and whisper sweet things in his favor. I think it is a duty I owe to the Government to take this step. As to the representative part of it I have little apprehension, as I know that in case of misconduct the election screw, that admirable feature of the system, will apply an abundant remedy. But when an officer in the Executive Department is found to be undeserving of confidence it is right that the people should know it; and, with the convictions I entertain, I should not do my duty if I did not make this motion, before the end of my political life, which may in a few days expire—I therefore submit the following resolution:

Resolved, That a committee be appointed to inquire into the conduct of Gideon Granger, Postmaster General of the United States, and report their opinion whether the said Gideon Granger hath so acted in his capacity of Postmaster General, as to require the interposition of the Constitutional power of this House.

The House having agreed to consider this resolution,

Mr. Dana suggested the expediency of letting it lie for a day, as an important principle was involved in its adoption.

Mr. Clark replied, that though he felt the strongest disposition to be obliging, he could not agree to the postponement. The session was pressing towards a close, and there was no time to be lost. The inquiry ought to be made, that the officer implicated might, if innocent, be acquitted; and if guilty, be dismissed from office.

Mr. Jackson hoped the resolution would not be permitted to lie unacted on. It is certainly a duty due by gentlemen on this floor, as well to their constituents, as to the gentleman inculpated, to call for an investigation. This duty my colleague has now undertaken, and I rejoice at it; for when this same officer was accused at a former session, and asked an inquiry into his conduct, we were told he should not be indulged in that high honor. I trust his conduct will now be inquired into; that if guilty, he will be removed from office, or if innocent, he may be honorably acquitted.

Mr. Lyon was likewise in favor of an immediate agreement to the resolution, and remarked that it was exactly the thing solicited the last session by the Postmaster General.

Mr. Smilie said it was proper that an inquiry should be made whenever there were any allegations of criminality; without such allegations he was not ready to vote for this inquiry—should they be made he should be ready to vote for it.

Mr. Clark said he had stated, what he thought would have been distinctly heard throughout the House, that he had been well informed, and which he believed could be established by unexceptionable testimony, that the Postmaster General had conspired against the representatives of the people by attempting to seduce a press in favor of a claim he had before the House.

Mr. Smilie observed that he had not before heard this allegation stated; having heard it, he was ready to vote in favor of the inquiry.

Mr. Sloan said the resolution ought to unite all descriptions of members in its favor—those friendly to its object, those inimical to it, and if there were any, those neuter to it; especially after the request made by the Postmaster General at the last session to the same effect.

The resolution was then agreed to without a division, and a committee of inquiry appointed, consisting of Messrs. Clark, Roger Nelson, Bidwell, J. Clay, Pitkin, D. R. Williams, and Clinton.

POTOMAC BRIDGE.

An engrossed bill to authorize the erection of a bridge over the river Potomac, in the District of Columbia, was read the third time; and on the question that the said bill do pass, it was resolved in the affirmative—yeas 61, nays 52, as follows:

Yeas—Evan Alexander, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William Blackledge, John Boyle, William Butler, Levi Casey, Martin Chittenden, John Claiborne, Chris. Clark, Matthew Clay, Orchard Cook, Elias Earle, Ebenezer Elmer, William Ely, James Fisk, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, William Helms, David Hough, Walter Jones, James Kelly, Nehemiah Knight, Joseph Lewis, junior, Matthew Lyon, William McCreery, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Thomas Newton, jun., Joseph H. Nicholson, Josiah Quincy, John Randolph, Thomas M. Randolph, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Eliphalet Wickes, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Isaac Anderson, David Bard, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Campbell, John Chandler, Jacob Crowninshield, Samuel W. Dana, John Davenport, jun., John Dawson, William Dickson, Peter Early, James Elliot, Caleb Ellis, John W. Eppes, William Findley, John Fowler, Charles Goldsborough, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, David Holmes, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, Jeremiah Morrow, John Morrow, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, junior, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Thomas W. Thompson, Joseph B. Varnum, Matthew Walton, John Whitehill, David R. Williams, and Marmaduke Williams.

About 2 o'clock Mr. D. R. Williams said he had a motion to make, which required the galleries to be cleared. They were accordingly cleared.

Saturday, March 22.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," with several amendments; to which they desire the concurrence of this House.

A petition of sundry inhabitants of the Territory of Louisiana was presented to the House and read, praying that an amendment may be made to the act, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana," confirming all *bona fide* concessions of land to the inhabitants of the said Territory, prior to the cession thereof to the United States; that the benefits contained in the second section of the said act may be extended to all heads of families who were employed in the cultivation of the earth for themselves and others, anterior to the aforesaid cession; that a grant of two hundred acres of land may be made to each person resident within the said District for sixteen years and upwards; and that the time for entering and recording the claims and titles to land within the Territory of Louisiana may be extended to the first day of March, one thousand eight hundred and seven.—Referred to the Committee on the Public Lands.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a list of bills drawn by the Minister Plenipotentiary of the United States at Paris, on the Treasury of the United States, for claims embraced by the convention with the French Republic, of April thirtieth, one thousand eight hundred and three, which have been presented at the Treasury, previous to the fourteenth of March, one thousand eight hundred and six; in pursuance of a resolution of the House of the thirteenth instant; which were read, and ordered to lie on the table.

Mr. Tallmadge, from the committee to whom was referred, on the sixth instant, the amendments proposed by the Senate to the bill, entitled "An act relating to bonds given by marshals," reported to the House their agreement to the same, with several amendments.

The House proceeded to consider the said amendments: Whereupon,

Resolved, That this House do agree to the same.

Mr. John Randolph, from the Committee of Ways and Means, to whom were referred, on the twenty-fourth, thirtieth, and thirty-first of December, and on the second and sixteenth of January last, sundry petitions of purchasers of public lands in the State of Ohio, and in the Indiana Territory, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Monday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives:" Whereupon, the said amendments, together with the bill, were committed to Mr. Leib, Mr. Trigg, and Mr. Seaver.

Mr. Jackson moved the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to lay before the House a statement of the quantity of lands sold in the State of Ohio, in each year, from the thirtieth day of June, one

thousand eight hundred and two, up to the period of the last returns made to the Treasury Department, with the amount for which they were sold:

Ordered, That the said motion do lie on the table.

RULES OF THE HOUSE.

The House resolved itself into a Committee of the Whole on the report of the committee to whom was referred, on the seventh ultimo, a resolution to inquire into the expediency of amending the standing rules and orders of the House, so far as to prescribe the mode of keeping the Journals; and, after some time spent therein, the Committee rose and reported to the House their agreement to the same, in the words following, to wit:

"That the name of the member who presents a petition, or memorial, or who offers a resolution to the consideration of the House, be inserted on the Journals."

"That every written motion made to the House be inserted on the Journals, with the name of the member making it, unless it be withdrawn on the same day on which it was submitted:" Whereupon,

Resolved, That this House do agree to the said report, to be established as amendments to the standing rules and orders of the House.

COAST OF NORTH CAROLINA.

The House went into a Committee of the Whole on the bill directing the Secretary of the Treasury to cause to be surveyed the coast of North Carolina, between Cape Hatteras and Cape Fear.

Mr. CROWNINSHIELD advocated the principle of the bill, and observed that he hoped the measure contemplated by it would be the commencement of a system for surveying the whole coast, by which, he had no doubt, many lives and much property would be saved.

The bill appropriates five thousand dollars for the survey.

No opposition having been made, the Committee rose, and the House ordered the bill to a third reading on Monday.

CUMBERLAND ROAD.

The House having agreed to consider the bill from the Senate for laying out a road from Cumberland, in the State of Maryland, to the State of Ohio, Mr. LEIB moved to postpone the bill indefinitely.

Mr. CLARK supported this motion. He thought there was not sufficient time to act on the bill during this session. He declared his wish to be to lay out three roads, one from some point in Pennsylvania, one from some point in Maryland, and one from some point in Virginia, expending, in the first instance, an adequate sum on the middle road, and afterwards appropriating a like sum to each of the other roads.

Mr. JACKSON gave a concise history of the fund from which the making of roads to Ohio is to be effected; and stated his opinion that, inasmuch as the compact with Ohio provided for the laying out "turnpike or other roads," it would be a violation of it to lay out a single road. Mr. J. regretted that the subject had been so long delayed, and observed that when it was previously before the House, he had meant to offer a resolution calling on the Secretary of the Treasury for the amount of the lands sold since June 30, 1802; in which purpose he had been frustrated by an adjournment. Fearing that the subject would not this session be deliberately examined, from its competition with other important objects, and believing that the bill contained an exceptionable principle, he should concur in the motion of postponement.

Mr. BEDINGER opposed the postponement and advocated the bill. He observed that he was well acquainted with the route contemplated in the bill, and he considered it the shortest and best for the general interests of the Union.

Mr. R. NELSON likewise opposed the postponement, and advocated the bill, whose object was, he thought, as important as that of any business before the House. He viewed the idea of the compact being violated by, in the first instance, laying out one road instead of three as strange and unfounded—inasmuch as the laying out one road did not supersede the right of afterwards laying out another. Mr. N. further advocated the bill as fixing a route most convenient to the three States of Pennsylvania, Maryland, and Virginia.

Mr. JACKSON said he was not adverse himself to acting on this business this session, if he could be convinced that the House would pay to it a full and dispassionate attention. He was, however, persuaded this would not be the case. Mr. J. spoke also at some length against the route contemplated by the bill, and the inadequacy of the fund to forming so vast and difficult a turnpike.

Mr. LYON opposed the postponement, and advocated the bill, under the impression that the route proposed would be of great benefit to the Western people.

Mr. CONRAD supported the postponment, on the idea that the proper course of proceeding was for the States first to lay out roads, and for Congress then to aid them by appropriating this fund. He thought it was desirable that there should be three roads, one from each of the States of Pennsylvania, Maryland, and Virginia.

Mr. LEIB was against the bill, because he considered the measure contemplated by it premature. What authority have Congress to lay out this road before they have obtained the consent of the States? Considering the expense of laying out this route, he looked upon the bill as merely making an appropriation for the benefit of commissioners and chain-carriers.

Mr. MORROW, of Ohio, believing this road would be conducive to the interests of the Western people, that it was the best and most direct route, and that the fund would be adequate to the object, was adverse to the postponement, and in favor of the bill.

Mr. FINDLEY believed the best way was to appoint disinterested Commissioners, and after receiving their report, to designate the route. He said he had travelled this road, and believed that a better one could be designated. He should, therefore, vote for the postponement, and then in favor of appointing Commissioners, should that measure be proposed.

Mr. SMILIE was opposed to a postponement.

Mr. LEWIS took nearly the same ground with Mr. FINDLEY.

When the question on an indefinite postponement was taken by yeas and nays, and lost—yeas 51, nays 59, as follows:

YEAS—Isaac Anderson, David Bard, Burwell Basset, Barnabas Bidwell, John Blake, jun., Robert Brown, William Butler, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Frederick Conrad, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, William Helms, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Josiah Masters, Thomas Moore, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sammons, Ebenezer Seaver, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, David Thomas, Philip R. Thompson, Abram Trigg, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

NAYS—Evan Alexander, Willis Alston, jun., Joseph Barker, George M. Bedinger, Silas Betton, William Blackledge, Thomas Blount, James M. Broom, John Boyle, John Campbell, Orchard Cook, Leonard Covington, Jacob Crowninshield, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Peter Early, James Elliot, Caleb Ellis, William Ely, James Fisk, John Fowler, Charles Goldsborough, Silas Halsey, John Hamilton, Seth Hastings, David Hough, James Kelly, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Joseph H. Nicholson, Timothy Pitkin, jun., Josiah Quincy, Thomas M. Randolph, John Russell, Thomas Sandford, John Smilie, John Cotton Smith, Henry Southard, Thomas Spalding, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, John Whitehill, Eliphalet Wickes, and David R. Williams.

Mr. JACKSON moved a postponement to Monday, with the view of obtaining information from the Secretary of the Treasury of the quantity of land sold since the 30th of June, 1802.

Mr. MORROW, of Ohio, hoped the postponement would not prevail. He stated that the information desired was before the House, considered it as sufficient to act on, and remarked that there would exist a fund of near forty thousand dollars on the 1st of next October.

On postponing the bill till Monday, the House divided—yeas 51, nays 56.

Mr. CLAIBORNE moved a recommitment of the bill to a select committee, considering the information before the House as not satisfactory.

Mr. CLARK supported the motion, on which the House divided—yeas 50, nays 58.

The House then took up the amendments agreed to in Committee of the Whole.

Mr. JACKSON spoke at considerable length against the route designated in the bill, and concluded by offering a proposition amendatory of an amendment of the Senate—allowing a discretion to lay out the road at any point between Steubenville and Grave river, on the Ohio—so as to allow a like discretion with that contemplated on the Potomac, between the points of Cumberland and Western Port.

The House concurred in the amendment of the Committee of the Whole, and non-concurred in that of Mr. JACKSON.

Mr. CLARK offered a motion which went to modify the bill, so as to direct the laying out three roads instead of one.

The SPEAKER declared this motion out of order, as it affected an amendment already agreed to.

Whereupon a question to reconsider the amendment, in order to try the sense of the House on Mr. CLARK's motion, was taken, and lost—yeas 44, nays 47.

Mr. JACKSON moved to recommit the bill; which motion having been negatived, the bill was ordered to a third reading on Monday.

MONDAY, March 24.

A message from the Senate informed the House that the Senate adhere to their amendment, disagreed to by this House, to the bill, entitled "An act for the relief of Peter Landais."

Mr. J. C. SMITH, from the managers appointed on the seventeenth instant, on the part of this House, to attend a conference with the Senate on the subject-matter of the amendment depending between the two Houses to the last-mentioned bill, made a report; on which, the House proceeded to reconsider the amendment of the Senate disagreed to by this House to the said bill: Whereupon,

Resolved, That this House doth recede from their disagreement to the said amendment.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for establishing rules and articles for the government of the Armies of the United States: Whereupon,

Resolved, That this House doth disagree to the amendment of the eighty-ninth article of the said bill, which proposes to strike out the word "fifty," and to insert, in lieu thereof, the words "one hundred;" and, also, to so much of the last amendment of the said bill as is contained in the words following, to wit: "including the manner of wearing the hair: but this power shall not be exercised over the militia."

Resolved, That this House doth agree to all the other amendments proposed by the Senate to the said bill.

A message from the Senate informed the House that the Senate agree to the two first amendments of this House to the amendments proposed by the Senate to the bill, entitled "An act relating to bonds given by Marshals," and disagree to the third of the said amendments.

Mr. Leib, from the committee to whom was referred, on the twenty-second instant, the amendments of the Senate to the bill, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives," reported to the House their agreement to the same, without amendment.

The House proceeded to consider the amendments proposed by the Senate to the said bill: Whereupon,

Resolved, That this House doth disagree to the amendment proposed to be inserted as the second section of the said bill.

Resolved, That this House doth agree to the other amendments of the Senate to the said bill.

Mr. Nelson, from the committee appointed on the twenty-seventh of December last, presented a bill making a further appropriation towards completing the south wing of the Capitol, at the City of Washington; which was read twice, and committed to a Committee of the whole House tomorrow.

The House resolved itself into a Committee of the Whole, on the bill prescribing the effect in each State of the records of judgments and decrees of the courts of record of every other State. The bill was reported without amendment, and the further consideration thereof postponed until tomorrow.

An engrossed bill directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed, was read the third time and passed—ayes 74.

CUMBERLAND ROAD.

A bill for laying out and making a road from Cumberland, in Maryland, to the State of Ohio, was read the third time.

Mr. Holmes moved to postpone the bill indefinitely, and observed, that, if this motion prevailed, he should offer a motion for the appointment of commissioners, by the President, to explore a route.

Messrs. Sloan, Bard, Clark, Olin, Findley, and Jackson, supported; and Messrs. McCreery, Bedinger, Lyon, and R. Nelson, opposed this motion; which was disagreed to—yeas 52, nays 64, as follows:

Yeas—Isaac Anderson, David Bard, Burwell Bassett, Robert Brown, William Butler, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, Frederick Conrad, Orchard Cook, Elias Earle, Ebenezer Elmer, William Findley, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, William Helms, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, Michael Leib, Joseph Lewis, jr., Josiah Masters, Thomas Moore, John Morrow, Thomas Newton, jr., Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, Elipha let Wickes, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Evan Alexander, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, Thomas Blount, James M. Broom, John Boyle, John Campbell, George Clinton, jr., Leonard Covington, Jacob Crowninshield, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, Peter Early, James Elliot, Caleb Ellis, William Ely, James Fisk, John Fowler, Charles Goldsborough, Silas Halsey, John Hamilton, Seth Hastings, David Hough, James Kelly, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Joseph H. Nicholson, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, Thomas Sandford, John Smilie, John Cotton Smith, Henry Southard, Thomas Spalding, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, David R. Williams, and Nathan Williams.

And then the main question being taken that the said bill do pass, it was resolved in the affirmative—yeas 66, nays 50, as follows:

Yeas—Evan Alexander, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, Thomas Blount, James M. Broom, John Boyle, John Campbell, Martin Chittenden, George Clinton, jr., Leonard Covington, Jacob Crowninshield, Ezra Darby, John Davenport, jr., John Dawson, William Dickson, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, James Fisk, John Fowler, Charles Goldsborough, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, James Kelly, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Joseph H. Nicholson, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, Thomas Sandford, John Smilie John Cotton Smith, Henry Southard, Thomas Spalding, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, David R. Williams, and Nathan Williams

Nays—Issac Anderson, David Bard, Burwell Basset, Robert Brown, William Butler, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, Frederick Conrad, Orchard Cook, Elias Earle, William Findley, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, William Helms, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, Michael Leib, Joseph Lewis, jr., Josiah Masters, Thomas Moore, John Morrow, Thomas Newton, jr., Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smith, Samuel Smith, Richard Stanford, Philip R. Thompson, Uri Tracy, Abram Trigg, John Whitehill, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Tuesday, March 25.

Mr. Roger Nelson presented to the House a petition of sundry officers of the Army, serving in the district of Louisiana, which was received and read, praying an augmentation of the pay allowed them by law.

Ordered, That the said petition be referred to the Secretary of War, with instruction to examine the same, and report his opinion thereupon to the House.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill to amend, in the cases therein mentioned, the "Act to regulate the collection of duties on imports and tonnage;" which was read twice, and committed to a Committee of the whole House on Thursday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to explain the fifth section of an act, entitled 'An act to divide the Indiana Territory into two separate governments;" to which they desire the concurrence of this House.

On a motion made by Mr. David R. Williams, that the House do come to the following resolution:

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That the Postmaster General be directed to cause the Post Office, for the City of Washington, to be kept, after the —— day of ——, next, at or near the Capitol.

Ordered, That the said motion do lie on the table.

The House proceeded to consider their amendment, disagreed to by the Senate, to the last amendment of the Senate to the bill, entitled "An act relating to bonds given by marshals:" Whereupon,

Resolved, That this House doth insist on their said amendment to the amendment.

IMPORTATION OF BRITISH GOODS.

On motion of Mr. Mumford, the House resolved itself into a Committee of the Whole, on the bill prohibiting the importation of certain British goods, wares, and merchandise.

The articles enumerated in this bill are the same as those contained in the resolution on which it was framed. [See *ante*, page 451.]

Mr. Mumford moved to fill the blank, left for the time when the bill is to take effect, with the 15th of November next.

Mr. J. Clay moved the first of January, and

Mr. Crowninshield the first of July.

Mr. Mumford said, while they were charging a foreign Government with surprising their commerce, he hoped they would not do the same thing themselves. He was, therefore, opposed to the first of July, and in favor of the 15th of November.

Mr. Bidwell spoke in favor of filling the blank with the 15th of November, and

Mr. Blackledge in favor of the 1st of July.

On agreeing to the first of January, the House divided—ayes 37, noes 67; the Federal members voting in the affirmative.

On agreeing to the 15th of November, 64 members rose on the affirmative side—carried. On the question, the Federal members likewise voted in the affirmative.

On motion of Mr. Mumford, a blank was filled, so as to make the section, amended, read as follows:

"Woollen cloth, whose invoice price shall exceed five shillings sterling per square yard."

Mr. J. Clay moved to add to the enumerated articles "blank books;" which motion was disagreed to—ayes 39, noes 51.

A motion, made by Mr. Barker, to add "iron hollow ware," shared the same fate—ayes 38, noes 56.

After some further amendments, not touching the principle of the bill, the Committee rose and reported their agreement to the bill.

The House immediately considered, and agreed to the amendments, and ordered the bill to be engrossed for a third reading to-morrow, without a division.

DEFENCE OF PORTS AND HARBORS.

On motion of Mr. Dawson, the House resolved itself into a Committee of the Whole on the state of the Union, on the resolutions for the better protection of our ports and harbors, referred to them by order of the House, of the twenty-third of December last, in the words following, to wit:

"1st. *Resolved*, That a sum of money, not exceeding one hundred and fifty thousand dollars, be appropriated to enable the President of the United States to cause our ports and harbors to be better fortified and protected against any insult or injury.

"2d. *Resolved*, That a further sum of money, not exceeding two hundred and fifty thousand dollars, be appropriated to enable the President of the United States to cause to be built a number of gunboats, not exceeding fifty, for the better protection of the harbors, coasts, and commerce of the United States.

"3d. *Resolved*, That a further sum of money, not exceeding six hundred and sixty thousand dollars, be appropriated to enable the President of the United States to cause to be built six line-of-battle ships, to be added to the Naval Establishment of the United States."

The first resolution for appropriating $150,000 for the better protection of ports and harbors, was agreed to without debate—ayes 63, noes 60.

The second resolution was read, for the appropriation of $250,000 for the building of gunboats.

Mr. Dawson moved to strike out this sum, and leave a blank, with the view of filling it with a larger sum in case the third resolution should be disagreed to.

This motion was disagreed to—ayes 36.

When the resolution was agreed to—ayes 72.

The third resolution was read, appropriating $660,000 toward the building of six line-of-battle ships.

Mr. Newton moved to strike out $660,000, and line-of-battle ships, so as to confine the resolution to an appropriation, generally, for naval purposes.

This motion was lost—ayes 10.

Mr. Masters.—When the resolution brought before this House by the honorable gentleman from Pennsylvania was under consideration, I opposed that resolution, because I thought it was a system we could not abide by, and because it

would injure this nation more than Great Britain, against whom it was intended to operate, and had a natural tendency to retaliation, revenge, and hostilities between the two nations. When the resolution was under consideration brought forward by the honorable gentleman from Maryland, I voted for it, as a system by which we could abide; and it might alarm the British nation, that the course of trade would be turned into other channels; though I thought the measure taken, abstractly too weak to have the desired effect, I voted for it with a hope that the measure would be strengthened, by fortifying our ports and harbors, increasing our navy, and making such preparations as to command more respect among foreign nations, and thereby aid and assist our negotiations, and have a tendency to preserve peace. Such is the course I wish to pursue for the interest of this nation, in order to maintain our independence which we have acquired, and preserve national security and existence, and prevent our industry and capitals employed in commerce, which is the resource of all our revenue, from being swallowed up by foreign depredations: but opposition appears from various quarters of the House. I have heard it said "if you build seventy-four-gun ships, you must build enough to meet the European navies." It cannot be intended for our infant navy to meet them in fleets, but it will serve as an additional defence to our ports, and prevent single ships or a number of ships from blockading our harbors, impressing our seamen, and hovering on our coasts, searching and plundering our vessels and thereby hinder such injuries and insults; which they cannot commit unless they send out fleets for that purpose, which will not be for their interest to do, because it will not quit their cost.

I have also heard it said, "if you build seventy-four-gun ships they dare not go out of port, because they will be taken." This argument reminds me of a boy who was put to school to get an education, and grow up in learning, and become a useful citizen in community. After being at school a space of time, he ran home. He then was asked what he came home for; he said, he did not like to go to school: was asked the reason; he replied he did not like to be whipped. He was asked if he had been whipped; he answered, oh! no, but he was afraid he should be. Though our navy has not yet been whipped, the gentleman is afraid it will be; therefore, does not want to build seventy-four-gun ships, nor increase our navy to grow up and protect commerce.

At the commencement of this session, from the spirit of the Message of the Executive, which I believe the most popular Message that ever came from the President of the United States, and from the spirit and zeal both out of doors and in the House, it seemed as though there was an anxiety to press forward to the charge, and fight England, France, and Spain, all at once. When we come to bring energetic measures to the test, how are they likely to turn out? I am afraid we shall whittle down those measures into contempt and humiliation. We have appropriated only the sum of one hundred and fifty thousand dollars to fortify our ports and harbors on an extensive seacoast, of near two thousand miles, and passed a resolution for building a few gunboats. This is the main, unless you adopt the resolution immediately under consideration.

Our farmers will begin to complain presently as well as the merchants, for agriculture will necessarily fall with the ruin of commerce and trade; and it appears to me that neither commerce nor agriculture can flourish without protection; and the increase of commerce is the increase of our revenue, which is the increase of national wealth, and agricultural industry naturally goes with it, and cannot possibly increase without it; that interest improves in proportion to the encouragement it receives, and that encouragement is derived from the liberal price of produce which is derived from an extensive commerce, which betters the condition and gives a spring to agricultural industry and mutual encouragement to both.

The progress of agricultural industry in commercial nations is generally proportionate, which makes our large cities and towns. The capital employed in our market towns must be in proportion to the country; otherwise it operates to the disadvantage of agriculture. To widen the market is generally for the benefit of the public, but narrowing the competition must always be against it. The produce of the farmer is limited to the extent of the market; if the market is small the price is low; extend your commerce and you extend the market. The growing improvement and cultivation of the soil advances with the commerce and wealth of the country. Arts and industry of every kind, with commerce, combine and advance together, and a nation grows rich by it; and the price of agricultural industry is more liberal and better rewarded in a society advancing to opulence than in one which is standing still or decaying.

A nation which neglects protection to commerce and despises it, cannot transact the same quantity of business which might otherwise be done; and the Government ought to protect and encourage the merchant to pursue his own lawful interest, according to his own judgment; that he may enjoy in perfect security the full recompense of his industry. It never can be for the benefit of the farming interest to discourage or distress the industry of the mercantile States, because it serves to sink the real value of the surplus produce, and consequently the improvement and cultivation of the soil. If you neglect protection, you indirectly invite aggressions and discourage that very interest which you mean to promote. How are our citizens to procure money? It is foreign coin which circulates in this country, for the most part, and not our own; it is that which regulates more or less the whole business of common life; and the quantity of money naturally increases in every country with the increase of the wealth. The surplus of the country will not sell without a capital to purchase; on this depends in an essential and great degree the wealth of the nation. Though the superabundant produce of the country is an object

of foreign commerce, it is not so great an object as to induce other nations into our ports for it, because they can obtain the same produce elsewhere.

It has been observed by an honorable member on this floor "that he conceived the increase of our navy as the beginning of the business;" by which I understand the beginning of the business under this Administration; and I never knew that this Administration, or any other Administration, or any political party, were opposed to protecting commerce, and increasing our navy for that purpose, when it became necessary for the good and welfare of the nation. Is it not now necessary—is it not now time to awaken from this golden dream in which we have so long slept, when foreign nations have become so jealous and envious as to depredate and attempt to annihilate our commerce; when privateers and pirates infest our coasts; when national armed vessels blockade our harbors, and drag our seamen from their families and country? Must we look calmly on and say protect yourselves? Is this the answer to be given to our citizens? Commerce protect itself! Is this legislating for the interest of the people of this nation? God forbid! It is unsuitable to the nature of Government; it is contrary to the laws of society, and the very principles upon which society is formed; and I hope may not be continued in any longer.

The great end and intention of revenue, drawn from the community, is not only to support the necessary expenses of the Government, but to defend and protect every part of that community; and I have always understood, that it was the first and great duty of every wise and good Government to take measures for the public defence, and protect its citizens in their lawful pursuits. Our navy ought not to be enfeebled and weak below the proportion of our natural strength and resources. Every individual has a general interest in the prosperity of the agriculture and commerce of the country, and in the good management of its resources for the public defence and protection; to withhold that defence and protection under the idea of economy, if it is not a subversion of the term, it is to me a fallacious, mistaken, and forced economy. The great object of political economy in every country is, and ought to be, to increase the riches and power of that country.

Could I perceive, by increasing our navy, in building seventy-four-gun ships, and protecting commerce, it militated against the agricultural interest, I should be among the last to advocate it; but I think it is highly proper to protect it, to a certain extent, and that extent I would regulate by the surplus revenue arising from commerce, which I believe ought to be appropriated to protect that commerce. According to the Message of the President, there is one million of dollars, surplus, in the Treasury; and the Mediterranean fund of eight hundred thousand dollars, may be liberated from that object; and I hope that at least some part of this revenue will be appropriated to the building of seventy-four-gun ships. By mixing of such ships with the frigates, our navy will become much more powerful and respectable; and legislating on such principles is giving no preference to the commercial interest over the agricultural; and I wish to be expressly understood, not to increase our navy beyond the means arising from the surplus revenue: neither would I be understood as advocating unjust monopolies, prohibitions, improper bounties, exclusive charters and companies; these are abuses of the commercial system.

In the course of some of the former debates, China was introduced as a model and pattern. It is to be remarked that China has articles of merchandise which no other nation has, which entices all nations to carry on commerce with her. Though China has long been one of the richest, best cultivated, and populous countries, yet it is to be remembered, the middling and lower classes of people are the most beggarly—thousands of families have no other habitations than in fishing boats, and the greater part of the community are poor and miserable. Such is the China sample.

It is said commerce increases and promotes prodigality. Suppose it does, Mr. Chairman, and add to it if you please equipage, luxury, curiosity, vanity, and ostentation; and what does it prove? It only argues that the principles of common prudence do not always govern individuals; nevertheless it promotes industry and creates a fund for the support of society. Besides, it seldom happens that a nation is much affected by the profusion of a few individuals; the principles of frugality seem to predominate among the greater part of mankind, taking the whole course of their lives together; indeed, nations are never impoverished by private, it is by public misconduct.

Modern Europe furnishes an example that commerce cannot flourish without some naval protection, and I sincerely hope the resolution will be adopted.

Messrs. LYON and COOK spoke at considerable length in favor of the resolution.

The question was then taken on the resolution; which was rejected—only 30 members rose in favor of it.

The House considered the report, when the first resolution was agreed to—yeas 78, nays 33, as follows:

YEAS—Evan Alexander, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, junior, Thomas Blount, James M. Broom, John Campbell, John Chandler, Martin Chittenden, John Claiborne, George Clinton, junior, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Davenport, junior, John Dawson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Charles Goldsborough, Andrew Gregg, Silas Halsey, Seth Hastings, William Helms, David Holmes, David Hough, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, jr., Matthew Lyon, Duncan McFarland, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Thomas M. Randolph, John Rhea of Tennessee, John Russell,

Peter Sailly, Thomas Sammons, Martin G. Schuneman, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Marmaduke Williams, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Robert Brown, William Butler, Christopher Clark, Joseph Clay, William Dickson, Elias Earle, Peter Early, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Hamilton, Michael Leib, Thos. Moore, Roger Nelson, Joseph H. Nicholson, John Pugh, John Rea of Pennsylvania, Jacob Richards, Thomas Sandford, Ebenezer Seaver, John Smilie, Samuel Smith, Thomas Spalding, Richard Stanford, John Whitehill, Robert Whitehill, and David R. Williams.

On the question that the House do agree with the Committee of the whole House in their agreement to the second of the said resolutions, it was resolved in the affirmative—yeas 91, nays 21, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Joseph Barker, George M. Bedinger, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, William Butler, John Campbell, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, George Clinton, junior, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Duncan MacFarland, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, G. S. Mumford, J. Nelson, R. Nelson, T. Newton, jun., Joseph H. Nicholson, Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman; Ebenezer Seaver, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, Samuel Taggart, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Daniel C. Verplanck, Peleg Wadsworth, Marmaduke Williams, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Isaac Anderson, David Bard, Burwell Bassett, Silas Betton, Martin Chittenden, Samuel W. Dana, John Davenport, jr., Caleb Ellis, Edwin Gray, Jonathan O. Mosely, Timothy Pitkin, jr., Jacob Richards, Thomas Sandford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Killian K. Van Rensselaer, Joseph B. Varnum, John Whitehill, Robert Whitehill, and David R. Williams.

On the question that the House do agree with the Committee of the whole House in their disagreement to the third and last of the said resolutions, it was resolved in the affirmative—yeas 72, nays 34, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, William Blackledge, John Blake, junior, Thomas Blount, William Butler, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Ezra Darby, John Dawson, William Dickson, Elias Earle, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, Walter Jones, Thomas Kenan, Michael Leib, Duncan MacFarland, Robert Marion, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Joseph H. Nicholson, Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, Abram Trigg, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, and Joseph Winston.

NAYS—James M. Broom, John Campbell, George Clinton, junior, Orchard Cook, Samuel W. Dana, John Davenport, junior, Caleb Ellis, William Ely, Charles Goldsborough, Seth Hastings, David Hough, Joseph Lewis, junior, Matthew Lyon, Josiah Masters, William McCreery, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, junior, Timothy Pitkin, jun., Peter Sailly, Thomas Sammons, John Cotton Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, and Nathan Williams.

Ordered, That a bill, or bills, be brought in, pursuant to the first and second of the said resolutions; and that Mr. DAWSON, Mr. NATHAN WILLIAMS, Mr. ELY, Mr. BLOUNT, Mr. JOSEPH CLAY, Mr. DARBY, and Mr. FISK, do prepare and bring in the same.

WEDNESDAY, March 26.

The bill sent from the Senate, entitled "An act to explain the fifth section of an act, entitled 'An act to divide the Indiana Territory into two separate governments,'" was committed to a Committee of the whole House to-morrow.

On motion of Mr. ROGER NELSON,

Resolved, That a committee be appointed to bring in a bill supplementary to an act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia."

Ordered, That Mr. ROGER NELSON, Mr. JOHN SMITH, and Mr. ELY, be appointed a committee pursuant to said resolution.

Mr. JOHN RANDOLPH presented to the House two petitions of sundry inhabitants of Randolph and Saint Clair counties, in the Indiana Territory, which were read, praying that the said Territory may be divided into two separate governments; and that slaves may be permitted, by law, to be brought into the said Territory.—Referred to the Committee of the whole House, to whom

was committed, on the fourteenth ultimo, the report of the committee on the letter of William Henry Harrison; a memorial of the Legislative Council and House of Representatives of the Indiana Territory; and several petitions of sundry inhabitants of the said Territory.

Mr. GREGG, from the Committee on the Public Lands, to whom was committed, on the seventeenth instant, the bill sent from the Senate, entitled "An act to authorize the State of Tennessee to issue grants, and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated lands within the same," reported to the House their agreement to the same, with several amendments: Whereupon,

Ordered, That the said amendments, together with the bill, be committed to a Committee of the whole House on Saturday next.

Mr. THOMAS M. RANDOLPH, from the committee appointed on the fourth of December last, on a memorial of the Legislative Council and House of Representatives of the Mississippi Territory, and on a petition of sundry inhabitants of the said Territory, made a further report thereon; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

Mr. PARKE presented to the House a petition of John Cleghorn, of the Indiana Territory, which was read, praying that the benefits of the act, passed on the third day of March, one thousand seven hundred and ninety one, entitled "An act for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions," may be extended to the petitioner, for the reasons therein set forth.

A message from the Senate informed the House that the Senate insist on their amendment disagreed to by this House to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," and desire a conference with this House on the subject-matter of the said amendment; to which conference the Senate have appointed managers on their part. The Senate recede from their first amendment, disagreed to by this House, to the bill, entitled "An act for establishing rules and articles for the government of the armies of the United States," and insist upon their second amendment, disagreed to by this House to the said bill, and desire a conference with this House on the subject-matter of the said amendment; to which conference the Senate have appointed managers on their part.

CREDIT ON PUBLIC LANDS.

Mr. BLACKLEDGE.—From the best information I have been able to collect, by an examination of the documents laid on our table, as well as by conversation with gentlemen better acquainted with the subject than myself, I find that, from the sales of the public lands already made, there will be to be collected in the course of about four years, upward of two million of dollars; from the same sources of information I likewise learn, that, in the course of the present year, in the State of Ohio only, upward of two hundred thousand dollars are to be paid, or the lands must be sold to raise the balances from the persons owing this enormous sum, and that sales for a part of it are to commence in this or the next month. The petitions presented to Congress at this session, praying for an extension of credit for the balances due from the petitioners, and depicting the distresses to which many must be reduced if our laws are rigidly enforced, ought to draw our attention to what is to be the probable consequences of a system, which, in practice, is found likely to bring largely in debt to the Government so considerable a proportion of the citizens of any section of the Union. To my mind, there is nothing more obvious than that if the present system of selling our lands is persevered in, the peace of the Union may and probably will not be preserved. Men who have paid three-fourths, or, perhaps, more, of the purchase money for their lands, and spent several years hard labor in improving them, cannot feel very strongly attached—nay, must feel an aversion—to a Government, whose rigid policy, in consequence of their having failed to pay the balance which may be due, takes from them not only their lands and improvements, but even refuses to refund that portion of the purchase money which may have been paid. Let the number of persons of this description increase to that extent to which our present system naturally leads, and I fear, sir, it will be impossible to enforce your laws. No man will dare to bid at your sales; his life may be in danger if he does; and though the lands, in such cases, would revert to the Government, what good would it do them? The first purchaser is in possession, and the spirit of the community in which he lives is in favor of his holding it. To evict him, you must resort to force, the consequences of which are too obvious to need description. A committee of this House has already decided the principle, that it would be improper to grant a longer indulgence to those whose time of credit has expired. To have decided otherwise would have been to adopt toward poor debtors for the purchase of your lands, a practice directly contrary from that which, under similar circumstances of hardship, has been uniformly observed toward your debtors at the custom-houses; a distinction which cannot, as I conceive, be justified by any principle of policy or justice. I know of no way by which the evils to be apprehended can be so effectually averted as to put a stop to the practice of selling the public lands on credit; and with the view of bringing the subject before Congress, and ascertaining their opinion upon it, I beg leave to submit the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of repealing all such parts of the several acts for the sale of the lands of the United States as authorizes a credit on any part of the purchase money, and that they report their opinion thereupon.

Mr. NEWTON moved an amendment, going to

refer this resolution to the Committee of Ways and Means; which did not prevail—ayes 13; when the resolution was agreed to without a division.

IMPORTATION OF BRITISH GOODS.

The bill to prohibit the importation of certain British goods, wares, and merchandise, was read the third time.

The yeas and nays were called for on its passage.

Mr. J. RANDOLPH.—I was about myself to ask for the yeas and nays; but before they are taken on the bill, I wish some of its framers, if indeed it has any within these walls, would step forward and inform what evidence is to be offered to a jury to decide whether a given yard of broadcloth has been manufactured in Britain or Ireland. We have heard a great deal about efficiency and dignity; but never in the course of my life have I witnessed such a scene of indignity and inefficiency as this measure holds forth to the world. What is it? A milk-and-water bill, a dose of chicken broth to be taken nine months hence. Good God! is it possible that gentlemen believe it will be incompetent for Congress at the next session to cook up such a dish as this? for I hope Congress will meet before or about the 15th of November, and that an adjournment will not be made to the beginning of December. Is there such a difference of time between those periods as to justify a resort to these measures now? It is the merest *brutum fulmen* I ever heard. It is too contemptible to be the object of consideration, or to excite the feelings of the pettiest State in Europe. If we wish to throw the disgrace off our shoulders, let us throw this bill off our tables. This is the strong measure! this is the imposing attitude we have taken! You cannot do without the next Spring and Fall importations; and you tell your adversary so. You multiply custom-house oaths, and give a bounty to perjury. Except in respect to custom-house oaths, there is not a provision in the bill worth a farthing. Is it possible for a deliberative body thus to trifle with the nation?—with powers with which they have been invested for wisest purposes; and to hold out a temptation to the violation of laws? for it is impossible to pass a law more teeming with mischief—a law which, while it opens a door to perjury, cannot be executed, and than the execution of which nothing is farther from the minds of its framers. It is indeed inefficiency itself; it can never be executed. I have heard much said in the lobby, since I came into the House, of giving up our own opinions in deference to those of others. Let those who make this declaration give up their opinions. But in my opinion the times call for a far different thing from unanimity. They may indeed call for union, but the measures proposed ought to be wise and efficient—they call for principle—for independence—for gentlemen in this House voting in correspondence to the opinions they avow out of doors, and not for their being whipt in by the underlings of Government—for assuming a manly attitude—for a far different procedure from the bill on your table. Will gentlemen allow nothing to a change of circumstances in Europe? We have received a recent communication from that quarter. Will they pay no attention to its contents? Will they, instead of this, go on in their political go-cart, in one incessant round, without attending to time or circumstance? And now I am speaking on this subject, I must request those communications be read.

Mr. SPEAKER said they were confidential.

Mr. J. RANDOLPH.—I hope they will be read, whether they be confidential or not.

Mr. SPEAKER.—They are not in possession of the House.

Mr. J. RANDOLPH.—I hope they will be sent for, and that they will be read.

The SPEAKER repeated that they were not before the House.

Mr. CLOPTON.—Mr. Speaker, I rise with a view of submitting a few, and but a few remarks to the House on the passage of this bill. I am afraid, however, that my voice, naturally feeble, and rendered much more so by a painful, excruciating indisposition, which has detained me from this House many weeks, will not admit of a degree of utterance sufficient to be heard throughout the whole even of those few remarks. Until yesterday I have not been able to come to the House for more than seven weeks; and, on that day, the debilitated state of my frame admitted not of my continuance at the House but for a very short time. For these reasons I shall feel the more thankful to the House for a patient attention. During part of the time which has elapsed in my absence from the House, a resolution of very great importance was discussed and passed by without a vote. The bill now before you is one brought in, as I understand, pursuant to another resolution which has been agreed to by the House.

Sir, I shall vote for this bill, not because I believe it is calculated to be as effectual towards obtaining the objects sought for, as a measure might be, grounded on the resolution which has been discussed: I mean the resolution submitted by a gentleman from Pennsylvania (Mr. GREGG.) Nor shall I vote for it under a belief that it will be less likely to give offence to the nation on whom it is to operate. Every argument against that resolution predicated on apprehensions of its offensive tendency towards that nation, would, in my opinion, be equally as proper against this bill as against that resolution. But all argument of this sort I utterly disclaim, whether applied to the one case or to the other. However, there seems to have arisen, from apprehensions of that kind, a degree of reluctance in some gentlemen as to resorting to any measure of the nature of that proposed in this bill. And why so? What, I would ask, is the situation of the United States? Are they still in a state of colonization to Great Britain? Are they under subjection to the arbitrary rule and dominion of that country? Are they bound to receive law from the British Parliament, from the British Ministry, or from a British Court of Admiralty? Or do they hold a rank

in the scale of independent nations? If they do hold any such rank, have they, or have they not, a right to make rules and regulations in respect to their commerce with other countries? In making their commercial arrangements, have they not a right to withhold their trade either in whole or in part, from any country whatever, if they have reason so to do? If they really have a claim to be considered as a nation; if they do exist as a people having their own Government independent of all other Governments, such a right cannot be disputed; it is clear, it is incontestable. What cause of offence, then, can be given by the exercise of such a right? What cause of offence will be given by the United States, should they withhold their trade from any nation upon earth? None, sir. The right being clear and unquestionable, such an exercise of it cannot be any just cause of offence.

It seems, however, to have been apprehended by some gentlemen that, whether it be just cause of offence or not, Great Britain will take offence should any such measure be adopted. And, sir, has it not been suggested that the United States would do well to refrain from taking such a measure rather than incur the displeasure of that nation? If such suggestions have transpired, I must, with all the powers of my soul, disclaim the sentiment. What! forbear to do what we have a lawful right to do, and what does not, by any manner of means, interfere with the rights of others, through fear of offending Great Britain thereby! Sir, is the blood which flowed in our veins thirty years ago entirely dissipated? If it is not, if there be one drop remaining, surely that drop is sufficient to excite an indignant renunciation, an utter abhorrence of such a sentiment. What is fear? Is it a quality or a property of the human soul? If it be such a quality or property, O let it be eternally discarded from the American breast! Let it be driven to those dark and gloomy regions where the iron hand of despotism strikes to the ground everything which would attempt to raise itself above that level! There alone is its proper element; there it is a principle of Government pervading the melancholy groups, who drag on through life under a load of wretchedness, marking their dismal course by the clanking of their chains. Wherever it prevails it pollutes; it poisons the fountain whence flows everything noble and excellent in man. Infected with it, his native dignity vanishes from him, and all his greatness topples downward and sinks into the dust.

But wherefore, sir, for what purpose, should this fear of offending Great Britain be indulged? It should be indulged, it seems, lest Great Britain, taking offence at the adoption of such a measure, should wage war against the United States. Sir, that nation (it is acknowledged on all sides) has committed manifold outrageous violations on the rights of this country, and of many of its citizens, and continues to pursue that wrongful course. If, in vindication of those rights, the United States should adopt a measure perfectly lawful, and such as appears to them the most eligible; and if, in consequence of that measure, Great Britain, to complete her system of iniquity, should choose to go further and make war against this country, be it so. The United States will have done nothing more than what it was their duty to do; and, in the instance of this bill, perhaps they will not have done as much. The measure is perfectly lawful, perfectly just, and contains in itself nothing incompatible with principles strictly pacific. Should such be the consequence, I do not believe that in the war (which would be merely a naval one) the advantage on the side of that country would be so great as seems to have been apprehended by some gentlemen. I rather believe that our commerce would not be annoyed in a greater degree than might be retaliated on her commerce. Here, sir, let me not be misunderstood; let it not be thought that I feel a wish for war. Far, very far from it. I deprecate that great evil, that scourge of the human kind. I entertain a peculiar aversion to every species of warfare, as I always have entertained an aversion to it. But I mean here to make a distinction between a disposition to seek after, or to provoke war, and that disposition, which, although it wishes to avoid war, is not afraid to meet it, should it be wantonly and unjustly waged against our country. I mean here to declare it to be my opinion, that the United States ought not to shrink from a lawful exercise of their own rights of independence, through fear of incurring the displeasure of any nation upon earth, lest that nation, under the influence of such displeasure, should make war against this country; and I mean here to express my wish and my hope that they will exercise those rights of independence.

But, sir, do I think that such a measure (Mr. G.'s resolution) would induce Great Britain to wage war against the United States? No, sir, I am as far from thinking so as I am from wishing that it should be so; and I can truly say, that no man upon earth can be farther from desiring such an event. This country affords a great market for a vast portion of British manufactures. Exclude those manufactures from this market, and the effect would be immediately felt throughout the kingdom of Great Britain and Ireland. Such, in my opinion, would be the effect that their Government would feel much stronger inducements to relinquish their aggressions than to pursue them or to make war against the United States. Exclude those manufactures from this market, and thousands and tens of thousands of their manufacturing subjects would soon be seen trembling with awful apprehensions of famine. Volumes of remonstrances, almost with the rapidity of the winds, would be poured in and laid at the foot of the Throne; the language of such remonstrances would be such as to strike the souls of their Ministry with terror and dismay. To stop the progress of discontent, disaffection, and consequent insurrection, I do believe that they would hasten to relinquish their pernicious and iniquitous system. Thus the commotions of their own subjects would drive them from the pursuit of a course of aggression, from which, scarcely any other event

could divert them; and their own fears would produce that justice to us which might perhaps in vain be expected to be brought about by any other means. Thus far we should be secured against war, from causes arising among themselves.

Among other objections to such a measure, it has been suggested that the measure would aid the ambitious views of France, by throwing the weight of the United States in her scale. How, sir, would this be done? Nobody, I believe, entertains a thought of entering into an alliance, either offensive or defensive, with the reigning Emperor of France. How, then would such an event be brought about? On a supposition, it seems, that the United States would certainly be engaged in a war with Great Britain. Equally foreign is it, I believe, from the intention of any one to make war against that nation, and thereby increase the weight of Bonaparte in the scale of war against his great antagonist. In what manner, then, would this accumulation of weight in his scale be effected, by which he would be enabled more easily to crush his adversary? Why, truly, in one and one only way (it has been said) it would be effected. That very adversary would effect it; that very adversary, it seems, would throw our weight into his scale against herself, by waging war against us; would herself be the immediate cause of facilitating her own downfall. If, Mr. Chairman, such would be the consequence, are the rulers of that nation so stupid and blind that they could have no idea of that consequence? And, while it is plainly foreseen on this side of the Atlantic, they could form no conception of it? Is their situation better known here than it can be to themselves? Or are they ready, thus violently and ignorantly, to precipitate their own fate by taking a step tending to produce to them that catastrophe, but which tendency they cannot perceive, while it is clearly comprehended at this place? Here, sir, permit me to make use of a phrase, which has been before made use of—*Quem Deus vult perdere prius dementat.* Is it ascertained that they have already arrived to that state of demeutation? Is it ascertained that they are completely prepared for destruction, by having been previously rendered completely mad? But, so far from being overwhelmed and sunk into a state of mental derangement, has not their wisdom been a theme of high eulogium? I believe it has. Without saying, however, how far I am willing to concur in that eulogium, I might safely admit, then, that a war between the United States and Great Britain would afford to her adversary a considerable advantage in their contest; and that very circumstance secures the United States from war with Great Britain, even if she should be otherwise disposed to wage it against them.

In the discussion of this important subject, two interests have been taken into view—the agricultural interest and commercial interest. I, sir, am no stickler for commerce, nor am I an enemy to it. My own individual interest is agricultural; I derive my subsistence from the soil. But this is a commercial, a great commercial country, as it is a great agricultural one. The agricultural part of the community does, indeed, outnumber that of the commercial; yet I feel no disposition to shrink from a vindication of those rights of the nation which appertain to commerce. As a nation, it is our duty to vindicate all its rights, and the rights of all its citizens. So long as commerce is carried on by the citizens of the United States, it is their duty not to abandon the lawful rights attached to that commerce; nor to abandon, without an effort, their injured, impressed seamen, to the fangs and lash of the tyrants who have outrageously seized upon them! The eastern parts of the Atlantic States are addicted to commercial habits; long have they been inured to them; we cannot break them off from those habits; we cannot change the genius of the people. In the West, we perceive the dawning of a great day, when the subjects of an immense trade will be wafted along the stream of the Mississippi—be launched into the ocean—and almost vie, in magnitude and in value, with those of the Atlantic States. Sir, we should legislate for this great nation, as it is; we should assert the various rights appertaining to it as an independent nation; and, as far as we can foresee, we should provide for its future interests in the different stages of its rising and progressive state.

I had intended, Mr. Speaker, to make some further remarks on arguments which have been advanced in support of the position, that war would ensue from such a measure; that the consequence would be fatal to the commerce and navy of the United States, and have a tendency to secure to France a superiority on the ocean. I had wished, also, to make a few observations relative to the rights attached to the vessels of a neutral nation on the high seas, and to notice some of the pretexts resorted to (as it is said) by Great Britain, by way of justification for the aggressions on our commerce, and the impressment of American seamen. But my present bodily infirmities do not admit my proceeding as far as I wished, I must, therefore, conclude. As I said before, sir, although I do not believe that this bill is as well calculated for insuring attainment of the objects sought for as might have been, and, therefore, my hopes of success are not very sanguine; yet, being not entirely without hope that it may answer the purpose, I shall vote for it.

[The following has been communicated by Mr. CLOPTON, as the substance of what he had intended to address to the House, in addition to the foregoing remarks, if his health had been such as to have enabled him to proceed.—EDITORS.]

The resolution which has been discussed, having been declared to have a warlike tendency, the terrors of a war with Great Britain have been, therefore, set forth in frightful colors; and we have been warned, solemnly warned, to be cautious in taking a step so much affecting the interests of a nation, the thunder of whose navy, even in contemplation, is awful and tremendous. Has it not been brought forward, as an alarming consideration, that if the fleets of that nation should

once be directed against this country, not a port from one end of the continent to the other would be left open? That our coasts would be lined with their ships, and not a single American vessel in port would be able to steal out, while all on the ocean would be captured or destroyed? The language of the opposition seems to have breathed sentiments of this sort; and much of the warning which has been given, appears to have been directed entirely to these points. They tell us that war, inevitable war, would be the result; and that to the United States, the consequence would be annihilation of their commerce, and speedy destruction to their little marine. In the warm and solemn appeals to the vast naval force of England, which has long secured to her the dominion of the seas, it has been denounced as a species of madness to attempt such a measure. Such is the picture which has been drawn on one side of the canvass. To the correctness of a part of the portrait I am ready to subscribe. I readily admit that Great Britain does maintain the dominion of the seas. I say, further, she is not shy nor backward in manifesting that circumstance to the world. Proud, haughty, domineering, she makes the inferior Powers feel her weight. She gives law to the whole maritime world, and she tyrannizes greatly indeed. Yes, indeed! she plays the tyrant, and she plays the tyrant on the commerce of this country; and these are the outrages which we complain of.

Let us now turn over and look at the other side of the canvass. Let us see what is there portrayed. We there see it sketched out that this same little navy of ours, although it is to be destroyed at an early stage of the supposed contest, will, nevertheless, enable France to disconcert all the mighty naval machinery of England, to harass it on all sides, and eventally acquire the predominance; that the great ocean will be obliged to receive into its bosom the Gallic tyrant in place of its old master, England; that this great leviathan of the deep will be obliged to yield up his long-established dominion to the shark of France; and that new monarch, issuing forth in the vigor of youthful strength thus recently acquired, will snap in twain everything he meets with, and reign the terror of the whole watery element.

But no more of figures and allegorical allusions, which have lately become very fashionable. In plain English, the scene which has been presented to us, I take to be this: The opposition commenced on the assumed position that the measure was a war measure; that a war, a naval war, would inevitably follow its adoption. On this ground all the arguments, mostly relied upon seem to be predicated; and are precisely adapted to the opposition, if the resolution had contained a direct declaration of war. In this apprehended war we are told that Great Britain, by her immense navy, must maintain an incalculable advantage over this country; that the commerce and the navy of the United States must, almost immediately, be broken up; that indeed we should be "swept at a blow from the ocean;" and at the same time we are warned against taking such a step on the ground that, in such a war, that is to say, a naval war, the United States being thrown into the scale of France, might insure its preponderance, and give to France the dominion of the seas. This is to me a paradox totally incomprehensible. That the United States should, at the very outset of the contest, be rendered totally incapable of making any head, a single effort at sea, and yet be the efficient means of increasing the naval power of France (now comparatively trifling) so far as to overbalance that of Great Britain, are positions which appear too opposite and contradictory to be reconciled. What! Totally incapable of doing anything, and yet capable of performing the wonderful act of bringing about the subjection of eight hundred ships to the dominion of a few dozen!

But whether there be war or no war with the United States, if there be any persons who are anxious that the great overgrown naval power of Great Britain should not be reduced, I think it is very probable that they will have their wish; at least, according to the ordinary course of human affairs, no ground is now presented whereon to calculate when such an event might be expected. Yet, if such a war should take place, I have no idea that the commerce or the navy of the United States would be annihilated, small as that navy is, and improbable as it is that the weight of it in the scale of that war would be such an accession as to enable France to obtain a naval predominancy. I believe that the enterprising spirit of individual adventurers on the part of the United States would, as I suggested before, countervail all opposing difficulties, and maintain a heavy weight in the commercial scale. Other channels would be found, through which commercial pursuits would be conducted. Small would be the sacrifice, if any; but it would be a sacrifice not wilfully made at the shrine of vain ambition, nor proceeding from unlawful pursuits. It would be a sacrifice incidentally resulting, but not rightfully, from a cause which, to maintain, is among the noblest acts of a nation; a manly assertion of its legitimate rights, in a spirit untinctured with hostile views.

As to the naval armament of the United States, although it cannot be, and has not been, pretended by any of the friends of the measure, that it could contend with the navy of Great Britain, yet, that it might afford to our merchant vessels considerable protection in the vicinity of our coasts, and the West Indies, there can be scarcely a doubt.

Whoever he is, on the other hand, who wishes to see something like a balance of power on the ocean—an event which might, very probably, subserve the general interests of mankind and of the United States, much better—I cannot perceive any reason to apprehend that he will soon be gratified. If Bonaparte ever destroys the naval power of Great Britain, or weakens it so far as to acquire the superiority, and succeed to the dominion of the seas, he must first destroy the British nation, or conquer, or subject it to his own terms. Does it therefore follow, from these sentiments, that

I wish for such an event. No, indeed; by no means. I neither wish that the one should be destroyed, nor that the other should acquire the superiority at sea, as he now holds it on the land. I am as unwilling that the United States, in the prosecution of their lawful pursuits, should be insulted by one tyrant of the seas, as that they should be insulted by another tyrant of the seas. No matter who rules the ocean, a disposition to play the tyrant there will be found. Whoever holds dominion on that element, capricious, interested projects will mark his conduct towards others. The best, and most eligible course for the United States to pursue, when they meet with such conduct, is, in my opinion, to adopt such measures as are calculated most to affect the interest of the aggressors. If this be a sound rule, it strongly recommends the resolution which has been discussed, as the measure proposed by it would deeply and vitally affect the interest of Great Britain; while, as I have said before, the sacrifice on the part of the United States, I really think, would not be such as to affect their interest in any very considerable degree.

If I were disposed to do so, it would be unnecessary at this time to say anything as to the aggressions complained of, whether they are unwarrantable, and contrary to what is called the law of nations. That they are so, is a point, I believe almost universally insisted upon by the people of this country. But here, I will go a little further. The doctrine which admits of search for enemy's goods, on board the vessels of a neutral on the high seas, and a right to seize and confiscate such goods whenever there found, ever was, to my view, a doctrine founded in power, and not in right—a doctrine which all the musty, voluminous compilations of the civilians, put together, can never reconcile to the principles of justice. Within whose jurisdiction is the vessel of a neutral, when sailing on the high seas? Is it within the jurisdiction, not of the nation to whom it belongs, but, of the belligerent who happens to meet with it on those seas? Are, or are not, those seas a common highway, free for the use of all nations who may choose to navigate them? It is universally admitted that they are, for it would, indeed, be utterly absurd to deny it. Equally absurd would it be, to deny that a vessel sailing on those seas is within the exclusive jurisdiction of the nation to whom it belongs. What right, then, has a belligerent, because he happens to be in a state of war, forcibly to invade the jurisdictional limits of a peaceable nation, with whom he has no difference? The state of war in which he is, whatever rights it may give him in relation to his enemy, cannot enlarge his rights in respect to a neutral, cannot diminish the right of that neutral. Upon no principle of reason or justice can the rights of the neutral be affected by the war. His situation cannot be rightfully altered by either of the belligerent parties, and neither of them can have any more rightful authority to enter the jurisdictional limits of a neutral in time of war than in a state of profound peace, for he is in a state of peace, and all the rights of peace remain attached to him in that state. The belligerent has as much right to enter the warehouses, or other places within the territories of the neutral, seize and make prize of the goods of his enemy found there, as he has to enter the vessels of the neutral on the high seas, and to seize and make prize of the goods of his enemy there found; because, the neutral nation has the same exclusive jurisdiction on board its vessels on the high seas, as it has within its territories. That jurisdiction, in both places, should be equally sacred from invasion by the belligerent, and should equally protect the goods within it. If such was not the case, it would be nonsense to talk about a *mare liberum*. The idea of a *free sea* would be a mere bubble. The vast expanse of waters forming the immense ocean, different parts of which are designated by different names, and all, taken together, so long and so broad as to encompass two-thirds of this globe would become a mere *mare clausum*—a sea shut up within the jurisdiction of that nation, which ever it might be, who has the strongest naval force. Of all the groundless doctrines which ever were attempted to be defended, from the days of Adam to the present time, this is one of those, which, I do believe, can be supported with the least reason.

But, groundless and indefensible as this doctrine is, it has been recognised by the unfortunate treaty between the United States and Great Britain, commonly called Jay's Treaty, and, therefore, while that treaty exists, the United States are engaged to admit the practice founded on that principle. But this does not bind the United States to yield to the new principle assumed by Great Britain, on which her cruisers capture, and her courts condemn, American vessels and cargoes, when those cargoes consist of the product of her enemy's country, although they have become American property, and are re-shipped for a market, either in the mother country or in a colony of that enemy.

I have noticed the principle which denies protection to the property of an enemy on board the vessel of a neutral, as a principle, which, I do believe, the United States ought to reprobate and resist, if they had not bound themselves, by treaty, to admit it. Much more ought they to reprobate and resist a principle on which a right is claimed by Great Britain, as a belligerent, to seize and condemn *bona fide* American property, because that property, so far as relates to the cargo, was of the growth or manufacture of her enemy's country—was brought into the United States from one part, and reshipped for another part of the dominions of that enemy.

But the aggressions complained of, are committed, it seems, on the ground of necessity. It is said, that Great Britain pleads that necessity as her justification—that, fighting for her existence, she is under the necessity of doing what she does—of violating (we say) our neutral rights. This plea appears to have been, in a manner, admitted, if not as a full and complete justification, at least as a degree of palliation, and therefore, that the principle which has been assumed by Great Britain, should not be so strongly resisted by this country. Here the admission of the plea is more dangerous than the admission of the principle itself. The ground of necessity is a ground so broad and extensive, that, upon any occasion whatever, some foothold may be found on it. It is a plea which eludes all investigation. It is submitted to no tribunal to decide whether it shall be overruled, or not. It is of that singular nature which cannot be judged of but by him who makes it. He only is competent to know what his situation renders necessary for him to do. An admission of the plea, then, is an admission that he has a right to do whatever he chooses to do, since his choice is grounded on what he deems to be necessary for him to do. It is the plea of every tyrant upon earth. The despot who wantonly impales thousands of his miserable subjects, says—it must be so; otherwise, the throne would totter under me. I shall fall a victim to the fury of an aggravated populace, unless they are constantly awed by extreme severity. A system of tyranny is established then, to support that system; and to preserve the tyrant, thousands must be sacrificed, because the existing state of things makes such sacrifices necessary. If Caligula's wish had been practicable, and every Roman neck had been hammered into one, that neck would have been too strong to be bent under him, and, of course, it would have been necessary to strike it off. Once admit the plea as a ground of justification, and no outrage whatever will want support. The plea will never be wanting. It will always be necessary to do something or other—right or wrong—and the necessity of the case warrants it. This doctrine leads to evils, the extent of which, baffles all human calculation.

The plea of necessity is made to justify the impressment, *ad libitum*, of any seamen who speak the English language. It is alleged as necessary to keep up the complement of seamen for their navy, and they cannot distinguish between British and American sailors. Having extended their naval armament so far as to become the scourge of the maritime world, they must keep it up, and to keep it up they make such indiscriminate impressments, otherwise some of their ships must be hauled into dock for want of men. This is a necessity which with them justifies every possible means made use of to procure men, and on this plea they seize American seamen. But is it possible that this doctrine can find an advocate, except among themselves? Or is it possible that the enormity of the outrage can be palliated in the smallest degree on the ground of such a plea? It cannot afford the slightest shade of justification. In the prosecution of this outrage, they arrogate to themselves a right to dispense with the known established rules of decision, to ascertain the truth of facts. The impressing officer seizes any seaman who speaks the English language, and of himself, merely upon that ground, determines that he is a British subject. If he could acquire a right to make the impressment in any case, he should produce proof of the fact. The circumstance of the seaman being found on board an American vessel, is *prima facie* evidence that he is an American citizen. The facility afforded, by similarity of language and manners, to the British sailor of entering on board American vessels, and the difficulty of producing on the spot evidence of his subjection to Great Britain, cannot be rightfully pleaded in justification of the violence. These are circumstances existing independently of the control of either of the nations; and if some British seamen do avail themselves of them, the inconvenience to that nation, whatever it may be, results from those circumstances. To remove that inconvenience, there cannot exist any rightful authority to trample on the rights of American citizens, by a wanton, indiscriminate impressment of every seaman speaking the English language, whom the impressing officer shall choose to seize. Even on their own principle of non-expatriation, without positive and unquestionable proof that the seaman impressed is a British subject, there can be no shadow of just pretext for the violence, even if committed within their own jurisdictional limits, but when committed on the high seas the outrage is aggravated by a violation of the rights of the American flag, an invasion of the jurisdiction of the United States.

Mr. T. NEWTON, jr.—It is seldom, Mr. Speaker, that I trespass on the time of the House. I am content, in most instances, in giving that vote, which appears to my understanding to be right and proper. Residing in a part of the United States which is rapidly progressing to the first commercial station, and representing, as I have the honor to do, citizens, respectable in their different vocations of farmers, merchants, and mechanics, I consider it a duty incumbent on me to accompany my vote with the reasons for it. It becomes my duty, peculiarly, so to act, as I have heard opinions, to which I cannot render my assent, and which have touched my sensibility. On a great and interesting crisis in our national affairs, it becomes the representative of a free people to speak what he thinks; firmness and independence should characterize all his actions. The magnitude, sir, of the subject demands a dispassionate consideration. I will endeavor to give it a deliberate attention. I differ on this subject from gentlemen with whom I have the satisfaction to agree on most political points, and with whom I am in habits of intimacy and friendship. This honest diversity of opinion shall never lessen my respect for their virtues. It is my desire to discharge with fidelity my duty to my country, and with approbation to my conscience. I shall never pause, or remain inactive, when her prosperity is to be promoted, or aggressions on her rights are to be repelled.

I will now, sir, offer my reasons for being in favor of the bill on the table. I confess it does not altogether come up to my wishes. But as unanimity is more likely to be the result of the adoption of this measure than any other at this time, I am willing to pare away something from my opinion to obtain it. I look forward to stronger toned measures, should the present prove inef-

ficient. What concurrence of circumstances and events have constrained us to take this measure? Let facts speak our justification. Let us recur to the history of America, and inquire whether we have received from Great Britain that justice and decorous demeanor to which as an independent nation we are entitled. I will omit insisting on the refusal to deliver to us the Western posts, in conformity to the stipulations of the treaty of 1783. The expensive Indian wars which grew out of that act of violated faith I will likewise omit, insisting on her repeated refusals to enter into commercial arrangements with us. I will also pass over the Treaty of 1794—that hydra of all our calamities—without a comment. It is to the events, since the year 1793, at which time hostilities commenced between Great Britain and France, that I shall direct my attention. I ask gentlemen to recollect the orders issued at different periods of time from her cabinet, and the clandestine manner of their execution. While the ships of our citizens were navigating the ocean, pursuing under the protection of the laws of nations and the neutral flag, a just and rightful commerce, they were captured and condemned. The first notice our merchants and navigators had of the existence of such orders, were from the cruisers that captured their vessels. Have not our citizens been subjected to the most degrading and humiliating insults and injuries? Have not our coasts been constantly lined with cruisers of every description? Have we not had spies in our seaports to give information of the destination of vessels, and the value of their cargoes? Has not our jurisdiction been invaded, and acts therein performed, in violation of the sovereignty of the nation? I refer to the case of seamen impressed in the harbor of New York, and the insult not long since offered to the State of Rhode Island by the commander of a ship of war. Have not the laws of national intercourse been wantonly, and without provocation, trampled under foot, and unrestrained plunder made the order of the day? Has not our flag, which gives to us jurisdiction over whatever portion of the ocean it covers, and ought likewise to give security to our citizens and their property, received every indignity and outrage? Has not the right of search and examination in the most shameless manner been abused, and our merchants subjected to immense losses, and their vessels to vexatious detentions? Are not our brave and generous seamen impressed and forced into her service? And have not the late decisions of the Admiralty Courts narrowed and pared away our commerce to a skeleton? Such, Mr. Speaker, is the treatment we have received, and are daily receiving, from Great Britain; we have borne such for years. Under these oppressions, what has been the conduct of America? a conduct of the most pacific composition. We have permitted her vessels to enter our ports on the same footing with those of the most favored nations—nations that had entered into commercial stipulations with us on a liberal scale.

We have preserved good faith in all our transactions. Ample justice has been rendered. The property of her subjects has been under the safeguard of the law, and restitution has been made when illegally seized. I speak of vessels and their cargoes, which were made prizes within our jurisdiction by the French cruisers, and prizes to such as had been equipped in our ports. The contrast is striking; the problem to be solved is this: whether we are to submit to depredations, or to assert our rights. The time, in my opinion, has arrived, which imperiously demands their vindication. The nation expects it, and we should not disappoint the patriotic wish. Let us, then, resort, as it is the opinion of gentlemen, to commercial prohibitions, and let us persevere in the course we have taken, till ample satisfaction is rendered for past injuries.

This measure is said, among its other deformities, to have a squinting towards war. I cannot consider it as having that tendency. I am averse to war; my constituents concur in opinion with me, that no greater evil can befall or scourge mankind. It is the prolific parent of every vice, of debts and taxes; it poisons in the germ the virtues that are vitally essential to the sanity of the Republic. Shall the assumption of a warlike attitude be ascribed to us, because we assert the rights of neutral navigation, and adopt a measure calculated to sustain them? The ocean is a common highway to all nations; our citizens are entitled to use it as such, in the same manner as they use the common highways or roads through our country. Robbery and piracy are equally base and criminal. The ocean is property in community; the *liberum mare* has been acknowledged and advocated by the best informed civilians, and all the writers on the law of nations. Every effort that shall be made or exerted to abridge our rights should be repelled.

It is immaterial to me who is the aggressor; whether Britain or France, Spain or Algiers. Pusillanimity invites aggression. A nation that is prepared for defence or offence is seldom molested. Let the secret proceedings of Congress be published, whenever the wisdom of this House shall deem the act prudent; I for one shall never blush at the votes I then gave. Were I permitted to retrace my steps, I should not change the course I then took. The peace, prosperity, and security of the country, are objects of primary importance, superior with me to every other consideration. From the course which the debate has taken, and from opinions advanced, it appears that commerce is not deserving of holding a high rank in the public estimation. The merchant—the American merchant—is a citizen, and allegiance and protection are reciprocal. Let us recur to the history of America for a solution of the question, Whether public attention has ever been directed to the security and prosperity of commerce? Restrictions and prohibitions on trade were grievances loudly declaimed against, anterior to the American war. They were classed among the principal causes that led to it. If we turn to the Declaration of Independence, we shall find enumerated among the misdeeds of that nation:

"The cutting off our trade with all parts of the world." "For plundering our seas and ravaging our coasts." Our freedom to trade wherever we please is asserted in that instrument, which announced to the world our independence. Since that ever memorable and glorious achievement, our public acts and institutions have been framed with a view to the extension and protection of commerce. If we turn to our Constitution we shall find powers given to the National Government for these purposes. If we will carry our minds back to the period preceding the formation of that Constitution, and its ratification by the States, we shall be convinced that the languid and deranged state of our commerce was not the least powerful of those reasons and inducements which produced a revolution in our National Government. If we have a reference to our code of laws, the attention and solicitude of Congress are manifest liberally and beneficially to carry into effect the powers that have any relation to this subject. The protection given to it in the Mediterranean sea is another evidence of the sentiment of the nation. These facts speak a language of easy comprehension. It is free from ambiguity.

Again, sir: If we cast our eyes over this interesting portion of the globe, and survey its happy position and natural advantages; if we contemplate the fertility of the soil, the diversity of climates, and the infinite variety of productions; if we take into view the large bays, which abound everywhere, and the navigable rivers that penetrate thousands of miles into the interior, we shall intuitively feel and confess the powerful excitements and instigations to commerce. The beneficence of nature is wonderfully displayed, in rendering the union of agriculture and commerce indissoluble. It is time, sir, I must repeat it, to protect our commerce. I trust we shall manfully arrest the hand of violence. In 1776, the American spirit sustained and defended our rights and liberties. Shall we in 1806, in the bloom of manhood, surrender our commerce without an effort to protect it? I trust we shall not. I also trust that we shall tell Great Britain in plain language, that we will not purchase certain fabrics of her; that we will not be clad in her broadcloths, nor wear her hats. We demand of her fair play; plain honesty; and that nothing short of it will satisfy us.

Let it not be understood, Mr. Speaker, that I am the advocate of commerce to the injury of agriculture. I profess myself to be the warm and sincere friend of the farmer. Agriculture never had, and never will have on this floor, a more ardent and decided advocate. The farmer's life has always been a theme of admiration with me. There is an inexpressible something in it that seizes upon and ravishes my affections. In supporting the freedom and protection of commerce, I manifest my zeal for the encouragement of agriculture; representing citizens of different vocations, it is my duty, and I will add my determination, to sustain their rights and interest free from the imputation of favoritism. My principles forbid me to sacrifice one portion of the community to the other. In the contemplation of common sense and common justice, in the language and spirit of our State and National Constitutions, equal rights and privileges appertain to every citizen. The point must be conceded. The alliance between agriculture and commerce is too intimate and close to be denied—the mutual dependence too visible to escape notice. If they should ever be torn asunder, the avulsion will produce a fatal lethargy. What encouragement would the cultivator of the soil have to produce more from his farm than would be necessary for the subsistence of his family, were it not for the certainty that the surplus products could be disposed of to advantage? Does not commerce stimulate industry? Has it not carried through our country a spirit of emulation never before felt? Are not our farms in higher cultivation, and our farmers richer than at any former period? All these felicitous effects are derived from commerce, subject as it has been to plunder and piracy. Were it protected, its advantages would be more diffusive. That moment we put commerce without the pale of our protection, that moment, I repeat it, a fatal lethargy is produced; that moment the hand falls paralyzed from the plough. Give it a liberal expansion, and the earth teems with luxuriant harvests.

Great objections, Mr. Speaker, have been raised against the carrying trade. I do not entertain the same opinion with other gentlemen on this point. From the view I have taken of this trade, my mind discriminates it from that of Venice, Genoa, and Holland. These were small places, diminutive when compared with America. They had little ground to cultivate; their supplies were drawn from other countries. They flourished in commerce, because their Governments were some shades more free than those of surrounding nations; property was protected by the laws. Hence, moneyed men of countries where commerce was in disrepute, resorted to employ their capital. The merchants of those places became the carriers of other nations, and enjoying what may be aptly denominated the freight trade, and other advantages from their capital, became celebrated for their wealth and power.

There is no similitude in our situations. The basis of our carrying trade is agriculture—the productions of the soil. In the same proportion that our trade is extended, and new markets discovered for our produce, will the farmer be encouraged and rewarded? Our products are carried everywhere, and are in demand. The articles are bulky, and require for their transportation much shipping. Our trade to the West Indies is considerable. Their dependence for subsistence and supplies of every description is on us.

We do not get money in those markets for our produce, as a memorial from Connecticut some time ago, soliciting the time for paying duties on spirit, &c., &c., to be enlarged, justly and correctly states; but the produce of the islands in exchange. The colonial productions thus acquired, are beyond the supply of our wants; our Govern-

ment aware of this fact, long prior to the existing order of things, from the nature of our commerce, enacted laws, authorizing the re-exportation of the surplus colonial products. Did not the merchants enjoy this privilege, a limitation in the exports of our produce would inevitably ensue. The farmer would of course be limited in his sales as to quantity, and sensibly experience a diminution in the price of his flour, and of other articles the produce of his farm. The merchant must have a profit to support his trade and credit. The laws of our Government on the allowance of drawbacks, were, as they appear to me, evidently framed more with a view to encourage agriculture than to accommodate the merchant. The same reasoning applies with equal propriety and force to the commercial relations we have with the nations of Europe. As the re-exportation of colonial produce and European fabrics, has, and still produces on the part of Great Britain, embarrassments to our commerce; it becomes my duty to inspect her pretensions on this head, with deliberation and dispassionate research. I rejoice that I am enabled to take high ground. I assert it then as a doctrine that has been established and published to the world by Great Britain herself, that the European manufactures and colonial productions of belligerent nations, when brought into a neutral country, become neutralized, and form a part of the stock and wealth of the importing nation, and that a neutral nation thus posssessed of such property, has an undeniable and legal right to export it to any other nation, belligerent or neutral, free from the clogs of any limitation or condition. In the examination of this subject, I shall refer to the decisions of the tribunals of Great Britain. I will not tire the patience of the House in quotations from writers on the law of nations. Great Britain concedes every point necessary to sustain my position. The Admiralty Courts have decided, that merchandise imported in our vessels, and which has been landed, and the duties paid or secured to be paid, is to be taken as so much of the floating wealth of the importing nation. If gentlemen have the curiosity to turn to books for information, I take the liberty to refer them to the case of the Polly, Laskey, master, 2 vol. Robinson's Reports, page 268. A *bona fide* importation is held by the judge to be satisfied, by the landing the goods and paying the duties. This is the import of that decision. The doctrine is again laid down in still more explicit terms by the British Government itself, in a correspondence between Lord Hawkesbury and Mr. King, stated in a letter from Mr. Monroe to the British Government, September 23, 1805. The part of that letter to which I refer, is as follows:

"The case was precisely similar to those which have been lately before the court. Mr. King complained in a letter of March 18, 1801, that the cargo of an American vessel, going from the United States to a Spanish colony, had been condemned by the Vice Admiralty Court of Nassau, on the ground that it was of the growth of Spain, which decision, he contended, was contrary to the law of nations, and requesting suitable instructions might be despatched to the proper officers in the West Indies, to prevent like abuses in future. Lord Hawkesbury, in reply, of April 11, communicated the report of the King's Advocate General, in which it *is* expressly stated, that the produce of an enemy may be imported by a neutral, into his own country, and re-exported thence to the mother country; and in like manner, in that circuitous mode, that the produce and manufactures of the mother country might find their way to its colonies; that the landing of the goods, and paying the duties in the neutral country, broke the continuity of the voyage, and legalized the trade, although the goods were re-shipped in the same vessel, on account of the same neutral proprietors, and forwarded for sale to the mother country of the colony. It merits attention in this report, (so clearly and positively is the doctrine laid down, that the landing the goods, and paying the duties in the neutral country, broke the continuity of the voyage) that it is stated as a doubtful point, whether the mere touching in the neutral country to obtain fresh clearances will be considered in the light of a direct trade, that no positive inhibition is insisted on any but the direct trade between the mother country and colonies. This doctrine, in the light therein stated, is also to be found in the Treaty of the 17th of June, 1801, between Great Britain and Russia."

I trust, Mr. Speaker, I have succeeded in proving the legality of the trade contended for. Great Britain has unequivocally pronounced our right to enjoy it. To surrender it is forbidden by the honor and interest of the United States.

It is said, Mr. Speaker, that this carrying trade is a fungus of war—that it is not worth contending for—that it consists in the carriage of enemies' property. In taking a further view of this subject, it becomes necessary and important to ascertain a previous question; whether our capital, composed of the productions of agriculture and specie, is sufficient to neutralize this trade. Of the exchange of our productions for those of the colonies and of the carrying trade, in its true sense, I have spoken. If I can now show that the current floating wealth of the nation, consisting of specie and bank paper, is to a considerable amount, and is equal to the support of our trade, satisfactory evidence will be obtained that our flag does not, to the extent spoken of, cover enemies' property. That our flag is dishonored in some instances, is true. It is the fate of all countries to experience deviations of this kind, and none more so than Great Britain. But that all our merchants are employed in this covering trade—its proper name—is without proof. I trust that there are few indeed, who can be found capable of passing through all the preparatory steps that would qualify them for it. The more I reflect on this subject, the more I am persuaded, that our commerce rests on the basis of American capital. The capital of our merchants has been accumulating since the peace of 1783. The times have been propitious. Subject as our trade has been to interruption and piracy, our merchants have increased their capitals. Ever since the year 1789, our agricultural productions and other articles of exportation have commanded higher prices than at any preceding period. The emigration of men of wealth from Europe and elsewhere, who have

fled from the horrors of war to this peaceful asylum, has added to it. The capital of our banks, amounting to more than forty millions of dollars; the annual income arising from freights, which a gentleman from Pennsylvania, (Mr. J. Clay.) proved to be eight millions of dollars: if we add the value of near seven hundred thousand tons of shipping employed in foreign trade, estimating each ton at thirty dollars—and also the capital necessary to keep this quantum of tonnage employed, we shall be convinced that our capital is sufficient to support our commerce, without foreign aid; that our merchants are not the mere go-betweens of the belligerent nations—the puppets put into motion by the juggling capitalists of Europe. It would puzzle any man to say what is the commercial capital of either Holland or France, or Spain; the two former have in their commerce suffered immensely by wars, but more from the shocks of frequent revolutions. France and Holland have long ago been announced to the world by Great Britain, as bankrupts in commerce. Spain, it is known, never ranked high as a commercial nation. It therefore cannot be fairly said that we are trading on their capitals.

Gentlemen have slided into another mistake, by limiting their views of this subject. They state, that what they call the carrying trade yields to the Government, in duties, but eight hundred thousand dollars. This is true. This is the amount of duties not paid by consumers, and arises from the three and a half per centum paid on goods re-exported—but gentlemen do not take into their calculations the immense value of the merchandise re-exported, amounting for the last year, ending on the 30th of September, 1805, to fifty-three millions of dollars—and the profits accruing to the merchants on the same in foreign markets. This part of the subject has not received that attention and fair discussion it merits. Facts are powerful, and, when calmly and dispassionately weighed, will establish the importance of this trade. To it we are indebted for the ability, to a great degree, of paying to Great Britain more than eleven millions of dollars—being the amount of the balance of trade in her favor, against the United States.

Circumstances and events, Mr. Speaker, not moral principles, influence the policy and dictate the measures of the Court of London. In 1793, when the most powerful nations of Europe were confederated against France, when victory and conquest were deemed certain, and France was to be cut up and partitioned, according to a secret understanding, adjusted in the treaties of Pavia and Pilnitz—Great Britain issued her orders for the destruction of our trade. The effects are known and felt. But no sooner did the coalition dissolve away before a brilliant succession of victories, than a relaxation in her orders and practice took place—a relaxation produced, not from qualms of conscience; not from a reviving sense of justice, but by her impotency; by her want of power to inflict the injuries meditated. A new coalition and naval victories have again brought our trade to the brink of destruction. The oscillations of the Cabinet have been communicated to the judge of the admiralty. On cases similar in all their circumstances, he has had the hardihood to pronounce dissimilar and conflicting judgments. In the West Indies, some of her judges have stained and polluted the ermine of justice by open and unblushing bribery. The late disastrous events on the continent will again infuse into her councils an artificial display of prudence and moderation. The Punic faith of the Cabinet—I speak not of the people—is without a parallel; nothing short of resistance, proportioned to the violence exercised, can confine the Cabinet to proper limits. To preserve our rights and to protect our citizens are duties we have pledged ourselves to perform. It has become important to the nation to know what security in future it is to look for, in its intercourse and trade with foreign nations. Our patience is exhausted. We cannot any longer submit to the capricious whims of any belligerent Power.

The principles of justice are immutable—they are the same at all times, and in all places—they are not liable to be modified by the fluctuation of events. The law of nations has accurately ascertained the rights which respectively appertain to neutral and belligerent nations—to the control of that law we are willing to submit, and to no other. The knowledge I have gleaned from authors, on the subjects of war and peace, clearly convinces me, that a declaration of war between two nations cannot deprive a third and pacific nation of the advantages of an honest neutrality.

The prohibition to carry implements of war, &c., &c., commonly called contraband articles or goods—to cover enemies' property—and the exclusion from ports actually, not constructively blockaded, are the restrictions on neutral commerce. The British Government is not disposed to stop at the barrier assigned and marked out by this law. But non-resistance to insults, aggravated by wanton insolence, impresses that Government with a belief, that it possesses a prescriptive right to oppress us *ad libitum*—at will. The old colonial system is reviving fast. Great Britain, sir, is contending for the sole right of altering and abrogating, adding to, and modifying, according to the dictates of her monopolizing views, the law of nations. All trade with her enemies is now prohibited, unless it was allowed by them during peace. Accede to this doctrine, and we shall next be inhibited to trade with any nation but herself. It is impossible to avoid expressions of execration at her shameless abandonment of principle. She interdicts trade with her enemies, on the ground that it furnishes them with the means of prosecuting the war; the purchase of luxuries from us is considered as enriching her enemies. She lays down a rule to regulate our conduct, and absolves herself from the observance of it; she denies to us the right of trading with her enemies, and yet it is notorious that she trades with them herself. The British merchants have never ceased, notwithstanding the war with France and Spain, to trade with their colonies. This is a fact. I appeal to the documents on the table to prove it.

Great Britain likewise contends, that neutral nations, subject as they are to a multitude of inconveniences and privations, from the conflicts of belligerent Powers, are not to be compensated with advantages which chance, the mutations of trade, or the state of hostilities may throw into their possession. In other words—that war deprives neutral nations of many benefits, but cannot confer them. Again, sir—she denies that any advantage or accommodation can flow to neutrals from the relaxation of the navigation acts of a belligerent—and yet she has the effrontery and boldness, in the teeth of such a declaration, to relax her navigation laws—deriving from such a measure incalculable advantages. Her manufactories are supplied with raw materials, particularly from her enemies, by the intervention of neutral bottoms; a practice in direct opposition to her navigation acts during peace—by it the navy is manned, and trade supported. I will not proceed further on this head to tire the patience of the House. The letter of Lord Hawkesbury to Mr. King is a complete answer to the new doctrines. Commerce, Mr. Speaker, has experienced many revolutions; peace and war alike produce them. Governments, laws, manners, and customs, have a tendency to control its operations. It would be a task of infinite difficulty to enumerate all the causes, which elevate and depress it. *Tempora mutantur, et nos mutamur in illis*, is as applicable to commerce as it is to man. Nations, once renowned for wealth and commerce, are now poor and without commerce. Tyre, once celebrated for her commerce, opulence, and power, is now nothing but a heap of venerable ruins. Of ancient Carthage, the rival of Rome, scarcely a vestige remains; Alexandria has seen all her proud expectations transferred to happier regions; and Venice, Genoa, and Holland, retain but the remembrance of their pristine splendor and glory. Commerce must be free; it disdains control. Like the sensitive plant, it shrinks from the touch.

This discussion, Mr. Speaker, has filled me with astonishment. The times are changed; we hear no more strictures on the importance and advantages resulting from commerce, and the necessity of affording it protection, from its old friends—a death-like silence has sealed their lips—the articulation of monosyllables is the utmost extent of their power. "Quantum mutatus ab illo Hectore!"

From the year 1795 to the 4th of March 1801, the inevitable prostration of commerce was rung throughout America in all the chimes and changes of eloquence—the people were forewarned in solemn admonitions of it, if the direction of our affairs were entrusted to the Republicans.

Behold, in 1806, a silent but steady opposition to every measure calculated to violate our commercial rights! Yes, sir, the former champions of commerce have hung up their coats of mail—the helmet and the buckler, the sword and scabbard, are thrown aside—the prophetical finger no longer points to war. The energy of 1795 and 1800 is extinct—it has fled "to the family vault of the Capulets"—from my heart I wish it an uninterrupted repose.

This bill is considered by some gentlemen as a mere milk-and-water composition—as a lenitive too mild for the prognostics of the case. I am willing to try its efficacy—simple prescriptions are generally the best restoratives to health. We are told, sir, that France is dominant, and that Great Britain is fighting *pro aris et focis*—for her altars and her freehold; but this is no reason why we should permit Great Britain to rob and plunder us at will. France is indebted for her power to the folly and short-sighted policy of Great Britain. It is not my wish that Britain should become a province to France, or that France, were the thing possible, should be dependent on Britain.

My fervent wish, politically speaking, is, that they should remain independent of each other; and that they should, in estimating the real importance of things, and the uncertainty of events, discern that there is more real good and true glory in the practical display of moral virtues, than all the victories that can be achieved by art and physical power.

I am favorable to the bill now on its passage, for other reasons, which have great weight with me. It will, if carried into operation, alienate our attachments from British fabrics. We shall acquire a taste for those of other countries—in which we can be supplied with articles necessary for our consumption, equal if not superior in quality to those from Britain and her dependencies. The insolence of Great Britain has gathered strength from our prejudices in favor of her manufactures. Show her that it is our determination to open other markets for supplies, and she will find it to her profit to render us equivalent advantages for the continuation of our custom. She will not hazard a rupture with us when the loss to her is certain and vital. By having, Mr. Speaker, a multitude of markets to resort to, with our productions, neither revolutions in the governments of nations nor the capriciousness of events, will have the power to produce commercial derangements—and, what is a consideration of the first magnitude, our revenue, derived as it is from commerce, would be in no danger of such a diminution, as to compel us to resort to direct taxes—taxes on our lands, houses, and other property, for the support of the National Government. It would also have the tendency, at all times, of furnishing markets for our produce—thereby keeping its price up to the maximum point—an object of importance to the cultivator of the soil.

The ability of Great Britain to injure us, has been insisted on—but the power of America to inflict a deep and festering wound on Britain, has not been noticed. No country so dependent as Great Britain on other climes, more favored by nature for raw materials essential to the support of her manufactures, and for the consumption of her fabrics, ought to assume a dictatorial tone to other nations. It will prove fatal to her. Triumphant as her fleets have been, their victories cannot render her potent enough to bind in chains the nations of the earth. Great Britain, in the intoxication of naval triumphs, should not forget, that her boasted navy, without foreign supplies, would

be but an insignificant defence. I should not err, were I to say, that it would be no defence. Its dependence is likewise on commerce for support, which cannot be carried on with nations without their assent. Her tyranny and depredations on the ocean must and will have the consequence of directing the attention of nations to encourage the manufacture of their raw materials. The security and happiness which will be derived to them from the adoption of such a plan, will stimulate them to persevere in it. If the United States should be driven to a non-intercourse with Great Britain, and her impolitic conduct is forcing them to it, she will be probed to the quick.

As her manufacturers cannot be supported and subsisted without foreign trade, they would be thrown as paupers on the community—without the means of satisfying the common and necessary wants—desperation would produce acts of violence, and the nation tracing abuses to their cause, would, by the force of revolution, obtain that reform, which it has so long sought in vain from Parliament. Far otherwise would be the condition of the citizens of the United States. They are happy under governments of their own choice—the only governments in the world whose direct end is the happiness of the citizens. They may be forced to suffer privations, but they can encounter them with fortitude and equanimity. They may, to a certain degree, be deprived of wealth by the sale of their productions—but they feel with gratitude the benignity of Heaven, in making them proprietors of a country that abounds in the necessaries, and, I might add, in many of the luxuries of life.

The Revolutionary war of America should bring to the recollection of Great Britain the power and resources of a generous and a brave people. The gentleman from Georgia (Mr. Early) observed, when he opposed the resolution of the gentleman from Pennsylvania, (Mr. Gregg,) that were Great Britain to declare war against the United States, she would incur no additional expenses. The calculations of that gentleman, how accurate soever they may be on other subjects, fall short of that character on this. Does he recollect the proximity of Canada and Nova Scotia to the United States, and that the British navy cannot protect them? Does he bear in memory the treasure of blood and money, lavished and expended by Great Britain, in wars to acquire those regions, particularly the cost at which Quebec was obtained in 1763? Will the gentleman also advert to the solicitude and exertion of that Power during the American war, to retain them? Those colonies are important to her—Canada puts her in possession of the fur trade, and affords a passage to her manufactures through the lakes into our Western country.

Nova Scotia is advantageous on account of the harbour which Halifax affords to her fleets on the American coast, and of the fisheries. Without Nova Scotia, and Newfoundland, the fisheries would be destroyed, and with them one of her best nurseries for seamen. The dependence of those colonies is in a great measure on us for supplies; our exports to them amount, according to the documents on the table, to more than a million of dollars. One article of exportation to them is four hundred thousand barrels of flour. I am satisfied, sir, that the defence of those colonies would increase considerably the public burden of Great Britain. I am also persuaded that a formidable force would be required to protect them, were Great Britain mad enough to hazard a war with us. It is as much her interest as it is ours, to let the sword rest in its scabbard. Forlorn and distressing would be the condition to which her West India islands would be reduced, were we to withhold our supplies—they would not be worth retaining. Our provisions are absolutely necessary for the subsistence of the inhabitants, and our lumber equally necessary to enable them to carry their productions to market. If the policy of Great Britain should drive us to a non-intercourse with her, and her dependencies, the mischiefs to both will be incalculable. Her colonists will be shaken in their allegiance, by discerning in the measures of the Cabinet a criminal disregard to their interest.

I am sensible, Mr. Speaker, I have tired your patience, and trespassed too long upon the time of the House. I feel myself exhausted—yet much more could be said on so copious a subject. I have endeavored to show the connexion and mutual dependence of agriculture and commerce on each other, and that the prosperity of our common country, which I wish may be perpetual, is deeply interested in the preservation of that connexion, and the protection of our commerce. I render my thanks for the polite attention I have experienced. I now, Mr. Speaker, take my seat, under a conviction of mind, that the interest of my country calls for the adoption of such a measure as that bill embraces; and that the first and most honorable duty a citizen can perform, is to assert and defend the rights and liberties of his country. Such is my determination.

Mr. Lyon said he was friendly to the principle of the bill, though he believed with the gentleman from Virginia, that it was too much of a milk-and-water measure. He was not, however, for throwing it under the table, but for having it amended. He would wish it to take effect on the 1st of July, instead of the 15th of November, and to authorize the President to dispense with any or all of its provisions, in case of a satisfactory arrangement of our differences with Great Britain. For the purpose of so modifying the bill, he moved a recommitment of it to a Committee of the whole House.

Mr. Bidwell said he was sorry this motion was made, especially at this stage of the business. He did not think the reasoning on which it was founded correct. The principal object of the motion was to give the bill an earlier effect. It was very improper, he thought, that such a measure should go into immediate or sudden operation. To turn the current of trade at once would operate unjustly, and in a manner hardly consistent with good faith to the merchants, who must have made their calculations and given their orders on the existing state of things. The time

when such a measure takes place ought to be so distant as to give a reasonable notice.

There appears to have arisen, said Mr. B., a difference of opinion as to the precise point of time when this bill might take effect. I think, all circumstances considered, the time fixed a reasonable time. It may be said that from its remoteness an unfavorable inference may be deduced of our intention to carry it into effect. I think not. I think, on the contrary, it will carry on the face of it a disposition to make it part of a permanent system of measures; and that this will be more likely to be inferred from the deliberation with which it is taken than from the adoption of any sudden measures. I trust, until circumstances require a different course, it will be persisted in, and that it will be but the commencement of a system of measures which we shall continue to pursue until our object is accomplished. In this view it is not so material at what particular moment the operation of this system begins, as to convince Great Britain we are determined to persevere in it. I am, therefore, against the recommitment.

Mr. Sloan said, he barely rose to observe he was in hopes, after all the learning and eloquence of the members had been exhausted, there would have been a silent vote on the passage of the bill; but in this hope he was disappointed. There appeared to be particular stomachs in the House that could not digest milk-and-water diet. He was of the number of those who wished the adoption of something stronger; but when he considered milk and water was a very wholesome diet, and that the only way to get anything was to be satisfied with this measure, he was against the idea both of the gentleman from Virginia to throw this bill under the table, or of the gentleman from Kentucky to recommit it.

Mr. J. Randolph.—I will not delay the question beyond two or three minutes. From some remarks made by my worthy colleague, (Mr. Newton,) it may be inferred, perhaps, that I said something which tended to wound his feelings. I have been long in habits of friendship with that gentleman, and he will do me the justice to believe that I had no such intention in anything which I said.

Mr. Newton said he did not particularly allude to any expressions of his colleague, but to expressions generally made use of in the course of the debate.

Mr. J. Randolph.—From some remarks of my colleague on my left (Mr. Clopton) it would appear as if a disposition had been manifested in this House to give up our rank and standing among the nations of the earth. It is true these remarks were not directed to the bill under consideration, for during this whole discussion not a word has been directed to the merits of the bill. All that has been said has been directed to an imaginary being, and reminds me of some expressions which I recollect to have seen in the writings of Thomas Paine, who compared the observations of some political writer on which he was animadverting, to a particular place near Philadelphia called Point no Point. Gentlemen during this debate have talked a great deal about the spirit of 1776. With what view? To show that we are an independent nation? No; but to urge the United States into a foreign war. Gentlemen inquire whether we will give up the rights of commerce—whether we have a right to protect commerce? We have a right; but the only question is, whether we have the ability. Once let the nation launch out on the doctrine of protecting commerce, and where shall we go? Are we prepared to say we will protect commerce against all Powers, in every sea, and at all risks? And if we do not disregard every dictate of prudence, what must the nation do but submit to the necessities of the times, to which the second rate Powers of Europe are obliged to yield, and to which we are told by gentlemen themselves Great Britain will soon be compelled to yield. If once we establish the principle that commerce must be protected by an armed force, this nation is ruined. We must build fleets and raise armies; we must go on the principles of Britain, who is now sinking under the weight of her establishments. These, so far from being the good old doctrines of the Revolution, are political heresies, and the exploded doctrines of navies and standing armies. We are willing to protect commerce in the only way in which we are able, by discriminating duties, and preserving a neutral position; for plunge the nation into war for the protection of commerce, and commerce instantly vanishes. There is no man who doubts that the people of the United States have it in their power to do an injury to a certain extent to Great Britain, or the right of the Government to declare war; but rights are correlative, In 1798 you had a right to declare war against France; and you did so to your cost. This is not then a question of right, or of national independence, but of policy, of expediency. Let us suppose this to be the initiative of strong measures, that it will eventuate in war, and be productive of all the calamities to Great Britain on which gentlemen calculate. What will its effect be upon us? We shall adopt it at the expense, perhaps, of our whole revenue, the annihilation of our commerce, the enormous augmentation of our debt, the increase of Executive patronage, and the prostration of the Constitution. Is it worth the purchase? We object to a large naval establishment—we are hostile to an increase of Executive power—we are disposed to relieve the public burdens—and to diminish the national debt. What was our situation when we came here? When was the country ever in a more prosperous state? We were treating with Great Britain, and had every reason to believe our differences would have had an amicable termination. If we go to war with Great Britain where are we to get the money to carry it on? We must resort to direct taxes. If it is the policy of this country hereafter to go to war for the protection of commerce in whatever way it may be invaded, every measure of this Administration has heretofore been decidedly wrong. If this new principle is to be acted on, and a naval establishment to be cherished,

what can you do? By exacting from the people every farthing they can pay, you may be able to support thirty ships-of-the-line; and are you prepared with that force to carry on a maritime war in defence of commerce? It is mere Quixotism. As well might the Elector of Bavaria, with his 80,000 troops, declare war against France, whenever that nation should undertake to march troops through his territory. There is a physical inability in the United States to defend commerce in this way. It is attempting to assume a rank which cannot fail to degrade us. Are we an independent nation? Have we a right to do what we please? There can be no doubt of this; but, does it follow that we are to throw away our liberties and the Constitution in a contest which can only end in our disgrace?

Mr. Clopton said, he had not the advantage of hearing the previous debate on this subject. He had derived his information from other sources than that alluded to by his colleague; from which, it appeared to him that the general tenor of the opposition arose from the alleged tendency of this measure to carry us into a state of war. Whether in making these remarks he had been correct or not, was for the House to judge; but whether those remarks had or had not a bearing upon the subject, he was sure they did not constitute the first instance of an aberration, and, he would add, a wide aberration, from the subject before the House.

Mr. J. Randolph said, he did not allude to the gentleman's observations—he did not hear them.

The question to recommit the bill having been disagreed to, it passed—yeas 93, nays 32, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Basset, George M. Bedinger, Barnabas Bidwell, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William Butler, George W. Campbell, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jr., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, Wm. Findley, James Fisk, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Nehemiah Knight, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, Wm. MacCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Philip Van Cortlandt, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Silas Betton, James M. Broom, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, jr., Caleb Ellis, William Ely, James M. Garnett, Seth Hastings, David Hough, Joseph Lewis, jr., Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Thomas Sandford, John Cotton Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Daniel C. Verplanck, and Peleg Wadsworth.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for the support of Government for the year one thousand eight hundred and six. The bill was reported with several amendments thereto.

The House proceeded to consider the said amendments; and an adjournment being called for, the House adjourned.

Thursday, March 27.

Mr. Nelson, from the committee appointed on the nineteenth instant, presented a bill for the relief of Rinaldo Johnson; which was read twice, and committed to a Committee of the Whole tomorrow.

Mr. D. R. Williams, from the committee appointed on the seventh ultimo, presented a bill to prohibit the introduction of slaves into the Mississippi Territory, and the Territory of Orleans; which was read twice, and committed to a Committee of the Whole on Saturday next.

The House proceeded to reconsider the amendment insisted on by the Senate to the bill, entitled "An act to regulate and fix the compensation of the officers of the Senate and House of Representatives:" Whereupon,

Resolved, That this House do insist on their disagreement to the said amendment.

Resolved, That this House doth agree to the conference desired by the Senate on the subject-matter of the said amendment; and that Mr. Leib, Mr. Alston, and Mr. Crowninshield, be appointed managers at the said conference, on the part of this House.

The House proceeded to consider the second amendment insisted on by the Senate to the bill, entitled "An act for establishing rules and articles for the government of the Armies of the United States:" Whereupon,

Resolved, That this House doth insist on their disagreement to the said amendment.

Resolved, That this House doth agree to the conference desired by the Senate on the subject-matter of the said amendment; and that Mr. Varnum, Mr. Tallmadge, and Mr. Covington, be appointed managers at the said conference, on the part of this House.

Mr. J. Randolph, from the Committee of Ways and Means, presented a bill making appropriations for the support of the Military Establishment of the United States, during the year one thousand eight hundred and six; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. J. Randolph, from the same committee, presented a bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and six; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. Clark, that the House do come to the following resolution:

"*Resolved*, That it is expedient to amend the act fixing the Military Peace Establishment of the United States, passed the sixteenth day of March, one thousand eight hundred and two, so far as to abolish the office of Brigadier General:"

Ordered, That the said resolution do lie on the table.

APPROPRIATIONS.

The House proceeded to consider the amendments reported from the Committee of the Whole House, yesterday, to the bill making appropriations for the support of Government for the year one thousand eight hundred and six: whereupon, the amendments to the first section being again read, were, on the question severally put thereupon, agreed to by the House.

The first amendment proposed to be added to the end of the first section of the said bill being again read at the Clerk's table, in the following words, to wit:

"For exploring the waters of the country ceded by convention of the thirtieth of April, one thousand eight hundred and three, and establishing commerce with the Indian tribes inhabiting the same, five thousand dollars:"

The question was taken that the House do agree with the Committee of the whole House in the said amendment, and resolved in the affirmative—yeas 97, nays 15, as follows:

Yeas—Ryan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Basset, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William Butler, John Chandler, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jr., John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, John G. Jackson, Walter Jones, Michael Leib, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, David Thomas, Philip R. Thompson, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—John Campbell, Orchard Cook, Leonard Covington, Samuel W. Dana, John Davenport, jr., William Ely, Charles Goldsborough, Peterson Goodwyn, David Hough, Josiah Quincy, John Cotton Smith, Benjamin Tallmadge, Samuel Tenney, Abram Trigg, and Daniel C. Verplanck.

The second and last amendment to the first section of the said bill, reported from the Committee of the Whole, being again twice read, was, on the question put thereupon, agreed to by the House.

Ordered, That the said bill, with the amendments agreed to, be engrossed, and read the third time to-day.

An engrossed bill making appropriations for the support of Government, for the year one thousand eight hundred and six, was read the third time and passed.

Friday, March 28.

Mr. T. M. Randolph, from the committee appointed on the sixth of January last, presented a bill incorporating an institution in the City of Washington, in the District of Columbia, for the education of youth, and the promotion and diffusion of learning and science, and granting to the same certain public lots within the said city; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Roger Nelson, from the committee appointed on the twenty-sixth instant, presented a bill supplementary to an act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia;" which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Dawson, from the committee appointed on the twenty-fifth instant, presented a bill for fortifying the ports and harbors of the United States, and for building gunboats; which was read twice and committed to a Committee of the Whole on Monday next.

The House proceeded to consider a motion of the twenty-fifth in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be directed to cause the Post Office, for the City of Washington, to be kept, after the —— day of —— next, at or near the Capitol."

Ordered, That the further consideration of the said motion be postponed indefinitely.

PLURALITY OF OFFICES.

The House resolved itself into a Committee of the Whole on the following resolutions submitted some time since by Mr. J. Randolph:

Resolved, That a contractor under the Government of the United States is an officer within the purview and meaning of the Constitution, and, as such, is incapable of holding a seat in this House.

Resolved, That the union of a plurality of offices in the person of a single individual, but more especially of the military with the civil authority, is repugnant to the spirit of the Constitution of the United States, and tends to the introducing of an arbitrary government.

Resolved, That provision ought to be made, by law, o render any officer, in the Army or Navy of the United States, incapable of holding any civil office under the United States.

The question was taken on these resolutions without debate.

The first was agreed to—ayes 54, noes 37.

The second was agreed to—ayes 75; and

The third was agreed to without a division.

When the Committee rose and reported their agreement to the resolutions.

The House immediately considered the report.

On concurring with the Committee of the Whole in their agreement to the first resolution,

Mr. Fisk said he sincerely regretted it was not in his power to vote for this resolution. He regretted there was no such principle in the Constitution as is prescribed. Such a principle not being in the Constitution, he did not conceive it in the power of the House to make the provision. It was not, in his opinion, in their power to say a man should not hold a seat in that House who was not prohibited by the Constitution. It was on this ground only he was against the resolution under consideration.

Mr. J. Randolph.—I think the gentleman from Vermont may in perfect consistence with the principle he has laid down, which I do not mean at present to contest, give his vote in favor of this resolution. He says that this House has not a right to make a disqualification which the Constitution itself does not attach to the tenure of a seat on this floor; that the Constitution draws a line between the qualification and disqualification of a member, and that this House has no right to alter them. What do we propose to do? To add a new disqualification? No; to do that which the Constitution put in our hands, which it not only authorizes but enjoins upon us. The Constitution declares that each House shall be the judge of the qualification of its members. It is clearly, then, the duty of the House to expound what is or is not a disqualification; and we are now only about to declare what is such a disqualification—merely to expound the Constitution on this head. I know some gentlemen are startled at the idea of expounding the Constitution. But do we not do this every day? Is not the passage of every act a declaration on the part of this House that a decision upon it is among their Constitutional powers? Or, in other words, is it not an exposition of the Constitution? So, in this instance, I will suppose a man returned to serve as a member of this House, and that he is declared, for some reason, to be disqualified from holding a seat. This, according to the gentleman, would be expounding the Constitution. We propose doing no more than saying, if the Secretary of State, or Chief Justice, should come here, they cannot hold a seat. We say that an abuse exists under the Constitution, and offer a remedy.

I have heard some quibbling about the meaning of the word "officer." What is the meaning of office? Agency; it is the office of a man's cook to dress his dinner, of a tailor to supply him with clothes; and it is the office of a contractor to fatten on the land—to acquire lordships, demesnes, baronies—extensive territory—by the advantage he derives from holding the public money, in virtue of his contract. But it is asked, if a contractor is an officer? and whether he can be impeached? because, under the Constitution, all civil officers are liable to impeachment. Would you impeach the Marshal of the District of Columbia? It may be answered that you may impeach him, but that you would not probably do so, because that would be breaking a butterfly on the wheel. Would you impeach a deputy postmaster? And yet when the postmaster at New York accepted his appointment, did he not vacate his seat in the Senate? There is no doubt a contractor is an officer *pro tempore*—it is not an office in perpetuity, but created for a time, and for a particular purpose. And I will ask, if it is not more dangerous to the independence of the two Houses to admit commissioners and contractors within their walls than officers with legal salaries and appointments? If we are to admit either, I say, give me the legal officer, with a determinate salary and definite powers, rather than the contractor who may gain thousands and tens of thousands of dollars by a single job. But, if the gentleman from Vermont is of opinion that a contractor is not an officer, under the Constitution, I hope he will join me in another vote, on an amendment which I shall beg leave to offer—this goes only to purge these walls, not those of the other House. I mean an amendment declaring void all contracts made with members of either House, and on this principle: Between the sessions of the Legislature it is possible for a member to receive a lucrative job, by which he may put thousands in his pocket, and, which being completed in the recess, and there being nobody to take cognizance of it, it will be impossible to apply a remedy. But, I hope this construction, which, so far as relates to our own House, we have an undoubted right to make, will obtain as the true construction of the Constitution.

But it is said that this House, and Houses which may hereafter meet, may give the Constitution a different construction. No doubt of it; and this may operate to the end of time. A former House passed a Sedition law; a subsequent House deemed the law unconstitutional. It is true they did not declare it so, and I am sorry for it; but there is no doubt of the fact. Now, we may pass a Sedition law again to-morrow, and the people rise up against it, and send different members to represent them. The people may again slumber; as long as you keep your hands from their pockets, they will keep their eyes from yours; and, in the same way, this law may be repealed. I can, therefore, see no force in this objection. The courts of justice undertake to expound the Constitution, and shall not the House of Representatives be as competent to do this as any court of justice? I will suppose a case, that of a man condemned under the Sedition law by a tribunal of justice. Suppose men of different principles come on the bench, would they hesitate to reverse the preceding decision of the court?

Indisputably not. Here, too, then, we would behold varying and repugnant decisions.

Mr. EPPES.—I have no doubt that every objection which can be made to a member of this House holding a civil office during his continuance as a Representative applies with equal force to his holding a lucrative contract. The framers of the Constitution in excluding civil officers from the floor of this House, most certainly intended to prevent any species of dependence which might influence the conduct of the Representative—to prevent his looking up for preferment to the Executive, or being biassed in his vote by Executive favor. A lucrative contract creates the same species of dependence, and every objection which could be urged against an officer, applies with equal force against contractors, who are dependent on the Executive will, and particularly carriers of the mail. While, however, I make this admission, I do not believe we have power to pass this resolution. The words of the Constitution are: "No person holding an office under the United States shall be a member of either House during his continuance in office." These words are plain and clear. Their obvious intention was to have excluded officers and officers only. It would certainly have been equally wise to have excluded contractors, because the reason for excluding officers applies to them with equal force. We are not, however, to inquire what the Constitution ought to have been, but what it is. We cannot legislate on its spirit against the strict letter of the instrument. Our inquiry must be, is he an officer? If an officer, under the words of the Constitution, he is excluded; if not an officer, we cannot exclude him by law. It is true, as has been stated, that, by the Constitution, we are made the judges of the qualifications of our own members. This judgment, however, is confined within very narrow limits. The Constitution prescribes the qualifications of a member. We can neither narrow nor enlarge them by law. Our inquiry can go no further than this: has the Representative the qualifications prescribed by the Constitution? An extensive meaning has been given to the word "office." How far such a construction of the meaning of this word is warranted, I leave for others to decide. That all contractors are not officers, I am certain. A man, for instance, makes a contract with the Government to furnish supplies. He is certainly not an officer, according to the common and known acceptation of that word. He is, however, a contractor, and, under this resolution, excluded from a seat here. A carrier of the mail approaches very near an officer. The person takes an oath, is subject to penalties, the remission of which depend on the Executive. His duties are fixed and prescribed by law. Near, however, as this species of contract approaches to an office, I do not consider that the word "office" in the Constitution can include even this species of contract. I consider the word "office" in the Constitution ought to be construed according to the usual import and meaning of that term; and as I do conscientiously believe that the word "office" and the word "contract" cannot be tortured to mean the same thing, I shall vote against the resolution.

Mr. ALSTON.—While I am as much opposed as any man to see any holder of public money within these walls, I cannot justify myself in declaring what is or what is not the Constitution. If in any case this ought to be done, this surely should be the last. What is its effect? To deprive a member of his seat on the vote of a bare majority, when the Constitution has declared that "no seat shall be vacated but on the vote of two-thirds of the members." Let this House say so, and what becomes of a contractor, if any such there be within these walls? The decision of the House will be in violation of the Constitution. No man who knows me will imagine that I have any partiality for contractors holding seats within these walls. I have never held a contract, or received a cent of the public money but for my wages as a member of this House. I am, therefore, as disinterested as man can be on this point. If there is a contractor within the meaning of the Constitution, let him be pointed out. I am not certain how I shall vote upon such a proposition. But I will not declare beforehand a particular construction of the Constitution. If I believe the case comes within the Constitution, of which I am not certain, I will vote for clearing the House of such a member. But I will not consent to a majority declaring in this way what they cannot carry into effect. How can this be done? If you cannot get two-thirds of the members of this House to vacate the seat, I ask what becomes of the resolution declaratory of the meaning of the Constitution? But it is idle to pass a declaratory resolution unless it can be carried into effect. One thing I will say, if the mover will modify his resolution so as to impose a penalty on any officer who shall make a contract with a member of Congress, I will give it my consent. For I wish to see no man in these walls dependent on the Government. I still adhere to the principle which I set out with, when I entered into public life, for I became a member of the Legislature of the State which I have the honor to represent at the age of twenty-one; but there was no office in the gift of any Government which I would possess. This is a principle to which I strictly adhere, and I do not believe I have any relation on earth who holds an office, numerous as my relatives are.

Mr. J. CLAY.—The gentleman says he is willing to vote for the expulsion of any member on this floor who holds public money.

Mr. ALSTON explained by observing that he had not absolutely said so.

Mr. J. CLAY.—If this cannot be done under the Constitution, with what consistency can the gentleman vote for the measure he proposes, as, under the provision of the Constitution alluded to, we have no right to expel a member but for some offence committed by him? The judges of your courts as well as the State courts have assumed the right of expounding the Constitution, inasmuch as they are bound on oath to support it.

Are we not bound by the same oath to support it? And have we not, by parity of reasoning, the same right to construe it? Are not gentlemen indeed, by their negative vote, giving the Constitution their own exposition? I have no doubt of our right to expound the Constitution. Let us take things as they are. What is an officer? A man holding a public charge or agency. What is an office? A public charge or agency. Is not a contract an agency? A man contracts to carry letters in the mail. Is not that an agency? So a man contracts as an agent of the Postmaster General to carry letters from Washington to Baltimore; is he not as much an officer as if he resided at Washington or Baltimore? The only difference is, that one is moving and the other stationary. Every officer under the Government is a contractor, inasmuch as he contracts to do certain things for a certain sum of money. I believe, likewise, the converse of the proposition is true, and that contractors are likewise officers.

Mr. FINDLEY said, were this proposition proposed as an amendment to the Constitution, he should vote for it; but for reasons very different from those which had been assigned. He did not believe that every contractor was an officer under the Constitution, for if this was the case, every man who furnished the public with the least article of supply would be an officer—the miller who sold flour for the use of the army, as well as the stationer who supplied the House with paper and quills. Every man who sold anything to the Government must, in this light, be considered as an officer. Would gentlemen be disposed to exclude all persons of this description from a seat in this House? Great weight had been attached to that clause in the Constitution which made the two Houses judges of the qualifications of their members; but it was a sufficient answer to this argument to observe, that though the Constitution gives the two Houses the power of judging of the qualifications of their members, it does not give them the power to make those qualifications. He agreed that it was discretionary with each House to expel a member, but then the act could only be effected by a vote of two-thirds of the members. He had always understood, and believed it to be correct, that it was an essential attribute of office for a man to possess some power, to be exercised on behalf of the Government. Now a mere contractor receives no such power; he only enters into an engagements to perform certain specified duties.

Mr. J. RANDOLPH desired that part of the Constitution to be read, which authorizes the expulsion of a member, by which, he said, it would appear that such expulsion could only be made for disorderly behaviour.

The Clerk read the article as follows:

"Each House may determine the rules of its proceedings; punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member."

Mr. G. W. CAMPBELL said he would assign the reasons, on account of which he could not give his vote in favor of the resolution under consideration. It proposed to decide what shall, and what shall not be the true construction of the Constitution as to the term *office*. He was of opinion that it was not competent for that House to put a construction upon the Constitution, except in a particular case under their consideration; and that they could then and then only act upon it. If there were any gentlemen upon the floor of the House who were contractors, and a motion should be made to expel them, he would then be ready to give his vote upon such a motion; but he was not prepared to give a general construction to the Constitution as to the existence of any such case. With regard to the case under cosideration, he was not prepared to say whether a contractor was an officer within the meaning of the Constitution. The Constitution declared that no Senator or Representative should be appointed to an office: when, therefore, they were inquiring what constituted an office under the Constitution, it was necessary that they should refer to the Constitution itself, to determine the meaning of the word *office*. It declares, in the third section of the second article, that the President shall commission all the officers of the United States. I am not prepared, said Mr. C., to say that a man is an officer who is not so commissioned under the Constitution. It appears to me that a person must have a commission before he can be considered an officer under the Constitution. Mr. C. said he was clearly of opinion that it would be advisable to make a provision to remedy the evil, and he would cheerfully agree to any measure which would have this effect, as he did consider it extremely indecorous for any man holding a contract and the money of the public to participate in the making of laws for its application.

Mr. R. NELSON said he was sorry that he could not on this occasion, consistent with the oath he had taken to support the Constitution, advocate the resolution under consideration. He agreed that it was highly improper for contractors to hold seats in that House, as there were many cases in which they could not give a free and impartial vote; but in his opinion there was no power to exclude members from a seat, unless that power was contained in the Constitution. He said he would give his idea of the spirit and meaning of the Constitution on this point. They were bound by its letter—where the letter and the words of it were plain, they were bound strictly to adhere to them; where, from the wording, the meaning was doubtful, or difficult, every member was bound to put that construction which his judgment dictated. But where there was no difficulty, where the words were plain and obvious, he would ever raise his hands against what was called the spirit of the Constitution, or, in other words, giving it a meaning which the words would not bear. If this power existed in the Constitution, it must be found under that section, which declares, that "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have

'been created, or the emoluments of which shall 'have been increased, during such time; and no 'person holding any office under the United States 'shall be a member of either House, during his con- 'tinuance in office." The question then comes to the single point: Is a contractor an officer under the Constitution? If he is, there is no doubt he may be excluded from a seat in this House; but if he is not, he cannot be excluded. What then is the idea of an officer under the Constitution? It either must be recognised by the Constitution, or some law passed in conformity to it, for no man under the Government has a right without law to create as many offices as he pleases. The Postmaster General has a right to contract for carrying the mail; he may employ for this purpose fifty, five hundred, or five thousand men. Will anybody thence contend that the Postmaster General has the right of creating five thousand offices? Our Constitution has been justly extolled as the freest in the world, and as the best calculated to promote the happiness and security of the people. It has been called free in contradistinction to those despotic governments, where all the offices are held up to sale. Is not this the case with contracts? Are they not uniformly given to the lowest bidder? What government of principle then is this, which proposes to put a construction upon the Constitution, by which offices under the Government shall be thus exposed to sale? But are they in truth officers of the United States, recognised either by the Constitution or laws? No, they are not officers of the United States, they are mere hirelings of the Postmaster General; he has not the power of setting up the Constitution to the highest bidder. If so, it is no longer a free Constitution; it does not deserve the eulogiums which have been so justly passed upon it.

Mr. Early.—I would not rise to trouble you were not the yeas and nays to be recorded on this question. I am as fully sensible as the honorable mover of the resolution, or any other gentleman on this floor, of the extreme impropriety, to say the least of it, of persons remaining members of this House who hold a contract under the Government to which any emolument is attached. With him, and them I believe, that of all descriptions of appointment, this is the most improper to be blended, where the emoluments are not fixed by law, but rise or fall with circumstances. I am therefore as wiling as any person can be to adopt any measure to effect a remedy of this evil, which we possess the Constitutional right of doing. My difficulty on this subject is not the same with that presented to the minds of some gentlemen, that we are not authorized to pass a resolution putting a construction upon the Constitution. On this subject, by the Constitution we are made judges of the qualifications of the members of this House. If so, we are necessarily judges of their disqualification also. One power implies the other. I therefore have no difficulty on this score. The simple question is, in my mind, whether a contractor is an officer under the Constitution? My own opinion is decidedly in the negative—an opinion formed after the most mature reflection. I can appeal to you, sir, that I have sought after truth on this subject with industry; and I can appeal to other members to attest my having contemplated early in the session the offering a resolution as the foundation of a law, to give effect to the object of the gentleman from Virginia to declare void any contract made by any officer under this Government with any member of either House. So far I am prepared to go, if any member shall introduce such a proposition. The passage of such a law will remove the inconvenience which might arise from interfering decisions made in this House at different times, and will prevent the existence of a different rule in the two branches of the Legislature.

Mr. Smilie said he heartily concurred in opinion with those gentlemen who considered an union of a contract with a seat on this floor as highly improper. But that was not the question under consideration. It was simply, how far they were authorized by the Constitution to take the course now recommended. Every man attending to that Constitution, would see that it had two great objects in view. One was to promote the interests of the community: the other to protect the rights of individuals. But these duties were equally sacred. Was it then proper, in maintaining the one, to sacrifice the other? To avoid Scylla but strike on Charybdis? He wished to God the Constitution had excluded contractors; but as it had given them a right in common with the citizens of the United States to a seat on that floor in case they were elected, he could not in conscience do anything which would take away those rights. It did not belong to that House, previous to the existence of a particular case, to make a general declaration. When a particular case was brought forward it would be time enough to take the subject under consideration.

Mr. Bidwell said, before he gave his vote, he would concisely state the reasons which would influence him in giving it. This was not a mere question of policy, but a question that implicated the Constitution. It was their duty to decide, not what the Constitution ought to be, but what it was. However it might or might not conform to their abstract idea, they were nevertheless bound by it. The resolution says a contractor is an officer within the meaning of the Constitution. In elucidating this point, the Constitution must be our guide. The clause of the Constitution relied upon is, that "no person holding any office under the United States, shall be a member of either House during his continuance in office." To say that a contractor is an officer is giving a new signification to the words contractor or officer. He considered both words to be as well understood, and to have as definate meanings as any other words in the English language. There is a Constitutional definition of the word officer in the third section of the second article of the Constitution, which provides that the President "shall commission all the officers of the United States." Here then is a Constitutional definition of what is meant by a person holding an office, viz: a person commissioned by the President. A contractor does not necessarily or even generally hold such a commission. By deciding that a contractor is an officer, it will be decided that no contractor could be appointed without being commissioned by the President. This would be extending the doctrine a length to which it had never been carried. Further, it is provided, that the President, Vice President, and other officers of the Government, shall take an oath to support the Constitution of the United States. Is there any such requisition, or has it been usual to require such an oath from contractors? Under this view of the subject, and conceiving himself bound by the oath which he had taken to support the Constitution, he could not in conscience agree to the resolution, whatever evils it might have for its object to cure.

Mr. Rhea (of Tennessee) said this was an abstract question, in the affirmative of which he was not prepared to vote. There were abstract reasons which induced him to vote against the resolution. He said he was averse to assume from the Constitution of the United States, what was not expressly declared therein.

He was not willing to go on, by a principle of construction, until the Constitution of the United States was made anything or nothing. There was a day when the principle of construction was reprobated, and now, having a seat in this honorable House, he was not willing to revive that principle. He said he was determined to vote against the resolution.

Mr. J. Randolph admitted that this might be, as he was convinced it was with many gentlemen, and hoped it was with all, a question admitting of a fair difference of opinion. It was a question that respected the construction of the Constitution of the United States. The point in issue, whether a contractor is or is not an officer of the United States, had been set aside by being begged. Gentlemen argue as if it was proposed to add a new qualification to holding a seat on this floor, when in truth, no such question existed; the only question was, whether there was an existing disqualification. While I am up, said Mr. R., permit me to say the gentleman from Maryland has, with a peculiar infelicity, abandoned the ground which he had first taken. He says that a contract cannot be an office, because the former are put up to sale; and because no man, under the Constitution, can possess the power of creating an indefinite number of offices. And yet, how are those men who carry the mail or discharge the duties of postmasters appointed, but on the mere *dictum* of the Postmaster General? And how are foreign Ministers appointed? They are not appointed by law. The President nominates as many as he pleases, and is only limited by the money at his disposal. As to the offices under the Postmaster General, as has been alleged, being let to the lowest bidder, I believe it would be difficult to establish the allegation. I understand that that is not the principle on which they have been let out. We are told that a contract is nothing but a bargain. It certainly is a bargain. But suppose the office of Postmaster General, as that seems in this debate to have engaged so much of the attention of gentlemen, should be let to the lowest bidder; would the person that discharged those duties be less an officer of the United States? There is one office which I believe is always let to the lowest bidder—a common executioner. Who is he? The deputy of the sheriff: and *quo ad hoc*, he is as much an officer as the superior who employs him.

What do we propose to do? To give a construction to the Constitution which is to operate on our House only, and which is not to govern the other House. They are as much the judges of the qualifications of their own members, as we are of the qualifications of ours. And although the gentleman from Georgia is unwilling a different principle should obtain in the two Houses; and although I should be glad that a proper principle should be applied to both, and should, therefore, be willing that such a principle should be fixed by law; I am not, therefore, for abandoning that, which we have an indisputable right to do, a right to judge of the qualifications of our own members, in hope of obtaining that which we may never accomplish. But let me ask those gentlemen who profess themselves willing to aid us in framing a law upon this subject, how, on their own principle, a law can be framed to do that by law which cannot, as they say, be done under the Constitution? If the Constitution does not authorize such a step, much less will it be authorized by our laws.

Mr. Elmer said it was perfectly clear to him, that the members of that House were not at liberty to vote for the resolution under consideration. Both common sense and the Constitution forbade considering a contract in the light of an office, and he had never before heard it contended that they were equivalent terms. He would cordially give his vote for any law which could be constitutionally passed, to get rid of speculation and corruption of any sort, but the oath which he had taken to support the Constitution limited his power, which he could not transcend.

Mr. Kelly said he would concisely assign the reasons which would induce him to vote against the resolution. He did not believe an officer and a contractor meant the same things. With regard to the contractors holding a seat on that floor, it might happen that a man might be a contractor without being in the least disqualified from impartially discharging all the duties of a member, as the contract which he formed might be more for the good of others than his own benefit. He, however, allowed that where a person held a seat, and made use of the power it gave him to make a contract, he was highly censurable. Still he was of opinion that it was not in the power of the House to declare the two appointments incompatible, unless the Constitution expressly authorized them. In examining the Constitution he found no such provision. Though it had been attempted to be shown that a contractor and an officer were one and the same, he believed they were very distinct things. A contractor receives

no authority from Government; his contract was derived from an officer, and all the power he possessed was derived from him, who was only amenable for the performance of the duty to the person who appointed him. A contractor could not, therefore, be considered as an officer under the Constitution, amenable to the United States.

Several allusions, said Mr. K., have been made to cases which have occurred under the Postmaster General, but until these shall be particularly pointed out, it will be impossible for us to decide how we are to act. I believe that it does not become this House to pass declaratory acts relative to the Constitution. It ought, in my opinion to stand on its own footing; and every case that is presented ought to be decided, not by a declaratory act, but by the Constitution itself. My colleague says that the judges of the federal as well as State courts take an oath as well as we do, to support the Constitution; and that, notwithstanding they are in the daily habit of construing the Constitution. But there is a wide difference between their deciding particular cases which properly come before them, and this House going into a general declaration without any such particular case. Would the judges undertake to declare the meaning of the Constitution without the existence of a particular case calling for their decision? So that the very thing which the House is about doing, has been invariably avoided by the judges.

Mr. Dawson observed that when the resolution was offered, he had voted for it, because he approved the principle on which it was founded. He should now be obliged to vote against it, because it tended to curtail the privileges of the House. If a contractor had constitutionally no right to a seat in the House, the proper way was to take up the case and act directly upon it. He believed that such a case did exist, and he was ready to say if there were any members who received money from the public, they ought not to hold a seat on that floor.

The question was then taken by yeas and nays on agreeing to the resolution—yeas 25, nays 86, as follows:

Yeas—Evan Alexander, Burwell Basset, George M. Bedinger, Christopher Clark, Joseph Clay, Matthew Clay, Ellis Earle, James M. Garnett, Edwin Gray, Walter Jones, Michael Leib, William McCreery, Thomas Moore, Thomas Newton, jun., John Randolph, Thomas M. Randolph, John Rea, of Pennsylvania, Thomas Sandford, Martin G. Schuneman, Samuel Smith, Thomas Spalding, Richard Stanford, Philip R. Thompson, David R. Williams, and Richard Winn.

Nays—Willis Alston, junior, Joseph Barker, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William Butler, George W. Campbell, John Campbell, John Chandler, Martin Chittenden, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Davenport, jun., John Dawson, William Dickson, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, James Kelly, Nehemiah Knight, Joseph Lewis, jun., Duncan MacFarland, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, jun. John Pugh, Josiah Quincy, John Rhea, of Tennessee, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Joseph Winston.

So the resolution was lost.

FISHING BOUNTY.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, to whom was referred, by the House of Representatives, the petition of Jonathan Very, of Salem, in the State of Massachusetts, made the following report:

The petitioner, in the year 1800, was the owner of the schooner Edmund, of the burden of fifty-one tons. This vessel was licensed for employment in the cod fishery, and sailed on her voyage the twenty-first day of June, and returned to Salem on the ninth day of August, with a fare of fish, of three hundred and seventy-two quintals. She departed on the second voyage, the twenty-first day of August; and after being employed in the cod fishery, and having caught upwards of forty quintals of fish, on the ninth day of September, ensuing, the said vessel met with a severe storm, shipped a sea, and was so wrecked that the crew deserted her, and she, with her whole cargo of fish and salt, was thereby totally lost. In consequence of this loss, the petitioner and the crew of said schooner were deprived of the bounty money allowed under the existing laws for the encouragement of the fishery, in lieu of the drawback on the salt consumed in making the fish. The petitioner prays that he and the crew of said schooner may receive the same bounty, which, in the event of a successful voyage, they would have been entitled to, or such proportion thereof as may be deemed proper.

The committee are satisfied that the duty paid to the United States, on the quantity of salt exported in the schooner Edmund, amounted to an equal sum with the bounty prayed to be allowed by the petitioner; it might, therefore, at the first view, seem reasonable to grant the prayer of the petitioner; but, on the other hand, the existing law only warrants the payment of the bounty to fishing vessels actually employed during four months of the fishing season; that is accounted to be from the first day of March to the first day of December, in every year. This schooner was at sea, and actually engaged in the fishing business, for seventy days only, during the two voyages. She was not employed longer than that time before she was lost, and abandoned by the crew. No provision exists, in the law for the encouragement of the fisheries, which is calculated to meet a case similarly circumstanced. It contemplates the employment of a fishing vessel, for the period of four months, and leaves no discretion to be exercised by the officers of the customs. If a regularly licensed fishing vessel is lost, or shipwrecked, at any time within the four months, as the law now stands, the bounty cannot be paid. The committee consider this as a hardship upon the fishermen, and the owners of fishing vessels. It would certainly be an equitable arrangement to allow them to receive such proportion of the bounty, as the time employed, previous to the loss of the vessel, might bear to the four months; and where the vessel should be entirely lost, with the crew, it would be only a fair and just encouragement to the cod fishery, if the full bounty was paid; and such a provision could not be considered as operating injuriously to the revenue, as the bounty is allowed in lieu of the drawback to which the salt used in curing fish would be entitled, upon its exportation out of the United States.

The committee, however, are not permitted to vary the law to suit each individual case. A mere informality, unintentionally committed, might sometimes be dispensed with; but, where the principal provision of the law is not complied with, there can be no reason to induce Congress to fluctuate in its decisions, according to the various applications or views of individuals, who may feel themselves injured.

Under all the circumstances stated in this case, (although the committee are fully sensible that the loss falls peculiarly hard on the petitioner,) they are of the opinion that, as the law now stands, it would be improper to allow the bounty asked for by the petitioner; and therefore recommend, that he have leave to withdraw his petition, and the documents accompanying the same.

The report was agreed to.

Saturday, March 29.

Mr. Thomas M. Randolph, from the committee appointed on the fifth instant, presented, according to order a bill concerning the public grounds within the limits of the city of Washington, in the District of Columbia; which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. Dawson, from the Committee appointed on the fourteenth instant, presented a bill authorizing the proprietors of squares and lots in the City of Washington, to have the same subdivided and admitted to record; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. Jackson, from the committee appointed on the twenty-third of December last, presented a bill supplementary to the act, entitled "An act to extend jurisdiction, in certain cases, to the Territorial Courts;" which was read twice, and committed to the Committee of the Whole to whom was committed on the eighteenth instant, the bill to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes.

Mr. Jackson, from the same committee, presented a bill to amend the act, entitled "An act to divide the Indiana Territory into two separate Governments, and for other purposes;" which was read twice, and committed to the Committee of the Whole to whom was committed, on the eighteenth instant, the bill to provide for the adjustment of the titles of land in the Territory of Michigan, and for other purposes.

PETITION OF JOSIAH H. WEBB.

Mr. J. C. Smith, from the Committee of Claims, to whom was referred the petition of Josiah H. Webb, made the following report:

The petitioner, while employed in carrying the mail of the United States in August last, from Coweta to Fort Stoddert, was shot through the body by some person unknown. He is now in a languishing condition, under the care of the commanding officer at Fort Stoddert, destitute of the means of present subsistence; and, from the nature of the wound, it is not probable he will be able to provide for his future support.

A letter from the Postmaster General addressed to the Committee, and accompanying this report, confirms the foregoing statement, and recommends the petitioner's case to the humane provision of Congress. And when it is considered that the petitioner is now within the exclusive jurisdiction of the Government of the United States, in a part of the country where no regulations are yet adopted for the support of the poor; that he is under the immediate charge of an officer of the Government, who must either permit the petitioner to suffer for want of the necessaries of life, or maintain him at his own private expense, there can be little doubt that it is the duty of the National Legislature to extend its aid to an individual thus circumstanced.

Of the nature and extent of the relief which ought to be afforded to the petitioner, your Committee are not yet fully advised; at present they respectfully submit to the House the following general resolution:

Resolved, That the prayer of the petitioner is reasonable, and ought to be granted.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Claims do prepare and bring in the same.

AMENDMENTS TO THE CONSTITUTION.

Mr. Newton alluded to the fate experienced yesterday by the resolution declaring the tenure of a seat in the House incompatible with the holding a contract under the Government of the United States. From the fate experienced by this resolution, he said he was induced to offer an amendment to the Constitution which he considered as of great importance. He said he would wish to see an American Congress composed of very different materials from a British Parliament. He did not wish to see contractors on that floor. When the Members of that House came to perform the duties of the people, they should pass themselves into oblivion. No suspicion ought to attach to them. To preserve the character of the Representative body from reproach, he had prepared an amendment to the Constitution which he would submit to the House.

The amendment was then read, as follows:

"That no person, holding a contract under the Government of the United States, or who shall, directly or indirectly participate in the emoluments of such contract, shall be capable of holding a seat in the Senate or House of Representatives of the United States."

Ordered to lie on the table.

Mr. Thomas said he wished to submit a resolution, also to amend the Constitution. It was for the purpose of districting the several States, for the choice of Electors of President and Vice President by the people.

He said he had had the resolution for some time in his drawer, waiting for a favorable opportunity to bring the subject forward. He would not say that the present was the auspicious moment to

call the attention of Congress and the nation to alter that sacred instrument, for he believed it ought not to be approached with innovations, but for strong and cogent reasons; nor then, only when the public mind was free from collision, and unembarrassed with other questions of great national policy. However, as several propositions for amendments were before them, if they were called upon at this time to consider any, he wished to draw the attention of the House to one which experience had proved to be really necessary and proper.

The object of districting the State, and vesting the choice of Electors of President and Vice President in the people, was one which he had frequently urged and advocated in the Legislature of the State which he had the honor, in part, to represent, under the Constitution as it now stands, which left it optional with the State Legislature, either to appoint the Electors themselves, or to rest their election with the people at large. Indeed, he said, he always did think, and still thought, that the mode of choosing Electors for the Chief Magistrate of this country, ought to be by the people, and that, too, in an uniform mode throughout the United States. This, he considered the only proper way to obtain a fair expression of the public will in the choice of this highly responsible officer; and in order to have this subject before the House, he would submit the following resolution:

"That the State Legislatures shall, from time to time, divide each State into districts, equal to the whole number of Senators and Representatives from each State, in the Congress of the United States; and shall direct the mode of choosing an Elector of President and Vice President in each of the said districts, who shall be chosen by citizens having the qualifications requisite for electors of the most numerous branch of the State Legislature, and that the districts so to be constituted, shall consist, as nearly as may be, of contiguous territory, and of proportion of population, except where there may be any detached portion of territory, not of itself sufficient to form a district, which shall then be annexed to some other portion nearest thereto; which districts, when so divided, shall remain unalterable until a new census of the United States shall be taken."

Laid on the table.

FOREIGN AGGRESSIONS.

Mr. Dana.—Mr. Speaker, it is well known, sir, how highly the public expectation has been excited with respect to the proceedings of Congress. Before we assembled in this place there existed a strong sentiment of indignation, in consequence of the injuries and indignities accumulated upon the United States. The language of the President's communication to Congress at the opening of the session corresponded to this tone of the public mind. The sentiment has been decidedly manifested in the memorials laid before Congress from different parts of the Union. The frequency of our deliberations in conclave, the speeches delivered in public, the conversations of gentlemen without the bar, all might be mentioned as evincive of the general conviction, that the state of public affairs imperiously required something to be done; something adequate to the exigencies of our peculiar situation; something worthy of the moderation, the firmness, and the wisdom, which should characterize the Representatives of a free, enlightened, and magnanimous people.

From the interesting nature and magnitude of the subjects on which the President has given us information; from the general character of the measures which he has officially recommended to our consideration, a serious weight of responsibility has been devolved upon this House; and an ample portion of it, in my apprehension, has rested on those members upon whom the management of business has been more especially devolved in the course of political events, and by the peculiar circumstances of the time. The session has now continued for more than sixteen weeks. During this time the gentlemen have had opportunity to present for our consideration such measures as they have thought proper for liberating the country from evils which are experienced, and for guarding it against such as are to be apprehended. After all the patience of expectation, during so long a period, in waiting for the gentlemen to develope whatever of system they may have formed or adopted for the public welfare, I hope it will not be judged improper if I now request your attention to some of the subjects which have not been considered in the House, although they are mentioned in the President's communication, and are perhaps not less immediately interesting than others, about which there has been so much said in the form of public debate.

With the exception of the reference to affairs with several Indian tribes, and the measures for exploring certain parts of the interior of this continent, the communication of the President principally regards our foreign relations. He gives us information of the state of affairs with the Powers of Barbary; but no difficulties on that coast are mentioned as requiring the particular attention of Congress. The prominent topics are our relations with some of the greater Powers of Europe. With them we have questions of serious moment.

We have controversies, nominally, with Spain, on account of territorial claims and aggressions, and for spoliations during the former war. With respect to these, we have done nothing in public. Of what has been done in secret, I abstain from speaking, as the majority of the House has not yet consented to remove the veil which hides the proceedings in conclave from the eyes of the people.

Between this country and Great Britain there are serious questions relative to the impressment of seamen, and the trade with colonies of her enemies. With a view to these questions we have had various propositions before us, and the House has adopted such as undoubtedly seemed to the majority most advisable.

But among all the propositions and resolutions which have been laid on your table, not one has contained any provision relative to some of the grossest outrages mentioned in the President's Message; outrages committed by persons under

the flags of various belligerent Powers, the British, the French, the Spanish. I speak of outrages at the entrance of our harbors, on our coasts, and in the West Indies:

"Our coasts have been infested, and our harbors watched by private armed vessels, some of them without commissions, some with illegal commissions, others with those of legal form, but committing piratical acts beyond the authority of their commissions. They have captured, in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off, under pretence of legal adjudication; but, not daring to approach a court of justice, they have plundered and sunk them by the way, or in obscure places where no evidence could arise against them, maltreated the crews, and abandoned them, in boats in the open sea or on desert shores, without food or covering. These enormities appearing to be unreached by any control of their Sovereigns, I found it necessary to equip a force to cruise within our own seas; to arrest all vessels of these descriptions found hovering on our coasts, within the limits of the Gulf stream, and to bring the offenders in for trial as pirates.

"The same system of hovering on our coasts and harbors, under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce."

Such is the language of the President. Some redress for these enormities is demanded by a regard to national honor, justice, interest, humanity. What redress is provided? On this subject the gentlemen have done nothing, proposed nothing, doubtless because their faculties have been so much absorbed in other considerations which they deemed important.

On examining the documents before the House, the injuries, the insults, the barbarities, which are mentioned by the President in general terms, will be seen to have been too fully realized in detail. You have decisive proof of the atrocious practices in the West Indies. Permit me to turn your attention but to a single page of the official documents. In a letter of the 7th of June, 1805, from Mr. Blakely, our Consul at St. Jago, in Cuba, we have this information: "Since the last evacuation 'of Hispaniola, more than one thousand American 'seamen have been landed in this port, most of 'them without clothes, and all of them without 'any possible means of support, but such as they 'receive from their own Government." In another letter of the 1st of July, 1805, he speaks in these terms: "The scene of robbery, destruction, 'evasion, perjury, cruelty, and insult, to which 'the Americans, captured by French pirates, and 'brought into this and the adjacent ports, have 'been subjected, perhaps has not been equalled in 'a century past." Shall these sufferings of our countrymen be disregarded, because the seamen perhaps were not employed by capitalists engaged in a trade carried on in distant seas, in Europe or Asia? Is all the philanthropic sensibility which has been professed in debate to be confined exclusively to seamen impressed into British service? Some portion of it, I hope, will yet be found for our own countrymen in the West Indies, captured, robbed of their property, loaded with indignities, and abandoned, in a sickly climate, in a strange land, without shelter, without clothing, and without means of subsistence. What can justify a desertion of the cause of our fellow-citizens suffering under these infamous outrages? With these observations respecting the depredations on our commerce, and the sufferings of our seamen in the West Indies, I leave the subject for the present to the reflections of gentlemen. It is my intention at this time to advert more particularly to the conduct of belligerent cruisers near our ports and on our coasts.

Of the violations of our neutral rights by these cruisers, one of the most memorable cases has been stated in a memorial from South Carolina. On casting an eye over the memorial, I find it supported by the signature of the President of the South Carolina Insurance Company, with a long list of names, which, as I am well informed, are among the most respectable in Charleston, comprehending merchants, and planters, and professional gentlemen. Without stating the whole of the memorial, I will now mention only certain parts of it as being more immediately applicable. This is the language:

"Your memorialists are deeply affected by the recent capture, at the very entrance of this port, of the American ship Two Friends, by a French privateer. This event has excited among all classes of citizens, the strongest sensations, not only because the ship was captured without any color of pretence, within sight of land, but because she is our only regular London trader, and had on board a full supply of spring and summer goods.

"This most extraordinary capture has already been followed by events no less alarming; our harbor being at this moment completely blockaded by three French privateers.

"These just alarms and apprehensions of your memorialists are heightened by the well known circumstance of many of the cruisers which infest our shores belonging to St. Jago de Cuba and Barracoa; in which receptacles, our vessels and their cargoes, with the knowledge of the Government of Cuba, are instantly sold, without any condemnation whatever, or even the formality of a trial, thereby precluding every future possibility of redress.

"Your memorialists avail themselves of this occasion to notice a late decision of the district court within this State, grounded on an act of Congress, whereby the territorial jurisdiction of the United States is limited to the short distance of three miles, or a marine league, from the coasts or shores, which, by the said court, is construed to mean three miles from the land; consequently, the middle channel of our bar, being more than three miles distant from the nearest land, is pronounced by judicial authority to be without the jurisdiction of the United States; the very entrance of our harbor, in full sight of the city, where vessels are frequently obliged to anchor, while waiting for a tide, and with a pilot on board, is, by our own tribunals, acknowledged to be without the protection of our Government."

The seizures of merchant vessels on our coast, and near our ports, are mentioned in memorials from other ports of the Union. We have before us complaints on this subject from Baltimore

Philadelphia, New York, New Haven, and Salem. Indeed, the conduct of belligerent cruisers, in the tracts of sea adjacent to our territories, has been a subject of general condemnation. Persons who have differed on other topics have agreed on this. This sentiment has been common to people of different professions, and classes, and parties. The main facts are notorious. Near our ports, within the recesses of our coast, almost within our harbors, belligerent cruisers have watched for opportunities of seizing merchant vessels employed in the trade of this country. Need I mention the indignation excited by the blockade of New York. The interruption of the commerce of that great port is well known. British vessels of war were stationed off Sandy Hook. Among them, I remember the names of the Leander, the Cambrian, the Driver; there may have been others, which I do not recollect; but such particulars are not of consequence in the present estimate; the general fact is sufficient. By taking such stations, belligerent cruisers have been able to seize our merchant vessels on the return voyage and carry them in for adjudication, under pretext of being employed in trading directly between the parent country and a colony of the enemy, or of having violated, in the outward voyage, some regulation respecting contraband or blockade. Millions of property have thus been exposed to seizure, which might otherwise have been added to the commercial stock of our country, and swelled the receipts of the Treasury. Such stations, too, have afforded opportunities for the impressment of seamen.

With respect to these outrages, sir, I will not fatigue you by professions of patriotism; nor will I invoke the spirit of 1776; nor will I declaim about our Revolution, or about our right to national independence. Such observations have no specific bearing on the subject. In whatever degree it may have become fashionable to occupy the time of the House in this manner, I trust it will not be supposed to manifest any want of respect to the understandings of the House, if I attend to considerations more directly applicable to some practical purpose.

Permit me, sir, to call your attention to the causes of these outrages, with the view of providing some effectual remedy. One general cause is to be found in the habitual rapacity of those who cruise under the belligerent flags. But we must expect the rapacity to exist, whatever we may say about justice or generosity. The men who roam the seas in quest of prey, will not be deterred from rapine and violence by general declamations about the principles of virtue or the rights of neutrality, while they can seize their object with ease and impunity. Adopt means of prevention, which cut off their hopes of success! These will be found more effectual than any vague professions of patriotism.

There is another cause—the defective nature of the existing law of the United States. This we may reform, unless restrained by some of the duties of neutrality. In June 1794, was passed "An act in addition to the act for the punishment of certain crimes against the United States." You will find it in the third volume of the laws. Originally the act was temporary; but, after being once continued in force for a further term, it was ultimately made permanent, by an act passed in the year 1800. By the sixth section it is provided, that the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof. The comprehensive form of expression assigns to the district courts the cognizance of libels for damages, in cases of capture, as well as of libels for restitution. Before this act was passed, a question had existed, whether the district courts, as courts of admiralty, were authorized to take cognizance of such complaints, even where the captured property was within a port of the United States, and nothing more than restitution was the object of the complaint. The fact may be ascertained by recurring to the State papers of the time. I presume, sir, it is well recollected by yourself. The act of June, 1793, terminated the question about the judicial cognizance of such cases, but by its very terms did not permit the district courts to extend the claim of jurisdiction from the shore to a greater distance than a marine league.

In the case decided in South Carolina, and noticed in the memorial from Charleston, it would seem, that a considerable dissatisfaction had been felt in consequence of the opinion, judicially given by the district judge: and, if my recollection is not fallacious, some censorious remarks were published in a paper or papers of the day. That serious discontent should exist when the very entrance of such a harbor as that of Charleston was officially pronounced to be without the verge of territorial protection, ought not to excite surprise in any reflecting mind. There was serious cause for inquietude. But, if I understand that case, I can have no hesitation in declaring my opinion, that in his construction of the law, which marked the extent of his authority, the decision of the district judge was correct. And, instead of censuring, we ought to approbate and hold in honor that spirit of judicial independence which pronounces sentence according to the existing law, however unacceptable may be the result even to persons worthy of high estimation. If no relief is provided for cases of this nature, the fault is not in the district judge, but in the existing law. The evil is one for which we have the power to authorize a remedy. It belongs not to any judge or court of the United States under the law as now existing; and, while no other provision is made by Congress with respect to the extent of the territorial protection of the United States, it is not to be expected that the President will assume the responsibility of attempting to enforce any extension of the principle in any case whatever beyond a marine league from the shore.

Does our duty, as a neutral Power, require us to submit to this limitation in all cases? According to my apprehension of the subject, the act of June, 1794, ought to be considered as defining the limits within which this country would assume

the national duty of protecting the interests of all in friendship with us. It assumes a public obligation in favor of foreigners as well as citizens: but the extent of that obligation is not the whole extent of privilege which we may claim for our own national interest and security, for the safeguard of our commerce, and the supply of our Treasury.

Among the documents laid before Congress, I find a letter, of the 5th of January, 1804, to Mr. Monroe, from the Secretary of State; in this, there is a reference to the British extension of territorial jurisdiction to four leagues from the shore. The Secretary observes: "This extension of the Bri-'tish law to four leagues from the shore is infer-'red from an act of Parliament passed in the 'year 1736." The fact of this British extension of jurisdiction, I believe to be unquestionable. According to the view which I have entertained of the subject, a jurisdiction to this extent is legally established for purposes of revenue, and not on account of any supposed claim to the honors of the flag within the "narrow seas." One thing at least is certain. A like extension of jurisdiction is established on the part of a country whose Government makes no high claim to honors of the flag within any seas contiguous to the territory. Allow me, sir, to turn your attention to the act to regulate the collection of duties on imports and tonnage. By the ninety-ninth section, the officers of the revenue cutters are required to go on board of all ships or vessels, which shall arrive within four leagues of the coast, if bound for the United States, to search and examine the same; and to affix and put proper fastenings on the hatches, and to remain on board until they arrive at the place of destination. The 102d section requires the revenue cutters and boats to be distinguished by a characteristic ensign and pennant; and in case any ship or vessel liable to examination shall not bring to, on being required or chased by any cutter or boat having displayed the pennant and ensign prescribed for vessels in the revenue service, it shall be lawful for the persons having command of such cutter or boat to fire at or into such vessels which shall not bring to, after such pennant and ensign shall be hoisted, and a gun shall have been fired by such cutter or boat as a signal. Here we see a jurisdiction asserted by the United States to the distance of four leagues from the coast. It is exercised for the protection of the national revenue. Officers in the immediate service of the Government, with a body of men constantly paid and supported out of the products of the customs, are employed to enforce the law, and are armed with a power to wound or kill those who refuse to conform. Merchant vessels bound to the United States, within four leagues of the coast, are to be placed under the charge of public officers, who are to remain on board until the arrival in port. While the vessel is thus under the charge of the officer, within the actual jurisdiction of the United States, will you permit a foreign cruiser, within this space of sea, to bid defiance to your law, to seize the vessel with your officer on board, and proceed with vessel and cargo and officer to a foreign port for adjudication?

Soon after the commencement of the French revolutionary warfare, the captures made by belligerent cruisers gave rise to inquiries with respect to the extent of the protective jurisdiction of the United States. Amidst all the political agitations of the time, it became the duty of the Administration to fix on some rule for preventing the disturbance of our public peace by foreign hostilities. Under the existing circumstances, it was determined to restrict the exercise of the authority of the United States, for that time, to the least distance claimed on the coasts of any nation in any case. That this was the fact, may be seen by examining the papers laid before Congress by the President of the United States, near the close of the year 1793.

With respect to the right of territorial protection along the coasts of a neutral Power, the general principle is clear. Questions have been made about its extent. The right to a reasonable distance is admitted. But this does not distinctly solve the difficulty. What is a reasonable distance?

If regard is to be had to the nature of our coasts, and to our distance from all the nations of the civilized world, the general principle would allow to the United States an ample extension of the territorial immunity from hostilities. A right of protective jurisdiction over some portion of adjacent sea is founded in the general right of a neutral Power to provide for the common safety, prosperity, and tranquillity. It is essential to the neutral character of a country. It results from the principles of the great law of self-preservation. It is a necessary attribute of territorial sovereignty. With respect to the practical exercise of this right, different distances from the shore are mentioned by writers on public law. Where the coast is prominent, as well as free from shoals, the least distance towards the main ocean is the full range of a bomb or cannon shot, estimated at three geographical miles, or a marine league. Authorities might be mentioned in support of other distances; two leagues—three leagues—the distance at which ships may be discovered, and from which ships may discern the land—the extent of soundings, unless the coast be so steep that soundings cannot be found near the land, in which case the measure is the reach of a cannon shot supposed to be fired from the shore. This opinion was entertained by Valin, the celebrated commentator on the marine ordinance of France. With respect to the United States, the idea has occurred of extending the protection as far as the Gulf Stream. From the President's communication at the opening of the present session, it would seem as if he had some view of this in equipping a force to cruise for pirates within the limits of the Gulf Stream and to bring them in for trial.

Amidst all the variety of authorities and opinions on this subject, the general principle is not in dispute. And it is certain, that the benefit of the principle cannot be equally enjoyed if any

specific measure be assumed for the extent of territorial protection in all cases. In a case where the coast is prominent, where the passage into the harbor is free from obstructions or hazard, and where the harbor is so situated that a vessel may be in port instantly on quitting the open space of the main ocean, the distance of a marine league from the shore may afford ample immunity to the navigation of such neutral port. But the case is materially different where the entrance of a harbor is rendered difficult or hazardous, in consequence of bars or shoals or other causes, where the principle of safety requires vessels enployed in the trade of the port to remain for any time in a road or place of anchorage at a greater distance than a league from the shore, and to wait for the wind or tide, or pilot, or daylight, or clear weather—in any such case, if the marine league is to be the uniform measure of territorial protection, the principle would be sacrificed to the particular rule; whereas every rule of this kind ought to be subservient to the principle. Another distinction is to be made with respect to ports and harbors situate in curvatures or recesses of the coasts, more than a league from the open space of the main ocean; any specific distance from shore, if made the uniform measure of protection, will not allow to them the degree of maritime security which they might fairly claim in comparison with others. In principle, sir, the rule of a marine league or any other precise measure, is applicable to coasts not curved, or to the prominent portions of coast. Places of anchorage, such as I have mentioned, whether called roads or roadsteads, or however denominated, are to be regarded as appendages of particular ports, and as such are within the protective jurisdiction of the country to which they belong.

In considering, therefore, the protective jurisdiction of a neutral Power, as a privilege which may rightfully be claimed for securing the interests of its commerce and revenue, the principle admits an extension to various distances from shore, according to the nature of the coasts, as diversified by shoals, bars, curvatures, recesses, headlands, or small islands.

This, in effect, agrees with the opinions of writers on public law, in relation to the neutral immunities on havens, roads, gulfs, or bays.

In support of the sentiments now suggested on this subject, I do not rely merely on the abstract principle of right, or the opinions of writers on public law. In national usage, it is already established, "that in places where the land, by its curve, 'forms a bay or gulf, we must suppose a line to 'be drawn from one point of the enclosing land to 'the other, or along the small islands which extend 'beyond the headlands of the bay, and that the 'whole of this bay or gulf is to be considered as 'territorial sea." The principle has been clearly recognised in the practice of the predominant maritime Power in Europe. It has been repeatedly acted upon in England. Two centuries have passed since it was unquestionably holden as a rule of conduct in that country. The tracts of sea within the recesses of the coasts are distinguished by an appropriate denomination; they are called the chambers. A particular statement of them was returned to the High Court of Admiralty in the year 1604.

In modern times, it has not been usual for England to remain neutral during maritime wars in Europe. But in the seventeenth century there was a period of such neutrality; when various reports were made to the King in Council, with respect to alleged violations of the immunities of having roads, or chambers. They are to be found in the works of Sir Lionel Jenkins. I will not detain you at this time by reading those reports; as the law of the English admiralty on this subject is distinctly stated in a charge given at the admiralty sessions, by Sir Lionel Jenkins, who was Judge of the High Court of Admiralty. I will read those parts of the charge to which I refer. After speaking of the claim to the honors of the flag upon the four seas, he says:

"The next thing is the right of sanctuary and safe conduct, which the King hath, time out of mind, exercised, not only in its harbors and ports, but especially in his chambers, that is in those tracts of sea which are between some of the most eminent promontories or points of land, a straight imaginary line being drawn between them; for instance, between Flamborough Head and the Sporn, between the North Foreland and the South Foreland, between Portland and the Start, between the Land's End and Milford; these chambers being so reputed time out of mind, and so returned in the year 1604, about seventy years ago, by jurors upon their oath, to the court of admiralty.

"You are therefore to inquire if any men of war, under foreign commissions from any of the parties now in war, do lie hovering near any of His Majesty's ports, havens, or harbors, or skulking within any of those places called the King's chambers, in order to surprise merchant ships belonging to the King's friends and allies, and to snap them as they are coming or going out of our ports. You are to present such, if you know any; and the King's Majesty is to be informed of it out of the records and presentments of this court; that they may be seized and arrested, if they be driven or do come in, or else may be fetched in by His Majesty's ships, and punished, as wilful violators of the treaties His Majesty hath with his neighbors, and as malicious disturbers of our trade."

This authority is full and decisive. Possibly it may be questioned, as being of ancient date. How is the case in modern times? To prove, sir, that the same principle prevails, and is practically recognised as a rule of public law within the present century, I may appeal to the authority of a person distinguished for judicial talent and eloquence, and celebrated by his countrymen as the oracle of maritime law in Europe: it is the authority of Sir William Scott, the present Judge of the High Court of Admiralty in Great Britain. The principle was brought into view in a case before him in the year 1801. The case arose on a capture made by a detachment from a British squadron employed in the blockade of Amsterdam. The vessel was proceeded against for breach of blockade. It was claimed as having been taken within the territorial protection of Prussia, then a neutral Power; and the claim was given under authority

of the Prussian Minister. On the part of the captors it was denied that the vessel was so taken. Sir William Scott held the claim not to be established. In speaking of the place of capture, he refers to the principle respecting maritime chambers, as being perfectly understood and admitted. With respect to the place, he says, "it is quite open 'and patent to the sea; there are no headlands that 'shoot beyond seas to make what are called cham-'bers; no shores projecting extra."

After a principle of public law has been so fully recognised in practice, on the part of the belligerent Power which now holds the decided superiority on the ocean, I think, sir, we may fairly claim the benefit of it for our country against the cruisers of that and every other maritime Power.

On this subject, I wish to be distinctly understood. Immunity from hostilities may be claimed to the distance of a marine league from shore, in any case, however bold or prominent the coast. To this the district courts have cognizance of complaints. Beyond this, it is at our option to extend protection along the coasts of the United States, over the roads or places of anchorage, and over the tracts of sea within the principal headlands. This is a privilege appertaining to our territorial sovereignty. It may be exercised without infringing the rights of any belligerent Power: it is evidently for the benefit of the United States.

To enjoy this benefit, some legislative provision is requisite; there must be some amendment of the existing law of the United States. Without altering the act respecting the jurisdiction of district courts, perhaps the main object might be attained by vesting a discretionary authority in some of the departments of Government. It has been supposed that the repetition of outrages, such as have lately been experienced near our ports and on our coasts, might be essentially checked, if not wholly prevented, by giving effect to some legislative provision, which would require no addition to the national expenditure, no augmentation of the naval force of the United States beyond what may be judged proper for a Peace Establishment. The Executive might have a discretionary authority to be exercised for the safeguard of merchant vessels employed in the trade of the United States, and for this purpose might be empowered to interdict captures within the roads or spaces and precincts which have been mentioned.

Whether these sentiments are approved in their full extent or not, the House, I trust, will have no hesitation in agreeing, that the subject is of such importance as to deserve the examination of a committee, who may present some provision in a detailed form. For the purpose of having this examination, I propose that the following resolution be adopted by the House:

Resolved, That the committee to whom was referred "so much of the Message of the President of the United States as relates to aggressions committed on our coasts by foreign armed vessels, to the defence of our ports and harbors, the building of seventy-four-gun ships, and preventing the exportation of arms and ammunition," be instructed to inquire into the expediency of providing by law for the further safeguard of merchant vessels in the vicinity of the United States, and to report by bill or otherwise.

Carried without division.

YAZOO CLAIMS.

A message was received from the Senate informing the House that they had passed a bill to carry into effect the provisions of the eighth section of the "Act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee."

The bill having been read the first time—

Mr. R. Nelson said, he should not, on this occasion, go into an examination of the principles of the bill, as they were well understood by the House. They went to practise one of the grossest impositions he had ever known. In order to get rid of what he considered a stain on the statute book, and a disgrace to the nation, he moved that the bill be rejected.

The question was accordingly put from the Chair, "Shall the bill be rejected?"

On the motion of Mr. Lein, it was determined to take the yeas and nays.

Mr. Kelly said, it had been remarked that the principles of the bill were well understood by all the members of the House. He could only answer for himself, that he was not well acquainted with those principles. The subject had been, it is true, discussed in a former Congress; but he had not then had the honor of a seat on the floor. He had, in truth, formed no decided opinion on the subject. He was not, therefore, at present prepared to vote for rejecting the bill. He hoped it would be suffered to take the common course of other bills, the more particularly as it had received the approbation of the other branch of the Legislature, which ought to be treated with becoming respect. He trusted a short postponement of the bill would take place, and that its merits would then be discussed.

Mr. Clark observed that, if gentlemen attended to the provisions of the bill, every mind would concur in the propriety of rejecting it; a similar bill to which would not, he believed, be found upon the records of any body; a bill which had no specific object. He did not know which most to admire, its insidious tendency or its absurdity. It declares:

"That, if, on or before the first day of January next, such sufficient releases as aforesaid shall be lodged in the said office of the Secretary of State, as shall release to the United States and shall discharge all claims to the said lands, which have been exhibited to the Secretary of State and recorded as aforesaid, or which may be exhibited and recorded agreeably to the provisions of this act, Congress will make provision by law for the indemnification of such claimants."

What is the bill for? What is its object? It only enables Congress hereafter to pass a law; it only declares that, on the event of certain things happening, Congress will pass a law. But will this oblige Congress to pass a law? Do your seven volumes of laws furnish a single instance of Congress declaring that they will hereafter pass a law?

Again: The first section declares that, "a law shall not be passed, except in case of a sufficient legal release of all claims to the United States." Now, there may be infants, feme coverts, and persons insane, who cannot make such release. How, then, is it possible for this provision of the law to be carried into effect? Shall the rights of these persons remain unprovided for? I see, said Mr. C., no other view in the passage of this bill than this. Those who have framed it are afraid to face the question; they are ashamed to meet it. This is nothing more than an entering wedge, to strengthen the force of the claims, by getting the Government to pledge itself to certain acts. These men will then soon tell you, they have been called upon to record their claims; that their agents have been obliged to attend your Departments, to receive propositions of compromise. Let this act pass, and you will add an ounce, a pennyweight, to the weight of that testimony by which they ultimately expect to establish their claim. The bill in itself amounts to nothing. But pass it even in this harmless form, they will come forward at the next session, and say you are pledged to do something. There can be no other view, in this bill, and it is a view which, I think, it becomes the honor and dignity of this House decisively to reject.

Mr. Sloan said, he did not rise to say anything as to the merits of this bill. He rose merely to observe, that a bill, in all respects similar, had been on their tables for twenty days. He was, therefore, opposed to the postponement.

Mr. Gregg said, the gentleman from Virginia had stated, in some measure, the reasons which would induce him to vote for the rejection of the bill. The bill must be considered as holding out some encouragement to these people. He had always thought it best to meet the question at once; for which purpose he had, at an early period of the session, brought forward a resolution, which he had, however, been so unfortunate as never to have gotten up. He hoped this bill would be rejected; and, if the bill were taken up, that it would be on the resolution. This was a bill, not making any provision, but only telling these people to bring forward their claim.

Mr. Cook hoped the question would not be taken on the rejection of the bill at this time. Those gentlemen who have not heretofore held seats in the House, are not adequate so instantaneously to judge of its merits. For himself he had formed no decided opinion. He was willing to give his vote as the light received from an investigation of the subject should lead him. He was against precipitating a decision, which would not be treating the other branch with proper decorum.

Mr. Spalding called for the reading of that rule of the House, which prohibits a member from voting on a question in which he is personally interested.

The Clerk read the rule.

Mr. Goldsborough said he was precisely in the situation of the gentleman from Pennsylvania, (Mr. Kelly.) He had never investigated the subject, and the only opinion he had formed had been on prejudice. Such opinion as he did entertain was hostile to the Yazoo claims; but he was against precipitate measures. He, therefore, moved to postpone the further consideration of the bill to Monday.

The Speaker declared this motion not in order.

Mr. Goldsborough said, he must then request to be excused from voting.

Mr. J. Randolph.—I hope the bill will be rejected. I have a very great respect for a full and fair discussion of every question brought before this Assembly. But this is the third, and I do not know that I should be wrong in saying it is the fourth session since this business has been pending before Congress. I believe that the report of the Commissioners has been printed twice, if not three times, for the information of members. This bill, we are told, has been laying twenty days on our tables. But, had it come before the House but twenty minutes ago, when we advert to the history of the business, I am willing and anxious to give it a positive and prompt rejection. My memory is unfortunately bad. I do not, therefore, recollect when this subject, so well denominated the Yazoo subject, was first brought into this House. I know, however, it was several sessions ago, and I recollect that it was attended with some peculiar circumstances. I recollect that, important as the subject was, the discussion was smothered at the outset; and when I take into consideration that suppression of the discussion, with other facts in my own knowledge, there is the strongest *prima facie* evidence that it was designedly smothered.* But it may be said that the

* This unfounded insinuation has been already, on a former occasion, abundantly repelled. We shall treat it on this occasion, as we did then, by a republication of the facts then offered, in full confidence that the public opinion will be just and unprejudiced. The following is the statement which was then given:

"At the last session of Congress the Georgia claims were taken into consideration by the House of Representatives on the 7th day of February. At that time the editor reported the debates, and was at his seat. The discussion which took place was extremely desultory and unimportant, principally involving details, and excluding any interesting principle. The two next days, he was absent from the House. His absence was occasioned by a severe indisposition, the effect, probably, of excessive occupation. This was to him, at the time, cause of but little regret, as his impression was that the discussion, in its progress, would be equally uninteresting. He had not the least idea that it was intended to contest the principles of compromise proposed in the report of the Commissioners. In this he was mistaken. It so happened that, on these two days, those principles were warmly contested. On the last day of the debate, he attended; but the speeches delivered being altogether replicatory to those previously pronounced, he did not report them. Understanding, a few days after, that it was the wish of several members that the most prominent parts of the debate should be given to the public, he declared his willingness to publish them, provided that speeches made on both sides could be obtained, that the report, although imperfect, might be impartial, He went further, and actually applied to a member who had taken a conspicuous part in the debate for a sketch of his remarks, which he declined giving.

"At a subsequent period of the session, the debate was resumed on Mr. J. Randolph's resolutions. The whole of this debate was given in the National Intelligencer, at great length. On recurring to a file of that paper, it will be seen, that this debate occupies forty columns; that the speeches in favor of the claims fill about eleven, while those against the claims fill about twenty-three columns; that, of the latter, the speeches of Mr. J. Randolph made about eight columns, the speech of Mr. Rodney about five, and that of Mr. Thomas M. Randolph about nine columns; and that of the former the only speeches of considerable length are those of Mr. Lyon, occupying about six columns, and of Mr. Eustis, occupying about two columns.

"So far from there having been the least indisposition on the part of the editor to give publicity to every word said on the Georgia claims, it has been, and still is, to him, cause of regret, that the above circumstances occasioned the non-appearance of the first debate. He has no interests, no prejudices, or biasses, on the subject, other than those which flow from a regard to the public good.

"These are the facts attending this affair. They are stated to remove error, and to show that, in this instance, as in every other, the editor has been guided by principles of strict impartiality and justice. If he knows himself, he would disdain to conduct a public print upon any other principles."—*Editor of National Intelligencer.*

suppression of that discussion ought to render it more proper to discuss the bill before you. On the contrary, the act of suppression, three or four years ago, drew the attention of the public to the subject, and caused the report of the Commissioners to be republished, I believe, in every newspaper in America.

Now, what will be the consequence of this business, after having received the attention of one branch of the Legislature, and after having been slurred over by the other? I believe it would require no prophet to pronounce on the event. I have heard of a certain machine, which always gains and never loses—a machine, which plain wagoners call a shuffling stick. Every step it gets up hill is sure, although the horse be restive, or the wagon be loaded too heavily, or the driver be incapable—still it cannot go back again.

I am for the rejection of the bill for another reason. This bill may be called the Omega, the last letter of the political alphabet; but, with me, it is the Alpha; it is the head of the divisions among the republican party; it is the secret and covert cause of the whole. This is the subject which has been shoved off from day to day, merely that we might get something from the other House, where its friends were more numerous. Yes, a union has been formed between Cape Ann and Marblehead, and the Rio del Norte, a union of the East with the West, which makes gentlemen more touchy and jealous of one acre of this territory than of all the real land of the United States. This has been seen, and the nation is sold. I say, *quo ad hos* or *illos*, the nation is sold. We have heard of this thing two years ago, and it has come to pass. No prophets so true, as those who have the means to bring things to pass. The Man of the Mountain is the truest prophet that ever lived. He had only to prophecy, to insure the perdition of any man.

What is the bill on which this House is called to act or not to act? If the gentleman will but use half the intelligence he manifests on other occasions, instead of asking to be excused from giving a vote, he will vote for an instantaneous rejection of this bill. The facts are simply these: That in 1794 and 1795, a project was set on foot to debauch and corrupt the Legislature of Georgia, and to obtain for the projectors a tract of country more extensive than any State in this Union, and more fertile than most of them; that this project succeeded; that the Legislature of Georgia was bribed; that for a mess of pottage, to be eaten by themselves, they transferred the birthright of their countrymen. These facts are in proof to the House; and instead of a postponement, gentlemen who want information have only to call for the reading of the records on your table. The sum stipulated to be paid for the country in question, embracing at the least forty millions of acres, was $500,000. This law excited, as it ought to have excited, in the people of Georgia one general sentiment of indignation. But the corruption had pervaded and flooded and overflowed every department of the Government. Grants were made out, and the grantees held the parchment in their hands. The people of Georgia resolved to resort to first principles. It will be recollected that the corrupt law was passed in 1795. In the subsequent Spring the grand juries of the several counties made an unanimous protest against its passage; the succeeding Legislature repealed it, burnt the parchment, and exposed its authors. And what are we now about to do? Will we, after following an illustrious patriot to his grave, sully the fairest page in his history by giving a sanction to this measure? The people will say you are mere mummers, actors that put on false garments for a particular occasion, and the moment after return to your original insignificance. The law was burnt—it was expunged from the records of the State, and the rescinding act incorporated in a subsequent constitution made by the people. But the grantees under the first act—under the corrupt act—had their post-horses and runners ready, who flew to the East and the West, the North and the South, and made sale of their grants. To whom did they sell? To persons apprized of the original invalidity of the act. But if they did not, does that change the question? Who are the Legislature of Georgia? The delegates of the people of Georgia. Who were the sovereigns of the several States before the Revolution? The representatives of the Crown. I will ask you then if one of these men had proceeded to give away the country, whether the Court of King's Bench would not have set aside the grant? They would. Subsequently to this, the United States received from the State of Georgia a grant of

the country in question and of other country not in question. In receiving this grant, they acknowledged the validity of the rescinding act of Georgia. The United States when they received the grant were apprized of the preceding transfers, and the acceptance of the country from Georgia is unequivocal evidence of their opinion that the original act of 1795 was null and void. But in a country so extensive as this, in which some settlements had been previously made under British, Spanish, and other grants, from the State of Georgia, than those of 1795, it will be readily believed there were many antagonizing claims for land. When, therefore, the United States received the country from Georgia, they entered into a compact with Georgia, or obtained permission from her, to give land not exceeding five millions, to satisfy claims not provided for in the original contract with her. Now the bill before you proposes to give this land as far as it goes, and to pledge the faith of the United States to that particular class of claimants whose pretensions arise under the act of 1795. These claims, under the act of 1795, are the last class of claims under the State of Georgia which, in my opinion, the United States are bound to satisfy. There is another description of claims, called the claims of 1789. And I am very glad the claims of 1789 are not included in this bill, because the joint interest of the two classes might possibly have an effect that in this House a single class would not. Well, Congress took the grant of country in question from Georgia. They bound themselves to extinguish the Indian title to lands within the existing State of Georgia; to Georgia they stipulated to pay a certain sum of money, and they reserved the right of appropriating a quantity of lands not exceeding five millions of acres to satisfy claims not specially recognised in the contract with Georgia. The question now is, as I take it, whether these five millions shall go to satisfy the claims under the act of 1795. But if it should be the sense of the House that the bill includes those likewise of 1789, it will not alter, in my opinion, the question.

But I may be asked, by men who profess not to be informed on this subject, what is this act of 1789, and who are the claimants under it, and how can there be interfering claims for the same lands? The case is simply this. In 1789 two companies were formed, under the names of the South Carolina and the Virginia Yazoo Companies, who contracted for a great, and the greater part of the country afterwards purchased by the claimants under the act of 1795. But Georgia alleges that they did not comply with their contract, and that it was therefore set aside, and the same lands subsequently sold under the act of 1795. Be it remembered that the purchasers under the act of 1795 were men of understanding, of intelligence, of intrigue; designing men; speculators; not bullies but swindlers; men not to be imposed on, but with their eyes open. They bought with a full knowledge of the equitable claims of 1789. When I say this, I do not mean to advocate the claims of 1789. When put to the test, one description of claims will be found as invalid as the other. But to whom did the grantees under the act of 1795 sell? After the presentments of the grand juries—after it had rang throughout the continent—that the whole was an imposition of corruption and fraud, and after there was every reason to believe they were acquainted with all the circumstances, deeds were given, one of which bears cotemporaneous date with the rescinding act of Georgia. After this, what did they do? They went back to Georgia; there the money they had paid was still lying in the treasury of Georgia, with which Georgia said she would have nothing to do; after having sold the lands for which they had paid this half million, they drew this very money from the treasury of Georgia. Is this the say-so of an individual? The act appears in the report of your Commissioners, composed of the Secretary of State, the Secretary of the Treasury, and the late Attorney General, in a report now on your table, and which has been twice published under the authority of this House.

Now the question simply is, will you do anything to give any further countenance to these claims? Will you countenance the fraud a little further? These men have agents here, within your Government, who hold great offices under it. The whole weight of the Executive Government presses it on. We cannot bear up against it. The whole Executive Government has had a bias to the Yazoo interest ever since I had a seat here. This is the original sin, which has created all the mischiefs which gentlemen pretend to throw on the impressment of our seamen, and God knows what; this is the cause of those mischiefs which existed years ago.

I hope I shall receive credit when I say that I never rose to address you more unprepared. The bill has been just sent down, and I had no intimation of such a discussion. But I call on gentlemen—not on those who have been advocating this measure at the fireside for four months past—but on men who are free from any impression, to say whether they will give their sanction to this iniquity; whether, after officers of the Government of the United States have tampered with members of this and the other House for years, they are prepared to take that step which will open the door to this scene still wider? What will be the effect of a postponement? Gentlemen will come forward and say the Senate have passed a bill in favor of these claimants; these men will inquire whether this is not a countenance of their claims; they will tell you they have transferred their rights to A, B, and C, until at last resistance will fail, and you will give a handle to the axe which shall lay the whole woods in ruins.

I may be asked about this tampering of Executive officers. At the last session I had the honor to carry up, and conduct an impeachment before the other House. It proved unsuccessful, and one of the principal causes was this Yazoo sin. I overheard a conversation between a worthy friend of mine from Georgia, who has gone home, and

a great officer of the Government, when they were fitting up the green boxes for the *magnates* of the land. I heard the great officer of the Government tampering with that man to get his vote. I overheard it. Let him be brought to your bar to-morrow, and he will tell you it is true. Why, sir, this is nothing; it is done every day, and every hour of the day. It is there—at the fireside—and not on the floor, that the affairs of this country are discussed; and should this question, as a gentleman has said, be postponed till to-morrow—till Sabbath day, on which holy work is generally done—for myself I would not give one farthing for the question; if an adjournment take place till Monday, and if all the secret mechanism, which everybody knows, be brought to bear upon it, I would not give a farthing for the issue. What have we seen as late as yesterday? A vote of fifty-six in favor of a resolution dwindled down by conversation in the lobby to twenty-five. As long as you adjourn and prolong this discussion, what do you do? I am willing to allow that what I have offered this morning is hardly worth an answer. But gentlemen will come in with their pieces of paper, with speeches ready cut and dry in reply to what I have now said. This is the fashion of the day—there is no doubt of it. Yesterday the House adjourned, and deferred the consideration of a resolution declaring the holding of civil and military offices in one person incompatible with the spirit of the Constitution. Well, gentlemen have come down today with their arguments. How comes it, they will say, that the President of the United States is commander-in-chief of the armies, at the same time that he is the first civil Executive officer? I know they will—I am sure I am correct. And we may go on until Executive influence shall become like a bow, which you may turn in any way, and point in any direction.

Mr. Fisk said he was one of those unfortunate men who were not informed on this subject; he pleaded guilty to the charge, and if he were thus precipitately compelled to give a vote, it would be against the rejection of this bill. And yet he was free to declare he was undecided as to the final vote he should give on this subject. But he would never consent to vote away any man's right until he had been heard. The true question at present before us, said Mr. F., is, whether we shall be allowed further time to make up our judgments on this subject. I do not undertake to say that the information which the gentleman from Virginia has given of the atrocious frauds practised in this business are unfounded, though I do wonder that the persons concerned in them have committed them to his keeping, or to deny that Executive influence is so dangerous as he represents it to be, though I confess I do not see it. But I am prepared to say that the members of this House are not of such a cast as to be bought in four and twenty hours, or to be misled by any Executive officer. I am unwilling so far to criminate the character of a representative of the people, as to admit that it is dangerous to postpone a subject for a short time for fear of his corruption. I wish to know whether the American people are so vicious. I do not believe this portrait correct. I hope the bill will be postponed. If it is not, I shall give my vote against its rejection. I think it my duty to inquire into the subject, though I am willing to say my impressions are unfavorable to the claims.

Mr. Goldsborough.—I am not prepared to give the vote of an honest legislator on this subject. Whatever may be the information possessed by other gentlemen, I have none on which to form a satisfactory decision. I had heard some time since that the most satisfactory information on this subject was to be found in the report of the Commissioners. But I must remind gentlemen that that report has not been laid on our tables this session. When I learned this I endeavored to obtain a copy, but without success, and I yesterday tried to get a pamphlet, which, I understood, contained considerable information; but in vain. Thus uninformed, when this bill came under consideration it became my duty to devise some mode of getting that information I wanted, and when I examined the rules I found one which I thought admitted a motion to postpone. This motion I accordingly made, without any view to an injurious delay—for my prejudices are against the claims. It is said gentlemen ought to be prepared to vote on this bill, for it has been twenty days on our tables. But I ask gentlemen whether it is the duty of the members of this House to examine before it comes before us every subject depending before the Senate? Is there not business enough before us fully to occupy our attention? The motion of postponement the Chair has declared out of order. I then only ask the House to excuse me from voting on this bill. I will only add, that it is a subject with which I never had anything to do, and that I know no man who is particularly concerned in it.

Mr. Sailly hoped the gentleman would not be excused. He said he stood himself in the same situation, and was unprepared to vote upon it.

The question was then taken on excusing Mr. Goldsborough from voting, and carried in the affirmative—yeas 58, nays 51.

Mr. Kelly said he was likewise under the necessity of asking to be excused. It was true the bill as offered to the Senate had lain some time on their tables; but it was well known that bills generally underwent considerable alteration previous to their passage, and there had been no reason to infer that this would not be the case with the present bill. He said that he had some time since taken considerable pains to inform himself on this subject, when there was a prospect of its being brought before the House; but the information he had obtained was imperfect, and that he had not had time to compare the facts attending the business with the provisions of the bill on the table, so as to be enabled to give a faithful and honest vote. The decision being thus hurried, placed him under the necessity of asking to be excused from voting. As to himself, he would declare that he had had no concern in this, or indeed in any other speculation; nor were there any persons interested in it for whom he felt a peculiar regard.

Mr. Thomas said he should vote against excusing the gentleman from Pennsylvania. He observed that there would be no inconsistency in voting against the rejection of the bill, and afterwards against the bill itself, if, on consideration, it appeared improper to pass it. In the exigency in which the House were placed, by their being forced thus precipitately to act on this business, the only proper course, in his opinion, was to vote against rejecting the bill, thereby allowing time for examining it. Under this view of the subject he hoped the gentleman from Pennsylvania would not be excused from voting, or any other member, unless he was personally interested.

Mr. J. R. Williams said he should vote for the rejection of this bill more heartily than he had ever voted on any subject in the course of his life. If he were totally ignorant of the enormous villany of the Legislature of Georgia he should still vote for its rejection, because it carried with it one principle, which he could never agree to sanction with his vote, it vested the House with both a legislative and judicial character.

Mr. Conrad said it was painful to him to hear gentlemen asking to be excused from voting on this or any other subject, as he was convinced the correct course was to allow time on all subjects for forming a dispassionate judgment. This too, he believed, was the first time this indulgence had ever been denied in this House. For himself, he said he was prepared to vote on the Yazoo business in every shape it might assume; because it was among the most odious things he had ever heard of. He said he detested and abhorred the whole business. But he was, at the same time, willing to give other gentlemen an opportunity to make up their minds. He concluded by saying he considered the motion of postponement strictly in order.

The question was then taken on excusing Mr. Kelly from voting, and passed in the negative—yeas 49, nays 58.

Mr. Sitlie.—The question returns on rejecting the bill. I regret that this decision is thus pressed. It is the first time I have ever seen members in the situation in which they are now placed. I wish a small delay had been allowed—but Mr. Speaker has decided a motion to postpone to be out of order, and there is no remedy. The question being to be taken on the rejection of the bill I shall vote for it. I never had but one sentiment on that subject, although I never could consider it of such magnitude as some appear to consider it. I ever believed it improper for the legislative body to decide on these claims. But that this question has drawn in all the consequences that we have heard stated to-day by the gentleman from Virginia, that is, has influenced this House in the decision of every other question, I cannot believe—that the representatives of the American people are so corrupt that in the course of a single evening they may be made by the Executive to adopt anything they please, I cannot believe. This is such a picture of the members of this House as I do not think any member is authorized to draw. Nay, the member has referred to a case in which a strange influence is represented to have been exerted, where there was not a minute to spare. Mr. Speaker, has it come to this, that the members of this House can get behind their seats, and a few influence all the rest on a question of the last moment—on a question on which the Constitution of our country is involved? Good God! is the House so corrupt? But I will say no more on this subject—every member who hears me knows they are not.

Mr. Conrad said, he should vote for rejecting the bill. He thought some farther time ought to be allowed, and if any of the younger members would appeal from the decision of the Chair, he would second the motion.

A member called for the reading of the bill for information.

Mr. J. Randolph opposed the call, and asked whether it had not already been read twice.

Mr. Crowninshield said he hoped it would be read twenty times, if necessary.

The Speaker put the question on its being read, which was carried by a large majority.

Mr. Kelly said, he thought there ought not to be a line of distinction drawn between the members of the House, and therefore moved a reconsideration of the vote excusing Mr. Goldsborough from voting; which was agreed to, and the resolution to excuse him rescinded—yeas, 64, nays 44.

Mr. J. Randolph said, he hoped the bill would be rejected, and that an end would be put to the miserable farce of begging to be excused from voting, when gentlemen could answer the same purpose, a thing which was every day practised, by stepping aside. He hoped that if they did not wish to vote they would take this course, and that the House would no longer be pestered with their motions. What! are gentlemen afraid to lose a Yazoo vote? They first excused one member from voting. But they found that this would not do, and they therefore refused excusing another, and not satisfied with this, they must reconsider their first vote, and get a Yazoo vote back again. This is the plain case. I hope we shall not rise till we have the question. Were I disposed to postpone the proceedings of this House, I should be in favor of delaying this decision till the gentleman from Maryland (Mr. Nicholson) now absent, should return into the House—that is an anti-Yazoo vote; and everybody knows it. That is a man of honorable views, who having at first been cajoled into an acquiescence in the claims, without having sufficiently examined them, had afterwards virtue and magnanimity enough to acknowledge that he had been wrong, and to declare that he would not commit the keeping of his reputation to Yazoo men.

When I was up before, I omitted to say many things that have a bearing on this question, as I may have said several things that had no bearing on it. But there is one fact which I omitted—that a man, not a Georgian—he lived on the north side of the Savannah river—if I am not correct in my statement let the Georgia delegates correct me—this man happened to be admitted into the secrets of the Divan, who had done a deed without

a name, who had corrupted the Legislature of Georgia. He went home, and he was blockhead enough to speak what he thought, notwithstanding his principles and his promises. He was used like a grubbing hoe to do dirty work and then thrown aside as a useless engine. He told others what he knew. Mark the catastrophe—at a still hour of the night, without being the enemy of any mortal man, he was shot. And it is from this fact that we now want on this question the benefit of a witness, who was murdered in cold blood, and whose testimony has thus been prevented from being brought forward to this or other tribunals before which these claims may be brought. This fact is a truth as notorious as the massacre of Boston or the battle of Concord.

But, we are told by some gentlemen that this is not a question of magnitude. What is a question of magnitude? If the people of the United States are to go to war with Britain for a three penny tax on tea, is not that a question of magnitude—for there is a great political principle involved in that tax. And what is the real state of the country? The quarter from which we have most to dread is speculators—land-jobbers, and if you can preserve the interests of the community inviolable against them, your inferior interests are safe. And where do we find every land-jobber, *in actione* or *passu*, but rallying round this iniquity? And what will be the event if, by little and little, you sanction these claims—the pretensions of these men—but that you will fall beneath the power of Yazoo men—of speculators in land and paper scrip? And is not this a question of magnitude, Whether a country embracing forty millions of acres shall be bartered away? And is it not a great principle, whether a Legislative body has a right to sell their votes, and whether the rights vested by them shall pass? No, the question whether you shall lay a duty of two per cent. is a question of magnitude, and is reported at full length; but this is not a question of magnitude! Yes, they all draw together! Yesterday you decided that contractors were not officers. Now, mark, if the contractors and Yazoo men do not draw together, to pull this thing out of the mire; it is a thing well understood, and we well understand the men who advocate it.

But the gentleman from Pennsylvania asks, Are we a set of men so corrupt? Is this, indeed, the state of things? The gentleman ought to know there are different sorts of corruption. There is a corruption of interest, that is number one; there is a corruption of timidity, which consists in men not saying what they think, that is number two; there is a corruption of Court influence—of party—and there is a corruption, which, though last is not least, the corruption of irreconcilable personal animosity—a corruption which will engage a man to go all lengths to injure him whom he hates and despises, or rather, whom he cannot despise, because he hates. And when we take all these considerations into question, and that there are men now ready to grasp your lands in Ohio, in Indiana, and your other territories, are we willing to become parties to this solemn league and covenant? If we carry on this affair one step farther, what will be the situation of the nation? I call on gentlemen (whom I have no right to consider under the influence of personal or private interest) to vote with effect this day, or to give up their country to the fate that futurity has otherwise in store for it—to discard all idea of "scratch me, and I'll tickle you." It is out of the chances of futurity for this Assembly, or this nation, to be corrupted from any other source than land. There is no other fund can do it. But where is the use of taking airs on ourselves, and pretending to more virtues in our public than we get credit for in our private capacities? Look at the Legislature of Georgia. That body was composed of men with the same flesh and blood with ourselves. They were bought, and they followed the fate of every political body under the sun. They died a natural death. The whole question is, how long you shall keep this period off, and whether you will take poison to-day, or live out the time which God has allotted to you? Yes! who were the legislators of Georgia? They were the same men, elected by the same freeholders, possessed of the same qualifications, and, in many respects, the same men, who are now on this floor. I ask if my excellent friend from Georgia is more incorrupt than the Georgia Legislature were presumed to be? You may fix what stamp you please, a garter to the knee, or insignia to the breast, men are still liable to the same feelings, the same temper, the same fallibility.

We are told that this is a question on which we ought to have a dispassionate discussion. I am always for a dispassionate consideration of every important question before it is acted on; and I have given to this a dispassionate examination. But, I should despise myself, if I could come into this Assembly, and, like a cold-blooded naturalist, weigh the corruption of certain individuals of Georgia against the corruption of officers of this Government. I should despise myself, if I could dispassionately weigh the one against the other, and find the one outweighed the other half a drachm. The whole territory of the people of the United States is at stake. Say this bill shall not be rejected, falter, and what will be the effect? The whole of the public lands of the United States will follow the fate of the Yazoo business. It most certainly will. With all our virtue, there is land enough in the United States to buy us, and wo be to him that is put into this state of temptation. Let no man think too highly of his own incorruptibility. There was a Cato in the time of Rome, and I am willing, if it will satisfy the gentleman from Pennsylvania, to allow him to be the man. But, what will become of this Assembly when you bring into play a hundred millions of acres, and talk of the fund from which the British Parliament is corrupted? Once pass this bill, and the fund of the British Ministry will dwindle into insignificance. Go and engender Yazoo, and this curse of speculation, like the members of the polypus, cut it in as many pieces as you please, will appropriate to itself a new body? Where are you? You are now free. But

how long will you remain so, after giving your sanction to this bill? What have we seen? We have seen a question of momentous Constitutional importance brought forward in this House. What have we done? It is a standing Parliamentary jest, like the question of Parliamentary reform, in another body, after the accession of a great political reformer to the Ministry. I speak of the amendment to the Constitution relative to the tenure of the judicial office, and the proposition to purge this Assembly of contractors. It has gone to the family vault of all the Capulets, and a requiem has been sung over them. The gentlemen from Pennsylvania and New York have chanted repose to their souls.

But the gentleman from Pennsylvania asks if it is possible that in half an hour, or in a few hours, at the fire-side, or elsewhere, the vote of this assembly can be changed?—are we indeed so corrupt? Why, I have no hesitation to say, and I believe I am not out of order in saying so, the cause which principally drew my attention was this: When a gentleman who uniformly presides in Committee of the Whole with great dignity, was compelled to have recourse to strong measures to preserve decorum, I was surprised to see the gentleman from Pennsylvania quitting his seat, leaving his own province, and coming over to our fire-side, purposely to create a disturbance. I wish to be understood, before I sit down, as not having made a single allusion to the gentleman from Vermont (Mr. Fisk,) I abjure the idea. But I did hear gentlemen who are the most eager advocates of the Yazoo claims, declare time was not allowed to consider them, and when I witnessed such unblushing effrontery, I could not withhold the remarks I made. What will be the effect of a simple vote of this House, that this bill shall not pass, taken *secundum artem, more majorum?* It will be this, that the House are of opinion that there are some errors in its details, some inaccuracy in it which ought not to be admitted, and that, therefore, it is rejected. And what will this prove to men who will not see the sun at mid-day? To Yazoo men, blind to all iniquity perpetrated in Georgia? They will tell you it may have been rejected on account of some small defect; they will come forward at the next session with an accession of strength, and you will have the same ground to go over again. Hence the necessity for the explicit, prompt, and strongly marked indignation of this House in its immediate rejection. A man who shall merely vote against the bill in its last stage shall not by me be considered as merely committed, we shall not know what his reasons are for his vote; but a man who votes in this stage of the business for the rejection of the bill cannot be considered as a trimmer, he will show himself to be a decided man against it under all modifications. Under present circumstances it is of the last importance that the House of Representatives should do what they have a legislative right to do—say that this bill shall be rejected; that the hopes of the claimants may be crushed as far as they can be by a vote of this House.

Mr. Goldsborough.—I did not stand in need of the injunction of the gentleman from Virginia, if I wished to decline voting on this occasion, to go out of the bar; but so long as I hold a seat in this House I will never consent to do this. For I should think myself placed in a most contemptible situation, if any of my constituents should ask me what vote I gave on a particular occasion, I should be obliged to tell him that instead of giving a vote I skulked behind the bar.

Mr. J. Randolph said he assured the gentleman he imputed to him no improper motive. He had been totally misunderstood if the gentleman drew any such inference from what he had said.

Mr. Goldsborough said he was gratified by the gentleman's explanation, but he hoped he would be permitted to go on. When he had desired a postponement till Monday, it was from the best motives. He said he cared nothing for the Yazoo claims; he had no interest in them. He was sorry the vote excusing him from voting had been re-considered. He deemed himself at liberty at all times to decline voting when he was not duly informed; he should not, therefore, vote on the present occasion.

Mr. Kelly said he should vote against the rejection of this bill, to allow further time for a discussion of the subject, without pledging himself how he should vote on its final passage.

Mr. Sailly said he did not wish to give a vote without information. He thought this business unnecessarily hurried. He considered it the duty of the new members, who were not informed on it, to vote against the rejection of the bill, which was the only way of refuting such arbitrary conduct.

The question was then put, Shall the bill be rejected, and passed in the affirmative—yeas 62, nays 54, as follows:

Yeas—Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William Butler, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, John Dawson, Elias Earle, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, Walter Jones, Thomas Kenan, Michael Leib, Duncan McFarland, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jun., Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rhea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Thomas Spalding, Richard Stanford, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Willis Alston, jun., Joseph Barker, Silas Betton, Barnabas Bidwell, John Campbell, John Chandler, Martin Chittenden, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., William Dickson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Isaiah L. Green, Seth Hastings, William Helms, David Hough, John G. Jackson, James Kelly, Joseph Lewis, jun., Matthew

Lyon, William McCreery, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin jun., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, John Cotton Smith, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Elisphalet Wickes, Marmaduke Williams, and Nathan Williams.

So the bill was rejected.

Mr. J. Randolph moved that the House adjourn. He said that a few days ago the House had adjourned on account of the death of General Jackson. He hoped they would now adjourn on account of his resurrection. For he had told him, that if he could give a death-blow to the Yazoo business, he should die in peace.—Adjourned, yeas 58.

Tuesday, April 1.

Mr. Thomas, from the committee appointed, on the third of December last, on the subject of post offices and post roads, made a report thereon; which was read, and ordered to be referred to the Committee of the whole House to whom was committed, on the twenty first ultimo, the bill further to alter and establish certain post roads.

The Speaker laid before the House a report from the Secretary of War, on the petition of the officers of the army serving in Louisiana, referred to him by an order of the House on the twenty-fifth ultimo; which was read, and referred to a Committee of the Whole to-morrow.

Mr. Early, from the joint committee appointed, to consider and report what business is necessary to be done by Congress in the present session, made a report thereon; which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act to extend jurisdiction, in certain cases, to the Territorial courts." No amendment being made, the bill was ordered to be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to repeal so much of the act, entitled 'An act regulating foreign coins, and for other purposes, as is contained in the second section thereof,'" with several amendments; to which they desire the concurrence of this House. The Senate recede from their amendment disagreed to by this House, and insisted on by the Senate, to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," so far as to admit a modification thereof, in conformity to the report of the Joint Committee of Conference.

Mr. John C. Smith, from the Committee of Claims, to whom was referred the petition of Rebecca Hodgson, widow of Joseph Hodgson, deceased, made the following report:

That the petitioner's husband, when living, leased to Samuel Dexter, as Secretary of War, a dwelling-house, in the City of Washington, for the use of the War Department: that, amongst other things, it was covenanted by the lessee to surrender the demised premises, at the expiration of the term, in good repair; ordinary decay and inevitable casualties excepted: that the house was consumed by fire, not occasioned by lightning, nor by the fault or negligence of the lessee; but, as is rendered highly probable from the evidence, by a serious defect in the original construction of the building: that a suit was instituted against Mr. Dexter, upon the covenant beforementioned, which terminated in his favor, on the ground that, if any liability grew out of the transaction, it attached to him in his official, not in his individual capacity; in which case the Government, and not the officer, was to be considered accountable: that no other question relating to the merits seems to have been agitated by the Supreme Court of the United States, where the cause was ultimately decided: and that it remains for the Legislature to determine whether, from the foregoing statement, the Government is bound, in justice, to make the reparation prayed for by the petitioner.

From an attentive consideration of the subject, your committee can discover no sufficient reasons for recommending the desired relief. They are of opinion that the prayer of the petitioner ought not to be granted.

Ordered to lie on the table.

MICHIGAN TERRITORY.

On motion of Mr. Jackson, the House resolved itself into a Committee of the Whole on various bills relative to the Michigan Territory. Various amendments were made to these bills.

Mr. Jackson moved to increase the salary of the Governor from 2,000 to 3,500 dollars, which motion was disagreed to without a division, as was a motion to augment it to 3,000.

A motion to allow 2,500 dollars was disagreed to—ayes 18; when 2,000 dollars were agreed to.

In fixing the salaries of the judges, Mr. Jackson proposed to allow the chief judge 1,600 dollars—motion lost.

It was then agreed to allow 1,000 dollars—ayes 49 noes 35. And the same sum to the associate judges—ayes 42, nays 40. The salary of the Secretary was fixed at 900 dollars—ayes 53.

The Committee rose and reported their agreement to the bills, with sundry amendments, in which the House concurred.

Mr. Varnum said he observed a provision in one of these bills authorizing the admission of the people of the Territory as a State into the Union, whenever their numbers should amount to 40,000. He wished to know on what principle a different rule was applied to this Territory from that applied to the other Territories.

Mr. Findley moved to strike out the section. He observed that when their population amounted to 60,000 they must be admitted. Until that period, under the present acts, the power of an earlier admission was discretionary with Congress. He thought it best that the business should rest on this footing.

Mr. Jackson advocated the section. He remarked that the course pursued relative to the Northwestern Territory afforded a precedent in point, as they were formed into a State when

their numbers but little, if at all, exceeded 40,000. Nor could it be consistent with republican policy to keep the Territories of the United States in a state of vassalage to the longest period within the power of the United States. By admitting them into the Union at an early period, we should most effectually conciliate their affection and insure their attachment to us; whereas, by withholding this privilege we may proportionably estrange their regard. This provision would likewise supersede the trouble of acting on the annual memorials which, it was probable, would be presented to Congress. It would also promote the settlement of the frontier of the United States, and afford it a protection without resort to a military force.

Mr. SMILIE replied—when the question was taken on striking out the section and carried—ayes 71.

The bills were then ordered to be engrossed for a third reading.

PLURALITY OF OFFICES.

On motion of Mr. JOHN RANDOLPH, the House took up the report of the Committee of the Whole on sundry resolutions agreed to by them on the 28th ultimo. When the question was put on concurring in the report of the Committee of the Whole in their agreement to the second resolution, as follows:

2d. Resolved—That the union of a plurality of offices in the person of a single individual, but more especially of the military with the civil authority, is repugnant to the spirit of the Constitution of the United States, and tends to the introducing of an arbitrary Government.

Mr. BIDWELL said, he would very concisely assign his reasons for voting against this resolution. It declares that "the union of a plurality of offices 'in the person of a single individual, but more 'especially of the military with the civil authority, is repugnant to the spirit of the Constitution 'of the United States, and tends to the introducing 'of an arbitrary Government." It appeared to him that this was not a correct declaration. If the Constitution itself be referred to, it will appear that it recognises an union of civil and military officers in the same person. Such an union is to be found in the First Magistrate of the United States, who exercises the highest Executive civil functions; and is at the same time Commander-in-Chief of the Army and Navy, and of the militia while in actual service. The same principle pervaded the Constitution, he believed, of every State. There was also an union of civil and military authority in several offices, by acts of Congress. This was the case with the marshals in certain cases, and officers who are charged with the superintendence of Territorial affairs. If it were proper, said Mr. B., as I do not think it is, by a vote of this House, to undertake to define the Constitution, it still appears to me that we cannot consistently say that the union of a plurality of offices in the person of a single individual, but more especially of the military with the civil authority, is repugnant to the spirit of the Constitution of the United States. A declaration of that kind would be a vote of censure on the people of the whole United States, for having adopted the Federal Constitution, on the people of the several States, for having adopted their constitutions, and on the Legislatures under both Governments, for having passed laws which authorized such an union.

Mr. J. CLAY said, the objections of the gentleman arose from not having properly considered the nature of the union of civil and military office in the First Magistrate. By the Constitution, the military was placed in strict subordination to the civil power. For this reason the President of the United States had placed under his control all the officers of the Army and Navy. The union contemplated in the resolution before you, said Mr. C., is that which gives the actual discharge of civil powers to an officer who has actual command of your army. I ask if it was ever in the contemplation of the Constitution, that the President should in person head your armies and command your fleets? I believe not. There exists in one of the Territories such an union as is contemplated in the resolution. In Louisiana a person holding the office of Governor, is at the same time Commander-in-Chief of the Army of the United States, in virtue of his appointment of Brigadier General. Will any man pretend to say that an union of offices, such as these, the discharge of whose duties is incompatible, is such an union as is contemplated in the Constitution? No; the union in the Constitution was only intended to give the President a control over the Army and Navy; while this resolution contemplates the positive and actual union of powers in the same person, powers, which at the same time he may be called upon to exercise at different and distant places. To separate these powers is the object of the resolution. I hope the resolution will be agreed to, and the separation take place.

Mr. SMILIE said he did not know that he should have any objection to the third resolution, although he had not made up his mind upon it. But with regard to the resolution under consideration, he could not agree to it. He did not know that there was a right in that House to declare what the Constitution was. The Constitution must speak for itself, and they had no right to supply any deficiency in it. When a particular case occurred they might construe it, but he never heard of an instance where a Legislative body put a construction upon it without the existence of a particular case; nor did he believe they possessed such a power. The resolution declared an union of a pluralty of offices in the same person repugnant to the spirit of the Constitution. He did not know where to find that spirit but in the letter of the Constitution. He had looked it carefully over, and had not been able to find a single expression that warranted such an inference. He called on gentlemen to point their finger to a single section of it that justified the inference. If at this rate they continued to supply its defects, he did not know where the thing would end. He himself thought the instrument

very defective, yet he never thought himself at liberty to remedy the defects but in the way pointed out in the Constitution. If examined it would be found, as it originally stood, to be extremely defective. In providing for the powers of the Government it had almost entirely overlooked the rights of individuals. These defects excited great objection to the instrument. They were, however, supplied by the first Congress, and gentlemen would find that almost all the amendments which have been incorporated into it, go to secure the rights of individuals. Though these amendments constitute what might be called the marrow of the Constitution, Mr. S. said, he should not have considered himself authorized, if they had not taken place, to remedy the evil in any other than a Constitutional way. But he did not deny that it was a defect in the Constitution, that the military and civil authorities were not kept separate. But the simple question was, had they a right under the Constitution to separate them? He thought not. In every point of view, he said, in which he contemplated the resolution, he thought it one of the most dangerous attacks on the Constitution he had ever heard of.

Mr. J. RANDOLPH.—My friend from Pennsylvania has left me little to say on the question, and indeed I have heard nothing in the shape of argument, or assertion, but what I was prepared to hear, and of which I apprized the House some time ago. It has come out at last from the lips of a man who has prided himself upon being the champion of the Constitution of the United States to-day, although but a few days ago he threatened us with a dissolution of the Union, that the Constitution has no spirit in it. He calls on any man to lay his finger on that spirit. What does the Constitution of the United States say? Does it not guarantee to each State a Republican form of Government? Is there no spirit in this? Is not the Constitution then devised under the influence of a Republican spirit, for the benefit of the people who are governed by it, and not for the exclusive benefit of those who administer it? Will any man pretend to say that a Republic is anything or nothing? And that it is congenial to such a Government that the civil and military authority should be vested in the same hands? Is it not of the very essence of such a Government that the military should be kept in strict subordination to the civil power? And have not your laws, which give to marshals in certain cases a power over the military, been passed to keep the military under such subjection? How is the military to be kept in such subjection, when, according to the usage of the Romans, the leader of an army is the Governor of a province? If the Constitution has no spirit in it, it is a dead, lifeless thing, not worth the protection of any man of sense. But I am happy that it has a spirit, which I trust will save this nation, even if its letter shall be killed.

But we are told that this is a declaratory resolution. Gentlemen may call it a declaratory resolution, or a preamble to the third resolution, which ever they may see fit, but it is the reasoning on which the third resolution is founded. What is it but a declaration on the part of this House, which they have a right to make, that a certain principle is salutary, because it is consonant with the spirit of the Constitution? Is it not agreeable to the spirit of the Constitution that the three great Departments of the Government, Executive, Legislative, and Judicial, should be kept separate and distinct? Is there a man fool-hardy enough to deny the proposition? I believe not. Now, suppose we were about to devise a form of Government for New Orleans and Louisiana, and a member should propose to concentre all the powers of the Government in one and the same body, and a resolution should be laid on the table declaring that whereas an union of Executive, Legislative, and Judicial powers in the same body is repugnant to the spirit of the Constitution, and should go on in the shape of a resolution to apply the remedy—and some man should make the wonderful discovery that the Senate of the United States are constitutionally participators of the Executive power of the Government, and that in case of impeachment they have also Judicial powers, and infer from this that such an union was consonant with the spirit of the Constitution—would not this be a satire on the Constitution as well as those who adopt it?

Suppose all offices in the gift of the Executive Government were united in one man. I do not see, if this is consonant to the spirit of the Constitution, and a man is properly qualified, why he may not unite in himself the powers of all the Departments. The Secretary of War may, on the same principle, be Commander-in-Chief of the Army. No,—it is not because this resolution is a satire upon the people who framed or adopted the Constitution, but because it is a satire, a reproof of which the times call for, that gentlemen are so extremely tender relative to it; and the question now is, whether the House ought, in tenderness to any man, to flinch from the exercise of their Constitutional powers. What would I have said seven years ago to any man who should have told me that the gentleman from Pennsylvania would have been found in opposition to this measure—who should have predicted that the rugged patriot of those days should be softened by Court favor into so accomplished a courtier? It shows that what cannot be done by force or violence, may be by influence. This question may be put into a short compass. It is, whether the Constitution of the United States is a republican Constitution, devised and adopted for the benefit of the people it governs, or a piece of mechanism, to be tortured and twisted in the hands in which chance may throw it, for the benefit of a temporary incumbent. If the case has come to this, that the Chief Justice may be made Commander-in-Chief of the Armies, without the Constitution being violated, it is time the nation should know their situation.

Mr. SLOAN said he had examined the resolution, and would cordially give his assent to the principle contained in it, provided it were brought forward in the form of an amendment to the Constitution. He thought, with his friend from Penn-

sylvania, that, as it stood, it was a dangerous attack upon the Constitution. He therefore trusted it would be rejected, and that every similar attempt would be treated in the same manner.

Mr. QUINCY said he would merely observe, that, though it were true that an union of civil and military offices in the same person was repugnant to the spirit of the Constitution, it was not true that an union of different offices in the same person was repugnant to it. They had to-day united two offices in the same person, in the bill relative to the Territory of Michigan. They had heretofore constituted several of the officers of the Government Commissioners of the Sinking Fund. He could see nothing in the Constitution which interfered with a plurality of offices, which in many instances was attended with great practical benefit. As there was therefore in the Constitution nothing explicit against this union, he could not vote for the resolution.

Mr. GREGG said, he believed it was contrary to the spirit of the Constitution, that civil and military offices should be united in the same person; but, he would ask, what benefit would result from such a declaration? The power of appointing to office was vested in the President and Senate, who were sworn to support the Constitution. They were, therefore, the judges of the powers with which they were invested. In the exercise of this power, they have actually declared that they do possess it. What does this resolution amount to? If they undertook to declare the President guilty of such a flagrant act as involved a violation of the Constitution, it was their business to impeach him. Mr. G. said, as he could see no good likely to arise from this resolution, he should not vote for it. The practice it referred to was not new, though he had always thought it wrong. He recollected, that, some years since, the Governor of the Northwestern Territory was likewise Superintendent of Indian Affairs and Commander-in-Chief of the Army, for all which appointments he drew pay, though no notice had been taken of it. Other instances of the same kind might be pointed out. He did believe this union was contrary to the spirit of the Constitution—to the true spirit of a republican Government—and if the gentleman from Virginia would bring forward an amendment to the Constitution to prohibit such an union, he would vote for it.

Mr. FINDLEY said he did not understand the language of the spirit of the Constitution. Spirit was altogether an immaterial thing—it was only when connected with the body that they could see it—and with regard to the Constitution, it could only be seen through its letter. How long is it, said Mr. F., since the gentleman from Virginia and myself agreed to unite in the same body both civil, military, and judicial powers? We did so, in forming the first government for the Territory of Orleans. Mr. F. said he was against all such declaratory resolutions. They did not bind Congress, the President, or even the next House of Representatives. They only contained an expression of opinions where there was no authority. They were sent here to pass laws, and not to make declarations relative to the Constitution.

Mr. RHEA, of Tennessee, said he considered the Constitution as a sacred deposit placed in their hands, and not capable of alteration, except in the way fixed by itself. Every resolution similar to that under consideration operated as an amendment to it, which went to torture and twist it out of its proper shape. He should, therefore, not only vote against this resolution, but against every resolution which appeared to him to have a similar effect.

Mr. J. RANDOLPH.—Six years ago, there could not have been a doubt of the right of this House to pass this resolution—now, the right is disputed. Have we not a right to pass a resolution referring to the Constitution, in order to bring in a law grounded on it? Do we not do this every day? One word as to the appointment of General Wilkinson. Gentlemen are fond of sheltering themselves behind great names. I have no hesitation in saying I think the Executive was wrong in making that appointment. I have no hesitation in saying so here, though gentlemen who join me out of doors are reluctant to make the same declaration on this floor. I do not think, however, the persons who made the appointment as reprehensible as the persons at whose importunate solicitation it was made. I believe that a man of good sense, and of upright intentions, may be induced to do that which his own judgment will afterwards condemn. It is well known, that the antechambers of our great men were crowded with applicants for offices in Louisiana. I have understood that for every office there were at least one hundred and fifty applications. Thus much for the idea which has been thrown out of the existence of a scarcity of characters to supply these offices.

But we are told that we ourselves have done as bad as this, in establishing the temporary government of Louisiana. If gentlemen bring me many more precedents on this subject, I shall be compelled to say that purchase was the greatest curse that ever befel us. What! Shall a temporary system, formed on an emergency, when it was necessary to do something to take the country into our hands, be compared to a deliberate and systematic procedure?

But there is another reason alleged for uniting a plurality of offices in one person, and that is the lowness of salaries. I do not know any spectacle more disgusting to a man of unsophisticated feelings, than that of men hunting, with all the avidity of terriers, after appointments, and the next moment complaining that the salaries attached to their places are too low. Before they get the office they have no objection to the salary, but the moment they are on the saddle, they discover that they have sacrificed their talents to the public good. This is the cant of the whole tribe—the slang of those men whose last object is to live on their own honest exertions, and who are therefore for making a job of Government.

One observation has been made, which shows that the meaning of this resolution has not been

properly understood, which relates to the Commissioners of the Sinking Fund. But the Commissioners of the Sinking Fund are not, strictly speaking, officers. The duties they discharge are *ex officio*, in virtue of their holding other high offices, and, as Commissioners, they receive no salary. I will go further, and state that this resolution does not contain any veto on the union of small offices, such as those in the custom-houses, where the compensation attached to each appointment is too small to support the officer, and the duties too inconsiderable to occupy his time; in consequence of which, several small appointments are united in one man, on the true principles of economy. No; this resolution is intended for great cases, such as that which has been alluded to. I believe that the person who made that appointment is himself conscious that it was wrong, and that, so far from entertaining the feelings which gentlemen have imagined, he will feel a sentiment of respect for this House, should they pass it.

Mr. VARNUM considered the resolution as going too far, and said it was a very common thing for two offices to be united in one man. It had been usual to unite the diplomatic character with the military command in our intercourse with the Indians, and a diplomatic character had likewise been given to our naval commander in the Mediterranean. Instances of a plurality of offices in one person were very numerous. If there existed, at present, any case, in which such an union was incompatible with the discharge of official duties, he hoped it would be pointed out; whether there was or was not, he could not say. But where did the responsibility for such appointments lie? Not that House, but the other branch of the Legislature was responsible; for the correct discharge of whose duties they were accountable to the people. Where, then, was the propriety of an interference by the House? If the President made an appointment against the spirit of the Constitution, the people would know it. Was it presumable that if a law was to pass this House, predicated on the resolution under consideration, the other branch of the Legislature would agree to it, after having sanctioned the appointments at which it is levelled? Was this House to sit as a court of censure? The Constitution did not delegate such a power. Our very laws, in various cases, direct the union of office prescribed by the resolution. Ought we not, then, in the first place, to repeal those laws before we pass a resolution in direct hostility to them?

Mr. V. said, he had no hesitation to observe, that the military and civil office should, in general, be kept distinct; but he believed there were cases where it was necessary. He was perfectly willing to leave the responsibility where the Constitution had placed it—in the hands of the President and Senate. With regard to the union of the military office in the cases alluded to, he would not undertake to say whether it was proper or not. He could readily, however, conceive, that the union arose from the most correct motive, as the country was a frontier, which might be menaced with danger, and which might require the united exercise of the military and civil authority to repel it.

Mr. J. CLAY said, he would ask whether the ordinary union of military and civil powers in the Governors of the Territories was such as that contemplated in the resolution? The case of the Governor of Louisiana had been alluded to, where the same person, he believed, received the pay of Governor and Brigadier. Is that the case with the other Governors? He believed gentlemen would not say that it was necessary that the Governor of New Orleans should be a brigadier general in the army; and yet they allowed that to be the most vulnerable point on the frontier. If, then, they say that the union is necessary in one case, they will admit that it ought to be in the other. When the marshal executes the petty military authority with which he is invested, does he receive additional pay? Does the Governor of a State, being commander of the militia, bear any relation to the Governor of Louisiana, holding a high rank in the standing army? Suppose the southern frontier should be invaded, and it should be necessary to call out the army to defend it, where would be the compatibility of these two appointments? The same individual might be called at one and the same time to St. Louis and St. Mary's. He would ask whether it was compatible with the spirit of the Constitution for a man to enjoy a sinecure? and whether one of these offices was not a sinecure, when the discharge of its duties was inconsistent with that of the other?

Mr. LEIB said that, viewing the resolution as an abstract proposition, he had no objection to giving it his support; but if was intended as a side attack upon the Administration, he was not prepared to vote for it. Before he was prepared to act on it under this view, he wished for facts which were not before the House. He, therefore, moved a postponement of the resolution till Monday.

The motion to postpone was lost.

The question was then taken on agreeing to the resolution, and decided in the negative—yeas 31, nays 81, as follows:

YEAS—Burwell Bassett, George M. Bedinger, William Butler, Levi Casey, Martin Chittenden, Christopher Clark, Joseph Clay, Matthew Clay, William Dickson, Elias Earle, James M. Garnett, Peterson Goodwyn, Edwin Gray, Walter Jones, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Thomas Moore, John Morrow, John Randolph, Thomas Sammons, Thomas Sandford, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, Philip R. Thompson, Abram Trigg, David R. Williams, and Alexander Wilson.

NAYS—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Chandler, John Claiborne, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth

Hastings, David Holmes, David Hough, John G. Jackson, James Kelly, Thomas Kenan, Joseph Lewis, jun., Duncan McFarland, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

The resolution was consequently rejected. And then, an adjournment being called for, the House adjourned.

WEDNESDAY, April 2.

Mr. GREGG, from the committee to whom was referred, on the thirty-first of December last, the petition of sundry settlers and purchasers of lands northwest of the Ohio, and between the Miama rivers, made a report thereon; which was read and considered: Whereupon,

Resolved, That the register and receiver of public moneys of the land office in the district of Cincinnati, be authorized to grant certificates of a right of pre-emption to any person residing on any of the reserved sections, (other than the reserved section number sixteen,) for the tract on which he resides, on the applicant producing to them satisfactory evidence that his claim was within the provisions of the eighth section of an act, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes;" provided that the person shall exhibit the evidence of his claim before the first day of August next; and provided, such certificate shall not be granted for a larger tract than a quarter section, nor for any other tract than that on which he resides.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Public Lands do prepare and bring in the same.

Mr. JOSEPH CLAY presented to the House a petition of sundry officers who served in the British army, during the war between France and Great Britain, in America, in the year one thousand seven hundred and fifty-five, which was received and read, praying to be confirmed in their respective titles to lands in the State of Kentucky, granted to them by the King of Great Britain, in consideration of military services rendered the American Colonies, during the said war with France. —Referred to the Committee on Public Lands.

The House resolved itself into a Committee of the Whole on the bill making appropriation for the support of the Military Establishment of the United States, for the year one thousand eight hundred and six. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act in addition to 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war,'" with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments of the Senate to the said bill: Whereupon,

Ordered, That the said amendments, together with the bill, be referred to the Committee of Claims.

The House proceeded to consider the modifications of the amendment by the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," disagreed to by this House: Whereupon,

Resolved, That this House doth disagree to the modifications by the Senate of the said amendment, and doth adhere to their disagreement to the same.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to revive and continue in force an act, entitled 'An act to suspend, in part, the act, entitled an act regulating foreign coins, and for other purposes;'" Whereupon,

Ordered, That the said amendments, together with the bill, be referred to Mr. JOSEPH CLAY, Mr. THOMAS, Mr. THOMAS M. RANDOLPH, and Mr. MUMFORD.

An engrossed bill to provide for the adjustment of titles of land in the Territory of Michigan, and for other purposes, was read the third time, and passed.

An engrossed bill supplementary to the act, entitled "An act to extend jurisdiction, in certain cases, to the Territorial courts," was read the third time, and passed.

Mr. J. RANDOLPH stated that an understanding had taken place between the Minister of the United States at Paris, and the French Minister of the public treasury, as to the payment of claims of American citizens, generally called Bordeaux embargo claims, (the payment of which had heretofore been suspended,) by which it was agreed that payment should be made at the Treasury of the United States. Under the existing provisions, this authority did not attach to the treasury. He had, therefore, been instructed by the Committee of Ways and Means to present a bill to give this power. He accordingly offered a bill supplementary to the act making provision for the payment of claims of certain citizens of the United States on the Government of France; which was referred to a Committee of the Whole.

Mr. VARNUM reported from the committee appointed to inquire into such measures as it is expedient to adopt for the complete arming of the militia of the United States, giving a very interesting detail of the extent to which the militia are at

present armed; by which it appears that there are in the hands of the militia 350,000 fire arms, and 120,000 in the public magazines of the United States. The report recommends an additional appropriation of $61,000 toward the manufacture of arms; which was subsequently introduced in the military appropriation bill.

Ordered, That Mr. SANDFORD be of the committee appointed, on the twenty-first ultimo, to inquire into the conduct of Gideon Granger, Postmaster General, in the room of Mr. CLINTON, who has leave to be absent from the service of this House.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States;" which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. BASSETT presented to the House a petition of Amelia Eugene Beaumarchais, heiress and representative of the late Caron de Beaumarchais, deceased, by J. A. Chevallie, her attorney, which was received and read, praying to be relieved from an unfavorable settlement at the Treasury of the United States, of the accounts of the deceased, for supplies furnished, and services rendered to the United States, during the Revolutionary war with Great Britain.

Ordered, That the said petition be referred to the Committee of Claims.

On motion of Mr. NEWTON, the resolution offered by him on the 29th ultimo, proposing an amendment to the Constitution: "That no person 'holding a contract under the Government of the 'United States, or who shall, directly or indirect-'ly, participate in the emoluments of such con-'tract, shall be capable of holding a seat in the 'Senate or House of Representatives of the Uni-'ted States—was referred to a Committee of the Whole on the state of the Union.

The House resolved itself into a Committee of the Whole, on the bill making military appropriations for the year 1806.

Having gone through the same, the Committee rose and reported the bill, and the House ordered it to a third reading to-morrow.

CHARLESTOWN, VA.

Mr. JACKSON called for the order of the day on the report of the Committee of Commerce and Manufactures, on the petition of sundry inhabitants of Charlestown, in Virginia, praying that that place should be made a port of entry.

Mr. LEIB moved an indefinite postponement of the report.

Mr. JACKSON opposed this motion, and spoke at some length in favor of the Constitutional right of the petitioners to be allowed a port of entry.

Mr. CROWNINSHIELD, though against postponement and in favor of discussing the principle, contested the right.

Mr. LEIB withdrew his motion; when the motion to consider the report was disagreed to—only 13 members rising in favor of it.

RELEASE ON CUSTOM-HOUSE BONDS.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was referred, on the 4th instant, by the House, the petition of Francis Barretto, of the city of New York, made the following report:

The petitioner prays that Congress would relieve him from the payment of a custom-house bond, where he is the surety, or, if this is deemed improper, as he is in indigent circumstances, he hopes that some favorable arrangement may be made for him, whereby his person may be exempt from arrest, under the judgment obtained against him, at the suit of the United States.

The following facts appear in this case: The petitioner, on the 17th day of July, in the year 1795, together with George Arnold and James Harrison, became bound to the United States, as sureties for Jose Joaquim La Costa, for duties on the cargo of the brigantine Los Amigos, from Madeira, amounting to the sum of nine thousand dollars. The person who signed the bonds as principal having failed in his business, and neglecting to pay the debt, suits were commenced for the recovery of the duties, upon which judgment was obtained, and the principal debtor was a long time confined in the jail of New York, and was finally liberated pursuant to an act of Congress, passed sixth of June, 1798, upon assigning all his property to the use of the United States. It is further stated, that the other two sureties, James Harrison and George Arnold, being totally insolvent, have departed from the United States; and the petitioner, unable to struggle with the difficulties and loss of mercantile credit which he had incurred, was under the necessity of taking the benefit of the bankrupt act. Since the discharge from his private creditors, the Attorney of the United States for the New York district has recovered judgment against him for the amount of the bond, and he is liable to be imprisoned from day to day.

He is totally destitute of property, and has a numerous family of young children, who depend upon his exertions for their education and support. In this distressing situation he is unable to pursue any business to advantage, and can only expect or hope for relief from the benevolent interposition of Congress.

The committee remark, that the petitioner's misfortunes do not appear to be owing to his fault or neglect. He placed implicit confidence in the person who was principal on the bond, and expected he would pay it; he was deceived in this expectation. His own funds were, and still are, inadequate to meet the payment. He is totally destitute of property. The United States cannot expect to receive anything from the petitioner. Thus circumstanced, and well knowing that Congress have, in several instances, where any meritorious cases presented themselves, made provision for the relief of persons who were unable to pay their debts, the committee conceive that the House will readily agree to exempt the person of the petitioner from arrest for the debt owing to the United States. Similar bills have been reported during this session for the relief of Francis Johonnot and John McFadon, and the present petitioner has equal, if not superior claims upon the humanity of Congress. The committee beg leave to submit the following resolution:

Resolved, That the prayer of the petitioner, so far as to free his person from arrest or confinement, on account of any judgment obtained against him in behalf

of the United States, is reasonable, and ought to be granted.

Referred to Committee of the Whole on the bill for the relief of John McFadon and Francis Johonnot.

PLURALITY OF OFFICES

The House took up the unfinished business of yesterday, being the report of the Committee of the Whole, agreeing to the following resolution, offered by Mr. J Randolph:

3d. *Resolved*, That provision ought to be made, by law, to render any officer, in the Army or Navy of the United States incapable of holding any civil office under the United States.

Mr. Fisk moved to postpone this resolution indefinitely.

This motion was supported by Messrs. Fisk, Elmer, and Cook; and opposed by Messrs. J. Clay, J. Randolph, and J. C. Smith,

When the question was taken by yeas and nays, and the motion disagreed to—yeas 43, nays 72, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Barnabas Bidwell, John Chandler, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Davenport, junior, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, William Helms, James Kelly, John Lambert, William McCreery, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, John Rhea of Tennessee, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Eliphalet Wickes, and Nathan Williams.

Nays—Burwell Bassett, George M. Bedinger, Silas Betton, John Blake, jr., Thos. Blount, Robert Brown, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, John Dawson, William Dickson, Elias Earle, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Hamilton, Seth Hastings, David Holmes, David Hough, Walter Jones, Thomas Kenan, Michael Leib, Joseph Lewis, jr., Duncan MacFarland, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newton, jun., Timothy Pitkin, jun., Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

The question was then taken that the House do agree with the Committee of the whole House in their agreement to the said resolution, and resolved in the affirmative—yeas 94, nays 21, as follows:

Yeas—Willis Alston, jun., Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, William Blackledge, John Blake, junior, Thomas Blount, Robert Brown, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, John Dawson, William Dickson, Elias Earle, James Elliot, Caleb Ellis, William Ely, John W. Eppes, William Findley, James Fisk, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, Thomas Kenan, John Lambert, Michael Leib, Joseph Lewis, junior, Duncan MacFarland, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, junior, Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Smilie, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Sam'l Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Robert Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Evan Alexander, Joseph Barker, Barnabas Bidwell, John Chandler, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Davenport, junior, Ebenezer Elmer, Isaiah L. Green, James Kelly, William McCreery, Roger Nelson, John Rhea of Tennessee, John Russell, Ebenezer Seaver, James Sloan, Joseph B. Varnum, John Whitehill, and Eliphalet Wickes.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. John Randolph, Mr. David R. Williams, and Mr. John C. Smith, do prepare and bring in the same.

The House resolved itself into a Committee of the Whole, on the bill further to alter and establish certain post roads; and, after some time spent therein, the Committee rose and had leave to sit again.

Thursday, April 3.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the act for the payment of the claims of citizens of the United States on the Government of France. The bill was reported without amendment.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

Mr. Joseph Clay, from the committee to whom were referred, yesterday, the amendment of the Senate to the bill, entitled "An act to revive and continue in force an act, entitled 'An act to suspend, in part, the act, entitled 'An act regulating foreign coins, and for other purposes," reported their agreement to the same with several amendments; which were severally twice read, and agreed to by the House.

The House again resolved itself into a Committee of the Whole, on the bill further to alter and establish certain post roads. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Gilbert C. Russell;" to which they desire the concurrence of this House.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a supplementary list of bills drawn by the Minister Plenipotentiary of the United States at Paris, for claims embraced by the convention with the French Republic of the thirtieth of April, one thousand eight hundred and three, which have been presented at the Treasury, and not included in the list transmitted on the twentieth ultimo; which was read, and ordered to lie on the table.

Mr. Matthew Clay, from the Committee on Public Lands, presented a bill in addition to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" which was twice read, and committed to a Committee of the Whole on Monday next.

An engrossed bill to amend the act, entitled "An act to divide the Indiana Territory into two separate governments, and for other purposes," was read the third time, and passed.

An engrossed bill making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and six, was read the third time. When the bill was recommitted to a Committee of the whole House immediately. The bill was reported with an amendment, and ordered to be engrossed, and read the third time to-day, which was done.

Mr. Varnum observed, that a report on a new organization of the militia had been made at an early period of the session, of a negative kind; that a bill had been subsequently acted upon in the House in some measure implicating the points taken in the report; and that afterwards a bill on the subject had been brought before the Senate, which induced him to suspend calling the attention of the House to the report. That bill had been negatived. His object in rising was to state that, as the report was of a negative character, he should not think of calling it up, unless it was the wish of gentlemen that it should be discussed.

Mr. J. C. Smith, from the Committee of Claims, reported that it would be expedient to agree to the amendments proposed by the Senate to the bill making provision for persons disabled by known wounds received during the Revolutionary war.

Mr. Blackledge moved a postponement of the consideration of the bill till to-morrow.

Mr. David R. Williams moved an indefinite postponement.

This motion was opposed by Messrs. John C. Smith, J. Clay, Leib, Varnum, Bedinger, and Van Cortlandt.

Mr. David R. Williams withdrew his motion, when it was agreed that the bill should lie on the table.

Friday, April 4.

Mr. John Randolph, from the committee appointed on the second instant, presented a bill to prohibit officers of the Army and Navy from holding or exercising any civil office; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, presented a bill laying a duty on copper, therein described; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Dawson, from the committee appointed on the fourth of December last, to whom was referred a resolution of the House, of the twenty-ninth ultimo, presented a bill concerning the further safeguard of merchant vessels in the vicinity of the United States; which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. Dawson, from the committee appointed on the fourth of December last, to whom was referred, on the thirty-first of the same month, a resolution to inquire whether it is expedient to provide, by law, for fitting and preparing —— navy yards, belonging to the United States, on or near the shores of the Atlantic ocean, for the reception of ships and vessels of war of the United States, made a report thereon; which was read and considered: Whereupon,

Resolved, That it is not necessary to make any further legislative provision on this subject.

On motion of Mr. Leib,

Resolved, That a committee be appointed to confer with a committee of the Senate, should the Senate think proper to appoint such committee, on the time that the two Houses of Congress ought to adjourn.

Ordered, That Mr. Leib, Mr. Clark, and Mr. Tenney, be appointed a committee, pursuant to the said resolution, on the part of this House.

The bill sent from the Senate, entitled "An act for the relief of Gilbert C. Russell," was twice read, and committed to a Committee of the whole House on Monday next.

An engrossed bill further to alter and establish certain post roads, was read the third time, and passed.

An engrossed bill supplementary to the act for the payment of claims of citizens of the United States on the Government of France, was read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill for erecting certain light-houses in the State of Massachusetts, and for building a beacon or pier at Bridgeport, in the State of Connecticut. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, together with the amendments, be engrossed, and read the third time to-day.

On motion of Mr. John C. Smith, that the House do come to the following resolution:

Resolved, That the Secretary for the Department of War be, and he hereby is, directed to procure from the several States, and present to this House, at their next session, a list of invalid pensioners who have been placed on the pension list of the respective States, in consequence of known wounds received in the actual service of the United States, during the Revolutionary war with Great Britain; noting particularly, as far as the same may be practicable, whether such pensioners served in the militia or in the line of the regular army; and, also, the monthly sum allowed to each pensioner.

Ordered, That the said motion do lie on the table.

An engrossed bill for erecting certain light-houses in the State of Massachusetts, and for building a beacon or pier at Bridgeport, in the State of Connecticut, was read the third time.

Resolved, That the said bill do pass, and that the title be "An act for erecting certain light-houses in the State of Massachusetts; for building a beacon or pier at Bridgeport, in the State of Connecticut; and for fixing buoys in Pamlico sound, in the State of North Carolina."

Mr. J. Randolph said, he rose merely to notify the House that he should, to-morrow, make a motion in relation to the Journal of the secret proceedings of the House. On Saturday, he believed, the House had directed the injunction of secrecy to be taken off, and the Journal of their proceedings to be printed. In a few days after, they saw something like it in a newspaper. To-day, for the first time, they found the official Journal laid on their tables. Last session, they had heard a flourish about economy in the printing of the House; and this session, several days had elapsed before a small pamphlet was printed; and, he would observe that, notwithstanding the printing had been let out to the lowest bidder, he found the same sum appropriated this year. He said he should, to-morrow, make a motion relative to the secret Journal. When the injunction of secrecy was taken off, it was, he understood, to enable the good people of the United States to become acquainted with the proceedings of this House. He was, however, convinced, that very few people would, from its perusal, know anything about them.

REVOLUTIONARY PENSIONERS.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act in addition to 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war." And the said amendment being again twice read at the Clerk's table, in the words following, to wit:

"After the word 'that,' in the second line of the first section, strike out the residue of the bill, and insert in lieu thereof, the following:

"Any commissioned or non-commissioned officer, musician, soldier, marine, or seaman, disabled in the actual service of the United States, while in the line of his duty, by known wounds received during the Revolutionary war, and who did not desert the service; or who, in consequence of disability as aforesaid, resigned his commission or took a discharge; or who, after incurring disability as aforesaid, was taken captive by the enemy, and remained either in captivity or on parole, until the close of said Revolutionary war; or who, in consequence of known wounds, received as aforesaid, has at any period since become and continued disabled in such manner as to render him unable to procure a subsistence by manual labor; whether such officer, musician, soldier, marine, or seaman, served as a volunteer, in any proper service against the common enemy, or belonged to a detachment of the militia, which served against the common enemy, or to the regular forces of the United States, or of any particular State; he shall, upon substantiating his claim in the manner hereinafter described, be placed on the pension list of the United States, during life, or the continuance of such disability, and be entitled, under the regulations hereinafter mentioned, to receive such sum as shall be found just and proper, by the testimony adduced.

"Sec. 2. *And be it further enacted*, That, in substantiating such claim, the following rules and regulations shall be complied with, that is to say: All evidence shall be taken on oath or affirmation, before the Judge of the District, or one of the Judges of the Territory, in which such claimant resides, or before some person specially authorized by commission from said Judge.

"Decisive disability, the effect of a known wound or wounds received while in the actual service, and line of duty against the common enemy, during the Revolutionary war, must be proved by the affidavit of the commanding officer of the regiment, corps, company, ship, vessel, or craft, in which said claimant served; or of two other credible witnesses to the same effect, setting forth the time when, and place where, such known wound or wounds were received, and particularly describing the same.

"The nature of such disability, and in what degree it prevents the claimant from obtaining his subsistence, must be proved by the affidavit of some reputable physician or surgeon, stating his opinion, either from his own knowledge and acquaintance with the claimant, or from an examination of such claimant on oath or affirmation; which, when necessary for that purpose, shall be administered to said claimant by said Judge or Commissioner. And the said physician or surgeon, in his affidavit, shall particularly describe the wound or wounds from whence the disability appears to be derived.

"Every claimant must prove, by at least one credible witness, that he continued in service during the whole time for which he was detached, or for which he engaged, unless he was discharged, or left the service in consequence af some derangement of the army, or in consequence of his disability resigned his commission, or was, after his disability, in captivity or on parole, until the close of the Revolutionary war. And in the same manner must prove his mode of life and employment since he left the service, and the place or places where he has since resided, and his place of residence at the time of taking such testimony.

"Every claimant shall, by his affidavit, give satisfactory reasons why he did not make application for a pension before, and that he is not on the pension list of any State; and the Judge or Commissioner shall certify, in writing, his opinion of the credibility of the witnesses, whose affidavits he shall take, in all those cases where by this act it is said the proof shall be made by

a credible witness or witnesses; and also that the examining physician or surgeon is reputable in his profession.

"Sec. 3. *And be it further enacted*, That the said Judge of the District, or person by him commissioned as aforesaid, shall transmit a list of such claims, accompanied by the evidence, affidavits, certificates, and proceedings had thereon in pursuance of this act, noting particularly the day on which the testimony was closed before him, to the Secretary for the Department of War, that the same may be compared with muster-rolls, or other documents in his office: and the said Secretary shall make a statement of all such cases, which, together with all the testimony, he shall from time to time transmit to Congress, with such remarks as he may think proper, that Congress may be enabled to place such claimants on the pension list as shall be found entitled to the privilege. And it shall be the duty of the Judge or Commissioner, aforesaid, to permit each claimant to take a transcript of the evidence and proceedings had respecting his claim, if he shall desire it, and to certify the same to be correct.

"Sec. 4. *And be it further enacted*, That every pension, or increase thereof, by virtue of this act, shall commence on the day when the claimant shall have completed his testimony before the authority proper to take the same.

"Sec. 5. *And be it further enacted*, That an increase of pension may be allowed to persons, already placed upon the pension list of the United States for disabilities caused by known wounds received during the Revolutionary war, in all cases where justice shall require the same: *Provided*, That the increase, when added to the pension formerly received, shall in no case exceed a full pension.

"Every invalid making application for this purpose, shall be examined by two reputable physicians or surgeons, to be authorized by commission from the Judge of the District where such invalid resides; who shall report, in writing, on oath or affirmation, their opinion of the nature of the applicant's disability, and in what degree it prevents him from obtaining a subsistence by manual labor; which report shall be transmitted, by said physicians or surgeons, to the Secretary for the Department of War, who shall compare the same with the documents in his office, and shall make a statement of all such cases, which, together with the original report, he shall from time to time transmit to Congress, with such remarks as he may think proper, that they may be enabled to do justice to such pensioners.

"Sec. 6. *And be it further enacted*, That a full pension given by this act to a commissioned officer, shall be one-half of the monthly pay legally allowed, at the time of incurring said disability, to his grade in the forces raised by the United States; and the proportions less than a full pension, shall be the correspondent proportions of said half-pay; and a full pension to a non-commissioned officer, musician, soldier, marine, or seaman, shall be five dollars a month, and the proportions less than a full pension, shall be the like proportions of five dollars a month; but no pension of a commissioned officer shall be calculated at a higher rate than the half-pay of a lieutenant colonel.

"Sec. 7. *And be it further enacted*, That the pensions, or increase thereof, which may be allowed by this act, shall be paid in the same manner as pensions to invalids, who have been heretofore placed on the pension list, are now paid, and under such restrictions and regulations, in all respects, as are prescribed by law.

"Sec. 8. *And be it further enacted*, That, from and after the passage of this act, no sale, transfer, or mortgage of the whole or any part of the pension, payable to any non-commissioned officer, musician, soldier, marine, or seaman, before the same becomes due, shall be valid. And every person claiming such pension, or any part thereof, under power of attorney or substitution, shall, before the same is paid, make oath or affirmation, before some magistrate legally authorized to take the same, a copy of which, attested by said magistrate, shall be lodged with the person who pays said pension, that such power or substitution is not given by reason of any transfer of such pension, or part thereof. And any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

"Sec. 9. *And be it further enacted*, That all laws of the United States heretofore passed, so far as they authorize persons to be placed on the pension list of the United States, for, and in consideration of, disabilities derived from known wounds received in the Revolutionary war, shall be, and they are hereby, repealed: *Provided*, That nothing in this repealing clause shall injure, or in any way affect those persons already upon the pension list of the United States; and that the Secretary for the Department of War shall proceed upon the testimony which has been transmitted to him by any claimant before the passage of this act, in the same manner as though this act had never passed.

"Sec. 10. *And be it further enacted*, That this act, so far as it authorizes the admission of persons upon the pension list of the United States, shall remain in force for and during the space of six years from the passage thereof, and no longer: *Provided*, That this limitation shall not affect or impair the right of any invalid, who may have completed his testimony, in the manner prescribed by this act, before this limitation commences its operation; but which has not been transmitted to the Secretary for the Department of War."

Mr. Alston moved to recommit this bill to the Committee of the whole House.

This motion was supported by Messrs. Alston, T. Moore, D. R. Williams, and Blackledge, and opposed by Messrs. J. C. Smith, J. Clay, R. Nelson, and Van Cortlandt; and was disagreed to—yeas 26.

Mr. Blackledge moved to amend the amendments of the Senate, so as to provide for the placing on the pension list of the United States all such wounded or disabled persons as have been placed on the pension lists of the States for wounds or disabilities received during the Revolutionary war, on adducing a prescribed proof.

Messrs. Blackledge, Blount, Clark, and Gregg, supported, and Messrs. J. C. Smith, Bedinger, R. Nelson, Varnum, Southard, Bidwell, and Sloan, opposed this amendment; which was disagreed to—yeas 34, nays 69.

The friends of the amendment contended that it was just, that a full and liberal provision should be made for all the militia disabled, as well those already provided for by some States, as those not provided for by other States.

The opponents of the amendment did not deny the justice of such a provision, but contended that it would not probably receive the approbation of the Senate, and that it was impracticable to make it without going into minute details, forbidden by

the advanced stage of the session, and recommended that it should be made the subject of a distinct bill at a future session.

The question was then taken on agreeing to the amendments of the Senate, and passed in the affirmative—yeas 98, nays 15, as follows:

Yeas—Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, junior, Robert Brown, William Butler, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, William Dickson, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, William Findley, James Fisk, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, David Hough, James Kelly, John Lambert, Michael Leib, Joseph Lewis, jun., Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John C. Smith, John Smith, Henry Southard, Thomas Spalding, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Evan Alexander, Willis Alston, jun., Thomas Blount, Levi Casey, Christopher Clark, Elias Earle, Peterson Goodwyn, Walter Jones, Thomas Kenan, Duncan MacFarland, Robert Marion, Thomas Moore, John Randolph, Abram Trigg, and David R. Williams.

Saturday, April 5.

Mr. Gregg, from the Committee on the Public Lands, who were instructed, by a resolution of the House, of the twenty-sixth ultimo, "to inquire into the expediency of repealing all such parts of the several acts providing for the sale of the lands of the United States, as authorize a credit on any part of the purchase money of said lands," made a report thereon; which was read, and referred to a Committee of the whole House on Thursday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes:" Whereupon the said amendments, together with the bill, were referred to the Committee on the Public Lands.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to repeal so much of any act, or acts, as authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes relative to the public debt," with several amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes," with several amendments; to which they desire the concurrence of this House.

Mr. Gregg, from the Committee on the Public Lands, presented a bill respecting the claims to land in the Indiana Territory and State of Ohio; which was read twice and committed to a Committee of the whole House on Thursday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to repeal so much of any act, or acts as authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt:" Whereupon, the said amendments, together with the bill, were referred to the Committee of Ways and Means.

PAY OF WITNESSESS.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, making provision for the compensation of witnesses who attended on the trial of Samuel Chase.

The Chairman stated that the amendment, under consideration at the time this bill was before the committee, was to insert in the first section "on the part of the United States"—limiting the provision to the payment of witnesses on the part of the United States.

On this amendment, the Committee divided—yeas 59 nays 35.

On motion of Mr. J. C. Smith, a new section was introduced providing for the payment of any expences incurred by order of the managers.

The Committee rose, and reported the bill with these amendments. The House immediately took up the report.

On concurring with the Committee in their agreement to the amendment restricting the provision to the payment of the witnesses summoned "on the part of the United States," the yeas and nays were taken, after a few remarks made by Mr. M. Williams against the amendment, and were—yeas 51, nays 54, as follows:

Yeas—Isaac Anderson, Joseph Barker, Burwell Bassett, George M. Bedinger, William Blackledge, John Blake, junior, Robert Brown, William Butler, Levi Casey, John Chandler, Matthew Clay, Leonard Covington, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, Thomas Kenan, John Lambert, Michael Leib, Patrick Magruder, Josiah Masters, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea, of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, Samuel Smith, Thomas Spalding, Richard Stanford, Philip R. Thompson, Abram Trigg, Joseph B. Varnum, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Willis Alston, junior, David Bard, Silas Betton, Thomas Blount, Martin Chittenden, John Claiborne, Christopher Clark, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, John Davenport, jr. William Dickson, Peter Early James Elliot, Caleb Ellis, William Ely, James Fisk, Peterson Goodwyn, Seth Hastings, David Hough, John G. Jackson, Walter Jones, James Kelly, Joseph Lewis, junior, Duncan McFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Timothy Pitkin, junior, Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, John Cotton Smith, John Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, Marmaduke Williams, and Nathan Williams.

The House then concurred in the second amendment, when the bill was ordered to a third reading on Monday—yeas 62.

IMPORTS AND TONNAGE.

The House resolved itself into a Committee of the Whole on the bill to amend, in the cases therein mentioned, the "Act to regulate the collection of duties on imports and tonnage."

This bill establishes the town or landing place of Darien into a port of delivery; and contains the following provision in the third section, viz: "That so much of the 18th section of the "act to regulate the collection of duties on imports and tonnage," as relates to the entry of ships or vessels arriving from the Cape of Good Hope, or from any place beyond the same; and so much of the 77th section of said act as restricts the allowance of drawback to goods, wares, and merchandise, exported from the districts of original importation, or from those ports at which vessels from the Cape of Good Hope or any place beyond the same, are permitted to make entry, shall be, and hereby are repealed."

The effect of the first part of this provision would be to admit to entry vessels from or beyond the Cape of Good Hope at any port of entry in the United States.

Mr. Clark moved to strike out the section.

On this motion a debate ensued, in which Messrs. Clark, Ely, D. R. Williams, J. C. Smith, Quincy, and Dana, supported, and Mr. Crowninshield opposed the motion.

The question was first taken on striking out the residue of the section, which prevailed without a division.

Mr. Quincy moved a new section, for making Plymouth, in Massachusetts, a port of entry for vessels from or beyond the Cape of Good Hope, which was disagreed to—yeas 7.

Mr. Blount offered a new section for erecting a district to be called the district of Ocracoke, in North Carolina, into a port of entry, which was agreed to; when the Committee rose and reported the bill.

Ordered, That the said bill, with the amendments, do lie on the table.

SPANISH AFFAIRS.

Mr. J. Randolph.—I rise to execute the purpose which I intimated yesterday. On the first page of this Journal (holding in his hand the Journal of the secret proceedings of the House) I find it stated that the Speaker laid before the House a letter and communication from the President of the United States, which were read; that they were referred to a select committee, and I find that then follows the report of that committee, without any notice of the Message of the President on which it was grounded. This I take to be a departure from the regular system of keeping the Journal, because I perceive in other parts of it messages, though of a private nature, accompanying other communications, inserted. I deem it not less important to the character of those who compose the select committee, of which I had the honor to be one, than to the character of the Government of the United States, that a full and fair view should be given to the public of the conduct of the Government on the one hand, and of the Legislature on the other. I beg pardon for using the term "government;" by government I meant the Executive department. I shall feel it incumbent on me, in order to impress on the House the sense I entertain of the importance of this motion, to enter into some little history of the transactions which have taken place with closed doors, in which, though I may not undertake to say what the Message of the President contains, I shall feel myself at liberty, according to the course pursued here, to say what it does not contain.

It is true that, on the 6th of December, that Message was referred to a select committee. That committee met, and one of the members, a gentleman from Massachusetts, whom I do not now see in his place, as soon as the committee met, proposed that they should recommend to the House the making an appropriation of money to enable the Executive to negotiate abroad. I understood, though it may not have been so expressed, that the object was the purchase of the Floridas. There was a great variety of sentiment in the committee, and other gentlemen of the committee, of whom I was one, objected, that in the confidential Message of the President, there was not a syllable about the purchase of the Floridas, or an appropriation of money for foreign negotiation, that there was not a word in it to induce us to believe that Spain was willing to make the sale or to come to an amicable adjustment of difference with us; but that, on the contrary, a direct and opposite inference could only be drawn from its contents.

On coming to town, and conversing with gentlemen of this House, I was apprized of the existence of a project for the purchase of the Floridas from Spain; and I was prepared to have considered any expressions in the Executive Message as having this meaning, which could at all warrant it. There was such a difference of opinion in the committee that they came to no direct conclusion. Circumstances of an imperious nature called me to Baltimore, where I staid, I think, six days. On my return on Saturday, I found, from the infor-

mation of a gentleman from Maryland, (Mr. Nicholson,) that there had been considerable excitement in consequence of the committee not reporting. Without even changing my clothes, or going to my lodgings, I immediately met the committee, and it was agreed to write to the Secretary of War, and learn from him the number of troops necessary to protect the Southern frontier from Spanish inroad and insults. But, although in the public Message of the President, at the opening of the session, we heard much of Spanish outrages and insults, and though the private Message of the President held a language in consonance with the public, I found a backwardness in the head of the War Department, and of the Executive government, generally, on taking a decided attitude as to Spain; and I found what was worse—before I left town to go to Baltimore—from a conversation with what has been considered the head of the first Executive department under the Government, that France was the great obstacle to the compromise of Spanish differences; that France would not permit Spain to come to any accommodation with us, because France wanted money, and that we must give her money. From the moment I heard that declaration, all the objections I originally had to the procedure, were aggravated to the highest possible degree. I considered it a base prostration of the national character, to excite one nation by money to bully another nation out of its property, and from that moment, and to the last moment of my life, my confidence in the principles of the man entertaining those sentiments, died, never to live again. Well, sir, during my absence in Baltimore, the despatches contained in the Message of the 17th of January arrived. This I shall have occasion to mention again. The House began to act on the subject of our foreign relations. Gentlemen who, in select committee, had declared that they considered the Executive Message as a requisition to buy the Floridas, though there was not a word in it about the Floridas, or about money, took a different ground in the House. They said, that though the Executive did not recommend to Congress to purchase the country, yet that they were adequate to give the business this direction; that if they chose, they were at liberty to do it. But unfortunately for this new doctrine, and the previous one broached, and unfortunately for the whole system that gentlemen stepped forward to enforce, one gentlemen asserted that he was ready, in his own person, to vouch that the course in question was in consonance with the secret wishes of the Executive; and this is one of those reasons which calls most imperiously for the motion which I am about to make. What was afterwards done the House will perceive. I pass over the motion made to restrict the purchase to the country not in dispute with Spain, and to exclude from that purchase the country in dispute, thereby testing the principle, whether we were actually buying land or peace. In spite of every obstacle, of all opposition, and the contradictory votes given, the bill was sent to the Senate, and on the next day, the 17th of January, after the business was out of our possession, we received despatches from our Minister at London, which had arrived before Christmas. It will be recollected that it was attempted to be insinuated by individual members, that inasmuch as we received the original paper, and not a copy, the despatches had just arrived, and there had not been time for transcribing them. But in returning from the House, I was so well convinced to the contrary, for I had myself received letters from London of a contemporaneous date, that I made inquiry of the Secretary of State, and was told that they had been received the week before Christmas, at the same time with my letters.

While I am up, I will undertake to rectify a trivial inaccuracy, (for I wish everything which I state on this floor to be literally exact,) which, on some former occasion, escaped me. I said that the existence of these despatches was unknown to a high Cabinet Minister; although it is certain that I so understood, it is no less so that I was mistaken. But though their existence was not unknown, yet their contents were. That Minister had no reason to believe that they contained—on the contrary, he had every reason to believe that they did not contain—anything relative to our differences with Spain; and as to their being sent to the House, he knew nothing of it until after they had been received. They were no sooner opened here than they excited an instantaneous sensation, and produced a declaration that the course we had taken was wrong; they produced also an impression that it would be in vain, on the subject of our differences with England, to assume a manly attitude towards her, if we became the panders and caterers of the lustful appetite of France.

The question is now reduced to this point, whether the public shall read the secret journal without understanding one word about it, or shall read it intelligibly. For it is impossible to decide how far the report of the select committee is consistent with the Message of the President, unless that Message is also published. A difficulty may be raised by saying this is a confidential Message. But this is got over by the publicity given to the proceedings on it. It was confidential, because the proceedings on it were so. For instance: Let us suppose the United States were preparing for some strong and decisive measure against Spain, which it was politic to conceal from her till taken; but as to anything decisive in the Message, no man can contend that it contains anything of this nature. When I speak of the Message, I do not allude to the communications of the Minister of the United States with the authorized agents of Spain. Though I see no reason why even those should not be published, as the negotiation has been entirely closed by the abortion in which it has terminated. I however restrict my present motion to the Message.

The public, from this vague and desultory sketch, may acquire some principles by which to appreciate the conduct of members in this House. They will see what members were disposed to have adopted that course which the most authentic information from Europe recommended. They will see who were indisposed to acting through the intervention of any foreign Power, and more especially in the shape of a bribe, and when such a course was not asked for by the Executive. They will see who were these members, and I believe there are now but few who would be willing to take the responsibility on themselves which properly belonged to another department of the Government; and to do all the dirty work, which would otherwise have soiled their fingers. They will see and beware.

Mr. J. Randolph concluded by moving that the Message of the President of the 6th of December last be printed; that it be inserted in the Journal of the secret proceedings; and that a new edition of that Journal should be printed for the use of the members.

Mr. Jackson.—I think it highly probable that a majority of this House will be disposed to take off the injunction of secrecy, not only on this document, but on all their proceedings, that the people may be enabled to judge for themselves whether the representations made from time to time are correct; but I submit whether it is correct in point of order to act in this way. What is the resolution adopted by this House? That the injunction of secrecy relative to their proceedings, not the messages or other communications shall be taken off. This is not the proper course to effect the object in view. I, for one, am willing to go into conclave, and have the injunction on the whole taken off. It is not my wish to see the eyes of the people hoodwinked any longer. It has been declared by the gentleman who has offered this resolution that we have not an inch of territory beyond the Iberville. It was therefore that I considered it all-important to have the Floridas, and it was therefore I voted as Congress did in the memorable instance of the purchase of Louisiana. And it was the fear that taking off the injunction of secrecy might affect the issue of this all-important negotiation that induced me some time since to vote against it. But during the whole of the discussion we have had on this subject, no proof has been adduced that the money we have appropriated is to be given to France, although the gentleman from Virginia has declared there is no Spain, no Pyrenees; although he has declared that Spain is confessedly merged in France; although he has declared France would not permit Spain to settle her differences with us, and although this has been adduced as an argument to show that we can do nothing with Spain; and although the gentleman has further said that if we could see the despatches of the Spanish Minister, we should see them signed "Charles Maurice Talleyrand;" and although he has alleged that a negotiation could not be opened with a Government reduced to a mere nonentity; as I did not anticipate the motion of my colleague, I cannot be expected to be prepared to go into an examination of the motives, as has been done by my colleague, which influenced the decision of the House. This could not be done unless all the documents on this subject were printed. Some gentlemen appear to me to have given an importance to a certain document which it does not merit; and it has been said it was withheld until our vote was taken for the purpose of trepanning us. I have heard of but two gentlemen who have declared it would have affected their votes. On me it would have had a different tendency. I wish it published. I will say for one, that I think had it been received before the passage of the bill, it would have had a tendency to increase the majority, stupendous as it was, because—but I am not at liberty to say why. I hope the Speaker will decide this question not proper to be discussed with open doors.

Mr. J. Randolph said that he had to his astonishment found a detailed report on the Journal, which it was not usual to enter upon it. He found also three Messages, and this was the only instance in which a Message was not entered upon it.

Mr. Leib asked whether it was consistent with the rules of the House to have the Message now read? If it were not, he could not concur with the gentleman from Virginia in voting for the motion under consideration, though he agreed with him in the propriety of taking off the injunction of secrecy from all the papers.

Mr. J. Randolph asked whether, when the Journal was read, the Clerk had not began to read the Message, when the reading was dispensed with? This was his recollection, and if so, it must be considered as a part of the Journal, respecting which the injunction of secrecy had been taken off.

The Clerk said this was the fact.

Mr. Leib then said, before he decided on the resolution, he wished to hear the Message read.

The Speaker said it would be most acceptable that the House should decide whether the reading were proper.

Mr. Alston.—I merely rise to remind the Speaker of the decision he gave, and of the question I put to him when the injunction of secrecy was removed. I well recollect the decision of the Chair that the Message of the President and the letters of our Minister were not embraced in the motion for taking off that injunction. And I have not a doubt on my mind that it was in consequence of that decision that the vote of the House was such as it was. As to the publication of the Message, it is immaterial to me. I voted against giving publicity to the secret Journal until we had heard the result of the negotiation. To act consistently on this subject with that vote, I am for going no further. I believe, however, for the justification of those who voted as I did, the publication of all the documents will be advantageous. In voting, therefore, against publishing this Message, I shall make a sacrifice of my feelings to the public interest. For this vote the good of the nation will be my only motive. But when a negotiation is about to be opened for an object so important as the Floridas, I ask whether it is not right; I appeal to the American people whether they do not think it right to use every necessary means for insuring it success?

With regard to the appropriation of two millions with a view to this purchase, I voted for it is as a set-off to the resolution reported by the select committee. I voted for it in preference to a standing army. I would rather strengthen the arm of the Executive with money, than with a standing army so fatal to liberty. And I believe a majority of the Republicans in this nation will uphold me in this opinion. Everybody knows the importance of this country. Has it not been said on this floor that there does not belong to you a foot of ground between the Mississippi and the Perdido? I recollect when this country was ceded to the United States to have had a conversation on the subject with a gentleman from Virginia, for whose opinion I have a high respect, and he was of opinion with me that it was very doubtful whether this country was included, indeed we rather thought it was not in the treaty. Will any man say that it is not of vast importance to us to have the small territory that divides our people, and by a fair purchase remove all grounds of future quarrels? If it has entered into the minds of gentlemen to make other than a fair purchase of this country from its rightful owner, this is not my opinion, nor have I any recollection that any such motive has been avowed. A particular document has been referred to, the receipt of which I have heard one or two gentlemen say might have altered their votes on the bill passed by the House. But I was astonished to hear such a declaration. It could not have altered my opinion; it had in my mind no bearing on the measure. I have one further observation to make. If it was doubtful whether this country belonged to us, what would have been the effect of adding one or two additional regiments to your standing army, and placing them on a territory you acknowledge you do not believe to be rightfully yours? I would rather put down a regiment of the present standing army than add one man to it. When our rights are invaded we shall not require a standing army to defend them—it will be the militia that will defend them. I am opposed to a standing army, and ever will be opposed to it. For these reasons I was in favor of strengthening the arm of the Executive by an appropriation, instead of strengthening it by a standing army.

Mr. Clark requested the Speaker to examine the secret Journal, and see whether this Message were in it.

The Speaker said it was, and might therefore be discussed with open doors.

Mr. J. Clay.—I was astonished when I found this Journal without the Message. Five Messages appear to have been received, all of which appear on the Journal, excepting this, which is the only Message of any consequence. I did believe, when the injunction of secrecy was removed, it applied to all the papers received by the House, and I did not conceive myself bound to conceal one tittle of what occurred while we had locked doors. I should, therefore, wish my friend from Virginia so to amend his motion, as to include all the documents. I consider this essentially necessary to elucidate the transactions of this House. It seems to have been fashionable for gentlemen to declare what were their motives for the several votes they have given during the time our doors were shut. I had but one motive, which, I hope, will continue to govern me so long as I have a seat in this House. My object was, to be prepared for war, while I endeavored to maintain peace. I voted for the resolution for the increase of the Army, because everybody knows, who is acquainted with the state of the south and south-western frontiers, that the militia in that quarter are not able to defend it. They are, indeed, but a people of yesterday—aliens to your habits and language—and, indeed, aliens in every sense of the word. We had seen that frontier invaded by Spain. I was not willing, therefore, to withhold from the Executive the means of chastising this aggression—I therefore voted for the resolution. I also voted for the appropriation of money, because I was willing to show Spain, that while we were prepared to chastise her aggressions, we were also willing, by amicable negotiation, to adjust our differences. I therefore voted for an appropriation to purchase a country which I deemed highly valuable to us. Whether the money appropriated was to go to France, or Spain, did not influence the vote I gave. I did not know then, that any circumstances were concealed from the House calculated to throw light upon the subject, and of the contents of the Message of the 17th of January, I was totally ignorant—as it was handed in the day I went to Philadelphia, and was immediately afterwards returned to the President. I could have wished, that between the 24th of December and the 17th of January, there had been found time to make an official copy of it, since we have heard that it would have a considerable bearing on the votes of the members of this House; and I should conceive that it would be very important as forming an item in the transactions of the session. When we came here, the public expectation was highly excited. We had been injured and insulted by Spain on land, and by England at sea. The nation required the adoption of measures to procure redress, and to prevent similar aggressions in future. What have been the consequences? We have passed an act appropriating two millions to purchase the Floridas and to chastise Spain, and we have passed an act prohibiting the importation of certain goods from Great Britain, as a peace-offering to her. It is not, in my opinion, necessary that all the documents should be published, to give the people an opportunity of judging whether their Representatives have been faithful to their trust. There are parts of those documents, which I suppose, will never be published, which had a considerable influence on my mind on the votes which I gave. I allude to the threat of hostility by France.

Mr. Speaker here called to order.

Mr. Clay concluded by observing that, as they had published five Messages which had contained nothing, he hoped they would publish the one that contained something.

Mr. Dawson expressed himself in favor of giving publicity to the Message, which, he believed, could do no possible injury. So far as it went, he thought it favored both the resolutions—as well that for raising an army, as that for conducting a negotiation by the appropriation of money.

The reading of the Message being called for, Mr. Speaker said he thought it was in order to read it, as it was inserted on the private journal.

Mr. Blackledge appealed from the decision of the Chair.

Mr Alston observed that his colleague would better get at his object by taking a question on the reading of the Message; and Mr. Blackledge so modified his motion.

Mr. Smilie said a regard to consistency would prevent him from voting to give publicity to the Message. He could not vote for it, because he did not wish to take on himself that responsibility which might flow from the publicity, defeating the negotiation. It rested with those who voted for taking off the injunction of secrecy, to take that responsibility on themselves. At the same time, however, that he must vote against it, he hoped a majority would be found in its favor, because he saw it would be necessary to publish this document in order to place their conduct in a proper point of light. So far was the Message of the 17th of January, which had been alluded to, from having any influence in changing his vote, that it tended strongly to confirm him in the propriety of it.

On the Speaker reminding Mr. Smilie of the question before the House, he declined saying anything further than requesting the yeas and nays to be taken.

Mr. Elmer said if he understood the decision of the Speaker, the motion of the gentleman from Virginia was altogether useless. He had understood, from a former decision, that the Journal did not include the Message; but other gentlemen appeared to have considered it in another way. He was perfectly willing that it should be published, and he did not think any ill could arise from it. For reasons already assigned by other gentlemen he had been against taking off the injunction of secrecy at this time. He should, therefore, vote against every question of this kind.

Mr. Jackson.—Is it not the right, Mr. Speaker, of any member to demand an official copy of the Message? You have decided it to be a part of the public journal, ordered to be printed, and an appeal has been made from that decision; how can it then with propriety be said, it shall not be read, because the reading of it will give it publicity? As so much has been said of the important bearing of documents sent to us, and we have published our proceedings, it is my wish to see them all exposed to public scrutiny. I am not now prepared to make a motion which I shall offer at a proper time, unless anticipated by some other gentleman, that the President be requested to lay before the House all the papers heretofore communicated by him, with a view of giving them publicity. I wish on all occasions to give publicity to my conduct as well in conclave as when these doors are open, and I will take this occasion to repel an insinuation made the other day in the debate on the Yazoo question, by a gentleman from Virginia, (Mr. J. Randolph,) which I have heard was applied to me: That I left my seat for fear of voting on it, and removed to a different part of the House. Sir, I will candidly confess, that although the year before the last, I had declared I considered it for the interest of this country, that those claims should be compromised, and voted for the compromise of them; yet last year, when I found gentlemen in whom I had great confidence of opinion that such a measure would tend to sanction a scene of nefarious swindling, I was induced to determine then, and so expressed myself, that I would not vote again upon the question, and I was more inclined to pursue this course from a supposition that my knowledge of the vital injury which my district had sustained by the existence of a claim, called the Indiana purchase, which hovers over their heads, and in consequence of its recent resuscitation, lands had been sold at one-fourth of their value, and which claim is certainly more exceptionable than that of the persons who purchased from the Yazoo men, might produce a bias in favor of compromise which was improper, and I was willing to think that my opinion was incorrect. But at the same session when the gentleman from Virginia charged all who had voted for the compromise with corruption, and threatened them with the vengeance of the people, and when it was declared that no member from Virginia, who had the temerity to vote for it, should be re-elected, I was driven from the neutral ground I had taken, and thus borne down by the impetuous intemperance of the gentleman, I thought it became me not to shrink from the vote I had given. The reasons on which I acted were made public. I brought the question fairly before my constituents, and they re-elected me by a greater majority than formerly. I could not, therefore, decline to vote for a measure which they and my judgment approved, and which I believe the faith of Congress had been pledged to sanction. As an individual I cared not what was the fate of the bill from the Senate. As a judge to whom the claims of our citizens was presented, I wished that it should be *ex equo et bono*.

The gentleman from Virginia knows I refused by my vote to give leave to the gentleman from Maryland to be excused from voting, as I not only stood up when a division was called for, but made the remark which he repeated, that he was not compelled to vote, but might retire. After giving this vote I went across the House to ask a friend from North Carolina to spend a social evening with me. He is now in his seat, and I appeal to him that I did not even mention the subject before the House. When the same question occurred I voted by him, as I had before voted; I knew of nothing that could drive me from my purpose, or from my seat. I will not attempt to scan the feelings which predominate in the mind so illiberal as to attribute unworthy motives to, and manifest a jealousy of every man that differs from it; it is a topic fruitful of com-

mentary, it involves considerations which I will not delineate; for my part I cannot envy those feelings, I thank God such is not my nature. It is always unpleasant to me to engage in controversies which, have a tendency to excite the malignant passions. I wish to avoid them as much as any man living, as far as is consistent with my honor and reputation, but I never will shrink from a contest, political or personal, in this House or out of it, at the sacrifice of either.

Mr. Blackledge said he was astonished at the course which this debate had taken. The question is this, shall a paper, heretofore secret, be made public? And the Chair has decided that this very paper is already public. Let the question then be decided which way it may, the paper goes to the public. My object is to get a vote which shall decide whether this question shall be debated with closed doors or in public.

Mr. Speaker said it was in order to appeal from his decision.

Mr. Blackledge then said he would appeal from that decision.

After some farther conversation, Mr. Blackledge withdrew his motion, which was renewed by Mr. J. Clay.

The Speaker then said, the reading of the Message of the President of the 6th of December is called for; the Speaker has decided that that document is a part of the Journal ordered to be published, and may be read. From this decision an appeal is made to the House, on which appeal there can be no debate.

When, without taking a question, two successive motions were made to adjourn, the last of which prevailed.

Monday, April 7.

Mr. Gregg, from the Committee on the Public Lands, to whom were referred, on the fifth instant, the amendments proposed by the Senate to the bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes,'" reported to the House their agreement to the same without amendment.

The House proceeded to consider the amendments proposed by the Senate to the said bill: Whereupon,

Ordered, That the said amendments, together with the bill, be committed to a Committee of the whole House to-morrow.

The Speaker informed the House that the bill to compensate the witnesses who attended the trial of Samuel Chase was for a third reading, on which,

Mr. Lein rose, and said that he had a motion to make on the subject. It was that the bill should be re-committed to a Committee of the whole House. By the provisions of the bill compensation was to be made to the whole of the witnesses who attended the trial, on behalf of the accused as well as of the prosecution, and to this he never could or would consent. It was the establishment of a principle, which did not obtain in the courts of the United States, nor he believed in the courts of the respective States, and in the case of a great culprit. He had been pronounced guilty by a great majority of the House, and a majority of the Senate had concurred in the decision, and to make this provision for the payment of his witnesses, indicated a consciousness that the decision had been unjust. To this he was not willing to subscribe. He was not disposed to libel the House by any act of this sort; for it was a libel on themselves for the members who accused, to manifest their consciousness of having acted unjustly by a provision to reward the culprit by the payment of his witnesses. If it is just thus to provide in the case of Chase, we ought to travel back, and commence the business of justice in cases of innocence. It cannot be forgotten, that an insurrection was said to have existed in the year 1794, in the western counties of Pennsylvania, and that for certain purposes this insurrection was produced. Victims were then required by certain members of the Government, and among them was a member of this House (General Hamilton.) He was dragged from his home to the city of Philadelphia, incarcerated, and a bill against him sent to the grand jury. It was returned ignoramus, and notwithstanding the innocence of this gentleman was thus established, he was put to an expense of between five and six hundred dollars, not a cent of which was ever refunded to him! Are we then disposed to provide for an acquitted felon, to remunerate him, to give him a premium for his iniquities, and to leave innocence unnoticed? He trusted not. He hoped the House would not dishonor itself by such an act, and he, therefore, hoped a recommitment of the bill would take place.

The motion was agreed to, and the bill re-committed.

SPANISH AFFAIRS.

The House resumed the consideration of the question depending at the time of their adjournment, on Saturday last, on an appeal from the decision of the Chair respecting a point of order as therein stated.

Mr. Blackledge moved that the galleries should be cleared. The House continued in secret sitting for a short time, when the doors were opened and the question taken by yeas and nays on the point of order, whether the decision of the Speaker was correct, viz:

"That the said Message being contained in the journal of the secret proceedings of the House, and the same had been read in the House, it was now in order to call for the reading of the said Message."

It was decided in the negative—yeas 43, nays 59, as follows:

Yeas—George M. Bedinger, Silas Betton, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Leonard Covington, John Dawson, James Elliot, William Ely, John W. Eppes, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph,

Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, and Alexander Wilson.

Nays—Willis Alston, jun., Isaac Anderson, David Bard, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William Butler, John Chandler, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, Elias Earle, Caleb Ellis, Ebenezer Elmer, William Findley, James Fisk, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Walter Jones, John Lambert, Michael Leib, Duncan McFarland, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, John Rhea of Tennessee, Jacob Richards, John Russel, Peter Sailly, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Richard Winn, and Joseph Winston.

The question then recurred on the motion made by Mr. J. Randolph on Saturday, as follows:

"That the printed supplemental journal of secret proceedings be amended, by inserting after the word "read" in the third line of the first page, the Message of the President of the United States of the 6th of December last, and that a new edition of the said journal, thus amended, be printed for the use of the members."

Mr. Dana said he was happy they were enabled to take a direct vote on the publication of the Message. On the vote just taken he had felt himself bound to consult the opinions of gentlemen who thought when the injunction of secrecy was taken off, it did not apply to the publication of the Message. The question now presents itself directly for consideration, whether it would be most expedient to publish it. It appears to me, said Mr. Dana, that there will be no breach of confidence in publishing it. If in private life one man makes a communication to another, and the person who receives it says he will not pledge himself to keep it secret, there is no obligation on him not to divulge it, and should he divulge it there will be no question about the violation of confidence. Under what form then, was the communication of the President made to this House? Is there anything in the Constitution relative to the President's communicating anything to either House in confidence, and absolutely prohibiting either House from disclosing it? If there is no such thing in the Constitution the disclosure must be left to our discretion, of the propriety of which we must be the judges. In the first place, the Constitution of the United States provides for such communications to Congress as the President may see fit to make, it also declares that each House shall be governed by such rules as they shall make. Now when this Message was received, the rules of the last House were adopted, and are such as are now in force. What is the rule applicable to the present point?

"Whenever confidential communications are received from the President of the United States, the House shall be cleared of all persons except the members and the Clerk, and so continue during the reading of the communications, and (unless otherwise directed by the House) during all debates and proceedings to be had thereon. And when the Speaker, or any other member, shall inform the House, that he has communications to make, which he conceives ought to be kept secret, the House shall, in like manner, be cleared till the communications be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly."

The President can make no communications to us except under this rule. It was under this rule that this Message was communicated. What is the inference? The rule was peremptory, so far as it required the communication of the President to be read with closed doors; but after having been so received, it is strictly within the power of the House to decide whether it shall continue private, or be published. The President must have communicated the Message under this impression. No obligation of confidence can be infringed by publishing it. Believing, therefore, that the publication will be no violation of confidence, and believing that it will be for the public good, I shall vote for it.

Mr. Sloan.—I shall as decidedly as the gentleman from Connecticut vote against the publication of the Message; and on a principle which it behooves me never to abandon so long as I hold a seat on this floor. If I understood anything of the matter, it was communicated to the House by the President in confidence that it would not be published; and if I have any idea of propriety, it ought to be still kept secret, and the reasons which first made it so still continue. If we are not Constitutionally bound to keep the communications made by the President secret, I do conceive we are under an obligation of respect to the other branches of the Government, not to betray the confidence reposed in us; and should this communication be published the other branches of the Government ought first to sanction it. Such a course would, in my opinion, have a direct tendency to destroy our confidence in the President, and our diplomatic character abroad.

Mr. J. Randolph.—Before the question is taken I have a few observations to offer in addition to those which I submitted the other day on the subject of the secret proceedings, to show that the Message of the President ought to be published, not only in justification of the report of the select committee which has been published, but in justice to the Government itself. An attempt has been made in the public prints, and on this floor, to give a color to the proceedings of the House, when in conclave, totally inconsistent with, and in opposition to truth. It has been intimated that the minority were in favor of war; or by intimating that the majority were in favor of specific measures, the inference has been drawn that the minority were in favor of war. The fact is this—and as the Message of the President has been read as a part of the journal ordered to be published, as

the Speaker and Clerk have attested, I will undertake to state what it contains, unless prevented by the Chair.

The SPEAKER interrupted Mr. R. by observing that such a statement would not be in order.

Mr. RANDOLPH.—I will confine myself to stating that the division of sentiment in the House, was whether we should have a territorial accommodation of our differences with Spain, whether we should have an accommodation which did not merely suit Spain and us, or a moneyed accommodation which neither suited us or Spain, but France. A recurrence to the journals will show this to have been the principal difference that subsisted within the walls of this House. There was no party of men in this House, or elsewhere, in favor of war—for I beg leave to call gentlemen on the committee to witness that the opinion of the majority of the select committee was, that we should neither give money nor make war; but that we should defend the limits of the old United States and the territories acquired from Spain. What were the facts? Our army was dispersed in cantonments, God knows where. The country to be protected was far removed from any considerable surrounding population—a country which, from the circumstances in which it is placed, must be kept and held by military force. When the militia of the United States from the most contiguous States to New Orleans were deputed to take possession of the country, events proved that it could not be defended by militia unless indeed by the militia of the Chickasaws, the Creeks, and Choctaws. It is not only cut off from the populous parts of the United States but it is protruded into the Gulf of Mexico, and also surrounded by extensive marshes, which do not admit of its being defended in the same manner as the other parts of the United States. So much with regard to a standing army. The committee applied to the head of the proper department to know what force would be required to defend the frontiers. Our report has been published. Why have not the letter addressed to the Secretary of War and his report been likewise published? If the Executive of the United States will take upon itself the responsibility of defending the country with a single granadier, be it so. But it was said there was not sufficient force to defend the country; and are we not now attempting by a landed bounty to generate this force? These circumstances prove our views in committee; and I do not hesitate to say that all the force we have should have been placed in the vicinity of New Orleans—that was the weak point which ought to have been guarded.

There is another view of the subject. Against Spain, with whom we had tried the fair experiment of negotiation, and which had totally failed, we took no manly attitude; while we reserved all our energy for Great Britain, and determined to coerce her by prohibiting the importation of her millinery. Yes, against Spain, when our negotiations had totally failed, and under circumstances of disgrace to the United States, we took no manly ground, but begged her to take money; while with Great Britain, with whom negotiation had not failed, while a negotiation was depending, we declared ourselves in favor of taking a decisive and hostile attitude. Here is the real difference of opinion. In the one case we had a pending negociation. In the other it had been tried and failed. But that is not all. Because we bought Louisiana from France, it was contended that we should be following the old precedent by buying the Floridas of Spain. But in answer it was observed that in the first case we made an offer to purchase, as a prelude to negotiation; and it was declared that the misconduct of the Spanish agents was unauthorized. But here the case was completely reversed. There was no doubt of the misconduct of the Spanish agents being authorized, and negotiation had been tried and had failed. There was another difference. In one case we made a fair and honorable purchase from France who owned the property; but in this case, we observed that we were about to make a dishonorable purchase of a highwayman of property taken from its rightful owner, or to obtain his services to bully it from its rightful owner; and it was known, the declaration had been repeatedly made, that a high officer of the Government of the United States, the head of the Department of State, avowed that the money was for France. Where has the Hornet sailed? To Corunna or to Cadiz? No, to Nantz, the high road to Paris. It was not because there was a party in the House indisposed to the honest acquisition of the Floridas, but because there was a party indisposed to acquire them at the expense of the national treasure and honor, that opposition originated to the measures you have taken. No, sir, we were not for war, we were for peace—for acting on true policy, on the principle of taking firmer ground than has been taken—that ground which we thought was called for; and not for endeavoring to curry favor with one of the European Powers by throwing our weight in her scale, and thus producing a cause of quarrel with another nation during a pending negotiation. This is the fact. We told gentlemen, that, after France had said, if you give Spain one blow I will give you ten or two, I do not recollect which,—after she had told you that your claims against Spain must be abandoned,—after she had in the most insulting and degrading manner interfered in your differences with Spain,—that, under these circumstances to put money into the hands of France was not only a violation of your neutrality with Great Britain; but that the ground subsequently taken towards Great Britain was a most dastardly accommodation to the wishes of France, in order, by putting on a hostile attitude to Great Britain, to curry favor with the Emperor of France; and which was not demanded by the situation of our affairs with Great Britain.

What is our true policy? To take part with neither of those nations—to let neither of them finger one dollar of our money—to resist the unjust pretensions of all. This policy we have abandoned, and what is the consequence? The national honor has received a stain which all the waters of the Potomac cannot wash out. It is on the page of history, and cannot now be taken off. The nation is stigmatized—it has received a blot, which all your India rubber cannot efface.

But it has been represented that I took part with the Spanish against the American Government in relation to the disputed territory between the Perdido and the Mississippi. I took part so far as this: I did not wish to see the American honor sacrificed in a contest with Spain. I took part so far as to be called a Spanish partisan by some gentlemen, while others charged me with being willing to kindle a war with Spain. I stated that we had never received copies of the instructions of the Minister delegated to negotiate with the Spanish Government; and that, if we should call for the documents, we should find that the business, from the first to the last, had been managed in the most imbecile manner. I do not speak of the negotiator—God forbid!—but of those who drew the instructions of the man who negotiated. We bought Louisiana from France, under the terms of the Treaty of St. Ildefonso. According to the Executive understanding, that country extended to the Perdido and the Rio Bravo. We immediately legislated on our first claim, and passed a law erecting the bay and shores of the Mobile into a revenue district. What was the fact? That we were legislating without information. We had never been told that Laussat had been directed to receive the country only to the Iberville and the Lakes. We consequently legislated in error, for want of correct Executive information. This was the beginning. We then sent Commissioners to Madrid. These Commissioners had various causes of complaint against Spain. One was for the injury we had sustained from the suspension of the right of deposit at New Orleans, which has not to this day been satisfied; another was for spoliations committed on our commerce in the West Indies; another for spoliations committed by France; and another relative to boundaries. We claimed to the Rio Bravo, but our Commissioners declared themselves ready to agree, in case Spain ceded the disputed country to the east, that the Colorado should be the boundary line; and to make even this offer, our agents were obliged to exceed their instructions. This information is not drawn from documents before the House—it is not confidential. If gentlemen doubt its correctness, let them call for official documents. We wanted the territory on the east of the Mississippi, and offered to pay for it with territory west of the Mississippi; but Spain replies, That territory belongs to me; and as I am able and willing to defend both, I will not give up one to pay for the other. And so far from making the Colorado river a boundary—being a great concession, the present actual boundary is, I know not how many hundred miles this side of it. Could such a negotiation, thus conducted, fail to succeed? The great wonder with me, is, that the Ministers of the United States made out to continue their exertions so long as they did, in pressing such a proposition. At last, some of the X, Y, and Z men go to our Ministers, and say, Put on a hostile attitude towards Spain, and, when things are coming to a rupture, refer Spain to our mediation—give us a round sum, and we will dictate the terms on which an accommodation shall take place. When the fact came out, a general astonishment prevailed; and my worthy friend from Maryland, who no longer holds a seat in this House, told you that he hoped in God the negotiation would fail. I have said so much, that at least that portion of the public in our hearing may be undeceived in respect to the proceedings of the House, when in conclave, and may give due information to their constituents when they go home; for, situated as we are, in this remote corner of the Union—in a wilderness and desert, with but a single press—it is impossible that anything like a correct transcript of our proceedings can go to the public. I make this statement, that it may be known that we felt no indisposition to respect the national honor, either as to Britain or Spain, and that we were for no half-way measures with either nation. We were willing to try negotiation with Britain, and when that had failed, we were willing to go to the requisite length.

I hope, for the honor of the Executive Government of the United States, the Message of the President will be published. With regard to any effect it may have on the negotiations at Paris, it is the most idle thing in the world to talk of any effect being produced there by anything but money. They will look at your cash—if it is enough you will have your business done; if not, it will not be done. On this point, I will add a single word. I am prepared to hear it said that, if this negotiation fails, it will be in consequence of the secret journal being published. But it requires no wizard to foretell that it will fail. It must. The battle at Austerlitz has settled that question. It cannot succeed. It is impossible; and, were it possible, the success of the negotiation would depend on nothing done in this House, save the sum of money given to France to compel Spain to do so and so. What will be the consequence of your measures? If there shall be a peace in Europe, you will expect a strong Spanish squadron, aided perhaps by a French force, in the bay of Pensacola, and you may be glad to get off with a loss of two millions—you may be glad to get off with a loss of twenty millions. France sold Louisiana to the United States for so many millions; $3,750,000 of which were to be paid to our citizens. We have been gulled out of that. But the last thing that has entered into the mind of France is to settle anything definite with fixed metes and boundaries. Her object is to deal with you for money. She means to sell by the degree, and every time you apply to her for a settlement of boundaries, she will call upon you for more money. We were indisposed to give into these terms.

Mr. FINDLEY said, that the question before the House was only a motion for amending the secret journal from which the injunction of secrecy was taken off, by inserting the President's confidential communication. Yet, by attending to the argument of the gentleman from Virginia, (Mr. RANDOLPH.) it would appear that he was engaged in supporting articles of impeachment against the high officers of the Government, and not against

them only, but also against a respectable majority of this House, as if he had been vested with authority to censure and denounce their legislative measures on their own floor, when the subjects were no longer before the House.

But, Mr. Speaker, no motion has been laid on your table for impeaching the conduct of these high Executive officers, nor can any motion be admitted to enable a member of the minority to impeach the majority. It is contrary to good order, it is an outrage on decency, to defame the character, or impeach the conduct, in this way, of public officers or citizens on this floor, where they cannot answer for themselves. It has never been admitted in other public bodies in the United States, nor in Congress, till it was introduced by the member from Virginia; and, fortunately, it is peculiar to him alone to entertain the House with tales brought from out of doors, or from the whispers behind our bar, and with unsupported slanders on the Administration, and officers of the Government

This is not the first time he (Mr. R.) has attacked the respectable character of the Secretary of State in this rude manner on this floor. This manner of doing it is entirely improper. If Mr. R. had a charge against him, he ought to have moved for an inquiry into the conduct of that high officer, as had been done not long since with another respectable head of a Department; but this would not have answered the gentleman's purposes of slander. The Secretary of State would have had the opportunity of defending his own character.

But, Mr. Speaker, what is the charge for which the Secretary is so vehemently denounced? It is some sentences of a confidential conversation, told in Mr. R.'s own manner. It is true, indeed, that that gentleman is in the habit of entertaining the House with scraps of confidential conversations, but surely he knows that the House cannot take his statements for vouchers. He knows, and this House knows, that he has already had to correct on this floor a statement which he had rudely made, of part of a confidential conversation he had had with the Secretary of the Treasury; but even the correction is justly presumed to have been defective; it was not the whole truth. The House does not receive the assertion of any member, instead of vouchers, not even on a motion for impeachment, or a complaint of contempt. In such cases, testimony is required. When the gentleman's habits, in this House, are considered, and the evident resentment which he declares to be irreconcilable, and which he expresses in a manner not to be mistaken, against the Secretary of State, we are justified not only in receiving his assertions with some abatement of confidence, but with suspicion.

Mr. F. said, the gentleman from Virginia has this day, as on former days, said a great deal about France; that we were about to give money to France; to give a bribe to France, &c. Does the gentleman dream about France at nights, and retail his dreams in this House in days, or is his imagination always in a dreaming state? If we are to judge from the desultoriness of his arguments, perpetually wandering from the subject before the House, dragging in subjects that have no bearing on the question, flying from one subject to another, without coherence; we might justly presume that the last and many other of his arguments were the dreaming effusions of a vivid imagination, highly disordered.

Mr. F., taking the secret Journals, now made public, in his hand, read the resolution agreed to with shut doors, declaring that the appropriation was made toward defraying the expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and the Gulf of Mexico, and eastward of the Mississippi. This resolution, he said, was the foundation of the bill now enacted into a law, with such a change of language, as has been usually made hitherto in such cases respecting our foreign relations. Mr. F. turned to another resolution, moved and supported and voted for by the gentleman from Virginia himself, authorizing the President to make a settlement of existing differences between the United States and the Court of Madrid, by making an arrangement between the two Governments, which shall secure an ample barrier to Spain on the side of Mexico, and to the United States the countries watered by the Mississippi, and to the eastward of it. Both these resolutions were carried to the President, agreeably to the order of the House, by the gentleman from Virginia himself, and another member.

Mr. F. said he voted against the second resolution, because the subject belonged to the treaty-making power, over which the House had no control, except where grants of money were required; but it was carried, and it was Mr. R. who prepared, moved, supported, and presented to the President both resolutions. The same gentleman who has so frequently, on this floor, in his reveries about France, asserted that there was no Spain, no Pyrenees, that Spain was in France, &c., and, on this wild assertion, he grounds his still more wild assertions, that we are giving money for a bribe to France. Does he never reflect, in his dreams, that he has given from under his own hand, confirmed by his official vote in the House, that there is a Spain with whom the United States should make an exchange of territory, and to whom we ought to grant an ample barrier on the side of Mexico; that there is a Court of Madrid with whom it is competent for the United States to make arrangements? There is not a word about France in either of the resolutions, nor in the law, nor in any part of the proceedings. This is evident to every citizen who reads the Journals of the secret proceedings. Mr. F. asked, how will the gentleman reconcile his frequent and bold assertions, that there was no Spain, no Spanish territory, &c., with his deliberate and solemn official act directly in opposition to his assertions? How, at this time, with these Journals before him, could he have the effrontery to declare that the United States were irrecoverably dishonored by these transactions?

But, he says, in proof of this assertion, that the

ship with the instructions, &c., has gone to Nantes, in France, instead of Corunna in Spain. What sort of proof is this? Why did he not tell the whole truth? Why did he not tell the House that the ship carried the appointment of Envoy Extraordinary, and instructions to our Minister at the Court of France, to go to the Court of Spain to assist our Ministers at Madrid, in negotiating at that Court, agreeably to the gentleman's own resolution, and the law passed for that purpose by Congress? No. So much candor would not have answered the gentleman's purposes.

But a few days since, that gentleman informed the House that the ship had sailed, and taken the money with her before the appropriation was made, &c. Presently, it got into the newspapers, that a great many tons of specie, he believed above sixty, were carried away in that ship. Every member who understood the subject knew that the assertion was wholly unfounded. They knew that money was never sent in this way for such purposes. They knew that the object was always accomplished by providing a credit for bills to be drawn when the negotiation was completed. That this was the case at present, any member may be informed by inquiring at the proper source; but he would take no notice of several other such misrepresentations, calculated to impose on the House, and to occasion falsehoods to be published in the newspapers.

Mr. F. said, that he was opposed to publishing the secret Journals, though he knew they would operate to correct numerous unfair allusions that had been made to them by the gentleman from Virginia, on some occasions with open doors, that they would convince the citizens that the proceedings with respect to Spain had no analogy to or bearing on, our commercial relations with Britain, and will show what confidence is to be placed in the gentleman's assertions. But the unprecedented publication, not only while the negotiation was depending, but before it had commenced, being calculated to defeat it, agreeably to the gentleman's wish, so frequently expressed, he (Mr. F.) voted against taking off the injunction of secrecy until the issue of the negotiation was known, agreeably to all former precedents in similar cases. He said he would also vote against publishing the President's communications, not only because the design was to defeat the negotiation, but to destroy confidence between the Executive and the Legislature, and between our Government and foreign nations; but, for this reason, he said, he would wish them published, to correct the disorderly misrepresentations made of them by the gentleman from Virginia, on the floor.

Mr. F. said, the gentleman has charged the majority of this House with giving money to purchase peace with Spain, who refused to negotiate with us, and took measures that would lead to war with Great Britain, while negotiation with that nation was depending. Mr. Speaker, the gentleman gives a mistaken view of the case. With Spain there was no negotiation depending for the purchase of Florida. A negotiation had taken place about settling the boundaries of Louisiana; but the parties had differed in opinion. The President might have very properly negotiated for the purchase of the territory so very desirable to us, and might have laid the treaty before Congress for their approbation and provision; and in so doing, have thrown the responsibility on them. But he, no doubt for good reasons, chose to have the approbation of Congress, and provision for the object before he commenced the negotiation. This he has obtained, but not in time for the negotiation to have yet been begun.

It is well known that, with respect to the impressment of our seamen, a real and unequivocal act of hostility, negotiation has been attempted with Britain during the whole course of the former and present European war, but without effect. At one period it seemed to be agreed upon; but it was afterwards clogged with inadmissible exceptions. Last summer, after the new and ruinous aggressions on our commerce had been authorized, the Minister of the United States at the Court of London, after other attempts to negotiate had failed, gave into that Court a sensible and spirited memorial, to which no answer was given when we received the latest information. Therefore the whole extent of negotiation with Britain on those subjects amounts to this, that the United States perseveringly endeavored to negotiate, and Great Britain as perseveringly declined negotiation. Mr. F concluded by saying, that as he had no intention when he rose to follow the gentleman through all his extravagant wanderings, he would detain the House no longer.

Mr. Fisk.—I shall, with some reluctance, vote against amending the Journal. It is my wish, at all times, to bring before the public eye whatever is done by its public agents, whenever the good of the country admits of it. I conceive, however, this communication to be confidential, and that it would involve a breach of faith to the other departments now to publish it. We are told to-day, for our consolation, that some members have voted with their eyes open to truckle to France, in order to coerce Spain, and that others have voted to the same effect ignorantly. I, however, am one of those who remain obstinate in my conviction, in spite of all the information of the gentleman from Virginia. I believe we have acted as our duty required, and as justice to our constituents demanded. We are asked what is the situation of this country with regard to Spain and Great Britain, and where the injury towards us lies? Is it with Spain? If the gentleman from Virginia speaks the truth, we have no ground of complaint against Spain as to territorial aggressions; for, it will be recollected, that that gentleman, when our doors were shut, said that the boundary line claimed by Spain was on this side of the country where those aggressions took place, and that, when the negotiation took place between France and the United States, Spain entered a *caveat* against our acquiring this country; and, in his opinion, by the treaty with France, we acquired no territory east of the Iberville. There was, it is true, an outrage committed by officers of Spain within the acknowledged jurisdiction of the Uni-

ted States. But what are the facts attending this affair? The moment representation was made to the Governor of the Floridas, he declared the aggression unauthorized, and promised to make a full and strict inquiry into the circumstances attending it. Does this look like settled hostility on the part of Spain? No, it ought to be received as a sufficient disavowal of any such hostile intention. This information we have from official documents on our tables. Let me now ask, what is our situation relative to Great Britain? Has she not committed lawless aggressions on our commerce, and continued to impress our seamen for years past? Under these circumstances, what ought to be the policy of this Government? Ought we forthwith to declare war against Spain while we negotiate with Great Britain? The gentleman from Virginia says he is not for declaring war against Spain; but the resolution which he proposed contained a proposition for raising a number of troops to repel the aggressions of Spanish subjects. Let me ask, then, whether it is probable that the raising additional troops would be less likely to produce war than a mere commercial regulation? But it is said that Spain is under the control of France; that she is indeed in a state of bondage to France, and it is inquired whether it would be just to receive this country from a Government in such a state of vassalage? But if Spain is in this state, are we therefore to renounce our own interest? Or, is our obligation to pursue that interest, by the means in our power, to be lessened? If Spain sees fit to suffer herself to be controlled by France, I am not one of those who are for crossing the water to be the guardian of her rights. I am not so much of a republican yet. In this country this species of republicanism belongs exclusively to that gentleman, though he has not the honor of being the original inventor. The despots of Europe have long understood it. The Emperors of Germany and Russia, with the King of Prussia, were actuated by it in the conquest and division of Poland, and the same would have led us to war with Spain, and a conquest of the Floridas. It is said to be absolutely necessary to raise an army, as the frontiers could not be defended by militia. But I believe that this is not true. I believe, on the contrary, that the militia are able and ready to defend the country whenever it shall be in danger. As to the Government of Great Britain, we are told we have assumed a hostile attitude to her. How? By barely going into commercial regulations? Have we not a right to do this—and has Great Britain a right to complain of what she herself daily practises? But the gentleman, it seems, is principally against the negotiation with Spain, because of the effect it will have on our affairs with Great Britain.

It seems, then, that the gentleman is not disposed to shrink from war when it would carry him to his true point. With Great Britain he sees war in all its horrors; but when we come to Spain, he says that, unless we take hostile measures towards her, Great Britain will take umbrage. The gentleman says, that he and his friends wish, and are perfectly ready to resist the aggressions of both Powers. But let me ask how? When measures were proposed to be taken with Great Britain, he deprecated her power and the danger of a conflict with her; with a prophetic spirit and in glowing colors, he painted the dismal scene—our coasts invaded, our towns in flames, and our citizens flying to the mountains for shelter. Should we realize this prediction, I can tell the gentleman for his consolation, that undoubtedly some guardian British angel will protect him from harm, and, by the hand, conduct him from the scene of destruction to some place of safety.

I was really at a loss to discover the motives of the gentleman, when he brought so often to our view the egregious folly, weakness, or wickedness, of one of the heads of departments. At every turn of his discourse we met with a complaint against, or a denunciation of this officer. If there is any truth in the charges he has preferred, he ought to bring them fairly before the House and institute an inquiry. But to assault the character of a man in this side way, is a piece of cruelty and breach of good conduct, which ought not to be suffered. If that character be guilty, his conduct ought to be properly inquired into; but I fear that the gentleman from Virginia, in these remarks, had a different view. The other day much was said by that gentleman, of the halfway house. I believe that he has engendered ideas on this subject in his own brain, until not being any longer able to keep them, he has divulged them to the House. I will say that he is the only man whom I have heard say a word on the subject.

The present question is to publish the Message of the President. This once effected, other documents may be called for. We shall be told that it will be incomplete without the documents from our foreign agents. I believe this to be a branch of one and the same system, the effect of which will be to destroy the harmony essential to the Government. When the President made this communication to the two Houses, he informed us that it would not, in his opinion, be prudent to communicate it to the public while great national affairs were depending; nor would we be authorized to do it, in my opinion, without consulting the other branch of the Legislature. Under these impressions I am decidedly against publishing it at present.

I have heard with regret the remarks of the gentleman from Virginia made this and the other day; and particularly the denunciation of one of our heads of departments, relative to a production which we have just reason to admire, and respecting a man who has served his country for thirty years in various high stations. I hold a very different opinion on this point from the gentleman from Virginia. My confidence is unshaken in the gentleman he denounces; nor do I believe the confidence of the nation is shaken.

Mr. G. W. Campbell.—Before the question is taken, I will take the liberty of submitting a few remarks to the House. I understand the question to be, to insert the Message of the President of

the 6th December, in the Journal. In the remarks which have been made on the question, the proceedings of the House while in secret sitting have been brought into view. I was opposed to making those proceedings public; I thought then, and I still think, that we were thereby committing the honor of the nation. I did think, when the majority had sanctioned a negotiation, that no measure calculated to frustrate it should have been taken, until the negotiation had been fairly tried. It was for this reason I was opposed to removing the injunction of secrecy; and not because I was unwilling that the people of this country should be made acquainted with the proceedings which took place in this House with closed doors. My object was to prevent the interference of foreign nations, who might feel an interest in defeating the measure. The public will judge of the propriety, under these circumstances, of making these proceedings public. But as a part of them has been made public, I wish the whole could be made so, consistent with the interest of the nation; though I entertain strong doubts of the propriety of the measure, I shall not, however, oppose the motion before you. But, before the question is taken, I beg leave to remark, that so far as relates to the observations between the gentleman from Virginia, (Mr. Randolph,) and the head of one of the departments of this Government, they have nothing to do with this business; and they can have no influence on the decisions of this House. I did not expect to have heard any such conversation introduced on this floor. We did not come here to hear such conservation or to act upon communications of that kind. What may be the private opinions of a particular head of department, it is not for this House to know; they cannot officially come before us; we have nothing to do with them.

It is said, sir, that a certain communication which was calculated to affect our votes relative to the bill making appropriations for the purchase of the Floridas, was detained some weeks after it was received from our Minister abroad, before it was laid before us. I say, Mr. Speaker, that no communication made to this House was calculated, in my opinion, to alter the votes of the members of the House on that subject—certainly none that would have changed mine; but whether that communication was or was not made to us in due time after it was received, I do not pretend to say. I do not know, however, that we have any claim to it from the head of department. It was not his duty to communicate it to us, that belonged to the Executive; and why the circumstance has been mentioned here, I cannot pretend to say. With regard to some other remarks made by a gentleman from Pennsylvania, (Mr. J. Clay,) I think it proper to state that there is no communication before this House which authorizes the assertion that a threat has been made by France against the United States. I deny, sir, that there is any document which, if properly understood, can be construed to have such a meaning. I say, likewise, that there is no document before the House which authorizes the assertion, that France told us, if you give Spain one blow we will give you ten or two, as stated by the gentleman from Virginia, (Mr. Randolph.) There is no such expression, nor any other that would countenance the idea. France was not brought into the question as being concerned in our differences with Spain. She has, indeed, been lugged in, in the place of argument; and we have been charged with truckling to France, when in all our proceedings the name of France has hardly ever been mentioned, except by gentlemen in debate who will not admit that Spain exists as a nation. I deem it proper also, to say, that the assertion that any member of this House voted for a measure calculated to bribe one nation, to induce another to give up her rightful property, so far as it may be applied to me, is without foundation, and not authorized by any act of mine, and that no man will undertake to say so. The word bribery ought not, indeed, to enter the walls of this House, as applicable to any of its measures or proceedings. It will, Mr. Speaker, appear from the Journals of the House, now made public, who have or have not supported the interest of this country; who are willing to support just measures calculated to maintain peace, and are disposed to take a manly attitude, against those who violate our rights; and it will also appear who they are, whose proceedings tend to embarrass the nation, to bring the Government into contempt, to produce schism, and to impair the confidence of the nation in the Administration, at a time when I believe it is as high as it ever was; and, I apprehend, deservedly so. I believe, too, the nation will not be found ready to withdraw that well-placed confidence from the head of department who has been denounced in this House. It will appear, too, who have taken measures calculated to disturb the peace of the Union, and to produce an alarm of danger for which there is no foundation. I solemnly wish that not only the Message of the President, but every document, and every word uttered in secret might be made known to the people, I wish it, because I think it would not then be practicable to impose on the nation by a coloring given to those proceedings, unauthorized by the facts that took place.

I will state to the House, while I am up, that I voted against increasing the army, because I believed that no emergency existed to require it. I saw no call for it, either in the information contained in the public Message, or in the other communications made to the House. In the public Message, we were told that Congress would, in the course of the session, be enabled to determine whether it would be necessary to increase our land force, by the events which would probably take place. No events had taken place, when the measure in question was before the House, that changed the former state of things. It was also my opinion that we ought not, on every trivial occasion, to increase our present Military Establishment, and abandon the ground we had taken, of reducing the number of our regular forces—acting on the principle that standing armies are

dangerous to liberty, and are the most fatal scourge in the hands of an usurper or a despot. On this ground I have been always opposed to them, and ever shall be unless an extraordinary emergency should render it indispensable to resort to them. I was of opinion that, even on an emergency, the militia were, in the first instance, to be resorted to, not only as the Constitutional, but as the most competent and safe defence that we could provide. I know of no reason why we should think them not competent, as we have always heretofore found them to be so. For these reasons, amongst others, I was opposed to an increase of the army. I was also induced to be of this opinion from the documents on your table from which it did not appear to me that Spain had any serious intention to commit hostilities against the United States, or that her Government, or commanding officers, had authorized any in the territory of which we had taken possession. The inconveniences, with regard to our undefined limits, and the embarrassments attending the passage of our commerce down the Mobile, together with the necessity of having those other differences existing between us and Spain amicably adjusted, induced me to vote for the principal measure, adopted by this House with closed doors. I voted, sir, for the appropriation of two million of dollars, to authorize the Executive to negotiate with Spain for the purchase of the Floridas. In doing so, I did not authorize the Government to bribe France to coerce Spain into this measure, nor do I believe that there is the least ground for any such allegation, with regard to any member of this House. No, sir, our object was to obtain a fair purchase of the Floridas. We believed it important to acquire them; because the acquisition would connect our disjointed territory, would give us the command of an extensive seacoast, including the outlets of many large rivers and some good harbors, and free us from the inconveniences to which we were exposed by neighbors who were likely to become more and more troublesome. In the vote I gave, I contemplated the measure to be carried into effect only in a just and legal manner, by a fair purchase. I know no other way in which a territory can be acquired, consistent with common right and principle. It was intimated, it is true, to us, that it would be easy to take possession of this country by force, and that it would be always in our power to take it whenever we should wish to become the owners of it; but, for one, I disclaim all disposition to wrest that country from its rightful owner without any other ground of claim than superior force. So far as the country is ours by purchase, I am disposed to claim and hold possession of it, but no further.

But suppose, sir, we take possession of this country by force; we should not thereby acquire a just right to it. Such a measure would not be consistent with, or authorized by, the law of nations, and could vest in us no valid title. It was for these reasons, that I considered the only effectual way of acquiring a just title to this country was, by entering into a fair and honorable compact for it with its rightful owner. The measure was agreed to by a large majority, made by two-thirds of the members of this House. It seemed to be agreed by all, we ought to acquire this country, and the principal question was, how shall we get it, or, what shall we give for it? I was, sir, of opinion that it would be best to give money for it; that we should, in this way, get it cheaper than by resorting to any other means. That it was much cheaper to pay for it with money than with the blood of our citizens. I considered that the land would repay, and more than repay us for the purchase money, and that the additional revenue we should acquire, would give us a still further compensation for our trouble, and advance made in acquiring the country.

A proposition was offered about the same time, to exchange territory to the west of the Mississippi for the Floridas. I was decidedly opposed to that proposition. I protested against it then, and shall ever oppose it.

I conceived it contrary to the Constitutional right of the people at large, that Congress should assume the power of giving away, or disposing of a single acre of our territory to a foreign nation. I considered that the territory in question was part of the Union, and if so, that we might as well attempt to give away a part of a State. I considered this as establishing a principle of a most dangerous kind, which might, in time, lead to a dismemberment of the Union.

If you can dispose of this territory to a foreign Power, you can of a part or the whole of a State. You may transfer, at one time, a portion of country to the east, and at another, a portion to the south, as well as to the west; and by this means, a designing majority would be enabled—if apprehensive of rivalship in power or influence, from the increasing population of any part of your country—to round off the Union at pleasure, so as to suit their own particular views. I did, therefore, call upon this House to guard against such dangerous consequences. I also considered, that the country in question would be settled by people of some nation. I preferred it should be possessed by those of the United States and their posterity, forever—that they might form but one great family, from the Atlantic to the Pacific Ocean—and I did not wish, on the contrary, to enable the subjects of a foreign nation to increase and strengthen themselves in our neighborhood, who might at some future day, not very distant, become our rivals and our enemies.

It was observed that this money would go to France. It was then stated, and it has been repeated, that there was nothing to authorize the belief that France was to get this money from us. It is true, it was well known, if we believe the public prints, that France had got money from Spain; that Spain, previous to her being engaged in the present war as the ally of France, had to purchase her neutrality from France with money, and that the treasury of Spain was, in a great degree, the treasury of France. And suppose this to be the case, what have we to do with it? Is it material to us what Spain does with the money after she gets it? And if Spain consults France,

who is her ally, with regard to the sale, has she not a right to do it? Has she not a right to be as submissive to France as she pleases? Would that be any objection to our acquiring the territory from Spain? I can see no objection, even should we believe that France would eventually get the money we pay to Spain, to our making the purchase in question. But is it unusual for two nations, in close alliance, to consult each other as to their transactions with a third Power? Is it not, on the contrary, the constant practice to do so? The alliance may be such that Spain cannot alter her territorial situation without the consent of France. And is this a reason why we should not make a fair proposition to Spain to purchase territory which she has and we want? It cannot be; there is no foundation for this objection.

Mr. Speaker, I think it proper here to state, that there was no part of my conduct such as to authorize any man to say the measure I voted for was calculated to bribe any nation. This was not my intention; it was not the intention of a majority of this House; and such an allegation cannot be believed by the public or by any unprejudiced or candid individual. I have only one other remark to offer, in regard to an observation made by the same gentleman from Virginia, (Mr. Randolph,) that the ground we have taken is calculated to show a dastardly spirit towards Spain or France, and to present a hostile attitude towards Britain. I do not consider it in that point of view. I do not think the conduct of Spain requires from us the manifestation of any hostile intention. That Government does not appear to have authorized, and her public officers have disavowed, the aggressions alluded to. It is well known, however, that we did take an attitude towards that nation calculated to show a determination on our part to repel aggressions. Our soldiers were ordered to patrol the country, and they did so, without meeting with any hostile opposition from Spain. There is no ground, then, to believe that either Spain has a hostile intention towards this country, or to say that we have been disposed to shrink from taking a manly position, or that we have manifested a dastardly conduct towards her. With regard to France, I will only say that I know of no differences existing between the United States and that nation. And so far as regards Great Britain, it is fully known to the public what her conduct was towards us, and what measures we have adopted in this House, in regard to her, on which I have already delivered my sentiments, and shall not here again repeat them.

Mr. Kelly.—I did not expect to offer any arguments either in favor of, or in opposition to, the decisions lately made, from which there has been an appeal; but, as that appeal has been made, I rise, not for the purpose of going into any wide argument, or of accusing any set of men, but for the purpose of justifying myself and the vote which I shall now give, as well as that which I have given. It has been said on this floor, with open doors, that the reason of giving money was to prevent the necessity of raising a standing army; and that it was better to strengthen the arm of the Executive with money than by a standing force. From this, it might be inferred that the reasoning, on the part of the minority, went to raising a standing army. As I voted with the minority on this occasion, I will briefly state some of the reasons which influenced my vote. It is not in order to say anything relative to the confidential message, but it is perfectly in order to speak of the message delivered at the opening of the session; and I believe it is perfectly fair to say that there was no occurrence between the third day of December, when the public message was delivered, and the sixth, when the confidential message was received, to change the circumstances in which we were previously placed. I shall vote in favor of the publication of this message as being the ground-work of the proceedings we have adopted in secret. I wish it published, that the public may judge whether those proceedings were consonant to this message or not. I should wish the public to see whether the part taken by the minority, or the measures of the majority, are the most consonant with it. To enable the people accurately to judge, I think it essential that it should be published, as the Executive branch of the Government is presumed to be the best acquainted with our foreign relations. The Message of the President, at the opening of the session, specially mentioned and designated Spain. It informed us that "Inroads have been 'recently made into the Territory of Orleans and 'the Mississippi; our citizens have been seized, 'and their property plundered, in the very parts 'of the former which had been delivered up by 'Spain, and this by the regular officers and soldiers of that Government." The message also advised us that something was necessary to be done. It said that some of these aggressions might, perhaps, admit of a peaceable remedy, but that others could be met by force alone. That message, it will be allowed on all hands, called loudly for efficient measures on the part of the Government; for taking against Spain, if not a hostile, at least a defensive posture; and I will undertake to say that nothing which has occurred in secret, tended to inculcate the propriety of a different course; nor could there be anything, for the one message so quickly followed the other, as not to allow time for any intervening circumstances. What followed? A report of a committee, stating the aggressions of this Power to be of a most atrocious nature; not recommending a war to check the rising growth and prosperity of the country, but recommending that a certain number of troops should be raised, at the discretion of the President of the United States, to repel the insults that might be offered, and to chastise those who offered them. This measure appeared to be proper in itself, and it appeared likewise to be recommended by the tenor of the message. It appeared to be the more necessary, as we had information of the collecting of a considerable force in the provinces of Spain, and at Pensacola. For these reasons, it appeared to me desirable that such a force

should be raised, as the President might deem necessary. This was not creating a standing army. The number of troops to be raised was to be left entirely to his discretion. The resolution proposed is as follows:

Resolved, That such number of troops, not exceeding ——, as the President of the United States shall deem sufficient to protect the southern frontiers of the United States from Spanish inroad and insult, and to chastise the same, be immediately raised.

It has been alleged that the militia would have been competent to defend the frontier; but this could not prevail on me to abandon the measure, as I could not think it proper that the militia, even if competent, should be forced out into so unhealthy a service. The resolution embraced no other idea but that the standing force in that quarter should be strengthened. I considered this safe and proper, to make provision for cases which might arise. I could not believe that the militia would be competent to defend the country. They are too remotely situated, and the country too sickly; and the only just calculation was, that they would have found their graves there. It was not contended that a large army was necessary, but that it would be requisite, in case the Spanish troops should be superior to ours, to raise a few recruits.

These are the reasons that induced me to vote for the resolution. I had others. We were informed of the necessity of having additional land batteries, of putting our ports and harbors in a state of defence, and of building an additional number of gunboats. If these measures were carried into effect, I thought, as militia would not be competent to these objects, it would be requisite to have an addition made to our troops. Under all these circumstances, I was in favor of empowering the President to raise a small number of troops. But, while I was in favor of this measure, I was as strongly opposed as any man on this floor to anything like a large standing army. I will never consent to such a measure, without an urgent necessity for it.

I was opposed to the measure adopted by the House on many grounds. It appeared by the report of the Secretary of the Treasury that there was not in the Treasury more than a surplus million of dollars. I considered it improper, when we were threatened from every quarter, to lay a magic hand on the two millions appropriated—to anticipate the receipts of revenue by a million of dollars—and thus drain the Treasury, when money might soon be wanted for the most urgent purposes.

I was opposed to it on another ground—it did not appear for what purpose it was to be applied. It is true, I heard one gentleman say, it was in correspondence with the secret wishes of the President; but I could pay no regard to that declaration. We had before us no communication, either public or private, which declared that it was either with Spain or France that the negotiation was to be carried on; nor had we any reason for entertaining the idea that the two millions, whether they are gone or not, would make one farthing's difference. It was necessary for me, voting on this occasion, to see the necessity and propriety of the measure. We had been told, in the Message of the President, that the negotiation with Spain had come to an issue, and that that issue was not favorable; but we had received no information that Spain was disposed to adjust her differences with us respecting boundaries. We had, on the contrary, different information. Neither had we any intimation that the contemplated negotiation would be agreeable to Spain, or to the President of the United States. Was it, then, proper for the House or myself to vote for appropriating two millions of dollars—for the Lord knows what—when it neither appeared from any communication from the President, or from any other official source, to be desirable? If we had had such intimation from the President, what security was there that the negotiation would have been made? And I am inclined to believe that I should have been opposed to its having been entered upon. What gave rise to the first purchase? The right of deposit stipulated by treaty to us had been refused. It is well known that a considerable number of vessels came down the Mississippi, which, from their peculiar construction, could not reach the ocean; and thence resulted the necessity of a place of deposit. The refusal of that right first gave rise to the idea of a purchase. We got possession of New Orleans, and of the river, and found ourselves also possessed of a strip of land on the other side of it, after having thought we had purchased West Florida. And when I find, instead of this, we have been swindled out of our money, I am unwilling to negotiate again, and give away the public treasure. Even after this shall have been done, it will be extremely easy for France or some other Government to raise a difficulty, and claim an additional sum for its adjustment. Was it not believed, on the part of our Government, that we had made a fair purchase, not only to the Rio Bravo in one direction, but to the Perdido in the other?

I had another reason against this measure. I thought this an improper time to accomplish it. Having already got the navigation of the Mississippi and the island of New Orleans, I thought it most advisable to delay the negotiation till a general peace, when we might make an engagement with Spain as an independent nation, and have some assurance that the nation which sold would be able to guarantee the country. On these grounds I voted in favor of the resolution reported by the select committee, and against the measure adopted by the House.

I have thought it proper to assign these reasons, that all may understand the grounds on which I voted. And this consideration will justify me in voting to give publicity to the Message, that the public may see what is the ground-work of the measures we have taken. I wish the nation to see whether that Message recommended taking the ground which we have assumed, or that which we refused to take.

Mr. J. Clay.—I must say that the observations which have fallen from my colleague, and other

gentlemen who have taken a part in the debate, have strongly impressed me with the propriety of the motion under consideration. There appears to be a material difference of opinion as to the true construction of the Message and the documents communicated by the President. It is apparent that I understand those communications in one way, and my colleague in another. We have been told that one nation (France) has been improperly dragged into this discussion. The Message of the President ought, in my opinion, to be published, to show that this is not so. There are other sources of differences of opinion which can only be understood by giving publicity to the Message. Gentleman have gone into a long detail of the motives which governed them in the votes which they have given. It is not necessary for me to imitate the example they have set. I hope, when my motives are called in question, it will be before the public, and not here. I shall be ready to defend them by all the means I possess, the vote of this House notwithstanding. I believed, when the injunction of secrecy was removed, it was removed from our proceedings; and I considered all that was laid before this House as so far my property that I had a right to use it in my defence. We have been told there is one for voting against the resolution—that a standing army was proposed to be raised by it, while the militia would have answered every useful purpose. This may be a very good and popular argument, but we have been within a few days told, from the same quarter, that it is necessary to have a Brigadier General in the Armies of the United States, to defend one of these very Provinces attacked by Spain. Some allusion has been made to a conversation held out of doors, and my colleague has shown some squeamishness to act on such authority. But I will ask him, if he invariably makes up his votes from official documents laid on this table, and whether he does not sometimes travel out of the record? When a gentleman tells you such and such a thing, in which the honor of the nation is implicated, ought he to be considered as out of order? Was it not his duty to give that information to the House? I will say, if I had been acquainted with these things, my doubts as to the propriety of the appropriation of two millions would have been much increased. Permit me here to observe, that when a gentleman intimated that the money was already gone out of the country, no man in his senses could have dreamt that it was intended to assert that it was sent out in so many actual Spanish milled dollars.

Does the Secretary of the Treasury, when he informs us there are so many dollars in the Treasury, mean to say there are so many round silver dollars there? No; he only means to say we have a credit to such an amount. So, with regard to our transactions with Spain; I understand that our credit is in Holland, and that the fund is created there from which we are to draw. Is not this, to all intents and purposes, the same as transmitting the money to Holland? When a man pays a debt, is it to be supposed that he carries the actual dollars with him? To say the least of such an objection, it is a mere quibble. As there is a material difference of opinion as to the construction of the documents and the Message of the President, it is a duty which we owe to ourselves to lay before the people all the information on which we acted, that we may stand justified or condemned by it before them.

Mr. Eppes.—I rejoice that the period has at length arrived, when our public conduct is to be submitted to the people—when, what has been done in our Representative capacity is to be collected, not from eloquent representations on this floor of what other gentlemen would not do, but from the record of our proceedings. The secret is out—the bubble has burst—and gentlemen find themselves and the public disappointed. I consider the publication of the Secret Journal as an appeal to the people. I am willing to indulge gentlemen in making it as perfect as they can. I shall vote for the amendment of the gentleman from Virginia, or for any other calculated to bring this subject fairly before those to whom we are responsible for our conduct. The Journal is the best answer to their speeches. Amend it as they will, they cannot realize the public expectations. Its publication, I firmly believe, will excite no sentiment but surprise. On the day the injunction of secrecy was taken off, your doors were crowded with persons anxious to hear this tremendous secret. I witnessed nothing but disappointment. Congress has appropriated two millions of dollars to buy Florida! Is this all? Have you not confiscated the public debt, or, at any event, the Louisiana stock? Most certainly you have voted money to bribe Talleyrand. No, I assure you we have done nothing more than appropriate two millions of dollars for the purchase of Florida, in a law containing precisely the same words with the one passed for that purpose in the year 1803, and supported by the very persons who have denounced this measure. Gentlemen have attempted to draw a distinction between the situation of the United States in the year 1803 and in the year 1806. I am not so uncandid as to say that the present differences with Spain are precisely such as we had in the year 1803. This, however, I will say, that every objection urged against the present appropriation applies with equal force to the measure of 1803. Let us examine what was the situation of the United States with Spain at these two periods.

In the year 1803, Spain had committed spoliations on our commerce to a considerable amount, the payment of which had been either wholly or in part refused. She had cut off the whole Western country, from an outlet to the ocean, by prohibiting a deposit at Orleans, and refusing to assign an equivalent one elsewhere, as stipulated by treaty. The remedy adopted by the collected wisdom of the nation, was, holding in readiness a detachment of militia, and making a secret appropriation to buy Florida.

In the year 1806, Spain had refused an amicable adjustment of limits—had refused to pay spoliations on our commerce—had in one instance violated our territory. The remedy resorted to, has been to hold in readiness a detachment of

militia, and to appropriate money for the purchase of Florida.

This was the situation of the nation at these two periods. Whether at either period, the wisest course has been pursued, I shall not attempt to prove. In both cases the nation adopted the same principle. To avoid war if possible, and to purchase territory, rather than to fight for it. All the strong objections urged against the measure at present adopted, apply with equal force to the measure adopted in 1803. The two laws contain precisely the same words, and neither specify the object of appropriation. The law of 1803 was passed in secret, with closed doors. The law of 1806 was passed in the same manner. The appropriation in 1803 was not recommended by the Executive, but founded on a resolution submitted by a member of the House of Representatives. The appropriation in 1806, was not recommended by the Executive, but founded on a resolution submitted by a member of the House of Representatives also. The object of the appropriation in the year 1803, concealed from the people twelve months; in the year 1806, made public in a few weeks! Gentlemen may draw nice distinctions, but they will find it difficult to make the people believe, that the measure adopted in 1803, was wise and virtuous, and the same measure in 1806, infamous. I appeal with confidence to the people: they will and must see, that this is the very same measure adopted three years ago, without noise, in a law containing the same words, passed in secret in the same manner, and supported by the very persons who have denounced this measure.

When, however, this measure shall be fairly brought before the public, it will be found, that notwithstanding the noise and clamor which has been made, the difference between the majority and the minority on this question is not very considerable. Every member of the House of Representatives admitted the necessity of doing something. What were the remedies within our reach? 1st. To declare war. 2d. Either to increase our standing army for the purpose of strengthening our posts, or holding in readiness a detachment of militia. 3d. To exchange territory, or to purchase.

As to the first of these, declaring war, no member of the House of Representatives wished to pursue that course. The gentleman from Virginia certainly did not. His report speaks only the language of peace; all the evils of war to this country, are dwelt on in that report with care and labor. If, however, we had not this proof, that he did not wish for war with Spain, he has given unequivocal proofs of it in his arguments on another question. A war with Spain, we know, must be a war with Spain and France combined. They are joined by alliance offensive and defensive. To a war against France and Spain combined, all the objections urged against war with England, would apply with full force. If war with England would have increased Executive patronage, and endangered the Constitution and the liberty of the people, so also would war with France and Spain combined—we put war aside, therefore, as a course which no man wished to pursue. The next course was either to increase our standing troops, or to hold in readiness a detachment of militia. Here was room for an honest diversity of opinion. A majority of the House preferred depending on a militia. I was of that number. I thought the standing troops in that country sufficient for the protection of it, unless Spain determined to force a war. Subsequent events have shown the correctness of that opinion. No violation of territory has taken place since the case of the Kemplers, except by twenty Spaniards, who crossed the Sabine, and were driven off by the American troops. The next course was either to exchange territory, or to purchase. A majority of the House were in favor of both. I was of that number. On the east side of the Mississippi there was territory to which Spain had an undoubted right; there was territory to which the United States had an undoubted right; and there was territory which Spain and the United States both claimed. On the west side of the Mississippi, the situation was the same. Each nation had an undoubted right to territory, and there was territory claimed by both. It was not to be supposed that Spain, while she held the territory to the east of the Perdido, would be disposed to relinquish the claim which she sets up to the country between the Perdido and Mississippi. It was necessary to purchase the territory to the east of the Perdido, to which Spain has an undoubted right, and after disposing of which, it would certainly be her interest to relinquish her claim between the Perdido and Mississippi, on obtaining an equivalent surrender on the part of the United States to claims west of the Mississippi. I see nothing dishonorable in this transaction, and really it appears to me that the difference between the majority and minority is narrowed down to this: The majority were in favor of militia. The minority of standing troops. The majority were in favor of exchange and of purchase. The minority in favor of exchange only.

On the importance of Florida to the United States, I shall not say anything. The foes to this measure have admitted its importance in the fullest extent, and their willingness to acquire it on fair and honorable terms. All their objections have been made not to the purchase but to the mode. It is said we have appropriated money not for the purchase of Florida, but to induce France to bully Spain out of her right.

On this subject, I have never had but one opinion. I have always believed, and I still believe, that the money will be fairly employed in purchasing Florida of the rightful owner. The gentleman from Virginia will do me the justice to recollect, that I held this language with closed doors. I hold it now in the presence of the people. That France may ultimately get the money is highly probable, and why? Has not the gentleman from Virginia told us the sovereignty of Spain is annihilated, that the powers of her Minister are signed Charles Maurice Talleyrand? But of what importance is it to us what becomes

of the money we pay Spain? Are we to become the guardians of Spain? Shall we not purchase a territory important to the United States, because Spain may be bullied or cheated out of the money she receives from us? If Spain is really in such a degraded state that she has no will of her own, has her conduct towards the United States been such, as to induce us not to avail ourselves of the situation in which we find her? For my own part, I care not what use Spain makes of the money paid to her for Florida. It is of no importance to me as a Representative, nor to the people. That the purchase will be fairly made of Spain, I have no doubt. The Government dare not employ it in any other way.

I shall vote for amending the Journal, by inserting the Message. I know, however, that this will not satisfy the gentlemen. They will next want the correspondence of our foreign Ministers, and this they know cannot be printed. I am willing, with these observations, to trust my conduct with those by whom I am elected. A Representative is not responsible for the wisdom of measures. All he is answerable for, is an honest exercise of his judgment. On the present, as on every other occasion, I am certain, I have honestly exercised for the public good, that understanding which God and nature bestowed on me.

Mr. J. RANDOLPH.—It is not my wish, Mr. Speaker, to trespass on the patience of the House. But I think it necessary to explain what I am sure the House have not well understood; for my positions have been grossly perverted, whether intentionally or not I will not undertake to say. Gentlemen opposed to us act a very strange and inconsistent part. They will not give credit to a private individual as to a conversation had with a head of department. I do not wish them. I only stated that conversation as a reason for saying that I had withdrawn my confidence. And will gentlemen say I am bound, when evidence has come to my private knowledge, which is sufficient to damn any man, to legislate on a principle of confidence? When I find misrepresentations made to the public and insinuations of the most despicable kind on this floor, I come out, and call on any man to deny what I have stated. They cannot—they dare not—for I take it for granted no man will declare in the face of the nation a wilful falsehood. But while gentlemen will not give credit to what has fallen from one individual, they have no hesitation in giving credit to an individual member for the whole course of the Government. My opinion is, that the Government knowing the caveat entered by Spain, and that Laussat was not authorized to receive the country from Spain, which they claim, and that France refused to deliver it by metes and boundaries—I say, my opinion is that the claim of Spain to the country between the Mississippi and the Perdido is a good claim; and I adduce this as one instance of misconduct on the part of the Government. But this is only an opinion of my own. The Government, on the contrary, lay claim to the country, and press their claim abroad. When the Executive say we have a right to the country, the question is, whether, when they have taken that ground, you will give them money to buy the country, or in other words, to buy peace? I say no. If, on the contrary, the Government had shown the validity of the claim of Spain, I should not, perhaps, have hesitated to give the money. I do not absolutely say that I should. While gentlemen say the opinion of an individual is not to be relied on, they justify the Government by that opinion, at the same time that the Government tell you their opinion is directly opposite. If the Government had acted on those principles, the case would be directly the reverse of what it is. But they decided that the country did belong to the United States, and they are bound to act on this principle, or magnanimously abandon it. I hope, therefore, hereafter, that gentlemen will justify the Government in its foreign relations on the principles avowed by it, and not on principiples of a hostile nature.

In my opinion it is of the first importance that the Message should be published, from a material fact which took place in this House. A member in his place told you that the course recommended by a particular individual was consonant with the secret wishes of the Executive. I did then reprehend that language, as the most unconstitutional and reprehensible ever uttered on this floor. I did believe that the people of the United States possessed as free a constitution as the British people, and I had hoped more free; and I knew that such language had in the British Parliament been considered as reprehensible, and had brought forward a vote of indignation in that body. I allude to the case where the King's name was used for the purpose of throwing out Mr. Fox's India bill. I then reprobated this back-stairs' influence, this double dealing, the sending one Message for the journals and newspapers, and another in whispers to this House. I shall always reprobate such language, and consider it unworthy of any man holding a seat in this House. I had always before flattered myself that it would be a thousand years hence before our institutions would have given birth to these Charles Jenkinsons in politics. I did not expect them at this time of day, and I now declare it important, in my opinion, that the Message should be published, that the public may be enabled to compare the official, with the inofficial Message which decided the vote.

There is another reason for its publication. The gentleman from Pennsylvania has said there is no mention of France on the journals; and that we have no cause of complaint against France. I wish the publication of the Message to prove what causes of complaint we have against France. Let men of sense take a view of all the papers, and I am willing to abide the issue. It is said France has done us no injury—that the bubble is burst. We are told that this is a plain answer to all the speeches made on this floor. Permit me to say, the gentleman (Mr. EPPES) has given a plain answer to all the speeches delivered on this floor—it was impossible to have given a plainer answer to them. He says I will vote with you, but I will make a speech against you. Permit me to say, this is the first time I would not rather have had his vote than

his speech. After this speech there can be no doubt as to the issue of the question. I will go further—after the adjournment on Saturday there could be no doubt. Saturday, it seems, is an unfortunate day, on which no expedition is to be undertaken, no forlorn hope conducted.

The same gentleman has said that we pursued precisely the same course in 1803 as in 1806, and for obtaining the same object. He says the same course is now pursued—and yet he says he will not undertake to say the cases are not dissimilar. Put this and that together, and what do you make of it? The cases are decidedly dissimilar. In 1803 there was no existing misunderstanding between the American and French Governments with regard to our differences with Spain. Those differences had started up like a mushroom in the night. We made an appropriation to purchase the Floridas—to buy them—from whom? from their rightful owner. The circumstances would have been similar, if the United States had given money to France to compel Spain to form a treaty with us, then the national honor would have received a deadly wound. But there was nothing of this sort in the formation of the treaty then made. Spain, under the operation of causes, in which we had no agency, transferred Louisiana to France, and France transferred it to us. But this is not now the case. We are told that Spain is no longer an independent Power, but is under the control of France. What follows? That France is the aggressor on us, which proves every thing I have alleged.

There is another thing to be observed. The public have been given to understand that two millions have been appropriated for the purchase of the Floridas. This is not so—the appropriation is only *towards* doing something; but what that is, is not defined by law. Now if, in 1803, we appropriated two millions for the purchase of the Floridas, and did not get them, what security is there now that by making an appropriation in the same language we shall obtain them? Although the persons making the appropriation are not the same identical beings, those applying the sum appropriated are. I do not believe that we shall get the Floridas. In this I may be mistaken. I hope I shall be—for after having descended to prostitute the national character, let us at least receive the wages of iniquity.

But gentlemen inquire, will you become the guardians of Spain? This is a mistake which has run through every attempt at argument I have heard. We never professed to be the guardians of Spain. We professed to be the guardians of our own honor. We care not for France trampling on Spain. Let her pick her pockets for what we care; but if we instigate her to it, it is no longer a mere question between France and Spain, but a question in which our own honor is engaged, which is at once mortgaged and gone.

Until the gentleman from Virginia got up, I confess that, what with my exhausted state, the badness of the air, and the tenuity of the arguments of gentlemen—so excessively light that they at once vanished in thin air,—that I had not a word to say; for it is not to be supposed that I intended to reply to anything offered by the gentleman behind me. If I am to fall, let me fall in the face of day, and not be betrayed by a kiss—I mean no profane allusion. I shall do my duty as an honest man. I came here prepared to co-operate with the Government in all its measures. I told them so. But I soon found there was no choice left, and that to co-operate in them would be to destroy the national character. I found I might co-operate, or be an honest man—I have therefore opposed, and will oppose them. Is there an honest man disposed to be the go-between, and to carry down secret messages to this House? No—it is because men of character cannot be found to do this business, that agents must be got to carry things into effect which men of uncompromitted character will not soil their fingers or sully their characters with.

One word on the subject of voting on inofficial notice, on the representations of individuals, in the place of communications officially received from the officers of the Executive department. I have always considered the Executive in this country as standing in the same relation to the two Houses, that the minister or administrator bore to the legislature under governments similar to our own. I have always considered that the responsibility for public measures rested more particularly on them. For those measures they are answerable to the people—and to me it has been a subject of peculiar regret (I do not speak of the general character of the Constitution) that they have not a seat on this floor. For whatever may be supposed to be my feelings as to the members of the Administration, I am ashamed when I see their fame and characters committed to such hands as we are in the daily habit of witnessing. If their measures are susceptible of justification, I should like to have a justification at their own hands, instead of hearing Yazoo men defend them. Much less did I expect, on such an occasion, to hear a Yazoo man assigning his motives for a vote on a totally different subject and this in justification of a man with whom he is connected by ties of consanguinity. This reminds me of the intention imputed to me to bring forward an impeachment against a great officer of State. This, however, is so far from being the truth, that I appeal to those who heard me, whether I did not declare that I washed my hands of impeachments—that I was done with them. No—I will neither directly, nor indirectly, have anything to do with them. But I will, in all questions that shall come before this House, discuss the public character and conduct of any public agents, from a secretary to a constable; and I will continue to do it, until it shall be admitted by the Constitution, that the King can do no wrong. I say I wish the heads of departments had seats on this floor. Were this the case, to one of them I would immediately propound this question: Did you, or did you not, in your capacity of a public functionary, tell me, in my capacity of a public functionary, that France would not suffer Spain to settle her differences with us; that she wanted money, that we must

give her money, or take a Spanish or French war? And did not I answer, that I was neither for a war with Spain or France, but in favor of defending my country? I would put that question to him. I would put this question to another head of department: Was or was not an application made to you for money to be conveyed to Europe to carry on any species of diplomatic negotiation there? I would listen to his answer, and if he put his hand on his heart, and like a man of honor said no, I would believe him, though it would require a great stretch of credulity. I would call into my aid faith, not reason, and believe where I was not convinced. I would then turn to the First Magistrate of the nation, and say, did you not buy Louisiana of France? Has France acted in that transaction in a *bona fide* manner? Has she delivered into your possession the country you believed you had bought from her? Has she not equivocated, prevaricated, and played off Spain against you, with the view of extorting money? I will answer for the reply. There cannot be the smallest doubt about it. I will put the whole business on this issue. All the difficulty has arisen from that quarter.

Yes, the bubble has burst! It is immaterial to us whether you publish the President's Message or not. But it is material to others that you should; and, let me add, the public will not rest satisfied with the conduct of those, who profess to wish it published, while they vote against the publication. The public will not confide in such professions. Gentlemen may show their bunch of rods, may treat them as children and offer them sugar plums; but all will not avail them, so long as they refuse to call for the despatches of our Ministers, and other documents, which, if published, would fix a stain upon some men in the Government and high in office, which all the waters in the ocean would not wash out. Gentlemen may talk of our changing, and chopping about, and all that. What is the fact? We are what we profess to be—not courtiers, but republicans, acting on the broad principles we have heretofore professed—applying the same scale with which we measured John Adams to the Administration. Do gentlemen flinch from this, and pretend to be republicans? They cannot be republicans, unless they agree that it shall be measured to them, as they measured to others. But we are, perhaps, to be told that we have all become federalists—or that the federalists have become good republicans. This, however, is a charge, which, I am convinced, the federalists will not be more anxious to repel, than we to be exonerated from. No, they will never become good republicans. They never did, they never will act with us. What has happened? They are in opposition from system, and we, *quo ad hoc*, as to this particular measure. Like men, who have ruffed it together, there is a kind of fellow-feeling between us. There is no doubt of it. But as to political principle, we are as much as ever opposed. There is a most excellent alkali by which to test our principles. The Yazoo business is the beginning and the end, the alpha and omega of our alphabet. With that our differences began and with that they will end, and I pray to God that the liberties of the people may not also end with them.

Mr. Varnum.—I am not about to take up the time of the House by any discussion of the question before them, which has already been debated, three or four weeks ago, and principally occupied by the declamation of the gentleman from Virginia. I think it my duty, however, to give a short history of the circumstance from which has arisen the celebrated story of backstairs influence, Charles Jenkinson, &c. Gentlemen declared there was nothing in the Message of the President that justified the measure before the Committee, that it, on the contrary proved and pointed out as most proper the measure reported by the select committee. I did not believe that it pointed out that measure, or that there was any cause to believe that anything had occurred between the 3d and 6th of December, which could have induced the President to change the opinion he entertained, when he communicated the first message. In the Message of the 3d of December, he says—"Whether it will be necessary to augment our land forces will be decided by occurrences probably in the course of your session." No such occurrences had taken place between the 3d and the 6th of December. Taking this into view, and also taking into consideration what I considered to be the true meaning of the Message, I said that I would venture to assert as my opinion, that the measure of the appropriation was agreeable to the Executive; and that I formed this opinion from documents on the table. On this the gentleman from Virginia rose and commenced a violent attack similar to that we have witnessed to-day. I asked leave to explain. I did explain; and I now appeal to the House, whether I did not observe at that time, that the measure of the appropriation I considered to be agreeable to the wishes of the Executive, and whether I did not support this opinion from documents before you; and added, that if any other idea had escaped me, or could be attached to what I said, that this was my explanation, and that it was not my intention that what I had said should go farther than intimate this opinion, and that I did believe I had not said anything that could fairly be construed to have a different meaning. It is a fact, that it has been published in some papers to the Eastward, that Mr. Jefferson expressed to me his secret wish that a resolution should be brought forward contrary to his Message. I say this representation is contrary to fact. I say that Mr. Jefferson never mentioned any such thing to me; and if I had made such a statement, I should have wronged the First Magistrate. Why these observations are again brought forward at this time I do not pretend to say; but what I have stated are the facts connected with this business. I believe such an attack as this has never been made before, in the face of an explanation made at the time, which I did believe would have been satisfactory.

Mr. J. Randolph.—When the veracity of a man is called in question it is a serious business. The gentleman from Massachusetts has appealed

to the House for the correctness of his statement. I too appeal to the House whether this was not his expression, when he undertook to explain away what he had said, for he did not deny it—that he would vouch that such were the secret wishes of the President; and whether I did not observe that his attempt to explain, was like Judge Chase attempting to draw back a prejudicated opinion in the case of Fries; that he might take back the words, but not the effect they had made on the assembly: that the Constitution knows only of two ways by which the Executive could influence the Legislature; the one by the recommendation of such measures as he deemed expedient, the other by a negative on our bills; and that the moment it was attempted to influence the House by whispers and private messages, its independence was gone. I stated the proneness of Legislative bodies to be governed by Executive influence, and in illustration referred to the Senate, who, from its association with the Executive and the length of time for which its members hold their seats, was necessarily made up of gaping expectants of office. And there can be no doubt of the fact. It must be so from the nature of things. Now, if it be necessary, let the House appoint a committee of inquiry to ascertain what the gentleman from Massachusetts did say, and let us see who can adduce the most witnesses and swear the hardest. No—the gentleman from Massachusetts had on that occasion so different a countenance, dress and address, that I could not now recognise him for the same man. He seemed thunderstruck—and to be in a state of stupefaction at his indiscretion. He appeared humbled in the presence of those who heard what he had said and beheld his countenance. His words were these—my life on it: "I will vouch that such are the secret wishes of the President—or the Executive"—I do not know which.

Mr. Varnum.—I must deny that I made use of the words *vouch* or *secret*. I stated what I have declared. As to being thunderstruck, if that was the case, I was not aware of it. And as to being humbled, I have never felt humbled by any man. I have never felt or shall feel afraid at the face of any mortal man. I have been in the service of my country for many years, and I have never heard any argument but what I should be willing to meet, if it was not too indecent to require an answer—I have done my duty, and am not conscious of having injured any man.

Mr. Jackson.—In consequence of the groundless and illiberal allusions which have been made to me, I have felt myself under the obligation of rising. I had hoped that an adjournment would have allowed me time to have examined the voluminous notes I have taken of the former remarks of the gentleman from Virginia, and to have presented to the people some criterion whereby to judge of their accuracy: But as I am thus called upon in such an illiberal manner, and the question is to be decided to-day—although not expecting to rise, and being totally unprepared, I have no choice left me. Sir, the assertion is untrue, that I have attempted to vindicate the character of the Secretary of State against the various charges exhibited by the gentleman from Virginia against him. I should have been deterred from such an attempt by many considerations. 1st. Because the even tenor of his well spent life is a complete answer and refutation of the malignant calumnies which disappointed ambition and prejudice have given rise to; and secondly, for the reason that the charge of indelicacy which had been urged against the remarks of my colleague, (Mr. Epps,) from the relation in which he stood to the Executive, would apply with equal force to me. I never deemed such vindication necessary; however competent I might be to the task, I did not consider the conduct and character of the Secretary of State as requiring any support; they have made an impression on the American people, not to be erased by declamation unsupported by fact. In relation to the principal charge made against him, his having attempted to draw money from the Treasury without an appropriation by law, it is not true; no such attempt was made. I happened to see the Secretary of the Treasury near the door of this House, and asked him whether it was true that such an attempt was made, and he told me it was not; that it was proposed in the Executive cabinet before Congress met, to instruct our Minister to open a negotiation for the purchase of the Floridas, upon the supposition that Congress would appropriate the money when they met; but that he remarked it was not certain that Congress would make the appropriation, and he added that this proposition did not come from the Secretary of State, but from the President himself. This has been tortured by misrepresentation into an attempt to draw money out of the Treasury without the sanction of an appropriation by law. When the main charge against the Secretary of State is so destitute of truth and foundation—mark the expression, I say it is destitute of truth—it is not necessary that the other should be repelled, namely, that he told my colleague [Mr. Randolph interrupted, "I am not the gentleman's colleague."] Very well, that he told John Randolph—[The Speaker said it was out of order to call gentlemen by name.] Sir, I know of no more appropriate appellation unless it is the descendant of Powhatan, whom he told that France would not permit Spain to settle her differences with us; that France wanted money, and if we did not give it we should have a Spanish and French war. Now admitting for argument, what I do not admit in fact, that the prejudiced mind of the gentleman was not controlled by a determination to misconstrue what he had heard; and that he was informed there was no doubt France would get the money, has he not said the same thing in effect? He repeatedly declared there is no Spain, no Pyrenees—that France would not permit Spain to settle her differences with us; and if the despatches of the Marquis Yrujo could be drawn from his private pocket, they would be found with the signature of C. M. Talleyrand—he has declared that it is evidence of political weakness to act on things as they ought to be, disregarding the knowledge of what they are. Well, if all this was known, that

Spain had placed herself under the protection and control of France, would it not have been preposterous to speak of Spain, as if she were totally independent of her ally? Would it not have been absurd to shut our eyes to the truth? But was it ever suggested by the Secretary of State? It has not even been urged on this floor, that it was—and I should not believe it if it were so urged, that we were to give this money to France to coerce Spain. The gentleman has declared that France can compel Spain to take such measures as she sees fit, and that it is dishonorable in us to take advantage of the humiliation of Spain. This is a complete vindication of the conduct of the Executive and of Congress in the measures they have taken to purchase this country, which is on all hands admitted to be so important to us; as it is surely more honorable to buy than to take it by force from its enfeebled miserable owner, incapable of protecting it. Although it has been decided to be out of order to disclose the secret communications, the gentleman from Virginia (Mr. J. Randolph) has declared that France said if we gave Spain one blow, she would give us two or ten in return, and others have declared France threatened us with war. Sir, I assert there are no such facts contained in the secret despatches sent to us. I regret I cannot pursue the course in which other gentlemen have been indulged by stating what are the facts in contradiction of what they are declared to be; and though this should be a violation of order, it would perhaps be proper, as a disclosure has been provoked by gross misrepresentations, to repel them, and justify ourselves to the people by stating the information itself. I will, therefore, undertake to say that all the information we received from the documents on this point, was in answer to the inquiry, what their conduct would be, if we declared war against Spain, to which they replied they were compelled to take part with Spain. [There was a loud call to order by Mr. J. Randolph and others.] Mr. J. continued: I shall always respect the calls to order from the Speaker and the House, but not from that person (J. Randolph.) After some conversation relative to the point of order, Mr. J. proceeded—Sir, I wish to know whether it is in order for the gentleman from Virginia to affirm that France declared she would for every blow we gave Spain, give us two or ten in return? It is not in order for me to correct the misstatement, and it neither is in order to ask where was the vestal vigilance of the Speaker, when he (Mr. Randolph) prostrated every rule of order and decorum. Mr. Speaker, I have said and I repeat it to-day, I should rejoice if all the secret communications could be made public, and not such parts only as the opposition wish; they would then afford to our constituents not a garbled but a complete view of our conflict, and they would then justly appreciate the assertion that France threatened us with war; and the charges of our giving money to conciliate France. But when we perceive in the Message of the President, a request that it should be kept secret, I much doubt the right of withdrawing the confidence thereby reposed in us at this time. If when the Messages were received we had determined not to hear them, and withhold their contents from public view, we should have returned them with their seals unbroken; but it is too late after getting them into our possession under the injunction of secrecy to divulge them without permission. I admit there are extreme cases in which we ought to communicate what we may confidentially acquire; cases involving the destruction of the Constitution itself; but this is not such a one. It may be likened to the case of an individual, who would be scouted as a dishonorable man, if when he received information in confidence, he afterwards, without permission from his informant, divulged it. This House I repeat it, did not vote for the appropriation under the idea that it was intended to make use of France to coerce Spain into any measure. On the contrary, instructions have been sent to our Minister resident at the Court of France, who is appointed Envoy Extraordinary to negotiate with the Court of Spain for the purchase of this country; the idea of coercion through the instrumentality of France was repelled by the gentleman himself; he declared that Bonaparte, with a revenue of 100 millions, besides what he could squeeze from his dear allies, would disdain to be bribed by a sum only equal to two weeks expenditures.—There can be nothing, therefore, exceptionable in the measure, and if the assertion made were correct, and our candid opinion was, that the money thus appropriated would ultimately go into the coffers of France, there would be nothing improper in it as far as we are concerned. France and Spain are connected together by a Treaty of Alliance, offensive and defensive. The one cannot go to war without involving the other. France would be compelled to take part with Spain unless she violated her faith to her; and I believe Bonaparte has never been charged with a want of faith to his allies; and this well accounts for the answer to our Minister, that they were bound to take part with Spain. Sir, this is national honor according to the British doctrines, and the gentleman will admit them. The Ministry frequently boasts in Parliament, that their continental allies will not forsake them, and that no separate treaty will be made, no settlement of differences nor arrangement of territorial limits will be entered into, without their approbation. There can, therefore, be nothing improper in Spain's consulting France in this business, which relates to the transfer of a domain as large as Spain itself; and if she pleases, giving France the price of the purchase. The proposition was for the purchase of a country all important to us. So important as to have received the sanction of this House in 1802, under a consideration that we must have it by conquest, or purchase at a fair price. It was determined to pursue a pacific course then—the character of the nation required it, not only at home but abroad. For if we had determined to make interest the rule of national right, and resorted to force, because our interest dictated it, the Powers of Europe, justly alarmed by a spirit of ambition and aggrandizement which threatened themselves and

their dependencies with destruction, would have made a common cause to crush us. The same course has been resolved on now, for the same wise reasons; and we determined to purchase such a part of the Floridas as did not belong to us; for it was acknowledged by the gentleman (Mr. R.), that we have not a foot east of the Iberville and the Lakes Maurepas and Pontchartrain. But admitting this point to be questionable, there was no impropriety in purchasing the territory acknowledged to belong to Spain, and settling the boundaries and extent of a doubtful right in the bargain. For my part, I have no doubt that the measure in every point of view in which it can be placed was recommended by the soundest policy and the best interests of the nation. But we were told amongst other strange assertions, that by this vote of money we have violated our neutrality, that a neutral nation can do nothing beneficial to a belligerent, and as money is the sinews of war, we cannot on any account supply it. Whether this is not advancing British pretensions under British influence, it is for the sober sense of the community to determine.

I consider the report of the select committee as the best justification of the opposition made to the measure it recommends, and the severest commentary upon the conclusions which are proposed to be drawn from it. It speaks of the "piratical depredations upon our commerce; of obstructing the navigation of the Mobile," and in the daring violation of our undisputed limits, &c. affording "ample cause for a formal declaration of war." Sir, the exactions of duty on the Mobile, will undoubtedly be continued so long as Spain holds the country; the right is not settled by the laws or usages of nations; and thus indeed the exported products of the finest regions of the United States may be subjected to duties, as well as those imported into it, and the travellers returning on the high road from New Orleans will, by engaging in broils with the Spanish subjects, eternally endanger the peace and tranquillity of the United States; so that, instead of war, sound policy clearly dictated a purchase. And what is the daring violation spoken of? A molehill converted into a mountain—gigantic names given to pigmy events. It is nothing more or less than the arrest of the Kempers. Is that "ample cause of war?" A few people headed by these men raised the standard of rebellion in the territory of Spain, from whence they fled within our limits, and were seized by our citizens, carried within the Spanish lines and there delivered to a Spanish party. And this is what is declared in the report to be an ample appearance of war! After urging that we are "too far removed from the powerful nations of the earth for our safety to be endangered by their hostility," that "peace must always be desirable so long as it is compatible with the honor and the interest of the community"—that "we are heavily burdened with debt"—and the best interests of the nation cry aloud for "peace—that when the debt is discharged, and not till then, may we bid defiance to the world"—that "the present moment is peculiarly auspicious for this great and desirable work"—that "now if ever the national debt is to be paid by reaping the rich harvest of neutrality," the report concludes with recommending a war measure—the raising a number of troops to "chastise Spanish inroad and insult." I should have been convinced had I voted for such a proposition, and for such reasons, that the people, as they formerly have, would withdraw their confidence and dismiss from office an Administration, fomenting national irritation, and adopting war measures for such miserable reasons, founded on such insignificant causes. I had another reason for opposing this standing army measure. I believed the militia of the United States were most grossly traduced by its friends—they were represented as inefficient, and not to be relied on. I believed, on the contrary, that they were equal to any emergencies that could arise, and would defend their country with more bravery than mere mercenaries. I feared that as in other countries so in this, this pretext might be made use of to get a standing army, the most potent engine in the hands of a despot, to enforce obedience to his will. And although cases may arise when it is necessary to raise armies—if it is recollected that the aggression most complained of was officially disavowed by the Spanish authorities, and satisfaction promised—this cannot be of that description.

A high officer of the Government has been charged with an unconstitutional attempt to draw money from the treasury without an appropriation by law; but, on the authority of the Secretary of the Treasury, I deny it. The charge therefore reverberates on its author, unless he justifies himself for making it. I will conclude my remarks by repeating what I commenced with declaring, that I did not mean, nor do I think it incumbent on any one, to vindicate the character of the Secretary of State. The charges have been reiterated from day to day, and his friends repeatedly challenged to come forward and justify him. But when the principal allegation is totally untrue, the others will and must be duly appreciated. Those who make mere assertion for fact will believe them, but the great mass of the people of this country will require more than individual assertion before they withdraw their confidence, and condemn the individual whose whole life has been devoted to the service of his country, and whose services are known and acknowledged by every liberal man—they will not consent to believe charges without the least proof.

The question was then taken by yeas and nays on the motion of Mr. J. RANDOLPH, "that the printed supplemental Journal of secret proceedings be amended, by inserting after the word 'read,' in the third line of the first page, the Message of the President of the United States of the 6th of December last, and that a new edition of the said journal, thus amended, be printed for the use of the members"; and decided in the negative—yeas 44, nays 74, as follows:

YEAS—Burwell Bassett, George M. Bedinger, Silas Betton, George W. Campbell, Martin Chittenden, Christopher Clark, Joseph Clay, Samuel W. Dana, John Davenport, junior, John Dawson, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Joseph Lewis, junior, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, Samuel Smith, Thomas Spalding, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, and Alexander Wilson.

NAYS—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, William Blackledge, John Blake, junior, Thomas Blount, Robert Brown, William Butler, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, John G. Jackson, Walter Jones, Thomas Kenan, John Lambert, Michael Leib, Matthew Lyon, Duncan McFarland, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, junior, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Henry Southard, Richard Sandford, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Richard Winn, and Joseph Winston.

[NOTE.—On a subsequent day Mr. JACKSON made the following explanation: He observed that he had been misunderstood in the remarks he had made in relation to the conversation had with Mr. GALLATIN, or in the warmth of his feelings had expressed himself differently from his intentions. He did not mean to be understood as repeating the words of Mr. G. when he said the charge of attempting to draw money from the Treasury was not true, but as stating the inference he drew from the expressions of that gentleman, for which he, Mr. J., held himself responsible. Indeed, he wished to be understood throughout as repeating the substance of the conversation only. Nor did he mean to be understood that Mr. G. had given a license or authority to him to repeat the conversation. He asked Mr. G., as a public man, respecting the charge, and received the answer as such—he therefore was authorized to repeat it.]

A message from the Senate informed the House that the Senate do not agree to the appointment of a committee to confer with the committee of this House on the time that the two Houses of Congress ought to adjourn.

TUESDAY, April 8.

The House resolved itself into a Committee of the Whole, on the bill for establishing trading-houses with the Indian tribes. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

On motion of Mr. EARLY,

"*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to adjourn their respective Houses on Wednesday, the sixteenth of April instant."

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

The House resolved itself into a Committee of the Whole on the amendments proposed by the Senate to the bill, entitled "An act to continue in force an act, entitled 'An act to authorize the Secretary of War to issue land warrants, and for other purposes;" and, after some time spent therein, the Committee rose, and reported to the House their agreement to the same, without amendment.

On the question that the House do agree with the Committee of the Whole in their agreement to the said amendments, it was resolved in the affirmative.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, to whom were referred on Saturday last, the amendments proposed by the Senate to the bill, entitled "An act to repeal the act to authorize the receipt of evidences of the public debt in payment for lands of the United States, and for other purposes relative to the public debt," reported to the House their agreement to the same, with several amendments.

The House proceeded to consider the said amendments of the Senate: Whereupon,

Resolved, That this House do agree to the first, second, and third of the said amendments; and do agree to the fourth of the said amendments, with an amendment.

Resolved, That this House do disagree to the fifth and last of the said amendments, and do desire a conference with the Senate on the subject-matter of the said amendment; and that Messrs. JOHN RANDOLPH, QUINCY, and JOSEPH CLAY, be appointed managers at the said conference, on the part of this House.

Ordered, That the Committee on the Public Lands be discharged from the further consideration of the petition of the Legislative Council and House of Representatives of the Indiana Territory, referred to them on the thirteenth of February last; and that the said petition be referred to the Committee of the Whole to whom is committed the bill respecting claims to land in the Indiana Territory, and State of Ohio.

Ordered, That the Committee on the Public Lands be discharged from the further consideration of the petitions of sundry inhabitants of Washington county, in the Mississippi Territory, referred to them on the twenty-fourth day of January last; and that the said petitions be referred to the Committee of the Whole to whom is committed the bill in addition to an act, entitled "An act regulating the grants of land, and providing

for the disposal of the lands of the United States south of the State of Tennessee."

On motion of Mr. JOHN RANDOLPH, that the letter addressed to the Secretary of War, on the twenty-second of December last, by the chairman of the committee to whom was referred the Message of the President of the United States, of the sixth of December last, together with the answer of the said Secretary thereto, of the twenty-fourth of the same month, be printed for the use of the members, and that the said letters be inserted in the printed Journal of secret proceedings.

The question was taken on the said motion, and passed in the negative.

On motion of Mr. JACKSON,

Resolved, That the Secretary of the Treasury be requested to communicate to this House any information which he may possess in relation to an application said to have been made to draw money from the Treasury for the purchase of the Floridas, before an appropriation made by law, for that purpose.

The House resolved itself into a Committee of the Whole, on the bill in addition to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee." The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to suspend the sale of certain lands in the State of Ohio, and the Indiana Territory;" to which they desire the concurrence of this House.

The said bill was read twice, and committed to the Committee of the Whole to whom is referred the report of the Committee of Ways and Means, made on the twenty-second ultimo, on the petition of sundry purchasers of public lands in the State of Ohio, and in the Indiana Territory.

The House proceeded to consider the amendments reported from the Committee of the whole House on Friday last, to the bill to amend, in the cases therein mentioned, the "Act to regulate the collection of duties on imports and tonnage;" and the same being severally twice read, were, on the question put thereupon, agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

WEDNESDAY, April 9.

Mr. JOHN C. SMITH, from the Committee of Claims, to whom was referred, on the seventeenth ultimo, a letter from William Eaton, late Consul of the United States at Tunis, addressed to the Speaker, made a report thereon; which was read and considered: Whereupon,

Resolved, That the proper accounting officers be authorized and directed to liquidate and settle the accounts subsisting between the United States and William Eaton, late Consul at Tunis, upon just and equitable principles, under the direction of the Secretary of State.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

Mr. JOHN C. SMITH, from the Committee of Claims, presented a bill authorizing the settlement of accounts between the United States and William Eaton; which was read twice, and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have agreed to the conference desired by this House on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for lands of the United States, and for other purposes relative to the public debt; and have appointed managers at the said conference, on their part.

An engrossed bill for establishing trading-houses with the Indian tribes, was read the third time, and passed.

An engrossed bill to amend, in the cases therein mentioned, the act to regulate the collection of duties on imports and tonnage, was read the third time, and passed.

An engrossed bill in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," was read the third time, and passed.

The SPEAKER laid before the House a letter from JOSEPH HOPPER NICHOLSON, Esq., one of the members from the State of Maryland, containing the resignation of his seat in this House; which was read and ordered to lie on the table.

TENNESSEE LANDS.

The House resolved itself into a Committee of the Whole, on the bill to authorize the State of Tennessee to issue grants, and perfect titles to certain lands therein described; and to settle the claims to the vacant and unappropriated lands within the same.

Mr. BLOUNT moved to strike out the first section.

This motion was supported by Mr. BLOUNT; and opposed by Messrs. GREGG, ALSTON, G. W. CAMPBELL, RHEA of Tennessee. and PITKIN.

Messrs. BEDINGER, BLACKLEDGE, and ALEXANDER, spoke against the provisions of the bill generally.

The question was then taken on striking out the first section, and passed in the negative without a division.

Various amendments were offered, some of which were agreed to, and others disagreed to, after considerable debate.

Mr. BLACKLEDGE moved a new section, declaring that this act shall not take effect until the Legislature of North Carolina shall give their assent thereto.

This motion was supported by Messrs. BLOUNT, MACON, and ALEXANDER, and opposed by Messrs. GREGG, and G. W. CAMPBELL, and disagreed to—ayes 22.

The Committee then rose, and reported the bill with sundry amendments; when the House adjourned.

THURSDAY, April 10.

On motion of Mr. MCCREERY,

Resolved, That the Speaker be requested to inform the Executive of the State of Maryland, of the resignation of JOSEPH H. NICHOLSON, one of the Representatives from that State.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to regulate and fix the compensation of clerks, and for other purposes;" to which they desire the concurrence of this House.

TENNESSEE LANDS.

The House took into consideration the amendments of the Committee of the Whole to the bill authorizing the State of Tennessee to issue grants and perfect titles to certain lands therein described; and to settle the claims to the unappropriated land within the same.

These amendments having been agreed to, Mr. BLACKLEDGE offered a new section:

"That this act shall not take effect until the Legislature of North Carolina shall pass an act giving their assent thereto."

In support of this motion, Mr. B. spoke at considerable length, to show that the bill would be an infringement of the compact between the United States and North Carolina, without this provision.

The adoption of this section was also supported by Messrs. BLOUNT and ALEXANDER; and opposed by Messrs. J. C. SMITH and ALSTON.

The yeas and nays being required on it, were—yeas 21, nays 78, as follows:

YEAS—Evan Alexander, George M. Bedinger, William Blackledge, Thomas Blount, John Claiborne, Jacob Crowninshield, James Elliot, David Holmes, Thos. Kenan, Duncan MacFarland, Jeremiah Morrow, John Morrow, John Randolph, Thomas Sandford, John Smith, Thomas Spalding, Richard Stanford, Abram Trigg, David R. Williams, Marmaduke Williams, and Joseph Winston.

NAYS—Willis Alston, junior, David Bard, Joseph Barker, Silas Betton, Barnabas Bidwell, John Blake, junior, Robert Brown, William Butler, George W. Campbell, Levi Casey, John Chandler, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Elias Earle, Peter Early, Caleb Ellis, Ebenezer Elmer, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Hough, John G. Jackson, Walter Jones, Michael Leib, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Timothy Pitkin, junior, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, Samuel Smith, Henry Southard, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Alexander Wilson, and Richard Winn.

Mr. ALSTON then moved the following proviso:

"*Provided, nevertheless*, That nothing in this act contained shall be so construed as to impair the provisions of the act of North Carolina, ceding to the United States certain western lands."

This motion was disagreed to—ayes 34; when the bill was ordered to a third reading to-morrow.

NAVY APPROPRIATIONS.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and six.

The bill was read by sections.

The CHAIRMAN having read that part of the bill which makes an appropriation "for repair of vessels, store rent, pay of armorers, freight, and other contingent expenses."*

Mr. J. RANDOLPH moved to fill the blank with $411,950.

Mr. D. R. WILLIAMS moved to strike out the words "and other contingent expenses." He said he made this motion with a view of ascertaining for what objects these contingent expenses were intended to provide. He would ask the chairman of the Committee of Ways and Means for information on this point. He believed the sum contemplated to be appropriated unnecessarily large.

Mr. J. RANDOLPH said the gentleman had asked for information which it was not in his power to give. He was as much in the dark as the gentleman as to the items of contingent expenditure; and he should not have moved to fill this blank with so large a sum, but from the conviction that whether they provided the money or not, it would be spent, and an additional appropriation be made the next session. Mr. R. said he viewed an appropriation bill, under present circumstances, a mere matter of form; he believed also all the items of appropriation might as well be lumped

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*The item for contingent expenses of the Navy, comprises commissions to agents to foreign countries and in the United States, officers' travelling expenses, expense of conveying seamen from one port to another, as for instance where seamen are entered in Philadelphia or Baltimore to join a vessel fitting out at Washington, the expense of nautical instruments, such as compasses, quadrants, spy-glasses, &c., charts, books, models, drawings, signals, lanterns, oil, candles, clamps, fuel, hammocks, trumpets, glass, cisterns, cases, mess kids, axes, gridirons, tea kettles, galleys, shovels, tongs, charcoal, sulphur, saltpetre, fire engines, fire buckets, bread bags, and an infinite variety of other such articles, not expressly provided by law.

together, and it might be declared that a million of dollars were appropriated. Had he been governed by his own opinion, instead of the forms which had been observed, he would have been in favor of draughting the bill in this way, for this reason. If the expenditures of the Navy exceeded this sum by $600.000 there was no doubt the next Congress would make good the deficiency without any inquiry. He believed this, as what had taken place once might take place again.

Mr. R. said he had addressed a note to the head of the department, stating that on such a day the Committee of Ways and Means wished the appropriation bill to be taken up, and expressing a desire that he would give them information of the items of contingent expenditure, as they consider the sum required unnecessarily large. He had received an answer to this effect—the Secretary said he did not think the sum too large, without entering into any explanation. Mr. R. added, gentlemen may fill the blank as they please; it will be no check on the expenditure.

The Committee divided on agreeing to the sum named by Mr. Randolph—ayes 46, noes 37.

Mr. D. R. Williams moved to strike out "and other contingent expenses." He had before said that he had been impelled to make this motion from a sense of duty. This impression had been strengthened by the statement of the Chairman of the Committee of Ways and Means. He could not think it proper to make an appropriation to so large an amount, when the proper organ of the House had without success required information from the head of the department, from whom he had only received a mere opinion. He hoped the Committee would agree to strike out this general appropriation, that all the items of contingent expenditure might be stated to the House, and thereby form some check on the expenditure.

Mr. Leib said he perceived in another part of the bill other mention made of contingent expenses. He would be glad to know what they were. The House ought to know the various items, or otherwise make a general provision for contingent expenses, and leave it to the head of the department to apply the money as he pleases.

Mr. Dana said the first contingent appropriation was for the navy, the second for the marine corps. If striking out the proposed words would enable the Committee to obtain the information sought, he should vote for the motion. He had no objection to voting liberally for a navy; but he thought the Legislature ought to be well informed, as they would otherwise scarcely discharge their duty to their constituents.

The motion of Mr. Williams, to strike out "and other contingent expenses," was disagreed to—ayes 32.

Mr. J. Randolph moved to strike out that part of the bill making an appropriation "for completing the marine barracks at the city of Washington." Mr. R. said this object appeared to require a standing appropriation; and, though the building was finite, the appropriation appeared to be infinite.

Motion agreed to—ayes 66.

The Committee rose and reported the bill. The House having taken the report of the Committee into consideration,

Mr. D. R. Williams called for the reading of a document, stating the annual expenditures on the Navy, by which it appeared that the expenditures had been as follows:

For 1798	- - - - -	$570,314 24
1799	- - - - -	2,848,187 26
1800	- - - - -	3,385,340 48
1801	- - - - -	2,117,420 74
1802	- - - - -	946,213 24
1803	- - - - -	1,107,925 32
1804	- - - - -	1,246,502 74
1805	- - - - -	1,409,949 67
Total	- - -	13,631,853 00

Mr. D. R. W. renewed his motion to strike out "and other contingent expenses." He thought the House ought, under existing circumstances, to show a disposition to economise, and to curtail the expenses of the Navy. What is the necessity for this expenditure? Why, the Constitution is in the mud, and the President on her beam ends! Thirteen millions and a half have been already expended, and it is now proposed to add $411.000 for contingent expenses. In making this motion I have no object but to confine the Navy Department to proper expenses; but let them first state what they are.

The Speaker observed that this motion could not be received until the amendments of the Committee had been acted upon.

Mr. D. R. Williams moved to strike out "for ordnance $50,000."* He did not perceive the use of this appropriation. No gentlemen accustomed to travel, but must have seen the unprotected state of the ordnance; look at the Turk's house, you will there see it lying exposed. To his knowledge it was in many other instances in the same situation.

This motion was lost—ayes 33.

The amendment of the Committee to fill the blank with "$50,000," was agreed to, without a division.

Mr. Eppes offered a proviso declaring that a larger sum than $30,000 shall not be expended on the repairs of any one frigate.

Mr. J. Randolph.—I shall vote against this motion on the same principle that I voted to fill the blank relative to contingent expenses, with $411,000. If we cannot restrain the expenditures of the Navy Department within the sum annually fixed, after giving as much as is asked for, is it not the idlest thing to attempt to restrain them by giving less? The principle on which I voted for filling that blank was this: To give to the

* The item for ordnance comprises cannon, carronades, swivels, blunderbusses, muskets, pistols, swords, boarding-pikes, cutlasses, cannon ball of every description, musket and pistol ball, cannon, musket, pistol and priming powder, powder horns, priming horns, flannel and paper cartridges, cartridge boxes, slow match, lint stocks, worms, rammers, sponges, wads, gun-locks, screw-drivers, flints, cartridge thread, &c.

Navy Department what it asks, that if, at the end of the year, more shall be expended, the blame may fall on the shoulders of the Secretary, and not on us. The sum appropriated for contingent expenses amounts to $411.000; this is not the half, but it is more than a third of the whole sum appropriated, and it may be expended on repairs or any other item of contingent expenditure. It is enormous. But withhold the appropriation, and where are you? The expense may be incurred, and the Government called on to make good the deficiency; and there the business will end.

With regard to the sum requisite for the repair of a frigate, her situation between this and the next year cannot be foreseen. The Secretary may have estimated $30,000 as sufficient to repair any one frigate as they now stand; but they may be placed in such a condition as to require a much larger sum. But I am against the amendment, said Mr. R., not only for these, but for other reasons. I will never consent to legislate in such a way as to make it appear that we did legislate intelligently, when in fact we do not. If I can be satisfied that $30,000 will be sufficient for the repair of a frigate, I may be induced to vote for it. But even this would be unnecessary. For, after all, the business must be confided to the Head of the Department; and he will be a better judge of the sum required for the repair of a vessel than we are. If he cannot be trusted, we ought, in my opinion, either to refuse the appropriation altogether, or take a very different step from that now proposed. For these reasons I am unwilling to appear to act understandingly on a subject which I know nothing about.

Mr. Eppes.—When I made this motion, it was under the impression that what is correct in private, is also correct in public conduct. We know that, when a vessel owned by a merchant gets in a certain state, it is more advisable to sell than to repair her. I do not know whether I have fixed the proper sum. All I wish to try is, whether the United States are disposed to repair at all events their frigates, whatever their state may be, or limit the sum, after expending which they shall be abandoned. I confess, however, that I am not anxious on this point. I merely wish to try the sense of the House.

On agreeing to Mr. E.'s motion, the House divided—ayes 38, noes 57.

Mr. D. R. Williams.—The curtailing Navy expenses may be unpopular, but I conceive it to be right. For that purpose I will renew the motion I offered in committee. I am of opinion that all the expenditures of this department should pass in review before the House. When I first came to Washington, I went to the navy yard. I there saw an elegant building going on. I inquired under what appropriation this was authorized, and was answered, under the appropriation for contingent expenses. I remarked other expenditures, and received the same information. These expenditures may be all proper; but I think that every gentleman on this floor ought to be enabled to tell his constituents how the public money is expended. Talk to them of contingencies, and they will understand as little of the term as of land in the moon. Mr. W. concluded by moving to strike out "and other contingent expenses," and calling the yeas and nays.

Mr. Alexander was against the motion, as an agreement to it would not lead to the obtaining any further information, and as he was convinced it was impossible to specify every item of expenditure.

Mr. Fisk was of opinion, that it would be best to agree to the motion as the means of obtaining a detailed estimate. His confidence in the Head of the Department was not diminished; but it was their duty to be fully informed on whatever respected the expenditure of public money.

Mr. Smilie said, that no gentleman would censure him for attachment to the Navy. He never had been, nor was he now attached to a Navy. But the situation in which they were placed was well known. If there was time, he should be glad to have every item of expenditure produced by the proper officer, that they might know how to act. He was fully aware that, in the Navy Department, it was more difficult to anticipate the expenses than in any other. Though, therefore, he was no friend to a Navy, as it had not been thought proper to abandon the establishment, he considered it right to make such grants as were necessary for its support. If it was early in the session, or if he thought it possible to get the information, he should vote for calling for it. But as they were reduced to the necessity of saying at once whether they would, or would not support the Navy, he should be in favor of making this grant.

Mr. Elmer did not see the least good which could result from the motion. If it would prevent an unnecessary expenditure of the public money, he would vote for it. But the nature of the service was such as rendered it impossible to foresee, or provide with precision for expenses which might become necessary.

Mr. J. Randolph said, it had been stated by the gentleman from Pennsylvania, that it was too late to get this information. The gentleman was mistaken. Any information could be had now which could have been got three months ago. Mr. R. then moved that the further consideration of the subject should be postponed until the next day, that gentleman, who said they wanted information might obtain it by a vote of the House.

The Speaker pronounced this motion not to be in order, as the Clerk had previously commenced the call of the yeas and nays.

The yeas and nays having been taken on Mr. D. R. Williams's motion, were—yeas 25, nays 86, as follows:

Yeas—Burwell Bassett, Christopher Clark, Joseph Clay, Matthew Clay, Leonard Covington, Ezra Darby, Peter Early, James Fisk, James M. Garnett, Edwin Gray, Michael Leib, Duncan MacFarland, Patrick Magruder, Josiah Masters, Gideon Olin, Thomas Sammons, Martin G. Schuneman, Henry Southard, Richard Stanford, Benjamin Tallmadge, Philip R. Thomp-

son, Abram Trigg, David R. Williams, Alexander Wilson, and Joseph Winston.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, Wm. Butler, George W. Campbell, Levi Casey, John Chandler, John Claiborne, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jun., John Dawson, William Dickson, Elias Earle, James Elliott, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, Chas. Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Helsey, John Hamilton, Seth Hastings, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, John Lambert, Matthew Lyon, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Timothy Pitkin, jun., John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Ebenezer Seaver, John Smilie, John C. Smith, John Smith, Samuel Smith, Thomas Spalding, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Richard Winn.

Mr. D. R. Williams moved to recommit the bill to a Committee of the Whole, with the view of obtaining information from the Secretary of the Navy before it was definitively acted on.

The motion was disagreed to—ayes 41, noes 56; when the bill was ordered to be engrossed for a third reading without a division.

Mr. Jackson hoped it would not be read a third time until Saturday, that information might be previously obtained from the Head of the Department. If it should not be then obtained, he would be the foremost in voting for a recommitment.

Mr. R. Nelson hoped it would be read to-morrow. The bill had been delayed much longer than was usual, and great inconveniences had been experienced from the delay which had attended it. Should the third reading be delayed till Saturday, it might be late in the session before it was conclusively acted on. The other House might take time to discuss its provisions. As all gentlemen were anxious speedily to close the session, he hoped it would be read a third time to-morrow. I should coincide with the gentleman from Virginia in the course proper to be pursued, if I thought we could by a delay of a few days get any important information. But I have been told, and I cannot doubt it, that it would take an immense length of time for the clerks to make out a complete statement of the contingent expenses of the last year. I have been told that it would take months, even with the aid of additional clerks. I have been told so by a gentleman whose veracity I cannot doubt, and whose knowledge on this point must be correct. Putting off then this bill to Saturday cannot be the means of giving us any correct information not already in our possession. If I thought otherwise I would willingly wait till Saturday. But when I reflect on the facts I have stated, and see that it is impossible to get this detailed information in any reasonable time, I think it best, in this instance, to do, as we have done heretofore—to vote on the information of the Head of the Department.

Mr. J. Randolph said he felt himself called upon to reply to a remark made by the gentleman who had just sat down, who had said that, from some cause or other, this bill had been unusually delayed. He would tell the gentleman one cause of this delay. This very item of appropriation, which the gentleman had just agreed to, was part of the cause. But he wished it, at the same time, to be distinctly understood, that there was no disposition in the Committee of Ways and Means to delay this bill. It was long since reported to the House, and he had before called for taking it up. The committee had never received any intimation from the Head of the Department, stating the passage of the bill to be a matter of urgency; which had heretofore been common in case a department required an early appropriation of money. Had, then, the Committee of Ways and Means any right to suppose, after having voted $600,000 in addition to the appropriation for the last year, that this department could not wait until the other departments had been served. The truth was, that the civil list appropriation had been the only one unnecessarily delayed, and that delay had not arisen in this House. Had they heard any complaints relative to the War Department? Had it made a demand of sixty or seventy per cent. on the regular appropriations, while this department was swallowing up money faster than they could provide it? He had heard it insinuated out of doors that there existed a disposition to distress this department. If there had been such a disposition, was it not in the power of any member to call up the bill? He appealed to the gentleman from Pennsylvania if he had not asked him to call it up in his absence, and if he had not replied, that he would as soon as he could get the floor.

Mr. R. Nelson said the gentleman from Virginia had grossly misunderstood him. When he said that this bill had been unusually delayed, he had had no disposition to insinuate that it had been designedly delayed, nor had he meant any reflection on the Committee of Ways and Means, or on the gentleman from Virginia.

Mr. D. R. Williams said his object was to get information. He hoped the demand of the House to give the general items would be complied with. He wanted no details; all he wished was a statement of general items.

Mr. R. Nelson remarked that such a statement could be of no use. The contingent fund of the Navy embraced articles, the extent of which could not be calculated with any precision—it could only be founded on past expenditures—it was known that the last year there was an expenditure of $600,000 beyond the sum appropriated. The whole expenses of the Navy could not be calculated at the beginning of the year with certainty, particularly when our affairs were unsettled in the Mediterranean. During the last year, three hundred of our captive seamen had been liberated, and to each seaman arrearage wages had been paid to the amount of four or five hundred dollars. In consequence of this and other circumstances, he presumed that neither the Secretary of the Navy, nor any other mortal man, could have known the expenditure at the beginning of the year. He did not pretend to say that there was all the economy in the Navy that should be; but if they got any information, it could only be a statement of what had been laid out in particular years.

Mr. J. Randolph said he would state a fact, to enable gentlemen to ascertain whether there had been any extraordinary delay on this occasion. Such an insinuation had been thrown out, and this was the place any insinuation of this kind ought to be made and met, and not at the firesides or in the newspapers. By recurrence to the journals, it would appear that, in the first year he had had a seat in the House, the act making an appropriation for the Navy had been passed, on the 10th of May; and that, in the first year he had had the honor of being on the Committee of Ways and Means, the bill making appropriations for the Navy had passed on the 1st of May. He said he had not had time to turn to the Journal of other sessions. But the truth was, a spendthrift never could be supplied with money fast enough to anticipate his wants.

The motion to read the bill a third time on Saturday was carried—ayes 55, when the following motion, made by Mr. D. R. Williams, was agreed to without a division:

Resolved, That the Secretary of the Navy be directed to lay before this House an estimate of the respective sums necessary to be appropriated for repair of vessels, store rent, pay of armorers, freight, and contingent expenses of the Navy for the year 1806.

PLURALITY OF OFFICES.

The House resolved itself into a Committee of the Whole on the bill to prohibit officers of the Army or Navy from holding or exercising any civil office.

The bill, having been read, was reported to the House without amendment.

Mr. N. Williams observed that when this bill was first read he had remarked that he thought it contained a principle not to be found in the resolution on which it was predicated—a principle, which appeared to him to be new; which would, if adopted, prove extremely pernicious, and which went to the removal of an officer in the enjoyment of an office Constitutionally holden by him. It did not belong to the Legislature to give to any law a retrospective operation, or that would affect officers in the enjoyment of their Constitutional privileges. If they did so they would assume the right of removing an officer from his office. The bill, therefore, as it stood, struck him as altogether unconstitutional. The Legislature was not the proper department for the exercise of this power. The Constitution had provided a particular mode in which officers could be removed from office; and the Legislature had no power to over-rule this provision. It may be said that we are only making a regulation that officers of a certain description shall not hold another office. Mr. Williams said he agreed to the correctness of this principle; but in the present instance, they were assuming a power which the Constitution did not give. He, therefore, hoped that gentlemen favorable to this principle would so amend the bill as to remove the objection he had stated. If it should be so amended as to confine its operation to all future appointments, he should have no objection to it. But if it were to affect existing officers constitutionally enjoying their offices, he considered it dangerous and should vote against it. Not having the bill before him, he could not state what amendment would be satisfactory to him. He therefore moved that the bill should be printed.

Mr. J. Clay said the bill was very short, and contained no new principles whatever. This was an age of discoveries, and the gentleman from New York has discovered that the bill to "prohibit officers of the Army and Navy from holding or exercising any civil office," is at war with the resolution which declares "that provision ought to be made, by law, to render any officer in the Army and Navy of the United States incapable of holding any office under the United States."

This is really a discovery, said Mr. C.; and how the gentleman can vote for the one and not for the other, is a most extraordinary thing. But the gentleman has doubtless made a Constitutional discovery—that when a man holds an office the office cannot be destroyed. But had not officers under the excise law been destroyed, and have they not been removed by the abolition of their offices? And have not the commissions of the judges been revoked? And I see nothing which shall prevent us from saying the Governor of Louisiana or Indiana Territory shall not be a military officer. As to printing the bill, as it consists of but three or four lines, I can see no occasion for it whatever.

Mr. J. Randolph said the gentleman from New York, notwithstanding his extraordinary modesty, had certainly made a great discovery, viz: that, passing a general law, which is a general rule, is similar to legislating on a particular case; that a law declaring that certain officers shall be appointed for four years, is equivalent to A, B, and C being turned out at the end of four years. The bill, Mr. R. said, was strictly conformable to the resolution—there was no difference between them, however the gentleman might be for throwing an anchor to windward to claw off a lee shore. Are we about to say that A, or B, holding a military office, shall be removed from the civil offices they now hold? No—we are merely saying they shall not be both held by the same person, which is surely a legislative act. If we violate the Constitution and trench on the prerogatives of the Executive, has not the Constitution armed the Executive with a power to defend itself? If we pass such a bill, will not the Executive return it to

us, if it be not previously arrested in the other House? Are we a Legislative body, with the power of binding by our acts the whole Government, or a mere Chamber to register edicts and pass supplies? I had always supposed that we were a Legislative body, and I had hoped an independent Legislature. If we are, we have a right to prescribe rules for the government both of the Executive and the Judiciary; for, be it remembered, that before a bill becomes obligatory, it is necessary to have the assent of the other branches. But, on the construction we have heard, I ask the gentleman why we have not the same right to declare a man after a certain day shall not exercise both a civil and military office, as to say that no military officer shall hereafter be appointed to a civil office? The gentleman's ideas will apply to one case as well as the other. If, however, gentlemen choose to vote out the bill, they will do as they please. It will be extremely easy for them to find a pretext; but they will not be able to assign reasons to influence the vote of any man possessed of a clear head and a sound conscience.

Mr. R. Nelson said he had voted against the resolution on which this bill was bottomed, because he thought it had a squinting at a particular case, and because he thought they had no right to pass such a law. It was a sound doctrine that the laws of the land ought to be general, and that they ought not, under the cover of a general law, to provide for a particular case. Mr. N. said he should not have supposed that this was the case in this instance, had not some of the advocates of the bill mentioned the man against whom it was intended to operate. He had another reason against the measure. He thought they had no Constitutional right to pass such a law. As the case of the Governor of Louisiana had been mentioned, he would likewise notice it. He would ask whether the Governor of Louisiana held his office of Governor under a law of the United States or under the Constitution? If he held it under a law, he wished gentlemen to point it out. He believed, however, there was no such law; but that he held his office under the general provisions of the Constitution. If he were correct in this opinion, he would ask whether it was competent to Congress to alter the tenure by which the office was held without first altering the Constitution. If, under the Constitution, the President had a right to appoint a military officer Governor of Louisiana, he would ask whether they had the power by law of abridging this right? He apprehended not, as it required as great a power to undo as to create a Constitutional provision. The case had been likened to the case of an excise officer. But the excise offices were held under a law, and it was only necessary to repeal the law to abolish the office. So with regard to the judges; When the law establishing them was repealed they fell with it. But is this a similar case? Are we about to repeal a law? No. We are about making a law, the effect of which is to drive a man from an office which he now holds under the Constitution. Mr. N. said these were the principal reasons which induced him to vote against the bill as well as the resolution.

Mr. Smilie hoped the bill would be printed. It certainly contained a principle which it was their duty carefully to examine before they adopted it. He would confine his remarks to one point—the Constitutional principle implicated in the bill. If it provided that after a certain day no appointment should be made of a military man to a civil office, the case would be different. But it declares that after a certain day no man shall hold both a civil and military office. The cases which had been mentioned were not analogous. The removal of officers by disbanding the army, and that of the judges, had been mentioned. What were these cases? In both instances a law had been passed abolishing the establishment of which they formed a part. Was that the case here? No. On the contrary they were about to pass a law removing a man from office, without abolishing the office. Could any gentleman show any power possessed by Congress of removing a man from office without abolishing it? Mr. S. said he should adhere to the Constitution in good as well as bad times, and deeming this measure a direct violation of it he should vote against it.

Mr. Clark said the gentleman from Maryland had declared the officer alluded to, a Constitutional officer, created by the Constitution, and not by law. He wished the Territorial law might be read.

Mr. R. Nelson replied that he had said no such thing. He knew full well that there was a law for the appointment of a Governor of Louisiana. If they wished to get rid of the man, they should repeal that law. He had said that the appointment was under the Constitution, which being Constitutionally made, there was no power in the Legislature to remove him.

Mr. J. Clay said the objections raised by gentlemen to this bill appeared to him very strange. Several acts had been passed by the Legislature establishing various offices. Gentlemen all acknowledged that it is in the power of Congress to destroy these offices by repealing the laws that create them, and yet they deny that it is in their power to modify them. It is within the power of the Legislature to say that a man, though appointed for three years, shall vacate his office at the expiration of one year. So it is in their power to say no military officer shall be appointed Governor of a Territory. If they have power to repeal a law and destroy the office created by it, there can be no question of their having the power of modifying the office. Your law, said Mr. C., constitutes the Governors of the Territories commandants of the militia. Surely then it is in the power of the law to say they shall no longer be commandants of the militia. So with the officers of the Army, you have a right to destroy the office of Brigadier General, or to say it shall not be held by a Governor of a Territory.

Mr. C. said he had no enmity to the person alluded to. He had no personal knowledge of him. But he was of opinion that a man appointed to a civil office, which was from its nature local, ought not to hold a military office, which might carry

him from the place where the first was exercised. It had been remarked, by the gentleman from Maryland, that this officer had been appointed under the Constitution, by the President and Senate, and that it would require as great a power to repeal as to make this provision. He agreed to the accuracy of this remark; but would answer it by stating that the proposed law, before it became binding, would require the concurrence of the President, the Senate, and that House.

The House divided on the motion to print the bill—yeas 46 nays 52.

Mr. N. Williams then moved to amend the bill by adding to it the following proviso:

Provided, That this act shall not affect any officer now holding an office under the Constitution or any existing law of the United States.

This amendment was supported by Messrs. N. Williams, R. Nelson, and Smilie; and opposed by Messrs. J. Randolph, R. Whitehill, Dawson, Jackson, and Quincy.

Mr. Rhea, of Tennessee, opposed both the amendment and the bill.

When the question was taken by yeas and nays on the proviso, which was negatived—yeas 36, nays 66, as follows:

Yeas—Joseph Barker, Barnabas Bidwell, George W. Campbell, John Chandler, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, Peter Early, James Elliot, William Ely, William Findley, John Fowler, Silas Halsey, John Hamilton, Joseph Lewis, junior, William McCreery, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, John Pugh, Thomas M. Randolph, Peter Sailly, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Philip Van Cortlandt, Killian K. Van Rensselaer, John Whitehill, Eliphalet Wickes, Marmaduke Williams, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, junior, Isaac Anderson, Burwell Basset, George M. Bedinger, John Blake, junior, Thomas Blount, William Butler, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, John Dawson, Elias Earle, Caleb Ellis, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, Seth Hastings, David Holmes, John G. Jackson, Water Jones, Michael Leib, Matthew Lyon, Duncan MacFarland, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Thomas Newton, junior, Gideon Olin, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Joseph B. Varnum, Peleg Wadsworth, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

The bill was then ordered to be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and six," with several amendments; to which they desire the concurrence of this House.

Friday, April 11.

Mr. John C. Smith, from the Committee of Claims, to whom was referred, on the second instant, the memorial of Amelia Eugene Beaumarchais, made a report thereon; which was read, and ordered to lie on the table.

The Speaker laid before the House a letter from the Secretary of War, transmitting a report in relation to sundry claims to land for military services rendered in the late Revolutionary War, in pursuance of an act of the nineteenth of March, one thousand eight hundred and four, entitled "An act granting farther time for locating military land warrants, and for other purposes;" and an act of the third of March, one thousand eight hundred and five, entitled "An act to authorize the Secretary of War to issue land warrants, and for other purposes;" which were read, and ordered to lie on the table.

The bill sent from the Senate, entitled "An act to regulate and fix the compensation of clerks, and for other purposes," was read twice, and committed to a Committee of the whole House to-morrow.

Mr. John Randolph, from the Committee of Ways and Means, presented a bill making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. John Randolph, from the same Committee, presented a bill making appropriations for carrying into effect certain Indian treaties; which was read twice, and committed to a Committee of the Whole House to-morrow.

A Message was received from the President of the United States, transmitting a statement of the militia of the United States, according to the returns last received from the several States and Territories. The Message was read, and, together with the documents transmitted therewith, ordered to lie on the table.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and six;" Whereupon,

Ordered, That the said amendments, together with the bill, be referred to the Committee of Ways and Means.

The House took up the bill prescribing the effect in each State of the records of judgments and decrees of the courts of record of every other State.

A debate of considerable length arose on this bill.

A motion made by Mr. G. W. Campbell to postpone the bill indefinitely was lost; when it was ordered to be engrossed for a third reading on Monday—yeas 63.

The Speaker laid before the House a letter from the Secretary of the Navy, transmitting an estimate of the sums necessary to be appropriated

for repairs of vessels, store-rent, pay of armorers, freight, and contingent expenses of the Navy, for the year one thousand eight hundred and six, prepared in obedience to a resolution of the House of the tenth instant; which was read, and ordered to lie on the table.

TENNESSEE LANDS.

The bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described; and to settle the claims to the unappropriated land within the same, was read the third time.

Mr. ALSTON moved to recommit the bill to a Committee of the Whole, for the purpose of introducing an amendment, declaring that nothing contained in this act should be so construed as to impair the cession act of North Carolina.

This motion was supported by Messrs. ALSTON, and ALEXANDER; and opposed by Messrs. GREGG, J. C. SMITH, and G. W. CAMPBELL, and disagreed to, yeas 28; when the bill was passed—yeas 63, nays 28, as follows:

YEAS—David Bard, Joseph Barker, Silas Betton, John Blake, jun., William Butler, George W. Campbell, Levi Casey, Christopher Clark, Joseph Clay, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Elias Earle, Ebenezer Elmer, William Findley, John Fowler, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, Michael Leib, Robert Marion, Josiah Masters, William McCreery, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, James Sloan, John Smilie, John Cotton Smith, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Alexander Wilson, and Richard Winn.

NAYS—Evan Alexander, Willis Alston, jun., Burwell Bassett, George M. Bedinger, Barnabas Bidwell, William Blackledge, Thomas Blount, Ezra Darby, James Elliott, John W. Eppes, Peterson Goodwyn, Thomas Kenan, Patrick Magruder, Jeremiah Morrow, John Morrow, Gideon Olin, John Randolph, Thomas Sandford, Ebenezer Seaver, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, David R. Williams, Marmaduke Williams, and Nathan Williams, Joseph Winston.

PLURALITY OF OFFICES.

The bill to prohibit officers of the Army and Navy of the United States from holding or exercising any civil office, was read a third time.

Mr. GREGG said he never found himself involved in greater difficulty. He was in favor of the principle involved in the bill, and yet he could not vote for its passage. He believed that it was a correct principle that civil and military offices should be kept distinct, and he wished the Constitution had prohibited the union. In relation to the individual on whom it was mentioned yesterday this law was to operate, he was satisfied it would be best if he could be removed from one of the offices he held, and if such a course had been pursued, he should have been in favor of destroying the office of brigadier general to get rid of the officer. The effect of this resolution would be to take from a man an office which he held under the Constitution. This power they did not possess. The only Constitutional way to effect the object was to destroy the office. He would agree likewise to amend the Constitution, so as to declare the union of civil and military office incompatible, or to a law providing that after a certain time no person should hold two such offices; and he should, if practicable, be for doing away the office of Governor of Louisiana, because he believed the person holding that office was, by his course of proceedings, producing a disturbance in the Territory. But although he entertained a favorable opinion of the principle of the bill, and would wish to remove that gentleman from one of the offices he held, yet he must vote against the bill, as it went to the unconstitutional removal of an officer.

Mr. SMILIE thought the passage of this bill involved a principle of a very serious nature. As to the abstract principle involved in the bill he did not dispute its correctness, or that it ought to have been a part of the Constitution. But the question was, whether they had a right by a legislative act, to prejudice any other branch of the Government. They were not in his opinion warranted in travelling out of their own sphere to remove existing evils. There was but one way in which the Constitution provided for the removal of a public officer. It says "the President, 'Vice President, and all civil officers of the United States, shall be removed from office on im'peachment for, and conviction of, treason, bri'bery, or other high crimes and misdemeanors." Here was the true and only sphere in which the House could move. If the Constitution did not give the right of removal in any other way, it did not exist, and if they undertook by a legislative act to remove a man constitutionally appointed, who would pretend to say what mischief might not result from it? For these reasons he should vote against the bill.

Mr. QUINCY said it appeared to him that one of the arguments urged by gentlemen against this bill was fallacious—that which considered it an invasion of the rights of the Executive. This argument went on the assumption that the President would necessarily sign the bill sent to him, which might or might not be the fact. If he accedes to it, the argument of gentlemen falls to the ground; and if it shall be returned, it will then be time enough to discuss the Constitutional principle. With regard to the general expediency of passing such a bill, the strongest arguments would be found in favor of it on the page of history. If history proved anything, it was that the condition of those was most degraded who lived under the colonial governments of Republics. This was amply proved by the annals of the Carthagenian and Roman Republics. The territory under contemplation was a kind of colonial government, and might in the course of time be a powerful engine in the hands of the Executive. He wished, therefore, for a separation of the civil and military powers which might arise under it.

Mr. SMILIE said if the question was what was most convenient or best, he should have no difficulty in agreeing with the gentleman from Massachusetts. But it rested on higher ground—on what was Constitutional. If he had a right to make the Constitution, he would have no hesitation in separating the civil and military powers. But he could not forget the occurrences which had taken place in the State he had the honor to represent in part. In that State there had been but a single branch of the Legislature without any Executive veto on the passage of the laws. He had seen that Government destroyed by sweeping away the Executive power before the irresistible authority of the Legislature, and he had seen the people obliged, from this circumstance, to give up that constitution and frame a new one. The measure under consideration was of the same kind. The Constitutional powers of the Executive ought not to be encroached upon, unless the object was to produce confusion. He had seen the effects of such measures, and deprecated them. You may, said Mr. S., abolish the office, and the officer falls with it, but in no other way, while the office continues, can you remove the officer except by impeachment. Shall we, then, in order to get rid of a man who may not have done right (and as for myself I am ready to answer I have no affection for the man) go into a new scene, the length of which we cannot foresee? This principle once established may lead to anything; it may lead to a destruction of the powers of the Executive altogether. I am as tenacious of the powers of the Legislature as any man, but I believe the powers of the Executive to be equally necessary. Indeed I think there is more danger to be apprehended from the overwhelming power of the Legislature, than from the powers of the Executive. For the Legislature is so powerful that there can be little danger of the Executive encroaching upon it.

Mr. EPPES.—If I took the same view of the operation of this law with the gentleman from Pennsylvania, I should certainly give it my negative. As, however, I voted for the resolution on which it is founded, and consider the law in conformity with the resolution, I will assign, in a few words, the reasons which will govern my vote.

We have been told that all the departments of Government are independent of each other. No man denies the correctness of this principle. Let us not interfere with the Constitutional rights of the other departments, nor abandon our own. The Executive has by the Constitution the right of nominating for office any citizen of the United States, whether an officer of the Army and Navy, or not. This being a Constitutional right, he certainly cannot be deprived of it by law; the right remains, and may be exercised if the law passes; the law merely severs the civil and military offices, and leaves the military officer to decide whether he will vacate his military command by holding or accepting a civil office; the Executive will have the same right to appoint—the individual will have the same right to accept the civil office as heretofore, but the acceptance vacates his command in the Army or Navy. If, then, the Executive right to appoint, and the right of the officer to accept, remains after the passage of this law, how can gentlemen contend that the Constitutional right of appointment is narrowed? All the difficulty on the present occasion arises from the law being made to bear on the Constitutional right of appointment. It is intended to operate only on offices in the Army or Navy which are created by law, to the tenure of which we may annex such conditions as the public good may require. Under the Constitution we have a right to prescribe rules for the government of the Army or Navy. In passing this law we add a new clause to the articles of war, viz: That an officer of the Army or Navy shall not hold or accept a civil office. Do gentlemen really suppose that we have no right to make this rule? If we can say that an officer shall not get drunk, that he shall have short hair, a coat of a certain form; that he shall not absent himself from his duty; or if we can in fact annex any other condition calculated to insure to the public his services, why may we not declare by law that he shall not hold or accept a civil office, he shall forfeit his military command? The public welfare is the basis of the rules for the government of the Army and Navy; we have a right to prescribe such rules as the public good requires, and it is our duty to establish such as will insure to us the services of our military officers in that station to which they are appointed.

But we are told we are about to remove from office a civil officer by law. The gentleman from Pennsylvania has read the clause of the Constitution which provides for the removal of civil officers by impeachment. This law is not to operate on civil but on military officers; civil officers, it is true, are removed by impeachment—military officers by such forms as we think proper to prescribe by law; the operation of this law will be precisely the same with any other new rule prescribed for the government of the Army or Navy. Suppose we were to pass a law that any officer found drunk after the 1st of July next shall forfeit his office—his having been drunk before would not subject him to the penalty of the law—but his being drunk after the first of July next would deprive him of his office. Apply this to the case of a civil officer. An officer of the Army or Navy having accepted a civil office, or holding a civil office, does not at present vacate his military office; the reason is obvious—there is no law against it. If, however, after the first of July next, he accepts or continues to hold a civil office, he forfeits his military command under the new article of war which this law establishes. The law severs the two offices, declares them incompatible with each other, and leaves the individual free to make his election. As to the general principle that the civil and military ought to be sep-

arate and distinct, I have no doubt. If the principle is correct, the law ought to extend to all cases, not only such as may hereafter arise, but to those which at present exist.

Mr. Stanford supported, and Messrs. Findley and Sloan opposed the bill; when the question was taken by yeas and nays on the passage of the bill—yeas 64, nays 34, as follows:

Yeas—Willis Alston, Isaac Anderson, Burwell Bassett, George M. Bedinger, Silas Betton, John Blake, jr., Thomas Blount, William Butler, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Dawson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, Seth Hastings, David Holmes, John G. Jackson, Walter Jones, Michael Leib, Matthew Lyon, Duncan McFarland, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jr., Gideon Olin, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—David Bard, Joseph Barker, Barnabas Bidwell John Chandler, Jacob Crowninshield, Richard Cutts, Ezra Darby, Ebenezer Elmer, William Findley, John Fowler, Andrew Gregg, Isaiah L. Green, James Kelly, William McCreery, Jeremiah Nelson, Timothy Pitkin, jr., John Pugh, John Rea of Tennessee, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Eliphalet Wickes, Marmaduke Williams, and Nathan Williams.

PUBLIC DEBT.

Mr. J. Randolph, from the committee of conference, appointed on the disagreeing votes of the two Houses to the act to repeal so much of any act or acts, as authorize the receipt of evidences of the public debt, in payment for lands of the United States; and for other purposes relative to the public debt—made a report.

The House took up this report, which recommended to the House the receding from their amendment, to strike out that part of the original bill which authorized the appointment of an agent, with power to make purchases of the public debt by open purchase, and allowing him one quarter of one per cent. on all purchases made by him.

A short debate took place on receding—Messrs. J. Clay and Quincy supported; and Mr. J. C. Smith opposed receding—which was disagreed to—yeas 35, nays 38.

When, on motion of Mr. J. Randolph, the House resolved to insist on their amendment.

Saturday, April 12.

Mr. Joseph Clay, from the Committee of Ways and Means, to whom were referred, yesterday, the amendments of the Senate to the bill making appropriations for the support of Government, for the year one thousand eight hundred and six, made a report thereon: Whereupon,

Resolved, That this House do agree to the first of the said amendments.

Resolved, That this House doth disagree to all other of the said amendments, and desire a conference with the Senate on the subject-matter thereof; and do appoint Mr. Joseph Clay, Mr. Mosely, and Mr. Roger Nelson, managers at the said conference, on their part.

The House resolved itself into a Committee of the Whole on the bill making further appropriation towards completing the south wing of the Capitol, at the City of Washington. The bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the relief of Gilbert C. Russell." The bill was reported without amendment, and read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill making appropriations for carrying into effect certain Indian treaties. The bill was reported without amendment, and ordered to be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill respecting the claims to land in the Indiana Territory, and State of Ohio. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

An engrossed bill making further provision towards completing the south wing of the Capitol, at the City of Washington, was read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill to suspend the sale of certain lands in the State of Ohio and Indiana Territory.

The bill suspends the sale of lands on which instalments are due, until the first of October next.

A motion of Mr. Lyon to extend the time till February the first, was lost.

The Committee rose, and reported the bill without amendment, which was read a third time and passed—yeas 66.

COURTS OF RECORD.

A bill prescribing the effect in each State, of the records of judgments and decrees of the courts of records of every other State, was read the third time.

Messrs. Kelly and Rhea of Tennessee opposed its passage; when the question was taken, and the bill passed—yeas 67, nays 18, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, Joseph Barker, Burwell Bassett, Barnabas Bidwell, Robert Brown, William Butler, Levi Casey, John Chandler, John Claiborne, Christopher Clark, John Clopton, Frederick Conrad, Jacob Crowninshield, John Davenport, jun., John Dawson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, William Ely, William Findley, James Fisk, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, Thomas Kenan, Michael Leib, Joseph Lewis, jr., Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, Timothy Pitkin, jun., John Pugh, Thomas M. Randolph, Jacob Richards, Peter Sailly, Ebenezer Seaver, James Sloan, John Cotton Smith, Samuel Smith, Henry Southard, Thomas Spalding, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

Nays—George M. Bedinger, Silas Betton, Matthew Clay, Samuel W. Dana, Ezra Darby, Charles Goldsborough, Andrew Gregg, James Kelly, John Rhea of Tennessee, Thomas Sandford, Martin G. Schuneman, John Smilie, John Smith, Samuel Taggart, Killian K. Van Rensselaer, Robert Whitehill, Eliphalet Wickes, and Alexander Wilson.

PROTECTION OF MERCHANT VESSELS.

The House went into a Committee of the Whole on the bill concerning the further safeguard of merchant vessels in the vicinity of the United States. The first section of the bill was read as follows:

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be lawful for the President of the United States, whenever he shall deem it expedient, to prohibit the exercise of hostilities against merchant vessels in any of the roads, or places of anchorage, near the ports and harbors of the United States, and also in any of the tracts of sea within the principal headlands on the coasts of the United States; and to require all foreign armed ships, or vessels of whatever description, to abstain from seizing, annoying, or molesting, any merchant vessels, within any of the spaces and precincts aforesaid.

Mr. Crowninshield moved to amend the section by extending the contemplated protection to "American citizens or other persons."

Mr. Dana considered the amendment superfluous, as the section provided against molesting merchant vessels; he was of opinion that the impressment of seamen would be a molestation.

Mr. Crowninshield held a different opinion as to the construction of the section—which only provided against molesting merchant vessels.

Mr. Ely expressed himself of the same opinion with Mr. Dana.

After some further conversation, Mr. Crowninshield withdrew his amendment, and submitted it under a new modification; in which shape it was disagreed to, under the idea that it was superfluous.

On motion of Mr. Jackson, the section was so amended, as to apply the provision to all vessels whatever.

After some other amendments, the committee rose, and the bill as amended in Committee of the Whole was ordered to a third reading on Monday.

NAVAL APPROPRIATIONS.

The bill making appropriations for the support of the Navy was read the third time.

Mr. J. C. Smith moved to recommit it, for the purpose of restoring the provision for completing the marine barracks at the City of Washington, the amount of expense attending which, he understood, had been already partly expended.

Mr. Conrad hoped the bill would not be recommitted, as he believed the provision unnecessary, and as it had been struck out by a large majority.

Mr. J. C. Smith said, he presumed if the expense had been already incurred, the House would not object to providing for it.

Mr. Quincy said, he had received like information. He had not conversed with the chairman of the Committee of Ways and Means on the subject, but he had with other members of the committee, and had found them all of opinion that this item ought to be restored. He understood that a part of the sum had been already expended.

The motion to recommit the bill having obtained—yeas 54—the House went into a Committee of the Whole, Mr. J. C. Smith in the Chair.

Mr. J. Clay observed, that since the House had agreed to strike out the provision for completing the barracks, he had understood that more money had been applied to this purpose than had been appropriated, and that it had been drawn from the private funds of one of the officers, under an understanding with the Head of the Department. He, therefore, moved to restore the item "for completing the marine barracks at the City of Washington, three thousand five hundred dollars."

Mr. D. R. Williams said, he should not make any objection to this motion. He would only call the attention of the House to the regard they had heretofore manifested to specific appropriations, under the hope that something would be done to circumscribe contingencies. He believed that this particular sum had been expended much to the interest of the country.

Mr. Leib said, he was not very fond of making appropriations in this way—for particular officers to run into unauthorized expenditures, and then to call on Congress to make good the deficiency. Is this a provision for completing the house for the commandant? Is that the marine barracks? If not, then under what appropriation is it made? Is it under that of contingencies? Look at the buildings at the navy yard; is all this expense in-

curred out of the contingent fund? If it is not, it is not authorized by law. Mr. L. said, he did not know that he should make any objection to this item; but he thought it full time to check this loose mode of procedure.

Mr. R. NELSON said, he did not understand the force of the reasoning of the gentlemen from South Carolina and Pennsylvania. Both had made a great show of liberality, by saying they would not oppose this particular appropriation, at the same that they condemned the course of proceeding, and represented the country as crying aloud at this kind of expenditure, before an appropriation was made to cover it. He believed, however, that it was almost next to impossible that the money should be misapplied. The estimates were made, the money appropriated; and when, in the application of it, either from the rise of materials, or other unexpected circumstances, they found a particular object unfinished, was it right to suffer it to be exposed to the weather, and not done for the want af a few thousand dollars; and like a young spendthrift, only half build his house, and let it fall in ruins? Mr. N. said, he should rather suppose the gentleman deserved credit for asking a less sum than was necessary, and trusting to the honor of Congress to supply any deficiency that might arise.

It had been inquired, if the expense of this building was not paid out of the contingent fund? Mr. N. said, he did not know how this was; but he did know that a great part of the work had been done by the soldiery; and for that he thought the officer deserved the applause of the House and the public, instead of their censure.

Mr. D. R. WILLIAMS said, he had not dropt any such expression as had been intimated. He had felt no censure; he had expressed none. If he had expressed any opinion of this officer, it was that this sum had been economically expended. He observed that much noise had been heretofore made about expenses incurred before an appropriation for them; and he was much mistaken if the gentleman from Maryland (Mr. NELSON) had not assisted in making it.

Mr. DANA said, he was in favor of this appropriation. But he believed the gentleman from South Carolina was correct in saying that much noise had heretofore been made about adhering to specific appropriations. He had, however, never had much faith in this doctrine. And as to the Navy, especially, he believed the thing was unattainable; and less money was required for general than for specific appropriations. He believed, however, that there need not be much talk on this appropriation, when they had recently made an appropriation of two millions of dollars without any specification of the object.

The question was then put, and the motion of Mr. J. CLAY was agreed to without a division.

Mr. D. R. WILLIAMS said, he wished so to modify that part of the bill which appropriated four hundred and eleven thousand nine hundred and fifty dollars "for repair of vessels, store rent, pay of armorers, freight, and other contingent expenses," as to separate the items; to give the Department all it asked, but fix a particular sum to each item. He held, he said, the report of the Secretary of the Navy in his hand, and if he was disposed to be ill-natured, he could make a handle of it. But his opposition was to the system, not to the man; for, if he was correctly informed, the motives on which the gentleman went into office were honorable to him. To gain his object he would move to strike out this provision.

Mr. CONRAD opposed the motion, and remarked that the expenditure under one item might fall short of the sum appropriated, which would require that the deficiency should be made up from the surplus of another.

Mr. DANA said, this amendment was warranted by the former usage of the House, and the message of the President of the United States. At the first session of the seventh Congress the President had observed that—

"In our care, too, of the public contributions entrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money, varying from the appropriation in object, or transcending it in amount, by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money."

This opinion had been given five years ago; and they might now infer that it had been found that it could not be carried into effect, as to the military or naval service. Mr. D. said, he considered the gentleman from South Carolina as bringing up this question directly before the House: Will you adhere to specific appropriations, or will you abandon them? Mr. D. said, he had never been in favor of them in relation to the Navy or Army.

Mr. R. NELSON said that, like the gentleman from South Carolina, he had been very early in favor of specific appropriations. The message which had been read, was founded in good sense, and met his approbation; but it had never been intended to apply the recommendations it contained to such a case as this; and it was totally impossible to make the navy efficient if such a specification were to be made. Did the gentleman know how the accounts of the public vessels at a distance were kept? He had gained some information on this point from navy men. The vessels in the Mediterranean were exposed to various expenses. The captain drew a bill on the navy agent in London, or at some other place. This was sent to the Secretary of the Navy, who did not know for what the amount had been expended, till the vessel returned to the United States, when the account was settled. So that it was impossible for them, sitting here in Washington, to tell for what the amounts of these bills had been expended. If they appropriated specifically for every object of expenditure, the over sum for each object must lie, although wanted for another object, for which a sufficient sum had not been appropriated. Thus much, required to be done, must remain undone; for, although money enough might have been appropriated, it could not be got at for the purpose for which it

was wanted. This result would be inevitable. Besides, in military affairs, it was impossible to calculate with precision. Ten thousand things might arise which could not be anticipated by any human wisdom. It followed that, although an adherence to specific appropriations was highly desirable in all cases where it was practicable, as in meeting civil expenses, yet that, for military purposes, they must necessarily go on in the old way.

The question was then taken on the motion of Mr. D. R. WILLIAMS, which was disagreed to—yeas 32, nays 51—when the Committee rose, and reported the bill, which was passed without a division.

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[The following is the report of the Secretary of the Navy, alluded to in the above.]

NAVY DEPARTMENT, *April* 11, 1806.

SIR: In compliance with the resolution of the House of Representatives, I herewith transmit to you, to be laid before them, paper A, which specifies the several sums of money, respectively, wanted for repairs of vessels, for store rent, for pay of armorers, for freight, and for contingent expenses of the Navy for the year 1806.

The estimate for repairs, as well as for the other items in this statement, is obviously altogether conjectural. Universal experience has ascertained that practical men, however conversant in naval architecture, can form no precise opinion from any previous survey of a ship requiring repair of consequence, as to the extent and cost of such repair. The sum stated as necessary may not, and I hope will not, be wanted. In such case, it of course will not be expended. But I have deemed it expedient to estimate for the largest sum that I have reason to apprehend, in any state of things, may be required. This I have done as a measure of precaution, and under an impression that, at all times, and especially at a crisis like the present, all the frigates and other vessels of the Navy ought to be completely prepared for service at any moment Government may have occasion for them.

I am, respectfully, sir, your obedient servant,

ROBERT SMITH.

Hon. NATHANIEL MACON.

—

Estimate of the sums necessary to be appropriated for repairs of vessels, store rent, pay of armorers, freight, and contingent expenses of the Navy, for the year 1806, *prepared in obedience to the resolution of the House of Representatives of the* 10*th April*, 1806:

For repairs of vessels—This item comprises the expense of procuring the necessary timber, masts, yards, copper, iron, anchors, cables, standing and running rigging, canvass, &c., the making and repairing the necessary boats of a ship, water casks, &c., and the professional and manual labor, required for the purpose of repairing, and keeping in repair, all the vessels of whatever description, belonging to the Navy of the United States - - - - - - - - -	303,300
For store rent, in the Mediterranean, the United States, and elsewhere, - - - -	3,500
For pay of armorers - - - - - -	650
For freight—This item comprises the expense of transporting, in the United States, and from the United States to the Mediterranean, timber, masts, yards, plank, cordage, canvass, powder, ball, beef, pork, flour, bread, spirits, molasses, peas, suet, butter, and every other description of articles required, either for the repairs of vessels, or the maintenance of the crews of vessels - - - -	60,000
For contingent expenses—This item comprises commissions to agents in foreign countries and the United States, officers' travelling expenses, the expense of nautical instruments, chests, books, models, drawings, signals, lanterns, lamps, oil, fuel, candles, hammocks, trumpets, glass, cisterns, cans, mess kids, buckets, axes, gridirons, tea kettles, shovels, tongs, charcoal, sulphur, saltpetre, fire engines, bread bags, and an infinite variety of other such articles - -	45,000
	$412,450

MONDAY, April 14.

An engrossed bill respecting claims to land in the Indiana Territory and State of Ohio was read the third time, and passed.

An engrossed bill making appropriations for carrying into effect certain Indian treaties was read the third time, and passed.

A message from the Senate informed the House that the Senate have agreed to the resolution of this House, of the eighth instant, fixing a day for the adjournment of the two Houses of Congress, with an amendment; to which they desire the concurrence of this House. The Senate have agreed to the conference desired by this House on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act making appropriations for the support of Govment for the year one thousand eight hundred and six," and have appointed managers on their part. The Senate have passed the bill, entitled "An act authorizing a detachment from the militia of the United States," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate, to the resolution fixing a day for the adjournment of the two Houses of Congress; and the said amendment being to strike out the words "Wednesday, the sixteenth," and, in lieu thereof, to insert the words Monday, the twenty-first," was, on the question put thereupon, agreed to by the House.

A Message was received from the President of the United States communicating information in relation to our affairs with Tunis. The Message was read, and referred to the Committee of Ways and Means.

PROTECTION OF MERCHANT VESSELS.

An engrossed bill concerning the further safeguard of merchant vessels in the vicinity of the United States, was read the third time; and on the question that the same do pass, it was resolved in the affirmative—yeas 87, nays 5, as follows:

YEAS—Willis Alston, jr., David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, John Blake, jr., Thomas Blunt, Robert Brown, Levi Casey

John Chandler, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Frederick Conrad, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, Elias Earle, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, David Hough, James Kelly, John Lambert, Michael Leib, Jos. Lewis, jr., Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, junior, John Pugh, Josiah Quincy, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Philip Van Cortland, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Peter Early, John Rea of Pennsylvania, John Rhea of Tennessee, Abram Trigg, and David R. Williams.

DUTY ON SALT.

Mr. J. Randolph said he was about to call the attention of the House to a subject which he should not have probably brought into view, but for the change wrought in the state of the revenue, in consequence of the peace with Tripoli. Among the different articles from which moneys were drawn, there was none so heavily burdened as salt; and it would be recollected that it was one of the necessaries of life, and an article, the free use and consumption of which was of material importance to the agriculture of the country. Two acts had been passed laying a duty on this article. It was no new thing to wish—it was, indeed, extremely desirable to diminish, if not to take off this duty, and for that purpose, he submitted the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of any act as lays a duty on salt; and to report such provision as may, in their opinion, be calculated to meet the deficiency occasioned by that repeal.

Mr. Thomas said the Committee of Ways and Means, of which the gentleman from Virginia (Mr. J. Randolph) who has made the motion, was and still is Chairman, were instructed by this House in the early part of last session, on a motion which he had the honor then to submit, to inquire into the expediency of reducing the duty on salt, and, if he recollected right, they were directed to report by bill, or otherwise; but, from some cause or other, to him unknown, that committee had never yet made any report on that subject. Courtesy might induce him to impute this neglect to the multiplicity of business put into the hands of the members of that committee.

He, Mr. T., always considered the duty on this article too high, and falling particularly heavy on the agricultural part of the community. It was now, and always had been his wish, to reduce it as soon as our revenue would permit, if consistent with the provisions made for paying off our national debt, and meeting the other exigencies of Government. For his part, he was at a loss, however, to discover that the present situation of our revenue, and the calls on Government for expenditure, together with the present aspect of our foreign relations, warranted this measure more now than last year. It was true that the war with the Barbary Powers up the Mediterranean had ceased, but it was also true, that the two and a half per cent. additional duty on goods paying ad valorem duties has likewise ceased with the peace concluded with Tripoli. This duty was laid for the support of, and was more than adequate to the expense of that war.

He repeated that he was in favor of reducing the duty on salt whenever we could part with so much of our revenue. He regretted, however, that the gentleman from Virginia (Mr. Randolph) had not brought this subject up at an earlier period of the session, when it might have been in our power to have examined into it, and, if found practicable, to have reduced the duty. But, as the gentleman is himself Chairman of the Committee, and has it in his power to act on it immediately, if he pleases, he hoped he (Mr. Randolph) would obey the instructions of the House when predicated on his own motion—although he did not, when instructed by a resolution submitted by him, Mr. T.; and, therefore, he would vote for the resolution, with an expectation that we shall now, at least, have a report on the subject.

Mr. J. Randolph said he had but two or three words to offer on the subject of the motion, said to have been offered during the last year, on this point. He had a distinct recollection of such a motion having been offered, and he also recollected that he had told the mover of it that it was not then possible to take off the duty upon salt, inasmuch as they had, only the session preceding, been compelled to raise additional revenue for the purpose of carrying on the Tripolitan war. He did not recollect whether the resolution had been agreed to by the House. But, it would be recollected, that during the latter part of the session, the most active members of the Committee of Ways and Means were almost exclusively engaged in conducting an impeachment pending before the other branch of the Legislature. If the Committee of Ways and Means had failed in their duty to make a report, the House would perceive that it was on one of those trivial motions which had been made under circumstances that did not entitle it to respect; for, when it was considered that they had recently been obliged to resort to new taxes for carrying on an existing war, it could not have been expected that they were in a situation to dispense with old ones. The reason why this resolution had not been brought forward at an earlier period of the session, Mr. R. said, was most obvious. He had not heard of the conclusion of peace with Tripoli till Saturday, and this

was, therefore, the earliest occasion that offered for making it.

Mr. Chandler said he hoped the motion would prevail. He had himself contemplated making a similar motion.

Mr. Smilie likewise supported the motion.

Mr. Alston said he heartily concurred in the propriety of taking off the duty on salt; but he thought the House ought previously to know what equivalent could be brought forward. This subject had been thought of before this proposition had been submitted, and the continuation of the duty of two and a half per cent. had been considered an advisable substitute. But, he had doubts of the propriety of the direction proposed to be given to this business. He thought this resolution, together with that offered by a gentleman from Massachusetts, should go hand in hand with each other; whether they went to the Committee of the whole House, or to the Committee of Ways and Means, was immaterial to him. That if one of these sources of revenue was given up, the other should be, at the same time, substituted in room of it. He said he did not know in what situation the resolution offered by the gentleman from Massachusetts was, which he would wish to know before he voted on this resolution.

A Member observed that the House had never agreed to consider it.

Mr. Thomas said, as the gentleman from Virginia appeared to have forgotten that the Committee of which he was Chairman were instructed to inquire into the expediency of reducing the duty on salt, in the early part of the last session, he wished the Clerk to read that part of the Journal. The resolution, he said, passed about the first day of December.

Mr. J. Randolph said he certainly did not deny the existence of such a resolution. He had only observed that he did not recollect having received it from the Clerk.

The Clerk read the resolution offered last session by Mr. Thomas, on the 7th of December, 1804, which was such as he had stated, and which appeared to have received the sanction of the House.

Mr. Alston then moved that the resolution should be referred to a Committee of the Whole, which, after a few words in opposition by Mr. Leib, was disagreed to—yeas 22; when the original motion obtained without a division.

CHICKASAW INDIANS.

The bill making appropriations for carrying into effect the Treaty between the United States and the Chickasaw tribe of Indians was read a third time.

Mr. Lyon declared himself against this bill, on account of the provisions contained in the third section, and moved a recommitment of the bill to a Committee of the whole House, which was disagreed to—yeas 28.

The question recurring on the passage of the bill, Mr. Quincy objected to the provisions of the third section; which are as follows:

"Sec. 3. *And be it further enacted*, That if any person shall make, or attempt to make, a settlement on any of the lands thus ceded by the Cherokees and Chickasaws, and lying within the Mississippi Territory; or shall, unless authorized so to do by the Surveyor of the Public Lands south of Tennessee, survey, or attempt to survey such lands, or designate boundaries, by marking trees, or otherwise, such offender shall, on conviction thereof in any court of record of the United States, or of any of the Territories of the same, forfeit a sum not less than $ ——, nor exceeding $ ——, and suffer imprisonment for a term not less than —— months, nor exceeding —— years. And it shall, moreover, be lawful for the President of the United States, and he is hereby required to employ such military force as he may judge necessary, to remove from the said lands any person who shall make, or attempt to make, any settlement as aforesaid: *Provided*, That nothing herein contained shall affect persons making settlements on lands purchased from the United States in conformity with the preceding section of this act."

Whereupon, a short debate ensued, in which Messrs. Quincy and Lyon opposed, and Messrs. J. Randolph, J. Clay, and Gregg, supported the passage of the bill.

The former gentlemen opposed it on account of the preceding provisions, which they considered as calculated, by authorizing the use of military force, to prevent the legal adjustment, by judicial decision, of claims under individuals pretending to have good titles to a part of the country.

The latter gentlemen contended that the power given to the President was not only just in itself, but absolutely necessary, to prevent an intrusion on the lands of the United States by a particular description of the Yazoo claimants, who were represented as having formed the purpose of establishing an extensive settlement on them, and thus creating a force which would keep possession of the country in defiance of the laws of the United States.

The question was then taken by yeas and nays on the passage of the bill—yeas 68, nays 33, as follows:

Yeas—Evan Alexander, Willis Alston, junior, Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, John Blake, junior, Thomas Blount, Robert Brown, William Butler, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Ezra Darby, John Dawson, Elias Earle, John W. Eppes, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, John G. Jackson, John Lambert, Michael Leib, Joseph Lewis, jr., Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, junior, John Pugh, John Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Abram Trigg, Philip Van Cortlandt, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Joseph Barker, John Chandler, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, James Elliot, Caleb Ellis, Ebenezer Elmer

William Ely, William Findley, John Fowler, Seth Hastings, David Hough, Matthew Lyon, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr. Josiah Quincy, John Russell, Martin G. Schuneman, Joseph Stanton, Samuel Taggart, Benjamin Talmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

PUBLIC DEBT.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act making provision for the redemption of the whole public debt of the United States."

Mr. Varnum considered the objects contemplated by this bill too important, and the subject too abstruse, to be likely, at so late a period of the session, to command that attention they merited; and therefore moved that the Committee should rise, with a view to postponing the farther consideration of the bill to the next session.

Messrs. Tallmadge and Quincy supported, and Messrs. J. Clay and J. Randolph opposed this motion, which was disagreed to—yeas 32, nays 42; when the bill was considered by sections, and some progress made in it, when the Committee rose, and had leave to sit again.

Tuesday, April 15.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act authorizing a detachment from the militia of the United States:" Whereupon,

Resolved, That this House do agree to the said amendment.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to the act, entitled 'An act to extend' jurisdiction, in certain cases, to the Territorial Courts," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act for the regulation of the times of holding the Courts of the District of Columbia, and for other purposes; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act supplementary to the act, entitled 'An act to extend jurisdiction, in certain cases, to the Territorial Courts: Whereupon,

Resolved, That this House do agree to the said amendments.

The bill sent from the Senate, entitled "An act for the regulation of the times of holding the Courts of the District of Columbia, and for other purposes," was read twice and committed to a Committee of the Whole to-morrow.

Mr. Joseph Clay, from the committee appointed on the part of this House to attend a conference with the Senate on the subject-matter of the amendments depending between the two Houses o the bill, entitled "An act making appropriations or the support of Government, for the year one thousand eight hundred and six," made a report thereon; which was read and ordered to lie on the table.

A message from the Senate informed the House that the Senate have agreed to the arrangement proposed by the joint committee of conference touching the amendments of the Senate to the bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and six;" they recede from their fourth, sixth, seventh, eighth, tenth, and twelfth, and insist on their fifth, ninth, eleventh, thirteenth, fourteenth, and fifteenth amendments to the said bill.

The House proceeded to consider the said message: Whereupon,

Resolved, That this House do recede from their disagreement to the amendments insisted on by the Senate, and do agree to the amendment and modification of all the other amendments proposed by the Senate to the said bill.

A Message was received from the President of the United States, transmitting a treaty concluded with the Piankeshaw Indians, for extinguishing their claim to the country between the Wabash and Kaskaskia cessions.

The Message was read, and, together with the treaty transmitted therewith, referred to the Committee of Ways and Means.

The House resolved itself into a Committee of the Whole, on the bill sent from the Senate, entitled "An act to regulate and fix the compensation of clerks, and for other purposes." The bill was reported with several amendments.

Ordered, That the said amendments, together with the bill, do lie on the table.

Mr. John Randolph, from the Committee of Ways and Means, presented a bill repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" which was read twice, and committed to a Committee of the whole House to-morrow.

The Speaker laid before the House the following letter from the Secretary of the Treasury; which was read and laid on the table:

Treasury Department, *April* 15, 1806.

Sir: In answer to the request contained in the resolution of the House of Representatives of the 8th instant, I have the honor respectfully to state, that "no application has been made to draw money from the Treasury for the purchase of the Floridas before an appropriation made by law for that purpose."

The circumstances which may have produced an impression that such an application had been made, being unconnected with any matter pertaining to the duties of the office of Secretary of the Treasury, are not presumed to come within the scope of the information received from this Department by the House.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

The Hon. the Speaker *of the House of Representatives.*

DEFENCE OF PORTS AND HARBORS.

The House resolved itself into a Committee of the Whole on the bill "for fortifying the ports and harbors of the United States, and for building gunboats."

The first section was read, as follows:

Sec. 1. That a sum of money not exceeding $150,000, in addition to the sums heretofore appropriated, shall be, and the same is hereby appropriated, to enable the President of the United States to cause the ports and harbors of the United States to be better fortified and protected.

Mr. D. R. Williams moved to strike out the first section of the bill.

Mr. McCreery.—Mr. Chairman: I shall not only vote against striking out the first section of this bill, but mean to renew the motion made in Committee of the Whole by the gentleman from Virginia, (Mr. Dawson,) to appropriate $500,000 for the building of three frigates.

When we take into consideration the present unsettled state of Europe, the great and growing importance of our commerce, and the defenceless state it is in, can any man think of lessening the very small protection afforded to it by the nation? Will our constituents not be shocked at the small attention that is paid to such an immense property? Sir, the stake is too great to be trifled with. According to the report laid on your table a few days ago by the Secretary of the Treasury, our exports amounted to upwards of ninety-five millions of dollars for the last year, but as they commonly exceed our exports, both together must amount to nearly two hundred millions, to which I add, for one million tons of shipping, fifty millions, which gives an active property of near two hundred and fifty millions of dollars belonging to our fellow-citizens; the greater part of which is almost constantly exposed to depredations.

Now, sir, according to an estimation which I have made of fifteen per cent. gain on our imports and exports, and of twenty dollars per ton, carried annually by our shipping, it appears that our merchants have brought more wealth into the nation last year, than all our native produce and manufactures, which were exported the same year, amounted to. I therefore appeal to the good sense and candor of this House, whether it is consistent with the duty we owe our constituents to abandon such an interest.

When this subject of our carrying trade, as it is called, was lately before the House, some gentlemen gave it credit for about $800,000, which arose from the system of debentures. The same item in the last report is, I believe, stated at one million and a half. But this, sir, in comparison to the other immense advantages of our trade, I consider as mere drippings in the pan; and I only mention it now in order to show to the House the manner in which it arises, because it will be a complete refutation of all those little insinuations and gross charges lately uttered on this floor against that part of the community.

Agreeably to the system of drawback, all goods imported, which pay a duty, are entitled to debenture on being re-exported, provided they remain in the same package, and are not altered. Therefore, if a merchant on examining his goods, which he commonly does, is tempted to dispose of a piece of linen, a pair of gloves, or a piece of ribbon, he loses the drawback on the entire package; and, therefore, because he will not take a false oath, the nation gains these sums of money.

I know, sir, that custom-house oaths are proverbial in Europe; but they are not so here yet; and I think it will depend on this House that they never shall.

Notwithstanding the present great extent of our trade, we have the means of extending it much further from our increased circulating medium; and this will certainly take place should Europe remain in its present situation. It, therefore, appears to me to be wisdom in this House to afford to our commerce the necessary protection it requires. So much wealth pouring in will soon lower the interest of money. Banks are multiplying, but their dividends are lessening so fast, that these riches must soon be applied to agriculture and to manufactures.

The question was then taken on the motion of Mr. Williams, which was disagreed to—ayes 20.

Mr. Masters moved a new section, appropriating a sum not exceeding —— dollars, to enable the President of the United States to cause the port and harbor of New York to be better fortified and protected.

Mr. Smilie opposed the motion, under the impression that no sum in the power of Congress to give would accomplish this object.

Various motions were made to incorporate in the section a provision for fortifying the several ports of Charleston, Norfolk, New Orleans, Baltimore, and Georgetown.

Mr. Quincy.—Mr. Chairman, gentlemen seem disposed to treat this subject lightly, and to indulge themselves in pleasantries on a question very serious to the commercial cities and to the interests of those who inhabit them. It may be sport to you, gentlemen, but it is death to us. However well disposed a majority of this House may be to treat this bill ludicrously, it will fill great and influential portions of this nation with very different sentiments. Men who have all that human nature holds dear—friends, fortunes, and families—concentrated in one single spot on the seacoast, and that spot exposed every moment to be plundered and desolated, will not highly relish or prize at an extreme value the wit or the levity with which this House seems inclined to treat the dangers which threaten them; and which are sources to them of great and just apprehensions. I do not rise, Mr. Chairman merely to support the motion made by the gentleman from New York. It is not the fortification of this or that particular city which I mean to advocate. I should have preferred a general appropriation, leaving it to the discretion of the Executive to apply it to those ports and harbors which are either most exposed or most important. And if by anything that shall occur in the course of the discussion, the House shall be induced to change what at present seem

to be its disposition, I hope the augmented appropriation will be made in that form. It is to the general duty which is incumbent upon this Legislature to protect the commercial cities, that I would call its attention. This duty is so plain and imperious, that, in my opinion, an awful weight of responsibility rests upon this House. Every class and collection of citizens have a right to claim from Government that species of protection which their situation requires, in proportion to their exposure, and to the greatness of the stake which society has in their safety. Our obligation to protect the commercial cities does not result from the particular exigency which at present impends over our nation; but from the nature of those cities. The duty is permanent, and ought to be fulfilled by a permanent system. A regular course of annual appropriations may in a very few years put all our capital cities in a state of reasonable security, and at no very distant period of time, without any additional imposition on the people, give every city on our coast an adequate defence. It is in this light that I consider the question now before the Committee to be important. Not that any sum which may be inserted will be immediately sufficient for all the objects for which we have to provide. But that any augmentation of the appropriation will be a pledge to the nation of the disposition of this House to commence a system of defence for our cities. Any evidence of which will give just satisfaction to great masses of your citizens, as an appearance of a want of it, will fill them with no less discontent and dismay. In this point of view I ask the indulgence of the Committee to a few observations on the importance of fortifications, their utility, and practicability.

As to the importance of the objects for which we ask a defence, it seems to me either not understood or not realized. Almost all who have spoken upon the subject have dwelt chiefly, if not altogether, on the amount of revenue drawn from the commercial cities; as if their value were to be appreciated, or our duty to defend them measured, by the annual product they yield. This, it is true, makes a natural part of the estimate of their worth, but, as I apprehend, by no means the most important. Their situation, the number of their inhabitants, the great portion of the active and fixed capital of society which they contain, are, in a national view, standards much more just and more elevated by which to ascertain their value and our obligations. I ask, sir, what is the amount of the capital of this nation which is invested in the single city of New York? The annual product it yields to our revenue is three millions of dollars. Now suppose the average of import duties is only ten per cent. *ad valorem*, (a sum certainly below the real average,) the annual amount of capital deposited in imports, is, then, thirty millions of dollars. The amount of value in exports cannot be estimated at less than twenty millions. If to these be added the capital of its banks, the amount of stock always on hand, and that of its shipping and other personal property, all of which no one can rate below another fifty millions, the result is, that there is in annual deposit, within the city of New York alone, one hundred millions of the active capital of this nation! I know how far this is below the real estimate, but I state this sum that no one may hesitate to admit my position. I ask, then, what is it worth to insure this sum against the risk of an invasion, not on calculations on the great national scale, but on a mere insurance office arithmetic? I have been told that to insure that city against such risk, for one single year of war, with any of the great maritime nations of Europe, would be worth five per cent. That is, the insurance for a single year of war would repay the expense of fortifications, even should they cost five millions of dollars. But, suppose this calculation extravagant, can any one doubt that such an insurance in time of peace against the double risk of war, and of attack in case of war, is worth one half per cent.? Even at this premium, six years of insurance, in time of peace, would repay the expenditure of three millions—a sum more than adequate to the defence of that city. In making this statement I would not be understood to pretend nor to propose such an appropriation; it is not asked. My object is to call gentlemen to consider what is the market worth of security, and that they may not deem the moneys they apply to these objects, as they seem willing to deem them, absolutely thrown away. This great mass of the national wealth, thus concentrated on the banks of one of the most exposed harbors in the world, is liable to the insult and depredation of the most despicable force. Two seventy-four-gun ships may at this moment lay that city under contribution or in ashes, altogether with impunity. They might make it the interest of the inhabitants of that city to pay an amount equal to the whole annual revenue we derive from it, rather than submit to the hazard and miseries of bombardment and conflagration. For in such case the mere destruction of property is but an item in the account of anticipated misfortune. The shock to credit; the universal stagnation of business; the terror spread through every class, age, and sex; the thousands who have no refuge in the country, but must take the fate, and be buried under the ruins of their city—all these circumstances would enter into a consideration, and make the pecuniary sacrifice, however great, appear trifling in comparison.

I have used the city of New York only by way of example. The same observations are applicable to every other commercial city in the United States, in proportion to its magnitude and the nature of its situation. Two seventy-fours might sweep the coast from Savannah to Portland, and levy an amount equal to the whole annual revenue of the United States. It would be better for any city voluntarily to pay a contribution equal to its proportion of that amount, rather than to take the alternative of that destruction to which, on refusal, it would be obliged to submit. Is such a state of things as this a light and trifling concern? Are such portions of the wealth of the community to be left exposed to the caprice of every plunderer; and are propositions to protect them to be treated with contempt or with ridicule? Can any duty be more solemn or imperious than that which has for its object a rational degree of security for those points in the United States which are beyond all others exposed to hostile attack, at the same time that they comprise within the smallest possible compass, immense masses of the national wealth and population?

The importance, then, of the objects to be defended will be admitted. But the utility of fortications as a means of defence, and their practicability in certain ports and harbors, are denied. With respect to the general utility of fortifications, I ask by whom it is denied? by men interested in that species of defence? by the inhabitants of cities? by those, the necessity of whose situation has turned their attention to the nature of fortifications and their efficacy? No, sir; these men solicit them. They are anxious for nothing so much. They tell you the safety of all they hold dear, their wives, their children, their fortunes, and lives, are staked upon your decision. They do not so much ask fortifications as a favor; they claim them as a right; they demand them. Who are they, then, who deny their utility? Why, men, from the interior; men, who in one breath tell you they know nothing about the subject, and in the next pass judgment against the adoption of any measures of defence. It is true, sir, to men who inhabit the White Hills of New Hampshire, or the Blue Ridge of Virginia, nothing can appear more absolutely useless than appropriations for the defence of the seacoast. In this, as in all other cases, men reason very coolly and philosophically concerning dangers to which they are not themselves subject. All men, for the most part, bear with wonderful composure the misfortunes of other people. And, if called to contribute their relief, they are sure to find in the cold suggestions of economy, enough apologies for failure in their social duties. The best criterion of the utility of fortifications, is the practice and experience of other nations. Now, I ask, was there ever a nation which did not defend their great commercial deposits by either land fortifications or sea batteries? All history does not exhibit such an instance. Are we wiser, then, than all other nations? or are we less exposed than they? are we alone to escape the common lot of humanity? can we expect to be rich and not tempt the spirit of avarice? to be defenceless amid armed pirates, and in no danger of robbery or insult? I ask again, sir, how is the inutility of fortifications proved? Suppose, for the sake of argument, it should be admitted, which, however, I deny, that they cannot be erected in sufficient force to defeat very great armaments; yet is it nothing to prevent the piratical attempts of single ships? Is it nothing to deter an invader? nothing even to delay an attack? Is it worth nothing to have the chance of crippling an assailant? The only argument I have heard urged against the utility of fortifications, is, that the whole coast cannot be fortified, so that, protect as strongly as you will particular points, the invader will land somewhere else. Sir, this is the very object of fortifications. No man ever thought of building a Chinese wall along all the indentations of our shore, from St. Mary's unto St. Croix. The true object of fortifications is to oblige your enemies to land; it is to keep them at arm's length. If they cannot reach your cities with their batteries, and would attack, they must come on shore. They are then only a land force, and our militia will find no difficulty in giving a good account of them. The only remaining evidence in the possession of this House against the utility of fortifications, are the opinions of various gentlemen, delivered on this floor; and that of the Secretary of War, as stated in his report. As to the former, they certainly do not merit a serious refutation, because no gentleman who has spoken has pretended to a practical or even theoretical knowledge of the subject; but, on the contrary, most, if not all, of them, have candidly confessed their ignorance. It is of more importance to consider the opinion of the Secretary at War. That part of his report which relates to the harbor of New York contains his general opinion against the practicability of defending such an harbor by land batteries, and two facts in support of that opinion. Now, as to the general opinion of the Secretary, I am willing to allow it whatever weight any gentleman may choose to attach to it; but certainly it ought not to be conclusive in an affair of such immense importance; especially when it is contradicted by the tenor of the applications on your table, and by the opinions of other individuals of as high military and scientific reputation as the Secretary. Much less does this, his opinion, claim from us implicit confidence, since the only two facts he has chosen to adduce, are very far from being a sufficient basis for the broad opinion he has built on them. The first fact is one which occurred in the harbor of New York, in 1776. A British ship of forty guns passed the batteries on the Hudson, under circumstances favorable to the effect of the batteries, and sustained a *tremendous cannonade*, without being sensibly *incommoded*. Allowing this fact its full force, it can weigh but little against the utility or practicability of fortifications. That was the second year of the war; our batteries were erected on sudden emergency; our artillerists had probably little experience.

Will it be pretended that the batteries this nation, in its present state of affluence and experience, can erect, will not exceed, both in location and power, those which at that time protected the Hudson? Besides, to draw from a particular instance a general conclusion, is contrary to all rules of just logic. Various circumstances, altogether accidental, might have occurred to have produced that result, which might never occur again. If this instance be a good argument against the utility of land fortifications, there is an equally strong argument in the history of our Revolution, against the fashionable mode of defence by gunboats. I take the fact only from verbal information, and if I am incorrect, there are gentlemen on this floor who can set me right. During the war, a British frigate of forty-four guns, called the Roebuck, took ground in the Delaware; and though we had gunboats, *quantum sufficit*, who pelted her to their

heart's content during one whole tide, she received no manner of injury, at least none of any importance. If I have this fact correctly, it is just as strong against the efficacy of gunboats, as that produced by the Secretary is against land batteries. One word here concerning this mode of defence by gunboats, which seems to concentrate all the naval affections of our rulers, and to have on freight all their military hopes. It is not denied that these are weapons of considerable effect or that in certain situations they are useful, or that in aid of other and heavier batteries, they may not sometimes be important. It is only when they become the favorites, to the total exclusion of more powerful modes of defence, and draw away to the less power appropriations that are wanting for the greater, that the system which upholds them becomes an object of contempt or of dread. Now-a-days, sir, put what you will into the crucible, whether it be seventy-fours, or frigates, or land batteries, the result is the same; after due sweltering in the legislative furnace, there comes out nothing but gunboats. I ask, if our cities are attacked by any maritime nation, will it not be by line-of-battle ships? And who ever heard that a line of-battle ship was defeated by gunboats? I do not pretend to be learned in these matters, but as far as I have been able to gain information, it is, that when there is anything of a heavy sea, even such as is often in the harbor of New York, gunboats are of very little efficacy. It is true, in case of a calm, if they can get their object at rest, they have great advantage; that is, if you can get the bird to stand still until you can put salt upon its tail, you can catch the bird. But the worst of it is, that it is too cunning for that. The ship-of-the-line chooses its own time for the attack, and will always select that which is least favorable to its adversary.

But, to return to the report of the Secretary at War. The next fact it states is the battle of Copenhagen. Now, if this be admitted merely as an evidence of a particular instance of the inefficacy of land batteries, I do not think it important enough to take the time to examine. The true question is not whether New York can be defended in a particular way, but whether it is capable of defence at all, by combining land with floating batteries? In this point of view, the instance adduced by the Secretary is, perhaps, the most memorable on record, and the one, of all others, in which those who advocate a defence of our commercial cities, ought to exult as in an incontrovertible evidence of the truth of their system. What was the fact? One of the best appointed naval armaments of the most powerful maritime nation in the world, under her most favored and fortunate commander, was sent to attack Copenhagen. The Danes were taken by surprise. Everything, apparently, was in favor of the assailant and against those who acted on the defensive. To fifteen line-of-battle ships, the Danes had nothing to oppose but their land and harbor batteries, fortifications, and block ships. And what was the result? Why that, after a most bloody and well-contested battle, the British first asked a truce. To this day the Danes claim the victory. Olfert Fischer, the Danish commander, in his official statement of the battle, declares that, before the flag of truce was offered, two of the British ships-of-the-line had struck their colors, and that, for some time, their whole force was so weakened that it fired only single guns. Intelligent Europeans assert, and even candid Englishmen will allow that, if ever Nelson was beaten, it was on that occasion. But, suppose all this to be erroneous. Suppose that Nelson obtained a real victory—does it thence result that the fortifications and block ships with which Copenhagen was defended were useless? By no means. Still that battle is an illustrious and irrefragable instance of their utility. It is a fact on record, worth a million theories in favor of the efficacy of a harbor defence against a maritime force. Sir, the end for which those batteries was erected is attained. Copenhagen is defended. The storm which would have desolated the city has spent its force on the artificial shield. Let gentlemen calculate the probable cost of those batteries; and suppose by expending a similar sum in the harbor of New York, that city might be defended as Copenhagen was, and from a like danger—is there a man that can hesitate as to the wisdom of such an expenditure? Sir, the city of Copenhagen, on that day, was preserved from a devastation, which the cost of twenty such batteries would not have repaired. I conclude, then, that our commercial cities can be defended. Land batteries combined with harbor batteries are equal to the object. To this question of practicability, concerning which so much is said, I humbly conceive this is not the place where it ought to be decided, it belongs to the Executive; that is the proper department to examine it. Our duty is to make the appropriations; to show, at least, a disposition to defend. If New York cannot be defended, is it the same case with Charleston, Savannah, or Norfolk? Shall we leave the whole defenceless, because a particular part is vulnerable? Sir, let us confess the truth. The limit of our power to defend is not in the nature of the cities, but in our disposition to appropriate; not in the inefficacy of land or harbor batteries, but in our insensibility to the danger of the commercial cities and unwillingness to make the pecuniary sacrifices their protection requires. On all sides we are met with the objection, "where are the means?" "How is the public debt to be discharged, if we incur such an expense?" Mr. Chairman, none of these difficulties are insurmountable when Southern land is to be purchased, or when our new territories on the Missouri and Red river are to be explored, or when Indian titles in the Western country are to be extinguished. We have paid within these two years fifteen millions of dollars for Louisiana, and have sent off two millions more to purchase the Floridas. I ask, on what principle can either of these purchases be made palatable to the people of the United States? Do they want more land, or wider dominions? On either of these considerations, would they for one moment have submitted to either purchase? It was

because the possession of the Mississippi through its whole course was essential to the security and happiness of our brethren beyond the mountains, that the purchase of Louisiana was sanctioned by public opinion; and if ever that of the Floridas receive the acquiescence of the people, it will only be from the conviction that the possession of those countries is necessary for the tranquillity of our southern frontier. All this we have done for the security of the South and West. We now ask for reciprocity; grant us something for the security of the North and East. Let not the people see that all the incomes proceed from one quarter of the Union, and all the expenditures are made in another. Let them not learn, from experience, that the ball of favoritism, and that of empire, is travelling south and west. I ask, what are the Floridas, or what is Louisiana, in comparison with the single city of New York? This city alone is worth forty Louisianas. Yet, when Louisiana was purchased, did the increase of the public debt prevent the bargain? Or, of late, was the question of "means" an obstacle to the appropriation for the Floridas? The seventeen millions of dollars thus expended for the security of the South, would have put every commercial city of the United States into a complete state of defence. I do not, Mr. Chairman, introduce the purchase of Louisiana and the Floridas in this connexion lightly, or without antecedent reflection. I would hold up to this House a mirror, in which it may contemplate itself, and see its own features. It is impossible not to remark that the sympathies of the majority of this Legislature do not extend to the seacoast. But, whatever will meliorate the condition of the interior, excites all its sensibilities and awakens all its anxieties. Look, at this moment, on your table; there are no less than four, I believe five Indian treaties, which have been ratified the present session, the appropriations for which, occasion no alarm about the public faith or the public purse. It is worth our while to notice the particulars:

By these treaties the United States agree to pay first, cash down - - - -	$37,600
Next, the following annuities:	
$1,600 for ten years - - -	16,000
12,000 for eight years - - -	96,000
11,000 for ten years - - -	110,000
	259,600
In addition to which, we are to pay other annuities, amounting to $4,000 forever. These last cannot be estimated at less in any market than $50,000, but which I rate only at - - - -	$40,400
	259,600
	300,000
Besides which, our appropriations for the Indian department and for the support of the civil government of Louisiana, and our other Southwestern territory, exceed	150,000
	$450,000

Thus, in this single session, we shall appropriate four hundred and fifty thousand dollars, for the security and the protection of the Southwest. But, for our ports and harbors, an appropriation of one hundred and fifty thousand dollars, for the mere repair of old fortifications, is thought to be an enormous expenditure. Even this is violently opposed. But any additional sum to begin new works, is not only hopeless, but cannot be even named without exciting a smile of contempt.

Now, let us look at the other side of the account. It will be found, by the report on your table, that the nine capital cities of the Union—Portland, Portsmouth, Boston, Newport, New York, Philadelphia, Baltimore, Norfolk, and Charleston—have had expended in fortifications, for their defence, since the establishment of the Federal Government, only seven hundred and twenty-four thousand dollars! That is to say, your appropriations in one session for the security and comfort of the Southwest, is more than half the whole amount expended during sixteen years for the security of all these great commercial cities, which contain two or three hundred thousand inhabitants, and which paid into your Treasury the last year, upward of nine millions of dollars!! It is impossible that this state of things should not be understood and realized by the people of these States, and that at no very distant period. It requires only some actual suffering, some real misfortune, resulting from your ill-timed parsimony, or misplaced affections, to rouse a spirit in the commercial States which will shake this Union to its foundation.

Of all times, those will be the most dreadful, and the most to be deprecated by every real lover of his country, when the party passions shall run parallel to local interests. Whenever any great section of the Union shall deem itself neglected, and the opinion becomes general among the people that they are sacrificed or abandoned; that they have not any, or their just weight, in the national scale, a series of struggles must commence, which will terminate either in redress or in convulsions. Events of this kind are not to be prevented by common-place declamation about submission to the will of the majority. A real reciprocity must exist. Intelligent men must see and feel that a regard, proportionate to their real interest at stake in society, is entertained for them by their rulers. With such perception and experience your Union is a bond of adamant, which nothing can break. Without them, I will not say it will be dissolved, but this I will say, it cannot be happy, even if it should be lasting.

It is impossible to form a just estimate of our obligations to defend the commercial cities, without having a right idea of the nature and importance of our commerce to the Eastern States, and attaining a just apprehension of its influence over every class of citizens in that quarter of the Union. From what has fallen from various gentlemen in the House, it is very apparent that they do not appreciate either its nature, its power, or the duties which result from our relation to those who are engaged in that pursuit. The gentleman

from Virginia (Mr. John Randolph) told us the other day "that the United States was a great 'land animal; a great mammoth, which ought to 'cleave to the land, and not wade out into the 'ocean to fight the shark." Sir, the figure is very happy so far as relates to that quarter of the Union with which that gentleman is chiefly conversant. Of the Southern States, the mammoth is a correct type. But, I ask, sir, suppose the mammoth has made a league with the cod, and that the cod, enterprising, active, and skilful, spreads himself over every ocean, and brings back the tribute of all climes to the feet of the mammoth; suppose he thereby enables the unwieldy animal to stretch his huge limbs upon cotton, or to rub his fat sides along his tobacco plantations, without paying the tithe of a hair? In such a case, is it wise, is it honorable, is it politic, for that mammoth, because by mere beef and bone he outweighs the cod in the political scale, to refuse a portion of that revenue, which the industry of the cod annually produces, to defend him in his natural element; if not against the great leviathan of the deep, at least against the petty pikes which prowl on the ocean; and if not, in the whole course of his adventurous progress, at least in his native bays and harbors, where his hopes and wealth are deposited, and where his species congregate?

Other gentlemen have shown an equal want of a just apprehension of the nature and effects of commerce. Some think any of its great channels can be impeded or cut off without important injury. Others, that it is a matter of so much indifference, that we can very well do without it. The gentleman from Pennsylvania (Mr. Smilie) told us some days since, "*that for his part he wished that at the time of our Revolution there had been no commerce.*" That honorable gentleman, I presume, is enamored with Arcadian scenes, with happy valleys. Like a hero of pastoral romance, at the head of some murmuring stream, with his crook by his side, his sheep feeding around, far from the temptations, unseduced by the luxuries of commerce, he would "sport with Amaryllis in the shade, or toy with the tangles of Nerea's hair." I will not deny that these are pleasant scenes. Doubtless they are well suited to the innocence, the purity, and the amiable unobtrusive simplicity of that gentleman's mind and manners. But he must not expect that all men can be measured by his elevated standard, or be made to relish those sublime pleasures. Thousands and ten thousands in that part of the country I would represent have no notion of rural felicity, or of the tranquil joys of the country. They love a life of activity, of enterprise, and hazard. They would rather see a boat-hook than all the crooks in the world; and as for sheep they never desire to see anything more of them than just enough upon their deck to give them fresh meat once a week in a voyage. Concerning the land of which the gentleman from Virginia, (Mr. J. Randolph,) and the one from North Carolina, (Mr. Macon,) thinks so much, they think very little. It is in fact to them only a shelter from the storm; a perch on which they build their eyrie, and hide their mate and their young, while they skim the surface or hunt in the deep. The laws of society and the views of enlightened politicians ought to have reference, not to any ideal, theoretic state of human perfection, but to the equal protection and encouragement of every species of honorable industry. I know it has been said by way of apology for not doing anything more in defence of commerce, that it already was indebted for its prosperity to our laws and regulations. The gentleman from Virginia (Mr. J. Randolph) told us, expressly, "that the votes of Southern men had given us our drawbacks and discriminating duties," whence he would conclude that our commerce and navigation had nothing more to ask at their hands. The honorable Speaker, too, referred the prosperous condition of our commerce to the adoption of the Constitution, and to the provisions established under it. I am the last man in the world to deny the happy influence of that instrument in meliorating the condition of this nation. But our commercial prosperity is owing much more to accident and nature, and much less to law, than we are apt to imagine, or are willing to allow. Every year we get together on this floor to consult concerning the public good. The state of commerce makes a capital object in all our deliberations. We have our Committee of Commerce and Manufactures, and a great part of every session is exhausted in discussing their provisions, limitations, and restrictions, until at last we slide into the belief that commerce is of our creation; that it has its root in the statute book; that its sap is drawn from our parchment, and that it spreads and flourishes under the direct heat of the legislative ray. But what is the fact? Look into your laws. What are they? Nine-tenths—I should speak nearer the truth should I say ninety-nine hundredths of them, are nothing more than means by which you secure your share of the products of commerce; they constitute the machinery by which you pluck its Hesperian fruit, and have nothing to do with the root that supports it, or with the native vigor which exudes into this rich luxuriance. Sir, the true tap-root of commerce is found in the nature and character of the people which carry it on. They and their ancestors, for nearly two centuries, have been engaged in it. The industry of every class of men in the Eastern States has reference to its condition, and is affected by it. Why, then, treat it as a small concern; as an affair only of traders and of merchants? Why intimate that agriculture can flourish without it? When, in fact, the interests of these two branches of industry are so intimately connected that the slightest affection of the one is instantly communicated to the other. I know very well that there is a great difference between the relations of commerce and agriculture in the Southern and in the Eastern States: and this is one of the chief causes of that diversity of sentiment which now prevails among those who dwell in these different parts of the Union. In the Southern States there are comparatively few, if any, who depend on commerce altogether for subsistence. Whatever affects commercial prosperity, produces no general distress or discontent. Perhaps insurance or freight may advance a little in consequence of its embarrassment. Perhaps one or other of their great staples may find not so ready or so high a market. But these inconveniences throw none out of employment, or out of bread. Very different is the state of things in the Eastern States. Their commerce is not merely, as the honorable Speaker called it, "a wagon—a mode of conveyance of products to the consumer." It is more, infinitely more; it establishes within the country an immense fund of internal consumption. All its dependants—merchants, tradesmen, mechanics, seamen, and laborers of every class and description—look to it, either for that profit which makes a great portion of their happiness, or for that employment on which their subsistence depends. The state of agriculture is adapted, and has been for centuries, to the supply of the wants of this internal consumption. The farmer is bound to commerce by a thousand intimate ties, which, while it is in its ordinary state of prosperity, he neither sees nor realizes. But let the current stop, and the course of business stagnate in consequence of any violent affection of commerce, the effect is felt as much, and in some cases more, by those who inhabit the mountains as by those who dwell on the seacoast. The country is associated with the city in one common distress, not merely through sympathy, but by an actual perception of a union in misfortune. It is this indissoluble community of interest between agriculture and commerce, which pervades the eastern portion of the United States, that makes our treatment of the commercial interest one of the most delicate, as well as important questions that can be brought before this Legislature. That interest is not of a nature long to be neglected with impunity. Its power, when once brought into action by the necessity of self-defence, cannot but be irresistible in this nation. Sir, two-fifths of your white population are commercial; or, what is the same thing, as to its political effect, have their happiness so dependent upon its prosperity, that they cannot fail to act in concert, when the object is to crush those who oppress, or those who are willing to destroy it. Of the five millions which now constitute the white population of these States, two millions are north and east of New Jersey; this great mass is naturally and indissolubly connected with commerce. To this is to be added the like interest, and that of no inconsiderable weight, which exists in the Middle and Southern States. Are these powerful influences to be forgotten or despised? Are such portions of the Union to be told that they are not to be defended, neither on the ocean, nor yet on the land? Will they, ought they to, submit to a system which, at the same time that it extracts from their industry the whole national revenue, neither protects it abroad nor at home? It needs no spirit of prophecy to say that they will not. No power on earth can prevent a party from growing up in these States in support of the rights of commerce to a sea and land protection. The state of things which must necessarily follow, is of all others to be deprecated. As I have said before, when party passions run parallel to local interests of great power and extent, nothing can prevent national convulsions; all the consequences of which can neither be numbered nor measured. Mr. Chairman, I do not introduce this idea to threaten or terrify. I speak, I hope, to wise men, to men of experience, and of acquaintance with human nature, both in history and by observation. Is it possible to content great, intelligent, and influential portions of your citizens, by anything short of a real attention to their interests, in some degree proportionate to their magnitude and nature? When this is not the case, can any political union be either happy or lasting? Now is the time to give a pledge to the commercial interests, that they may be assured of protection, let whatever influence predominate in the Legislature. A great majority of this House are from States not connected intimately with commerce. Show, then, those who are, that you feel for them as brothers; that you are willing to give them a due share of the national revenue for their protection. Show an enlightened and fair reciprocity. Be superior to any exclusive regard to local interest. On such principles, this Union, so desirable, and so justly dear to us all, will continue and be cherished by every member of the compact. But let a narrow, selfish, local, sectional policy, prevail, and struggles will commence, which will terminate, through irritations and animosities, in either a change of the system of Government, or in its dissolution.

Mr. Dawson said he was sorry the motion was made. He did not believe, from the discussion the subject had undergone, that the House would undertake to say on what objects the sum appropriated should be applied. The sum proposed to be appropriated by the bill was $150,000. He was averse to going beyond that sum, and he was well persuaded that any attempt to go beyond it, would have a tendency to defeat the bill altogether.

Mr. Smilie declared himself against the amendment, but willing to grant the sum applied for by the proper officer.

The question was then taken on Mr. Masters' motion, and lost—only twenty-one members rising in its favor.

Mr. Dawson stated that the fate of the frigate Philadelphia was well known, and added that the frigates Boston and General Greene had been condemned as unfit for service. To supply the deficiency in the Naval Establishment, he offered a new section appropriating a sum not exceeding $500,000, to enable the President to cause three additional frigates to be built.

Mr. Lyon moved to add, after frigates, "or two seventy-fours."

Mr. Lyon.—Ignorant as I may be supposed with respect to nautical affairs, it will no doubt be thought presumptuous for me to join in this debate, or to offer my crude opinions to the Committee. I can assure you, sir, that so fully am I persuaded of this, and so little hope have I that anything I can say on this subject will alter the

opinion of one gentleman on this floor, that I would have given a silent vote on this extremely important question, did I not know that this is a question of the first magnitude, as it respects the interest of the Western country, and did I not feel it my duty to attempt an explanation of that interest.

The question before us I view to be merely this, will the nation afford the reasonable encouragement and protection within her power to her own commerce, carried on in the vessels of her own citizens, built of her own materials, and by her own artificers? Or, in other words, will you afford a reasonable share of that revenue which you derive from commerce to its protection? While commerce is paying your national debt; while she supports your civil list and your War Department; while she pays immense sums under the heads of foreign intercourse, and Mediterranean and Indian tributes; while she is adding to your dominion the finest rivers on the globe, with numberless millions of the richest acres, and while she furnishes you with the products of every other country at a reasonable price, thereby greatly enhancing the value of the produce of your own, at the same time increasing her own power of serving you in a compound ratio of about ten per cent., will you suffer her wings to be clipped, and her vitals to be struck at by every foreign robber who can set afloat a bark able to carry a gun? The documents laid before you from the Treasury Department, show that I am within bounds when I thus describe the powers and the utility of this, I had almost said, omnipotent handmaid—commerce. While the petitions from the merchants all along the seaboard with which your tables have been loaded, together with the newspapers you every day read, portray a share only of the injuries commerce sustains, and the dangers to which she is exposed, they justify me in asking the question: Will gentlemen, I say, sir, like the avaricious boy in the fable, kill the goose that lays the golden egg? Or shall the ox that treads out the corn be muzzled, and starved in the midst of surrounding plenty?

I know very well I am addressing two classes of gentlemen who are in the habit of viewing this subject in a light very different from myself. The first class, the largest, and very respectable they are indeed, consists of back-country gentlemen, who live inland, all along from New Hampshire to Georgia; being but little interested in commerce themselves, many of them believe that by the destruction of foreign commerce, their constituents will be driven to provide their own necessaries by their own industry, and that it will be a blessing to them. I fear, sir, these gentlemen do not reflect with due consideration; if they did, they would see that by the destruction of foreign commerce, they will be obliged to recur to internal taxation, at a time when every source is dried up from which the people have been in the habit of receiving money to pay their taxes. I fear, sir, that those gentlemen have not sufficiently examined the truth of the position, that the necessity of satisfying the mere wants of nature seldom excites industry, and that industry is produced only by a desire to obtain those things which meet the artificial wants of man. I fear, sir, they disregard the well-founded maxim, that in proportion as a nation neglects and despises commerce she approaches to barbarism.

To this class of gentlemen permit me to say, that when, by my situation, I was exposed to all the prejudices which back-country people have imbibed on this subject, I saw, as clearly as I now do, the prospect and the necessity of this nation becoming a great maritime Power. I saw that the industry of the nation, and her first interest, I mean the agricultural interest, would be best promoted by providing for the defence of the general commercial enterprise of our fellow-citizens, who ventured to build vessels and embark their property on the ocean; I voted accordingly, under the former Administration, until I found the land was to be taxed to build ships of war. I thought it time then to pursue a different course, and although we have now an Administration in whom I place the most unbounded confidence, and my geographical situation is changed to a part of the United States by far the most interested of any in the protection of the commercial enterprise of the nation, as I shall hereafter show, I would not vote for money for the Navy which is to be drawn from a land tax, or which is wanted to fulfil the engagements of the Government for the payment of the national debt. To the other class of gentlemen who look upon this subject in a light different from me, and who live on or near the seacoast, in the Middle and Southern States, let me be permitted to observe, that seldom seeing the want of shipping to carry away the produce of their lands, I fear they feel but little for those who are differently situated. I have often heard those gentlemen say, that "we as a 'nation have no business on the ocean; there are 'foreigners enough who wish to carry our pro-'duce to their own countries; let them do so, we 'have employment enough for our people on the 'land; let them till the ground." But, sir, the Western people cannot say that foreigners will carry away their produce; and as for our Eastern brethren, who have not the most productive soil, they are blessed with industrious hands and prolific wives; they have already a plentiful population, whose adventurous and enterprising genius has led them to be familiar with the seas, from the neighborhood of the north to that of the south pole. To the northwest coast of America they are no strangers. Kamschatka, Japan, China, and the Indian seas, are nearly as familiar to them as the Mediterranean, the Baltic, the Bay of Biscay or the Bay of Fundy. In the construction of ships they stand behind no people on earth. They claim a right peaceably to navigate the seas in all their lawful and honest pursuits; they have a claim on the nation for every reasonable support of that right. It is enough, sir, that they have to encounter the danger of the boisterous elements, on which they toil for our comfort and accommodation. It is too much for us tamely to suffer to be added to those dangers the depredations of robbers and freebooters. We ought surely to be prepared to protect them on our own coasts. In the mouths of our own harbors our own fellow-citizens have been robbed of their hard earned pittance, and within a few hours' travel of their wives and their families, the very men to whom we are indebted for having procured the luxuries, and I may say, the necessaries with which our tables are provided, have been dragged by a cruel banditti into the service, and compelled to fight the battles of those whose tender mercies are cruelties—the very nation whose soul burns with envy at the prospect of the rising glory of this. How long is all this to be borne with? How long ought it to be borne with, sir? On the other hand, I may be asked, how is it to be remedied? In that case I will answer, it may be long before it can be completely remedied; in the meantime every reasonable effort in our power is due from us. Some gentlemen say, let us defend our commerce by treaties; we will refuse our custom to Britain; we will not receive her unnecessary manufactures, unless she will give up our seamen and recognise our rights. I also say, treat, sir; I say punish those who invade your rights by non-importation laws, as far as that will go, but with all the treaties we can make, I should like to see a demand made by a commander of an American ship of superior force, on our coast, on a commander of a British ship, for the surrender of the American citizens on board his ship who had not voluntarily enlisted. In that case, with a treaty on your side, you might look for a compliance. Some gentlemen, who place their confidence in treaties, expect that, Bonaparte having reduced the British pride by his conquests in Germany, the British Court will be obliged to acknowledge the principle of free ships making free goods. I have heard talk of a convention of the Ambassadors of the Powers whose commerce is endangered by the pernicious principles and the powerful grasp of Britain, and that this nation ought to have a representation in that convention, which is to force on Britain the principles of the armed neutrality of 1780. If ever there is to be such a convention, it must consist of those nations who can compose an armed neutrality. If the Legislature of this country set their faces against the increase of their naval strength, what pretensions can we have to a representation in the convention sitting for the purpose of agreeing on and demanding the principles of the armed neutrality? I confess in that case I see none. But, sir, let it be known that you have determined to increase your naval strength, with the increase of your means, and your representative will stand on a very respectable footing in such a convention, if there should be any such. I have but little hope of such a convention. I believe Bonaparte thirsts for universal dominion; now he has got the way open for such a convention we hear nothing of it. I believe he will let conventions talk while he acts, and I believe he will attempt to possess himself of the British navy, by seizing on their masters in London; and should he, under the smiles of fortune, who has hitherto proved his friend, be able to get possession of that navy, he will, in defiance of conventions and armed neutralities, dictate to the nations of the earth terms more severe than that nation now does who claims to be mistress of the ocean. But, sir, this is taking up the time of the Committee with mere conjecture; I will talk of reality. It is really well understood at this day, that treaties unsupported by power are no longer regarded by the nations who make them than they comport with their interest. Either party will break them when interest dictates. How many evidences have we had of the truth of this position during the little time this nation has existed? The very statute book on your table contains a law of the United States entitled, "An act to declare the treaties heretofore concluded with France no longer obligatory on the United States." Has it not during this session been proposed to repeal the British treaty? If it has not been proposed in due form, it has been much talked about, and if I mistake not, by a gentleman who was one of those who sanctioned that treaty, by a vote for the appropriations necessary to give it effect. He, I believe, has suggested that it might be repealed.

I say, make treaties, sir, but after making treaties, the sure way to have them respected is to be able, in some degree, to enforce them. It is certainly in our power to give that protection to our commerce on our coast, and in the neighboring seas, which can suppress and keep in awe all pirates and robbers, let their ships be large or small. I am far from expecting that this young nation can meet the whole British force on the element they have long called their own; but I wish the Legislature to dispose of a considerable share of the present and the future increasing surplus of the revenue in providing for that defence which our commerce stands in so much need of. But some gentlemen say, if we build 74-gun ships, we build them for the British; have we not built frigates without building them for the British? Have we not safe harbors for our ships to retire to whenever a superior fleet of any nation visits our coast? Visit it is all they can do, and while they are uncomfortable abroad, our naval force may be comfortable at home, and out again when the superior force retires. Can we be excused in doing nothing at all, because we cannot do everything, because we are not able immediately to create a fleet superior to that of any other nation? Shall we sit down with folded hands, determined to bear every insult, every injury, and every degradation that shall be offered? No, sir, I hope not. I believe this nation is destined, at some future day, to wrest the trident from the very same hand that now holds it. It is my wish to see my coadjutors of this day possessed of a share of that patriotic enthusiasm which will prepare the way, and lead to the speedy completion of that glorious event. But, sir, it has been often said that the maintenance of a naval force is impracticable in a free country; that impressment must be resorted to, and impressments constitute slavery.

Are not many of the principles of our Constitution new, as they respect ancient or modern republics? Has not our own experience and progress in the business of government been a constant contradiction to theories and theorists? Are you not told at this day that a republican form of government cannot be supported in Europe, notwithstanding the example of this nation before their eyes?

Because Britain is obliged to make use of a press-gang to man her fleet, which goes abroad in pursuit of conquests, in which the lives of poor fellows are sported away, who have no interest in the issue, shall it be said that we shall be obliged to press our gallant, our patriotic seamen? No, sir. Our sailors are the children, not the outcasts of the nation; they will volunteer to cruise in the neighboring seas to defend their own gallant comrades, and the property of the men who give them employ. No, sir, we can never have occasion to press sailors. The same fisheries which have long been the boasted nursery for British sailors lie at your door, and will always give employment in time of peace to our seamen; we have an immense coasting-trade, which is a school for seamen; we shall find seamen as fast as we shall build ships, and so far do our seamen exceed all others, that American ships are navigated with about half the hands that are employed by any other nation to navigate ships of equal burden. But suppose, sir, that all the American seamen should be regularly registered and arranged into divisions and subdivisions, on a well-regulated marine militia system, subject to be called upon to do their respective tours of duty as the land militia are. For my part I wish this may be done; no man can doubt the justice or practicability of such a measure. If this should be called impressment, then ordering out the land militia may be called impressment. If it is a hardship for a sailor to be obliged to go a three or four months' cruise in defence of his and his country's rights, for wages fixed on by the Government, is it not also a hardship for a militiaman to be ordered out and obliged to march five hundred or one thousand miles in defence of his own and his country's rights? I do not pretend to be a judge with regard to what sized vessels are best for the defence of our commerce, but that we ought to attempt to defend it, I most religiously believe. One reason that induces me to vote for the resolution now under consideration is, that I incline to think it may be well to have some ships of all sizes; another is, the resolution comes before us sanctioned by the opinion of a respectable committee of this House, as well as that of the President of the United States, in whose judgment in matters of this kind I confide more than in my own. In his communication to this House at the opening of the session, after bringing to our view the pillaged and exposed state of our commerce, he expressed himself in these words: "Considerable provision has been 'made under former authorities from Congress 'of materials for the construction of ships of 74 'guns; these materials are on hand, subject to the 'future will of the Legislature. An immediate 'prohibition of the exportation of arms is also 'submitted to your determination." I am sure that no member, who considered the latter measure as recommended by the President of the United States, can say the former clause is not also a modest recommendation of the President to use the materials and build the 74's. Considerable of those materials spoken of by the President are unfit for any other use than 74-gun ships. This I have from the best authority.

This nation, sir, has been called a great land animal, and it has been wittily said, that she must keep out of the water lest the shark bite off her proboscis; but, sir, if I may be indulged in prophetic allegory, I will say this nation shall be like unto a grand mammoth beaver, the wisdom of her sagacious head, and the industry of her powerful claws, shall raise her agriculture and manufactures to grandeur indescribable; her rivers directed into canals, flowing regularly, like the blood in the veins and arteries of a great animal, shall waft to and from the centre, and from one extreme to the other, her internal commerce, created and supported by her highly improved arts and manufactures; her broad back, extending from the Atlantic to the Pacific, upholding one thousand fine towns and cities, painted with all the variegated colors of a landscape, shall teem with all the richest productions of the globe; it shall be intersected with useful roads and most magnificent causeways; she shall support, in a style of comfort and accommodation heretofore unknown to any nation, one hundred millions of people, free and happy. In those days she shall, by the exercise of her mighty and piscatory tail, sweep from the ocean the pirates of every nation, and she shall give the grateful and consenting world a commentary on the laws of nations, contained in six words, namely: Man shall peaceably occupy the seas.

I believe, sir, I have as great a desire to deserve and obtain the good opinion of this House as most members in it; but unfortunately my zeal in whatever I deem important to the nation, has led some gentlemen at times to attribute to me motives which never govern me. On this occasion I will take the liberty of troubling the Committee with an explanation of that high interest, which, in the outset, I observed the Western country had in the question before the Committee. When I have done this I will rest on the candor of every gentleman to attribute my zeal to the true motive—the interest of the people I have the honor to represent.

I neither wish nor expect to have seventy-four-gun ships built on the Western waters. The shoals at the mouth of the Mississippi will not suffer them to go to sea if they were built there; besides which, I think they ought to be built nearer to the eye of the Government; but, sir, I have a more powerful motive—I mean the interest the Western country has in the sale and the price of merchant ships.

It is too well known to need proof or explanation, that the Western country has, for some

years past, raised more produce for exportation, according to the number of working hands, than any other part of the United States, and that exportation from that country is increasing in a ratio nearly equal to its population. It is also well known that neither foreign nor domestic shippers will come to purchase our produce at our warehouses. No, sir, we do not boast of being able to get rid of our produce with the same convenience the gentlemen from the Southern States can. We have to carry it ourselves many thousand miles before we can find a purchaser, and then too often to a very low market, for want of shipping at New Orleans to carry it from there.

Flat-bottomed boats of fifteen tons burden have generally been used for carrying this produce down; the average price of which is one hundred dollars; five men are employed at the average price of one hundred dollars each; it costs at least one hundred dollars to support the hands down and to support the supercargo while at Orleans, and one hundred dollars more may be set down for insurance. This is eight hundred dollars for the freight of fifteen tons; the flatboat is set adrift, or sold for the price of firewood at most.

Within a short time ship building has been commenced on the Western waters. It is found that ten hands can navigate a ship of two or three hundred tons burden easier and with more safety than five hands can navigate a flatboat of fifteen tons. There is now a ship of 450 tons at the falls of Ohio; she will carry as much as thirty flatboats when navigated by twelve hands; this will save in the construction of flatboats $3,000; she will save the wages of one hundred and thirty-eight men, which is $13,800 more, besides the saving to the country of the labor of one hundred and thirty-eight men three months at least, who may be usefully employed in raising another crop. She will save $6,000 in the provision for the hands and in the insurance. Suppose this ship to be loaded with 4,500 barrels of flour, and suppose we throw off from the $22,800 calculated to be saved, $4,800 for the extra wages of the ship's hands down and for insurance. The saving between carrying down a barrel of flour in this way and in the usual way of flatboats is four dollars at least—a very pretty saving, indeed, sir, in a country where flour has often been sold under three dollars a barrel. A proportionate saving will be made in the carriage of beef, pork, cotton, hemp, tobacco, and almost every other article that we send to market. If the Government extends that protection to commerce, which will hold up the price of American built ships, this saving will be continued; if that protection is withheld, this important saving must be lost to us; and although, at the outset, a considerable share of the saving goes into the pocket of the merchant, it must, if the business of ship building increases, as we would fain hope it will, it must, I say, eventually, by the enhancement of the price of produce, go into the pocket of the farmer.

The State of Kentucky itself could have very conveniently spared 500,000 bushels of Indian corn last year, to be sent, at a great profit, to the Atlantic States, where it seems it was much wanted, had she had sea vessels to send it in. She could do the same this year; yet some persons who ventured to take corn down in flatboats last year to New Orleans, could find no vessels to ship it in, and it was there sold for less than half a dollar a bushel, while, in some of the Atlantic ports, it sold for more than two dollars, and many of them but little short of it. Thus some of our adventurers were ruined, and all injured in a very laudable enterprise.

The State in whose representation I have the honor of bearing a part, includes the river Ohio for near nine hundred miles; it borders on the Mississippi, and includes one-half of that river, about seventy miles; scarce a mile the whole length this way but a site for a ship yard can be found; from the bosom of that State seven fine large rivers discharge themselves into the Ohio; on all which sea vessels may be built, and from thence floated into the ocean. Our white oak, walnut, mulberry, cedar, and locust timber, of which we have an inexhaustible supply, is exceeded by none on the continent. The timber on our best lands, which are to be speedily cultivated, will be destroyed, and no benefit derived from it, unless used within a few years. Our mountains abound in iron ore and stone coal, to which there are fine streams for water-works adjacent. No State in the Union at this time, I believe, produces half as much hemp as Kentucky, and the culture of that article is rapidly increasing in many parts of the Western country.

If, sir, the statements I have made are correct, and I believe no one can doubt their authenticity, it must be seen that no portion of the nation is so deeply interested in the protection of its commerce as the Western people. The laws and regulations of other commercial nations not allowing American built ships to be naturalized, their subjects or citizens seldom buy our ships; the strong current of the Mississippi does not allow them to come back to us, and without the aid of Government in protecting the commerce of the nation, the American merchant cannot afford to buy them; so that just as we have entered on the ship building business, and beginning to see its utility, without that aid and protection we shall be thrown back on our flatboat system, by which one-half the value of our produce is expended in carrying it to a place of shipment.

In another and more important point of view the people of the Western country are more deeply interested in the nation's having some line-of-battle ships than any part of the Union. The produce of that whole country, watered by one one hundred navigable rivers, must empty into the Bay of Mexico at one narrow pass. Any nation with whom we have a difference, possessing a single line-of-battle ship, may block up that pass; our frigates, whose timbers and whose metal are inferior to those of a seventy-four, cannot meet her on equal terms. Thus, while the nation is without ships-of-the-line, as they are called, the merchants who export the produce of

the Western country are momently exposed to ruin, and our produce is subject to perish on the hands of the farmer for want of a market. This argument may be said to apply to New York or some other Atlantic port; but, sir, it applies in a tenfold ratio to the Western country; the blocking up of one of the Atlantic ports would increase the business of another, and although there might be great injury done by such blockade, it would not ruin the whole Eastern country, as must be the case with the Western country in blocking up the mouth of the Mississippi.

The sunbeams of commerce have just began to bless the Western hemisphere with her genial and fascinating smiles by the introduction of ship building; but the late depredations on the commerce of this country cause a darkening cloud to hang over our prospects, and all our fond hopes are in danger of being blasted by what I call a narrow and illiberal policy. I pray God most fervently to open the hearts and eyes of gentlemen on this important subject.

Mr. LYON's amendment was disagreed to—yeas 28.

When the section offered by Mr. DAWSON was likewise disagreed to—yeas 40, nays 54.

A new section offered by Mr. R. NELSON, authorizing the President to sell such of the national vessels as in his opinion shall be in such a situation as to make it the interest of the United States not to repair the same, was agreed to—yeas 63 nays 35.

The Committee then rose and reported the bill, which the House took into consideration.

Mr. J. CLAY moved to strike out the first section.

Messrs. J. CLAY, R. NELSON, and BEDINGER, supported; and Messrs. DAWSON, VARNUM, GREGG, DANA, and ELMER, opposed this motion, which was disagreed to—yeas 24, nays 76, as follows:

YEAS—Isaac Anderson, David Bard, George M. Bedinger, Robert Brown, Christopher Clark, Joseph Clay, Matthew Clay, Leonard Covington, Peter Early, Peterson Goodwyn, Edwin Gray, John Hamilton, Michael Leib, Patrick Magruder, Roger Nelson, John Rea of Pennsylvania, Jacob Richards, Thomas Sandford, Samuel Smith, Richard Stanford, Philip R. Thompson, Robert Whitehill, David R. Williams, and Alexander Wilson.

NAYS—Evan Alexander, Willis Alston, jr., Joseph Barker, Barnabas Bidwell, John Blake, junior, Thomas Blount, Levi Casey, John Chandler, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, Joseph Lewis, junior, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, junior, Gideon Olin, Timothy Pitkin, junior, John Pugh, Josiah Quincy, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Jas. Sloan, John Smilie, John Smith, Henry Southard, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Marmaduke Williams, Nathan Williams, Richard Winn, and Joseph Winston.

Mr. MASTERS then moved to amend the bill, by striking out, in the third line of the aforesaid first section of the bill, the words "one hundred and fifty thousand," and inserting in lieu thereof, the words "three hundred and fifty thousand;" which passed in the negative—yeas 31, nays 71, as follows:

YEAS—John Blake, junior, Orchard Cook, Samuel W. Dana, John Davenport, junior, Caleb Ellis, William Ely, Silas Halsey, Seth Hastings, David Hough, Matthew Lyon, Robert Marion, Josiah Masters, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, junior, Josiah Quincy, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, and Nathan Williams.

NAYS—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, Thomas Blount, Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, John Dawson, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Jas. M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, David Holmes, Walter Jones, John Lambert, Michael Leib, Joseph Lewis, jun., Patrick Magruder, William McCreery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thos. Newton, junior, Gideon Olin, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sandford, Jas. Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

WEDNESDAY, April 16.

An engrossed bill for fortifying the ports and harbors of the United States, and for building gunboats, was read the third time, and passed.

Mr. THOMAS M. RANDOLPH, from the committee appointed on the fifth ultimo, presented a bill adding to, and amending the different acts of February twenty-seventh, and March third, one thousand eight hundred and one, and May third, one thousand eight hundred and two, "concerning the District of Columbia," and the act of March third, one thousand eight hundred and five, entitled "An act to amend the charter of Georgetown; which was read twice, and committed to a Committee of the whole House to-morrow.

REDEMPTION OF PUBLIC DEBT.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States."

The CHAIRMAN proceeded to read the bill until he came to the fourth and fifth sections, which authorize the Commissioners of the Sinking Fund to appoint one agent in London, and another in Amsterdam, to receive subscriptions and transfers, and to issue new certificates; and to enable the holders of old six per cent. deferred, or three per cent. stocks, who may become subscribers to the new stock either in the United States or in Europe, and who, on the first day of April next, and on the day of the subscription, shall be resident in Europe, to receive the interest on their stock, either in the United States, or at London, or in Amsterdam.

Mr. VARNUM moved to strike out the fifth section.

This motion was supported by Mr. DAVENPORT, and opposed by Mr. J. RANDOLPH, and disagreed to—ayes 34, noes 42.

On motion of Mr. J. RANDOLPH, the compensation allowed to each of the above agents was fixed at $3,000—ayes 48.

The eighth section was read as follows:

SEC. 8. *And be it further enacted*, That, from and after the first day of April next, whenever it shall be necessary to issue new certificates, either in lieu of such certificates of old six per cent. or deferred stock, as may be lost or destroyed, or by reason of a transfer of such stock from a stockholder to another, or from the books of an office to those of another office; the new certificates, instead of stating the nominal amount of stock which originally was, but is no longer the sum actually due by the United States, shall express the true amount of the annuity due, at the rate of eight per cent. on the original amount of principal, at the time when it shall cease. But all the other provisions heretofore made by law, and now in force, relative to the said stocks, shall remain in full force, as if no alteration had been made in the form of the certificates; and such new certificates may be subscribed, in conformity with the provisions of this act, according to the then unredeemed amount of the principal stock originally due.

Mr. QUINCY moved to strike this section out, under the impression that it impaired the original contract between the United States and the public creditors.

Mr. J. RANDOLPH vindicated the section against this charge.

Mr. DANA did not think it impaired the original contract, but considered it superfluous, as, in his opinion, the power given by it was already vested by law in the officers of the Treasury Department; when the question was taken, and the motion lost, without a division.

Mr. J. RANDOLPH moved to fill the blank in that part of the bill which provides for the conversion of three per cent. stock into six per cent. with "sixty-two-and-a-half;" by which the holder of every hundred dollars, in the three per cent. stock, is entitled to receive sixty-two-and-a-half dollars of six per cent.

Mr. CROWNINSHIELD opposed this motion, as well as the provision for converting the three per cent. into six per cent. stock, under the idea that it would be injurious to the United States.

Mr. J. CLAY defended the provision, and made a detailed argument, to show that it would be beneficial to the United States.

Mr. DANA declared himself in favor of the proposed modification of the public debt.

Mr. JACKSON spoke against it.

Mr. J. RANDOLPH advocated this part of the bill, and Mr. CROWNINSHIELD replied; when the question was taken on the motion of Mr. JOHN RANDOLPH and agreed to—ayes 51, noes 34.

A motion, made by Mr. MUMFORD, requiring the agents, before they enter on the execution of their offices, to take an oath or affirmation for the diligent execution of their trusts, and requiring them to give bonds in one or more sureties, in the penal sum of twenty thousand dollars—was agreed to.

Mr. DANA moved to strike out the words quoted in the following section, with a view of restraining the provisions of the bill to the present three per cents, and, under the impression that, in the new stock proposed to be created, the Government liberated itself from the obligation to pay a certain part of the principal and interest heretofore stipulated:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That a subscription to the full amount of the "old six per cent. deferred and" three per cent stocks be, and the same is hereby, proposed; for which purpose books shall be opened at the Treasury of the United States, and by the several Commissioners of Loans, on the first day of April next, to continue open until the seventeenth day of December next following, inclusively, the fourteen last days of each quarter excepted, for such parts of the above-mentioned descriptions of stock as shall, on the day of subscription, stand on the books of the Treasury, and of the several Commissioners of Loans, respectively; which subscription shall be effected by a transfer to the United States, in the manner provided by law for such transfers, of the credit or credits, standing on the said books, and by a surrender of the certificates of the stock subscribed.

Mr. JOHN RANDOLPH and Mr. J. CLAY opposed this motion, and denied the justice of the observation made by Mr. DANA; when the motion to strike out the section was lost without a division.

The Committee rose and reported the bill with several amendments, which were agreed to by the House, and the bill ordered to be engrossed for a third reading to-morrow—ayes 56.

DUTIES ON SALT.

The House resolved itself into a Committee of the Whole, on the bill repealing the acts laying duties on salt, and continuing in force for a certain time the first section of the act, entitled "An

act further to protect the commerce and seamen of the United States against the Barbary Powers," as follows:

Sec. 1. *Be it enacted, &c.*, That, from and after the —— day of —— next, so much of any act, or acts, as lays a duty on imported salt, be, and the same hereby is, repealed, and from and after the day aforesaid, salt shall be imported into the United States free of duty.

Sec. 2. *And be it further enacted*, That, from and after the first day of January next, so much of any act or acts as allows a bounty on exported salt provisions, and pickled fish, in lieu of drawback of the duties on the salt employed in curing the same, and so much of any act or acts as makes an allowance to the owners and crews of fishing vessels, in lieu of drawback of the duties paid on the salt used by the same, shall be, and the same hereby is, repealed.

Sec. 3. *And be it further enacted*, That so much of the act, passed on the 25th day of March, 1804, entitled An act further to protect the commerce and seamen of the United States against the Barbary Powers, as is contained in the first section of the said act, be, and the same hereby is, continued in force until the end of the next session of Congress, and no longer.

Mr. Quincy moved so to amend the first section as to repeal the act laying a duty on salt, additional to that originally imposed, so as to take off at present the duty of eight cents a bushel. He said he was of the opinion that taking off the whole duty on salt would have an injurious effect. A difference of twenty cents on the bushel would operate very seriously on those who had already made shipments. It was part of the duty of a Legislator to avoid making such sudden changes as tended to destroy the confidence of the mercantile world in the stability of the laws. Whenever changes were made, they ought, in his opinion, to be gradual. Although he considered the general effect of this measure most important, yet, by too sudden an operation, it might affect a respectable class of individuals very injuriously. He would state the effect which he apprehended it would have. Suppose the repeal should take effect on the first day of July. A cargo of salt generally averages about four thousand bushels; the prime cost at Liverpool was about eleven cents a bushel. The cost of the cargo would, therefore, be only $440; the duty would amount to $800; the freight, &c., to about $1,000; making an aggregate of $2,240, which would be the cost in this country, on a mercantile calculation, supposing the present duties to remain in force. The present price of salt in this country was about fifty-three cents a bushel, which would produce something less than $2,240. The reason of the sum for which it is sold being less than that it costs is, that salt is merely made use of, in most cases, as a return cargo. Taking off the duty of twenty cents, would reduce the price to thirty-three cents a bushel, which would detract $920 from the value of the cargo, and would be more than double the prime cost of the salt. To so great a reduction, so suddenly made, Mr. Quincy said he objected. He had, he said, another reason for being against the section as it stood. The duty on salt was among the duties pledged for the payment of the national debt. At the time this pledge was made, the duty was twelve cents. The additional duty of eight cents was afterwards imposed. His object was, to reduce the existing duty eight cents, and to let the original duty of twelve cents stand, at least, until some notice had been given to the mercantile world. He believed that a reduction of the duty was highly desirable, and would be very popular. He might not, perhaps, object to an entire repeal if time were allowed him to consult his constituents, some of whom might possibly be ruined by it. All things considered, he thought it would be best to reduce the duty at present eight cents. This would leave Congress at liberty, at their next session, to take the entire repeal into consideration, which might be done, in case they considered it eligible.

Mr. J. Randolph said he should prefer the taking off eight cents, rather than suffering the duty to remain as it stood at present; but he hoped the whole duty would be taken off. One of the objections of the gentleman to taking off the whole duty was, that the merchants who have imported salt may be injured by it, and will not be able to compete with those who have imported it duty free. But this argument operated two ways. Did it not apply differently when the duty on salt was first laid? At that time, the very man who now loses, gained in a correspondent ratio. To his mind, Mr. R. said, it was the strangest reason on earth, if this nation wre in a situation to give up all its taxes, that it should be said by any gentleman, don't repeal the laws imposing them, because my constituents, the merchants, have paid duties on some of them. If so, your taxes, so far from being diminished, may go on increasing *ad infinitum*. But, the truth is, we have the same right now to take off the duty on salt as our predecessors had to lay it on.

But it seems that the original duty of twelve cents was put into pledge for the payment of the national debt. We were told the same thing five years ago when we proposed to repeal the internal taxes. They were, however, repealed without any violation of the public faith, and wherefore? The nation has contracted a debt to the public creditor, and so long as the Government finds funds wherewith to pay it, the public creditor has no right to ask whether we take it from our coat or breeches pocket? Whether from a land tax, an excise, or from duties on imported articles? The pledge on our side is, to find money. If, after the repeal of this duty, the ways and means for the payment of this debt are found deficient, I agree that we are bound to make good the deficiency. But what do we propose? The amount of the duty on salt is less than $600,000, and at the same time that we take this off, we impose a duty which will produce a million. We take off a duty on a necessary of life, which falls peculiarly heavy on the poor, and on agriculture, and lay an ad valorem duty on gauze, catgut, and the Lord knows what, which produces from three to five thousand dollars more.

Mr. Quincy asked whether a duty which produced $850,000, a year, which was limited to the

end of the next session, and which was not pledged to the payment of the national debt, could be considered as equivalent to a permanent duty of half a million, imposed by an act which could not be repealed until the debt was paid? He did not think the new tax was a substitute of equal value, and he considered it one of the objects of this bill to get rid of the pledge to pay the debt.

Mr. J. Clay felt disposed to give every credit to gentlemen in their professions of regard towards the public debt. The answer to the objection was this: A certain fund, arising from the impost, was pledged to the payment and interest of the debt. An act had passed the last Congress increasing the fund appropriated for this purpose, from $7,200,000 to $8,000,000. If the duty on salt was not a component part of this sum, the objection of gentlemen was futile. Now it was a fact, that, so much as this sum was diminished by taking off the $520,000 arising from the duty on salt, so much was it increased by the other duty proposed to be laid by this act. So long as the taxes pledged exceeded eight millions, the Government sacredly regards their engagements. As an answer to all the sensibility displayed by gentlemen for the public faith, permit me, said Mr. C., to refer them to a resolution proposed in the seventh Congress, on the 25th of January, 1802, instructing the Committee of Ways and Means to inquire into the expediency of taking off, or reducing, the duty on brown sugar, coffee, and bohea tea. Another objection urged by gentlemen is, the effect of this bill on the merchants. There is no doubt that, in consequence of it, the price of salt will fall; but, would not this have been the effect on bohea tea, had their measure been successful? The effect, however, will be gradual, and there will be but little loss sustained by any one individual, as the price will begin to fall immediately on taking off the duty. I believe it is not a material error to say, that the traffic is pretty much in the hands of those men who enjoyed it when the duty was laid; and if so, those who now lose, will only lose as much as they before gained. I hope the blank in the bill will be so filled as to give six months notice of the imposition of the duty.

Mr. Lyon.—When this proposition for commuting the Mediterranean fund for the salt tax was first introduced, I thought favorably of it. I have always viewed the duty on salt among the most oppressive taxes invented by man, although, since the purchase of Louisiana, the people I have the honor to represent are no longer burdened with that tax, and the revenue derived from it, when it ceases, must be made good by burdening, in some way or other, my constituents. I voted for committing the proposition; but, sir, when I reflect on the subject, and inquire from whence comes this proposition, I am compelled to hesitate, to look at it again and again, and ask, (I will say it in plain English,) whence comes this thing? What is it? May it not be a gilded pill, with a very fair outside, but containing rancorous poison within? When I answer to myself the question, where it comes from? I am obliged to say, sir, it comes from a gentleman (Mr. J. Randolph) who, in the presence of this House, and of the whole nation, has declared himself an enemy to the present Administration; one who has declared that his opposition to that Administration should cease only with his breath. And what has been the conduct of that gentleman on this same subject, (the salt tax,) while he was a friend to the Administration? A proposition was brought forward, not long since, by another gentleman, a gentleman from New York, and one whom I very much respect, (Mr. Thomas:) but, says the gentleman from Virginia, I have thought of the subject, the Speaker and myself have talked it over, and it will not do, we ought not now to act upon it. This was sufficient, for, at that time, it was indeed, a knock-'em-down argument. What was the conduct of the gentleman from Virginia in 1802, when a motion was before the House for instructing the Committee of Ways and Means to inquire into the expediency of reducing the duty on salt? He would not suffer the question to be put, and urged the previous question; and so much opposed was he to touching the salt tax, that he injudiciously called the member from Delaware (Mr. Bayard) to order, when speaking against the previous question. Injudiciously, I say, because the Speaker thought so, and the Journal says the Speaker's opinion was confirmed by the House. If, sir, I was opposed to the persons to whom the Executive branch of the Government is intrusted, and was possessed of what is called by some talents, without consistency, without patriotism, and without regard to truth, I would endeavor to wrench from the Executive the means of paying off the national debt, and then I would exclaim against the Executive for not doing it. I would take from them the means of fortifying the ports and harbors, and of defending the commerce of the nation, and then I would encourage another set of the enemies of the Executive to make an uproar about the protection of commerce, and of the defenceless state of the nation, while I bawled out let commerce defend itself, and opposed, by every art in my power, even the means of their obtaining, by negotiation, any redress for the grievances complained of. But, I may be told, sir, that this measure comes recommended by the Committee of Ways and Means. Is not the chairman of that committee (Mr. J. Randolph) the very member who told us a few days ago that the Hornet could not sail for the want of a sting in her tail—for want of a land breeze; and had the hardihood to insinuate to us, that he had kept back the navy appropriations, in order to defeat the will of the constituted authorities of the nation, respecting the purchase of the Floridas? I do not speak of this insinuation on the bare evidence of my own ears, or my own understanding; many gentlemen who were present, have assured me they understood the insinuation as I did. I am well aware that the gentleman from Virginia has condescended to exculpute himself on the score of holding back the appropriations, and in a way that looked more like awkwardness than anything I ever saw done by

that gentleman. I am well aware that he has endeavored to get round the insinuation that I speak of, but I have set all this down on the same side of the book of my memory that I do many other things which come from the same quarter.

Since the proposition for substituting the Mediterranean fund was proposed in this House, a Message has been received from the President of the United States, informing us that the Tunisian Ambassador has made a demand of tribute, on the refusal of which he has declared that war must ensue, which tribute has been refused, so that we have a Tunisian war on hand. Believing, as I now do, sir, that the Mediterranean fund is wanted for the same use it was originally created, namely, the keeping up the force necessary to repel the Barbary Powers, it, therefore, cannot be considered as a substitute for the salt tax; and determined, as I am, not to withhold the means from an Executive that I confide in, an Executive more popular than any who have ever had the guidance of the affairs of this nation, and, in my opinion, most deserving; however much I wish to reduce or altogether do away the duty on salt, I will not vote for it until I can fairly see that so much of the revenue as it produces has become unnecessary, or until I see a substitute, until I see, in an unequivocal manner, an equal portion of revenue coming into the Treasury from another quarter less burdensome to the poorer sort of people. Let me see gentlemen bring forward a bill laying additional duties on green teas, on high priced wines, on cambrics, on laces, on silks, on china ware, and on high priced linens and woollens, which will be an equivalent to the duty on salt, with a section at the bottom repealing the duty on salt, and I will surely vote for it. But, I conclude, the gentlemen will not have time, within the two or three days they have given themselves to stay, to investigate the subject properly. I, for myself, wonder why gentlemen, who feel so much interested in this subject, had not concerted to bring the thing forward earlier. There certainly has been time enough; I cannot think it can receive due attention at this time, but I hope it will be brought forward earlier in the next session. I really, sir, should not dare to go home and tell my constituents that I had voted for a measure which was calculated to leave the Treasury without the means of enabling the Executive to discharge all the engagements of the Government. To the present Executive the Western people impute their being relieved from the odious and most troublesome of all taxes—the stamp act and the excise act. The present Executive they consider as an inseparable barrier between them and land taxes and sedition laws. To support that Executive is their main object at present in electing members of Congress. So popular is the present Administration in Kentucky, that the most influential man in that State could not, after deserting the Administration, much less after having vowed his opposition should cease only with his breath, get an hundred votes for member of Congress.

Whenever a man, who has been suspected of federalism, offers there as a candidate, the first thing he says in his circular letter is, that he is a friend to the present wise and virtuous Administration, and he pledges himself to support the Executive. I am apprehensive that the present Executive is as popular in some other States as in Kentucky, and that the election screw, if I may be permitted to use the phraseology of another member from Virginia, (Mr. Clark,) so much talked of in this House, will squeeze some gentlemen as flat as a pancake, before the first of May, 1807. I am sorry, sir, to have occasion to say so much about the Executive. It is well known to every gentleman, that I vote as independently as any man; but, sir, I have had some small share in effecting the change which brought forward the present men and measures. I have never repented of it; I feel interested in their success, and so long as they promote the interest of the nation, with the same share of wisdom and energy they have done, they shall not want for the small mite of support which I can give them in their executive functions. I can view this business, brought forward at this time, in no other light, under existing circumstances, than an ineffectual grasp at popularity, and an attempt to embarrass the Government. I shall, therefore, oppose it in every stage of its progress.

Mr. Bidwell said that, on a subject so interesting, and which had been viewed in several lights by gentleman who had preceded him, he would take the liberty of offering a few ideas. One objection to the measure, which had been fully answered, was, that the repeal of this duty would be a violation of the public faith. If, after the taking off this duty, there was not a full and complete provision for the payment of the public creditor, there might be some weight in this objection; but, as there was a full and complete provision, that circumstance furnished a sufficient answer. Another objection was, that the repeal would operate injuriously to the mercantile interests. This applied more to the time, than the thing. He was aware that any change which affected the commerce of the country, ought not to be instantaneous, as it might affect existing speculations; therefore, when the question was on filling the blank in the bill, he should be in favor of a day considerably distant. A duty on salt was considered by everybody as an injurious and burdensome tax, and the only serious question he had ever had on the subject, was, at what time it would be safe to discontinue it. It appeared to him that this was a convenient time. Being satisfied of this, he should vote for it, and against the motion to strike out the whole or a part of the section. He believed not only the general expectation of the revenue would justify the repeal, but that it would operate in a salutary manner on all classes of the community. It was burdensome in the interior, more so than on the seaboard; and it was on the agricultural interest that the principal weight fell; it had been cheerfully borne only under the impression that, as soon as circumstances would justify, it would be repealed.

Mr. Dana said, that if gentlemen were disposed to diminish the revenue, to screw up the Government, and if they were satisfied the Administration could get along without this tax, it would weigh much in his mind in favor of repeal; and, as they were disposed to grapple with difficulties and gain popularity, he believed he would gratify them by voting for the bill.

Mr. Quincy said, he opposed such an excessive reduction of this duty at once, not only on the grounds he had stated, but on other grounds. In Massachusetts, in the neighborhood of Boston, very extensive manufactories of salt had been established, under the idea that the duty would be continued. The immediate effect of this measure might be to destroy and ruin them.

Mr. Elmer was opposed to both motions under consideration. It was no good reason for continuing a tax, because particular individuals would be injured by its repeal, as they knew, at the time they entered on the business, the right of the Government to take off the tax, and the probability that they would do it as soon as the public exigencies would admit. He should give his voice decidedly in favor of the bill, as it had always been, in his opinion, a desirable object, when it could be done with safety, to dispense with the tax: and if, in the opinion of the officers of the Government, it could be safely dispensed with, he thought it ought now to be done.

The House divided on Mr. Lyon's motion to strike out the first section, which was disagreed to—yea 1.

Mr. Quincy's motion to amend the section was likewise disagreed to without a division.

On motion of Mr. J. Randolph, the blank, relative to the time when the duty was to take effect, was filled with the first day of October.

The third section was then read, which continued the Mediterranean fund till the next session of Congress.

Mr. Alston observed that, from the present appearance of things, he did not think it advisable that this section should remain as it was, as in six or eight months they would have again the same ground to travel over. His object was permanently to substitute the Mediterranean fund for the salt tax. He had no objection to make the exchange; to take off the perpetual tax on salt, and lay it on these articles. He thought there was no danger in trusting to the wisdom of Congress the discontinuance of the act imposing them; and that as long as there was a necessity for taxes, these subjects of taxation were as unexceptionable as any that could be laid. When they were about to strike so deeply at the revenue, they ought to be certain that the substitute offered would justify the measure. For these reasons he submitted a motion to make the Mediterranean fund perpetual. He thought this expedient, as the tax on salt was perpetual, and the substituted tax was not so certain as that on salt. With regard to the one, very little variation could take place; while the other might materially change with the times.

On this motion the Committee divided—yeas 36, nays 60—when the Committee rose and reported the bill.

The House immediately took the report into consideration.

After a short conversation, the amendment of the Committee to fill up the blank in the first section with the first of October, was carried without a division.

Mr. Crowninshield then moved to amend the last section, so as to continue the Mediterranean fund for three years. He said that the duty on salt fell with peculiar hardship on those who were obliged to consume it, either in providing for their families or cattle. It amounted to two hundred per cent. on the value of this article. As there was not a more oppressive tax in the country, he had always wished to see the revenue in such a situation as to justify its repeal. He thought this was the case at present, as he was indirectly informed that the revenue for the present year would exceed, by a million, the amount at which it had been calculated. He was, however, of opinion that it became the Government, in the present posture of affairs, to continue the Mediterranean fund for two or three years.

Mr. J. Randolph hoped the amendment would not be agreed to. It would be remembered that the right of giving the public money was the sole exclusive right of that branch of the Legislature; and that when they made grants for a long term of years, it would not depend on them alone whether they should be revoked. In his opinion, if the Constitution of the United States was practised on its true principles, that House ought not to give the public money out of its control. There was no existing cause for continuing this fund for three years, or for a longer period than that contemplated by the bill. During the next session there would be a better view of the resources and expenditures presented; and it might then be determined what arrangements were necessary for providing the ways and means for paying the interest and principal on the Florida stock. If it were contemplated by gentlemen to continue this fund to eke out, and by anticipation to provide for the defalcation of that day, he was not disposed to give his consent to such a measure. Let gentlemen then devise the ways and means for the additional expenses they may have incurred. It is not a true principle, said Mr. R., for this branch to vote money in this way: I was going to say *ad infinitum*. Let us recollect how the additional duty only on salt was laid. Eight or ten years ago it was proposed to lay a duty of so many cents on salt, which failed; afterwards, at the heel of a session, when there was a thin House, it was proposed to lay an additional duty of eight cents. This proposition succeeded. I had the honor of being a member when the law passed for continuing this duty for ten years. I do not now, and I trust in God I never shall forget the circumstances attending this measure. I held up my hands against it as an oppressive tax, and said I hoped the time would come when it would be taken off. That time has come. Let us not now, under the pretence of taking off half a million, hang round

the neck of the people a duty of nearly double the amount. So that the Government gets the money they care not from whose pockets they take it. The question now is, is this House in a state of pupilage? Will we not be at the next session as able to say this fund shall be continued, as we are now? It is proposed to continue this tax for three years; but what reason have we to legislate for the tenth House of Representatives? Suppose they declare it oppressive and pass a bill for its repeal, the other branch of the Legislature will send it back with a civil message that they have postponed it to the next session of Congress. It is true that we have some check in making appropriations; but appropriations have become a matter of form, or less than the shadow of a shade, a mere cobweb of defence against expenditures. You have fixed limits, but the expenditure exceeds the appropriations; and those who disburse the money, are like a saucy boy who knows that his grandfather will gratify him, and over-runs the sum allowed him at pleasure. As to appropriations I have no faith in them. We have seen that so long as there is money in the Treasury, there is no defence against its expenditure. There is one mode of defence, seized in happy times, to sequester in the hands of a particular body so much of the revenue as to leave but a scanty surplus to the Executive departments; but if this system is shaken by voting vast sums beyond the ordinary expenditures, there is an end to economy.

The question was then taken on Mr. Crowninshield's motion, which was disagreed to—ayes 28. When the question was taken on engrossing the bill, which was carried—ayes 83.

Thursday, April 17.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act supplementary to the act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana;" and a bill, entitled "An act in addition to the act establishing a Mint, and regulating the coins of the United States;" to which they desire the concurrence of this House.

On motion of Mr. Ely,

Resolved, That the President of the United States be requested to take effectual measures to cause the south wing of the Capitol to be prepared for the accommodation of the House of Representatives, by the commencement of the next session of Congress.

Mr. Ely and Mr. Dawson were appointed a committee to present the aforegoing resolution to the President of the United States.

A Message was received from the President of the United States, transmitting a convention between the United States and the Cherokee Indians, concluded at Washington on the seventh day of January last, for the cession of their right to the tract of country therein described. The Message was read, and, together with the convention transmitted therewith, referred to the Committee of Ways and Means.

On motion of Mr. Dana, that the House do come to the following resolutions:

Resolved, That provision ought to be made for the better protection of the commerce and seamen of the United States against aggressions and outrages in the seas of the West Indies.

Resolved, That it is expedient to provide for regulating the conduct of such merchant vessels as, by agreement of the respective owners, may sail in concert for mutual assistance and defence in any lawful commerce; and, also, for settling, according to the course of proceeding in Courts of Admiralty, the respective rates of contribution to be made between them, on account of any loss or damage which may be thereby incurred.

Resolved, That, for the encouragement and security of seamen of the United States, it is expedient to make provision, that registered ships or vessels which may be employed in voyages to foreign ports, after the —— day of —— next, shall not continue to enjoy the benefits and privileges appertaining to ships or vessels of the United States, unless some proportion of the mariners on board the same shall be citizens of the United States.

The resolutions were referred to a Committee of the Whole to-morrow.

The House proceeded to consider a motion of the fourth instant, viz:

Resolved, That the Secretary for the Department of War be, and he hereby is, directed to procure from the several States, and present to this House, at their next session, a list of the invalid pensioners who have been placed on the pension list of the respective States, during the late Revolutionary war with Great Britain, noting particularly, as far as the same may be practicable, whether such pensioners served in the militia, or in the line of the Army; and, also, the monthly sum allowed to each pensioner:"

And the said resolution being again twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House.

Mr. John Randolph, from the Committee of Ways and Means, presented a bill making appropriations for carrying into effect a treaty with the Cherokee tribe of Indians; which was read twice, and committed to a Committee of the Whole this day.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes:" Whereupon,

Ordered, That the said amendments, together with the bill, be referred to the Committee on the Post Office and Post Roads.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for establishing trading-houses with the Indian tribes," with an amendment; to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act in addition to the act establishing a Mint, and regulating the coins of the United States," was read

twice, and committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana," was read twice, and referred to the Committee on the Public Lands.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for carrying into effect a treaty with the Cherokee tribe of Indians. The bill was reported without amendment, and was ordered to be engrossed, and read the third time on Saturday next.

On motion of Mr. Varnum, that the House do come to the following resolution:

Resolved, That it is expedient to make provision, by law, for allowing the military commandants, appointed under an act, entitled "An act for erecting Louisiana into two Territories, and providing for the temporary Government thereof," three months' pay, after the terms for which they were appointed shall have expired, to enable them to return to their several homes. Except such of them as shall at that time have been appointed to some other office under the Government of the United States, in the Territory of Louisiana.

The question was taken that the House do agree to the said resolution, and passed in the negative.

Ordered, That the order of the day, for the House to resolve itself into a Committee of the whole House on the bill supplementary to an act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia," be postponed indefinitely.

On motion of Mr. Fisk, that the House do come to the following resolution:

Resolved, That the Clerk of this House be authorized and directed to pay, out of the contingent fund of the said House, the sum of two hundred dollars to Nathaniel Gregory and Samuel Burch, each, two of the engrossing Clerks in his office, in consideration of extra services performed by them during the last session of Congress, the like sum having been granted to William Lambert and Josiah W. King, the other Clerks who served in the office of the said Clerk at that time.

Ordered, That the said motion lie on the table.

The House resolved itself into a Committee of the Whole on the bill in addition to an act, entitled "An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes;" and, after some time spent therein, the Committee rose and had leave to sit again.

POSTMASTER GENERAL.

Mr. Clark, from the committee, who were appointed on the 21st of March, to inquire into the conduct of Gideon Granger, Postmaster General of the United States, and report whether, in their opinion, the said Gideon Granger has so acted, in his capacity of Postmaster General, as to require the interposition of the Constitutional powers of this House, submit the following report:

"That the committee, without loss of time, engaged in the duties assigned them, and have made some progress therein. It was the sincere desire of the committee that the inquiry should be concluded during the present session, as well as the wish of the Postmaster General; but from the distance and dispersed situation of the witnesses, whose testimony was deemed necessary, and the approaching close of the session, it is found impracticable. While the committee regret the situation of a public officer laboring under the suspicious appearance of a Constitutional scrutiny into his conduct, yet in a Government like ours, where watchfulness of men in office is the surest guarantee of the preservation of the liberty of the people, the public functionaries must yield their feelings to the general benefit, and endure a temporary inconvenience as an honorable sacrifice to the freedom of our institutions.

"That a hasty and premature result is less to be desired on the part of an officer supported by a consciousness of the integrity of his conduct, than the suspension of an inquiry that may terminate in a satisfactory refutation of charges, which, on the part of the accused, are affirmed to be without foundation, the committee have no hesitation in believing.

"Justice to the public as well as to the individual requires a thorough investigation, which is found to be impossible before the final adjournment.

"The committee, therefore, recommend a postponement of the further inquiry until the next session of Congress."

Ordered to lie on the table.

PUBLIC DEBT.

The bill supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States," was read a third time.

Mr. Tallmadge moved to postpone this bill indefinitely, and supported the motion in a speech of considerable length.

Mr. J. Clay replied.

When the yeas and nays were taken—yeas 49, nays 45, and the motion, consequently, obtained.

Yeas—Joseph Barker, Barnabas Bidwell, John Chandler, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Charles Goldsborough, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, John G. Jackson, John Lambert, Joseph Lewis, junior, Matthew Lyon, Robert Marion, Josiah Masters, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, junior, John Pugh, Josiah Quincy, John Russell, Thomas Sammons, Martin G. Schuneman, James Sloan, John Smilie, Henry Southard, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, Peleg Wadsworth, and Robert Whitehill.

Nays—Evan Alexander, Willis Alston, jun., Burwell Bassett, George M. Bedinger, John Blake, junior, Thomas Blount, Robert Brown, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, John Clopton, Leonard Covington, John Dawson, Peter Early, James M. Garnett, Edwin Gray, John Hamilton, David Holmes, Michael Leib, Patrick Magruder, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, jun., John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sandford, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, Philip R. Thompson, John Whitehill, David

R. Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

DUTIES ON SALT.

The bill repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read a third time.

Mr. Masters moved to recommit the bill, for the purpose of modifying its details.

Mr. Quincy supported the motion; which was lost—ayes 37, noes 49.

When the yeas and nays were taken on the passage of the bill—yeas 84, nays 11, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, Burwell Bassett, George M. Bedinger, John Blake, junior, Thomas Blount, Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, David Hough, John G. Jackson, John Lambert, Joseph Lewis, junior, Patrick Magruder, Robert Marion, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, junior, Gideon Olin, Timothy Pitkin, junior, John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Joseph Barker, John Fowler, Isaiah L. Green, Michael Leib, Matthew Lyon, Josiah Masters, William McCreery, Nicholas R. Moore, John Russell, Peter Sailly, and Eri Tracy.

PAY OF WITNESSES.

The House again resolved itself into a Committee of the Whole, on the bill sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase." The bill was reported with an amendment thereto.

The House proceeded to consider the said amendment, and the same being again read, as follows:

After the word "summoned," in the second line of the first section, insert "on the part of the House of Representatives," was, on the question put thereupon, agreed to by the House—yeas 51, nays 40, as follows:

Yeas—Isaac Anderson, Burwell Bassett, George M. Bedinger, John Blake, jun. Robert Brown, Levi Casey, John Chandler, Joseph Clay, Matthew Clay, Frederick Conrad, Leonard Covington, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, Michael Leib, Patrick Magruder, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Gideon Olin, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, Philip R. Thompson, Abram Trigg, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

Nays—Willis Alston, jun., Silas Betton, Barnabas Bidwell, Thomas Blount, John Claiborne, Christopher Clark, John Clopton, Jacob Crowninshield, Richard Cutts, John Davenport, jun., John Dawson, Caleb Ellis, William Ely, Charles Goldsborough, Peterson Goodwyn, Seth Hastings, David Hough, John G. Jackson, Walter Jones, John Lambert, Joseph Lewis, jun., Matthew Lyon, Robert Marion, William McCreery, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, Thomas M. Randolph, John Russel, Martin G. Schuneman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, Marmaduke Williams, and Nathan Williams.

The bill, as amended, was then read the third time and passed.

Friday, April 18.

Mr. Thomas, from the Committee on the Post Office and Post Roads, to whom were referred, yesterday, the amendments proposed by the Senate to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," made a report thereon; which was read and considered: Whereupon,

Resolved, That this House do agree to the first, second, fourth, fifth, sixth, eighth, ninth, tenth, eleventh, twelfth, thirteenth, and fourteenth of the said amendments.

Resolved, That this House do agree to the third of the said amendments, with an amendment.

Resolved, That this House do disagree to the seventh of the said amendments.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," with an amendment; to which they desire the concurrence of this House: Also, the bill, entitled "An act making appropriation for carrying into effect a treaty between the United States and Chickasaw tribe of Indians," with an amendment; to which they desire the concurrence of this House: And the bill, entitled "An act to amend, in the cases therein mentioned, the act to regulate the collection of duties on imports and tonnage," with several amendments; to which they desire the concurrence of this House.

A message from the Senate informed the House that the Senate disagree to the amendments proposed by this House to the bill sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," and desire a conference with this House on the subject-matter of the said amendments; to which conference they have appointed managers on their part.

ORGANIZATION OF THE MILITIA.

Mr. Varnum.—Mr. Speaker: It will be recollected by the House, that early in the session, that part of the Message of the President of the United States, of the third of December last, which relates to the classification and organization of the militia, and to the augmentation of our land forces, was referred to the consideration of a select committee. Several other subjects relative to the physical strength of the nation have, subsequent to that time, been referred to the same committee. They have attentively considered the several subjects referred to them, and have reported to the House the result of their deliberation on each of them. The suspension of a report on the subject of our land forces to this time, has necessarily been occasioned from the nature of the reference. That subject was submitted to the committee in the words of the Message, which are as follows: "Whether it will be necessary to augment our 'land forces will be decided by occurrences pro-'bably in the course of your session." Hence the committee have deferred their report to this time, with a view that it might be made coincident with the existing state of our country, at the close of the session, in conformity with the principles on which the subject was submitted.

But, sir, at a time when the great Powers of Europe are engaged in war, devastation, and bloodshed, and at a period when there are subjects of difference existing between the United States and several of the European Powers, it may not be improper to state to the House, the outlines of the physical strength of the country, which may be drawn into operation, in case of an invasion by any foreign nation; which view of the subject has induced the committee to make the report now submitted to you. And, sir, in order to exhibit in its true point of light, the present strength of the United States, it may not be improper to take a cursory view of the situation of the United States at the commencement of the Revolutionary war with Great Britain, and the important stand which, in that situation, was made against the strong arm of Great Britain. I will then state to you, in a concise manner, some of the present means of defence within the power of the United States; and leave it to the House to draw the contrast, between our situation for defence at that time, and at the present time.

At the commencement of that war, the people of the United States were subjects of Great Britain; they were in a state of disorganization. I believe there was not a single company of the militia under legal organization; you had no standing army. There had been a kind of organization under the recommendation of illegal associations, in a part of the Union; but no commissions had been issued. One class of your citizens were so much attached to royal government that they either withheld their aid from the cause of the country, or went over to the enemy and fought against us; there were another class who from pecuniary views took side on the part of the British, and armed themselves against the country; a third class were, from apprehensions of feeling the weight of British vengeance in case the country should be conquered, induced to take part on the side of the enemy; and a fourth class, from conscientious scruples as to the justice of opposing their King, were induced to withdraw their aid from the cause of their country. These several classes of opponents were very numerous in some of the States, and such were the arrangements of the country at that time, as to permit them to take the side they chose without even branding them with the appellation of traitors. The whole population of the country did not consist of more than 2,500,000 souls. Thus, sir, did those patriots, who justly appreciated the blessings of a free Government, put their lives, and their all at stake, to procure for themselves and for posterity the blessings of independence and free government, in opposition to a large portion of their countrymen, and the whole force of the British nation. It is well known by those gentlemen who were on the stage of action at that time, that the means for carrying on a war, then in possession of the people, were very small. We were almost entirely destitute of cannon; very few of the fire-arms were such as are generally considered the best calculated for defence against an enemy: they were fire-arms generally used by hunters, and most of them without bayonets: we had very little powder or ball in the country. In this unpromising situation of our country, commenced the Revolutionary war with Great Britain. But these gloomy prospects did not prevent the people from pursuing their object. At the first battle, on the 19th day of April, 1775, the British lost in killed and wounded more than three times the number killed and wounded on the side of the Americans. At the battle of Bunker's Hill one thousand five hundred American militia twice repelled three thousand British regulars, and would, in all probability, have defeated them ultimately, had not their ammunition been exhausted soon after the British made the third attack. When the British entered the flimsy works which they had thrown up the night before, not having bayonets, they were obliged to fight them with the butts of their muskets, and finally killed and wounded more than one thousand three hundred before they began their retreat. The English opened the campaign of 1776, with sixty thousand regular troops, including seventeen thousand Germans, probably with an idea of completing the subjugation of the country that summer; but the intrepidity of the American patriots convinced them of their mistake; our principles were defended; and the famous battle of Trenton closed the operations of the year. The battle of Princeton soon succeeded; and in the same month, General Dickinson, with a party of New Jersey militia, after crossing a river, in that inclement season of the year, where the water was up to the middle of the men, attacked an equal number of British troops, beat and entirely routed them.

In the year 1777, many memorable battles were

fought, in the Middle and Northern States, in which, taking them altogether, the patriots had much the advantage. The whole of Burgoyne's army, consisting of more than 10,000 men was killed or taken prisoners. The battle at Bennington, fought entirely by militia, and commanded by a militia general on the side of the Americans, must remain on the pages of history as an indelible mark of fortitude and patriotism, on the characters of those heroes who fought and conquered on that day. In 1778 happened the famous battle of Monmouth. Thus, sir, the patriots of America, without allies, baffled the most strenuous attacks of the whole British nation, aided by 17,000 foreign mercenaries, for more than three years. After that period we had the aid of France, which no doubt hastened the close of the war, and which cannot fail to be held in grateful remembrance by all those who were engaged in the cause of the Revolution from proper principles. Many important engagements in the Southern States, clearly manifested the prowess of the militia in that part of the Union. And, sir, by the exertion of those who dared to put at defiance every danger, in support of the cause of God and their country, we do now, by the blessing of Heaven, enjoy the inestimable privileges of liberty and independence.

Now, sir, let us take a cursory view of the present means of defence within the control of the Government of the United States. The productions of the fiscal arrangements of the Government, and the facility with which those productions have been placed in your treasury, afford striking evidence of the wealth of your citizens, and their ability to yield that pecuniary aid which will enable the Government to put in operation any measures of defence which may be necessary.

The United States are now composed of more than 6,000,000 inhabitants; you have regular organized State Governments, and an energetic General Government, calculated to call into operation all the resources of the nation, when the safety of the people may require it. There are in the United States, of free white male citizens, between the ages of sixteen and forty-five, 871,336 persons.

The General Government passed a law in 1792 for organizing the militia of the United States; under that law, the militia have been formed into divisions, brigades, regiments, and companies; these several corps have been officered under the State Governments, agreeably to the direction of the law of the United States. So, sir, you have in the United States a militia, completely organized and officered, consisting of more than 600,000 men. And, sir, in order to show the comparative strength, and more particularly the comparative laudable exertions of each State, to provide themselves with the means of defence, I will ask the patience of the House, while I mention in detail the numbers of enrolled militia in each State, with the prominent implements of war in their hands. In doing this, I shall state the number of major generals commanding divisions, the number of brigadier generals commanding brigades, the number of lieutenant colonels commandant, commanding regiments, the number of artillerists, the number of cavalry, and the number of infantry, including officers in each State, the number of field artillery, the number of fire arms, the number of horsemen's sabres and pistols, and the quantity of powder and balls. I shall not detail the minor articles of equipment; but will observe, generally, that the supply of these articles is less numerous than those which I shall state in detail.

[Mr. Varnum here offered to the House the information exhibited in the following table.]

States and Territories.	Dates.	Divisions commanded by Major Generals.	Brigades commanded by Brigadier Generals.	Regiments commanded by Lt. Cols. Comdt.	Total artillerists.	Total cavalry.	Total infantry.	Total artillerists, cavalry, and infantry.	Muskets and rifles.	Brass ordnance, from 12 to 2 pounds caliber.	Iron ordnance, from 9 to 2 pounds caliber.	Sabres.	Pairs of pistols.	Pounds of powder.	Cartridges, with balls.	Balls.
New Hampshire - -	1805	3	6	24	462	1,629	21,159	23,250	13,530	16	-	1,806	1,763	2,000	-	15,000
Massachusetts - -	1805	10	22	83	2,629	2,690	61,502	66,821	46,615	129	14	2,387	2,387	4,607	494,639	64,438
Rhode Island - -	1803	1	4	11	121	87	5,125	5,333	3,053	4	-	87	87	-	3,823	
Connecticut - -	1805	4	8	36	677	1,637	18,631	20,935	15,065	21	5	1,966	1,414	-	293,209	
Vermont - -	1805	4	10	31	408	1,263	16,510	18,181	3,884	3	4	1,020	1,048	1,028	-	80,696
New York - -	1804	7	31	108	1,405	2,113	73,318	76,836	41,947	29	-	1,431	1,344	-	2,201	
New Jersey - -	1805	4	6	33	172	1,197	25,837	26,696	12,500	-	5	750	381			
Pennsylvania - -	1803	14	28	136	409	2,840	93,192	96,441	29,114	7	-	1,441	1,583			
Virginia - -	1805	3	16	84	1,365	3,549	68,384	73,798	13,224	2	-	407	333	131	40	3,400
North Carolina - -	1805	5	12	55	-	291	42,665	42,956	18,914	-	-	71	114			
South Carolina - -	1802	3	9	46	911	2,070	32,742	35,723	12,878	17	-	1,383	1,033			
Georgia - -	1805	3	7	-	101	721	18,572	19,394	3,737	6	-	371	239	64	4,009	5,160
Kentucky - -	1805	5	12	51	-	-	33,176	33,176	19,533	-	-	-	-	12683	-	79,176
Tennessee - -	1805	3	6	26	-	771	16,092	16,863	4,647	-	-	75	98	1,140	-	36,043
Ohio - -	1805	3	5	14	-	113	15,863	15,976	3,515	-	1	30	30	173	-	7,605
District of Columbia -	1803	-	1	2	95	54	1,942	2,091	1,162	4	-	29	22	454	-	8,370
Mississippi Territory -	1805	-	-	4	-	-	1,843	1,843	795	-	-	-	-	90	-	10,946
Indiana Territory -	1803	-	-	4	-	20	1,950	1,950								
Totals - -	-	70	183	760	8,795	21,952	548,492	579,279	349,073	240	29	13,255	11,857	23,370	798,817	310,961

Note.—From Maryland, Delaware, Orleans, Louisiana, and Michigan, there are no general returns; but yet the whole number of artillerists, cavalry, and infantry, belonging to Maryland, is stated at 30,190, and that of muskets and rifles at 7,000. There is also given to Delaware, of the same description of troops, 5,000, and 1,200 muskets and rifles. Making the aggregate of 613,469 artillerists, cavalry, and infantry, and 357,398 muskets and rifles, for all the States and Territories mentioned above.

And here, sir, permit me to observe, in regard to the State which I have the honor to represent in part on this floor, that by a law of the State each town is compelled to be constantly provided with a quantity of powder, balls, and flints, at least equal to one pound of powder, three pounds of balls, and three flints, to each man enrolled in the militia; also, a proportionate quantity of entrenching tools; this town stock is placed under the care of the selectmen of their respective towns, and the brigade inspectors are by law also made inspectors of the town stock within their respective brigades. If any defect is suffered by the towns, the inspectors are bound to report it to a county court, and such deficient town is subjected to a heavy penalty. Add then the town stock of ammunition to that in the hands of individuals of the militia, and it will be found that in that State alone there is more than forty tons of powder, and more than one hundred and forty tons of leaden balls, constantly kept in readiness for public use in defence of our rights. It is also a fact, that several other States have public stocks of ammunition, but in what quantities I have not had an opportunity to procure the means of ascertaining.

The artillerists and the cavalry, as well as a great proportion of the infantry, in Massachusetts, are in complete cloth uniform, and this, together with the fire-arms and other equipments, each individual has provided at his own expense. Many of the officers honored with important commands in the militia of Massachusetts, are men who have seen service; they are men, sir, who dared to step forth in defence of their country at times which tried men's souls; they have seen the glorious effects of their exertions, and feel the importance of order and discipline in the militia; the spirit of discipline acquired in the Revolutionary war has been diffused among the militia, and a laudable spirit of emulation pervades every corps; they are competent to the performance of any evolution requisite in the science of tactics, even in the field of action, and are at all times ready to put their lives in jeopardy in defence of our liberty, independence, and Government, against the invasion of any foreign enemy, or the violence of any internal usurpation.

Many gentlemen who were acquainted with service in the Revolutionary war now hold important offices in the militia—in several of the States to my own knowledge, and I presume this is the case in a greater or less degree in all the States.

Military discipline is making rapid progress in many of the States.

In justice to Pennsylvania it is proper to state that it is said that the return of fire-arms exhibited are comprised of those only which have been distributed among the militia at the expense of the State, and that a great proportion of the militia in that State are in possession of fire-arms, but from some unknown cause they have not been returned. The same observation, it is believed, will apply in a considerable degree to the State of Virginia. From the best information I have been able to obtain, I have no doubt that there are many thousand of fire-arms in the United States equal to many of those with which we commenced the Revolutionary war, which have not been returned. The States of Maryland and Delaware have made no return; but I have endeavored to avoid exaggeration in their numbers and equipments.

Sir, in addition to the force and implements of defence which I have named, you have in the Army of the United States men, officers included - - - - - - - - 3,345
In the marine corps, who are liable to do duty on land as well as sea - - - 550
Making a regular land force of - - 3,896

I had the honor, sir, early in the session to report a bill for detaching from the militia 100,000 men to hold themselves in readiness to march at a moment's warning, whenever the President of the United States shall think it necessary; this bill has been passed into a law, and is calculated to lessen the inconvenience of marching the whole of the militia from any one section of the Union, if an invasion should take place. You have, sir, in the public magazines, the property of the United States, in addition to the cannon provided for the navy and those in the forts and fortifications on your extensive seacoast and frontiers, 1,400 iron cannon of different calibers, and 500 brass cannon of different calibers. In the same deposits you have 118,197 muskets, with bayonets, and rifles, fit for use, and 12,000 which need some small repairs, 1,958 pairs of pistols, 500,000 pounds of gunpowder, 500 tons of saltpetre, and sufficient quantity of sulphur to mix with it in the manufactory of it into gunpowder; and you have all kinds of balls, shot, and shells, in abundance. I have also had the honor to present to the House, from the same committee who have directed me to make the report now before you, a proposition for extending the manufacture of fire-arms, as far as the capacity of the present armories of the United States will permit, which has been agreed to, and appropriations have been made for carrying the proposition into effect; from that source you will add 11,000 stands of fire-arms to your stock annually.

Mr. Speaker, I have given you a cursory statement of the weak and divided situation of our country at the commencement of the Revolutionary war with Great Britain, and have mentioned something of the prowess of the patriots of those times, which baffled their exertions and produced our independence; and I have stated in contrast the outlines of the present strength of the United States and their means of defence. And it may be said without exaggeration that the difference is incalculable. Will any man, who knew anything of the state of the country at that period, and of the stand which was made against the whole strength of the British nation which was brought against us, and whose ideas of the present strength and prowess of the United States are not entirely local, pretend to insinuate that we are not in a capacity to contend for our most impor-

tant national rights? If at that time we were able to meet and defeat the armies of Great Britain, with what kind of prospect can any nation assail us at this time? With this view of the subject the committee have submitted the report before you; the House will judge of its correctness. I am well aware that should we be involved in a war with a nation which might have it in her power to pour in upon a remote part of our territory a large number of troops, and should so do, and keep possession for any length of time, an army during the continuance of such invasion might be necessary; but at present this is not to be expected, and unless we should be involved in a war, I am unable to see any necessity of augmenting our standing army, and hope, therefore, that the report will meet the approbation of the House.

Mr. Varnum then submitted a report, which was referred to a Committee of the Whole tomorrow.

NAVAL PEACE ESTABLISHMENT.

The House again resolved itself into a Committee of the Whole on the bill in addition to an act entitled 'An act supplementary to the 'Act providing for the Naval Peace Establishment, and for other purposes. The bill was reported with several amendments thereto.

The House proceeded to consider the said bill, when the first section thereof being again read, in the words following, to wit:

"That the second and fourth sections of 'An act providing for a Naval Peace Establishment, and for other purposes,' be, and the same are hereby repealed."

A motion was made by Mr. David R. Williams, and the question being put to amend the same, by striking out in the first line thereof, the words "and fourth," it passed in the negative—yeas 37, nays 52, as follows:

Yeas—Evan Alexander, David Bard, George M. Bedinger, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, junior, Peter Early, James Elliot, John W. Eppes, James M. Garnett, Edwin Gray, David Holmes, Walter Jones, John Lambert, Michael Leib, Joseph Lewis, jun., Robert Marion, Thomas Moore, John Morrow, Jonathan O. Mosely, Gideon Olin, John Randolph, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Smith, Samuel Smith, Richard Stanford, Philip R. Thompson, Abram Trigg, David R. Williams, and Alexander Wilson.

Nays—Willis Alston, junior, Burwell Bassett, Barnabas Bidwell, John Blake, junior, Thomas Blount, George W. Campbell, John Chandler, John Claiborne, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, Ebenezer Elmer, William Ely, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Nelson, Roger Nelson, Thomas Newton, junior, Timothy Pitkin, junior, John Pugh, Josiah Quincy, John Rhea of Tennessee, John Russell, Peter Sailly, James Sloan, John Smilie, Henry Southard, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

A motion was then made by Mr. Crowninshield, and the question being put further to amend the said bill by adding thereto a new section, in the words following, to wit:

"Sec. 4. *And be it further enacted*, That a sum not exceeding three hundred thousand dollars shall be, and the same is hereby, appropriated, to enable the President of the United States to cause to be built two frigates for the Navy of the United States, to supply the place of others which have been lost or condemned:"

It passed in the negative—yeas 43, nays 54, as follows:

Yeas—Joseph Barker, Silas Betton, Barnabas Bidwell, John Blake, junior, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, junior, John Dawson, James Elliot, Caleb Ellis, William Ely, Charles Goldsborough, Isaiah L. Green, Seth Hastings, David Hough, John G. Jackson, Joseph Lewis, junior, Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, Thomas Sammons, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, George M. Bedinger, Thomas Blount, Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Leonard Covington, Ezra Darby, Peter Early, Ebenezer Elmer, John W. Eppes, James M. Garnett, Edwin Gray, Andrew Gregg, Silas Halsey, David Holmes, Walter Jones, John Lambert, Michael Leib, Robert Marion, Thos. Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

A motion was then made by Mr. Leib, and the question being put further to amend the said bill, by striking out, in the fifth and sixth lines of the third section thereof, the words "thirteen captains, nine masters commandant, seventy-two lieutenants;"

And debate arising thereon, a division of the question on the said motion was called for by Mr. Blount: Whereupon, the question was taken on striking out the first member of the motion, containing the words "thirteen captains;" and passed in the negative—yeas 37, nays 60, as follows:

Yeas—Isaac Anderson, George M. Bedinger, Levi Casey, John Chandler, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Leonard Covington, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, John W. Eppes, James M. Garnett, Edwin Gray, John Hamilton, David Holmes, Walter Jones, John Lambert, Michael Leib, Thomas Moore, Jeremiah Morrow,

John Morrow, Gideon Olin, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Samuel Smith, Richard Stanford, Philip R. Thompson, Abram Trigg, David R. Williams, Marmaduke Williams, and Alexander Wilson.

Nays—Evan Alexander, Willis Alston, jun., Joseph Barker, Burwell Bassett, Silas Betton, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, John W. Campbell, John Claiborne, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, William Ely, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, John G. Jackson, Joseph Lewis, jun., Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Timothy Pitkin, jun., John Pugh, Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, James Sloan, John Smilie, John Smith, Joseph Stanton, Samuel Taggart, Benj. Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

The question was then taken on striking out the second member of the motion, containing the words "nine masters commandant," and passed in the negative—yeas 37, nays 52, as follows:

Yeas—Willis Alston, jr., Isaac Anderson, David Bard, George M. Bedinger, Thomas Blount, Robert Brown, Levi Casey, Christopher Clark, Joseph Clay, John Clopton, Ezra Darby, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, James M. Garnett, Edwin Gray, John Hamilton, David Holmes, Walter Jones, Michael Leib, Robert Marion, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Samuel Smith, Richard Stanford, Philip R. Thompson, David R. Williams, and Alexander Wilson.

Nays—Joseph Barker, Burwell Bassett, Silas Betton, Barnabas Bidwell, John Blake, jun., George W. Campbell, John Chandler, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, junior, John Dawson, Caleb Ellis, William Ely, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, John G. Jackson, Joseph Lewis, junior, Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, junior, Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, James Sloan, John Smilie, John Smith, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

The question was then taken on striking out the third member of the motion, containing the words "seventy-two lieutenants," and passed in the negative—yeas 34, nays 59, as follows:

Yeas—David Bard, George M. Bedinger, Thomas Blount, Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, John Clopton, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, James M. Garnett, Edwin Gray, John Hamilton, Walter Jones, Michael Leib, Robert Marion, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Samuel Smith, Richard Stanford, Philip R. Thompson, David R. Williams, and Alexander Wilson.

Nays—Willis Alston, jr., Joseph Barker, Burwell Bassett, Silas Betton, Barnabas Bidwell, John Blake, jr., George W. Campbell, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, William Ely, John Fowler, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, David Hough, John G. Jackson, Joseph Lewis, jun., Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Timothy Pitkin, jr., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, James Sloan, John Smilie, John Smith, Henry Southard, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

The bill was then engrossed and read ...e third time; and, on the question that the same do pass,

Mr. Chandler spoke in favor of, and Messrs. J. Clay and J. Randolph against, its passage, which was carried—yeas 58, nays 28, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Joseph Barker, Burwell Bassett, Barnabas Bidwell, John Blake, jr., George W. Campbell, John Chandler, John Claiborne, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Davenport, junior, John Dawson, Ebenezer Elmer, William Ely, William Findley, John Fowler, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, John G. Jackson, Joseph Lewis, jun., Matthew Lyon, Patrick Magruder, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Timothy Pitkin, jr., John Pugh, Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, James Sloan, John Smilie, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, and Joseph Winston.

Nays—Isaac Anderson, David Bard, George M. Bedinger, Thomas Blount, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Leonard Covington, Peter Early, James Elliot, John W. Eppes, James Fisk, James M. Garnett, John Hamilton, Walter Jones, Michael Leib, Jeremiah Morrow, John Morrow, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Henry Southard, Richard Stanford, Philip R. Thompson, and David R. Williams.

Saturday, April 19.

The House resumed the consideration of the amendments disagreed to by the Senate to the bill, entitled "An act making provision for the

compensation of witnesses who attended the trial of the impeachment of Samuel Chase:" Whereupon,

Resolved, That this House do insist on their amendment to the said bill.

Resolved, That this House do agree to the conference desired by the Senate on the subject-matter of the said amendment; and that Mr. John Randolph and Mr. Roger Nelson be appointed managers at the same, on the part of this House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the temporary relief of Hamet Caramalli;" to which they desire the concurrence of this House.

The House proceeded to consider the amendments reported from the Committee of the whole House, on the fifteenth instant, to the bill sent from the Senate, entitled "An act to regulate and fix the compensation of clerks, and for other purposes:" Whereupon, the said amendments being again read at the Clerk's table, were, on the question severally put thereupon, agreed to by the House. The said bill was then read the third time, and passed.

Mr. Gregg, from the Committee on the Public Lands, to whom was referred, on the seventeenth instant, the bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana," made a report thereon; which was read, and ordered to be committed to a Committee of the whole House this day.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats:" Whereupon,

Ordered, That the said amendments, together with the bill, be committed to a Committee of the whole House this day.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to provide for the adjustment of titles to land in the Territory of Michigan, and for other purposes," with an amendment; to which they desire the concurrence of this House. Also, the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee," with several amendments; to which they desire the concurrence of this House.

CHEROKEE INDIANS.

An engrossed bill making appropriations for carrying into effect a treaty with the Cherokee tribe of Indians, was read the third time: Whereupon, on a motion made and seconded that the said bill do lie on the table, it was resolved in the affirmative—yeas 47, nays 39, as follows:

Yeas—Evan Alexander, Isaac Anderson, David Bard, George M. Bedinger, Silas Betton, John Blake, junior, Thomas Blount, Robert Brown, Levi Casey, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, John Dawson, Elias Earle, James M. Garnett, Edwin Gray, Andrew Gregg, John Hamilton, David Holmes, Michael Leib, Joseph Lewis, junior, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

Nays—Willis Alston, jr., Joseph Barker, Barnabas Bidwell, George W. Campbell, John Chandler, Frederick Conrad, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., James Elliot, Ebenezer Elmer, William Findley, John Fowler, Isaiah L. Green, Silas Halsey, Seth Hastings, David Hough, John Lambert, Matthew Lyon, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Rhea of Tennessee, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

TREATY WITH THE CHICKASAWS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and Chickasaw tribe of Indians; and the said amendment being again twice read at the Clerk's table, in the words following, to wit:

"Strike out sections second and third.

"Sec. 2, *And be it further enacted*, That it shall be the duty of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed and laid out, in the same manner as is provided by law for the other public lands in the Mississippi Territory, so much of the lands ceded to the United States by the Cherokees and Chickasaws as lies within the said Territory; and the President of the United States is hereby authorized, whenever he shall think it proper, to establish a land office, for the sale of the said lands, and to appoint a register of the same, and a receiver of the public moneys accruing from the sale of the said lands, whose respective emoluments and duties shall be the same as those of the registers and receivers of the other land offices in the said Territory.

"Sec. 3. *And be it further enacted*, That, if any person shall make, or attempt to make, a settlement on any of the lands thus ceded by the Cherokees and Chickasaws, and lying within the Mississippi Territory, or shall, unless authorized so to do by the surveyor of the public lands south of the State of Tennessee, survey or attempt to survey such lands, or designate boundaries by marking trees or otherwise, such offender shall, on conviction thereof, in any court of record of the United States, or of any of the Territories of the same, forfeit a sum not less than two hundred dollars, nor exceeding one thousand dollars, and suffer imprisonment for a term not less than six months, nor exceeding three years: and it shall, moreover, be lawful for the President of the United States, and he is hereby required, to employ such military force as he may judge necessary, to remove from the said lands any person who shall make or attempt to make any settlement as aforesaid: *Provided*, That nothing herein contained shall affect persons making settlements on lands purchased from the United States, in conformity with the preceding section of this act."

The question was stated that the House do agree with the Senate in their said amendment;"

On which a division of the said question was called for; and, on the question that the House do agree with the Senate in so much of their said amendment as proposes to strike out the second section of the said bill, it passed in the negative—yeas 33, nays 57, as follows:

Yeas—Willis Alston, junior, Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Richard Cutts, Samuel W. Dana, John Davenport, jun., James Elliot, Ebenezer Elmer, William Ely, William Findley, John Fowler, Seth Hastings, David Hough, John G. Jackson, Matthew Lyon, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., Josiah Quincy, John Russell, Martin G. Schuneman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams

Nays—Evan Alexander, Isaac Anderson, Burwell Basset, David Bard, George M. Bedinger, John Blake, junior, Thomas Blount, Robert Brown, Levi Casey, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Ezra Darby, John Dawson, Elias Earle, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, Walter Jones, John Lambert, Michael Leib, Joseph Lewis, jr., Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, jun., Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

And then the question being taken that the House do agree with the Senate in such other part of their said amendment as proposes to strike out the third section of the said bill, it passed in the negative—yeas 35, nays 53, as follows:

Yeas—Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Richard Cutts, Samuel W. Dana, John Davenport, jun., James Elliot, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, David Hough, John G. Jackson, Jonathan O. Mosely, Gurdon S. Mumford, Gideon Olin, T. Pitkin, jr., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, Henry Southard, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, John Blake, jun., Thomas Blount, Robert Brown, Levi Casey, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, John Dawson, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, Walter Jones, John Lambert, Michael Leib, Joseph Lewis, junior, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, jun., John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, Samuel Smith, Richard Stanford, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

Resolved, That this House do adhere to its disagreement to the said amendment.

Ordered, That the engrossed bill making appropriations for carrying into effect a treaty with the Cherokee tribe of Indians, be recommitted to a Committee of the Whole this day.

WILLIAM EATON.

The House resolved itself into a Committee of the Whole, on the bill authorizing the settlement of accounts between the United States and William Eaton. No amendment having been made to the bill, the House proceeded to consider the said bill at the Clerk's table, and the same being again read, in the words following, to wit:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the proper accounting officers be, and they hereby are, authorized and directed to liquidate and settle the accounts subsisting between the United States and William Eaton, late Consul at Tunis, upon just and equitable principles, under the direction of the Secretary of State."

A motion was made by Mr. John Randolph, and the question being put, to amend the said bill, by striking out, at the end thereof, the words "under the direction of the Secretary of State;" it passed in the negative—yeas 43, nays 48, as follows:

Yeas—Evan Alexander, Willis Alston, jun., David Bard, Burwell Bassett, George M. Bedinger, Thomas Blount, Robert Brown, George W. Campbell, Levi Casey, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Peter Early, James M. Garnett, Edwin Gray, John G. Jackson, Walter Jones, Michael Leib, Robert Marion, Josiah Masters, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, junior, John Pugh, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

Nays—Isaac Anderson, Joseph Barker, Silas Betton, Barnabas Bidwell, John Blake, junior, John Chandler, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., James Elliot, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Seth Hastings, David Holmes, David Hough, Joseph Lewis, jr., Matthew Lyon, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, John Russell, James Sloan, John Smith, Joseph Stanton, Samuel Taggart, Benjamin

Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

Ordered, That the said bill be engrossed, and read the third time on Monday next.

MONDAY, April 21.

The bill, sent from the Senate, entitled "An act for the temporary relief of Hamet Caramalli," was read twice, and committed to a Committee of the whole House to-day.

An engrossed bill authorizing the settlement of accounts between the United States and William Eaton, was read the third time.

Ordered, That the said bill do lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, the Secretary of the Treasury, and Comptroller of the Treasury, Commissioners under the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," passed the seventh of April, one thousand seven hundred and ninety-eight, covering a list of names of claimants to land under the said act; which was read, and ordered to lie on the table.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to provide for the adjustment of titles to land in the Territory of Michigan, and for other purposes;" and the same being severally twice read at the Clerk's table, were, on the question put thereupon, agreed to by the House.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act supplementary to the act, entitled "An act for ascertaining and adjusting the titles to land within the Territory of Orleans, and the District of Louisiana." The bill was reported with an amendment thereto; which was twice read, and agreed to by the House. The bill, as amended, was then read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," with an amendment; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act respecting claims to lands in the Indiana Territory and State of Ohio," with an amendment; to which they desire the concurrence of this House; and the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," with an amendment; to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the amendment proposed by the Senate to the bill, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," and no amendments being made, the House proceeded to consider the said amendment, and the same being again twice read at the Clerk's table, was agreed to by the House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" and the same being twice read at the Clerk's table, were, on the question severally put thereupon, agreed to by the House.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes:" Whereupon,

Resolved, That this House do disagree to the said amendment; *Resolved*, That this House do insist on their said disagreement; that a conference be desired with the Senate on the subject-matter of the said amendment; and that Mr. SMILIE, Mr. D. R. WILLIAMS, and Mr. EARLY, be appointed managers at the said conference on the part of this House.

A message from the Senate informed the House that the Senate have agreed to the conference desired by this House on the subject-matter of the amendment depending between the two Houses to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," and have appointed managers at the same on their part.

PAY OF WITNESSES.

Mr. JOHN RANDOLPH, from the committee appointed on the part of this House, to attend a conference with the Senate on the subject-matter of the amendments depending between the two Houses to the bill sent from the Senate, entitled "An act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase," reported that the conferees on the part of this House had met the conferees on the part of the Senate, but had come to no agreement thereupon.

The House proceeded to consider the said report: Whereupon, a motion was made, and the question being put, that this House doth adhere to its amendment to the said bill, disagreed to by the Senate, it passed in the negative—yeas 39, nays 42, as follows:

YEAS—Evan Alexander, Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, John Blake, jr., Robert Brown, Frederick Conrad, Ezra Darby, Ebenezer Elmer, John W. Eppes, William Findley, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, David Holmes, Michael Leib, Patrick Magruder, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, John Randolph, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, John Smilie, Henry Southard, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R Williams, and Joseph Winston.

NAYS—Willis Alston, jr., Barnabas Bidwell, Christopher Clark, John Clopton, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Peter Early, James Elliot, Caleb Ellis, William Ely, James Fisk, John Fowler, David Hough, Walter Jones, Joseph Lewis, jr., Matthew Lyon, Robert Marion, William McCreery, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smith, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

Another motion was then made, and the question being put, that this House doth recede from its amendments to the bill, it passed in the affirmative—yeas 42, nays 39, as follows:

YEAS—Willis Alston, jr., Barnabas Bidwell, Christopher Clark, John Clopton, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Peter Early, James Elliot, Caleb Ellis, William Ely, James Fisk, John Fowler, David Hough, Walter Jones, Joseph Lewis, jr., Matthew Lyon, Robert Marion, William McCreery, Jonathen O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smith, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Nathan Williams.

NAYS—Isaac Anderson, Burwell Bassett, George M. Bedinger, John Blake, jr., Robert Brown, Frederick Conrad, Ezra Darby, Ebenezer Elmer, John W. Eppes, William Findley, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, David Holmes, Michael Leib, Patrick Magruder, Josiah Masters, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, John Randolph, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, John Smilie, Henry Southard, Jos. Stanton, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

CASE OF THE LEANDER.

Mr. QUINCY presented to the House two several memorials of Samuel G. Ogden, and of William S. Smith, of the city of New York, which were received and read, respectively stating that they are under a criminal prosecution, now depending in the Circuit Court of the United States for the district of New York, for an alleged offence against the laws of the United States, in which, if guilty, they have been led into error by the conduct of officers of the Executive Government, who now intend to bring upon the memorialists the penalties of the laws, to sacrifice their characters, fortunes, and liberty, in expiation of their own errors, or to deprecate the vengeance of foreign Governments, by offering the memorialists as a victim to their resentment: that they have also experienced great oppression and injustice in the manner of conducting the said prosecution; and praying such relief therein as the wisdom of Congress may think proper to grant.

The memorials having been read,

Mr. LYON moved, that the petitioners have leave to withdraw their petitions.

Mr. N. WILLIAMS said that it appeared to him that the tendency of these memorials was, by obtaining the sanction of the House to their contents, to throw the blame and censure on the prosecutors. It appeared to him proper to arrest such a mode of proceeding, especially while the business to which the memorials referred was *sub judice*. They contained accusations against the judge, who himself was under a prosecution. He did not see the object of the petitions, unless it was to excite a clamor and indignation against the court. It was improper that they should be sanctioned by being printed under the direction of this House, while the cause was depending, and it was unknown whether the court had acted properly or improperly. Suppose, previously to these trials coming on, a censure should be cast on the court; would not this be a novel kind of proceeding—would it not be wresting justice from its due course, and be degrading to the Legislature? Such a procedure would likewise be dangerous to the principles of justice. Shall we permit a person under accusation to prefer a charge against the tribunal before whom he is summoned to appear? Suppose we declare the court, and not the criminal guilty, shall we not thereby prostrate every principle of justice, and set a precedent never known in any country, as dangerous to the liberty of the subject, as violative of the Constitution? In my opinion the Legislature ought not in this stage of the business to intefere. Such interference will be premature. If hereafter the prosecution appears to have been improperly conducted, it will be time enough to make an inquiry into the conduct of the prosecutor and the court; but before that, such an inquiry will be premature, and will be a prejudging of the case. From the moment I heard these petitions read, they struck me as being of a most dangerous tendency. If at all sanctioned by this House, they will tend to incense not only the country against the Administration, but against the tribunals of justice. We find it asserted in them, that the Administration, and particularly the Secretary of State, had a full knowledge of all the transactions connected with the fitting out the Leander. This charge has been already made in the newspapers—it has gone abroad, and been contradicted; and I do not hesitate to declare in my place that the accusation is false, that it is a calumny, that there is not a word in the petition charging the Administration with this fact that is founded in truth. I think the proper course is for the petitioners to have leave to withdraw their petitions. Not that I am for a denial of justice. If the petitioners fail in their application for justice to the court, it will then be time enough for us to interfere. Indeed it is a thing unheard-of in this nation, while the accused are under prosecution, that they should be suffered to come forward to the House of Rep-

resentatives with charges against the court and the Government. The memorialists not only charge the Government, but the magistrates, with corrupt motives. Shall we permit the Government to be thus treated, and the tribunals of justice to be thus calumniated; and give a sanction to the charges by printing a paper that contains them? I hope we shall have virtue and firmness enough to resist such a procedure. I think we have gone far enough in patiently listening to petitions which have no legal object in view, which not only charge the Departments of the Executive Government with improper views, but which contain accusations against the tribunals of justice; what scarcely merit to be called accusations—but base calumnies. The manner too in which these memorials have been presented is most extraordinary. In point of time, this being the last day of the session, it must have been known that it was out of our power to investigate their contents. It is also very unfortunate, when the citizens of New York are so ably represented on this floor that the petitioners have been obliged to travel to Boston, in order to obtain a gentleman to present their memorials. For these reasons, I shall vote decidedly against the printing.

Mr. Quincy said that the observations which were made were such as might have been expected to be offered, had it been proposed to go into an inquiry on these memorials. I do not say, said Mr. Q., that the information contained in the petitions is true. All I say is, that as a high officer of the Government is implicated, justice requires that an inquiry at some time should take place. I do not say that it ought now to take place. The question at present is, whether this information shall rest on our tables. Gentleman say no—throw it off. But I say inquire; because I believe, when an examination shall be made, a part of the statement at least will be found to turn out correct. It is said that the memorialists are under accusation; but have they not therefore, a right to petition this House? But so far as relates to the judge, there is only an information by the Grand Jury, not a prosecution. Whoever heard of a man accused before himself? Gentlemen may throw these petitions under the table, but, if they do so, they will do a great disrespect to the House. My only object is that an inquiry should be made at a convenient season into the facts alleged in these petitions. The information contained in some of those statements is corroborated by information known to some gentlemen on this floor—that the Executive had been advised of the fitting out of the Leander time enough to have prevented her sailing. By throwing these petitions under the table gentlemen will show that they are not disposed to investigate these facts.

Mr. Smilie believed the House were to blame in permitting these petitions to be presented. It was a rule of the House that every member presenting a petition should first generally state its contents. The member who presented these petitions, having made this statement, I think the House ought not to have permitted them to have been read. I will call to the recollection of gentlemen a transaction which took place two years ago. A petition was then presented from certain aliens in Pennsylvania and New York; and because they reflected on a former Administration, the House would not hear them. I never did, said Mr. S., witness such an attempt as this; and could such attempts be sustained, they would subvert all government whatever. Shall a person accused of a crime, while his trial is depending, bring forward complaints against his judges? If so, we have no regular government. This is turning the House of Representatives into a judiciary body, and authorizing them to wrest all other business from the tribunals of justice.

Mr. Alston.—I would not rise, but for the extraordinary declaration of the gentleman from Massachusetts, who says members of the House knew that the President was possessed of knowledge of the Leander's sailing, time enough to have prevented it. He says he knew it. If so, this sufficiently accounts for the course now proposed to be taken. If the fitting out and the destination of the Leander were known to any member of this House, I pronounce that member equally criminal with the Secretary of State or the President. For my part I had heard a gentlemen of respectability from New York say, though some people were prepared for the sailing of the Leander, he did not think twenty men in New York knew the place of her destination. As to the course pursued by the House, it is perfectly immaterial to me, whether the petitions lie on the table, or are returned to those from whom they came—my only wish is, that we do not sanction a thing of this kind without knowing more about it.

Mr. Jackson.—The gentleman from Massachusetts has told us of information possessed in this House of a most extraordinary nature—certainly the most extraordinary in the annals of jurisprudence; that Government had a knowledge of this case, and that they are afraid to trust the decision of a jury of their country. This is most extraordinary indeed. For my part, I regret that the gentleman from Massachusetts had so far forgot his own dignity, and the duty he owes his country, as to have permitted himself to have become the organ of these charges. He has told us we will discredit ourselves by rejecting these petitions. But permit me to say he has already more discredited himself by presenting them. The petitioners say this expedition has received the applause and encouragement of the Government, and the gentleman says this is known to the House. I pronounce this false. I say it is a base calumny, of which the gentleman has made himself the organ; and in saying so, I hold myself responsible in any place the gentleman pleases.

Mr. Quincy.—I deemed it my duty to present a petition handed to me, let it come from what quarter it might—and in this instance before I presented these memorials I made a correct statement of all their contents, which the House heard, and having heard, received them. As to the harsh things which have been uttered by the gentleman from Virginia it is not in his power to hurt my reputation. I said some information,

stated in the memorials, was correct. I say so now. But did I say the whole information contained in them, with the coloring, was true? Gentlemen will bear me witness that I said I did not believe the facts could be proved; but that there was ground enough to justify the going into an inquiry. Now, as to the information alluded to: I received no information myself from New York—the information came to a gentleman on this floor. Was it for me to bring this information before the House? Other gentlemen had the same information. I have said these things as a reason for not being too precipitate. Such conduct will look as if we were influenced by improper motives. In what I have said, I by no means mean to give a sanction to the memorials.

Mr. Mumford.—On the first of February I applito the Collector of New York. He declared he did not know the real destination of the Leander—she had cleared out for Jacmel. The 2d February, the Leander sailed from the watering place at Staten Island. Her destination was the common subject of conversation. Some supposed it was to one place, and some to another; but it was generally conjectured to be a British expedition. It was common conversation that Miranda had brought with him a credit on Great Britain, and I have since been informed he drew a bill on one of the late British Administration. Shortly after, I heard of theproseeution, but I never imagined the Administration had anything to do with the expedition.

Mr. Quincy said, in the remarks he had offered, he had only meant to say that there had been an extraordinary equipment and arming in the harbor of New York. He did not mean to pledge himself as to the knowledge of the destination, or to the other fact, whether there was time for the Administration to have prevented it.

Mr. Jackson.—The gentleman did say so.

Mr. Quincy.—Such is my impression at present, but I am not certain of it. Since I rose, I have understood that after this information was received, an attempt was made by the Executive to stop the vessel. In making the remarks I have offered, I did not mean to criminate the Administration. If my words bore such a meaning, I withdraw them. Such was not my intention.

Mr. Bidwell said, the memorials referred to two subjects. On the first, the memorialists state that they have been indicted for an offence, and represent certain facts, which they say are in their favor; they say the indictment is depending—this is begging the case. That while these facts remain to be tried before a tribunal of justice, where the whole benefit of evidence may be made use of either in justification or destruction of the charges, that the memorialists should resort to a petition of this nature on the last day of the session, is most extraordinary; and for the House to undertake to decide a question now pending before a court and jury, before whom any witnesses may be summoned, would be still more extraordinary. The other subject relates to the conduct of the judge in this particular case. If, when this case shall be ultimately decided, the memorialists shall think themselves aggrieved, it will be time enough to come forward with their complaint.

Mr. Early.—The memorials have been presented at a time and under circumstances so extraordinary, as, in my opinion, to call for, at the hands of this House, something more than is contained in the motion of the gentleman from Kentucky. These peculiarities of time and circumstance have been already noticed by different gentlemen, and are of a nature so striking, that they cannot escape the attention of any. I shall not, therefore, detain the House with any arguments, or with a detail of them. I rise for the purpose of offering a resolution which I think the occasion calls for, and in favor of which I hope the gentleman from Kentucky will withdraw his motion.

Mr. Early then offered the following resolution:

Resolved, That the charges contained in the memorials of S. G. Ogden and William Smith are, in the opinion of this House, unsupported by any evidence which, in the least degree, criminates the Executive government of this country;—that the said memorials appear to have been presented at a time and under circumstances insidiously calculated to excite unjust suspicions in the minds of the good people of this nation against the existing Administration of the General Government, and that it would be highly improper in this House to take any step which might influence or prejudice a cause now depending in a legal tribunal of the United States. Therefore, *Resolved*, That the said memorials be by the Clerk of this House returned to those from whom they came.

Mr. Lyon withdrew his motion.

Mr. Clark said this resolution was susceptible of division. He had no objection to the latter part of it, but he did not wish to give a hasty decision on the former, as he was not acquainted with all the circumstances referred to. He would therefore move to strike out the first part of the resolution.

Mr. Smilie.—We are now to give a vote whether these charges are true or not. Believing them to be untrue, I shall vote against the motion to strike out.

Mr. Clark.—I do not believe that they are true. But it is not proper to condemn a cause unheard. These men think themselves aggrieved; they set forth certain charges, and we at once give our opinion that they are false. I can never agree to this course.

Mr. Dana.—These memorials contain a statement of certain facts in the nature of allegations against certain officers in this Government. Whenever allegations of this kind are made, such language ought to be used as is best adapted to convey the ideas of the petitioners. These memorials contain two things. In the first place, they charge the Executive of the United States with a participation in Miranda's expedition. As to this charge, I am fully sensible of the impropriety of the House interfering. Under a law of the United States the equipment of a vessel against a Power with which we are at peace, is considered as a misdemeanor, punished by fine and imprisonment: and if General Miranda misled these men

under a belief that the President, or Secretary of State, did countenance—though in fact they did not—this enterprise, they may, if found guilty by a jury, avail themselves of this circumstance, in mitigation of their fine and imprisonment. It does not become this House, by any declaration, to give an opinion on this point, either one way or another. On the other point, relative to the conduct of the judge, I am not so satisfied relative to the course to be pursued. Is not every man accused entitled to a fair trial? And if the charges are true, and the man guilty, and yet the judge has erred, he has abused his authority. I will not say perversely, but he has not pursued the usual course of administering criminal justice. As to this part of the memorial, therefore, I am willing it should lie on the table; while I am perfectly ready as to that part which respects the Executive, to reject it.

Mr. Alexander.—I wish to be informed of the correctness of my impression, that the mover of the memorial prayed it should be printed. Before the House give their consent to publish such a voluminous piece of calumny, I should be glad to hear some reason assigned for it. At first blush, as has been represented by the gentleman from New York, this appears to be an unjust and uncandid attempt to obtain the interference of this House. I should be glad gentlemen would show us any case in which it would be right for this House to interfere while it is *coram judice*.

Mr. A. concluded with suggesting a modification of the motion of Mr. Early, which he afterwards withdrew.

Mr. Clark likewise withdrew his amendment.

Mr. Masters.—It is the first time I ever heard of a defendant under an indictment for a public offence, petitioning the Representatives of the people to interfere and arrest him from public justice. It is a kind of imputation on this House. The petitioner is accused of a breach of the law, and is called on to answer that accusation before the proper forum. It does not belong to this House to interfere with that tribunal. The Constitution has set apart and defined the different powers.

The memorialists attempt to criminate the Administration. The Administration is not on trial before this House. If the district judge, in the course of the examination and trial, acts corruptly, there is a proper time and manner of bringing him constitutionally before this House. We ought not to countenance the defendant's endeavors to cast an odium on the court before whom the trial is depending, and the petition ought to be dismissed in stronger language than is expressed in the resolution.

Mr. J. Randolph asked for a division of the resolution down to the word "country," preceding the first dash.

Mr. Clark said he really felt for the dignity of the House. He had no hesitation to say that the petition was unsupported by evidence. But the journals would show that this was not the first instance that similar petitions had been acted upon. The petitioners thought themselves injured, and had a right to call for redress. In order to get rid of this difficulty, he moved the previous question.

Mr. Jackson asked the yeas and nays, which were taken on the previous question, "Shall the main question be now put," and decided in the affirmative—yeas 74, nays 15, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Robert Brown, Levi Casey, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, James Fisk, John Fowler, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, David Hough, John G. Jackson, Walter Jones, John Lambert, Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Nathan Williams, and Joseph Winston.

Nays—Silas Betton, Christopher Clark, Samuel W. Dana, Caleb Ellis, William Ely, Joseph Lewis, jun., Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Killian K. Van Rensselaer, and Peleg Wadsworth.

And then the main question being stated, "That the House do agree to the said motion," a division of the said question was called for: Whereupon, the first member thereof being again read, in the words following, to wit:

"*Resolved*, That the charges contained in the memorials of Samuel G. Ogden and of William S. Smith, are, in the opinion of this House, unsupported by any evidence which, in the least degree, criminates the Executive Government of this country."

The question was taken that the House do agree to the said first member of the motion, and resolved in the affirmative—yeas 75, nays 8, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, Elias Earle, Peter Early, James Elliott, Ebenezer Elmer, William Findley, James Fisk, John Fowler, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, David Hough, John G. Jackson, Walter Jones, John Lambert, Matthew Lyon, Patrick Magruder, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Nathan Williams, Richard Winn, and Joseph Winston.

Nays—Burwell Bassett, Samuel W. Dana, William Ely, Joseph Lewis, jun., Jonathan O. Mosely, Jeremiah Nelson, Josiah Quincy, and Killian K. Van Rensselaer.

The second member of the said motion being again read in the words following, to wit:

"That the said memorials appear to have been presented at a time, and under circumstances insidiously calculated to excite unjust suspicion in the minds of the good people of this nation, against the existing Administration of the General Government."

The question was taken that the House do agree to the said second member of the motion, and resolved in the affirmative—yeas 70, nays 13, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Robert Brown, Levi Casey, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, John G. Jackson, Walter Jones, John Lambert, Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Philip R. Thompson, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Nathan Williams, Richard Winn, and Joseph Winston.

Nays—Christopher Clark, Samuel W. Dana, William Ely, James M. Garnett, Joseph Lewis, jun., Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Philip R. Thompson, Abram Trigg, and Killian K. Van Rensselaer.

The third member of the said motion being again read, in the words following, to wit:

"And that it would be highly improper in this House, to take any step which might influence or prejudice a cause now depending in a legal tribunal of the United States."

The question was taken that the House do agree to said third member of the motion, and unanimously resolved in the affirmative, by yeas and nays, every member present voting in the affirmative, to wit:

Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, John G. Jackson, Walter Jones, John Lambert, Joseph Lewis, jun., Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, Samuel Tenney, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Richard Winn, and Joseph Winston.

The fourth and last member of the said motion being again read, in the words following, to wit:

"Therefore, *Resolved*, That the said memorials be, by the Clerk of this House, returned to those from whom they came:"

The question was taken that the House do agree to the said fourth and last member of the motion, and resolved in the affirmative—yeas 71, nays 14, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, Barnabas Bidwell, John Blake, junior, Robert Brown, Levi Casey, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, David Holmes, John G. Jackson, John Lambert, Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Thomas Newton, jun., Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Philip R. Thompson, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Nathan Williams, Richard Winn, and Joseph Winston.

Nays—George M. Bedinger, Christopher Clark, Samuel W. Dana, William Ely, Joseph Lewis, jun., Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Russell, Samuel Thompson, Thomas W. Thompson, Abram Trigg, and Killian K. Van Rensselaer.

DUTIES ON SALT.

The House took up the amendments of the Senate to the bill repealing the acts laying duties on salt, and continuing in force for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

These amendments proposed striking out all the provisions of the bill relative to the repeal of the duty on salt.

Mr. Alston said he believed it would be in order to amend the amendment of the Senate. If it were, he would offer an amendment, which would go to take off the duty on salt to the amount of eight cents.

The Speaker considering the amendment, in the present stage of the business, not in order, the question was put on concurring in the amendments of the Senate.

Mr. J. Randolph.—I understand this House to have sent a bill to the Senate repealing the existing duty on salt, and continuing for a further time the tax imposing a duty of two and a half per cent. on articles previously charged with ad valorem duties. The Senate have returned the bill, retaining the supply we voted, as well as the tax proposed by us to be repealed. I hope we shall not agree to their amendments, and the reasons I shall offer will not be those drawn from expediency, but from my idea of the Constitutional powers of this, and the other branch of the Legislature—which is, that it is the sole and indisputable prerogative of this House to grant the money of the people of the United States. It is here only that a grant of money can originate. It is true that the Senate have the power of amending money bills, but my idea of the extent to which that power can go, according to the true spirit of the Constitution, is this: While the Senate may amend money bills, to facilitate the collection of duties, or in other respects, as to their details, they do not possess the Constitutional power of varying either the quantum of tax proposed in this House, or the object on which it may be levied. I hope the House will never consent to give up this invaluable privilege of saying what supplies they will grant, and the object on which they shall be levied. But, even supposing this objection nugatory, I hope this House will not suffer itself to be trapped, on the last day of the session, in agreeing to a grant it was never in their contemplation to make. When we sent a bill to the other branch to continue the Mediterranean duty, we sent at the same time, a bill to repeal the duty on salt. The amendment from the Senate can be viewed in no other light than as originating a money bill in the Senate. It goes to originate a tax on salt. Such, in effect, will be the object and tendency of the measure. Let us suppose, instead of sending to the Senate a bill imposing a new tax, we had sent a simple bill to repeal this same tax upon salt—could the Senate, by an amendment, rivet and continue the Mediterranean fund? And if they could, would not that be originating a money bill? I hope the House will disagree to the amendments of the Senate.

Mr. Sloan.—However I may expose myself to the censure of the gentleman from Virginia, I think it my duty to say something on a subject highly interesting to my constituents. Notwithstanding the talents and eloquence of that gentleman, I differ from him on this subject. I will ask what chance there was of obtaining the repeal of this tax upon salt, when the measure was proposed at the heel of a session, when it might have been offered three months ago, and connected with another thing which compelled me to vote for it? In my opinion, it is as Constitutional for us to agree to an amendment of the Senate as if the thing originated with us. I hope the House will agree to the amendment. The situation of our affairs requires it, and I trust we shall treat with contempt the attempt to force down so important a bill at the end of a session.

Mr. Alston thought it would be advisable to accommodate with the Senate. In order to obtain an accommodation, he should vote, in the first instance, against the amendments of the Senate. On a conference, they may agree to strike off the duty of eight cents on salt, and the next year, when we shall better understand the ground on which we stand, the House may be disposed still further to lessen the burden.

Mr. Rhea, of Tennessee.—I do not consider this bill as in the nature of a bill originating revenue, but as one, on the contrary, detracting from the revenue. I contend that the Senate have the power, at any time, to say they will not consent to the repeal of a revenue law, else they are a trifling, insignificant body. Are they not, as well as we, to judge of the exigency of the country? This is not a question of expediency, but of necessity. Though we are desirous of taking off the duty on salt, such is the situation of the country, menaced with foreign danger, and particularly with a war with Tunis, that the revenue ought not to be diminished. For these reasons I shall concur in the amendment of the Senate.

The yeas and nays were then taken on agreeing to the amendment of the Senate—yeas 24, nays 56, as follows:

Yeas—John Blake, jr., Richard Cutts, Ezra Darby, James Fisk, Isaiah L. Green, Walter Jones, Michael Leib, Matthew Lyon, Josiah Masters, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newton, junior, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Jas. Sloan, David Thomas, Uri Tracy, John Whitehill, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jun., Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, Robert Brown, Levi Casey, John Chandler, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Jacob Crowninshield, John Davenport, junior, John Dawson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, James M. Garnett, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, David Hough, Joseph Lewis, jun., Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Smilie, John Smith, Samuel Smith, Joseph Stanton, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Joseph B. Varnum, Peleg Wadsworth, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Mr. J. Randolph.—I hope we shall now adhere to our disagreement to the amendment of the Senate. I hope we shall not concur with the Senate, under the idea of reducing the duty on salt from twenty to twelve cents. Notwithstanding a fear entertained by some gentlemen of a deficiency in the revenue, the House, by a vast majority, passed the bill repealing the duty on salt. The Message of the President was referred to the Committee of Ways and Means, and that Committee made a report recommending the taking off the duty on salt, and continuing the two and a half per cent. duty. Every objection to the measure that now exists then existed, and ought then to have been offered. We then sent to the other House a supply of money—a tax yielding $900,000, with the probability of its amounting the ensuing year to a million; in this same bill we proposed taking off a tax, which does not yield $600,000; we therefore made a grant of $400,000 annually. It is said that the amendment of the Senate does not go to the imposition of a new tax, but that it continues the revenue as it is. There is some plausibility, but no solidity in this remark. If it goes to continue the revenue as it now is, where is the necessity of continuing the duty of two and a half per cent.? It is therefore in fact a new money bill. Let me urge one thing to the House. If we ever mean to strike off the duty on salt, we must cling to the Mediterranean fund as the lever to lift this load from the shoulders of the people. It will be recollected that within five years we have taken off the internal taxes. I am glad of it; for I fear it would not now be done. They produced about $800,000, inclusive of the taxes which have expired, and $640,000 exclusive of them. But we have granted a supply of two and a half per cent. duties, which yield annually, from nine hundred thousand, to a million dollars. This is a complete offset to the repeal of the internal taxes. What we have lost by their repeal we have gained, with the addition of one or two hundred thousand dollars beyond the sum we should have received, had they been suffered to remain, and no addition been made to the duties on imports and tonnage; and yet we hear of the growing demands of the Government. But the growing demands of all Governments are alike. Do gentlemen recollect the growing state of the nation? When this Government was first put in motion, the duties on imports were not more than four or five millions. These resources are daily growing, and a fund accruing from the increasing prosperity of the people, which their guardians are bound to account for. Though we have contracted a debt for New Orleans, we have gained a revenue of not less than $300,000 a year. From these circumstances I hope we shall adhere to our disagreement to the amendments of the Senate, and that they will, in their justness and graciousness, yield a tax of half a million for a tax which produces a whole million. It is a new stretch of Senatorial prerogative, for that body——

The Speaker said the House had nothing to do with the conduct of the Senate—it was therefore out of order to make such remarks.

Mr. J. Randolph.—I would wish to have nothing to do with the Senate; and am therefore in favor of adhering to our vote—though I believe, when there is a Constitutional question as to the powers of the two branches, we may very properly examine their proceedings. It is said the Senate may strike out all but the title of your bills. Indisputably; but will this House submit? Suppose you send a bill to the Senate laying a duty of two per cent. on saltpetre, and they send it back to you, striking out this provision, and giving you a bill in lieu of it, laying a tax of four shillings in the pound on all the lands of the United States. Is that, under the Constitution, a fair exercise of their power? To my mind, if the position be admitted, that it is the sole privilege of this House to grant the public money, it is extremely indecent, to say no more, for that branch of the Legislature to tell the United States they will get all the money they can, whatever may be the disposition of this House. Recollect how the salt tax was laid before—on the last day of an expiring Congress, after a proposition to lay the tax had been rejected, and members had gone home, under the persuasion that no such attempt would be renewed. By some little modification of that proposition, a tax of twenty cents was laid on every fifty-six pounds of salt, and riveted on the people forever. When I say forever, I mean the period of its being taken off depends on a branch of the Legislature, over which the people have but little control, who are the representatives, not of the people, but of the State sovereignties. Now, if the House do wish, as surely they must, to get rid of this tax, and if they believe, as they must, that the present circumstances of the country admit of its repeal, else the bill would not have passed by so large a majority. I hope they will adhere to their disagreement to the amendments of the Senate, and put it in the power of the other branch to take so much of the public money, as it is our pleasure to grant, and not one cent more.

Mr. Rhea, of Tennessee.—As I do not appear to have been understood, it is necessary that I should say a few words in explanation. I said nothing of the Mediterranean fund. I said then, and I still say, I do not contemplate this bill, so far as it relates to imposing a duty on salt, as a money bill; and I consider the amendment of the Senate as only a negation to the repeal of laws affecting the revenue. I said that House had a right to judge of the propriety of a repeal of a revenue law, and I say so still. We say we are in favor of a repeal of the law imposing a duty on salt—they say they are against it. What has that to do with originating a money bill? One is as distinct from the other as the effect from its cause. I agree that this House has the right to originate revenue laws; but, once enacted, they have an equal right with us to judge of the expediency of rescinding them. With regard to this law, when I came here, I found it in existence, and I think in the present state of the country it ought to be continued. Have we not every reason to believe that we shall be embroiled in a war with Tunis? Will not this take all the revenue we have to spare? I shall be glad if it will not take more. We have no information from the Executive

Government, that this duty can be dispensed with. We have seen no report on the subject from the Secretary of the Treasury. It is not my duty to sit here and disarm the Government of the power of promoting the public interest. You may go on repealing one law after another, until the Executive has but the mere name of authority left. It has been said that the demands on the Treasury may increase—I believe they may justly increase; we know indeed they have increased. Since the meeting of Congress we have taken measures which may increase them for eventual good, for the benefit of the whole community. Being of this opinion, I must vote against this bill in every shape in which it comes before me.

Mr. J. Randolph.—I understand that if the House do adhere, all conference with the Senate will be at an end. If they prefere to keep the duty on salt to having the Mediterranean fund, they will refuse to recede from their amendments. But I have no idea they will refuse a revenue of a million for half a million. I am as anxious as any man to vote the necessary supplies of the Government, and perhaps my vote might have been materially influenced, had a different vote prevailed on the bill relative to the public debt, which has been postponed. But when I find the hands of the Commissioners of the Sinking Fund tied, and that there is a probability that they will be obliged to pour back into the Treasury, a part of the fund vested in them, I feel altogether indisposed to this amendment. If all the surplus revenue could be applied to the discharge of the debt, I might be as liberal as any man in granting it; but as it cannot, I am for adhering to our vote.

Mr. Conrad.—I hope we shall adhere, but try a conference. It will then be time enough to consider whether we will adhere. Anxious as I am to get rid of this odious tax, I will agree to reduce the duty to 12 cents, or keep the Mediterranean fund, and next session judge whether we are able to take off the whole of it.

Mr. Rhea, of Tennessee, said he barely rose to set the gentleman from Virginia right, by stating that the hands of the Commissioners of the Sinking Fund would not be tied for several years to come, and that Congress would be in session before any such great sum would be accumulated in their hands.

Mr. Lyon said he felt as great an aversion to the salt tax as any other man, but his strong wish was to act in such a manner that the Executive Government might not be distressed in discharging the duties devolved on it by the Legislature. He should vote against adhering, that a conference might be had with the Senate. He should vote for taking off the salt tax, if he thought the Government could do without it; and he had no doubt that most of the gentlemen were under the impression that the Secretary of the Treasury thought we could do without it. He said, for his own satisfaction, he had applied to the Secretary of the Treasury, who had told him the Government could not do without it.

The motion to adhere was then disagreed to—yeas 36, nays 42. When the House agreed to insist on their disagreement to the amendment of the Senate, and appointed a committee of conference.

And then, on a motion, made and seconded, the House adjourned until half past six o'clock, post meridiem.

Eodem Die, half past 6 o'clock.

A message from the Senate informed the House that the Senate have agreed to the conference desired by this House on the subject-matter of the amendment depending between the two Houses to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," and have appointed managers at the same on their part. The Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the President of the United States, and notify him of the proposed recess of Congress.

The House proceeded to consider so much of the aforegoing message of the Senate as relates to the appointment of a joint committee of the two Houses to wait on the President of the United States, and notify him of the proposed recess of Congress: Whereupon,

Resolved, That this House doth agree to the same; and that Mr. Early, Mr. Thomas M. Randolph, and Mr. Cutts, be appointed of the said committee, on the part of this House.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to amend, in the cases therein mentioned, the act to regulate the collection of duties on imports and tonnage:" Whereupon.

Resolved, That this House doth agree to the said amendment.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the punishment of counterfeiting the current coin of the United States, and for other purposes. The bill was reported without amendment.

The House proceeded to consider the said bill at the Clerk's table: Whereupon, the bill was read the third time, and passed.

The House proceeded to consider the amendment proposed by the Senate to the bill entitled "An act respecting the claims to land in the Indiana Territory and State of Ohio:" Whereupon,

Resolved, That this House doth agree to the said amendment.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the regulation of the times of holding the Courts of the District of Columbia, and for other purposes. The bill was reported without amendment.

The House proceeded to consider the said bill at the Clerk's table: Whereupon, the bill was read the third time and passed.

Mr. Smilie, from the managers appointed this day, on the part of this House, to attend a conference with the Senate on the subject-matter

of the amendment depending between the two Houses to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," reported that they had met the managers on the part of the Senate, and had come to no agreement thereupon.

NAVAL PEACE ESTABLISHMENT.

A message from the Senate informed the House that the Senate recede from their amendment to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," to their disagreement to which this House hath insisted. The Senate adhere to their amendment to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Mr. Gregg, from the committee of conference on the same bill, observed that the conferees on the part of the Senate did not discover any disposition to recede from their amendments. The conferees on the part of the House stated the danger of losing the bill if the conferees did not relax, and proposed to meet them on the ground of compromise, by taking off the duty of eight cents imposed on salt. To this proposition the conferees on the part of the Senate declined acceding.

Mr. J. Randolph moved that the House adhere to their disagreement to the amendments of the Senate.

Mr. Smilie.—I shall now be against this bill, though I was originally in favor of it. The Senate having adhered to their vote, to repeal the duty on salt is out of the question. The only question now is, whether we shall continue the Mediterranean fund independent of the other. Seeing that I cannot get the first, I will not on that account lose the last; for I do believe, under present circumstances, it would be unwise to divest ourselves of the Mediterranean fund.

Mr. Alston.—Having done everything in our power to repeal the duty on salt or to lessen it, the only question is, whether we shall continue the Mediterranean fund until the next session or not. I call on gentlemen to take a review of the different estimates from the Treasury during the present session, and to consider the expenses they warrant—I allude particularly to the appropriation of two millions towards the purchase of the Floridas, to decide whether we can do without the Mediterranean fund. The great object with me in advocating the repeal of the duty on salt was to obtain the Mediterranean fund. We have done our part to effect this object. I believe with the aid of that fund, though the duty on salt had been taken off, our revenue would have been sufficient; though even the greatest economy would have been requisite in the disbursement of the public money. Official documents on our tables from the proper departments will show that we cannot do without the Mediterean fund; provided the objects for which we have made appropriations be carried into effect. At the next session, however, we shall know the measures taken by the Executive, and what our wants will be. This bill only extends the continuance of the fund to the next session, which will be on the third of March; and since, as it now stands, it will not expire until three months from the ratification of the treaty, this bill will only continue it for a period of six or seven months.

Mr. Findley.—Though I represent a district which suffers more perhaps than any other in the United States from the duty on salt, yet I confess myself astonished at the mannner in which this bill has been brought before us. We have heard on a former occasion much about a cabinet. In this instance no cabinet has been consulted—but the measure has been smuggled in at the last period of the session. Are we sitting here to embarrass the character and credit of the United States? I thought the measure had come in on calculation: but, I find since that it is founded on miscalculation; and that it is a part of the system to throw the gauntlet, to destroy the Administration. The people have offered us no petitions to repeal this tax. What have we done? The Mediterranean fund is about to cease, and it is now proposed to give up the salt tax for it. This mode of bargaining—this system of corruption, I have always been averse to. I voted for the bill, because I thought it came from the Treasury Department, but instead of this, I find it part of a system to embarrass the Administration. I will agree to continue the Mediterranean fund, for I am not at war with the Government or any part of it. I know I am risking my popularity as much as any man; but I am not afraid of this, as I am convinced in a good cause I shall never suffer. There can be no good argument for the motion to adhere, but a desire to destroy the Administration.

Mr. D. R. Williams.—No man can be more earnestly impressed with the proverbial duty of paying respect to age than myself; but my feelings have never been more hurt than by the gentleman's impeaching the motive of those who have acted a patriotic part. The gentleman has avowed the idea, that the Committee of Ways and Means have been actuated by the view of embarrassing the Administration. I abhor and detest such an imputation. [Here was a loud cry of order by a number of gentlemen, and among others by Mr. T. M. Randolph.]

Mr. Findley said he hoped the gentlemen would be permitted to go on. He wished those who were opposed to the Government to speak out. [The call to order was again repeated.]

Mr. J. Randolph.—I hope we shall adhere to our vote, and I will give my reasons for indulging this hope. I do not profess to be so well acquainted with the subjects of finance as some other gentlemen on this floor. But if the Mediterranean fund is to be continued for so short a time, it is obvious that the revenue to be gleaned from it will be proportionally small. The arguments of gentlemen therefore rebut themselves.

They declare that they want a revenue, while they acknowledge that the continuance of this tax will produce but a small one. I hope that we shall keep the Mediterranean fund as a hostage for the salt tax. If between this and the next session a deficiency shall occur in our ways and means, to meet the demands of the Government, it will not be the first time, as I know it will not be the last, in which I shall step forward to vote a supply to meet every honorable demand. If there shall be deficit, as there is no reason to believe there will be, I pledge myself as one of those who will meet it. I wish to adhere to our vote, that the Mediterranean fund may be lost; for we have been told by those who, I presume, are well acquainted on such points, that such a course will enforce economy, and I wish I could add, in the words of an honorable friend who has no longer a seat here, would insure economy. But what has thrown us into this heat? Is it the dinner we have just eaten? I hope no honorable gentleman, who has heretofore kept the noiseless tenor of his way, because we have adjourned for half an hour, has permitted his passions to indulge in an asperity not shown on any former occasion. I did hope that whatever contumely or hostility may have been manifested during the earlier period of the session, we would have thrown in the last moments of it, neither the splenetic temper of age or youth; but that we should have parted like men not ashamed of what we had done, or afraid to meet the public award.

The question was then taken by yeas and nays on adhering—yeas 40, nays 47, as follows:

Yeas—Evan Alexander, Burwell Bassett, George M. Bedinger, Silas Betton, Levi Casey, Samuel W. Dana, John Davenport, jr., Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James M. Garnett, Edwin Gray, Andrew Gregg, David Holmes, David Hough, Joseph Lewis, junior, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, Samuel Smith, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Willis Alston, jr., Isaac Anderson, Joseph Barker, Barnabas Bidwell, John Blake, jr., John Chandler, John Claiborne John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, Elias Earle, William Findley, James Fisk, John Fowler, Isaiah L. Green, Silas Halsey, John G. Jackson, Walter Jones, John Lambert, Michael Leib, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, jr., John Pugh, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smilie, Henry Southard, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, R. Whitehill, and Nathan Williams.

Mr. T. M. Randolph.—It is true, as the gentleman says, I have not made much noise this season, and it is as true that he has made more than has been useful. I believe in the present stage of it that the advantage is on my side. I go home with a more contented mind, more tranquil feelings, and I may add also, I believe, a better heart, for not having engaged in the manner he has done, or in the character he has assumed, in the scenes exhibited before me in this House. Between the gentleman from Virginia and myself I acknowledge there is in point of talents an immeasurable distance. I can never hope to attain that intellectual elevation, which he has long since reached. At my inferiority in that respect I do not repine. I am what nature made me, and I am perfectly satisfied with my condition. But although there is this intellectual difference between the gentleman and myself, and the superiority is so great on his part in that point, I maintain that in the point of true patriotism he is my inferior. I do not hesitate to pronounce that myself, and I do not fear the imputation of vanity for so doing. With respect to the usefulness of either to the public, there is no such difference in reality between us as may appear to exist. I insist that the tenor of the gentlemen's recent conduct has been such, that with all his extraordinary powers and the extraordinary exertion of them he has made, his utility to his country this session has not been superior to mine. The difference between us, in the effect produced by either upon the public affairs, has been, to speak the favorite language of the gentlemen himself, the same with that between "*aviditas cæli*" and "*nimius imber*" upon the fields. To translate into the language of the gentleman's constituents, my influence on the national prosperity this session has been, when compared to his, what a dry summer is to a fresh, what a scanty crop is to an overwhelming inundation, confounding, sullying, impairing all things. The gentleman made use of the term "contumely." To this and other offensive terms, with an allusion which, as to me, is as unjust as it is insulting, I am sorry to think myself obliged to reply in other language than what I ever expected to use towards him. I have long observed that this gentleman is apt to indulge himself, while he has the shield of the dignity of this House extended over him, while he feels he is standing in the centre of this sacred asylum, in language to his equals upon this floor, which would be inadmissible in society; which he would not venture to make use of elsewhere. While saying this, I am fully aware of the consequences which may result from my expressions. My mind is arranged to meet them. I know the extreme irritability of the gentleman's temper; I know as well the principles which govern him upon occasions of this kind. I know the point to which he is disposed to carry disputes with some persons. I inform him that I have the same principles and sentiments myself upon such subjects. I never will, unprovoked, seek a quarrel with any one; this is entirely unsought and undesired by me; but I have always thought, and always shall think, that lead and even steel make very proper ingredients in serious quarrels, and I shall never be unwilling, when honor requires, to mix either or both in such as are forced upon me.

I have been hitherto a great admirer not only of the talents but of the utility of the gentleman in his public sphere. I am so no longer; the former are perverted, the latter has ceased. This gentleman has been from his first entrance into the public councils a kind of industrious, skilful, steady, and useful kitchen gardener in politics. His labor was constantly employed for the benefit of his country; it produced abundance of rich fruits and wholesome nutriment for its honor, its sustenance, and growth. He was beloved and cherished by it. Suddenly, last year he grew fond of the business of the florist, and took a distaste to the spade and manure by which he had come to such extraordinary thrift. He became dazzled with the splendors of that new calling, and not only resolved to change his trade, and set up in it, but conceived a strong contempt and aversion to such as followed the old. Behold, in one short season he has reached the verge of bankruptcy! For myself, I pronounce him bankrupt forever as a popular statesman.

The tenor of my course has been, I confess, little noisy. I have been encouraged in making it so by the improper length to which the gentleman himself has gone to the other extreme. If I were to say it was the unlucky example he has given me, which alone induced me to follow a contrary course, I should not speak the truth. My diffidence, and, no doubt, incapacity for such exertions, have been the main reasons; and I am not ashamed to confess it, for I have no hope to make myself abler than nature intended I should be, and no shame to appear as I am. I acknowledge that the gentleman's example and the situation to which he has brought himself, influenced my conduct, by repressing my desire to be active in the House. When I saw him, like a ship at sea, without compass or rudder, tossed on the surges of his passions, driven at random by furious squalls which continually arose from unexpected quarters of the boundless horizon of his fancy; when I saw the weather-beaten appearance his public character began to wear—his political honors, which I had been accustomed to look on with clannish feelings of delight, bleached and fluttering like tattered canvass in the winds; above all, when I heard it whispered that he had become leaky, I confess my want of boldness was increased. I feared to trust my little bark to the rude sea of debate, with the tempest he had raised on it. I made a determination that I would, to employ an apt term in use among seamen, hug the land, and hold a safe though inglorious course.

The House then agreed to recede from their disagreement to the amendment of the Senate—ayes 45, noes 36.

Mr. T. M. Randolph, a short time after this, rose and made the following remarks:

Mr. Speaker—A little while since I made use of some very severe and harsh language towards a gentleman of this House, such as I acknowledge altogether improper to be used in it. I did so, because I believed that certain expressions of a disrespectful nature which dropped from him were directed to me. It struck me that they were, if not intended to insult, at least an unpardonable freedom with me. By a rapid movement of my mind, I came to a resolution not to go home with such a load on my feelings as was imposed by the recollection that the treatment I had received was in the face of a company of a hundred men, who were to disperse to-morrow, and spread my disgrace through all quarters of the Union. I took the resolution to run all risk; to brave any danger which I might possibly incur, and by a severe retaliation to shake off the load which oppressed my spirits. I made use of the language you heard, and I addressed it particularly to the gentleman who I conscientiously believed had injured me. Since that I have been told by six or seven different gentlemen, that I was mistaken; that the words were not directed to me; that they were meant for another. I have not been able to find one who would agree with me that I was the object of them. I have even had the mortification to be asked if it was not a studied attack on my part on the gentleman, for the course he has taken this session. I disclaim such an intention. Whatever may have been my secret thoughts, I had no wish to utter them here. I could not have done so with honor, unprovoked, for private reasons. I have never imagined such a design, nor could I to answer that end have used such language as part of what I uttered. I am conscious of the disrespect I have shown the House, and it appears that it is not, as I supposed, justified by the necessity of the case. My mistake was honest and natural—I regret it, and the expressions I used in consequence of it.

HAMET CARAMALLI.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the temporary relief of Hamet Caramalli." The bill was reported without amendment, read the third time, and passed—yeas 71, nays 6, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jun., Levi Casey, John Chandler, John Claiborne, John Clopton, Frederick Conrad, Jacob Crowninshield, Samuel W. Dana, John Davenport, jr., John Dawson, Peter Early, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, David Holmes, David Hough, John G. Jackson, Walter Jones, John Lambert, Joseph Lewis, jr., Matthew Lyon, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jr., Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smilie, Henry Southard, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Nathan Williams, Richard Winn, and Joseph Winston.

Nays—Ezra Darby, Josiah Masters, John Rea of Pennsylvania, Thomas Sammons, Samuel Smith, and David R. Williams.

COMPENSATION OF DOORKEEPER, &c.

Mr. CONRAD moved the following resolutions, which were read and agreed to by the House:

Resolved, That the Committee of Accounts be authorized to settle and adjust the account of T. Claxton, jr., for his services rendered this House during the present session, and allow such sum as they may deem due him, out of the contingent fund of this House: provided the same shall not exceed one hundred dollars.

Resolved, That the Committee of Accounts be authorized to allow out of the contingent fund of this House, for the services and attendance of a laborer to attend the Clerk's office and Library of Congress, not exceeding at the rate of twelve dollars per month for the said services.

Resolved, That the Clerk of this House be authorized to continue the contracts for the supply of stationery and printing for the present session, for the like supply at the next session of Congress, if the present contractors shall agree thereto; or otherwise, that he advertise for the same in manner directed by the resolution of twenty-eighth February, one thousand eight hundred and five. And that he be moreover directed to advertise and contract with the lowest bidder for the supply of fuel for the next session.

APPOINTMENT OF COMMITTEES.

Mr. SLOAN.—Mr. Speaker, I rise to offer two resolutions which, if adopted, will remove some existing difficulties, and greatly expedite business.

Introductory to offering these resolutions, I ask the indulgence and attention of this House to a brief recital of some facts, to prove the necessity of adopting them. If, in stating these facts, any member, or other person, should conceive that I speak too plain a language, or discover too much warmth, I beg them to consider the magnitude of the subject—that it is to counteract a deadly blow aimed at the vitals of our Government, under which we have enjoyed near thirty years liberty and independence, and prospered in a manner unparalleled in history; and that upon a just and true statement of facts being laid before this House, and the public, and passing a just sentence thereupon, depends the continuation of that happiness, peace, and prosperity, we have hitherto enjoyed. I also ask the attention of the citizens in the galleries, in which I include both the Yazoo speculators, and other dishonest citizens (if any there be) in the green gallery, and the honest citizens in the upper or white gallery—in doing which I thus publicly declare, that I disclaim, I detest, and I abhor all such invidious distinctions as were lately applied, by a member from Virginia, to the citizens in the galleries; and which he has so frequently applied to members, within these walls, during the present session, as evidently tending to destroy the peace and happiness of the citizens of these United States.

Shall mortal man, shall inexperienced youth, urged on by a vindictive spirit, and the most impetuous and ungovernable passions that ever were permitted to rage to such a height, in any Legislative body, composed of freemen, standing on an even floor, in any civilized country—invade the judgment seat of the Most High, and undertake to judge the secrets of the hearts, of not only the members of both branches of the Legislature of the United States, but also of the citizens in the galleries? Shall any member of this House be permitted to declare that Yazoo principles governed the high court of impeachment, in their decision on the trial of Judge Chase; and also the decisions of this House during the present session? Shall that member's multifarious declamations, and groundless accusations, against the first officers of the United States, and a large majority of their representatives, (after being so mutilated as scarcely to resemble the original,) go forth without any investigation or contradiction, to deceive the innocent, and unsuspecting,—to hold up that member as the invincible champion of liberty, and that his opposition to the present Administration flows from the same pure motives that his opposition to the former Administration did? They shall not.

I conceive it to be the duty of the representative of the people, to give them a just and impartial account of the conduct of their public servants, in their Executive and Legislative capacities; under this impression, I am perfectly in unison with that member, in his anxious desire for publicity, so far as it can be done without invading the rights of the Executive, or the other branch of the Legislature, and so far as it can be done without committing the interest, safety, and peace, of the United States.

He shall be gratified—he shall have publicity—his portrait shall be drawn to the life, accompanied with explanatory labels, and sent to every part of the Union, that the people may not only know the substance of his declamatory accusations, but be presented with a view of his attitude, and that unparalleled arrogance with which they were imposed upon the members of this House, by which they will be enabled to judge whether he has been, and still remains, the champion of liberty and honesty; or, whether he is a disappointed vindictive declaimer and unjust accuser of our Executive and members of Congress who believe it their duty to support them!

We are told in a good old book, (which that member frequently quotes, but how far his life and conversation is consonant with its excellent precepts, I leave for others to determine,) that the tree is known by its fruit. I trust I shall not be contradicted when I say that this criterion is the best that ever has or ever can be given whereby finite beings can judge with propriety the conduct of their fellow mortals. A sample of his fruits shall be handed to the public, that they may see and taste, and thereby be enabled to judge for themselves whether they are good and wholesome—yea or nay.

Mr. Speaker, the people are alarmed, they are astonished, to hear that a member of Congress, who, in 1803, was not barely a supporter of the present Administration, but one of its warmest advocates, in the year 1806 declare in the House of Representatives, that the conduct of that same

Administration evinces either gross ignorance or evil design, and that a principal part of the ingredients of which his multiform harangues are composed are a compound of insinuations, inuendoes, and positive invectives, against some members of the Executive and their supporters. Hence, a most important question arises: Are those high officers (alluding to the President and Secretary of State) in our Executive department changed; or, is the member from Virginia? It is of the highest importance to these United States that this question should be justly and speedily decided; for that purpose, let me ask what proof has he brought to substantiate his charges against the Administration? He has been called upon in this House to bring forward an impeachment; this he has declared he will not do; but still continues his declamatory accusations, and produces no kind of testimony to support his charges; he stands alone a public accuser and witness. Will the people of the United States, the tribunal to whom he appeals, pass sentence of condemnation upon the two first officers of the Government, and upon a great majority of their representatives, who, having the same opportunity of knowing the conduct of those officers, and from a conviction that they have faithfully discharged their duty, still continue their full confidence and support? I trust they will not.

Mr. Speaker, as the people of the United States is the tribunal to whom the member from Virginia has appealed, and to whom he has presented his multiform harangues and declamatory accusations, (I will not call them speeches; I think them as unworthy of that title as he can possibly think his fellow representative of the same State of being styled his colleague;) I conceive it necessary through the same medium (that is to say by a member of Congress in the House of Representatives) to present at least a brief statement of the defence of the accused and the conduct of the accuser. In doing this, I shall not pursue his course by invading the judgment seat of Him who only knoweth the secret imaginations of all hearts, and boldly assert what were his motives; but as he has adduced no proof but his own assertions, common report, and hearsay testimony from those few that he yet styles his very worthy friends, I trust I am correct in adducing the same kind, to enable the public to judge for themselves what are his motives, which I will now proceed to do, with the addition of some incontrovertible facts, which I am persuaded will carry conviction to every impartial mind.

Report says that the member from Virginia contemplated a voyage to the south of France, or England, for his health. Did he wish to have been appointed Minister to one of those Courts, that he might have had a chance of increasing his property as well as his health? or, is he so enamored with the spark that has emanated from the British Court, and now glitters in this city, that he is anxious to behold with what effulgence the source from which it proceeded glows? Is it from this source that he has received information that Great Britain stands now precisely in the same situation that republican France did in 1793, that she is fighting the battles of liberty, that her fleets are our only protection from Gallic tyranny, and that she has a ship of war for every square league of the ocean; but that, if we offend her Minister, he will not barely withdraw his former most gracious protection, but wreak his vengeance upon us by capturing all our vessels, burning all our seaport towns, and driving us from the seacoasts over the mountains? Is it from that source that he has received information that the conduct of our Executive evinces either gross ignorance, or evil design, which has induced him to withdraw his confidence from them forever, and that he is the only true patriot, the only honest, inflexible member of Congress that remains uncontaminated? or, to use his own metaphor, that is not yet melted down by the powerful sunbeams of Executive favors?

While contemplating the invincible power of the British navy, has he also been enamored with the insolent tyranny of the commanders of her armed vessels, and has that induced him to pour forth torrents of abuse upon those members of Congress, who will not, in all cases, agree to see with his eyes, to hear with his ears, and to understand with his heart?

Has he been so enamored with the conduct of the once patriotic statesman, but afterward apostate Burke, as to induce him to make a puerile attempt to exhibit, on the floor of this House, his impressive and energetic mode of delivery, by exerting his weak nerves and feeble arms, to cause the pens, the papers, the books, and the hats, to fly in every direction, insomuch that, if they had been musket balls instead of those light materials, the American patriot would soon have been left to exhibit the remainder of his superlative eloquence within empty walls?

Upon this subject an all-important question arises, in which the interest, the peace, and the happiness of these United States are deeply involved. Can you, my brethren, members of this House, who have been witnesses of those scenes, represent to your constituents the actor as an inflexible patriot, of a sound mind, influenced by pure motives, and views, solely directed to the promotion of the interest, peace, and happiness of the Union; or, as a petted, vindictive school-boy, in the absence of his master; or as a maniac in his straight-jacket, accidentally broke out of his cell? Can you, after being charged by that member with refusing to take a question on Saturday, in order that you might serve the Lord on Sunday, by holding a caucus, and thereby be corrupted—nay, further, that you have been swindled out of your opinion in half an hour by a few individuals round the fires, and after his charging you with having your eyes fixed on the half-way house, between the Capitol and Georgetown, and your views directed toward our next Presidential election, instead of the great business of the nation; and that you would attend to nothing but writing circulars and newspaper accounts; that is to say, you were not disposed to fix your whole attention upon him—to implicitly obey his mandates, or

tacitly acknowledge him as sole dictator—can you, I say, subscribe to the truth of those assertions? Are you prepared to acknowledge that youth the political saviour of his country, and to sanction his language and behaviour on the floor of this House, when you heard him exclaim on this wise: Away with him, away with him, clap on the crown of thorns, (clapping his hand on the top of his head,) crucify him, crucify him, (whirling his feeble arm round his head,) thereby placing yourselves in a similar situation to the hard-hearted Jews?

Are you prepared to permit that member to invade the Speaker's chair; to behold him shutting his fist, and pointing directly to another member, in an imperious tone of voice, not only order him to sit down, but to go down the back stairs—declaring that was the place for him? And, finally, have you heard him, with approbation, charge an aged member of this House, (Mr. Findley,) with mumbling out his words in such manner that none could understand him; and call him an old toothless driveller, superannuated, and in his second dotage; more especially when you recollect that, but a short time past, he styled that member his venerable friend, his political father, and acknowledged it an honor to act with him?

I trust you are not; you are not yet prepared to see order and decorum trampled on by an individual; nor common decency, and that respect for age, so strongly enjoined by the laws of God and man, and even by the savages of the wilderness, banished from these walls. I doubt not your beholding the foregoing scenes, as I have done, with detestation and abhorrence, and will represent them in that point of view, to your constituents, when you return home!

I will not detain the House with a detailed account of that member's patriotic and paternal care over his horn-book scholars, which, immediately on hearing that the House had taken up the British business, raised him from a sick bed, winged his speed to the Capitol, and overcame the weakness of his feeble frame in so admirable a manner as to enable him to occupy the floor almost the whole of the two first days' debate, displaying a degree of zeal unparalleled by any other American patriot, to guard our weak minds from being deceived by the tools of that Administration, which his penetrating genius alone had discovered, was governed either by gross ignorance or evil design. To do this would be to write a volume. The foregoing brief recital of a few of the most prominent features of that member's general conduct during the present session, will, I conceive, be sufficient to enable the citizens of the United States to decide, with propriety, the all-important question, is the Executive or the member from Virginia changed? Are his charges against the Executive founded in fact, or is he a disappointed declaimer, and his accusations unfounded?

I will now proceed to state the facts which I premised, by which the citizens of the United States will be presented with indubitable proof, that, in two very important cases, he has been the principal if not the sole cause of greatly embarrassing the Executive, whereby considerable loss has been sustained, and probably much more will be, and the inferior officers and their clerks materially injured by being unjustly kept out of their salaries for a considerable time after they became due.

1st. It appears by the secret Journal, lately published, that a Message of the President of the 6th of December last, was committed to a committee of seven, of whom the member from Virginia was chairman; that, notwithstanding the critical situation of the belligerent Powers of Europe, which rendered it essentially necessary that Congress should act immediately upon the important subjects contained in the Message, which did not admit of a moment's delay; yet, notwithstanding the urgency of the occasion and magnitude of the object, no report was made by that committee until the third of January, a space of four weeks. For the truth of this assertion, I appeal to the members of this House; and also for the great delay and embarrassment, a bill predicated on the aforesaid Message met with in its passage, principally from the chairman of that committee, who, I am fully persuaded, occupied the floor at least nine-tenths of the whole time of the debate on said bill; by which means its passage was delayed in the House of Representatives until the 16th of January; whereas, on the 11th of February, 1803, a report of a committee for appropriating two million of dollars for a similar purpose was made, and a bill predicated thereon passed the House of Representatives on the 15th of the same month; that member was then a zealous advocate of the measure. It needs no comment.

2d. The second case I shall adduce, is his delay in bringing forward the appropriation bills for the support of Government, Army, and Navy, of the United States; the appropriation for the War Department, passed in 1804, on the 10th of February; and, in 1805, on the 14th, and for the Navy in 1804, on the 31st of January; and, in 1805, on the 25th of the same month; 1806, two months, or more, later.

Notwithstanding which, that member has asserted on this floor that it is too late for the bill appropriating two millions of dollars for the purchase of the Floridas to have the desired effect; that the battle of Austerlitz will prevent a favorable issue of our negotiation with Spain; or, to use his own language, with France; and has also charged the Executive with being unable to send off the sloop Hornet with despatches, for want of money; that they have been obliged to discount notes at a very great loss; that, in so doing, they have acted worse than the former Administration, who resorted to eight per cent. loans. Here, let me ask, if ever, before this session, there was such an insult offered to the House of Representatives, and to the Executive of the United States, as for an individual member, whose business, as chairman of the Committee of Ways and Means, it was, to bring forward and attend to filling up the blanks in all appropriation bills—after having neglected or refused to do his duty in the proper and usual time—rise from his seat, near two

months after, and, with a contemptuous smile, inform the House that All-fools' day was at hand, when, if we did not pass the bill for the support of Government, we should look like fools indeed? Thus adding insult to injury, by charging his own mal-conduct to the account of injured innocence.

3d. I shall now proceed to the third and last charge which I shall at this time adduce, which has been exhibited by that member against our Executive for applying to draw money from the Treasury for the purchase of the Floridas, previous to an appropriation made by law for that purpose; which is refuted by that very respectable officer, the Secretary of the Treasury, to whose testimony that member, after publicly declaring that he was inferior to none—notwithstanding which he had been scouted from the Cabinet—is bound to give full faith and credit. It is in a letter addressed to the honorable Speaker of the House of Representatives, bearing date April 15, 1806, in the following words:

"Sir: In answer to the request contained in the resolution of the House of Representatives, of the 8th instant, I have the honor respectfully to state, that no application has been made to draw money from the Treasury, for the purchase of the Floridas, before an appropriation made by law for that purpose."

Mr. Speaker, I trust I shall not be contradicted, when I assert, that it is a sound principle, both in law and equity, that proving one part of the testimony of a witness false, greatly invalidates, if not wholly destroys all credibility of the other parts. This, to use that member's favorite phraseology, "being indisputably done;" the other insinuations, inuendoes, and direct charges of malconduct against the Executive, and a majority of the members of Congress, consequently fall into that contempt which all groundless accusations against the innocent justly merit.

I shall at this time present to view but one more of those extraordinary productions which have so frequently and so greatly retarded the necessary business of the House of Representatives during the present session.

It will be remembered that in one of the rhapsodies of the member from Virginia, after informing the House that he had read a pamphlet, called "War in Disguise," supposed to be written by some of the British Ministry, or their hirelings, in support of their unjust and tyrannical conduct towards neutral nations, he took up a pamphlet, called "An Examination of the British Doctrine, which subjects to capture a Neutral Trade, not open in time of Peace," and with as much apparent violence as he could possibly have exerted to prevent an assassin from taking his life, threw those hated pages upon the floor of the House, to be trodden under foot by men, declaring, that of this pamphlet, which contains 204 pages, his abhorrence of its contents permitted him to read but 11. This needs no further comment than barely to observe, that the pamphlet which he had perused, and of which he expressed his approbation, was written to support injustice and tyranny; and the other, which so highly excited his indignation, to show the baseness of such doctrines, and to support justice, equal liberty, and the inherent rights of man; which will cause the author of that pamphlet, and his supporters, to shine as stars of the first magnitude, when the admirers and supporters of British Ministers and their hirelings shall be consigned to eternal contempt!

Mr. Speaker, after hearing so many insinuations, inuendoes, and direct accusations, thrown out against our Executive, and a majority of the members of Congress, which, if believed, must alienate the affections and finally destroy the confidence of the people of the United States, I conceive it a duty enjoined on me by my present station to lay before this House the foregoing brief statement of facts, in order that they may be published for the perusal of the public, and to oppose my opinion to that of the member from Virginia. My opinion most decidedly and unequivocally is, that all the declamations and accusations we have heard from him against any branch of our Executive, so far as it goes to impeach their knowledge, prudence, or integrity, is entirely groundless and contrariwise; that, as far as has come to my knowledge, our Executive in all its departments has discharged its duties in such manner as to merit the approbation and entire confidence of the people of these United States. To their good sense and impartial judgment I leave to determine whether the conduct of the Executive, and a majority of the House of Representatives, has fixed on them a stain of so deep a die that all the waters of the Potomac can never wash it off; or whether the groundless accusation of that member has not indelibly stamped him, not barely with a stain, but a deep sable hue, which all the waters of the Mississippi, that great parent of floods, even if connected with the most powerful fuller's soap, can ever cleanse or change to its native color; and, finally, whether a member of Congress who has, to the utmost of his power, fixed in battle array the citizens of the South against those of the North, and the West against the East, or those members who uniformly endeavored to promote love and harmony among all classes of citizens, as children of one family, are the real friends of the interest, liberty, peace, and happiness of these United States.

I shall conclude with offering, if seconded, two resolutions, which I do with a desire to have them placed on the Journal, intending to call them up the first day of the next session. I offer these resolutions for the purpose hereafter of keeping the business of the House of Representatives within its own power, and to prevent in future the most important business of the nation from being retarded by a Chairman of the Committee of Ways and Means, or any other committee, from going to Baltimore or elsewhere, without leave of absence, and staying six days or more, either for his pleasure or his interest; to prevent the members of this House from being hereafter insulted by chairmen, or other members of the committees, for calling business out of their hands, after having kept it either from negligence or

evil design more weeks than they ought to have done days. To prevent in future the Chairman of the Committee of Ways and Means from keeping for months the estimates for the appropriations necessary for the ensuing year in his pocket, or locked up in his desk, whereby the different appropriation bills may be kept back (as they have been this session) to the great injury of the nation, as well as individuals; and, finally, to prevent hereafter bills of importance being brought forward, and forced through the House, near the close of a session, when many members are gone home, and the minds of those who remain are necessarily turned homeward to their domestic concerns, and when there is not time for that full investigation and cool deliberation necessary to decide with propriety on important subjects, by which means laws may be passed injurious to the interests of the United States and derogatory to the character of the House of Representatives.

I trust every member of this House, after experiencing the embarrassments of the present session, will be impressed with the necessity of preventing them in future; for that purpose I offer these resolutions.

Mr. Sloan then submitted the following resolutions:

Resolved, That hereafter all standing committees of the House of Representatives shall be appointed by ballot, and shall choose their own chairman.

Resolved, That all committees of the House of Representatives be called upon by the Speaker every Monday to report, unless dispensed with by the unanimous consent of the House.

Ordered, That the said motion do lie on the table.

ADJOURNMENT.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the relief of Seth Harding, late a Captain in the Navy of the United States," was postponed indefinitely.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to explain the fifth section of an act, entitled 'An act to divide the Indiana Territory into two separate Governments,'" was postponed indefinitely.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act in addition to the act establishing a Mint, and regulating the coins of the United States," was postponed indefinitely.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill for the relief of the Governor, Judges, and Secretary, of the Indiana Territory, was postponed indefinitely.

On a motion made and seconded, that the further consideration of the report of the committee appointed, on the twenty-first ultimo, to inquire into the conduct of Gideon Granger, Postmaster General of the United States, be postponed indefinitely: it was resolved in the affirmative.

Mr. Early, from the committee appointed on the part of this House, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and notify him of the proposed recess of Congress, reported that the committee had performed that service; and that the President signified to them he had no farther communication to make during the present session.

A message from the Senate informed the House that the Senate, having finished the legislative business before them, are now ready to adjourn.

Ordered, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now about to adjourn until the first Monday in December next; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and, being returned, Mr. Speaker adjourned the House until the first Monday in December next.

SUPPLEMENTAL JOURNAL

OF SUCH PROCEEDINGS OF THE FIRST SESSION OF THE NINTH CONGRESS, AS, DURING THE TIME THEY WERE DEPENDING, WERE ORDERED TO BE KEPT SECRET, AND RESPECTING WHICH THE INJUNCTION OF SECRECY WAS AFTERWARDS TAKEN OFF BY ORDER OF THE HOUSE.

Friday, December 6, 1805.

The Speaker laid before the House a letter and communication from the President of the United States, which were read.

Ordered, That the said letter and communication, together with the documents accompanying the same, be referred to Mr. John Randolph, Mr. Nicholson, Mr. John C. Smith, Mr. Mumford, Mr. Williams of South Carolina, Mr. Bidwell, and Mr. Brown.

Friday, January 3, 1806.

Mr. John Randolph, from the committee to whom was referred the Message and communication of the President of the United States, of the sixth of December last, together with the documents accompanying the same, made a report thereupon, as follows:

Report of the committee to whom were referred the Message of the President of the United States, of the sixth December, 1805.

The committee have beheld, with just indignation, the hostile spirit manifested by the Court of Madrid towards the Government of the United States, in withholding the ratification of its convention with us, although signed by its own Minister, under the eye of his Sovereign, unless with alterations of its terms affecting claims of the United States, which, by the express condition of the instrument itself, were reserved for future discussion: in piratical depredations upon our fair commerce; in obstructing the navigation of the Mobile; in refusing to come to any fair and amicable adjustment of the boundaries of Louisiana; and in a daring violation, by persons acting under the authority of Spain, and, no doubt, apprized of her sentiments and views, of our undisputed limits, which she had solemnly recognised by treaty.

To a Government having interests distinct from those of its people, and disregarding their welfare, here is ample cause for a formal declaration of war on the part of the United States, and such, did they obey the impulse of their feelings alone, is the course which the committee would not hesitate to recommend; but, to a Government identified with its citizens, too far removed from the powerful nations of the earth for its safety to be endangered by their hostility, peace must always be desirable, so long as it is compatible with the honor and interest of the community.

Whilst the United States continue burdened with a debt which annually absorbs two-thirds of their revenue, and duties upon imports constitute the only resource from which that revenue can be raised, without resorting to systems of taxation not more ruinous and oppressive than they are uncertain and precarious, the best interests of the Union cry aloud for peace. When that debt shall have been discharged, and the resources of the nation thereby liberated, then may we rationally expect to raise, even in time of war, the supplies which our frugal institutions require, without recurring to the hateful and destructive expedient of loans; then, and not till then, may we bid defiance to the world. The present moment is peculiarly auspicious for this great and desirable work. Now, if ever, the national debt is to be paid by such financial arrangements as will accelerate its extinction, by reaping the rich harvest of neutrality, and thus providing for that diminution of revenue which experience teaches us to expect on the general pacification of Europe. And the committee indulge a hope that, in the changed aspect of affairs in that quarter, Spain will find motives for a just fulfilment of her stipulations with us, and an amicable settlement of limits, upon terms not more beneficial to the United States than advantageous to herself; securing to her an ample barrier on the side of Mexico, and to us, the countries watered by the Mississippi, and to the eastward of it. But, whilst the committee perceive, in the general uproar of Europe, a state of things peculiarly favorable to the peaceable pursuit of our best interests, they are neither insensible to the indignity which has been offered on the part of Spain, nor unwilling to repel similar outrage. On the subject of self-defence, when the territory of the United States is insulted, there can be but one opinion, whatever differences may exist on the question, whether that protection which a vessel finds in our harbors shall be extended to her, by the nation, in the Indian or Chinese seas? Under this impression, the committee submit the following resolution:

"*Resolved*, That such number of troops (not exceeding ——) as the President of the United States shall deem sufficient to protect the southern frontiers of the United States from Spanish inroad and insult, and to chastise the same, be immediately raised."

The said report was read, and ordered to be referred to the consideration of a Committee of the whole House on Monday next.

On a motion made and seconded that the House do come to to the following resolutions:

Resolved, That $ —— be appropriated by law for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any moneys in the Treasury, not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, and shall cause an account of the expenditure thereof to be laid before Congress as soon as may be.

Resolved, That the additional duty of two and a half per centum ad valorem, imposed by an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," be continued for —— years.

Ordered, That the said resolutions be committed to the Committee of the whole House to whom is committed the before mentioned report of the committee on the Message and communication of the President of the United States, of the sixth of December last.

MONDAY, January 6.

The House resolved itself into a Committee of the Whole on the report of the committee to whom were referred the Message and communication from the President of the United States, of the sixth of December last, and the documents accompanying the same, as also the resolutions referred to the said Committee of the whole House on Friday last; and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

TUESDAY, January 7.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That any arrangement of limits between the United States and Spain, which shall secure to her an ample barrier on the side of Mexico, and to the United States the countries watered by the Mississippi, and to the eastward of it, will meet the approbation and support of this House;

Ordered, That the said resolution be committed to the Committee of the whole House to whom is referred the report of the committee on the Message and communication from the President of the United States, of the sixth of December last, and the documents accompanying the same, as also two resolutions referred to the same Committee of the whole House on Friday last.

The House then again resolved itself into a Committee of the Whole on the said report and resolutions, and after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

WEDNESDAY, January 8.

The House again resolved itself into a Committee of the Whole on the report of the committee to whom were referred a Message and communication from the President of the United States, of the sixth of December last, and the documents accompanying the same; as, also, on two resolutions referred to the same Committee of the Whole on Friday last, and one other resolution referred to the same Committee of the Whole on Tuesday last; and, after some time spent therein, the Committee rose, and reported progress, and had leave to sit again.

THURSDAY, January 9.

The House again resolved itself into a Committee of the Whole on the report of a committee to whom were referred a Message and communication from the President of the United States, of the sixth of December last, and the documents accompanying the same; as, also, on two resolutions referred to the same Committee of the Whole on Friday last, and one other resolution referred to the same Committee of the Whole on Tuesday last; and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

FRIDAY, January 10.

The House again resolved itself into a Committee of the Whole on the report of the committee to whom were referred a Message and communication from the President of the United States, of the sixth of December last, and the documents accompanying the same; as, also, on two resolutions referred to the same Committee of the Whole on Friday last, and on one other resolution referred to the same Committee of the Whole on Tuesday last; and, after some time spent therein, the Committee rose, and reported to the House their disagreement to the resolution contained in the report of the committee aforesaid; also, their agreement to the first of the two resolutions referred to them on Friday last, with sundry amendments; and, further, that the said Committee of the Whole not having time to go through the whole of the business referred to them, ask for leave to sit again.

On the question that the Committee of the Whole have leave to sit again, it passed in the negative.

Ordered, That the report of the Committee of the Whole do lie on the table.

SATURDAY, January 11.

The House proceeded to consider the report of the Committee of the Whole, made yesterday, on the report of the committee to whom was referred the Message and communication from the President of the United States, of the sixth of December last, and sundry resolutions of the third and seventh instants. Whereupon, the resolution contained in the report of the committee on the President's Message, aforesaid, being read, in the words following, to wit:

"*Resolved*, That such number of troops, not exceeding ——, as the President of the United States shall deem sufficient to protect the Southern frontiers of the United States from Spanish inroad and insult, and to chastise the same, be immediately raised."

The question was taken, that the House do agree with the Committee of the Whole in their disagreement to the same, and resolved in the affirmative—yeas 72, nays 58, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, William Butler, George W. Campbell, Levi Casey, John Chandler, Matthew Clay, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, Jno. Hamilton, Jas. Holland, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Robert Marion, Josiah Masters, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Richard Stanford, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

NAYS—John Archer, Burwell Bassett, Silas Betton, James M. Broom, Joseph Bryan, John Campbell, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, George Clinton, jun., Samuel W. Dana, John Davenport, jun., Peter Early, Caleb Ellis, William Ely, John Fowler, James M. Garnett, Charles Goldsborough, Seth Hastings, David Hough, Walter Jones, Jas. Kelly, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, Patrick Magruder, William McCreery, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Joseph H. Nicholson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Peter Sailly, Thomas Sandford, John C. Smith, John Smith, Samuel Smith, Thomas Spalding, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, Alexander Wilson, and Joseph Winston.

The House then proceeded to consider the amendments reported by the Committee of the Whole to the first resolution referred to them, on the third instant, which resolution and amendments being read, as follows:

Resolved, That —— dollars be appropriated, by law, for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any moneys in the Treasury, not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority to borrow the said sum, or any part thereof, on behalf of the United States, at a rate of interest not exceeding six per centum per annum, and shall cause an account of the expenditure thereof to be laid before Congress, as soon as may be.

AMENDMENTS.

First. Prefix a preamble, in the words following, to wit: "Whereas, in the settlement of our differences with Spain, it may be to the interest of the United States to procure a cession of the Spanish territories eastward of the river Mississippi, by purchase to enable the President, in effecting such purchase, to secure to the United States the most advantageous terms."

Second. Strike out the words, "any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations," and insert "the expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi."

Third. After the words "per annum," insert "redeemable at will."

The first of the said amendments, to fix a preamble to the resolution, being again read, it was moved to amend the said preamble by preceding it with the following words:

"France having transferred to the United States the sovereignty of Louisiana, embracing extensive but undefined countries, contiguous to the Spanish province of New Mexico, and Spain retaining the sovereignty of territories on the Atlantic ocean and Gulf of Mexico, detached from her other American possessions, but whose local position render them desirable to the United States; and,"

And on the question thereupon, it was resolved in the affirmative—yeas 74, nays 57, as follows:

YEAS—Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, James M. Broom, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, George Clinton, jun., John Clopton, Samuel W. Dana, John Davenport, jun., Peter Early, Caleb Ellis, William Ely, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Joseph H. Nicholson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John C. Smith, John Smith, O'Brien Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, jun., Joseph Barker, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, William Butler, George W. Campbell, John Chandler, Matthew Clay, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, Nehemiah Knight, John Lambert, Matthew Lyon, Patrick Magruder, Jeremiah Morrow, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John

Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, and Nathan Williams.

And then the said preamble, as amended, being under consideration, it was, on motion, ordered to lie on the table.

MONDAY, January 13.

The House resumed the consideration of the report of the Committee of the Whole of Friday last: Whereupon, a motion was made, and the question being put, that the said report be recommitted to the Committee of the Whole, it passed in the negative.

And then the second amendment, reported by the said committee, to the first resolution referred to them, being again read as follows:

Strike out the words "any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations," and insert "the expense which may be incurred in the purchase of the Spanish Territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi:"

The question was taken that the House do concur with the Committee of the whole House in their agreement to the said amendment, and resolved in the affirmative—yeas 74, nays 58, as follows:

YEAS—Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, James M. Broom, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jr., John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, jr., Caleb Ellis, William Ely, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, John Hamilton, Seth Hastings, David Holmes, David Hough, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip VanCortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Alexander Wilson, and Joseph Winston.

NAYS—Willis Alston, jr., Joseph Barker, Barnabas Bidwell, Phanuel Bishop, Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, William Butler, George W. Campbell, John Chandler, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, William Helms, James Holland, John G. Jackson, Nehemiah Knight, John Lambert, Patrick Magruder, Jeremiah Morrow, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Jos. B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Nathan Williams, and Thomas Wynns.

The third and last amendment reported by the Committee of the whole House to the said first resolution, to insert after the words "per annum," the words "redeemable at will," was, on the question put thereupon, agreed to by the House.

TUESDAY, January 14.

The House resumed the consideration of the report of the Committee of the whole House on Friday last: Whereupon, the first resolution reported by the said Committee, as amended, being again read, a motion was made, and the question being put, further to amend the same, by striking out, in the first line thereof, the words, "for the purpose of," and inserting, in lieu thereof, the word "toward:" it was resolved in the affirmative—yeas 62, nays 44, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., Thomas Blount, Robert Brown, Joseph Bryan, Wiliam Butler, George W. Campbell, Levi Casey, Joseph Clay, George Clinton, jr., Frederick Conrad, Jacob Crowninshield, Ezra Darby, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, James Holland, John G. Jackson, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Pugh, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Abram Trigg, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

NAYS—James M. Broom, John Campbell, Martin Chittenden, John Claiborne, Christopher Clark, John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, jr., Caleb Ellis, James M. Garnett, Charles Goldsborough, Edwin Gray, David Holmes, David Hough, James Kelly, Jos. Lewis, jr., Henry W. Livingston, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, Marmaduke Williams, and Alexander Wilson.

Another motion was made, and the question being put, further to amend the said resolution by adding to the end thereof the following proviso:

"*Provided*, That the sum stipulated to be paid shall not exceed —— dollars:"

It passed in the negative—yeas, 57, nays 62, as follows:

YEAS—George M. Bedinger, Silas Betton, Jas. M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, jr., Caleb Ellis, William Ely, James Fisk, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jr., Henry W. Livingston, Josiah Masters, William M'Creery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

NAYS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., Thomas Blount, Robert Brown, Joseph Bryan, George W. Campbell, John Chandler, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, William Helms, James Holland, John G. Jackson, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Pugh, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

And then the main question being put, that the House do agree to the first resolution, amended to read as follows:

Resolved, That —— dollars be appropriated, by law, towards defraying the expenses which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi, to be paid out of any money in the Treasury, not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, redeemable at will; and shall cause an account thereof to be laid before Congress, as soon as may be:

It was resolved in the affirmative—yeas 77, nays 54, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Joseph Clay, George Clinton, jr., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, Walter Jones, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Jos. B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

NAYS—Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Matthew Clay, Samuel W. Dana, John Davenport, jr., Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, William McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thos. Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, D. R. Williams, Marmaduke Williams, and Alexander Wilson.

A motion was then made, and the question being put, that the House do come to the following resolution:

Resolved, That an exchange of territory between the United States and Spain is deemed, by this House, to be the most advantageous mode of settlement of existing differences respecting limits between the United

States and the Court of Madrid, and that any arrangement between the two Governments which shall secure to Spain an ample barrier on the side of Mexico, and to the United States the countries watered by the Mississippi, and to the Eastward of it, will meet the approbation of this House:

It was resolved in the affirmative—yeas 80, nays 52, as follows:

YEAS—John Archer, David Bard, Burwell Bassett, George M. Bedinger, Thomas Blount, James M. Broom, John Boyle, Joseph Bryan, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, George Clinton, jr., John Clopton, Leonard Covington, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, John Fowler, Jas. M. Garnett, Charles Goldsborough, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Henry W. Livingston, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, John Smith, O'Brien Smith, Samuel Smith, Thomas Spalding, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C Verplanck, Peleg Wadsworth, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, jr., Isaac Anderson, Jos. Barker, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., Robert Brown, George W. Campbell, John Chandler, Matthew Clay, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., William Dickson, Elias Earle, Ebenezer Elmer, William Findley, James Fisk, Isaiah L. Green, William Helms, James Holland, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Matthew Lyon, Patrick Magruder, Jonathan O. Mosely, Roger Nelson, Gideon Olin, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, and Nathan Williams.

Ordered, That a bill, or bills, be brought in, pursuant to the first resolution agreed to; and that Mr. BIDWELL, Mr. EARLY, Mr. ROGER NELSON, Mr. GEORGE W. CAMPBELL, and Mr. CLAIBORNE, do prepare and bring in the same.

A motion was then made that a committee be appointed to present to the President of the United States the resolution last agreed to. On which motion a debate arising, it was moved to postpone the consideration thereof until Monday next, and resolved in the affirmative.

WEDNESDAY, January 15.

Mr. BIDWELL, from the committee appointed yesterday, presented a bill making provision for defraying the expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi; which was read twice and committed to a Committee of the Whole this day.

A motion was then made, and the question being put, that the injunction of secrecy, so far as respects the proceedings of this House on the said bill, be taken off, it passed in the negative—yeas 49, nays 78, as follows:

YEAS—John Archer, George M. Bedinger, Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, Matthew Clay, Leonard Covington, Samuel W. Dana, John Davenport, jr., Caleb Ellis, William Ely, Jas. M. Garnett, Charles Goldsborough, Seth Hastings, David Holmes, David Hough, James Kelly, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Thomas Sandford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, Marmaduke Williams, and Alexander Wilson.

NAYS—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, Barnabas Bidwell, Phanuel Bishop, John Blake jr., Thomas Blount, Robert Brown, John Boyle, Jos. Bryan, George W. Campbell, John Chandler, John Claiborne, Christopher Clark, Joseph Clay, George Clinton, jr., John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jr., Jos. H. Nicholson, Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Abram Trigg, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

The House then immediately resolved itself

into a Committee of the Whole House on the said bill; and, after some time spent therein, Mr. Speaker resumed the Chair, and Mr. GREGG reported that the Committee had, according to order, had the said bill under consideration, and gone through the same, and made several amendments thereto, which he delivered in at the Clerk's table.

The House proceeded to consider the said amendments: Whereupon, the first amendment to the first section for filling up the blank therein with the words "two millions of," was, on the question put thereupon, agreed to by the House. The second amendment to the same section, to strike out the words, "the expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic Ocean and Gulf of Mexico, and eastward of the Mississippi," and to insert, in lieu thereof, "between the United States and foreign nations," was, on the question put thereupon, agreed to by the House—yeas 71, nays 57, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, Joseph Barker, Burwell Bassett, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Joseph Clay, George Clinton, jun., Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, Walter Jones, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, and Thomas Wynns.

NAYS—John Archer, George M. Bedinger, Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Matthew Clay, John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, jun., Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams, Alexander Wilson, and Joseph Winston.

The last amendment to the same section, to strike out, at the end thereof, the words, "*as soon as may be*," and to insert, in lieu thereof, the words, "*at or before the next session of Congress*," was, on the question put thereupon, disagreed to by the House.

The amendment to the second section, to add, to the end thereof, the words, "*and it shall be lawful for the Bank of the United States to lend the whole, or any part of the same*," was, on the question put thereupon, agreed to by the House.

The last amendment to the said bill to add, to the end thereof, a new section, in the words following:

Section 3. *And be it further enacted*, That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriation heretofore charged upon them by law, shall be, and hereby is, pledged and appropriated for the payment of the interest, and reimbursement of the principal, of all such moneys as may be borrowed in pursuance of this act, according to the terms and conditions on which the loan or loans may be effected:

was, on the question put thereupon, agreed to by the House—yeas 74, nays 53, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, junior, Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Joseph Clay, George Clinton, junior, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, Walter Jones, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

NAYS—Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Matthew Clay, Leonard Covington, Samuel W. Dana, John Davenport, junior, James Elliot, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Holmes, David Hough, James Kelly, Joseph Lewis, junior, Henry W. Livingston, Matthew Lyon, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, junior, Josiah

Quincy, John Randolph, John Rea of Pensylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams and Alexander Wilson.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

THURSDAY, January 16.

An engrossed bill making provision for defraying the expenses which may be incurred in the purchase of the Spanish Territories lying on the Atlantic Ocean and Gulf of Mexico, and Eastward of the Mississippi, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 76, nays 54, as follows:

YEAS—Willis Alston, junior, Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, junior, Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Joseph Clay, George Clinton, junior. John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, Walter Jones, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, junior, Joseph H. Nicholson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

NAYS—Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Leonard Covington, Samuel W. Dana, John Davenport, junior, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, William McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

It was then moved to amend the title of the said bill to read as follows: "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations;" and on the question thereupon, it was resolved in the affirmative—yeas 81, nays 46 as follows:

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, Barnabas Bidwell, Phanuel Bishop, John Blake jr., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Christopher Clark, Joseph Clay, George Clinton, jun., John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, David Holmes, John G. Jackson, Walter Jones, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, jr. Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Abram Trigg, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

NAYS — George M. Bedinger, Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Leonard Covington, Samuel W. Dana, John Davenport, jun., Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Hough, James Kelly, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, and David R. Williams.

A motion was then made that a committee be appointed to carry to the Senate the following message:

By the House of Representatives, January 16, 1806.

Gentlemen of the Senate:

We transmit you a bill which has passed this House, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," and in which we request your concurrence. This bill has been passed by us to enable the President of the United States to commence, with more effect, a negotiation for the purchase of the Spanish Territories lying on the Atlantic Ocean and Gulf of Mexico, and eastward of the river Mississippi. The nature and importance of the measure contemplated have induced us to act upon the subject with closed doors. You will, of consequence, consider the communication as confidential.

To which motion an amendment was moved to strike out, in the proposed message, the words "River Mississippi," and to insert, in lieu thereof, the words "Bay of Perdido;" and on the question thereupon, it passed in the negative—yeas 59, nays 68, as follows:

YEAS—Burwell Bassett, Silas Betton, James M. Broom, William Butler, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, John Clopton, Leonard Covington, Samuel W. Dana, John Davenport, jun., James Elliot, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, Walter Jones, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, William McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sandford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams, Alexander Wilson, and Josiah Winston.

NAYS—Willis Alston, jun., Isaac Anderson, John Archer, Joseph Barker, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, Christopher Clark, Joseph Clay, George Clinton, jun., Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, James Kelly, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Robert Marion, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Gideon Olin, John Pugh, John Rhea of Tennessee. Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton. David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, and Thomas Wynns.

The question was taken that the House do agree to the motion to send to the Senate the said message, as originally proposed, and resolved in the affirmative.

Ordered, That Mr. BIDWELL and Mr. EARLY be appointed a committee, pursuant thereto. Another motion was then made, and the question being put, to remove the injunction of secrecy, so far as respects the report of the select committee, made to this House on the third instant, on the letter and communications from the President of the United States, referred to them, on the sixth of December last, it passed in the negative—yeas 46, nays 71, as follows:

YEAS—Burwell Bassett, Silas Betton, James M. Broom, William Butler, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, junior, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Holmes, David Hough, James Kelly, Joseph Lewis, junior, Henry W. Livingston, Matthew Lyon, Patrick Magruder, Josiah Masters, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, junior, Josiah Quincy, John Randolph, Thomas Sammons, Thomas Sandford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Daniel C. Verplanck, Peleg Wadsworth, Alexander Wilson, and Joseph Winston.

NAYS—Willis Alston, junior, Isaac Anderson, John Archer, George M. Bedinger, Joseph Barker, Barnabas Bidwell, John Blake, junior, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, Levi Casey, John Chandler, John Claiborne, Christopher Clark, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, John G. Jackson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Robert Marion, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newton, junior. Gideon Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee. John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

FRIDAY, January 17.

On a motion made that the resolution agreed to by the House, on the fourteenth instant, in the words following, to wit:

Resolved, That an exchange of territory between the United States and Spain is deemed by this House to be the most advantageous mode of settlement of existing differences, respecting limits between the United States and the Court of Madrid, and that any arrangement between the two Governments which shall secure to Spain an ample barrier on the side of Mexico, and to the United States the countries watered by the Mississippi, and to the eastward of it, will meet the approbation and support of this House,

be now made public: it passed in the negative—yeas 46, nays 64, as follows:

YEAS—John Archer, George M. Bedinger, Silas Betton, James M. Broom, John Campbell, Martin Chittenden, Christopher Clark, Leonard Covington, Samuel W. Dana, John Davenport, junior, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Hough, James Kelly, Joseph Lewis, junior, Henry W. Livingston, Josiah Masters, Wm. McCreery, David Meriwether, Thomas Moore, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, and Peleg Wadsworth.

NAYS—Willis Alston, junior, Isaac Anderson, David Bard, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, William Butler, Geo. W. Campbell, Levi Casey, John Chandler, John Claiborne, George Clinton, jr., John Clopton, Orchard Cook, Jacob Crowninshield, Ezra Darby, William Dickson, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Patrick Magruder, Nicholas R. Moore, Jeremiah Morrow, Roger Nelson, Joseph H. Nicholson, Gideon Olin, John Pugh, John Rhea of Tennessee, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, O'Brien Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, and Joseph Winston.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

The enclosed letter from the Minister Plenipotentiary of the United States, at the Court of London, contains interesting information on the subjects of my other Message of this date. It is sent separately and confidentially, because its publication may discourage frank communications between our Ministers, generally, and the Governments with which they reside, and especially between the same Ministers.

JANUARY 17, 1806. TH. JEFFERSON.

The letter referred to in the foregoing Message was read.

THURSDAY, February 6.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

Since the date of my Message of January seventeenth, a letter of the twenty-sixth of November has been received from the Minister Plenipotentiary of the United States at London, covering one from the Secretary for Foreign Affairs of that Government, which, being on the subject of that Message, is now transmitted for the information of Congress. Although nothing forbids the substance of these letters from being communicated without reserve, yet so many ill effects proceed from the publication of correspondences between Ministers, remaining still in office, that I cannot but recommend that these letters be not permitted to be formally published.

TH. JEFFERSON.

FEBRUARY 6, 1806.

The said Message, and letters accompanying it, were read, and ordered to lie on the table.

On a motion made to amend the secret Journal of the House, in the manner following, to wit:

TUESDAY, *December* 31, 1805.

The following motion was laid on the table:

Resolved, That —— dollars be appropriated by law, for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum; and shall cause an account of the expenditure thereof to be laid before Congress as soon as may be.

Resolved, That the additional duty of two and a half per centum ad valorem, imposed by an act entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," be continued for —— years.

The question was taken that the Journal be so amended, and resolved in the affirmative, by yeas and nays, every member present voting in the affirmative, to wit:

Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, William Blackledge, John Blake, jr., Robert Brown, John Boyle, Joseph Bryan, William Butler, John Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, George Clinton, jr., Orchard Cook, Leonard Covington, Jacob Crowninshield, Samuel W. Dana, Ezra Darby, John Davenport, jr., William Dickson, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John

W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Michael Leib, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, J. C. Smith, J. Smith, O'Brien Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

A motion was then made that a committee be appointed to present to the President of the United States the resolution agreed to by this House, on the fourteenth ultimo, in the words following, to wit:

Resolved, That an exchange of territory between the United States and Spain is deemed by this House to be the most advantageous mode of settlement of existing difficulties respecting the limits between the United States and the Court of Madrid; and that any arrangement between the two Governments, which shall secure to Spain an ample barrier on the side of Mexico, and to the United States the countries watered by the Mississippi, and to the eastward of it, will meet the approbation of this House.

On which motion, debate arising, it was moved to postpone the consideration thereof until Thursday next, and decided in the negative—yeas 57, nays 64, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, Joseph Barker, Barnabas Bidwell, Phanuel Bishop, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, Joseph Bryan, George W. Campbell, John Chandler, George Clinton, jr., Frederick Conrad, Jacob Crowninshield, Richard Cutts, Ezra Darby William Dickson, Peter Early, Ebenezer Elmer, William Findley, John Fowler, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, Walter Jones, Nehemiah Knight, John Lambert, Patrick Magruder, Robert Marion, Nicholas R. Moore, Jeremiah Morrow, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

NAYS—David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, William Butler, Levi Casey, Martin Chittenden, John Claiborne, Christopher Clark, Joseph Clay, Matthew Clay, Leonard Covington, Samuel W. Dana, John Davenport, jr., James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Peterson Goodwyn, Seth Hastings, David Holmes, David Hough, John G. Jackson, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jr., Joseph H. Nicholson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Thos. Sammons, Thomas Sanford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Dan'l C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, David R. Williams, Alexander Wilson, and Joseph Winston.

Another motion was then made to amend the said original motion, by instructing the same committee also to present to the President of the United States another resolution, agreed to by this House, on the said fourteenth ultimo, in the words following, to wit:

"*Resolved*. That —— dollars be appropriated, by law, towards defraying the expense which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi, to be paid out of any money in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, redeemable at will; and shall cause an account thereof to be laid before Congress as soon as may be:"

On which motion to amend, the question being taken, it was resolved in the affirmative.

And then the main question being taken, that the House do agree to the said original motion, as now amended, it was resolved in the affirmative.

Ordered, That Mr. JOHN RANDOLPH and Mr. GREGG be appointed a committee pursuant thereto.

TUESDAY, February 11.

Mr. JOHN RANDOLPH, from the committee appointed on Thursday last, to present to the President of the United States two resolutions of this House, of the fourteenth ultimo, reported that the committee had performed that service.

Mr. THOMAS M. RANDOLPH, from the Committee for Enrolled Bills, reported that the committee had examined an enrolled bill, to wit: "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," and had found the same to be truly enrolled: Whereupon the SPEAKER signed the said enrolled bill.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

WEDNESDAY, February 12.

Mr. THOMAS M. RANDOLPH, from the Joint Committee for Enrolled Bills, reported that the committee did, yesterday, present to the President of the United States for his approbation, an enrolled bill, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations."

TUESDAY, February 18.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

On the thirteenth instant, I approved and signed the act, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," which originated in the House of Representatives, and I shall, in due season, deposit it among the rolls in the office of the Secretary of State.

TH. JEFFERSON.

FEBRUARY 18, 1806.

The said Message was read, and ordered to lie on the table.

FRIDAY, March 21.

On a motion made and seconded,

Resolved, That the injunction of secrecy imposed on the proceedings which have been transacted with closed doors, during the present session, be removed.

On the question that the farther consideration of the said resolution be postponed until the last Monday in the present month, it was resolved in the affirmative—yeas 69, nays 57, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Barnabas Bidwell, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, George W. Campbell, John Chandler, John Claiborne, Matthew Clay, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, John G. Jackson, Walter Jones, Thomas Kenan, Nehemiah Knight, Matthew Lyon, Duncan MacFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Burwell Bassett, George M. Bedinger, Silas Betton, James M. Broom, William Butler, John Campbell, Martin Chittenden, Christopher Clark, Joseph Clay, Leonard Covington, Samuel W. Dana, John Davenport, jr., James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, James Kelly, Michael Leib, Joseph Lewis, jr., Patrick Magruder, Josiah Masters, Thos. Moore, Jonathan O. Mosely, Jeremiah Nelson, Joseph H. Nicholson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Peter Sailly, Thomas Sammons, Thos. Sandford, John Cotton Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

MONDAY, March 24.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate to Congress a letter recently received from the Minister Plenipotentiary of the United States at London, stating some circumstances which bear relation to the subject of my Messages of January seventeenth. This paper being original, and to be communicated to both Houses, the return of it is requested.

TH. JEFFERSON.

MARCH 24, 1806.

The said Message and document accompanying it, were severally twice read.

Ordered, That the letter referred to in the said Message be returned to the President of the United States, agreeably to his request.

MONDAY, March 31.

On motion of Mr. LEIB, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the proceedings which have been transacted with closed doors during the present session, be removed:

It was moved to amend the said resolution, by adding to the end thereof, the words, "from and after this day fortnight:" And, on the question thereupon, it passed in the negative—yeas 61, nays 62, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Barnabas Bidwell, William Blackledge, John Blake, jr., Thos. Blount, Robert Brown, Geo. W. Campbell, John Chandler, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, Walter Jones, John Lambert, Matthew Lyon, Duncan MacFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Evan Alexander, Burwell Bassett, George M. Bedinger, Silas Betton, William Butler, John Campbell, Levi Casey, Martin Chittenden, Christopher Clark, Joseph Clay, Matthew Clay, Leonard Covington, Samuel W. Dana, John Davenport, jr., John Dawson, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, John G. Jackson, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Patrick Magruder, Josiah Masters, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, John Cotton Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

Another motion was then made to amend the said resolution, by inserting, after the word "that," in the first line, the words, "from and after the end of the present session of Congress:" And on the question thereupon, it passed in the negative—yeas 59, nays 61, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, Joseph Barker, Barnabas Bidwell, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, George W. Campbell, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, John Lambert, Matthew Lyon, Duncan McFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Evan Alexander, Burwell Bassett, George M. Bedinger, Silas Betton, William Butler, John Campbell, Martin Chittenden, Christopher Clark, Joseph Clay, Leonard Covington, Samuel W. Dana, John Davenport, jun., John Dawson, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Michael Leib, Joseph Lewis, jun., Patrick Magruder, Josiah Masters, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

A motion was then made, and the question being put, that the farther consideration of the said resolution be postponed until this day week, it passed in the negative—yeas 58, nays 62, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, Joseph Barker, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Chandler, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, John Lambert, Matthew Lyon, Duncan MacFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

NAYS—Evan Alexander, Burwell Bassett, Geo. M. Bedinger, Silas Betton, William Butler, John Campbell, Martin Chittenden, Christopher Clark, Joseph Clay, Leonard Covington, Samuel W. Dana, John Davenport, jun., John Dawson, Jas. Elliot, Caleb Ellis, William Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Edwin

Gray, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Patrick Magruder, Josiah Masters, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, John Cotton Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

And then the main question being taken, that the House do agree to the said resolution, as originally moved, in the words following, to wit:

"*Resolved*, That the injunction of secrecy imposed on the proceedings which have been transacted with closed doors, during the present session, be removed."

It was resolved in the affirmative—yeas 63, nays 56, as follows:

YEAS—Evan Alexander, Burwell Bassett, Geo. M. Bedinger, Silas Betton, William Butler, John Campbell, Martin Chittenden, Christopher Clark, Joseph Clay, Leonard Covington, Samuel W. Dana, John Davenport, jun., John Dawson, Jas. Elliot, Caleb Ellis, Wm. Ely, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Seth Hastings, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Michael Leib, Joseph Lewis, jun., Patrick Magruder, Josiah Masters, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, John C. Smith, John Smith, Samuel Smith, Thomas Spalding, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Marmaduke Williams, and Alexander Wilson.

NAYS—Willis Alston, jun., Isaac Anderson, Joseph Barker, Barnabas Bidwell, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Chandler, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Dickson, Elias Earle, Peter Early, Ebenezer Elmer, William Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, John Lambert, Matthew Lyon, Duncan MacFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Joseph Stanton, David Thomas, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Richard Winn, and Joseph Winston.

And then the House adjourned.

APPENDIX

TO THE HISTORY OF THE NINTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

STATE OF THE FINANCES.

[Communicated to the Senate, December 9, 1805.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

Revenue and Receipts.

The net revenue, arising from duties on merchandise and tonnage, which accrued during the year 1801, amounted to - - - - - -	$12,020,279
The net revenue, arising from the same source, which accrued during the year 1805, amounted to - - - - -	10,154,564
That which accrued during the year 1803, amounted to - - - - -	11,306,430
And that which accrued during the year 1804, amounted, after deducting that portion which arose from the additional duties, constituting the Mediterranean fund, as will appear by the statement A, to - - - - - - - -	12,672,323

It is ascertained that the net revenue which has accrued during the three first quarters of the year 1805, does not fall short of that of the corresponding quarters of the year 1804. And that branch of revenue may, exclusively of the Mediterranean fund, be safely estimated, for the present, at twelve millions of dollars, which is nearly the average of the two years 1803 and 1804.

The defalcation which took place in the year 1802, and the increase in the next following years, sufficiently show that no inconsiderable portion of that branch of the revenue is due to the neutrality of the United States, during the continuance of war in Europe. Yet, if the revenue of 1802, the only year of European peace since 1792, be considered as the best basis on which to form an estimate, this, with an addition of ten per cent. on account of the increase of population for three years, and of near 300,000 dollars, the computed revenue of New Orleans, will give a result of near eleven millions and a half. The statement B exhibits in detail the several species of merchandise and other sources from which that revenue was collected during the year 1804.

The revenue arising from the sales of public lands has been greater during the year ending on the 30th September, 1805, than that of any preceding year. It appears by the statement C that, during that period, besides 145,000 acres sold to persons claiming a right of pre-emption, 374,000 acres have been disposed of, at the ordinary sales; making, altogether, with the preceding sales, from the time when the land offices were opened in 1800 and 1801, an aggregate of near two millions of acres. The actual payments by purchasers, which, during the year ending on the 30th September, 1804, had amounted to 432,000 dollars, and had not, in any one previous year, exceeded 250,000 dollars, have, during the year ending on the 30th September, 1805, amounted to 575,000 dollars; of which sum 535,000 dollars were paid in specie, and the residue in stock of the public debt. The specie receipts from that source may, for the ensuing year, be safely estimated at five hundred thousand dollars.

The receipts arising from the permanent revenue of the United States may, therefore, without even including the duties on postage and other small incidental branches, be computed, for the year 1806, at twelve millions and five hundred thousand dollars - - - - - -	$12,500,000
The payments in the Treasury, during the same year, on account of the temporary loans constituting the "Mediterranean fund" which will have accrued to the 31st day of March next, are estimated at nine hundred thousand dollars, and about one hundred thousand may be expected from the arrears of internal duties and of the direct tax, and from other incidental branches; making for temporary and incidental receipts, one million dollars - -	1,000,000
The balance of specie in the Treasury, which, on the 30th day of September last, amounted to 4,575,654 dollars, will, as the receipts and current expenditures of the present quarter may be considered as nearly equal, be diminished at the end of this year, only by the payments on account of the American claims assumed by the convention with France; and as the whole amount of those claims which remained unpaid on the 30th day of September last, will, in this estimate, be stated amongst the expenditures of 1806, the whole of the above-mentioned balance may be added to the receipts of that year, viz: - - -	4,575,000
Making, in the whole, an aggregate of more than eighteen millions of dollars	$18,075,000

State of the Finances.

Expenditures.

The expenses of the year 1806, which must be defrayed out of those resources, are, like the revenue, either of a permanent nature or temporary.

The permanent expenses are estimated at 11,450,000 dollars, and consist of the following items, viz:

1. The annual appropriation of eight millions of dollars for the payment of the principal and interest of the public debt, of which more than 4,000,000 dollars will be applicable to the discharge of the principal, and the residue to the payment of interest - - - - - - - $8,000,000
2. For the civil department and all domestic expenses of a civil nature, including invalid pensions, the light-house and mint establishments, the expenses of surveying public lands, the third instalment of the loan due to Maryland, and a sum of 150,000 dollars, to meet such miscellaneous claims or grants as may be allowed by Congress - - - - - - 1,150,000
3. For expenses incident to the intercourse with foreign nations, including the permanent appropriations for Algiers - - - - - - - 200,000
4. For the Military and Indian departments, including the permanent appropriations for certain Indian tribes - 1,030,000
5. For the Naval establishment, (exclusively of deficiencies for the service of the years 1804 and 1805, which are estimated at $600,000) - - - 1,070,000

$11,450,000

The extraordinary demands for the year 1806 amount to four millions of dollars, viz:

The Navy deficiencies for 1804 and 1805, as above-mentioned - -	$600,000	
And the balance of the American claims assumed by the French convention, which remained unpaid on the thirtieth of September last, amounting to - - -	3,400,000	
		4,000,000
Making altogether - - -		$15,450,000

It appears from the preceding statement, that the permanent revenues of the United States will, during the ensuing year, exceed the permanent expenditures more than one million of dollars; and that the moneys already on hand, together with the temporary resources of the year, will, after leaving the sum which it is always necessary to keep in the Treasury, be sufficient to discharge the Navy deficiencies, and the whole amount of the claims assumed by the convention with France, the large receipts of last year rendering it unnecessary to recur for that object to the loan authorized by the act of the 10th of November, 1803.

Mediterranean Fund.

It appears by the statement B that the additional duty of two-and-a-half per cent. on goods paying duties ad valorem, which constitutes the "Mediterranean fund," amounted during the last six months of 1804, to 563,038 dollars. And it is ascertained that the amount of duty accrued during the year ending on the 30th day of June, 1805, was 990,000 dollars. This apparent product will, it is true, be diminished by subsequent exportations; but it is believed, from a view of the value of the goods imported in 1803 and 1804, which are charged with that duty, that the fund may be estimated as producing nearly 900,000 dollars a year. If that estimate be correct, the fund will ultimately produce, during the one year and nine months commencing on the 1st day of July, 1804, and ending on the 31st day of March, 1806 - - - - - - $1,575,000

The expenses heretofore charged on that fund, have been, viz:

Paid in 1804, to the Navy Department, under the act constituting the fund - - - - -	$525,000	
Paid in 1805, to the said Department, by virtue of the second section of the act of 25th January, 1805 - -	590,000	
Making, altogether, -		1,115,000
And leaving an unappropriated surplus, estimated at - - - - - - -		460,000

But which will be more than absorbed by the Navy deficiencies above-mentioned.

The moneys actually received or to be received into the Treasury, on account of that fund, prior to the 1st day of January, 1806, are estimated at about 600,000 dollars. The residue will be received between that day and the 31st of March, 1807, and credit has been taken for a sum of 900,000 dollars on that account, in the preceding estimate of the receipts of the year 1806.

Public Debt.

The payments on account of the principal of the public debt have, during the year ending on the 30th September, 1805, exceeded four millions three hundred and seventy-seven thousand dollars, as appears by estimate D - - - - - $4,377,898 63

The two last instalments due to Great Britain, and amounting to one million seven hundred and seventy-six thousand dollars, have also been discharged during the same period, 1,776,000 00

Making, in the whole, a reimbursement of more than six millions one hundred and fifty thousand dollars 6,153,898 63

As the exportation of the specie necessary to discharge the last-mentioned instalment, would have been sensibly felt, it was found eligible to pay it in London, in conformity with the authority given by the act of the 3d of March, 1805; and the operation was effected at par, by the Bank of the United States.

It appears by the same statement D, that the payments on account of the public debt, from the 1st April, 1801, to the 30th September, 1805, have amounted to almost $18,000,000 - 17,954,790 49

During the same period there have been paid to Great Britain, in satisfaction and discharge of the money which the United States might have been liable to pay, in pursuance of the provisions of the 6th article of the Treaty of 1794 - - - 2,664,000 00

Evidences of Public Debt.

The balance in the Treasury amounted, on the 1st day of April, 1801, to	$1,794,052 59	
And on the 30th day of September, 1805, to	4,575,654 37	
Making an increase of	2,781,601 78	
From which, deducting the proceeds of the sales of the Bank shares - - -	1,287,600 00	
Leaves for the increase arising from the ordinary revenue - - -		1,494,001 78
Making, in the whole, a difference of more than twenty-two millions of dollars in favor of the United States, during that period of four years and a half - - - - - -		$22,112,792 27

In order to give a more general and concise view of the receipts and expenditures of the United States, during the four years, commencing on the 1st day of April, 1801, and ending on the 31st day of March, 1805, than can be derived from the annual printed accounts, a statement, marked H, and several explanatory statements, marked H 1, to H 8, have been added to those which usually accompany this report.

From those it appears, that a sum of fifty millions six hundred and sixty-seven thousand four hundred and sixty-seven dollars and four cents, has been paid into the Treasury during that period, viz:

From duties on tonnage, and on the importation of foreign merchandise	$45,174,837 22	
From all other sources, (including $1,596,171 43 cents, arising from the sales of Bank shares and of public vessels) - - - - -	5,492,629 82	
		50,667,467 04

And that the expenditures, during the same period, have amounted to forty nine millions six hundred and sixty five thousand five hundred and twenty-seven dollars and fifty-six cents, which have been disbursed for the following purposes:

I. Less than one-third of the whole has been sufficient to defray all the current expenses of the United States, viz:

For the civil list, and all domestic expenses of a civil nature - - -	3,786,114 79	
For the military establishment and Indian department - -	4,405,192 26	
For the naval establishment - - -	4,842,635 15	
For the expenses attending intercourse with foreign nations -	1,071,437 84	
Amounting, altogether, to -		14,105,380 04
2. Near one-third was necessary to pay the interest on the public debt, viz:		16,278,700 95

On which subject it may not be improper to observe, that a part of that sum, amounting to $2,160,000, was paid on account of the interest on the deferred stock, a charge which commenced only in the year 1801, and was, therefore, in addition to the annual sum wanted before that year, for the payment of interest on the public debt.

3. More than one-third, and which may be considered as the surplus revenue of the United States, during that period, has been applird toward the reimbursement and extinguishment of the debt, viz:

On account of the principal of the public debt proper -	$16,317,663 92	
In payment of debts contracted before the 1st day of April, 1801, and arising under the British Treaty and under the French Convention of the 30th September, 1800 -	2,963,782 65	
		19,281,446 57
		$49,665,527 56

It is sufficiently evident, that, while one-third of the national revenue is necessarily absorbed by the payment of interest, a persevering application of the resources afforded by seasons of peace and prosperity, to the discharge of the principal, in the manner directed by the Legislature, is the only effectual mode by which the United States can ultimately obtain the full command of their revenue, and the free disposal of all their resources. Every year produces a diminution of interest, and a positive increase of revenue. Four years more will be sufficient to discharge, (in addition to the annual reimbursements on the 6 per cent. and deferred stocks,) the remainder of the Dutch debt, and the whole of the eight per cent., Navy six per cent., five and a half per cent., and four and a half per cent. stocks. As the portion of the public debt which shall then remain unpaid, will consist of the six per cent. deferred, and Louisiana stocks, neither of which can be reimbursed, except at the periods, and in the proportions fixed by contract, and of the three per cent. stock, which its low rate of interest will render it ineligible to discharge at its nominal value, the rapidity of the reduction of the debt, beyond the annual reimbursements permitted by the contracts, will, after the year 1809, depend on the price at which purchases may be effected. And, should circumstances render it eligible, a considerable portion of the revenue now appropriated for that purpose, may then, in conformity with existing provisions, be applied to other objects.

All which is respectfully submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Dec.* 9, 1805.

EVIDENCES OF PUBLIC DEBT.

[Communicated to the House, Dec. 28, 1805.]

TREASURY DEPARTMENT, *Dec.* 28, 1805.

SIR: I have the honor to enclose the copy of the extract of a letter pointing out certain abuses, which are said to arise from the operation of the

law authorizing the receipt of evidences of the public debt, in payment for the lands of the United States, passed on the 3d day of March, seventeen hundred and ninety-seven.

Although the letter having been received only a few days ago, it has not yet been ascertained whether the facts alluded to are, in this instance, truly stated, there is no doubt that such abuses may take place, and that, whilst the law continues in force, it will be difficult to prevent them.

Indeed, it cannot be doubted that, with very few exceptions, the law is of no utility to actual purchasers. So far as relates to the reduction of the public debt, the act is useless, since the annual appropriation of eight millions of dollars has been made; and it may, on the contrary, by creating a competition in the market, impede the object whenever it should be thought proper to apply a part of the appropriation to purchases of the debt. To this may be added, that the uncertainty resulting from the provision of the payments in specie, which might otherwise be relied upon, deranges the general operations of the Treasury.

I also beg leave to observe, that, by the act of the 8th of May, 1792, and all the subsequent acts contain a similar provision, the Commissioners of the Sinking Fund are authorized to purchase the debt of the United States at its market price, if not exceeding the par or true value thereof.

This last limitation does not seem sufficiently explicit; but the construction heretofore adopted, and which will be, of course, adhered to, unless altered by an explanatory act, is, that, by true value, is meant the nominal value or amount of the stock. It follows, that, on the one hand, the Commissioners may give one hundred dollars for every nominal hundred dollars of the three per cent. stock, provided they shall not give more than the market price; whilst, on the other hand, they are, in fact, precluded from making any purchases of the eight per cent. stock, as its market must necessarily exceed its nominal value.

Permit me, therefore, respectfully to submit the propriety of fixing, absolutely, by law, the price which the Commissioners may give for stock. That for the six and deferred stock may remain as it now stands, that is to say, not to exceed the nominal value of its unredeemed amount; the limitation in relation to the three per cent. stock may be easily fixed, at any rate which Congress may think proper.

That for the eight per cent. stock is more difficult to fix, because its sinks, every quarter, in value, and will continue so till the first day of January, 1809, when it becomes redeemable, and therefore, equal to its nominal value. It may, in the mean while, be considered as consisting, first, of a six per cent. stock, payable at the time abovementioned, and worth par; secondly, of an annuity of two per cent. a year, (or rather at the rate of half per cent. quarterly) which will cease, also, on the first of January, one thousand eight hundred, and when the stock will be paid off.

The annexed table shows the true value of the stock, calculated on that principle, and on a supposition that a six per cent. stock is at par, for the first day of every quarter from the 1st of January, 1806, to the 1st of January, 1809. It must, however, be observed, that, from the first day, till within fourteen days of the end of each quarter, the stock will progress a little in value, as the time of receiving the dividend approaches. But on that account, and because the variations in the prices of stock do not ascend to such minute fractions as are exhibited in the table, it may be more simple to fix the limitation by the gross amount of the two per cent. annuity which may, at the time, be still demandable, without making any deduction for the discount. The commissioners would, on that principle, be authorized to give no more that 106 per cent. during the first quarter of the year 1806, no more than 105½ per cent during the ensuing quarter, and so on, diminishing half per cent each quarter, so as to give no more than 100½ per cent. during the last quarter of the year 1808, and paying at par, according to contract, the residue of the unpurchased principal, on the 1st of January, 1809. There are two other limitations, in the powers of the commissioners to purchase stock, which may require some modifications. By the first, no purchase can be made, except during the first thirty days of each quarter —a provision, the object of which I cannot perceive; as the situation of the Treasury and the price of stock may often render another more eligible. The other directs the purchases to be made by a known agent, and by open purchase, or by receiving sealed proposals; and, although it may be more eligible for the commissioners themselves to make the purchase in that way, because it will prevent any improper imputation attaching to their conduct, it is not less true that that mode must necessarily raise the price of stocks, and prevent any purchases on favorable terms.

Although there are yet considerable parts of the public debt which may be reimbursed, as purchases may, however, be found, under certain circumstances, more advantageous to the United States, I have thought it my duty to lay these observations before the Committee of Ways and Means. But I beg, at the same, time to be indulged in expressing my opinion, that a sinking fund which acts by purchase is better calculated to raise the prices of stock, and as an engine to favor loans and an increase of debt, than for the purpose of redeeming it on reasonable terms. And as the nature of the existing species of stocks will offer a powerful, perhaps insuperable obstacle, to the whole redemption, within the time contemplated by the Legislature, I intend, in a subsequent communication, to submit to the consideration of the committee, a plan for the conversion of the old six deferred and three per cent. stocks into a six per cent. stock, which may be redeemed within the expected period.

I have the honor to be, &c.

ALBERT GALLATIN.

To the Hon. JOHN RANDOLPH,
Chairman of the Committee of Ways and Means.

18. Don Henry Darcancel, officer of administration.

NOTE.—By a particular favor of His Majesty, the widows of the persons employed, who are enjoying of pensions, though they are unable to go to Pensacola, are the following:

1. Donna Marquisite Waths, widow of the Brigadier Don Manuel Gayoso de Lemos, late Governor of this province.
2. Mrs. Villemont.
3. Mrs. Bouligny.
4. Mrs. Panis.
5. The Baroness de Brouner.
6. Mrs. Trevino.
7. Mrs. Causat.
8. Donna François Trudeau.
9. Mrs. Zespedes.

NOTE.—There was a small number of retired sergeants and privates who are to go to Baton Rouge or Pensacola.

A. L. ARMESTO.

I do certify the above translation.

M. LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

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120 MILES FROM NEW ORLEANS,
August 26, 1805.

SIR: The report of the retrocession to Spain, of the country west of the Mississippi, had also prevailed in New Orleans.

The evening prior to my departure, being on a visit to the Marquis of Casa Calvo, I asked him if he knew upon what authority that report was circulated; he answered in the negative, and added, that he had understood the negotiation was suspended, and that Mr. Monroe had left Madrid; he further said, that the Minister of State (Cevallos) had informed him, the Marquis, that the desire of the Court of Spain was to make "the Mississippi river the boundary, and in time it was expected that that object would be attained." The Marquis delivers himself in the French language. From my imperfect knowledge of French, it is probable I may have misunderstood some of his expressions, but I am sure I have given you the substance of what he said. The prospect of a retrocession of the west bank of the Mississippi, now is, and has always been, the theme of the Spanish officers who remain in this territory, and many citizens seem to view it as an event likely to happen—an impression which I greatly regret, since it tends to lessen their confidence in the American Government, and to cherish a Spanish party among us. Next, therefore, to a final adjustment of limits with the Spanish Government, I most desire to see every Spanish officer removed from the ceded territory. There certainly must be a power somewhere vested, to cause to be executed the clause in the treaty which directs "the Spanish forces to be withdrawn, within three months, from the ceded territory," and I should indeed be pleased to have it hinted to me, that, in my character as Commissioner or Governor, I could, on this occasion, take, if necessary, compulsory measures.

I have the honor to be, sir, very respectfully, your humble servant,

WM. C. C. CLAIBORNE.

Hon. JAMES MADISON,
Secretary of State.

Extract of a letter from Governor Claiborne to the Secretary of State, dated

NEW ORLEANS, *October* 24, 1805.

SIR: I am sorry to inform you of the embarrassments to which the citizens of the United States are subjected who navigate the Mobile river. All American vessels passing by the town of Mobile are brought to, and a duty of —— per cent. exacted both on imports and exports. These duties are even required on articles passing to and from the garrisons and factories of the United States. I have addressed, on this occasion, a letter to Mr. Morales, by whom, it is said, this proceeding was authorized; but in his answer, which was this morning received, he professes to be unacquainted with the particulars, and declines any interference until he should advise upon the subject with the Governor of West Florida.

I have certain information of the arrival at Pensacola of four hundred troops from Havana, and that a much larger number is daily expected. I also learn from a source entitled to credit, that three hundred men are ordered from Pensacola to Baton Rouge, and that eight hundred Spanish troops have lately been posted on the frontier of the Province of Texas. It is a fact known to me, that a Spanish agent has contracted with a merchant of this city, for the delivery at the town of Mobile, of four thousand barrels of flour; and that this same agent not being able to effect a contract for the delivery of four thousand pair of shoes at Mobile, has purchased a quantity of leather. The Marquis of Casa Calvo being absent from this city, it is my intention to require of Governor Folch an explanation of the object of these military movements. I flatter myself that hostilities between the United States and Spain may be avoided, and that an honorable adjustment of our differences may ensue. But I am inclined to think that the Spanish agents calculate on a speedy rupture, and are making all the preparations which their means permit, to commence the war in this quarter to advantage. New Orleans would, unquestionably, be the first object of attack; and with a view to its security, I should be pleased to see Fort St. John repaired, and put in a state of defence; that fort commands the mouth of the Bayou St. John, and, if strengthened, would present a great impediment to the passage of troops from Pensacola and Mobile by the way of the lakes to this city; the works are in ruins, but might readily be repaired and made defensible without any considerable expenditure.

Extract of a letter from Harry Toulmin, Esq., Judge in the Mississippi Territory, to the Secretary of State, dated

JULY 6, 1805.

"You are informed, no doubt, that all the vessels to and from this country, even though bound

to Fort Stoddert, and clearing out from Fort Stoddert, are obliged to come to at Mobile, and to pay twelve per centum ad valorem on their cargoes, according to the estimate of the Spanish officers.

"Such an exaction as this, you may well conceive, must be ruinous to this country, and is, moreover, the source of perpetual heart-burnings and contention between our citizens and the subjects of His Catholic Majesty.

"There are two vessels, which have lately undertaken, as I am told, to pass without calling at Mobile, from this country, laden with cotton. I cannot but anticipate unpleasant consequences, but will inform you of the result when acquainted with it."

Extract from the same to the same.

AUGUST 8, 1805.

"I mentioned to you in a letter some time since, that I understood that a vessel then lying in the river was about to pass the Mobile without calling. Captain Schuyler, who is just now from Orleans, tells me that she passed Mobile in the night; that the Spaniards were exceedingly irritated, and threatened to imprison the owner of the cargo on his return from Orleans, and to confiscate the vessel, if she ever appeared there again. They also talked of building a gunboat for the purpose of compelling vessels to stop."

Extract from the same to the same.

OCTOBER 11, 1805.

"Duties are still rigorously insisted upon at Mobile, cargoes unladed and inventories taken of them, in order to ascertain the duties to be paid. The schooner Cato, which went down the river without calling, is still detained, and will probably be confiscated, if not her cargo. I could not even get a few articles belonging to the United States from on board of her, which I had been requested to apply for when there, in behalf of Mr. Dinsmoor and Mr. Chambers. If they continue their exactions, this country must inevitably be ruined. I mean that the settlements will be abandoned. Many are now preparing to go; some, probably for other reasons, but the greater part, I believe, on this account. And most who go, will become subjects of the Spanish Government."

The Governor of Mississippi Territory to the Secretary of State.

MISSISSIPPI TERRITORY,
Town of Washington, Sept. 14, 1805.

SIR: The enclosed affidavits, marked No. 1 to 11 inclusive, will inform you of some outrages committed within this Territory by two Spanish parties. The letters marked No. 1 to 5, and an order to Colonel Ellis, will inform you of the steps which I have thought it advisable to take. The messenger with my letter to Governor Grand Pré has not returned, although he was requested, and undertook to be back by this morning. I have not received any answer to my despatch to you on this subject of the 14th June.

If, sir, I am to risk anything on this occasion, it shall be in defence of the liberties and the property of the citizens, and in support of the honor and independence of my Government; and I hope the measures taken and advised by me, will not be found adverse to the views of the Executive or to the interest of the United States.

I am, with respect, yours,
ROBERT WILLIAMS.

Hon. JAMES MADISON, *Sec. State.*

AFFIDAVIT, No. 1.

Mississippi Territory, Wilkinson County:

Personally appeared before me, one of the justices of the peace for said county, Arthur Cobb, jun., and being duly sworn, according to law, on his oath deposeth that, on the night of the 3d of September, 1805, being at the house of Samuel Kemper, or otherwise the tavern of the Kempers, between the hours of eleven and twelve, he wakened from his sleep by the cry of murder and robbers. On leaving his bed, he saw a man in actual contest with Samuel Kemper; on proceeding further, he saw another man, and afterwards one more, and all being armed with instruments of death, such as guns and pistols, he thought proper to retreat to call assistance; that afterwards a pistol was found, which must have belonged to one of those men, and from every appearance, he believed it to belong to Ira Cook Kneeland.

ARTHUR COBB, *Jr.*

Subscribed and sworn to before me. this 3d day September, JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 2.

Likewise, as sheet No 1, appeared William Westbery, and deposeth, that, at the same time, being awakened from his sleep by the breaking open the door—that on rising he saw, he thinks, five men, in the act of beating with a stick, Samuel Kemper, of the town of Pinckneyville—that he saw them drag him by the hands, heard the men give orders to tie his hands with a rope—that said Samuel Kemper gave the cry of murder, and that was the last he saw or heard of them.

WILLIAM WESTBERY.

Subscribed and sworn before me, this 3d day of September. JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 3.

Likewise, at the same time appeared before me, James Latta, who deposeth on oath, that, at the same hour, being just awakened by some man requesting to see Samuel Kemper, he heard them ask for whiskey, and being asked who he was, said, a friend; that they then, being in the house, broke open the door of said Kemper's private lodging room; that he, Latta, attempting to rise, was thrown back on the bed by two men, who said they would take his life if he spoke; that there appeared to be five men in number, and all disguised in black paint; that after some short

time he got an opportunity of escaping, when he went for assistance, and before his return they had borne off the said Samuel Kemper, and he saw them no more. JAMES LATTA.

Subscribed and sworn before me, this 3d day of September. JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 4.

Wilkinson County, Mississippi Territory:

Personally appeared before me, one of the justices of the peace for said county, John Atkinson, Henry Gambeart, Richard Richardson, and John Whitaker, who, being duly sworn, according to law, on their oaths depose, that, on the night of the 3d September, 1805, being at the house of Nathan Kemper, in the vicinity of Pinckneyville, between the hours of eleven and twelve, they heard some person hail the house, and, on being asked two or three times who they were, they steadfastly affirmed it was Captain Abrams. Immediately afterwards they opened the door, which swung on the inside of the house and was fastened by a string on the inside. Immediately on this, Reuben Kemper appeared to be only at that moment awaked from his sleep, asked who was there? when they immediately seized him, dragged him out of the house and tied him, after bruising him very much with a club or clubs.

Almost at the same time, they dragged Nathan Kemper from the bed wherein he lay with his wife, and tied him also, but did not beat him as much as they did Reuben. Said Nathan Kemper requesting to see his wife, was refused in very rough language; she likewise was refused in her request of seeing her husband. On Nathan Kemper's asking what they had done to deserve such treatment, was answered, "God damn, you have ruined our country!" which he, Atkinson, believes to be the American territories of Spain. That the said Nathan Kemper's wife received considerable injury from the violence of these men, who all appeared armed with guns, pistols, or clubs. That in the act of confining the above two men, they cocked and uncocked their guns a great many times, and ordered every man in the house to tell his name, and kept a strict guard at both the doors of the house, and would not admit of any one of the family, or any one that did not belong to their party, passing and repassing, as they frequently presented their guns cocked, and said they would blow the first one through who attempted to oppose them. That they then gave a regular military word, forward march, and at the second word of command they proceeded on their way, and bore off both Reuben and Nathan Kemper.

The next morning they saw a considerable quantity of blood, apparently issuing from the wounds of Reuben Kemper.

JOHN ATKINSON,
HENRY GAMHEART,
RICHARD RICHARDSON,
JOHN WHITAKER.

Subscribed and sworn to before me, third day of September. JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 5.

Territory of Orleans, County of Point Coupée:
SEPTEMBER 5, 1805.

On this day appeared before me, Ebenezer Cooley, a justice of the peace for the county of Point Coupée, Nathan Kemper, who being duly sworn, declared that, on the night of the third instant, as he believed, between the hours of eleven and twelve, the doors of his house were forced open by a party of armed men, amounting, as well as he could ascertain, to the number of eighteen or twenty; that, as soon as the party had entered, they cried surrender; seized his brother Reuben, and dragged him out at the door; after a struggle, during which they had beat him with a club, and so choked him that he had barely power to say, "I surrender!" During this time, a part of the same party seized the deponent by different parts of the body and dragged him from his bed, where he lay with his wife and child, out through the door; after which, he heard some of the party who remained in the house cry out, "If the bitch utters another word, put her to death!" Whereupon, he heard a blow given at the bed, and though he frequently called to his wife, to know if she was still alive, could get no answer. After the deponent and his brother Reuben had been fast bound, they were conducted along the road leading to Hinckneyville, as far as the plantation of Mr. Abraham Horton, being still within the limits of the Mississippi Territory; and thence down the main road leading towards the line of demarcation. At some small distance above the line they were conducted a short way into the woods, where they halted a considerable time, until he heard a detachment of the same party coming along the main road, to which, they were again led back from the wood, and discovered their brother, Samuel Kemper, in the custody of the said detachment. From thence, they were conveyed across the line of demarcation, and delivered to Captain Solomon Alston, by whose party they were put on board a pirougue, at Tunica landing, under a guard of six armed men, who said their orders were to take them to Baton Rouge, and there deliver them at the fort. From Tunica, they departed about daybreak, and as they passed along by the shore of Point Coupée, called out that they were American citizens, and clandestinely taken from their habitations within the Mississippi Territory. After which, they were rescued by Lieutenant Wilson, commandant of the garrison at Point Coupée. The deponent further says, that, among those who surrounded his house, he recognised the following persons: Minor Butler, and his brother-in-law Ritchie, Abraham Horton, and several of said Horton's negroes, all inhabitants of the Mississippi Territory. NATHAN KEMPER.

Sworn before me this 5th day of December, 1805. EBENEZER COOLEY. *J. P.*

AFFIDAVIT, No. 6.

Territory of Orleans, County of Point Coupée:
SEPTEMBER 5, 1805.

On this day appeared before me, Ebenezer Cooley

Justice of the Peace for the county of Point Coupée, Samuel Kemper, who, being duly sworn, declared, that on the night of the 3d instant, about the hour of twelve, as he believed, being at his house in the town of Pinckneyville, in the Mississippi Territory, he heard a knocking at the door, and asked who was there? An answer was made, which he did not understand, and the outer door burst open. The door of the bedroom was then forced, and a blow made at the bed with a double-barrelled gun. Deponent was then seized, and dragged out of the bed by a number of men, who drew him into the room which they first entered, and from thence, after a struggle, into the street. He was then thrown on the ground, and a rope was tied round his neck, by which he was dragged about one hundred and fifty yards. He was then suffered to stand upright, and attempted, by crying out, to give an alarm, upon which he received a stroke of a pistol on the head, by which he was stunned. The rope being removed from his neck to his arm, he was compelled to run for the space of about a quarter of a mile, after which he was forced to get up behind a man on horseback; a negro, who ran on foot, still holding the rope by which his wrist was tied. He was then led along the main road across the line, and delivered to a party of men, who conducted him to the landing of Bayou Tunica. Then he was put on board a pirogue, with his two brothers, Reuben and Nathan Kemper, and conducted down the river towards Baton Rouge. When opposite Point Coupée they gave the alarm, and were received by Lieutenant Wilson, commandant of the garrison of Point Coupée.

SAMUEL KEMPER.

Sworn before me, this 5th of September, 1805.

EBENEZER COOLEY, *J. P.*

AFFIDAVIT, No. 7.

Territory of Orleans, County of Point Coupée:

SEPTEMBER 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, Reuben Kemper, who, being duly sworn, declares, that, on the night of the third instant, about the hour of twelve, being at the house of Nathan Kemper, within about two miles of Pinckneyville, within the limits of the Mississippi Territory, the house was surrounded, and the doors thereof forced open, by a party consisting of at least nineteen persons, whereof some were negroes, and some were white men in disguise. That, among the latter, he recognised and personally knew the following persons: Louis Ritchie, Minor Butler, Abraham Horton, James Horton, and two others, whose names he did not recollect, but expected soon to be able to ascertain, all of whom are inhabitants of the Mississippi Territory; and Marcus Carr, Jas. Say, Philip Say, and others, residing within the Spanish lines. Of the negroes, whose number amounted to seven, at least three, whose names are William or Bill, Nat, and Moses, and others, whose names he did not recollect, he knew to be the property of the above-mentioned Abraham Horton. That the said party, all of whom were well armed, after having forced their way into the house, violently forced him from his bedroom, after a struggle of about fifteen minutes, during which he received several violent blows on the head and face; and, after having torn off his shirt and tied him with cords, forced him over the line into the Spanish territory, where they delivered him up, with his two brothers, Nathan and Samuel Kemper, bound in the same manner, to Solomon Alston, who commanded a large party of armed men. That said Alston received them within ten or fifteen feet of the line, on the Spanish side; that from thence they were conveyed to the Bayou of Tunica landing, bound, as already mentioned, and nearly naked, where they were put on board a pirogue, and there tied all three together, by orders of said Alston. That said pirogue was commanded by William Barker, and manned by Charles Stewart, Adam Bingaman, John Ratcliff, George Rowe, and John Morris; that they departed from the Bayou Tunica for Baton Rouge, at day-break, where said William Barker had orders to deliver the prisoners up to Governor Grand Pré. That, as they passed along the shore of Point Coupée, the prisoners found means to declare their situation to Doctor Powles, who immediately gave information thereof to Lieutenant Wilson, commandant of the garrison at Point Coupée. That Lieutenant Wilson immediately manned his boat, boarded the pirogue, and took the prisoners, with those who conducted them, into custody, about the hour of twelve the same day.

REUBEN KEMPER.

Sworn before me, this 5th September, 1805.

EBENEZER COOLEY, *J. P.*

AFFIDAVIT, No. 8.

Territory of Orleans, County of Point Coupée:

SEPTEMBER 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, Adam Bingaman, who, being duly sworn, declared, that, on the night of the 3d instant, at a very late hour, he was one of a party commanded by a Captain Alston, and stationed within a few yards of the line of demarcation, at the Spanish side, for the purpose, as declared by Captain Alston, of seizing the Kempers, who were expected to come from the American territory. That, at the distance of about fifty yards above the line, he saw a party approach, who were hailed by Captain Alston, to whom they delivered three prisoners. The party, to which deponent belonged, was then ordered by Captain Alston to conduct the prisoners to Bayou Tunica, where the prisoners were put on board a pirogue, and ordered off for Baton Rouge, at about day-break on the 4th. That, as they were passing opposite the post at Point Coupée, their pirogue was boarded by Lieutenant Wilson, with a party of his men, who took the prisoners and their conductors into custody.

ADAM BINGAMAN.

Done before me,

EBENEZER COOLEY, *J.P.*

AFFIDAVIT, No. 9.

Territory of Orleans, County of Point Coupée:

SEPTEMBER 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, William Barker, who, being duly sworn, deposed and declared:

That, on the night of the 3d instant, he was one of a party of militia commanded by Captain Alston, which party was stationed for about two hours within a few paces of the line of demarcation, on the Spanish side. That they heard a noise which was made a short distance above the line, and soon after saw a party cross the line, who delivered to Captain Alston three prisoners, whose names were Reuben, Nathan, and Samuel Kemper. Captain Alston ordered the prisoners to be immediately conducted to the Bayou Tunica, where they were put into a pirogue, to be conveyed to Baton Rouge; that deponent was commanded by Captain Alston to keep a strict watch on them, and to give them no opportunity of escaping until he should deliver them at the fort of Baton Rouge; that, as deponent was passing opposite the garrison of Point Coupée, his pirogue was taken by a superior force commanded by Lieutenant Wilson, commandant of the garrison of Point Coupée, who took into custody the prisoners and the party by whom they were conducted.

WILLIAM BARKER.

Sworn before me this 5th day of September, 1805,

EBENEZER COOLEY,
Justice of the Peace.

AFFIDAVIT, No. 10.

Mississippi Territory, ss:

Be it remembered, that William Flanagan, jr., of Wilkinson county, in said Territory, personally appeared before the undersigned, one of the superior judges for said Territory, and being of lawful age, upon his oath deposeth and saith, that Lieutenant Glascock and a party of twelve light horse, being a part of Captain Jones's company or squadron of Spanish light horse, on the afternoon of the 21st day of August last, came over the line of demarcation to this deponent's house, which is on the Tiehfau creek, about two miles above the line, and took him and his wife and carried them about five miles below the line, and kept them under guard all night, and next morning dismissed his wife, who was taken home by her brother, who had been sent out after them by her father. That after she was dismissed, they carried this deponent fifteen miles further, and told him he must go to jail or give up his horse. He refused to give up his horse, till they cocked their guns and pistols all round him, there being eight of them then present, and said he must pay them their expenses, give up his horse, or go to jail. He replied that he had rather lose his horse than go to jail. Whereupon they took his horse, bridle, and saddle, and dismissed him, and he returned home on foot. The names of the men who composed said party of eight horse were, John Glascock Lieutenant, Benjamin Le Near, also an officer, Abraham Jones, son of the Captain, Kennady, William Lee, John Bates, —— Hale, Obiel Brewer, —— Connor, and the names of the others he does not recollect; and further says that most of the party were formerly American refugees, who fled to the Spanish country, and further saith not.

WILLIAM FLANAGAN,
his X mark.

Taken this seventh day of September, 1805, at the town of Washington, in the Territory aforesaid, before

THOMAS RODNEY.

NOTE.—The within deponent, Thomas Holden, says, that it was reported that William Flanagan, sr., had killed a certain John Sharp, as within mentioned, and had fled from the Spanish part of the country, and that his wife, after he had fled, also left the country, and brought their stock and goods above the line, and left them in the care of William Flanagan, jr., who is nephew to William Flanagan, sr., and son-in-law to said Thomas Holden, and that this was the only pretext the Spanish light horse had for coming above the line and behaving as they did.

THOMAS RODNEY.

AFFIDAVIT, No. 11.

Mississippi Territory, ss:

Be it remembered, that Thomas Holden, sr., of the county of Wilkinson, in said Territory, personally appeared before the undersigned, one of the superior judges of said Territory, and being sworn, deposeth and saith, that he lives in said county, on the Tiehfau, about half a mile above the line of demarcation, upon land which he claims by pre-emption, and now cultivates; that on the afternoon of the 21st day of August last, Lieutenant John Glascock and twelve men of the Spanish light horse, part of Captain Jones's company, or squadron of West Florida, came over the line of demarcation to this deponent's house, and inquired for William Flanagan, sr., who had lived about seven miles below the line, in the Spanish territory, and, as they said, had killed a certain Joseph Sharp, also a Spanish subject, and said they were in pursuit of said Flanagan, and inquired of this deponent if he had seen Flanagan, or if he knew where he was. This deponent replied, that he had not seen him for six months, but heard that Flanagan and his family had gone up the Bayou Pierre. When said company came up, this deponent was sitting on his fence, about fifty yards from his house, and after what had passed, as before related, an officer among them, by the name of Le Near, ordered this deponent to go to his own house, saying that he should put him and his family under guard. To which this deponent replied, that he would not be put under guard by him unless he had authority from the United States or the officers of this Territory to do so. Whereupon the officer drew his sword, or dirk, and threatened to run

this deponent through in an instant if he did not submit. Then one of the company cocked his pistol, but said nothing. Then Glascock came up with a rifle in his hand, and ordered this deponent to go along instantly, or he would make him. This deponent replied, that he would not go; that they had no business above the line, and ordered them to go below, where they belonged. Le Near replied to this, that his authority was above the line as well as below. Damn the line, he did not regard it, and other words to that purpose. After this, the party went off, and left this deponent. But before they went off, two of this deponent's sons came up, and he told them what had passed, and ordered them to go to the house and get the guns, and they would kill all the damned Spaniards, for they had no business above the line; and upon saying this the party left him. And he further saith not.

THOMAS HOLDEN, Sr.

Taken this 7th day of September, 1805, at the town of Washington, in said Territory, before

THOMAS BROWN.

No. 1.

Governor of the Mississippi Territory to his Excellency Charles de Grand Pré.

TOWN OF WASHINGTON,
Mississippi Territory, Sept. 6, 1805.

SIR: I was informed that a number of armed men, subjects of the King of Spain, on the 3d instant, entered this Territory, in the neighborhood of Pinckneyville, and there with force and violence seized three persons by the name of Kemper, abused them in an inhuman manner, tied and carried them into your territory, and threatened considerable outrages to others in the same neighborhood. This conduct, sir, does not comport with that good understanding and friendly disposition supposed to exist between our Governments. Neither is such conduct to be tolerated by a Government which is influenced in all its relations with others by a regard to justice and national faith, especially one so ample in resources to do justice to itself, and to command respect from others, as the United States.

This letter, sir, is despatched to you by a special messenger, in order that your Excellency may be speedily advised of this unaccountable transaction, and provide against similar outrages and their consequences; as also to afford me some explanation of the one which has given rise to this letter. I am, with great respect, &c.

R. WILLIAMS.

No. 2.

Lieutenant Wilson to Governor Williams.

POINT COUPEE, *Sept.* 5, 1806.

SIR: I conceive it to be my duty to give you a statement respecting the rescue of the Kempers from a party of Spanish subjects. Information was given to me that Kemper and several Americans were taken by force of arms from their residence at Pinckneyville, by a party of Spanish subjects, and were on their way to Baton Rouge. I immediately manned the boat, and took the Kempers, Reuben, Nathan, and Samuel, together with the guard, prisoners, who I have in confinement, and shall keep them so until I receive orders from the proper authority for their release. I have had taken the depositions of the Kempers, and two of their guards, which I enclose you. My force is weak, and I expect an attack from the other side of the river. I shall, however, give them as hearty reception as the situation of my force will admit of. As Governor Claiborne is, I presume, with you, I hope you will consult with him, and let me know as speedily as possible what is to be done. I have wrote Captain Sparks, at Fort Adams, to send a reinforcement, as I think the good of the service really requires it.

I have the honor, &c.,

WILLIAM WILSON,
Lieutenant Commandant.

No. 3.

Captain Sparks to the Governor of the Mississippi Territory.

FORT ADAMS, *Sept.* 7, 1805.

SIR: I have the honor to forward you despatches from Captain Wilson, at Point Coupée. If it should be your wish to have the party therein referred to taken to this place, to be delivered over to the civil authority, the command of one subaltern and twenty-five men I have sent from this post to reinforce Captain Wilson will be instructed to execute it. I am, &c.,

R. SPARKS,
Captain Commandant.

No. 4.

The Governor of the Mississippi Territory to Lieutenant Wilson, commandant at Point Coupée.

WASHINGTON, MISSISSIPPI TERRITORY,
September 9, 1805.

SIR: I this moment received your despatch, dated the 5th instant, informing me of your having taken and confined a Spanish party, which had on the night of the third instant forcibly taken from this Territory the three Kempers, whom the party had in their possession when you took them. Your conduct, sir, on this occasion, merits approbation, so far as I am informed of it.

I request that you will, with all possible despatch, have conveyed to this Territory the whole of the offending party, to be delivered over to the civil authority; also the Kempers. I request you will deliver them at Fort Adams, where further orders will remain. Captain Sparks has informed me the reinforcement he sent you will act also as a guard for the above purpose.

I enclose, for your information, the copy of an order which I have this day issued in consequence of these outrages, and others committed on the line eastwardly from Pinckneyville.

I am, &c.

ROBERT WILLIAMS.

No. 5.

The Governor of the Mississippi Territory to Captain Sparks, commanding at Fort Adams.

NATCHEZ, *September* 9, 1805,
Ten o'clock at night.

SIR: As I was starting from Washington to this place, I received your letter of the 7th instant, with a despatch from Captain Wilson.

My answer to Captain Wilson I have sent open for your perusal, which I pray you to forward immediately.

I request that you will retain and safely keep under military authority the party that may be sent to you, agreeably to my directions to Captain Wilson, until they are received by the civil authority. Accept my hearty approbation of your and Captain Wilson's attention on this occasion.

I am, &c.

ROBERT WILLIAMS.

No. 6.

The Governor of the Mississippi Territory's orders to Colonel Ellis, of the 5th regiment of the militia of said Territory.

HEAD QUARTERS, WASHINGTON,
MISSISSIPPI TERRITORY,
September 9, 1805.

SIR: You will, on the receipt of this order, immediately assemble from your regiment the following detachment for duty, viz: two captains, two lieutenants, two ensigns, eight sergeants, eight corporals, two drummers, or bugle-horsemen, and eighty-two privates, to compose two equal companies. They are to be well armed, and supplied with twelve rounds of ammunition per man. Not having the state of your regiment by actual return, it must rest with yourself from which battallion you are to detach them. This detachment is to act as a patrol near and along the line of demarcation, to prevent or check irregularities of every kind. They are to rendezvous at Pinckneyville, from whence they will be detached to their different posts. As soon as they are assembled, a return of them will be made, naming the commissioned officers, and reporting the strength and the state of arms, &c., and forward to the inspector at this place, when you will receive further orders. In the mean time, the detachments will be active as patrols, examining all equivocal characters passing the line below, and especially if by night, stopping and securing any armed parties improperly passing the lines, as in some late instances; and, in short, affording all proper protection in their power to the citizens of the United States and their property. The better to effect this, one captain, and his command, will be detached to the eastern part of the line to be guarded, and take post on or near the Tiehfau, from whence the communication must be kept up to meet the patrol detached from post near the west end of the line.

Every occurrence worthy of note can and must be communicated in this way to the senior captain, whose post will be in or near Pinckneyville; and who will report either direct to head-quarters, or to the inspector's office. Should any hostile attempt be made, either on the citizens, property, or the detachment on duty, force must be repelled with force.

R. WILLIAMS.

Extract of a letter from Robert Williams, Esq., Governor of the Mississippi Territory, to the Secretary of State.

MISSISSIPPI TERRITORY,
Washington, Oct. 1, 1805.

By my communication of the 14th ultimo, you were informed of some outrages committed within this Territory, near the Spanish line, and of the steps I had taken in relation thereto.

I now have the honor to enclose, for your further information, Governor Grand Pré's letter in answer to mine of the 6th ultimo, and my reply to him, marked and numbered 1 and 2; also the documents marked 1, 2, and 3, which will inform you of the further steps taken in this affair.

The military patrol which I ordered out on the line were organized and disbanded, on holding themselves in readiness, and places appointed to rendezvous under a standing order to the officers commanding, to check any disorders that might appear.

I have the satisfaction to inform you that things in that quarter have become very quiet and settled, which I believe would not have been the case but for the measures which were pursued.

Some of our citizens were concerned in this business, and are bound over to court for prosecution.

[Enclosures accompanying the above.]

Governor Grand Pré to Governor Williams.

BATON ROUGE, *Sept.* 9, 1805.

MY DEAR SIR: I have received your letter, dated the 6th instant, relative to the extraordinary event that happened at Pinckneyville, on the 3d instant, viz: the assault on the three brothers, Kempers, by persons unknown, and disguised, it is said, in black, who conducted them on that part of the Territory which it has pleased His Majesty to commit to my charge. The occurrence is singular, and of which I had no information till the night between the 7th and 8th, by one of the commanders of the patrols, who, since the inroads committed by that turbulent banditti, headed by the Kempers, have been stationed near the frontiers and within the interior settlement of Feliciana. The first gave me information under date of the 5th, that, by night, he met with a party of men disguised and armed, who were conducting three others, whom they immediately abandoned, and retired with precipitation the same way which they appeared to have come, without uttering a single word; his first care was to secure the persons of the three men, whom he found to be the Kempers, and immediately had them conducted to Bayou Tunica, there to be embarked under an escort, and delivered at my disposal; he added that, on the way, the escort was stopped by

actual force, on the river, very near the eastern shore, by Captain Wilson, military commandant at Point Coupée, where it is said the escort is detained, and also the Kempers. The commander of the patrol also declares that it was impossible for him to know any one of the persons who brought and abandoned the said Kempers, owing to the obscurity of the night, their disguise, and their very prompt departure.

This is all the information I have as yet, but have despatched an express to procure a more ample knowledge respecting this strange and mysterious violation.

It is not necessary, I flatter myself, that I should express what pains our Government has taken, and how unceasingly scrupulous it has been to maintain and constantly to preserve with that of the United States that good understanding and harmony, which it ought to be impossible for a few intriguing perfidious adventurers, thirsting after revenge for private animosities, to interrupt. Of this I hope your Excellency is fully convinced, and upon this principle you will approve the efficacious measures I am about to take for the extirpation of this disorder, which has risen to its full height on the territory of this Government—disorder, confusion, violations, outrages, plunder, insult to the magistrate; dragging him by a rope round his neck; attempts on the flag of the King my master; and now the violation committed with the Kempers, (authors of all the above mentioned,) on the Government of your Excellency.

After this explicit narrative, I hope your Excellency will make the necessary dispositions for the return of the inhabitants who were escorting the three prisoners, as they are absolute strangers to all the circumstances of this business. I claim them from your Excellency's justice, considering their detention as illegal, as also that of the prisoners they were conducting, these having been taken within this Territory, where a most singular event had brought them, and I cannot imagine what could have been the design of the authors of this plot; saving, however, for a subsequent determination respecting the legality of a capture made under such singular circumstances.

I have the honor to be,

CHARLES DE GRAND PRE.

Most Excellent R. Williams.

Governor Williams to Governor Grand Pré, in answer.

WASHINGTON, *Sept.* 30, 1805.

SIR: Your letter of the 9th instant, in answer to mine of the 6th, I received some days ago; but the equivocal manner with which you treated the subject of my letter afforded little or no information, and rendered it expedient to delay an answer until I should obtain such information relative thereto as would enable me to treat the subject with that candor which our respective situations require, and the interest and honor of our Governments demand.

Previous to the receipt of your letter, I understood that the three Kempers were retaken by Lieutenant Wilson, near Point Coupée, where they, together with the Spanish guard, were detained. I gave orders for the removal of them and their escort to Fort Adams, within this Territory. They have all been delivered over to the civil authority for examination, as to their supposed offences committed within this Territory, or that might be cognizable by the civil authority thereof; and I now have the honor to inform you, that the outrages which were the subject of my letter to you of the 6th instant, appear to have been committed by citizens of the United States, in combination with the subjects of Spain, residing within the jurisdiction of our respective Governments, all of whom are liable to be punished under the authority and laws of the United States and of this Territory. It also appears that the six persons, subjects of Spain, composing the escort, to wit: William Barker, Charles Stewart, John Morris, John Ratcliff, George Row, and Adam Bingaman, were accessories and confederates with the offending party, and might have been legally treated as such by this Government; but being desirous to keep alive and promote that harmony and good understanding between the Government of the United States and that of His Catholic Majesty, and also because, from the sceptical style of your letter, it is not clear whether the act was authorized, I have caused those six men, composing the escort, to be liberated, and safely conducted to the territory possessed by His Catholic Majesty. The Kempers, of whom your Excellency complains as having been the original authors of these outrages, I have caused to be bound to their good behaviour, and to keep the peace towards your Government, its subjects, &c.

It is also proper I should inform your Excellency, that, in a few days after the date of my letter of the 6th instant to you, I received information that, some days before, a party of twelve men, armed, commanded by Lieutenant Glascock, part of Captain Jones's company of Spanish light-horse, entered this Territory in the neighborhood of Tiehfau creek, and there threatened considerable abuse of some of the inhabitants; seized and carried by force, from their house of dwelling, a man by the name of William Flanagan, jr., and his wife, into the territory possessed by His Catholic Majesty, whom they detained a considerable time, and, on their releasement, took and kept a horse, bridle, and saddle, belonging to the said Flanagan, and which I am informed have been since sold under the orders of an officer of your Government. I request your Excellency will inquire into this affair, and give me an answer as soon as convenient.

I trust the lenient measures which I have caused to be pursued upon this occasion will be duly appreciated, and attributed to the proper motives; and that your Excellency will unite with me in adopting such measures as will prevent similar occurrences in future.

Your Excellency demands of me the three Kempers as your prisoners, taken, as you say, "within this jurisdiction, where the most singular event had brought them." Permit me, sir, without criticising on the merits of this demand, which it is so

susceptible of, to barely suggest, as a reason for my non-compliance, the consequences which would necessarily flow from a compliance with demands made under such circumstances, and founded on transactions of this kind.

I have the honor to be, &c.

ROBERT WILLIAMS.

His Exc'y Chas. De Grand Pre.

WASHINGTON, *Sept.* 23, 1805.

SIR: Finding you had left this when I returned from Natchez, Mr. Shields follows with my orders to Captain Sparks, commanding at the fort. Enclosed is a copy of my letter to him, indicative of the wish of the Executive of this Territory on the occasion, which I trust will be compatible with the civil authority.

I am, &c.

ROBERT WILLIAMS.

Judge Rodney.

WASHINGTON, *Sept.* 23, 1805.

SIR: I have received your letter of the 20th instant, informing me of the arrival of the prisoners from Point Coupée, at Fort Adams.

I request that they may all be delivered over to Judge Rodney, or some justice of the peace, to be examined as to any offences they may have committed within the limits of this Territory, or that may be cognizable by the civil authority thereof.

The Spanish subjects, to the number of six, as I am informed, should they be discharged by the civil authority, I request that you will cause them to be escorted by a sufficient guard, to the line dividing this Territory from that possessed by His Catholic Majesty, there liberated, and suffered to pass into his jurisdiction.

As to the Kempers, I presume they will be dealt with as the law will authorize; and my hope is, that they may be bound to their good behaviour, and to keep the peace, as well towards the citizens of the United States as the subjects of His Catholic Majesty.

Accept my best respects, &c.

ROBERT WILLIAMS.

Capt. Richard Sparks,
Military Commandant at Fort Adams.

Town of Washington, *Sept.* 30, 1805.

DEAR SIR: On the 25th or 26th of this instant, I made examination into the truth of the outrage committed in this Territory, at and near Pinckneyville, on the night of the 3d of this instant, on the persons of Reuben, Nathan, and Samuel Kemper. This outrage appears to have been committed by a combination of persons, some residing above, and some below, the line of demarcation. Among them was a Doctor Bonner, a Henry Flower, son of Doctor Flower, and a Mr. McDermot, who were active above the line, and are said to reside below. The party, composed of twelve white men and seven negroes, first assaulted and broke the house of Nathan Kemper, and seized and tied him and his brother Reuben; then a part of them went to the house of Samuel Kemper, broke into his room, and took and tied him also; and the two parties met again near the line, and went in company on the high road till they got a few feet below the line, where Captain Alston, with a party of twelve men, lay in wait, and marched out of the bushes and took possession of the Kempers; at the instant, all the other party dispersed and run off. Alston and his party then conducted the Kempers down to Bayou Tunica landing, and put them on board of a boat, and ordered six of his men, to wit, William Barker, Charles Stewart, John Morris, John Ratcliff, George Rowe, and Adam Bingaman, to take them down to Baton Rouge. On their way down, when they got opposite the American garrison at Point Coupée, the boat was taken by Captain Wilson, the Kempers released, and the Spanish subjects made prisoners. It appearing, on examination of the Kempers, that the six persons last mentioned had not acted above the line, they were liberated, as will appear by a document I enclose. None of the Spanish subjects that were active in the outrage above the line were taken into custody; but if they had been in custody, they would have been detained for trial. And, indeed, it was so evident that the party below the line were acting confederate with those above, had they not been the subjects of a Government in amity with us, the six persons discharged might have been legally detained until due satisfaction was made. I was careful, however, to avoid anything that would in the least tend to violate the amity of the two nations, and therefore thought proper to liberate them, though I think our military officers fully justified in detaining them till legally discharged.

I am, respectfully, &c.

THOMAS RODNEY.

P. S. Justice Baker was also directed to require bail of Reuben, Nathan, and Samuel Kemper, respectively, to keep the peace, especially towards the subjects of the King of Spain, and to do no injury to any one below the line of demarcation. T. R.

Documents relative to the detention of public buildings at New Orleans, &c.

Extracts of letters from General James Wilkinson to the Secretary of War.

NEW ORLEANS, *December* 27, 1803.

Our troops are not yet in quarters, but continue to occupy the redoubts which surround the town, under their tents, which has occasioned great discontent and produced much sickness; nor have we been able to get possession of a single storehouse or magazine for the reception of our tools, implements, stores, baggage, and provisions. I am now working on a partition of the barracks, to separate our troops from those of Spain, and hope I shall be able to get our men under cover tomorrow; but I am reduced to the painful necessity, after waiting thus long, to hire stores for the reception of our provisions, hospital stores, ammu-

nition, arms, and other articles, which expense should, in my judgment, be charged to the French Republic, and therefore a separate account wil be kept of it, and all other expenses which may accrue in consequence of the incomplete execution of the treaty.

NEW ORLEANS, *March* 2, 1804.

It pains me still to be obliged to write you from this place, but the causes which have prevented my departure still exist. The Prefect of France and the Spanish troops are still in town, and the magazines and store-houses still in their possession, while we are obliged to pay rent for our own accommodation. My patience is nearly exhausted, and I shall not be detained many days longer, unless something very unexpected should occur to make it my duty.

We have appearances of the Prefect's intention soon to depart, though they are contradicted by other circumstances. As to the Marquis de Casa Calvo, and the Spanish officers generally, they indicate no intention whatever of moving.

Governor Folch sailed three days since for Pensacola, but he was not accompanied by any troops; it is now said that they will follow him in a few days. Yet I suspect the Marquis de Casa Calvo will keep a detachment here for his accommodation.

You have, under cover, a list of guards, which the Spaniards mounted in the city yesterday, but you must not believe that this singular spectacle is permitted by my consent.

A return of guards mounted in New Orleans by the troops of Spain, March 24, 1804.

	Sergeants.	Corporals.	Privates.
1. Marquis de Casa Calvo	1	–	9
2. Governor Salcedo	1	–	9
3. Intendant Morales	–	1	6
4. Auditor - -	–	1	3
5. Magazine - -	–	1	6
6. Hospital - -	–	1	3
7. Dragoons of Mexico	–	1	3
	2	5	39

NEW ORLEANS, *April* 15, 1804.

I have the satisfaction to inform you that about three hundred Spanish troops embarked for Pensacola on the 8th instant, but I am informed that twelve or fifteen officers, and between sixty and one hundred men, will continue in this city.

They have delivered up the barracks, but occupy the hospital and several detached buildings.

The Prefect made his congé to our Commissioners on the 12th instant, but is still in town exercising his prefectorial and commissarial functions, yet I look daily for his embarcation.

The arrival of our ordnance stores from Fort Adams commenced a few days since, but we have as yet neither stores nor magazines for their reception, these being still occupied by the French and Spanish Governments.

NEW ORLEANS, *April* 25, 1804.

The Prefect of France embarked on the 21st instant. Yesterday the Commissioners of the United States took leave of the Commissioners of Spain, and I numbered twenty-five Spanish officers at the audience.

Extract of a letter from Lieutenant Colonel Constant Freeman to General Wilkinson, dated

NEW ORLEANS, *July* 14, 1804.

On the 9th instant, sir, the powder magazine, opposite to this city, was delivered to me.

Extract of a letter from General Wilkinson to the Secretary of War, dated

NEW ORLEANS, *Jan.* 16, 1804.

We did not until this day receive the orders of the French and Spanish Commissioners for the delivery of the posts in upper Louisiana.

Documents relative to the conduct of the Spaniards in Louisiana; establishment of new posts; reinforcements, and reports of a repossession of that country.

Extract of a letter from Captain Turner to General James Wilkinson, dated

NATCHITOCHES, *Aug.* 1, 1804.

Since I last wrote, nothing of much importance has transpired. Our neighbors still keep up that sort of conduct towards us, which a state of war alone would justify. Every person who goes from here is strictly examined and searched, and all letters found in their possession are broken open and perused with an expectation of finding them big with treason, stratagems, and crimes.

Copy of a letter from the same to the same, dated

NATCHITOCHES, *Oct.* 15, 1804.

The Spaniards are undoubtedly meditating mischief in this quarter; their emissaries have been at work among the Indians and negroes. The night before last, nine of the latter run off for Nacogdoches, who, it has been ascertained, have been persuaded so to do by a Spaniard, inhabitant of Nacogdoches, telling them that, on their arrival there, they would be made free. Upwards of thirty are at this moment known to have been in the plot of elopement; and intelligence of the extent and nature of the plan is momently coming to light. To-day it is discovered that four of the nine have returned, to rouse and stimulate their confederates and others who were not implicated; an Indian boy, who was in one of their cabins, gives the intelligence. He says those who returned were instilling into the others, that, since the plot has been discovered, it should stimulate them to be more determined, &c. &c. The whole district is in the most alarming state, and inevitable ruin to it, and perhaps all Louisiana, must be the consequence, unless prompt measures are taken to stop the infamous proceedings of the infernal Spaniards.

I received a message, the other day, from the Cousadee or Alabama Indians, informing that other Indians, stimulated by the Spaniards, had desired them to move over the line, (they living on this side the Sabine, within the district of Opelousas,) and informed them that they wished them to join a war against the Americans; upon refusing, they threatened to cut them off wherever they should meet with them. Further, that a great council was about to be held, to which all the Indians were invited, and the Spaniards were to have large presents there for them. This intelligence has, within a few days, been corroborated by a white man living near the Sabine, whom the Indians, being friendly towards, desired to quit, as shortly depredations were to commence on the American frontier.

Extract of a letter from Doctor John Sibley to the Secretary of War, dated

NATCHITOCHES, *May* 1, 1805.

The Choctaw chief, at the same time, reported to me, that a party of his people had lately returned from a hunting voyage on the bay of St. Bernard, and that they there fell in with two parties of Spanish troops, who had lately arrived there by water, and had their shipping then lying there; that they were building two forts, and had got them considerably advanced; one of them at the mouth of Trinity river, at the Oekekesaws, the other, further to the westward, near the Caraukuas; they did not know by what name they called the place, but I take it to be Matagordo: that the Spanish officer at Oekekesaws had commissioned one of his hunters as a chief, and told him the Americans holding this country were all wind; that, if they were wise, they would abandon us and attach themselves to them, (the Spaniards,) for their old friends would not forsake them; but that they were advancing against the Americans, and should soon build a fort in Opelousas, and another at Attakapas, and one at or near Natchitoches, and proceed on towards New Orleans; and that the officer told him he was in want of spades to go on faster with the works; and that, if the Indians would come in among the Americans and buy what they could and bring to him, he would give them a horse for each spade they would bring.

This hunter, on his arrival at Bayou Chero, at the Choctaw village, finding the chief absent, sent off a runner to notify him of it, and to be on his guard against the Americans, for all Louisiana would soon belong again to Spain.

Mr. Fulsome, who I occasionally employ as an interpreter, was present when the chief received this message, and came in with him to me, who likewise said that there was, at the same time, a Spaniard in the Choctaw camp asleep, and that after the runner had delivered his message, he (Fulsome) awakened the Spaniard, and asked him if he knew anything of a Spanish force having arrived at the Oekekesaws, and he said he had heard so.

An American gentleman, a Captain Fristo, of Tennessee, was with me a few hours ago. He is lately from Nacogdoches, and informs me that he understood the same when he was at that place.

Extract of a letter from Captain Turner to General James Wilkinson, dated

FORT CLAIBORNE, (*Natchitoches.*) *May* 3, 1805.

Within these two days I have received information that the Spaniards have absolutely established themselves, both at Matagorda, and the Orcoquisas. They came by sea, and immediately commenced fortifying. The informer is an Indian chief of the Choctaws, who says that a warrior of his nation, who has been hunting with the Caraukuas, on the bay of St. Bernard, has returned loaded with Spanish presents and caresses, and says that the commanding officer told him that he and his people had better abandon the Americans, and come under the protection of the Spaniards, who would never forsake their old friends; and bid him witness their present proceedings, giving to understand that it was only preparatory to their taking possession of the country again, which would not remain long in the hands of the Americans, as they meant to edge themselves along till they got to Orleans; that the warrior appeared to believe what was told him, and had returned with different ideas respecting the Americans than he possessed before. The informer further says, that the Spanish troops were in want of spades, and told this Indian, and those who were with him, that if they would bring some from this place, or Opelousas, he would give them a horse for every one delivered.

Extract of a letter from Doctor John Sibley to the Secretary of War, dated

NATCHITOCHES, *May* 31, 1805.

I sent Mr. Fulsome to bring in the chief and the party of Choctaws, who had lately returned from the bay of St. Bernard, and had given an account of the posts of Matagordo and the Oekekesaws being lately taken possession of. Mr. Fulsome found them and brought them in. He can give no certain account of any troops being at Matagordo, but he was at the Oekekesaws, and saw them; they were building a fort: but a small number of soldiers. The chief says, the Spanish officer advised him and all his nation to come to them; that their great father over the water had not forgotten them, and gave them not only his hand but his whole arm. He says the party he saw came there by land: but the evening he left the place, he saw a vessel in the bay, that the officer said was coming to them with a reinforcement. He likewise says, he heard they intended to build forts soon at Opelousas, Attakapas, and Natchitoches, but he did not hear the officer say it.

Extract of a letter from Dr. John Sibley to the Secretary of War, dated

NATCHITOCHES, *July* 2, 1805.

A man by the name of St. Prie arrived here yesterday from the Spanish country. He speaks French: I have had some conversation with him. He says that there are five hundred families arrived at St. Antonio, settlers, with a con-

siderable reinforcement of troops; and that one hundred soldiers were coming to Nacogdoches; fifty of whom were to be there by the 15th inst.

Extract of a letter from the same to the same, dated

NATCHITOCHES, *August* 8, 1805.

Great pains are certainly taken by people living here, and strangers passing through the country to and from toward Mexico, to freshen and keep alive the report and belief, that this part of the country is not long to remain in the hands of the United States.

The day before yesterday the Baron Bastrop, an intimate acquaintance of the Marquis de Casa Calvo, passed through this place from Orleans on his way to Mexico; on that way he took great pains to circulate the report, and to tell all the inhabitants he spoke with, that the country would ere long be again under the Government of Spain, &c. He speaks French, English, and Spanish. Assurances of that kind, from a character like the Baron, make a strong impression upon the minds of the uninformed inhabitants.

Extract of a letter from Captain Turner to General James Wilkinson, dated

FORT CLAIBORNE, (NATCHITOCHES,) *September* 3, 1805.

About a month ago Mr. Shabus, of this place, received a letter, dated St. Antonio, from Padre Puellet, telling him that the Commandant General, Mr. Grimare, direct from the Court of Spain, was expected in August at the Rio Grand, where a great number of the people of the province of Texas was to meet him; that he was accompanied by seven companies coming to St. Antonio, which place he was to make his residence, and that Captain Amangual was to be stationed with his full company* at Nacogdoches. Mr. Shabus received a passport from the Governor of St. Antonio, and a letter from the Bishop, requesting him to come on immediately to make preparations for the Commandant General. Said Shabus says that he, (the Commandant General,) was high in the confidence of the Court of Spain, and sent on account of the limits. Six hundred families coming from Spain to settle Matagordo had put into the Canary islands.

Extract of a letter from the same to the same.

NATCHITOCHES, FORT CLAIBORNE. *September* 30, 1805.

The new Governor, Antonio Cordero, has arrived at St. Antonio.

Two men have just arrived from Nacogdoches, one of whom says he saw a letter from Mr. Barr to Davenport, written at St. Antonio, saying that he was waiting to set out with the Colonel, who was to take the command at Nacogdoches. He was to have two companies with him, one of which was to reinforce the Orcoquisas, and the other to be divided between Nacogdoches and Adeis.

The white men employed by the Indian agent are now with me, and relate the following:

At about six days' march nearly southwest from here, they came in sight of a sort of stockade, as well as they could judge from the distance they saw it. They were discovered by the garrison, and a number of horsemen (to the amount of at least fifty) immediately sallied from out or near the picket work in line, and gave them chase. As they approached they formed a half circle, in order to enclose them. They, the Americans, escaped to the woods, which were within a league; the Spaniards continued the pursuit about fifteen miles. They imagined the fort or picket work to be about one hundred and twenty miles from this place, and is situated in open ground in the bottom of a prairie, at the confluence of the Trinity and Snow rivers, about twenty miles from the sea. They were further informed that the place where the fort is was called Orcoquisas.

Extract of a letter from a Mr. Johnson, son of a Colonel Johnson, of Kentucky, to Dr. Sibley.

NACOGDOCHES, *Oct.* 3, 1805.

I have chosen this method of informing you of the receipt of a letter from Mr. Barr, but a few minutes since, which mentions, that he will be here the day after to-morrow, accompanied by the new commandant, who had under his charge two companies of one hundred and ten each. The one is to be stationed at the Trinity until further orders, the other is for this place, with orders to make it a place of defence.

Extract of a letter from Captain Bowyer to Lieutenant Colonel Freeman.

OPELOUSAS, *Oct.* 13, 1805.

Yesterday Judge Collins waited on me and informed me that the minds of the citizens of the district were considerably agitated on a report being in circulation that a number of Spanish troops have taken post on the Kelqueshoes, some distance on this side the Sabine. Report says the number does not fall short of eight hundred. I have no idea the force is as strong as reported; but that there are some Spanish troops in that quarter I have not the smallest doubt.

Some time before Capt. Stille left Attakapas, he had certain information that a regular patrol was kept up on the Sabine, and were relieved weekly from the post of Nacogdoches. Since then I have been informed (how truly I cannot say) that two of the inhabitants of this country are prisoners at that post.

Extract of a letter from Governor Claiborne to the Secretary of War.

NEW ORLEANS, *Oct.* 30, 1805.

Six hundred troops have arrived at Pensacola from the Havana; and it is reported that the garrisons of Mobile and Baton Rouge are to receive considerable reinforcements. A Governor General for the province of Texas has arrived at St. Antonio; he is a Brigadier General, and said to possess military talents.

A fort is erected on Trinity river, and about two hundred men (the greater part cavalry) are there stationed.

* "A full company consists of a captain, lieutenant, commandant, and one hundred and fifteen."

Documents to show that the settlement of Bayou Pierre, on the Red river, at which a principal aggression took place, was originally made by France, while possessing Louisiana, and came to the possession of Spain only by the general delivery of Louisiana to her, and as a part of it.

CAMPTI, IN THE DISTRICT OF NATCHITOCHES, *Sept.* 14, 1805.

Personally appeared before me, John Sibley, one of the magistrates for the county of Natchitoches, Mary Pulogia Grappe Fontineau, aged 46, who, being duly cautioned and sworn, deposeth and saith, that she believes she was born at the ancient Caddo village, where was an establishment of French inhabitants and some soldiers; and that she perfectly recollects descending the river with her father. She was then six years of age; and that her mother remained behind, to collect some debts, and came down about six weeks after; and that she had always understood her family had lived there for a considerable number of years; and that there were a number of French families who had lived there for many years.

FONTINEAU, *Veuve.*

Sworn to before me,

JOHN SIBLEY, *J. P.*

I, John Horn, being duly sworn as interpreter, declare that the above declaration of Mary Pulogia Grappe Fontineau is truly interpreted as above written. J. HORN.

NATCHITOCHES, *Sept.* 15, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, Julien Besson, an inhabitant of Campti, in said county, aged 57, who, being duly sworn, deposeth and saith, that he well recollects being carried from Natchitoches, by his father, to the ancient Caddo village, commonly called, by the course of the river, about one hundred and seventy leagues above Natchitoches, on Red river; and that, at that time, there were living several French families and some soldiers: the number of soldiers he does not remember, but only that it was a sergeant's command, (which sergeant was then his father;) and that his father, by order of the then French Governor General of Louisiana, built a small fort at said place, erected a flag staff, on which the French flag used to be hoisted: the name of the fort was called St. Louis de Carloretto; and that, from the appearance of the place, and everything he had heard and understood about it, the establishment had been made for a considerable number of years before he went there, which is more than fifty years ago; and that he lived there fourteen or fifteen years, during all which time there was continued a detachment of French soldiers there, with a number of French families, who continued to cultivate corn, tobacco, and garden vegetables; and that he recollects two small pieces of cannon being there, and one of them bursting by firing; and he believes the other slipped into the river, by an excavation of its bank, as it lay near the edge of the bank; and that he recollects there being some mill-stones there, but has no remembrance of seeing them in use. And, at the same time that he lived at the above-mentioned place, some French families were settled at the Yattasse point, so called, being a part of what is now called the Bayou Pierre settlement; and that the same place has continued to be occupied by French families ever since, and which is now under the jurisdiction of the Spanish Government, in the province of Texas; and that said Yattasse point used to be a place of great deposit by Indian traders, before Louisiana was ceded to Spain: and further, that he has knowledge that some French hunters, while Louisiana belonged to France, planted several crops of corn more than fifty leagues above the ancient Caddo village, on Red river, at or near the mouth of Boggy river, (or the Vassures, as it is called;) and that the settlement at the old Caddo village was abandoned about thirty-eight years ago; and he believes the cause of their removal was, having large families of children growing up; and, after the cession of Louisiana to Spain, the settlement did not appear to augment, and the families were desirous their children should have the benefit of a better society: but that the country is exceedingly pleasant and fertile, and capable of becoming a rich and populous settlement. And further the deponent saith not.

JULIEN BESSON.

Sworn before me, at Natchitoches, the 16th of September, 1805.

JOHN SIBLEY, *J. P.*

I, the subscriber, being duly sworn as an interpreter of the French language, do hereby certify that the above or foregoing deposition of Julien Besson, is truly interpreted.

J. HORN.

NATCHITOCHES, *Sept.* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace in said county, Louis Lamalaty, Esq., of Campti, in said county, who, being duly sworn, deposeth and saith, that he is now sixty-six years of age; and that he was born at the place now called Natchitoches. Although he was never at the place where the ancient Caddo village was, he was in the constant habit of seeing the French inhabitants, and the soldiers who were then living and stationed there, and has no more doubt of the fact than though he had seen it; he saw Mr. Grappe and his family when they returned from there; and further, that he has knowledge of the ancient French establishment at Yattasse point, in the vicinity of Bayou Pierre; and that these French families lived there before Louisiana was ceded to Spain; and that Mr. Verge lived there for a number of years; and that said place was usually a place of deposit for

the Indian traders, &c. And further, that he has knowledge of Mr. Bourne, formerly commandant at Natchitoches, having had a trading-house established on the southwest side of the Sabine river, and distant from that river about six leagues, and from Natchitoches about fifty leagues, and about northwest from it; which establishment was antecedent to the Spanish Government taking place in Louisiana; and that the same place was occupied by sundry persons afterward, as well before as after the change of Governments; and that he has been informed that the mill-stones that were at the old French establishment at the Caddos, had been brought down; and that, according to the best of his recollection, it is now about thirty-eight years since the said settlement was abandoned. And further the deponent saith not.

LOUIS LAMALATY.

Sworn to, the 16th of September, 1805, before me, J. SIBLEY, *J. P.*

I, the subscriber, being duly sworn as interpreter of the French language, do hereby certify that the foregoing declaration of Louis Lamalaty, Esquire, is truly interpreted and translated.

J. HORN.

NATCHITOCHES, *Sept.* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for said county, Mary Senes Brevell, widow of Antoine Grillette, deceased, who, being duly sworn, deposeth and saith, that, after she married Mr. Grillette, she went with him to the ancient Caddo village, where she remained about eighteen months. At that time, there were a few French inhabitants who settled and lived there, and a French commandant, who was Mr. Grappe, and, as near as she recollects, four soldiers; that the French inhabitants cultivated everything that was common for the French in other parts of Louisiana; and that she does not recollect the exact number of years that have elapsed since she was there, but believes it was, at least, ten years before the Government of Spain took place in Louisiana; and that she always understood, by her parents, she was there when a child, but she was too young to have remembrance of it. Further the deponent saith not.

M. S. BREVELL, her × mark.

Sworn to before me, at Natchitoches aforesaid, the day and year aforesaid,

JOHN SIBLEY, J. P.

I, the subscriber duly sworn as interpreter of the French language, do hereby certify that the above deposition of Mary Louisa Brevell is truly interpreted.

J. HORN.

NATCHITOCHES, *Sept.* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, John Baptiste Grappe, an inhabitant of Campti, in said county, and likewise one of the Justices of the Peace for the same, aged 42 years, who, being duly sworn, deposeth and saith, that, thirty-five or thirty-six years ago, he went with his father from Natchitoches to the ancient Caddo village, where he remained about four months. At that time, there were no families or soldiers there, but the houses of the French families who had lived there but a few years before, together with the fort, flag staff, and the barracks or house occupied by the soldiers, were all standing entire; and that his father told him which of the fields and houses his family had occupied for a number of years; and likewise, he remembers to have seen in the fort the ambusier and platform where the cannon were placed; and that he recollects his father used to call the distance from Natchitoches to said place by water about the same as from Natchitoches to New Orleans, viz. about one hundred and seventy leagues; and further, that he well recollects some French families, particularly a Mr. Verge and Mr. de Coto, living at the Yattassee point, so called, and that he always understood they had lived there for many years before Louisiana was ceded to Spain; and that the same place has always continued to be occupied by some French inhabitants, and is situated on the western division of Red River about twenty-five leagues above Natchitoches, and is now part of what is called the Bayou Pierre settlement, under the jurisdiction of the Spanish Government, in the province of Texas; and that he has been several times at a place called the Dout, on the east bank of the Sabine river, at a prairie, and towards the head of said river, where there was the appearance of some works having been erected by the French as a trading establishment, and where his father and many Indians had told him the French flag had been hoisted, and the arms of the King of France buried. Further the deponent saith not.

BTE. GRAPPE.

Sworn to before me, at Natchitoches, the 16th day of September, 1805,

JOHN SIBLEY, *J. P.*

I, the subscriber, being duly sworn as an interpreter of the French language, do hereby certify that the foregoing deposition of John Baptiste Grappe is truly interpreted and translated.

J. HORN.

NATCHITOCHES, *Sept.* 22, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, François Grappe, of Campti, in said county, aged 57, who, being duly sworn, deposeth and saith, that to the best of his knowledge and belief, he was born near the ancient Caddo village, on Red river, which, by the course of the river, he believes to be upwards of five hundred miles above Natchitoches, where his parents then lived, and had lived, he believes, a number of years before he was born, and where they continued to live until he was sixteen or seventeen years of age. As long ago as he can remember, he recollects a Mr. François Harvey, a French gentleman, living

there, and who, he understood was the first white man that settled there; and that his father settled there about two years after. But he always understood there had been a company of French traders settled, for a number of years, about forty miles higher up the river, and that Mr. Harvey was one of them; but they were broken up before he was born; it was always called *the Company*: And that, during the whole time he lived at the ancient Caddo village, there were three settled families, besides a number of single persons, and a detachment of soldiers; and that the number of soldiers assigned by the French Government for that post was always fifteen, but he never knew the number complete; and that his father was commandant of the place for many years, and was succeeded by a Mr. Closo, who continued to be a commandant until it was abandoned, after the cession of Louisiana to Spain; and that his father, by order of the Governor of Louisiana, built a small fort there, in which were two small pieces of cannon, and in which was a flag-staff, on which the French flag was occasionally hoisted; he believes that the whole time that that place was occupied by the French as a military post and a settlement of families was about thirty years; and that the inhabitants pursued the same agriculture that was then common in other parts of the French settlements of Louisiana, viz. corn, tobacco, indigo, cotton, and garden vegetables, with some wheat, which grew well; but, having no way of manufacturing flour, there was but little wheat raised, though there was a pair of excellent European mill-stones and mill-irons there, but were not in use in his time; the stones he himself brought down in the year 1778, and they were carried to Opelousas; he understood they had been carried to the Caddo country by the Company, as it was called: And that he has knowledge of a French trading establishment being at a place called the Dout, on the Sabine river, near where the Nandaco Indians now live; and that it was an ancient establishment, and a place of great trade and resort at the time his father's family lived at the Caddos; and that he has several times been at the place; the French flag used to be hoisted there, and there are the remains of the buildings and works now to be seen; and that the Dout is about one hundred and fifty miles northwest from Natchitoches. And that there was, at the same time, a similar trading establishment and a number of settled French families at the Yattasse point, on the southwest division of Red river, about twenty-five leagues above Natchitoches, in what is now called the Bayou Pierre settlement, which is now under the jurisdiction of Spain, and which place is now, and ever has continued to be, occupied by French inhabitants, and some of whom have ancient French grants or titles for their lands; and that Mr. Verge, who lived there for a number of years before Louisiana was ceded to Spain, had the exclusive Indian trade granted him, by the French Governor General of Louisiana, of Troiscannes or Tauacanos, the Reychies, Yattasses, and several other tribes that then lived on the river Sabine, and southward and westward of it, in what is now called the province of Texas.

FRANCOIS GRAPPE.

Sworn to before me, the 30th of September, 1805.

JOHN SIBLEY, *J. P.*

The subscriber being duly sworn interpreter of the French language, does hereby certify that the foregoing declaration of François Grappe is truly interpreted and translated.

J. HORN.

Document relative to robberies committed by the Spaniards in Louisiana.

NATCHITOCHES, *October* 2, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, Gaspard Bodin, Lewis Bodin, and Andrew Chamar, all of Natchitoches aforesaid, who, being duly sworn, deposed and said, that, on the 8th day of September last, they, the deponents, were all travelling in company from Natchitoches to Opelousas, on the usual road; and that, when within fourteen or fifteen miles of Opelousas church, they were met by five armed Spanish soldiers on horseback, who drew their arms upon them, and ordered them to stop. One of the deponents, (Madam Bodin,) who speaks Spanish well, asked the one who appeared to be the commander of the party, what business he had to order them to stop, that they were all of them Americans, and that was American ground. The commander of the Spanish party replied, that he had a right to command there, and would do as he pleased, and that he must have such a horse for the use of the King, (pointing to Mr. Chamar's best horse) which he immediately took possession of, and took away with them, proceeding on the Nacogdoche road, and the deponent Chamar has never seen or heard of his horse since.

GASPARD BODIN,
LEWIS BODIN,
ANDREW CHAMAR.

Sworn before me the day above written.

JOHN SIBLEY, *J. P.*

NATCHITOCHES, *Oct.* 3, 1805.

Personally appeared before me, John Sibley, a Justice of the Peace for the county of Natchitoches, Francis Roban, of said Natchitoches, aged twenty-one years, who, being duly sworn, deposeth and saith, that, about the 10th of September last, himself, being in the employ of Messrs. Oliver and Case, of Natchitoches, was, with Joseph Lucas, conducting from the Caddo nation to Natchitoches eighteen horses, packed with about eleven hundred deer skins; and in the Bayou Pierre settlement they stopped for the night, at the plantation of a Mr. Poisot. Next morning, the deponent had occasion to go to the house of Mr. de Soto, about a half a league distant, who is a syndic, and at whose house the detachment of Spanish soldiers on guard is stationed; soon after his arrival at de Soto's house, a corporal of the

guard called him, the deponent, into a small apartment, in de Soto's house, under the pretence of speaking to him; as soon as he entered the room, the corporal told him he was a prisoner, and placed a sentinel at the door; then told him they wanted to take Oliver and Case, or either of them, and that, if they did not find Oliver and Case, that he, the deponent should pay for it. They kept him then confined in the room, from about eight in the morning till one, afternoon; they then removed the deponent on his own horse, with one armed soldier before him and another behind, and ordered him to show Oliver and Case. He conducted them in this manner about eight miles, where he understood Mr. Case had been to Mr. Doley's. Arriving there, and not finding him, the deponent was left at Mr. Doley's under a guard, and the corporal went to some houses near by in the neighborhood, to search for him, but could not find him; after which, they set off in the same order in which they came, to return back to de Soto's. On their way they discovered a fresh trail of horses crossing the road, and leading from Mr. Poisot's plantation towards the plantation of Mr. Robleau, which they concluded to be the trail of Lucas, with the packs, &c. The deponent then attempted to escape from them, but was overtaken, and tied with his hands behind him, with a coarse hair rope; they then put him on his horse, one of the Spaniards leading his horse by a rope and another following behind and holding the other end of the hair rope, with which the deponent's hands were tied. It was, at that time, towards eight o'clock in the evening; the moon shone bright, they followed the trail leading towards Robleau's plantation about two and a half miles, and found all the pack-horses grazing. The Spaniards went immediately to gathering them up, and took possession of them all, drove them into a pen belonging to the plantation, and placed a guard over them; after which they untied the deponent, and drove him into the pen with the horses, where they kept him under guard among the horses the remainder of the night.

After the horses and deponent were thus penned up together, the corporal armed himself with a pair of pistols, and, with a rope under his coat, sat off for Lucas's camp, the light of which was in sight, saying he would go and tie Lucas. He was gone about a quarter of an hour, when he came running back much out of breath, and exclaimed: "Blast the Indian, he wanted to shoot me with his arrow." Soon after, the Indian came up; the corporal took his gun and presented it at the Indian, who replied, "You had best be easy, for I am not a child; you may thank me that you are here now." The corporal then spoke to the Indian, told him he was sorry for what he had done, it was in passion, shook hands with him, &c. The Indian, who was a Yattasse, then told the deponent to tell the corporal that he, the Spaniard, had wanted to take Lucas, but, if he had have taken him, he should not have tied him or taken him off. The Indian afterwards related to him, the deponent, how the corporal came to the fire, where Lucas and himself were encamped; Lucas saw him coming and rose up; the corporal called out to him, and told him he wanted to speak to him; Lucas saw him armed and saw the rope he had, and retreated a few steps from the fire; the corporal told him to stop, or he would shoot him; Lucas told him, he would not stop, and ran off. The Indian, at the same moment, drew his bow to shoot the corporal, who likewise ran and hid himself in the cornfield. The deponent further saith, that, while he was imprisoned in the horse-pen with the horses, the Indian came into the pen to him, and remained with him the remainder of the night. Some time in the night he proposed to the deponent to assist him, and they would tie the two Spaniards, and take off the horses, but if he was afraid to attempt that, he, the Indian, would kill them both, if the deponent would consent to it. The deponent further said, that, the next morning, the Spaniards sat off with him and all the horses for de Soto's house; and as they were going by Mr. Poisot's house, on their way he requested leave to go in to get a drink of water, and made his escape out of a back door, hid himself in a cotton field, from thence into a thicket, where he remained hid till night, leaving his horse, saddle, and bridle at Mr. Poisot's gate, which the Spaniards took possession of. In the evening, he came into Mr. Poisot's house, Mr. Poisot gave him some victuals, and advised him to make the best of his way to Nachitoches, for the Spaniards were determined to catch him, and had given him positive instructions to take him if he could, and bind him, and bring him to the guard; and that all the horses they had started off for Nacogdoche. The deponent sat off immediately, and travelled all night, avoiding as much as he could the main road, understanding that there were Spaniards posted on the road to waylay him. About an hour before daylight he arrived at Mr. Doley's and found the Spaniards had arrived there, with all the horses before him, and sentinel guarding them; his own horse among the rest. And further the deponent said not.

FRANCIS ROBAN,

Sworn before me, JOHN SIBLEY, *J. P.*

[The foregoing papers were referred to a Committee of the House of Representatives on the 6th December, 1805. The Committee made a report to the House, January 3, 1806, for which see supplemental Journal to House Debates, *ante*, page 1117.]

FRANCE.

[Communicated to Congress, January 10, 1806.]

To the Senate of the United States:

In compliance with the request of the Senate, expressed in their resolution of December 27, I now lay before them such documents and papers (there being no other information in my possession) as relate to complaints made by the Government of France against the commerce carried on by the citizens of the United States to the French islands of St. Domingo.

JAN. 10, 1806. TH. JEFFERSON.

General Turreau to the Secretary of State.

The undersigned, Minister Plenipotentiary of His Imperial and Royal Majesty to His Excellency the President of the United States of America, has testified, in his conversations with the Secretary of State, his just discontent with the commercial relations which many citizens of different States of the Union maintain with the rebels of every color, who have momentarily withdrawn the colony of St. Domingo from the legal authority.

The principles injuriously affected by such a commerce, or rather by such a system of robbery, (brigandage,) are so evident, so generally acknowledged, and adopted, not only by all nations who have a colonial system to defend, but even by those who have none, and, moreover, even by every wise people to whatsoever political aggregation they may belong, that the statesman, if he has not lost every idea of justice, of humanity, and of public law, can no more contest their wisdom than their existence. And certainly the undersigned, in finding himself called by his duty, as well as by his inclination, in the bosom of a friendly people, and near the respectable Chief that directs its Government; certainly the undersigned ought not to have expected that his first political relations would have for their object a complaint so serious, an infraction so manifest of law the most sacred and the best observed by every nation under the dominion of civilization.

But it was not enough for some citizens of the United States to convey munitions of every kind to the rebels of St. Domingo, to that race of African slaves the reproach and the refuse of nature; it was moreover necessary to insure the success of this ignoble and criminal traffic by the use of force. The vessels destined to protect it are constructed, loaded, armed in all the ports of the Union, under the eyes of the American people, of its particular authorities, and of the Federal Government itself: and this Government, which has taken for the basis of its political career the most scrupulous equity and the most impartial neutrality, does not forbid it.

Without doubt, and notwithstanding the profound consideration with which the Minister Plenipotentiary of the French Empire is penetrated for the Government of the Union, he might enlarge still further upon the reflections suggested by such a state of things—a circumstance so important, so unexpected. But it would be equally as afflicting for him to dwell upon it, to state its consequences, as it would be for the Government to hear them.

The Secretary of State, who perfectly knows the justice of the principles, and the legitimacy of the rights referred to in this note, will be of opinion, that neither are susceptible of discussion; because, a principle universally assented to, a right generally established, is never discussed, or, at least, is discussed in vain. The only way open for the redress of these complaints, is, to put an end to the tolerance which produces them, and which daily aggravates their consequences.

Moreover, this note, founded upon facts not less evident than the principles which they infract, does not permit the undersigned to doubt that the Government of the United States will take the most prompt, as well as the most effectual prohibitory measures, in order to put an end to its cause; and he seizes with eagerness this occasion of renewing to the Secretary of State the assurance of his high consideration.

TURREAU.

General Turreau to the Secretary of State.

WASHINGTON, *January* 3, 1806.

SIR: Formal orders of my Government oblige me to insist upon the contents of my official note of the 14th of October last, relative to the commerce which some inhabitants of the United States maintain with the rebels of St. Domingo.

Not receiving any answer to that note, I had room to hope that the Government of the Union would take prompt and effectual measures to put an end to the causes which produced it; but your silence towards me, especially in relation to St. Domingo, and that of your Government towards Congress, impose upon me the duty of recalling to your recollection the said official note, and of renewing to you my complaints upon the tolerance given to an abuse as shocking, as contrary to the law of nations, as it is to the treaties of peace and friendship existing between France and the United States.

I will not recur, sir, to the different circumstances which have attended the commerce with the revolted part of St. Domingo; to the scandalous publicity given to its shameful success; to the rewards and encomiums prostituted upon the crews of armed vessels, whose destination is to protect the voyages to carry munitions of every kind to the rebels, and thus to nourish rebellion and robbery.

You ought not to be surprised, sir, that I call anew the attention of the American Government to this subject. His excellency M. Talleyrand has already testified his discontent to General Armstrong, your Minister Plenipotentiary at Paris; and you will be of opinion, that it is at length time to pursue formal measures against every adventure to the ports of St. Domingo occupied by the rebels. The system of tolerance which produces this commerce, which suffers its being armed, which encourages, by impunity, its extension and its excesses, cannot longer remain; and the Emperor and King my master expects from the dignity and candor of the Government of the Union that an end be put to it promptly.

I add to this despatch a copy of the official note which has been already transmitted to you. I earnestly request, sir, that you acknowledge the receipt of both; and receive anew assurances of my high consideration.

TURREAU.

[Enclosed in General Armstrong's letter to the Secretary of State, of the 10th August, 1805.]

From M. Talleyrand to General Armstrong.

SIR: I have several times had the honor to call your attention to the commerce carried on from

the ports of the United States, to those of St. Domingo occupied by the rebels. The commercial communications would appear to be almost daily increased. In order to cover their true destination, the vessels are cleared for the West Indies, without a more particular designation of the place; and, with the aid of these commissions, provisions, arms, and other objects of supply, of which they stand in need, are carried to the rebels of St. Domingo.

Although these adventures may be no more than the result of private speculations, the Government of the United States is not the less engaged to put an end to them, by a consequence of the obligations which bind together all the civilized Powers, all those who are in a state of peace. No Government can second the spirit of revolt of the subjects of another Power; and, as in this state of things it cannot maintain communications with them, it ought not to favor those which its own subjects maintain.

It is impossible that the Government of the United States should longer shut its eyes upon the communications of their commerce with St. Domingo. The adventures for that island are making with a scandulous publicity. They are supported by armed vessels. At their return, feasts are given in order to vaunt the success of their speculations; and the acknowledgment, even the eulogies of Government are so much relied upon, that it is at these feasts, and in the midst of an immense concourse, where are found the first authorities of the country, that the principles of the Government of Hayti are celebrated, and that vows are made for its duration.

I have the honor, sir, to transmit to your Excellency an extract of an American journal, in which are contained sundry details of a feast given in the port of New York, on board of a convoy which had arrived from St. Domingo.

The ninth toast, given to the Government of Hayti, cannot fail, sir, to excite your indignation. It is not, after having covered everything with blood and with ruins, that the rebels of St. Domingo ought to have found apologists in a nation the friend of France.

But they do not stop at their first speculations. The company of merchants, which gave a feast on the return of their adventure, is preparing a second convoy, and proposes to place it under the escort of several armed vessels.

I have the honor, sir, to give you this information, in order that you may be pleased to call the most serious attention of your Government towards a series of facts, which it becomes its dignity and candor no longer to permit. The Federal Government cannot so far separate itself from the inhabitants of the United States, as to permit to them acts and communications which it thinks itself bound to interdict to itself, or as to think that it can distinguish its own responsibility from that of its subjects, when there is in question an unparalleled revolt, whose circumstances and whose horrible consequences must alarm all nations, and who are all equally interested in seeing it cease.

France ought to expect from the amity of the United States, and His Majesty charges me, sir, to request, in his name, that they interdict every private adventure, which, under any pretext or designation whatever, may be destined to the ports of St. Domingo occupied by the rebels.

Receive, General, the assurances of my high consideration. C. M. TALLEYRAND.

To His Exc'y Gen. ARMSTRONG,
Minister Plenipotentiary of the U. S.

From M. Talleyrand to General Armstrong.

PARIS, (*29th Thermidor, 13th year,*)
August 13, 1805.

SIR: Since the letter I had the honor to write to you, on the 2nd Thermidor, concerning the armaments which were making in the ports of the United States for the western part of St. Domingo, fresh information upon this point confirms everything which had been received. The adventures for St. Domingo are publicly made; vessels are armed for war to protect the convoys; and it is in virtue of contracts entered into between Dessalines and American merchants, that the latter send him supplies and munitions of war.

I add, sir, to the letter which I have the honor to write to you, a copy of a sentence given at Halifax, in the matter of a merchant of New York, who had conveyed into the revolted part of St. Domingo three cargoes of gunpowder, and who was taken on his return by an English frigate.

If even in the English tribunal where this prize was condemned, the whole island of St. Domingo was considered as a French colony, how can the Federal Government tolerate that the rebels of this colony should continue to receive from America succors against the parent country? It is impossible that that Government should be ignorant of the armaments making in its ports. Too much publicity is given to them not to render it responsible; and it ought to perceive that it is contrary to every system of peace and good friendship to suffer longer in its ports armaments evidently directed against France.

Without doubt the Federal Government would not wish, in order to favor certain private speculations, to give new facilities to rebellion and robbery (brigandage:) the tolerance of a commerce so scandalous would be unworthy of it. Neither your Government nor His Majesty can be any longer indifferent to it; and, as the seriousness of the facts which occasion this complaint obliges His Majesty to consider as good prize everything which shall enter the port of St. Domingo occupied by the rebels, and everything coming out, he persuades himself that the Government of the United States will take, on its part, against this commerce, at once illicit and contrary to all the principles of the law of nations, all the repressive and authoritative measures proper to put an end to it. This system of impunity and tolerance can no longer continue; and His Majesty is convinced that your Government will think it due from its frankness promptly to put an end to it.

Receive, sir, the assurances of my high consideration. CH. MAU. TALLEYRAND.

Correspondence of the Secretary of State with the Marquis de Yrujo

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The Secretary of State to the Marquis de Yrujo.

DEPARTMENT OF STATE, *Jan.* 15, 1806.

SIR: In consequence of the just objections which your conduct had furnished against your countenance here, as the organ of communication on the part of His Catholic Majesty, it was signified at Madrid in the month of April last, through the mission of the United States there, that the substitution of another was desired by the President.

In reply it was intimated by Mr. Cevallos, that as you had yourself expressed a wish and obtained permission to return to Spain, the purpose might be accomplished without the necessity of a recall, and that such a change in the mode would be agreeable to your Government; in a spirit of conciliation the arrangement proposed by Mr. Cevallos was admitted; and it was not doubted, that it would without delay have been carried into effect. It is seen, therefore, not without surprise, that, at this late day, you should have repaired to the seat of Government, as if nothing had occurred, rendering such a step improper. Under these circumstances, the President has charged me to signify to you, that your remaining at this place is dissatisfactory to him, and that although he cannot permit himself to insist on your departure from the United States during an inclement season, he expects it will not be unnecessarily postponed, after this obstacle has ceased.

I am charged by the President, at the same time, to let it be fully understood that the considerations which have led to this explanation, being altogether personal, they are perfectly consistent with the ready admission of a successor, and with all the attention, which can be due to whatever communications His Catholic Majesty may please to make, with a view to cultivate harmony and friendship between the two nations.

I have the honor to be, sir, with due consideration and respect, your most obedient servant.

JAMES MADISON.

The Marquis de Casa Yrujo to Mr. Madison.

WASHINGTON, *Jan.* 16, 1806.

SIR: I have just received your letter of yesterday, in which you are pleased to tell me, that from the President of the United States having solicited my recall to Madrid, in the month of April last, he has heard with surprise my arrival in this city, the residence of Government, and that he thinks this step of mine improper, adding, at the same time, that my stay here would be dissatisfactory to him. As the object of my journey is not with the view to hatch plots, to excite conspiracies, or to promote any attempt whatever against the Government of the United States, and as hitherto I have not either directly or indirectly committed acts of a similar tendency, which alone would justify the tenor and object of your letter; to which I reply, my arrival here is an innocent and legal act, which leaves me in the full enjoyment of all my rights and privileges, both as a public character, or as a private individual. Making use, therefore, of these rights and privileges, I intend remaining in this city, four miles square, in which the Government resides, as long as it may suit the interest of the King my master, or my own personal convenience; I must at the same time add that I shall not lose sight of these two circumstances, as respect the period and season in which our mutual desires for my departure from the United States are to be accomplished.

In regard to the objections which this Government, in its wisdom, is pleased to call just, respecting the demand of my removal, I shall take the liberty of observing that although this Government no doubt may have had their reasons to solicit it, they hitherto have forgotten to communicate them to mine; for Mr. Monroe's official letter to Mr. Cevallos on this subject merely contains vague, undetermined, general assertions, destitute of any proof whatever. It is true, that he alludes to an attempt of mine to bribe a citizen of the United States, but it is equally so that as this assertion of Government is grounded on a reference to a testimony already proved incorrect, I may without wounding the feelings of, or be wanting in that respect which I owe this Administration, permit myself to call it false and calumnious.

Independent of that, in the letter I had the honor of writing to you, sir, early in Sept. 1804, in which this business was completely and satisfactorily explained, if in fact the editor of the Commercial Register could ever be considered as an organ of truth, what would the American people think of their chief magistrate, of the heads of the departments, and of the acts of this administration?

It is not my intention to endeavor to change by this explanation, the disposition of this Government towards my person; my object is solely to fulfil the duty my situation imposes on me of again repelling an imputation, which is as improbable in itself as it is calumnious against both my public and private character.

I shall therefore, sir, communicate your letter of yesterday, to my Government: I shall also inform it of my answer, thereto; and whenever by order of the King my master, I am to return to Spain, I shall quit the United States with sentiments of affection towards a virtuous people, in whose bosom I have lived ten years, with the intimate testimony of having never committed any grounded offence against their Government; and above all, with the consoling satisfaction of having employed all my zeal and feeble talents in defence of the rights of the best of Kings.

I have the honor to be, sir, &c.

M. DE CASA YRUJO.

JAMES MADISON, Esq.

M. de Casa Yrujo to the Secretary of State.

WASHINGTON, *Jan.* 19, 1806.

SIR: Having gone through the personal explanations, which for just motives I was compelled to enter into in my first answer to your letter of the 15th instant, I must now inform you, sir, what otherwise would then have consti-

tuted my sole reply, namely, that the Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty near the United States receives no orders except from his Sovereign. I must also declare to you, sir, that I consider both the style and tenor of your letter as indecorous, and its object an infraction of the privileges attached to my public character. This violation of the diplomatic rights and privileges, as inexplicable in itself as it is ill grounded, requires on my part the most solemn protest against your said letter, its style, and the intent with which it is addressed to me. I do therefore protest in the most solemn manner I possibly can against this improper step of yours, sir; a step which, under the existing circumstances, is as contrary to the diplomatic laws and usages, as it is to the spirit of the Constitution and Government of this country; and in order that your conduct, sir, in this case, may not in any manner affect the privileges of the body to which I have the honor to belong, I shall immediately transmit to the other members thereof accredited near the United States a copy of your said letter, of my first answer, and of this my protest, that on their part they may make the proper use thereof, and also that it may always appear that if there has existed on the part of this Administration an arbitrary determination to violate the rights of embassy, respected by every civilized nation, there did also exist in me the just resolution of repelling any similar attempt.

I have the honor to be, &c.

M. DE CASA YRUJO.

JAMES MADISON, Esq.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE NINTH CONGRESS, BEGUN AND HELD AT THE CITY OF WASHINGTON, DECEMBER 2, 1805.

AN ACT making an additional appropriation for the Naval service, during the year one thousand eight hundred and five.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, in addition to the sum heretofore appropriated for that object, the sum of two hundred and fifty thousand dollars be, and the same hereby is, appropriated towards defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and five.

SEC. 2. *And be it further enacted*, That the aforesaid sum shall be paid, first, out of the moneys accruing at the end of the year one thousand eight hundred and five, from the duties laid by the act, passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and, secondly, out of any moneys in the Treasury not otherwise appropriated.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate, pro tempore.

Approved, December 11, 1805.

TH. JEFFERSON.

An Act supplementary to the "Act making provisions for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the thirtieth day of April, one thousand eight hundred and three, between the United States and the French Republic."

Be it enacted, &c., That the balance of the appropriation of three millions seven hundred and fifty thousand dollars, made by the act to which this is a supplement, which may remain unexpended on the thirty-first of December, one thousand eight hundred and five, shall not be carried to the credit of the surplus fund, but shall remain appropriated to the same purpose for which it was originally appropriated, any act to the contrary notwithstanding.

Approved, December 31, 1805.

An Act to provide for Light-houses in Long Island Sound; and to declare Roxbury, in the State of Massachusetts, to be a port of delivery.

Be it enacted, &c., That the Secretary of the Treasury shall be, and he hereby is, authorized and required to cause two good and sufficient light-houses to be erected in Long Island Sound, one to be placed on Watch Hill Point, in the town of Westerly, and State of Rhode Island, and the other on Sands's or Watch Point, in the town of Northampsted, on Long Island, in the State of New York, and to appoint the keepers of the said light-houses, (under the direction of the President of the United States,) and otherwise provide for such light-houses, at the expense of the United States: *Provided*, That sufficient land, for the accommodation of such light-houses, can be obtained, at a reasonable price, and the Legislatures of Rhode Island and New York shall cede the jurisdiction over the same to the United States. And a sum not exceeding six thousand dollars is hereby appropriated for the purpose of defraying the expense of erecting the said light-houses, to be paid out of any moneys in the Treasury, not otherwise appropriated.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause the said light-houses so to be constructed that their lights on being discovered may, with certainty, be distinguished from those of all other light-houses, heretofore erected in their neighborhood.

SEC. 3. *And be it further enacted*, That the town or landing place of Roxbury, in the State of Massachusetts, shall be a port of delivery, to be annexed to the district of Boston and Charlestown, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States.

Approved, January 22, 1806.

An Act making an additional appropriation to supply the deficiency in the appropriation for the Naval service, during the year one thousand eight hundred and five.

Be it enacted, &c., That, for supplying the deficiency in the appropriation for the naval service, during the year one thousand eight hundred and five, the further sum of three hundred fifty thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same hereby is appropriated.

Approved, January 22, 1806.

An Act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations.

Be it enacted, &c., That a sum of two millions of dollars be, and the same is hereby appropriated

towards defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any money in the Treasury, not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall cause an account thereof to be laid before Congress as soon as may be.

Sec. 2. *And be it further enacted*, That the President of the United States be, and hereby is, authorized, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, redeemable at the will of the Congress of the United States. And it shall be lawful for the Bank of the United States to lend the whole, or any part of the same.

Sec. 3. *And be it further enacted*, That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriation heretofore charged upon them, by law, shall be, and hereby is, pledged and appropriated for the payment of the interest, and reimbursement of the principal, of all such moneys as may be borrowed in pursuance of this act, according to the terms and conditions on which the loan or loans may be effected.

Approved, February 13, 1806.

An Act making a further appropriation for the support of a Library.

Be it enacted, &c., That, in addition to the unexpended balance of the former appropriation made to purchase books for the use of Congress, which is hereby revived and continued, there shall be appropriated the sum of one thousand dollars yearly, for the term of five years; to be paid out of any moneys in the Treasury not otherwise appropriated, and expended under the direction of a joint committee, to consist of three members of the Senate, and three members of the House of Representatives, to be appointed every session of Congress, during the continuance of this appropriation.

Approved, February 21, 1806.

An Act to repeal, in part, the fourth section of an act, entitled "An act to authorize a grant of lands to the Franch inhabitants of Galliopolis; and for other purposes therein mentioned."

Be it enacted, &c., That so much of the fourth section of an act, entitled "An act to authorize a grant of lands to the French inhabitants of Galliopolis; and for other purposes therein mentioned," as imposes the condition of an actual settlement on the said inhabitants, or any of them, their heirs or assigns, be, and the same is hereby, repealed. And in every case where a patent has issued, in conformity with the said fourth section, to any of the inhabitants aforesaid, their heirs or assigns, the conditions aforesaid, inserted in any such patent shall be considered null and void; and the fee simple be vested to all intents and purposes, in the person to whom such patent has been issued, his or her heirs or assigns.

Approved, February 21, 1806.

An Act for the relief of the Governor, Secretary, and Judges of the late Territory of the United States Northwest of the river Ohio.

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they hereby are, authorized and directed to settle, at the rate of compensation heretofore established, the accounts of the Governor, Secretary, and Judges of the late Territory of the United States Northwest of the river Ohio, for their services while acting in those capacities, respectively, at any time between the twenty-ninth day of November, one thousand eight hundred and two, and the first Tuesday of March, one thousand eight hundred and three.

Approved, February 21, 1806.

An Act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo.

Be it enacted, &c., That all commercial intercourse between any person or persons resident within the United States, and any person or persons resident within any part of the island of St. Domingo, not in possession, and under the acknowledged Government of France, shall be, and is hereby prohibited; and any ship or vessel, owned, hired, or employed, wholly or in part, by any person or persons resident within the United States, and sailing from any port of the United States, after due notice of this act at the custom houses, respectively, which, contrary to the intent hereof, shall be voluntarily carried, or shall be destined to proceed, whether directly, or from any intermediate port or place within the island of St. Domingo, and not in posssession, and under the acknowledged Government of France; and also any cargo which shall be found on board of such ship or vessel, when detected and interrupted in such unlawful purpose, or at her return from such voyage, to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction.

Sec. 2. *And be it further enacted*, That after due notice of this act at the several custom houses, no ship or vessel whatever shall receive a clearance for any port or place within the island of St. Domingo, and not in the actual possession of France: nor shall any clearance be granted for a foreign voyage to any ship or vessel, owned, hired, or employed, wholly or in part, by any person or persons, resident within the United States, until the owner or the employer for the voyage, or his factor or agent, with the master, shall give bond to the United States, in a sum equal to the value of the vessel and of her cargo, with condition that the ship or vessel, for which a clearance shall be required, is destined to some port or place without the limits of such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France, and during the intended voyage shall not be voluntarily carried, or permitted to proceed, whether directly or from any intermediate port or place, to any port or place within such part of the island of St. Domingo, as shall not be in the actual possession, and under the acknowledged Government of France; and in case of being forced by any casualty into any port or place hereby interdicted, shall not, at any such port or place, voluntarily sell, deliver, or unlade any part of such cargo, except so much as may be absolutely necessary to defray the expenses requisite to enable such vessel to proceed on her intended voyage; and generally, that such ship or vessel, whilst on such voyage, shall not be employed in any traffic or commerce, with or for any person resident within any part of the island of St. Domingo, not in the actual possession, and under the acknowledged Government of France.

Sec. 3. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, and which may be recovered, shall be distributed and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated and remitted in the manner prescribed by the act, entitled "An act for mitigating and remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" passed the third of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh of February, one thousand eight hundred.

Sec. 4. *And be it further enacted*, That this act shall continue and be in force for one year, and no longer.

Sec. 5. *And be it further enacted*, That at any time after the passing of this act it shall be lawful for the President of the United States, if he shall deem it expedient, and consistent with the interests of the United States, by his order, to remit and discontinue the restraints and prohibitions on the commerce aforesaid.

Approved, February 28, 1806.

An Act authorizing the sale of a tract of land, in the town of Cincinnati, and State of Ohio.

Be it enacted, &c., That, for the disposal of a certain tract or lot of land, belonging to the United States, in the town of Cincinnati, on the Ohio, being the same on which Fort Washington was erected, the Secretary of the Treasury shall cause the said tract to be surveyed and laid off into town lots, streets, and avenues, in such manner, and of such dimensions, as he may judge proper, conforming as near as may be to the original plan of the town: when the survey is completed, a plat thereof shall be returned to the surveyor general, on which the lots shall be denominated by progressive numbers, who shall therefrom cause two copies to be made, one to be transmitted to the Secretary of the Treasury, and the other to the register of the land office at Cincinnati: on the receipt of which plat the Secretary of the Treasury shall cause the said town lots to be offered to the highest bidder at public sale, to be held at Cincinnati, under the superintendence of the register and receiver of the land office in the district of Cincinnati, on the same terms and conditions as have been provided for the public sale of the public lands of the United States. Six weeks notice shall be given of the day of sale, in at least two newspapers published in the State of Ohio.

Approved, February 28, 1806.

An Act extending the powers of the Surveyor General to the Territory of Louisiana; and for other purposes.

Be it enacted, &c., That the powers vested by law in the Surveyor General shall extend over all the public lands of the United States, in the Territory of Louisiana, to which the Indian title has been, or hereafter shall be, extinguished. It shall be the duty of the said Surveyor General to appoint a sufficient number of skilful surveyors, as his deputies, in the said Territory, one of whom he shall, with the approbation of the Secretary of the Treasury, designate as his principal deputy for the same. Which said deputies shall severally take an oath, or affirmation, truly and faithfully to discharge the duties of their respective offices. The said principal deputy shall reside and keep an office in the said Territory, and shall, under the superintendence of the Surveyor General, execute, or cause to be executed by the other deputies, such surveys as may hereafter be authorized by law, or as he may be directed to execute by the commissioners appointed for the purpose of ascertaining the titles and claims to land within the Territory aforesaid; and shall generally perform therein, in conformity with the regulations and instructions of the said Surveyor General, the duties imposed by law on the said Surveyor General.

Sec. 2. *And be it further enacted*, That all the plots of surveys, and all other papers and documents pertaining, or which did pertain to the office of Surveyor General, under the Spanish Government, within the limits of the Territory aforesaid, or to any other office heretofore established or authorized for the purpose of executing, or recording surveys of lands within the said limits, shall be delivered to the principal deputy aforesaid; and no plot of survey shall be admitted as evidence, in any court of justice, unless certified by the said principal deputy, to be a true copy of the record in his office.

Sec. 3. *And be it further enacted*, That so much of the act, entitled, "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the district of Louisiana," as makes it the duty of every claimant to lands, within the Territory of Louisiana, to deliver to the recorder of land titles a plot of the tract, or tracts, claimed by him, be, and the same is hereby repealed, so far as relates to claimants whose tracts had not been surveyed by the proper officer, under the Spanish Government, prior to the twentieth day of December, one thousand eight hundred and three. And the commissioners appointed for ascertaining the titles and claims to lands, within either the Territory of Louisiana, or that of Or-

leans, are authorized to direct the officer exercising the powers of Surveyor General, within the same, to execute such surveys as they may think necessary, for the purpose of deciding on claims presented for their decision: *Provided*, That the expense of executing such surveys shall be defrayed by the parties claiming the land, unless the same be claimed by a legal French or Spanish grant, made and completed before the first day of October, one thousand eight hundred: *And provided also, and it is hereby further enacted*, That every such survey, as well as every other survey, by whatever authority heretofore executed, those of the abovementioned legal and complete titles only excepted, shall be held and considered as private surveys only; and all the tracts of land, the titles to which may be ultimately confirmed by Congress, in conformity with the provisions of the act abovementioned, shall, prior to the issuing of patents, be re-surveyed, if judged necessary, under the authority of the person exercising the powers of Surveyor General, and at the expense of the parties.

Sec. 4. *And be it further enacted*, That the Surveyor General shall fix the compensation of the deputy surveyors, chain carriers, and axemen, in the Territory of Louisiana: *Provided*, That the whole expense of surveying and marking the lines, whether paid by the United States, or by individuals, shall not exceed three dollars per mile, for every mile that shall be actually run, or surveyed and marked. And the principal deputy aforesaid, shall be entitled to receive from individuals the following fees, that is to say; for examining and recording the surveys executed by any of the deputies, at the rate of twenty-five cents for every mile of the boundary line of such survey, and for a certified copy of any plot of a survey in his office, twenty-five cents.

Approved, February 28, 1806.

An Act for altering the time for holding the circuit court in the district of North Carolina; and for abolishing the July term of the Kentucky district court.

Be it enacted, &c., That the June term of the circuit court now holden for the district of North Carolina, on the fifteenth day of June, shall commence and be holden on the twentieth day of the same month; anything contained in any former act or acts to the contrary notwithstanding. And that all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, civil or criminal, commenced or to commence in the said court, and all recognizances returnable to the said court on the fifteenth day of June, shall be continued, returned to, and have day in the session to be holden by this act, and the same proceedings shall be had thereon as heretofore, and shall have all the effect, power, and virtue as if the alteration had never been made; *Provided, nevertheless*, That when the twentieth day of June shall happen on Sunday, the next shall be the first juridical day.

Sec. 2. *And be it further enacted*, That, from and after the first day of August next, so much of all and every act or acts, as directs that a district court, for the Kentucky district, shall be holden on the first Monday in July, in every year, shall be and the same is hereby repealed.

Approved, February 28, 1806.

An Act declaring the consent of Congress to an act of the State of Pennsylvania, entitled "An act to empower the Board of Wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned."

Be it enacted, &c., That the consent of Congress be, and it is hereby granted and declared, to the operation of an act of the Legislature of Pennsylvania, passed on the first day of April, in the year one thousand eight hundred and five, entitled "An act to empower the Board of Wardens for the port of Philadelphia to collect a certain duty on tonnage, for the purposes therein mentioned," so far as to enable the State of Pennsylvania to collect a duty of four cents, per ton, on all vessels which shall clear out from the port of Philadelphia for any foreign port or place whatever, to be expended in building piers in, and otherwise improving the navigation of the river Delaware, agreeably to the intentions of the said act.

Approved, February 28, 1806.

An Act to extend jurisdiction in certain cases to State Judges and State Courts.

Be it enacted, &c., That the respective county courts within, or next adjoining, the revenue districts hereinafter mentioned, shall be and are hereby authorized to take cognizance of all complaints and prosecutions for fines, penalties, and forfeitures, arising under the revenue laws of the United States, in the districts of Champlain, Sacket Harbor, Oswego, Genesee, Niagara, and Buffalo Creek, in the State of New York, and in the district of Presque Isle, in the State of Pennsylvania; and the district attorneys of New York and Pennsylvania, respectively, are hereby authorized and directed to appoint, by warrant, an attorney as their substitute or deputy, respectively, to prosecute for the United States in each of the said county courts, who shall be sworn or affirmed to the faithful execution of his duty, as a prosecutor aforesaid: *Provided*, That this authority shall not be construed to extend jurisdiction to the county courts aforesaid, over any civil cause, which may arise in any of those revenue districts, for the collection of duties payable to the United States; or bonds or securities given for the security and payment of duties to the United States.

Sec. 2. *And be it further enacted*, That the county courts aforesaid, or the first judge of each of said courts, shall be, and hereby are, further authorized to exercise all and every power in cases of a criminal nature, cognizable before them by virtue of the first section of this act, for the purpose of obtaining a mitigation or remission of any fine, penalty, or forfeiture, which may be exercised by the judges of the district courts, in cases depending before them, by virtue of the law of the United States, passed on the third of March, one

thousand seven hundred and ninety-seven, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned." And in the exercise of the authority, by this section given to said county courts or to the first judges thereof, they shall be governed in every respect by the regulations, restrictions, and provisions of the law of the United States, passed on the third of March, one thousand seven hundred and ninety-seven, aforesaid; with this difference only, that instead of notifying the district attorneys, respectively, said county courts, or the first judges thereof, as the case may be, shall, before exercising said authorities, cause reasonable notice to be given to the attorney who may have been appointed and sworn or affirmed to prosecute for the United States, in such court, that he may have an opportunity of showing cause against the mitigation or remission of such fine, penalty, or forfeiture.

Sec. 3. *And be it further enacted*, That this act shall remain in force during the term of one year, from its passage, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, March 8, 1806.

An Act declaring the town of Jersey, in the State of New Jersey, to be a port of delivery; and for erecting a light-house on Wood Island, or Fletcher's Neck, in the State of Massachusetts.

Be it enacted, &c., That the town, or landing place of Jersey, shall be a port of delivery, to be annexed to the district of Perth Amboy, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States. And there shall be appointed a surveyor to reside at the said port of delivery, who shall be entitled to receive, in addition to the other emoluments allowed by law, a salary of one hundred dollars, annually.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury shall be, and he is hereby, authorized and required, to cause a good and sufficient light-house to be erected on Wood Island, or Fletcher's Neck, in the district of Maine, (selecting either place, as the President of the United States may deem most eligible,) and to appoint a keeper, and otherwise provide for such light-house, at the expense of the United States: *Provided*, That sufficient land for the accommodation of such light-house can be obtained at a reasonable price, and the Legislature of Massachusetts shall cede the jurisdiction over the same to the United States. And the sum of five thousand dollars is hereby appropriated for the erection of said light-house, to be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 8, 1806.

An Act to incorporate the Trustees of the Presbyterian Congregation of Georgetown.

Be it enacted, &c., That Stephen B. Balch, William Whann, James Melvin, John Maffit, John Peter, Joshua Dawson, James Calder, George Thompson, Richard Elliott, David Wiley, and Andrew Ross, and their successors, duly elected or appointed, in manner hereinafter directed, be, and they are hereby made, declared, and constituted a corporation and body politic, in law and in fact, to have continuance forever, by the name, style, and title of "the Trustees of the Presbyterian Congregation, in Georgetown."

Sec. 2. *And be it further enacted*, That all and singular the lands, tenements, rents, annuities, rights, privileges, goods, and chattels, heretofore given, granted, devised, or bequeathed to the said congregation, or to any person or persons, for the use thereof, or that have been purchased for, or on account of the same, be, and are hereby, vested in and confirmed to the said corporation: *And, further*, That the said corporation may purchase, take, receive, and enjoy, any lands, tenements, rents, annuities, rights, or privileges, or any goods, chattels, or other effects, of what kind or nature soever, which shall or may hereafter be given, granted, sold, bequeathed, or devised, unto them by any person or persons, bodies politic, or corporate, capable of making such gift, grant, sale, or bequest; and the said property, real or personal, to rent, sell, convey, and confirm, or otherwise dispose of, as fully and effectually as any person, or persons, bodies politic, or corporate, may or can do: *Provided*, That the clear annual income of all such property may not exceed the sum of three thousand dollars; that no part of the ground now appropriated, and enclosed for a grave-yard, be disposed of for any other purpose; and that the aforesaid property, real and personal, be considered as held in the trust, under the management, and at the disposal of said corporation, for the purpose of defraying the expenses incident to their mode of religious worship; of enclosing and keeping in decent repair, their grave yards and other lots, with the buildings thereon; and of affording such relief to the poor as their funds may from time to time allow, and for no other purpose.

Sec. 3. *And be it further enacted*, That the said corporation, by the name, style, and title aforesaid, be, and shall be hereafter forever, able and capable in law, to sue and to be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court or courts, or other places, and before any judge or judges, justice or justices, or other person whatsoever, within the District of Columbia, or elsewhere, in all, and all manner of suits, actions, complaints, pleas, causes, matters, and demands, of whatsoever kind or nature they may be, in as full and effectual a manner, as any other person or persons, bodies politic, or corporate, may or can do.

Sec. 4. *And be it further enacted*, That the said corporation shall have full power and authority to make, have, and use a common seal, with such device and inscription as they shall think proper, and the same to break, alter, and renew, at pleasure; to appoint a treasurer, secretary, and such other officers as they may deem necessary and proper; to assign them their duties, and fix their compensation, and to remove any, or all of

them from office; appoint another, or others in their place, as often as they shall think fit; to make, ordain, establish, and execute, such by-laws and ordinances, of a secular nature, as may be deemed useful for their own government, and the same to alter, amend, or abrogate, at pleasure; to fill up vacancies that may happen in their number, between two annual elections; and to determine upon, do, and transact all business, and matters appertaining to the said corporation, and to the secular affairs of said congregation, agreeable to the rules, ordinances and by-laws thereof, during their continuance in office: *Provided*, That not less than five trustees be a quorum to do business; that no by-law, rule, or ordinance, shall be made, repugnant to the laws of this District.

Sec. 5. *And be it further enacted*, That there shall be an annual meeting of the members belonging to said congregation, held on the first Tuesday of April, in every year hereafter, at the church or usual place of public worship, at which time and place the said members, or such of them as may be present, shall elect and choose, by ballot, from their own number, nine trustees, to serve for the year ensuing their election, and until others shall be elected or appointed to serve in their place.

Sec. 6. *And be it further enacted*, That the trustees shall keep, or cause to be kept, in suitable books for the purpose, just and proper entries of all the proceedings and accounts of said congregation and corporation, and have them laid before the members at every annual meeting, previous to taking the votes, and shall always deliver the said books, together with all the property of said congregation and corporation, in good order, to their successors in office, whenever required.

Approved March 28, 1806.

An Act declaring the consent of Congress to an act of the State of South Carolina, passed on the twenty-first day of December, in the year one thousand eight hundred and four, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports.

Be it enacted, &c., That the consent of Congress be, and it is hereby, granted and declared to the operation of an act of the General Assembly of the State of South Carolina, passed the twenty-first day of December, in the year of our Lord one thousand eight hundred and four, entitled "An act to authorize the City Council of Charleston, with the consent of Congress, to impose and levy a duty on the tonnage of ships and vessels, for the purposes therein mentioned," so far as the same extends to authorizing the City Council of Charleston to impose and levy a duty not exceeding six cents per ton, on all ships and vessels of the United States, which shall arrive and be entered in the port of Charleston from any foreign port or place whatever.

Sec. 2. *And be it further enacted*, That the collector of Charleston is hereby authorized to collect the duty imposed by this act, and to pay the same to such persons as shall be authorized to receive the same by the City Council of Charleston.

Sec. 3. *And be it further enacted*, That this act shall be in force for three years, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, March 28, 1806.

An Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, three discreet and disinterested citizens of the United States, to lay out a road from Cumberland, or a point on the northern bank of the river Potomac, in the State of Maryland, between Cumberland and the place where the main road leading from Gwinn's to Winchester, in Virginia, crosses the river, to the State of Ohio; whose duty it shall be, as soon as may be, after their appointment, to repair to Cumberland, aforesaid, and view the ground, from the points on the river Potomac, hereinbefore designated, to the river Ohio; and to lay out in such direction as they shall judge, under all circumstances, the most proper, a road from thence to the river Ohio, to strike the same at the most convenient place, between a point on its eastern bank, opposite to the northern boundary of Steubenville, in said State of Ohio, and the mouth of Grave creek, which empties into the said river a little below Wheeling, in Virginia.

Sec. 2. *And be it further enacted*, That the aforesaid road shall be laid out four rods in width, and designated on each side by a plain and distinguishable mark on a tree, or by the erection of a stake or monument, sufficiently conspicuous, in every quarter of a mile of the distance, at least, where the road pursues a straight course so far or farther, and on each side, at every point where an angle occurs in its course.

Sec. 3. *And be it further enacted*, That the commissioners shall, as soon as may be, after they had laid out said road, as aforesaid, present to the President an accurate plan of the same, with its several courses and distances, accompanied by a written report of their proceedings, describing the marks and monuments by which the road is designated, and the face of the country over which it passes, and pointing out the particular parts, which they shall judge require the most and immediate attention and amelioration; and the probable expense of making the same passable in the most difficult parts, and through the whole distance: designating the State or States through which said road has been laid out, and the length of the several parts which are laid out on new ground, as well as the length of those parts laid out on the road now travelled. Which report the President is hereby authorized to accept or reject, in the whole, or in part. If he accepts, he is hereby further authorized and requested to pursue such measures, as in his opinion shall be proper, to obtain consent for making the road of the State or States, through which the same has been laid out. Which consent being obtained, he is further authorized to take prompt and effectual measures to cause said road to be made through the whole distance, or in any part or parts of the same as he shall judge most conducive to the public good, having reference to the sum appropriated for the purpose.

Sec. 4. *And be it further enacted*, That all parts of the road which the President shall direct to be made, in case the trees are standing, shall be cleared the whole width of four rods; and the road shall be raised in the middle of the carriage-way with stone, earth, or gravel and sand, or a combination of some or all of them, leaving or making, as the case may be, a ditch or water course on each side, and contiguous to said carriage-way; and in no instance shall there be an elevation in said road, when finished, greater than an angle of five degreees with the horizon. But the manner of making said road, in every other particular, is left to the direction of the President.

Sec. 5. *And be it further enacted*, That said commissioners shall each receive four dollars per day, while employed as aforesaid, in full for their compensation, including all expenses. And they are hereby authorized to employ one surveyor, two chainmen, and one marker, for whose faithfulness and accuracy they, the said commissioners, shall be responsible, to attend them in laying out said road, who shall receive in full satisfaction for their wages, including all expenses, the surveyor three dollars per day, and each chainman and the marker, one dollar per day, while they shall be employed in said business; of which fact, a certificate signed by said commissioners shall be deemed sufficient evidence.

Sec. 6. *And be it further enacted*, That the sum of thirty thousand dollars be, and the same is hereby, appropriated, to defray the expense of laying out and making said road. And the President is hereby authorized to draw, from time to time, on the Treasury, for such parts, or at any one time, for the whole of such sum, as he shall judge the service requires. Which sum of thirty thousand dollars shall be paid first, out of the fund of two per cent. reserved for laying out and making roads to the State of Ohio, by virtue of the seventh section of an act passed on the thirteenth day of April, one thousand eight hundred and two, entitled "An act to enable the people of the eastern division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes." Three per cent. of the appropriation contained in said seventh section, being directed by a subsequent law, to the laying out, opening, and making roads within the said State of Ohio. And secondly, out of any money in the Treasury not otherwise appropriated, chargeable upon, and reimbursable at, the Treasury by said fund of two per cent., as the same shall accrue.

Sec. 7. *And be it further enacted*, That the President be, and he is hereby, requested to cause to be laid before Congress, as soon as convenience will permit, after the commencement of each session, a statement of the proceedings under this act, that Congress may be enabled to adopt such further measures as may, from time to time, be proper, under existing circumstances.

Approved, March 29, 1806.

An Act for establishing rules and articles for the government of the Armies of the United States.

Be it enacted, &c., That, from and after the passing this act, the following shall be the rules and articles by which the armies of the United States shall be governed:

Article 1. Every officer now in the army of the United States shall, in six months from the passing of this act, and every officer who shall hereafter be appointed, shall, before he enters on the duties of his office, subscribe these rules and regulations.

Art. 2. It is earnestly recommended to all officers and soldiers, diligently to attend divine service; and all officers who shall behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general court martial, there to be publicly and severely reprimanded by the president; if non-commissioned officers or soldiers, every person so offending shall, for his first offence, forfeit one-sixth of a dollar, to be deducted out of his next pay; for the second offence, he shall not only forfeit a like sum, but be confined twenty-four hours; and, for every like offence, shall suffer and pay in like manner; which money, so forfeited, shall be applied by the captain or senior officer of the troop or company, to the use of the sick soldiers of the company or troop to which the offender belongs.

Art. 3. Any non-commissioned officer or soldier who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and a commissioned officer shall forfeit and pay for each and every such offence one dollar, to be applied as in the preceding article.

Art. 4. Every chaplain, commissioned in the army or armies of the United States, who shall absent himself from the duties assigned him, (excepting in cases of sickness or leave of absence,) shall, on conviction thereof before a court martial, be fined not exceeding one month's pay, besides the loss of his pay during his absence; or be discharged, as the said court martial shall judge proper.

Art. 5. Any officer or soldier who shall use contemptuous or disrespectful words against the President of the United States, against the Vice President thereof, against the Congress of the United States, or against the Chief Magistrate or Legislature of any of the United States, in which he may be quartered, if a commissioned officer, shall be cashiered, or otherwise punished, as a court martial shall direct; if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a court martial.

Art. 6. Any officer or soldier who shall behave himself with contempt or disrespect towards his commanding officer, shall be punished according to the nature of his offence, by the judgment of a court martial.

Art. 7. Any officer or soldier who shall begin, excite, cause, or join in any mutiny or sedition in any troop or company in the service of the United States, or in any party, post, detachment, or guard, shall suffer death, or such other punishment as by a court martial shall be inflicted.

Art. 8. Any officer, non-commissioned officer or soldier, who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or, coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding officer, shall be punished by the sentence of a court martial with death, or otherwise, according to the nature of his offence.

Art. 9. Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court martial.

Art. 10. Every non-commissioned officer or soldier who shall enlist himself in the service of the United States, shall, at the time of his so enlisting, or within six days afterwards, have the articles for the government of the armies of the United States, read to him, and shall, by the officer who enlisted him or by the commanding officer of the troop or company into which he was enlisted, be taken before the next justice of the peace, or chief magistrate of any city or town corporate, not being an officer of the army, or where recourse cannot be had to the civil magistrate, before the judge advocate, and, in his presence, shall take the following oath or affirmation:

"I, A. B., do solemnly swear, or affirm, (as the case may be,) that I will bear true allegiance to the United States of America, and that I will serve them honestly and faithfully against all their enemies or opposers whatsoever, and observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles for the government of the armies of the United States:" Which justice, magistrate, or judge advocate, is to give the officer a certificate, signifying that the man enlisted did take the said oath or affirmation.

Art. 11. After a non-commissioned officer or soldier shall have been duly enlisted and sworn, he shall not be dismissed the service without a discharge in writing; and no discharge granted to him, shall be sufficient, which is not signed by a field officer of the regiment to which he belongs, or commanding officer where no field officer of the regiment is present; and no discharge shall be given to a non-commissioned officer, or soldier, before his term of service has expired, but by order of the President, the Secretary of War, the commanding officer of a department, or the sentence of a general court martial; nor shall a commissioned officer be discharged the service, but by order of the President of the United States, or by sentence of a general court martial.

Art. 12. Every colonel, or other officer, commanding a regiment, troop, or company, and actually quartered with it, may give furloughs to non-commissioned officers or soldiers, in such numbers, and for so long a time as he shall judge to be most consistent with the good of the service; and a captain, or other inferior officer, commanding a troop or company, or in any garrison, fort, or barrack of the United States, (his field officer being absent,) may give furloughs to non-commissioned officers or soldiers, for a time not exceeding twenty days in six months, but not to more than two persons to be absent at the same time, except some extraordinary occasion should require it.

Art. 13. At every muster, the commanding officer of each regiment, troop, or company there present, shall give to the commissary of musters, or other officer who musters the said regiment, troop, or company, certificates signed by himself, signifying how long such officers, as shall not appear at the said muster, have been absent, and the reason of their absence. In like manner, the commanding officer of every troop or company, shall give certificates, signifying the reasons of the absence of the non-commissioned officers and private soldiers, which reasons, and time of absence, shall be inserted in the muster rolls, opposite the name of the respective absent officers and soldiers. The certificates shall, together with the muster rolls, be remitted by the commissary of musters, or other officer mustering, to the Department of War, as speedily as the distance of the place will admit.

Art. 14. Every officer who shall be convicted, before a general court martial, of having signed a false certificate, relating to the absence of either officer or private soldier, or relative to his or their pay, shall be cashiered.

Art. 15. Every officer who shall knowingly make a false muster of man or horse, and every officer or commissary of musters, who shall willingly sign, direct, or allow the signing of muster rolls, wherein such false muster is contained shall, upon proof made thereof by two witnesses, before a general court martial, be cashiered, and shall be thereby utterly disabled to have or hold any office or employment in the service of the United States.

Art. 16. Any commissary of musters, or other officer, who shall be convicted of having taken money, or other thing, by way of gratification, on mustering any regiment, troop, or company, or on signing muster rolls, shall be displaced from his office, and shall be thereby utterly disabled to have, or hold any office or employment in the service of the United States.

Art. 17. Any officer who shall presume to muster a person as a soldier, who is not a soldier, shall be deemed guilty of having made a false muster, and shall suffer accordingly.

Art. 18. Every officer who shall knowingly make a false return to the Department of War, or to any of his superior officers, authorized to call for such returns, of the state of the regiment, troop, or company, or garrison, under his command; or of the arms, ammunition, clothing, or other stores thereunto belonging, shall, on conviction thereof before a court martial, be cashiered.

Art. 19. The commanding officer of every regiment, troop, or independent company, or garrison of the United States, shall, in the beginning of every month, remit, through the proper channels, to the Department of War, an exact return of the regiment, troop, independent company, or garrison, under his command, specifying the names of the officers then absent from their posts, with the reasons for, and the time of their absence. And any officer who shall be convicted of having, through neglect or design, omitted sending such returns, shall be punished according to the nature of his crime by the judgment of a general court martial.

Art. 20. All officers and soldiers, who have received pay, or have been duly enlisted in service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as by sentence of a court martial shall be inflicted.

Art. 21. Any non-commissioned officer or soldier, who shall, without leave from his commanding officer, absent himself from his troop, company, or detachment, shall, upon being convicted thereof, be punished according to the nature of his offence, at the discretion of a court martial.

Art. 22. No non-commissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company, in which he last served, on the penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such non-commissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him and give notice thereof to the corps in which he last served, the said officer shall, by a court martial, be cashiered.

Art. 23. Any officer or soldier who shall be convicted of having advised or persuaded any other officer or soldier to desert the service of the United States, shall suffer death, or such other punishment as shall be inflicted upon him by the sentence of a court martial.

Art. 24. No officer or soldier shall use any reproachful or provoking speeches or gestures to another, upon pain, if an officer, of being put in arrest; if a soldier, confined, and of asking pardon of the party offended, in the presence of his commanding officer.

Art. 25. No officer or soldier shall send a challenge to another officer or soldier, to fight a duel, or accept a challenge, if sent, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporeal punishment, at the discretion of a court martial.

Art. 26. If any commissioned or non-commissioned officer, commanding a guard, shall knowingly or willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and all seconds, promoters and carriers of challenges, in order to duels, shall be deemed principals, and be punished accordingly. And it shall be the duty of every officer commanding an army, regiment, company, post, or detachment, who is knowing to a challenge being given, or accepted, by any officer, non-commissioned officer, or soldier, under his command, or has reason to believe the same to be the case, immediately to arrest and bring to trial such offenders.

Art. 27. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, though the persons concerned should belong to another regiment, troop, or company; and either to order officers into arrest, or non-commissioned officers or soldiers into confinement, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank,) or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Art. 28. Any officer or soldier who shall upbraid another for refusing a challenge, shall himself be punished as a challenger, and all officers and soldiers are hereby discharged from any disgrace or opinion of disadvantage, which might arise from their having refused to accept of challenges, as they will only have acted in obedience to the laws, and done their duty as good soldiers, who subject themselves to discipline.

Art. 29. No suttler shall be permitted to sell any kind of liquors or victuals, or to keep their houses or shops open for the entertainment of soldiers, after nine at night, or before the beating of the reveille, or upon Sundays, during divine service or sermon, on the penalty of being dismissed from all future suttling.

Art. 30. All officers commanding in the field, forts, barracks, or garrisons of the United States, are hereby required to see that the persons permitted to suttle, shall supply the soldiers with good and wholesome provisions, or other articles, at a reasonable price, as they shall be answerable for their neglect.

Art. 31. No officer commanding in any of the garrisons, forts, or barracks of the United States, shall exact exorbitant prices for houses or stalls let out to suttlers, or connive at the like exactions in others; nor by his own authority, and for his private advantage, lay any duty or imposition upon, or be interested in, the sale of any victuals, liquors, or other necessaries of life, brought into the garrison, fort, or barracks, for the use of the soldiers, on the penalty of being discharged from the service.

Art. 32. Every officer commanding in quarters, garrisons, or on the march, shall keep good order, and, to the utmost of his power, redress all abuses or disorders, which may be committed by any officer or soldier under his command; if upon complaint made to him of officers or soldiers beat-

ing, or otherwise ill treating, any person, of disturbing fairs or markets, or of committing any kinds of riots, to the disquieting of the citizens of the United States, he, the said commander, who shall refuse or omit to see justice done to the offenders, and reparation made to the party or parties injured, as far as part of the offender's pay shall enable him or them, shall, upon proof thereof, be cashiered or otherwise punished as a general court martial shall direct.

Art. 33. When any commissioned officer or soldier shall be accused of a capital crime, or of having used violence, or committed any offence against the persons or property of any citizen of the United States, such as is punishable by the known laws of the land, the commanding officer, and officers of every regiment, troop, or company, to which the person, or persons, so accused, shall belong, are hereby required, upon application duly made, or in behalf of the party or parties injured, to use their utmost endeavors to deliver over such accused person, or persons, to the civil magistrate, and likewise to be aiding and assisting to the officers of justice in apprehending and securing the person or persons so accused, in order to bring him or them to trial. If any commanding officer, or officers, shall wilfully neglect, or shall refuse, upon the application aforesaid, to deliver over such accused person, or persons, to the civil magistrates, or to be aiding and assisting to the officers of justice in apprehending such person, or persons, the officer, or officers, so offending, shall be cashiered.

Art. 34. If any officer shall think himself wronged by his colonel, or the commanding officer of the regiment, and shall, upon due application being made to him, be refused redress, he may complain to the general commanding in the State or Territory where such regiment shall be stationed, in order to obtain justice; who is hereby required to examine into the said complaint, and take proper measures for redressing the wrong complained of, and transmit as soon as possible, to the Department of War, a true state of such complaint, with the proceedings had thereon.

Art. 35. If any inferior officer or soldier shall think himself wronged by his captain, or other officer, he is to complain thereof to the commanding officer of the regiment, who is hereby required to summon a regimental court martial, for the doing justice to the complainant; from which regimental court martial, either party may, if he thinks himself still aggrieved, appeal to a general court martial. But if, upon a second hearing, the appeal shall appear vexatious and groundless, the person, so appealing, shall be punished at the discretion of the said court martial.

Art. 36. Any commissioned officer, storekeeper, or commissary, who shall be convicted at a general court martial, of having sold, without a proper order for that purpose, embezzled, misapplied, or wilfully, or through neglect, suffered any of the provisions, forage, arms, clothing, ammunition, or other military stores, belonging to the United States, to be spoiled, or damaged, shall, at his own expense, make good the loss, or damage, and shall moreover, forfeit all his pay, and be dismissed from the service.

Art. 37. Any non-commissioned officer or soldier who shall be convicted, at a regimental court martial, of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him, to be employed in the service of the United States, shall be punished at the discretion of such court.

Art. 38. Every non-commissioned officer or soldier who shall be convicted, before a court martial, of having sold, lost, or spoiled, through neglect, his horse, arms, clothes, or accoutrements, shall undergo such weekly stoppages (not exceeding the half of his pay) as such court martial shall judge sufficient, for repairing the loss or damage; and shall suffer confinement or such other corporeal punishment as his crime shall deserve.

Art. 39. Every officer who shall be convicted, before a court martial, of having embezzled, or misapplied any money, with which he may have been entrusted for the payment of the men under his command, or for enlisting men into the service, or for other purposes, if a commissioned officer, shall be cashiered, and compelled to refund the money; if a non-commissioned officer, shall be reduced to the ranks, be put under stoppages until the money be made good, and suffer such corporeal punishment as such court martial shall direct.

Art. 40. Every captain of a troop or company is charged with the arms, accoutrements, ammunition, clothing, or other warlike stores belonging to the troop, or company under his command, which he is to be accountable for to his colonel, in case of their being lost, spoiled, or damaged, not by unavoidable accidents, or on actual service.

Art. 41. All non-commissioned officers and soldiers, who shall be found one mile from the camp, without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted upon them by the sentence of a court martial.

Art. 42. No officer or soldier shall be out of his quarters, garrison, or camp, without leave from his superior officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

Art. 43. Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the retreat; in default of which he shall be punished according to the nature of his offence.

Art. 44. No officer, non-commissioned officer, or soldier, shall fail in repairing, at the time fixed, to the place of parade, of exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness, or some other evident necessity; or shall go from the said place of rendezvous, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence by the sentence of a court martial.

Art. 45. Any commissioned officer who shall

be found drunk on his guard, party, or other duty, shall be cashiered. Any non-commissioned officer or soldier so offending, shall suffer such corporeal punishment as shall be inflicted by the sentence of a court martial.

Art. 46. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by the sentence of a court martial.

Art. 47. No soldier belonging to any regiment, troop, or company, shall hire another to do his duty for him, or be excused from duty, but in cases of sickness, disability, or leave of absence; and every such soldier found guilty of hiring his duty, as also the party so hired to do another's duty, shall be punished at the discretion of a regimental court martial.

Art. 48. And every non-commissioned officer conniving at such hiring of duty aforesaid, shall be reduced; and every commissioned officer, knowing and allowing such ill practices in the service, shall be punished by the judgment of a general court martial.

Art. 49. Any officer belonging to the service of the United States, who, by discharging of fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Art. 50. Any officer or soldier, who shall, without urgent necessity, or without the leave of his superior officer, quit his guard, platoon, or division, shall be punished according to the nature of his offence, by the sentence of a court martial.

Art. 51. No officer or soldier shall do violence to any person who brings provisions or other necessaries to the camp, garrison, or quarters, of the forces of the United States, employed in any parts out of the said States, upon pain of death, or such other punishment as a court martial shall direct.

Art. 52. Any officer or soldier, who shall misbehave himself before the enemy, run away, or shamefully abandon any fort, post, or guard, which he or they may be commanded to defend, or speak words inducing others to do the like; or shall cast away his arms and ammunition, or who shall quit his post or colours to plunder and pillage, every such offender being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Art. 53. Any person belonging to the armies of the United States who shall make known the watch-word to any person who is not entitled to receive it, according to the rules and discipline of war, or shall presume to give a parole or watch word, different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Art. 54. All officers and soldiers are to behave themselves orderly in quarters, and on their march; and whosoever shall commit any waste or spoil, either in walks of trees, parks, warrens, fish ponds, houses, or gardens, cornfields, enclosures of meadows, or shall maliciously destroy any property whatsoever, belonging to the inhabitants of the United States, unless by order of the then commander-in-chief of the armies of the said States, shall (besides such penalties as they are liable to by law) be punished according to the nature and degree of the offence, by the judgment of a regimental or general court martial.

Art. 55. Whosoever, belonging to the armies of the United States, employed in foreign parts, shall force a safe-guard, shall suffer death.

Art. 56. Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Art. 57. Whosoever shall be convicted of holding correspondence with or giving intelligence to the enemy, either directly or indirectly, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Art. 58. All public stores taken in the enemy's camp, towns, forts, or magazines, whether of artillery, ammunition, clothing, forage or provisions, shall be secured for the service of the United States; for the neglect of which the commanding officer is to be answerable.

Art. 59. If any commander of any garrison, fortress, or post, shall be compelled, by the officers and soldiers under his command, to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a court-martial.

Art. 60. All suttlers and retainers to the camp, and all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders, according to the rules and discipline of war.

Art. 61. Officers having brevets, or commissions, of a prior date to those of the regiment in which they serve, may take place in court-martials and on detachments, when composed of different corps, according to the ranks given them in their brevets, or dates of their former commissions; but in the regiment, troop, or company, to which such officers belong, they shall do duty and take rank, both in courts martial and on detachments, which shall be composed only of their own corps, according to the commissions by which they are mustered in the said corps.

Art. 62. If upon marches, guards, or in quarters, different corps of the army shall happen to join, or do duty together, the officer highest in rank of the line of the army, marine corps, or militia, by commission there, on duty, or in quarters, shall command the whole, and give orders for what is needful to the service, unless otherwise specially directed by the President of the United States, according to the nature of the case.

Art. 63. The functions of the engineers being generally confined to the most elevated branch of military science, they are not to assume, nor are

they subject to be ordered on any duty beyond the line of their immediate profession, except by the special order of the President of the United States; but they are to receive every mark of respect, to which their rank in the army may entitle them, respectively, and are liable to be transferred, at the discretion of the President, from one corps to the other, regard being paid to rank.

Art. 64. General courts martial may consist of any number of commissioned officers, from five to thirteen, inclusively, but they shall not consist of less than thirteen, where that number can be convened, without manifest injury to the service.

Art. 65. Any general officer commanding an army, or colonel commanding a separate department, may appoint general courts martial, whenever necessary. But no sentence of a court martial shall be carried into execution until after the whole proceedings shall have been laid before the officers ordering the same, or the officer commanding the troops for the time being; neither shall any sentence of a general court martial, in time of peace, extending to the loss of life, or the dismission of a commissioned officer, or which shall, either in time of peace or war, respect a general officer, be carried into execution, until after the whole proceedings shall have been transmitted to the Secretary of War, to be laid before the President of the United States, for his confirmation or disapproval, and orders, in the case. All other sentences may be confirmed and executed by the officer ordering the court to assemble, or the commanding officer, for the time being, as the case may be.

Art. 66. Every officer commanding a regiment, or corps, may appoint, for his own regiment, or corps, courts martial, to consist of three commissioned officers, for the trial and punishment of offences not capital, and decide upon their sentences. For the same purpose, all officers, commanding any of the garrisons, forts, barracks, or other places, where the troops consist of different corps, may assemble courts martial, to consist of three commissioned officers, and decide upon their sentences.

Art. 67. No garrison or regimental court martial shall have the power to try capital cases, or commissioned officers; neither shall they inflict a fine exceeding one month's pay, nor imprison, nor put to hard labor, any non-commissioned officer or soldier, for a longer time than one month.

Art. 68. Whenever it may be found convenient and necessary to the public service, the officers of the marines shall be associated with the officers of the land forces, for the purpose of holding courts martial and trying offenders belonging to either; and in such cases the orders of the senior officer of either corps, who may be present and duly authorized, shall be received and obeyed.

Art. 69. The judge advocate, or some person deputed by him, or by the general or officer commanding the army, detachment, or garrison, shall prosecute in the name of the United States, but shall so far consider himself as counsel for the prisoner, after the said prisoner shall have made his plea, as to object to any leading question to any of the witnesses, or any question to the prisoner, the answer to which might tend to criminate himself; and administer to each member of the court, before they proceed upon any trial, the following oath, which shall also be taken by all members of the regimental and garrison courts martial:

"You, A. B, do swear that you will well and truly try and determine, according to evidence, the matter now before you, between the United States of America and the prisoner to be tried; and that you will duly administer justice, according to the provisions of 'An act establishing rules and articles for the government of the armies of the United States,' without partiality, favor, or affection; and if any doubt shall arise, not explained by said articles, according to your conscience, the best of your understanding, and the custom of war in like cases: and you do further swear, that you will not divulge the sentence of the court until it shall be published by the proper authority: neither will you disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law. So help you God."

And as soon as the said oath shall have been administered to the respective members, the President of the court shall administer to the judge advocate, or person officiating as such, an oath in the following words:

"You, A. B., do swear, that you will not disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice in due course of law; nor divulge the sentence of the court, to any but proper authority, until it shall be duly disclosed by the same. So help you God."

Art. 70. When a prisoner arraigned before a general court martial shall, from obstinacy and deliberate design, stand mute or answer foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had regularly pleaded not guilty.

Art. 71. When a member shall be challenged by a prisoner, he must state his cause of challenge, of which the court shall, after due deliberation, determine the relevancy or validity, and decide accordingly; and no challenge to more than one member at a time shall be received by the court.

Art. 72. All the members of the court martial are to behave with decency and calmness; and in giving their votes, are to begin with the youngest in commission.

Art. 73. All persons who give evidence before a court martial, are to be examined on oath or affirmation, in the following form:

"You swear or affirm, as the case may be, the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

Art. 74. On the trials of cases not capital, the deposition of witnesses not in the line or staff of the army, may be taken before some justice of the peace, and read in evidence: *Provided*, the prosecutor and the person accused are present at the taking the same, or are duly notified thereof.

Art. 75. No officer shall be tried but by a general court martial, nor by officers of an inferior rank, if it can be avoided: nor shall any proceedings or trials be carried on excepting between the hours of eight in the morning, and three in the afternoon, excepting in cases, which, in the opinion of the officer appointing the court martial, require immediate example.

Art. 76. No person whatever shall use any menacing words, signs, or gestures, in presence of a court martial, or shall cause any disorder or riot, or disturb their proceedings, on the penalty of being punished, at the discretion of the said court martial.

Art. 77. Whenever any officer shall be charged with a crime, he shall be arrested and confined in his barracks, quarters, or tent, and deprived of his sword, by the commanding officer. And any officer who shall leave his confinement before he shall be set at liberty by his commanding officer, or by a superior officer, shall be cashiered.

Art. 78. Non-commissioned officers and soldiers, charged with crimes, shall be confined, until tried by a court martial, or released by proper authority.

Art. 79. No officer or soldier, who shall be put in arrest, shall continue in confinement more than eight days, or until such time as a court martial can be assembled.

Art. 80. No officer commanding a guard, or provost marshal, shall refuse to receive or keep any prisoner committed to his charge, by an officer belonging to the forces of the United States: *Provided*, the officer committing, shall, at the same time, deliver an account in writing, signed by himself, of the crime with which the said prisoner is charged.

Art. 81. No officer commanding a guard, or provost marshal, shall presume to release any person committed to his charge, without proper authority for so doing, nor shall he suffer any person to escape, on the penalty of being punished for it by the sentence of a court martial.

Art. 82. Every officer or provost marshal, to whose charge prisoners shall be committed, shall, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commanding officer, of their names, their crimes, and the names of the officers who committed them, on the penalty of being punished for disobedience or neglect, at the discretion of a court martial.

Art. 83. Any commissioned officer convicted before a general court martial of conduct unbecoming an officer and a gentleman, shall be dismissed the service.

Art. 84. In cases where a court martial may think it proper to sentence a commissioned officer to be suspended from command, they shall have power also to suspend his pay and emoluments for the same time, according to the nature and heinousness of the offience.

Art. 85. In all cases where a commissioned officer is cashiered for cowardice or fraud, it shall be added in the sentence, that the crime, name, and place of abode and punishment of the delinquent, be published in the newspapers in and about the camp, and of the particular State from which the offender came, or where he usually resides, after which, it shall be deemed scandalous for an officer to associate with him.

Art. 86. The commanding officer of any post or detachment, in which there shall not be a number of officers adequate to form a general court martial, shall, in cases which require the cognizance of such a court, report to the commanding officer of the department, who shall order a court to be assembled at the nearest post or detachment, and the party accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

Art. 87. No person shall be sentenced to suffer death, but by the concurrence of two thirds of the members of a general court martial, nor except in the cases herein expressly mentioned; nor shall more than fifty lashes be inflicted on any offender, at the discretion of a court martial; and no officer, non-commissioned officer, soldier, or follower of the army, shall be tried a second time for the same offence.

Art. 88. No person shall be liable to be tried and punished by a general court martial for any offence which shall appear to have been committed more than two years before the issuing of the order for such trial, unless the person, by reason of having absented himself or some other manifest impediment, shall not have been amenable to justice within that period.

Art. 89. Every officer authorized to order a general court martial, shall have power to pardon or mitigate any punishment ordered by such court, except the sentence of death, or of cashiering an officer; which, in the cases where he has authority (by article 65) to carry them into execution, he may suspend, until the pleasure of the President of the United States can be known; which suspension, together with copies of the proceedings of the court martial, the said officer shall immediately transmit to the President, for his determination. And the colonel or commanding officer of the regiment or garrison, where any regimental or garrison court martial shall be held, may pardon or mitigate any punishment ordered by such court to be inflicted.

Art. 90. Every judge advocate, or person officiating as such, at any general court martial, shall transmit, with as much expedition as the opportunity of time and distance of place can admit, the original proceedings and sentence of such court martial, to the Secretary of War, which said original proceedings and sentence shall be carefully kept and preserved in the office of said Secretary, to the end that the persons entitled thereto may be enabled, upon application to the said office, to obtain copies thereof.

The party tried by any general court martial, shall, upon demand thereof made by himself or by any person or persons in his behalf, be entitled to a copy of the sentence and proceedings of such court martial.

Art. 91. In cases where the general or commanding officer may order a court of inquiry to

examine into the nature of any transaction, accusation, or imputation against any officer or soldier, the said court shall consist of one or more officers, not exceeding three, and a judge advocate, or other suitable person as a recorder, to reduce the proceedings and evidence to writing, all of whom shall be sworn to the faithful performance of their duty. This court shall have the same power to summon witnesses as a court martial, and to examine them on oath. But they shall not give their opinion on the merits of the case, excepting they shall be thereto specially required. The parties accused shall also be permitted to cross examine and interrogate the witnesses, so as to investigate fully the circumstances in question.

Art. 92. The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president, and delivered to the commanding officer; and the said proceedings may be admitted as evidence by a court martial, in cases not capital, or extending to the dismission of an officer, provided that the circumstances are such that oral testimony cannot be obtained. But as courts of inquiry may be perverted to dishonorable purposes, and may be considered as engines of destruction to military merit, in the hands of weak and envious commandants, they are hereby prohibited, unless directed by the President of the United States, or demanded by the accused.

Art. 93. The judge advocate, or recorder shall administer to the members the following oath:

"You shall well and truly examine and inquire, according to your evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward: So help you God."

After which the president shall administer to the judge advocate, or recorder, the following oath:

"You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court, and the evidence to be given in the case in hearing: So help you God."

The witnesses shall take the same oath as witnesses sworn before a court martial.

Art. 94. When any commissioned officer shall die or be killed in the service of the United States, the major of the regiment, or the officer doing the major's duty in his absence, or in any post or garrison, the second officer in command, or the assistant military agent, shall immediately secure all his effects or equipage, then in camp or quarters, and shall make an inventory thereof, and forthwith transmit the same to the office of the Department of War, to the end that his executors or administrators may receive the same.

Art. 95. When any non commissioned officer, or soldier, shall die, or be killed, in the service of the United States, the then commanding officer of the troop, or company, shall, in the presence of two other commissioned officers, take an account of what effects he died possessed of, above his arms and accoutrements, and transmit the same to the office of the Department of War; which said effects are to be accounted for, and paid to the representatives of such deceased non-commissioned officer or soldier. And in case any of the officers, so authorized to take care of the effects of deceased officers and soldiers, should, before they have accounted to their representatives for the same, have occasion to leave the regiment or post, by preferment, or otherwise, they shall, before they be permitted to quit the same, deposit in the hands of the commanding officer, or of the assistant military agent, all the effects of such deceased non-commissioned officers and soldiers, in order that the same may be secured for, and paid to, their respective representatives.

Art. 96. All officers, conductors, gunners, matrosses, drivers, or other persons whatsoever, receiving pay, or hire, in the service of the artillery, or corps of engineers of the United States, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts martial, in like manner with the officers and soldiers of the other troops in the service of the United States.

Art. 97. The officers and soldiers of any troops, whether militia or others, being mustered and in pay of the United States, shall, at all times and in all places, when joined, or acting in conjunction with the regular forces of the United States, be governed by these rules and articles of war, and shall be subject to be tried by courts martial, in like manner with the officers and soldiers in the regular forces, save only that such courts martial shall be composed entirely of militia officers.

Art. 98. All officers, serving by commission from the authority of any particular State, shall, on all detachments, courts martial, or other duty, wherein they may be employed in conjunction with the regular forces of the United States, take rank next after all officers of the like grade in said regular forces, notwithstanding the commissions of such militia or State officers may be older than the commissions of the officers of the regular forces of the United States.

Art. 99. All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles of war, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

Art. 100. The President of the United States shall have power to prescribe the uniform of the army.

Art. 101. The foregoing articles are to be read and published once in every six months, to every garrison, regiment, troop, or company, mustered or to be mustered in the service of the United States, and are to be duly observed and obeyed by all officers and soldiers who are, or shall be in said service.

Sec. 2. *And be it further enacted*, That, in time of war, all persons not citizens of, or owing allegiance to the United States of America, who shall be found lurking as spies, in or about the fortifications or encampments of the armies of the United States, or any of them, shall suffer death, according to the law and usage of nations, by sentence of a general court martial.

Sec. 3. *And be it further enacted*, That the rules and regulations, by which the armies of the United States have heretofore been governed, and the resolves of Congress thereunto annexed, and respecting the same, shall henceforth be void and of no effect, except so far as may relate to any transactions under them, prior to the promulgation of this act, at the several posts and garrisons, respectively, occupied by any part of the army of the United States.

Approved, April 10, 1806.

An Act relating to bonds given by Marshals.

Be it enacted, &c., That the bond heretofore given, or which may hereafter be given, by the marshal of any district, for the faithful performance of the duties of his office, shall be filed and recorded in the office of the clerk of the district court, or circuit court, sitting within the district for which such marshal shall have been appointed, and copies thereof, certified by the clerk, under the seal of the said court, shall be competent evidence in any court of justice.

Sec. 2. *And be it further enacted*, That it shall be lawful in case of the breach of the condition of any such bond, for any person, persons, or body politic, thereby injured, to institute a suit upon such bond, in the name and for the sole use of such party, and thereupon to recover such damages, as shall be legally assessed, with costs of suit; for which execution may issue for such party in due form; and in case such party shall fail to recover in the suit, judgment shall be rendered and execution may issue for cost in favor of the defendant or defendants, against the party who shall have instituted the suit; and the United States shall in no case be liable for the same.

Sec. 3. *And be it further enacted*, That the said bonds shall, after any judgment, or judgments rendered thereon, remain as a security, for the benefit of any person, persons, or body politic, injured by breach of the condition of the same, until the whole penalty shall have been recovered; and the proceedings shall be always in the same manner, and as hereinbefore directed.

Sec. 4. *And be it further enacted*, That all suits on marshals' bonds, if the right of action has already accrued, shall be commenced and prosecuted within three years after the passage of this act, and not afterwards. And all such suits, in case the right of action shall accrue hereafter, shall be commenced and prosecuted within six years after the said right of action shall have accrued, and not afterwards; saving, nevertheless, the rights of infants, *feme coverts*, and persons *non compos mentis*, so that they sue within three years after their disabilities are removed.

Approved, April 10, 1806.

An Act regulating the currency of foreign coins in the United States.

Be it enacted, &c., That, from and after the passage of this act, foreign gold and silver coins shall pass current as money within the United States, and be a legal tender for the payment of all debts and demands, at the several and respective rates following, and not otherwise, viz:

The gold coins of Great Britain and Portugal, of their present standard, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of France, Spain, and the dominions of Spain, of their present standard, at the rate of one hundred cents for every twenty-seven grains and two-fifths of a grain, of the actual weight thereof. Spanish milled dollars, at the rate of one hundred cents for each, the actual weight whereof shall not be less than seventeen pennyweights and seven grains, and in proportion for the parts of a dollar. Crowns of France at the rate of one hundred and ten cents, for each crown, the actual weight whereof shall not be less than eighteeen pennyweights and seventeen grains, and in proportion for the parts of a crown. And it shall be the duty of the Secretary of the Treasury to cause assays of the foreign gold and silver coins, made current by this act, to be had at the Mint of the United States, at least once in every year, and to make report of the results thereof to Congress, for the purpose of enabling them to make such alterations in this act, as may become requisite, from the real standard value of such foreign coins. And it shall be the duty of the Secretary of the Treasury to cause assays of foreign gold and silver coins of the description made current by this act, which shall issue subsequently to the passage of this act, and shall circulate in the United States, at the Mint aforesaid, at least once in every year, and to make report of the result thereof to Congress, for the purpose of enabling Congress to make such coins current, if they shall deem the same to be proper, at their real standard value.

Sec. 2. *And be it further enacted*, That the first section of the act, entitled "An act regulating foreign coins and for other purposes," passed the ninth day of February, one thousand seven hundred and ninety-three, be, and the same hereby is, repealed. And the operation of the second section of the same act shall be, and hereby is, suspended for and during the space of three years from the passage of this act.

Approved, April 10, 1806.

An Act to regulate and fix the compensations of the officers of the Senate and House of Representatives.

Be it enacted, &c., That the officers of the Senate and House of Representatives, hereinafter mentioned, shall be, and hereby are, entitled to receive, in lieu of their compensations fixed by law, the following sums, that is to say, the Secretary of the Senate and Clerk of the House of Representatives, two thousand dollars each; their principal clerks, one thousand three hundred dollars each; and each of their engrossing clerks, one thousand dollars per annum.

Sec. 2. *And be it further enacted*, That the Sergeant-at-Arms of the Senate, who also performs the duty of a doorkeeper, the Sergeant-at-Arms, and the Doorkeeper of the House of Rep-

resentatives shall be, and they are hereby, entitled to receive nine hundred and fifty dollars per annum, each; and that the Assistant Doorkeeper of the Senate, and the Assistant Doorkeeper of the House of Representatives shall be, and they are hereby, entitled to receive nine hundred dollars per annum each.

SEC. 3. *And be it further enacted*, That any appropriation which shall be made by the Senate, or House of Representatives, out of the contingent fund of either House, towards the compensation of any of the officers of the Senate, or House of Representatives, shall be taken and considered as a part of the salary allowed by this act.

SEC. 4. *And be it further enacted*, That the compensations provided for in this act shall commence, and take effect, from and after the thirty-first day of March, one thousand eight hundred and six.

SEC. 5. *And be it further enacted*, That the act entitled "An act to regulate and fix the compensations of the officers of the Senate and House of Representatives," passed on the twenty-ninth of April, one thousand eight hundred and two, shall, from and after the thirty-first of March, one thousand eight hundred and six, be and the same is hereby repealed.

Approved, April 10, 1806.

An Act directing the Secretary of the Treasury, to cause the coast of North Carolina, between Cape Hatteras and Cape Fear, to be surveyed.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to cause the coast of North Carolina to be correctly surveyed, between Cape Hatteras and Cape Fear, together with the shoals lying off and between these respective capes or headlands, and to report at the next session of Congress on the practicability of erecting a light-house, lighted beacon, or buoy on or near the extreme point of these shoals, or either of them. And the sum of five thousand dollars is hereby appropriated for the purpose of defraying any expense which may be incurred in making such survey, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 10, 1806.

An Act to provide for persons who were disabled by known wounds, received during the Revolutionary war.

Be it enacted, &c., That any commissioned or non-commissioned officer, musician, soldier, marine, or seaman, disabled in the actual service of the United States, while in the line of his duty, by known wounds received during the Revolutionary war, and who did not desert the service; or who, in consequence of disability, as aforesaid, resigned his commission, or took a discharge; or who, after incurring disability, as aforesaid, was taken captive by the enemy, and remained either in captivity or on parole, until the close of said Revolutionary war; or who, in consequence of known wounds, received as aforesaid, has, at any period since, become and continued disabled in such manner as to render him unable to procure a subsistence by manual labor; whether such officer, musician, soldier, marine, or seaman, served as a volunteer, in any proper service against the common enemy, or belonged to a detachment of the militia, which served against the common enemy, or to the regular forces of the United States, or of any particular State, he shall, upon substantiating his claim, in the manner hereinafter described, be placed on the pension list of the United States during life, or the continuance of such disability, and be entitled, under the regulations hereinafter mentioned, to receive such sum as shall be found just and proper by the testimony adduced.

SEC. 2. *And be it further enacted*, That, in substantiating such claim, the following rules and regulations shall be complied with, that is to say: All evidence shall be taken on oath or affirmation, before the judge of the district, or one of the judges of the territory in which such claimant resides, or before some person specially authorized by commission from said judge.

Decisive disability, the effect of a known wound, or wounds, received while in the actual service and line of duty against the common enemy, during the Revolutionary war, must be proved by the affidavit of the commanding officer of the regiment, corps, company, ship, vessel, or craft, in which such claimant served; or of two other credible witnesses to the same effect, setting forth the time when, and place where, such known wound or wounds were received, and particularly describing the same.

The nature of such disability, and in what degree it prevents the claimant from obtaining his subsistence, must be proved by the affidavit of some reputable physician or surgeon, stating his opinion, either from his own knowledge and acquaintance with the claimant, or from an examination of such claimant, on oath or affirmation; which, when necessary for that purpose, shall be administered to said claimant by said judge or commissioner. And the said physician or surgeon, in his affidavit, shall particularly describe the wound or wounds from whence the disability appears to be derived.

Every claimant must prove, by at least one credible witness, that he continued in service during the whole term for which he was detached, or for which he engaged, unless he was discharged, or left the service in consequence of some derangement of the army, or in consequence of his disability resigned his commission, or was after his disability in captivity or on parole until the close of the Revolutionary war. And in the same manner must prove his mode of life and employment since he left the service, and the place or places where he has since resided, and his place of residence at the time of taking such testimony.

Every claimant shall, by his affidavit, give satisfactory reasons why he did not make application for a pension before, and that he is not on the

pension list of any State; and the judge or commissioner shall certify, in writing, his opinion of the credibility of the witnesses whose affidavits he shall take, in all those cases where by this act it is said the proof shall be made by a credible witness or witnesses; and also, that the examining physician or surgeon is reputable in his profession.

SEC. 3. *And be it further enacted*, That the said judge of the district, or person by him commissioned as aforesaid, shall transmit a list of such claims, accompanied by the evidence, affidavits, certificates, and proceedings, had thereon in pursuance of this act, noting particularly the day on which the testimony closed before him, to the Secretary of the Department of War, that the same may be compared with muster rolls, or other documents in his office; and the said Secretary shall make a statement of all such cases which, together with all the testimony, he shall from time to time transmit to Congress, with such remarks as he may think proper, that Congress may be enabled to place such claimants on the pension list as shall be found entitled to the privilege. And it shall be the duty of the judge or commissioner aforesaid to permit each claimant to take a transcript of the evidence and proceedings had respecting his claim, if he shall desire it, and to certify the same to be correct.

SEC. 4. *And be it further enacted*, That every pension, or increase thereof, by virtue of this act, shall commence on the day when the claimant shall have completed his testimony before the authority proper to take the same.

SEC. 5. *And be it further enacted*, That an increase of pension may be allowed to persons already placed upon the pension list of the United States for disabilities caused by known wounds received during the Revolutionary war, in all cases where justice shall require the same: *Provided*, That the increase, when added to the pension formerly received shall in no case exceed a full pension.

Every invalid making application for this purpose shall be examined by two reputable physicians or surgeons, to be authorized by commission from the judge of the district where such invalid resides, who shall report, in writing, on oath or affirmation, their opinion of the nature of the applicant's disability, and in what degree it prevents him from obtaining a subsistence by manual labor; which report shall be transmitted by said physicians or surgeons to the Secretary of the Department of War, who shall compare the same with the documents in his office, and shall make a statement of all such cases, which, together with the original report, he shall from time to time transmit to Congress, with such remarks as he may think proper, that they may be enabled to do justice to such pensioners.

SEC. 6. *And be it further enacted*, That a full pension given by this act to a commissioned officer shall be one-half of the monthly pay legally allowed, at the time of incurring said disability, to his grade in the forces raised by the United States, and the proportions less than a full pension shall be the correspondent proportions of said half pay; and a full pension to a non-commissioned officer, musician, soldier, marine, or seaman, shall be five dollars a month, and the proportions less than a full pension shall be the like proportions of five dollars a month; but no pension of a commissioned officer shall be calculated at a higher rate than the half-pay of a lieutenant colonel.

SEC. 7. *And be it further enacted*, That the pensions, or increase thereof, which may be allowed by this act, shall be paid in the same manner as pensions to invalids who have been heretofore placed on the pension list are now paid, and under such restrictions and regulations in all respects as are prescribed by law.

SEC. 8. *And be it further enacted*, That, from and after the passage of this act, no sale, transfer, or mortgage of the whole or any part of the pension payable to any non-commissioned officer, musician, soldier, marine, or seaman, before the same becomes due, shall be valid. And every person claiming such pension, or any part thereof, under power of attorney or substitution, shall, before the same is paid, make oath or affirmation, before some magistrate, legally authorized to take the same, a copy of which, attested by said magistrate, shall be lodged with the person who pays said pension; that such power or substitution is not given by reason of any transfer of such pension, or part thereof. And any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

SEC. 9. *And be it further enacted*, That all laws of the United States heretofore passed, so far as they authorize persons to be placed on the pension list of the United States for, and in consequence of disabilities derived from known wounds received in the Revolutionary war, shall be, and they are hereby, repealed: *Provided*, That nothing in this repealing clause shall injure, or in any way affect those persons already upon the pension list of the United States; and that the Secretary for the Department of War shall proceed upon the testimony which has been transmitted to him by any claimant, before the passage of this act, in the same manner as though this act had never passed.

SEC. 10. *And be it further enacted*, That this act, so far as it authorizes the admission of persons upon the pension list of the United States, shall remain in force for and during the space of six years from the passage thereof, and no longer: *Provided*, That this limitation shall not affect or impair the right of any invalid who may have completed his testimony in the manner prescribed by this act before this limitation commences its operation, but which has not been transmitted to the Secretary for the Department of War.

Approved, April 10, 1806.

An Act to authorise the Secretary of War to issue land warrants, and for other purposes.

Be it enacted, &c., That the Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day

of March, one thousand eight hundred and eight, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued, and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, at any time prior to the first day of October, one thousand eight hundred and eight, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants.

Sec. 2. *And be it further enacted*, That it shall be the duty of the surveyor general, under the direction of the Secretary of the Treasury, to cause to be surveyed so much of the fifty quarter townships, and the fractional quarter townships aforesaid, as have been or hereafter may be located according to law, in conformity with the locations made on the plats of the said quarter townships: *Provided*, The whole expense of surveying the same shall not exceed three dollars for every mile actually surveyed.

Approved, April 15, 1806.

An Act to suspend the sale of certain lands in the State of Ohio, and the Indiana Territory.

Be it enacted, &c., That the operation of the sixth condition of the fifth section of the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States northwest of the Ohio, and above the mouth of Kentucky river, be, and the same is hereby suspended until the first day of October next, in favor of such purchasers of lands under the said act, who shall exhibit satisfactory proof to the register and receiver of public moneys in the respective districts where they were actual settlers on the land so purchased, at the time of passing this act.

Approved, April 15, 1806.

An Act to prohibit the importation of certain goods, wares, and merchandise.

Be it enacted, &c., That, from and after the fifteenth day of November next, it shall not be lawful to import into the United States, or the territories thereof, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, any goods, wares, or merchandise, of the following description, that is to say:

All articles of which leather is the material of chief value;

All articles of which silk is the material of chief value;

All articles of which hemp or flax is the material of chief value;

All articles of which tin or brass is the material of chief value, tin in sheets excepted;

Woollen cloths, whose invoice prices shall exceed five shillings sterling per square yard;

Woollen hosiery of all kinds;

Window glass, and all other manufactures of glass;

Silver and plated wares;

Paper of every description;

Nails and spikes;

Hats;

Clothing ready made;

Millinery of all kinds;

Playing cards;

Beer, ale, and porter, and pictures and prints.

Nor shall it be lawful to import into the United States, or the territories thereof, from any foreign port or place whatever, any of the above-mentioned goods, wares, or merchandise, being of the growth, produce, or manufacture of Great Britain or Ireland, or any of the colonies or dependencies of Great Britain: *Provided, however*, That no articles which shall, within fifteen months after the passing of this act, be imported from any place beyond the Cape of Good Hope, on board any vessel cleared out before the passing of this act, from any port within the United States or the territories thereof, for the said Cape of Good Hope, or any place beyond the same, shall be subject to the prohibition aforesaid.

Sec. 2. *And be it further enacted*, That whenever any article or articles, the importation of which is prohibited by this act, shall, after the said fifteenth day of November next, be imported into the United States, or the territories thereof, contrary to the true intent and meaning of this act, or shall, after the said fifteenth day of November next, be put on board any ship or vessel, boat, raft, or carriage, with intention of importing the same into the United States, or the territories thereof, all such articles, as well as all other articles on board the same ship or vessel, boat, raft, or carriage, belonging to the owner of such prohibited articles, shall be forfeited, and the owner thereof shall, moreover, forfeit and pay treble the value of such articles.

Sec. 3. *And be it further enacted*, That, if any article or articles, the importation of which is prohibited by this act, shall, after the said fifteenth day of November next, be put on board any ship or vessel, boat, raft, or carriage, with intention to import the same into the United States, or the territories thereof, contrary to the true intent and meaning of this act, and with the knowledge of the owner or master of such ship or vessel, boat, raft, or carriage, such ship or vessel, boat, raft, or carriage, shall be forfeited, and the owner and master thereof shall, moreover, each forfeit and pay treble the value of such articles.

Sec. 4. *And be it further enacted*, That if any article or articles, the importation of which is prohibited by this act, and which shall nevertheless be on board any ship or vessel, boat, raft, or carriage, arriving after the said fifteenth day of November next, in the United States, or the territories thereof, shall be omitted in the manifest, report, or entry of the master, or the person having the charge or command of such ship or vessel, boat, raft, or carriage, or shall be omitted in the entry of the goods owned by the owner, or consigned to the consignee of such articles, or shall be imported, or landed, or attempted to be imported or landed, without a permit, the same penalties, fines, and forfeitures shall be incurred, and

may be recovered, as in the case of similar omission or omissions, landing, importation, or attempt to land or import, in relation to articles liable to duties on their importation into the United States.

Sec. 5. *And be it further enacted*, That every collector, naval officer, surveyor, or other officer of the customs, shall have the like power and authority to seize goods, wares, and merchandise imported contrary to the intent and meaning of this act, to keep the same in custody until it shall have been ascertained whether the same have been forfeited, or not, and to enter any ship or vessel, dwelling-house, store, building, or other place, for the purpose of searching for and seizing any such goods, wares, and merchandise, which he or they now have by law, in relation to goods, wares, and merchandise, subject to duty; and if any person, or persons, shall conceal or buy any goods, wares, or merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum double the amount or value of the goods, wares, and merchandise, so concealed or purchased.

Sec. 6. *And be it further enacted*, That the following addition shall be inserted to the oath or affirmation taken by the masters or persons having the charge or command of any ship or vessel arriving at any port of the United States, or the territories thereof, after the said fifteenth day of November next, viz: "I further swear (or affirm) that there are not, to the best of my knowledge and belief, on board [insert the denomination and name of the vessel] any goods, wares, or merchandise, the importation of which into the United States, or the territories thereof, is prohibited by law: And I do further swear (or affirm) that if I shall hereafter discover or know of any such goods, wares, or merchandise, on board the said vessel, or which shall have been imported in the same, I will immediately, and without delay, make due report thereof to the collector of the port of this district."

Sec. 7. *And be it further enacted*, That the following addition be inserted, after the said fifteenth day of November next, to the oath or affirmation taken by importers, consignees, or agents, at the time of entering goods imported into the United States, or the territories thereof, viz: "I also swear (or affirm) that there are not, to the best of my knowledge and belief, among the said goods, wares, and merchandise, imported or consigned, as aforesaid, any goods, wares, or merchandise, the importation of which into the United States, or the territories thereof, is prohibited by law. And I do further swear (or affirm) that if I shall hereafter discover any such goods, wares, or merchandise, among the said goods, wares, and merchandise, imported or consigned as aforesaid, I will immediately, and without delay, report the same to the collector of this district."

Sec 8. *And be it further enacted*, That all penalties and forfeitures arising under this act may be sued for and recovered, and shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage:" and such penalties and forfeitures may be examined, mitigated, or remitted, in like manner, and under the like conditions, regulations, and restrictions, as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned."

Approved, April 18, 1806.

An Act supplementary to the act making provision for the payment of claims of citizens of the United States on the Government of France.

Be it enacted, &c., That the Secretary of the Treasury shall cause to be paid, at the Treasury of the United States, the amount of certain claims of citizens of the United States against the Government of France, arising from the Bordeaux embargo, in conformity with a certified list of liquidations, attested by the Minister of the public treasury of France, and transmitted by the Minister Plenipotentiary of the United States, at Paris, to the said Secretary; which payments shall be made for such sums, respectively, as are stated in the above-mentioned list of liquidations, to such persons, respectively, as the accounting officers of the Treasury shall determine to be rightfully entitled to the same, and out of the moneys heretofore appropriated for the purpose of discharging the claims of citizens of the United States against the Government of France, the payment of which was assumed by the Government of the United States, by virtue of the convention of the thirtieth April, one thousand eight hundred and three.

Approved, April 18, 1806.

An Act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described; and to settle the claims to the vacant and unappropriated lands within the same.

Be it enacted, &c., That, for the purpose of defining the limits of the vacant and unappropriated lands in the State of Tennessee, hereafter to be subject to the sole and entire disposition of the United States, the following line be, and hereby is, established, to wit: beginning at the place where the eastern or main branch of Elk river shall intersect the southern boundary line of the State of Tennessee; from thence running due north, until said line shall intersect the northern or main branch of Duck river; thence down the waters of Duck river to the military boundary line, as established by the seventh section of an act of the State of North Carolina, entitled "An act for the relief of the officers and soldiers of the continental line, and for other purposes;" (passed in the year one thousand seven hundred and eighty-three,) thence with the military boundary line west to the place where it intersects the Tennessee river; thence down the waters of the river Tennessee, to the place where the same intersects the northern boundary line of the State of Tennessee.

Sec. 2. *And be it further enacted*, That upon

the Senators and Representatives from the State of Tennessee, by an instrument signed and sealed by them respectively, making known, that in pursuance of the power in them vested, by an act of the General Assembly of the State of Tennessee, entitled "An act to appoint agents to settle the dispute between this State and the United States, to the same," and by a resolution of the Senate and House of Representatives of the said State of Tennessee, passed in the year one thousand eight hundred and two, as instructions therein; they do, for and in behalf of the State of Tennessee, and in consideration of the provisions made in this act, agree and declare, that all right, title, and claim, which the State of Tennessee hath to the lands lying west and south of the line, herein before established within the limits of the State of Tennessee, shall thereafter forever cease; and that the lands aforesaid shall be and remain at the sole and entire disposition of the United States, and shall be exempted from every disposition or tax made by order, or under the authority of the State of Tennessee, while the same shall remain the property of the United States, and for the term of five years after the same shall be sold; which said instrument shall be approved by the Senate of the United States, and entered at large in their journal, and deposited in the office of the Secretary of State. The United States do thereupon cede and convey to the State of Tennessee, all right, title and claim, which the United States have to the territory of the lands lying east and north of the line hereinbefore established, within the limits of the State of Tennessee, subject to the same conditions as are contained in the act of the General Assembly of the State of North Carolina, entitled "An act for the purpose of ceding to the United States of America, certain western lands therein described." And the said State of Tennessee shall thereupon have as full power and authority to issue grants and perfect titles of all lands lying east and north of the before described line, within the limits of the said State, as Congress now have, or the State of Tennessee might have, by virtue of an act of the State of North Carolina, entitled "An act to authorize the State of Tennessee to perfect titles to lands reserved to this State by the cession act," to which said act the assent of Congress is hereby given, so far as is necessary to carry into effect the objects of this compact; subject nevertheless to the following express conditions; that is to say,

First. That all entries of lands, rights of location, and warrants of surveys, and all interfering locations, which might be removed by the aforesaid act of cession of the State of North Carolina, and which are good and valid in law, and which were not actually located west and south of the hereinbefore described line, before the twenty-fifth day of February, one thousand seven hundred and ninety, and all interfering grants which are good and valid in law, and which have been located east and north of the said line, shall be located, and the titles thereto perfected, within the territory hereby ceded to the State of Tennessee.

Secondly, That the State of Tennessee shall appropriate one hundred thousand acres, which shall be located in one entire tract, within the limits of the lands reserved to the Cherokee Indians, by an act of the State of North Carolina, entitled "An act for opening the land office for the redemption of specie and other certificates, and discharging the arrears due to the army," passed in the year one thousand seven hundred and eighty-three; and shall be for the use of two colleges, one in east, and one in west Tennessee, to be established by the Legislature thereof; and one hundred thousand acres in one tract, within the limits last aforesaid, for the use of academies, one in each county in said State, to be established by the Legislature thereof; which said several tracts shall be located on lands to which the Indian title has been extinguished, and subject to the disposition of the Legislature of the State, but shall not be granted or sold for less than two dollars per acre; and the proceeds of the sales of the lands aforesaid, shall be vested in funds for the respective uses aforesaid, forever. And the State of Tennessee shall, moreover, in issuing grants and perfecting titles, locate six hundred and forty acres to every six miles square in the territory hereby ceded, where existing claims will allow the same, which shall be appropriated for the use of schools for the instruction of children, forever. *Provided*, That nothing contained in this act shall be construed to affect the Indian title, or to subject the United States to the expense of extinguishing the same. *And provided also*, That the lowest price of all lands granted or sold within the ceded territory, shall be the same as shall be established by Congress for the lands of the United States. *And provided, nevertheless*, That the people residing in said State, south of French, Broad, and Holston, and west of Big Pigeon rivers, provided for by the constitution of the State of Tennessee, shall be secured in their respective rights of occupancy and pre-emption, and shall receive titles for such quantities as they may respectively claim, including their improvements, not exceeding six hundred and forty acres each, nor exceeding the quantities they have heretofore claimed respectively, according to their conditional lines, where such have been established, at a price not less than one dollar per acre. *And provided, further*, That nothing herein contained shall be construed to enable any person or persons, until authorized by the Legislature of the State of Tennessee, to locate any warrants issued under the authority of the State of North Carolina, within the limits of the lands reserved to the Cherokee Indians by the fifth section of the act of said State, entitled "An act for opening the land office for the redemption of specie and other certificates, and discharging the arrears due to the army," passed in the year one thousand seven hundred and eighty-three.

Sec. 3. *And be it further enacted*, That if the territory hereinbefore ceded to the State of Tennessee, shall not contain a sufficient quantity of land fit for cultivation, according to the true intent and meaning of the original act of cession, including the lands within the limits reserved by the State of North Carolina to the Cherokee Indians, to perfect all existing legal claims charged thereon by the conditions contained in this act of cession, Congress will, hereafter, provide by law for perfecting such as cannot be located in the territory aforesaid, out of the lands lying west or south of the before described line.

Approved, April 18, 1806.

An Act authorizing a detachment from the Militia of the United States.

Be it enacted, &c., That the President of the United States be, and he is hereby authorized, at such time as he shall deem necessary, to require of the Executives of the several States, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thousand militia, officers included, to be apportioned by the President of the United States, by the militia returns of the last year, in cases where such returns were made, and in cases where such returns were not made the last year, by such other data as he shall judge equitable.

Sec. 2. *And be it further enacted*, That the President may, if he shall judge it expedient, authorize the Executives of the several States to accept, as part of the said detachment, any corps of volunteers, who shall engage to continue in service six months after they arrive at the place of rendezvous.

Sec. 3. *And be it further enacted*, That the detachment of militia and volunteers aforesaid, shall be officered out of the present militia officers, or others, at the option and direction of the Constitutional authority in each State, respectively; the President of the United States apportioning the general officers among the respective States as he may deem proper.

Sec. 4. *And be it further enacted*, That the said detachment shall not be compelled to serve a longer time than six months after they arrive at the place of rendezvous; and that, during the time of their service, they shall be entitled to the same pay, rations, and allowance for clothing, that are established by law, as the pay, rations, and allowance for clothing of the Army of the United States.

Sec. 5. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to call into actual service any part, or the whole of the said detachment, when he shall judge the exigencies of the United States require it; if a part of the said detachment only shall be called into actual service, they shall be taken from such part thereof as the President in his discretion shall deem most proper.

Sec. 6. *And be it further enacted*, That two millions of dollars be, and are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the pay and subsistence of such part of the said detachment as may be called into service.

Sec. 7. *And be it further enacted*, That an act, entitled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," approved the third of March, one thousand eight hundred and three, be, and the same is hereby repealed.

Sec. 8. *And be it further enacted*, That this act shall continue, and be in force for the term of two years from the passing thereof, and no longer.

Approved, April 18, 1806.

An Act making appropriations for the support of Government for the year one thousand eight hundred and six.

Be it enacted, &c., That for the expenditure of the civil list, in the present year, including the contingent expenses of the several departments and officers; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the mint establishment; for the expenses of intercourse with foreign nations; for the support of lighthouses, beacons, buoys, and public piers; for the defraying the expenses of surveying the public lands in the Territories of Indiana and Mississippi; and for satisfying certain miscellaneous claims, the following sums be, and the same are hereby, respectively appropriated, that is to say:

For compensations granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred thousand five hundred and eighty-five dollars.

For the expense of firewood, stationery, printing, and all other contingent expenses of the two Houses of Congress, thirty-two thousand dollars.

For all contingent expenses of the library, and Librarian's allowance for the year one thousand eight hundred and six, four hundred and fifty dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, including the sum of twelve hundred dollars for compensation to his clerks, in addition to the sum allowed by the act of the second of March, one thousand seven hundred and ninety-nine, twelve thousand five hundred and sixty dollars.

For the incidental and contingent expenses of the said department, four thousand two hundred dollars.

For printing and distributing copies of the laws of the first session of the ninth Congress, and printing the laws in newspapers, eight thousand two hundred and fifty dollars.

For special messengers charged with despatches, two thousand dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including those engaged on the business belonging to the late office of the Commissioner of the Revenue, twelve thousand three hundred dollars.

For the expense of translating foreign languages, allowance to the person employed in receiving and transmitting passports and sea letters, stationery and printing, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy-seven dollars and eight cents.

For expenses of stationery, printing, and incidental and contingent expenses of the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty dollars and ninety-three cents.

For expense of stationery, printing, and incidental and contingent expenses in the office of the Auditor of the Treasury, five hundred dollars.

For compensation to the Treasurer, clerks and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars.

For expense of stationery and printing in the Register's office, (including books for the public stock and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the clerks employed for the purpose of making draughts of the several surveys of land in the Territory of the United States Northwest of the river Ohio, and in keeping the books of the Treasury in relation to the sales of lands at the several land offices, three thousand four hundred dollars.

For fuel and other contingent expenses of the Treasury Department, four thousand dollars.

For defraying the expenses incident to the stating and printing the public accounts for the year one thousand eight hundred and six, one thousand two hundred dollars.

For purchasing books, maps, and charts for the use of the Treasury Department, four hundred dollars.

For compensation to a Superintendent employed to secure the buildings and records of the Treasury, during the year one thousand eight hundred and six, including the expense of two watchmen, and for the repair of two fire engines, buckets, fanterns, and other incidental expenses, one thousand five hundred dollars.

For compensation to the Secretary of War, clerks and persons employed in his office, eleven thousand two hundred and fifty dollars.

For the expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to clerks employed in the Paymaster's office, one thousand eight hundred dollars.

For fuel in the said office, ninety dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, including a sum of twelve hundred dollars for compensation to his clerks, in addition to the sum allowed by the act of the second day of March, one thousand seven hundred and ninety-nine, and for expense of stationery, store rent, and fuel for the said office, four thousand six hundred dollars.

For expenses incidental to the removal of the Purveyor's office to Germantown, during the prevalence of the yellow fever in Philadelphia, in the year one thousand eight hundred and five, one hundred dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, including the sum of seven hundred dollars, in addition to the sum of four thousand two hundred dollars, allowed by the act of the second of March, one thousand seven hundred and ninety-nine, nine thousand eight hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of the Navy, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, including the sum of one thousand one hundred dollars for compensation to his clerks, in addition to the sum allowed by the act of the second of March, one thousand seven hundred and ninety-nine, ten thousand four hundred and ten dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks and persons employed in the Postmaster General's office, including a sum of four thousand five hundred and ninety-five dollars, for compensation to his clerks, in addition to the sum allowed by the act of the second of March, one thousand seven hundred and ninety-nine, thirteen thousand nine hundred and fifty-five dollars.

For expense of fuel, candles, house-rent for the messenger, stationery, chests, &c., exclusive of expenses of prosecution, portmanteaus, mail locks, and other expenses incident to the department, these being paid for by the Postmaster General, out of the funds of the office, two thousand five hundred dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For expenses incurred by removal of the loan office from New York, during the prevalence of the epidemic fever in the year one thousand eight hundred and five, one hundred dollars.

For expenses incurred by removal of the loan office from Philadelphia, during the prevalence of the epidemic fever, in the year one thousand eight hundred and five, one hundred dollars.

For compensation to the clerks of the several Commissioners of Loans, and an allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expenses of the several loan offices, thirteen thousand dollars.

For defraying the expenses of clerk-hire in the office of the Commissioner of Loans of the State of Pennsylvania, in consequence of the removal of the officers of the Treasury Department, in the year one thousand eight hundred, to the permanent seat of Government, two thousand dollars.

For compensation to the Surveyor General, and the clerks employed by him, and for expense of stationery and other contingencies of the Surveyor General's office, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of the State of Tennessee, clerks employed in his office, stationery and other contingencies, three thousand two hundred dollars.

For compensation to the officers of the Mint:

The Director, two thousand dollars;

The Treasurer, one thousand two hundred dollars;

The Assayer, one thousand five hundred dollars;

The Chief Coiner, one thousand five hundred dollars;

The Melter and Refiner, one thousand five hundred dollars;

The Engraver, one thousand two hundred dollars;

One clerk, at seven hundred dollars;

And two, at five hundred dollars each.

For the wages of persons employed in the different branches of melting, coining, carpenter's, mill-wright's, and smith's work, including the sum of eight hundred dollars per annum, allowed to an assistant coiner and die forger, who also oversees the execution of the iron work, six thousand two hundred dollars.

For the repairs of furnaces, costs of rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the mint, four thousand two hundred dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, including the sum of two thousand seven hundred and fifty dollars, for the salaries from the first of October to the thirty-first of December, one thousand eight hundred and four, fifteen thousand seven hundred and fifty dollars.

For incidental and contingent expenses of the executive officers of the said Territory, including the sum of eight hundred and fifty dollars, a deficiency in the appropriation of one thousand eight hundred and five, and for express hire, and compensation of an Indian interpreter, three thousand seven hundred dollars.

For expense of stationery, office rent, and other contingent expenses in the said Territory, and to make good a deficiency in the appropriations for the years one thousand eight hundred and four, and one thousand eight hundred and five, five hundred and eighty-two dollars and fifty cents.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, five thousand nine hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Indiana Territory, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, and other contingent expenses in the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, including a deficiency of two thousand five hundred and seventy five dollars, in the appropriation for the year one thousand eight hundred and five, for the support of the said Government, seven thousand seven hundred and twenty-five dollars.

For expenses of stationery, office rent, and other contingent expenses in the said Territory, including the sum of six hundred and forty dollars, to defray similar expenses and others attending the organization of the Government in the year one thousand eight hundred and five, nine hundred and ninety dollars.

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, including a deficiency of two thousand five hundred and seventy-five dollars in the appropriation for the year one thousand eight hundred and five, for the support of the said Government, seven thousand seven hundred and twenty-five dollars.

For expense of stationery, office rent, and other contingent expenses in the said Territory, for the years one thousand eight hundred and five, and one thousand eight hundred and six, five hundred and twenty-five dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

For additional compensation to the clerks of the several Departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding, for each department, respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks," eleven thousand eight hundred and eighty-five dollars.

For compensation granted by law to the Chief Justice, Associate Judges, and District Judges of the United States, including the Chief Justice, and two Associate Judges of the District of Columbia; to the Attorney General, and to the Judge of the District of Orleans, including a deficiency in the appropriation for his compensation in the year one thousand eight hundred and four, fifty-six thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation to the Marshals of the districts of Maine, New Hampshire, Vermont, Kentucky, Ohio, East and West Tennessee, and Orleans, one thousand six hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and likewise for defraying the expense of prosecution for offences against the United States, and for safekeeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late Government, nine hundred dollars.

For the payment of an annuity granted to the children of the late Colonel John Harding, and Major Alexander Trueman, by an act of Congress, passed the fourteenth of May, one thousand eight hundred, six hundred dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and six, to the fourth of March, one thousand eight hundred and seven, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, and certain contingent expenses, eighty-one thousand and eighty-eight dollars and two cents.

For the payment of a commission of two and a half per cent. to the commissioners who superintended the erection of public piers in the river Delaware, four hundred and forty-eight dollars and seventy-one cents.

For fixing buoys in Long Island Sound, in addition to the sums heretofore appropriated for that object, one thousand three hundred and forty-two dollars and thirty-four cents.

For expenses of intercourse with foreign nations, thirty-nine thousand and fifty dollars.

For the expenses of the intercourse between the United States and the Barbary Powers, including the compensation of the Consuls at the several Barbary Powers, forty-nine thousand five hundred dollars.

For the contingent expenses of the intercourse with foreign nations, twenty-six thousand nine hundred and fifty dollars.

For the contingent expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For defraying the expense of carrying into effect the sixth article of the British Treaty, in addition to the sums heretofore appropriated for that purpose, seven thousand seven hundred and fifty dollars.

Towards completing the surveys of public lands in the State of Ohio, and in the Indiana and Mississippi Territories, one hundred and twenty thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

For defraying the expenses incident to the investigation of claims under the French Convention of the thirtieth of April, one thousand eight hundred and three, in addition to the sums heretofore appropriated to that purpose, six thousand dollars.

For the relief and protection of distressed American seamen, seven thousand five hundred dollars.

For the salaries of the agents at London, Paris, and Madrid, for prosecuting claims in relation to captures, six thousand dollars.

For the amount admitted at the Treasury as due, on the first of January, one thousand seven hundred and ninety-one, to the legal representatives of the late Baron de Beaumarchais, for military stores furnished the United States during the late war, including interest on the same, a sum not exceeding seventy-nine thousand dollars.

For exploring the waters of the country ceded by the convention of the thirtieth of April, one thousand eight hundred and three, and establishing commerce with the Indian tribes inhabiting the same, five thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of moneys in the Treasury, not otherwise appropriated.

Approved, April 18, 1806.

An Act making provision for the compensation of witnesses who attended the trial of the impeachment of Samuel Chase.

Be it enacted, &c., That, to every witness summoned to attend the trial of the impeachment of Samuel Chase, there shall be allowed and paid for every day's attendance upon the said trial the sum of three dollars; and, also, for mileage at the rate of twelve and an half cents for every mile distance coming to the City of Washington, and returning to the usual place of residence of the witnesses, respectively.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Senate to ascertain and certify the amount due to each witness for attendance and mileage; which certificate shall be a sufficient voucher to entitle the witness to receive from the Treasury of the United States the amount certified to be due, unless otherwise ordered by the Senate.

Sec. 3. *And be it further enacted*, That the sum of six thousand dollars be appropriated to defray the expenses to be incurred under the provisions of this act, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved, April 21, 1806.

An Act in addition to an act, entitled "An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes."

Be it enacted, &c., That the second and fourth sections of "An act providing for a Naval Peace Establishment, and for other purposes," be, and the same are hereby repealed.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to keep in actual service, in time of peace, so many of the frigates and other public armed vessels of the United States, as in his judgment the nature of the service may require, and to cause the residue thereof to be laid up in ordinary in convenient ports.

Sec. 3. *And be it further enacted*, That the public armed vessels of the United States, in actual service, in time of peace, shall be officered and manned, as the President of the United States shall direct: *Provided*, That the officers shall not exceed the following numbers and grades; that is to say, thirteen captains, nine masters commandant, seventy-two lieutenants, and one hundred and fifty midshipmen; but the said officers shall receive no more than half their monthly pay, during the time when they shall not be under orders for actual service: *And provided further*, That the whole number of able seamen, ordinary seamen, and boys, shall not exceed nine hundred and twenty-five; but the President may appoint, for the vessels in actual service, so many surgeons, surgeons' mates, sailingmasters, chaplains, pursers, boatswains, gunners, sailmakers, and carpenters, as may in his opinion be necessary and proper.

Approved, April 21, 1806.

An Act for the regulation of the times of holding the courts of the District of Columbia, and for other purposes.

Be it enacted, &c., That the circuit court for Washington county, in the District of Columbia, shall hereafter commence and be held on the first Monday in June in each year, instead of the fourth Monday in July, as now fixed by law; and the circuit court for Alexandria county, in said district, on the first Monday in July, instead of the fourth Monday in June, as now established; and that the circuit court for Washington county, which now stands adjourned to the fourth Monday in July next, shall be, and is hereby adjourned to the first Monday in June next; and the circuit court for Alexandria county shall be adjourned to, and held on the first Monday in July next; and that all process whatsoever, now issued, or that may be issued in the respective counties of Washington and Alexandria, in said district, returnable to the fourth Mondays in June and July next, respectively, or to any particular day in the first, second, or other succeeding weeks during the said terms, as heretofore established, shall be returnable, and returned to the first Mondays in June and July next, or to corresponding days in the first, second, or other succeeding weeks during the said terms, respectively, as now by this law established; and all causes, recognizances, pleas, and proceedings, civil and criminal, returnable to, and depending before the said courts, at the respective times of holding the same as heretofore established, shall be returned and continued to the said first Monday in June and July next, in the same counties, respectively, in the same manner, as if the said causes, recognizances, pleas and proceedings, had been regularly returned or continued to the said respective times appointed by this act, for holding the said courts.

Sec. 2. *And be it further enacted*, That the provisions of the act, entitled "An act for the relief of insolvent debtors within the District of Columbia," shall extend to any debtor who may have been, or hereafter shall be, arrested and holden to bail in the said district, and who, at the time of his arrest, shall have been a resident in the said district one year next preceding his arrest.

Approved, April 21, 1806.

An Act continuing in force for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers.

Be it enacted, &c., That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, be, and the same hereby is, continued in force until the end of the next session of Congress, and no longer.

Approved, April 21, 1806.

An Act supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land, within the Territory of Orleans, and the district of Louisiana."

Be it enacted, &c., That every person or persons claiming a tract of land, by virtue of the second section of the act, to which this act is a supplement, and who had commenced an actual settlement on such tract, prior to the first day of October, one thousand eight hundred, and had continued actually to inhabit and cultivate the same, during the term of three years from the time when such actual settlement had commenced, and prior to the twentieth day of December, eighteen hundred and three, shall be considered as having made such settlement with the permission of the proper Spanish officer, although it may not be in the power of such person or persons to produce sufficient evidence of such permission.

Sec. 2. *And be it further enacted*, That every person or persons rightfully claiming a tract of land, not exceeding six hundred and forty acres, by virtue of the act to which this act is a supplement, shall be confirmed in his or their claims, if otherwise embraced by the provisions of the said act, although the person or persons, under whom the claim or claims originated, were not at the time when the same originated, above the age of twenty-one years: *Provided*, That the tract of land thus claimed, had been for the space of ten consecutive years, prior to the twentieth day of December, eighteen hundred and three, in the quiet possession of, and actually inhabited and cultivated by such person or persons, or for his or their use.

SEC. 3. *And be it further enacted*, That the time fixed by the act to which this act is a supplement, for delivering to the register of the proper land office, notices in writing, and the written evidences of claims to the land in the Territory of Orleans, be, and the same is hereby extended, till the first day of January next; and persons delivering such notices and evidences, shall be entitled to the same benefits as if the same had been delivered prior to the first day of March last; but the rights of such persons, as shall neglect so doing, within the time limited by this act, shall be barred, and the evidences of their claims never after admitted as evidence, in the same manner as had been provided by the fourth section of the act, to which this act is a supplement, in relation to claims, notices, and written evidences of which, should not be delivered, prior to the said first day of March last.

SEC. 4. *And be it further enacted*, That the registers of the land offices in the Territory of Orleans, respectively, be, and they are hereby, authorized to appoint so many deputies, not exceeding one for each county, in their respective districts, as they may think necessary; whose duty it shall be to receive, enter, and file notices, and to receive and record written evidences of claims to lands lying in the county, or counties, to them respectively assigned, in the same manner as the register might do; and, also, to transmit to the register the said notices and evidences, or such transcripts of abstracts of the same, as the said register, or the commissioners, may direct; and generally to do and perform all such acts, in relation to such claims, as the said register may direct. Persons having claims to land may deliver the notices and evidences of the same, at their option, either to the register of the proper land office, or to his deputy, for the county in which such land lies; and each of the said deputies shall be entitled to receive the recording fees, allowed to the register, by the act to which this act is a supplement, and in addition thereto, (or a compensation of five hundred dollars in full for all his services,) at the rate of one dollar for every claim filed with him, to be paid out of the moneys appropriated for carrying into effect the act to which this act is a supplement.

SEC. 5. *And be it further enacted*, That the commissioners, appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, shall, in their respective districts, have the same powers, and perform the same duties, in relation to the claims thus filed before the first day of January next, as if notice of the same had been given before the first day of March last, and as was provided by the act to which this act is a supplement, in relation to the claims therein described. Transcripts of the decisions of the said commissioners, and reports of the claims filed in conformity with the provisions of this act, shall be made and transmitted, as was provided by the act to which this act is a supplement, in relation to the claims therein described. It shall likewise be the duty of the said commissioners, to inquire into the nature and extent of the claims which may arise from a right, or supposed right, to a double or additional concession on the back of grants or concessions heretofore made, or from grants or concessions heretofore made to minors, and not embraced by the provisions of this act, or from grants or concessions made by the Spanish Government, subsequent to the first day of April, one thousand eight hundred, for lands which were actually settled and inhabit d on the twentieth day of December, one thousand eight hundred and three; and to make a special report thereon to the Secretary of the Treasury; which report shall be, by him, laid before Congress at their next ensuing session. And the lands which may be embraced by such report, shall not be otherwise disposed of, until a decision of Congress shall have been had thereupon.

SEC. 6. *And be it further enacted*, That each of the registers aforesaid, shall, in addition to his other emoluments, receive a compensation of five hundred dollars for the services to be performed under this act prior to the first day of January next; and each of the commissioners aforesaid, shall receive at the rate of six dollars a day, for every day's actual attendance on the duties of his office, subsequent to the first day of January next; *Provided*, That the whole amount of compensation thus allowed, shall not, for any commissioner, exceed two thousand dollars: *And provided, also*, That the President of the United States may, if he shall think proper, reduce, after the first day of January next, the number of commissioners on either or both boards, to one or two persons, and in case of such reduction the commissioner or commissioners constituting the board, shall have the same powers which are vested by this act, or by the act to which this act is a supplement, in the board established by the act, to which this act is a supplement. The clerk of each of the boards shall be entitled to receive at the rate of fifteen hundred dollars a year; the translators at the rate of six hundred dollars a year, and the agents employed by the Secretary of the Treasury at the rate of fifteen hundred dollars a year, from the first day of January next, to the time when each board shall respectively be dissolved. *Provided*, That no more than one year's compensation be thus allowed to each of the said clerks, translators, and agents: *And provided, also*, That the Secretary of the Treasury may discontinue either one or both of said agents, whenever he shall think it proper.

SEC. 7. *And be it further enacted*, That the commissioners appointed for the purpose of ascertaining the rights of persons, claiming lands in the Territories of Orleans and Louisiana, be, and they are hereby authorized, if they shall think it necessary, for the purpose of obtaining oral evidence, either in support of, or in opposition to claims, which evidence could not be given at the usual place of their sittings, without oppression to the parties or witnesses, to remove their sittings, or to send for that purpose, one or more members of the board, to such other place or places, within their respective districts, as they may think necessary: And each of the commissioners going for

that purpose to such other place or places, shall, in addition to his compensation, receive at the rate of six dollars for every twenty miles, going to and returning from such place or places: *Provided*, That no commissioner shall receive in the whole, on that account, more than for the distance, from the usual place of the sittings of the board to the extreme settlements within his respective district.

SEC. 8. *And be it further enacted*, That each of the boards aforesaid shall prepare, and cause to be prepared, the reports and transcripts, which by law they are directed to make to the Secretary of the Treasury, in conformity with such forms as he may prescribe; and they shall also, in their several proceedings and decisions, conform to such instructions as the said Secretary may, with the approbation of the President of the United States, transmit to them in relation thereto.

SEC. 9. *And be it further enacted*, That the surveyor of the public lands south of Tennessee be, and he is hereby directed to appoint a principal deputy for each of the two land districts of the Territory of Orleans, whose duty it shall be to reside and keep an office in the said districts respectively, to execute, or cause to be executed by the other deputies, such surveys as have been or may be authorized by law, or as the commissioners aforesaid may direct; to file and record all such surveys, to form, as far as practicable, connected drafts of the lands granted in the district, so as to exhibit the lands remaining vacant, and generally to perform in such districts respectively, in conformity with the regulations and instructions of the said surveyor of the public lands south of the State of Tennessee, the duties imposed by law on said surveyor. And each of the said principal deputies shall receive an annual compensation of five hundred dollars, and in addition thereto, the following fees, that is to say: for examining and recording the surveys executed by any of the deputies, at the rate of twenty-five cents for every mile of the boundary line of such survey; and for a certified copy of any plot of a survey in the office, twenty-five cents.

SEC. 10. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, whenever he shall think it proper, to appoint a receiver of public moneys for the western district of the Territory of Orleans, who shall receive the same annual compensation, give security in the same manner and in the same sums, and whose duties and authorities shall, in every respect, be the same in relation to the lands which shall hereafter be disposed of at their offices, as are by law provided with respect to the receivers of public moneys, in the several offices established for the disposal of the lands of the United States north of the river Ohio, and above the mouth of Kentucky river. And the said receiver, and the register of the land office, for the same district, shall, whenever the public lands within the same shall be offered for sale, be entitled to the same commissions and fees, which are by law respectively allowed to the same officers, north of the river Ohio, and above the mouth of Kentucky river.

SEC. 11. *And be it further enacted*, That the President of the United States be, and he is hereby authorized, whenever he shall think it proper, to direct so much of the public lands lying in the western district of the Territory of Orleans as shall have been surveyed in conformity with the provisions of the act to which this act is a supplement, to be offered for sale. All such land shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same; with the exception, also, of an entire township, to be located by the Secretary of the Treasury, for the use of a seminary of learning, and with the exception, also, of the salt springs, and land contiguous thereto, which, by direction of the President of the United States, may be reserved for the future disposal of the said States, shall be offered for sale to the highest bidder, under the direction of the register of the land office, of the receiver of public moneys, and of the principal deputy surveyor; and on such day or days, as shall, by a public proclamation of the President of the United States, be designated for that purpose. The sales shall remain open for three weeks, and no longer; the land shall be sold for a price not less than that which has been, or may be fixed by law, for the public lands in the Mississippi Territory, and shall, in every other respect, be sold in tracts of the same size, on the same terms and conditions as have been, or may be, by law provided for the lands sold in the Mississippi Territory. The superintendents of the said public sales shall receive six dollars each, for each day's attendance on the said sales. All lands, other than the reserved sections, and those excepted as above mentioned, remaining unsold at the closing of the public sales, may be disposed of at private sale by the register of the land office, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, as are, or may be provided by law for the sale of the lands of the United States in the Mississippi Territory; and patents shall be obtained for all lands granted or sold in the Territory of Orleans, in the same manner, and on the same terms as are, or may be, provided by law for lands sold in the Mississippi Territory.

SEC. 12. *And be it further enacted*, That the location, or locations of land, which may be made in the Territory of Orleans, by Major General Lafayette, by virtue of the act to which this act is a supplement, shall and may be received, though containing less than one thousand acres. *Provided*, That no such location or survey shall contain less than five hundred acres.

SEC. 13. *And be it further enacted*, That the Secretary of the Treasury be authorized to cause a survey to be made of the seacoast of the Territory of Orleans, from the mouth of the Mississippi to Vermillion bay, inclusively, and as much farther westwardly as the President of the United States shall direct, and also of the bays, inlets, and navigable waters connected therewith.

Provided, That the expense of such survey shall not exceed five thousand dollars.

SEC. 14. *And be it further enacted*, That a sum not exceeding twenty thousand dollars, in addition to the sum appropriated by the act to which this act is a supplement, and to be paid out of any unappropriated moneys in the Treasury, be, and the same is hereby, appropriated for the purpose of carrying this act into effect.

Approved, April 21, 1806.

An Act respecting the claims to land in the Indiana Territory, and State of Ohio.

Be it enacted, &c., That the registers and receivers of public moneys, of the districts of Vincennes and Kaskaskias, respectively, be, and they are hereby, authorized and empowered, under the direction of the Secretary of the Treasury, to lay out one or more tracts of land in their respective districts, for the purpose of locating therein tracts of land granted by virtue of any legal French or British grants, or of any resolution or act of Congress. *Provided*, That the tracts thus laid out shall be, whenever practicable, adjoining the tracts, which, in conformity with former laws, had been laid out for similar purposes by the Governors of the Northwest or Indiana Territories; and the tracts thus laid out shall not be otherwise disposed of, unless by order of Congress.

SEC. 2. *And be it further enacted*, That any person or persons entitled to grants of land by virtue of any former resolution or act of Congress, which are not specifically designated in the patents issued by the Governors aforesaid, or which have not yet been located, shall have a right to locate the same in the tract or tracts, to be laid out in each district, respectively by virtue of the preceding section; the priority of such location shall be determined by lot, in the presence of the register of the land office, with whom the location shall be entered; and the Surveyor General shall cause the same to be surveyed at the expense of the parties. *Provided*, That all the lands thus located, shall, in each tract laid out for that purpose, be laid out in a body, without leaving any intervals of vacant land, and shall each be surveyed in the form of a square or of a parallelogram, the length of which shall not exceed three times its breadth.

SEC. 3. *And be it further enacted*, That the registers and receivers aforesaid, shall complete and transmit their reports to the Secretary of the Treasury, before the first day of December next. Each of the officers shall be allowed an additional compensation of five hundred dollars, and each of the clerks of the respective boards shall be allowed an additional compensation of two hundred and fifty dollars, for his services as such, in relation to such claims.

SEC. 4. *And be it further enacted*, That the register and receiver of public moneys in the district of Cincinnati be, and they are hereby, authorized to grant certificates of a right of preemption to any person residing on any reserved section, other than section "number sixteen," for the tract on which he resides, on the applicant's producing satisfactory evidence that his claim was within the provisions of the seventh section of an act, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes." *Provided*, That the person shall exhibit the evidence of his claim, and shall have paid at least one twentieth part of the purchase money on or before the first day of August next. *And provided, also*, That such certificates shall not be granted for any lands previously granted or sold, or for a larger tract than a quarter of a section, nor for any other tract than that on which he resides, and such lands shall be granted at the same price, and on the payments being made, as for other public lands sold at private sale.

Approved, April 21, 1806.

An Act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes.

Be it enacted, &c., That the Secretaries of State, Treasury, War, and Navy Departments shall be, and they are hereby, authorized to apportion the compensations for clerks in their respective departments in such manner as the services to be performed shall, in their judgment, require: *Provided*, That the whole amount of ordinary compensations for clerks in the said departments, respectively, shall not exceed the following sums annually, that is to say:

For the Department of State, seven thousand one hundred and fifty dollars.

For the Treasury Department, forty-four thousand two hundred and twenty-seven dollars and twenty-eight cents, that is to say: in the office of the Secretary of the Treasury, ten thousand two hundred and eighty-nine dollars and eighty-one cents; in the office of the Comptroller of the Treasury, nine thousand and sixty seven dollars; in the office of the Auditor, eight thousand eight hundred and eleven dollars; in the office of the Treasurer of the United States, two thousand eight hundred and seventeen dollars and forty-five cents; and in the office of the Register of the Treasury, thirteen thousand two hundred and forty-two dollars and two cents.

For the Department of War, sixteen thousand five hundred and forty dollars, that is to say: in the office of the Secretary, six thousand three hundred and forty dollars; in the office of the Accountant of the War Department, eight thousand five hundred dollars; and in the office of the Purveyor of Public Supplies, one thousand seven hundred dollars.

For the Department of the Navy, twelve thousand nine hundred dollars, that is to say: in the office of the Secretary, four thousand nine hundred dollars; and in the office of the Accountant of the Navy Department, eight thousand dollars.

SEC. 2. *And be it further enacted*, That the Postmaster General of the United States shall be, and hereby is, authorized to appoint such number of clerks in his office as he shall judge proper, and to apportion their compensations in such manner as the services to be rendered by each shall, in his

An estimate exhibiting the true value of one hundred dollars eight per cent. stock, redeemable after the year 1808, on the supposition of six per cent stock being at par, for the first day of each quarter, from the 1st January, 1806, to the 1st January, 1809.

In the year of 1806, January 1 - - -	$105 46
In the year of 1807, January 1 - - -	103 74
In the year of 1808, January 1 - - -	101 93
In the year of 1809, January 1 - - -	100 00
In the year of 1806, April 1 - - -	105 04
In the year of 1807, April 1 - - -	103 30
In the year of 1808, April 1 - - -	101 46
In the year of 1809, April 1.	
In the year of 1806, July 1 - - - -	104 61
In the year of 1807, July 1 - - - -	102 85
In the year of 1808, July 1 - - - -	100 98
In the year of 1809, July 1.	
In the year of 1806, October 1 - - -	104 18
In the year of 1807, October 1 - - -	102 39
In the year of 1808, October 1 - - -	100 49
In the year of 1809, October 1.	

Extract of a letter, &c.

"The clerks in that office are engaged in what they call the stock business. They get stock transferred, in payment for the lands, of such people as will pay them their money without taking an office receipt. Now, the grievance that I would complain of is, that it is almost impossible to get business done in that office, unless the person applying will consent to let them have their money that they may pay, in stock. As for my part, I had rather do my own business. When a man goes into the office, one of the clerks addresses him, that he cannot have his business done, unless he waits two or three days; and recommends to him to leave his money with another one, which I suppose to be a clerk also, who offers to do the business for him, provided he will let him transfer stock for his payment; and thus they worry many people out of their money. As to this stock business, I know nothing about it; and as it is no advantage to me, I had rather pay my money and get my receipt, without further trouble."

SINKING FUND.

[Communicated to the Senate, Feb. 5, 1806.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of 5th of February, 1805, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the fourth day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

G. CLINTON. *President of the Senate.*
J. MARSHALL, *Chief Justice.*
JAMES MADISON, *Secretary of State.*
A. GALLATIN, *Secretary of Treasury.*
J. BRECKENRIDGE, *Attorney Gen'ral.*

WASHINGTON, *Feb.* 5, 1806.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance remaining unexpended at the close of the year 1803, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to one million three hundred and forty-nine thousand one hundred and thirty-six dollars and fifty one cents - - - - $1,349,136 51

Together with the disbursements made during the year 1804 out of the Treasury, on account of the principal and interest of the public debt, which disbursements, as appears by the statement C, annexed to the last annual report, amounted to eight millions two hundred and fifty-nine thousand eight hundred and forty-five dollars and fifty-five cents - - - - - 8,259,846 55

And with a further sum arising from profit on the remittances from America to Europe, purchased in the year 1804, which profits, as appears by the statement D, annexed to the last annual report, amounted to forty-five thousand forty-nine dollars and twenty-five cents - - - - - - 45,049 25

And amounting, altogether, to nine millions six hundred and fifty-four thousand and thirty-one dollars and thirty-one cents - - - - - - 9,654,031 31

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1804, on account of the principal of protested bills, and of advances made to Commissioners of Loans, as appears by the statement E, annexed to the last annual report, a sum of one hundred and twenty-one thousand, four hundred and forty-six dollars and fifty-one cents - - $121,446 51

2. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to seven millions two hundred and fifteen thousand six hundred and nine dollars and sixty-six cents:
   1st. Paid in reimbursement of the principal of the debt - 3,207,587 65
   2d. Paid on account of the interest and charges on the same - - 4,008,022 01
   7,215,609 66

3. The balance remaining unexpended at the close of the year 1804, and applicable to payments falling due after that year, ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to two millions three hundred and sixteen thousand nine hundred and seventy-five dollars and fourteen cents - - - - - - 2,316,975 14

9,654,031 31

Provided, That the expense of such survey shall not exceed five thousand dollars.

SEC. 14. *And be it further enacted*, That a sum not exceeding twenty thousand dollars, in addition to the sum appropriated by the act to which this act is a supplement, and to be paid out of any unappropriated moneys in the Treasury, be, and the same is hereby, appropriated for the purpose of carrying this act into effect.

Approved, April 21, 1806.

An Act respecting the claims to land in the Indiana Territory, and State of Ohio.

Be it enacted, &c., That the registers and receivers of public moneys, of the districts of Vincennes and Kaskaskias, respectively, be, and they are hereby, authorized and empowered, under the direction of the Secretary of the Treasury, to lay out one or more tracts of land in their respective districts, for the purpose of locating therein tracts of land granted by virtue of any legal French or British grants, or of any resolution or act of Congress. *Provided*, That the tracts thus laid out shall be, whenever practicable, adjoining the tracts, which, in conformity with former laws, had been laid out for similar purposes by the Governors of the Northwest or Indiana Territories; and the tracts thus laid out shall not be otherwise disposed of, unless by order of Congress.

SEC. 2. *And be it further enacted*, That any person or persons entitled to grants of land by virtue of any former resolution or act of Congress, which are not specifically designated in the patents issued by the Governors aforesaid, or which have not yet been located, shall have a right to locate the same in the tract or tracts, to be laid out in each district, respectively by virtue of the preceding section; the priority of such locations shall be determined by lot, in the presence of the register of the land office, with whom the location shall be entered; and the Surveyor General shall cause the same to be surveyed at the expense of the parties. *Provided*, That all the lands thus located, shall, in each tract laid out for that purpose, be laid out in a body, without leaving any intervals of vacant land, and shall each be surveyed in the form of a square or of a parallelogram, the length of which shall not exceed three times its breadth.

SEC. 3. *And be it further enacted*, That the registers and receivers aforesaid, shall complete and transmit their reports to the Secretary of the Treasury, before the first day of December next. Each of the officers shall be allowed an additional compensation of five hundred dollars, and each of the clerks of the respective boards shall be allowed an additional compensation of two hundred and fifty dollars, for his services as such, in relation to such claims.

SEC. 4. *And be it further enacted*, That the register and receiver of public moneys in the district of Cincinnati be, and they are hereby, authorized to grant certificates of a right of preemption to any person residing on any reserved section, other than section "number sixteen," for the tract on which he resides, on the applicant's producing satisfactory evidence that his claim was within the provisions of the seventh section of an act, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes." *Provided*, That the person shall exhibit the evidence of his claim, and shall have paid at least one twentieth part of the purchase money on or before the first day of August next. *And provided, also*, That such certificates shall not be granted for any lands previously granted or sold, or for a larger tract than a quarter of a section, nor for any other tract than that on which he resides, and such lands shall be granted at the same price, and on the payments being made, as for other public lands sold at private sale.

Approved, April 21, 1806.

An Act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes.

Be it enacted, &c., That the Secretaries of State, Treasury, War, and Navy Departments shall be, and they are hereby, authorized to apportion the compensations for clerks in their respective departments in such manner as the services to be performed shall, in their judgment, require: *Provided*, That the whole amount of ordinary compensations for clerks in the said departments, respectively, shall not exceed the following sums annually, that is to say:

For the Department of State, seven thousand one hundred and fifty dollars.

For the Treasury Department, forty-four thousand two hundred and twenty-seven dollars and twenty-eight cents, that is to say: in the office of the Secretary of the Treasury, ten thousand two hundred and eighty-nine dollars and eighty-one cents; in the office of the Comptroller of the Treasury, nine thousand and sixty seven dollars; in the office of the Auditor, eight thousand eight hundred and eleven dollars; in the office of the Treasurer of the United States, two thousand eight hundred and seventeen dollars and forty-five cents; and in the office of the Register of the Treasury, thirteen thousand two hundred and forty-two dollars and two cents.

For the Department of War, sixteen thousand five hundred and forty dollars, that is to say: in the office of the Secretary, six thousand three hundred and forty dollars; in the office of the Accountant of the War Department, eight thousand five hundred dollars; and in the office of the Purveyor of Public Supplies, one thousand seven hundred dollars.

For the Department of the Navy, twelve thousand nine hundred dollars, that is to say: in the office of the Secretary, four thousand nine hundred dollars; and in the office of the Accountant of the Navy Department, eight thousand dollars.

SEC. 2. *And be it further enacted*, That the Postmaster General of the United States shall be, and hereby is, authorized to appoint such number of clerks in his office as he shall judge proper, and to apportion their compensations in such manner as the services to be rendered by each shall, in his

An estimate exhibiting the true value of one hundred dollars eight per cent. stock, redeemable after the year 1808, on the supposition of six per cent stock being at par, for the first day of each quarter, from the 1st January, 1806, to the 1st January, 1809.

In the year of 1806, January 1 - - -	$105 46
In the year of 1807, January 1 - - -	103 74
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Extract of a letter, &c.

"The clerks in that office are engaged in what they call the stock business. They get stock transferred, in payment for the lands, of such people as will pay them their money without taking an office receipt. Now, the grievance that I would complain of is, that it is almost impossible to get business done in that office, unless the person applying will consent to let them have their money that they may pay, in stock. As for my part, I had rather do my own business. When a man goes into the office, one of the clerks addresses him, that he cannot have his business done, unless he waits two or three days; and recommends to him to leave his money with another one, which I suppose to be a clerk also, who offers to do the business for him, provided he will let him transfer stock for his payment; and thus they worry many people out of their money. As to this stock business, I know nothing about it; and as it is no advantage to me, I had rather pay my money and get my receipt, without further trouble."

SINKING FUND.

[Communicated to the Senate, Feb. 5, 1806.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of 5th of February, 1805, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the fourth day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

G. CLINTON. *President of the Senate.*
J. MARSHALL, *Chief Justice.*
JAMES MADISON, *Secretary of State.*
A. GALLATIN, *Secretary of Treasury.*
J. BRECKENRIDGE, *Attorney Gen'ral.*

WASHINGTON, *Feb.* 5, 1806.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance remaining unexpended at the close of the year 1803, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to one million three hundred and forty-nine thousand one hundred and thirty-six dollars and fifty one cents - - - -		$1,349,136 51
Together with the disbursements made during the year 1804 out of the Treasury, on account of the principal and interest of the public debt, which disbursements, as appears by the statement C, annexed to the last annual report, amounted to eight millions two hundred and fifty-nine thousand eight hundred and forty-five dollars and fifty-five cents - - - - -		8,259,846 55
And with a further sum arising from profit on the remittances from America to Europe, purchased in the year 1804, which profits, as appears by the statement D, annexed to the last annual report, amounted to forty-five thousand forty-nine dollars and twenty-five cents - - - - - -		45,049 25
And amounting, altogether, to nine millions six hundred and fifty-four thousand and thirty-one dollars and thirty-one cents - - - - - -		9,654,031 31

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1804, on account of the principal of protested bills, and of advances made to Commissioners of Loans, as appears by the statement E, annexed to the last annual report, a sum of one hundred and twenty-one thousand, four hundred and forty-six dollars and fifty-one cents - -		$121,446 51
2. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to seven millions two hundred and fifteen thousand six hundred and nine dollars and sixty-six cents: 1st. Paid in reimbursement of the principal of the debt - 3,207,587 65 2d. Paid on account of the interest and charges on the same - - 4,008,022 01	7,215,609 66	
3. The balance remaining unexpended at the close of the year 1804, and applicable to payments falling due after that year, ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to two millions three hundred and sixteen thousand nine hundred and seventy-five dollars and fourteen cents - - - - -		2,316,975 14
		9,654,031 31

That, during the year 1805, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt:

1. On account of the reimbursement and interest of the domestic debt - - - -		$4,583,960 54
2. On account of domestic loans, obtained from the Bank of the United States, viz: on account of the principal - - - -	700,000 00	
On account of the interest	56,170 12	
		756,170 12
3. On account of the domestic unfunded debt - - - - - - -		8,061 71
4. On account of the principal and interest of the foreign debt, and of the interest on the Louisiana stock -		1,980,316 70
Amounting, altogether, as will appear by the annexed list of warrants, C, to seven millions three hundred and twenty-eight thousand five hundred and nine dollars and seven cents -		7,328,509 07

Which disbursements were made out of the following funds, viz:

1. From the fund constituting the annual appropriation of eight millions of dollars, for the year 1805, viz: from the fund arising from interest on the debt transferred to the Commissioners of the Sinking Fund, as per account I -	711,737 41	
From the funds arising from the sales of public lands, being the amount of moneys paid into the Treasury from 1st July, 1804, to the 30th June, 1805, as per account K	553,521 63	
From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels	5,904,839 37	
		7,170,098 41
Which sum of $7,170,098 41, together with the sum advanced during the year 1804, on account of the appropriation for the year 1805, amounting, as appears by the last annual report, to $829,901 59, makes, in the whole, the annual appropriation, for the year 1805, of -		$8,000,000
2. From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels, advanced in part, and on account of the annual appropriation for the year 1806		67,716 02
3. From repayments in the Treasury, on account of remittances purchased for providing for the foreign debt, and of advances made to Commissioners of Loans, as will appear by the statement E, viz: Repayment of the purchase money and advances - -	66,703 02	
Damages and interest recovered - - - - -	20,731 20	
		87,434 22
4. From the moneys appropriated by law, for paying commissions to agents employed in the purchase of remittances, for the foreign debt, being the amount paid at the Treasury, during the year 1805, for that object, as will appear by the statement C - - - - -		3,260 42
That the above-mentioned disbursements, together with the above-stated balance of dollars - - - -		2,316,975 14
Which remained unexpended at the close of the year 1804, and with a further sum arising from profit on remittances from America to Europe, purchased in the year 1805, and amounting, as will appear by the statement D, to - - - - - -		117,137 52
And amounting, altogether, to nine millions seven hundred and sixty-two thousand six hundred and twenty-one dollars and seventy-three cents -		9,762,621 73

Will be accounted for in the next annual report, in conformity with the accounts which shall then have been rendered to the Treasury Department. That, in the mean while, the manner in which the said sum has been applied is estimated as follows:

1. The repayments into the Treasury, on account of principal, have, during the year 1805, amounted, as by the above-mentioned statement E, to		$66,703 02
2. The sums actually applied, during the year 1805, to the payment of the principal and interest of the public debt, are estimated as follows, viz: 1st. Paid in reimbursement of the principal of the public debt - - -	3,905,291 61	
2d. Paid on account of interest and charges on the same - - -	4,142,853 18	
		8,048,144 79
As will appear by the estimate F.		
3. The balance remaining unexpended at the close of the year 1805, and applicable to payments falling due after that year, is estimated, as per estimate G, at		9,762,621 73

That no purchases of the public debt have been made since the date of the last report to Congress.

And that the statement H. exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, in trust for the United States, to the 31st December, 1805, including the sum of $98,909 41, being the aggregate of the several species of stock transferred in the year 1805, in payment for public lands.

All which is respectfully submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Feb.* 4, 1806.

SPAIN.

[Communicated December 10, 1805.]

To the Senate and House of Representatives of the United States:

The enclosed documents relating to my Message of the 6th instant, not being ready at that date, I thought it better not to detain the Message, but to communicate these papers afterwards, as supplementary to those then sent. They are not of a nature to be deemed confidential.

TH. JEFFERSON.

DECEMBER 10, 1805.

Extract of a letter from Charles Pinckney, Esq., Minister at Madrid, to the Secretary of State dated

AUGUST, 1805.

I have written to you lately very often, informing you of the Spaniards being now in the habit of capturing our vessels as much as during the last war. The following is the list transmitted to me of American vessels taken by the Spaniards, and sent into Algeziras for adjudication, since my last to you:

Brigantine Ann Isabel, of Virginia, Williams, master; brigantine Vereries, Pisa; brigantine Dido, Shail, master, from Marblehead; ship Mary, Robert Stevenson; ship Eagle, Nehemech Shaler, last from Liverpool; brigantine Jefferson, Simon Buhmond; brigantine Polly and Nancy, of Baltimore, John Croan; schooner Molengue, John Waterman, of New York; schooner Leffen, William Maret, of Virginia; brigantine Diana, Sylvester Simmons, of New Haven.

Extract of a letter from Charles Pinckney, Esq., Minister at Madrid, to the Secretary of State, dated

SEPTEMBER 22, 1805.

My last informed you I was still under the necessity of remaining here until the 22d October, on account of all the mules being embargoed for the King's service until that day, so that I could not before go to the Sitio to take leave; that I had still been without the pleasure of seeing Mr. Erving, or Mr. Bowdoin; and, that not being able to wait for them any longer, I should, when I went away, leave Mr. Young charged with our affairs, until they, or one of them came; that, during this time, and constantly, I have been busily employed with this Court in endeavoring to arrest the numerous depredations of their privateers on our commerce, and their condemnations of our vessels, and that to do this my exertions have not only been unceasing, but more than twenty letters have passed between Mr. Cevallos and myself on the subject. I have now the pleasure to send you the result by enclosing the copy of a letter which I have just received from Cadiz, and which I have received in such an unquestionable shape as to leave no doubt of its authenticity. By this it appears my exertions have been effectual, and will probably prevent captures on that ground.

From the Secretary of State and the Marine to the Director General of the Fleet.

ST. ILDEFONSO, *Sept.* 3, 1805.

SIR: The Minister of the United States, complaining of new injuries and captures of American vessels by Spanish cruisers, has given information of the carrying to Algeziras of eleven vessels of his nation, under pretext, as he says of their carrying English merchandise. The King, being made acquainted with it, has been pleased to determine, that, if there be no other cause for the capture of these vessels than that alleged by the Minister, they should be put at liberty again; since, according to the fifteenth article of the Treaty with the United States, "the American flag secures the freedom of the merchandises, although they may be enemy's property." But if the cause of the detention be any other, His Majesty requires that they be decided in due course, and with as little delay as possible. I communicate it to you by the Royal order, in order that you may communicate it to the Generals of the Departments of Marine, in order that they may make it known to the commandants of marine in every district, and to the owners of privateers, informing them that they will be responsible for the injuries they may occasion.

Extract of a letter from Josiah Blakely, Esq., Consul of the United States at St. Jago, in Cuba, to the Secretary of State, dated

JUNE 7, 1805.

The brig Trio, of New York, from Liverpool for New Orleans, cargo dry goods, has been wholly unloaded, and is now offered for sale. After taking all the dry goods out of the ship Governor Strong, of Alexandria, Clark, master, her captors have returned her to the captain.

Since the last evacuation of Hispaniola, more than one thousand American seamen have been landed in this port, most of them without clothes, and all without any possible means of support but such as they receive from their own Government.

Extract from the same to the same, dated

JULY 1, 1805.

The scene of robbery, destruction, evasion, perjury, cruelty, and insult, to which the Americans captured by the French pirates, and brought into this and the adjacent ports, have been subjected, perhaps has not been equalled in a century past.

[Here follows a list of nineteen captured vessels, with their cargoes.]

Copy of a letter from Captain John Stinson, Commander of the ship Huntress, to the Secretary of the Navy.

LONDON, *August* 20, 1805.

SIR: On my arrival at Liverpool I wrote, for the information of Government, giving a statement of the capture of the ship Huntress, laden with Government stores. On my arrival here Mr. Lyman informing me he had not written, induced me to forward this, lest the first should miscarry.

On June the first, latitude 36° 20′ north, longitude 74° 50′, I was brought to by a Spanish schooner privateer called La Maria, commanded by Antonio Lobo from Porto Rico. The reason Lobo gave for detaining the ship was her being bound for a British port, and not having a Span-

ish passport.* After robbing the ship of ten barrels of bread, one barrel of tar, and sundry other articles, took all my crew out excepting the cabin boy; put a prizemaster and eleven Spaniards on board, and ordered the ship for Porto Rico. On June 9th, in sight of Bermudas, was retaken by two English Guineamen; after taking the Spaniards out, put a prizemaster and crew on board, and ordered the ship for Liverpool, where she arrived 16th ult. much damaged.

I have the honor to be your very humble servant,

J. STINSON.

Copy of a letter from Lieutenant Joseph J. Maxwell to his Excellency General Castanio, Algeziras.

U. S. GUNBOAT, No. 3,
HARBOR OF ALGEZIRAS, *June* 15, 1805.

SIR: I have the honor to acquaint your Excellency that I was this morning brought to by four armed boats under Spanish colors, who, after exercising the utmost insolence, and without assigning the smallest reason, conducted me to this port.

The orders received from my Government were to proceed with all possible despatch to the commander of the American squadron in the Mediterranean. The serious consequences attending this unwarrantable detention must be too obvious to your Excellency to require a remark. I shall only observe that, if your Government authorizes indignities of this nature, to my own I must appeal for redress. I am sensible, however, this cannot be the case, and persuade myself that your Excellency will readily redress the insult offered the American flag in this instance, and take measures to prevent a repetition.

Under this impression, I am, very respectfully, your obedient servant,

JOS. J. MAXWELL.

His Excellency General CASTANIO.

Copy of a letter from Lieutenant Joseph J. Maxwell, commanding Gunboat No. 3, to Commodore John Rodgers.

U. S. GUNBOAT No. 3,
HARBOR OF SYRACUSE, *July* 8, 1805.

SIR: I have to acquaint you that, on the morning of the 15th June last, Gibraltar bearing northwest, distant two leagues, I was brought to by four Spanish gunboats, who, without examining a paper, or assigning any other reason than their suspicion of my being an Englishman, took charge and conducted me into Algeziras.

It is necessary to remark, that my guns were at that time in the hold. Immediately on my arrival, I stated, officially, the circumstance to the General of Marines, which I also enclose for your perusal. The boat was instantly discharged, with many apologies, and offers of supplies and assistance, should I stand in need of them. I was requested to wait a short time the General's answer. I did so till 4 P. M. Apprehensive I might be detained much longer, and knowing the importance of the boats joining you without the smallest delay, I weighed without it, and stood over to the rock, where, for the first time since our separation on the 15th May, I found the John Adams.

I should have waited on the General of Marine personally, but could not procure pratique.

I proceeded immediately to mounting my guns, and sailed from Gibraltar the 18th June.

I have the honor to be, respectfully, sir, your most obedient servant,

JOS. J. MAXWELL.

Commodore RODGERS.

CONSULATE OF THE U. S., *Island of Cuba:*

I, Henry Hill, jr., Consul of the United States for the said island, residing at the city of Havana, do hereby certify that the documents hereunto annexed, marked with the letters A to G inclusive, and stamped with my Consular seal, are true and faithful copies of the originals lodged and recorded in my office, having been by me therewith carefully collated and compared.

In testimony whereof, I have subscribed my name and affixed the seal of my office at Havana aforesaid, the 30th day of August, one thousand eight hundred and five, in the year of the independence of the United States the thirtieth.

HENRY HILL, Jr.

A.

CONSULATE OF THE U. S., *Island of Cuba:*

By this public instrument be it known unto all whom the same doth, shall, or may concern, that, on the day of the date hereof, before me, Henry Hill, jr., Consul of the United States of America for the Island of Cuba, resident at Havana, personally came and appeared William Cory, of Charleston, South Carolina, master of the brig Ann, and Caleb Cory, mate of said brig, who being severally sworn on the Holy Evangelists of Almighty God, did solemnly depose and declare, that being at the port of Cavañas, in this island, in the month of May last, where they were loading said vessel with a cargo for the United States, they saw lying there an American schooner called the Betsey, of New Bedford, taken by a French privateer called the Eugene, commanded by Captain Joseph Dumas, some time previous, and sent into port, which said schooner had a cargo in, consisting of about seventy-six puncheons of rum and seven or eight barrels of sugar.

That, during their stay there, they frequently saw the people belonging to said privateer taking out the cargo of the said captured schooner and carrying it on shore and selling it.

That the said privateersmen, to their knowledge, took out the whole of the said vessel's cargo, and carried it on shore, where it was sold. That it was so taken out and carried on shore in open day, without any appearance of opposition from

* She had on board, besides the ordinary marine papers, a special passport from the President of the United States, reciting the nature of her cargo, and its destination for the supply of the Mediterranean squadron of the United States. She had also the passports of the British and French Ministers.

the officers of the said port of Cavañas; that, after the said privateersmen had plundered the whole of the cargo aforesaid, and taken it from the said vessel, and all her valuable rigging and sails, they took the said vessel off the mouth of the said harbor of Cavañas and sunk her.

And the deponent, William Cory, further saith, that the said privateersman offered to sell him rum from the said cargo at thirty dollars a puncheon, which this deponent refused to buy, even at that low price, well knowing they had no title to it, and that in them to dispose of it was robbery and piracy.

That he was informed by the guard, which was on board his vessel, that said privateersmen had bribed the principal officer of said port, by giving him four puncheons of rum, to consent to the landing and sale of said cargo; and further the deponent saith not.

WILLIAM CORY,
CALEB CORY.

In testimony whereof, I have hereunto set my hand and affixed my consular seal this eighth day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jr.

B.

CONSULATE OF THE U. S., *Island of Cuba:*

By this public instrument be it known unto all whom the same shall, doth, or may concern, that I, Henry Hill, jr., Consul of the United States of America for the island of Cuba, resident at Havana, do hereby certify, that, on the day of the date hereof, before me personally came and appeared Jacob R. Valk, late master, and George Allcock, late mate of, and belonging to, the schooner Sea Horse, of Charleston, who, on their solemn oaths, which they then took before me upon the Holy Evangelists of Almighty God, did, severally, solemnly depose and declare, that they, the deponents, on the 9th day of June, sailed and departed in and with the said schooner laden with a cargo of flour and German linens from Charleston aforesaid, bound on a voyage to Spanish America; that the said schooner at the commencement thereof was tight, staunch, and strong, and in every respect well fitted, furnished, found, manned, and equipped, for the due performance of the said voyage, with variable winds and weather, and without any particular occurrence until the 13th day of July, when they made the island of Blanca, on the 14th, the Tortugas, and on the next day arrived off Laguira. That they lay off and on Laguira aforesaid, until the 20th following; in the course of which time he, the deponent, Jacob R. Valk, made application for admittance to entry, and being informed that that port as well as others on that coast were shut against neutrals, he proceeded agreeably to his orders and instructions for this port of Havana. And the said several deponents did further depose, that in proceeding for the said port nothing material happened, until the 24th following of said month of July, when being off the island of Jamaica they were brought to by His Britannic Majesty's armed schooner Superior, and upon being examined and found to be neutral were politely dismissed. That they prosecuted the said voyage, making the best of their way for this said port, and experienced nothing remarkable until the 4th of August instant, when doubling Cape San Antonio, in this island of Cuba, they were brought to by a schooner under French colors, and boarded by an officer and four men, who took possession of said schooner Sea Horse, and sent the deponent, Jacob R. Valk, and two of his crew, on board the said privateer, with the said schooner's papers. That the officer on board said schooner Sea Horse hailed the commander of said privateer, and said, that as he knew her to be a good prize he would bring her to anchor, immediately upon which both vessels bore away for Puerta Fuera, about four leagues from Cape San Antonio.

That the commander of said privateer, aided by several Spaniards, who came on board her in canoes from their habitations on that coast, began rummaging the Sea Horse, opening the hatches, and breaking open the packages and cases of dry goods, principally consisting of German linens, whilst the crew of the said privateer were continually passing and repassing from one of the said vessels to the other, and most of them in a state of intoxication.

And the said deponent, Jacob R. Valk, did further depose, that being detained on board said privateer from the 4th to the 6th, he had ample opportunity of observing and examining her, and found her to be an American built vessel, having painted on her stern, *Caroline of Charleston*, which was very visible, notwithstanding some black paint had been put on it to efface it, which was not done effectually. That she was mounted with one carriage gun, and one swivel, and supplied with small arms, and manned with ten men, and two negro boys, exclusive of the captain, who said his name was Paul, and the privateer the Volante. And the said deponent did further depose, that the said Paul told him that he should be sent in an open boat to Havana, and upon his answering that he was determined to remain with his vessel wherever she went, the said Paul replied that if he again opened his mouth he would set him ashore in the woods, and leave him to perish. And the said several deponents did further depose, that on the same evening they were all embarked in an open boat, under the conduct of a Spanish fisherman, to go to a place about seventeen leagues distant called Mantua, where they received their clothes, which had been previously taken from them.

And the said Jacob R. Valk did further depose, that the said captain of said privateer, after having robbed and plundered him of all his seacharts, his vessel's and his own private papers, and also his perspective glass or telescope, and twenty-one ounces in gold, returned him six of said ounces to defray his expenses to this said port. And the said several deponents did sever-

ally further depose that James Richardson and Jacob Shoemaker, both citizens of the United States, and seamen belonging to said schooner Sea Horse, conducted themselves upon the capture aforesaid in a very mutinous manner, and remained with their own voluntary will with the said privateer.

And I, the said Consul, do further certify, that the said Jacob R. Valk did, upon his arrival at Havana aforesaid, in due time and form, note and enter with me his protest in all the premises aforesaid, and now requires of me to extend the same, and make this public act thereof, reserving to himself the privilege of making any other protest in the premises as occasion may require.

Wherefore, the said Jacob R. Valk doth, and I, the said Consul, at his request do, by these presents most publicly and solemnly protest as well against the Governor at Laguira aforesaid, and all other public officers whom it may concern, for the refusal of admittance to entry as aforesaid at that port, as against the commander and officers and crew of the said privateer for the capture, and detention, and robbery, and plunder of the said schooner Sea Horse, and her cargo, and against all and every person and persons whom it shall or may concern, for all damages, costs, charges and expenses, already suffered, or which shall or may be hereafter suffered and sustained in the premises on account thereof, that the same be borne by those to whom of right it shall appertain, to be adjusted and recovered in time and place convenient.

Done and protested at Havana aforesaid.

JACOB R. VALK,
GEORGE ALLCOCK.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said Consul, have hereunto set my hand and affixed my consular seal this twenty-first day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jr.

C.

CONSULATE OF THE U. S., *Island of Cuba:*

By this public instrument be it known to all whom the same doth or may concern, that I, Henry Hill, jr., Consul of the United States of America for the Island of Cuba, resident at Havana, do hereby certify, that, on the day of the date hereof, before me personally came and appeared John L. Cranston, late master of the schooner Caroline, of Charleston, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare that, on the 12th day of April last, he sailed and departed in and with the said schooner from Charleston aforesaid, with passengers, bound for St. Thomas, where he arrived on the 1st day of May following; that he sailed from thence on the 4th, with ballast, bound to Laguira, and arrived off the said port on the 10th, and continued laying off and on until the 14th; that his sails being very much split, and the vessel otherwise in a bad state, and not being able to obtain permission to enter said port, he determined to bear away for the first port he could make, and on the day following was captured by His Britannic Majesty's ship of war Fortune, Henry Vansittart, commander, who took out him, the deponent, and his crew, and took possession of the said schooner, which he armed as a tender to cruise off Curaçon. That on the 25th the said schooner was delivered up to him, being plundered of the boat, oars, anchors, stores, &c. That being very much in want of repairs he thought it most prudent, as well for the preservation of the said vessel and their own lives, as to procure supplies, which they likewise stood very much in need of, to bear away for Jamaica; and on the 29th of May arrived at Kingston in the said island, where he in due form made his protest.

That he sailed from thence, after having received the necessary repairs and supplies; and having on board twenty puncheons of rum, the property, as he verily believes, of Andrew Ker, of Charleston aforesaid, a citizen of the United States, on the 9th July following, bound for Charleston aforesaid, and on the 15th was boarded by a felucca pirate, commanded by one Paul Cazafranca, who took from him all the vessel's papers, and all his letters, &c., and also possession of said schooner as a prize, with which he proceeded to Puerto Fuera, about four leagues from Cape Antonio, where he came to anchor; that he there unloaded said vessel, and supplied the fishermen who were there with some of the rum belonging to the said cargo. That they continued there until the 23d following, when he sent the said schooner with the said deponent and crew to Mantua Pavola, where she arrived on the same day. And he, the deponent, with said crew, remained there until the 9th day of August, instant, without clothes or money, all of which and everything else, except two or three shirts, they were robbed of by the said captors; that he there procured a boat, and upon the promise of paying one hundred dollars, was brought to this port of Havana, where they arrived on the 14th instant.

That he, the deponent, immediately despatched a memorial to his Excellency the Governor, stating the circumstances, and praying for the restoration of said vessel and cargo; to which said memorial he has received no reply, and is of opinion that the same will be taken no notice of.

And on this same day also personally appeared before me, Andrew Ambre, mate, and William Wood and John Judson, seamen, late of, and belonging to, said schooner, who being by me severally duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose, that all and every the matters and facts relating to the voyage aforesaid, and the capture aforesaid, are in every respect true.

And the said deponent, John L. Cranston, did, upon his arrival, in due time and form note and enter with me, the said Consul, his protest in the premises, and now requires of me to make this public act thereof, reserving to himself the privilege

of further extending the same, or to make any other in the premises, as occasion may require.

Wherefore, the said John L. Cranston doth, and I, the said Consul, at his request, do by these presents most publicly and solemnly protest, as well against the seas, gales of wind, and bad weather, the said schooner experienced on the said voyage, as against the commander, officers, and crews of the said ship of war Fortune and felucca pirate, for the captures, plunder, and detention aforesaid, and for all costs, damages, losses, and expenses already, and which shall or may be hereafter, sustained on account thereof; to the end that the same be borne by those to whom of right it shall belong to be adjusted and recovered, in time and place convenient.

Done and protested at Havana aforesaid.

JOHN L. CRANSTON,
ANDREW AMBREE, his × mark.
WILLIAM WOOD, his × mark.
JOHN JUDSON.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said Consul, have hereunto set my hand and affixed my consular seal, this nineteenth day of August, in the year of our Lord one thousand eight hundred and five, and of the Independence of the United States the thirtieth.

HENRY HILL, Jr.

D.

ISLAND OF CUBA—HAVANA:

By this public instrument of protest, be it made known and manifest unto all whom the same doth, shall, or may concern, that, on the day of the date hereof, before me, Henry Hill, jr., Consul of the United States of America for the island of Cuba, resident at Havana, personally came and appeared John Dade, late mate of the brig Success of New York, whereof Nicholas Brum was master, John Fuller and Josiah Pelt, late seamen, belonging to said brig, James Ferguson and John Smith, late passengers in said brig, who, being severally duly sworn on the Holy Evangelists of Almighty God, did solemnly depose and say, that they sailed from Kingston, (Jamaica,) on the 6th day of the present month of July in the said brig Success, bound to New York, (where the said brig is owned,) with a cargo on board consisting of fifty puncheons of rum; that nothing material happened them until the 12th day of the same month, when, being in sight of Cape Antonia, (the west end of the island of Cuba,) about four miles distant, they were met with, and the said brig was boarded by a small felucca privateer under Spanish colors, which these deponents understood to be the Buena Union, Captain Ulariago, from this port of Havana, (then under the command of the mate, the said Captain Ulariago as these deponents understood, being in the city,) who, without any examination into the said vessel's papers, captured her, put a prize master and crew on board, and took the whole crew, including the said master and the said passengers, (except six Frenchmen, who were passengers in said brig,) on board the said privateer. That the said master of the said brig was cruelly flogged, beaten, and otherwise abused on board the said privateer, and was then sent on board of his said brig. That these deponents were also cruelly flogged and beaten on board the said privateer, and at night thrown into the hold and placed in irons, where they lay, without having any sustenance, until the day following, when they were liberated from the irons and suffered to come upon deck.

That the said brig was not then to be seen, and these deponents were told by the privateersmen, that they had sent her to Campeachy. That the said privateer two days afterwards came to anchor in a small bay near said cape, when these deponents were turned ashore, (after being robbed of many articles of their personal apparel,) and the mate of the said brig of his books, charts, and quadrants, without any sustenance or the means of obtaining it; and were left to wander in an inhospitable part of the island, far removed from any town or inhabitants, and to support their lives in the best manner they could.

That being desirous of finding some town or inhabitants, amongst whom they might procure the necessaries of life, they wandered abut a day or two, and at length came to a small village, where they were taken up before the commandant, who conceived them to be Englishmen, and forwarded them to this place, (Havana) as such; whither they arrived on the 30th instant, and were conveyed first to the guard-house, and afterwards to the common prison of the city, where they remained until this day, when they were liberated by order of the Governor, and paid to the jailer seventeen dollars and a half jail fees.

And thereupon the said several deponents did, in behalf of the said master, the owners, freighters, and all others concerned in the said cargo, request of me to make their protest and this public act thereof. Wherefore, the said deponents do, and I, the said Consul, at their request, also do by these presents, most publicly and solemnly protest as well against the commander, officers, and crew of the said privateer and the owners thereof, as against all and every other person and persons whom it shall or may concern, for the capture and detention of the said brig and cargo, and the subsequent circumstances, and for all costs, damages, charges, and expenses attending the same, to the end that the same be suffered and borne by those to whom of right it shall appertain, to be adjusted and recovered in time and place convenient.

Done and protested at Havana aforesaid.

JOHN DADE,
JOHN FULLER,
JOSIAH PELT,
JAMES FERGUSON,
JOHN SMITH.

In testimony whereof, the said deponents have hereunto subscribed their names, and the said Consul have hereunto set my hand and affixed my consular seal, this thirty-first day of July, A.

D. eighteen hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jr.

E.

ISLAND OF CUBA—*Havana:*

By this public instrument of protest be it made known and manifest unto all whom the same shall, doth, or may concern, that, on the day of the date hereof, before me, Henry Hill, jr., Consul of the United States of America for the Island of Cuba, resident at Havana, personally came and appeared Henry Palmer, master of the brig Jason, of Philadelphia, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare that, on the 7th day of April last, he sailed and departed in and with the said brig, laden with a cargo of salt, earthenware, porter, dry goods, &c., from Liverpool, in England, and bound to New Orleans, consigned to different persons there, and to the best of his knowledge and belief, the property of citizens of the United States.

That, in the prosecution of the said voyage, nothing material happened until the 20th day of June, when being in sight of Cape Antonio, four or five leagues distant, he discovered two sail at about two o'clock in the afternoon, which appeared in chase of his said vessel. That one of them came up with his vessel about half past four o'clock, when she hoisted English colors and fired two guns, on which he hove to, and waited her coming up with him. That, after having come within hail, he was ordered by a person on board said privateer to come on board with his papers, which he did; after this deponent was on board the said privateer, the English colors were taken down and Spanish hoisted; and this deponent understood the said privateer to be called the Buena Union, commanded by José Antonio Ulariago; the captain of which immediately after ordered the people of this deponent out of the boat, and sent four men in his said boat on board his said brig, and detained this deponent, with two men who had come with him, on board said privateer.

That, after the people had got on board said vessel, some conversation passed between the captain of the privateer and the people he had sent on board the brig; and immediately after they altered the course of his said brig, and stood in towards the Island of Cuba; soon after, the other vessel which was in sight came up, which he, the deponent, understood was the French Privateer Napoleon, commanded by one Pierre Liquet, which also changed her course, and stood in towards said island, in company with said Spanish privateer and the deponent's brig. That, on the same day, at about ten o'clock at night, the three vessels aforesaid came to anchor near Cape Antonio, where the best bower-anchor was lost, and a part of the cable belonging to said brig, and where was also lying at anchor a small felucca French privateer. The morning following, the 21st ultimo, the privateersmen proceeded with his said brig to a small bay, where there are a number of small islands, about six leagues from where the said brig had been anchored, and the said privateers accompanied her. In which bay the said brig was brought to anchor, where also the said privateers came to anchor. That, amongst these islands, there was lying an American schooner, called the Mary of Camden, which had been taken some time previous by the small felucca aforesaid, which accompanied the other privateers from Cape Antonio.

That this deponent was suffered, in the evening after coming to anchor, to go on board his said vessel, where he discovered that all his papers, of every description, as well as those relating to the vessel as to the cargo, and his own private papers were taken; and that the privateersmen had broken into the hold of his vessel, and taken out of a cask, which they had broken open, a number of bottles of porter which belonged to the cargo of said vessel; that two days after their arrival at said bay, to wit, on the 23d, the privateersmen opened the hatches of his said vessel, and took several packages of dry goods upon deck, when they descried a sail in the offing, on which the goods were put below, and the hatches shut, and the said three privateersmen went out in pursuit of said sail, but soon after returned; that, on the day following, the 24th, the privateersmen again opened the hatches of his said vessel, and took out all the dry goods, being about thirty-two packages; also, one cask, containing twenty bags of shot, and also a number of casks of porter, which they sent on board the different privateers, and also put on board the French privateer Napoleon all the dry goods and the said cask of shot, and nineteen half-barrels of salt, and likewise robbed and plundered the said vessel of a considerable quantity of her rigging, furniture, and apparel.

And the said deponent doth further depose and say, that they put on board the said schooner Mary twenty casks of porter, some crates of earthenware, and other articles.

That, on the 28th, the said brig was got under way, with a prizemaster on board from the said Spanish privateer, and eight men to her also belonging, together with this deponent and three of his men, the mate having been put on board of the privateer, with three others of the crew of the said brig; that he, the deponent, was informed they were coming with said brig to Havana, but after coming to anchor at various places on the coast, at several of which a quantity of porter and salt was taken out of said brig and given to different people on the coast; and, on the 9th instant, they came to anchor with said brig in the harbor of Cavañas.

That, the day following, this deponent demanded leave to go on shore in order to make his situation known to the commandant, but was refused, and kept prisoner on board his said vessel until Sunday, the 15th, when he was taken out with one of his men and put on board a small open boat, in which also embarked the prizemaster and four men belonging to the said privateer, and was informed by the prizemaster they were coming to

this port; that, on the day following, they arrived at this said port, and this deponent was forcibly taken to the guard-house, and not permitted to have any communication with any person; and was so kept in prison until the next day about ten o'clock, when he was taken to the marine office and questioned relative to his capture, and was there set at liberty; that he, the deponent, frequently demanded his papers of the said privateersmen, which consisted of the papers of the said brig, invoices, and bills of lading of cargo, about two hundred and twenty letters, and various other papers, but was uniformly refused them.

And on this same day, before me also personally appeared Nathaniel Houston, chief mate, late of, and belonging to, the said brig Jason, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare, that all and singular the matters and facts before stated and set forth, are in every respect true.

Whereupon, the said Henry Palmer doth, and I, at his request, do most publicly and solemnly protest, as well against the commanders, officers, crews, and owners, of the said Spanish and French privateers, as against all and every other person and persons whom the same shall or may concern, for the unlawful capture and detention of the said brig whilst in the prosecution of a lawful voyage, and the depredations, robbery, and plunder, committed upon the said vessel, her rigging, furniture, and cargo, and for all damages, losses, costs, and expenses, which shall or may be sustained in the premises on account thereof. And the said Henry Palmer doth hereby reserve to himself the privilege of making any other, or additional protest, as need and occasion may require.

This done and protested at Havana, as aforesaid.

HENRY PALMER,
NATH. HOUSTON.

In testimony whereof, I have hereunto set my hand and affixed my consular seal, this 20th day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jr.

F.

CONSULATE OF THE U. S., *Island of Cuba:*

By this public instrument of protest, be it known unto all whom the same shall, doth, or may concern, that, on the day of the date hereof, personally appeared before me Jacob Paiddrick, a citizen of the United States, born in the county of Camden, State of North Carolina, late mate of the schooner Mary of Camden, aforesaid, Stephen Charles, master; also, John Davis and Jeremiah Graves, both citizens of the United States, and late mariners on board of said schooner; who, being severally duly sworn on the Holy Evangelists of Almighty God, did depose and say, that they sailed from Jamaica on board of said schooner, bound for Charleston, South Carolina; and that, while lawfully and peaceably pursuing their said voyage on board said vessel, with a cargo, consisting of thirty puncheons of rum and five hogsheads of molasses, the property of citizens of the United States, they, together with said vessel and cargo, on the 22d of May, aforesaid, were captured by a felucca privateer, under French colors, one Paul, commander, who took possession of said vessel and cargo, and brought her to an anchor the same day, near Cape Antonio; that the aforesaid Stephen Charles, master of said schooner Mary, was forcibly taken out of his said vessel, and put on board of an American vessel bound to Charleston; that these deponents, after remaining six or seven days on board said schooner, during which time she continued at anchor, were forcibly taken out of said vessel, and put on shore at Cape Antonio, without any sustenance or means of obtaining it, and told to stay there and die, or go where they pleased; that they found several fishermen near the place aforesaid, who, pitying their distressed situation, hospitably supplied them with provisions during six or seven days; at the expiration of which time, Anselmo Henrique, who had a canoe, and was fishing on the coast, was prevailed upon, at the instance of these deponents, to bring them to this city of Havana, on condition of their giving him their clothing, which they, these deponents, were obliged to do; that the said Anselmo Henrique, having received their clothing, took them on board his canoe, and proceeded with them on their way hither, as far as the port of Cavañas; the commandant of which port would not suffer them to proceed further in said canoe, declaring them to be Englishmen and spies, and placed them in the stocks as prisoners, and kept them there about fourteen hours, when they were liberated and suffered to proceed to this place by land, with the said Anselmo Henrique, where they arrived this day.

And thereupon the said deponents, in behalf of themselves, the said Stephen Charles, and all others concerned in said schooner and cargo, do, by these presents, most publicly and solemnly protest, and require of me to protest. Wherefore, at the request aforesaid, I, the said Consul, do protest, as well against the commander, officers, and crew, of the said felucca privateer, (the name of which is at present unknown,) Paul, commander, and all others whom it may concern, for the illegal capture of the said schooner Mary and cargo, and the treatment of the said master, Stephen Charles, and they, the said several deponents, experienced as aforesaid, the dangers and hardships they encountered in consequence thereof, and for all damages, losses, costs, and charges, attending the same.

This done and protested at the said city of Havana.

JACOB PAIDDRICK,
JOHN DAVIS,
JEREMIAH GRAVES.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said Consul, have hereunto set my hand, and affixed my consular seal, the 14th day of June, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the twenty-ninth.

HENRY HILL, Jr.

G.

Declaration of John Evans, master of the ship Eliza, of Norfolk, and of Charles Simmons, Jun., and Edward Lowrie, seamen belonging to said ship.

Before me, Henry Hill, jr., Consul of the United States of America for the island of Cuba, resident at Havana, on the day of the date hereof, personally came and appeared John Evans, master of the ship Eliza, of Norfolk, and Charles Simmons, jun., and Edward Lowrie, seamen belonging to said ship, who, being by me severally duly sworn upon the Holy Evangelists of Almighty God, did depose and say, and first the said John Evans:

That he sailed from Norfolk in the said ship on or about the 12th day of October last, with a cargo on board, consisting of staves and provisions, bound for Kingston, Jamaica, the said cargo being the sole property of Conway and Fortescue Whittle, merchants of Norfolk, and citizens of the United States; that he arrived in and with said ship on or about the 5th day of November following, when the said cargo was sold for account of the said Messrs. Conway and Fortescue Whittle; that from Kingston he proceeded in and with said ship to Anotta bay, on the north side said island of Jamaica, for the purpose of loading his said ship with a cargo, where he actually purchased and loaded on board said ship, a cargo, consisting of one hundred and seventy-nine puncheons of rum, for the sole account and risk of the aforesaid Messrs. Conway and Fortescue Whittle; that he sailed thence in and with said ship with said cargo, on or about the 21st day of March following, bound to Norfolk aforesaid, with all the necessary and usual documents on board, to prove the said ship and cargo bona fide American property, belonging to citizens of the United States; that on the 27th day of same month, while peaceably and lawfully navigating his said ship for the port of Norfolk aforesaid, then being in sight of the Isle of Pines, on the south side of this island of Cuba, he was met with, boarded, and unlawfully captured by a privateer under French colors, called the Vigilant, commanded by one Amado Dejan, as he understood, who forcibly and unlawfully deprived this deponent of the possession of his said ship and cargo, and placed a prizemaster and men on board thereof, from the said privateer, and with force and violence took this deponent out of his said ship, together with Onis Danion, first mate, and Richard Thomas, second mate thereof, and six of the seamen of his said ship, and landed them on the west end of said Isle of Pines, with only one day's provisions, and without the means of procuring further sustenance; that this deponent, with his said mates and crew, remained at said port of said island, which is entirely uninhabited, about two weeks, and supported themselves on fish which they caught, there being no other food or sustenance to be procured; at the expiration of which time, that he, with his said mates and crew, took passage in a Spanish vessel, which casually touched there, and were transported to the east end of said island of Pines, where there are some inhabitants, whence this deponent, with his said mates and crew, after remaining four or five days, took passage in a Spanish vessel, and proceeded to Batabano, in this island of Cuba, whence they proceeded by land to the city of Havana; that, after being some days in this city, this deponent heard his said ship had been taken into Batabano, and soon after saw the prizemaster here who was put on board his said ship, who gave to this deponent the following papers of said ship, declaring, at the same time, that he considered the said ship and cargo American property; that the captain of said privateer had absconded and left him without support, and that he had no idea of pursuing her as a lawful prize, and had abandoned her; that the papers which were delivered to this deponent were the following: 1st, the Mediterranean pass of said ship; 2d, sea-letter; 3d, clearance from Norfolk; 4th, articles of agreement between master and mariners of said ship; 5th, certified list of crew; 6th bill of health, &c.; 7th, ship's log book. That the said ship had a register and certificates of property of cargo, bills of lading, invoices, &c., at the time of capture, which were taken from him, and which were not delivered up with the other papers, and which this deponent understood, and has reason to believe, were unlawfully and wantonly destroyed; that this deponent, after ascertaining that his said ship was in Batabano aforesaid, and after receiving the said papers, did, on the 7th day of May last, present to his excellency the Marquis of Someruelos, Captain General of said island of Cuba, a memorial, wherein he stated the capture of the said ship, and prayed that she might be restored to the rightful owners, from whom she had been unlawfully captured; that, not having any reply to his memorial, he, shortly after, again memorialized his Excellency, praying that he would order his ship to be restored; that not having any reply to this, his second memorial, and understanding that a part of his crew who were suffered to remain on board at the time of capture, were detained as prisoners on board in the said port of Batabano, and were suffering for the want of the necessaries of life, and that the Frenchmen who remained on board, and the Spaniards from shore, were daily plundering from his said ship and cargo, and wishing to know the state thereof, and to grant some relief to his crew, he proceeded to Batabano without a passport, (the Captain General having refused him one,) with intent to go on board his said ship, and was ordered by him immediately to return to this city, or that he would send him back prisoner under a guard of soldiers, wherefore this deponent was obliged to return; that, on the 14th day of June, he again memorialized his Excellency, presenting therewith all the papers of the aforesaid ship, delivered up to him by the prizemaster aforesaid, (except the sea-letter, which was presented with his first memorial,) in consequence of which, on the day following, a decree was given, ordering his said ship and cargo to be restored and delivered him, and a passport granted for him to proceed to Batabano and take possession thereof.

That for this purpose he proceeded to Batabano, and on his arrival there, the 24th of June, he presented his passport and order to the commandant there, who sent with him an officer and two soldiers to execute the said order and give him possession of his said ship. That accordingly, on the 25th day of June, he received possession of his said ship, and on examination thereof, and of her cargo, there was a deficiency of the following articles, which had been plundered from her since the capture aforesaid, to wit: two boats, a string cable, three anchors, two new top-sails, a new foresail, four studding sails, two royals, several spars, all her spare running-rigging, all her cabin furniture and water casks, besides blocks, and many other small articles, and from her cargo, ninety-six whole puncheons of rum, there being only eighty-three remaining on board, and many of these wanting from ten to fifty gallons, so that this deponent conceives that the contents of the said eighty-three puncheons would not more than fill sixty.

That an account was presented to him at Batabano, against said ship, of upwards of nine hundred dollars, for various articles which had been taken up upon the credit of the said ship by the Frenchman who captured her, which this deponent was obliged to satisfy before he was suffered to depart with his said ship. That on the 12th day of July instant, he departed in and with the said ship from the bay of Batabano, and arrived at this port of Havana on the 26th day of July instant, without any material accident happening, and came to anchor at the mouth of the harbor, not being permitted to come on with said ship for the purpose of supplying himself with the necessary stores, cables, &c., to proceed on his voyage to Norfolk, aforesaid, whither he is bound.

And the aforesaid Charles H. Simmons and Edward Lowrie, depose and declare that all and every the matters and things set forth and declared by the said John Evans in the preceding declaration, relating to the capture of the said ship, and the deficiency therein stated of her cargo, apparel, furniture, &c., are, to their knowledge, just and true.

That they were detained on board said ship after the capture, and held prisoners on board, frequently wanting for the necessaries of life, until she was given up to the said Captain Evans, as stated in his declaration.

That before the said ship was taken into Batabano, she was brought to anchor by the said privateersmen upon the coast of Cuba, about ten leagues to the west end of the said port of Batabano, where they took from her cargo a number of puncheons of rum, and put them on board of a schooner.

That the said ship was again brought to anchor before her arrival at Batabano, about one league from the port, where the said privateersmen also took from her cargo a number of puncheons of rum, and put them on board a Spanish sloop, which these deponents understood belonged to the King's pilot at Batabano, who assisted the said privateersmen in the robbery.

That on the said ship's arrival at Batabano, a number of puncheons of rum were then taken out of said ship, and carried on shore by the said privateersmen, assisted by some Spaniards on shore, who, during the said ship's remaining there, night after night, smuggled on shore from the said ship quantities of rum, which they drew from the puncheons on board into small kegs. That the said Frenchmen and Spaniards daily plundered the rigging and furniture of said ship and were very abusive and gave much ill treatment to these deponents.

JOHN EVANS,
CHAS. H. SIMMONS, Jr.
EDWARD LOWRIE.

And the said John Evans having applied to me, the said Consul, to make his protest in the premises, I have granted this public certificate thereof, to serve and avail him, and all, in the premises aforesaid, as occasion may require.

Wherefore, the said John Evans, in behalf of himself, the freighters, owners, and all others concerned in the said vessel and cargo, doth, and I, the said Consul, at his desire, do, by these presents, protest, as well against the commander, officers, and crew, of the aforementioned privateer, as against every person and persons concerned therein, for the capture of the said vessel, and the robbery and plunder committed upon the said vessel and cargo, for all damages losses, costs, and expenses already sustained, or which shall or may hereafter be sustained, suffered and incurred in the premises on account thereof.

Done and protested in the city of Havana, agreeably to mercantile laws in such cases used and approved of.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said consul, have hereunto set my hand and affixed my consular seal, this second day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jr.

ST. JUAN, (PORTO RICO,)
September 12, 1805.

SIR: When depredations on neutral property by Powers at war becomes the order of the day, when no respect is paid to existing treaties, I conceive it a duty incumbent on every individual to note every such infringement, and to give advice of it to the Executive of that Government to which he belongs.

As I am unaccustomed to a forensic style, I shall simply relate my own case, and whatever has come under my immediate observation during

my short stay in this island. I left Norfolk on the first of June last in the brig Catharine, bound for the island of Antigua, laden with a cargo of provisions and lumber, where I arived, and sold said cargo. I left Antigua on the 29th of July, with a return cargo, bound back to Norfolk; on the 4th August, in latitude 23 deg. 10 min. north, longitude 65 deg. west, was captured by the French brig called General Blanshot, John Baptiste de Brun, commander, and sent into one of the ports at the west end of this island. The privateer plundered me of my stores and ship's provisions and part of the cargo. The vessel was immediately stripped of her sails and rigging and sent ashore; my people taken out, put on board of another vessel, and sent out of the island. Under these circumstances I came to the city and applied to the Governor, requesting his interference; stating to him that my papers were perfectly regular, and that my capture was of course illegal; and I likewise requested him to order security to be given for the amount of my brig and cargo, as the agent of the said privateer was a resident merchant of this city. But all my representation has been to no effect: he has absolutely refused to take cognizance of my business. My papers remain in the hands of Mr. Daubon, the agent of the captors. I may be detained here many months to come, and the vessel and cargo exposed to a total loss. My trial, if any I am to have, must be, by the determination of this Government, either at Martinique or Guadaloupe; thus, under the present circumstances, this island may become the asylum of pirates and robbers. No pretence has been given for my capture; as I came from an English island I might have English property on board. At the time of my capture, my cabin boy was carried on board the privateer and put in irons, threatened with severe chastisement unless he would declare that specie was deposited in some part of the vessel. This attempt proving fruitless, I now (in all probability) must be the victim of measures dictated by men without principles of honesty or honor. Thus far as relates to myself. I shall now take the liberty of relating to you some other particulars that have come under my observation. At my arrival at the port of my entry on the west end of the island, I found at anchor the brig Susanna, of Portland, Maine, the captain's name I do not recollect; said brig arrived the day before and prize to the same privateer; she was from Portland bound to Jamaica, and was taken on her outward bound passage, with a cargo of fish and lumber; said brig was immediately unloaded and ballasted with sand, and, without more ceremony, the captain and crew of said vessel were shipped off, with a very scanty supply of provisions, and left to search for the first port they could make. On the 4th instant, arrived the brig Polly, of Tiverton, Rhode Island, Captain Trip; and on the 5th instant, the schooner Mary Ann, of Boston, Captain Anthony, and bound to the island of Barbadoes, loaded with cattle and horses, and provisions on the deck. They are prizes to a Spanish xebeck, from Cadiz, bound to Vera Cruz. The captains live still on board with their crews, and may remain so for many days to come; while the captor and his agent are prosecuting every measure to effect the condemnation of said vessels as lawful prizes.

I am, &c.

JOSEPH LEONARD.

JAMES MADISON, Esq., *Secretary of State.*

U. S. CONSULAR OFFICE, *Gibraltar:*

[L.S.] On this 13th day of September, 1805, personally appeared in my Consular office of the United States of America, John Allen, commander of the sloop Ranger, belonging to the Government of the aforesaid United States, and John Thompson, master's mate on board said sloop Ranger, who, after being sworn on the Holy Evangelists, did declare jointly and severally, each speaking for himself, that they sailed in and with said vessel from Boston in America, on or about the 21st day of July last, on the service of said Government, in company with the sloop Traveller, commanded by Captain Benjamin Prince, with whom they parted company a few days after their leaving Boston, by stress of weather.

That, on the 23d of August last, being in latitude 40° 32′ north, and longitude 30° 33′ west a schooner came up with them, mounting six guns with sixteen blunderbusses, and about eighteen men, who, although the American colors were flying on board the Ranger, and the vessel hove to, fired three broadsides at her without showing any colors, ordering Captain Allen to go on board them, which he did; they then came on board the sloop Ranger, broke open Captain Allen's chest and trunk, taking from them twelve white shirts, a suit of uniform, six pair silk and six pair of cotton stockings, twelve handkerchiefs, two blue jackets, three white dimity waistcoats, two new hats, two pair new shoes, and two pair nankeen pantaloons, a spy-glass, sixty-three gallons brandy, butter, cheese, pork, and other articles of ships stores; likewise, the doctor's box, the mates' and some of the men's clothes and money; also, a letter from the Governor of Malta, and several other papers.

That the commander and crew of the said schooner privateer behaved in a most insulting and abusive manner, and they seemed by their appearance, language, dress, and manners, to have been Spaniards; wherefore, they make this declaration and protest, not only for the robbery committed, but also for the insult shown the flag under which they sailed.

JOHN ALLEN,
JOHN THOMPSON.

Sworn and declared the day and year first above written before me, JOHN GAVINO.
Consul U. S. of America.

Extract of a letter from Governor William C. C. Claiborne, to the Secretary of War, dated

NEW ORLEANS, *March* 15, 1804.

SIR: In consequence of a letter I received from Mr. Joseph Chambers, the United States factor at Fort St. Stephens, informing me that he had a quantity of peltry, &c., ready for exportation, and desiring that I would make arrangements with the Spanish authorities to secure to articles to and from the factory a passage free from interruption or duties, I addressed to the Governor of West Florida, (who is now in this city,) a letter of which the enclosed No. 1 is a copy, and on this day I received an answer, of which No. 2 is a copy. From these documents, you will discover that the interest of the factory is, in a measure, subjected to the caprice of a Spanish officer.

No. 1.

Copy of a letter from Governor Claiborne to Governor Folch, dated

NEW ORLEANS, *March* 7, 1804.

SIR: The President of the United States, with a view to preserve a good understanding with the Choctaw Indians, has established a factory or trading-house at Fort St. Stephens, on the Tombigbee river. The goods transmitted to this factory, and the peltry, &c., exported therefrom, are the property of the United States, and I persuade myself that, on their passage by way of Mobile, no duties will be exacted, or interruption offered, by the authorities of Spain.

I beg leave to remind your Excellency that, by a treaty between the United States and His Catholic Majesty, they are mutually bound to restrain the Indians within their respective limits from committing hostilities against the adjacent settlements of either Power.

The prosperity, therefore, of the factory at Fort St. Stephens is interesting to both our nations, since the influence which the American Government may acquire in the Choctaw councils will be used not only to secure peace and safety to our own frontiers, but to the dominions of His Catholic Majesty.

Accept the assurances of my great respect and high consideration.

WM. C. C. CLAIBORNE.

His Ex'cy Gov. FOLCH.

No. 2.

Copy of a letter from Governor Folch to Governor Claiborne, dated

MARCH 15, 1804.

SIR: In order to answer your letter of the 7th instant, with due propriety, and according to the spirit of the Royal orders prevailing on the subject, I consulted the Intendant, Mr. John D. Morales, who has given me his opinion in the following terms:

"My opinion, sir, respecting the particulars related in Governor Claiborne's letter to you, is, that we cannot deviate from the order given to us by His Catholic Majesty, which I have transcribed to you in my last, of the 8th instant. For the same reason, when His Excellency, General Wilkinson, requested to allow the pass of two American vessels, one in the Spring, the other in the Fall, which I did not grant, and His Majesty approved my conduct, and caused the treaty to be carried into execution."

These circumstances will convince your Excellency that it is not in my power to comply with your request; however, I will represent the case to the King, and inform you of the result as soon as possible.

Accept assurances of my respect and consideration. F. FOLCH.

His Ex'cy Gov. CLAIBORNE.

Extract of a letter from Joseph Chambers, United States factor, to the Secretary of War, dated

CHOCTAW TRADING-HOUSE,
April 11, 1804.

"It may not be improper in me to state, that it will be impossible for me to continue the trading-house on the river Tombigbee, and to afford to the Indians that friendly accommodation intended by the Government, without incurring certain loss, unless we are speedily freed from the heavy exaction of twelve per centum demanded by the Spanish officers at Mobile, on all exports that pass this port, and the same on imports, making together nearly one-fourth per cent."

Extract of a letter from Governor Claiborne to the Secretary of War, dated

NEW ORLEANS, *April* 20, 1804.

"In conformity with my advice, Joseph Chambers, United States factor for the Choctaw nation, has shipped a quantity of peltry for Philadelphia, (via New Orleans.) On the passage of the peltry down the Mobile river, a duty was demanded by the Spanish officers at the town of Mobile, and which Mr. Chambers paid, not, however, without entering a protest against the proceeding, a copy of which I now enclose you.

"Some provisions sent by the contractor from this city to Fort Stoddert were also detained at Mobile, until a duty of twelve per cent. was paid thereon; duties are also exacted on all exports passing down the Mobile, and paid very reluctantly by our citizens.

"The Spaniards are fortifying Pensacola and the town of Mobile; at the former place there is to be stationed five or six hundred men, and at the latter a battalion of artillery, and one company of dragoons are now employed."

Protest of Joseph Chambers, United States factor.

Whereas, by the order of the proper officers of the Government of the United States of America, sixty bales, three hogsheads, and one barrel of peltries and furs, the property of said Government, collected at the Governmental trading-house, established by authority, for the friendly accommodation of the Choctaw nation of Indians, was directed to be transported from the said trading-house, in the county of Washington, Mississippi Territory, by descending the Tombigbee or Mobile river, and from thence to the city of Philadelphia, in the Atlantic part of the United States, (via New Orleans.) The said cargo of peltries

and furs, being on its passage as aforesaid, at the mouth of the said river at the post of Mobile, the officers of His Most Catholic Majesty the King of Spain did at that post demand a duty of twelve per centum upon *their* estimated value of said cargo, to be paid for the use of His Majesty, and it was then made known and properly certified to the said officers, that the said peltries and furs were the property of the United States, and was then on its passage from one part thereof, to another. Notwithstanding which, the said officers did on the thirteenth day of April, A. D. one thousand eight hundred and four, detain and stop the said cargo at the said post of Mobile, and did then and there refuse to permit it to proceed on its passage, until the said duty of twelve per centum, amounting to one hundred and eighty-two dollars and sixty-eight cents, was paid.

Now, the undersigned agent of the United States, having paid the aforesaid sum of one hundred and eighty-two dollars sixty-eight cents; not admitting the right of His Most Catholic Majesty's officers to exact or impose the aforesaid duty in manner and form aforesaid, cannot suffer a proceeding so unaccommodating, and apparently unjust, to pass with tacit acquiescence, and in compliance with his obligations he enters this his remonstrance and solemn protest.

Because, the exaction of a duty upon the property of a Government passing upon navigable waters, (which are the common highways of nature,) from one part of its territories to another, although this passage might intersect the limits of a different Government, is in violation of a right which ought not to be questioned by nations friendly to each other.

Because, His Most Catholic Majesty has manifested a disposition friendly, liberal, and just, toward the Government of the United States, and the Chief Magistrates of each nation have mutually cultivated peace, harmony, and good will, between their respective citizens and subjects, it is therefore supposed that this proceeding is without His Majesty's orders or his knowledge, and that it has probably emanated from the same source from which the unauthorized act of shutting the port of New Orleans against the United States' right of deposit in the year one thousand eight hundred and two, proceeded. That the proceedings aforesaid may be duly made known to His Most Catholic Majesty the King of Spain, and to the President of the United States of America, and thereby become the subject of proper investigation, this remonstrance and protest is made and delivered to Colonel Maximilian Maisant, commandant political and military at Mobile.

Done at Mobile, this 13th April, 1804.

JOSEPH CHAMBERS,
Agent to the Choctaw trading-house.

Copy of a letter from Joseph Chambers, United States factor, to the Secretary of War, dated

CHOCTAW TRADING-HOUSE,
HOBUKINTOOPA, *Dec.* 12, 1804.

SIR: Enclosed herewith is a copy of a letter from Michael Aelava, collector of the customs at the port of Mobile, to me, and my reply thereto: his letter and the vessels with the goods I met at Fort Stoddert, on my way to Mobile. I have earnestly to solicit you will direct me how to proceed in the particular business to which these letters relate, also, to give instructions for my government, generally, in my intercourse with the Spanish officers at Mobile, for your instructions would relieve me from much anxiety, occasioned by my fears, that, by acting from my own discretion, I may commit errors, or do things that might not meet your approbation; increased hindrances and obstacles are given by the Spanish officers at Mobile to this house; although justice demands that I shall state that Michael Aelava, collector, has been very civil and respectful in the execution of what he states to be the duties of his office, and the orders of his superior officers.

There will be a considerable quantity of peltry and fur to remit the ensuing Spring from this house; if a duty is to be allowed to the Spaniards upon its passage by Mobile, I must be furnished with the means to meet it. I, however, flatter myself that we will in a very short time have the free and unfettered navigation of the Mobile river.

I have the honor to be, sir, with perfect respect and attachment, your most obedient humble servant,

JOSEPH CHAMBERS.

Gen. DEARBORN, *Secretary of War.*

Copy of a letter from Michael Aelava to Joseph Chambers, dated

MOBILE, *Nov.* 20, 1804.

SIR: From what Mr. Smith gave me to understand, I have expected, since Sunday last, to have seen you here; the weather now is favorable, and I do not wish to detain the vessel. Mr. Smith has bound himself to me to pay the duties on his goods at the end of the year if Governor Folch does not free them; in full assurance that I have to do with a man of honor, and that you will acquiesce to the above conditions; and if not convenient for you to come down yourself, you can make out an obligation, (in the manner Mr. Smith has done,) for what goods belong to you, and send it to me as soon as possible, for as a public officer I must always have documents to show.

I am, with consideration and esteem, your most obedient servant,

M. AELAVA.

Document, relative to the obstruction of our commerce on the Mobile.

Copy of a letter from Joseph Chambers to Michael Aelava, Collector of the Customs, at Mobile, dated

FORT STODDERT, *Nov.* 27, 1804.

SIR: I had the honor to receive your letter of the 20th current, yesterday. It should have been known, that I did at Mobile, in April last, protest against the right to exact duties from the United States, for its property passing by water, from one of its ports to another, although, in such passage, it might intersect the territory of another Government; therefore, there was no ground of assurance or even probable expectation, that I would consent to, or acquiesce in the decision of Governor Folch, only on this question. Further, it will be recollected by the commandant, Capt. Osorno, Colonel Maxent, and Mr. Simpson, that I did at that time refuse to sign a bond for duties, (but the necessity of the case only induced me to pay the duties then demanded,) consequently, a bond could, or ought not to be expected from me in this instance, to authorize the passage of public goods, for the Indian trading-house, and the Indian presents, and more especially when we take into view the fifth article of the Treaty of San Lorenzo de Real of the 27th October, 1795, between the United States and the King of Spain, and which the stoppage of these goods, might, perhaps, have tended to counteract. Here I quoted the article. Vide treaty, article 5.

The United States have suffered Spanish subjects, for their own private account and interest, to furnish the Indians within their limits with merchandise without tax or hindrance.

The Spanish Government, by its officers at Mobile, have levied and demanded oppressive taxes on the property of the United States, which property or merchandise was expressly intended by the American Government for the humane and benevolent purposes of cultivating peace, friendship, and good will, between the Indians within their limits and the white people; and also to promote the civilization and happiness of these Indians.

Under the foregoing circumstances, no bond could, or will be given by me, without express orders from the Government under which I have the honor to act. No great public accommodation (for it is the Government only that is interested) is received by the permission for these goods to pass; after some of them had been detained one month, or thereabouts, without any notice being given for what cause, and, knowing, as I presume was known and well understood, that they were the property of the United States, and consequently, they must have been permitted to pass as their property only, without any relation to my individual honor or interest, and upon the Governmental responsibility. I feel confident that the American Government will cause justice to be done toward you as an officer, for the friendly accommodation intended them by the forwardment of their vessels. I shall send a copy of your letter, and of this, to the proper officers of Government, also inform them of the respectful manner in which you have exercised the duties of your office in your concerns with me. I am, &c.

JOSEPH CHAMBERS.

Governor Claiborne to the Secretary of State.

NEW ORLEANS, *Aug.* 7, 1805.

SIR: In my communication of the 29th ultimo, was enclosed a letter to me, from the Marquis of Casa Calvo, (soliciting that Spanish officers now in this territory may be exempted from the payment of the municipal tax,) together with a copy of my answer thereto.

I now have the honor to transmit you a second letter from the Marquis on the same subject, together with a list of the officers alluded to, and if it be not improper, I should be glad to hear your sentiments as to the propriety of the exemption solicited; my own opinion is, "that the officers generally who possess property within this territory are liable to taxation; nor can exemption be made in favor of the Marquis and the members of his family, until he shall have been recognised by the President as an agent of Spain." You, no doubt, will be surprised to find so many foreign officers in this city; the fact is, sir, they are wedded to Louisiana, and necessity alone will induce them to depart. I have repeatedly, by letter and verbally, informed the Marquis, that the continuance in this territory "of so many Spanish officers, so long beyond the right occasion for it," was not seen with approbation, and urged their departure. The Marquis has as often assured me of his disposition to comply with my wishes, but you will perceive that the inconvenience is not yet remedied.

I have the honor to be, sir, with great respect, your humble servant,

WM. C. C. CLAIBORNE.

JAMES MADISON, *Secretary of State.*

To the Governor of the Territory of New Orleans.

NEW ORLEANS, *Aug.* 2, 1805.

SIR: In consequence of the letter your Excellency has been pleased to write to me, relating to the doubt which I manifested concerning the persons employed in the commission of limits, and other subjects of His Catholic Majesty, who are yet in, but about to depart from this province, I enclose to your Excellency the list of persons who now compose the said commission, together with that of the individuals who are about to depart from this country, as soon as their business therein shall be terminated, and also, that of the retired individuals, and of the widows on pensions, who may remain in this province. May your Excellency live many years.

DE CASA CALVO.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

A list of the individuals composing the expedition of the limits of the Province of Louisiana, as approved by His Catholic Majesty's order of the 20th August, 1804.

Principal Commissioner—The Brigadier General Marquis de Casa Calvo.

Associate Commissioner—Lieutenant Colonel Don Joseph Martinez de Croza, brigade major in the corps of engineers.

Secretary—The Commissary at War *ad honores*, Don Andrew Lopez Armesto.

Clerk—The first sergeant of the regiment of the Havana, Antonio Martinez.

Captain—Don Nicholas Finiel.

Captain in the army—Don Stephen Minor.

Captain in the militia—Don Thomas Power.

Chaplain—Don Sebastian Gili.

Surgeon—Don Joachim Ablandedo.

Commander of the escorting troops—Don Benigno Bareior Calderon, adjutant in the regiment of Louisiana.

Sergeant of the same—John B. Dela la Cruz, with a corporal and ten grenadiers.

Adjutant—Don Ignatius Fernandez, adjutant of the regiment of Louisiana.

Officer of the revenue—Don John Tala.

Clerk of the same—Don Felix Tala, his son.

Surgeon of the Hospital—Don Fernando Moreno.

Commander of the galliot and smaller boats—Don Anthony Molina.

Carpenter—Manuel Guillemain.

NOTE.—That, for the purpose of purchasing of timber for the navy, the fourth officer of the naval administration Don Anthony de J. Carra, and his clerk Don John B. Bernendez, are in this place.

A. LOPEZ ARMESTO, *Secretary.*
MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

A list of persons employed by His Catholic Majesty, who are to depart as soon as their business is terminated.

ADMINISTRATION OF THE KING'S REVENUE.

1. Don John Ventura Morales, paymaster general of the army, late Intendant *pro tempore* in this province.
2. Don Gilbert Leonard, treasurer of the army, late paymaster general *pro tempore* in the said province.
3. Don Manuel Armirez, treasurer *pro tempore.*
4. Don Cayetano Valdez, secretary of the Intendency.
5. Don Francis Arroya, destined by a royal order for Porto Rico.
6. Don Joseph Ruida, who is to go to Campeachy.

CUSTOM-HOUSE.

1. Don Joseph Anthony de Hoa, administrator.
2. Don Anthony Morales, treasurer.
3. Don Manuel Toledano, officer of the guard of the custom-house.

ROYAL HOSPITAL.

1. Don Joseph Trustas, surgeon, who has order of the King to retire into Pensacola.

SURVEYOR GENERAL.

1. Don Charles Trudeau.

LOPEZ ARMESTO, *Secretary.*

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A list of the officers in His Majesty's service, who are to depart immediately after having terminated their business.

OFFICERS WHO BELONGED TO THE LATE STAFF OF THIS PLACE.

Town Major—Lieutenant Colonel Don Gilberto Guillemard, who is on the point of going to Pensacola.

Adjutant—Lieutenant Colonel Don Paul le Blanc, who is to go to the same place.

Adjutant—Captain Henry Mentzinger, who is ordered to go to the said place.

OFFICERS OF THE REGIMENT OF LOUISIANA.

Captains.

Lieutenant Colonel Don Zenon Trudeau,
Lieutenant Colonel Don Ignatius Delino,
Lieutenant Colonel Don Joseph le Blanc,
Lieutenant Colonel Don John Lassize,
Lieutenant Colonel Don Felix Trudeau.

NOTE.—They ought to have joined ther corps, and, for not having yet done it, are exposed to lose their commissions.

MILITIA.

Captain—Don Lewis de Clonet, late commander of the same.

ARMY.

Lieutenant Colonel—Don Peter Rousseau, who has solicited his retreat.

Captain—Don Henry Peyroux.

POSTS.

Don Peter Marin, late administrator of the same.

ANDREW LOPEZ ARMESTO.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

A list of the retired officers, and of other persons employed in the service of His Catholic Majesty, who remain in this Province in order to settle their business, or on account of their old age or infirmities.

1. Don Nicholas d'Annoy, colonel of the royal corps of artillery.
2. Don Manuel Perez, lieutenant colonel.
3. Don Peter Favrot, lieutenant colonel, and captain of grenadiers, with a royal permission for two years.
4. Don Manuel Panzos, captain.
5. Don Francis Rivas, captain.
6. Don Joseph Barmonde, captain.
7. Don William Dupare, captain.
8. Don Lewis Tudice, lieutenant, with the grade of captain.
9. Don Stephen Lamorandier, lieutenant, with the grade of captain.
10. Don Charles Morant, adjutant general of militia.
11. Don Charles de Villiers, first lieutenant of militia, with a royal permission for three years.
12. Don John Vives, first lieutenant of militia, with a royal permission for three years.
13. Don Peter Faillon, second lieutenant of militia.
14. Don Joseph Piernas, second lieutenant of militia.
15. Don Manuel Soilleau, second lieutenat of militia.
16. Don James Fernandez, second lieutenant of militia.
17. Don Silvestre, second lieutenant of milit ia

judgment, require: *Provided*, That the whole amount of ordinary compensations for clerks in the said office shall not exceed the sum of nine thousand three hundred and forty-five dollars annually.

SEC. 3. *And be it further enacted*, That the Director of the Mint be, and he is hereby, authorized to allow to one of the clerks employed in his office seven hundred dollars per annum; and the said Director is hereby authorized to expend the further sum of one thousand dollars, annually, in clerk hire, in such manner as his discretion shall dictate. And the Surveyor General is hereby allowed to expend twelve hundred dollars, annually, for clerk hire.

SEC. 4. *And be it further enacted*, That there shall be allowed to the Commissioners of Loans in the States of Massachusetts and New York, respectively, not exceeding five clerks, at the rate of five hundred dollars each, per annum; to the Commissioner of Loans in Connecticut, not exceeding two clerks, at the rate of four hundred dollars each, per annum; to the Commissioner of Loans in Pennsylvania, not exceeding six clerks, at the rate of five hundred dollars each, annually; to the Commissioners of Loans in Virginia and South Carolina, respectively, not exceeding two clerks, at the rate of five hundred dollars each, annually; the aggregate of compensations for clerks employed by either of said Commissioners to be apportioned among them at his discretion. And there shall be annually allowed, in lieu of clerk hire, to the Commissioner of Loans in the State of New Hampshire, three hundred and fifty dollars; to the Commissioner of Loans for the State of Rhode Island, four hundred dollars; to the Commissioner of Loans in the State of New Jersey, three hundred dollars; and to the Commissioner of Loans in the State of Maryland two hundred and fifty dollars.

SEC. 5. *And be it further enacted*, That the compensations allowed by this act to clerks shall commence with the year one thousand eight hundred and seven; and it shall be the duty of the Secretaries for the Departments of State, Treasury, War, and Navy, and of the Postmaster General and Surveyor General, and of the Commissioners of Loans in the several States, to report to Congress, at the beginning of each year, the names of the clerks they have employed, respectively, in the preceding year, and the sum given to each; and whether the business for clerks increases or diminishes in their respective departments, that Congress may be enabled to make further arrangements by law respecting clerk hire. And it shall be the duty of the Secretary of the Treasury particularly to report whether the business in the loan office of Pennsylvania shall, from year to year, continue to require the additional sum of two thousand dollars allowed by this act for clerk hire, in consequence of the removal of the Treasury Office from Philadelphia, in eighteen hundred, to the permanent seat of Government; and likewise he shall report the necessity, if such shall continue, of employing clerks on the business belonging to the office of the late Commissioner of the Revenue.

SEC. 6. *And be it further enacted*, That hereafter, in case of the removal of any public office, by reason of sickness which may prevail in the town or city where such office is located, a particular account of the cost of such removal shall be laid before Congress that they may be enabled to judge of the proper sum to be allowed for the same.

SEC. 7. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to cause to be opened a road from the frontier of Georgia on the route from Athens to New Orleans, till the same intersects the thirty-first degree of north latitude: Provided, he shall not expend more than six thousand four hundred dollars in opening the same. And to cause to be opened a road or roads through the territory lately ceded by the Indians to the United States, from the river Mississippi to the Ohio, and to the former Indian boundary line which was established by the treaty of Greenville: Provided, he shall not expend in opening the same more than six thousand dollars. And to cause to be opened a road from Nashville, in the State of Tennessee, to Natchez, in the Mississippi Territory: Provided, he shall not expend more than six thousand dollars in opening the same.

SEC. 8. *And be it further enacted*, That to defray the expense authorized by this act beyond the appropriation for the support of Government for the year one thousand eight hundred and six, there is hereby appropriated a sum not exceeding twenty-eight thousand dollars, payable out of any money in the Treasury not otherwise appropriated. And that the act entitled "An act to regulate and fix the compensation of clerks," which passed on the second day of March, one thousand seven hundred and ninety-nine, shall, from and after the first day of January next be, and the same is, hereby repealed.

Approved, April 21, 1806.

An Act making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and six.

Be it enacted, &c., That, for defraying the expenses of the Navy of the United States during the year one thousand eight hundred and six, the following sums be, and the same are, hereby respectively appropriated, that is to say:

For pay and subsistence of the officers, and pay of the seamen, two hundred and ninety-one thousand one hundred and nineteen dollars.

For provisions, one hundred and fifty seven thousand two hundred and fifty-four dollars and thirty-four cents.

For medicine, instruments, and hospital stores, seven thousand five hundred dollars.

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For medicine, instruments, and hospital stores, seven thousand five hundred dollars.

For repairs of vessels, store rent, pay of armorers, freight, and other contingent expenses, four hundred and eleven thousand nine hundred and fifty dollars.

For pay and subsistence of the marine corps

including provisions for those on shore, and forage for the staff, sixty-six thousand and twenty-eight dollars and ten cents.

For clothing for the same, fourteen thousand three hundred and sixty dollars.

For military stores for the same, one thousand one hundred and thirty-five dollars.

For medicine, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, one thousand one hundred and fifty dollars.

For quartermaster's and barrackmaster's stores, officers' travelling expenses, armorer's and carpenter's bills, fuel, premium for enlisting, musical instruments, bounty to music, and other contingent expenses, eight thousand one hundred and forty-five dollars.

For the expense of navy yards, docks, and other improvements, the pay of superintendents, storekeepers, clerks, and laborers, sixty thousand dollars.

For ordnance, fifty thousand dollars.

For completing the marine barracks at the city of Washington, three thousand five hundred dollars.

Sec. 2. *And be it further enacted*, That the several sums herein specifically appropriated shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, April 21, 1806.

An Act to provide for the adjustment of titles of land in the town of Detroit and Territory of Michigan, and for other purposes.

Be it enacted, &c., That the Governor and the Judges of the Territory of Michigan shall be, and they, or any three of them, are hereby authorized to lay out a town, including the whole of the old town of Detroit, and ten thousand acres adjacent, excepting such parts as the President of the United States shall direct to be reserved for the use of the military department, and shall hear, examine, and finally adjust all claims to lots therein, and give deeds for the same. And to every person, or the legal representative or representatives of every person, who, not owing or professing allegiance to any foreign Power, and being above the age of seventeen years, did, on the eleventh day of June, one thousand eight hundred and five, when the old town of Detroit was burnt, own or inhabit a house in the same, there shall be granted by the Governor and the Judges aforesaid, or any three of them, and where they shall judge most proper, a lot not exceeding the quantity of five thousand square feet.

Sec. 2. *And be it further enacted*, That the land remaining of the said ten thousand acres, after satisfying claims provided for by the preceding section, shall be disposed of by the Governor and Judges aforesaid, at their discretion to the best advantage, who are hereby authorized to make deeds to purchasers thereof; and the proceeds of the land so disposed of shall be applied by the Governor and Judges aforesaid towards building a court house and jail in the town of Detroit, and the said Governor and Judges are required to make a report to Congress, in writing, of their proceedings under this act.

Approved, April 21, 1806.

An Act making a further appropriation towards completing the south wing of the Capitol, at the city of Washington.

Be it enacted, &c., That a sum not exceeding forty thousand dollars shall be, and the same is, hereby appropriated, to be applied under the direction of the President of the United States, towards completing the south wing of the Capitol, at the city of Washington, which said sum shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 21, 1806.

An Act to amend, in the cases therein mentioned, the "Act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That so much of the "Act to regulate the collection of duties on imports and tonnage" as requires the collector for the district of Great Egg Harbor, in the State of New Jersey, to reside at Somers' Point, be, and the same hereby is, repealed; and the said collector shall reside at such place, within said district, as may be directed by the Secretary of the Treasury.

Sec. 2. *And be it further enacted*, That the town or landing place of Darien, on the Alatamaha river, in the State of Georgia, shall be a port of delivery, to be annexed to the district of Brunswick, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and a surveyor shall be appointed to reside at the said port of delivery, who shall be entitled to receive one hundred dollars annual salary, together with the other emoluments of office, as fixed by existing laws.

Sec. 3. *And be it further enacted*, That Ocracocke inlet, in North Carolina, together with Shell Castle and Beacon islands, and all the shores, islands, shoals, bays, and waters within two miles of the shores of said inlet, on each side thereof, shall be a district, to be called the district of Ocracocke; the President of the United States shall be authorized to designate such place in the said district as he shall think proper to be the port of entry; and a collector for said district shall be appointed to reside at such port of entry, who, in addition to his other emoluments, shall be entitled to receive the salary now allowed to the surveyor of Beacon island, and no other; and shall also perform the duties heretofore enjoined by law on the said surveyor; but no duties shall be paid, or secured to be paid, in the said district of Ocracocke, on any articles intended for any other port connected with the waters of the said inlet of Ocracocke, such only excepted as may be cast away within the said district. The office of surveyor of Beacon island shall be henceforth abolished, and the masters or commanders of every ship or vessel coming in at Ocracocke inlet, and intending to unlade her cargo, or any part thereof, at any port, other than the district of Ocracocke, connected with the waters of the said inlet, as well as the masters or commanders of all lighters or coasting vessels, who shall receive goods, wares, or merchandise to be transported to any such port, shall be bound to exhibit their reports and manifests to the said collector, and to perform all the other duties which, by the eighteenth section of the act entitled "An act to regulate the collection of duties on imports and tonnage," they are now bound to perform, under similar circumstances, in the inlet aforesaid.

Approved, April 21, 1806.

An Act in addition to an act, entitled "An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee."

Be it enacted, &c., That whenever any person who shall have received pre-emption certificates from either of the Boards of Commissioners, appointed for the purpose of ascertaining the rights of persons to lands in the Mississippi Territory, shall, by a final judgment or decree of the highest court of law, or equity, in which a decision could be had, within the said Territory, rendered in favor of another person claiming by virtue of a British patent, lose the whole or part of the tract of land to which he was entitled by virtue of such certificate, it shall be lawful for the receiver of public moneys for the district where the land lies, to repay to such person or his assigns, so much of the purchase money as has been paid by him for the land thus recovered, by the holder of the British patent. In all cases where only a part of a tract of land, to which any person may be entitled by virtue of a certificate granted by the commissioners aforesaid, is also claimed by the holder of a British patent, a patent may issue in favor of the owners of such certificate, for so much of such tract of land as is not claimed by virtue of such British patent: *Provided*, That he shall in every other respect have complied with the provisions of the acts of Congress, regulating the grants of land in the Mississippi Territory. And the lands contained in British grants, which have been duly recorded in conformity with the provisions of former laws, and for which certificates have not been granted by commissioners aforesaid, shall not be disposed of until otherwise directed by Congress.

Sec. 2. *And be it further enacted*, That persons entitled to a right of pre-emption to lands in the Mississippi Territory, by virtue of certificates granted by either of the Boards of Commissioners aforesaid, shall be allowed till the first day of January, one thousand eight hundred and seven, to make the first payment of the purchase money of such lands: And if any such person shall neglect to make such first payment, on or before the first day of January, one thousand eight hundred and seven, his right of pre-emption shall cease and become void.

Sec. 3. *And be it further enacted*, That each of the commissioners appointed to ascertain the claims to lands in the abovementioned Territory, west of Pearl river, shall be allowed at the rate of six dollars for every day he shall attend, subsequent to the first day of April, one thousand eight hundred and six: *Provided*, That such additional allowance shall not exceed five hundred dollars, for each commissioner; and the agent appointed in behalf of the United States for the said Board shall be allowed an additional compensation of three hundred and fifty dollars for the whole of his services. And the register and receiver of public moneys in each of the districts of the above mentioned Territory, shall, and they are hereby authorized, in their districts, respectively, and after the dissolution of the board of commissioners for their district, to regulate the location of any tract of land lying within such district, for which a certificate shall have been granted by the commissioners, whenever it shall appear that the location specified in such certificates, interfere with each other, or do not include the improvements, by virtue of which such certificates were granted: *Provided*, That the said register and receiver shall not be authorized to allow any location on land not improved and settled, in the manner provided by the former acts of Congress, regulating the grants of land in the abovementioned Territory; nor to allow, in any case, a greater quantity of land than had been allowed by the commissioners.

Sec. 4. *And be it further enacted*, That whenever it shall appear to the satisfaction of the register and receiver of the district east of Pearl river, that the settlement and occupancy, by virtue of which a pre-emption certificate had been granted by the commissioners, had been made and taken place, prior to the 30th day of March, one thousand seven hundred and ninety-eight, they shall be authorized to grant to the party a donation certificate, in lieu of such pre-emption; and the patent shall issue as in other cases of donations: *Provided*, That application shall be made for such an exchange, and evidence produced of the date of such settlement and occupancy, on or before the 31st day of December next.

Sec. 5. *And be it further enacted*, That the right of the United States to all the land lying between the front street of the city of Natchez and the Mississippi river, and bounded on the north by north fourth street, and the land granted to Stephen Minor, and on the south, by the lands annexed to the old fort, and those granted to William Barland, be, and the same hereby is, forever vested in the corporation of said city, so as not to affect the legal or equitable claims of any individuals, or of any body politic, or corporate, if any such there be: *Provided*, That the said land, as above described, be neither cultivated nor occupied by buildings, but that it be planted with trees, and preserved as a common, for the use, comfort, and health of the inhabitants of the city aforesaid, and all other persons who may occasionally resort thither.

Sec. 6. *And be it further enacted*, That whenever the section No. 16, shall fall upon land already granted, by virtue of any act of Congress, or claimed by virtue of a British grant, the Secretary of the Treasury shall locate another section, in lieu thereof, for the use of schools, which location shall be made in the same township, if there be

any other vacant section therein, and otherwise, in an adjoining township.

Sec. 7. *And be it further enacted*, That Richard Sparks be permitted to enter with the register of the land office for the district west of Pearl river, his claim to three hundred and twenty acres of land, lying within said district; and that Richard S. Bryan, and George Brewer, senior, be permitted to enter with the register of the land office for the district east of Pearl river, their certificate of a right of pre-emption for three hundred and twenty acres of land, lying within the district last mentioned: and such entry of the claim of the said Richard Sparks shall have the same effect, as if it had been made prior to the first day of December, one thousand eight hundred and four, and such entry of the certificate of the said Richard S. Bryan and George Brewer, senior, shall have the same effect as if it had been made within three months from the time it was issued.

Approved, April 21, 1806.

An Act for fortifying the ports and harbors of the United States, and for building gunboats.

Be it enacted, &c., That a sum of money, not exceeding one hundred and fifty thousand dollars, in addition to the sums heretofore appropriated, shall be, and the same is hereby appropriated, to enable the President of the United States to cause the ports and harbors of the United States to be better fortified and protected.

Sec. 2. *And be it further enacted*, That a sum of money, not exceeding two hundred and fifty thousand dollars, in addition to the sums heretofore appropriated, shall be, and the same is hereby appropriated, to enable the President of the United States to cause to be built and completed a number of gunboats, not exceeding fifty, for the protection of the harbors, coasts, and commerce of the United States; and the President is hereby authorized to officer, man, and equip, any part, or all of said gunboats, when he shall judge the same expedient, for the purposes aforesaid; and a sum not exceeding twenty thousand dollars is hereby appropriated, to defray any expense which may be incurred by officering, manning, and equipping gunboats, as aforesaid.

Sec. 3. *And be it further enacted*, That the President of the United States may direct any of the armed vessels of the United States to be sold, whenever he shall be of opinion that the said vessel is so much out of repair, that it will not be for the interest of the United States to repair the same.

Sec. 4. *And be it further enacted*, That the several sums of money hereby appropriated shall be paid out of any money in the Treasury of the United States, not otherwise appropriated.

Approved, April 21, 1806.

An Act for establishing trading-houses with the Indian tribes.

Be it enacted, &c., That it shall be lawful for the President of the United States to establish trading-houses at such posts and places on the frontiers, or in the Indian country, on either or both sides of the Mississippi river, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations, within the United States, or their territories.

Sec. 2. *And be it further enacted*, That the President of the United States shall be authorized to appoint a superintendent of Indian trade, whose duty it shall be to purchase and take charge of all goods intended for trade with the Indian nations aforesaid, and to transmit the same to such places as he shall be directed by the President. And he shall take an oath or affirmation faithfully to execute the trust committed to him, and that he will not directly, or indirectly, be concerned, or interested in any trade, commerce, or barter, but on the public account; and he shall also give bond, in the penal sum of twenty thousand dollars, with sufficient security, to be approved of by the Secretary of the Treasury of the United States, truly and honestly to account for all the money, goods, and other property, whatever, which shall come into his hands, or for which in good faith he ought so to account, and to perform all the duties required of him by this act; and his accounts shall be made up quarter yearly, and transmitted to the Secretary of the Treasury.

Sec. 3. *And be it further enacted*, That the superintendent of Indian trade shall receive an annual salary of two thousand dollars, payable quarter yearly, at the Treasury of the United States.

Sec. 4. *And be it further enacted*, That the President of the United States shall be authorized to appoint an agent for each trading-house established under the provisions of this act; and every such agent shall give bond with sufficient security in such sum as the President shall direct, truly and honestly to account for all the money, goods, and other property, whatever, which shall come into his hands, and for which he ought so to account, and to perform all the duties required of him by this act.

Sec. 5. *And be it further enacted*, That it shall be the duty of each of the said agents to receive, from the superintendent of Indian trade, and dispose of, in trade with the Indian nations aforesaid, such goods as may be transmitted to him by the said superintendent, to be received and disposed of as aforesaid, according to the rules and orders which the President of the United States shall prescribe; and every such agent shall take an oath or affirmation, faithfully to execute the trust committed to him; and that he will not, directly or indirectly, be concerned or interested in any trade, commerce or barter, but on the public account, and he shall render an account quarter yearly to the superintendent of Indian trade, of all money, goods, and other property whatsoever, which shall be transmitted to him, or which shall come into his hands, or for which, in good faith, he ought to account; and he shall transmit duplicates of his accounts to the Secretary of the Treasury of the United States.

Sec. 6. *And be it further enacted*, That the superintendent of Indian trade, the agents, their

clerks, or other persons employed by them, shall not be, directly or indirectly, concerned in exporting to a foreign country any peltries or furs, belonging to the United States, or interested in carrying on the business of trade or commerce, on their own, or any other than the public account, or take or apply to his or their own use, any emolument or gain for negotiating or transacting any business or trade, during his or their appointment, agency or employment, other than provided by this act, or excepting for, or on account of the United States. And if any such person shall offend against any of the prohibitions aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such office, agency, or employment, and forever thereafter be incapable of holding any office under the United States: *Provided*, That if any person, other than a public prosecutor, shall give information of any such offence, upon which a prosecution and conviction shall be had, one half of the aforesaid penalty, when received, shall be for the use of the person giving such information: *And provided also*, That if such misdemeanor be committed by the superintendent of Indian trade, or by any agent, it shall be deemed a breach of the condition of his bond, and the penalty thereof may be recovered in any court having competent jurisdiction of the same.

Sec. 7. *And be it further enacted*, That the prices of goods supplied to, and to be paid for, by the Indians, shall be regulated in such manner, that the capital stock, furnished by the United States, shall not be diminished.

Sec. 8. *And be it further enacted*, That during the continuance of this act, the annual sum of three thousand dollars be, and the same is hereby, appropriated for the payment of the salary of the superintendent of Indian trade and his clerks, to be paid out of any money in the Treasury of the United States, not otherwise appropriated.

Sec. 9. *And be it further enacted*, That, during the continuance of this act, the President of the United States be, and he is hereby, authorized to draw annually, from the Treasury of the United States, a sum not exceeding ten thousand dollars, to be applied under his direction to the payment of the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day.

Sec. 10. *And be it further enacted*, That the sum of two hundred and sixty thousand dollars, including the sums heretofore appropriated, and applied to the like purpose, and exclusive of the superintendent of Indian trade and of the allowances to agents and clerks, be, and the same is hereby appropriated, for the purpose of carrying on trade and intercourse with the Indian nations, in the manner aforesaid, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Sec. 11. *And be it further enacted*, That if any agent or agents, their clerks, or other person employed by them, shall purchase or receive from any Indian in the way of trade or barter, any gun, or other article commonly used in hunting; any instrument of husbandry or cooking utensil, of the kind usually obtained by Indians in their intercourse with white people, or any article of clothing, excepting skins or furs, he or they shall respectively forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court having jurisdiction in like cases: *Provided*, That no suit shall be commenced except in the State or Territory within which the cause of action shall have arisen, or in which the defendant may reside. And it shall be the duty of the superintendent of Indian trade, or of the superintendents of Indian affairs, and their deputies respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, to prosecute the offender without delay.

Sec. 12. *And be it further enacted*, That it shall be the duty of the said superintendent of Indian trade, under the direction of the President of the United States, to cause the said furs and peltry to be sold at public auction, public notice whereof shall be given three weeks previous to such sale, in different parts of the United States, making an equal distribution of the same, in proportion to the demand of the market, and as may be deemed most advantageous to the United States, and upon such terms and conditions as shall be prescribed by the Secretary of War: *Provided*, That there shall not be less than six annual public sales, of the said furs and peltry, and that the superintendent of the Indian trade shall not hold more than two such sales in any State, during any one year.

Sec. 13. *And be it further enacted*, That this act shall be in force for and during the term of three years, and no longer.

Approved, April 21, 1806.

An Act for the punishment of counterfeiting the current coin of the United States, and for other purposes.

Be it enacted, &c., That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any gold or silver coins, which have been, or which hereafter shall be, coined at the Mint of the United States, or who shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any foreign gold or silver coins, which, by law now are or hereafter shall be made current, or be in actual use and circulation as money within the United States; or who shall utter, as true, any false, forged, or counterfeited coins of gold or silver, as aforesaid, for the payment of money, with intention to defraud any person or persons, knowing the same to be falsely made, forged, or counterfeited; any such person, so offending, shall be deemed and adjudged guilty of felony, and being thereof convicted, according to the due form of law, shall be sentenced

to imprisonment, and kept at hard labor, for a period not less than three years, nor more than ten years; or shall be imprisoned not exceeding five years, and fined not exceeding five thousand dollars.

Sec. 2. *And be it further enacted*, That if any person shall import or bring from any foreign place into the United States, any false, forged, or counterfeit gold or silver coins, which are by law made current, or are in actual use and circulation, as money, within the United States, with the intent to utter, or make payment with the same, knowing the same to be falsely made, forged, or counterfeited; or who shall utter, as true, any such false, forged, or counterfeited, coins of gold or silver, as aforesaid, for the payment of money, with intention to defraud any person or persons, knowing the same to be falsely made, forged, or counterfeited, the person so offending shall be deemed guilty of felony, and being thereof convicted, according to due course of law, shall be sentenced to imprisonment, and kept at hard labor, for a period not less than two years, nor more than eight years; or shall be imprisoned not exceeding two years, and fined not exceeding four thousand dollars.

Sec. 3. *And be it further enacted*, That if any person shall fraudulently, and for gain's sake, by any art, way, or means whatsoever, impair, diminish, falsify, scale, or lighten the gold or silver coins, which have been, or which shall hereafter be coined at the Mint of the United States; or any foreign gold or silver coins, which are by law made current, or are in actual use and circulation as money within the United States, every person so offending shall be deemed guilty of a high misdemeanor, and shall be imprisoned not exceeding two years, and fined not exceeding two thousand dollars.

Sec. 4. *And be it further enacted*, That nothing in this act contained, shall be construed to deprive the courts of the individual States of jurisdiction, under the laws of the several States, over offences made punishable by this act.

Approved, April 21, 1806.

An Act to repeal so much of any act or acts as authorizes the receipt of evidences of the Public Debt, in payment for the lands of the United States, and for other purposes, relative to the Public Debt.

Be it enacted, &c., That so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for the lands of the United States, shall, from and after the thirtieth day of April, one thousand eight hundred and six, be repealed: *Provided*, That the right of all who may have purchased public lands previous to the passage of this act, to pay for the same in stock, shall in nowise be affected or impaired: *And provided, further*, That there shall be allowed on every payment made in money, at or before the same shall fall due, for lands purchased before the thirtieth day of April, one thousand eight hundred and six, in addition to the discounts now allowed by law, a deduction equal to the difference at the time of such payment, between the market price of six per cent. stock and the nominal value of its unredeemed amount, which market price shall, from time to time, be stated by the Secretary of the Treasury to the officers of the several land offices.

Sec. 2. *And be it further enacted*, That the Commissioners of the Sinking Fund shall not be authorized to purchase any of the several species of the public debt, at a higher price than at the rates following, that is to say: they shall not pay more for three per cent. stock than sixty per cent. of its nominal value; nor for any other species of the public debt more than the nominal value of its unredeemed amount, the eight per cent. stock only excepted; for which they shall be authorized, in addition thereto, to give, at the rate of one half of one per cent. on the said nominal value, for each quarterly dividend which may be payable on such purchased stock, from the time of such purchase to the first day of January, one thousand eight hundred and nine.

Sec. 3. *And be it further enacted*, That so much of any act as directs that purchases of the public debt, by the Commissioners of the Sinking Fund, shall be made within the thirty days next ensuing after each day on which a quarterly payment of interest on the debt of the United States shall become due, and also so much of any act as directs that the said purchases shall be made by open purchase or by sealed proposals, be, and the same hereby is, repealed. And the said Commissioners are hereby authorized to make such purchases, under the restrictions laid by the preceding section, in such manner, and at such times and places as they shall deem most eligible; and for that purpose to appoint a known agent or agents, to whom they may allow a commission, not exceeding one-fourth of one per cent. on the respective purchases of such agents.—[Approved, April 18, 1806.

An Act for erecting certain light-houses in the State of Massachusetts; for building a beacon, or pier, at Bridgeport in the State of Connecticut; and for fixing buoys in Pamlico Sound, in the State of North Carolina.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected the following light-houses in the State of Massachusetts:

One on Franklin island, at the mouth of St. George's river, in the district of Maine.

One on West Passamaquoddy head, at the entrance into the bay and harbor of Passamaquoddy, in the district of Maine.

And a double light-house at or near Chatham harbor, on the back of Cape Cod.

Provided sufficient land for the accommodation of the said light-houses can be obtained at reasonable prices, and the Legislature of Massachusetts shall cede the jurisdiction over the same to the United States. And the Secretary of the Treasury is hereby authorized to agree for the salaries, or wages, of the persons who may be appointed by the President for the superintendence and care of said light houses, and otherwise to provide for the same, at the expense of the United States.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, required to cause a beacon, or pier, to be erected near the mouth of the harbor of Bridgeport in the State of Connecticut; and to cause buoys to be fixed on Bluff Shoal, Royal Shoal, Northwest Straddle, and Southwest Straddle, in the waters of Pamlico Sound, in the State of North Carolina.

Sec. 3. *And be it further enacted*, That there be appropriated, for defraying the expense of erecting each of the aforesaid light-houses, the sum of five thousand dollars; for the expense of erecting the said beacon, or pier, the sum of one thousand dollars; and for the expense of fixing the said buoys, one thousand dollars, to be paid, respectively, out of any money in the Treasury, not otherwise appropriated.—[Approved, April 21, 1806.

An Act supplementary to the act, entitled "An act to extend jurisdiction in certain cases to the Territorial Courts."

Be it enacted, &c., That the provisions of the act, entitled "An act for providing compensation for the marshals, clerks, attornies, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," passed February the twenty-eighth, one thousand seven hundred and ninety-nine, be, and the same hereby are, extended to the Territories of the United States, so far as the said act may relate to the provisions of the act, entitled "An act to extend jurisdiction in certain cases to the Territorial courts," passed March the third, one thousand eight hundred and five, excepting that the clerks of the said Territorial courts shall not receive the additional five dollars per day, allowed to the clerks of the circuit and district courts by the third section of the act first above mentioned.—[Approved, April 18, 1806.

An Act making appropriations for carrying into effect certain Indian treaties.

Be it enacted, &c., That, for the purpose of carrying into effect a treaty between the United States and the Delawares, Potawatamies, Miamies, Eel river and Weas, holden at Grouseland, near Vincennes, on the twenty-first day of August, one thousand eight hundred and five, the sum of one thousand six hundred dollars is hereby appropriated, to be paid to the said tribes, annually, as follows: to the Miamies, six hundred dollars; to the Eel river tribe, two hundred and fifty dollars; to the Weas, two hundred and fifty dollars; which several annuities shall be permanent: and to the Potawatamies, annually, for the term of ten years, and no longer, the sum of five hundred dollars, in addition to former annuities.

Sec. 2. *And be it further enacted*, That, for the purpose of carrying into effect a treaty between the United States and the Wyandot, Ottawa, Munsee and Delaware, Shawanee, and Potawatami nations, holden at Fort Industry, on the fourth day of July, one thousand eight hundred and five, the annual sum of eight hundred and twenty-five dollars be, and the same is hereby, appropriated.

Sec. 3. *And be it further enacted*, That, for the purpose of carrying into effect two treaties between the United States and the Cherokee Indians, holden at Tellico, on the twenty-fifth and twenty-seventh days of October, one thousand eight hundred and five, a sum of fifteen thousand six hundred dollars, and the further annual sum of three thousand dollars be, and the same is hereby, appropriated.

Sec. 4. *And be it further enacted*, That, for the purpose of carrying into effect a convention between the United States and the Creek nation of Indians, concluded at the city of Washington, on the fourteenth day of November, one thousand eight hundred and five, a sum of twelve thousand dollars, annually, for eight years, and the sum of eleven thousand dollars, annually, for the term of ten years, next thereafter succeeding, be, and the same are hereby, appropriated.

Sec. 5. *And be it further enacted*, That the several sums appropriated by this act, shall be paid out of any money in the Treasury, not otherwise appropriated.—[Approved, April 21, 1806.

An Act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and six.

Be it enacted, &c., That for defraying the expense of the Military Establishment of the United States, for the year one thousand eight hundred and six; for the Indian Department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be, and the same hereby are respectively appropriated; that is to say:

For the pay of the Army of the United States, three hundred and two thousand, five hundred and fifty-six dollars:

For forage, four thousand six hundred and eight dollars:

For the subsistence of the army and corps of engineers, two hundred and twenty-four thousand nine hundred and ninety-four dollars, five cents:

For clothing, eighty-five thousand dollars:

For bounties and premiums, fifteen thousand dollars:

For the medical and hospital departments, twelve thousand dollars:

For camp equipage, fuel, tools, and transportation, eighty-five thousand dollars:

For fortifications, arsenals, magazines and armories, two hundred and eighteen thousand five hundred and forty two dollars, five cents:

For purchasing maps, plans, books, and instruments, one thousand five hundred dollars:

For the contingent expenses of the War Department, eighteen thousand dollars:

For the pay and subsistence of the commandants in Louisiana, six thousand and sixty-six dollars, sixty-seven cents:

For the Indian Department, ninety-six thousand six hundred dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged, first, out of any balance remaining unexpended of former appropriations for the support of the Military Establishment; and, secondly, out of any moneys in the Treasury not otherwise appropriated.

Approved, April 18, 1806.

An Act further to alter and establish certain post roads; and for other purposes.

Be it enacted, &c., That the following post roads shall be discontinued: From Dixon's Spring to Lebanon, in Tennessee; and from Raleigh, by Haywood, Chatham Court-house, and Chapel Hill to Hillsborough, in North Carolina.

2. Sec. *And be it further enacted*, That the following post roads be established:

In Massachusetts—From Granville, through Sandisfield and New Marlborough, to Stockbridge; and from Rochester, by Middleborough, East Meeting House, to East Bridgewater; from Brookfield, through Brimfield, in Massachusetts, to Stafford Springs, and thence to Tolland, in Connecticut.

In the District of Maine—From Brewer's to Plantation number five. From Vassalborough, through Fairfax, Unity, Collegetown, to Hamden. From Buckfield, through Hartford, to Livermore; and from New Milford, through Ballston, Palermo, and Davistown, to Belfast.

In Vermont—From Royalton, through Tunbridge, Chelsea, and Vershire, to Corinth.

In Connecticut—From Pomfret, through Gloucester, to Providence, in Rhode Island.

In New York—From the town of Cherry Valley, through Springfield, Richfield, and Bridgewater, to Sangersfield; and from Harrisburg, through Williamstown, Ogdensburg, Potsdam, Chautagay, to Plattsburg. From Rome, through Redfield, Adams, by Smith's Mills to Sacket Harbor, and from thence to Chemangh. From Bath, through Canistiotown, Danville, and Williamsburg to Hartford; and from Onondago to the village of Oswego in Lysander; and a cross post from West Hampton, to River Head. From New Lebanon, in the State of New York, by Hancock, Richmond, Lennox, Lee, Becket, Loudon, and Sandisfield, in Massachusetts, to New Hartford in Connecticut.

In New Jersey—From Belvidere to Stroudsburg, in Pennsylvania.

In Pennsylvania—From Berlin, through Salisbury, to Cumberland. From Greensburgh to Kittanning; from Tuckhannock, to Chenango Point in New York; and from Greensburg, through Mount Pleasant, Robbstown, and Williamsport, to Washington; and from Washington, through Alexandria, to Wheeling. From Gettysburg, through Millerstown, Nicholson's Gap, and Waynesburg, to Green Castle.

In Delaware—From the village of Christiana, through Newark, to Stratsburg in Pennsylvania; and from Georgetown, through Concord, to Laurel.

In Maryland—The post road from Vienna, in Dorchester county, to Snow Hill, in Worchester county, and thence returning to Vienna, may, in the discretion of the Postmaster General, be so altered as to pass over Wicomico Lower Ferry and Quantico Mills: *Provided*, No additional expense in transporting the mail shall be incurred thereby.

In Virginia—From Lynchburgh to Lexington. From Waterford to Snicker's Gap, by the stores of Robert Braden and Jesse Janny, and from thence to Upperville, and to return by Israel Janny's Mill. From Wythe Court-house, by Tazewell Court-house, Russel Court-house, Lee Court-house, to Robinson's Mills. And from Madison Court-house to Stannardsville. The post road from Manchester to Colesville, shall pass, by Chesterfield Court-house and Spring Hill.

In North Carolina—From Averysborough by Haywood, Chatham Court-house, to cross Haw river near Jones's Ferry, to Hillsborough. From Raleigh, by Chapel Hill, to Hillsborough. From Wilmington, through Conwayborough, to Georetown, in South Carolina; and from Wilksborough to Ashe Court-house.

In South Carolina—From Portsferry, to Conwayborough; and from Portsferry, by Marion Court-house, to Thomas Harley's.

In Georgia—From Washington to Petersburg, and from Athens to Knoxville in Tennessee.

In Ohio—From Cincinnati, by North Bend, to Lawrenceburgh in the Indiana Territory. From Austinburg to Erie, in Pennsylvania, and from Franklinton to Worthington.

In Kentucky—From New Castle, or Henry Court-house, by Gallatin Court-house and Boone Court-house, to Laurenceburgh, in the Indiana Territory; and the post road from Henderson to Eddyville shall pass by Livingston Court-house.

In Tennessee—From Mount Granger to Carthage, thence, by Cavenaugh, to Lebanon. From Nashville to Charlotte. From Burville by Walnut Cove, thence along the turnpike road, by way of Chitwood's, to Pulaski in Kentucky; and from Palmyra to Stuart Court-house, and thence to Eddyville.

In Orleans Territory—From Rapide Settlement to Opelousas.

Sec. 3. *And be it further enacted*, That a sum not exceeding two hundred and fifty dollars, be, and the same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to enable the Postmaster General to defray the expenses which already are, or hereafter may be, incurred in providing for the accommodation of Joseph H. Webb, who, in August last, was wounded by some person unknown, whilst he was employed in carrying the mail of the United States, and who is now under the care of the commandant at Fort Stoddert.

Sec. 4. *And be it further enacted*, That this act shall not be so construed as to affect any existing contract for carrying the mail.

Approved, April 21, 1806.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be requested to cause to be made known to Nicholas C. Nissen, esquire, His Danish Majesty's Consul residing at Tripoli, the high sense entertained by Congress, of his disinterested and benevolent attentions, manifested to Captain Bainbridge, his officers, and crew, during the time of their captivity in Tripoli.

Approved, April 10, 1806.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

NINTH CONGRESS—SECOND SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

NINTH CONGRESS—SECOND SESSION.

COMPRISING THE PERIOD FROM DECEMBER 1, 1806, TO MARCH 3, 1807, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

1852.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE NINTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 1, 1806.

MONDAY, December 1, 1806.

The second session of the Ninth Congress, conformably to the Constitution of the United States, commenced this day, at the City of Washington, and the Senate assembled, in their Chamber.

PRESENT:

GEORGE CLINTON, Vice President of the United States, and President of the Senate.

WILLIAM PLUMER and NICHOLAS GILMAN, from New Hampshire.

JOHN QUINCY ADAMS and TIMOTHY PICKERING, from Massachusetts.

URIAH TRACY, from Connecticut.

BENJAMIN HOWLAND, from Rhode Island.

STEPHEN R. BRADLEY and ISRAEL SMITH, from Vermont.

SAMUEL L. MITCHILL, from New York.

JOHN CONDIT and AARON KITCHEL, from New Jersey.

GEORGE LOGAN and SAMUEL MACLAY, from Pennsylvania.

SAMUEL WHITE, from Delaware.

DAVID STONE, from North Carolina.

JOHN GAILLARD, from South Carolina.

ABRAHAM BALDWIN, from Georgia.

THOMAS WORTHINGTON, from Ohio.

WILLIAM B. GILES, appointed a Senator by the Legislature of the Commonwealth of Virginia, for the term of six years, from and after the 4th day of March last, produced his credentials, which were read; and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and are ready to proceed to business.

Ordered, That the Secretary notify the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee, on their part, with such committee as the Senate may appoint, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communication that he may be pleased to make to them.

The Senate took into consideration the resolution of the House of Representatives last mentioned, for the appointment of a joint committee, and

Resolved, That they do concur therein; and

Ordered, That Messrs. MITCHILL and STONE be the committee on the part of the Senate.

Mr. MITCHILL reported, from the joint committee, that they had waited on the President of the United States, agreeably to the resolution of this day, and that the President of the United States had informed the committee that he would make a communication to the two Houses to-morrow, at twelve o'clock.

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose; provided that the same be furnished at the usual rate for the annual charge of such papers: and provided, also, that, if any Senator shall choose to take any newspapers, other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

The PRESIDENT communicated a memorial, signed James Henry, foreman of a grand jury of the Territory of Michigan, against certain provisions of a bill, under consideration during the last session, to amend an act, entitled "An act to divide the Indiana Territory into two separate governments, and for other purposes;" and the memorial was read, and ordered to lie on the table.

TUESDAY, December 2.

SAMUEL SMITH, from the State of Maryland, and BUCKNER THRUSTON, from the State of Kentucky, attended.

Resolved, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

ANNUAL MESSAGE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

It would have given me, fellow-citizens, great satisfaction to announce, in the moment of your meeting, that the difficulties in our foreign relations, existing at the time of your last separation, had been amicably and justly terminated. I lost no time in taking those measures which were most likely to bring them to such a termination, by special missions, charged with such powers and instructions as, in the event of failure, could leave no imputation on either our moderation or forbearance. The delays which have since taken place in our negotiations with the British Government appear to have proceeded from causes which do not forbid the expectation that, during the course of the session, I may be enabled to lay before you their final issue. What will be that of the negotiations for settling our differences with Spain, nothing which had taken place at the date of the last despatches enables us to pronounce. On the western side of the Mississippi she advanced in considerable force, and took post at the settlement of Bayou Pierre, on the Red river. This village was originally settled by France, was held by her as long as she held Louisiana, and was delivered to Spain only as a part of Louisiana. Being small, insulated, and distant, it was not observed, at the moment of re-delivery to France and the United States, that she continued a guard of half a dozen men, which had been stationed there. A proposition, however, having been lately made by our Commander-in-Chief, to assume the Sabine river as a temporary line of separation between the troops of the two nations until the issue of our negotiations shall be known, this has been referred by the Spanish commandant to his superior, and in the mean time he has withdrawn his force to the western side of the Sabine river. The correspondence on this subject, now communicated, will exhibit more particularly the present state of things in that quarter.

The nature of that country requires indispensably that an unusual proportion of the force employed there should be cavalry or mounted infantry. In order, therefore, that the commanding officer might be enabled to act with effect, I had authorized him to call on the Governors of Orleans and Mississippi for a corps of five hundred volunteer cavalry. The temporary arrangement he has proposed may perhaps render this unnecessary. But I inform you, with great pleasure, of the promptitude with which the inhabitants of those Territories have tendered their services in defence of their country. It has done honor to themselves, entitled them to the confidence of their fellow-citizens in every part of the Union, and must strengthen the general determination to protect them efficaciously under all circumstances which may occur.

Having received information that, in another part of the United States, a great number of private individuals were combining together, arming and organizing themselves contrary to law, to carry on a military expedition against the territories of Spain, I thought it necessary, by proclamation, as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and abettors. It was due to that good faith which ought ever to be the rule of action in public as well as in private transactions, it was due to good order and regular government that, while the public force was acting strictly on the defensive, and merely to protect our citizens from aggression, the criminal attempts of private individuals to decide, for their country, the question of peace or war, by commencing active and unauthorized hostilities, should be promptly and efficaciously suppressed.

Whether it will be necessary to enlarge our regular force will depend on the result of our negotiations with Spain; but, as it is uncertain when that result will be known, the provisional measures requisite for that, and to meet any pressure intervening in that quarter, will be a subject for your early consideration.

The possession of both banks of the Mississippi reducing to a single point the defence of that river, its waters, and the country adjacent, it becomes highly necessary to provide, for that point, a more adequate security. Some position above its mouth, commanding the passage of the river, should be rendered sufficiently strong to cover the armed vessels which may be stationed there for defence; and, in conjunction with them, to present an insuperable obstacle to any force attempting to pass. The approaches to the city of New Orleans, from the eastern quarter also, will require to be examined, and more effectually guarded. For the internal support of the country, the encouragement of a strong settlement on the western side of the Mississippi, within reach of New Orleans, will be worthy the consideration of the Legislature.

The gunboats authorized by an act of the last session are so advanced that they will be ready for service in the ensuing Spring. Circumstances permitted us to allow the time necessary for their more solid construction. As a much larger number will still be wanting to place our seaport towns and waters in that state of defence to which we are competent, and they entitled, a similar appropriation for a further provision for them is recommended for the ensuing year.

A further appropriation will also be necessary for repairing fortifications already established, and the erection of such other works as may have real effect in obstructing the approach of an enemy to our seaport towns, or their remaining before them.

In a country whose Constitution is derived from the will of the people, directly expressed by their free suffrages, where the principal Executive functionaries, and those of the Legislature, are renewed by them at short periods, where, under the character of jurors, they exercise in person the greatest portion of the Judiciary powers, where the laws are consequently so formed and administered as to bear with equal weight and favor on all, restraining no man in the pursuits of honest industry, and securing to every one the property which that acquires, it would not be supposed that any safeguards could be needed against insurrection, or enterprise, on the public peace or authority. The laws, however, aware that these should not be trusted to moral restraints only, have wisely provided punishment for these crimes when committed. But would it not be salutary to give also the means of preventing their commission? Where an enterprise is meditated by private individuals against a foreign nation in amity with the United States, powers of prevention, to a certain extent, are given by the laws; would they not be as reasonable and useful where the enterprise preparing is against the United States? While adverting to this branch of law it is proper to observe, that, in enterprises meditated against foreign nations, the ordinary process of binding to the observance of the peace and good behaviour, could it be extended to acts to be done out of the jurisdiction of the United States, would be effectual in some cases where the offender is able to keep out of sight every indication of his purpose which could draw on him the exercise of the powers now given by law.

The States on the coast of Barbary seem generally disposed at present to respect our peace and friendship: with Tunis alone some uncertainty remains. Persuaded that it is our intention to maintain our peace with them on equal terms, or not at all, I propose to send, in due time, a reinforcement into the Mediterranean, unless previous information shall show it to be unnecessary.

We continue to receive proofs of the growing attachment of our Indian neighbors, and of their disposition to place all their interests under the patronage of the United States. These dispositions are inspired by their confidence in our justice, and in the sincere concern we feel for their welfare. And as long as we discharge these high and honorable functions with the integrity and good faith which alone can entitle us to their continuance, we may expect to reap the just reward in their peace and friendship.

The expedition of Messrs. Lewis and Clarke, for exploring the river Missouri, and the best communication from that to the Pacific ocean, has had all the success which could have been expected. They have traced the Missouri nearly to its source, descended the Columbia to the Pacific ocean, ascertained with accuracy the geography of that interesting communication across our continent, learnt the character of the country, of its commerce, and inhabitants; and it is but justice to say, that Messrs. Lewis and Clarke, and their brave companions, have, by this arduous service, deserved well of their country.

The attempt to explore the Red river, under the direction of Mr. Freeman, though conducted with a zeal and prudence meeting entire approbation, has not been equally successful. After proceeding up it about six hundred miles, nearly as far as the French settlements had extended, while the country was in their possession, our geographers were obliged to return without completing their work.

Very useful additions have also been made to our knowledge of the Mississippi, by Lieutenant Pike, who had ascended it to its source, and whose journal and map, giving the details of his journey, will shortly be ready for communication to both Houses of Congress. Those of Messrs. Lewis, Clarke, and Freeman, will require further time to be digested and prepared. These important surveys, in addition to those before possessed, furnish materials for commencing an accurate map of the Mississippi and its western waters. Some principal rivers, however, remain still to be explored, towards which the authorization of Congress, by moderate appropriations, will be requisite.

I congratulate you, fellow-citizens, on the approach of the period at which you may interpose your authority, Constitutionally, to withdraw the citizens of the United States from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country, have long been eager to proscribe. Although no law you may pass can take prohibitory effect till the day of the year one thousand eight hundred and eight, yet the intervening period is not too long to prevent, by timely notice, expeditions which cannot be completed before that day.

The receipts at the Treasury, during the year ending on the 30th day of September last, have amounted to nearly fifteen millions of dollars, which have enabled us, after meeting the current demands, to pay two millions seven hundred thousand dollars of the American claims, in part of the price of Louisiana; to pay of the funded debt, upwards of three millions of principal, and nearly four of interest; and, in addition, to reimburse, in the course of the present month, nearly two millions of five and a half per cent. stock. These payments and reimbursements of the funded debt, with those which had been made in the four years and a half preceding, will, at the present year, have extinguished upwards of twenty-three millions of principal.

The duties composing the Mediterranean fund will cease, by law, at the end of the present session. Considering, however, that they are levied chiefly on luxuries, and that we have an impost on salt, a necessary of life, the free use of which otherwise is so important, I recommend to your consideration the suppression of the duties on salt, and the continuation of the Mediterranean fund instead thereof, for a short time, after which that also will become unnecessary for any purpose now within contemplation.

When both of these branches of revenue shall in this way be relinquished, there will still, ere long, be an accumulation of moneys in the Treasury beyond the instalments of public debt which we are permitted by contract to pay. They cannot, then, without a modification, assented to by the public creditors, be applied to the extinguishment of this debt, and the complete liberation of our revenues, the most desirable of all objects; nor, if our peace continues, will they be wanting for any other existing purpose. The question, therefore now comes forward: To what other objects shall these surplusses be appropriated, and the whole surplus of impost, after the entire discharge of the public debt, and during those intervals when the purposes of war shall not call for them! Shall we suppress the impost, and give that advantage to foreign over domestic manufactures! On a few articles, of more general and necessary use, the suppression, in due season, will doubtless be right, but the great mass of the articles on which impost is paid are foreign luxuries, purchased by those only who are rich enough to afford themselves the use of them. Their patriotism would certainly prefer its continuance and application to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the Constitutional enumeration of federal powers. By these operations new channels of communication will be opened between the States; the lines of separation will disappear; their interests will be identified and their Union cemented by new and indissoluble ties. Education is here placed among the articles of public care, not that it would be proposed to take its ordinary branches out of the hands

of private enterprise, which manages so much better all the concerns to which it is equal; but a public institution can alone supply those sciences which, though rarely called for, are yet necessary to complete the circle, all the parts of which contribute to the improvement of the country, and some of them to its preservation. The subject is now proposed for the consideration of Congress, because, if approved by the time the State Legislatures shall have deliberated on this extension of the federal trusts, and the laws shall be passed and other arrangements made for their execution, the necessary funds will be on hand, and without employment. I suppose an amendment to the Constitution, by consent of the States, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied.

The present consideration of a national establishment, for education particularly, is rendered proper by this circumstance; also that, if Congress, approving the proposition, shall yet think it more eligible to found it on a donation of lands, they have it now in their power to endow it with those which will be among the earliest to produce the necessary income. This foundation would have the advantage of being independent on war, which may suspend other improvements, by requiring for its own purposes the resources destined for them.

This, fellow-citizens, is the state of the public interests at the present moment, and according to the information now possessed. But such is the situation of the nations of Europe, and such, too, the predicament in which we stand with some of them, that we cannot rely with certainty on the present aspect of our affairs, that may change from moment to moment during the course of your session, or after you shall have separated. Our duty is therefore to act upon things as they are, and to make a reasonable provision for whatever they may be. Were armies to be raised whenever a speck of war is visible in our horizon, we never should have been without them. Our resources would have been exhausted on dangers which have never happened, instead of being reserved for what is really to take place. A steady, perhaps a quickened, pace in preparations for the defence of our seaport towns and waters, an early settlement of the most exposed and vulnerable parts of our country, a militia so organized, that its effective portions can be called to any point in the Union, or volunteers instead of them, to serve a sufficient time, are means which may always be ready, yet never preying on our resources until actually called into use. They will maintain the public interests while a more permanent force shall be in course of preparation. But much will depend on the promptitude with which these means can be brought into activity. If war be forced upon us, in spite of our long and vain appeal to the justice of nations, rapid and vigorous movements in its outset will go far towards securing us in its course and issue, and towards throwing its burdens on those who render necessary the resort from reason to force.

The result of our negotiations, or such incidents in their course as may enable us to infer their probable issue; such further movements, also, on our western frontiers as may show whether war is to be pressed there while negotiation is protracted elsewhere, shall be communicated to you from time to time, as they become known to me; with whatever other information I possess, or may receive, which may aid your deliberations on the great national interests committed to your charge.

TH. JEFFERSON.

DECEMBER 2, 1806.

The Message and documents therein referred to were read, and ordered to lie for consideration, and three hundred copies thereof printed for the use of the Senate.

WEDNESDAY, December 3.

DANIEL SMITH, from the State of Tennessee, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I have the satisfaction to inform you that the negotiation between the United States and the Government of Great Britain is proceeding in a spirit of friendship and accommodation, which promises a result of mutual advantage. Delays indeed have taken place, occasioned by the long illness and subsequent death of the British Minister charged with that duty. But the Commissioners appointed by that Government to resume the negotiation have shown every disposition to hasten its progress. It is, however, a work of time, as many arrangements are necessary to place our future harmony on stable grounds. In the mean time, we find, by the communications of our Plenipotentiaries, that a temporary suspension of the act of the last session prohibiting certain importations, would, as a mark of candid disposition on our part, and of confidence in the temper and views with which they have been met, have a happy effect on its course. A step so friendly will afford further evidence that all our proceedings have flowed from views of justice and conciliation, and that we give them willingly that form which may best meet corresponding dispositions.

Add to this that the same motives which produced the postponement of the act till the fifteenth of November last, are in favor of its further suspension; and, as we have reason to hope that it may soon yield to arrangements of mutual consent and convenience, justice seems to require that the same measure may be dealt out to the few cases which may fall within its short course, as to all others preceding and following it. I cannot, therefore, but recommend the suspension of this act for a reasonable time, on considerations of justice, amity, and the public interests.

TH. JEFFERSON.

DECEMBER 3, 1806.

The Message was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate, that the House concur in the resolution, sent from the Senate, for the appointment of Chaplains to Congress during the present session.

The Senate proceeded to the election of a Chaplain, on their part, in pursuance of the resolution of the two Houses; and the whole number of votes collected was 18; of which the Rev. Mr. SAYRS had twelve, and was accordingly elected.

Mr. BRADLEY gave notice that he would, on Monday next, ask leave to bring in a bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, one thousand eight hundred and eight.

THURSDAY, December 4.

JAMES HILLHOUSE, from the State of Connecticut attended.

The following motion was made by Mr. MITCHILL, read, and ordered to lie for consideration:

Resolved, That so much of the President's Message, of 2d December, as relates to the fortification and defence of our seaport towns, harbors, and waters, be referred to a select committee, with leave to report by bill or otherwise.

Mr. MITCHILL also submitted the following motion, which was read and ordered to lie for consideration:

Resolved, That so much of the President's Message as relates to binding to the observance of the peace, and good behaviour, persons meditating enterprises against foreign nations in amity with the United States, be referred to a select committee, with leave to report by bill or otherwise.

A motion was made by Mr. TRACY, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to cause to be laid before the Senate such information, documents, papers, and correspondence, as may be in his power, and which he may think proper to communicate, respecting the subject of his Message of the third of December instant, in which a suspension of the non-importation act is recommended.

The motion was read, and ordered to lie for consideration.

Ordered, That Messrs. ADAMS, GILMAN, and SMITH, of Vermont, be a committee agreeably to the twenty-second rule for conducting business in the Senate.

FRIDAY, December 5.

JAMES TURNER, from the State of North Carolina attended.

The Senate took into consideration the motion made yesterday: "That so much of the Message of the President of the United States, of December the 2d, as relates to the fortification and defence of our seaport towns, harbors, and waters, be referred to a select committee;" and the motion was agreed to; and Messrs. MITCHILL, SMITH, of Maryland, GILES, BALDWIN, and GILMAN, were appointed the committee.

The motion made yesterday, "That so much of the Message of the President of the United States as relates to binding to the peace, and to good behaviour, persons meditating enterprises against foreign nations in amity with the United States, be referred to a select committee, with leave to report by bill or otherwise," was considered, and postponed.

The motion made yesterday, requesting the President of the United States to lay before the Senate such information as may be in his power, and which he may think proper to communicate, respecting the suspension of the non-importation act, was considered, and postponed.

Mr. WORTHINGTON submitted the following motion, which was read, and ordered to lie for consideration:

Resolved, That a committee be appointed to examine if any, and, if any, what alterations or amendments are necessary in the laws of the United States for the sale of the public lands; and that they have leave to report by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have appointed the Rev. Mr. ELLIOTT a Chaplain to Congress, on their part, during the present session.

MONDAY, December 8.

The PRESIDENT laid before the Senate the report of the Secretary for the Department of the Treasury, in obedience to the act, entitled "An act to establish the Treasury Department;" and the report was read, and ordered to lie for consideration, and the usual number be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same;" in which bill they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate resumed the consideration of the motion made on the fourth instant, to refer that part of the Message of the President of the United States to a select committee, which relates to binding to the observance of the peace, persons meditating enterprises against foreign nations, and having amended the motion, it was adopted, as follows:

Resolved, That so much of the Message of the President of the United States as relates to the laws respecting insurrections and violations of the public peace, or the authority, as well as the laws respecting the conspiracy or enterprise of private individuals against foreign nations in amity with the United States, be referred to a select committee, with leave to report by bill or otherwise.

Ordered, That Messrs. GILES, MITCHILL, TRACY, STONE, and ADAMS, be the committee.

The motion made on the fourth instant, for further information on that part of the Message of the President of the United States, of the third of December, relative to the suspension of the non-importation act, was resumed; and it was agreed to amend the motion, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to cause to be laid before the Senate such information, documents, papers, and correspondence, as may be in his power, and which he may think, under all circumstances, proper to communicate, respecting the subject of his Message of the third of December instant, in which a temporary suspension of the act of the last session prohibiting certain importations, is recommended.

And on the question to adopt this resolution, it

passed in the negative—yeas 5, nays 18, as follows:

YEAS—Messrs. Bradley, Hillhouse, Pickering, Tracy, and White.

NAYS—Messrs. Adams, Baldwin, Condit, Gaillard, Giles, Gilman, Howland, Kitchel, Logan, Maclay, Mitchill, Plumer, Smith of Tennessee, Smith of Vermont, Stone, Thruston, Turner, and Worthington.

The Senate resumed the motion made on the 5th instant, that a committee be appointed to examine if any, and what, alterations or amendments are necessary in the laws of the United States for the sale of the public lands; and that they have leave to report by bill or otherwise; and the motion was agreed to; and Messrs. WORTHINGTON, TRACY, and BALDWIN, were appointed the committee.

Agreeably to notice given on the 3d instant, Mr. BRADLEY asked and obtained leave to bring in a bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808; and the bill was read, and ordered to the second reading.

TUESDAY, December 9.

ANDREW MOORE, from the State of Virginia, attended.

The bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," was read the second time, and referred to Messrs. GILES, BALDWIN, and MITCHILL, to consider and report thereon.

The bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808, was read the second time, and referred to Messrs. BRADLEY, STONE, GILES, GAILLARD, and BALDWIN, to consider and report thereon.

Mr. GILES, from the committee to whom was referred the bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

WEDNESDAY, December 10.

Ordered, That Mr. TURNER be the Committee for Enrolled Bills, on the part of the Senate.

The bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," was read the third time.

On motion, by Mr. MITCHILL, to amend the bill, by adding a third section thereto, empowering the President of the United States further to suspend the operation of the act to the twenty-first December next, if circumstances should render it expedient, it was agreed to refer the proposed amendment, together with the bill, to a select committee; and Messrs. GILES, MITCHILL, and BALDWIN, were appointed the committee.

Mr. WHITE presented the memorial of John Hays, and others, citizens of the State of Delaware, representing that the variety of weights and measures, at present in use in the United States, is productive of much uncertainty and difficulty, and praying that Congress would take effective measures for the establishment of a uniform and more beneficial system; and the memorial was read, and referred to Messrs. WHITE, ADAMS, BALDWIN, LOGAN, and MITCHILL, to consider and report thereon.

THURSDAY, December 11.

JOHN MILLEDGE, appointed a Senator by the Legislature of the State of Georgia, in the place of James Jackson, deceased, took his seat, and his credentials were read, and the President administered the oath to him as the law prescribes.

Mr. GILES, from the committee to whom was yesterday referred the bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," together with a proposed amendment, reported sundry amendments, which were read, and ordered to lie for consideration.

FRIDAY, December 12.

The Senate took into consideration the bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same."

When the following amendments were agreed to without a division, viz. strike out at the end of the 2d sec. the following words: "This act shall take effect from and after the passing thereof."

Add to the end of the bill the following section:

And be it further enacted, That the President of the United States be, and he hereby, authorized further to suspend the operation of the aforesaid act, if in his judgment the public service should require it: *Provided*, That such suspension shall not extend beyond the second Monday in December next.

The bill, so amended, was read a third time, and passed, without a division.

MONDAY, December 15.

JOHN SMITH, from the State of New York, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I lay before Congress a report of the Surveyor of the Public Buildings, stating the progress made on them during the last season, and what is proposed for the ensuing one.

TH. JEFFERSON.

DECEMBER 15, 1806.

The Message and report therein mentioned were read, and ordered to lie for consideration.

Mr. LOGAN presented the petition of William Levis and Hugh Maxwell, stating, that they have on hand a number of the Journals of Congress, under the Confederation, of Folwell's edition, which they will dispose of for the use of Congress, at the price heretofore stipulated by Government; and the petition was read, and referred to Messrs. LOGAN, BRADLEY, and BALDWIN, to consider and report thereon.

DEFENCE OF PORTS AND HARBORS.

Mr. MITCHILL from the committee appointed on the 5th instant to take into consideration that part of the Message of the President of the United States of December 2d, 1806 which relates to the protection of the seaports, harbors, and waters of the United States, made a report, as follows:

It appears from the communication of the Secretary at War, made to Congress on the 13th February, 1806, that several of the public works erected in different parts of the nation, for the purposes of defence, stand in need of finishing or repairs. The condition of the fortifications of Fort Sumner, in Maine, Fort Constitution, in New Hampshire, Fort Independence, in Massachusetts, Forts Adams and Wolcot in Rhode Island, Fort Trumbull, in Connecticut, Fort Jay, in New York, Fort Mifflin in Pennsylvania, Fort McHenry, in Maryland, Fort Nelson, in Virginia, Fort Johnson, in North Carolina, Forts Moultrie, Pinckney, and Johnson, in South Carolina, Fort Green, in Georgia, and of Forts St. Louis, St. Charles, and St. Philip, in Orleans, and of the various other forts and military stations, is well known to the War Department, and only requires appropriations of money from year to year, to enable the needful additions to be made.

It is therefore deemed unnecessary to enter into a detailed enumeration of their respective wants. But the committee cannot forbear to make mention of New York, Charleston, and New Orleans.

They are fully sensible of the great and growing importance of New York; its exposed situation is a subject of public and general concern. It is agreed that the national power ought to be employed in its protection. The attention of the Executive was therefore turned to that object during the summer and autumn of 1805; and upwards of $25,000 were expended in repairing and enlarging in the most substantial manner the works on Governor's Island. These are progressing with all convenient speed; and though at this moment suspended on account of the rigor of the season, the committee has had the satisfaction to learn that the labor will be resumed with the cessation of the cold, and be steadily continued until both the city and harbor shall be put into a respectable state of defence. By the fortifications which it is intended to construct upon the different favorable positions which the land affords both above and below Governor's Island, skilful engineers conceive that so much will be done as to repel every ordinary assault of ships, and of all other force less than an invading army. The intended substitution of permanent structures of solid masonry, instead of wood and sand, will indeed require more time for their completion; but an ample compensation for this will be found eventually in their greater strength and durability.

The fortifications at Charleston, South Carolina, having been almost totally ruined by the severe hurricane of 1804, measures have been already adopted to rebuild them in the best manner that the situation of the ground admits.

Preparations are also making for the protection of New Orleans, and the mouth of the Mississippi, and evince a similar attention to the public interests in that quarter.

The committee, however, has not judged it necessary to particularize the specific sums which it may be needful to apply to each of these important objects. There would be considerable difficulty in this, for want of circumstantial and minute information. They therefore believe it will be sufficient to recommend an ample appropriation in gross, for the repair of existing fortifications, and the erection of such new ones as may be required; and to leave the expenditure of the same, where the general safety or local welfare shall demand it, to the ample information and sound discretion of the Executive.

Under these considerations the committee ask leave to report a bill, making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats.

The bill was read and ordered to a second reading.

TUESDAY, December 16.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act to suspend the operation of an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," with amendments; in which they desire the concurrence of the Senate.

The Senate took into consideration the amendments of the House of Representatives to their amendments to the bill last mentioned; and concurred therein.

The bill making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats, was read the second time, and referred to Messrs. MITCHILL, GILES, and BALDWIN, to consider and report thereon.

A motion was made, by Mr. BRADLEY, that it be

Resolved, That a committee be appointed to inquire whether any, and, if any, what further proceeding is necessary to carry into effect the provisions of an act, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same," and to report thereon; and the motion was read, and ordered to lie for consideration.

WEDNESDAY, December 17.

On motion, by Mr. TRACY, it was

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, are to have the direction of the money appropriated to purchase books for the use of Congress, pursuant to the act making a further appropriation for the support of a library, passed on the 21st of February, 1806; and that the Secretary of the Senate notify the House

of Representatives of the passage of this resolution; and, Messrs. ADAMS, BALDWIN, and MITCHILL, were appointed the committee on the part of the Senate.

The Senate took into consideration the motion made yesterday, "That a committee be appointed to inquire what further proceeding is necessary to carry into effect the provisions of an act, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;" and having agreed thereto, Messrs. BRADLEY, TRACY, and GILES, were appointed the committee to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

THURSDAY, December 18.

The bill sent from the House of Representatives, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," was read the second time, and referred to Messrs. SMITH of Vermont, WHITE, and GAILLARD, to consider and report thereon.

FRIDAY, December 19.

The credentials of STEPHEN R. BRADLEY, appointed a Senator by the Legislature of the State of Vermont, for the term of six years, from and after the third day of March next, were presented and read; also, the credentials of JOHN MILLEDGE, appointed a Senator by the Legislature of the State of Georgia, for the term of six years, from and after the third day of March next.

Ordered, That they lie on file.

On motion, it was

Ordered, That Mr. TURNER be of the committee to whom was referred, on the 9th instant, the bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808, in place of Mr. STONE, who is absent.

On motion of Mr. TRACY, it was

Resolved, That a committee be appointed to inquire into the circumstances of the coinage at the Mint of the United States, with leave to report by bill or otherwise, respecting the same; and

Ordered, That Messrs. TRACY, GILES, and MITCHILL, be the committee.

MONDAY, December 22.

The Senate spent the day in the consideration of Executive business.

TUESDAY, December 23.

The PRESIDENT laid before the Senate a report of the Secretary for the Department of Treasury, in conformity with the several acts making provision for the disposal of the public lands in the Indiana Territory, made by the Commissioners appointed to examine the claims to land in the district of Vincennes; which was read, and the report and certain papers accompanying it were referred to Messrs. WORTHINGTON, GILES, and BALDWIN, to consider and report thereon.

WEDNESDAY, December 24.

Mr. BRADLEY presented the petition of Seth Harding, commander of a ship in the service of the United States during the Revolutionary war, in which service he received extreme bodily injury, as is stated at large in his petition, and praying such pecuniary relief as may to Congress seem reasonable for a person debilitated by public service; and the petition was read, and referred to Messrs. BRADLEY, SMITH of Maryland, and GILES, to consider and report thereon, by bill or otherwise.

On motion of Mr. WORTHINGTON, it was

Resolved, That a committee be appointed to inquire whether the several Territorial governments within the United States have, in pursuance to the ordinance and laws of the United States, returned copies of the laws which such Territories have adopted or enacted to Congress, and if any Territory has not made the proper returns, the committee are directed to inquire into the causes of such omission and make report; and Messrs. WORTHINGTON, BALDWIN, and MOORE, were appointed the committee.

FRIDAY, December 26.

Mr. WHITE, presented the petition of a number of the inhabitants of Alexandria, in favor of a bridge over the river Potomac, on the principles of a bill passed the House of Representatives during the present session, and stating that every effort in their power will be made for a speedy execution of the same, should their prayer be granted. And the petition was read, and referred to the committee appointed the 18th instant, to consider the bill sent from the House of Representatives on the subject.

MONDAY, December 29.

The PRESIDENT communicated a letter from ROBERT WRIGHT, stating that he had resigned his seat in the Senate.

PHILIP REED, appointed a Senator by the Legislature of the State of Maryland, in place of Robert Wright, resigned, produced his credentials and took his seat in the Senate.

HENRY CLAY, appointed a Senator by the Legislature of the State of Kentucky, in place of John Adair, resigned, produced his credentials and took his seat in the Senate.

The credentials of Mr. CLAY and Mr. REED were severally read, and the oath was administered to them as the law prescribes.

Mr. REED also produced the credentials of his appointment to be a Senator of the United States from the State of Maryland, from the third day of March next, until the 4th day of March, 1813, and they were read, and ordered to lie on file.

JAMES FENNER, from the State of Rhode Island, attended.

A message from the House informed the Senate that the House have passed the bill, entitled "An act making appropriations for the support of the Navy of the United States during the year one thousand eight hundred and seven," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. SMITH, of Maryland, submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, amendments are necessary to the act for establishing rules and articles for the government of the Armies of the United States.

Mr. WORTHINGTON, from the committee appointed on the subject, reported that, on inquiry, they find some of the laws adopted and enacted by the Territories of the United States have been returned to the office of the Secretary of State, and are assured by that officer that such as have been returned shall be laid before Congress in a few days, and that he has taken measures to obtain such as have not been returned.

Mr. BRADLEY, from the committee appointed on the subject, reported a bill for the relief of Seth Harding, late a Captain in the Navy of the United States; which was read, and ordered to the second reading.

TUESDAY, December 30.

Mr. WORTHINGTON presented the petition of a number of the inhabitants of the county of Columbia, in the State of Ohio, praying for a reduction of the price of the reserved sections, Nos. 15, 21, and 22, in the original surveyed townships in the said county, for reasons stated in the petition; which was read, and referred to the committee appointed on the eighth instant, to examine what alterations are necessary in the laws for the sale of the public lands, to consider and report thereon.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year one thousand eight hundred and seven," was read the second time, and referred to Messrs. MITCHILL, SMITH of Maryland, and CLAY, to consider and report thereon.

Mr. SMITH of Vermont, from the committee to whom was referred the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," reported it without amendment. He also presented a petition, signed John Mason and others, citizens of Georgetown, stating the reasons why the bill should not pass; and the petition was read, and the consideration of the bill, as in Committee of the Whole, made the order of the day for Monday next.

The motion made yesterday to inquire what amendments, if any, are necessary to the act for establishing rules and articles for the government of the Armies of the United States, was resumed and adopted; and Messrs. SMITH of Maryland, ADAMS, and BRADLEY, were appointed the committee to consider and report thereon.

The bill for the relief of Seth Harding, late a Captain in the Navy of the United States, was read the second time, and the further consideration thereof postponed until to-morrow.

WEDNESDAY, December 31.

THOMAS SUMTER, from the State of South Carolina, attended.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States during the year one thousand eight hundred and seven," reported it without amendment.

On motion, it was agreed, by unanimous consent, that this bill be now read the third time.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the relief of Seth Harding, late a Captain in the Navy of the United States, and the bill having been amended, was reported to the House, and agreed to.

Ordered, That this bill pass to the third reading as amended.

A message from the House informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven," in which they desire the concurrence of the Senate.

The bill was read, and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. SMITH of Maryland, BRADLEY, and MITCHILL, to consider and report thereon.

The Senate adjourned to Friday.

FRIDAY, January 2, 1807.

The PRESIDENT communicated a report of the Secretary for the Department of Treasury, in conformity with the several acts making provision for the disposal of the public lands in the Territories of Indiana and Michigan, enclosing the transcript of decisions made by the Commissioners in favor of claimants to land in the district of Detroit.

And the report and papers were read, and ordered to lie on the table.

The bill for the relief of Seth Harding, late a Captain in the Navy of the United States, was read the third time, and the further consideration of the bill postponed.

On motion of Mr. SMITH of Tennessee,

Resolved, That a committee be appointed to inquire whether any, and, if any, what provisions ought to be made by law to prevent unauthorized entries or settlements of lands ceded to the United States, by foreign nations, by any particular State,

or Indian tribe, who shall report by bill or otherwise.

Ordered, That Messrs. SMITH of Tennessee, GILES, and BRADLEY, be the committee.

A motion was made by Mr. BRADLEY, that it be

Resolved, That the Commissioners of the Navy Pension Fund be directed to lay before the Senate a minute statement of their proceedings relative to the management of the said funds, during the last year.

Ordered, That the motion lie for consideration.

A motion was made by Mr. CLAY, that it be

Resolved, That a committee be appointed to prepare and bring in a bill to extend to the districts of Kentucky, Tennessee, and Ohio, the circuit courts of the United States.

Ordered, That the motion lie for consideration.

MONDAY, January 5.

The PRESIDENT communicated a report from the Treasurer of the United States, of the general account of his office, from October 1st, 1805, to October 1st, 1806; as, also, the accounts of the War and Navy Departments, for the same period; and the report was read, and ordered to lie on the table.

On motion, by Mr. WORTHINGTON, it was

Resolved, That the report of the Secretary for the Department of Treasury, of the 2d instant, made in conformity with the several acts making provision for the disposal of the public lands in the Territories of Indiana and Michigan; enclosing the transcript of decisions made by the Commissioners in favor of claimants to land in the district of Detroit, be referred to a special committee.

Ordered, That Messrs. WORTHINGTON, MACLAY, and BRADLEY, be the committee, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to each House of Congress a copy of the laws of the Territory of Michigan, passed by the Governor and Judges of the Territory during the year 1805.

TH. JEFFERSON.

JANUARY 5, 1807.

The Message was read, and, together with the laws therein mentioned, referred to Messrs. BRADLEY, GILES, and CONDIT, to consider and report thereon.

Mr. S. SMITH submitted the following resolution:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, additional force is necessary to the Military Establishment of the United States.

He observed that he was one of those who, in 1802, were of opinion that the present Military Establishment was sufficient for the then existing state of the nation. At that time we were at peace with the Indians; of course few men were necessary for the Western frontier, and at every point of the Atlantic shores we were prepared for resistance by the strength of our militia; that the late acquirement of territory gave us an exposed frontier, which could not be succored speedily by the militia of the Union; he therefore conceived an addition to the Army as indispensably necessary.

Ordered, That Messrs. SMITH of Maryland, GILES, and BRADLEY, be the committee, and to report thereon.

The motion made on the 2d instant, that a committee be appointed to prepare and bring in a bill to extend to the districts of Kentucky, Tennessee, and Ohio, the circuit courts of the United States, was resumed and agreed to; and,

Ordered, That Messrs. CLAY, BALDWIN, GILES, ADAMS, and BRADLEY, be the committee.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," and the further consideration thereof was postponed until Monday next.

Ordered, That Messrs. WHITE, SMITH of Vermont, and GAILLARD, be a committee to examine the papers laid before the Senate on the subject of the last mentioned bill, and direct such as they may think proper to be printed.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and seven," reported it without amendment.

Ordered, That this bill pass to a third reading.

TUESDAY, January 6.

Mr. CLAY presented the petition of Laurient Bazadon, stating that he obtained a judgment against George R. Clark, in the General Court of the Northwestern Territory for a very considerable sum, to wit: about twelve thousand dollars; that some time after the said judgment was obtained, and before execution issued thereon, Congress passed an act to divide the said Territory; he therefore prays such legislative provision may be made, as that executions may issue on judgments obtained before the division of the said Territory, in the same manner as if a division had never taken place; and the petition was read, and referred to Messrs. CLAY, BRADLEY, and GILES, to consider and report thereon.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven," was read the third time, and passed.

WEDNESDAY, January 7.

The PRESIDENT communicated the report of the Postmaster General, made in obedience to the act of the 21st of April last; and the report was read, and referred to Messrs. TRACY, BALDWIN, and CONDIT to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment;" and a bill, entitled "An act for the relief of George Little;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

Mr. TRACY, from the committee to whom the subject was referred, on the 19th of December last, reported a bill in addition to the act for establishing a Mint, and regulating the coins of the United States; which was read, and ordered to the second reading.

THURSDAY, January 8.

The bill, entitled "An act for the relief of George Little," was read the second time, and referred to Messrs. MACLAY, ADAMS, and TRACY, to consider and report thereon.

The bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment," was read the second time, and referred to Messrs. TRACY, GILES, and MOORE, to consider and report thereon.

The bill in addition to the act for establishing a Mint, and regulating the coins of the United States, was read the second time, and the further consideration thereof postponed until to-morrow.

Ordered, That the petition of John Chester, together with the report of the Secretary of the Treasury of the 25th of March last, thereon, be referred to Messrs. HILLHOUSE, BRADLEY, and SMITH, of New York, to consider and report thereon.

FRIDAY, January 9.

The Senate resumed, as in Committee of the Whole, the bill in addition to the act for establishing a Mint and regulating the coins of the United States, and after having agreed to sundry amendments, the bill, as amended, was reported to the House.

Ordered, That it pass to the third reading as amended.

Mr. BRADLEY, from the committee to whom was referred the laws of the Territory of Michigan, adopted by the Governor and Judges of said Territory, from the first day of July, one thousand eight hundred and five, to January 1, one thousand eight hundred and six, communicated by the President of the United States in his Message of the 5th instant, reported "that, having had said laws under consideration, they recommend to the Senate not to disapprove of the same."

MONDAY, January 12.

JAMES A. BAYARD, from the State of Delaware, attended.

Mr. WHITE presented two memorials, signed Robert Brent and others, in favor of the bill before the Senate for the erection of a bridge over the river Potomac, which were read.

Mr. GILES presented a letter signed GIDEON GRANGER, Postmaster General, on the same subject; which was read.

Mr. SMITH, of Maryland, presented a letter, signed Joseph Clarke, on the subject of bridges; which was read.

Mr. BAYARD presented the examination of William Mills, of Boston, on the same subject; which was read.

Ordered, That these several papers be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and the consideration of the bill was further postponed until Monday next.

Mr. WORTHINGTON gave notice that he would, on Thursday next, ask leave to bring in a bill giving the assent of Congress to a proposition contained in the sixth section of the seventh article of the Constitution of the State of Ohio.

Mr. TURNER notified the Senate that he would to-morrow ask leave to bring in a bill to alter the time of holding the circuit court in the district of North Carolina.

The PRESIDENT laid before the Senate the report of the Judges of the District of Columbia, in conformity to the resolution of the Senate, of the 14th of April last, on the subject of a fee bill; and the report was read, and referred to Messrs. ADAMS, BRADLEY, and MITCHILL, to consider and report thereon by bill or otherwise.

The PRESIDENT laid before the Senate an authenticated copy of the proceedings of the members of a committee appointed by a convention of delegates of the citizens of Michigan Territory, convened at Detroit the 27th day of November, 1806, by proclamation of the Governor, and dissolved on the first day of December last, signed Augustus B. Woodward, and others; which was read.

Ordered, That it be referred to the committee appointed on the fifth instant, on the report of the Secretary for the Department of Treasury, on the disposal of lands in the Indiana and Michigan Territories, and claims to lands in the district of Detroit, to consider and report thereon.

Mr. MACLAY, from the committee to whom was referred the bill, entitled "An act for the relief of George Little," reported it without amendment, and the consideration thereof was postponed until to-morrow.

The credentials of JOHN GAILLARD, appointed a Senator of the United States for the State of South Carolina, for the term of six years after the 3d of March next, were read, and ordered to lie on file.

The bill in addition to the act for establishing a mint, and regulating the coins of the United States, was read the third time, and postponed until Monday next.

On motion, by Mr. CLAY, that it be

Resolved, That it is expedient and proper to appropriate a quantity of land, not exceeding —— acres, at a fair cash valuation, towards the opening of the canal proposed to be cut at the rapids of the Ohio, on the Kentucky shore:

Ordered, That this motion lie for consideration.

Mr. CLAY, from the committee to whom was referred, on the 6th instant, the petition of Laurient Bazadon, reported that the prayer of the petition ought not to be granted; and the report was adopted.

TUESDAY, January 13.

Agreeably to notice given yesterday, Mr. TURNER asked and obtained leave to bring in a bill to alter the time of holding the circuit court in the District of North Carolina; and the bill was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act for the relief of George Little," and the bill having been reported to the House without amendment,

Ordered, That it pass to a third reading.

Mr. SMITH, of Maryland, from the committee to whom the subject was referred on the 5th instant, asked and obtained leave to report a bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States;" and the bill was read, and ordered to the second reading.

Ordered, That the memorial of the President and Directors of the Chesapeake and Delaware Canal Company, presented on the 28th of January last, together with the documents and report thereon, be referred to Messrs. BAYARD, BALDWIN, and MITCHILL, to consider and report to the Senate.

WEDNESDAY, January 14.

The bill to alter the time for holding the circuit court in the district of North Carolina was read the second time, and referred to Messrs. TURNER, BRADLEY, and GILES, to consider and report thereon.

Mr. SMITH, of Maryland, presented a memorial signed John Mason, Benjamin Stoddert, and Walter Smith, stating reasons against the bill for erecting a bridge over the river Potomac, with sundry documents in reference thereto; which were read, and ordered to be printed for the use of the Senate.

The bill supplementary to the act, entitled "An act fixing the Military Peace Establishment of the United States," was read the second time, and, having been amended, was reported to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The bill, entitled "An act for the relief of George Little," was read the third time, and passed.

Mr. CLAY, from the committee to whom the subject was referred, on the 5th instant, reported a bill establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio; and the bill was read, and ordered to the second reading.

The Senate took into consideration the motion made on the 12th instant, to appropriate a quantity of land, at a fair cash valuation, towards the opening of the canal proposed to be cut at the rapids of the Ohio, on the Kentucky shore; and it was referred to Messrs. CLAY, GILES, and BALDWIN, to consider and report thereon.

THURSDAY, January 15.

Mr. WORTHINGTON communicated two resolutions of the Legislature of the State of Ohio; the one, requesting their Senators and Representatives in Congress to use their exertions to obtain a grant of land between the Sciota and the Little Miami, in any part of the unappropriated lands of the United States within that State, for the use of schools, within the Virginia military district, in lieu of the donation heretofore granted by Congress for that purpose, for reasons stated in the resolution; the other, requesting them to use their exertions to procure the passage of a law prohibiting the importation of slaves into the United States, or any of the territories thereof, so soon as the Constitution will admit of the same.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the punishment of certain crimes against the United States," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The PRESIDENT communicated a report of the Secretary for the Department of State, in pursuance of the act of Congress, entitled "An act to regulate and fix the compensation of clerks," and stating, that it is his opinion that the public service would be promoted by a provision at least sufficient for the employment of an additional clerk.

The bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the second time, and referred to Messrs. GILES, BRADLEY, and BALDWIN, to consider and report thereon to the Senate.

The PRESIDENT communicated the report of the Secretary for the Department of War, in compliance with the 5th section of the "Act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and

for other purposes;" and stating the names of the clerks employed in the Secretary's and Accountant's office, in the War Department, in the year 1806, and the sum given to each; and that the extension of our relations with the Indians has, within the two years past, made a considerable addition to the business for clerks in the said department; and the two reports last mentioned were read, and ordered to lie for consideration.

Mr. TURNER, from the committee to whom was referred the bill to alter the time of holding the circuit court in the district of North Carolina, reported it without amendment.

Mr. BRADLEY, from the committee to whom was referred the bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808, reported the same with sundry amendments, which the committee have incorporated with the bill. And it was agreed that the bill should be read as reported, and considered in paragraphs, as in Committee of the Whole; and, after having agreed to sundry amendments in the 1st, 2d, 3d, and 4th sections, the further consideration thereof was postponed.

Mr. ADAMS, from the committee to whom the subject was referred, on the 12th instant, reported a bill to reduce the expenses attending the administration of justice in the District of Columbia; and the bill was read, and ordered to the second reading.

CHESAPEAKE AND DELAWARE CANAL.

Mr. BAYARD, from the committee to whom was referred the memorial of the Chesapeake and Delaware Canal Company, praying the protection and aid of Congress, presented on the 28th of January, 1806, with the documents accompanying the same, and the report of a committee of the Senate thereon, made the following report;

That having examined the said memorial and documents, and considered the report of the committee of the Senate, made at the last session of Congress, and finding the said report to contain a statement of the material facts relative to the subject of the said memorial, and approving of the resolution proposed by the committee, referring to the said report as a part of this report, they recommend the adoption of the resolution offered to the Senate by the former committee.

In Senate of the United States, March 21, 1806.

Mr. LOGAN, from the committee to whom was referred, on the 28th January last, the memorial of the President and Directors of the Chesapeake and Delaware Canal Company, made report:

That it appears that a company has been incorporated and established by concurrent acts of the Legislatures of Pennsylvania, Delaware, and Maryland, for the purpose of cutting a canal across the isthmus, separating the waters of the Delaware and Chesapeake bays. The capital of the company consists of two thousand six hundred shares, and two hundred dollars constitute a share. The sum of consequence contemplated to complete the work, is five hundred and twenty thousand dollars. Of this sum nearly four hundred thousand dollars have been subscribed by individuals, and between five and six hundred shares remain unsubscribed for.

The site of the canal has been fixed, and its embouchures established at Welch Point, on the Elk river, and Mendenhall's ferry, on Christiana Creek. It is intended to furnish a navigation to vessels drawing upwards of seven feet water. The work has been commenced, and a canal to supply the necessary water to the main canal has been opened from the headwaters of the Elk river, nearly to the line of the route of the grand canal. This canal of supply communicates with populous and productive tracts of country in the three States of Pennsylvania, Delaware, and Maryland, and is calculated for barge navigation.

The length of the main canal, as the route has been established, is twenty-one miles, and the expense of cutting it is estimated at twenty-five thousand dollars a mile.

The committee are of opinion that the work designed to be accomplished by the Chesapeake and Delaware Canal Company is one of great interest and importance, not only to the three States, whose laws have incorporated the company, but generally to the United States. By opening the proposed communication between the two bays, the safe inland navigation of twenty-one miles, supplies the place of a circuitous and exposed navigation of five hundred. The large tracts of country in Virginia, Maryland, Pennsylvania, Delaware, and New Jersey, connected with the waters of the bays, will be furnished with a safe water communication, and will immediately feel the great benefit of the work. In the event of a war, the facility, celerity, safety, and cheapness, in the transportation of troops, and ordnance, and military stores, from remote parts of the United States, present an object at once of sufficient magnitude to interest the General Government in the undertaking. The importance, however, of the proposed canal, though great in itself, is not justly appreciated by considering it as a separate work; it must be viewed as the basis of a vast scheme of interior navigation, connecting the waters of the lakes with those of the most southern States, a plan certainly within the compass of industry and art; and if beyond the present means, unquestionably within the growing resources of the country.

The following statement and illustration of the plan, the committee have extracted from the memorial, furnishing a correct view of the subject, well deserving the serious consideration of the Senate:

"It is easy however to see, by examining any map of the United States, that this extent may be carried much further. To the southward, the canal through the Dismal Swamp, now in execution, will open the communication to the waters of Albemarle sound, and from thence through the inlets to South Carolina and Georgia. To the northward, a communication is now nearly opened from Albany, up the Mohawk river to Lake Ontario and all the upper lakes; if a similar one be made from the Hudson river to Lake Champlain, it will extend the navigation to Quebec. And to the eastward, if the pass from Buzzard's to Boston bay be opened, which has been contemplated, it will in like manner extend it to Boston and all the coast of Massachusetts. Thus, with opening only a few short passes, of which the Chesapeake and Delaware Canal is the great and preliminary one, a communication may be made nearly free from all the dangers of the ocean, along the whole coast of the United States."

The committee are of opinion that it is among the first duties of a Government to promote public improvements of a general nature: No works deserve the character of public improvements more than canals.

The one proposed by the memorialists is of the first magnitude; it therefore well deserves the assistance and encouragement of the Government. Considering that a large capital has been subscribed, that an expensive part of the work is nearly completed, that probably, without the countenance and aid of the Government, the work will cease, to the loss of a number of public spirited individuals, and the destruction of a great public improvement; it is the opinion of the committee that aid ought to be granted to the memorialists.

If it be inconvenient, at this moment, to spare money from the Treasury, the United States have it in their power to contribute the assistance prayed for by a grant of land. The grant may be either gratuitous, or the company enjoined to dispose of it, and to credit the United States with shares of their stock, equal to the proceeds of the land, at the established rate of two hundred dollars for each share.

The committeee, therefore, submit the following resolution:

Resolved, That —— acres of land be granted to the Chesapeake and Delaware Canal Company, upon their giving bond, conditioned to transfer to the United States a number of the shares of the capital stock of said company, at the rate of two hundred dollars a share, equal to the proceeds of the sales of the land granted to them; and conditioned to sell the said land within —— years, and to furnish to the Secretary of the Treasury a true account of the sales.

The report was ordered to lie for consideration.

FRIDAY, January 16.

On motion, by Mr. WORTHINGTON, it was

Resolved, That a committee be appointed to inquire into the expediency of altering so much of an act of March 3, 1803, as relates to the lands allowed for the support of schools, in the Virginia military reservation, in the State of Ohio, and that they have leave to report by bill or otherwise.

Ordered, That Messrs. WORTHINGTON, CONDIT, and MOORE, be the committee to consider and report thereon.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment," reported the same with amendments; which were read.

The bill, entitled "An act providing for the punishment of certain crimes against the United States," was read the second time, and referred to the committee, appointed on the 8th of December last, to whom was referred that part of the Message of the President of the United States, at the opening of the session, which relates to this subject, to consider and report thereon.

On motion, by Mr. MOORE, the galleries were cleared; and two resolutions of the Legislature of the State of Virginia were presented and read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding thirty thousand men;" also, a bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to alter the time of holding the circuit court in the district of North Carolina; and, having reported it to the House without amendment,

Ordered, That this bill pass to a third reading.

The bill establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio, was read the second time as in Committee of the Whole; and, having been amended, was reported to the House.

Ordered, That this bill pass to the third reading as amended.

The bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States," was read the third time, and passed.

The bill to reduce the expenses attending the administration of justice in the District of Columbia was read the second time, and considered as in Committee of the Whole; and the further consideration thereof postponed.

The Senate resumed, as in Committee of the Whole, the bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808; and, after progress, the consideration thereof was further postponed.

Agreeably to notice given on the 12th instant, Mr. WORTHINGTON asked and obtained leave to bring in a bill giving the assent of Congress to a proposition contained in the 6th section of the 7th article of the constitution of Ohio; and the bill was read, and ordered to the second reading.

MONDAY, January 19.

The bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding 30,000 men," was read the second time, and referred to Messrs. SMITH, of Maryland, BRADLEY, and SUMTER, to consider and report thereon.

The bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States," was read the second time, and referred to Messrs. BALDWIN, GILES, SMITH, of Maryland, TRACY, and ADAMS, to consider and report thereon.

The bill giving the assent of Congress to a proposition contained in the sixth section of the seventh article of the constitution of Ohio, was read the second time, and referred to Messrs. WORTHINGTON, BRADLEY, and GILES, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and, after progress, the consideration thereof was further postponed.

TUESDAY, January 20.

The credentials of ANDREW GREGG, appointed a Senator of the United States by the Legislature of the Commonwealth of Pennsylvania, for six years, commencing on the 4th March next, were presented and read, and ordered to lie on file.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force, for a limited time, an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo;" also, a bill, entitled "An act to provide for surveying the coasts of the United States;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia; and, after debate, the consideration thereof was further postponed.

The bill to alter the time of holding the circuit court in the district of North Carolina, was read the third time, and passed.

WEDNESDAY, January 21.

Ordered, That Messrs. MITCHILL and STONE be added to the committee to whom was referred, on the 16th instant, the bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States;" Messrs. BALDWIN and TRACY having been excused on account of the ill state of their health.

The bill, entitled "An act to continue in force, for a further time, an act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo," was read the second time, and referred to Messrs. LOGAN, MITCHILL, and ADAMS, to consider and report thereon.

The bill, entitled "An act to provide for surveying the coasts of the United States," was read the second time, and referred to Messrs. MITCHILL, ADAMS, and GAILLARD, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom the subject was referred, on the 23d December last, asked and obtained leave to report a bill confirming claims to land in the district of Vincennes; which was read, and ordered to the second reading.

Mr. WORTHINGTON, from the committee appointed on the 5th January, on the subject, asked and obtained leave to report a bill regulating the grants of land in the Territory of Michigan; and the bill was read, and ordered to a second reading.

The PRESIDENT communicated certain resolutions of the Legislative Council and House of Representatives of the Indiana Territory, on the suspension of the sixth article of compact between the United States and the Territories and States northwest of the river Ohio, passed the 13th July, 1787; which resolutions were transmitted in a letter from William H. Harrison, Governor of the Indiana Territory; and the letter and resolutions were read, and ordered to lie for consideration.

Mr. CLAY presented the petition of John Griffin, and others, judges of the Indiana Territory, stating that, by the act of Congress, entitled "An act erecting Louisiana into two Territories, and for providing for the temporary government thereof," it was made their duty, in conjunction with the Governor of the said Territory, to organize a government in the district of Louisiana; to establish courts of justice therein; and to make and publish a code of laws for its government; and that they had, at great trouble and expense, performed that service, and praying remuneration therefor; and the petition was read, and referred to Messrs. CLAY, BRADLEY, and MACLAY, to consider and report thereon.

Mr. BAYARD gave notice that he would to-morrow ask leave to bring in a bill to explain the acts, entitled "An act supplementary to the act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments."

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein;" also, a bill, entitled "An act authorizing the erection of certain light-houses, and the fixing of stakes, buoys, and beacons, in certain places therein named;" in which bills they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and Mr. BAYARD submitted certain statements signed K. K. Van Rensselaer, Joseph Lewis, jun., and Uri Tracy, of a conversation had with Theodore Burr on this subject; and on motion that they be received and read, the Senate being equally divided, sixteen voting in the affirmative, and sixteen in the negative, the PRESIDENT determined the question in the affirmative; and the statements were read, and ordered to be printed for the use of the Senate.

Whereupon, on motion, by Mr. GILES, that Theodore Burr be admitted to the bar of this House for examination, it was objected that the motion was not in order; and the PRESIDENT submitted the question of order to the decision of the Senate, to wit: Is the motion of the member from Virginia in order? and it was determined in the negative.

THURSDAY, January 22.

The two bills brought up yesterday from the House of Representatives for concurrence were read, and ordered to the second reading.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the Potomac, within the District of Columbia;" and the memorial of sundry citizens of the town and county of Alexandria was read, praying to be incorporated into a company for making a turnpike road from Bridge Point on Alexander's island, to the northern extremity of Washington street, in the town of Alexandria; and,

Ordered, That it be printed for the use of the Senate.

The PRESIDENT communicated a letter signed Theodore Burr, explanatory of his former statements on the subject of bridges; which was read and ordered to be printed for the use of the Senate.

Agreeably to notice given yesterday, Mr. BAYARD asked and obtained leave to bring in a bill to explain the act, entitled "An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments.'" and the bill was read and ordered to the second reading.

The PRESIDENT communicated a report of the Secretary for the Department of the Treasury, in obedience to the provisions of the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," and stating that it will be necessary, on account of the great increase of business connected with the adjustment of claims and sales of public lands, to employ hereafter a greater number of clerks for that object; and the report was read and ordered to lie for consideration.

BURR'S CONSPIRACY.

The following Message was received from the PRESIDENT OF THE UNITED STATES.

To the Senate and House of Representatives of the United States:

Agreeably to the request of the House of Representatives, communicated in their resolution of the 16th instant, I proceed to state, under the reserve therein expressed, information received touching an illegal combination of private individuals against the peace and safety of the Union, and a military expedition planned by them against the territories of a Power in amity with the United States, with the measures I have pursued for suppressing the same.

I had for some time been in the constant expectation of receiving such further information as would have enabled me to lay before the Legislature the termination as well as the beginning and progress of this scene of depravity, so far as it has been acted on the Ohio and its waters. From this, the state of safety of the lower country might have been estimated on probable grounds; and the delay was indulged the rather, because no circumstance had yet made it necessary to call in the aid of the legislative functions. Information, now recently communicated, has brought us nearly to the period contemplated. The mass of what I have received in the course of these transactions, is voluminous; but little has been given under the sanction of an oath, so as to constitute formal and legal evidence. It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures, and suspicions, as renders it difficult to sift out the real facts, and unadvisable to hazard more than general outlines, strengthened by current information, on the particular credibility of the relator. In this state of the evidence, delivered sometimes too under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question.

Some time in the latter part of September, I received intimations that designs were in agitation in the western country unlawful and unfriendly to the peace of the Union; and that the prime mover in these was AARON BURR, heretofore distinguished by the favor of his country. The grounds of these intimations being inconclusive, the objects uncertain, and the fidelity of that country, known to be firm, the only measure taken was to urge the informants to use their best endeavors to get further insight into the designs and proceedings of the suspected persons, and to communicate them to me.

It was not till the latter part of October, that the objects of the conspiracy began to be perceived; but still so blended and involved in mystery, that nothing distinct could be singled out for pursuit. In this state of uncertainty, as to the crime contemplated, the acts done, and the legal course to be pursued, I thought it best to send to the scene, where these things were principally in transaction, a person in whose integrity, understanding, and discretion, entire confidence could be reposed, with instructions to investigate the plots going on, to enter into conference (for which he had sufficient credentials) with the Governors and all other officers, civil and military, and, with their aid, to do on the spot whatever should be necessary to discover the designs of the conspirators, arrest their means, bring their persons to punishment, and to call out the force of the country to suppress any unlawful enterprise in which it should be found they were engaged. By this time it was known that many boats were under preparation, stores of provisions collecting, and an unusual number of suspicious characters in motion on the Ohio and its waters. Besides despatching the confidential agent to that quarter, orders were at the same time sent to the Governors of the Orleans and Mississippi Territories, and to the commanders of the land and naval forces there, to be on their guard against surprise, and in constant readiness to resist any enterprise which might be attempted on the vessels, posts, or other objects, under their care; and on the 8th of November instructions were forwarded to General Wilkinson, to hasten an accommodation with the Spanish commandant on the Sabine, and as soon as that was effected, to fall back with his principal force to the hither bank of the Mississippi, for the defence of the interesting points on that river. By a letter received from that officer on the 25th of November, but dated October 21st, we learnt that a confidential agent of Aaron Burr had been deputed to him with communications, partly written in cypher and partly oral, explaining his designs, exaggerating his resources, and making such offers of emolument and command, to engage him and the army in his unlawful enterprise as he had flattered himself would be successful. The General, with the honor of a soldier and fidelity of a good citizen, immediately despatched a trusty officer to me, with information of what had passed, proceeding to establish such an understanding with the Spanish commandant on the Sabine, as permitted him to withdraw his force across the Mississippi, and to enter on measures for opposing the projected enterprise.

The General's letter, which came to hand on the 25th of November, as has been mentioned, and some other information received a few days earlier, when brought together, developed Burr's general designs, different parts of which only had been revealed to different informants. It appeared that he contemplated two distinct objects, which might be carried on either jointly or separately, and either the one or the other first, as circumstances should direct. One of these was the severance of the Union of these States by the Alleghany mountains; the other, an attack on Mexico. A third object was provided, merely ostensible, to wit: the settlement of a pretended purchase of a tract of country on the Washita, claimed by a Baron Bastrop. This was to serve as the pretext for all his preparations, an allurement for such followers as really wished to acquire settlements in that country, and a cover under which to retreat in the event of a final discomfiture of both branches of his real design.

He found at once that the attachment of the western country to the present Union was not to be shaken; that its dissolution could not be effected with the consent of its inhabitants, and that his resources were inadequate, as yet, to effect it by force. He took his course then at once, determined to seize on New Orleans, plunder the bank there, possess himself of the military and naval stores, and proceed on his expedition to Mexico, and to this object all his means and preparations were now directed. He collected from all the quarters where himself or his agents possessed influence, all the ardent, restless, desperate, and disaffected persons, who were ready for any enterprise analogous to their characters. He seduced good and well meaning citizens, some by assurances that he possessed the confidence of the Government, and was acting under its secret patronage, a pretence which procured some credit from the state of our differences with Spain; and others, by offers of land in Bastrop's claim on the Washita.

This was the state of my information of his proceedings about the last of November, at which time, therefore, it was first possible to take specific measures to meet them. The proclamation of November 27th, two days after the receipt of General Wilkinson's information, was now issued. Orders were despatched to every interesting point on the Ohio and Mississippi, from Pittsburgh to New Orleans, for the employment of such force, either of the regulars or of the millitia, and of such proceedings also of the civil authorities, as might enable them to seize on all the boats and stores provided for the enterprise, to arrest the persons concerned, and to suppress, effectually, the further progress of the enterprise. A little before the receipt of these orders in the State of Ohio, our confidential agent, who had been diligently employed in investigating the conspiracy, had acquired sufficient information to open himself to the Governor of that State, and apply for the immediate exertion of the authority and power of the State to crush the combination. Governor Tiffin and the Legislature, with a promptitude, an energy, and patriotic zeal, which entitle them to a distinguished place in the affection of their sister States, effected the seizure of all the boats, provisions, and other preparations within their reach, and thus gave a first blow, materially disabling the enterprise in its outset.

In Kentucky a premature attempt to bring Burr to justice, without a sufficient evidence for his conviction, had produced a popular impression in his favor, and a general disbelief of his guilt. This gave him an unfortunate opportunity of hastening his equipments. The arrival of the proclamation and orders, and the application and information of our confidential agent, at length awakened the authorities of that State to the truth, and then produced the same promptitude and energy of which the neighboring State had set the example. Under an act of their Legislature, of December 23d, militia was instantly ordered to different important points, and measures taken for doing whatever could yet be done. Some boats (accounts vary from five to double or treble that number,) and persons (differently estimated from one to three hundred,) had in the mean time passed the Falls of Ohio, to rendezvous at the mouth of Cumberland, with others expected down that river.

Not apprized, till very late, that any boats were building on Cumberland, the effect of the proclamation had been trusted to for some time in the State of Tennessee. But, on the 19th of December, similar communications and instructions, with those to the neighboring States, were despatched by express to the Governor, and a general officer of the western division of the State; and, on the 23d of December, our confidential agent left Frankfort for Nashville, to put into activity the means of that State also. But by information received yesterday, I learn that on the 23d of December, Mr. Burr descended the Cumberland with two boats merely of accommodation, carrying with him from that State no quota towards his unlawful enterprise. Whether, after the arrival of the proclamation, of the orders, or of our agent, any exertion which could be made by that State, or the orders of the Governor of Kentucky for calling out the militia at the mouth of Cumberland, would be in time to arrest these boats, and those from the Falls of Ohio, is still doubtful.

On the whole, the fugitives from the Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans.

By the same express of December nineteenth, orders were sent to the Governors of Orleans and Mississippi, supplementary to those which had been given on the twenty-fifth of November, to hold the militia of their Territories in readiness to co-operate, for their defence, with the regular troops and armed vessels then under command of General Wilkinson. Great alarm, indeed, was excited at New Orleans by the exaggerated accounts of Mr. Burr, disseminated through his emissaries, of the armies and navies he was to assemble there. General Wilkinson had arrived there himself on the 24th of November, and had immediately put into activity the resources of the place, for the purpose of its defence; and on the 10th of December, he was joined by his troops from the Sabine. Great zeal was shown by the inhabitants generally; the merchants of the place readily agreeing to the most laudable exertions and sacrifices for manning the armed vessels with their seamen; and the other citizens manifesting unequivocal fidelity to the Union, and a spirit of determined resistance to their expected assailants.

Surmises have been hazarded that this enterprise is to receive aid from certain foreign Powers. But these surmises are without proof or probability. The wisdom of the measures sanctioned by Congress at its last session, has placed us in the paths of peace and justice with the only Powers with whom we had any differences; and nothing has happened since which makes it either their interest or ours to pursue another course. No change of measures has taken place on our part:

none ought to take place at this time. With the one, friendly arrangement was then proposed, and the law, deemed necessary on the failure of that, was suspended to give time for a fair trial of the issue. With the same Power friendly arrangement is now proceeding, under good expectations, and the same law deemed necessary on failure of that, is still suspended, to give time for a fair trial of the issue. With the other, negotiation was in like manner then preferred, and provisional measures only taken to meet the event of rupture. With the same Power negotiation is still preferred, and provisional measures only are necessary to meet the event of rupture. While, therefore, we do not deflect in the slightest degree from the course we then assumed, and are still pursuing, with mutual consent, to restore a good understanding, we are not to impute to them practices as irreconcileable to interest as to good faith, and changing necessarily the relations of peace and justice between us to those of war. These surmises are, therefore, to be imputed to the vauntings of the author of this enterprise, to multiply his partisans by magnifying the belief of his prospects and support.

By letters from General Wilkinson, of the 14th and 18th of December, which came to hand two days after the date of the resolution of the House of Representatives, that is to say, on the morning of the 18th instant, I received the important affidavit, a copy of which I now communicate, with extracts of so much of the letters as comes within the scope of the resolution. By these it will be seen that of three of the principal emissaries of Mr. Burr, whom the General had caused to be apprehended, one had been liberated by *habeas corpus*, and two others, being those particularly employed in the endeavor to corrupt the General and Army of the United States, have been embarked by him for ports in the Atlantic States, probably on the consideration that an impartial trial could not be expected, during the present agitation of New Orleans, and that that city was not as yet a safe place of confinement. As soon as these persons shall arrive, they will be delivered to the custody of the law, and left to such course of trial, both as to place and progress, as its functionaries may direct. The presence of the highest judicial authorities, to be assembled at this place within a few days, the means of pursuing a sounder course of proceedings here than elsewhere, and the aid of the Executive means, should the Judges have occasion to use them, render it equally desirable for the criminals as for the public, that, being already removed from the place where they were first apprehended, the first regular arrest should take place here, and the course of proceedings receive here their proper direction.

JANUARY 22, 1807. TH. JEFFERSON.

Ordered, That the Message, and documents therein referred to, lie for consideration; and that five hundred copies thereof be printed for the use of the Senate.

FRIDAY, January 23.

The bill regulating the grants of land in the Territory of Michigan was read the second time, and the consideration thereof postponed.

The bill confirming claims to land in the district of Vincennes was read the second time, and the consideration thereof postponed.

The bill to explain the act, entitled "An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments,'" was read the second time and referred to Messrs. BAYARD, BRADLEY, and WORTHINGTON, to consider and report thereon.

The bill entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein," was read the second time and referred to Messrs. WORTHINGTON, TRACY, and CLAY, to consider and report thereon.

The bill, entitled "An act authorizing the erection of certain light houses, and the fixing of stakes, buoys, and beacons, in certain places therein named," was read the second time and referred to Messrs. MITCHILL, FENNER, and STONE, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the power of granting writs of injunctions to the judges of the district courts of the United States; also, a bill, entitled "An act for the relief of Edmund Briggs;" in which bills they desire the concurrence of the Senate.

The two last bills brought up for concurrence were read and ordered to the second reading.

On motion by Mr. GILES,

Ordered, That Messrs. GILES, ADAMS, and SMITH, of Maryland, be a committee to inquire whether it is expedient, in the present state of public affairs, to suspend the privilege of the writ of *habeas corpus*, and that they have leave to report by bill or otherwise.

Ordered, That the Message of the President of the United States, of the 22d instant, together with the documents therein mentioned, be referred to the same committee.

Whereupon, Mr. GILES, from the committee, reported a bill to suspend the privilege of the writ of *habeas corpus* for a limited time, in certain cases; and the rule was, by unanimous consent, dispensed with, and the bill had three readings, and was amended.

Resolved, That this bill pass as amended, that it be engrossed, and that the title thereof be "An act to suspend the privilege of the writ of *habeas corpus* for a limited time, in certain cases."

The committee also reported the following message to the House of Representatives; which was read, and agreed to; to wit:

Gentlemen of the House of Representatives:

The Senate have passed a bill suspending for three months the privilege of the writ of *habeas corpus*, in certain cases, which they think expedient to communicate to you in confidence, and to request your concurrence therein, as speedily as the emergency of the case shall, in your judgment, require.

Ordered, That Mr. SMITH, of Maryland, be the committee to deliver the message to the House of Representatives.

MONDAY, January 26.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act to provide for surveying the coasts of the United States," reported it with amendments; which were read and ordered to lie for consideration.

Mr. MITCHILL, also, from the committee to whom was referred the bill, entitled "An act authorizing the erection of certain light-houses, and the fixing of stakes, buoys, and beacons, at certain places therein mentioned," reported it without amendment.

The bill entitled "An act for the relief of Edmund Briggs," was read the second time and referred to Messrs. BRADLEY, ADAMS, and MITCHILL, to consider and report thereon.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

I received from General Wilkinson, on the 23d instant, his affidavit, charging Samuel Swartwout, Peter V. Ogden, and James Alexander, with the crimes described in the affidavit; a copy of which is now communicated to both Houses of Congress.

It was announced to me at the same time, that Swartwout and Bollman, two of the persons apprehended by him, were arrived in this city, in custody, each, of a military officer. I immediately delivered to the Attorney of the United States, in this district, the evidence received against them, with instructions to lay the same before the Judges, and apply for their process to bring the accused to justice; and put into his hands orders to the officers having them in custody to deliver them to the Marshal, on his application.

TH. JEFFERSON.

JANUARY 26, 1807.

The Message and papers therein mentioned were read and referred to Messrs. GILES, BAYARD, and ADAMS, together with the Message and papers heretofore communicated to the Senate on the same subject, to consider and report thereon; and five hundred copies of the Message of the President of the United States and documents communicated this day, were ordered to be printed for the use of the Senate.

Mr. GILES, from the committee to whom was referred the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a limited time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" reported it with amendments.

Ordered, That they lie for consideration.

The bill entitled "An act to extend the power of granting writs of injunction to the Judges of the district courts of the United States," was read the second time, and referred to Messrs. STONE, BRADLEY, and CLAY, to consider and report thereon.

The Senate resumed the third reading of the bill for the relief of Seth Harding, late a Captain in the Navy of the United States.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act for the relief of Seth Harding, late a Captain in the Navy of the United States."

The Senate resumed, as in Committee of the Whole, the second reading of the bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight: and the President having reported the bill to the House with amendments,

Ordered, That this bill pass to the third reading as amended.

The bill establishing circuit courts, and abridging the jurisdiction of the district courts, in the districts of Kentucky, Tennessee, and Ohio, was read the third time, as amended; and

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act establishing circuit courts and abridging the jurisdiction of the district courts, in the districts of Kentucky, Tennessee, and Ohio."

Mr. BAYARD, from the committee to whom was referred the bill to explain the act, entitled "An act supplementary to the act, entitled 'An act to divide the Territory of the United States northwest of the river Ohio into two separate governments,'" reported it without amendments.

Ordered, That this bill pass to a third reading.

TUESDAY, January 27.

JOHN SMITH, from the State of Ohio, attended.

Mr. SMITH, of Tennessee, from the committee to whom the subject was referred, reported a bill to prevent settlements being made on lands ceded to the United States, until authorized by law; and the bill was read and ordered to the second reading.

The PRESIDENT communicated the report of the Secretary for the Department of Treasury, prepared in obedience to the act, entitled "An act directing the Secretary of the Treasury to cause the coasts of North Carolina, between Cape Fear and Cape Hatteras, to be surveyed;" and the report was read and ordered to lie for consideration.

Mr. LOGAN presented the memorial of John Latour, stating that he became the purchaser of the Columbian Packet, heretofore a registered vessel of the United States, at public vendue, and received a bill of sale therefor, from J. W. Faussatt and Daniel Mann, the former registered owners of the said ship; that, on application to the collector of the port of Philadelphia, he was denied a register, on the ground, that she was, in part, the property of aliens; and praying that, as the present is the case of the first impression, without fraud, and without notice, the legislative wisdom and justice will authorize a new register for the Columbian Packet; and the memorial was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill regulating the grants of land in the Territory of Michigan; and the President having reported it to the House amended, the bill was ordered to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill confirming claims to land in the district of Vincennes; and the President having reported the bill to the House without amendment,

Ordered, That this bill pass to a third reading.

Mr. MITCHILL presented the memorial of a number of merchants of the city of New York, dealers in salt, praying that the bill before the Senate, providing for the repeal of the duty on salt may be postponed, for reasons mentioned in the petition; and the memorial was read and ordered to lie for consideration.

Mr. LOGAN presented a similar petition from sundry merchants of the city of Philadelphia; which was read, and ordered to lie for consideration.

The Senate took into consideration the amendments reported to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a limited time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Ordered, That this bill be the order of the day for Monday next.

The bill to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808, was read the third time as amended.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808.

Mr. GILES, from the committee, reported the bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States," without amendment.

The bill to explain the act, entitled "An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments," was read the third time.

Ordered, That the further consideration thereof be postponed.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill, entitled "An act to provide for surveying the coasts of the United States," and the President having reported the bill to the House with amendments,

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and a motion was made, by Mr. THRUSTON, to postpone the further consideration of this bill to the next session of Congress; and, after debate, the Senate adjourned.

WEDNESDAY, January 28.

Sundry written Messages were received from the President of the United States, by Mr. Coles, his Secretary.

The bill to prevent settlements being made on lands ceded to the United States, until authorized by law, was read the second time, and made the order of the day for Friday next.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," and the motion that it be postponed to the next session of Congress; and, after debate, the Senate adjourned.

THURSDAY, January 29.

Mr. FENNER presented the memorial of sundry citizens of the State of Rhode Island, praying the acts laying duties on salt may not be repealed, for the reasons stated in their petition; which was read, and ordered to lie for consideration.

The Message yesterday received from the PRESIDENT OF THE UNITED STATES was read, as follows:

To the Senate and House of Representatives of the United States:

By the letter of Captain Bissell, who commands at Fort Massac, and of Mr. Murrell to General Jackson, of Tennessee, copies of which are now communicated to Congress, it will be seen that Aaron Burr passed Fort Massac on the 31st December, with about ten boats, navigated by about six hands each, without any military appearance; and that three boats with ammunition were said to have been arrested by the militia at Louisville.

As the guard of militia posted on various points of the Ohio will be able to prevent any further aids passing through that channel, should any be attempted, we may now estimate with tolerable certainty the means derived from the Ohio and its waters, towards the accomplishment of the purposes of Mr. Burr.

TH. JEFFERSON.

JANUARY 28, 1807.

The Message and papers were read, and ordered to lie for consideration.

The following Message, received yesterday from the PRESIDENT OF THE UNITED STATES, was also read:

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress, the report of the Director of the Mint, of the operations of that establishment during the last year.

TH. JEFFERSON.

JANUARY 27, 1807.

Ordered, That the Message, and report therein referred to, lie for consideration.

The following Message, received yesterday from the PRESIDENT OF THE UNITED STATES, was also read:

To the Senate and House of Representatives of the United States:

I now render to Congress the account of the fund established for defraying the contingent expenses of Government for the year 1806. No occasion having arisen for making use of any part of the balance, of $18,012 50, unexpended on the 31st day of December, 1805, that balance remains in the Treasury.

TH. JEFFERSON.

JANUARY 27, 1807.

Ordered, That the Message and account lie on the table.

Mr. LOGAN presented the petition of sundry merchants of the city of Philadelphia, praying the benefit of drawback on certain imported articles, notwithstanding the formalities of the laws, by unavoidable casualties, though with no intention of fraud, have not been complied with, for reasons mentioned at large in the petition; which was read, and ordered to lie for consideration.

Mr. STONE, from the committee to whom was referred the bill, entitled "An act to extend the power of granting writs of injunction to the judges of the district courts of the United States," reported it with amendments; which were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act to alter the time for holding the circuit courts in the district of North Carolina," with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of the sufferers by fire, in the town of Portsmouth, New Hampshire," in which they request the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The Senate took into consideration the amendments of the House of Representatives to the bill first mentioned in the message; and,

Ordered, That it be referred to Messrs. TURNER, BRADLEY, and STONE, to consider and report thereon.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," and the motion that it be postponed to the next session of Congress.

And on the question to agree to the postponement, it passed in the affirmative—yeas 17, nays 16, as follows:

YEAS—Messrs. Adams, Baldwin, Fenner, Giles, Hillhouse, Howland, Logan, Maclay, Mitchill, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Thruston, Tracy, and Worthington.

NAYS—Messrs. Bayard, Bradley, Clay, Condit, Gaillard, Gilman, Kitchel, Milledge, Moore, Plumer, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Stone, Turner, and White.

FRIDAY, January 30.

Mr. ADAMS made the following motion, which was read:

Resolved, That the following rule be added to the rules for conducting business in the Senate.

The final question upon the second reading of every bill, resolution, Constitutional amendment, or motion, originating in the Senate, and requiring three readings previous to its being passed, shall be, Whether it shall be engrossed and read a third time? And no amendment shall be received for discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present.

Ordered, That it lie for consideration.

Mr. LOGAN presented the petition of Dennis De Cottineau, stating that, during the American war, he was captain of an armed vessel called the Pallas, one of the squadron in the service of the United States, under the command of Captain Paul Jones, and praying Congress for the advance of his proportion of prize money, the proceeds of three British merchant ships sent to Bergen, in Norway, in the year 1779, for reasons mentioned in the petition; which was read, and ordered to lie on the table.

Mr. TURNER, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act to alter the time for holding the circuit courts in the district of North Carolina," made report. Whereupon, the Senate concurred in the amendments.

The bill, entitled "An act for the relief of the sufferers by fire, in the town of Portsmouth, in New Hampshire," was read the second time, and referred to Messrs. GILMAN, TRACY, and ADAMS, to consider and report thereon.

Agreeably to the order of the day, the Senate took into consideration, as in Committee of the Whole, the second reading of the bill to prevent settlements being made on lands ceded to the United States until authorized by law; and the bill was made the order of the day for Tuesday next.

The bill, entitled "An act to provide for surveying the coasts of the United States," was read the third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to reduce the expenses attending the administration of justice in the District of Columbia, and the President having reported it to the House amended,

Ordered, That it pass to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing certain light-houses, and the fixing of stakes, buoys, and beacons, at certain places therein mentioned:" and the consideration thereof was postponed.

The Senate resumed the third reading of the bill to explain the act, entitled "An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments."

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to explain the act, entitled 'An act supplementary to the act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments.

MONDAY, February 2.

Mr. LOGAN, from the committee to whom was referred, on the 21st ultimo, the bill, entitled "An act to continue in force, for a further time, an act entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo," reported it without amendment.

On motion of Mr. MILLEDGE, that it be

Resolved, That a committee be appointed to inquire whether any, and, if any, what, amendments ought to

be made to the act, entitled "An act to punish frauds on the Bank of the United States;" and that they have leave to report by bill or otherwise:

Ordered, That this motion lie for consideration

The Senate resumed the consideration of the motion made on the 30th ultimo, for an additional rule in conducting business in the Senate; and it was referred to Messrs. GILES, ADAMS, and TRACY, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building a custom-house at New Orleans;" in which they request the concurrence of the Senate; and also informed the Senate of the death of General Levi Casey, late a member of the House of Representatives, and that his funeral will take place this day at one o'clock.

Whereupon, *Resolved*, That the Senate will attend the funeral of General CASEY.

The bill last brought up for concurrence was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In execution of the act of the last session of Congress, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," I appointed Thomas Moore, of Maryland, Joseph Kerr, of Ohio, and Eli Williams, of Maryland, Commissioners to lay out the said road, and to perform the other duties assigned to them by the act. The progress which they made in the execution of the work during the last season, will appear in their report now communicated to Congress. On the receipt of it, I took measures to obtain consent for making the road of the States of Pennsylvania, Maryland, and Virginia, through which the Commissioners proposed to lay it out. I have received acts of the Legislatures of Maryland and Virginia, giving the consent desired; that of Pennsylvania has the subject still under consideration, as is supposed. Until I receive full consent to a free choice of route through the whole distance, I have thought it safest neither to accept or reject finally the partial report of the Commissioners. Some matters suggested in the report belong exclusively to the Legislature.

TH. JEFFERSON.

JANUARY 31, 1807.

The Message was read, and ordered to lie for consideration.

And, on motion, the Senate adjourned.

TUESDAY, February 3.

Mr. GAILLARD presented the memorial of Nathaniel Russel, and others, merchants of Charleston, South Carolina, stating, that, in the year 1802, and for a long time previous to that period, they grievously suffered from depredations committed on their lawful commerce by privateers and vessels of war under the flag and authority of the French Republic; and praying the interposition of Congress for their relief, for reasons mentioned in the memorial; which was read and ordered to lie for consideration.

The Senate took into consideration the motion made yesterday. That a committee be appointed to inquire whether any, and, if any, what, amendment ought to be made to the act, entitled "An act to punish frauds on the Bank of the United States," and that they have leave to report by bill or otherwise; and, having agreed to the motion, Messrs. MILLEDGE, ADAMS, and BRADLEY, were appointed the committee.

The bill, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building of a custom-house at New Orleans," was read the second time, and referred to Messrs. TRACY, STONE, and BALDWIN, to consider and report thereon.

Mr. GILMAN, from the committee to whom was referred the bill, entitled "An act for the relief of the sufferers by fire in the town of Portsmouth, New Hampshire," reported it without amendment.

Ordered, That this bill pass to a third reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of light-houses, and the fixing of stakes, buoys, and beacons, at certain places therein mentioned;" and the President having reported it to the House without amendment, by unanimous consent, the bill was read the third time, and passed.

Agreeably to the order of the day, the Senate resumed the second reading of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and it was agreed that it be the order of the day for Monday next.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the second reading of the bill to prevent settlements being made on lands ceded to the United States until authorized by law; and, on motion to amend the bill, it was ordered that the bill, together with a proposed amendment to the proviso in the first section, be referred to Messrs. GILES, BRADLEY, and SMITH, of Tennessee, to consider and report thereon.

A motion was submitted, by Mr. CLAY, for consideration, as follows:

"That a committee be appointed to inquire whether any, and, if any, what, further provision is necessary to secure to the citizens of the United States, suffering from Indian depredations, the indemnity guarantied to them by law."

And, on motion, the Senate adjourned.

WEDNESDAY, February 4.

Mr. BRADLEY presented the petition of Ira Allen, stating that he has sustained great damage and sufferings by the capture of a quantity of arms and ordnance, under the authority of the British Government, which were purchased in France for the supply of the militia of the State of Vermont, in the year 1795, as is stated at large

in his petition; and praying the interposition of Congress; and his petition was read, and referred to Messrs. BRADLEY, TRACY, and WORTHINGTON, to consider and report thereon.

The Senate took into consideration the motion made yesterday, "That a committee be appointed 'to inquire whether any, and, if any, what, further provision is necessary to secure to the citizens of the United States, suffering from Indian depredations, the indemnity guarantied to them by law;" and the motion was adopted; and Messrs. CLAY, BRADLEY, and TRACY, were appointed the committee to consider and report thereon.

Mr. GILES, from the committee to whom was referred, on the 2d instant, the motion for an additional rule for conducting business in the Senate, reported the same with an amendment.

The Senate resumed the second reading of the bill, entitled "An act to continue in force for a further time an act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo, and it was recommitted to Messrs. LOGAN, MITCHILL, and GILES, further to consider and report thereon.

The Senate resumed the third reading of the bill in addition to the act for establishing a Mint, and regulating the coins of the United States; and

Ordered, That it be recommitted to Messrs. TRACY, LOGAN, and MITCHILL, further to consider and report thereon.

The bill to reduce the expenses attending the administration of justice in the District of Columbia was read the third time as amended, and passed.

The bill regulating the grants of land in the Territory of Michigan was read the third time as amended; and a motion was made by Mr. BRADLEY further to amend the bill: Whereupon, it was agreed that the consideration thereof be postponed until to-morrow.

The bill confirming claims to land in the district of Vincennes, was read the third time, and passed.

The bill, entitled "An act for the relief of the sufferers by fire in the town of Portsmouth, New Hampshire," was read the third time, and passed.

On motion, by Mr. BAYARD,

"That a committee be appointed to prepare and bring in a bill to regulate the summoning of grand jurors."

Ordered, That this motion lie for consideration.

Mr. BAYARD also submitted the following motion for consideration:

"That the Attorney General of the United States be directed to procure and lay before the Senate, at their next session, tables of the fees and compensation paid to attorneys at law, prothonotaries, registers, and clerks of judicial courts, to the sheriffs and coroners, to grand and petit jurors, and to witnesses, in the several States."

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment," and the President having reported it to the House amended, the bill was ordered to the third reading as amended.

The Senate took into consideration the amendment reported to the additional rule for conducting business in the Senate; which was read and agreed to, and the rule was adopted, as follows:

"The final question upon the second reading of every bill, resolution, Constitutional amendment, or motion, originating in the Senate, and requiring three readings previous to its being passed, shall be: 'Whether it shall be engrossed and read a third time?' And no amendment shall be received for discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present; but it shall at all times be in order, before the final passage of any such bill, resolution, Constitutional amendment, or motion, to move its commitment; and, should such commitment take place, and any amendment be reported by the committee, the said bill, resolution, Constitutional amendment, or motion, shall be again read a second time, and considered as in Committee of the Whole, and then the aforesaid question shall be again put."

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act to extend the power of granting writs of injunctions to the judges of the district courts of the United States; and the amendment reported by the special committee having been adopted, and the bill reported to the House accordingly, it was agreed to postpone the further consideration of this bill.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States;" and a motion was made to amend the bill, and the Senate adjourned.

THURSDAY, February 7.

Mr. HILLHOUSE, from the committee to whom the petition was referred, asked and obtained leave to bring in a bill for the relief of John Chester; which was read, and ordered to a second reading.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act for the relief of Edmund Briggs," reported it without amendment.

Ordered, That this bill pass to a third reading.

The Senate took into consideration the Message of the President of the United States of the 2d instant, with the report of the Commissioners appointed under the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; and they were referred to Messrs. WORTHINGTON, TRACY, and GILES, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States;" and the President having reported it to the House without amendment,

Ordered, That this bill pass to a third reading.

Mr. ADAMS submitted the following motion for consideration:

Resolved, That a committee of the Senate be appointed, jointly with such committee as may be appointed on the part of the House of Representatives, to inquire whether the act passed April 18th, 1806, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for the lands of the United States, and for other purposes relative to the public debt," was enrolled as the same passed the two Houses of Congress; and, if any error hath occurred therein, to report the same, and what measure may be expedient to correct the said error.

The PRESIDENT laid before the Senate the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board, subsequent to their report of the 5th of February, 1805, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 4th of the present month, and the statements therein referred to, which are herewith transmitted and prayed to be received as part of their report. And the report was read, and ordered to lie for consideration.

CHESAPEAKE AND DELAWARE CANAL.

The Senate took into consideration the report of the committee on the memorial of the President and Directors of the Chesapeake and Delaware Canal Company. The resolution reported by the committee is as follows:

Resolved, That —— acres of land be granted to the Chesapeake and Delaware Canal Company, upon their giving bond, conditioned to transfer to the United States a number of shares of the capital stock of said company, at the rate of two hundred dollars a share, equal to the proceeds of the sales of the land granted to them; and conditioned to sell the said land within —— years, and to furnish to the Secretary of the Treasury a true account of the sales.

Mr. BAYARD.—Mr. President, I am apprehensive that the resolution now under consideration, not being viewed as a national object, will not be regarded with the attention it deserves. Having some acquaintance with the subject, and being strongly impressed with its importance, I deem it a duty to communicate to the Senate the facts which I possess, and to unfold those views of the object proposed, which have presented themselves to my mind. I shall not feel it incumbent on me to employ any argument to prove the general utility of canals. If, however, there be but one opinion on this subject in old and populous countries, how much more benefit may we expect from the improvement in a young country where labor and capital, which it is calculated to save, are so much more wanted.

The relative position of the Delaware and Chesapeake bays long since awakened the attention of a distinguished body, as to the practicability of opening a water communication between them.

In the year 1769, Dr. Franklin, Mr. Rittenhouse, Mr. Gilpin, and Mr. Hollingsworth, were appointed a committee by the Philosophical Society of Philadelphia, to examine the ground between the bays, and to ascertain the practicability and probable expense of opening a communication between their waters. Their report strongly recommended the project, as one not only susceptible of being accomplished, but as a work eventually promising an adequate profit. The want of capital at that time, the disturbances then arising with Great Britain, the occurrence and consequences of the war, diverted, for a long time, the public attention from this interesting object. When, however, peace and a flourishing commerce had recruited the exhausted resources of the country, it again occupied the minds of those men, whose views, extending beyond themselves, are employed upon objects of general benefit and utility.

A rival interest had long been felt by Pennsylvania and Maryland, as to the waters of the Susquehannah. The Susquehannah, and the streams falling into it rendered navigable, it was evident that a great proportion of the produce of Pennsylvania and a part of that of the State of New York would pass down the river, and seek a market at Baltimore.

The Legislature of Pennsylvania having this impression, enacted penal laws against removing obstructions to the navigation of the river. The expected advantage had rendered Maryland unwilling to consent to unite, at their heads, the waters of the two bays. This unworthy spirit, which opposed a partial interest to general benefit, yielded at length to the enlarged and liberal views which comprehend the whole interests of the two States. Pennsylvania agreed to allow the navigation of the Susquehannah to be opened, and Maryland to permit the heads of the bays to be united by a canal.

In the years 1799, 1801, and 1802, by Legislative acts of Pennsylvania, Delaware, and Maryland, a company was incorporated with a capital of $500,000, for the purpose of cutting the canal. Subscriptions were obtained nearly to the amount of $400,000, the company was organized and the work undertaken.

Engineers of ability were employed to survey and level the ground upon several routes, which different opinions had distinguished as preferable, and after a full knowledge on the subject was attained, the line of the canal was fixed by the Board of Directors from Welch Point, on the Elk, to a point near Mendenhall's Landing, on the Christiana river. The extent of this route is twenty-one miles. A shorter distance might have united the two bays, but the safety of the harbors and navigation, and the boldness of the waters, secured by the route adopted, not only justified, but strongly recommended, the extension of the line and the probable increase of expense. An opinion had existed that the bays might be united so as to allow the waters of the one to flow into the other. The scheme was considered, but it was found that it could not be executed, so as to answer the intended purpose, without an expense infinitely beyond the means of the company. A canal with locks was, in consequence, determined on. The depth of the canal was fixed at seven and a half feet, to afford navigation to the common vessels belonging to the bays. To supply

the locks of the canal, the sources of the Elk river were purchased and conveyed to the main by a smaller canal. This canal of supply, proceeding from near the line of Pennsylvania, and furnishing a barge navigation, is nearly completed; the length of it is about five miles.

In making surveys, in the purchase of water-rights and lands, of boats, and materials, in payment of laborers, and incidental expenses, the company has expended upwards of $100,000. The magnitude of the work, and its numerous details of expense, were not distinctly perceived at the time it was commenced. When it was found that one-fourth of the capital of the company was exhausted, and the work which alone had been originally contemplated not commenced, a general despondency pervaded the subscribers to the project, and many despairing of the completion of the work, and considering the payment of their subscriptions as a direct sacrifice of their property, refused to pay their instalments, and have put the company to the expense, and subjected them to the delay, of law-suits. In consequence, their operations have been paralyzed, and the work suspended.

Under these circumstances, which I felt myself bound to unfold to the view of the Senate, it is, that the company now comes to ask the assistance and support of the General Government.

This, sir, I acknowledge they have no right to expect, unless the aid we contribute belongs to the interest of the public. I shall, therefore, confine my inquiries to the advantages which different States, and the Union at large, will derive from the scheme. Virginia, Pennsylvania, New Jersey, Delaware, and Maryland, have an immediate interest in the canal. It opens an inland communication between them all. The waters emptying into the Chesapeake penetrate immense tracts of country. The towns and landings on these waters have new markets opened to them, and the assistance of additional capitals.

An interior navigation of twenty-one miles, exempt from risk, saves a voyage of five hundred, exposed to the danger of enemies and the common perils of the sea. The cheapness, facility, and safety of the intercourse must necessarily quicken the commerce between the Northern and Eastern and Southern States. The manufactures of the North will be exchanged through this channel for the produce of the South. I will not trespass so far as to go through details upon this head. I will mention, however, one article connecting the interest of Virginia with the scheme. That State abounds with coal. The consumption of this article in many towns is already considerable, and must increase with the population and manufactures of the country. At present English coal is sold as cheap in Philadelphia, as the coal of Virginia; the canal would bring the Virginia coal to market at a price which would soon exclude the English. The capital of Philadelphia enables that city to import cheaper than Baltimore; and the rate of its market attracts the custom of a great portion of the western country. Great quantities of merchandise are carried from Philadelphia, passing Baltimore, to the west and south. I shall be justified in saying that the chief market of the western country will be brought sixty or seventy miles nearer to them. To them, therefore, this channel is an object of considerable interest.

In a national point of view the canal propsses the greatest advantages in the event of war.

Without the aid of England a war with any principal Power of Europe would suspend, if not destroy, our external navigation. To possess then interior navigation, uniting distant parts with the centre of the country, would be an advantage of incalculable value. And I would beg the Senate particularly to consider the important service the execution of the scheme would render; the military operations, in facilitating the transportation of troops, baggage, stores, and ordnance, to and from distant parts of the country. The movements of an enemy possessing the sea, exposed to more hazards, could not be made from certain points with more celerity and ease than those of our own army. But, sir, however great the importance of this canal may be considered even by itself, yet the nation ought to view it, and its just consequence is only seen when regarded as a principal link in a great chain of interior navigation extending from the northern to the southern extremities of the country.

A canal is contemplated from the Delaware to the Raritan. This will open a communication between the Delaware, the North river, and the Sound. A communication is nearly effected between the Mohawk river and Lake Ontario. A similar one is practicable between the Hudson and Lake George, which would extend the navigation to Quebeck. To the eastward the connexion of Buzzard's and Boston bay, carries the navigation to Boston. To the south a canal from Elizabeth river, through the Dismal Swamp to Pasquotank river, extends the navigation to Albemarle and Pamlico Sounds; and a connexion of the inlets, which is represented as practicable and likely to be undertaken, carries it to Georgia. Thus we see an unbroken chain of interior navigation can be formed, binding together all the Atlantic States, securing in time of war and facilitating in time of peace, the internal trade of the country.

This extensive work is not only practicable, but I consider there is no hazard in affirming that before the lapse of many years it will be accomplished. The extensive and powerful private and public interest which depends upon it will not suffer the object to be neglected. The waters of no country of the same extent offer so easy and complete a communication as those of the United States.

I have not enumerated all the points of connexion. I have stated only those more immediately relating to the subject of our consideration.

There is reason to believe that the subject of internal navigation has not escaped the attention of the Administration. The present moment is propitious for the undertaking. Your Treasury is full, and the redeemable part of the public debt

cannot absorb the whole of your revenue. In the other House a committee has been appointed to dispose of the surplus. I have, however, to lament that doubts of the highest authority exist as to the Constitutional right of this Government to apply the public money to objects of this kind. Though the plan I mean to propose to the Senate is not exposed to this objection, yet I shall beg permission very briefly to consider it.

It is admitted that the Constitution does not expressly give the power to cut canals; but we possess and are in daily exercise of the power to provide for the protection and safety of commerce, and the defence of the nation. It has never been contended that no power exists which has not been expressly delegated.

There is no express power given to erect a fort or magazine, though it is recognised in the delegation of exclusive legislative powers in certain cases. The power to erect light-houses and piers, to survey and take the soundings on the coast, or erect public buildings, is neither expressly given nor recognised in the Constitution, but it is embraced by a liberal and just interpretation of the clause in the Constitution, which legitimates all laws necessary and proper for carrying into execution the powers expressly delegated. On a like principle the bank of the United States was incorporated. Having a power to provide for the safety of commerce and the defence of the nation, we may fairly infer a power to cut a canal, a measure unquestionably proper with a view to either object.

But, sir, the plan I mean to propose is entirely clear of the Constitutional objection. Without any such objection I should despair of obtaining a grant of money for such an object. While money cannot be had to fortify our seaports, I cannot expect it to dig canals. I am going to ask for land upon principles of reciprocal benefit to the company and to the Government. We have, sir, 300 millions of acres, which I may say with certainty cannot be sold in a century. I will not inquire whether we have an estate in them for a hundred years. It is our policy to sell them as soon as possible. The resolution before us proposes to sell land to the company, and to receive payment in their stock.

There can be no question as to our right to sell the land for their stock. We have given it for the endowment of schools, for the making of roads, and have made gratuitous grants; and surely we must have the right to sell it for canal stock. Complete the canal and the stock cannot fail to be valuable. The United States may then convert it into money. I am warranted in saying that a grant to this company will not interfere with the sales of land made by the public. I believe that gentlemen can be found to purchase the land, with a view to promote the object of the grant, who would not purchase of the public. It is the interest of the United States, which I am proposing, more than that of the company. I am asking land, which you could not sell in a hundred years, and land which it is not likely you will hold half the period of time. A few years might complete the canal, and give to the stock its value. You will then have anticipated the sale of so much land, and accomplished an object of great public and private utility.

I have reason to believe, if this Government grant assistance to the company, the example will be followed by the States of Pennsylvania and Maryland. It now depends upon us, whether this great work shall languish and sink, or be revived and completed. More than a hundred thousand dollars have been expended; if the work be forsaken this money is lost. The project, now abandoned, will never again be undertaken by individuals. They now propose to assist you with a large capital—reject the offer, and hereafter you will be forced to do the work at your sole expense. Never had we it in our power upon terms so cheap to accomplish an object of great public importance. You save a capital of more than $100,000; you unite by internal communication the waters of five States; you lay the foundation of a scheme of interior navigation connecting the extremities of the continent; and you support a spirit of improvement so essential to the prosperity of the country, by an accommodation which takes not a cent out of our Treasury, and which promises at least a reciprocal benefit to the Government.

Mr. PICKERING supported the resolution; Mr. ADAMS opposed it; Messrs. GILES and BALDWIN suggested doubts about it. The resolution was agreed to—yeas 20, nays 6, and Messrs. BAYARD, GILES, and CLAY, were appointed a committee to bring in a bill accordingly.

FRIDAY, February 6.

The bill for the relief of John Chester was read the second time, and considered as in Committee of the Whole; and, the President having reported it to the House without amendment; on the question, "Shall the bill be engrossed and read a third time?" it passed in the affirmative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The Government of France having examined into the claim of M. de Beaumarchais against the United States, and considering it as just and legal, has instructed its Minister here to make representations on the subject to the Government of the United States. I now lay his memoir before the Legislature, the only authority competent to a final decision on the same.

TH. JEFFERSON.

FEBRUARY 6, 1807.

The Message and papers therein mentioned were read, and referred to Messrs. BRADLEY, BAYARD, and BALDWIN, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act to extend the power of granting writs of injunctions to the judges of the district courts of the United States: and, the bill was ordered to the third reading as amended.

The bill, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States,'" was read the third time, and passed.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before Congress the laws for the government of Louisiana, passed by the Governor and Judges of the Indiana Territory, at their session at Vincennes, begun on the first of October, 1804.

TH. JEFFERSON.

FEBRUARY 6, 1807.

The Message was read, and ordered to lie for consideration.

The bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment," was read the third time as amended, and passed.

The Senate resumed the third reading of the bill regulating the grants of land in the Territory of Michigan; and it was recommitted to Messrs. BRADLEY, WORTHINGTON, and MACLAY, further to consider and report thereon.

The bill entitled "An act for the relief of Edmund Briggs," was read the third time, and passed.

The Senate took into consideration the motion made on the 4th instant, "That a committee be appointed to prepare and bring in a bill to regulate the summoning of grand jurors;" and having adopted the motion, Messrs. BRADLEY, BAYARD, and ADAMS, were appointed the committee.

The motion made on the 4th instant was resumed: Whereupon,

Resolved, That the Attorney General of the United States be directed to procure and lay before the Senate, at their next session, tables of the fees and compensation paid to attorneys at law, prothonotaries, registers, and clerks of judicial courts, to the sheriffs and coroners, to grand and petit jurors, and to witnesses, in the several States.

The Senate took into consideration the motion "That a committee be appointed on the part of the Senate, to join with such committee as may be appointed on the part of the House of Representatives, to inquire whether the act passed April 18, 1806, has been duly enrolled;" and the motion was referred to Messrs. ADAMS, BRADLEY, and GILES, to consider and report thereon.

Mr. MILLEDGE, from the committee appointed the 2d instant, on the subject, reported a bill to punish frauds committed on the Bank of the United States; and the bill was read and ordered to the second reading.

MONDAY, February 9.

The PRESIDENT communicated the report of the Governor and Judges of the district of Michigan, in obedience to the act, entitled "An act to provide for the adjustment of titles of land in the town of Detroit and Territory of Michigan, and for other purposes," together with the plan of a town or city they have laid out, and stating that they are making progress in the business assigned them; and the report was read and ordered to lie for consideration.

Mr. SMITH of Tennessee, from the committee to whom was referred the bill to prevent settlements being made on lands ceded to the United States until authorized by law, reported it with amendments; which were read and ordered to lie for consideration.

Mr. BRADLEY, from the committee to whom was recommitted the bill regulating the grants of land in the Territory of Michigan, reported the bill with amendments; which were read and ordered to lie for consideration.

Mr. WORTHINGTON gave notice that he would to-morrow ask leave to bring in a bill to encourage a settlement in the western district of Orleans.

The bill to punish frauds committed on the Bank of the United States was read the second time and amended. On the question, Shall the bill be engrossed and read a third time? it was determined in the affirmative.

Agreeably to the order of the day, the Senate resumed the second reading of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;'" and on motion, it was agreed, that it be the order of the day for Thursday next.

The bill, entitled "An act to extend the power of granting writs of injunctions to the judges of the district courts of the United States," was read the third time and further amended.

Resolved, That this bill pass with amendments.

The bill for the relief of John Chester was read the third time and passed.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building a custom-house at New Orleans," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

TUESDAY, February 10.

Mr. BRADLEY, from the committee appointed on the subject, reported a bill relating to the summoning of grand jurors, which was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to prevent settlements being made on lands ceded to the United States, until authorized by law; and the President having reported the bill to the House amended, on the question, Shall the bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed the third reading of the bill regulating the grants of land in the Territory of Michigan, and, having agreed to the amendments reported by the special committee, the bill was passed.

The bill from the House of Representatives, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building a custom-house at New Orleans," was read the third time and passed.

Mr. BAYARD, from the committee appointed on the subject, agreeably to instruction, reported a bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company; and the bill was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress, a letter from Cowles Mead, Secretary of the Mississippi Territory, to the Secretary of War, by which it will be seen that Mr. Burr had reached that neighborhood on the 13th of January.

TH. JEFFERSON.

FEBRUARY 10, 1807.

The bill to punish frauds committed on the Bank of the United States was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further supplementary to the act, entitled 'An act concerning the District of Columbia,'" in which they request the concurrence of the Senate.

The bill was read and ordered to the second reading.

GUNBOATS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In compliance with the request of the House of Representatives, expressed in their resolution of the fifth instant, I proceed to give such information as is possessed, of the effect of gunboats, in the protection and defence of harbors, of the numbers thought necessary, and of the proposed distribution of them among the ports and harbors of the United States.

Under present circumstances, and governed by the intentions of the Legislature, as manifested by their annual appropriations of money for the purposes of defence, it has been concluded to combine—1st, land batteries, furnished with heavy cannon and mortars, and established on all the points around the place favorable for preventing vessels from lying before it; 2d, moveable artillery, which may be carried, as occasion may require, to points unprovided with fixed batteries; 3d, floating batteries; and, 4th, gunboats, which may oppose an enemy at his entrance, and co-operate with the batteries for his expulsion.

On this subject, professional men were consulted as far as we had opportunity. General Wilkinson, and the late General Gates, gave their opinions, in writing, in favor of the system, as will be seen by their letters now communicated. The higher officers of the Navy gave the same opinions, in separate conferences, as their presence at the Seat of Government offered occasions of consulting them, and no difference of judgment appeared on the subject. Those of Commodore Barron and Captain Tingey, now here, are recently furnished in writing, and transmitted herewith to the Legislature.

The efficacy of gunboats for the defence of harbors, and of other smooth and enclosed waters, may be estimated, in part, from that of galleys, formerly much used, but less powerful, more costly in their construction and maintenance, and requiring more men. But the gunboat itself is believed to be in use with every modern maritime nation for the purposes of defence. In the Mediterranean, on which are several small Powers, whose system, like ours, is peace and defence, few harbors are without this article of protection. Our own experience there of the effect of gunboats for harbor service, is recent. Algiers is particularly known to have owed to a great provision of these vessels for the safety of its city, since the epoch of their construction. Before that, it had been repeatedly insulted and injured. The effect of gunboats, at present, in the neighborhood of Gibraltar, is well known, and how much they were used, both in the attack and defence of that place, during a former war. The extensive resort to them by the two greatest naval Powers in the world, on an enterprise of invasion not long since in prospect, shows their confidence in their efficacy for the purposes for which they are suited. By the Northern Powers of Europe, whose seas are particularly adapted to them, they are still more used. The remarkable action between the Russian flotilla of gunboats and galleys, and a Turkish fleet of ships-of-the-line and frigates, in the Liman sea, in one thousand seven hundred and eighty-eight, will be readily recollected. The latter, commanded by their most celebrated admiral, were completely defeated, and several of their ships-of-the-line destroyed.

From the opinions given as to the number of gunboats necessary for some of the principal seaports, and from a view of all the towns and ports, from Orleans to Maine inclusive, entitled to protection in proportion to their situation and circumstances, it is concluded that, to give them a due measure of protection in times of war, about two hundred gunboats will be requisite. According to the first ideas, the following would be their general distribution, liable to be varied on more mature examination, and as circumstances shall vary, that is to say:

To the Mississippi and its neighboring waters, forty gunboats;

To Savannah and Charleston, and the harbors on each side, from St. Mary's to Currituck, twenty-five;

To the Chesapeake and its waters, twenty;

To Delaware bay and river, fifteen;

To New York, the Sound, and waters as far as Cape Cod, fifty;

To Boston, and the harbors north of Cape Cod, fifty.

The flotillas assigned to these several stations, might each be under the care of a particular commandant, and the vessels composing them, would, in ordinary, be distributed among the harbors within the station, in proportion to their importance.

Of these boats, a proper proportion would be of the larger size, such as those heretofore built, capable of navigating any seas, and of reinforcing, occasionally, the strength of even the most distant port, when menaced with danger. The residue would be confined to their own or the neighboring harbors, would be smaller, less furnished for accommodation, and consequently less costly. Of the number supposed necessary, seventy-three are built or building, and the hundred twenty-seven still to be provided, would cost from five to six thousand dollars. Having regard to the convenience of the Treasury, as well as to the resources for building, it has been thought that the one-half of these might be built in the present year, and the other half the next. With the Legislature, however, it will rest to stop where we are, or at any further point, when they shall be of opinion that the number provided shall be sufficient for the object.

At times, when Europe, as well as the United States, shall be at peace, it would not be proposed that more than six or eight of these vessels should be kept afloat. When Europe is in war, treble that number might be necessary, to be distributed among those particular harbors which foreign vessels of war are in the habit of frequenting, for the purpose of preserving order therein. But they would be manned in ordinary, with only their complement for navigation, relying on the seamen and militia of the port if called into action on any sudden emergency. It would be only when the United States should themselves be at war, that the whole number would be brought into actual service, and would be ready, in the first moments of the war, to co-operate with the other means for covering at once the line of our seaports. At all times, those unemployed would be withdrawn into places not exposed to sudden enterprise, hauled up under sheds from the sun and weather, and kept in preservation with little expense for repairs or maintenance.

It must be superfluous to observe, that this species of naval armament is proposed merely for defensive operation; that it can have but little effect towards protecting our commerce in the open seas, even on our own coast; and still less can it become an excitement to engage in offensive maritime war, towards which it would furnish no means.

TH. JEFFERSON.

FEBRUARY 10, 1807.

The Message was read, and, with the papers, ordered to lie for consideration.

WEDNESDAY, February 11.

Mr. MITCHILL, from the joint committee, appointed by the two Houses of Congress to execute the provisions of the act making a further appropriation for the support of the Library, passed February 21, 1806, made report; which was read, and ordered to lie for consideration.

The bill sent from the House of Representatives, entitled "An act further supplementary to the act, entitled 'An act concerning the District of Columbia,'" was read the second time, and referred to Messrs. ADAMS, BRADLEY, and TRACY, to consider and report thereon.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding thirty thousand men," reported the bill with an amendment; which was read, and ordered to lie for consideration.

The bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, was read the second time; and its further consideration made the order of the day for Friday next.

The bill to regulate the summoning of grand jurors was read the second time, as in Committee of the Whole, and the President reported it to the House with an amendment, which was agreed to. On the question, Shall the bill be engrossed and read the third time? it was determined in the affirmative.

The bill to prevent settlements being made on lands ceded to the United States until authorized by law, was read the third time: and on the question, Shall this bill pass? it was determined in the affirmative—yeas 17, nays 15, as follows:

YEAS—Messrs. Baldwin, Bradley, Condit, Fenner, Gaillard, Giles, Howland, Kitchel, Maclay, Milledge, Mitchill, Moore, Plumer, Smith of Maryland, Smith of New York, Smith of Tennessee, and Turner.

NAYS—Messrs. Adams, Bayard, Clay, Gilman, Hillhouse, Logan, Pickering, Reed, Smith of Ohio, Smith of Vermont, Stone, Thruston, Tracy, White, and Worthington.

So it was *Resolved*, That this bill pass, and that the title thereof be, "An act to prevent settlements being made on lands ceded to the United States, until authorized by law."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress a statement of the militia of the United States, according to the latest returns received by the Department of War. From two of the States no returns have ever been received.

TH. JEFFERSON.

FEBRUARY 11, 1807.

The Message and statement were read, and ordered to lie on table.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to both Houses of Congress the laws adopted by the government and judges of the Territory of Michigan, from the 1st day of July, 1806, to the 1st day of the present year.

TH. JEFFERSON.

FEBRUARY 11, 1807.

The Message was read, and, with the laws referred to, ordered to lie on the table.

On motion, by Mr. BAYARD,

That a committee be appointed to inquire into the expediency of allowing incorporated banks and insurance companies to take and sell ships and vessels without forfeiting the benefit of their registers, and that the said committee have leave to report by bill or otherwise:

Ordered, That this motion lie for consideration.

THURSDAY, February 12.

Ordered, That the memorial of sundry merchants of the city of Philadelphia, presented on the 29th of January last, on the subject of drawbacks, be referred to Messrs. LOGAN, BRADLEY, and ADAMS, with leave to report thereon by bill or otherwise.

Mr. LOGAN observed, that he had for some time viewed with anxiety the continued depredations committed on the commerce of the United States

by the belligerent Powers of Europe, by which our mercantile capital had suffered a loss of millions, and our national character was degraded. He considered this lamentable situation of our commerce to arise from the bounty, in the form of drawback, given by Government to encourage the carrying trade, by which our merchants were led into unnecessary conflicts with foreign nations. He therefore submitted the following motion; which was read and ordered to lie for consideration:

"That a committee be appointed to consider the propriety of repealing so much of any act as allows a drawback of duties on goods, wares, and merchandise, exported out of the United States, and that such committee be instructed to report by bill or otherwise."

The Senate took into consideration the motion made yesterday for the appointment of a committee "to inquire into the expediency of allowing incorporated banks and insurance companies to take and sell ships and vessels without forfeiting the benefit of their registers, and that the said committee have leave to report by bill or otherwise;" and the motion was adopted; and Messrs. BAYARD, BRADLEY, and SMITH of Maryland, appointed the committee.

Mr. TRACY, from the committee to whom was recommitted the bill in addition to the act establishing a Mint, and regulating the coins of the United States, reported it without amendment, and the bill was considered and postponed.

The Senate took into consideration, as in Committee of the Whole, the bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding 30,000 men," together with the report of the special committee thereon; and the President having reported the bill to the House without amendment, it was agreed that the further consideration thereof be postponed until tomorrow.

On motion, it was agreed, that the consideration of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" be the order of the day for Monday next.

The bill to regulate the summoning of grand jurors was read the third time, and passed.

FRIDAY, February 13.

Mr. ADAMS, from the committee to whom was referred the bill, entitled "An act further supplementary to the act, entitled 'An act concerning the District of Columbia,'" reported it without amendment. On the question, Shall this bill be read a third time? it was determined in the affirmative.

On motion, it was agreed, that the further consideration of the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, be postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding 30,000 men;" and, on the question, Shall this bill be read a third time? it was determined in the affirmative.

Mr. WORTHINGTON, from the committee to whom was referred the bill, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein," reported amendments.

The Senate resumed the third reading of the bill, in addition to the act for establishing a Mint, and regulating the coins of the United States; and resolved that it pass.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate for concurrence, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," with amendments, in which they request the concurrence of the Senate.

The amendments were read, and referred to Messrs. BRADLEY, GILES, and BALDWIN, to consider and report thereon.

MONDAY, February 16.

The VICE PRESIDENT being detained by the ill state of his health, the Senate adjourned soon after meeting.

TUESDAY, February 17.

Mr. BRADLEY, from the committee appointed on the 17th December last, "to inquire what further proceeding is necessary to carry into effect the provisions of an act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same," made report; which was read, and ordered to lie for consideration.

The PRESIDENT communicated a letter from the honorable Mr. STONE, resigning his seat in the Senate; which was read.

Mr. LOGAN presented the memorial of Kinsey Johns and others, in behalf of the President and Directors of the Chesapeake and Delaware Canal Company, praying the aid of Congress in the prosecution of that undertaking, and referring to their former memorial on this subject; and the memorial was read, and ordered to lie for consideration.

Mr. BAYARD, from the committee appointed on the subject, reported a bill regulating the granting of registers in case of ships and vessels of the United States becoming the property of bank and insurance companies; which was read, and ordered to the second reading.

Mr. LOGAN, from the committee to whom was referred, on the 4th instant, the bill, entitled "An act to continue in force for a further time an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo," reported amendments; which were read, and ordered to lie for consideration.

Mr. BRADLEY, from the committee to whom were referred, on the 13th instant, the amendments of the House of Representatives to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," made report: Whereupon,

Resolved, That the Senate agree to all the amendments to the said bill, except to the proviso added at the end of the eighth section, to which they disagree.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary for the Department of War;" a bill, entitled "An act for the relief of Stephen Sayre;" a bill, entitled "An act respecting seizures made under the authority of the United States, and for other purposes;" also, a bill, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes;" in which bills they request the concurrence of the Senate. They have passed the bill sent from the Senate, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio," with amendments, in which they request the concurrence of the Senate.

The four bills last brought up for concurrence were read, and ordered to the second reading.

Mr. GILES presented the petition of Sigismund Stribleing, a captain in the Virginia line of the late Continental army, stating that, through the mistake of the surveyor, he is deprived of a lot of land, disposed of in donations to the officers and soldiers in that line, and praying redress; and the petition was read, and ordered to lie for consideration.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio;" and they were referred to Messrs. WORTHINGTON, CLAY, and TURNER, to consider and report thereon.

The bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding 30,000 men," was read the third time, and passed.

Mr. CLAY presented the petition of Reni Naw, praying to be allowed the drawback on certain goods exported from the city of New York, for reasons mentioned in the petition; which was read, and referred to Messrs. LOGAN, BRADLEY, and ADAMS, the committee to whom was referred, on the 12th instant, the memorial of sundry merchants of the city of Philadelphia, on the subject of drawbacks, to consider and report thereon.

The bill, entitled "An act further supplementary to the act, entitled 'An act concerning the District of Columbia,'" was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" together with the report of the special committee thereon; and, after debate, adjourned.

WEDNESDAY, February 18.

The credentials of the honorable JOHN SMITH, appointed a Senator of the United States for the State of New York, for the term of six years, commencing on the 4th day of March next, were presented and read.

Ordered, That they lie on file.

Mr. ADAMS, from the committee to whom was referred, on the 6th instant, the motion for a joint committee "to inquire whether the act passed April 18, 1806, has been duly enrolled," reported the motion amended.

Ordered, That it lie for consideration.

The bill, entitled "An act to extend the time for locating Virginia military warrants and for returning the surveys thereon to the office of the Secretary of the Department of War," was read the second time, and referred to Messrs. WORTHINGTON, CONDIT, and MOORE, the committee appointed on the 16th January last, "to inquire into the expediency of altering so much of an act of March 3, 1803, as relates to the lands allowed for the support of schools in the Virginia Military Reservation in the State of Ohio," to consider and report thereon.

Ordered, That the petition of Sigismund Stribleing, presented yesterday, be referred to the same committee.

The bill, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes," was read the second time, and referred to Messrs. BAYARD, BRADLEY, and MILLEDGE, to consider and report thereon.

The bill, entitled "An act respecting seizures made under the authority of the United States, and for other purposes," was read the second time, and referred to Messrs. MITCHILL, ADAMS, and SMITH, of Maryland, to consider and report thereon.

The bill, entitled "An act for the relief of Stephen Sayre," was read the second time, and referred to Messrs. BALDWIN, SUMTER, and TRACY, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a joint resolution to publish the report and chart of the survey of the coast of North Carolina, in which they ask the concurrence of the Senate. They insist on their amendment, disagreed to by the Senate, to the bill, entitled "An act to prohibit the importation of slaves into any port or

place within the jurisdiction of the United States from and after the 1st day of January, in the year of our Lord 1808," ask a conference thereon, and have appointed managers on their part.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," together with the report of the special committee thereon; and, after debate, the further consideration of this bill was postponed.

The Senate proceeded to consider the resolution of the House of Representatives, insisting on their ninth amendment to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and requesting a conference on the subject-matter of the said amendment: Whereupon,

Resolved, That the Senate do agree to the conference requested, and that Messrs. BRADLEY, GILES, and GAILLARD, be the managers at the same on their part.

The joint resolution to publish the report and chart of the survey of the coast of North Carolina, sent from the House of Representatives, was read, and ordered to the second reading.

THURSDAY, February 19.

The joint resolution, sent from the House of Representatives, to publish the report and chart of the survey of the coast of North Carolina, was read the second time, and referred to Messrs. BRADLEY, SUMTER, and GILES, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom was referred the bill, entitled "An act to extend the time of locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary for the Department of War," reported amendments; which were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," together with the report of the special committee thereon; which amendment is as follows:

"Section 1, line 2, strike out, after the word 'assembled,' the remainder of the first section, and the whole of the second section, and to the word 'that,' in the third section and first line."

And, on the question to agree to the said report, it was determined in the affirmative—yeas 17, nays 15, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Clay, Condit, Giles, Gilman, Mitchill, Pickering, Plumer, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Thruston, Tracy, and White.

NAYS—Messrs. Baldwin, Fenner, Gaillard, Hillhouse, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Sumter, Turner, and Worthington.

And the PRESIDENT reported to the House that the Committee of the Whole had agreed to sundry amendments; and, on motion, the further consideration of the bill was postponed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, and an amendment was submitted; and the further consideration of the bill postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress a letter from our Ministers Plenipotentiary at London, informing us that they have agreed, with the British Commissioners, to conclude a treaty on all the points which had formed the object of their negotiation, and on terms which they trusted we would approve.

Also, a letter from our Minister Plenipotentiary at Paris, covering one to him from the Minister of Marine of that Government, assuring him that the Imperial decree lately passed was not to affect our commerce, which would still be governed by the rules of the treaty established between the two countries.

Also, a letter from Cowles Mead, Secretary of the Mississippi Territory, acting as Governor, informing us that Aaron Burr had surrendered himself to the civil authority of that Territory.

TH. JEFFERSON.

FEBRUARY 19, 1807.

The Message and documents referred to were read, and 500 copies thereof ordered to be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to continue in force for a further time an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the Island of St. Domingo," together with the amendments reported by the special committee; and the President having reported the bill amended, on motion, the further consideration thereof was postponed.

Mr. WORTHINGTON, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of Kentucky, Tennessee, and Ohio," reported that the Senate agree thereto.

TENNESSEE LANDS.

The Senate resumed the consideration of the report of the committee, appointed on the 17th of December last, "to inquire what further proceeding is necessary to carry into effect the provisions of an act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;" which report is as follows:

"That, in the absence of the honorable Joseph Anderson, one of the Senators from the State of Tennessee, who has not attended Congress during the present session, the committee proceeded to examine the act of the State of Tennessee, entitled 'An act to appoint agents to settle the dispute existing between this State and the United States, relative to the vacant and unappropriated lands within this State, and to procure the relinquishment of the claim of the United States to the same,' passed November 14, 1801, and find that in and by said act the State of Tennessee did authorize their Senators and Representatives, or their successors, or a majority of them, to procure from the United States a relinquishment of their claim to the lands in the State of Tennessee, in such manner, and upon such terms, as to the said agents might seem proper; and being fully satisfied that the powers vested in the Senator and Representatives from the State of Tennessee, signers of the hereinafter recited instrument, are ample and sufficient to carry into effect, on the part of the State of Tennessee, the provisions of the aforesaid acts of Congress, the committee have received from them the following instrument, signed and sealed by them, respectively, to wit:

'*Be it remembered*, That we, the undersigned, Senator and Representatives in the Congress of the United States, from the State of Tennessee, do hereby make known, that, in pursuance of the power in us vested, by an act of the General Assembly of the State of Tennessee, entitled 'An act to appoint agents to settle the dispute between this State and the United States, relative to the vacant and unappropriated lands within this State, and to procure the relinquishment of the claim of the United States to the same,' and by a resolution of the Senate and House of Representatives of the State of Tennessee, passed in the year 1802, as instructions therein: We do, in consideration of the provisions made in the act of Congress, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same,' for and in behalf of the State of Tennessee, agree and declare, that all right, title, and claim, which the State of Tennessee hath to the lands lying west and south of the following line, to wit: beginning at the place where the eastern or main branch of Elk river shall intersect the southern boundary line of the State of Tennessee; from thence, running due north, until said line shall intersect the northern or main branch of Duck river; thence, down the waters of Duck river, to the military boundary line, as established by the seventh section of the act of North Carolina, entitled 'An act for the relief of the officers and soldiers of the Continental line, and for other purposes,' passed in the year one thousand seven hundred and eighty-three; thence, with the military boundary line, west, to the place where it intersects the Tennessee river; thence, down the waters of the Tennessee river, to the place where the same intersects the northern boundary line of the State of Tennessee, shall hereafter forever cease; and the lands aforesaid, lying south and west of the line aforesaid, within the limits of the State of Tennessee, shall be and remain at the sole and entire disposition of the United States, and shall be exempted from every disposition or tax, made by order, or under the authority, of the State of Tennessee, while the same shall remain the property of the United States, and for the term of five years after the same shall be sold.

'In testimony whereof, we have hereunto signed our names, and affixed our seals.

'Done at the City of Washington, this twenty-third day of January, in the year of our Lord one thousand eight hundred and seven.

'DANIEL SMITH,
'WM. DICKSON,
'G. W. CAMPBELL,
'JOHN RHEA.

'In presence of
'SAMUEL A. OTIS,
'*Secretary of the Senate of the United States.*
'JOHN BECKLEY,
'*Clerk of the House of Representatives of the U. S.*"

"Whereupon,

"*Resolved*, That the Senate do approve of the aforesaid instrument, and order the same to be entered at large on the Journal; and the Secretary is hereby directed to cause the original instrument to be deposited in the office of the Secretary of State."

And the report was agreed to.

FRIDAY, February 20.

Mr. MITCHILL, from the committee to whom was referred, on the 18th instant, the bill from the House of Representatives, entitled "An act respecting seizures made under the authority of the United States, and for other purposes," reported the bill without amendment. On the question, Shall this bill be read a third time? it was determined in the affirmative.

The Senate proceeded to consider the report of the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio." Whereupon, the Senate concurred in the said amendments.

Mr. BAYARD, from the committee to whom was referred the bill, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes," reported amendments; which were read and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the second reading of the bill from the House of Representatives, entitled "An act to continue in force for a further time an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the Island of St. Domingo," together with the report of the special committee thereon; and the President having reported the bill to the House amended, on the question, "Shall this bill be read a third time as amended?" it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the report of the special committee on the bill sent from the House of Representatives, entitled "An act to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary for the

Department of War;" and the President reported the bill to the House amended accordingly; on the question, Shall this bill be read a third time as amended?" it was determined in the affirmative.

The Senate resumed the second reading of the bill sent from the House of Representatives, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," as yesterday reported to have been amended as in Committee of the Whole; and on motion, to agree to the amendments adopted yesterday in the Committee of the Whole, as follows:

"Sec. 1, line 2, strike out after the word 'assembled,' the remainder of the first section, and the whole of the second section, and the word 'that,' in the third section and first line:"

It was determined in the affirmative—yeas 15, nays 14, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Clay, Condit, Giles, Gilman, Mitchill, Pickering, Plumer, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, and White.

NAYS—Messrs. Baldwin, Fenner, Gaillard, Hillhouse, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Sumter, Turner, and Worthington.

And it was agreed to amend the first section, by inserting, after the word "assembled," "That, from and after the first day of July next, the act, entitled 'An act laying an additional duty on salt imported into the United States, and for other purposes,' passed the 8th day of July, 1797, shall be, and the same hereby is, repealed;" also, to amend the third section, by expunging the words, "end of the next session of Congress," and inserting "31st day of December next."

On motion, by Mr. KITCHEL, to add a new section, as follows:

"SEC. — *And be it further enacted*, That, from and after the first day of January next, so much of any act as lays a duty on imported salt, and allows a bounty on exported salted provisions and pickled fish, in lieu of drawback of the duties on the salt employed in curing the same; and so much of any act as makes allowance to the owners and crews of fishing vessels, in lieu of drawback of the duties paid on the salt used by the same, shall be, and the same hereby is, repealed:"

It was determined in the negative—yeas 13, nays 14, as follows:

YEAS—Messrs. Bradley, Condit, Fenner, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Vermont, Turner and Worthington.

NAYS—Messrs. Adams, Bayard, Clay, Giles, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of New York, Smith of Ohio, Smith of Tennessee, Sumter, and White.

And, on the question, Shall this bill be read a third time as amended? it was determined in the affirmative—yeas 16, nays 13, as follows:

YEAS—Messrs. Bradley, Clay, Condit, Fenner, Giles, Howland, Kitchel, Logan, Maclay, Milledge, Mitchill, Moore, Reed, Smith of Tennessee, Smith of Vermont, and Worthington.

NAYS—Messrs. Adams, Baldwin, Bayard, Gaillard, Gilman, Hillhouse, Pickering, Plumer, Smith of New York, Smith of Ohio, Sumter, Turner, and White.

Mr. CLAY submitted the following motion for consideration:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, which, when ratified by three-fourths thereof, shall be valid, as part of the Constitution of the said United States:

"ART. XIII. The judicial power of the United States shall not be construed to extend to controversies between citizens of different States; between citizens of the same State claiming lands under grants of different States; nor between a State or the citizens thereof, and foreign States, citizens, or subjects."

The second reading of the bill regulating the granting of registers, in case of ships or vessels of the United States becoming the property of bank and insurance companies, was resumed; and on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill sent from the House of Representatives, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein," together with the report of the special committee; and, after debate, adjourned.

MONDAY, February 23.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia;" a bill, entitled "An act for the relief of Daniel S. Dexter;" also, a bill, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana;" in which bills they ask the concurrence of the Senate. They have passed the bill sent from the Senate, entitled "An act to punish frauds committed on the Bank of the United States," with amendments; in which they request the concurrence of the Senate.

The three bills last brought up for concurrence were read, and ordered to the second reading.

Mr. CLAY presented the memorial of Henry Cary Gist, and others, stating that they have discovered a valuable lead mine on land belonging to the United States, in the Territory of Indiana bordering on the river Ohio; and praying the exclusive right of opening and occupying the said mine for a limited time, on terms that may be advantageous to the Government, and, in consideration of their discovery, beneficial to themselves; and the memorial was read, and referred to Messrs. CLAY, BRADLEY, and LOGAN, to consider and report thereon.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to punish frauds committed on the Bank of the United States;" and agreed thereto.

The bill from the House of Representatives, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana," was, by unanimous consent, read the second time, and referred to Messrs. WORTHINGTON, GILES, and MITCHILL, to consider and report thereon.

Mr. MITCHILL presented the memorial of James Creighton, stating that his son, James Creighton, junior, shipped certain articles of merchandise, entitled to drawback, on board the brigantine called the Penelope, bound from the port of New York to the Havana, in the month of October last; and praying to be allowed the drawback, notwithstanding the casual omission of the legal formalities requisite to entitle him thereto; and the memorial was read and ordered to lie on the table.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act allowing an additional compensation to the Judges of the Mississippi Territory, and extending the right of suffrage therein;" and the President having reported the bill to the House amended, on the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

The bill from the House of Representatives, entitled "An act to continue in force, for a further time, an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo," was read the third time as amended, and passed.

The bill regulating the granting of registers, in case of ships or vessels of the United States becoming the property of bank and insurance companies, was read the third time and passed.

The bill from the House of Representatives, entitled "An act to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War," was read the third time as amended, and passed.

The bill from the House of Representatives, entitled "An act respecting seizures made under the authority of the United States, and for other purposes," was read the third time and passed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company; and the PRESIDENT reported the bill to the Senate without amendment.

On motion, by Mr. SMITH, of Maryland, to adopt a new section, to be made the 5th section, it was determined in the negative.

On motion, by Mr. ADAMS, to postpone the bill, for the purpose of considering the following resolution:

Resolved, That the Secretary of the Treasury be directed to prepare, and report to the Senate at their next session, a plan for the application of such means as are constitutionally within the power of Congress, to the purposes of opening roads, for removing obstructions in rivers, and making canals; together with a statement of the undertakings of that nature now existing within the United States, which, as objects of public improvement, may require and deserve the aid of Government:

It passed in the negative, and the further consideration of the bill was postponed until to-morrow.

TUESDAY, February 24.

Mr. BRADLEY, from the committee to whom was referred, on the 19th instant, the joint resolution sent from the House of Representatives, to publish the report and chart of the survey of the coast of North Carolina, reported it with amendments.

The President laid before the Senate sundry resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, stating "That they are attached in the highest 'degree to the Constitution of the United States, 'and have the utmost confidence in the wisdom 'and virtue of the Chief Magistrate; and that 'every project of the ambitious and enterprising 'to dissever the Union, and to usurp the prerogative of Government, will always excite their 'honest indignation;" and exhibiting to Congress the measures, in their opinion, the most conducive to the defence of the frontiers of the United States; and the resolutions were read.

Mr. SUMTER, from the committee to whom was referred the bill, entitled "An act for the relief of Stephen Sayre," reported it without amendment.

Mr. LOGAN, from the committee to whom was referred, on the 17th instant, the petition of Reni Naw, reported that the prayer of the petition ought not to be granted.

Mr. LOGAN, also, from the committee to whom was referred, on the 12th February, the memorial of sundry merchants of Philadelphia, praying the benefit of drawback on certain articles exported, for reasons mentioned in their petition, reported that the said memorial be referred to the Secretary of the Treasury, to examine the merits of the individual claims of the petitioners; and that he report the same to the Senate at their next session.

Mr. SMITH, of Vermont, presented the petition of the inhabitants of the city of Washington, signed James Hoban, chairman, praying an alteration in "The act to incorporate the inhabitants of the city of Washington, in the District of Columbia," passed 3d May, 1802, so as that each ward may have the privilege of electing its own representatives; and the petition was read, and referred to Messrs. SMITH, of Vermont, ADAMS, and REED, to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom the subject was referred, on the 5th instant, asked and obtained leave to report a bill making a further appropriation towards defraying the expense of a road from Cumberland, in the State of Maryland, to the State of Ohio; which was read, and ordered to the second reading.

Mr. WORTHINGTON, from the committee appointed on the 16th January last, to inquire into the expediency of altering so much of an act of March 3d, 1803, as relates to the lands allowed for the support of schools in the Virginia military

reservation, reported that a bill had passed embracing this subject. Whereupon,

Ordered, That this committee be discharged from the further consideration thereof.

The bill from the House of Representatives, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia," was read the second time and referred to Messrs. TRACY, BRADLEY, and ADAMS, to consider and report thereon.

The bill from the House of Representatives, entitled "An act for the relief of Daniel S. Dexter," was read the second time, and referred to Messrs. MITCHILL, TURNER, and BRADLEY, to consider and report thereon.

The bill from the House of Representatives, entitled "An act for repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time; and on motion, its further consideration postponed until 12 o'clock to-morrow.

The bill from the House of Representatives, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein," was read the third time as amended.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats; also, a bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States;" in which bills they request the concurrence of the Senate.

The two bills last brought up for concurrence were read, and ordered to the second reading.

Mr. CLAY, from the committee to whom was referred, on the 14th of January last, the motion to appropriate a quantity of land, at a fair cash valuation, towards the opening of the canal proposed to be cut at the Rapids of the Ohio, on the Kentucky shore, made report; which was read, and, ordered to lie for consideration.

Mr. BRADLEY, from the managers at the conference on the disagreeing votes of the two Houses, on the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," made report; which was read, and ordered to lie for consideration.

CHESAPEAKE AND DELAWARE CANAL.

The Senate again resumed, as in Committee of the Whole, the second reading of the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company; and the President having reported the bill to the House amended—

Mr. WHITE addressed the Chair as follows:

Mr. President: I had hoped this question would have been decided last evening, and the discussion closed in that stage of it. I am sure the Senate must be fatigued with the subject; it is therefore with extreme reluctance that I rise at this late period of the debate to reply to the observations of the gentleman from Massachusetts before me, (Mr. ADAMS,) who has just sat down, especially after the field of argument has been so attentively and closely gleaned by my colleague. The gentleman was pleased to commence by charging us with precipitating this measure through the Senate. But is this the fact, sir? On the contrary, it was before Congress during the greater part of the last session; a very detailed and lucid memorial accompanied by numerous documents was then presented in relation to it; upon which a committee of this House, after full investigation, reported a resolution favorable to the measure, supported by their reasons, and a strong statement of facts. These documents were all printed and laid upon the table of every gentleman, and then it will be remembered that in order to give further time for consideration, so as to avoid the very cause of complaint now made, the friends of the project themselves moved its postponement to the present session. A second memorial from the Managers has been received this session on the same subject, followed by a second favorable report from another committee of the Senate; the printed bill itself, now under consideration, has been before us near four weeks, and yet the gentleman from Massachusetts, with all these facts staring him in the face, talks of our precipitating this measure. I may safely trust the force and correctness of this argument to the recollection of the Senate alone. But the gentleman has referred us to a similar project before the Senate for a canal at the Falls of Ohio, and tells us that three States are immediately interested in that, three likewise in this, and that consequently twelve members on this floor feel the same particular influence. The gentleman certainly did not mean to intimate that any private understanding had taken place among the supporters of these respective measures, in relation to them, or that they were capable of any such conduct. That gentlemen from different States should be found supporting similar measures of public utility, is not surely wonderful; and although the States they particularly represent may happen to be most immediately interested in their success, yet no man of honor himself, could on this account suspect them of improper motives, or attribute their coincidence of opinion to any other cause than the honest, unbiassed convictions of their own minds, and a view to the public good. The extreme case stated by the gentleman, of the nine States that have now a majority in Congress, combining to divide the public lands, and public treasures among them, could probably never have suggested itself to the mind of any member. Sir, if the oaths and political responsibility imposed by the Constitution were not sufficient the integrity, the virtue, and the honor of

the Representatives of the nation, should forever preclude, even the idea of such a possibility. If you suppose all men treacherous and corrupt, what barriers, I ask, can you oppose to them, that they may not trample under foot? Such arguments are calculated only to sap and destroy that faith and confidence among men, so essential in all the relative situations of life; to inspire universal distrust and jealousy, and to sever the strongest bonds of political and civil society. We are willing, sir, that the measure we now propose, let it stand or fall, should be judged by its own merits. Every gentleman, who will cast his eye over our map, must see, more distinctly than argument can illustrate, the magnitude and importance of the project, and a moment's attention to the plan will be sufficient to convince them of the heavy expense necessarily attendant upon such an undertaking.

The canal is contemplated to be of depth and capacity sufficient for the navigation of vessels suitably constructed, of from 70 to 100 tons burden and more, so as to afford a safe and expeditious inland water transportation to all of what now composes the coasting trade between Philadelphia and Baltimore, free from the danger and expense of a circuitous and coastwise voyage of more than 300 miles. To the whole extent of fertile and populous country upon the Chesapeake and the Delaware, and their tributary streams, including part of North Carolina, the States of Virginia, Maryland, Pennsylvania, Delaware, and New Jersey, it will give a choice of the markets of these two great rival cities, by rendering them each easily accessible to the commerce of either bay; which must unavoidably excite a competition between them infinitely desirable, especially to the agricultural interest: for to those who have any acquaintance with the business of these two places, must be well known the immense and unaccountable difference frequently experienced in their respective markets between the prices of the same articles of produce at the same time. And another grievance, more particularly complained of by those upon the waters of the Chesapeake, is the frequent, the sudden, and arbitrary fluctuations of the Baltimore market; to which the farmer is obliged to submit for want of an alternative, and which probably the opportunity of a choice alone might be sufficient to correct. The chief operation, as it appears to me, that the canal could have upon Baltimore, would be to keep her up to the standard of the Philadelphia market, and it would have the further effect of keeping them both up to the standard justified by the market abroad. All the heavy produce of the immense and fertile country watered by the Susquehannah, that must otherwise remain almost exclusively at the command of Baltimore, and nearly upon her own terms, over a canal might find a cheap and safe water transportation to Philadelphia. The very boats that now descend that river from the Painted Post, in the State of New York, more than three hundred miles up, with the produce of the country, could unlade their cargoes at the wharves of Philadelphia, because they would leave the Chesapeake, and enter the Delaware at points safely navigable at all times for such craft. It forms however, sir, no part of this plan to force this commerce, as has been intimated, to Philadelphia, or by any unfair means to divert it from Baltimore, or in any manner to injure Baltimore; but merely to give to those people an opportunity of choosing for themselves, between these two markets, the one most convenient and profitable to them. And in this aspect it is to be observed, that the present question turns not between Baltimore and Philadelphia, but between Baltimore and the whole extent of country upon the Susquehannah and other waters of the Chesapeake; whether that country shall be confined exclusively to the market of Baltimore, or have an opportunity of choosing between that and Philadelphia. And admitting, Mr. President, that the canal was now completed, yet the situation of Baltimore being still more convenient to this produce than that of Philadelphia, she might still command it with the same prices current, and this is what those who resort to her market have a right to demand. Her capital may possibly be equal to such a competition; the industry and enterprise of her citizens, I know are not surpassed by any on the continent. There is no city in the Union I should be more unwilling to see retarded in her progress to wealth and greatness than Baltimore; but surely, sir, the interests of half a million of people are not to be delayed, or sacrificed to hasten the premature growth of any particular city.

Again, Mr. President, it is well known that many extensive manufactories, in metals especially, have been established in and about Philadelphia, Wilmington, Trenton, and other towns upon the Delaware; coal is the very basis of those manufactures; none has yet been discovered in that country, and although Virginia could of herself furnish a sufficiency for the continent, yet, owing to the difficulties and expense of transporting it around by sea in coasting vessels, the Liverpool coal now holds a successful competition with it in those markets. In these respects, and as an article of common fuel, if it could be had upon the reasonable terms this inland navigation must produce, the demand for it would be infinitely increased, and the most important manufactures of our country be greatly encouraged and improved.

Sir, it is now proposed to you to extend the patronage of Government, in a manner that can never be felt by the public, to aid in the execution of the most important national improvement ever attempted in our country—an improvement connecting two of our most extensive and commercial waters, opening of itself a commodious inland navigation to vessels of considerable burden for an extent of more than four hundred miles through the centre of the Middle States, from Norfolk, or rather from Cape Henry, to Trenton, an improvement that, although consisting only in opening a passage of about twenty miles across the isthmus, must save to all the commerce of the Susquehannah and the Delaware, inclined to seek the market of the other bay, near five hundred miles perilous navigation. And admitting that Virginia,

Maryland, Pennsylvania, Delaware, and New Jersey, composed the only portion of the Union that could ever be expected to derive the least possible advantage from the work, surely considering the millions that have been expended in the defence of our frontiers, in the extinguishment of Indian titles, and in the acquirement of unsettled countries, part of which they have cheerfully borne, the accommodation now asked, to every reasonable man—I beg pardon, except the gentleman from Massachusetts before me (Mr. ADAMS)—must appear most just and reasonable indeed. I will here, sir, take leave to express my pleasure, and to congratulate the cis-montain friends of the present measure, upon the prompt, the frank, and liberal conduct evinced in favor of this great public improvement in the Atlantic States, by those gentlemen who so ably represent here the interests of the western country. But, Mr. President, these private advantages, if they may be so called, that I have thus hastily and desultorily enumerated, are small, indeed, when compared to the great public utility to be expected to the Union, from the proposed work. This canal, as has been well observed by my colleague, is the first and most important link in the chain of internal navigation by which nature has designed this great confederacy of States to be cemented; the second, in point of importance, is that through Jersey from the Delaware to Amboy, or the waters of the Raritan. Then I ask you, sir, to look at the geography of your country, when the canals from the Mohawk to the waters of Oneida lake—where one is, I believe, now nearly, if not quite, completed, from the Hudson to the waters falling into lake Champlain, for which an act of the Legislature has been obtained—from Buzzard's to Boston bay, long since in contemplation, shall be carried into execution in the northern and eastern extremities of the Union; and that from Elizabeth river, in Virginia, through the Dismal Swamp, to Albemarle and Pamlico Sounds, aided by the various inlets—and very little more work in the southern extremity—we shall have a complete inland navigation from the Savannah river to the Lakes, even to Quebec, embracing the whole of the Atlantic States, and passing an extent of more than a thousand miles through our own country. Is this a subject of small consideration? I answer, confidently, no—at least to no other gentleman than the member from Massachusetts; and the case of any internal local State improvement of this kind, such as the one in Massachusetts, cited by the gentleman, in order to mar and destroy this, however entitled to the wishes and patronage of the public, cannot compare, in points of national importance, with the one we now propose.

In case of war, and God knows if we attend to the recent occurrences of our country, and contemplate the portentous events passing in the old world, we have little reason to suppose that we, even for our own short day, can be permitted to fold our arms in peace, and to indulge in slumbers of ease and safety; in the prospect of such an hour of calamity, I ask, what gentleman that hears does not anticipate me, and congratulate himself and his country upon the power he now holds, upon the means and opportunity now offered him, of facilitating the execution of a great public work, from which the most important national advantages could not fail to arise? You, sir, who, so usefully to your country, and so honorably to yourself, acquired your long and arduous experience in the active and turbulent scenes of the Revolution, must feel how incompetent I am to do justice to this part of the subject. You know well, Mr. President, the promptitude and force with which an army of observation posted upon the banks of the proposed canal, by means of that canal, could strike at any point within the whole extent of the navigable waters of the Chesapeake and the Delaware; and it could not have escaped your attention, sir, that on its very shore nature has placed, and bound with iron, a mountain, commanding the course of the canal for miles, and capable of being rendered as impregnable to an enemy as any inland situation on the Atlantic part of the Middle States. This convenient and commanding position requires only the aid of the proposed canal to force itself irresistibly upon the mind of every gentleman who will cast his eye over the map, as the very spot of all others in the Middle States best calculated to become a grand depot of arms, provisions, and military stores, in time of war. The whole peninsula presents to its front, on one extended fertile plain, an inexhaustible granary of provision; on every other side it is surrounded by a difficult, irregular country, and almost inaccessible heights, all of which it commands, and all of which, by suitable improvements, might be rendered subservient to its support. My colleague stated, I think, the facility and safety to be derived from such an inland navigation in time of war, in the transportation of troops, arms, provisions, and other military stores, and the advantages especially such a mode of conveyance would have been to the American army on their march to Yorktown; when the length of time unavoidably occupied in passing with their heavy ordnance, provisions, and baggage, this very ground—in preparing a second fleet of transports upon the Chesapeake—in debarking upon one water, and embarking upon another—might have disappointed the most glorious enterprise in the annals of the Revolution, and protracted for years the war, with all its vices, its calamities, and its expense. Sir, one of the principal modes of national defence upon which we now chiefly rely, and are providing at great expense, renders of itself this measure almost indispensable. Your gunboats might then become doubly useful in case of a foreign attack directed against the Chesapeake or the Delaware, as probable points as any other; the same squadron, by means of the canal, could operate with equal facility upon either bay, without encountering the dangers of the sea, or an enemy upon the coast. This measure must, in fact, be considered a part, and a most important part, of the same system of internal national defence; it belongs as much to the defence of the country as any fortification, battery, frigate, or gunboat, in it.

The whole amount of what we now ask to complete this great public work, even if requested as a gratuity, would not be sufficient to build and equip for sea one single ship-of-the-line, or two frigates, and yet, give me leave to say, that in time of war, to all useful purposes, this canal would be a fleet to you; fleets soon decay, but this grand and useful work would become the invaluable inheritance of posterity, as long as the inscrutable dispensations of Heaven shall permit the continent itself to hold its place.

Let us now, Mr. President, attend for a moment to the lessons of experience on this subject. In Ireland we know that, during a late invasion by the French, an army of ten thousand men completely equipped for the field was transported, to meet the invaders, by means of a canal, sixty miles in ten hours, three days' long march, and then another would probably have been necessary, to rest and prepare them for action. In England, so strong is the public sentiment on this point, that a canal has been, or is now constructing, from London to the coast of Kent, for the express purpose of aiding the national defence in case of invasion. And at the same time that canals are themselves easily defensible at all points by a very inferior force, they are perhaps the only means of defence that, falling into the hands of an enemy, cannot be turned successfully against the country, because readily liable to be rendered useless in various ways, without any permanent injury to the work. I shall not dwell, Mr. President, upon the great advantages to be expected from the measure proposed, to the commercial and manufacturing as well as to the agricultural interest; in countries where such improvements are carried on to the highest point, they all flourish most. Every gentleman here knows the great difference of expense between land and water carriage. It is stated, among other things, in the memorial of the petitioners, to which I am much indebted, that the freight of a ton, of forty cubic feet, from Europe, will generally not more than pay its land transportation thirty miles; so that the same article may cost nearly as much in land carriage across the Isthmus as in freight across the ocean; yet, sir, a very considerable commerce is now carried on in this way; some of the most commodious vessels on the continent, of their kind, as many gentlemen here know, are actively employed in it; these, with the utmost facility, would pass the canal, and their numbers and business be infinitely increased. Sir, if any object of internal improvement ever can claim the public patronage—and, with great submission, this appears to me to be one of the chief ends of government—it is the very one we now offer; we challenge a comparison with any other that can be proposed, from Maine to Georgia. And we make this appeal to the justice, the liberality, and patriotism of the Government, with the greater confidence, because, we know that in other and older countries, works of such great public utility have never been left to the feeble efforts of private individuals. In Holland, their numerous canals are all constructed and supported at the public expense. In France, the two great canals of Briaire and Languedoc remain the most lasting and useful monument of the respective monarchs that founded them. And shall we, sir, refuse the little aid proposed by this bill, to a company of patriotic individuals, who, to their infinite honor, have attempted a similar improvement in our own country? And who, after expending more than an hundred thousand dollars of private capital upon the work, we see sinking in despondency, and spiritless under the magnitude of the undertaking and the pressure of the expense? No, sir—no such contracted, miserable sentiment can influence this body. I know too well their warm and zealous attachment to the public good. This Senate will never surrender the character of the nation to the just sarcasms of every foreigner, who, in passing the country a few years hence, must see all that part of this great public work already completed in a pile of ruins, unless the aid proposed be granted. The gentleman from Massachusetts before me, (Mr. ADAMS,) has complained of our adducing upon the floor of the Senate the opinions of the Secretary of the Treasury in our favor. Sir, it became necessary to consult that officer both as to the funds and the best mode of applying them, and the liberality of his sentiments on this subject do him honor; no eulogy of mine can heighten them. I wish the gentleman from Massachusetts himself was sometimes capable of being influenced by such. And notwithstanding the doubts that have been suggested, as to the practicability of the scheme now proposed, this is reduced to a moral certainty, as must be obvious to every gentleman who has seen, or will hear and believe anything in relation to the ground over which the canal is to pass: In its whole course there are no mountains to perforate, no rocks to blow, no morasses to embank, no rivers over which to pass aqueducts, but mere plain digging through a level country of clay. And although the gentleman from Maryland (Mr. SMITH) was pleased to tell us of the impossibility of forming even a rational conjecture as to the probable expense of so great an undertaking, yet sir, give me leave to tell that gentleman, and this Senate, that the managers having progressed thus far upon contracts by the square yard, are thence able to ascertain almost to a certainty the probable expense of the work before them, upon the same mathematical principle that a mechanic who had built a room twenty feet square would be able to calculate from that what would be the cost of another of thirty or forty feet square, constructed in the same manner, and of the same materials. Upon this datum is founded the calculation they have submitted to you; and, without disparagement to any others, I will here say, that no citizens of the United States are more justly entitled to your confidence. Now let me ask, Mr. President, what better disposition you could make of a small portion of your vacant lands than by applying it to aid in the execution of this great public improvement? We do not wish them for nothing, but offer you in stock the full amount of their legal price. Your object is to sell; and I am well instructed that the Government consider

themselves as holding near three hundred millions of acres on this side the Mississippi, on the other side a world of unknown acres; more, vastly more, permit me to suggest, viewing the uncertainty of all human establishments, than they may ever have an opportunity of selling, at least for centuries to come, barring all accident. Why not then apply some of them now to the improvement of the country? The passing of this law will not occasion the selling a single acre less, whilst the appropriation we ask of these lands, at the same time that it must yield a great and immediate benefit to the country, will, I have no doubt, be in the end profitable to the country. For these reasons, and for others that have been assigned, I hope the Senate will approve the measure and pass the bill.

The question was then taken on the postponement of the bill to the next session of Congress, and was decided in the affirmative.

WEDNESDAY, February 25.

The bill from the House of Representatives, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States,'" was read the second time and referred to Messrs. GILES, ADAMS, and SMITH, of Maryland, to consider and report thereon.

The bill from the House of Representatives, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats," was read the second time and referred to Messrs. BRADLEY, TRACY, and MACLAY, to consider and report theron.

The bill making a further appropriation towards defraying the expense of a road from Cumberland, in the State of Maryland, to the State of Ohio, was read the second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate took into consideration the report of the conferees on the disagreeing votes of the two Houses on the bill from the House of Representatives, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," which is as follows:

"That, having met the conferees on the part of the House of Representatives, they have mutually agreed, in conference, to recommend to pass the bill with the proviso at the end of the 8th section, amended as follows, to wit:

Provided however, That nothing in this section shall extend to prohibit the taking on board, or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of color, (not imported contrary to the provisions of the act,) in any vessel or species of craft whatever." And, also, to amend the 9th section, by striking out the word "fifty," and insert in lieu thereof "forty;" and in the second line strike out the words "as a slave, or," and insert in lieu thereof "to be."

And in section 9, line 1, strike out "fifty," and insert "forty."

And also in section 10, line 1, strike out "fifty," and insert "forty."

And the report was adopted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the settlement of the accounts between the United States and William Eaton;" also, a bill, entitled "An act providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against hostile Indians, in the year 1806; in which bills they desire the concurrence of the Senate. They agree to some and disagree to other amendments of the Senate to the bill, entitled "An act to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War."

The two bills first mentioned in the message from the House of Representatives were read, and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives agreeing to some and disagreeing to other amendments of the Senate to the bill last mentioned in the message.

Resolved, That they insist on their amendments disagreed to by the House of Representatives to the said bill.

The Senate resumed the third reading of the bill, from the House of Representatives, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers; and on the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 15, nays 12, as follows:

YEAS—Messrs. Bradley, Condit, Giles, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Tennessee, Smith of Vermont, Thruston, and Worthington.

NAYS—Messrs. Adams, Bayard, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of New York, Sumter, Tracy, Turner, and White.

And the title was amended, as follows: "An act repealing an act laying a duty on salt, and continuing in force for a further time the first section of the act, entitled an act further to protect the commerce and seamen of the United States against the Barbary Powers."

The following motion was submitted for consideration by Mr. WORTHINGTON:

Resolved, That the Secretary of the Treasury be directed to report to the Senate, at their next session, the best information he can acquire as to the usefulness, the practicability, and probable expense of the canal contemplated between the waters of the Chesapeake and Delaware, from Elk river to Christiana creek, with his own opinion and reasons thereon; and a plan or plans for the application of such means as may be most convenient to the Government, and within the power of Congress, to aid in carrying into execution the same;

and whether the route adopted by the Chesapeake and Delaware Canal Company be the most eligible communication between the waters of the two bays; and, likewise, his opinion generally on the practicability of an inland navigation between the southern and northern extremities of the United States.

The Senate resumed the report of the Committee, made on the 18th instant, on the motion to inquire whether the act passed April 18th, 1806, was correctly enrolled; and agreed to the report, as follows: Strike out, near the end of the motion, after the word "therein," these words: "to report the same, and what measures may be expedient to correct the said error," and insert "whether any measure has become necessary in consequence thereof;" and on the question to agree to the motion, amended as follows:

Resolved, That a committee of the Senate be appointed, jointly with such committee as may be appointed on the part of the House of Representatives, to inquire whether the act passed April 18, 1806, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt in payment for the lands of the United States, and for other purposes, relative to the public debt," was enrolled as the same passed the two Houses of Congress; and, if any error hath occurred therein, whether any measure has become necessary in consequence thereof:

It was determined in the affirmative.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the joint resolution from the House of Representatives, to publish the report and chart of the survey of the coast of North Carolina, and agreed thereto; and the President having reported the resolution to the House amended accordingly, on the question, Shall this resolution be read the third time as amended? it was determined in the affirmative.

The Senate took into consideration, as in Committee of the Whole, the amendments reported by the special committee to the bill sent from the House of Representatives, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes," and agreed in part thereto; and the President having reported the bill to the House amended, on motion, the further consideration of this bill was postponed until to-morrow.

Mr. MITCHILL presented the petition of the inhabitants of the city of New York, stating the exposed and defenceless situation of that city, and praying that their harbor may be placed in a state of permanent and adequate defence; and the petition was read and referred to a committee this day appointed on a bill from the House of Representatives on the subject of defence.

THURSDAY, February 26.

The joint resolution for publishing the chart of the survey of the coast of North Carolina was read the third time, as amended, and passed.

The bill sent from the House of Representatives, entitled "An act providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against the hostile Indians, in the year 1806," was read the second time, and referred to Messrs. TRACY, WORTHINGTON, and ADAMS.

The bill sent from the House of Representatives, entitled "An act authorizing the settlement of the accounts between the United States and William Eaton," was read the second time, and referred to Messrs. BRADLEY, GILES, and SUMTER, to consider and report thereon.

The Senate took into consideration the motion made on the 20th instant, to amend the Constitution of the United States, by adding a thirteenth article, respecting the judicial power thereof; and the further consideration of this motion was postponed until the next session of Congress.

The Senate proceeded to the consideration of the report of the committee, made on the 24th instant, on the petition of Reni Naw, and agreed thereto; and the petitioner had leave to withdraw his petition.

The Senate proceeded to the consideration of the report of the committee, made on the 24th instant, on the memorial of sundry merchants of the city of Philadelphia, on the subject of drawback; and the further consideration thereof was postponed.

Mr. WORTHINGTON submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury be directed to report to the Senate, at their next session, the best information he can acquire as to the practicability, and probable expense of forming a turnpike road throughout the Atlantic States, commencing at the City of Washington, and running each way, towards the Northeastern and Southwestern extremities of the Union; together with his opinion as to the most suitable route for the same, and a plan or plans for the application of such means as may be most convenient to the Government, and within the power of Congress, to aid in carrying the same into execution.

The bill making a further appropriation towards defraying the expense of a road from Cumberland, in the State of Maryland, to the State of Ohio, was read the third time; and the first and second blanks having each been filled with the words "two hundred and fifty thousand dollars," on motion, the title was amended to read as follows: "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," and then the bill was passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making provision for the disposal of the public lands situated between the United States' military tract, and the Connecticut Reserve, and for other purposes;" in which they request the concurrence of the Senate. The House of Representatives disagree to all the amendments of the Senate to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United

States against the Barbary Powers;" and, moreover, do adhere to their bill as originally passed.

The bill from the House of Representatives first mentioned in the message was read; and, by unanimous consent, to dispense with the rule, the bill was read the second time, and referred to Messrs. WORTHINGTON, TRACY, and BALDWIN, the committee appointed on the 8th of December last, to examine the laws of the United States providing for the sale of public lands, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes;" and the President reported to the House that the Committee of the Whole had agreed to some, and disagreed to other, amendments reported by the select committee; and had also agreed further to amend the bill.

Whereupon, a motion was made to strike out the words "twenty-five," line sixth of the bill, as reported by the select committee; and it passed in the negative.

On motion, it was agreed to strike out the word "repairing," line eighth, and insert, in lieu thereof, the words "making a new roof and other repairs."

On the question, Shall this bill be now read the third time as amended? it was determined in the affirmative.

Mr. GILES, from the committee to whom was referred that part of the Message of the President of the United States, as relates to the laws respecting the insurrections, and the violation of the public peace; also, the bill from the House of Representatives, entitled "An act providing for the punishment of certain crimes against the United States," reported the bill with amendments; which were read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill, entitled "An act for the relief of Stephen Sayre;" and the bill was ordered to the third reading.

Mr. BRADLEY gave notice that he would tomorrow ask leave to bring in a bill to suspend the duties on salt, from and after the time therein specified.

The Senate took into consideration the resolution of the House of Representatives, adhering to their disagreement to the amendments of the Senate to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and, on motion that the Senate adhere to their amendments to the said bill, it was determined in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Clay, Giles, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Tracy.

NAYS—Messrs. Condit, Gaillard, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Vermont, Sumter, Turner, and Worthington.

RAPIDS OF THE OHIO.

The report of the committee, made on the 24th instant, on the subject of a canal at the Rapids of the Ohio, was considered, and is as follows:

"That they have attentively examined a survey of the Rapids of the Ohio and the adjacent shores, accompanied by explanatory notes, made by a Mr. Jared Brooks, who appears to be a skilful and intelligent engineer. That the survey exhibits the sites proposed for the canal on the Kentucky shore, and its supposed contemplated route on the Indiana side; and its accuracy is certified by nine respectable gentlemen, who, being appointed by the Kentucky Legislature to promote the execution of an act for incorporating a company for cutting the canal in question, have themselves examined the several objects delineated. Mr. Brooks has sunk, at short and convenient distances, shafts ascertaining the nature of the ground through which the canal is proposed to pass on the Kentucky shore, the various depths to the surface of the rock; and by his survey and notes has fully evinced the practicability of the object, and the superior advantages of the Kentucky over the opposite side. On the Kentucky shore the requisite depth of the canal will be less, its length not so great by at least one-third, a better bed afforded, firmer ground for its sides, and far better harbors at its head and foot. From these circumstances, it is presumed, the expense of the undertaking will not be so great by one half on the Kentucky, as upon the opposite shore, and, in Mr. Brooks's opinion, will not exceed $200,000.

"To open the canal so as to admit of the passage of vessels of any burden capable of navigating the Ohio, the Legislature of Kentucky, at their session of 1804, passed an act incorporating a company by the name of the Ohio Canal Company, which was amended by an act passed at their session of 1805. By the provisions of these acts, the company is permitted to raise a capital of $500,000, composed of shares of fifty dollars each, is vested with suitable powers to accomplish the work, and upon its completion authorized to charge reasonable tolls. On their part, the Legislature of Kentucky has directed a subscription for one thousand shares, and has invited the Governments of the United States, Pennsylvania, Virginia, Maryland, Ohio, and New York, all supposed to be more or less interested, to participate in the undertaking.

"That the work is one of great and national importance is undeniable. The immense country on the Ohio and its waters, above the Rapids, in seeking a market for its surplus products, has to encounter the obstruction in the navigation of that stream, which they present. This obstruction, never entirely free from danger, is such as to absolutely preclude the passage of vessels for several months in the year in their descent, and when laden, for the whole year in their ascent of the river. The rapidity of the current, which averages at the rate of from ten to eleven miles an hour through the falls, leaves no alternative for a safe voyage up as well as down the river, but in a canal.

"How far it is the policy of the Government to aid in works of this kind, when it has no direct interest; whether, indeed, in such a case, it has the Constitutional power of patronage and encouragement; it is not necessary to be decided in the present instance. Being the proprietor of land bordering upon the Ohio, to a greater extent than any individual State, owning, too, an invaluable saline near the Wabash, there can be no doubt that both policy and power combine in favor of

promoting an undertaking by which its property is to be incidentally benefitted. If the value and price of land depend as well upon the facility with which its products find a market, as upon its capacity to produce, there can be no doubt that the public lands will be increased in value, by improvements in the navigation of those streams which water them. The saline alluded to will have its market enlarged by the opening of the proposed canal; and those above the Rapids, as well as those below, may in time count upon it as one of the sources from whence salt may be obtained.

But, as some contrariety of opinion has existed in relation to the preferable side of the Ohio for the canal; as the information upon which your committee has, on this subject, acted, is rather of an ex-parte character; and as any aid this Government may think proper to give ought only to be afforded after the most impartial and thorough investigation of the subject, they beg leave to recommend the following resolution:

"*Resolved*, That the President be authorized to appoint three commissioners for the purpose of examining the rapids of the Ohio, to ascertain whether a canal to avoid them be practicable, and which side of the river presents the greatest advantages for its accomplishment; and, also, whether the bed of the river is capable of being so cleared out as to admit of ascending and descending navigation, and the relative importance of a sluice and canal."

The report was agreed to.

Ordered, That Messrs. CLAY, THRUSTON, and GILES, be a committee to bring in a bill accordingly.

Mr. CLAY, from the above committee, agreeably to instructions, reported a bill providing for the appointment of commissioners to ascertain the practicability of removing the obstructions in the navigation of the Ohio at the Rapids; and the bill was read, and ordered to the second reading.

FRIDAY, February 27.

Mr. GILES, from to committee to whom was referred the bill sent from the House of Representatives, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States,'" reported the same without amendment.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

The Senate resumed, as in Committee of the Whole, the bill from the House of Representatives, entitled "An act providing for the punishment of certain crimes against the United States," together with the report of the select committee thereon; and the President, from the Committee of the Whole, reported the bill to the House amended.

On the question, Shall the bill be read a third time as amended? It was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House agree to the modifications of the amendments as reported by the committee of conference to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the first day of January, in the year of our Lord 1808;" they disagree to the amendments of the Senate to the joint resolution to publish the report and chart of the survey of the coast of North Carolina. They have passed a bill, entitled "An act to amend the act, entitled 'An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," in which they request the concurrence of the Senate.

The bill last mentioned in the message was read, and ordered to the second reading.

The bill sent from the House of Representatives, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes," was read the third time as amended, and passed.

The bill from the House of Representatives, entitled "An act for the relief of Stephen Sayre," was read the third time, and recommitted to Messrs. TRACY, ADAMS, and BRADLEY, further to consider and report thereon.

Mr. WORTHINGTON, from the committee to whom was referred the bill from the House of Representatives, entitled "An act regulating the claims to land in the Territories of Orleans and Louisiana," reported the same with amendments; which were read, and ordered to lie for consideration.

The Senate took into consideration the resolution of the House of Representatives disagreeing to their amendments to the joint resolution for publishing the report and chart of the survey of the coast of North Carolina; and,

Resolved, That they recede from their amendments disagreed to.

The Senate took into consideration the report of the committee on the memorial of sundry merchants of the city of Philadelphia on the subject of drawback, and the consideration thereof was postponed.

The bill providing for the appointment of commissioners to ascertain the practicability of removing the obstruction of the navigation of the Ohio at the Rapids, was read the second time, as in Committee of the Whole; and the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it passed in the affirmative.

Mr. MITCHILL, from the committee to whom was referred the bill from the House of Representatives, entitled "An act for the relief of Daniel S. Dexter," reported it without amendment; and the bill was considered in Committee of the Whole; and the President having reported it to the House with an amendment, on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The President communicated to the Senate a report of the Secretary for the Department of the Treasury, enclosing the copy of a letter from the Comptroller of the Treasury, accompanied with a statement of the emoluments of the officers of the customs for the year 1806;" which was read, and ordered to lie on the table.

SATURDAY, February 28.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act for the relief of Stephen Sayre," reported the same with amendments; and the bill was again considered as in Committee of the Whole; and the President having reported it to the House amended, it was agreed, by unanimous consent, to dispense with the rule, and the bill was read a third time as amended, and passed.

The bill from the House of Representatives, entitled "An act to amend the act, entitled 'An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," was read the second time, and referred to the committee appointed on the 7th of January last, to whom was referred the report of the Postmaster General, to consider and report thereon; and that Mr. SMITH, of Maryland, be added to the committee in place of Mr. BALDWIN, detained by the ill state of his health.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government during the year 1807;" also, a bill, entitled "An act for the relief of Oliver Pollock;" in which they request the concurrence of the Senate.

The bills were read; and the bill last mentioned in the message was ordered to the second reading.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and the bill first mentioned in the message was read the second time, and referred to Messrs TRACY, SMITH, of Maryland, and TURNER, to consider and report thereon.

Mr. WORTHINGTON had leave to withdraw the motions made on the 25th and 26th instant, respecting a canal between the waters of the Chesapeake and Delaware, and a turnpike road from the City of Washington through the Atlantic States, for the purpose of substituting the following for consideration:

Resolved, That the Secretary of the Treasury be directed to prepare and report to the Senate, at their next session, a plan for the application of such means as are within the power of Congress, to the purposes of opening roads and making canals; together with a statement of the undertakings of that nature which, as objects of public improvement, may require and deserve the aid of Government; and, also, a statement of works of the nature mentioned which have been commenced, the progress which has been made in them, and the means and prospect of their being completed; and all such information as, in the opinion of the Secretary, shall be material in relation to the objects of this resolution.

The bill from the House of Representatives, entitled "An act providing for the punishment of certain crimes against the United States," was read the third time, and passed with amendments.

The bill from the House of Representatives, entitled "An act for the relief of Daniel S. Dexter," was read the third time and passed, with amendments.

The bill providing for the appointment of commissioners to ascertain the practicability of removing the obstructions in the navigation of the Ohio at the Rapids, was read the third time; and the first blank, providing for the daily pay of the commissioners, was filled with the words "five dollars," and the second blank in the clause making an appropriation, with "two thousand dollars;" and on the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 18, nays 8, as follows:

YEAS—Messrs. Bayard, Clay, Gaillard, Gilman, Hillhouse, Maclay, Milledge, Mitchill, Moore, Pickering, Plumer, Reed, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Thruston, White, and Worthington.

NAYS—Messrs. Adams, Condit, Howland, Kitchel, Smith of New York, Smith of Vermont, Tracy, and Turner.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act providing for the appointment of commissioners to ascertain the practicability of removing the obstructions in the navigation of the Ohio, at the Rapids."

The Senate resumed, as in Committee of the Whole, the second reading of the bill from the House of Representatives, entitled "An act regulating claims to land in the Territories of Orleans and Louisiana," together with the report of the special committee thereon; and the President reported to the House that the Committee of the Whole do not agree to the report of the select committee, but had agreed to amend the bill.

On the question, Shall this bill pass to the third reading as amended? it was determined in the affirmative.

The Senate adjourned to 7 o'clock this evening.

Seven o'clock in the Evening.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making compensation to Messrs. Lewis and Clarke and their companions;" a bill, entitled "An act disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled 'An act concerning the Bank of Detroit;" and a bill entitled "An act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants," in which bills they request the concurrence of the Senate.

The bills first mentioned in the message were read, and ordered to the second reading.

The bill from the House of Representatives, entitled "An act regulating the claims to land in the Territories of Orleans and Louisiana," was, by unanimous consent, read the third time as amended, and passed.

MONDAY, March 2.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,"

in which they request the concurrence of the Senate.

The bill mentioned in the message was read; and on motion that the bill be read the second time, it was objected to, as not in order—a bill of a similar nature having been rejected during the session; and the PRESIDENT referred the question of order to the decision of the Senate, to wit:

"Is it in order to read this bill a second time?" and it was determined in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Bradley, Condit, Fenner, Gaillard, Giles, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Turner, and Worthington.

NAYS—Messrs. Adams, Clay, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of New York, Tracy, and White.

So it was *Ordered*, That the bill be read a second time.

On motion, by Mr. TURNER, that the bill be now read the second time, it was objected to as not in order.

On motion, by Mr. TURNER, that the 12th rule for doing business in the Senate be suspended during the residue of the session, the PRESIDENT decided that the motion was not in order.

The Senate took into consideration the motion made on the 28th February, that it be

Resolved, That the Secretary of the Treasury be directed to prepare and report to the Senate, at their next session, a plan for the application of such means as are within the power of Congress, to the purposes of opening roads and making canals, together with a statement of the undertakings of that nature, which, as objects of public improvement, may require and deserve the aid of Government; and, also, a statement of works, of the nature mentioned, which have been commenced, the progress which has been made in them, and the means and prospect of their being completed, and all such information as, in the opinion of the Secretary, shall be material in relation to the objects of this resolution.

And on the question to agree to the motion, it was determined in the affirmative—yeas 22, nays 3, as follows:

YEAS—Messrs. Adams, Clay, Giles, Hillhouse, Howland, Kitchel, Logan, Milledge, Mitchill, Moore, Pickering, Plumer, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Smith of Vermont, Sumter, Tracy, Turner, White, and Worthington.

NAYS—Messrs. Condit, Fenner, and Gilman.

The bill from the House of Representatives, entitled "An act for the relief of Oliver Pollock," was read the second time, and referred to Messrs. SMITH of Maryland, GILES, and TRACY, to consider and report thereon.

The bill from the House of Representatives, entitled "An act disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled "An act concerning the Bank of Detroit," was read the second time, and referred to Messrs. ADAMS, WORTHINGTON, and GILES, to consider and report thereon.

The bill from the House of Representatives, entitled "An act making compensation to Messrs. Lewis and Clarke, and their companions," was read the second time, and referred to Messrs. TRACY, BRADLEY, and GILES, to consider and report thereon.

The bill from the House of Representatives, entitled "An act authorizing patents to be issued for lands located and surveyed by virtue of certain Virginia resolution warrants," was read the second time, and referred to Messrs. TRACY, WORTHINGTON, and BRADLEY, to consider and report thereon.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill from the House of Representatives, entitled "An act for the relief of Oliver Pollock," reported an amendment, which was agreed to; and, on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

Mr. TRACY, from the committee to whom was referred the bill from the House of Representatives, entitled "An act to amend the act, entitled 'An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," reported the same with sundry amendments.

Mr. BRADLEY, from the committee to whom was referred the bill from the House of Representatives, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats," reported the bill with amendments.

Mr. ADAMS, from the committee to whom was referred the bill from the House of Representatives, entitled "An act disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled 'An act concerning the bank of Detroit," reported it without amendment; and, on the question, Shall this bill be read a third time? it was determined in the affirmative.

Mr. BRADLEY, from the committee to whom was referred the bill, from the House of Representatives, entitled "An act authorizing the settlement of the accounts between the United States and William Eaton," reported the bill without amendment; and, on the question, Shall the bill be read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act concerning invalid pensioners," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and it was agreed, by unanimous consent, to dispense with the rule and that this bill be now read the second time.

Ordered, That it be referred to Messrs. GILES, BRADLEY, and SMITH of Maryland, to consider and report thereon.

The following motion was submitted, by Mr. TURNER, for consideration:

Resolved, That so much of the twelfth rule for conducting business in the Senate, which is in the following words, viz: "Every bill shall receive three readings previous to its being passed; and the President shall give notice to each, whether it be the first, second, or third; which readings shall be on three different days,

unless the Senate unanimously direct otherwise;" be suspended for the remainder of the present session.

The PRESIDENT gave notice that he should absent himself from the Senate for the remainder of the session.

The Senate adjourned to 7 o'clock this evening.

Seven o'clock in the Evening.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and the honorable SAMUEL SMITH was elected.

Ordered, That the Secretary wait on the President of the United States and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable SAMUEL SMITH President of the Senate *pro tempore*; and that the Secretary make a like communication to the House of Representatives.

Mr. WORTHINGTON, from the committee to whom was referred the bill from the House of Representatives, entitled "An act making provision for the disposal of the public lands situated between the United States military tract, and the Connecticut Reserve, and for other purposes," reported it without amendment.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia," reported it without amendment.

Mr. TRACY, also, from the committee to whom was referred the bill, entitled "An act providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan, against the hostile Indians in the year 1806," reported the bill without amendment.

Mr. TRACY, likewise, from the committee to whom was referred the bill, entitled "An act authorizing patents to be issued for lands located and surveyed by virtue of certain Virginia resolution warrants," reported it without amendment.

Ordered, That the committee to whom was referred the memorial of Ira Allen be discharged from the further consideration thereof.

Mr. TRACY, from the committee to whom was referred the bill, entitled "An act making compensation to Messrs. Lewis and Clarke and their companions," reported it without amendment.

Mr. GILES, from the committee to whom was referred the bill, entitled "An act concerning invalid pensioners," reported it without amendment.

On motion, by Mr. SMITH, of Ohio, that it be

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to Thomas Harvey, John Mathers, and Francis Durity, the sum of fifty dollars each, in addition to their usual compensation:

Ordered, That this motion lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians;" also, a bill, entitled "An act making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes," in which they request the concurrence of the Senate.

The bills were read, and it was agreed, by unanimous consent, to dispense with the rule and that the bills mentioned in the message be now severally read the second time.

Ordered, That they be severally referred to Messrs. BRADLEY, GILES, and TRACY, to consider and report thereon.

The Senate took into consideration, as in Committee of the Whole, the second reading of the bill, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats," together with the amendments reported by the select committee; and the President having reported the bill to the Senate amended, agreeably to the report of the select committee, it was ordered to the third reading as amended.

The Senate took into consideration the amendments reported to the bill, entitled "An act to amend the act, entitled 'An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes;" and, on motion, the bill was postponed to the next session of Congress.

The bill, entitled "An act making compensation to Messrs. Lewis and Clarke, and their companions," was read a second time; and, on the question, Shall this bill be read a third time? it was determined in the affirmative.

The bill, entitled "An act providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against the hostile Indians, in the year 1806," was read the second time; and, on the question, Shall this bill be read the third time? it was determined in the affirmative.

The bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia," was read the second time; and, on the question, Shall this bill pass to a third reading? it was determined in the affirmative.

The bill, entitled "An act making provision for the disposal of the public lands situated between the United States military tract and the Connecticut Reserve, and for other purposes," was read the second time; and, on the question, Shall this bill be read the third time? it was determined in the affirmative.

TUESDAY, March 3.

Mr. TRACY, from the committee to whom was referred the bill from the House of Representatives, entitled "An act making appropriations for the support of Government during the year 1807," reported the bill with sundry amendments; and the President, from the Committee of the Whole, reported the bill with amendments.

Ordered, That the bill be read the third time as amended.

Mr. BRADLEY, from the committee to whom were referred the bills from the House of Representatives, entitled "An act making appropriations for carrying into effect the treaty between the United States and the Chickasaw tribe of Indians;" and "An act making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes of Indians," reported the first-mentioned bill with an amendment to the title, by adding thereto the words, "and to establish a land office in the Mississippi Territory;" and the bill last mentioned without amendment.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill last mentioned in the report be now read the third time.

Resolved, That this bill pass.

A message from the House of Representatives informed the Senate that the House have passed a bill, sent from the Senate for concurrence, entitled "An act confirming the claims to lands in the district of Vincennes," with amendments, in which they request the concurrence of the Senate.

The bill, from the House of Representatives, entitled "An act laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the second time as in Committee of the Whole; and the President, from the Committee of the Whole, reported to the Senate the bill amended.

On motion to strike out the third section of the bill, to wit:

"SEC. 3. *And be it further enacted*, That so much of the act, passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,' as is contained in the first section of the said act, be, and the same hereby is, continued in force until the first day of January next, and no longer: *Provided, however*, That the additional duty laid by the said section shall be collected on all goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day."

It was passed in the negative—yeas 9, nays 21, as follows:

YEAS—Messrs. Adams, Bayard, Gilman, Hillhouse, Pickering, Plumer, Smith of New York, Tracy, and White.

NAYS—Messrs. Bradley, Clay, Condit, Fenner, Gaillard, Giles, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Turner, and Worthington.

On motion to adopt the report of the Committee of the Whole, extending the time at which the repeal shall take place, by striking out "thirtieth day of September," and inserting "thirty-first day of December," it passed in the affirmative—yeas 20, nays 11, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Clay, Giles, Gilman, Hillhouse, Howland, Mitchill, Pickering, Plumer, Reed, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Thurston, Tracy, and White.

NAYS—Messrs. Condit, Fenner, Gaillard, Kitchel, Logan, Maclay, Milledge, Moore, Sumter, Turner, and Worthington.

On the question, Shall this bill pass to the third reading, as amended? it was determined in the affirmative—yeas 20, nays 10, as follows:

YEAS—Messrs. Bradley, Clay, Condit, Fenner, Gaillard, Giles, Howland, Kitchel, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Sumter, Thruston, Turner, and Worthington.

NAYS—Messrs. Adams, Bayard, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Smith of New York, Tracy, and White.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other amendments of the bill sent from the Senate, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein." They have passed a bill, entitled "An act in addition to an act, entitled 'An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes;" in which they request the concurrence of the Senate. They have passed the bill, sent from the Senate for concurrence, entitled "An act to reduce the expenses attending the administration of justice in the District of Columbia," with an amendment, in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and it was agreed, by unanimous consent, to dispense with the rule, and that the bill be now read the second time; and, on the question, Shall this bill be read a third time? it was determined in the affirmative.

The bill, entitled "An act for the relief of Oliver Pollock," was read the third time as amended, and passed.

Mr. GILES, from the committee to whom was referred, on the 26th of January last, the Message of the President of the United States of that date, reported that they have had the same under consideration, and are of opinion that no Legislative provision is necessary.

On motion that the business in order be postponed to resume the motion made yesterday to suspend the 12th rule for doing business in the Senate, it passed in the negative.

By unanimous consent, the bill, entitled "An act making appropriations for the support of Government during the year 1807," was read the third time as amended, and passed.

Ordered, That the committee appointed on the 30th of December last, "to inquire what amendments, if any, are necessary to the act for establishing rules and articles for the government of the Armies of the United States," be discharged.

The bill, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats," was read the third time as amended, and passed.

The bill, entitled "An act authorizing the settlement of the accounts between the United States and William Eaton," was read the third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Bayard, Bradley, Clay, Condit, Fenner, Gilman, Howland, Kitchel, Maclay, Pickering, Reed, Smith of Maryland, Smith of Ohio, Smith of Vermont, Tracy, and White.

NAYS—Messrs. Adams, Gaillard, Giles, Logan, Mitchill, Moore, Plumer, Smith of Tennessee, Sumter, Thruston, Turner, and Worthington.

So it was *Resolved*, That this bill pass.

The bill, entitled "An act making compensation to Messrs. Lewis and Clarke and their companions," was read the third time, and passed.

The bill from the House of Representatives, entitled "An act making provision for the disposal of the public lands situated between the United States military tract and the Connecticut Reserve, and for other purposes," was read the third time, and passed.

The bill from the House of Representatives, entitled "An act disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled 'An act concerning the Bank of Detroit," was read the third time, and passed.

The bill from the House of Representatives, entitled "An act providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against the hostile Indians, in the year 1806," was read the third time. On the question, Shall this bill pass? it was determined in the negative.

The bill from the House of Representatives, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia," was read the third time. On the question, Shall this bill be postponed to the next session of Congress? it was determined in the affirmative.

The bill from the House of Representatives, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," was read the third time as amended, by unanimous consent.

Resolved, That this bill pass with an amendment.

A message from the House informed the Senate that the House have passed a bill, entitled "An act authorizing the discharge of Gilbert Drake from his imprisonment," in which they ask the concurrence of the Senate.

The bill last mentioned was twice read by unanimous consent, and referred to Messrs. BRADLEY, MITCHILL, and ADAMS, to consider and report thereon.

On motion, that the bill from the House of Representatives, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," be now read a third time by unanimous consent; it was objected to.

On motion, that the bill from the House of Representatives, entitled "An act repealing the duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," be now read the third time by unanimous consent, it was objected to.

On motion, by Mr. TURNER, the Senate resumed the consideration of the motion for suspending the twelfth rule for conducting business in the Senate, which rule is as follows, viz: "Every 'bill shall receive three readings previous to its 'being passed: and the President shall give no-'tice at each, whether it be the first, second, or 'third; which readings shall be on three different 'days, unless the Senate unanimously direct other-'wise;" and a motion was made to postpone the consideration thereof until half past six o'clock this evening; and it passed in the negative.

On motion, by Mr. ADAMS, to strike out the words "be suspended for the remainder of the session," and insert "be abolished;" it passed in the negative—yeas 10, nays 17, as follows:

YEAS—Messrs. Adams, Bayard, Hillhouse, Kitchel, Pickering, Smith of Maryland, Smith of Ohio, Tracy, Turner, and Worthington.

NAYS—Messrs. Bradley, Condit, Fenner, Gaillard, Gilman, Howland, Logan, Maclay, Milledge, Mitchill, Moore, Plumer, Reed, Smith of Tennessee, Smith of Vermont, Thruston, and White.

Mr. BAYARD objected to the original motion for the suspension of the 12th rule, as not in order; and appealed to the decision of the PRESIDENT, who decided that the motion was in order.

On motion, by Mr. ADAMS, to amend the motion, and to insert, after the word "otherwise," "and, also, the 18th of the said rules for conducting business in the Senate;" to wit:

"No member shall absent himself from the service of the Senate, without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members, respectively, unless such excuse for non-attendance shall be made, as the Senate, when a quorum is convened, shall judge sufficient; and in that case, the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate, at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned:"

It passed in the negative.

On motion, to postpone the consideration of the subject for one hour, it passed in the negative.

On motion, by Mr. TURNER, to amend the original motion, to read as follows:

"*Resolved*, That so much of the 12th rule, for conducting business in the Senate, as requires that the three readings shall be on three different days, unless the Senate unanimously direct otherwise, be suspended for the remainder of the present session:"

It passed in the affirmative—yeas 15, nays 10, as follows:

YEAS—Messrs. Condit, Fenner, Gaillard, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Tennessee, Smith of Vermont, Turner, and Worthington.

NAYS—Messrs. Adams, Bayard, Gilman, Hillhouse, Mitchill, Pickering, Plumer, Thruston, Tracy, and White.

A message from the House informed the Senate that the House have passed a bill, entitled "An act to establish certain post roads, and for other purposes;" and, also, a bill, entitled "An act making compensation for extra services, to the Governor, Judges, and Secretary, of the Indiana Territory;" in which they desire the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the bill from the House of Representatives, entitled "An act concerning invalid pensioners; and the President having reported the bill to the House without amendment, the bill was read a third time, and passed.

The bill from the House of Representatives, entitled "An act to establish certain post roads, and for other purposes," was read the first and second times. On the question, "Shall this bill pass to the third reading? it was determined in the affirmative.

The bill from the House of Representatives, entitled "An act making compensation for extra services to the Governor, Judges, and Secretary, of the Indiana Territory," was read the first and second times; and, on the question, Shall this bill pass to the third reading? it was determined in the affirmative.

The bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time as amended; and, on the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 17, nays 7, as follows:

YEAS—Messrs. Bradley, Condit, Fenner, Gaillard, Howland, Kitchel, Logan, Maclay, Milledge, Moore, Reed, Smith of Maryland, Smith of Ohio, Smith of Tennessee, Smith of Vermont, Turner, and Worthington.

NAYS—Messrs. Adams, Gilman, Hillhouse, Pickering, Plumer, Thruston, and Tracy.

The bill, entitled "An act in addition to an act, entitled 'An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes," was read the third time, and passed.

Adjourned to seven o'clock this evening.

Seven o'clock in the Evening.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act authorizing the discharge of Gilbert Drake from his imprisonment," reported the same without amendment; and the bill was read the third time, and passed.

A motion was made, by Mr. ADAMS, as follows:

Resolved, That a committee be appointed on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States, and inform him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act confirming claims to land in the district of Vincennes; and they were referred to Messrs. TRACY, BRADLEY, and WORTHINGTON, to consider and report thereon.

The credentials of the honorable URIAH TRACY, appointed a Senator from the State of Connecticut, for six years, from and after the third day of March, in the year of our Lord 1807, were presented and read, and laid on file.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to reduce the expense attending the administration of justice in the District of Columbia;" and concurred therein.

The bill from the House of Representatives, entitled "An act authorizing patents to issue for lands located and surveyed, by virtue of certain Virginia resolution warrants," was read the third time, and passed.

Mr. TRACY, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act confirming claims to lands in the district of Vincennes;" made a report: Whereupon,

Resolved, That the Senate concur in the said amendments.

The Senate resumed the consideration of their amendments, disagreed to by the House of Representatives, to the bill, entitled "An act allowing an additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein.

Resolved, That the Senate do insist on their said amendments.

The bill from the House of Representatives, entitled "An act making compensation for extra services to the Governor, Judges, and Secretary, of the Indiana Territory," was read the third time, and passed.

The bill sent from the House of Representatives, entitled "An to establish certain post roads, and for other purposes," was read the third time, and passed.

The Senate resumed the report of the committee to whom was referred "The memorial of sundry merchants of Philadelphia, praying the benefit of drawback on certain articles exported, notwithstanding the formalities of the laws, by unavoidable casualties, have not been complied with;" which report is as follows:

"That the said memorial be referred to the Secretary of the Treasury, to examine the merits of the individual claims of the petitioners, and that he report the same to the Senate at their next session."

And the report was agreed to.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part to wait on the President of the United States and notify him of the intended recess of Congress.

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to Thomas Harvey, John Mathers, and Francis Durity, the sum of fifty dollars each, and to the Chaplain of this House one hundred and fifty dollars, in addition to their usual compensation.

Mr. MITCHILL reported, from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

The Senate took into consideration the resolution of the House of Representatives for the appointment of a joint committee to wait on the President of the United States to acquaint him with the intended recess of the two Houses of Congress, and agreed thereto; and Messrs. MITCHILL and ADAMS were appointed the committee on the part of the Senate.

A message from the House of Representatives informed the Senate that the House having finished the business before them, are about to adjourn. The Secretary was then directed to inform the House of Representatives that the Senate having finished the business before them, are about to adjourn, whereupon, the Senate adjourned without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE NINTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, DECEMBER 1, 1806.

MONDAY, December 1, 1806.

This being the day appointed by the Constitution for the annual meeting of Congress, the following members of the House of Representatives appeared, and took their seats, to wit:

From New Hampshire—Silas Betton, Caleb Ellis, David Hough, Samuel Tenney, and Thomas W. Thompson.

From Massachusetts—Joseph Barker, Barnabas Bidwell, John Chandler, Orchard Cook, Jacob Crowninshield, Richard Cutts, William Ely, Isaiah L. Green, Seth Hastings, Jeremiah Nelson, Josiah Quincy, Ebenezer Seaver, William Stedman, Samuel Taggart, and Joseph B. Varnum.

From Vermont—Martin Chittenden, James Elliot, James Fisk, and Gideon Olin.

From Rhode Island—Nehemiah Knight, and Joseph Stanton.

From Connecticut—Samuel W. Dana, John Davenport, jr., Jonathan O. Mosely, Timothy Pitkin, jr., Lewis B. Sturges, and Benjamin Tallmadge.

From New York—John Blake, jr., Silas Halsey, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Philip Van Cortlandt, and Killian K. Van Rensselaer.

From New Jersey—Ezra Darby, Ebenezer Elmer, John Lambert, James Sloan, and Henry Southard.

From Pennsylvania—Isaac Anderson, David Bard, Robert Brown, Joseph Clay, Frederick Conrad, William Findley, John Hamilton, James Kelly, John Pugh, John Rea, Jacob Richards, John Smilie, Samuel Smith, John Whitehill, and Robert Whitehill,

From Delaware—James M. Broom.

From Maryland—Charles Goldsborough, Patrick Magruder, William McCreery, Nicholas R. Moore, and Roger Nelson.

From Virginia—Burwell Bassett, John Claiborne, John Clopton, John Dawson, John W. Eppes, James M. Garnett, Peterson Goodwyn, David Holmes, Walter Jones, Joseph Lewis, jr., Thomas Newton, jr., and John Randolph.

From North Carolina—Willis Alston, jr., Thomas Kenan, Duncan MacFarland, Nathanial Macon, *Speaker*, Richard Stanford, Joseph Winston, and Thomas Wynns.

From South Carolina—William Butler, Robert Marion, Thomas Moore, and David R. Williams.

From Georgia—Peter Early, and David Meriwether.

From Ohio—Jeremiah Morrow.

From Kentucky—George M. Bedinger, John Boyle, and Thomas Sandford.

From Tennessee—George W. Campbell, and John Rhea.

Delegate from the Mississippi Territory—William Lattimore.

Two new members, to wit: from Connecticut, THEODORE DWIGHT, returned to serve in this House, as a member for the said State, in the room of John Cotton Smith, who has resigned his seat; and, from Virginia, WILLIAM A. BURWELL, returned to serve in this House, as a member for the said State, in the room of Christopher Clark, who has resigned his seat; appeared, produced their credentials, were qualified, and took their seats in the House.

DANIEL CLARK, returned to serve as a delegate from the Orleans Territory of the United States, appeared, produced his credentials, was qualified, and took his seat in the House.

And a quorum consisting of a majority of the whole number, being present, a message was sent to the Senate to inform them that a quorum of the House is assembled, and ready to proceed to business.

A message from the Senate informed the House that a quorum of the Senate is assembled, and ready to proceed to business.

Mr. DAWSON and Mr. GEORGE W. CAMPBELL were appointed a committee, on the part of the House, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

A message from the Senate informed the House that the Senate have appointed a committee on their part for the same purpose.

Mr. SLOAN laid on the the table a resolution, so to alter the rules of the House that the standing committees shall in future be chosen by ballot, and that committees shall be called over by the Speaker every Monday.

This motion, according to the rules of the House, was ordered to lie on the table.

Ordered, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers to each member, such as the members, respectively, shall choose, to be delivered at their lodgings; and that, if any member shall choose to take any newspaper, other than a daily paper, he shall be furnished with as many such papers as shall not exceed the price of a daily paper.

Mr. Dawson, from the joint committee appointed to wait on the President of the United States, reported that the President signified to them that he would make a Communication, in writing, to this House, to-morrow, at twelve o'clock, by way of Message.

Mr. Elliot moved that the House should proceed to appoint its several standing committees.

The Speaker observed that while the motion made by Mr. Sloan was pending, he did not consider it in order to take up the motion last made.

On the suggestion of Mr. Alston, that the object of the mover might be attained in a different way, Mr. Sloan withdrew for the present his motion.

Mr. Alston then moved that the standing committees should be appointed by ballot.

Mr. J. Clay moved to strike out the words "by ballot." This motion was supported by Mr. J. Clay, and opposed by Mr. Alston and Mr. Sloan.

The motion to strike out was carried—ayes 44, noes 42; when the motion to appoint the committees was agreed to.

The following committees were appointed, pursuant to the standing rules and and orders of the House, viz:

Committee of Elections—Mr. Findley, Mr. Elmer, Mr. Eppes, Mr. Chittenden, Mr. Schuneman, Mr. Bidwell, and Mr. Ellis.

Committee of Claims—Mr. Holmes, Mr. Moore of Maryland, Mr. Moore, of South Carolina, Mr. Bedinger, Mr. Stanford, Mr. Stanton, and Mr. Tallmadge.

Committee of Commerce and Manufactures—Mr. Crowninshield, Mr. M'Creery, Mr. Early, Mr. Dana, Mr. Newton, Mr. Marion, and Mr. Richards.

Committee of Ways and Means—Mr. Joseph Clay, Mr. Roger Nelson, Mr. Quincy, Mr. David R. Williams, Mr. Mosely, Mr. Garnett, and Mr. Meriwether.

Committee on the Public Lands—Mr. Boyle, Mr. Morrow, of Ohio, Mr. Darby, Mr. Bassett, Mr. Russell, Mr. Campbell, of Tennessee, and Mr. Hastings.

Committee of Revisal and Unfinished Business—Mr. Tenney, Mr. Alston, and Mr. Claiborne.

Committee of Accounts—Mr. Conrad, Mr. Davenport, and Mr. Cutts.

Tuesday, December 2.

Several other members, to wit: from New York, Henry W. Livingston, and Uri Tracy; from Maryland, John Campbell; from Virginia, John Morrow, Thomas M. Randolph, John Smith, Philip R. Thompson, and Alexander Wilson; from North Carolina, James Holland; and from South Carolina, Elias Earle; appeared, and took their seats in the House.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one for each House, who shall interchange weekly.

Ordered, That the said message do lie on the table.

A Message was received from the President of the United States. [For which, see Senate proceedings of this date, *ante*, page 11.]

Ordered, That the said Message, together with the documents accompanying the same, be referred to a Committee of the Whole on the state of the Union.

Wednesday, December 3.

Several other members, to wit: from New York Josiah Masters and David Thomas; from Maryland, Leonard Covington; and from South Carolina, Levi Casey; appeared and took their seats in the House.

Another new member, to wit: Edward Lloyd, from Maryland, returned to serve in this House as a member for the said State, in the room of Joseph H. Nicholson, who hath resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

The House proceeded to consider the resolution of the Senate for the appointment of two Chaplains to Congress for the present session, one by each House, to interchange weekly, and concurred therein.

A Message was received from the President of the United States communicating information of the state of the negotiation depending between the United States and the Government of Great Britain. The Message was referred to Mr. J. Randolph, Mr. Marion, Mr. Van Cortlandt, Mr. McCreery, and Mr. Chandler.

On motion of Mr. J. Clay, it was

Resolved, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States, and that said committee have leave to report by bill or otherwise.

And a committee was appointed of Mr. Varnum, Mr. Meriwether, Mr. Hough, Mr. Dwight, Mr. Chittenden, Mr. Sammons, Mr. Southard, Mr. Bard, Mr. Broom, Mr. Covington, Mr. Clopton, Mr. Winston, Mr. Earle, Mr. Morrow of Ohio, Mr. Sandford, Mr. G. W. Campbell, and Mr. Knight.

Mr. J. Clay, after a few preliminary remarks on the inconveniences to which a large portion of the population of the cities of Philadelphia and New York are exposed from their remoteness from the post offices, offered the following resolution, with a view to remove these inconveniences:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of authorizing the postmasters of the cities of Philadelphia and New York to establish within the said cities or suburbs any number not exceeding —— offices for the reception and distribution of letters.

On this motion a short debate arose, chiefly turning on the propriety of making the inquiry more general, by extending it to all the principal towns of the Union, which terminated in the adoption of the original motion, modified by introducing the cities of Washington, Baltimore, and Charleston, and the towns of Boston and Salem—yeas 59, nays 21.

A message from the Senate informed the House that the Senate have appointed the Rev. Mr. Sayrs to be one of the Chaplains to Congress, on their part.

On motion of Mr. Bidwell,

Resolved, That a committee be appointed to consider what provision ought to be made, by law, for taking evidence in cases of contested elections of members of the House of Representatives of the United States; and that they have leave to report by bill or otherwise.

Ordered, That Mr. Bidwell, Mr. Halsey, Mr. Smith of Pennsylvania, Mr. Smith of Virginia, and Mr. Pitkin, be appointed a committee pursuant to the said resolution.

REFERENCE OF THE MESSAGE.

Agreeably to the order of the day, the House resolved itself into a Committee of the Whole on the state of the Union.

The Clerk having read the Message of the President of the United States—

Mr. Dawson offered the following resolutions, which were agreed to without a division:

1. *Resolved*, That so much of the Message of the President of the United States as relates to an invasion of our territory by the troops of Spain, and to the adoption of measures for the protection thereof, be referred to a select committee.

2. *Resolved*, That so much of the Message of the President of the United States as relates to the repairs of fortifications and to the further protection of our ports, towns, and rivers, be referred to a select committee.

3. *Resolved*, That so much of the Message of the President of the United States as relates to a revision and amendment of the laws for the punishment of crimes against the United States, be referred to a select committee.

4. *Resolved*, That so much of the Message of the President of the United States as relates to the prohibition of the African slave trade, be referred to a select committee.

5. *Resolved*, That so much of the Message of the President of the United States as relates to a suppression of the duties on salt, to a continuation of the Mediterranean fund, and to the state of our revenue, be referred to the Committee of Ways and Means.

6. *Resolved*, That so much of the Message of the President of the United States as relates to the adoption of measures preparatory to the future appropriation of the surplus revenue of the United States, be referred to a select committee.

Mr. Alston offered the following resolution, which was likewise agreed to without a division:

7. *Resolved*, That so much of the Message of the President of the United States as relates to the further exploring of the Western waters, be referred to a select committee.

The Committee then rose and reported their agreement to the foregoing resolutions, in which the House concurred.

The first resolution was referred to Messrs. J. Randolph, Fisk, Sandford, G. W. Campbell, Brown, Goldsborough, and Butler.

The second to Messrs. R. Nelson, P. R. Thompson, Tallmadge, Rea of Pennsylvania, Thomas, Elliot, and Wynns.

The third to Messrs. Dawson, Smilie, Ely, Sloan, and T. W. Thompson.

The fourth to Messrs. Early, T. M. Randolph, J. Campbell, Kenan, Cook, Kelly, and Van Rensselaer.

The sixth to Messrs. Bidwell, Rhea of Tennessee, Bedinger, Morrow of Ohio, Olin, Betton, Stanton, Sturges, Sailly, Lambert, R. Whitehill, Broom, Lloyd, Burwell, Holland, D. R. Williams, and Early.

The seventh to Messrs. Alston, Barker, Blake, J. Whitehill, and Morrow of Virginia.

Thursday, December 4.

Another member, to wit: Thomas Blount, from North Carolina, appeared and took his seat in the House.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress, on the part of this House, and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. Mr. Elliot.

Mr. J. Randolph, from the committee to whom was referred the Message of the President of yesterday, asked leave to report by bill; which having been given, Mr. R. reported the following bill:

An Act to suspend the operation of an act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," and to remit the penalties incurred under the same.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the operation of the act, passed on the 8th day of April last, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," be, and the same hereby is, suspended until the —— day of —— next.

And be it further enacted, That all penalties, fines, and forfeitures, which may have been incurred by virtue of the provisions of the aforesaid act, be, and the same hereby are, respectively remitted. This act shall take effect from and after the passing thereof.

Read twice, and referred to a Committee of the Whole to-morrow.

BRIDGE ACROSS THE POTOMAC.

Mr. Lewis called the attention of the House to the subject of erecting a bridge across the Potomac, which had been fully discussed the last session. Owing to the late period of the session, or to some other circumstance, the bill, which had passed the House for this purpose, had been postponed by the other branch of the Legislature to

this session. That the subject might again receive a full investigation, he moved the reference of the report of the select committee, together with all the documents connected with the business, to a select committee, with leave to report by bill or otherwise; which motion was agreed to—yeas 57, nays 29.

Mr. Lewis, Mr. Magruder, Mr. Casey, Mr. Covington, and Mr. Goodwyn, were appointed the committee.

Friday, December 5.

Another member, to wit: Evan Alexander, from North Carolina, appeared, and took his seat in the House.

Ordered, That Mr. Garnett be excused from serving on the Committee of Ways and Means; and that Mr. John Randolph be appointed of the said committee, in his place.

NON-IMPORTATION ACT.

On motion of Mr. John Randolph, the House resolved itself into a Committee of the Whole on the bill to suspend the operation of an act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," and to remit the penalties incurred under the same.

The bill is as follows:

Be it enacted, &c., That the operation of the act passed on the 18th day of April last, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," be, and the same hereby is, suspended until the —— day of —— next.

And be it further enacted, That all penalties, fines, and forfeitures, which may have been incurred by virtue of the provisions of the aforesaid act, be, and the same hereby are, respectively remitted. This act shall take effect from and after the passing thereof.

The first section of the bill having been read—

Mr. J. Randolph said, there were two periods mentioned in the select committee, which reported the bill, as proper to fill the blank in the first section; the first was the first day of June; the other, some time within the next session of Congress, say the 31st of December. It would be recollected that, in the Message of the President, the suspension of the act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," is recommended on two motives; the first a motive of conciliation towards Great Britain; the second, from a regard to our own convenience. It was supposed, in the select committee, that if the act should be suspended for a very short period, it would answer neither of these purposes; that the news of the expiration of the suspending law reaching Great Britain about the time the passage of the law was known, it would, as to all the purposes of conciliation, be unsatisfactory; and, at the same time, that the merchants would not be able to send their orders abroad in time to receive returns before the act should again be suspended in its operation and effect. Under this view of the subject, the major part of the committee, at the instigation of two gentlemen representing commercial towns, were of opinion that the suspension should extend into the next session. They were likewise of this opinion on other grounds. If the act should be suspended to a period between this and the ensuing session, it might so happen as to take effect after our differences with Great Britain should be accommodated. They were of this opinion from another consideration. If, unfortunately, and contrary to the present prospect, the negotiation should fail, and an open rupture ensue between the two nations, the committee were not of opinion that the suspension of the prohibitory act, for a few months, would be of material importance on the interests of either party; but that measures of a stronger character would be required. Mr. R. said, he had thus given the views which influenced the committee. The committee would fill the blank with either day, as it should suit their pleasure. He would move to fill it with the 31st day of December, in order to try their sense; at the same time, he did not feel it important that the blank should be filled with that day, or any other.

Mr. Smilie observed, that there were two points which appeared to him to contain the marrow of the bill; the first was, whether the prohibitory act should be suspended? and the second, to what time the suspension should be made? The last point, it was more difficult to agree about than the other. He would suggest, whether it would not be best to leave the blank unfilled until the third reading of the bill? By pursuing this course, time would be allowed members to reflect on the subject. He was himself not altogether prepared to say what would be the proper period. He was friendly to the suspension, but he had not made up his mind as to the time.

Mr. J. Clay said, it was usual to fill up the blanks in Committee of the Whole. If his colleague were not disposed to agree to filling the bill with the 31st December, it would be easy, when the bill should be considered in the House, to vote against concurring in the report of the committee.

Mr. Findley said both modes of filling blanks were usual, and either was pursued, according to the convenience of the House. As filling the blank, in this instance, was of great importance, and as the House had as yet had little time to reflect upon it, he hoped the motion to fill the blank would be postponed until the bill was carried into the House. He was friendly to the principle of the bill, but had not made up his mind with regard to the period for which it would be best to suspend the prohibitory act.

The question being put, the motion to fill the blank with the 31st of December was disagreed to—ayes 48, noes 62.

The Chairman having read the second section—

Mr. R. Nelson declared himself unprepared to give his vote upon it. If he recollected the provisions of the existing laws, they gave to the informer a part of the penalty accruing from their infraction. The United States, however they might give up the penalties which had accrued

to them, had no right to remit that part of them which had become the property of the informer. He submitted, therefore, the propriety of so amending this section as to save the rights of the latter.

The several provisions of the laws on this subject having been read, a debate of considerable length arose on the necessity of the proposed amendment.

Its necessity was contended for by Messrs. R. Nelson, G. W. Campbell, Dawson, and Findley, and opposed by Messrs. J. Clay, Bidwell, J. Randolph, and Crowninshield.

By the former gentlemen it was contended that a vested right became attached to the informer, or officer of customs, which the United States could not morally divest; and that, although the Secretary of the Treasury was authorized by law to remit all forfeitures, yet that Congress could not themselves remit them.

On the other hand, it was maintained that Congress, having given the entire power of remission of forfeitures to the Secretary of the Treasury, were as competent themselves to remit as he was, and that the power which they had bestowed on an inferior Executive officer they were themselves competent to exercise.

In the course of this argument, Mr. G. W. Campbell moved that the Committee should rise, and ask leave to sit again.

This motion was, however, withdrawn, under the impression that the blank would not be filled until the third reading of the bill.

The Committee then rose, and reported their agreement to the bill without amendment.

Mr. Dawson, to try the sense of the House on the point discussed in Committee, offered the following amendment:

Provided, That nothing herein contained shall be construed to affect the right or claim of any person, to any part of any fine, penalty, or forfeiture, incurred by the breach of the act aforesaid, which such person shall or may be entitled to, by virtue of the said law, in cases where a prosecution has been commenced or information has been given, before the passing of this act; the amount of which right and claim shall be assessed and valued by a proper judge or court in a summary manner.

The argument, commenced in Committee, was resumed by the same gentlemen, when the question was taken, and the amendment disagreed to—ayes 12.

Mr. J. Randolph said, after what had passed, the House would not ascribe to him a wish to precipitate the decision on filling the blank in the first section. He had, indeed, no such intention. When in Committee, he had avoided saying anything as to the principle or expediency of the measure; nor should he touch these points, if at all, till the question whether the bill should pass, or not, was fairly before the House? But, he would appeal to gentlemen, whether the interests of the United States could be materially affected by an additional suspension for three days, three weeks, or three months? The subject had been very fully debated the last session, and gentlemen could surely make up their minds whether it were best for the suspension to operate to the end of the session, or to the 30th of June, or to a later period? This was one of those minor questions that did not require much time for consideration, and having decided that the suspension should not be extended to the 31st of December, there could be little difficulty in fixing an intermediate day. He should, therefore, move to fill the blank with the 30th of June, although he did not mean to press the motion. He understood that was the quarter day at the Treasury.

Mr. Alston said, when he voted in Committee, against filling the blank with the 31st of December, it was not because he was absolutely against that day, but because his mind was not made up with respect to the most proper day at which to limit the suspension. He had heard nothing since to satisfy his mind on this head. He hoped, therefore, that the blank would not be filled until the third reading of the bill.

Mr. J. Clay remarked that, when he seconded the motion of the gentleman from Virginia, (Mr. J. Randolph,) it was with a perfect knowledge that it would be competent to the House to fill the blank on the third reading of the bill. But, he would ask, whether there would not exist a difficulty in fixing the period of suspension at any day short of the commencement of the next session of Congress? And, if there were, whether there would not arise a necessity of placing somewhere a dispensing power? He hoped, from all he could collect, that all differences between the two Governments would, before that day, be removed. Well, suppose a treaty, in all respects perfectly satisfactory, should be concluded, and the prohibitory act only suspended until the 30th of June, without any power existing to dispense with it? The bill must again go into effect notwithstanding all the causes which gave rise to it have ceased. He believed it was not competent to amend a bill on its third reading, unless by unanimous consent. For this reason, he wished that the blank might be filled with the 30th of June, and an amendment introduced, authorizing a further suspension, in case our differences shall be adjusted. If this course were adopted, he believed every gentleman would be satisfied.

Mr. Smilie moved to postpone the further consideration of the bill to Monday.

Mr. J. Randolph hoped that, if the consideration of the bill were postponed, it would not be till Monday. He considered the bill of some importance to two classes of persons; to the merchants, and still more so to the Southern planters. It was considered, by those who understood its operation, as of material importance to the cotton planters. He supposed, between this day and to-morrow, every gentleman would be able to make up his mind whether it would be expedient to suspend the prohibitory law for three, six, or nine months. The period appeared to him comparatively an unimportant question; whereas, that of the bill coming soon into operation, was of great importance to the planters. If passed, it would have a considerable effect on orders abroad and projects at home. If a postponement took place,

he hoped the House would adjourn till to-morrow, and its consideration be then resumed. As the other House were generally more tardy in their proceedings, it could scarcely be expected to get in operation in less than eight or ten days; and that period would be taken from the period of suspension, short as it might be.

The motion to postpone the bill to Monday was disagreed to—ayes 29.

Mr. SMILIE then moved a postponement till to-morrow; which was carried—ayes 60.

In the course of the debate, Mr. R. NELSON remarked, as an inducement to the prompt passage of the bill, that he was informed that Mr. Merry, the late British Minister, about to sail for England, was waiting to learn the fate of it.

SATURDAY, December 6.

NON-IMPORTATION ACT.

The House proceeded to consider the bill to suspend the operation of an act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," and to remit the penalties incurred under the same; when the first section thereof being again read, in the words following, to wit:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the operation of the act, passed on the eighteenth day of April last, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," be, and the same hereby is, suspended until the —— day of —— next.

The SPEAKER observed that when the bill was yesterday under consideration, the question pending was on filling the blank in the first section with the words "June 30," (the day until which it was proposed to suspend the prohibitory act.)

At the request of Mr. J. RANDOLPH, the Message of the President of the 3d instant was read.

Mr. J. RANDOLPH then said, that when he had made the motion in committee to fill the blank with the 30th of June, he had done it under the impression that the House had expressed their disapprobation of a suspension to so long a day as the 31st of December. But it seemed, from some observations which had been made in the House, that some gentlemen who voted against the suspension until the next session, had voted in this way, not because they were opposed to that day, but merely because they had not fully considered the subject. He would, therefore, withdraw his motion to fill the blank with the 30th of June, and renew his motion to fill it with the 31st day of December. He did this, not only from the motives he had mentioned, but from other motives, which struck his mind with great force, and which, if gentlemen attended to them, they would find of considerable weight. Gentlemen have said that they are disposed to pass the suspending law, because the conduct of Great Britain, which they deemed the last year hostile to us, had since materially changed. Now if this were a fact, (the accuracy of which he was not about at present to discuss,) what was the inference? If at the last session, when gentlemen deemed the conduct of Great Britain hostile to us, they suspended the operation of the prohibitory act to the 15th of November ensuing, surely, *a fortiori*, gentlemen, who deemed the conduct of that Government so materially changed, would agree to a suspension for a period as much longer as would be equivalent to the change in her conduct. It might be said that the reason for the suspension at the last session did not now exist, as it was then necessary to give a greater length of notice of the going into operation of so important a law. True; but no gentleman would say that a period, so long as that allowed, was then necessary, as it was only requisite, in this point of view, to allow time for the information of the passage of the act to be received before the sailing of the Spring vessels. Under this view of the subject, he would renew his motion to fill the blank with the 31st day of December.

Mr. ELLIOT hoped the motion would prevail. He, indeed, very much regretted that it had been negatived in Committee of the Whole. He had never considered the prohibitory act as valuable, but as indicating the spirit of the American people, and as leading the way to stronger measures in case the conduct of Great Britain should require them. He was willing to part with it for a reasonable disposition towards accommodation on the part of Great Britain, which they had been assured existed at present. In the present state of our foreign affairs, when a European Power had frequently invaded our territory, he thought there were strong reasons for being on good terms with Great Britain. He contemplated the prohibitory law as a mere matter of temporary policy, not as forming a part of a permanent system of commercial warfare with Great Britain. Mr. E. said there was one reason, which ought to decide the vote of the House on this question. If gentlemen viewed the prohibitory law as a mere matter of temporary policy, and if, as they had been assured by the Executive, the pending negotiations were likely to issue in a satisfactory result, surely they ought no longer to keep the agricultural and commercial interests in suspense, as to the measures contemplated to be pursued on our arrangements with Great Britain. For one, he should be willing, after the assurances they had received of the friendly disposition of the British Government, and from his sense of the inefficiency of the law, to repeal it altogether. And although gentlemen should be disposed to hold it up *in terrorem* to Great Britain, why not suspend it for a year, or, at all events, permit the suspension to cease during a session of Congress? Suppose a majority shall say that the suspending act shall cease in June or July, the non-importation act will then be again in force. How, then, can our merchants with any safety take their measures? Why leave the subject in doubt, when they were convinced that the spirit which presides over the pending negotiations will produce a favorable result? For these reasons Mr. E. said he hoped the present motion would prevail.

Mr. BIDWELL observed that with the gentleman from Vermont, who had just sat down, he could say that the prohibitory act, the operation of which was proposed to be suspended, received his vote at the time of its passage. But, like him, he could not add, that his view of the policy of the measure had changed. Further reflection had confirmed him in the belief of its wisdom and justice; and experience, during the short period which has intervened, has added the weight of its sanction. The act had, so far, evidently produced a salutary effect. He had no hesitation in saying that it had an influence in producing the accommodating spirit which, at the date of the last despatches from our Commissioners, was manifested on the part of Great Britain towards the United States. Convinced of the soundness of our policy, he should by no means be willing to see it abandoned by a repeal of the act. On the contrary, he hoped the act would be retained and enforced, and that further steps would be taken in the same system of policy, unless it should be rendered unnecessary by satisfactory conventional arrangements. Yet, consistently with this system, he was willing, for the reasons stated in the President's Message, to suspend the operation of the act for a reasonable time, but not for so long a time as had been moved by the gentleman from Virginia. The object of the proposed suspension was twofold: First, to meet a conciliatory disposition on the part of Great Britain, with the proof of a disposition equally conciliatory on our part; and, secondly, to give a full and fair opportunity for concluding a negotiation, which had been delayed by causes not of a suspicious or unfriendly nature. If we had reason to believe that the delay was an intentional procrastination for the purpose of deluding us, or for gaining time to take advantage of events, it would be a sufficient objection to any suspension. But he saw no ground for such a suspicion. They were assured that the negotiation was in a favorable train, and promised a result mutually advantageous. He would, therefore, give full time for its conclusion. Neither of the objects proposed by a suspension, however, required so long a time as until the last of December. Both of them would be satisfied by carrying the suspension to the first of July. The intervening period would, after making allowance for all ordinary obstacles, afford sufficient opportunity for the act to be transmitted to London, to produce its due effect there, and admit a return of the result. More than that ought not to be allowed. It would be going beyond the objects of the suspension. It would, in the event of a failure of the negotiation, give an unnecessary protraction to the operation of our prohibitory law. It would evince an unstable or doubtful policy, and excite a suspicion of our sincerity, or at least of our capacity to enforce the system we have adopted. By a suspension to the first of July, we should admit the Spring importations, and thereby show a proper attention to the interests of our merchants, without permitting the Fall importations. The event of a treaty, in the meantime, might be provided for by a separate clause in this bill, or, which he should prefer, by a separate act to be passed, if necessary, before the close of the session. For these reasons he hoped the motion to fill the blank with the 31st of December would not prevail, but that it would be filled with the first of July, agreeably to a motion which had been made and withdrawn, but which he took the liberty to renew.

Mr. SLOAN said he hoped the motion to fill the blank with so late a period as the 31st of December would not prevail. He hoped also that the House would take up the subject with that seriousness which its magnitude required. He should not recapitulate the causes which had induced Congress at their last session to pass the prohibitory act, as they must be in the recollection of the House. But he would ask gentlemen one question of serious import. What facts had occurred to induce the House to suspend this act? A friendly disposition manifested by the Ministry of Great Britain. This was the utmost extent of the ground on which it was proposed to legislate. He would ask whether it was sufficient ground to induce a suspension for so long a time? He was willing to meet friendly dispositions on the part of Britain by friendly dispositions on our part. But did it appear that anything had been done which was permanent or binding? No. They had not been informed that a single preliminary article had been agreed upon. It was true that there was for the present a suspension of aggression on our commerce and seamen; he was, therefore, in favor of a suspension of the prohibitory act for a very short period. But he hoped that both the motions which had been made would be rejected, and an earlier day, about the close of the session, be introduced, and that the President might be empowered further to suspend the act, if occasion should require, until the next meeting of Congress.

Mr. CROWNINSHIELD said he could not but regret that the gentleman from Virginia, after the vote in the Committee of the Whole, should have withdrawn his motion to fill the blank with the 30th day of June. When he was up yesterday, some expressions had dropped from him of the confidence he entertained with regard to the friendly disposition of Great Britain, in her commercial relations with this country. Though that was his opinion, grounded on the information contained in the Message of the President, he had always considered the measures of Great Britain as founded on a system of policy hostile to our growing commercial greatness. If she found our policy wavering, it was very possible she might renew her former depredations on our commerce. It would be recollected that it was a very long period after the remonstrances were made by our Ministers, before any attention was paid to them, or they received an answer. Several months at least elapsed. It had always appeared to him that the conduct of Great Britain had in this instance been governed by the state of the Continent, and that she had been controlled by continental events. It must, too, be acknowl-

edged that she had never seriously entered into negotiation with us until the passage of the prohibitory act. Mr. C. said it was his opinion if we had not acted with spirit Britain never would have negotiated with us. Such being his opinion, he was in favor of continuing the prohibitory law, or of suspending it only for a short time. He was therefore opposed to filling the blank with the 30th of December. With regard to his own individual opinion he did not know whether he should be for making the suspension go beyond the present session; for if events should favor a new coalition, it was very probable her depredations would be renewed. Although appearances were flattering, she was undoubtedly governed by events, and might in future change her conduct. He could not agree that we ought to be influenced by some clouds in the Western country embodied by another nation. It would make no difference in his conduct towards Great Britain if the country were invaded even to Washington. He would still persist in the same policy. There was no doubt that the United States could resist a combination of all Europe. Great Britain at present appeared to be friendly, and the negotiations might issue in some commercial arrangements, but which might not prove satisfactory to the House. He did not, therefore, wish to give up the law for so long a time. He might agree to its suspension to the first of July. He did not think the interest of the merchants ought to be considered with regard to their Spring importations, because they had already imported a sufficiency of the prohibited articles; and if the interests of the merchants were to be attended to in all such cases, it would be impossible for the Government to get along. Besides, a great part of the prohibited articles might be got from other countries, at prices but little exceeding the British. From this view of the subject, he thought the period of suspension ought to be entirely determined by its effect on the negotiations. So far as this consideration recommended a suspension he was willing to go. But he could not consent to so long a period as that proposed, which almost doubled that agreed upon at the last session.

Mr. Smilie said that when he agreed to the passage of the prohibitory law, it was from a conviction that it would produce salutary effects. Such was then his impression, and such was his present opinion. It was true that he wished to impose no commercial restrictions upon the trade of Great Britain, provided she would treat us as a friendly nation. The act had been passed as an inducement to her to review her conduct, and to do us justice. Entertaining still the same views and feelings, and believing the measure was calculated to produce the best effects, he still remained a firm and decided friend of the law. As soon as the desired effects were produced he should cease to wish for its continuance. But until they were produced he should never consent to part with it. From the Message of the President, it appeared that it was his opinion, as well as that of our Ministers, who were undoubtedly the best qualified to judge, that a temporary suspension of the law would have a favorable effect on the pending negotiations. He was, therefore, willing to suspend it; but not for so long a period as that mentioned. A suspension until the 1st of July would allow ample time for its effect on the negotiations. If, during the course of the session, circumstances should arise requiring a change of policy, they could be easily provided for. They were then just on the verge of the session. Despatches would undoubtedly be received before they rose, from which they would learn what was best to be done. For these reasons Mr. Smilie hoped the blank would be filled with the 1st day of July.

Mr. J. Randolph rose merely to observe that it was usual for gentlemen to renew in the House, motions made in the Committee of the Whole. It was true he had not renewed this motion yesterday, because he did then understand the vote in the Committee of the Whole as expressing the disapprobation of the House of so long a period of suspension as the 31st day of December. But after he had received information that several gentlemen, who had voted against the motion, did not consider it in this light, he had renewed the motion. Mr. R. said he really did not see it, nor could he be induced to believe it to be a question of great importance, whether the suspension should be for six or twelve months. The principle of the bill was as much involved in one period as the other. He thought the whole reasoning of gentlemen went to show that the suspension ought not to extend beyond the present session. It was evident that this was not the opinion of the President, who, in his Message, recommends the suspension, as well with a view to the promotion of our own commercial purposes, as to favor the negotiations. Great Britain having indicated a conciliatory temper, did it not become a point of policy towards her to suspend this act for a reasonable time? If, too, the suspension be limited to some day when we are not in session, may not great inconvenience arise? Gentlemen on the committee with him would recollect that he named the 3d day of March; but at the suggestion of two gentlemen from two great commercial cities a further time was deemed necessary; and it did appear to him, if it were extended beyond the 3d of March, it should be to a day which would fall into the next session. However, in case the suspension should be limited to an intermediate day, he had prepared a clause further to suspend the act in case a treaty should be formed, which, in that event, he would offer.

Mr. Alston said he was still, as he expressed himself yesterday, in considerable doubt as to the proper time to which the act passed at the last session, prohibiting certain articles from being imported into the United States, should be suspended. It was then adopted with a view to aid our negotiations with Great Britain; and as the negotiations with the Government it was intended to operate against, were still pending, the same cause which produced its passage in the first instance, operated upon his mind as to the propriety of continuing the law; but he was perfectly willing

to suspend its going into effect, until ample time should be afforded for a termination of the negotiations now pending.

He did not believe that in the event of a failure of an adjustment of differences by the negotiation now on foot, war with that country would follow, nor that there would be a necessity for any stronger measures on our part to be taken; once permit the law to go into operation, and he believed its effects would be as forcibly felt by that country as any measure we could adopt. He was opposed to a suspension to the time proposed (which was the 31st of December next) for several reasons; for instance, should our expectations of a friendly adjustment of differences fail, and the event be known in the course of two or three months, everybody, particularly those in favor of the system, would say it ought to apply to the next fall importations. Again, if we put it off until the time proposed, it would seem as though we ourselves were afraid of the ground we had taken, and never intended it to take effect. The ground taken by the gentleman from Vermont, which was, that we ought to be in session at the time to which the law should be suspended, was to his mind very forcible; he felt a great repugnance to delegating a power to any person whatever to suspend the operation of a law of Congress; but, as was mentioned by the gentleman from Massachusetts, (Mr. Bidwell,) a clause could be introduced specially authorizing the President of the United States, in case of certain events taking place, to suspend the law, and that only until the next session of Congress. A special delegation of this kind would not be an abandonment of the principle he contended for. He, therefore, felt himself under the necessity of voting against filling up the blank with the time proposed.

The yeas and nays were then taken on filling the blank with the 31st of December, and were—yeas 45, nays 67, as follows:

Yeas—George M. Bedinger, Silas Betton, James M. Broom, John Boyle, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, jr., Theodore Dwight, Peter Early, James Elliot, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Seth Hastings, David Hough, Walter Jones, James Kelly, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Josiah Masters, William McCreery, David Meriwether, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, John Russell, Thomas Sandford, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, and Thomas Wynns.

Nays—Evan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, George W. Campbell, Levi Casey, John Chandler, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Ezra Darby, John Dawson, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, David Holmes, Thomas Kenan, Nehemiah Knight, John Lambert, Patrick Magruder, Robert Marion, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Pugh, Thomas M. Randolph, John Rhea of Tennessee, Peter Sailly, Thomas Sammons, Martin G. Schuneman, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

The question was then put on filling it with the 1st of July.

Mr. J. Randolph said this seemed to be a very important question, though he really did not see it in that light. He hoped, however, they would have the yeas and nays; which, being taken, were—yeas 97, nays 12, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jr., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, Levi Casey, John Chandler, John Claiborne, John Clopton, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, James Holland, David Holmes, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Henry W. Livingston, Edward Lloyd, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newton, jr., Gideon Olin, Timothy Pitkin jr., John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Smilie, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, John Whitehill, David R. Williams, Alexander Wilson, John Winston, and Thomas Wynns,

Nays—John Campbell, Martin Chittenden, Charles Goldsborough, Isaiah L. Green, David Hough, Joseph Lewis, jr., Jeremiah Nelson, Josiah Quincy, James Sloan, Samuel Smith, Joseph Stanton, and Joseph B. Varnum.

The bill was then ordered to be engrossed for a third reading without a division.

Mr. J. Randolph moved that it should be read a third time to day.

Mr. Crowninshield named Tuesday.

The question on the last motion was passed in the negative without a division, as was that for reading the bill on Monday, when the motion to read it to-day was carried without a division.

The bill was immediately brought in engrossed, and read a third time.

Mr. Sloan said he should vote in the negative,

not because he was against the principle of the bill, but the time. He thought it ought to be kept in the power of the House to the end of the session.

Mr. Alexander said he did not know whether it was in order, in this state of the bill, to offer an amendment, with which the bill would have his hearty vote. The amendment, he considered necessary, had been alluded to by the gentleman from Virginia. So far as he had reflected on the subject he thought the period of suspension in the bill sufficient. But he was of opinion that a suspending power should be vested in the President, in case necessity should require its exercise. He was of the same opinion last session; and had such a provision been then introduced, it would have superseded the necessity of this act.

Mr. Smilie remarked that he would not undertake to say that some other steps might not be necessary before they rose. But there was no necessity for taking any other step at present. He thought it would be improper to take any further steps at present.

The question was then taken on the passage of the bill by yeas and nays—yeas 101, nays 5, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, G. W. Campbell, John Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Theodore Dwight, Elias Earle, Peter Early, James Elliott, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Silas Halsey, Seth Hastings, James Holland, David Holmes, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan MacFarland, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russel, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thos. W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, John Whitehill, Alexander Wilson, Joseph Winston, and Thomas Wynns.

Nays—Isaiah L. Green, John Hamilton, James Sloan, Joseph B. Varnum, and David R. Williams.

Monday, December 8.

Another new member, to wit: John Porter, from Pennsylvania, returned to serve as a member for the said State, in the place of Michael Leib, who had resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House. Several other members, to wit: from New York, Eliphalet Wickes; from Maryland, John Archer; and from North Carolina, Marmaduke Williams; appeared, and took seats in the House.

Mr. Darby presented to the House a petition of the members of the Baptist congregation, in the City of Washington, in the Territory of Columbia, signed by order and in behalf of the said congregation, by Thomas Carpenter, and others, which was received and read, praying that an act of incorporation may be passed, vesting in the said church such powers, privileges, and immunities, as Congress in their wisdom may deem proper, for the benefit and advantage of the said congregation.

Ordered, That the said petition be referred to Messrs. Darby, Archer, and Seaver, to examine and report their opinion thereupon to the House.

Mr. Boyle, from the Committee on Public Lands, made a report on the petition of sundry inhabitants of Ovid, in the State of New York, requesting permission to purchase an entire township of land on the White or Wabash river, in the Indiana Territory. The committee observe that as, under the existing provision of law, the right exists to purchase an entire township, with the exception of the reserved sections, they presume that the object of the petitioners, though not specified, is to make the purchase on lower terms than are ordinary. Considering an adherence to the established terms of great importance to the public interests, they recommend that the petitioners have leave to withdraw their petition.

In this report, the House concurred.

DEPOSITS OF PUBLIC MONEY.

Mr. Crowninshield submitted the following:

Resolved, That the Secretary of the Treasury be instructed to furnish the House of Representatives with a statement of the amount of deposits of the public money in the United States and other banks, for the three last years, together with an estimate of the balances in favor of the United States remaining in the said banks respectively for that period, distinguishing the amount in each year.

Mr. C. said, he would candidly inform the House what his views were in offering this motion. His object was to draw a revenue from the balances which might be in the banks, by taxing the Bank of the United States, and other banks with an interest on the amount of the public money in their hands. He had made a calculation, from which he inferred that the amount of balances in their hands for the three last years averaged the sum of between three and four millions. If a charge of six per cent. interest were made on this amount, it would produce a revenue of from one hundred and eighty to two hundred and fifty thousand dollars. Mr. C. said he thought this as fair a source of revenue as any other which could be named; it was certainly as fair a one as articles imported from foreign countries. It was unnecessary at this time to make further explanations. He hoped the House would permit the

resolution to pass, that they might have laid before them the information on which he meant to predicate his plan.

The House immediately took up the resolution and agreed to it without a division.

Mr. D. R. Williams observed that, from an apprehension of the state of the ceiling, he had kept his seat not without considerable alarm. This induced him to offer the following resolution:

Resolved, That the Speaker of this House be authorized to cause immediate measures to be taken for pulling down the plastering, or otherwise securing the ceiling of the Chamber in which the sessions of the House are now held.

A conversation of some length took place on this motion, in which it was stated that, notwithstanding the assurance of the Surveyor of the Public Buildings, the plastering of the ceiling presented strong indications of insecurity, so much so as to have swagged in some places more than half an inch; that in another part of the House it had actually fallen, and that the examination, on which the opinion of Mr. Latrobe was grounded, having been so long ago as the year 1805, could not give any satisfaction as to present security. When the question was put, and the resolution agreed to—ayes 59, noes 34.

A motion was made to adjourn over till Friday, but withdrawn, that the Speaker might have time before the meeting of the House to-morrow to gain the necessary information as to the steps proper to be taken.

Tuesday, December 9.

The Speaker laid before the House the result of the examination made in his presence by the Clerk of the Public Works relative to the situation of the ceiling of the House, as well as the written replies made by the Clerk to sundry questions put to him, the purport of which is the preponderating opinion of the Clerk that the ceiling is secure. This opinion is however qualified by a doubt with respect to the safety of a part of the ceiling. The Clerk further states, that to secure this part of the ceiling will require two days, and that securing the whole will take a week.

After some conversation on the subject, Mr. Ely offered a resolution for suspending all further proceedings under the order of yesterday, which was negatived—yeas 40, nays 51; the Speaker having previously intimated to the House that unless special order was taken by them he should cause, as soon as an adjournment took place, measures to be taken for securing the ceiling.

Mr. Bidwell, from the committee appointed on the third instant, presented, according to order, a bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same; which was twice read and committed to a Committee of the Whole on Friday next.

On motion of Mr. Lattimore,

Ordered, That so much of the petition of the Legislative Council and House of Representatives of the Mississippi Territory, presented to this House on the twenty-fifth of January, one thousand eight hundred and five, as relates to the establishment of a hospital at the town of Natchez; an increase of the salaries of the Judges; and an extension of the right of suffrage, in the aforesaid Territory; be referred to a select committee; and that Mr. Thomas M. Randolph, Mr. Lattimore, Mr. Taggart, Mr. Wickes, and Mr. Hamilton, be the said committee.

On motion of Mr. Clark,

Resolved, That the Committee on the Public Lands be directed to inquire whether any, and, if any, what, alterations are necessary in the act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans, and District of Louisiana; and to report thereon by bill or otherwise.

Mr. Lewis, from the committee appointed on the fourth instant, presented a bill authorizing the erection of a bridge over the river Potomac, within the District of Columbia; which was read twice and committed to a Committee of the Whole on Thursday next.

On motion of Mr. Jeremiah Morrow,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of offering for sale the public land situate between the United States' military tract and the Connecticut Reserve, to which the Indian title has been extinguished; and that they report by bill or otherwise.

Mr. J. Clay remarked that under an existing rule of the House, the member first named on committees was the chairman, unless another member was chosen by the committee; and that he was instructed to state that, in virtue of the last provision, the Committee of Ways and Means had appointed Mr. J. Randolph, chairman.

Wednesday, December 10.

On motion of Mr. Thomas,

Ordered, That the report of the Commissioners under the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," which was made to this House on the twenty-first of April last, be referred to Mr. Thomas, Mr. Wilson, and Mr. Green, with leave to report thereon by bill, or otherwise.

Thursday, December 11.

Another member, to wit: John G. Jackson, from Virginia, appeared, and took his seat in the House.

Mr. J. Clay presented to the House a petition of sundry patentees, whose names are thereunto subscribed, praying the privilege of a renewal of their patent for a second term, after the expiration of the first, for the exclusive enjoyment of their respective discoveries and improvements, they paying therefor, into the Treasury of the

United States, such sums as may be deemed just and reasonable.—Referred to Mr. J. Clay, Mr. Jones, Mr. Livingston, Mr. Alexander, and Mr. Elmer; to examine and report their opinion thereupon to the House.

On motion of Mr. Stanton,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, description of claims against the United States are barred by the statutes of limitation, which, in reason and justice, ought to be provided for by law; and that the said committee have leave to report thereon by bill, or otherwise.

Ordered, That Mr. Stanton, Mr. Tenney, Mr. Stedman, Mr. Crittenden, Mr. Dana, Mr. Tracy, Mr. Lambert, Mr. Pugh, Mr. Broom, Mr. Nicholas R. Moore, Mr. John Morrow, Mr. Stanford, Mr. Thomas Moore, Mr. Meriwether, Mr. Reed of Tennessee, Mr. Bedinger, and Mr. Jeremiah Morrow, be appointed a committee, pursuant to the said resolution.

AMENDMENT TO THE CONSTITUTION.

Mr. Clopton.—Mr. Speaker, I take this opportunity, when the attention of the House is not occupied on any particular subject, to submit a resolution, the subject-matter of which I consider to be of very great importance. Before, however, I introduce to the notice of the House any specific proposition, I would observe that, when the subject shall be discussed, if discussed at all, I apprehend that it may meet with some objection on a general ground, on which, most probably, objection would be raised against any measure whatsoever of the nature of that which I am about to propose. If the ideas I entertain of its expediency arose merely from my own speculative views of the proposition and the subject with which it is connected, however clearly I might be convinced, of that expediency, I might nevertheless distrust the propriety of such conviction, so far at least as not to be induced thereby merely of itself to bring forward the proposition: but a conviction scarcely susceptible of any distrust at all, and far more impressive on my mind; a conviction, which has resulted from experience, induces me to offer the proposition; and in doing so, I feel much more of duty than of any other impulse.

The proposition, which I have thus deemed it my duty to submit to the consideration of the House, might appear sufficiently expedient in consequence of certain measures adopted some years ago, had no subsequent circumstance enlarged the evidence of its expediency; but recent, very recent circumstances present themselves to my mind as additional proof of that expediency. Sir, in the instances I have alluded to, we have witnessed a striking exemplification of the truth of that maxim, which ascribes to experience a standard the least fallible of any by which human institutions can be tested. It is from experience only that defects are often discovered in the wisest of establishments. This unfolds the latent sources of evil, which could not have been traced by the most penetrating foresight. The efforts of genius, however great, and of patriotism, however pure, cannot always secure the ends they propose. Means apparently infallible are found either to be inadequate to the end, or to contain within themselves the very instruments by which they are defeated. Imperfections overlooked and believed not to exist, until experience rends the veil, are then disclosed and glare before us. And, sir, amongst all the institutions of men there are none, perhaps, in which their defects generally lie so much enveloped, as in those of a political nature, until they are thus disclosed.

I have said that I anticipate some objection upon a ground, on which, most probably, objection would be raised against any measure whatsoever, of the nature of that which I am about to submit to the consideration of the House. Should this, however, be the principal ground of opposition, if the object of the proposition should be deemed desirable, that ground, I might reasonably presume, will be abandoned as untenable.

I have been led, sir, to conjecture that opposition of the nature of that which I have suggested, might be expected from recollection of a former occasion, when an amendment to the Constitution of the United States was under discussion. On that occasion, the House was admonished against innovation, as it was called, and solemnly advised, on no account whatsoever, to touch the Constitution. This was done, although the proposed amendment had been long promulgated to the American people; although the public sentiment had been clearly ascertained to be in its favor, and although eleven successive amendments had been introduced into the Constitution without a shadow of inconvenience, or the smallest degree to the disturbance of the public tranquillity. Had the Constitution been adopted without any provision for future alterations, and none were attainable but by immediate resort to revolutionary principles, opposition made upon that ground would then, indeed, merit serious notice. But a provision wisely and completely guarding against every event of that sort, composes a part of the Constitution. Fortunate provision! Happy Americans, who enjoy the benefits of that provision! Who, when experience points out defects in their great political code, without a resort to first principles, without the smallest danger of those revolutions which shock and convulse other nations, with calm and tranquil serenity, may correct whatever needs correction, and ameliorate their system. Far from being dangerous, therefore, to introduce any amendment, where it shall have been found by experience to be really expedient, the introduction of it will be a salutary step; may be the happy means of averting danger in future times, and of removing a source of evil which, were it to continue, might diffuse its streams through the whole *body politic*. Under this impression, and from a belief that a certain part of the Constitution requires amendment, with permission of the House, I shall introduce a resolution which has that for its object. The amendment which is desired, will not however introduce any new principle into the Constitution, nor any way increase the powers of the Federal Government, should it be adopted. The object of it is solely to secure an adherence to that fundamental principle which forms its true federal character. And because it is believed there have been deviations from that principle; that certain measures, which have been alluded to, were the offspring of a power not within the scope of that principle, but entirely without the sphere of the federal authority; because, also, the exercise of such a power was grounded on a peculiar construction given to one clause in the Constitution, the proposition now intended to be submitted is of such a nature that, on the decision of it, Congress will determine whether such a modification of that clause shall be proposed to the States as shall render it less susceptible of such construction. The clause I mean, is the eighth section of the first article of the Constitution, expressed in these words:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The construction which has been given to this clause, in the cases alluded to, was, that it conveys to Congress a right to make any laws whatsoever, which they should determine to be expedient for carrying into execution the powers enumerated in this section, or in any other part of the Constitution, whether such laws should have any sort of relation to, or connexion with, any of those enumerated powers or not. Under this construction the ever-to-be execrated sedition act was passed; it was passed as a measure expedient, necessary, and proper, for carrying into execution the said enumerated powers, with none of which powers had it any more connexion than pitchy darkness has with the blaze of a meridian sun.

Such a latitude of construction at that time excited a considerable degree of alarm in the minds of those who were impressed with a belief of its dangerous tendency. To them nothing could have been more desirable than such a correction of the clause as would have restricted the construction of it to limits merely commensurate with the powers expressly delegated; but the then existing state of things precluded every ray of hope that any attempt to obtain such correction at that time could be successful. A different state of things exists at present, it is true, and I hope there is no disposition to resort to a system of policy like that which dictated those measures. Yet, it should be remembered, there is a "tide"—there is a flux and a reflux in the affairs of men; and, although the political aspect, which was then gloomy and menacing, has disappeared; and we have perceived in place of it a bright and auspicious prospect; yet no one can ascertain how long will be its continuance. No human foresight can reach to all future time; to no human being belongs the keen, intuitive faculty of exploring every momentous event, which may take place in the course of a long succession of periods yet to come. Indeed, sir, I should utter no calumny on human nature, were I to say that the book of futurity remains completely shut from the view of the most inquisitive, the most penetrating eye, until each leaf successively opens and discloses its contents. What are our pre-conceptions of the events of any period before they actually come to pass? What are they more than conjectures? What more than mere expectations that certain effects will be produced by certain causes, which we believe to be naturally adapted to the production of such effects? But how often are these expectations disappointed! Look into the volume of history, which records the transactions and the events of past times, and how frequently is it to be seen that one generation of men had experienced a state of things widely different from what had been expected by the preceding generation, and the very reverse of what the existing state of things in their time had seemed to promise them!

So long as man continues to be what he is, taken in a collective, national capacity, revolution of sentiment may be expected to attend him; and in the administration of his government, one uniform unvarying course of procedure is a phenomenon scarcely to be imagined—certainly, never yet experienced for any great length of time—unless, indeed, it is to be found in the gloomy recesses of despotism. In countries over which that species of government, or rather that abuse of all government, stretches its iron sceptre, and by establishing a perennial system of universal fear, maintains an absolute control over the public sentiment, the despot, who by his nod rules everything, may direct his proceedings in one uniform course. Nowhere else is such an uniformity of procedure to be found. In those devoted countries, the springs of human action are bound down so closely on all sides, that no room is left wherein to move themselves. An universal dread of the tyrant stupifies and hushes the whole nation into a state of dead, listless, quietism, and profound apathy; consequently, there cannot exist any external cause by which the tyrant can be influenced to vary his course, otherwise than according to his own will and humor. Yet, even in those unfortunate regions, the bandages of oppression are sometimes drawn so severely tight, and strained to such an excessive degree, that they are snapped, and afford a temporary relief to the wretched subjects. The springs of action for a moment recover a portion of their natural elasticity, and expand themselves so far, at least, as to produce a revolution in the Government. Scarcely ever is any other sort of revolution produced in those countries.

But in a free country, a country really free, where public opinion cannot be repressed, where public sentiment cannot, and should not be controlled, revolutions of that sentiment—as they will happen, more or less frequently, according to the ruling temper of the nation—influence the government, and occasion changes or alterations in the administration of it, without affecting the existence of the government at all.

There is, however, to the American people, a peculiar source of consolation in the rational and just principles of the system which they have

been wise enough to establish. These principles serve as an elevated and luminous beacon, by looking to which, those who have direction of the vessel of State may easily and safely guide it amidst the rocks and shoals whereon so many have been wrecked. These principles enlighten the paths that lead to public happiness, and render them infinitely plainer, and more easily to be traced, than they are found to be on any other portion of the globe. This, then, is a great and singular advantage attending our admirable system—that the strictest adherence to its real principles, is the easiest and most direct way towards promoting the general interests, tranquillity, and happiness of the people. It may, perhaps, be laid down as a correct position, that the duration of public sentiment, in favor of public measures, will generally be commensurate with the time during which those measures are such as promote the general interest and happiness of the people. Since, then, of all systems in the world, the American system of government is the best calculated for an easy attainment of these objects, proportionably greater in this, than in any other system, is the probability that these objects will be pursued in the administration of it. Hence, also, in the same proportion, is the prospect that public sentiment will be less liable to fluctuation here, than under any other government where the public feelings are allowed to express themselves.

But, nevertheless, sir, is there an absolute certainty that the administrators of that system will be always invariably guided by its principles; or that, plain and direct as is the way that leads to public happiness, they will never pursue any other course? Is there an absolute certainty that every measure, of every set of men who shall hereafter succeed to the administration, will promote the general welfare in all respects, and be perfectly conformable to those rules of economy which are essential to the prosperity of a government like this, and equally essential to the general happiness of the American people? Can such an inference be clearly and undeniably drawn from correct views of human nature, or from a general experience of the political transactions of mankind? No sir! And, although from the principles of this system, and from the virtue of the American people, there is far better security for an easy attainment of every desirable object of civil government here, than anywhere else; yet this security is not completely infallible. It cannot be expected that no vicissitude in the political affairs of this country, that no revolution of public sentiment will hereafter take place. Already have we experienced an important change. Already have we experienced a change amounting to a complete revolution of sentiment, as to a great portion of the American people, and to a complete reversal of the prominent measures of administration. I have rejoiced, sir, and do rejoice in this change, as a grand amelioration of measures. I rejoice in the auspicious state of things which it has produced. I have trusted, I have believed, and I hope, that it rests on a basis which will render it durable; yet, I have no right to flatter myself it will always continue to be such. What has once happened, may happen again. What has been once done, may be done again, and may be expected to be done again whenever the same disposition shall exist in the agents, if the authority remains the same. The construction which has been given to the clause, I have read, in the cases alluded to, and under which construction, such a latitude of power has been assumed as may be given again to that clause; and the same, or even a greater latitude of power may be actually exercised under such construction, if the clause remains as it is. It is possible that we may feel the lash of another sedition act, or something more terrible, in its provisions. Indeed, sir, I wish there may be no reason to apprehend that the period may not be very far distant when we may experience a reflux, a sad reflux of things, and behold our political horizon again darkened and menacing.

That the clause I have read, should be liable to receive a construction so broad and extensive is, perhaps, not very much to be wondered at, when we consider the strong propensity existing in human nature to grasp at unwarrantable power; and when, indeed, frequent experience manifests too much inclination to adopt measures which appear expedient, without strictly examining whether such measures are authorized by the Constitution or not. There is something fascinating in the possession of power. When no limits are fixed to the exercise of it, everything within its reach is legalized according to the will of the possessor. This is, to him, the only standard of moral rectitude. In the scale of human actions, those which are forbidden by the eternal, indefensible laws of nature and of reason, are confounded with those which these laws admit. These laws, which should be universally obligatory on all in power, and all out of power, and which may be rightly called the great charter of the human race, are, by this arbiter, this will, so construed as to have no binding force at all. The suggestions of this arbiter decide the fitness of every act throughout the scale. By these, the life of a man and the life of an insect are often placed in the same degree of estimation. By the decisions of this tribunal, all principles are confounded, and everything is rendered lawful to the sovereign. As he wills any act, so it is to be done, as expedient to display his power and to maintain his dominion. Such is the case in despotic governments, and hence, sir, it should be deduced, as an incontrovertible maxim, that, in every government intended to be limited in its powers, it is essential clearly to define those powers. This is necessary in governments, the powers of which are designed to be much more general and extensive than those of the federal Government of these States. How important, then, is it, that the powers of this Government, limited as they are in so peculiar a manner, should be marked out with such clearness and precision, that those who administer the Government may not, at any time, without manifest and glaring violation of its essential principles, exercise any power not intended

to be delegated to them! With a view to this object, I wish to submit this proposition, believing as I do, that under some general expressions, perhaps not sufficiently explicit—contained in the clause which I have read—a power has been exercised which was never intended to be vested in any department of this Government.

In submitting this proposition, sir, I solicit the indulgence and patience of the House, while I take a view of the nature, the powers, and genuine principles of the Federal Constitution, as I understand them to be; and of its relation to the States. In this view, I trust, those powers, those principles, and that relation, will be laid down not incompatibly with the general understanding of them by the American people. I believe I shall be strictly conformable to its essential principles when I say that this Constitution does not extend its authority to the utmost limits of civil jurisdiction—that it embraces not all the objects of civil rule or authority—that it does not give to this Government a right to exercise every species of power existing under the Governments of these American States, that it conveys not to it an authority to perform all the functions of sovereignty—that it restrains, it confines, it limits the authority of this Government to certain delineated objects—that it confers upon it certain particular powers, all which are distinctly enumerated and specified—that these powers, and these alone, it delegates to this Government—that it does not assume the broad and extensive principle that all powers are granted to this Government, which are not expressly reserved to the States or to the people of the States—that directly the contrary principle constitutes its very essence. This principle is, that all powers are reserved, which are not expressly granted to the Federal Government, or expressly prohibited to the States. So far from leaving the States, or the people of the States, in possession of no other powers or rights than those which are expressly reserved to them, this Constitution contains no express reservation at all, except in one single clause, which reserves to the States the right of appointing the officers of militia, and of training them according to the discipline prescribed by Congress. This, I conceive, was done, because such a right was deemed proper to be retained to the States, and inasmuch as it is a right incidental to that of providing for organizing and disciplining the militia, which is expressly granted to the Federal Government, as means of enabling it to command the force of the nation for the common defence of all the States; this right might be construed to pass over to the General Government along with the last mentioned power, were it not positively excluded from the grant. It were, indeed, entirely needless, unless it should be for the purpose of guarding against constructions no way compatible with the genius of the Government, to make any such reservation. For, sir, the specification of particular powers is itself an exclusion of all other powers—it is a positive limitation of the authority of this Government to those particular specified powers. This principle manifestly appears from the organization of this Constitution. From the plan, from the scope, from the nature, from the design of it, we may trace this principle too plainly and too distinctly to be mistaken. It is stamped on the face of the Constitution in bright and shining colors—it is engraved on it in characters too strong and too splendid to be misunderstood.

I have taken this view of the Constitution, because this great principle was co-existent with the Constitution itself, and because the tenth amendment, which declares that "the powers not delegated to the General Government, nor prohibited to the States, are reserved to the States or to the people respectively," did not create this principle; but is only a recognition of it, which has been deemed proper to be inserted, lest a spirit of innovation, indulging itself in regions of wild, fanciful, extravagant theory, might give a construction as to the *quantum* of powers delegated to the Federal Government by the Constitution, and as to the powers retained to the States, totally incompatible with the universal understanding of the American people thereon at the time of its adoption.

Why, sir, did the framers of this Constitution so nicely construct its material parts? Why was it drawn with such precision, such exactness in the limitation of its powers, and on such peculiar principles? For this very manifest and important reason—that as little danger as possible might result from constructive interpretation—to guard it in the most effectual manner discernable by human foresight against such constructions as would give to it a consolidating tendency. But every act of the Federal Legislature, which invades the independence of the States, whether it assumes jurisdiction over objects of the greatest importance, or whether it assumes jurisdiction over objects of small consequence, will have that tendency; inasmuch as both of these descriptions of acts are bottomed on the same destructive principle—both gravitate towards the same centre—both have a direct tendency to destroy the State institutions. The difference between them consists merely in the degree of rapidity with which that work of destruction would be wrought by measures of the first description, and the degree of rapidity with which it would be compassed by those of the latter description. A bold and gigantic stride of usurpation might at once totter the State fabrics to their very bases, and soon level them with the face of the earth; whereas, encroachments commencing in smaller violations of State authority, and progressing step by step, would gradually and almost imperceptibly undermine and loosen their foundation. The operation in such instances, although it would be slower, yet perhaps, might not be the less sure of finally producing their total destruction. Indeed, sir, every act, which assumes a power not granted, is a step towards consolidation. It wrests from the State Governments a portion of that *residuum* of authority which remained to them when the Constitution was adopted. Such encroachments cannot be made without extreme danger. For one assumption always furnishes a precedent for another assumption; this again becomes ground for further infringements on State authority; thence ensues a regular pro-

gression of encroachment after encroachment, until at length the States are stripped of every species of authority, which can deserve the name of Government. All these acts of Federal usurpation, while they are drawing into its vortex this great accession of power, are weaving around the State institutions the web of destruction. Although dreadful may be the struggle—dreadful may be the scenes exhibited on the theatre of the American world before this will be entirely drawn over the States—yet, sir, it may be done. After a continued series of such encroachments on their rights and authorities, from the state of insignificancy into which they will then be sunk, they may be permitted to merge into the general mass. As institutions no longer worth the expenses requisite for their maintenance—as of too little consequence to merit any further support, they may be given up, suffered to lose all their energy, and at length their very existence, as waves, which appear for a while on the surface of the ocean, subside into its immense bosom, and disappear entirely.

Should this melancholy state of things ever arise, what will be its ultimate issue Heaven only knows. Whether this great and flourishing country, which, at this time, sheds its glories far, very far, beyond the limits of its own territories, will then continue to be the fair nursery of liberty, or whether it will become the frightful seat of political slavery; whether, indeed, the very great, the beloved, the inestimable principle of representation itself, the discovery of which has been of infinitely more importance to the political world than the art of navigation has been to the commercial world—of infinitely more importance than any art ever was to the human kind—a principle without which, under whatever form a Government may exist, it is impossible that liberty should exist, except it be in a perfect democracy; every idea of whose existence under any other Government destitute of that principle is perfectly chimerical; every such Government, be its structure whatever it may, which pretends to maintain its existence, verily indeed exhibits one of the merest farces that ever appeared amongst the scenes of any political drama; whether, I say, this all-important principle will then continue to actuate the Government of this country, or whether it will cease to maintain its just empire, lose its energy, and even at length be spurned from the American shores, in order to make way for the introduction of a monstrous system, which reverses the natural order of things—transfers the sovereignty from the people, who alone are the natural, who alone can be the legitimate possessors of it—places it in the hands of an individual—fixes a diadem on his head; and that bauble, according to the principle then brought into operation, communicates to him the whole majesty of the nation, which is transmitted as an inheritance through his family from generation to generation, whether the heir, on whom the inheritance should devolve at any time, be a knave or a fool; and by the history of mankind it is shown to us that very often these possessors of the sovereignty of nations completely unite in their own persons both of these characters. Sir, what appellation shall I give to a system like this? A system as truly preposterous in its nature as it is tortuous and wrongful in its operation; but to which, nevertheless, a vast portion of the human race have been blindly devoted from the earliest ages of society down to the present day. That very circumstance, however, contributes not a little to the appreciation of the American system. That it has been the peculiar felicity of the American people to understand their own rights—to institute governments better adapted to the important purpose of securing to themselves a permanent enjoyment of those rights than nations of the old world ever have done; and, moreover, to derive additional benefits from the happy combination of a Federal Government with those of the particular States, are all circumstances which eminently characterize this system, and distinguish it from every other political establishment. While, far from rejoicing, we deeply lament that the ancient darkness which had bound the world in chains for more than forty centuries, still covers an immense portion of the globe, where everything exists under the gloomy reign of despotism; the republican principle, maintained in its genuine spirit, like a rich gem placed in the midst of a rude collection of worthless things, must shine with augmented brilliancy, when viewed in contrast with so many horrible systems containing not a single trait which resembles the faintest outlines of liberty—not one of its dimmest features—but exhibiting on every side vast multitudes in all the variety of wretchedness, who never tasted of any other than the bitter cup of slavery!

Oh! sir, how supremely valuable ought our happy institutions to be esteemed! What ardent zeal should animate our efforts to preserve them unimpaired—to cherish and cultivate their vital principles in their original purity and perfection—to transmit them down to posterity untainted by corruption, unassailed by violence!

Sir, while I express these sentiments, under a full persuasion that I shall not be contradicted as to their propriety, I cannot but believe that I may also affirm, without fear of being refuted in opinion by many, that, amongst the excellencies of the Federal Government, there is none more important—there is none more valuable, than its limited character as it respects the State authorities. Vested with powers duly proportioned to its own proper objects only, which are of a general nature, and alike regard all the States, it leaves them in full possession of their own sovereignty; while, on the other hand, amongst the powers surrendered up by the States to this Government, there are very few but such as, if exercised by either of the States individually, might materially affect the interests, and in some instances endanger the safety of the other States. Thus each individual State participates in the benefits resulting from the united and combined energies of the whole; while it retains the right of sovereignty, and all the powers requisite for a complete administration of its own affairs. Here, then, is

the true character of the Federal Government. The powers properly appertaining to it are limited to those which are purely of a federative nature, and to such as the States by this compact have consented to yield up to it for the common benefits of the Union. The former could not be communicated to, nor be exercised by, either of the States individually, without destroying the independence of the others. The latter, if not thus yielded up, might be exercised by any of them to the detriment of the rest. Thus it is that each particular State, by consenting to yield up to the Union those powers, and those alone, the retention of which might be injurious, provides for itself a security against injuries by the same act which divests itself of the power to injure either of its sister States; while the Federal Government derives from this cession no manner of right to trench upon those powers which have been deemed proper to be retained to the States—no manner of right to diminish their sovereignty as distinct independent States.

What is the relation, therefore, which subsists between this Federal Government and those of the particular States? If its true character be such, as has been stated, (and this, I think, will not be denied, or, if denied, I would challenge the most subtle genius who ascribes to it more extensive powers, to support such a position without utterly demolishing the fundamental principles of the Confederacy) this Government cannot justly claim to itself the supremacy of a paramount government with a right to restrain and control the States in the exercise of their own legitimate powers; those powers which remained to them when the Constitution was adopted. To exercise such an authority over them would be to destroy their independence; totally to annihilate their sovereignty as States. For one sovereignty cannot exist under the dominion of another sovereignty. The subjection of one power to the control of another power, another separate overruling authority, supposes a state of subordination in the former power, and that all supremacy resides in the latter. Should it be imagined, therefore, by any one that such a sort of power over the States exists in this Government, and that, nevertheless, they retain any portion of their original sovereignty, of a more complete absurdity it is not within the compass of the human intellect to conceive. It is, then, unquestionable that either this Goverernment possess no manner of control over the States, as such, or the States possess no manner of sovereignty as States; but that they do possess ample rights of sovereignty, I believe will not be denied by any one. It follows then, of course, that any attempt in this Government to exercise such controlling authority over them, would be an attempt to destroy, and the actual exercise of such authority would actually destroy their sovereignty as States. So also, the assumption of any powers properly appertaining to the States, and not granted to this Government, is an invasion of their sovereignty. A series of such invasions in progression must have a fatal tendency to produce the same effect, as a general controlling authority; and must ultimately operate a destruction of the State institutions. In what relation, therefore, to each other and to the Federal Government, which connects them together, can we view the members of this grand Confederacy, but in that of so many distinct independent communities? In this relation they all stand, as well to the Federal Government as to each other. In this relation alone can they be justly viewed. They are not only distinct from, and independent of, each other, though connected together in this Confederacy: equally are they distinct from, and independent of, this General Government, though connected together by it. To cement this connexion between them, as so many distinct, independent communities, was indeed the original and primary object of this Government. From such connexion between independent States retaining their distinct separate governments, it has been rightly judged by the people of these States, that greater benefits might result to each and to all of them, than could be expected without any connexion at all—greater, too, than could be expected to flow from any connexion founded on different principles. Hence arose the institution of the present system of Government. A system analogous to which the annals of man, either ancient or modern, scarcely presents us with the smallest traces of any other. Such, then, being a leading principle of this Government, and the objects of it being special or particular, as before observed, its limited character, as it respects the State authorities, must necessarily be one of its principal distinguishing properties, otherwise it would not be conformable to that principle. It is essential to the prosperity of the Union that this character be preserved—it is essential to the happiness of the American people. Let not this Government, therefore, assume to itself any power, in the exercise of which this character will be changed—the true relation between this and the State Governments will be entirely destroyed. Let not this Government, proud in the contemplation that the arm of its authority extends over this great continent, disregard State rights, and take upon itself the exercise of powers which the Constitution has withheld, wisely withheld from it, and retained in other hands. Let it not forget its own true character; but always recollect that, although its authority extends to all the United States generally, yet it is not a general authority, but an authority special, and limited to particular objects. It should ever be remembered, also, that, between this Government and the States, mutual and reciprocal duties and obligations have arisen from the compact, by which this Government was established. It is no less incumbent on the Federal Government to confine itself within the sphere of its own appropriate powers, than it is incumbent on the States not to attempt the resumption of any of the powers which they have surrendered up to this Government. The States are bound by the cessions they have made, and the Federal Government is bound to claim no more nor greater powers than those which have been ceded and granted to it. It is the duty of this Government

to regulate its proceedings according to the measure of powers assigned to it under the Constitution; and it is the duty of the States to direct their operations to those objects only which peculiarly belong to them as distinct communities; equally is it the duty of each to move in its own Constitutional orbit. If either of them wanders from this course, the harmony of the whole system will be interrupted; and such interruptions must have a tendency to defeat the principal ends of its institution. I do not imagine, however, there is ground for apprehension that either of the States will attempt to invade the authority of this Government, or to resume any of the powers which they have surrendered up to it. This opinion, I think, will appear to be a rational one, when we consider the nature of the powers vested in the General Government—that they are of two descriptions, (as before observed,) some of them being of a nature purely federative, which never did appertain to the States, and cannot be exercised by either of them in its individual capacity; when we consider those of the other description, which originally did appertain to the States, and have by them been surrendered up to this Government; when we consider that the inducements to make the surrender arose from a conviction that the safety of each particular State was involved in the establishment of a firm union and connexion between all of them; that, to insure the attainment of this object, it was necessary to vest the Federal Government with those particular powers, thereby enabling it to combine the general interests of all the States as a means of cementing this political connexion between them, which otherwise could not be expected to be of any long duration. To suppose, therefore, that either of the States will attempt to make encroachments on the known established powers of the Federal Government, thus solemnly assigned to it under the Constitution, would be to suppose the existence of a very great degree of capriciousness in that State. Extreme, indeed, would be its folly and rashness in thus arraying itself against the Union; by endeavoring to repossess itself of powers so solemnly granted to this Government, with its own consent, and that of the other States, for the great purpose of securing its independence, and of promoting those general interests which appertain to itself, in common with all the other States. Scarcely can it be presumable that such a step, the evident tendency of which would be to contravene these purposes, will ever be taken by either of the States. Nor should it be presumed that the Federal Government will pursue an eligible course for effecting these purposes, by endeavoring to enlarge the sphere of its own powers, and to contract those of the States. The powers assigned to it under the Constitution are amply sufficient for all these purposes; and mistaken, indeed, is that zeal for the Federal Government, which would stretch its authority or extend its operations beyond its Constitutional limits; for there exists in the American people a jealousy for State rights and authorities. There is, sir, a jealousy, strong and vigilant—a jealousy which will take the alarm whenever these rights or authorities are invaded; in proportion to the extent of such invasion, it will be impassioned: and the dissatisfactions, which may be apprehended from such a state of public agitation, cannot be desirable to any real friend of the Union.

Sir, this jealousy is not merely attentive to the preservation of the existing State authorities from unconstitutional encroachments by the General Government; it is also averse to any Constitutional diminution of those authorities. It considers the powers already vested in the Federal Government, as fully adequate to all the purposes of its institution. I confess, sir, I am one of those who entertain this sort of jealousy; who have no wish that a single item should be added to the catalogue of powers already vested in the Federal Government; who believe that such a step would be dangerous; that the process, once commenced, might lead to more and more grants, until all real, efficient power would be accumulated together in the hands of the Federal Government, and the States be rendered perfectly contemptible. I confess, too, that I feel no satisfaction in seeing a committee raised on the idea of an addition to the existing powers of the Federal Government; and whatever may have occasioned this step, I cannot refrain from expressing my repugnance to it; on the contrary, I am induced by it to bring forward this proposition thus early in the session, and to declare these sentiments on the occasion.

Important, sir, was the epoch when this Constitution was proposed to the people of the several States for their consideration and adoption, if approved of. The world never witnessed a more august scene than what America then exhibited. Thirteen free and independent States engaged in the solemn act of deliberating on a system of General Government, which should draw around them a band of political union; which should render this a firm and durable band, and yet so as not to impair the individual sovereignty of the States, presented indeed a sublime spectacle. To investigate the principles of a system so new, so unprecedented, so peculiar in its nature, the strongest energies of the American mind were brought into action. It was an object of the most anxious inquiry whether this system, by providing, in the manner it does, for the great purposes of the Union, to which the then existing Confederation had been found inadequate, would not impair and ultimately destroy the sovereignty of the individual States. While the imbecility and inefficacy of that Confederation became a theme of universal lamentation, and produced a general wish that the ties of union between the States might be strengthened, every American heart felt itself deeply interested in preserving the State authorities; every heart glowed with ardor for the perpetuation of that species of political institution under which the people of the several States had maintained their civil polity during their arduous contest for independence. This great, this unprecedented act of sovereignty, therefore, which gave existence to this system, was not performed without a pause—solemn pause—an awful appre-

hension that possibly the powers to be delegated to the Federal Government by the proposed Convention, might have a tendency to shake the foundation of the State governments, and finally produce a consolidation of all the States into one extended empire. Hope and fear alternately affected the public mind during this important crisis; hope that the system would operate the desired effect for the joint benefit of the Union and of the States; fear that it might absorb all State authority, and eventually defeat the best ends of its institution. Its peculiar organization, its leading essential attributes, cautiously examined, deliberately and solemnly traced, recommended its adoption. From its structure and its principles arose the prospect of its utlity, and on these the American people rested their hopes that the system would promote the general interests of the Union without abridging the independence or sovereignty of the States. May these hopes never be disappointed; may they be constantly realized!

That jealous affection for State rights and authorities, which I have mentioned, Mr. Speaker, has always existed. It is coeval in existence with the States themselves. It is a laudable jealousy. It is founded in reason and in nature. It is a jealousy resulting from fixed attachment to a great and acknowledged principle. That small Republics are most propitious to liberty, better adapted for its preservation, at the same time that greater security for good order in society is afforded than in those which govern the inhabitants of very extensive territories, is an impressive maxim, strongly inculcated on the American mind. The people of the several States, therefore, see in their State governments safe depositories of their civil rights and immunities; strong barriers against licentious interruptions of social order; convenient and easy modes of administering justice among themselves, and, indeed, of managing all their local affairs. Hence their fond, their invincible attachment to that species of government. Hence that jealous sensibility, which will ever be alarmed when this Government makes any encroachment on their rights or authorities. Hence, too, those struggles, those melancholy scenes, which may be apprehended before the people of the several States would submit to a dissolution of the State institutions, or acquiesce in a series of measures tending to deprive them of their appropriate powers, should so fatal a policy ever direct the councils of the Union. Should as fatal a policy ever direct the councils of the Union, did I say? Would to God that such a sort of policy had not already mingled with its councils. Could not such a sort of policy be traced in the doctrine deduced from the last clause in the eighth section of the first article of the Constitution (which I have read,) when by the construction given to that clause in the cases which have been alluded to, it was contended that the Federal Legislature possessed a right to pass any laws whatsoever, which they should deem expedient for carrying into execution the powers enumerated in that section, and all other powers vested in any department or officer of the Government, whether such laws should have any sort of relation to, or any manner of connexion with any of these powers, or not? Such, sir, was the construction given to that clause in those cases—a construction involving a principle of the utmost latitude admissible in a government of the most unlimited extent of jurisdiction. Admit this principle, sir, admit that the Congress should possess such a latitude of power, and what then would remain to the States? Would there be left to them any real, substantial power? No, sir. All might be grasped by the General Government. The plea of necessity and expediency might be extended to any lengths whatsoever, and applied to every possible subject of legislation; while nothing but the name, and hardly the name, of any power would remain to the States. Sir, can a construction, which expands the federal jurisdiction to such an amazing extent, be reconcilable to the true principles of the Confederacy? Can a construction thus transforming the Federal Government from a system of limited special powers into that sort which exercises every species of civil and political authority, be reconcilable to those principles? Sir, it would be the very height of absurdity to say that such contrarieties could be reconcilable; and should such construction of the clause I have mentioned, become the established construction of it, not a trace of those federal principles would be left. The States would become States in name only, and all the properties of a consolidated Government would spring into existence.

Many, sir, and truly deserved, are the eulogiums which have been bestowed upon the Federal Government. Beautiful is its structure; admirable are its component parts; justly may it be likened in its symmetry to whatever partakes of wisdom, to whatever is excellent in the contrivances of man; and if, among other objects of admiration to which it may be rightly compared, it may be said that this Government and those of the particular States, taken in conjunction, form a system in the political hemisphere not unlike that which in the natural hemisphere is exhibited by a grand primary planet, and its surrounding satellites; this comparison should nevertheless be drawn with some exception. For these States do not, like those satellites, shine with borrowed, reflected light, emanating from a great central planet. No, sir, they display a radiance solely their own. Their splendors issue from their own bodies. They are so many original sources of light and heat to the spheres within which they respectively act, illuminating and vivifying every thing therein; whilst the Federal Government by its influences duly dispensed unites the members of this constellation together in harmonious intercourse, and produces to the system the benefits of their collective energies. But suppose the Federal Government should extinguish the essence of the individual members to make up one entire body, it cannot impart their natural qualities to that single immense body. Their light, their heat—the glories, the excellencies of the whole system, I fear, would be forever gone! Indeed, sir, to my mind the very idea of consolidation is

truly terrible; and should I be so unhappy as ever to see the time arrive when State institutions shall be done away, or when their energies shall be lost, I should expect soon afterwards to behold the dawn of that melancholy day, which in its meridian will blast the liberties of America, whose evening will close perhaps with their utter and eternal destruction, and be succeeded by a long, a dreaty, a dismal, a tremeadous night of despotism. I pray God that such a dreadful day may never be permitted to dawn!—that the American people, true to the memorable and glorious principles for which they fought, for which they bled, for which their fathers, their brothers died, may ever cherish, cultivate, and guard them, as well against the secret approaches of corruption as against the open assaults of violence, and effectually guard them against both!—that the arm of usurpation may never reach the State institutions, so essential to the preservation of American liberty!—that co-extensively with the duration of time itself, such institutions may continue to exist, retaining their full portion of energy in this grand and beautiful system; howsoever other systems, founded in erroneous principles, may shrink before the flame of ambition, or be shaken down by the storms of party; howsoever those which have arisen on the ruins of liberty may in their turn be subjected to other changes—howsoever they may experience a train of vicissitudes in the fluctuating course of human affairs.

Much, indeed, sir, might be said in favor of this system of Federal Government, as far surpassing anything of the sort which has ever yet appeared amongst the productions of men; but, being a production of men, it cannot be completely perfect. Admirable as it is, it is a system of experiment; and it is from experiment that its defects are to be discovered. Whenever, therefore, any defect is discovered, which threatens to be of dangerous tendency, I think it behooves this nation, as far as practicable, to amend the defective part. I will trouble the House with no further remarks, however, upon this subject at present; but with their permission will submit this proposition, as an effort towards bringing about an amendment to that clause in the Constitution, which I have read, being thoroughly impressed with the belief that it is materially defective.

I am sensible, sir of the great difficulty of framing a clause, which may effectually guard at all times against improper construction; and therefore cannot have full confidence that the one about to be submitted is such: yet in the proposition the subject will be introduced to the notice of the House, and if the object of it should be deemed expedient, I have no doubt but that one may be framed so as to answer the important purpose. The proposition which, with leave of the House, I shall have the honor to submit, is in the following words:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following article be submitted to the Legislatures of the several States, which when ratified and confirmed by the Legislatures of three-fourths of the said States, shall be valid and binding as a part of the Constitution of the United States.

The last clause of the 8th section of the 1st article of the Constitution which contains the following words: "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," shall be construed so as to comprehend only such laws as shall have a natural connexion with and immediate relation to the powers enumerated in the said section, or to such other powers as are expressly vested by this Constitution in the Government of the United States, or in any department or officer thereof.

The House immediately considered the said amendment, and referred it to a Committee of the Whole on the state of the Union.

Friday, December 12.

The Speaker laid before the House a letter from the Governor of the State of Pennsylvania, accompanying the copy of a letter from Michael Leib, Esquire, containing his resignation of a seat in this House, as one of the members for the said State; also, a copy of the Governor's writ of election to supply the vacancy occasioned thereby, and a duplicate return of the election of John Porter, to serve in this House, as a Representative for the said State of Pennsylvania, in the room of the said Michael Leib; which were read, and referred to the Committee of Elections.

The Speaker stated to the House that he had received information from the Clerk of the Public Buildings that he was ready to proceed in securing the ceiling of the Chamber of the House.

CONTESTED ELECTIONS.

On motion of Mr. Bidwell, the House resolved itself into a Committee of the Whole on the bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States and to compel the attendance of witnesses," and in addition to the same.

Mr. J. Clay remarked that in all the contested elections which had been conducted by ballot, a considerable difficulty had arisen in ascertaining from which of the candidates the votes given by unqualified persons should be deducted. For the purpose of removing, or at least lessening of difficulty, he had draughted a new section, which he purposed to submit for consideration. The objection heretofore made to examining the votes, to determine for which candidate they had been given, had been founded on the opinion that it interfered with the sacredness of the ballot. This, if a sound objection, could only apply to persons legally qualified to vote, as a principle fitted to save the rights of electors, and not of persons not legally qualified to vote. Mr. C. said his object was to authorize a magistrate to examine on oath persons who had voted without being qualified for whom they had voted; that votes thus given might be deducted from the candidate for whom

they were given. This would obviate much of the difficulty at present existing. Intending to offer such a provision, he moved that the Committee should rise and ask leave to sit again.

Mr. Bidwell observed that the principle of the gentleman from Pennsylvania was a new one, that they should undertake to decide by law what votes shall not be examined. It appeared to him useless, as it was settled by the Constitution, and unless Constitutional evidence was given to the House of the existence of unqualified votes, this provision would abridge its Constitutional power. A decision on the qualification of electors was expressly vested by the Constitution in the House. It, therefore, appeared to him improper by statute to decide this point, which was the proper province of the House. A provision of that kind would go to put a construction by statute on the meaning of the Constitution, or to interfere with the Constitutional powers vested in the House. Such being his present sentiments he felt a repugance to the proposition.

Mr. J. Clay said it was true that they could not by law decide what were the qualifications of Electors. But he would ask, if in cases of voting *viva voce*, where the votes given for a particular candidate were proved not to be good, they were not deducted from him? His object was that the same process should be pursued where the election was by ballot. They had unquestionably a right to say that a man who votes, without being entitled, shall say for whom he voted. Such a provision would not be putting a construction on the Constitution not at present attached to it. It would only require those not entitled to vote to declare on oath for whom they had voted.

Mr. Smilie said he had no objection to the Committee rising for the purpose of more fully considering the subject. He recollected that in the State in which he lived this point had often been discussed. Where votes were given *viva voce* there was no difficulty. But where ballots were received, they could not compel the voter to say for whom he voted. He agreed with his colleague, that it would be no violation of principle to compel the unqualified voter to say on oath for whom he voted. The principle was so plain, it could not be denied. He hoped, however, that the Committee would rise, that his colleague might be enabled to bring forward his proposition.

Mr. Bidwell said he was not disposed to precipitate a decision. He had, therefore, no objection to the Committee rising, that gentlemen might mature their ideas on the subject. He would, however, observe that he considered the proposition objectionable in one point of view, as giving a magistrate the right of determining who were qualified voters; a point only to be decided by the House.

Mr. J. Clay observed that before the question was taken he would suggest the propriety of recommitting the bill, either, to a select committee or to the Committee of Elections, to determine the propriety of his amendment, where the subject might be canvassed, and the amendment so modified as to be unexceptionable. He hoped the gentleman from Massachusetts, who had brought in the bill, would make this motion.

The question was then taken on the rising of the Committee, and carried without a division; when the Committee rose and obtained leave to sit again.

PETITIONS REFERRED.

Mr. Holmes moved that the Committee of Claims should be discharged from the further consideration of the petitions of Arnold Martin, and Sarah his wife, William Kincaid, John Hargisheimer, Philip Turner, and Ludwig Kuhn, all barred by the statute of limitations, and that they should be referred to the committee appointed to consider what provision should be made for such claims; to which motion the House agreed.

Mr. J. Randolph observed that, during the last session, several petitions from persons engaged in the collection of the public revenue, praying for an increase of emolument, had been referred to the Committee of Ways and Means—likewise the report of the Secretary of the Treasury; and that the committee, under the instructions of the House, as well as from the general powers delegated to them, had taken up the subject in a general point of view, in order to modify the existing system, as circumstances required. The subject had required much attention, and after a schedule had been made out, it by some means got mislaid. Mr. R. concluded by moving that the report of the Secretary of the Treasury, together with the petitions, should be referred to the Committee of Ways and Means, which motion was agreed to.

Monday, December 15.

Two other members, to wit: George Clinton, junior, from New York, and William Dickson, from Tennessee, appeared, and took their seats in the House.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to suspend the operation of an act entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same," with several amendments; to which they desire the concurrence of this House.

The House having agreed to consider the amendments,

Mr. J. Randolph moved to refer them to a select committee.

Mr. Alston opposed the motion. He believed no reference necessary, as the subject was too plain to require any detailed investigation; if it should be referred, he would prefer a reference to a Committee of the whole House, and, accordingly, made a motion to that effect.

Mr. J. Clay supported the motion of Mr. Randolph; and stated that the object of the reference was merely to introduce a provision to secure the payment of costs by those who had incurred the penalties of the non-importation act, which otherwise would be chargeable to the United States.

Mr. Smilie opposed the reference to a select

committee, and declared himself under existing circumstances, hostile to the amendment of the Senate, vesting the President with a suspending power.

The motion of reference to a Committee of the whole House having been disagreed to, ayes 30, the reference to a select committee obtained without a division.

The committee are Messrs. J. Randolph, J. Clay, and Alston.

Mr. Early, from the committee appointed, on the third instant, on so much of the Message of the President of the United States as relates to prohibition of the slave trade, presented, according to order, a bill to prohibit the importation or bringing of slaves into the United States, or the Territories thereof, after the thirty-first day of December, one thousand eight hundred and seven; which was read twice, and committed to a Committee of the Whole on Wednesday next.

The following Message was received from the President of the United States:

To the Senate and House of Representatives of the United States:

I lay before Congress a report of the Surveyor of the Public Buildings, stating the progress made on them during the last season, and what is proposed for the ensuing one.

I took every measure within my power for carrying into effect the request of the House of Representatives, of the seventeenth of April last, to cause the south wing of the Capitol to be prepared for their accommodation by the commencement of the present session. With great regret, I found it was not to be accomplished. The quantity of freestone necessary, with the size and quality of many of the blocks, was represented as beyond what could be obtained from the quarries by any exertions which could be commanded. The other parts of the work, which might all have been completed in time, were necessarily retarded by the insufficient progress of the stone work.

TH. JEFFERSON.

December 15, 1806.

The Message was read, and, together with the papers, ordered to lie on the table.

COAST SURVEY.

Mr. Dana, of Connecticut.—In 1802, an act was passed, authorizing a survey of Long Island Sound. In pursuance of that act, the Secretary of the Treasury caused a survey to be taken by two men, who appear to have been, what the act intended, intelligent and proper persons. And there has since been published a chart of the Sound, handsomely executed, on a large scale, which must, I presume, be regarded as convenient and valuable by those concerned in that branch of navigation.

At the last session of Congress, an act was passed for another survey. It made provision for surveying the coast of North Carolina between Cape Hatteras and Cape Fear, with the shoals lying off or between those capes. I understand that measures have been taken for executing this act, but that the vessel employed in the service, and all the papers respecting the survey which had been made, had been lost near Ocracoke Inlet, in one of the desolating storms experienced on the coast in the course of the present year.

The surveys, which have thus been authorized, were perhaps of the most urgent necessity; but other surveys of the coast are desirable. What has already been done may be regarded as introductory to a general survey of the coasts of the United States under authority of the Government. With a correct chart of every part of the coast, our seamen would no longer be under the necessity of relying on the imperfect or erroneous accounts given of our coast by foreign navigators. I hope the lives of our seamen, the interest of our merchants, and the benefits to the revenue, will be regarded as affording ample compensation for making a complete survey of the coasts of the United States at the public expense.

The information which may be obtained will also be useful in designating portions of territorial sea to be regarded as the maritime precincts of the United States, within which, of course, the navigation ought to be free from the belligerent searches and seizures.

It is proposed to extend the survey to the distance of twenty leagues from the shore. This distance is mentioned with a view to the second article of the treaty with Great Britain in 1783, which describes our boundaries as "comprehending all islands within twenty leagues of any part of the shores of the United States."

The resolution, which I propose for the consideration of the House, is expressed in these words:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of making provision for a survey of the coasts of the United States, designating the several islands, with the shoals and roads or places of anchorage within twenty leagues of any part of the shores of the United States.

Mr. Crowninshield, of Massachusetts, was very glad to see the resolution offered, but he should like it better if it were more extensive. He believed there were many shoals on the coast lying at more than twenty leagues distance from the shore. Among others, St. George's Bank was at more than this distance. He wished that the resolution might be varied so as to comprehend all the shoals on the coast, from St. Croix to the southern extreme of Louisiana.

Mr. C. had always thought it important that an accurate survey should be made of our coast. Holland's chart, though the best, is very inaccurate.

Mr. Dana accorded with the chairman of the Committee of Commerce and Manufactures (Mr. Crowninshield) in respect to the utility of an accurate survey of the shoal which he had mentioned, but was against altering the resolution so as to include any islands at a greater distance than twenty leagues from the shore. The treaty of 1773 authorizes us to consider islands within that distance as appertaining to the territory of the United States. There is, therefore, peculiar propriety in extending the proposed survey to the

distance of twenty leagues along the whole of our coast. If any shoals at a greater distance from shore are to be surveyed, special provision for this purpose may be made in the details of a bill which the committee may report. It would be more convenient to specify the details in a bill than in a general resolution for inquiry.

Mr. Crowninshield then moved to strike out twenty and insert fifty in the resolution. He was confident that there were shoals lying more than twenty leagues distant from the shore, and he thought it important to have them surveyed. It might be that there are no islands beyond that distance. He was not certain in regard to them, but he was sure that there were extensive shoals.

Mr. Dana suggested that the gentleman (Mr. Crowninshield) might designate, by way of amendment, particular shoals which he wished to be surveyed.

Mr. Cook, of Massachusetts, doubted whether all of St. George's Bank was within even fifty leagues of the shore. If it were in order, he would move to strike out twenty and insert seventy.

A division of the question on striking out twenty and inserting fifty was called for.

Mr. Crowninshield at length withdrew his motion, and it was agreed that the resolution should lie on the table.

NON-IMPORTATION ACT.

Mr. J. Randolph, from the committee to whom had been referred the amendments of the Senate to the bill to suspend the non-importation act, made a report, viz:

To agree to the first amendment proposed by the Senate, which is to strike out the following words at the end of the section, "This act shall take effect from and after the passing thereof"—with an amendment, viz: to add after the word "remit," as follows: "on payment by the parties by whom such penalty, fine, or forfeiture, may have been incurred, of all costs which have accrued, or may accrue before notice of this act shall have been received by the attorneys of the several districts of the United States."

And to agree to the second amendment, authorizing the President to suspend the non-importation act till the 31st of December.

A concurrence with the first amendment was carried without a division.

Mr. Dawson moved to amend the amendment of the Senate by substituting the words "public interest," in lieu of the words "public service."

Mr. J. Randolph said he did not see how the public interest could be disconnected from the public service.

Mr. Dawson's motion was agreed to—ayes 43, noes 40.

Mr. Smilie said he was against the amendment offered by the Senate. He hoped that gentlemen who proposed concurring in it would show its necessity at this time. The Message of the President had recommended a short suspension of the non-importation act, which had been done by the act passed by the House. If at a late period of the session, circumstances should justify the vesting a suspending power in the President, he might, perhaps, have no objection to the measure; but was there at this time any such necessity, when the probability was that the House would not rise until the 3rd of March; and when it could not be known whether important information might not previously reach them? If no necessity can be shown, why now legislate? He was also opposed to the amendment, because it looked like holding out to England that we were tired of the non-importation act. For these reasons he hoped the amendment would not be agreed to.

Mr. J. Clay said, he did not know that the operation of the amendment proposed by the Senate would be to show Great Britain that we were tired of the act. On the contrary, by making its further suspension conditional, it would show that unless further arrangements were made between the two Governments it would be carried into effect. It was very true, that further information might be received during the session, which might render a repeal of the act proper. But suppose an accommodation should take place between the two Governments between the close of the present session and the commencement of the next—still, notwithstanding this, the law in question must go into force on the 1st July, although every pretext for it was done away. Mr. C. said he was not very fond of placing this discretionary power in the hands of the President. But he did not perceive any other way in which the views of Congress could be accomplished. He was, therefore, reduced to the dilemma, either of giving the President power to suspend the act, or of suffering a measure confessedly hostile, to go into effect after a satisfactory adjustment of differences. The arguments in favor of the passage of the act were that it would induce Great Britain to suspend her depredations, and to recede from her injurious doctrines. If she abandoned these, and made reparation for her depredations, he apprehended all necessity for the continuance of the act would be done away. Why then continue it after the occurrence of these circumstances? If, however, the gentleman from Pennsylvania would point out any other less exceptionable mode, by which the views of the House could be effected, he would adopt it in preference to the amendment of the Senate.

Mr. Crowninshield remarked that, like the gentleman from Pennsylvania, (Mr. Smilie,) he could not give his sanction to the proposed amendment. He saw no necessity at this time for authorizing the President of the United States further to suspend the non-importation act. What had the House done? A few days since they had sent a bill to the Senate to suspend the act until the first of July. They had received from that body an amendment further to suspend it until December; and on what grounds? They had received no additional communications from the President. The House, then, to be consistent, ought to pursue the same course they had followed a few days since. Mr. C. said he then voted against a suspension of the non-importation act to the 1st of December. He considered the pro-

position under consideration as nearly the same thing; the principle of both was similar. He did not know that he should object to passing a bill late in the session, empowering the President to suspend the act, provided the negotiations were in such a situation as to promise a satisfactory issue; but he saw no necessity for precipitation. The bill would do as well without the amendment as with it. He should therefore vote against it.

A motion was here made to adjourn, in favor of which only four members rose.

Mr. Bidwell said he did not view the subject in the same light, in which it was seen by his colleague near him, (Mr. Crowninshield,) To him there appeared to be a material difference between the amendment of the Senate, now under consideration, and the proposition which had been negatived by the House, when the bill was before under discussion. The one was an absolute suspension of the act until next December; whereas the other was only the provision of a power to suspend it, if an occasion for such further suspension should occur, when Congress should not be in session. To the former he thought there were objections, which did not lie against the latter.

He could not agree to the observation of the gentleman from Pennsylvania, (Mr. J. Clay,) that the prohibitory act is confessedly a measure of hostility. On the contrary, he thought it a pacific measure. It was no more than a system of commercial regulation, which, consistently with the established laws and usages of nations, we have an undoubted right to adopt. It did no injury, and could give no just occasion of offence. It was indeed intended to press upon Great Britain. One principal object of it was to convince that Government and nation, that we have the power and the determination, by granting or withholding our market for their manufactures, by peaceable means, to make it their interest to do us justice, and be on good terms with us. This was not a hostile but a pacific and lawful policy.

He observed that when the bill was before the House on a former day, he had taken the liberty to express an opinion that the event of a treaty, intervening before another session of Congress, might be provided for by a separate section in this bill, or by a separate act, to be passed, if necessary, before the close of the present session. He had preferred the latter; but the reasons for that preference were not so strong as to induce him to dissent from the course which the Senate had thought proper to pursue.

He was generally not in favor of vesting discretionary powers in the Executive. But in the present case, where the principle was contained in the law, the discretion was so limited in its object and duration, and the rule for the exercise of that discretion was so obvious, he thought the authority could not be dangerous, and the objection was not applicable.

There was, he said, one strong consideration in favor of the section. If a treaty should be made, during the recess of Congress, or at so late a date as not to be known here until Congress should have adjourned, one of three courses must be adopted; either the prohibition must be suffered to operate from the first of July until December, which, in case of a satisfactory arrangement, would not be desirable, or Congress must be convened to provide for such a state of things, which might be very inconvenient; or the Executive must suspend the operation of the law until the next ordinary session of the Legislature. The latter course appeared to him to be attended with the least evil. He was, therefore, in favor of providing such an authority; and, as the Senate had judged it most expedient to insert it in this bill, although he should individually have preferred a separate and future bill for the purpose, he would not refuse to concur in the amendment.

Mr. Smilie said, he had but a single additional observation to offer; after making which, he would confine himself to giving his negative to the amendment. He had ever held it to be his duty not to grant legislative power to the Executive but in cases of necessity. If such a necessity could be shown to exist at present, he would consider whether it were proper to grant the proposed power. But, when there was no such necessity, he would never vest such a discretion in the Executive.

Mr. Dana observed that the principle laid down by the gentleman from Pennsylvania was worthy of attention; but it was extremely questionable whether it were applicable to the case then before them. If the amendment of the Senate went to acknowledge a general power in the President to dispense with the laws, a power once claimed as a prerogative by the King of Great Britain, all must be against it. But what was the power here proposed to be given? To authorize the President to continue the natural state of things in this country. The act of the last session went to change the general politics of the United States, whose general political system was peace, and freedom of commerce with the whole civilized world. That law impaired this principle, by taking away that freedom of commerce so far as respected Great Britain. Now, the power we propose to give is nearly allied to that exercised on a change from a state of peace to a state of war. Although the Legislature should change the state of things from peace to war, yet the President would be authorized to agree to an armistice, which would, for a time, restore peace, and suspend the laws. In point of principle, therefore, the power at present proposed to be given was similar to that exercised in the case of an armistice. Further, in giving this power to the President, we do no more than what we have done already. The President has given us merely general information relative to our negotiations with Great Britain; and, on his responsibility, we have passed the act sent to the Senate. He recommends a suspension of the non-importation law to a reasonable time, without specifying it. We fix the time. Perhaps the President may consider this reasonable time of suspension as extending to December. The language of the amendment is, if he thinks so, let him suspend it to that time. The same principle, therefore, is

applicable to investing this power, as to the suspension we have already agreed to.

Mr. Dana said, he agreed that the amendment of the Senate was, in substance, nearly the same with the proposition rejected in the House. He was in favor of this proposition, and still continued favorable to it, because, he approved the extension of the suspension of the act to December, and because, he believed, if the power of suspending it were vested in the President, he would not suffer it to go into effect before that day.

Without going into the question, how far the commercial regulations were calculated to coerce Great Britain, Mr. D. said he would undertake to say that the operation of the non-importation act was more injurious to ourselves than Great Britain; and that it imposed such burdens on our merchants, and was so extremely vexatious to them, that he had little doubt of its suspension by the President, if he should be invested with the power. It would be recollected that the resolutions adopted by the House at their last session were very general; that they had been referred to a committee to bring in a bill, who had, from the pressure of circumstances, reported a bill very promptly, and with no other specification than that contained in the resolutions. In the construction given to this law, he understood no regard had been paid to labor, but merely to the material, the consequence of which was extremely vexatious. He would state an instance: Aqua fortis could only be imported in glass or gold vessels. A quantity had been imported into New York in glass vessels, and been refused entry because contained in glass. Mr. D. here specified some other articles, similarly circumstanced. He added that the provisions of the act were of so dubious a nature, that the Secretary of the Treasury had given no instructions respecting them. For these reasons, he thought the law would never be suffered to go into operation. It had, indeed, produced an effect, which the House, in passing it, had not contemplated, He would, therefore, have it done away altogether, and if they were to have any commercial prohibitions, he hoped they would be imposed in such language as all people might understand.

Mr. Bidwell said, before the question was taken, he would, in answer to the gentleman from Connecticut on his right, (Mr. Dana,) just observe, that any doubt or difficulty which had arisen, or might arise, in the execution of the law, from the general description of articles of manufacture, by their material of chief value, might be easily removed by a supplemental act. It was not strange nor new, that, in a complicated system of regulations, experience should point out practical defects in the details, and render legislative explanation or amendment necessary. It was no rational objection against the system. Notwithstanding any such imperfections in the details of the prohibitory act, he had no doubt that, whether left to the Executive or the Legislature, the act would be ultimately carried into full and complete effect, unless rendered unnecessary by an intervening arrangement of the points in dispute.

Mr. Dana said that, in the statement he had made, he did not state many of the inconveniences that had been experienced. Half the goods imported into New York since the non-importation law took effect had been refused entry. The law was, indeed, one which ought never to go into operation. As far as he was informed, the Government of Great Britain had as yet only given friendly assurances. He considered the existence of this law as a bar to satisfactory arrangements, and was, therefore, willing to lay it aside for the sake of peace and accommodation, not considering it as aiding, but as impeding our negotiations.

Mr. Chandler said, if he believed with the gentleman from Connecticut, that the President would, under any circumstances, no matter what, suspend the act, he would not give his vote for the proposed amendment. On the contrary, believing that he would let it go into effect, unless our differences were adjusted, it had his approbation. To remedy the evils mentioned, he would have no objection to doing away this act, after a proper time, and prescribing in a new act a double dose. He would pass an act prohibiting the importation of all goods from Great Britain. Believing the act had been attended with good consequences, and had brought the Government of that nation to a sense of their interests, and that there was a probability of an early adjustment of our differences, he should give his vote for the amendment.

The question was then taken by yeas and nays and the amendment carried—yeas 82, nays 23, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jun., Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, John Clopton, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, William Dickson, Theodore Dwight, Elias Earle, Peter Early, William Ely, John W. Eppes, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, James Holland, David Hough, John G. Jackson, Jas. Kelly, Thomas Kenan, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun., John Porter, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Russell, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, John Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Eliphalet Wickes, Marmaduke Williams, Alexander Wilson, and Thomas Wynns.

Nays—Joseph Barker, Jacob Crowninshield, Ebenezer Elmer, William Findley, James Fisk, Isaiah L. Green, John Lambert, Gideon Olin, John Randolph, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Ebenezer Seaver, James Sloan, John Smilie, Samuel

Smith, Joseph Stanton, David Thomas, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, and Joseph Winston.

BRIDGE ACROSS THE POTOMAC.

Mr. Lewis called for the order of the day, on the bill authorizing the erection of a bridge across the river Potomac.

Mr. Dawson urged the propriety of deferring the consideration of the bill to a future day, particularly as several of the members most interested in it were absent.

Mr. Lewis replied.—He said he should be extremely averse to taking up, intentionally, any subject in the absence of particular gentlemen. But the House would do him the justice to recollect that he had called it up on Friday, when the gentlemen referred to were present. It would be altogether impossible to get through the public business, if the absence of two or three gentlemen should prevent its being taken up. In the present instance, he believed there were as many gentlemen who were friendly to the bill absent, as there were of those inimical to it.

The House divided on going into Committee—ayes 44, noes 33.

The House then resolved itself into a Committee of the Whole.

The several blanks were filled up in such a manner as to make the bill conformable to that which passed the House at the last session.

On filling the blank in the 12th section, which fixes the maximum of the clear average proceeds of tolls, after exceeding which, Congress reserve the right of reducing them, the House divided on allowing "twenty per centum"—ayes 38, noes 36; when the Committee rose and reported the bill.

PUBLIC BUILDINGS.

Mr. John Randolph offered the following resolution:

Resolved, That the President of the United States be, and he hereby is, requested to cause to be laid before this House an account, stating the several sums which have been expended on the Capitol, the President's house, the public offices, the navy yard, and the marine barracks, respectively; and the amount expended on other objects of public expense within the City of Washington.

Messrs. Alston and Olin suggested that it might be embarrassing to the public officers to give such a detailed and retrospective statement.

Mr. J. Randolph replied, that his object was to get information, for which purpose he wished to have a condensed view of the whole expenditures within the City of Washington. At present, when an appropriation for a particular object was called for, he possessed no standard of comparison whereby to determine its propriety. He wished to know the aggregate amount which this sink of expense, of increasing expense, has cost the nation, together with the several items of expenditure. He desired this information to guide him in judging of the future appropriations that might be asked. Suppose the House should undertake to build an University—he understood there was such a project—and they should have an estimate for it; by knowing what these buildings had cost, the frequent appropriations called for, and recollecting that every appropriation was the last, they would know how to act, and whether they were about to be involved in a sea of expense, the confines of which they could never learn. He believed this had been the case in the building in which they sat, the conduct of the persons employed on it having always fallen short of the promise made.

The resolution was then agreed to, without a division; and, on the next day, Messrs. J. Randolph and D. R. Williams appointed a committee to present it to the President.

NATIONAL DEFENCE.

Mr. Elliot rose and addressed the Chair as follows:

I will premise, Mr. Speaker, for the honor of my country, that but one sentiment has pervaded and agitated the American mind, in relation to what has been called, with more energy indeed than propriety, the blockade of the port of New York, in April last, by a small British naval force, and the atrocious murder of our fellow citizen, John Pierce, while in the peaceable pursuit of his honest occupation, by the order of the officer commanding that force. At that melancholy moment, when a dark cloud seemed to overshadow our political prospects, the laws of our country were, to borrow one of the bold figures of antiquity, silent amidst arms; they were languid, they were lifeless, when they ought to have been energetic and irresistible. The Executive made a prompt and patriotic use of the few and feeble means which the laws had placed in his power; but few and feeble indeed they were, and the most energetic exercise of them could not, in a degree calculated to add lustre to the national character, command the respect of foreign nations. I have not ascertained whether John Pierce was the father of a family: If such should be found to be the fact, and if some doubts which I have been led to entertain of the constitutionality of the proposition should be dissipated by further investigation, I should probably deem it my duty to propose that his children shall be educated at the public expense. I am opposed from principle to the erection of monuments, except in cases of a very extraordinary character; and in this case there can be no necessity for anything of that kind, as Pierce will have sufficient monuments in the memory of his fellow-citizens, and in the pages of his country's history.

But it is not my present purpose to compose an epicedium upon Pierce, or to move the erection of his monument. I have objects of more consequence in view. At the time of the occurrence of the unfortunate event to which I have alluded, and ever since, the question must have been continually inviting public attention, must have been commanding, and irresistibly forcing itself, upon public attention. Have we not, or do we not pretend to have, a naval armament for the purpose of national defence and protection? We have indeed the shadow of a navy. Economical, excessively economical as we are, we have already wasted millions on our infant navy to no useful purpose; and we are in a very fair way to waste millions more. The event which I have mentioned has, at least I am greatly mistaken if it has not, prepared the public mind for discussion and decision upon two important questions, relative to the Naval Establishment. First, whether it be not proper, under existing circumstances, to augment, in some small degree, that establishment? Secondly, whether, supposing the establishment to be increased or to remain as it is, it be not proper, it be not indispensably necessary, to organize and manage it in a different manner from what has been heretofore practised; to give it more efficiency and more energy? To these questions it is my intention to invite the attention of this House and the American nation.

It is time, however, to think and talk of something else besides our little navy;—that armament, which the wicked wits of our own country, and the still more wicked politicians of the old world, have called a Lilliputian navy; and which the latter description of persons, rather the most important of the two, in point of influence upon human character and human happiness, affect to consider as the disgrace of America, the ridicule of Europe. It is time to extend our views. It is time (if we can elevate our enfeebled optics to a more ample field of political vision) to look over the St. Croix on the one hand, and the Sabine on the other, to behold the course of events in other regions of the world, to reflect upon the influence of those events on our own concerns, and to inquire and understand how our interests are affected by or involved in them. It is time to explode the narrow, the ridiculous, the all-destroying policy, that would dictate to the people of the Western world a total unconcernedness about the scenes that are displayed in the other regions of the globe. It is time to know who and where we are, and what will probably be our future destiny. In a word, it is time to change our system. What is the news of the day? Here many will inquire, what have we to do with the news of the day? And some will consider it a species of treason to interest ourselves in the fortunes of other nations. Treason against whom, or what? Against the power of France, I suppose; for it can be treason against nothing else.

But what is the news, and what is it to us? Rumor announces that Prussia—Prussia, one of the first monarchies of Europe, has fallen! Fallen in a war purely defensive, in defence of the integrity of her territory! She has had the singular fate to fall unpitied, and yet covered with imperishable glory: unconquered by superior courage, or even by superior dicipline, but overwhelmed by numbers.

And what have the people of Republican America to do with the destruction of the monarchy of Prussia? Why, sir, upon every sober and solid principle of human calculation, it is our turn next. I will undertake to demonstrate, on some future day, that except in point of local situation, except in our remoteness from the great scene of European action, we occupy substantially the same ground that Prussia did, *ante bellum*, and that we ought to prepare ourselves to avert the same awful fate. I shall deem it my duty, when I go into this subject, to take a view of the present state of almost all the world; and if I prove not the fact which I have stated, I will instantly descend from this seat. Descend, did I say? No, I am not so fond of going down hill—I will ascend to a place among that most illustrious body, the people. Prussia was required to give up some provinces of her dominions, or have them taken from her. So are we. It will be said, not by the same Power; but it shall be shown to the satisfaction of this nation (for we ourselves know already) that it ought to be so considered by us. The demand is made by Spain, a Power which all the world knows to be subservient to the policy of France, and to be directed and governed by France in her concerns with the United States, in consequence of a treaty of alliance, offensive and defensive, between the two nations, to say the least of their connexions. In proving this important, this solemn fact, not a word shall be said concerning certain documents, which have derived most astonishing celebrity from their impenetrable obscurity. No, Mr. Speaker, I will not disturb the repose of your seat, or that of the Chairman of the Committee of the Whole on a future day, by any transgression of the rules of the House. I will not wander for a moment from the circle of perfect order. Nothing shall be said of the contents of those documents; but much, very much, shall be said of what they do not contain, and much of what the people may have suspected that they do contain; and regret shall again and again be expressed, that our superiors and masters, the sovereign people of this great nation, whom in all things else we delight to honor, are not permitted to see, examine, reflect, and decide upon them for themselves. In the meantime, I say, change your system of foreign politics. We must enlarge our views and alter our course of conduct, or we shall deserve the chains that are forging for us. Political life and death are set before you. Choose ye, therefore, whether ye will live or die.

Let me not be misunderstood. I approve the domestic administration of the Government of this country, and the general system which the Executive is pursuing in relation to our concerns with foreign nations—approve it with all my heart, and will support it with all my powers. And how is all this to be reconciled with the declaration that we must change our system? The easiest thing in the world. The system of national defence and protection is a part of your foreign politics, strictly considered, rather than of domestic politics. And where and what are your arrangements for national defence? Or rather, is not your country almost totally defenceless? We, we ourselves, not the Executive—we, the immediate representatives of the people, hold the purse-strings of the nation; and the world has long looked on with astonishment, not unmingled with contempt, at the miserly but convulsive grasp with which we embrace them. And what is the state of our finances? Is it such as to render necessary this

extreme parsimony? With an overflowing Treasury; with an accumulation of revenue, which enables us to purchase empires, and at the same time rapidly reduce a debt, the pressure of which no man feels, or ever can feel; with a debt which is but the dust of the balance in which are suspended our national resources; our naval establishment is inferior to that which was possessed by the little State of Ragusa, the last of the republics of the ancient world, previously to its recent destruction by the power of France: Ragusa, which possessed but one considerable port, perhaps twenty or thirty miles of barren seacoast, and a population of from 80,000 to 120,000 souls. Apropos of Ragusa. Who would not mourn for Ragusa? Every republican on earth ought to shed a tear for its fate! Who were the Ragusans? Were they among the conspirators against the liberties and national independence of France, who are said to have held their caucusses at Pilnitz and at Pavia? Were they subsidized by British gold? Were they the enemies of any people on the globe? Ah! No. They were a simple, peaceful, unambitious, industrious, virtuous, republican people. They were so far from being the enemies of any nation, that they were the friends of all the world; that they might enjoy the privilege of managing their own concerns in their own manner, as to their domestic legislation, they always paid tribute to every nation that demanded tribute from them; and on this humiliating condition they were suffered to exist as a republic through almost all the revolutions of ages. They did exist—they are now slaves! And it is a memorable fact that the Emperor of France has not even pretended that the Ragusans were hostile to his interests. Political necessity alone justifies, or attempts to justify, the seizure of their dominions. And when would their fate be ours, if the means of destruction were at hand? To-morrow!

It is certainly time to think and act with more energy. This great and solemn subject has long attracted my attention, and occupied my silent reflections. Our local habitation is our only security. Were it not for the vast waves of the vast ocean, it would be the merest folly that could be imagined to tie up your roof with those strings that dangle so delightfully over our heads. Were it not for that noble and all-protecting element, why in the name of Heaven would you prop up these tottering walls any longer? Let them alone, and crazy as they are, and they are crazy enough in all conscience, they would last ten times as long as the noble structure of your republic itself! At least ten times as long. But many think we are in no danger. They must be very pious men; they must have a confidence in Divine Providence, in which I should not like to be behind them; or they must possess a degree of self-confidence, the possession of which I do not envy them. Does any one believe that our Army and Navy, that our militia, numerous, brave, and patriotic as it is, could resist for a moment three millions of European veterans in arms? Could we resist the power of France, if that power could be brought to bear upon us? He who could say so, should wander into the wilderness; he should go at least to the extreme limit of the desert heath that surrounds us, and talk to the woods and to the winds. No human ear could listen for a moment with patience to such idle fanfaronade. One word more upon the subject of our Treasury and our debt. It has frequently been said that the present is the age of wonders; and we have another proof of it this very session within these walls. Could you call old Solomon himself from the "vasty deep," and give him a seat among us—and as he would be but a shade, I suppose you would consider him only as a kind of Territorial delegate, with a right of debating but not of voting—could you get him here, the very first step of his parliamentary career would be to move to strike out a section of the sacred volume, inserted by his own pen, the words, "there is nothing new under the sun." In the Journal of our proceedings upon the President's Message, we have a record of this sort: "*Resolved*, That so much of the Message of the President of the United States, as relates to the future appropriation of the surplus revenue, &c., be referred to a select committee." This is a new kind of Committee of Ways and Means. It must be called, I suppose, Committee of Ways and Means, No. 2. Committees of this description, organized for the purpose of devising means to carry on the great concerns of nations, are of some antiquity; but this is the first committee that has ever been created for the purpose of devising ways and means to get rid of the surplus moneys of a Government. I can point the gentlemen of this committee to an object worthy of their attention: the defence of their country opens an ample and honorable field for their labors. But it is time to disclose my own system more particularly. I will keep the House in suspense no longer. I would imitate the magnanimous, but at the same time very prudent policy of the Emperor of Austria, approved, or at least not censured, by the Emperor of France himself, by establishing a powerful armed neutrality. I would organize a general and effectual system of national defence. Here, again, let me not be misunderstood. I am no friend to large armies and navies, or new and oppressive taxes. The system should be economical as well as energetic.

Upon this subject I have long waited, like Elihu of old, that older men might speak, but no one opens his lips; and silence in future would be a dereliction of what I deem one of the first and dearest interests of my country. Perhaps in my manner of announcing my intentions and objects, although it has been conformable to every day's practice in the British Parliament, I may not have been considered as conforming perfectly to the rules of order here; but if order has been violated, the transgression shall not be repeated. I have risen at this time merely to call the attention of the House to the subject, and to give notice that I shall, on Tuesday of next week, (as it is proper to lead the public mind gradually to the contemplation of concerns of such importance,) offer to the consideration of the House a series of

resolutions, the objects of which will be to produce a discussion and decision upon the two great questions which I have mentioned, relative to the Naval Establishment; to introduce, at all events, into the organization and management of that establishment, a new and more efficient system; and to prepare and organize other measures, calculated for the farther and more effectual protection of the commerce, the seamen, the harbors, the coasts, and the frontiers of the United States.

Mr. E. having concluded, the House adjourned.

TUESDAY, December 16.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, presented a bill to change the name of the District of Nanjemoy to that of St. Mary; which was read twice, and committed to a Committee of the Whole on Friday next.

The House proceeded to consider the motion of Mr. DANA, of yesterday, which lay on the table: Whereupon, the said motion being again read in the words following, to wit:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of making provision for a survey of the coasts of the United States, designating the several islands, with the shoals and roads, or places of anchorage, within twenty leagues of any part of the shores of the United States:

A motion was made by Mr. CROWINSHIELD, and the question being put, to amend the same, by adding, to the end thereof, the following words, to wit:

"And that the committee be farther instructed to inquire into the expediency of surveying St. George's bank, or any other shoals or banks, which may be deemed dangerous to vessels approaching the shores of the United States:"

It was resolved in the affirmative.

Resolved, That this House doth agree to the said resolution, as amended.

Mr. JOSEPH CLAY presented to the House a petition of sundry officers who served in the British army, in America, during the war between France and Great Britain, praying to be confirmed in their respective titles to the lands in the State of Kentucky, granted to them by the King of Great Britain, in consideration of military services rendered to the American Colonies during the said war.—Referred to the Committee on Public Lands.

Mr. DAWSON moved to postpone the further consideration of the report of the Committee of the Whole, on the bill, authorizing the erection of a bridge across the Potomac, to the first Monday in January; this motion was opposed by Messrs. LEWIS and COOK, and disagreed to—yeas 36, nays 55; when, on motion of Mr. LEWIS, the House took the report into consideration—yeas 53.

After the adoption of several amendments, the bill was ordered to a third reading to-morrow—yeas 55.

WEDNESDAY, December 17.

Two other members, to wit: PELEG WADSWORTH, from Massachusetts, and DANIEL C. VERPLANCK, from New York, appeared, and took their seats in the House.

Mr. THOMAS, from the committee appointed on the 10th instant, presented a bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia;" which was read twice, and committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate have passed a resolution appointing a committee, jointly, with a committee to be appointed on the part of the House of Representatives, to have the direction of the money appropriated to purchase books for the use of Congress, pursuant to the "Act making a further appropriation for the support of a library," passed on the 21st of February, 1806.

Mr. DAWSON presented to the House a petition of sundry inhabitants of the counties of Alexandria and Washington, in the Territory of Columbia; which was received and read, praying that an act may be passed to incorporate a company for the purpose of making a turnpike road from the western end of Mason's causeway, to the town of Alexandria, upon such terms, and under such restrictions, as may be just and reasonable.—Referred to Mr. DAWSON, Mr. MAGRUDER, Mr. ANDERSON, Mr. VERPLANCK, and Mr. CUTTS, to examine and report their opinion thereupon to the House.

The SPEAKER informed the House that he had received an anonymous communication, addressed to Congress, from a writer who professed himself to be a foreigner, and desired his communication might be read with closed doors.

A short conversation ensued on the proper way of treating the communication; when it was agreed that it was best to take no order whatever upon it.

BRIDGE OVER THE POTOMAC.

An engrossed bill authorizing the erection of a bridge over the river Potomac, within the District of Columbia, was read the third time, and, on the question that the same do pass, it was resolved in the affirmative—yeas 60, nays 39, as follows:

YEAS—Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, John Boyle, William A. Burwell, Levi Casey, Martin Chittenden, John Claiborne, John Clopton, Frederick Conrad, Orchard Cook, Ezra Darby, Theodore Dwight, Elias Earle, Ebenezer Elmer, William Ely, James Fisk, James M. Garnett, Peterson Goodwyn, Silas Halsey, Seth Hastings, David Hough, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Henry W. Livingston, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Thomas Newton, jun., John Porter, John Pugh, John Randolph, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Samuel Tenney, Philip R. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, Eliphalet Wickes, Marmaduke Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

Nays—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Barnabas Bidwell, John Blake, junior, Thomas Blount, Jacob Crowninshield, Samuel W. Dana, John Davenport, junior, John Dawson, Peter Early, James Elliot, Caleb Ellis, John W. Eppes, Wm. Findley, I. L. Green, John Hamilton, James Holland, David Holmes, Patrick Magruder, Robert Marion, Josiah Masters, Jeremiah Morrow, John Morrow, Gideon Olin, Timothy Pitkin, junior, John Rea of Pennsylvania, John Rhea of Tennessee, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Thomas W. Thompson, Joseph B. Varnum, John Whitehill, Robert Whitehill, and David R. Williams.

IMPORTATION OF SLAVES.

The House resolved itself into a Committee of the Whole on the bill to prohibit the importation or bringing of slaves into the United States or the territories thereof after the 31st of December, 1807. The bill was read, as follows:

A Bill to prohibit the importation or bringing of slaves into the United States, or the territories thereof, after the thirty-first day of December, 1807.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That, from and after the thirty-first day of December, one thousand eight hundred and seven, it shall not be lawful to import or bring into the United States, or the territories thereof, any negro, mulatto, or other person of color, with intent to keep, sell, or dispose of such negro, mulatto, or person of color, as a slave.

Sec. 2. *And be it further enacted*, That if any person or persons shall, after the 31st day of December, aforesaid, build, equip, fit, load, or in any wise prepare, or shall engage or be concerned in preparing, loading, fitting, equipping, or building any ship or vessel, in any port or place within the jurisdictional limits of the Government of the United States, for the purpose of employing such ship or vessel in importing or bringing into the United States, or the territories thereof, any negro, mulatto, or person of color, the importation or bringing of whom is by this act prohibited, every such person shall forfeit and pay —— dollars; and such ship or vessel shall, together with her cargo, tackle, apparel, and furniture, be forfeited.

Sec. 3. *And be it further enacted*, That if any ship or vessel, laden in whole or in part with persons, the importation or bringing of whom is by this act prohibited, shall, after the thirty-first day of December aforesaid, be found in any river, port, bay, or harbor, within the United States or the territories thereof, or anywhere on the high seas within the jurisdictional limits of the Government of the United States, such ship or vessel, together with her cargo, tackle, apparel, and furniture, shall be forfeited, and the owner and master thereof shall moreover each forfeit and pay —— dollars. And the President of the United States is hereby authorized to employ such of the armed vessels as he may judge proper, in giving to this act full and complete effect.

Sec. 4. *And be it further enacted*, That if any negro, mulatto, or person of color, the importation or bringing of whom is by this act prohibited, shall, after the thirty-first day of December aforesaid, be found within the United States or the territories thereof, every such negro, mulatto, or person of color, shall be forfeited. And if any person or persons shall be concerned in buying or selling such negro, mulatto, or person of color, every person so concerned shall forfeit and pay —— dollars for each negro, mulatto, or person of color so bought or sold.

Sec. 5. *And be it further enacted*, That whenever it shall appear to the court before which any suit or prosecution shall be brought, or any claim shall be tried, under the provisions of this act, that there is reasonable ground for presumption against the party sued or prosecuted, or making the claim, it shall be the duty of the said court to throw the burden of proof upon such party. And that when any seizure shall be made, or suit or prosecution commenced as aforesaid, and judgment shall be given in favor of the claimant, or party sued or prosecuted, if it shall appear to the court that there was reasonable cause for such seizure, or such suit or prosecution, the said court shall cause a proper certificate or entry to be made thereof, and in such case the party claiming, sued, or prosecuted, shall not be entitled to costs, nor shall the person making the seizure, or instituting the suit or prosecution, be liable to any action or judgment on account thereof.

Sec. 6. *And be it further enacted*, That all penalties and forfeitures arising under this act may be sued for and recovered, and shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage." And such penalties and forfeitures may be examined, mitigated, or remitted in like manner and under the like conditions, regulations, and restrictions as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned."

The first blank was filled with 5,000, the second with 10,000 and the third with 500.

Mr. Sloan moved to insert, in the fourth section, after the word "forfeited," the following words: "And such person or slave shall be entitled to his freedom," so as to make the provision read—that if any negro, mulatto, or person of color, the importation or bringing of whom is by this act prohibited, shall, after the 31st day of December aforesaid, be found within the United States or the territories thereof, every such negro, mulatto, or person of color, shall be forfeited, and such person or slave shall be entitled to his freedom.

Mr. Alston doubted whether Congress possessed the power of saying that slaves imported into a particular State, whose laws directed them to be sold, should be made free.

Mr. Elmer considered the amendment as altogether useless.

Mr. Eppes moved to amend the amendment by adding to it the following proviso: "*Provided*, That such forfeiture shall take place in one of the States of the Union where slavery is not by law permitted."

This last amendment was disagreed to—ayes 31.

Mr. Bidwell suggested a modification of the amendment, so as to make it read, "and shall be entitled to his or her freedom." To which Mr. Sloan assented.

Mr. Early said, he would barely ask of the mover of the amendment, whether there was not a palpable absurdity between the amendment and

that part of the bill to which it was offered as an amendment; whether there was not an absurdity in saying the description of persons referred to should be forfeited, and sold by the United States as provided for in the sixth section, and yet that they should be free; whether the two things could exist together?

Mr. Sloan said, he would ask whether it was not the understanding of every member of the committee, that it ought to be the object of this bill totally to prohibit the importation of slaves into, or the selling them in the United States. He would not pretend to say his amendment would effectually answer this purpose; it might require alteration, and he acknowledged there was an apparent contradiction between it and the provisions of the bill. But it was the principle which it contained, that he was anxious to see adopted.

Mr. Early said there was no doubt but that the motion of the gentleman from New Jersey would have the effect of trying the sense of the House on a very important principle contained in the bill; on the question whether they would or would not agree to pass a bill on this subject, which would be efficacious. For myself, said Mr. E., I have always believed that on the decision of this question would turn another, whether this Government ever would prohibit the slave trade or not? It is true, if we pass the bill as it stands, that persons imported will not only be forfeited, but will likewise be sold as slaves, and be afterwards kept as such. This is a melancholy truth; melancholy, because, without such a provision, we can pass no law on the subject that will be effectual. What can we do with this description of persons in case they are brought into the country in contravention of this act? I repeat the question—what can we do with them? If any gentleman can devise a plan, on which they can be disposed of, without proving extremely injurious to the country where the disposition shall be made, less exceptionable than the plan contained in this bill, he shall have my thanks, and what is of more consequence, he shall have my vote. I believe, however, that the plan contained in the bill will be the most effectual that can be devised. The gentleman inquires whether the bill is not intended to prevent the importation of this description of people into the United States, and to prevent their being sold here as slaves? I answer that it is; and I ask, if the law prohibiting the importation of brandy in demijohns was not intended to prevent its being brought into the United States in that way; and yet, do the United States, instead of selling it as a forfeited article, scatter it about the streets when thus introduced in contravention of the laws? I repeat it—on the decision of this question will depend the efficacy of the bill. We, who live in that part of the United States, where the evil referred to principally exists, know from experience that this is the only effectual plan that can be pursued. I will conclude my remarks by again declaring, that if any gentleman will devise another practicable plan, he shall have my vote.

Mr. Alston was decidedly of opinion that if the amendment prevailed, the bill on the table would be good for nothing. The amendment proposes that the slaves imported shall be forfeited and become free. Thus all inducement to give information of their importation would be taken away. You cannot, said Mr. A., prevent them from being slaves when they are once brought into the United States; the only way is to prevent the importation. In the State which I have the honor of representing, this mode had been practised; the importation of slaves had for ten or twelve years been prohibited under a penalty of 200 pounds. This had completely prevented any importation by water, in which way not a single slave had been imported. Some, it was true, had been introduced from adjoining States. The amendment might have another effect. What was there to prevent this description of persons, although made free, from binding themselves out for a term of years, or for life?

Mr. Sloan said he would just observe that the simile drawn by his friend from Georgia did not apply in the present instance. He had never considered the act prohibiting the importation of brandy in demijohns, as intended to prohibit the importation of brandy, but merely the particular mode of importing it. It appeared to be the universal wish of every member in the Committee to put an entire stop to this inhuman traffic. He would then ask for information, (he would not say that he was perfectly able to explain the Constitution on this point,) whether it was not in the power of the House as completely to prohibit this trade as the Parliament of Great Britain? If he was rightly informed, as soon as a slave put his foot into that country, he became free. If this was among the Constitutional powers of the Government, he hoped it would be exercised; and if this amendment should be rejected, he trusted some other, calculated to be more efficacious, would be adopted.

Mr. Smilie was not prepared at present to say what was the best to be done; but he would never give his assent to the last section of the bill. Shall we, said he, while we are attempting to put a stop to this traffic, take upon ourselves the odium of becoming slave traders? This would be the fact, in case the bill were agreed to. We will not suffer others to bring them to our shores with the view of selling them, but we agree to become their proprietors, and to sell them ourselves. I hope in God the House will never agree to this. I have no objection to be at the expense of sending them back to their own country, if this shall be deemed proper, or to pursuing any other mode which may be deemed advisable.

Mr. Early said it was time enough, when the last section was under consideration, to examine any plan or reasons which might be offered in support of it, for altering the provisions in that section. At present, the fourth section only was under consideration, and there appeared to him a peculiar impropriety in adopting the proposed amendment, as applicable to that section, for several reasons. That section does not operate on vessels fitting out for the slave trade, or on ves-

sels in the waters of the United States having persons of this description on board. It operates only on the individual cases of buying and selling, between man and man, after the persons have been brought into the territory of the United States. It operated, therefore, on persons so far as related to a property in them, on which only the State laws can operate. Mr. E. begged leave to read the section:

"SEC. 4. *And be it further enacted*, That, if any negro, mulatto, or person of color, the importation or bringing of whom is by this act prohibited, shall, after the thirty-first day of December aforesaid, be found within the United States, or the territories thereof, every such negro, mulatto, or person of color, shall be forfeited. And, if any person or persons shall be concerned in buying or selling such negro, mulatto, or person of color, every person so concerned shall forfeit and pay $—— for each negro, mulatto, or person of color, so bought or sold."

He would ask the gentleman, whether the House, or the Government of the United States, were Constitutionally competent to declare what should, or should not, be property within the several States? They were not competent to this, after the article, considered as property, was brought within the limits of the United States.

Mr. BARKER.—It appears to me, either that the gentleman from Georgia does not understand the spirit of this section, or that I do not. If any description of persons are imported and forfeited, to whom are they forfeited? Not to the particular States where they are landed, but to the United States, whose property they become, and who have, therefore, a right to say they shall be free; and in order to effect this purpose, they may say that they shall be sent back to the country from whence they came. Certainly, they have as great a right to make them free as to sell them.

Mr. SLOAN declared his concurrence in opinion with his friend from Massachusetts, (Mr. BARKER.)

Mr. BIDWELL.—Gentlemen from all quarters appear to agree in the end they have in view. The only difference of opinion is, with respect to the most proper means to be used. The gentleman from Georgia thinks that, if the amendment be adopted, the bill will be ineffectual; while the gentleman from New Jersey is of the opinion that, without it, it will be ineffectual. The amendment undoubtedly embraces a most important principle. Without it, the gentleman from Georgia admits, that the description of persons referred to will be transferred from their individual owners to the United States, as property, and be by them sold as slaves, and be held afterwards in slavery. This is admitted to be the effect of the bill. It is objected to for several reasons. The first reason assigned is, that if the amendment takes place, and if by virtue of it these people should be entitled to their freedom, instead of being protected in their freedom, they will enter into indentures with their holders, and their condition be the same as though they were in slavery. But, the very idea of indentures implies freedom, and this objection is applicable to every other description of persons whose ignorance renders them the easy subjects of imposition. Slaves, liberated under existing circumstances from servitude, are equally liable to be overreached.

Another objection is, that the amendment is repugnant to the principle of the bill, inasmuch as the preceding clause declares that this description of persons shall be forfeited, and their being made free is considered as incompatible with their forfeiture. I do not, however, view the case in that light. What is this forfeiture but a cessation of the interest of the former owner in the thing forfeited, and its transfer to the United States? And, cannot the United States, instead of selling, manumit them? The operation, therefore, of the amendment will be, that the property of the United States in them will determine, and that no person will have a property in them, but that they will be free; or, in other words, that instead of property, as the bill now stands, being vested in the United States, it will be renounced. The United States will not take the property themselves, or pass it over to any other person. They will say the property shall entirely terminate. Is there anything in this, repugnant to the Constitution? The gentleman from Georgia says this Government has not a right to interfere with State rights or State property. But, would it be any interference with State rights to say, that, in case a particular article should become the property of the United States, they would not take it? As to the previous owner's giving the slaves their freedom, would it not operate exactly in the same way as forfeiting them? If, then, there would be no interference with State rights in the one case, there would not in the other. The only difference would consist in the transfer of the property, the operation of the amendment being to make a donation, or whatever else gentlemen may please to call it, to the persons, of their freedom.

If it shall be said, that the provision contained in the amendment will operate inconveniently, by turning these persons loose upon society, a remedy may be applied. A sufficient authority on this head exists in the State governments. If paupers, vagabonds, or any other troublesome description of persons be introduced among them, every State has a right to impose penalties on the persons introducing them. So, in the present case, the State authorities may be enforced, in addition to such punishments as the United States may see fit to inflict for the purposes of general welfare. I am, for these reasons, of opinion, that the amendment, so far from rendering the bill less efficient, will make it more so.

Mr. MACON, (Speaker.)—I believe that on this subject there is but one opinion, which is, effectually to prohibit the importation of slaves into the United States. This sentiment, I believe, pervades the breast of every member of the community. In adopting our measures on this subject, we must pass such a law as can be executed; such an one as every part of the Union shall deem itself interested in carrying into effect. If we insert in it a clause, in the execution of which every part of the Union does not consider itself

interested, we shall prevent the law from going into full operation. The proposed amendment goes to make this description of persons, that shall be imported, free. What will be its effect? What is to become of the cargoes of those persons, when thus turned loose in any State? By what means are they, understanding nothing about the country, to be supported? Not even speaking the language of the country, what is to become of them? Are they to be maintained by the public or by individuals? This question is deserving of some consideration. It is a subject, I confess, on which there is some difficulty. For my part, I wish the law to be made so strong as to prevent any vessel from bringing them into the United States. But, I believe the amendment contains a provision that some of the States will not like. In some of the States, there is a legal provision that an owner of a slave may give him his freedom, on going into court, and giving security that the slave that is liberated shall not be a charge upon the county. Those persons who deal in this nefarious traffic will never carry their cargoes into a part of the Union where there are no slaves. They will go to the States where slavery exists, and there smuggle them; and, if we pass this amendment, the situation of these States will be most deplorable.

It does not appear to me necessary to insert this amendment in the bill, in order to carry it into execution. The great object is, to prevent the importation; and, so far as relates to this end, the amendment will weaken the bill. Perhaps I may be under the influence of local prejudice, but there is no State in the Union more opposed to the importation of slaves than the State which I have the honor to represent. It was proposed by her, ten years ago, so to amend the Constitution as to give Congress the power of prohibiting the importation of slaves. I believe the proposition passed by an unanimous vote. Certain I am, it had my hearty approbation. But it seems to me if you give these people their freedom, and turn them loose, they must perish. As, therefore, the amendment is not essential to the law being carried into execution, I am opposed to it, not wishing to pass a law that will be disagreeable to any part of the Union.

Mr. EARLY.—It is not my intention to trespass on the patience of the House, or to press on gentlemen a greater attention to this important bill than they seem willing to give. I believe it is the view of every member of the Committee, and all parts of the nation, to put an end to this traffic; and I am persuaded I shall be believed by the Committee, when I assure them that, in framing this bill, I had my eye on those provisions which I thought would be best calculated to effect this desirable object. For the present, I barely mean to improve a little on the ideas thrown out by the honorable SPEAKER, which, in my opinion, admit of several most important views.

It is a principle in legislation, as correct as any which has ever prevailed, that to give effect to laws, you must not make them repugnant to the passions and wishes of the people among whom they are to operate. How then, in this instance, stands the fact? Do not gentlemen from every quarter of the Union prove, on the discussion of every question that has ever arisen in the House, having the most remote bearing on the giving freedom to the Africans in the bosom of our country, that it has excited the deepest sensibility in the breasts of those where slavery exists? And why is this so? It is, because those who, from experience, know the extent of the evil, believe that the most formidable aspect in which it can present itself, is by making these people free among them. Yes, sir, though slavery is an evil, regretted by every man in the country, to have among us in any considerable quantity persons of this description, is an evil far greater than slavery itself. Does any gentleman want proof of this. I answer that all proof is useless; no fact can be more notorious. With this belief on the minds of the people where slavery exists, and where the importation will take place, if at all, we are about to turn loose in a state of freedom all persons brought in after the passage of this law. I ask gentlemen to reflect and say whether such a law, opposed to the ideas, the passions, the views, and the affections of the people of the Southern States, can be executed? I tell them, no; it is impossible—why? Because no man will inform—why? Because to inform will be to lead to an evil which will be deemed greater than the offence of which information is given, because it will be opposed to the principle of self-preservation, and to the love of family. No, no man will be disposed to jeopard his life, and the lives of his countrymen. And if no one dare inform, the whole authority of the Government cannot carry the law into effect. The whole people will rise up against it. Why? Because to enforce it would be to turn loose, in the bosom of the country, firebrands that would consume them; for the best and strongest of all reasons, because men love their own preservation too well to take the steps most fitted to endanger it. This Committee need not now be told, that wherever people of color are found in a state of freedom—I mean in the States where they are found in considerable numbers—they are considered as the instruments of murder, theft, and conflagration. Suppose the power of the General Government able for a while to enforce such a provision, and to turn loose a few, or even a single cargo of persons of color, what do gentlemen suppose would become of them? Do they suppose the people of those States would permit them to live among them? They are mistaken. We are told it is cruel and disgraceful to keep them in slavery. There is no doubt of it. But would it not be more cruel to place them in a situation where we must in self-defence—gentlemen will understand me—get rid of them in some way. We must either get rid of them, or they of us; there is no alternative, and I leave it to gentlemen to determine which course would be pursued. There can be no doubt on this head. I will speak out; it is not my practice to be mealy-mouthed on a subject of importance. Not one of them would be left alive in a year. But I am not dis-

posed on this occasion to stir up those sensibilities which are, on almost every question touching this subject, so apt to be excited. I feel it, however, my duty candidly to state my views on the subject; and if I have done it in plain language, I hope I shall be excused. People in any situation will be governed by the principle of self-preservation; and I beg gentlemen seriously to consider before they take measures which will place us and the people of color in a situation in which we must determine between our own lives and theirs.

Mr. J. Clay.—I shall vote against this amendment because I think it goes to destroy the efficacy of the bill. I have uniformly wished that Congress had possessed and exercised at a much earlier period the power of preventing the importation of slaves. But the effect of turning loose this species of property will be peculiarly dangerous. And whether the apprehension entertained be real or chimerical, the consequences will be precisely the same. If such be the opinion entertained of turning them loose, to set at large two or three hundred of those persons, ignorant and unacquainted with our language or habits, will, in fact, be turning loose so many depredators of the worst kind. Holding no communion with the whites, the morals of their associates will be corrupted, and ideas of freedom, however just in the abstract, will be inculcated, and may probably excite insurrections. Under this view of the subject, I ask whether any person in the Southern country will turn informer? I think not. So far as to the effects of this provision on the Southern country. Let us now come nearer home. Suppose there should be an information. The laws in several of the Southern States prevent the liberation of a slave, but on condition of his leaving the State. They will consequently migrate to the States where free persons of color are permitted to reside. Now I will ask my colleague, and the gentlemen from the Eastern States, whether, with this species of population, they would wish to increase their numbers? But whatever may be my final opinion on the bill, I believe the Committee are not at present prepared to act upon it. I therefore move that they rise.

Mr. Sloan begged to explain in a few words. He had not been understood. He had listened attentively to the gentleman from Georgia, and he was at a loss to know what had dropped from him calculated to excite his warmth; he appealed to the Committee if he had not expressed himself in the most conciliatory terms. He had stated the provision under consideration in such a way as to give no offence, and the gentleman would recollect that he had intimated that a further provision might be incorporated in the bill, to send back those persons of color that might be imported in contravention of law.

Mr. Smilie was in favor of the Committee rising, as he was confident the bill would not anwer in its present shape. He did not, however, pretend to say, that the amendment was the best that could be devised. He doubted whether it was. As the bill stood, they were involved in this difficulty. They must either adopt the amendment offered by the gentleman from New Jersey, or some one like it, or they would not avoid the odium of becoming themselves slave traders. He hoped, therefore, when the Committee rose, the House would agree to recommit the bill. Mr. S. said, he did not wish, by any means, to increase an evil which was too great already. He perceived one advantage that would attend the amendment. If the opinion of the Southern people was such as the gentleman from Georgia had represented it to be, they would not admit the importation of a single slave. He hoped, however, that the bill would be recommitted, and some effectual provision introduced. At present, he was inclined to think that the best remedy would be to send these people back to the country from which they came.

Mr. Quincy regretted that a motion had been made for the Committee to rise, as he considered it proper, previous to a recommitment of the bill, to ascertain the sense of the House on so important a principle as that contained in the amendment. Believing that they ought to do nothing contrary to the safety and the true interest of any part of the Union, and that this provision would have this effect, he was hostile to it, under the impression that it would be altogether ineffectual. He believed there would be found little difficulty in defeating it. What was to prevent the Legislature of Georgia, after Congress have declared these people shall be free, considering them as vagabonds, and selling them for a term of years, or for life, to the highest bidder. Mr. Q. concluded by saying, he wished the question to be taken on the amendment, that, after its rejection, the committee, to whom the bill should be referred, might direct their minds to a more effectual provision.

Mr. Macon, (Speaker.)—The gentleman from Pennsylvania, if he attends to the subject, will perceive that the recommitment of the bill will be of no use, until the principle under discussion shall be first settled. For my own part, I wish to frame such a law as shall prevent a single slave from being imported. It is objected to this bill, that it provides for these persons being sold, and for the United States receiving the proceeds. But let us examine this objection. Do not gentlemen recollect that, in case a judgment is obtained by the United States against an inhabitant of the Southern country possessed of slaves, they are liable to sale, and the money derived from them to be brought into the Treasury? To rise, without settling this point, will be useless; the committee, to whom the bill may be referred, will still remain in the dark, as to the sense of the House; they will be without any decision to guide them. Let this question then be first decided, and the bill be afterwards recommitted, if any new details are requisite.

I think one of the amendments suggested a good one, if there is any probability of its being executed. But what spirit is it that brings this description of people among us? Not the spirit of philanthropy, but the spirit of interest. And if

we send these people back, the same spirit that brought them here will carry them to some other quarter of the globe, with the same views. If it shall be prescribed that the United States shall carry them back, that is, indeed, another question. I have no doubt this could be done.

There is, however, another question that presents itself on this same point. How are the United States, when they get them to Africa, to carry them to their own country, if it should not be situated on the seacoast? And if they set them loose and unarmed among nations who themselves pursue this traffic, they will be again seized and transported to other countries, where they may be sold. I believe the only effectual way to prevent their importation is, to impose heavy penalties, in enforcing which the citizens of the Union will generally concur. As the bill stands, it is, in my opinion, better calculated to have this effect than it would have with the amendment.

Mr. Early said, before the question was taken on the rising of the Committee, he wished to offer a word or two by way of explanation. From the observations of a gentleman from Massachusetts, he apprehended an expression used by him had been somewhat misunderstood. He alluded to the term "dare." In using this word he had meant to say, that the revenue officers, and no other persons, would dare to inform, because the passions of the people would be opposed to them. He begged that what he had said might be considered in this light and in no other.

While he was up he would add one word. The present objection to the bill seemed to arise from the repugnance of gentlemen to making the United States dealers in slaves. On this point he would ask a single question: How are we to enforce a single penalty of this law without consenting to become dealers in slaves? We have already affixed a penalty of $10,000, of $5,000, and of $500 to certain acts. How are these to be executed but on the real and personal property of individuals; and what are slaves in the Southern country but personal property? Without this power, therefore, we might not be able to recover a single dollar.

The question was then put, and the House divided on the Committee rising—yeas 41, nays 46.

Mr. Cook hoped the amendment of the gentleman from New Jersey would not prevail, the object of which would be to let loose a set of banditti, in hostility to the whole country; and if the amendment was introduced he did not believe it could be carried into effect. Whether some other regulation might not be introduced, was another question. At present he should give his hearty negative to the amendment.

The question was then taken on the amendment, which was disagreed to, only nineteen members rising in its favor.

Mr. Bedinger moved to strike out the following words in the first section, after the word "color," "with intent to keep, sell, or dispose of such negro, mulatto, or person of color, as a slave." Mr. B. said his object was to prohibit persons of color from being brought into the United States, no matter what the intention was, with which they were introduced. Should this amendment be agreed to, his view was to offer another, imposing a penalty of one thousand dollars for every person thus imported.

Mr. Macon said he had no objection to making the law as strong as possible, but when this subject was before under consideration, some objection had been made to a like provision then proposed; and it was observed, that vessels trading to the East Indies were frequently compelled to avail themselves of the assistance of persons of color. He did not wish to throw any impediment in the way of a fair trade, although if such a provision were not objected to by mercantile men, he should have no objection to it whatever.

Mr. Bedinger said he had been induced to make the motion, from fatal experience. The laws of the State he represented, required persons introducing slaves, to take an oath that they did not intend to sell them, and yet they often did sell them; and when told that in doing so they had violated the law, they had replied, that they did not originally intend it, but were driven to it by their necessities.

Mr. Early had no objection to making this provision as extensive as gentlemen could wish, and to agreeing to a proper amendment, after it had been contemplated in all its bearings on the other parts of the bill; he wished to know, if such an amendment should be made, whether Mellimelli, or any person of color, could come to the United States. He doubted whether any of the Barbary Powers would, under such a provision, be permitted to send an Ambassador. For his own part he should have no objection to this, as he did not wish to see here any more Mellimellis.

Mr. Alston said he was in favor of such an amendment, as without it the bill would not be efficacious. The objection of the gentleman from Georgia did not apply. The description of persons referred to as proper to be excepted, could not be said to be imported, a term whose meaning only embraced those who were brought in by others. If the bill should be permitted to remain in its present shape, he would ask how the intention of an importer was to be ascertained, and whether if oath were made, that it was the intention not to sell them or treat them as slaves, the revenue officers would not be obliged to admit the importation? He therefore thought some such provision as had been mentioned necessary; but whether this was the precise one, he was not at present prepared to say; he thought it best for the Committee to rise.

Mr. Early thought some alteration in the wording of the section highly necessary. He believed it might be so altered as to guard not only against the apprehended evil, but likewise against one still greater than the bringing slaves into the Southern country. He alluded to the introduction of persons of color from the West India islands, who under the existing laws were not considered slaves. To afford an opportunity to mature some such amendment he moved that the Committee should rise.

Mr. Ely said there was another circumstance which rendered it necessary for the Committee to rise; there was another evil which required cure. According to two of the sections of the bill, the cargo was to be forfeited, if it should be brought into a State where there was no slavery. What would the effect be there? It would be a question whether they would be thereby manumitted? They were as liable to be brought into Massachusetts, where slavery was not permitted, as into any other State; and if sold in Massachusetts he wished to know what effect would ensue? If they were about to adopt a system of slavery in that State, he hoped neither the gentlemen from the North or the South would be in favor of the provision, as it would be in direct contravention of one of the principles of her constitution. For this reason, among others, he thought the subject required serious consideration, and that it was advisable for the Committee to rise, that the bill might go to a select committee for further investigation.

The question was then taken on the rising of the Committee, which was carried without a division and leave granted them by the House to sit again.

Thursday, December 18.

Another member, to wit: Andrew Gregg, from Pennsylvania, appeared, and took his seat in the House.

On motion of Mr. Stanton,

Resolved, That the Secretary of the Treasury lay before this House a statement of the direct tax, specifying the quotas assigned to each State, and the arrears, if any, of the individual States.

On motion of Mr. Crowninshield,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of erecting buoys and beacons on or near the rocks and shoals in the passages leading to Salem harbor, in the State of Massachusetts.

On motion of Mr. Dawson,

Ordered, That the petition of Robert Peter and others proprietors of squares and lots in the City of Washington, presented to this House on the fourteenth of March last, be referred to Mr. Dawson, Mr. Magruder, and Mr. Van Rensselaer; to examine and report their opinion thereupon, to the House.

Mr. Holmes, from the Committee of Claims, to whom was referred, on the fifth instant, the petition of Benjamin Sadler, made a report thereon; which was read, and ordered to lie on the table.

Mr. Darby, from the committee appointed on the eighth instant, presented a bill to incorporate the Trustees of the Baptist Church, in the City of Washington; which was read twice and committed to a Committee of the Whole on Monday next.

The House proceeded to consider the resolution of the Senate appointing a committee, jointly, with a committee to be appointed on the part of the House of Representatives, for the purposes expressed in the "Act making a further appropriation for the support of a Library."

Resolved, That this House doth agree to the said resolution; and that Mr. Joseph Clay, Mr. Thomas M. Randolph, and Mr. Dana, be appointed a committee on their part.

On motion of Mr. Jeremiah Morrow,

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of making further provision for the sale of the sections heretofore reserved for the future disposition of Congress; and that they report by bill, or otherwise.

Mr. Dawson, from the committee appointed, on the third instant, on so much of the Message of the President of the United States as relates "to a revision and amendment of the laws for the punishment of crimes against the United States," presented, in part, a bill to provide for the punishment of certain crimes against the United States; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. Jackson,

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of repealing so much of the act of Congress, of the twenty-third of March, one thousand eight hundred and four, as limits the time in which locations of Virginia military warrants shall be made.

Mr. J. Randolph, from the committee to whom was referred so much of the Message of the President of the United States as relates to the invasion of our territory by the troops of Spain, and to the adoption of measures for the protection thereof, respectfully recommended the following resolutions:

1. *Resolved*, That provision ought to be made by law to fortify and defend such position on the Mississippi, below the city of New Orleans, as the President of the United States shall designate for the protection of that city; and that further provision ought to be made by law for guarding the approaches to the same from the East.

2. *Resolved*, That the President of the United States be authorized to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, (not exceeding —— thousand men,) who shall be clothed and furnished with horses at their own expense, and armed, and otherwise equipped at the expense of the United States, except such of them as may choose to furnish their own arms, and whose commissioned officers shall be appointed by the respective State and Territorial authorities; who shall be liable to be called upon to do military duty at any time the President shall judge proper, within —— years after he shall accept the same; and when called into actual service and whilst remaining in the same shall be under the same rules and regulations, and be entitled to the same pay, rations, forage, and allowance for clothing, with the regular troops of the United States.

This report, together with the accompanying documents, were referred to a Committee of the whole House to-morrow.

IMPORTATION OF SLAVES.

The House again resolved itself into a Committee of the Whole, on the bill prohibiting the importation of slaves.

After a few remarks, from different gentlemen, on the amendment of Mr. Bedinger, and a like provision, suggested by Mr. Early, which he said he would offer in case the former should be negatived, the question was taken on Mr. Bedinger's amendment, which was not agreed to.

Mr. Early said, the fourth section required one or two small amendments. He accordingly moved to add, after the word "color" "unless previously sold, under a sentence of condemnation, by a court having competent jurisdiction." As the bill stood, there might be some doubt, whether the forfeiture would not attach to a sale subsequent to that consequent on condemnation.

Mr. Bidwell said, in case the Committee should disagree to this amendment, he would move to strike out that part of the section which declared that persons of color, imported into the United States, should be forfeited.

The debate that ensued turned principally on the expediency of agreeing to this amendment, which was supported by Mr. Bidwell, and opposed by Mr. Early.

Mr. Bidwell observed, that there were strong objections against the forfeiture of persons of color imported into the United States. As the bill stood, the forfeiture was to be followed by a sale of these persons, as property, as slaves. On this point there was a great diversity in the laws and habits of the respective States; to avoid an interference with which, it appeared to him most advisable to do away the forfeiture, leaving their disposition to the provisions of the laws of the several States. If this part of the section should be struck out, those laws would operate on this point.

There would, he said, be a serious difficulty in adopting the principle of forfeiture accompanied with a sale. In some of the States, the idea of such a species of property was excluded by their constitutions; in those States there could be no such thing as a slave. It was true, that the constitutions and laws of such States did not go the length of interfering with the laws of other States, where slavery was permitted. If fugitives from them sought an asylum in the State of Massachusetts, for instance, they were faithfully restored, under the provisions of the Constitution of the United States. Neither did the laws of Massachusetts interfere with travellers passing through it with slaves; but so far as it respected persons coming to reside in the State, they were manumitted, as a matter of course. He believed that no contract for their sale within the State would be of any validity; nor did he believe any power had been given to the United States to render such sale valid. If there were such a power, its tendency would be to introduce into that State persons contrary to its laws. If such a sale were valid, it would interfere with those laws; and if not valid, it would be a perfect nullity, and the provision be thus altogether inoperative. It was admitted that there was no probability of such an importation into States where slavery was not allowed; yet such a thing might take place, and Congress ought not to legislate under the idea that it would not take place. Mr. B. said, he also felt repugnant to this provision, because it gave to the United States the price of this species of plunder; and carried it into the public Treasury—thus substituting the United States in the place of the first owners. His wish was, that the United States should themselves decline giving their legal sanction to any such sale, by leaving the business altogether to the several State authorities. This difficulty might be entirely avoided by striking out the forfeiture of persons, confining the penalty to a forfeiture of the ships, and imposing a fine on the owners. If this part of the bill should be struck out, other measures of prevention, in case they should be thought necessary, might be provided.

Mr. Early observed that this motion could only be viewed as an old thing offered in a new shape, intended to have the same effect as the motion offered the preceding day declaring persons of color imported into the United States free. He thought it betrayed great inconsistency. Those who advocated it had yesterday supported an amendment which, by declaring all such persons free, went directly to interfere with the laws of States where slavery was permitted; to-day they gravely maintained the inexpediency of any such interference whatever. The great difficulty insisted upon was, that the operation of this law in States where slavery was not permitted would contravene the existing laws by forfeiting the imported slaves. But this difficulty had no solidity in it—it was altogether ideal, as from the nature of things the case of an importation in such States could not occur; at all events, it was among the most improbable events in nature. It could not, therefore, be conceived that the present opposition to this provision of the bill was founded on the avowed ground; it must be bottomed on some other. As to the assumption that it would be an infraction of principle on the part of the United States to be concerned in any act which would involve a transfer of this description of persons, how did gentlemen who felt these scruples reconcile their objections with the act imposing a direct tax, in the collection of which slaves were considered as property, and were sold for its satisfaction in cases of default? How could they get over the difficulty which arose from the execution of laws imposing fines and penalties in the Southern States, under which slaves were sold as property? If it were still said that this was a violation of principle, it must be allowed that it was a violation which had been practised from the infancy of the Government.

Mr. E. concluded by observing that he had no objection so to modify the bill as to get over this ideal objection, to do which he had penned an amendment, the purport of which was so to alter the bill as to provide that the owner and master of ships in which slaves should be imported should each pay —— dollars, and that such ships should be forfeited in States not permitting slavery.

On agreeing to this amendment, the House divided—yeas 33, nays 42.

Mr. Bidwell moved to strike out all that part of the fourth section which related to the forfeiture of negroes.

Mr. Early asked, what substitute was intended.

Mr. Bidwell replied, that he should move that the Committee rise, and that the bill be recommitted.

Mr. Quincy, of Massachusetts.—I am opposed to the motion of my colleague, (Mr. Bidwell,) to strike out the forfeiture. The United States ought to retain the control of them. What is to be done with them, is another question. But for the United States to divest the old owners of their right, and provide no means for their protection afterwards, appears to me cruel and dangerous. They are helpless, ignorant of our laws, and of our language and manners. How are they to be supported? If imported into the South, they will be slaves; if into the North, vagabonds. My colleague ought to show what is to be done with them. I am not prepared with a plan, but I should suppose that they might be disposed of in service, in such States as would admit them, at the discretion of the Secretary of the Treasury. If forfeited to the United States, we can, by a general provision, do what we please with them. And I have no doubt that what we do will be both prudent and humane.

Mr. D. R. Williams.—I agree with the gentleman from Massachusetts, who spoke last, that the amendment ought not to be adopted. It is incumbent on the gentleman who introduced it, (Mr. Bidwell,) to tell us what is to be done with these negroes, if they are not to be forfeited. I say, it is his duty to inform us how they are to be disposed of. Give up the idea of forfeiture, and I challenge the gentleman to invent fines, penalties, or punishments of any sort, sufficient to restrain the slave trade. The same identical persons will break this law who have broken the act of 1794. And who are these persons? They are the gentleman's own countrymen; they are the people of Rhode Island, who are concerned in this business. You cannot stop the trade by penalties. I have myself seen a ship of more than three hundred tons, the George Washington, sold for five dollars. Nobody would bid. The gentleman over the way shakes his head; he acknowledges the truth of my remarks on his countrymen.

You have got, gentlemen, into a great difficulty. You are completely hobbled. It is so bad that you cannot go on, and you must stick where you are. Let me ask, what is the usual conduct of Legislatures on local subjects? Do they not inquire of those who are informed? Are they not guided by those who are competent to judge?

The gentlemen from the South, who understand this subject, tell you how this business must be done. But the gentlemen over the way seem anxious now, as on a former occasion, to draw a revenue from the blood and sweat of the miserable Africans. I will not say that this is their motive, but their conduct certainly justifies a suspicion, that their object is to pass such a law as will connive at the continuance of the trade, for the emoluments of their constituents.

Mr. Bidwell knew nothing of the New England men being concerned in this trade. He lived in the interior of the country, and had little acquaintance with mercantile men. If they were concerned, he was willing that they should be punished by fine and penalties, and to any extent; but he was still opposed to a forfeiture of the negroes generally by a law of Congress. The States may determine, perhaps, whether it shall be done.

Mr. Quincy, of Massachusetts.—I think I now understand the plan of my colleague, (Mr. Bidwell,) and I like it less than before. It is "to leave them to the operation of the laws of the respective States." This is only another form of expression of leaving them to be slaves. It is leaving the title of these persons according to the laws of the State into which they are imported. Is the gentleman sure this will not be an encouragement? It certainly will be, if the importer can find means to evade the penalty of the act; for there he has all the advantage of a market enhanced by our ineffectual attempt to prohibit. If he relies upon the penalty, I have no doubt it will be evaded. Persons without responsibility will be made captains of these ships, or other means devised to escape the penalty, and as his property is, by this amendment, secured to the owner, great profits will result from the traffic.

Mr. Sloan, of New Jersey.—I am opposed to the amendment which the gentleman from Georgia (Mr. Early) is anxious to introduce into the bill. I shall beg leave to drop a few sentiments on this subject that will go to the general issue. I shall say nothing of the morality or immorality of these, in the condition of this traffic. None but the Southern gentlemen have touched on this point. I hope that all of us are disposed to make this law effectual, and I trust that such an everlasting stigma will not be left on Congress, as it must be, if we leave these poor creatures in a miserable helpless condition.

I will drop a few words on the subject of yesterday's debate, respecting the forfeiture of negroes. The gentleman from Georgia (Mr. Early) attempted to terrify the Committee, by making a dreadful picture of the people's rising *en masse*. But I hope Congress will not leave the poor and needy, the dumb and the lame, and those who cannot plead their own cause, in the miserable condition gentlemen have described.

Mr. Kelly, of Pennsylvania, would not vote for the amendment of the gentleman from Massachusetts, (Mr. Bidwell,) until he knew what was to be substituted. Besides, if the amendment prevailed, it would interfere with the second section of the bill, and that must also be struck out.

Mr. Alston spoke a few words.

Mr. Early.—I did suppose that the United States would pass a law themselves, as soon as they had the power, to prohibit the slave trade effectually. But the gentleman from Massachusetts (Mr. Bidwell) proposes that Congress shall relinquish all the credit of this measure, and resign it up to the States. This, I hope and trust, Congress will never agree to.

If the amendment prevails, I tell you that slaves will continue to be imported as heretofore. I tell

the gentleman from Massachusetts, what every man in the Southern States knows already, that slaves will continue to be imported, unless you forfeit them. You cannot get hold of the ships employed in this traffic. Besides, slaves will be brought into Georgia from East Florida. They will be brought into the Mississippi Territory from the bay of Mobile. You cannot inflict any other penalty, or devise any other adequate means of prevention, than a forfeiture of the Africans in whose possession they may be found after importation. I tell you this is the only effectual method. I implore Congress to look seriously on this subject. I implore them, if they do anything, to pass a law which will not disgrace themselves.

Mr. Pitkin, of Connecticut.—Mr. Chairman, I rise, sir, for the purpose of making a motion, which, I trust, will supersede the one now before the Committee. It is, that the Committee should rise, and that the bill before them be referred to a select committee. Under this motion, I presume it will be in order to state my reasons, generally, without being confined to the question of amending the fourth section of the bill, which is now before the Committee.

In my apprehension, sir, there are material defects, not only in the fourth section, but in other parts of this bill, and that amendments can be made with greater convenience and with more correctness in a select committee, than in the Committee of the Whole.

As an amendment to the fourth section has been moved, I shall beg the indulgence of the Committee, while I, in the first place, state my objections to this part of the bill. This section provides:

"That if any negro, mulatto, or person of color, the importation or bringing of whom is by this act prohibited, shall, after the 31st day of December, aforesaid, be found within the United States, or the territories thereof, every such negro, mulatto, or person of color, shall be forfeited."

As the persons thus brought into the country contrary to law, are to be "forfeited," they are to be proceeded with, as appears, by a subsequent section of the bill, "in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage."

What, sir, is this process? They are to be seized by the revenue officers as goods, wares, and merchandise, imported contrary to law. They are to be libelled in the federal courts, are to be condemned, and then sold to the highest bidder by an officer of the court at public auction, and one half of the avails, at least, is to be paid into the Treasury of the United States. This, sir, is a proposition, this is a mode of proceeding against those persons, to which I cannot bring my mind to consent, unless *absolute necessity* should require it. What, sir, shall we, in a law made for the express purpose of preventing the slave trade, declare that these unfortunate blacks, brought into this country, not only against their own will, but against the express provisions of the law itself, shall be sold as slaves for the benefit of the United States, and the price of their slavery be lodged in the public coffers? I trust not, sir; I believe some other mode may be devised to prevent the slave trade. While I am unwilling to give my assent to this mode of disposing of them, I am free to confess that I feel the force of the remarks made by the Southern gentlemen, that, unless some care should be taken of them after they are landed, the property, and perhaps the lives of those who live in States where slavery is permitted, would be insecure. And here, sir, I would suggest, whether, instead of selling those unfortunate beings as slaves, provision might not be made, that they should be disposed of for a term of years; say seven, eight or ten years, until they should be able to support themselves, and at the end of the term they should be free. If Congress have power to prohibit their importation, they certainly have power to say, that the importer shall have no right or claim whatever in them; and also to declare what shall be their state and condition when imported. Indeed, sir, Congress have already determined this principle in May, 1800. They passed an act, in addition to an act, entitled "An act to prohibit the carrying on the slave trade from the United States, with any foreign place or country."

By the fourth section of this act, the commissioned vessels of the United States are authorized to seize and take any vessel employed in carrying on the slave trade with foreign countries, and in the same section it is declared, "that all persons 'interested in such vessels, &c., shall be precluded 'from all right or claim to the slaves found on 'board such vessel, and from all damages or retri-'bution, on account thereof." And, I would here ask, whether it is not our duty to protect, and take care of, these unfortunate wretches, who may be thus landed on our shores, destitute of every means, either of protection or support? For the latter clause of the fourth section of this bill is as follows: "And if any person or persons shall be 'concerned in buying or selling such negro, &c., 'every person so concerned, shall forfeit and pay 'five hundred dollars for each negro so bought or 'sold." Thus situated, they must either starve to death, or steal for a subsistence.

And here I cannot but remark, the inconsistency of the clauses in the fourth section. By the first clause, the negroes, &c., are to be forfeited, and, of course, to be sold at public auction; and in another clause, both those who sell and those who buy them, are subject to a penalty of five hundred dollars.

But, sir, the great object of the bill is to prevent the importation of slaves. Let us, in the next place, attend to the provisions in this bill, which are intended to effect this object. The second section is:

"That, if any person or persons shall, after the 31st day of December aforesaid, build, equip, fit, load, or in any wise prepare, or shall engage or be concerned in preparing, &c., any ship or vessel, in any port or place within the jurisdiction or limits of the United States, for the purpose of employing such ship or vessel in importing any negro, &c., every such person shall forfeit and pay, &c., and such ship or vessel, shall be forfeited."

The penalties and forfeitures in this section are limited and restricted solely to vessels prepared, fitted, &c., "in any port or place within the jurisdictional limits of the Governmont of the United States." How easy will it be to evade the penalty of this section, by preparing or fitting vessels in a foreign port or place? And, sir, if the statement, just now made, by the honorable gentleman from North Carolina, (Mr. Alston,) be correct, it will not be more difficult to avoid the penalties and forfeitures of the third section. That gentleman has stated that it would be very easy for a vessel, in the course of an hour or two, to land a cargo of negroes on some one of the numerous islands along the Southern coast, and be off. If so, this part of the bill must be very inefficient, indeed. It says:

"That, if any ship or vessel, laden in whole or in part, with persons, the importation or bringing of whom is, by this act, prohibited, shall, after the 31st day of December, aforesaid, be found in any river, port, or bay, or harbor, within the United States, or the territories thereof, or anywhere on the high seas, within the jurisdictional limits of the Government of the United States, such ship or vessel, together with her cargo, &c., shall be forfeited, and the owner and master, &c., forfeit and pay —— dollars."

Now, sir, according to this section, no vessel is forfeited, nor is the owner or master liable to a penalty, unless she is actually found within the jurisdictional limits of the Government of the United States. And here a very serious question may arise, how far, on the high seas, the jurisdictional limits of our Government extend; on this subject there is a diversity of opinion. Some contend that it extends but a marine league, or three miles from the shores, as the shores run; others, three miles beyond a line drawn from headland to headland; others extend it still further—the question is not yet finally settled in this country. But, sir, would it not be easy for a vessel to unlade her cargo by the means of lighters and boats, at a place clearly beyond our jurisdictional limits? In which case, she would not be liable to a forfeiture. In addition to this, the vessel must not only be "found" within our limits, but she must be "found laden in whole or in part, with persons, the importation or bringing of whom is by this act prohibited;" otherwise the forfeiture is not incurred, nor can any penalty be exacted from the owner or master. Thus, sir, for aught that is contained in this section, a vessel may unload just within our limits, and afterwards enter our ports in safety, or she can come within our limits, and if she can unload her cargo before she is found or seized, she will escape the forfeiture. These two sections, and the second and third, contain all the penal clauses in the bill; and I would submit it to the consideration of the Committee, whether it will not be necessary to add some further clauses more highly penal, if we really intend to prohibit this infamous traffic. Perhaps we may insert some of the provisions contained in the present laws against the slave trade, between the United States and foreign countries: That the owner or master of every vessel clearing for the coast of Africa, or suspected to be intended for the slave trade, shall give bond, that no slave shall be taken on board of his vessel, to be transported to this country; and provide, likewise, that the owner or master should forfeit and pay a certain sum for every slave he should put on board. I would go further, and say, that every person who should land a slave on our shores, should not only forfeit all his property, but should suffer the punishment of imprisonment.

For these reasons, sir, I hope the Committee will rise, and that the business will be referred to a select committee.

Mr. Early.—In answer to the gentleman from Connecticut, I will acknowledge that there is an inconsistency in this bill. But it seems very wonderful that the gentleman has at last found it out. I offered an amendment, a short time since, in order to obviate this inconsistency; but, unless I am much mistaken, that very gentleman voted against it.

In the name of all the friends of this bill, I offer my most grateful acknowledgments to the gentleman for proving, in the most incontestable manner, the absolute necessity of that very provision in the bill which he opposes. He has shown, most undeniably, that you must forfeit the negroes, that you cannot possibly get at the vessel or the captain, to operate on them. In the name of common sense, I ask you, then, what can you find to operate on, but the negroes imported? and yet, with these truths staring them in the face, gentlemen are opposed to the measure. I wish the gentleman from Connecticut, from the immensity of the resources which he has displayed on this subject, would tell us what, beside the negroes, can be found for the law to operate upon.

I am willing that the Committee rise, but not for the purpose mentioned. The gentleman moves you to rise, and refer the bill to a select committee; and for what? To determine the principle of the bill; not to specify the detail. What can the select committee report? Unless instructions are given them, they must report the same bill, and then you will be just where you are now.

Mr. Bidwell thought it was premature to refer the subject to a select committee.

Mr. Pitkin.—I beg leave, Mr. Chairman, to explain myself. I am sorry I was so unfortunate as to be misunderstood by the honorable gentleman from Georgia, (Mr. Early.) He has stated that the objections which I made on the fourth section of the bill, were inconsistent with the vote I gave on the amendment to the same section, which he had proposed; and that, in case his amendment had been adopted, the difficulties which I had mentioned would have been removed. I trust, sir, I shall be able to satisfy the Committee, that no such inconsisteney can be imputed to me. What was the amendment proposed? It was, in substance, that the negroes, "if they had not been condemned before by a court having jurisdiction of the same," should be forfeited. I voted against the amendment, because I conceived it wholly unnecessary, as no one would suppose they could be condemned twice; and, also, because I was opposed to that part of the section which was proposed to be amended. But how this amendment, if adopted, would have obviated my objections to the inconsistency of the two clauses in this section, is difficult for me to conceive. If the amendment had been adopted, the negroes were to be forfeited, once at least, and of course to be sold; but, by the last clause, no one could either buy or sell, without being liable to a heavy penalty.

As to this section in general, I did say, what I again repeat, sir, that unless absolutely necessary, I never would consent that those unfortunate blacks should be sold at auction, by the United States, in the same manner as they would sell a bale of goods.

The gentleman from Georgia has likewise said, that I have proved, conclusively, that the section must be retained, and the negroes must be sold, because I have declared, that the other parts of the bill are insufficient to prevent the importation of slaves. I leave the Committee to judge whether this is a just inference. I have endeavored to satisfy the Committee that the second and third sections of the bill are so limited in their provisions, that the penalties may be so easily evaded, that the object intended by the law, will not be enforced.

But, sir, if I have succeeded in this, if I have proved the inefficiency of the present bill to answer the important object we have in view, that is, to prevent the importation of the people of color into the United States, does it follow, that we must retain a section, which says, that the importer shall not make slaves of them, but that the United States will make slaves of them themselves? I should suppose that the just inference would be, that we ought to insert clauses which would be more efficient, and that, for this purpose, the bill ought to be referred to a select committee.

The question being taken on the Committee's rising, it was carried—ayes 72.

Mr. Pitkin hoped they would not have leave to sit again.

Mr. Sloan.—Notwithstanding the very high respect I entertain for the gentleman who reported this bill, I think it is easier to make an entire new one, than to undertake to amend this, so that it will answer.

The question being taken on the Committee having leave to sit again, it was lost—ayes 45, noes 57.

The bill was then recommitted to a committee of seven, consisting of Messrs. Early, T. M. Randolph, Kelly, J. Campbell, Kenan, Cooke, and Van Rensellaer.

Mr. Smilie invited the attention of the House to the introduction of a new principle into the bill—a principle which, in his opinion, involved the reputation of the country. In looking over the bill, he had been struck with surprise to find no penalty attached to one of the highest crimes man could commit. He believed there was not a State in the Union that did not inflict the punishment of death on wilful murder. A captain of a ship engaged in this traffic was guilty of murder.

Mr. S. said he was well aware of the propriety of proportioning punishments to crimes. In this instance, he thought, by annexing death to the perpetration of this crime, this proportion would not be violated. He did also believe that the people of the United States viewed the subject in the same light. He was certain those of the State in which he lived did. Under this impression, he would offer for the consideration of the select committee a new section, prescribing that if any person should take any negro or mulatto, without their consent, with an intent to sell them as slaves, and transport them into any place within the jurisdiction of the United States, they should be considered as guilty of felony, and on being convicted, suffer death.

The Speaker observed that it was not at present in order to receive this motion, unless in the shape of an instruction to the committee to whom the bill had been recommitted.

Mr. Smilie said, as the hour was late, he would withdraw the motion for the present, and take occasion to renew it on a future day.

Friday, December 19.

Another member, to wit: Abram Trigg, from Virginia, appeared, and took his seat in the House.

Mr. Boyd, from the Committee on the Public Lands, presented a bill to revive and continue in force, an act, entitled "An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia;" which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Early, from the committee to whom was yesterday recommitted the bill to prohibit the importation or bringing of slaves into the United States, or the Territories thereof, after the thirty-first day of December, one thousand eight hundred and seven, reported an amendatory bill with the same title; which was twice read and committed to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill to change the name of the district of Nanjemoy to that of St. Mary; and, after some time spent therein the Committee rose and had leave to sit again.

REFINED SUGAR.

Mr. Crowninshield, from the Committee of Commerce and Manufactures, made a report on the petitions of sundry inhabitants of Philadelphia and Baltimore, praying for a drawback of duties on refined sugar exported.

The report states that the subject was fully examined by the committee in the last Congress, to which report they refer for their reasons against granting the prayer of the petitions, concluding with a resolution, declaring it inexpedient to grant the prayer of the petitioners.—Referred to a Committee of the Whole on Tuesday.

Mr. Crowninshield then moved the following resolution:

Resolved, That it is expedient to reduce the duties on foreign refined sugar and sugar candy, from and after the —— day of —— next, and that all restriction at present imposed on the importation and exportation of refined sugar be removed.

Mr. Crowninshield remarked that the duties at present paid on the importation of these articles were exceedingly high, and operated as a monopoly to domestic sugar refiners. He was opposed to any such monopoly, and to such exorbitant duties. His object was to call the attention of the House to the subject—for which purpose he moved the reference of his resolution to the same committee with that to which the report had been referred, in which motion the House concurred.

CONTESTED ELECTIONS.

On motion of Mr. Bidwell the consideration of the bill "to revive and make permanent an act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses, and in addition to the same," was resumed in Committee of the Whole.

Mr. J. Clay offered two new sections, in conformity with the intimation made by him when the bill was before under consideration, the purport of which was—

Sec. 3. *And be it further enacted*, That if, on due examination made according to the provisions of this act, and of the act hereby revived and made permanent, it shall be proved to the satisfaction of the magistrate before whom the examination shall have been had, that at any election by ballot for any member or members of the House of Representatives, any person or persons shall have voted who may not at the time of such election be legally entitled to vote, the person or persons so having voted shall be examined upon oath or affirmation touching the candidate or candidates for whom they may have voted. And the said magistrate shall have like powers to summon and compel such person or persons so voting as aforesaid, to attend, as are provided by the act revived and made permanent by this act, and under like penalties, and with like allowances for attendance and travelling as other witnesses. And it shall be the duty of the said magistrate to reduce the examination of the person or persons so illegally voting, to writing; and to transmit it, duly certified with the other testimony touching the case, to the Clerk of the House of Representatives of the United States, for the time being. And if any such person, or any other witness, summoned to attend as aforesaid, shall refuse to answer, such person or witness, so refusing, shall be fined in a sum not exceeding twenty dollars, to be recovered in like manner as other penalties or fines imposed by the aforesaid act.

"Sec. 4. *And be it further enacted*, That no testimony or examination, taken in pursuance of any of the provisions of this act, or of the act revived and made permanent by this act, shall ever be given as evidence in any court of law or equity, in support of any action of debt, damage, or trespass, or in any criminal prosecution against any person or persons so examined, excepting in actions of debt for the recovery of fines and penalties imposed by this and the aforesaid act."

On these provisions a debate of some length arose. Messrs. J. Clay, Elliot, Smilie, and Findley, supported, and Messrs. Varnum, Bidwell, and Sloan, opposed the amendments.

By the former gentlemen it was observed, that the provisions submitted were offered for the purpose of preserving sacred the right of election; that, under the existing provisions of law, it was frequently necessary, in the case of a number of bad votes being given, either to confine the returns, where there was great appearance of fraud, or to set aside the election altogether and order a new one. This was a great grievance, that loudly called for redress, if any means could be devised for affording it. It was added that a similar provision had been adopted in the State of Pennsylvania, and had been carried into effect without inconvenience; and that even if it should be acknowledged that it would be attended with some inconveniences, it did not follow that it was not freer from objection than any other provision which could be devised.

On the other hand it was contended, that the right of ballot was justly considered sacred, and that whatever tended to impair it ought to be resisted; that, in this instance, although nominally the power given to the magistrate only applied to persons not legally qualified to vote, it virtually gave him the right of determining who were or were not so qualified. On this point the magistrate was liable to misjudgment, and might consequently compel a qualified voter to declare for whom he voted, and thus destroy the sacredness of the ballot. Nor was it uncharitable to suppose, that in addition to the mistakes of the magistrate, party spirit might in some instances carry him beyond the bounds of propriety. It was besides a strong objection to the proposed provision, that it made the issue of an election depend on the oaths of persons who had previously committed a fraud by giving illegal votes.

After this discussion the Committee, without coming to any decision, rose and asked leave to sit again, which was refused, and the bill recommitted to Messrs. Bidwell, Halsey, Smith of Pennsylvania, Smith of Virginia, Pitkin, R. Nelson, and McFarland.

Monday, December 22.

The Speaker informed the House that he had received a letter, addressed to the House, from Isaac Williams, a deranged man, and the same person who had communicated an address to the House at the last session, on which no order was taken.

On motion of Mr. Marmaduke Williams,

Resolved, That a committee be appointed to inquire into the expediency of extending the power of granting injunctions to the judges of the district courts of the United States; and that they have leave to report by bill or otherwise; and a committee was appointed, of Mr. Marmaduke Williams, Mr. Jackson, Mr. Ellis, Mr. Sandford, Mr. Masters, Mr. Kelly, and Mr. Fisk.

Mr. Van Cortlandt, presented to the House a petition of the President, Directors, and Company

of the Highland Turnpike, in the State of New York, which was received and read, praying the aid of Congress to enable the said company to complete the turnpike road from Kingsbridge, on the east side of Hudson river, across the Highlands to the city of Hudson, in the said State of New York.—Referred to Mr. Van Cortlandt, Mr. Southard, Mr. Varnum, Mr. Trigg, and Mr. Rhea, of Tennessee; to examine and report their opinion thereupon to the House.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act regulating the grants appropriated for the refugees from the British provinces of Canada and Nova Scotia;" and, after some time spent therein the Committee rose, and had leave to sit again.

Ordered, That the representation of George Gilpin, and William H. Dorsey, Judges of the Orphans' Court of the counties of Alexandria and Washington, in the District of Columbia, presented to this House on the seventh of January, 1804, be referred to Mr. John Randolph, Mr. Covington, and Mr. Porter; to examine and report their opinion thereupon to the House.

MAIL CONTRACTS.

The Speaker laid before the House a letter, directed to them, from Charles Bruce, representing that the Postmaster General had given a contract to another person for a higher sum than that bid by him, and implicating a member of the House in the transaction.

Some conversation ensued on the disposition of these papers.

Mr. Elliot was of opinion that, considering their nature and the mode of presentation, no notice ought to be taken of them.

Mr. Alston said he had seen Bruce in North Carolina, who was there using language similar to that contained in the letter. When he came to this place he had made inquiry on the subject, of the proper officer, and had learned that Bruce had previously been a contractor, and had failed in several contracts—and that it was for this reason that his proposals had not been accepted.

Mr. Early called for the reading of the documents, from which it would appear that one of Bruce's own sons, who had been a contractor, had robbed the mail. Mr. E. added that he knew this to be a fact, and that the man was now in jail suffering for the crime.

Mr. Bidwell moved that the communication should be referred to the Post Office Committee.

Mr. D. R. Williams opposed the motion, which was lost without a division. No further order was taken on the subject.

EXPLORATION OF WESTERN WATERS.

Mr. Alston, from the Committee to whom was referred so much of the Message of the President of the United States as relates to the farther exploring of the western waters, made the following report:

That considerable information has already been derived from those expeditions which have taken place, under the direction of the President of the United States, in exploring the western waters. The river Missouri, has, by Messrs. Lewis and Clarke, been traced nearly to its source; the Mississippi, by Lieutenant Pike, to its source; and the Red River, by Mr. Freeman, about six hundred miles from its mouth, nearly as far as the French settlements extended.

The important surveys made by Messrs. Lewis, Clarke, and Freeman, in addition to those before made, furnish materials for commencing an accurate map of the Mississippi and its western waters; some principal rivers, however, remain still to be explored. The ridges or mountains from which the sources of these rivers spring, in a great measure form the exterior boundary of the newly acquired territory of the United States on the west side of the Mississippi. It therefore makes it the more important that the work commenced of exploring the western waters should be carried on and finally completed.

Your committee, therefore, recommend the adoption of the following resolution:

Resolved, That the sum of $ —— be annually appropriated for the term of —— years, for the purpose of enabling the President of the United States further to explore the western waters of the United States.

Referred to a Committee of the whole House on Thursday next.

DEFENCE OF NEW YORK HARBOR.

Mr. Clinton, of New York, presented several petitions from the inhabitants of New York, praying that the city may be adequately fortified.

[Note.—These petitions were alike, being signed only by different petitioners.]

Mr. Clinton moved that they be printed. On dividing the House, the motion was lost.

Mr. Thomas, of New York, called for the reading of the petitions. As the House had decided that they should not be printed, it was proper the members should hear them read. This motion was carried.

The Clerk had read a few sentences only, when Mr. Thomas called for order. There was so much noise and disturbance in the House, he could not hear the Clerk read. The Speaker having restored order, the Clerk finished the reading of the petitions.

Mr. Varnum, of Massachusetts, rose to inquire by whom the petitions were signed, whether by the Corporation of New York, or by individuals.

The Speaker replied, that they were signed by individuals only.

Mr. Varnum then moved that the petitions be printed, in order that the public might know who were the persons that had signed the petitions.

The Speaker observed, that a motion for printing the petitions was not in order, as the House had already decided that question. It might, however, be done, if a motion to reconsider that vote should be made and carried.

Mr. Varnum then moved to reconsider the vote already passed. It being carried—ayes 53, noes 43, Mr. V. then renewed his motion for printing, which was seconded by Mr. Quincy, who remarked that he understood the motion to be that the names of all the signers be printed.

Mr. Smilie, of Pennsylvania, believed that such a thing had never been done before.

Mr. DANA, of Connecticut, called for a division of the question.

Mr. CROWNINSHIELD inquired, if the signers were numerous. If they were, the printing would be expensive.

The SPEAKER replied, that they were very numerous.

Mr. SMILIE thought, if the House agreed to printing the names, the precedent would be very inconvenient.

Mr. BIDWELL, of Massachusetts, expressed his opinion in favor of printing.

Mr. DANA objected to printing the names. The object of the memorial is of general importance; and if the facts stated are true, and the arguments solid, it makes no difference whether there are few or many petitioners.

Mr. QUINCY concurred in sentiment with the gentleman from Connecticut. If, therefore, the original motion, included the names, he would wish not to be understood as seconding it. He would withdraw.

Mr. ELLIOT, of Vermont, hoped the names would be printed. He wished that the name of every man in the Union, who is willing to defend his country in this alarming crisis, could be printed. He wished that the yeas and nays, on the question of defence, could be taken throughout the seventeen States.

Mr. GREGG, of Pennsylvania.—According to the motion of the gentleman from Vermont, every man's name in the Union must be printed, as all are willing and ready to defend their country when necessary. He had no objection but the expense, though it was contrary to the usual mode of doing business.

Mr. THOMAS was against printing the names. Few of the subscribers were known to any members of the House.

The SPEAKER rose to state the question, when Mr. ALSTON, of North Carolina, began to speak. The SPEAKER said, he would state the question, if the gentleman from North Carolina would permit him. He understood the motion to be, that the petition, with the names of the subscribers, be printed.

Mr. ALSTON understood the question differently from the SPEAKER. He concurred in sentiment with the gentleman from Pennsylvania, (Mr. GREGG.) in the impropriety of printing.

Mr. SMILIE understood the motion to be, that the petition be printed without the names, and that the amendment proposed was to print the names also.

The SPEAKER declared himself willing to be corrected, if he had mistaken the motion.

Mr. VARNUM said, he moved for the printing of the petitions generally. That motion would not comprehend the names. This was his view of the subject.

Mr. QUINCY understood his colleague otherwise. He (Mr. VARNUM) had certainly said that he wished the petition printed, in order that the public might know who had signed them.

Mr. D. R. WILLIAMS inquired if the motion to print the names was withdrawn. If it was, he would renew it. He wished all the information on the subject he could obtain, and for that reason, he wished the names of the petitioners published. The printing of the petition could furnish no new information, for it had been already printed all over the continent before it was presented to Congress. This Mr. W. thought very unfair and indecorous, in the petitioners. He concluded, by moving that the motion be amended so as to comprehend the printing of the names.

Mr. VARNUM agreed that his colleague (Mr. QUINCY) had correctly stated his observations. He had, indeed, expressed a wish that it might be known who were the petitioners.

Mr. DANA was opposed to printing the names, but was solicitous that the petition might be printed. It would be convenient for the members to have it on their desks to refer to. Mr. D. conceived that the petitioners did not deserve the imputation of the gentleman from South Carolina, (Mr. D. R. WILLIAMS.) The petitions had been distributed in all the wards of New York for signers, and the publication of them could not be prevented.

The question being taken on the amendment offered by Mr. D. R. WILLIAMS, to print the names of the petitioners, it was lost—ayes 11. The question was then taken on the motion to print the petitions, which was also lost—ayes 46, noes 60.

MANHATTAN COMPANY.

Mr. CLINTON presented a petition from the President and Directors of the Manhattan Company in New York. The petition states that the law which directs that custom-house bonds shall be exclusively deposited in the United States Bank, affects their interests very injuriously; that the monthly deposits at New York amount, on an average, to $250,000. That the merchants dealing at the Manhattan bank, make in Manhattan notes large payments on account of custom-house bonds into the United States Bank, which, by means of their notes, draws largely on the Manhattan bank for specie; that, by these and similar means, the United States Bank regulate the discount, and contract the business of all the other banking institutions in the city. That the reasons which once existed for giving the United States Bank a preference, have since ceased, by the sale of the public stock. But the stockholders in the United States Bank are now almost entirely foreigners, which circumstance is favorable to the erection of foreign influence in this country, and ought to excite alarm.

Mr. C. said that as the subject related to the revenue, he moved the reference of the petition to the Committee of Ways and Means.

Mr. CROWNINSHIELD thought that the subject had no connexion with the revenue. In his opinion, however, the petitioners stated very strong reasons in support of their petition. They also seem to intimate a wish that they should be allowed a share in the deposits, which Mr. C. thought no more than reasonable. He concluded, by moving a reference of the petition to a select committee.

Mr. C. withdrew his motion that the petition be referred to the Committee of Ways and Means.

Mr. —— immediately renewed it.

Mr. QUINCY was personally indifferent whether the petition was referred to the Committee of Ways and Means, but, as the subject manifestly affected the revenue, it was proper to refer it to that Committee. It was a question very material to the revenue, whether the custom-house bonds should be deposited in the United States Bank. The contrary supposition implies that all banks are solid and secure.

Mr. CROWNINSHIELD conceived that the subject of the petition had no more relation to the Committee of Ways and Means than to that of Commerce and Manufactures, or any other standing committee of the House. Its object was, to procure relief against an injurious monopoly, possessed by a particular banking company. It neither proposed to give or take away one shilling of the public money. The Committee of Ways and Means were already pressed with a great deal of matter. Mr. C. did not wish to trouble the House with the United States Bank, but more than sixteen years they had enjoyed an exclusive monopoly, which has been very injurious to all other banking institutions, as has been very properly detailed in the petition. He meant to propose a plan for equalising the benefits of the deposits. This is a subject which deeply interested the constituents of his colleague, (Mr. QUINCY.) The merchants of Boston cannot procure any large sums except from the United States Bank, which controls all the other banks in that town.

The SPEAKER informed Mr. CROWNINSHIELD that it was improper to speak of any gentleman's district.

Mr. QUINCY observed, that all subjects relating to the revenue properly belonged to the Committee of Ways and Means. The present subject deeply implicates the revenue, because it all depends upon being safely deposited. His colleague seemed to have a great fellow-feeling for the Committee of Ways and Means, and appeared to be anxious lest they should be pressed with too much business; but that committee had sufficient time to consider all the business referred to them.

The question being taken on referring the petition to the Committee of Ways and Means, it was lost—ayes 32. It was then referred to a select committee of nine.

TUESDAY, December 23.

Another member to wit: EDWIN GRAY, from Virginia, appeared, and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing the report and transcripts of decisions made by the Commissioners appointed to examine the claims to land in the district of Vincennes, in conformity with the several acts making provision for the disposal of the public lands in the Indiana Territory; which were read, and referred to the Committee on the Public Lands.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the amount of deposits of the public money in the United States and other banks for the last three years; together with a table showing the balances in favor of the United States, remaining in the said banks, respectively, for that period, distinguishing the amount in each year; which were read, and referred to the committee appointed yesterday on the petition of the President and Directors of the Manhattan Company, of the City of New York.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before you accounts of the sums which have been expended by the United States on the Capitol, the President's House, the Public Offices, the Navy Yard, and the Marine Barracks, respectively; and the amount expended on other objects of public expense within the City of Washington, as requested by your resolution of the fifteenth instant.

TH. JEFFERSON.

DECEMBER 23, 1806.

The Message was read, and, together with the documents accompanying the same, ordered to lie on the table.

Mr. DAWSON, from the committee to whom was referred, on the seventeenth instant, the petition of sundry inhabitants of the counties of Alexandria and Washington, in the District of Columbia, made a report thereon; which was read, and referred to a Committee of the Whole House on Friday next.

Mr. MAGRUDER, from the committee appointed on the seventeenth instant, presented a bill authorizing the discharge of William Hearn, from his imprisonment; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and seven; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. JOHN RANDOLPH, from the same committee, presented a bill making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven; which was read twice, and committed to a Committee of the Whole on Monday next.

NATIONAL DEFENCE.

Mr. ELLIOT rose for the purpose of offering the resolutions of which he had given previous notice. He said he should not on this occasion avail himself of the ordinary indulgence of the House so liberally accorded to members who made long speeches on short resolutions. If the resolutions should be seconded, he would briefly state their general object, and then move their reference to a Committee of the Whole on the state of the Union, and if so referred, he would on a future day (for

the state of his health did not admit of it on this day) assign at length his reasons for them.

Mr. Elliot then offered the following resolutions:

1. *Resolved*, That it is expedient to make provision by law for the further and more effectual protection of the commerce, the seamen, the harbors, the coasts, and the frontiers of the United States.

2. *Resolved*, That, for the great purposes of national protection and defence, it is expedient to provide, by law, for repairing, manning, and supporting in actual service, the whole of the frigates and smaller vessels of war belonging to the United States.

3. *Resolved*, That it is expedient to provide, by law, for defraying the expenses incident to building two new frigates, to supply the places of the Philadelphia, which was lost during the late war with Tripoli, and the General Greene, which has been condemned as unfit for service.

4. *Resolved*, That provision ought to be made, by law, for preparing two or more navy yards, and navy arsenals, situated on or near the margin of the ocean, for the reception of ships and vessels of war, and for other naval purposes.

5. *Resolved*, That a committee be appointed to inquire what provision it may be necessary to make, by law, in relation to the location, establishment, and superintendence of navy yards and naval arsenals, and that the said committee report by bill, or otherwise.

6. *Resolved*, That a committee be appointed to inquire what further measures are necessary for the protection of American seamen, and for their release and indemnification when impressed into foreign service by the officers or subjects of foreign Powers, and that the said committee report by bill, or otherwise.

7. *Resolved*, That a committee be appointed to inquire into the situation of the fortifications of the ports and harbors of the United States; into the practicability and propriety of a general system of fortification, and the expense with which it would be attended; and, also, into the best method of fortifying the port of New York, and the other principal ports which are now in a defenceless state, and that the said committee report a statement of facts, with their opinion thereon, to the House.

8. *Resolved*, That a committee be appointed to inquire into the expediency of investing the President of the United States, by law, with ample powers to cause every aggression and attack upon the rights, the honor, and the interest of the United States, which may be committed or commenced by the officers, citizens, or subjects of any foreign Power, within the ports or harbors of the United States, within the waters under their jurisdiction, and upon the high seas within certain distances of the coast, to be immediately repelled, and effectually chastised, and that the said committee report by bill, or otherwise.

9. *Resolved*, That a committee be appointed to revise the existing laws respecting the militia; to devise means for completely arming and equipping for actual service, and for more effectually organizing and disciplining the whole of the militia of the United States, in order to render it an efficient force for the protection of the United States from invasion by any foreign Power, and that the said committee report by bill, or otherwise.

The Clerk having read the resolutions, Mr. Elliot moved their reference to a Committee of the Whole on the state of the Union.

It was suggested that most, if not all the subjects embraced by these resolutions, had been already referred to committees appointed on the several members of the President's Message, and that consequently a similar reference to other committees would, without any good purpose being attained, tend to complicate the proceedings of the House; and a question of order was raised as to the regularity of committing them.

The Speaker said that as the resolutions, though in some respects similar to the subjects already referred, in other respects varied from them, he considered the motion of reference in order.

Mr. Elliot said a few words to the same effect, and stated his wish to be afforded an opportunity on a future day, should the resolutions be committed, of offering his sentiments at length on the interesting objects embraced by them.

On referring the resolutions to the Committee of the Whole on the state of the Union, the House divided—only 32 members rising in the affirmative, the reference was disagreed to, when the resolutions were ordered to lie on the table.

IMPORTATION OF SLAVES.

The consideration of the bill prohibiting the importation of slaves into the United States was resumed in Committee of the Whole.

Mr. Early moved to strike out that part of the bill which declares the importation of persons of color into the United States felony, and punishes it with death.

This motion was supported by Messrs. Early and Holland, and opposed by Mr. Smilie, and agreed to—ayes 60, noes 41.

Mr. Bidwell renewed the motion formerly offered by him, so to amend the bill as to prevent the forfeiture of persons of color imported.

On this amendment a debate of considerable length ensued, in which Messrs. Bidwell, Cook, Sloan, Fisk, Bedinger, and Smilie supported, and Messrs. Lloyd, Early, Elmer, Alston, and Macon, opposed it.

The advocates of the motion observed, that when a former bill on this subject was before the House, a motion had been made to amend a section then under consideration, by striking out the forfeiture of persons imported as slaves. Before the question was taken on that amendment, another motion, prior in its nature, was made and carried, that the Committee should rise. The House afterwards recommitted the bill to a select committee, who reported it in the present form. They regretted then, and still regretted, that they did not first settle the principle by a vote which might have been an instruction to the select committee in redraughting the bill. And they thought it their duty, in this stage of the business, to take the sense of the Committee of the Whole on this point. The section under consideration related to a ship or vessel laden in whole or in part with persons, the importation or bringing of whom into the United States was prohibited. If the vessel was found in any of our ports, the owner and master are severally subjected to a pecuniary penalty. But there was no forfeiture of the vessel or

cargo, unless found in a harbor of some State whose constitution and laws permitted slavery. In that case, both the vessel and her cargo are to be forfeited, and, by another section of the bill, are to be sold under the authority and for the benefit of the United States. By the very terms of the provision, the cargo will consist in whole or in part of persons whose importation is prohibited—that is, persons unlawfully and forcibly taken by the crew of the slave ship, or somebody whom they may have employed for that purpose. For, in point of legal or moral principle, it made no difference whether the crew of an American slave ship, upon their arrival on the coast of Africa, go ashore themselves, or by surprise or force take possession of their prisoners, or, by the offer of a price, tempt some tribe or party of the natives to make the seizure for them. The crime is the same and the injury the same to the sufferers. In either case they are, without their consent, and against their will, by force and arms, torn from their homes, from their families, their parents, their children, their husbands, and wives, their brothers, friends, and acquaintance, from all those tender relations, which they, as well as we, have hearts to feel. In spite of entreaties, or cries and tears, they are unfeelingly dragged to the shore, hurried on board, crowded into the hold, loaded with chains, and transferred to their native land. Those of them who do not commit suicide through terror or despair, who do not sink beneath the rigor with which they are treated, or fall a prey to the diseases generated by their situation, are brought across the ocean to this country. The moment they arrive in any harbor within the jurisdictional limits of the United States, they are met by this law which we are now passing. It finds them, by the laws of God and man, entitled to their freedom as clearly and absolutely as we are. They are not, by any law, human or divine, the slaves of any master. They are not the lawful property of any owner. They are no more the property of those who hold them in duress than the man who is robbed is the property of the highwayman while in his power. Their detention is a wrongful, false imprisonment. In this very bill we declare it to be a high crime. By the same law we condemn the man-stealer and become the receivers of his stolen goods. We punish the criminal, and then step into his place, and complete the crime which he had only begun. We ourselves do that which we prevent him from doing; that which he had crossed and recrossed the Atlantic, at the hazard of his life and the sacrifice of his character and his conscience, to be enabled to do. We sell his victims as slaves, receive the price of their slavery, and put it into the public treasury; and the vendee holds them and their children, from generation to generation, in perpetual slavery, by a title derived from our law. In short, we assume to ourselves, as a Government, the exclusive right of selling slaves imported into the United States. It is very different from a case alluded to in the debate of a former day—the case of a judgment in favor of the United States against a debtor, on which, if a writ of execution is issued against his goods and chattels, in a State where slaves are considered personal estate, they may be taken and sold as such in satisfaction of the execution. There the process of the United States only operates to transfer from one master to another a title created and existing by the law of the State—a law which ours cannot constitutionally control, and to which it must conform. But when a person of the description referred to in this section is forfeited, as a part of the prohibited cargo, and sold accordingly, the purchaser's title to him as a slave is derived immediately, originally, and solely from the United States. For the honor of the nation, it was hoped their statute books would never be stained with such a provision. The President, in his Message to both Houses of Congress, has congratulated us upon the approach of the time, when, agreeably to the Constitution, we may prohibit the African slave trade. In mentioning it, as a subject of congratulation, he has spoken the language of humanity, of justice, and sound policy, the language and sentiment of the nation. They hoped they should pass the prohibition, which was thus recommended, and share in the honor of passing it. But, ardently as they wished this, they would prefer to pass no prohibitory act; they would rather do nothing at all upon the subject, than adopt a principle which appears so objectionable. They trusted, however, it would not be adopted. To try the sense of the Committee upon the question, it was moved, as an amendment to this section, after the word vessel, in the tenth line, to strike out the words, "if brought into any port or place within a State or Territory, the Constitution and laws of which permit slavery, shall, together with her cargo, tackle, apparel, and furniture," and, instead thereof, to insert these words, "Shall, together with her tackle, apparel, and furniture, and all her cargo, except persons;" so that the clause may stand thus: "and such ship or vessel shall, together with her tackle, apparel, and furniture, and all her cargo, except persons, be forfeited."

The opponents of the amendment, observed that its advocates had acted the part of a physician who should tell his patient, you are in extreme danger, you have a violent disease, it is necessary to do something. They had portrayed in vivid colors the nefarious nature of this traffic; but had objected to the only practicable mode of arresting it, without even suggesting a substitute for it. When asked what they will do with these people when brought among us, they answer they will not dispose of them in this or that way, but will leave them for future disposition. Some gentlemen had indeed undertaken to strike out a plan for their further disposition, and recommended their deportation; others had objected to this course. Some were for leaving them to the States, to which, too, others were opposed. What was the result of all this, but that gentlemen could not agree among themselves on any other practicable plan than that contained in the bill? What was the natural conclusion, but that this was the only practicable plan that could be devised? The great object was to pass such laws to remedy the evil,

as would be carried into effect where the evil existed. There was no difficulty in legislating so far as respected the direct trade of this country. So far, the revenue laws and armed ships would be effectual in prohibiting it. But the great difficulty arose from the indirect trade through the contiguous territories of adjacent Powers. To these points it became necessary to apply the remedy.

What Charleston then was, it was probable that St. Mary's, the Mobile, and Ponchartrain, would become in relation to the slave trade, unless some strong provisions were devised to operate on the direct trade. If this provision were stricken out, it would be necessary to strike out another similar provision, in the next section, for the forfeiture of any slave found in the United States contrary to law; and where then would be the preventive from introducing them into the United States through the Spanish territories? There would be none. The vessel in which they shall be brought cannot be taken, because she will be bound to a Spanish port, and because she will sail under Spanish or Danish colors. The cargo will be landed in the Spanish territories within stone's throw of our own doors. The captain, the owner, and the vessel, will be safe in the Spanish dominions. Their owners will bring them to your line, and sell them with impunity to your citizens, and they will immediately mix among the slaves previously in the country. They demanded to know how, without a forfeiture of the people, their introduction into the United States was to be prevented.

The penalties of twenty thousand and fifty thousand dollars, on the owner and seller, would be a nullity, as they were out of reach. Who then, in such circumstances, could be operated on, but the purchasers? There was the rub—it was their interest alone which, by being operated on, would produce a check. Snap their purse-strings, break open their strong box, deprive them of their slaves, and by destroying the temptation to buy, you put an end to the trade.

But it might be said, if this business is left to the States, they may operate by their laws on the interest of the purchaser. But was it come to this? That Congress were so anxious to put an end to this nefarious trade, and yet were willing to leave its actual destruction to the several States? Could gentlemen insure the adoption of fit regulations by all the States? Were they prepared to rest the business on every State adopting these regulations, when the forbearance of a single State to pass the necessary laws would effectually prevent the redress of the evil?

Some gentlemen appeared to think this evil would be effectually met by commercial and custom-house regulations. But the fact was, that nothing short of a forfeiture of the slave would afford an effectual remedy, the former would be like weaving a cage of cobwebs for a lion, whom nothing short of a cage of iron would confine.

The Committee now rose, without coming to a decision on the amendment; and, on motion, the House adjourned.

WEDNESDAY, December 24.

Mr. FINDLEY, from the Committee of Elections to whom it was referred to examine the certificates of election, or other credentials, of members returned to serve in this House, made a report, in part, thereon; which was read, and ordered to lie on the table.

Mr. DAWSON, from the committee appointed on the eighteenth instant, presented a bill authorizing the proprietors of squares and lots in the City of Washington, to have the same subdivided and admitted to record; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. CLAIBORNE, the petition of Amy Dardin, presented to this House on the 27th of December, 1804, was referred to the committee appointed, on the eleventh instant, "to inquire whether any, and, if any, what, description of claims against the United States are barred by the statutes of limitation, which, in reason and justice, ought to be provided for by law."

NATIONAL DEFENCE.

Mr. EARLY called for the order of the day, on the bill prohibiting the importation of slaves.

Mr. FISK hoped the consideration of this bill would be postponed, that the report of the committee on measures for the defence of the frontier might be taken up. He considered it high time to proceed to the consideration of this subject. The chairman of the select committee, (Mr. RANDOLPH.) had been attending for two days, and was now absent, he presumed, in consequence of the feeble state of his health.

Mr. EARLY said he had no disposition to press his motion, in case other more important business required attention. On this point the House would decide for themselves.

Having disagreed to the motion of Mr. EARLY—ayes 20—the House agreed to consider the report of the select committee, called for by Mr. FISK, and went into Committee of the Whole on the report of the committee to whom was referred, on the third instant, so much of the Message of the President of the United States as relates "to the invasion of our territories by the troops of Spain, and the adoption of measures for the protection thereof."

The first resolution having been read, as follows:

1. *Resolved*, That provision ought to be made by law to fortify and defend such position on the Mississippi, below the city of New Orleans, as the President of the United States shall designate for the protection of that city; and that further provision ought to be made by law for guarding the approaches to the same from the east;

Mr. FISK observed, that the city of New Orleans was in such a situation as to require some additional fortifications. Those at present erected on the Mississippi were not in the most eligible position to guard the place; and it was also considered necessary that some measures should be taken to guard it against any hostile approaches from the east. Perhaps a small vessel and some

gunboats might be requisite, as well as some batteries, the expense of which would not be great.

Mr. G. W. CAMPBELL observed, that very little need be said on this resolution. He would barely remark, in addition to what had been said by the gentleman from Vermont, that this subject had been considered as having been recommended by the President as proper to be taken up immediately. There was at present no defence of the mouth of the Mississippi below New Orleans. That place was therefore greatly exposed from that quarter, and measures consequently became necessary to guard it against the invasion of a foreign enemy, and from attacks that might be made from our own country, if there existed any persons that had harbored such a design. He understood that some distance above the mouth of the river was contemplated as an eligible situation for fortification, at a point where there had been a fort, but which had gone much to decay. It would either be necessary to repair this fort, or to erect another. He had also been informed that it was practicable for vessels of some burden to make an attack on New Orleans from the lakes, and thence the necessity of guarding the place against any attack from the east.

The question was then put, and the resolution agreed to without a division.

The second resolution was then read as follows:

2. *Resolved*, That the President of the United States be authorized to accept of any company or companies, of volunteers, either artillery, cavalry, or infantry, who may associate and offer themselves for the service, (not exceeding —— thousand men,) who shall be clothed and furnished with horses at their own expense, and armed, and otherwise equipped at the expense of the United States, except such of them as may choose to furnish their own arms, and whose commissioned officers shall be appointed by the respective State and Territorial authorities; who shall be liable to be called upon to do military duty at any time the President shall judge proper, within —— years after he shall accept the same; and when called into actual service, and whilst remaining in the same, shall be under the same rules and regulations, and be entitled to the same pay, rations, forage, and allowance for clothing, with the regular troops of the United States.

Mr. G. W. CAMPBELL said this resolution had been introduced for the purpose of putting into the hands of the Executive a disposable force, which might be called out at a moment's notice, whenever the exigency of affairs might require it. By an act of the last session, the President had been authorized to call on the Executives of the several States for a detachment of the militia, and he was authorized to accept of volunteers as a part of the detachment. But that act did not authorize the President to accept the volunteers until such detachment should be called forth. This restriction had produced considerable inconvenience. It had left the Government without any organized force, until the detachment was called out. By the present resolution the President was authorized to receive the offers of the volunteer companies, that they might be organized, and be ready to enter into actual service at any moment. There was good reason to believe, that there was a number of citizens of the United States willing to offer their services, sufficient to prevent any attack on the frontier, or any other attempt that might be made to disturb the peace of the nation. Offers, to a considerable extent, had been already made. There could be no objection to vesting the President with authority to accept these offers, as it was not intended to incur any expense until the volunteers were called into actual service.

Mr. C. added that the services of these volunteers might be fully depended on, to defend the country, in case any hostile attempt should be made. Those who offered their services voluntarily, it would be admitted, were as worthy of reliance as men compelled to serve, or those who served entirely from pecuniary considerations. For these reasons he believed that no measures could be adopted, better calculated to repel invasion, or suppress any attempt that might be made against the peace of the nation.

Mr. DANA said, he observed that the chairman of the select committee had addressed a letter to the Secretary of War, requesting information with regard to the number of troops in the Army of the United States; to which an answer had been given by the Secretary, stating their amount, and the different stations at which they were posted.

Mr. D. said, he wished to know whether there was any necessity for any additional force, and to decide this point, he called for the reading of the law fixing the Military Establishment.

This law having been read, Mr. D. remarked, that the law was silent as to the amount of the Marine corps. He would wish some gentleman, acquainted with the subject, to give him this information.

Mr. G. W. CAMPBELL said he would barely observe that the Message of the President, who must be considered as best acquainted with the situation of our troops, and such measures as are necessary to secure the frontiers, had stated the necessity of adopting measures to organize the militia that might be called out, or of obtaining volunteers. [Mr. C. here quoted from the President Message.] It would seem, upon this, that he meant to intimate the necessity of adopting such a measure, as was contemplated by the resolution. As to the information received from the Secretary of War, Mr. C. presumed every gentleman could estimate the number on the frontiers as well as the Secretary, as he advised us where the others were stationed, as well as that all the corps were nearly full.

Mr. DANA said he would freely acknowledge that one of the objects, which induced him to rise, was to obtain information as to the state of affairs, and the means we possessed of securing the country. He did suppose the House entitled to this information. He did suppose it proper for the Secretary of War to say what troops were in actual service. It required but superficial knowledge to know that the number of troops on paper were very different from the number of active troops. The last was what he wanted. Gentle-

men had referred to the statement of the Secretary, and had said it supplied the means of making this estimate. But did they not know that the number which composed a company of artillery was not the same with that which composed a company of infantry? The Secretary did not in his letter discriminate between them. Mr. D. said he was willing to vote for whatever measures were necessary for the defence of the country; but he did believe that the representatives of the people, before they voted for such measures, had a right to more satisfactory information.

Mr. CHANDLER observed that he believed the Secretary of War had given information from which every member could adduce the information that the gentleman from Connecticut professed to desire. He tells us that the peace establishment is nearly complete; and as to the difference in the number of men that compose a company of infantry and artillery, it was too trifling to make any material difference in the estimate. The Secretary had not confined himself to stating the amount of our forces on paper; but had expressly declared that they are nearly complete. As to the Marine corps, Mr. C. said he did not know whether he was correct, but he had always considered it as more appurtenant to the naval than the military establishment; information relative to which could not therefore be expected from the Secretary of War.

Mr. DANA replied that all the information given by the Secretary was, that the companies were nearly complete. Who could say what was meant by nearly complete? It might mean that they were four-fifths full, as it was known that in common cases this was considered as tolerably full. Mr. D. said he wished for more precise information, and for one he entered his protest against so incomplete a statement. He did not think the representatives of the people should acquiesce in such a course. As to calling forth volunteers, he did not know that he had any objection to it; though perhaps a more efficient force might be proper.

Mr. BIDWELL said that the gentleman from Connecticut had not satisfied him that he was so ignorant as he professed to be. It appeared to him, on the contrary, that he had before him all the means of information that could be thought necessary. It was objected that the Secretary, instead of stating the exact return of each corps, had merely stated that they were nearly complete. It was true the Secretary had not stated the numbers in each company, whether there was two, or three, or half a dozen men wanting in each. This was not, perhaps, practicable; but the information, as their to present state, was given in terms sufficiently definite, when it was said they were nearly complete.

Another point of difficulty is, that the Secretary has not specified whether the eighteen companies posted at the different places named are artillery or infantry. It appears from his letters that eighteen companies are stationed at various places, and that the residue, to the number of twenty two, are with the Army under the command of the brigadier general. If any further information were required, he could not see the object.

Whether the present state of things was such as to authorize the President to accept of volunteers, every gentleman would judge for himself. It had rightly been observed, by a gentleman on the committee, that the volunteers would not be called out, though in a state of readiness, until there was actual occasion for them. An objection raised against a former establishment of this kind would not apply to this; for the officers were, under this resolution, to be appointed by the States, and not by the President of the United States. Mr. B. concluded, by saying, it appeared to him not only safe, but reasonable and necessary, to give the President this authority.

Mr. QUINCY said he would ask gentlemen what effect the resolution was likely to produce; whether there were any such associations of volunteers on the frontier as were contemplated in the resolution, and whether these associations were in such a situation as to enable them to render efficient services? He wished likewise to know the probable amount of those who were likely to offer their services to the President. An answer to these questions would enable him to decide whether this force, added to that of the regulars, would be competent to defend the country.

Mr. G. W. CAMPBELL replied that it would take a considerable time to answer definitely the questions of the gentleman from Massachusetts; but such data as the select committee possessed he would state. It was not contemplated to confine the offer of volunteers to the frontiers or the adjacent territories. On the contrary, it was proposed to authorize the President to accept the services of volunteers from any part of the Union. Nor was it necessary that those who offered their services should have associated as volunteers before this authority is given to the President. Mr. C. said he had understood that several corps of volunteers had already offered their services; that two or three regiments had offered in the Western country; that similar offers had been made in other States; and the papers would show that a like offer had been made in Philadelphia. This afforded sufficient ground for believing that a competent number of volunteers would offer for any exigency.

The question was then taken on the second resolution, which was agreed to without a division—when the Committee rose and reported their agreement to the resolution.

The House having agreed to consider the report of the Committee of the Whole,

Mr. G. W. CAMPBELL moved to fill the blank in the first resolution with the word "thirty," which the House agreed to without a division.

Mr. C. then moved to fill the second blank with the word "two."

Mr. TALLMADGE suggested some difficulty which would probably arise from the ambiguous language of the resolution—to which Mr. C. replied that an attentive reading of the resolution was sufficient to remove it.

The resolution having been read—

Mr. VARNUM observed that the difficulty started by the gentleman from Connecticut was not ideal, and that although the volunteers might be accepted for two years, yet they might be scattered in a shorter time. This difficulty did not attend calling out a detachment of the militia, whose numbers would remain, for a long time, pretty nearly the same.

Mr. V. said, he wished to inquire what kind of troops these volunteers were to be denominated? Were they to be considered as belonging to the militia or the army? He knew of no other description of troops. The Constitution had authorized the General Government to provide for the defence of the country by raising armies, whose officers are to be appointed by the President, with the advice and consent of the Senate, or by organizing and disciplining the militia, whose officers were appointed as directed by the State authorities. The contemplated body appeared to him to be of neither of these descriptions. It also appeared to him that a serious difficulty might occur in the appointment of their officers. It might be considered as doubtful whether the Executive department of the Government possessed the right of appointing the officers of any corps, except those in which authority was given by the Constitution, and these were the militia. Mr. V. said, he thought if the resolution directed that the volunteer corps should be commanded by officers of the militia, this difficulty would be removed.

Mr. V. added, that he did not see that the President would be certain of being able to command any particular number of these men, that might be wanted at any time. Suppose any of the State governments should neglect to appoint their officers, there were no means to compel the State authorities to make the appointment? Was it safe to rest the defence of the country on this ground?

Mr. FISK said, that the gentleman last up had two objections to the resolution; the first, that these corps would belong to no regular force; and the second, that there was no power vested in the Executive to commission the officers. The second objection was founded on the first, and, if the first fell to the ground, the last would fall to the ground with it. If it could be shown that these corps would be a part of the militia of the county, all difficulty would be removed. If they examined the Constitution, they would find that Congress had power to organize as well as arm the militia. The gentleman would not contend that Congress was obliged to organize the militia the same way in every State. The present corps were on the same ground with the common militia; they were only subject to be called on at any exigency—so was the existing militia. The advantage, however, of the former over the latter, was, that they would be equipped and prepared for service.

With regard to the difficulty, as to officers, it would occur in every case that had been mentioned. If there should be a detachment of the militia, the detachment would not consist of whole companies, but of parts of companies, who, when called into service, must have the officers attached to the entire companies, or new ones.

Mr. G. W. CAMPBELL said, he apprehended that the difficulty suggested by the gentleman from Massachusetts, had arisen, in a great degree, from not understanding the term *State authorities*, in the same way with the Committee. The first difficulty stated by the gentleman, of the possibility of the corps separating, appeared to him very extraordinary. The objection went too far to be a sound one. It went to show that, because they could not have a force which should be always equally strong, they ought, therefore, have none at all. But the gentleman might easily overcome this difficulty by augmenting the number of volunteers to forty thousand instead of thirty thousand.

Another objection offered, Mr. C. said, had been answered by the gentleman on his left, (Mr. FISK.) He would, therefore, only add, that he could not believe that the gentleman had seriously reflected on the subject, when he expressed a doubt whether this force would be of the militia or the regular army. It is expressly stated in the resolution that it shall be composed of such company or companies as may offer their services. Mr. C. said, he did not pretend to be much conversant in military language; but, according to his understanding of the term, a company implied a certain number of men, with officers appointed over them. The resolution went further, and made it necessary that the officers should be appointed by the State authorities—not meaning, as the gentleman seemed to infer, that they should be appointed by the Executive, but in the way prescribed by the respective State laws.

The gentleman had also inquired whether it will be safe to rest the defence of the country on these volunteers. We say that this will be providing a more efficient force than at present exists. As to any other more effective force, the propriety of that may be discussed hereafter. The acceptance of volunteers will not preclude the adoption of other measures, if they shall be deemed necessary.

Mr. C. said, he would have no objection to any amendment, predicated on the principle that the officers should be appointed according to the laws of the several States; but this he considered as matter of detail, which would be better settled when a bill was brought in.

Mr. C. said, it had been suggested by the gentleman that the President might appoint the officers; but, he differed widely from him on this head. He did not conceive they possessed the power to authorize the President to appoint them. There had been once a law to this effect; but it had been very generally reprobated by the republican party, who had considered it unconstitutional. Mr. C. said, in his opinion, it was directly in the teeth of the Constitution.

Mr. VARNUM said, he did not know but that the ideas of the gentleman were perfectly correct; but if so, none other than whole companies could be accepted. He, however, rather thought his

ideas incorrect. The words of the resolution were: [Mr. V. here read the first resolution.] Now, a company, according to the meaning of the word, was a body of men composed of sixty-four privates, who, if they should associate together, although drawn from different companies, the President would have a right to accept; and, if so, the idea of companies who may offer, having officers, was incorrect.

Mr. V. said, he was perfectly willing to adopt measures for the protection of the country: and, if the militia were not properly organized, that they should be organized anew. If, however, they were so organized as to deserve to be trusted, it was improper to introduce a system which virtually declared them unworthy of confidence. The country was, at this time, in rather a peculiar situation. They had heard a great deal about conspiracies, and people were collecting together for certain purposes. He trusted there was no part of the people that would join in any dangerous attempts against the peace of the country; yet, on the principle of the resolution, such men might associate and choose their officers with the view of carrying on the plans they have in contemplation.

Mr. Bidwell observed, that the objects his colleague had in view would be attainable in the details of the bill, viz: that the officers should be taken from the existing militia officers of the State where there was no authority in the Executives to appoint them. This was, however, a matter of detail; but, to remove the difficulty of his colleague, he would offer an amendment to the resolution. Mr. B. then moved to strike out "whose commissioned officers shall be appointed by the respective State and Territorial authorities;" and insert "who shall be commanded by such officers of the militia of the States and Territories to which such companies shall respectively belong, as shall be designated by the Executive authority of each State or Territory."

The question was then taken on filling the blank with "two" years, and carried without a division.

Mr. G. W. Campbell said, he had before remarked, that this was a point that would be most properly settled in the details of the bill. But, he would observe, that it was not his object to give the appointment of the officers to the Executive, but that they should be appointed by the respective authorities provided in the several States.

Mr. Bidwell replied that the operation of the amendment would not be such as the gentleman from Tennessee combatted. It only went to give the Executives of the States a right to designate for the command such of the existing militia officers as they might think proper.

Mr. Smilie said, he was against the amendment. In the State he represented, the militia had a right to make choice of all their officers, from a Colonel downward; and he had no doubt of there being many men in the ranks who would make very good officers. As the amendment went to limit the range of choice, he was hostile to it. There were, likewise, other considerations that made him unfriendly to it. Was it not important, when men went out to sacrifice their lives in defence of their country, they should have the choice of their own officers? Would not this strengthen the attachment both of men and officers? Would not pride, too, have its influence on them? And would they not be more ready to support men of their own choice? Was it not to men being advanced, according to their merit, that the French army was indebted for its great ascendency?

Mr. Alston said, if they hesitated in the passage of any resolution on this subject, until every gentleman was satisfied as to the mode of officering the militia, there was no period which could be assigned to the protraction, as in every State a different mode prevailed. They could never be able to get along. Could not gentlemen agree to give up, in some degree, their own peculiar ideas, when an object of so much importance was to be effected? He did not care how the object was effected, provided it was constitutionally done.

Mr. Elmer said, the amendment went, as far as it had any operation at all, to do away the principle contained in the resolution, which was to authorize the calling out a body of volunteers. If the amendment prevailed, the men would be volunteers, but the officers be draughted. He could not see where the difficulty existed. The resolution authorized the President to call out any company or companies, which must consist of officers as well as privates; the same would be the case in the instance of a larger corps, such as a battalion or a regiment; and the only difficulty which could arise would be with respect to officers of a superior grade. Should there be a difficulty on this head, where one company was taken from one regiment, and one from another, it might be provided for in the details of a bill. For these reasons, he should vote against the amendment.

Mr. Dana called for a division of the question; when, on striking out the words moved by Mr. Bidwell, only ten members rose, and the motion to insert the other words, fell of course.

Mr. Masters thought affairs looked very serious, and he rose to inquire, whether these were all the measures contemplated to be taken? When the invasion of our territory was in question, he thought the most efficient measures ought to be adopted.

Mr. G. W. Campbell said he really did not suppose it was for the Committee to tell the House what they ought to do. They had made a report, in part, in which they recommended the adoption of such measures as they considered proper at this time. What might be proper to be done hereafter, he would not pretend to say; but he thought there might be a general concurrence in the measure now proposed, even by those who wished to aid it by stronger measures.

Mr. Kelly had no objection to authorizing the acceptance of a volunteer corps; his sole objection was as to the proposed mode. He believed such a measure necessary, but he could not give his consent to the terms of the resolution, or to the manner in which it was proposed to raise this force.

If he understood the report, it went to raise a force, which, according to the first resolution, was considered necessary for the defence of New Orleans. The second resolution provides for the acceptance of volunteers. This force was not subject, after being accepted, to the authority of the United States, till called into actual service. The resolution amounted to this: When the volunteer corps offered their services, in case they were not armed and equipped, they are to be armed and equipped at the expense of the United States, subject to the call of the President of the United States, within two years; but not subject to the rules for the government of the Army until called into actual service. When accepted, they become detached from the rules for the government of the militia of the respective States, without coming under the government of the rules of war, and thus appear to be under no government whatever. Suppose the President should accept of these volunteers immediately, they will not, notwithstanding, until called into actual service, be subject to his control, they will be only subject to such rules as they may choose to prescribe for themselves. Now it may happen that volunteer corps may offer at New Orleans, who, before the cession of that country, belonged to the King of Spain, and who, after they are armed by the United States, may change their sentiments, and choose to go under the Government of their old masters, or establish themselves in entirely detached corps. Under this view of the subject, Mr. K. said, he could not be in favor of the resolution. But if it could be so modelled as to authorize the President to accept volunteer corps which would pass immediately under the Government of the United States, he would agree to it.

Mr. Eppes said, he had hardly supposed there would have been any opposition to this resolution. When they considered the present situation of the United States, and when every man would admit that it was right to resort to preparatory measures of defence of some kind, he would ask gentlemen what course they would wish to pursue? Would they, in the existing posture of affairs, vote for raising an army, when they were not certain that there would be any occasion for it? If not, what expedient was left? Either to call out the militia, or to resort to a system of volunteers. The objection to calling out the militia had been already stated. Situated as they were, in some points not organized, and at a distance from the scene where they would be required to act, the public interest would materially suffer, if we trusted exclusively to them. On the other hand, if volunteers were received, if their patriotism was allowed to rally round the country, there was reason to believe that they would, in every respect, prove sufficient for its defence, without costing the public a dollar until called into actual service. Mr. E. said, he did not know that he should have said a word on this subject, but that the observations of the gentleman from Pennsylvania, (Mr. Kelly,) required some notice. We had recently acquired territory, and men who supported the character of Americans. He trusted they were disposed to treat and cherish them as such, and not to stamp them with the imputation of suspicion. When we have been officially notified, on a recent occasion, by the President of the United States, that they have acted with fidelity toward us, shall it be said that they may hereafter raise their arm in favor of their ancient masters? Mr. E. said, he begged leave to call the attention of the House to that part of the Message which related to this subject:

"I inform you, with great pleasure, of the promptitude with which the inhabitants of those Territories have tendered their services in defence of their country. It has done honor to themselves, entitled them to the confidence of their fellow-citizens in every part of the Union, and must strengthen the general determination to protect them efficaciously under all circumstances which may occur."

Shall men, thus recently presented to our notice, be now branded as traitors to their country?

Mr. Kelly said he had been certainly misunderstood. He did not mean to say any such thing as had been imputed to him. He had barely said that, if accepted and not called into actual service, some of them might hereafter possibly be disposed in favor of a change of masters. He did not mean to brand the people he had referred to, but merely to provide against what might be deemed a possible case.

Mr. G. W. Campbell said, he did not expect that this subject would have taken up more than a few minutes, and he should not have again troubled the Committee but for the insinuations thrown out by gentlemen.

The gentleman from Massachusetts had insinuated that some of the volunteer corps might prove unfaithful to the United States. Why such an idea had been thrown out, he could not comprehend, even if there was fear of such a result. Nothing was more likely to excite the feelings of persons so disposed, than to know that they were the objects of our suspicion. Are those men, whose services are wanted, to be told that they may turn their arms against their country? Is this the way to command their services or their confidence? Mr. C. regretted this insinuation more than anything he had heard thrown out in that body. Instead of this treatment, we ought to convince them that they possess our confidence, especially as every gentleman knew that the compensation offered would pay scarcely a fourth part of their expenses. There would, therefore, be little inducement for them to turn out, if they knew they would be the objects of suspicion.

As to the people on the frontiers, there was as little ground to suspect the purity of their conduct, as the conduct of persons in the heart of the Atlantic States. If there were conspirators against the peace of the country, you will find the body of them, said Mr. C., composed of men who have hitherto resided in the old parts of the Confederacy. You will find few or none of them on the frontiers; and, so far as I am acquainted with the people of this country, I believe there is no part of them more attached to the Government and the Union than the Americans on the frontier set-

tlements, and I may extend the remark to a large portion of the foreigners.

Mr. Elmer believed that the sentiments of the gentleman from Pennsylvania were such as required notice in the details of the bill, in which it might be necessary to provide for the safe-keeping of the arms confided to the volunteers, as well as to determine by what rules they should be governed until they were actually called into service.

Mr. Dana said, if a bill were before the House, it might be proper to discuss all these details. This, however, was only a resolution fixing the principle. If a bill, it would be totally defective. It contained no provision as to the government of the body, or as to the staff or field officers; but these defects would, doubtless, be provided for in the bill. Since, however, he was up, he would say, he was far from considering the observations of his friend from Pennsylvania, as meriting the animadversions passed upon them. He had merely observed that, among thirty thousand men, there might be some who would be disaffected to the United States. He had fixed no particular imputation on any body of men. If he were wrong in this opinion, he was wrong in believing the President of the United States, who had announced the unpleasant fact, that enterprises had been formed against the possessions of a foreign Power. His friend from Pennsylvania had merely alluded to this idea, without specifying any particular point where such disaffection might arise.

Mr. Clark said it appeared to him that the gentleman from Pennsylvania had not meant any particular allusion to the people of the Orleans Territory, who had been invariably attached to every nation under whose protection they had been placed. He was able to state, from circumstances within his immediate knowledge, that when the forces of the United States were not sufficient for the taking possession of the country, it was owing to the men under his command that the United States obtained peaceable possession. The people of the Territory had offered their services to the United States, and had been disregarded by the man put over them, and a preference given to another corps. The militia were in an unorganized state—there were, indeed, no militia in the Territory. But, he would venture to say that, whenever their services were required, they would come forward immediately, and would form a band for the defence of the country; and that if there should be a conspiracy against the United States, there would be no Louisianan concerned in it.

Mr. Epps rose merely to put the gentleman from Connecticut right. The gentleman from Pennsylvania had specially alluded to the militia of Orleans, and had spoken of their ancient masters.

The question was then put on the resolution, which was agreed to without a division; when the two resolutions were referred to a select committee, to bring in a bill.

And then the House adjourned until Friday.

Friday, December 26.

Another member, to wit: Matthew Clay, from Virginia, appeared, and took his seat in the House; and another new member, to wit: Dennis Smelt, from Georgia, returned to serve in this House, as a member for the said State, in the room of Joseph Bryan, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. Elliot, one of the members from the State of Vermont, presented to the House certain proceedings, and a resolution of the Legislature of the said State, concurring with the resolutions of the State of Kentucky, proposing an amendment to the Constitution of the United States, "for confining the judiciary power of the Courts of the United States to cases in law and equity, arising under the Constitution and laws of the United States, and treaties made, or which shall be made under their authority; cases affecting Ambassadors, other public Ministers, and Consuls; cases of admiralty and maritime jurisdiction; controversies to which the United States shall be a party; and to controversies between two or more States;" which were read, and ordered to lie on the table.

Mr. Marion presented to the House a petition of sundry merchants of Charleston, in the State of South Carolina, which was received and read, praying relief for depredations committed on the ships and other vessels, with their cargoes, being the property of the petitioners, while in the pursuit of their lawful commerce, by the privateers and vessels of war of the French Republic.—Referred to Mr. Marion, Mr. Epps, Mr. Clinton, Mr. Tallmadge, Mr. Cotts, Mr. Dickson, Mr. Blount, Mr. Findley, and Mr. Tenney; to examine and report their opinion thereupon to the House.

On motion of Mr. Newton,

Resolved, That the President of the United States be requested to cause to be laid before this House the number and state of the frigates, and such other information, touching this subject, as may be in his possession.

Ordered, That Mr. Newton and Mr. Smilie be appointed a committee to present to the President of the United States the foregoing resolution.

The House resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and seven. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

Mr. Findley presented to the House a petition of Montgomery Montour, a chief of the Delaware tribe of Indians, in behalf of himself and other chiefs of the said tribe, which was received and read, stating that at a treaty held by the Commissioners of the United States, and the Delawares, Pottawatimies, Miamies, &c.. and approved of by

the President of the United States, on the twenty-fourth of April, one thousand eight hundred and six, an imposition was practised upon the said Commissioners in signing the names of the chiefs of his nation, who were not present at the said treaty, whereby the Delaware tribe have been unjustly deprived of their lands, and the improvements thereon; and praying that Congress will direct a survey of land to be made, including the lower town of the said tribe, on the Sandusky, with all their improvements, to be secured to the present inhabitants of their two towns, and their heirs, forever.—Referred to the Committee on Public Lands.

PUNISHMENT OF CERTAIN CRIMES.

On motion of Mr. Dawson, the House resolved itself into a Committee of the Whole, on the bill providing for the punishment of certain crimes against the United States, which was read by the Chairman, as follows:

A Bill providing for the punishment of certain crimes against the United States.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person or persons shall, within the territory or jurisdiction of the United States, begin, or set on foot, or provide or prepare the means for any military expedition or enterprise, with intent of taking possession of any fort, arsenal, magazine, dock, navy yard, or any public vessel of the United States, or of invading, or occupying with an armed force, any part of the United States, or the territories thereof, or with intent, in any other manner, of levying war against the United States, or of adhering to the enemies of the said States; or who, with intent, as aforesaid, shall combine or conspire together, or shall counsel, advise, or attempt to set on foot, provide, or prepare the means for any such military expedition or enterprise, or to procure any insurrection, unlawful assembly, or combination, for such purpose, although such expedition or enterprise shall not be carried into effect, and whether such conspiracy, counsel, advice, or attempt, shall have the proposed effect or not; every such person or persons so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall suffer fine and imprisonment, at the discretion of the court in which the conviction shall be had, so as that such fine shall not exceed —— thousand dollars, or be less than —— dollars, nor the term of imprisonment be more than —— years, or less than —— years; and further, at the discretion of the court, be holden to find sureties for his, or their good behaviour, in such sum, and for such term, as the said court may direct: *Provided always*, That nothing herein contained shall be construed so as to prevent the trial and punishment of any person or persons guilty of treason, murder, or any other offence punishable by any law or laws of the United States.

Sec. 2. *And be it further enacted*, That the trial of the abovementioned offences may be had in any of the districts or territories where any of the acts constituting the offence shall have been committed, and all the acts constituting the offence may be brought in evidence on such trial, in whatever part of the United States, or the territories thereof, they may have been committed.

Sec. 3. *And be it further enacted*, That whenever it shall appear to the satisfaction of any judge or justice of the United States, or of any State or Territory possessing authority to bind to the peace and good behavior, that any person intends to commit any misdemeanor provided against by this act, it shall be lawful for such judge, or justice, to cause such person to be brought before him, and to require from such person good and sufficient sureties, in such sum as shall be deemed reasonable, that he shall not, by any act to be done within the United States, or the territories thereof, commit any offence against this act, within the term of one year, or such longer term as the case may reasonably require, and, in default thereof, may commit such person during such term.

Sec. 4. *And be it further enacted*, That, in every case in which any military expedition or enterprise shall be begun or set on foot contrary to the prohibitions and provisions of this act, it shall be lawful for the President of the United States, or such other officer as he shall have empowered for that purpose, to employ such part of the land or naval force of the United States, or of the militia therof, as shall be judged necessary for the purpose of preventing the carrying on of such expedition or enterprise.

Sec. 5. *And be it further enacted*, That in all cases of insurrection or obstruction to the laws, either of the United States, or of any individual State or Territory, where it is lawful for the President of the United States to call forth militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States, as shall be judged necessary, under the same restrictions and conditions as are by law provided and required on the employment of militia in the same case.

The first blank in the first section was filled with "ten;" the second with "five hundred;" the third with "ten;" and the fourth with "one."

The third section having been read,

Mr. J. Clay said, it appeared to him that this section gave most extraordinary powers to the justices of the peace. In the State which he represented, a justice of the peace was authorized to bind over an individual until a superior judge or court should have an opportunity of investigating the case. But, according to the provisions of this section, an ignorant justice of the peace might bind over an individual, or imprison him for a year, or longer, if he could not find sureties for his good behaviour. He would also inquire what evidence was required of the intention of the accused to commit the acts recited in the bill? The expression was, "whenever it shall appear to the satisfaction" of any judge or justice of the peace. No evidence was required of an overt act. It appeared to him that this provision was extremely dangerous. He, therefore, moved to strike out the section.

In reply, it was said by Messrs. R. Nelson and Dawson, that the object of this section was to give to justices of the peace, with regard to the acts against the peace of the United States made punishable by the bill, the same authority they possessed in the case of crimes committed against a foreign Power.

In the progress of the discussion, it was further remarked by Mr. J. Clay, that this section went

to punish persons on mere suspicion. This appeared from comparing the provisions of the first section with those of this section. The former provided for the punishment of persons who should, within "the territory or jurisdiction of the United 'States, begin, or set on foot, or provide or prepare 'the means for any military expedition or enterprise, with intent of taking possession of any 'fort, arsenal, magazine, dock, navy yard, or any 'public vessel of the United States; or of invading or occupying, with an armed force, any part 'of the United States, or the territories thereof, 'or with intent, in any other manner, of levying 'war against the United States, or of adhering to 'the enemies of the said States; or who, with intent as aforesaid, shall combine or conspire together, or shall counsel, advise, or attempt to set 'on foot, provide or prepare the means for any 'such military expedition, or enterprise, or to procure any insurrection, unlawful assembly, or 'combination for such purpose, although such expedition or enterprise shall not be carried into 'effect, and whether such conspiracy, counsel, advice, or attempt, shall have the proposed effect 'or not." On examining the third section, it would be seen that this extraordinary power was given to any justice of the peace to whose satisfaction it shall appear that any person intends to commit any such misdemeanor. Mr. C. said he wished to know how it was to be ascertained when a person meant to intend to advise the setting on foot a military expedition, or what degree of criminalty would attach to a person intending to advise the making of such preparations. He trusted the section would be stricken out, and that the Committee would rise, in which case he would then move to recommit the bill.

Mr. R. NELSON acknowledged the section to be susceptible of the meaning given it by the gentleman from Pennsylvania, which, however, he said had not been intended by the select committee who reported the bill. But he hoped that the section, instead of being stricken out, would be amended. It appeared to him that it might be so amended as to remove every objection that had been urged to it. By requiring evidence to be given on oath before the judge or justice, they were empowered either to recognise or commit the accused; and by limiting the recognisance or confinement until the next term of the court, and by striking out the words "intends to commit," he thought the section would be rendered unexceptionable. If the motion to strike out should be rejected, Mr. N. said he would offer an amendment to this effect, to strike out the exceptionable part of the section, and provide that any person who shall commit a misdemeanor against the act may be bound over by a justice or judge, to his good behaviour, to the next term, or be committed in case he fails to find sureties.

A debate of considerable length ensued on Mr. J. CLAY's motion to strike out the section, in which Messrs. J. CLAY, ELY, DANA, HOLLAND, FISK, QUINCY, KELLY, DWIGHT, and HASTINGS, supported, and Messrs. R. NELSON, SOUTHARD, SLOAN, COOK, and ALSTON, opposed it.

By the former gentlemen the principle embraced by the section was pronounced unconstitutional, unprecedented, and dangerously invasive of the most sacred rights of the citizen.

By the latter, the necessity of a modification conformable to that suggested by Mr. NELSON, was admitted.

As there was no substantial difference of opinion avowed, it is deemed altogether superfluous to enter into a wider detail of the arguments adduced.

The motion to strike out the section was carried by a large majority, eighty members rising in the affirmative.

The Committee then rose, and asked leave to sit again, which was refused by the House; when, on motion of Mr. J. CLAY, the bill was recommitted to Messrs. DAWSON, SMILIE, ELY, SLOAN, T. W. THOMPSON, NELSON, and DANA.

MONDAY, December 29.

Several other members, to wit: from Massachusetts, PHANUEL BISHOP; from New York, GURDON S. MUMFORD and NATHAN WILLIAMS; from New Jersey, WILLIAM HELMS; from Kentucky, JOHN FOWLER; and the Delegate from the Indiana Territory, BENJAMIN PARKE; appeared, and took their seats in the House.

An engrossed bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and seven, was read the third time, and passed.

Mr. J. RANDOLPH, from the Committee of Ways and Means, presented a bill supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States;" which was read twice, and committed to a Committee of the Whole on Friday next.

IMPORTATION OF SLAVES.

On motion of Mr. EARLY, the House resolved itself into a Committee of the Whole on the bill for the prohibition of the slave trade.

The discussion of the amendment, which was offered on a former day by Mr. BIDWELL, to strike out of the third section so much as declares a forfeiture of the slaves, was resumed by the Committee.

Mr. FINDLEY was in favor of the amendment. He hoped that the slaves would not be forfeited, but bound out for a limited period as apprentices.

Mr. BIDWELL.—It appears to me that all the objections, which have been urged against the amendment under consideration, may be reduced to two. 1. That a forfeiture is necessary to deprive the importers of every motive to introduce any slaves into the country, and thus render the prohibition completely effectual. 2. That if the slaves are emancipated and turned loose in the Southern States, they will be a destructive nuisance to the people of those States. Neither of these objections is, in my apprehension, well founded. If the motion to strike out prevails, another amendment may be made, declaring that

the importer has no right to the slaves, which he introduces. This will be a declaration conformable to the state of things, and in exact accordance with the laws of nature and of nations. It is not in order to offer an amendment now, but if the present motion prevails, I design to propose an amendment to this effect. This will answer the purpose completely, and remove from the importer every temptation to engage in this traffic. The idea of forfeiture proceeds wholly on a false principle. It implies that the importer has a right to the slaves. But an amendment like that which I have suggested will declare the fact as is it; it will be conformable to truth. But if the section passes as it now is, with the clause of forfeiture retained, we recognise in our statute book a false principle, which neither the Constitution, nor the laws of the United States, have ever authorized, to wit: that a property may be had in human beings. The Constitution and laws have always left the disposition of slaves to the States, and hitherto have never recognised the principle of slavery.

But if we do not forfeit the negroes, the question is asked again and again, with an air of triumph, what is to be done with them? For my part I had rather strike out the section, and do nothing at all than retain the forfeiture. If we do nothing we shall not increase the evil. They will then be left to the States to dispose of, according to the State laws. This will not increase the evil. I am, however, willing to agree to any practicable mode of disposing of them. But at any rate, I am for striking out the forfeiture, and opposed to disgracing our statute book with a recognition of the principle of slavery.

Mr. QUINCY.—Since there is so general an agreement as to the end, I wish it were possible we could unite more perfectly as to the means. Those in favor of forfeiture are anxious for nothing so much as to prohibit totally the importation of slaves. Indeed, it is for this very reason they are in favor of it, because they assert, and to my mind on unquestionable ground, that this is your only effectual means of prohibition. They are also anxious that if they are brought they should not be made slaves in their part of the country. As to their being made free in the Southern States, that is out of the question. The policy of those States, the first duty of self-preservation, forbid it. On the other hand, those against forfeiture not only wish to prohibit their importation, but, if imported, they declare they do not desire they should be made slaves, or even set free, within those States where this class of persons in such great numbers exist. Now is it not possible for us, who agree in so many particulars, to approach unanimity, at least on this point? This, it seems to me, would be effected, if the honorable mover, (Mr. BIDWELL,) and the gentleman from Vermont, (Mr. FISK,) would descend from their high abstract ground to the level of things in their actual state—such as have, do, and will exist, after your laws, and in spite of them.

The argument of my colleague is, "forfeiture 'implies a right, vested in importers. Now it is 'disgraceful to the United States to admit such 'an implication. The importer has no right. He 'could acquire none. These persons are free by 'the law of nature—as free as any of us. The 'African Prince who sold them was a usurper. 'The purchasers in Africa were trespassers against 'the law of nature. They cannot acquire any 'right of property in these persons, and it is shameful for the United States, by forfeiture, to admit 'it." Sir, the conclusions of the gentleman are perfectly correct—his principles are solid. No man in this House denies either. Refer this question between the African Prince and his subjects, and between the African and his importer, to five hundred juries in New England, and five hundred times a verdict would coincide with the principles and reasonings of my colleague. But the misfortune is, that, notwithstanding all these true and unquestionable principles, the African Prince, at this day, does, and, after our law passes, will sell his subjects. To all practical purposes, a title is acquired in them, and they are passed, like other property, from one to another, in their native country. But this is not the worst. A title in this description of persons is not only allowed in Africa, but is, and must be, after your law passes, in a large section of your own country. The gentlemen from that part of the United States tell you that they cannot be allowed to be free among them. The first law, self-preservation, forbids it.

Now this is that real, practical state of things to which I invite gentlemen to look, and on which they ought to legislate.

I ask concerning it, how ought we to reason? What is our duty?

First. Do all you can to prohibit. Next, if you fail in this—if, in spite of your laws and their penalties, this description of persons be brought into the United States, then place yourselves in such a situation as may enable you best to meliorate the condition of this unhappy class of men, consistent with self-preservation, and with the deep stake which an important section of the country has in the policy which you adopt.

On both accounts forfeit. First, because it is the best means of prohibition. The gentleman from Georgia, (Mr. EARLY,) declares it is the only means by which you can do it effectually. The argument he used on this point, on a former day, is to my mind conclusive. From the situation of the Southern States, particularly Georgia, you can only prevent the traffic by taking away the inducement to purchase. And this can only be done by making the right of every purchaser be forfeited as a penalty. Next, if contrary to your laws they be imported, they are thrown on the humanity of the United States. They are brought here by our citizens, and it is the duty of the National Government to reserve the control of them, so as to be certain that the best is done for the amelioration of their condition that our own safety permits. On this account, forfeit. It is only as a commercial regulation that the National Government can get this control. If we do not take that title in these persons into the United States, which the laws of some States re-

cognise, in those States they are slaves—they must be slaves. Those States can never permit them to be anything else. This can only be done by forfeiture. The character of your policy will depend upon what you do with them after the forfeiture. Gentlemen reason as if those persons were inevitably to be sold under the hammer. Certainly this is not the necessary consequence. Are they not after forfeiture at your control? May you not do with them what is best for human beings in that condition in which these miserable creatures are, when they first arrive in this country, naked, helpless, ignorant of our language, our climate, our laws, our character, and our manners? Are you afraid to trust the National Government, and yet, by refusing to forfeit, will you throw them under the control of the States, all of whom may, and some of them will, and must, make them slaves?

But the great objection to forfeiture is, "it admits a title." I answer, first, this does not necessarily follow. All the effect of forfeiture is, that whatever title can be acquired in the cargo shall be vested in the United States. If the argument of the gentleman be correct, and the species of cargo be such as that, from the nature of the thing, no title can be acquired in it, then nothing can vest in the United States; and the only operation of forfeiture is to divest the importer's color of title by the appropriate commercial term—perhaps the only term we can use effectual to this purpose, and which does not interfere with the rights of the States.

Grant that these persons have all the rights of man; will not these rights be as valid against the United States as against the importer; and by taking all color of title out of the importer, do we not place the United States in the best possible situation to give efficiency to the rights of man, in respect to the persons so imported? But, next, let us agree that forfeiture does admit a species of title, lost on one side and acquired on the other; such as we cannot prevent being recognised in those States where these importations will most frequently take place: I ask, which is best, and which most humane? Admit a title, gain it for the United States, and then make these miserable creatures free, under such circumstances, and in such time, as their condition into which they are forced permits, or deny the possibility of acquiring a title, and leave them to be slaves? But my colleague (Mr. Bidwell) has a sovereign specific for this. He says, "we do not make them slaves, we only leave them to the laws of the respective States." But I ask, if the laws of all the States may, and those of some of the States do, and necessarily will make them slaves, "by leaving them to the operation of the laws of these States" do we not as absolutely make them slaves as though we voted them to be such in this House? To my mind, when we have the power, if we fail to secure to ourselves the means of giving them their freedom, under proper modifications, we have an agency in making them slaves. To me it seems that the amendment proposed, striking out the forfeiture, will defeat the very end its advocates have in view. Really, sir, I fear it will happen to the honorable mover of the amendment (Mr. Bidwell) as it happened to another celebrated asserter of African rights—I mean the renowned Knight of La Mancha. We all recollect that while that worthy Knight was, with all the real honesty in the world, descanting on the moral fitness of things on the eternal, unalienable, imprescriptible rights of man!—that during all that time he was exercising himself and instructing others on these themes—the very persons he had undertaken to deliver—the great African Princess Micomicona, Queen of the great African Kingdom Micomicon, with her father, her mother, her brothers, her sisters, in short her whole family, were left in absolute and irretrievable slavery; their fetters not knocked off, nor their shackles lightened, nor one ray of light thrown in upon their prison. And yet the good Knight, with all possible self-complacency, astride of his theories, was couching his lance, scouring the plain, the mirror of philanthropic chivalry, the very cream of the milk of human kindness!

Now, I say, sir, a little more practicable good, and a little less theoretic impulse. Reason and legislate according to the actual state of this description of persons. Place yourselves so as to do the best possible for their good. They are thrown on your mercy. Do not trust to others. You can be most certain this power will not be abused in your own hands. Forfeit—because this is the technical word for getting the control of them, and the only certain way of making them secure of your humanity. But what shall be done with them? That is a subsequent consideration. It is enough for me to know that this House can never do anything with them which humanity and self-preservation do not dictate. Gentlemen will not pretend that these Africans have more rights by nature than our children. And yet, in every parish, poor children are bound out, without their consent, until they are of age, and of capacity to take care of themselves. These Africans are as helpless, ignorant, and incompetent as such children, and the wisdom of the National Legislature certainly can, and I have no doubt will, devise means to make them useful members of society, without any infringement of the rights of man.

Mr. Barker deemed the forfeiture necessary to render the prohibition effectual; otherwise the negroes would be landed on the shore, and, the vessels and captains who brought them escaping, they would be taken up and made slaves. Mr. B. was, however, unwilling to recognise the principle, that a right of property could be had in slaves. He wished that they might be taken care of by the Government, and comfortably provided for. He was against turning them loose on the people of the Southern States. Humanity, which should be extended to the whites as well as to the blacks, forbids it.

Mr. Fisk was for striking out. He thought the term forfeiture implied that the importer had a right till divested by statute. If the gentlemen against the amendment are sincere in their endeavors to prohibit the trade, they will vote for striking out the forfeiture. There is no need of such a provision. It was never thought that people or property shipwrecked belonged to the finder. Just so with slaves when brought here. They cannot be said in truth to belong to any one. It is our duty to take them and provide for them, if they need any assistance. Mr. F. declared his concurrence in the plan suggested by the gentleman from Pennsylvania, (Mr. Findley,) to bind them out as apprentices.

Mr. Macon, (the Speaker.)—The gentleman from Vermont, who has just sat down, says, if we are sincere in our endeavors to prohibit the slave trade, we shall agree to the amendment. In answer to this, I shall only observe that our sincerity must be tested by our actions, not by our words.

I still consider this a commercial question. The laws of nations have nothing more to do with it than the laws of the Turks or the Hindoos. We derive our powers of legislation not from the laws of nations, but from the Constitution. If this is not a commercial question, I would thank the gentleman to show what part of the Constitution gives us any right to legislate on this subject. It is in vain to talk of turning these creatures loose to cut our throats.

The gentleman from Massachusetts (Mr. Bidwell) says that no right to the slaves vests in the importer. If this is so, why in the name of God are you legislating on the subject? Why do you not leave them to themselves, like the Irish, Germans, and other Europeans, who flock to our shores? But if the importer has no right, whence do you obtain the right to bind them out as apprentices?

Suppose we leave them as the gentleman from Massachusetts (Mr. Bidwell) has suggested, what will become of them? They will be smuggled in and made slaves. All the arguments which I have yet heard have served to confirm the opinion that a forfeiture is the only effectual mode of prohibition; and though our sincerity has been doubted with an *if*, yet I believe every member in this House is solicitous to put a complete stop to this nefarious traffic.

Mr. Smilie.—I confess I still hold the same opinion on this subject as before. We cannot pass this bill, so long as this forfeiture is in it, and support a fair national character.

The honorable Speaker has stated one idea, and that boldly, too, which I confess is to my mind very novel—that we cannot take up this subject except on commercial principles. I shall make an observation or two, since we are challenged on the subject, to see if the doctrine is correct.

We cannot hinder this trade till 1808, but then our power will be unlimited. Suppose an American should go to Turkey, or any other part of Europe, and kidnap the unoffending inhabitants there, will the honorable Speaker say we cannot punish him except on commercial principles?

But this question is connected with principles of a higher order than those merely commercial. I beg leave on this occasion to refer to the principles of 1776, which have indeed been since laughed at, but which are now beginning, I hope, to be held in universal estimation. The Declaration of Independence contains this sentence: "We hold 'these principles to be self-evident, that all men 'are created equal; that they are endowed, by 'their Creator, with certain inalienable rights; 'that among these are life, liberty, and the pursuit 'of happiness." Will the honorable Speaker tell us how these rights are connected with commercial principles?

The gentlemen from the South say, if we turn loose these Africans, they will be a terrible nuisance, and the whole inhabitants will be compelled, in self-defence, either to enslave or destroy them. I confess I cannot see the force of this argument. If this is a fair and honest account, every man in the Southern States will lend a hand to execute the law, and prevent the introduction of so dreadful a calamity. But if the forfeiture is retained, and the Southern people want slaves, the only difference under the law will be, that the United States will supply them by furnishing those forfeited negroes.

Mr. Sloan said he would not detain the Committee long. He had hastily drawn up an amendment, which he thought would meet the mind of every gentleman. He was sensible of its imperfection, and that it would want altering in the wording to make it correct. He would, however, beg leave to read it. The amendment was to the following effect:

Be it enacted, &c., That whenever any slaves shall be imported into this country after the 1st of January, 1808, if brought into a State whose laws do not permit slavery, they shall be free; if brought into a State whose laws do authorize slavery, such slaves shall be transported back to Africa, and if that is not practicable, they shall be bound out as apprentices.

Mr. Cook was in favor of the motion. Unless the slaves are forfeited, we can have no jurisdiction over them. It would be a new mode of legislation, and most singular law, to bind them out without their consent. Mr. C. could see no objection to the term forfeiture.

Mr. Findley, in answer to the Speaker, inquired if the rights appertaining to the United States, by the laws of nations, were not vested in Congress, who would exercise them? Clearly they were not vested in the State governments; of course they were vested in the National Legislature. Congress has manifestly a right by the laws of nations to expel aliens. The section in the Constitution which forbids us to prohibit the importation of slaves till 1808, clearly implies, that were it not for the restraining clause, we should now have the right of preventing any aliens coming to this country. Otherwise, why this restraint inserted in the Constitution?

It has been said that we cannot bind them out against their own consent. True, but if they are unwilling to be bound out for their own advantage, we shall be compelled to do it, or make slaves of them on principles of self-defence.

Mr. Southard observed, that the subject seemed really to be exhausted, but he would assign one reason for his vote. He was opposed to striking

out the forfeiture, till he had seen some other plan devised. He had another objection to the amendment. It would leave the slaves in a worse condition than the forfeiture. Besides, Mr. S. thought the forfeiture the effectual way of stopping the trade.

Mr. J. Clay was against the amendment. He thought it must appear to every man of common sense, that the question could be considered in a commercial point of view only; why is the restraint in the Constitution coupled with the liberty of imposing a tax?

The gentleman from Massachusetts (Mr. Bidwell) has stated a great deal about the laws of nations, and my colleague (Mr. Smilie) has quoted the Declaration of Independence. But neither of them has anything to do with the question. The Declaration of Independence is to be taken with a great qualification. It declares those men have an inalienable right to life; yet we hang criminals—to liberty, yet we imprison—to the pursuit of happiness, yet he must not infringe on the rights of others. If the Declaration of Independence is taken in its fullest extent, it will warrant robbery and murder, for some may think even those crimes necessary to their happiness.

The gentleman from Massachusetts (Mr. Bidwell) has virtually acknowledged that, by the laws of nations, we have no right to meddle with the negroes in opposition to the importers; else, why is the amendment which he has suggested necessary to make them free? On his principles they would be so without this declaration. Congress has no right to bind them out, or to say that a person who is by a State law a slave, shall be free.

Mr. Chandler thought the present amendment, coupled with the one which his colleague (Mr. Bidwell) designed to propose, if the present motion obtained, would prove as effectual as a forfeiture. Then the States may dispose of the negroes imported as they please. In Massachusetts they would probably be made free, and in the Southern States sold as slaves. Mr. C. was in favor of the motion.

Mr. Hastings.—In 1800 a law was passed to prohibit the carrying on the slave trade from the United States to any foreign place or country. This law declares that the vessel employed in such trade, together with her tackle, apparel, or guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited. It also declares, that all persons interested in such vessel, shall be precluded from all right or claim to the slaves found on board such vessel, and from all damages or retribution on account thereof. This law has been in operation more than six years, and no evils have resulted from it. I cannot anticipate the evils which some gentlemen apprehend from striking out this clause in regard to forfeiture. Let the States take care to provide against any evils from this source. We shall do this at the Eastward. If the Southern people are alarmed at the apprehension of making these slaves free, let them prevent it by a municipal regulation. But I hope the General Government will never be disgraced by undertaking to sell human beings like goods, wares, or merchandise. I was in favor of the bill, as it was reported, with a clause punishing the importation of slaves with death. It is certainly a crime of the highest order. Piracy, forgery, and sinking vessels, with intent to defraud underwriters, are all punished with death. Yet these are crimes only against property; whereas the importation of slaves, a crime committed against the liberty of man, and inferior only to murder or treason, is accounted nothing but a misdemeanor.

The question being taken on the motion, to wit: to strike out of the third section so much as declared a forfeiture of the slaves, it was lost—yeas 36, nays 63.

Mr. Early observed that several additional amendments were necessary. By the third section, a ship once engaged in the slave trade is liable to be seized and forfeited at any future period. On motion of Mr. E. this clause was struck out—yeas 44, nays 35.

Mr. E. offered an amendment to prevent one judgment under this bill being a bar to another, on the ground that a friend might be employed to prosecute a collusive judgment obtained, and the statute thus evaded. This motion was supported by Mr. Early and Mr. Williams; and opposed by Messrs. Bidwell, Ely, and J. Randolph. On dividing the House, two members only rose in the affirmative.

Mr. M. Williams offered an amendment providing that foreigners who may violate the act should suffer the same penalties as our own citizens.

Mr. Early thought the gentleman could not have minutely considered the provisions of the bill, or he would have perceived that the motion was improper, as the case was sufficiently provided for.

Mr. M. Williams thought this and some other amendments necessary, but as the gentleman from Georgia (Mr. Early) had been so long employed in manufacturing the bill, he would withdraw his motion.

On motion of Mr. Early, an additional clause was annexed to the first section, providing that the owners and masters of vessels employed in the slave trade should be imprisoned not exceeding ten years, nor less than five years.

Mr. Chandler moved that the blank should be filled with forty instead of ten—yeas 3.

Several other amendments affecting the details of the bill were, on motion of Mr. Early, adopted.

After two several times, on putting the question on the amendments, it appeared that there was not a quorum in the House.

The Committee rose and reported the amendments to the House.

Tuesday, December 30.

Mr. Bidwell, from the committee to whom was recommitted, on the nineteenth instant, the bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and, in addition to the same, made a report thereon; which was read, and, together with the bill, committed to a Committee of the Whole House on Thursday next.

Mr. Boyle, from the Committee on the Public Lands, who were directed by a resolution of the House, of the 18th instant, "to inquire into the expediency of repealing so much of the act of Congress, of the 24th of March, 1804, as limits the time in which locations of Virginia military warrants shall be made," made a report thereon; which was read, and referred to a Committee of the Whole House on Monday next.

On motion of Mr. Bassett,

Ordered, That the petition of Bushrod Washington and Lawrence Lewis, acting executors of General George Washington, presented to this House on the fourteenth of March last, be referred to the Committee on the Public Lands.

The House resolved itself into a Committee of the Whole on the bill making appropriation for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven. The bill was reported with several amendments thereto, which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

Ordered, That the Committee of the whole House to whom was committed, on the twenty-third instant, the report of a select committee on the petition of the inhabitants of the counties of Alexandria and Washington, be discharged from the farther consideration thereof.

The House proceeded to consider the said report: whereupon, the resolution therein contained being twice read, was agreed to by the House, as follows:

Resolved, That the prayer of the said memorial is reasonable, and ought to be granted.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. Dawson, Mr. Magruder, Mr. Anderson, Mr. Verplanck, and Mr. Cutts, do prepare and bring in the same.

Mr. Early, from the Committee of Commerce and Manufactures, presented a bill for the relief of Stephen Kingston; which was read twice and committed to a Committee of the Whole on Monday next.

AMERICAN SEAMEN.

Mr. Dana said, that the House would recollect, that on a former occasion, it had been remarked by the honorable Speaker, that if the American merchants would agree to employ only seamen of our own country, a great controversy subsisting with Great Britain would be at an end. The resolution he held in his hand had for its object the holding out inducements to our merchants for employing American seamen. Various privileges were already granted by law to American merchants navigating American vessels, generally denominated discriminating duties, which extended to vessels built in the United States, and owned by citizens of the United States. If it should be also provided, that to entitle them to this discrimination, a certain proportion of the seamen navigating such vessels shall be citizens of the United States, it will become the interest of the merchant to employ American, in preference to foreign seamen. Of such a provision it would be a necessary appurtenance that the names of the seamen shall appear on the ship's papers, and thus there would be on board of each vessel a document, establishing the citizenship of the mariners, incapable of transfer. Mr. D. concluded with moving the following resolution:

Resolved, That, for the encouragement and security of the seamen of the United States, it is expedient to make provision that registered ships or vessels which may be employed in voyages to foreign ports after the —— day of ——, shall not continue to enjoy the provisions appertaining to ships or vessels of the United States, unless some proportion of the mariners on board the same shall be citizens of the United States.

Referred to the Committee of the Whole on Monday week.

GEORGE LITTLE.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of George Little. The report is in favor of allowing the claim of the petitioner.

Messrs. Holmes, Dana, J. Clay, and Quincy, supported, and Messrs. Bidwell, D. R. Williams, Macon, and Varnum, opposed the report, which was agreed to—ayes 65, noes 45; in which report the House concurred—yeas 67, nays 46, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Burwell Bassett, Silas Betton, James M. Broom, John Boyle, Martin Chittenden, John Claiborne, Joseph Clay, George Clinton, jr., Orchard Cook, Leonard Covington, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, William Dickson, Theodore Dwight, Peter Early, James Elliot, Caleb Ellis, William Ely, John Fowler, Seth Hastings, William Helm, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, Duncan McFarland, Robert Marion, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, junior, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, John Russell, Dennis Smelt, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

Nays—Isaac Anderson, John Archer, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown,

William A. Burwell, William Butler, Levi Casey, John Chandler, Matthew Clay, John Clopton, Frederick Conrad, Ezra Darby, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, James Holland, Thomas Kenan, John Lambert, Patrick Magruder, Josiah Masters, David Meriwether, Thomas Moore, Gideon Olin, John Porter, John Pugh, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, and Joseph Winston.

WEDNESDAY, December 31.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the present situation of the direct tax; from which it appears that $1,664,066 have been received, that near $176,000 are outstanding, and that the expenses of collection already ascertained amount to $120,000.

Mr. HOLMES, from the Committee of Claims, presented a bill for the relief of George Little; which was read twice, and committed to a Committee of the Whole on Friday next.

An engrossed bill making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven, was read the third time and passed.

IMPORTATION OF SLAVES.

The House proceeded to consider the amendments reported by the Committee of the Whole on the twenty-ninth instant, to the bill to prohibit the importation or bringing of slaves into the United States, or the territories thereof, after the 31st of December, Whereupon, the first amendment being again read, in the words following:

"SEC. 1, line 7, Strike out, from the word '*slave*' to the end of the section, the following words:

"And if any person or persons shall, after the said thirty-first day of December, transport or bring, or cause to be transported or brought into the United States, or the territories thereof, any negro, mulatto, or person of color, contrary to the true intent and meaning of this act, every person or persons, so offending, shall be guilty of felony; and being thereof convicted before any Court of the United States, having competent jurisdiction, shall suffer death;" and, in lieu thereof, insert:

"And if any person or persons shall, after the said thirty-first day of December, transport or bring, or cause to be transported or brought into the United States, or the territories thereof, any negro, mulatto, or person of color, contrary to the true intent and meaning of this act, every person or persons, so offending, shall be deemed guilty of a high misdemeanor, and being convicted before any Court having competent jurisdiction shall suffer imprisonment not more than ten, nor less than five years:"

On the question of agreeing to this amendment a long debate arose.

Mr. SLOAN was decidedly opposed to the amendment. He was aware that some might charge him with departing from his well-known peaceable principles, in contending for so sanguinary a punishment as death. But many crimes inferior to this were punished with death, and he thought that there ought to be a proportion in these things. Mr. S. stated the hardships of the Africans, and the cruel circumstances attending their importation, and insisted on the magnitude of the crime at considerable length.

After some conversation between Mr. SMILIE and the SPEAKER, on a point of order, Mr. DANA called for a division of the question. The question was accordingly divided, the first being on striking out of the bill so much as inflicts the punishment of death.

Mr. ELY was against striking out. He deemed the crime in question as one of the most heinous kind, and one which ought to be punished capitally. But his principal reason for advocating so severe a punishment was, that he thought it the most effectual method of putting a stop to the trade. The other provisions of the bill were, in his opinion, not sufficient. If the punishment of death was inflicted, he presumed no persons would venture to engage in the trade, and run the risk of being punished, especially, as the traffic is one of the most uncertain and perilous kinds. It is said, if you punish with such severity, none will inform; but will any one venture to run the risk under this impression? Mr. E. thought not. Besides, this is the most humane punishment, because it will most effectually prevent the accumulation of miseries that result from the trade. It will, also, remove all the difficulties on the subject of forfeiture, by preventing the introduction of slaves.

Mr. TALLMADGE said, he considered the question before the House to be, whether we should strike out that part of the section which attaches the crime of felony to this nefarious traffic, and, of course, annexes to it the punishment of death. He trusted the House would not consent to strike out that clause of the bill, the retention of which should receive his hearty support.

Since I have had the honor of a seat in this House, I can scarcely recollect an instance in which the members seem so generally to agree in the principles of a bill, and yet differ so widely as to its details. There seems to be great unanimity respecting the atrocity of the crime, but a wide difference of opinion as to the measures necessary to prevent it. To me, it is matter of surprise as well as of regret, that gentlemen, who appear so ardently engaged to prevent the introduction of slaves into our country, should not be willing to unite with us in providing for it an adequate punishment. The evils which may be expected to result from this commerce, if persisted in, will fall on the Southern States; and the Eastern and Middle States are accused of carrying it on. If this be the fact, and gentlemen are sincere in their declarations, why will they not unite with us to mete out that punishment which, on their own statements, will fall exclusively on those who are concerned in this execrable traffic from the Northern States?

I will not take up the time of this House in repeating the remarks which have been so copiously, and, in my opinion, so justly, detailed as to the

atrocity and enormity of the crime. My only wish is to affix to it so exemplary a punishment that we may, if possible, totally suppress it.

On a careful examination of the penal codes of the civilized world, it will be found that there exists a striking similarity between those laws which were early enacted, and that system which was given to govern the Jews. In the origin of that nation, their government was a pure theocracy. All their laws were enacted by infinite wisdom, and of course were well adapted to the ends for which they were made. Although some of them were local, and calculated for that nation alone, yet the great prohibitions and solemn injunctions contained in that code, are of eternal and universal obligation. In this system of laws, I find one perfectly in point for the present case. If it should be cited by statute and section, I presume it would be more familiar to, and better understood by this auditory. The act which I refer to is entitled "a law for man-servants," &c., and the prohibition is contained in the 2d book, 21st act, and 16th section (Exodus 21st chapter and 16th verse,) and is in the following words: "And he that 'stealeth a man and selleth him, or if he be found 'in his hand, he shall surely be put to death." If this was the punishment by Heaven decreed for man-stealers and man-sellers in the days of the Jews, has that crime become less heinous in our day, that the same penalty should not be inflicted now? If nothing short of death could atone for that crime then, shall fine and imprisonment be substituted in its place now?

On examining the penal statutes of the United States, as well as of individual States, we shall find that, to many crimes short of treason and murder, the law has awarded the punishment of death. Shall we place this most abominable traffic (which I fear ere long will call down the vengeance of Heaven on our heads) in the list of minor offences? If there is any conduct or crime which, from the motives that originate, the conduct which attends, and the consequences which may be expected to flow from it, merits a severe punishment, it appears to me that the commerce which this bill is calculated to interdict, pre-eminently demands it.

Mr. MOSELY.—The only objection which has been made against this section of the bill, as it was originally introduced, is, that the severity of the penalty as there prescribed, would probably prevent the law from being carried into execution.

I entirely agree in the justice of the general remark, that it is the certainty, more than the severity, of the punishment, which tends to prevent the commission of crimes; that when the penalty is excessive or disproportioned to the offence, it will naturally create a repugnance to the law, and render its execution odious.

But I would ask, in the first place, what punishment can be considered as too severe to be inflicted on this inhuman and murderous traffic? Viewed in all its consequences, there is hardly to be found, I apprehend, in the whole catalogue of crimes, one attended with more accumulated guilt. I have, indeed, sir, heard no gentleman suggest anything in palliation of this offence, or deny that it is justly deserving of death. Why, then, are we to presume that the law would not be enforced? The gentlemen from the South assure us that they, and the people whom they represent, are sincerely solicitous to prevent the further importation of slaves into this country, and they will cheerfully and cordially co-operate in the most effectual measures for that purpose. Will they, then, from motives of tenderness to the persons employed in importing them, be unwilling to subject those persons to the punishment they justly merit?

Sir, there is one circumstance worthy of attention, which I think must obviate every objection of this sort. Who are the people engaged in this business? We have been repeatedly told, and told with an air of some triumph, by gentlemen from the South, that it is not their citizens; that they have no concern in this nefarious traffic; that it is the people from the Northern States who import these negroes into the Southern States, and thereby seduce their citizens to become their purchasers. If this be the fact, are we to believe that they will entertain any particular feelings of partiality or passion towards this class of people, or that they will not feel a just degree of indignation towards them, and be disposed to subject them to the most exemplary punishment? And as it respects the great body of the people in the Northern States, at least, I will presume to say, of the State which I have the honor to represent, should any of their citizens be convicted upon this law, so far from charging their Southern brethren with cruelty or severity in hanging them, they would acknowledge the favor with gratitude. When we consider the character of the persons engaged in this traffic, that they are the most hardened and abandoned of the human species, and that it is extremely lucrative, can we suppose that any penalty short of death will deter them from it? I shall be very glad if even this will have the effect.

The great difficulty which appears in disposing of these people in a satisfactory manner, should they be brought into the country, furnishes a strong argument in favor of excluding them, if possible, in the first instance.

No difference of opinion appears to exist concerning the general principles of the bill. All agree that the importation of slaves ought to be prohibited as soon as it can be done consistently with the provisions of the Constitution. But in case of their introduction, it appears difficult to make such a disposition of them as will accord with the dictates of justice and humanity, and at the same time be consistent with the safety of our Southern brethren. And in legislating upon the subject, I would cautiously avoid doing anything that might hazard their safety or tranquillity. The gentlemen here who represent the Southern States, while they declare that they are heartily disposed to stop the further introduction of slaves into those States, and upon every principle of sound policy, to say no more, I conceive they ought to be, tell us that it is incompatible with

their security; and that the people will never consent to have these negroes and people of color set at liberty among them. To have them forfeited and sold as slaves under the sanction of Government, appears to many altogether objectionable. To convey them back to their own country, and reinstate them in safety among their respective tribes, is considered as impracticable. For Government to undertake to bind them out for a term of years, as has been proposed, would no doubt be attended with many difficulties.

If, then, their importation in the first instance could be prevented, all these embarrassments and difficulties would be avoided. And, in a general view of the case, it appears to me highly important, at the present time, when our attention is particularly called to this subject by the Message of the President of the United States, that, in legislating upon this subject, the Government of the United States should manifest their abhorrence of this detestable traffic, and their decided determination, if possible, to put an end to it.

Believing that the penalty of death will have a more effectual tendency to do this than imprisonment, or any inferior punishment, I am against concurring in the amendment made to this section of the bill in the Committee of the Whole.

Mr. Elmer was in favor of the motion. If he believed that the Mosaic law was now binding, he should be of a different opinion. He believed the punishment of death immoral; because the crime did not imply murder, and had no analogy to it. Besides, he thought death would not be so effectual as imprisonment, nor so likely to be inflicted. The crime was committed merely out of a love of gain. Mr. E. concluded with declaring his abhorrence of slavery, and of the slave trade, and that he had never had any connexion with slaves.

Mr. Smilie.—I did hope that when the select committee reported the bill, with the clause punishing the importation of slaves with death, it would be adopted in that form. For myself, I confess I consider it as the very marrow of the bill. But, to my astonishment, the subject has been taken up on a new ground by the gentleman who spoke first, (Mr. Elmer.) That gentleman says it is immoral to inflict the punishment of death in this case. I confess that I did believe that the laws given by God himself were not immoral. The gentleman on my right (Mr. Tallmadge) did read such a law. I did believe that no immoral law could proceed from such a source. It is true that some of the laws of the Jews were applicable only to the peculiar circumstances of that people, and so not binding on other nations. But I consider it as not so with that law.

It is unnecessary for me to describe to this House the atrocity of this crime and the circumstances attending it. Gentlemen say, to excuse the business, that it is committed out of love of gain. So, when a man kills and robs me, you may say it is from the love of gain. But that is no excuse. It cannot be, sir. It is for the reputation of Government that there should be a uniformity in the criminal code. If you look into the laws of the United States, you will see that, in some cases, a man is put to death for stealing only fifty dollars. [Here Mr. S. read an extract from the laws of the United States, to show the correctness of his declaration.]

Suppose some philosophical historian, some ages hence, writing a history of this country, and looking into your criminal laws, (for it is the duty of a historian to understand laws,) should find that you punish him who steals only fifty dollars with death, and punish the man-stealer with imprisonment only, what would such a historian say? Would not the paragraph in his history be an everlasting disgrace to our memory?

All of us seem to agree in the horrid nature of the crime, and the only objection to capital punishment is, that it cannot be carried into execution, because the people do not consider the crime worthy of death. Sir, I have a better opinion of the people of the United States. I have no doubt but that the law can and will be executed. Criminals can be removed from one State to another for trial, if necessary, but I presume it will not be. Gentlemen say that the people of the Southern States have great cause to be alarmed at the idea of continuing this traffic; far more cause than the people of the Eastern and Middle States. If this is true, and it certainly is, they will be more solicitous to punish this crime. If the law can then be executed in the Eastern and Middle States, it can be in the Southern States.

I do hope for the honor of this country; for the honor of our Government; for the honor of our nature, that this bill will pass without this alteration. It will transmit to the world our opinion of this crime. And I do trust that, when it is known how infamous we consider it, that the traders will be induced not to engage in this business, and that we shall be no more troubled on this subject.

Mr. Lloyd.—Though this traffic is sanctioned by the Constitution and laws of the United States, I regard it with hatred and abhorrence, and conceive it to be of the highest importance that we take means to put a complete stop to its further continuance. But, in my opinion, the punishment of death is not best calculated to accomplish this object. Besides, it is not proportional to the crime. This subject has not, I conceive, been fairly argued. Very few of the negroes brought into this country are kidnapped and stolen away. Look at the condition of the people of Africa. Three-fourths of those brought into this country are slaves originally, either by descent or conquest. It is a fact that slavery prevails extensively in Africa. Those taken in conquest are disposed of and sent abroad on account of the vindictive spirit of those people. Such is their thirst for revenge, that this is absolutely necessary for the safety of the conqueror. Of course, all the arguments urged on the ground of the slaves being kidnapped and carried away from a state of freedom, are fallacious.

Gentlemen have referred us to the Mosaic law on this subject as an authority. But, suppose you should adopt all the principles of that law, what would the people of the United States say to it?

Would they acquiesce? Though these laws were proper for the Jews, they are not so, of course, for us. They contemplated no other than temporal rewards. If I recollect right, there is no part of the Jewish dispensation which holds out the idea of a future state.

Another argument is urged. It is said that if a severe punishment is inflicted, the other provisions of the bill will be rendered unnecessary. In answer to this argument, I would refer gentlemen to the very example of the Jews. Though their criminal laws were numerous and excessively severe, yet we find that they were the most debased creatures on earth. Look to the countries of Europe, and especially to Great Britain, for the effect of severe criminal laws. It is found that severity of punishment multiplies rather than diminishes the number of crimes. Look into ancient history and read the sanguinary laws of Draco. Why did they exist no longer? Because they were so severe that they could not be endured. I am of the opinion, that in this case, imprisonment will be a more effectual punishment than death, and am therefore in favor of striking out.

Mr. Olin.—I would ask gentlemen if they would not as soon be willing to be brought to the halter as to be made slaves for life? If they would, and I trust they would, man-stealing is a crime as bad as murder, and ought to be punished as heavy. I was at first against the punishment of death; but I own that gentlemen have convinced me by their arguments, and I am now the other way. I am persuaded that gentlemen will think there is nothing dishonorable in this changing one's mind.

Mr. Early.—I formerly thought that the decision on this question was not a matter of any great importance; but as it seems now to be considered as a prelude to an attack on subsequent parts of the bill, it appears to me now important that the subject be well understood and rightly decided.

What are you told? You are now told that a forfeiture is unnecessary, and that to inflict the punishment of death is the only way to stop this trade. I consider this as an old attack revived in a new form. I hope the House will pardon me for undertaking to assign reasons for the bill as reported.

We are told by one gentleman (Mr. Ely) that in this case there is ample time during the voyage for the trader to reflect on the enormity of his crime and the severity of the punishment, and that, in consequence of such reflections, he will be persuaded to abandon his enterprise. We are told that those who violate this law, will not do it from a sudden gust of passion, or momentary desire of gain, as is commonly the fact in case of murder, robbery, and theft; that it must be done deliberately, and after ample reflection on the guilt of the transaction. The gentlemen's premises are not universally correct. I doubt if even they are generally true. They are true only in those cases where a man's innate sense of right and wrong tells him that he is violating a moral law. This is not the fact with regard to the importer.

But admit the gentleman's premises to be correct, and his reasoning sound, his ideas have no practical application to this subject. Let me ask how they apply to the indirect trade, the trade from the Spanish territories? Here is the danger. It is from this quarter that you are to apprehend the introduction of slaves. Here the importer is beyond your jurisdiction; he is even beyond your reach. You cannot touch him. I should like to know how the fear of punishment will operate on him. I should like to know how the fear of death will operate on a man who is bound with his slaves to a country where he knows the punishment will not be enforced. He will be bound to a country where the people see slaves every hour of their lives; where there is no such abhorrence of the crime of importing them, and where no man dare inform. My word for it; I pledge it to-day, and I wish it may be recollected; no man in the Southern section of the Union will dare inform. It would cost him more than his life is worth. No man would risk it when it led to the punishment of death, when it was not for an offence which nature revolts at. They do not consider it as a crime.

We have been asked what punishment can be considered too severe for so atrocious a crime. Without answering the question in the abstract, it will be sufficient to answer it by a practical view of the subject. How do people consider the transaction? That is the question. Do they consider it such an outrageous crime? They do not. Gentlemen may legislate to suit their feelings, and not to suit the habits of the people for whom they legislate. Their reason must tell them that this is the fact.

Suppose a law had been made to punish with death all those concerned in the insurrection of 1793, could the law have been executed? Will the gentleman from Pennsylvania answer on this subject? It could not have been executed because so many people were concerned. So in this case. All the people in the Southern States are concerned in slavery. It is not then considered as criminal.

The gentleman (Mr. Smilie) has said that, in the Southern States, slavery is felt and acknowledged to be a great evil, and that therefore we will execute a severe law to prevent an increase of this evil. Permit me to tell the gentleman of a small distinction in this case. A large majority of the people in the Southern States do not consider slavery as a crime. They do not believe it immoral to hold human flesh in bondage. Many deprecate slavery as an evil; as a political evil; but not as a crime. Reflecting men apprehend, at some future day, evils, incalculable evils, from it; but it is a fact that few, very few, consider it as a crime.

It is best to be candid on this subject. If they considered the holding of men in slavery as a crime, they would necessarily accuse themselves, a thing which human nature revolts at. I will tell the truth. A large majority of people in the Southern States do not consider slavery as even an evil. Let the gentleman go and travel in the

quarter of the Union; let him go from neighborhood to neighborhood, and he will find that this is the fact.

Some gentlemen appear disposed to legislate for the sake of appearances. One in particular (Mr. Smilie) is disposed to legislate for the honor and glory of the statute book. I should like to know what honor you will derive from a law that will be broken every day of your lives. Will this honor afford you any satisfaction for the evasion of the law? I hope the motion will prevail.

Mr. Ely thought, in opposition to the gentleman from Georgia, (Mr. Early,) that the punishment of death would operate to prevent the indirect trade. As to the question whether it is criminal in the Southern people to continue to hold their slaves, he believed it was not generally thought a crime; but whether it was a crime or not, made no difference as to the question before the House. The object is now to prevent the trade.

Georgia, by her constitution, recently adopted by the people of that State, or at least by a law, has prohibited the slave trade. Now, then, is it conceivable that they are disposed to continue the trade? There is no connexion between continuing the trade and continuing to hold their present slaves. All the Southern States, one only excepted, have expressed their abhorrence of this trade, and passed laws against it. On the gentleman's (Mr. Early's) reasoning, you cannot prevent the trade by any punishment whatever. If the people consider it proper, they will, on his reason, never inform. I trust, however, that if we make the punishment death, few will venture to run the risk of an examination and trial.

Mr. Holland.—In the Southern States slavery is generally considered as a political evil, and in that point of view nearly all are disposed to stop the trade for the future. But have capital punishments been usually inflicted on offences merely political? I believe not. Fine and imprisonment are the common punishments in such cases. The people of the South do not generally consider slavery as a moral offence. The importer might say to the informer that he had done no worse, nor even so bad as he. It is true that I have these slaves from Africa; but I have transported them from one master to another. I am not guilty of holding human beings in bondage. But you are. You have hundreds on your plantations in this miserable condition. By your purchases you tempt traders to increase the evil. You and your ancestors have introduced this calamity into the country, and you are continuing, you are augmenting it. The importer might hold the same language to the jury and the judge who try him. He might tell them that they were even more guilty than he. Under such circumstances the law inflicting death would not be executed. But if you punish by fine and imprisonment only, you will find the people of the South willing and ready to execute the law.

Gentlemen always appear on this subject to blend the question of immorality with that of political expediency. But it is a fact well known that the negroes imported are brought from a state of slavery. There is only a transfer from one master to another; and it is admitted that the condition of the slaves in the Southern States is much superior to that of those in Africa. Who, then, will say that the trade is immoral?

The laws of Moses have on this occasion been cited. But if you look further, you will find them almost as bloody as those of Draco. Besides, if that good old book is brought in, many things will be found on the other side. Slavery appears to be tolerated there.

Mr. Stanton.—In 1784, Rhode Island passed a law declaring that all blacks, from thereafter, should be as free as the whites. But, since, some people of that State have been tempted by the high price offered for negroes by the Southern people to enter into this abominable traffic. I wish the law made strong so as to prevent this trade in future; but I cannot believe that a man ought to be hung for only stealing a negro. Those who buy, are as bad as those who import them, and deserve hanging quite as much.

Mr. Dwight.—We are all happily agreed in the great object of the bill—the prevention of the importation of slaves into the United States. Unfortunately, we are not so well agreed in the means to effect this object. It is not, however, at all strange that men should differ about the best mode to accomplish so important a purpose; and especially men in the circumstances in which we are placed. Those of us who come from the Northern and Eastern States, where slavery exists not at all, or but in a slight degree, would naturally view this subject in a very different light from gentlemen who represent the Southern States, where slavery always has existed, and that to a great extent. As great a degree of unanimity as is possible is of much importance, both for the purpose of effectually preventing this inhuman traffic, and for the honor and reputation of our country.

The point now to be settled is, shall we declare the being concerned in the importation of slaves a capital offence, or shall we leave it subject only to fine and imprisonment? Those gentlemen who are in favor of the latter punishments, object to the former as being disproportioned to the offence. The gentleman from Maryland, (Mr. Lloyd,) in attempting to lower the nature of the crime, has urged an argument in extenuation of the slave trade entirely new. He says, the negroes are of such a turbulent and vindictive character at home, that the chiefs of their nations are obliged to transport them for their own safety. [Here Mr. Lloyd interrupted Mr. D., and said, that the gentleman certainly misunderstood him; that he had not intended to justify the slave trade at all; on the contrary, he condemned it entirely. He had only mentioned the facts, that the Africans were slaves at home, and that they were of such a vindictive character that it was not safe to have them in the country.]

Mr. Dwight.—I understood the gentleman before precisely as I do now. I did not understand him to approve of the slave trade. My argument was, that in order to lessen the nature of the crime, he had stated that such was the character of the Africans, that it was not compatible with the public safety that they should remain in their own country. If the fact be so, sir, that they are such troublesome, and even dangerous subjects, even in that case I should be extremely sorry to hear that the people of this country should take upon themselves the disgraceful task of executing the laws of the black chiefs of Africa.

The gentleman from Georgia (Mr. Early) has informed us repeatedly that a law making this a capital offence cannot be executed in the Southern States; that the importation of slaves has so long been familiar to them, that a great majority of the people consider it not as an aggravated crime, and a large portion of them as no crime at all; that if we make such an offence capital; if we make the consequence of importing a cargo of slaves to be the loss of life, no man will ever be prosecuted for it, because no man will dare inform. All the gentlemen, sir, from the Southern States, who have spoken on this subject, have told us that they earnestly wish effectually to prevent the slave trade in future. I am disposed to credit them fully. Indeed, I cannot conceive that they should not sincerely and fervently wish to prevent a traffic, which, if persisted in, must in all human probability, first or last, bring upon them and their families the most tremendous calamities. If, then, they view the subject in this light, if they are sincere in making these declarations, there is not only no danger that the law will not be executed, but they will unite to a man to execute the law; the whole community will inform; a regard to their own lives, and the lives of their posterity, will drive them to it. And if, sir, in the rigid execution of this statute, its penalties fall upon men from the Eastern States, who are profligate enough to engage in this inhuman trade, I most heartily concur with my colleague in saying, let the law have its full force, let it fall with all its force upon the offender; let him die.

The gentleman from North Carolina (Mr. Holland) has told us, that morality has nothing to do with this traffic: that it is not a question of morals, but of politics. Sir, the President of the United States, in his Message at the opening of the present session of Congress, has given us a very different opinion. His language is: "I congratulate you on the approach of the period at 'which you may interpose your authority, constitutionally, to withdraw the citizens of the United 'States from all further participation in those violations of human rights, which have been so 'long continued on the unoffending inhabitants of 'Africa, and which the morality, the reputation, 'and the best interests of our country, have long 'been eager to proscribe." Here we are informed, sir, that the slave trade is a violation of human rights; and that not only the best interests and the reputation of our country, but that morality itself is deeply concerned in it, and has long been eager to proscribe it. But, need we inquire whether it is immoral to inflict evils upon unoffending Africans? The gentleman says, that we do them no injury; that they are slaves at home, and and we only transfer them from a state of slavery there to one attended with fewer calamities here. Sir, by what authority do we interfere in their concerns? Who empowered us to judge for them as to which is the worse and which the better state? Have these miserable beings ever been consulted on the question of their removal? Who can say that the state in which they were born, and to which they are habituated, is not more agreeable to them than one altogether untried, of which they have no knowledge, and about which they cannot even make any calculations? Let the gentleman lay his hand on his heart; let him ask his own conscience, if it is not a violation of human rights, if it is not immoral, thus forcibly to carry these wretches from their home, and from their country; and if that does not answer in the affirmative, I will never request him to apply to any other monitor.

In discussing this question gentlemen have appealed to the laws of Moses. In my opinion, sir, we had better confine ourselves to the business of legislation than to undertake the task of expounding Scripture. From the opinions that have been given, I think we shall appear to more advantage in the former than we do in the latter. We should probably find it necessary to furnish ourselves with a new set of authors, and to pursue a different course of studies, to qualify us for expositors, from that which we have pursued to prepare for our present employment.

Mr. J. Clay rose to make only one observation. It must occur to every Pennsylvanian in the House, that it had been the policy of that State to abolish the punishment of death in all cases except murder in the first degree. And even in those cases, all indicted in Philadelphia had been, Mr. C. believed, either acquitted or pardoned. Mr. C. did not believe that the law, if it inflicted the punishment of death, could be executed. A jury would not convict.

Mr. Smilie rose in answer to his colleague (Mr. J. Clay.) I have asserted, and that boldly too, and I will assert it again, that this law can be executed in Pennsylvania. I have never known an instance there of murder in the first degree that was not punished with death. And if the law can be executed against murder, it can in this case; for here is a crime above murder. It is man-stealing added to murder.

Mr. Sloan.—The observations of the gentleman from Maryland (Mr. Lloyd) and from North Carolina, (Mr. Holland,) bring to my mind a dispute which once took place between two of my neighbors, a long while ago, about a passage in the bible, which was settled by an appeal to a Roman Catholic. Mr. S. related the circumstances of the story at some length.

I could detain the House a long time in telling them what I have read in authors on African slavery, in authors which are entitled to as much credit, and which I believe as fully as those the gentlemen (Mr. Lloyd and Mr. Holland) have ead. I could detain the House a long time in elling them how they used to be landed in Jer-

sey, near where I live, when I was a boy growing up, because in Pennsylvania there was a duty of $10 a head. I could detain the House in relating the pitiful stories I have often myself heard from those poor slaves who were about my own age, as we used to be together, how they were kidnapped and stolen away, in the most piteous manner, and what a paradise their home in Africa was to their situation here.

The question was loudly called for, and was about to be put, when Mr. ELMER rose. He hoped the House would not be led away by the declamation of the gentleman. Mr. E. spoke further at some length.

Mr. BARKER agreed with gentlemen as to the heinousness of the crime, but differed with many from the same quarter of the Union (Eastern States) as to the punishment. He thought the punishment of death both unjust and inexpedient; unjust, because not necessary for the safety of society; and inexpedient, because not the most effectual punishment. He thought it would be better to enslave the importer. Let him be put to labor, and know a little by experience what the evils of slavery are.

Mr. VARNUM thought the Southern States were in imminent danger from slavery. He recollected that he had heard a Southern gentleman, formerly a member of that House, compare that part of the Union to a bundle of combustibles, which only wanted a little fire to kindle a blaze that would consume them.

If the Southern people would not inform, in case the punishment is death, they will not in case of imprisonment for ten years. If they consider the importation no crime, as has been stated, they will not execute any part of the law, and no punishment can be inflicted. But I have a better opinion of the Southern people. I have so often heard gentlemen from the South express their dread of the final ruin of that country from slavery, that I do believe this law can and will be executed.

Mr. FINDLEY gave his opinion that the law could be executed as well in Pennsylvania as in any quarter of the Union. The United States laws, in some cases, inflict the punishment of death, when it is not done by the Pennsylvania laws, and yet there is no difficulty in executing those penal laws of the United States. Mr. F. was against striking out.

The question being taken by yeas and nays, on striking out so much of the first section as inflicts the punishment of death on owners and masters of vessels employed in the slave trade, it was carried—yeas 63, nays 53, as follows:

YEAS—Willis Alston, jun., John Archer, Joseph Barker, Burwell Basset, Silas Betton, John Boyle, William A. Burwell, William Butler, George W. Campbell, Martin Chittenden, John Claiborne, Joseph Clay, George Clinton, jun., John Clopton, Orchard Cook, Eza Darby, John Dawson, William Dickson, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, James Fisk, Isaiah L. Green, William Helms, James Holland, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Nehemiah Knight, Edward Lloyd, Patrick Magruder, Robert Marion, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, jun., John Randolph, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Samuel Taggart, Samuel Tenney, Uri Tracy, Abram Trigg, Daniel C. Verplanck, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

NAYS—Evan Alexander, Isaac Anderson, David Bard, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, Levi Casey, John Chandler, Matthew Clay, Frederick Conrad, Leonard Covington, Richard Cutts, Samuel W. Dana, John Davenport, junior, Theodore Dwight, Elias Earle, William Ely, John W. Eppes, William Findley, John Fowler, Edwin Gray, Andrew Gregg, Silas Halsey, Seth Hastings, David Hough, John Lambert, Duncan MacFarland, Josiah Masters, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, John Porter, John Pugh, John Rea of Pennsylvania, John Russell, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Benjamin Tallmadge, David Thomas, Thomas W. Thompson, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, David R. Williams, Marmaduke Williams, and Alexander Wilson.

The question on inserting, in lieu of what was stricken out, a clause prescribing imprisonment for not more than ten, nor less than five years, was carried without a division.

The amendments to the second and third sections were read and agreed to, when after several unsuccessful attempts to adjourn, the further consideration of the subject was postponed till Friday—ayes 71—to which day the House adjourned.

FRIDAY, January 2, 1807.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing the transcript of decisions, and report on rejected claims, made by the commissioners appointed to examine the claims to land in the district of Detroit, in conformity with the several acts making provision for the disposal of the public lands in the Territories of Indiana and Michigan; which were read, and referred to the Committee on the Public Lands.

On motion of Mr. CLOPTON, the petition of sundry British merchants and others, subjects of His Britannic Majesty, presented to this House on the 21st of December, 1804, was referred to Mr. CLOPTON, Mr. NATHAN WILLIAMS, Mr. HELMS, Mr. BISHOP, and Mr. FOWLER; to examine and report their opinion thereupon to the House.

Mr. MUMFORD presented to the House a petition of David Gelston, Collector of the Customs of the district of New York, which was received and read, praying to be reimbursed in the amount of damages and costs sustained by him in attempting to detect, by judicial prosecutions, frauds committed in obtaining from his office, contrary to the laws of the United States, registers for vessels owned wholly, or in part, by the subjects of

His Britannic Majesty.—Referred to the Committee of Commerce and Manufactures.

Mr. SOUTHARD presented to the House a petition of sundry inhabitants of the city of Washington, in the Territory of Columbia, whose names are thereunto subscribed, which was received and read, praying that a law may be passed, authorizing the cultivation of the public ground in the said city, by the inhabitants thereof, upon such terms, and under such regulations, as Congress may deem just and proper.—Referred to Mr. SOUTHARD, Mr. GRAY, and Mr. COVINGTON; to examine and report their opinion thereupon to the House.

Mr. TENNEY, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine the Journal of the last session, and report therefrom such matters of business as were then depending and undetermined, made report, in part; which was read, and ordered to lie on the table.

Mr. JOSEPH CLAY, from the committee appointed on the eleventh ultimo, presented a bill for the encouragement of learning, and for the promotion of the useful arts; which was read twice, and committed to a Committee of the Whole on Tuesday next.

On motion of Mr. ALEXANDER,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, further provision ought to be made, by law, prescribing the manner in which the public acts, records, and judicial proceedings of one State shall be proved and given in evidence in another State, and the effect thereof; and that they have leave to report by bill, or otherwise.

And a committee was appointed, of Mr. ALEXANDER, Mr. BIDWELL, Mr. FISK, Mr. ELMER, Mr. EPPES, Mr. THOMAS W. THOMPSON, and Mr. SANDFORD.

On motion of Mr. ROGER NELSON,

Ordered, That the Message of the President of the United States, of the fifteenth ultimo, communicating a report of the Surveyor of the Public Buildings, at the City of Washington, on the subject of the said buildings, be referred to Mr. ROGER NELSON, Mr. LEWIS, and Mr. FINDLEY.

Mr. J. CLAY from the Committee appointed on the petition of sundry patentees and Oliver Evans, presented a bill for the encouragement of learning, and the promotion of the useful arts, which was referred to a Committee of the Whole.

Mr. DAWSON observed that in the year 1803, a resolution had been passed by the House, which was the basis of a law for the extension of the external commerce of the United States for which purpose a small appropriation had been made. The law had been discussed with closed doors; after the passage of which the injunction of secrecy had been removed. Soon afterwards, an expedition had been undertaken by Capt. Lewis, Capt. Clarke and others, which, they had been advised, had been attended with all the success expected. These gentlemen have traced the Missouri to its source; and have passed along the Columbia to the Pacific Ocean, exploring the course of various streams, and making themselves acquainted with the adjacent country and its inhabitants. In doing this, they have traversed an immense country, and have encountered and overcome great difficulties and perils. Mr. D. said they had fortunately returned, and, in his opinion, deserved not only the thanks of their country, but likewise the gratitude of posterity. Mr. D. said he had been induced from these considerations to invite the attention of the House to the subject, in the propriety of which he was confirmed by the original communication of the President, which held out the idea, that in the estimate submitted to the House, the sum then appropriated was but a part of what might eventually be necessary.

Mr. DAWSON concluded by offering the following resolution:

Resolved, That a Committee be appointed to inquire what compensation ought to be made to Messrs. Lewis, and Clarke, and their brave companions, for their late services in exploring the western waters, to report by bill or otherwise.

This resolution was immediately agreed to without a division, and Messrs. ALSTON, BARKER, BLAKE, J. WHITEHILL, and MORROW, of Virginia, named the committee.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, on the petition of Anthony Benezet and others, which report was favorable to the prayer of the petitioners. A debate of considerable length arose, in which Messrs. J. CLAY, FINDLEY, J. RANDOLPH, R. NELSON, SLOAN, SOUTHARD, and ALEXANDER, advocated—and Messrs. HOLLAND, BIDWELL, MACON, JACKSON, and ALSTON, opposed the report; when the question was taken and the report agreed to.

The Committee rose, and the House immediately considered their report, and agreed to it—ayes 51, noes 46; when the Committee of Ways and Means was instructed to bring in a bill.

JUDICIAL COURTS.

Mr. ELLIOT moved the following resolution:

Resolved, That a committee be appointed to inquire what amendments and alterations are necessary in the several laws relative to the organization, powers, and duties, of the judicial courts of the United States; and that the said committee report by bill or otherwise.

Mr. E. said that he had the honor, some days since, to present to the House certain resolutions of the General Assembly of Vermont, concurring in an amendment proposed to the Constitution of the United States, by the State of Kentucky, contemplating a material limitation of the present Constitutional powers of the Federal Judiciary. This amendment has been adopted by several States, but has also been rejected by such a number, as completely to ascertain the fact, that it cannot at present become a part of the Constitution of the United States. Great evils certainly exist in consequence of the exercise of the powers now legally vested in the federal courts; and it becomes important to inquire whether those evils cannot be removed by the ordinary means of legislation, exercised within the sphere of the Consti-

tutional powers of Congress. From the attention which he had been able to pay to the subject, Mr. E. said that he was convinced that most of the grievances complained of might in this way be redressed; and it was to bring this important subject before the House that he was induced to make the present motion, and to hope for its adoption.

The resolution was adopted without a division, and referred to Messrs. ELLIOT, G. W. CAMPBELL, MUMFORD, SMELT, BOYLE, DWIGHT, M. CLAY, BROOME, and LLOYD.

PUNISHMENT OF CERTAIN CRIMES.

Mr. DAWSON, from the committee to whom was recommitted the bill providing for the punishment of certain crimes against the United States, reported the bill with an amendment, striking out the third section, which was referred to the Committee of the Whole on Monday.

Mr. DANA observed that prosecutions, he understood, were depending in the courts of the United States, not arising under any existing statute or treaty of the United States, but prosecutions sustained at common law. In four cases warrants had been issued at the order of the court, the parties arrested and held to trial. Two of these prosecutions were against printers, for publications, which had appeared in their papers; two against clerical gentlemen, for words uttered by them. The charges extended to various questions respecting political conduct, morality, and religion. It was a subject of vast importance, whether this extensive range would be allowed to a public accuser, holding his place at the will of the Executive of the United States.

At common law, a libeller may be subjected to fine and imprisonment, according to the discretion of the court, to which might be added the mutilation of the ears, according to the doctrine of Coke, in the Star Chamber. Security may also be required for good behaviour for his whole life. To the amount of fine there was no limitation.

There was also involved in these prosecutions an interesting question as to evidence. Shall the truth of the charges, once established, be considered as conclusive evidence, however pure the intentions of the accused may be proved to have been? With this question was connected the provisions of a celebrated declaratory statute carried through the British Parliament by a distinguished man, as implicating the point how far this statute affected the common law in the United States. There was likewise another question, viz: whether the person charged with having uttered slanderous words shall have liberty to prove the truth of what he uttered. This liberty was denied by the courts of Star Chamber in England. Such had been the fact in the case of Zenga in America, and in a case which had recently occurred in one of these States, in the second circuit of the United States, on the trial of Croswell. Mr. D. concluded by observing that he had suggested these ideas as an apology for asking that the subject might be examined; and then he offered the following resolution:

Resolved, That a committee be appointed to inquire whether prosecutions at common law should be sustained in the courts of the United States, for libellous publications, or defamatory words, touching persons holding offices or places of trust under the United States, and whether it would not be proper, if the same be sustained, to allow the parties prosecuted the liberty of giving the truth in evidence, and that the committee report by bill or otherwise.

Mr. DANA moved to refer this resolution to a Committee of the Whole.

Mr. BIDWELL said the object of the resolution appeared to be merely the appointment of a committee to inquire. If the mover would so modify it as to obtain a discussion of the principle involved in it, he should have no objection to it. It did not appear to him in order to refer a resolution for the appointment of a select committee to a Committee of the whole House.

Mr. DANA insisted that the resolution was clearly in order; and that it was unnecessary to give it the form of a specific proposition to insure to the subject a full discussion in Committee of the Whole.

Mr. G. W. CAMPBELL remarked, that if this resolution was referred to a Committee of the Whole, the only question that could be presented to them would be the expediency of referring it to a select committee, to make the proposed inquiry. The most regular and proper course was to refer the resolution in the first instance to a select committee, and afterwards to refer their report to the Committee of the Whole.

Mr. J. CLAY said, that the objection made to referring this resolution to a Committee of the Whole was, that it was best to refer it in the first instance to a select committee to settle the principle. But this would be to invert the usual course pursued in the House, which was first to settle principles in a Committee of the Whole. He had understood that, in the second circuit of the United States, prosecutions and indictments had been made at common law. In times past, which he hoped would never return, a sedition law had been passed. That law gave every man accused the liberty of giving the truth in evidence. He understood that, under the common law, after an indictment was preferred, the truth was not permitted to be given in evidence; and that, under this doctrine, they would, therefore, be worse off than under the sedition law. He hoped the resolution would be referred to a Committee of the Whole to make the proposed inquiry.

Mr. BIDWELL agreed that a Committee of the Whole was the proper place for settling principles. If the resolution were framed so as to answer this purpose, it should have his approbation. But the only question, in its present form, was merely for the appointment of a select committee to investigate the subject, which investigation would be most properly made in a Committee of the Whole.

Mr. QUINCY said that the objection of his colleague seemed to be to the word *inquire*. Mr. Q. thought it was most proper for the House, in Committee of the Whole, to determine whether

it would be expedient to appoint a select committee to inquire. If it should be decided that no such inquiry is expedient, there would be an end to the business. If a contrary decision were made, then a committee might be appointed to make the inquiry. The gentleman would not say that the resolution did not contain a principle of vast importance, well worthy of investigation. In his opinion, it was best first to settle the principle in Committee of the Whole, and then instruct a select committee on the nature of the inquiry, and the degree to which it should be made.

Mr. EPPES said, he should vote for a reference of the resolution to the Committee of the Whole, although he believed it was not draughted in such a form as it should be, to insure a discussion of the principles involved it. If he understood it, it would reduce the House to the necessity of discussing the question, which had been heretofore discussed, whether the passage of a law giving a man a right to give the truth in evidence, would abridge his rights. He could have wished the gentleman from Connecticut to have stated a specific proposition, such as that the common law of England is not a part of the law of the United States, and that in all prosecutions it is the right of a citizen to give the truth in evidence.

Mr. E. said he wished the gentleman would go further, and offer a resolution to inquire into the official conduct of any judge who had dared to institute such prosecutions as had been intimated. He would have no objection to going a step further, to impeaching him and voting for his removal.

Mr. E. said, that although he should vote for the reference of this resolution, he could not but remark that it was extraordinary for the gentleman from Connecticut to make such a motion. Suppose the gentleman were to offer a resolution for appointing a committee to inquire whether a citizen of the United States had a right to the privilege of the habeas corpus act, would not such a proposition be deemed most extraordinary? But to show that he was not afraid to meet the question, once already agitated in this country, he was ready to refer the present resolution, as well as to inquire into the official conduct of any judge who had practised the doctrines mentioned by the gentleman from Connecticut.

Mr. DANA said, he would explain to the House the reasons which had induced him to submit the resolution in its present form. In the observations he had offered, he had avoided all allusion to the past questions which been agitated in this country. He did not wish to present the proposion, in its outset, in such a form as might give offence to any part of the House; but in such a form that the House might, after a deliberate investigation of the subject, express their opinion upon it. He had supposed it would be clearly in order, in the Committee of the Whole, to move an amendment, declaratory of principle, instead of referring the inquiry to a select committee, in case that mode should be deemed most eligible.

Mr. G. W. CAMPBELL did not wish it to be understood that he had any objection to the question coming before the House. On the contrary, if doubts existed of the right of the citizen in any State, who was accused, to give the truth in evidence, he hoped the question would be settled by the House. He entertained a different opinion on this subject from that which had been expressed. In a number of the States, the laws gave the individual the right of giving the truth in evidence. He had always considered the State laws on this subject binding on the Federal courts. This question had never influenced the proceedings of the courts with which he was best acquainted; and if it had affected their proceedings in other States, it was high time to settle the question. The remarks which he had made did not appear to be understood by the gentleman from Pennsylvania. He did not consider the select committee, to whom it was proposed to refer this resolution, as intended to decide the principle, but to determine whether it is proper for the House to discuss it. He was clearly of opinion that the resolution should not be referred to a Committee of the Whole. It would not be there in order to settle the principle, but merely to determine whether it should be referred to a select committee. What, then, would be the effect of this course? After the report of the select committee, the Committee of the Whole must then discuss the principle. It would, therefore, contrary to the usual course, be twice discussed instead of once.

Mr. SMILIE wished the gentleman from Connecticut would present a specific proposition on the subject, which would enable the House to decide on the principle, and afterwards refer it to a select committee. This was a round-about way of doing business. The only object of the Committee of the Whole would be to inquire whether it would be proper to appoint a committee to inquire; whereas, if a specific resolution was offered, the principle involved in it might be decided in a Committee of the Whole. He trusted there was no difference of opinion on the subject in the House.

Mr. ELY did not pretend to be well acquainted with the usual mode of doing business in the House; but if he understood the object of the motion made by the gentleman from Connecticut, it was to give the committee appointed such a commission as the House, instead of the mover, might wish. If the House considered the motion as not exactly right, it would be in their power to give such commission as should be most consentaneous to their ideas. He thought this the most correct course. A gentleman draws up a resolution, which, perhaps, only in part suggests the opinions of the majority; the House then lay it before a Committee of the Whole, to modify it according to their ideas. Mr. E. thought the whole subject would be before a Committee of the Whole, and that it would be in the power of gentlemen to modify it as they pleased.

Mr. EPPES said, if he understood the object of the resolution, it presented two subjects for consideration; the first of which was, whether the common law of England was the law of the land; and the second, whether in cases of prosecution,

the accused may give the truth in evidence. He thought the gentleman from Connecticut might get at his object better by two specific resolutions, than by the one he had proposed; he had drawn such resolutions, and would read them by way of argument.

Mr. E. here read the following resolutions:

1. *Resolved*, That the common law of England is not a part of the law of the United States, except so far as it has been adopted by the laws of the United States or of the individual States; and that the prosecution of a person at common law for libel is a violation of the freedom of the press, and contrary to the Constitution of the United States.

2. *Resolved*, That in all prosecutions, whether criminal or otherwise, it is the natural right of the citizen to give in evidence the truth.

Mr. Dana said that, in preparing the resolution which he had offered, he had endeavored to present it in the most unexceptionable form; under the impression that, when the subject was before a Committee of the Whole, it might be modified agreeably to the wishes of the majority; and where the resolutions offered by the gentleman from Virginia might be moved as an amendment to the resolutions which he had submitted. Should he agree to substitute these resolutions in lieu of his own, he might be considered as agreeing with the gentleman in every word they contained; whereas it could not be expected that he could be ready hastily to pledge himself on any specific resolution until he had maturely considered it. The gentleman from Virginia had doubtless fully considered them, and was prepared to give his vote. Without, however, pronouncing on the principles contained in them, he thought at least there was some inaccuracy in the language.

Mr. Eppes did not suppose that resolutions hastily drawn possessed all the professional accuracy which might be given to them; and very possibly they did not possess all the precision which would have characterized them if drawn by the pen of the gentleman from Connecticut. But the objection of the gentleman otherwise was not well founded. If the resolutions he had suggested were to be submitted immediately to the decision of the House, there might be some solid objection; but when it was known that the object was to refer them for discussion, they amounted to no more than an expression of the sentiments of the mover on the subject. Mr. E. said he religiously believed that the common law of England was never a part of the law of the land, and that when a man was prosecuted, he had a right to give the truth in evidence. If the gentleman persisted in refusing to modify his resolution, he would move a postponement for the purpose of introducing his own.

Mr. Speaker said, a motion to postpone had no preference over a motion to commit.

Mr. Alexander said, that the resolution under consideration, if not the most technically accurate, appeared to him the most proper for the adoption of the House. It contained two propositions—first, whether it is expedient to inquire whether the prosecuting officers of the United States have a right to institute prosecutions for defamatory language; and, secondly, if so, whether, in such prosecutions, the truth can be given in evidence? It had been objected to, because it submitted it to the Committee of the Whole to decide, whether it were expedient to appoint a select committee to inquire. The gentleman from Tennessee was of opinion that it would not be competent to a Committee of the Whole to discuss the principles of the resolution; but that they would be exclusively confined to a consideration of the expediency of appointing a select committee to make the inquiry. Mr. A. said this was not his opinion. Before the Committee of the Whole the whole subject would present itself. He added that he could conceive of a phraseology that would not contain the obnoxious term "select committee," to wit, to make the resolution read, "whether it is not expedient to inquire," &c., omitting altogether the term select committee. Would not this, however, be presenting the subject in the same point of view? And if the Committee of the Whole decided that it was proper to make the inquiry, the next step would be to appoint a select committee. Mr. A. thought the question of high importance, and the course proposed very proper. It was best to present the subject under a general view, and not in the specific form suggested by the gentleman from Virginia. He should therefore vote for the reference. He declared himself of opinion that the accused had a right to give the truth in evidence; but said he had not yet made up his mind, whether such prosecutions could be carried on by the officers of the United States.

The reference to a Committee of the Whole was then agreed to—ayes 57, noes 41; and the resolution made the order for Thursday next.

Monday, January 5.

Another member, to wit: Matthew Walton, from Kentucky, appeared, and took his seat in the House.

The following Message was received from the President of the United States:

To the House of Representatives of the United States:

In compliance with the request of the House of Representatives, communicated in their resolution of the twenty-sixth of December, I now lay before them a report of the Secretary of the Navy on the state of the frigates, supplementary to his former report of January twenty-eighth, of the last year, communicated to the House of Representatives.

TH. JEFFERSON.

January 5, 1807.

The Messsage was read, and, together with the documents accompanying the same, ordered to lie on the table.

On motion of Mr. Roger Nelson,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the militia laws of the District of Columbia, with leave to report by bill, or otherwise.

And a committee was appointed, of Mr. Roger Nelson, Mr. Van Cortlandt, Mr. Trigg, Mr. Blount, and Mr. Rea, of Pennsylvania.

A Message was received from the President of the United States transmitting a copy of the laws of the Territory of Michigan, passed by the Governor and Judges of the Territory, during the year one thousand eight hundred and five. The said Message was read, and, together with the laws transmitted therewith, ordered to lie on the table.

Mr. Parke presented to the House a petition of William Henry Harrison, Governor of the Indiana Territory, which was received and read, praying compensation for his services in assisting to prepare the laws of the said district, previous to the first of October, 1804; and for his services as Governor and Superintendent of Indian Affairs for the same, from that period to the first of July following.—Referred to the Committee of Claims.

Mr. Marmaduke Williams, from the committee appointed on the twenty-second ultimo, presented a bill to extend the power of granting writs of injunctions to the Judges of the District Courts of the United States; which was read twice and committed to a Committee of the whole House on Thursday next.

Mr. Tenney, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report such laws of the United States as have expired, or are near expiring, made a report, in part, thereon; which was read, and ordered to lie on the table.

Resolved, That the Committee of Commerce and Manufactures be directed to inquire into the expediency of continuing in force, for a further term, the act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the Island of Saint Domingo;" and that they be authorized to report by bill, or otherwise.

The House, resolved itself into a Committee of the Whole on the bill authorizing the discharge of William Hearn from his imprisonment. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

Mr. John Randolph, from the Committee of Ways and Means, presented a bill for the relief of Anthony Benezet, and others; which was twice read and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of George Little. The bill was reported without amendment and ordered to be engrossed, and read the third time to-morrow.

Mr. Van Cortlandt, from the committee to whom was referred the petition of the Highland Company, praying for the application of a part of the surplus revenue of the post office towards the completion of the turnpike road which they are engaged in executing, made a report.

The report acknowledges the high importance of the object, but gives an opinion that it is inexpedient for the Government of the United States to interfere with the making of turnpike roads.

Mr. Van C. observed that the members of the select committee were divided on the report, and moved its reference to a Committee of the Whole on Monday. Agreed to—yeas 54.

The House resumed the consideration of the report of the Committee of the Whole House on the bill to prohibit the importation of slaves into the United States.

Mr. Sloan moved to strike out the fourth section, with the view of introducing a section to the following effect: That all slaves imported into a State allowing slavery shall be declared free—for whom, food and raiment shall be provided, until they shall be restored to freedom in their native land, or removed to States in which the laws are congenial to their freedom, where they shall be bound out for a term of years.

Only three members rising in favor of Mr. Sloan's motion, it was disagreed to.

After further progress in the consideration of the report, the Committee rose, and it was postponed till Wednesday.

PUNISHMENT OF CERTAIN CRIMES.

The House resolved itself into a Committee of the Whole on the bill providing for the punishment of certain crimes against the United States.

In correspondence with the recommendation of the select committee, the third section (which gave rise to the debate on a former day) was stricken out.

Mr. Eppes moved to strike out the second section. He remarked that, in the first section, certain offences were enumerated—such as the "beginning, or setting on foot, or the providing or preparing the means for any military expedition or enterprise, with intent of taking possession of any fort, arsenal, magazine, dock, navy yard, or any public vessel of the United States; or of invading or occupying with an armed force, any part of the United States, or the territories thereof; or with intent, in any other manner, of levying war against the United States, or of adhering to the enemies of the said States; or with intent, as aforesaid, combining or conspiring together, or counselling, advising, or attempting to set on foot, provide, or prepare the means for any such military expedition or enterprise, or to procure any such military expedition or enterprise, or to procure any insurrection, unlawful assembly, or combination for such purpose."

Under the words of the second section, it is provided, "That, the trial of these offences may be had in any of the districts or territories where any of the acts constituting the offence shall be committed, and all the act constituting the offence, may be brought in evidence on such trial, in whatever part of the United States, or the territories thereof, they may have been committed."

Now, suppose, under this act, a certain set of men shall form a conspiracy in Washington, shall counsel or attempt to set it on foot in Kentucky, shall prepare the means for its execution in Indiana, and shall procure an insurrection in the Orleans Territory. Under this section, a man may be seized in Orleans and tried in Washington. If

the section was susceptible of this construction, it ought to be struck out. If it were not liable to this construction, the words ought to be so modified as to render the meaning more explicit. One of the most valuable privileges secured by the Constitution, was the trial by a jury of the vicinage. Were this provision retained, it would be in the power of the Government to oppress and ruin any man charged with the offences enumerated in the act. It would be easy for it to go into distant territories, and hunt up circumstances on which to found criminal charges; but, how was it possible for the individual accused to collect information to repel them?

Mr. DAWSON said the construction given by his colleague to this section was the true one; but, that without the power given by this section, it would be impossible to punish the crimes enumerated in the bill. A man may set such a project going in Pennsylvania, and then remove to a distance, and thus commit one act in one State, and one in another. Was it not right and just that he should be brought before a court where the whole of these acts could be considered? The provision was by no means new. It would be seen, by examination of laws relative to the Post Office Department, that it had been long since adopted by the United States.

Mr. BIDWELL said he understood the ideas of the gentleman from Virginia as going much farther than the bill warranted. The first section specified certain acts, either of which were punishable, and not all of them collectively. Several of these offences were complex in their nature—for instance, a combination or conspiracy, consisting of acts, a part of which might be committed in one State, and part in another. The circumstances whose union was requisite to form a conspiracy, often took place in several counties in the same State—in which case, the principle adopted in every State made the crime triable in either county; otherwise, it would be impracticable to take into consideration the nature of the offences which constitute the crime for which the individual was charged. The case was the same in the present instance. Some part of the offence may be committed in one State, and some part of it in another. These offences might either be considered separately, and then a man would be exposed to more than one trial, or collectively, as constituting one offence, in which case there would be but one trial. For instance, one offence may be in part committed in Ohio, and part in Kentucky. Unless this offence was tried in a collective view, it would be impossible to take a full view of the whole evidence, or to punish the crime agreeably to the aggravation of the offence. Mr. B. concluded, by observing that they were only in this bill declaring, in relation to the different districts of the United States, what, agreeably to the common law, took place in the different counties of the same State; and that this provision, so far from being reprehensible, appeared to him essential to the bill.

Mr. EPPES said he believed there were no occasions on which legislative bodies ought to proceed with so much caution, as when they were about to make any changes in the criminal code. It too often happened, when they passed a law for a particular occasion, that they lost sight of the rights of the citizen, and established a dangerous precedent. It was his wish, always, to legislate on general principles, and not for particular occasions; and that they should confine themselves to the passage of such laws as might be safely administered, at all times, as the laws of the land. The gentleman from Massachusetts has confined his observations to the latter part of the objections he had made to the section, viz: the testimony to be adduced. But he would ask whether, as a candid man, he could obviate the first objection he had made? If a man committed different acts in fifty different sections of the Union, he might, under this provision, be taken in any one of them, and be tried and punished where it would be impossible for him to get testimony, and where he would be borne down by the arm of power. The language of the section is: "The trial may 'be had in any of the districts, where any of the 'acts constituting the offence have been committed." What are these acts? The first, is the beginning or setting on foot a military expedition. This is one distinct act. The forming a conspiracy or combination. This is another act. And so of any other acts recited in the bill, under which a man may be seized, and dragged here for trial, provided any one of the offences was committed here, though all the rest were committed elsewhere.

Mr. E. said he had another objection to this provision. It gave the officers a right to seize a man, and try him in that district most prejudiced against him. In one district he may be very odious, in another highly popular. He believed this was very much the case at present. Would this be fair? If gentlemen are disposed to act properly, let the offence be tried in the district where it is committed. Let them adhere to the principles of the Constitution.

Mr. E. said, that gentlemen might have an opportunity of turning their attention to the subject, he would move that the Committee should rise.

Mr. BIDWELL said, before the question was taken on the rising of the Committee, he wished for a moment to examine the nature of the objection offered by the gentleman from Virginia. The enumeration in the first section explained the different offences, and classes of offences, each of which made a different offence. The second section did not say one offence, committed in one place, should be tried in another. It is only in case of a combination of offences that this is to take place. The gentleman says, part of a conspiracy may take place in Kentucky, and part in another district. You must either then unite these offences, or render a person punishable for every part or circumstance, which collectively are made to constitute an entire whole. The having but one trial is for the benefit of the defendant, by which he is saved from the necessity of undergoing several trials in different districts and for different offences. The Constitution, it is true, provides that the trial shall be in the district in

which the offence is committed; but if the offence be not committed in a particular district, Congress may fix the place where the trial shall be had. Mr. B. said it appeared to him that the true spirit of the Constitution was pursued by this law, which provides that a man may be tried in either district where any part of the offence is committed; and that when so tried there shall be a bar in any other trial for the same offence. So far from introducing a new principle, Mr. B. was of the opinion that the same course would be pursued without any special provision, which however was desirable, as making the point explicit, and placing it beyond all doubt. He said he had no other objection to the Committee rising, than that arising from delay. The sooner the bill was passed the better; for although it could not operate on past offences, if passed in season, it might perhaps operate on acts which might take place after its passage.

Mr. SMILIE said the provision in the bill had been so well explained by the gentleman from Massachusetts that he was surprised how any doubt could be entertained respecting it. It was well known that in case of treason a man might commit an act in one State, and a different act in another State. Was he in this case to be tried twice for the same offence? This would be unconstitutional. So in this case a conspiracy might be composed of various acts committed in different States. Would gentlemen be for trying the man accused of a conspiracy in different States, and for every act committed by him? Surely not.

Mr. EPPES said he would call the attention of the Committee to two clauses of the Constitution.

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

Mr. N. WILLIAMS said he apprehended, though he was sorry to make the observation, that the honorable gentleman from Virginia who objected to the second section of the bill, did not correctly understand it. That, according to his own understanding, the section did not contemplate the trial of distinct offences in any district or territory in which the offence should not have been committed. The words of the section are, "that the trial of the above offences may be had in any of the districts, where any of the acts constituting the offence shall have been committed," &c. By this it clearly appeared, that when the offence to be tried was made up of various acts, some of which were committed in one district and some in another, the offence might be tried in either of these districts.

Mr. W. said he should vote against the postponement, as he did not see the least difficulty in the case. The bill contained no new principle—none that was not known and applied in cases of treason, familiar to every one, and in cases of larceny, in which it was every day's practice to prosecute an offender in any county where the goods were found upon him, although stolen in another county. He said the bill appeared to him highly important, and he was sorry to discover a disposition in the House to delay the business under discussion.

Mr. ALSTON did not agree with the gentleman last up. On the contrary, he considered this section as exceptionable. What does it say? That you may try a man in one of the districts where he may have committed an offence. This was putting a power into the hands of the prosecutor to harass the accused beyond that which the Constitution even contemplated. He thought the section might be so worded as to obviate the objections that had been raised.

Mr. EPPES said it was very possible, as stated by the gentleman from New York, that he did not understand the section correctly, as he did not pretend to his high genius. His strongest objection to the section was that it gave the prosecutor a right to try the offence in the place where the strongest prejudice might exist against the accused. Mr. EPPES here recapitulated his first remarks, and added that, according to the second section, a man could be tried for any of the offences enumerated in the first section, in any one of the districts of the United States, provided any of those acts shall have been committed in it. He would ask whether this would not be a violation of the Constitution, which guarantied a jury of the vicinage to the accused? He would ask how a man could be tried here by an impartial jury collected from New Orleans, Kentucky, and Indiana?

Mr. JACKSON said that the section, according to the construction given it by his colleague, was highly objectionable, and stared the Constitution in the face, and ought not to receive the patronage of the House. He, however, believed that the object of his colleague, as well as the friends of the bill, might be effected by taking a middle course; by confining the trial of the accused to the district in which he shall be arrested. This would preclude the possibility of an individual being transported for trial from one place to another, and his being thus dragged to a place where the rage of implacable passions may condemn him though innocent. If some such amendment were not made Mr. J. said he should vote for striking out the section; and if the section should neither be amended or stricken out, he should vote against the bill.

Mr. SLOAN said that while they were so jealous of the rights of the citizens, it became them not to be indifferent to the safety of the community. He apprehended that the intention of this law was to nip in the bud plans that were treasonable and destructive of the peace of the United States. The provision contained in the second section appeared to him highly necessary to guard the rights of the community.

Mr. DAWSON said it was the opinion of the committee that introduced the bill, that a man must be tried in the district where he was apprehended, and this, he considered as the true construction. He did not think that a man could be transported

from one district to another. Indeed he was at a loss to know under what legal authority this could be done. He believed this the fair construction of the law; but if gentlemen wished to make its language more explicit, he had no objection to an amendment to that effect.

Mr. G. W. CAMPBELL observed that the section might be so modified as to make it correspond with the ideas of both sides of the House. It was essential to fix some place for the trial of crimes, which should be partly committed in one State and partly in another. It was material to determine in which State the crime should be tried, which circumstances ought not to be left to the option of the prosecutor or the Government. If the bill was so amended, it would answer every valuable purpose for which it was framed. He therefore proposed, in case the Committee did not rise, to offer an amendment to the second section, providing that the trial should take place in the district "in which the defendant shall be arrested, or into which he shall be first brought."

Mr. EPPES withdrew his motion for the rising of the Committee, when the question was taken on his motion to strike out the second section, which was disagreed to—yeas 21.

Mr. G. W. CAMPBELL then offered his amendment.

Mr. JACKSON said it did not remove his objections to the section. Suppose a man were apprehended in a place where the offence with which he is accused was not committed. Would it not be competent under this provision to carry him to a place where he might be the victim of the most implacable feelings?

Mr. G. W. CAMPBELL replied that the provision embraced such cases, and that the effect apprehended by the gentleman would not follow.

On motion of Mr. SMILIE, the Committee rose, without coming to a decision on the amendment when the House adjourned.

TUESDAY, January 6.

Mr. SOUTHARD, from the committee appointed on the second instant, presented a bill authorizing the President to lease the public ground in the City of Washington; which was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. PARKE,

Ordered, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing an office for the sale of the lands of the United States west of the Greenville Treaty boundary line, and east of the Vincennes and Delaware purchases; and that they report by bill or otherwise.

An engrossed bill authorizing the discharge of William Hearn from his imprisonment, was read the third time and passed.

Mr. EARLY, from the Committee of Commerce and Manufactures, who were directed by a resolution of the House, of the sixteenth ultimo, "to inquire into the expediency of making provision for a survey of the coasts of the United States," presented a bill to provide for surveying the coasts of the United States; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. CLINTON presented to the House a petition of Peter Landais, of the State of New York, which was received and read, praying that his claim against the United States for a share of prize money, in three vessels captured by him while commander of the frigate Alliance, during the late war with Great Britain, may be examined and finally settled.—Referred to the Committee of Claims.

CLAIM OF GEORGE LITTLE.

A bill for the relief of George Little was read the third time.

The bill makes provision for a claim preferred by Captain Little, commander of a ship of the United States, arising out of the following circumstances. During our differences with France, a law was passed inhibiting commercial intercourse with France. Under this law, and the orders given by the Executive Government, Captain Little captured the Flying Fish, which, on an adjudication by the courts of the United States, was restored as an illegal prize and damages awarded against Captain Little, who claims an indemnity from the Government, on the ground of having in the capture executed the orders given him by the Secretary of the Navy.

Messrs. HOLMES, TALLMADGE, COOK, DANA, HASTINGS, QUINCY, and ALEXANDER, advocated; and Messrs. SMILIE, GREGG, CHANDLER, BEDINGER, and FISK, opposed the passage of the bill, when the question was taken by yeas and nays, and the bill passed—yeas 70, nays 51, as follows:

YEAS—Evan Alexander, Willis Alston, jr., Joseph Barker, Burwell Bassett, Silas Betton, James M. Broom, John Boyle, William Butler, John Campbell, Martin Chittenden, John Claiborne, George Clinton, jun., Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, William Dickson, Theodore Dwight, Peter Early, James Elliot, Caleb Ellis, William Ely, John Fowler, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Duncan MacFarland, Robert Marion, William M'Creery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

NAYS—Isaac Anderson, John Archer, David Bard, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, Levi Casey, John Chandler, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, Ezra Darby, Elias Earle, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Edwin Gray,

Andrew Gregg, Isaiah L. Green, John Hamilton, James Holland, Thomas Kenan, John Lambert, Patrick Magruder, Josiah Masters, David Meriwether, Thomas Moore, John Morrow, Roger Nelson, Gideon Olin, John Porter, John Pugh, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, and Joseph Winston.

The SPEAKER laid before the House a communication from the Postmaster General, stating the respective sums paid to his clerks, which was referred to the Post Office Committee.

Mr. STANTON, from the Committee on Claims barred by statutes of limitation, made a report, recommending that all just and equitable claims for services rendered, or supplies furnished during the Revolutionary war with Great Britain, &c., now barred, ought to be provided for by law.

Referred to the Committee of the Whole on Thursday.

PUNISHMENT OF CERTAIN CRIMES.

Mr. EARLY called for the order of the day on the bill providing for the punishment of certain crimes against the United States.

Mr. EPPES moved to recommit the bill to a select committee. He said he trusted the bill in its present shape would not pass. The object contemplated by it, was to give the same powers to prevent or punish an expedition against the United States that was already provided in the case of the expedition against a foreign Power. This would be found by consulting the Message of the President delivered at the commencement of the session. The President observes: "Where an 'enterprise is meditated by private individuals 'against a foreign nation, in amity with the United 'States, powers of prevention, to a certain extent, 'are given by the laws. Would they not be as 'reasonable, and useful, where the enterprise prepar'ing is against the United States?"

This is the recommendation of the President—this is the provision deemed necessary by him. Let us compare it with the provisions of the existing law. In the 3d volume of the laws of the United States, 5th section, we find the following provision:

"That if any person shall, within the jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise to be carried on from thence against the territory of any foreign Prince or State with whom the United States are at peace, every such person so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall suffer fine and imprisonment at the discretion of the court in which conviction shall be had, so as that such fine shall not exceed three thousand dollars, nor the term of imprisonment be more than three years."

This is the provision at present in force in respect to an enterprise against a foreign nation. But in addition to this the committee are for giving the following power. Mr. E. here read the first section of the bill under consideration, as follows:

"*Be it enacted*, That if any person or persons shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise, with intention of taking possession of any fort, arsenal, magazine, dock, navy yard, or any public vessel of the United States, or of invading or occupying with an armed force any part of the United States or the territories thereof, or with intent, in any other manner, of levying war against the United States, or of adhering to the enemies of the said States, or who, with intent, as aforesaid, shall combine or conspire together, or shall counsel, advise, or attempt to set on foot, provide, or prepare the means for any such military expedition or enterprise, or to procure any insurrection, unlawful assembly, or combination, for such purpose, although such expedition or enterprise shall not be carried into effect, and whether such conspiracy, counsel, advice, or attempt, shall have the proposed effect or not; every such person or persons so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall suffer fine and imprisonment, at the discretion of the court in which the conviction shall be had, so as that such fine shall not exceed —— thousand dollars, or be less than —— dollars, nor the term of imprisonment be more than —— years, or less than —— years; and further, at the discretion of the court, be holden to find sureties for his or their good behaviour, in such sum, and for such term, as the said court may direct; *Provided always*, That nothing herein contained, shall be construed so as to prevent the trial and punishment of any person or persons guilty of treason, murder, or any other offence punishable by any law or laws of the United States."

Mr. EPPES said the objection he had to the bill was this: it introduced a description of offences which could not be defined, or reduced to any known standard. What was a combination or conspiracy, but just what a court may please to make it? He had another objection. In the first section the committee who reported the bill had adopted the very words of a statute which had ever been considered odious and oppressive, and which he never wished again to see adopted in whole or in part. He alluded to the memorable sedition act. And that gentlemen might see the affinity of this bill to it, he would call the attention of the House to its first section, which was as follows:

"*Be it enacted*, That if any person shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the Government of the United States, which are or shall be directed by proper authority; to impede the operation of any laws of the United States, or to intimidate or prevent any person holding a place or office in or under the Government of the United States, from undertaking, performing, or executing his trust or duty; and if any person or persons, with intent as aforesaid, shall consult, advise, or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt, shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months, nor exceeding five years; and further, at the discretion of the court, may be holden to find sureties for his or their good behaviour in such sum, and for such time, as the said court may direct."

Here then we have the very offences designated in that statute, a combination and conspiracy; and all that is necessary to make this act precisely the same with the sedition bill, is to introduce the words, navy yard and arsenals.

Mr. EPPES said these were his objections to the first section. He had yesterday fully explained his objections to the second section; and although some attempt had been made to obviate them, he believed it would be impossible in a Committee of the Whole so to arrange the wording of the section as to prevent an interference of its provisions with the principles of the Constitution.

He had another ground for recommitting the bill—the entire omission of what he conceived an important provision. He would again recur to the passage. "While adverting to this branch of law, 'it is proper to observe that in enterprises meditated against foreign nations, the ordinary process 'of binding to the observance of the peace and 'good behaviour, could it be extended to acts to 'be done out of the jurisdiction of the United 'States, would be effectual in some cases, where 'the offender is able to keep out of sight every indication of his purpose which could draw on him 'the exercise of the powers now given by law."

He believed this a valuable provision, and one which might be so framed as not to infringe the rights of the citizen. If indeed the provisions of the bill were made conformable to those of the act providing against expeditions against foreign Powers, it would in his opinion suffice. That act constituted such offence a high misdemeanor, gave to the Executive the power to use the armed force for the purpose of its suppression, and authorized the binding over to good behaviour. For these reasons he hoped the motion to postpone the bill would be rejected, that the Committee of the Whole would be discharged from its further consideration, and that it would be referred to a select commitee.

The question was then taken on postponing the bill till to-morrow, which was disagreed to—ayes 44, noes 61.

Mr. EPPES then offered his motion to discharge the Committee of the Whole from the further consideration of the bill.

Mr. DAWSON said he was at a loss to know what advantages would result from such a course of procedure, unless the bill should be recommitted to a different committee from that which introduced it. It had been already recommitted; and the committee to whom it had been recommitted had reported it unanimously. As an answer to some of the objections of his colleague, he would observe that the committee, in reporting this bill, had only reported in part; and that they had it in contemplation to make the provision he had alluded to in a special bill. He did not consider it the duty of a committee to draught a bill in precise conformity to the ideas of the President, but in correspondence with their own sentiments. As to the objection that the bill was similar to the first section of the Sedition act, Mr. D. observed that if his colleague had been in the House when that bill was passed, he would have known that the section read by him had not been objected to by any one, and that it was only the second section which had been opposed. He hoped, if the bill were recommitted, it would be sent to some other committee than the one which had introduced it.

The question was then put on discharging the Committee of the Whole from the further consideration of the bill, and passed in the negative—ayes 50, noes 50, the SPEAKER declaring himself in the negative.

WEDNESDAY, January 7.

Mr. J. RANDOLPH, from the Committee of Ways and Means, to whom was referred, on the third ultimo, so much of the President's Message as relates "to a suppression of the duties on salt, to a continuation of the Mediterranean fund, and to the state of our revenues," presented a bill repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers:" which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. J. RANDOLPH, from the committee appointed on the twenty-fourth ultimo, presented a bill authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding thirty thousand men; which was read twice, and committed to a Committee of the Whole on Monday next.

IMPORTATION OF SLAVES.

The House resumed the consideration of the report of the Committee of the Whole on the bill to prohibit the importation or bringing of slaves into the United States after the 31st of December, 1807.

Mr. EARLY, after some preliminary remarks, offered the following amendment: "In all actions, suits, or informations, which shall be brought under the 3d, 4th and 5th sections of this act, the burden of proof shall lie on the claimant, or party sued or prosecuted, where probable cause is shown for the seizure or prosecution, to be judged of by the court before whom the seizure or prosecution shall be tried."

After a few remarks from different members, this amendment was agreed to.

A motion was then made by Mr. BIDWELL, further to amend the third section of the said bill, in the following paragraph, to wit: "and such ship or vessel, if brought into any port or place within a State or Territory, the Constitution and laws of which permit slavery, shall, together with her cargo, tackle, apparel, and furniture, be forfeited," by striking out from the said paragraph, the word "cargo."

The yeas and nays were called on the amendment, and were—yeas 39, nays 77, as follows:

YEAS—John Archer, David Bard, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jr., James M. Broom, Robert Brown, John Chandler, Samuel W. Dana, Ezra Darby, Theodore Dwight, James Elliot, William Ely, William Findley, James Fisk, Isaiah L. Green, John Hamilton, Seth Hastings, William Helms, Nehemiah Knight, John Lambert, Edward Lloyd, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., John Porter, John Pugh, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Joseph Stanton, Lewis B. Sturges, Benjamin Tallmadge, Thomas W. Thompson, and Joseph B. Varnum.

NAYS—Evan Alexander, Willis Alston, jr., Isaac Anderson, Burwell Bassett, Thomas Blount, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Joseph Clay, Mathew Clay, John Clopton, Frederick Conrad, Leonard Covington, John Davenport, jr., Elias Earle, Peter Early, Caleb Ellis, Ebenezer Elmer, John Fowler, Charles Goldsborough, Edwin Gray, Andrew Gregg, Silas Halsey, James Holland, David Holmes, Thomas Kenan, Henry W. Livingston, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., Josiah Quincy, John Randolph, John Rea, of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Samuel Tenney, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Winston, and Thomas Wynns.

Mr. BIDWELL moved to add a proviso to the end of the 7th section, of the following tenor:

"*Provided*, That no person shall be sold as a slave by virtue of this act."

Messrs. BARKER, FINDLEY, QUINCY, VARNUM, SMILIE, CONRAD, SLOAN, CHANDLER, BIDWELL, BEDINGER, SOUTHARD, and FISK, supported; and Messrs. J. CLAY, ALSTON, and EARLY, opposed the amendment.

The advocates of the amendment observed that they could never agree to sanction the existing provisions of the bill, which authorized the sale of persons of color imported into the United States; that while they respected the sentiments and feelings of the people of the Southern States, so far as to be opposed to adopting any course which would be injurious to them, they claimed an equal respect for the sentiments and feelings of their constituents, which were so repugnant to slavery that no consideration whatever could induce them to give it their sanction; that nothing could be more abhorrent to their feelings than the legal authorization of the sale of persons as slaves, and the drawing money into the public Treasury from such sale; that indeed, such a provision, so far from inhibiting the trade, would in a measure tend to its encouragement; that as the bill stood, without the proposed provision, persons forfeited would be sold under the authority of the United States, a title be given to the purchaser by the United States, and the sale be for the benefit of the United States. The object of the provision was to prevent this. Its advocates declared that they did not mean by it in the least to interfere with the existing laws of the State on the subject, to turn persons of color imported loose on the States where slavery was permitted. Should the present provision be adopted, it might become necessary to recommit the bill to a select committee, for the purpose of introducing into its details a provision for the disposition of the persons who may become forfeited to the United States; that this might be done by binding them out for terms of years, or transporting them to a foreign country; and that if forfeited in States where slavery was allowed, provision might be made for their removal to States where different laws existed. The power of the General Government might not, it was admitted, be competent to their liberation in the former States; but becoming, by their forfeiture, the property of the United States, they would possess the right of removing them to those States with whose laws there would be no interference.

The opponents of the amendment contended that the plan contained in the bill was the only effectual and practicable one that could be devised for preventing the importation of persons of color; that their forfeiture to and sale by the United States was an essential provision, as, without it, no person would be found to give information of the infraction of the act; and that without such information the act would be a dead letter, as in the indirect trade with the adjacent provinces of European Powers it would be altogether impossible to render the vessel or master importing them liable to be seized, from the inability of reaching them.

They also contended that Congress did not possess the right to say that persons of color brought into the Southern States should not be sold as slaves, because as soon as they become the property of the United States by their forfeiture, the United States, in character of owner, became equally subject with an individual to those laws, which in several of the States directed their sale as slaves as soon as introduced into them; with which laws consequently the proposed provision directly interfered. They said they were also opposed to the amendment, because the principle on which it was advocated went to affect nine-tenths of the property of the Southern States, and might in its effects strike at all the property held in slaves; that consequently it became their duty to resist it. The friends of the amendment claimed an equal respect to their feelings; but this declaration came with a bad grace from those who on a former occasion had supported a motion to turn these people loose in a state of freedom in the Southern country.

This was disavowed by Messrs SMILIE and SLOAN.

The question was taken on the amendment by yeas and nays, which were—yeas 60, nays 60. The SPEAKER having declared himself in the negative, the amendment was lost. The yeas and nays were as follows:

Yeas—Isaac Anderson, John Archer, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., James M. Broom, Robert Brown, John Chandler, Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., Theodore Dwight, James Elliot, Caleb Ellis, William Ely, Wm. Findley, James Fisk, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, Nehemiah Knight, John Lambert, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, Lewis B. Sturges, Benjamin Tallmadge, David Thomas, Thomas W. Thompson, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Nathan Williams, and Joseph Winston.

Nays—Evan Alexander, Willis Alston, jr., Burwell Bassett, Thomas Blount, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, John Claiborne, Joseph Clay, Matthew Clay, John Clopton, Leonard Covington, William Dickson, Elias Earle, Peter Early, John Fowler, Charles Goldsborough, Edwin Gray, Jas. Holland, David Holmes, Walter Jones, Thomas Kenan, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., John Randolph, John Rhea of Tennessee, John Russell, Thomas Sanford, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Samuel Tenney, Philip R. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, David R. Williams, Alexander Wilson, and Thomas Wynns.

On motion of Mr. Pitkin, the authority given the Secretary of the Treasury to remit fines and forfeiture was struck out—yeas 74.

Several other amendments were made in the details of the bill, when it was ordered to be engrossed for a third reading to-morrow—yeas 74.

Thursday, January 8.

Ordered, That the Message of the President of the United States, of the fifth instant, transmitting a copy of the laws of the Territory of Michigan, together with the said laws, be referred to Messrs. J. Clay, McCreery, Mumford, Quincy, and Walton.

PUBLIC DEBT.

Mr. Elliot offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before the House of Representatives a statement of the amount of the debt of the United States on the 1st day of April, in the year 1801, and on the 1st day of January in each year since that period *respectively*, distinguishing the respective amounts of foreign and domestic debt, and of each species of those descriptions of the debt, and exhibiting distinct statements of the quarterly as well as annual payments, so far as the same may be practicable.

Mr. Elliot said that, in making this motion, he had two objects, which he would distinctly state to the House: one of which, he deemed of considerable importance, and the other of minor consideration. The first and great object was to obtain an analysis of that part of the report of the Secretary of the Treasury of the 5th of December last, which presents a general statement of the payments on account of the principal of the public debt from the 1st of April, 1801, to the 30th September, 1806, referring to a statement in the appendix to that report, marked D, and of that statement itself, to resolve, as it were, these important documents into their original elements, and present to the public eye one concise and comprehensive view of the whole of the payments that have been made on account of the national debt since April 1, 1801. It is well known that the voluminous reports of the Secretary of the Treasury on financial subjects are not generally read, or, if cursorily perused, are not studied and understood by the people at large. Few possess sufficient time which they are able to devote to this purpose, and dry mathematical calculations possess few charms to attract the attention of those who glance over the periodical publications of the day, for the purpose either of amusement or general political information. It is in vain to attempt to conceal the fact, that upon the great subjects of the national debt, and of the revenues and finances of the country generally, a degree of ignorance prevails which cannot but be the subject of great regret to all who wish for the general diffusion of correct information on all matters of national concern. It must be remarked, also, that the annual reports of the Secretary of the Treasury, prepared in obedience to the act, entitled "An act to establish the Treasury Department," although extremely useful for the purposes of legislation, are ill calculated for the purposes of universal information. To common readers, the simple lustre of a statement of the debt and revenue at a particular period is lost in the splendor of retrospective and prospective calculations by which it is surrounded. It becomes desirable, therefore, to obtain a general statement of the public debt, and of the payments which have been made, which may be comprised in a half sheet of paper, and will require no new calculations, as it will in fact be but a mere abstract of the voluminous documents now in existence.

The secondary object to which he had alluded, Mr. E. said, was the acquisition of information to enable the House to correct a considerable, though undoubtedly accidental error into which the Secretary of the Treasury appears to have fallen in his last annual report. And it is to this object that I wish to apply the information contemplated in the closing member of the resolution, which requires quarterly as well as annual statements of payments, so far as the same may be practicable. We have two distinct statements of the amount of the public debt at a certain period, which appear to vary from each other. In the statement marked F, in the appendix to the report, which is the letter of the Secretary of the Treasury to the

Chairman of the Committee of Ways and Means, of January 20, 1806, on the subject of a conversion of the old six per cent. deferred and three per cent stock into a new six per cent. stock, the total amount of the public debt on 1st January, 1806, is stated at $72,744,700. It is true that the unredeemed amount of the old six per cent. and deferred stocks, and the nominal amount of the three per cent. stock, are stated "in round numbers." What is meant by these *round numbers* is one of those things which I wish to ascertain; they may possibly account for the variance which I am about to state, but I suspect they will not. In the present report, page 4, the Secretary states the payments to be made during 1807 and 1808 (principal and interest) at $16,756,153 58, and the debt which will remain unpaid on the 1st January, 1809, at $57,491,838 77. By statement D, it appears that the amount of principal of the debt, redeemed from 1st October, 1805, to 30th September, 1806, was - - - - $3,247,113 06
And the further payments to be made during the last quarter of 1806 (see page 3 of the report) - 2.849,389 19

Making - - - - - 6,096.502 25

The amount of payments of principal for the five quarters from 1st October, 1805, to 31st December, 1806.

We have at present no means of ascertaining what proportion of this sum of six millions of dollars was redeemed in the last quarter of 1805. If we take the average of the four quarters ending September 30, 1806, as the base of a calculation, we shall have the following general result:

Amount of debt 1st January, as above - - - - - -	$72.744,700 00
Principal paid in 1806 - -	5,280,002 25
Balance - - - - -	67,464,697 75
Principal to be paid in 1807 and 1808 - - - - - -	0,714,358 25
	57,750,339 50
From which deduct the sum stated by the Secretary as the amount of the debt which will remain unpaid on the 1st January, 1809 - - - - -	57,491,838 77
The difference is - -	258.500 73

It is possible, indeed, that this variance may not amount to $150,000; and it is possible, also, that it may amount to 600,000 or 700,000 dollars. If the information aimed at by the proposed resolution be obtained, we shall be able to estimate it with perfect accuracy.

Mr. Burwell said that he approved of the resolution, but wished it extended so as to obtain information of the relative state of the debt from the year 1791, and moved to amend it by inserting 1791 in lieu of 1801.

Mr. Elliot and Mr. J. Clay suggested their indisposition to the amendment, on the ground of the delay it might occasion in acting on the bill before the House relative to the discharge of the debt.

Mr. Burwell's amendment was agreed to—ayes 87.

On motion of Mr. Alston the resolution was further amended, so as only to require quarterly statements from April 1801.

On motion of Mr. Joseph Clay it was further amended, by adding after "respectively," "on the first day of April, 1801."

So amended, the resolution was agreed to.

IMPORTATION OF SLAVES.

The bill to prohibit the importation of slaves into the United States was read a third time.

Mr. Bedinger moved to recommit the bill to a select committee.

The recommitment was advocated by Messrs. Sloan, Bidwell, Findley, Quincy, Ely, Smilie, J. Clay, Gregg, Bedinger, and Alexander, and opposed by Messrs. Early, Holland, and Masters.

The advocates of a recommitment observed, that the bill in its present shape was such as they could never agree to, and that if a modification of it were successfully resisted, they would be compelled, however reluctantly, to give it their negative. They flattered themselves, however, that a spirit of harmony and accommodation, of which so illustrious an example had been set by the framers of the Constitution, would induce the friends of the bill to allow its modification in such a way as to reconcile its provisions to the sentiments entertained in the Eastern section of the Union, by which means it would go forth with the sanction either of the whole House, or of a great majority, and be thereby more likely to prove operative and effectual than if passed by a small majority.

They declared that they never could agree to that feature of the bill, which authorized the sale of persons of color introduced into the United States as slaves. They were ready to acquiesce in the principle of a forfeiture of the person, inasmuch as it had been sanctioned by the vote of a large majority, and as it appeared to be so strenuously insisted on by the representatives of the Southern country. But while they yielded their individual opinions on this point, they expected a correspondent concession on the part of the representatives of the Southern States, which was, that persons thus introduced into the United States should be disposed of in such a way as to prevent their conversion into slaves, and so as to save the United States from the humiliation and disgrace of sanctioning a principle at which the strongest feelings of humanity, as well as the plainest dictates of reason, revolted.

They remarked that the bill had hitherto been in the hands of those who were devoted to its present features; and no fair opportunity had consequently been afforded those who entertained different views on the subject to devise a plan, and exhibit the necessary details, for such a disposition of these people as would at once prevent

in the highest degree their importation, and save the General Government from the ignominy of sanctioning the principles of slavery. It was added that if the bill were recommitted to a committee of seventeen members, composed of a member from each State, it was probable that a plan would be devised that would be most likely, by combining the sentiments of the several States, to meet with general approbation in the legislative body, as well as throughout the whole Union. It was incidentally observed that it might, perhaps, be found a most efficient auxiliary to the bill, to allow a bounty on the conviction of every person who should infract its provisions.

With regard to the allegation that the power of Congress to act on this subject was exclusively derived from their authority to regulate trade, that doctrine was altogether denied. Such a doctrine, it was said, was of the most dangerous complexion, as it went to sanction the principle that it was lawful for Congress to deal in human beings as an article of commerce—a principle abhorrent to humanity, and at war with our fundamental institutions, for the establishment of which we had put everything that was dear or valuable to hazard. A reference to the Constitution would expose the fallacy of the ideas of gentlemen on this head. Among the powers delegated by that instrument to Congress, was the power to "define and punish offences against the law of nations." It was afterwards added "That the migra-'tion or importation of such persons as any of 'the States now existing shall think proper to 'admit, shall not be prohibited by the Congress 'prior to the year 1808, but a tax or duty may be 'imposed on such importation, not exceeding ten 'dollars for each person." Before this act could go into effect, this last provision would, in point of time, expire, and the first provision would be reinstated in full efficacy, which unquestionably gave Congress a full power over the subject, independently of that derived from their right to regulate commerce.

In addition to these arguments for a recommitment, it was observed that the details of the bill were radically defective. On examining the revenue laws of the United States, in conformity to which the provisions of the bill were draughted, it would be seen that a moiety of the cargo forfeited went to the United States, and that the other moiety went to the custom-house officers in case there were no informers, and in case of an information, one-half of the moiety to the informer, and one-half to the custom-house officers; and that consequently in the last case but one-fourth of the proceeds of the cargo went to the informer. Just in proportion to the small inducement to the informer, would probably be the lax execution of the act, and it was suggested whether in the present case it would not be best to give the whole proceeds to the informer.

Another objection to the details of the bill was that, in correspondence with the principles of the revenue laws, only three years were allowed for preferring informations; while from the nature of the case, it would be found extremely difficult to discriminate newly imported slaves from those which had been a long time in the country.

Another objection was, that in the case of an information of an infraction of this act, the importer might at any time between seizure and condemnation come forward and give bond, and take the persons imported out of the hands of the United States, and, in case of condemnation, take them on an appraisement, which might, in a part of the Union disposed to favor the traffic, be greatly below their value, and thus operate as an inducement to the traffic.

Another objection to the bill was, that it made no provision for the maintenance of the slaves that may be seized between the period of seizure and sale. Would not the collector, in whose hands they fall, experience considerable difficulty from this circumstance, uncertain, as he would be, whether they would be eventually condemned, and, if they should not be, whether the United States would indemnify him for the cost of their support?

Should this bill be recommitted, it was hoped provisions might be adopted universally satisfactory. These might consist in directing that, after the forfeiture of the persons imported, in case they should be imported into a State whose laws inhibited the manumission of slaves, they should be transported to States in which there existed no inhibition, and be there bound out for a term of years, where, it was understood, their time for a period of ten years was worth from $200 to $300.

On the other hand, the opponents of the motion to recommit the bill observed that they had indulged the hope that the enemies of the principles contained in it, after the immense consumption of time in investigating the subject, after the patient attention bestowed by the House, and the Committee of the Whole, on everything which had been urged, would have contented themselves with recording their vote against it. But it seemed that they were not contented with pursuing this course, but claimed the formation of a law satisfactory to their own peculiar ideas on the subject. Not satisfied with its being framed conformably to the ideas of those among whom it was immediately to operate, and who were alone directly concerned in it, they wished it made conformable to their own sentiments. Was this fair, liberal, or generous? Gentlemen say they have certain principles from which they cannot swerve. Be it so. They have acted like freemen; have contended stoutly in support of those principles, and have recorded their votes against them. What more can they ask?

It was asked whether this bill, passing, as it was likely to do, by a bare majority, would have the salutary effect that was desirable? It was answered that it would, inasmuch as it would receive the unanimous, or nearly unanimous, sanction of those among whom it was principally, if not exclusively, to take effect.

Gentlemen who claimed respect for their own feelings, and the feelings of their constituents, should recollect that it was impossible, on their own principles, for those who differed on this subject so widely from them, to sacrifice to a spirit of conciliation their own sentiments, when they deemed them in the highest degree important. The difference of opinion did not only arise out of the details of the bill, but struck at its principle; they lay at the foundation of the subject. Without the provisions contained in the bill, those who represented the Southern country were sincerely of opinion that the traffic could not be stopped. Believing this, gentlemen asked too much when they required them to abandon a point so essentially important.

It was remarked that the suggestion of gentlemen to give the whole proceeds of a sale to the informer was inadvertent, as it would have a very different effect from that contemplated by its proposers, by presenting a strong temptation to the importer to make use of his friends in the shape of informers, for the purposes of collusion. Such a provision would not, therefore, answer any good purpose. They maintained, however, that the inducements to an information of the infractions of the act were ample. A thousand dollars penalty was attached to the seller and the buyer; and besides this the informer was to receive a part of the proceeds of such sales as might be made. It was asked if the inducements for information under the existing revenue laws had not proved completely effectual. What reason could there then be for the apprehension that the like inducements in this case, reinforced by the other penalties provided, would not have the same effect?

If the conscience of gentlemen would not permit them to carry the proceeds of the sale of persons thus imported into the treasury of the United States, let them, if they pleased, apply them to charitable purposes—to the endowment of schools, the cutting canals, making roads, and erecting bridges.

The motion to recommit the bill was carried—ayes 76, nays 46, as follows:

YEAS—Evan Alexander, Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, Phanuel Bishop, John Blake, jr., James M. Broom, Robert Brown, John Boyle, John Campbell, John Chandler, Joseph Clay, George Clinton jr., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, John Davenport, junior, Theodore Dwight, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Hough, Nehemiah Knight, John Lambert, Edward Lloyd, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Moseley, Gurdon S. Mumford, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, Lewis B. Sturges, Benjamin Tallmadge, David Thomas, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Joseph Winston.

NAYS—Willis Alston, jr., John Archer, Burwell Bassett, Silas Betton, Thomas Blount, William A. Burwell, William Butler, George W. Campbell, Levi Casey, John Claiborne, Matthew Clay, John Dawson, William Dickson, Elias Earle, Peter Early, John Fowler, Edwin Gray, James Holland, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Joseph Lewis, jun., Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Thomas Moore, Roger Nelson, Thomas Newton, jr., John Randolph, John Russell, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Samuel Tenney, Philip R. Thompson, Abram Trigg, Daniel C. Verplanck, David R. Williams, Alexander Wilson, and Thomas Wynns.

Ordered, That Messrs. BEDINGER, HOUGH, BIDWELL, FISK, KNIGHT, DANA, THOMAS, SLOAN, SMILIE, BROOM, GOLDSBOROUGH, EPPES, ALEXANDER, MARION, SMELT, REA of Tennessee, and JEREMIAH MORROW, be of the said committee.

CHICKASAW INDIANS.

Mr. G. W. CAMPBELL said it would be recollected that at the last session the President had laid before the House, after its ratification, a treaty made with the Chickasaw tribe of Indians; that an act had passed the House for carrying it into effect, but had failed from a disagreement of the two Houses on certain amendments. The consequence was that the Government was unable to make the stipulated payments, and that considerable inconvenience was likely to ensue. Some of the chiefs of this tribe had been here last year; they had relinquished their land, and were greatly dissatisfied at not receiving the sums stipulated to be paid them. It was almost impossible to make them sensible of the policy of the United States on this subject. To obtain the attention of the House to the subject, Mr. C. moved the following resolution:

Resolved, That provision be made for carrying into effect the treaty made between the United States and the Chickasaw tribe of Indians, on the third day of July, 1805.

Referred to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of Anthony Benezet and others. The bill was reported with several amendments thereto; which the House proceeded to consider, when, an adjournment being called for and carried, the House adjourned.

FRIDAY, January 9.

Another member, to wit: MATTHEW LYON, from Kentucky, appeared, and took his seat in the House.

Mr. COVINGTON, from the committee appointed on the twenty-second ultimo, presented a bill to ascertain and provide for the salaries of the judges of the Orphans' Court in the District of Columbia; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. DAWSON presented to the House a petition of sundry inhabitants of the county of Alexandria, in the Territory of Columbia, which was received

and read, praying that persons summoned to serve as jurors in the courts held in the said Territory, may receive for their services such compensation as may be just and reasonable.—Referred to Mr. Dawson, Mr. John Campbell, Mr. Livingston, Mr. Cook, and Mr. Holland; to examine and report their opinion thereupon to the House.

The House proceeded to consider the amendments reported by the Committee of the Whole, yesterday, to the bill for the relief of Anthony Benezet and others: Whereupon, the said amendments, with the bill, were recommitted to the Committee of Ways and Means.

Mr. Early, from the Committee of Commerce and Manufactures, presented a bill continuing in force, for a further time, an act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the Island of Saint Domingo," which was read twice and committed to a Committee of the Whole on Wednesday next.

PUNISHMENT OF CERTAIN CRIMES.

The House again resolved itself into a Committee of the Whole on the bill providing for the punishment of certain crimes against the United States.

Mr. Bidwell said that a gentleman from Virginia, whom he did not now see in the House, had, on a former day, suggested that this bill was deficient and needed an additional section. He was of the same opinion. We have, he observed, a statute rendering it criminal to begin or set on foot or provide or prepare the means for a military expedition or enterprise to be carried on against any foreign Prince or State, in amity with the United States. For such an offence a punishment was provided, and some preventive means were authorized. The President, in his Message, had submitted to Congress the propriety of adding one further mode of prevention, by extending the ordinary process of binding to the observance of the peace and good behaviour to acts to be done out of the limits of the United States. A recognizance to keep the peace, and be of good behaviour towards the United States, was forfeited by any offence committed within the body of the United States, but not by an act done on the high seas. A hostile enterprise of any private citizens against a nation in amity with us, endangered the peace and interest of the United States. Among other means of preventing that evil, it would be useful, and might be necessary, to bring within the reach of a recognisance for keeping the peace and being of good behaviour such acts committed without the limits of the United States as would, if committed within our jurisdictional limits, be punished by the statute referred to. A provision of this kind, he thought, would properly make a part of this bill. He, therefore, moved an additional section, in the following words:

"*Be it enacted*, That if any person, for whose keeping the peace and being of good behaviour a recognisance shall be entered into, in pursuance of the laws of the United States, shall, during the term of such recognisance, without the limits of the United States, carry on or aid in carrying on, or begin or set on foot, or provide or prepare the means of a military expedition or enterprise against any foreign Prince or State, at peace with the United States, such recognisance shall thereby be forfeited."

Mr. Quincy said he did not perhaps understand the motion, but it appeared to him to extend to any recognisance that might be entered into, in the United States. If so, it was a very extraordinary provision, and went to affect transactions hitherto considered harmless, and even on a scene so distant as Europe or the East Indies.

Mr. Bidwell replied that his colleague had not taken a correct view of the section, which did not apply to any recognisance that might be entered into, but exclusively to those for keeping the peace and good behaviour to the United States, which recognisances would, under existing laws, be forfeited for any of the acts enumerated in the bill, if committed within the limits of the United States.

Mr. Quincy.—Suppose a merchant of the United States enters into a recognisance, goes to the West Indies, and from thence supplies either France or England, both of whom are at peace with the United States, with the means of carrying on an expedition, the one against the other; is it the meaning of the gentleman that recognisances under such circumstances should be so forfeited?

Mr. Bidwell.—The provision relates only to recognisances made under the United States, and to acts which, if committed within the United States, would be by existing statutes indictable offences.

Mr. Dwight said, that if he understood the section properly, it was as exceptionable as that already stricken out. It appeared to him to prescribe that if any individual in this country should enter into recognisance and give sureties in consequence of a certain act committed by him within the United States, and should afterwards commit other offences out of the United States, his recognisance shall be forfeited and the sureties become responsible. This seemed to him the most extraordinary attempt ever made in a Legislative body. The courts of the United States were authorized to require sureties to an unlimited amount. Were those sureties to expect that such recognisance should extend to the whole life of the person for whom they became bound, and to the other offences which might be committed by him out of the United States? Who was to determine whether these acts were or were not committed? If this was the object of the section, it was one to which he hoped the Committee would never give their consent.

Mr. N. Williams observed that he did not feel the force of the objections made by gentlemen to the amendment under consideration. He confessed, however, that he might not understand the subject well, as he was not in his place when the amendment was proposed, and had not time to examine it as he ought, to give an opinion as to its correctness. But if there was something novel, surely there was nothing inconsistent or improper in its provisions. It seemed to him as only

extending that practice which was adopted, he believed, in every State in the Union, of binding citizens to their good behaviour, upon proper grounds, to cases which might arise out of the jurisdiction of the United States. And this might be proper, in order to preserve peace with foreign nations. But some gentlemen objected to such a proceeding, on the ground that the recognisance would be general, and that it might be very difficult for a citizen to find sureties against offences not particularly specified. To which Mr. W. said it might be answered, that there is no man perhaps in society, that has not some friend or neighbor, who will be bound for his good behaviour in whatever place he may be; and that if suspicion was so strong and well founded against him, as to disable him to obtain this security, the peace and welfare of the country demanded that he should be put in a place of safety. He was somewhat surprised, too, that this objection should be urged by gentlemen from Connecticut, where, if he was rightly informed (and it was detailed in the newspapers) one of its citizens was at the present time in prison for not finding sureties for his general good behaviour.

Mr. Dawson observed that this had been a subject of much difficulty in the select committee that reported the bill. It seemed to be the undoubted right of a citizen of the United States to withdraw himself from the country whenever he pleased. Under such a provision as this a man might give security for his good behaviour, and afterwards join in war with a nation against a nation at war with the United States, and thereby forfeit his recognisance. There were so many objections, Mr. D. said, to such a provision, that he could not give it his vote.

Mr. Ely said he was as willing as any gentleman to make the way of transgressors hard, provided the provisions offered for this purpose did not go to implicate innocent persons. It, however, appeared to him that the proposed provision would be extremely dangerous. If, for instance, a man in this territory, which was subject to the laws of the United States, shall enter into recognisance for any offence he may commit, in one or more sureties—if afterwards he goes into a foreign country, and there stirs up an insurrection, and on that ground his bond is forfeited, his bondsman, without expecting it, will become amenable for his conduct in this foreign country. This, he thought, ought not to be. He believed every valuable purpose of the bill would be answered without this provision.

Mr. Dana said this new section proposed giving a construction to the keeping of the peace, and to make it mean something, which it never meant before, and that in all cases whatever it should have the broad meaning proposed to be given to it—that a recognisance for keeping the peace of the United States shall be forfeited for acts that neither break the peace of the United States nor violate any law of the land. The offence therein stated could not be punished under the existing statute of the United States, inasmuch as it would not be committed within the jurisdiction of the United States or against any law of the United States. According to it, any man who shall go into foreign service, or accept a commission from a foreign Power, will violate his recognisance. It went, therefore, to create a new offence. Mr. D. said he was not willing to sport in this way with principles hitherto deemed sacred. If these acts are wrong, pass a statute for their punishment.

Mr. Bidwell said, gentlemen objected to this provision, because the act, by which the recognisance will be forfeited, was not in the contemplation of sureties when they entered into bond. He understood that a recognisance for keeping the peace was in its nature general, and that any breach of the peace operated as a forfeiture. The commission of any crime against the United States, within the United States, would work a forfeiture; the doing of either of the acts enumerated in this bill would be a violation of the recognisance. The recognisance is general, to do nothing to violate the peace of the United States. Mr. B. said he would admit, if these acts were done out of the limits of the United States, they could not at present be considered in legal estimation as against the peace of the United States. If this were the case, there would be no necessity for the proposed provision. The object of the amendment was to extend to this class of acts, committed without the United States, provisions calculated to restrain their commission, and similar to those now applicable to like offences committed within the United States. As to the difficulty suggested, of taking cognizance of offences not committed within the United States, there could not, he apprehended, be any solid objection. Was not piracy punishable under the laws of the United States? and yet it was not committed within the jurisdiction of the United States—it was committed on the high seas. So with regard to the class of offences which it was the object of this section to guard against, so far as they went to violate the peace of the United States.

Mr. Sloan was of opinion that the bill would be incomplete without such a provision as that which was offered. It had been remarked that it interfered with the right of expatriation. No one was more averse to infringing this right than he was. But he did not view it in this light. He could not consider a person bound over to his good behaviour in the light of a freeman, at liberty to do what he pleased with himself. Without giving security he would be necessarily committed to prison and be consequently deprived of his liberty; and while under recognisance, although he gave security, he was still to be considered in the light of a culprit, amenable to the law, and not possessed of the right to expatriate himself.

Mr. Dwight said the remarks of the gentleman from New York (Mr. Williams) did not apply to the point under consideration. Would a recognisance entered into in Connecticut be forfeited by any acts committed in New York, in case the person recognised in the former State should remove to the latter? So, in the case of a person bound not to commit acts within the United States; acts committed by him afterwards against a for-

eign Government could not be punished in the United States. If gentlemen wish to make offences against foreign nations punishable, let them make a statute to that effect, and declare that our citizens shall keep the peace, not only in the United States, but also with regard to foreign nations. But, it had been alleged that the offence to be provided against, was a moral offence. Were they therefore to punish it? As yet the moral law was not enacted under the Constitution.

Mr. N. WILLIAMS said he agreed with the honorable gentleman from Connecticut (Mr. DWIGHT.) that, according to existing laws in the State which he in part represented, a citizen can be bound to his good behaviour, or to keep the peace, in the State only. And he acknowledged, that although by the laws of the United States, there is no power at present vested in the courts or magistrates, to regulate, in the manner proposed, the conduct of its citizens out of its jurisdiction, yet no one would deny that laws might be enacted to restrain them by proper obligations, from attempting injuries to foreign nations, as well as from violations of the internal peace of this country. And, if he understood rightly the proposed amendment, its object is to prevent our citizens from committing hostile acts against countries with which we are at peace. But gentlemen say, such offences are not punishable by our laws. Suppose it is so. And is it not better, if possible, to restrain offences, than to punish them, after the evils arising from them are already experienced? Mr W. thought it was. If there was no law to punish, let there be one to prevent these offences.

Mr. DANA said the right of the Government to prevent anything they could not punish was not admitted, nor was it admissible, as the one right was founded on the other. The objection to this section was this—that it undertook by a legislative construction to give a meaning to words contrary to that which they otherwise possessed—to expose a man to a forfeiture of his recognisance for acts not in themselves punishable. This was assuredly preposterous; the acts provided for by the amendment were no offences. The sureties given were only for the prevention of offences which were subjected to punishment. So long as there was no law punishing acts committed out of the limits of the United States, such a provision would be preposterous. Make such a law first, and let the punishment come afterwards.

MR. BURWELL thought the amendment a very proper one, and that the right of making it could not be questioned. As to its affecting the right of the citizen to expatriate himself, it would be found, by the decision in the case of Jonathan Robbins, that that right, as far as a judicial determination went, did not exist. If gentlemen were of this opinion, they could have no objection to the proposed section. Mr. B. however said that he had always been of opinion that every citizen had a right to expatriate himself, and to enter into the service of any other nation; and in the State he had the honor of representing a mode had been provided for the exercise of this right.

No person doubted the concurrent jurisdiction of the United States on the high seas, and that they possess the right to prohibit offences committed out of the United States was evident from the law passed at the last session, prohibiting all commercial intercourse with certain parts of St. Domingo. Whence did Congress derive this power, if the principles contended for by the gentlemen from Connecticut were correct? Again—had they not a right to prohibit the slave trade, even if carried on by citizens of the United States with foreign nations? This was not within the jurisdiction of the United States and yet no man doubted the right of the Government either to regulate or interdict the traffic. The United States therefore clearly possessed a control over their citizens wherever found, and a right to restrain them from any acts which can commit its peace, and they shall announce their expatriation; and this right extended to the punishment of certain offences committed out of their jurisdiction, as well as within it. Observe the provisions of the Treaty of 1795. It declares that whoever shall commit forgery or murder shall be delivered to the Government demanding him. Whence do the Government derive the power of demanding and punishing such an offender, if they do not possess the power of punishing offences committed by their citizens in foreign countries?

Mr. B. said this seemed to him to be one of the plainest cases imaginable, about which there could be no difficulty. It was perfectly correct that, if any citizens were suspected of a design to disturb the peace of the United States, either within or without our limits, there should exist a power to restrain such projects. The preparation and means of attack might be made or collected out of the United States, and it was indispensably necessary, in order to preserve the peace of the country and to discharge the duties devolved on us as a neutral nation, to have the power of restraining the offences committed out of the United States.

Mr. DANA said he subscribed to the correctness of the general principle laid down by the gentleman from Virginia. It was perfectly clear that within our territorial limits we had a jurisdiction over all our citizens; that on the high seas we had likewise a jurisdiction over all our citizens; and in our public vessels, over all persons on board; also that our jurisdiction extended to our merchant vessels on the high seas, and extended in a certain degree to foreign countries. This was all too plain to be controverted. No part of his argument had rested on this ground. All that he had said was, that there was no law in existence that prohibited the acts alluded to in the amendment. If it is necessary to repress such acts, make a law to punish them, and then bind your citizens in a recognisance to prevent their commission.

MR. BURWELL said he would only reply to the gentleman from Connecticut by stating, that if he and the gentlemen opposed to the amendment, would suffer it to pass, these acts would thereby become offences.

The question was then put, and the amendment carried—yeas 52, nays 43.

MR. EPPES said that, in his opinion, an amendment was requisite in the first section. In the Constitution of the United States, great pains, said he, have been taken to define treason, that our citizens may be secured from being harassed for acts which can by no fair construction be considered as treasonable. But, if, under the denomination of misdemeanors, we undertake to punish acts which scarcely admit of definition, and which are not criminal in themselves, this Constitutional restriction will be of but little avail. A party in power, in order to accomplish its vindictive purposes, will, under a different name, create the same crime, and thus evade the Constitutional provision. For this reason, Mr. E. said, he objected to the last part of the section.

Mr. E. said this part of the section was altogether unnecessary. He wished gentlemen to attend to the powers with which the Government would be armed, even if the latter words were struck out. They possessed the whole force of the nation, and could compel every man to march to maintain the public peace. If, therefore, treason should exist, they had ample power to crush it. Why, then, go farther? Will gentlemen introduce into our code a law that shall give to the courts the power of oppressing the citizen, by defining, as they may see fit, the offences of conspiracy, or of counselling and advising a conspiracy? In free countries, the greatest blessing of the citizen was, that crimes were designated by law, and that every man knew when he committed an act that was punishable. But who can tell what will be meant by conspiring, counselling, and advising? Look at England, behold the danger of constructive treason, and dread giving to your courts the power of defining crimes. For these reasons Mr. E. moved to strike out the following words:

"Or with intent, in any other manner, of levying war against the United States, or of adhering to the enemies of the said States; or who, with intent as aforesaid, shall combine or conspire together, or shall counsel, advise, or attempt to set on foot, provide, or prepare the means for any such unlawful expedition or enterprise, or to procure any insurrection, unlawful assembly, or combination for such purpose, although such conspiracy, counsel, advice, or attempt, shall have the proposed effect or not."

Mr. E. also moved to strike out the subsequent words in the same section:

"And further, at the discretion of the court, be holden to find sureties for his or their good behaviour, in such sum, and for such term, as the said court may direct. *Provided always*, That nothing herein contained shall be so construed as to prevent the trial or punishment of any person or persons guilty of treason, murder, or any other offence punishable by any law or laws of the United States."

Mr. E. said he was in favor of striking out the proviso, that the crime of treason might stand solely on Constitutional ground, and that no attempt should be made by statute to put a construction upon it. He was also in favor of striking out the preceding provision, giving the court the power of binding over for good behaviour; as he thought it just that when a man had suffered the punishment affixed to his crimes, he ought to be discharged, and as, under it, there was nothing which inhibited a court from requiring sureties in so large a sum as would confine a man for life.

Mr. BIDWELL observed that the gentleman from Virginia (Mr. EPPES) had founded his motion for striking out a part of this section upon an alleged uncertainty in the description of the offences rendered punishable by it. The maxim, he agreed, was a sound one, that crimes ought to be defined with such certainty as to be easily known, in order that they might be avoided by well disposed citizens; and, if committed, that they might be capable of being distinctly stated in the prosecution, and proved or disproved on trial. If the descriptive words, now moved to be struck out, would not bear the test of this rule, undoubtedly the motion ought to prevail. That was the point to be decided. The general object of the bill was, to prevent any treasonable expedition or enterprise, by punishing certain preparatory steps leading to such acts of treason, but not in themselves amounting to that crime. The gentleman from Virginia did not object to the first clause, rendering it criminal to begin or set on foot, or provide, or prepare the means for such a treasonable expedition or enterprise, which words were borrowed from an existing statute. His objection was directed against the words *combine*, *conspire*, *counsel*, and *advise*, as not sufficiently definite. He had asked, what is combining or conspiring, counselling or advising? and been answered, that it was just what a court should please to make it. On the contrary, Mr. B. said, he thought those terms had, in common use as well as in technical style, a settled and known signification. A combination, or conspiracy, was well understood to be an act of two or more persons, associating together for some object. If that object was a lawful one, the combination was innocent. If it was criminal, the combination, whether its object was effected or not, was, at common law, a crime well defined, and understood as an indictable conspiracy. The words *counsel* and *advise*, also, were explicit and unequivocal. To counsel or advise the doing of anything, was an overt act, which might be known, stated, proved, and tried with as much certainty as any other act whatever. And, when its object was a treasonable expedition, or enterprise, it was in its nature criminal, and merited punishment as much as any act short of treason itself; for it might be a cause, and perhaps the principal cause, of the whole mischief. A man by his advice, without any further agency, might induce others to set on foot, or provide and prepare means for such an enterprise as was intended to be guarded against by this bill, and ought to be punishable for it, if any preparatory steps towards treason was a proper ground of punishment. As these descriptive terms, to which the gentleman from Virginia had objected, did not appear to him to be liable to the objection of uncertainty in their meaning, Mr. B. said he should not, without some further reason for it, vote in favor of the proposed amendment.

Mr. EPPES said the gentleman from Massachu-

setts had virtually admitted every objection which he had taken to the section. He says that a conspiracy is a thing which every court and jury may easily decide upon. This was precisely his objection—that they would be obliged to leave the decision to the court and jury. The terms were incapable of legal definition. The gentleman says, suppose there should be a conspiracy, or a counselling towards it, will you let those concerned in it go clear? Why not? What great injury will flow from it? You will be precluded from punishing words or intentions, but will that be an evil? Do gentlemen recollect the length to which constructive treasons have been carried in another country? Do they remember that a man was convicted of treason in England for wishing a buck's horns in the belly of the King? To show gentlemen how far courts have gone, even in our own country, Mr. E. said he would refer them to the case of Luther Baldwin; and, as he had the indictment in his hand, he would read it in illustration of his argument.

Mr. E. here read the indictment, as follows:

"*New Jersey District—U. S. Court.*

"INDICTMENT OF LUTHER BALDWIN FOR SEDITION.

"*District of New Jersey, ss:*

"The jurors in behalf of the United States of America, for the body of New Jersey, district of the middle circuit, upon their respective oaths present, that Luther Baldwin, late of the township of Newark, in the county of Essex, and district of New Jersey, waterman, being a pernicious and seditious man, and contriving, and maliciously intending the faithful citizens of the United States to excite and move to hatred and dislike of the person of the President of the United States and the Government established within these United States, on the 27th day of July, in the year of our Lord, 1798, in the township within the county and district aforesaid, and within the jurisdiction of this court, in the presence and hearing of divers faithful citizens of the United States with whom the said Luther Baldwin was then and there talking of and concerning the President of the United States, (the President of the United States being then and there passing on the highway, through the township within the county and district aforesaid, and divers faithful citizens of the United States, in testimony of their respect and affection for and towards the President of the United States being then and there firing a cannon,) unlawfully, maliciously, and wickedly did publish, utter, and declare, with a loud voice, these English words: 'The President' (meaning the President of the United States) 'is a damned rascal, and ought to have his' (meaning the President of the United States) 'a— kicked. I wish one of the charges' (meaning then and there firing and discharging as aforesaid from the cannon as aforesaid) 'would pass through his' (meaning the President of the United States) 'a—.' And the said Luther Baldwin, in further prosecution of his malice towards the said President of the United States before had, afterwards, to wit: on the same day and year aforesaid, at the township in the county aforesaid, and within the jurisdiction of this court, maliciously, diabolically, seditiously, wickedly, and scandalously, in the presence and hearing of divers faithful citizens of the United States then and there present, did utter, and with a loud voice pronounce, assert, and affirm, that the President (meaning the President of the United States) 'was a damned rascal, and ought to have his a— kicked, and one of the cannon shot through it,' (meaning that the President of the United States ought to have his a— kicked, and ought to have one of the cannon then and there firing as aforesaid shot through his a—,) to the great scandal and contempt of the President of the United States and Government thereof, to the evil example of all others in the like case offending, and against the peace of the United States and the Government and dignity of the same.

"LUCIUS H. STOCKTON,
"*U. S. Attorney.*"

I have called the attention of the House, said Mr. E., to this paper, to show that all courts are alike; that if you give them power they will abuse it; and that there is no safety for man but in a clear definition of crimes by law. In free countries there ought to be no crimes not defined by law. The gentleman tells us conspiracy and counselling are plain terms, easy of apprehension. But I wish to trust to nothing short of the law of the land. Let them be defined.

Mr. ELLIOT hoped the motion of the gentleman from Virginia would prevail. A part of the words in this section ought certainly to be erased; and he believed it would be better to erase the whole. On the subject of constructive treasons sufficient had been said. But it appeared to him that the provisions in the bill were such as led to another species of construction which was more objectionable than the doctrine of constructive treasons. He meant that doctrine which had prevailed at an early period of the British history—the doctrine of accumulative treasons—which consisted in making a number of offences, neither of which in itself amounted to treason, or any other crime of magnitude, collectively amount to treason. Under this doctrine, the celebrated Earl of Strafford, and other distinguished men, had suffered. Mr. E. said he was of opinion that every valuable purpose of the bill would be better answered without than with these words, without introducing a provision of the most dangerous tendency. After illustrating this idea, Mr. E. added, if you once say that a person who shall counsel or advise the setting on foot a military expedition shall be liable to punishment for a misdemeanor, you create a new system of jurisprudence. How liable will the individual accused be to be misunderstood and misrepresented? I hope never to see this doctrine recognised—that mere words, the impulse of the moment, without any definite object, and uttered without reflection, shall be tortured into a misdemeanor.

After a few remarks from Mr. JACKSON, Mr. PITKIN, and Mr. ALEXANDER, in favor of the motion, and Mr. G. W. CAMPBELL against it, the question was put and the motion to strike out carried—yeas 68.

Mr. EPPES then moved to amend the second section by striking out the following words in *italic:*

"SEC. 2. *And be it further enacted,* That the trial of the abovementioned offences may be had in any of the districts or Territories where any of the acts constituting the offence shall have been committed, *and all the acts constituting the offence may be brought in*

evidence on such trial, in whatever part of the United States, or the Territories thereof, they may have been committed."

Mr. E. said, on examining the provisions of the Constitution, this part of the clause appeared to him a clear and open violation of it. He would invite the attention of the House to the several provisions that bore on that point. In the second section of the third article are the following words:

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

In the seventh amendment we find—

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service."

And in the next amendment the following provision:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

From these provisions, it appears to me, said Mr. E., that every man charged with an offence is secured in the right of not being tried except on the previous presentment or indictment of a grand jury; and, on the known principle of a grand jury, they are incapable of finding except for acts committed in the State where they meet. Suppose a man commits acts in Maryland, in Delaware, and Pennsylvania—that they are criminal acts, and that he is arraigned in Pennsylvania for the act committed in that State. On that arraignment, can the acts committed in Delaware and Maryland be given in evidence? No. Why? Because the Constitution of the United States declares he shall not be made to answer but on a presentment of a grand jury, who cannot wander out of the State in which they sit. If he should be tried in Pennsylvania for acts committed in Delaware and Maryland, I ask if he can be said to be tried on the presentment or indictment of a grand jury of those States? I know, when part of an act constituting an offence is committed in one State and part in another, the *quo animo* may be shown in one State by acts committed in the other. But the Constitution expressly provides that a man shall be arraigned and tried in the State where the offence shall be committed. I know the answer that will be given to these remarks. Gentlemen will talk of convenience, and say, that without such a provision as this, persons cannot be tried. But in these cases we are not to legislate on the principle of convenience. This is a Government of delegated powers, and we have no powers that are not given. I pretend not to professional knowledge on this subject. If the provision can be so modified and arranged as to steer clear of a violation of the Constitution, I will agree to it; but, in its present form, it appears to me unconstitutional.

Mr. ELLIOT seconded the motion. The arguments offered by the mover appeared to him unanswerable, and it was not necessary to repeat them. He would, however, offer one or two additional observations. The words proposed to be stricken out in this section had a close relation to those already stricken out in the first section. Had the latter been retained they would have been an argument for retaining the former. But since the first section was thus amended, they appeared to him perfectly useless. How could it be necessary to provide that all the acts committed in different States should be given in evidence, when, as the bill stood, the offences enumerated embraced entire and individuals act?

Mr. EARLY said he differed in opinion essentially from the mover and seconder of the amendment; both of whom, he apprehended, had fallen into error, from confounding two things which were in their nature essentially distinct. He understood the section as meaning neither more nor less than this—that different acts constituting one and the same offence may all be given in evidence on the trial of that offence; not that different acts constituting different offences shall all be given in evidence on the same trial. The term in the section, the offence, can only allude to one offence. This he considered perfectly Constitutional and correspondent with every day's practice. He would put a familiar case. Suppose a murder committed in the State of Virginia, and that the person who committed it shall have previously purchased a gun and loaded it in Maryland. The purchasing and loading the gun are preparatory to the act of shooting. And yet, according to the doctrine of gentlemen, these are distinct facts and cannot be given in evidence in Virginia. Mr. E. said he was willing to rest the provision on this ground; as proof that all the acts constituting one and the same offence could be given in evidence.

Mr. ELLIOT replied that the gentleman from Georgia had not steered clear of the error he had ascribed to the mover and seconder of the motion. He says the purchasing and loading the gun are distinct acts from that of shooting. True; but they are in themselves no part of the offence. The act of shooting alone constituted the crime, and must have been committed within the jurisdiction of the tribunal trying it.

Mr. G. W. CAMPBELL said the amendment was principally founded on the constitution of the grand jury, inasmuch as that body did not possess the power of making presentments, except for offences committed within their jurisdiction. When the amendment to the Constitution was attended to, it would be found that it did not bear on this point. It secures to the individual the right of not being tried by a petit jury until a grand jury shall have found a bill against him. Now, the

question is, what evidence may be given of the offence? I entertain no doubt, said Mr. C., but that any evidence may be given to the grand jury to ascertain the offence, if part of it has been committed within the district, and that this will give them jurisdiction. If this were not the case the most palpable absurdity would follow. Complete evidence of the commission of a crime cannot be collected without showing the steps to its consummation. The consequence therefore, would be, that many crimes would escape unpunished.

Suppose a man to steal a horse in one State, and to be taken up with him in another. It has been decided that he may be indicted in the last, although the crime was committed in the first State. Would not the grand jury be allowed to receive evidence of the stealing of the horse in another State? Mr. C. said he had seen such evidence frequently admitted; indeed he had never heard it questioned. For these reasons he thought the words ought not to be stricken out. He would add that, although he was against striking them out, he did not believe them absolutely necessary, as he believed the same power would exist without the provision.

Mr. Alston said if the remarks of the gentleman from Tennessee were correct there was no necessity whatever for the words proposed to be stricken out. He would ask, if these offences could be tried in the same manner without this provision, whether the bill would not be better without it? If such a provision were now required, it would go a great way to prove all the similar practice heretofore adopted illegal. For these reasons he was willing to strike it out.

Mr. Eppes said he believed, from several of the arguments used, he had not been correctly understood. He had not said that the commencement of such an act as murder could not be given in evidence. But was such a crime divisible? What, on the contrary, were the acts specified in the bill? They were the beginning or setting on foot, or providing or preparing the means for a military expedition. These might be divided. For instance, take one of them; suppose a military expedition set on foot in Maryland—the preparations for carrying it on made in Delaware, and the attack made in Pennsylvania. Here were three acts; and if a man is indicted for one of them in Pennsylvania, I say he cannot be indicted for the same offence in Delaware or Maryland, because they are distinct offences, and the Constitution says a man shall not be subject for the same offence to be twice put in jeopardy of life or limb. I ask then, whether, if a crime be committed in Pennsylvania, the giving in evidence an act committed in Maryland would not be a violation of the plain principles of the Constitution?

Take an offence as a whole, one-sixteenth part of which is committed in one place, and fifteen-sixteenths in another, all of which are required to constitute it. I ask gentlemen whether they mean to introduce the doctrine of crimes made up of fractional parts, or whether they are in favor of establishing a principle under which the party in power may hunt up circumstances committed in this State and in that State, neither of which in itself would constitute a crime? This is the first time I ever heard of the doctrine of the fractional parts of a crime; by which a man, who, although he has committed no crime in any one State, yet, by adding together the fractional parts committed in this State, and the fractional parts committed in that State, may be convicted and punished.

Mr. Hastings spoke in favor of the amendment.

Mr. Alexander was opposed to striking out these words, as he feared without them the bill would be perfectly nugatory. It might, perhaps, be safe to say that the courts had the power assigned them by the section; but the provision seemed necessary to put the point beyond question. The reasoning of the gentleman from Virginia (Mr. Eppes) went to prove that the acts enumerated in the bill consisted of several things, from the combination of which the crime was constituted. He would ask whether, on a trial of any crime whatever, it was not usual to receive everything constituting the offence, provided jurisdiction over it was given to the tribunal before which trial was had? In State prosecutions, if the offence was begun in one county and consummated in another, it was competent to the court to try an individual wherever he was arrested. If a man should take a horse from Tennessee to North Carolina, it was questionable whether he could be arrested and tried in North Carolina; because in every such offence we find the charges in the indictment consist in stealing and carrying away; and notwithstanding what had been observed by the gentleman from Tennessee, Mr. A. said, he recollected a case in which a man, who had taken a horse from Tennessee to North Carolina, had got clear on this ground. Mr. A. however, said, that the making the law clear on this point was a sufficient reason for the section. If the doctrine contended for by gentlemen obtained, it would be impossible for these offences to be punished at all. Suppose a combination should take place in Virginia, and in Pennsylvania the means should be prepared for effecting it. The offence would be punishable in neither State. The mere bringing was an innocent act. It was, therefore, necessary to prove the intention with which they were brought. Would not this evidence be received? If not, the culprit would go clear altogether.

Mr. Holland said he was in favor of striking out these words on two grounds; because the first of them was unnecessary, as the Constitution had provided that offences shall be tried in the States where they are committed; and because the second part was in his opinion altogether improper, inasmuch as it was unconstitutional. The acts provided for in the first section were entire acts, and could be punished wherever they were committed. Offences were, from their nature, not divisible.

Mr. G. W. Campbell observed that it was objected, by the gentleman from Virginia, that this section went to divide crimes into fractions. Mr. C. said he was himself of opinion that no plan could be mentioned that did not consist of certain ingredients; and that, from the nature of things, one act could not constitute a crime. The act of shooting a gun, which had been alluded to, was in itself no crime without a criminal intent. All crimes consisted of a congregation of acts, which went to show the intent of the individual committing them. This was the first time that he had ever heard a doctrine espoused under which a culprit could by address screen himself from punishment. All that would be necessary for him to do, would be to begin the commission of an offence in one State and commit a part of it in another. What say gentlemen to this? Why that there is no such thing as fractional crimes! Although the crime is made up of the acts committed in several States, you shall only punish the perpetrator in each State for the acts done in the State. This is a dangerous principle, much more dangerous than the principle proposed to be adopted. If this principle be correct a man may laugh at your laws, break them at pleasure, and so manage, by removing from one district to another, that you cannot reach him.

Mr. Fisk hoped the words would be stricken out. He considered them not only useless, but worse than useless. In one respect they were unconstitutional, and in another respect they rendered that doubtful, which was previously clear. He said he never before had heard that crimes consisted of fractional parts. He did understand that the evidence of the existence of crimes might be drawn from different sources; but not that the crimes themselves consisted of different fractions.

Mr. Eppes said that on examining the first part of the section he thought it equally exceptionable with the last. His wish was, therefore, to strike out the whole section. But, as he could not effect this purpose in committee, as certain words had been inserted which it was not in order to move to strike out, he would withdraw his motion; and move in the House that the whole section be stricken out.

The Committee then rose and reported the bill, and the House adjourned.

Monday, January 12.

The Speaker laid before the House a letter from Augustus B. Woodward and others, appointed a committee by a Convention of the inhabitants of the Territory of Michigan, held at Detroit, on the twenty-seventh of November, one thousand eight hundred and six, transmitting an authenticated copy of the proceedings of the said Convention; which were read, and referred to Mr. Jeremiah Morrow, Mr. Gregg, Mr. Elliot, Mr. Thomas W. Thompson, and Mr. Philip R. Thompson; to examine and report their opinion thereupon to the House.

Mr. Dawson, from the committee appointed on the thirtieth ultimo, presented a bill to incorporate a company for making a turnpike road from the west end of Mason's Causeway to Alexandria; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Early, from the Committee of Commerce and Manufactures, presented a bill to annex certain shores and waters to the district of Mississippi; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Early, from the same committee, presented a bill for the relief of Edmund Briggs; which was twice read and committed to a Committee of the Whole on Monday next.

Mr. Early, from the same committee, presented a bill authorizing the issuing of debentures in certain cases; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Lattimore, from the committee appointed on the ninth ultimo, presented a bill authorizing a grant of land for the use of a hospital at Natchez; allowing an additional compensation to the Judges of Mississipsi Territory, and extending the right of suffrage therein; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. Varnum presented to the House a representation of William Hull, Governor of the Territory of Michigan, which was received and read, stating that, during the last Winter, hostile indications appeared on the part of different nations of Indians against the settlements within the said Territory, which rendered it necessary to make defensive preparations for their safety and protection, and that, in so doing, very considerable expenses were incurred, and praying that an appropriation may be made to defray the same.—Referred to Mr. Varnum, Mr. Matthew Clay, and Mr. Rhea, of Tennessee; to examine and report their opinion thereupon to the House.

Mr. R. Nelson, from the committee appointed on so much of the President's Message as related to fortifications, &c., reported the following resolutions:

Resolved, That a sum of money, not exceeding —— dollars, be appropriated to enable the President of the United States to cause fortifications to be improved and repaired.

Resolved, That a further sum of money, not exceeding —— dollars, be appropriated to enable the President of the United States to cause to be built a number of gunboats, not exceeding ——, for the better protection of our ports, towns, and rivers.

Referred to a Committee of the Whole on Thursday next, and ordered to be printed with the accompanying documents, the New York memorial excepted.

DUTIES ON SALT.

Mr. J. Randolph moved that the House resolve itself into a Committee of the Whole on the bill for "repealing the acts laying duties on salt, and 'continuing in force the first section of an act, 'entitled an act further to protect the commerce 'and seamen of the United States against the 'Barbary Powers."

Mr. Quincy moved to postpone the consideration of the bill until Friday next. He said that the effect of this repeal would ruin a great number of persons in Massachusetts engaged in the salt manufacture, and crush that important establishment. He had daily expected communica-

tions upon the subject, enabling him to state more fully than he was then able, the importance of that interest, and to show the inexpediency of the repeal; that the bill and documents were only laid on the table on Friday. It was an important national concern; no possible injury could result from delay—it being six weeks to the end of the session.

Mr. J. Randolph replied that the manufacturers had notice enough the last session. The subject had then been defeated. The intention of this House was then sufficiently expressed, and that the Message of the President had given ample notice to all concerned, to come forward with any petitions, or send on any information. He hoped the bill would not be postponed, but that the House would immediately resolve itself into a Committee of the Whole on the bill.

Mr. Quincy said, that all the evidence resulting from the conduct of the House the last session was, that the tax would not be repealed, as it was then negatived. That it was unprecedented to enter upon such a bill as this so early in the session, especially if any light was likely to be obtained by postponement. It was desirable the House should have all the information in the case; and although, out of regard to the salt manufacturers, the House might not deem it politic to refuse to repeal this tax, it would at least afford the persons interested some consolation to know that the House had given them an opportunity to offer all they had to urge.

The question of postponement was lost—ayes 33, noes 65.

The House then resolved itself into a Committee of the Whole on the bill—Mr. Varnum in the Chair.

The first section provides that all the acts imposing duties on salt shall be repealed after the —— day of —— next.

At the instance of Mr. J. Randolph the blanks were filled with the first of July.

The second section repeals several acts heretofore granting bounties on, and allowances for, the benefit of the fisheries.

The third section continues the ad valorem duties, which constitute what is called the Mediterranean fund, till the end of the next session of Congress.

Mr Quincy moved to strike out, and insert so as to make the section read:

"That, from and after the first day of July next, so much of any act as lays a duty on imported salt, bohea, souchong, and other black teas, brown sugar and coffee, be, and hereby the same are, repealed, and that, from and after the said first day of July next, there shall be levied, collected, and paid on each of said articles the following duties, viz: on salt —— cents per bushel, on bohea tea —— cents per pound, on souchong, and other black teas —— cents per pound, on brown sugar —— cents per pound, and on coffee —— cents per pound."

He said if the motion were adopted he should move to fill the blanks so as to effect a reduction on salt eight cents per bushel, on bohea and other teas, six cents per pound; on brown sugar, half a cent, and on coffee one cent per pound. The amount of this reduction would about equal the amount of taxes, which, according to the President's Message, might be spared.

Considering the deep injury which would be done by a total abolition of the salt tax to a certain portion of the citizens of Massachusetts, he felt it his duty to submit to the House to consider whether the same relief might not be effected to the people in another way, and instead of a total repeal of the salt tax, which would ruin the manufacturers, to adopt a partial repeal on that article, and equalise the reduction on other articles of the first necessity. If by this means the encouragement to the manufacturers might be retained, and an equal benefit result to the people, he thought it was a great national object. By leaving the salt tax at twelve cents, which he proposed, the manufacturers would be saved; and the proposed reduction on the remaining articles would amply compensate the people for the residue left upon salt. The articles he had stated to be reduced were the lower species of tea, coffee, and brown sugar, all of them articles of the first necessity—necessaries of life to the poor and laboring classes, particularly in the cities. This circumstance had a great weight with him, in addition to the consideration from the encouragement of the salt manufacture. A total abolition of the duty on salt would have the effect of giving the chief portion of relief to the interior, to the South, and West, and comparatively very little to the seaboard. It was a principle of wise legislation, that when you lay taxes, equalise the burden. I suppose the converse is also true, when you take off taxes, equalise the benefit. It is an unquestionable fact, that this salt tax bears peculiarly hard upon the Southern and Western States; not only is this evident from their anxiety to get it repealed, but also from the known state of things. They have cattle as well as we, and besides they have slaves. This tax is to them, therefore, all the difference of the consumption of their slaves. This fact was so strong, that at the time of the first imposition of the salt tax, the argument principally relied upon against it was this inequality. The answer to this objection, as it was urged by the advocates of the tax, particularly by Mr. Madison, the present Secretary of State, is remarkable. They admit the inequality, but urge that "considered as part of a system the equilibrium is restored when you" (the Western States) "find this almost the only tax you have to pay." It is impossible that the interior of any part of the United States can consume anything near the proportion, compared with their numbers, of the inferior teas, brown sugars, and coffee, as are consumed on the seaboard. These make a most important and capital article of the expenditure of laborers, artisans, and poor of the cities, supplying the place of milk, and the products of the dairy, which support the same classes in the interior. The salt they consume is comparatively little. Now, if in the original imposition of duties, articles were so selected as to equalise the tax upon the consumption, so that all consumers might be equally burdened, in taking off the taxes we ought to take care "not to destroy the equilibrium of the system." So to arrange the reduction, that all may share the advantage of the relief. The tax upon salt is indeed a tax upon a necessary of life; but is of all those species of tax the easiest to be borne. First, because it is consumed a little by all, and cannot, *as a necessary*, be consumed a great deal by any. Next, because its cost abroad is very trifling, and the increase in the price, by the tax, cannot materially be felt. Next, the consumption is gradual and imperceptible, and so the tax is gradually paid. So far as salt is eaten by cattle and by slaves, it is a tax upon property. And really, sir, I do not believe that a tax upon property is the first tax to be totally repealed. *Davenant*, and other writers upon this subject, estimate the consumption of England to be annually half a bushel a person, and the amount of this article imported into the United States, compared with the population, will show that is the average amount of consumption here. Supposing this to be correct, and it cannot be materially erroneous, then the salt tax is a tax upon the poor of ten cents annually. But what is it upon the rich? The farmer with an hundred head of cattle, and the planter with a hundred slaves, each of which also consume half a bushel of salt annually, pays ten dollars of this tax. And will any man pretend that farmers and planters, who are able to keep this stock in cattle or slaves, are the first to experience the charity of the national reduction? As far as the tax operates on the intermediate class of farmers and planters, it operates in proportion to the stock they keep. A poor farmer, with a single cow, pays ten cents, and so in proportion to the cattle he owns; in other words, in proportion to his riches. I do not contend that relief should not be extended to farmers and planters by a reduction on this article; all I maintain is, that it shall not exclusively be granted. Let us leave a share of the benefit on the seaboard. The tax upon the poor of the cities, on the articles I have proposed to insert, is as hard as the tax upon salt is on the interior. Do not take ten dollars from their annual tax, and only ten cents from ours, but so modify your measures that we may have a little more of the reduction, and they a little less. When I consider that this plan will not only be more equal, but will, by leaving twelve cents tax upon salt, preserve to the country a most important manufacture, I cannot but hope it may receive the sanction of this House.

Mr. J. Clay.—The gentleman from Massachusetts has observed that tea, coffee, &c., have become necessaries of life. This is true. But by the duty on coffee, a large sum is saved from the smallness of the drawback allowed in case of exportation. This sum amounts to about $75,000 annually, but if you diminish the duty on coffee, you proportionably lessen the sum thus saved to the revenue. Little salt is re-exported; you will not, therefore, suffer in this way from a repeal of the duty upon that article.

The duties on salt are now equivalent to a poll-tax of ten cents for each person. But the great evil of the tax is, that it raises the price in the interior of the country, where the article is manufactured. In the western parts of Virginia and in Kentucky, it is three dollars a bushel. This is certainly too high. But the duties on bohea tea are so small (13 to 17 cents a pound) that I can hardly believe the gentleman serious in his proposition. To bring forward an amendment so overhead-and-ears into the bill, seems as if it resulted more from looking after popularity, than a belief that the proposition would be adopted by the House.

Mr. Elliot wished to be indulged while he took a rapid and general view of the history of taxes on salt. They originated in the Roman Republic, which did not well understand the principles of commerce. They had a powerful agency in promoting the French Revolution. The gentleman, (Mr. Quincy,) the last session told us, with an eloquence not every day witnessed in this House, that a large proportion of the people of the Eastern States lived upon the water, and came on shore only once or twice a year. Hence, they will be particularly benefitted by a repeal of the duty, for seamen are almost entirely subsisted on salted provisions. The British writers say that the duty on salt has been very injurious to the fisheries in that country, and the same effect must be produced here. The repeal of no tax will so generally relieve the people as this. When that is done, it may be proper to consider whether any other taxes can be dispensed with.

Mr. J. Randolph.—I conceive that the proposition of the gentleman from Massachusetts is brought forward in order to avoid the lessening of any tax whatever. He will excuse me for this declaration, but I infer it from what the gentleman himself said on the question of postponing the bill. He informed the House that it was the general belief, in that quarter of the country from which he comes, that all the present taxes were wanted by the Government.

The gentleman perceives that the repeal of these duties is a favorite measure of the majority of this House, and not being able to meet the subject fairly he tries to elude it. Sir, this is no new expedient. Six years ago, on the question of repealing the internal taxes, an attempt was made to elude the object by a proposed repeal of the duties on sugar, salt, bohea tea, and molasses. There is now an attempt to play the same game over again.

The question lies in a very narrow compass. It is a simple question of finance. Can you do without the duty of $500,000? If you can, it is to me self-evident that salt is the article to be relieved. I state the very reason in favor of the repeal which the gentleman urges against it—locality. The taxes operate locally, and ought for that reason to be taken off. Suppose there were an article of great use in the Eastern States, and not used elsewhere—a necessary of life—and taxed higher than any other object of taxation.

The gentleman would say take it off, because the burden operates locally. But can he point out in your book of rates an article so highly charged as salt—an article, not a superfluity, but a necessary of life? The tax falls hard on certain classes, and also on certain districts, at a distance from the sea, where the expense of transportation is considerable. Salt, iron, coarse woollens, and linens, are the great necessaries of life.

I have another reason. I want to see the commencement of a general repealing system of your taxes. No man is more an advocate for the speedy reduction of the national debt than I am, but I wish the reduction of the debt, and the repeal of the taxes, to go on together. I hope to see the time when all the taxes of the General Government shall be repealed, except a small ad valorem duty of five per cent.

Messrs. Smilie, Bidwell, and Findley, spoke against the amendment.

Mr. Sloan.—I do not rise to take up the time of the House, but to express briefly my sorrow that so much time has been already taken up. The gentleman (Mr. Quincy) will pardon my plain mode of reasoning, but to my mind there cannot be any objection at all on the subject, and I wonder that there should even be any doubts upon the case. I confess, however, there is one circumstance I have a feeling for. I understand there are many factors of salt who have laid out great sums in making salt works. If the gentleman will bring forward any plan for their assistance, as granting a bounty or the like, I shall be willing to go his pace.

Mr. Quincy.—Gentlemen are not content with replying to my arguments; they impeach my motives. The gentleman from Pennsylvania (Mr. Clay) says, my "object is popularity." That gentleman does not know the relation in which I stand. The great mass of salt manufacturers are not residents in my election district. And if they were, I cannot see that it is a reason against proposing a wise measure that it may possibly be grateful to the people. The gentleman from Virginia (Mr. J. Randolph) says, "it is the old game played at the repeal of the internal taxes, and that the object is to prevent any repeal." Is this a fair suggestion, when my system is expressly founded upon affording the same amount of relief, and my only difference at present is, as to the mode in which it shall be distributed among the people? I will explain to those gentlemen my real motives. It was to bring on a discussion. I saw this House going into Committee of the Whole and out of it, with a haste that was, considering the importance of the consequences to the nation and individuals, unexampled. A great and growing manufacture was about to be crushed, and no one seemed to take any concern for it. No man opened his lips in its support. In this state of things, I felt it my duty to propose a plan which would save the manufacturer, and yet not counteract the strong current which is setting in this House towards repealing of taxes.

As to the objection made by the gentleman from Pennsylvania (Mr. Clay) from the drawback on coffee, there may be some force in it so far as respects that article; but that is not material; if the House agree to the general principle, the details may easily be arranged.

As to the objection of the gentleman from Vermont, (Mr. Elliot,) that, by repealing the tax partially on salt, we lose the bounty to the fishermen, I do not see how that applies. The bounty is now to be repealed by this act. If a partial tax should be imposed, unquestionably a proportionable bounty would be granted. If I did not know that the interests of the fisheries would have no weight upon this floor, I would urge that interest against the total repeal of the salt tax. The present rate of bounty is unquestionably somewhat beyond the amount of salt exported. It is only a little excess, but that little is an encouragement. Were I not assured that an argument of this kind would be more than useless, I would urge the interest of the fisheries further in detail.

The gentleman from Virginia (Mr. J. Randolph) admits the partial operation of the salt tax, and says it is a reason for the repeal. It may be a local reason, but is it a national one? If your present system be so constructed as to make the great consumption of one article in one part of the country balance the great consumption of other articles in another part of the country, is not a policy which takes the whole tax from one, and nothing at all from the other, as unwise as it is partial?

But I will not detain the Committee on a subject which I perceive is irksome. I will only ask, are you quite certain that by a total abolition of the salt tax, you effect all the relief to the people you contemplated? Experience has shown what the article will bear in this country. Suppose Great Britain should deem this a favorable moment to lay a tax upon the export? Are gentlemen quite certain it will not happen? It will be recollected that two-thirds of our whole import of salt is from her dominions; that this article is not like others, the direct object of commerce, generally, but only taken from necessity, either as ballast or for want of a return cargo. An export duty might not operate, possibly, to turn the merchants to other ports for the article. It may be found that they had better pay the duty in their ports than to go elsewhere. Are gentlemen prepared with any argument to show this cannot be the policy of Great Britain? and if it be, a very small duty in Europe would soon, by the ship and merchant charges, equal the proposed amount of twelve cents on the consumer in America.

Mr. J. Randolph called for a division of the question. The question was accordingly put, on striking out of the bill so much as repeals the whole of the duty on salt, for the purpose of substituting a partial repeal of the duty on salt, souchong, and other black teas, and coffee, and a total repeal of the duty on bohea tea—ayes 7. So the question was lost.

The Committee rose, and reported the bill with amendments.

Mr. Dana called for the reading of the report of the Secretary of the Treasury, to ascertain the amount of the Mediterranean fund, in order that it might be known how much the people were relieved by the bill before the House.

The report being read, it appeared that the duties repealed by the bill, amounted to $500,000, and the duties imposed amounted to $1,000,000.

Mr. Dana observed that he should like to know why the 3d section, which imposes the additional ad valorem duties, is retained? The duties were continued the last year in consequence of an intimation from the President that some menaces had been thrown out by the Tunisian Ambassador, or some demand of tribute made, or something of that sort. It is not pretended that these additional duties are wanted for the purposes of defence. There is no pretence that they are wanted for the extraordinary two millions voted last session. Mr. D. concluded by moving to strike out the 3d section of the bill.

There were immediately loud and reiterated calls for the question.

Mr. Dana.—The Secretary of the Treasury, in his letter to the committee who reported this bill, says that the only object in continuing this duty is to provide for the extraordinary two millions. But we know nothing about any disposition of moneys under that grant. We have not the least knowledge on the subject. If the House are in truth anxious to relieve the burdens of the people, why are duties to amount to $1,000,000 a year continued in lieu of a tax that produces only half that sum?

Mr. J. Clay had only one observation to make. The gentleman, in his estimate, forgets that one of these taxes is permanent, and the other temporary.

Mr. Smilie.—It will be well enough to read the President's Message before the vote is taken, if the Clerk will read it.

A part of the President's Message was read, when the question on striking out the 3d section, which continues the additional ad valorem duties, was taken and lost—yeas 21, nays 104, as follows:

Yeas—Silas Betton, James M. Broom, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, jun., Theodore Dwight, William Ely, Charles Goldsborough, Joseph Lewis, junior, Henry W. Livingston, Josiah Masters, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Thomas W. Thompson, and Killian K. Van Rensselaer.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, John Blake, junior, Thomas Blount, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, Levi Casey, John Chandler, John Claiborne, Joseph Clay, Matthew Clay, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, John Dawson, William Dickson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, David Hough, John G. Jackson, Walter Jones, Nehemiah Knight, John Lambert, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Patrick Magruder, Robert Marion, William McCreery, David Meriwether, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thos. Newton, jun., Gideon Olin, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Samuel Taggart, Sam'l Tenney, David Thomas, Philip R. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

Mr. N. Williams moved to strike out the first section of the bill; but being informed by the Speaker that such a motion was not in order after the House had agreed to the amendments in the section,

Mr. N. W. then moved to strike out the word "salt" in the first section,

Mr. J. Clay called for the yeas and nays on the question.

Mr. N. Williams observed, that the gentleman had only anticipated a motion which he intended to make. He wished an opportunity to record his disapprobation of the measure.

He had no objection to taking off this particular duty, if any were to be repealed. He could not, however, agree to any measure at the present time, that should produce a reduction of the revenues of the Government. Considering the difficulties, internal and external, in which the country seemed to be involved, and not knowing what might be the result, he thought the resolution, at least, premature.

The question on striking out the word "salt," in the first section, was taken and lost—yeas 12, nays 109, as follows:

Yeas—Isaiah L. Green, William McCreery, Gurdon S. Mumford, Josiah Quincy, John Russell, Peter Sailly, Thomas Sammons, Uri Tracy, Philip Van Cortlant, Daniel C. Verplanck, Eliphalet Wickes, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Wm. Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, James M. Garnett, Charles Goldsborough, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, John G. Jackson, Wal-

ter Jones, Nehemiah Knight, John Lambert, Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, David Meriwether, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, J. Nelson, R. Nelson, Thomas Newton, jun., G. Olin, Timothy Pitkin, jun., John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

The bill was then read, and ordered to be engrossed, and read the third time to-morrow.

TUESDAY, January 13.

Mr. LEWIS, from the committee appointed on the twelfth instant, presented a bill to incorporate the Protestant Episcopal Church of the town of Alexandria; which was read twice and committed to a Committee of the Whole on Thursday next.

DUTIES ON SALT.

The bill repealing the acts imposing duties on salt and for continuing the Mediterranean fund was read the third time.

Mr. QUINCY moved to recommit the bill for the purpose of striking out "the first of July," and inserting "the first of October," so as to make the duty cease at that period.

He said, before the House went into Committee of the Whole, yesterday, on this bill, he had urged a postponement, upon the ground that the subject was too important to be pressed on, with so much expedition; that the time for consideration, usual on great questions, had not been granted, and that he was daily in expectation of some memorials, or information, from those interested in the salt manufacture, which would throw light either upon the general principle, or the details of the bill. He regretted he was not successful, as he had no doubt that, by this uncommon haste, the House would be deprived of the knowledge of facts important to a correct judgment; that he had just received information which had satisfied his mind that the time of repeal ought not to commence until the first of October. The course of the salt business, in relation to the fisheries, was this: The fishing season commenced on the last of February, and extended to the last of November. Salt was taken by the fishermen in the months of March, April, May, and June; sometimes as late as July. In order to entitle the fishermen to the bounty, their vessels must have been four months engaged in the fishery during the fishing season. Persons engaged in the business of supplying the fishermen with salt are necessitated to lay up great stores in the preceding Autumn. As these persons have paid the duty to the Government, and as no allowance of drawback is contemplated, we are certainly under obligations to take care that our law be so modelled that they shall have all the benefit of the ensuing fishing season, to get off their old stock prior to the reduction in price, which will ensue from the repeal. Now this will not be the case, if it take effect on the first of July. For an inducement is here held out to the fishermen to postpone their fishing voyage until after that period; whereby they will get the salt without paying the duty, and yet have time enough to perform their voyage, and entitle themselves to the bounty. Now this is unjust to the merchant, who ought to be secured his market for the salt on which he has paid duties. It is also unequal to the fishermen. For those who take in their salt after the first of July, and get it without duties, and yet detain the bounty, can undersell those who have paid the duties to Government by taking the salt prior to that period. He thought the reasonableness of the proposal was so plain, that he trusted there would arise no opposition to the recommitment for this purpose.

Mr. VARNUM.—There is one argument further on this subject, which has been omitted by my colleague, who made the motion to recommit the bill; but it is an argument on the other side. He proposes to continue the duties till the first of October. But it will be necessary for families in the country to lay in their salt for the season, before that period, so that, if the postponement takes place, they will derive no benefit from the repeal until the year following. I, therefore, hope that the motion to recommit the bill will not prevail.

Mr. QUINCY said, that he had named the first of October, because it was a Treasury division of the year; and because it had been stated to him, by those interested in the salt business, that it was the only time which would completely preserve them from loss on the duties. If, however, when in Committee, the House, from other considerations, should deem an earlier day expedient, he should acquiesce in the first of September, or even of August. But nothing could be more obvious than that if the fishermen had the whole month of July to take their salt, they might get the bounty without paying the duty, and the merchant who had paid the duty would not be secured the whole market of the next fishing season. He trusted, therefore, that the House would at least see the necessity of striking out the first of July, whatever future date might be inserted, and so would consent to recommit.

The question on recommitting the bill was taken, and lost—ayes 29.

The question then recurred on passing the bill.

Mr. QUINCY.—I see the current sets too strong in favor of a repeal, to be either resisted or varied, and had I only to consult my own feelings, I would content myself with giving a silent vote upon the final question. But the hopes of a numerous class of men are at stake—citizens, who have been induced, from the general policy of your laws, to vest their whole property in an important manufacture, are about to be ruined by

an incalculable alteration in your system. They shall, at least, have the satisfaction of knowing that their interests were not without an advocate on this floor, however certain I may be that all efforts of mine, in the present disposition of the House, must be fruitless. As I shall put my negative on this bill, I shall use the common liberty, and assign my reasons for the vote I shall give. It is not my intention to enter into an examination of the peculiar fitness of this object, as a source of revenue; although much might be said on that point, I shall say nothing upon the general policy of releasing revenues at the present moment. The President has recommended it. That recommendation shall be as conclusive with me, as it seems to be with this House. I grant, so far as it respects the present argument, that our situation, both internal and external, is so unembarrassed, and so free from just cause of apprehension, that there is no present object on which to employ revenue, and none in prospect for which it can imaginably be necessary. I agree that all our differences with Great Britain are settled; that Spain is most amicably disposed; that France is only watchful how to promote our happiness; that there is nothing threatening on the public seaboard, nor on our frontier. I perfectly admit that our arsenals are full, our fortifications complete, that in naval and military preparation nothing more is to be wished. Whatever opinion I may hold as to any of these points, I know how utterly ineffectual any argument, founded on that opinion, would be upon this floor. I shall, therefore, confine myself wholly to such topics, as, I think, may possibly be influential, even on a body predetermined as I know this to be. My object shall be, to show the impolicy of a total abolition of the salt tax; and the policy, supposing we can do without any part of our revenue, of a partial abolition of this tax, and of affording, for the residue of the amount we can remit, relief upon other articles. And, for this purpose, I shall urge two general considerations; the importance of the salt manufacture, in a national point of view; the inequality and partiality of the distribution of relief among the people, by a total abolition of this duty, without reduction of any other.

The nature of this manufacture, its extent and importance, not only to the part of the country which carries it on, but in a national point of view, is not, I think, understood by this House. To the part of the country engaged in this business, its support is, indeed, an object of primary importance. In Barnstable county, and on Cape Cod, the manufacture is now principally followed. Many portions of this part of the country are condemned to eternal sterility and sand heaps. It happens that these, which are good for nothing else, are best suited to support the vats used in the manufacture; frosts, which, in better soils, would heave the buildings, do no damage in this. The individuals engaged in the manufacture, are, for the most part poor, and, in many instances, have invested their whole property in it; encouraged by the state of your laws, and believing they might calculate with certainty upon the continuance of the tax, at least to the amount of twelve cents, not only because salt is, in all countries, considered as one of the most eligible sources of revenue, but because, in this, it is, to that amount, a permanent tax, specifically pledged for the payment of the public debt. Whether the grounds of their calculation were not reasonable, and whether, on this account, no obligation results to this Legislature, the House will consider.

As to the extent of the manufacture, I am not possessed of all the information I expected, or should have had, if this bill had been permitted to pass through this House at the ordinary speed. But I am authorized to state that there are on Cape Cod more than three million of superficial feet of works; and that the capital invested in the manufacture exceeds four hundred thousand dollars, and that the quantity made the last year does not fall short of one hundred and fifty thousand bushels. I ask, is not this a state of manufacture worthy of the consideration of the Legislature, prior to voting its utter destruction? If, in the course of a very few years, scarcely more than four or five, this manufacture has arisen from absolute insignificance to so flourishing a state of prosperity, what would not be the result if it could rely upon a continuance of the existing encouragement for a number of years? It is not too much to say, that, in the course of ten or fifteen years, it would materially affect our imports, and in less than thirty render this country wholly independent of Europe for this important article. This is not a local concern. The manufacture is progressing southward. It already makes a capital object of attention on Long Island. And the time would not be long before the Southern States would commence the business. Their shores are equally suited to it and their climate more favorable.

But what is the importance of the manufacture in a national point of view? I answer, in the words of the President's Message, at the opening of this session: "Salt, a necessary of life, the free use of which is otherwise so important." Now, I ask, which is the readiest means to "the free use" of any article? To make it ourselves, or to be dependent for it on others? The strongest argument in the world, in favor of patronising this manufacture, is the very one used by the President, in effect, for its destruction. It is, because it is a necessary of life—because its free use is so important that we ought to encourage the only means by which that free use can be secured to us, independent of all foreign control.

I ask, what would be the effect of war upon the price of this article? It is stated to me, that, during the American war, the price varied from two dollars and a half to nine dollars, specie, the bushel, on the seaboard; making an average of six dollars. As I have this statement only from one individual, and there may be some error, I shall not rely upon it. I will only state the average war price at three dollars the bushel. This, I confidently assert, is far below the experience of the American war. The average peace price of the ar-

ticle, I will state, far above the fact, at one dollar the bushel. The war price of this article will operate, then, as a tax of two dollars the bushel. Our future consumption can never be less than three millions of bushels. It follows that the tax upon this people, for a single year of war, on this article, cannot be less than six millions of dollars. The amount of tax proposed to be relieved by a total abolition of the salt duty is somewhat more than half a million—say, six hundred thousand dollars, annually. The tax of a single year of war, upon this article of salt, will, therefore, exceed eleven or twelve years of your peace savings by a total abolition. Now, is a manufacture like this altogether an object so trifling as not to enter into national calculations? Ought it to be sacrificed to any scheme of popular celebrity? If it is to be crushed, ought we not to have the most plenary evidence, that it is alone by this sacrifice that the people can obtain the most desirable and imperious species of relief? This brings me to my second object, which was, to show that a total abolition of the salt tax, in its distribution of relief among the people, was partial, and did not, in any due proportion, lighten the burdens of those classes in poverty, which ought always to be the first object of the national charity.

I ask, which of all the classes of society ought we first to relieve? Certainly the poor—the laboring classes—those who have no capital but the sweat of their brows? As property ought to be the first object to be taxed, so it ought to be the last to be relieved. When this subject was yesterday in the committee, I proposed as a substitute for a total abolition of the salt tax a partial abolition of that duty and an extension of relief to the inferior species of teas, to brown sugar and coffee. The proposition was made, as I then stated, on the spur of the occasion, to break the dead silence which reigned over the passage of the bill; to bring, if I may so express myself, the intelligence of this House, out of its concealed recesses into fusion upon this floor; that it might be seen of what metal it was composed. At that time it was treated as a project of popularity. I know too well the nature of man, not to be quite certain, that it will not be popular, though I am equally well convinced that it ought to be popular, not only in this nation, but in this House. Men are much more captivated, in general, by brilliant than by useful projects. The repeal of a whole tax, and the salt tax, too, is well calculated for a great popular effect. It will bring in an abundant harvest of reputation to its author, even among those to whom the relief will be very little—comparatively nothing; and that because they will not take the trouble to understand how it affects the whole nation. The laboring classes of the community receive but a very small portion of relief from a total abolition of the salt tax. The great benefit, comparatively the whole, results to the property of the country. I ask, who pays the tax? There can be no question—the consumer. Then, where is the consumption? By ascertaining that, we shall see where the weight of the salt tax falls, and whose burdens a total abolition of it will relieve.

The salt tax may be viewed in two points of view. As a capitation tax, and as a tax upon property. In the former shape alone, it affects the poor and laboring classes. In both, it affects the rich.

Considered as a capitation tax, it cannot possibly be more than ten cents an individual. For there are three millions of bushels consumed in the country, and our present white population is six millions, which is a consumption of half a bushel a head, which, at the present rate of tax, twenty cents per bushel, is ten cents tax on each individual. But the truth is, as a capitation tax, it is far less than this, as will be obvious from a single consideration. For, besides the white population of six millions, we have an additional population of one million of slaves, and, also, certainly, not less than one million of cattle, each of which consumes, it is agreed on all hands, as much also as half a bushel per head, annually. That is to say: we have one million of salt-eating cattle, and one million of salt-eating slaves, who consume, at half a bushel per head, one million of the three millions of bushels of salt which are consumed in the country. So that there remains only two millions of bushels to be averaged upon the white population of six millions. That is to say, the consumption of the white people cannot exceed one-third of a bushel of salt per head. This, at twenty cents tax, is a little above six cents upon each individual. So that a total abolition of the salt tax is, as it respects the poor and laboring classes, a reduction of six cents annual tax from the individual. Gentlemen from the interior, (whose constituents are interested in getting rid of this whole tax, because this they feel, while they feel, comparatively, no other,) may talk about the poor, as if they eat more than the rich, from their consuming more salt meat. But, a little consideration will show it is not true, or, if true, not in a degree to materially affect the argument. For, in whatever form the salt be eaten, no more than an average of one-third of a bushel per head, can be annually consumed in the country, for no more than that is there in the country to consume. Now, salt is an article of which all must eat a little, and no man can eat a great deal. And although in salt meats the poor may eat more than the rich, yet in a multitude of luxuries, in the waste and consumption of their servants and dependants, the balance of expenditure must inevitably be on the side of the rich. The truth probably is, that the expenditure of the laboring classes and poor, is much less than a third of a bushel per head. As a capitation tax it cannot be more than six cents Now, let us see the real result of this captivating proposition of total abolition of the salt tax.

A poor man with seven in his family, the common average, is to be relieved from six cents per head—that is, from forty-two cents annual tax. On the other hand, a rich farmer or planter, with the same number of whites in his family, and a hundred head of cattle or slaves, pays, as well as the poorer man, a capitation tax of forty two cents. But he also pays, in the consumption of

his cattle or slaves, ten cents per head. That is—ten dollars annually. So that, truly considered, this is a scheme to relieve such a laborer's family of an annual tax of forty-two cents, and, at the same time, to relieve such a rich farmer or planter of an annual tax of nearly ten dollars and a half. Now, I contend, that such farmers and such planters are not the first objects of national relief. As far as the salt tax is a capitation tax, it is a very light one. As far as it is a property tax it is a very equal one. While the rich farmer or planter with a hundred head of cattle or slaves pays ten dollars, the poor farmer, with a single cow, pays but ten cents. In its operation upon this class, every farmer or planter pays according to the stock he keeps. In other words, according to his riches. Now, is not this a scale by which all taxes should be graduated? The proportion in which the relief is to be shared in particular quarters of the country, and by particular classes, is out of all reason. Gentlemen say this is a rare case—we shall scarcely see the like again. I say, then, give us a just share of it on the seaboard, while it is going; and, what is still, in a national view, a greater object—thereby also save the salt manufacture.

The plan which I proposed yesterday would have both these effects. Gentlemen say this is a popular string. I abjure touching it for that purpose. It is the established principle of all wise finance. Let taxes bear last upon the poor and laboring classes; let them first be relieved. But here is a scheme to give a world of relief to the property of the country, and little, comparatively nothing, to the laboring classes; and that little altogether incidental. By reducing eight cents only upon salt, half a cent per pound upon brown sugar, six cents upon the inferior classes of teas, and one cent upon coffee, the same amount of relief would be extended to the community, only it would be differently distributed. Such a laborer's family, as I have mentioned, supposing that it consumed only twelve pounds of tea, twelve pounds of coffee, one hundred pounds of brown sugar, and three bushels of salt annually, would be relieved of somewhere about one dollar and sixty cents annual tax, instead of forty cents, as by the present scheme. On the other hand, such a planter's family, with his hundred slaves or cattle, will still be relieved from above five dollars and a half annual tax. And it seems to me that gentlemen from the interior ought to be content with such an abatement, particularly as, by not claiming such an exorbitant proportion of the relief contemplated, they save the salt manufacture to the country.

A total abolition is not only unequal as it respects the classes, it is also as it respects the natural sections of the country. It is agreed on all hands, the interior, the South and the West, consume more salt; and it cannot be denied that the inhabitants of the seaboard consume more of the articles I have mentioned, as well as of other imported articles, than the inhabitants of the other parts of the country. They must necessarily, not only from their populousness, but from their habits and necessities. Now, if the former bear hard upon you, the latter bears hard upon us. If, in the original establishment of the system of taxes, articles were chosen and the amount of tax arranged so as to make the whole mass of taxation fall equally upon every part of the country; if in relieving taxes you take off altogether the tax upon one article, the consumption of which is, beyond comparison, the greatest in one quarter, and relieve nothing from those the consumption of which is greatest in another; what is this but destroying the whole equilibrium of the system?

The character of this policy is still more strikingly elucidated by considering it in relation to another part of the act. This is not only an act for the abolition of the salt tax, it is also an act for the continuance of the Mediterranean fund. It might easily be shown that the consumption of the articles on which this fund arises, is beyond proportion greater along the seaboard and in the cities than in the interior. When that act was passed, had any individual alleged upon this floor, that, under this act, it was intended, by the prevailing influence, to throw off the salt tax, which was the chief burden on particular sections, a suggestion of that kind would have been treated as an insult, and we should have been pointed to a specific pledge contained in that act, which provides that the Mediterranean fund should cease within six months after the war in that sea had ceased. But what is the fact? The war has ceased—the fund is continued. It gives nearly a million of dollars. The salt tax is little more than half a million. The former is kept alive, and is made the efficient reason for the repeal of the latter. In truth, this act, instead of being denominated "An act repealing the duty on salt and continuing in force the Mediterranean fund," ought to be entitled "An act repealing the only tax which obliges the South, the West, and the interior, to bear a just proportion of the public burdens, and for the continuance of all existing, and the further imposition of a new tax, chiefly paid by the seaboard and the cities."

With such a title, it ought to be sent out, in company with other acts, such as were passed the last, and will probably be passed this session, entitled "Acts of appropriation for the fortification and defence of the ports and harbors of the United States." This is a twin policy with that. They have both the same parentage, and there is between them a perfect family resemblance. There is as much real protection to those parts of the country which deserve protection in the one, as there is real relief to those classes of the people, which deserve first to have the benefit of relief, in the other.

Mr. VARNUM.—I shall not attempt to follow my colleague (Mr. QUINCY) through all the arguments he has advanced on the bill. I shall notice a single observation that has fallen from him, concerning the local operation of the repeal. It has been often asserted in this House, at former periods, that certain measures operated locally, and were intended to benefit one part of the Union at the expense of another. I recollect this was

the fact in regard to the tax on carriages. It was contended then that the repeal of the tax was calculated in particular to relieve the Southern States, whereas Massachusetts paid her full proportion of that tax. So now again there is an attempt to impress the belief that the repeal of the duties on salt is calculated to favor the South and the West, to the prejudice of the East. Sir, there is as much salt consumed in the Eastern, as in the Southern and Western States. In New Hampshire, except a small district on the seashore, which is inconsiderable, the consumption is great. Such is the fact throughout Vermont, and also throughout Massachusetts, excepting only a narrow tract on the seashore. The Eastern States are, therefore, as much interested in the repeal of those duties as any part of the Union.

Mr. BIDWELL.—The principal arguments urged by my colleague against the bill under consideration, appear to be two. 1st. That it will ruin the manufacturers. 2dly. That the benefit of the measure will be unequal. But, shall the interest of a few manufacturers, a few hundreds only, or a few thousand if you please, be put in competition with the general interests of the country? As to the second objection, that the benefits of the measure will not be enjoyed equally, the gentleman states that one man will be relieved from a tax of only forty-two cents, and another will be relieved from the burden of ten dollars. This is the very reason why the duties ought to be repealed. If they fall so unequally, they ought at once to be done away. The gentleman, in the abundant resources of his ingenuity, could not have invented a stronger argument for the repeal, since, by his own acknowledgment, the duties are now so unequal that one man is compelled to pay ten dollars, and another pays only forty-two cents.

As to the objection that this measure is designed to favor the South, I would observe that the Eastern States, with the exception of only a very few inhabitants on the seacoast, are as deeply interested in the repeal as any quarter of the Union.

Mr. HOLLAND.—The first argument urged by the gentleman from Massachusetts, (Mr. QUINCY,) who spoke against the bill, is, that the repeal of the duty will destroy the manufactures of salt. But, supposing such to be the fact, who is to blame? Those only who have been such forward speculators in this manufacture. They have had ample notice, for it has been well understood for several years that Government designed to relinquish these duties as soon as they could be dispensed with. This is the first time I ever heard that salt was not used by the poor. I had always thought that the rich and poor used about the same quantity, and that a tax on this article approached very near a capitation tax. The poor have cattle also to eat salt. The tax is felt more by the poor than by the rich. The manufacturing of salt is not confined to Massachusetts. The business is carried on in Virginia, where immense sums have been imprudently laid out in that way, and several adventurers ruined by the result. I apprehend no danger to the public from checking such extravagant manufactures.

Mr. G. W. CAMPBELL.—I rise only to observe that the people of the Western States, at least of Tennessee, have no particular interest in passing this law. More salt is manufactured than is consumed there, so that some of the inhabitants on the east of the mountains are supplied from those manufactories.

Mr. BROOM.—I cannot reconcile it to myself to give a silent vote upon the final passage of this bill, because it contains two distinct propositions widely different from each other, and which are by no means equally acceptable to me. The one to abolish the specific duty on salt, the other to impose additional duties ad valorem. To the first I cordially assent, to the latter I have serious objections. I am happy that I had an opportunity, whilst this bill was passing through its several stages, to record my vote separately for the abolition of the salt duty and against the continuation of the additional duties. The question now is, Shall this bill pass? And we are now to consider whether it will be productive of more good than injury. I could have wished that these two provisions had been made the subjects of separate bills in order that the sense of the House and of the nation might be distinctly ascertained upon each, without the influence of one upon the other; but a different course has been pursued, and the House is now called on to decide whether they will abolish the duty on salt, although coupled with the encumbrance of the Mediterranean fund, or reject the bill altogether. It has been well calculated, that thus situated, our earnest zeal to remove the salt tax will make us less sensible of the imposition of the additional duties, and that our regard to personal popularity may make us yield to a tax of which the great mass of the people is not sensible, rather than hazard an opposition to the removal of one which the whole community knows and feels. By this political contrivance the additional tax is so well seasoned to the taste of the people, that it is presumed they cannot fail to relish it. I wish to be understood that I am in favor of the repeal of the duty on salt, and I congratulate the House upon the unexpected change in their opinion on the subject since the last session. We have been repeatedly pressed to abolish this duty, but an imposing majority has hitherto prevented it. I am happy that the propriety of the measure has been discovered even at this late day, and I shall not inquire whether this change has been produced by a sense of this propriety, by the President's recommendation, by the desire of conforming to the popular wish, or by a dread of popular indignation. I wish it also to be understood that I am opposed to the imposition of the additional duties; and, as it is a duty which I owe to myself, I trust the House will indulge me while I explain the reasons of my opposition, and account for the vote which I shall this day give. I am not against granting money in case money is wanted—far be it from me even to wish to paralyze the arm of Government, or to embarrass its operations. If gentlemen will condescend to demonstrate the necessity of this tax, with all my heart I will vote for it, and hazard its due application to the purposes for which it is asked. But when not even a glimmering of light is given us, and we are obliged to grope our way into darkness, we must each trust to the light of our own understandings. We ought to know before we lay taxes the necessity of laying them. It is sporting with the resources of the nation to call by new taxes for money when there is more already in the Treasury than we will use. In searching for the reason of this tax we are naturally led to consider in the first place the expenditures of Government and resources to meet them.

By the report of the Secretary of the Treasury, at this session, we find that he estimates the expenditures of Government for 1807 (including the extraordinary appropriation of two millions made at the last session) at $14,100,000.

To meet this expenditure we have of permanent revenue, exclusive of Mediterranean fund and salt duty,	$13,000,000,
And a balance in Treasury, January 1, 1807, - - - - -	4,000,000,
Making in the whole - - -	$17,000,000
And leaving a balance in the Treasury at the end of this year of nearly	$3,000,000
For the year 1808, according to the Secretary's plan for redeeming the public debt, there will be wanted for the public debt, - - - - -	8,756,000
For all other expenses of Government, including $400,000 for contingencies, - - - - - -	3,900,000
	$12,656,000
To meet this expenditure we have of permanent revenue, exclusive of Mediterranean fund and salt duty, at least - - - - - -	13,000,000
Balance in Treasury January 1, 1808,	3,000,000
Making in the whole - - -	$16,000,000

The Mediterranean fund cannot, therefore, be wanted for any purpose in contemplation during the years 1807 and 1808. For the average revenue from 1809 to 1815 inclusive, the Secretary calculates on $14,000,000, exclusive of the Mediterranean fund, and without calculating the revenue from New Orleans. Supposing then this last mentioned revenue to supply the deficiency occasioned by the repeal of the salt duty, the revenue may still be calculated at $14,000,000 from 1809 to 1815.

As the laws now are, all the expenditures of Government during these years, including the provision for the public debt, will be $8,500,000, leaving an annual surplus of 5½ millions; but if the proposed plan of the Committee of Ways and Means for the payment of the public debt, should be sanctioned by law, and assented to by the creditors, there will then be wanted for the expenditures of Government, nearly $12,000,000, leaving in this last case an annual surplus of $2,000,000.

The calculations of the permanent revenue are made by the Secretary on the lowest possible scale; for they are made on the basis of the revenue received during a year of European peace, with a proper allowance for our increase in population and wealth, and without including many incidental branches of revenue. If then, this tax is not wanted to support Government, or to provide for any contemplated scheme for the redemption of the debt, or for any other designated object, why should we grant it? There is one reason given, for which I must give credit to the gentleman from Pennsylvania (Mr. SMILIE.) He called for the reading of it yesterday, and seemed to consider it, without any comment, as a conclusive argument. It was the President's Message recommending the measure. I could scarcely have expected from the majority of this House, so nearly approximated as they are to the people, so little jealousy of Executive influence, and such avowed submission to Presidential recommendation. The message was read—it was too plain to be misunderstood, and of itself argument sufficient, and the House was prepared to lay the additional duty. This is certainly an easy mode of managing the business of legislation, but by no means the most honorable to ourselves, or useful to our constituents; we are not sent here merely as the instruments of taxation, but as men invested with discretion to measure out the burdens of the community and to administer to the wants of the Government, according to our own views of the right of the latter, and the necessity of the case. The recommendation of the President may possibly proceed from the best and most patriotic motives; but yet he may err. The soundest policy may justify the tax which he recommends, and it may be our duty to impose it; but of this we ought to be convinced before we sanction it. Now, let me ask, what reason is given to justify this call for money? Are we not told that our Treasury is full and flowing over, and that the Constitution must be amended to enlarge the federal trust and give us an opportunity of getting rid of it? Why, then, this great anxiety for more money? Do we not know the danger of too much? Have we not been told by high authority that too much money may lead to war? Why then do we wish to run with our eyes open headlong into temptation, and involve ourselves in that hurtful practice of injuring one another? Why accumulate that evil which may obstruct the progress of brotherly love and universal philanthropy?

I beg the House to reflect that the question is not now whether we shall take off a tax of one million of dollars, but simply whether we shall lay on that tax. The tax ceases by its own terms with the cause which produced it, and if no law is passed to impose this tax again, the 4th of March will find the people relieved from its burden, and the law itself consigned to its rank among the musty rolls of expired laws. When this tax was laid, the people submitted to it without a murmur. It

was a voluntary contribution; and I might almost say that humanity, charity, and patriotism, were the donors. The feelings of the nation were roused for the protection of our commerce and seamen against the pirates of Barbary, and in the moment of generous national excitement this additional duty was laid—not as a matter of revenue, but for the sole avowed purpose of protecting our seamen and commerce, and for carrying on warlike operations against the hostile Barbary Powers. And so particular were the provisions of the law, that a separate account was to be kept, that the people might see whether it was faithfully applied to the purpose for which they generously intended it. By the same law the faith of the nation was pledged that the duty should cease three months after a treaty with Tripoli, unless the United States should be at war with some other Power. Now mark the sequel. The war was ended, a treaty with Tripoli concluded, and this productive duty was to cease for ever.

The money was too convenient to be so easily parted with. But what was to be done? All were desponding, when, on a sudden, a speck of war was discerned in the horizon of Barbary. The intelligence was communicated to Congress and the tax was to live yet a year longer. The moment of dissolution is now approaching, but the money is as convenient as ever and the tax must still live; and now the policy is to keep this additional duty, which produces a million of dollars, and amuse the people with the release of the salt tax, which produces but half the money. It is not now even pretended that any wars or rumors of wars exist between us and any of the Barbary Powers, and we are not told that the money is wanted for any other definite purpose; we are only told by the President that the tax ought to be continued, and in order to make it more popular, he tells us that it is levied chiefly on luxuries. Notwithstanding this high authority I cannot help suspecting that upon examination this tax will be found to bear chiefly on articles which the habits and manners of civilized nations have made necessary to their comfort. There are three rates of ad valorem duties; the lowest is applied to the most necessary articles, such as wood and iron work, and linen, woollen, and cotton goods.

The highest rate is applied to articles the least necessary, and of which it is the policy of Government to restrain the importation.

The value of articles of the lower rate, by the report laid on our table this morning, is $37,000,000.

The value of articles of all other rates is something more than $7,000,000.

The first class produces a revenue, exclusive of the Mediterranean fund, of $4,188,000.

The other classes produce a revenue of but $1,168,000.

The inference then is, that this additional duty, ad valorem, bears chiefly not on luxuries, but on necessaries.

I cannot help thinking, therefore, that this tax is not laid with a view to restrain luxury, but because it is convenient and productive, and has been at a fortunate moment ingrafted on our collection laws without complaint. If this tax is wanted to put the country in a state of defence, by fortifications or military or naval preparations, let gentlemen tell us so, and considering the fund pledged for that purpose I will freely vote for it. If it is wanted for any other purpose, let us know the purpose and alter the title of the bill to correspond with it. But why should we resort to this assumed name, and raise the money to protect our seamen and commerce against the Barbary Powers, when we know in our hearts that not a dollar of it will be applied to that purpose? Are we afraid the people should know our object? These, Mr. Speaker, are my reasons for objecting to so much of the bill as continues the additional duties. The question now is, whether the bill will do more good than injury; and considering that the relief of the salt duty is permanent, while the additional duties are but temporary, I am reconciled to vote for the bill, having first protested against its objectionable parts, that I may not in future be pledged to vote for the further imposition of the national duties.

Mr. DANA.—I concur with my friend from Massachusetts (Mr. QUINCY) in the opinion, that a reduction of the duty on salt would be more proper than a total repeal. According to my apprehension of the subject, a moderate duty on salt ought not to be considered as generally oppressive, although it may be thought burdensome in certain parts of the country. Considering the present state of our revenues, I would reduce the duty on salt; for I think the sum of twenty cents per bushel to be more than the average rate of duty on the great mass of imports. Various articles, indeed, are subjected to much heavier duties; but they are such as have less claim to relief. In a financial view of the subject, a reduction of the duty on salt appears preferable to a repeal, as it would be favorable to an equalisation of impost. The residuary portion on salt would authorize a reduction of duties on other articles which are in general use, and still are charged with impost above the average rate. This reduction of duties on various classes of articles, which are consumed by the laboring portion of the community, would operate to extend more equally the relief from taxation. But the popular attention has been so strongly attracted towards a repeal of the duty on salt, this has been rendered so much the theme of popular regard, that I have no expectation that any efforts would now persuade the House to decide in favor of such an equalisation of imposts as appears to be proper, whether we regard the principles of finance or the relief of the people. Under existing circumstances, a total repeal of the salt duty, or no relief from taxation, is the alternative, on which our votes are required. In this view of the subject, my opinion is decided to vote for the repeal.

Yet, why must a repeal of the salt duty be connected with the imposition of additional duties on other articles? According to the Secretary of the Treasury's report on the finances, of the 5th of December, 1806, the proceeds of the additional duties, called "the Mediterranean fund," amounted to more than a million of dollars for one year. The product of the impost on salt, for the same year, was less than six hundred thousand dollars.—(See note A.)

The bill before the House contains one section for repealing the salt duty, and another section for continuing the Mediterranean fund. In other words, it proposes to relieve the people from a specific duty, amounting to about half a million of dollars, and to lay upon them duties, ad valorem, to the amount of about a million.

No reasons are given, officially, which appear to me sufficient for requiring these additional duties. As one of the Representatives of the people, I cannot consider it my incumbent duty submissively to acknowledge the irresistible force of Executive argumentation.

In the month of March, 1804, after the loss of the Philadelphia frigate, on the coast of Tripoli, an act was passed under the title of "An act further to protect the commerce and seamen of the United States against the Barbary Powers. By the first section of this act, all imports subject to duties, ad valorem, were charged with the additional duties of two and a half per centum. These new duties were imposed expressly for the purpose of defraying the expenses of naval armaments and warlike operations against Tripoli, or any other Power of Barbary which should make war against the United States, and for the purpose of defraying other expenses which might be incident to the intercourse with the Barbary Powers. The second section required a distinct account to be kept of these additional duties, the proceeds of which were to be denominated "the Mediterranean fund," and to be applied solely to the purposes designated by the act. The same section contained a limitation, by which the whole of this additional impost was to cease at the expiration of three months after the conclusion of peace with Tripoli, unless the United States should then be at war with any other of the Barbary Powers.

During the last session of Congress, a Treaty of Peace with Tripoli was ratified, and no other Barbary Power was at war with the United States. Of course, all the additional duties were soon to cease, by the terms of the act which imposed them. But, it may be recollected, during the same session, there was, in this country, a Turk, called the Tunisian Minister. He, it seems, for some cause, thought proper to say something about a present for the Bey of Tunis, and about a war in case of refusal. On the 14th of April, 1806, the President of the United States made a communication to Congress, relative to the affair, and relative to the Mediterranean fund. The Message of the President was in these terms:

"During the blockade of Tripoli, by the squadron of the United States, a small cruiser, under the flag of Tunis, with two prizes, all of trifling value, attempted to enter Tripoli, was turned back, warned, and attempting again to enter, was taken and detained as prize by the squadron. Her restitution was claimed by the Bey of Tunis, with a threat of war, in terms so serious that, on withdrawing from the blockade of Tripoli, the commanding officer of the squadron thought it his duty to repair to Tunis with his squadron, and to require a categorical declaration, whether peace or war was intended. The Bey preferred explaining himself by an Ambassador to the United States, who, on his arrival, renewed the request, that the vessel and her prizes should be restored. It was deemed proper to give this proof of friendship to the Bey, and the Ambassador was informed the vessel would be restored."

"Afterwards he made a requisition of naval stores to be sent to the Bey, in order to secure a peace for the term of three years, with a threat of war if refused. It has been refused; and the Ambassador is about to depart, without receding from his threat or demand."

"Under these circumstances, and considering that the several provisions of the act of March twenty-fifth, one thousand eight hundred and four, will cease, in consequence of the ratification of the Treaty of Peace with Tripoli, now advised and consented to by the Senate, I have thought it my duty to communicate these facts, in order that Congress may consider the expediency of continuing the same provisions for a limited time, or making others equivalent."

After Congress had received this Message, the first section of the act, that which imposed the additional duties ad valorem, was continued in force. The chief effect of the threat mentioned in the Message seems to have been the addition of about a million of dollars to the revenue. As to anything further, the threat was so little regarded, that you did not vote seamen enough to enable the Secretary of the Navy to send a relieving squadron to the Mediterranean.

By the terms of the act continuing the additional duties, they are to cease at the close of the present session of Congress. And again, we are called upon to continue them until the end of another session. Yet, there is no war nor menace of war with any of the piratical States of Barbary. What other reasons are now assigned for continuing the additional duties? And, if they are still to be levied, why is this to be done under the name of "An act further to protect the commerce and seamen of the United States against the Barbary Powers?" They are no longer appropriated for the purposes of such protection.

The official reasons for continuing these duties, are to be found in the communications of the Secretary of the Treasury or the President of the United States. On the 18th of December, 1806, the Secretary of the Treasury addressed a letter on this subject to the chairman of the Committee

NOTE A.

Product of duty of two and a half per cent., during the year 1805	$1,038,440 30
Product of duty of three and a half per cent. retained on drawback	6,647 72
Product of extra duty of ten per cent. on merchandise, imported in foreign vessels	6,227 15
Product of the additional duties in 1805	$1,051,315 17
Salt paying duty, during the year 1805, 2,816,455 bushels of 56 lbs., at 20 cents	$563,291 00

of Ways and Means. In that letter, I find these observations:

"If no other expenses whatever shall be incurred, but such as are already actually authorized by law, neither the salt tax nor the Mediterranean fund are any longer wanted. The propriety of continuing the last-mentioned fund for a limited time might be decided by considerations connected with the political situation of the United States. For it is only to provide for the speedy payment of any contemplated acquisition of territory, without creating a new debt, or in case of war, that the fund can be wanted. Under existing circumstances, I should think it consistent with prudence to continue it for one year longer."

Here it is proper to correct an error in the observations which I had the honor of submitting to the House yesterday. On a hasty perusal of the letter from the Secretary of the Treasury, I had supposed that these additional duties might be wanted as a fund towards discharging the extraordinary two millions of dollars, appropriated in conclave during the last session of Congress. This opinion was erroneous; and I owe it to the Secretary of the Treasury to correct the error. In a more attentive examination of his letter, it appears that this additional revenue is not wanted as a fund towards defraying any expense already actually authorized by law. The expenditure of the two millions was actually authorized by a law of the last session. And it appears, from the Secretary's report on the finances, that provision is already made for satisfying the whole of this extraordinary charge on the Treasury. So that the additional impost is not wanted at all, on account of extraordinary foreign intercourse, unless, indeed, there should be a demand for, perhaps, a million of dollars, in ready money, to be added to the two millions voted at the last session. As I did not assent to that vote, it is not to be expected that I should consider such a reason as sufficient for the levying of additional duties.

In the Message of the President of the United States, at the commencement of the present session, there is another official reason. Permit me, sir, to read that part of the Message to which I refer:

"The duties composing the Mediterranean fund will cease, by law, at the end of the present session. Considering, however, that they are levied chiefly on luxuries, and that we have an impost on salt, a necessary of life, the free use of which is otherwise so important, I recommend to your consideration the suppression of the duties on salt, and the continuation of the Mediterranean fund, instead thereof, for a short time, after which that also will become unnecessary for any purpose now within contemplation."

The reason here assigned, is, that of a sumptuary law for taxing luxuries. Although some of the articles paying duties ad valorem may, perhaps, be deemed such, it seems to be at least questionable, whether they ought generally to be denominated luxuries, unless we are to understand the term in a sense materially different from the usual acceptation.

In the month of December, 1801, the Secretary of the Treasury made a report to Congress, in pursuance of the act supplementary to the act, entitled "An act to establish the Treasury Department. With that report, he presented various statements relative to the revenues of the United States. One of them is a *table of duties*, on merchandise imported. By recurring to this table, we may be assisted in forming a judgment, whether the articles paying duties ad valorem are chiefly luxuries, or whether they are chiefly, not only convenient, but rendered necessary by habitual use, and by a regard to the decencies of civilized life.

The imports are arranged under three heads—*articles free of duty, articles paying duties ad valorem, and articles paying specific duties.* The duties ad valorem are stated at various rates—twenty per cent., fifteen per cent., and twelve and a half per cent. To all these rates of duty, there has been the addition of two and a half per cent., under the act of March, 1804. Formerly, twelve and a half per cent. was the lowest rate; but since that act went into operation, no articles paying duties ad valorem are charged with less than fifteen per cent. Accordingly, if you examine the last statement of duties and drawbacks for three successive years, as laid before the House by the Secretary of the Treasury, you will find no entry, in the year 1805, for duties received at the rate of twelve and a half per cent. ad valorem. But you will find the old twelve-and-a-half and the new two-and-a-half combined, in a duty of fifteen per cent., and amounting to about six millions of dollars. After deducting the drawback of duties for the same year, the net revenue derived from this source was five millions.—(See note B.)

If gentlemen have attentively examined the financial policy which has been pursued in this country with respect to former duties on imports, they must know it has been a general principle of the system to lay only the lowest rate of impost ad valorem upon articles of necessary use; articles consumed by the great mass of free population; articles not chiefly used by the rich, the elegant, the fashionable, or the prodigal.

The articles charged with the lowest duties ad valorem appear, from the Secretary's table of duties, to consist principally of manufactures of wool, cotton, silk, hemp, flax, and wood. They are chiefly linens, cottons, woollens of various descriptions, and comprehending the ordinary or

NOTE B.

In the year 1805.	Duties rec'd.	Drawback payable.
On merchandise paying duty at fifteen per cent. - -	$2,792,800	$834,456
On merchandise paying duty at sixteen and a half per cent., one tenth being added in cases of importation in foreign vessels - - -	338,539	151,949
	$3,131,339	$986,405
Net revenue from the lowest duties ad valorem - - - - - - -		$5,144,934

coarse fabrics which are worn by the laboring and industrious portions of the community. These are articles of indispensable use, unless persons are to live in society like the cattle in the fields, or like the slaves in some parts of the West Indies.

The articles in question are so generally regarded as articles of first necessity, they are so much wanted by the great body of the community, the consumption is so universal, that the impost on them for a single year gives a net product of five millions of dollars. In estimated value, the articles liable to the several duties ad valorem constitute about one half of all our imports.—(See note C.)

If the object of the President's recommendation was that of a sumptuary law, if we continue the additional duties upon this principle, we must consider the articles of ordinary clothing as luxuries; we must act upon the supposition that everything is a luxury which is not absolutely essential to the support of animal existence. Some idea of this sort has been formerly advanced, I think, by *Mandeville*, in his "Fable of the Bees." If such was the President's meaning in speaking of the duties ad valorem, as being levied chiefly on luxuries, we are presented with an innovation in language under the form of official information. Is this to be recognised as a reason for taxing the great body of the community? Such are the official reasons for additional taxation. Do we find any reason for it in the measures adopted by Congress at the present session? As yet, no legislative act has been passed for authorizing any expenditures which can require the additional duties.

Indeed, sir, it is not a little extraordinary that we are called upon to tax the people, while we are invited to consider a project for expending future surplusses of revenue, a project for preventing accumulations of money in the Treasury. In pursuance of this recommendation, a select committee of seventeen has been appointed. It is a committee for considering measures by which the surplus revenue may be absorbed. A gentleman from Vermont (Mr. ELLIOT) has called it the Committee of Ways and Means, No. 2. The chairman of it is the gentleman from Massachusetts, who has spoken several times about the duty on salt, (Mr. BIDWELL.) As yet, we have no report from this committee of absorption; nor do I learn that a quorum has ever been assembled.

I admit the force of the observation made by a gentleman from Pennsylvania, (Mr. J. CLAY,) that the proposed continuation of the additional duties is temporary, and that the impost on salt is laid without limitation of time. In a question between paying a million of dollars for one year, and an annuity of half a million in perpetuity, it is evident, the payment of a million will be the cheapest in the result. If no relief, as to the salt duty, can be had on any other terms, if we are reduced to the necessity of making this sort of bargain for the people or leaving them to pay the half million annually forever, it is clearly the best calculation to admit the tax of a million of dollars for one year.

But will not the tax be called for again? It seems to be continued with singular facility from year to year. Without adequate official reasons; without appropriations to require it; without the discussion usually had in cases of less moment; or, perhaps, some intimation; for some cause not distinctly explained; year after year; under a specious form of words, members of this House are found ready to pass a bill for levying these additional duties.

When the further continuation of additional duties is spoken of as a measure of precaution, I can understand the general force of the observation as relative to the exigencies of our situation. I admit its validity, if understood with reference to providing means of defence. In the present convulsed state of the world, while the hostilities between foreign Powers have such extensive consequences; amidst controversies which seriously affect our external relations; amidst rumors of extraordinary movements within our own borders; after all the urgent applications for a more protective system with respect to a portion of the country peculiarly situated, and of eminent importance to our commerce and revenue, where adequate provision for the defence of a single State would form a barrier for various other States; under this view of affairs abroad and at home, I would give no cause for the reproach of withholding the proper supplies. When the safety, the honor, the liberty, of my country, are concerned, I deem it my duty, as a member of this House, to vote supplies corresponding to the exigencies of the time. In such cases, if the cause requires pecuniary means, I disdain to act the niggard. However unpopular, however odious it might be for the moment to impose taxes, I ought to prefer the public interest to popular prejudice. Provision for the common defence is a momentous subject of deliberation; it is a subject on which we may have yet to act. With a view to efficacious measures of security, I can admit the propriety of voting to continue the additional duties. They will add a million to the revenue.

With these sentiments, I purpose to vote for the bill on your table; although, without the additional duties, the Treasury statements authorize us to expect a surplus of three millions, after satisfying all the estimates of expenditures for the current year. According to my view of the subject, the observations of my friend from Delaware (Mr. BROOM) have fully established this position. Indeed, he has been so far from exceeding what the Treasury documents will warrant, that, in my apprehension, he might fairly have argued that

NOTE C.

Within the year ending Sept. 30, 1805.	Value of goods paying duties ad valorem.
Imported in vessels of the United States	$44,833,857
Imported in foreign vessels - - -	2,475,050
Estimated value of articles liable to duties ad valorem - - - -	$47,308,907

there would be a greater surplus. In support of this idea, and in addition to what he has said, it may be remarked, that the Secretary of the Treasury has taken the revenue for the current year at an estimate clearly within limits. It is not improbable that the surplus will be at least one million more than has been mentioned by my friend from Delaware. According to the Secretary's report, the revenue of the customs, after deducting the product of the additional duties, may be safely estimated at thirteen millions of dollars, a less sum than accrued during the year 1805, after making a similar deduction. And we learn from the same report, that the net revenue of the three first quarters of the year 1806, exceeds that of the corresponding quarters of the year 1805.

The probable increase of the revenue may be inferred from another consideration. In consequence of the credits allowed for duties of the customs, it is well known that the receipts of the Treasury, for any given year, depend essentially on the amount of importations during the year preceding. On examining the last Treasury statement of importations, they will be found to have considerably exceeded those of former years.

These are some of the reasons which induce me to believe, that the revenue will be increased at least a million of dollars, if not a million and a half or two millions, and perhaps to a greater amount. I am the more confirmed in this opinion, when I reflect that the receipts at the Treasury have generally, if not uniformly, exceeded the estimates of revenue presented to Congress from the Treasury Department. Such is the peculiar situation of our country and the increase of its resources, and such, of consequence, the progress of the revenue, that the actual product from year to year has been found to surmount the official calculations submitted to the Legislature. We may therefore regard it as probable that, after satisfying the ordinary estimates, the surplus of revenue for the current year, including the product of the additional duties, will exceed five millions of dollars.

With such ample means, it may be hoped that some measures will be adopted, with a view to an adequate system of defence.

The question was now taken that the said bill do pass, and was resolved in the affirmative—yeas 122, nays 5, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jun., Frederick Conrad, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, William Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Robert Marion, Josiah Masters, David Meriwether, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, junior, John Porter, John Pugh, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

NAYS—Isaiah L. Green, Gurdon S. Mumford, Josiah Quincy, Eliphalet Wickes, and Nathan Williams.

PUNISHMENT OF CRIMES.

The House took up the report of the Committee of the Whole on the bill providing for the punishment of certain crimes against the United States.

The amendments proposed to the first section were agreed to.

The whole of the second section was struck out.

On agreeing to the new section, proposed by Mr. BIDWELL, Mr. ELLIOT spoke at considerable length against it—when the House adjourned without deciding upon it.

WEDNESDAY, January 14.

Mr. BOYLE, from the Committee on the Public Lands, who were instructed by a resolution of the House, of the ninth instant, "to inquire into the expediency of offering for sale the public lands situate between the United States' military tract and the Connecticut Reserve, to which the Indian title has been extinguished," presented a bill making provision for the disposal of the public lands situated between the United States military tract and the Connecticut Reserve, and for other purposes; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. EARLY, from the Committee of Commerce and Manufactures, presented a bill authorizing the erection of certain light-houses and the fixing of stakes, buoys, and beacons, at certain places therein named; which was read twice and committed to a Committee of the Whole on Monday next.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of extending to the revenue districts on Lake Erie, and within the State of Ohio, the provisions of an act, entitled "An act to extend jurisdiction in certain cases to State Judges and State Courts;" and that they report by bill, or otherwise.

PUNISHMENT OF CERTAIN CRIMES.

The House resumed the consideration of the report of the Committee of the Whole, on the bill providing for the punishment of certain crimes against the United States.

The Committee reported an additional section, introduced by Mr. BIDWELL, as follows:

SEC. 6. *And be it further enacted*, That if any person, for whose keeping of the peace and being of good behaviour, a recognisance shall hereafter be entered into, in pursuance of the laws of the United States, shall, without the limits of the United States, carry on, or aid in carrying on, or begin, or set on foot, or provide or prepare the means of a military expedition or enterprise against any foreign Prince or State at peace with the United States, such recognisance shall thereby be forfeited.

Mr. DANA opposed the section. It went to punish acts done without the jurisdiction of the United States, and within the territorial limits of foreign Powers. The section was also partial in its operation, comprehending one class of men, and excluding all others. It operates, said Mr. D., only on those who have given a recognisance to keep the peace and be of good behaviour. If it is proper to punish such acts at all, every person ought to receive the same measure of justice.

The United States are not responsible for the conduct of their citizens while under the territorial jurisdiction of foreign Powers. Every nation is responsible for the acts of those citizens who are within its own limits. Our citizens may engage in the service of foreign Powers at war, without violating our neutrality. Such has been the well known usage in Europe. This section contains a principle unprecedented, and before unheard of. I hope it will not be agreed to.

Mr. BIDWELL replied. He thought the section correct in principle, and important to be adopted. It was calculated to preserve the peace and neutrality of the United States from being endangered by the lawless acts of unprincipled citizens. Mr. B. then referred to a law, passed in 1797, to show that acts committed without the limits of the United States, had been considered as proper objects of punishment.

Mr. EARLY was decidedly hostile to the section. Among other objections, it went to destroy completely the right of expatriation.

Mr. EPPES moved to strike out the words "without the limits of the United States," and spoke at length in support of the motion. He thought that the amendment would remove the objections of the gentleman from Connecticut, (Mr. DANA,) and from Georgia, (Mr. EARLY,) and yet preserve something useful in the section.

Mr. ALSTON moved to recommit the section, with the amendment proposed by Mr. EPPES. He thought the section contained something really valuable, but it needed considerable modification.

Mr. DAWSON opposed the recommitment.

Mr. ALSTON replied.

Mr. ELLIOT doubted whether the motion was in order.

Mr. BIDWELL was in favor of recommitment.

Mr. EARLY thought the section so radically defective that no modification could remove the objections against it.

Mr. DANA spoke at length against the principle of the section, and hence inferred the impropriety of recommitting.

Mr. ALSTON replied; when the question of recommitment was taken and lost—ayes 32.

Mr. EPPES withdrew his amendment and proposed another, to strike out the "laws of the United States," and insert the words, "act in addition to an act for the punishment of certain crimes against the United States, passed on 5th June, 1794."

Mr. ELLIOT was adverse to all amendments. He hoped the section would be wholly rejected.

The motion was disagreed to—ayes 16.

The question then recurred on agreeing to the section as reported by the Committee of the Whole.

Mr. DWIGHT.—I have no wish to detain the House at so late an hour, and after the question has been so thoroughly discussed; but, viewing the principle contained in the amendment as extremely interesting, and, if adopted, as calculated to produce great mischief, I cannot be contented with giving my vote, without stating the reasons in justification of it.

As the great point, whether it be necessary or proper for the United States to extend the influence of their laws over their citizens when out of their limits and within the jurisdiction of a foreign Government has been satisfactorily considered by my colleague, (Mr. DANA,) and a gentleman from Georgia, (Mr. EARLY,) I will only remark, generally, that, for the reasons which have been suggested, and for others which might be suggested, I doubt very much either the necessity or propriety of such a measure.

But, sir, if necessary or proper, I think the mode here proposed extremely improper. If we wish to make it criminal in our citizens to violate the peace of, or to set on foot measures of hostility against foreign nations or Governments, let us begin by declaring it criminal by a direct, explicit law, and not pursue the mode here attempted. Sir, we are legislating at the wrong end of a statute; we are fixing the punishment without previously declaring the crime. What objection can there possibly be to proceeding in the common mode, first declaring the offence and then prescribing the punishment? But the honorable mover of this amendment, in answer to an objection raised by my colleague, (Mr. DANA,) says, that this is no innovation in legislation; that this is the common mode; that this section renders the acts mentioned in it illegal, and that it is usual to define the offence, and prescribe the punishment, in the same section. My colleague, sir, did not, and certainly I shall not object to this section, because it contains both the crime and the punishment. Our objection is, that it contains no offence, it defines no crime. Is there any expres-

sion in this amendment, which declares anything to be criminal? If there be, the honorable gentleman can certainly point me to it. I find nothing like it. On the contrary, we are only told, "that if any person who has become bound to 'keep the peace and be of good behaviour, in pursuance of the laws of the United States, shall, 'during the term of his recognisance, without the 'limits of the United States, carry on, or aid in 'carrying on, or begin, or set on foot, or provide 'or prepare the means for a military expedition or 'enterprise against any foreign Prince or State at 'peace with the United States, such recognisance 'shall be forfeited." Does this statute authorize any magistrate or court to require sureties of any person who begins or sets on foot such military enterprise? No such provision is contained in it. Is there any law of the United States that gives such authority? It is acknowledged there is none. We are then in this predicament: As the laws of the United States authorize courts and magistrates to bind persons to keep the peace, and be of good behaviour within the United States, we are, by this amendment, about to declare that, for acts done within the limits of the United States and not prohibited by any laws of the United States, the recognisance so entered into by the man and his sureties, shall be forfeited. Does not this plain and concise state of the fact show that this is the most extraordinary attempt that was ever made in any Legislature?

Besides, sir, where is this section to be found? What is the title of the bill in which it is placed? It is "a bill providing for the punishment of certain crimes against the United States." It is a maxim that every man in the community is bound to know the law; that is, that no man by pleading ignorance of the law, can justify or excuse a breach of it. But, while the justice of this maxim is admitted, we know the truth to be, that a vast proportion of the people are in reality ignorant of the law. If this is their true situation, and there can be no doubt that it is, it is the duty of legislators to make their laws as plain, explicit, and familiar as possible, that men may not be unnecessarily ensnared, and subjected to penalties and punishments for acts which were in a sense committed innocently. But, sir, would a person of common understanding look under the title of this statute for the penalty which is contained in this amendment? No man, however well informed, would search here for anything but crimes against the United States and their punishments. It would be just as natural to look in any other statute in our book as in this. What, then, will be the situation of, not only the man who is recognised under the general laws to keep the peace within the United States, but of his sureties? They, expecting to become bound for the good behaviour of the principal at home, will find themselves subjected in the amount of the penalty for acts committed abroad, which the law did not notice, and the recognisance did not mention. The bond not having been taken to protect the peace of a foreign country, but of our own, ought not to be forfeited by acts against the peace of a foreign country. As the amendment establishes the contrary principle, I think it highly objectionable.

I object to this amendment, sir, because the question cannot be tried. No intelligent, upright, and independent court will ever render judgment against a man and his sureties, in a recognisance to be of the peace and good behaviour within the United States, when the breach is laid out of the United States, and for this plain reason, the condition is not broken. No issue can be joined consistently with any rules of pleading in a case of this sort. Let it be considered for a moment. An action is brought to recover the penalty in a recognisance. The defendants will plead that they have kept and performed the condition, (which, it will be remembered, is, to keep the peace, and be of good behaviour within the United States.) The replication, then, must allege a breach. What will that be? That the principal in the recognisance has, without the United States, begun to set on foot, and aid in carrying on a certain military enterprise against the Government of the King of Great Britain, or the King of Spain. This would be a departure, and a demurrer must ensue. The statute will be nugatory and void, and no court will aid in its execution.

I object to this amendment, because, sir, it extends its reach to all countries. I know gentlemen have their eyes on countries that are contiguous, whose limits border on our own. But, it not only comprehends Nova Scotia and Canada on the East and North, Florida and Mexico on the South and West, but it extends to the utmost bounds of the earth. It protects equally the peace of the Hottentots at the Cape of Good Hope, as it does those countries which are at our doors.

But, sir, it not only extends to all lands, it also comprehends all men who tread beyond the limits of the United States, after having been previously bound to keep the peace in this country. What will be the situation of our countrymen, when thus embargoed? What, sir, will be the condition of our seamen, whose business necessarily carries them into foreign nations? A sailor, having made a prosperous voyage, and landed on his native shores, among his friends and acquaintance, first thinks of spending his money. Like a sailor, he has a frolic, and, in his frolic, violates the peace, for which, when he is sober, he is sentenced to recognise for his future good behaviour. Having rid himself of his money, like a sailor, he goes to sea again to earn more. In the West Indies he is impressed on board a British armed vessel, and there is forced to aid in carrying on some hostile enterprise against a foreign Power at peace with the United States. There is no remedy for his case—his recognisance is forfeited, and his sureties must pay the penalty.

Again, sir, I object to this amendment, because it is absurd. A man has become bound with sureties, that he will not do certain things prohibited by law, and Congress declare that his recognisance shall be forfeited, if he does another thing, which the law does not prohibit. This is not only highly unjust, but perfectly absurd. Let the principle

be examined in a more plain and familiar manner. What would be the situation of the marshals in the various districts, and their sureties, if the bonds which they are by law obliged to give for the faithful performance of the duties of their office, should, by a subsequent law, be declared to be forfeited, by acts in no respect connected with their official duties? Would any man seriously defend so strange a principle? Suppose, sir, the honorable gentleman (Mr. BIDWELL) should be appointed Attorney General of the United States, and a law should be passed obliging him to find bonds for the faithful performance of the duties of that office, (and from the specimen which the Government have had from New England, I hope, if there should be another Attorney General appointed from that part of the country, he will be obliged to give bonds for the faithful performance of the duties of his office,) and, at an after period, Congress should pass a law, declaring that if the Attorney General of the United States should, when on a visit to his friends and family, be guilty of singing Yankee Doodle, his bonds shall be forfeited: What would the honorable gentleman say to such a statute? But, sir, suppose, instead of making this a part of the statute regulating the office of Attorney General, we should place it in the middle of a bill which is now before us, entitled "An act for altering the name of the district of Nanjemoy into that of St. Mary's?" Would not the honorable gentleman, in addition to mischiefs of the back-handed, side-wind operation of such a law, complain loudly of being obliged to look for it in such a strange place? And yet, the connexion between the two acts would be as near and as intimate as that which the present amendment has with the bill into which it is proposed it shall be inserted. The honorable gentleman will perhaps also say, that the cases do not compare; that it is immoral to carry on hostile enterprises against foreign Governments, but that there is no immorality in singing Yankee Doodle. In his opinion, sir, and in mine, there is none. But not so everywhere. The time has been, when Yankee Doodle, sung by an American in Nova Scotia, or New Brunswick, might have bred a riot; and from such small beginnings, consequences the most serious and alarming to the public tranquillity have frequently arisen.

Take another case. Two men travel in company out of the United States into the Spanish territories, one of whom, previous to his departure, has been bound to keep the peace of the United States, the other, more fortunate, has not been bound. They join in a hostile enterprise against the Government of Mexico, and commit acts against its peace and safety. On their return, the recognisance of him who had given bonds will be forfeited, while the other is perfectly innocent. He has violated no law, and will laugh at the provisions of this section.

In the last place, sir, I object to this amendment, because it introduces a species of judicial tyranny. By judicial tyranny, I mean that kind of oppression which is produced by the instrumentality of courts, and under color of law—a tyranny the most odious, the most intolerable, of any which mankind have ever been doomed to bear. Do gentlemen wish for examples? Let them take the Inquisition of Spain, and the Star Chamber of Great Britain. Sir, but a few years since, a law was passed by Congress, which some persons considered as giving the opportunity for the exercise of this species of tyranny, and the alarm immediately spread throughout the country; the law was execrated and loaded with every opprobrious title, the public passions were inflamed, and a revolution in the political affairs of the nation, was, in a great measure, produced by it; and even now, sir, so odious is the very memory of the statute to which I allude, that gentlemen on this floor can scarcely mention it, without its drawing from them the most heart-rending groans. The statute to which I allude was commonly called the Sedition law. I beg permission, sir, to read the second, which was the offensive section of that statute, to show that its provisions were vastly less dangerous to the public freedom, than those contained in the present amendment:

SEC. 2. *And be it further enacted*, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings, against the Government of the United States, or either house of Congress of the United States, or the President of the United States, with intent to defame the said Government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States; or to resist, oppose, or defeat any such law or act; or to aid, encourage, or abet, any hostile designs of any foreign nations against the United States, their people, or Government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Now, sir, what do we find in this section of this statute? Are punishments inflicted without any previous declaration of the offence? No, sir, on the contrary, the offences are clearly and minutely defined, and the penalty as clearly prescribed. And what are the offences here detailed? They are false, malicious, and scandalous publications against the Government of the United States, or either House of Congress, or the President. Does the law say that a man shall be punished for publishing the truth? No, sir, so far from it, that, by the same law, it is expressly declared that if he publishes only the truth, he shall not be punished. And it must not only be falsehood that is published, but it must have been maliciously published, with intent to defame. The punishment also is limited; the highest penalty being two thousand

dollars, and the longest period of imprisonment two years. But, by this amendment, a man who has been bound in a recognisance to keep the peace of the United States in such sum as a magistrate may have ordered, although he keeps the peace, and abstains from violating the condition of his recognisance; yet, if it afterward appears that he has done an act which was not considered at the time the recognisance was entered into, either by the judge who ordered it, or by the principal who gave it, or by his sureties who have become responsible for his performance of the condition of it, this bond thus given for another and totally different purpose shall be forfeited, and either he, or, what is more probable, his sureties, must pay the penalty, let the sum be what it may. Sir, it is the most extraordinary provision that ever was brought before a legislative body—it is a daring attack on the liberties of our country—it is an outrage on every principle of law and justice; and I trust will not meet the approbation of this House.

Mr. BURWELL was against the section. He could not, however, accede to some of the remarks made by the gentleman from Connecticut, (Mr. DWIGHT.) The chief objection to the Sedition law, was, that Congress had no power to pass such a law—it was unconstitutional. The objections were not directed against the nature and tenor of the law. Those States where there was the most complaint, had laws substantially the same as the Sedition law. This was the fact in the State from which Mr. B. came.

The question was now taken by yeas and nays and the section negatived—yeas 9, nays 115, as follows:

YEAS—Willis Alston, junior, David Bard, Barnabas Bidwell, John Chandler, Richard Cutts, William Findley, John Lambert, Thomas M. Randolph, and James Sloan.

NAYS—Evan Alexander, Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, John Blake, junior. Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, Levi Casey, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, junior. Orchard Cook, Leonard Covington, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, William Dickson, Theodore Dwight, Elias Early, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, James Holland, David Holmes, David Hough, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Gideon Olin, Timothy Pitkin, junior, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Joseph Winston, and Thomas Wynns.

Mr. DANA moved to recommit the bill: which motion was disagreed to—ayes 23; when the bill was ordered to be engrossed for a third reading to-morrow, without a division.

THURSDAY, January 15.

Another member, to wit: RICHARD WINN, from South Carolina, appeared, and took his seat in the House.

The bill providing for the punishment of certain crimes against the United States was read the third time and passed without a division.

Mr. J. RANDOLPH, from the committee to whom was referred, on the third instant, so much of the Message of the President of the United States as relates "to an invasion of our territory by the troops of Spain, and to the adoption of measures for the protection thereof," presented a bill for the defence of the mouth of the Mississippi, and for the protection of New Orleans and its dependencies; which was read twice and committed to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill to continue in force, for a further time, an act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the island of Saint Domingo; and, after some time spent therein, the Committee rose and had leave to sit again.

The House resolved itself into a Committee of the whole House on the bill prescribing the mode of taking evidence in cases of contested elections for members of the House of Representatives. After a short debate, the Committee rose and obtained leave to sit again.

On motion of Mr. FISK, the House resolved itself into a Committee of the Whole on the bill authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding thirty thousand men.

The blanks were so filled as to bind the volunteers to continue for twelve months, unless sooner discharged, and to appropriate $500,000. The Committee rose, and the House concurred in these amendments.

After the insertion of a small verbal amendment, suggested by Mr. TALLMADGE, he moved to recommit the bill for the purpose of introducing a provision for the appointment of field officers. The motion was disagreed to—ayes 43, noes 47.

The question to engross the bill having been put, Mr. ELMER observed that, in his opinion, it contained every provision on this subject that was necessary. When the bill was ordered, without a division, to be engrossed for a third reading to-morrow.

PUBLIC DEBT.

On motion of Mr. J. RANDOLPH, the House resolved itself into a Committee of the Whole on the bill supplementary to the act entitled "An act making provision for the redemption of the whole of the public debt of the United States."

Mr. J. RANDOLPH called for the reading of the letter of the Secretary of the Treasury on this subject, communicated the last session to the Committee of Ways and Means; which he believed contained the most satisfactory and perspicuous reasons in favor of the bill which could be assigned.

This communication having been read, the bill was considered by sections. The various blanks were filled, and some amendments introduced touching the details of the bill.

The only part of the bill on which a division was called, was on filling the blank in the third section, so as to entitle the holders of the new six per cent. stock to a sum equal to "sixty five" per cent. of the amount of the sum subscribed for by them in three per cent. stock. On this motion the House divided—ayes 52, noes 27. The Committee rose and reported the bill: the amendments proposed were immediately agreed to by the House, and the bill, without a division, ordered to be engrossed for a third reading to-morrow.

FRIDAY, January 16.

An engrossed bill authorizing the President of the United States to accept the service of a number of companies, not exceeding thirty thousand men, was read the third time, and passed.

Mr. BOYLE, from the Committee on the Public Lands, who were instructed by a resolution of the House, of the eighteenth ultimo, "to inquire into the expediency of making further provision for the sale of the sections heretofore reserved for the future disposition of Congress," presented a bill making farther provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. GREGG presented to the House a petition of sundry merchants, traders, storekeepers, and mechanics, of the county of Washington, in the Territory of Columbia, which was received and read, praying a repeal of so much of the act of Congress, passed on the third of May, one thousand eight hundred and two, entitled "An act additional to, and amendatory of, an act, entitled 'An act concerning the District of Columbia,'" as prohibits the issuing of the writ of *capias ad satisfaciendum* on any judgment rendered by a single magistrate, where the amount, exclusive of costs, does not exceed the sum of twenty dollars; and, also, that inferior courts may be established within the said county, to have cognizance of all debts not exceeding the sum of fifty dollars.—Referred to Mr. GOLDSBOROUGH, Mr. GREGG, and Mr. PHILIP R. THOMPSON; to examine and report their opinion thereupon to the House.

The House resolved itself into a Committee of the Whole on the bill continuing for a further time the act for suspending commercial intercourse between the United States and certain parts of St. Domingo.

The Committee, without debate, rose and reported the bill without amendments which was ordered to be engrossed for a third reading on Monday.

The House resolved itself into a Committee of the Whole on the bill providing for the survey of the coast of the United States, and, after agreeing to appropriate $25,000 for this purpose, the Committee rose, and the bill was ordered to be engrossed for a third reading on Monday.

PUBLIC DEBT.

An engrossed bill supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States," was read the third time.

Mr. J. RANDOLPH called for the yeas and nays.

Mr. ALSTON said he should have contented himself with giving a silent vote on this bill, but for the call of the yeas and nays. Having been required, he deemed it his duty to assign his reasons for voting against the bill, which he should do, although he should stand alone. He knew no advantage that would accrue to the United States from the passage of the bill. What did it hold out? The opening of a new subscription to all persons holding evidences of the existing public debt. Were the United States to be benefitted by this modification of the present debt, or were they in the least interested in it? It was clear they were not interested in it; for if they were, the keen speculator would never come forward to subscribe. For, therefore, the sole purpose of expediting the payment of the debt, the Government were about to make a sacrifice to the holders of the public debt. Who were these holders? Men who had already preyed on the interests of the nation. Mr. A. said he considered this as neither more nor less than a second assumption system, pursuing the same track pursued by the first act making an assumption of the debts. This was a measure giving this description of people, who had speculated on the interests of the country, another advantage. It held out a strong invitation to every citizen of the United States, or of a foreign nation, to subscribe to the new loan, by giving them nine per cent. more than the value of their stock twelve or fifteen months ago. Of this, he had evidence; and that, at that period, there could not be more than fifty-six per cent. got here, or at Philadelphia, for three per cent. stock. The bill, therefore, gives the holders of this stock nine per cent. on their capital. It was for this, as well as for many other reasons, that he should vote against the bill. He did not believe that the situation of the United States was such as required such a precipitancy in paying off the debt. No man was more disposed than he was to discharge the debt fairly and honorably; but

he was not for doing it in such a manner as to promote the advantage of the holders of the present paper of the United States. Mr. A. repeated that he considered the bill exactly in the same light with the assumption bill, passed a long while since, and that it ought to be denominated an amendment to that law, instead of the act to which it is purposed to be a supplement.

Mr. J. RANDOLPH observed that to him nothing was plainer than that, where two individuals stood in the relation of debtor and creditor, new arrangements of existing debts, due from one to the other, might be made to the advantage of both. At present, the Commissioners of the Sinking Fund were authorized to purchase old six per cents., and deferred stock, at their nominal par value—that is, at the rate of one hundred dollars in specie for one hundred dollars stock, and those stocks were every year partially reimbursed at this rate. The only good, therefore, that the provisions of the bill could do the holders of these species of stock, would be, that the Government would pay them at the same rate that they were now paying them, and at which they had made purchases as fast as they could. So much for this part of the bill.

With regard to the provisions relative to three per cents., Mr. R. said, he would state a plain fact, that would come home to the simplest understanding possessed by any member of the Committee. A farmer owes his neighbor a thousand dollars, for which he has given his bond, bearing an interest of three per cent. He has it in his option to pay it off for $650. Now, do you think there is a provident farmer in the United States that would hesitate to discharge the thousand dollars by paying $650, instead of suffering the thousand dollars to rest as a burden on his children, or a lien on his estate? This is the plain question. Do the House think it most for the advantage of the estate of the good people of the United States to pay off this stock at the rate of sixty-five per cent., or let it remain a perpetual encumbrance on the nation? And is it not self-evident that an arrangement may be made between the public and its creditors, as well as between two individuals, to the mutual advantage of both?

The question was then taken on the passage of the bill—yeas 112, nays 13, as follows:

YEAS—Evan Alexander, Isaac Anderson, John Archer, David Bard, Jos. Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, Phannel Bishop, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, George Clinton, jun., Frederick Conrad, Leonard Covington, Ezra Darby, John Dawson, William Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, Jas. M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., John Porter, John Pugh, John Randolph, Thos. M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, David Thomas, Philip R. Thomson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, jun., Silas Betton, Matthew Clay, Samuel W. Dana, John Davenport, jun., Caleb Ellis, David Hough, John G. Jackson, Duncan MacFarland, Timothy Pitkin, jr., Thomas Sammons, Lewis B. Sturges, and Benjamin Tallmadge.

NATIONAL DEFENCE.

Mr. ELLIOT observed that he had, some weeks since, presented a number of resolutions on the important subject of national defence, which it was not the pleasure of the House to refer to a Committee of the Whole.

When it should be the pleasure of the House to resume their consideration, he said, it would be his wish to withdraw the first, which had been generally considered as too abstract in its nature, and as covering too broad a field of disquisition. It would likewise be his wish to withdraw one or more of the remaining resolutions, and to propose such modifications of the rest, that it should be admitted they presented new questions to the consideration of the House; and he should then only ask that the sense of the House should be taken on referring the resolutions thus modified. Presuming that there could be no objection in the House to making such a disposition of them, he gave notice that he would, on Tuesday next, if an opening offered, move to resume their consideration for the purpose of making a disposition of them.

MILITARY PEACE ESTABLISHMENT.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States;" to which they desire the concurrence of this House.

The bill is as follows:

Be it enacted, &c., That, in addition to the present Peace Establishment of the United States, and as a part thereof, the President of the United States be, and he is hereby, authorized to raise one regiment of infantry and one battalion of cavalry; and the said regiment of infantry shall consist of the same number of commissioned officers, non-commissioned officers, musicians, and privates, as are directed by the act to which this is a supplement. And the said battalion of cavalry shall consist of one major and of one adjutant, one quartermaster, and one paymaster, (each being a lieutenant,) one surgeon, and four companies; each company of one captain, one lieutenant, one cornet, one sergeant major, one quartermaster sergeant, one trumpeter, four sergeants, four corporals, one farrier, one saddler, and sixty-four privates: and shall moreover, at the discretion of the President, do duty either on horse or on foot.

SEC. 2. *And be it further enacted*, That the President shall be, and he is hereby authorized in all cases of imminent danger, when in his opinion the defence or safety of the United States shall require it, to increase the number of men in each company of infantry on the Peace Establishment to one hundred privates.

SEC. 3. *And be it further enacted*, That suitable clothing be provided for the cavalry, adapted to the nature of their service, and, as near as may be, of the value of the clothing allowed to the infantry and artillery.

SEC. 4. *And be it further enacted*, That the commissioned officers, non-commissioned officers, musicians, and privates, by this act directed to be raised, shall be entitled to receive the same pay, emoluments and bounty, as are allowed to the troops now in the service of the United States, and they shall be governed by the rules and articles of war, which have been, or may be by law established.

MISSISSIPPI TERRITORY.

The House resolved itself into a Committee of the Whole, on the bill authorizing a grant of land for the purchase of a hospital at Natchez, &c. The first section, appropriating a certain portion of land for the purchase of a hospital, was passed over without animadversion. The second section fixes the salary of the judges of the Mississippi Territory.

Mr. LATTIMORE moved to fix the salary of each judge at $2,000.

This motion, as well as subsequent motions to allow the judges $1600 and $1400 were disagreed to; when the sum of 1200 was agreed to—yeas 58, nays 25.

The third section extends the right of suffrage generally to the citizens of the Mississippi Territory, without regard to the possession of a freehold.

Mr. EARLY moved to strike out this section. He declared himself friendly to the principle, but he was of opinion that Congress did not possess the power of extending it to the inhabitants of the Mississippi Territory. In the articles of cession from Georgia to the United States, it was stipulated that this Territory should be under the same stipulations with those applicable to the Northwestern Territory, with the single exception of that stipulation which related to slavery. Those stipulations made it requisite for the elector of a Representative to possess a freehold estate. Considering this as one of the fundamental terms of the contract, he did not believe the United States possessed the power of annulling it.

Mr. LATTIMORE observed that if Congress had no power to grant other privileges to the people of the Mississippi Territory than those stipulated in the compact with Georgia, it was clear that they had already violated it. One of its stipulations was, that when the inhabitants of the Territory should amount to five thousand, they should be admitted to the enjoyment of the second grade of government. And yet, it was well known, they were admitted to this privilege at an earlier day.

Mr. SLOAN opposed the motion.

On motion of Mr. BIDWELL, the Committee rose, that further time might be allowed to consider the subject—yeas 53.

BURR'S CONSPIRACY.

Mr. J. RANDOLPH—In the President's Message, at the commencement of the session, he announced to us as follows:

"Having received information, that in another part of the United States a great number of individuals were combining together, arming and organizing themselves, contrary to law, to carry on a military expedition against the territories of Spain, I thought it necessary, by proclamation as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and abettors."

So long, said Mr. R., as the illegal movements of these persons were supposed to be directed against a foreign nation, although the interest of the United States and their honor too required, that prompt and decisive measures should be taken for suppressing their designs, yet, I believe, there is no gentleman in this House but will agree with me in the opinion that the United States, and this House in particular, could not feel so deep and lively an interest against a conspiracy of that kind, as against one for the subversion of the Union, and perhaps of the liberties of those who compose it. I have waited with anxious solicitude for some information in relation to this subject, that might be depended upon; for some official information. I contented myself, for a long time, with the belief, inasmuch as no information had been given to the House, that there were imperious reasons connected with the public welfare which forbade a disclosure; but the aspect which affairs have taken on the Mississippi is such, that I can no longer reconcile it to my sense of duty, as the independent Representative of an independent people, to rest satisfied in that state of supineness and apathy in which the House has been satisfied to remain for the six or seven weeks past. Sir, from the information I have been able to collect—and it is such that I am obliged to place great, if not implicit reliance on it—it does appear to me, that if the Government of Spain is in any wise concerned in these measures, it is concerned not as the defendant, but as the plaintiff; as the aggressing party, and not as the party on whom the aggression is made. So long as I was induced to believe that by withholding correct information from the Legislature, the substantial interests of the nation would be more essentially subserved, than by laying it before them, so long, though not without reluctance, I acquiesced in its being withheld. But, from the hostile appearances on the Mississippi, it seems to me that the state of things is such as requires the most prompt and efficacious measures for securing the Union. The bubble is said to have burst

and there no longer remains any reason why the information in the possession of the Executive ought to be withheld. But, to guard against all possible objection, I have endeavored so to frame the motion, as to do away any objection arising from this consideration. It does appear—from the newspapers, it is true, but under a much higher sanction than is generally attached to information received through such a channel—it does appear in evidence, under the sanction of an examination before the Legislature of Kentucky, that ever since the peace of 1783, Spain has incessantly labored to detach the Western people from the Union; that subsequently to the Treaty of San Lorenzo she has carried on intrigues, and in the most faithless manner withheld acceding to its stipulations, in order to excite a spirit in the Western country subversive of the Union; that she subsequently made a proposition of the most flagitious kind to several leading characters in Kentucky, and as I believe elsewhere. It appears, indeed, that she has never lost sight of this object; and I believe she never will lose sight of it so long as she shall find materials to work upon, or a shadow of hope that she will succeed. It appears to me that she has found those materials; that they are of the most dangerous nature; that they are now in operation; and that, perhaps at this moment while I am addressing you, at least for a time, the fate of the Western country may have been decided.

Sir, this subject offers strong arguments, in addition to numerous reasons presented during the present session of Congress, to justify the policy avowed by certain gentlemen during the last session, so highly condemned; and if I am correctly informed, the other branch of the Legislature are now acting on that policy so contemned and despised.

[Mr. SPEAKER said it was not in order to allude to the proceedings of the Senate.]

Mr. J. RANDOLPH—I shall say no more on that point, but I will say this in relation to our own proper business: We have had a bill before us authorizing the President to accept volunteers. A member of the committee, with whom this bill originated, and with whom I had the pleasure of concurring—intimately connected and domesticated with the Secretary of War—did make a proposition before that committee, substantially the same with that rejected at the last session; to augment the military forces to meet the pressing exigencies of the times; and which I presume must have had the sanction of that officer. Is there a man in this House, who at this day doubts, that if the Government—I mean the Executive and Legislature—had taken a manly and decisive attitude towards Spain, and instead of pen, ink, and paper, had given men and arms—is there a man who believes that not only Spain would have been overawed, but that those domestic traitors would also have been intimidated and overawed, whose plans threaten to be so dangerous? Would any man have dreamt of descending the Mississippi at the head of an unprincipled banditti, if New Orleans had been fortified, and strong fortifications erected in its neighborhood? What did we then hear? Money, dollars and cents! Is there not now every reason to believe, especially when we consider the superintendence under which the expenses are incurred, that the saving of the campaign on the Sabine, and the saving of the costly measures taken by the Commander-in-chief, on his own responsibility, would have been equal to the expense of raising and maintaining for one year the additional forces proposed at the last session to be raised? There can be no doubt but on the principle of economy, without taking into view the effect on the Union, the United States would have been gainers. A spectator, not in the habit of reading our public prints, or of conversing with individuals out of doors, but who should draw his ideas of the situation of the country from the proceedings of this House during the present session, would be led to infer that there never existed in any nation a greater degree of peace, tranquillity, or union, at home or abroad, than in the United States at this time; and yet, what is the fact? That the United States are not only threatened with external war, but with conspiracies and treasons, the more alarming from their not being defined. And yet we sit and adjourn, adjourn and sit, take things as schoolboys, do as we are bid, and ask no questions. I cannot reconcile this line of conduct to my ideas of the duty of a member on this floor. Among the State authorities, there appears to be one that has acted with a promptness and decision that does it great honor. Yes, the youngest member of the Federal family has been found to be the first to ward off the impending danger, while the eldest members are sleeping, snoring, and dozing, over their liberties at home. Under this view of the subject, I beg leave to offer the following resolution:

Resolved, That the President of the United States be, and he hereby is, requested to lay before this House any information in possession of the Executive, except such as he may deem the public welfare to require not to be disclosed, touching any illegal combination of private individuals against the peace and safety of the Union, or any military expedition planned by such individuals against the territories of any Power in amity with the United States; together with the measures which the Executive has pursued and proposes to take for suppressing or defeating the same.

Mr. CHANDLER said, he had the honor to be a member of the committee alluded to by the gentleman from Virginia, and he believed, from the propositions that were made by him, he was the member referred to. He believed he had made a proposition in the committee to augment the number of the present forces, by adding to each company such a number of men as would enlarge it to a hundred instead of eighty. He made this proposition, because, from the extension of our territory, he thought it necessary, and because he thought, by thus adding to the number of our troops, without increasing the officers, the public would be as well served, without incurring the expense attending the creation of additional officers. He believed the proposition went further,

and authorized the President to raise a certain number of troops, provided the public good, in his opinion, required it. He presumed, however, that the Secretary of War had never known that such a proposition was made or intended to be made, and much less had sanctioned it by his opinion. Mr. C. said, he barely mentioned this circumstance, to show that the Secretary of War did not communicate information in this way.

Mr. ALSTON believed that no man in the House was more disposed than himself to receive any information from the Executive Government, that would enable them to take the necessary steps against foreign or domestic enemies. But where did they meet with any grounds to justify the opinion that a foreign attack was meditated? The contrary was his opinion. He had heard of no circumstances which justified the belief of such an attack being meditated, particularly by Spain on the west side of the Mississippi. What was known on this subject? That the commanding officers on the part of the United States and Spain, had agreed not to violate the intervening territory, until fresh information was received from their Governments. There was no ground therefore to believe that an attack would be made from that quarter. On the contrary, if newspaper information was to be credited, the attack was to be from our own territory, and was contemplated against that very nation. If this were true, what right have we to believe in a foreign attack from any other quarter? Did evidence exist in the hands of the Executive of any such foreign attack being contemplated? If so, is there not the strongest reason to believe that we should have received information of it without a demand? Let any gentleman examine this subject, and say if it is not wise to leave the business where it now is. Whether the measures adopted at the last session, or those which were proposed, were the best, it is not, said Mr. A., for me to say. Time will determine. But this I may say—if we had then passed an act for raising a few regiments, there would not have been one of them by this time on the Mississippi. We might have got, as heretofore, a regiment of officers; but there would have been no regiments of men.

We have been further told of the policy of taking a manly attitude against Spain. We had a resolution offered to us, which in my opinion amounted to a declaration of war—not merely for defending the country on the frontier, but for carrying on a war against Spain. What was the situation of the country when this resolution was submitted? Defenceless indeed! We might have acted here, but Spain would have acted there. If the persons alluded to by the gentleman from Virginia are now in a combination with Spain, might they not have also been in a combination then; and had we assumed a hostile attitude, might they not have acted with more effect than they can now? There is not a doubt, in my mind, that as soon as it is proper, information will be laid before us without calling for it. If such a resolution be carried to the President, he will deem himself bound to communicate the whole information, in whatever terms it may be couched. I have no apprehension and feel no dread of any force that can be brought against us in the Western country. Our force there will be able to cope with any that shall be embodied against the United States and the moment the man at their head shall declare himself hostile to the Union, the very forces which he has raised will turn their bayonets against him; they will desert him. If this is all the ground that can be assigned, I think it best not to carry this resolution immediately to the President. In a few days we shall probably receive another western mail, and if the information then received shall not be satisfactory, or serious danger appears to exist, we may call for that information which is not now necessary.

Mr. J. CLAY said this was the first time that he had ever heard it stated that newspaper information was proper for legislative action. For this reason we are to wait, it seems, until we get two or three more newspapers from the Western country. He would ask if there ever were ideas so strange submitted to a legislative body? He said, he knew that it was very fashionable for the majority to express a full confidence in the Executive Magistrate; but he would ask whether this was a correct doctrine? The Constitution vested the important power of declaring war in the two branches of the Legislature. When, therefore, the peace and safety of the country were placed in the hands of the two Houses, did it contemplate that in the exercise of these powers they should depend on newspaper information? The gentleman says, if we had passed a law for raising additional troops the last session, we should not have got the troops by this time. Mr. C. said this was the first time he had ever heard delay assigned as a sufficient reason for omitting to do anything. The gentleman says, we have every reason to believe that Spain entertains no hostile intentions towards us. But take the gentleman's own source of information, the newspapers, and we have every reason to believe, that from the year 1783, that Government has been in a conspiracy against the peace and unity of the United States. We know with what determination the Minister of Spain, in 1783, endeavored to make our Ministers accede to a more limited boundary of the United States than that established by treaty. Spain has never lost sight of this subject, and sometimes by fair and sometimes by foul means has continued to pursue it.

What is the object of this resolution? We find that great alarm exists, particularly on the Atlantic board. We find gentlemen from the westward either ignorant, or pretending to be ignorant of the existence of anything alarming. Under these circumstances, the House are without official information. We are told that because we have confidence in the Executive, we ought to rely on his giving us information as soon as it is proper. Mr. C. said he would submit whether this comported with the dignity of a Representative, and whether it was proper for him to depend on newspaper information.

Mr. ALSTON said that all he had observed in re-

lation to newspaper information was in reply to what had been said on the other side.

Mr. J. CLAY resumed his remarks; but, after uttering a few words, declared himself too unwell to proceed, and sat down.

Mr. BURWELL said, on attending to the resolution, he thought it one that was highly expedient to be adopted at this time. He viewed it as a call upon the Executive for true and precise information of acts and measures on which the peace of the Union, perhaps, depended. It was perfectly immaterial to him whether Spain, England, or France, should be implicated in the information given; whether the whole or a part of these nations were combined in the project. It was sufficient for him that the peace of the country was threatened, that the minds of our citizens were alarmed, and that this was the only branch of the Government competent to preserve the peace of the country, and tranquillize the public mind. It was clear that danger did exist; that the peace of the country was threatened by a lawless banditti, whose object was to violate the laws of the country, and to dismember the Union. It was important to know the extent of these measures, that the Legislature might be able to decide what steps it was proper to take to guard against them. There was a time, Mr. B. said, when he should have been opposed to such a resolution. That time was when the Executive was endeavoring to gain information calculated to throw light on the plot; but that time had passed by. All those engaged in it must by this time be completely enlisted and embarked in it, and nothing which the Executive shall now disclose could extricate them from being secured and punished as they deserved. If a resolution were laid on the table for an inquiry into the nature of the plot, as that might place the men concerned in it on their guard, he should be opposed to it. But was it not known to every gentleman, that the plan was so far matured that the information could not reach the conspirators in time to prevent its execution? Suppose the Executive shall state to us, that certain individuals were implicated. Can that enable them to elude punishment? No, they are fully embarked, and nothing remains for us to do, but to take such measures as the case requires. Another advantage would result from the resolution. Suppose the Executive to have taken every necessary measure, and I believe, said Mr. B. that they have, to defeat these projects, what will be the consequence? Will not this information tend to tranquillize the mind of every man in the country? Mr. B. said he repeated, that it was because he had confidence in the Executive Magistrate; because he wished for true and full information on the subject; because the disclosure of persons implicated could do no mischief, and because an official statement would tranquillize the public mind, that he was in favor of the resolution. For his part, he was ready to say that if the Executive gave information that required an augmentation of our forces, he was prepared to give him the necessary means for defending the country, under the impression that it was the duty of every member to protect the Union from internal injury or foreign danger.

Mr. MASTERS.—Mr. Speaker: From the best information I have been able to obtain, the conspiracy is yet progressing with increased ardor and zeal. If there was no conspiracy existing and not a conspirator in the United States, I believe it high time to pursue more energetic measures for the safety, security, and honor of this nation, and at least be prepared to act. Has not the Government of Spain refused to ratify her solemn treaty, and for several years manifested hostile intentions towards the American nation, and actually put her troops in motion to invade our territory? Has she not refused to recall her Minister, who has repeatedly insulted the nation, and whose recall has been demanded by the Executive? Does she not continue to procrastinate and delay the pending negotiation, probably with a view to see the result of our negotiation with Great Britain, and, stimulated by France, to view that negotiation with a jealous eye, as though there were secret instructions to operate to her disadvantage, or some other pretence for aggression?

When the committee reported the bill to authorize the President to accept of volunteers, I must confess I was astonished, because the report contained no clause for raising regular troops. I therefore called on the committee, to know if that was the only measure contemplated by the committee. If it was, I thought it very inefficient in the present state of affairs, both internal and external. I obtained no direct answer, but was informed it was only a report in part.

I wish to get the necessary information from the Executive, and to pursue active and efficient measures, and not drink of the cup of national degradation.

Mr. SMILIE.—We have had such a picture drawn of our situation, that I am willing to go any proper length. But I am surprised to hear such a representation made as would lead us to believe that we were on the eve of a war. If this representation be founded, it appears that certain persons have been perpetually intriguing, and have only waited for an opportunity to strike the most deadly blow. For one, however, I shall be indisposed, as I always have been indisposed, to go into measures of a warlike character without the most sufficient reasons. Indeed, my opinion is, that while the country is in a state of safety, we never should commit it to the horrors and hazards of war. On either side, we have nothing but newspaper information with regard to the representation that has been drawn. We know, however, from a different source, that a negotiation has been for some time depending with Spain; that that negotiation is not terminated; and that the troops of Spain, as well as our own, are on the frontier; and the commanders of those troops have made an agreement not to disturb each other until they shall have received special instructions. Does this look like being on the eve of a war with Spain? Surely not. And if not, why this extraordinary anxiety on this occasion? I do not like the resolution for this reason: it be-

speaks a want of confidence in the Executive. Congress have the power to declare war and to provide the means of carrying it on; when provided, it is the Constitutional duty of the Executive to conduct it. Now, have we not already provided, or are we not already providing all the means that have been required? Do we doubt the capacity of the Executive to judge of the means that are necessary to be given, or of his using them properly? Is it to be presumed that if the President thought it necessary to apply for further means he would not have done so? Nobody can hold this opinion who does not doubt the integrity or the capacity of the President. It is his duty to do this, and if he has not done it, we must consider him either incapable of judging what is necessary, or as guilty of something worse.

An allusion has been made to the measures of the last session. It is regretted by the gentleman from Virginia that his opinions were not adopted; and he thinks he has a right to triumph, because the same measures which he then recommended are now found necessary. Suppose the same measures should now be necessary which he then recommended—which, however, I am far from admitting—are the circumstances of the country the same? It will be recollected that one of the purposes for which that gentleman wished troops to be raised was to chastise Spain. I was not of opinion that it was then necessary to chastise Spain, and I am still of opinion that it is not necessary to chastise her. Another reason has been assigned by that gentleman for those measures; it seems those measures would have prevented this internal conspiracy. It does not, however, appear that we knew of the existence of, or foresaw any conspiracy, or had any expectation of such a thing; nor did the gentleman himself apprehend or predict it. If he had entertained such opinions, it would certainly have been kind to have told us so. If, then, everything on this subject was so vague, are we to be told that it was necessary to raise troops to guard against a conspiracy that might happen seven years afterwards? In my opinion, we ought not to have raised additional troops the last year, nor ought we to raise them this year, so long as things remain as they are. At all events, I will never give my consent, during the time of peace, to raise additional troops, unless necessary for garrison duty. I believe the militia and volunteers are abundantly sufficient for all exigencies. I will, however, say this, that if it should be considered necessary, from the extension of our territory, to raise troops for garrisoning our posts, I do not know that it will meet with my opposition. But as to raising additional forces with which to go to war with Spain, I have no idea of it; and as to raising troops to crush any conspiracy that may exist, or be apprehended, I see no necessity for it. It is remarkable that we should entertain any opinions in favor of such a measure, when the President, on whom the great responsibility rests, does not consider it necessary.

Mr. S. repeated his surprise at the alarming picture which had been drawn of our situation, and his opinion that no necessity existed to adopt the resolution at this time. If he believed the President inadequate to the performance of his duty, he might be the more ready to accede to it; but, believing him fully competent, he should vote against it.

Mr. HOLLAND.—This appears to me to be a very improper course. The President is requested to tell us what measures he has taken, and what measures he hereafter intends to take, to suppress this conspiracy. This seems to me to be extremely exceptionable, and may go to defeat the very end intended to be answered by obtaining the information desired. Where is there any necessity at all for this measure at this time? Is it not the duty of the President to give us such information at all times as the exigencies of the country requires? And have we not reason to repose confidence in the Executive? If we have, this resolution is altogether useless. We have been told by the gentleman from Virginia that if the measures recommended at the last session had been adopted, he thinks it would have been much better for the country, and that all kind of danger would have been removed. I, however, am one of those who do not possess that confidence in a regular establishment, which the gentleman from Virginia possesses. Nor have I any apprehension for the peace and safety of the country. I have reason to believe that there are some desperate characters engaged in disturbing the peace of society, but I confide in the integrity of the people; and I believe the strength of the militia will always be found competent to the exigency. If I have fears, they do not arise from this quarter; they do not arise from the want of a regular establishment. The larger that establishment, the greater my fears. If any fears are to be entertained, in my opinion they ought to be fears of the disaffection of the army. I hope, however, that we have no grounds for fears at present on this head. But if there should be any such disaffection, I believe the energy of the people would be sufficient to resist it—would be sufficient to resist any danger from within or without. Thinking differently from the gentleman from Virginia, and that the safety of the country does not consist in the extent of our Military Establishment, I am for taking different measures. I am against extending the army, but in favor of organizing the militia in such a way as to render it efficient. I am, however, hostile to the adoption of this proposition. The gentleman from Virginia (Mr. BURWELL) has remarked that the time has come when we may safely adopt the proposition. That gentleman may have information which we do not possess, that may induce him to form this opinion. But, from the information I possess, I think differently. I believe the President will communicate to us all the information that is necessary and proper for us to possess, and his not having communicated it in this instance is conclusive evidence to my mind of the impropriety of asking it.

Mr. FINDLEY considered the resolution as of

some importance, and worthy of consideration before it was adopted. He therefore moved its postponement till Monday.

Mr. BURWELL said he had a single remark to make in reply to the gentleman from North Carolina who had intimated that he might be acquainted with some circumstances not in possession of the House. He begged leave to inform him, and the other members of the House, that he was acquainted with no circumstances other than those which he had obtained through the newspapers or from official communications.

Mr. LLOYD.—When this resolution was laid on the table, it appeared to me so simple that nobody could doubt its propriety. For my own part, I shall not enter into a consideration of the measures of the last session—the propriety or impropriety of which are not now at issue. The only question before the House is this: Is it proper for this House, when the country is threatened with an insurrection or an invasion, when there is reason to think imminent danger exists, to request the necessary information, to prevent the injurious consequences that may ensue, without the application of proper remedies? I have heard but three objections made to this resolution, neither of which seems to me entitled to the least force. The first is, that if the resolution be carried to the President, he will consider it his duty to communicate all the information in his possession. But gentlemen who make this objection surely have not attended to the language of the resolution. Does it not expressly confine the request to the communication of such information as the President may think proper, and such as may not defeat any objects he may have in view? If, then, he has received any information which he may deem it improper to communicate, he is authorized by this very resolution to withhold it. I should have very little confidence either in the ability or integrity of the Executive if, in contravention of the wishes of this House, and in direct hostility to the objects intended to be answered by this request, he should communicate information which ought to be withheld. The gentleman from North Carolina, (Mr. ALSTON,) who has spoken of the resolution as compelling the Executive to communicate information in his possession, must surely have overlooked its discretionary language.

The gentleman from Pennsylvania has observed that the resolution appears to him as expressive of a want of confidence in the Executive. If the doctrine of confidence is to be carried to this length, that you, who are the guardians of the people, shall sit idle spectators of every impending storm, I shall never subscribe to it. However I may confide in the integrity and wisdom of the President, I owe something to myself; nor can I sit here merely to legislate under Executive patronage. I want facts on which to act. If the resolution shall be adopted, it will betray no want of confidence in the Executive; it will only manifest the zeal of the House to possess information which it is necessary for them to have before they can be prepared to act.

Mr. ALSTON.—The gentleman from Maryland says this call on the Executive is necessary. But what is the state of the case at present? Is it not the duty of the President, under the Constitution, at all times to give such information to the Legislature, as he may deem necessary and proper for them to act upon? And what is the language of the resolution?—To give such information as in his judgment shall not be improper. On this ground then, it is not necessary to adopt it. But take the subject in the view in which I before presented it. If we call on the Executive in this way, he will deem it his duty to give the information called for. I have not particularly attended to the phraseology of the resolution, but I question very much whether the qualification in the fore part of it applies to the latter part, which refers to the measures taken, or intended to be taken by the Executive. It is clear that some parts of this information may be improper to be communicated. For my part, I believe that such a communication on this subject, as is proper, will be laid before us as soon as practicable. On this point of confidence in the Executive Magistrate, I will say that I am not in the habit of subscribing to the opinions of any man, or set of men whatever. An implicit dependence on the opinions of others is altogether contrary to my habits; but can any man doubt that if there is anything in the possession of the President, proper in his opinion to be communicated, he would have conceived himself bound to have communicated it before this day? As I said before, two or three days may bring us a Western mail, and news of the extent and state of the conspiracy. Let us wait till this time; the state of things may then induce us to call on the President for information. It has been but a few days since we have heard from Orleans: there appears to exist there the greatest confidence in the Executive, and a force sufficient to meet any force that may be brought from the upper country. Do we know the extent of this combination, or all the characters implicated in it, and where they now are? If the President were to make a communication on the subject, is it not probable, that if there are any among us concerned in it, we should disclose it to those interested in making their escape, even were it communicated in confidence? May not the safety of the Union depend on defeating it before a disclosure be made? If such a disclosure be made, will not the conspirators either make a decided stand, or, by retreating, screen themselves from punishment? We have had, however, I believe, enough of confidential communications; and I hope we shall not soon have any more. I, for one, am ready to wait till the President shall deem it advisable to make a communication to this House.

Mr. HOLLAND—If we were called upon by the Executive to act in this case, it might be proper to ask for information. As, however, we have not been so called upon, and as the Executive is the proper organ for taking the necessary measures on this subject, the adoption of this resolution on our part would evince a desire to intermeddle with his duties. As the Constitution enjoins it upon

him as his duty, to give information to the Legislature from time to time, I can only consider the request made, under the impression that we have not confidence in him. It is true the resolution is couched in very curious language—it requests only such information as he may deem the public welfare required not to be disclosed. But what is the balance of the information? Exactly what the Constitution enjoins upon him to give. What is the inference? That the President of the United States has not discharged the duties of his office; that he has not done what it was his duty to do; that he has been guilty of delay; and that Congress has been compelled to tell him he has not done his duty. Such considerations ought to induce us at least to hesitate before we pass such obloquy on any branch of the Government, and more especially upon the President, as the confidence we now ask for him is merely that reposed in him by the Constitution.

At the instance of Mr. DANA, the Clerk read the following extracts from the Journals of the House:

"MONDAY, January 2, 1797.

"*Resolved*, That the President of the United States be requested to cause to be laid before this House, information of what measures have been taken for carrying into effect the Treaty between the United States and the Dey and Regency of Algiers; and also, whether any, and what further Legislative aid may be necessary for that purpose."

"FRIDAY, March 30, 1798.

"On a motion made and seconded, that the House do come to the following resolution:

"*Resolved*, That the President of the United States be requested to communicate to this House, the despatches from the Envoys Extraordinary from the United States to the French Republic, mentioned in his Message of the nineteenth instant; or such parts thereof, as considerations of public safety and interest, in his opinion, may permit:"

"*Ordered*, That the consideration of the said motion be postponed until Monday next."

"MONDAY, April 2, 1798.

"The House proceeded to consider the motion of the thirteenth ultimo, relative to the despatches of the Envoys Extraordinary from the United States to the French Republic: Whereupon, the said motion being amended at the Clerk's table, to read as follows:

"*Resolved*, That the President of the United States be requested to communicate to this House the instructions to, and despatches from the Envoys Extraordinary from the United States to the French Republic, mentioned in his Message of the nineteenth ultimo:

"The question was taken, that the House do agree to the same, as amended, and resolved in the affirmative—yeas 65, nays 27."

Mr. ALLEN, from the committee appointed to present to the President of the United States the resolution of this House, relative to the instructions to, and despatches from the Envoys Extraordinary to the French Republic, reported that the committee had, according to order, performed that service; and that the President signified to them, that he would take the subject into his consideration, and do thereon, what it should appear to him the public safety required."

Mr. G. W. CAMPBELL.—I understand the question to be on postponing the consideration of the resolution till Monday. I have never opposed a resolution calling for information in any case where I believed the information could be of any possible use; nor am I disposed to say that it is at present necessary to negative this resolution, but I do not see any use in adopting it at this time. I ask what use is to be made of the information the resolution proposes to obtain? In introducing it, we are told that the country was threatened with a conspiracy. Will gentlemen say their object is to raise a standing army to quell it? Are we to do nothing until we get a war establishment? If so, the conspirators will have time to accomplish their object, or to fly from justice, before they are overtaken. Whatever may have been the object of the conspiracy, it is at this time either consummated or exploded. It is either carried into effect, or the probability of its being effected is destroyed. It has been said, if the measures proposed at the last session had been adopted, the country would not now be menaced from abroad, or conspiracies be engendered within. I cannot conceive the use of introducing, on this occasion, such observations. The object recommended at the last session was to raise a war establishment, not merely to encrease the existing peace establishment. This was declared the last year, and it has been declared this year. Gentlemen have said, they will not increase the peace establishment, but will create a war establishment. What were the apprehensions entertained the last year, on which the proposition of these measures was founded? Has the danger from Spain, then insisted upon, been realized? No, sir, official documents tell us the contrary. If the reason brought forward last year did not justify it, nothing has since intervened to sanction it.

Will the gentleman, who says if we had adopted the measures recommended the last session, they would have averted the dangers which now threaten us, tell us whether there was then any reason for apprehending them; will he say that he then expected this man would at this time have been carrying on this conspiracy? If, so, he surely ought to have told us of it. I am disposed to believe, that so far as relates to this, or any other combination within our limits, no standing army is necessary. If we must have a standing army, to put down our own citizens, whenever there is any serious violation of the laws, it is high time to lay down our liberties. If the militia are incompetent to maintain the peace, it is full time to acknowledge the futility of our political principles. On this ground never will I agree to raise a regular army, to meet our own citizens. As far as it depends upon me, it never shall be said, that we have raised a regular army to turn their bayonets against our citizens. If the majority of the people shall be embarked in an insurrection they ought not to be controlled; and if the majority shall be on the other side, they will have power to crush it. It has been stated, on the introduction of this resolution, that a member of the select committee who brought in the bill, authorizing the President to raise volunteers, proposed an increase of the regular army, similar, it is added, to the increase

proposed during the last session. The fact, however, is this: The gentleman alluded to offered two propositions; one to add to the present peace establishment, which was rejected by all the members of the committee but himself. Even the gentleman who introduced the resolution under consideration gave his vote against this proposed increase of the peace establishment.

There is a bill now before me, from the Senate, the object of which is to increase the peace establishment; and this the gentleman says is one of the measures proposed at the last session. I have, however, already observed, that that gentleman opposed the proposition for increasing our peace establishment, and yet he informs us that this measure is the same with that proposed the last session for the creation of a war establishment. I have considered it my duty to make these observations, because, at the last session, I was opposed to raising an army; and I am still opposed to it, unless the public exigencies require it. I do not, however, consider this the proper time to investigate this point; as, if it be intended to crush the conspiracy, the measure will be too late.

It may be proper to observe that in my opinion this conspiracy has been painted in stronger colors than there is reason to think it deserves. It has been stated as dangerous to the Union. On what grounds? There is no evidence that there is in any part of the United States two hundred persons collected for the purpose of carrying it into effect. We have not even evidence of this. We have indeed newspaper evidence, that it was reported that the author of it was to march at the head of two thousand men, and that four thousand Kentuckians were to follow: At the same time, however, that Kentucky is taking the most effectual measures to crush it. So far from there being four thousand Kentuckians enlisted, I do not believe there are ten, unless, indeed, the stragglers passing through that State are so denominated.

The gentleman from Pennsylvania has observed that the members from the Western country are either ignorant, or pretend to be so, of this plot. I cannot suppose the gentleman alluded to any member in this House. There is one circumstance on this head worthy of notice—the greater part of the men associated came from the Eastern country, and from the State of the gentleman from Pennsylvania. With regard to the sentiments of the Western country, I believe they are as well affected towards the Union as those of any part of the confederacy. I do not conceive there is ground for the alarm that has gone forth. I am, however, willing to take any proper measures to aid the Executive in crushing the plot.

It has also been observed by the introducer of this motion that the expenses attending the military expedition on the Sabine will be equal to the expenses that would have attended the proposed augmentation of the army. But it seems to me that this must be altogether a mistake. This expedition was composed of the regular forces and about five hundred militia, who were engaged but for a few weeks. The expenses of the former may have been somewhat increased by their movement, and the price of provisions; but no additional expense has been incurred for their pay. The only important item of expense must arise from the militia—this cannot be considerable; it will not be pretended that it can bear any comparison with the expenses of raising an army of five or ten thousand men. I am not disposed to say anything of the expenses incurred by the commander of the army at New Orleans, as I am unacquainted with the subject; but I presume it cannot be considerable.

But, to return to the only question before us; the President has informed us that there is a combination, the object of which is to conduct a military expedition against the territories of Spain. What is the information which we have since received? Does it not go to the same object? If the President is convinced, from information since received, that the object is a different one, is it not most probable that he would have so advised us? If the secret information respecting those implicated be divulged, will it not put many concerned in it on their guard, and induce them to escape? This is the evil I apprehend from agreeing to this resolution, and none other. Believing, therefore, that the information we may receive will not enable us to strengthen the hands of the Executive, I shall vote for postponing the further consideration of this resolution until Monday. The President has already advised us that he has taken such measures as are calculated to check the expedition, and bring its abettors to punishment. He possesses the power of calling out the militia if he thinks the case requires it; and I know of no acts which we can pass, which can strengthen the hands of the Executive more than the existing laws.

Mr. J. Randolph.—It appears to me that the resolution is treated, I will not say intentionally, with unfairness. It is a resolution calling for information, and yet gentlemen opposed to it call upon us for information to prove its propriety. They ask, do you know this or that? We answer, no; but we wish to know it; and that we may know it, we ask; and yet the requisition is opposed, because we cannot give them the information it calls for. If we had the information, I should suppose that circumstance would be a stronger reason for disagreeing to it. If we possessed the information, we should not want it. But it is said the danger has proceeded to such a length, and the crisis is so advanced, that nothing which we can do will have any effect. Are we then merely to call in the political undertaker to take charge of the body politic, which is defunct, to commit it to the dust? Gentlemen say it is too late to do anything. Either the affair has proceeded to such a length that it has by this time succeeded to the utmost, or is altogether defeated. But are gentlemen prepared to say that the partial success of the conspiracy shall be conclusive in its effects; that the nation will set down contented if Baton Rouge or New Orleans is reduced?

While on this subject, permit me to say that when I referred to newspaper information, I did

not refer to the vague reports generally circulated through those organs of information, but to evidence legally taken in the case of Judge Sebastian, which, though found in the columns of a newspaper, I consider satisfactory evidence. If it is not, I hope some gentleman from Kentucky will get up in his place and tell us so. I alluded to this information as exhibiting the intriguing disposition of the Spanish Government from the peace of 1783 to the year 1797.

The gentleman from Pennsylvania has told us of some kind of an armistice entered into between the commander of our army and the commander of the Spanish forces. But I should be glad to know from what quarter he derives this information. I believe there is no such information. There may be some tacit informal understanding; but I believe there is no armistice. If there is I have not heard of it; and will this House confide in the tacit understanding between two commanders, when they have seen the Government of Spain endeavoring to dismember the Union after entering into a solemn treaty with us? In former days we have heard much of Castilian honor and virtue. But at the present day the thing is not—it does not exist. We have evidence that while that Government was treating with one hand, she was preparing to stab us in the dark with the other.

I again invite the House to draw a proper inference from the indecent, insulting, outrageous demeanor of the Minister of Spain. I did understand that he was to have been deported—shipped off. On the contrary I find him still here; and is not the inference of my friend from Pennsylvania irresistible, that, considering the crowd of memorials presented by him to the Government in the case of Miranda, and that no remonstrance has been made against this pretended expedition against Mexico, that he is acquainted with it—that he knows that it is ostensibly for Mexico, but really for Orleans—for the severance of the Union.

Some gentlemen make extremely light of this conspiracy. I cannot, however, conceive how a man in a state of ignorance respecting its nature or extent can make light of it. The very circumstance of not knowing the extent of danger has a tendency to magnify it beyond its natural size. But there is one fact which has come so direct that it cannot be doubted. I believe it will altogether depend on the circumstance of the conspirators getting to Baton Rouge before the troops of the United States arrive there, whether New Orleans shall fall; and the waters of the Red river are so low that we cannot decide when our troops will arrive—they will get possession of the ordnance, and nothing can prevent the reduction of Orleans but a pitched battle.

But who can see, according to the intimation of some gentlemen, in the resolution under discussion, a proposition either for a war or peace establishment? It is no such proposition. It seems, however, that an expression of mine bore hard on the worthy gentleman from Pennsylvania, for which I am very sorry. But I can only say, "let the galled jade wince, our withers are unwrung." But I beg leave to repel, in the most decided manner, the charge that we are triumphing at the consequences of the measures of the last year. If I could triumph at the calamitous situation of my country, there is ample cause indeed for triumph. But let me change situations with the other gentleman. Let him have the finger of scorn pointed at him; let him be denounced; let the cry of mad dog, of political defection, be raised against him; and let him see all the measures for which this denunciation was made adopted and asserted by his adversaries; would he not feel some chuckling, or would he be so base, so mean, so abject, as to lie down and say that though he knew them to be right, he dare not declare them so? You may begin with these measures, and go on from alpha to omega. The first of them is the famous non-importation law. It is gone—abandoned—given up. Another great point of difference was the bill relative to the public debt, which we have had under consideration this day. It is passed. Then comes the salt tax—passed on a recommendation from the Executive. We have next the measures for the increase of the public force—we have a bill from the Senate to that effect. And are we to be amused by a quibbling distinction between a war and a peace establishment? The force is the same in either case, ready to be used against foreign enemies or domestic conspirators; there is no difference except this, that our proposition was less obnoxious than theirs; inasmuch as the peace establishment is for all time, the war establishment merely temporary. And is it not wonderful that gentlemen who avow themselves hostile to a standing army are against a temporary, but in favor of a permanent establishment! No, sir, I cannot take a retrospect of the past without feeling a degree of conscious pride that my aid was not given, that I had no hand in the acts of commission or omission that have brought us to this deplorable state of things. I am asked if I foresaw the conspiracy of this, as he has been called, modern Catiline? and if I did not, I am desired to take no credit to myself for the measures proposed. What! Will logic of this kind go down with the House or the nation? Because we did not point out individual danger, but foretold it in the general, are we to be denied the credit of warning the country against any danger? But I well recollect there was an argument urged, if not in these words, to this effect: if you do not protect the Western people, and extend to them the benefits of a free, equal, and strong Government—I say strong, for none but an equal and free Government can be strong—they will look out for friends and protectors elsewhere; and is not this prediction verified? It is, sir—I say not this in relation to the Western people exclusively—the same would be the case in any other part of the Union. Suppose the line of Vermont threatened; that British troops should pass it in hostile array; and that the British Minister should act in the same way with the Spanish Minister; what would the public sensibility be? What it

ought to have been last year—what it ought to be now.

But the gentleman from Pennsylvania says, by passing this resolution we shall betray a want of confidence in the Executive, and more especially in the President; that he will give us such information as he thinks proper, and if we want more, we act like naughty boys, who call for more than comes to their share. Indeed! Did that gentleman, in the better part of his political life, utter such sentiments? I will warrant him he did not; and when he feels how contradictory they are to all the good old maxims of the republican party I am confident he will abjure them. As to my confidence I am not so fortunately situated as the gentleman from Pennsylvania, because my belief in men, politics, and religion, is a matter of reason as well as of faith. There never did or can exist a President of the United States who will command my confidence to the extent of the gentleman from Pennsylvania, and I believe the cultivation of a degree of scepticism in politics would not be unuseful to that gentleman as well as others. My confidence in the Executive will depend on their conduct. If their conduct shall be such as it ought to be, they shall have my confidence. But I cannot go so far as to mortgage it to them, be their conduct what it may, without reserving even an equity of redemption. This may be an infirmity of my nature; but I cannot, I never could act otherwise. I think the gentleman said, that if, on account of the acquisition of Louisiana, it were thought necessary to increase our peace establishment, he should be willing to go as far as the bill from the Senate goes. When was that Territory acquired? Since the last session? If so, his observation is to the purpose; but to make an acquisition, obtained three or four years ago, the cause of augmenting the peace establishment of the present day is rather unfortunate, and it appears to me that if the increase of the army be intended for specific purposes, the greater the increase the worse our situation. As to standing armies, I have no great idea of them—*fruges consumere nati*—and with regard to our army, they are so cut up that little reliance can be placed upon them. We find one company between the two States of Rhode Island and Connecticut, one company in Boston harbor and at the arsenal at Springfield, one company appointed to defend the important port of New York, and so on. How are these men to be made troops in garrison? I believe whenever they shall be called into action they will prove they are not troops. I have no hesitation in saying, that if gentlemen depend on this broken staff they will be disappointed; and that if necessity calls for it, the best way to get an efficient army will be first to get rid of the present inefficient one. Is this arraigning the conduct of this or that department? No, sir, but that narrow policy which is pursued by the House—a policy which it is high time for us to lay down, whether we regard the saving of expense or the public safety. When I say that it is high time to lay down this narrow policy, let me be explicit. I have as much confidence as other gentlemen in the militia when at home; but if the United States were to conquer the Cape of Good Hope, I would not think of protecting the place by the militia. I believe the militia as adequate to the protection of New Orleans as the Cape of Good Hope; and after paying fifteen millions for the Mississippi and its delta, shall we be so penurious as not to defend this important point—this key to our strong box?

I hope the motion to postpone this resolution will not prevail, because I fear it has been already delayed too long. I have withheld it from the considerations I have already mentioned—from a belief that a disclosure of circumstances at the time of crisis might be injurious to the public good—from the hope that the best political measures had been taken for the public safety—and from the belief that the House of Representatives would be called in due season to take such farther measures as the exigency of the State might require. But does it follow that if the affairs of the United States are in such a situation, and the Executive has not considered it necessary to take measures, (conceding this, for argument sake,) that Congress shall take none? What does this amount to? As far as the Executive goes we are authorized to follow—not to keep pace with, much less shoot ahead of him. If there is a difference of opinion, you are in the wrong—you must submit to the mere duty of registering his edicts. I am one of those who do not feel disposed to stand on this ground. I have a respect for the opinions of the members of this House, for the opinions of well informed men out of doors, for those of the President and the heads of departments, but I do not entertain these sentiments to such an extent as to abandon my own opinions, to grope like a mole in the dark, and to be contented with what is shown me. Let us not call ourselves statesmen or legislators if we are ready to act without information. We may make a kind of conservative Senate; but higher we can never rise if we adopt a course of this kind.

Mr. SMILIE.—The gentleman from Virginia asks if I ever consented to call on the President for information. I have. But I never have called upon him for information during a pending negotiation. With regard to what I said of the Executive, I say it again, and I believe those who know me will not doubt that I have as much independence as the gentleman from Virginia.

[Mr. J. RANDOLPH explained. He did not, he said, question the independence of the gentleman from Pennsylvania. He only questioned the correctness of the principles which he advocated—principles on which he hoped he would never act—principles which would lead to a practical dependence, which he hoped the gentleman would abjure.]

Mr. SMILIE.—I do not know what principle the gentleman alludes to. I will state what I said before. If we adopt this resolution we betray a want of confidence in the Executive Magistrate. I say so again. It belongs to us to provide the means, and to the Executive to apply them. It his duty to ask for means when he considers

them necessary. I say, when the necessary forces are prepared, or about to be prepared, such a requisition betrays an improper jealousy, a want of confidence in his judgment or integrity. If the object of the gentleman be to declare war, I agree that a call for papers may be proper. But this object is not avowed.

I agree with the gentleman from Virginia in the opinion he has expressed of standing armies, and it is because I hold this opinion that I never will agree to raise them in a time of peace. For my part I am not disposed to the knight-errantry of contending with Bonaparte; neither have I any fear of a French or British invasion. I apprehend no such designs, and with regard to this conspiracy, I think we have the means of crushing it within our reach, without resorting to an army. To me it is strange that we behold so much zeal in the East, when the Western States are so little alarmed. My object is to avoid war as long as I can consistently with honor. I consider it as among the last of evils, and I never will resort to it but in case of necessity. If the gentleman is correct in the portrait he has drawn, I will not say that it would be altogether incorrect to make use of the means he has proposed. But I entertain a totally different opinion of the state of the country.

Mr. EPPES.—I shall vote against the postponement, as involving the principle contained in the resolution. I shall vote for the resolution, because I believe the information it calls for important to the House and the country; and because I think its terms such as ought to preclude every possible objection to it. If the gentleman from Virginia had confined his observations to the resolution, I should not have opened my mouth. But when the vote I gave last year is questioned, here or elsewhere, I consider myself bound to justify it in the face of God and the nation.

Whether we shall retrace the ground of the last session I do not know. For one, however, I am against raising an army, and I call on gentlemen to show its necessity in the present posture of our affairs. What circumstances have arisen to make an army more necessary now than then? Then the armies of the United States and of Spain were arrayed against each other on the Sabine, and there was an enterprise against the Spanish possessions. What is now the situation of the United States as to its force on the Sabine? It is sufficient. There has been no time when we had not man for man with the Spaniards. An agreement is made, and our troops are withdrawn. But we are told that Orleans is to be attacked, that the safety of the country is endangered, that the very Union is at stake. Where is this danger? Do gentlemen expect, as in days of old, an army to be raised from the ground? Is not Blannerhasset, with his miserable party of 150 men, checked in every quarter? For my part, I do not know the existence of danger; and, although I shall vote for the resolution, I believe that the present force of the United States is sufficient to suppress the conspiracy and to meet the Spanish forces. The only reason that the conspiracy is not already suppressed, is, that the laws do not provide for cases less than treason. But we have just passed a law for this purpose. At present, I ask gentlemen to point out any authority by which a single boat can be seized, unless under the State laws.

As to the situation of the Western country, I feel no alarm. I do not believe the fair fame of a State ought to be impeached by the misconduct of a few unprincipled men. We may sweep the whole bench without endangering the State. The conduct of the State of Ohio has been eulogised by the gentleman himself. And what is the conduct of the Territories? In Orleans they are prepared to meet the conspirators. The merchants have patriotically come forward with a tender of their services. For my own part, I do not see in this case any indications of danger, but I am notwithstanding in favor of adopting the resolution, as the means of giving us information, which, I believe, will be valuable to the House and the country.

The question was then taken on postponing the further consideration of the resolution till Monday, and lost—yeas 38.

Mr. J. RANDOLPH.—Before the question is taken, I will observe, though it may seem strange, that this is not a proposition to raise a standing army, or to declare war. Nor do I see how the opinions of gentlemen on these points are implicated. For my part, I have the same opinion of standing armies now as ever. I have no disposition to raise regular forces for the defence of New York, or Baltimore, or of my native State—there is sufficient population for their defence in all those quarters. But in the country I have spoken of, there is no militia.

Again, on the subject of the situation of the State of Kentucky, I have cast no odium on Kentucky. I am happy to find Kentucky contains within her bosom honorable men enough to keep in check those that are dishonest. But I cannot draw so favorable an inference of the public sentiment in any country, when I see a most extraordinary and ramified combination, composed of the most leading characters, and the most flaming patriots too, for the express purpose of severing the Union.

In my opinion the true way of avoiding danger is not to despise it. Suppose even that gentlemen are right, and that I am wrong. If I am wrong, no danger can ensue from my error; but if they are wrong, the greatest public calamity may ensue from theirs. So, on their own principles, gentlemen ought to agree to the resolution.

I do conceive, and it gives me extreme concern, that the very mention of a disunion of these States is a great public injury; it goes to unhinge the tone of the public mind; it makes them familiar with the possibility of the thing, and once admitted into their breasts, they will not contemplate it with that abhorrence in which it ought to be held by every true patriot. If the mere talk of the thing be mischievous, what shall we think of a plan such as this is reported to be. I do not conceive it to be a thing of yesterday; but an af-

fair of long standing. Look back to the times when the character implicated in this conspiracy first began to move in that country. It was at least contemporaneous with the disappointment of his ambition. Look further back; look at the famous propositions of Thomas Powers. It appears to me that these are parts of the same disease, and that it is a most extraordinary thing that, although so extensively incorporated into the body politic, the country should remain so long profoundly ignorant of it.

Mr. THOMAS asked for a division of the question at the words "United States." He said he had no objection to the first member of the resolution, the agreeing to which would enable them to obtain all the information that was requisite to form a judgment of the magnitude of this national calamity. He was decided against the other part of the resolution. It would go to expose the military operations, pursued under the President, for the purpose of intercepting and defeating the conspirators. It was evident to every man acquainted with tactics, that military operations, to be effectual, must frequently be conducted with the greatest secrecy.

Mr. EARLY inquired whether the yeas and nays would be taken on each member of the resolution. The SPEAKER answering in the affirmative, Mr. EARLY moved to adjourn. This motion was disagreed to—yeas 47, nays 68

Mr. STANTON declared himself against the resolution.

Mr. ELMER said he was opposed to both members of the resolution. He was not prepared at this time to vote for it, because, when such a call was made, the House ought to have some specific proposition before them on which they meant to act. No such proposition was at present before them. He added that he had full confidence that, when the President was possessed of such information as he thought ought to be communicated, he would promptly impart it.

Mr. JACKSON.—I believe it has been decided by the Speaker that, after the question is taken on the first member of a resolution, it is out of order to debate the second. As I mean to vote for the first, and against the second member, I will now assign my reasons for the vote I will give. The second member leads to a palpable absurdity. It calls on the Executive to inform us what he means to do. I am at as great a loss as some other gentlemen to determine what connexion there is between this proposition and the proposition of the last year to chastise Spanish insolence. I trust that the people will appreciate the force of the remark, that if the measure recommended at the last session had been adopted, there would be now no danger. The argument urged on this occasion is the constant pretext for raising standing armies. This measure was, however, rejected by the good sense of the people in 1799, and I trust to God it will be rejected in 1807. The argument of the gentleman goes to this, that a state of things which no human reason could foresee, is to be overawed by raising a standing army long before its occurrence. If in this case it is necessary to resort to a standing army, why did we not do so in Fries's insurrection, as well as in that of the preceding insurrection in Pennsylvania? I, however, rejoice to coincide in opinion with a great majority of the people, that the militia may be safely depended upon; and if I had not this reliance upon them, I would instantly yield up my confidence in the practicability of a republican government. But it appears to me that this question, from the extraneous circumstances mingled with it, has assumed an importance to which it is not entitled. It is merely a resolution to obtain information, part of which I think will be important, and which I am sorry gentlemen do not all agree in requesting. It has no connexion whatever with a standing army; but the mover of it, having dragged an army into the parade, rendered it necessary for those who differ from him to repel his observations.

Mr. SLOAN said, he hoped that the House would have agreed to postpone the resolution. It was in his opinion important, and a decision upon it ought not to be precipitated. He, therefore, still hoped the House would adjourn, and that, after reflection, they would entertain a different opinion from that which they at present appeared to hold. He said that he was opposed to both members of the resolution; to the first, because it was only calling on the President to do his duty, when there was no doubt that every measure had been taken by him which was necessary, and because it would be injurious at this moment, as betraying a want of confidence in him. As to the second member, it might be fraught with still greater evils.

Mr. GREGG wished to know whether it would be in order to move a postponement of the second member of the resolution after a vote on the first? When he first heard the resolution read, he was disposed to vote for the whole of it. This was a practice, when information was called for, which he had always pursued. On further consideration, the first part of the resolution appeared to him proper, but he could not view a part of the second member in the same light. He alluded to that part of it which called on the President to inform them what measures he meant to pursue. He believed that it was an unprecedented thing to require such information. He had hoped that the gentleman from Connecticut, who had offered to the House the proceedings adopted on like occasions, would have offered some precedents of this kind. If any such existed, he had no doubt he would have found and submitted them. He must, therefore, conclude that there were none such. Mr. G. concluded by saying, he had no objection to pursue the course adopted in the cases cited by the gentleman from Connecticut. He should, therefore, vote in favor of the first part of the resolution, but against the second, as it then stood.

Mr. J. RANDOLPH gave notice that, in case the first member of the resolution was adopted, he meant to modify the second.

Mr. ALSTON said, he thought the first member of the resolution required modification as well as the second. As it stood, he conceived that great

mischief might result from it. He believed that, whether the President gave the whole or a part of the information called for, the conviction would go abroad that a part was retained. He believed that the resolution would have the same effect without, as well as with, the discretionary language contained in it. It appeared to him to require amendment, though he was not at this time prepared to offer one. He wished gentlemen to reflect on the difficult situation in which they might be placing the President, and to consider the step dispassionately before they took it. If the resolution were carried, he would rather the discretionary words should be struck out; and that the President might, if he thought it necessary, give the information in confidence. Mr. A. concluded, by moving to postpone the further consideration of the resolution till to-morrow.

On this motion the House divided—yeas 48, nays 68.

Mr. G. W. CAMPBELL said, he believed this was almost the first time gentlemen had been compelled to vote without being prepared. He had before said he had not made up his mind on the propriety of the resolution. So far as it went to obtain information from the Executive, of the nature and extent of the conspiracy, he should not vote against it; to that part of it which called for his plans, he was decidedly opposed.

The question was then taken by yeas and nays on the first member of the resolution, which was carried—yeas 109, nays 14, as follows:

YEAS—Evan Alexander, Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, Silas Betton, John Blake, jr., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jun., Leonard Covington, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, William Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, John Hamilton, Seth Hastings, Wm. Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Duncan McFarland, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Gideon Olin, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Thos. Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Thos. W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Matthew Walton, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, jr., Joseph Barker, Barnabas Bidwell, John Chandler, Frederick Conrad, Ebenezer Elmer, William Findley, Silas Halsey, James Holland, James Sloan, John Smilie, Joseph Stanton, Joseph B. Varnum, and John Whitehill.

Mr. J. RANDOLPH.—The objection taken to the second member of the resolution, I am willing to allow; for, under the aspect in which it has been viewed by some gentlemen, it possesses considerable force. I mean that part of it which relates to the future measures of the Executive. I believe, on a fair construction, however, it will be found not to require the information of the measures which, as a military man, as Commander-in-chief, he means to take; but to request to be informed whether he means to rely on the existing military force, or means to call out the militia. To obtain, however, the greatest possible unanimity, I move to amend the resolution, by striking out the words "and proposes to take."

It appears to me that the House ought to know what measures are taken—to form an estimate whether those measures are, in their opinion, sufficient. It might so happen that the President has taken measures which he thinks sufficient, and the House, notwithstanding, think other measures necessary. At any rate the information can do no harm.

Mr. THOMAS asked whether the President could communicate what he had done to defeat the conspiracy, without developing what he meant to do? He said it was impossible.

The amendment was then carried without a division, when the question was taken by yeas and nays on the last member of the resolution, which was likewise agreed to—yeas 67, nays 52.

YEAS—Evan Alexander, Burwell Bassett, George M. Bedinger, Thomas Blount, John Boyle, William A. Burwell, John Campbell, John Claiborne, Joseph Clay, Matthew Clay, William Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan MacFarland, Robert Marion, Josiah Masters, Wiliam McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Russell, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Philip R. Thompson, Abram Trigg, Killian K. Van Rensselaer, Eliphalet Wickes, and David R. Williams.

NAYS—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, Silas Betton, Barnabas Bidwell, John Blake, jun., James M. Broom, Robert Brown, William Butler, G. W. Campbell, Levi Casey, John Chandler, Martin Chittenden, Frederick Conrad, Leonard Covington, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Ebenezer Elmer, William Findley, John Fowler, Isaiah L. Green, Silas Halsey, James Holland, John Lambert, Gideon

Olin, John Pugh, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, James Sloan, John Smilie, Henry Southard, Joseph Stanton, Benjamin Tallmadge, David Thomas, Thos. W. Thompson, Uri Tracy, Joseph B. Varnum, Matthew Walton, John Whitehill, Robert Whitehill, Marmaduke Williams, Nathan Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

Ordered, That Mr. J. Randolph and Mr. Lloyd be appointed a committee to present the foregoing resolution, as agreed to, to the President of the United States.

Monday, January 19.

Mr. Cutts presented to the House a petition of sundry merchants of Kennebunk and Wells, in the District of Maine, which was received and read, praying that the term of credit for the payment of duties on goods imported into the United States from the West Indies, may be extended to the same term with the duties payable on goods imported from Europe.—Referred to the Committee of Commerce and Manufactures.

Mr. Alexander, from the committee appointed on the second instant, presented a bill prescribing the effect of records of judgments and decrees of courts of one State in another State; which was read twice and committed to a Committee of the Whole on Thursday next.

GEORGIA LAND CLAIMS.

Mr. Quincy presented the petition of James Sullivan and others, claimants of certain lands ceded to the United States by Georgia, requesting that the tribunals of the United States may be authorized to try the question of right to those lands.

Mr. Quincy moved a reference of this petition to a Committee of the whole House.

Mr. Eppes spoke against the reference.

Mr. Quincy replied.

The question was taken, on referring the petition to a Committee of the Whole, which was disagreed to—ayes 41, noes 54.

Mr. Quincy then moved its reference to a select committee.

Mr. D. R. Williams hoped this motion would not prevail, and that, if it did not, that the petition would be rejected.

Mr. Quincy withdrew his motion, that the question might be taken on the proposition, which Mr. D. R. Williams then offered.

Mr. Quincy called for the yeas and nays on this motion.

Messrs. D. R. Williams, Eppes, and J. Clay, supported; and Messrs. Conrad, Cook, Alexander, Sloan, Smilie, and Quincy, opposed the motion, which was disagreed to—yeas 53, nays 56, as follows:

Yeas—Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, John Blake, jun., Thomas Blount, Robert Brown, William Butler, Joseph Clay, Matthew Clay, William Dickson, Elias Earle, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, Walter Jones, Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, jun., Gideon Olin, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Dennis Smelt, John Smith, Samuel Smith, Richard Stanford, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

Nays—Evan Alexander, Joseph Barker, Barnabas Bidwell, Phanuel Bishop, James M. Broom, John Campbell, John Chandler, Martin Chittenden, Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., Theodore Dwight, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, John Fowler, Charles Goldsborough, Isaiah L. Green, Seth Hastings, William Helms, James Holland, David Hough, Nehemiah Knight, John Lambert, Matthew Lyon, Duncan McFarland, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, James Sloan, John Smilie, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, and Nathan Williams.

Mr. Quincy then moved a reference of the petition to a select committee.

Mr. Quincy advocated; and Messrs. J. Clay, Smilie, R. Nelson, and Eppes, opposed this motion, which was likewise disagreed to—yeas 45, nays 65, as follows:

Yeas—Evan Alexander, Joseph Barker, Silas Betton, Barnabas Bidwell, James M. Broom, John Campbell, John Chandler, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, Theodore Dwight, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, John Fowler, Charles Goldsborough, Isaiah L. Green, Seth Hastings, William Helms, James Holland, David Hough, Nehemiah Knight, John Lambert, Matthew Lyon, Duncan McFarland, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jr., Josiah Quincy, Martin G. Schuneman, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, and Nathan Williams.

Nays—Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Claiborne, Joseph Clay, Matthew Clay, Frederick Conrad, Ezra Darby, John Dawson, William Dickson, Elias Earle, John W. Eppes, James Fisk, James M. Garnett, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, David Holmes, Walter Jones, Thomas Kenan, Edward Lloyd, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, jr., Gideon Olin, John Porter, John Pugh, John Randolph, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

Ordered, That the said petition do lie on the table.

LANDS IN LOUISIANA.

Mr. Rhea, of Tennessee, offered the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of laying off and describing, by certain metes and boundaries, a tract of country, to which the Indian title hath been extinguished, within the limits of the Territory of Louisiana, and to include all the settlements within the said Territory, and for having the said tracts of country laid off into townships and sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States; and also to inquire into the expediency of granting one quarter section to every free white male, who now resides thereon, or who within —— years shall actually improve and reside thereon.

Mr. Conrad said, before he agreed to the resolution, he should be glad to hear the reasons for this new mode of disposing of the public lands.

Mr. Rhea said he did not suppose that on referring this subject, it would have been necessary to assign the reasons for the measure. But as they had been called for, he would state some of them. It was well known that the settlements in the Territory of Louisiana were scattered, that they were two or three hundred miles apart. If the Indians should become hostile in that quarter it would probably cost the United States more to protect those settlements, than the value of the land it was proposed by the resolution to allow to settlers. The object was to effect a settlement that would prove a strong barrier, and avert the necessity of maintaining a standing army. The lands on this side of the Mississippi, it was well known, from their subjection to Indian claims, would not probably be settled until a distant day; and this produced a necessity for forming settlements on the western side of that river.

Mr. Smilie believed this was a measure that would be attended with great benefits to the United States. As the motion was merely to refer for the purpose of inquiry, he hoped it would not be opposed.

Mr. Varnum was of the opinion that, even if this measure should be ultimately considered advisable, this was a very unseasonable time for its adoption. He was not of opinion that any considerable force could be brought to bear on the frontier thus proposed to be guarded. It would be remarked that it was not contemplated for the defence of the Orleans, but the Louisiana Territory. And he asked whether it would be proper to adopt it while such various reports prevailed of the existence of conspiracies against the United States in the Western country. Might not the individuals, engaged in these combinations, on their discomfiture and return into the United States, under this measure, occupy the lands thus proposed to be surveyed?

Mr. Rhea declared himself greatly surprised at the suggestion of the gentleman from Massachusetts. As to the suspicions afloat, he hoped they would have no influence on the adoption of this measure.

Mr. Gregg hoped, as the resolution contemplated an almost radical change of the land system, it would be suffered to lie for consideration.

Mr. Rhea acquiesced in this course.

MILITARY PEACE ESTABLISHMENT.

The bill from the Senate supplementary to the act fixing the Military Peace Establishment of the United States, was read the first time.

Mr. Eppes said, that on ordinary occasions, he had no objection to bills which made their appearance in that House passing through the ordinary forms; but it appeared to him that there were some occasions, which not only justified, but required an extraordinary course of procedure. Of these latter occasions, he knew of none that more imperiously required extraordinary treatment than the bill which had been just read. What was its object? Not to provide for an extraordinary emergency, but to make a great addition to the permanent Military Establishment of the United States; almost to double the existing military force. Where was the evidence of its necessity? The bill appeared in a naked form, unsupported by any documents whatever. He believed it objectionable in its principle, in its details, and in its origin. In the second section, a discretion was given to the Executive to increase each company from its existing complement to one hundred men. It consequently gave the Executive the dangerous discretionary power of increasing, whenever he shall think it necessary, the permanent establishment nearly double its present amount. He had also an objection to the origination of this bill. The Constitution expressly provided that every revenue bill should originate in the House of Representatives, and though he would not undertake to say that this bill violated the words, yet it certainly was repugnant to the spirit of the Constitution. What did it propose? To lay a burden of the most oppressive kind on the people, in a time of peace. Believing that the bill originated in mere rumor and report; that it was not founded on any official information; and that it was altogether unnecessary in the present state of affairs, he moved that it be rejected.

Mr. Thomas called for the yeas and nays.

Mr. Lyon asked whether the gentleman could safely say that the country was in a state of peace. What was to keep the American and Spanish armies apart? Were they not ready to shed each other's blood? Could it be said that this state of things was safe, when we had not a sufficient force on the frontier to prevent the invasion of our country? Did we not hear that the Spanish forces were twice, four times, ten times, greater than ours? Further, he heard of no information from Europe of a settlement of differences in that quarter. All that we did hear was, that the Spanish General on the frontier declared

that he would wait until he heard from Europe. And yet we are told it is unnecessary to raise additional troops.

Mr. L. said, from the time we had acquired our new territory, he had uniformly thought it proper to raise three or four additional regiments. He should not therefore vote for rejecting the bill. His wish was to see the country in a better state of defence in every quarter; and as the militia of that part of the Union which he represented were likely to be almost the first that, in case of an invasion, would be called out, and as many of them would have a thousand miles to march before they reached the frontier, he was peculiarly solicitous to have a standing force competent to the defence of the country, except on the most pressing emergencies. Are we not also told that an attack is contemplated on New Orleans; that a new Empire is about to be established in the West? Will it then be said that we do not want additional troops? Are we sure of it? Mr. L. said he did not understand how gentlemen could be much alarmed, and yet say that they wanted no additional troops.

Mr. Tallmadge said that he took the ordinary course on such occasions to be, to discuss at its second reading the merits of the bill. This treatment of the other branch of the Legislature was no more than decent and respectful. Unless there was some substantial reason, they ought not to deviate in this instance from the course which was ordinarily pursued. He did not see any substantial reasons why this bill should be rejected. In the outset of the remarks made by the gentleman from Virginia, he observed that they were about, at one stroke, to double the Military Establishment of the United States. The present establishment of the United States consisted of two regiments of infantry and one regiment of artillery, together with a corps of engineers. When the proposed addition shall be made, the Army will consist of 5,400 men. This certainly will not be more than an increase of one-half of the present Peace Establishment. What are the objects and peculiar grounds for increasing the present Military Establishment, was worthy of inquiry. Can we say there is no necessity for such an increase? Are we justified by any information we possess in saying that the Senate had no sufficient cause for this measure? Do gentlemen mean to say, that, by passing the bill for raising volunteers, they have provided a sufficient force to defend the country? Mr. T. said he was apprehensive, when that bill was under consideration, that in case it should be passed, this argument would be made use of to satisfy the people that the country was adequately defended; and he was therefore opposed to the bill. He did not believe that that provision was sufficient for the defence of the country; and he did think, in the present state of affairs, there was a loud call on the Legislature to make some addition to the present Military Establishment, competent to repel foreign aggression, and which might enable the President to put down promptly and effectually any lawless attempt which might be made to disturb the peace of the Union. Mr. T. said he felt reluctant to place the whole reliance on the yeomanry of the country. He feared, if this should be the case, that they would prove to be a broken reed, which could not be depended upon. He was, therefore, for making a considerable addition to the Military Establishment of the United States. Rather than not have a force which would enable the President to chastise the enemy on our frontier, and to crush any persons who might attempt to disturb the peace of the Union; rather than not do this, Mr. T. said he would cheerfully agree to double the present forces of the United States. He believed, if they relied on the militia exclusively, they would oppress the yeomanry of the country, and spend more money to but little effect than if a stable force were provided. As far as his opinion went, some modification of the bill appeared to him necessary; but as this was only a question on rejecting the bill, it was unseasonable to say anything at present on its details. For the reasons he had stated, he hoped that the gentleman would either withdraw his motion, or that the House would give it a decided negative.

Mr. Eppes said, he thought when he was before up, that he had drawn a decided line of distinction between the measures of preparation that were necessary against the Spaniards and the provisions of the bill under consideration. The two propositions were totally distinct. If gentlemen thought it necessary to raise troops to chastise the Spaniards, let them bring forward a proposition to that effect. But let us not in this way be surprised into a measure for almost doubling the present Military Establishment, which, although passed within one hundred and twenty feet of this House, very few gentlemen knew any thing of, until it was brought to us from the Senate. Mr. E. said the great objection which he had to the bill was, that he considered it as an usurpation of the Senate. It appeared to him that the Constitution made the House of Representatives the exclusive organ of imposing burdens on the people. How was this burden to operate? Not on the States, as independent sovereignties, but on the great body of the people. It ought therefore to originate with that House as their immediate Representatives.

Mr. E. said he believed that, in no case, had such a measure originated in the other branch of the Legislature, except in the famous case of the motion of Ross, which terminated in calling out the militia. Gentlemen had pronounced this an indecorous treatment of the Senate. How indecorous? Mr. E. said he had observed, when he made the motion, that in ordinary cases he had no objection to the usual forms of the House; but that he considered extraordinary cases as calling for extraordinary treatment. Had not the House, by their proceeding, justified the remark? Did they not recollect the memorable case of the last session, when a measure which originated in the other branch, odious to the House and to the country, had been promptly and decidedly rejected? This then was a precedent, which, in his opinion, applied with equal force to the present case. The bill contained a principle obnoxious to the House, obnoxious to the nation, for nearly doubling the standing force in a time of peace, and for imposing, without necessity, a great burden on the people. He trusted, therefore, that the same course would be pursued in this instance which had been adopted in the other.

Mr. Early said it appeared to him, that the reasons assigned by the gentleman from Virginia would operate with equal strength for pursuing the same course as to any bill which might be received from the other branch of the Legislature, on which there should be a difference of opinion between the two Houses. Without going into an examination of the merits of the bill on the table, he was free to declare his decided hostility to the course urged by the gentleman from Virginia. What was likely to be the consequence of a treatment so disrespectful to the other branch of the Legislature? If they possessed the ordinary feelings of men, it could not be expected but that they would retaliate, and thus put an end to the business of the nation. Mr. E. said, he thought one or two of the observations of the gentleman merited some notice. He had remarked that the origination of this bill was a violation of the spirit, if not the letter, of the Constitution. Mr. E. said, he had supposed that all doctrines about the spirit of the Constitution were unfashionable at this day, and that the fashionable doctrine now was, to take that instrument as it stood, and construe it as it read. But he would examine the question. The Constitution had provided that all bills for raising revenue should originate in this branch of the Legislature. But was there not a substantial difference between the business of raising and that of spending money? And did it follow, that because the Constitution exclusively vested the right of originating bills for raising revenue in this House, it therefore confined the origination of bills for spending it to them likewise? Did not the other branch of the Legislature every day exercise the same power which had been used in this bill? What would follow from a contrary doctrine? That the other branch could not even originate a bill for erecting a light-house, or for fortifying our ports and harbors, or indeed any bill that required money to carry it into execution. And was it not a fact that four-fifths of our laws demanded the expenditure of money to carry them into effect? Another objection to the bill was, that it was brought before us without documents or information to show its necessity. And was that a reason for the course suggested by the gentleman from Virginia? Was it not, on the contrary, the best reason for waiting until they got information? Mr. E. said he thought it was the best possible reason for referring the bill to a select committee; and he trusted that this was the course the bill would be suffered to take.

Mr. Varnum said he certainly should not vote for the rejection of the bill on the grounds assigned by the gentleman from Virginia. He knew of no bills, except those for the raising of revenue, whose origination was exclusively confined to this House. He presumed, however, that the question would turn on another principle—whether it was proper to augment the peace establishment of the United States. At present we have 3,200 men, besides the corps of engineers, and this bill proposes to add to the present establishment 2,200, making in the whole 5,400. The question then, which presented itself, was, whether it was necessary to have this number of troops to garrison our several posts in a time of profound peace? For, he had no idea, that on every spur of the occasion, on every appearance of war, however remote, those who were attached to standing armies should crowd into the peace establishment an additional force, only necessary in case of an emergency. Even if there was a prospect of war with Spain, that would not furnish a sufficient motive for increasing our peace establishment. He trusted, however, that that event would not take place. He did not know any grounds for expecting it. It was true, the Spanish army had marched into the country we claim, and our troops had marched into the country they claim. The question in dispute was, the demarcation line between the two countries. If this should be settled by the two Governments he did not know of any cause of war between them. If it were not settled, he would ask gentlemen whether they were sure that the claim of the United States was so well founded as to justify the going to war? It might be the voice of the country to do so; and if so, Mr. V. said he would go with them in raising a sufficient force; but until this were decided, he believed it unnecessary to add to the standing force. He was the more inclined to be of this opinion, as he heard of no complaint, by the Executive Government; and as everything required by them of the legislative body had been done. It has been said that it is inexpedient on such occasions as had recently occurred, and on those which are likely to occur, to call out the militia. Mr. V. said he entertained a different opinion on this subject; and said that he believed it important that they should be called out, whenever there were any serious differences on our frontier. Such requisitions had a tendency to train them and to make them acquainted with service and subordination. He believed it had been useful to call them out the last year as well as this.

Mr. V. repeated that, until they determined on war, it was inexpedient farther to add to the standing force than might be necessary for garrisoning our posts. Whether the proposed mode was the best to decide on the merits of the bill, he did not know. But, if the minds of gentlemen were made up on the subject, it might be most eligible to express them promptly and decidedly. If, therefore, he voted for rejecting the bill, it would not be out of disrespect to the Senate, or from any doubt of their power to originate it, but on the grounnd that the measure was unnecessary.

Mr. Findley said he was not prepared at present with certainty to say that he should vote for the bill, with any modification that might be made to it. But he did not know that he had ever voted on a bill without its previously going through a

Committee of the Whole. And as in this case, one of the reasons assigned for rejecting it was a doubt of the power of the Senate, he could not agree to the motion. He recollected to have heard the following reasons assigned for the rejection of a bill in one branch of the Legislature, by a member who had been called upon to assign them: "You voted against our bill, I therefore voted against yours." Mr. F. said, although he might ultimately vote against the bill, he should be opposed to its rejection in this stage of it.

Mr. Lyon said he was not so alarmed at the idea of a standing army, as some gentlemen declared themselves to be. He doubted whether the United States would for a long time have an army so large as to be a fit object of fear. He said he believed it was owing to the prudence of General Wilkinson that we were not at war with Spain at this time. He firmly believed this would have been the case, but for his arrival on the frontier. He wished to know what hopes there were of being on good terms with Spain? He was not willing to sit down and say all was safe, when it was not safe—not that he dreaded anything from the insurrection that was so much talked of. He should vote for defensive measures in every form in which the subject was presented. Let those in power save the country, let them save its honor as well as its territory.

Mr. Smilie said he was so hostile to this bill, that he should vote against it in every shape, and at every stage in which it should be presented. He should, therefore, vote for its rejection on this occasion. He was not anxious as to the stage in which it should be rejected, provided it were ultimately rejected; nor was he prepared to say this was the best way of rejecting it. But as they must come to the question at last, and as he was decidedly of opinion there were no circumstances between the United States and any foreign nation, or any questions of an internal nature which required this step to be taken, he should certainly give it his negative. If he could think with the gentleman from Kentucky, that there was no danger to be apprehended from a standing army, even though it amounted to 40,000 men, he might feel easier on this subject. But he entertained a far different opinion. It was a singular circumstance, and Mr. S. said he believed it peculiar to this country, that a disposition on this subject existed in some gentlemen to outrun the Executive. Far different was the sentiment which prevailed in other countries. In England, for instance, the constant object of the Executive had been to get a standing force; but while the Parliament was independent, an uninterrupted struggle was kept up on this point with the regal power. Since, however, the Parliament became dependent on the royal favor, the Executive had only to ask, to get what forces he wanted. It was certainly a singular spectacle to see gentlemen in this country endeavoring to outrun the Executive in accumulating a military force. What is our situation? Are we at peace or in war? We are certainly at peace. It was true, there existed some uneasiness between our Government and that of Spain as to boundaries. Their troops had marched to maintain what they considered their boundary, and ours to maintain what we considered ours. Mr. S. said no information had come within his knowledge that justified the opinion, that the Spanish officer ever had orders for the march which he had made. But, be that as it might, the matter was accommodated by an agreement that things should remain in the state they were. What was our situation with the Spanish Government? There was a negotiation depending. Under these circumstances, are we, said Mr. S., called upon to raise an army? Is there any change of situation to justify it? Can there be any reason for such a measure, unless we mean to grant an army to provoke that nation to a rupture? For my part I do not know whether we are not indebted to the smallness of our forces for the conciliatory disposition which has prevailed. It is far from improbable that a mutual distrust of their strength produced an accommodation between both sides. But are we now disputing as to the extent of force which is necessary? No; the difference is as to its quality. We say that volunteers are sufficient. It is true, the gentleman from Connecticut tells us, that militia and volunteers are a broken reed, and that we shall be disappointed if we depend upon them. I know such ideas are very consentaneous with the ideas of some gentlemen. I, however, have no doubt that volunteers can be procured, and that they, in connexion with the militia, will be competent to every exigency of affairs. The same gentleman says, an additional standing force may be necessary to suppress insurrections. But if we have got to this situation, we may bid adieu to our liberties; we may abandon them, and submit to the humiliation of maintaining a constant standing force. But I trust in God, so long as our people are conscious of the happiness they enjoy, they will never be reluctant to lend their aid in support of the Government of their choice. I have no doubt that this will long continue to be the case. If, however, on the contrary, the ideas of gentlemen be correct, we must keep a standing force everlastingly, lest an insurrection should occur. Will gentlemen be good enough to recollect the means used in other countries to raise standing armies, and to keep them when raised? I have no fear of the existing standing force. I know it cannot endanger the liberties of this nation. But it is the principle of the bill to which I object. If in time of peace we resort to such a measure, are we not pursuing the same course that has been so wofully adopted by other nations? Look at the British Government. After the Revolution was at an end, the reduction of the army was proposed; the King opposed it; but there was interest enough to effect it. When Governments want a standing army, the universal cry is, that there is danger from this or that quarter. In 1715 the rebellion took place in Scotland, and the Parliament granted the King 4,000 men. When this rebellion was quelled, the Parliament thought it unnecessary to keep up this army. But the King said no; we have bad

men among us that require to be kept in check, and the army was not dismissed. Trace the whole history of this nation, from its beginning to the present day, and you will find the Government, on the pretext that is now urged, gradually increasing the standing army from 1,000 to 100,000 men. The same measure is now proposed, and, depend on it, if it is now adopted, it will form a dangerous precedent in future times, of which the friends of a standing army will not fail to avail themselves.

Mr. Gregg.—On this occasion I shall vote directly contrary to my colleague, though I shall not consider myself as pledged by that course ultimately to vote for the bill. I feel myself at a loss for information. The bill does not come accompanied by any documents whatever. The proper course, I think, will be to refer this bill to a select committee, to inquire whether there are any grounds for it, and to consult the head of the War Department, whether an increase of our present establishment is necessary. We have been frequently told on this floor that there is danger in the Western country; that the force stationed there is not competent to its defence. If this shall be found on examination to be really the case, I presume there will be no objection to raising the force which shall be judged sufficient. The Administration, finding it necessary to collect all the troops at one point, may render it expedient to raise a small body of troops in the meantime to do garrison duty, to supply the places of those despatched to the westward. I believe a committee was appointed on defending the Mississippi. If that committee has not reported in full, it may be the most proper one to refer this subject to. They may report a statement of facts which will throw light on the subject. But rejecting the bill in this stage without data, will be unprecedented in the House. For my part, I have never witnessed anything like it. I hope, therefore, the bill will either be referred to a Committee of the Whole, or to a select committee.

Mr. Cook.—I am opposed to the rejection of this bill for several reasons. I believe the doctrine of the gentleman from Virginia, that the Senate has not the power to originate such a bill, unsound; inasmuch as I believe they have a concurrent power with this House to originate all bills except for the raising of revenue. I also consider such a course as highly indecorous. I likewise consider the existing state of things as requiring some augmentation of the existing standing forces. If the present standing army was sufficient when it was created, I am of opinion that it is necessary at this time to increase it. On this question, therefore, I will give my vote, on the same principles as I would have done on the establishment of the present force, under the impression that our Military Establishment ought to increase with the increase of our territory. Indeed, I believe if we reflect that, in consequence of our new acquisitions, we have an increased number of vulnerable points, it would constitute an argument for augmenting the Army even beyond the increase of our territory. I do not, therefore, consider myself as being in favor of a relative increase of the Army, but as being only in favor of apportioning it according to the principle we have already established.

Mr. G. W. Campbell.—I will submit a very few remarks to the consideration of the House. I should have preferred that this subject had been permitted to have taken its ordinary course; but as a motion has been made to reject the bill, and it is necessary to give a vote upon it, I shall give that vote which I should have given, had the bill taken its ordinary course, and I shall consequently vote for its rejection. I shall do this under the impression that we have no evidence before us that shows the necessity of increasing at this time the existing Military Peace Establishment more than we had at the last session, when the opinion of the House was decidedly given against a similar measure. I wish to be understood as drawing a material distinction between an increase of the Military Peace Establishment, and the raising a force for any pressing exigency. If it shall appear that the country is in danger of an attack from a foreign Power, I am among those who will be in favor of raising a sufficient force to repel such an attack, and to maintain the dignity of the United States. But until danger arrives, or there shall be a declaration of war, I shall never be for increasing the Military Establishment. In the Message of the President we are told, "The result of our negotiations, or such 'incidents in their course as may enable us to 'infer their probable issue; such further move-'ments, also, on our Western frontier as may 'show whether war is to be pressed there, while 'negotiation is protracted elsewhere, shall be 'communicated to you from time to time, as 'they become known to me."

So far then as we may depend on information from the proper department, there is no foundation whatever, for increasing the Military Peace Establishment, or for raising any additional regular force. Since the receipt of the Message, has any information been received that the result of our negotiation with Spain is known? If gentlemen possess any such information, why do they not give it to us? But we are told of the rumors of war on the frontier. But I cannot think that gentlemen attend dispassionately to the existing state of things when they make this representation. The forces of Spain, we are told, are not authorized to infringe the rights of the people of the United States, or in any degree to act offensively. They have laid claim to a small tract of country, which the United States have taken possession of, and to assert this claim they have passed, what we call the boundary. But when they came to this boundary line, about thirty miles on the side of the temporary line fixed by our Government, (the interval between which lines is uninhabited,) they expressly declared they were not authorized to go further, or disturb the United States. And when mutual arrangements are made, in a spirit of forbearance and accommodation, between the commanders of the two armies, where can the danger

be of war? From her own declarations, Spain has no more right to attack our frontiers with her armies than she has to attack New York or Baltimore with her naval forces. And consequently, if it be necessary to raise a force to protect the frontier against the invasion of her army, it is equally so to defend the citizens of the Atlantic board against her navy. If you can put no faith in what she says, declare war; but until you do this, treat her as you would do other nations, and consider yourselves in a state of peace until you are actually engaged in war.

It has, indeed, been said, that the conspiracy which has occasioned so much conversation may be dangerous, and that we ought to have a military force to crush it. I did not, however, believe, that any man, who is the professed friend of a Republican Government, would vote for a standing army to put down conspiracies or combinations, and so awe the people into submission; such a force as shall intimidate our citizens from combining together, through fear, not of the civil authority, or the nation, but of the army. This I consider as infringing one of the most sacred principles of the Constitution, to wit, that the militia is to be relied on in all such cases. I cannot, therefore, believe that the House will countenance such an idea, as that a standing army shall be raised to overawe the people of the United States. I believe we may safely rely on the militia to suppress all combinations of this kind.

Mr. Elmer said he was opposed to the bill, and should finally vote against it. He did not believe that an augmentation of the army was necessary either to repel invasion or to suppress insurrection. But inasmuch as the bill under consideration came from the Senate, and it was decorous and proper to consider the subject, he was not disposed to a rejection of the bill. He thought it proper to inquire whether some increase of the existing Military Establishment was not necessary for garrison duty.

Mr. Lyon said, if he understood the gentleman from Tennessee, he had insinuated that he wished to raise an army to overawe the people. He had said nothing like it. He said he had no apprehension from the rumors to the westward.

Mr. G. W. Campbell replied, that in the remarks he had made, he had no reference whatever to the gentleman from Kentucky.

Mr. Lyon said he was in favor of an augmentation of the Army, in consequence of the extension of our territory, which presented a frontier of more than a thousand miles. He thought as highly of the militia as any man, but could they expect the militia of Massachusetts to march for the defence of Orleans? Let us, said Mr. L., talk rationally and act rationally.

Mr. Alexander.—After the time so unnecessarily taken up, as I think, in this discussion, and after the reiterated calls for the question, I shall make but a few observations. I shall give my vote in the negative on this ground. I do hold it proper that all the bills received from the other House should take their proper course; nor am I prepared at once to say, that some augmentation of the peace establishment may not be necessary. If on examination it appears to be necessary, I shall vote cheerfully for it. I apprehend that the country is not in a state of perfect tranquillity, though it is not in a state of war. But I shall at present forbear from entering into any of these considerations, satisfying myself with saying that I am in favor of treating the bill with respect.

Mr. T. Moore.—It is with reluctance that, at this late hour, I rise to offer my ideas on the subject. I shall confine myself merely to observing that I am opposed to the bill; but, from that respect with which I think the proceedings of the other branch ought to be treated, I am for suffering it to take the common course of bills in this House. I shall therefore vote against its rejection at present, but shall eventually vote against increasing the army, unless there shall appear to be an absolute necessity for it.

Mr. Bedinger.—I should not trouble the House, but for the observations of gentlemen that we ought to act in this case decently. In my opinion, we have spent the day decently. A petition was first presented to us, which we were told it was not decent to reject. It was determined not to reject it; it was read; and the gentlemen said it ought not to be referred, and the House determined not to refer it. Did not this amount at last to the same thing? And what is the language we now hear? Gentlemen come forward and tell us they are well aware of the dangers of a standing army, and they are against rejecting this bill which goes to create one. Let me tell them, that if they once get a corps of officers, it will not be so easy to get rid of them decently.

The yeas and nays were taken on the question "Shall the bill be rejected?" and stood, yeas 26, nays 95, as follows:

Yeas—Willis Alston, junior, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, William A. Burwell, William Butler, George W. Campbell, Elias Earle, John W. Eppes, James Fisk, Peterson Goodwyn, James Holland, David Holmes, David Meriwether, Gideon Olin, John Rhea of Tennessee, Jacob Richards, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith, Richard Stanford, Joseph B. Varnum, and David R. Williams.

Nays—Evan Alexander, Isaac Anderson, John Archer, Silas Betton, John Blake, junior, Thomas Blount, James M. Broom, Robert Brown, John Boyle, John Campbell, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, John Dawson, William Dickson, Theodore Dwight, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, John Fowler, James M. Garnett, Charles Goldsborough, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Kelly, Thomas Kenan, John Lambert, Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton., jun, Timothy Pitkin, junior, John Porter, John Pugh, Josiah Quincy John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, James Sloan, Samuel Smith, Henry Southard, Joseph Stanton, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Ordered, That the said bill be referred to Mr. J. Randolph, Mr. Chandler, Mr. Dickson, Mr. Gregg, and Mr. Van Cortlandt.

Tuesday, January 20.

Mr. Bedinger, from the committee to whom was recommitted, on the eighth instant, the engrossed bill to prohibit the importation or bringing of slaves into the United States, or the Territories thereof, after the thirty-first day of December, one thousand eight hundred and seven, reported an amendatory bill to prohibit the importation or bringing of slaves into the United States, or the territories thereof, after the thirty-first day of December next; which was read twice and committed to a Committee of the Whole on Friday next.

An engrossed bill to continue in force for a further time an act, entitled "An act to suspend the commercial intercourse between the United States and certain parts of the island of Saint Domingo," was read the third time and passed.

An engrossed bill to provide for surveying the coasts of the United States, was read the third time and passed.

The House resolved itself into a Committee of the Whole on the bill authorizing the erection of certain light-houses, and the fixing of stakes, buoys, and beacons, at certain places therein named. The bill was reported with amendments thereto; which were severally twice read, and agreed to to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to annex certain shores and waters to the district of Mississippi; and, after some time spent therein, the bill was reported with an amendment thereto.

Ordered, That the said amendment, together with the bill, be recommitted to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the Whole on the report of the Committee on the Public Lands, made on the thirtieth ultimo, who were directed by a resolution of the House, of the eighteenth ultimo, "to inquire into the expediencey 'of repealing so much of the act of Congress, of 'the twenty-third of March, one thousand eight 'hundred and four, as limits the time in which 'locations of Virginia military warrants shall be 'made;" and, after some time spent therein, the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That a further time of —— years, from the twenty-third of March next, be allowed for locating warrants granted by the State of Virginia to her officers and soldiers upon Continental establishment; and that a farther time of —— years, from the said twenty-third of March next, be allowed to return surveys on said locations.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee on the Public Lands do prepare and bring in the same.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia; and, after some time spent therein, the Committee rose and had leave to sit again.

Mr. Quincy observed that at common law the owners of vessels were responsible to any extent for the contracts of the masters, a principle which may in some cases be felt as a very serious evil. The English Parliament were so sensible of the evils of this principle, that in 1734, they restricted by statute the responsibility to the value of the ship and the freight; but that statute had not been understood to extend to this country. The principle of that statute is found in the laws of all the commercial nations in Europe. A suit has lately been instituted against a merchant of distinction to the amount of $25,000, for the conduct of a shipmaster in the East Indies; which suit has excited considerable alarm in Massachusetts. Mr. Q. proposed the following resolution:

Resolved, That the Committee of Commerce and Manufactures be directed to inquire into the expediency of providing by law how far the owners of ships shall be answerable for the acts of the masters and mariners.

The resolution was agreed to—yeas 63.

MISSISSIPPI TERRITORY.

The House again went into Committee of the Whole on the bill making a donation of land for building a hospital at Natchez, &c.

The section extending the right of suffrage to the citizens of the Territory, without the qualifications of a freehold, was again read.

Mr. Bidwell advocated this section on the ground of expediency, and defended it against the charge of being repugnant to the compact between the United States and the State of Georgia. He maintained that the stipulations of the ordinance for the Northwestern Territory were of two kinds; some of which could only be altered by the consent of two parties, while the others were alterable by Congress alone. The parties, contemplated by the ordinance, were the United States and the people of the Mississippi Territory, and not the United States and the State of Georgia; that, however, the stipulation, which bore on this case, was one which was revocable by Congress alone.

Mr. Early contended, on the other hand, that

the parties to the compact were the United States and the State of Georgia; and that its stipulations could not be altered without the consent of both. He said, he had no doubt, if application should be made to the State of Georgia, her consent would be cheerfully given to the modification proposed.

Mr. LATTIMORE maintained the same principle with Mr. BIDWELL.

Only fifteen members rising in favor of striking out the section, the motion was lost.

Mr. EARLY moved to strike out the first section, which applies a tract of land towards the erection of a hospital at Natchez

Mr. EARLY observed that, agreeably to the articles of cession by Georgia to the United States, it was stipulated that $1,200,000 should be paid by the United States to the State of Georgia, out of the first proceeds of the ceded lands that should be sold.

Mr. LATTIMORE enforced the propriety of the grant for an institution loudly called for, not on local but general considerations, as the city of Natchez was known to be resorted to by more emigrants from all other parts of the United States than any other place of its size. He also remarked, to show that the objection of the gentleman from Georgia was invalid, that a grant of these lands had been already made for the endowment of a university.

Mr. BLOUNT spoke in favor of the motion which was agreed to—ayes 43, noes 30.

The Committee then rose and reported the bill, which was ordered to a third reading to-morrow.

INDIANA TERRITORY.

The SPEAKER laid before the House a letter from William Henry Harrison, Governor of the Indiana Territory, enclosing certain resolutions passed by the Legislative Council and House of Representatives of the said Territory, relative to a suspension, for a certain period, of the sixth article of compact between the United States and the Territories and States northwest of the river Ohio, made on the thirteenth of July, one thousand seven hundred and eighty-seven; which were read, as follows:

Resolved, unanimously, by the Legislative Council and House of Representatives of the Indiana Territory, That a suspension of the sixth article of compact between the United States and the Territories and States northwest of the river Ohio, passed the 13th day of July, 1787, for the term of ten years, would be highly advantageous to the said Territory, and meet the approbation of at least nine-tenths of the good citizens of the same.

Resolved, unanimously, That the abstract question of liberty and slavery is not considered as involved in a suspension of the said article, inasmuch as the number of slaves in the United States would not be augmented by the measure.

Resolved, unanimously, That the suspension of the said article would be equally advantageous to the Territory, to the States from whence the negroes would be brought, and to the negroes themselves.

To the Territory, because of its situation with regard to the other States; it must be settled by emigrants from those in which slavery is tolerated, or for many years remain in its present situation, its citizens deprived of the greater part of their political rights, and, indeed, of all those which distinguish the American from the citizens and subjects of other Governments.

The States which are overburdened with negroes would be benefitted by their citizens having an opportunity of disposing of the negroes which they cannot comfortably support, or of removing with them to a country abounding with all the necessaries of life; and the negro himself would exchange a scanty pittance of the coarsest food for a plentiful and nourishing diet, and a situation which admits not the most distant prospect of emancipation, for one which presents no considerable obstacle to his wishes.

Resolved, unanimously, That the citizens of this part of the former Northwestern Territory consider themselves as having claims upon the indulgence of Congress in regard to a suspension of the said article, because at the time of the adoption of the ordinance of 1787 slavery was tolerated, and slaves generally possessed by the citizens then inhabiting the country, amounting to at least one-half the present population of Indiana; and because the said ordinance was passed in Congress when the said citizens were not represented in that body, without their being consulted, and without their knowledge and approbation.

Resolved, unanimously, That, from the situation, soil, climate, and productions of the Territory, it is is not believed that the number of slaves would ever bear such proportion to the white population, as to endanger the internal peace and prosperity of the country.

Resolved, unanimously, That copies of these resolutions be delivered to the Governor of this Territory, to be by him forwarded to the President of the Senate and to the Speaker of the House of Representatives of the United States, with a request that they will lay the same before the Senate and House of Representatives, over which they respectively preside.

Resolved, unanimously, That a copy of these resolutions be delivered to the delegate to Congress from this Territory, and that he be, and he hereby is, instructed to use his best endeavors to obtain a suspension of the said article.

The resolutions were referred to Mr. PARKE, Mr. MASTERS, Mr. RHEA of Tennessee, Mr. SANDFORD, Mr. ALSTON, Mr. JEREMIAH MORROW, and Mr. TRIGG, to examine and report their opinion thereupon to the House.

WEDNESDAY, January 21.

An engrossed bill authorizing the erection of certain light-houses, and the fixing of stakes, buoys, and beacons, at certain places therein named, was read the third time and passed.

A bill *authorizing a grant of land for the use of a hospital at Natchez,* allowing additional compensation to the judges of the Mississippi Territory, and extending the right of suffrage therein, was read the third time and passed—ayes 54, noes 31; and the title amended by striking out the words in italics.

Mr. TENNEY presented to the House a petition of sundry merchants and inhabitants of Portsmouth, in the State of New Hampshire, which was received, and read, praying that the duties due to the United States on certain goods, wares, and merchandise, consumed by fire in the said town of Portsmouth, on the 24th of December,

1806, may be remitted, and that the bonds given for securing the said duties may be cancelled; or such other relief afforded to them in the premises as to the wisdom of Congress shall seem reasonable and proper.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. J. RANDOLPH,

Ordered, That the Committee of Commerce and Manufactures, to whom was referred, this day, the petition of sundry merchants and inhabitants of Portsmouth, in the State of New Hampshire, be discharged from the consideration thereof; and, on motion of Mr. TENNEY, it was referred to the Committee of Ways and Means.

BENEFIT OF DRAWBACK.

Mr. EARLY from the Committee of Commerce and Manufactures, to whom was referred the petition of Gideon Lamson, made the following report:

The ship Doris, of which the petitioner was owner, received on board, at Philadelphia, in the month of June last, a quantity of sugar and coffee, intended to be shipped to Antwerp, for the benefit of drawback. Before the whole of the intended cargo had been put on board, it was discovered that the vessel had made considerable waste, and the sugar and coffee she had received were relanded. The sugar was damaged seventy-five per cent., and by the exporter was thrown upon the hands of the owner of the ship. It does not appear that the misfortune arose from any want of care or attention. On the contrary, the vessel had, immediately before she began to receive her load, been examined by a person of competent skill, and pronounced free from defect.

The memorialist prays, upon these facts, that the debenture on the sugar may be allowed him, or that such other relief may be afforded, as Congress may consider just and proper.

The committee know of no principle heretofore recognised by Congress, which would authorize a compliance with this application. To allow the debenture when the sugar has not been exported from the United States, would be, in the highest degree, preposterous. To afford relief, *in any way,* would be to make the Government of the United States insurers against individual losses. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petition of Gideon Lamson ought not to be granted.

The report was agreed to.

On motion of Mr. HOLMES,

Resolved, That the Committee of Claims be directed to inquire into the expediency of making compensation to the Governor, Judges, and Secretary, of the Indiana Territory, for extra services rendered by them in organizing the Government of Louisiana; and that they have leave to report by bill, or otherwise.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill for the relief of Edward Weld and Samuel Beebee; which was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. JEREMIAH MORROW,

Ordered, That the select committee to whom was referred, on the twelfth instant, a letter from Augustus B. Woodward, and others, appointed a committee by a convention of the inhabitants of the Territory of Michigan, held at Detroit, on the 26th day of November, transmitting an authenticated copy of the proceedings of the said convention, be discharged from the farther consideration thereof; and that the said letter and proceedings be referred to the Committee on the Public Lands.

The House resolved itself into a Committee of the Whole on the bill making a grant of land to certain refugees from the British Provinces of Canada and Nova Scotia.

After considerable debate, the Committee reported the bill, which was ordered to lie on the table.

THURSDAY, January 22.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill for the relief of the sufferers by fire in the town of Portsmouth, New Hampshire, which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LEWIS presented to the House a petition of sundry inhabitants of the town of Alexandria, in the District of Columbia, which was received and read, praying that an act may be passed to incorporate a company for the purpose of making a turnpike road from Bridgepoint, on Alexander's Island, opposite Maryland Avenue, to the north-eastern corner of the alms-house lot, and from thence, by a straight line, to the intersection of Washington and Montgomery streets, in the town of Alexandria; and for erecting a bridge over Four Mile Creek, upon such terms and under such restrictions as may be just and reasonable.—Referred to Mr. LEWIS, Mr. NICHOLAS R. MOORE, Mr. PORTER, Mr. BUTLER, and Mr. VAN RENSSELAER, to examine and report the same, with their opinion thereupon to the House.

On motion of Mr. DANA,

Resolved, That the Secretary of the Treasury be directed to lay before this House copies of the accounts containing the respective charges which have been adjusted by the accounting officers of the Treasury, in cases of public prosecutions, before the Circuit Court of the United States, held in the district of Connecticut, in the months of April and September, in the year 1806.

Mr. VARNUM, from the committee appointed on the twelfth instant, presented a bill providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against hostile Indians, in the year 1806, which was read twice, and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to alter the time of holding the Circuit Court in the district of North Carolina," to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to alter the time of holding the Circuit Court in the district of North Carolina," was read twice and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the report of the committee appointed "to inquire whether any, and if any, what, description of claims against the United States are barred by the statute of limitation, which, in reason and justice, ought to be provided for by law," made on the sixth instant; and, after some time spent therein, the Committee rose, and had leave to sit again.

A Message was received from the President of the United States, communicating information touching an illegal combination of private individuals against the peace and safety of the Union, and a military expedition planned by them against the territories of a Power in amity with the United States, with the measures pursued for suppressing the same.

[For this Message, see Senate Debates of this date, *ante*, page 39.]

The Message was read, and, together with the documents transmitted therewith, referred to Mr. John Randolph, Mr. Boyle, Mr. Jeremiah Morrow, Mr. G. W. Campbell, Mr. Roger Nelson, Mr. Clinton, and Mr. Bidwell.

The House resolved itself into a Committee of the Whole on the bill for the relief of Edmund Briggs. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

Mr. Claiborne presented to the House a petition of the President and Trustees of the Alexandria Academy, in the town of Alexandria, in the District of Columbia, which was received and read, praying that all escheats, arising within the jurisdiction of the court of the county of Alexandria, and all specific fines imposed by law, and not otherwise appropriated, arising within the same jurisdiction, may be applied in aid and support of the said academy.—Referred to Mr. Claiborne, Mr. Holland, Mr. Taggart, Mr. Covington, and Mr. Bard, to examine and report their opinion thereupon to the House.

The House resolved itself into a Committee of the Whole on the bill to extend the power of granting writs of injunctions to the Judges of the District Courts of the United States. The bill was reported with an amendment thereto, which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the motion of the eighth instant, making provision for carrying into effect a treaty made between the United States and the Chickasaw tribe of Indians, on the third day of July, 1805.

Ordered, That a bill, or bills, be brought in pursuant to the said resolution, and that the Committee of Ways and Means be instructed to prepare and bring in the same.

REFINED SUGAR.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures on the memorials of the sugar refiners. It was read, as follows:

The Committee of Commerce and Manufactures, to whom was referred the petitions of Edward Pennington and others, of Philadelphia, and Charles Garts and others, of Baltimore, sugar refiners, submit their report:

The petitioners are manufacturers of sugar in the United States, and request that the sugar refined by them shall be allowed a drawback on the exportation. The subject has been often before Congress, and a lengthy and detailed report was made by the Committee to the second session of the Eighth Congress, to which the Committee beg leave to refer, and request it may be considered as part of this report.

The opinion of the Committee is opposed to granting any additional allowance or advantages to the sugar refiners, for the reasons stated in their former report; and they respectfully offer the following resolution:

Resolved, That it is inexpedient to grant the prayer of the petitioners.

The reading of the former report was then called for, and the Clerk having read the same, Mr. McCreery spoke as follows:

Mr. Chairman—When the report which was last read was presented to the House, at a former session, it was referred to a Committee of the Whole, but, owing to a press of business, apparently of greater importance, it was not acted on. Notwithstanding that two lengthy reports have been made on this subject by the Committee of Commerce and Manufactures, and that I have generally stood alone in opposition to them, I must now presume to hope that a majority of this Committee, and among them the members of the Committee of Commerce and Manufactures, will ultimately agree to the desired modification of this branch of trade, when they come to understand the subject more perfectly, and shall be convinced that they have entirely mistaken the object of the petitioners. They neither ask nor desire any new duties or restrictions laid on the importation of refined sugars. They are willing, on the contrary, that the present duties on imported refined sugars, and on sugar candy, shall be made as low as Congress may deem necessary. All they ask is, that they may be allowed a reasonable drawback on the exportation of domestic refined sugar, made from foreign materials.

The objections urged in this report, are:

1st. That Louisiana sugar might be refined and exported.

2d. That imported sugar might be kept in store more than a year, and a drawback obtained afterwards.

3d. That the quantity of freight is diminished when the article is refined.

4th. That New England rum, cordage, canvass made into sails, and manufactured iron, are equally entitled to drawback, though not asked for.

As to the first and greatest objection, I answer that such an imposition is more easily guarded against than in any other species of goods, because we can have, besides the oath of the employer, that of the refiner also, and he is, in this, a disinterested person—but the quality of this sugar being much preferred for retail, renders this precaution less necessary—and besides these reasons, the public revenue can run no risk until a greater quantity of Louisiana sugar is furnished

to us than is consumed in the United States. For example, suppose our home consumption amounts to fifty million pounds of sugar, which I believe it does, and the same quantity to be furnished us by Louisiana, which pays no duty; and suppose that an equal quantity of sugar of foreign growth be imported, and pays a duty of two and a half cents per lb., and that a drawback is allowed on exporting the same. This quantity of fifty millions will certainly be re-exported, because it cannot be consumed, and will obtain a drawback of the duties paid on entry—so that, in fact, the revenue gains nothing by the importation or exportation of this one hundred million of pounds, save three and a half per cent. on the debentures granted on the part exported. I would, therefore, ask what difference it can make to us which half is consumed, or which exported? Sir, it makes none, and I contend that the revenue can run no possible risk in this business until the quantity of sugar imported from Louisiana exceeds our whole consumption. At present, the quantity we receive from thence amounts to about four millions of pounds annually. When it shall exceed our consumption—an event which I shall be proud of—we shall have little difficulty in guarding against the imposition apprehended.

I have often seen, sir, that when subjects of this nature are discussed on this floor, the first question with many gentlemen is, how will this measure affect our revenue? I acknowledge that this consideration should never be lost sight of, but must at the same time avow that it has always been with me a secondary one. The first, in my estimation, is how will it affect the people? If the people shall gain ten times as much as the revenue loses by a measure, he must be a poor financier who cannot supply the loss in another shape. But, I am ready to assert that not only the people but the Government also will benefit by the desired alteration. During the period in which a drawback was allowed on the exportation of domestic refined sugar, the erection of refineries increased to such a degree that at present, being in a great measure confined to home consumption, most of them are idle half the year. The amount of that article exported last year, was short of 140,000 lbs., by which, no doubt the nation benefitted about $7,000, being 2½ cents per lb. on the quantity of crude sugar employed; but, sir, if the refiners be allowed a reasonable drawback, the quantity exported would in all probability soon amount to three million pounds or more annually, and, allowing only one cent per pound to be retained at the custom house, leaves a revenue of $30,000. In addition to this consideration, sir, let me add, that where a people is confined to the supplying of its own consumption of any article, the manufacture of the article must ever decline. I cannot better illustrate this proposition than by quoting the instance of the late policy of Great Britain towards Ireland. The latter nation was not only allowed the free exportation of linens, but in some cases a bounty, yet in woollens were restricted to their own consumption. Everybody knows that the manufacture of the one, although obliged to import their seed, flourished to an extraordinary degree; whereas in the other, although good wool was always abundant, declined; and they purchased their woollen cloths chiefly from England, and for this simple reason, that the dread of making too much and the surplus perishing, they dare not make enough for their own use. Observe the price of coffee in the United States, compared with any and every other country that imports and consumes it; we have it infinitely lower than any of them, because our merchants are not afraid of having more than can be consumed; knowing that they can readily obtain a drawback of duty on all they re-export. And it is owing to a defect of this regulation in the case of sugar, that the price of loaf sugar is at this time higher, compared with the price of crude sugar, than it was during the existence of the excise law, when a drawback was allowed on the exportation.

We have in some years exported from fifty to sixty millions of pounds of crude sugar. Could all this have been exported in a refined state, the revenue might have benefitted much, and the manufacturer still more. It would have brought much more in foreign countries, and enabled the exporters to import so much more of other goods, which would still have increased our revenue.

There is yet another advantage of great importance to be derived: belligerents have undertaken to say that our exportation of raw sugars was in many instances for account of their enemies; therefore, had these sugars been exported in a refined state, such allegations would not have been made.

The circumstance of merchants holding imported sugars in their warehouses for more than a year must occur so seldom, that I am astonished how it could be thought of as an objection. It may happen that sugar of a bad quality cannot be readily disposed of; but there can be no danger of refiners meddling with it.

The next objection is still more unfortunate, for in place of diminishing freight, it actually augments it—for take a cask of raw sugar, and refine it, I defy you to put the loaves made from it into the same volume; therefore, as it takes up more room and pays freight by measurement, while the crude sugar pays by weight, the ship owner is benefitted.

The argument that because a drawback is not allowed on rum, cordage, canvass, and iron, though not asked for, there ought not on sugar, is a curious one.

A drawback was allowed on rum when sugar was admitted to it; and why the distillers do not apply for it again, I know not. I do believe, though I am not certain of the fact, that a considerable part of what is commonly exported, goes to the coast of Africa; where it is not easy to procure the documents necessary to obtain the drawback. If a drawback on this article should hereafter be applied for, and it can be made appear that it is beneficial to commerce, I shall, for my part, have no objection to grant it.

The manufacturers of cordage will scarcely

apply for an indulgence of this sort; the duty on imported hemp being only one cent per pound, and one pound of hemp making two pounds of tarred rope, renders the object too trifling.

To allow a drawback on imported canvass made into sails, would be attended with much difficulty, and must cause a deviation in some respects to rules laid down, and in practice at the custom-house.

The quantity of nails and spikes exported in one year is so small, that a reasonable drawback allowed on that article would amount to a very few thousand dollars, and will not, until the manufacture shall increase very much, be asked for.

However, sir, as the House is now very thin, and probably will not come to any decision on this measure until we have further information, I move you that the Committee now rise, in order that the petitions and report on this subject be referred to the Secretary of the Treasury, that he may report thereon.

Mr. Early hoped the Committee would not rise for the purpose proposed; he was against any further reference of this business, on which so much time had already been spent, as it had been before the House for a number of years, and he did not think that any new light could be thrown on the subject.

The Committee rose, and leave being asked to sit again, it was resolved in the negative.

Mr. Early moved that the House concur with the resolution of the Committee of Commerce and Manufactures.

Mr. Varnum spoke in favor of this motion, and the question being put, that the House do agree to the said report, it was carried in the affirmative.

Friday, January 23.

Mr. Aleton, from the committee appointed on the second instant, presented a bill making compensation to Messrs. Lewis and Clarke, and their companions; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. Varnum, the letter from William Eaton to the Speaker, together with the accounts and documents accompanying the same, presented to this House on the seventeenth of March last, were referred to the Committee of Claims.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of amending the eighty-ninth section of the "act to regulate the collection of duties on imports and tonnage," and extending the provisions thereof to cases of seizure, under the laws relative to the navigation and commerce of the United States; and that they have leave to report by bill or otherwise.

An engrossed bill for the relief of Edmund Briggs was read the third time and passed.

An engrossed bill to extend the power of granting writs of injunctions to the Judges of the District Courts of the United States was read the third time and passed.

NATIONAL DEFENCE.

The House resolved itself into a Committee of the Whole on the report of the select committee, on such parts of the Message of the President as relates to the fortifications of ports and harbors.

The resolutions reported by the committee were read, as follows:

Resolved, That a sum of money, not exceeding —— dollars, be appropriated to enable the President of the United States to cause our fortifications to be improved and repaired.

Resolved, That a further sum of money, not exceeding —— dollars, be appropriated to enable the President of the United States to cause to be built a number of gunboats, not exceeding ——, for the better protection of our ports, towns and rivers.

Mr. Mumford.—Mr. Chairman, I rise to make a motion to which I am impelled from the strongest conviction on my mind, that it is of primary importance to the peace, the honor, the safety, and the welfare of this nation, we should adopt some more efficient measures in defence of our own sea-coast. It is no doubt within the recollection of every member of this Committee, that in the month of April last, a most unwarrantable outrage was committed against the peace and dignity of the United States, within your own jurisdiction, by the commander of a certain British ship of war, called the Leander, who, in open contempt of your laws, and the violation of the laws of nations, did actually commit murder on one of your own citizens, within your own limits, near the port of New York, without provocation on his part, when in the lawful prosecution of his business.

However difficult it may be, notwithstanding our earnest desire to devise some more effectual means, which I hope will soon take place, to relieve a worthy class of our citizens from the cruel bondage and the lacerating whip of a man-of-war, is not this humiliation sufficient? Must we still be called upon to drink up the dregs? Will the United States submit to the humiliating degradation of having its own citizens murdered within its own limits, without making an effort and taking such strong ground as will prevent in future the repetition of the like crimes? No, sir, this nation will not submit to it. Sir, we have had insult added to injury, and notwithstanding the Cambrian frigate has been denied the rights of hospitality by the President's proclamation, in consequence of her participation in the murder of one of your citizens, yet a few days ago it appears another of your citizens has been seized by the commander of that frigate with force of arms, and threatened, at the peril of his life, that if he did not safely conduct that ship, contrary to the laws of his country, from Cape Henry into Hampton Roads, he would blow his brains out. She did arrive in Hampton Roads, and there replenished with a fresh supply of provisions, in order the more effectually to annoy your commerce, and add new insults to your citizens and to your Government.

I do not wish to excite alarm nor irritate this nation against any foreign Government on earth; my wish is to cultivate peace and friendship with them all on honorable terms. But I never will consent to do it at the expense of the honor, the safety, and the welfare of this nation. And I hope we shall, in justice to ourselves and the duty we owe our country, pursue such prompt and efficient measures as will more effectually protect our own sea shores. Impressed with these sentiments, and in order to prevent a repetition of the like offences in future, and to aid in carrying into execution the proclamation of the President of the United States, dated in April last, I beg leave to move the following amendment to the first resolution:

"And also to enable the President of the United States to equip, man, and maintain so much of the present naval force of the United States as he may judge proper.

Mr. Clinton.—I rise to second the motion of my honorable colleague. I am not in favor of expensive navies or standing armies. I am not certain whether, under existing circumstances, it is necessary to augment the former; but I am clearly of opinion that we should employ the force we possess in the defence of the country, and the protection of its lawful commerce. I well remember the sensation excited by the murder of Pierce. It was a glow of patriotic fire that pervaded the whole community; from Georgia to Maine it was felt like an electrical shock. Even the news of the death of Washington did not produce a more solemn effect. The want of a naval force was then severely felt, but there was no effectual power vested by the nation in the Executive to arm a single additional ship. Because we cannot meet the whole navy of Great Britain on the ocean, is it a reason that we should have no navy at all; that we should have no force of that kind to chastise marauders and pirates, and to protect our commerce and defend our ports? If we must have a navy—small as it is—let us employ it for its true design. If we have no need for a navy let us abandon it at once. I am willing to meet gentlemen on this ground. As to fortifications, it will be time enough to speak to that part of the resolution when it comes under debate.

Mr. R. Nelson said he did not know that he had any objection to the amendment; he had not made up his mind with regard to its propriety. He could wish, however, to see the blank in the first resolution in the first instance filled. If it should be filled up with a large sum, having an eye particularly to the defence of the port of New York, he should not be in favor of the amendment. He also thought the amendment would be, with more propriety, offered to the second resolution, as the first related solely to fortifications. He hoped the gentleman would inform the Committee with what sum he proposed filling the blank in the first resolution. Had it not been for the motion under consideration, Mr. N. said he should have moved to fill it with $20,000. He found that Congress had appropriated last year the sum of $150,000. From the letter of the Secretary of War, it would be seen that of this sum not more than $40,000 had been expended, and that the balance remained to be applied to the fortification of our ports and harbors. In conversation with the Secretary, Mr. N. said, the Secretary had informed him that this balance was as large a sum as could be advantageously laid out during the ensuing year; but that a sum of fifteen or twenty thousand dollars might be necessary as a contingent fund.

The Committee divided on the amendment offered by Mr. Mumford—yeas 46, nays 50.

Mr. R. Nelson moved to fill the blank in the first resolution with "$20,000."

Mr. Cook proposed "one million."

Mr. Mumford proposed "$500,000."

The motion to fill the blank with one million was disagreed to—yeas 12.

The motion to fill the blank with "$500,000" was then put.

Mr. Mumford.—However I may regret the loss of my amendment, I am conscious of the rectitude of my conduct, and having discharged my duty, I submit to the majority, in full confidence that we shall now pursue a magnanimous and liberal policy in the protection of our ports and harbors; and while I am disposed and willing, with a liberal hand, to extend the arm of national defence to our Western and Southwestern frontiers, I do hope the younger branches of the same family will not be unmindful of the good old thirteen United States. The importance of this subject, sir, strikes my mind in a very different point of view from some gentlemen. I consider it of serious consequence to the nation, both in relation to our foreign and domestic enemies. Sir, I do not know of any nation in the annals of history that ever neglected to protect their ports and harbors, especially when in a similar defenceless situation we now find our own. Their invariable system has been the defence of those cities which receive in deposit the productions of agriculture, commerce, and manufactures. Look to Constantinople, to the ports in Italy, to Cadiz, to Lisbon, to the whole coast of France, to Copenhagen, and to Great Britain. These nations, from time immemorial, have deemed it of primary importance to extend the arm of protection to all their ports and harbors. If the experience of ages has convinced them how essential it is to secure these places from the surprise of an enemy, however we may disapprove of their mode of Government, I do hope we shall approve and adopt their systems of defence, at least so far as they are applicable to our ports and harbors. What is the situation of our ports? Look at Charleston, South Carolina. I will take the liberty to read a communication from the Governor of that State to the Secretary of War, accompanying a Message from the President of the United States, dated February 3, 1806.

Executive Department,
South Carolina, February 3, 1806.

I herewith transmit, that it may be laid before the Executive of the United States, the copy of an act of the Legislature of this State, ceding various forts &c. to the United States. I feel it incumbent on me to state, that such is the situation of the forts in Charleston harbor, that the only gun which can at this moment be fired is a four pounder, the carriages of the heavy pieces that are mounted being so decayed as not to admit of the use of one of them; the walls, platforms, &c. are either in ruins or fast approaching that state, from

the mere operation of the tides; and that this place is absolutely defenceless against any trivial force by sea.

The harbors of Beaufort and Georgetown are entirely without fortifications of any kind.

Under these circumstances, I console myself with the hope and expectation, that a speedy interference of the General Government will follow this act of cession. I beg leave to assure you, that I shall be happy to be aiding to the utmost, in effectuating the purposes contemplated therein, by any information or other means which may be in my power. I am, &c.

PAUL HAMILTON.

To the SECRETARY OF WAR.

Savannah, Wilmington, Norfolk, and many other ports in the United States, I believe, are not in a much better situation, even at this day.

What is the situation of the port I have the honor to represent? Sir, it is peculiar, from various circumstances. Nature has partly defended Savannah, Charleston, Wilmington, and Philadelphia, and many other ports in the United States, by sand bars, shoals, and rocks in their harbors and rivers. Not so with that port, only twenty-seven miles from the sea, almost in a direct line, carrying up twenty-four feet of water and no obstruction. In the Winter season, when the Delaware and the Potomac, and Patapsco, are frozen, the Hudson is open to the city of New York, no hindrance to the passage of ships of any burden. Thus we are exposed Winter and Summer to the insult of the first marauder that chooses to lay us under contribution. We do not expect the United States will construct fortifications similar to those of Gibraltar; but we do hope such measures will be pursued as to place all the ports and harbors of the nation in a respectable state of defence—that defence should be solid, durable, and proportionate to the end desired.

Can we take the responsibility on our own shoulders in neglecting to defend an exposed part of our country, wherein is centered, in so small a compass as the city of New York, upwards of ninety millions of property? Not only that city, but the whole Union would feel the shock. The States of Georgia, South Carolina, North Carolina, Virginia, and the States adjoining the State of New York, are materially interested in the fate of that place; the amount of property deposited there from those States, chiefly the productions of our own soil, cannot be less than ten millions per annum. Sir, I should wish to know if the revenue of the United States deposited there is not an object worth defending? What would be the consequence, should that city be laid under contribution? Why, the bankruptcy of your merchants, and their total inability to pay your custom-house bonds, one being security for the other; and they all being plundered by the enemy, will render it impossible for them to pay, however anxiously they may be inclined to support that reputation which they consider coeval with their existence.

Do gentlemen expect the United States money would have an ear mark on it—"millions for defence, not a cent for tribute," and that it would receive a peculiar protection? No, sir, the enemy would make no distinction—money he must and would have.

Whatever may be the objections of some gentlemen to the wooden walls of a navy, and however we may differ on that point, on which I think there cannot be a dissenting voice—I mean the defence of our own shores, an inheritance purchased at the immense sacrifice of the blood and treasure of our ancestors; and I do hope we shall transmit it inviolate to the latest ages: I hope we shall ever be united in one sentiment, in the defence of our own shores. The present state of Europe and our own safety demand it of us, as a duty we owe to ourselves and to our country.

Sir, I contend we have a just claim on the General Government in common with the other States, for the protection of the port of New York; when we entered into the national compact, we surrendered in full confidence our peculiar local situation for the common defence, and to promote the general welfare of our country—not doubting in the least but that we should of course receive that protection we are justly entitled to, and I cannot but persuade myself, that when gentlemen take into view the magnitude of the object, they will vote a liberal appropriation, subject to Executive discretion. I am not only speaking the language of New York, but the constant language from Maine to Georgia.

This is not a new subject, sir; it has been the constant solicitude of the inhabitants not only of New York, but of these old thirteen United States for the last fifteen years of European war. They have relied on the assurances of peace repeatedly given them, and concurring in opinion that it was of consequence to redeem the national debt, they quietly, though with unfeigned anxiety, have waited the favorable moment when the finances of their country should become adequate to that end. The happy period having arrived, and strong in the consciousness of right, and in the sentiments of freedom, convinced that they have performed towards the Union all the duties of faithful citizens, they claim in return that great duty of all Governments, protection.

Mr. SMILIE.—I agree with the gentleman from New York, that if we could, we ought to render the ports and harbors of the United States, invulnerable to any enemy. But if nature forbids this, can we effect it? The gentleman informs us that our Treasury is overflowing, and that the happy moment has arrived for accomplishing this important object. But does not the gentleman see that to adopt the course he recommends would be to proceed blindfold in this business? If he really believes it practicable to fortify the port of New York against the attack of an enemy, and it is true that we possess the means of doing it, what ought to be our first step? Surely to appoint a qualified engineer to examine the harbor, and to decide whether its fortification be practicable, with instruction, if he thinks so, to report a plan, and an estimate of the sum required. This appears to me indispensably necessary before we make a grant of money. From what I have heard from the best judges, I am inclined to think that it is impossible to defend the harbors. At any rate I do not perceive any great reason for anxiety beyond that which has existed for several years. We are not at present threatened with war. On the contrary, the nation, of whose injuries we have had the greatest reason to complain, is in treaty with us, and manifests an amicable disposition towards us. I am, therefore, of opinion that there is no danger at present; and I consequently think it would be unwise to arrest the discharge of the national debt, and apply large funds to this object, without any evidence of its utility. I have no objection to go as far as the Government thinks proper in the building of gunboats. But I think a large appropriation for fortifications would at this moment be objectionable. I believe the whole revenue of the United States would prove inadequate. For these reasons I am opposed to the amendment.

Mr. R. NELSON.—I cannot agree to fill the blank with so large a sum, and for this reason: We have been told by the Secretary of War, who must from his situation be considered as the best acquainted on this subject, that, although we should appropriate ten millions, the unexpended balance is as much as can be advantageously used during the ensuing year. This being the case, it is altogether unnecessary to inquire into the expediency or practicability of fortifying our ports and harbors from Maine to Georgia; as, if the thing were practicable, and we had the means, more than is already appropriated could not be advantageously expended. Let us for a moment examine the arguments of gentlemen. They have referred to the course pursued by other nations. They have told us that every other nation has fortified its ports and harbors, and has kept up great armies for its defence. What is the consequence? Their people are reduced to beggary and want. Rather than see the people of this country placed in the same calamitous condition, I would prefer beholding all the towns in the United States prostrate.

I recollect that in the year 1776 it was considered good policy to defend the city of New York. For this purpose troops were stationed on Long Island, on Staten Island, and on the island of New York. What was the consequence? The flower of our army was destroyed, without answering any valuable purpose.

Look at Charleston. It was also deemed politic to defend that city; and the whole Southern army was thrown into it. The whole army was either destroyed or made prisoners.

So it will be in all instances of a like kind, whenever we shall be engaged in a contest with a foreign Power, possessed of a large naval force; the garrison we may throw into a town will be destroyed. It becomes us, if we are wise, to pursue a different policy. When the enemy comes, let them take our towns, and let us retire into the country. There we can meet and defeat them. But if we waste our strength in an ineffectual attempt to defend our towns, after having lost our best troops, we shall be obliged at last to take refuge in the country.

Now, as to the port of New York, ten millions of dollars would not make it invulnerable to the attack of eight or ten ships-of-the-line. But suppose they did. Would not the enemy land their troops in the rear of the fortifications, and then where would be their utility? If we could oblige the enemy to come directly before our fortifications, they might be of some avail. But they will be too cunning to expose themselves unnecessarily to danger. It appears to me to be the most preposterous thing on earth to appropriate $500,000, when we are told that the sum of money already in the hands of the Government is as great as can be advantageously expended in the course of the present year.

Mr. CLINTON.—I do not rise to answer the arguments of the gentleman from Maryland, because I conceive them to be *unanswerable*. I can see no point in them. But I rise for information—to know of that gentleman whether he has received any estimate from the Secretary of War of the sum required to fill up the blank. If the Department of War be possessed of such information, and has formed the plans ascribed to it, I should wish them to be known, that the representatives of the people may not incur that responsibility which otherwise might be attached to them. I do not, however, mean by this intimation to express the least doubt of the good conduct of that department of the Government.

[The letter of the Secretary of War was here read, at the instance of Mr. CLINTON.]

Mr. COOK observed, that when a motion had been made for the increase of our small Navy, they had been told that we were a land animal, and ought to adopt measures for our defence on our own terra firma. He said he should not have risen on this occasion but for the monstrous doctrine avowed by the gentleman from Maryland. Are we, said he, when an enemy attacks our towns, like the Indians of our country, to burn our wigwams and fly for safety! Mr. C. said this appeared to him a perversion of the true principles of justice, economy, and policy. It appeared to him to be necessary to defend their seaports, in proportion to their magnitude and riches, and to the revenue derived from them. Now, it was a fact that nine-tenths of the whole revenue of the United States was collected in or near the towns. The House had recently repealed the act laying a duty on salt, the consequence of which was that the remaining duties fell the heavier on the seaport towns.

What will the nations of Europe think of us, said Mr. C. if we pursue this conduct? If we shall be involved in a war with either of them, what have they to do, but to send a few small schooners to attack our towns, under the assurance that we will make no resistance to their pillage and destruction? I hope this absurd sentiment is not entertained by many members. I hope the House will fill the blank with a liberal sum—with the sum of $500,000

Mr. MUMFORD.—Sir, I was well aware that the gentleman from Maryland would inform us what says the estimate from the Secretary of War. Although I have as much respect for that officer as any man, and have the fullest confidence in his integrity, economy, and distribution of the public

money appropriated to that department, yet I presume he is not infallible. For my part, I differ essentially with him in relation to the defenceless situation of our seaboard from Maine to Georgia, which I consider as much exposed as the Western or Southwestern frontiers. When I have been called upon to vote supplies for those exposed parts of the Union, I have done it most cheerfully, presuming the same measure would be dealt out to all the vulnerable points of exposure in the nation. According to the doctrine of some gentlemen, it would appear that we soon shall have nothing to do but to assemble, and like the old Parliaments of France, enregister whatever edicts the heads of departments may please to present us. I am a plain republican, seeking neither office, nor courting popularity, firmly attached to the principles of freedom, and to what I conceive to be the true interest of my country. I shall exercise my own feeble judgment in pursuing such measures as I think may secure our common country against the inroads of foreign and domestic enemies; and, viewing the importance of more effectually defending our seashores (ports and harbors,) and considering it equal in importance to other vulnerable parts of the Union, especially in regard to our relations with Spain—for we cannot say how soon we may be called upon to defend our own firesides—I cannot, I will not, any longer bear on my shoulders the burden of that high responsibility. I do therefore hope the Committee will agree not to strike out.

Mr. TRACY.—There appears to be a very great difference of opinion in the minds of this Committee respecting the sum with which this blank ought to be filled. The sum of $10,000 and the sum of $1,000,000 have been mentioned. Between wise men, is it not extraordinary that such difference should be discovered! I wish the blank to be filled with $500,000. The gentleman from Maryland has informed us, that an application has been made of only a part of the appropriation of last session. This is one reason why I wish a large sum appropriated at this time. I feel confident the money will not be squandered away in a useless manner. It is, that the President may have the money at command, if it becomes necessary to make use of it; and if there is no reason for applying all the appropriation, the money will lie safe in the Treasury. Besides, I really yet hope some amendment will be made in the report, similar to the one proposed by my colleague, by which the President will be enabled to arm, equip, and keep in actual service, if necessary, all the gunboats and frigates. The circumstances of the nation are in many respects essentially altered since the last year, and at this important crisis we cannot exactly ascertain how great a sum will be necessary to meet the exigencies of the year ensuing. The gentleman from Maryland has very cautiously informed us, that the city of New York cannot be fortified, unless at an enormous expense, that the very attempt would be to set a trap for our own troops; therefore, if an enemy should come, it would be better to retreat into the country. In answer to the gentleman, I would inform him that we do not expect the United States to fortify New York with walls of brass and brazen gates, like Babylon. But the citizens of that important commercial city feel that they have a just right to claim from the Government some protection, some kind of fortifications, which will serve to obstruct the approach of a naval force for a time, that they may have at least a few hours to collect and carry with them their most valuable property in their flight. The property at this moment exposed is valued at more than one hundred millions of dollars. So great wealth was never before, by any nation, left unprotected. If the members of this House are determined to withhold the defence of the citizens, and of the property of the citizens of New York, merely as private property, then I call on them to defend their own property. Yes, Mr. Chairman, property of the United States to a great amount is exposed, and on the Representatives devolves the duty of making such appropriations as will enable the Executive to preserve the wealth and resources of the nation. The property of the United States in the city of New York is calculated from four to six millions. This amount of public property is exposed, for if the property of individuals, who owe the Government, is taken from them or destroyed, they cannot fulfil their engagements with the public. The very circumstance of leaving so much wealth in the defenceless situation in which we now find it, seems to invite aggression. It is a lure to any naval Power to attack us. The quantity of specie in the banks of New York and other seaport places, at all times, is an inducement to the freebooters of the ocean, of any nation, to fall upon such places, and lay them under contribution, or rifle the banks. I would call the attention of this Committee to the situation of New Orleans. Here we find the conspirators in our own country calculating upon the money in the banks to enable them to carry on the enterprise. Had they succeeded in seizing the bank of New Orleans, is it not probable that these same conspirators might have fitted out an armament sufficient to have laid New York under contribution? Considering the imminent danger of many of our seaports, in their defenceless situation, I sincerely hope the Committee will consent to fill the blank with $500,000.

The motion was disagreed to—38 to 65.

Mr. MUMFORD then moved to fill the blank with '400,000.'

This motion was disagreed to—37 to 66.

Mr. MUMFORD then proposed '300,000'—Disagreed to—ayes 36, noes 58.

Mr. COOK proposed '250,000.'

Mr. SMILIE said he sincerely wished the gentlemen would inform the House what kind of defence they desired. Last session a large sum had been appropriated for building gunboats. He still considered this species of defence the most consistent with their means; and that the money granted for the fortification of ports on the present plan would be so much money thrown away. He believed all they could do at present was to increase the number of gunboats.

The question was then taken on filling the blank

with '250,000,' which was disagreed to—ayes 37, noes 69.

Mr. THOMAS said he rose to move that the blank be filled with one hundred thousand dollars, and he hoped the Committee would consent to fill it with that sum. He had not voted for the large appropriations which had been moved by several gentlemen, because he thought it was asking too much at this time; it was also unnecessary, because it was much more than could be expended to advantage, in one year; but he did hope that the Committee would agree to fill the blank with one hundred thousand dollars. He said the port of New York was, confessedly, the most important port in the Union, and it was by far the most vulnerable—it was therefore at this point, no doubt, the greatest part of any appropriation which should be made would be expended. It has been urged, as an objection to appropriating any considerable sum for this object at this time, that there is a large unexpended balance of the appropriations made at the last session; but the reason why a greater sum was not expended at that port, during the last summer, must be obvious to every one who had inquired into the subject. It was midsummer before the Secretary of War was able to complete a contract with an engineer and workmen, after which it was found necessary for the contractors to erect temporary buildings, which they were allowed to do on the public ground, for themselves and workmen to live in while they were at work; before this was done the greater part of the season was spent; but every thing is now ready to progress with permanent fortifications there, provided we afford the means. There is no question but that much more money will be expended to advantage, at that place, the next summer, than the unexpended balance of the former appropriation, if we authorize it, and he trusted we should—that the appropriation of this reasonable sum would not be refused. There have been, said he, several plans for defending that port, presented to the public, by sundry engineers, and which, he understood, were also submitted to the Executive, with estimates of the expense, some of which do not exceed $300,000. Provided we afford the means of progressing with works for the effectual defence of that port, there is no doubt but that the head of the War Department will adopt some of those plans, or form one from the whole, and proceed upon it, besides there can be no possible disadvantage resulting from an appropriation a little larger than would be expended in one year. We all know that the unexpended balance of any appropriation after a given period passes to the surplus fund, while on the other hand a real inconvenience may result from an appropriation too small; in this case the workmen must be discharged, perhaps in the middle of the season, everything stopped, and any contract, however advantageous, which may be entered into, given up.

Mr. Chairman, said Mr. T., we have heard great complaints, from citizens of the city of New York, on this subject, and we have heard, both out of doors and in the House, the present Congress charged with illiberality, and a want of due regard to the interests of the people of that city. I am far from joining in this charge—I think it an unjust one. I find, on examination, that the whole amount expended on fortifications, at that port, by the General Government, previous to the last session, was $100,025. Although we were threatened with a war in 1794-'95 by England, and were threatened, or were actually in a state of war with France in 1798-'99, notwithstanding this state of things, this sum was the whole that was allowed to put that port in a state of defence; while the present Congress, at the last session, did appropriate $150,000, the greater part of which was intended, and is in a train of expenditure, in fortifications, at that port. But, while I am willing to allow you full credit for the liberal appropriation made at the last session for this subject, I do hope and trust that you will continue to merit the same approbation, from all candid and impartial men, by filling this blank with one hundred thousand dollars.

Mr. HOLLAND said, he felt no hostility to New York, or any other city of the United States. He had, however, voted against filling the blanks with the sums that had been proposed, from the impression that they were not susceptible of fortification from the attacks which might be made from without. On this ground he was against going to any great expense for the fortification of this or any other port, and should therefore vote against the present motion.

Mr. N. WILLIAMS—When I look around me upon this floor and view the apathy and calm indifference that seems to pervade the Representatives of the nation, my heart is filled with the deepest apprehensions. From the course the business before us has taken, sir, I apprehend that we shall never rise into action, until roused by some dreadful disaster. Nor indeed do these fears appear to be without a foundation, when we have upon this subject, from various quarters of the House, such peculiar objections and extraordinary propositions. On the one hand, the gentleman from Maryland tells us of the expense of defending our seaports and towns; and proposes in order to avoid it, that we should retreat in case of danger, with our families and valuables, back into the tobacco fields and behind the mountains! While another on my right, tells us of the impossibility of erecting fortifications to defend New York; and tells us, also, that he will never consent to enter into measures of defence in time of peace. When we hear opinions and propositions like these, coming from sources so highly respectable, let me ask, whether there is not some cause for alarm? Would gentlemen consider seriously of the importance of the city of New York, with respect only to the wealth and commerce, and of its present exposure and defenceless situation, I am induced to believe, that this subject would not be treated so lightly. When the gentleman from Maryland speaks of the measures of the last session upon the subject of fortifications, he seems to have fallen into a very great mistake. He supposes that Congress intended, by granting the pitiful sum of one hundred and fifty thousand

dollars towards fortifications, to adopt the plan of erecting new works. And then he observes, that the Secretary of War has not been able to expend more than one-third of the money appropriated; and infers that it will be folly to grant more money when it cannot be expended. It will be recollected, however, by all who were present, when the appropriation was made last year, that it was expressly avowed by the honorable chairman of the committee, (Mr. Dawson,) which reported the bill, that they had nothing but the reparation of old works, and to provide arms and ammunition for whatever place they might be wanted. This is probably the reason why no more of the money appropriated is not expended. On any other grounds it is to me unaccountable.

But, sir, it seems that whenever a plan of this kind is proposed in this House, we are to be met constantly with the cry of expense. And now, when the sum to be granted is whittled down to almost nothing, the same plea is presented to us, of expense. It appears from a report presented to this House by the Secretary of the Treasury, that after paying the sum of about $8,000,000, for the interest, and towards the principal of the national debt, and leaving an ample sum for the current expenses of the Government, we shall have not far from $2,000,000 in the Treasury at our disposal. Instead of devising new and extraordinary ways and means for getting rid of the public money, to me it would appear better, I confess, and more to the honor of the nation, to apply it in placing our cities and seaport towns in a state of safety—in defending them, at least from the assaults of the most insignificant squadrons that sail upon the ocean. Here, too, we are met by the gentleman on my right, (Mr. Smilie,) with a most formidable objection. Expend what you will, according to his opinion, it is impossible to erect fortifications that shall prove sufficient to defend the harbor and city of New York. He calls upon us for a plan, and tells us, that if it can be defended, to produce our plan. I do not pretend, sir, to be very wise upon this subject myself; but I have been told that the ablest engineers have examined the position, and have given it as their opinion that an effective mode of defence is practicable. But if defence is impossible, I call upon the gentleman to show wherein the peculiarity of the situation of that place consists, to render it so. For surely the pretence of impossibility would not be made use of here, unless the city and harbor of New York were different from all other places in the world that were ever defended. But have we no plan? I trust the gentleman who urges this against us, will call to mind, upon reflection, that a plan has been presented and laid upon his table—drawn up as we are told by a reputable citizen of New York—according to which, that city and harbor may be defended at an expense not to exceed $200,000. The truth is, that there seems to be an hostility against the adoption of any plan. Suppose, however, it should be conceded, that no plan can be devised, to render New York perfectly secure against the hostile assaults of an enemy, is it therefore, certain that nothing can be done to render the lives and property of its citizens more secure? Can nothing be done, better to enable some of the citizens to arrest the assaults of an enemy, while others with the women and children, and a few moveables, are running away to the mountains? There are two or three excellent regiments of artillery in the city of New York; these men would do their duty no doubt, in case of an assault—but, I ask, what they can be expected to do, without breastworks or batteries behind which to carry on repulsive operations? There is not a single battery or other work of defence on either side of the city; nothing to prevent ships of war from anchoring deliberately on either side, and firing upon the town and throwing in hot bombs for its destruction. If in works of this kind, we should expend two or three hundred thousand dollars, and thereby enable the citizens to arrest the progress of an attack, while they are securing their wives and children, and eight or ten millions of property, I should think the money well laid out. As it is, resistance would be vain.

The same honorable gentleman tells you, sir, that he does not see the cause of such anxiety at present, and has adopted this extraordinary language—that he will never consent to enter into measures of defence in time of peace. Why, sir, I always thought that a time of peace and prosperity, was the proper time to take measures of security against times of danger. We ought to be alarmed to hear such language from so respectable a statesman. It evinces to my mind that there is something rotten at bottom. I do not mean, sir, that there is anything corrupt; for the gentleman who uttered these sentiments is known to be an honorable and honest man. No one can respect him more than I do. What I mean is, that the principles he adopts on this occasion are without foundation, and coming from so respectable a source, they are attended with the more danger. Upon these principles, we are not to think of self-defence until the sword is lifted over our heads, and our country wrapt in flames. These principles will lead us to total inaction and degradation.

Again, the gentleman from Maryland tells us that projects of this kind will lead to slavery, beggary, and want, and calls upon us to look at the nations of Europe to verify the assertion. If the gentleman will prove to us that measures of this kind have produced that effect in foreign countries, or that they will produce it in this country, I will lift up both my hands against them. This is the first time that I ever heard, that to protect the commerce and commercial towns of a country, would reduce the people to a state of beggary and slavery. I believe most fully, that to leave commerce unprotected, and thus to suffer it to be destroyed, will be leading our citizens in a very direct road to inaction, and a state of abject meanness. But gentlemen from the South are under a very great mistake upon this subject. There is, let me tell them, a commercial spirit in this country that cannot be suffocated. Do what we may,

it will be heard and felt. I did cherish a hope, sir, that something would at length be done, to enable the Government to lay a foundation for permanent fortifications. Low as the sum is now reduced for this purpose, still we find objections to it. If is this, which I think ought to arouse our feelings.

Gentlemen have alluded to a document from the War Department, to show that the money already appropriated for fortifications has not been expended. I shall always mention the head of that Department with great respect and deference. I have before explained the probable reason why that money has not been expended. The money was not granted for the erection of new works. Even this small sum of $100,000, added to the money unexpended of the former appropriation, will enable the Government to lay the foundation of an efficient plan of defence. Let it be once understood, that this is the wish of the nation, and I have no doubt it will be done. It is very possible, that if we determine to do nothing but patch up old works, the Government may find a difficulty in expending even the small sum we may appropriate. I did hope, sir, when my honorable colleague came forward with his proposition, that we should be able to obtain a larger sum; but since that seems now out of the question, I do still hope that the appropriation will not be suffered to dwindle into nothing.

Mr. Nelson said he did not mean to have troubled the House with any remarks on this point. But when he heard gentlemen talk on a subject which they did not understand, however well they might be acquainted with other subjects, he considered himself called upon to say something. He thought it very unlike a gentleman of the profession of the gentleman from New York to call upon them to prove a negative. This was a new doctrine. He thought it would be most regular for the gentleman himself to show the practicability of defending the port of New York. The *onus probandi* ought surely to fall on those who advocated this measure. Ay, but say the gentlemen, let us have a few batteries, for the purpose of throwing from them hot bombs. This thing, Mr. N. said, was entirely new to him, and was his reason for saying he thought the gentleman from New York did not understand the subject. He could not understand the expression *hot* bombs; and, indeed, the gentleman's knowledge on this point so surpassed his, that military men and engineers ought to apply to him for information.

But, says the gentleman, shall we not defend our ports and harbors? Mr. N. said he believed the fortifications would not be of use unless they were manned, as he had never heard of fortifications defending themselves. And what number of men would their defence require? A hundred thousand men would be incompetent to the task. What kind of men? The militia of the country, engaged at home in agricultural and other pursuits? No. It would be impossible to get these; and, if they could be procured, they would be incompetent to the duty. The defence of the works would require experience and peculiar knowledge. If, indeed, they undertook the fortifying all the ports and harbors of the United States, would a hundred thousand men be sufficient? If gentlemen thought so, they were egregiously mistaken. But is the House ready to raise a hundred thousand regulars? And is there any man bold enough to say, if they should, that such an establishment would not endanger the liberties of the nation, and be in the highest degree oppressive to the citizens of the United States? This is the application I wish to be made of the remarks I have offered, viz: that fortifications will be of no possible service unless they are manned, and to man them we must have a large standing army; and to know from the House whether they are prepared to adopt a system tha will require the raising of above a hundred thousand men?

Mr. N. Williams.—After the specimen the honorable gentleman from Maryland has given us of his military skill and prowess, in his proposed plan of flying to the mountains for defence, I shall never think of contending with him for superiority upon that subject. I would remind that gentleman, however, that before he undertakes to criticise upon the observations of others, it would be well for him to be very sure that he is correct himself. Perhaps, if he would take the pains to investigate a little, he would find that our bombs have generally a little fire in them, and consequently may chance to be rather *hot*.

He may likewise have in remembrance that we have none of us arrived to that sublime height of perfectability which some philosophers have supposed the human mind capable of attaining. We are yet wandering in the region of error. I forewarn that gentleman, therefore, not to act upon the idea that he has himself attained to perfection.

Mr. Cook moved to fill the blank with 200,000.

Mr. Stanton said, the idea that because fortifications could not do everything they could do nothing, was futile. He was for doing as much as could be done for the defence of the country. In support of his remarks, Mr. S. referred to a variety of instances on the page of history.

Mr. Cook said, he hoped before gentlemen rejected the motion under consideration, they would assign more satisfactory reasons than had as yet been adduced. We all, said Mr. C., profess to reverence the prowess and conduct of the late General Washington. Did he ever instruct the officers and soldiers under his command to abandon without a contest the cities to the enemy? And will any rational man say that measures, which even do no more than give time for the security of property, are not highly useful in time of war? I consider the people in the Atlantic States entitled to an equal defence with their Southern brethren on the frontiers, and to the expenditure of an equal sum of money for that purpose. How much had we expended for them? Fifteen millions have been appropriated on one occasion. Let me not be understood as applying to this measure the language of complaint. But I only adduce the circumstance to establish our claim, and I hope the gentlemen who represent that

part of the United States which has been so abundantly defended, and at so great an expense, will be willing to accord to us that protection which our situation requires.

Mr. SOUTHARD said he considered the question before the Committee to be, whether the port of New York could be so fortified by land batteries as to annoy the enemy. Mr. S. said he was of opinion that it would be, at least so as to annoy any vessels that might attack the city for the purposes of insult or contribution. He was of this opinion from the little which he had seen in the year 1776. From the observation he had then made, he believed, if proper batteries were erected, it would be impossible for frigates or ships-of-the-line to burn or batter down the city. With regard to some remarks which had been thrown out, he had himself no idea that our citizens were to run away on receiving an attack from a few frigates. Neither was he of opinion that it would be proper to fortify all our towns. Gentlemen well knew that there were few ports in the United States that an enemy would consider it an object to attack. He, therefore, thought everything which had been said of the necessity of raising a hundred thousand men, and of enslaving the country, inapplicable to the subject under consideration. Mr. S. further said that he had no idea of an invading enemy. His only fear was from the insult and depredation of pirates, whom he was, therefore, anxious to be prepared to give a warm reception. For this purpose he did not believe it necessary to appropriate a large sum of money. He concluded by expressing a hope that the Committee would concur in making a moderate appropriation.

Mr. LYON advocated a liberal appropriation.

Mr. MACON (Speaker) observed that the arguments of gentlemen were almost entirely confined to the policy of defending the port of New York; whereas the measure under consideration was much broader, and extended generally to the protection of the ports and harbors of the United States. The only question then really before the Committee was, what sum was now requisite for this object. The chairman of the select committee, to whom this subject has been referred, proposed to fill the blank with $20,000. He has informed us, on the authority of the Department of War, that this sum, added to the unexpended balance appropriated last year, is as much as can be advantageously expended this year.

It appears to me, said Mr. M., that this is all gentlemen can require. No abstract question is involved in this measure, whether the port of New York is defensible, or whether we shall defend it. The second resolution contemplates the building of a number of gunboats. The remarks of gentlemen as to the defenceless state of our ports and harbors apply generally to the whole United States, unless they consider New York as more important than any other port. They labor under a great mistake when they consider the country as not equally interested in this question. Any injury that befalls the ports will necessarily affect the whole country where the produce that is taken to market is raised. The State he represented was as much interested as the State of New York, or any other State in the Union.

Mr. M. said he imagined by this time the people of the Western country thought they had fully paid the debt of fifteen millions—they had been so often told of it. He, however, was one of those who viewed the purchase of Louisiana as no local measure, or as being peculiarly beneficial to any one part of the Union. The navigating States were deeply interested in it, and so likewise were the Southern States in removing to a distance a dangerous neighbor. He had always considered it as a measure in which they were all concerned.

The Committee then divided as follows—on filling the blank with 200,000—yeas 42, nays 65; 100,000—yeas 51, nays 60; 50,000—yeas 38; 20,000—yeas 57, nays 42.

Mr. R. NELSON moved to fill the blank in the 2d resolution with '300,000.'

Mr. MUMFORD moved to fill it with '3,000.'

Mr. R. NELSON.—If gunboats are built, we ought to build enough to answer the purpose intended. The proper department has informed us that $300,000 will be necessary for that purpose. For myself, I am wholly ignorant of the utility of gunboats, but, from information received from those who ought to understand the subject, I believe they are the best species of defence. They are constructed so as to operate in shallow water, where frigates and larger vessels cannot come. I believe they are the natural mode of defending our ports so far as they are capable of any defence. But I am really astonished at the motion of the gentleman from New York (Mr. MUMFORD.) Just now he was for granting a million towards the defence of our harbors, and now he thinks $3,000 are quite enough. I leave it to him to reconcile his opinions.

Mr. MUMFORD.—Gunboats may answer in rivers and in the Southern States, where the water is shallow; but they are inadequate to any useful purpose of defence in the Northern States, where the waters are rough.

Mr. COOK was in favor of gunboats, though he thought they ought not to be the exclusive means of defence.

The motion to insert 300,000 was lost—yeas 36, nays 46.

Mr. THOMAS moved to insert 250,000. That sum would build fifty gunboats.

The motion was agreed to—yeas 53, nays 33.

Mr. R. NELSON then proposed to fill the second blank with fifty. Had the House agreed to fill the first blank with 300,000, he should have proposed sixty for the second blank.

Mr. D. R. WILLIAMS hoped the Committee would not agree to this motion, and for this reason: the sum of $250,000, would not be sufficient to build fifty gunboats. Look at the documents on the table, and you will see, said Mr. W., that the lowest sum expended on the building of a gunboat exceeds $10,000.

Mr. R. NELSON said he did not understand the reasoning of the gentleman from South Carolina. It appeared to him demonstrable that if $300,000 would build sixty gunboats, $250,000 would build fifty. This was all that was required by the gentleman at the head of the Navy Department, and he believed these gentlemen were not in the habit of asking too little.

Mr. D. R. WILLIAMS said he had only risen to warn the House against a surprise. They had better documents than this estimate of the Secretary of the Navy. By his reports it would be seen that there had not been a single gunboat built for less than $10,000.

Mr. COOK observed that it appeared, from the most correct information, that some of the gunboats could be built for $5,000.

The motion to fill the blank with "fifty," was then agreed to—yeas 53, nays 32.

Mr. R. NELSON then offered an amendment to the following effect:

"That the sum of —— dollars be appropriated to authorize the President to arm, man, and equip such a number of gunboats as he may think the public service requires."

The amendment was agreed to without a division.

Mr. THOMAS offered an additional resolution, authorizing and requesting the President to cause measures to be taken to ascertain how the port of New York may be best protected, and to obtain an estimate thereof.

This motion was objected to by Messrs. SMILIE, HOLLAND, and LLOYD, principally on the ground that if any such inquiry were made, it ought to be extended so as to apply to the other ports of the United States, and was negatived—yeas 39, nays 46.

The Committee then rose and reported the bill.

Mr. VAN CORTLANDT moved an amendment to the addition to the second section, introduced at the instance of Mr. R. NELSON, authorizing the President at any time to man and equip such of the other armed vessels as he may deem proper.

Messrs. VAN CORTLANDT, ELMER, MUMFORD, and COOK, supported; and Messrs. FISK and BURWELL opposed this amendment.

When on motion of Mr. SOUTHARD the further consideration of the subject was postponed till Monday, to which day the House adjourned.

MONDAY, January 26.

Another new member, to wit: WILLIAM W. BIBB, from Georgia, returned to serve as a member for the said State, in the place of Thomas Spalding, who hath resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

A message from the Senate, informed the House that the Senate have passed a bill, entitled "An act for the relief of Seth Harding, late a captain in the navy of the United States;" and also a bill, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio;" to which they severally desire the concurrence of this House.

Mr. ALEXANDER, from the committee appointed on the second instant, presented a bill prescribing the effect of records of judgments and decrees of courts of one State in another State; which was read twice and committed to a Committee of the Whole on Thursday next.

A Message was received from the President of the United States, enclosing an affidavit of General Wilkinson, charging Messrs Samuel Swartwout, Peter V. Ogden, and James Alexander, with being concerned in a conspiracy.

The Message amd affidavit were read, when Mr. THOMAS inquired if the documents alluded to therein did not accompany them, and received for answer that there were no further documents transmitted to the House.

SUSPENSION OF THE HABEAS CORPUS.

A message was received from the Senate, by Mr. SAMUEL SMITH, as follows:

Mr. SPEAKER: I am directed by the Senate of the United States to deliver to this House a confidential message, in writing.

The House being cleared of all persons except the members and the Clerk, Mr. SMITH delivered to the SPEAKER the following communication in writing:

Gentlemen of the House of Representatives:

The Senate have passed a bill suspending for three months the privilege of the writ of habeas corpus, in certain cases, which they think expedient to communicate to you in confidence, and to request your concurrence therein, as speedily as the emergency of the case shall in your judgment require.

Mr. SMITH, also delivered in the bill referred to in the said communication, and then withdrew.

The bill was read as follows:

A Bill suspending the writ of Habeas Corpus for three months, in certain cases.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all cases, where any person or persons, charged on oath with treason, misprision of treason, or other high crime or misdemeanor, endangering the peace, safety, or neutrality of the United States, have been or shall be arrested or imprisoned, by virtue of any warrant or authority of the President of the United States, or from the Chief Executive Magistrate of any State or Territorial Government, or from any person acting under the direction or authority of the President of the United States, the privilege of the writ of *habeas corpus* shall be, and the same hereby is suspended, for and during the term of three months from and after the passage of this act, and no longer.

Mr. P. R. THOMPSON moved that the message and the bill received from the Senate ought not to be kept secret, and that the doors be opened.

Mr. BURWELL and Mr. SMILIE spoke in support of the motion.

Mr. EARLY thought that a previous order should be taken to remove the injunction of secrecy. To open the doors and admit strangers to hear the debate, and yet continue the injunction of secrecy on members would present a singular spectacle.

Mr. J. RANDOLPH said they could not be bound to secrecy except by their own vote. If there was

any charm by which they could be bound, except their own act, he wished it might be dissolved.

Mr. G. W. CAMPBELL hoped the usual course would be pursued; read the bill a second time, and then refer it to a Committee of the Whole.

Mr. ALSTON thought the question, whether the bill should pass to a second reading, first in order.

The SPEAKER decided that the motion to open the doors was in order, and the question on that motion must first be taken.

The yeas and nays being demanded by one fifth of the members present, they were ordered to be taken.

The question then was put on the motion, *That the message and bill received from the Senate ought not to be kept secret, and that the doors be now opened;* and resolved in the affirmative—yeas 123, nays 3,

YEAS—Willis Alston, junior, Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, John Campbell, John Chandler, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jun., Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, William Dickson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan MacFarland, Patrick Magruder, Robert Marion, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, junior, John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Robert Whitehill, Elisha Wickes, David R. Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Josiah Masters, David Thomas, and Nathan Williams.

Mr. EPPES moved that the bill be rejected. This motion was afterwards withdrawn to give place to another motion, but with the idea of renewing it again.

Mr. BURWELL said, he was unacquainted with the particular reasons which had induced the Senate to pass this bill. None had been assigned when the bill was communicated, and no additional documents presented. He could, therefore, only be governed by that information which the House had received; and he believed that it would justify the motion before the House. The President, in his Message of the 22d, says, "on the 'whole the fugitives from Ohio and their asso-'ciates from Cumberland, or other places in that 'quarter, cannot threaten serious danger to the 'city of New Orleans." If that be the case, upon what ground shall we suspend the writ of habeas corpus? Can any person imagine the United States are in danger, after this declaration of the President, who unquestionably possesses more correct information than any other person can be supposed to have. In another part of the Message, we are informed—

"That the persons arrested at New Orleans have been embarked for some of the Atlantic ports, probably on the consideration that an impartial trial could not be expected during the present agitations of New Orleans, and that that city was not as yet a safe place of confinement. As soon as these persons shall arrive, they will be delivered to the custody of the law, and left to such course of trial, both as to place and process, as its functionaries may direct; the presence of the highest judicial authorities to be assembled at this place within a few days, the means of pursuing a sounder course of proceedings here than elsewhere, and the Executive means, should the judges have occasion to use them, render it equally desirable, for the criminals as for the public, that being already removed from the place where they were apprehended, the first regular arrest should take place here, and the course of proceedings receive here its proper direction."

The President evidently holds out the idea, that the correct and proper mode of proceeding can be had under the existing laws of the United States. These persons may be transferred from the military to the civil authority, and be proceeded against according to law. Those, therefore, who fear the escape of the traitors already apprehended, and would, by this measure, obviate the difficulty, must perceive that consequence would not ensue. Mr. B. said, he should consider the suspension of the habeas corpus as holding out an idea of danger and alarm, which was highly improper, inasmuch as it did not exist. It is true, this conspiracy was once formidable, extensive, and threatening; but it has been dissipated by the vigilance of Government. He would ask gentlemen, if they seriously believed the danger sufficiently great to justify the suspension of this most important right of the citizen, to proclaim the country in peril, and to adopt a measure so pregnant with mischief, by which the innocent and guilty will be involved in one common destruction? He said this was not the first instance of the kind since the formation of the Federal Government; there had been already two insurrections in the United States, both of which had defied the authority of Congress, and menaced the Union with dissolution. Notwithstanding one of them justified the calling out of fifteen thousand men, and the expenditure of one million of dollars, he had not heard of a proposition to suspend

the writ of habeas corpus. What, then, will be said of us, if now, when the danger is over, firm in the attachment of the people to the Union, with ample resources to encounter any difficulties which may occur, we resort to a measure so harsh in its nature, oppressive in its operation, and ruinous as a precedent? While, in former times, it was thought unsafe to suspend this most important and valuable part of the Constitution, he would ask, whether the necessity at the present time could be considered greater? With regard to those persons who may be implicated in the conspiracy, if the writ of habeas corpus be not suspended, what will be the consequence? When apprehended, they will be brought before a court of justice, who will decide whether there is any evidence that will justify their commitment for farther prosecution. From the communication of the Executive, it appeared there was sufficient evidence to authorize their commitment. Several months would elapse before their final trial, which would give time to collect evidence, and if this shall be sufficient, they will not fail to receive the punishment merited by their crimes, and inflicted by the laws of their country.

Mr. B. said, he could conceive no injury that would result on this score; and, indeed, if some persons should elude justice, it would not endanger society so materially as to come within the terms of the Constitution. He observed, it appeared to him the commencement of an insurrection was the only time when the writ of habeas corpus ought to be suspended; when the seizure of the ringleaders, by dismaying the inferior agents, would enable the Government, without the effusion of blood, to suppress it. But it was manifest that, at this moment, everything intended by the conspirators was effected, or they were in the hands of the civil authority; there was, therefore, no good reason to take this precautionary step with that view; while, on the one hand, it would unavoidably produce unnecessary alarm, and much inconvenience to the citizens of the United States. Nothing but the most imperious necessity would excuse us in confining to the Executive, or any person under him, the power of seizing and confining a citizen, upon bare suspicion, for three months, without responsibility, for the abuse of such unlimited discretion. Mr. B. said, he could judge from what he had already seen, that men, who are perfectly innocent, would be doomed to feel the severity of confinement, and undergo the infamy of the dungeon. What reparation can be made to those who shall thus suffer? The people of the United States would have just reason to reproach their representatives with wantonly sacrificing their dearest interests, when, from the facts presented to this House, it seems the country was perfectly safe, and the conspiracy nearly annihilated. Under these circumstances, there can be no apology for suspending the privilege of the writ of habeas corpus, and violating the Constitution, which declares "the writ of ha-'beas corpus shall not be suspended, unless when, 'in cases of invasion or rebellion, the public safety 'may require it."

Mr. B. said he hoped he had shown that, admitting the two cases specified in the Constitution existed, they were not accompanied with such symptoms of calamity as rendered the passage of the bill expedient.

What, in another point of light, would be the effect of passing such a law? Would it not establish a dangerous precedent? A corrupt and vicious Administration, under the sanction and example of this law, might harass and destroy the best men of the country. It would only be necessary to excite artificial commotions, circulate exaggerated rumors of danger, and then follows the repetition of this law, by which every obnoxious person, however honest, is surrendered to the vindictive resentment of the Government. It will not be a sufficient answer, that this power will not be abused by the President of the United States. He, Mr. B. believed, would not abuse it, but it would be impossible to restrain all those who are under him. Besides, he would not consent to advocate a principle, bad, in itself, because it will not, probably, be abused. For these reasons, Mr. B. said, he should vote to reject the bill.

Mr. ELLIOT said, that he regretted the motion to reject the bill had been made, because, considering the subject of very great importance, he thought it most proper that it should take the usual course of business, that the bill should be read a second time, and referred to a Committee of the Whole, for the purposes of deliberation and discussion.

Called upon, however, said Mr. E., to answer to the question, Shall the bill be rejected? I must answer that question in the affirmative, as I should deem it my duty to advocate its rejection, in any form which it might assume, and in any stage of its progress; and I deem it equally my duty, on the present occasion, to express my sentiments upon the subject. It is, indeed, difficult for me, consistently, with the sincere and high respect which I entertain for the source from whence this measure originated, to express, in decorous terms, the hostility which I feel to the proposition. I am therefore disposed to consider it as an original proposition here; as a motion in this body to suspend, for a limited time, the privileges attached to the writ of habeas corpus. And, in this point of view, I am prepared to say that it is the most extraordinary proposition that has ever been presented for our consideration and adoption. Sir, what is the language of our Constitution upon this subject? "The privilege of the writ of ha-'beas corpus shall not be suspended, except when, 'in cases of invasion or rebellion, the public safety shall require it." Have we a right to suspend it in any and every case of invasion and rebellion? So far from it, that we are under a Constitutional interdiction to act, unless the existing invasion or rebellion, in our sober judgment, threatens the first principles of the national compact, and the Constitution itself. In other words, we can only act, in this case, with a view to national self-preservation. We can suspend the writ of habeas corpus only in a case of extreme emergency; that alone is *salus populi* which will justify this *lex*

supreme. And is this a crisis of such awful moment? Is it necessary, at this time, to constitute a dictatorship, to save the people from themselves, and to take care that the Republic shall receive no detriment? What is the proposition? To create a single Dictator, as in ancient Rome, in whom all power shall be vested for a time? No; to create one great Dictator, and a multitude, an army of subaltern and petty despots; to invest, not only the President of the United States, but the Governors of States and Territories, and, indeed, all persons deriving civil or military authority from the supreme Executive, with unlimited and irresponsible power over the personal liberty of your citizens. Is this one of those great crises that require a suspension, a temporary prostration of the Constitution itself? Does the stately superstructure of our Republic thus tremble to its centre, and totter towards its fall? Common sense must give a negative answer to these questions. What are the facts? Is it, indeed, a case of rebellion? We are officially informed that rebellion has reared its hydra front in the peaceful valleys of the West. But we are also informed by the Executive that treason has no prospect of success; that "the fugitives from the Ohio, and 'their associates from Cumberland, cannot threat-'en serious danger even to the city of New Or-'leans." Not a single city, still less a Territory or a State, is considered in danger; and the Executive, not only possesses all the information which has been communicated to us, but much more, for we are informed that the communication has been made under the reservation contained in the resolution requesting it, and of course all the facts in the knowledge of the Executive, which are decided to be improper for disclosure at this time, have been kept back. And the Executive, possessing all this information, assures us that the public safety is not endangered. Can we, under these circumstances, consent to the investiture of dictatorial powers in that department of the Government which thus assures us that all is safe? It would be contrary to the spirit of the Constitution.

But we shall be told that the Constitution has contemplated cases of this kind, and, in reference to them, invested us with unlimited discretion. When any gentleman shall advance such a position, we, who advocate the rejection of the bill, will meet him upon that ground, and put the point at issue. We contend that the framers of the Constitution never contemplated the exercise of such a power, under circumstances like the present; and that the Constitution itself, instead of authorizing, has prohibited such discretion, unless in an extreme case. And can any member lay his hand upon his heart and say, that the present is a case of that description? He who cannot do this must, with us, consider the proposed measure as unconstitutional.

Let us pay a little attention to the nature and character of the writ of habeas corpus. It has its origin in Great Britain, and is there considered in two great points of view, as it respects the Monarch, and as it respects the subject. As it respects the Monarch, it is one of the *jura prerogativa*, a writ of prerogative; but it is not considered as calculated to increase the power of the King, or the splendor of the throne; in its origin and true character it is viewed as a prerogative, exercised by the King, or those authorities to whom his judicial powers are supposed to be delegated, only for the purpose of securing the Constitutional rights of the subject, and restraining the invasion of those rights. As it respects the subject, it is a writ of right, and is emphatically called, by English writers, a writ of liberty.

By the provisions of the famous statute of Charles II., which has even been called a second *magna charta*, its privileges are guarantied to all British subjects at all times. An eminent English author, and the most popular writer upon subjects of legal science, considers its suspension as the suspension of liberty itself; declares that the measure ought never to be resorted to but in cases of extreme emergency; and says that the nation then parts with its freedom for a short and limited time, only to resume and secure it forever. Hence, he compares the suspension of the habeas corpus act in Great Britain to the dictatorship of the Roman Republic.

But objectionable as the bill upon the table is in point of principle, it is, if possible, still more objectionable in point of detail. It invests with the power of violating the first principles of civil and political liberty, not only the supreme Executive, and the Executives of individual States and Territories, but all civil and military officers who may derive any authority whatever from the Chief Magistrate. And it extends the operation of the suspension of the privileges of the habeas corpus, not only to persons guilty or suspected of treason, or misprision of treason, but, to those who may be accused of any other crime or misdemeanor, tending to endanger the "peace, safety, or neutrality," of the United States! What a vast and almost illimitable field of power is here opened, in which Executive discretion may wander at large and uncontrolled! A vast and dangerous scene of power, indeed! It gives the power of dispensing with the ordinary operation of the laws to a host of those *little great men*, who are attached to every Government under heaven. I wish not to reflect upon any of those subordinate officers who may be employed by the Government of my country.

But no one will doubt that, in times of alarm and danger, many men will be clothed with the functions of office, who are incompetent to the discreet exercise of such boundless discretion. I can never wish to see such persons invested with the means of aiming at the heads of their private enemies, or other innocent and unoffending citizens, the thunderbolts of public indignation, or scorching them with the lightning of public suspicion—says the poet:

"Could great men thunder, Jove would ne'er be quiet,
For every petty pelting officer
Would use his heaven for thunder."

Let us again ask for evidence of the necessity of this measure? Certainly none can be produced, for we are informed, from the first authority, that

if the present be not a time of profound peace, it is far from being a period of public danger. The leader of this petty rebellion has been called the modern Catiline. Undoubtedly, he possesses many of the qualities which a celebrated ancient historian ascribes to the Catiline of Rome: his genius, his address, his activity, his profligacy; but he is destitute of his means and resources. He wants that power of doing mischief, which the Roman conspirator possessed. So far is he from being able to make war upon his country, that he cannot take possession of a single city. He is rapidly hastening to the same fate, although he may not meet it in the same manner. Already is he "damn'd to everlasting fame," or rather, damned to everlasting infamy. Already is he a fugitive. Already a price is set upon his head. In the papers of this morning, we see that the Governor of Orleans has offered a reward for his apprehension. We cannot but detest the traitor, but we can have no fears of the consequences of the treason.

Mr. E. concluded, by expressing a hope that the bill would meet a decided vote of rejection.

Mr. EPPES.—When I feel a decided hostility to a principle, it is not material to me in what form I meet it. Decidedly opposed to the principle of this bill, I shall vote against it in all its stages, and cannot but hope that the motion of my colleague to reject it will prevail. By this bill, we are called upon to exercise one of the most important powers vested in Congress by the Constitution of the United States. A power which suspends the personal rights of your citizens, which places their liberty wholly under the will, not of the Executive Magistrate only, but of his inferior officers. Of the importance of this power, of the caution which ought to be employed in its exercise, the words of the Constitution afford irresistible evidence. The words of the Constitution are: "The privilege of the writ of habeas corpus 'shall not be suspended, unless when, in cases of 'rebellion or invasion, the public safety may re-'quire it." The wording of this clause of the Constitution deserves peculiar attention. It is not in every case of invasion, nor in every case of rebellion, that the exercise of this power by Congress can be justified under the words of the Constitution. The words of the Constitution confine the exercise of this power exclusively to cases of rebellion or invasion, where the public safety requires it. In carrying into effect most of the important powers of Congress, something is left for the exercise of its discretion. We raise armies when, in our opinion, armies are necessary. We may call forth the militia to suppress insurrection or repel invasion, when we consider this measure necessary. But we can only suspend the privilege of the habeas corpus, "when, in cases of rebellion or invasion, the public safety requires it." Well, indeed, may this caution have been used as to the exercise of this important power. It is in a free country the most tremendous power which can be placed in the hands of a legislative body. It suspends, at once, the chartered rights of the community, and places even those who pass the act under military despotism. The Constitution, however, having vested this power in Congress, and a branch of the Legislature having thought its exercise necessary, it remains for us to inquire whether the present situation of our country authorizes, on our part, a resort to this extraordinary measure.

The inquiry is confined within very narrow limits. The power can only be exercised under the Constitution, "when, in cases of rebellion or invasion, the public safety may require it." Our country is not invaded. We have only, therefore, to inquire whether there exists in this country a rebellion, and whether the public safety requires a suspension of the habeas corpus. Of the existence of the rebellion or combination against the authority of the United States there can be no doubt, as we have on our table a detailed account of its origin and progress. I shall confine my observations solely to the latter part; whether the public safety requires a suspension of the habeas corpus for its suppression. In the communication now on our table, from the Executive, we have been informed that the militia of Ohio, Kentucky, and Tennessee, and of the Mississippi and Orleans Territories, have been ordered out. That General Wilkinson was at Orleans, on the 10th of December, with his troops from the Sabine, which from other information we know to consist of one thousand effective men. These are resources of the nation now in active operation. What is the force of the conspirators? By the same documents, we are informed that "some boats, ac-'counts vary from five to double or treble that num-'ber, and persons, differently estimated from one to 'three hundred, had passed the falls of the Ohio to 'rendezvous at the mouth of Cumberland river, 'with others expected down that river." From the same document it appears that the force which comes down Cumberland river amounts to two boats, in one of which is Aaron Burr. From this statement, it appears that the largest calculation as to the actual force of the conspirators, is three hundred, But when we know the propensity of human nature to magnify accounts of this kind, we may fairly infer that the whole force does not exceed one hundred and fifty men. To oppose which, we have one thousand regular troops, and the militia of Ohio, Kentucky, and Tennessee, and of the Mississippi and Orleans Territories. Is there a man present who believes, on this statement, that the public safety requires a suspension of the habeas corpus? This Government has now been in operation thirty years; during this whole period, our political charter, whatever it may have sustained, has never been suspended. Never, under this Government, has personal liberty been held at the will of a single individual. Shall we, in the full tide of prosperity, possessed of the confidence of the nation, with a revenue of fifteen millions of dollars, and six hundred thousand freemen, able and ready to bear arms in defence of their country, believe its safety endangered by a collection of men which the militia of any one county in our country would be amply sufficient to subdue? Shall we, sir, suspend the chartered rights of the community for

the suppression of a few desperadoes; of a small banditti already surrounded by your troops; pressed from above by your militia; met below by your regulars, and without a chance of escape, but by abandoning their boats, and seeking safety in the woods? I consider the means at present in operation amply sufficient for the suppression of this combination. If additional means were necessary, I should be willing to vote as many additional bayonets as shall be necessary for every traitor. I cannot, however bring myself to believe that this country is placed in such a dreadful situation as to authorize me to suspend the personal rights of the citizen, and to give him, in lieu of a free Constitution, the Executive will for his charter. I consider the provision in the Constitution for suspending the habeas corpus as designed only for occasions of great national danger. Like the power of creating a Dictator in ancient Rome, it prostrates the rights of your citizens and endangers public liberty. Like that it may, on some very extraordinary occasions, prove salutary, but like that, it ought never to be resorted to, but in cases of absolute necessity; or, to use the emphatic language of the Constitution, "when the public safety requires it." Believing that the public safety is not endangered, and that the discussion of this question is calculated to alarm the public mind at a time when no real danger exists, I shall vote for the rejection of the bill in its present stage.

Mr. VARNUM said, if he was of opinion with the gentlemen from Vermont and Virginia, he should vote for the rejection of this bill; but he entertained a different opinion, and, unless he heard something to change it, he should vote differently from them. He did not believe the Constitution restricted the power of the Government to suspend the privilege of the habeas corpus in cases where the country was shaken to its centre. There were no expressions in it to justify this inference. Its terms are: 'The privilege of the 'writ of habeas corpus shall not be suspended, except when, in cases of invasion or rebellion, the public safety shall require it." Will gentlemen deny that there exists in the United States at present a rebellion? I presume not, said Mr. V., it is too notorious to admit of doubt. Will they deny that the conspiracy has been formed with deliberation, and has existed for a long time? Is it not evident that it has become very extensive? If, then, this is the case, and the head of the conspiracy has said that he is aided by a foreign Power; if this is true, are we justified in considering the country in a perfect state of safety, until it is brought to a close? I conceive not. I consider the country, in a degree, in a state of insecurity; and if so, the power is vested in the Congress of the United States, under the Constitution, to suspend the writ of habeas corpus. I am also apprehensive that we shall not be able to trace the conspiracy to its source without such a suspension. We have had an instance in which the head of the conspiracy has been brought before a court of justice, and where nothing has been brought against him. It is not my wish to insinuate that any court or public functionary is contemplated by this conspiracy; yet it is possible that this may be the case, and the very existence of the country may depend on tracing it to its source. I am not disposed to advocate sanguinary punishments, but I think they ought to be exemplary in regard to the chiefs of the conspiracy; for which purpose we ought to adopt those measures which will lead to a full discovery of those concerned in it. I am sensible that the Government of the United States has not hitherto resorted to this measure; but I know a particular State of the Union who did consider the measure necessary, in the case of an insurrection which occurred within her limits; and I think it very doubtful whether that insurrection would have so happily closed, if it had not been for her suspension of the writ of habeas corpus. Have we had any insurrection or rebellion in the United States like this? We have had one insurrection in Massachusetts, but whence did it arise? Not from a design to subvert the Government, but from the burden of taxes; taxes which, perhaps, exceeded those laid in any country since the formation of society. I do not mean, by these observations, by any means to justify that insurrection, and, I believe, from the circumstances with which I am acquainted, that the insurrection which took place in Pennsylvania did not go to the subversion of the Government. But let us look at this conspiracy. While the nation, from one extreme to the other, enjoys a degree of prosperity and happiness unparalleled in any other nation, and not a single individual within our limits has any reason to complain of oppression, an insurrection is fomented, subversive of the Government and destructive of the rights of the people. It appears to me that this insurrection is the most aggravating of all insurrections which history gives us an account of. There is not the least oppression or the least pressure of circumstances to induce any individual to rise up against the Government of this country; and it consequently betrays the greatest turpitude of mind in those who either lead or unite in it. For these reasons, I think it ought to be traced to its source, and I think it very doubtful whether this can be effected without, in the first instance, suspending the habeas corpus. Will gentlemen say that any innocent man will have a finger laid upon him, should this law pass? No; there is no probability of it; it is scarcely possible. But, even if it be possible, if the public good requires the suspension of the privilege, every man attached to the Government and to the liberty he enjoys, will be surely willing to submit to this inconvenience for a time, in order to secure the public happiness. The suspension only applies to particular crimes, the liberties of the people will not therefore be touched. I do think a great responsibility will rest on this branch of the Legislature, in case they refuse to pass this act. Suppose the head of this conspiracy shall be taken in a district of country where no evidence exists of the crime charged to him, and he shall consequently be set at liberty by the tribunals of justice; where will the responsibility rest, but upon this branch of the Legislature?

It is too great for me, as an individual member, to bear. I shall, therefore, vote for this bill, under the impression that it will not have the injurious effects that some gentlemen seem to apprehend; and that it will only more effectually consign the guilty into the hands of justice.

Mr. R. NELSON.—As the motion to reject the bill meets my most hearty approbation, and as I consider it involving a great national question, I cannot reconcile it to my duty to give a silent vote on it. I shall, however, in order to avoid an unnecessary consumption of the time of the House, offer my remarks in as concise a compass as possible. I shall first consider the nature of the writ of habeas corpus; afterwards examine its effects, not only on the individual, but on the community at large; taking into view the mode of proceeding under it, to show, as I conceive, that no danger can ensue, on the refusal to pass this bill.

What is a writ of habeas corpus? It is a writ directing a certain person in custody to be brought before a tribunal of justice, to inquire into the legality of his confinement. If the judge is of opinion that the confinement is illegal, the person will of course be discharged; if, on the contrary, from the evidence, he shall be of opinion that there is sufficient grounds to suspect that he is guilty of offence, he will not be discharged. Now, to me, it appears that this is a proper and necessary power to be vested in our judges, and that a suspension of the writ of habeas corpos is, in all cases, improper. If a man is taken up, and is denied an examination before a judge or a court, he may, although innocent, in this case, continue to suffer confinement. This, in my opinion, is dangerous to the liberty of the citizen. He may be taken up on vague suspicion, and may not have his case examined for months, or even for years. Would not this bear hard upon the rights of the citizen?

Let us turn over a leaf, and see how the Government stands. If the person accused is legally committed, or if it shall be proved that he has committed any offence, the judge will say that he shall not be released. If he has committed an offence, there can be no grounds for this suspicion, because, without such suspension, he will not be discharged, because it does not follow that, inasmuch as a man has a right to demand that he be brought before a judge by a writ of habeas corpus, he shall therefore be discharged. He is only bound to examine him, and if he finds there is strong reason to believe he has committed a crime, he may remand him to confinement.

This is a writ of right, which ought to exist under all Governments on earth. What right? The right of being examined by the tribunals of his country, to determine whether there is any ground for the deprivation of his liberty. Is this a right which ought to be suspended merely to gratify the apprehensions of gentlemen? I think not. The framers of the Constitution have said, "the privilege of the writ of habeas corpus shall 'not be suspended, except when, in cases of invasion or rebellion, the public safety shall require 'it." Well, but, says the gentleman from Massachusetts, can any one deny that this is a rebellion? It may perhaps be, but I think it does not deserve the name of a rebellion; it is a little, petty, trifling, contemptible thing, led on by a deperate man, at the head of a few desperate followers: a thing which might have been dangerous, if the virtue of the people had not arrested and destroyed it. But admit that it is a rebellion; will every rebellion justify a suspension of the writ of habeas corpus? The Constitution says, "the privilege of the writ 'of habeas corpus shall not be suspended, except 'when, in cases of invasion or rebellion, the public 'safety shall require it." Does, then, the public safety require this suspension? Does the Constitution justify it? And, under present circumstances, confining a man in prison without a cause. There is no danger, the enemy is not at our door; there is no invasion; and yet we are called upon to suspend the writ of habeas corpus. This precedent, let me tell gentlemen, may be a ruinous, may be a most damnable precedent—a precedent which, hereafter, may be most flagrantly abused. The Executive may wish to make use of more energetic measures than the established laws of the land enable him to do; he will resort to this as a precedent, and this important privilege will be suspended at the smallest appearance of danger. The effect will be, that whenever a man is at the head of our affairs, who wishes to oppress or wreak his vengeance on those who are opposed to him, he will fly to this as a precedent; it will truly be a precedent fraught with the greatest danger; a precedent which ought not to be set, except in a case of the greatest necessity; indeed, I can hardly contemplate a case in which, in my opinion, it can be necessary.

In my opinion, this is a measure which ought never to be proposed, unless when the country is so corrupt that we cannot even trust the judges themselves. This, I consider the cause of the frequent suspension of this privilege in England. Whenever the whole mass of society becomes contaminated, and the officers of the judicial court are so far corrupted as to countenance rebellion, and release rebels from their confinement, it may be then time to say, they shall no longer remain in your hands; we will take them from you. But I apprehend there is no such danger here, and I repeat it, we are at once creating one of the most dangerous precedents, and passing one of the most unjust acts that was ever proposed.

Mr. SLOAN.—At the same time that I express my purpose to vote on the same side with the gentleman from Maryland, I shall take the liberty of assigning very different reasons for my vote from those offered by him. The gentleman from Virginia has mentioned two preceding insurrections, which he considers of much greater magnitude than this. I am of a different opinion. Compared to this, I consider them as only a drop to the bucket. For a moment, let me ask the attention of gentlemen to those insurrections, or as I think they might, with more correctness, be termed, oppositions to Government. In consequence of certain citizens thinking themselves aggrieved

by certain acts, in which they have been, in some measure, justified by their subsequent repeal, a handful of people raised in opposition to their execution. What analogy do those oppositions bear to this rebellion? I consider the late or present conspiracy to be of greater magnitude than any we know of in history. Under what authority has it been created? Under that of a man of great abilities and experience, who states that he expects encouragement from foreign nations. I do not pretend to say that this is a fact; but what has he done? Has he not drawn resources from every part of the Union? I, therefore, consider it of great magnitude, and it is certainly excited against the best Government on earth, under which the people enjoy the greatest happiness. I shall, however, vote against the bill, under the belief that we may confidently rely on the love and affection of the people for their Government, to which we are already probably indebted for its suppression. Had this measure been brought forward a month or six weeks ago, I should have voted for it.

Mr. BIDWELL said, although he was not satisfied of the necessity of passing this bill, he was not prepared to reject it, in its present stage. As it had received the sanction of the Senate, he was disposed to treat it as a subject worthy of discussion and deliberation, by referring it, in the usual course, to a Committee of the whole House.

Before the passing of any bill of this nature, the House ought to have satisfactory proof that a rebellion in fact existed (for there was no pretence of an invasion) and that the public safety required a suspension of the privilege of habeas corpus. By the terms of the Constitution, both of these pre-requisites must concur, to authorize the measure. The first inquiry would naturally turn upon the existence of a rebellion. On that point he had no doubt. To constitute a rebellion, in the sense of the Constitution, he did not think it necessary that a battle should have been fought, or even a single gun fired. If troops were enlisted, assembled, organized, and armed, for the purpose of effecting a treasonable object, it amounted to actual rebellion. Such was the existing state of things. The public notoriety of the fact was, perhaps, sufficient evidence for the Legislature to act upon, if necessary; but they had also the official statement of the President to that effect. He had, therefore, no doubt of the existence of a rebellion, and that, too, of a more wanton and malignant character than any insurrection which had heretofore been raised against our Government; for it had not been occasioned by any grievances, real or imaginary, but must have originated in motives of personal ambition or some more unworthy passion.

An existing rebellion, however, even of this aggravated description, was not alone sufficient to justify a suspension of the writ of habeas corpus. To bring it within Constitutional justification, it must be required by the public safety. That was a matter of opinion, rather than of fact. He was convinced that the proposed suspension was not requisite for the purpose of suppressing the conspiracy; for by the vigilance and energy of our Executive Government, seconded and supported by the exertions of particular States and Territories and the army, this deep laid conspiracy was already in a good measure suppressed, and he trusted the means now in operation would complete the suppression. A suspension of the habeas corpus could not be necessary, except for the detection and conviction of the conspirators. A thorough investigation ought undoubtedly to be made. If any persons, concerned in the conspiracy, were arrested in situations which precluded an immediate production of such evidence, as would warrant their confinement, justice would require that they should be detained until the proper evidence could be procured; but in the mean time they might be discharged by virtue of a habeas corpus; for, though he agreed with the gentleman from Maryland (Mr. NELSON) in the importance and utility of this writ, he could not subscribe to the doctrine which he understood that gentleman to maintain, that it would entitle a person to a discharge only for causes of irregularity in the arrest. Want of legal evidence to show, by oath or affirmation, probable cause for detention, would be a ground of discharge. In ordinary cases, indeed, the release and escape of a guilty person, for such want of evidence, was esteemed a smaller evil, than a denial of the common privilege. If it were so, in respect to this conspiracy, there was, in his opinion, no good reason for passing this bill. That was a point, which appeared to him worthy of some deliberation.

It had been mentioned, in the debate, that in the whole history of our Government, notwithstanding two insurrections, the habeas corpus had, in no instance, been suspended. It was true. But an instance had been cited from one of the States. During the insurrection in Massachusetts there was such a suspension, in pursuance of a Constitutional provision; and it was generally acknowledged to have been a necessary and salutary measure. He had never understood that it was abused, or that it was considered by the people of that State a dangerous example. It was justified by the occasion. But it did not, therefore, follow that a similar suspension would be justifiable on this occasion. That must depend on the present state and circumstances of the nation. Although a rebellion existed, he was not satisfied that the public safety required so strong and severe a measure. But, as it was an important question, on which the House had not yet taken time to deliberate, he was willing that the bill should go, according to the usual course of proceeding, to a Committee of the Whole; and therefore, he should not give his vote for rejecting it in the present state.

Mr. J. RANDOLPH.—I shall give my vote in a very different manner from the gentleman who has just sat down. I was extremely happy to witness the very prompt and decided opposition this measure received in the House, and from the quarter whence that opposition originated; and I subscribe with great pleasure to the sound Constitutional doctrine, which the gentleman from Pennsylvania advanced this morning before our doors were opened. We are now told that to reject this bill at its first reading, will be to depart from the usual course of proceeding in this House, and an attempt is made to enlist the feelings of members so far at least as to permit the bill to progress one step farther, that we may avoid violating that decorum which ought to be observed between the two Houses. I do not, however, consider the subject in this light. I conceive, on the contrary, it is as competent to us to reject the bill on its first as on any other reading. I well recollect that about eight years ago an important bill was smuggled through the House by this fastidious mode of proceeding. Gentlemen were allured from their honest opinions, and finally, by finesse and management, the bill was carried through the House. I understand that this course is pursued by the other branch of the Legislature on bills carried from this House; and I believe it will be found that with regard to the passage of bills between the two Houses, the course of procedure on the part of this House is more liberal than that pursued by the other. For I do not recollect a single instance in which the vote of a single member can stop the passage of a bill in this House received from the other branch of the Legislature. I, therefore, feel no scruples on this score. I think it just as well to say, that we will permit this bill to pass to a second or third reading, as to say that though we are opposed to the principle contained in a resolution which may originate in this House, we nevertheless permit a committee to bring in a bill to carry it into effect, because we may destroy the bill at its last stage. This appears to be a strange course of reasoning. It is like permitting yourselves to be bound in chains that you may be loosed again, or going into prison that you may afterwards come out. Gentlemen talk of the propriety of discussing this subject, but when a subject is so clear that every man has made up his mind upon it, where is the need of discussion? If it is not so clear, will any gentleman say that the discussion now had, in which every member has a right to speak twice, which is once more in my opinion than is necessary, will not be sufficient to develop all the merits and demerits of the bill? Will gentlemen undertake to say, if every member shall give the mature, or as it may be, crude, suggestions of his mind, that the subject will not be sufficiently discussed, and lead to the formation of a correct judgment? I believe it will. And therefore, on this ground, a bill may as well be decided in its present stage as before a Committee of the Whole.

Some gentlemen, to whom I have listened with considerable gratification, tell us that, out of respect to the other branch, we ought not at this time to reject the bill. I however, feel no such respect on this occasion, and shall express none. On the contrary, I am free to declare, that when a measure, tending to impose a burden on the people, or to detract from the privileges of the citizen, comes from that quarter, I shall always view it with jealousy. The inequality of the representation in that branch, the long tenure of office, and the custom with which they are so familiar of conducting their proceedings in conclave, (the House will recollect how long it was after the adoption of the Constitution before the public could get admission into their twopenny gallery,) render all their proceedings, touching the public burdens, or the liberties of the people, highly suspicious. And to say the truth, I am not at all surprised that they did close their doors on this occasion, that they might not be under the inspection of the public eye, while they were passing the bill on the table. I say so, because I am willing to abide by the good old principle of judging all men by myself, and if I had introduced such a bill, I should have been glad my name did not appear on the journals, that the public might not know to whom they were indebted for such a precedent.

I have another objection to the bill, besides that of the quarter from which it originated, or the manner in which it has been presented to the House. It appears to my mind like an oblique attempt to cover a certain departure from an established law of the land, and a certain violation of the Constitution of the United States, which we are told have been committed in this country. Sir, recollect that Congress met on the first of December, that the President had information of the incipient stage of this conspiracy about the last of September—that the proclamation issued before Congress met, and yet that no suggestion, either from the Executive or from either branch of the Legislature, has transpired touching the propriety of suspending the writ of habeas corpus until this violation has taken place. I will never agree in this side-way to cover up such a violation, by a proceeding highly dangerous to the liberty of the country, or to agree that this invaluable privilege shall be suspended, because it has been already violated, and suspended, too, after the cause, if any there was, for it has ceased to exist. No, I wish to be true to those principles which I have constantly maintained, and, God willing, ever will maintain so long as I have a seat on this floor, or have life. It has heretofore been the glory of those with whom I have acted, that in all our battles we have combatted for the principles of the Constitution and the laws of our country, in the persons of those in which they have been attempted to be violated, however infamous and contemptible. When those principles were prostrated under the Sedition law, what did we say? That the character of the man accused could not change the laws of the land, or impair his rights—that we would support the Constitutional rights of the citizen, in the person of the meanest reptile, as well as in the persons of those who occupy the highest stations in society. We have done so—let us continue to do so, regardless of popular clamor or odium, and we shall still continue to find ourselves on true ground. We never inquired what kind of a man Callender was—we said, such is the law and the Constitution; let justice take its course. I could quote other examples equally

strong, but in deference to the feelings of the House I shall desist from doing it.

I beg pardon for detaining the House so long. I will however, endeavor to express the remaining ideas I have to offer in a few words. There is another consideration which renders this bill highly objectionable. I consider the case as now at issue; whether the United States is under a military or civil government, or, in other words, whether the military government is subject to the civil power, or the civil authority to the military. I conceive that a case has occurred, in which the military has not only usurped the civil authority, but in which it has usurped nothing short of omnipotent power; and I consider this bill as calculated to give a softening and smoothing over to this usurpation; and on this ground I cannot assent to it. Suppose this bill either to pass or not to pass, what has been the practice under the Constitution? By the expression under the Constitution, I do not mean conformably to it. Men have been taken up by a military tribunal, and have been transported contrary to law. I say transported, for if a man can be transported from the district where the offence with which he is charged was committed, he may also be deported to Cayenne, or transported to Botany Bay. And even you yourself, (addressing the Speaker) if such acts be sanctioned by this bill, in your passage from this House to your lodgings, may be arrested, put on board a vessel and carried whithersoever the military authority may choose. To this I will never give my consent. It has been very well remarked by my colleague, that this is not the first case in which an insurrection has occurred in the United States, but that it is the first case in which an attempt has been made to suspend the precious privilege of the writ of habeas corpus.

I put it to any man, whether, now that we have received information of the extent of this conspiracy, and when we find that Catiline, Cethegus, and Lentulus, have not as many brother conspirators as themselves, this conspiracy is equal to that in Pennsylvania in 1794 or 1795? In physical force it is not comparable to it, however in intellectual talent it may be. I conceive then that according to the Constitution of the United States, there is but one case in which the writ of habeas corpus can be suspended, and I should not go into this view of the subject, if it had not been misstated by all those who have preceded me in the debate. My view of the subject is this—that this privilege can only be suspended in cases, in which, not merely the public safety requires it, but that the case of the public safety requiring it, must be united with actual invasion or actual rebellion. Now, with whatever epithets gentlemen may dignify this conspiracy, I am not even of the opinion of the gentleman from Maryland (Mr. R. NELSON)—I think it nothing more nor less than an intrigue—and I am happy that I can declare on the honor, not of a soldier, but of a citizen, that I believe it to be a foreign intrigue, availing itself of domestic materials for answering its purposes, and poor indeed must be the soil of this, or of any other state of society, which, would not furnish such materials.

A gentleman from Massachusetts has stated to the House that the organization and administration of the Government, at this time, forbids the apprehension of any abuse being made of the powers delegated under this law. Surely, sir, the gentleman could not mean to urge this as anything new. He must have known, if he had consulted history—as doubtless he has—that the king *de facto*, and the administration *de facto*, are always above suspicion. That there never was a proposition brought forward, that did not find a majority ready to say, There is, surely, no danger of any improper use of this power in our time, for we are all honorable men, and we would not delegate it, if an improper use could be made of it; and that, if we reject a measure, we ought not to do it so much on account of ourselves, as on account of those who come after us. And what will those who come after us say of us? They will follow our example, and declare that the character of their forefathers was above every doubt and every suspicion. Now, for myself, I beg leave to be permitted to disclaim every argument of this kind. I do not, indeed, consider it fair to introduce such an argument. Let us take up the question on its own merits and demerits, without any allusion or reference to our own virtues, or the degeneracy of posterity. For myself, I have no hesitation in saying that I will not grant this power at any time, except under the most imperious necessity; and I say this without any disrespect to this honorable body, or to any of the public functionaries. Take man as he is, and in his best estate, you find him an animal prone to abuse and corruption. There does not exist a single constitution or law in the world, that does not enforce this salutary truth.

I shall consider this bill, if it passes, as establishing a new era in the Government. When I was a boy, I recollect to have consulted such chronological tables as I could get access to. I recollect to have read, that at a certain time, monarchy was abolished in Rome; a little while after, the first Dictator was named; then the second Dictator—and I believe, as in a case of apoplexy, she scarcely got over the third fit. I believe a suspension of the writ of habeas corpus might have, here, the same effect as the establishment of the first Dictatorship at Rome. In what situation would it place yourselves and the citizens of this country? It would leave them at the mercy, not merely of a justice of the peace, but at the mercy of every subaltern officer of the army and navy. I believe it would comport as much with the safety and interest of this Confederacy to give us power to send these people off, as to put this power in their hands. I believe we should be as trustworthy as they. And, let me ask, what compensation to an innocent man, to a man of honor and feeling, to a man of character, who should be tied neck and heels and sent off to New Orleans, and who should ultimately be proved to be innocent—I ask what compensation it would be to him to bring an action of damages? Against

whom? A man without visible property? And what action? An action on the most mercenary principle. To be indemnified in his fame by dollars and cents. The injury would be irreparable. At present, all stand under the law. If any one offend, let him be brought under it. But, in this way, to put a man in an oyster boat, or skipper, and transport him to a distance from the place of his arrest, and then say he shall have a remedy, in case of his innocence, against an inferior officer, is absurd. If we pass such a bill, which God forbid! it should contain a large appropriation, and Government should be obliged to make good the injured party—to afford him redress. I say they should grant a large appropriation, for, it is not for men with epaulets and gold buttons to make reparation. If the bill passes, we are told it will be but temporary. Why, the Sedition law was but temporary; and I think, sir, (alluding to the Speaker) you were one of those who aided its passage—much against your will—by being present at the altar when it was more than once re-enacted. As to its three months' continuance, I consider that as one of the most objectionable features of the bill—as a bait to the trap; as the entering wedge. If it is made reconcilable to the interests and feelings of this House to pass it for three months, do you think we will then feel the same lively repugnance to it that we now do? No! It has been truly said, that no man became perfectly wicked at once; and it may be affirmed, with equal truth, that a nation is never enslaved at once. Men must be initiated by degrees, and their repugnance must be gradually overcome. Let me state a case. It is proposed to extend the time of service of the Executive Magistrate from four, to five, or eight years, or for life. If it be prolonged for a term, do you believe we shall stop at its expiration? No! Once extended for life, he will then claim the power to choose his successor, and the hereditary principle will follow. This is the old trick. Let me, however, tell gentlemen that old birds are not to be caught with chaff, though, unfortunately for them, the mass of mankind does not consist of old birds. Pass one other law, and I would quit the country. A twin brother to this same bill was introduced into the British Parliament in 1794; and that bill, to prevent seditious assemblies, was brought forward for about as good reasons as this. According to it, if four or five persons assembled, and refused, on the notice of a magistrate, to disperse, they were considered guilty of sedition, and were dispersed by force. These two bills form a complete tyranny—and tyranny of the most odious kind, because established under the mask of liberty. Was the tyranny of Robespierre less intolerable, oppressive, or odious, because inflicted in the name of the people, than a like tyranny in Turkey, under the Grand Seignior and his Muftis? Take one other thing along with you. These two fatal wounds, inflicted on the liberties of the English nation, were inflicted by the man who came forward in the character of a reformer—by the man who came forward as the advocate of a Parliamentary reform; from which circumstance he acquired that popularity which enabled him to inflict those deadly wounds on the liberty of his country.

Having said so much with regard to the principle, permit me to add one word on the details of the bill. There is a departure in it from the known, accustomed, and received language of the Constitution, in the use of the word "authority." The words are "warrant or authority." The expression is, in my opinion, too lax. Perhaps, we may be told, that the bill may be amended on the third reading. But my objection to the principle contained in it is such, that I will not consent to carry to a third reading that, which, under no amendment, can be rendered palatable to my taste. Mr. R. concluded by observing that he had so far exhausted himself that he was unable to go on.

Mr. SMILIE.—I shall not detain the House long by the remarks which I propose to make on this subject. I shall waive all observations on the mode of proceeding on this occasion—whether we shall reject the bill on its first, or suffer it to go to a second reading. The question is now put, and I am called upon to give my vote, either in the affirmative or negative. I, therefore, feel under a necessity to put my negative upon it. I consider this one of the most important subjects upon which we have been called to act. It is a question which is neither more nor less than, whether we shall exercise the only power with which we are clothed, to repeal an important part of the Constitution? It is in this case only, that we have power to repeal that instrument. A suspension of the privilege of the writ of habeas corpus is, in all respects, equivalent to repealing that essential part of the Constitution which secures that principle which has been called, in the country where it originated, the "palladium of personal liberty." If we recur to England, we shall find that the writ of habeas corpus in that country has been frequently suspended. But, under what circumstances? We find it was suspended in the year 1715, but what was the situation of the country at that time? It was invaded by the son of James II. There was a rebellion within the kingdom, and an army was organized. The same thing happened in the year 1745. On this occasion it was found necessary to suspend it. In latter times, when the Government had grown more corrupt, we have seen it suspended for an infinitely less cause. We have taken from the statute book of this country, this most valuable part of our Constitution. The convention who framed that instrument, believing that there might be cases when it would be necessary to vest a discretionary power in the Executive, have constituted the Legislature the judges of this necessity, and the only question now to be determined is, Does this necessity exist? There must either be in the country a rebellion or an invasion, before such an act can be passed. I really doubt whether either of these exist. I really doubt whether a single law of the United States has been, as yet, violated. I will not say this is the fact; but I do not know anything to prove the contrary. But, supposing that a rebellion does exist, we are then

left at liberty to decide whether it is such an one as to endanger the peace of society to such a degree that no ordinary remedy will answer. If an ordinary remedy will not, it may be our duty to apply an extraordinary one. What is this mighty business? What is the opinion of the Executive as to its danger? Does he consider it dangerous? It is a little remarkable that, in every instance under the British Government, the proposition of such a measure originated with the Executive, while here, without any intimation of danger from the Executive, we propose, on our own suggestion, to suspend one of the most valuable privileges that is secured to the citizen. Let us attend to the communication of the President on this subject. He states that, according to his information, the persons concerned in the conspiracy depend on receiving two kinds of aid; foreign aid, and aid derived in their own country. After giving his opinion of the foreign aid expected, he says:

"On the whole, the fugitives from the Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans."

The President declares that, in his opinion, there is no danger to be apprehended. With regard to foreign force, he states his reasons for thinking there is no danger. As the Message is in the hands of every gentleman, there can be no necessity for me to read it. But, he explicitly declares, from the state of our relations with other nations, there can be no danger from that quarter. This being the deliberate opinion of the Executive Magistrate, who is more deeply responsible on this occasion than any other member of the Government, is it not most extraordinary that we should attempt to take steps which can only be justified in the last resort? Are gentlemen aware of the danger of this precedent? This is the first attempt ever made under the Government to suspend this law. If we suspend it when the Executive tells us there is no danger, on what occasion may it not be suspended? Let us suppose that it shall be suspended on this occasion, what will be its effect? Parties will probably forever continue to exist in this country. Let us suppose a predominant party to conjure up a plot to avenge themselves. Do not gentlemen see that the personal liberty of all their enemies would be endangered? I mention this to forewarn gentlemen of the dangerous ground before them. I do not say that our country may not, at some future day, be in such a situation as to justify such a suspension, but I have never yet seen her in such a situation, and, at this moment, I think it does not exist. When we see the great body of the people so firmly attached to their Government, ought we to be thus alarmed on beholding a few desperate and unprincipled men attempting to stir up an insurrection? There is another consideration which will induce me to give my hearty negative to this bill. If foreign nations see that we are obliged, under such circumstances, to suspend the writ of habeas corpus, will it not show that the Constitution is incapable of supporting itself, without the application of the most dangerous and extraordinary remedies?

Mr. DANA.—I understand that the question is, whether the bill shall be rejected on its first reading, without passing through the ordinary forms of proceeding. In such cases, the ordinary question is, Is there anything in the bill proper for the House to deliberate upon? If they are of opinion that it can be modified in such a way as to insure its passage, it ought to go to a Committee of the Whole. This was my opinion when the motion was first made to reject the bill. I was disposed to vote against the question, although the bill went to repeal the Constitution. I have been accustomed to view the privilege of the writ of habeas corpus as the most glorious invention of man. I was notwithstanding, however, from a respect to the other branch of the Legislature, disposed to investigate the subject—to examine whether there was any necessity for it. As, on the one hand, I was inclined to believe that the judgment of the Senate had, on this occasion, been tinged by a strong abhorrence of rebellion; so I was willing, on the other, to take time to guard myself against an equally strong feeling of abhorrence of dictators. But, on one principle, I cannot agree to consider this bill as a proper subject of investigation, for one moment. I perceive, on further examination of the bill, that the Senate have provided for its suspension, in cases where persons have been already presented. Had it been confined to future arrests, I might have agreed to deliberate on it, but viewing it in the light of an *ex post facto* law, I must give it my instantaneous negative. There is another principle, which appears to me highly objectionable. It authorizes the arrest of persons, not merely by the President, or other high officers, but by any person acting under him. I imagine this to be wholly without precedent. If treason was marching to force us from our seats, I would not agree to do this. I would not agree thus to destroy the fundamental principles of the Constitution, or to commit such an act, either of despotism or pusillanimity. Under this view of the subject, I am disposed to reject the bill, as containing a proposition on which I cannot deliberate.

The yeas and nays were then taken on the question, "Shall the bill be rejected?"—yeas 113, nays 19, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Phanuel Bishop, John Blake, jr., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jr., Frederick Conrad, Orchard Cook, Leonard Covington, Samuel W. Dana, Ezra Darby, John Davenport, jr., John Dawson, Theodore Dwight, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwin, Edwin Gray, Andrew Gregg, Silas Halsey, John Hamilton, Seth Hastings, James Holland, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan McFarland, Patrick Magruder, Robert Marion, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Randolph, Thomas M. Randolph, John Rhea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortland, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Evan Alexander, John Archer, Barnabas Bidwell, John Chandler, Richard Cutts, Elias Earle, Isaiah L. Green, William Helms, Josiah Masters, Gurdon S. Mumford, Gideon Olin, Thos. Sandford, Henry Southard, David Thomas, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, Eliphalet Wickes, and Nathan Williams.

TUESDAY, January 27.

Mr. GOLDSBOROUGH, from the committee appointed on the sixteenth instant, presented a bill further supplementary to the act, entitled "An act concerning the District of Columbia;" which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. ROGER NELSON, from the committee who were directed by a resolution of the House of the fifth instant, to inquire whether any, and, if any, what, alterations ought to be made in the militia laws of the District of Columbia, presented a bill supplementary to the act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia;" which was read twice, and committed to a Committee of the Whole to-morrow.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a report prepared in obedience to "An act directing the Secretary of the Treasury to cause the coast of North Carolina, between Cape Fear and Cape Hatteras, to be surveyed;" which were read, and referred to the Committee of Commerce and Manufactures.

On motion of Mr. McCREERY,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what, amendments are necessary to the act passed on the 18th of April, 1806, "to prohibit the importation of certain goods, wares, and merchandise."

Mr. EARLY, from the Committee of Commerce and Manufactures, who were instructed, by a resolution of the fourteenth instant, "to inquire into the expediency of extending to the revenue districts on Lake Erie, and within the State of Ohio, the provisions of an act, entitled 'An act to extend jurisdiction, in certain cases, to State Judges and State Courts,'" made a report thereon; which was read and considered: Whereupon,

Resolved, That it is not expedient, at this time, to extend the provisions of the act entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts."

Mr. LATTIMORE presented to the House a memorial of the Legislative Council and House of Representatives of the Mississippi Territory, which was received and read, praying that the several acts of Congress regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee, may be revised and amended; that farther time may be granted on the first payment to be made for purchases of the public lands; and that the right of suffrage in the said Territory may be extended.—Referred to the Committee on the Public Lands.

Mr. JOSEPH CLAY presented to the House a petition of the merchants of the city of Philadelphia, signed by William Davy and others, a committee appointed at a general meeting of the said merchants, which was received and read, praying, for the reasons therein set forth, an extension of the time in which the oath shall be taken and the bonds given, in cases of goods exported entitled to drawback; and that the forfeitures already incurred by accident, mistake, or misfortune, may be remitted to them.—Referred to the Committee of the Whole to whom was committed, on the twelfth instant, the bill authorizing the issuing of debentures in certain cases.

Mr. CLINTON, from the committee appointed on the seventeenth ultimo, presented a bill incorporating an institution in the City of Washington, in the District of Columbia, for the education of youth, and the promotion and diffusion of learning and science, and granting to the same certain public lots within the said city; which was read twice, and committed to a Committee of the Whole on Thursday next.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill making appropriations for carrying into effect a treaty between the United States and Chickasaw tribe of Indians; which was read twice, and committed to a Committee of the Whole on Friday next.

The bill sent from the Senate, entitled "An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts, in the districts of Kentucky, Tennessee, and Ohio," was read twice, and referred to Mr. GEORGE W. CAMPBELL, Mr. BOYLE, and Mr. JEREMIAH MORROW.

The bill sent from the Senate, entitled "An act for the relief of Seth Harding, late a Captain in the Navy of the United States," was read twice, and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the encouragement of learning, and for the promotion of the useful arts; and, after some time spent therein, the Committee rose and had leave to sit again.

Wednesday, January 28.

Mr. Holmes, from the Committee of Claims, presented a bill making compensation for extra services to the Governor Judges, and Secretary, of the Indiana Territory; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. Holmes, from the same committee, to whom was referred, on the sixth instant, the petition of Peter Landais, made a report thereon; which was read and considered: Whereupon,

Resolved, That Peter Landais have leave to withdraw his memorial, and papers accompanying the same.

The Speaker laid before the House a letter from the Secretary of the Treasury, enclosing copies of the accounts of expenses incurred in public prosecutions before the Circuit Court of the United States, for the district of Connecticut, in the months of April and September, one thousand eight hundred and six, in obedience to a resolution of the House of the twenty-second instant; which were read, and committed to the Committee of the whole House to whom was committed, on the second instant, a motion for the appointment of a committee "to inquire whether prosecutions at common law should be sustained in the Courts of the United States for libellous publications, or defamatory words, touching persons holding offices or places of trust under the United States; and whether it would not be proper, if the same be sustained, to allow to the parties prosecuted the liberty of giving the truth in evidence."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," was read twice, and committed to the Committee of the Whole to whom was committed, on the twentieth instant, the amendatory bill to prohibit the importation or bringing of slaves into the United States, or the Territories thereof, after the thirty-first day of December next.

A Message was received from the President of the United States, transmitting an account of the fund established for defraying the contingent expenses of Government, for the year one thousand eight hundred and six. The Message was read, and, together with the account therewith transmitted, ordered to lie on the table.

Another Message was received from the President of the United States, communicating the report of the Director of the Mint, of the operations of that establishment during the last year. The Message was read, and, together with the report therewith transmitted, ordered to lie on the table.

Another Message was received from the President of the United States, transmitting copies of letters of Captain Bissel, who commands at Fort Massac, and of Mr. Murrell, to General Jackson, of Tennessee, in relation to the movements of Aaron Burr. The Message was read, and, together with the documents transmitted therewith, ordered to be committed to a Committee of the whole House on the state of the Union.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to alter the time of holding the Circuit Court in the district of North Carolina." The bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, as amended, be read the third time to-morrow.

Mr. Boyle, from the Committee on the Public Lands, presented a bill to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War; which was read twice, and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of the sufferers by fire in the town of Portsmouth, New Hampshire. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House again resolved itself into a Committee of the Whole on the bill for the encouragement of learning, and for the promotion of the useful arts; and, after some time spent therein, the Committee rose and had leave to sit again.

On motion of Mr. John Randolph,

Ordered, That the committee to whom was referred the Message of the President of the United States, of the twenty-second instant, be discharged from the farther consideration thereof; and that the said Message, together with the Messages of Monday last, and of this day, be committed to a Committee of the whole House on the state of the Union.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, made on the twelfth instant, on the petition of Stephen Sayre; and, after some time spent therein, the Committee rose and reported to the House their agreement to the resolution therein contained, amended to read as follows:

Resolved, That the accounting officers of the Treasury be directed to audit the account of Stephen Sayre, as Secretary of Legation to the American Commission at the Court of Berlin, in the year 1777, and that they allow him at the rate of one thousand pounds sterling per annum, and the compensation then usually made for returning home, with interest on the whole sum until paid.

The House proceeded to consider the said resolution: And on the question that the House do agree with the Committee of the whole House in their agreement to the said resolution, as amended, it was resolved in the affirmative.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

Thursday, January 29.

Mr. Holmes, from the Committee of Claims, presented a bill for the relief of Stephen Sayre; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Findley presented to the House a petition of the Trustees of the Presbyterian Congregation of the city of Washington, in the District of Columbia, signed by Joseph Nourse, and others, on behalf of the said church, which was received and read; praying that an act of incorporation may be passed, vesting in the said church such powers, privileges, and immunities, as Congress may deem just and reasonable.—Referred to Mr. Findley, Mr. Barker, Mr. Winn Mr. Bibb, and Mr. Magruder; to examine and report thereon by bill or otherwise.

The House resolved itself into a Committee of the Whole, to whom was recommitted, on the twentieth instant, the bill to annex certain shores and waters to the district of Mississippi. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The bill sent from the Senate, entitled "An act to alter the time of holding the Circuit Court, in the District of North Carolina," together with the amendments agreed to yesterday, was read the third time; and, on the question that the said bill, with the amendments, do pass, it was resolved in the affirmative.

An engrossed bill for the relief of the sufferers by fire in Portsmouth, New Hampshire, was read the third time, and passed.

Mr. J. Randolph, from the committee to whom was referred, on the nineteenth instant, the bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States," reported to the House their disagreement to the same. Whereupon, the said bill and report were committed to a Committee of the Whole House to-morrow.

Mr. Findley presented to the House a petition of sundry inhabitants of the Western country, which was received and read, praying that the act, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," may be suspended, until a re-examination may be had of the country between Brownsville and the Ohio; and that the road directed to be laid out by the said act may run from Brownsville to Charlestown, on the Ohio river.

On motion of Mr. Jeremiah Morrow, that the said petition do lie on the table, it passed in the negative.

Another motion was made by Mr. Findley, that the said petition be referred to the President of the United States; and, on the question thereupon, it passed in the negative.

Another motion was then made, by Mr. Varnum, that the petitioners have leave to withdraw their petition; and, on the question thereupon, it was resolved in the affirmative.

The House resolved itself into a Committee of the Whole on the bill authorizing the issuing of debentures in certain cases. The bill was reported with several amendments thereto. The House proceeded to consider the said amendments: Whereupon, an adjournment being called for, the House adjourned.

Friday, January 30.

A quorum of the House not being present, the House adjourned until to-morrow.

Saturday, January 31.

An engrossed bill to annex certain shores and waters to the District of Mississippi was read the third time.

Resolved, That the said bill do pass, and that the title be, "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building of a custom-house at New Orleans."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to explain the act, entitled 'An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments;" to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act to provide for surveying the coasts of the United States," with several amendments; to which they desire the concurrence of this House.

A Message was received from the President of the United States, communicating a report of the Commissioners for laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio,"

The said Message was read, and, together with the report transmitted therewith, ordered to lie on the table.

The House proceeded to consider the report of the Committee of the Whole on the bill to authorize the issuing of debentures in certain cases. The second section grants relief in certain cases where merchants have been prevented, by unavoidable necessity, giving bonds and taking the oath in ten days, as the law prescribes.

Mr. Eppes moved to strike out this section. This motion gave rise to a long debate. It was supported by Messrs. Eppes, D. R. Williams, Holland, and Sloan; and opposed by Messrs. J. Clay, Quincy, Early, and Broom; and lost, yeas 43, nays 49.

Some further debate took place on an amendment offered by Mr. D. R. Williams. The

speakers were Messrs. D. R. Williams, J. Clay, Early, Sloan, Varnum, Dana, and Broom.

When, on motion, the House adjourned.

Monday, February 2.

Mr. Thomas Moore, a member of this House for the State of South Carolina, informed the House of the death of his colleague, General Levi Casey late one of the members of the said State in this House: Whereupon,

Resolved, unanimously, That a committee be appointed to take order for superintending the funeral of General Levi Casey, late a Representative from the State of South Carolina.

Ordered, That Mr. Thomas Moore, Mr. Earle, Mr. D. R. Williams, Mr. Marion, Mr. Early, and Mr. Holland, be appointed a committee, pursuant to the said resolution.

Resolved, unanimously, That the members of this House will testify their respect for the memory of General Levi Casey, late one of their body, by wearing crape on the left arm for one month.

On motion of Mr. Holland,

Resolved, unanimously, That the members of this House will attend the funeral of the late General Levi Casey, this day, at one o'clock.

Resolved, unanimously, That a message be sent to the Senate to notify them of the death of General Levi Casey, late a member of this House, and that his funeral will take place, this day, at one o'clock.

Tuesday, February 3.

Mr. Boyle, from the Committee on the Public Lands, who were directed by a resolution of the House of the ninth of December last, "to inquire whether any, and, if any, what alterations are necessary in the act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans, and the District of Louisiana," presented a bill respecting claims to land in the Territories of Orleans and Louisiana; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. Boyle, from the same committee, to whom was referred, on the sixteenth of December last, the petition of sundry officers who served in America, during the war between France and Great Britain, made a report thereon; which was read, and referred to a Committee of the Whole House on Monday next.

Ordered, That the Committee of Commerce and Manufactures be discharged from the farther consideration of the petition of sundry merchants of Kennebunk and Wells, presented to this House on the nineteenth ultimo; of sundry merchants of Bath, presented to this House on the twentieth ultimo; of sundry merchants of Portland, and of Wiscasset, presented to this House on the twenty-seventh ultimo; and of sundry merchants of York, presented to the House on the thirty-first ultimo; and that the petitioners, respectively, have leave to withdraw their petitions.

The bill sent from the Senate, entitled "An act to explain the act, entitled 'An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments,'" was read twice and committed to a Committee of the Whole on Monday next.

ISSUE OF DEBENTURES.

The House resumed the consideration of the report of the Committee of the Whole on the bill authorizing the issuing of debentures in certain cases.

After some debate, Mr. Early moved that the bill be recommitted to a Committee of the Whole, which was agreed to—yeas 55, nays 43.

Mr. Alston moved that it should be the order of the day on the third of March, lost—yeas 42, nays 57.

Monday was named, and lost—yeas 20. To-day was named, and carried without a division.

On motion of Mr. Early, the House resolved itself into a Committee of the Whole on the bill.

Mr. Eppes moved to strike out the second section of the bill. This motion gave rise to a long debate, which continued till the House adjourned. It was supported by Messrs. Eppes, Fisk, Ely, Sloan, Holland, and D. R. Williams, and opposed by Messrs. J. Clay, Cook, and Dana, and lost—yeas 44, nays 49.

Mr. J. Clay in the course of his remarks observed, there were some Members in the House, who, looking no farther than the surface, exclaimed against the carrying trade. Mr. C. then went at some length into a defence of the carrying trade. He who exports the produce of the country, must take in return, either specie, or articles of foreign growth, or manufacture. Specie cannot, except in a few places, be procured. If the merchant send flour or tobacco to France, he must generally take brandy or wine in return. If the articles he thus takes and imports are not wanted in this country, he must re-export them to places where they are wanted, and where he can procure in exchange either money, or something wanted at home. If you throw obstacles in the way of the carrying trade, you discourage the exportation of the surplus produce of the country, any further than that produce can be sold abroad for money or for articles consumed in this country. Such is the value of the carrying trade, and such is the foundation of the system of drawbacks.

Mr. D. R. Williams said that he felt no hostility to the merchants, but, to the carrying trade and to the drawback system he felt the most rancorous hostility. It was the foundation of all our quarrels, and all our difficulties with foreign Powers. It was the only cause of our present clashing with Great Britain. It had entailed immense evil on the country.

The Committee rose and reported the bill, when the House immediately adjourned.

Wednesday, February 4.

The Speaker laid before the House a letter from the Secretary of the Treasury, enclosing a report

on the petition of Daniel S. Dexter, referred to him by an order of the House, of the twenty-eighth ultimo; which was read, and ordered to be referred to Mr. Stanton, Mr. Wadsworth, and Mr. J. Whitehill.

Resolved, That the Speaker address a letter to the Executive of the State of South Carolina, communicating information of the death of Levi Casey, late a member of this House, in order that measures may be taken to supply any vacancy occasioned thereby in the representation from that State.

Mr. J. Clay, from the committee to whom was referred, on the sixteenth of December last, the petition of Elexius Spalding, presented a bill to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. G. W. Campbell, from the committee to whom was committed, on the twenty-seventh ultimo, the bill sent from the Senate, entitled "An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts in the districts of Kentucky, Tennessee, and Ohio," made a report thereon; which was read, and, together with the bill, committed to a Committee of the whole House on Friday next.

The House resolved itself into a Committee of the Whole, on the bill from the Senate for the relief of Seth Harding.

Messrs. Van Cortlandt, Mumford, Elmer, Smilie, Conrad, and Jackson, supported the bill. Mr. Quincy suggested some difficulty with regard to the fund from which it was proposed to derive relief.

The Committee then rose and reported the bill, which was read a third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act confirming claims to lands in the district of Vincennes;" also, an act, entitled "An act to reduce the expenses attending the administration of justice in the District of Columbia;" to which they severally desire the concurrence of this House.

INDEMNITY TO COLLECTORS.

Mr. Early, from the Committee of Commerce and Manufactures, to whom was referred, on the second ultimo, the memorial of David Gelston, Collector of the Customs in the city of New York, presented a bill respecting seizures made under the authority of the United States, and for other purposes; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Early also laid before the House the following letter from the Secretary of the Treasury:

Treasury Department, *Jan.* 22, 1807.

Sir: I have the honor to transmit copies of the vouchers sent by Mr. Gelston to the Comptroller's office, and establishing the facts stated in his petition that he had paid $9,974 62, recovered from him in two suits instituted against him for damages arising from a seizure made by him, as collector, of two vessels which were presumed to be owned by foreigners, though sailing under American registers. Although the proofs were not sufficient to obtain a condemnation of the vessels, the circumstances were such as did justify the attempt. But the accounting officers had no authority to allow to the collector the amount of damages recovered; and the hardship of the case consists particularly in that, in case of condemnation, the United States would have received one-half of the net proceeds of the forfeiture, and the collector one-sixth part of the same; while, in case of acquittal and subsequent damages, the whole falls on the collector who has made the seizure.

Whatever may be the determination of Congress in this case, it appears proper that some general provision may be adopted, which, without injuring the citizens, may protect the collectors, and ultimately the United States, against actions of this kind, when the seizure shall appear to have been made on reasonable grounds.

It is provided, by the 89th section of the act to regulate the collection of duties on imports and tonnage, that, "when any prosecution shall be commenced on account of the seizure of any ship or vessel, goods, wares, or merchandise, and judgment shall be given for the claimant or claimants, if it shall appear to the court before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the said court shall cause a proper certificate or entry to be made thereof, and, in such case, the claimant or claimants shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to action, suit, or judgment, on account of such seizure and prosecution." But this provision extends only to revenue cases arising under the act, and applies neither to the registering act, nor to the acts prohibiting the slave trade, nor to the acts prohibiting the intercourse with St. Domingo, or the importation of certain goods from the dominions of Great Britain. It necessarily results that the execution of those laws is not enforced as it ought to be; and that, principally, since the damages recovered in the case now under consideration have been known, collectors cannot be expected to make seizures at the risk, perhaps, of the whole amount of their property, even in cases where circumstances are extremely suspicious, and it is expected that a legal investigation will lead to a full discovery. The same will happen in cases where the law is not perfectly clear, and where a judicial decision is in fact necessary to fix its meaning.

If the provision above-mentioned be proper in revenue cases, it cannot be improper in the cases arising under the registering act, or under any other law which authorizes a seizure. If the collector dares to seize without reasonable cause, the court will refuse a certificate, and the party will recover damages, which, in such case, Congress never can be called upon to refund. But, unless the provision be thus extended, either the collectors must be assured that Congress will always indemnify them, or the laws will remain in a great degree unexecuted, and those provisions, particularly, which were intended to protect the American flag, be materially impaired.

I have the honor to be, &c.,

ALBERT GALLATIN.

Hon. Peter Early, *Chairman, &c.*

NATIONAL DEFENCE.

The House resumed the consideration of the report of the Committee of the Whole, made on the twenty-third ultimo, on the report of the committee to whom was referred so much of the Message of the President of the United States as re-

lates "to the repairs of fortifications, and to the farther protection of our ports, towns, and rivers:" Whereupon the second resolution, reported by the said Committee of the Whole, being again read, in the words following, to wit:

"*Resolved*, That a farther sum of money, not exceeding two hundred and fifty thousand dollars, be appropriated to enable the President of the United States to cause to be built a number of gunboats, not exceeding fifty, for the better protection of our ports, towns, and rivers; and the farther sum of —— dollars, to enable the President of the United States to arm, man, and equip, the whole, or such number of gunboats, as he may think the public service may require:"

The motion of Mr. Van Cortlandt, to amend the resolution, by adding, after gunboats, "and other armed vessels," still depending—

Mr. Mumford said: I rise to make a motion. As it is probable the chairman of the Committee on the Fortifications of the Ports and Harbors will not return for some days, and as the session is progressing to a close, I hope the House will now consent to consider the report of the Committee of the Whole on that subject.

The House agreed to take up the report.

Mr. Mosely.—I should not have supposed that there would have been any objection to the amendment proposed by the gentleman from New York.

I should not have imagined that the most zealous advocates for gunboats would be unwilling to give the President the discretionary power which this amendment proposes.

Are gentlemen apprehensive that so great a proportion of this sum will be appropriated to the equipment of vessels of a different description as essentially to interfere with their favorite system of defence by gunboats? Surely, sir, there can be no danger of this. If we are to judge from past experience, or from present appearances, there can be no doubt but that gunboats are destined to constitute the principal naval force of our country, and to afford the only protection of consequence which we are to expect for our ports and harbors. The votes which have already passed in this House clearly evince their determination on this point.

The President certainly has never manifested any hostility to gunboats, nor recently, I believe, any disposition to encourage a maritime force of any other description.

Indeed, it appears from the documents before us, that he has, on the present occasion, instructed the Secretary of the Navy to state that, in his opinion, it would be expedient at this time to build sixty additional gunboats. And if our sole reliance is to be placed upon gunboats, no one, I presume, will contend that this number can be more than competent for the complete defence of all our ports and harbors.

But, however useful gunboats may be in the estimation of some gentlemen in certain cases, and under certain circumstances, it must be conceded that there may be exigencies when, if they were ever so numerous, if our shores were lined with them, that a single frigate would be of more efficiency, and might be employed to much greater advantage. Why not, then, when we have them on hand; when they lie useless and rotting in our harbors; why not authorize the President to make use of other armed vessels in commission with gunboats, provided he should judge it expedient? I know, sir, that gentlemen are very fruitful in their objections to every measure of defence that is proposed, either by sea or land.

It was said when this subject was under discussion a few days since, by some gentlemen, that they were opposed to a naval force, because it would involve us in incalculable expense, and eventually prove destructive to the liberties of the people.

It was again contended that, as our seacoast was so extensive, and our ports and harbors so numerous, it would be impracticable to fortify and secure them, and, therefore, that nothing ought to be done; but the whole of them must be left entirely defenceless and exposed to pillage and destruction from the most inconsiderable force that might choose to attack them.

The inhabitants, it is true, were very kindly informed that, in case of invasion, they might flee back to the mountains, or to the interior of the country, and find perfect safety.

Sir, I apprehend that this numerous and respectable class of our citizens, who inhabit the wealthy and populous cities and towns upon our seacoasts, will duly appreciate sentiments of this sort. They will no doubt feel all the respect and gratitude which they ought for the liberal and enlightened policy of a Government which guards with such parental solicitude the welfare and interests of every portion of the community.

But I ought to beg pardon; these were not precisely the sentiments of a majority of the House. They did vote to appropriate $20,000 for the purpose of improving and repairing our fortifications. Not the fortifications at any one particular place, but the whole of the fortifications throughout the United States. Twenty thousand dollars! about half the sum that was appropriated the last Winter for the purpose of finishing a single room in the south wing of this Capitol, for our own accommodation; rather more, I believe, than we have expended the present Winter in repairing the walls of the room we now occupy. But, Mr. Speaker, I have no disposition to treat this subject with levity. I view it as a very serious one; but when we compare the sum appropriated with the object to which it is to be applied, it does really appear—I will not say contemptible, but I will say, what I presume no man will deny, that it is as small a sum as the most rigid principles of economy could justify a magnanimous Legislature in granting, provided they thought proper to grant anything.

But I perceive that I am extending my remarks further than I intended when I rose. My intention was to confine them to the amendment offered by the gentleman from New York, which simply proposes to authorize the President, provided he should judge it expedient, to arm and equip some other of our armed vessels in addition to, or in connexion with the gunboats to be employed.

The amendment appears to me so reasonable

and so unobjectionable, that I cannot but persuade myself the House will think fit to adopt it.

Mr. D. R. Williams said he was extremely surprised at the observations of the gentleman from Connecticut. He would have supposed that a regard to decency would have prevented the remarks made by him in the abence of the gentleman from Maryland, (Mr. Nelson,) particularly on a point to which those remarks had no relevancy. The only question before the House was whether they should vest the President of the United States with the power of increasing the naval establishment at pleasure. On examining the documents before the House, gentlemen would find there was this year a much larger sum applicable to fortifications than had been expended the last year. Of the hundred and fifty thousand dollars then appropriated only about forty-eight thousand had been expended. Consequently $102,000 remained. In addition to this sum would be found an item of $75,000 in the estimates, to which it was now proposed to add $20,000, making altogether near $200,000. If the Government could not expend the last year more than $48,000, would not 200,000 be amply sufficient for the present year?

Mr. W. said he was decidedly hostile to vesting the President with a power to increase the naval establishment at will. Wherefore the necessity of the Naval Peace Establishment, if it was to be thus increased in this side way? Mr. W. concluded by observing that there never had, under the former Administration, been proposed a greater outrage on principle than this.

Mr. Mosely.—I never before understood that it could be considered indecorous or improper to reply to arguments which had been stated upon the floor of this House, in the absence of the gentleman who had advanced them. Had my opinion corresponded with that of the gentleman from South Carolina upon this subject, I might perhaps have spared the remarks which seem to him so exceptionable; had I, indeed, noticed or recollected the absence of the honorable gentleman from Maryland, which, if necessary, I could assure the gentleman from South Carolina that I did not until mentioned by him. But, sir, as I entertain a different opinion upon the point of order and decorum from the gentleman from South Carolina, I should consider myself justifiable in making the same remarks in the absence of the gentleman from Maryland, as I should suppose myself authorized in making were he present. Nor would the presence of that gentleman, however formidable the opposition I might in that case expect to meet with, deter me from submitting such observations as I should consider pertinent to the subject, and compatible with the rules of decorum in debate. Whether my remarks were relevant to the subject under consideration the House must decide.

Mr. Elliot said he did not think the remarks of the gentleman from Connecticut indecorous. But he thought the remarks of the gentleman from Maryland (Mr. Nelson) could not be reprobated in too strong terms.

The question before the House, said Mr. E., is whether we shall vest the President with the power of augmenting the navy. I would not do this, if I could help it. I regret the necessity of the measure. But consistently with the economical politics of the day, which, like the subtile principle of chemistry, caloric, pervades the whole system, without animating it, we must, consistently with our principles, vote for it. The Legislature of the Union will not agree to do anything. Supposing that it is true policy to do something to provide against the occurrence of danger, is it not, on the belief that danger will arise during the recess, indispensably necessary to vest this power? The system of the gentleman from Maryland is worse than the ancient system recommended by Hudibras, who says, that

"He that fights and runs away,
May live to fight another day."

Whereas, according to the plan of the gentleman from Maryland, we are to run away without fighting at all. I hope that such a doctrine will ever be reprobated, and I trust, that whenever the subject comes before this House, there will be no voice heard but that of political reprobation.

Mr. Lloyd said it was not his intention to have opened his mouth on this subject. But he had always understood that it was indecorous to call up a report in the absence of the Chairman. He would not say that this was improper in the present instance. But he professed he saw no necessity for it, as the Chairman was expected to return in a fortnight. But as the subject had been brought forward, would it not have been decorous to avoid commenting on the remarks of his colleague, who had no opportunity to reply? If, however, he recollected what had been said by his colleague, he did not take the ground ascribed to him. He had only said, that, rather than incur the expense of completely fortifying the coast, he would give it up, retire into the interior, and depend for defence on the militia, who were undoubtedly the strong defence of the nation. Doubtless meaning that he would in the first instance defend the seacoast as well as he could, and, if necessary, retire into the interior. This was conformable to the habits of his colleague. He had never been in the habit of running from any man. At the period to which gentlemen had alluded, he had been among the foremost to defend his country, and his gallantry, and the services he had rendered, ought to have convinced every one that he would have been the last man to skulk from danger.

Mr. Lloyd said he was not only decidedly opposed to the amendment, but likewise to both of the resolutions. He was opposed to appropriating $20,000, because he believed it would do no good. He was also opposed to the appropriation for gunboats, as they related to an experiment not yet tried. There were already sixty, for which an appropriation had been made. These are a sufficient number with which to try the experiment. Let us first determine their utility before we appropriate large sums of money; until we are satisfied of their utility, let us cease any fur-

ther appropriation. Mr. L. said it was not his habit to profess confidence in any man. In saying so, he was not to be understood as saying he had less confidence in the members of the existing Administration than many of those who talked so much about it.

Mr. Elliot said there was nothing further from his intention than the making a political or personal attack on the colleague of the gentleman from Maryland, whom he respected as a man, as an officer, and as a member of the House.

Mr. Lloyd said he was convinced that the object of the resolutions would be as well answered two weeks hence as at present. For the purpose, therefore, of affording his colleague an opportunity of defending his remarks, and under a conviction that he was, perhaps, better informed on the subject, than any other member in the House, he moved the postponement of their further consideration till Monday fortnight.

Mr. Thomas hoped the resolutions would not be postponed. He could not conceive there was any indecorum in calling up the resolutions in the absence of the Chairman; and if his colleague had not called them up, he should. The period of the session was late, and no time could be lost.

Mr. Gregg said he should vote for the postponement, not because he thought it indecorous to proceed in this business in the absence of the Chairman; but for other reasons. One gentleman has addressed us as though we were on the eve of a war.

Mr. Elliot observed that he had said no such thing.

Mr. Gregg.—The proper authority has advised us that our affairs with one of the European Governments with whom we have differences are in a favorable train for accommodation. There can consequently be no such apprehension from this quarter. With the other country it appears that all differences are at present waived. I believe there is no information that the negotiation is going on, but there is no statement that that nation is preparing to attack us. What reason, then, is there for apprehending a greater danger at this period than existed several years ago? It was then said that we were to have a war with another nation, and we began to raise an army, and to repair our fortifications. But the alarm subsided. We are now again told that it is necessary to repair our fortifications. But I believe they have been suffered to go out of repair, because they will not answer the purposes for which they were intended. For my part, said Mr. G., if we are to be engaged in a war, I am willing to go all the length of our means. Some years ago when it was represented that danger existed, although I entertained a different opinion, I voted, out of deference to the opinions of others, for raising the Army and fortifications; and if I thought danger really existed at the present time, I would vote for the highest sum that has been named, if gentlemen could persuade me that it would answer the end contemplated.

But my greatest objection to the amendment is, that it is an attempt to alter our naval establishment in a side way. There can be no doubt but that it will entirely supersede the Navy Peace Establishment. It appears to have been thought at the last session that the number of vessels and seamen now in service, would be sufficient in time of peace. If a different opinion is now entertained, let the bill fixing the Peace Establishment be revised and altered; but, let us not in this side way give a power to the President at his discretion to call into service our whole naval force.

Mr. Lyon declared himself also in favor of the postponement. He believed they were in danger of a war, and ought to pursue far more energetic measures than those contemplated by the resolutions under consideration.

Mr. Smilie said if he really thought they were to have war, he should think seriously of defending the country. But he did not think that any of the gentlemen who had spoken had given any reasons for this apprehension. For his part, Mr. S. said, he did not see the least prospect of war with either of the nations alluded to. If, then, there was no danger of war, the only thing to be considered was what was required in a state of peace. Suppose our fleet was before the harbor of New York, and such an occurrence should take place as recently happened, was there not the greatest probability that a war would be the consequence; that our vessels would have attacked the Cambrian frigate, when war would have been inevitable? On this ground he was averse to arming the Navy. He was not, however, at the same time averse to putting our ports and harbors in a respectable state of defence. He believed, considering all circumstances, it would be best to postpone this subject to Monday week. He was averse to so distant a postponement as that named.

Mr. Lloyd acquiesced in this modification of his motion.

Mr. Mumford.—In the course of debate on this subject in Committee of the Whole, my friend from Maryland, whom I respect as much as any gentleman, and who fought your battles with honor to himself, and bears honorable scars in defending his country's rights, I am sure cannot be serious when he advised the inhabitants of our seaport towns at the moment of danger to fly to the mountains, and leave all to be despoiled by the invader. I have too good an opinion of that gentleman to think he will persist in such sentiments. He would, I am persuaded, be among the first defenders to fly to our assistance; and what would he exclaim if he were told on the road the inhabitants had fled to the mountains, without making the least effort to keep the enemy at bay until their friends in the country could come to their assistance! Gentlemen are very much mistaken if they think we want expensive establishments like a Gaeta or a Gibraltar; we only ask such protection as will secure our exposed seaports from the sudden surprise of an enemy.

The gentleman from Pennsylvania, on my right, has observed, that we have no plan, and that it was impracticable to fortify New York. Another gentleman, from North Carolina, trusts he can find better methods of disposing of the surplus revenue than fortifying our ports and harbors. His reasons are indeed curious. He will not protect his crop, nor even buy a key to lock his strong box, because it will cost him a few dollars and cents. I will endeavor to show the gentleman from Pennsylvania that it can be defended against ships at least, if it cannot be from an army. Why we have not had a more ample plan offered by the War Department, in order that we might vote understandingly on this subject, I am unable to say. The reasons are best known to themselves.

I think it my bounden duty to lay before the House such imperfect information as I have been able to collect, and must therefore beg their indulgence while I communicate the information I have received from Lieutenant Colonel Williams, of the corps of artillerists and engineers, and President of the Military Philosophical Society of the United States, established under the auspices of the Government at West Point, State of New York; a man of solid learning, sound judgment, possessing a practical knowledge in the military art; and I feel a great satisfaction, after four and twenty years' acquaintance, to have it in my power to add my testimony, with numberless others, that he is worthy of having descended from the same stock of the late venerable sage and patriot, Dr. Franklin. He is a practical man, can execute the business he recommends, and whose plans we can safely rely on; there is nothing visionary about him. I will now beg leave to read such extracts from the transactions of that society, as appear applicable to the subject before us, and which, I think, in some measure, may be considered as an official document:

"West Point, *December* 20, 1806.

"Sir: In conformity to the enclosed resolutions of the United States Military Philosophical Society, I have the honor of laying before you a summary view of their transactions during the year 1806.

"It cannot be too often, nor too strongly reiterated, that the best means of preserving peace is to preserve undiminished the science of war, combining general principles with local circumstances, and modes of defence with strength of position. War, by modern improvement, has become a contest of skill rather than of force; for mere physical effort, whether produced by the natural prowess of individuals, or that resulting from number, would serve only to render the victory gained by a small but compact band of scientific soldiers so much the more brilliant.

"There undoubtedly exists, scattered throughout the United States, a great proportion of military science, which is fast sliding into oblivion, as the veterans of our Revolution are themselves descending to the tomb, and the instructive researches made by many of our countrymen in their European travels probably lie buried in their cabinets. To collect these treasures into one deposit, whence they can be occasionally drawn, as the exigencies of our country may require, is the great end for which the society was instituted. The importance of this object should be strongly impressed on the minds of Americans by the consideration that the Europeans, who might become their enemies, have been instructed in the most effectual, though the dearest of all schools—actual war; and as much as the nature of our Government is opposed to a standing army, so much ought we to preserve and make perfect the means of raising, organizing, and effectually directing the operations of a temporary one."

Before I proceed further with the extracts from this valuable work, it will be necessary to make a few preparatory remarks.

The system of fortifications recommended by the celebrated Vauban, as well as Coborn, are translated into all languages, and show they are applicable only to land batteries, citadels, &c., against the attacks of an army. I believe the honor of improvement in marine batteries has been reserved for the Marquis of Montalembert, and it is presumed justly so, as they combine solidity with durability, together with economy of men and money.

From high authority I am informed it has been in contemplation with the French Government to demolish all their old marine batteries, in order to erect new ones after the plan of those recommended by Montalembert. In the seven years' war, a British fleet was repulsed off the Isle de Aix, at the mouth of the river Charonte, on which is and was erected fortifications partly after the manner of Montalembert.

Extract from La Fortification Perpendiculaire of the Marquis of Montalembert: Translated by Jonathan Williams, Lieutenant Colonel of Engineers.

OF MARINE BATTERIES.

In many instances we have experienced the inefficiency of batteries placed along a coast. Hence has arisen a contempt for this kind of defence among military and naval officers; from the imperfection of such batteries as have been erected, a prejudice has been established that the fire of ships of war will always silence that of any batteries they can lie against, and that no seaport can be so defended as to prevent ships of war from entering it.

It does not, however, follow that this must always be the case, for we presume that such batteries have hitherto been badly constructed, and indifferently armed. Every kind of warlike attack or defence ought to be completely possessed of the whole force it is capable of: but if batteries are slightly constructed; if they are not furnished with a sufficient number of guns; if greater precaution is not taken with a battery that may be approached by ships of war as near as one hundred toises, than with one that cannot be approached within five hundred, the object of such batteries has not been understood, or these circumstances of position and exposure have not been considered.

The construction of a marine battery is not so simple a thing as may have been imagined; a variety of considerations should guide the engineer in forming his plan; the nature of the soil, its elevation, the various depths of the water, the direction of the flats, the courses of the channels, currents, &c., should be taken into consideration, and influence the position, the proportions, the form and composition of works of this kind; for it is not sufficient that they should be themselves indestructible by a maritime force, they should also possess the certain power of destroying any ships that come within their shot.

Therefore the construction of marine batteries ought to be guided by the following principles, viz:

First. Cannon ball begin to take effect at the distance

of three hundred toises, eighteen hundred feet; therefore a ship would only waste her ammunition, if she were to attack a battery at a greater distance.

Second. It is established, in fortifications, that musketry cannot take effect at a greater distance than one hundred and fifty toises, nine hundred feet.

Third. Batteries on low ground, and near deep water, should not be *en barbette*, or without embrasures; barbette batteries being only proper in situations where large ships cannot approach near to them or when there can be but few guns mounted, and of very heavy metal, and when it is necessary to point in all directions, by turning the carriages on their pivots; but such batteries are much exposed when heavy ships can approach within musket shot.

Fourth. In all cases where an enemy has an essential object to accomplish, and batteries are designed to oppose his progress, it is better to have none, unless they are made stronger than the ships they are to repel; and we think this kind should be made wholly of mason work.

Fifth. We would, however, establish certain degrees in this respect; for it must be considered that to defend the entrance of a port of any great importance, more powerful means must be used than to defend any small harbor, since it is certain that the enemy's attack will be in proportion to the magnitude of the enterprise.

Sixth. The embrasures of seacoast batteries should be sufficiently wide to allow the axis of the bore of the gun, (which we will call the axis of the embrasure,) to form a horizontal angle of twenty-five degrees. Now the tangent of twenty-five degrees, to a radius of three hundred toises in length, is one hundred and forty toises, which determines the space commanded by half the embrasure to this distance. In like manner when the ship shall be in a perpendicular line at one hundred and fifty toises distance, (the length of musket shot,) the half embrasure will discover a space of seventy toises.

Seventh. Let us suppose a coast that is in a right line, as well as the flats under water which determine the edge of the channel in the distance of three hundred toises from the coast. In this case, supposing the bow of the ship to be in the channel, at less than one hundred and forty toises from the axis of the first embrasure, it will be seen at that instant along the side of the embrasure at three hundred and thirty-one toises distance, that being the secant of this angle, to a radius of three hundred toises; then this would be the greatest distance at which the battery should fire.

Eighth. It is clear from the foregoing, that when a ship is sailing along a coast which, as well as its battery, is in a right line, it will be exposed from the first moment it is within one hundred and forty toises of the axis of the first embrasure, until it shall be one hundred and forty toises from the last, in addition to the length of the ship, in every point of that line; and, supposing the battery to have twenty-four pieces, and the ship to have thirty toises in length, she will have to pass through three hundred and forty-six toises of constant fire, before she can be out of cannon shot.

Ninth. The width of the merlons leaves no space that cannot be seen at the distance mentioned. The lines of fire from embrasures that are three toises, or eighteen feet distant from each other, and with an opening not twenty degrees, cross about eight toises and three feet from the summit of their angle; deducting therefrom the thickness of the parapet, there will be left five toises from the exterior part, for the distance at which the fire crosses. When the summit of the angles of each embrasure are but nine feet distant from each other, and the opening at the exterior subtends an angle of fifty degrees, the lines of fire will cross at nine feet six inches from the summit of the angle; deducting from this six feet for the thickness of the wall, and the distance from the centre of the cannon's motion, there will remain but two feet eight inches for the distance from the exterior part of the wall to the point of intersection of the crossing fires. From the foregoing it appears impossible that even a boat could escape with impunity.

Tenth. If a ship were to keep out of the fire of such battery, her distance must be more than three hundred and thirty toises, as we have shown. Now, at this distance no ship, not even a fleet could injure a battery of this description to any important degree; and in case there were mortars in the battery, the advantage of such a cannonade would probably be on the side of the battery.

Eleventh. But if the channel were at one hundred and fifty toises from the battery, it would be necessary to remedy by its construction the disadvantage to which it is exposed by its position. This is the great object of the art of fortification. In such a case the tangent of the angle of twenty-five degrees would only be seventy, and its secant one hundred and sixty-five toises. A ship, then, by getting springs on its cables, in a position between two embrasures, might be out of the sight of either, and, without receiving one shot, might attack the post with its whole broadside. It might advance close to the battery, and, by the musketry from its tops, might clear the ramparts of every man. This has been the case in all those instances where forts have been so easily destroyed by ships of war, and it is this which we flatter ourselves we have completely remedied in the manner hereafter explained.

Twelfth. Every battery which is liable to be approached by large ships at the distance of one hundred and fifty toises should be built entirely of mason work and casemated. It should be casemated to be protected from the fire of musketry from the ships' tops, and of mason work to resist the force of artillery, also to permit a nearer position of the guns, and a greater angle to the embrasures.

Thirteenth. In general, marine batteries should be terminated in circular form, so that there may be no point within the reach of cannon shot, where a ship might ride without being exposed to their fire; this, however, is not necessary on the land side.

Fourteenth. Such batteries should have several tier of guns, like the ship against which they are to act, and the guns should be as near to each other as they are in a ship of war; they should be plentifully supplied with covered musketry, in points where they can be approached within musket shot, and then the ships and not the battery would have the most to fear from an attack.

Fifteenth. In short, every battery should have a defence peculiar to itself. It should not be susceptible of being, as it were, seized by the throat; its resistance should be in every direction from which an attack is possible, and it should have an imposing artillery on the land as well as on the sea side.

Note by the Translator.

These principles are displayed by an annexed plan, elevation, and section. In the plan, two towers, with the regular bases, are connected by a curtain at a distance from centre to centre of sixty toises, with lines of fire from the towers in every direction by sea and land, while on the latter side it is completely defended by all the known rules of the art of fortification; the towers are covered by a circular parapet, which is bomb proof, and, while it commands all around, it protects all below.

This plan is upon too small a scale to show the openings for the musketry in the elevation; the number of cannon in a given space may be counted, and it will be thereby seen that, in ordinary batteries of one line, when the distance from each gun is eighteen feet, for every shot such a battery could fire, these towers and curtain would fire six, occuping only the same space of ground, and this without counting the cannon that might be mounted on the top of the whole. Behind every aperture for small arms is an apartment for two or more soldiers, so that this work is at once a fort and barracks; the section displays the interior, with the arches in profile, according to the lines of vision in perspective, and the circular apertures above give free passage to the smoke, which has ample room to spread itself among the arches. The representation of a broken partition discovers the soldiers' apartment. A superior figure describes a detached tower.

The works of the Marquis of Montalembert, (ten volumes quarto,) it is believed, have not yet appeared in English, and the copy from which the foregoing was translated, is probably the only one in American hands. They were imported for the use of the Military Academy, and make a valuable portion of its library.

I now come to the grand question—What will be the cost of this plan of fortification? Montalembert calculates the whole at 2,500 cubic toises solid masonry, which, reduced to our measure, comes very near 25,000 perches—say, that about $160,000 will be sufficient to build a fortification capable of firing one hundred and twenty guns at each discharge upon one and the same object. It cannot be denied that marine batteries, constructed on these principles, must unite the greatest advantages. The four tier of the *courtine*, which unite the towers, contain 96 pieces of cannon; so that, by including the fire from the towers, a passing ship would receive 120 shot at every discharge throughout the whole space it would have to pass in a right line; the extent of the space, if the ship were at 400 yards, would be 360 yards; if at 600 yards distance, the ship would be exposed to such a fire during the time of sailing 512 yards. The passage, then, between two such batteries, one on each side of the Narrows—that is, between the Reef and Signal hill, is but about 1,300 or 1,400 yards, so that, coming with bows in, and sailing through, a ship would be exposed at once to both batteries, of 240 shot at each discharge—the men all the while covered. It must also be considered that no more disciplined troops would be required than merely to take care of the place and keep it in order, for the militia artillery companies could answer any supply of men wanted, when fighting became necessary. This work will be better than any that has hitherto been executed, and if it should prove to be such as we are assured it will be, the grand desideratum of fortifying our ports with great efficacy combined with great economy will be gained.

It is evident from the plan of such a work, which I have seen in the original, that from a gun which can be fired from the requisite space in any fortification now existing in this country, without extending that space, and, of course, without additional foundation, six guns may be fired. That is, the guns are twice as near to each other, and instead of one there are three tiers, all bomb proof, arched over each embrasure, or rather port hole, and capable of containing a complement of men all under cover. In going over a hasty translation of part of this work, some inaccuracies may have occurred, but the observations are believed to be substantially correct.

This plan is presumed to be solid, durable, and proportionate to the end desired; but it cannot be carried into effect without money; and as I have always understood money was the sinews of war, and as I am not disposed to sit down quietly with folded arms, despise my enemy, and cry peace, peace, when there is no certainty how long it may continue, I am for adopting a broad and liberal policy, by extending the arm of national defence throughout the whole Union, and inspire our fellow-citizens with confidence in their Government and in themselves, by knowing when and where their arms are to be found; and being prepared for war, will be the sure means of permanently securing your peace. I do, therefore, hope this House will exercise their own sober judgment, and then I am persuaded they will be convinced that the sum of twenty thousand dollars, filled up in this bill, for the fortifications of all our exposed ports and harbors is totally inadequate to the desired object—I mean all the ports, because some gentlemen seem to carry the idea that the appropriation is for the city of New York alone. I mention this circumstance, supposing it might be the idea of other gentlemen, I was advocating for that city exclusively. Sir, I disdain such a narrow policy. I have come here to promote the best interests of this Union, by pursuing magnanimous and liberal views, and in defending our seacoasts, ports, and harbors, do conceive I am carrying that object into effect, together with such other general measures as may appear proper to pursue, and which the exigencies of our common country may require.

Shall it be said, and go abroad in our nation, that the Congress of the United States appropriated $20,000 to build a custom-house in New Orleans, and only $30,000 in defence of fourteen hundred miles of seacoast, on which are situated her most populous cities, for the reception of the surplus productions of her soil; and that the farmers, the planters, and the cultivators of that soil would not afford protection to their own property deposited in those places for safe-keeping and a market? To me it is incomprehensible, unless I should indulge the idea that the enemies of your peace and tranquillity have, by their slander and impositions upon the well-meaning citizens of the interior of the nation, represented the inhabitants of your cities as actuated by sinister views, and that they only wanted jobs to make money; nothing can be more illiberal, they are friends from choice, and from one of the strongest of all motives, the mutual interest they have in the pros-

perity of each other's agriculture and commerce. Why all this apathy, and why recommend flying to the mountains for protection? Is it in contemplation to abandon the seacoast altogether? What will this finally end in? I am seriously apprehensive of its ultimate consequences. Is it in the power of any man to calculate? Is it not more than human foresight can predict? Is our whole Atlantic coast and its inhabitants to be abandoned to their fate? Do gentlemen think they have got no feelings nor any rights? You may refuse to hear them, and neglect to protect them, until you alienate their affections from the nation. They are conscious of having performed all their duties as faithful citizens of the Union. What can be the cause of this distinction?

I do hope this House will pursue a broad and liberal policy, and exercise their own judgment in promoting what they may think for the best interests of this Union, without being fettered and shackled with those things called estimates, sometimes calling for enormous sums, and at others you are left in the dark, and must vote without having the requisite facts before you. We represent freemen, and I do hope we shall exercise our Constitutional rights in adopting such measures as we may think proper. There is nothing I more ardently desire, than to see the chain of this Union strengthened and brightened more and more; and hope we shall not be charged with having neglected to keep the polish bright. Shall it be said the ninth Congress suffered it to corrode? I hope not. I am sure they will not suffer any such imputation, and I do trust in the magnanimity of this House, that they will agree to fill this blank with such a sum as will give us solid and permanent defence of all the exposed ports on our Atlantic coast. Conceiving it the duty of this nation to weigh well these facts, which have come with irresistible force on my own mind, I hope the House will excuse my taking up so much of their time in discharging those duties. I shall take another opportunity of making further observations. In the meanwhile, I do hope the motion to postpone will not obtain.

When Mr. M. had concluded—

Mr. Elliot said he should not have risen again, had not his remarks been misunderstood. He had not said that he expected war during the recess. He had only intimated the expectation that the moment of danger would occur in the recess. He was willing to go further, and to say that he believed the moment of danger had already arrived. He believed the greatest danger of war now existed, and that it could not be avoided without national degradation. He said he had spoken of no secret documents, nor of a secret Cabinet, if any such existed; but he alluded to publications in the newspapers, from which we knew that we were under the necessity of making a treaty with Spain, under the dictation of France, or of going to war with both those nations. Was it not then a time of the greatest danger? He had, however, but little expectation, though the national honor required war, that we should be engaged in war. On the contrary, he believed that the old maxim of millions for defence, but not a cent for tribute, was about to be reversed.

Mr. Fisk.—With the gentleman just sat down, I apprehend there is some danger when gentlemen are so alarmed and bewildered in their imaginations as entirely to lose sight of the question of postponement before the House, and to go into the general principles and policy of fortifications, and when a mere question of policy is found to draw forth such a discussion. I did not expect, on such an occasion, that any gentleman would have so lost himself in the mazes of fancy as to make himself believe that he saw things which did not exist, and predict events which no rational man believes will ever take place. My colleague has said that we must suffer national disgrace, or have a war with Spain and France; that we dare not deny this and give the people the information we possess. I wish to know what information we have to give? I wish gentlemen to point it out. Has anything transpired, like that alluded to by my colleague, to warrant his assertion? Nothing of the kind has; there is no probability of war; appearances now are not so unfavorable as they were one year ago. To maintain peace with other nations, it is necessary that we should treat them with decent respect, and have some kind of confidence in them; there ought on our part to be manifested a disposition to keep peace. Is this the way to show such a confidence? To declare we are on the eve of a war while we are in the midst of a negotiation, which promises a happy one? I see no benefit in such observations; I discard them. Gentlemen seem to think fortifications of such importance that, if erected, they would protect the country from war, their ships from plunder, their seamen from insult and imprisonment. If fortifications could answer the good purposes stated, it would be proper to make them. But has experience decided in their favor? Look at the old world; let us profit by their examples. The nations of Europe have gone into extensive plans of fortifications and armaments. Have not war and devastation spread themselves from one end to the other of that continent? Have fortifications protected them? Have they not, on the contrary, been among the causes of the devastation and misery in that country? There is more reason for them in the old world than here. There every nation is surrounded by enemies and jealous of its neighbors, while here we are divided from the old world and powerful rivals by an immense ocean. When we were weak, and struggled through imminent danger to gain our independence, we then relied on the yeomanry of our country. In 1793 Great Britain insulted our flag and threatened us with the hostilities of the Indians. Did we then avert the calamity by fortifying or building navies? No, other measures were resorted to and proved successful; since which it has so happened that we have experienced the blessings of peace and happiness beyond any nation on earth. I will ask whether we are in more danger now than in 1793? If not, where is the necessity of those expensive measures?

In 1798 France threatened us with war. We did not then carry on fortifications to any great extent. We have been progressing ever since in strength and numbers, and yet we are now called on to fortify when we are not threatened by any nation.

I presume the great body of the yeomanry, whenever their rights are invaded, or danger offers, will be ready to meet and repel it. Formerly we depended upon them, and we were not disappointed. I believe, if danger were now to present itself, we should not be disappointed.

Gentlemen say we ought to inspire our people with confidence. Is this the way, by exciting a clamor of imaginary danger, and telling them they can only rely on fortifications?

Mr. F. said he would have no objection to ordering two or three of the public vessels to New York, where, in case of danger, they might be manned by their own seamen. But he did not see at present the necessity of the measures asked, or the existence of the danger pointed out. He was in favor of the postponement.

Mr. Van Cortlandt said this subject was highly important, as it respected the safety of the country. He did not wish the measures of defence entirely confined to fortifications. They had a number of vessels of war, which he thought might be advantageously used as circumstances might require. Let then the sum that is proposed be appropriated, and let the President use it as he pleases, either in gunboats or fortifications. He was against the postponement; that the sense of the House might be tried on the motion he had the honor of submitting.

Mr. Thomas said, if the motion to postpone was persisted in, he should be under the necessity of asking the yeas and nays, as it went to involve the main proposition. He could not, he said, tax the gentleman from Maryland (Mr. Lloyd) with a design to defeat this measure in an unfair way, as he had declared himself against it in any shape in which it could be presented to the House. Gentlemen, however, would recollect that this measure had been recommended by the President at the opening of the session—that it had been referred to a select committee who had not reported until sometime in January—that it lay on the table in consequence of the indisposition of the chairman of this committee—and that after more than two-thirds of the session had passed it was at last taken up for consideration. Under these circumstances, though the measure is yet in a perfectly immature state, and when there was but four weeks of the session remaining, a motion is made to postpone it for half the remaining time. Could gentlemen look at these circumstances and not see that the motion was evidently intended to defeat the whole measure?

Mr. Lloyd said he would most cheerfully join the gentleman from New York in calling for the yeas and nays. It was never his wish to vote in conclave, and if every man in America were present, he should speak and vote as he then did. It was an unpleasant thing for him to be again under the necessity of assigning his reasons for this motion. His colleague had reported the resolutions under consideration, and had voted for every part of them. If, therefore, gentlemen would consent to wait until he should return, they would have one more vote for them. It was obvious that this would be the strangest reason on earth, for making his motion, if his object were to defeat the resolutions. His primary motive for the motion had been to give his colleague an opportunity of vindicating the arguments he had urged on this subject. Mr. L. said the arguments of gentlemen in opposition had furnished him with additional motives to postpone the subject. They tell us that war is impending. For his own part he saw no reason for this opinion; but a short delay might throw some light on this point, and might, if such an opinion appeared to be well founded, induce those at present opposed to the resolutions to vote for them. If the existence of danger could be satisfactorily shown to him, he would go as far any man in defending the country. But without such proof, he would never consent to be lavish of thousands.

Mr. L. said that he did not pretend to possess any military knowledge. He was willing to allow Colonel Williams all the merit claimed for him. So far as respected the principle of a fortification, his opinions were no doubt correct. But, allowing his premises, was he to infer that the United States were competent to fortify a coast of a thousand miles in extent? If it were intended to fortify the whole coast, he would ask where were the funds? Because we will not defend the whole coast, are we to be told that the people are not protected? Because we do not accomplish that which is impossible, are we to be charged with a disregard to the interests of the nation?—when every man knows that it is impossible to defend the seacoast without a vast standing army and an enormous expense, which the nation is not now able to bear? So far from the omission to do this alienating the affections of the people from the Government, he thought that the measures urged by gentlemen would be the most effectual means of alienating them.

Mr. Masters.—The Representatives from New York have not contended for partial appropriations, as many gentlemen seem to suppose. They contend for a much larger sum to be appropriated than is now filled in the blank of the resolution, to enable the President to begin and complete permanent works for fortifications at the most important and defenceless places. The last session of Congress a large number of petitions was presented to this House relative to fortifying the port and harbor of New York; the Legislature of that State instructed their Senators and requested their Representatives to use their best endeavors to induce Congress to fortify and defend the port and harbor of that city; which must be admitted is in a defenceless situation, and can be approached by water from two different points, and laid under contribution by a single frigate. The decision of this House was then against us. The applications from the city of New York have been renewed; almost innumerable petitions are before

you, and what are we told? Rather than fortify, gentlemen would sooner see our citizens flee to the mountains for protection. Yes, sir, like the Arabs; behold the picture! 70,000 men, women, and children, in one city, fleeing in confusion from their homes. Never, never, let it again be said that Americans must flee before an enemy for the want of the protection of your Government. If they must flee, let it be at the point of the bayonet, with force opposed to force.

It is painful to me to see the disposition of this House so hostile to everything that looks like a systematic policy of permanent national defence. The additional sum of $20,000, added to the unexpended balance of the last year, is so contemptible a sum, that it has the appearance of ridicule on your petitioners.

Was there ever a civilized nation under heaven, in the same circumstances, who so completely neglected to fortify their principal places and most vulnerable points? We are constantly insulted and constantly in treaty with other nations, year after year, in order to settle differences and preserve peace. Yet we pursue no efficient measures for fortification and defence. The most part of our seaport towns from Georgia to Maine are liable to be laid in ashes by the most insignificant force. If you expect to enjoy your independence and liberty, you must protect that independence and liberty; if you enjoy inalienable rights, you must protect and defend those rights, or the enemies of our republican institutions will ridicule your Government, and laugh at your weakness; which, indeed, they have already done. I hope that neither the position of this House nor the Gods will invite traitors, conspirators, pirates, and picaroons, to glory and fortune, at the expense of the interest dignity, and honor of this nation.

The report of the Secretary of War would seem to carry the idea, as though great things were doing for New York; but this is to be tested by the expenditure and appropriation. Some gentlemen say that the Secretary of War is the proper organ and source of information on this subject, and he does not want any further appropriation for fortifications. If this is his opinion, or that $20,000 can be useful, or answer any valuable purpose, or that the nation ought not to be fortified; then I say it is time, high time, that the good old patriot retire from the War Department. I say it, and as an independent Representative, have a right to say it, for such is my opinion. I am for a regular system of national defence, the Secretary of War to the contrary notwithstanding.

Mr. Van Rensselaer.—I am against the motion for postponement. Although I have no reason to believe that any observations I can offer will alter a vote given in the Committee of the Whole, I consider it a duty incumbent on me to deliver my sentiments on the general question now before you. The sum of $20,000 has been voted for fortifying the ports and harbors of the United States, and $250,000 for building gunboats. The peculiar situation of New York requires a speedy decision—not that I calculate on the present appropriation as an object by which it will in the least be benefitted, but I think it of the first importance the citizens should know the fate of their application to Congress for an appropriation adequate to fortifying the port "against national hostility and predatory incursions," a port that renders to your Treasury above one-fourth of the whole revenue of the United States. The friends of this measure are peculiarly unfortunate, whenever this question is discussed on the floor of Congress, from the manner in which it is treated. For they are told, that it is the height of folly to fortify, inasmuch as the sum requisite will be enormous, and after all an army can land and subdue the fortresses. If we ask for fortifications that will inspire confidence and render our city secure against the attack of a picaroon, we are told, by the opposers of fortifications, that there is a profound peace, and no danger to be apprehended. If I understand anything respecting our public relations, this proposition is fallacious and dangerous. For so threatening is the aspect of our affairs, that the whole nation is alive with anxiety about the result. But let us admit for a moment that we have no cause of apprehension from abroad. Are there no other considerations that merit attention, and call for a generous appropriation towards securing the city of New York against an attack on the property of its citizens and its banks? Have we not within less than twelve months seen an extraordinary armament fitted out in our ports to invade some of the Spanish provinces in South America? I mean, sir, the Miranda armament; and have we not been told from the highest authority, recently, that an enterprise has been formed, and movements made either to sever the Union, or invade Mexico from your own territory, and by your own citizens? An enterprise, and movements that have excited and continue to excite such great sensibility within these walls, as well as through the Union, which if any person had predicted eighteen months ago, he would have been called a madman. And will gentlemen persist in saying that it is folly for us to guard New York against possible and probable events? What is the object of Miranda and Burr's expeditions but money? What gives life to their armaments but the dollars of Mexico and the wealth of Peru? Can any man suppose that Burr, or Miranda, could find followers in an expedition to the inhospitable regions of Cape Horn? Would it surprise you more, Mr. Speaker, to hear that a set of renegado Americans, or blacks from the island of Hayti, had laid New York under contribution with an armament (in its present defenceless state) than that Miranda should attempt to conquer South America with one armed ship, and Burr sever the Union, or invade Mexico by your own citizens? Notwithstanding the armament has failed, and the expedition is crushed, yet, sir, I undertake to say, that our fears are not groundless as to the possibility of plundering the city of New York, should an armed force have the audacity to attempt it. Among other arguments offered against fortifying New York, we are told by an honorable gentleman from North Carolina

(Mr. Holland) "that the severity of warfare has been much meliorated, and that cities are not burnt by shipping, or laid under contribution." To this I reply that every seaport town in Europe is well fortified, not with a view alone to resist the fleet of an enemy, but to prevent a corsair or picaroon from annoying or molesting them. We hear frequently something said on this floor about a survey of the port of New York, and the estimates of the cost of the contemplated works. I know that a survey of the port and harbor of New York has been made the last Summer, and that it is to be found in the War Office. Why it has not been laid before Congress is not for me at present to explain, but it is sufficient to say that we have no official information about the soundings of the channel from the sea to the city, or about the elevated ground and islands that may be the most suitable sites for fortifications, and the money necessary to erect them. I contend, sir, that new works ought to be erected, and that the fortifications on Governor's Island are inadequate to defence. Fort Jay, on that island, is a square fort composed of a sodded rampart and wooden parapet. Of the front next to New York, not one gun through any of its embrasures could hit a ship on East river, and the whole courtine could fire no where without endangering the city, for this fort no doubt originally was intended by the British to awe the city. The rampart is merely a bank of sand, and the wooden parapet is a mass of rotten timber. The last Summer a skilful engineer has enclosed the whole, and to take off the destructive fire of the courtine towards the city a ravelin has been executed which now gives two directions, one towards the East river, and the other ranging the front of the city battery towards the entrance of the North river. Will it be said, sir, that a work like this is adequate for defence? But here we are told by an honorable gentleman from South Carolina, that the sum of $20,000 is an ample sum to fortify the ports and harbors in the United States for the year 1807, inasmuch as $102,000 remain unexpended of $150,000 appropriated last year, added to $70,000 in the general appropriation bill. Here I trust the gentleman will permit me to correct him. The seventy thousand dollars have already been expended for the Army, and as to the $102,000 said to be in the Treasury, we find, in a letter dated 12th December last, from the Secretary of War to the chairman of the committee appointed "on so much of the President's message as relates to the repairs of fortifications, and to the further protection of our ports, towns, and rivers," that the fortifications intended to have been erected at Charleston, South Carolina, had not been commenced, owing to a disappointment in fixing the proper site, and that at New Orleans the same disappointment had occasioned the same delay in the erection of works there. And can it be said that these new fortifications will leave one cent unexpended out of the $102,000? No, sir, the sum will be found inadequate. And suppose the whole is not laid out there, does it follow that the overplus will be laid out at New York? The appropriation was general for all the ports and harbors. If the sum of $20,000 voted in Committee of the Whole, for the current year, were laid out on Fort Jay, it would only enable your engineer to do as he has done—patch up.

If you do not mean to render the place inaccessible by a large naval force, three to four hundred thousand dollars is the least sum requisite, provided you mean to erect one or two additional works on the islands near the channel as you approach the city, to guard the place "against predatory incursion." Last year the Executive of the State of New York addressed the President of the United States on this subject; the Legislature of the State instructed their members on this floor; the corporation of the city of New York and its citizens, without distinction of party, petitioned Congress to fortify their port and harbor. What did you do? Little or nothing. This session, the corporation, with the citizens, have renewed their application. Is it to be presumed, sir, that the mayor, aldermen, and common council of a city like New York, who are generally composed of men of talents, and respectability of character in society, would ask for a grant of money to fortify, unless it was necessary and practicable? Need we confine ourselves to the State of New York for an opinion on that subject? No, sir, I find that the President, in his Message at the commencement of the session, says, "that a further appropriation will be necessary for repairing fortifications already established, and the erection of such other works as may have real effect in obstructing the approach of an enemy to our seaport towns, or their remaining before them."

I entreat gentlemen to notice this part of the Message, which I hope will have some weight, if the memorials have none. But, sir, I almost despond in the apprehension that this session will close as the former did—nothing done for New York.

We hear gentlemen from the South say, we cannot consent to lavish the treasure of the Union in fortifying your port and harbor; others say that it will do no good. This, sir, is language that we understand, and language which leaves us no room to hope that anything effectual will be done. But, let me tell gentlemen that this conduct will have a more serious effect than they are aware of. The States to the South have, for a series of years past, had every grant of money that was called for; even six thousand dollars have been appropriated for a horse-path, which is more than New York can expect out of the $20,000 you mean to appropriate for the current year for fortifications.

Can gentlemen be serious when they say this is correct? The citizens of New York say that they cannot, in submissive silence, suppress the feelings which arise out of their condition. If they could, they would be more or less than men. Strong in the consciousness of right, and in the sentiment of freedom; conscious that they have performed towards the Union all the duties of faithful citizens, they claim in return, the per-

formance of that great duty of government, protection; deny them this, and they will have great reason to believe, that nothing but war or insurrection will make you go.

When New York entered into the compact with the Union, her abundant revenue afforded her ample means of defence. She had not then occasion to ask any of her sister States for assistance; but for promoting the general welfare, and relying implicitly on the protection of the Union, she yielded her means of defence, confident that it would be afforded to her. In this I am sorry to say that she has been disappointed. The supreme executive and legislative councils, with all classes of citizens, have implored your protection; have warned you of your engagements, and demanded their fulfilment. To all this you have turned a deaf ear. You have not only refused their prayer, but have sported with their anxieties and ridiculed their apprehensions.

The question was then taken on postponing the resolution to Monday week, and disagreed to—yeas 40, nays 76, as follows:

Yeas—Evan Alexander, Willis Alston, jun., John Archer, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, Robert Brown, John Boyle, William A. Burwell, John Claiborne, Frederick Conrad, Leonard Covington, William Findley, James Fisk, Peterson Goodwyn, Edwin Gray, Andrew Gregg, John Hamilton, Jas. Holland, Walter Jones, Edw. Lloyd, Matthew Lyon, Duncan MacFarland, David Meriwether, Thomas Moore, Jeremiah Morrow, Gideon Olin, John Rea, of Pennsylvania, Thomas Sanford, Ebenezer Seaver, John Smilie, Henry Southard, Richard Stanford, Abram Trigg, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

Nays—Isaac Anderson, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, jun., Thomas Blount, James M. Broom, George W. Campbell, John Chandler, Martin Chittenden, Joseph Clay, George Clinton, jun., Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Theodore Dwight, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, Isaiah L. Green, Silas Halsey, Seth Hastings, David Holmes, David Hough, John G. Jackson, Thos. Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, John Morrow Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, jun. John Porter, Josiah Quincy, Thomas M. Randolph, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, James Sloan, Dennis Smelt, John Smith, Samuel Smith, Joseph Stanton, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, Nathan Williams, and Thomas Wynns.

COLLECTION DISTRICTS.

Mr. Early, from the Committee on Commerce and Manufactures, to whom were referred the petition of sundry inhabitants of the towns of Stonington and Groton in the State of Connecticut, and the petition of sundry inhabitants of Pawcatuck, in the State of Rhode Island, made the following report:

The petitioners pray that a new collection district may be formed, to include Stonington and Groton, in the State of Connecticut, and Pawcatuck, in the State of Rhode Island, together with certain shores and waters adjacent; and that Stonington may be made the port of entry thereof.

This is an application which, if granted, will lead to an invasion of a principle in the arrangement of the collection districts of the United States, heretofore so tenaciously adhered to, that but a single exception has ever been made to it. The principle is to avoid forming a district out of different States. The exception is in the annexation of the towns of Kittery and Berwick, in the State of Massachusetts, to the district of Portsmouth, in the State of New Hampshire, leaving, however, vessels bound to the former places the option of making their entry at York, the nearest port of entry in the former State. Such an option will be indispensable in every case of the kind, to avoid an infraction of that provision in the Constitution, which declares that vessels bound to or from one State, shall not be obliged to enter, clear, or pay duties in another; and the necessity for such an option it is that raises, in the opinion of the committee, an insuperable objection to the present application, as being embarrassing to the officers and hazardous to the security of the revenue.

The committee have not been able to discover the reasons which dictated the arrangement in the solitary case above-mentioned, but they cannot consider it otherwise than as a dangerous precedent. They submit the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.

Referred to a Committee of the Whole on Monday next.

The House then adjourned.

Thursday, February 5.

Mr. Lewis, from the committee to whom was referred, on the second ultimo, the Message of the President of the United States, of the fifteenth of December last, communicating a report of the Surveyor of the Public Buildings at the city of Washington, presented a bill making appropriations for finishing the south wing of the Capitol, and for other purposes; which was read twice and committed to a Committee of the Whole tomorrow.

Mr. Early, from the Committee of Commerce and Manufactures, to whom was referred the amendments of the Senate to the bill for surveying the coast of the United States, reported their agreement to the same, in which the House concurred—ayes 58.

The amendments extend the survey to the Gulf of Mexico, and appropriate $50,000 for the same.

On motion of Mr. Stanton, that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of making provision, by law, to authorize the President of the United States to cause to be erected, in suitable places, on the margin of the

ocean, at his discretion, not exceeding —— arsenals and docks, for the accommodation and speedy repairing of public armed ships and vessels that may be rendered unfit for service by gales of wind, or in action with the enemies of the United States; and that they have leave to report by bill, or otherwise:

The House proceeded to consider the said resolution and the same being twice read, was, on the question put thereupon, disagreed to by the House.

NATIONAL DEFENCE.

The House resumed the consideration of the unfinished business of yesterday, being the report of a committee on fortifying our ports and harbors.

The question was taken on the amendment offered by Mr. Van Cortlandt, which was disagreed to—ayes 51, noes 54.

The question then recurred on filling the blank in the 2nd resolution with "$250,000," for building fifty gunboats.

Mr. Mumford.—I hope a majority of this House will agree to strike out the whole resolution respecting gunboats, with a view to appropriate that money to solid and durable fortifications. I was opposed to it in Committee of the Whole. I did then, and do now consider, that there is no necessity for any more gunboats. There are, in my opinion, a sufficient number already for the Southern sections of the Union, for which places they appear to be only adapted, except in a very few places to the North, where there is shoal water. They may answer a very good purpose in shoal water, but are inadequate for the defence of your ports and harbors to the north of the New Jersey shore; and I very much doubt, whether, in a gale of wind, they would not even sink at their mooring at the entrance of either of the harbors of Portsmouth, Salem, Plymouth, Newport, or New York.

It has been asserted that this was an electioneering scheme, and that as soon as our Spring elections were over, no more would be thought of it, until the next election. I wish, sir, to put this question to eternal rest, by stating the plain matter of fact. Why, sir, it has been considered of so serious a nature in its consequences, and of so much importance, that the Legislature of the State of New York, in their last session, did enter into formal resolutions, instructing their delegation, in both branches of the Legislature of the United States, to use their utmost endeavors for the defence and protection of the port and harbor of New York—the whole State is alive on this subject—and the memorials now lying on your table from the Mayor and Corporation of that city, together with the petitions from the citizens of all political parties, tend to one and the same object, protection to their persons and to their property—there is not, there cannot be any dissenting voice with them on this subject.

The gentleman from Pennsylvania on my right says, he would not defend your Atlantic shores if it was to be done with ships of war. I have too good an opinion of that gentleman's patriotism, to indulge even the idea that he can possibly be serious, to suffer his friends and fellow-citizens on these shores to be forsaken and abandoned to their fate. I will assure that gentleman, if his part of the country were attacked by any enemy, foreign or domestic, from the Western country, or anywhere else, I will vouch that he shall have every protection and aid New York can afford.

Mr. Smilie said he was willing to divide the appropriation; to apply $150,000 to the building of gunboats, and $100,000 to the fortification of New York.

Mr. Thomas observed that, to get at this course, it would be proper in the first instance to disagree to the proposition to fill it with $250,000.

Mr. Cook hoped they would disagree to this proposition. He believed that $250,000 was a larger sum than was wanted for the fair trial of the experiment whether gunboats would be efficacious. They were not, he added, held in much repute in the Eastern country,

The filling the blank with $250,000 was disagreed to—ayes 4.

Mr. Thomas moved to fill the blank with one hundred and fifty thousand dollars.

Mr. J. Randolph hoped this motion would not be agreed to. He was too unwell to go far into the subject, but he would ask the House whether they were acting with their accustomed caution and distrust, where the expenditure of public money was involved? He thought not. If he were convinced that the expenditure of $150,000, or even $1,500,000 would answer the proposed end, he would cheerfully give it. But, as had been observed, the system of gunboats was matter of experiment, and if they should eventually turn out good for nothing, the House would be of opinion that they had vested as large a capital in a worthless project as would be deemed necessary. He would not undertake to say they were good for nothing—far from it. But there was no information before the House which entitled him to say they were good for much. When you compare, said Mr. R., the lavish appropriation made on this subject in Committee of the Whole, and view the economy this House always practises on every branch of expenditure, relative to the regular army and navy, looking with an eagle eye on every dollar before they part with it—it surprises me to see them voting away hundreds of thousands of dollars for a species of vessel, which, in all human probability, may be used for river craft in a few years. One thing has been ascertained. Ships of war are defensive and offensive, too, but the House will vote no money for an addition to them. I do not censure them for it; but if they will not appropriate for objects, the physical powers of which are ascertained, why vote the public treasure by handfuls for vessels, the powers of which have never been tried? Let the experiment be made, and, if it succeeds, let us appropriate liberally; but, till then, let us not vote more money than has been already appropriated. I believe there is one situation in which they may be useful—in the Mississippi. I wish, however, not to be understood as speaking as a man of science on this business. I only wish some evidence of

the value of this machine, before I vest so large a capital in it. I hope, therefore, the blank will not be filled with $150,000. As it has been stated, I think it will be extremely disproportionate to vote $20,000 for the fortification of all our harbors, and $150,000 for gunboats.

Mr. Stanton said that, in the last French war, a system of this kind had been adopted, and had proved highly beneficial. In a calm, two gunboats would sink a frigate, and if they were obliged to retreat, they could run out of danger at any time.

Mr. J. Randolph rose for information. He wished some gentleman acquainted with the subject, would inform the House what number of seamen would be requisite to man these gunboats in case they should be built; not merely to sail them along the coast, but to fight them; and what number of seamen would be required for other vessels. Where could be the use of building, if it were not intended to man them? Was it not evident that, in a few years, they would rot, and the money expended upon them be lost? He said he might be wrong, and he hoped if they were built, he should be proved to be so.

Mr. Smilie said, it was true that he was neither a military nor a naval man, nor did he pretend to say that gunboats were the best means of defence. The proper departments, however, ought to be the best acquainted on this subject, and they were of opinion that this species of defence was necessary. Whether they were right or wrong, he would not pretend to say; but he would observe, that the Secretary of the Navy had informed them that the President had deemed it expedient to authorize the building of sixty additional gunboats. Now, whether the President or the Secretary of the Navy was competent to a correct decision on this point, he did not know. This was, however, clearly their opinion. He did know, however, that it was their duty to provide the necessary means; and if they granted but half the sum required by the President, it appeared to him it would be descending as low as was proper under existing circumstances.

Mr. Elmer said that, under existing circumstances, he was opposed to appropriating 150,000 dollars to building additional gunboats. The House had determined that they would not authorize the President to man those already built. It appeared to him very bad economy to suffer the public vessels to lay in dock, and to build other vessels, the utility of which was not ascertained. There might be situations in which gunboats would be useful, but had they not enough of them already? If it should be ascertained that thirty or forty gunboats should be wanted for any particular purpose, Mr. E. said it might be prudent to authorize their erection. He said, he had been in favor of giving authority to the President to man and equip the armed vessels and gunboats. The House had, however, refused this. If, then, they would not authorize the President, whatever the emergency, to man the present vessels, why build additional vessels?

Mr. Holland was opposed to filling the blank with so large a sum. He was also opposed to giving authority to man the armed vessels. The nation was in a state of profound peace, and he did not see that these vessels would have anything to do. He was opposed to this appropriation on another ground. He believed, whenever the necessity should occur, they would be able in one, two, or three months, to build as many gunboats as would be wanted.

Mr. Gregg said, from the discussions which had taken place, and the votes of the House, there might be a propriety in postponing the business for the purpose of obtaining information. For his own part, he was willing to acknowledge that he was altogether in the dark. He did not know in what situation gunboats would be useful, or the number of men required to man them; nor did he know whether land fortifications were necessary, in connexion with them, to defend the port of New York. Before he could act understandingly on the subject, it was necessary for him to have this information. Some gentlemen say that gunboats will answer valuable purposes, while there are others of opinion that there are so few places, on the coast of the United States, where they will answer, that a small number of them will be sufficient. I believe, said Mr. G., under these circumstances, that it will be best to postpone the further consideration of the subject, and, in the meantime, call on the Secretary of the Navy to say at what points gunboats will answer, together with the number of them necessary, and on the Secretary at War to say whether he is in possession of any plan for the protection of New York, together with its expense, and the number of men required. It will be next to madness to erect fortifications without putting in them sufficient men to keep them in repair. Many fortifications, commenced some years ago, for want of this provision, are now as useless as if they had never been begun. Mr. G. said, he was particularly desirous to obtain information from the Executive as to the practicability of defending the port of New York. If it could be defended, he would not be backward on the subject.

Mr. Fisk hoped the motion would prevail. Experience had proved gunboats to be useful. In their late war with Tripoli, they had been obliged to borrow a number of them, which had proved not only an instrument of defence, but likewise of offence. It was true, also, that, in other cases, they would be useful. Indeed, they appeared to be peculiarly adapted to the United States, who had a large extent of seacoast and numbers of shoals, enabling them to act with effect; that they would rot in time was true; it was also equally true that other shipping would rot; and that the loss of fifty or sixty gunboats would not be equal to that of a single frigate. It was also equally true that gunboats did not require the same expense in manning and equipping as other vessels; they were also so situated as to be capable of being instantly manned, which was not the case in regard to other vessels. The Secretary of the Navy had stated the number of men necessary for each gunboat at twenty-seven. Take three hundred and fifty men as necessary for a frigate; of course thirteen gunboats will not require more men than one frigate. Mr. F. said, he thought gunboats, in every point of view, the preferable defence. The Secretary of the Navy had stated sixty gunboats to be requisite. For the purpose, however, of accommodation, it is proposed to lessen the number of gunboats to thirty, and to apply the remaining sum to fortifications. He hoped this motion would prevail.

Mr. Early moved to postpone the further consideration of the second resolution to Monday week. In common with other members, he felt the necessity of information, before he agreed to carry further the system of gunboat defence. It appeared from the report of the Secretary of the Navy, that there were built, or on the stocks, seventy gunboats. He, for one, was of the opinion that this was a number amply sufficient, to justify the requiring at least some information on the subject, either as to the ports capable of being defended by them, or their general capability of yielding defence to the United States. All the information before the House was embraced in a single paragraph, giving the opinion of the President, that it was expedient to build sixty gunboats. The House had already determined the question of manning these gunboats; even if they should be built, they have determined not to make an appropriation for that purpose. Mr. E. said, to build, without equipping or manning, appeared to him to carry on the face of it a wanton extravagance. Are they to be suffered to lie not only unmanned, but unprotected? He presumed that no gentleman contemplated this; and yet the House had refused any appropriation for manning or equipping them.

On another account, Mr. E. considered this measure improper. Where was the occasion, or necessity, of this expense at this time? He knew they had, on some recent occasion, an alarm sounded in their ears as to the probability of being engaged in war. But, for himself, he was ready to declare that he did not, in the smallest degree, see the probability of such an event. On the contrary, so far as he was enabled to judge, from official information, he did not recollect any period of the Government when there was less cause for such apprehension. Whether, however, the measure was necessary or not, he presumed all gentlemen would agree in the propriety of obtaining information.

The motion to postpone was disagreed to—ayes 49, noes 58.

Mr. G. W. Campbell said he was in favor of filling the blank with $150,000, as from all the official information before the House this appeared to be the best mode of defence which had been devised. He observed that some time since a majority of the House had considered the gunboat system as the best means of defence. He would ask gentlemen who were then in favor of this system, and were now opposed to it, what reasons they had for their change of opinion. If the President and Heads of Departments were of opinion that such a number of gunboats was necessary, as had been named, he would ask them what reasons they had for thinking a smaller number sufficient, and whether the mere *ipse dixit* of a member of this House ought to stand in competition with the deliberative opinion of the heads of departments? They were peculiarly responsible to the nation, and must be considered as having taken more pains to inform themselves on such a subject than an individual member of the House.

Mr. C. said he considered some of the arguments urged on this occasion unfair. It had been asked what comparison there was between appropriating $20,000 for the protection of our ports and harbors, and $150,000 for building gunboats? The truth was, that for repairing our ports and harbors, there had been appropriated not merely $20,000, but at least half a million, a considerable part of which remained unexpended, to which the sum of $20,000 was only proposed to be added. Mr. C. said, as he understood the subject, gunboats were intended to supply the deficiency existing in other fortifications. It was the opinion of some of our best informed men that some of our ports could not be defended by batteries, and the system of gunboats was consequently brought in aid of fortifications. But it was asked whether we should build these boats without manning them. Mr. C. said he could scarcely view this as a serious argument. Was the inquiry made with regard to batteries? The answer made by gentlemen on that subject is, that in case of danger we will man them. The same answer might be given in the case of gunboats. The answer was as complete in one case as in the other. The only true inquiry was, whether in case of an attack we have a sufficient number of gunboats? It was true they might rot, and so also might frigates and fortifications. If this mode of arguing was correct, it afforded sufficient grounds for putting down all the armed vessels of the United States.

Mr. Pitkin, in reply to Mr. Fisk, observed, that he had compared the estimates of a frigate and gunboats, from which he inferred that the equipment and annual expense of a frigate of 44 guns, compared to that of gunboats, was as eighteen to one.

Mr. Elliot said, that if the opinion of the President should be complied with, there would be one hundred and twenty-nine gunboats built, which in actual service would transcend the expense of the Navy of the United States, and would cost more than a million of dollars. Mr. E. said he considered the reproach cast upon those who were formerly the advocates of gunboats as strong evidence of their inutility. Gunboats had been lately thought much of; what was the result? That gunboats might be considered as a kind of vessel guarding a little deposit of national spirit, if any there was left to put on board; but as soon as they were assailed by the wind or waves, their maiden purity was gone. They were of no use whenever there was wind or tide, and could only float in a time of profound tranquillity.

Mr. Alston said he possessed little informa-

tion with regard to the advantages or disadvantages that were likely to flow from building the number of gunboats that was proposed. He merely rose to ask the attention of gentlemen to the grounds taken at the last session. The building of gunboats had been instituted on the recommendation of the President made at the last session. Gentlemen would there find the reasons on which that system had been begun. They were not intended to be set afloat on the ocean, to commit depredation or attack vessels at sea, but as an aid and support to our fortifications, and to prevent an enemy from annoying our seaports. It was, he believed, the opinion of the House at the last session, that gunboats constituted the best system that could be devised for this purpose. Mr. A. said he had since seen no reason to change his opinion on this subject. He trusted in God the time would not arrive when these gunboats would be called into operation. But could this in fairness be considered as an argument against them? This system of defence having been adopted, before it was abandoned gentlemen ought to show their inutility. The language of the President on this subject was stronger than any he could use. He would, therefore, take the liberty of laying it before the House.

"I cannot, therefore, but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. Measures have been already taken for furnishing them with heavy cannon for the service of such land batteries as may make a part of their defence against armed vessels approaching them. In aid of these it is desirable we should have a competent number of gunboats, and the number to be competent must be considerable."

Mr. Smilie said he had voted for the postponement, to give gentlemen an opportunity of getting information. He had not heard a single gentleman on either side profess to have any information with regard to the power of gunboats. Was it not then singular, that when this measure was recommended by the proper officer, and every member acknowledged his ignorance, that it should be objected to? It was not their duty to be minutely acquainted with the subject; he would respect the opinions of those who were best acquainted with it. He said he had been informed that our naval officers were of opinion that gunboats were the best system of defence, and it was evident that so far as they had been under the necessity of using them, they had not been disappointed in their expectations.

Mr. Early moved to postpone the further consideration of the resolution until this day week.

Mr. Lloyd said he should have no objection to the postponement, if he knew any mode of obtaining the information desired. It appeared that the Committee had applied to the Secretary of the Navy, who ought to possess full information on the subject. What was his reply? Waiving altogether the expression of his own opinion, he merely confined himself to stating that the President thinks it expedient to build sixty additional gunboats. Whence, then, were they to get the information that was desired, to enable them to determine whether gunboats are a proper defence for the United States? They might apply to the President or the Secretary of the Navy, and get information from them that they think them necessary. Mr. L., however, said that he was of opinion that they ought to judge on this subject from what had already taken place. For himself he was free to declare that he was opposed to the gunboat system. He had carefully attended to the arguments of gentlemen, and to what did they amount? Have they adduced an argument to show their utility, or produced an instance to show where they have been useful? It has been said that their utility is established by the use made of them against Tripoli. But he would ask whether they would have been of any use if the vessels of Tripoli had left the shore? It was admitted that gunboats were not useful on the ocean. It was evident, then, that they were building a navy for a state of perfect calm; and were gentlemen disposed to expend millions for vessels that would be only useful under such circumstances?

It is said, however, that they will aid our fortifications. To this, however, it might be replied, that it would be high time to build them after the erection of the fortifications. Several years have elapsed since the first gunboats have been built, and what have they done? Have they, in a single instance, proved themselves to be of the least utility? Let us, then, until they are proved to be useful, refrain from building any more.

Mr. L. concluded by observing that when he heard arguments weak as these to induce them to adopt this measure, they were sufficiently strong to convince him that it ought not to be adopted.

Mr. Early observed that the only information received from the Executive on this subject was as to the number of gunboats in their opinion requisite. This was not the point on which at present they wished for information. He added, that if they got no further information, he should withhold his vote from giving a single cent for this purpose.

Mr. Mumford.—The gentleman from North Carolina on my right, said that if any gentleman can show us any better mode of defence we shall be glad to hear it, and although I think it incumbent on him to show us the utility of gunboats, I will not detain the House but a few minutes to recommend what I conceive to be a far better mode of defence, I mean solid and durable fortifications that will last for ages, and block-ships similar to the draught now held in my hand, and which any gentleman may examine at his leisure if he chooses. Sir, the experience off Copenhagen is an evidence of their real utility. Witness the engagement with the British fleet and the Crown battery, (somewhat similar to the plan of Montalembert, recommended by me in debate yesterday,) and the block-ships. That fleet was actually silenced, and nothing saved the proud navy of old England on that memorable day but the game of flag of truce played off so successfully

by the hero of Trafalgar; and when in order I shall move to adopt those block-ships in place of gunboats.

Mr. Elmer said he should vote against the postponement, as he knew of no information that could be obtained which would be of any service. Gentlemen in favor of this measure seem to confide solely in Executive information. If they were thus disposed to appropriate money whenever the Executive required it—be it so. He, however, believed that it was the duty of the House to get all the information they could obtain, and to act on their own judgment, and he should withhold his assent from completing the system begun the last year. Mr. Elmer here suggested, as the best mode of defending the port of New York, to fill up the channel within fifteen or twenty feet of high water mark.

Mr. Chandler said he was in favor of the system of defence by gunboats; but, since the gentleman from New York had proposed a new system of defence, he thought it would be best for the present to postpone the subject; and in the mean time to call on the Secretary of War to state what system had been adopted and pursued for defending the port of New York.

Mr. Tallmadge said the question before the House had no connexion with the defence of New York; it was a proposition for building gunboats. Having been on the select committee that brought in these resolutions, he thought it proper to state that there had not in that committee been a unanimous opinion in favor of gunboats. He was himself entirely hostile to the measure. He saw no necessity for adding to the number already built, or authorized to be erected. They had thirteen gunboats fit for service, and fifty-six would be soon launched. It would seem to him better to comport with the system of economy, in the first instance, to finish and prepare these fifty-six for service. No reason had been assigned for the additional sixty that had been proposed, but the mere opinion of the President. Mr. T. said he did not wish to call in question the high authority attached to the opinion of the President, but he would wish to know whether any naval officer had recommended gunboats as a proper defence for the country. He did believe there were some particular circumstances under which they would be useful, and under this impression he had hitherto voted. But when he saw nothing but gunboats called for, he was placed under the necessity of refusing to grant a single dollar. It appeared as if they were contemplated to be relied on as the exclusive defence of the United States, and as if it were intended to let the frigates rot. He was opposed to the postponement, as he did not see the probability of obtaining any useful information not already before the House.

Mr. Fisk said he was sorry to detain the House a moment longer. The gentleman from Connecticut had observed that he had fallen into a great mistake when he said the expense of eighteen gunboats was not more than that of one frigate. He had read a letter from the Secretary of the Navy to show the comparative expense of gunboat No 1, and the frigate Boston; but in this statement he had altogether forgotten to mention the expense of the marines. There was another circumstance which the gentleman had failed to notice—viz: that gunboat No 1, had cost between 10 and $11,000, and required about forty men to man her, while the boats at present proposed to be built would only require $5,000, and between a half and two-thirds of that number of men. On attending to these circumstances he would find that his estimate was very moderate, and that he might have said that a frigate would cost as much as twenty instead of eighteen gunboats. Another reason, however, had been urged by the gentleman against gunboats, which was their being contemplated as a substitute for the navy. Mr. F. said this was one of the strongest reasons that operated on his mind in their favor. It was unnecessary to man them until they were called into actual service. Not so with regard to the frigates, the seamen on board of which it was necessary should be very skilful, and which were consequently necessary to be constantly manned. Mr. F. said he did not feel very anxious on this subject, as he did not perceive any present necessity for increasing our armaments. But as measures of defence were pressed, he was decidedly in favor of adopting that mode which appeared to him the cheapest and the best. As to the objection which had been made with regard to the number of gunboats proposed, when they considered the numberless rivers in the United States, they would find there was scarcely one gunboat for each navigable stream. Mr. F. said he likewise preferred gunboats to frigates, inasmuch as they were not calculated to go abroad. He considered them as a valuable auxiliary to land batteries.

Mr. Dwight.—If either the plan of defending the city of New York, proposed by the gentleman from Vermont, who has just sat down, (Mr. Fisk,) or that mentioned a few minutes since by a gentleman from New Jersey, (Mr. Elmer,) should be adopted, it is certainly unnecessary to postpone the consideration of the resolution now before the House. The gentleman from Vermont proposes to man the gunboats with militia, and says he is in favor of this system of defence, because it is both safe and cheap. Does the gentleman mean to man the gunboats with men from their farms, armed with spades and pitchforks? If he does, it will certainly be a safe kind of warfare; for such seamen will, the moment a ship of war appears in sight, make the best of their way ashore, and leave the gunboats to take care of themselves; and it will be cheap, for there will be no expense of blood or treasure. Why, you might just as well put militia to the performance of such feats upon the slack or tight rope, as were exhibited a few weeks since in this city, in the presence, and to the great entertainment of many members of this House.

But if we adopt the plan suggested by the gentleman from New Jersey, there will be as little reason for the postponement. His plan is, to fill up the entrance to the harbor of New York, by sinking vessels in the channel. The fifty-six gun-

boats which are already built, and which are on the stocks, will probably be sufficient for that purpose. At least, it will not be worth while to build any more until the experiment has been made. Should there prove to be a deficiency, should there not be enough entirely to fill up the channel, and prevent all access to the harbor; if the country can breed them as fast as the gentleman from North Carolina (Mr. Holland) seems to suppose, that is, two or three thousand in as many months, the deficiency will be readily and seasonably supplied. On neither ground then can the postponement be either useful or necessary.

Mr. Pitkin insisted upon it, that, according to the report of the Secretary of the Navy, eighteen gunboats in actual service would cost as much as one frigate.

The question was then taken on the motion to postpone, which was disagreed to—yeas 49, nays 56.

Mr. Eppes moved to postpone the consideration of the resolution until Monday. He said it would take but a short time to gain the information desired by gentlemen. If they could not get detailed information on the subject, the gunboats ought to be resigned to their fate. Mr. E. said he well recollected that some time ago a gentleman from Maryland (Mr. Nicholson) read to the House a number of papers in support of their utility, in consequence of which, and other information, the House had voted for them. Mr. E. said he was ready to vote for gunboats as the best defence that could be devised. He had never contemplated them, however, as answering the purpose of a navy. They had, on the contrary, been considered as a proper substitute for expensive fortifications. What would be the advantage of fortifications in the country generally, and particularly New York? Were they sure that expending even a million of dollars would make that place secure? What had they been told a few days since? That a single vessel would be able to lay the place under contribution. If this opinion was correct, it showed that some other defence must be resorted to for the defence of our ports and harbors. It was not, however, Mr. E. said, his intention to go into the dissussion. He was so hoarse that he could scarcely utter the few words that had fallen from him.

Mr. Smilie observed that they had got into a curious situation. There appeared to be three parties in the House. All those in favor of a fleet were opposed to gunboats. Some gentlemen were in favor of fortifications exclusively, while others were willing to go to a certain expense in fortifications combined with gunboats. This was his own wish. For his own part, he was ready to say, that if there could be devised no defence of the country except by a fleet, it should not be defended by his vote, and fortifications require so vast an expense, he should be against fortifying. But he believed, by combining gunboats and fortifications, the country could be defended at a moderate expense. Mr. S. said that he believed information in support of the utility of gunboats could be procured. If, however, gentlemen refused asking for this information, and were determined to break down the system of gunboats, let them take the responsibility upon themselves. He believed they would get neither gunboats nor fortifications.

Mr. Van Cortlandt said he observed that some gentlemen had said that the fortifications at present at New York were of no use. This, however, he believed was not the fact. Fort Jay could prevent a vessel from lying before it, and so far the fortifications were of great service. It was true, with a strong wind a vessel might pass. But what then? She could afterwards do but little injury. He granted that gunboats might be of some service to a certain extent, but they ought not to be relied on altogether. Batteries were useful to annoy an enemy, and in addition to them, some coasting vessels would be very serviceable for the purpose of keeping off disorderly and unauthorized persons, such as they had recently seen. He said he should vote for filling the blank with $150,000, for the purpose of building gunboats, though he did not believe they would prove to be of such use as some gentlemen seemed disposed to imagine. But as gentlemen had declared they would not vote for fortifications without gunboats, he was willing to vote for both.

Mr. Cook said they had only nine hundred and fifty seamen at present on the peace establishment. They had thirteen gunboats already built, and fifty-six others building. When completed these would require one thousand and seventy men to man them. But of what use would gunboats be unmanned? He was willing to agree to a short postponement for the purpose of obtaining further information.

Mr. Thomas said he rose to correct a remark of the gentleman from Virginia, that a million of dollars had been expended on the port of New York. The fact was that the General Government had only expended about $100,000.

Mr. Eppes said he had observed that from information which he had received, he believed the sums expended on the port of New York, including what had been laid out by the State, amounted to near a million.

Mr. Thomas said he was willing to acquiesce in the postponement till Monday, as so short a delay was not calculated to embarrass the measure. In reply to the gentleman who had said that the fortifications would be of no use unless they were manned, he would observe there was an organized and effective militia in New York, that might be called into service at an hour's notice, and would be competent to repel any force that was likely to be brought against them.

Mr. Varnum said he did not know precisely the amount of money which had been expended on the port of New York, but he believed that more than $120,000 had been expended before the appropriation of the last year. There had been a regular appropriation ever since the year 1794 for the defence of the ports and harbors.

[Mr. Varnum here detailed the several appropriations made for this purpose.]

In addition to these, large appropriations had been made for fortifications. The total of these appropriations amounted to $955,000. How much had been applied to the port of New York, he could not say. He thought the ports and harbors of the United States ought to be defended. The idea of retreating to the mountains was abhorrent to his mind. On the contrary, he thought the enemy ought to be met at the water's edge, and fought inch by inch. The true question, however, was, in what way an enemy might be best repelled? As to New York he believed it was impossible to erect batteries which would prevent vessels from passing by them; but surely they might be so constructed as greatly to annoy them.

Mr. V. said he confessed he was no great admirer of gunboats, though he was willing to allow they might under some circumstances be of considerable use. For the purpose of defending New York, measures had already been pursued to a considerable extent. In addition to the gunboats which had been built, a large number of cannon had been mounted on travelling carriages. Besides this, there were two regiments of artillery completely organized. Taking the system adopted in all its parts, he did think it was the only safe system that could be adopted for the defence of that harbor, as well as the other harbors of the United States. He had, however, no objection to a short postponement for the purpose of getting information.

Mr. Thomas said they had the last session received information from the President of the United States, that the whole sum expended on the harbor of New York, only amounted to one and twenty-three thousand dollars.

Mr. Smilie said he rose for the purpose of explanation. If gentlemen imagined he had said he would abandon New York or any other port of the Union, they had not correctly heard what he had said. He had observed that he would never consent to defend the country by a fleet. He believed there was no country on earth whose commerce would justify the creation of a navy merely for its protection. He would rather, therefore, give up the whole trade than protect it by a navy.

The question was then taken on postponing the consideration of the resolution until Monday, which was carried—yeas 69.

It was ordered that a bill, or bills, be brought in, pursuant to the first of the said resolutions, as agreed to by the House, on the twenty-third ultimo; and that Mr. Thomas, Mr. Tallmadge, Mr. Rea of Pennsylvania, Mr. Wynns, Mr. Elliot, Mr. Stanton, and Mr. Varnum, do prepare and bring in the same.

On motion of Mr. Early, the House adopted the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House such information as may be in the possession of the Executive department tending to show the efficacy of gunboats in the protection and defence of ports and harbors, and particularly a list of such of the principal ports and harbors as may be defended or essentially assisted in being defended by gun boats, together with the number necessary for each.

Ordered, That Mr. Early and Mr. Eppes be appointed a committee to present the foregoing resolution to the President of the United States.

Friday, February 6.

A Message was received from the President of the United States, transmitting the laws for the government of Louisiana, passed by the Governor and Judges of the Indiana Territory, at their session at Vincennes, begun on the first of October, one thousand eight hundred and four. The Message was read, and, together with the laws transmitted therewith, referred to the committee appointed, on the eighth ultimo, on a Message from the President of the United States, transmitting a copy of the laws of the Territory of Michigan.

A message from the Senate informed the House that the Senate have passed the bill which originated in this House, entitled "An act authorizing the discharge of William Hearn from his imprisonment," with an amendment; to which they desire the concurrence of this House.

CLAIM OF BEAUMARCHAIS.

A Message was received from the President of the United States, stating that the Government of France having examined the claim of the heirs of M. de Beaumarchais against the United States, had found it just and reasonable, and instructed the Minister here to apply for payment. A note from General Turreau to the Secretary of State was transmitted with the Message.

Mr. Gregg moved a reference of the Message with the accompanying documents to the Committee of Claims.

Mr. Bassett preferred a reference to a select committee.

Mr. Ely did not like the terms of the address for this claim. It was expressed in terms too imperious. No nation on earth had a right to use the language of authority towards our Government. Mr. E. moved that it lie on the table, and after it was printed the House could better decide as to the disposition of the claim.

Mr. D. R. Williams thought the note of the French Minister sufficiently decorous.

Mr. Pitkin preferred a reference of the subject to the Committee of Claims. They had once examined it, and are therefore most competent to investigate its merits again.

Mr. Alston said it was usual to refer Messages from the President either to a select committee or to a Committee of the Whole.

Mr. Dana inquired whether the claim of the Danish Minister for the brig Henrick was at a former session referred to the Committee of Claims. He believed it was.

The Speaker answered that such was his impression.

Mr. J. Clay observed that the course mentioned was then pursued.

The Message and documents were referred to the Committee of Claims.

ISSUING OF DEBENTURES.

The House proceeded to consider the amendment reported from the Committee of the Whole on Tuesday last, to the bill authorizing the issuing of debentures in certain cases: Whereupon, the said amendment being again read, was, upon the question put thereupon, agreed to by the House.

A motion was made by Mr. Eppes, further to amend the second section of the said bill, by striking out, from the word "restriction," in the third line thereof, the following words: "to direct debentures to be issued in similar cases which may have happened prior to the passing of this act, and subsequent to the second day of March, one thousand eight hundred and three, or where such application shall be made within six months from the passing thereof, inserting, "receive applications for debentures in similar cases which may have happened within —— years prior to the passing of this act, and to report the same to the next session of Congress:" and on the question thereupon, it passed in the negative.

A motion was then made by Mr. Early further to amend the said bill by adding, to the end thereof, a new section, in the words following to wit:

Sec. 5. *And be it further enacted*, That, whenever any person or persons shall apply to the Comptroller of the Treasury for relief under the first or second sections of this act, his or their petition shall be first preferred to the judge of the district from which the goods, wares, and merchandise, were exported, and such persons shall do and perform all such things as are required by the first section of the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" and the said judge shall proceed in like manner as is directed in the said act, to inquire into, state, and transmit, the facts touching the case, to the Comptroller of the Treasury, who, thereupon, may grant such relief, under the conditions, limitations, and restrictions of this act:

And on the question thereupon, it was resolved in the affirmative.

On the question, whether the bill should pass to a third reading? Messrs. Clay and Dana spoke in favor of, and Messrs. R. Williams and Eppes against the bill.

Mr. Sloan also spoke against the bill, and was replied to by

Mr. Lyon, who delivered a speech of considerable length in favor of the bill, interspersed with many sarcastic remarks on the oratory of Mr. Sloan. Mr. L. noticed repeatedly the phraseology of Mr. S., particularly that of retrospecting backwards. The House was so much diverted by Mr. L.'s speech, that the Speaker was frequently obliged to call to order.

Mr. Sloan hoped the long and elegant speech, or rather sermon he should say, of Mr. Lyon would soon be published, as it seemed to be written out and ready for the press, that they might once more be gratified by its elegance.

Mr. D. R. Williams had spoken sometime in reply to Mr. J. Clay, when the glass of one of the windows of the Representative Chamber was broken and blown into the room by the violence of the wind, and the members in that quarter were compelled to leave their seats. An attempt was made to secure the window by closing the shutters, and they were blown into the room. Whereupon, in this crisis, on motion of Mr. D. R. Williams, the House, at 2 o'clock, adjourned.

Saturday, February 7.

On motion of Mr. Lattimore,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of establishing and maintaining an institution at Natchez, for the relief of sick and disabled boatmen, out of such funds as may be constituted by a tax upon persons employed in the navigation of the Mississippi; and that the said committee have leave to report by bill, or otherwise.

Mr. Thomas, from the committee appointed on the fifth instant, presented a bill for fortifying the ports and harbors of the United States; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. Lyon,

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of retaining a greater proportion of the duties on articles the growth or manufacture of foreign countries which may be re-exported.

The Speaker laid before the House a letter from the Governor and Judges of the Territory of Michigan, transmitting their report, made in obedience to the act, entitled "An act to provide for the adjustment of titles of land in the town of Detroit, and Territory of Michigan, and for other purposes;" which were read, and ordered to lie on the table.

The bill sent from the Senate, entitled "An act to reduce the expenses attending the administration of justice in the District of Columbia," was read twice and committed to a Committee of the Whole on Tuesday next.

The bill sent from the Senate, entitled "An act confirming claims to land in the District of Vincennes," was read twice and committed to the Committee on the Public Lands.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act authorizing the discharge of William Hearn from his imprisonment:" Whereupon, the first amendment of the Senate to the enacting clause of the said bill, being again read, was, on the question put thereupon, agreed to by the House.

Resolved, That this House doth agree with the Senate in the title of the said bill, amended to read as follows: "An act for the relief of William Hearn."

Mr. Broom submitted the following resolution:

Resolved, That it is expedient to make further provision for securing the privilege of the writ of habeas corpus to persons in custody under or by color of the authority of the United States.

Mr. B. wished the resolution might lie a few

days on the table before he called up the subject to the consideration of the House. He then moved that it lie on the table. Agreed to.

ISSUING OF DEBENTURES.

The House proceeded to the farther consideration of the bill authorizing the issuing of debentures in certain cases.

Mr. D. R. Williams moved that the bill be recommitted. Not carried—ayes 36, noes 49.

The question was about to be taken, whether the bill should be engrossed for a third reading, when Mr. Holland rose and spoke at length against the bill.

The question was then taken on engrossing the bill by yeas and nays, and decided in the negative—yeas 53, nays 52, the Speaker declaring himself with the nays. The vote was as follows:

Yeas—Joseph Barker, Joseph Clay, George Clinton jr., Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, Peter Early, James Elliot, Ebenezer Elmer, William Findley, James M. Garnett, Seth Hastings, David Hough, John G. Jackson, Walter Jones, Thomas Kenan, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jr., Timothy Pitkin, jr., John Porter, Josiah Quincy, Thomas M. Randolph, John Russell, Peter Sailly, Martin G. Schuneman, Dennis Smelt, Samuel Smith, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Eliphalet Wickes, Nathan Williams, and Thomas Wynns.

Nays—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, John Boyle, William A. Burwell, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, Matthew Clay, Frederick Conrad, Ezra Darby, Elias Earle, Caleb Ellis, William Ely, John W. Eppes, James Fisk, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, James Kelly, John Lambert, Duncan McFarland, David Meriwether, John Morrow, Gideon Olin, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Richard Stanford, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

And so the bill was rejected.

NATIONAL DEFENCE.

Mr. Varnum observed that he had heard with pleasure the ardent and patriotic zeal of the Representatives from the State of New York, to procure an appropriation for further fortifying the city of New York. Mr. V. doubted whether the grant already agreed to would be adequate to the purpose. He therefore moved the following resolution:

Resolved, That it is expedient to appropriate one hundred thousand dollars in addition to the sums heretofore granted, to enable the President of the United States to cause the port and harbor of New York to be better fortified and defended.

Mr. Varnum moved that the resolution be referred to the Committee of the Whole, to whom was referred the bill reported this morning, appropriating twenty thousand dollars for fortifications.

Mr. D. R. Williams inquired if it were in order to move an amendment to the resolution.

The Speaker answered in the negative.

Mr. D. R. Williams hoped then that the resolution would be rejected. He had intended to move the insertion of Charleston, South Carolina, if it had been in order. That city is ten thousand times more exposed than New York. There is but one single gun that can be fired, and that only a four-pounder.

Mr. Varnum.—Let the gentleman bring forward a distinct resolution. If Charleston need additional measures of defence, I will cheerfully accord to an appropriation.

Mr. Smilie concurred in the opinion that the gentleman (Mr. D. R. Williams) had better bring forward a distinct resolution.

Mr. D. R. Williams was an enemy to all partial appropriations. He was totally hostile to the idea of being so lavish in favor of New York, and leaving other places defenceless. He could see no objection to the insertion of Charleston, unless gentlemen were disposed to protect only a particular section of the Union.

Mr. Chandler was against the resolution. He did not like this partial method of legislation. Let the gentleman move an amendment to the bill when it shall be taken up in Committee of the Whole. That will answer the purpose.

Mr. Varnum said he had intended to move such an amendment to the bill, and he had introduced this resolution in order to give notice of that intention. If Charleston cannot be sufficiently fortified with the $20,000, now applicable to that object, he was willing to agree to more.

Mr. Dana could see no use in this resolution. He was surprised that any gentleman sincerely disposed to promote measures for the defence of New York should pursue such a partial course. The ports to be fortified have been designated by law. Make a general appropriation, and let the Executive direct the expenditure where it is most wanted. This scrambling for particular ports tends to defeat the object and to destroy the whole system of fortification.

Mr. Marion said that the account of Charleston given by his colleague was correct. The only reason why he had failed to call up the subject to the consideration of the House was, that the ground selected for fortifications had been but recently ceded to the United States, by the Legislature of South Carolina, and he supposed measures for the defence of the place would now be soon taken.

Mr. Newton hoped the resolution would be withdrawn, and an amendment moved to the bill. He felt unconquerable repugnance to such partial legislation. The place from which he came (Norfolk) was equally exposed, and needed additional fortification as well as New York.

Mr. Thomas was glad to see members from

different parts of the Union now in favor of fortifications. The other day there seemed to be few or none, except from the State of New York, who were disposed to do anything on the subject. Mr. T. thought every member must agree that New York stood in more need of being strongly fortified than any other place whatever.

Mr. Quincy concurred in the opinion that New York required measures of defence more than any other port, but he was against the resolution because it was not calculated to gain the end in view. He thought the experience of last session would show the evils of such partial demands for fortification. A resolution was brought forward to fortify New York. One member moved to add Charleston, another Norfolk, another Portsmouth, and another Georgetown, on the Potomac. This House is not competent to determine the portions of money which ought to be respectively allotted to the defence of the several ports in the Union.

Mr. Elmer was against the resolution on every principle. He thought $20,000, which had been voted, large enough. New York is like to be in no danger the ensuing year.

Mr. Mumford.—We have fought hard and tried repeatedly for a general appropriation, but without success. The $20,000 is nothing. It ought not to be named. I had rather have left a blank. I hope, therefore, that we may get a partial appropriation. I am willing to vote any sum for Charleston or Norfolk which may be necessary.

Mr. Bidwell.—The object of the resolution is only to give notice. I see no impropriety in it. Let it go to a committee, and then the House can decide upon it. They are not pledged to adopt it by consenting to this direction.

Mr. Conrad was against the resolution. He could see no use in it. He was willing to give $200,000 or $300,000 for New York if the sum could be advantageously expended the ensuing year, but had supposed that it could not.

Mr. Dana.—The proposition is now defended on the ground that it is only equivalent to giving notice of an intended amendment to a bill. Little need be said in reply to that argument. If a member of this House can be believed when he makes a declaration on this floor, it is sufficient for him merely to announce his intention. If you refer this resolution as moved, you admit the principle of a partial appropriation—a principle to which I am decidedly adverse.

I am in favor of a general system of fortification; this partial appropriation goes in truth to sacrifice the very measure it purports to aid. I am therefore against it. It is calculated to defeat every idea of fortification.

Mr. Varnum had no wish to disoblige any member of the House. He was not anxious that the question on a reference of the resolution to a Committee of the Whole should be put. His object of giving notice would be attained without it. He therefore withdrew the motion, and then moved that the resolution lie on the table.—Agreed to.

Monday, February 9.

Mr. Early, from the Committee of Commerce and Manufactures, presented a bill authorizing vessels, from places beyond the Cape of Good Hope, to enter at Plymouth, and establishing a port of delivery at Augusta, in the District of Maine; which was read twice and committed to a Committee of the whole House on Wednesday next.

Mr. Stanton, from the committee to whom was referred, on the fourth instant, the report of the Secretary of the Treasury on the petition of Daniel S. Dexter, presented a bill for the relief of Daniel S. Dexter; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Lattimore presented to the House a petition of the Grand Jurors of Washington District, in the Mississippi Territory, which was received and read, praying that the time allowed, by law, for the payment of lands purchased of the United States, in the said Territory, may be extended; that further time may be allowed for establishing donation right to lands in the said Territory; and that Congress will grant some real and effective encouragement to schools in the said district.

Mr. Mumford presented to the House a petition of Joshua Sands, late Collector of the Customs for the port of New York, which was received and read, stating that he issued, while collector aforesaid, sundry debentures of merchandise exported to New Orleans, then a part of the Spanish possessions in America; that, upon exhibiting his accounts at the Treasury, the accounting officers objected to his charge of debentures so paid; and praying that the said debentures, paid by him as aforesaid, may be allowed, and a final settlement of his accounts effected.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. Parke,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the laws fixing the salaries of the Secretaries and Judges of the Indiana, Louisiana, and Michigan Territories; and that they have leave to report by bill, or otherwise.

And a committee was appointed, of Mr. Parke, Mr. Jeremiah Morrow, Mr. Sandford, Mr. Jeremiah Nelson, and Mr. Fisk.

A message from the Senate informed the House that the Senate have passed the bill sent from this House, entitled "An act to extend the power of granting writs of injunctions to the Judges of the District Courts of the United States," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act for the relief of John Chester; to which they desire the concurrence of this House.

DISTRICT OF COLUMBIA.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act concerning the District of Columbia.

This bill repeals the existing provision interdicting the arrest of the person for debts below twenty dollars.

Mr. Goldsborough moved a new section repealing the eighth section of an existing act, which prohibits the allowance of compensation to justices of the peace and jurors; which was agreed to.

The Committee then rose and reported the bill.

Mr. Jackson moved to commit the bill to the same committee to whom is referred a bill from the Senate for reducing the expenses attending the administration of justice in the district of Columbia.

This motion was opposed by Messrs. Goldsborough, and J. Clay, and disagreed to. When the bill was ordered to be engrossed for a third reading to-morrow.

IMPORTATION OF SLAVES.

The House resolved itself into a Committee of the Whole, on the bill prohibiting the importation of slaves into the United States.

The provision, punishing the importation of slaves with imprisonment, was stricken out, and the punishment of death substituted.

The Committee having passed on to the seventh section, it was read as follows:

"That all such negroes, mulattoes, or persons of color, as may be forfeited by virtue of this act, [shall, at the expense of the United States, be conveyed to such place or places in the United States, as the President thereof may direct, and there be indentured as apprentices or servants, or otherwise employed, as the President may judge most beneficial for them, and most safe for the United States: *Provided*, That no such negro, mulatto, or person of color, shall be indentured or employed as aforesaid, except in some State or Territory, in which slavery is not permitted, or in which provision is now made for a gradual abolition of slavery; nor in any State, in which such persons are not permitted by law to be indentured or employed as aforesaid; and if any such negro, mulatto, or person of color, when so indentured or employed, shall be under the age of —— years, the term of such indenture or employment shall not extend beyond the age of twenty-one years; and if above the age of —— years, the term shall not exceed —— years."]

Mr. Early moved to strike out all the words of the section in brackets, and to insert in lieu thereof the following words:

"shall be, by the marshal of the district or territory having custody of the same, be delivered over to such officer of the State or Territorial government as may by any law of the State or Territory be directed to receive them, to be disposed of as by any such law may be provided."

Mr. Early said the inhabitants of the Southern States would resist this provision with their lives. We want no civil wars, no rebellions, no insurrections, no resistance to the authority of the Government. Give effect then to this wish, and do not pass this bill as it now stands.

Mr. Smilie.—This opens such a scene as I never expected to witness in this House. If it were not owing to the impulse of the moment, and the influence of passion, I should think it extremely reprehensible. Are we to be threatened with civil war? that our laws will be resisted at the peril of life? Sir, this is new doctrine. The gentleman must know that we are not to be terrified by a threat of civil war.

Mr. Early said the gentleman from Pennsylvania (Mr. Smilie) had made a palpable misrepresentation of his sentiments. I do not threaten the Government with civil war. I only communicated the idea that military force would be necessary to carry the law into execution. I wish to know what has become of common sense? I disclaim the threat of civil war.

Mr. Sloan.—The observations of the Southern members, I think, bear rather too hard on us from the Middle States. [Here the Chairman interrupted Mr. Sloan, and said he conceived it out of order to allude to different sections of the Union.] Mr. S. proceeded. I was speaking to the section under consideration, and I thought it was not out of order to speak to sentiments which had been dropped by other gentlemen before me on the section.

The Southern gentlemen have said if we would take away the negroes from them, they would be satisfied. We have exerted every stretch of our genius to do this, we have agreed to take them ourselves.

The gentleman from Georgia (Mr. Early) has mentioned that they now are willing, as an act of great condescension to give up the question, whether the United States shall sell the negroes as slaves; and for what? To sell them themselves. This is mighty condescension indeed.

Mr. Cook was in favor of the motion.

Mr. Marion was also in favor of the motion. If the provision was continued, the law would be wholly inoperative. Were he on a jury and the evidence ever so strong, he should deem it his duty not to find a verdict against a man charged with a breach of this law.

Messrs. Cook, J. Clay, Holland, and Alston, spoke in favor of the motion, and Messrs. Bedinger, Bidwell and Goldsborough against it.

Mr. D. R. Williams moved that the Committee rise.

Mr. Cook was in favor of the motion.

Mr Early said he believed that the gentleman from Massachusetts (Mr. Cook) was sincere in his endeavors to procure a law which would not be injurious to their happiness (of the Southern States.) He wished he could say the same of some other members.

Mr. Macon supported the motion.

The Committee rose, reported progress, and had leave to sit again.

Tuesday, February 10.

A Message was received from the President of the United States, in compliance with the request of the House of Representatives, expressed in their resolution of the fifth instant, giving information of the effect of gunboats in the protection and defence of harbors, of the numbers thought necessary, and of the proposed distribution of them among the ports and harbors of the United States. The Message was read, and, together with the documents transmitted therewith, ordered to lie on the table.

On motion of Mr. Early, from the Committee of Commerce and Manufactures, that the House do come to the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be published the report and chart of a survey of the coast of North Carolina, made by Thomas Coles and Jonathan Price, under the act of Congress passed at the last session for that purpose; and that the said Secretary be authorized to give them the privilege of securing to themselves the copy-right thereof, provided they will undertake the expense of the publication, and secure the performance of such other conditions as he may think proper to promote the objects of the Government in directing the said survey to be made. But such copyright shall not operate to prevent Congress from having said chart incorporated into any general chart of the coast of the United States, which they may think proper to cause to be executed.

Ordered, That the said motion be referred to the consideration of a Committee of the Whole to-morrow.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to extend the power of granting writs of injunction to the Judges of the District Courts of the United States: Whereupon the amendments, together with the bill, were committed to Mr. Jackson, Mr. Holland, and Mr. Fisk.

The bill sent from the Senate, entitled "An act for the relief of John Chester," was read twice and committed to the Committee of Claims.

Ordered, That the Message of the President of the United States, of the thirty-first ultimo, transmitting a report of the Commissioners appointed under the act passed the twenty-ninth of March last, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," together with the said report, be referred to Mr. Jackson, Mr. Jeremiah Morrow, Mr. Sandford, Mr. Smilie, and Mr. Goldsborough.

Another Message was received from the President of the United States, communicating a letter from Cowles Mead, Secretary of the Mississippi Territory, to the Secretary of War, in relation to the movements of Aaron Burr.

The Message was read, and, together with the letter transmitted therewith, ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to prevent frauds committed on the Bank of the United States;" to which they desire the concurrence of this House.

The House again resolved itself into a Committee of the Whole, on the bill prohibiting the importation of slaves into the United States. Considerable progress was made in the discussion of the provisions of the bill, when the Committee rose, and obtained leave to sit again.

On motion of Mr. J. Randolph,

Ordered, That the Message of the President of the United States, of the 15th of April, 1806, transmitting a treaty between the United States of America and the Piankeshaw tribe of Indians, together with the said treaty, be referred to the Committee of Ways and Means.

DISTRICT OF COLUMBIA.

An engrossed bill further supplementary to the act, entitled "An act concerning the District of Columbia," was read the third time: and on the question that the said bill do pass, it was resolved in the affirmative—yeas 52, nays 45, as follows:

Yeas—Evan Alexander, Willis Alston, junior, John Archer, David Bard, Joseph Barker, Silas Betton, William W. Bibb, Barnabas Bidwell, Thomas Blount, James M. Broom, Joseph Clay, Frederick Conrad, William Ely, William Findley, John Fowler, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Seth Hastings, William Helms, James Kelly, John Lambert, Edward Lloyd, Duncan MacFarland, Robert Marion, William McCreery, David Meriwether, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Jeremiah Nelson, Timothy Pitkin, jun., John Porter, John Pugh, Jacob Richards, Thomas Sammons, John Smilie, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, John Whitehill, and Eliphalet Wickes.

Nays—Burwell Bassett, George M. Bedinger, Phanuel Bishop, John Blake, junior, Robert Brown, John Boyle, William A. Burwell, John Chandler, Martin Chittenden, John Claiborne, Matthew Clay, Orchard Cook, Richard Cutts, James Elliot, John W. Eppes, Peterson Goodwyn, Silas Halsey, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Nehemiah Knight, Joseph Lewis, jr., Matthew Lyon, Patrick Magruder, Josiah Masters, Gideon Olin, Josiah Quincy, John Randolph, John Rhea of Tennessee, Thomas Sandford, Ebenezer Seaver, Jas. Sloan, Dennis Smelt, John Smith, Samuel Smith, Uri Tracy, Killian K. Van Rensselaer, Joseph B. Varnum, Matthew Walton, Robert Whitehill, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Wednesday, February 11.

The bill sent from the Senate, entitled "An act to punish frauds committed on the Bank of the United States," was read twice, and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act regulating the grants of land in the Territory of Michigan."

The bill sent from the Senate, entitled "An act regulating the grants of land in the Territory of Michigan," was read twice, and committed to the Committee on the Public Lands

Mr. Jackson, from the committee to whom was committed, yesterday, the amendments proposed by the Senate to the bill, entitled "An act to extend the power of granting writs of injunctions to the Judges of the District Courts of the United States, reported their agreement to the first, and their disagreement to the second of the said amendments. The House proceeded to consider the said amendments of the Senate, and the report of the select committee thereon: Whereupon

Resolved, That this House do concur with the Senate in their said amendments.

On motion of Mr. Chandler,

Ordered, That the Message of the President of the United States, of the 17th of April, 1806, transmitting a treaty of the United States of America, and the Cherokee tribe of Indians, together with the said treaty, be referred to the Committee of Ways and Means.

IMPORTATION OF SLAVES.

The House again resolved itself into a Committee of the Whole, on the bill sent from the Senate, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, one thousand eight hundred and eight," to which Committee of the whole House was committed on the twentieth ultimo, the amendatory bill, which originated in this House, to prohibit the importation or bringing of slaves into the United States, or the Territories thereof, after the thirty-first day of December next; and, after some time spent therein, the bill was reported with several amendments thereto. The House proceeded to consider the said amendments: Whereupon, an adjournment being called for, the House adjourned.

Thursday, February 12.

A message from the Senate informed the House of Representatives that the Senate have passed a bill, entitled "An act to prevent settlements being made on lands ceded to the United States, until authorized by law;" also, a bill, entitled "An act to regulate the summoning of grand jurors;" to which bills they desire the concurrence of this House.

A Message was received from the President of the United States, transmitting a statement of the militia of the United States, according to the latest returns received by the Department of War. The said Message was read, and, together with the returns transmitted therewith, ordered to lie on the table.

Mr. Jeremiah Morrow presented to the House a petition of sundry inhabitants of the State of Ohio, which was received and read, stating that errors have been committed to the injury of the petitioners, in surveying the lands purchased by them of the United States, and praying that Congress will direct the Surveyor General to cause the same to be resurveyed, and the errors in the original surveys to be corrected.—Referred to the Committee on the Public Lands.

Mr. Boyle, from the Committee on the Public Lands, to whom was committed, yesterday, the bill sent from the Senate, entitled "An act regulating the grants of land in the Territory of Michigan," reported to the House their agreement to the same: Whereupon, the bill and report were committed to a Committee of the whole House to-morrow.

Mr. B., also, from the same committee, presented a bill authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. Joseph Clay, from the joint committee appointed by the two Houses of Congress to execute the provisions of the act, entitled "An act making a further appropriation for the support of a Library," passed the twenty-fifth of February, one thousand eight hundred and six, made a report; which was read, and ordered to lie on the table.

On motion of Mr. Early,

Resolved, That a committee be appointed to inquire into the expediency of altering the terms of the Supreme Court of the United States.

And a committee was appointed, of Mr. Early, Mr. Boyle, Mr. Goldsborough, Mr. Gregg, and Mr. Bidwell.

Another Message was received from the President of the United States, transmitting the laws adopted by the government and judges of the Territory of Michigan, from the first day of July, one thousand eight hundred and six, to the first day of January of the present year. The said Message was read, and, together with the laws transmitted therewith, ordered to be referred to the committee appointed, on the eighth ultimo, on a Message from the President of the United States, transmitting a copy of the laws of the Territory of Michigan.

INDIANA TERRITORY.

Mr. Parke, from the committee to whom was referred the letter of William Henry Harrison, Governor of the Indiana Territory, enclosing certain resolutions of the Legislative Council and House of Representatives of the said Territory, made the following report:

That the resolutions of the Legislative Council and House of Representatives of the Indiana Territory relate to a suspension, for the term of ten years, of the sixth article of compact between the United States and the Territories Northwest of the river Ohio, passed the 13th July, 1787. That article declares "there shall be neither slavery nor involuntary servitude in the said Territory."

The suspension of the said article would operate an immediate and essential benefit to the Territory, as emigration to it will be inconsiderable for many years, except from those States where slavery is tolerated; and although it is not considered expedient to force the population of the Territory, yet it is desirable to connect its scattered settlements, and, in regard to political rights, to place it on an equal footing with the different States. From the interior situation of the Territory, it is not believed that slaves would ever become so numerous as to endanger the internal peace or future prosperity of the country. The current of emigration flowing to the Western country, the Territories ought all to be opened to their introduction. The abstract question of liberty and slavery is not involved in the proposed measure, as slavery now exists to a considerable extent in different parts of the Union; it would not augment the number of slaves, but merely authorize the removal to Indiana of such as are held in bondage in the United States. If slavery is an evil, means ought to be devised to render it least dangerous

to the community, and by which the hopeless situation of the slaves would be most ameliorated; and to accomplish these objects, no measure would be so effectual as the one proposed. The committee, therefore, respectfully submit to the House the following resolution:

Resolved, That it is expedient to suspend, from and after the 1st day of January, 1808, the sixth article of compact between the United States and the Territories and States Northwest of the river Ohio, passed the 13th day of July, 1787, for the term of ten years.

Referred to the consideration of the Committee of the Whole on Monday next.

IMPORTATION OF SLAVES.

The House resumed the consideration of the amendments reported by the Committee of the whole House, yesterday, to the bill sent from the Senate, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, one thousand eight hundred and eight:" Whereupon, the first, second, and third amendments to the said bill, being again read, were, upon the question put thereupon, agreed to by the House.

The fourth amendment reported by the Committee of the Whole House to the said bill, being again read in the words following, to wit:

Sec. 3, lines thirteen, fourteen, and fifteen, after the word "guilty," strike out the words "of felony; and being thereof convicted before any court of the United States having jurisdiction thereof, shall suffer death;" and insert, "of a high misdemeanor; and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, nor less than five years."

A motion was then made by Mr. George W. Campbell, to amend the said amendment, by adding, to the end thereof, the words, "and fined not exceeding ten thousand dollars, nor less than one thousand dollars;" and, on the question thereupon, it was resolved in the affirmative.

The question was then stated that the House do agree with the Committee of the Whole in their said amendment, as amended, on which a division of the said question was called for; and the question, that the House do agree with the Committee of the Whole House in so much of their said amendment as proposed to strike out the words before recited, to wit: "of felony; and being thereof convicted before any court of the United States having jurisdiction thereof, shall suffer death;"

Messrs. Smilie and Sloan opposed, and Messrs. Elmer and Kelly supported, the striking out.

The yeas and nays were taken, and were—yeas 67, nays 48, as follows:

Yeas—Willis Alston, jr., John Archer, Joseph Barker, Burwell Bassett, Silas Betton, William W. Bibb, Barnabas Bidwell, John Boyle, William A. Burwell, George W. Campbell, Martin Chittenden, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jr., Ezra Darby, John Dawson, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, James Fisk, James M. Garnett, Charles Goldsborough, Edwin Gray, Isaiah L. Green, John Hamilton, Jas. Holland, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan McFarland, Robert Marion, William McCreery, David Meriwether, Thomas Moore, Jeremiah Morrow, Thomas Newton, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Dennis Smelt, John Smith, Samuel Smith, Richard Stanford, Joseph Stanton, Samuel Taggart, Samuel Tenney, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Eliphalet Wickes, Richard Winn, and Joseph Winston,

Nays—Isaac Anderson, David Bard, George M. Bedinger, John Blake, jr., Thomas Blount, Robert Brown, John Chandler, Frederick Conrad, Leonard Covington, Richard Cutts, Samuel W. Dana, John Davenport, jr., William Ely, John W. Eppes, William Findley, Peterson Goodwyn, Andrew Gregg, Silas Halsey, Seth Hastings, William Helms, David Hough, Nehemiah Knight, Joseph Lewis, jr., Josiah Masters, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, John Porter, John Pugh, Thos. M. Randolph, John Rea of Pennsylvania, John Russell, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Benj. Tallmadge, David Thomas, Thomas W. Thompson, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, David R. Williams, Nathan Williams, Alexander Wilson, and Thos. Wynns.

And then the question was taken that the House do agree with the Committee of the Whole, in so much of their said amendment, as amended, as proposes to insert, in lieu of the words stricken out, the words, "of a high misdemeanor; and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, or less than five years, and fined not exceeding ten thousand dollars, nor less than one thousand dollars."

On inserting the foregoing provision, Mr. J. Randolph spoke in opposition, on the ground that such an excessive penalty could not, in such case, be constitutionally imposed by a Government possessed of the limited powers of the Government of the United States.

The question was then put, and carried without a division.

The fifth amendment reported from the Committee of the Whole, to amend the eighth section of the bill, by inserting, after the word "color," in the fifth line thereof, the words, "who may hereafter be imported contrary to the provisions of this act," being again read, was, upon the question being put thereupon, disagreed to by the House.

Another motion was then made by Mr. Early, further to amend the said bill by adding to the end of the eighth section, the following proviso:

"Provided, however, that nothing in this section shall extend to prohibit the taking on board or transporting any negro, mulatto, or person of color, (not imported contrary to the provisions of this act,) in any vessel or species of craft whatever, from one place to another, within the jurisdiction of the United States."

And on the question thereupon, it was resolved in the affirmative.

The bill was then further amended at the Clerk's table, and, together with the amendments agreed to, ordered to be read the third time to-morrow.

Friday, February 13.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act in addition to the act establishing a Mint, and regulating the coins of the United States;" to which they desire the concurrence of this House.

Mr. Early, from the Committee of Commerce and Manufactures, presented a bill supplementary to the act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise;" which was referred to a Committee of the Whole.

[This bill specifies certain articles which shall not be considered as embraced by the provisions of the original act, and gives the Secretary of the Treasury and Comptroller power to decide, in case of doubt, whether any particular article is prohibited.]

The bill, sent from the Senate, entitled "An act to prevent settlements being made on lands ceded to the United States, until authorized by law," was read twice, and committed to the Committee on the Public Lands.

The bill, sent from the Senate, entitled "An act to regulate the summoning of grand jurors," was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Holmes, from the Committee of Claims, to whom was committed, on the tenth instant, the bill, sent from the Senate, entitled "An act for the relief of John Chester," reported to the House their agreement to the same: Whereupon,

Ordered, That the said bill and report be committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of Stephen Sayre. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill respecting seizures made under the authority of the United States, and for other purposes. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled, "An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio." The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be read the third time to-morrow.

PUBLIC DEBT.

Mr. J. Randolph, in the name of the Committee of Ways and Means, asked leave to report a bill in relation to the public debt, being an addition to the bill, passed at the present session, supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States."

Mr. R. observed that the object of the bill was to provide for the case of a refusal on the part of the holders of three per cent. stock to come into the loan proposed by the act recently passed. Its object was, to use a strong phrase, to coerce them into that loan; not, however, by any provisions that involved the least breach of the public faith. Its object was to make provision for paying off such part of the three per cent. stock as should remain unsubscribed to the new loan by an annuity of four per centum. Such an annuity would be worth something more than sixty-two per cent. Of course, as the new loan permitted the creditor to subscribe at the rate of sixty-five per cent., it would become obviously his interest to accept the terms of the loan.

Mr. R. then presented the bill, which was referred to a Committee of the Whole on Tuesday.

IMPORTATION OF SLAVES.

The bill, sent from the Senate, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," together with the amendments agreed to yesterday, were read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 113, nays 5, as follows:

Yeas—Evan Alexander, Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, Geo. M. Bedinger, William W. Bibb, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, George W. Campbell, John Chandler, John Claiborne, Joseph Clay, Matthew Clay, George Clinton, jr., Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, Wm. Ely, John W. Eppes, William Findley, James Fisk, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee,

Jacob Richards, John Russell, Peter Sailly, Thomas Sammont, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Richard Stanford, Joseph Stenton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynne.

Nays—Silas Betton, Martin Chittenden, James M. Garnett, Abram Trigg, and David R. Williams.

NATIONAL DEFENCE.

Mr. Mumford rose to offer certain resolutions, which he begged leave to introduce after a few remarks.

Some gentlemen, said Mr. M., say we are at peace. Others tell us it will be time to prepare for war on the approach of danger. Such language is to me truly surprising. Look at the desolating state of Europe. Who knows how soon the tempest of war may be extended to this country and involve us in the like danger and calamity? I hope we shall follow, in my opinion it is our duty to follow the example of the sages and patriots who have gone before us; and who have told us that the method of avoiding danger and war is to be always prepared in time of peace.

Will this House consent to see the master key of our country in the hands of an enemy? It is true that the brave and independent spirit of the nation will prevail at last, but infinite evil would result from the capture of New York by an enemy, in point of private property, revenue, and the effectual use of the national force. Gentlemen who complain that $200,000 is a sum too small, and yet oppose this partial, specific appropriation for New York, cannot reconcile their inconsistency. The channel in the narrowest place is but 1,400 yards across. Two batteries on Montalembert's plan, together with Archibald Robinson's boom, would, I am persuaded, form an adequate defence. This might be done for less than $500.000. A gentleman from South Carolina (Mr. D. R. Williams) has told the House that Charleston is ten thousand times more exposed than New York. This I believe is a mistake. There is a straight broad channel from the sea up to the very city of New York, and a ship-of-the-line may at any time come up and lay her broadside before us.

I am no lawyer, and cannot therefore point out exactly the propriety of the law of 1794, which was cited on a former day by the gentleman from Connecticut, and which designates the eighteen ports that are proper to be fortified. If, however, the gentleman will specify any ports in Connecticut, which are in need of fortification like New York, I am very ready to agree to an appropriation for that purpose. The House has this session passed a bill for the defence of New Orleans, making specific appropriations. We ask for like measures of defence for the security of New York.

Mr. M. then proposed the following resolutions:

Resolved, That a sum not exceeding —— dollars be appropriated, to enable the President of the United States more effectually to fortify the port of New York.

Resolved, That a further sum, not exceeding —— dollars, be appropriated to enable the President of the United States to fortify the ports of Charleston, South Carolina and Norfolk.

Resolved, That, in addition to the sums heretofore granted by law, a further sum, not exceeding —— dollars, be appropriated to enable the President of the United States to fortify such other places as he may think conducive to the public security.

The Speaker, said the first resolution was not in order, as a similar resolution, offered by a gentleman from Massachusetts, (Mr. Varnum,) was now on the table.

Mr. Varnum observed that the resolutions were different. The one which he had offered proposed a specific sum, $100,000—this is blank.

The Speaker still thought the resolution not in order.

Mr. Varnum declared that he had no wish to embarass the gentleman from New York, in procuring competent measures for the defence of that city. He then withdrew his resolution.

On motion of Mr Mumford the House proceeded to consider the resolutions—ayes 69.

Mr. Mumford moved that they be referred to the Committee of the Whole, to whom was referred the bill, appropriating $20,000 for the repair of fortifications.

Mr. Dana.—I know not that I have much objection to the reference proposed by the gentleman from New York (Mr. Mumford,) but if the resolutions are ordered to lie on the table his purpose will be as effectually answered as by the reference proposed. Some observations, however, which have fallen from the gentleman, seem entitled to notice.

When this subject was before the House on a former day, I took the liberty of referring to a law passed in 1794. If the gentleman from New York has never read that law, I think it would be well for him to look at it before he undertakes to propose to this House measures relative to the fortification of our ports and harbors. That law designates eighteen or twenty ports and harbors in the United States to be fortified, but makes no appropriation for the purpose.

In point of system I am wholly opposed to any partial specific appropriations. Grant the money and leave the distribution of it to the Executive. He has better means of information than this House. As to the State of Connecticut, I am not weak enough to attempt what the gentleman has proposed as a task for me to perform. I consider the effectual defence of New York as a barrier for Connecticut. I oppose the specific grant, because I am confident it is not adequate to the object. I oppose it because I wish extensive and permanent measures to be adopted for the protection of places exposed to danger; and because I am unwilling to see a great system frittered down by this petty competition between different ports. The gentlemen who are so strenuous for this plan, if they understand the general course of proceedings, must know that they will meet with constant difficulty

in every stage of the business. The gentlemen must know that they will never succeed in any such partial, frivolous attempt. It is the very way to make the project of defence unpopular, and goes to sacrifice the object which they profess to pursue. It is on this ground that I oppose the reference of this resolution. These remarks I have thought fit to make in reply to the gratuitous observations of the gentleman from New York.

Mr. Mumford.—To show that we have acted on the idea of specific appropriations, I will read a bill which we have passed in this House this very session, for the protection of New Orleans.

Mr. M. read the bill.

Mr. Dana—The reply to what has been read by the gentleman from New Orleans, is very obvious. New Orleans is not comprehended in the law of 1794, and the President, therefore, could not apply moneys appropriated for fortifying the ports and harbors of the United States, to the fortification of New Orleans, without a special act for this purpose. It is not so with New York.

Mr. Masters.—If the best course is to leave it to the Executive to distribute an appropriation among the several ports and harbors, we did wrong when we voted a specific appropriation for New Orleans. When some days since we called for a general appropriation, we were told to apply for a specific one. Now, when we call for a specific appropriation, we are told, this is the wrong way: We ought to apply for a general one. And in this way we are to get none at all. For my part, I am in favor of a specific grant, not because I have not confidence in the Executive, but because I think it the most proper and the best way. We are then more sure that the money will be laid out right.

Mr. Dana moved that the resolution lie on the table.

The Speaker, after consulting the rules of the House, declared that the question of commitment must be first put.

Mr. Eppes said that it might perhaps be proper to grant some additional sum for the defence of New York; but he could perceive no reason for going now into a general system of defence when no such measures are called for, except by New York.

If there is any principle, said Mr. E., which ought to be hooted at in a Republican Government it is the very principle laid down by the gentleman from New York (Mr. Mumford) as the basis of his reasoning—that to preserve peace we ought to be prepared for war. Sir, it is this very principle which is the source of all the miseries of Europe. Until 1794 the affairs of our country went on peaceably. Then this destructive principle extended itself into our National Councils. Then ensued the long train of armies, navies, fortifications, with all their concomitant evils. Sir, this very principle has cost the nation more than fifty millions of dollars. And what is the benefit? Has it ever done the least good?

I do not like the plan of the gentleman. It is calculated, as the gentleman from Connecticut (Mr. Dana) has truly stated, to defeat the object which he has in view. Experience shows it. I call for a division of the question, as I will agree to vote for the first resolution, but I am against the others.

The Speaker observed that he should accordingly put the question separately upon each resolution.

Mr. Quincy.—When a motion was, the other day, laid on the table, for a specific appropriation of a hundred thousand dollars, for the fortification of New York, with the honorable gentleman from Connecticut (Mr. Dana) I urged some objections to appropriations of that description. As the gentleman from New York (Mr. Mumford) has suggested that there is some inconsistency between those objections and our former anxiety for large appropriations for the defence of the commercial cities, I feel compelled to make some observations on the subject.

I acknowledge, sir, that when that motion was made in this House, it excited in me some surprise, and no little suspicion. Its nature and origin were natural causes of both, under the circumstances with which they were attended. What was the proposition? A specific appropriation of one hundred thousand dollars for the harbor of New York. And from whom? From my honorable colleague (Mr. Varnum.) A gentleman not distinguished for his zeal in favor of large general appropriations, and who has, if I mistake not, more than once expressly declared his disbelief in the practicability of an efficient fortification of this particular harbor! It was impossible not to apprehend, that a motion of this nature, originating in such a quarter, was indicative of some great change in the views of the prevailing influence on this floor. My colleague is a distinguished member of this House. He is a friend and intimate of the Secretary of War, who is not remarkable for his friendship to large general appropriations for such objects, or for his belief in the practicability of efficient fortifications, in this particular harbor. The same dispositions, it is generally understood, are entertained in a quarter where my colleague is so loved and honored, that he has in consequence acquired almost an official character on this floor. A motion of such a nature as this, originating with a gentleman so connected, was a natural source of jealousy and curiosity. It was impossible not to ask—how happens this? What has produced such a sudden and great change, from twenty thousand dollars for the fortification of all the ports and harbors in the United States, New York included, to a hundred thousand dollars for this single harbor? To what is this new faith to be attributed? Is it instantaneous regeneration? or is it progressive illumination? If the former, who has worked the miracle? What has purged the visual ray? If the latter, why have we not had the course of reasoning, the logical illustration, by which this great truth has been so recently discovered.

I have since had something that looks like light thrown upon this mystery. Certain things are circulating in whispers, which, apparently, may have some relation to this new current, which has

just begun to set on this floor. I would, however, not be understood as intimating that what I am now going to state were the motives of my honorable colleague. I mean only to regret with him, that this great conversion, which his motion indicates, has happened at a moment, and under circumstances, so unpropitious to a perfect confidence in its principle. Sir, it has been stated to me, in such a way that I cannot but believe it, that this subject of fortifications has become a great party question in the State of New York—that it has been seized upon and wielded by the different political divisions of that State as an engine of popularity. It has also been intimated to me, that it is absolutely necessary that something should be effected in the way of appropriations for that city, to enable the influences, lately there prevalent, to maintain their past ascendency. And it is certain, that the motion of my honorable colleague was laid upon the table, I think, the day after, but at any rate, a very short time after the news had arrived in this city, of certain proceedings which have taken place at Albany. Without attributing any motives to my colleague, or his political friends, he will give me leave to lament with him these unfortunate circumstances, which have attended his motion. It is truly to be regretted that such a memorable conversion to the true faith did not happen under circumstances which could leave no doubt as to the spirituality of the views of the converts; instead of happening under such as give too many reasons to suspect worldly considerations.

Anxious as I am for large and honorable appropriations for the defence of the seaboard and cities; believing, as I do, that protection is their right, and our duty, and that it is entirely within our ability; I do now, unequivocally and without any reserve, declare my utter dissent to their scheme of specific appropriations, for individual cities. I warn gentlemen who have the real interests of the commercial cities at heart, against ever acceding to them. I deem such a system a virtual abandonment of their rights, and, in effect, a forfeiture of all their hopes.

Sir, what is our object? Is it not permanent, substantial defence, adopted on the principle of the importance of commercial deposits, begun on an adequate scale, pursued regularly, and terminating with nothing short of such protection as the nature of their respective positions renders practicable?

How is this object to be attained? By dividing our interests and by submitting to become solitary applicants for special favors? By scrambling, each according to its strength, after specific appropriations? No, sir. But as all other great and national interests are pursued and obtained; by combining all those, whose principles and interests are similar, in common exertions for the attainment of the common object; by suffering no division to take place among us; by establishing our rights on solid principles and maintaining them firmly; by making the greatness of the interest understood by the people; by being intelligently zealous, constitutionally urgent. These are the means which render success the most certain, and by which it will be the best deserved.

But let the honorable association once be broken, let the principal members of the interest be exclusively served, and what security for the rest? If with all her zeal, her weight, and her exertions, combined with ours, we have as yet been able to effect absolutely nothing, what possible hopes can we entertain of success, after her ardour shall be blunted by specific satisfaction? The consequence of abandoning the system of general appropriations is undeniably this—cities are reduced from a great, powerful, legitimate influence, arising from their national importance and the greatness of their common interest, to the humble level of common petitioners, courting the patronage of leading members on this floor, and licking the dust before every accidental majority which may prevail upon it. The question of fortifications or no fortifications, will be made to depend, not upon the wealth, the numbers, or the exposure of the particular city, but upon the political sect there prevalent; and perhaps a change in their political sentiments will be made the condition on which defence shall be extended.

Do I mean to deny that New York is entitled to the first attention, and to the largest share of whatever appropriation may be made? Certainly not. The question of apportionment belongs to the Executive discretion. It is wisely and may safely there be deposited. Unquestionably New York has the greatest claim and the most urgent. She has more wealth, numbers, and exposure, than any other city. But this is not the only city which has wealth, inhabitants, or exposure. Nor is she, nor ought she to be more dear to us, or more covered by the national wing than any other city; except in proportion to her excess in each of those particulars. Why then will she, by accepting of a specific appropriation, withdraw herself from a common interest, as if the right was exclusive, and not in proportion to her share in that interest?

But the gentleman from New York (Mr. Mumford) says "we will vote for you, if you will vote for us." And yet, at the very moment, he knows, that the same gentleman who would, in that case, join us, in voting for New York, would abandon us, in the very vote for every other city. As an evidence of which, he had scarcely sat down, when the gentleman from Virginia (Mr. Eppes,) who is one of the new converts, told us expressly, that although he was willing to give something for New York, he would not vote an appropriation for any other city.

Sir, if the proposed appropriation was adequate to the entire fortification of the harbor of New York, there would be some apology for its representatives, in thus yielding to the current and getting what they could under a temporary influence. But is a hundred thousand dollars all that they want? Will they be satisfied with that? They know they will not. But if the gentleman from New York are content, I am free to declare, that I am not. As a citizen of these United States, as one of the representatives of this nation, having, in common with every other citizen, a deep stake

in the prosperity and the safety of the commercial capital of my country, I do protest against all fortifications for that harbor commenced upon a hundred thousand dollars scale, and limited in extent by that expenditure. That city deserves, and has a right to many times one hundred thousand dollars, for such an object. And the time is not distant, as I believe, when, in the regular course of general appropriations, in common with other commercial cities, she might obtain the requisite sums. But then it can only happen upon the principle of her not abandoning the common interest, and disdaining to accept any sum upon a system which has only the accommodation of a particular and a temporary influence for its basis. At any rate, let the gentlemen from New York remember—if they get a hundred thousand dollars upon the principle of specific appropriation, they will never get anything more. The mouths of the advocates of that city are closed. They have admitted the principle of individual application and supply, and they must abide by the consequences. Until every other city in the United States has had a proportionate advance, with what face can New York pretend to anything additional? And if a vote can be obtained to leave other cities without future appropriations, New York can lay no claim to any additional assistance.

If the commercial cities are ever protected, it can only be by their adherence to each other; their claim for protection, on a common principle, supported by their united interest, and by the natural and just weight which their wealth, enterprise, and numbers, always ought to command in this nation.

Mr. Varnum.—It is very easy for gentlemen to make false statements of facts to this House and then to draw their own inferences.

According to the best of my recollection (and if I am mistaken I wish to be corrected) I have spoken but once on the subject of fortifications. At that time I took a view of the sums which have been heretofore appropriated for this purpose, but I expressed no opinion that $20,000 was a sum large enough to put New York in a complete state of defence. The House had previously decided on that subject, and I therefore studiously avoided that question. And my colleague (Mr. Quincy) knows it. I said it would be in my opinion impracticable to fortify New York against a large fleet, but I maintained the practicability of fortifying it against marauders and picaroons, and I declared myself willing to go as far as was necessary to secure that object.

As to the jealousy of my colleague that some proceedings at Albany might have influenced me in bringing forward my resolution, I must suppose it altogether an imagination of his own mind. What secret information he may have had, I know not; but for myself, I declare I heard nothing of any proceedings at Albany till the day after.

I am willing that my colleague should entertain all the suspicion that he chooses concerning my character or conduct. It is not in his power to degrade me from the standing which I hold in society. I was risking my life and spending my property in defence of my country, when my colleague was rocking in his cradle. I have always been and shall continue to be willing to vote whatever sums I think necessary for the defence of the country. I shall say nothing of my services or of those of my colleague, and I am perfectly willing that he should indulge any suspicions in regard to my motives, as they will neither disturb the tranquillity of my mind nor alter the course of my conduct.

Mr. Quincy.—I made no allusion to any particular speech of that gentleman (Mr. Varnum) but only stated my general impressions from his language, and from the course of his conduct on this floor. I said, he was not distinguished for his zeal for large general appropriations for the commercial cities, and that, if I mistook not, he had expressed a disbelief in the practicability of an efficient defence for the harbor of New York. If my colleague will declare that he has been zealous for such appropriations, or that he has been a uniform believer in the practicability of such defence, I am ready to retract my opinion.

As to its being my design to degrade my colleague, nothing was further from my intentions. I intimated that he was eminently beloved and honored by the Executive of the United States. Is that degradation?

Mr. Masters.—The gentleman from Massachusetts, who has just sat down, contended, at the last session, unless I am much mistaken, for a specific appropriation. Now he is against it. If his colleague (Mr. Varnum) is against a specific appropriation, he seems to be for it. If his colleague is for it, he is therefore, *a fortiori*, against it. The gentleman says this is a great party question in the State of New York. He is mistaken; all parties are united on the subject. They all wish to see New York well fortified.

The question being taken on committing the first resolution, which relates to New York only, it was carried—yeas 63.

The second resolution, relating to Charleston, South Carolina, and Norfolk, was then read.

Mr. D. R. Williams.—I do hope, as a Representative of the State of South Carolina, that this resolution will not be agreed to. If any measures are now, or should be hereafter necessary to the security of Charleston, I have full confidence in the General Government. I believe this partial course is not calculated to operate for our benefit. If we are to be marked out as objects of special favor, I fear the citizens of North Carolina and Georgia will not so readily fly to our assistance. I wish not that we should partake of the odium that will be excited by this course. It tends to endanger our safety whenever we may be menaced with attack.

Mr. Dana called for the reading of the law, passed March 20, 1794, entitled "An act to provide for the defence of the ports and harbors of the United States." [This law was read. It designates twenty principal ports in the United States, which it directs the President to cause to be fortified.]

Mr. Marion observed that he had, on a former occasion, stated the reasons why he had not called

the attention of the House to the defenceless situation of Charleston. The gentleman from New York (Mr. Mumford) is much mistaken, said Mr. M., if he attributes our silence to an insensibility to our danger. I hope that Charleston will not be regarded as a cloak, or a make-weight, to obtain assistance for New York. I voted for the first resolution, which related to New York, but I hope this resolution will not be referred.

Mr. Mumford withdrew the resolution relative to Charleston.

Mr. Newton observed that he had not been clamorous on the subject of fortifications, because he had a full reliance on the House. He was satisfied that whenever the subject should be finally acted upon, the place from which he came (Norfolk) would not be postponed to other places, but all would be provided for according to their necessities. The large sum of duties which has been so often stated to be collected in New York, is paid, not merely by citizens of that city, or that State. North Carolina, South Carolina, Connecticut, Massachusetts, and some other States, contribute largely to the payment of duties collected at New York. All our ports and harbors are as much entitled as New York to the justice of the House.

The third resolution was read.

Mr. J. Randolph inquired if a motion to amend the resolution were in order?

The Speaker replied that it was not.

Mr. J. Randolph.—The diction is defective.

Mr. Speaker.—A motion to amend is not in order when a motion to commit is pending.

Mr. D. R. Williams hoped the resolution would be withdrawn. The House can put any sum that may be thought proper into the bill relative to the subject of fortifications.

Mr. Marion also expressed a wish that the motion would be withdrawn.

After some conversation between the Speaker and Mr. J. Randolph, whether the resolution could be withdrawn without leave, as the House had already acted on two resolutions which were part of the original motion—Mr. Mumford withdrew the resolution.

PUBLIC BUILDINGS.

The House went into Committee of the Whole on the bill for finishing the south wing of the Capitol, and for other purposes.

On motion of Mr. Lewis, the first blank was filled with $25,000, which sum is to be applied towards finishing the south wing of the Capitol.

The next blank was in that part of the bill which makes an appropriation to furnish the Representative Chamber for the accommodation of the House.

Mr. Lewis moved to fill the blank with $20,000. On this motion considerable debate arose.

Mr. Jackson, of Virginia, wished to know why so large a sum was proposed.

Mr. Gregg, of Pennsylvania, asked, if the whole sum would be wanted the present year? The Legislature had been there seven years, and there seemed little or no likelihood that the Capitol would be finished and ready for their use in seven years more. While one part is building another grows out of repair. It had been said, and he believed with truth, that there was danger of the walls tumbling down.

Mr. Van Cortlandt, of New York.—I am surprised, on my word. Gentlemen ask why money is wanted. If no money is granted, the Capitol will not be finished in seventy times seven years. Why, want of money is the very reason it has not been finished before.

Mr. Lewis, who was the chairman of the select committee that reported the bill, said he was no architect, and could not determine the expense of building in Washington. The select committee had agreed to the sums which had been moved, because they were stated to be necessary by the Superintendent of the public works, Mr. Latrobe. Mr. L. said, the gentleman from Pennsylvania (Mr. Gregg) had assigned a satisfactory reason for agreeing to the sum recommended by the committee, that, if they were not granted and repairs made, the walls would tumble down.

Mr. Jackson was unable to conceive how twenty thousand dollars could be wanted to furnish one room. If the sum is agreed to, the superintendent would think himself obliged to procure gilded chairs and plated tables. Mr. J. was in favor of economy, not of the economy of the last eight or ten years, but that of old times. Then twenty thousand dollars would have been thought sufficient both to build and furnish a house.

Mr. Findley, of Pennsylvania, expressed his opinion in favor of the motion.

Mr. Masters, of New York, observed, that they had been told, formerly, that twenty thousand dollars was enough for all the fortifications in the United States, [a loud laugh;] now, this sum is proposed to furnish us with tables and chairs. He thought it was not a good contrast.

The question on agreeing to twenty thousand dollars was lost—ayes 36, noes 61.

Mr. Jackson proposed ten thousand dollars.

Mr. D. R. Williams proposed five thousand dollars.

Mr. Cook was glad the same sum which had been proposed for fortifications, was not agreed to for furnishing a single room, on account of the name of the thing. He proposed eighteen thousand dollars. The motion was negatived—ayes 41, noes 54.

Mr. Macon (the Speaker) said, he lived in a country where they had no such expensive furniture, but, judging from the size of the room, and the length of time in which the House had been building, [a laugh,] he imagined the sum first proposed would not be too large. More than twenty thousand dollars, he believed, had been granted for furnishing the President's house. He hoped they would not spoil the room for want of one or two thousand dollars.

Mr. Lewis observed, that he had no particular concern in this subject. Perhaps he should never have again the honor of a seat in the House, and if he did he should, he believed, be as willing to sit on a stool as other gentlemen. But the present furniture would not suit the new Chamber in the south wing. There were also several committee rooms to be furnished. The money was to be expended under the direction of the President; and, from his known principles of economy, Mr. L. trusted that, however large a sum should be granted, no more would be expended than what was necessary. Judging from the expense of this House, and of the President's, he thought twenty thousand dollars would not be too much; but as the House had negatived that sum, he proposed seventeen thousand dollars.

Mr. Jackson thought the furniture of this room might suit again. If the tables were small, there would be so much the more room. The members now felt much inconvenience from being so confined in this small Chamber. As the present furniture was good for nothing else, it must, unless used by the House, be put into a bonfire. Mr. J. was against the destruction of so much property.

Mr. Smilie, of Pennsylvania, said that, when they looked back to the beginning of things there, (meaning the location of the public buildings in Washington,) they would find everything sacrificed to accommodate the owners of lots. The Capitol was placed in one part of the city, the Navy yard in another, and the President's house in another. The Capitol and the President's house are so far apart, (the distance is one mile and five-eighths,) that it is very inconvenient. Mr. S. had been against the building of the Capitol, and thought that it would be much better to lay out two hundred and fifty thousand dollars in building a brick house near the President's. But the question now is, whether they would give up the building, or vote the money. Mr. S. was in favor of the motion. The delay could not be owing to want of money, for the House had always given all that had been asked.

The question on agreeing to seventeen thousand dollars, was carried—ayes 56, noes 44.

That part of the bill which proposes to *alter and repair* the east side of the north wing, was next considered.

Mr. D. R. Williams moved to strike out the word "alter." He was willing to repair the north wing, but to alter it according to the plan of the Superintendent would require a great expense, without an adequate benefit.

Mr. Lyon would agree to the motion, but he feared, if it were adopted, they would never get into the south wing. It was much like the story of the carpenter's boy, who, being asked where his master was, said he had gone to look for another job. Mr. L. was afraid, if the motion was agreed to, the completing of the south wing would be delayed until the Superintendent had found another job.

Mr. D. R. Williams said, he made this motion to try the principle, whether the House would agree to the alterations contemplated in the north wing.* He knew but one reason for the change. It was to make things correspond with the parliamentary language. When a bill is sent down from the Senate to the House of Representatives, it will, if the alteration takes place, really descend, as this House will be about fifteen feet lower than the Senate. Rather than incur a great expense for this object, Mr. W. would rather alter the language and say, a bill is sent up to this House and down to the Senate.

The motion to strike out the word "alter" was agreed to—ayes 77.

Mr. Jackson moved to strike out the words, "east side of." Then the repairs would extend to the whole of the north wing, so far as they might be necessary. The House, he said, was crazy, and, if assailed by a rude attack, would certainly be demolished. The motion was agreed to.

Mr. Lewis said that, if the bill had been permitted to remain as it was reported, he intended to move to fill the last blank with fifty thousand dollars, but as the Committee had determined that there should be no alteration in the north wing, and confined the appropriation to repairs, he had no estimate of the sum with which it would now be necessary to fill the blank. He must go by guess. He had understood that it would cost twenty thousand dollars to put a roof on the north wing, which was much wanted, and some other repairs were necessary. He therefore moved to fill the blank with twenty-five thousand dollars.

The motion was agreed to without a debate—ayes 62.

Fifteen thousand dollars were then proposed for improvements on the President's house and lot, and carried without a division.

The bill, as amended, was reported to the House, who concurred therein, and ordered it to a third reading to-morrow.

Monday, February 16.

Mr. Varnum, from the Committee on the Post Office and Post Roads, presented a bill to alter and establish certain post roads, and for other purposes; which was read twice, and committed to a Committee of the whole House to-morrow.

On motion of Mr. Clay,

Resolved, That a committee be appointed to consider the propriety of explaining the operation of the several acts of Congress relative to the Marine corps, and to the Military Peace Establishment of the United States, so far as the same may affect the Commandant of the Marine corps; and that the committee have leave to report by bill, or otherwise.

And a committee was appointed, of Mr. J. Clay, Mr. Walton, and Mr. Livingston.

An engrossed bill to extend the time for locat-

* In the original plan of the Capitol, no room was provided for the Courts of the United States. The Superintendent of the public buildings, in his report, proposed to make two stories of the Senate Chamber, and apply the upper one to the use of the Courts. The Senate are to be accommodated on the west side of the north wing, by demolishing the library, committee rooms, &c., and making in their place a large room. The bill which gave rise to the debate was drawn in conformity to this idea of the Superintendent.

ing Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War, was read the third time, and passed.

An engrossed bill respecting seizures made under the authority of the United States, and for other purposes, was read the third time, and passed.

An engrossed bill making appropriations for finishing the south wing of the Capitol, and for other purposes, was read the third time, and passed.

On motion of Mr. NEWTON

Resolved, That a committee be appointed to inquire whether any, and, if any, what addition ought to be made to the existing Navy Peace Establishment; and that they be authorized to report by bill, or otherwise.

A committee was appointed, of Messrs. NEWTON, BROOM, MUMFORD, MARION, and COOK.

The bill sent from the Senate, entitled "An act in addition to the act establishing a Mint, and regulating the coins of the United States," was read twice, and committed to Messrs. J. CLAY, QUINCY, and MCCREERY.

Mr. J. RANDOLPH, from the Committee of Ways and Means, presented a bill making appropriations for the support of Government, during the year one thousand eight hundred and seven; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. J. RANDOLPH, from the same committee, who were instructed by a resolution of the House, of the seventh instant, "to inquire into the expediency of retaining a greater proportion of the duties on articles, the growth or manufacture of foreign countries, which may be re-exported," made a report thereon; which was read and considered: Whereupon,

Resolved, That the farther consideration of a resolution of the House of Representatives, directing the Committee of Ways and Means "to inquire into the expediency of retaining a greater proportion of the duties on articles, the growth or manufacture of foreign countries, which may be re-exported," be postponed *indefinitely*.

Mr. LEWIS, from the committee appointed on the twenty-seventh ultimo, presented a bill for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia; which was read twice, and committed to a Committee of the Whole on Wednesday next.

On motion of Mr. BASSETT,

Ordered, That the Committee of the whole House to whom was committed, on the seventh instant, the bill sent from the Senate, entitled "An act to reduce the expenses attending the administration of justice in the District of Columbia," be discharged from the farther consideration thereof; and that the same be committed to Mr. BASSETT, Mr. MAGRUDER, Mr. KELLY, Mr. VARNUM, and Mr. BLOUNT.

On motion of Mr. BASSETT,

Ordered, That the Committee of the whole House to whom was committed, on the twenty-seventh ultimo, the bill supplementary to an act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia," be discharged from the farther consideration thereof; and that the same be committed to the committee last appointed.

CIRCUIT COURTS.

The bill sent from the Senate, entitled "An act establishing circuit courts in the district of Kentucky, Tennessee, and Ohio," together with the amendments agreed to on the thirteenth instant, were read a third time: Whereupon, the bill, with amendments, was recommitted to a Committee of the Whole this day.

The House, accordingly, resolved itself into the said Committee; and, after some time spent therein, the bill and amendments was reported without amendment thereto.

The bill was then read the third time, and on the question that the same do pass? it was resolved in the affirmative—yeas 82, nays 7, as follows:

YEAS—Evan Alexander, Willis Alston, jr., John Archer, David Bard, Joseph Barker, George M. Bedinger, Thomas Blount, James M. Broom, Robert Brown, John Boyle, William A. Burwell, George W. Campbell, John Chandler, John Claiborne, Joseph Clay, Matthew Clay, Leonard Covington, Richard Cutts, Ezra Darby, John Davenport, jr., John Dawson, Elias Earle, Peter Early, Caleb Ellis, John W. Eppes, William Findley, James Fisk, John Fowler, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, William Helms, David Holmes, John G. Jackson, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Josiah Masters, William McCreery, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newton, jr., Gideon Olin, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Samuel Taggart, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Joseph Winston, and Thos. Wynns.

NAYS—James M. Garnett, David Meriwether, John Randolph, Richard Stanford, Joseph Stanton, Benjamin Tallmadge, and David R. Williams.

COAST OF NORTH CAROLINA.

The House resolved itself into a Committee of the Whole on a joint resolution, of the tenth instant, "authorizing and directing the Secretary of the Treasury to cause to be published the report and chart of a survey of the coast of North Carolina, made by Thomas Coles and Jonathan Price;" and, after some time spent therein, the Committee rose and reported the resolution without amendment.

The said resolution being again read at the Clerk's table, in the words following, to wit:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be published the report and chart of a survey of the coast of North Carolina, made by Thomas Coles and Jonathan Price, under the act of Congress, passed at the last session, for that purpose; "and that the said Secretary be authorized to give the privilege of securing to themselves the copy right thereof, provided they will undertake the expense of the publication, and secure the performance of such other conditions, as he may think proper, to promote the objects of the Government in directing the said survey to be made. But such copy right shall not operate to prevent Congress from having said chart incorporated into any general chart of the coast of the United States, which they may think proper to cause to be executed."

A motion was made by Mr. OLIN, and seconded, to amend the said resolution, by striking out therefrom the following words:

"And that the said Secretary be authorized to give them the privilege of securing to themselves the copy right thereof, provided they will undertake the expense of the publication, and secure the performance of such other conditions as he may think proper, to promote the objects of the Government in directing the said survey to be made. But such copy right shall not operate to prevent Congress from having said chart incorporated into any general chart of the coast of the United States which they may think proper to cause to be executed:"

And on the question thereupon, it was resolved in the affirmative.

Ordered, That the said joint resolution, as amended, be engrossed, and read the third time to-day.

LEWIS AND CLARKE.

The House resolved itself into a Committee of the Whole on the bill making compensation to Messieurs Lewis and Clarke, and their companions. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

The House proceeded further to amend the said bill: When an adjournment being called for, the House adjourned.

TUESDAY, February 17.

Ordered, That the Committee of Commerce and Manufactures be discharged from the further consideration of the petition of John and William Bell, presented to this House on the twenty-fourth of December last.

A motion was then made by Mr. EPPES, that the said petition, and papers accompanying the same, be referred to the Secretary of the Treasury: And, on the question thereupon, it passed in the negative—yeas 47, nays 47.

Mr. SPEAKER declaring himself with the nays.

Mr. J. MORROW, from the Committee on the Public Lands, presented a bill further to regulate the grants of land south of the State of Tennessee; which was twice read, and committed to a Committee of the Whole, on Saturday next.

A message from the Senate informed the House that the Senate agree to all the amendments, except the ninth, proposed by this House to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," to which said ninth amendment they disagree.

THE WRIT OF HABEAS CORPUS.

The House proceeded to consider the motion of Mr. BROOM, of the seventh instant, and the same being read in the words following, to wit:

Resolved, That it is expedient to make further provision, by law, for securing the privilege of the writ of habeas corpus, to persons in custody, under, or by color of, the authority of the United States."

Mr. BROOM addressed the House as follows:

Mr. Speaker: It will be recollected by the House that I had the honor of submitting a resolution to make further provision by law for securing the privilege of the writ of habeas corpus to persons in custody, under or by color of the authority of the United States. It was then my wish that it should lie upon the table, in order that members might have an opportunity of considering the subject; being fully persuaded that the more it was considered the more evident would the importance of it appear. As it now becomes my duty to call the attention of the House to the subject, I shall move that the resolution be referred to a Committee of the whole House, and I should not offer a single observation in support of this motion, but for the doubts which have been suggested by several members, of the necessity and propriety of legislative interposition at this time. I trust therefore that I shall be indulged in pointing out the necessity and importance of the provision which it is contemplated to make. I am sensible that this subject is not familiar to the majority of this House; for, until now, no circumstance has occurred in this country which could make us duly appreciate the value of the privilege of the writ of habeas corpus. In ordinary times, the laws which already exist may be sufficient, for in such times there is no temptation to transgress the limits of Constitutional or legal privileges; but in times of turbulence and commotion, the mere formal recognition of rights will afford too feeble a barrier against the inflamed passions of men in power, whether excited by an intemperate zeal for the supposed welfare of the country, or by the detestable motives of party rancor or individual oppression. I could have wished that circumstances had never occurred which would make it necessary to fortify, by penal laws, the Constitutional privilege of habeas corpus, and that the whole nation, from the first to the least, had regarded it with such religious veneration, that no officer, either military or civil, would have dared to violate it. But recent circumstances have proved that such a wish would have been in vain, and have demonstrated, more powerfully than any abstract reasoning, the necessity and importance of further legislative provision.

This privilege of the writ of habeas corpus has been deemed so important that, by the ninth section of the first article of the Constitution, it is declared, that it shall not be suspended, unless

when, in cases of rebellion or invasion, the public safety may require it. Such is the value of this privilege, that even the highest legislative body of the Union—the legitimate Representatives of the nation—are not entrusted with the guardianship of it, or suffered to lay their hands upon it, unless when, in cases of extreme danger, the public safety shall make it necessary.

The suspension of this privilege upon slight pretences, it was easily foreseen would destroy its efficacy, and if it depended on the mere will of Congress, it would become, in the hands of the majority, the most certain and convenient means to accomplish the purposes of party persecution, or to gratify political or personal rancor or animosity. This Constitutional provision was only intended as a check upon the power of Congress in abridging the privilege; but was never intended to prevent them from entrenching it around with sound and wholesome laws; on the contrary, it was expected that Congress were prohibited from impairing, at their pleasure, this privilege; that they would regard it as of high importance, and by coercive laws insure its operation. By the fourteenth section of the judiciary law, vol 1, L. U. S., page 58, power is given to certain courts and judges, to grant the writ of habeas corpus; and this is all the provision made by any act of Congress to secure this privilege. Thus the Constitution sanctions the writ, and the act of Congress gives the judges power to grant it; but there is no law of the United States which compels the judge to grant it, or the officer to obey it; and the only remedy left to the individual is that which he derives from the common law of England, (if, indeed, gentlemen will allow to that law any operation in the United States courts;) and that very law upon which we now rely to enforce the privilege was found, during the reign of Charles II., utterly insufficient, and has ever since the thirty-first year of that reign, been considered in England as only auxiliary in securing the privilege of the writ of habeas corpus.

The Speaker was sorry to interrupt the gentleman from Delaware, but must observe, that it was not in order to debate the motion until the House should agree to consider it.

Mr. Smilie hoped the gentleman from Delaware would be permitted to proceed, as the subject was a very important one.

Mr. Broom then moved to consider the motion of reference, to which the House agreed—ayes fifty-seven.

Mr. Broom.—I am sorry that I have trespassed upon the rules of the House. I assure the House that it was not intentional, and beg leave to offer to the gentleman from Pennsylvania (Mr. Smilie) my acknowledgment for his liberality. As the House has now agreed to consider the motion, I will proceed in support of it. The statute 31, chapter 2, was designed to remedy, and did effectually remedy, the defects of the common law provision on this subject. By that statute severe penalties were imposed on judges refusing to grant the writ of habeas corpus, and on all parties refusing to obey it. In most of the States, laws have been made upon the principle of the statute of Charles, and so far as they extend, are found to have the most beneficial effect in securing the privilege of the writ, but they do not extend to inflicting penalties on judges of the courts or officers of the United States. If the privilege of the writ of habeas corpus be important, and the laws be defective, it is surely our duty to apply the remedy. Of its importance, it is true we have had but little experience in our own country. In England, from whence we derive our knowledge of it, they have proved its value; they have tried it, and it has not been found wanting. In England, this inestimable privilege has been for ages the proud theme of exultation; there they worshipped it as a talismanic wand which could unbar the gates of the strongest prison and dissolve in an instant the fetters of the captive. It was to Englishmen as a wall of fire by night, shielding them from the arbitrary sway of tyrannic power. It is, indeed, the great palladium of that English civil liberty which has exalted the English character. Of the power and influence of civil liberty upon the happiness of the people of England we need no stronger evidence than the situation of surrounding nations, where it was unknown. Let us go back to less civilized times, and we shall see in those nations men in the most abject state of society, suffering oppression in every possible shape; there, every private castle was a secret and inviolable prison; there the life and liberty of the most illustrious, as well as the meanest, subject, were alike the sport of the caprice of a tyrant. Even the petty lordling held as it were the shears of fate, and cut at pleasure the thread of the life of his vassals. A *lettre de cachet* could confine the unhappy victim of power for life in the loathsome walls of a dungeon, and in spite of the ties of affection or blood, friends must forget each other, or share a common fate. The savage tortures of the inquisition chilled the soul with horror, and the gloomy recess of the sanctuaries of religion too often bore witness to the diabolical temper of man when inflamed with passion and unrestrained by wholesome laws. Such was the condition of other countries while the people of England were reposing in security under the protection of their civil institutions; institutions which had received the sanction of ages, and were guarded by the religious veneration of the people. The right to personal liberty, unless for the commission of an offence against law; the right to know the accusation against them, and the right to be tried by their peers, were all recognised by their charters, and which their monarchs had sworn inviolably to observe. These rights were not merely secured by parchment; they were incorporated with the habits, manners, and customs of the people; they were handed down from father to son in trust for posterity, and guarded as a precious inheritance, which could never be diminished with honor. The people were early taught to know them, and to consider it a sacred duty to draw their swords in defence of them. These fundamental rights of Englishmen have existed from their earliest ages; they

were collected in a body by Edgar the Saxon; they were revised by Edward the Confessor, and were ratified by William the Conqueror; they were recognised by Magna Charta, and after the wars between Henry III., and his subjects, were confirmed by the statute of Marlborough, and never afterwards questioned. Rights thus maintained through all the convulsions of England; rights thus endeared to the nation, and engraven on the hearts of the people, and which have walked hand in hand with them through the darkest periods of their history, require no other proofs of their importance.

Yet, however important these rights may be, a few moments' reflection will satisfy us that, without the writ of habeas corpus, they could avail but little. The rights may exist as abstract rights, but the writ of habeas corpus affords the most important, if not the only means of exercising them. In vain does the law proclaim that no man shall be imprisoned contrary to law, if the party imprisoned has no access to a tribunal, to decide the question of legality. In vain does the law promise a trial by peers, if the imprisoned party can have no access to a tribunal where he may demand such trial. In short, without the writ of habeas corpus, rights of personal liberty, however solemnly proclaimed, would exist but in name. This writ of habeas corpus is coeval with the rights which it secures. It existed by the force of common law until the subtleties of lawyers had nearly refined it away, when it was aided by the statute of Charles, and has since been found fully adequate to produce the desired effect. If, then, this privilege of the writ of habeas corpus has been productive of the most salutary effects in England, in guarding the liberty of the subject, we have the strongest proof which we can require of its importance to us, except our own experience. It is true we live under a form of Government where the sovereignty is acknowledged to belong to the people; but, let us not vainly imagine that we have no necessity for laws restrictive upon men in power. Under the fair semblance of republicanism has often been practised the most detestable tyranny, and the mild laws of a Republic have too often afforded a shelter for knaves and tyrants, instead of a shield for the virtuous and oppressed. I ask, then, of this House, to hedge round this valuable privilege of the writ of habeas corpus with efficient laws. I beg them to profit by the experience of others, and grow wise in time. Let it not be said that we are less jealous of our personal liberty than the people of England, or, that the important privilege which guards it is less dear to us, because we have not, like them, waded through blood to maintain it. Let us, with the Constitution, acknowledge the importance and sanctity of the privilege, and proceed without delay to fortify it with penal statutes. The warnings which we have lately received, call loudly on us to guard against it more effectually in future. It has been too generally our misfortune to wait until offences have been committed, before we have provided a punishment; but, when such offences have been committed, the public attention has been awakened, and laws have been passed to guard against them in future. The violations of our Constitutional privileges at New Orleans, have shown clearly the insufficiency of existing laws and the imperious necessity of providing the remedy. If we will not be roused from our slumbers by the experience which we have had, I shall despair that we will ever be awakened to any sensibility of our personal rights—for, let it be remembered, that these abuses are not of an ordinary character—they have been committed by a military officer at the head of the Army of the United States, and in full view of the highest authorities of the Union. The civil authority at New Orleans has been trampled under foot, and the commander of the army, in the plenitude of his power, avows his disobedience to laws and Constitution, and takes on himself all the responsibility of the violation of our Constitutional rights of personal liberty. Lost in amazement at this bold and unprecedented stretch of power, we can scarcely be sensible of its extent, unless we contrast it deliberately with the Constitution. The Constitution declares that no warrant shall issue but upon probable cause, supported by oath or affirmation; that no citizen shall be deprived of his liberty without due process of law; and, that the accused shall enjoy the right of a speedy trial by a jury of the district where the offence was committed. Yet, in defiance of all these Constitutional provisions, our citizens have been arrested without any warrant, and without any process of law whatever; deprived of their liberty; confined in military prisons, and transported, under military guards, two thousand miles from the place where the offence was committed. The Constitutional privilege of the writ of habeas corpus, which is to secure these rights to the citizen, has been treated with contempt, and a military officer vauntingly takes upon himself all the responsibility of wilful disobedience to the writ. For all these violations, we are to be told that the conspiracy which existed in that country will afford a sufficient justification. With respect to the conspiracy, whatever might have been its contemplated extent, we have reason to believe that it is now at an end. And, without determining whether the aspect which it had at New Orleans was really alarming to the General, or whether any circumstances do exist which may palliate his conduct, this much we all know, that his power was employed in the arbitrary violation of the rights of the citizen, and that the conspiracy is to furnish the justification. Such conduct, and even such a justification, I look upon with abhorrence and dread. For, if, upon every alarm of conspiracy, our rights of personal liberty are to be entrusted to the keeping of a military commander, we may prepare to take our leave of them forever. For my own part, I wish to live under a Government of laws, and not of men; for, however pure and upright be the intentions of our military commanders, however virtuous, and even unsuspected be their conduct, I can never agree that my right to personal liberty shall depend on their forbear-

ance and discretion. I know not whether these men that have been arrested are innocent or guilty of the treason with which they are charged, but, whether innocent or guilty, they must be arrested and tried according to law. However atrocious the crime which has been committed, the punishment must be according to law. For, in transgressing the limits of the law to revenge upon a criminal the wrongs of society, we are guilty of injustice both to society and the criminal. The manner and circumstances attending these arrests, have been of the most uncommon kind. It is said that all intercourse between one of the prisoners and his family and friends, was cut off, and that not a soul, except military men, was suffered to approach him; that, after being detained under close military confinement for nearly two weeks, he was transported, by the way of Baltimore to this city, and that, upon his arrival here, he was informed that there was no evidence to support any charge against him whatever. But whether this man, or the others who have been arrested, are guilty, or not, it can have no influence upon our deliberations at this time. For, if even these violations now affect only the guilty, they may, at the discretion of the military officer, be extended to the innocent. It is enough for us to know that the rights of personal liberty, guarantied by the Constitution, have been openly violated in the person of a citizen of the United States, and that no laws exist sufficiently effectual to prevent or to punish such violations. It then becomes our duty, as faithful guardians of the public rights, to interpose our authority in order to preserve them. But, if we content ourselves with tamely looking on, while our best rights are trampled upon, we become partakers of the guilt by the encouragement which we give the offenders. For these violations, what remedy has the most innocent individual against the officer who arrested and transported him? As the laws of the United States have provided none, his remedy is at common law. He must sue for false imprisonment, and it depends entirely on the jury to say whether they will give him anything or nothing. Can a remedy so uncertain prevent the offence? or, will a remedy so precarious, always remunerate the injured? But, if to this, we add exemplary penalties, we have, surely, an additional security that the laws will be obeyed. The laws are not, and in my opinion will not be sufficient, unless they punish in the most prompt and exemplary manner all judges who refuse to grant the writ of habeas corpus, and all officers who refuse to obey it. For such offences, ruin ought to stare a man in the face; and, when he has so seriously abused his power, he ought to be stripped of it forever. But, if we have no laws to guard us against these abuses, and are unwilling to make any, we take upon ourselves all the responsibility of future violations.

I wish, and propose to entrench our privileges with the most vigorous laws—such as will suffer no man to violate them with impunity. There is no citizen of the United States, however abject his condition in society, in whose person the Constitutional rights of personal liberty are not sacred; and, however exalted the situation of the person who tramples upon them, or however plausible the pretence, the punishment ought to be prompt, certain, and exemplary.—Dangerous, indeed, will be the situation of our country, if every alarm of conspiracy is to be followed with the seizure and transportation of our citizens at the will of a military commander, and in defiance of the civil authority. If such a doctrine be looked upon, not only without abhorrence, but even with approbation, how easy will be the transition from lawful, to lawless power! Leaving the examples of ancient times—where the rumors of conspiracies have raised in an instant the body-guards of tyrants—we have seen, in modern France, the cry of conspiracy made the signal of massacre, or the pretext for some violent usurpation of power. I do not pretend to say that this conspiracy has been fomented or permitted from any sinister views. It is enough to point out the danger to be apprehended from suffering this dark and dangerous machine of conspiracy, to be any apology for the violation of all the most solemn Constitutional rights of personal liberty. Having witnessed the defects of our laws, and the dangerous abuses of our most valuable privileges, let us proceed to provide the remedies. Rights so important cannot be too strongly guarded, and violations so serious cannot be too strictly prohibited.

Mr. Burwell said he had determined to vote for the reference of the resolution, that the mover might suggest any additional security to the personal liberty of the citizen he thought necessary, although he did not believe a change in the law material, or that one essential provision had been omitted. Had the gentleman from Delaware confined his remarks to the subject of his motion, and avoided observations unconnected with his ostensible object, he should have acquiesced silently. The Constitution of the United States recognises the writ of habeas corpus, without determining in what manner it shall be enforced in the courts. That can only be ascertained by recurring to the acts of Congress in 1789, establishing a Judicial system, organizing courts, and fixing their powers. The fourteenth section of that law relates to this writ, and says: "This and all 'other writs not specially provided for by statute 'shall be issued agreeable to the principles and 'usage of law." Mr. B. contended the principles here alluded to could only be those of the English law, and the usages those of their courts; otherwise there could not be found in the Constitution, or laws of the Union, a single sentence relative to the subject, and the decisions heretofore had in our courts would be consequently illegal. He said he was fully justified in this position by the uniform proceedings in the courts, and particularly those which had recently taken place in this district before the court acting expressly under the laws of Congress. To show how ample the provisions were, he referred to Blackstone's Commentaries, vol. 3, p. 137, statute Charles 2d, "Any prisoner may move for and obtain his writ of habeas corpus, &c., and the Lord 'Chancellor or Judges denying the same on sight 'of the warrant or oath, that the same is refused, 'shall forfeit to the party grieved, the sum," &c. The judge is here compelled, under heavy penalties, to afford relief to all persons who apply for the writ, and we shall presently see the law guard against delay or evasion by farther limitations on the discretion of the judges. Mr. B. said he admitted the specific penalties of the statute did not attach to the judges and courts of this country; but it established their duties, and the punishment inflicted is regulated by the Constitution and law of the United States applicable to judicial offences and misdemeanors. The same statute provides, "that officers and keepers neglecting to make due 'returns, or not delivering to the prisoner or his 'agent a copy of the warrant of commitment 'within six hours, or shifting the custody of the 'prisoner without sufficient authority, shall for-'feit," &c. In addition to this, the court could enforce its process by attachment, fine, and imprisonment, and call on the Executive for aid, if resistance is made. Mr. B. said this statute was considered as having completely guarded against oppression, and was expressly intended to put an end to the evasion of the judges: "The oppression of an obscure individual gave birth to the 'famous habeas corpus act, 31st Charles 2d, which 'is frequently considered as another magna charta 'of the Kingdom, and by consequence and analogy has also in subsequent times reduced the general method of proceeding on these writs, and '(though not within the reach of that statute by 'issuing merely at common law) to the true 'standard of law and liberty." Black. Com. 136. What more is requisite? Your courts are compelled to issue process and grant relief; your officers to carry it into effect, and your citizens to obey. Mr. B. observed, it appeared to him impossible to devise additional provisions, when those already incorporated into the jurisprudence of the country by the act of Congress, and exercised by the courts, embrace every case arising under the laws, and extend to all persons confined under the authority or color of authority of the United States. He, however, was not a professional man, and was therefore the more disposed in favor of the commitment, lest he should be mistaken in his impressions. If the gentleman from Delaware should discover any salutary alterations, he should not only receive his vote but his thanks.

We have been told, said Mr. B., that all the States have passed laws upon this subject. Does it follow we have none? Certainly not. They have enacted the provisions of this statute specifically; we have adopted them by reference; each mode is equally good, and affords equal protection to individual rights. Indeed, it is incredible we should have remained until the present time ignorant of this chasm in our institutions; and whatever the gentleman may say, the recent events at New Orleans are not the first in this country which would have announced its existence. As far back as 1795, a distinguished citizen, during the insurrection of Pennsylvania, was seized by the military, carried to Philadelphia, and committed to jail without a mittimus, and kept three months in confinement. Notwithstanding repeated applications for the writ of habeas corpus every effort was evaded during that period, and at length, when he was brought before the court, not a particle of evidence was exhibited to justify his imprisonment, or impeach his patriotism; but, on the contrary, Mr. B. said he would assert with confidence the affidavits produced acquitted him of all guilt in the insurrection, and proved he had exerted his great influence to moderate the discontent, and quiet the apprehensions, and restrain the violence of the people. If this statement was denied, Mr. B. said he could substantiate its truth; the case had been reported, and now formed a precedent in the Supreme Court of the United States, which had been frequently cited during the present term. Why has the vigilance of gentlemen reposed so long? Why has this early and impressive intimation been disregarded, if the law was defective? The gentleman from Delaware says, the late arrests at New Orleans by the military are early warnings of the danger of standing armies. Mr. B. accepted the hint, and hoped the gentleman would himself recollect and profit by it. Those who acted with him had long been partial to those establishments, and blind to their tendency. The events alluded to proved the indispensable necessity of preserving them subordinate to the civil authority. This proved the importance of reducing the standing army to the lowest point compatible with the safety of the frontiers. This was the reason which induced him during the present session to vote against the proposed augmentation of our forces; and while he continued to entertain his present opinions, and felt his present jealousies of a conflict between the civil and military power, he was determined to avoid the issue by keeping the latter in complete subordination. If an opposite policy should ever become ascendant in this country, the measures at New Orleans, instead of being temporary, will be entailed upon us. Mr. B. said he thought it improper to mention the events which had occurred at New Orleans. It was extremely probable prosecutions would be commenced against the officer, and any expressions of disapprobation in that House would give a tone to public opinion which justice required should as yet be suspended. Every person admitted the Commander-in-chief had violated the law. He admitted it himself, and assigned reasons of justification which we ought not to decide, but leave to the courts of justice. They are the proper tribunals to punish those who infringe the rights of the citizen; and until they are closed by power, or their decrees set at defiance, and the Executive unable to enforce them, legislative interference cannot be necessary. It has been said, every officer who refuses to obey the writ of habeas corpus from a court should be punished with death; and this has been proposed as an effectual provision to secure the benefit of this writ. Has the gentleman so soon

forgotten the doctrine advanced on that side of the House, and assented to during the present session, when we were told a military officer knew no law but the orders of his superior; when we were told the contrary was monstrous, absurd, and subversive of all subordination in the army; that they were not lawyers versed in your laws and Constitution? Mr. B. hoped he had. But the gentleman from Delaware had run into exactly the opposite extreme, by placing the highest and lowest officer upon the same footing, exacting from both the same knowledge of the law, attaching the same responsibility, and, contrary to every principle of justice and humanity, punishing with the same severity the man who intentionally and knowingly violates the law, and the man who ignorantly commits a breach of duty. It would completely reverse what has been so long and wisely recognised in our criminal jurisprudence. The redress allowed to a man who has been forcibly seized and imprisoned without legal authority under the existing laws, is much more conformable to equity than this mode. It is an offence against an individual's rights, and should be punished, like all other injuries of a personal nature, by action and recovery of damages, in which the jury will always have a just regard to the rank of the offender, the innocence of the victim, and the wantonness of the violence. They will discriminate between the lawless exercise of power by the Commander-in-chief and the subaltern, who executes what he supposes he is bound by his oath to perform. Mr. B. said the mover of this resolution had expressed more alarm at the situation of this country than was real, or than he supposed was felt by any member of this House. One would imagine that the arrests at Orleans had extended through the whole nation, and that no man was safe from persecution. As far as he had understood, the moment those arrested had reached the United States, they had been turned over to the courts, and every privilege been extended to them. The people of this country can never be in danger while their Representatives remain pure, and are disposed to withhold from the Executive dictatorial powers. Have we not already, during the present session, given the most honorable pledge to our constituents that we are not inattentive to their security, when we rejected the bill to suspend the writ of habeas corpus? Why talk of the lettres de cachet which have issued in France, and of other oppressions in that nation? Our Government is neither actuated by such passions, nor invested with such powers. It is degrading to assimilate the two Governments, and argue from a similarity which does not and cannot exist. The one is composed of responsible agents; the other is despotic, cruel, unrelenting, and corrupt.

Mr. Epps observed that whenever he should feel less attachment to the personal right of the citizen than the gentleman from Delaware, or any other member of the House, he hoped that those by whom he was elected would select some representative more worthy of their confidence. If the gentleman was really sincere in the principles he had advanced, he tendered to him his congratulations on his conversion to Democracy. If, on the contrary, his new principles were assumed like a Sunday coat, to be laid aside in the evening, it would afford one more example of the truth of the observation made by the celebrated Burke, that the same party can at one period trample on the rights of the citizen, and at another become declaimers in favor of personal liberty. He did not consider the resolution as designed to remedy any defect in our laws, but to afford an opportunity to gentlemen who care not much about personal rights, to make some noise about them. He considered it as a portion of the same spirit which had manifested itself in the courts below. Who are there the champions of human right? The ex-Attorney General of the United States; the leader of 1798 and 1799 turned Jacobin, changing his political catechism, and become the dupe of his own eloquence! To crown the climax, behold another noble champion of human right—the ex-Attorney General of Maryland; the very man who turned down the leaves of the "Prospect Before Us"—marked the passages which breathed too much freedom—drew in cold blood an indictment at one hundred and fifty miles from the scene of action, and became a volunteer in the godly work of persecution! When the personal right of the citizen shall depend on a mandate like this, liberty will indeed be in danger. If ever the Goddess of Liberty should meet his foul embrace, she will not be defiled only, but strangled. The greatest monster in human shape is, a tyrant in principle, with the Rights of Man in his mouth. A wretch sunk to the last step in the political ladder, and willing again to mount by principles he never felt.

Where has this zeal of a certain party for the rights of man so long slumbered? Where was it when the sedition law was passed? Where was it when a member of this House was imprisoned and deprived of his Constitutional privilege for printing a letter from the Secretary of War, acknowledged to be genuine? Where was it when General Hamilton was seized in the western parts of Pennsylvania, without the shadow of authority; driven like a convicted felon before the bayonet to Philadelphia, and there imprisoned for months without the possibility of obtaining a habeas corpus? Where was this zeal when the rights of aliens were suspended, that whole class of people placed under the will of the Executive, and a power given by law to seize and ship them? Dead, sir! The rights of man were not much in fashion with the party at that time. Plots, clues to conspiracies, and a gag for the mouth of him who dared to arraign the Federal immaculacy, was then the order of the day. When I shall believe the sympathy which these men affect to feel for a character, so recently hunted by them through the community like a wolf, is sincere, I may then credit their attachment to human rights, and not till then.

The real secret in this business is, that the termination of this affair in the Western country does not suit the Federal palate. To reduce an

insurrection without an army or navy is a very anti-federal thing. They do not understand, and cannot admire that kind of energy in government which derives its force from confidence and attachment on the part of the people. We have heard in former times, from high authority, that the expedition against what was termed the insurgents of Pennsylvania, was intended to try the strength of the Government; that no Government was considered safe until its forces had been called out to support its laws. We now present to the world another example. The people of our country voluntarily preferring the Government of their choice, to views of personal aggrandizement or interest, obeying peaceably the proclamation, and returning quietly to their homes as soon as the enterprise in which they were embarked appeared to be illegal. Deserting a leader inferior to no man in talents and firmness, possessing unbounded pecuniary resources, and above all, the peculiar art of attaching to him the hearts of his friends. The mines of Mexico; the wealth, the honors, held out to his followers by such a leader, could not reconcile to Americans the odious appellation of traitors. The honest and independent citizens of your country returned to their homes to cultivate that soil on which fortune had placed them, as soon as they discovered the real objects of the expedition. Behold a triumph honorable to the American character, carrying with it irresistible evidence of the firmness of our Union, and of the patriotism of the great body of our people!

But we are told that a most daring violation of human right has taken place—that men have been seized in New Orleans and shipped here for trial. Far be it from me to exaggerate or soften these acts. Such as they are, I am willing to trust them to an enlightened community. An officer has undertaken at his own responsibility to seize and send here three persons. Two of them charged on his oath with treason, or misprision of treason, and the third by him believed to be guilty. The first two on their arrival here were delivered over to the civil authority, and on solemn argument committed on a charge for treason. The other was delivered over to the civil authority also and discharged. No man will say that the conduct of the officer who seized and shipped these persons is legal. He has done an illegal act at the risk of his fortune in damages. Let the law take its course; let the individuals prosecute; let an honest jury put on one side the crime with which they are charged, and on the other, illegal arrest and shipment; let them strike the balance. If they assess damages, and it shall hereafter appear that this was a wanton and unnecessary exercise of power, the officer must suffer. If, on the contrary, it shall appear that the officer had no object in view but the public good, that he did really believe New Orleans about to be attacked by a superior force, and that these prisoners could not be safely kept there, I for one, shall not hesitate to pay the damages assessed against him. Freedom can never be endangered by an act like this, where your laws are suffered to take their natural course without suspension or interruption—where the injured individual can bring before a jury his claim for damages. What more safe, more certain, or adequate remedy can you ask for an injury done to personal freedom, than the verdict of a jury of freemen? What would be the feelings of an honest and independent jury called upon to decide a case like this, where an innocent individual of character had been seized and shipped? The damages would be such as to heal the wounded feelings of the oppressed individual, and to deter in future the commission of such an act. If, on the contrary, strong circumstances of guilt should appear against the individual, the damages would be nothing. The officer must depend on establishing before the community the purity of his motives, and the probable guilt of those on whom he has exercised power in violation of right. If the individuals seized and sent here shall be found to be innocent, I should wish them to recover heavy damages. Under my present impressions I should certainly, if on their jury, not assess damages. If the charges made against them are well founded, I would as soon give damages against an individual who seized and secured for trial a highway robber. The public officer who knows of the existence of treason; who sees an individual embarked in schemes dishonorable to his country; who believes him aiding an approaching enemy, would deserve to be broke if he did not seize him. On the present occasion the officer has gone further—he has seized and sent them to you. He has violated the personal right of the citizen. If from honest zeal for the public good, he will find a sure protection and shield before an independent and patriotic jury. If the persons are innocent, and have been seized by him to wreak private resentment, or on any motive less pure than the public welfare, his reputation as a soldier is destroyed, and his fortune must be lost in damages. I do not believe, however, that much sympathy will be excited in the public mind, when the people shall understand about what, and about whom, all these clamors have been raised. What is the naked fact? General Wilkinson has seized and sent round to the seat of Government three persons, at a time when he believed New Orleans in danger of being attacked by a superior force. Of these persons, the one is a bankrupt foreigner, charged on oath with being an accomplice of Aaron Burr. The second, a young American, charged also on the oath of your Commander-in-chief, with having disgraced the American character, by condescending to be employed as an agent for corrupting your Army; with having actually carried proposals of bribery to your Commander-in-chief. The third, a foreign lawyer, who owes to the liberality of the people of this country his bread. Two of these persons, in good Federal times, might have been transported under the alien law to Botany Bay. But men are now seen in your courts actively denouncing this measure, who voted for and perhaps brought forward the alien law. I mention not this to justify the present

proceeding, but to show to the people the spirit in which this resolution has originated. Your Commander-in-chief has been placed in a difficult situation. In daily expectation of an attack by a superior force, and opposed by the whole body of the law in the territory, a man greatly his superior in talents and firmness might have erred. He ought most certainly to have delivered over these persons to the civil authority. Had he done this, however, it is not yet decided where the trial would have been held. The district court of New Orleans has the same jurisdiction with the district court of Kentucky. The Kentucky district court has the ordinary criminal jurisdiction of a district court of the United States, which extends only to offences punishable by fine or whipping, and the whole civil jurisdiction of a circuit court of the United States; so that these persons if charged with treason against the United States could not have been tried in New Orleans, and must have been sent here or elsewhere by the civil authority. Thus much for the violation of right which has taken place.

Let us now examine how far any new provision by law may be necessary to secure to the people of this country the privilege of the writ of habeas corpus, which gentlemen avow to be the object of this resolution. The right as it now stands is secured to the people by the Constitution. Every judge of the United States has power to grant the writ, and every citizen of the United States is bound to obey it. But, says the gentleman, if a judge refuses it, what are you to do? The penalties of the statute of Charles the Second are not in force here. I say remove the judge from office. If your provisions on this subject are defective, amend them. Let the judge, like every other individual, feel responsibility, and he will be honest. The idea of enforcing a high responsible officer to do his duty by pecuniary fine, is a departure from the principles of our Government. No instance can be produced under the Government of an officer of trust being compelled by pecuniary fine to discharge his duty. The true principle of a republican Government is this: Dismiss from office faithless servants. But I would ask, suppose a judge violates any other right secured by the Constitution? Suppose he refuses to a citizen his Constitutional right of trial by jury, and subjects him to punishment without trial by his peers, would you in these instances say he should be subject to a fine? No, sir. Let such a judge be disgraced—let him be turned from public employment. Let not the purity of justice be sullied by having on your bench men, who, dead to the feelings of patriotism, and unmindful of their Constitutional oath, must be compelled by fines and penalties to discharge their duty. The power of enforcing this writ as it stands under the Constitution and laws of the United States is complete. It is enforced in the same manner with all other processes issuing from the courts of the United States. The judge must in the first instance send the marshal. If the writ is disobeyed, he takes the *posse comitatus*. If this is not sufficient, the judge certifies to the Executive that the laws cannot be carried into effect, and the arm of the nation must be extended to support the judiciary. This is no theory—it has already been acted upon in this country. On the certificate of a judge that the laws could not be enforced, the militia were marched to the western parts of Pennsylvania. If your judges have no power to enforce the writ of habeas corpus, I should be glad to know how they enforce any other. It was not because the privilege of the writ of habeas corpus is not sufficiently secured. It was not because the judges refused to issue it or wanted power to enforce it that this violation of right has occurred, but because the persons who might have claimed this privilege were snatched, under peculiar circumstances, from their jurisdiction. As the gentleman from Delaware has thought proper, on a motion to commit, to enter into a discussion of the merits of this proposition, I have made these observations. I have no objection to refer the resolution to a committee for the purpose of a full and fair discussion. I have no hesitation, however, in declaring that it is only to allow an opportunity for discussion, that I shall vote for the reference. I do not believe that any additional provisions are necessary to secure to the people of this country the privilege of the writ of habeas corpus; on the contrary, I do firmly believe that this right, like all others secured by the Constitution, can never be lost, or violated with impunity, until corruption shall have destroyed the principles of our Government.

Mr. Bidwell observed that on a motion to refer this resolution to a Committee of the Whole, he thought it unnecessary to discuss the merits of the subject at large; since the very object of the commitment was to afford a full and fair opportunity for such a discussion, and for any specific proposition, which the mover might think proper to submit. He was in favor of the proposed commitment, but on very different grounds from some of those which had been urged. Whether the conduct of the commander of the Army in arresting certain persons who attempted to corrupt him and to seduce the Army, to join in a conspiracy against their country, was to be condemned or not, was a question not suitable to be acted on at the present time, and under existing circumstances. If the House were the proper tribunal to decide that point, this was not the proper mode of deciding it, nor the proper time for the decision. No one would deny that the commander of an army or of a post might be so circumstanced, that it would be his duty to make a seizure of suspected persons, or perhaps do other acts not provided for by any law. In such a case he must act under a high responsibility, and throw himself upon the justice of his country. On this ground General Wilkinson had professed to act. If his professions should be justified by the real state of facts, he would be entitled to a favorable consideration. But at present it was unseasonable for the Legislature to express any opinion or take any measure. He regretted, therefore, that the gentleman from Delaware (Mr. Broom) had resorted to this transaction in support of his motion. On general principles, Mr. B. added, he was willing to go into a Committee of the Whole on the subject. The importance of the privilege of habeas corpus was acknowledged by all. The Constitution, by restricting the Legislature from suspending it, except when in cases of invasion or rebellion, the public safety may require a suspension, had recognised it as a writ of right, and our statutes had authorized certain courts and magistrates to grant it. It had been, indeed, in some respects doubtful where the authority to issue such writs was lodged. Whether, for instance, the Supreme Court, a circuit court, or the justices of the Supreme Court, out of their appropriate circuits, had that authority, were questions, on which not only professional men, but judges themselves, had differed in opinion. Some improvements, perhaps, might be suggested. Although he lamented that the gentleman from Delaware had moved the subject at the present time, while some of the questions involved in it were under the consideration of the judiciary, and that he had referred, in his argument, to the late transactions at New Orleans, of which we have not sufficient information to form a satisfactory judgment, yet, he would consent to refer the resolution to a Committee of the Whole, for the purpose of considering such propositions as that gentleman might offer for the amendment of the law.

Mr. Early.—Mr. Speaker, I feel very much at a loss to discover the correctness of the conclusions drawn by the two gentlemen from Virginia, (Mr. Eppes and Mr. Burwell,) from the reasoning which they have used. My views of this subject are in part the same with theirs; but those views will lead me to give a vote directly the reverse of that which they intend.

The motion to refer the resolution under consideration is objectionable with me, because of the time at which it is made. The resolution itself was laid upon the table upwards of a week ago—indeed ten days ago. And now when there is left but a very short space of the season, and the House is extremely pressed with other business highly necessary to be done, the resolution is called up, and a motion made to refer it to the Committee of the Whole.

No gentleman can believe that the subject can be matured and a law passed this session Indeed, sir, it does not appear that the honorable mover himself intended that anything definitive should be done. On the contrary, from the course he has thought proper to pursue, it would appear everyhow probable that even his own wishes were otherwise. It would appear, sir, that he had intended from the beginning to use the occasion as an instrument by which an impression should be made upon the public mind unfavorable to some recent transactions at New Orleans. Indeed the gentleman has come out and openly given to the subject that direction. And this circumstance forms with me another objection to the motion for a reference. Hang up the subject until the next session, and what must be the conclusion in the public mind? The answer is irresistible—that this House entertain the idea that the privilege of habeas corpus has been unnecessarily infracted. What follows? That the recent transactions at New Orleans were not demanded by an imperious necessity, and of course ought to receive the indignant frowns of the nation. The agent in those transactions, too, must in the mean time be consigned over to public odium. Now, sir, I take this occasion to declare my most decided hostility to such a a procedure. I will never consent to a measure calculated to give an unfriendly direction to the public mind, when we ourselves are without that information necessary to give a direction to our own. I will never consent to deliver up a highly responsible public functionary to the torture, before that functionary can have an opportunity to be heard in his own justification. In my opinion, Mr. Speaker, it depends upon events yet to be developed, whether the commander of the American Army has deserved execration, or merited applause. It may turn out that his conduct is without excuse, and it may turn out that it has been highly meritorious. He may have acted a part, for which he should suffer condign punishment, and he may have acted a part for which his memory would be entitled to a statue of gold.

There is, with me, another objection to the reference. The motion, timed as it is, and accompanied by the speech we have this day heard from the honorable mover, has a suspicious aspect and influence upon certain judicial procedures, depending at the present moment within the walls of this building. Is this House willing to suffer such manœuvres to take their proposed course, and to produce their wished-for effect? Are they prepared to interpose the weight of their influence to ward off the infliction of punishment upon traitors, by passing sentence of condemnation on acts which have produced their arrest and confinement? But it is not now alone that this pernicious tendency of the resolution is to be felt. Actions for damages are no doubt to be brought against the Commander-in-chief. Whether the damages which may be recovered, ought or ought not to be made good to him by the Government, must depend upon circumstances yet to be developed. That he has violated both law and Constitution, is not denied. But whether there existed that imperious necessity for such violation, which alone can justify it, and give him a claim upon the Government for the damages to which he may be subjected in consequence thereof, can only be determined upon a full view of all circumstances. Here presents itself another strong objection to the resolution. Its tendency is to procure now that expression of opinion by the National Legislature, in relation to the events at New Orleans, which will, which must, raise a powerful obstacle hereafter, against a remuneration of any damages that may be recovered against the Commander-in chief. To this I will not consent—against it I hold up my hands, and enter my most solemn protest. There is still a farther objection; the tendency of the resolution, if adopted by the House, will be to influence the amount of damages which may be assessed. Yes, sir, it will be viewed as

the expression of an opinion on the part of Congress as to the demerits of the act for which damages are claimed. The effect upon the minds of a jury is even more to be dreaded than that upon the opinion of the judges. Who is there that cannot perceive its force? Who that must not deprecate its effect! If it should be observed that the resolution itself cannot be open to all the objections now urged against it, let it be recollected that the honorable mover has taken special care to give to it a direction, and accompany it by circumstances which must insure to it the operation complained of. In ordinary cases there can most certainly be no objection against an inquiry after defects in any branch of law, with a view to the application of some remedy. But such is not, as I apprehend, the state of the present question. Admit, for argument's sake, that a defect does exist in the present provisions for securing the habeas corpus privilege, can an adequate remedy be now applied? It cannot, we know it cannot.

But, Mr. Speaker, where is the proof that the provisions now in force are not sufficient for the security of the person? Have you any evidence to this effect? If you have, I am ignorant of it. Are not the courts of justice open? Let the persons injured resort thither. Let their complaints be laid before an American jury. Will not an adequate redress be had there? Are the people of the United States too insensible of the value of the privilege of the habeas corpus to award damages proportionate to the injury sustained by its infraction? Or is it that gentlemen suspect, that the individuals who have been arrested were engaged in a plot so diabolical that a jury would, upon a view of the whole ground, assess damages too inconsiderable to comport with their wishes? Is it for this reason that the American Congress are asked to prejudge the case, and to throw their weight into the scale against an officer who, from everything that yet appears, has acted from motives of the purest patriotism? The part he had to perform was one of the most arduous ever assigned to the lot of man. Entrusted with the defence of an important and extremely remote point, where all was to be done before instructions could be received from his Government, every measure was to be taken by his own judgment and upon his own responsibility. His chance of information as to the extent of the danger was extremely limited, and, so far as facts have come to light, he had powerful reasons for believing that the conspiracy was deeply laid—that it had diffused itself extensively in the very bosom of the country against which it was directed, and that it would be supported by a military force far more numerous than any he had at command.

Under such circumstances, Mr. Speaker, I repeat my decided hostility both to the resolution and the motion for its reference. And I again repeat, let the parties complaining to have been injured, resort to the proper sources for redress; let them go to the courts of justice. Here are the Constitutional organs for determining how far the existing legal and Constitutional provisions can administer redress. When these are, in the Constitutional mode, found deficient, it will then be time sufficient to apply the proper remedy.

Mr. Broom.—Mr. Speaker, I confess that the opposition which this resolution has met with does surprise and astonish me, and more especially when I consider the quarter from which it comes. That those who have been the most clamorous about the rights of the people, who have been jealous in the extreme of even the lawful exercise of power, who have assumed to themselves almost the exclusive privilege of protecting our rights, should now refuse even an inquiry whether those rights cannot be better protected, is to me a problem which I cannot solve, unless I suppose that these were principles and professions intended only for opposition, but never as the guide of administration. But when the principle is avowed that no laws shall be enacted for better securing our personal rights, and that no inquiry even on the subject shall be made at this time lest it might cast a censure on the conduct of an officer who violated them, I consider it my duty to protest against it. Sir, is it come to this, that when the Commander-in-chief of the Army of the United States shall turn his arms against our Constitutional rights, that we shall not provide against future violations for fear of exciting a prejudice in the public mind against the officer? Prostrate indeed must be our condition when we can see our great rights of personal liberty trampled upon by a military commander, and be deterred from legislating lest the punishment of future violations should be construed into the murmur of disapprobation of the past! For my own part, I deprecate such a state of things, and, in spite of party, trust that the highest legislative body of a free people will not be found so unfaithful to themselves and their country as to give it their sanction. But why, it is asked, am I thus zealous for the rights of the citizens? I arraign not the motives of the gentleman from Virginia (Mr. Eppes) for opposing this resolution; and, without a word in explanation of my own, I would be willing that the public should judge between us of our motives by our conduct. But, sir, it gives me pride and pleasure to avow my motives. I have beheld with indignation and horror, citizens of the United States illegally arrested, denied their Constitutional privileges, and transported, at the will of a military commander, nearly two thousand miles, before they were delivered up to the custody of the law. Instead of seeing such conduct marked with abhorrence I found the guardians of the people's rights singing praises to the sacrifices of the patriot and the honor of the soldier. I beheld these victims of power delivered over in solemn pomp to the ministers of justice, that they might crown with law the acts of tyranny and oppression. When I found these violations repeated and even aggravated; when I beheld a citizen of the United States arrested at the point of the bayonet, without any warrant whatever; imprisoned for weeks in his own country; cut off from all intercourse with family and friends, denied access to courts, and privilege of counsel, and deported under military escort from New Orleans to Washington, without any accusation, I considered it high time for Congress to put a stop to an evil which affected the rights of the whole community, and seemed to acknowledge no limits. I did hope that all would be sensible of these outrages, and with hearty zeal provide by efficient laws for the prevention of them in future. I did expect that the violations of the Constitutional rights of any citizen, however mean and abject his situation, would, as it was a common interest, be made a common cause. With such views of this case, I could not reconcile it to myself to be a silent spectator. It is asked why so much sensibility for men who are charged with treason against Government? I answer, that it is no matter how infamous the crime or how hardened the villain;—whenever the rights of personal liberty are attacked in the person of such offenders, it is a side blow aimed at the whole community, which they will and ought to feel most sensibly; and whenever the prejudices against a crime are made the pretext for the illegal oppression of the person charged, the attack is too dangerous to be trifled with; and I consider that he who can without concern look upon such violations of the rights of others, and indifferently folding his arms, console himself that it is not his own case, is not worthy of the character of an American, or the privileges which he enjoys. If these men are guilty of treason, their crime is of the blackest kind; depraved indeed must be that heart which can conceive treason against the United States. I have no charity for the crime, and with all my heart would punish it. But I cannot consent to break through laws and constitution to punish the traitor, much less one who is only suspected of treason? Now let me ask gentlemen, in my turn, why they feel so much sensibility about Gen. Wilkinson, and so little about the rights of the citizen? Are they afraid that the Administration will be implicated with the General, or are they indignant at even the suspicion that the powers that be can do wrong? For myself, though I am willing to repose all just confidence in the officers of our Government, I am not so blinded by my devotion as to be willing to fall down in the dust and kiss the foot that tramples on me. I am not prepared to surrender my rights at the footstool of ministerial or military power; neither am I willing to cry peace! peace! when I see the rights of others invaded.

The gentleman from Virginia has thought proper to congratulate me on my conversion to democracy, and to express his pleasure that my eyes have been opened. The gentleman would have done well to consider before this compliment, in what situation it placed him; for if I am advocating the principles of democracy, he is opposing them; and, if my eyes are open, his must be shut. I wish it to be understood that I am not advocating the speculative abstract rights of man, but good old Constitutional rights, such as have secured the civil liberty of England, from time immemorial, and such as will secure our own so long as we please to preserve them inviolate; and I shall not be deterred from my course, even by the charge of democracy—I mean here no disrespect to democracy, such as it ought to be understood, but only to that canting kind which promises much, and performs but little. In a country boasting less of democracy than our own, such conduct as we have witnessed, would have produced the most dangerous convulsions. Suppose that, in England, without any suspension of the habeas corpus, His Majesty's Secretary of State, upon his own warrant, had caused any British subject to be seized and dragged to the Tower, and there denied all intercourse with friends or counsel, and denied the privilege of habeas corpus; judging from the temper heretofore manifested, it would not be difficult to pronounce the consequence. The enraged passions of the multitude could be appeased with nothing but the restoration of rights thus unwarrantably suspended. It is alleged, as if in justification of General Wilkinson's conduct, that, twelve years ago, a member now of this House, from Pennsylvania, was arrested upon the charge of being concerned in the Western insurrection, and for three months denied the writ of habeas corpus. Without determining the degree of censure which ought to attach anywhere, I must remark that, if, in truth, he could not obtain the writ, his case affords a strong proof that the laws are defective, and ought to be remedied. Whether the motives of General Wilkinson be good or bad, it is not now necessary to inquire. I am not moving an inquiry into past events, in order to punish those who have been guilty of violating our laws. I am merely asking that we should inquire, whether laws ought to be enacted more effectually to punish or prevent them in future; and I urge it as the strongest reason for such an inquiry, that existing laws have been found, by experience, insufficient to prevent such abuses; and I contend that the punishment already provided, is by no means adequate to violations so gross, as those we have lately witnessed. But gentlemen contend that we do not know whether our privileges have been abused, until we hear General Wilkinson's justification. Sir, we are not indebted for our knowledge to whisper or rumor. There is no longer any room to doubt whether our Constitutional rights have been violated. We have received official information of the facts, and that information is recorded on our Journals. The Message of the President, of the 22d of January, informs us that two persons have been seized at New Orleans by General Wilkinson, and embarked for ports in the Atlantic States, and promises that, upon their arrival, they shall be delivered over to the custody of the law. General Wilkinson states that Mr. Bollman, one of the persons so seized, was required by the superior court, but that he got rid of that affair under the usual liability for damages. Another message informs us of their arrival here, and that measures are taken to hold them in custody. These facts warrant me in saying that, in defiance of the Constitution of the United States, persons have been seized by military authority; that they were demanded by the civil authority; that

the military refused to deliver them up; and that they were transported under military guard, and by military authority alone, to this city, and that here the first steps were taken to put them into the custody of the law. Is it possible that we can shut our eyes upon these transactions, or reconcile it to ourselves to become the mere passive spectators of this violent usurpation of power? What excuse can any man render to his country for his supineness, in case of the commission of future violations? Can he plead his ignorance of what is officially communicated to him? Or can he say he was not warned of the dangerous consequences of these measures, or of the insufficiency of the laws to prevent them? The whole country know the fact and deprecate the consequences, and they know also that we have received official information of them, and they look to us, as their Representatives, to use every means in our power to prevent the recurrence of them. Can any man be willing that his right to personal liberty shall depend on the will of an executive or military officer? If he can, he does not deserve to possess the right, and is well represented by those who refuse to protect it. But let me caution gentlemen that this is not the temper of the majority of the nation, and that they have not so far sunk into apathy, or forgotten their rights of personal liberty, as to support the power that openly violates them. Let gentlemen beware how far they rely on the confidence heretofore placed in them. Upon questions of policy in the administration of Government, the people, reposing confidence in those who govern, may not give themselves much trouble to think whether they are right or wrong; but when great Constitutional rights are invaded, opposition arises, not from matter of opinion only, but a national feeling inspired by a common sense of danger; and if such invasion is made by those in whom too much confidence has been placed, that opposition will be heightened by resentment and indignation. I wish gentlemen to be sensible of their great responsibility. If these measures had been pursued during the recess, with what anxious eyes would the nation have looked forward to the meeting of Congress. The Executive standing alone would, as they ought, have borne all the responsibility; but when all branches of Government are in the full exercise of their functions, and no inquiry is made, or notice taken of it, the people can hardly believe in the extent of this usurpation of power; because, to believe it, they must impeach the fidelity of their Representatives. The Constitutional check of one branch upon another, was intended to prevent the unlawful exercise of power by either; but if Representatives can content themselves with officially viewing the prostration of the Constitutional rights of the citizen at the nod of a military commander, and can see with indifference the highest Executive authority availing themselves of such means to procure what they term the end of justice, these intended checks not only cease to be salutary, but become dangerous, by affording only a false security. In speaking of probable cause of arrest, I confined my observations to the case of Mr. Alexander. I have seen no message informing us of the particulars of this case, but it is said that this gentleman, in his professional character, moved the court at New Orleans for a writ of habeas corpus, for one of the persons arrested by military orders; upon the refusal of the General to obey the writ, he either moved, or was about to move the court for an attachment against him, and was soon after arrested by order of the General, and transported to Fort McHenry, at Baltimore; from thence, he was brought to this city, and taken before a judge of the Territory of Columbia, where he was informed that there was no charge against him sufficient to warrant his arrest, and he was accordingly discharged.

I now put it to the candor of gentlemen to say whether in this case there was any probable cause of arrest, or whether the same outrage might not be practised upon any other citizen of the United States upon the same principle, by the commander of any fort or garrison; and I will ask, also, whether the General might not as well have sent him to California, or Nootka Sound? For he was not charged with any offence upon which he was liable to arrest. If we have Constitutional privileges, we must be always ready to protect them; and if the privileges now violated, are not worth protecting, where are we to make the stand? When we see a cancer even in the extremities of the body politic, we must apply the knife, or the caustic, or it will reach the vitals. There ought to be no temporising; for it will become the more inveterate and confirmed, the longer we delay. Without the most prompt attention to the preservation of our privileges, we may have the form, but we shall not long have the substance of a free Government; and of all Governments, I think that the worst, where the sound of liberty supplies the place of the reality, and a thousand petty tyrants take shelter under the cloak of republicanism. This resolution is opposed by a gentleman from Massachusetts (Mr. BIDWELL) on two grounds. First, that we must necessarily decide on the innocence or guilt of General Wilkinson. Second, that the laws are already sufficient. With respect to the first, I have already contended that the laws, providing only for future cases, will have no retroactive effect. I would be sorry to try General Wilkinson, or any other person, without suffering him to be heard; but we know from his own letters that the laws have been violated, we know that these violations seriously affect the dearest rights of the citizen, and we cannot deny that such violations ought to be guarded against by efficient laws. These facts then are sufficient to justify an inquiry, whether such efficient laws do exist; and as they are facts which no one will deny, it cannot injure General Wilkinson, or any other person, if we make laws to guard against the recurrence of them in future. It is said these men could not be tried at New Orleans; it is not material to involve in our discussion this question; for if they could not be tried they might have been imprisoned there, until they were transferred according to law to the place where a trial could

be had; but it can never be justifiable in a military officer to seize and deport to any part of the United States, any citizen whom he might suspect of guilt. If it were admitted, an officer might carry a man from place to place until he found judges and juries disposed to convict—the Constitution to the contrary notwithstanding. General Wilkinson's zeal may have been sincere and his motives pure, and the pressure of circumstances such as to make him feel justifiable in his conduct; but, sir, we never can with safety entrust such unlimited discretion to any military officer; and such conduct, however innocent the motives, ought to be guarded against by the most severe laws. The second objection of the gentleman from Massachusetts is, that the laws are already sufficient. They surely have not been effectual to prevent the abuse of the privileges of habeas corpus. The writ was issued at New Orleans, and General Wilkinson in open court took upon himself the responsibility of refusing to obey it. The writ was issued at Charleston, and the officer refused to obey it, and the military continued in possession of their prisoner until they arrived at the place of their destination. The people of England never considered the writ of habeas corpus perfectly secure until it was strengthened by the statute of Charles. It seems generally agreed that provisions similar to that statute would be useful; but some gentlemen say that it extends to the United States, and the gentleman from Pennsylvania (Mr. SMILIE) admits that if it does not extend, similar provisions ought to be made. Statutes declaratory of the common law are sometimes received in our courts; but I believe that it never was considered that penal statutes could extend without express Legislative provision. In Delaware, Pennsylvania, and New York, and perhaps other States, laws have been made to supply the provisions of the statute of Charles, and upon the principle that the statute did not extend. If these provisions are useful and there could be a doubt about the statute, the laws of the United States ought to provide; although the Constitution secures the privilege, and the laws authorize the judges to grant the writ, yet without penalties, the privilege is too liable to be abused. If an officer refuses obedience to the writ of habeas corpus, what remedy has the injured party? He must sue for false imprisonment, and if any prejudice exists against him, or in favor of the officer, he will only recover nominal damages. The gentleman from Virginia (Mr. EPPES) avows, that, if he was on the jury, he would give no damages, if he was convinced the officer acted with honest intentions; and we can well conceive such prejudice to exist against a man charged with a heinous offence, as would prevent him from recovering real damages; for the abhorrence of the crime is often transferred to the party accused.

When illegal conduct is committed under color of authority, the whole community is affected, and an atonement ought to be made to society as well as to the individual.

The remedy for false imprisonment should still exist; but the officer should be subject to a penalty not to be assessed at the discretion of the jury, but to be fixed by law. The officer should also, having abused his power, be forever disqualified from holding any place of profit, honor, or trust, under the United States. By this no man would be deprived of a trial by jury, because the penalty and disqualification should only attach upon being found guilty by a verdict of a jury. It is objected by the gentleman from Georgia (Mr EARLY) that this resolution was not brought forward in due time. To this I answer that the events that have given rise to it are of recent origin. The gentleman also objects that we should be obliged to call on the President for information. If he is afraid of such information, it surely furnishes some reason to suspect that there is something rotten. I do not charge the Executive with the conduct of General Wilkinson; the share of responsibility which may belong to that quarter depends on circumstances with which we are probably unacquainted and the course which they may hereafter pursue.

Mr. JACKSON had hoped that the gentleman from Delaware would have contented himself with professing his regard for the rights of the citizen, and not troubled the House with the long speech which he had delivered on the occasion. Mr. J. said it gave him alarm to find such sympathy for men guilty of the most atrocious crimes. Treason in some countries may be an act of magnanimity, but here it is the worst of all crimes, because it aims at the destruction of the best Government and the happiest state of society in the world.

Mr. J. deprecated legislating from the impulse of the moment. It had proved the bane of that party under whose banners the gentleman from Delaware marshalled himself. If a man ventured to expose the conduct of the then existing Administration, he was to be gagged with the sedition law; if he failed in showing the due respect to the ruling powers, he was to be transported by the alien act.

Mr. J. conceived that the privileges of the writ of habeas corpus were amply secured by the Constitution, an authority paramount to any act of the Legislature. It was in his opinion so guarded as even to endanger the acquittal of criminals.

Mr. J. proceeded to observe that if any officer will violate the Constitution and take the responsibility, it is in vain to make laws in order to prevent it. But were there no circumstances to justify Wilkinson? He saw treason lurking on every side. There are cases in which necessity affords a complete palliation. The President's Message does not confirm the declaration of the gentleman from Delaware, that there were no grounds for a charge against Alexander. [Mr. J. here read Wilkinson's affidavit] Does it not show that they are all linked together? Wilkinson believed, and no doubt justly, that these persons could not be safely imprisoned at New Orleans. When it appeared that the judges, at least one of them, was desirous not to oppose the treason, it would have

been madness in the extreme to have left the traitors there, and especially when it was expected that Burr would soon arrive with a powerful force.

The relief for abuses of the writ of habeas corpus is in trial by jury. This is the best relief. But the violator is also liable to impeachment, and is amenable to the Government. The outrages spoken of have a remedy—the privilege of the writ is amply secured; if the Constitution has been broken, a law would also have been broken in the same circumstances. Mr. J. then concluded by announcing his determination to vote against the reference of the resolution.

Several members were rising to speak, when an adjournment was moved and carried—yeas 60.

Wednesday, February 18.

Mr. Parke, from the committee appointed, on the ninth instant, "to inquire whether any, and, if any, what, alterations ought to be made in the laws fixing the salaries of the Secretaries and Judges of the Indiana, Louisiana, and Michigan Territories," presented, according to order, a bill allowing an additional compensation to the Secretaries and Judges of the Territories of Indiana, Louisiana, and Michigan; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. Early, from the Committee of Commerce and Manufactures, who were instructed by a resolution of the House, of the twentieth ultimo, "to inquire into the expediency of providing, by law, how far owners of ships shall be answerable for the acts of the master and mariner," made a report thereon; which was read and considered: Whereupon,

Resolved, That the further consideration of the resolution directing an inquiry "into the expediency of providing by law how far owners of ships shall be answerable for the acts of the master and mariner," be postponed *indefinitely*.

Mr. Holmes, from the Committee of Claims, presented a bill authorizing the settlement of accounts between the United States and William Eaton; which was read twice and committed to a Committee of the Whole to-morrow.

An engrossed resolution, in the form of a joint resolution of the two Houses, "to publish the report and chart of the survey of the coast of North Carolina," was read the third time and passed.

IMPORTATION OF SLAVES.

The House proceeded to consider their ninth amendment, disagreed to by the Senate, to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808."

Mr. D. R. Williams moved that the House insist on their amendment. The bill without the amendment would provide that no negroes shall be transported from one State to another to be sold or held in service.

The motion of Mr. D. R. Williams was lost—ayes 11.

Mr. Gregg moved that the House recede from their amendment.

Mr. J. Randolph spoke at some length against receding. If the bill passed without the amendment, the Southern people would set the law at defiance. He would begin the example. He would go with his own slaves, and be at the expense of asserting the rights of slaveholders. The next step would be to forbid the slaveholder himself going from one State to another. This bill, without the amendment, was worse than the exaction of ship money. The proprietor of sacred and chartered rights is prevented the Constitutional use of his property. Mr. R. called for the yeas and nays.

Messrs. Marion, J. Clay, Alston, and Early, spoke against receding.

Mr. Gregg withdrew his motion, and the House reconsidered their vote on insisting, and determined to insist on their amendment. A committee of conference, composed of five members, was ordered to be appointed.

A message from the Senate informed the House that the Senate have agreed to the conference desired by this House, on the subject-matter of the amendment depending between the two Houses to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and have appointed managers on their part.

WRIT OF HABEAS CORPUS

The House resumed the consideration of the motion of Mr. Broom, depending yesterday at the time of adjournment.

Mr. Elliot.—Mr. Speaker, I made several efforts, sir, during the discussion of yesterday, to become entitled to the privilege of addressing yourself and the House, upon the present question, in which I was unfortunately disappointed. Had I succeeded, my remarks would have been very concise, and I feel no disposition even now to render them tedious. I shall take occasion, however, at the outset, to declare that I experience none of that fastidious delicacy with which the minds of some gentlemen appear to be impressed, in relation to this motion. I have no ambition to be considered one of those "silky, ducking observants, who trim their duties nicely," on a question of this character, on a subject of this magnitude; nor do I discover that profound darkness which the gentleman from Georgia (Mr. Early) has described. I grope in no gloom. All is light and luminous around me. The path is plain. The way is clear, and environed with no difficulties.

Gentlemen have generally been disposed, and I think with propriety, to consider the subject in two points of view. First, to examine the merits of the proposed resolution upon general principles, abstracted from all connexion with events that have occurred, either recent or distant. Secondly, to consider the propriety of exercising the supreme legislative power, to preclude the recurrence of events which have sacrificed for a time "the holy attributes of the Constitution," to borrow the language of the great violator of the Constitution himself, at the shrine of military power.

Upon the first point, gentlemen who have expressed their sentiments, have been unanimous, or nearly so, in declaring that legal provisions of the kind now contemplated ought to be made, at a proper time, if those now existing are insufficient and inoperative. Those who have told us that the British statutes upon the subject of the writ of habeas corpus are in force in the United States, or even that it is doubtful whether they are so or not, need not have told us that they are not professional men; it was a work of supererogation. No professional man could for a moment entertain the idea that the statutes of Great Britain are laws of the United States. The question may be considered as undetermined, whether the common law of England, or any part it, which has not been expressly recognised by our Constitution and statutes, is law in the United States, considered in their federal character; it is at least well known that upon that question, a unanimous opinion does not exist in the first judicial tribunal of our country. For one, I do not believe that the United States, as the United States, possess any code of common law. I know of no laws of the Union but the Constitution and statutes. That Constitution and those statutes have recognised, or rather referred to certain portions of the common law, and particularly to certain technical common law terms and rules, as rules of practice in the federal courts; and beyond those the courts have common law powers. At all events we have not adopted any of the British statutes, and particularly, and by mere implication too, statutes highly penal in their operation. The doctrine is too absurd to be countenanced, upon serious reflection, by any man of common discernment. The Constitution has declared that "the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of invasion or rebellion, the public safety shall require it." But neither the Constitution nor your laws have made it a positive duty of the courts to issue the writ in any particular case; still less have they secured the performance of that duty by any penal sanctions. Can it then be improper to provide means to coerce the courts and officers of the United States in this particular, and to leave to all the citizens, at all times and under all circumstances, such an invaluable Constitutional privilege? Very few will deny or doubt the propriety of the measure. But many will say that it is ill timed, and the question of time naturally introduces us to the second scene of discussion.

It is said that it is improper at the present period to agitate the question now under consideration. In my apprehension the objection is a very strange one. The Constitution has just been violated by the commander of your army; violated at the point of the bayonet, and in more than one or two of its most essential articles. In addition to the celebrated part of that instrument which prohibits the suspension of the habeas corpus, except by the supreme civil power, in crises of great national danger, several of those amendatory articles which peculiarly secure the rights of the citizen, and the adoption of which, on that account, were necessary to reconcile the majority of the people to the original Constitution itself, have been disregarded and derided by a military chieftain. I allude to the following articles, all of which have been violated in most of their essential provisions:

"Art. 4. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"Art. 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless upon a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

"Art. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence."

It is obvious that most of the privileges intended to be secured by these articles to our citizens have recently been denied to some of them, at the point of the bayonet, and under circumstances of peculiar violence. It may, indeed, be said that the privilege of the writ of *habeas corpus* was not denied in the first instance; that it could not be said to be suspended until the injured persons were placed in a situation which entitled them to demand it from the judicial power of their country. It is true that, notwithstanding *inter arma silent leges*, although the laws were silent amid the thunder of arms, and although a thousand terrors hovered around those who dared to exercise their professional duties in support of the Constitutional rights of the citizen, a writ of *habeas corpus* was claimed and obtained; and I had supposed that the very singular return which is said to have been made to the writ was placed on our official files. On searching them, however, I do not discover it; but it has been published in all the newspapers, and a copy of it is now before me, which I will read:

"The undersigned, commanding the Army of the United States, takes on himself all responsibility for the arrest of Dr. Erick Bollman, on a charge of misprision of treason against the United States, and has

adopted measures for his safe delivery to the Executive of the United States. It was after several consultations with the Governor and two of the judges of this Territory that the undersigned has hazarded this step for the national safety, menaced to its base by a lawless band of traitors, associated under Aaron Burr, whose accomplices are extended from New York to this city. No man can hold in higher reverence the civil institutions of his country than the undersigned, and it is to maintain and perpetuate the holy attributes of the Constitution against the uplifted hand of violence that he has interposed the force of arms in a moment of extreme peril, to seize upon Bollman, as he will upon all others, without regard to standing or station, against whom satisfactory proofs may arise of a participation in the lawless combination.

"JAMES WILKINSON.

"Headquarters Army of the U. S.,
"*New Orleans.*"

Here is a return, not of obedience to the laws, and high reverence for civil institutions, but of disobedience and defiance. The Constitution is violated in order to preserve it inviolate! Prostrated in the dust by military power, for the purpose of maintaining and perpetuating its holy attributes. And what great national object was to be accomplished by such extraordinary measures? What necessity could exist of seizing one or two wandering conspirators, and transporting them fifteen hundred or two thousand miles from the Constitutional scene of inquisition and trial, to place them particularly under the eye of the National Government, when, if the opinion of the officer himself was correct, it would immediately become the duty of that Government to suffer them to go at large? In regard to one of them, the General was uncertain whether he had committed a major or a minor crime; and the other he explicitly pronounces, as we learn from our official documents, guilty of misprision of treason, at all events a bailable offence. He says, 'from the documents in my possession and the 'several communications, verbal as well as written, from the said Dr. Erick Bollman, on this subject, I feel no hesitation in declaring, under the 'solemn obligation of an oath, that he has committed misprision of treason against the United 'States." Surely it is desirable to provide against the recurrence of scenes of this description. Or shall it be admitted that the whim, the caprice, the passion, or the ambition of a martial chief, may supersede at will the most important checks and safeguards of the Constitution?

But on this occasion the tocsin of party is sounded, and around the banners of party we must rally, or subject ourselves to new denunciation. I am not the champion of democracy, of federalism, or of any man or set of men; but I am, what every member of this House is bound by his oath to be, the champion of the Constitution of my country—a Constitution unnecessarily assailed and rudely violated. While that proud edifice shall occupy its present situation, I will place myself before its walls, and face the foe, whether that foe shall be a Burr or any other military usurper; I will lean against its noble pillars, and, if it be destined to sink beneath the shock, perish amid the sublime ruin! On a question like the present, the minor interests of party should sleep. At any rate, it must be suspected that there is a snake in the grass—*latet anguis in herba*—a secret spirit of dissatisfaction with the administration of the National Government must be supposed to exist and to operate. Why so? Has the Government avowed its approbation of its military chief? For me, I acquit the Administration. The General has taken upon himself the responsibility attached to his conduct, and upon his shoulders let it rest. It is time, however, to be explicit upon this subject. I concede to the Administration integrity and general ability, but do not agree to the ascription to it of that infallibility and perfection, the belief of which constitutes, at the present moment, the criterion of exclusive republicanism. In truth, I have heard so much of the virtue, the patriotism, and the perfect wisdom of the present Administration, that I am not anxious to hear much more upon the subject. As I surround myself with no equivocations, as I envelop myself with no disguises, I openly and frankly declare that I am becoming a little sceptical. It may be as dangerous to wander in the wilds of political as in those of religious scepticism, but I must take the course pointed out by duty, and risk the consequences.

We must at least be suspected of being envious of the fame or hostile to the character of General Wilkinson. To that officer I have once stood in the relation in which a soldier stands to his General: in that situation I was his friend, and even his partisan; and I have always considered him as possessing considerable military merit. I will admit, also, that in the present instance he has acted without corruption, and has only been more rash and arbritary in his conduct, than a man of more prudence and reflection would have been. But I think I have heard a hint that it may turn out he is entitled to a statue of gold. Let me forewarn gentlemen not to commit themselves in favor of such a proposition. Let them wait the course of events, and prepare themselves for disclosures, which, if I am not mistaken, will convince every one that such a measure would at least be extremely improper. Whatever rumors may have reached us this morning from the Western world, I should have held a very decided language upon this subject yesterday. If there is to be a golden statue in the case, I should prefer giving it to the gentleman from Delaware, who has drawn our attention to the present subject of discussion; as the agitator, however, of a subject, the agitation of which was extremely desirable, and, in my apprehension, indispensably necessary, he is undoubtedly sufficiently rewarded by the consciousness of having performed what he deemed his duty. Again and again I warn gentlemen to abandon the idea of a statue of gold. From the same quarter we are told that the *salus populi* may have required and may justify the *lex suprema* of military despotism. This doctrine is unknown to the Constitution. That sacred record of our rights proclaims itself and itself alone (and the people, when they adopted it, ratified the decree) the *lex suprema*, the "supreme law of the land." It acknowledges no superior. It contemplates no case in which the law of arms can erect a throne upon its ruins.

Again, we must be prepared for the insinuation that we countenance treason, and sympathize with traitors. It is surely wrong at this time to make our walls echo and re-echo, and the winds around us sing the charge of treason. *Sub judice lisces.* Let the courts decide. I have not seen "one jot or title" of evidence to prove the unfortunate persons now in confinement guilty of treason. Probably they may have been guilty of a misprision, or mere knowledge of a meditated treason; and at all events their conduct has been such as to require years of sincere repentance, to restore them to the confidence of society and their country. But upon general principles, without reference to any particular case, I hope that the resolution, which only contemplates the appointment of a committee, for the purpose of inquiry, will not, by any side-way operation, be defeated and destroyed.

Mr. Sloan.—Like the gentleman from Vermont, who has just sat down, I had a great desire yesterday to express a few words on the motion before the House, but I was not able to get a chance to address the House at the time. I must now beg leave to detain the House some time longer than would have been necessary then, in consequence of the lengthy speech we have heard from the gentleman from Vermont. That gentleman has said he will not only protect the Constitution, but, if it must die, he is willing to perish in its ruins. The gentleman I expect alluded to ancient times, as he often does in his learned way, when he made that figure, I expect, to the case of Samson, who, after the loss of his sight, also perished in the ruins of the destruction which he had made.

I beg leave to ask whether this gentleman's sight does not also begin to be dimmed as Samson's was? He says he begins to doubt the wisdom of our present Administration, and the wise measures they pursue. I expect the sight of that gentleman is not only dim, but I'm afraid he will be soon perfectly blind.

Some time ago, the gentleman from Vermont exhibited a scene of prolificancy which was never before paralleled in this House. He brought forth nine resolutions at once, and prefaced them by a long speech like that we have heard to day, in which he attempted to expose to this House the danger in which we stood with foreign Powers. Those resolutions brought up to my mind the recollection of a fable, which I once read when I was young. It was in a book which I beg leave to recommend to the gentleman from Vermont, if he has never read it. The book I mean is Esop's Fables. There is the story of a conversation between a fox and a lioness. The fox boasted of her great prolificancy, and reproached the lioness for bringing only one at a time. The lioness replied, that she indeed bore but one at a time, but that one was a lion.

After making these observations, Mr. S. begged leave to consider the merits of the question. I consider it, said he, as highly improper at this time. Whether it would be proper at any future time, I don't pretend to say. It is likely that prosecutions will be commenced against General Wilkinson. And will not this House show as much candor as the editors of newspapers, who say nothing on criminals left for trial, lest there should be a bias made on the public mind? No person can candidly say that Gen. Wilkinson ought not to have deprived these men of liberty to prevent their treason, and the destruction they meant against these United States.

Why such sympathy for these persons? In what circumstances were they taken? Were they taken from their homes and their fire-sides and denied the habeas corpus for some months, as has been in former cases, which compared to this, were only as a drop to the bucket? These men were taken in the act of treason or misprision of treason, against these United States. We ought to wait till we know more of the matter before we decide.

Is any member so lost to humanity in this House as to reprobate the conduct of the Executive or of General Wilkinson in this matter? The former insurrections compared to this were more properly oppositions to Government, oppositions to obnoxious and unjust laws, which have been since repealed, and are now justly consigned to eternal infamy.

The matter rests solely on two plain questions. The first is, was the confinement of these persons necessary? And second, was the civil authority adequate to their safe-keeping? It is plain their confinement was necessary; and as to the second question, it appears, from the affidavits of General Wilkinson, that Ogden, one of the conspirators, was released by the habeas corpus, after being confined.

If a force of 6,000 men had come against New-Orleans, as the General expected, and he had not arrested and sent these persons away, and they had been released by Burr, after capturing the city, these persons whom we see on this floor to have so much sympathy would be the first to charge General Wilkinson with neglect of duty. I have no doubt but this would be the case.

I consider the conduct of General Wilkinson not only justifiable, but highly commendable; and I am astonished that any should withold the tribute so justly due. I would say: Well done thou good and faithful servant, thou hast deserved well of thy country.

Mr. J. Randolph introduced his speech in favor of the resolution by observing, that he understood the question before the House to be, whether they would refer to a Committee of the Whole a motion proposing an inquiry whether further legal provision be not necessary to prevent violations of the writ of habeas corpus.

How long it had been the fashion to debate the merits of a subject on a simple motion to commit, it was not material to inquire. He believed it had commenced the present session.

Mr. R. supposed the object of the mover of the resolution in referring it to a Committee of the Whole was to obtain discussion. As that had already been had abundantly, and as the session would soon close, he suggested the propriety of varying the motion, and referring the resolution in the first instance to a select committee, who might immediately consider the subject and report a bill. Were the resolution to go to a Committee of the Whole, he feared it would never get through.

Mr. R. then observed that he would proceed to answer some objections which had been yesterday offered against the resolution, and state the reasons which induced him to support it, come from whence it may. The first objection which he heard was the quarter whence the resolution came. Permit me, said Mr. R., to remind the House that if those who have been called into public life on account of their professed attachment to correct principles, ever quit the ground of trial by jury, the liberty of the press, and the subordination of the military to the civil authority, they must expect that their enemies will perceive the desertion and avail themselves of the advantage. Can they who thus desert their old principles blame others for assuming the popular ground, which they have abandoned? Whoever stands forward in defence of the Constitution, and the rights of the people, shall have my support *quo ad hoc.*

An objection was taken by the gentleman from Georgia, Mr. (Early,) on the ground of time. It was said that this is an improper time to consider the subject contemplated by the resolution. Sir, this is no new discovery. The question of parliamentary reform has been thirty years agitated in England, and the right time has never arrived to consider the subject, and probably never will arrive. I also understood him to say——

[Here Mr. Early interrupted Mr. Randolph, and begged leave to explain. Mr. R. said he was confident that he understood the gentleman right. However, he at length sat down, and Mr. E. stated that his objection was that the House had not sufficient time this session to finish an investigation into the subject, and that therefore it had better not be atttempted.]

Mr. Randolph proceeded—I understood the gentleman perfectly before, and he would have found it so, if he had had patience to hear me out. He urged two objections on the ground of time: First that we had not sufficient time this session to consider the subject fully; and, secondly, that the present time was improper because the subject of habeas corpus was under consideration in the court below. [Mr. R. here either was or affected to be a little confused.] He was very sorry for the interruption. To prevent it in future, he would mention no gentleman by name, and he hoped he should not be again interrupted. A gentleman has said that the House have no official information before them relative to any violation of the privilege of the writ of habeas corpus. I will not refer to that gentleman by name, but the gentleman from Georgia (Mr. Early,) will enable me to tell who is referred to.

We have now on our tables official information from the President of the United States, that the privilege of the writ of habeas corpus has been denied and the Constitution violated. And will you attend to reports from your Committees of Claims, of Commerce and Manufactures, of Ways and Means, and leave the Constitution and the rights of the people to shift for themselves? There is abundant time. Congress can meet again after the fourth of March, and to postpone or delay a subject which affects the vitals of the State on account of a press of private or local business, would be a dereliction of our duty and of our oaths. Away then with such objections.

As to the objection that the subject of habeas corpus is now, *sub judice*, in the court below, no one thinks of a law which shall have a retroactive operation. I trust in God that no such *ex post facto* provision will be agreed to as was foisted into the bill which came from the Senate, to suspend the habeas corpus, and which was intended in a side way to cover with a mantle the most daring usurpation which ever did, will, or can happen, in this or any country. There was exactly as much right to shoot the persons in question as to do what has been done.

It has been contended that any measures on the part of this House will give a bias to the proceedings which have been instituted in the courts. Let me ask, what official notice we have of any such proceedings? But disdaining such a shelter, though it has been resorted to on the other side, it is sufficient to observe that a man has only to break the law or Constitution in the beginning of a session, and then forsooth you are to be foreclosed from legislating on the subject, because an instance has recently occurred to show the necessity of legislative provision.

Mr. R. said this was the first time in his life that he had heard it asserted that no law ought to be passed to punish any offence, because that offence had recently happened. He hoped he should never hear again such a reason delivered. The Romans, believing the crime impossible, had no law to punish parricide, till a case occurred, which proved their mistake. What would you think of Cato or Cicero rising in the Senate of Rome, and urging such a reason against a law for the punishment of this crime?

In the discussion of this simple motion to refer the resolution to a committee for inquiry, which I should have supposed would have been carried without any objection at all, hints of indemnity, I suppose to try the public pulse, have been thrown out. Permit me to say that bills of indemnity are not known to the Constitution. If the time ever arrives when the representatives of the people vote the public money to indemnify those who break the Constitution, we shall indeed become *homines servile paratos*, and fit for any Government and for any state of society, however despotic or barbarous. If ever the minions of the Executive, or the Legislature, whether civil or military, are indemnified for their outrages out of the public Treasury, the Constitution must have arrived at its last crisis.

After ridiculing the application which Mr. Sloan had made of the fable of the fox and the

lioness, Mr. R. proceeded to observe that the doctrines advanced in regard to Wilkinson's conduct, merited the most pointed reprobation, whenever heard on the floor of the House. The Constitution, which is fixed, like the laws of the Medes and Persians, and which fate cannot change, if this detestable doctrine is admissible, is at once frittered away to nothing. It ought to run in this way: The privilege of the writ of habeas corpus shall not be suspended, except, in cases of rebellion or actual invasion, the public safety shall require it, or, unless in the opinion of a military commander, it be necessary! What will be the difference, if you admit the doctrine, whether the Constitution be expressed in this way, or be left as it now stands?

It has been insinuated that certain gentlemen in this House lean too much towards standing armies, &c. Agreed. But in advocating an increase of the public force, my object was to chastise an insolent foe, not to employ it against our own citizens and to substitute it in lieu of the civil authority. My dread of standing armies has been more than a hundred times increased in consequence of the services to which our present little force has been put. From such armies good Lord deliver us!

I hope the committee to whom this subject may be referred will not forget to prevent a man from being embarked on board a shallop, and transported one thousand or two thousand miles for trial. For I have heard a law officer of the United States contend that a man may be arrested in one of the territories and a trial had in any part of the country, wheresoever he may be brought. If this abominable doctrine be supported by law, it is high time to correct it. The Constitution, in an article amendatory, declares that unusual punishments shall not be inflicted. Transportation, even after conviction, is an unusual, cruel, and severe punishment; but here it has been inflicted even before a conviction, and before any trial of the delinquents.

The court of Orleans has the same power as the district court of Kentucky, which is invested with the powers of a circuit court. If the district court of Kentucky has jurisdiction of treason, which no man ever doubted, it follows that the court of Orleans has the same authority.

When the Constitution gave to Congress exclusive jurisdiction over a district ten miles square, it filled the friends of liberty with alarm. But no man then dreamed that on this blot on the map, this nondescript region, a King's Bench was to be established for the trial of delinquents against the Government, collected from all parts of the country. The inhabitants of this miserable heath, men held in a state of bondage to which no man would submit, who have no voice in electing rulers of the country, are destitute of the right of self-government—these men are made the judges and jurors to try the freemen of America. Were I on trial, I would challenge the jury. They are not qualified for this office; they are not my peers. The people here must be the tools and expectants of ministerial favor. Let them move in their own humble sphere, but let them never dare to touch a charge of treason.

In the Declaration of Independence, transportation for trial is alleged as one of the grievances imposed by the British Government on the colonies. Now, it is done under the Constitution, and under a republican Administration, and men are transported without the color of law, nearly as far as across the Atlantic.

I make no profession of sympathy for the men who have been denounced as traitors. I argue on the supposition that they are traitors; there is no need of much exertion in behalf of good men. Attacks on the liberty of the people are, as has been stated before, made always in the persons of the vile and the worthless. But when precedent is once established in the case of bad men, who like pioneers go before to smooth the way, good men tremble for their safety.

Mr. R. observed that he would not say much of the Commander-in-chief. The least said, till they knew all, was the best. He had always thought that there were more rogues than one. This business of canonizing and sanctifying men before they are dead, he did not like. In the State of Virginia they had been compelled to change the names of several counties. There was a time in which the name of Arnold might have been preferred, and perhaps there may now be places in the United States which derive their names from Burr.

Mr. R. could not admit the jesuitical casuistry which had been displayed with regard to an oath. If a man breaks the Constitution, which they were all sworn to support, punish him. If the violator be Washington, Franklin, or Jefferson, Mr. R. would punish him, and he would also say, that no indemnity ought to be voted for him.

Mr. R. stated at some length the circumstances of the proclamation issued in England to prohibit the exportation of corn, when Chatham and Camden were in the Ministry, and who afterwards refused a bill of indemnity. Mr. R. observed that bills of indemnity were known to the English Constitution, and requisite in the case stated. But Chatham and Camden, though both the known and tried friends of liberty, here abandoned the popular ground, and rested their defence on arbitrary principles, while the wary Mansfield, an old tory and a high churchman, availed himself of the advantage, took up the cudgels for the people, and completely succeeded.

Mr. R. concluded by begging pardon for detaining the House so long, but he could never be indifferent on a subject like this. The House were now to decide if the Constitution were only pen, ink, and paper, and to be set aside at the whim of every military commander, or whether it were unalterable by fate, and if he who dared to violate it, should rue the consequences.

Mr. Broom, according to the suggestion of Mr. Randolph, varied the motion, and proposed to refer the resolution to a select committee.

[We have been thus far principally indebted to the report of the debate given in the *United States Gazette*, having been engaged in the Supreme Court.—Editor *National Intelligencer.*]

Mr. G. W. Campbell said, the first inquiry that naturally presents itself, in discussing this subject, is, what has occasioned the measure to be brought before the House at this time? This answer is given—the conduct of General Wilkinson, in arresting Bollman and others, at New Orleans, and transporting them to this place for trial, under military orders, in violation of the Constitution and laws of the Union. Suppose this to be the case, what remedy can the Legislature apply? Does the evil complained of arise from the want of laws to protect the liberty of the individuals and punish those who violate it, or from those laws not being duly obeyed? If the evil arises from a disobedience to existing laws, no act passed by this House can afford a remedy. Those entrusted with the execution of the laws may be stimulated to carry them into effect by this transaction, and to punish the aggressors, but it is no ground upon which this House can act, and no act that we could pass could, in any degree, affect the measures that have already taken place. The principal inquiry therefore appears to be, whether there is any law to punish the commission of such crimes as General Wilkinson is charged with? There can be no doubt on this subject; there are laws in every part of the Union to punish offences. If those persons were seized and carried away without legal authority, or a just cause that would excuse the act, it will be a false imprisonment, including in it an assault and battery—an offence punishable by law in every part of the United States. The offender may be indicted, and, on conviction, fined and imprisoned according to the nature of his offence. He may also be sued by the party injured, and damages recovered in proportion to the injury sustained. This is the remedy afforded by the law in such cases, and it has been considered sufficient to correct the evil. But it is said your Constitution has been violated, egregiously violated, by a disobedience to the writ of habeas corpus, or by depriving the party of its benefit; and this we are told by the gentleman from Vermont (Mr. Elliot) has violated the holy attributes of the Constitution; and he mentioned three several articles of that instrument that were violated at the point of the bayonet. This part of the subject, Mr. Speaker, may require some examination in order to be distinctly comprehended. Every public offence committed in this country, must be a violation of the Constitution, or of a law made in pursuance thereof, and may therefore be said to be a violation of the Constitution; and a violation of the Constitution is a violation of law, for the Constitution is declared to be the supreme law of the land. But certainly it will not be contended, by any man acquainted with the state of our country and laws, that every such violation calls for the interference of the Legislature, or requires a new law to be passed. If a law is violated, the aggressor is punishable under such law. If the Constitution be violated—it being the supreme law of the land, the offender is punishable accordingly in the courts of justice, who are sworn to support such Constitution. Such violations therefore cannot necessarily require the interference of the Legislature, or the passage of a new law on the subject. If acts are done highly injurious to society, against which there are no laws, and the perpetrators would on that account escape punishment, it would then indeed be necessary for the Legislature to provide by law for the punishment of such offenders; but it has not been shown that such is the case in this instance.

It has not been pretended, that General Wilkinson, if he has acted in the unwarrantable manner stated on this floor, cannot be punished according to the nature of his offence; and it has already been stated that he is liable, if guilty, to be punished by indictment, and be made to answer in damages by civil suit. With regard to the violation of the Constitution said to have been committed by General Wilkinson, in not obeying the writ of habeas corpus issued by the judge at Orleans, I may be permitted to observe that this part of the subject does not appear to have been well examined by those who have spoken in favor of this measure. The words of the Constitution on this subject are, art. 1. sec. 9: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." This provision evidently relates to Congress, and was intended to prevent that body from suspending, by law, the writ of habeas corpus, except in the cases stated, and has no relation whatever to the act of an individual in refusing to obey the writ—such refusal or disobedience would not certainly suspend the privilege of that writ, and must be considered in the same point of view as the violation of any other public law made to protect the liberty of the citizen. In the present case, however, if there was a refusal to obey this writ, it was a violation of an act of Congress, establishing that part of Louisiana where this transaction took place into a Territory, which expressly declares that the inhabitants of the said Territory shall be entitled to the benefit of the writ of habeas corpus, and it is punishable as such; but it cannot be considered a breach of the Constitution in any other respect than the violation of any public law made in pursuance of that Constitution would be, and of course cannot require legislative interference. With regard to the other three articles of the Constitution, to wit: the 4th, 5th, and 6th amendments thereto, said to have been violated by the conduct of Wilkinson, a very brief examination will show that there are provisions by law in every part of the Union to enforce obedience to those parts of the Constitution and punish those who violate them. The first of these articles merely declares the right of the people to be secure in their persons, houses, &c. against unreasonable searches, seizures, &c.; and that no warrant shall issue, but upon probable cause, supported by oath or affirmation, &c. The first part of this only can relate to the present case, for it is not alleged that any warrant was issued; and every law existing in society for punishing offences against the persons and property of individuals, is calculated to enforce obedience to this provision. If a man is seized without legal authority or a just cause, cannot the offender be punished? He certainly can—and in what other way could you enforce obedience to this provision? The other two articles before mentioned can certainly have no bearing on the question before the House, they merely relate to the manner in which, and the place where offenders shall be tried—they are directory to the Legislature and to courts of justice; and it is not stated that either the one or the other have acted contrary to their provisions. No attempt to try these persons was made by General Wilkinson; he sent them to this place, they were delivered to the civil authority, and their case is now under legal adjudication. The courts of justice are the proper tribunals to decide, according to existing laws, where they are to be tried and in what manner. We are told, however, sir, it is necessary to make provision by law to enforce obedience to the writ of habeas corpus, and to punish those who may refuse to grant it. With regard to the latter case, there is not the least ground of complaint—the writ has not been refused in any instance when demanded. It was issued at New Orleans, and also at Charleston, and indeed it is not pretended the civil authority have on any occasion violated this writ. It has, on the contrary, yielded the most prompt obedience to it in every instance.

If it was made to appear to me that there were not provisions, by existing laws, to enforce obedience to the writ of habeas corpus, and to punish the violations of it, I would be among the first to make such provisions. But this has not been shown, and cannot, I presume, be proved to be the case. In every State, and in every Territory, as far as we are informed, there are laws to enforce obedience to this writ, and to regulate the mode in which it shall be obtained and prosecuted; and, by the thirty-fourth section of the act to establish the judicial courts of the United States, it is declared, that "the laws of the several States, except 'when the Constitution, treaties, or statutes of the 'United States shall otherwise require or provide, 'shall be regarded as rules of decision in trials at 'common law in the courts of the United States, 'in all cases where they apply." This provision must relate to criminal as well as to civil cases. You have, therefore, the same provisions at least, to enforce obedience to the writ of habeas corpus in the courts of the United States, that there are in the respective State courts; and it has not been shown that these provisions are defective in the State courts. Gentlemen have not pointed out an instance in which this writ can be violated with impunity. In every case that can be stated, the aggressor may be punished under existing laws; and that is the only mode in which you can enforce obedience to this writ, or to any law. You cannot prevent, absolutely, the commission of a crime; you can only punish the offender, and thereby discourage others from committing similar offences. You cannot prevent a man, while at liberty, from exercising his physical strength; and you can no more prevent him, by law, from violating the writ of habeas corpus, than you can prevent one man from striking another, or from seizing him, and carrying him away by force. All you can do, in either case, is to declare the punishment that shall be inflicted on such offenders. It has been stated by one gentleman, (Mr. Elliot,) as doubtful or unsettled, whether the common law of England is the common law of the United States, and as such, binding on the courts of the United States; and if it were not, it was insisted, we ought to make provision by law to supply its place, in regard to the measure before the House. On this subject, Mr. Speaker, I entertain no serious doubt. I am clearly of opinion that the United States, as a nation, have not adopted, nor are bound by the common law of England, and that, as a common law of the Union, it can have no force in their courts of justice. But, it is equally clear that the several States, or at least most of them, have adopted the common law of England, either in whole or in part, as the law of those States, respectively—under such restrictions as the change of Government in those States seemed to require—and being in this way incorporated into the laws of the individual States, and becoming a part of them, it becomes, under the act of Congress already mentioned, a rule of decision in the courts of the United States, in the extent to which it has been adopted in each State, respectively, wherein the courts may be holden, and under the restrictions contained in the said act. It is, therefore, in force in the courts of the United States, as being the law of the individual State in which they sit, and not as being the common law of the Union. They can derive no jurisdiction from the common law, any more than they can from the statute law of an individual State; and it may be laid down as clear law, that they can have jurisdiction in no case, except where it is expressly or necessarily given to them by the Constitution or statutes of the United States. But, when jurisdiction is so given to these courts, in a particular case, the laws of the State wherein the court sits will be the rule of decision in such case, as far as they apply. So, in the case before the House, the courts and judges of the United States are authorized by act of Congress to issue the writ of habeas corpus, and, having thus acquired jurisdiction, the laws of the respective States will be regarded as the rule of decision, and govern the proceedings on this subject, and they will be found sufficient to enforce obedience to the writ. Mr. C. was, therefore, opposed to the resolution before the House, and he considered an inquiry into the measure at this time unnecessary and useless, and calculated to waste the time of the House when there was important business that demanded their attention. I regret, said Mr. C., as much as any gentleman who has spoken before me, that party spirit has been introduced, and party feelings excited on this subject. But, at the same time, I confess I cannot observe the quarter from which this resolution comes, without entertaining some jealousy with regard to the objects gentlemen have in view. How long has it been since those gentlemen to my right, (the Federalists,) became the advocates for the rights of the people, and for

Constitutional privileges—so sensibly alive to every encroachment on personal liberty and security? How long since they have ceased to consider it necessary to guard the people against themselves, as their greatest, their worst enemies? There was a time, Mr. Speaker, when, as has been stated, a sedition law passed with the full approbation of those gentlemen, or their predecessors in politics—when an alien law passed in like manner. The general sense of the nation declared those acts flagrant violations of the Constitution, and of the rights of the people; yet, no sensibility was then excited in the minds of those gentlemen, for the violated rights of the citizen, or the daring infractions of the Constitution. All those tender feelings are reserved for this precious moment. When the peace of the Union appears to be in some degree threatened by treason and conspiracy; when the traitors are apprehended and brought to justice; when the vigilance of the Government is likely to crush the treasonable conspiracy in its infancy, and restore peace and tranquility to the nation—then, this extraordinary sensibility is excited, and publicly expressed. And for whom, sir? For those who had conspired to stab the very vitals of your Constitution—to sever the Union, and to overturn your Government! Are these objects of more than ordinary compassion, that call for extraordinary exertions of the Legislature to preserve, untainted and unsullied, their precious persons and characters? I presume not, sir; and I apprehend the nation will frown indignantly on an attempt to palliate their crimes by endeavoring to excite the public sensibility in their favor. I am always unwilling, Mr. Speaker, to attribute the conduct of gentlemen to improper motives, when it can be otherwise accounted for. But, how can we account for the apparent change in the professions and declarations of gentlemen? those who imposed, and endeavored to continue on the people, burdensome internal taxes; who wished to raise and support navies and armies, in time of peace, to awe the citizens into submission; who passed sedition and alien laws to aid their general plan of strengthening the hands of Government, at the expense and destruction of individual rights? These very gentlemen, Mr. Speaker, appear now desirous of announcing aloud to the people, that they are the only advocates of their rights and liberties; that they are alive to the least violation of them; and that to them they ought to look for protection. But, sir, the people of America are too well informed to be deceived by such flimsy pretences. They will see, and duly appreciate the causes of this sensibility, so feelingly expressed, and the extraordinary exertions to alarm the public mind on this occasion. They will see, sir, that whatever the motives of gentlemen may be, the evident consequences of the proposed measure, if carried into effect, as contended for by its friends, would be, to make an impression on the public mind favorable to traitors and conspirators, who had combined to sap the very foundations of your Government, and to cast an odium on the conduct of those who exerted themselves to arrest their progress. I am unwilling, sir, to do this. I consider it our duty to let the laws operate on this subject, without receiving any bias from the decision of this House. From the manner in which this subject has been discussed, it would appear to an observer, that, at one time, we were trying General Wilkinson for the crimes with which he is charged, and that at another, we were examining the charges against the prisoners, whose case is now under legal adjudication before the Supreme Court. The gentleman from Vermont (Mr. Elliot) has told us he has not discovered a tittle of evidence to show that the persons have committed treason, and that their crime, at most, can only be misprision of treason. Although we are given to understand that that gentleman is a professional character, I must beg leave to differ with him on this subject. If treason has been committed by the author of this conspiracy, those persons, if guilty of any crime, must be guilty of treason, and not of misprision of treason only. They aided and abetted in carrying into effect the project. They carried and delivered a letter, knowing its contents, from the principal conspirator to General Wilkinson, for the purpose of engaging him to join in this undertaking. They used their influence to corrupt him. These must be considered overt acts, giving aid and comfort to the enemies of the nation, and will make them principals in the treason, if such a crime has been committed; for, in this crime, there can be no accessories—all who are concerned are principals. Misprision of treason is a distinct and separate offence. It is merely the neglect, or omission to make known to the proper authority the treason that has come to the knowledge of the party. It supposes that no act has been done by the party charged; that he has given no aid or assistance whatever to the enemies of the country, but has merely acted wrong, mistaken his duty (which is the meaning of the term) in not discovering, in due time, the acts of treason that have come to his knowledge, and is, on that account, considered guilty of a high misdemeanor. It was not, however, my wish, or intention to give any opinion on the merits of this case. I am willing to leave it to the decision of the Constitutional tribunals. But, gentlemen seem as if they were determined to discuss the guilt or innocence both of General Wilkinson and the prisoners. This, I consider altogether improper, as it might give an undue bias to the public mind on this subject. For this reason also, sir, I am opposed to referring the resolution to a select committee. There is another reason, Mr. Speaker, that operates with me to oppose the present measure, and that is, that by passing general laws on such subjects as that before the House, you would encroach on the State authorities. Each State is competent, it is presumed, to pass laws for the protection of the rights and liberties of its citizens; for the regulation of its own internal and domestic concerns—and in this consists the independence of the respective States. The means of obtaining the benefit of the writ of habeas corpus, and the mode of prosecuting the same, are evidently domestic regulations, essential to every

free government, and constitute an important part of the laws of the several States—and the right to the privilege of this writ is secured to the citizen by the Constitution of every State in the Union. This will not be denied, nor will it be pretended that the States have not laws to enforce obedience to this writ. If, therefore, you pass a law on this subject, it will, if it has any effect, control the laws of the several States; and, in proportion as it has this effect, it weakens the respective State authorities, and tends to consolidate their powers in the General Government. I would warn gentlemen against adopting a measure that would have this effect. The State sovereignties ought to be preserved inviolate, and should not be encroached upon by this House legislating on subjects that properly belong to the State authorities. The gentleman from Vermont (Mr. Elliot) has informed us that he is the champion of the Constitution. Mr. C. said he did not wish to assume to himself exclusively such a character. It was, however, to be hoped the Constitution would have many supporters, as zealous and as able as the gentleman from Vermont. He should be always willing to support the Constitution and laws of his country, as far as it was in his power, when the occasion required it, and he presumed every man in that House was bound, on oath, to preserve that instrument inviolate. He never would, however, sound the tocsin of alarm with regard to the violation of the Constitution upon every infraction of law that might take place. This could have no other effect than to disturb the public mind unnecessarily, and might, in the present instance, make an impression unfavorable to some of those concerned in the transaction which occasioned this discussion. There are other reasons, also, said Mr. C., that operate with me to oppose the measure before the House. The case is, at this moment, *sub judice*. This is, to my mind, a serious objection to acting on it here. We ought to permit the laws to take their due course, without expressing any opinion on the subject in this House. We shall probably find they are sufficient to afford a complete remedy in every case where real injury has been sustained. It is, also, now near the close of the session. There are many other important subjects before the House, that require to be acted upon, and it would be next to impossible that this subject, if gone into, could receive that deliberate investigation which its importance would demand. For these reasons, and because I consider the measure, at this time, unnecessary and useless, I shall vote against referring the resolution to a select committee.

Mr. Holland.—It is said by gentlemen, that, by the conduct of General Wilkinson in sending Bollman and others from Orleans to this city, there is a flagrant violation of the Constitution, and a crime committed that should be punished as a felony, and the purpose of making an offence of this kind a felony is the object of the present motion. That these persons may have been deprived of certain rights secured by the Constitution is a possible and probable case; for every illegal deprivation of right secured by law under the Constitution may be said with equal propriety to be a violation of the Constitution. But, sir, so far as respects the habeas corpus, the suspension of it applies to the Legislature, and not to persons. The Constitution says it shall not be suspended but in case of rebellion, or when the public safety requires it. This prohibition manifestly applies to the Legislature, and not to persons in their individual capacity. If, therefore, the Legislature suspend the habeas corpus when there is no rebellion, or when the public safety does not require it, they would be guilty of a violation of it. But how has General Wilkinson violated it? He has no power to issue or detain the writ. The issuing of the writ of habeas corpus is the duty of your judges, and they have in all cases issued the writ. It was issued in the present case at Orleans; and issued at this place in behalf of these men. Your judges have at all times in this particular been ready to do their duty. And if so, where is the necessity of coercing them, as proposed, by fines and penalties? Sir, the necessity does not exist. If General Wilkinson has disobeyed this mandatory writ, he stands in contempt, and your judicial courts have already power to punish contempts. If he has violated any law, he is liable to be punished. If he has deprived any persons of their rights secured by the Constitution or by the law, he has done it upon his own responsibility. The laws are ample and will give redress for every injury. Let these persons bring their actions, and if it should appear that they are innocent, and that the General has wantonly deprived them of their rights, an honest jury will give exemplary damages; but if on trial it should appear that they were guilty persons, and that the public safety required their being transmitted to this place, they will not, they ought not, recover a single cent.

But how does it happen that so high a sensibility is excited on the present occasion? Is there a single gentleman that doubts of the guilt of these persons? As to the amount of their guilt there may be some difference of opinion; but I will venture to say that no one believes they are innocent. I am apprized, however, that as the offence is of a political nature, a great difference may exist as to the criminality of their conduct. All will admit that they have conspired against this Government. But as a great diversity of opinion ever has and always will be entertained as to what kind of Government should be established for the good of the human race, according to the preference in the mind of each individual to any particular form of Government, the crime will be apportioned. Many well informed honest men have been in favor of a monarchy. Others of an aristocracy. Some for a democracy, or a republic founded upon democratical principles. It, therefore, follows that if there are any gentlemen in this House who think a monarchy the best, and that this Government is not worth preserving, that it is good for nothing, they cannot view an attempt to overturn it as a high offence. No, sir, they cannot; although as honest men, and men of honor, they could not partake in a conspiracy, yet as the

means, however dishonorable, might produce a good end, that of establishing a Government better calculated for the general happiness of mankind, they would be ready to excuse. But, sir, all those who believe this the best of Governments, will consider an attempt to overturn it as the highest offence. It is said by the gentleman from Virginia (Mr. RANDOLPH) that it is no odds to him from what quarter a proposition is made; that if it is just he will support it. It is so with me, sir; but if it comes from a quarter not in the habit of making propositions of that kind, I will take the liberty of examining whether it is solid, or only a plausible pretext to effect a different object. When I see so strong a desire, or seeming anxiety, exhibited for the protection and security of the rights of the citizen against the encroachment of governmental power, as in the present case, among gentlemen of a certain political description, my mind is led back to past periods, to times when the alien and sedition law were the order of the day. It was then that the Government itself, being administered by persons of this description, adopted a course well calculated to make it strong and energetic. But now, sir, the Administration being transferred into other hands, they have become the exclusive guardians of the rights of the citizen. Conduct of this kind may lead us to suspect that what they could not effect when clothed with power, may be now effected by artifice. Be this as it may, there has been no cause shown to justify the adoption of the resolution. The case referred to does not justify it. Bollman and Swartwout are not innocent men. Were it demonstrated that they were innocent, and had suffered without a possibility of redress, it might then be proper to adopt measures to prevent future aggressions. But as this has not been shown, and, so far as we know anything respecting them, they are culprits, whether they have committed treason or a lesser offence, they are guilty of crimes, they are conspirators, and it is unusual for Legislative bodies to legislate in favor of offenders.

It is strange that there is so great a difference of opinion on this occasion. The gentleman from Delaware thinks there was no danger, no rebellion, no crime, and no necessity of transmitting these persons from New Orleans to this city. General Wilkinson, who was on the spot, thought differently; and from the same evidence officially communicated, on which the gentleman has formed his opinion, the judicial authority of this territory formed a different opinion. On this evidence, the judges committed Bollman and Swartwout for treason; and on the same evidence the Senate suspended the writ of habeas corpus, by which they have announced to us and to the world that these persons and their confederates have forfeited their right to this writ. But the gentlemen who advocate this motion declare they have not forfeited it; but that it should be better secured to them by law. But, sir, I am for a different course. I wish not to touch the subject. We are not prepared to say whether the conduct of your commander has been proper, or what is the guilt of these men. They are now, where they ought to be, in the hands of the judicial authority. Under this impression, I was opposed to the suspension of the habeas corpus, and under the same impression, I shall be against the present resolution.

Mr. ALSTON said he did not rise to enter into the merits of the question, which had been yesterday under consideration; but merely to state the reasons which had induced him to change his vote on this occasion. He said he considered the question at present presented to the House, as more objectionable than that first submitted. What was the object avowed by gentlemen as the cause of this discussion? Was it to punish those who had violated the laws of the country? No. This was not the object. The object must then be to have an improper influence on the things that had already happened, and with regard to which the existing laws might be construed differently from what they would be, if the Legislature did not interpose. Why had gentlemen laid still for these fifteen years past, and omitted to make the discovery that there was no law in existence to punish any man who may disobey the writ of habeas corpus? Why have gentlemen on former occasions suffered individuals to lie in jail for weeks after that writ had been issued? If the laws at present in existence do not now operate, can anything which we can do make them operate on those now arrested, or on those who hereafter may be arrested? Gentlemen on this subject may know better than I do, for I believe this conspiracy has spread much wider than is known to this House, or than gentlemen are willing to acknowledge. I am authorized to express this opinion from the documents on our table.

This proposition is brought forward in a most imposing shape, and it is undoubtedly one to which no one would object, if brought forward at a proper time, if there were not questions depending on which it is calculated to operate, and if there existed the least probability of anything final being done upon it, before the close of the session. The inquiry is proposed to be made by a select committee; the mover of the resolution will of course, according to the mode of proceeding in the House, be chairman of that committee, and the report will in all probability be made at too late a period of the session, to admit of a full discussion, and an effect be produced by the report very different from that which would result from a full investigation of it. May not its effect be, to cover a decision which the gentleman knows is about to be made? To make it appear that those who make that decision have the voice of the people with them? The first course proposed, of submitting this proposition to a Committee of the Whole, had a tendency to produce an immediate investigation of the subject; an agreement to the present course will have the contrary effect, of delaying it. This proposition really presents a strange appearance. Gentlemen, heretofore the vehement advocates of energetic measures, are now converted into their opponents. This, however, is not strange to an accurate observer of human nature; opposition is opposition still, and let it come from what quarter it may, the general clamor is a regard to the liberty and rights of the citizen. But surely this of all species of protection is the strangest! The protection of men engaged in violating the rights, the liberties, and Constitution of their country! Any judge, says the gentleman, who shall dare to refuse to grant the writ of habeas corpus, or officer who shall refuse to obey it, shall be mulcted in heavy damages. What does this amount to? If any person shall even see treason committed before his face, or Aaron Burr marching at the head of the marine corps, he shall not dare to arrest them; but shall, in the first instance go before a judge, or render himself liable to be mulcted in heavy damages. Mr. ALSTON concluded by observing that the question had been amply discussed, and that he had only risen to give his reasons for considering the direction at present proposed to be given to the subject more improper than that at first suggested.

Mr. J. RANDOLPH said it was far from his intention again to trouble the House on this subject; but the omission of some ideas which he meant before to have offered, and some doctrines which had been advocated by the opponents of the resolution, compelled him once more to address the House. Where are we? said Mr. R. Are we in the Congress of the United States? Is this the House of Representatives of this Union, and are we to hear on this floor the doctrine advocated that a flagrant violation of the Constitution is to be remedied by an action of damages as in a common assault and battery? Is it possible that such can be the idea of this House; such our respect for the Constitution, for the institutions we are all sworn to support, and which, if we do not support, whether our treason be committed under the banners of Aaron Burr, or under the cover of law, we are equally traitors! Is this House ready to sanction the doctrine that an open and avowed contempt of the civil by the military authority, shall be considered as nothing more than a common violation of law? A refusal to respect the writ of habeas corpus by a civil officer, is a high misdemeanor. Much more is it a misdemeanor, when committed by a military man, and more especially if committed by the commander-in-chief of an army. With regard to plots and plotters, conspiracies and conspirators, I am not their friend. If they exist, I would deal with them according to law, I would give them sheer law; they should have no more at my hands. Do gentlemen, however, pretend to say that you can proceed against a man otherwise than according to law? I stand here as the advocate of the law. Laying aside the question of guilt, I say proceed according to law. If you do not do this, you may first incarcerate a man, and afterwards summon a *venire* to try whether the act is justifiable. It is said dead men tell no tales. I will put a case. I will suppose Aaron Burr a conspirator against the United States; a traitor. Let him die. If so, I would hear the sentence pronounced with pleasure.

But suppose another thing—suppose a conspiracy has been going on for several years; suppose a person has been for several years concerned in it, and to cover himself from suspicion he outherods Herod, and because his weak nerves cannot endure the sight of a traitor stabs him. Is this to be justified? It is well known that a conspiracy to separate Kentucky from the Union is no new thing, and no zeal which any man concerned in it may now manifest can throw off suspicion from his shoulders. These are the plain facts.

I will put another case. If a man charged with a crime committed in a territory can be carried to a territory two thousand miles distant by a military guard and there tried, what is the situation, Mr. Speaker, in which you stand? You yourself may be arrested; for you are in a territory, and the little remnant of the army here may be charged to carry you to New Orleans. Your privilege will not extend to felony or to a breach of the peace.

I will put another case. A member of this House may be carried to the marine barracks. You may issue your writ, and your Sergeant-at-Arms make return that the member is carried to Orleans; and as accidents will happen, he may be knocked over by the boom, and there is an end of him. Will you sit down contented with such a doctrine, that the civil authority shall be put at defiance by the military, and the citizen shipped off to New Orleans, there to be tried by a dependant tribunal?

I avoid saying anything as to plots. I have no doubt, however, of this plot, and I have no doubt of the existence of a plot also in 1788, and down to the year 1795. But in what way has every free people become slaves? The common recipe is—take a *quantum sufficit* of plots and of military force, always kept ready for the purpose, and the end is accomplished; and I say this must, if you give sanction to such acts, be the death of your Government. Has any revolution taken place in the affairs of France, which was not preceded by a plot? Are we sure that time and chance, which happen to all men and all nations, may not happen to us?

One word on the subject of the quarter from which this motion comes.

An attempt is made to sound the tocsin, and to discipline the House under the banners of party, on a Constitutronal question. Where the violation of the Constitution is not pretended to be denied, it is expected that the House is to be rallied under the banners of party. The gentleman who brings forward this proposition is charged with the sentiments he entertained some years since; but it is the misfortune of this argument that it cuts two ways; if you resort to the sedition law, the alien law, and other acts of those days, you have no right to refuse gentlemen now the benefit of their principles. The people of this country, after two or three juggles of this kind, will be apt to conclude that federalism or republicanism depends on being in or out of the Government; that those who are in are good federalists, and those out republicans; they will find this out, if they do not sus-

pect it already. A few such instances, and the scales will fall from their eyes. You quote the most detestable instances of a violation of a law which have taken place in time past—no, this is the most detestable of all—and yet you gravely tell the people that you will not listen to men who advocate rights thus infracted. The people of the United States will eventually listen to them, if you pursue this course; and it is because I do not wish them to listen to them, that I do not wish to see them foremost in such a cause as this. It is a disgrace to the old republican party, if indeed it is yet in existence, that the writ of habeas corpus should find its first defenders in that quarter. There is on this subject one melancholy fact, and that is—that in 1797 the federalists were in a majority; in 1807 the republicans are in a majority—has the generation of 1798 passed away? No; the same people that were in 1798 federalists are in 1807 republicans, and that is the clue to the thing; all those who swim with the tide come over to the stronger side.

We are told by some gentlemen, that they do not pretend to set themselves up as the exclusive champions of the Constitution or the laws. I am glad of it; for God help the Constitution and the laws, if they depended upon them.

In my mind it is high time to make a provision for a complete *casus omissus* of power delegated by the Constitution. You have found members this session voting to make a violation of a provision of the slave bill death, on the broad principle of natural right; and yet would you do less for a violation of the liberty of your citizens, when you are bound to protect them, not only by natural right but by conventional institutions and your oath? If a military man should take, I will not say a member of this House—but any one of the miserable citizens who inhabit this place—and escort him under military guard to New Orleans—I say the military man who would do such a thing ought to be precipitated from the top of the Capitol. I would teach the military that they are to be subordinate to the civil power, and that if they undertake to violate the civil institutions of their country, they should pay the penalty of their lives. If you do not guard the people from such an excess of military power the time will come when you will be kicked out of doors at the point of the bayonet. We have seen the Legislature of a nation as enlightened as ours, treated in this way. There is one institution on which I fear we have placed too great a reliance. I have been always attached to the press, and desired to see it free and unfettered; and I have gone uniformly with those who supported this opinion, even in the time of alien and sedition bills, and not merely in a period of sunshine. Experience has proved to us that the press in the hands of a tyrant may become one of the firmest supports of his authority; and if there shall be a collision between the press and the bayonet, it needs no prophetic spirit to say which will kick the beam.

Mr. M. Williams said, he would state one or two reasons why he should vote for committing the resolution. As he understood the subject, the only consideration at present was, whether it was necessary to make an inquiry into the expediency of amending the laws on this subject. It had been endeavored to make this a party question; he considered it of no importance from what quarter a proposition came. If he thought it right, he should vote for it. The gentleman from Tennessee has observed that the Constitution has made an ample provision on this subject. It appeared to him that the Constitution had only secured the writ of habeas corpus; no penalty had been attached to its violation, and hence the necessity of some legislative provision to answer this purpose. The same gentleman has observed, that there is no necessity for legislative provision, as the statute book is already crowded with cases; but, Mr. W. said, he believed there was no legislative provision for the violation of the writ under the authority of the United States. It had been also said, that a provision under the Government of the United States would abridge the rights of the States; but, Mr. W. said, he could not see how this remark applied. He did not wish for any abridgement of those rights. The States undoubtedly had a right to pass laws relative to the execution of the writ within their jurisdiction, and Congress had a concurrent power to regulate it under the jurisdiction of the United States. Mr. W. said, in his mind many arguments had been urged which were irrelevant; such as the conduct of the commandant at New Orleans, and of the persons brought before the court. It had been said, that this was an improper time to bring the case before the Legislature; but, gentlemen would find, that new cases had very frequently given rise to new laws; and the present case clearly showed the necessity of some new provisions. Whether the persons implicated on this conspiracy had committed treason or not, was not the inquiry; the only question was, whether any further legislative provision was necessary to secure the writ of habeas corpus. He would ask, whether in this instance the Constitution had not been violated by the interposition of the military authority? Whether the persons arrested were guilty or not, was not for the House to say. Mr. W. said, he did not think that the reference of this resolution would have any influence on the court; as an inquiry by the House would impose censure neither one way nor the other.

Mr. G. W. Campbell said he was sorry it was incumbent on him to say, that if the remarks which had fallen from him had been alluded to, he had been either egregiously misunderstood, or wilfully misrepresented. He had not introduced the measures of a former Administration as a cloak for this House; what he had said could not have made such an impression on the mind of any man; he had not said that the passage of the alien and sedition, laws at a former day, authorized the present Legislature to violate the Constitution. He had stated that circumstance as one of the reasons which induced him to be jealous of the quarter from which this measure emanated. He was still of the same opinion; he must be jealous of the gentlemen who, notwithstanding

their lively patriotism at the present day, had thus slept on their oars for fifteen years past.

We have been told that plots are taken advantage of to destroy the liberties of free nations. This, however, was the old story, very tickling to be sure to the public ear; but a mere pretext a kind of declamation which had become a very fashionable substitute for argument. It had also been said, by the gentleman on his right, that he felt very happy that certain persons were not the champions of the Constitution or the laws. Mr. C. said, he had observed that he did not profess to be the exclusive champion of the Constitution and the laws; it was true that he did not wish to be thought such; but he trusted in God that the Constitution did not depend on the effervescence of an enthusiastic imagination, discharging without argument its ebullitions in such a style as was often heard in that House, or on gentlemen whose remarks on one day are in opposition to those delivered by them on another; and whose speeches delivered on different days answer themselves; he had before said, and said again, that he should be always ready to support the Constitution and laws of his country; but that under this pretext he should never come forward as the champion of the Constitution and laws merely to declaim and make a noise.

It had been said, that such an extraordinary case as the present required extraordinary interference; but he would ask where any deficiency of legislative provision had been shown to exist on this subject? Suppose a man entered this House and killed a member; he would be punished as in common cases. So in the present instance, if the military trampled on the civil power, the courts of justice were open for redress. But it is said we should punish this offence with death; this was an instance of the extravagance of which he had spoken. If every infraction of the Constitution and laws was made a capital offence, they would be carried back into that state of barbarity which existed three hundred years ago, when life was the uniform penalty attached to every offence. He had thought that the American nation had established a humane system of punishments, founded on the principles of philanthropy. If these principles are to be now abandoned, we may retrace our steps into the dark ages of barbarity, when sanguinary punishments were made use of to keep nations in submission to their tyrants. Mr. C. said, he should vote decidedly against referring this proposition to a select committee at this time; because he saw no good purpose that such a reference could answer; because he did not believe that any alteration in the laws was necessary, and if necessary the remainder of the session was insufficient to make it. The laws of the several States had made complete provision for securing the writ of habeas corpus in all instances, in which no defects had been pointed out that he had ever heard of.

Mr. Masters opposed the resolution. He could not conceive how a refusal to obey a writ could be considered a violation of the Constitution. Why, said he, this extraordinary zeal for those people's rights who want to destroy your own rights? Have no other people any rights?

Several gentlemen were rising to speak when an adjournment was called for, and carried.

Tuesday, February 19.

Mr. J. Clay, from the committee appointed on the sixteenth instant, presented a bill to explain the act, entitled "An act for fixing the rank and pay of the commanding officer of the Corps of Marines;" which was read twice and committed to a Committee of the Whole to-morrow.

The Speaker laid before the House a letter from the Secretary of War, transmitting a supplementary report in relation to invalid pensioners, made in pursuance of the act of the tenth of April last, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary War;" which were read, and referred to the Committee of Claims.

Mr. J. Morrow, from the Committee on Public Lands, to whom was committed, on the seventh instant, the bill sent from the Senate, entitled "An act confirming claims to land in the District of Vincennes," reported to the House their agreement to the same, without amendment.

Ordered, That the said bill be committed to a Committee of the Whole to-morrow.

Mr. J. Clay, from the committee to whom was committed, on the sixteenth instant, the bill sent from the Senate, entitled "An act in addition to the act establishing a mint, and regulating the coins of the United States," made a report thereon; which was read, and, together with the bill, ordered to be committed to a Committee of the whole House to-morrow.

A Message was received from the President of the United States, transmitting a letter from our Ministers Plenipotentiary at London, informing us that they have agreed with the British Commissioners to conclude a treaty on all the points which had formed the object of their negotiation, and on terms which they trusted we would approve. Also, a letter from the Minister Plenipotentiary at Paris, covering one to him from the Minister of Marine of that Government, assuring him that the imperial decree lately passed was not to affect our commerce, which would still be governed by the rules of the treaty established between the two countries. Also, a letter from Cowles Mead, Secretary of the Mississippi Territory, acting as Governor, informing that Aaron Burr had surrendered himself to the civil authority of that Territory.

The said message was read, and, together with the documents transmitted therewith, ordered to lie on the table.

STANDING RULES.

On motion of Mr. Joseph Clay, that the House do come to the following resolution:

Resolved, That the following be added to the standing rules and orders of the House:

Order of business of the day.

As soon as the journal is read, the Speaker shall call for petitions from the members of each State and dele-

gates from each Territory, beginning with New Hampshire.

After the petitions have been presented and disposed of, the reports of the standing committees of the House shall be called for, in the order of their appointment at the beginning of the session.

Reports from Select Committees shall then be received.

The above business shall be done at no other part of the day. The House shall then consider the other business in the following order:

Executive messages.

Reports from Departments.

Reports from the Postmaster General.

Bills on the first, and by special order, on the second reading.

Bills on the third reading.

Committees of the whole House in the following order.

On bills from the Senate, in the order committed.

On bills originating in the House of Representatives, in the order committed.

On Joint Resolutions, in the order committed.

On reports of the Standing Committees, in the order committed.

On reports of Select Committees, in the same order.

On Executive Messages, in the same order.

On Reports of Departments, and of the Postmaster General, in the same order.

Reports of Committees of the whole House shall be considered as soon as made, unless otherwise directed by the House.

The Speaker shall read over the several orders of the day until one be called for, on which the question shall be put, unless a privileged question be moved on it.

No order of the day shall be postponed, on motion, unless indefinitely.

Joint Rule of the two Houses.

No petition or bill, which originated from a petition, which may be rejected by either House, shall be again taken into consideration, unless in the House which rejected the petition or bill.

Ordered, That the said motion do lie on the table.

WRIT OF HABEAS CORPUS

The House proceeded to consider the motion of Mr. Broom—ayes 60, noes 37—the question being on its reference to a select committee.

Mr. Burwell said when he had before addressed the House on this resolution, he had observed that he would vote for its reference to a Committee of the whole House. He should now vote for its reference to a select committee. The change proposed in the mode of its disposition had not varied the principle. It had always been a maxim with him to favor inquiry when solicited in respectful terms. He held it to be the right of every member to submit any resolution to the House which he thought proper, and the duty of the House to give it a respectful attention. He rose, however, at this time for the purpose of offering an amendment to the resolution, predicated on the necessity of limiting the power of the Supreme Court to issue writs of habeas corpus. The object of this motion was not in the least to affect the decision of the Supreme Court, recently made on this subject; but the fact was, the judges themselves questioned their power, sitting as a court, to issue this writ. It was true that in two cases they had exercised this power; but in the last case, after a very full examination, if he was correctly informed, two judges had given an opinion that the court had the power, two were of opinion that they did not possess it, and a third had coincided with the two former judges, barely because a like decision had been heretofore made. In the act of 1789, Mr. B. said he found the following provision:

"All the before mentioned courts of the United States, shall have power to issue writs of *scire facias*, habeas corpus, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law. And either of the justices of the Supreme Court, as well as judges of the district courts, shall have power to grant writs of habeas corpus for the purpose of an inquiry into the cause of commitment. *Provided*, That writs of habeas corpus shall in no case extend to prisoners in jail, unless where they are in custody, under or by color of the authority of the United States, or are committed for trial before some court of the same, or are necessary to be brought into court to testify."

Now the question naturally occurs, whether a criminal offence committed against the laws of the United States, or a statute of any State, comes within the jurisdiction of the Supreme Court of the United States. I have no doubt in my mind that that court has no such jurisdiction. A reference to the Constitution, which defines the original powers of the court, will show my construction to be correct. In the third article, second section, it is declared. "In all cases affecting Ambassadors, other public Ministers and Consuls, and 'those in which a State shall be party, the Supreme 'Court shall have original jurisdiction. In all the 'other cases before mentioned, the Supreme Court 'shall have appellate jurisdiction, both as to law 'and fact, with such exceptions, and under such 'regulations, as the Congress shall make."

Does it not follow from these expressions that before the Supreme Court have original jurisdiction (for the issuing a writ of habeas corpus is an original and not an appellate power) they must have that power within the terms of the Constitution, viz: "In all cases affecting Ambassadors, 'other public Ministers and Consuls, and those in 'which a State shall be party, the Supreme Court 'shall have original jurisdiction."

Whence then the power to issue a writ of habeas corpus in any other case? Mr. Burwell said it appeared to him that the Constitution did not confer the power to interfere with ordinary offences committed within the United States, and he thought it was at this time peculiarly expedient to make some legislative provision on this subject.

What will the consequence be of this doctrine of the Supreme Court? That a man confined in any part of the United States may be released, however distant from the place where the court sits, and be brought to Washington to determine whether he has been legally committed. In all cases, unless committed on testimony in writing,

he must be discharged, for it is usual to recognise witnesses to attend at a particular time and place, and if the person accused be brought up without such witnesses, what is to prevent him from going at large? It is most manifest that the exercise of this power will be found extremely inconvenient; and as in his opinion it could be only exercised in contravention of the Constitution and public utility, Mr. B. said he trusted the Legislature would take steps to limit the jurisdiction of the Supreme Court, and to prevent persons going at large who ought to be confined for their trial.

What would be the effect of the doctrine contended for by the gentleman from Delaware, that it was the duty of every judge even at the risk of his life, to issue a writ of habeas corpus? Considering the extreme distance of one part of the United States from another, it would be impossible for a judge to ascertain whether the individual was confined under the authority of the United States or of a particular State; and consequently, under such an injunction, he would be compelled either to violate the authority of the States, or expose himself to a most severe and imminent peril. Mr. B. said he made this statement to show the necessity of making provision for such a case.

Mr. B. said he had only to add, that if the Supreme Court had a right to issue a writ of habeas corpus in every case, and this were enjoined under a severe penalty, instead of having their jurisdiction narrowed down to particular cases, as was undoubtedly intended by the Constitution, they may interfere in the whole criminal jurisdiction of the United States. It was for these reasons that he offered the amendment. As to the other branches of the subject, he had already given his ideas upon them, which it was unnecessary to repeat.

Mr. Burwell then moved to insert after the word *States*—"and the necessity of defining the 'power of the Supreme Court of the United States 'in issuing the writ of habeas corpus." This amendment was agreed to—ayes 76.

Mr. Jackson said he did not vote for the amendment, and should not vote for the resolution, which he thought more exceptionable in its present than in its original form. He had before contended that the privilege of the writ of habeas corpus was amply protected. He had stated that every judge, according to their own claim, did possess the power of issuing it—not under any particular law, but under a Constitutional provision, he presumed. He demanded whether that House could change a Constitutional provision? The Constitution declares that "the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." The amendment agreed to went to narrow this privilege, by taking from the Judges of the Supreme Court the right of issuing the writ. Is not this, said Mr. Jackson, a suspension of it? If the power be taken from this court, may it not be taken from another? What is there to require a suspension of the writ of habeas corpus, that did not require it a few days since when the subject was before us? Are there any imperious circumstances that require it? No; gentlemen who have indulged themselves in animadversions on the conduct of the officer who has made certain recent arrests, and which have given rise to this motion, have failed in showing that the privilege of the writ of habeas corpus is not amply secured. It is in vain to say, that because we fix a penalty to disobedience, or resort to the sanguinary system of some gentlemen, proposing even death, we shall prevent the violator of the Constitution from feeling power and forgetting right. He who is disposed to violate the Constitution will do it, even at the risk of death. We have affirmed, however, that any person whose rights are infringed, may obtain justice; and that the court whose writ shall be refused has a right to issue an attachment. To deny the existence of this power, would be to reduce our tribunals to mere *pie poudre* courts. Although we have called on gentlemen to show the necessity of legislating at this, or any other time, on this subject, they have contented themselves with declamations and discussions merely political. It seems, however, that the zeal of gentlemen to protect the privileges of the citizen, as might have been readily foreseen, has already induced them to vote for ousting the Supreme Court of its jurisdiction.

Mr. Burwell explained. He said his colleague certainly had not attended to the amendment. It only instituted an inquiry, and did not propose absolutely an abridgement of powers. The arguments used in its favor showed clearly that a distinction had been expressly taken between the powers vested in the Supreme Court by the Constitution and those conferred by the law of Congress. Indeed, it was intended to expound a law of whose ambiguity the judges themselves had complained.

Mr. Jackson.—I assure my friend from Virginia, that no person is less disposed than myself to misrepresent his opinions. [Mr. J. here read the provisions of the Constitution relative to the powers conferred on the Supreme Court of the United States.] We cannot impose on the Supreme Court any original jurisdiction. I indeed understand they refused to take it in the case of invalids. My objection is, as to the necessity of making any inquiry whatever into the subject, under the apprehension that it will have a tendency to narrow down the rights of the citizen. What are the arguments of my friend? That great inconvenience will flow from this decision of the Supreme Court—that a man confined, at a great distance, will apply by his attorney and obtain his discharge. But I say, if the jurisdiction of the Supreme Court in this case be derived from the Constitution, we cannot, in this way, suspend it. If we say that this or that court shall not exercise that power, we may divest it altogether. This rage for inquiry without necessity is to me a most extraordinary political phenomenon. Has there been a single instance pointed out where a deficiency of power on the part of the court has been manifested? Is there in truth any such

want of power? So far from this, many gentlemen are of opinion that the powers of our courts are already too great. I hope, therefore, unless the necessity is made manifest, we shall neither inquire nor legislate; and more especially, while we are expressing our solicitude for the rights of the citizen, we shall not take from him the right of appealing to the supreme tribunal of the country.

Mr. Bidwell.—The motion, as now amended, embraces two objects; to provide additional penalties for the security of the privilege of habeas corpus, and to define the powers of the Supreme Court as to issuing writs of habeas corpus. It is proposed to appoint a select committee to inquire into the expediency of making these provisions. Each member of this proposition is expressly predicated, by its mover upon particular recent occurrences; the one, upon the conduct of General Wilkinson, in seizing certain persons at New Orleans, and sending them to the seat of Government, under military arrest; the other, upon the late determination of a majority of the Supreme Court to exercise jurisdiction in a case of habeas corpus, for the discharge of some of those persons. With respect to both of these objects, and also as it respects the propriety of referring the question to a select committee, I am opposed to the motion, and hope it will not be adopted.

I do not, indeed, subscribe to the opinion, just now advanced by a gentleman from Virginia, (Mr. Jackson,) that Congress have no Constitutional authority to define the jurisdiction of the Supreme Court in cases of habeas corpus. Within the limits of the Constitution there is room for us to pass a law, defining and specifying their powers on this subject. But, sir, I will not give my vote in favor of an act for that purpose, pointed at a particular decision of the court, while they have other questions connected with it under their consideration.

I regret that this subject has been moved at the present time, and still more that the motion has been supported on the ground which has been taken in the debate. The ground of argument assumed by the gentleman from Delaware, (Mr. Broom,) who introduced the motion, and by other gentlemen who have followed him, was calculated to excite unpleasant personal and party sensibilities in the House, and to spread an unnecessary alarm abroad; and, if pursued, in the same latitude of discussion, will occupy the small remainder of the session, to the exclusion of many articles of business, which have already passed through the preparatory stages, and are ready to be definitively acted upon. Sir, the session is drawing to a close, and there are a very considerable number of bills, reports, and other matters on your table, which have been waiting several weeks for an opportunity to be called up. Whenever there has been an opening to call for an order of the day, you have seen gentlemen rising, from all quarters of the House, and endeavoring to anticipate each other in addressing the Chair, for the purpose of bringing forward the business of which they respectively have a particular charge. All this mass of business must be postponed, and all the labor of maturing it lost, by the unseasonable introduction of this question, and the extraordinary mode of reasoning by which its advocates have chosen to support it. They will not suffer us to vote in silence, but drive us to the necessity of repelling their observations and explaining our own views of the subject.

When the gentleman first moved to refer this resolution to a Committee of the Whole, I was in favor of the reference, because I wished to give him a fair opportunity to submit any amendment of our law which he might have in contemplation and because I thought such a question could, according to the rules of order, be discussed with more propriety in the Committee of the Whole than in the House. But it was thought proper to take a different course. The discussion proceeded in the House. The mover has explained his object, and been very fully heard in support of it. After two days debate, he has changed his ground, and substituted the present motion, of which the necessary effect, and of course the design, is to withdraw from the House the first decision of the main question, by referring it to a select committee for inquiry. That would be a departure from the usual and regular course of proceeding. The principle ought to be first settled in the whole House, and, if necessary, a committee afterwards appointed to report the details. I can see no useful purpose to be answered by appointing a select committee of inquiry: for such a committee could have access to no other sources of information, as to law or facts, than such as are already before us and before the public. They would possess no better means of judging, for themselves, than the same gentlemen now have in common with other members; nor would the House feel bound by their report. Suppose a committee to be appointed, and to report that it is, or that it is not, expedient to make the proposed legislative provisions. The question would come back, and meet us again in the House. In this point of view a commitment would be useless; and, for that reason, I shall vote against it.

But, sir, is it necessary or proper, if we had leisure, to pass a law on the subject, at the present time? The principal argument in favor of it has been drawn from the recent transactions at New Orleans. We have been told that the Constitution has been violated, and that Congress ought to act on the occasion; otherwise, we may become familiarized to encroachments on the Constitution, until all respect for that sacred instrument may be lost. Sir, this argument is a two-edged sword. It cuts both ways. If, for a temporary purpose, the trumpet of alarm is sounded, when there is no real danger; if, by way of appeal to the public, we are urged to legislate upon a suggestion that the Constitution has been violated when there has been no such violation, or none but what the ordinary course of law is competent to correct and redress; we may be familiarized to charges of that nature, until we become insensible, indifferent, and disinclined to interpose, when legislative interposition may be really necessary.

For the sake of argument, let it be admitted that a Constitutional right has been infringed.

Does it follow that Congress ought to legislate on the occasion? Take the instance which, in order to bring the subject home to ourselves, has been put. Suppose a member of this House, in contempt of his Constitutional exemption from arrest, except for treason, felony, or breach of the peace, is arrested on civil process, and imprisoned in this territory, or carried out of it, if you please, under arrest; would Congress feel themselves called upon to pass a law, in consequence of such infringement of a Constitutional privilege? No, sir. The legal remedies already provided would be sufficient. The party injured might sue out a habeas corpus for his discharge, in the first place, and afterwards commence his action for damages, to be assessed by a jury, upon a full consideration of all the circumstances of aggravation or alleviation; and the officer or person who did the injury would be still further liable to be indicted by a grand jury and tried and punished by the proper tribunal. These, sir, are the existing provisions of law. And I am not willing to disparage the right of jury trial, so solemnly recognised in the Constitution, by treating it as inadequate to give relief. It is a privilege by no means inferior to the habeas corpus. It is one, indeed, without which that cannot be enforced. It is a legal and Constitutional remedy; and no friend to our laws and Constitution will attempt to degrade it. I am not pretending that it is perfect. Imperfection is stamped upon everything that is human. Courts and juries are not infallible; they are not inaccessible to those passions and prejudices which are common to men in all situations. But they are not more liable to the influence of erroneous or improper considerations than legislatures are. No safer institution than that of trial by court and jury, has been devised to redress infractions of personal rights. It is open to all persons who think they have sustained an injury, and is as free from objection as the lot of humanity will admit.

The violation of a personal right, whether Constitutional or only legal, cannot require legislative interference, unless it has resulted from some defect in the existing law; and even then, an additional act ought not to be interposed at a time and in a manner calculated to make an impression on judicial questions, which may have grown out of the subject. Legislative influence upon the judiciary would be as improper as judicial influence upon the legislature.

It has been admitted, for it could not be denied, that an additional law cannot, consistently with the Constitution, operate retrospectively, so as to have a legal effect upon rights or liabilities, which have already accrued. And surely a legislature ought not, by acts of pointed legislation, to produce any other than a legal effect upon such existing cases, by prejudging a question or prejudicing the public mind, and thus influencing the judicial determination of it. Such, in my opinion would be the tendency of the measure now proposed to be adopted in consequence of an alleged breach of the Constitution. The charge is, that General Wilkinson has violated the Constitutional privilege of habeas corpus; and the object of that part of the motion is to prescribe additional sanctions to secure the benefit of this writ. The mover (Mr. Broom) has told us that he would inflict upon any violator of it such a penalty as would ruin him. And a gentleman from Virginia (Mr. J. Randolph) has declared that he would even punish disobedience to a writ of habeas corpus with death. The question is, whether such severe and sanguinary punishments are necessary. I think not. Indeed, I perceive no present necessity for any additional sanctions. Has any court or judge of the United States denied a habeas corpus, upon proper application? I have heard of no such denial since the cases which have been stated to have occurred in Pennsylvania in 1794, and those were not occasioned by any deficiency of law. There has been no recent instance. Has any officer refused to serve a writ of habeas corpus? No such refusal is pretended. Has any person, on whom a writ of habeas corpus, from a court or judge of the United States, has been served, refused to obey it? No instance of such disobedience has been officially communicated to us, according to my understanding and recollection of the official communications. It has, I am sensible, been charged upon General Wilkinson, and, in proof of the charge, a gentleman from Vermont has read, from a newspaper, that officer's return to a writ granted by the Territorial court of Orleans. For it is to be observed, that the application was not made to the court of the United States there, but to that of the Territory. The General's return was expressed in the language of a soldier and not of a lawyer. It did not state, with technical precision, whether Dr. Bollman was within his control at the service of the writ. I may be incorrect, for I have not particularly investigated the subject, and it may not be very material, but I understand the fact to have been, that Dr. Bollman had been sent from New Orleans, on his way to this city, when the writ was served on General Wilkinson. This appears from the further proceedings of the court, as published in the same paper; from which the first return has been read.

[Here a Message from the President was received and read, after which Mr. B. proceeded.]

When the Message was announced, I was noticing an extract from the proceedings of the Territorial court at New Orleans, which I now beg leave to read.

"In the Superior Court of Orleans, December 26th. In the matter of the *Habeas Corpus ad subjiciendum*, directed to General Wilkinson, to produce the body of Dr. Erick Bollman; on motion of Mr. Livingston (in behalf of Mr. Alexander, the attorney upon record) that General Wilkinson be required to make a further and more explicit return to the said habeas corpus, or show cause to-morrow morning, at the opening of the court, why an attachment should not issue against him: *It was ordered*, that the rule be granted, and that a copy thereof be immediately delivered by the sheriff to General Wilkinson. On the next day, on motion of Mr. Duncan, in behalf of General Wilkinson, and on reading the following, as an amended return to the abovementioned habeas corpus:

'The undersigned, commanding the Army of the United States, takes on himself the responsibility for the arrest of Dr. Erick Bollman, on a charge of misprision of treason against the United States, and has adopted measures for his safe delivery to the Executive of the United States. The body of the said Erick Bollman is now, and was at the time of the writ of habeas corpus, to which this return relates, out of the possession, power, or custody of the undersigned.

'JAS. WILKINSON.'

"*Ordered*, That the same be received and filed, and the rule *nisi* of attachment be discharged."

The fact is here stated, as I have understood it. Dr. Bollman was on his passage to this place, before the writ of habeas corpus, sued out by his friends, was served on General Wilkinson; whose transaction, therefore, in whatever light it is to be viewed, in relation to the laws and authorities of that Territory, was not a disobedience to this writ of habeas corpus, but a military seizure and transmission of a person from New Orleans to Washington, under an avowed responsibility, and upon the principle that it was necessary for the public safety. At any rate it does not appear to have resulted from a want of penalty, or any defect whatever in the habeas corpus laws of that Territory, whose courts and laws, and not those of the United States, were resorted to for relief.

One case has been mentioned in the newspapers, in which a writ of habeas corpus, issued under the authority of the United States, was not obeyed. An officer at Charleston, South Carolina, it is said, instead of producing Dr. Bollman, in obedience to a writ from the district judge, transmitted him to Washington, because the orders of General Wilkinson, in general terms, directed his transmission, without any particular instructions respecting a habeas corpus. The officer seems to have considered it his duty to obey the orders of his commander, without regard to any interfering lawyer or civil process. I am of opinion that he erred, and has exposed himself to punishment, as well as to damages. But his error does not appear to have been wilful, nor to have resulted from any defect in the law, but from an erroneous military principle. The same principle, however, has, at the present session, found very respectable advocates on the floor of this House. Yes, sir, in the case of Captain George Little, gentlemen held that a military or naval officer is not bound to take notice of any law in opposition to, or even in explanation of, the orders of his superior. It will be recollected that I opposed that doctrine, although I admitted that an officer, civil or military, acting contrary to law, through misapprehension of its meaning in a doubtful case, or in some great emergency not provided for by law, might be equitably entitled to indemnification. Damages had been recovered against Captain Little, for doing an illegal act, in pursuance of orders from the late President of the United States, and Congress have passed a law to indemnify for those damages. The Executive orders, under which he claimed, taken in connexion with the law, which was referred to in the orders, did not appear to me to warrant the transaction, which has been adjudged to be be illegal, and for which the damages were recovered. I did not, therefore, vote with the majority in favor of his claim. But gentlemen who supported it on the ground I have mentioned, will, if they are consistent, be so far from inferring a necessity for further penalties, from the case of Captain Kaltiesas at Charleston, that they will be ready to grant him an indemnification, if he shall be found to have acted honestly, according to his understanding of his orders. By indemnification, I do not mean an act of indemnity, in the British sense of the term, pleadable in bar both to an action for damages and to a prosecution for an offence. Such an act might here be considered unconstitutional and void. A remuneration for damages incurred has been the mode of indemnification adopted by our Government.

On this subject an example has been quoted for our instruction, from English history. It was a proclamation, issued in derogation of law, by the King, with the advice of the celebrated Lords Chatham and Camden, on a great national exigency. The measure was generally approved and applauded throughout the nation. The Parliament were ready to sanction it. But, instead of accepting an act of indemnity, those Ministers undertook to justify it, as legal, upon the principle of necessity. In that they erred. When the question came before the court, for judicial consideration, Lord Mansfield decided against the doctrine of his great political rivals, and I think his decision was correct. As a judge or a juror, I should have condemned them. But, sir, if instead of justifying the proclamation, as legalized by State necessity, the Ministers had acknowledged their responsibility for it, and thrown themselves upon the justice of their Government, had I been a member of the British Parliament, I would have voted them an indemnity. Their error consisted, not in doing an illegal act, for the public good, but in doing it under color of legal authority, when the law did not authorize it. Whether General Wilkinson's conduct has been correct or erroneous in other respects, he has not fallen into this error of those celebrated English statesmen. He has not pretended that, in seizing the persons alluded to and transmitting them to the seat of Government, he was justified by orders or by law. He has not cast the responsibility upon any other officer or department of Government. He has explicitly assumed it all to himself, and put himself on the candor of his country for indemnification. If it shall appear that he has acted honestly, for the safety of the Army and the preservation of the Union, under the pressure of such urgent necessity, as he professes, I trust he will be indemnified. On the contrary, if it shall turn out, upon future investigation, that he has acted unnecessarily and wantonly, from motives of malice or resentment, he will undoubtedly be left to suffer the consequences. I give no opinion of the merits of his conduct. I hope the House will not, at present, give an opinion, or adopt any measure calculated to have a bearing on the question. It is premature. We have not sufficient information. We have not a statement of all the facts, nor the evidence in support of the facts,

which are stated. In due time an inquiry will be proper, and doubtless will be instituted. General Wilkinson will probably demand it himself. But it would be unfair and unjust, as well as impolitic, to anticipate it.

While I feel this to be an interesting subject, I have little apprehension of the danger, which has been so eloquently and pathetically foretold. Our Constitution, our laws, our liberty, and property, are more endangered by acts done silently, under color of law, by a constructive assumption or extension of powers, than by any which may be done openly, in the face of the nation, under a known and acknowledged responsibility, subject to the approbation or disapprobation of the Government, after a deliberate examination of the whole case. The temptation to pass such an ordeal cannot be so strong as to be dangerous.

The privilege of habeas corpus is guarantied to the Territory of Orleans, as fully as to the other territories of the United States. Their courts have cognizance of that writ. It is allowed, and exercised, and enforced. The regulation of its forms and sanctions, in common with other subjects of territorial legislation, belongs to their own legislature, subject to the revision of Congress. It does not appear that amendments or alterations in their habeas corpus laws are necessary. If they were, this is not the proper mode or time to introduce them. Gentlemen who argue in favor of the motion before us, from the recent occurrences at New Orleans, have mistaken the case. The remedy which they propose would not touch it, and therefore could not prevent a repetition of it. If any legislative measure is to be predicated upon General Wilkinson's transactions, in seizing suspected persons, at a crisis of danger, and transmitting them to the seat of Government, under a military arrest, it ought to be an act to define and restrict the powers of a military commander, or a direct inquiry into his official conduct, neither of which would, in my opinion, be seasonable or proper at the present time. In no point of view can I perceive an immediate necessity for a legislative definition of the powers of the Supreme Court, in issuing writs of habeas corpus, or for further penalties to enforce such writs, when issued by that or any other court or judge of the United States. Although I consider this as well as other branches of our criminal code susceptible of improvement, and at a suitable time shall be willing to unite in any reasonable efforts to procure a deliberate revision of them, yet, under the existing circumstances, and at this late period of the session, it does not appear to me expedient to attempt it. But, whether it be expedient or not, is a question which, in point of principle and regularity of proceeding, ought to be decided in the whole House, and not referred to a select committee for inquiry. I shall, therefore, be constrained to give my vote against the motion now under consideration.

Mr. Quincy.—So long as an intention appeared to make this a party question, I had no inclination to intermeddle with it. The subject seems to me to be of too high a nature, and too deeply to be connected with the rights and liberties of us all, to be examined under those narrow and temporary views, which party spirit necessarily introduces. Since the discussion has assumed a milder aspect, I shall offer a few considerations; limiting myself to a very simple and brief elucidation of the subject, in a point of view which no other gentleman has taken of it, as yet, on this floor.

I cannot agree with those gentlemen who maintain that, in the arrest and transportation of Bollman and Swartwout, they can see no violation of the rights of individuals. The privileges of the Constitution are as much the inheritance of the humblest and the most depraved, as of the most elevated or virtuous citizen. To be seized by a military force, to be concealed and hurried beyond the protection of the civil power, and to be sent a thousand miles for trial, in a place where the crime charged was not committed, I humbly conceive are violations of individual rights, and of the Constitution. I am not, however, prepared to say, that in no possible case they can be pardoned; nor, with the gentleman from Virginia, (Mr. Randolph,) that in no case, I would consent to indemnify a military commander for making such an arrest. A case might exist, when it might be the duty of a Legislature thus to indemnify. I agree, however, that it must be an extreme case, and that the party to be indemnified must evince that he had himself no voluntary agency in producing the state of things which made such an unconstitutional exercise of power necessary to the safety of the State. I give no opinion concerning the conduct of General Wilkinson. The events which happened at New Orleans have no other relation to the subject before the House than this: They have turned the attention of reflecting men in this nation to the nature of the security they possess against similar violence; and, in common with other reflecting men, it has become our duty not only to understand the nature of that security, but also to supply, as soon as possible, any deficiencies we may discover in it.

The only question is, have this people the privilege of the writ of habeas corpus secured to them as fully and effectually as the Constitution intended, and as wise and prudent men ought to desire? I answer, unequivocally, they have not. So far as relates to cases under the exclusive jurisdiction of the United States, we have virtually no writ of habeas corpus. And for this plain reason, that we have none of the sanctions of the writ; we have none of those penalties, without which the writ of habeas corpus is a dead letter: particularly in all cases in which the state of party passions, or of any predominant power, leads to the oppression of an individual.

The writ of habeas corpus and the penalties by which it is enforced, and in which the great benefit of the privilege consists, are distinct things in their nature. The former was known to the English common law, and although, at all periods of English history, it was held a very precious right, yet were its provisions found wholly inef-

ficacious against arbitrary power, until after the statute of Charles II. called by Englishmen their second Magna Charta. This statute gave penalties unknown to the common law. If a judge refuses to grant, or an officer refuses to execute the writ, he is liable to a penalty of five hundred pounds sterling, and similar sanctions annexed to other neglects of the precept. The House will observe, that all these penalties are securities given to personal liberty, additional to those which exist at common law, and are not substituted for them. These penalties are annexed for disobedience to the writ, not as indemnification for the injury. All the other remedies against the judge, or the party imprisoning, remain unimpaired.

The question recurs, does the Federal Constitution, by securing to us "the privilege of the writ of habeas corpus," secure to us those sanctions of the writ, which constitute in England its characteristic security? If the Constitution had re-enacted the statute of Charles, there could be no doubt. But will gentlemen seriously assert, that a penal statute of another country can, by construction, be declared the law of this, so as to make our citizens obnoxious to its penalties? If that statute be our national law, how was it obtained? Re-enacting statute we have none. And "the United States, as a Federal Government, have no common law," if we give credit to declarations daily made upon this floor, or respect the opinions of one of the highest law authorities in this nation. I refer to the opinion of Judge Chase, in the case of the United States against Worrall. 2 Dallas 394.

This view of the subject is certainly sufficient to satisfy this House, that their security for this great privilege is, at least, uncertain; and is not this reason enough, for this Legislature to commence an inquiry into the nature of that security, and the additional provisions it requires? This at present is the only question.

But the gentlemen ask "what need of further penalties?" "If the judge refuses the writ, is there not impeachment?" "Against the person illegally imprisoning another, is not an action for damages?" I answer—Both these securities for the personal liberty of the citizen existed, and do still exist in England, as fully as they do here, yet was it ever before heard that these were reasons against enacting that celebrated statute of Charles or, were ever urged as evidence that its provisions were needless, or useless? The penalties of that statute are guarantees of the liberties of the citizen, additional to those which result from the law and the Constitution. The principle of that statute is, to rest satisfied with nothing short of the actual liberation of the person from illegal imprisonment, in the shortest time possible. To this end all its provisions tend. It will not leave a citizen to languish in prison, in expectation of the result of the slow progress of legislative inquisition, or for the purpose of ultimately qualifying him to receive a heavy conpensation in damages. Impeachment is always a dubious, and an action for false imprisonment often an inadequate security for the observance of the writ of habeas corpus. Great violations of the privilege of this writ can never happen, unless in times of great violence. In such times, what hope of an impeachment against a judge, who abuses his authority in coincidence with the views of a prevailing party? And as to damages, is personal liberty to be estimated by money? And if it were, what certainty that the person guilty of the illegal arrest will be competent to pay the damages recovered? In the case of seizure by a military power, can it ever be expected, from the universal pecuniary deficiencies of the soldiers, that damages will be realized, even should the civil arm be competent to enforce an execution?

The penalties affixed by the statute of Charles, on the contrary, assure the obedience of the courts and officers of justice, independent of all party influences which may happen to prevail in the nation, and secure personal liberty by pecuniary perils, suspended over the heads of men, whose situation in society is such as, in general, makes the attainment of the penalty certain, should it be incurred. Upon the whole, those who oppose the present motion seem to me be reduced to this dilemma; either they must acknowledge that they are content that the citizens of these United States should possess less security for their liberties than the subjects of the law of England enjoy for theirs, or they are reduced to the necessity of adopting the doctrine that the statute penalties of another country may by construction become the laws of this nation; than which, I can conceive nothing more monstrous or absurd.

In this discussion it has been my wish to avoid all notice of the party and personal invectives which have been uttered. The question is too important to be mingled with feelings and passions of these descriptions. And the circumstances of the times and of the nation, seem to me to claim from us a contempt for these local and ephemeral distinctions.

Mr. Gregg said he did not rise to enter into a discussion of the merits of the question, but merely to move its postponement indefinitely; the propriety of which motion, he thought, must present itself to the mind of every gentleman. From the time which had been already spent in this debate, it must be evident that before it was finished the session would be passed away. A considerable portion of the business on the table the public interest required to be acted upon, and scarce time sufficient remained to give it the necessary attention. Mr. G. said he should have had no objection to the resolution if offered at an earlier period of the session; and he believed even at this late period he should be willing to let it take place of other business, if he considered it indispensably necessary. But, as he did not believe this to be the case, he trusted the postponement would be agreed to.

Mr. Newton.—I presume I may be permitted, notwithstanding the motion has been tried, to go fully into the subject before the House. I hope this House will not indefinitely postpone it. If ever there was a subject within the attention of

an enlightened Legislature, it is the subject before us. Every subject that regards the liberty of the citizen should be received with reverence and respect by the votaries of liberty. If we can better the situation of the people of the United States, and keep from them, under all circumstances, the hand of oppression, it is our duty to do it, and to pay attention to whatever is likely to eventuate in such an issue. I shall not consider this case as the basis of an impeachment. The only true inquiry at present is, whether the writ of habeas corpus is sufficiently fortified by Legislative provisions? I will not commit my understanding so far as to decide on the conduct of the Commander-in-chief. If he has done wrong, let him be answerable to the laws of his country; much less will I talk of indemnifying him. For this reason, because the jury before which the case may come, may, under such circumstances, have regard, not to his circumstances, but to the Treasury of the United States.

It is said that the quarter from which the resolution comes gives it a suspicious appearance. It is true I am of that class of men who may say to the gentlemen with whom this motion originates, as was said of old to the Trojans, *timeo Danaos, et dona ferentes.* But I am willing to examine the proposition, though it comes from that quarter—to sift the good from the evil. If gentlemen submit to us a good proposition, I am ready to treat it with all the respect it merits, and I will give all the weight which they may deserve to propositions which they, feeling power and forgetting right, in past times refused to allow. God forbid that we should act on principles that we could not justify. Yes, I congratulate the mover of this resolution, that he has arisen from the long slumbering nap in which he has been involved, and that he has all at once been illuminated by the splendor of liberty. I congratulate him on this circumstance, and I assure him of my most hearty concurrence in the measure he has brought forward.

My friend and colleague, from Virginia, has offered a most important amendment to this resolution. The Supreme Court of the United States, after having this all important case for a long time under advisement, and after an argument from the bar, are again afloat on the ocean of uncertainty, have started some new doubts, and have asked the gentlemen of the bar to come forward with a new argument. If this is the fact, does it not show the necessity of our attending to the subject; and of some new Legislative provisions upon it? I am for defining the power of our courts. I wish to understand the extent of their prerogatives; and particularly whether they have appellate jurisdiction in criminal cases; before whom criminals are to be brought; who are to grant writs of habeas corpus, and admit to bail?

These are all considerations of importance, and constitute the reasons which induce me to vote for referring this resolution to a select committee. But, say gentlemen, we cannot mature this subject this session. Perhaps so; but is this a sufficient reason for not commencing the investigation, for comparing our ideas on the subject, and going forward as far as we can in our progress towards a decision? I, for one, shall always be in favor of an inquiry into subjects that have a reference to personal liberty.

Another of my colleagues has not only stated an objection to the original resolution, but likewise to the amendment. His objection is, that we are filching from the Supreme Court a power conferred on them by the Constitution. Let us examine this question a little. Do not the judges of the Supreme Court, in connexion with the district judges, compose the circuits of the United States? We say it is doubtful whether the former judges, sitting as a Supreme Court, have a right to take this subject into consideration. It has never been denied that they have a right in their respective circuits, at their chambers, to grant writs of habeas corpus. This has never been denied—this I say is law.

This subject has been spread over an immense extent of ground. The single point, however, at issue, is, whether we will commit this resolution, in order merely to obtain correct facts and information, which shall present the subject in such a form as shall enable us to act understandingly upon it. I am not at present in favor of acting definitively upon it; but merely for inquiry. So circumstanced, I presume our proceedings cannot injure any individuals implicated in this business, as nothing we can do can have a retrospective effect. These are my reasons for voting in favor of the present motion.

Mr. Smilie.—I have but a few observations to offer on this subject. At an early stage of this debate I expressed myself in favor of the resolution. I thought it proper in itself, for this reason: I had doubts in my own mind whether the writ of habeas corpus was secured by the penalties necessary to give it effect. I had endeavored to inform myself by conversing with professional men upon the subject; finding that they differed in opinion I thought it proper to inquire into it. But, like some other subjects introduced into this House, I think it has been spoiled by the mode of treating it. I had flattered myself that it would have been considered as a subject of no one party; but as one in which all parties were equally interested. Instead, however, of treating it on its own merits, it appears to me that the mover and other gentlemen have involved themselves in invectives against the Commander-in-chief and on points altogether unconnected with the main subject. It is admitted by the mover of this resolution that there may be circumstances under which it might be the duty of a public officer to depart from the laws and take the responsibility upon himself. The gentlemen, notwithstanding, undertook to arraign the conduct of the Commander in-chief without his being heard. Surely this is not the tribunal before which that gentleman ought to appear in case he has done wrong; and if it were, in justice, he ought to be heard before he is condemned. Yesterday a doctrine was stated of a most extraordinary nature, though I admit it is the only doctrine on which gentlemen

can justify condemning the Commander-in-chief without a hearing. The doctrine is this, that under no necessity whatever can an officer be justified for departing from the law.

Mr. J. Randolph explained.—He said he believed there might be situations in which a departure from the law might be palliated, if not justified. He had no doubt of it; but he must be permitted to add, if the remarks of the gentleman from Massachusetts were intended to bear on what he said, that that gentleman had misunderstood or misstated him. He had stated a case of a known, acknowledged violation of the Constitution of the United States by a military force. That was the thing. For instance, as if in sitting, as they had done some few years since, till daydawn, balloting who should be President, under the impression that all would go to anarchy and confusion but for his superior power and wisdom, a commander at the head of a military banditti had stepped in to tell us who should be President. If the military had a right to put the Constitution at defiance, they had as good a right in one case as in another.

Mr. Smilie.—The gentleman's explanation is perfectly satisfactory. I certainly did misunderstand him. It is well known that military men have departed, and must depart in some instances, from the laws. For instance, it is justifiable for the commander of a garrison, under some circumstances, to burn the suburbs of a city. Since then it is admitted there may be a justification for a departure from the laws, such justification must depend on the degree of necessity that may exist. And my conclusion is, that as we are not acquainted with the circumstances of this case, it is premature to pass judgment on those implicated in it. On this point I coincide with the gentleman from Massachusetts. We ought entirely to consider the subject before us on its own merits. The next question, therefore, is, whether we are in the situation to make the proposed inquiry. On this point I am sure no gentleman will undertake to say, even were we to suspend the whole business before us, we should be able to mature and finish before the close of the session a business of this importance; and if we did, I fear it would be very incorrectly done. Inasmuch then as we cannot get through this business during the present session, it is proper in my opinion to postpone it until the next. I pledge myself that I shall then be as willing as any gentleman on this floor to take it up and give it a deliberate investigation.

Mr. J. Randolph.—When the gentleman from Pennsylvania made this motion, I was really apprehensive that it would have an effect different from that intended—that it would have the effect of protracting this debate. We have had a long discussion, and when every member is ready to give his vote on the subject, and most of the members who desire it, have in all probability delivered their sentiments, a motion to postpone the subject is offered. What is the consequence? Every member who has spoken on the main question acquires the right to speak twice on this.

I am sorry for the declaration made by the gentleman from Pennsylvania. I understood him to be friendly to this measure. But how am I to reconcile his friendship with the negative vote which he means to give? For will he or any other gentleman point out a substantial difference between negativing and postponing this resolution? This is nothing more or less than an ingenious mode of quieting a tender conscience—to induce gentlemen to vote for postponing, what on principle they cannot vote against. Suppose in the case of a petition from Stephen Sayre, or Oliver Pollock, or any other of the claimants so steadily before us, a motion should be made to postpone their case indefinitely. What would the gentleman from Pennsylvania say? That there was no substantial difference between postponing and negativing it. I do confess, sir, if I was opposed to this measure, I would get up and say so—I would vote against it—I would come out manfully and decide on its merits; and I trust gentlemen opposed to it from principle will have the magnanimity to reject the postponement and try the strength of the House on the main question.

I certainly mean no disrespect to either of the gentlemen from Pennsylvania, because where I do not feel disrespect, I would not express it. But the motion made by one of those gentlemen and advocated by the other, gives an unfaithful representative of the people an opportunity of shrinking from his Constitutional responsibility, and, as such, ought to be resisted. A gentleman goes home, and is asked, what did you do in the case of the habeas corpus? Did you vote for or against it? He replies—no, I did not vote against it—I only voted for postponing it indefinitely. Well, what is the meaning of this Parliamentary phrase? Though it is exactly the same as voting against a measure, yet, addressed to the unlearned ear of the planter, it gives an opportunity to every man afraid to stand on his own responsibility to cheat his constituents.

With regard to improper topics and extrinsic considerations introduced into this debate, no one can be more sensible of, or have greater reason to regret it, than myself; but, if urged by me, they have been urged in self-defence. I may truly say I did not begin the battle. For on the first day's discussion, when the mover was making a lengthy speech on this subject, I was engaged in the committee room, and only came into the House when about to adjourn; but, notwithstanding, I heard enough to convince me that principles had been broached which, let them be broached wherever they may, will always meet my reprobation.

The gentleman from Massachusetts must certainly have labored under some strange misapprehension when he conceived that I quoted the case of the prohibition of the exportation of corn from Great Britain, by royal proclamation, with the view he ascribes to me. I certainly did not. I did not say that if the Ministers had acknowledged a violation of law, and had thrown themselves on the mercy of their country, it would not, according to the usages of that country, have been proper to have passed a bill of indemnity. I quoted this

case to show that when the known and acknowledged friends of freedom become so intoxicated with power as to abandon the strong bulwark of the Constitution, those opposed to them will turn their batteries against them—to show that it did not become the gentleman from Massachusetts, if indeed he is the friend of freedom, to quit the true old Constitutional ground, and suffer it to be taken by those in opposition. And in illustration of this observation I stated, that that cunning Scotchman, Mansfield, under similar circumstances, had taken the true ground of the Constitution against Chatham and Camden, its loudest advocates, and had thus defeated them with their own weapons.

I am sorry to be obliged to trouble the House with any more of that idle declamation which, it seems, is totally useless, except to serve the purpose, at various times, of replying to itself. But this declamation has even in this respect one advantage, often found wanting to the most solid argument, viz: that it is a satisfactory reply to something—that it has at least the power of answering itself—and is indued with properties of echo—that it is not "unheard, unknown." There has been a dispute in the world from time immemorial between wit and dullness—between imagination and judgment. So we have been told, though some who cultivate the sceptical philosophy dispute it. But this impression has been so long attempted to be made, that there is not a precise or formal coxcomb that does not on the score of dullness arrogate to himself judgment and profound wisdom. While I am willing to allow that declamation, or the powers of an effervescent imagination, are no evidences of wisdom, the House must admit that the mere dullness of a special pleader without his accuracy does not imply any pretensions to knowledge. The truth is, that on this as on other subjects, it has been my misfortune to come to the House too unprepared. I knew nothing of the subject until it was brought under discussion. I got up yesterday, as I have to-day, to say what first came into my head, and in this way I hope I shall be permitted to go on.

However the gentleman from Massachusetts may have professed his anxiety to avoid committing himself by giving an opinion in the present case, he has given a broad hint of the propriety of indemnifying the commander-in-chief in this instance, if he has acted illegally, by the allusion which he has made to the case of Captain Little, to which he might have added that of Captain Murray. Let us examine the analogy of these cases, and see whether the gentleman from Massachusetts with all his precision and ingenuity, is able to make out a similitude between them. The cases of Little and Murray were instances of military men obeying the orders of their military superiors. If it were proposed in the present instance to mulct the young officers who have made these arrests, those cases might with fairness have been cited, they might tell you that in doing so they obeyed their superior officers, and that they could not stand disputing their power lest they should be broken by a court martial. Does the gentleman say there is a similitude between the cases of Little and Murray, and the case of a commander of your army, (supposing him to have contravened the law) and that he would have the same excuse for such contravention as an inferior officer? Does he mean to prepare the House for a justification of the Commander-in-chief on this ground? I hope and trust not. I may speak at random, but I cannot believe his conduct, such as it has been represented to have been, can have been justified either by the instructions or the approbation of his superior officer. But even if it should appear to be the case that he received such instructions from the highest Executive authority, the only thing which can be said is, that the Commander-in-chief has acted under the orders of his superior, as in the cases of Little and Murray. But did the House mean to say, when they voted an indemnity to Little and Murray for obeying the orders of the Executive, in cases where the civil and military authority were combined, that because this conduct of an inferior officer was justified by the orders of his superior, there was therefore no blame attached to the Executive? I hope not. I trust in God not. I should have been sorry to have seen those claims passed, to give a sanction to the departure of the Secretary of the Navy and the Secretary of State from the laws of the land. It will not, therefore, follow that, because the House considered the inferior officer not culpable, they also considered the superior, who gave the orders, free from censure. Let us then hear no more in justification of the Commander-in-chief, unless gentlemen show that, instead of acting on his own responsibility, he acted on that of his superior.

I consider the whole of this business as one of the most unfortunate kind that could have happened to the United States. If we had acquired Louisiana by force of arms or conquest, we could scarcely have inspired the people of that country with greater indignation than by these events—in which it is yet to be seen whether those people are at all concerned; or whether they are not standing like sheep, suffering the wolves to pass without disturbance—events which must sow the seeds of lasting misfortune, unless healed by a timely interposition of the Government. And nothing can have a more fatal effect than anything done by this House, or the other part of the Government, to sanction the conduct of the Commander-in-chief, taking it to be such as is ascribed to him. As a member of this House I am free to give my opinion of what would restore peace to that country—though out of doors I might not do it. The first step ought to be the immediate recall of every man directly or indirectly concerned in this business. You can hardly suppose, sir, that I look forward to be made their Governor, or desire on my recommendation to introduce a friend to that place. But I have no hesitation in saying that unless some such step be taken, the attachment of that country to the United States is lost forever. I would take such a step boldly—I would know nothing of their little disputes—I would act with the authority of a venerable parent, who, on returning home, found his children by the ears. I would correct them all, I would discountenance at once

all such intrigues—I would recall every man who has directly or indirectly participated, or is suspected of having participated in them—I would, in short, rubout and begin again. It is an extremely unfortunate thing that the people of New Orleans, for the most part speaking the French language, a great part of them attached to the Crown of Spain—transferred to the United States by an honorable purchase—told they were about to taste the sweets of a Government of laws—told that arbitrary notions and *lettres de cachet* were to be proscribed—that the Constitution was not to be departed from, but that they were to enjoy all the blessings of citizens of the United States—it is extremely unfortunate that New Orleans should be the first place in which a lesson of military despotism should be taught. I deem it extremely unfortunate—it cannot tend to attach those people to the United States; it will, however, have another tendency—it will prevent every man of character from emigrating to that country, and instead of mixing the Americans with the French, the latter will be kept as a distinct class. For will any man, having the least regard to his rights, go to a place where he will be seized by a military commandant? Suppose, Mr. Speaker, such a thing had taken place in your country or mine. The military would not at this period be before the court—the spirit of the country would have long since settled the question. I recollect in 1798 or 1799, when the officers of the army were following their legal avocation of enlisting recruits, such was the spirit of detestation in which a standing army was held in my district, that these men were obliged to break up and move off. That spirit would scarcely endure the legal act of a man acting under legal authority, and yet we have now an apology for men acting in direct contravention of legal authority. Will any man point out a good cause for this change?

The gentleman from Massachusetts stated another case, which I think inapplicable. In case a member of this House should be arrested by the civil authority, he says he may obtain redress. There is no doubt of it. But suppose it was proposed to pass a law for the punishment of murder, and the gentleman should get up and say there is no necessity for such a law—the dead man may have redress without it!

The writ of habeas corpus is the only writ sanctioned by the Constitution. It is guarded from every approach except by the two Houses of Congress; and yet this writ thus acknowledged, thus specially designated, this second Magna Charta, as it has been called, is to be put on the footing of a common trespass. Really, when a man tells me that if imprisoned I may get damages, it requires no ghost to come and tell us that this may be done even without the writ of habeas corpus. But will gentleman point to any Legislative sanction by which the execution of this writ is guarded? Perhaps action on the case might be sustained for disobeying it; but suppose a judge should deny it. Impeach him, say gentlemen. But will gentlemen rely on that? That affords no certain punishment, and an uncertain punishment is inadequate. We want a certain and adequate remedy. The gentleman from Massachusetts is equally unfortunate in stating that I am the advocate of punishing with death every person concerned with an infraction of the writ of habeas corpus, or, as that gentleman stated it, for small and trivial offences.

Mr. Bidwell explained and observed that he had had allusion to the remarks of the gentleman relative to the slave trade.

Mr. J. Randolph.—I stated that I would make a military officer, acting under his own responsibility, acting as commander-in-chief, punishable with death for such an infraction. Did I, in saying so, also say that I would punish an inferior officer with death? Will any man deny that a military character arraying himself against the constitution of his country is worthy of death? I say he is a traitor. A commander-in-chief of an army, who, on his own responsibility, puts the constitution and laws of his country at defiance, is a traitor; and, supposing the case stated at New Orleans to be correctly stated, the Commander-in-chief is as much a traitor as any other man concerned in the conspiracy. Who are these traitors? Burr and Co. What are they about to do? To put down the civil authority by military force; and is there any substantial difference whether the civil authority is trampled under foot by Burr and his banditti, or by a commander-in-chief and his regular army? I will go farther. Suppose these measures for putting down Burr shall eventually prove to have been measures for putting up somebody else, in what will these men differ? In nothing. If the commander of an army, to give himself a false eclat, shall trample the Constitution under foot, shall go a certain length with conspirators, and finding his ground no longer tenable, shall determine to make up in zeal what he wanted in fidelity, he is guilty of treachery to the Constitution and laws—he is guilty of more—he is guilty of violating the principle respected by knaves—the principle of fidelity to each other.

We are told that a continual outcry against public men has a tendency to render the public mind callous, and by its familiarity tends to lose its effect. But do gentlemen believe that stepping forward in defence of the privilege of habeas corpus, flagrantly violated, (taking that to be the case,) is a mere peccadillo, about which the people ought not to be alarmed? If so, gentlemen are wofully deceived. The people are not so sound asleep as to be roused; and it was the duty of that gentleman and other gentlemen on his side to have come forward and have said—we are sorry that gentlemen have got the start of us, but their doing right shall not drive us into what is wrong. On this subject we will go all lengths with them, we will make an inquiry into the propriety of amending the laws—we will not be behind them in manifesting a zeal for the Constitution. If gentlemen had acted so, there would have been an end of the business at once; but it is saying they are friends of the measure, while they are acting as its enemies, that produces this distrust.

The gentleman from Massachusetts (Mr. Quincy) has stated the difference that exists between the right of the writ of habeas corpus and the remedy. He has correctly stated that it is not intended as a remedy—not to allow an action for false imprisonment—but to prevent false imprisonment and therefore that it ought to be guarded by sanctions. But the gentleman has omitted to mention one circumstance, which is, that in England the writ of habeas corpus is secured by the sanction of death. And is our attachment to liberty less than that of England? I say that a Chief Justice of England for refusing to issue a writ of habeas corpus, may be impeached, taken to Tower Hill and decollated. If there had existed the privilege of the writ of habeas corpus in England at the time of the impeachment of Strafford, could there have been a charge more strong than a settled design to do away that privilege? In England also it is guarded by the power of attainder. Thank God! we have not that feature in our Constitution. But if the same spirit pervades that country now which once did, nothing would sooner pass a bill of attainder, through the two Houses of Parliament, than a known and wanton invasion of this privilege. But fortunately our Constitution has denied to us this power; and it is because we cannot pass bills of attainder, and because judgments on impeachments do not affect the life, that it behooves us to guard this important principle with some more solemn sanctions than it now possesses.

Mr. Elliot.—A gentleman from Tennessee Mr. G. W. Campbell) whom I do not at this moment observe in his place, but will presume that he is attending his duty as a member of the House, and to attract whose attention I will "lift up my voice," in both of his speeches of yesterday certainly entitled the House to some additional, at least to some explanatory remarks from me; and although the House would be very willing to relinquish its right, I cannot, as an individual member, consent to part with my portion of the claim.

In the first place that gentleman seemed disposed to announce to the House that I was not so well versed in the law of treason as himself. He said that in treason all are principals, and of course that there can be no accessaries. It is very true. The general principle is correct. It has long been settled as a principle of English law, that acts, which, in felony, would make one accessary before the fact, in treason, as well as in trespass, render him a principal offender. But there is a humane and liberal principle in the English law upon this subject, which those exclusive Republicans who are ready to justify General Wilkinson, by considering the persons accused by him guilty of the actual commission of the crime of treason, either do not know, or are not disposed to adopt. The general principle is subject to this qualification, except in treason touching the death of the King, &c. In every other kind of treason, it is admitted that offences of an accessorial nature may exist, and that they are of a derivative character; some act must be done, to which the offender must be accessory, and from which his guilt is derived; some original and principal traitor may exist, to whom another may be considered, in the first instance, as subservient. Although in the event of the prosecution such an offender may be considered as a principal, yet, in his progress towards conviction, which is the case now existing in our own country, he ought, from a principle of natural justice, to be considered merely as in the nature of an accessary, before or after the fact. Otherwise, if the person accused as an auxiliary, were tried before the person who actually committed the act, the very great absurdity and injustice might result, that the accessorial agent might be convicted, and he who did the act, and from whose guilt alone that of the actual accessary could flow, might be acquitted. This principle is to be found in Foster, Hale, and Hawkins, who may be considered as the classical writers upon criminal jurisprudence in Great Britain.

Of the insinuation that I was ignorant of the law, I should, however have had but little reason to complain. I do not recollect that any one adopted the expression, "champion of the Constitution," but myself, and the gentleman spoke of those who announce themselves to the public, as the champions of the Constitution and the cause of liberty, merely for the purpose of making a great noise, and of displaying "pictures," calculated to attract the attention, and delude the imagination, of the people. I will not presume, although I could wish the gentleman were present to give a serious explanation, that he intended to impeach my motives. But something must be said on the subject of pictures and painting. From the extreme difficulty with which the gentlemen managed his metaphor, it was obvious to us all that he was no great proficient in the art. And yet he is unquestionably the very best painter of the particular school to which he happens to belong. There is more animation in his figures, there is more nerve in his attitude, there is more glow in his features, there is more grace even in his coloring, than are to be found in the best productions of his associate artists. We have lately heard and read much of what are called, in the newspaper cant of the day, a republican majority and a republican minority; of republican majority men, and republican minority men. The gentleman, probably, wishes to be considered as the "champion" and leader of the majority, composed of profound statesmen and logicians, while the minority consists of mere painters and declamatory orators. Be it so. Yet I would not insure, at the rate of ten guineas per cent., which we are told is the price of insurance of American property in London, since the publication of the famous imperial decree, the final triumph of the school of logicians over that of painters.

But I did not arrogate to myself, the distinction of a "champion of the Constitution" in the proper sense of the term. It must be within the recollection of all, that I said I was the champion of the Constitution, only as every member of the House was bound by oath to be; its defender

against usurpation and unauthorized military power.

Mr. Eppes said, that, when on a former day this resolution had been before the House, he had declared himself in favor of committing it for discussion. Discussion, however, has been had in a different form. The original motion has been withdrawn, and the question is now to be taken on the resolution. He agreed, perfectly, in opinion with the gentleman from Virginia, who had said that a postponement of the resolution was, in substance, a rejection. He should vote for the postponement because he was opposed to the resolution. We have been told by a gentleman from Massachusetts—who, on this occasion, disclaims all party feelings—that the common law of England is not in force in this country; that the statute of Charles II. was not in force in this country; and that, to the penalties of this statute, the English nation owes the security of this privilege. The gentleman has enumerated the penalties of the statute, and asks whether we are less attached to this privilege than the English nation? We are not less attached to the privilege. Our mode of enforcing it is different. In England, if the writ is disobeyed, it can only be enforced by the fines and penalties of the statute of Charles II. In this country, the judge can call in the aid of the nation to enforce the law. In England, the penalties of that statute are necessary to wrest its victims from an Executive armed with prerogative and privilege. In England, the Minister, being a conservator of the peace throughout the Kingdom, may commit in any part of it. In this country, no man can be legally committed, or detained in custody, but by the civil authority. The penalties of the statute of Charles II. never were in force in the Commonwealth of Virginia. The judge is subject, as under the Constitution of the United States, to the action of the party—to impeachment and removal. Mr. E. said he agreed with the gentleman from Massachusetts in another point, viz: "That the common law of England 'was not in force in this country, except so far as 'it has been adopted by the Constitution and laws 'of the United States, or of the individual States." He, for one, when brought in jeopardy, would never consent to look for his rights either in the immemorial usage and custom of England or in its statute book. He would appeal to the Constitution and laws of his country, and by them alone would he be tried. If, by them alone, without the aid of the English law, this right was not sufficiently secured to the citizen, he should be willing to make any additional legal provisions that were necessary. The privilege of the writ of habeas corpus is as well secured as any other right, under the Constitution of the United States. Freedom of speech, freedom of the press, freedom of conscience, trial by jury, stand all on the same foundation. The Constitution secures these rights to the citizen, and judges, who ought to be honest, are appointed to protect them. If we are not secure in this right, where, he asked, do gentlemen find the security for any other? Can law render more secure a right derived from the Constitution? Or, can it be necessary to place this right, important as it is, on a different basis from other rights equally dear to the American people, and essential to the existence of a free government? The security for this right is ample, if your judges are honest and independent. The penalties of the statute of Charles II. could only add a pecuniary fine to removal from office; as he apprehended no judge could be suffered to disgrace our bench after being subjected to pecuniary fine for denying to a citizen a Constitutional right which he is sworn to support.

The recent occurrences at Orleans, have been principally relied on to show the necessity of additional provisions for securing this right. Even on this occasion, however, there was no want of power to enforce the writ. The writ was obeyed, the reason of the detention of the persons returned, and the return accepted by the court. He agreed, perfectly, in opinion with the gentleman who thought all the civil officers of the Territory implicated in these transactions. They must certainly have had the same ideas of the public danger with the Commander-in-chief, and either approved of, or connived at the seizure and shipment of these persons. It is impossible that such an act of power could have been exercised in any part of the United States, without the approbation of the civil authority of the State or Territory. The only instance in which the writ of habeas corpus was disobeyed, was at Charleston. In this instance, it is justified by the principle of the gentleman from Virginia.

[Here Mr. J. Randolph interrupted Mr. E., and said he had not justified the act.]

Mr. Eppes continued.—If the gentleman from Virginia will have patience, he will understand correctly how far it is supposed he has justified this refusal of the officer at Charleston. He understood the gentleman from Virginia as saying that an inferior officer was bound to obey his superior. The case of Captain Murray had been cited. In that instance, the law was violated, and Captain Murray reimbursed the damages sustained by him, on the ground of his having obeyed his instructions.

Mr. J. Randolph explained. He said he would ask the gentleman if, because an inferior officer, the commander of a frigate for instance, is justified in obeying the orders of the President touching the construction of an elaborate law, which he can scarcely be presumed capable of expounding, it followed that an inferior officer was to be justified in every possible case, in obeying the orders of a superior commander, from any other motive than that of self-preservation, in which case he ceases to be a rational being? Does he mean to say, that, if the officer of a ship of war, is justifiable in obeying the President in a particular and minor instance, he would be justified in obeying such orders to elevate him to a Dictatorship?

Mr. Eppes, in continuation, observed that he had no wish, and certainly he could have no interest in misstating the ideas of the gentleman from Virginia. He considered the two cases,

however, as varying only in this: In the case of Captain Murray, the right of property only had been violated; in the other, the personal right of the citizen. Both acts were illegal. Both were a violation of rights secured by the Constitution and laws. Mr. E., however, thought that gentlemen had mistaken the proposed remedy for such a violation of the right of the citizen. No habeas corpus law could guard against a case where a citizen was kidnapped, and conveyed out of the jurisdiction of a court. A law to operate not on the military only, but on every person who should, without legal authority, arrest, or convey from his residence a citizen of the United States, would be better calculated to embrace such a case. Mr. E. said that, having on a former occasion delivered his sentiments on this subject, he should not again have troubled the House, but from a wish it should be clearly understood that he did not mean to avoid any portion of his responsibility by voting for the postponement instead of a rejection of the resolution.

Mr D. R. Williams called for the yeas and nays.

Mr. J. Clay said, before the question was taken, he would mention one or two points that went to show the necessity of a reference. He understood that one of the persons arrested by General Wilkinson had been landed on an island near Charleston, and, on the issuing a writ, the officer had refused to obey it. He would ask whether this was not a violation of the writ of habeas corpus that required a remedy by law? Mr. C. said he always viewed it as a matter of regret, that questions of this kind should be taken up on party ground. He considered such a suggestion, on the present occasion, as a mere trap to get a few votes. They were told of the dark times when alien and sedition laws were passed. If, however, under the alien law, men might be deported, gentlemen should recollect that it was according to law—that there was an express statute that justified the meaasure. Mr. C. said he considered the kidnapping alluded to by gentlemen as a gross violation of the habeas corpus, and would be glad to know whether sending a man to Baltimore from Orleans, was not as gross a violation of principle as sending him from this place to Orleans? Mr. C. concluded by observing that he considered it a very unfortunate thing for any gentleman of talents to be educated at the bar. So many distinctions were there taken, that a man of his plain mind could scarcely see anything. He should, however, adhere to the Constitution, and would ask whether a military arrest was not a gross violation of it; and whether there ought not to be some exemplary punishment to guard against it?

Mr. Elmer said he should vote for the postponement of the resolution. It had been under discussion for three days, and he did not perceive they were nearer a result than on the first day. Was it discreet to refer this resolution to a select committee, when it was manifest they could not go through the business without neglecting important business already before them? He should also vote for the postponement, as, although three days had been taken up in the discussion, he had not heard any one gentleman urge a single reason to show the necessity of any additional provisions. This very transaction, he believed, would ultimately turn out beneficial to the United States, notwithstanding the arts of ambitious men. It would display such a striking regard of the people to the Government of their choice, as to prevent any like attempts in future. Mr. E. said he did not know whether General Wilkinson was a conspirator, but in this case he did not see that the Constitution had been so flagrantly violated. Take the case of a conspiracy against the Constitution, to level and destroy the Constitution altogether, and directed towards the garrison which General Wilkinson commanded, in a remote part part of the United States, and distant from any strength to support him. If we consider the question in this view, that the lives and property of the citizens were at stake, and even the judges engaged with the conspirators, was it improper to take up these men and send them to a place where they could be impartially tried? Let gentlemen, said Mr. E., pass as sanguinary laws as they please, if I considered the judges concerned, and were satisfied there were conspirators within, I would arrest them, though death were the consequence, and I am persuaded every officer faithful to his trust, would do the same thing. I admit that in all cases, except of the greatest emergency the military ought to give way to the civil power. With regard, however, to what gentlemen call the audacity of sending these people here, in the face of the Legislative body, I confess I entertain a different opinion. In cases of military arrest, I am most afraid of secrecy. Does not publicity, as far as it goes, show a good conscience? Does it not show the wish of the Commander-in chief that his conduct should be examined in the face of the nation, conscious that, on a full examination, he will appear to have acted as a good officer and an honest man? As I have said before, I do not know that he is honest. I know that he has been charged with being a conspirator, but on this point we have no proof before us.

In the circumstances I have mentioned, it would be the duty of a man to violate the law, and, no penalties ought to prevent him. I shall always think it better for one or two men to suffer than the whole nation; and rather to authorize the violation of one part of the Constitution, than permit the whole to be overthrown. Let gentlemen put the case of the judges being concerned in this plot, and of a great army coming down, and the effects which might have flowed from not arresting these men. Could the Commander-in-chief have been justified? If he has excited unnecessary alarm, and arrested individuals on light and improper grounds, let him suffer. In this case it appears that he had the judges on his side. What better could he do to answer the purpose of justice than to send these people to the seat of Government? A circumstance that may turn out highly advantageous to the accused.

Unless this temporary violation of the Constitution be authorized in a case of extreme neces-

sity, the Constitution might be trampled on, and our liberties destroyed; and civil war ensue. Suppose Burr had overcome Wilkinson? What then would have been the avail of your writ of habeas corpus? It would not have been of the least consequence.

Considering all circumstances, I coincide with the gentleman from Virginia in one point. I would make a sweep of all the officers of the Territory of Orleans, so that there should be no difference between the governors and the governed. I believe the disaffection that exists there is confined to a few, who wish to raise a clamor for personal purposes. Still, for the reasons I have mentioned, I would make a general sweep.

Mr. SLOAN.—Nothing but imperious necessity can justify a member rising at so late an hour of the day. I promise the House, however, not to take up much of their time. Allusions and insinuations have been made throughout the whole of his speech by the gentleman from Virginia, against the Commander-in-chief of the army of the United States. He has indeed insinuated a belief that he has been concerned in a treasonable combination for some time past. Admit, for a moment, that this is the case; and then let me ask whether there is not cause to rejoice, that he has in this instance deserted his party; let me ask, if in this case it was not in his power, to have carried on a treasonable conspiracy to the ruin of his country? Again, what use is there in throwing out such aspersions, against a man who is not here to defend himself. The whole subject is reduced to this point. Was there sufficient cause to justify General Wilkinson in the measures taken by him? I deem it my duty to show the House the inconsistency of the gentleman who has thrown out these insinuations. I shall, therefore, from his own speeches, show that he once thought this a matter of considerable magnitude.

Here are the expressions as given by the stenographer.

1st. Speaking of the conduct of Spain—

"It appears indeed that she never has lost sight of this object; and I believe she never will lose sight of it so long as she shall find material to work upon, or a shadow of hope that she will succeed. It appears to me that she has found those materials; that they are of the most dangerous nature: that they are now in operation, and that perhaps, at this moment, while I am addressing you, at least for a time, the fate of the Western country may have been decided."

2d. "Is there a man in this House who at this day doubts, that if the Government—I mean the Executive and Legislature—had taken a manly and decisive attitude towards Spain; and, instead of pen, ink, and paper, had given men and arms; is there a man who disbelieves that not only Spain would have been overawed, but that those domestic traitors would also have been intimidated and overawed, whose plans threaten to be so dangerous!"

3d. "A spectator not in the habit of reading our public prints, or of conversing with individuals out of doors, but who should draw his ideas of the situation of the country from the proceedings of this House during the present session, would be led to infer that there never existed in any nation a greater degree of peace, tranquillity, or union, at home or abroad, than in the United States at this time; and yet what is the fact? That the United States are not only threatened with external war, but with conspiracies and treasons, the more alarming from their not being defined. And yet we sit and adjourn, adjourn and sit, take things as school boys, do as we are bid, and ask no questions."

[Mr. QUINCY asked whether it was proper to read the speeches of a gentleman as given by a stenographer—a member may refer to them on his own recollection.

[The SPEAKER said he was of opinion the gentleman from New Jersey was in order.]

Mr. SLOAN proceeded.

4th. "I again invite the House to draw a proper inference from the indecent, insulting, outrageous demeanor of the Minister of Spain. I did understand that he was to have been deported—shipped off; on the contrary I find him still here; and is not the inference of my friend from Pennsylvania irresistible, that, considering the crowd of memorials presented by him to the Government in the case of Miranda, and that no remonstrance has been made against this pretended expedition against Mexico, that he is acquainted with it; that he knows it is ostensibly for Mexico, but really for Orleans, for the severance of the Union."

5th. "Some gentlemen make extremely light of this conspiracy; I cannot, however, conceive how a man in a state of ignorance respecting its nature or extent can make light of it. The very circumstance of not knowing the extent of danger, has a tendency to magnify it beyond its natural size. But there is one fact, which has come so direct, that it cannot be doubted. I believe it will altogether depend upon the circumstance of the conspirators getting to Baton Rouge before the troops of the United States arrive there, whether New Orleans shall fall; and the waters of the Red river are so low, that we cannot decide when our troops will arrive; they will get possession of the ordnance, and nothing can prevent the reduction of Orleans but a pitched battle."

6th. "If I could triumph at the calamitous situation of my country, there is ample cause indeed for triumph."

7th. "No sir, I cannot take a retrospect of the past without feeling a degree of conscious pride that my aid was not given, that I had no hand in the acts of commission or omission that have brought us to this deplorable state of things."

8th. "I believe the militia as adequate to the protection of New Orleans, as the Cape of Good Hope; and after paying fifteen millions for the Mississippi and its delta, shall we be so penurious as not to defend this important point, this key to our stong box?"

9th. "But I cannot draw so favorable an inference of the public sentiment in any country, when I see a most extraordinary and ramified combination, composed of the most leading characters, and the most flaming patriots too, for the express purpose of severing the Union."

10th. "I do not conceive it to be a thing of yesterday; but an affair of long standing. Look back to the times when the character implicated in this conspiracy first began to move in that country. It was at least contemporaneous with the disappointment of his ambition."

Contrast the foregoing with that member's declaration in the debate upon the suspension of the habeas corpus, wherein he asserted that Burr's

conduct did not merit the name of a conspiracy, it was only a trifling intrigue, that might have been suppressed by the militia of a county, and then in his own language let me ask, "Will logic of this kind go down with the House, or the nation?"

Mr. KELLY said the manner in which the subject had been discussed by many gentlemen, could not fail to excite sensations of an unpleasant nature. Observations were made which had no relation to the question, tending only to destroy that harmony and good understanding that ought to prevail among the members of the House. He said he had not been consulted on the propriety of introducing the resolution under consideration, but if he had, it must have met his approbation. As the subject was interesting, and calculated to secure from its importance a full and dispassionate investigation, there was no reasonable ground to conclude that the friends of the measure would be charged with unworthy motives, or that gentlemen would so far forget the dignity of their station as to indulge in invective, tending to destroy that unanimity which the present prospect of public affairs, and the interest of our common country, imperiously required. Mr. K. said, as this mode of treating the subject had been already sufficiently exposed by the gentlemen who had gone before him, he would waive further observations on that score, and proceed to what he considered the real merits of the question then under discussion.

Mr. K. said, from the observations which had been made by many gentlemen, a bystander might conclude that the present was an inquiry into the conduct of General Wilkinson, at New Orleans, and the legality of the arrests which had been made there, as well as into the degree of guilt which attached to the several prisoners.

One gentleman from Massachusetts, (Mr. BIDWELL,) had gone so far as to say it was too late in the session to inquire into the transactions at Orleans, as the evidence could not now be obtained; for his part he left out of consideration everything of this nature as foreign to the subject: the prisoners were to stand trial before a proper tribunal, competent to inquire, and do impartial justice, he would therefore give no opinion respecting their merit or demerit, nor would he undertake to censure or approve of the conduct of the Commander-in-chief, as the circumstances under which he acted were not fully known; and if, on investigation before a proper tribunal, that officer could justify his conduct, and show that the exigency of the times, and the safety of our country demanded the measures he adopted, no man in the House or the community at large would rejoice more than himself at so honorable a result, because he considered it of the utmost importance to the safety of the nation, that those who held high and responsible situations should execute their trusts in a manner so dignified and honorable as to avoid suspicion and command respect. It had been said by a gentleman from Virginia, (Mr. EPPES,) that the movers of this measure envied the happiness which the people of this country enjoyed, and were sorry that a conspiracy, the ramifications of which were so extensive, was likely to be checked by the vigilance of our Government; he trusted a conduct so profligate could not be ascribed to any gentleman on that floor; for his own part, he said, his conduct and votes bore testimony against so unfounded a charge.

He never counteracted the views of the Executive, by withholding his vote when required, for supplies necessary for carrying into effect the views of the Government. When money for defence or any other purpose had been required by the Executive, it had always the aid of his vote; and he had withheld when the Executive did not recommend.

But is it necessary to inquire whether any provision ought to be made by law to secure the privilege of the writ of habeas corpus in cases of arrest under the authority of the United States? One gentleman, from Tennessee (Mr. G. W. CAMPBELL) has said, that there is no need of farther provision, and has called on gentlemen to show wherein the existing provisions are defective. A gentleman from Virginia (Mr. JACKSON) has said, that it would be narrowing the powers of the court and judges to pass a law on the subject, their powers are so extensive under the Constitution.

In order to obtain a right understanding of the subject, it is necessary to inquire how this inestimable privilege was secured to the subjects of Great Britain by Magna Charta, the great charter of their privileges, which was extorted sword in hand by the Lords and Barons, from King John at Runnymede, and how far the privilege thus secured, was made more effectual by the statute of Charles II., which was called the second great charter of their liberties. This writ of *habeas corpus ad subjiciendum*, which was secured by this charter, became a writ of right, not less secured to the subjects of that kingdom than the same is secured to our citizens by our Constitution.

We are informed by Sir William Blackstone, in his famous commentaries on the English law, that the inestimable privilege of the writ of habeas corpus was of early date in Great Britain, almost coeval with the first rudiments of their Constitution. The liberty of the subject could not be abridged in any case without special permission of law, although sometimes impaired by the usurpation of princes and the ferocity of particular times. It was, however, established on the firmest basis by the provisions of Magna Charta, and a long succession of statutes under Edward III., and was recognised by the Crown in several after reigns. And it will hardly be contended that this privilege is better secured to the citizens of the United States by our Constitution, than the same was secured to the subjects of the British Crown by the provisions of Magna Charta. Yet abuses had crept into daily practice in England, which had in a great measure defeated this great Constitutional remedy. The flagrant abuse of power by the Crown, generally, produced a struggle which discovered the exercise of that power to be contrary to law, or restrained it for the future. An

obscure individual gave birth to the famous habeas corpus act in the reign of Charles II., which was justly called another Magna Charta of the kingdom. Francis Jenkes was committed by the Council Board for a turbulent speech made at a common hall assembled at Guildhall, for the purpose of choosing officers. He applied to the then Lord Chief Justice Kaimsford for a habeas corpus, who alleged that he could not grant the writ in vacation. The friends of the prisoner afterwards applied to the Lord Chancellor, who said the King would not grant it without a petition; application was afterwards made to the court of quarter sessions to have him bailed; the court said, there was no such name in the calender; upon application to the jailor, he said he never returned any man committed by the Council Board. When a copy of the commitment was obtained, the jailor evaded making proof of it by going away, as was believed with the privity of the court; at length the commitment being established, the court doubted their power to act, when the Lord Chief Justice and Lord Chancellor had refused, the court took time to consider of the application until next term. A petition was afterwards presented to the Lord Chancellor, who also took further time to consider; at length the Lord Chief Justice, upon the matter being suggested to the King, issued a habeas corpus, and the prisoner was discharged. To prevent similar abuses in future was the famous habeas corpus act passed, which regulated the mode of proceeding upon writs of habeas corpus, and fully insured its benefits and provisions to the subject.

The several courts were designated, who were authorized and enjoined to issue the writ, and the power extended to certain judges out of term time. The jailor was bound in a given space of time to furnish a copy of the commitment, under penalty; the court, or judge, to make the writ returnable as soon as the distance of the party to be brought up would admit, under severe penalty; provision was made that the party should not be removed from place to place to evade the writ; that he should not be transported, &c. Many provisions were made to insure the full effect of the privilege of the writ, and that the prisoner, on hearing of his case, might be discharged, admitted to bail, or remanded to prison, according to law and the nature of his crime, thereby conforming the proceedings on this writ to the true standard of law and liberty. It has been said on this floor, that the provisions of this statute extend to this country, and the courts are bound to obey them. This doctrine can never be advanced by any gentleman understanding the subject. Some of its provisions may be adopted by practice, but no gentleman will seriously contend that the penalties under that statute would be inflicted here without a positive law to put them in force. If, then, it was necessary, in England, to secure by statute the great Constitutional privilege of the subject against illegal imprisonments at the instance of the Crown, surely, in this land of liberty, the reason holds with equal force; and that a law regulating the proceedings on this writ in courts of the United States is necessary, must strike every mind present with irresistible force, when we see the highest and most respectable tribunal in the United States hearing counsel several days in order to ascertain their powers to issue the writ in the cases now pending before them. A gentleman from Virginia (Mr. Eppes) says, that the Constitution has secured the right of the writ of habeas corpus, and in the same manner has secured the trial by jury. The gentleman could not have stated a stronger case to prove the necessity of a law to regulate the proceedings under the writ. What good purpose could the guarantee of the trial by jury answer to the citizens of this country if there was no law constituting and organizing courts, and regulating the manner in which the trials shall be had? Without this, the provision in the Constitution would be unavailing, and a dead letter. To designate the courts who shall have power to issue the writ, and clearly to regulate the proceedings thereon and secure its salutary effects, is the object of the present resolution. Under every view of the subject the reasons for a law of the United States securing the privilege of the writ of *habeas corpus ad subjiciendum*, were strong and unanswerable. He therefore hoped the question would not be postponed, but the subject might go to a select committee, who would have sufficient time to report a bill giving full efficacy to the writ of habeas corpus, in order to secure the liberty of our citizens, and prevent abuse in future.

Mr. J. Randolph.—When you recollect, Mr. Speaker, the seriousness of the charge preferred against me by a member of this House, and the high quarter whence that charge comes, you may, perhaps, wonder at my audacity in daring again to address you. It is, indeed, a charge of a most serious nature; and made, too, by no ordinary person, by a gentleman who acts a most conspicuous part on this floor, a leading member of the majority of the House, and such as really makes me afraid that I shall be considered as pleading guilty, if I say nothing; for how can I venture to go home, and meet my constituents after having been denounced by such high authority. Upon my soul, sir, I am so much affected by the danger of my situation, and the peculiar circumstances of the case, that I can scarcely go on with my remarks. But it is necessary for me to state, not merely for the information of the House, but likewise for the good people of the United States, that against all the reports of the speeches ascribed to me for twelve months passed, I protest. I protest as much against them as against certain other reports of speeches delivered on this floor. On this occasion, as the gentleman has seen fit to read a part of those speeches, I presume they will have the honor of passing to a new edition. But it will be my misfortune that the people who shall read them will not have the advantage of the members of this House; that they will not have a fac simile of their delivery; and that, what they have suffered from the inaccuracy of the reporter will not be made up by the accuracy of their recollection.

[The Reporter would be wanting in that duty which he owes to himself and to truth, not to notice *this protest*. In his turn, *he protests*, that so far as respects the reports given by him, they have been invariably impartial, and, as he believes, in all respects substantially correct. In the discharge of this branch of duty, he feels a pride in having, in no instance whatever, felt either personal or party bias, and a high satisfaction in the conviction that every man who knows him will attest the correctness of this declaration. So much for this protest generally. Considered as applicable to the particular speech delivered by Mr. Randolph, and quoted by Mr. Sloan, the Reporter has the same confidence in its correctness as to every important sentiment advanced by the speaker—a confidence, which, if it needed confirmation, has been amply confirmed by the unsolicited assurances of many members of the House of Representatives, of all parties, that it was as accurate a report of a speech as they had ever seen.]

Mr. Newton said, he wished to amend the resolution, by inserting the word "appellate," before the word "power."

The Speaker said, the resolution could not be amended, while a motion for indefinite postponement was depending.

The question on indefinite postponement was then taken by yeas and nays, and carried—yeas 60, nays 58, as follows:

Yeas—Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, John Chandler, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, Elias Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, John G. Jackson, John Lambert, Duncan MacFarland, Patrick Magruder, Josiah Masters, William M'Creery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, John Porter, John Pugh, John Rhea of Tennessee, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, Nathan Williams, Joseph Winston, and Thomas Wynns.

Nays—Evan Alexander, John Archer, Burwell Basset, George M. Bedinger, Silas Betton, William W. Bibb, James M. Broom, William A. Burwell, Martin Chittenden, John Claiborne, Samuel W. Dana, John Davenport, jr., James Elliot, Caleb Ellis, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, Seth Hastings, David Holmes, David Hough, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, jr., Henry W. Livingston, Edward Lloyd, Matthew Lyon, Robert Marion, David Meriwether, Thomas Moore, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Josiah Quincy, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, John Russell, Thomas Sammons, Thomas Sandford, John Smith, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, David R. Williams, Marmaduke Williams and Alexander Wilson.

Friday, February 20.

Mr. Holmes from the Committee of Claims, presented a bill for the relief of Isaac Briggs; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Parke presented to the House a petition of sundry inhabitants of the Indiana Territory, which was received and read, praying the division of the said Territory into two separate Governments.—Referred to Mr. Parke, Mr. Varnum, Mr. Alston, Mr. Kelly, Mr. Sandford, Mr. Jeremiah Morrow, and Mr. Philip R. Thompson; to examine and report their opinion thereupon to the House.

Mr. Parke presented to the House a petition of sundry inhabitants of Randolph county, in the Indiana Territory, which was received and read, in opposition to a division of the said Territory into two separate governments.

Ordered, That the said petition be referred to the committee last appointed.

Mr. Gregg presented to the House a petition of sundry officers who served in the British army, during the war between France and Great Britain, in America, which commenced in the year one thousand seven hundred and fifty-five, which was received and read, praying to be confirmed in their respective titles to certain lands, granted by the King of Great Britain, in consideration of military services rendered the American Colonies, during the said war.—Referred to the Committee of the whole House to whom was committed, on the third instant, the report of the Committee on the Public Lands on the petition of sundry officers who served in America, during the war between France and Great Britain.

Mr. Roger Nelson, from the committee appointed on the nineteenth instant, presented a bill for the relief of Rinaldo Johnson; which was read twice and committed to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill respecting claims to land in the Territories of Orleans and Louisiana. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of Daniel S. Dexter. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

The House proceeded to consider the amendments reported from the Committee of the Whole on the twenty-first ultimo, to the bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia,"

and agreed to some, and disagreed to others, of the said amendments.

Ordered, That the said bill, with the amendments agreed to, be engrossed, and read the third time to-morrow.

On motion of Mr. THOMAS,

Ordered, That the second resolution contained in the report of the Committee of the Whole, of the twenty-third ultimo, together with the Message of the President of the United States, of the tenth instant, in relation to the efficacy of gunboats for the defence of harbors, be referred to the Committee of the Whole House to whom was committed, on the seventh instant, the bill for fortifying the ports and harbors of the United States.

A bill received from the Senate to punish frauds committed on the Bank of the United States, was considered in Committee of the Whole, and agreed to. It punishes forgery with confinement to hard labor, not less than three nor more than ten years, or with imprisonment, not more than ten years, and fine not exceeding $5,000. The bill, after being engrossed, was read the third time and passed.

A long debate took place, first in Committee of the Whole, and afterwards in the House, on the report of the Committee of Claims on the memorial of Oliver Pollock. The report allows a part of the petitioner's claims. Mr. M. Clay was the principal opponent, and Messrs. TALLMADGE and GREGG the advocates of the report, which was agreed to; ayes 74; and ordered that a bill be prepared by the Committee of Claims.

Mr. NEWTON, from a select committee, reported a bill supplementary to the act on the Navy Peace Establishment. It authorizes the President of the United States to employ an additional number of seamen, should the public exigencies require it. Read twice and referred to a Committee of the Whole to-morrow.

LEWIS AND CLARKE.

The House resumed the consideration of the unfinished business of Monday last, on the bill making compensation to Messrs. Lewis, Clarke, and their companions.

The bill grants land warrants, which may be either located or received at the land offices in payment of debts due there, at the rate of two dollars per acre. The bill grants these persons 24,960 acres.

A motion was made by Mr. LYON to strike out so much as permits the receipt of these warrants at the land offices in payment of debts. This was opposed by Mr. ALSTON and supported by Messrs. TALLMADGE, J. CLAY, QUINCY, COOK, LYON, ELY, and D. R. WILLIAMS. It was contended that double pay was a liberal compensation, and that this grant was extravagant and beyond all former precedent. It was equivalent to taking more than $60,000 out of the Treasury, and might be perhaps three or four times that sum, as the grantees might go over all the Western country and locate their warrants on the best land, in 160 acre lots.

A motion to recommit the bill was made, and, after considerable debate, was carried—ayes 66.

The House proceeded to consider the motion of Mr. JOSEPH CLAY, made yesterday, to add to the standing rules and orders of the House, and made some progress therein: when, an adjournment being called for, the House adjourned.

SATURDAY, February 21.

An engrossed bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia," was read the third time and passed.

An engrossed bill respecting claims to land in the Territories of Orleans and Louisiana was read the third time and passed.

An engrossed bill for the relief of Daniel S. Dexter was read the third time and passed.

Mr. HOLMES, from the Committee of Claims, presented a bill for the relief of Oliver Pollock; which was read twice and committed to a Committee of the Whole to-morrow.

The House resumed the consideration of the motion depending yesterday at the time of adjournment, to add to the standing rules and orders of the House: Whereupon, the farther consideration of the said motion was postponed indefinitely.

NATIONAL DEFENCE.

The House resolved itself into a Committee of the Whole on the bill making an appropriation for the further protection of the ports and harbors of the United States.

The first section of the bill appropriates "twenty thousand dollars" to this object.

The sum was struck out.

Mr. COOK moved to fill the blank with the sum of $300,000, and in support of his motion spoke as follows:

Mr. Chairman: When on a former occasion I proposed to appropriate one million of dollars for the purpose of fortifying the ports and harbors of this nation, my design was to propose a permanent and general appropriation, instead of the temporary annual grants hitherto made, and which are by many considered as little less than a waste of public money; such grants not affording to the engineer the means to perfect a plan of sufficient boldness for our great and rapidly growing nation. Reflection and the discussions in this House have confirmed me in that opinion. I am convinced it would be the most proper mode of conducting a liberal system of defence for our country, and by far more economical than by partial and yearly grants. The probable expense of fortifying the port of New York has been estimated at $320,000; and I ask, sir, if that single object shall consume that sum, will $780,000 be too large a sum to apportion among all our numerous ports from Saint Croix to Saint Mary's, and onward to the southern extremity of our newly acquired territory? Can it be believed that the one-thirteenth part of the annual revenue on impost and tonnage is too heavy a sum to be taken from an overflowing Treasury for the important object of securing for centuries

to come our numerous cities containing wealth beyond calculation? Is this sum more than sufficient to afford works of durable materials, and so permanently built as our lasting interest would direct. However, with a view to meet the wishes of other gentlemen, a smaller sum is now proposed, which I hope will prevail.

Sir, in replying to novel opinions, it is not my intent to impeach any gentleman's motives, patriotism, or bravery. I shall impugn arguments and not persons. Indeed, I should think myself guilty of defrauding the nation were I to waste their time in those personalities and unmerited invectives, which are strong points with some gentlemen, and very improperly permitted in this House. To induce this House to apply but a small annual sum for the object before us, we have heard it predicated of fortifications, that they are worse than useless; and of cities, that they are untenable and unworthy of defence. Were it not intuitively seen that cities are defensible and worthy of such defence, the doubting, if they be not reason-proof, may be syllogistically convinced.

Thus we might say, what costs most labor is most valuable; cities cost most labor, therefore are cities most valuable. What is most valuable is most worthy of defence. Cities are most valuable, therefore are cities most worthy of defence. But not to go farther into proving self-evident positions, who can be silent when measures of injustice, degradation, and extreme calamity, are thus recommended for our adoption? Are not the minds of the just, the liberal, and the brave, revolted at the measures proposed? Is not this doctrine of *runawayism* abhorrent to all our just and social feelings, and to those inestimable feelings which gave us the country we are bound to defend? A new and untried mode of warfare is now urged upon us—a plan no less divergent from reason or plausibility of result than it is from example or experience. Sir, I do not feel disposed that we should risk our all on a project so unpromising. It might suit a savage or an extremely barbarous nation, and would readily be adopted as statute law in Hayti. But Heaven forbid it should ever find advocates in this or any other polished or civilized nation.

Surely it would require the eloquence of a Curran to present you a picturesque and glowing description of all the horrors consequent upon an assailing foe on a defenceless, populous, and devoted city. The mind is painfully affected with the bare imagination of a retreating multitude of ruined forlorn fugitives, despoiled of all the fond objects which has fastened them to life—a countless number of every age, sex, and condition, interspersed with the lame, blind, halt, and withered, crowding to the country so numerously that the very ground might be supposed to groan beneath the weight, and rebuke the folly and madness of the despairing multitude. This monstrous doctrine of abandoning cities, navies, gunboats, and millions, to sack, pillage, and conflagration, at the mere sight of an enemy, and of retreating to forests, to dens, to caverns of the earth, is unwarranted by examples in the ancient, dark, or modern ages. Indeed, sir, with the ancients, the city was the *sine qua non* of national existence. When Troy fell we hear no more of the Trojans, and the Carthegenians lost their name under the ruins of their city. In those days each city was defended as a Thermopylæ. Modern tactics support a doctrine equally brave and politic—hence the propriety, even under our late Fabian commander, of the battles of Brandywine and Charlestown. Nor has Great Britain, although surrounded by floating castles, omitted strongly to fortify against a threatened invasion.

Mr. Chairman, if the slaves of a despot, or the subjects of a King, compelled to fight for rights not their own; if they defend the abattis of their forts, and bravely meet their foes at the parapet, shall we less valorously protect our dwellings, our property, our families, and our holy and sacred right of self-government? Justly to appreciate our happy Government, we should consider it what indeed I think it is, the only solitary one on earth, founded on the will and interest of the governed. For all others, either in a greater or lesser degree, partake of force, fraud, or superstition. We are also acting as proxies for posterity, and on us are fixed the eyes and the hopes of the friends of long insulted humanity. Shall we not act unwisely in the extreme if we lose our treasure, permit our strong boxes to be rifled, the emporiums of our wealth invaded, by withholding the trivial expense of a lock? None can deny, I think, that by such timid parsimony, we may be suddenly and easily subdued by a conqueror, whose fancy may lead him to act like Charles XII., and send his boot as his deputy to rule the conscript fathers of this land.

I conceive it to be as conformable to the dictates of interest and policy, as it is to those of justice and socialness, that the enemy should be met at the water's edge, and will not gentlemen from the interior consider that the scene of pillage and war would be thus, happily for them, far removed from their peaceful mansions and possessions? Should a different mode of resistance be adopted, what sum of money is proposed for erecting asylums in the internal country; and what positions are to be selected for a retreating multitude? Immense sums would be expended—labyrinths as extensive as that of Egypt will be found necessary to hide all but your active warriors. Such retreats would be found to be indispensable—your hospitality would soon be exhausted—added to which consideration, the fugitives would be dolesome companions to the projectors of wretchedness and misery.

As I verily believe that a defenceless state necessarily leads to a subjugated state, a sense of duty which I owe to myself, to my country, and to futurity, obliges me to expose the fallacy of such dangerous propositions. I do most seriously and heartily detest and abhor royalty, and the doctrine of the many made for the few, or the many made for one. It is for this cause that I would defend our republican rights against any and every assailant. Profuse expenditures, which

generate heavy burdens on the people, are ever to be avoided; but is it not possible to verge to the opposite, though equally dangerous extreme? We should carefully shun the rock Scylla, but should we less cautiously avoid the vortex of Charybdis?

Sir, forms of government, like every other human production, are imperfect. Perhaps the only weak part of democratic government is its liability to factions and extreme changes; hence we find in such governments flaming and restless zealots, who, from system, make opposition to every measure their opponents may approve. The Roman Generals adopted a different policy. The errors of the past Administration may lead us to others opposite indeed, but not less dangerous, as one extreme is too often succeeded by another.

But of gentlemen who are willing to look arguments in the face, and fairly meet them, I will ask, whether justice, good faith, or honesty, will permit them in these belligerent times to suffer our ports and harbors to remain defenceless? Justice is a cardinal virtue, and the only basis of all good government; and every Government not thus founded, is from its nature evanescent, or evidently fleeting. Sir, I will ask, if any be hardy enough to claim allegiance, and at the same time refuse protection? Will you issue decrees of disfranchisement and excommunication? Will you put citizens at the ban of the empire, and still claim of them obedience and revenue? If you should act thus unjustly, will you not drive the oppressed into rebellion? Will they not be justified in following the example of the ancient Thessalians, a people inhabiting a frontier State of Greece, who, when threatened with a Persian invasion, asked that their country should be fortified, and who, being refused, joined the invaders to subdue their own countrymen. It is an incontrovertible fact, that the minority have their rights; this will eternally remain a fact so long as force and justice are distinct. The agricultural representation is, and will remain, more numerous than that from the cities. Our interests are one, united and indivisible; and even were they not thus inseparably united, the genius of our Government forbids unequal rights. Sir, it is for the sake of safety, justice, and protection, that we associate in government—deny and refuse this, and all the uses of Government are at an end. The cities have their claims; the merchant and mariner have their rights, which we as legislators have sworn to defend, because we have sworn to support the Constitution, and that Constitution makes it our bounden duty to provide for the common defence and general warfare. Many merchants are opposed to the Administration; is it because they are not generally republicans? I hope not. Many of them, perhaps, look too singly to their own interests, and because Government does not do everything for their protection, therefore they do nothing. If they ask too much, perhaps we are willing to grant them too little.

Sir, every species of government, of whatever name, which shall not equally protect every single individual of the nation in his civil and political rights is a tyranny, and as such to be deprecated and opposed.

"Not even the anointed hand of Heaven
Can authorize oppression, give a law
For lawless power, wed faith to violation,
On reason build misrule, or justly bind
Allegiance to injustice. Tyranny absolves all faith."

I lament that the mutualities of the different parts of this one great whole are so little attended to; that localities so much prevail over our minds. Do we to spectators appear in the sublime character of National Representatives, or do we not rather too often appear as State, district, and even parish champions? I cannot but hope yet to see the proud day when we shall become truly national; when the whole country shall appear to each as one common and equal object of attention and care; when we shall view the whole as joint stock, and as such repel every violation.

Crowned heads must be inimical to the success of our experiment of self-government, as its success goes to hurt their selfish trade of self-governing. Their forbearance is therefore uncertain and precarious, and we should be constantly ready to repel. Should they be permitted peaceably to land their hosts of veterans, used only to the bayonet, I fear our militia would want time for seasoning, for they are not all equal to those of the division of my honorable colleague on my left; many are sadly armed and poorly equipped; in such an event a war of posts would be our only safety. Thus, sir, to a country defended by militia, fortifications are indispensable. I ask, sir, of military men who served in our Revolutionary war, could we without fortifications, now so decried, have succeeded in that war?

As a sedative we are constantly assailed with the cry of too soon, or too late, too much, or too little. Are we not immediately threatened; we are asked, why prepare? it is too soon. Are we actually threatened, insulted, and despoiled; then we are told it is quite too late, and we have no time to prepare. Is a liberal sum proposed, that is ruinous; is a small one named, it will be utterly useless. Thus I fear we shall be hushed to sleep on the verge of a precipice. To avert the evils of war, let us wisely be prepared to meet them. I trust we shall yet, by such preparation, deter all aggressors, and by our justice and bravery, inscribe our freedom on the most lasting records of Time.

Mr. Ely regretted that there was so great an unwillingness in the House to attend to the subject of fortifications and to the national defence. He lived himself in a district well protected from all attacks by land or sea, and thickly settled by able defenders of the country. It had been selected, on account of its safety, as a proper position for a public arsenal. No man was better secured than he and his constituents; and he believed that no army, let them land where they would, could penetrate to them. But was that a reason why he ought to be careless of the safety of his neighbors, and of those who might be exposed in distant parts of the Union? Mr. E. asked if other gentlemen, who felt themselves

secure, would, for that reason, neglect to provide a defence for those who were more exposed.

It had been repeatedly said, that there is no imminent danger. But it is a fundamental principle of good policy to prepare for danger when we can. It is unsafe to wait until its actual approach.

In reply to the objection that much money had been already laid out on fortifications and done no good, Mr. E. said, he had seen some of the works, and found the money well laid out, as far as it went. Let gentlemen go to Boston, and they will find it had done essential service, and in a great measure secured the place from danger.

It has been said, that fortifications cannot defend a town against a large fleet. A fleet might go into Boston harbor, with proper wind and tide; but a little more expense would render their situation so uncomfortable as to repel every idea of their coming in, since it is so extremely difficult to get out again.

Mr. E. stated at length his objections to partial and specific appropriations. He was willing to defend New York; but he thought all distinctions odious, and that the responsibility of applying whatever was voted for the purpose should rest on the President.

Mr. E. believed that the nation, after no great lapse of time, would have to defend herself against oppression. Defenceless nations invite aggression. We are wealthy. If two ships of war can come and take three or four millions from the banks of New York, it would be found very convenient in the ways and means of any nation.

It has been said that New York cannot be defended; but suitable batteries and a few frigates can certainly repel marauders. It is constantly said that ships may go into the harbor with a favorable wind and tide. Was there ever a harbor which they could not enter? But what object can they have in going if they are to get only hard knocks? They will not venture in if they anticipate a rough reception. Because a place cannot be rendered absolutely impregnable, it is not reasonable hence to contend that nothing shall be done towards its protection.

Mr. Chandler opposed the motion, being, as he said, against all useless appropriations. He thought $20,000 the proper sum, and was sorry the House had been induced by the eloquence of his colleague, to strike it out. The select committee, after a full examination, recommended this sum as adequate.

If the people of New York have all the fears they profess, why have they not long ago ceded the jurisdiction of the proper sites? They had not done it till lately. This does not look like being so fearful and apprehensive.

The Government had communicated their plan of defence by batteries and gunboats, and why the House had been led away from it, Mr. C. could not imagine. He was against any sum larger than $20,000.

Mr. Holland declared that, if he thought fortifications would do the Government any good, he should be in favor of them; but, from the view which he had been able to take, he believed the country was now worse off than if there were no fortifications at all. If the seaport towns were fortified, and we had a small fleet, we should certainly go to war; for there is a great propensity in us to go to war against other nations, much more than in them to go to war against us. The majority of the people do not wish for war, but many, who want to get rich fast, are always wanting to go to war. I believe the state of the fortifications is fully sufficient, and that were they in a different state, war would be involved in this country. Had we the means of carrying on a war, the treasures of our neighbors, the Spanish settlements, would be an inducement to commence hostilities; they would be certainly come at by enterprising geniuses.

If New York and our other cities were only tolerably fortified, Mr. H. was confident that we should go to war. He lamented the consequences of that disposition that is for novelty in this country, a disposition that cannot be quelled. Our commercial towns are defenceless, and that is our only safety at present. I want to see not a single ship or any preparation for war. No nation is disposed to go to war with us, though other nations have borne much more insults from us than we from them.

If we had had a few ships-of-the-line, we should have been at war before now. The greatest danger we have to guard against is from ourselves, from our restless disposition. There is no danger to us from any of the nations of Europe. We are too independent, and were it not for the weakness of our cities, it would be impossible to keep out of war. Mr. H. would not vote a single cent for fortifications or a navy.

There had been a great cry of French spoliations, but when an adjustment came, they made restitution where they had violated the laws of nations. Mr. H. concluded with saying that he was wholly opposed to filling up the sum with $300,000.

Mr. Dana.—From some of the observations of the gentleman from North Carolina, (Mr. Holland,) he seems to fear that fortifications on the coast will enlist the United States in a war, almost as much as the boor, in the Recruiting Officer, feared that a piece of money would enlist him in the army. Does the gentleman rate the intellects of this House so low as to imagine they will believe in the reality of any such danger? Principles of public law authorize us to establish fortifications for the protection of our maritime frontier. The whole space within the range of cannon shot from the shore, is most clearly within our territorial jurisdiction; and the efficacious maintenance of this jurisdiction is no breach of any of the duties of neutrality. Every person acquainted with the acknowledged law of nations, must know this.

It is needless to vindicate the United States from his charges, which represent us as being aggressors in the controversies with foreign Powers. Whatever other charges might be made, one thing is certain—the political sin of this country is not a disposition to war. Away with such objections.

I will not degrade my friends nor myself by a formal answer to certain observations which have been made, to excite prejudices against us. With respect to those who indulge themselves in such observations, what pretensions have they to arrogate a superiority over other members of this House? Do they claim the prerogative of controlling the freedom of our deliberations? Would they disfranchise a part of the Representatives who have been chosen by the people as fairly and as freely as they have been? Or will they refuse to adopt measures of public utility, because not proposed by themselves?

I wish systematic provision to be made for the safety of the United States; not that the country should engage in war. Let my country live in peace, without coveting military glory! but let this peace be consistent with safety, and free from infamy!

Yet I propose nothing to require additional taxation—nothing to require any new debt to be incurred; nothing to embarrass the operations of the Treasury; nothing to impair any of the public establishments; nothing to check the reduction of the public debt; nothing to require any abolition of offices, or any diminution of salaries; nothing to interfere with any authorized project of internal improvement or discovery. Your whole civil list may remain untouched. You may indulge a disposition for speculations with respect to the interior of the country, and make liberal allowance for experiments. In addition to the official estimates for contingencies, and for all ordinary expenditures, you may reserve, if you will, half a million of dollars to be wasted at pleasure! After drawing from the Treasury an ample sum for all such expenses, let the surplus be applied to the great purpose of national preservation.

I could wish a larger sum, than is now in question, to be appropriated for the fortifying of our ports and harbors. I wish not merely an appropriation to repair such works as have been constructed and left to decay, but an appropriation made with a view to constructing durable works, in pursuance of a well arranged system of defence. A liberal appropriation for the current year, half a million or a million of dollars, would announce to the President of the United States the scale upon which the plan of fortifications ought to be undertaken. In this case the foundation might be well laid for permanent means of defence; and corresponident appropriations to be subsequently made, would provide for the regular completion of the system.

If there be only a small sum appropriated, the works may not be well commenced, or, perhaps, nothing will be done for any of the Atlantic States, except making some repairs. Would this be due to them? If a liberal appropriation be made, and should not all be wanted within the year, still it will be attended with the advantage of assuring to the Executive the command of means for permanent fortifications, and the money may be drawn from the Treasury, according to circumstances, in the course of a subsequent year.

More than half a million of dollars might now be granted for fortifications, without any financial impediments. The Secretary's report on the finances estimates the revenue from the customs at thirteen millions of dollars for the year. He informs us, indeed, that the product for the first three quarters of the year 1806, has exceeded that of the correspondent quarters in the year 1805, but has not mentioned the amount of this excess. At what sum ought it to be stated? Let gentlemen conjecture, for a moment! Do they suppose it to be a million of dollars? It is not relied on as an item in the Treasury estimates. Yet it presents a fund for a liberal appropriation. From a comparison of other official documents with the reports on the finances, I can now state with undoubting assurance, that the excess, to which the Secretary had referred in general terms, amounts to more than a million and a quarter of dollars.*

This is for the three first quarters of the year: and from the relative amount of importations, it may be confidently expected, that the last quarter of the year will exhibit a correspondent increase of revenue. All this excess, which cannot be less than a million and an half for the whole year, may be taken from the Treasury, without encroaching on any existing appropriation. It might all be granted for fortifications, without deranging any operations of the Government. This sum is free for your disposal, as a clear overplus, beyond all the official estimates.

I now ask that some portion of this overplus may be appropriated for the protection of our ports and harbors: I am not willing to abandon the whole Atlantic frontier to the generosity of foreign aggressors. I would not encourage them to expect plunder without blood.

Much has been said about the Louisiana purchase. It has been the topic of popular harangues; and various opinions have been advanced with respect to such an extension of territory. Yet the great object, perhaps the only object, for which such a purchase ought to be valued by the people of the United States, is the security of the free navigation of the Mississippi, and other waters as relative to the commerce of the Western country. Among those who understand the full value of that navigation, I recollect no person who has objected merely to the price. Objections were made for other causes—questions respecting title and boundaries, stipulations which might lead to foreign interference, and stipulations which were deemed unconstitutional. Such objections were collateral to the main object which I have mentioned, and were founded on the exceptionable terms of the instrument of cession, not on the price to be given for securing the freedom of the Western commerce.

That price was fifteen millions of dollars. So much has been granted on account of the Western country. It is equivalent to a perpetual annuity of nine hundred thousand dollars. So much is applicable to the protection of that portion of the United States—nine hundred thousand dollars every year forever.

After so large an appropriation for the more immediate interest of the Western country, why not grant something effectual for the Atlantic States? Yet I make no claims on the gratitude of our fellow-citizens of the West. The great expense for security against foreign aggressions must have relation to the frontiers; and although the inhabitants in the vicinity may be more immediately benefitted, yet the nation has a general interest in the security of all the inhabitants.

When you are solicited to provide for the security of the Atlantic frontier, can you condemn the measure as unreasonable? Where is the greatest body of population? Where is the greatest mass of wealth? And where do you collect your principal revenue?

Notwithstanding these strong claims of the Atlantic States, the amount now desired for them is not so much as has been granted for the Western country. Besides the perpetual annuity of nine hundred thousand dollars, recollect the annual expenditures for the army! For the theatre of their service look to the West!

With the grant equivalent to $900,000 annually forever to secure the frontier on the West, and with the maintenance of the regular forces for protection in that quarter, would it seem more than just to grant an equal sum for protecting the frontier on the Atlantic? Yet it is not half that sum which is now in debate; it is but one third of the sum for one year.

I enter into no details, I offer no plan, for the fortification of any of our ports. I do not profess myself to be an engineer. The art of constructing works for attack or defence is so peculiarly a distinct province, that some of the most eminent military commanders have deemed it proper in this respect to rely on their engineers, rather than on themselves. If a plan for the regular fortification of any four principal ports were now submitted to the House, would the majority understand the terms of art to be used in explaining it?

Various observations have been made relative to the impracticability of fortifying New York, so as completely to secure it against capture. That such a place as New York might ultimately be taken by an enemy, is not denied. In process of time, any fortified place might be taken, if invested by superior forces, and left without succors.

Shall, it, therefore, be said, that fortifications are useless? Security against predatory excursions; the powerful resistance which a small body of men may oppose to the more regular efforts of an invading enemy; the embarrassment of his operations; the waste and discouragement of his forces; the gaining time to collect strength for meeting him in the field—these are among the advantages. To fortify New York, so as to withstand a powerful enemy for a long time, may be difficult. But is it impossible?

The duties assigned to this House do not require the members to be engineers competent to decide such questions. If we appropriate the proper sums for the defence of our ports and harbors, professional men, whose duty it is to understand such subjects, may be directed to make the requisite examinations and surveys, and report such plans of defence as may be judged useful. If, on investigation, they should condemn the project of fortifying any particular place, we may be confident that the President of the United States would not order it fortified; and the money would of course remain to be applied to other uses.

If we are not to have any fortifications, because it might be possible for an enemy to take them, what will gentlemen say with respect to other means of defence? Army, navy, militia, all are liable to disasters. When will you give battle to invaders of the country, if you wait for absolute assurance of victory? Would you reproach those who fought at Bunker's Hill, because they were ultimately compelled to retire from the works?

The subject presents a great public question. Will you abandon the country near the Atlantic to pillage and desolation, or will you authorize a regular system of defence?

With a Treasury full to overflowing, you are now called upon to appropriate a part of the excess of your revenue for protecting this important portion of our country. Let the moneys be applied regularly, from time to time, as the Treasury will allow, until the system shall be completed. Such a plan requires no exhausting of your resources; no present augmentation of the army; no loan; no new debt.

In forming an opinion relative to fortifications for the Atlantic frontier, I deem it unnecessary to enter into an examination of the various circumstances attending our foreign relations at the present moment. To-morrow there may be a change. To decide the question now before us, we need not inquire, in detail, what has been effected by the extraordinary missions from this country to Europe, with respect to subjects which occupied so much of your deliberations at the last session—whether a satisfactory treaty has or has not been negotiated with one of the European Powers? whether the negotiations with other Powers are nearly closed, or are still to be protracted amidst multiplied embarrassments and vexations? These would be but partial views of the general subject. It is a permanent system for the common defence, which I wish to have adopted from a regard to the great principles of public security.

On this subject, I do not say that the United States are in immediate danger from any one of the European Powers; I make no attempt to alarm you by any such declaration. But there are general considerations which are highly interesting to this country. Some of them I will now mention very concisely.

Events in Europe proclaim one broad fact—the wish for peace is not a security against war.

Of the States called Republics, in ancient or

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* Revenue from duties on imports and tonnage for the three first quarters of 1805 - - $9,670,978 30
For the three first quarters of 1806 - 10,973,888 05
Increase for three quarters of a year - 1,293,905 06

modern times, all have lost their independence or ceased to exist, except the United States of America. As exhibiting to mankind one example of Republican Government, we now stand alone on the globe, surrounded by ruins.

Our system of policy excludes all hereditary distinctions of rank, title, or power. Can such an experiment, on a scale so extensive as ours, be grateful to possessors of monarchical prerogatives? If we expect no congeniality of sentiment from any of the hereditary Governments founded on the ancient feudal system of Europe, what ought we to expect from a recent Government, exhibiting a new system of hereditary distinctions, analogous to the feudal policy, and erected on feudal and democratic ruins? While our example is viewed with a jealous eye, if we appear contemptible as to defence, the expected facility of success will be an additional incentive to hostility.

If our course of policy should exhibit an elective Government cherishing peace, but wise and strong to protect all in the fair enjoyment of the fruits of industry, we shall present to mankind an example worthy to be respected, and may confide in the general approbation of our fellow-citizens.

I will not so far dishonor my country as to suppose that any member of this House can, for a moment, admit the idea of bowing our free necks to a foreign yoke.

Mr. Newton spoke in favor of a liberal appropriation but without pledging himself to the sum which had been moved. He thought the subject all-important, and it was his decided policy to be liberal on the score of national defence. Will you, said he, abandon the seashore? If you protect the coast you at the same time protect the interior. Their interests are the same.

Mr. N. had opposed the specific grant to fortify New York, because he was against every species of favoritism on the subject of national defence. He would be liberal to all. Why did not the members from New York look to us at the South before, and consider our defenceless situation, as well as theirs? When they had awakened from their lethargy, they attempted to enlist us in their plan, by proposing some of our ports, (Charleston and Norfolk.) We resisted such a proposition. I wish for no favoritism to our part of the country.

The gentleman from North Carolina (Mr. Holland) has delivered an elaborate argument against fortifications, and says that they will create national pride and lead to war. We ask for fortifications only to protect us against marauders. He cannot suppose that we intend to launch into the ocean and privateer with them. This would be something new.

If we advert to history, we shall find that, in consequence of fortifications, the violence of rapine has been stayed, campaigns lost, and countries protected from desolation.

Mr. N. was in favor of a liberal and general appropriation on another ground. The Executive is the proper department to receive details of fortifications, and can judge concerning them, and apply the money where it will be the most advantageous.

The gentleman from Connecticut (Mr. Dana) has turned our attention to the Western people, and given an account of the vast sums of money expended for their benefit. Mr. N. did not wish to make an interested appeal to the members from that quarter; he hoped they would approve the defence of the coast from the dictates of reason. He had been in favor of the purchase of Louisiana, and he thanked God that his name was on record as the friend of that measure. Our interests and those of the Western people are inseparable, and he hoped they would consider our situation. The day will come, I predict it, when the interests of the West and the Atlantic States will not militate; I hope they do not now. When the Atlantic States are distressed, the Gulf of Mexico will be in the like predicament, and the mouth of the Mississippi will be blocked up.

Mr. Holland explained. He said the merchants of New York had fitted out vessels to St. Domingo, and compelled Congress to make a law prohibiting the trade. They had done more. They had suffered the Leander to be fitted out for an attack on a foreign Power at peace with us, when they might have prevented it. If they go to such length when they are in a defenceless situation, what would they do if they were fortified? If we once engage in war by the misconduct of such men, we should defend them, as Hector defended Troy against the Greeks, though he reprobated the cause of the war. New York has done enough to show that they feel secure. The people there might have prevented many improper things.

Mr. Cook said he was happy that the gentleman from North Carolina, (Mr. Holland) had given the House such long, learned, and logical speeches. He hoped all the arguments had now been brought up on that side of the question, and it would not be very difficult to answer them. Mr. C. was surprised to hear all the people of New York charged with the acts of a few. This was new doctrine. The gentleman reprobates all preparations for war. We must then disband the militia, lest they should provoke a war. Our navy and gunboats are all useless, nay worse than useless, for they may provoke a war.

Mr. C. hoped there was no prejudice in the House against merchants. It was true that a considerable part of them are opposed to the present Administration, but he supposed it was because they thought they were not sufficiently protected by the Government, and that the present Administration was hostile to their interests. Mr. C. was not the apologist of such men. He was himself a friend to the present Administration, because he thought it better than the past. We have mended, but we are not perfect: I would not reject all measures proposed, because they were adopted by the last Administration.

Mr. Elmer spoke at length in favor of $20,000.

Mr. Fisk wished to know what republics had ever perished for want of fortifications and a navy? The Government has already laid out large sums

for the merchants, in negotiating treaties, supporting ambassadors and consuls, &c. He was against fortifications for the very reasons urged in their favor. If New York is the object, why not say so? It is said we have a law mentioning eighteen ports. This is specific, and why not therefore repeal this law and let all the whole coast from Florida to Machias be fortified? It is said the responsibility is with the President. If a particular port is not protected, the fault will then be all charged to him, and a great outcry made. I am therefore opposed to the motion.

Mr. Dana.—It is true that I am against a partial appropriation for New York—not that I am against fortifying that port, but because I do not wish the interest of New York to be detached from the common interest of the Atlantic States. The defence of our ports and harbors is a great public concern, respecting which I would legislate on public principles. Other ports besides New York have claims to protection; and shall they be all abandoned, and New York exclusively regarded? I would make a general provision for fortifications, which might be applied to the respective ports and harbors according to their situations, and relative importance. Among those which are important, I regard New York as preeminent. But although it is the right arm of our defence, it is not the whole body.

If any gentlemen suppose the idea of fortifying New York to be a project for inflaming the local politics of the State, if they suppose that any of the propositions which have been moved and supported in this House have been made with a view to the local elections, this is not a procedure for which I am responsible. I have entered into no league with either of the contending sections of the ruling party in New York. Among the political leaders of different descriptions in that State, are to be found men of talents, entitled to my personal respect. Their good sense, I am confident, will not permit them to believe that their great purpose is to be secured by any petty appropriation for the port of New York. They have an interest in common with others. Where is the propriety of their separation from the common use?

When the gentleman from Vermont (Mr. Fisk) talks about fortifying the whole coast, from East Florida to Machias, what idea has he of fortifications? If he means the erecting of batteries everywhere, along the whole extent of the coast, does he know anything about the subject?

In the case where an extensive frontier is to be protected, one of the first principles of defence is to provide for securing the most important positions. No man who understands the subject would seriously propose to construct works at every place, however insignificant. Effectual provision for the principal places is what is desired. The command of them is a security for the rest.

If it be asked, what places on the Atlantic frontier are of most importance with respect to the common defence, an attention to the history of our Revolutionary war might assist gentlemen in deciding the question.

The port of Boston, which was occupied at the commencement of hostilities, was abandoned by the British early in the next year. It was not a convenient position for the enemy.

In the same year, after the abandonment of Boston, the British seized the port of New York. This was of such importance as a military and naval station, it was so favorable to their various enterprises, it enabled them so extensively to annoy the country and intercept the interior communications, while it was attended with peculiar advantages for maritime warfare, that they continued to occupy it during all the subsequent years of the war. The fact is decisive with respect to the superior importance of New York. Philadelphia was the main object of a campaign, but was abandoned the year after it was taken.

The conduct of the enemy proved the importance which they attached to Norfolk in Virginia. Charleston, in South Carolina, was judged worthy of a long siege, and from its relative situation, and the advantages of water communication with other places, must be deemed of peculiar importance. The seizure and occupation of Savannah, in Georgia, have proved the attention due to that place. There are other ports of no inconsiderable moment. It is needless to mention all which have been designated by law. Proportionate attention is due to each of them.

It is proper for us to grant moneys for the general purpose of fortifications; and the greatest proportion may be applied where it will be most useful. It is for professional men to give opinions on such questions, and the President of the United States may then decide. He may require information from the proper officers, will have at command better means of knowledge than the members of this House, and can more properly direct the detailed execution of the system. To him, as commander-in-chief of the public force, it peculiarly belongs to direct the particular application of such general means of defence as may be provided by the Legislature.

Mr. Newton had omitted one idea before. In time of war the communication between different parts of the country must be by inland navigation, as we have no navy adequate to the protection of trade coastwise. Canals are now cutting between Norfolk and Albemarle Sound, and between North and South Carolina. If Norfolk then should be taken, it would interrupt all water communication between the Middle and Southern States.

Mr. Cook was about rising again, when

Mr. Smilie rose: As he saw gentlemen getting up the third time, he would remark that there was much business on the table, and that only eight days was now left to do it in. He hoped gentlemen would therefore shorten their speeches as much as possible. He believed every member was ready to vote. Mr. S. proceeded at some length to insist on the value of time and the necessity of being brief.

After some animadversions from Mr. Cook on the remarks of Mr. Smilie, the question on Mr.

C.'s motion to appropriate $300,000 for fortications was taken and lost, 44 yeas to 57 nays.

Mr. Newton proposed $150,000.

Mr. Masters proposed $200,000. The motion of Mr. M. was lost, yeas 46.

Mr. Smilie proposed $100,000. Since the New York gentlemen say gunboats will not do there, I am willing to let them have so much for fortifications, seeing it will not increase the whole expense.

The question on Mr. Newton's motion to insert $150,000 was taken and carried, yeas 56, nays 47.

The Committee had now gone through the bill.

Mr. Thomas proposed an additional section to appropriate a sum for gunboats.

Mr. Quincy observed that if the gentleman who made this motion had not been from New York he should have supposed that he intended to defeat the bill, for it was well known that many friends to fortifications were decidedly against building any more gunboats.

Mr. D. R. Williams expressed his hostility to the motion. We have already gunboats enough for use in those places where they are useful. Some gentlemen were disposed to make fun of gunboats, but they originated in federal times and those first built were indeed curious creatures. They were a sort of amphibious animal; they were a perfect nondescript, and formed a new era in naval architecture. They had two heads, two keels, and never a stern. We have made some improvements, and I hope we shall make more.

Mr. Cook was glad to hear that gunboats had a federal birth.

Mr. Quincy said he believed gunboats originated in federal times, and everything else that related to the defence of the country. He had heard of nothing new under the present Administration. Gunboats were useful in some places, but the ridicule had been cast upon them because they had taken place of everything else, and were considered as a substitute for all other means of defence.

Mr. Alston agreed that the present Administration had taken up a new system of defence. It was that of saving the public money. This system was new, and not known in federal times. We had not gone on increasing taxes like our predecessors.

Mr. Quincy replied that the Federal Administration had saved the country from danger and disgrace. He wished he could say as much of their successors.

Mr. Smilie asked if they had not defended the country. He would ask, also, if all the fortifications ever built were worth the pen in his hand?

Mr. Gregg thought gentlemen were engaged in a curious debate. It seemed as if those on one side had got into fortifications, while those on the other were coming in gunboats to attack them. Mr. G. could see no prospect of danger, and he wondered why so much ado was made about the subject. He was, however, willing to vote for the sum which had been agreed to, so that gentlemen might enjoy repose when they went to bed.

The section for gunboats was then agreed to—53 yeas, 34 nays.

Two blanks remained to be filled—first, the amount of the appropriation, and secondly, the number of boats.

On motion of Mr. Early the first blank was filled with 150,000; and on motion of Mr. Thomas the second was filled with 30, so that $150,000 were appropriated to build thirty gunboats.

The Committee rose and reported the bill as amended to the House, who immediately adjourned, ayes 56, nays 44, without taking any question on the report.

Monday, February 23.

The Speaker laid before the House a letter from the Secretary of War, transmitting a list of invalid pensioners placed on the pension list of the respective States, in obedience to a resolution of the House of the seventeenth April, one thousand eight hundred and six; which were read, and ordered to be referred to the Committee of Claims.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act regulating the granting of registers in case of ships and vessels of the United States becoming the property of bank and insurance companies;" to which they desire the concurrence of this House. The Senate have passed the bill sent from this House, entitled "An act to continue in force, for a further time, an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the Island of St Domingo," with an amendment; to which they desire the concurrence of this House; also, the bill, entitled "An act to extend the time for locating Virginia military warrants, and for returning the surveys thereon to the office of the Secretary of the Department of War," with several amendments; to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act regulating the granting of registers in case of ships and vessels of the United States becoming the property of bank and insurance companies," was read twice and committed to a Committee of the Whole to morrow.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to continue in force, for a further time, an act, entitled 'An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo:" Whereupon.

Resolved, That this House do agree to the said amendments.

PUBLIC DEBT.

The House resolved itself into a Committee of the Whole on the bill in addition to the act entitled "An act supplementary to the act entitled 'An act making provision for the redemption of the public debt of the United States.

A motion was made to strike out the first section, which is as follows:

Sec. 1. *Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That if any part of the present three per cent. stock of the United States shall remain unsubscribed to the loan constituted by the act to which this is an addition, the said unsubscribed stock shall be paid and reimbursed by payments, on account both of principal and interest, at the rate of four per centum a year, upon the original capital of the said stock, until the whole of the said stock shall have been reimbursed and paid: and the Commissioners of the Sinking Fund are hereby authorized and required to make the said payments by dividends, at the rate of one per centum on the original capital, payable on the last day of March, June, September, and December, of each year, after the year one thousand eight hundred and eight, until the reimbursement shall have been effected.

This motion was supported by Messrs Tallmadge and Quincy; and opposed by Messrs. J. Randolph, and Bidwell; and disagreed to—ayes 6; when the Committee rose, and the bill was ordered to a third reading.

NATIONAL DEFENCE.

The House proceeded to consider the report of the Committee of the Whole, on the bill relative to fortifications and gunboats. The Committee reported an appropriation of 150,000 dollars, to fortify the harbors of the United States, and the like sum to build thirty gunboats.

Mr. Dana called for a division of the question.

The question was accordingly divided, and on concurring in so much of the report as appropriates 150,000 dollars for fortifications, a debate of considerable length took place.

Mr. Olin opposed a concurrence, and contended that the sum was much too large Great towns are seldom or never destroyed in war. For example, none of our considerable seaport towns have been destroyed in any former war, though the country has been settled nearly two hundred years, and they have been always exposed to the incursions of an enemy. He was also opposed to building gunboats. If two hundred were considered sufficient for our protection in time of war, seventy must be a respectable peace establishment. Mr. O. spoke at considerable length.

Mr. R. Nelson would not have risen at this time, but he had been informed that, during his absence, certain gentlemen who had misunderstood or misrepresented him, had amused themselves by commenting on his observations as to running away on the approach of danger. He had said, or intended to say, when this subject was under discussion on a former day, that if we should be invaded by a large force, it would be better to retire into the country and there meet the enemy, than to pen ourselves up in fortified towns, and there be taken prisoners.

If you intend to fortify the whole coast, this sum is totally inadequate. If designed merely for the protection of New York, it is thrown away; for five millions would not fortify New York against a competent force.

Mr. J. Randolph was sorry that the voice of his friend from Vermont, (Mr. Olin,) prevented him from being heard by the whole House, because his observations completely evinced the futility of the bill reported by the Committee. He also considered the statement of his friend from Maryland (Mr. Nelson) unanswerable; that one hundred and fifty thousand dollars was totally inadequate to the protection of the coast. He considered the grant as a tub thrown to the whale, to amuse him. It could be for no other purpose than to stop clamor. If he wanted to be Speaker the next session, he might, perhaps, join in this proposition. It was a good electioneering scheme. Or, if he were a citizen of some large maritime city, and solicitous for distinction, he might, perhaps, join in this fortification mania. But, in truth, this proposed sum will not establish a defence equal to Corporal Trim's spade and pitchfork, for Uncle Toby's potato garden.

Suppose New York ever so well fortified, an army may land above the city and cut off its intercourse with the country. A fortification there would be made for the enemy. Not a man of our army would have escaped, in the last war, from Long Island, if the enemy's general had not been treacherous to his duty; and all the calamities of that campaign might have been avoided if our army had retreated into the country.

It has been often said that a small force may lay the city of New York under contribution. But, will gentlemen say this, after the ample protection furnished by their favorite gunboats? Mr. R. repeated again, that he considered this grant of no use but to stop clamor. He suspected that the only effectual plan of defending New York, was that proposed on a former day by the gentleman from New York, (Mr. Elmer,) to stop up the channel leading to the harbor. This would undoubtedly be an adequate defence, and the learned gentleman who suggested it, must be a disciple of the learned Dr. Last, who had an infallible recipe to cure corns on the toes—to cut the toes off.

Mr. R. considered, that the moment these three hundred thousand dollars were voted for fortifications and gunboats, the money was thrown into the Gulf stream. If two positions could be made out: 1st. The necessity of defence, and 2dly, That our resources are adequate to the object, he would cheerfully join.

Mr. R. vindicated himself from the charge of inconsistency, in voting for the defence of New Orleans, and opposing that of New York. If Savannah or Charleston were the richest, the weakest, and the most likely to be attacked of any part of the United States, (and such is the fact,) would there be any inconsistency in proposing measures of defence for those ports and refusing them to others? So of New Orleans.

New York and New England are not likely to be attacked. Burgoyne's expedition has settled that point. To attack this country in that quarter would be taking the bull by the horns; but if New York is exposed, will their portion of these $150,000 avert the danger?

Mr. Elmer spoke at length against a concurrence.

Mr. Mumford contended that New York was

as fully entitled to protection as New Orleans, and more exposed to danger. In a few hours a ship-of-the-line might come from the ocean and place herself before the city. New Orleans was one hundred miles from the sea, and inaccessible to large ships of war.

Mr. J. RANDOLPH replied. The population of New York, and its vicinity, was adequate to its protection. This was not the case with regard to the tide waters of South Carolina and Georgia. They could not defend themselves against the smallest force. The same is true of New Orleans, which is also exposed to a considerable Spanish force in its neighborhood. It is, besides, so far distant from any part of the United States, thickly populated, that it is incapable of timely succor.

Mr. THOMAS referred to the Revolutionary war to evince the efficacy of land batteries. The British were driven from Boston by the batteries on Dorchester heights.

Mr. QUINCY.—I agree with the gentleman from Virginia (Mr. J. RANDOLPH) as to the inadequacy of $150,000 to the object of fortifications, divided among all the ports and harbors of the United States, or even if applied to the single harbor of New York. I feel so utterly indifferent, as to the event of such an appropriation as this, obtained in the manner and under the influences this has been, that I should have given a silent vote upon this question, were it not for an observation which escaped that gentleman, and which seems to me to open an important view of the subject. He told us that if he could be convinced that fortifications were necessary, and that we had the means to erect such as were efficient, he should be willing to vote not such a sum as this, but what would be equal to an adequate defence. This is the true ground on which this question ought to be placed. It is, because fortifications are necessary, and because we have the means perfectly within our power, that the obligation is imperious. Those gentlemen who have denied the necessity of fortifications, have told us that there was no likelihood of invasion; that the Powers of Europe were disposed to be friendly, or were too much engaged in their own disputes, to think of attacking us. Sir, I do not rest the great duty of erecting fortifications in our principal ports and harbors, on the narrow ground of any immediate danger, but on the broad and, in my mind, incontrovertible certainty that, if peace and independence are ours, for any great length of time, it can only be because we possess and exhibit a spirit and ability equal to the maintenance of them. To both of which a foresight of probable evils, and a wise preparation against them, are necessary requisites. I advocate fortifications for our ports and harbors, not because commerce ought to be encouraged, nor because commercial deposits, as such, deserve our peculiar patronage, but because these are constituent ports of the nation, from their nature the most vulnerable ports, the most attractive to the spirit of plunder, and the least able to resist it. Whenever war happens, our enemies will here inflict their surest and deadliest wound. Here, therefore, our national skill should be applied, in times of peace and prosperity; seasonably to prepare against events, certain as to their future existence, and only uncertain as to the time and manner in which they may happen. It is impossible, in considering this question of the necessity of this species of defence, not to have regard to the aspect of our foreign relations. These are distinct and peculiar. And so also are the duties which result from them. Formerly, the martial force of Europe was divided among various independent sovereignties, which, from their real or associated equality, kept each other in check, and prevented any one among them from any great scheme of universal domination.—From the balance of power, resulted a solid security, not only to the nations of Europe, but also to us; and it grew into a maxim, that, in America, we had nothing to do with the quarrels of Europe, except to reap the harvests which its disputes prepared for us. So long as that state of things existed the maxim was wise, and, so far as it inculcates a scrupulous and honest neutrality, it still continues a sound rule of conduct. But it is in vain to deny a conviction, which the apprehensions of every man forces upon him, that the aspect of affairs, in Europe, is altogether different from anything which we, or which the world, ever before witnessed. So far as it respects these United States, there are now but two nations on the globe—a nation of land warriors, and a nation of sea warriors. One people, humanly speaking, omnipotent on one element, while its natural rival is omnipotent on the other. Between these two nations an inveterate, inextinguishable animosity exists. Between them there can be no peace, which is not hollow; no suspension of hostilities which will not be suspicious, not only on account of ancient prejudices, and of recent animosity, but, from this undeniable relation in which they stand to each other, that the one contends for existence, and the other to remove the only remaining limit, so far as relates to the west of Europe, to universal dominion. When such a state of things exists between the only two nations of the globe, with whom we have very intimate relations, is it possible our fate will not materially be affected by the event? Is it possible that, let this contest terminate when it may, how it may, or in favor of whom it may, that the consequences to us will not be eventful? Is it not wise in us to anticipate those consequences, and make a prudent preparation to enable us best to meet them?

I ask, of all possible results of the present contest, which is that which will leave us free and yet at peace; independent, yet bare to every spoiler; which is that event? Is it peace, or is it war? Is it the total subjugation of either nation to the other; and of which? Suppose peace; and this, too, on the best terms, which can now be expected, those of the *uti possidetis*? In such event, what would be the state of things? On the one side, Bonaparte, virtual master from the Dardanelles to the Baltic, with more than half a million of veterans flushed with victory, and fleshed for plunder, veterans for whom he must find employment, and who have no other trade than that of soldiers. On the other side, Great Britain, the undisputed sovereign of the seas, obliged to enforce her superiority on this element, because, on this depends her safety, and obliged also to monopolize, as far as possible, the commerce of the world, because, on this depends that superiority. In case of peace, what are our prospects? As it respects Great Britain, what is our situation? The second commercial nation on the globe. In the sphere of commerce, her natural, her only rival. Is it not certain that the limitation of the field of commercial enterprise, which we have so long enjoyed, and which would be inevitable in case of peace, would produce great discontent and distress in this country? Is it likely that, urged on by her interests or her jealousy, and conscious of her power, she would claim nothing from us, which we should not be willing to yield? Rather is it not inevitable that, in such case, collisions of mutual interest would bring on irritations, the usual precursors of war? But, suppose this to be the ideal—suppose Great Britain, sensible of the importance of our consumption to her manufactures, is as tractable as we can desire? Is there no cause of apprehension from another quarter? Would Bonaparte, at ease in Europe, long refrain from turning his eye toward this country? Would he not find us rich, and fat, and heavy, from long prosperity? Disinclined to fight about the lands we have, and ready to purchase those we have not? If we had no evidence of his disposition toward this country, is not the very nature of his power such as may put it beyond his reach to interfere with our peace, were he ever so much inclined? It is the nature of the military power, especially such as his, of sudden and self-created elevation, to raise to itself rivals among all the chiefs of the great divisions of the army. The jealous master must remove the object of its fears to a distance. A soldiery, corrupted by victory, must be employed. Why was Bonaparte, with his forty thousand veterans, sent by the Directory to Egypt? To conquer the country? This was the ostensible object. The real one to find employment for a military commander, too popular with his army to be removed, too restless to be idle, too ambitious not to be dreaded. Why was Le Clerc, with another force, sent to St. Domingo? As much from a necessity to rid themselves at home of domestic troubles, as in the hope of regaining lost territory. What is to prevent, in case of peace, a similar danger in France, which can only be removed by some similar expedition, and what security that it will not take its direction this way, as well as any other? Sir, have we seen no evidence of a disposition toward such an enterprise in the present head of the French nation? Previous to the purchase of Louisiana, was not a settlement openly avowed to be intended for that quarter? And was not the apprehension of such a military establishment, among the reasons which led to that purchase? Let peace take place to-morrow, and the prospect of this nation is the most melancholy and alarming. It may be impossible to foresee which nation will interfere with our rights and put our mild spirit to the trial, or in what manner it will be attempted. But, that it will be done by the one or the other, is scarcely problematical.

But, let us grant that peace is impossible. Suppose war continues? Are our prospects brighter? Is it not obvious that, from this moment, the war must assume a new character? Is it not now on the one side a war of extirpation, and on the other for self-existence? On these accounts we cannot reason on this as on common wars. To one nation, in case of defeat, there is no hereafter. Its being is at hazard. We cannot, therefore, expect it will conduct its warlike operations according to the ordinary and received maxims of common prudence. Its struggles must inevitably be convulsive. How long will Bonaparte allow our commerce with Great Britain? If, indeed, at this moment it be permitted, which seems doubtful. If we are denied this intercourse, are we prepared to submit? If we do not, can we keep peace with France? If we do, can we with Great Britain? On the other hand, may we not expect retaliation on our commerce with France? Are we willing to yield the whole with both nations? Can we long carry it on with either without being forced into the war, or without having all the misfortunes of war with none of the fruits of neutrality? It is from this state of our foreign relations, that I argue the necessity of wise preparation for defence, in all the weak parts of the nation; those which are most exposed; those which constitute the frontier; and which, from their riches, most allure plunderers. I consider it as a principle, that a nation, rich and enterprising as is the American, and placed, by its commercial relations, in the midst of martial nations, cannot long maintain either peace or independence without making a regular preparation for those events which are certain, unless prevented by the spirit which such preparations indicate.

But, the objection urged is not so much to the utility, or the wisdom of fortifications, as to the expense. We have been warned against beginning fortifications, because it is said: "Once enter upon the system, and it must be pursued; 'grant one hundred thousand dollars, and you 'must two hundred thousand, and so on." And, as if all argument was closed by the fact, it is said, "that the protection of all our ports and harbors will cost millions." Sir, I am not disposed to deny what I believe not only to be a fact, but also a fact which it is our duty to make understood by this people.

The adequate defence of the ports and harbors of the United States, such as the commercial cities have a right to demand, will unquestionably cost millions—ought to cost millions—millions cannot be better employed. This, which is urged as a main reason, against beginning fortifications at all, is a principal one in favor of beginning them now, and with a spirit proportionate to the real wealth of the nation, and to the great stake it has in the safety of the cities. Fortifications are permanent objects of defence, destined, not for ourselves only, but for posterity. They

require, to their greatest perfection, much time, great labor, long consideration, both as to the nature and location of them, according to the situation of different ports. Materials must be collected, prudential principles established, wise economies adopted. All these are best set on foot at such a time as the present, and in such a situation as is our nation in a time of peace. In a time when the command of surplus revenues will enable us to make the necessary preparations in the most advantageous manner.

When I say that fortifications will cost millions, do I mean to propose such appropriations, or the laying additional taxes? By no means. In this the inexpressableness of this House consists. Every principal commercial city in the United States might be put in an adequate state of defence without laying any additional tax, and without its being felt by the people. From the nature of fortifications, their erection must require many years, in order to their being of real efficacy. If built upon a scale proportionate to the magnitude of the object, a certain appropriation of a definite sum for several years, would alone be requisite, not of the whole expenditure in one year. Of course, the nation could avail itself of the successive revenues of many years, and the sum, though great in the aggregate, yet when apportioned upon the incomes of eight or ten years, would almost be imperceptible. In this point of view, will any man pretend we have not the ability to give an adequate defence to our cities. Sir, the Mediterranean fund, which some wish to abolish; the salt tax alone, which, so far as depends upon this House, is already abolished, would have either of them effected the object within the time in which it is probable the appropriations could have been wisely expended—within ten years either of those sources of revenue would have unquestionably produced from at least seven to ten millions of dollars. In less than such a period such expenditures as the adequate defence of all these cities contemplates, could not be advantageously applied. And, in that time, the expenditure of from seven to ten millions of dollars would put every commercial city in an adequate state of defence.

Thus much I thought it proper to state, by way of reply to the honorable gentleman from Virginia, (Mr. J. Randolph,) and to show both that fortifications were necessary, that we had the means in our hands, and that the present was the time most propitious to their commencement.

Mr. Smilie observed that, in the first place, he had no ambition to fill the Speaker's chair; and, secondly, that he had no electioneering object in view.

Fortifications, he considered, could be of no use except against marauders, but such was the present situation of Europe, that we could be in no danger. Besides, the present mode is to take armies, and fortifications fall of course.

The President has called for so much. (Three hundred thousand dollars.) Mr. S. was willing to give some of it for fortifications, and leave the rest of it for gunboats, seeing it would not make any difference in the whole expense.

In reply to Mr. Quincy, Mr. S. said that Bonaparte had his hands full; besides, he had higher objects in view than the United States; and, as we had made peace with England, there could be no danger to us from the nations of Europe.

Mr. Dana inquired, if it would be in order to move an amendment to the report, by striking out $150,000, and inserting a larger sum?

The Speaker replied in the negative.

Mr. Thomas suggested, whether the object could not be compassed, by moving to strike out "one," and inserting "two, three, or any larger number?"

The Speaker considered this also out of order. It had been the practise to regard numbers as incapable of a division.

Mr. Dana inquired, if there were any method of procuring a larger sum, except by disagreeing to the report?

The Speaker replied in the negative. The question must be first taken on the sum reported, ($150,000.) If that is disagreed to, any other sum can then be moved.

Mr. Dana deemed the sum reported totally inadequate to the object, and desired a much larger sum. Whatever might be the views of the various sections of the ruling party in the State of New York, it was no concern to him. He was solicitous for the general defence of the country on a liberal and adequate scale. He concluded with declaring that he should vote against concurring in the report, with a view to move a larger sum.

Mr. Masters contended that the alarm in New York was not excited for an electioneering trick. The clamor was justly founded, and would always exist, so long as they were unprotected. We have abundant means of defence. Above four millions are now in the Treasury.

Mr. Cook was sorry the gentleman from Virginia (Mr. J. Randolph) had impeached the motives of those in favor of the report. Mr. C. would only say, that the elections were over at the Eastward. He believed they had not yet taken place in the South.

The question on concurring with the report of the Committee of the Whole, in appropriating $150,000 for fortifications, was taken by yeas and nays, and carried—yeas 72, nays 44, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Barnabas Bidwell, John Blake, jun., William A. Burwell, John Claiborne, Matthew Clay, George Clinton, jun., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, John Davenport, junior, Peter Early, James Elliot, Caleb Ellis, William Ely, John W. Eppes, William Findley, John Fowler, Andrew Gregg, Silas Halsey, Seth Hastings, William Helms, David Holmes, David Hough, John G. Jackson, Walter Jones, Thomas Kenan, John Lambert, Henry W. Livingston, Matthew Lyon, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Timothy Pitkin, junior, John Porter, Josiah Quincy, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, James Sloan, Dennis Smelt, John Smilie, John Smith, Henry Southard, Joseph Stanton, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

Nays—John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Thomas Blount, Robert Brown, William Butler, John Chandler, Martin Chittenden, Samuel W. Dana, John Dawson, Ebenezer Elmer, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Hamilton, James Holland, Edward Lloyd, Duncan MacFarland, David Meriwether, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Roger Nelson, Gideon Olin, John Randolph, John Rea of Pennsylvania, Jacob Richards, Ebenezer Seaver, Samuel Smith, Richard Stanford, William Stedman, Thomas W. Thompson, John Whitehill, Robert Whitehill, David R. Williams, Alexander Wilson, and Joseph Winston.

The next question was on concurring in the report, to appropriate $150,000 to building thirty gunboats.

Mr. Dana considered that it would be better to provide the materials for gunboats, and build only in case of exigency, than to build them immediately, and they might not be wanted, and would be built only to rot in our harbors. He, therefore, moved to amend the report, by striking out "build" and insert "purchase the materials for." Should the gunboats be wanted, the materials might be soon put together.

Mr. Alston opposed the motion, on the ground that the boats could not be constructed in season.

Mr. Dana replied; when the question was taken and lost—yeas 30, nays 78, as follows:

Yeas—Silas Betton, William A. Burwell, Martin Chittenden, Samuel W. Dana, John Davenport, jun., Caleb Ellis, Ebenezer Elmer, William Ely, James Fisk, Silas Halsey, James Holland, David Hough, Walter Jones, Duncan MacFarland, Robert Marion, Josiah Masters, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, John Russell, Martin G. Schuneman, William Stedman, Benjamin Tallmadge, Sam'l Tenney, Thomas W. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Robert Whitehill, and Eliphalet Wickes.

Nays—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, William W. Bibb, Barnabas Bidwell, John Blake, junior, Thomas Blount, Robert Brown, William Butler, John Chandler, Matthew Clay, George Clinton, jun., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Ezra Darby, Peter Early, James Elliot, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Hamilton, Seth Hastings, William Helms, David Holmes, John G. Jackson, James Kelly, Thomas Kenan, John Lambert, Henry W. Livingston, Edward Lloyd, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, junior, John Porter, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, Samuel Taggart, David Thomas, Uri Tracy, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Joseph Winston.

Mr. Goldsborough hoped every part of this important bill, on which the whole national defence was considered to depend, would be treated alike. He, therefore, called for the yeas and nays on the section relative to gunboats. Everything now, is said to be predicated on the principles of economy. Hence, fortifications are abandoned, and gunboats substituted. The President, however, informs us that, for the safe-keeping of these gunboats, they must be protected by being put under cover. A house must, then, be built for every boat. What will these houses cost? With the land for them, they will, perhaps, cost more than the boats themselves. So much for economy.

The section relative to gunboats was concurred in—yeas 68, nays 36, as follows:

Yeas—Evan Alexander, Isaac Anderson, John Archer, Joseph Barker, William W. Bibb, Barnabas Bidwell, John Blake, jun., Robert Brown, William A. Burwell, William Butler, John Chandler, Matthew Clay, George Clinton, jun., John Clopton, Frederick Conrad, Orchard Cook, Leonard Covington, Richard Cutts, Peter Early, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jun., John Porter, Thomas M. Randolph, John Rhea of Tennessee, Peter Sailly, Thomas Sammons, Ebenezer Seaver, Dennis Smelt, John Smilie, John Smith, Sam'l Smith, Henry Southard, Joseph Stanton, Samuel Taggart, David Thomas, Uri Tracy, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

Nays—Burwell Bassett, George M. Bedinger, Silas Betton, Martin Chittenden, Samuel W. Dana, Ezra Darby, John Davenport, jun., James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, James Holland, Henry W. Livingston, Edward Lloyd, Duncan MacFarland, David Meriwether, Thomas Moore, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Jacob Richards, John Russell, Thomas Sandford, Martin G. Schuneman, Richard Stanford, William Stedman, Benjamin Tallmadge, Thomas W. Thompson, Killian K. Van Rensselaer, Robert Whitehill, David R. Williams, and Joseph Winston.

The bill was then ordered to be engrossed, and read a third time to-morrow.

[Note.—The bill afterward passed in this form, and was transmitted to the Senate for concurrence, who struck out the section relative to gunboats, and agreed

to the other relative to fortifications. On the last day of the session, the bill was returned with this amendment to the House of Representatives, who concurred therein by a majority of three—ayes 39, noes 36.]

VIRGINIA MILITARY WARRANTS.

The amendments of the Senate to the bill relative to Virginia Military Land Warrants were referred to the Committee on Public Lands.

Mr. J. Randolph observed that the bill received from the Senate, the object of which was to prevent intrusions on public lands, had been before the Committee on Public Lands for a considerable time. As it was his wish that this bill should be decided on while the House was full, as the Committee on Public Lands would find much occupation in the bill last referred to them, he moved that they should be discharged from the further consideration of the former bill, with a view of having it referred to a Committee of the whole House.

A motion to adjourn having been made and carried, no question was taken on Mr. Randolph's motion.

Tuesday, February 24.

The Speaker presented to the House certain resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, which were received and read, stating their attachment to the Union, their confidence in the Legislative and Executive Departments of Government, and their determination to oppose, with their lives and fortunes, as well all internal conspiracy as foreign encroachments.—Laid on the table.

Mr. Quincy, from the committee appointed on the eighth ultimo, presented a bill disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled "An act concerning the Bank of Detroit;" which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Thomas, from the committee appointed on the twentieth instant, presented a bill authorizing the discharge of Gilbert Drake from his imprisonment; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Bassett, from the committee to whom was referred, on the sixteenth instant, the bill sent from the Senate, entitled 'An act to reduce the expenses attending the administration of justice in the District of Columbia," reported the bill without amendment.

Ordered, That the said bill do lie on the table

Mr. Bassett, from the same committee, to whom was referred, on the sixteenth instant, the bill supplementary to an act, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia," made a report thereon; which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan against hostile Indians, in the year one thousand eight hundred and six. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill authorizing the settlement of the accounts between the United States and William Eaton. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

Mr. Holmes, from the Committee of Claims, presented a bill concerning invalid pensioners; which was read twice, and committed to a Committee of the Whole this day.

A message from the Senate informed the House that the Senate have passed the bill sent from the House, entitled "An act allowing an additional compensation to the Judges of the Mississippi Territory, and extending the right of suffrage therein," with several amendments; to which they desire the concurrence of this House.

An engrossed bill for fortifying the ports and harbors of the United States was read the third time.

Resolved, That the said bill do pass, and that the title be, "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats."

PUBLIC DEBT.

An engrossed bill in addition to the act, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States," was read the third time, and on the question that the said bill do pass, it was resolved in the affirmative—yeas 89, nays 15, as follows:

Yeas—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Jos. Barker, Burwell Bassett, Geo. M. Bedinger, Wm. W. Bibb, Barnabas Bidwell, Phanuel Bishop, John Blake, jun., Thomas Blount, Robert Brown, William Butler, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, George Clinton, jun., Frederick Conrad, Leonard Covington, Ezra Darby, Elias Earle, Peter Early, Ebenezer Elmer, James Fisk, John Fowler, James M. Garnett, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, William Helms, James Holland, David Holmes, James Kelly, Thomas Kenan, John Lambert, Edward Lloyd, Duncan MacFarland, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jun., Gideon Olin, John Porter, John Pugh, John Randolph, John Rea, of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sanford, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Richard Winn, Joseph Winston, and Thomas Wynns,

Nays—Silas Betton, Samuel W. Dana, John Davenport, jun., James Elliot, Caleb Ellis, William Ely, Charles Goldsborough, Seth Hastings, David Hough, Jonathan O. Mosely, Jeremiah Nelson, Timothy Pitkin, jun., Josiah Quincy, Benjamin Tallmadge, and Killian K. Van Rensselaer.

The House resolved itself into a Committee of the Whole on the bill to alter and establish certain post roads, and for other purposes; and, after some time spent therein, the Committee rose and reported progress; when the House adjourned.

Wednesday, February 25.

An engrossed bill providing for the payment of the expense incurred by the military preparations for the defence of the Territory of Michigan, against hostile Indians, in the year 1806, was read the third time, and passed.

Mr. John Randolph, from the Committee of Ways and Means, presented a bill making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes of Indians; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. John Randolph, from the same committee, presented a bill to amend the act, entitled "An act to regulate and fix the compensation to clerks, and to authorize the laying out of certain public roads, and for other purposes;" which was read twice, and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the whole House on the bill making provision for the disposal of the public lands, situated between the United States military tract and the Connecticut Reserve, and for other purposes. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate insist on their amendments, disagreed to by this House to the bill, entitled "An act to extend the time for locating Virginia Military Warrants, and for returning the surveys thereon to the Secretary of the Department of War." The Senate have passed the bill sent from this House, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," with several amendments; to which they desire the concurrence of this House. The Senate agree to the amendments and modification proposed by the joint committee of conference to the amendments of this House to the bill, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," and desire the concurrence of this House therein.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, made a report on the amendments proposed by the Senate to the bill extending the time for locating Virginia Military Land Warrants, agreeing to some, and disagreeing to others; in which report the House, after a short discussion, concurred.

GENERAL EATON.

The bill authorizing the settlement of the accounts between the United States and William Eaton, was read the third time and passed—ayes sixty-four.

On agreeing to the title—

Mr. John Randolph said he conceived the title to be extremely improper, and he hoped some gentleman would suggest a proper alteration. He believed the bill had passed by surprise. It was not so much a bill to settle the accounts of William Eaton, as to rip up the settled forms of the Treasury, and to transfer the accountable duties of the Treasury to the Department of State. It would be a stain upon the statute book.

The question was then taken on the title; which was agreed to—ayes 63.

PUBLIC LANDS.

Mr. Jeremiah Morrow, from the Committee on Public Lands, to whom was referred the bill from the Senate to prevent settlements being made on lands ceded to the United States unauthorized by law, reported the same with sundry amendments.

Mr. Jeremiah Morrow moved the reference of this report to a Committee of the Whole.

Mr. John Randolph hoped the report would not be referred to a Committee of the Whole, as the bill involved no appropriation of money, and as past experience had shown that when the House got into Committee of the Whole, they scarcely knew how to get out of it. Did time admit, he should have no objection to the course proposed. But this was not the case. The bill could be as well discussed in the House as in Committee. He, therefore, trusted it would not be referred to a Committee of the Whole, as that course might defeat its passage this session.

Mr. Quincy hoped the bill would be referred to a Committee of the Whole, for if there was any bill of importance brought before the House during this session, this was one, which he therefore thought merited a full consideration.

Mr. Gregg said he was indifferent which course was pursued. He agreed that the bill was one of the greatest importance which had been before the Legislature this session. He, indeed, considered it more important than all the rest of the bills. He was, therefore, for giving it a preference over all others. He hoped it would be passed during the session, but still he was willing to afford gentlemen a full opportunity of adducing whatever their ingenuity could suggest.

Mr. Smilie observed that, in an early period of the session, he should have no objection to this bill going to a Committee of the Whole. But he desired gentlemen to recollect the situation of the House. He understood that there were sixty bills remaining undecided on, many of which it

was highly desirable to pass. Only six days of the session remained; there, therefore, was no time to consume in Committees of the Whole. He said he believed the bill, together with the amendments, might receive sufficient consideration without going into Committee of the Whole.

The motion to refer the report to a Committee of the Whole was disagreed to—ayes 30.

POST ROADS.

On motion of Mr. THOMAS, the House proceeded to consider the Post Office bill.

The SPEAKER stated that there was no report from the Committee of the Whole, and that the amendments so largely discussed yesterday were not before the House. The subject was, therefore, in the same situation as before the bill was referred to a Committee of the Whole.

Mr. J. RANDOLPH moved to postpone the bill indefinitely, on the ground that the subject was less important than many others, and the time remaining was not sufficient to despatch all the public business.

This motion gave rise to a debate of considerable length. The motion was negatived—ayes 48, noes 54.

The bill was then again referred to a Committee of the Whole, and the House immediately went into Committee upon it.

The Committee went through the bill and reported it with many amendments. The House proceeded to consider the report, and expunged a large proportion of the amendments.

Mr. J. RANDOLPH observed that this was an extraordinary bill, and was passing in an extraordinary manner. It gave New Hampshire, Massachusetts, New York, and some other Northern States, a large number of post roads, and not one to Virginia. It was not wonderful that this subject was pressed on by certain gentleman. If it would not be considered as too alarming a proof of Virginia influence on this floor, he would propose a new road from Prince Edward county, in the district which he represented, to Petersburg. Mr. R. spoke at considerable length.

Mr. BLOUNT was against the motion, because the gentleman had proved so fully the errors of the bill, that he hoped it would be rejected.

Mr. LYON said it was the most partial bill he ever knew.

Mr. R. NELSON expressed a wish that the amendment would be rejected. The bill was almost as bad as it could be; he hoped it would be made still worse, and so its rejection insured.

Mr. BLOUNT observed that many large counties in the Southern States had no post roads, while scarcely a town in the Northern States was without one.

Mr. QUINCY repelled the suggestion of partiality by recurring to former laws and showing that the Southern States had been previously accommodated better than the Northern States.

Messrs. SHILIE, FISK, FINDLEY, and MASTERS, spoke. The debate was protracted to a considerable length, but not one word was said as to the amendment proposed; but every observation went to vindicate, repel, or explain, the suggestion of partiality.

The amendment was lost—ayes 35.

Mr. J. RANDOLPH said this was a new sort of political arithmetic. The gentleman from Vermont (Mr. FISK) had said that three roads were discontinued in that State, and four only established, so that the gain was only one. In Virginia you discontinue four established roads, and give us no new one, though we have claimed several. We must work negative quantities; we are *minus* four. He wished to know how the equation was to be adjusted and managed. Mr. R. concluded a long speech by proposing a new section which went to forbid the carriers of the mail deviating from the old established routes, under penalty of twenty dollars for each offence.

This motion was intended to coerce the mail carriers to go through Colchester, and not through Occoquan, Virginia.

The debate was continued to a considerable length, in course of which, Mr. RANDOLPH pronounced the road police in Virginia to be most detestable.

Mr. DAWSON supported Mr. RANDOLPH, and Messrs. LEWIS and QUINCY replied. As soon as Mr. RANDOLPH had concluded his third speech on the motion, an adjournment was called for and carried—ayes 60.

THURSDAY, February 26.

An engrossed bill making provision for the disposal of the public lands situated between the United States' military tract and the Connecticut Reserve, and for other purposes, was read the third time, and passed.

Mr. PARKE, from the committee to whom were referred, on the twentieth instant, the petition of sundry inhabitants of Randolph county, in the Indiana Territory, made a report thereon; which was read and considered: Whereupon,

Resolved, That it is expedient to divide the Indiana Territory.

Mr. PARKE presented to the House a petition of the inhabitants of the Illinois and the village of Peorai, in the Indiana Territory, which was received and read, praying that the Board of Commissioners established at Kaskaskia, may be empowered to examine and decide on their claims to lands in the said Territory, which they have respectively settled and improved.—Laid on the table.

A message from the Senate informed the House that the Senate have agreed to the resolution of this House, of the eighteenth instant, in the form of a concurrent resolution of the two Houses, "authorizing and directing the Secretary of the Treasury to cause to be published the report and chart of the survey of the coast of North Carolina, made by Thomas Coles and Jonathan Price, under the act of Congress, passed at the last session, for that purpose," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act in addition to the act to regulate the laying out and making a public road from Cumberland in the State of Maryland, to the State of Ohio," to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the resolution of this House, in the form of a concurrent resolution of the two Houses, "to publish the report and chart of the survey of the coast of North Carolina:" Whereupon the said amendments being again twice read, were, on the question severally put thereupon, disagreed to by the House.

The bill sent from the Senate, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," was read twice and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill making appropriation for the support of Government during the year one thousand eight hundred and seven. The bill was reported with several amendments thereto; which were ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill to amend the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

CLAIM OF M. BEAUMARCHAIS.

Mr. HOLMES, from the Committee of Claims, to whom was referred the Message of the President of the United States, transmitting a memorial of the French Minister, on the subject of the claim of Amelie Eugenie de Beaumarchais, heir and representative of the late Caron de Beaumarcahis, made the following report:

This claim was presented to Congress at their last session by the agent of the representative of the late Caron de Beaumarchais, and a report was made thereon by the Committee of Claims, which was not finally acted upon by the House. The documents presented with that report, and the memorial of the French Minister, transmitted with the President's Message, contain a full statement of all the material facts and principles involved in the consideration of the case. As the papers accompany the present report, your committee do not deem it necessary to detail particularly the circumstances attending the charge of one million of livres, made of the United States, in their account with Caron de Beaumarchais, (which is the foundation of the present application.) The claimants have uniformly contested the correctness of this charge, declaring that Mr. Beaumarchais had settled with the French Government for the same, conformably to the tenor of his receipt. The substance of this declaration is now confirmed by the French Government, through their Minister, in the following words:

"That the million given on the 10th of June, 1776, to M. de Beaumarchais, was employed in a secret service; that an account of it has been rendered to the King, and approved by him; and that it was not given on account of supplies furnished by the said Beaumarchais to the United States."

The source whence this declaration proceeds renders it unnecessary to allude to any corroborative circumstances in support of the fact; but, as questions of law may arise in investigating the case, your committee think the course most consistent with the principles of justice, to which the United States have always adhered, would be to submit the claim generally to the consideration of the Secretary of State, with instructions to report to Congress at their next session; that he might consult the Attorney General upon any questions of law arising in the course of the investigation, and furnish Congress with any other information that would tend to elucidate the subject. They therefore submit the following resolution:

Resolved, That the Message of the President of the United States, transmitting a memorial of the French Minister on the subject of the claim of Amelie Eugenie de Beaumarchais, legal representative of the late Caron de Beaumarchais, be referred to the Secretary of State, and that he be directed to report thereon to Congress at their next session.

The report was agreed to.

IMPORTATION OF SLAVES.

The bill prohibiting the slave trade, as received from the Senate, was considered. The bill, modified according to the recommendation of the committee of conference, contained a provision forbidding the transportation of slaves coastwise, in vessels under forty tons, with a view to sale.

Mr. EARLY was decidedly hostile to the provision. He spoke at length against it, and in the course of his remarks, he said the door of the bill was wide open to evasion, and it would not prevent the introduction of a single slave.

Mr. J. RANDOLPH extended the arguments of Mr. EARLY. The provision of the bill touched the right of private property. He feared lest, at a future period, it might be made the pretext of universal emancipation. He had rather lose the bill, he had rather lose all the bills of the session, he had rather lose every bill passed since the establishment of the Government, than agree to the provision contained in this slave bill. It went to blow up the Constitution in ruins. Mr. R. said, if ever the time of disunion between the States should arrive, the line of severance would be between the slaveholding and the non-slaveholding States.

Mr. D. R. WILLIAMS spoke vehemently against this provision of the bill. The whole bill was not worth a single farthing. We bawled, said he, Florida! Florida! but you would not listen to us.

[NOTE.—Mr. EARLY had stated that the bill, as drawn, did not forbid the introduction of slaves from Florida.]

Mr. GOLDSBOROUGH vindicated the bill from the objections urged against it, and insisted that the provision in question was both Constitutional and necessary to the successful operation of the bill.

Mr. J. RANDOLPH replied at length. He observed that when the freemen of the Southern States should depend for assistance on the North

ern against their slaves, he should despair. All he asked was, that they should remain neutral; that they would not erect themselves into an abolition society. Mr. R. also observed, that he considered it no imputation to be a slaveholder, more than to be born in a particular country. It was a thing with which they had no more to do than with their own procreation.

The debate was further continued by Messrs. Goldsborough, Alston, and Sloan, in favor of concurring with the Senate; and Messrs. Early and Alexander against it.

The question, after a long debate, was at length taken by yeas and nays, and carried—yeas 63, nays 49, as follows:

Yeas—Willis Alston, jun., John Archer, David Bard, Joseph Barker, George M. Bedinger, Barnabas Bidwell, John Blake, jr., Robert Brown, George W. Campbell, John Chandler, George Clinton, jr., Frederick, Conrad, Orchard Cook, Leonard Covington, Ezra Darby, John Davenport, jr., Ebenezer Elmer, William Ely, William Findley, James Fisk, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Hough, Nehemiah Knight, John Lambert, Duncan McFarland, Patrick Magruder, John Morrow, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jun., John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, David Thomas, Thomas W. Thompson, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wicks, Marmaduke Williams, Nathan Williams, and Thomas Wynns.

Nays—Evan Alexander, Burwell Bassett, Silas Betton, William W. Bibb, Thomas Blount, William A. Burwell, William Butler, John Campbell, Martin Chittenden, John Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, Peter Early, James Elliot, John W. Eppes, James M. Garnett, Peterson Goodwyn, David Holmes, John G. Jackson, Walter Jones, Thomas Kenan, Joseph Lewis, jun., Edward Lloyd, Matthew Lyon, Robert Marion, Josiah Masters, William M'Creery, David Meriwether, Thomas Moore, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jr., John Randolph, John Rea of Pennsylvania, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Samuel Tenney, Philip R. Thompson, Uri Tracy, Abram Trigg, Killian K. Van Rensselaer, David R. Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

The Senate having agreed to the modification, the bill was passed.

DUTIES ON SALT.

The Message from the Senate, stating that they had passed the bill sent from the House for the repeal of the acts laying duties on salt, and for a continuance of the Mediterranean fund until the end of the next session of Congress, with amendments, was considered.

The first amendment of the Senate having been put, Mr. J. Randolph called for the yeas and nays.

Mr. Alston said if he understood the amendment, instead of repealing the whole duty on salt, it only repealed the duty of 8 cents, and suffered the other duty of 12 cents to remain. He said his opinion was that it would be better to let the Senate reject the bill sent from the House, or pass it altogether. No person could be more anxious to reduce the duty on salt than he was; but he believed if they persisted in the course which they had originally taken, the Senate would recede from their amendment.

Mr. Olin said when this subject was on a former occasion before the House, he had declined saying anything. He would now however take the liberty of offering his sentiments on the subject.

This tax, said Mr. Olin, may be sport to others, but it is death to us. There is no other article on which duty operates so injuriously. The whole State which I represent, if you deprive them of salt, will not be worth a cent. We can neither raise stock nor plough the soil without the aid of salt. When this article is so necessary to the existence of the nation, I am at a loss to know how any gentleman can be in favor of its being a dutied article. Its original value in the foreign market is about 12 cents a bushel; the duty upon it is consequently 160 per cent. Where in our catalogue of imported articles can we find any one so highly dutied? Some gentlemen have however informed us, that considerable duties are paid on tea, coffee, and sugar, in Boston, and other Atlantic towns in the United States, but do not gentlemen know that these articles are also consumed in other places. I will ask gentlemen also whether this is an equal tax, as on the seashore there is scarcely any occasion for it, while in the interior it is absolutely indispensable. If salt was free as air with us, the net proceeds of our stock would be one-fourth greater than it is at present. Mr. O. here mentioned the enormous price which had been at particular periods paid for this article; and observed that he had seen fourteen bushels of wheat, and even a good cow, given for a single bushel of salt!

The gentlemen talk of war. If war is to happen, it will in my opinion be better to lay out money for establishing a magazine of salt, than gunpowder. We ought never to pay a tax on any real necessary brought into the country; and yet we have imposed upon salt about eight times the usual tax. This tax is peculiarly unequal. You may take one-third of the nation, and you will find it pays three-fourths of the whole tax. Before it is used by the consumer, it is sold three or four times, and every seller puts an additional premium on it. In the State I represent, we consume about 200,000 bushels, the duty on which, from what I have observed, may be estimated at nearly 50 cents; from which, making a proper deduction, there will still remain a tax of $80,000 while the whole civil list of the State does not amount to $20,000. Feeling as I do, I wish the House to adhere to their bill, and run the risk of the Senate giving way.

The question was then taken by yeas and nays on concurring in the first amendment of the Senate—yeas 15, nays 89, as follows:

Yeas—George Clinton, jun., Richard Cutts, Samuel W. Dana, John Davenport, jun., John Fowler, Isaiah L. Green, Seth Hastings, Patrick Magruder, Josiah Masters, Josiah Quincy, John Russell, Thomas Sammons, David Thomas, Uri Tracy, and Philip Van Cortlandt.

Nays—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Chandler, Martin Chittenden, John Claiborne, Frederick Conrad, Ezra Darby, John Dawson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, William Findley, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Silas Halsey, James Holland, David Holmes, David Hough, James Kelly, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan McFarland, Robert Marion, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, jun., Gideon Olin, Timothy Pitkin, jun., John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

The second amendment of the Senate, to strike out the second section, was disagreed to without a division.

The third amendment of the Senate proposed to continue the Mediterranean fund until the 31st of December next, instead of continuing to the end of the next session of Congress.

Mr. J. Randolph said, he did not see the purpose for which this amendment was made. He believed it was no part of the intention of the Senate to relieve the public burdens. He hoped the bill would be suffered to die a natural death.

Mr. Goldsborough thought the amendment of the Senate correct. His idea was not to impose burdens unnecessarily on the people.

A concurrence in this amendment was agreed to—ayes 33.

Mr. J. Randolph.—I will now move that the House insist on their disagreement to the amendments of the Senate. Gentlemen will recollect to have heard it assigned as a good reason for voting against an increase of the military force, that it involved new burdens on the people. The House ought to be hostile to such a measure emanating from the Senate. It appeared to me at the last session, and a more mature consideration confirms me in the opinion, that according to the true construction of the Constitution, the Senate have not a right to add to the burdens of the United States. They have no right to originate bills for raising revenue; but if you send them a bill for raising a limited revenue on particular articles, if they have a right to amend it, by adding a million derived from other articles, then the right of this House to originate money bills is altogether an illusory provision. The taxes too are imposed on the people, and not on the States, which the Senate represent. They are the grant of the people alone, and it is competent to this House, and to no other body, to add one single cent to the burdens of the people. They are our free gift and grant, and as such may be acceded to by the other co-ordinate branches of this Government. But if they do not accept what we offer, they cannot modify it so as to affect the quantum of tax, or the object of taxation. I know that to the Senate is reserved the power of amending money bills; but a fair construction of this provision will confine it to the details of the bill, and restrain them from affecting the leading principles; the quantum of tax or its objects. For if they possess the power of varying the objects or altering the quantum, the power reserved to this House is illusory. My distinction is not supported by prevarication or quibble, but on sound principles of common sense. The power was put into our hands, because the convention knew that although they established a confederated government, that the burdens were to fall on the people, and not on the States; and that, therefore, the Representatives of the people and not of the States had a right to originate them.

I am glad to find the temper of the House so favorably changed from the last session. I would rather see this bill stand as it is, than that the duty of eight cents only should be taken off. You, Mr. Speaker, must recollect the manner in which those eight cents were laid on; and the persons by whom they were laid on. The tax was imposed at the latter end of the session when there was a thin House, after a previous attempt to increase the duty had been rejected, and when many members in unsuspicious confidence had left their seats. It was passed like some other bills—like some bills passed this session, because members quitting their great duties on this floor, suffer important laws to be passed, unmindful of their contents, while they are writing letters and reading newspapers.

I understand that it has been urged as a reason for continuing this duty of twelve cents on salt, that it is pledged for the payment of the public debt. I thought the point had been settled on the repeal of the internal taxes, and that we had then established the principle that it was our duty only to provide the means for paying that debt. I should indeed feel ashamed, if, after six years, in the first of which we repealed all the internal taxes, the only boon given to our constituents should be to take off merely the duty of eight cents on salt, a tax originally laid by chicane. In relation to the duty on salt, and the propriety of dispensing with it now, I wish the House to keep in mind one important fact, which I hope the people will never lose sight of—that supposing the expenses of Government remain nearly stationary, such is our augmentation of revenue from the increase of wealth and population of the nation,

that the people have a right to expect to be relieved in proportion to the existing taxes. If in twenty years our resources double, surely the people would have a right to expect that half the amount of duties would be taken off—not only because the money would not be wanted, but for another most important reason: In proportion to the increase of population, is the difficulty of procuring subsistence; and if at present a man in America, where, thank God! we have elbow room, can afford to pay a tax of one dollar, when our population becomes as thick as that of China, we cannot afford to pay so much. I have no more to say, than to hope that we shall set the Senate an example, which I am sorry we did not set them the last year, to convince them they have no right to dictate to this nation the quantum of tax to be levied, or its objects. Sooner than admit this principle, I would vote a tax five times the amount, provided it originated exclusively from the proper source.

Mr. Alston.—Lest it should be supposed I give my vote on this occasion for the reasons assigned by the gentlemen from Virginia, I will state them to the House. Is it possible that it can be conceived by any man that the Senate do not posses the power they have exercised in this instance? Do they propose to add a single cent, to the burdens of the people or to the revenue? You propose to take off the whole duty on salt, while they propose to take off only eight cents. On the other hand, you propose to take off the Mediterranean fund, not until the end of the next session of Congress, while they propose to take it off on the 31st of December. Where then is the inroad of the Senate upon your Constitutional power, which is so much talked of? I for one am not sorry that I voted at the last session to recede from our disagreement with the Senate on this subject. But what has that to do with this question? The only question then was, whether we should continue for one year the Mediterranean fund. Under existing circumstances, I contend that that was a good vote—a vote which has enabled us to meet internal and external danger, and which enables us now to dispense with the whole duty on salt. I am glad I voted as I did, and I wish the nation to know it. My mind has undergone no change since the close of the last session. I have the same impressions now that I had then. If the Senate attempt any innovation, I shall be as ready as any man to repel it, but it is impossible for any man under heaven to think this such.

Mr. J. Randolph called for the yeas and nays.

Mr. Smilie said he felt much mortification on this occasion. If any gentleman were disposed to make a popular harangue this was doubtless a proper occasion; but——

Mr. Bassett asked whether these remarks were in order—whether any question were depending.

Mr. Speaker said the motion to insist was sometimes made in this stage, although the general course was to advise the Senate of the disagreement of the House to their amendments.

Mr. J. Randolph withdrew the motion to insist.

Mr. Thomas renewed it to give the gentleman from Pennsylvania an opportunity to be heard.

Mr. Smilie said he had taken it for granted, as the gentleman from Virginia had been heard on a motion before the House, he had a right to be heard in reply. He did not, however, at that late period of the session rise to waste the time of the House. He had already observed that the subject before them was a very good one for any gentleman who wished to make a popular speech; but, he would ask, whether entering into a discussion of the rights of the Senate was faithfully discharging their public duty at such a time? For himself he had no disposition to quarrel with the Senate. He thought harmony between the two branches essential to the public good. We have now sixty-four bills before us. Are gentlemen serving the country when they are making long speeches upon such an occasion? We ought now, I think, to proceed with the public business, and hold our tongues as much as possible; and at all events to suspend long speeches until the next session.

Mr. Rhea, of Tennessee.—As to what has fallen from the gentleman from Pennsylvania, I will only say, that I trouble the House as little as any member on this floor. With regard to the remarks of the gentleman from Virginia, it was with surprise that I heard the proceedings of the last session brought into view. At that time I was opposed to repealing the duties on salt. My reason was, that the information on which it was founded did not come from the proper source. This inclined me to think, that the proceeds of that tax might be necessary for public service. That impression is now removed, and I shall, therefore, vote for the repeal. I then held the doctrine, and I still continue to hold it, that if this House send to the Senate a bill to raise revenue, they have a power to assent or not to assent to it. If they do not possess this power they are a useless body. I did not say they had power to originate money bills: I only contended that they had the power to say whether they would repeal or not a bill relating to revenue. The contrary doctrine I have never heard preached before this day, and I hope never again to hear it contended for. As to the observations of the gentleman with regard to passing laws in a thin House, when the Journals go out to the nation, my name will be found at every question taken.

Mr. J. Randolph.—Notwithstanding the rebuke which the House has received from the gentleman from Pennsylvania, I must conceive myself at liberty to say something on it, when the gentleman himself, in order to entitle himself to the right of debate, had to get a friend to renew the motion. I do not blame the gentleman for renewing the motion; on the contrary, had I known the gentleman wished to say anything, I should not have withdrawn it. My reason for withdrawing it was the fear that the Senate would give us an adhering vote. If, instead of sixty, there were sixty thousand bills on our table, I should feel myself justified, if it were in the last half hour of the session, in entering my protest against what I considered an unconstitutional exercise of power, even by this House, and if so, how much more justified am I, as one of the Representatives of the people, in opposing such an unconstitutional grasp of power by the other branch. But it seems that the gentleman from Pennsylvania does not consider this grasp of power as unconstitutional, and his creed, like that of Athanasius, is infallible. Every man who disbelieveth is damned. Let the gentleman, if he pleases, say he does not believe as other gentlemen do, and therefore he will not vote with them; but don't let him, in his canonicals, come forward and impose his belief on the House. So far from considering it an unnecessary consumption of time, to inquire into great Constitutional questions, I do think that this species of discussion tends more to the public good than any other exercise of our freedom of speech to the public good. Shall we sit here discussing bills for days for the relief of William Eaton and Oliver Pollock, and when great Constitutional questions present themselves, vote by ayes and noes?

Before I sit down, I will observe, that when I spoke of the absence of members, I alluded to times before the gentleman from Tennessee or myself had a seat on this floor; nor can the House imagine that, when I spoke of such a change of temper, I thought of this member or that. I spoke of the temper of the House generally, and not of any particular members, whom I scarcely think of in the House, or out of it. Had we exercised the last year the same firmness as I trust we shall exercise this year, we should have got rid of the tax.

My opinion is, that continuing the Mediterranean fund is as much originating a tax as if a special bill imposing a new tax were passed; and as the Senate have no right to originate money bills in the first instance, I say they have no right by prevarication or circumvention, under the cover of repealing a tax on salt, to continue the duties which constitute the Mediterranean fund. This House has said we will give the Mediterranean fund in lieu of the salt tax. The Senate say they will take twelve-twentieths of the salt tax likewise. We have a right, as Representatives of the people, to say that we will not give a single cent more than we have already yielded. This is my ground. It may, in the opinion of some gentlemen, be untenable; but believing it to be a great Constitutional question, I will contend for it with my last breath. It has been suggested to me by the gentleman from Georgia, that if the motion to insist be withdrawn, he will move to adhere.

Mr. Lyon contended for the right of the Senate to exercise the power assumed by them on this occasion.

Mr. Thomas.—I renewed the motion to insist, that the gentleman from Pennsylvania might have an opportunity to reply; but as I do not think the orderly course of procedure between the two Houses on a disagreement of votes either to resolve to insist or adhere, but to send back the bill with our non-concurrence in their amendments; being in favor of this course on this occasion, I will withdraw my motion to insist.

Mr. Early.—I am glad the gentleman has withdrawn this motion, as I have been of opinion from the commencement of this discussion that the proper motion was to adhere, because I think that motion will bring the subject before the two Houses to a point. If we resolve to adhere, there will be an end of the present consumption of time. Whereas, if we do not resolve to adhere, we shall put ourselves in the power of the other branch of the Legislature. If we insist, the other branch may resolve to adhere; or suppose we only send them our disagreement to their amendments, and they adhere—where are we? Either course would put the House at the mercy of the other branch of the Legislature. I hope that the House will adhere. I wish to see whether the House is determined to adhere at all events; for this purpose I move that the House adhere, and call for the yeas and nays.

Mr. Lyon opposed adhering; although willing to go every proper length to bring the Senate to a concurrence, he was for doing it in a complaisant way.

Mr. R. Nelson was really not a little astonished to behold so sudden a change as he had frequently seen in the course of the session in the opinion of members, and of which he was a little apprehensive in this case. He would ask what reason had occurred to induce them to change their opinion, since this subject was before under discussion. How this out-of-door business was managed he could not tell. It was such, however, as, if persisted in, would ruin the nation. After a full expression of sentiment, placed on record, a night intervenes, and gentlemen come next morning and vote directly different from their votes of the day preceding. A lamentable instance of this had occurred in the case of the Post Office bill. He would repeat it, what had had turned up to make the House give a different vote from that given on the original bill? He hoped the House would adhere. He believed it would be good policy to do so. He seemed inclined to think the Senate had stepped out of their proper orbit in proposing these amendments. If the Senate could exercise such a power, there was an end to the Constitutional provision on the subject of money bills.

Mr. Quincy said that the principle laid down by the gentleman from Virginia did not apply. They had sent a bill to the Senate repealing two acts imposing duties on salt, and for continuing the Mediterranean fund. The Senate have agreed to repeal one of the acts laying a duty on salt, but refused to repeal the other, proposing at the same time to continue the Mediterranean fund for a shorter time. How then can gentlemen say, that here is a Constitutional invasion of our powers by the Senate? If we had sent separate bills, could any gentleman say that they had a right to agree to the one and not to the other? And they had surely the same right, when both objects were inserted in one bill.

Mr. Smilie said he believed there was little

difference in the House on this subject, and he had therefore thought it unnecessary to say anything on it. He hoped they would all agree to adhere.

Mr. Rhea, of Tennessee, repeated that he was in favor of adhering; not however under any impression that there was any force in the arguments of the gentleman from Virginia relative to the alleged assumption of power by the Senate. It was true that the right of originating money bills was exclusively vested in the House; but it was equally true that the Senate had the right to modify or amend them; and in the present case, the argument was exceedingly misplaced, as instead of prolonging, they had shortened the continuance of the duties.

Mr. Goldsborough.—The House have determined to disagree to the amendments of the Senate, and the motion now made is to adhere to our original bill. According to the usages between the two bodies, it is common, in this stage of the business, to appoint a committee of conference; but if the object, by adhering, be to waive all committees of conference, I approve of it. And if it be meant, when the House is full, to counteract any vote that might be given by a smaller number, I equally approve it. My opinion is that the salt tax operates oppressively upon the country, and I am therefore for repealing it; and my only reason for continuing the Mediterranean fund is, that it releases the country from this tax.

The question was then taken by yeas and nays, on adhering to the original bill, and carried—yeas 93, nays 20, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Campbell, John Chandler, Martin Chittenden, Mathew Clay, Frederick Conrad, Richard Cutts, Ezra Darby, John Dawson, Elias Earle, Peter Early, James Elliot, Caleb Ellis, Ebenezer Elmer, William Ely, John W. Eppes, William Findley, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, Wm. Helms, James Holland, David Holmes, David Hough, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan McFarland, Robert Marion, David Meriwether, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Jeremiah Nelson, Roger Nelson, Gideon Olin, Timothy Pitkin, jr., John Pugh, John Randolph, John Rea, of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—John Claiborne, Orchard Cook, Samuel W. Dana, Isaiah L. Green, Seth Hastings, Matthew Lyon, Josiah Masters, William McCreery, Gurdon S. Mumford, Thomas Newton, jr., Josiah Quincy, John Russell, Peter Sailly, Thomas Sammons, Samuel Tenney, David Thomas, Uri Tracy, Philip Van Cortlandt, Matthew Walton, and Eliphalet Wickes.

A short time after, a message was received from the Senate, stating that they had considered the disagreeing votes of the two Houses on this bill, and had resolved to adhere to all their amendments.

As the vote to *adhere* is final, and has in this instance been passed by both Houses, *the bill is lost.* The consequence is, that the duties composing what is called the Mediterranean fund will cease with the present session, and the duties on salt be continued.

Friday, February 27.

An engrossed bill to amend the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill for relief of Oliver Pollock. The bill was reported without amendment and ordered to be engrossed, and read the third time this day.

A message from the Senate informed the House that the Senate have passed the bill sent from this House, entitled "An act making appropriations for finishing the South wing of the Capitol, and for other purposes," with several amendments; to which they desire the concurrence of this House.

IMPORTATION OF SLAVES.

Mr. J. Randolph made an animated speech in order to show that the eighth section of the act prohibiting the importation of slaves into the United States involved the exercise of a power not possessed by Congress, which was subversive of the rights of property of the holders of slaves, and which might eventuate in their general emancipation; and concluded by asking leave to present a bill to explain and amend that act.

After some remarks from Messrs. Goldsborough, Quincy, Lyon, Fisk, and Smilie, Mr. J. Randolph, varied his motion, so as to appoint a committee to bring in a bill. This motion was agreed to—yeas 61.

A short time after, Mr. Randolph presented from the committee the following explanatory act.

"Whereas doubts have arisen, or may arise, touching the construction of the eighth section of the act of which this act is explanatory, and whereas Congress disclaim and disavow all Constitutional right, title, or authority whatsoever, by any legislative act, in any wise to abridge, modify, or affect the right of property of masters of slaves, not imported into the United States, contrary to law, in and to such slaves; therefore.

"Sec. 1. *Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That nothing contained in the eighth or any other section of the aforesaid act, shall be construed to abridge, modify, or affect, in any manner whatever, the full, complete, and absolute right of property of the owner or master of any slave, such slave not being imported contrary to law, in and to such slave; and such owner, or master, as aforesaid, shall not be subjected to any disability, or liable to any fine, or forfeiture, although such master, or owner, or his or her agent, may have transported any such slave, not being imported contrary to law, with intent to sell the same, from one port or place within the United States, to any other port or place, in a vessel of less burden than forty tons."

The act, having been read twice, Mr. J. Randolph moved that it be engrossed for a third reading.

Mr. Quincy moved its reference to a Committee of the Whole.

Mr. J. Randolph warmly opposed this motion. He set forth the deep stake the Southern States had in immediately arresting the invasion of their rights made by the eighth section, and the consequent necessity of passing the explanatory law this session, which would not be done, unless it passed the House without delay, as it was in the power of a single member of the Senate to prevent the passage of a bill unless read on three several days. He added that he trusted, if this bill did not pass, that the Virginia delegation would wait on the President, to remonstrate against his giving his sanction to the act which had passed.

Messrs. Fisk, Quincy, Thomas, and Rhea of Tennessee, advocated the reference of the bill to a Committee of the Whole, and its being printed, previously to consideration. They expressed their willingness to agree to any proposition, that should not go to hazard the great objects of the bill passed by the two Houses; but their indisposition to act precipitately on a subject of so much importance.

The question was then taken on referring the bill to a Committee of the Whole; and carried—yeas 58, nays 40.

Mr. J. Randolph moved that it be made the order for this day.

A motion was also made to make it the order for to-morrow.

On this last motion the yeas and nays were taken, and were yeas 60, nays 49, as follows:

Yeas—Willis Alston, junior, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, junior, Robert Brown, John Chandler, Martin Chittenden, Frederick Conrad, Orchard Cook, Richard Cutts, Ezra Darby, John Davenport, junior, William Ely, William Findley, James Fisk, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, David Hough, Nehemiah Knight, John Lambert, Duncan McFarland, Josiah Masters, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Gideon Olin, John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, John Russell, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, David Thomas, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, and Marmaduke Williams.

Nays—Evan Alexander, Isaac Anderson, John Archer, Burwell Bassett, William W. Bibb, Thomas Blount, William A. Burwell, William Butler, John Campbell, John Claiborne, Matthew Clay, John Clopton, Leonard Covington, John Dawson, Elias Earle, Peter Early, John W. Eppes, John Fowler, James M. Garnett, Peterson Goodwyn James Holland, David Holmes, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, junior, Edward Lloyd, Matthew Lyon, Patrick Magruder, Robert Marion, William McCreery, Thomas Moore, Roger Nelson, Thomas Newton, jun., John Randolph, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Samuel Tenney, Philip R. Thompson Matthew Walton, David R. Williams, Nathan Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

DUTIES ON SALT.

The House having agreed to consider the report of the Committee of the Whole on the general appropriation bill—

Mr. Alston said, he was of opinion that the vote of adherence given yesterday was precipitate. When they voted to adhere, he believed they had done that for which there was no example. To show the House the object which he had in view, he was for recommitting this bill to a Committee of the whole House. He would read a motion which he then meant to make, which he thought would meet with the approbation of the Senate; which was, to vary the provisions of the bill, which had been lost, so that the duty of eight cents on salt should be discontinued on the first of July, that of twelve cents on the first day of January next, and the Mediterranean fund on the first day of January. His motion would also embrace two provisions, without which it would have been difficult to have carried the bill into effect.

Mr. J. Randolph hoped that the bill would not be recommitted. We have proposed, said he, to take the existing duty from salt, and the Senate have rejected our proposition. If any proposition is to be made on this subject, it ought to come from that House. I have, indeed, heard that such a proposition will come from that quarter. If, however, we pass any such thing, I hope it will be done in its proper place. If the House are disposed to pass a similar bill to that which has been lost, I have no objection to it.

Mr. Alston said, he thought it more decorous in the House, as they had given the first vote to adhere, to make this attempt, than to expect it from the Senate.

Mr. Bidwell said, if in order, he hoped the motion to commit would prevail; as the object seemed extremely desirable to a large majority of the House. He would rather it had been made the subject of a separate bill; but, from the extreme lateness of the season, it might be best to introduce it into this.

Mr. Eppes said, it appeared to him a new thing to see such a motion introduced into the general appropriation bill. He was not, indeed, ready at

once to say, whether it was correct to originate such a bill, after the principle contained in it had been rejected. He would rather see the object provided for in a separate bill, for the passage of which ample time remained.

Mr. Smilie said, the bill was, in substance, different from that which had been lost. He, therefore, considered the motion in order.

Mr. Burwell said, as there was a difference of opinion, he hoped gentlemen would not press the present motion, but move for leave to bring in a distinct bill. He confessed he felt reluctance in going home, after losing a million of dollars, and continuing the most oppressive tax in force in the United States. It appeared to him that the object of the present motion was essentially different from that which had been lost. This proposed a gradual, that a total repeal. He thought, therefore, the motion strictly in order; but, for the reasons which he had assigned, he hoped the mover would withdraw it, and obtain leave to bring in a new bill.

On recommitting the appropriation bill to a Committee of the Whole, the House divided—ayes 39, noes 53.

The report of the Committee of the Whole, to the appropriation bill, was then considered, and the bill ordered to be engrossed for a third reading.

At a subsequent period of the morning, Mr. Alston moved for leave to bring in a bill to repeal the additional duty of eight cents on salt, after the first day of July, and the duty of twelve cents after the first day of January; and to continue the Mediterranean fund until the first day of January.

On motion of Mr. Quincy, the rule of the House was read, requiring all motions involving leave to bring in bills to lie for a day.

At the instance of Mr. D. R. Williams, the rule was likewise read, directing the reference of all subjects relative to the finances, to the Committee of Ways and Means.

Mr. Eppes said, if the House adhered rigidly to their rules, it appeared to be necessary, in the first instance, that there should be notice given of such an application; and, secondly, that the subject should be referred to the Committee of Ways and Means. But there had already been several instances in which these rules had been deviated from; there was also a peculiar reason for the subject not going to the Committee of Ways and Means, which was, that that committee had already acted upon it. However, if the members of the Committee of Ways and Means were friendly to the object, and could bring in a bill today, he should have no objection to referring the resolution to them. But there was a greater probability of getting the bill reported by referring the resolution to a select committee.

On motion of Mr. J. Randolph, that part of the communication of the Secretary of the Treasury that relates to continuing the Mediterranean fund, and to the repeal of the salt tax, was read.

Mr. Quincy said, in this case, he insisted on an adherence to the rule of the House, which required a day's previous notice.

Mr. Varnum observed that it was the practice of every day to give leave to report by bill without a day's notice.

Mr. Quincy read the rule, already cited, and another rule requiring one day's notice to rescind a standing rule of the House.

The Speaker said, if an adherence to the rule was insisted upon, the motion must lie for a day.

Mr. Eppes said, he felt respect on all occasions for the decision of the Chair; but, as the present decision was variant from the practice of the House, as it was even variant from the practice of that day, he felt himself under the necessity of appealing from it.

Mr. Alston proposed to modify the motion, so as to refer it to a select committee, to inquire into the expediency of reducing the duties on salt, &c., "with authority to report by bill, or otherwise."

Mr. Eppes withdrew his motion for an appeal, in order to allow the gentleman from North Carolina so to modify his motion.

Mr. John Randolph renewed it, and said he should vote in favor of the decision of the Chair.

Mr. Gregg inquired, whether it was not in order to amend the resolution?

The Speaker said it was not, after an appeal had been made.

The question depending was on the appeal.

Mr. John Randolph called for the yeas and nays.

The question was then taken—"is the decision of the Chair in order"? by yeas and nays—yeas 91, nays 9, as follows:

Yeas—Evan Alexander, Isaac Anderson, John Archer, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, William Butler, John Campbell, John Chandler, Martin Chittenden, John Claiborne, John Clopton, Richard Cutts, Ezra Darby, John Davenport, jr., Elias Earle, Peter Early, William Ely, William Findley, James Fisk, John Fowler, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, Seth Hastings, William Helms, James Holland, David Holmes, David Hough, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jun., Henry W. Livingston, Robert Marion, Josiah Masters, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Thomas Newton, junior, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Ebenezer Seaver, Dennis Smelt, John Smilie, John Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, David Thomas, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Abram Trigg, Philip Van Cortlandt, Matthew Walton, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

Nays—David Bard, William A. Burwell, Frederick Conrad, Leonard Covington, John Dawson, John W. Eppes, Patrick Magruder, James Sloan, and Samuel Smith.

Mr. Jackson then offered the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of reducing the duty on salt, and to continue in force the Mediterranean fund, for a limited time, to report by bill or otherwise.

The Speaker said there was a resolution to the same effect then before the House, and it was, therefore, not in order to receive one of the same nature.

Mr. Alston withdrew his motion.

Mr. Quincy asked whether, in point of order, the member could withdraw his motion at this stage of the business?

The Speaker said the member had a right to withdraw the resolution.

Mr. Quincy said, the second resolution amounted to exactly the same thing with the first. The object of both was to bring in a bill.

Mr. Jackson said, he agreed to expunge the words, "report by bill or otherwise."

Mr. J. Randolph asked, if the motion of the gentleman from North Carolina were withdrawn, how the yeas and nays on the appeal from the decision of the Chair could appear on the Journal? The motion must be entered on the Journal.

The Speaker, after having read several rules of the House, declared the motion in order.

The House having agreed to consider the resolution offered by Mr. Jackson,

Mr. Eppes called for the yeas and nays on agreeing to it.

Mr. Quincy called for a division of the question. Though it might be proper to refer the resolution, yet, in his opinion, the reference to a select committee was improper.

Mr. Q. afterward said, he would vary his motion, and call for a division of the question at the word "salt."

Mr. Jackson hoped the yeas and nays would be taken on every question which the gentleman from Massachusetts, or the chairman of the Committee of Ways and Means, might make to embarrass the main object.

Mr. Quincy said, as to the idea thrown out of an intention to embarrass the proceedings of the House, he meant to exercise his Constitutional privilege for the benefit of his country, and in the assertion of his sentiments. He wished his ideas on this subject to appear on the Journals.

Mr. J. Randolph.—Certainly, sir, I am very far from wishing to have this resolution referred to the Committee of Ways and Means. If I had wished it, I should have made a motion to that effect, or have found as much interest in the House as to have got some friend to make it. I do trust, however, that as long as there shall exist a Committee of Ways and Means in the House, and as long as I shall be in anywise connected with that committee, there will be devolved on them purposes much more worthy than that devolved by this resolution. The Committee of Ways and Means reported substantially such a bill as that proposed by the resolution. That bill has been rejected by the other branch of the Legislature, and now it is proposed to go through the miserable farce of appointing a Committee of Inquiry. For such profound inquiries, the capacities of the members of the Committee of Ways and Means are unfit; and I have not the smallest desire to participate in the glory or (as I take it) the discredit of such a motion. It appears to me that the motion before the House is nothing more or less than a prologue to the same miserable farce of tergiversation relative to the salt tax and the Mediterranean fund played over the last session. Their high mightinesses, the Senate——

The Speaker said it was not in order to make such allusions to the Senate.

Mr. Randolph.—Elevated above us by a tenure of six years in office, and by being few in number, they are sullenly or pettishly to reject our bills, and then you are to coax them into a change of opinion, that, by a stern and aristocratical pride, they may saddle the nation, not only with the Mediterranean fund, but likewise with the salt tax. If gentlemen will bring in one bill for taking off the salt tax, and another for continuing the Mediterranean fund, I will vote with them, if the measure can be done with credit to our country. I understand that it is because these measures have been mixed that we have been so treated. If the Senate will descend from their supercilious elevation——

The Speaker again interrupted Mr. Randolph.

Mr. Randolph.—I am not willing to court the Senate. I respect them as our equals—as a coordinate branch of the Legislature—not on account of their numbers, or the period for which they are elected. Standing here as the representative of the people, I consider the dignity of this House dearer than anything else, and that it cannot be separated from the honor and happiness of the nation.

Now for the point of responsibility. Last session we passed a bill on the subject. The Senate sent it back. We showed a kind of resistance, but the nation was eventually saddled with both the salt tax and the Mediterranean fund. At this session we have done the same thing. We sent a similar bill to the Senate—passed by an almost unprecedented majority—passed on the recommendation of the Chief Magistrate. The Senate send us back this bill. They take the responsibility on themselves, and on their shoulders let it be. Let us not step forward to relieve them from the responsibility of having twice refused its passage. I said it was passed on the recommendation of the Chief Magistrate—not that that consideration had any influence on my vote. I should have voted for it, had I stood alone.

When I examine the fiscal arrangements of the Government, I do not see any embarrassment that can arise from any events that can be foreseen, from this business remaining as it is now. If we now let the Mediterranean fund fall, we may offer it at the next session as a fair exchange for the salt tax. But if we send the proposed bill to the Senate, what will be our language? "We have acted with great precipitancy. We wish we had acted with circumspection. We give you notice

that we will bluster a little, but you must not give way." Instead, therefore, of getting rid of the salt tax by this motion, you will only get the Mediterranean fund tacked to it. This will be the upshot of the business as sure as you are in your seats. I therefore feel no hesitation in giving the motion my negative. If gentlemen wish to take off the salt tax, it is competent for them to do so; but I will not under this specious pretext put myself into a situation to treble the public burdens. In every awkward attempt to get out of the morass, you will only sink the deeper. If you send such a bill, you will get the Mediterranean fund added to it. If there exists a temper in the other branch to sanction such a bill as is proposed, let them display it, and send us such a bill.

Mr. Jackson.—It is objected to this motion that we shall disgrace the dignity of the House of Representatives if we offer the bill (which it contemplates) to the Senate. This is the first time that I ever heard the taking off burdens from the people styled a disgrace. Gentlemen must have forgotten their own conduct on the slave bill. It is the first time that I ever heard it considered disgraceful when the two branches of the Legislature disagree, in matters of detail, to endeavor to effect an accommodation. I confess I considered the House, on this occasion, as acting with precipitation; and, for one, I did not consider the vote to adhere as final. I had no desire to act superciliously to the Senate; and I am ready to acknowledge that this was an improper mode of legislation. I never can agree that it is proper, in order to get rid of one thing, to swallow another. Being, however, in favor of both propositions contained in the bill, I could not object to it, although I think they ought not to have been associated. But, to return to the question of dignity or superciliousness. The Senate sent us back our bill, with an amendment only to take off immediately the duty of eight cents on salt. We rejected their proposition in a manner which must have excited their feelings, if they had any. I believe that manner was unprecedented. I do not recollect a single instance in which the House peremptorily refused, by a final vote, any modification proposed by the Senate, without some previous effort to accommodate. Believing, therefore, that we acted superciliously to them, I consider it the essence of true dignity to make a proper acknowledgment. This, however, is not necessarily the effect of this measure. Its strong recommendation is, that it manifests a disposition to conciliate, and that it goes to relieve the people from a considerable burden—from a tax, which, although it only amounts to six hundred thousand dollars, is more burdensome than the Mediterranean fund. If gentlemen wish to divide these questions, I have no objection. I should be content to have two resolutions or two bills, provided the House should be enabled to act on them the same session When this subject was before discussed, I was silent, because my ideas were anticipated by other gentlemen—not from indifference to the importance of the question. In the country I represent, salt costs the people four or five dollars the bushel. I therefore consider it my bounden duty, on every proper occasion, to use my efforts to get rid of such a tax.

Mr. R. Nelson.—It may seem extraordinary that on this occasion I shall vote against the resolution; as heretofore, on every question going to repeal the salt duty, I have voted for it. But I cannot, on principles of policy or honor, vote for this resolution. I ask gentlemen what reason they have to expect that the other branch of the Legislature will assent to it. Are we, by creeping into lobbies, and whispering about it, to get information as to their particular views, and to act on this information? We pass a bill and send it to the other branch of the Legislature. They negative it; and the very next day we send them another bill to the same effect. We must infer that they will treat this second bill in the same way they treated the first. This must be the opinion of every man on whom no out-of-door or private influence has operated. Against this species of legislation I hold up both my hands. I will not be influenced by the whispers that circulate through your lobbies. Why then make this attempt when there is no probability of success? But, say gentlemen, let us try again. I say, however, you may try and try until you are more humiliated. If the responsibility now rests on the other branch of the Legislature, let us not take it off. Let them bear it. To do this will be to prostrate the dignity of the House and the dignity of the people, whose honor as well as interest we are bound to maintain. Though no man is more desirous than myself of getting rid of the tax on salt, I can never bring myself to vote for such a resolution.

Mr. Alston—I am sorry that the gentleman from Maryland, for whom I feel a high respect, has thrown out any insinuation of secret influence. I can assure the gentleman from the time of the disagreement of the two Houses until the time I determined to offer this resolution, I did not cast my eye on a Senator. On conversing with gentlemen who occupy the same lodgings with myself, we all agreed that we had acted precipitately. Indeed, it appeared that some gentlemen were not acquainted with the vote they gave. We then determined to offer this resolution. There is one part of the proposition now under consideration, that I presume the gentleman from Virginia will not say that it becomes the Senate to originate. He will not say that it will be proper for the Senate to send us a bill for continuing the Mediterranean fund. Away then with such ideas! The measure must originate with us; and for one I am willing to submit to all the dishonor which may attach to the vote for repealing the duties on salt.

Mr. Smilie said he had always voted in favor of the repeal of this act. He had uniformly been of opinion that it was the first tax that ought to be abandoned, whenever the circumstances of the country admitted of it. As to true honor and dignity he considered them as connected with the public good; not as consisting in destroying the harmony of the two branches, which, on the contrary, he deemed it his duty to use every effort

to preserve. The question is, have the Senate assumed any Constitutional power that does not belong to them? He was convinced they had not. For one, he felt sorry he had voted to adhere. He believed the usual course of proceeding was the best, and if blame attached anywhere it must be to themselves. He trusted, instead of increasing the breach with the Senate, the House would aim at conciliation. Their dignity was only concerned in one way, and that was in doing their duty. He did believe it possible so to modify the bill, as to obtain the assent of the Senate.

Mr. Quincy—Adopt the resolution under consideration, and its aspect will be this, the Senate will appear to be anxious to relieve the people from their burdens, and we anxious to impose them. Your proposition is to relieve to the extent of $600,000, and to impose a million. I wish the House to hold a different language.

Mr. Bidwell said that his colleague had observed that there was a material difference between the propositions of the Senate and of the House. [Mr. Bidwell here stated the several propositions.] With regard to the Mediterranean fund, said Mr. B., my colleague will find that the disagreeing votes only amount to this: the House are willing to continue that fund until the end of the next session, while the Senate are for continuing it only to the first of January. Though I could have preferred the course pursued by the House, yet I am not unwilling to agree to that pointed out by the Senate. Believing with the Senate that it will be beneficial to relieve the people from the permanent tax on salt, and to continue the Mediterranean fund until the first of January, or to the end of the next session, I am desirous of making one more effort to accommodate the differences between the two Houses. I am sorry that a comparison has been made between the Senate and House of Representatives. The gentleman from Virginia has said that it was competent for the Senate to send to us a bill repealing the duties on salt, and continuing the Mediterranean fund.

Mr. J. Randolph explained.—I may have so expressed myself, but I meant to have said the Senate might send us a bill to repeal the salt tax, to which we might add a clause for continuing the Mediterranean fund.

Mr. Bidwell.—No gentleman will contend that the Senate could originate a bill for the continuance of the Mediterranean fund. I am sorry that any allusion has been made to the Senate, or comparison drawn on the score of dignity between the two Houses. As I believe we may form a bill in which both branches shall agree, to insure the suppression of the salt tax, I hope this resolution will be agreed to.

Mr. Sloan.—With the gentleman from Maryland, I am sorry to see this House getting into such a monstrous course of legislation; and I agree with him, that, if persisted in, it will become ruinous to our country. I had always supposed that, to promote the happiness of the people, it was proper for the two branches to act harmoniously. In the four sessions during which I have had the honor of a seat on this floor, I do not recollect an instance in which there has been such a rejection, without a previous attempt at conciliation. I am alarmed to see such conduct. Permit me to borrow the language of the gentleman from Virginia, who told us, on a former occasion, that it made no odds to him whether the peace and harmony of the United States were destroyed by a Burr, a conspirator, or a commander-in-chief of the army of the United States. Permit me to say, it makes no odds to me whether the peace and harmony of my country is destroyed by a Burr, a conspirator, or a member on this floor, possessed of the privilege attached to his seat. I do not conceive it derogatory to this House to endeavor, at the last moment, to pass a bill deemed essential to the interests of the country. I trust the measure will not be given up until it shall be altogether out of our power to effect it.

Mr. D. R. Williams moved to adjourn. This motion was lost—ayes 25.

Mr. Elmer was sorry so much time had been taken up on the relative honor of the Senate and House. He said, he should have been willing to have taken off the salt tax a month ago, but, at this late period, when time was so precious, it did not become them to trifle as they did at the end of the last session. The question was not in his opinion of so much importance as some gentlemen imagined. As the Senate had taken the responsibility upon themselves, if there was any, he was willing they should keep it. He hoped the question would be taken, and the motion disagreed to.

Mr. Varnum.—Gentlemen feel, on this subject, according to their situations. It is a fact that this tax is of much importance to those gentlemen who live on the seacoast; because the exhalation from the sea impregnates their grass. But those at a distance very properly consider it as a great burden. I must give great credit to gentlemen from the Western country, who manufacture among themselves salt sufficient for their consumption, for their readiness to relieve the other parts of the country from the burden imposed by this tax. I am surprised that those on the Atlantic board do not avow the same willingness. Though gentlemen may think that they do not act from selfish motives, I apprehend it will be thought that they do insensibly act from such motives. Is it possible that any gentleman can consider the duty on salt a just and equal tax? It is impossible to entertain this opinion of a tax operating almost exclusively on the middle part of the United States from New Brunswick to Florida. I am peculiarly astonished that any gentleman from the State which I have the honor to represent, should be opposed to this repeal, or should have made these nice questions of order, when it is recollected how benefitted the people in his part of the country are by the bounties paid by the Government.

Mr. V. concluded, by observing that he was ready to take any measures that were honorable, to effect a repeal of so oppressive a tax. He was certain there was no act within the power of the

Legislature that would be so satisfactory to those who paid the tax.

Mr. ELY.—I am sorry to add to the astonishment of my colleague. For my part, I am willing to consult the interest of my constituents as much as I ought; and in this measure, I believe my constituents are as much interested as his, and I believe more so; but there seems to be a kind of magic in this name of salt tax. My constituents do not complain more of it than any other tax. I do not know the reason; perhaps it may be that they are not so intelligent as the constituents of my colleague. They rejoice that Government may be kept up, and yet that taxes may be relinquished from time to time: but they cannot conceive that the getting rid of twelve hundred thousand dollars is not more important than getting rid of a tax of half a million; with them, I agree that getting rid of the former, is of the most consequence. Heretofore I have been in favor of taking measures for repealing the salt tax; and, on the same principle, I should vote for the repeal of every tax that the persons in Government shall say they do not want. I wish sincerely to get off all unnecessary taxes as fast as I can, and I think the taking off the tax of $1,200,000 is a very important thing. When, however, we have taken early and honorable measures to get rid of the salt duty and laid that measure before the Senate, and we see that they have turned about and told us they will continue the salt tax, and take off the Mediterranean fund, and I observe gentlemen rest under the most intolerable uneasiness, because they have relieved the people of a burden of $1,200,000, and have laid a burden of $500,000, I confess I feel surprised. I cannot unite with gentlemen in the alarm they have expressed; on the contrary, I am ready to say, this is a procedure which I hope the House will never adopt.

Mr. FISK.—I have no idea that my duty and dignity or the honor or interest of the House are implicated in this course of procedure. The gentleman from Massachusetts may exercise his ingenuity as he pleases; but he will never make the people of this country believe that there is no difference between a partial and impartial tax. Does he not know, too, that there are many articles of consumption which a man may obtain or not, as he pleases; and that there others which are absolutely indispensable; of the last of which, salt is one? Does not the poor man in the interior, who is obliged to pay so exorbitantly for this article, know that his rich neighbor on the Atlantic does not pay in the same ratio? If he has the independence of an American, will he not complain? I hope, therefore, we shall meet this question and try again to have the duty taken off.

Mr. QUINCY said he should not have risen again but for the idea that the people on the seaboard pay nothing, and for the impression of some gentlemen that they eat no salt. Mr. Q. said they used it as well as other people in the United States. It might be true that in the interior the tax bore somewhat harder. But the question then under consideration was, whether they should entirely take off this tax, or take a scale and reduce the existing taxes on various other articles.

Mr. ELMER.—Gentlemen speak as if those against this motion were against taking off the duty on salt. This is not so. We have already made the attempt, and there is no chance of success. Gentlemen certainly carry their ideas on this subject too far. The salt tax is unequal, but by no means so much so as they contend. Wealthy people consume salt nearly in proportion to their wealth. It is a tax which I wish repealed; but I think I have done all in my power to repeal it. I believe gentlemen would not be so anxious on this subject if it were not for the Mediterranean fund. I should prefer the continuance of the latter tax; but if the Senate differ from us, and we cannot do otherwise, we ought to let the business rest where it is. I consider the vote of adherence as very proper to convey our sentiments to the Senate; to let them know that they must repeal the duty on salt or the Mediterranean fund. would die. The Senate have taken their choice, and we have now no alternative left.

Mr. EPPES.—After the impatience manifested by the House, I shall trouble them with but very few observations. I shall not submit my ideas on the general question, as with few exceptions we are all in favor of a repeal of the duties on salt. The great difficulty is the mode of getting at this question. Gentlemen seem to have converted it into a question of etiquette. It seems to be like a question settled some centuries ago, between two ladies of rank, who met in a narrow lane, and were both obliged by high authority to back their carriages. It is true the resolution is somewhat extraordinary; but what has produced this? Our rules; under which, though it is not in order to hand in a bill to effect any particular purpose, it is yet in order to pass a resolution to the same effect. As I have been uniformly in favor of repealing the salt tax, I am not disposed, because the Senate have rejected our bill, to deprive the people of this advantage. Two objections, however, are started. First, that if we send the Senate a new bill, we shall be saddled with the Mediterranean fund; and secondly, that in so doing we shall compromit the dignity of the House.

The first objection goes to the details and not the principle of the measure. Any gentleman may propose to separate the two objects at present embraced by the resolution. I for one shall be very happy in giving the business that direction; as I see no necessity for the connexion, and as I am willing to guard against the possibility of being tricked into a continuance of the Mediterranean fund.

As to the second objection, the danger of compromiting the dignity of the House, if there are any facts in this case different from those which occurred in other cases, I am not acquainted with them. There is nothing uncommon in a bill being lost between the two Houses; and in case of any such important bill being lost. neither branch ought to stand on ceremony, with regard to its origination. As to out-of-door influence I will say that I have had no connexion with the Senate; if I had, it could have no influence on my conduct. I stand here on independent ground. I shall pursue what I deem right, and permit them to do so too.

Mr. LLOYD.—I have not the vanity to suppose that I can, by anything I can say, change the opinions of the members of this House; but considering the extraordinary course this business has taken, and since the yeas and nays have been required, I think it proper to assign my reasons for the vote I shall give on this occasion. What in this instance is the conduct of the House, and of the gentlemen opposed to this resolution? Have not the latter gentlemen, while there was a prospect of a repeal of the duties on salt, manifested equal zeal for that measure? Are the gentlemen who now urge this resolution so weak as to believe that we are to be taken in by such a proposition as they offer? Do they think that they will be thereby able to make the people believe that they are the exclusive friends of a repeal, when the speeches delivered on that occasion on both sides shall be published, and it shall appear that the opponents of this resolution were as inimical to the salt tax as its advocates? I am as much opposed to that tax as any man on this floor, and I have ever reprobated those who laid it. I am willing my conduct, as well as that of the House, should be reviewed by the world. On this review it will be found that the House passed an act repealing this odious tax—that they sent it to the Senate. What was the consequence? The Senate sent it back; they agreed to take off the duty of eight cents, but not the duty of twelve cents. And we are told that the argument urged was that the latter duty was pledged for the payment of the national debt. When I voted to repeal this tax I voted on principle. I considered it as oppressive and unjust. Had the tax laid been one cent, I should have voted against it; and I pledge myself, unless otherwise instructed, I will not vote in favor of another tax until this shall be taken off. Gentlemen say we acted with precipitancy in not giving the Senate an opportunity to recede and accommodate. But have we any reason to think that there is any disposition on the part of the Senate to recede? Has any gentleman been closeted with them? I presume not. If they have been, I presume they will be ashamed to say so. We passed a law on this subject founded on principle. That act has been rejected in the Senate. They feel alarm. They recollect perhaps that this very act raised an alarm fatal to one party in the United States. They may perhaps look to the political horizon and see a cloud rising which may be fatal to them. It is said that we have acted hastily. But is it more becoming in us to give the Senate the offer of a new bill, than for the Senate to offer such a bill to us? If they thought the measure now proposed proper, why did they not themselves propose a conference? Why, then, exonerate the Senate from this censure, and attach it to ourselves? I rose with unwillingness on this subject; but when I heard arguments urged with a view to lessening the confidence of the people in those who are opposed to this resolution, I thonght it proper to offer my ideas. When this resolution and the debate which has taken place on it shall be published, I shall not fear to meet my constituents. Had it not been for this expression of my sentiments, it might perhaps have been imagined that those opposed to this resolution were likewise opposed to a repeal of the salt tax. I have been always opposed to that tax, but I have no reason to think that a Legislative body will do that tomorrow which it has refused to day. For these reasons I shall vote against the resolution.

Mr. BURWELL.—I only rise to say it is not my wish to impute any censure to those who are opposed to this resolution. It is not my intention to vote for continuing the Mediterranean fund, and the duty on salt; on the contrary, if the Mediterranean fund be continued, I shall be for discontinuing the duty on salt. I wish this resolution brought forward, as I am free to declare that the tax on salt in the district which I have the honor to represent is extremely oppressive. Owing to that duty we are compelled to pay two or three dollars on salt, when independent of it we should otherwise pay only one or one and a half dollars per bushel. I believe the same effect is likewise produced in other parts of the State. The merchants, when this article is imported, being under the necessity of advancing the duty charged upon it to Government, are prevented from importing as much salt as would otherwise be imported. The market is consequently not supplied, and owing to this, there is a great fluctuation in the price. I have no disposition to arraign the motives of gentlemen, or any wish that it should be understood that I consider some of those who vote against the resolution as unfriendly to taking off this duty.

Mr. LYON declared himself inimical to the salt tax, but said he should vote against the resolution.

Mr. JOHN RANDOLPH.—The question is now to agree to so much of the motion as relates to a repeal of the duties on salt. This question has been argued, to my great surprise, as if it were proposed for the first time to take off this duty on salt, and to relieve the people from the burden. This, according to my idea, is not the question. I presume there can be but one sentiment in this House, that all those members who mean to put the House in the power of the other branch of the Legislature will vote for the resolution. All those, on the contrary, who endeavored to take off the salt tax as well at the last session as at this, will vote against the resolution, for one of the best possible reasons. I do know one of the members of this House who remained, notwithstanding the pressure of most urgent business, to see this question settled, who left town under the impression that it was settled by the last vote of the House. Other members may be in the same situation. But figure to yourself the possibility that under this attempt the nation may be put in *statu quo;* and that at the close of the session, in a thin House, we may have added to the burden of the people a million of dollars, dreamt of by

no man, unless given as an equivalent for the salt tax. This course strikes me as peculiarly unhappy, and nothing but my respect for the judgment of the Speaker has prevented me from appealing to the House. It will be productive of the most calamitous effects, if after the question is settled, at the close of the session of an expiring Congress, motions can be received to load the nation with burdens, we cannot tell to what amount; for I contend that this is a motion to take off one tax and to lay another of greater amount. It was precisely in this way that the additional tax of eight cents was laid on salt; when the House was full, a proposition was made to impose it, and rejected, and when many members had gone home in unsuspicious confidence, then it was that this tax was riveted round the necks of the people. Every argument adduced on this subject from the first to the last proves the necessity of a grand reform in our financial system; that there should be no such thing as permanent duties; that they should all from time to time come back and be put in your power, as the independent representatives of the people, to compel the other branches of the Government to lighten the public burdens.

Let us take a review of this subject, and see whether the House of Representatives have acted with precipitancy, and whether it becomes them to retrace their steps, and to back out of the difficulty in the manner stated by the gentleman from Virginia. Be it remembered that this proposition was brought forward at the last session; that the hearts of many members of the House were set on it; that it went to the Senate with a commanding majority; that the Senate hung back; that we proposed a committee of conference; that our committee recommended to us to recede—to back out—and the Senate had their way. I think it my duty as a member of this House to sustain its character, and to prove that it has not acted with precipitancy, with sulkiness, or ill humor. The thing went abroad; we returned here; the public sentiment vibrated on the President of the United States; he recommended a repeal of the tax; his recommendation was referred to the Committee of Ways and Means; they were not backward on the subject; they acted with promptness; an act, passed by a great majority, was sent to the Senate. They postponed it from day to day; when we received it, we found it in a mutilated state. What did we do? We determined to reject their amendments. This was a manly determination—it was frank, honorable, and candid. We said they press us too hard. We tried the same thing last session, but we then gave up our opinions to them. I was not of that number. I voted then as I now do, and shall vote again next session if I have a seat in this House.

After having indulged the other branch of the Legislature, had we not a right to expect, after this appeal to the people, and manifestation of their feelings, that they would no longer offer a modification of the repeal, and ought we not to say, if you will not repeal the salt tax we will not give you the Mediterranean fund. I call on the Clerk to say when he carried our bill to the Senate, and I ask gentlemen to compare it with the time when it was returned with a partial and reluctant assent. I ask gentlemen to compare this tardy procedure with the precipitancy with which they acted on our vote to adhere, to which in half an hour they sent us back an answer of adherence on their part. When it was proposed to relieve the people from burdens, months are suffered to elapse; but when it was proposed to continue burdens a half an hour is sufficient.

A gentleman from Vermont has observed that the people in this country make a great use of salt, but little of sugar and coffee. The duties, however, on sugar and coffee make no part of the Mediterranean fund. They have nothing to do with the duties on salt, or with those that constitute the Mediterranean fund.

It has been also observed that unless we agree to the motion before us the salt tax will be perpetual. I believe no such thing. I believe, on the contrary, that we could do nothing that would have that effect so much as the agreeing to this resolution. If we agree to the resolution, it will be an apology for the other branch of the Legislature. But let us disagree to it, and let them go back and give an account to the State Legislatures, and I warrant you they will take them to task. What is the reason that the State Legislatures have not already instructed their Senators to vote for the repeal of this tax? The belief that such instruction was unnecessary. As soon as they saw the message they considered the act as good as repealed. My word for it, the next session they will not put their veto upon it.

While I touch for the second time in my life on the recommendation of the President to repeal this tax, permit me to enter my protest against the terms in which it is couched. At the same time I am willing, and I might say glad, that that recommendation has produced its due effect. But permit me to say that it belongs more exclusively to the Legislature, and to this branch, to determine as to the specific burdens which shall be imposed on, or taken off, the people of the United States. It is enough if the Treasury tells us there is more money than is wanted, and that we can spare a part. It detracts nothing from the popularity or graciousness of the act, that the Executive does not descend to particulars. This House has a right to participate with every other branch of the Government in the popularity of such an act. I will add that while the superintending arm points out such taxes as we are able to dispense with, it belongs to us only to say in what manner that dispensation shall be made.

Before I sit down I shall for the last time in my natural or political life take notice of some observations from a certain quarter. I protest against the borrowing of any sentiments or words of mine by any member after he has defiled and perverted them, and after they have partaken of his own contamination. I will also observe for the last time that, when an accusation shall hereafter be brought against me by talents so splendid, I shall deem it my duty to have counsel allowed me in my defence. This is a privilege allowed to the most atrocious criminal, and why not also allow it to the member addressing you?

Mr. Fisk said the gentleman from Virginia had taken the liberty to notice an observation made by him. He had said that the people never would submit to a partial tax, and it was on this head that he had alluded to the duties imposed on sugar and coffee, and not in the way represented by the gentleman from Virginia.

Mr. Quincy said, as he did not wish to give the House unnecessary trouble, he would withdraw his motion to divide the question.

Mr. Alexander renewed the motion.

Mr. Sloan said he rose to say but a single word in reply to the gentleman from Virginia, who, it seemed, had determined in future to take no notice of his remarks, for which he was not sorry. The few words he had to utter would be in the former phraseology of the gentleman, and would tend to show that his remarks had been not without effect—"the galled jade winces."

The yeas and nays were then taken on the first member of the resolution, viz:

"*Resolved*, That a committee be appointed to inquire into the expediency of repealing the duty on salt."

And stood, yeas 60, nays 40, as follows:

Yeas—Willis Alston, junior, Isaac Anderson, David Bard, Joseph Barker, George M. Bedinger, Silas Betton, Barnabas Bidwell, John Blake, junior, Robert Brown, William A. Burwell, John Chandler, Martin Chittenden, John Claiborne, Matthew Clay, Frederick Conrad, Leonard Covington, Ezra Darby, John Dawson, James Elliot, Caleb Ellis, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, David Hough, Thomas Kenan, John Lambert, Joseph Lewis, junior, Patrick Magruder, William McCreery, Nicholas R. Moore, Thomas Moore, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Thomas W. Thompson, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, and Joseph Winston.

Nays—Evan Alexander, John Archer, William W. Bibb, Thomas Blount, William Butler, John Campbell, Peter Early, Ebenezer Elmer, William Ely, Jas. M. Garnett, Charles Goldsborough, Isaiah L. Green, Seth Hastings, William Helms, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Robert Marion, Josiah Masters, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, junior, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Dennis Smelt, Richard Stanford, William Stedman, Samuel Taggart, Philip R. Thompson, Uri Tracy, Abram Trigg, Peleg Wadsworth, Eliphalet Wickes, and David R. Williams.

The second member of the resolution was then read, as follows:

"And to continue in force the Mediterranean fund for a limited time."

Mr. J. Randolph.—I consider this as a different question. Placing the continuance of the Mediterranean fund in the power of the Senate, will only be to put you in the situation in which you were at the close of the last session, and which I fear you will be in next Tuesday. I hope no one will vote for this part of the resolution. The difference after all will be only half a million, and it will be competent to us at the next session to make up that sum, if there shall be any deficit. Considered as principal this is a pitiful sum. I hope, therefore, we shall try the question of repealing the salt tax on its own merits; that the arguments in favor of it will be permitted to have their own weight, and that we shall send a bill to the Senate simply for repealing the duty on salt. If they swallow this salt and water dose, it is well, but let us not agree to sweeten it with the Mediterranean fund.

The question was then taken by yeas and nays on the second member of the resolution—yeas 46, nays 43, as follows:

Yeas—Willis Alston, jr., George M. Bedinger, Barnabas Bidwell, John Blake, jr., William A. Burwell, John Chandler, John Claiborne, Frederick Conrad, Leonard Covington, Ezra Darby, Caleb Ellis, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, David Holmes, David Hough, Thomas Kenan, John Lambert, Matthew Lyon, Nicholas R. Moore, Thomas Moore, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, and Thomas Wynns.

Nays—Evan Alexander, John Archer, David Bard, Silas Betton, William W. Bibb, Thomas Blount, William Butler, John Campbell, Martin Chittenden, Matthew Clay, Peter Early, James Elliot, Ebenezer Elmer, William Ely, James M. Garnett, Charles Goldsborough, Joseph Lewis, jr., Edward Lloyd, Duncan MacFarland, Robert Marion, Josiah Masters, William McCreery, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Dennis Smelt, Richard Stanford, William Stedman, Samuel Taggart, Philip R. Thompson, Thomas W. Thompson, Abram Trigg, Peleg Wadsworth, David R. Williams, and Joseph Winston.

And the main question being taken, that the House do agree to the said motion, in the words following, to wit:

"*Resolved*, That a committee be appointed to inquire into the expediency of repealing the duty on salt, and to continue in force the Mediterranean fund for a limited time:

It was resolved in the affirmative—yeas 44, nays 39, as follows:

Yeas—Willis Alston, junior, David Bard, George M. Bedinger, Barnabas Bidwell, John Blake, junior, William A. Burwell, John Chandler, John Claiborne,

Frederick Conrad, Leonard Covington, Caleb Ellis, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Silas Halsey, James Holland, John Hamilton, David Holmes, David Hough, Thomas Kenan, John Lambert, William McCreery, Nicholas R. Moore, Thomas Moore, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Joseph Winston, and Thomas Wynns.

Nays—Evan Alexander, John Archer, Silas Betton, William W. Bibb, Thomas Blount, William Butler, John Campbell, Martin Chittenden, Matthew Clay, Ebenezer Elmer, William Ely, James M. Garnett, Charles Goldsborough, Isaiah L. Green, Seth Hastings, Walter Jones, Edward Lloyd, Matthew Lyon, Duncan MacFarland, Robert Marion, Josiah Masters, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Thomas Newton, jun, Timothy Pitkin, junior, Josiah Quincy, John Randolph, Peter Sailly, Thomas Sammons, Thomas Sandford, Richard Stanford, William Stedman, Samuel Taggart, Philip R. Thompson, Thos. W. Thompson, Abram Trigg, Peleg Wadsworth, and David R. Williams.

Mr. Alston then moved for the appointment of a select committee.

On counting the members present, the Speaker said there was not a quorum within the bar.

After waiting some time without getting a competent number of members to form a quorum,

Mr. Gregg observed that he did not know whether an immediate call of the House was in order; but if it was, he thought it ought to be made. They had heard a great deal about the responsibility of the Representative to the people. He thought the people ought in this case to know that the business of the nation had been delayed by the desertion of members.

Mr. Blount hoped there would be a call, that the people might know what members had deserted their posts.

The question being put, an immediate call of the House was agreed to. It was now half after seven in the evening.

The Clerk having proceeded to call over the names of the members, sixty-eight members (including the Speaker) appeared to be present.

The absentees being then again called over and noted, it appeared that seventy-three members were absent; seven of whom had obtained leave, three had not appeared in their seats during the session, and sixty-three failed to be present at the call, to wit:

Evan Alexander, Isaac Anderson, John Archer, Joseph Barker, Burwell Bassett, Silas Betton, William W. Bibb, Phanuel Bishop, James M. Broom, Robert Brown, William Butler, George W. Campbell, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, Ezra Darby, John Davenport, jr., John Dawson, Elias Earle, Peter Early, John W. Eppes, James M. Garnett, Seth Hastings, Wm. Helms, John G. Jackson, Walter Jones, James Kelly, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, Duncan MacFarland, Patrick Magruder, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Gideon Olin, Timothy Pitkin, jun., John Porter, John Randolph, Thomas M. Randolph, John Russell, Dennis Smelt, John Smilie, O'Brien Smith, Richard Stanford, William Stedman, Samuel Taggart, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Matthew Walton, Eliphalet Wickes, David R. Williams, Nathan Williams, Alexander Wilson, and Richard Winn.

Sixty-three absentees.

Mr. Goldsborough said gentlemen must be sensible, from the great extent of the city, that it was impracticable, at so late an hour, to command the attendance of members, without a great waste of time. He therefore moved an adjournment.

This motion was negatived—ayes 31, noes 36.

Mr. Gregg renewed the motion, which was agreed to—ayes 50; when the House adjourned, at eight o'clock.

Saturday, February 28.

On reading the Journal of yesterday—

Mr. Eppes observed that as he supposed the object of the call of the House the preceding evening had been to publish the names of the absentees, he thought it would be proper to state on the Journal the hour at which the call had been made. He had no objection that the people should know that he had sat in his seat from ten o'clock in the morning till seven at night, and had waited until he had given his vote on the question depending. If gentlemen wished to make an advantage of this circumstance, he was willing they should have all the eclat they could desire. He, however, trusted the Journal would be amended as he had intimated.

An amendment was made to this effect.

Mr. J. Randolph observed that he had been a member of the House for eight years, and he had never known a call without a day's previous notice. He believed the call of yesterday was the only instance in which this practice had been departed from. As mentioned by another member, he had sat from ten in the morning till eight in the evening, and when he returned, after a short absence to obtain refreshment, he had found himself marked as a school boy on the books.

It was then resolved that such of the members, who were absentees, and whose names are noted as not being present at the call of the House yesterday, be severally excused, and admitted to their seats.

Messrs. Fisk, Alston, and Claiborne, were appointed a committee pursuant to the resolution adopted yesterday, to bring in a bill repealing the duty on salt, and to continue the Mediterranean fund for a limited time.

During the morning, Mr. Fisk presented a bill repealing the duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act to protect the commerce and seamen of the United States against the Barbary Powers."

On reading this bill a second time, the House divided—ayes 65.

It was then referred to a Committee of the Whole. It was then moved to make it the order for this day, to-morrow, Monday and Tuesday. All the other days but *this day*, were disagreed to.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the public debt, on the first day of January 1801, 1802, 1803, 1804, 1805, 1806, and 1807, respectively, together with several explanatory statements and notes, prepared in obedience to a resolution of the House, on the eighth ultimo; which were read and ordered to lie on the table.

An engrossed bill making appropriations for the support of Government during the year one thousand eight hundred and seven, was read the third time, and passed.

An engrossed bill for the relief of Oliver Pollock was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill sent from this House, entitled "An act for the relief of Stephen Sayre, with several amendments; to which they desire the concurrence of this House: also, the bill, entitled "An act providing for the punishment of certain crimes against the United States," with several amendments; to which they desire the concurrence of this House: and the bill, entitled "An act for the relief of Daniel S. Dexter," with an amendment; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act providing for the appointment of Commissioners to ascertain the practicability of removing the obstructions in the navigation of the Ohio, at the Rapids;" to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill be engrossed, and read the third time this day.

The House resolved itself into a Committee of the Whole on the bill disapproving of an act, passed by the Governor and Judges of the Territory of Michigan, entitled "An act concerning the Bank of Detroit. The bill was reported without amendment and ordered to be engrossed, and read the third time this day.

LEWIS AND CLARKE.

The House resolved itself into a Committee of the Whole on the bill making compensation to Messieurs Lewis and Clarke, and their companions.

The bill was reported with several amendments thereto; which the House proceeded to consider. Whereupon, the first amendment reported from the Committee of the Whole being again read, in the words following, to wit:

Sec. 1, line 4. After the words, "William Clarke," insert "William Eaton, Priestly Nevil O'Bannon, and George Washington Mann."

The question was taken that the House do agree with the Committee of the Whole in the said amendment, and passed in the negative—yeas 47, nays 61, as follows:

Yeas—Silas Betton, Barnabas Bidwell, Phanuel Bishop, Martin Chittenden, Frederick Conrad, Orchard Cook, Richard Cutts, Samuel W. Dana, James Elliot, Ebenezer Elmer, William Ely, James Fisk, John Fowler, Charles Goldsborough, Isaiah L. Green, Seth Hastings, William Helms, David Hough, James Kelly, Joseph Lewis, jr., Henry W. Livingston, Duncan MacFarland, Josiah Masters, Jeremiah Morrow, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., Josiah Quincy, John Russell, Peter Sailly, Martin, G. Schuneman, Ebenezer Seaver, Dennis Smelt, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Eliphalet Wickes, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, George W. Campbell, John Chandler, John Claiborne, Leonard Covington, Ezra Darby, John Dawson, John W. Eppes, William Findley, James M. Garnett, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, Walter Jones, John Lambert, Edward Lloyd, Robert Marion, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Abram Trigg, Matthew Walton, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and Thomas Wynns.

The other amendments reported from the Committee of the whole House to the said bill, were then again severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments agreed to, be engrossed and read the third time this day.

The House resolved itself into a Committee of the Whole on the bill concerning invalid pensioners. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

The House then proceeded further to amend the said bill and made some progress therein, when the House adjourned until seven o'clock, P. M.

Eodem die—Seven o'clock.

An engrossed bill disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled "An act concerning the Bank of Detroit."

An engrossed bills authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill sent from this House, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana," with several amendments, to which they desire the concurrence of this House.

LEWIS AND CLARKE.

An engrossed bill making compensation to Messrs. LEWIS and CLARKE, and their companions, was read the third time, and on the question that the said bill do pass, it was resolved in the affirmative—yeas 62, nays 23, as follows:

YEAS—Willis Alston, Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, William W. Bibb, Barnabas Bidwell, John Blake jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Chandler, John Claiborne, Leonard Covington, Peter Early, James Elliot, Ebenezer Elmer, James Fisk, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, Silas Halsey, William Helms, David Holmes, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jr., Edward Lloyd, Robert Marion, Josiah Masters, William M'Creery Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Peter Sailly, Thomas Sandford, Ebenezer Seaver, James Sloan, Samuel Smith, Henry Southard, Richard Stanford, David Thomas, Philip R. Thompson, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

NAYS—Silas Betton, John Campbell, Martin Chittenden, Frederick Conrad, Ezra Darby, William Ely, David Hough, Duncan McFarland, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jun., Josiah Quincy, John Russell, Thomas Sammons, Martin G. Schuneman, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Thomas W. Thompson, Joseph B. Varnum, and Eliphalet Wickes.

A motion was made, and the question being put, that the House do now adjourn, it passed in the negative—yeas 20, nays 72.

DUTIES ON SALT.

On a motion made and seconded that the House do now resolve itself into a Committee of the whole House on the bill repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" it was resolved in the affirmative—yeas 58, nays 31, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, George W. Campbell, John Chandler, John Claiborne, Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, James Elliot, Ebenezer Elmer, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, William Helms, James Holland, David Holmes, David Hough, John Lambert, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, Jas. Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Thomas Wynns.

NAYS—Evan Alexander, Silas Betton, William W. Bibb, John Campbell, Martin Chittenden, George Clinton, jun., Samuel W. Dana, Peter Early, William Ely, James M. Garnett, Isaiah L. Green, Seth Hastings, James Kelly, Joseph Lewis, jun., Henry W. Livingston, Edward Lloyd, Duncan MacFarland, Robert Marion, Josiah Masters, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Roger Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Russell, Peter Sailly, Thos. Sammons, Thomas Sandford, Richard Stanford, William Stedman, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Eliphalet Wickes, David R. Williams, and Nathan Williams.

The House accordingly resolved itself into the said Committee, and after some time spent therein, the Committee rose and reported an amendment thereto, which was read, and is as follows:

"Section 1, line 7, strike out the words "first day of January," and in lieu thereof, insert "thirtieth day of September."

A division of the question on the said amendment was called for, and on the question to strike out the words "first day of January." it was resolved in the affirmative.

A motion was then made by Mr. JOHN RANDOLPH, to amend so much of the said amendment as proposes to insert the words "thirtieth day of September," by inserting in lieu thereof, the words "thirty-first day of March."

Mr. SPEAKER declared the said motion to amend not to be in order. From which decision of the Chair an appeal was made to the House by two members; and on the question, "Is the decision of the Chair in order?" it was resolved in the affirmative—yeas 71, nays 10, asfollows:

YEAS—Evan Alexander, Isaac Anderson, David Bard, Joseph Barker, Silas Betton, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, George W. Campbell, John Chandler, Martin Chittenden, John Claiborne, George Clinton, jr., Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, Elias Earle, James Elliot, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, David Holmes, David Hough, Thomas Kenan, John Lambert, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Gideon Olin, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, David Thomas, Thomas W. Thompson, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Eliphalet Wickes, David R. Williams, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

NAYS—Burwell Basset, George M. Bedinger, William W. Bibb, William Ely, John W. Eppes, James M. Garnett, Edward Lloyd, John Randolph, Thomas Sandford, and Philip R. Thompson.

The question was then taken that the House do agree with the Committee of the Whole in so much of their said amendment as proposes to insert, in lieu of the words stricken out, the words "thirtieth day of September," and resolved in the affirmative.

A motion was made by Mr. JOHN RANDOLPH, further to amend the first section of the said bill by striking out in the second line thereof, the words "thirtieth day of June," and inserting, in lieu thereof, the words "thirty-first day of March."

A division of the question on the said amendment was called for, and on the question to strike out the words "thirtieh tday of June," it passed in the negative—yeas 20, nays 64, as follows:

YEAS—Isaac Anderson, Burwell Bassett, George M. Bedinger, Silas Betton, William W. Bibb, Martin Chittenden, James Elliot, William Ely, James M. Garnett, Edward Lloyd, Robert Marion, John Randolph, Jacob Richards, Thomas Sandford, Dennis Smelt, Richard Stanford, Samuel Tenney, Philip R. Thompson, Thomas W. Thompson, and David R. Williams.

NAYS—Evan Alexander, Willis Alston, jr., David Bard, Joseph Barker, Barnabas Bidwell, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, George W. Campbell, John Chandler, John Claiborne, George Clinton, jr, Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, Elias Earle, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland. David Holmes, David Hough, Thomas Kenan, John Lambert, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Gideon Olin, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, John Russell, Peter Sailly, Thomas Sammons, Martin G. Schuneman, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill. Eliphalet Wickes, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

Another motion was made by Mr. J. RANDOLPH, further to amend the said bill by striking out the last section thereof, in the words following, to wit:

"Section 3. *And be it further enacted*, That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers, as is contained in the first section of the said act, be and the same hereby is continued in force, until the first day of January next, and no longer: *Provided, however*, That the additional duty laid by the said section, shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

And on the question thereupon, it passed in the negative—yeas 23, nays 48, as follows:

YEAS—Silas Betton, William W. Bibb, Martin Chittenden, Samuel W. Dana, James Elliot, William Ely, James M. Garnett, Isaiah L. Green, David Hough, Robert Marion, William McCreery, Gurdon S. Mumford, Timothy Pitkin, junior, John Randolph, John Russell, Peter Sailly, Thomas Sandford, Richard Stanford, Philip R. Thompson, Thomas W. Thompson, Eliphalet Wickes, David R. Williams, and Nathan Williams.

NAYS—Evan Alexander, Willis Alston, jun., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, Barnabas Bidwell, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, George W. Campbell, John Chandler, John Claiborne, George Clinton, junior, Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, Elias Earle, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, Thomas Kenan, John Lambert, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Thomas Wynns.

Another motion was made by Mr. JOHN RANDOLPH, to amend the said last section of the bill, by striking out therefrom the words "first day of January," and inserting, in lieu thereof, the words "thirtieth day or September."

A division of the question on the said amendment was called for; and on the question to strike out the words "first day of January," it passed in the negative—yeas 24, nays 58, as follows:

YEAS—Silas Betton, Martin Chittenden, John Claiborne, Samuel W. Dana, James Elliot, William Ely, James M. Garnett, Isaiah L. Green, David Hough, Robert Marion, Josiah Masters, William McCreery, Jonathan O. Mosely, Gurdon S. Mumford, John Randolph, John Russell, Peter Sailly, Thomas Sammons, Thomas Sandford, Richard Stanford, Philip R. Thompson, Thomas W. Thompson, Eliphalet Wickes and David R. Williams.

NAYS—Evan Alexander, Willis Alston, jr., Isaac Anderson, David Bard, Joseph Barker, Burwell Bassett, George M. Bedinger, William W. Bibb, Barnabas Bidwell, John Blake. jr., Thomas Blount, Robert Brown, William A. Burwell, George W. Campbell, John Chandler, George Clinton, jr., Frederick Conrad, Leonard Covington, Richard Cutts, Ezra Darby, Elias Earle, John W. Eppes, William Findley, James Fisk, John Fowler, Peterson Goodwyn, Andrew Gregg, Silas Halsey, John Hamilton, James Holland, David Holmes, John Lambert, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gideon Olin, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Martin G. Schuneman, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Joseph Stanton, David Thomas, Uri Tracy, Joseph B. Varnum, John Whitehill, Robert Whitehill, Marmaduke Williams, Nathan Williams, Alexander Wilson, and Thomas Wynns.

Another motion was then made, by Mr. JOHN RANDOLPH, further to amend the said bill by striking out, in the second section thereof, the words "first day of January," and inserting, in lieu thereof, the words "thirtieth day of September," and passed in the negative.

Ordered, That the said bill be engrossed, and read the third time immediately.

The said bill was accordingly brought up engrossed and read the third time.

Resolved, That the said bill do pass, and that the title be, "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act

further to protect the commerce and seamen of the United States against the Barbary Powers."

MONDAY, March 2.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act for the relief of John Chester." The bill was reported without amendment, and read the third time, and passed.

Ordered, That the order of the day for the House to resolve into a Committee of the Whole on the bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same, be postponed indefinitely.

INVALID PENSIONERS.

The House resumed the consideration of the bill concerning invalid pensioners: Whereupon, a motion was made by Mr. BLOUNT, further to amend the said bill, by adding thereto a new section, in the words following, to wit:

SEC. 5. *And be it further enacted*, That the Secretary of War be, and hereby is, authorized to place on the pension list of the United States the persons named on the lists of the several States, obtained by him, pursuant to the resolution of the House of Representatives of the seventeenth day of April, one thousand eight hundred and six, at such rate per month as has been allowed them by the States respectively; provided it shall not exceed the allowance made by the United States to other pensioners of the same rank:"

And on the question thereupon, it passed in the negative—yeas 46, nays 52, as follows:

YEAS—Evan Alexander, Isaac Anderson, David Bard, Burwell Bassett, George M. Bedinger, Thomas Blount, William A. Burwell, William Butler, John Campbell, John Claiborne, Matthew Clay, John Clopton, Leonard Covington, Ezra Darby, Elias Earle, Ebenezer Elmer, John W. Eppes, John Fowler, David Holmes, Walter Jones, James Kelly, Thomas Kenan, Nehemiah Knight, Joseph Lewis, jr., Edward Lloyd, Matthew Lyon, Duncan MacFarland, Patrick Magruder, William M'Creery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, John Porter, John Rhea, of Tennessee, Thomas Sammons, Thomas Sandford, Martin G. Schuneman, Dennis Smelt, John Smith, Richard Stanford, Joseph Stanton, Philip R. Thompson, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

NAYS—John Archer, Silas Betton, Barnabas Bidwell, John Blake, jr., Robert Brown, John Chandler, Martin Chittenden, George Clinton, jun., Frederick Conrad, Orchard Cook, Richard Cutts, John Davenport, jr., James Elliot, William Ely, Charles Goldsborough, Andrew Gregg, Isaiah L. Green, Silas Halsey, Seth Hastings, William Helms, David Hough, John Lambert, Henry W. Livingston, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jun., John Pugh, Josiah Quincy, Jacob Richards, John Russell, Peter Sailly, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Robert Whitehill, Eliphalet Wickes, and Nathan Williams.

Ordered, That the said bill, with the amendments agreed to, be engrossed, and read the third time this day.

PUBLIC LANDS.

The House proceeded to consider the bill sent from the Senate, entitled "An act to prevent settlement being made on lands ceded to the United States, until authorized by law," together with a report of the Committee on the Public Lands thereon.

Mr. QUINCY moved its indefinite postponement. He observed that the provisions of the bill were highly important, and affected great Constitutional questions, which it was not possible for the House to do justice to at so late a period of the session. The principle contained in the first section was, that the rights of all persons shall be forfeited, who shall undertake to settle on the public lands. This provision was not against trespassers, but was obviously intended to destroy the Constitutional rights of those who had existing rights. The object of the bill was to defeat these constitutional rights. He had another objection to the bill. It went to forfeit the whole right to the land, in violation of the Constitution, which expressly declares that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted,"—and yet, under this law, it is undertaken, without any crime, to forfeit the rights of the individual, not only during his life, but likewise during that of his heirs. He had another Constitutional objection. The Constitution says, "nothing in this Constitution shall be so construed as to prejudice the claims of the United States or of any particular State." Among the rights derived from the States, if the property has passed, is the right of possession. This bill is therefore an invasion of the rights of the States. There is another Constitutional objection. The ninth article of the amendment to the Constitution provides that "in suits at common law, when the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." Here the right is taken away in a question of the highest magnitude to the individual. The object of this law is nothing more or less than to build up the Legislative power on the destruction of that of the Judiciary. There was another objection. The Constitution says, "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Here is an extensive fine imposed. Mr. Q. said it was impossible, in the time that remained, to do justice to this subject—he therefore hoped it would be indefinitely postponed.

Mr. GREGG said he had no intention, on a proposition to postpone, to go into a discussion of the merits of the bill; but he believed an attention to its provisions would obviate many of the objections raised against it. He would not attempt to justify the bill in all its minutia. He hoped, however, the gentleman would withdraw his motion; he would

then have an opportunity, when the bill was taken up, to offer such amendments as might remove his objections. Mr. G. said he thought the propriety of such a bill was justified by the necessity of the case. The simple question was, whether the United States should derive any benefit from the public lands, or whether they should be given up to intruders. It must be known to every one that almost innumerable persons had settled down on the public lands without meaning to pay for them. Their object was to settle down on them for a while, to sell their improvements, and then make other settlements. Hence, the absolute necessity of making some provision on the subject. Mr. G. said he had no particular part of the lands of the United States in view—he took the subject up on general grounds. He believed the intrusions were most numerous in the Indiana Territory; but there was no district in which they had not been made to a considerable extent. He did not pretend to say that this law was the best that could be passed on the subject—they might not however be able to get one much better. When taken up, it would be in the power of gentlemen to offer such amendments as they pleased.

Mr. OLIN said he hoped the gentleman from Massachusetts would not withdraw his motion. He believed no man would charge him with a design to cover certain frandulent claims; but he trusted the principle contained in this bill would not be sanctioned. They were not a judicial body; and had not a right to take the ground assumed in the bill. They had formerly had an attempt made upon them to sanction claims founded in fraud, and he had voted against it. He should also vote against this bill—he would never agree that men should be dispossessed of their property in such a way.

Mr. HASTINGS spoke against the bill, and in favor of the indefinite postponement.

Mr. N. WILLIAMS considered the bill so objectionable that he could not vote for it; and as, from the short period of the session that remained, it was impossible to give it a proper attention, he would vote for the postponement. The first objection he should make to the bill was this—that it destroyed that right hitherto considered sacred, the right of asserting a claim to property—a right that was established and coeval with the laws of the country. Nothing was better settled than that an individual who claimed a right to a piece of property had a right to take possession of it, and hold it till deprived by process of law. Here that right is denied, and in the most exceptionable manner, by giving the President the power of judging when the rights of the United States are violated, and the power to dispossess by military force, before trial of the case. Mr. W. said this appeared to him a principle too tyrannical for them to adopt at the present day—to authorize the President to send a military force to deprive a man of his property, without leaving him any mode of trying his right. This was the very last act, which ought in no case to be resorted to, till the civil laws had been found insufficient. Mr. W. said he did not know that any such power had been ever exercised in Great Britain, or in any other country where less freedom was enjoyed. The military force ought only to be called out when the civil force was insufficient. This was not the only objection he had to the bill. The citizens were rendered liable by it to imprisonment and punishment, without due course of law, notwithstanding all they had lately heard of trial by jury, and the zeal manifested for it. More might be said, but as the time of the House was precious, he would forbear adding anything further.

Mr. D. R. WILLIAMS hoped the motion would not prevail; and for the very reasons urged by gentlemen. If the details are defective, let us get at the bill—if the principle is defective, that indeed may be a reason for postponement; but any defect in the detail may be corrected. Mr. W. said he could not but congratulate gentlemen on their returning sensibility for the Constitution. When their feelings had been harrowed up on a recent occasion, gentlemen had felt no sensibility for the Constitution; but when they come to the adoption of a bill, which went to affect Yazooism, all their sensibility was roused. Against this different course he protested. The gentleman from Massachusets had observed there were not many intruders on the public lands, but surely he could not have read the papers even of his capital, or he must have recollected a proposition made in them to raise and march ten thousand men to take possession of the public lands. Would he in the face of such a fact say there was no danger? But, say gentlemen, will you deprive individuals of their rights? And what are they aiming at? Are they not endeavoring to deprive you of your rights? The fact, however, is, if these people do not trespass on the public lands they will not be affected by this law; and if they do, they ought to be affected by it. As to the application of military force, that is not a new principle; as, under the Administration of General Washington, it was found necessary to vest the power.

Mr. QUINCY.—I did not mean to argue the details of the bill on this question—I merely stated certain considerations to show that it was not proper at this time to discuss the principles contained in the bill. And I ask gentlemen, whether, from the temper which has been manifested, and the importance of the subject, it is possible to get through the bill during the present session? If gentlemen will sit still, and be as callous as they were lately, it may perhaps be carried through this session; but if it be properly discussed, it cannot. Gentlemen say we have no sensibility to Constitutional questions, except on this occasion. On the subject, however, of Yazooism, I have not said a word. My remarks were general. I placed that and all other claims on the footing of the law. This bill applies to the whole of them.

Mr. EPPES hoped the motion to postpone would not prevail. If gentlemen were disposed to discuss the subject, he was ready to meet them, either on the question of postponement, or directly on the bill. The great objection is, that this is a violation of the Constitution of the country—a violation of the right of property. But he

asked gentlemen to show that the United States had not the power to forfeit the right of individuals to property, for the violation of an existing law. Was it not done every day in the case of the revenue laws; and whence did gentlemen draw a distinction between personal and real property? Why was brandy forfeited, unless brought in demijohns of a particular size, but because the act was a violation of the laws of the country? Mr. E. said, he believed candor in every case was the best course, and he was ready to declare that he was for a bill to prevent men having claims founded in villany and fraud from getting possession of the public lands. They had claims, and there was no tribunal before which they could be brought, unless they should by acts of violence obtrude themselves upon the public lands. They could not by any fair and direct means have their claims tried; it was only by a violation of law that they could be brought before the courts. The plain question then is, whether you will sanction a violation of law, in order to extend to them this privilege? The principle of using military force against intruders on public land was not without precedent. Mr. E. said, if he was not mistaken, it had been practised in New York by the present Vice President. He had no hesitation in saying that he would use the bayonet against any lawless banditti of intruders.

Mr. N. Williams observed, that he had not said this measure was forbidden by the Constitution—he had not examined that point. He had only said that the measure was tyrannical, which rendered it sufficiently exceptionable. As to the measure alluded to, it presented a very different case from the present. Certain persons had taken possession of the lands of the Indians, on whose application coercion had been applied to remove them.

Mr. Gaston said, all the remarks of the gentlemen applied to the details of the bill, and therefore furnished no argument for a postponement. The gentleman from Massachusetts seemed to consider the temper of the House too much excited to go on with the business; but so far as related to himself, Mr. G. said, he was as cool as he ever had been, or could be on any subject. The bill was not limited to any particular case, but applied to all the public lands of the United States. Would gentlemen, for the purpose of aiding and abetting certain individuals in their claims, sacrifice all the other public lands? Without saying whether this bill was perfect or not, he was willing to declare his readiness to use the strong arm of the Government to keep off intruders; and though he was generally against an increase of the army, he was willing in this instance, in case it should be thought necessary, to augment it. He believed some such measure as the present would be an act of justice to the Government, and of charity and mercy to the intruders.

The question was then taken by yeas and nays, on the indefinite postponement of the bill—yeas 43, nays 68, as follows:

Yeas—Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., James Elliot, Ebenezer Elmer, William Ely, Seth Hastings, William Helms, David Hough, James Kelly, Nehemiah Knight, Joseph Lewis, jr., Matthew Lyon, Duncan MacFarland, Jonathan O. Mosely, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jr., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, Ebenezer Seaver, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Uri Tracy, Killian K. Van Rensselaer, Peleg Wadsworth, Eliphalet Wickes, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, George W. Campbell, John Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Leonard Covington, John Dawson, Elias Earle, John W. Eppes, William Findley, James Fisk, James M. Garnett, Andrew Gregg, Isaiah L. Green, Silas Halsey, John Hamilton, James Holland, David Holmes, Walter Jones, Thomas Kenan, John Lambert, Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Richard Stanford, Philip R. Thompson, Philip Van Cortlandt, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

Mr. Eppes said he hoped the House would negative all the amendments proposed to the bill, and pass it without them.

The amendments proposed by the Committee on the Public Lands principally went to except the Mississippi and Indiana Territories from some of the provisions of the bill. They were all disagreed to, without any debate of importance, by large majorities.

Mr. Quincy moved to strike out the following part of the first section of the bill.

"Such offender or offenders shall forfeit all of his or their right, title, and claim, if any he hath, or they have, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, which he or they shall have taken possession of or settled, or caused to be occupied, taken possession of, or settled, or which he or they shall have surveyed, or attempted to survey, or caused to be surveyed, or the boundaries thereof, he or they shall have designated, by marking trees or otherwise."

He said so far as this section went to provide against trespasses, it was unnecessary; and so far as it went to operate against persons having rights to land, it was unconstitutional. So far as respected the former, the arm of the law was sufficiently strong, and they might be removed by its ordinary process. It was not contended that this law was meant to apply against them—it would be absurd to say so, when they alleged no rights. The truth was, this was a general law, made to suit a particular case. This had been acknowledged by the gentleman from Virginia. Mr. Q. said he believed no man would contend, that were it not for that case, such a law would pass. He believed making a general law for particular cases, unusual and unconstitutional.

Mr. Q. here recapitulated the Constitutional objections which he before urged.

He observed that the gentleman from South Carolina had referred to a law passed in the year 1799, which prevented any settlement within the Indian boundaries. Could any gentleman compare the case with this? In that case a treaty had been made between the United States and the Indians, one of the provisions of which prevented any citizen from going within the Indian boundary. Mr. Q. said he would use but one other argument, which was, that this law would be a mere nullity. If individuals wished to try their title, as soon as the military attempted to remove them, the courts of justice would interfere; and this would decide the question of title which gentlemen seem afraid to meet.

Mr. Dawson said, the gentleman from Massachusetts had quoted a law passed in 1799—this was not the law referred to, but one which had been passed in 1804, and which was precisely in point.

Mr. Quincy said, his reply to this information was, that the law read related to the Louisiana Territory. He hoped that the laws passed relating to that Territory would not be made to apply to the old United States. If it was unconstitutional, it was a nullity; and if they had passed one unconstitutional law, it was no reason for passing another.

Mr. Hastings took it that the law read was not in point. If he had heard it correctly read, punishment was only to ensue on conviction, which must previously take place in a regular course of law.

Mr. Sloan only rose to observe that he hoped the course suggested by the gentleman from Massachusetts would be adopted—that the House would decide on the subject by a silent vote. He was as much against precipitate measures as any member on the floor, but it was well known that this subject had been discussed at large for the four past sessions; and he believed there was not a member in the House that was not acquainted with it. He hoped, therefore, the friends of the bill, of which he was one, would take a silent vote, and not go into the discussion of Constitutional questions at a period when it was impossible to find time.

Mr. Holland said he considered the part of the bill proposed to be struck out, as unconstitutional. What would be its effect? Were they not putting the people under a military government, rendering them liable to be removed by military force, and their property, without trial, to be vested in the United States? He asked gentlemen, if they were prepared to go these lengths? Was it not a privilege guarantied by the Constitution, that no person should be divested of rights, but by a jury trial? He hoped gentlemen were not prepared to go this extreme length to effect a particular purpose, and to decide in this peremptory manner. He hoped they would maturely consider the bill, before they enacted a law so hostile to the Constitution. Suppose you pass it, said Mr. H., is it in your power to carry it into effect? Suppose a marshal should arrest one of these individuals, will he not get a writ of habeas corpus? The judges will not regard it more than a dead letter.

Mr. Lyon supported the motion to strike out.

On which the question was taken by yeas and nays—yeas 35, nays 54, as follows:

Yeas—Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, Ezra Darby, John Davenport, jr., James Elliot, William Ely, William Findley, James Fisk, John Fowler, Chas. Goldsborough, Silas Halsey, Seth Hastings, William Helms, James Holland, James Kelly, Nehemiah Knight, Matthew Lyon, Timothy Pitkin, jr., Josiah Quincy, John Russell, Peter Sailly, Henry Southard, William Stedman, Samuel Taggart, Benj. Tallmadge, David Thomas, Joseph B. Varnum, Peleg Wadsworth, Eliphalet Wickes, and Nathan Williams.

Nays—Evan Alexander, Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Claiborne, Matthew Clay, John Clopton, John Dawson, Elias Earle, John W. Eppes, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, John Hamilton, David Holmes, Thomas Kenan, John Lambert, Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, John Pugh, John Randolph, John Rea of Pennsylv'a, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Richard Stanford, Philip R. Thompson, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

Mr. Quincy offered the following proviso to the first section:

"*Provided, also*, That nothing in this act shall prevent any person claiming title to any such lands, under or by virtue of an act or grant of any State, from peaceably entering thereon, for the purpose of being enabled thereby to bring to a judicial decision at law or in equity the validity of the title so claimed."

Mr. Quincy said he made this motion, because he considered this section no more nor less than levelled at the Judiciary of the United States; and that his vote might be recorded, he would ask for the yeas and nays.

Mr. Goldsborough would merely observe that he believed the most correct policy was to preserve the lands of the United States in the exact situation in which they were. He was opposed to the principle of forfeiture, as going too far against the claimants. He was also against this provision, as interfering to operate in their favor. Until a final decision, he hoped the business would rest as it then stood.

Mr. Quincy said it was not his object to do anything to favor these claims. His only object was to preserve to them the rights they already possessed.

The question was then taken by yeas and nays on the proviso, and decided in the negative—yeas 30, nays 64, as follows:

Yeas—Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, John Davenport, jr., James Elliot, Ebenezer Elmer, William Ely, William Findley, James Fisk, John Fowler, Isaiah L. Green, Seth Hastings, James Holland, Nehemiah Knight, Jeremiah Nelson, Josiah Quincy, John Russell, Martin G. Schuneman, Joseph Stanton, William Stedman, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Thomas W. Thompson, Eliphalet Wickes, and Nathan Williams.

Nays—Evan Alexander, Willis Alston, jr., Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, George W. Campbell, John Claiborne, Matthew Clay, George Clinton, jr., John Clopton, Frederick Conrad, Leonard Covington, Ezra Darby, John Dawson, Elias Earle, John W. Eppes, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, John Hamilton, David Holmes, John G. Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Roger Nelson, John Pugh, John Randolph, John Rea of Pennsylvania, Jacob Richards, Peter Sailly, Thomas Sandford, James Sloan, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Philip R. Thompson, Joseph B. Varnum, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

A motion was then made by Mr. Lattimore to amend the said bill, by adding a new section, in the words following, to wit:

Sec. 2. *And be it further enacted*, That nothing in this act contained shall be construed to apply to any person or persons, or the legal representatives of any person or persons, who were resident in the Mississippi Territory, on the twenty-seventh day of October, one thousand seven hundred and ninety-five, and who had, prior to that day, obtained, either from the British Government of West Florida, or from the Spanish Government, any warrant or order of survey, for lands lying in the said Territory; nor to any other person or persons, or their legal representatives, who may have settled prior to the fifth day of February, one thousand seven hundred and ninety-nine, on a tract of land in said Territory, consistently with the provisions of the second section of the act, passed the third day of March, one thousand eight hundred and three, regulating the grants of land south of the State of Tennessee: *Provided*, That persons claiming as above shall file their claims with the register of the proper land office, before the first day of January next.

And, on the question thereupon, it passed in the negative—ayes 29, nays 49.

Mr. Fisk said, that rather than have such a principle introduced into the laws of the United States, as was contained in this bill, he would prefer seeing all the Yazoo land sunk in the sea. He had no idea of seeing the rights to property tried at the point of the bayonet. He had often heard the Yazoo represented as a wicked business. He believed it was such; but he had ever hoped that the Judiciary would not be affected by it. This was nothing more nor less than providing by an armed force to turn men off from the land they occupy, and to deprive them of their rights, if they had any. If they had no rights, it was unnecessary to introduce such a principle into the bill; and if they had, they were to be divested of them by an armed force without a trial by jury. He would ask if this were Constitutional? He would ask gentlemen where were the feelings which they had recently displayed for the rights of the people who had sent them here? He wished gentlemen to recollect the maxim they laid down, that it was immaterial who were the persons affected, the rights were the same, and their invasion as dangerous in the person of the lowest wretch as in that of the most exalted character. Mr. F. said he was decidedly against the bill, and should vote for its rejection.

The bill was immediately read the third time.

Mr. Lyon spoke against its passage.

When the question was taken on its passage by yeas and nays, and decided in the affirmative—yeas 57, nays 44, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Isaac Anderson, John Archer, David Bard, Burwell Bassett, George M. Bedinger, William W. Bibb, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Claiborne, Matthew Clay, John Dawson, Elias Earle, John W. Eppes, James M. Garnett, Peterson Goodwyn, Andrew Gregg, John Hamilton, David Holmes, Walter Jones, Thomas Kenan, John Lambert, Edward Lloyd, Patrick Magruder, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Thomas Moore, Roger Nelson, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, Dennis Smelt, John Smilie, John Smith, Richard Stanford, Philip R. Thompson, Abram Trigg, Philip Van Cortlandt, John Whitehill, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, Joseph Winston, and Thomas Wynns.

Nays—Joseph Barker, Silas Betton, Barnabas Bidwell, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., James Elliot, Ebenezer Elmer, William Findley, James Fisk, John Fowler, Charles Goldsborough, Isaiah L. Green, Seth Hastings, Wm. Helms, Jas. Holland, David Hough, Nehemiah Knight, Joseph Lewis, jun., Matthew Lyon, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Jeremiah Nelson, Gideon Olin, Timothy Pitkin, jun., Josiah Quincy, John Russell, Peter Sailly, Martin G. Schuneman, Henry Southard, Joseph Stanton, William Stedman, Benjamin Tallmadge, Samuel Tenney, David Thomas, Thomas W. Thompson, Nathan Williams, and Eliphalet Wickes.

The House resolved itself into a Committee of the Whole on the bill making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes of Indians. The bill was reported without amendment, and ordered to be engrossed, and read the third time this day.

And then the House adjourned until half past six o'clock, P. M.

Eodem Die—*Half past six o'clock.*

Ordered, That the select committee, to whom was referred, on the tenth ultimo, a message of the President of the United States, of the thirty-first of January last, transmitting a report of the Commissioners under the act, passed the twenty-ninth day of March, one thousand eight hundred and six, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," be discharged from the further consideration thereof.

An engrossed bill making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes of Indians was read the third time, and passed.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act providing for the punishment of certain crimes against the United States:" Whereupon,

Resolved, That this House do agree to the said amendment.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana." Whereupon,

Resolved, That this House do agree to the said amendment.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for finishing the south wing of the Capitol, and for other purposes." Whereupon,

Resolved, That this House do agree to the said amendments.

Ordered, That the Committee of the Whole, to whom was committed, on the twelfth ultimo, the bill sent from the Senate, entitled "An act regulating the grants of land in the Territory of Michigan," be discharged from the further consideration thereof.

The bill was then read the third time, and passed.

The House proceeded to consider the bill sent from the Senate, entitled "An act confirming claims to land in the district of Vincennes," and made several amendments thereto at the Clerk's table.

Ordered, That the said bill, with the amendments, be read the third time to-morrow.

The Committee of the Whole, to whom was committed, on the third ultimo, the bill sent from the Senate, entitled "An act to explain the act, entitled 'An act supplementary to an act, entitled 'An act to divide the Territory of the United States Northwest of the river Ohio into two separate governments, were discharged from the further consideration thereof.

Ordered, That the said bill be read the third time to-morrow.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act regulating the granting of registers in case of ships and vessels of the United States becoming the property of bank and insurance companies," was postponed indefinitely.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act in addition to the act establishing a Mint and regulating the coins of the United States," was postponed indefinitely.

Mr. S. Smith presented to the House a petition of sundry inhabitants of the State of Pennsylvania, praying a revision and amendment of the several acts to establish the judicial courts of the United States.—Laid on the table.

PUBLIC LANDS.

The House resolved itself into a Committee of the Whole on the bill making provision for carrying into effect the Chickasaw treaty.

Having agreed to strike out the following provision, the Committee rose and reported the bill:

Sec. 3. *And be it further enacted*, That if any person shall make, or attempt to make, a settlement on any of the lands thus ceded by the Cherokees and Chickasaws, and lying within the Mississippi Territory, or shall, unless authorized so to do by the surveyor of the public lands, south of Tennessee, survey or attempt to survey such lands, or designate boundaries by marking trees or otherwise, such offender shall, on conviction thereof in any court of the United States, or of any of the Territories of the same, forfeit and pay a sum not less than —— dollars, nor exceeding —— dollars, and suffer imprisonment for a term not less than —— months, nor exceeding —— years; and it shall moreover be lawful for the President of the United States, and he is hereby required, to employ such military force as he may judge necessary, to remove from the said lands any person who shall make or attempt to make any settlement as aforesaid: *Provided*, That nothing herein contained shall affect persons making settlement on lands purchased from the United States in conformity with the preceding section of this act.

The question of concurrence with the Committee having been put—

Mr. J. Randolph hoped the House would not agree to concur; and for a reason which he did suppose would strike every member. It was true that a law had passed the two Houses that would fully provide for the general case of intrusions on the public lands, but which he understood was disavowed by gentlemen to have passed for a particular case. Admit that it was passed for a particular case, and suppose it meets that case, yet it has only passed the two Houses of Congress—it is not a law—it is competent to the Executive to put his negative upon it. I do not mean to say, said Mr. R., that this is probable, but this House ought never to consent to pass a law covering the Yazoo claims, without accompanying the appropriation with some similar provision, to put it out of the power of either branch of the Government to defeat the manifest intentions of this House.

If the President had notified to us that the act we had passed was a law, then the suggestions we have heard urged would be proper. But what would be the situation of the House if the bill passed this morning should be returned with the negative of the President; and if this act, without this provision, had in the mean time passed

the House? When I say this, I do not mean to insinuate the least probability of a negative, but it becomes the House to be true to themselves and the nation, and not to neglect their duty, under the idea of others doing their duty. The Senate, I am now advised, are electing a President *pro tempore*. It might happen that the President and Vice President should both die to-night; the President *pro tempore* would then be the Executive. This is not probable, but possible; and it becomes us so to act that nothing which can occur shall be able to defeat our purpose.

Mr. Fisk said, if he were disposed to render the proceedings of the House perfectly ridiculous, he would agree to the proposition of the gentleman from Virginia. They had already passed a bill to prohibit persons from intruding on the public lands, which inflicted a different punishment from that contained in this bill. If the bill passed in its present shape, which law would govern? The bill we have passed forfeits the property, while this does not forfeit it, but imposes a different penalty. Would the court inflict one or both the punishments? One error produces another, and the moment one false step is taken, the more a man blunders the more he is involved in difficulty.

Mr. J. Randolph said, he could not conceive the *argumentum ad absurdo* in the same light with the gentleman from Vermont. It might be from some natural defect, or from the fatigue of attending ten or twelve hours a day, his mind was clouded. But no proposition appeared to him clearer than this: that if the House meant that the lands in the four Georgia settlements should never be open for settlement, unless accompanied by a law for the punishment of intruders, then they ought to retain this section. There was no imperious necessity for carrying the Chickasaw treaty into effect, though he was willing, on proper terms, to make provision for it; but the same reason that induced them to refuse appropriations the last session until removed, ought to have the same effect this session. If gentlemen would show that a bill in an inchoate state had the force of a law, the arguments urged against this provision would be correct; but this cannot be done. Ought you to legislate on a subject of this nature on an uncertainty; when a certainty can be obtained? Will any man say that that is as certain, which has not taken place as that which has?

It is not certain that a bill passed by the two Houses will become a law. I recollect, when a boy, attending in the lobby, when a bill for apportioning representatives came from General Washington, with his reasons of dissent, and that it was actually rejected by the two Houses. What happened in that instance may happen again—may possibly happen. No man can deny this. We ought, therefore, to guard against such a possibility. I have no objection to strike out this section, provided gentlemen agree to insert the provisions of the bill we have passed. If the bill passes in its present shape, it will at best be a work of supererogation. If one law punishes by fine and imprisonment, and the other by a forfeiture of the property, I do suppose the intruder would incur both the penalties. Suppose, for smuggling, a man should be subject by one act to a forfeiture of the property, and afterwards another act should be passed punishing him with fine and imprisonment, he would undoubtedly incur all the penalties. If, however, the bill we have passed shall to-morrow become a law, which it is almost certain that it will, then this provision may be amended, or changed, or modified, by the other branch of the Legislature. But should there, notwithstanding, be no necessity for two punishments for the same offence, it would be competent, I presume, for the attorney of the district to indict under either law. I wish, however, the House to recollect, that I disclaim all professional knowledge of law—a little knowledge on this subject is a dangerous thing—and from all evils defend me from little lawyers.

Mr. Fisk.—The gentleman thinks the attorney may indict under either law. After the remarks we have heard from him, he need not tell us that he knows little of law. What will be the effect of this, if this provision is retained? Will equal justice be rendered to all men? One man will be punished for the same offence in a particular way under one law, and in a different way under another. If this is justice, I have been eternally in the dark, and I acknowledge my ignorance. One law is not a supplement to the other, but they are both supreme. The point is too ridiculous for argument.

Mr. Alexander said, that every reason which had induced the House to adopt the bill passed in the morning operated with equal force to retain this section. He should, therefore, vote against striking it out.

Mr. Bibb said, that a short time having only elapsed since he had taken his seat in the House, he had not intended thus early to have taken a part in debate; but as this was a subject on which his own feelings were much interested, and in which the interests of his constituents were deeply involved, he should submit a few observations, the object of which would be to show that there was no absurdity in the section under consideration. It was true they had passed a general law respecting intrusions on the public lands, but they might now think it proper to pass a particular law relative to particular cases, to make the punishment of settling on these lands greater than for settling on the other lands of the United States. Whence this necessity? They knew that these lands were pretended to be claimed by a large body of men, headed by persons in high authority. The punishment under the general law only provided for removal, and for a forfeiture of the property. He believed these penalties would not deter these people from intruding on the lands they claim. His object was, in case they make such intrusion contrary to law, to put them in jail and keep them there. It was however said that these two laws would come in conflict with each other. But he could see no difficulty on this score, as the one was general and the other particular in its application. In this instance, therefore, the decision must be under that act which is particularly applicable to this case.

Mr. Bidwell.—Suppose both acts go into effect; this is not an additional punishment for the same offence. It applies to the same land as the other law, and punishes the act as a distinct offence. The same person is liable to be punished under both acts for the same offence. It appears to me, in whatever light gentlemen view the offence, it would be a violation of justice to subject a person to two different trials for the same thing.

Mr. J. Randolph said he had waited, contrary to his inclination, to get this treaty carried into effect. As soon as it was passed he should go home. His friend from Georgia had stated a strong reason for retaining this section, to wit: that the people against whom it was intended to guard were without any species of right. A little reflection, said Mr. R., would have enabled me to see that the gentleman from Vermont and other gentlemen are on this occasion only laboring in their vocation. It did not strike me that those gentlemen opposed the bill we passed in the morning. Had this circumstance occurred to me, I should have suffered the thing to take the same course it did before. I will, however, call the attention of the House to the Wyoming case. What did Pennsylvania in that instance do? She tampered and applied palliations, till the people bullied her out of the land. The same thing took place in Ohio—a number of people went there and sat down on the public lands, and they continued their applications until they found a Congress disposed to come into their views, to take a million of acres from the public and give to them. I venture to say, that if it comes to mere quibble, the Yazoo people can show a more colorable claim, (though I contend they have no claim,) to botch up their demands, than the people of New York or the Connecticut Reserve, who did not pretend to show even a royal grant, or even a shred of parchment, and yet they got the land. How did they get it? In the same way that the Yazoo people will get this land, unless some such act as this is passed; for I am of opinion, since my friend from Georgia has spoken, that the act passed this morning will not be a sufficient remedy. The real springs of this business are here, at New York, and at Boston. The miserable creatures who sat down on these lands will, under the law we have passed, only forfeit their leases. I do think the observations of my friend from Georgia have great weight, and if the law passed this morning were in the office of the Secretary of State, I should still be for this provision. I think the case calls for strict legislative attention, and I hope the House will never agree to extinguish the Indian title to these lands without an accompanying provision to prevent any lawless attempts to rob the people of their patrimony.

Mr. Sloan.—I will not take up the time of the House in stating possible occurrences, although I might suppose that an earthquake would sink us before the hour of adjournment. I rise only to notice the observation of the gentleman that those opposed to the other bill are in favor of striking out this section. I was a zealous friend of that bill, but I hope the laws of the United States will not be turned into ridicule. I will suppose a plain case. I will suppose a State to pass a general law for the punishment of a crime throughout the State, and another law, with different penalties, for punishing it in a particular county—would not that be absurd? I think the law passed in the morning is sufficient, and I hope we shall never so depart from the principles of justice as to point the finger of scorn at a particular part of the country.

Mr. Holland said he would not be opposed to preventing, by proper laws, persons from settling on the public lands; but so cautious were all laws that respected the rights of individuals, even where there was only a color of title, and so cautious had been the people in the State which he represented, that no power existed to remove a man but through a course of law. He thought the same course ought to be pursued by the United States, and that the rights of individuals ought not to be prejudged by the Legislature of the Union, who ought in such cases to be particularly careful not to entrench on the powers of the Judiciary.

Mr. Quincy rose to make a single observation. He should say nothing of the general principle contained in it, but he took the object of this section to be no other than to coerce the Executive; for the gentleman from Virginia had told them that if they passed this provision, this bill would still be under their direction, if the Executive did not approve the general law. Suppose the Executive should reject that bill; but for the fear of losing this, would gentlemen pretend to say that this was a proper course for the Legislature to pursue?

Mr. Smilie said he had several objections to the provision. He should, however, state but one. He should never agree to punish the same offence with different punishments.

Mr. Alston.—I am sorry to take up the time of the House, but when I hear principles contended for so injurious to the State which I have the honor to represent, I cannot remain silent. It has been the great wish of the people of that State for several years past to get the Indian titles extinguished, to which effect we have received repeated instructions. This is the land which North Carolina considered as belonging to her before the formation of this Government, and since the whole delegation has, year after year, waited on the President to obtain an extinguishment of the Indian title. Now, after this object has been effected, it is proposed to clog it with a provision which cannot fail to defeat it. Last year a similar provision was sent to the Senate, who, in consequence of it, rejected the bill. We find to-day the Representatives from Tennessee and North Carolina voting for the bill passed this morning, that they might insure the passage of this bill. Nothing could have induced me to vote for that bill but this consideration. Does not that bill contain sufficient penalties to guard

against intrusion on the public lands? Mr. A. said, when he saw the small majority by which the bill passed this morning had passed the Senate, he was persuaded, if this provision were introduced in this bill, it would not receive the approbation of that body.

Mr. Eppes.—I would not wish to oppose the report of the committee if I supposed a non-concurrence with it would jeopardise the bill. But if an opinion of the sense of the House could be formed from their proceedings of this day, I must be led to infer that a majority was disposed to take such measures as would be calculated to prevent an illegal settlement of the public lands by persons of this description. As to the doctrine of the gentleman from North Carolina that no Legislative body ought to undertake to settle the rights of citizens, I require him to show how, by this law, the rights of citizens are settled. The act has only undertaken to punish a crime. Was this a decision of right? If a question of right comes forward, will not this law go before the court? It is true the court must either declare a forfeiture or declare this act unconstitutional. After this decision, I will have no hesitation to exercise my Constitutional right of impeachment. So far as I may be concerned, I shall be willing to exercise the Constitutional corrective, and to remove the man from office who dares to exercise such an authority. By this act both sides will be put on the same footing—there will be no party in possession. If the individuals who claim these lands were in possession of them they would have an advantage over the public. I consider this House as much bound to protect the public land as the public money, and we shall not deserve the public confidence if we do not guard the one as effectually as the other. I believe if a man settles on the public lands he may be punished under both laws. I shall therefore vote for both, as I believe in such a case we cannot be too rigid, or the Legislature too rigid in expressing their indignation. Let it be recollected that these people derived their rights from a corrupt Legislature; that there was but one individual, Robert Watkins, of that Legislature, that was not bribed. This is a fact; and while it is remembered, it will be a damning fact among all honest men.

Mr. Jackson.—When I hear such principles as those which have fallen from my colleague broached on this floor, I deem it my duty not to pass them unnoticed. I do protest against the assumption of Judicial power by the Legislature, or of any power which shall prevent the courts of justice from deciding on the claims of individuals. My colleague says when the opinion of Congress shall have been deliberately expressed, he will impeach the judge who shall oppose it. But I will ask if the opinion of Congress has been deliberately expressed in this case? It has not been, and cannot be. Gentlemen have been carried from the sober and reflecting ground of their judgment. I do consider the Judiciary the great safeguard of the citizen against the Legislature and the Executive, if they attempt to overstep the powers conferred upon them by the Constitution. I will put the case of the passage of an *ex post facto* law, under which a man declared by the Judiciary to have certain rights is divested of them by an act of the Legislature. Will not the Judiciary be permitted in such a case to pronounce the law unconstitutional without the dread of an impeachment? Yes, I trust they will; and if they shall not have virtue enough to do so, I for one will be ready to say they deserve to be removed from office. Though I believe it right to pass proper laws for preventing intrusions on the public lands, yet I think it unnecessary to pass laws upon laws, all having the same effect, on the hypothesis that the Executive may not sign the bill we have already sent him. Will you try a man under two laws for the same offence? I will never consent to such an absurdity—to suffering him to be tried under one law, and if the jury acquits him, ordering him to be then tried under another. I will never agree to such an unjust course of procedure.

Mr. M. Williams, though in favor of the bill passed this morning, was against this section, as the latter did not inflict so great a penalty as the former. The two distinct provisions appeared to him to involve an absurdity. Nor was there the least reason, in his opinion, to be so jealous as to suppose that the act passed in the morning would not go into operation. He was willing to adopt strong measures to prevent an intrusion on the public lands, but when it was proposed to go such absurd lengths, he should be opposed to it.

The question was then taken on striking out the section, and carried—yeas 55. The bill was then read a third time and passed.

Tuesday, March 3.

The bill sent from the Senate, entitled "An act confirming claims to land in the district of Vincennes," together with the amendments agreed to yesterday, were read the third time, and passed.

Mr. Samuel Smith presented to the House a petition of sundry inhabitants of the State of Pennsylvania, praying an amendment to the second section of the third article of the Constitution of the United States, which extends the judicial power of the United States, "to controversies between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof and foreign States, citizens, or subjects."—Laid on the table.

The further consideration of the bill sent from the Senate, entitled "An act to explain the act, entitled 'An act supplementary to an act, entitled 'An act to divide the territory of the United States Northwest of the river Ohio into two separate Governments,'" was postponed indefinitely.

The House resolved itself into a Committee of the Whole on the bill in addition to an act, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes.'" The bill was reported with an amendment thereto; which was read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time this day.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act allowing an additional compensation to the Judges of the Mississippi Territory, and extending the right of suffrage therein: Whereupon,

Resolved, That this House doth agree to the first and second, and doth disagree to the third and fourth of the said amendments.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the relief of Daniel S. Dexter:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the the relief of Stephen Sayre:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate; entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," was postponed indefinitely.

The House proceeded to consider the bill sent from the Senate, entitled "An act to reduce the expenses attending the administration of justice in the District of Columbia," and made an amendment thereto: Whereupon,

Ordered, That the said bill, with the amendment, be now read the third time, and passed.

An engrossed bill in addition to an act, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes,'" was read the third time, and passed.

The Committee of the whole House to whom was committed, on the 13th instant, the bill sent from the Senate, entitled "An act to regulate the summoning of grand jurors," were discharged from the farther consideration thereof; and, on the question that the said bill be read the third time this day, it passed in the negative. And so the bill was rejected.

The bill sent from the Senate, entitled "An act providing for the appointment of Commissioners to ascertain the practicability of removing the obstructions in the navigation of the Ohio at the Rapids," was read twice, and committed to a Committee of the Whole this day.

The House, accordingly, resolved itself into the said committee; and, after some time spent therein, the committee rose, and were refused leave to sit again.

The farther consideration of the bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States,'" was postponed indefinitely.

The House resolved itself into a Committee of the Whole, on the bill authorizing the discharge of Gilbert Drake from his imprisonment. The bill was reported without amendment, and ordered to be engrossed, and read the third time this day.

Ordered, That the further consideration of the bill to alter and establish certain post roads, and for other purposes, be postponed indefinitely.

On motion of Mr. Varnum,

Resolved, That a committee be appointed to bring in a bill to establish a post road from New Orleans to the Balize, and from New Orleans to Rapide; and to authorize the President of the United States to open a road from the thirty-first degree of North latitude to New Orleans, on the route from Athens to New Orleans.

And a committee was appointed, of Messrs. Varnum, Clarke, and George W. Campbell.

The House resolved itself into a Committee of the Whole on the bill making compensation for extra services to the Governor, Judges, and Secretary, of the Indiana Territory. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time this day.

Mr. Varnum, from the committee appointed this day, presented a bill to establish certain post roads, and for other purposes; which was read twice, and committed to a Committee of the Whole this day.

The House accordingly resolved itself into the said committee. The bill was reported without amendment, and ordered to be engrossed, and read the third time this day.

A message from the Senate informed the House that the Senate have passed the bill sent from this House, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats," with several amendments; to which they desire the concurrence of this House: the bill, entitled "An act making appropriations for the support of Government, during the year one thousand eight hundred and seven," with several amendments; to which they desire the concurrence of this House: the bill, entitled "An act for the relief of Oliver Pollock," with an amendment, to which they desire the concurrence of this House.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the relief of Oliver Pollock;" and the same being twice read, was, on the question thereupon, agreed to by the House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making further appropriations for fortifying the ports and harbors of the United States, and for building gunboats;" and the same being again twice read, were, on the questions severally put thereupon, agreed to by the House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of

Government, during the year one thousand eight hundred and seven;" and the same being twice read, were, on the question severally put thereupon, agreed to by the House.

An engrossed bill authorizing the discharge of Gilbert Drake from his imprisonment was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill for the relief of Isaac Briggs; and, after some time spent therein, the committee rose, and were refused leave to sit again.

A message from the Senate informed the House that the Senate have passed the bill, sent from this House, entitled "An act making appropriations for carrying into effect a treaty between the United States and Chickasaw tribe of Indians," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and Chickasaw tribe of Indians;" and the same being again twice read, were, on the question severally put thereupon, agreed to by the House.

An engrossed bill to establish certain post roads, and for other purposes, was read the third time, and passed.

Eodem Die, half past 6 o'clock.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," with an amendment; to which they desire the concurrence of this House.

Ordered, That the farther consideration of the bill for the relief of Edward Weld and Samuel Bebee be postponed indefinitely.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act repealing the acts laying duties on salt, and continuing in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and the same being again twice read, was, on the question put thereupon, agreed to by the House.

An engrossed bill making compensation for extra services to the Governor, Judges, and Secretary of the Indiana Territory, was read the third time, and passed.

Resolved, That the Clerk of the House of Representatives be directed, within one month after the close of the present session of Congress, to advertise three weeks successively, in two newspapers printed in the District of Columbia, that he is ready to receive separate proposals for supplying the House of Representatives, for the next Congress, with the necessary stationery, printing, and wood for fuel, in manner prescribed by two resolutions, passed by the House of Representatives, the first on the twenty-eighth of February, one thousand eight hundred and five, and the other on the twenty-first of April, one thousand eight hundred and six.

A message from the Senate informed the House that the Senate insist upon the amendments proposed by them to the bill, entitled "An act allowing an additional compensation to the Judges of the Mississippi Territory, and extending the right of suffrage therein." Whereupon,

Resolved, That this House doth recede from their disagreement to the third and fourth amendments insisted on by the Senate to the said bill.

On motion, it was

Resolved, That Mr. Varnum, Mr. Alston, and Mr. Gregg, be appointed a committee, on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him of the proposed recess of Congress.

The House were notified that a similar committee had been appointed on the part of the Senate.

On motion of Mr. Varnum,

Resolved, That the Clerk of this House be, and he is hereby, authorized and directed to pay, out of the contingent fund, to John Philips, Elexius Spalding, and Richard Steward, the sum of fifty dollars each, for their extra services during the present session.

On motion of Mr. Gregg, it was resolved unanimously, that the thanks of this House be presented to Nathaniel Macon, in testimony of their approbation of his conduct in the discharge of the arduous and important duties assigned to him whilst in the Chair: Whereupon,

Mr. Speaker made his acknowledgments to the House, in manner following:

"*Gentlemen:* It has been my constant endeavor to perform faithfully the promise made to you two years ago, to discharge the trust reposed in me with industry and fidelity. For the resolution which you have this minute passed, I earnestly beg of you to accept my sincere thanks; permit me also to assure you, that it will be always remembered with gratitude. I wish you safe home, and a happy meeting with your friends."

Mr. Varnum, from the committee appointed on the part of this House, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and notify him of the proposed recess of Congress, reported that the committee had performed that service, and that the President signified to them he had no further communication to make during the present session.

Ordered, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now about to adjourn without day; and that the Clerk of this House do go with the said message. The Clerk accordingly went with the said message; and, being returned, Mr. Speaker adjourned the House *sine die.*

APPENDIX

TO THE HISTORY OF THE NINTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

PROCLAMATION

By the President of the United States of America.

Whereas satisfactory information has been received that Henry Whitby, commanding a British armed vessel, called the Leander, did on the twenty-fifth day of the month of April last, within the waters and jurisdiction of the United States, and near to the entrance of the harbor of New York, by a cannon shot fired from the said vessel Leander, commit a murder on the body of John Pierce, a citizen of the United States, then pursuing his lawful vocation within the same waters and jurisdiction of the United States, and near to their shores; and that the said Henry Whitby cannot at this time be brought to justice by the ordinary process of law.

And whereas it does further appear that, both before and after the said day, sundry trespasses, wrongs, and unlawful interruptions and vexations, on trading vessels coming to the United States, and within their waters and vicinity, were committed by the said armed vessel the Leander, her officers, and people; by one other armed vessel, called the Cambrian, commanded by John Nairne, her officers, and people; and by one other armed vessel, called the Driver, commanded by Slingsby Simpson, her officers, and people, which vessels, being all of the same nation, were aiding and assisting each other in the trespasses, interruptions, and vexations aforesaid.

Now, therefore, to the end that the said Henry Whitby may be brought to justice, and due punishment inflicted for the said murder, I do hereby especially enjoin and require all officers having authority, civil or military, and all other persons within the limits or jurisdiction of the United States, wheresoever the said Henry Whitby may be found, now or hereafter to apprehend and secure the said Henry Whitby, and him safely and diligently to deliver to the civil authority of the place, to be proceeded against according to law.

And I do hereby further require that the said armed vessel the Leander, with her officers and people, and the said armed vessels the Cambrian, and Driver, their officers and people, immediately and without any delay, depart from the harbors and waters of the United States. And I do forever interdict the entrance of all other vessels which shall be commanded by the said Henry Whitby, John Nairne, and Slingsby Simpson, or either of them.

And if the said vessels, or any of them, shall fail to depart as aforesaid, or shall re-enter the harbors or waters aforesaid, I do in that case forbid all intercourse with the said armed vessels, the Leander, the Cambrian, and the Driver, or with any of them, and the officers and crews thereof, and do prohibit all supplies and aid from being furnished them, or any of them. And I do declare and make known, that if any person, from or within the jurisdictional limits of the United States, shall afford any aid to either of the said armed vessels, contrary to the prohibition contained in this Proclamation, either in repairing such vessel, or in furnishing her, her officers, or crew, with supplies of any kind, or in any manner whatever; or if any pilot shall assist in navigating any of the said armed vessels, unless it be for the purpose of carrying them in the first instance beyond the limits and jurisdiction of the United States; such person or persons shall, on conviction, suffer all the pains and penalties by the laws provided for such offences. And I do hereby enjoin and require all persons bearing office, civil, or military, within the United States, and all others, citizens or inhabitants thereof, or being within the same, with vigilance and promptitude to exert their respective authorities, and to be aiding and assisting to the carrying this Proclamation, and every part thereof, into full effect.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand.

[L. S.]

Given at the City of Washington, the third day of May, in the year of our Lord one thousand eight hundred and six, and of the sovereignty and independence of the United States the thirtieth.

TH. JEFFERSON.

By the President:

James Madison, *Secretary of State.*

By the President of the United States of America.

A PROCLAMATION.

Whereas information has been received that sundry persons, citizens of the United States, or residents within the same, are conspiring and confederating together to begin and set on foot, provide and prepare the means for a military expedetion or enterprise against the dominions of Spain;

that, for this purpose, they are fitting out and arming vessels in the Western waters of the United States, collecting provisions, arms, military stores, and means, are deceiving and seducing honest and well-meaning citizens, under various pretences, to engage in their criminal enterprises, are organizing, officering, and arming themselves for the same, contrary to the laws in such cases made and provided: I have, therefore, thought proper to issue this my PROCLAMATION, warning and enjoining all faithful citizens, who have been led without due knowledge or consideration to participate in the said unlawful enterprises, to withdraw from the same without delay; and commanding all persons whatsoever, engaged or concerned in the same, to cease all further proceedings therein, as they will answer the contrary at their peril, and incur prosecution with all the rigors of the law. And I hereby enjoin and require all officers, civil and military, of the United States, or of any of the States or Territories, and especially all Governors, and other Executive authorities, all judges, justices, and other officers of the peace, all military officers of the army or navy of the United States, or officers of the militia, to be vigilant, each within his respective department, and according to his functions, in searching out, and bringing to condign punishment, all persons engaged or concerned in such enterprise, in seizing and detaining, subject to the disposition of the law, all vessels, arms, military stores, or other means provided or providing for the same, and, in general, in preventing the carrying on such expedition or enterprise, by all lawful means within their power; and I require all good and faithful citizens, and others, within the United States, to be aiding and assisting herein, and especially in the discovery, apprehension, and bringing to justice of all such offenders, in preventing the execution of their unlawful designs, and in giving information against them to the proper authorities.

In testimony whereof I have caused the seal of the United States to be affixed to these presents, and have signed the same with my hand.

[L. S.]

Given at the City of Washington, on the twenty-seventh day of November, one thousand eight hundred and six, and in the year of the sovereignty of the United States the thirty-first.

TH. JEFFERSON.

By the President:

JAMES MADISON, *Secretary of State.*

SPAIN.

A translation from the French of the Marquis de Casa Yrujo's Circular, addressed to the different foreign Ministers, accredited near the United States.

SIR: The want of correctness, which appears to prevail throughout the article, relative to Spain, of the Message which the President of the United States sent to Congress on the 3d instant, compelled me to transmit on the sixth of said month, to the Secretary of State, the note of which I have the honor of enclosing to you a translated copy. The extreme publicity given to said Message, as well as to the documents relative to the above-mentioned article, sent to Congress, some time after, caused me to hope that Government, from the ostensible purity of its intentions, would have tended to present the affairs in question under their true point of view. I have been waiting in silence, for more than forty days, in expectation of this act of justice, but I have waited for it in vain; and as no hopes any longer remain of seeing it verified, I have thought it my duty, sir, to transmit you a copy of this document, for the information of your Court, with the object that, whatever may have been the light under which the President of the United States may have thought proper to present the conduct of Spain, it may be known that the King my master, in his political relations with the United States, has always manifested that good faith, so well known, which is the true character of his Government, acting toward them always with justice, and very often with generosity.

Accept, sir, the sentiments of high consideration with which I have the honor to be, your most obedient humble servant,

MARQUIS OF CASA YRUJO.

P. S. I authorize you, sir, to give copies not only of my note, but even of the present letter.

PHILADELPHIA, *Jan.* 21, 1805.

TRANSLATION.

SIR: The zeal with which I have endeavored to preserve the harmony and good understanding between Spain and the United States, has caused me to read with particular regret the article of the President's Message, sent to Congress the 3d instant, respecting the political relations between the United States and the King my master. As in the exposition to which I allude, there exist, in my opinion, several mistakes of a delicate and important tendency, although I render to the President due justice in regard to the motives which may have caused this apparent want of correctness, yet my character imposes on me the task of entering into an examination of some of his assertions, and of demonstrating that, either from the want of exact information, or owing to defective translations, they appear, in some cases, not altogether correct.

In the article of the President's Message, relative to Spain, after mentioning that the negotiations for the settlement of the existing differences had not had a satisfactory issue, he says: "Spo-'liations during the former war for which she 'had formally acknowledged herself responsible, 'have been refused to be compensated, but on con-'ditions affecting other claims in no wise connect-'ed with them. Yet the same practices are re-'newed in the present war, and are already of 'great amount." It is very well known that, in a state of war, there exists and will probably ever exist, a certain degree of force, confided to subaltern hands. Even the United States themselves

have not been an exception to this general rule, and during the short period of hostilities with France, in the year 1798, notwithstanding no privateers were armed, and that their protecting forces consisted only of a small number of frigates, neutrals experienced from them many injuries, well authenticated by the numerous claims on this Government by the injured Powers, principally on the part of Denmark and Sweden.

Probably there might have existed last war some abuses of this nature, although very rare, on the part of the Royal navy of Spain; but the King, my master, animated by that love of justice which characterizes him, authorized his principal Secretary of State to sign a convention with the American Minister near his person, in which were stipulated reciprocal compensations for the damages and injuries their respective subjects and citizens might have sustained from officers or individuals of either, contrary to the rights and laws of nations. This stipulation, similar to that of the same nature in the Treaty of Friendship, Navigation, and Limits, concluded in 1795, and scrupulously complied with by my Sovereign, would now have had the same effect by the ratification of the Convention, had not an article been inserted therein tending to impose on Spain the obligation of a responsibility both detrimental and important in its result, as well as unsupported by reason and justice under the existing circumstances. My Court has, in a direct manner, as well as through me, repeatedly manifested to the American Government its readiness to carry the said stipulation into effect, whenever the article in the same convention relative to the above-mentioned responsibility, should either be suppressed or altered in a manner more conformable to justice, and has been so far from refusing to satisfy said compensations on account of other claims in no wise connected with them, that it was precisely because they are connected that the said convention has not been carried into effect, as was and still is the wish of the King my master.

It is true that the two subjects by their nature are not connected with each other in themselves, but it is also true, that this connexion is very great, when we consider that an endeavor is made to form out of these two things, distinct in themselves, component parts of the same whole, thereby placing the King, my master, under the disagreeable dilemma of either refusing to ratify a stipulation which he conceives to be just, and therefore wishes to fulfil, or else of taking on himself a responsibility, more or less direct, in favor of the United States, to which it is well proved they have no right to pretend.

In regard to what concerns the new spoliations, I can assure you, sir, few are those that can strictly merit this denomination on the part of Spanish vessels, as many of the captures, which so frequently figure in the American papers, arise either from acts of contraband, or from a want of having on board the documents required by the Treaty of 1795, or even from other circumstances which the captains and owners of the said prizes will take good care to conceal; besides, on this head, the citizens of the United States would receive that justice which they have already experienced on the same subject in virtue of the Treaty of 1795. I cannot but observe that, although I had the honor of communicating to you, sir, two months ago, that the strictest injunctions had been given by the King, my master, not to interrupt the navigation of American citizens, when employed in lawful trade, no mention is made by the President of this circumstance, as highly important in its effects toward the American commerce, as it is necessary to demonstrate his just and pacific intentions.

Without any view to recrimination, I find it necessary to observe that, although the violations of the rights of neutrals are infinitely more frequent and extensive on the part of England, whose vessels of the Royal navy have almost continually blockaded the ports of the United States, and, what is more, when this Power daily establishes new principles on the rights of neutrals, which, in reality, tend to undermine and annihilate them—the name of Great Britain is nowhere to be found in the columns of the President's Message.

These circumstances, in themselves, would not authorize any animadversions on my part, were it not for a more essential one, which immediately affects the interests of the King, my master. I allude to the many American sailors, violently forced from the shelter of the flag which ought to protect them, and compelled to fight on board of British ships of war, against the subjects of the King, my master. I cannot but call the attention of the Government of the United States toward such a conduct, that, in their wisdom, they may adopt the necessary measure to correct an abuse, which, at the same time that it violates their neutrality, is extremely prejudicial to Spain.

The President adds: "On the Mobile, our com-'merce, passing through that river, continues to 'be obstructed by arbitrary duties and vexatious 'searches." Although this assertion is not accompanied by any observation whatever which might cause it to be viewed as a national offence, I must observe that, according to my information, the duties on imports and exports are very moderate, only six per cent.,* that every Power has a right to regulate, as they please, these objects within the boundaries of their jurisdiction,

* NOTE.—It is necessary to remark that the navigation of the Mobile, which appears to furnish the President a motive of complaint, is enjoyed by the Americans, in consequence of the gracious indulgence on the part of Spain; as no right does yet exist, to navigate the waters of that river within the boundaries of Spain, who holds exclusively that right grounded on sovereign possession, on the opinions of the most celebrated civilians, and supported by the very principles established by the American Government, through the medium of their Attorney General, Bradford, in the case of the prize Grange, taken on the waters of the Delaware. After this, it is necessary to confess, that the animadversions of the President upon this head are as unjust as they are impolitic.

and that this exercise of sovereignty is practised by the American Government at Fort Stoddert: that is, within their lines, without any pretension on the part of Spain to interfere in their regulations. But, even admitting it may be troublesome, it never surely can be pretended as a national offence.

He afterward says: "Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to." This assertion is not strictly correct; for it is, and always has been, the wish as well as the intention of Spain, to adjust amicably the limits of Louisiana; but however friendly (amicable) may have been her disposition toward it, she cannot sacrifice thereto either the dignity or rights of her Crown; so that it was not, as the President supposes, owing to the want of a desire of adjusting amicably, that this business was not concluded; but rather from the nature of the proposals, which were in themselves inadmissible. The paragraph continues: "While 'the right is unsettled, we have avoided to change 'the state of things, by taking new posts, or 'strengthening ourselves in the disputed Territories, in the hope that the other Power would not, 'by a contrary conduct, oblige us to meet their 'example, and endanger conflicts of authority, 'the issue of which may not easily be controlled; 'but, in this hope, we have now reason to lessen 'our confidence." In truth, I cannot comprehend what the President can call unsettled right; and still less, if he wishes to apply it to that part of West Florida comprehended within the Mississippi, Iberville, the Lakes, and the river Perdido. The right of this Territory cannot be considered as unsettled or doubtful; for, independent of that right arising from actual possession and from the treaty of retrocession of Louisiana to France, there is another conclusive circumstance, well known to the American Government, which ought and must dissipate every doubt, if any could ever exist on this subject. The most distinguished civilians agree, that the true interpreters of a treaty doubtful in any of its clauses or expressions, are the contracting parties themselves, when this can be obtained. Spain and France, who were the contracting parties in the treaty of retrocession, on which is founded that of sale, of the 30th of April, from whence the pretensions of the American Government emanate, have explained it in the manner already known to you, sir: namely, that it was not the intention of Spain to cede to France more than she had received from her, as the title and word "retrocession" made use of therein clearly imply; and that France would never have pretended or hoped to obtain one inch of land east of the Mississippi, and the Lakes. The true intention of the contracting parties being thus expressly manifested, I shall content myself by copying a single paragraph from *Vattel*, among many other similar ones, which I could produce from other civilians, in support of the rights of the King, my master, on this subject. In paragraph 274 of "The Interpretation of Treaties," *Vattel* says: "When we manifestly 'see what is the sense that agrees with the intention of the contracting parties, it is not permitted to turn their words to a contrary meaning. 'The intention sufficiently known furnishes the 'true matter of the convention, of what is promised and accepted, demanded and granted. To 'violate the treaty, is to go contrary to the intention sufficiently manifested, rather than against 'the terms in which it is conceived; for the 'terms are nothing without the intentions 'throughout to dictate them." According to this, the position taken by the President, in the said paragraph of his Message, that the right (no doubt alluding to the Territorial right) was doubtful or unsettled, is inadmissible, and of course all the inductions and consequences he draws from this supposition, fall completely to the ground. Besides, whatever alteration or change might have taken place in the territories of His Catholic Majesty could never have been, as I had the honor to inform you, sir, but the effects of new plans of frontiers, which the retrocession of Louisiana would of course render necessary, or else it might proceed from the circumstance of Spain's being engaged in a war with England, but never with a view to disturb the peace and good understanding between Spain and the United States.

The President continues, saying: "Inroads have 'recently been made into the Territories of Or-'leans and the Mississippi; our citizens have been 'seized and their property plundered in the very 'parts of the former, which had actually been 'delivered up by Spain, and this by the regular 'officers and soldiers of that Government."

Although I have not on this subject more than that received through the American newspapers, whose accounts cannot be supposed very impartial, nevertheless supposing them correct in all their extent, from those I have read, it is neither proved, nor do I think it possible to believe, that the officers and soldiers of the King, my master, have crossed the American line, to commit within the jurisdiction of the United States, the pretended insults. The first example of these inroads was given by several American citizens, who, in August, 1804, penetrated through the territory of Baton Rouge, and, aided by the brothers Kempers, and other malcontents of the Spanish side, made an attempt to surprise, and render themselves masters of the fort of Baton Rouge, and actually arrested some magistrates and other persons of note. On this subject I had the honor of speaking and writing to you, sir, in due time, but I am hitherto without the least answer. If the seizing of American citizens ("our citizens have been seized") has any reference to the arrest of the Kempers, I must in the first place declare, that, according to my late information, these Kempers are not American citizens, because when they settled themselves in the Spanish territory, they became subjects of the King, and, of course, had lost their rights as American citizens; and, in the second, that the arrest of these persons, according to a letter from Natchez, of the eighth of October last, published in the United States Gazette, of Philadelphia, was effected by negroes and mulattoes, and American citizens, who, no doubt, expecting some recompense, delivered them within the Spanish lines, from whence it appears some Spanish soldiers took charge of them to conduct them to Baton Rouge. It is true that it has also been said that a part of a company of cavalry, commanded by a certain Captain Jones, had entered another part of the line and had conducted themselves in a violent and improper manner toward two families; but, should this account be true, I can assure you, sir, that the Government of the United States shall receive due satisfaction from Spain, the reputation of whose Government is too well established to believe it can in any manner be privy to, or approve of acts as far beneath its character as they are useless in their effects. Incidents of this nature may happen on the frontiers of every country, and they only deserve attention when they receive the sanction of the Government of the aggressors, or when, in such cases, due satisfaction is refused.

I have gone over, step by step, the article of the President's Message, which relates to Spain, and I have endeavored to present, with candor and truth, although in a cursory manner, whatever may give correct ideas on its nature and tendency. Having fulfilled the duty incumbent on my situation, permit me to offer you, sir, the sentiments of high consideration, with which I have the honor to be,

EL MARQUES DE CASA YRUJO.

JAMES MADISON, Esq.

TRIPOLI.

[Communicated to the Senate, December 11, 1805; January 13, and February 4, 1806; and November 11, 1807.]

To the Senate of the United States:

I now lay before the Senate the several treaties which have been entered into on the part of the United States, since their last session.

1. A Treaty of Peace and Amity between the United States of America and the Bashaw Bey and subjects of Tripoli, in Barbary, &c.

TH. JEFFERSON.

DECEMBER 11, 1805.

To the Senate of the United States:

According to the request of the Senate, of December 30, I now lay before them the correspondence of the naval commanders Barron and Rodgers, and of Mr. Eaton, late Consul at Tunis, respecting the progress of the war with Tripoli, antecedent to the treaty with the Bey and Regency of Tripoli, and respecting the negotiations for the same; and the commission and instructions of Mr. Eaton, with such other correspondence, in possession of the offices, as, I suppose, may be useful to the Senate in their deliberations upon the said treaty.

The instructions which were given to Mr. Lear, the Consul General at Algiers, respecting the negotiations for the said treaty, accompanied the treaty and the Message concerning the same, and are now with them in possession of the Senate.

So much of these papers has been extracted and communicated to the House of Representatives, as relates to the principles of the co-operation between the United States and Hamet Caramalli, which is the subject of a joint Message to both Houses of Congress, bearing equal date with the present; and, as those now communicated to the Senate comprehend the whole of that matter, I request that they may be considered as comprising the documents stated in that Message as accompanying it. Being mostly originals or sole copies, a return of them is requested at the convenience of the Senate.

We have no letter from Mr. Lear respecting Tripoline affairs of later date than that of July 5, which was transmitted to the Senate with the treaty, nor, consequently, any later information of what steps have been taken to carry into effect the stipulation for the delivery of the wife and children of the brother of the reigning Bashaw of Tripoli.

TH. JEFFERSON.

JANUARY 13, 1806.

To the Senate and House of Representatives of the United States:

I lay before Congress the application of Hamet Caramalli, elder brother of the reigning Bashaw of Tripoli, soliciting from the United States attention to his services and sufferings in the late war against that State; and, in order to possess them of the ground on which that application stands, the facts shall be stated according to the views and information of the Executive.

During the war with Tripoli, it was suggested that Hamet Caramalli, elder brother of the reigning Bashaw, and driven by him from his throne, meditated the recovery of his inheritance, and that a concert in action with us was desirable to him. We considered that concerted operations by those who have a common enemy were entirely justifiable, and might produce effects favorable to both, without binding either to guaranty the objects of the other. But the distance of the scene, the difficulties of communication, and the uncertainty of our information inducing the less confidence in the measure, it was committed to our agents as one which might be resorted to, if it promised to promote our success.

Mr. Eaton, however, our late Consul, on his return from the Mediterranean, possessing personal knowledge of the scene, and having confidence in the effect of a joint operation, we authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet, if he should deem it useful; and, as it was represented that he would need some aid of arms and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. In order to avail him of the advantages of Mr. Eaton's knowledge of circumstances, an occasional employment was provided for the lat-

ter as an agent for the navy in that sea. Our expectation was that an intercourse should be kept up between the ex-Bashaw and the Commodore; that, while the former moved on by land, our squadron should proceed with equal pace, so as to arrive at their destination together, and to attack the common enemy by land and sea at the same time. The instructions of June 6, to Commodore Barron, show that a co-operation only was intended, and by no means an union of our object with the fortune of the ex-Bashaw; and the Commodore's letters of March 22 and May 19, prove that he had the most correct idea of our intentions. His verbal instructions, indeed, to Mr. Eaton, and Captain Hull, if the expressions are accurately committed to writing by those gentlemen, do not limit the extent of his co-operation as rigorously as he probably intended, but it is certain, from the ex-Bashaw's letter of January 3, written when he was proceeding to join Mr. Eaton, and in which he says, "your operations should be carried on by sea, mine by land," that he left the position in which he was with a proper idea of the nature of the co-operation. If Mr. Eaton's subsequent convention should appear to bring forward other objects, his letter of April 29 and May 1 views this convention but as provisional, the second article, as he expressly states, guarding against any ill effect, and his letter of June 30 confirms this construction. In the event it was found, that, after placing the ex-Bashaw in possession of Derne, one of the most important cities and provinces of the country, where he had resided himself as Governor, he was totally unable to command any resources, or to bear any part in co-operation with us. This hope was then at an end, and we certainly had never contemplated, nor were prepared to land an army of our own, or to raise, pay, or subsist an army of Arabs, to march from Derne to Tripoli, and to carry on a land war at such a distance from our resources. Our means and our authority were merely naval; and, that such were the expectations of Hamet, his letter of June 29 is an unequivocal acknowledgment. Whilst, therefore, an impression from the capture of Derne might operate still at Tripoli, and an attack on that place from our squadron was daily expected, Colonel Lear thought it the best moment to listen to overtures of peace, then made by the Bashaw; he did so; and, while urging provisions for the United States, he paid attention also to the interests of Hamet, but was able to affect nothing more than to engage the restitution of his family; and even the persevering in this demand suspended for some time the conclusion of the treaty.

In operations at such a distance, it becomes necessary to leave much to the discretion of the agents employed; but events may still turn up beyond the limits of that discretion. Unable in such a case to consult his Government, a zealous citizen will act as he believes that would direct him, were it apprized of the circumstances, and will take on himself the responsibility. In all these cases, the purity and patriotism of the motives should shield the agent from blame, and even secure a sanction, where the error is not too injurious. Should it be thought by any that the verbal instructions said to have been given by Commodore Barron to Mr. Eaton, amount to a stipulation that the United States should place Hamet Caramalli on the throne of Tripoli, a stipulation so entirely unauthorized, so far beyond our views, and so enormous, could not be sanctioned by our Government; or should Hamet Caramalli, contrary to the evidence of his letters of January 3, and June 29, be thought to have left the position, which he now seems to regret, under a mistaken expectation that we were, at all events, to place him on his throne, on an appeal to the liberality of the nation, something equivalent to the replacing him in his former situation might be worthy its consideration. A nation, by establishing a character of liberality and magnanimity, gains, in the friendship and respect of others, more than the worth of mere money. This appeal is now made by Hamet Caramalli to the United States. The ground he has taken being different, not only from our views, but from those expressed by himself on former occasions, Mr. Eaton was desired to state whether any verbal communication passed from him to Hamet, which had varied what we saw in writing. His answer of December 5, is herewith transmitted, and has rendered it still more necessary that, in presenting to the Legislature the application of Hamet, I should present them at the same time an exact statement of the views and proceedings of the Executive through this whole business, that they may clearly understand the ground on which we are placed. It is accompanied by all the papers which bear any relation to the principles of the co-operation, and which can inform their judgment in deciding on the application of Hamet Caramalli. TH. JEFFERSON.

FEBRUARY 4, 1806.

To the Senate of the United States:

I now transmit the letters desired by the resolution of the Senate of January 20, so far as they exist in the offices, to wit.

Extract of a letter from the Department of State, to Mr. Eaton of May 20, 1801.

The letter from Mr. Cathcart to Mr. Eaton, dated Leghorn, June 15, 1801, is not in the offices, but the substance of it is supposed to be recited in those of Mr. Cathcart to the Secretary of State, of August 15, 1802, and July 2, 1801, extracts of both of which are transmitted.

The letter of Mr. Eaton, of September 5, 1801, supposed to be that intended by the Senate, as it answers their description: there is no letter of his of September 15.

Extract of a letter from William Eaton to the Secretary of State, December 13, 1801.

Extract from Captain Murray's letter of August 18, 1802.

Extract of a letter from Mr. Cathcart to the Secretary of State, of Agaust 25, 1802.

Extract of a letter from Mr. Morris, to the Secretary of the Navy. March 30, 1803.

The letter from the Swedish Admiral to Hamet Bashaw, designated in the resolution of the Senate, is not in possession of the Executive.

The extracts abovementioned give the whole matter contained in the respective letters relating to Hamet Caramalli. The parts omitted are on subjects entirely foreign to what concerns him.

TH. JEFFERSON.

NOVEMBER 11, 1807.

To the Senate of the United States:

Some time had elasped, after the receipt of the late treaty between the United States and Tripoli, before the circumstance drew particular attention, that, although by the third article the wife and children of the ex-Bashaw were to be restored to him, this did not appear either to have been done or demanded. Still it was constantly expected that explanations on the subject would be received. None, however, having arrived when Mr. Davis went as Consul to Tripoli, he was instructed to demand the execution of the article. He did so; but was answered by the exhibition of a declaration, signed by our negotiator the day after the signature of the treaty, allowing four years for the restoration of the family. The declaration, and the letter of Mr. Davis stating what had passed on the occasion, are now communicated to the Senate. On the receipt of this letter, I caused the correspondence of Mr. Lear to be diligently re-examined, in order to ascertain whether there might have been a communication of this paper made, and overlooked or forgotten. None such, however, is found. There appears only, in a journalized account of the transaction by Mr. Lear under date of June 3, a passage intimating that he should be disposed to give time, rather than suffer the business to be broken off, and our countrymen left in slavery: and again, that on the return of the person who passed between himself and the Bashaw, and information that the Bashaw would require time for the delivery of the family, he consented, and went ashore to consummate the treaty. This was done by the next day; and being forwarded to us as ultimately signed, and found to contain no allowance of time, nor any intimation that there was any stipulation but what was in the public treaty, it was supposed that the Bashaw had, in fine, abandoned the proposition; and the instructions before mentioned, were consequently given to Mr. Davis. An extract of so much of Mr. Lear's communication as relates to this circumstance is now transmitted to the Senate; the whole of the papers having been laid before them on a former occasion. How it has happened that the declaration of June 5 has never before came to our knowledge, cannot with certainty be said; but, whether there has been a miscarriage of it, or a failure of the ordinary attention and correctness of that officer in making his communications, I have thought it due to the Senate, as well as to myself, to explain to them the circumstances which have withheld from their knowledge, as they did from my own, a modification, which, had it been placed in the public treaty, would have been relieved from objections which candor and good faith cannot but feel in its present form.

As the restoration of the family has probably been effected, a just regard to the character of the United States will require that I make to the Bashaw a candid statement of facts; and that the sacrifices of his right to the peace and friendship of the two countries, by yielding finally to the demand of Mr. Davis, be met by proper acknowledgments and reparation on our part.

Nov. 11, 1807. TH. JEFFERSON.

Treaty of Peace and Amity between the United States of America and the Bashaw Bey and subjects of Tripoli, in Barbary.

ARTICLE 1. There shall be, from the conclusion of the treaty, a firm, inviolable, and universal peace, and a sincere friendship between the President and citizens of the United States of America, on the one part and the Bashaw Bey and subjects of the Regency of Tripoli, in Barbary, on the other, made by the free consent of both parties, and on the terms of the most favored nation. And if either party shall hereafter grant to any other nation any particular favor or privilege in navigation or commerce, it shall immediately become common to the other party, freely where it is freely granted to such other nation; but where the grant is conditional, it shall be at the option of the contracting parties to accept, alter, or reject such conditions, in such manner as shall be most conducive to their respective interests.

ART. 2. The Bashaw of Tripoli shall deliver up to the American squadron, now off Tripoli, all the Americans in his possession; and all the subjects of the Bashaw of Tripoli, now in the power of the United States of America, shall be delivered up to him; and as the number of Americans in possession of the Bashaw of Tripoli amounts to three hundred persons, more or less, and the number of Tripoline subjects in the power of Americans is about one hundred, more or less, the Bashaw of Tripoli shall receive from the United States of America the sum of sixty thousand dollars, as a payment for the difference between the prisoners herein mentioned.

ART. 3. All the forces of the United States which have been, or may be in hostility against the Bashaw of Tripoli, in the province of Derne, or elsewhere within the dominions of the said Bashaw, shall be withdrawn therefrom, and no supplies shall be given by, or in behalf of, the said United States, during the continuance of this peace, to any of the subjects of the said Bashaw, who may be in hostility against him, in any part of his dominions; and the Americans will use all means in their power to persuade the brother of the said Bashaw, who has co-operated with them at Derne, &c., to withdraw from the territory of the said Bashaw of Tripoli; but they will not use any force or improper means to effect that object; and in case he should withdraw himself as aforesaid, the Bashaw engages to deliver up to him his wife and children, now in his power.

Art. 4. If any goods belonging to any nation, with which either of the parties are at war, should be loaded on board vessels belonging to the other party, they shall pass free and unmolested, and no attempt shall be made to take or detain them.

Art. 5. If any citizens, subjects, or their effects, belonging to either party, shall be found on board a prize vessel, taken from an enemy by the other party, such citizens or subjects shall be liberated immediately, and their effects so captured shall be restored to their lawful owners, or their agents.

Art. 6. Proper passports shall immediately be given to the vessels of both the contracting parties, on condition that the vessels of war belonging to the Regency of Tripoli, in meeting with merchant vessels belonging to citizens of the United States of America, shall not be permitted to visit them with more than two persons besides the rowers; then two only shall be permitted to go on board said vessel, without first obtaining leave from the commander of said vessel, who shall compare the passport, and immediately permit said vessel to proceed on her voyage; and should any of the said subjects of Tripoli insult or molest the commander, or any other person on board a vessel so visited, or plunder any of the property contained in her, on complaint being made by the Consul of the United States of America, resident at Tripoli, and on his producing sufficient proof to substantiate the fact, the commander or rais of said Tripoline ship or vessel of war, as well as the offenders, shall be punished in the most exemplary manner.

All vessels of war belonging to the United States of America, on meeting with a cruiser belonging to the Regency of Tripoli, and having seen her passport and certificate from the Consul of the United States of America residing in the Regency, shall permit her to proceed on her cruise unmolested, and without detention. No passport shall be granted by either party to any vessel, but such as are absolutely the property of citizens or subjects of said contracting parties, on any pretence whatever.

Art. 7. A citizen or subject of either of the contracting parties, having bought a prize vessel condemned by the other party, or by any other nation, the certificate of condemnation and bill of sale shall be a sufficient passport for such vessel for two years, which, considering the distance between the two countries, is no more than a reasonable time for her to procure other passports.

Art. 8. Vessels of either party putting into the ports of the other, and having need of provisions or other supplies, they shall be furnished at the market price; and if any such vessel should so put in from a disaster at sea, and have occasion to repair, she shall be at liberty to land and reembark her cargo without paying any duties, but in no case shall she be compelled to land her cargo.

Art. 9. Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her crew. No pillage shall be allowed; the property shall remain at the disposition of the owners, and the crew protected and succored until they can be sent to their country.

Art. 10. If a vessel of either party shall be attacked by an enemy within gunshot of the forts of the other, she shall be defended as much as possible. If she be in port, she shall not be seized or attacked when it is in the power of the other party to protect her; and, when she proceeds to sea, no enemy shall be allowed to pursue her from the same port, within twenty-four hours after her departure.

Art. 11. The commerce between the United States of America and the Regency of Tripoli, the protections to be given to merchants, masters of vessels, and seamen, the reciprocal right of establishing Consuls in each country, and the privileges, immunities, and jurisdictions to be enjoyed by such Consuls, are declared to be on the same footing with those of the most favored nations respectively.

Art. 12. The Consul of the United States of America shall not be answerable for debts contracted by citizens of his own nation, unless he previously gives a written obligation so to do.

Art. 13. On a vessel of war belonging to the United States of America, anchoring before the city of Tripoli, the Consul is to inform the Bashaw of her arrival, and she shall be saluted with twenty-one guns, which she is to return in the same quantity or number.

Art. 14. As the Government of the United States of America has, in itself, no character of enmity against the laws, religion, or tranquillity of Musselmen, and as the said States never have entered into voluntary war or act of hostility against any Mahometan nation, except in the defence of their just rights to freely navigate the high seas, it is declared by the contracting parties, that no pretext, arising from religious opinions, shall ever produce an interruption of the harmony existing between the two nations; and the Consuls and agents of both nations, respectively, shall have liberty to exercise his religion in his own house; all slaves of the same religion shall not be impeded in going to said Consul's house at hours of prayer. The Consuls shall have liberty and personal security given to them to travel within the territories of each other, both by land and sea, and shall not be prevented from going on board any vessel that they may think proper to visit, they shall have, likewise, the liberty to appoint their own dragoman and brokers.

Art. 15. In case of any dispute arising from the violation of any of the articles of this treaty, no appeal shall be made to arms, nor shall war be declared on any pretext whatever; but, if the Consul residing at the place where the dispute shall happen, shall not be able to settle the same, the Government of that country shall state their grievances in writing, and transmit it to the Government of the other; and the period of twelve calendar months shall be allowed for answers to be returned, during which time no act of hostility shall be permitted by either party; and in case the grievances are not redressed, and war

should be the event, the Consuls, and citizens or subjects of both parties, reciprocally, shall be permitted to embark with their effects unmolested, on board of whatever vessel or vessels they shall think proper.

Art. 16. If, in the fluctuation of human events, a war should break out between the two nations, the prisoners captured by either party shall not be made slaves, but shall be exchanged rank for rank; and, if there should be a deficiency on either side, it shall be made up by the payment of five hundred Spanish dollars for each captain, three hundred dollars for each mate and supercargo, and one hundred Spanish dollars for each seaman so wanting; and it is agreed that prisoners shall be exchanged in twelve months from the time of their capture, and that this exchange may be effected by any private individual, legally authorized by either of the parties.

Art. 17. If any of the Barbary States or other Powers at war with the United States of America, shall capture any American vessel, and send her into any of the ports of the Regency of Tripoli, they shall not be permitted to sell her, but shall be obliged to depart the port on procuring the requisite supplies of provisions; and no duties shall be exacted on the sale of prizes captured by vessels sailing under the flag of the United States of America when brought into any port in the Regency of Tripoli.

Art. 18. If any of the citizens of the United States, or any persons under their protection shall have any dispute with each other, the Consul shall decide between the parties; and whenever the Consul shall require any aid or assistance from the Government of Tripoli to enforce his decisions, it shall immediately be granted to him. And, if any dispute shall arise between any citizen of the United States, and the citizens or subjects of any other nation, having a Consul or agent in Tripoli, such dispute shall be settled by the Consuls or agents of the respective nations.

Art. 19. If a citizen of the United States should kill or wound a Tripoline, or, on the contrary, if a Tripoline shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the Consul assisting at the trial; and if any delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever.

Art. 20. Should any citizen of the United States of America die within the limits of the Regency of Tripoli, the Bashaw and his subjects shall not interfere with the property of the deceased, but it shall be under the immediate direction of the Consul, unless otherwise disposed of by will. Should there be no Consul, the effects shall be deposited in the hands of some person worthy of trust, until the party shall appear who has a right to demand them, when they shall render an account of the property. Neither shall the Bashaw nor his subjects give hinderance in the execution of any will that may appear.

Whereas, the undersigned Tobias Lear, Consul General of the United States of America for the Regency of Algiers, being duly appointed commissioner, by letters patent under the signature of the President, and seal of the United States of America, bearing date at the City of Washington, the 18th day of November, 1803, for negotiating and concluding a treaty of peace between the United States of America and the Bashaw Bey and subjects of the Regency of Tripoli, in Barbary.

Now know ye, that I, Tobias Lear, commissioner as aforesaid, do conclude the foregoing treaty, and every article and clause therein contained, reserving the same, nevertheless, for the final ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

Done at Tripoli, in Barbary, the 4th day of June, in the year 1805, corresponding with the 6th day of the 1st month of Rabbia, 1220.

TOBIAS LEAR. [L. S.]

Having appeared in our presence, Colonel Tobias Lear, Consul General of the United States of America in the Regency of Algiers, and commissioner for negotiating and concluding a treaty of peace and friendship between us and the United States of America, bringing with him the present treaty of peace with the within articles; they were by us minutely examined, and we do hereby accept, confirm, and ratify them, ordering all our subjects to fulfil entirely their contents, without any violation and under no pretext.

In witness whereof we, with the heads of our Regency, subscribe it.

Given at Tripoli, in Barbary, the 6th day of the 1st month of Rabbia. 1220, corresponding with the 4th day of June, 1805.

We hereby acknowledge to have received from the hands of Colonel Tobias Lear, the full sum of sixty thousand dollars, mentioned as ransom for two hundred Americans in the treaty of peace, concluded between us and the United States of America, on the 6th day of the 1st month of Rabbia, 1220; and of all demands against the said United States.

Done this 21st day of the 1st month of Rabbia, 1220.

JOSEPH CARAMANLY,
Bashaw. [L. S.]

Extract of a letter from the Secretary of State to William Eaton, Esquire, dated.

WASHINGTON, *May* 20, 1801.

Your letter of the 2d and 18th September, 6th October, 1st, 9th, 10th, 15th, 16th, 13th, 25th, 19th, and 26th November, and 8th December, have been received since the date of Mr. Lincoln's letter by the Grand Turk, which sailed from New York in March last, with the third cargo of Regalia for Tunis. The proofs which have been given by the Bashaw of Tripoli of hostile designs against the United States have, as you will learn from Commodore Dale, determined the President to send into the Mediterranean a squadron of three frigates and a sloop of war, under the command of that officer. Should war

have been declared, or hostilities commenced, this force will be immediately employed in the defence and protection of our commerce against the piracies of that Regency. It is hoped that the contagion will not have spread either to Tunis or Algiers; but should one or both of them have followed the perfidious example, their corsairs will be equally repelled and punished.

The policy of exhibiting a naval force on the coast of Barbary has long been urged by yourself and the other Consuls. The present moment is peculiarly favorable for the experiment, not only as it is a provision against an immediate danger, but as we are now at peace and amity with all the rest of the world, and as the force employed would, if at home, be at nearly the same expense, with less advantage to our mariners. The President has, therefore, every reason to expect the utmost exertions of your prudence and address, in giving the measure an impression most advantageous to the character and interests of the United States. In effecting this object the means must be left, in a great degree, to your knowledge of the local and other circumstances which cannot be understood at this distance. You will, of course, take due pains to satisfy the Bey that the United States are desirous of maintaining peace with all nations who are willing to live in peace; that they have given abundant evidence of their disposition to cultivate the friendship of the Barbary Regencies, and of himself in particular, and that, if the flag of the United States should be engaged in a war with either of them, it will be a war of defence and necessity, not of choice or provocation. You will also give every friendly explanation and assurance, on this occasion, which may be requisite for the Consuls and agents of other Powers residing at Tunis.

You are authorized to inform the Bey of Tunis that a vessel is now preparing to take in the cargo, which will complete the regalia due to him, and that no time will be lost in getting her on her voyage. The jewels, to the amount of forty thousand dollars, have, as you know, been ordered to be prepared in London. On the 28th December last Mr. King wrote: "I have concluded to take immediate measures to provide the jewels, enumerated in the list furnished by Mr. Eaton. Some of the articles can be soon prepared and sent; others, including the arms and almost all the jewelry, will require a long time to be prepared." If they are essential to the preservation of peace, and the benefits of the treaty with the Bey, they must be yielded to him.

It will be agreeable, both to the humanity of the President and the policy of your situation, to render kind offices to the British, and all others within your Consulate; but you cannot be permitted to accept an appointment from any other Government than the United States.

The ship purchased by you, being foreign built, is excluded by a construction of our laws, from having a Mediterranean pass.

The President has taken into consideration your request of leave of absence, and thinks it might be too injurious to the affairs of the United States, especially during the present critical state of the Mediterranean.

I conclude with enjoining on you the most cordial and respectful communications with Commodore Dale, and the ready assistance of him with all such usual information, and other good offices, as it may be in your power to render, and with offering you my sincere wishes for your success in all your measures for advancing the welfare of our country.

Extract of a letter from James L. Cathcart, Esq., to the Secretary of State, dated

LEGHORN, *July* 2, 1801.

Should we break with the whole of the Barbary States at once, we must have considerably greater force in the Mediterranean. I propose chastising them, one at a time, and pursuing such measures at the Ottoman Court as will effectually prevent any coalition taking place injurious to our interest. I not only contemplate the obtaining a permanent and honorable peace, but likewise the dethroning the present Bashaw, and effecting a revolution in favor of his brother Hamet, who is at Tunis, and thereby insure the United States the gratitude of him and his successors: for so long as Joseph the Bashaw lives, our commerce will not be secure. For even allowing that we conclude a peace upon our own terms, the first time our frigates are off their guard, or employed upon other service, his cruisers will capture Americans, in retaliation, for having imposed upon him terms which he may consider humiliating, not reverting to the cause; and that the concessions, which we will certainly force him to make, are merely inflicted as a just punishment for his temerity and breach of faith, and to oblige him to observe his engagements inviolably sacred in future.

I have requested Mr. Eaton to endeavor to ascertain how far said Hamet would be willing to engage in an expedition of that nature, and even should we not succeed in dethroning Joseph, nevertheless his presence on board of Commodore Truxtun would strike his brother and adherents with such a panic as could not fail to promote our interests.

Extract of a letter from William Eaton, Esq., to the Secretary of State, dated

ROAD OF TUNIS, *September* 5, 1801.

The enclosures, which I have the honor herewith to forward, will inform Government, as accurately as I have the means, of our actual position and future prospects in regard to Tripoli, one circumstance only omitted, which is a project in concert between the rightful Bashaw of Tripoli, now in exile in Tunis, and myself, to attack the usurper by land while our operations are going on by sea. These two men are brothers; the younger is on the throne, having expelled the elder about eight or nine years ago. The subjects, in general, of the reigning Bashaw, are very discontented, and ripe for revolt; they want nothing but confidence in the prospect of success; this confidence may

be inspired by assurances of our determination to chastise this Bashaw for his outrage against the United States. The Bey of Tunis, though prudence will keep him behind the curtain, I have strong reasons to believe will cheerfully prompt the same. He is in favor of the elder brother. The idea of dethroning our enemy, and placing a rightful sovereign in his seat, makes a deeper impression on account of the lasting peace it will produce with that Regency, and the lesson of caution it will teach the other Barbary States. These are objects which, to me, seem so clearly within our power that they ought to command exertions. Having begun to coerce Tripoli, it would operate an injury of perpetual duration to relax in these measures.

Extract of a letter from William Eaton to the Secretary of State.

TUNIS, *December* 13, 1801.

SIR: On the 28th of October arrived the Danish Commodore Koefoed, and a Consul Holch, five days from Leghorn. The evening of the 2d ultimo they passed at the American house. As the Commodore had lately been at Tripoli on a negotiation, it was very natural to inquire of him what seemed to be the general sentiment of the Tripolines respecting the American war. He said it was very unpopular, and that the subjects of the Bashaw, chiefly on this account, were ripe for a revolt; they waited for nothing but succor. They clamor against the madness and oppression of their chief, say he makes war on his friends to the destruction of their little commerce, takes all the plunder to himself, and, in the issue, reduces them to starvation and the loss of friends, without allowing them the wretched consolation to mourn for those friends when slain. They almost unanimously desire the restoration of their rightful sovereign, who is a mild man, of peaceable dispositions; and if he were offered them, with the appearance of determination, they would rise *en masse* to receive him. The Commodore gave it as his opinion that the most effectual way of reducing Tripoli would be to land troops south of the town, on a commanding untenanted position, and raising a cross fire with the bomb-ketches stationed on the north of it; gunboats or floating batteries to be stationed at the same time within the mole, to keep up a direct fire on the town and rear of the castle. He thinks three thousand men an ample force to effect the object contemplated by land; but two heavy pieces of ordnance for battering, and some light artillery to repel the assault of cavalry, would be requisite. Thus it appears that the opinions of the Danish and American commodores correspond very exactly on the subject of necessary operations for reducing Tripoli.

On the position proper for landing stands a considerable forest of date-trees, the fruit of which forms a great article of subsistence to the Moors of the vicinity; apprehension of the destruction of which would bring these people to almost any terms. Their peaceable behaviour may be made a condition of its preservation; at the same time, it may serve for cover against cavalry, in case of being hard pushed.

On the morning of the 3d November I received a message from Sidi Mahomet Bashaw, the exile from Tripoli, informing me that his brother, the usurper, had addressed the Dey of Algiers, and begged his mediation to bring about a reconciliation with the American Government, and expressed great solicitude to know whether, in my opinion, the Americans would admit such an intervention. I did not hesitate to give it as my opinion, that my Government, having once been deceived by that Dey, would now seek to establish their peace on a surer base. He then desired to be advised whether he might place any reliance on the operations of the Americans in his behalf. I recommended to him patience and silence; at the same time, gave him leave to entertain the hope (may it not be illusive) that the next summer's operations would favor his views.

Extract of a letter from A. Murray, Esq., on board the frigate Constellation, at Malta, to William Eaton, Esq. dated

AUGUST 18, 1802.

I have this day had a communication with the legal Bashaw of Tripoli, and offered to take him to Derne, and to aid him in any measures he chose to pursue; but he thinks it will be more to our advantage, as well as his, to go there in an English brig that he hath chartered, and to try what force he can raise there, in as private a manner as possible; after which, in conjunction with the Swedish force, we can further co-operate with him by private signals agreed upon. I am pleased with his candor, and am persuaded, if he get reinstated in his dominions, he will be friendly to us.

Extract of a letter from James L. Cathcart, Esq., to the Secretary of State, dated

LEGHORN, *August* 25, 1802.

During my residence at Tripoli, I had the honor to transmit to the Department of State the history of the reign of Ali Pacha, father of the reigning sovereign of Tripoli, including the different revolutions in that State, an account of the murder of Mohammed Bey, and the dethroning of the rightful sovereign of Tripoli, Hamet Pacha, who, at that period, was under the protection of the Bey of Tunis, but is now at Malta; and, in a supplement, I forwarded some account of the throne and reign of the present usurper, Joseph Pacha Caramanli.

From the day of my arrival I conceived it my duty to be particular in forwarding details of the most prominent transactions of that Government, for the information of the President, and spared no pains or expense to procure the best intelligence obtainable. Whether eventually I succeeded or not I must leave to your candor to determine, which may be ascertained by comparing my communications with the transactions which have since transpired. As the abovementioned papers, as well as my own observations, convinced me that the inhabitants of Tripoli held the present Pacha

in the greatest degree of horror imaginable, and of their great desire that Hamet, who was then at Tunis, should again assume the reins of Government. I was left no reason to doubt that, should he ever be able to appear before Tripoli with any considerable force to espouse his cause, the chief inhabitants of that Regency would declare in his favor. Indeed, so sensible is Joseph that his conduct neither merits nor will ever receive their support when any force is opposed to him, that whenever he goes out of the city, he carries all his treasure and jewels with him, in chests mounted on mules, which are confided to the care of his favorite slaves, who have orders to keep as close to him as possible; nor is he ever accompanied by less than from three to five hundred of his partisans, who are composed of negroes and men of desperate fortune, who would espouse his cause no longer than until his treasure was exhausted, and would then file into the ranks of the best paymaster. For this reason he carries his cash with him, as likewise to enable him to raise a party among the Arabs, should ever his brother's party assume courage sufficient to shut the gates of the city against him, as he did against Hamet, when he treacherously usurped the pachalic.

In my details of the relative situation of Tripoli with other nations, you will observe the many causes the Grand Seignior has to complain of the arrogance of Joseph Pacha, and no doubt will join with me in opinion that the war in which he was engaged was the only reason which prevented him from chastising him as he deserved; and that he only waits for a proper opportunity I believe is evident. No act could be more just than the reinstating Hamet Pacha on the throne of his forefathers; and no act could insure the Grand Seignior a revenge so prompt and efficacious, and attended with so little expense both of blood and treasure; nor so effectually insure the gratitude and future obedience of Hamet and his family, as well as set a precedent to the other States of Barbary, whose incorrigible insolence has become insupportable at the Sublime Porte, and render an example not only expedient, but absolutely necessary.

Jouseph Pacha, perfectly acquainted with these circumstances, spared no pains to entice his brother Hamet to come to Tripoli, under the specious pretext of giving him the government of the provinces of Derne and Bengazi, but without effect. Hamet would not listen to the proposal, and demanded of his brother to give him up his wife and children, whom he holds as hostages, and to settle a small annuity on him, sufficient to maintain his family, promising that he would then live and die at Tunis.

In the above train were affairs at Tripoli when I left it; and under those impressions, I was induced, in my letter to Mr. Eaton of the 15th of June, 1801, to make the following observations: "I conceive it peculiarly fortunate that Tripoli has broken with us first, as we have it in our power, with a small force, to reduce them to our own terms, and, consequently, to influence the other Regencies in our favor, as they would find, by demonstration, that we brook not insults with impunity. Nay, sir, if the Pacha of Tripoli's brother Hamet, who is at Tunis, was a man of understanding and enterprise, I would stake my soul that, with the assistance of four of our frigates, I would effect a revolution in his favor, and place him on the throne of Tripoli, in spite of every obstacle; and thereby insure the United States the gratitude of him and his successors, besides concluding an advantageous peace." But I must sincerely declare, that, actuated as I was by no other motive than an honest zeal for what I supposed, and continue to suppose, to be the best interest of my country, I at that period thought it a moral impossibility that it would take fifteen months to draw out the energies of an injured nation, or that motives of humanity would so far preponderate in our councils, as to induce us to postpone our vengeance until the barbarity of those miscreants to our unfortunate fellow-citizens would give a latitude, and prescribe the rules of a rigorous retaliation.

In a letter of the 29th of June, I forwarded to Mr. Eaton the outlines of my despatch (No 8,) dated at Leghorn, July 2d, 1801, wherein I requested him to ascertain how far said Hamet would be willing to engage in an expedition of that nature; to which I received no answer for many months. For particulars, I refer you to the despatch; and you will please to observe the paragraph which commences, "I propose chastising them one at a time, and pursuing such measures at the Ottoman Court as will effectually prevent any coalition taking place injurious to our interests."

The measures in contemplation were, to embark the said Hamet on board our commodore's ship, to proceed with him to Constantinople, to present him to the Grand Vizier, and let him then make use of his own arguments to procure the caftan, or robe of honor; and while he was negotiating for force, which the Grand Seignior undoubtedly means to send against Tripoli, we would have profitted by the opportunity to have concluded a commercial treaty with the Sublime Porte, and to have made such arrangements, both there and with Hamet Pacha, as could not fail to inspire those nations with sentiments favorable to our dignity and interests. By procuring the Grand Seignior's sanction to this expedition, it would effectually prevent any coalition taking place unfavorable to our interests; and that the Grand Seignior still intends to revenge the insults he has received, you will be informed by Mr. Nissen's communications, dated Tripoli, April 22d, 1802, forwarded in my despatch (No 7) of this year.

No material alteration took place until March last, when the usurper, Jouseph Pacha, having succeeded in persuading the Bey of Tunis to deny his protection to his brother Hamet, he was obliged, from mere necessity, to accede to Jouseph's proposal, and actually accepted the offer of the government of Derne, and embarked on board a Russian ship bound to Malta, (but supposed to have been bound to Derne,) where he arrived the 11th of April.

This change of position by Hamet Pacha induced Mr. Eaton to take the measures which he

no doubt has detailed to Government in the amplest manner, and which, had not this event taken place so suddenly, he would not have done until he received the President's instructions; and, so far as those measures have been made known to me, I must do Mr. Eaton the justice to say that they seem to have been judicious, dictated by imperious necessity, and an honest zeal for the success of an enterprise which promised such vast advantages to our country.

Extract of a letter from Commodore Morris to the Secretary of the Navy, dated

ON BOARD THE CHESAPEAKE,
Gibraltar Bay, March 30, 1803.

I have been solicited by agents, or pretended agents, to co-operate with the brother to dethrone the Bey. Their demands have been from fifty thousand to one hundred thousand dollars, ten thousand stand of arms, powder, and some light field-pieces. This I absolutely refused, but consented to bring the ships before Tripoli in June, and to furnish twenty barrels of powder, on condition that I could be satisfied they had authority to admit the United States an equivalent for their aid in the event of success. Their answers were, that we would be permitted to make a favorable treaty. I was by no means satisfied with merely the pledge of these agents; their word was not a sufficient guarantee: and, in the event of our rendering them assistance, I shall take care to have the advantages clearly defined, and as binding as the nature of the case will allow.

Extract of a letter from the Secretary of State to Mr. Cathcart, dated

AUGUST 22, 1802.

According to information given by Mr. Eaton, he has prevailed on the brother of the Bashaw of Tripoli to repair to Malta, with a view to be with our squadron before Tripoli, and to be made use of against the Bashaw. At this distance, it is difficult to judge accurately of the project, or to give particular instructions for the management of it. Although it does not accord with the general sentiments or views of the United States to intermeddle with the domestic controversies of other countries, it cannot be unfair, in the prosecution of a just war, or the accomplishment of a reasonable peace, to take advantage of the hostile co-operation of others. As far, therefore, as the views of the brother may contribute to our success, the aid of them may be used for the purpose. Should this aid be found inapplicable, or his own personal object unattainable, it will be due to the honor of the United States, and to the expectations he will have naturally formed, to treat his disappointment with much tenderness; and to restore him, as nearly as may be, to the situation from which he was drawn, or to make some other convenient arrangement that may be more eligible to him. In case of a treaty of peace with the ruling Bashaw of Tripoli, perhaps it may be possible to make some stipulation, formal or informal, in favor of the brother, which may be a desirable alleviation of his misfortune.

Extract of a letter from the Secretary of State to James L. Cathcart, Esquire, who was first appointed to negotiate peace with Tripoli, dated

DEPARTMENT OF STATE, *April* 9, 1803.

My last to you was of August 22, 1802. It was then hoped that you would have been successfully engaged in making peace with Tripoli; for which the crisis was peculiarly favorable. The course of circumstances having deprived us of the advantages of this crisis, to which the tenor of your original instructions was adapted, the President has thought proper to review them with an eye to the change in the state of things under which, if peace be still unmade, the negotiations for it must now be carried on; and, considering that the Bashaw is no longer under the domestic distresses which at one time humbled his pretensions, that all the other nations at war with him have yielded to the customary terms of peace; and that the new terms which the concurrent policy of all civilized nations ought to force on those barbarians, would now be pursued by the United States, at a very great expense, not only without the co-operation of a single other Power, but in opposition to the example of all, and at a period in different respects critical to their affairs, it is thought best that you should not be tied down to a refusal of presents, whether to be included in the peace, or to be made, from time to time, during its continuance; especially, as in the latter case, the title to the presents will be a motive to its continuance. You are accordingly authorized by the President to admit that the Bashaw shall receive, in the first instance, including the consular presents, the sum of twenty thousand dollars, and at the rate afterwards of eight or ten thousand dollars a year. If these sums can be reduced, you will, of course, avail yourself of the opportunity. But no enlargement of them towards the example of other nations will be admissible; especially if, at the date of the negotiation, none of our citizens should be in captivity. The presents, whatever the amount or the purpose of them, (except the consular presents, which, as usual, may consist of jewelry, cloth, &c.) and also the periodical payment, must be made in money, and not in stores. The periodical payments are to be biennial, rather than annual. And the arrangement of the presents is to form no part of the public treaty, if a private promise and understanding can be substituted.

Extract of a letter from the same to Tobias Lear, Esq. who was afterwards charged with the same negotiation, dated

DEPARTMENT OF STATE, *June* 6, 1804.

Commodore Barron has orders to provide, at a suitable time, for your joining him in order to the negotiating of a peace with Tripoli. This we hope may now be effected under the operations and auspices of the force in the hands of that officer, without any price or pecuniary compensation whatever. Should adverse events or circumstances

of which you can best foreseen here, render the a pecuniary sacrifice preferable to a protraction of the war, you are authorized to agree, in the last instance, and in that only, to the terms of peace specified in my letter to Mr. Catheart of the 9th April, 1803, with such modifications as may be convenient. Of the twenty thousand dollars permitted to be given as the first purchase and consular present, five thousand are to be retained until a Consul for Tripoli, to be commissioned by the President, shall arrive. Should you be able to reduce the terms, as may be expected, you will retain a proportionate sum for this object. On peace being made, you have authority to place at Tripoli a temporary agent to attend to our affairs. For the ransom of the prisoners, if a ransom be unavoidable, you may stipulate a sum not exceeding five hundred dollars for each prisoner, including officers, but deducting from the number in the hands of the Bashaw those promised to Captain Dale, to be released in return for the release of some of the Bashaw's subjects who had been captured by him, and also as many as may be considered an equivalent for the captures of Captain Preble.

A desirable shape to give the ransom money would be an annuity payable in four or five instalments. This rate of ransom must not be yielded however without such a change in our affairs by accident to the squadron or by other Powers joining against us in the war, as is very unlikely to happen: and you will bear in mind, that the sum of five hundred dollars per man, connected with terms which were otherwise favorable, was the voluntary offer of the Bashaw to Captain Preble in the month of January, prior to the reverse which he has since experienced, and to his knowledge of the force now sent against him.

Of the co-operation of the elder brother of the Bashaw of Tripoli, we are still willing to avail ourselves, if the Commodore should judge that it may be useful; and to engage which, as well as to render it the more effectual, he has discretionary authority to grant him pecuniary or other subsidies, not exceeding twenty thousand dollars; but the less reliance is placed upon his aid, as the force under the orders of the Commodore is deemed sufficient for any exercise of coercion which the obstinacy of the Bashaw may demand. The power of negotiation is confined to you in the first instance, but, in case of accident, it is to devolve on the acting commodore of the squadron.

Extract of a letter from the same to the same, dated

DEPARTMENT OF STATE, *April* 20, 1805.

Upon reviewing the instructions transmitted to you dated 6th June last, nothing in the state and prospect of things which dictated them appears to be changed by subsequent events; unless, indeed, the possibility of any considerable sacrifices being necessary, should be considered as diminished by the spirited attacks made on the enemy by Commodore Preble, and the comparison which will naturally be made of their effect, with what may be expected from a repetition of them when the season opens, with equal animation on a much larger scale. Besides the force we have in the Mediterranean, the President has directed the following reinforcements, which will appear at the rendezvous, at or not long after your receipt of this communication, viz:

The frigate John Adams, with 32 guns, (all on board, but not mounted,) 600 men, will sail early in May.

Gunboats Nos, 2, 3, 4, 5, 6, 7, 8, 9, 10.

No. 2 will have one long 32 pound cannon; No. 3, two long 24 do.; No. 4, two 32 do.; No. 5, two 32 do.; No. 6, two 32 do.; No 7, two 32 do.; No. 8, two 32 do.; No. 9, two 32 do.; No. 10, two 32 do.

Each gunboat will have about 20 men on board, and will sail by the 1st of May.

Two bomb vessels to be fitted out at Boston, with 13 inch mortars, and will probably sail about the first of June.

The Ceres, a provision ship, has lately sailed from Baltimore, with provisions and military stores for the squadron. The Ann, another provision ship, is now on the eve of sailing from Baltimore. She has also provisions and military stores on board for the squadron. A vessel from Washington will sail in all May, with spars, beef, bread, powder, &c. for the squadron.

Copy of a letter from the Secretary of the Navy to William Eaton, Esquire.

MAY 30, 1804.

SIR: Herewith you will receive an appointment as Navy Agent for the several Barbary Regencies.

You will receive instructions from, and obey the orders of, Commodore Barron; and will render to our squadron in the Mediterranean every assistance in your power.

As a compensation for your services, you will be allowed at the rate of twelve hundred dollars per annum, and the rations of a lieutenant in the Navy of the United States.

I am, respectfully, &c. R. SMITH.

To all who shall see these presents—greeting: Know ye, that, reposing special trust and confidence in the zeal, fidelity, and abilities of William Eaton, I do hereby appoint him agent of the Navy Department of the United States of America, for the several Barbary Regencies.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the Navy Department of the United States of America, at the City of Washington, this 26th day of May, 1804.

R. SMITH, *Sec'y of the Navy.*

Registered—CH. W. GOLDSBOROUGH.

Extract of a letter from the Secretary of the Navy to Commodore Samuel Barron.

JUNE 6, 1804.

With respect to the ex-Bashaw of Tripoli, we have no objection to your availing yourself of his co-operation with you against Tripoli, if you shall, upon a full view of the subject, after your arrival upon the station, consider his co-operation expedient. The subject is committed entirely to your discretion. In such an event you will, it is believed, find Mr. Eaton extremely useful to you.

Col. Tobias Lear, our Consul General at Algiers, is invested by the President with full power and authority to negotiate a Treaty of Peace with the Bashaw of Tripoli, and also to adjust such terms of conciliation as may be found necessary with any of the other Barbary Powers. He is, therefore, to be conveyed by you to any of these Regencies, as he may request of you, and you will cordially co-operate with him in all such measures as may be deemed the best calculated to effectuate a termination of the war with Tripoli, and to insure a continuance of the friendship and respect of the other Barbary Powers.

Commodore Barron to Captain Hull.

SEPTEMBER 13, 1804.

SIR: The state and condition of the Argus, under your command, requiring that she should go into port for the purpose of refitting, &c., I request you to proceed with all practicable expedition to Malta or Syracuse, and there refit your vessel, which, being completed, you will take on board two months' provisions and water, and proceed for the port of Alexandria, and if at that port, or Smyrna, you find any American vessels, you will give them convoy as far as Malta, and immediately after join the squadron off this place.

You will take under your care the ship St. Michael, intercepted by the squadron, in the attempt to enter the blockaded port of Tripoli. You will find Commodore Preble at Malta or Syracuse, with two other ships, captured in making the same attempt. You will receive his orders with respect to the disposition of the St. Michael, cause all her papers to be delivered to him, and furnish him with all the information you may be able to gain from her crew, &c., on your passage. You will inform the commanders of vessels you may find at Syracuse that I shall be off Tripoli."

Verbal orders of Commodore Barron to Captain Hull, of the United States brig Argus, in presence of the undersigned, on board the President.

SEPTEMBER 15, 1804.

SIR: The *written orders* I here hand you, to proceed to the port of Alexandria or Smyrna, for convoying to Malta any vessel you may find there, are intended to disguise the real object of your expedition, which is to proceed with Mr. Eaton to Alexandria, in search of Hamet Bashaw, the rival brother, and legitimate sovereign of the reigning Bashaw of Tripoli; and to convey him and his suit to Derne, or such other place on the coast as may be determined the most proper for co-operating with the naval force under my command, against the common enemy; or, if more agreeable to him, to bring him to me before Tripoli.

Should Hamet Bashaw not be found at Alexandria, you have the discretion to proceed to any other place for him, where the safety of your ship can be, in your opinion, relied upon.

The Bashaw may be assured of the support of my squadron at Bengazi or Derne, where you are at liberty to put in, if required, and if it can be done without too great risk. And you may assure him, also, that I will take the most effectual measures with the forces under my command, for co-operating with him against the usurper, his brother, and for re-establishing him in the Regency of Tripoli. Arrangements to this effect are confided to the discretion with which Mr. Eaton is vested by the Government.

Attest: ISAAC HULL.
WILLIAM EATON.

Extract:—Mr. Eaton to Captain Hull.

GRAND CAIRO, *Jan.* 8, 1805.

Scarcely had my letter of this morning gone off by your courier express, when a letter from Hamet Bashaw came to hand, of which the following is a copy, by translation:

"Thanks be to him to whom gratitude is due. To our friend, and the very good friend of our highness, the American agent, Mr. Eaton.

"We have received your letter, and, after having understood the contents, we gave thanks to God for having preserved your health. Know that I am ever the same as you knew me at Tunis; my friendship is constant and uniform; but you have been tardy. We must, however, make this delay subserve a good purpose.

"From the date of the present, I shall leave this for Behera, and shall there take quarters at the house of the Arab chief Abdelgiver el be Kourchi, where I propose to you to meet me. I have written to my subjects, and to my Minister Mahmoud Kogea, and also the governor of police, Muhammed, son of Abdulrahmen, that they may treat with you; and whatever you conclude with them will be ratified by me. Your operations should be carried on by sea, and mine by land. And may God assist us to re-establish peace and harmony. The 28th Namadan, 1219.

"HAMET BASHAW,
"*Son of Ali Bashaw Caramalli.*"

The date of the Bashaw's letter corresponds with the third instant. The place of meeting about eight hours' march from Alexandria, so that he will probably arrive thither before we can with you.

Captain Bainbridge to George Davis, Esq., at Tunis.

TRIPOLI, *January* 27, 1805.

SIR: I have been anxiously expecting to hear from you, and to receive some information on the determination of our Government. Not one word on that subject have I yet heard. I am anxiously expecting letters from Commodore Barron. I believe the Bashaw is very desirous of peace, and has great apprehensions of the intended attack; and was a negotiation to be attempted, I think it very probable that it would succeed, for the apprehension of the attack might have as great an

effect as the attack itself; and should the attack prove unsuccessful, he will no doubt continue in demanding a considerable sum. As I am quite ignorant of the force that will be brought against this place, I cannot give any opinion of the probable effect it may have. We offer our most fervent prayers that the greatest success may attend it. I cannot say what the Bashaw's demand will be, but I believe he would take at this moment much less than what he demanded of Commodore Preble last August. Our funds are all exhausted, and bills on Tunis are at a great exchange against the drawer. Pray, have you heard of Eaton? In your next, which I anxiously expect soon, I shall receive a great deal of news, I hope. I assure you, was it not for our friend, Mr. Nissen, we should suffer considerably for necessaries in our close confinement; but he is a friend in need, of course, a friend indeed.

P. S. By the Danish Consul. The Bashaw is now very attentive upon your transactions with his brother in Alexandria. A camp is going against Derne. Give me leave to tell you that I have found your plan with the Bashaw's brother very vast, and that you sacrifice your prisoners' lives here in case of success.

Extract:—William Eaton, Esq., to the Secretary of the Navy.

ALEXANDRIA, *February* 13, 1805.

The letters which have passed between Captain Hull and myself, copies of which are herewith annexed to a duplicate of that I had the honor to address you on the 13th of December, convey a detail of our transactions since that date. The apprehensions then entertained of impediments on the part of the Mameluke Beys were just. The Bashaw separated himself from them with his suite, immediately on receiving my first letter from Cairo, and repaired to Fiaum, neutral province; but the evening of his departure thirty Arab chiefs were put in chains by the Mameluke Bey Osman Bey Berdici, to prevent their following him with their tribes. Of four copies of the Viceroy's letter of amnesty, which I despatched by different conveyances, not one reached him. Three mattees, in disguise of Arabs, charged with one of them, entered the Mameluke camp, were arrested, the packet taken from them, and they sentenced to death. They intoxicated the sentinel, who was a European renegado, and escaped to Fiaum, by whom the Bashaw obtained the first information of that act of grace, and it was not until he joined me at Demanhour that he first saw the letter. This has delayed our measures and given us embarrassments. My three enterprising mattees are with me, but we have no returns from any of the other three couriers.

The Bashaw had already determined to take the desert of Libya to Derne, giving for his reason, which I think a sound one, that, by taking shipping and separating himself from the Arabs, they would lose all patience, if not confidence also, and abandon his cause. He has consequently moved round the lake, and will to-morrow take his station at Arabs Ton, thirty miles westward of the old port of Alexandria, where I am to join him with a detachment from the city, next Sunday, and proceed with him to Bomba, at the head of five hundred men, and there take post. Meantime Captain Hull repairs to the rendezvous for suitable reinforcements and supplies to secure an establishment at Derne and Bengazi. Those provinces in our possession will cut off from the enemy and turn into our own channel a source of provisions, and will open a free intercourse with the interior of the country. I have requested of the Commodore, for this purpose, a hundred stand of arms with cartridges, and two brass field-pieces with the trains and ammunition, and also a detachment of one hundred marines, if necessary, to lead a *coup de main*.

I calculate the whole expenditure of cash in this expedition, including expenses in Egypt, will amount to twenty thousand dollars. Further disbursements and supplies will be necessary to carry this plan into final effect. But to indemnify the United States, I have entered into a convention with Hamet Bashaw to pledge the tribute of Sweden, Denmark, and the Batavian Republic; which convention I shall reduce to writing and forward by Captain Hull, if time permit; otherwise by the earliest occasion.

Day before yesterday, an envoy arrived in a ketch from Jussuf, Bashaw of Tripoli, to the Governor and Admiral of this place, for the express purpose of prevailing on them to stop Hamet Bashaw from going out of the country. Intelligence of our having left Syracuse for this place, with a view of taking him away, was conveyed to the enemy by a resident at Malta, known by the name of Soluquet H. Conte Gallini. I do not know his real name. The agent made great promises, in the name of his master, to those Turkish commanders; but, perceiving they seemed not to have full faith in his assurances he resorted to the sensibility of their compassion; said, "if Hamet Bashaw was permitted to return, Jussuf must fly the kingdom or lose his head. The subjects of Tripoli were getting weary of the war with these new infidels; they could not learn from their movements their intentions, and were attacked unaware; the Bashaw believed he could resist them upon his batteries; but if they made a descent with his brother, his people would all leave him." This statement comes from the private secretary of the Governor, who is secured in our interest, who heard the cause of Jussuf Bashaw argued before the Governor and Admiral. I do not learn what effect it has taken, but if the client has not the means of touching a more sensible nerve than a Turk's pity, his case is forlorn. At any rate we are secure against his influence by the secure position we have taken. Except, therefore, some unforeseen accident thwart us, my next will be at Bengazi. The Arabs and Moors are universally with us, and, if we had the means of subsistence, we might march twenty or thirty thousand from the borders of Egypt, who, from time to time, have taken refuge here since the usurpation of Jussuf Bashaw.

Extract:—Mr. Eaton to Commodore Barron.

ALEXANDRIA, *February* 14, 1805.

I calculated to leave this on Sunday, and in two days after to proceed on our march with Hamet Bashaw to Bomba, by the desert, where it is hoped we shall meet reinforcements, and supplies sufficient to secure positions at Derne and Bengazi. This, we are of opinion, will require two additional small vessels and a bomb ketch. A gunboat also would be useful, if the navigation at this season should not be thought too hazardous. Two brass field pieces, four pounders, with their trains and ammunition, and one hundred stand of arms, with carriages, will be requisite. And, to place the success of the expedition beyond the caprice of incident, one hundred marines, with bayonets, should be at hand to lead a *coup de main*, in case of necessity. By the time we shall have arrived at Bomba, I shall have disbursed about ten thousand dollars, which we have taken up on credit of Messrs. Briggs and Brothers, four thousand dollars of which sum Captain Hull has drawn bills on Malta and London; the balance we have promised shall be sent up in one of the small vessels. Ten thousand dollars more, at least, will be necessary to accomplish our views on Derne and Bengazi. The Bashaw assures me he will be able immediately to refund these sums when established in those provinces. And to indemnify the United States for all expenses, arising out of a co-operation with him, he pledges the tribute of Denmark, Sweden, and the Batavian Republic, in case of recovering his throne, which may be calculated upon as a certain event, if measures to that effect are supported by suitable energy and address. He engages also to release to you, without ransom, Captain Bainbridge, his officers, and all American prisoners who may be in captivity at Tripoli; to stipulate with the United States a permanent peace, without tribute, and on the footing of the most favored nation. He engages that, in case of future war, captives shall be treated as prisoners, and not slaves, and subject to reciprocal exchange. He will surrender the enemy and his family and chief Admiral into our hands, in case he does not escape by flight, to be held as hostages. And he agrees to deliver up to you, if required, all vessels of war, which shall have been employed against the United States by Jussuf Bashaw.

In consideration of the friendly offices of His Majesty the King of the Two Sicilies towards the squadron of the United States, Hamet Bashaw invites His Majesty to renew with him their ancient friendship, and proffers to him a peace on the same footing as that to be stipulated in his convention with the United States. If time and circumstances admit, we shall reduce this convention to writing, and forward copies by Captain Hull; otherwise it will be done at Bomba. At the invitation of the Bashaw and Divan, and in conformity to the sentiments expressed to me by the Secretary of the Navy, I have taken on myself the command in chief of the Bashaw's army, and the direction of all operations by land, and I cannot but flatter myself we may realize success of our expectations on this coalition, and that you will have the glory of carrying the usurper a prisoner in your squadron to the United States, and of relieving our fellow-citizens from the chains of slavery without the degrading condition of a ransom.

Captain William Bainbridge to Commodore Samuel Barron.

BARBARY, TRIPOLI, *March* 16, 1805.

DEAR SIR: I am acquainted that Sidi Muhammed Dghies, Minister of Foreign Affairs to his excellency the Bashaw of Tripoli, has written to you on a certain subject. The Minister has been much indisposed for several months past with an inflammation in his eyes, and Dr. Ridgely, our surgeon, has done everything for him in his power, without its having the desired effect. For the many obligations myself and officers are under to the Ministers, I wish it may be agreeable to you to render him some aid through one of the surgeons of your squadron. Permit to observe that, whatever Sidi Muhammed Dghies, or my worthy friend Nicholas C. Nissen, Esq., His Danish Majesty's Consul in this place, writes to you on the subject, will, in my opinion, merit your attention; for, from my knowledge of the friendly disposition of the Minister, I have reason to believe that his assertions are founded on candor. It is unnecessary for me to say more, as you no doubt will fully comprehend me.

I have the honor to be, &c.

SIR: This day Sidi Muhammed Dghies sent for me, and informed me in confidence that he had written to you recommending a person to come here to negotiate, and he requested me to write a letter nearly in the obscure manner that I have done, that, in case of discovery, it would not be intelligible, or would be foreign to the subject. I really believe that the Minister is sincerely desirous for peace; for, exclusive of his pacific disposition, it is greatly his interest to have it; and was a person to come here and remain a few days, I have no doubt but that peace would be effected on the terms that Commodore Preble offered. At all events, it would have the happy effect of making the Bashaw's subjects clamorous, as they would then see that America had the disposition to make peace, and that the Bashaw was the cause of their not having it. The houses here are of stone and mud, and badly furnished; of course the damage in bombarding will not be as great as if it was otherwise. Permit me, my dear Barron, to make one observation, that is, to reduce the Bashaw to moderate terms I suppose is the object of our Government; and your expectation to release us from captivity without paying is, in my opinion, impossible without land forces, and I hope that our country will not think that it is the subject of peace they pay for, but for the liberty of their unfortunate citizens, fell captives in its service; and it may be assured that whatever is paid, no Tripolitan, from what they have experienced from the Americans, will consider

one farthing of it as purchasing the friendship of Tripoli. In my letters of yesterday I gave you some information about Mr. Beaussier. I candidly believe that any person might come here with the greatest safety, and you may be assured that an American will answer much better than any Frenchman or any other countryman. The Minister has great influence with the Bashaw, and is doing all that he can to bring him to peace on moderate terms. I know that you will do me the justice to believe that all my representations are for the good of our cause. Yours, truly.

The Danish Consul to Commodore Barron.

TRIPOLI, *March* 18, 1805.

SIR: The Bashaw's Minister Sidi Mahomet Dghies, personally desirous of a re-establishment of peace with the United States of America, and wishing to contribute whatever may be in his power to the conclusion of it, has requested me, sir, in his name to address you this letter.

Sidi Mahomet Dghies is convinced that you are informed of his endeavors in 1801 to prevent the declaration of war; he alone opposed the general opinion of the divan in this respect. The letters of Mr. Cathcart, late Consul for the United States, at Tripoli to his Government, at that time, will bear testimony of this fact.

The war having nevertheless been declared, nothing has since been omitted by Sidi Mahomet Dghies that could contribute to the conclusion of peace.

Sidi M. Dghies has personally too much interest in the undisturbed tranquillity and security of the trade of Tripoli, not to avail himself of every means that could be conducive to what has been his interest and constant desire. In this moment, he wishes to prevent further hostilities; the state of his health, his family, and his private concerns, are so many reasons for him to endeavor to persuade both parties to come to an agreement; he is certain that these are likewise your wishes, sir, and the intention of your Government. The situation, besides, of your unfortunate countrymen here, which Sidi M. Dghies has endeavored to alleviate as much as it has been in his power, is nevertheless such that they and their relations in America cannot but look upon it as an act of humanity to accelerate the conclusion of a peace that again can restore them to their country. Sidi M. Dghies is desirous of a peace, and he wishes that a negotiation should be renewed before the commencement of any direct hostilities against this place. His health, and particularly the state of his eyes, will oblige him to retire with his family in a short time to the country, and will not permit him again to return to town at any future overture, or negotiation of peace, and he is afraid that being absent, he shall not be able so easily to suscitate in the mind of the Bashaw equal peaceful sentiments with his own. A negotiation entirely by letters is tedious and difficult; to negotiate by a person sent on shore from a ship of war, (and who returns again on board after a short stay, and may be after a momentary interview with the Bashaw,) has many difficulties; and proves often more detrimental to a negotiation than productive of peace. Sidi M. Dghies don't think it necessary to enlarge upon the difficulties that attend this way of negotiating and their cause; you cannot, sir, but be aware of them yourself; he proposes, therefore, as the most effectual manner of conducting a negotiation of peace, to send to Tripoli a person properly authorized and furnished with instructions. Whoever shall be sent can be assured of the most perfect inviolability. Should his and Sidi M. Dghies' earnest endeavors to re-establish peace prove successful, the business is thereby naturally brought to a happy conclusion; should it, however, unfortunately prove otherwise, the negotiator will have liberty to return free from molestation of any kind, and in what manner he may judge convenient.

You will please, sir, yourself to fix upon the securities you may require for the faithful observance of these conditions, in case you shall think proper to agree to these proposals, and whenever you in answer to this letter may request the admission of a negotiator.

After having in this manner candidly and confidentially stated to you, sir, his mind, Sidi M. Dghies hopes to have precluded every suspicion of his peaceful intentions, and convinced you that every facility will be shown for a mutual satisfactory conclusion of peace; he don't believe it necessary to observe, that a sincere and lasting peace is at any time preferable even to a successful war; that war has many chances, and that often unforeseen accidents occasion losses, however prudent the measures were taken to assure success.

That Sidi Mahomet Dghies has requested me to write you, sir, in his name, this letter, and that the contents have been faithfully translated, I have no doubt but that you will readily give credit, but give me likewise leave to assure you, sir, that I, in case I did not myself believe the sentiments contained in this letter sincere, would have excused myself from putting them to paper, and in this persuasion I shall consider it as a very favorable circumstance for me, if I have been found any way instrumental to the means of bringing about a peace between the United States of America and the Bashaw of Tripoli, and of procuring the liberty of your unfortunate countrymen here; having the honor to be, with the greatest respect, sir, your obedient and humble servant,

N. C. NISSEN,

His Danish Majesty's Consul at Tripoli.

Captain Bainbridge to Commodore Barron.

BARBARY, TRIPOLI, *March* 22, 1805.

DEAR SIR: I wrote you on the 16th instant respecting a certain subject; since then I have seen the letter alluded to in mine of that date, and I believe the sentiments contained in it merit the credit of veracity, and if experimented, I trust will be found satisfactory to you. If Commodore Preble did receive a letter last summer from a certain person here, he no doubt gave it to you, from which you can form some opinion of the present subject. I have not had the pleasure to hear from you since October last; am in daily expectation of it. The crew here are in great want of clothing. Believe me to be, sir, with sincere esteem, &c.

Captain Bainbridge to Commodore Barron.

MARCH 22.

DEAR BARRON: In one of my letters of this month I have mentioned that I had heard that Sidi Muhammed Dghies, Minister of Foreign Affairs to the Bashaw, had requested Mr. Beaussier, the French Consul in this place, to inform Commodore Preble, that if a person would come here and remain a few days on shore, that peace would be effected for one hundred and fifty thousand dollars. This day the said Minister in confidence told me that he did thus request Mr. Beaussier, but does not know if Commodore Preble received the information. I have not the least doubt, that was a person to come here to negotiate before an attack is made, that peace would be effected for one hundred and twenty thousand dollars, and if the attack should not prove very successful, it is very probable that such a sum would not release us from captivity, at least for some time. Apprehension is often worse than realization. I sincerely hope that a person will come, because I think it the most favorable moment, and I candidly believe that any person might come with the greatest safety. It will be best, in my opinion, to ask for the guaranty of the Danish or French Consul, and in that case I think it probable that they would give the Danish, which I should much prefer, as I know him to be a man of unquestionable integrity; the other I have not the highest opinion of. The Danish Consul has already gone very great lengths to serve us, and you may be assured that he can be trusted as a man of the strictest honor. His compliance with the Minister's request to write to you is purely actuated by the desire to serve us. Your sincere friend, &c.

Convention between the United States of America and His Highness Hamet Caramanly, Bashaw of Tripoli.

GOD IS INFINITE.

ARTICLE 1. There shall be a firm and perpetual peace and free intercourse between the Government of the United States of America and His Highness Hamet Caramanly Bashaw, the legitimate sovereign of the Kingdom of Tripoli, and between the citizens of the one and the subjects of the other.

ART. 2. The Government of the United States shall use their utmost exertions, so far as comports with their own honor and interest, their subsisting treaties, and the acknowledged laws of nations, to re-establish the said Hamet Bashaw in the possession of his sovereignty of Tripoli, against the pretensions of Joseph Bashaw, who obtained said sovereignty by treason, and who now holds it by usurpation, and who is engaged in actual war against the United States.

ART. 3. The United States shall, as circumstances may require, in addition to the operations they are carrying on by sea, furnish the said Hamet Bashaw, on loan, supplies of cash, ammunition, and provisions, and if necessity require, debarkations of troops; also to aid and give effect to the operations of the said Hamet Bashaw, by land, against the common enemy.

ART. 4. In consideration of which friendly offices, once rendered effectual, His Highness Hamet Caramanly Bashaw engages, on his part, to release to the Commander-in-Chief of the forces of the United States, in the Mediterranean, without ransom, all American prisoners who are, or may hereafter be, in the hands of the usurper, said Joseph Bashaw.

ART. 5. In order to indemnify the United States against all expense they have or shall incur, in carrying into execution their engagements, expressed in the second and third articles of this convention, the said Hamet Bashaw transfers and consigns to the United States the tribute stipulated by the last treaties of His Majesty the King of Denmark, His Majesty the King of Sweden, and the Batavian republic, as the condition of peace with the Regency of Tripoli, until such time as said expense shall be reimbursed.

ART. 6. In order to carry into full effect the stipulation expressed in the preceding article, said Hamet Bashaw pledges his faith and honor faithfully to observe and fulfil the treaties now subsisting between the Regency of Tripoli and their Majesties the Kings of Denmark and Sweden, and with the Batavian republic.

ART. 7. In consideration of the friendly disposition of His Majesty the King of the Two Sicilies towards the American squadron, His Highness Hamet Bashaw invites his said Sicilian Majesty to renew their ancient friendship, and proffers him a peace on the footing of that to be definitively concluded with the United States of America, in the fullest extent of its privileges, according to the tenor of this convention.

ART. 8. The better to give effect to the operations to be carried on by land in the prosecution of the plan, and the attainment of the object pointed out by this convention, William Eaton, a citizen of the United States, now in Egypt, shall be recognised as General and Commander-in-Chief of the land forces which are or may be called into service against the common enemy; and his said Highness Hamet Bashaw engages that his own subjects shall respect and obey him as such.

ART. 9. His Highness, said Hamet Bashaw, grants full amnesty and perpetual oblivion towards the conduct of all such of his subjects as may have been seduced by the usurper to abandon his cause, and who are disposed to return to their proper allegiance.

ART. 10. In case of future war between the contracting parties, captives on each side shall be treated as prisoners of war, and not as slaves, and shall be entitled to reciprocal and equal ex-

change man for man, and grade for grade; and in no case shall a ranson be demanded for prisoners of war, nor a tribute required, as the condition of peace, neither on the one part nor on the other. All prisoners on both sides shall be given up at the conclusion of peace.

ART. 11. The American Consul flag in Tripoli shall forever be a sacred asylum to all persons who shall desire to take refuge under it, except for the crimes of treason and murder.

ART. 12. In case of the faithful observance and fulfilment on the part of His Highness, said Hamet Bashaw, of the agreements and obligations herein stipulated, the said Commander-in Chief of the American forces in the Mediterranean engages to leave said Hamet Bashaw in the peaceable possession of the city and Regency of Tripoli, without dismantling its batteries.

ART. 13. Any article suitable to be introduced in a definitive treaty of peace between the contracting parties, which may not be comprised in this convention, shall be reciprocally on the footing of the treaties subsisting with the most favored nations.

ART. 14. This convention shall be submitted to the President of the United States for his ratification. In the meantime there shall be no suspense in its operation.

Done at Alexandria, in Egypt, February 23, 1805, and signed by said Hamet Bashaw, for himself and successors, and by William Eaton, on the part of the United States.

Additional article, secret.

His Highness Hamet Bashaw will use his utmost exertions to cause to surrender to the Commander-in-Chief of the American forces in the Mediterranean the usurper Joseph Bashaw, together with his family, and Chief Admiral called Maurad Rais, alias Peter Lisle, to be held by the Government of the United States as hostages, and as a guaranty of the faithful observance of the stipulations entered into by the convention of the 23d February, 1805, with the United States, provided they do not escape by flight.

Hamet, Ex-Bashaw of Tripoli, to Commodore Samuel Barron.

DEAR AND ESTEEMED: I have to inform your Excellency of my perfect health, and to express my sincere wishes for yours. I beg you to be assured of the high regard and consideration which I entertain for your Excellency, and I hope that by the assistance of the Divine Being I shall shortly be at Tripoli, my city, to drive from thence my perfidious enemies.

I make known to you the arrival of Mr. William Eaton, my general di campo, and that we have agreed upon a plan of co-operations, which I have no doubt will lead to that success which we both desire. Said Mr. Eaton begged me to come to Syracuse, in order to confer with your Excellency, and to form a personal acquaintance with you. I must inform you, my worthy and esteemed friend, that time does not allow me to cross the sea, and that I am too much occupied with my camp, consisting of infantry and cavalry, and would not leave them for the acquisition of the world. With the present, I send you my Secretary of State, named Mahumed, as my proper representative, to treat in my stead, whom I beg you will receive, and I trust your ideas will be similar with regard to the object we have in view.

My dear friend, you must know that I am already on my march, with my camp, and I earnestly solicit you to send me as speedily as possible the following succors, of which I stand greatly in need, viz: powder, field artillery, muskets, money, and a few soldiers. These once arrived, we are agreed with Mr. Eaton on the plan explained in his letter; and further, as provisions of all kinds are very scarce in Barbary, I beg you will send some likewise. I hope that, in the course of about fifty days, we shall form a system of co-operation at Misurat. My dear friend, consider me in all things as your son, and that my kingdom shall be always as your own.

I salute you with cordial regard, and remain, &c.

[Seal of Hamet Bashaw.]

The Commander-in-Chief of the squadron of the United States of America in the Mediterranean to the illustrious Hamet Bashaw, &c.

MALTA, *March* 22, 1805.

EXCELLENCY: By the hands of your Secretary Mahumed who arrived in safety at this place on board the brig Argus, I received your Excellency's letter, which has been interpreted to me. I thank you, with sincerity, for your expressions of kindness and regard towards me, and am happy that your Excellency remains in good health. With great satisfaction I have received from Mr. Eaton the intelligence of your junction with him, and of the measures you had adopted to commence your march towards Bomba. No sooner did I receive this intelligence, than I made every exertion to collect the succors required in your letter; and I now send you my faithful and worthy Captain Hull, with the Argus brig and a sloop under her convoy, loaded with provisions and stores. I have not been able to procure the field artillery you ask, at this place, but I despatched a frigate to Sicily, where I hope to obtain it. As soon as it arrives, no time will be lost in sending it on the coast. I hope Captain Hull will find your Excellency and your army in safety and health, and that your measures so far may have been propitious to our cause.

I have written very fully to Mr. Eaton, to whom, and to Captain Hull, I refer your Excellency for further information, and with my most ardent wishes for your individual prosperity, as well as the success of the enterprise in which you are engaged.

I have the honor to remain. &c.

SAMUEL BARRON.

Commodore Barron to William Eaton, Esq.

MALTA, *March* 22, 1805.

SIR: By Captain Hull, who arrived in this harbor with the United States' brig Argus under his command, on the 10th instant, I received your favors addressed to me, together with communications for the Secretary of the Navy, and copies of the correspondence between yourself and Captain Hull, relative to your proceedings from your arrival in Egypt until his departure from thence; also, by the hands of Mahumed, Secretary, a letter from His Excellency Hamet Bashaw, announcing his junction with you; all which I have perused with an attention and deliberation which the important and interesting nature of their contents demands. I cannot but applaud the energy and perseverance that has characterized your progress through a series of perplexing and discouraging difficulties, to the attainment of the object of your research, an attainment which I am disposed to consider as a fair presage of future success.

On receipt of these communications, by Captain Hull, I did not lose a moment in making the necessary arrangements for sending you succors, and I now despatch the Argus brig, with the Hornet sloop under her convoy, carrying a variety of stores and provisions, according to the accompanying list. Captain Hull will shape his course for Bomba direct, where he calculates on finding you, with the Bashaw and his army, and where he supposes you will make a stand. I have directed him to deliver these stores to you, to be applied as your discretion may direct. He has also under his charge a sum in specie, amounting to seven thousand dollars, which is likewise to be placed at your disposal. By the time these vessels establish a communication with you, you will have been enabled to form a correct opinion as to the prospect of ultimate success, and thence to estimate the advantages likely to result to our affairs from this co-operation, and by this opinion you must be guided in the application of the succors. Should you have encountered unexpected difficulties and obstacles, which places the chances of success upon more than precarious ground, your own prudence will suggest the propriety of not committing these supplies, and the money, uncontrolledly to the power of the Bashaw: indeed, in the point of view in which I regard the measures already pursued, as well as the subject of co-operation generally, I conceive we ought to tread with the utmost caution.

It is far from my wish, sir, to damp your ardor, or that of your companions in arms, by laying too great a stress upon the cold maxims of prudence, whereby the tide of success is often lost; something, I am aware, should always be left to fortune in enterprises of this nature; but I must own there are certain things expressed in your despatches, which, when brought to the test of my instructions from home, give birth to feelings of doubt and uneasiness: these I deem it incumbent on me to point out to you with candor and explicitness, in order that we may be fully understood. You must be sensible, that, in giving their sanction to a co-operation with the exiled Bashaw, Government did not contemplate the measure as leading, necessarily and absolutely, to a reinstatement of that prince in his rights on the Regency of Tripoli. They appear to have viewed the co-operation in question as a means which, if there existed energy and enterprise in the exile, and attachment to his person on the part of his former subjects, might be employed to the common furtherance and advantage of his claims and our cause, but without meaning to fetter themselves by any specific and definite attainment at an end, which the tenor of my instructions, and the limited sum appropriated for that special purpose, clearly demonstrate. I fear, by the convention you were about to enter into with Hamet, and by the complexion of other measures, that a wider range may have been taken than is consistent with the powers vested in me for that particular object. These apprehensions may, perhaps, prove groundless on further representations from you; but, under my present impressions, I feel it my duty to state explicitly, that I must withhold my sanction to any convention or agreement committing the United States, or tending to impress upon Hamet Bashaw a conviction that we have bound ourselves to place him upon the throne. The consequences involved in such an engagement cannot but strike you forcibly, and a general view of our situation, in relation to the reigning Bashaw and our unfortunate countrymen in Tripoli, will be sufficient to mark its inexpediency. I shall consider it my duty, as it is certainly my inclination, to afford you every aid compatible with the authority vested in me, and commensurate with the means which have been placed at my disposal, and you may rely on the most active and vigorous support from the squadron, as soon as the season and our arrangements will permit us to appear in force before the enemy's walls; but I wish you to understand that no guarantee or engagement to the exiled prince, whose cause, I must repeat, we are only favoring as an instrument to our advantage, and not as an end in itself, must be held to stand in the way of our acquiescence to any honorable and advantageous terms of accommodation which the reigning Bashaw may be induced to propose: such terms being offered and accepted by the representative of Government appointed to treat of peace, our support to the ex-Bashaw must necessarily cease. You will not, however, conceive that these considerations, important and necessary as they are, ought to induce us at once to abandon the benefits which the measures you have adopted seem to promise. I conceive a perseverance in these by no means incompatible with a total freedom from any trammels with respect to a definite object; which freedom I deem it all important to preserve, especially when I view the peculiar situation in which Captain Bainbridge and his fellow sufferers may be placed by this co-operation. If, by your energy and exertions, added to the supplies now sent forward, you succeed in getting possession of Derne and Bengazi, we may calculate, that, having received this impulse from our strength, the Bashaw will himself possess sufficient energy, courage, and talents, and, if accounts are correct, sufficient interest among the people, to move on with firm steps, and to conduct his friends and followers to the gates of Tripoli.

Every support, will of course, be given to him by a systematic union of operations with the squadron, so as to enable him to get in the rear of the town; but should he be found deficient in those qualities, or that it appears we have been deceived in regard to the disposition of the inhabitants, he must be held as an unfit subject for further support or co-operation. I beg leave to mention to you, that, as we are short of officers, the services of all will be wanted on board the respective ships, as soon as we enter upon offensive measures. Should you conceive, however, that any serious disadvantage may result from withdrawing those with you, I have no objection to their remaining as volunteers; but it is impossible for me to comply with your requisition for one hundred marines to be sent to the coast. Such a step, in the present posture of affairs, far exceeds my powers; and, besides, as we are rather short of hands, I could not feel myself justifiable in detaching so considerable a force from the squadron. I have not been unmindful of your requisition for field artillery, which, I think with you, is essential, but here it was impossible to procure it; I, therefore, despatched, some days since, the Congress frigate to Messina, where I hope to obtain four field-pieces complete for service, and as soon as they arrive they will be sent to the coast, with the necessary ammunition. As I am too unwell to write you with my own hand, I must refer you to Captain Hull, in whose judgment and discretion I have the fullest confidence, for information on several collateral points, and for my sentiments on others. In this letter I have endeavored to explain, as clearly as possible, what are my ideas with respect to the wishes and intentions of our Government, and what I feel to be the extent of my authority, relative to the co operation with Hamet Bashaw. I reiterate my fixed resolution to afford you every support and assistance which are consistent with the powers and resources vested in me; adding, at the same time, my dissent from any guarantee, covenant, or engagement, by which the United States may stand committed, to place the exiled prince on the throne, or any condition which militates against the most perfect and uncontrolled power of choice and action, and concluding a pacification with Jussuf Bashaw, should he offer terms honorable and advantageous to our country.

I should be wanting in justice to you, sir, as well as the officers who have shared thus far your toils and dangers, were I not to express my full reliance upon your courage, energy, and perseverance, as well as my ardent desire that your most sanguine expectations may be realized. The observations which I here convey to you are far from being intended to cool your zeal or discourage your expectations; but they are what I conceive it necessary to make, and drawn from me by the purest feeling of duty; and, as such, permit me to recommend them to your calm and candid consideration, and I request that you will make them the subject of conversation with Captain Hull, who is fully possessed of my sentiments.

SAMUEL BARRON.

Commodore Barron to Captain Hull.

MALTA, *March* 23, 1805.

SIR: By the accompanying communications to Mr. Eaton and to His Excellency Hamet Bashaw, which are left open for your perusal, and the personal knowledge you possess of my sentiments and wishes, you will be enabled to form a correct, and to yourself satisfactory idea of the service on which you are destined, with the United States brig Argus, and sloop Hornet, (Lieutenant Evans,) under your command. Its execution must necessarily depend so much on a variety of events and circumstances which may happen, and it is probable have happened to Mr. Eaton and his coadjutors, and which we are totally unable to foresee or to estimate, that I feel the impracticability as well as the unsuitableness of tying you down with precise and positive instructions. Hence, you will perceive, sir, that your own judgment and discretion, in which allow me to assure you I entertain the highest confidence, will frequently be your sole directors. Agreeably to what we have agreed upon, you are directed to shape your course for Bomba or its vicinity, and endeavor to establish an immediate communication with the Bashaw's army. If they have succeeded in penetrating beyond Bomba, you will there obtain correct information of their movements, which, in all probability, will be towards Derne and Bengazi, whither you will of course follow with your vessels, unless you find contrary instructions from Mr. Eaton. Having opened an intercourse with that gentleman, you will ascertain correctly from him the posture of affairs and the prospect of success, and you will, if he require it, land and deliver to him the stores and cash under your charge, taking the necessary receipts and vouchers. As you will perceive, by my letter to Mr. Eaton, I have left the application of these succors, and consequently the responsibility wholly to him, which I conceive proper, as well on account of his having the chief direction of the land operations, as that by the time you arrive on the coast he will have it in his power to form a just estimate of the chances of success, and thence, how far it is safe and expedient to pursue the object. Should it be determined to persevere, you are authorized to afford him every support and assistance consistent with your means and situation. You will confer together, and obtain the most minute and circumstantial information as to his future plan, and his ideas and wishes with regard to naval co-operations. On the subject of your return, it is impossible for me to furnish you with precise orders, as it will depend altogether on the situation in which you may find matters on the coast, and the nature of the arrangements to be made with Mr. Eaton. You will be aware of my anxiety to hear from you. You will, therefore, despatch the sloop to this place or Syracuse, or return with the brig, as circumstances may direct.

In case of any unfortunate event having happened to Mr. Eaton and his companions, and you can obtain no satisfactory intelligence of them, it is left to you to act as you think most advisable

I remain, with sentiments of regard, sir, your very humble and obedient servant,

SAMUEL BARRON,
Commander-in chief, &c.

Captain ISAAC HULL.

From Commodore Barron to the Secretary of the Navy.

MALTA, *April* 6, 1805.

SIR: Having in my respects of yesterday, given a full account of the present disposal of the squadron under my command, and whatever had occurred of notice since my preceding despatches, I have now the honor to lay before you a sketch of Mr. Eaton's transactions in Egypt, and the measures which have been, in consequence thereof, adopted. The accompanying communications from that gentleman to the Navy Department, joined with copies of those addressed to me, and the collateral correspondence between Captain Hull and him, to all which I beg leave to refer you minutely, will afford you a wide view of the subject, whilst it precludes the necessity of lengthy comments from me. You will there perceive the many and unforeseen difficulties which Mr. Eaton met with in finding the ex-Bashaw, who had joined the fortunes of the Mamelukes. You will be apprized of the situation in which matters stood at the departure of the Argus from Alexandria on the 19th of February, and the plan which he had chalked out to pursue the intended co-operation with Hamet. On receipt of these advices I made immediate arrangements to send such part of the succors, requested by the Bashaw and Mr. Eaton, as could be procured here, and as I considered myself authorized by my instructions to afford; and Captain Hull sailed again on the 26th ultimo, in the Argus, with the Hornet sloop, (the same which I mentioned having purchased,) under convoy, carrying a supply of money, provisions, &c. He directed his course for Bomba, (a place about sixty miles to the eastward of Derne) where, as you will collect from the papers enclosed, he confidently expected to open a communication with the Bashaw and his followers. Such, sir, is the present situation of the business.

I am well aware that you will feel an anxiety to know my opinion with regard to the probable success of this co-operation; but, until I have further intelligence and more data to go by, it were improper even to hazard a conjecture. In perusing the letters from Mr. Eaton, and weighing the nature and consequences of certain measures in his contemplation, I must own that I have felt some uneasiness, arising out of fear that he was taking a wider scope in his engagements to the Bashaw than is compatible with the ideas and intentions of Government, or with the authority vested in me, as relates to the subject of co-operation. I have stated this apprehension in a communication to Mr. Eaton, in which I have also explained, in precise terms, my own ideas, and how far I conceived he might proceed without committing himself or the country. A copy of my letter will be found annexed. I feel confident that the sentiments there expressed, and the principles laid down, with respect to the plan in question, will meet your approbation.

From the concurring information, principally from persons well acquainted with the Bashaw, which I have recently received of his character and conduct, I confess that my hopes from a co-operation with him are less sanguine than they were. Perhaps, however, I may shortly have reason to raise my expectations to their former standard; but till something occurs to justify the belief that he possesses more courage, energy, and talent, than those who appear to know him well give him credit for, it would be reprehensible to flatter myself or the Government with prospects, which results may disappoint. I am equally at a loss to calculate the effects of this co-operation upon the mind of the reigning Bashaw; a short time will throw light upon this interesting point. In the meanwhile I cannot conceal from you my candid opinion that, from the obstinacy hitherto evinced by Jussuf Bashaw, and the pertinacity of his character, not unmixed with bravery and other qualities belonging to a soldier, added to the natural advantages of his situation, the contest promises to be more arduous than was at first anticipated. Our co-operation with Hamet may, and in all probability will, induce him either to offer us terms at once; or finding his dominions menaced, and his life endangered, to put every thing to the hazard of war. In the latter case, we may naturally conclude that his resistance will not only be obstinate, but desperate. I look with anxiety for the return of the vessel, which sailed a few days since for Tripoli for the prisoners; she will, undoubtedly, bring important intelligence.

The ex-Bashaw's Secretary of State, whom you will find mentioned in Mr. Eaton's correspondence, returned in the Argus to join his master. He appeared to be a sensible, discreet old man; he brought me a letter from the Bashaw, a translation of which, with a copy of my answer, is attached to the accompanying papers.

Commodore Barron to William Eaton, Esq.

MALTA, *April* 15, 1805.

SIR: I had the honor of addressing you very fully on the 22d ult. by Captain Hull; since when I have received no advices from the Barbary coast. It was not till the 12th instant that the Congress arrived here from Messina, with the field artillery, which Captain Decatur experienced considerable delay and difficulty in procuring. It was my intention to have sent that frigate to the coast; but, on making particular inquiry of a pilot well acquainted in that quarter, I find that the impracticability of approaching the shore with heavy vessels renders the communication extremely uncertain and difficult. I have therefore thought it prudent to waive my original intention, and to despatch the Nautilus schooner, whose light draught of water will enable her to approach the coast with greater safety and advantage. Captain Dent shapes his course for Bomba, where I calculate he will find you with

the Bashaw and army, and where I hope he will have little difficulty in establishing an intercourse. He has on board his schooner two brass field-pieces, with trains, powder, shot, &c., complete, which he is directed to deliver to your possession. I hope they will reach you safe, and have no doubt but they will be found extremely serviceable in the progress of your operations. Nothing material has occurred since Captain Hull's departure. The harbor of Tripoli remains closely blockaded. The President frigate sailed this day to reinforce the vessels already on that station. Captain Dent is instructed, after delivering the artillery and stores, to return immediately to this port with despatches from you. You will readily imagine my anxiety to hear of your proceedings and prospects. I am, respectfully, &c.

S. BARRON.

Extract of a letter from William Eaton to Commodore Barron.

DERNE, *April* 29, 1806.

The information I have the honor to forward of this date, stating, in abstract, occurrences since my last, will not disappoint the expectations my calculations there may have formed. Certain periods of your letter of the 22d ult. require a distinct and separate answer. This I shall do with candor.

It was understood when Government came to a determination to try the effect of a co-operation with Hamet Bashaw against the enemy, that provision would be made adequate to the experiment; six field-pieces, a thousand stand of arms, with suitable ammunition, and eighty thousand dollars, were asked for by Hamet Bashaw, while yet in possession of this province, and gaining ground against the usurper. The Secretary of the Navy informed me that the arms, ammunition, and fifty thousand dollars, would be furnished, and they were to have been put on board at Hampton Roads, while the squadron were getting ready for sea. Information arrived of the Bashaw having been driven from his post, and retired to Egypt. In consequence of which it is to be presumed the supplies getting in readiness were withheld, as the success of the experiment then appeared very doubtful. The twenty thousand dollars, deposited with the Consul General at Algiers, to be applied to this service, cannot be supposed adequate to the purpose of bringing the Bashaw from his exile in Egypt, placing him in a situation to act against a rival, possessed of all the resources of his kingdom, and carrying his plan of operations into effect, whatever may have been the dispositions of the people towards him. The twenty thousand dollars, therefore, could have been meant only to assist the research of the Bashaw, and the revival of his affairs, in case our plan should be thought feasible. Hence, I think it is not presuming too far to conclude that the unlimited discretion vested in the Commander-in-Chief, in regard to all the exigencies of the war, and particularly as it relates to the object in view, extends to every matter necessary to its accomplishment. The instructions to the Secretary of the Navy certainly cannot mean to tie him down to any limited applications.

The advantages calculated to result from the success of this measure have heretofore been stated, and thus far the experiment has not disappointed these calculations. We are in possession of the most valuable province of Tripoli; the high estimation the enemy places on this department of the kingdom is evidenced by the extraordinary efforts he has used to defend it, and by the menaces to which he has resorted to deter us from the operations here; his camp was only fourteen hours' march from the place, when we seized it by assault. I am this evening informed they are retrograding, and only regret we have not the means of pursuing them. The expenses already incurred in this expedition will amount to nearly thirty thousand dollars; for thirteen thousand of which we are indebted to Messrs. Briggs and Brothers of Alexandria; eleven thousand have been received through the hands of Captain Hull, including his advance and drafts in Egypt. I have disbursed nearly two thousand, and for the residue shall be indebted to individuals. This expense will not appear extravagant when it is considered that it covers all our expenditures in Egypt, where many sacrifices were necessary, to pass the barriers of Turkish jealousy and avidity in getting the Bashaw through that country; of furnishing horses, tents, arms, and ammunition, preparatory to our entering the desert; of provisioning a thousand two hundred souls, and about two hundred horses, in that barren desert, upwards of forty days, a distance of nearly five hundred miles, and of caravans for transporting these provisions the whole distance from Alexandria, and also the unavoidable expenditures in presents to chiefs, and payments to troops, in order to gain the one and avail ourselves of the services of the other.

MAY 1.

The situation in which it is known Hamet Bashaw was found in Upper Egypt, must of itself suggest the idea that he must be destitute of all means of moving a military expedition, except the attachment of his subjects. The possession of this province does not materially alter that situation. The general failure of the harvest, which the whole coast of Barbary experienced last season, together with the extraordinary tributes which Jussuf Bashaw has exacted to support the war, has rendered not only this, but every other part of Tripoli poor and oppressed, wholly destitute of contributing any thing very considerable to either of the rival brothers. This is a circumstance favorable to our measures, if we will go to the expense of profiting of it. No chief, whatever may be the attachment of his followers, can long support military operations without the means of subsisting and paying his troops. The observation is peculiarly applicable to the temper and circumstances of the Arabs of this country, who, in fact, form its real strength; who are poor, yet avaricious, and who, being accustomed to despotism, are generally indifferent about the name

or person of their despot, provided he imposes no new burdens. Stronger proof of this cannot be brought than the difficulty Jussuf Bashaw's camp has found in recruiting in its progress from Tripoli. It left there long since with about two hundred men.

I have this morning intercepted six letters from that camp, dated only four days since, signed by the commander-in-chief, the Governor of Bengazi, and aid-de camp, addressed to the Governor of Derne, and to several chiefs or shieks, encouraging them to hope and perseverance, and stating that their delay has only been occasioned by expectations of receiving reinforcements from the Arab tribes. They have increased their number only three hundred, though they have passed through that part of the country nearest, and most nearly attached, to the enemy. Hamet Bashaw brought two thousand Arabs into the field on the 17th. This serves to show the weight of money with these people, and as a pretty good criterion of the balance of influence between the two Bashaws. With the aids contemplated by Government to have been furnished Hamet Bashaw when in the position he now holds, I have no doubt but he may proceed to the walls of Tripoli. But while I offer this opinion, I cannot conceal my apprehensions, grounded on experience, that when arrived there he could effect little, without more military talents and firmness than exists either in himself or the hordes of Arabs who attach themselves to him. They are exactly what Volney describes of the camps of the Egyptian Beys, rather a rabble than an army; and in our affair they have held safe positions to catch fugitives, until the doors of the enemy were open for plunder, when they became at once brave and impetuous. If, therefore, the co-operation is to be pursued with him, and its direction is to be confided to me, it must be on conviction that detachments of regulars may be occasionally debarked from the squadron, or procured elsewhere, to aid and give effect to such operations as require energy. With the supplies asked for, provisions for our Christians, and with the firm front of one regular regiment, I believe it would not be presuming too far to engage, in conjunction with the squadron, to force the enemy to take refuge in a sanctuary. But I confess, sir, there is one discouraging circumstance resulting from the declared views in affording auxiliaries to Hamet Bashaw. These aids are to be withdrawn at any period when the enemy shall propose terms of peace, which may be accepted by the agent of Government on the spot. If Hamet Bashaw is to be used solely as an instrument to the attainment of an object exclusively to the advantage of the United States, without any consideration to his future existence, or well being, I cannot persuade myself that any bond of patriotism dictates to me the duty of having a chief agency, nor indeed any, in so extraordinary a sacrifice. Certainly the enemy will propose terms of peace with us the moment he entertains serious apprehensions from his brother. This may happen at any stage of the war most likely to rid him of so dangerous a rival, and not only Hamet Bashaw, but every one acting with him, must inevitably fall victims to our economy. If we proceed no further, it would seem incumbent on the honor of our Government, in the event of peace, at least to place Hamet Bashaw in a situation as eligible as that from which he has been drawn, out of the power of an incensed and vindictive enemy. Probably Jussuf Bashaw would agree to establish him in the Government of this province and Bengazi, and to restore to him his family. He may perhaps be made satisfied with such an accommodation, and the United States experience from it many of the advantages calculated to result from carrying the original plan into execution, and consistently with both our honor and interest. At all events, I am deeply impressed with the opinion, that the post we have secured here should not be abandoned, nor terms of peace precipitately embraced; indeed it were to be wished that the effect of the success of a co-operation might be tried. It would very probably be a death-blow to the Barbary system. Any accommodation savoring of relaxness would as probably be death to the navy and a wound to the national honor. If it is determined either to proceed or hold a position here, further supplies of cash and provisions must immediately be sent to the coast.

From reasons which will suggest themselves from preceding observations, it would not be good policy in Hamet Bashaw to levy contributions during the contest with his brother, lest he should alienate his friends. On the contrary, he ought to be enabled to move with a liberal hand. Cash will do much with the inhabitants of this country: even those whom it will not engage to fight will by it be engaged not to fight; with it we can pass generally. But if here and there we find a walled town or a garrison impervious to its influence, cannon balls and bayonets come in as irresistible agents. The convention I have entered into with Hamet Bashaw may be useful in case he succeeds in getting repossession of his Government, otherwise it can do no mischief, even if ratified, as will appear by the precaution in the second article.

Extract of a letter from Commodore Samuel Barron to Tobias Lear, Esq.

MALTA, *May* 18, 1805.

The recent despatches from Mr. Eaton have been communicated to you. From their tenor, and the knowledge I have within a short time obtained of certain features in the character of Sidi Hamet Bashaw, I must candidly own that I have no longer the same expectations which I once entertained of the success of the co-operation with him. His want of energy and military talents, his total deprivation of means and resources, the great expense already incurred, and the large sum which would be required, according to Mr. Eaton's statement, for pursuing the object, a sum far exceeding both the resources placed at my disposal, and the powers vested in me by my instructions, compel me to relinquish the plan. Indeed, on mature reflection, I am of opinion that if the ex

Bashaw, having received this impulse from our strength, and being put into possession of Derne, the province where his interest is supposed to be the strongest, has not in himself sufficient energy, address, and courage, and cannot command sufficient means to move on with firm steps towards the usurper's residence, whilst we second his operations by sea, he must be considered no longer a fit subject for our support or co-operation. I am preparing to send provisions to the coast for the subsistence of the crews of the Argus brig and Nautilus schooner, which remain there at Mr. Eaton's request, and by the sloop Hornet, which conveys them, I shall send such instructions to that gentleman, and the officers with him, as further reflection and the nature of your determination on this letter may dictate. Whatever may be the final result of this co-operation, I cannot reject the belief, that it has had a powerful effect upon the reigning Bashaw; and it may be fairly presumed that the gallant conduct of our friends in the affair at Derne, and the capture of that place, will have their influence, and dispose him to moderate his pretensions, and to think seriously of peace. The complaining condition of some of the ships of our squadron is not among the least important considerations of the present moment; three of the frigates are in such a state as, in my opinion, and in that of the commanders, renders them unfit to encounter the severity of another winter's blockade, without undergoing considerable repairs.

These facts and considerations, for the due appreciation of which you, sir, are fitted by your talents and the length and particular line of your experience, seem to point out the present as auspicious beyond any former occasion, and indeed as the very moment for attempting a negotiation; especially when we combine with these reflections the certainty that our force, respectable as it is, is yet greatly exaggerated at Tripoli, and consider the effect which such a view of the enemy, added to the movements of his brother, must have on the mind of Jussuf Bashaw. Strongly persuaded that your conclusions upon these points have anticipated my own, I am induced to state to you my earnest wish that you may deem it expedient to meet the overture lately made through the Spanish Consul, by His Excellency, so far as to found on it the commencement of a negotiation. I cannot entirely suppress another motive, which I confess weighs painfully on my mind. I trust I feel as becomes an American, and that I know what an American ought to suffer, when the interest and honor of his country call on his fortitude. Were I deficient in these respects, or misled by unreflecting compassion, I am well assured that Captain Bainbridge and his unfortunate comrades would be first in deprecating this deficiency. But I know the value of such a man as Captain Bainbridge and his officers, and I am persuaded that I speak the language of our country, when I declare that, as they lost their liberty in her defence and her service, no reasonable and honorable occasion should be neglected which affords a prospect of releasing them from the bondage of a bigoted and unfeeling tyrant.

In communicating these sentiments, you, sir, will do me the justice to believe that I discard every idea of any real point of national honor or advantage being sacrificed to the attainment of their emancipation, weighing that honor and advantage by the practice of powerful nations; but I must contend that the liberty, and perhaps the lives of so many valuable and estimable Americans ought not to be sacrificed to points of honor taken in the abstract. Should the event justify my hopes and expectations of your coincidence with me on this interesting subject, and you determine on going to Tripoli, Captain Barron, commanding the Essex frigate, who is under sailing orders for the blockade, will be instructed to wait your arrangements, and convey you thither.

I beg leave to add my assurances, that, in case you determine on this step, sanguine as my expectations will be of the issue, I shall not relax in the smallest degree from hostile preparations, well aware that the best assistant which an able negotiation can have is an energetic display of force and means at the very moment, as if peace were despaired of.

Tobias Lear to Commodore Samuel Barron.

MALTA, *May* 19, 1805.

I had the honor last evening to receive your letter of yesterday, on the subject of opening a negotiation with the Bashaw of Tripoli. Most sincerely do I lament the long and severe illness you have suffered, and under the effects of which you still labor; and I am fully persuaded that no consideration would lead you to relinquish the command vested in you by the Government of our country, but a thorough conviction that your retaining it, when unable to perform the duties inseparable from the station, would be injurious to the cause in which we are engaged; and I am also persuaded, that when such conviction arises, all personal considerations will yield to your patriotism. I have maturely considered the several points mentioned in your letter relative to a negotiation with the Bashaw of Tripoli; and, upon a view of my instructions from the Government of the United States on that subject, I conceive it my duty to endeavor to open and bring to a happy issue a negotiation for peace, consistent with the tenor of these instructions, whenever the commander of our naval force in this sea shall judge that the occasion is proper and favorable. As it is presumed that the Bashaw will be impressed by the aspect or operations of that force, and as this is, in your opinion, a proper occasion, I shall hold myself in readiness to proceed in a few days on that business, with Captain Barron, in the United States frigate Essex, which you are so good as to say will wait my arrangements.

I presume, as Captain Rodgers, who is your second in command, and who will, of course, take the command of the squadron, if your health, as you apprehend, should compel you to relinquish it, is now off Tripoli, and may be possessed of some information relative to our affairs with that Regency, which has not reached you, that he will be fully advised of the motives which have induced this measure, and instructed to give it all the facility which his judgment may suggest.

Although I cannot, sir, agree with you in opinion, that any impression favorable to us has been made on the mind of the Bashaw, from our co-operation with his brother, thus far, excepting what may arise from the undaunted bravery and perseverance of the force of our countrymen at Derne, which will be to him a further proof of what we can do alone against him; yet I am of opinion, that, as he has discovered a disposition to open a negotiation, we should embrace it, to see if such terms can be made as are admissible on our part, and to release our unfortunate countrymen out of his power, whose fate ought not to depend on small punctilios.

Commodore Barron to Captain Hull, of the Argus.

MALTA, *May* 19, 1805.

Your several communications were received by the Hornet, which did not arrive here until the 16th, having met with head winds and heavy gales.

Your various information is under my particular attention. The state of my health, and my anxiety to despatch the sloop without loss of time, does not allow me to enter into lengthy observations. Nor is it indeed necessary. The letter I have written to Mr. Eaton by this conveyance, and which he will communicate to you, will, no doubt, determine him and the officers to leave the coast, as a measure rendered necessary by existing circumstances, and especially by the intention of the Consul General to open a negotiation with Jussuf, reigning Bashaw of Tripoli. You will, therefore, as soon as the requisite arrangements are made, return with the vessels under your command to Syracuse, to which place it is contemplated to transfer headquarters in the course of a few days. Lieutenant Evans is instructed to deliver the stores, which have been laden in the sloop, to you, to be distributed according to your discretion. You will understand those stores are intended for the use of the crews of the United States vessels, and the Christians under the command of Mr. Eaton.

Nothing material has occurred in our affairs since your departure. Mr. Evans will be able to inform you of everything worthy of notice. I have likewise sent with Mr. Evans two thousand dollars (Spanish) in specie, which will serve to extinguish any individual engagements that you or Mr. Eaton may have contracted at Derne.

I look anxiously for further intelligence from Derne.

Commodore Barron to William Eaton, Esquire.

MALTA, *May* 19, 1805.

SIR: By the sloop Hornet, which arrived in this harbor on the 16th instant, (having had a tedious passage,) I had the honor of receiving your despatches of 29th ultimo and 1st instant, announcing the capture of Derne, after a contest, in which, permit me to observe, that your conduct, and that of your companions in arms, will not discredit the character which our countrymen have established among the nations of Barbary. I have perused, with deserved attention, the arguments and reasons adduced in your letter of the 1st, on the subject of pursuing the co-operation with Sidi Hamet Bashaw. Being myself too weak for the exertion of letter writing, and my secretary writing with difficulty, owing to an inflammation in his eyes, it is impossible for me to enter into a lengthy reply; nor does it indeed appear necessary. The business is now arrived at that point, where, if the ex-Bashaw, after being put in possession of Derne, his former Government, and the district in which his interest is most powerful, has not in himself energy and talent, and is so destitute of means and resources, as not to be able to move on with successful progress, seconded by our naval force acting on the coast, he must be held as unworthy of further support, and the co-operation as a measure too expensive and burdensome, and too little pregnant with hope or advantage, to justify its further prosecution; for whatever, sir, may have been once the intentions of Government on this subject, and whatever your ideas touching those intentions, I feel that I have already gone to the full extent of my authority. The instructions from the Navy Department on this particular point, with which you are not unacquainted, fall short of that unlimited discretion and power of application as relates to funds, insisted on in your letter, and are totally silent in regard to the quantity and description of supplies and stores which you mention to have been in the contemplation of Government to furnish to the Bashaw. Hence you will be sensible, that, without taking a latitude that would involve me in a sum of responsibility, which it were the extreme of folly and rashness to encounter, I cannot proceed further. Independent of this consideration, it may not be improper to state, that I have not at my disposal funds sufficient to meet the large sums which, according to your calculation, would be required to pursue the plan with effect. With respect to any engagements to Sidi Hamet, I cannot consider them as binding or definite. We have, by our resources, and your valor and enterprise, placed him at the post from which he was driven, when first he solicited the aid and support of our arms, and in the "most valuable province of Tripoli:" in performing which, we have, I conceive, fulfilled every pledge, and that he can neither charge us with bad faith in our engagements, or with injustice to himself. His want of those qualities so essential in the character of a commander, and especially to a Prince contending for his throne, is a serious obstacle to the advancement of his cause, not to be surmounted even by the existence and manly exertion of them in those about his person. But it is what we had no reason to anticipate, and still less to suppose, that, when master of the finest province in his kingdom, where his influence is greatest, and his adherents most numerous, his situation would not be materially al-

tered, and himself as destitute of means to carry on the contest as when he was brought from his exile in Egypt. In short, sir, the matter reduces itself to this: we are willing and ready to support the Bashaw, by a union of operations on the coast, so long as the war with Tripoli continues; but you will state explicitly to his Excellency, that our supplies of money, arms, and provisions, are at an end, and that he must now depend on his own resources and exertions. This determination will suggest to you and your comrades that line of conduct most prudent to be adopted in the present posture of affairs. I have lost no time in despatching the Hornet with a supply of provisions for the crews of the Argus and Nautilus, and the Christians under your command; and I hope she will arrive in time to prevent your suffering from want.

I have now to acquaint you with an occurrence in our affairs, interesting in itself, and momentous as relates to your situation. In consequence of recent advices from Tripoli. I have thought it my duty to state to the Consul General, Col. Lear, (now at this place,) my candid opinion, that the present is a moment highly favorable to treat for peace; and a communication has, this moment, been handed me from that gentleman, expressing his determination to meet the overture lately made by the reigning Bashaw, so far as to found on it the commencement of a negotiation, and to proceed to Tripoli, in the Essex frigate, in the course of this week. From a variety of concurring circumstances, the present appears to be a period propitious to such a step, and I cannot help indulging sanguine hopes that a very short time will restore Captain Bainbridge and his unfortunate companions to freedom and their country. It would be useless in me to say anything on the effect which this measure must needs have on your situation and determinations; it is a measure which was anticipated in my letter to you by Captain Hull; and, as such, the intelligence of it will not, I presume, reach you unprepared. The interest of Sidi Hamet will not be overlooked. It is with Colonel Lear's express sanction that I state to you his intention to endeavor at stipulating some conditions for the unfortunate exile, provided this can be done without any considerable sacrifice of national advantage on our part, and without giving up points that are essential.

I have sent, by Lieutenant Evans, two thousand Spanish dollars, which he is directed to deliver to you or Captain Hull. This sum will serve to extinguish any little engagements you may have contracted at Derne.

I am extremely anxious for further intelligence from you, and remain, with much respect. &c.

S. BARRON.

Commodore Samuel Barron to Colonel Tobias Lear, Consul General, &c.

MALTA, *May* 22, 1805.

I have received the letter which you did me the honor of addressing to me on the 19th instant, stating your intention of going to Tripoli in the Essex frigate, for the purpose of opening a negotiation with the Bashaw.

I have now to acquaint you, that, for the reasons mentioned in my communication of the 18th, which every day's experience fatally strengthens, I have conceived it a duty owing to our country, as well as an act of justice to the squadron, to relinquish a station, which the languor of sickness, and consequent mental as well as bodily inactivity, prevent me from filling any longer, with approbation to myself or with advantage to the service. I have accordingly written by the Essex to Captain John Rodgers, the officer next in seniority, (now off Tripoli, in the Constitution,) officially resigning to him the command of the naval forces of the United States in this sea; and I have at the same time expressed my ardent desire that he should give every facility to the important measure which has been agreed upon, and support the negotiation with all his zeal and activity. I beg leave to mention that the Essex is completely ready for sea. Captain Rodgers has now been fifty days on the station, and I feel the importance of his being made acquainted with my determination without delay.

I have sent orders to Captain Campbell to despatch the Vixen to the station off Tripoli, with intelligence of the situation of affairs with Tunis, and have every reason to believe that they will reach him before the brig leaves the bay.

I have the honor to be, &c.

S. BARRON.

Commodore Samuel Barron to Captain John Rodgers.

MALTA, *May* 22, 1805.

SIR: Since I had the pleasure of writing to you by the frigate President, I have not received any intelligence from the Barbary coast. Capt. James Barron, commanding the Essex, has received orders to proceed off Tripoli, for the purpose of conveying the Consul General, who will communicate to you his intentions, which will be further explained by the accompanying copies of my late correspondence with him.

Although I have never disguised from myself that my powers of attention have been weakened by the effects of my long and distressful indisposition, almost equally with my strength and bodily activity, I have nevertheless been drawn on, from week to week, by the hopes of a speedy recovery, hopes which the unsteady character of the disorder itself rendered plausible, and which I was even authorized to cherish by the corresponding opinions of my medical attendants, gentlemen of high and merited rank in their profession, connected with me no further than as my situation requires their assistance, and only so long as my residence in Malta gives them the opportunity of affording it, and who therefore could have no interest in inspiring groundless expectations, with no other possible effect than that of exasperating the final disappointment. But, sir, though I feel myself perfectly justified in forming these hopes of recovery, I am sensible that the moment is arrived when I can no longer persevere justifiably in acting upon them; the season for decisive measures has overtaken me, and I am at length forced to perceive, that my unceasing and anxious impatience for a return of health from the deep wish of discharging the important functions entrusted to me, has continually retarded that return, and that this inevitable solicitude which, while I retain the command, it is impossible that any state of health should obliterate or even suspend, must not only defeat its own immediate object, but greatly diminish, and perhaps preclude the probability of my serving my country at any future time. To relinquish my command, therefore, is, I conceive, a duty which I owe to our country and to the service in general, but more particularly to the present squadron; an act of justice which the skill, courage, and general merit of the officers, and the order and discipline of the crews, at once enforce and imbitter; for you, sir, need not be informed that this decision could not be made without a long and painful struggle, as well as deep deliberation; but it is made, and accordingly I do hereby resign the command of the naval forces of the United States in these seas, and by this letter communicate my resignation officially to you, on whom the command devolves by the law of seniority, reserving to myself, however, the right of resuming it in case the war should be protracted beyond my hopes and expectations, and my health be fully restored. I have only to add on this point, that the pain inseparable from this act of duty is greatly alleviated by two reflections: first, that in having you, sir, as my senior captain, I am enabled to resign my station to an officer who already in a high degree enjoys the confidence of our Government; and secondly, that, previous to my resignation, the Consul General has expressed his coincidence with the opinion which I officially communicated to him, respecting the propriety and policy of meeting the recent overtures of the Bashaw of Tripoli, so far as to open a negotiation, for which I am persuaded that the present moment is eminently favorable, and of the success of which I entertain sanguine expectations, conducted, as it will be by a gentleman of such ability, experience, and moderation, as Colonel Lear, with the ready assistance and co-operation which I doubt not he will find in your activity and zeal. I cannot suppress the feeling, that, if anything could restore me to health, as by a charm, it would be the sight of Captain Bainbridge and his fellow sufferers restored at length to freedom, on terms of peace at once honorable and advantageous to our common country; such terms, on which, I am convinced, notwithstanding all their privations and sufferings, they would alone desire their emancipation, or look back with pleasure on its attainment. Should, however, these hopes be baffled by the extravagance and infatuation of the enemy, I can only express my earnest wish, that the valor and exertions of the squadron may soon create another opportunity, and that to their honor they may succeed in inspiring additional respect for the American name, and a pacific policy in the whole of the Barbary Government; thus realizing an object which must be deep in the hearts of our countrymen, and for the accomplishment of which I should have considered no personal sacrifice too important.

I beg leave to refer you to Captain Barron for full particulars of occurrences since your departure, and for the present distribution of the squadron; and I beg leave also to assure you that my anticipation of the success of Colonel Lear's visit to Tripoli will not diminish, in the smallest degree, the preparations for offensive measures; and that, as far as my strength will permit, I shall proceed with every necessary arrangement till we meet. It is not in my power, at this moment, to transmit you all the papers and documents, the transfer of which becomes requisite by my resignation. I have, however, directed my Secretary to prepare them, and they will be delivered to you on your arrival here.

With my sincere wishes for your health and prosperity, I have the honor to subscribe myself, sir, your very faithful and obedient servant,

SAMUEL BARRON.

Extract of a letter from Robert Dennison, Secretary to the Commander of the Mediterranean squadron, to the Secretary of the Navy.

MALTA, *May* 22, 1805.

It appears, by a variety of letters which have been received, that the Bashaw is seriously disposed and earnestly desirous for peace with the United States; and what confirms this idea, beyond all doubt, is the receipt by Colonel Lear of a letter, written at the express solicitation of the Bey, by the Spanish Consul, with overtures for opening a negotiation, and accompanying a *teschera* or passport under the Bey's seal, guaranteeing the inviolability of any person or persons sent to Tripoli to treat of peace. These direct evidences of a pacific disposition in the Bashaw were a few days ago prefaced by a communication to Commodore Barron from Mr. Nissen, the Danish Consul, written at the desire of the Minister Sidi Mahomet Dghies, expressing the Minister's sincere and earnest wish for the re-establishment of peace, and recommending that a person should be sent over immediately to commence a negotiation. In consequence of these repeated and unequivocal manifestations of a disposition on the part of the enemy to accommodate differences, the Commander-in-chief thought it his duty officially to communicate to the Consul General his opinion that the present moment is favorable for opening a negotiation; and the latter having expressed his coincidence therewith, the measure has been agreed upon, and Colonel Lear is making arrangements to proceed on board the Essex frigate to the coast of Tripoli in the course of two or three days. Commodore Barron entertains the most sanguine hopes of the happy issue of this measure, and anticipates, with not less confidence than pleasure, the speedy emancipation of Captain Bainbridge and his suffering companions. I think it is not hazarding too much to say, there is scarcely a doubt but the business will be honorably and satisfactorily terminated in less than a fortnight.

Third article of the preliminary articles of the Treaty of Peace to be entered into between the President and citizens of the United States of America on one part, and the Bashaw Bey and subjects of Tripoli, in Barbary, on the other part.

Upon the conclusion of a peace, as aforesaid, between the United States and the Regency of Tripoli, all the forces of the United States which have been and may be in hostility against the Bashaw of Tripoli, in the province of Derne, or elsewhere, within the dominions of the said Bashaw, shall be withdrawn therefrom, and no supplies shall be given by or in behalf of the said United States during the continuance of the peace aforesaid, to any of the subjects of the said Bashaw who may be in hostility against him in any part of his dominions; and the Americans will use all means in their power to persuade the brother of the said Bashaw, who is co-operative with them at Derne, &c., to withdraw from the territory of the said Bashaw of Tripoli, but they will not use any force or improper means to effect that object; and in case he should withdraw himself, as aforesaid, the Bashaw engages to deliver up to him his wife and children now in his power.

TOBIAS LEAR,
Commissioner of the U. S., &c.

Mr. Lear to Mr. Ridgely.

TRIPOLI IN BARBARY, *June* 6, 1805.

SIR: In conformity with the power vested in me by the Government of the United States to appoint an agent on their behalf to take charge of their affairs in Tripoli, provided a peace should be concluded between the United States and the Bashaw of Tripoli, until the pleasure of the President of the United States should be known, and as peace is now happily concluded between the two nations, I find it incumbent upon me to carry into effect the authority vested in me; and as you have expressed your willingness to act as the agent of the United States in this Regency, I have the honor herewith to transmit you a power for that purpose, and at the same time to express my satisfaction in your readiness to receive it; because, besides the qualifications which I believe you to possess to execute the duties of said agency with honor to yourself and country, I am persuaded that your residence here for nineteen months past (although mostly in a state of confinement) has offered an opportunity of acquiring a knowledge of the Government, customs, and manners of those people, which will be found essentially useful; and your profession will secure you an influence which cannot always be gained by a person brought up to other pursuits.

Although the salary to be paid to an agent is not specifically mentioned to me by my Government, I shall feel myself justified in saying it will be the same as that allowed to a Consul, viz: two thousand dollars per year as salary; wages of the dragoman, stationery, and some other expenses of a public nature, as are necessarily attached to the office, and usually paid by other Consuls in this place on account of their Governments.

You will receive herewith the Treaty of Peace between the United States of America and the Bashaw of Tripoli, in English and Arabic, and executed in due form on the fourth day of the present month. This treaty is considered as highly favorable to our country, and you will take care that it be duly observed. The circumstances under which it has been made gives us the best-grounded reasons to believe that there will be no attempt on the part of the Bashaw or his subjects to violate it. Should this, however, unfortunately be the case, your firmness and good judgment will be a security against any evils arising from a sudden or violent departure from it.

In order that you may see the relation which the Consul of the United States residing here bears to the Consul General residing in Algiers, I take the liberty of quoting a part of the instructions given to me by the Secretary of State of the United States, under date of the 14th July, 1803:

"The Regency of Algiers being of the most importance to the United States, considering its influence with those of Tunis and Tripoli, and our stipulations with that Regency requiring the largest expenditures, are the reasons why the Consul General is established there. The relation of the Consuls for those other Regencies is therefore a subordinate one, and they will consequently be instructed to correspond regularly with you, as well as directly with the Department of State. In all cases of difficulty and urgency, they are to ask and follow your opinion, especially when the state of our affairs may require immediate decision, and where the sacrifice to be made is either of an occasional and not a permanent nature, or of no very high value. They are to keep regular journals of their proceedings, including their pecuniary transactions, and transmit transcripts as often as may be to you. Of so strict a necessity is this latter duty, that they will be given to understand that no allowances for disbursements will be made them unless registered in their journals at the time, and transmitted both to you and this Department, with the very first despatches they may write to either after the expense is incurred."

Our Government had thought it expedient to change the Mediterranean passport heretofore given to our merchant vessels, and arrangements for this purpose have been made with the Emperor of Morocco, and the Regencies of Algiers and Tunis. Until the first day of July next ensuing, either the new or old passport will be considered as valid for our merchant vessels, but after that period the new passport will be alone available. I have therefore furnished you with twenty *tops* or *testa* of both the old and new passports, one of each you will give to every cruiser sailing from Tripoli, before the first of July aforesaid; after which, you will withdraw from them the tops of the old passports, and issue the new only. I leave with you also twenty-four forms of Consular passports, which were put into my hands by Mr. Cathcart, our late Consul here, to be given to the Tripolitan cruisers. These passports must be renewed at least once a year, and an endorsement made upon them by you every cruise which the corsair may make within the year, noting any change which may take place in the captain's number of guns, &c.

Mr. Nissen, His Danish Majesty's Consul here, will have the goodness to give you any information you may wish respecting the usual forms of Consular business in this Regency; and I am persuaded that his best advice would always be given on any points of business which might arise here relative to our affairs, out of the usual routine of Consular duties. But, whenever such may occur, you will not fail to advise me thereof by the first and most direct conveyance. And if anything should happen which may threaten to involve the peace of our country with this Regency, you will be pleased to despatch information thereof by a speedy cruiser, either by sea or land, as may be most likely to reach me soonest. To the Department of State you will also make full communications, agreeably to the instructions which I have quoted for you in this letter; and in these communications you will please to detail all the information you can obtain respecting the political relations and military forces of this Regency, as well as particulars respecting the productions and commerce of the country.

I shall leave in your hands one thousand dollars on account of your salary, to be applied to any necessary expenses on account of the United States of America, and shall place a credit for you for one thousand dollars more on William Higgins, Esq., the navy agent of the United States in Malta.

Wishing you health and happiness, I am, sir, with great respect, your most obedient servant,

TOBIAS LEAR.

JOHN RIDGELY, Esq.

Appointment of Mr. Ridgely, by Mr. Lear, as United States Agent at Tripoli.

Whereas the undersigned, Tobias Lear, Consul General of the United States of America for the Regency of Algiers, being duly appointed Commissioner by letters patent under the signature of the President and seal of the United States of America, bearing date at the city of Washington the 18th day of November, 1803, for negotiating and concluding a Treaty of Peace with the Bashaw of Tripoli; and whereas the said undersigned was authorized by instructions from the Secretary of State of the said United States, bearing date the 6th June, 1804, to appoint an agent to reside in Tripoli, in behalf of the United States of America, until the pleasure of the President of the United States shall be known thereon, whenever peace should be concluded as aforesaid:

Now know ye that I, the undersigned, having concluded a peace between the United States of America and the Bashaw Bey and subjects of the Regency of Tripoli, have appointed, and do by these presents appoint, John Ridgely, of the State of Maryland, to reside in Tripoli, as the agent of the United States of America, until the pleasure of the President of the United States shall be known as aforesaid; and do authorize and empower him to have and to hold the said agency, and to exercise and enjoy all the rights, privileges, and authorities to the same of right appertaining during the time aforesaid.

And I do hereby request all captains, masters, and commanders of ships and other vessels, armed or unarmed, sailing under the flag of the said United States, as well as all other of their citizens, to acknowledge and consider him accordingly.

And I do hereby pray and request His Excellency the Bashaw of Tripoli to permit the said John Ridgely fully and peaceably to enjoy and exercise the said office, without giving or suffering to be given to him any molestation or trouble; but, on the contrary, to afford him all proper countenance and assistance.

In testimony whereof, I have hereunto subscribed my name and affixed my seal at Tripoli, in Barbary, this sixth day of June, one thousand eight hundred and five.

TOBIAS LEAR.

[Extract.]—Colonel Lear to William Eaton, Esq.

TRIPOLI, *June* 6, 1805.

In consequence of a representation made to me by Commodore Barron, that the present was a favorable moment for us to enter into a negotiation with the Bashaw of Tripoli, and my instructions leaving it to the commander of our forces in this sea to determine the proper time for such an attempt, I repaired off this place on the 26th ultimo, in the United States frigate Essex, and immediately opened a communication with the Bashaw. His demands were two hundred thousand dollars for peace and ransom, and the delivery on our part of all the Tripolines in our possession, and a restoration of all their property. These terms were at once rejected *in toto;* and, after some discussion, I proposed, as the *ultimatum*, that a mutual delivery of prisoners should take place; and, as he had a balance of more than two hundred in his favor, I would give him sixty thousand dollars for them, but not a cent for peace, which should be made on terms of the most favored nation with whom he has a treaty, and a regulation respecting prisoners, if a future war should take place between our nations; and in order to prevent any fruitless altercation, I declared I would not go on there to complete the business, unless these terms were formally acceded to. The weather proving bad for the season, obliged our vessels to keep off, and prevented a regular communication with the shore, which prevented the completion of the preliminaries until the 3d instant, when they were sent off to me with the Bashaw's seal. I immediately went on shore, and in twenty-four hours all the officers and crew of the late frigate Philadelphia were sent on board the ships.

I found that the heroic bravery of our few countrymen at Derne, and the idea that we had a large force and immense supplies at that place, had made a deep impression on the Bashaw. I kept up that idea, and endeavored from thence to make an arrangement favorable to his brother, who, although not found to be the man whom many had supposed, was yet entitled to some consideration from us.

But I found that this was impracticable, and that, if persisted in, would drive him to measures which might prove fatal to our countrymen in his power. I therefore engaged, of course, that, on the conclusion of peace, we should withdraw all our forces and supplies from Derne, and other parts of his dominions; and the Bashaw engages, that, if his brother withdraws himself quietly from his dominions, his wife and family should be restored to him. This is all that could be done, and I have no doubt the United States will, if deserving, place him in a situation as eligible as that in which he was found.

Commodore Rodgers to the Secretary of the Navy.

U. S. SHIP CONSTITUTION,
MALTA, *June* 8, 1805.

SIR: I have the honor to inform you that the preliminaries of peace were signed on the third instant, between Joseph, Bashaw of Tripoli, on behalf of himself and his subjects, and Tobias Lear, Esq. on behalf of the United States, and Captain Bainbridge, officers, and crew, of the late frigate Philadelphia, liberated on the same day. The Bashaw, feeling too sensible that, by a continuance of obstinacy, his town would fall a sacrifice to our forces this summer, proposed, and acceded to peace, on terms which left us no interest in a refusal of his wishes, as he acknowledged that he felt sensible our efforts would be sufficient to reduce his town, and oblige him to retire to the mountains! This acknowledgment at once precluded the possibility of acquiring any honor by our arms, but, indeed, the reverse, as it would have been persecuting an enemy, who, in anticipation of our vengeance, in this summer's expedition, by his own acknowledgments, felt himself more than half-vanquished—and who, perhaps, in his savage perturbation, might have carried his resentment to the sacrifice of three hundred of our unfortunate countrymen which chance had placed in his power. For your further information on this subject, I enclose you a copy of the preliminary articles.

I am only thirty-eight hours from Tripoli, where I left Colonel Lear, making the necessary arrangements for establishing Doctor Ridgley, late surgeon of the Philadelphia, in charge of our affairs in that Regency. The purport of my returning without Colonel Lear is, to carry the Tripoline prisoners in our possession back to Tripoli, and to make arrangements for going with the squadron to Tunis, to convince the Bey of that Regency, (who, owing to our having detained, and sent into Malta some of his vessels that were going to Tripoli, in open violation of the blockade, has shown a refractory disposition, and threatened us with war,) that his menaces are more the production of his ignorance and piratical inclinations, than any interest he can derive by a rupture with the United States. This will be a favorable moment to oblige this gentleman to relinquish his imprudent and unwarrantable demands against the United States; and, at the same time, to convince him that it is as demonstratively his interest to cultivate our friendship, as it is ours to avoid a war. However, I feel sensible that he knows his own vulnerability too well ever willingly to give us decided cause to make him feel our resentment, by the exercise of such a force as we at present have in the Mediterranean.

The Ceres, store ship, from Baltimore, arrived here thirteen days ago, but I did not receive your advices of the 9th. and 27th of March, until the third instant, off Tripoli. Neither the John Adams, either of the gunboats, or the other store ship from Baltimore, has arrived yet.

Commodore Barron having resigned the command of the squadron no longer ago than the twenty-second ultimo, my being off Tripoli ever since, and the multiplicity of business I have at present on hand, prevents my writing you so fully as I could wish, particularly as I am at this moment getting under way for Syracuse, to take on board the prisoners, to carry them to Tripoli.

I never thought, myself, that the lives of the American prisoners were in any danger.

I have the honor, &c.

JOHN RODGERS.

Hon. ROBERT SMITH, *Secretary of Navy.*

William Eaton to Commodore Rodgers.

U. S. FRIGATE CONSTITUTION, OFF
DERNE, *June* 30, 1805.

SIR: At six o'clock, P. M., of the eleventh instant, Captain Campbell anchored in this road; at eight, sent Lieutenant Wederstrandt with your letter of the 6th, and Colonel Lear's of the 5th, announcing the conclusion of peace with Joseph, Bashaw of Tripoli, and, consequently, requiring me to evacuate this post; and, the next morning, a letter from his own hand, advising me that his ship would receive my garrison. About nine o'clock, the Captain came on shore, attended by a few of his officers, whom I accompanied into town. I now communicated to the Bashaw the news of peace, on our part, with his brother, and the convention that his family should be restored to him, on condition of his quietly withdrawing himself from the kingdom. He said, he had no safety but in leaving the country with us, and even this would be impossible with him, and hazardous to us, if the project should transpire before carried into effect; despair would drive his adherents to revenge, and we must fall victims to it. I, consequently, kept up the idea of an attack on the enemy—an idea which had been excited by a report that reinforcements had been brought out in the frigate for this purpose—and, accordingly, sent ammunition and extra rations to be distributed among our Moorish and Arab troops, and despatched spies to ascertain the enemy's position. With the same apparent view, I inspected the garrison, ordered them to be divested of all heavy baggage, and to be held at their posts in readiness to advance at the word. At eight in the evening, I placed patrols of marines to stop intercourse between the town and our posts. This was a usual precaution at this hour, with the only difference, that, on ordinary occasions, this duty was done

by routine. In the mean time, all the Constellation's boats were laid along side our wharf; I ordered the captain of cannoniers to embark his company, with the field-pieces, and a ten inch howitzer which fell into our hands on the 27th April, and after them the Greek company. This was executed with silence and alacrity, but with astonishment. The marines remained at their posts. When the boats were seen returning, I sent a messenger to the Bashaw, requesting an interview. Understanding the purport of this message, he immediately repaired to the fort with his retinue, dismounted, and embarked in the boats. The marines followed, with the American officers. When all were securely off, I embarked in a small boat I had retained for the purpose, and had just time to save my distance, when the shore, our camp, and the battery, were crowded with distracted soldiery and populace, some calling on the Bashaw, some on me; some uttering shrieks, some execrations. Finding we were out of reach, they fell upon our tents and horses, which were left standing, carried them off, and prepared themselves for flight. My garrison, together with the Bashaw and suite, were all on board the Constellation about two in the morning. Before break of day our Arabs were all off to the mountains, and with them, such of the inhabitants of the town as had means to fly, taking away with them every living animal fit for subsistence or burden, which belonged to the place. This morning, a *choux* from Tripoli, who came out in the frigate, went on shore under a flag of truce, and carried letters of amnesty from Joseph Bashaw to the people of Derne, on condition of their return to allegiance. He stated, on his return, that nothing but despair depicted itself in the visages of the few wretched inhabitants who remained; that they rejected Joseph Bashaw's terms of pardon, declaring they knew his perfidy too well to suffer themselves to be ensnared by it, and that they were resolved to defend themselves, to the last moment, from their terraces and walls of their houses, against his troops. It is to be hoped the position they have taken, may terminate in an accommodation, and save the tragedy that menaces them. It is now twelve o'clock, and we see no symptoms of the enemy's troops advancing towards the town. This, however, may be accounted for on other principles than those of humanity or arrangement. On the arrival of the Constellation, the idea impressed itself on them also, that she brought troops and supplies; in consequence of which, they decamped disorderly, and retired with precipitation to a post fifteen miles in the rear, towards the desert. It is possible they may not yet have heard of our evacuation. In a few minutes more we shall lose sight of the devoted city which has experienced as strange a reverse, in as short a time, as ever was recorded in the disasters of war—thrown from proud success and elevated prospects into an abyss of hopeless wretchedness. Six hours ago, the enemy were seeking safety from them by flight; this moment, we drop them from ours into the hands of this enemy, for no other crime but too much confidence in us. The man whose fortunes we have accompanied thus far, experiences a reverse as striking. He falls, from the most flattering prospects of a kingdom, to beggary.

Our peace with Tripoli is certainly more favorable, and, considered separately, more honorable than any peace obtained by any Christian nation with a Barbary Regency, at any period within a hundred years. But, it might have been more favorable and more honorable. It now remains, however, to dispose of the instrument we have used in obtaining this peace, in such a manner as to acquit our conscience and honor. This will require some diplomatic skill.

My despatches to Commodore Barron, of the fifteenth ultimo, and continued to the eleventh instant, accompanying this to your address, is a matter rendered proper by the transfer of the squadron to your command. Under actual circumstances, they can be of little import, but may, nevertheless, gratify a curiosity.

The duties understood to be annexed to my appointment in the Navy Department, having ceased with the war, I have no reasons for remaining any longer in this sea. I request, therefore, you will have the goodness to allow me a passage in the first ship of war of your squadron which you may despatch to the United States.

I flatter myself with the gratification of waiting on you at Syracuse in a few days.

In the meantime, I have the honor, &c.

WILLIAM EATON.

JOHN RODGERS, Esq., &c.

Copy of a letter from Hamet Bashaw Caramalli to his friend and brother, William Eaton, late General and Commander-in-chief of our allied forces in our Kingdom of Tripoli.

Without placing in view the misfortunes which so long pursued me, I cannot forbear expressing to you, at this moment of our final separation, the deep sense of gratitude I feel for your generous and manly exertions in my behalf. Be assured, that, in whatever situation the will of God shall place me, I shall always bear this impression of gratitude on my heart.

On returning to your happy country, to which I wish you a safe passage, I request you will express to your Sovereign my cordial thanks for his manifestations of friendship towards me. Had it been ordained that measures might have been carried forward to the attainment of my wishes, the restoration of my rightful dominions to me, it would certainly have been cause of eternal gratitude. But, it is true, my own means were small. I know, indeed, they did not answer your reasonable expectations. And this, I am ready to admit, is a good reason why you should not choose to persevere in an enterprise hazardous in itself, and perhaps doubtful in its issue. I submit to the will of God, and thank the King of America, and all his servants, for their kind dispositions towards me. Situated as I am, you must still allow me to ask another expression of your friendship. You tell me that that in your treaty with Jussuff Beshaw, my perfidious brother, he has promised to

restore to me my family. I pray you will use your influence with your Admiral to permit one of your vessels to go and ask for them, and that he will give me the means of repairing, with some small assistance to enable me to subsist myself and suite, into some country where I may hope to spend the residue of my days in peace.

Again I repeat to you my love and esteem, and I send honor and long life to your sovereign, which, may the merciful God confirm to him.

[*Hamet's Seal.*]

Done at Syracuse, the 29th day of June, 1805.

William Eaton to Commodore Rodgers.

SYRACUSE, *June* 30, 1805.

I have, been, yesterday and to-day, occupied with the proceedings and records of the court of inquiry on Captain Bainbridge, which is the reason I did not wait on you, on board, yesterday morning.

Enclosed is a copy, by translation, of a letter Hamet Bashaw has written me, dated 29th. This, I think, is enough to do away any insinuations concerning our intercourse with this Prince, injurious to the honor of the United States. He tells me he shall write to the same effect to the President.

To-morrow morning, I will do myself the honor to wait on you with a statement of the pay due the troops who served with me through the desert of Derne.

Mr. Lear to the Secretary of State.

U. S. FRIGATE CONSTITUTION,
SYRACUSE HARBOR, *July* 5, 1805.

SIR: Since I had the honor of addressing you under date of the third of November, I have thought it my duty to remain in the vicinity of Tripoli, that I might be at hand for entering into a negotiation with the Bashaw, whenever he should give evidence of a disposition to do so on proper terms, and I accordingly took up my residence at Malta, being well assured that nothing would occur to make my presence necessary at Algiers during the winter, and knowing that the Dey was perfectly satisfied as to the cause of my extended absence from his dominions.

On the 28th of December, I received a letter from Don Gerardo Joseph de Tauza, the Spanish Consul at Tripoli, stating that, on the 17th of December, he had a private audience with the Bashaw of Tripoli, on the business of his nation, which being over, the Bashaw introduced the subject of this war with the United States, and expressed his willingness to conclude it, if the Americans were disposed to come forward on proper grounds. The Spanish Consul answered, that he presumed they would have no objection to finish the war upon honorable terms. There, he says, the subject was dropped; and he took the liberty of making this communication to me, having heard that I was in Malta—adding, as his own opinion, that, if I would come over to Tripoli in a flag of truce, he had no doubt but a peace might soon be concluded on honorable and satisfactory terms. As I had reason to believe that this communication was made to me with the knowledge, if not by the express desire of the Bashaw, I felt in no haste to reply to it, as I was persuaded that, if he then discovered a desire to terminate the business, he would be more anxious to do so when the season for active operations should approach. On the 28th of March, Commodore Barron sent a small vessel to Tripoli, with clothing, &c., for our captive countrymen; and by that occasion I acknowledged the receipt of the Spanish Consul's letter, and observed to him, that, as we had last year made several overtures to the Bashaw for peace, which had been rejected, he might be assured that we should never make the first advance again on that subject. But that, notwithstanding our force in this sea was very considerable, and would, at the proper season, act with decided vigor, yet, we should be ready to receive and consider any propositions which might come from the Bashaw before that season arrived, provided such propositions were compatible with the dignity and rising character of our nation, and tending to an honorable and permanent peace.

On the 21st of April, I received, by the return of the same vessel from Tripoli, another letter from the Spanish Consul, saying, that he had communicated to the Bashaw the contents of my letter of the 28th of March, who had directed him to inform me that, to show his disposition to end the war, he would make a proposition, viz: that the United States should pay him two hundred thousand dollars for peace and ransom, and deliver up to him, gratis, all his subjects in their power, and make restitution of the property taken from them. The Spanish Consul added, that he considered the propositions of the Bashaw rather intended to form the basis for opening a negotiation, than made with an expectation of being granted. At the same time, he mentioned the mode of communication which might be pursued, if I should think proper to come off Tripoli, with a view to opening a negotiation. These propositions were so completely inadmissible that, after communicating them to Commodore Barron, I thought no more of them, fully expecting further advances, either through the same or some other channel, as it evidently appeared to be the wish of the Bashaw to open a negotiation.

Between the time last mentioned and the 18th of May, there were intimations made, in various ways, of the disposition of the Bashaw to treat, but none in a direct or official manner. On that day, Commodore Barron wrote me the letter No. 1, to which, on the 19th, I returned the answer No. 2; and, on the 22d, he informed me he had relinquished the command of the squadron to Captain Rodgers. On the 24th, I embarked on board the United States frigate Essex, Captain James Barron, to proceed to Tripoli. On the 26th, in the morning, we saw the town of Tripoli, distant about ten miles, and, at the same time, the United States frigates Constitution and President

At ten o'clock, A. M., Captain Barron and myself went on board the former, when Captain Rodgers received the letter of Commodore Barron, relinquishing to him the command of the squadron, &c. He returned with us to the Essex, when we stood in for the town, and, within a short distance from the battery, hoisted the white flag, which was immediately answered by the same from the Bashaw's castle. In half an hour, a boat came off, with the Spanish Consul and an officer of the Bashaw. I informed the Spanish Consul that I had, agreeably to the desire of the Bashaw to treat, come for that purpose; but that the propositions which had been made through him (the Spanish Consul) were totally out of the question, and must be relinquished before I would consent to move one step in the business; and that, if I had not the most unequivocal evidence that they would be put aside in toto, I would not go on shore; and told him he had better return with my determination, and come off again the next day, if the Bashaw was desirous of having peace on terms which we could admit. He left the ship; and the wind, during the night, blew so heavily on shore that the ships were obliged to stand off, and were not able to come in near the town again until the 29th; when, at nine, A. M., the Spanish Consul came on board, bringing the tiscara or commission of the Bashaw to treat, on his part, on the principal points of accommodation. We now removed from the Essex to the Constitution. The Bashaw relinquished all pretensions to a payment for peace, or any future demand, of any nature whatever; but demanded the sum of one hundred and thirty thousand dollars for the ransom of our countrymen, and the delivery of his subjects gratis. To this I objected as strongly as to the first proposition; and, after some time spent in discussing the subject, I told the Spanish Consul that, to prevent unnecessary delay and altercation, I would give him in writing my *ultimatum*, which must be at once decided upon, viz: that there should be an exchange of prisoners, man for man, as far as they would go; that the Bashaw should send all the Americans in his power on board the squadron now off Tripoli; that his subjects should be brought over from Syracuse, and delivered to him with all convenient speed; and, as he had three hundred Americans, more or less, and we one hundred Tripolitans, more or less, I would engage to give him for the balance in his favor sixty thousand dollars; that a treaty of peace should be made upon honorable and mutually beneficial terms. With this, he went on shore in the evening, but apparently without any expectation of its being accepted.

On the 30th, at 11. A. M., the Spanish Consul came again on board the Constitution, and urged me very strongly to go on shore, where every thing, he said, should be satisfactorily arranged; but, as I had determined not to deviate from the ground I had taken, I declined, stating to him, that it now depended on the Bashaw to terminate the business by a single word, and that very little time more would be given for that purpose. He requested permission to send a letter on shore, to which he would await an answer; this was granted; and, on receiving an answer to his letter, he again urged my going on shore in the strongest terms. This I steadily refused to do. The wind increasing obliged the ship to stand off, and prevented the Spanish Consul from going on shore this night.

At 8, A. M., on the 31st of May, the Spanish Consul went on shore, promising to come off again in a few hours, with the Bashaw's answer. At noon, he came off, and said that the Bashaw had at length agreed to the sum of sixty thousand dollars for the balance of the prisoners; but that he could not think of delivering up the Americans until his subjects were ready to be delivered to him; and again urged me to go on shore. I told him, in one word, that the business had already been protracted beyond what I conceived to be a reasonable time; but, as the weather yesterday would not admit of our countrymen being sent on board, I would allow the Bashaw twenty-four hours from this time to agree to my propositions in toto, or reject them. He begged for further time, but without effect, and left the ship at 5, P. M.

At 11, A. M. June 1st, our unfortunate countryman, Captain Bainbridge, came on board, who had been permitted to come off, under the guaranty of the Danish Consul and Sidi Mahomet Dghies, the Minister of Foreign Affairs. He assured me that the Americans would not be delivered up until a Treaty of Peace should be made with the Bashaw, as peace was more his object than the sum he might get for the captives; and, as it was our intention to conclude a treaty, it would be cruel to let our countrymen languish in captivity, merely on the punctilio of negotiating the treaty before or after their delivery, as whatever related to them was already understood. I informed him of all which had passed between the Spanish Consul and myself, and told him that, as the Spanish Consul had come on board as the commissioner of the Bashaw, with his credentials, which he had delivered to me, I considered the business as now brought nearly to a close, and that a very short time remained for the Bashaw to make up his mind. However, as I should make no difference in the terms of the treaty, whether it should be drawn up before or after the delivery of the prisoners, I would enter into an immediate negotiation for that purpose with any proper character whom the Bashaw might send on board, duly authorized, but I would have nothing more to do with the Spanish Consul. But the Americans should be sent on board, without waiting the arrival of the Tripolines from Syracuse. Captain B. left us in the evening, and went on shore.

In the forenoon of the 2d of June, Mr. Nissen, His Danish Majesty's Consul at Tripoli, came off to the Constitution, bringing a commission from the Bashaw to negotiate with me on the articles of the treaty. As I had a sketch prepared, I communicated it to Mr. Nissen, who observed that there were some articles more favorable to the United States than were to be found in any treaty which the Bashaw had with any other nation;

yet he would take them on shore and submit them to the Bashaw. He did so, and returned on board again about 4 P. M., saying that the Bashaw had acceded to the articles, but was very desirous of having an article expressive of our determination to withdraw our forces, &c. from Derne; and that we should endeavor to persuade his brother to leave his dominions. To the first I could have no objection, as it would be a natural consequence of peace; but I insisted that, if his brother should leave his territory, he should have his wife and family restored to him. Mr. Nissen thought the latter clause would meet objection. However, he took it on shore.

In the morning of the 3d of June, Mr. Nissen came on board again, and declared that the Bashaw would not agree to deliver the wife and children of his brother. I adhered to that part of the article, and, after a little time, he went on shore, saying that, if the Bashaw still persisted in refusing that part of the article, the white flag should be hauled down on shore. When Mr. Nissen had left us, I told Commodore Rodgers, and Captain Smith of the Vixen, who was on board, that, if the Bashaw should persist in his opposition to that article, I would not suffer the business to be broken off, and leave our countrymen in slavery, but would, at all hazards, take a boat and go on shore, if the white flag should be hauled down. At 4, P. M., Mr. Nissen came off again with the seal of the Bashaw to the preliminary articles; but with a condition that time should be allowed for the delivery of the wife and family of his brother. I consented to it, and we went on board the Vixen to stand into the harbor. When we were near the town, we fired a gun, and hauled down the white flag. A salute of twenty-one guns was fired from the batteries, and answered by the Constitution. I went into the harbor in the Constitution's barge, with the flag of the United States displayed, and was received at the landing place by the American officers, who had been in captivity, with a sensibility more easily to be conceived than described. An immense concourse of people crowded the shore, and filled the streets, all signifying their pleasure on the conclusion of the peace.

This, I believe, is the first instance where a peace has been concluded by any of the Barbary States on board a ship of war. I must here pay a tribute of justice to Commodore Rodgers, whose conduct, during the negotiation on board, was mixed with that manly firmness and evident wish to continue the war, if it could be done with propriety, while he displayed the magnanimity of an American, in declaring that we fought not for conquest, but to maintain our just rights and national dignity, as fully convinced the negotiators that we did not ask, but grant peace. You will pardon me if I here introduce a circumstance evincive of the spirit of our countrymen. At breakfast this morning, Commodore Rodgers observed that, if the Bashaw would consent to deliver up our countrymen without making peace, he would engage to give him two hundred thousand dollars instead of sixty thousand, and raise the difference between the two sums from the officers of the navy, who, he was perfectly assured, would contribute to it with the highest satisfaction.

In the evening I visited Sidi Mahomet Dghies, whom I found a sensible, liberal, and well-informed man. He is a great friend of ours, and has always been opposed to the war with us.

On the 4th of June, at 11, A. M., the flag-staff was raised on the American house, and the flag of the United States displayed, which was immediately saluted with twenty-one guns from the castle and forts, and returned by the Constitution, and all our unfortunate countrymen sent off on board their ships. At noon I had an audience of the Bashaw, by appointment, and was received with every mark of respect and attention. He paid me many compliments, and expressed himself on the peace with much manliness. He is a man of very good presence, manly and dignified, and has not, in his appearance, so much of the tyrant as he has been represented to be. His court was much more superb than that of Algiers. We spoke but little on the subject of the treaty, &c. He observed that he had given stronger evidences of his confidence in us than he had ever before given to any nation. He had delivered our people before he had received his own; and, as to the money he was to receive, it was merely nominal—the sum was nothing—but it was impossible to deliver them without something. The other articles of the treaty I might form as I pleased; being convinced I would not insert anything which was not just. I returned his compliments, and assured him he would find our nation as just as he had found them brave and persevering.

On the 6th of June, the Constitution sailed for Malta and Syracuse, to return to Tripoli with the money and the Tripoline prisoners. The Constellation sailed also for Derne, to bring off the few of our countrymen who might be there. I remained at Tripoli till the return of the Constitution, to establish an agent and make a final settlement of our business there. Dr. John Ridgely, of Maryland, late surgeon of the Philadelphia, was strongly recommended as a proper person to reside at Tripoli till the pleasure of the President was known, and I accordingly appointed him, as will be seen by the enclosed power and letter of instructions.

On the 10th, I sent to the Bashaw two copies of the treaty, with translations in the Arabic language, to be signed by him and his divan. He requested me to attend the divan and see the form of business there; and as this is a favor never before granted to a Christian, he gave it as an evidence of his respect, &c. I accordingly attended, and was seated on the same seat with the Bashaw, on his right hand. Great order and solemnity were observed. I presented the treaty to the Bashaw, who delivered it to his first secretary to read article by article. Some observations and short debates took place on several of the articles, but the Bashaw appeared to explain them satisfactorily After the whole was read, the form of its present ation and acceptance was written by the secreta-

ry, and the seals of the Bashaw and members of the divan affixed to the two copies: one of which the Bashaw delivered to me in a solemn manner, and with many expressions of friendship. [He speaks good Italian.]

On the 17th the Constitution arrived, but the wind was too high to admit of her landing the Tripolines or money; on the 18th, both were sent on shore; but instead of one hundred Tripolines, there were only forty-eight, and forty-one blacks. Seven had been carried to the United States by Commodore Preble, and I could never obtain an accurate account of the whole number. I had the Bashaw's tiscara respecting those who had been taken by Commodore Dale, which had been left in the hands of Mr. Nissen, which I found expressed twenty-one Tripolines and Turks, for whom and their goods seven Americans were to have been delivered. I was, therefore, obliged to make it appear that the blacks were his subjects, and were to be included in the exchange. I found no difficulty in the case, though I am sure he was not convinced of the propriety of it. Those in the United States, I assured him, would be returned by the first opportunity. The sixty thousand dollars were paid, and a receipt therefor given on the treaty left with Dr. Ridgely, and a duplicate thereto, which is enclosed. No consular present is mentioned in the treaty; but that, it is understood, will be given, as usual with all nations, when a consul shall be sent; it does not exceed six hundred dollars, and the particulars I shall send in my next, as I shall also my accounts, which cannot yet be adjusted, as our quarantine at Malta did not admit of my having that communication with Mr. Higgins, which was necessary for settling, as I had given him bills on the house of Sir Francis Baring and Company in London, for the money sent to Tripoli, &c.

On the 20th Commodore Rodgers came on shore, and had an audience with the Bashaw, where the assurances of friendship, &c., were repeated by the Bashaw.

On the 21st, in the evening, we sailed for Malta and Syracuse, arrived at the former on the morning of the 24th, where we remained two days, and sailed for this place.

I shall, in a future letter, give a more particular account of Tripoli, &c. At present, I confine myself to the subject of the negotiation and treaty. As I have always been opposed to the Egyptian and Derne expedition, I shall say nothing on that subject, especially as, I presume, there will be full communications respecting it from other quarters.

On the 5th of March last, we were indebted to Algiers for one year's annuity, deducting the cargo of timber, &c., which had been sent. I had learned that they were in great want of wheat at that place, and it struck me that, if a cargo of that article was sent to them on account of our annuity, it would be received with gratitude, and be a great saving to the United States; I, therefore, purchased a cargo of about twelve thousand bushels at Malta, which cost, with charges, about thirty-two thousand dollars, and sent it to Algiers, with a proper letter on the occasion; and I am happy to inform that it arrived in good time, and in fine order, and was more valuable, as it relates to the United States, than a cargo of money would have been at that time. It was received, as intended, as a proof of friendship, and an evidence of good faith; and will settle our accounts for one year at least.

As our force in this sea is now so respectable, Commodore Rodgers has determined to go to Tunis, not to defy the Bey to war, but to have all differences with that Regency settled on a basis that will insure us future tranquillity from that Power, and place our national honor on a permanent ground. The Bey has lately been threatening us very hard, but I presume he will now be as submissive as he has been presumptuous. I shall go with him to that place on my way to Algiers, and, notwithstanding what Mr. Davis says of the Bey's resolution not to discuss the affairs of the United States, with any other person but himself, I am persuaded I shall find no difficulty in convincing him that the President of the United States will choose whomsoever he may think proper to settle our national affairs, provided there be no well grounded personal objections to the man.

With sentiments of the highest respect and consideration, I have the honor to be, &c.

TOBIAS LEAR.

Hon JAMES MADISON, *Sec'ry of State.*

William Eaton to the Secretary of the Navy.

SYRACUSE, *July* 6, 1805.

SIR: I have the honor to enclose herewith copies of my communications to the commodores since I left Egypt: by the next occasion, I shall give the correspondence.

I cannot but think our pacification has been too much precipitated. Was it contemplated that so formidable a squadron should be sent into this sea to negotiate, without showing itself before the enemy's port? Such is the fact! If it had only appeared off the place, I have no doubt the effect would have been a peace without money. If it had gone into a vigorous co-operation, Joseph Bashaw must have resigned at discretion, or saved himself by flight; he was calculating more on this than on defence. But we have peace!

The whole expense of my expedition amounts, in cash, to thirty-nine thousand one hundred and eight dollars and fifty-eight cents, payment of troops included. As soon as I can effect a full settlement, my accounts will be transmitted. It will be necessary for me to negotiate bills on your department, in order to enable me to do this, to the amount of seventeen thousand, eighty-two dollars, and fifty-eight cents.

I learn that our Consul at Gibraltar, Mr. Gavino, intends resigning. George Dyson, Esq., who was appointed Navy agent here by Commodore Preble, and who has discharged the duties of that office with activity and truth, I am persuaded, would be glad to transfer his concerns to Gibraltar, if the Consulate there might be con-

ferred on him. It is believed no man would acquit himself in that trust more to the satisfaction of Government; perhaps none has better deserved it. Commodore Preble would, I think, say as much. I have the honor to be, &c.

WILLIAM EATON.

Hon. SECRETARY OF THE NAVY.

To the People of the United States of America.

SYRACUSE, *Sept.* 1, 1805.

It is known to the whole world that the reigning Bashaw of Tripoli, Jussuf, obtained the throne by the murder of our father and elder brother, and by my exile, who came next in succession. Driven by his impious and cruel usurpation, I took refuge in Egypt, where I was kindly received by the Mamelukе Beys, who gave me a distinguished rank in the military service. Reposing in the security of peace, I had ceased to repine for the loss of my throne, and regretted only the lot of my unhappy subjects, doomed to the yoke of my cruel and tyrannical brother.

It was at this epoch that the arrival of General Eaton gave me hopes of better fortune; and although I could not tell what were his powers, I trusted to the faith of a great people, of whom he was the ostensible representative, and threw myself into his arms. We concluded a treaty at Alexandria, a copy of which is among the papers of Commodore Barron, in the custody of his Secretary Mr. Robert Dennison. This treaty not only stipulates the recovery of the throne for me, but also includes several advantageous articles for the United States, for which General Eaton will be my voucher. Ought I, then, to suppose that the engagements of an American agent would be disputed by his constituent Government? I cannot suppose that a gentleman has pledged towards me the honor of his country on purpose to deceive me.

General Eaton and myself, with our joint followers, had already advanced six hundred miles into the kingdom of Tripoli, and a general defection had seized my brother's army, and all things prepared the protected of America to be hailed sovereign of his usurped throne. At this juncture a peace is concluded, in which a throne, acquired by rapine and murder, is guarantied to its usurper, and I, the rightful sovereign, the friend and ally of America, am left unprovided for. No article in my favor, no provision for me and my family, and no remuneration for the advantages I had foregone in trusting to American honor. I am left in Syracuse with thirty dependents, on the pittance of two hundred dollars per month, and no prospect of future establishment. What with the expenses of my retinue, &c., I, a sovereign Prince, am now reduced to the pension of one dollar and fifty cents per day.

I must here observe that Mr. Eaton, whose generosity I cannot sufficiently praise, has assisted me from his own finances, else hard indeed had been my lot.

When the prevalence of ages has accustomed men to the government of one, the right of a throne enters into the system of human thoughts, and that usage must have its rights like others.

In this situation I appeal to the virtue, generosity, and candor of the people and Government of America. I trust that a brave and free nation will interest itself in behalf of a fallen Prince, who has trusted to its national honor and good faith. I trust the Government will take my case into consideration, and at least send me back to Egypt, indemnified for those comforts lost by uniting my fortune to theirs; and I am confident the American people will feel for the misfortunes of one, who has fought in the united cause of their interest, and his own right.

HAMET BASHAW,

Son of Ali Bashaw Caramalli, of Tripoli.

Mr. Eaton to the Secretary of the Navy.

WASHINGTON CITY, *Dec.* 5, 1805.

SIR: Commodore Barron's instructions to Capt. Hull, of September 15, 1804, and my convention with Hamet Bashaw, of February 23, 1805, comprise all the obligations entered into with Hamet, copies of both which are in the offices, as are also the correspondences resulting therefrom. By perusing the Bashaw's letters from Syracuse, and by reviewing the transactions to which they refer, I cannot find that any additional observations of mine can throw more light on our transactions. It is impossible for me to undertake to say that the Bashaw has not been deceived. Nor can I, by any shape in which the subject can be viewed, reconcile the manner of his being abandoned with those principles of national justice and honor which have hitherto marked our character. The term *co-operation*, I always considered so nearly synonymous with *alliance*, that it would require the nicest distinction of diplomatic skill to discriminate the meaning, and hence supposed that an engagement to co-operate with Hamet Bashaw excluded the idea of using him as an instrument. This construction was the more readily admitted in this case, because until after we had proceeded far in the co-operation, I never heard a syllable of peace, neither from the President nor from yourself, nor from the Commander-in-chief, which did not look forward beyond an effort to chastise the enemy, and because I always felt a confidence, that such an effort, well conducted, would dethrone him. I really can offer no explanations on the subject, which are not to be found in my official communications, except a circumstance that I am aware modesty should conceal, but which was calculated, at all events, to save the honor and the interests of the United States harmless. On entering the ground of war with Hamet Bashaw, Mr. O'Bannon and myself united in a resolution to perish with him before the walls of Tripoli, or to triumph with him within those walls. In the former event we should have acquitted our duty; in the latter, glorified our country. We were supported by similar resolutions on the part of commanders in the squadron, and to encourage Hamet Bashaw to perseverance, and in order to move understandingly with him, I introduced the convention with him, which has been made the base of our treaty with his rival.

I have the honor to be, &c.

WILLIAM EATON.

Letter from Achmet Bashaw to the President of the United States.

SYRACUSE, *Aug.* 5, 1805.

SIR: For nearly eleven years I have been laboring under the weight of misfortune; but, notwithstanding which, my distress was never equal to that which the actual combination of circumstances has made it.

My residence was near Cairo, when there arrived in Alexandria a brig commanded by Captain Hull, in company with General Eaton, who came recommended to Mr. Briggs, His Britannic Majesty's Consul, and inquired of him where I could be found. My place of abode being made known, a courier was despatched for Cairo, by order of the General, and on his arrival at Razid, a second one, which came to Cairo, directed to the house of Tursuf Bashaw, an officer of the Ottoman Porte, who received a letter, in which he was requested to suffer me to pass without interruption, in order that I might co-operate with the Americans to take Tripoli. These things being communicated to me, caused me to reflect seriously whether they could be true or not. All doubts were dissipated by General Eaton meeting in Cairo my secretary, named Mahumed Mezaluna, to whom he consigned another paper, and, in company with two Maltese, arrived at Said, my place of residence, and delivered to me a despatch, urging me to leave that place immediately, in order that we might have a meeting (as really happened) in the city of Damintur, where the General was made known to me as one who had been sent thither by your Excellency for the conquest of the kingdom of Tripoli. I engaged to go with him to Syracuse, and also to keep myself secret, from which circumstance I was necessarily compelled to abandon all I possessed, and thus lose my horses, camels, &c. Previous to my leaving Damintur, General Eaton assured me that the peace would never be made, unless I was placed in my own seat (throne) and often swore by himself, that we would never take me from where I was for the sole purpose of making the conquest.

I did not, however, fail to suggest to the General, that in case Jussuf Bashaw should actually remain conqueror, what part he would take in my favor, as I should not be able to remain any longer in the Turkish dominions. I was answered, that if the combinations of war should prove favorable to Jussuf Bashaw, a pension would be granted me sufficient to maintain my family and suite; the people and money demanded by me, to effect this object, (for such a movement,) were ready; and that I had better expedite my secretary to Captain Hull, to inform him that the General had come to conduct me from Upper Egypt to Syracuse, but that I could not trust myself at sea in the manner he had. My envoy having executed his commission, arrived first in Syracuse, and afterwards in Malta, in consequence of the absence of Captain Hull from the first, (place,) and whom he afterwards found in the second place, (Malta,) and executed his embassy: he was answered by the same (Hull) that everything I could possibly want was ready, and in fact, there was sent me a vessel, laden with supplies and provisions, accompanied by the brig commanded by Captain Hull, which arrived at Bomba, delivering to the General and myself a despatch (to him directed) from the Commodore, in which he renders Hull responsible for everything I might want. I then asked for cannon, powder, and other warlike supplies, and was answered that a frigate was hourly expected, and that they would be sent to me. I afterwards left Bomba, in company with General Eaton, and we pursued our route towards Derne, arriving near it in twelve hours. Such a voyage made me extremely happy, as well as all my people, while the manner in which we were treated by the General excited universal admiration; his dignified soul (conduct) merits applause. We were scarcely on the twelfth hour of our voyage, when we saw a schooner, which brought us two pieces of cannon, and nothing more. After an attack of two hours, in which all the troops applaud and admire the courage of General Eaton, Derne was taken, (as the people of that country were much in our favor,) and in which attack the General was wounded in the hand.

After the capture of the city, we received from the chiefs of the brigands, letters offering to join us. After ten days a troop of cavalry and infantry (of the enemy) advanced; they were twice broken and put to flight by us. We now asked from the schooner, which had been sent us, people and arms, while there remained a respite and peace, and were waiting an answer respecting our demand for people and arms, in order that we might go and take Bergaza and Tripoli; in the meantime arrived a frigate, which we supposed had brought us people, but she landed a Turkish Ambassador from Jussuf Bashaw, who informed the General of the alliance of Jussuf Bashaw with your Excellency, saying that the said Bashaw would restore my family, and that your Excellency would give me, in the name of the United States, a pension. The same evening of the arrival of the frigate, the General informed me that I must embark with all my people; and thus was again compelled to abandon all I possessed—the General having prevented the Turkish Ambassador from landing, and thus we parted for Syracuse, where we found the whole squadron.

I daily expected my family, when finally I was told that he (the Bashaw) would not let them go. Having thus broken his word, I demanded of the General to be replaced in my own country, which was also denied me, saying that he had no orders to that effect from your Excellency, and it is thus I find myself in this country, with the small pension of two hundred dollars per month, and on which sum I am to support myself with a number of people. Such a state of things makes me

feel that the weight of misfortune has only increased, and, for the first time, am completely abandoned, and by a great nation. I therefore fling myself on the mercy of your Excellency, who, under the influence of just laws, will not fail to render me that justice which oppression and misfortune entitle me to.

With the hope of an early reply from your Excellency, I remain, &c.

ACHMET BASHAW,
Son of Ali Bashaw, &c.

Commodore John Rodgers to Samuel Barron, Esq.
[Received at Malta, June 2.]

CONSTITUTION, OFF TRIPOLI,
May 28, 1805.

SIR: On the 26th instant, by the Essex, Capt. James Barron, I had the honor to receive your letter bearing date 22d instant, with the accompanying letters, resigning the command of the United States squadron in these seas into my hands. The task which your unavoidable indisposition has consequently imposed on me, is a commission which I accept with a diffidence no less conspicuous than its consequence is repugnant to your zeal and patriotism; and, sir, while I commiserate your truly unpleasant situation, be assured that nothing will afford me more real satisfaction than such a restoration of your health as will authorize your re-assuming a command which devolved on me by mere accident.

A few hours after the arrival of the Essex here, she stretched close in shore, and made the signal indicative of her mission, which was immediately answered by the Bashaw on his castle, in a manner expressive of his unfeigned approbation; and in an hour after the Spanish Consul came on board by the Bashaw's order to make the suitable arrangements with Colonel Lear, previous to the opening of the negotiation, and to his going on shore; when, from the favorable representation by the Spanish Consul of the Bashaw's propitious disposition to peace, Colonel Lear resolved and had made arrangements for waiting on the Bashaw to commence his functions the next morning, but the weather has been so unsettled as to prevent further intercourse until this day.

From the same to the same.

MAY 29, 1805.

The arrival of the Vixen yesterday affords me the honor of acknowledging the receipt of your letter of the 26th instant, with the accompanying communications from Mr. Eaton, Mr. Davis, and Captain Hull, and happily before Colonel Lear had landed or touched even on the negotiation. Mr. Davis's communications contain information of importance, and their timely arrival will, I sanguinely flatter myself, enable Colonel Lear, (on whose judgment I have the fullest confidence) to assume an independence in negotiation, which it is equally his own and his country's honor and interest to observe. From the relation by Capt. Barron and Colonel Lear, of your last instructions to Mr. Eaton, I conceive it unnecessary for me to say anything further on that subject, as he has no doubt evacuated Derne, and is now on his return in the Argus to Syracuse or Malta; and as Col. Lear is of opinion with myself, that Mr. Davis's communications do not require an immediate answer, particularly as the negotiation is already opened with Tripoli, and personally with the Bashaw. So soon as the event, whatever it may be, is known, I shall despatch the Vixen to Malta to give you the intelligence, and if unfavorable to Captain Barron, to prepare our forces to compel the monster to a sense of reason. Although it is evident that the Bey of Tunis is afraid of the consequences of a war with the United States, yet, at this critical moment, I conceive it necessary that he should not be neglected; therefore, as soon as one of the vessels from this can be spared, I shall send her with advices to Mr. Davis, corroborating and seconding the steps you have already taken with that Regency, as it is my determination to respect the lawful rights of that gentleman with as much delicacy as I am resolved to pursue pacific measures no further than his conduct will authorize. A peace with this Regency will enable us to represent to him our opinion of his treachery in such language as he best understands.

From the same to the same.

MAY 30, 1805.

Yesterday the Spanish Consul returned on board again, empowered by the Bashaw to negotiate a peace, and although it appeared by his credentials that he was completely authorized to conclude a final settlement of differences with Colonel Lear, previous to his going on shore, yet he did not think Colonel Lear's propositions admissible, and, in consequence, returned on shore last evening to consult the Bashaw further on the business.

The Spanish Consul has this moment (10 A. M.) returned on board again, and says that the Bashaw is not satisfied with the propositions that have been made. How things will turn out is yet uncertain. Captain Barron will be able to give you the particulars. I have the honor, &c.

From the same to the same.

CONSTITUTION, OFF TRIPOLI, *June* 3, 1805.

SIR: By the sperronara you despatched from Malta, I have this instant received duplicates of the Government despatches you forwarded by the Nautilus, with Mr. Simpson's representations relative to our affairs with Morocco. I shall be at Malta in the course of three or four days after this reaches you, and in time, I hope, to send a force to Morocco to meet Mr. Simpson's wishes. The business is so far finished that a flag-staff is making on board the Constitution to display the American flag on the Consular house.

From the same to the same.

JUNE 3, 1805.

SIR: In all probability peace will be concluded with Tripoli to-morrow, in which case it is likely the prisoners will be on board the squadron to-morrow morning. Colonel Lear, who has not yet been on shore, goes to-morrow for the purpose of concluding matters. Captain Bainbridge, on parole, was on board the Constitution yesterday; he desires to be affectionately remembered to you and your brother.

The Bashaw is much humiliated, which he now himself confesses; and I think I can venture to say that it is the last war that this Regency will ever wage against the United States. None of the Philadelphia's officers have died—they are all well. This will be pleasing news to their friends.

In haste, I have the honor to be, &c.

General Eaton to Commodore Barron.

DERNE, *May* 29, 1805.

SIR: Since the departure of the Nautilus with my despatches of the 17th, the enemy have daily showed themselves in a menacing posture near us, but they have not come to a general action. Yesterday a detachment of about fifty or sixty of their foot, covered by a troop of horse, descended the mountain, by a ravine, fell upon some of our Arab families, who were encamped in the rear of the town, and drove off several cattle and camels. The Bashaw's people pursued and attacked them under the mountain, killed and wounded three of them, and recovered their cattle. I marched out with Lieutenant O'Bannon, Mr. Mann, and Mr. Farquhar, and thirty rank and file, Americans and Greeks, from the garrison, and took a ravine on the left with a view of cutting of their retreat. We fell in with them soon after ascending the mountain; they opposed to us a short resistance, but fled before a charge of bayonet. We pursued them within a short distance of their camp, killed their captain and five men, wounded a number, and took two prisoners, without receiving any injury ourselves. The camp beat to arms, mounted and moved towards us in a body, but did not come within musket shot. They could not ascertain our number, and apprehending we were an advanced party aiming to draw them into an ambuscade on disadvantageous ground, formed in order of battle and kept their post, while we retired down the mountain. The enemy swore vengeance, and resolved to execute it to-day. About nine in the morning they advanced their whole force, and posted themselves on an eminence in fair view; proper stations were taken on our part to receive them; they reconnoitered us awhile, but when orders were given to attack, their Arabs mutinied, and retrograded, and the Beys were compelled to follow with their Tripolitans.

JUNE 2.

To-day the enemy brought themselves to a resolution to attack. They had previously forced the Arabs into oaths of fidelity, by seizing and chaining hostages from their most considerable families; but their movements this day terminated exactly as on the 29th—the Beys attempted to force the Arabs forward; they resisted, and alleged, as on similar occasions, that they were willing to fight an enemy of their own mode of warfare, but they could not resist the Americans, who fired enormous balls that carried away a man and his camel at once, or rushed on them with bayonets, without giving them time to load their muskets.

Last evening I had the honor to receive your letter of the 19th ultimo, by which I learn that the reigning Bashaw of Tripoli has lately made overtures of peace, which the Consul General, Colonel Lear, has determined to meet, viewing the present moment propitious to such a step. In consequence of which it seems contemplated that we should withdraw ourselves from this coast.

It was an event anticipated in my letter of the 1st ultimo, that the reigning Bashaw would seize the moment, when he should apprehend himself seriously in danger from his brother, to rid himself of this rival by detaching from him our succor through overtures of peace. Facts establish the correctness of this conjecture.

That the inhabitants of Tripoli are weary of the war is well ascertained. That they secretly desire the restoration of their legitimate sovereign, because they believe him peaceably inclined, transpires through various indubitable channels; and that the Moors and Arabs of the kingdom, who form its entire population, are generally in a revolutionary state, is equally true. Joseph Bashaw is not ignorant of these dispositions. As early as the month of January last, he was, according to the Danish Consul, very attentive upon our transactions with his brother in Alexandria. On the 19th ultimo, late overtures had intimated to the Consul General his inclination towards a pacification; we had then been seventy-six days from Alexandria—thirty-five as far forward as Bomba, and twenty-one in possession of this place. Of these movements and operations, intercepted letters by way of Mensurat and Bengazi, prove to us the enemy were not uninformed. It is now nineteen days since his forces were beaten on this ground, and since that, detached parties surprised and routed. There are also events which cannot be easily concealed; it does not appear that the season has hitherto permitted any formidable display of our naval force before Tripoli. It cannot be unfair, therefore, to infer, that the pacific overtures of the reigning Bashaw are influenced in a great measure by apprehensions of his brother's approach. Yet it seems not to be admitted that we have any obligations towards Hamet Bashaw; but if such is the effect of the enemy's apprehension from this quarter, who certainly knows how to compare the relative influence of the parties, the calculations we have formed of the ultimate result of an effectual co-operation should no longer seem visionary. I do believe it was in the contemplation of Government to have profited of this advantageous circumstance, as instrumental to chastise a perfidious foe, rather than sacrifice a credulous friend. I know it was the general wish, and indeed the expectation of our country, that the enemy should be chastised. How far this

wish and expectation will be satisfied from the arrangements now in operation, time and events must determine. But I cannot, from any shape in which the subject can be viewed, be persuaded that the manner of serving ourselves of Hamet Bashaw, and abandoning him, can be reconciled to those principles of honor and justice which, I know, actuate the national breast. It seems enough to cancel every pledge that we have brought him back to the post from which he had been driven. It ought to be taken into consideration that this is no other than the post from whence he was always asked supplies; and that consequently, setting him down here, just as he was, can render him no essential service; but that, to abandon him here under actual circumstances, where famine and the ravages of the enemy's forces have exhausted the resources of the province, and while those forces are still in our vicinity, cannot but leave him in a more hopeless situation, than when he left the place. And here is an additional reason why his means are not materially altered for the better. He was driven away on account of his intercourse with the enemies of his rival. He has been induced to return under an expectation of receiving aids from the United States to prosecute his views of recovering his throne. I thought myself authorized, from the assurances given me by the Secretary of the Navy, to encourage him with the prospect of receiving those aids, and frequent expressions of your resolution to make an example of Tripoli. The ensuing summer fortified me in the confidence that the exercise of my discretion here in the manner I have done would eventually, if not directly, assist the accomplishment of those objects. The resistance we met at this place is said to have discouraged the expectation formed of the co-operation in view. This resistance would undoubtedly have been less obstinate, had not the vicinity of the enemy's camp in some measure inspired, or at least encouraged it. But it might have been expected that the Governor of Joseph Bashaw, who, twenty months ago, with forces from Tripoli, drove Hamet Bashaw from the post, and who still held possession, would oppose his return by all the means in his power.

Want of qualities essential in the character of a commander and a prince is stated as a serious obstacle to the advancement of his cause. We do not hitherto find that the enemy possesses those qualities in so eminent a degree as to justify a comparison to the prejudice of his rival. It must be admitted that the latter possesses the capacity of commanding respect, and conciliating affection among his subjects. And I have had good reasons to correct the unfavorable opinion at one time entertained of his military enterprise; yet he is not a general; I never knew but one Turk who, I thought, deserved that character. I am not alone in the opinion; it is general among the gentlemen who have acted with me, that Hamet Bashaw possesses talents sufficient to our purpose. As evidence of this, every one of them is not only willing, but solicitous to pursue the expedition.

With such aids as I have mentioned to be thought requisite, we could at once break up the enemy's camp in our front, and open our way, without further considerable impediments, to the gates of Tripoli. The enemy is aware of this, and is endeavoring to out-general us; his camp is abroad; of course his defence is weakened at the capital. The total defeat of his forces here would be a fatal blow to his interests. To recall them would be to abandon the provinces of Derne and Bengazi. But to remove the enemy near him by pacification, he may safely turn all his resources against his rival: and, when once relieved from this danger, we shall again undoubtedly have experience of his respect to treaty.

I am suspicious that the Spanish Consul has an influence in Joseph Bashaw's measures. If my recollection serves me, he was accused by our late Consul, Mr. Cathcart, of advising the war. I recollect perfectly well hearing him assert, at Tunis, in December, 1801, that the Americans miscalculated if they thought of forcing a peace without paying for it. National shame, perhaps interest, and individual pride, engaged him to favor such an issue of the war. He is said to be the confidential man of the Bashaw.

I am afraid one important consideration has been overlooked in the arrangements lately adopted by Mr. Lear—the danger of falling back to an irrecoverable distance, in case of the failure of the negotiation commenced by him, and at the same time the abandonment of the advantageous ground we hold here—it would certainly have a tendency to unite the kingdom of Tripoli against us, and possibly to encourage the whole coast of Barbary to aggression; or, should it transpire that the evacuation of this post had been recommended, it would certainly have an unfavorable influence on the pending negotiation.

Another consideration is involved, which cannot but wound the pride of military principles. We must strike the flag of our country here in the presence of an enemy who have not merited the triumph, and yield to them the honor of a victory, which no encounter hitherto has given them a right to claim, nor reason to expect; certainly they, and perhaps the world, will place an unjust construction on this retreat; at any rate it is a retreat, and a retreat of Americans! If individual feeling were alone to be consulted in this situation, it would prefer a manly defeat to this mode of safety. The consequences to the national character would be more honorable.

The burden of expense, which must accrue from pursuing the co-operation, seems an insurmountable obstacle. I am apprehensive that the ultimate expense of maintaining a peace with Joseph Bashaw will be more burdensome to the United States than that accruing from this co-operation; besides, it is calculated that this expense will be reimbursed.

It is insinuated that the Consul General is opposed to the measure. It is possible that he may have better information from whence to form an opinion of its issue than we who have thus far accompanied the expedition; but it is not probable. Has he any agency in the war?

I cannot but indulge the hope that additional instructions from Government will arrive in season, to enable yon to furnish the means of proseeuting the co-operation to effect, of chastising the temerity of our enemy, and of preventing the melancholy and disagreeable events which present appearances threaten. You would weep, sir, were you on the spot to witness the unbounded confidence placed in the American character here, and to reflect that this confidence must shortly sink into contempt and immortal hatred. You would feel that this confidence, at any price, should be carried through the Barbary Regencies, at least to Tripoli, by the same means that it has been inspired here. But if no further aids come to our assistance, and we are compelled to leave the place under its actual circumstances, humanity itself must weep. The whole city of Derne, together with numerous families of Arabs, who attached themselves to Hamet Bashaw, and who resisted Joseph's troops in expectation of succor from us, must be abandoned to their fate; havoc and slaughter will be the inevitable consequence. Not a soul of them can escape the savage vengeance of the enemy. In proceeding, therefore, thus far and no further, instead of lending aids to the unfortunate people, whom we used as allies, and of whose situation we are actually profiting, to our own exclusive benefit, we involve them in destruction. Could I have apprehended this result of my exertions, certainly no consideration would have prevailed on me to have taken an agency in a tragedy so manifestly fraught with intrigue, so wounding to humane feelings, and, as I must view it, so degrading to our national honor.

It is impossible, though enjoined on me, to say anything further of the squadron co-operating with Hamet Bashaw, after having been officially informed that a negotiation is opened with his brother, without so far having considered his situation as to have agreed on a cessation of arms. The delusion is already carried too far. If it had not been our intention to support him, or at least to save him, both honor and religion should have forbidden any encouragement to, or use of him.

It is said that some provisions will be attempted in his favor, in our peace stipulations; this is, however, to be left to convenience. But before this provision be definitely arranged, if at all, and information of it received here, no armistice being agreed to, both himself and adherents may be cut in pieces by the enemy's army here, and by such of his own party as disappointment and rage will carry over to them.

Viewing the present posture of affairs, either as relative to our national honor and interests, or the situation of the Bashaw and people here, I consider it due to the confidence of Government, and a bond imposed by all the injunctions of humanity, to endeavor to hold this post till the last moment, in hopes that some happy occurrence may take place to secure our own, at the same time, to assist the interests of our friends. And I most devoutly pray Heaven, that the blood of innocence may not stain the footsteps of us, who have aimed only to fight the enemies of our country.

June 3.

The enemy feinted another attack to-day, by sending a detachment on the back of the town, which was repelled with loss. Their object seemed to aim at ascertaining the disposition of the inhabitants of the place. These turned out to a man in view of them. Their main body halted at a safe distance; and, after some manœuvring, retired to their camp. During the alarm a detachment from the garrison, under command of Lieutenant O'Bannon, passed through town; everybody, age and childhood, even women from their recluses, shouted "Live the Americans! Long live our friends and protectors!" Hapless beings! if they could descry the reverse that probably awaits them, how justly would their acclamations of confidence be turned to execration!

June 5.

This morning a spy, a religious chief, whom I had employed to watch the enemy's motions, and who last night slept in their camp, reports that a courier arrived yesterday, eleven days from Tripoli, with despatches from the reigning Bashaw to his commander-in-chief in this vicinity, stating his intentions of concluding a peace with the United States, which he was resolved to carry into effect even if he sold his wardrobe: after which he should know how to dispose of his internal enemies. He enjoined it on his commander to hold his position before this town, if possible, till the issue of this project of peace should be known. The Mirabout chief added, that the Beys had it in contemplation to propose an armistice to me; I shall meet such an overture, if it should be offered, until I receive further advice from headquarters.

Eleven o'clock, A. M. this morning came in two deserters from the enemy's camp, both Levant Turks, Ismien and Mahamet, a choux and a cheriff, corresponding with the rank of aid-de-camp and ensign, who confirm the information before stated; and add that the Beys cannot prevail on their troops to attack this place, under our batteries and guns of the shipping; but that they calculate on sacking the city the moment we evacuate our posts. Their officers put themselves under the protection of the American flag, giving this reason for their preference, that "they wished to get out of the kingdom of Tripoli, and thought this a favorable occasion." They say Joseph Bashaw has about two hundred soldiers in Tripoli, in whom he can place confidence, and three or four hundred others who are undisciplined and suspected. They declare that the people, in general, of the kingdom, expect with solicitude and impatience the approach of Hamet Bashaw, as they think him a good man, and are weary of the madness and violence of his brother.

Five o'clock, P. M. this afternoon an Arabic chief, Ab'd'el Selim, with a party of warriors, came over to us. He brings a message from the principal Arab chief at camp, that he will come over to the Bashaw with his cavalry, amounting to about one hundred and fifty, if he can have assurances that the Americans will not abandon him,

in which case Joseph Bashaw would devour his family and lands. This chief asserts that the Bey of Bengazi, who is with the camp, is well disposed towards us; and only waits the arrival of our supplies to declare himself. Be assured, sir, we only want cash and a few marines to proceed to Tripoli, and to meet you in the citidel of that piratical kennel for the liberation of our captives. It would only occasion a delay of their release a few months. Their triumph will amply compensate this delay.

It is thought proper to despatch the Hornet with these communications, and hold ground here until your answer can be received.

JUNE 9.

Day before yesterday, Hadge Ismein Bey, the second in command of the enemy's army here, deserted with a few attendants and camels, took off the military chest, and entered the desert for Upper Egypt. This defection is said to have been caused by his being charged with bad generalship in the affair of the 13th ultimo. He commanded the cavalry.

JUNE 11.

Yesterday morning the enemy having received fresh reinforcements of Arabs, appeared in great numbers on the heights which overlook the town, and moved along the site of the mountain for the space of two or three miles, apparently in search of some avenue to descend without being exposed to our cannon; but seemed irresolute. An accident brought on an engagement. The declivity of the mountain is a steep and uneven ledge of rocks, with only one pass where cavalry can move down, and this about two miles and a half from town. The plain below, bordering on the sea about one mile in depth, is calcareous rock, and red earth, very much broken: in many places of which the brig's brass twelves could take effect, in others impeded by ridges near the shore. About half way between the town and the pass of the mountain, the Bashaw had posted a few cavalry to serve as videts. A detachment of the enemy, of superior numbers, descended the pass, with a view of cutting off this post, but they were manfully resisted and repelled. Reinforcements of small parties joined, and continued to join, on one side and the other, until about two o'clock, when the action became general. We were little more than spectators of the scene. The Argus, as often as the enemy were uncovered from the ridges, galled them with her shot from her long twelves, (the twenty-four pound carronades could not reach,) and we occasionally brought one of our field pieces to bear on them from our advanced battery. But the fire of the Hornet was lost, by reason of her being too near the shore, the high bluff of which covered the enemy. Captain Hull, who had the fairest opportunity of ascertaining it, judges there were five thousand men on the field. The engagement lasted four hours. Though frequently charged, the Bashaw lost not an inch of ground. At length the enemy gave way, and were pursued quite to the pass of the mountain, where a regard to safety compelled many of them to quit their horses, which fell into the hands of our friends. This action, though fought in a Barbary manner, was conducted judiciously on the part of the Bashaw, and the victory was decidedly his. The number of his killed and wounded is between fifty and sixty; among the latter, four of his principal officers. Some Arab women, who came in from the enemy's camp this morning, say that the Beys lost between forty and fifty killed, and upwards of seventy wounded. If we could have furnished but two hundred bayonets to assist a charge, and cut the pass of the mountain, not a horse should have escaped. Mr. O'Bannon was impatient to lead his marines and Greeks (about thirty in number) to the scene of action. This could not be done without leaving our post too defenceless in case of a reserve; besides, I confess I had doubts whether the measures lately adopted by our commissioner of peace would justify me in acting offensively any longer in this quarter. Had the aids come forward seasonably which he hoped to receive here, we might now have been at Cape Mensurat, and in fifteen days more at Tripoli.

Head winds have detained the Hornet, and a gale last night took the Argus to sea: as soon as she returns Captain Evans will be despatched to headquarters.

I have communicated, some days since, such parts of the contents of your letter of the 19th ultimo, as concern him, to Hamet Bashaw. He answers, that, even with supplies, it would be fruitless for him to attempt to prosecute the war with his brother, after you shall have withdrawn your squadron from the coast; but without supplies he must be left in a most forlorn situation, for he can command no resources here, nor can he place any faith in provisions which may be stipulated with his brother in his favor, except guarantied by the United States. He emphatically says, that, to abandon him here is not to co-operate with him, but with his rival! He wishes us to take him off in case of peace. I am extremely anxious to learn the issue of the negotiation.

Meantime, I have the honor to be, &c.

WILLIAM EATON.

SAMUEL BARRON, Esq.

A list of Commanders and Forces of Joseph Bashaw, defeated before Derne on the 10th June.

TURKS.

Hassien Bey, Commander-in-chief

Hadge Ismein Bey, commander of cavalry, deserted June 7th, and succeeded by the late Governor of Derne.

Muhamed Bey, of Bengazi, commander of infantry.

Mustapha Bey, of Derne.

Imhemed Bey, of Ogna, commander of the Arabs.

Draughts on the most considerable districts.

Tripolitans mounted,	-	-	-	270
Left Tripoli early in January, as is supposed from Captain Bainbridge's letter.				
District of Mensurat, mounted	-	-	-	90
Imselletti,	-	ditto	-	30
Issileiti,	-	ditto	-	30
Issiheli,	-	ditto	-	75
Province of Bengazi,	ditto	-	-	90

Ieiberna Arabs,	-	ditto	-	260
Haddud Arabs,	-	ditto	-	100
Total cavalry,	-	-	-	945
Infantry, including Arabs	-	1,250		1,600
Refugees from Derne	-	350		
				2,545
Recruits up to 10th June	-	-	-	500
Total,	-	-	-	3,045

The germ of this army had been five months in the field, had moved through the greatest extent of the kingdom, and, with every exertion to augment its strength, could only bring this small number to the field. Why? Want of cash on the part of Joseph Bashaw, and want of attachment on the part of his subjects. Though we were enough, with Hamet Bashaw, to defeat this force, we had not the means of pursuing the advantage. Why?

Mr. Davis to the Secretary of State.

TRIPOLI, *June* 2, 1807.

SIR: I arrived at this place on the 7th ultimo, and on the 10th communicated to the Minister of Foreign Affairs, Sidi Dghies, my orders relative to the execution of the third article of the treaty. He expressed some surprise at the demand, and instantly handed me the secret article, (of which I have the honor to enclose you a copy,) and promised to take an early opportunity of acquainting the Bashaw.

On the morning of the 11th, the Minister of Marine, brother-in-law to the Bashaw, waited on me at an early hour, and asked me, in the name of his Excellency, to repeat what I had stated the other day before the minister Sidi Dghies. He said it was so strange, that his master supposed there must be some misunderstanding; that everybody knew the opposition which was made to that article on the part of the Bashaw, even in the form it stood; and that my Government must be convinced that time had not lessened the difficulties annexed to its execution; that it appeared very inconsistent for me to present assurances of our friendship, while I came instructed to violate the most sacred article of our treaty. I informed him that I only wanted an answer to the demand I had made, by which my future conduct would be regulated; and as his comments could not possibly affect the measures my Government had resolved to take, they might very well be spared.

When I retired, I waited on the minister Sidi Dghies, who had not received any answer from the Bashaw. His impressions were, that my exertions to obtain the release of the family would prove fruitless, and suggested the propriety of my acquainting the Government with the nature of the secret article, which he supposed, from my instructions, they must be ignorant of. I expressed the wish of having an early answer, and informed him, that, as the line of conduct I was to pursue, in case of a refusal, had been directed by the Government, a delay of that kind was very unnecessary, and that he might not be aware of the consequences which might result from the inexecution of the treaty. He requested me to call again the next day.

On the morning of the 12th we again waited on the Minister, who received us with a forced gaiety, and, after some desultory conversation, asked if I was not of his opinion, that it would be better to wait an answer from the President than to carry things to a serious extreme; that the Bashaw appeared much displeased, and very unhappy, and certainly would not make such a sacrifice for nothing.

I asked if that was to be considered as a definitive answer from his master. He hesitated, and evaded an answer. I assured him that it was unnecessary for us to speak at a distance; that I requested an immediate answer from the Bashaw; that the brig could be detained no longer; and that the family or myself must embark on board.

A short time after we had left him, he sent Mr. Ridgley, and requested I would join him in half an hour. On entering his apartment, I found him walking with extreme agitation. He requested Mr. Ridgley to explain to me the object of his visit. Mr. Ridgley prefaced his observations by saying that he was fully satisfied of the Minister's sincerity, and hoped it would influence my conduct. The Minister told him he feared for his life, and explained some traits in the Bashaw's character, and reasons which made him so tenacious on this point; that his friendship for the exile was known, and had drawn upon him great and powerful enemies; that my persevering so warmly in the demand might induce the Bashaw to believe that he (the Minister) supported rather than opposed me; that he would make considerable pecuniary sacrifice to obtain my wishes; and, that it might be successful, solicited me to ask the family as a favor rather than demand it as a right; the Divan had been called, and I would be received by them at the castle; that he would be the interpreter, opposing me warmly in *lingua Franca*, but would take a very different part in Arabic; and concluded with some warm ejaculations for the happy termination of the affair.

I thanked the Minister for his friendship, and assured him of my compliance with his wishes; that his confidence in me induced me to add that the expectations of my Government were not restricted to the delivery of the family; that I was instructed to demand an establishment for them. He said, if the first was granted, there would be no great difficulty in the second, to a moderate degree.

At half-past nine, P. M. I was sent for to the castle, where we found the Divan assembled, when my orders were again made known, and each in his turn offered his comments on the secret article; and, after considerable discussion, the Bashaw addressed himself to me, and requested my opinion on the line of conduct he ought to pursue; that he had strong reasons for wishing to retain the family, and that he had justice on his side. I told his Excellency that I could foresee no possible ill which could result to him from their immediate

delivery, but that his retention of them would do us considerable injury; that our treaty was known to all the world, and our public faith pledged in their behalf; that his brother had co-operated with us, and to deceive him in such a tender point was to disgrace us as a nation. He asked if I would certify that the treaty had been ratified: to which I consented, provided he would execute the third article. He replied that the acts of no individual should again involve him with us, and that the wishes of our Government should be complied with. I thanked him, and informed him that the wife of the Bey and the other married sister were permitted to remain; at which the Divan expressed much satisfaction.

On the 23th I waited on the Minister to learn when they would be ready to embark, and requested that their slaves, effects, &c. would not be withheld; to which he consented. I told him that I had now a favor to solicit, which was, that some establishment should be made for the children. He assured us that he had made a considerable pecuniary sacrifice to release them; that the Bey was much disposed to do something for the mother and brothers of his wife; and, in order that no discontent might remain on our part, he would engage that they should be provided for, and that he would give something handsome towards it himself. I told him that he should not lose by his liberality, and that the expenses he had incurred would be remunerated him by the United States; the exact amount of his sacrifices will be ascertained, and I shall trust to his Excellency the President to make good my assurances.

Captain Dent's orders being to sail in the evening, and it requiring some time to prepare and clothe the family, I could not avail myself of this opportunity of sending them to Syracuse. The same reason prevented my writing by the Hornet.

I have the honor to enclose you copies of my letters to Commodore Campbell and his Excellency Acmet Bashaw. The Minister Dghies holds his public situation from policy, perhaps necessity. He is wealthy, and the greatest sufferer in all serious difficulties. He possesses considerable talents, and which I am sure will never be used to foment a war with any Power. The concessions we have obtained here are unprecedented, and every circumstance tends to impress me with the belief that we are not placed beneath England or France.

With profound respect and consideration, I have the honor to be, sir, your most obedient servant.

GEORGE DAVIS.

James Madison, Esq.

[Secret article of the treaty, enclosed inthe foregoing letter.]

Whereas His Excellency the Bashaw of Tripoli has well grounded reasons to believe, if the wife and children of his brother should be delivered up to him immediately on his leaving his (the Bashaw's) dominions, as expressed in the third article of the Treaty of Peace and Amity concluded between the United States of America and the Bashaw of Tripoli on the fourth day of the present month, that he, the said brother, would engage in new operations of hostility against him, to the disturbance of the internal tranquillity of his dominions; and the said United States being willing to evince their good disposition to preserve the said treaty with sincerity, and that tranquillity should be secured in the dominions of the said Bashaw, do hereby agree to a modification of the said article of the treaty aforesaid, so that the term of four years, from the conclusion of said treaty, shall be fixed for the execution of the engagement of the Bashaw to deliver to his brother his wife and children; during which time the said brother is to give evident proofs of his peaceful disposition towards the Bashaw, and of his determination not to disturb the internal tranquillity of his dominions.

Given under my hand and seal, at Tripoli, in Barbary, this fifth day of June, in the year one thousand eight hundred and five.

TOBIAS LEAR, *Commissioner.*

GREAT BRITAIN AND FRANCE.

[Communicated to Congress, January 17, 1806.]

To the Senate and House of Representatives of the United States:

In my Message to both Houses of Congress at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usage of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develope these principles and practices which are producing the most ruinous effects on our lawful commerce and navigation.

The right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country, (with the exception of blockaded ports and contraband of war,) was believed to have been decided between Great Britain and the United States by the sentence of their Commissioners, mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of the damages awarded by them against Great Britain for the infractions of that right; when, therefore, it was perceived, that the same principle was revived, with others more novel, and extending the injury, instructions were given to the Minister Plenipotentiary of the United States at the Court of London, and remonstrances duly made by him on this subject, as will appear by documents transmitted herewith: these were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on rights too evident and too important to be surrendered. In the meantime, the evil is proceeding under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

On the impressment of our seamen our remonstrances have never been intermitted. A hope existed at one moment of an arrangement which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, has been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our Minister at London, now communicated.

TH. JEFFERSON.

January 17, 1806.

Department of State, *Jan.* 25, 1806.

The Secretary of State, to whom the President has been pleased to refer the resolution of the Senate, dated on the 10th instant, has the honor to make the following report:

The most important of the principles interpolated into the law of nations, is that which appears to be maintained by the British Government and its prize courts, that a trade opened to neutrals by a nation at war, on account of the war, is unlawful.

This principle has been relaxed, from time to time, by orders, allowing, as favors to neutrals, particular branches of trade, disallowed by the general principle; which orders have, also, in some instances, extended the modifications of the principle beyond its avowed import.

In like manner, the last of these orders, bearing date the 24th of June, 1803, has incorporated with the relaxation, a collateral principle, which is itself an interpolation, namely, that a vessel on a return voyage is liable to capture by the circumstance of her having, on the outward voyage, conveyed contraband articles to an enemy's port. How far a like penalty, attached, by the same order, to the circumstance of a previous communication with a blockaded port, would likewise be an interpolation, may depend upon the construction under which that part of the order has been, or is to be, carried into execution.

The general principle, first above stated, as lately applied to re-exportations of articles imported into neutral countries from hostile colonies, or *vice versa*, by considering the re-exportation, in many cases, as a continuation of the original voyage, forms another interpolation, deeply affecting the trade of neutrals. For a fuller view of this and some other interpolations, reference may be had to the documents communicated with the Message to Congress of the 17th instant.

The British principle which makes a notification to foreign Governments of an intended blockade equivalent to the notice required by the law of nations, before the penalty can be incurred; and that which subjects to capture vessels, arriving at a port, in the interval between a removal and return of the blockading force, are other important deviations from the code of public law.

Another unjustifiable measure is the mode of search practised by British ships, which, instead of remaining at a proper distance from the vessel to be searched, and sending their own boat with a few men for the purpose, compel the vessel to send her papers in her own, and sometimes with great danger from the condition of the boat and the state of the weather.

To these instances, without adverting to others of an inferior or less definite character, in the practice of Great Britain, must be added the assumed right to impress persons from American vessels, sailing under the American flag on the high seas. An explanation of this practice will be found in the extract from the instructions to Mr. Monroe, communicated with the Message of the President above referred to.

Among the interpolations introduced by the French Government, is a decree dated June 6, 1805, (18th Prairial, 13th year.) importing that every privateer of which two-thirds of the crew should not be natives of England, or subjects of a Power the enemy of France, shall be considered as pirates.

Another is evidenced by the result of an application made by the deputy Consul of the United States, at Cadiz, through the French Consul, to Admiral Villeneuve, for the liberation of some seamen of the United States, who were on board the French fleet under his command. The answer of the Admiral, dated 29th August last, (11th Fructidor, 13th year.) states that "a decision of His Imperial and Royal Majesty provides that every foreigner found on board the vessels of war or of commerce of the enemy, is to be treated as a prisoner of war, and can have no right to the protection of the diplomatic and commercial agents of his nation."

Other unjustifiable innovations on the law of nations are exemplified in the decree of General Ferrand, lately passed at the city of St. Domingo, a translation of which is annexed.

The irregular mode of search above described is also practised by the cruisers of France and Spain.

The cruisers of the two latter Powers have harassed the commerce of the United States in various other forms, but as it is not known or believed that their conduct has been prescribed or sanctioned by the public authority of their respective nations, they are not considered as falling within the purview of the resolution of the Senate.

All which is respectfully submitted.

JAMES MADISON.

In the name of the Emperor.—Decree.

Headquarters of St. Domingo,
20*th Vendemiaire*, 14*th year*, (6*th June*, 1805.)

We, Louis Ferrand, General of Brigade, Commander-in-Chief, Captain General, pro tempore, member of the Legion of Honor:

Whereas our decrees of the 8th Thermidor, in the twelfth year, and thirteenth Messidor, of the thirteenth year, as well as our instructions to the owners and captains of privateers of the 29th Prairial, in the same year, can have left no doubt of the sentiments which we have repeatedly expressed for the respect due to the freedom of navigation and neutral rights; that those principles have been scrupulously adhered to by the administrative and judicial authorities, under our directions, in several decisions or judgments rendered by them in cases of capture, and releasing several captured vessels.

Considering that we had a right to hope from our candor a just reciprocity on the part of the Governments of the neighboring neutral countries, and their concurrence, by the measures which are in their power, to cause to be observed by their subjects the treaties which bind them to France, as also to restrain the infamous cupidity of those who, contrary to the law of nations, supply the revolted blacks by means of a trade, the suppression of which is required by our personal responsibility to the Emperor of the French.

Considering that, far from having obtained the end which we expected from this frank and loyal conduct, the rigor of our principles in favor of neutral flags has become, to many, a stimulus to their rapacity, and that it results from papers found on board of prizes lately condemned; that the greater proportion of neutral vessels, sailing from the rebels' ports, are very carefully and methodically cleared for the ports of Dominique, Tobago, St. Thomas, Curaçoa, Jamaica, Havana, Baraçoa, St. Jago de Cuba, &c.

Considering that the officers of the customs, in several ports of the United States of America have even had the impudence to give official clearances to neutral vessels for the ports occupied by the rebels, and that, in many instances of this kind, they have used the signature of President Jefferson, whose justice was doubtless surprised.

Considering that, from the voluminous correspondence found on board the captured vessels since our decree of the 23d Messidor, it results that several of the most respectable mercantile houses of New York, Philadelphia, Baltimore, &c., have for so long a time past, kept up a continued intercourse with the revolted blacks, and have habitually supplied them with every sort of provisions and warlike stores.

Considering that powerful equipments of neutral vessels, for war and merchandise, have been made in the ports of the United States to protect this infamous commerce; that the brig Jane, of Baltimore, Captain Kennedy, of sixteen guns, and sailing from a port of the rebels, has lately been boarded and captured, after a bloody engagement, by the French privateer, the Superb, Captain Dominique;

Considering that it is notorious that the America of thirty-two guns, the Connecticut of twenty-two, the Indostan of fourteen, and several other American vessels of that description, are not only engaged in that execrable commerce, but actually transport the arms and ammunition of Dessaline's army from one port to another, thereby becoming the auxiliaries of the black rebels against France.

Considering that such conduct, on the part of the subjects of the United States of America, cannot be avowed by that Government without acknowledging explicitly the independence of the black rebels of St. Domingo, and provoking an open rupture with France.

Considering that the twenty-sixth article of the convention, of the 30th of September, 1800, ratified 31st July, 1801, expressly prohibits the citizens of both the contracting parties to receive, protect, conceal, harbor, or assist any pirate, and that, notwithstanding, vessels armed under the American flag daily convoy, and sail in concert with vessels of the negroes, bearing a flag unknown amongst the civilized Powers, and consequently pirates; which is evidently an infraction of that article of the convention of which we have carefully executed the clauses within the extent of our Government.

Considering, finally, that it is our duty, and for which we are responsible, to put a stop, by every effort in our power, to such outrageous abuses, which tend to furnish profusely the black rebels with the means of carrying on their rebellion, and opposing an obstinate resistance to His Imperial Majesty's arms, when they shall be directed against them, have decreed, and do decree:

Article 1. All vessels taken either with direct clearances for ports occupied by the rebels, or coming out from them with clearances from the custom-house, or plausibly suspected of a masked clearance, the better to insure their communication with the rebels, may be conducted into the ports of neighboring islands, either neutral or allied, showing, nevertheless, a legitimate cause opposing their carrying them directly to St. Domingo or Jamaica, derogating, in that instance, from our decree of the 13th Messidor last. Captains General, Governors, and commanders in these islands, who can no longer doubt the obligations whereby all nations ought to concur in measures to suppress the rebellion in that of St. Domingo, shall be invited to authorize the entry of these vessels into their ports.

Art. 2. In this case, conformably to our instructions of the 29th Prairial last, the functions of our agents or delegates are limited to the putting on or taking off the seals; selecting the documents found on board; receiving the declarations and interrogatories; authorizing provisional sales if there should be imminent danger of damage which shall be proved, and in which case they shall make a process verbal of the unloading, an inventory of appraisement, and judicial sale by adjudication at auction; the proceeds of which shall be deposited, either in the hands of a solvent merchant, or in those of the delegate, to be remitted after definitive judgment to the party in whose favor the judgment shall be rendered.

Art. 3. The suit being concluded, the abovementioned proceedings relative thereto, as well as the ship's papers inventoried, without subtracting under any pretext whatever the invoices or bills of lading, shall be addressed to the chief of administration of the Marine of St. Domingo, in originals, who shall transmit them to the competent tribunal to take cognizance thereof; and as the original papers might be lost, it shall be the duty of the agent or delegate of St. Domingo to deposit in his office collated copies thereof, which copies, in such case, legally proved, shall acquire the full effect and force of the original papers.

Art. 4. It shall besides be their duty to join to the above-mentioned paper an order on demand agreeing with the invoices, bills of lading, process verbal of the unloading, appraised inventory, and provisional sale, on which order on demand shall be stated the amount of duties due to Government, calculated at five per cent., which duties shall be rigorously paid at St. Domingo by the certifier of the security of the letter of marque before granting a copy of the judgments of condemnation; and it is expressly forbid that the Registers deliver it, without a certificate from the collector of the duties of invalids, testifying the receipt of those duties, which shall be attached to the original of the said judgment.

Art. 5. Conformably with the decree of the 12th Vendemiaire, 11th year, (October 3, 1803,) all the prizes made in contravention of the provisions of the laws and regulations concerning foreign commerce with the colony, shall continue to be adjudged by the ordinary tribunal of first instance at St. Domingo, with an appeal to the special commission established conformably with the same decree for deciding in the last resort; but having regard to the just representations of the owners of privateers, and on account of the considerable expense their equipments occasion, they shall not be liable to the expense of the process, further than to the mere fee for copies of the judgment, fixed at forty-four francs for each of the secretaries, both of the tribunal of first instance and the special commission of appeal. There shall be raised upon the produce of the duties paid in the bank of invalids in the marine, a sum to be divided in the form of a gratification among the members of the tribunal of the first instance and those of the commission of appeal, designated by us to participate therein. The sum may not, in any case, exceed the fifth of that paid into the bank for the duties of any one prize; derogating thus far from the eighty-eighth and eighty-ninth articles of our regulation upon the organization of the Judiciary, dated the fifth of last complementary day, of which we suspend, as to those kind of judgments only, the execution until peace, when they shall resume their force and vigor. We, moreover, promise that we will take care, that the greatest celerity be used in all the proceedings relative to prizes.

Art. 6. Our agents or delegates in the neighboring neutral islands, in cases wherein they have proceeded to the institution of process concerning prize, shall receive, for their fee of agency, half per cent. upon the amount of the sales; but they shall not demand any fee of attendance for the crier employed in them.

Art. 7. In case of a judgment of condemnation, the agents or delegates of St. Domingo are bound to state, within three months, the accounts of liquidation and distribution of the proceeds of sales in the form prescribed by the laws, and to address them to the colonial inspector, in order that he may superintend their verification and registry or deposit.

Art. 8. At the time of the transmission of the proceedings and ship's papers to St. Domingo, our agents or delegates are to send us, as soon as possible, the captains, supercargoes, mates, sailors, and passengers, who shall have been taken on board of vessels detained in the act, and in evident communication with the ports of the rebels, appearing by clearances which they may have for those ports, or by those they may have received from the rebels; in order that they may be prosecuted according to the rigor of the laws.

As to captains, whose contravention may not be evidenced by the documents found on board, they shall be informed of the transmission of the ship's papers and proceedings to St. Domingo, with the offer to go with them, if they think proper, and with an express summons in every case to appear, by procuration or in person, within fifteen days, before the judges, who are to take cognizance of the stopping of their vessel, in order there to defend their rights. Mention shall be made of their acquiescence or refusal, in the declaration which shall be taken from them for the purpose.

Art. 9. The agents or delegates of St. Domingo are required to collect, with the greatest care, all the letters and documents which shall be found in vessels detained for communications with the rebels; to take away for the purpose of annexing to the process, only those which may give elucidations concerning the validity of the capture; and to transmit directly to us the remainder, by the most prompt and safe opportunities.

Art. 10. These letters and documents shall be dissected in our secretary's office by the interpreters of the Government; the documents shall be separated, which show the owners, insurers, freighters, merchants, dealers, captains, supercargoes, and others, connected by commercial relations or interests with the revolted blacks; which documents specially marked by the President Regent of the imperial audience or court of appeal, filling here the station of commissary of justice, shall be deposited as proofs of the offences, with those which are already in the registry of the special commission of appeal, established by the decree of the Government of the 12th Vendemiaire, 11th year, to adjudge the captures for contravention of the provisions of the laws and regulations concerning foreign commerce with the colony.

Art. 11. A list shall be drawn up by the same magistrate of the owners, insurers, freighters, merchants, traders, captains, supercargoes, and others, connected by commercial relations or interests with the rebels, and designated in the correspondence and documents deposited as proofs of the offences: at the head of this list shall be placed the owners and others interested in the vessels, stopped in the fact, and condemned as such from their clearances, either directly for the ports

of the rebels, or proving that they are coming therefrom by receipts of duties, &c. The same operation shall take place every month. Copies of these lists shall be be delivered to every cruiser bearing our letters of mart.

ART. 12. Every vessel whatsoever, under whatsoever flag it may navigate, on board of which shall be be found invoices, bills of lading, and other documents, having a direct relation to one or more of the persons contained upon the list directed by the preceding article, shall be provisionally detained, without any regard to the distance of the territorial sea or place in which it may have been found, and shall be carried into port to be there examined. There, after the most exact researches, which shall be made by the competent tribunals, it shall be decided whether there be or not a ground of confiscation and condemnation, either of the vessel or of the whole or part of the cargo only; but in no case may the captured captain claim from the capturing cruiser any indemnity for the deviation from his route, or the delay in his voyage. Even the costs of suit shall, in this case, be borne by the captains.

ART. 13. Every cruiser, which shall take a vessel at anchor in a port occupied by the rebels, or navigating under the *indegine* flag, shall be exempt from all duties for his prize.

ART. 14. Every cruiser which shall enter at St. Domingo, and convey provisions thither in case of a siege, shall enjoy the same exemption during a cruise of six months.

ART. 15. The present decree shall be transcribed upon the registers of the colonial inspections, of the tribunal of first instance, and of the special commission of appeal, adjudging, in the last resort, captures for contravention of the provisions of the laws and regulations concerning foreign commerce with the colony; it shall be transmitted to our agents and delegates, with an injunction to conform thereto; to the Governors and commandants of allied and neutral islands; to the Minister Plenipotentiary of France to the United States of America; and, finally, to His Excellency Monseigneur, the Minister of Marine and the Colonies; in order to avail ourselves of every effort in order to repress a shameful and hostile traffic which tends to nourish the most odious of rebellions.

L. FERRAND.

On the subject of Impressments.

Extract of a letter from the Secretary of State to James Monroe, Esq., dated

JANUARY 5, 1804.

We consider a neutral flag on the high seas as a safeguard to those sailing under it. Great Britain, on the contrary, asserts a right to search for, and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas, under the protection of the American flag.

Were the right of Great Britain in this not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise. But the right is denied, and on the best grounds.

Although Great Britain has not yet adopted, in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it, by the law of nations. She must produce, then, such an exception in the law of nations in favor of the right she contends for. But in what written and received authority will she find it? In what usage except her own will it be found? She will find in both, that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in the war, nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemies' property of any kind. But nowhere will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war, by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign to enforce his claims to the allegiance of his subjects, on board neutral vessels, on the high seas. On the contrary, whenever a belligerent claim against persons on board a neutral vessel is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not, then, from the law of the usage of nations, nor from the tenor of treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended, that the sovereignty of any nation extends in any case whatever beyond its own dominions, and its own vessels on the high seas. Such a doctrine would give just claims to all nations, and more than anything would countenance the imputation of aspiring to a universal empire of the seas. It would be the less admissible, too, as it would be applicable to times of peace, as well as to times of war, and to property as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas, on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If the reason alleged for it be good in time of war, namely, that the sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occasion for which he may want their services, nor is external danger the only danger against which their services may be required for his security. Again, if the authority of a municipal law can operate on persons in foreign vessels on the high seas, because within the dominion of their sovereign they would be subject to that law, and are violating that law by being in that situation, how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported? and every commercial regulation in time of peace, too, as well as of war, would be made obligatory on foreigners and their vessels, not only whilst within the dominion of the sovereign making the regulation, but in every sea, and at every distance, where an armed vessel might meet with them. Another inference deserves attention. If the subjects of one sovereign may be taken by force from the vessels of another, on the high seas, the right of taking them when found implies the right of searching for them, a vexation of commerce, especially in time of peace, which has not yet been attempted, and which, for that, as well as other reasons, may be regarded as contradicting the principle from which it would flow.

Taking reason and justice for the test of this practice, it is peculiarly indefensible, because it deprives the dearest rights of persons of a regular trial, to which the most inconsiderable article of property, captured on the high seas, is entitled, and leaves their destiny to the will of an officer, sometimes cruel, often ignorant, and generally interested, by his want of mariners, in his own decisions. Whenever property found in a neutral vessel is supposed to be liable on any ground to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable, then, or just, that a belligerent commander who is thus restricted and thus responsible, in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into instant execution, by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers? Reason, justice, and humanity, unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is, that the similarity of language and of features between American citizens and British subjects, are such as not easily to be distinguished, and that without this arbitrary and summary authority to make the distinction, British subjects would escape, under the name of American citizens, from the duty to which they owe to their sovereign. Is, then, the difficulty of distinguishing a mariner of one country from the mariner of the other, and the importance of his services, a good plea for referring the question whether he belongs to the one or the other, to an arbitrary decision on the spot, by an interested and irresponsible officer? In all other cases the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object, is to admit that the object is unjustifiable; since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die when viewed in its practice as well as in its principles. Were it allowable that British subjects should be taken out of American vessels on the high seas, it might at least be required that the proof of their allegiance should lie on the British side. This obvious and just rule is, however, reversed; and every seaman on board, though going from an American port, and sailing under the American flag, and sometimes even speaking an idiom proving him not to be a British subject, is presumed to be such unless shown to be an American citizen. It may safely be affirmed that this is an outrage and an indignity which has no precedent, and which Great Britain would be among the last nations in the world to suffer if offered to her own subjects and her own flag. Nor is it always against the right presumption alone, which is in favor of the citizenship corresponding with the flag, that the violation is committed. Not unfrequently it takes place in defiance of the most positive proof, certified in due form by an American officer. Let it not be said, that in granting to American seamen this protection for their rights as such, the point is yielded, that the proof lies on the American side, and that the want of it in the prescribed form justifies the inference that the seamen is not of American allegiance. It is distinctly to be understood, that the certificate usually called a protection to American seamen, is not meant to protect them under their own or even any other neutral flag, on the high seas. We can never admit, that in such a situation any other protection is required for them, than the neutral flag itself on the high seas. The document is given to prove their real character, in situations to which neither the law of nations nor their own country are applicable, in other words, to protect them within the jurisdiction of the British laws, and to secure to them, within every other jurisdiction, the rights and immunities due to them. If, in the course of their navigation even on the high seas, the document should have the effect of repelling wrongs of any sort, it is an incidental advantage only of which they avail themselves, and is by no means to be misconstrued into a right to exact such a proof, or to make any disadvantageous inference from the want of it.

Were it even admitted that certificates for protection might be justly required in time of war, from American seamen, they could only be required, in cases where the lapse of time from its commencement had given an opportunity for the American seamen to provide themselves with such a document. Yet it is certain, that in a variety of instances seamen have been impressed from American vessels, on the plea that they had not

this proof of citizenship, when the date and places of impressments demonstrated the impossibility of their knowing in time to provide the proof that a state of war had rendered it necessary.

Whether, therefore, we consult the law of nations, the tenor of treaties, or the dictates of reason and justice, no warrant, no pretext can be found for the British practice of making impressments from American vessels on the high seas.

Great Britain has the less to say in excuse for this practice, as it is in direct contradiction to the principles on which she proceeds in other cases. Whilst she claims and seizes, on the high seas, her own subjects voluntarily serving in American vessels, she has constantly given, when she could give, as a reason for not discharging from her service American citizens, that they had voluntarily engaged in it. Nay more, whilst she impresses her own subjects from the American service, although they may have been settled and married, and even naturalized in the United States, she constantly refuses to release from her service American citizens impressed into it, whenever she can give for a reason that they were either settled or married within her dominions. Thus, whenever the voluntary consent of the individual favors her pretensions, she pleads the validity of that consent. When the voluntary consent of the individual stands in the way of her pretensions, it goes for nothing. When marriage or residence can be pleaded in her favor, she avails herself of the plea. When marriage and residence, and even naturalization, are against her, no respect whatever is paid to either. She takes by force her own subjects voluntarily serving in our vessels. She keeps by force American citizens involuntarily serving in hers. More flagrant inconsistencies cannot be imagined.

Notwithstanding the powerful motives which ought to be felt by the British Government to relinquish a practice which exposes it to so many reproaches, it is foreseen that objections of different sorts will be pressed on you. You will be told, first, of the great number of British seamen in the American trade, and of the necessity for their services in time of war and danger. Secondly, of the rights and the prejudice of the British nation with respect to what are called the British or Narrow Seas, where its domain would be abandoned by the general stipulation required. Thirdly, of the use which would be made of such a sanctuary as that of American vessels, for desertions and traitorous communications to her enemies, especially across the channel to France.

1st. With respect to the British seamen serving in our trade, it may be remarked, first, that the number, though considerable, is probably less than may be supposed; secondly, that what is wrong in itself cannot be made right by considerations of expediency or advantage; thirdly, that it is proved by the fact, that the number of real British gained by the practice in question is of considerable importance, even in the scale of advantage. The annexed report to Congress on the subject of impressments, with the addition of such cases as may be in the hands of Mr. Erving, will verify the remark in its application to the present war. The statement made by his predecessor during the last war, and which is also annexed, is in the same view still more conclusive. The statement comprehends not only all the applications made by him in the first instance, for the liberation of impressed seamen, between the month of June, 1797, and September, 1801, but many also which had been made previous to this agency, by Mr. Pinckney and Mr. King, and which it was necessary for him to renew. These applications, therefore, may fairly be considered as embracing the greater part of the period of the war; and as applications are known to be pretty indiscriminately made, they may be further considered as embracing if not the whole, the far greater part of the impressments, those of British subjects as well as others. Yet the result exhibits two thousand and fifty-nine cases only, and of this number one hundred and two seamen only, detained as British subjects, which is less than one-twentieth of the number impressed; and one thousand one hundred and forty-two discharged, or ordered to be so, as not being British subjects, which is more than one-half of the whole number, leaving eight hundred and five for further proof, with the strongest presumption that the greater part, if not the whole, were Americans or other aliens, whose proof of citizenship had been lost or destroyed, or whose situation would account for the difficulty and delays in producing it. So that it is certain that, for all the British seamen gained by this violent proceeding, more than an equal number who were not so were the victims; it is highly probable that, for every seaman gained, a number of others, less than four to one, must have been the victims, and it is even probable that this number may have exceeded the proportion of twenty to one.

It cannot, therefore, be doubted that the acquisition of British seamen, by these impressments, whatever may be its advantage, is lost in the wrong done to Americans ignorantly or wilfully mistaken for British subjects, in the jealousy and ill-will excited among all maritime nations by an adherence to such a practice, and in the particular provocation to measures of redress on the part of the United States, not less disagreeable to them than embarrassing to Great Britain, and which may threaten the good understanding which ought to be faithfully cultivated by both. The copy of a bill brought into Congress under the influence of violations committed on our flag, gives force to this latter consideration. Whether it will pass into a law, and at the present session, is more than can yet be said. As there is every reason to believe that it has been proposed with reluctance, it will probably not be pursued into effect, if any hope can be supported of a remedy by an amicable arrangement between the two nations.

There is a further consideration, which ought to have weight in this question. Although the British seamen employed in carrying on American commerce be in some respect lost to their own nation, yet such is the intimate and extensive connexion of this commerce, direct and circuitous, with the commerce, the manufactures, the revenue, and the general resources of the British nation, that, in other respects, its mariners, on board of American vessels, may truly be said to be rendering it the most valuable services. It would not be extravagant to make it a question, whether Great Britain would not suffer more by withdrawing her seamen from the merchant vessels of the United States, than her enemies would suffer from the addition of them to the crews of her ships of war and cruisers.

Should any difficulty be started concerning seamen born within the British dominions, and naturalized by the United States since the treaty of 1783, you may remove it by observing, first, that very few if any such naturalizations can take place, the law here requiring a preparatory residence of five years, with notice of the intention to become a citizen, entered of record two years before the last necessary formality; besides, a regular proof of good moral character—conditions little likely to be complied with by ordinary seafaring persons; secondly, that a discontinuance of impressments on the high seas will prevent an actual collision between the interfering claims. Within the jurisdiction of each nation, and in their respective vessels on the high seas, each will enforce the allegiance which it claims. In other situations, the individuals doubly claimed will be within a jurisdiction independent of both nations.

2d. The British pretensions to domain over the narrow seas are so absolute, and so indefensible, that they never would have occurred as a probable objection in this case, if they had not actually frustrated an arrangement settled by Mr. King with the British Ministry on the subject of impressments from American vessels on the high seas. At the moment when the articles were expected to be signed, an exception of the "narrow seas" was urged and insisted on by Lord St. Vincent; and being utterly inadmissible on our part, the negotiation was abandoned.

The objection in itself has certainly not the slightest foundation. The time has been, indeed, when England not only claimed but exercised pretensions scarcely inferior to full sovereignty over the seas surrounding the British isles, and even as far as Cape Finisterre to the south, and Van Staten in Norway to the north. It was a time, however, when reason had little share in determining the law, and the intercourse of nations, when power alone decided questions of right, and when the ignorance and want of concert among other maritime countries facilitated such an usurpation.

The progress of civilization and information has produced a change in all those respects; and no principle in the code of public law is at present better established than the common freedom of the seas beyond a very limited distance from the territories washed by them. This distance is not, indeed, fixed with absolute precision. It is varied, in a small degree by written authorities, and perhaps it may be reasonably varied in some degree by local peculiarities. But the greatest distance which would now be listened to anywhere would make a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great Britain over these seas? If they were really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors or rivers of the country. Nothing of this sort is pretended. Nothing of this sort would be tolerated. The only instances in which these seas are distinguished from other seas, or in which Great Britain enjoys within them any distinction over other nations are, first, the compliment paid by other flags to hers; secondly, the extension of her territorial jurisdiction, in certain cases, to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however, even at the expense of bloody wars, and is still borne with ill will and impatience by her neighbors.

At the last Treaty of Peace at Amiens, the abolition of it was repeatedly and strongly pressed by France; and it is not improbable, that, at no remote day, it will follow the fate of the title of "King of France," so long worn by the British monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage, and long acquiescence, which are construed (as in a few other cases of maritime claims) into the effect of a general, though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This, too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and the peculiar interest which Great Britain has in preventing a practice affecting so deeply her whole system of revenue, commerce, and manufactures; whilst the limitation itself to four leagues necessarily implies, that, beyond that distance, no territorial jurisdiction is assumed.

But, whatever may be the origin or the value of these prerogatives over foreign flags in one case, and within a limited portion of these seas in another, it is obvious that neither of them will be violated by the exemption of American vessels from impressments, which are nowise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of Parliament, passed in the year 1736, (9 Geo. 2. c. 35,) the terms of which comprehend all vessels foreign as well as British; it is possible, however, that the former are constructively excepted. Should your inquiries ascertain this to be the case, you will

find yourself on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1783, this compliment was peremptorily withheld by France, in spite of the remonstrances of Great Britain; and it remains for your inquiry, whether it did not continue to be refused, notwithstanding the failure at Amiens to obtain from Great Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect that the exception of the narrow seas from the stipulation against impressments, will not be inflexibly maintained; should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade, direct and circuitous, passes through those channels, and such is its peculiar exposure in them to the wrong practised, that, with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy by confirming a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

3d. It appears, as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility which would be given, particularly in the British channel, by the immunity claimed for American vessels, to the escape of traitors, and the desertion of others whose services in time of war may be particularly important to an enemy, forms one of the pleas for the British practice of examining American crews, and will be one of the objections to a formal relinquishment of it.

This plea, like all others, admits a solid and satisfactory reply. In the first place, if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a hostile country only; whereas the practice of impressing is applied to persons few or any of whom are alleged to be of either description, and to vessels whithersoever bound, even to Great Britain herself. In the next place, it is not only a preference of the smaller object on one side to a greater object on the other, but a sacrifice of right on one side to expediency on the other side.

On the subject of the Colonial Trade.

Extract of a letter from the Secretary of State to James Monroe, Esq.

DEPARTMENT OF STATE, *April* 12, 1805.

The papers herewith enclosed explain particularly the case of the brig Aurora.

The sum of the case is, that while Spain was at war with Great Britain, this vessel, owned by a citizen of the United States, brought a cargo of Spanish produce, purchased at the Havana, from that place to Charleston, where the cargo was landed, except an insignificant portion of it, and the duties paid, or secured, according to law, in like manner as they are required to be paid, or secured, on a like cargo, from whatever port, meant for home consumption; that the cargo remained on land about three weeks, when it was reshipped for Barcelona, in Old Spain, and the duties drawn back, with a deduction of three and a half per cent., as is permitted to imported articles in all cases, at any time within one year, under certain regulations, which were pursued in this case; that the vessel was taken on her voyage by a British cruiser, and sent for trial to Newfoundland, where the cargo was condemned by the Court of Vice Admiralty; and that the cause was carried thence, by appeal, to Great Britain, where it was apprehended that the sentence below would not be reversed.

The ground of this sentence was, and that of its confirmation, if such be the result, must be, that the trade in which the vessel was engaged was unlawful, and this unlawfulness must rest, first, on the general principle assumed by Great Britain, that a trade from a colony to its parent country, being a trade not permitted to other nations in time of peace, cannot be made lawful to them in time of war; secondly, on the allegation that the continuity of the voyage from the Havana to Barcelona was not broken by landing the cargo in the United States, paying the duties thereon, and thus fulfilling the legal prerequisites to a home consumption; and, therefore, that the cargo was subject to condemnation, even under the British regulation of January, 1798, which so far relaxes the general principle as to allow a direct trade between a belligerent colony, and a neutral country carrying on such a trade.

With respect to the general principle, which disallows to neutral nations, in time of war, a trade not allowed to them in time of peace, it may be observed—

First, That the principle is of modern date; that it is maintained, as is believed, by no other nation but Great Britain; and that it was assumed by her under the auspices of a maritime ascendency, which rendered such a principle subservient to her particular interest. The history of her regulations on this subject shows that they have been constantly modified under the influence of that consideration. The course of these modifications will be seen in an appendix to the fourth volume of Robinson's Admiralty Reports.

Secondly, That the principle is manifestly contrary to the general interest of commercial nations, as well as to the law of nations settled by the most approved authorities, which recognises no restraints on the trade of nations not at war, with nations at war, other than that it shall be impartial between the latter, that it shall not extend to certain military articles, nor to the transportation of persons in military service, nor to places actually blockaded or besieged.

Thirdly, That the principle is the more contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace, may, and often does, result from considerations which open to neutrals direct channels of trade with the parent

State shut to them in times of peace, the legality of which latter relaxation is not known to have been contested; and inasmuch as a commerce may be and frequently is opened in time of war, between a colony and other countries, from considerations which are not incident to the war, and which would produce the same effect in a time of peace; such, for example, as a failure or diminution of the ordinary sources of necessary supplies, or new turns in the course of profitable interchanges.

Fourthly, That it is not only contrary to the principles and practice of other nations, but to the practice of Great Britain herself. It is well known to be her invariable practice in time of war, by relaxations in her navigation laws, to admit neutrals to trade in channels forbidden to them in times of peace; and particularly to open her colonial trade both to neutral vessels and supplies, to which it is shut in times of peace: and that one at least of her objects, in these relaxations, is to give to her trade an immunity from capture, to which in her own hands it would be subjected by the war.

Fifthly, The practice which has prevailed in the British dominions, sanctioned by Orders of Council and an act of Parliament, [39 G. 3. c. 98.] authorizing for British subjects a direct trade with the enemy, still further diminishes the force of her pretensions for depriving us of the colonial trade. Thus we see in Robinson's Admiralty Reports *passim*, that during the last war a licensed commercial intercourse prevailed between Great Britain and her enemies, France, Spain, and Holland, because it comprehended articles necessary for her manufactures and agriculture; notwithstanding the effect it had in opening a vent to the surplus productions of the others. In this manner she assumes to suspend the war itself as to particular objects of trade beneficial to herself; while she denies the right of the other belligerents to suspend their accustomed commercial restrictions, in favor of neutrals. But the injustice and inconsistency of her attempt to press a strict rule on neutrals, is more forcibly displayed by the nature of the trade which is openly carried on between the colonies of Great Britain and Spain, in the West Indies. The mode of it is detailed in the enclosed copy of a letter from ——, wherein it will be seen that American vessels and cargoes, after being condemned in British courts, under pretence of illicit commerce, are sent, on British account, to the enemies of Great Britain, if not to the very port of the destination interrupted when they were American property. What respect can be claimed from others, to a doctrine not only of so recent an origin, and enforced with so little uniformity, but which is so conspicuously disregarded in practice by the nation itself, which stands alone in contending for it?

Sixthly, It is particularly worthy of attention that the Board of Commissioners, jointly constituted by the British and American Governments, under the seventh article of the Treaty of 1794, by reversing condemnations of the British courts founded on the British instructions of November, 1793, condemned the principle, that a trade forbidden to neutrals in time of peace, could not be opened to them in time of war; on which precise principle these instructions were founded. And as the reversal could be justified by no other authority than the law of nations, by which they were guided, the law of nations, according to that joint tribunal, condemns the principle here combated. Whether the British Commissioners concurred in these reversals does not appear, but whether they did, or did not, the decision was equally binding; and affords a precedent which could not be disrespected by a like succeeding tribunal, and ought not to be without great weight with both nations, in like questions recurring between them.

On these grounds the United States may justly regard the British captures and condemnations of neutral trade, with colonies of the enemies of Great Britain, as violations of right; and if reason, consistency, or that sound policy which cannot be at variance with either, be allowed the weight which they ought to have, the British Government will feel sufficient motives to repair the wrongs done in such cases by its cruisers and courts.

But, apart from this general view of the subject, a refusal to indemnify the sufferers, in the particular case of the Aurora, is destitute of every pretext, because, in the second place, the continuity of her voyage was clearly and palpably broken, and the trade converted into a new character.

It has been already noted that the British regulation of 1798 admits a direct trade, in time of war, between a belligerent colony and neutral country carrying on the trade; and admits consequently the legality of the importation by the Aurora, from the Havana to Charleston. Nor has it ever been pretended that a neutral nation has not a right to re-export to any belligerent country whatever productions, not contraband of war, which may have been duly incorporated and naturalized, as a part of the commercial stock of the country re-exporting it.

The question, then, to be decided under the British regulation itself, is, whether in landing the cargo, paying the duties, and thus as effectually qualifying the articles for the legal consumption of the country, as if they had been its native productions, they were not, at the same time, equally qualified with native productions for exportation to a foreign market. That such ought to be the decision results irresistibly from the following considerations:

1. From the respect which is due to the internal regulations of every country, where they cannot be charged with a temporizing partiality toward particular belligerent parties, or with fraudulent views toward all of them. The regulations of the United States on this subject must be free from every possible imputation, being not only fair in their appearance, but just in their principles, and having continued the same during the periods of war, as they were in those of peace. It may be added that they probably correspond, in

every essential feature relating to re-exportation, with the laws of other commercial countries, and particularly with those of Great Britain. The annexed outline of them, by the Secretary of the Treasury, will at once explain their character, and show that, in the case of the Aurora, every legal requisite was duly complied with.

2. From the impossibility of substituting any other admissible criterion, than that of landing the articles, and otherwise qualifying them for the use of the country. If this regular and customary proceeding be not a barrier against further inquiries, where, it may be asked, are the inquiries to stop? By what evidence are particular articles to be identified on the high seas, or before a foreign tribunal? If identified, how is it to be ascertained whether they were imported with a view to the market at home, or to a foreign market, or, as ought always to be presumed, to the one or the other, as it should happen to invite? or if to a foreign market, whether to one forbidden or permitted by the British regulations? for it is to be recollected that among the modifications which her policy has given to the general principle asserted by her, a direct trade is permitted to a neutral carrier from a belligerent colony, to her ports, as well as to those of his own country. If, again, the landing of the goods and the payment of the duties be not sufficient to break the continuity of the voyage, what, it may be asked, is the degree of internal change or alienation which will have that effect? May not a claim be set up to trace the articles from hand to hand, from ship to ship, in the same port, and even from one port to another port as long as they remain in the country? In a word, in departing from the simple criterion provided by the country itself, for its own legitimate and permanent objects, it is obvious, that, beside the defalcations which might be committed on our carrying trade, pretexts will be given to cruisers for endless vexations on our commerce at large, and that a latitude and delays will accrue in the distant proceedings of Admiralty courts, still more ruinous and intolerable.

3. From the decision in the British High Court of Admiralty itself, given in the case of the Polly, Lasky, master, by a judge deservedly celebrated for a profound judgment, which cannot be suspected of leaning toward doctrines unjust or injurious to the rights of his own country. On that occasion he expressly declares: "It is not my business to say what is universally the test of a *bona fide* importation: it is argued that it would be sufficient that the duties should be paid, and that the cargo should be landed. If these criteria are not to be resorted to, I should be at a loss to know what should be the test; and I am strongly disposed to hold, that it would be sufficient that the goods should be landed and the duties paid."—2 Rob. Reports, p. 368-9.

The President has thought it proper that you should be furnished with such a view of the subject as is here sketched; that you may make the use of it best suited to the occasion. If the trial of the Aurora should not be over, it is questionable whether the Government will interfere with its courts. Should the trial be over, and the sentence of the Vice Admiralty Court at Saint John's have been confirmed, you are to lose no time in presenting to the British Government a representation corresponding with the scope of these observations; and in urging that redress in the case, which is equally due to private justice, to the reasonable expectations of the United States, and to that confidence and harmony which ought to be cherished between the two nations.

Mr. Monroe to the Secretary of Foreign Affairs of Great Britain.

No. 12, Great Cumberland Place,
September 23, 1805.

My Lord: I flattered myself, from what passed in our last interview, that I should have been honored before this with an answer from your Lordship to my letters respecting the late seizure of American vessels. I understood it to be agreed that the discussion which then took place should be considered as unofficial, as explanatory only of the ideas which we might respectively entertain on the subject, and that your Lordship would afterwards give me such a reply to my letters respecting that measure as His Majesty's Government might desire to have communicated to the Government of the United States. In consequence, I have since waited with anxiety such a communication, in the daily expectation of receiving it. It is far from being my desire to give your Lordship any trouble in this business, which I can avoid, as the time which has since elapsed sufficiently shows; but the great importance of the subject, which has, indeed, become more so, by the continuance of the same policy, and the frequency of seizures which are still made of American vessels, place me in a situation of peculiar responsibility. My Government will expect of me correct information on this point, in all its views, and I am very desirous of complying with its just expectation. I must, therefore, again request that your Lordship will be so good as to enable me to make such a representation to my Government of that measure as His Majesty's Government may think proper to give.

I am sorry to add, that the longer I have reflected on the subject, the more confirmed I have been in the objections to the measure. If we examine it in reference to the law of nations, it appears to me to be repugnant to every principle of that law; if by the understanding, or, as it may be more properly called, the agreement of our Governments respecting the commerce in question, I consider it equally repugnant to the principles of that agreement. In both these views your Lordship will permit me to make some additional remarks on this subject.

By the law of nations, as settled by the most approved writers, no other restraint is acknowledged on the trade of neutral nations with those at war than that it be impartial between the latter; that it shall not extend to articles which are deemed contraband of war, nor to the transportation of persons in military service, nor to places

actually blockaded or besieged. Every other commerce of a neutral with a belligerent is considered a lawful commerce; and every other restraint on it to either of the belligerents by the other an unlawful restraint.

The list of contraband is well defined, as are also the circumstances which constitute a blockade. The best authorities have united in confining the first to such articles as are used in war, and are applicable to military purposes; and in requiring, to constitute the latter, the disposition of such a force, consisting of stationary ships, so near the port, by the Power which attacks it, as to make it dangerous for the vessel of a neutral Power to enter it. The late treaty between Great Britain and Russia designates these circumstances as necessary to constitute a blockade, and it is believed that it was never viewed before in a light more favorable to the invading Power. The vessels condemned were engaged in a commerce between the United States and some port in Europe, or between those States and the West India islands, belonging to an enemy of Great Britain. In the European voyage, the cargo consisted of the productions of the colonies; in the voyage to the West Indies, it consisted of the goods of the Power to which the colony belonged, and to which the ship was destined. The ship and cargo, in every case, were the property of American citizens, and the cargo had been landed, and the duty on it paid, in the United States. It was decided that these voyages were continuous; and the vessels and cargoes were condemned, on the principle that the commerce was illegal. I beg to refer more especially in this statement to the case of the Essex, an appeal from the judgment of the Vice Admiralty court at New Providence, in which the Lords Commissioners of Appeals, in confirming that judgment, established this doctrine.

It requires but a slight view of the subject to be satisfied that these condemnations are incompatible with the law of nations, as above stated. None of the cases have involved a question of contraband, of blockade, or of any other kind, that was ever contested till of late in favor of a belligerent against a neutral Power. It is not on any principle that is applicable to any such case that the measure can be defended. On what principle, then, is it supported by Great Britain? What is the nature and extent of her doctrine? What are the circumstances which recommend the arguments which support it? For information on these points we cannot refer to the well known writers on the law of nations; no illustration can be obtained from them of a doctrine which they never heard of. We must look for it to an authority more modern; to one which, however respectable for the learning and professional abilities of the judge who presides, is, nevertheless, one which, from many considerations, is not obligatory on other Powers. In a report of the decisions of the Court of Admiralty of this kingdom, we find a notice of a series of orders issued by the Government, of different dates and imports, which have regulated this business. The first of these bears date on the 6th of November, 1793; the second on the 8th of January, 1794; the third on the 25th of January, 1798. Other orders have been issued since the commencement of the present war. It is these orders which have authorized the seizures which were made at different times in the course of the last war, and were lately made by British cruisers of the vessels of the United States. They, too, form the law which has governed the courts in the decisions on the several cases which have arisen under those seizures. The first of these orders prohibits altogether every species of commerce between neutral countries and enemies' colonies, and between neutral and other countries, in the productions of those colonies, the second and subsequent orders modify it in various forms. The doctrine, however, in every decision, is the same: it is contended in each that the character and just extent of the principle is to be found in the first order, and that every departure from it since has been a relaxation of the principle, not claimed of right by neutral Powers, but conceded in their favor gratuitously by Great Britain.

In support of these orders, it is urged that, as the colonial trade is a system of monopoly to the parent country, in time of peace, neutral Powers have no right to participate in it in time of war, although they be permitted so to do by the parent country; that a belligerent has a right to interdict them from such a commerce. It is on this system of internal restraint, this regulation of colonial trade by the Powers having colonies, that a new principle of the law of nations is attempted to be founded: one which seeks to discriminate in respect to the commerce of neutral Powers with a belligerent, between different parts of the territory of the same Power, and likewise subverts many other principles of great importance, which have heretofore been held sacred among nations. It is believed that so important a superstructure was never raised on so slight a foundation. Permit me to ask, does it follow, because the parent country monopolises in peace the whole commerce of its colonies, that in war it should have no right to regulate it at all? That, on the contrary, it should be construed to transfer, in equal extent, a right to its enemy, to the prejudice of the parent country, of the colonies, and of neutral Powers? If this doctrine was sound, it would certainly institute a new and singular mode of acquiring and losing rights; one which would be highly advantageous to one party, while it was equally injurious to the other. To the colonies, more especially, it would prove peculiarly onerous and oppressive. It is known that they are essentially dependent for their existence on supplies from other countries, especially the United States of America, who, being in their neighborhood, have the means of furnishing them with greatest certainty, and on the best terms. Is it not sufficient that they be subjected to that restraint in peace, when the evils attending it by the occasional interference of the parent country may be, and are, frequently repaired? Is it consistent with justice or humanity, that it should be converted into a principle in fa-

vor of an enemy, inexorable, of course, but otherwise without the means of listening to their complaints, not for their distress or oppression only, but for their extermination? But there are other insuperable objections to this doctrine. Are not the colonies of every country a part of its domain, and do they not continue to be so until they are severed from it by conquest? Is not the power to regulate commerce incident to the sovereignty, and is it not coextensive over the whole territory which any Government possesses? Can one belligerent acquire any right to the territory of another, but by conquest? And can any rights which appertain thereto, be otherwise defeated or curtailed in war? In whatever light, therefore, the subject is viewed, it appears to me evident that this doctrine cannot be supported. No distinction, founded in reason, can be taken between the different parts of the territory of the same Power to justify it. The separation of one portion from another by the sea gives lawfully to the belligerent, which is superior on that element, a vast ascendency in all the concerns on which the success of the war, or the relative prosperity of their respective dominions may in any degree depend. It opens to such Power ample means for its own aggrandizement, and for the harassment and distress of its adversary. With these it should be satisfied. But neither can that circumstance, nor can any of internal arrangement which any Power may adopt for the government of its dominions, be construed to give to its enemy any other advantage over it. They certainly do not justify the doctrine in question, which asserts that the law of nations varies in its application to different portions of the territory of the same Power: that it operates in one mode in respect to one, and in another, or even not at all, in respect to another; that the rights of humanity of neutral Powers and all other rights are to sink before it.

It is further urged that neutral Powers ought not to complain of this restraint, because they stand under it on the same ground with respect to that commerce which they held in time of peace. But this fact, if true, gives no support to the pretension. The claim involves a question of right, not of interest. If the neutral Powers have a right in war to such commerce with the colonies of the enemies of Great Britain, as the present States respectively allowed, they ought not to be deprived of it by her, nor can its just claims be satisfied by any compromise of the kind alluded to. For this argument to have the weight which it is intended to give it, the commerce of the neutral Powers with those colonies should be placed, and preserved through the war, in the same state as if it had not occurred. Great Britain should in respect to them take the place of the parent country, and do everything which the latter would have done, had there been no war. To discharge that duty, it would be necessary for her to establish such a police over the colony, as to be able to examine the circumstances attending it annually, to ascertain whether the crops were abundant, supplies from other quarters had failed, and eventually to decide whether under such circumstances the parent country would have opened the ports to neutral Powers. But these offices cannot be performed by any Power which is not in possession of the colony; that can only be obtained by conquest, in which case the victor would of course have a right to regulate its trade as it thought fit.

It is also said, that neutral Powers have no right to profit of the advantages which are gained in war by the arms of Great Britain. This argument has even less weight than the others. It does not, in truth, apply at all to the question. Neutral Powers do not claim a right, as already observed, to any commerce with the colonies which Great Britain may have conquered of her enemies, otherwise than on the conditions which she imposes. The point in question turns on the commerce which they are entitled to with the colonies which he has not conquered, but still remain subject to the dominion of the parent country. With such it is contended, for reasons which have been already given, that neutral Powers have a right to enjoy all the advantages in trade which the parent country allows them; a right of which the mere circumstance of war cannot deprive them. If Great Britain had a right to prohibit that commerce, it existed before the war began, and of course before she had gained any advantage over her enemies. If it did not then exist, it certainly does not at the present time. Rights of the kind in question cannot depend on the fortune of war, or other contingencies. The law which regulates them is invariable, until it be changed by the competent authority. It forms a rule equally between belligerent Powers, and between neutral and belligerent, which is dictated by reason and sanctioned by the usage and consent of nations.

The foregoing considerations have, it is presumed, proved that the claim of Great Britain to prohibit the commerce of neutral Powers, in the manner proposed, is repugnant to the law of nations. If, however, any doubt remained on that point, other considerations which may be urged cannot fail to remove it. The number of orders of different imports which have been issued by Government, to regulate the seizure of neutral vessels, is a proof that there is no established law for the purpose. And the strictness with which the courts had followed those orders, through their various modifications, is equally a proof that there is no other authority for the government of their decisions. If the order of the 6th of November, 1793, contained the true doctrine of the law of nations, there would have been no occasion for those which followed, nor is it probable that they would have been issued: indeed, if that order had been in conformity with that law, there would have been no occasion for it. As in the cases of blockade and contraband, the law would have been well known without an order, especially one so very descriptive; the interest of the cruisers, which is always sufficiently active, would have prompted them to make the seizures, and the opinions of eminent writers, which in that case would not have been wanting, would have furnished

the courts the best authority for their decisions. I shall now proceed to show that the decisions complained of are contrary to the understanding, or what, perhaps, may more properly be called an agreement of the two Governments on the subject. By the order of the 6th November, 1793, some hundreds of American vessels were seized, carried into port, and condemned. Those seizures and condemnations became the subject of an immediate negotiation between the two nations, which terminated in a treaty, by which it was agreed to submit the whole subject to commissioners, who should be invested with full power to settle the controversy which had thus arisen. That stipulation was carried into complete effect: commissioners were appointed, who examined laboriously and fully all the cases of seizure and condemnation which had taken place, and finally decided on the same; in which decision, they condemned the principle of the order, and awarded compensation to those who had suffered under it. Those awards have been since fairly and honorably discharged by Great Britain. It merits particular attention that a part of the twelfth article of that treaty referred expressly to the point in question, and that it was, on the solemn deliberation of each Government, by their mutual consent, expunged from it. It seems, therefore, to be impossible to consider that transaction, under all the circumstances attending it, in any other light than as a fair and amicable adjustment of the question between the parties—one which authorized the just expectation that it would never become again a course of complaint between them. The sense of both was expressed on it in a manner too marked and explicit to admit of a different conclusion. The subject, too, was of a nature that when once settled ought to be considered as settled forever. It is not like questions of commerce between two Powers, which affect their internal concerns, and depend, of course, on the internal regulations of each. When these latter are arranged by treaty, the rights which accrue to each party under it, in the interior of the other, cease when the treaty expires. Each has a right afterwards to decide for itself in what manner that concern shall be regulated in future, and in that decision to consult solely its interest. But the present topic is of a very different character. It involves no question of commerce or other internal concern between the two nations. It respects the commerce only which either may have with the enemies of the other in time of war. It involves, therefore, only a question of right, under the law of nations, which in its nature cannot fluctuate. It is proper to add, that the conclusion above mentioned was further supported by the important fact, that, until the late decree in the case of the Essex, not one American vessel engaged in this commerce had been condemned on this doctrine; that several which were met in the Channel by the British cruisers were permitted, after an examination of their papers, to pursue their voyage. This circumstance justified the opinion that that commerce was deemed a lawful one by Great Britain.

There is another ground on which the late seizures and condemnations are considered as highly objectionable, and furnish just cause of complaint to the United States. Until the final report of the Commissioners under the seventh article of the Treaty of 1794, which was not made until last year, it is admitted that their arbitrament was not obligatory on the parties in the sense in which it is now contended to be. Every intermediate declaration, however, by Great Britain, of her sense on the subject, must be considered as binding on her, as it laid the foundation of commercial enterprises, which were thought to be secure while within that limit. Your Lordship will permit me to refer you to several examples of this kind, which were equally formal and official, in which the sense of His Majesty's Government was declared very differently from what it has been in the late condemnations. In Robinson's Reports, vol. 2, page 368, (case the Polly, Lasky, master,) it seems to have been clearly established by the learned judge of the Court of Admiralty, that an American has the right to import the produce of an enemy's colony into the United States, and to send it on afterward to the general commerce of Europe; and that the landing the goods and paying the duties in the United States should preclude all further question relative to the voyage. The terms "for his own use," which are to be found in the report, are obviously intended to assert the claim only that the property shall be American, and not that of an enemy; by admitting the right to send on the produce afterward to the general commerce of Europe, it is not possible that those terms should convey any other idea. A *bona fide* importation is also held by the judge to be satisfied by the landing the goods and paying the duties. This, therefore, is, I think, the true import of that decision. The doctrine is again laid down, in still more explicit terms, by the Government itself, in a correspondence between Lord Hawkesbury and my predecessor, Mr. King. The case was precisely similar to those which have been lately before the Court. Mr. King complained, in a letter of March 18, 1801, that the cargo of an American vessel, going from the United States to a Spanish colony, had been condemned by the Vice Admiralty Court of Nassau, on the ground that it was the growth of Spain, which decision, he contended, was contrary to the law of nations, and requested that suitable instructions might be despatched to the proper officers in the West Indies, to prevent like abuses in future. Lord Hawkesbury, in a reply of April 11th, communicated the report of the King's advocate general, in which it is expressly stated, that the produce of an enemy may be imported by a neutral into his own country, and re-exported thence to the mother country; and, in like manner, in that circuitous mode, that the produce and manufactures of the mother country might find their way to its colonies; that the landing the goods and paying the duties in the neutral country broke the continuity of the voyage, and legalized the trade, although the goods were re-shipped in the same vessel, on account of the same neu-

tral proprietors, and forwarded for sale to the mother country of the colony. It merits attention in this report (so clearly and positively is the doctrine laid down that the landing the goods and paying the duties in the neutral country broke the continuity of the voyage,) that it is stated as a doubtful point whether the mere touching in the neutral country to obtain fresh clearances will be considered in the light of the direct trade; that no positive inhibition is insisted on any but the direct trade between the mother country and the colonies. This doctrine, in the light herein stated, is also to be found in the treaty between Great Britain and Russia, June 17, 1801. By the second section of the third article, the commerce of neutrals, in the productions or manufactures of the enemies of Great Britain, which have become the property of the neutral, is declared to be free. That section was afterward explained by a declaratory article of October 20, of the same year, by which it is agreed that it shall not be understood to authorize neutrals to carry the produce or merchandise of an enemy either directly from the colonies to the parent country, or from the parent country to the colonies. In other respects, the commerce was left on the footing on which it was placed by that section, perfectly free, except in the direct trade between the colony and the parent country. It is worthy of remark, that as, by the reference made in the explanatory article of the treaty with Russia, to the United States of America, it was supposed that those States and Russia, Denmark, and Sweden, had a common interest in neutral questions, so it was obviously intended, from the similarity of sentiment which is observable between that treaty as amended and the report of the advocate general above-mentioned, to place all the parties on the same footing. After these acts of the British Government, which, being official, were made public, it was not to be expected that any greater restraint would have been contemplated by it, on that commerce, than they impose; that an inquiry would ever have been made, not whether the property with which an American vessel was charged belonged to a citizen of the United States, or an enemy, but whether it belonged to this or that American—an inquiry which imposes a condition which it is believed that no independent nation, having a just sense of what it owes to its rights or its honor, can ever comply with. Much less was it to be expected that such a restraint would have been thought of after the report of the Commissioners above adverted to, which seemed to have placed the rights of the United States incontestably on a much more liberal and, as is contended, just footing.

It is proper to add, that the decree of the Lords Commissioners of Appeals, in the case of the Essex, produced the same effect as an order from the Government would have done. Prior to that decree, from the commencement of the war, the commerce in question was pursued by the citizens of the United States, as has been already observed, without molestation. It is presumable that till then His Majesty's cruisers were induced to forbear a seizure, by the same considerations which induced the American citizens to engage in the commerce—a belief that it was a lawful one. The facts above-mentioned were equally before the parties, and it is not surprising that they should have drawn the same conclusion from them. That decree, however, opened a new scene. It certainly gave a signal to the cruisers to commence the seizures, which they have not failed to do, as has been sufficiently felt by the citizens of the United States who have suffered under it. According to the information which has been given me, about fifty vessels have been brought into the ports of Great Britain in consequence of it; and there is reason to believe that the same system is pursued in the West Indies and elsewhere. The measure is the more to be complained of, because Great Britain had, in permitting the commerce for two years, given a sanction to it by her conduct, and nothing had occurred to create a suspicion that her sentiments varied from her conduct. Had that been the case, or had she been disposed to change her conduct in that respect toward the United States, it might reasonably have been expected that some intimation would have been given of it before the measure was carried into effect. Between Powers who are equally desirous of preserving the relations of friendship with each other, notice might in all such cases be expected. But, in the present case, the obligation to give it seemed to be peculiarly strong. The existence of a negotiation which had been sought on the part of the United States, some considerable time before my departure from Spain, for the express purpose of adjusting amicably and fairly all such questions between the two nations, and postponed on that occasion to accommodate the views of His Majesty's Government, furnished a suitable opportunity for such an intimation, while it could not otherwise than increase the claim to it.

In this communication, I have made no comment on the difference which is observable in the import of the several orders which have regulated, at different times, the seizure of neutral vessels, some of which were more moderate than others. It is proper, however, to remark here, that those which were issued, or even that any had been issued, since the commencement of the present war, were circumstances not known till very lately; on principle, it is acknowledged that they are to be viewed in the same light, and it has been my object to examine them by that standard, without going into detail, or marking the shades of difference between them. I have made the examination with that freedom and candor which belongs to a subject of very high importance to the United States; the result of which has been, as I presume, to prove that all the orders are repugnant to the law of nations, and that the late condemnations, which have revived the pretension on the part of Great Britain, are not only repugnant to that law, but to the understanding which it was supposed had taken place between the two Powers respecting the commerce in question.

I cannot conclude this note without adverting to the other topics pending between our Governments, which it is also much wished to adjust at this time. These are well known to your Lordship, and it is therefore unnecessary to add anything on them at present. With a view to perpetuate the friendship of the two nations, no unnecessary cause of collision should be left open. Those adverted to are believed to be of this kind, such as the case of boundary, the impressment of seamen, &c., since it is presumed that there can be no real conflicting interest between them on those points. The general commercial relation may, then, be adjusted or postponed, as may be most consistent with the views of His Majesty's Government. On that point, also, it is believed that it will not be difficult to make such an arrangement as, by giving sufficient scope to the resources, to the industry, and the enterprise, of the people of both countries, may prove highly reciprocal and advantageous to them. In the topic of impressment, however, the motive is more urgent. In that line, the rights of the United States have been so long trampled under foot, and the feelings of humanity in respect to the sufferers, and the honor of their Government, even in their own ports, so often outraged, that the astonished world may begin to doubt whether the patience with which these injuries have been borne, ought to be attributed to generous or unworthy motives—whether the United States merit the rank to which, in other respects, they are justly entitled among independent Powers, or have already, in the very morn of their political career, lost all their energy and become degenerate. The United States are not insensible that their conduct has exposed them to such suspicions, though they well know that they have not merited them. They are aware, from the similarity in the person, the manners, and above all, the identity of the language, which is common to the people of both nations, that the subject is a difficult one. They are equally aware that, to Great Britain, also, it is a delicate one, and they have been willing, in seeking an arrangement of this important interest, to give a proof, by the mode, of their very sincere desire to cherish the relations of friendship with her. I have only to add, that I shall be happy to meet your Lordship on these points, as soon as you can make it convenient to you.

I have the honor to be, &c.

JAMES MONROE.

To the President of the United States and the Senate and House of Representatives of the United States of America in Congress assembled, the memorial of the merchants of New York.

Your memorialists beg leave, respectfully, to approach the Government of their country on subjects of great importance, which have affected their minds with the deepest anxiety and alarm.

Confiding in the justice and friendly dispositions of the Government of Great Britain, and entertaining a correspondent expectation that no unusual restrictions would be imposed on neutral commerce, without adequate motives, and the most ample notice—presuming, especially, that commercial enterprises, commenced under the sanction of established principles, would, on no account, be affected by a change of system, your memorialists have employed a vast capital in importing various colonial productions, the surplus of which, exceeding the demands of this country, they have been accustomed to export freely to the different markets of Europe.

After this commerce had been prosecuted without restriction for several years, and had attracted a great proportion of their wealth; after their insurers had assumed immense responsibilities, grounded on an opinion that this trade was strictly regular, having never received the slightest intimation that it could be deemed incompatible with the rights of a belligerent nation, they have been suddenly confounded by the unexpected intelligence of the arrestation on the high seas, of a large portion of their property, which had been embarked with the most unsuspecting confidence.

The feelings of your memorialists are not only excited by the losses which they have actually sustained, in consequence of a measure unsusceptible of previous calculation, but, also, from the state of uncertainty in which they are placed with respect to future commercial operations.

Your memorialists have heretofore believed that commerce between the United States and colonies subject to the enemies of Great Britain, when *bona fide* prosecuted on their own account, would be perfectly safe from interruption; they have also believed that all articles, which might be securely imported into the United States, might be as securely exported, with the exceptions well understood, both in respect to the import and export trade of commerce with places blockaded, or in articles contraband of war.

In a recent interpretation of what is considered by the tribunals of Great Britain as a direct trade between the colonies and the parent countries of their enemies, your memorialists perceive, with concern, the development of a principle which, if conceded on the part of the United States, must prove fatal to their commercial importance.

It is understood to have been decided, that, whenever it appears to be the intention of the importer of colonial produce to export the same to Europe, or whenever it is so exported by the original importer, such intention or exportation shall be evidence of a direct trade, and subject the property, though neutral, to confiscation.

Your memorialists consider it their bounden duty to themselves and their country, to express their most decided opposition to this decision.

As to the evidence arising from the supposed intention of an importer, they readily admit that the great quantities of colonial produce which are acquired by means of the American commerce, exceeding the demand for consumption in the United States, will fairly justify a general presumption that the surplus is ultimately destined for European markets. They assert, however, that the intention of a merchant in respect to the future destination of his property must, from the nature

of things, be inconclusive. All plans of business formed by individuals are liable to be affected by circumstances, not to be foreseen or controlled. These plans are therefore necessarily revocable by those who form them, and an intention, which has not been executed, proves nothing more than might justly be inferred from a general presumption, arising from the course of our commerce. To apply such an intention, in a particular case, to the prejudice of an individual; to presume that he has voluntarily incurred an immense risk, which, consistently with the success of his main object, he might have fairly avoided; and to involve him in ruin for prosecuting a trade, which, if undertaken with a different motive, would have been declared lawful, would be, in the opinion of your memorialists, to confound and reverse the best established principles of reason, equity, and law.

Your memorialists contend for no innovations on the law of nations; and, except where special treaties have prescribed a different rule, they admit that they may lawfully be restrained from transporting the property of the parties engaged in war. In the recent decision, which prohibits an importer of colonial produce from exporting it to Europe, they however perceive with concern, either a nugatory and vexatious regulation, or a meditated blow at what they deem an incontestable and valuable right.

Heretofore, there existed clear and obvious circumstances of discrimination between the direct trade which Great Britain has assumed, the right of denying to neutrals, and the indirect or circuitous trade which she admits to be lawful. The direct trade could be performed by a single shipment or voyage, whereas the circuitous trade subjected the property to double freights and insurances, to deductions in favor of the revenue, and various other expenses in this country.

If the arrival of a ship in the country to which it belongs, the landing of the cargo, the inspection of the custom-house, the payment or security of duties, do not terminate a voyage, then we confess our ignorance on a point which, never having been before questioned, has been assumed by us as an acknowledged truth. If the entry for exportation, the embarkation of merchandise, the reinspection of the custom house, the bond for securing a delivery in a foreign country, and a public clearance, do not indicate the commencement of a new voyage, then we are yet to learn the meaning of the expression. If all the formalities and sanctions established for the security of our revenue; if operations of immense magnitude, transacted with the greatest publicity, and without any motive for concealment, are considered as unreal representations, and merely colorable and fraudulent contrivances to cover an illicit trade between the colonies and the parent countries of the enemies of Great Britain; then it becomes necessary, both in regard to our characters and interests, to inquire whether the new regulations establish a more definite criterion for the discovery of truth. We repel, with indignation, the suggestion that the transhipment of property for a foreign market by the original importer is evidence of fraud or chicane, or that, unsupported by other circumstances, it can justify a suspicion that it is other than neutral. In our opinion, any discrimination between the rights of an importing merchant and a vender in the United States, is manifestly fallacious, as it virtually asserts that the former can only exercise an imperfect dominion over property lawfully acquired and possessed in this country, while, at the same time, he can convey to the latter a title to a privilege not enjoyed by himself. In short, that a trade is unlawful when the advantage is to result to one person, but may be rendered lawful by being participated in by another.

If the new doctrine is executed in the mildest form, its operation must be highly injurious, by originating new questions of litigation, and, of course, subjecting all our commerce to new hazards of interruption. We presume not, however, to comprehend to what extent, or in what manner, the principle will be applied. We perceive that the ancient landmark has been removed, but we seek in vain for a beacon to direct our course. If we inquire whether a *bona fide* sale and delivery of merchandise by an importer, being a citizen, to another known citizen of the United States, for a valuable consideration, will, as in ordinary cases, be conclusive evidence of a transfer of property, the answer is in the affirmative. Then we complain that our ships have been detained, the rates of insurance enhanced, and our property confiscated, for the establishment of a rule, which, when once understood, will become nugatory, and cease to produce any commercial or political effect. If, on the other hand, this evidence is not to be deemed conclusive, we profess ourselves to be utterly at a loss to discover what proofs of ownership and neutrality of property can, with safety, be relied on.

But these embarrassments, though perplexing and vexatious, are not those which principally occasion our solicitude. We are compelled to consider the late decisions of the British tribunals as preliminary steps towards a system for controlling the importations and exportations of colonial productions, and thereby annihilating the most lucrative branches of our foreign commerce.

If we owed this trade solely to the favor of Great Britain, still, we might ask, What urgent motive, what imperious necessity, required that the favor should be resumed at a period when our commerce was spread over the ocean, and when a change so essential might destroy its security, and subject us to incalculable losses?

We deny, however, that the rights of commerce, as claimed by us, are to be deemed favors. On the contrary, if the law of nations is other than a temporary rule, prescribed by an arbitrary will, and enforced by power, then we appeal to its most universal and inviolable principle in our defence. This principle is, that the goods of a neutral, consisting of articles not contraband of war, in a neutral vessel, employed in a direct trade between neutral countries and ports of a belligerent country, not invested or blockaded, are protected.

In the controversies, which have existed, at different times, for extending the privileges of neutral vessels and limiting the grounds of capture, we take no part. We appeal to the old law. If neutral rights can be reduced within more confined limits than this law prescribes, we perceive not how, amidst the collisions of national interests, any neutral commerce can exist, even in our native productions.

If it be intimated that neutrals should be confined to a commerce with such places, and in such articles only, as were allowed in peace by the municipal regulations of the countries engaged in war, the doctrine may be repelled by the notorious fact, that no such principle has governed the conduct of nations during any wars in which they have been engaged; all were free to vary, and all, in fact, have varied their commercial systems. Whatever theoretical opinions may, therefore, have been advanced, there has existed no such practical rule, and to set up such a rule, under the unparalleled circumstances of the present war, must infallibly destroy the commerce of this country.

It is a well known fact that the people of the United States export to foreign countries a greater proportion of the aggregate annual value of the products of their industry, than any other people of the globe; they are, consequently, most deeply interested in the security and freedom of their trade. In short, being almost exclusively an agricultural and commercial people, those parts of our country, which, from recent settlement, or from other circumstances, are wholly agricultural, are more immediately interested than any other, as they are in a greater degree dependent on foreign supplies, and, consequently, most liable to be affected by any vibrations of the commercial system.

As our manufactures do not flourish in proportion to the progress of our population, wealth, and luxury, the necessity of extending our commerce is constantly increasing. The basis of all our trade is the aggregate value of our native productions exceeding what are consumed in the United States. These are exported to various countries, from which we receive supplies for domestic use, or other articles for exportation. A very great proportion of all the results of our commerce with the world centre in the dominions of Great Britain, and we receive almost exclusively from that country our clothing and other necessary manufactures. By the events of the late and present war, many countries with which we prosecuted an increasing trade have been either diverted from manufacturing pursuits, or have been greatly impoverished, or conquered and subjected to the colonial system of Great Britain. With these preliminary facts in view, we request permission to detail some of the most important consequences of the assumed rule, that neutrals may be restrained, in time of war, to their accustomed trade in time of peace. The injustice of such a rule in relation to the United States will be most manifest. The individuals employed in commerce would not alone be affected. All the internal relations of our country would be disturbed. The interests of those districts which are most remote from our principal ports would, in proportion to their dependence on foreign supplies, be most severely depressed.

The effects of war cannot be confined to the countries engaged in war. The value of money, the price of labor, the rates of freight and insurance, are by war enhanced throughout the world. All articles of merchandise, both of export and import, are variously affected in their quantities and value, by new wants, by the relinquishment of former pursuits, and by the new direction which is thereby given to the industry of different nations. Other consequences result from the effects of war; as the impoverishment of some and the aggrandizement of other countries. Also, from the acknowledged right of belligerent nations to interdict commerce in contraband articles, and to institute blockades. This last right is highly injurious to neutrals, as it frequently restrains them from proceeding to the best markets. It is obviously impossible, therefore, to confine the United States in time of war, amidst all these changes and disadvantages, to their accustomed trade in time of peace, without destroying all trade.

If, in consequence of the war, certain articles usually exported from the United States, to countries from which we received necessary supplies, cease to be demanded in those countries, may we not export other articles, and thereby obtain the supplies we need? If articles usually imported into the United States in time of peace cease to be demanded by us in time of war, in consequence of our ability to obtain substitutes which we prefer, shall we be required to renounce our export trade by being forbid to import other articles for consumption or for commerce? or shall we be compelled to receive in exchange articles we do not require? If, in consequence of an increased demand for our exports to particular countries, we obtain in exchange articles of commerce exceeding our domestic wants, shall it be required that the surplus perish in our hands? If Great Britain permits commerce between her subjects and the colonies of her enemies, may we not, with the consent of those colonies, participate in the same commerce? If our commerce with the enemies of Great Britain may now be confined to the system established in time of peace, may we not apprehend that the principle will be retaliated in respect to our commerce with the colonies of Great Britain? In that case, what can ensue but war, pillage, and devastation?

These are not imaginary suppositions. They illustrate the most important principles of our commerce. They evince the necessity of a circuitous trade to enable us to realize the great value of exports in our native productions, by which alone we acquire the power to liquidate the balance against us in our commerce with Great Britain. They demonstrate that the position against which we contend is not a rule of the law of nations. The law of nations ordains no rule which is unequal and unjust.

But, still, we have other and more forcible objections. The concession which is required would deprive us of many advantages connected with our local situation, our enterprise, our wealth, and

our fortune; it would require us to divert much of our capital and industry to new employments; it would amount to an abandonment of views as a commercial people, and might involve us in dangerous controversies by a virtual admission that any essential articles of supply may, at the pleasure of a belligerent nation, be placed in a state of inhibition equivalent to being declared contraband of war.

Hitherto we have regarded it as a peculiar felicity, incident to our neutral situation, that it was equally beneficial to ourselves and to all the parties with whom we are connected—the articles exported by us to the enemies of Great Britain being convenient supplies promised to secure to our ships in their ports a welcome reception and hospitable treatment. As the direct returns for these exports were inconsiderable, and as the products were almost exclusively remitted to Great Britain, and there applied in payment for manufactures purchased on our account, we considered ourselves sure of receiving from them at least that degree of protection which was recommended by a regard to mutual interests.

It is, however, with much surprise that we have recently discovered that the very circumstances upon which our hopes of security were reposed, have been urged as arguments to justify an invasion of our rights, and that having totally suppressed the external commerce of her enemies, Great Britain is now counselled to appropriate to herself that of her friends. If it be true that, as exporters of certain articles to the ultimate markets, our interests are in collision with hers, yet it ought to be recollected that it is a particular and minor interest only which suffers, and that the disadvantage is a necessary consequence of her colonial system; that the general results of our commerce are greatly in her favor; that they invigorate her manufacturing interests, which are the great basis of her wealth; and that these interests can never be promoted by the impoverishment of her best customers. Surely the security of neutral rights ought not to diminish as their value is augmented; surely a maritime preponderancy, which enables its possessor to blockade any of the ports of its enemies, conveys no just title to a monopoly of the commerce of the world!

In the list of our complaints, we cannot forbear to enumerate the humiliating and oppressive conduct of ships of war in the vicinity of our coasts and harbors. We respect the principle, and emulate the conduct of Great Britain, in regard to her own jurisdiction, and we wish merely to claim to ourselves the same measure of justice which she exacts from others. But while we contend that we ought not to be exposed to humiliating inquisitions in the verge of our port, which, by means of secret connexions with our city, may be rendered conducive to the indulgence of partiality, favor, or malice, we disavow any wish to divest the belligerent nations of their rights. If, in particular instances, the American flag, and the character of an American merchant, have been prostituted to unworthy purposes, we declare the individuals thus guilty to be our enemies, and we wish not to screen them from the just consequences of their misconduct. We also assert, that a comprehensive view of our commerce affords conclusive evidence that, of the property circulated through this port, the proportion which can possibly belong to the enemies of Great Britain is an object unworthy the attention of a great Power, especially if, in a rigorous pursuit of its strict rights, it incurs the hazard of forfeiting the esteem of its friends.

If, therefore, the mode in which the American commerce is prosecuted is allowed by the law of nations; if irrefragable evidence arises from our situation, wants, and necessary connexions with the rest of the world, that it is almost exclusively grounded on American capital; if the suggestions that we are the mere agents of foreigners are ungenerous insults, contrived as apologies for injuries; if frauds in relation to foreign trusts are not more frequent in this country than in Great Britain, and if no Government is able wholly to prevent them, then our conclusion in the present, as in all other cases, ought to be deduced from general facts, and not from particular exceptions. This conclusion is, that the American commerce is one of the great links which connect those interests of civilized nations which wars ought not to disturb; that, to break this link, will be to destroy all commerce, and, therefore, that a serious misunderstanding with Great Britain would prove fatal to the most important interests of both countries.

This view of the subject, while it excites our anxiety, furnishes also a resource for our hopes. We wish only for justice; and believing that a commercial nation which disregards justice thereby undermines the citadel of her power, we rely on the effect of mutual interests and wishes in promoting a cordial explanation, and fair adjustment of every cause of misunderstanding; in particular, we rely on the Government of our country that our rights will not be abandoned, and that no argument in favor of an usurpation will ever be derived from our acquiescence.

If our personal interests and local attachments have not greatly misdirected our opinions, the defenceless situation of the port of New York ought to excite the anxious solicitude of every friend of his country; our river is the only commercial avenue to a fertile and populous country, which is rapidly rising into importance; it is here that *one-third* of the revenue of the Union is collected, and this proportion is understood to be relatively increasing. But, while we are grateful for these distinguished advantages of nature, our satisfaction is diminished by reflecting on their insecurity: for, in proportion as the resources of our country accumulate to this point, is the hazard that they may present a temptation to rapacity, and become the prize of violence. Without recurring to the experience of past times for proofs, that no nation can long maintain an extensive commerce without well defended seaports and an efficient military marine, we are admonished, by the new and portentous aspect of Europe, and the

alarming prevalence of piracy in the West Indies, that energetic measures of defence have become indispensibly necessary.

We presume not to express any opinion respecting the degree of force of which the permanent navy ought to consist, and being sensible that delay must attend the construction of suitable defences for our port, we shall rest satisfied when we perceive that these measures are commenced in a manner, and upon a scale, which will assure to us an efficient completion.

Such, however, is the present organized force of the United States, that we should consider it as inconsistent with the honor, interests, or security of our country, to parly with the pirates of the West Indies, whose conduct being inconsistent with any known rules of lawful warfare, cannot have been authorized by any civilized nation towards another nation in a state of peace. Our vessels, while pursuing a lawful trade, have been piratically seized; their cargoes have been forcibly taken away and distributed, without even the form of a trial; the vessels, in many instances, sunk and destroyed, the crews stripped of all their property. All these outrages have been exercised on innocent and defenceless men, aggravated by unprecedented circumstances of insult, oppression, and barbarity. Some of these violences have been committed on vessels which were captured within sight of our harbors; and the great scene of these unparalleled enormities is the island of Cuba, which commands the only avenue by which we preserve a commercial connexion with our brethren of the Western States; a connexion which we cherish with ardor, as a source of mutual advantage and a bond of permanent union.

But it is not on account of our pecuniary losses alone that we complain. The constancy and valor of the seamen of the United States are justly themes of patriotic exultation; from their connexion with us we consider their cause as our cause, their rights as our rights, their interests as our interests. Our feelings are indignant at the recital of their wrongs, and we request, in addition to the protection of a naval force, that, at least in the American seas, our brave countrymen may be permitted to display their energy in their own defence.

Your memorialists conclude with remarking that they deem the present situation of public affairs to be peculiarly critical and perilous, and such as requires all the prudence, the wisdom and energy of Government, supported by the cooperation of all good citizens. By mutual exertions, under the benign influence of Providence, upon this hitherto favored nation, we hope the clouds which threaten to obscure its prosperity may be dispelled, and we pledge our united support in favor of all measures adapted to vindicate and secure the just rights of our country.

Signed by the unanimous order and on behalf of a general meeting of merchants, convened on the 26th December, 1805, at the Tontine Coffee House in the city of New York.

JOHN BROOM, *Chairman.*

NEW YORK, *December* 26, 1805.

To the President of the United States, and the Senate and House of Representatives of the United States of America, in Congress assembled; the memorial of the merchants and traders of the city of Philadelphia:

At a moment of distress and a season of solicitude, resulting from a novel and peculiar affection of the commercial interests of their country, your memorialists, as composing a great proportion of that interest in one of the principal commercial cities of the United States, submit to you the following considerations:

Under the influence of a form of Government calculated to inspire confidence in the security of our acquisitions, and with a reliance upon the authority of the nation for protection and support in all lawful enterprise, the commerce of the country has increased in a manner almost unparalleled, and has widely extended a spirit of enterprise, which has added to the stock of private wealth, and enriched the Treasury of the nation.

By the existence of war in Europe, and our neutral standing with the belligerents, our commerce was naturally and necessarily favored and flourishing. Conducted upon fair and honorable principles, our trade wanted no privilege but the just privilege of its neutral character, and it needed no favor but that which had been yielded by the universal consent of civilized nations. But this privilege, we conceive, has been denied to us, and a jealousy of our enterprise and prosperity has excited a design of checking the commercial growth of our country; the fruit of which has been an attempt to innovate upon ancient and approved principles, and to introduce unheard-of articles and provisions into the code of public law. Of this design, of its origin and extent, your memorialists are not left in doubt, when they consider the course and nature of the spoliations which have been committed on the American commerce.

For a time, your memorialists were disposed to regard the violence committed on the vessels and merchandise of the citizens of the United States as the unauthorized acts of lawless individuals; for the fact was well known, that many French and Spanish cruisers were on the ocean without legal commissions, who seized without authority, and robbed without even the form of trial. They were aware that many instances of violated rights were within the knowledge of the Government, and anticipated the adoption of measures calculated to put a stop to the growing mischief. They, moreover, reflected that, during a war between powerful maritime States, it is the unavoidable lot of the neutral to incur loss and suffer inconvenience, even from a fair exercise of the rights of the belligerent; and to be exposed to imposition and outrage, practised sometimes with the color of authority, and sometimes in despite of both law and humanity. Resting, however, with confidence, upon the protection which they regarded their Government as bound to afford to the fair and lawful trader, they submitted to the present inconvenience, and referred themselves to that protecting principle, and to the integrity of the superior tribunals before which the seizures of

their property would be finally considered, as the sureties of a certain though distant retribution.

It becomes your memorialists to state, that the pressure of these evils has greatly increased, and that others of even superior magnitude have arisen, which assume a most alarming and distressing form. What were considered as irregularities, unsusceptible of prevention, have, by continuance and success, strengthened into regular and systematic plunder. What were regarded as mischiefs incident to a state of war, temporary, though not remediless, are vindicated upon the ground of right, and their practice is reiterated under the authority of Government, and receives the solemn sanction of the law. They, moreover, foresee, in the prevalence of the principles, and in the continuance of the practices alluded to, nothing but the ruin of individuals, the destruction of their commerce, and the degradation of their country.

Could the judgment, or even the charity, of your memorialists, see in the new doctrines of the British Court nothing but the revival and enforcement of an ancient and established principle, which friendship had relaxed or favor permitted to slumber, they might regret the departed good, but could impute no injustice to the hand that withdrew it. They are struck, however, with the novelty of these doctrines; their unequivocal hostility to neutral interest and rights; their inconsistency with former declarations of their Ministry and decisions of their courts, and with the extraordinary time and manner of their announciation.

In the reflection that the great code of the laws of nations presents a system of reason and right, approved by the unimpassioned and disinterested judgment of the civilized world, neither tempering its provisions to the wants or demands of an imperious belligerent, nor yet giving aid to the crooked subtleties of unfaithful neutrality, your memorialists have conceived the rights of their nation, as a neutral, to stand upon unchangeable ground. These rights, they cannot but believe, extend to a free and uninterrupted commerce, with their own goods in their own vessels, with other neutrals, if admitted by their laws, or with the belligerents themselves, subject to the received regulations relating to blockade, and to articles contraband of war. The established restrictions on the points just mentioned, with the right of examination and search, have been reasonably considered as giving to the belligerent the most ample security against the infidelity or cupidity which would lend a covert assistance to his antagonist. The policy and interested views of a single State may call for severities against neutral commerce, which are neither commanded of right, nor sanctioned by usage; but the principles of public law cannot vary with the purposes of the politic, nor shift with the designs of the interested. That policy, not justice—that interest, not fair and admitted precedent, have given birth to the principle that neutrals should be restricted to the same commerce with a belligerent, which was allowed to them by that Power in the time of peace, is conceived, by your memorialists, to be true. Incompatible with the general freedom of neutral commerce, this rule has the sanction of no common observance by civilized nations, and cannot bear that faithful test which every fair and righteous principle of the law of nations will abide. Against the soundness of the principle itself, it is also to be observed, that its advocates, instead of tracing its currency from age to age, point to the war of 1756, as the era of its discovery; and, instead of stamping its validity by the concurrence of the civilized world, indicate its fallibility by a labored detail of their own relaxation and contraction of the rule.

The effect of this novel principle upon neutral interests is of the most serious and alarming character. It goes to nothing short of the destruction of neutral commerce, and, from the well-known neutral situation and character of the United States, to nothing short of inflicting a most deep and deadly wound upon their trade.

But your memorialists cannot but consider, that this principle has not the weight of a consistent and uniform support by the Government which professes to uphold it. In 1801, the declarations of its Ministry and the decisions of its courts were unequivocally, "that the produce of the colonies of the enemy may be imported by a neutral into his country, and be re-exported from thence, even to the mother country of such colony;" and, also, "that landing the goods, and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be re-shipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country." In 1805, it is decided, that landing and paying duties does not break the continuity of the voyage, and that the course of trade pointed out to the neutral four years before, as legal and safe, is now unsatisfactory to the belligerent, and attended, infallibly, with confiscation. What clear and immutable principle of the laws of nations can that be, your memorialists would ask, which is supported by the High Court of Admiralty, and avowed by the Ministry in 1801, and which is prostrated by the Ministry and the High Court of Appeals in 1805? Such a principle must be considered as partaking rather of the shifting character of convenience, than of that of permanent right and established law.

The time and manner of announcing it accord with the principle itself. At a moment when mercantile enterprise, confiding in the explanations on this point given by the British Ministry to our Ambassador, was strained to the utmost, a new decision of the court of appeals is announced, and every sail is stretched to collect the unwary Americans, who are unsuspectingly confiding in what was the law of nations.

After this view of the principle itself, your memorialists would state, that it has received a vigorous and active enforcement. Under this pretence, many American vessels, with cargoes unquestionably American, have been carried into the ports of Great Britain, charged with a departure from neutral character in this important particular. Some have, indeed, been liberated, after

long delay, and with great expense; but many are still detained, without a clear understanding of the precise grounds of detention.

On this interesting point, your memorialists refer themselves, with confidence, to the wisdom and the honor of their Government. In the principles they have here submitted to your consideration, they feel all the confidence of justice, and all the tenacity of truth. To surrender them, they conceive, would derogate from the national character and independence of the United States. From the justice of Government, they hope for their avowal; from the spirit of Government, they hope for their defence; and from the blessing of Heaven, they hope for their establishment.

The attention of Government is also solicited by your memorialists, to other embarrassments of their commerce, and to inconveniences deeply affecting the trading interest of the United States, in a different quarter. With a forbearance seldom exercised under like circumstances, the merchants of this country have expected retribution for the injuries imposed upon them by another nation. Instead of receiving this retribution, fresh injuries have been inflicted; and, even during the existence of the present war, adjudications, which outrage every principle of justice, have passed in the courts of Spain on American property. From the Government of that country, between whom and the United States there exists a treaty of friendship and commerce, we had the right to expect, within her ports and jurisdiction, perfect safety and protection. Instead of receiving them, it is too notorious that we have experienced from the officers of that Government, when applied to, the most mortifying inattention; and that, in entire derogation of our treaty, we have been the pointed objects of their neglect and injustice. The severity of this case is increased by the consideration, that, at the time of its occurrence, the very country at whose hands this injustice has been experienced, stood indebted to us for supplies essential to subsistence, and for giving currency and value to its products. Under this head it deserves also to be mentioned, as a point not beneath the notice of Government, that in our own ports, and under your own eyes, public officers of that nation have had the confidence to extort from our merchants fees and emoluments unprecedented and unreasonable.

In detailing the general distresses of our commerce, your memorialists must also remark, that the license of pirates and plunderers in the West Indies has become almost unbounded; and that the defenceless and unprotected state of our shipping exposes it to the most outrageous ravages of the daring and unprincipled. That our seamen should be exposed to the meanest insults, and most wanton cruelties, and the fruits of our industry and enterprise fall a prey to the profligate, cannot but excite both feeling and indignation, and call loudly for the aid and protection of Government. That a belligerent Power should depart from the common and accustomed course of examining the ships of the neutral, on the high seas, as chance or vigilance should give the opportunity of search, and should station its vessels of war at the entrance of our ports and harbors, to scrutinize everything that enters or departs, must also be regarded as attaching reproach to the fairness of our neutral conduct, and is by no means compatible with our dignity or our rights.

Since your memorialists have directed their attention to Government on the subjects herein submitted, they have seen with astonishment a proclamation issued by General Ferrand, an officer of the French Government commanding at the city of St. Domingo, in the island of Hispaniola, which they regard as declaratory of the most outrageous and hostile intentions. As an act of an authorized agent (an officer of Government) it is considered as without a parallel. Taken in its obvious extent, it gives authority to vessels in French commission to carry in all Americans they meet with, because the terms of the proclamation are so indefinite as to leave everything to the discretion of the cruiser. Experience has too fatally proved, that property once taken into their ports is irretrievably lost.

If this proclamation have issued under the authority of the French nation, it can only be considered as a declaration of war. If it be ultimately disavowed by the Government of this agent, it must be at a distant point of time, when mischiefs great and ruinous may have been done under its authority. It is to prevent these mischiefs that your memorialists solicit the attention of Government, and respectfully suggest, that this extraordinary measure might be speedly counteracted by our national force.

Under the pressure of this state of things, your memorialists have thought proper freely to make known to their Government the injuries sustained and apprehended by the commercial interest of the country. They feel themselves bound to address to you their firm persuasion, that the amount of losses sustained by the merchants of the United States, from unlawful depredations, would, of itself, be sufficient to defray the expense of an armament adequate to the protection of their commerce. As citizens, they claim protection; and they conceive that the claim is enforced by the consideration, that from their industry and enterprise is collected a revenue which no nation has been able to equal, without a correspondent expense for the protection of the means.

After this fair and candid statement of the distress and exposure of the commerce of the United States, your memorialists cannot but feel and express extreme solicitude for the possible event. In perfect confidence that their foreign commerce was sheltered not only by the law of nations, but by existing treaties, with some of the belligerents and by the explanations given to the public law by another, they have extended it to every sea, with no other security than a reliance upon those treaties and explanations. It is, of course, defenceless, and liable to arrestation by the most inconsiderable force. It may, then, be naturally supposed, that your memorialists look, with anxiety, to the remedies which may be applied to these pressing evils. To preserve peace with all nations

is admitted, without reserve, to be both the interest and the policy of the United States. They, therefore, presume to suggest, that every measure, not inconsistent with the honor of the nation, by which the great objects of redress and security may be attained, should first be used. If such measures prove ineffectual, whatever may be the sacrifice, on their part, it will be met with submission. But whatever measures may be pursued by their Government, your memorialists express their firmest faith that every caution will be used to preserve private property and mercantile credit from violation.

With these observations, submitted with deference and respect to the President and representative body, it remains only to add the hope of your memorialists, that, on subjects of such deep and extensive concern, such measures will be adopted as consists with the honor and interests of the United States. THOS. FITZIMONS,
Chairman.

R. E. HOBART. *Secretary.*
Jan. 16, 1806.

[Here follows an exhibit of captures by the belligerent Powers of property insured by the insurance offices in Philadelphia.]

To the Hon. James Madison, Secretary of State of the United States: the memorial of the merchants of Newburyport and vicinity, respectfully represents:

That, while pursuing a just and legal commerce, we have suffered great and aggravated losses from unwarrantable depredations on our property by several belligerent Powers of Europe. In conducting our commerce we have endeavored strictly to conform ourselves to the laws of nations and existing treaties, to the regulations of our own Government, and to those of the belligerent Powers; yet, nevertheless, our property has, in various instances, been taken from us on the high seas, in a piratical manner; in some others it has been seized by the cruisers of one nation, carried into the ports of another, and there embezzled with scarcely the semblance of a trial; and in many cases our vessels and cargoes have been captured, tried, and condemned in courts of law, under unusual and alarming pretences, which, if permitted to continue, threaten the ruin of our commercial interests.

So far from obtaining redress of our grievances, by the ordinary modes and process of law, we have in most cases been subjected to heavy costs, and suffered embarrassing and distressing detention of property, even where no pretence could be found to authorize the seizure of it.

In this alarming situation of our commercial affairs, both our duty and interest strongly urge us to embrace the earliest opportunity to communicate to the constituted guardians of our rights, such facts and documents as may enable them effectually to demand indemnification for past losses, and security from future aggressions.

You will, therefore, have the goodness, as soon as may be, to lay before the President of the United States the enclosed list of losses sustained by the merchants of Newburyport and vicinity, together with the memorial.

Having sustained these losses and injuries in the prosecution of our lawful commerce, and in the exercise of our just rights, we rely with confidence on the wisdom, firmness, and justice of our Government, to obtain for us that compensation, and to grant to us that protection which a regard to the honor of our country, no less than to the rights of our citizens, must dictate and require.

We have the honor to be, very respectfully, sir, your obedient servants,

WILLIAM BARTLETT,
MOSES BROWN,
WILLIAM FARIS,
JOHN PEARSON,
EBENEZER STOKERS,
STEPHEN HOWARD,
EDWARD TOPPAN.

[Here follows a list of losses sustained by the merchants of Newburyport and vicinity, by depredations of the belligerent Powers of Europe.]

COMMONWEALTH OF MASSACHUSETTS:
Port of Newburyport.

By this public instrument of protest, be it known and made manifest, that, on this second day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the independence of the United States of America, personally came and appeared before me, Michael Hodge, notary public, by legal authority admitted and sworn, dwelling in the town of Newburyport, in the Commonwealth aforesaid, William Morris, master of the brig Lucretia of Newburyport, William Kloot, mate of the said brig, who, being duly sworn according to law, did severally solemnly and sincerely depose, testify, and declare, that they sailed in the said brig Lucretia, from Newburyport, on the 24th day of August last past, laden with a cargo suitable for the West India market, and bound for the island of Martinico. That on the 20th day of September following, being then in latitude twenty-one degrees north, and longitude fifty-eight degrees west, they saw, at five P. M., a brig bearing southeast, steering, northwest; at half-past five they fired a gun, were brought to, hailed, and ordered Captain Morris to veer round under his stern, and he would send on board his boat, which he accordingly did, and took Captain Morris out of the brig, and left a prize-master and one man on board the Lucretia; at about half-past six P. M., they again sent their boat on board with four more men, armed with pistols and cutlasses; they went immediately below, and began to break open everything in their way, in search, as they said, for naval stores, though it evidently appeared plunder was their object. They robbed the brig of all her new canvass, all her candles, pump-nails, locks, and gimlets, all the beans, coffee, and tea, and all the cabin stores. They broke open the medicine chest, and took several things out of it; they went down into the run, broke open several boxes of sweet oil, and broke a number of the bottles, took half a tierce of bread, several buckets of potatoes, and the bucket. They also robbed the said William Morris, the master, of his watch, great-coat, a new pair of boots, a new hat, and a pair of blue trowsers; they also robbed the mate, William Kloot, of twenty-three pair of shoes, twenty-four morocco skins, and one pair of trowsers, and the cooper of eighty pair of shoes, and all the people's clothing they could find. That at about ten o'clock, they took William Gilbert, one of the Lucretia's hands, and tied him up to the main rigging; they presented a pistol to the said mate, and declared that if he offered to move, or to speak, they would blow his brains out; they twice went with the plunder they took, and returned the third time, and Captain Morris with them, it being then about eleven o'clock, bringing with them clubs, instead of their weapons, as before; that they began plundering again and, on the people's entreating them to leave their clothing, they began to beat them with their clubs, and three of the people were most inhumanly beaten; that they struck Captain Morris twice with their boat's tiller, in his face, for only requesting them to cease plundering them any more; that during all this time, they on board the armed brig kept up a constant firing with their musketry. That at about midnight, they permitted the Lucretia to proceed on her voyage. That the brig which abused and plundered them carried eighteen or twenty guns, from Africa bound to Jamaica; they told Captain Morris the brig's name was the Andromeda, of London, commanded by Captain Carrol. Wherefore, the said William Morris, the master as aforesaid, doth require me, the said notary to protest. I, the said notary, do, therefore, at the request aforesaid, and on behalf of the said William Morris, the master as aforesaid, and of the owner or owners, shippers, freighters, insurers, and all others in anywise concerned or interested in the said brig Lucretia, or her lading, as aforesaid, or any part thereof, solemnly protest against the owners, captains, officers and crew of the said brig Andromeda, for the robbery of the said brig Lucretia, by the boat's crew of the said Andromeda, as is particularly set forth in the body of this protest, and their abusive and inhuman conduct while on board the said Lucretia, for all losses, costs, charges, damages, and expenses whatsoever, had, borne, suffered and sustained, or to be had, borne, suffered, and sustained by the said master, owner or owners, shippers, freighters, insurers, and all others in anywise concerned or interested in the said Lucretia, or her lading, as aforesaid, or any part thereof, for, or by reason of, the matters and things as aforesaid. Thus done and protested at Newburyport, in the Commonwealth aforesaid. In faith and testimony whereof, as well the said William Morris, and William Kloot, the deponents, as I, the said notary, have to these presents subscribed our names. And I, the said notary, have hereunto set my hand, and affixed my notarial seal, at Newburyport aforesaid, the day, month, and year aforesaid. WILLIAM MORRIS.
WILLIAM KLOOT.

M. HODGE, *Notary Public.*

COMMONWEALTH OF MASSACHUSETTS, *Essex*, ss:

Be it known, that the foregoing on this sheet, is a true copy of a certain protest, entered of record in the office of me, the aforesaid Michael Hodge, as notary public as aforesaid.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, at Newburyport aforesaid, this fifth day of December, in the year of our Lord one thousand eight hundred and five.

M. HODGE, *Notary Public.*

CHARLESTON, (S. C.,) *June* 12, 1805.

To the honorable James Madison, Esq., Secretary of State of the United States:—The memorial of the President and Directors of the South Carolina Insurance Company, and of the merchants and others interested in the commerce of the City of Charleston, respectfully showeth:

That your memorialists are deeply affected by the recent capture, at the very entrance of this port, of the American ship Two Friends, by a French privateer. This event has excited among all classes of citizens the strongest sensations, not only because the said ship was captured without any color of pretence, within sight of land, but because she is our only regular London trader, and had on board a full supply of Spring and Summer goods. The distress and anxiety occasioned by these circumstances are greatly enhanced from our having been hitherto deprived of our Spring supplies, and from an anticipation of the consequences justly to be apprehended from a continuance of similar outrages, should not the most prompt and effectual measures be adopted for the protection and security of our commercial interests. Your memorialists are authorized to add (although the fact be not detailed in the protest) that it appears, from undoubted authority, that the magnitude of the prize was the sole inducement of the above-mentioned capture, the captors having said that they would release the Two Friends, in the event of their falling in with any other valuble prize, which might be more worthy of their notice.

This most extraordinary capture, in direct violation of our treaty with France, (as appears by the accompanying documents, has already been followed by events no less alarming, our harbor being at this moment completely blockaded by three French privateers, (and more are daily expected,) which examine all vessels coming in and going out of this port, and either detain or release them, according as their value excites the cupidity of the cruisers.

This degrading state of our harbor has necessarily raised the premiums of insurance, thus forcing additional sums from the pockets of our citizens, has advanced the price of every commodity, and created a distressing stagnation of our exports; for the merchants, not receiving their goods from abroad, are incapacitated from purchasing the produce of the country. Among these deplorable effects of the defenceless and humiliating

condition of our commerce may be, moreover, enumerated the immense loss of duties, those in the ship Two Friends alone being estimated by the collector at forty-five thousand dollars.

Your memorialists have the best reasons for believing that this early success, experienced by these French privateers, will immediately allure others in swarms to our coast and bar, to the total ruin of private mercantile concerns, and the most fatal defalcation of the public revenue. Your memorialists have no less ground for apprehending that British cruisers, availing themselves of the absence of domestic protection, will, under the color of expelling the French, assume and occupy their ground, and either retain us in the same degraded state, harassing our vessels by searches and detention, or subject us to the disgraceful and mortifying obligations of gratitude for alien succor and relief.

Your memorialists are the more alarmed at these depredations, because much valuable property is still expected this summer from other quarters than London, and considerable importations will be looked for in the fall, for our winter supplies; and should there not be an early and effectual check to these aggressions, should our fall importations be also interrupted, the calamities of the last year—produced by the hurricane, and other causes—in which this city has largely participated, would be aggravated to such an extent as to eventuate in general ruin. And these just alarms and apprehensions of your memorialists are heightened by the well known circumstance of many of the cruisers which infest our shores, belonging to St. Jago de Cuba, and Baracoa, in which receptacles, our vessels and their cargoes, with the knowledge of the Government of Cuba, are instantly sold, without any condemnation whatever, or even the formality of a trial, thereby precluding every future possibility of redress.

Your memorialists avail themselves of this occasion to notice a late decision of the district court within this State, grounded on an act of Congress, whereby the territorial jurisdiction of the United States is limited to the short distance of three miles, or a marine league from the coasts or shores, which, by the said court, is construed to mean three miles from the land; consequently, the middle channel of our bar, being more than three miles distant from the nearest land, is pronounced by judicial authority to be without the jurisdiction of the United States. The very entrance of our harbor, in full sight of the city, where vessels are frequently obliged to anchor while waiting for a tide, and with a pilot on board, is, by our own tribunals, acknowledged to be without the protection of our Government!

Your memorialists refrain from commenting on the pernicious effects of a system of policy so pregnant with dishonor and ruin to the trade and navigation of the United States at large, but more particularly to those of Charleston, from the geography of whose shores, and peculiar local situation of whose bar and harbor, every vessel in her ingress and egress, is thus subjected to search, detention, or seizure, and content ouselves with a bare statement of the above grievances, superadded to so many others. Not doubting that the President will take the same into consideration, and, being duly impressed with the necessity of some early remedial arrangement, either of a legislative or diplomatic nature, will recur to such as may appear most conducive to the desired end.

Your memorialists, having thus exhibited but an imperfect view of our ruinous, unprotected, and degraded situation rely with confidence on the prompt interposition of the President, to obtain, by representations to the Ministers of France, or of Spain, (in the event of the Two Friends being carried to a Spanish port,) restitution of the said ship and her cargo, and to cause a stop to be put to similar spoliations. And your memorialists, further, most earnestly solicit some immediate and effectual naval protection for our harbor and shores, together with such other measures as the National Councils in their wisdom may deem expedient, as well for prevention of the renewal of the outrages we have sustained, as for the permanent safety and protection of our commercial and navigating rights and interests.

In behalf of the South Carolina Insurance Company, and one hundred and six others.

THOS. CORBETT, *President.*

Memorial of the merchants and traders of the city of Baltimore to the President of the United States, and the Senate and House of Representatives of the United States of America, in Congress assembled.

Your memorialists beg leave, respectfully, to submit to your consideration the following statement and reflections, produced by the situation of our public affairs, in a high degree critical and perilous, and peculiarly affecting the commerce of their country.

In the early part of the late war between Great Britain and France, the former undertook to prohibit neutral nations from all trade whatsoever with the colonies of the latter. This exorbitant pretension was not long persisted in. It was soon qualified in favor of a direct trade between the United States and these colonies, and some years afterwards was further relaxed in favor of European neutrals. The United States being thus admitted, by the express acknowledgment of Great Britain, to a direct trade, without limit, between their own ports and the colonies of the opposite belligerents, another trade naturally and necessarily grew out of it, or rather formed one of its principal objects and inducements. The surplus colonial produce beyond our own consumption, imported here, was to be carried elsewhere for a market; and it was accordingly carried to Europe, sometimes by the original importer, sometimes by other American merchants, either by the vessels in which the importation was made, or in others. In the course of this traffic, it was understood to be the sense of Great Britain, and was explicitly declared by her courts of prize, that, although she had not expressly allowed to the merchants of the United States, by the letter of her relaxations, an immediate trade between the colonies of her enemies and

the markets of Europe, a circuitous trade to Europe, in the production of these colonies, was unexceptionable; and that nothing more was necessary to make it so, than that the continuity of the voyage should be broken by an entry and payment of duties, and the landing of the colonial cargo in the United States. During the greater part of the late war, and the first years of the present, this trade was securely prosecuted by our merchants in the form which Great Britain had thus thought fit to give to it.

The modification of a traffic, in itself entitled to be free, was submitted to on our part without repining, because it presented a clear and definite rule of conduct, which, although unauthorized in the light of a restriction, was not greatly inconvenient in its practical operation; and your memorialists entertained a confident hope, that while, on the one hand, they sought no change of system by which the assumption of Great Britain to impose terms, however mild in their character and effect, upon their lawful commerce, should be repelled; on the other hand, it would not be desired that the state of things which Great Britain had herself prescribed, and which use and habit had rendered familiar and intelligible to all, should be disturbed by oppressive innovations; far less that these innovations should, by a tyrannical retrospection, be made to justify the seizure and confiscation of their property, committed to the high seas, under the protection of the existing rule, and without warning of the intended change.

In this, their just hope, your memorialists have been fatally disappointed. Their vessels and effects, to a large amount, have lately been captured by the commissioned cruisers of Great Britain, upon the foundation of new principles, suddenly invented, and applied to this habitual traffic, and suggested and promulgated, for the first time, by sentences of condemnation; by which unavoidable ignorance has been considered as criminal, and an honorable confidence in the justice of a friendly nation pursued with penalty and forfeiture.

Your memorialists are in no situation to state the precise nature of the rules to which their most important interests have thus been sacrificed; and it is not the least of their complaints against them that they are undefined and undefinable, equivocal in their form, and the fit instruments of oppression by reason of their ambiguity.

Your memorialists know that the circumstances which have heretofore been admitted, to give legality to their trade in colonial productions, with their European friends, protect it no longer. But they have not yet been told, and are not soon likely to learn, what other circumstances will be suffered to produce that consequence. It is supposed to have been judicially declared, in general, that a voyage undertaken for the purpose of bringing into the United States the produce of the belligerent colonies, purchased by American citizens, shall, if it appears to be intended that this produce shall ultimately go on to Europe, and an attempt is actually made to re-export and send it thither, be considered, on account of that intention, as a direct voyage to Europe, and therefore illegal, notwithstanding any temporary interruption or termination of it in the United States.

Your memorialists will not here stop to inquire upon what grounds of law or reason the same act is held to be legal, when commenced with one intention, and illegal when undertaken with another. But they object, in the strongest terms, against this new criterion of legality, because of its inevitable tendency to injustice, because of its peculiar capacity to embarrass, with seizure, and to ruin, with confiscation, the whole of our trade with Europe in the surplus of our colonial importations.

The inquiry which the late system indicated was short and simple, and precluded error on all sides; but the new refinement substitutes in its place a vast field of speculation, overshadowed with doubt and uncertainty, and of which the faint and shifting boundaries can never be distinctly known.

Intention, as to the object of our colonial voyages, may be inferred from numerous circumstances, more or less conclusive. To anticipate them all is obviously impracticable, and of course to guard against the inference in this respect, which British captors and British courts may be disposed to draw, will be impossible. Our property is therefore menaced by a great and formidable danger, which there are no means of eluding; for, even if it should chance to escape the condemnation which this pernicious novelty prepares for it, the wound inflicted upon our commerce by arrestations on suspicion, and detentions for adjudication, will be deep and fatal. The efforts of our merchants will be checked and discouraged by more than ordinary inquisitions; our best concerted enterprises broken up, without the hope of retribution, or even reimbursement for actual costs, upon the footing of an intention arbitrarily imputed; and the only alternative which will be presented to our choice will be, either to refrain at once from a traffic which enriches our country while it benefits ourselves, or to see it wasted, and in the end destroyed by a noxious scheme of maritime depredation.

Your memorialists are the more alarmed by this departure from a plain and settled rule, in favor of a pliant and mysterious doctrine, so eminently suited to the accomplishment of the worst purposes of commercial jealousy, because the injurious and vexatious qualities of the substituted rule must have been known to those who introduced it, and because, if these qualities did not recommend it to adoption, it is difficult to conceive why it was adopted at all. If it is meant that our trade to Europe shall, notwithstanding this rule, be allowed to continue without being subjected to extraordinary difficulties, operating as actual reductions and mischievous restraints; if it is meant that a few facts, known and comprehended, shall, as heretofore, form a standard by which the lawfulness of our European voyages may be unequivocally ascertained; if a wide range has not been designed for the inquiry after intention, and a real effect expected from that inquiry; if, in a

word, the late regulation has not been supposed to be capable of bearing on our trade, in a manner new and important, we should hardly have now been called upon to remonstrate against a change. It is not pretended that the rule now enforced against us is levelled against any practice to which we may be supposed to have lent ourselves, of distinguishing as our own the property of the enemies of Great Britain. That is not its object; and if it were, we are enabled to assert, solemnly and confidently, that our conduct has afforded no ground for the injurious suspicion which such an object would imply. The view is professedly to regulate and affect our traffic in articles fairly purchased by us from others, and if the consequences to that traffic were not intended to be serious and extensive, and permanent, your memorialists search in vain for the motive by which a State, in amity with our own, and moreover, connected with it by the ties of common interest, to which many considerations seem to give peculiar strength, has been induced to indulge in a paroxysm of capricious aggression upon our rights, by which it dishonors itself without promoting any of those great interests for which an enlightened nation may fairly be solicitous, and which only a steady regard for justice can ultimately secure. When we see a powerful State in possession of a commerce, of which the world affords no examples, endeavoring to interpolate into the laws of nations casuistical niceties and wayward distinctions, which forbid a citizen of another independent commercial country to export from that country what unquestionably belongs to him, only because he imported it himself, and yet allow him to sell a right of exporting it to another; which prohibit an end because it arises out of one intention, but permit it when it arises out of two; which dividing an act into stages, search into the mind for a correspondent division of it in the contemplation of its author, and determine its innocence or criminality accordingly; which, not denying that the property acquired in an authorized traffic, by neutral nations from belligerents, may become incorporated into the national stock, and under the shelter of its neutral character, thus super-induced, and still preserved, be afterwards transported to every quarter of the globe, reject the only epoch which can distinctly mark that incorporation, and point out none other in its place; which, proposing to fix with accuracy and precision the line of demarcation, beyond which neutrals are trespassers upon the wide domain of belligerent rights, involves every thing in darkness and confusion: there can be but one opinion as to the purpose which all this is to accomplish.

Your memorialists have endeavored, with all that attention, which their natural anxiety was calculated to produce, to ascertain the various shapes which the doctrine in question is likely to assume in practice, but they have found it impossible to conjecture in what way, consistently with this doctrine, the excess of our imports from the belligerent colonies can find its way to foreign markets. The landing of the cargo, and a compliance with all the forms and sanctions, upon which our revenue depends, will not so terminate the voyage from the colonies, as that the articles may be immediately re-exported to Europe by the original importer. But if they cannot be exported immediately, what lapse of time will give them a title to be sent abroad, and if not by the original importer, how is he to devolve upon another a power which he has not himself? And if by a sale he can communicate the power, by what evidence is the transfer to be manifested, so as to furnish an answer to the ready accusation of fraud and evasion? In proportion as this doctrine has developed itself, it has been found necessary to invent plausible qualifications, tending to conceal its real character from observation. It has accordingly been surmised, that, notwithstanding the obstacles which it provides, against the re-exportation of a colonial cargo, by the importer, such a re-exportation may, perhaps, be lawful. Attempts on his part to sell in the United States, without effect, (which must often happen,) may, it is supposed, be sufficient to save him from the peril of the rule. But, admitting it to be certain, instead of being barely possible, that these attempts would form anything like security against final condemnation, it is still most material to ask how they are to afford protection against seizure? By what documents they can be proved to the satisfaction of those, to whom interest suggests doubts, and whom impunity encourages to act upon them? The formal transactions of the custom house once deserted as a criterion, the cargo must be followed, through private transfers, into the warehouses of individual merchants; and when proofs have been prepared, with the utmost regularity, to establish these transfers, or the other facts which may be deemed to be equivalent, they are still liable to be suspected, and will be suspected as fictitious and colorable, and capture will be the consequence. For the loss and damage which capture brings along with it, British courts of prize grant no adequate indemnity. Redress to any extent is difficult; to a competent extent, impossible. And even the costs which an iniquitous seizure compels a neutral merchant to incur, in the defence of his violated rights, before their own tribunals, are seldom decreed, and never paid.

Your memorialists have thus far complained only of the recent abandonment, by Great Britain, of a known rule, by which the oppressive character of an important principle of her maritime code has heretofore been greatly mitigated. But they now beg leave to enter their solemn protest against the principle itself, as an arbitrary and unfounded pretension, by which the just liberty of neutral commerce is impaired and abridged, and may be wholly destroyed.

The reasons upon which Great Britain assumes to herself a right to interdict to the independent nations of the earth a commercial intercourse with the colonies of her enemies, (out of the relaxation of which pretended right has arisen the distinction, in her courts, between an American trade, from the colonies to the United States, and from the same colonies to Europe,) will, we

are confidently persuaded, be repelled with firmness and effect by our Government.

It is said by the advocates of this high belligerent claim, that neutral nations have no right to carry on with either of the parties at war, any other trade than they have actually enjoyed in time of peace. This position forms the basis upon which Great Britain has heretofore rested her supposed title, to prevent altogether, or to modify at her discretion, the interposition of neutrals in the colony trade of her adversaries.

But, if we are called upon to admit the truth of this position, it seems reasonable that the converse of it should also be admitted. That war should not be allowed to disturb the customary trade of neutrals in peace; that the peace traffic should, in every view, be held to be the measure of the war traffic; and that, as on the one hand there can be no enlargement, on the other there shall be no restriction. What, however, is the fact? The first moment of hostilities annihilates the commerce of the nations at peace, in articles deemed contraband of war; the property of the belligerents can no longer be carried in neutral ships; they are subject to visitation on the high seas, to harassing and vexatious search, to detention for judicial inquiry, and to the peril of unjust confiscation: they are shut out from their usual markets, not only by military enterprises against particular places, carried on with a view to their reduction, but by a vast system of blockade, affecting and closing up the entire ports of a whole nation: such have been the recent effects of an European war upon the trade of this neutral country; and the prospect of the future affords no consolation for that of the past. The triumphant fleets of one of the contending Powers cover the ocean; the navy of her enemies has fallen before her; the communication by sea with France, and Spain, and Holland, seems to depend on her will, and she asserts a right to destroy it at her pleasure: she forbids us from transporting in our vessels, as in peace we could, the property of her enemies; enforces against us a rigorous list of contraband; dams up the great channels of our ordinary trade; abridges, trammels, and obstructs what she permits us to prosecute, and then refers us to our accustomed traffic in time of peace, for the criterion of our commercial rights, in order to justify the consummation of that ruin with which our lawful commerce is menaced by her maxims and her conduct.

This principle, therefore, cannot be a sound one; it wants uniformity and consistency; is partial, unequal, and delusive: it makes everything bend to the rights of war, while it affects to look back to, and to recognise, the state of things in peace, as the foundation and the measure of the rights of neutrals. Professing to respect the established and habitual trade of the nations at peace, it affords no shadow of security for any part of it: professing to be an equitable standard for the ascertainment of neutral rights, it deprives them of all body and substance, and leaves them only a plausible and unreal appearance of magnitude and importance: it delivers them over, in a word, to the mercy of the States at war, as objects of legitimate hostility; and while it seems to define, does, in fact, extinguish them. Such is the faithful picture of the theory and practical operation of this doctrine.

But, independent of the considerations thus arising out of the immediate interference of belligerent rights and belligerent conduct with the freedom of neutral trade, by which the fallacy of the appeal to the precise state of our peace trade, as limiting the nature and extent of our trade in war, is sufficiently manifested, there are other considerations which satisfactorily prove the inadmissibility of this principle.

It is impossible that war among the primary Powers of Europe, should not, in an endless variety of shapes, materially affect the whole civilized world. Its operation upon the prices of labor and commodities; upon the value of money; upon exchange; upon the rates of freight and insurance; is great and important. But it does much more than all this. It imposes upon commerce in the gross, and its details, a new character; gives to it a new direction, and places it upon new foundations. It abolishes one class of demands; creates, or revives others; and diminishes, or augments the rest. And, while the wants of mankind are infinitely varied by its powerful agency, both in object and degree, the modes and sources of supply, and the means of payment, are infinitely varied also.

To prescribe to neutral trade thus irresistibly influenced, and changed, and moulded by this imperious agent, a fixed and unalterable station, would be to say, that it shall remain the same, when not to vary is impossible; and to require, since change is unavoidable, that it shall submit to the ruinous retrenchments, and modifications, which war produces, and yet refrain from indemnifying itself by the fair advantages, which war offers to it as an equivalent, cannot be warranted by any rule of reason or equity, or by any law to which the great community of nations owes respect and obedience.

When we examine the conduct of the maritime Powers of Europe, in all the wars in which they have been engaged for upwards of a century, we find, that each of them has, occasionally, departed from its schemes of colonial monopoly; relaxed its navigation laws, and otherwise admitted neutrals, for a longer, or a shorter space, as circumstances required, to modes of trade, from which they were generally excluded.

This universal practice, this constant and invariable usage, for a long series of years, would seem to have established among the European States a sort of customary law upon the subject of it, from which no single Power could be at liberty to depart, in search of a questionable theory at variance with it. Great Britain is known to suspend, in war, and on account of war, her famous act of navigation, to which she is supposed to owe her maritime greatness, and which, as the palladium of her power, she holds inviolable in peace; and her colonies are frequently thrown open, and neutrals invited to supply them, when

she cannot supply them herself. She makes treaties in the midst of war, (she made such a treaty with us,) by which neutrals are received into a participation of an extensive traffic, to which before they had no title. And can she be suffered to object, that the same, or analogous acts are unlawful in her enemies; or that, when neutrals avail themselves of similar concessions made by her opponents, they are liable to punishment, as for a criminal intrusion into an irregular and prohibited commerce?

The weight of this consideration has been felt by the advocates of this doctrine, and it has, accordingly, been attempted to evade it by a distinction, which admits the legality of all such relaxations in war, of the general, commercial, or colonial systems of the belligerents, as do not arise out of the predominance of the enemy's force, or out of any necessity resulting from it.

It is apparent, however, that such relaxations, whether dictated by the actual ascertained predominance of the enemy's force, or not, do arise out of the state of war, and are almost universally produced, and compelled by it; that they are intended as reliefs against evils which war has brought along with it, and that the opposite belligerent has just as much right to insist, that these evils shall not be removed by neutral aid or interposition, as if they were produced by the general preponderance of her own power, upon the land, or upon the sea, or by the general success of her arms. In the one case, as in the other, the interference of the neutral lightens the pressure of war; increases the capacity to bear its calamities, or the power to inflict them; and supplies the means of comfort and of strength. In both cases, the practical effect is the same, and the legal consequences should be the same also.

But whence are we to derive the conclusion of fact, upon which this extraordinary distinction is made to turn? How are we to determine, with precision and certainty, the exact cause which opens to us the ports of a nation at war, to analyze the various circumstances of which, perhaps, the concession may be the combined effect; and to assign to each the just portion of influence, to which it has a claim? How easy it is to deceive ourselves, on a subject of this kind, Great Britain will herself instruct us, by a recent example. Her courts of prize have insisted, that, during the war, which ended in the peace of Amiens, France was compelled to open the ports of her colonies, by a necessity, created and imposed by the naval prowess of her enemies. And yet these ports were opened in February, 1793, when France and her maritime adversaries had not measured their strength in a single conflict; when no naval enterprise had been undertaken by the latter, far less crowned with success; when the lists were not even entered, and when the superiority, afterwards acquired by Great Britain in particular, was yet a problem; when the spirit of the French nation and Government was lifted up to an unexampled height by the enthusiasm of the day, and by the splendid achievements by which their armies had recently conquered Savoy, the country of Nice, Worms, and other places on the Rhine, the Austrian low countries, and Liege. It should seem to be next to impossible to contend that a concession made by France to neutrals, on the subject of her colony trade, at such a period of exultation and triumph, was "compelled by the prevalence of British arms," that it was "the fruit of British victories," or the result of "British conquest," that it arose out of the predominance of the enemy's force, that it was produced by "that sort of necessity, which springs from the impossibility of otherwise providing against the urgency of distress, inflicted by the hand of a superior enemy," and that "it was a signal of defeat and depression." It would seem to be impossible to say of a traffic, so derived, "that it could obtain, or did obtain, by no other title, than the success of one belligerent against the other, and at the expense of that very belligerent, under whose success the neutral sets up his title." Yet all these things have been solemnly said, and maintained, and have even been made the foundation of acts, by which the property of our citizens has been wrested from their hands. It cannot be believed that the laws of nations have been entrusted to a belligerent, the power of harassing the trade, and confiscating the ships, and merchandise of peaceable nations, upon grounds so vague, indefinite, and equivocal. Of all law, certainty is the best feature; and no rule can be otherwise than unjust and despotic, of which the sense and the application are and must be ambiguous. A siege, or blockade, presents an intelligible standard, by which it may always be known, that no lawful trade can be carried on with the places against which either has been instituted. But, the suggestions upon which this new belligerent encroachment, having all the effect of a siege or blockade, is founded, are absolutely incapable of a distinct form, either for the purpose of warning to neutrals, or as the basis of a judicial sentence. The neutral merchant finds that, in fact, the colonial ports of the parties to the war are thrown open to him, by the Powers to which they belong; and he sees no hostile squadrons to shut them against him. Is he to pause before he ventures to exercise his natural right, to trade with those who are willing to trade with him, until he has inquired and determined why these ports have thus been made free to receive him? To such a complicated and delicate discussion no nation has a right to call him. It is enough that an actual blockade can be set on foot to close these ports, and that they may be made the object of direct efforts, for conquest or occlusion, if the enemy's force is, in truth, so decidedly predominant as it is pretended to be. And if it is not predominant to that point and to that extent, there can be no cause for ascribing to it an effect to which it is physically incompetent, or for allowing it to do that constructively, which it cannot do, and has not done, actually.

The pernicious qualities of this doctrine are enhanced and aggravated, as from its nature might be expected, by the fact, that Great Britain gives no notice of the time when, or the circumstances in which, she means to apply and enforce it. Her orders of the 6th November, 1793, by which the seas were swept of our vessels and effects, were for the first time, announced by the ships of war and privateers, by which they were carried into execution. The late decisions of her courts, which are in the true spirit of this doctrine, and are calculated to restore it, in practice, to that high tone of severity which milder decisions had almost concealed from the world, came upon us by surprise; and the captures, of which the Dutch complained, in the seven years' war, were preceded by no warning. Thus is this principle most rapacious and oppressive in all its bearings. Harsh and mysterious in itself, it has always been, and ever must be used, to betray neutral merchants into a trade supposed to be lawful, and then to give them up to pillage and ruin. Compared with this principle, which violence and artifice may equally claim for their own, the exploded doctrine of constructive blockade, by which belligerents, for a time, insulted and plundered the States at peace, is innocent and harmless. That doctrine had something of certainty belonging to it, and made safety at least possible. But there can be no security while a malignant and deceitful principle, like this, hangs over us. It is just what the belligerent chooses to make it—lurking, unseen, and unfelt—or visible, active, and noxious. It may come abroad when least expected; and the moment of confidence may be the moment of destruction. It may sleep for a time, but no man knows when it is to awake, to shed its baleful influence upon the commerce of the world. It clothes itself, from season to season, in what are called relaxations, but again, without any previous intimation to the deluded citizens of neutral Powers, these relaxations are suddenly laid aside, either in the whole, or in part, and the work of confiscation commences. Nearly ten months of the late war had elapsed before it announced itself at all, and when it did so, it was in its most formidable shape, and its fullest power and expansion. In a few weeks it was seen to lose more than half its substance and character, and before the conclusion of the war was scarcely perceptible. With the opening of the present war, it re-appeared in its mildest form, which it is again abandoning for another, more consonant to its spirit. Such are its capricious fluctuations, that no commercial undertaking, which it can in any way affect, can be considered as otherwise than precarious, whatever may be the avowed state of the principle at the time of its commencement.

It has been said that, by embarking in the colony trade of either of the belligerents, neutral nations, in some sort, interpose in the war, since they assist and serve the belligerent in whose trade they so embark. It is a sufficient answer to this observation, that the same course of reasoning would prove that neutrals ought to discontinue all trade whatsoever with the parties at war. A continuance of their accustomed peace trade assists and serves the belligerent, with whom it is continued; and if this effect were sufficient to make a trade unneutral and illegal, the best established and most useful traffic would, of course, become so. But Great Britain supplies us with another answer to this notion, that our interference in the trade of the colonies of her enemies is unlawful, because they are benefitted by it. It is known that the same trade is, and long has been, carried on by British subjects; and your memorialists feel themselves bound to state, that, according to authentic information lately received, the Government of Great Britain does, at this moment, grant licenses to neutral vessels taking in a proportion of their cargoes there, to proceed on trading voyages to the colonies of Spain, from which she would exclude us, upon the condition that the return cargoes shall be carried to Great Britain to swell the gains of her merchants, and to give her a monopoly of the commerce of the world. This great belligerent right, then, upon which so much has been supposed to depend, sinks into an article of barter. It is used, not as a hostile instrument, wielded by a warlike State, by which her enemies are to be wounded, or their colonies subdued, but as the selfish means of commercial aggrandizement, to the impoverishment and ruin of her friends: as an engine by which Great Britain is to be lifted up to a vast height of prosperity, and the trade of neutrals crippled, and crushed, and destroyed. Such acts are a most intelligible commentary upon the principle in question. They show that it is a hollow and felonious principle, susceptible of the worst abuse, and incapable of a just and honorable application. They show that in the hands of a great maritime State, it is not, in its ostensible character of a weapon of hostility that it is prized, but rather as one of the means of establishing an unbounded monopoly, by which every enterprise, calculated to promote national wealth and power, shall be made to begin and end in Great Britain alone. Such acts may well be considered as pronouncing the condemnation of the principle against which we contend, as withdrawing from it the only pretext upon which it is possible to rest it.

Great Britain does not pretend that this principle has any warrant in the opinions of writers on public law. She does not pretend, and cannot pretend, that it derives any countenance from the conduct of other nations. She is confessedly solitary in the use of this invention, by which rapacity is systematized, and a state of neutrality and war are made substantially the same. In this absence of all other authority, her courts have made an appeal to her own early example for the justification of her own recent practice. Your memorialists join in that appeal, as affording the most conclusive and authoritative reprobation of the practice which it is intended to support by it.

It would be easy to show, by an examination of the different treaties to which Great Britain has been a party from times long past, that this doctrine is a modern usurpation. It would be equally easy to show that, during the greater part of the last century, her statesmen and lawyers uniformly disavowed it, either expressly or tacitly. But it is to a review of Judicial examples, of all others the most weighty and solemn, that your memorialists propose to confine themselves.

In the war of 1714, in which Great Britain had

the power, if she had thought fit to exert it, to exclude the neutral States from the colony trade of France and Spain, her high court of appeals decided that the trade was lawful, and released such vessels as had been engaged in it.

In the war which soon followed the peace of Aix la Chapelle, Great Britain is supposed to have first acted upon the pretension that such a trade was unlawful as being shut against neutrals in peace. And it is certain that, during the whole of that war, her courts of prize did condemn all neutral vessels taken in the prosecution of that trade, together with their cargoes, whether French or neutral. These condemnations, however, proceeded upon peculiar grounds. In the seven years' war, France did not throw open to neutrals the traffic of her colonies. She established no free ports in the East or in the West, with which foreign vessels could be permitted to trade, either generally or occasionally, as such. Her first practice was simply to grant special licenses to particular neutral vessels, principally Dutch, and commonly chartered by Frenchmen, to make, under the usual restrictions, particular trading voyages to the colonies. These licenses furnished the British courts with a peculiar reason for condemning vessels sailing under them, viz: "that they became in virtue of them the adopted or naturalized vessels of France."

As soon as it was known that this effect was imputed to these licenses they were discontinued, or pretended to be so; but the discontinuance, whether real or supposed, produced no change in the conduct of Great Britain; for neutral vessels employed in this trade were captured and condemned as before. The grounds upon which they continued to be so captured and condemned may be best collected from the reasons subjoined to the printed cases in the prize causes, decided by the High Court of Admiralty, (in which Sir Thomas Salisbury at that time presided,) and by the Lords Commissioners of Appeals, between 1757 and 1760.

In the case of the America, (which was a Dutch ship, bound from St. Domingo to Holland, with the produce of that island, belonging to French subjects, by whom the vessel had been chartered,) the reason stated in the printed case is, "that the ship must be looked upon as a French ship, (coming from St. Domingo,) for by the laws of France no foreign ship can trade in the French West Indies."

In the case of the Snip, the reason (assigned by Sir George Hays and Mr. Pratt, afterwards Lord Camden) is, "that the Snip (though once the property of Dutchmen) being employed in carrying provisions to, and goods from, a French colony, thereby became a French ship, and, as such, was justly condemned."

It is obvious that the reason, in the case of the America, proceeds upon a presumption that, as the trade was, by the standing laws of France, even up to that moment, confined to French ships, any ship found employed in it must be a French ship. The reason, in the other case, does not rest upon this idle presumption, but takes other ground: for it states that, by the reason of the trade in which the vessel was employed, she became a French vessel.

It is manifest that this is no other than the first idea of adoption or naturalization, accommodated to the change attempted to be introduced into the state of things, by the actual or pretended discontinuance of the special licenses. What, then, is the amount of the doctrine of the seven years' war, in the utmost extent which it is possible to ascribe to it? It is in substance no more than this, that as France did not, at any period of that war, abandon, or in any degree suspend, the principle of colonial monopoly, or the system arising out of it, a neutral vessel found in the prosecution of the trade, which, according to that principle and that system, still continuing in force, could only be a French trade and open to French vessels, either became, or was legally to be presumed to be a French vessel. It cannot be necessary to show, that this doctrine differs essentially from the principle of the present day: but even if it were otherwise, the practice of that war, whatever it might be, was undoubtedly contrary to that of the war of 1744, and, as contrasted with it, will not be considered, by those who have at all attended to the history of these two periods, as entitled to any peculiar veneration. The effects of that practice were almost wholly confined to the Dutch, who had rendered themselves extremely obnoxious to Great Britain, by the selfish and pusillanimous policy, as it was falsely called, which enabled them, during the seven years' war, to profit of the troubles of the rest of Europe.

In the war of 1744, the neutrality of the Dutch, while it continued, had in it nothing of complaisance to France; they furnished from the commencement of hostilities, on account of the Pragmatic Sanction, succors to the confederates, declared openly, after a time, in favor of the Queen of Hungary; and finally determined upon and prepared for war, by sea and land. Great Britain, of course, had no inducement, in that war, to hunt after any hostile principle, by the operation of which the trade of the Dutch might be harassed, or the advantage of their neutral position, while it lasted, defeated. In the war of 1756, she had this inducement in its utmost strength. Independent of the commercial rivalry existing between the two nations, the Dutch had excited the undisguised resentment of Great Britain, by declining to furnish against France the succors stipulated by treaty; by constantly supplying France with naval and warlike stores, through the medium of a trade systematically pursued by the people, and countenanced by the Government; by granting to France, early in 1757, a free passage through Namur and Maestricht, for the provisions, ammunition, and artillery, belonging to the army, destined to act against the territories of Prussia, in the neighborhood of the Low Countries; and by the indifference with which they saw Nieuport and Ostend put into the hands of France, by the Court of Vienna, which Great Britain represented to be contrary to the barrier treaty and the Treaty of Utrecht. Without entering into the

sufficiency of these grounds of dissatisfaction, which undoubtedly had a great influence on the conduct of Great Britain towards the Dutch, from 1757 until the peace of 1763, it is manifest, that this very dissatisfaction, little short of a disposition to open war, and frequently on the eve of producing it, takes away, in a considerable degree, from the authority of any practice to which it may be supposed to have led, as tending to establish a rule of the public law of Europe. It may not be improper to observe too, that the station occupied by Great Britain, in the seven years' war, (as proud a one as any country ever did occupy) compared with that of the other European Powers, was not exactly calculated to make the measures, which her resentments against Holland, or her views against France, might dictate, peculiarly respectful to the general rights of neutrals. In the North, Russia and Sweden were engaged in the confederacy against Prussia, and were, of course, entitled to no consideration in this respect. The Government of Sweden was, besides, weak and impotent. Denmark, it is true, took no part in the war, but she did not suffer by the practice in question. Besides, all these Powers combined would have been as nothing against the naval strength of Great Britain in 1758. As to Spain, she could have no concern in the question, and, at length, became involved in the war on the side of France. Upon the whole, in the war of 1756 Great Britain had the power to be unjust, and irresistible temptations to abuse it. In that of 1744 her power was, perhaps, equally great, but everything was favorable to equity and moderation. The example afforded on this subject, therefore, by the first war, has far better titles to respect, than that furnished by the last.

In the American war, the practice and decisions on this point followed those of the war of 1744.

The question first came before the Lords of Appeal, in January, 1782, in the Danish cases of the Tiger, Copenhagen, and others, captured in October, 1780, and condemned at St. Kitts, in December following. The grounds on which the captors relied for condemnation, in the Tiger, as set forth at the end of the respondent's printed case, were, "for that the ship, having been trading to Cape François, where none but French ships are allowed to carry on any traffic, and having been laden at the time of the capture, with the produce of the French part of the island of St. Domingo, put on board at Cape François, and both ship and cargo taken confessedly coming from thence, must (pursuant to precedents in the like cases in the last war) to all intents and purposes be deemed a ship and goods belonging to the French, or at least adopted and naturalized as such." In the Copenhagen, the captor's reasons are thus given:

1st. Because it is allowed, that the ship was destined, with her cargo, to the island of Guadaloupe, and no other place.

2dly. Because it is contrary to the established rule of the general law to admit any neutral ship to go to, and trade at, a port belonging to a colony of the enemy, to which such neutral ship could not have freely traded in time of peace.

On the 22d of January, 1782, these causes came on for hearing before the Lords of Appeal, who decreed restitution in all of them; thus, in the most solemn and explicit manner, disavowing and rejecting the pretended rules of the law of nations, upon which the captors relied; the first of which was literally borrowed from the doctrine of the war of 1756, and the last of which is that very rule on which Great Britain now relies.

It is true that, in these cases, the judgment of the Lords was pronounced upon one shape only of the colony trade of France, as carried on by neutrals; that is to say, a trade between the colony of France and that of the country of the neutral shipper. But, as no distinction was supposed to exist, in point of principle, between the different modifications of the trade, and as the judgment went upon general grounds applicable to the entire subject, we shall not be thought to overrate its effect and extent, when we represent it as a complete rejection both of the doctrine of the seven years' war, and of that modern principle by which it has been attempted to replace it. But, at any rate, the subsequent decrees of the same high tribunal did go that length. Without enumerating the cases of various descriptions, involving the legality of the trade in all its modes, which were favorably adjudged by the Lords of Appeal, after the American peace, it will be sufficient to mention the case of the Vervagting, decided by them in 1785 and 1786. This was the case of a Danish ship, laden with a cargo of dry goods and provisions, with which she was bound on a voyage from Marseilles to Martinique and Cape François, where she was to take in for Europe a return cargo of West India produce. The ship was not proceeded against, but the cargo, which was claimed for merchants of Ostend, was condemned as enemy's property (as in truth it was) by the Admiralty of Antigua, subject to the payment of freight *pro rata itineris*, or, rather, for the whole of the outward voyage. On appeal, as to the cargo, the Lords of Appeal, on the 8th of March, 1785, reversed the condemnation, and ordered further proof of the property to be produced within three months. On the 28th March, 1786, no further proof having been exhibited, and the proctor for the claimants declaring that he should exhibit none, the Lords condemned the cargo, and on the same day reversed the decree below, giving freight *pro rata itineris*, (from which the neutral master had appealed,) and decreed freight generally and the costs of appeal.

It is impossible that a judicial opinion could go more conclusively to the whole question on the colony trade than this; for it not only disavows the pretended illegality of the neutral interpositions of that trade, even directly between France and her colonies, (the most exceptionable form, it is said, in which that interposition could present itself,) it not only denies that property engaged in such a trade is on that account liable to confiscation, (inasmuch as, after having reversed the condemnation of the cargo pronounced below, it proceeds afterwards to condemn it merely for want of further proof as to the property,) but it

holds that the trade is so unquestionably lawful to neutrals as not even to put in jeopardy the claim to freight for that part of the voyage which had not yet begun, and which the party had not yet put himself in a situation to begin. The force of this, and the other British decisions, produced by the American war, will not be avoided by suggesting that there was anything peculiarly favorable in the time when, or the manner in which, France opened her colony trade to neutrals on that occasion. Something of that sort, however, has been said. We find the following language in a learned opinion on this point: "It is certainly true that in the last war (the American war) many decisions took place, which then pronounced that such a trade between France and her colonies was not considered as an unneutral commerce; but under what circumstances? It was understood that France, in opening her colonies during the war, declared that this was not done with a temporary view relative to the war, but on a general permanent purpose of altering her colonial system, and of admitting foreign vessels, universally and at all times, to a participation of that commerce; taking that to be the fact, (however suspicious its commencement might be during the actual existence of a war,) there was no ground to say that neutrals were not carrying on a commerce as ordinary as any other in which they could be engaged; and, therefore, in the case of the Vervagting and in many other succeeding cases, the Lords decreed payment of freight to the neutral ship owner. It is fit to be remembered, on this occasion, that the conduct of France evinced how little dependence can be placed upon explanations of measures adopted during the pressure of war; for hardly was the ratification of the peace signed, when she returned to her ancient system of colonial monopoly."

We answer to all this, that, to refer the decision of the Lords in the Vervagting and other succeeding cases, to the reason here assigned, is to accuse that high tribunal of acting upon a confidence which has no example in a singularly incredible declaration, (if indeed such a declaration was ever made,) after the utter falsehood of it had been, as this learned opinion does itself inform us, unequivocally and notoriously ascertained.

We have seen that the *Vervagting* was decided by the Lords, in 1785 and 1786, at least two years after France had, as we are told, "returned to her ancient system of colonial monopoly," and when, of course, the supposed assertion of an intended permanent abandonment of that system could not be permitted to produce any legal consequence.

We answer further, that, if this alleged declaration was in fact made, (and we must be allowed to say, that we have found no trace of it out of the opinion above recited,) it never was put into such a formal and authentic shape as to be the fair subject of judicial notice.

It is not contained in the French arrêts of that day, where it would only be proper to look for it, and we are not referred to any other document proceeding from the Government of France in which it is said to appear. There does not, in a word, seem to have been anything which an enlightened tribunal could be supposed capable of considering as a pledge on the part of France that she had resolved upon, or even meditated, the extravagant change in her colonial system which, she is said, in this opinion, to have been understood to announce to the world. But, even if the declaration in question was actually made, and that, too, with all possible solemnity, still it would be difficult to persuade any thinking man that the sincerity of such a declaration was, in any degree, confided in, or that any person, in any country, could regard it in any other light than as a mere artifice, that could give no right which would not equally well exist without it. Upon the whole, it is manifestly impracticable to rest the decisions of the Lords of Appeal, in and after the American war, upon any dependence placed on this declaration, of which there is no evidence that it ever was made, which, it is certain, was not authentically or formally made; which, however made, was not, and could not, be believed at any time, far less in 1785 and 1786, when its falsehood had been unquestionably proved by the public and undisguised conduct of its supposed author in direct opposition to it. That Sir James Marriot, who sat in the High Court of Admiralty of Great Britain, during the greater part of the late war, did not consider these decisions as standing upon this ground is evident; for, notwithstanding that, in the war of 1756, he was the most zealous, and perhaps able, advocate for the condemnation of the Dutch ships engaged in the colony trade of France, yet, upon the breaking out of the late war, he relied upon the decisions in the American war, as authoritatively settling the legality of that trade, and decreed accordingly.

If, as a more plausible answer to these decisions, considered in the light of authorities, than that which we have just examined, it should be said they ought rather to be viewed as reluctant sacrifices to policy, or even to necessity, under circumstances of singular difficulty and peril, than as an expression of the deliberate opinion of the Lords of Appeal, or the Government of Great Britain; on the matter of right it might, perhaps, be sufficient to reply, that if the armed neutrality, coupled with the situation of Great Britain as a party to the war, did in any degree compel these decisions, we might also expect to find, at the same era, some relaxation on the part of that country relative to the doctrine of contraband, upon which the convention of the armed neutrality contained the most direct stipulations, which the Northern Powers were particularly interested to enforce. Yet such was not the fact. But, in addition to this and other considerations of a similar description, it is natural to inquire why it happened, that, if the Lords of Appeal were satisfied that Great Britain possessed the right in question, they recorded and gave to the world a series of decisions against it, founded, not upon British orders of council, gratuitously relaxing what was still asserted to be the strict right, (as in the late war,) but upon general principles of public law. However prudence might have required, (although there is no reason to believe it did require,) an abstinence, on the part of Great Britain, from the extreme exercise of the right she had been supposed to claim, still it could not be necessary to give, to the mere forbearance of a claim, the stamp and character of a formal admission, that the claim itself was illegal and unjust. In the late war, as often as the British Government wished to concede and relax, from whatever motive, on the subject of the colony trade of her opponents, an order of council was resorted to, setting forth the nature of the concession, or relaxation, upon which the courts of prize were afterwards to found their sentences; and, undoubtedly, sentences so passed cannot, in any fair reasoning, be considered as deciding more, than that the order of council is obligatory on the courts whose sentences they are. But the decrees of the Lords of Appeal, in and after the American war, are not of this description; since there existed no order of council on the subject of them, and of course, they are, and ought to be, of the highest weight and authority against Great Britain, on the questions involved in, and adjudged by them.

This solemn renunciation of the principle in question, in the face of the whole world, by her highest tribunal in matters of prize, reiterated in a succession of decrees, down to the year 1786, and afterwards, is powerfully confirmed by the acquiescence of Great Britain, during the first most important and active period of the late war, in the free and unlimited prosecution by neutrals of the whole colony trade of France; she did, indeed, at last, prohibit that trade by an instruction unprecedented in the annals of maritime depredation; but the revival of her discarded rule was characterized with such circumstances of iniquity and violence as rather to heighten, by the effect of contrast, the veneration of mankind for the past justice of her tribunals.

The world has not forgotten the instruction to which we allude, or the enormities by which its true character was developed. Produced in mystery, at a moment when universal confidence in the integrity of her Government had brought upon the ocean a prey of vast value and importance; sent abroad to the different naval stations, with such studied secrecy that it would almost seem to have been intended to make an experiment how far law and honor could be outraged by a nation proverbial for respecting both, the heralds by whom it was first announced were the commanders of her commissioned cruisers, who at the same instant carried it into effect with every circumstance of aggravation, if of such an act there can be an aggravation. Upon such conduct there was but one sentiment. It was condemned by reason and justice. It was condemned by that law which flows from and is founded upon them; it was condemned, and will forever continue to be condemned, by the universal voice of the civilized world. Great Britain has made amends, with the good faith which belongs to her councils, for that act of injustice and oppression; and your memorialists have a strong confidence that the late departure from the usual course of her policy will be followed by a like disposition to atonement and reparation. The relations which subsist between Great Britain and the United States rest upon the basis of reciprocal interests, and your memorialists see in those interests, as well as in the justice of the British Government, and the firmness of our own, the best reasons to expect a satisfactory answer to their complaints, and a speedy abandonment of that system, by which they have been lately harassed and alarmed.

Your memorialists will not trespass upon your time with a recital of the various acts by which our coasts, and even our ports and harbors, have been converted into scenes of violence and depredation, by which the security of our trade and property has been impaired, the rights of our territory invaded, the honor of our country humiliated and insulted, and our gallant countrymen oppressed and persecuted. They feel it to be unnecessary to ask that the force of the nation should be employed in repelling and chastising the lawless freebooters, who have dared to spread their ravages, even beyond the seas, which form the principal theatre of their piratical exertions and to infest our shores with their irregular and ferocious hostility.

These are outrages which have pressed themselves, in a peculiar manner, upon the notice of our Government, and cannot have failed to excite its indignation, and a correspondent disposition to prevent and redress them.

Such is the view which your memorialists have taken, in this anxious crisis of our public affairs, of subjects which appear to them, in an alarming degree, to affect their country and its commerce, and to involve high questions of national honor and interest, of public law, and individual rights, which imperiously demand discussion and adjustment. They do not presume to point out the measures which these great subjects may be supposed to call for. The means of redress for the past, and security for the future, are respectfully and confidently submitted to your wisdom; but your memorialists cannot forbear to indulge a hope, which they would abandon with deep reluctance, that they may yet be found in amicable explanations, with those who have ventured to inflict wrongs upon us, and to advance unjust pretensions to our prejudice.

ROBERT GILMOR,
and twenty-five others.

BALTIMORE, *January* 21, 1806.

Representation of the Merchants of Norfolk.

NORFOLK, *December* 3, 1805.

SIR: I have been selected by the merchants of this place to forward to you memorials upon the cases of spoliation committed by the belligerent Powers on their commerce, in consequence of which, I have the honor to address you, and to

forward memorials with copies of documents accompanying, in the following cases:

1. Conway and For. Whittle, ship Eliza, John Evans, master.

2. John Granbery, sloop George, Reynolds, master.

3. Donaldson, Thorburn & Co., ship Charles Carter, Tompkins, master.

4. James Dykes & Co., schooner Iris, Samuel Pearson, master.

5. Edward Chamberlain, brig Nancy, John Christy, master.

6. Alexander Leckie, brig Catharine, John Seward, master.

7. Moses Myers, ship Argus, E. Chamberlain, master.

8. Moses Myers, schooner Adeline, Nathaniel Strong, master.

9. Richard Drummond, schooner Favorite, Fletcher, master.

10. John Burke, schooner Two Brothers, Canby, master.

I am directed to state that the originals in each case are lodged with me, or will be subject to my order, provided they are considered by you as requisite, and if they should be so considered, that they will be forwarded whenever you direct them. There are, I am informed, sundry other cases, but the owners either have not received protests from the masters, or have neglected to send them to me; as I receive them I shall do myself the honor to transmit them to your Department.

I have the honor to be, with consideration and respect, sir, your obedient servant,

WILLIAM PENNOCK.

Hon. JAMES MADISON,
Secretary of State, &c.

From Mr. Gore to Mr. Madison.

BOSTON, *November* 18, 1805.

SIR: The ship Indus, David Myrick, master, was taken by His Britannic Majesty's ship the Cambrian, Captain John P. Beresford, in latitude thirty-one degrees thirty minutes north, and longitude sixty-one degrees fifty-six minutes west, and sent to Halifax, where she, and all the property on board, belonging to the owners, master, and supercargo, were condemned, on the ground, as is said, of the illegality of the trade which she was prosecuting at the time of the capture. An appeal has been claimed, and will be duly prosecuted, before the Lords Commissioners of Appeal, in Great Britain, by the insurers, to whom the said ship and cargo have been abandoned. These insurers consist of four companies, in the town of Boston, incorporated under the names of the Massachusetts Fire and Marine Insurance, the Suffolk Insurance, the Boston Marine Insurance, and the New England Insurance, who are not only interested in the above decision, as it relates to the particular case in which it was rendered, but are deeply concerned on account of insurances made by them on vessels and cargoes that may be embraced, as they fear, by rules and principles said to have been adopted in the case of the Indus. These fears derive but too much weight from decisions that have taken place in London, condemning property for being in a commerce always understood by them to be lawful, not only from their own sense of the law of nations, but also from the assent of Great Britain, discovered by her former practice, and by principles advanced by her judges in support of such decrees.

The amount of property withheld, and ultimately depending on the decisions of the High Court of Appeals, in the case of the Indus, is sufficient, of itself, to demand their serious attention; but when combined with the effect of principles, supposed to have been applied in this instance, they are apprehensive of further and still greater injuries to their own property, and that of their fellow-citizens in this quarter of the country; and these losses, should they be realized, would be encountered in the prosecution of a trade in which they felt themselves as unoffending against the rights of others; as secure from the interruption of the power that now molests them, as in coasting voyages between different parts of the United States.

They hope, therefore, not to be thought intrusive in asking of the Government its interference, through their Minister at the Court of London, or otherwise, as the President, in his wisdom, may judge proper, to protect their commercial rights, and to obtain redress of the particular injury of which they complain. They have even felt it a duty due from them to the Government of their country, to apprize those entrusted with the administration of its concerns, of events, so injurious in themselves, and pregnant with consequences so momentous to their individual property, and the general prosperity of the country. Such reflections have influenced these several companies to request me to present you a statement of the case of the Indus, for the inspection of the Government, and the purposes above alluded to; and also to subjoin some of the reasons which have occasioned the security with which they have hazarded their property on voyages now pretended to be unlawful.

In the summer of 1804, Messrs. David Sears and Jonathan Chapman, native citizens of the United States, and residents in Boston, owned a ship called the Indus, which they fitted out for a voyage to India. They put on board her sixty-three thousand six hundred and forty dollars, and three sets of exchange, drawn by themselves, on Messrs. John Hodsdon and Son, of Amsterdam, at ninety days' sight, for twenty-five thousand three hundred guilders, which amount of specie and bills they confided to Abishai Barnard, a native citizen of the United States, and supercargo. This ship and property, altogether owned by themselves, they despatched with order to go to the isles of France and Bourbon, and, if able, to purchase a cargo there, so to invest the specie and bills, if not, to proceed to Batavia for the same purpose; if not practicable there to go on to Calcutta, and obtain a cargo, with which cargo,

wherever procured, the said ship was directed to return to Boston, unless, before the vessel should quit the isle of France or Batavia, a peace should take place in Europe, in which event she was ordered to proceed to Falmouth, in England, and to conform herself to the orders of her owner's correspondents in London. All the papers on board showed these facts; and such, and such only, was the property and destination of the vessel and her lading. In a memorandum relating to the purchase of the cargo, given to the supercargo, he was reminded not to forget to insert in the manifest, after the arrival of the vessel in the tide waters of Boston, the words "and Embden," viz: From the isle of France, or Batavia, to Boston "and Embden," as this would not deprive the owners of the privilege of unloading wholly in Boston. The object of this request was, in case of peace, to avoid an expense and inconvenience which Mr. Sears, the principal owner of this ship and cargo, suffered at the last peace, viz: the unloading of the entire cargo of a vessel called the Arab, from India, in the port of Boston, which, under the then existing circumstances, viz: a state of peace, he inclined to send immediately to Europe, but which he would not have contemplated had not peace taken place, and which he did not anticipate when the vessel sailed from Boston, as he did not foresee a termination of the war; such being the construction put by the collector of the port of Boston and Charlestown, on the laws in force, when the vessels referred to arrived, and when the Indus sailed in 1804. The expense of unloading and reloading this vessel would have amounted to several thousand dollars, and in case of the law being at her arrival as when she sailed, and of a peace in Europe, and the owners sending her there, (in which event alone did they ever entertain the least intention of not closing the voyage in America,) this expense might have been saved.

With this property, and under these instructions, the Indus proceeded on her voyage to the Isle of France: not being able to procure a cargo there, she went to Batavia, where she loaded with the proceeds of her specie and one set of her bills. In the prosecution of her voyage, from Batavia to Boston, the ship was so damaged by storms, that she was obliged to put into the Isle of France, where she was condemned as no longer seaworthy; the cargo was taken out, a new vessel purchased by the supercargo, which he named the Indus; and such of the articles as were on board the former Indus, and not damaged, were re-shipped in the new Indus; these articles, together with some tea, taken on freight for certain citizens of Boston, there to be landed, composed her entire cargo. With this property, she was within a few days' sail of her destined port of Boston, in the latitude and longitude aforesaid, when she was captured by the Cambrian, and sent to Halifax and condemned, as before mentioned.

The assumed ground of condemnation was, as the underwriters are informed, that the direction to insert the words "and Embden," after the arrival of the vessel in the port of Boston, disclosed an intention in the owners to continue the voyage to Europe, whereas, the only object was to reserve to themselves the right to obviate any objection from the custom-house here, to her proceeding thither, in the event of a peace between the present belligerents

This is manifest from the testimony of the owners, and is confirmed by their instructions to the conductors of this voyage, as to its destination, in case of a peace before they quitted India. On this contingency only were they to proceed otherwise than to Boston. The reason why Mr. Sears directed the words "and Embden," to be inserted, is obvious from what he suffered in the case of the Arab, as related by himself and the collector of the customs; and that it was only in the event of peace that he contemplated sending to Europe the vessel and cargo to which his memorandum referred, is confirmed by his former practice and course of trade, viz: during the last ten years he has been engaged in voyages to India, and likewise in shipping the produce of the East and West Indies to Europe; and in no case, during the existence of war, has he sent to Europe, articles imported by himself in the same vessel in which they were brought from India. Further, in the case of the ship Lydia, which arrived from India at Boston, in the summer of 1804, and on board which vessel there was the like instruction as in the Indus, which instruction was complied with by the master; yet, as the war continued, on her arrival at Boston, he sold the whole cargo to a merchant of this town, and also that of the Indus, in the voyage preceding the one in which she was lost, wherein the like precaution was also taken, and for the like purpose; but as it was war when she arrived, the voyage terminated here. Thus, sir, in this case, there exists the most plenary evidence, that the voyage which the Indus was performing, when captured, was direct from Batavia to Boston, there to terminate. A trade perfectly legal, not only in the understanding of the owners, but so acknowledged, admitted, and declared by Great Britain, in her practice, for ten yeas past, in her instructions to her cruisers, in the decrees of her courts, and in the rules and principles advanced by her judges in promulgating their decrees.

The principle understood to be assumed by Great Britain is, that, in time of war, a trade between two independent nations, one neutral and the other belligerent, is unlawful in the neutral, if the same trade was not allowed and practised in time of peace. This principle, though assumed by Great Britain, is now, and always has been resisted as unsound, by every other nation. She always assumes a fact, that the trade with a colony has always been confined, exclusively, to ships of the parent country. In virtue, therefore, of this assumption of principle and fact, she deems unlawful and derogatory to her rights, the trade of a neutral with the colonies of her enemies. However, in the last war, she so far modified her principle, as to assent to the lawfulness of the voyage of a neutral, if direct between the ports of the neutral and the colony of the enemy; and also a

trade in such colonial articles from the country of the neutral to any other country, even to the parent country of such colony, provided such articles were imported, *bona fide*, for the use of the neutral, and there purchased, or afterwards shipped by himself; and also in articles, the produce of the parent kingdom, from the neutral State to the colony of that metropolitan kingdom, provided the exporting and importing were *bona fide* as in the other case. But this modification she always affected to consider as a relaxation of her strict rights, and from this consideration assumed greater authorities to interfere with the permitted trade, as she would say, of neutrals.*

The underwriters have therefore thought it important to examine how far the doctrine is sanctioned by the law of nations, and the grounds on which it is supposed to rest are conformed to, or contravened by, the practice of the belligerents themselves.

This principle was first brought forward in the war of 1756, and then was attempted to be supported on the doctrines advanced by Bynkershoek. You, sir, to whom the writings of this eminent civilian are doubtless familiar, must be aware that the rule laid down by him is brought forward to a very different purpose; and from the manner in which he treats on the rights of neutrals, and the historical fact quoted from Livy, to illustrate and sanction the principle asserted, shows that it can by no means warrant the proceedings which it has been attempted to justify; and that there is no analogy between the case cited, and that of the mere peaceable trade of a neutral with a belligerent, in articles not contraband of war, nor to places under blockade.

His general position is, that whatever nations had the power and faculty to do in time of peace, they have the right to do in time of war; except that they have not a right to carry to either of two enemies articles contraband of war, or to trade to blockaded places, because this would be to intermeddle in the war.

The author before cited is the principal, if not the only one, whose opinions are adduced, as capable of affording support, or in any way bearing upon this doctrine. An authority, however, to interrupt the trade of a neutral at war, which it was not free to carry on in peace, is assumed as a legitimate consequence of his acknowledged rights. The law of nations not only prescribes rules for the conduct, and supports the rights of nations at war, but also contains regulations and principles by which the rights of such as remain at peace are protected and defined.

The intercourse between independent nations must exclusively rest on the laws which such nations may choose to establish. This is a natural consequence of the equality and independence of nations. Each may make such commercial and other internal regulations as it thinks proper. It may open its whole trade to all foreign nations, or admit them only to a part; it may indulge one nation in such a commerce, and not others; it may admit them at one time, and refuse them at another; it may restrict its trade to certain parts of its dominions, and refuse the entrance of strangers into others. In this respect it has a right to consult only its own convenience; and whatever it shall choose to admit to others, may be enjoyed by them without consulting a third Power. Great Britain acts upon this principle; at one time she executes her navigation law with strictness; at other times she relaxes most of its regulations, according to the estimate she forms of advantage or disadvantage to be derived from its execution or relaxation; neither does she allow the competence of any foreign Power to call in question her right so to do. In time of peace, she compels a strict adherence to the principles and letter of her navigation act; in time of war, she suspends most of its provisions, and to this she is doubtless induced by the paramount interest of manning her navy, whereby she is enabled to employ a greater number of seamen in her own defence, and to destroy the commerce of her foes.

In consequence of a superiority, derived in some degree from this relaxation, England is rendered an entrepot for receiving and supplying all the products of the world; and after reaping a considerable revenue from the merchandise thus introduced, she furnishes not only the continent of Europe generally, but her own enemy, with such articles as are wanted, many of which she prevents his receiving in the ordinary course.

The other nations of Europe, possessing foreign colonies, and influenced by motives of convenience, certainly not by considerations of a higher nature than actuate Great Britain, find their advantage in a similar change of their commercial systems.

The mere circumstance that the innocent property of a neutral is engaged in a trade permitted now, though prohibited at a former period, is in itself perfectly innocent, and does not seem capable of interfering with the rights, or justifying the complaints of a third Power.

The ordinary policy of a nation may be to encourage the manufacture or growth of a certain article within its own dominions, and for this end may prohibit or restrict the importation of the like articles from other countries. Does the repeal or suspension of such restriction confer any right to impede the transportation, by a third, of the article, the prohibition whereof is suspended? Because the corn laws of a nation operate three years in five, as a prohibition to the importation of all corn, can it be inferred that a friendly Power should abstain from carrying its surplus corn to market? Has any belligerent a right to stop the corn owned by neutral merchants on the way to its enemy, whose crops have failed, and prohibitory laws have been repealed? The simple state of the case, that the trade, though illegal in peace, is legal in war, decides the question.

Recourse is therefore had to another principle, in order to render that unlawful, which on every ground of the equality and independence of nations, is lawful.

*Polly, Lasky. Robinson's Admiralty Reports, page 361. Immanuel, Robinson, page 186, particularly 203

The belligerent has a right to distress the person and property of his enemy, and thereby compel a submission to his demand, and for this purpose he may use all the means in his power.

By interrupting the trade of neutrals which is open to them in war, and was prohibited in peace, the belligerent distresses his enemy, lessens his revenue, and prevents the exercise of his commercial capital and the employment of his merchants, and deprives him of the enjoyment of those articles which administer to his comfort and convenience; therefore, such interruption is lawful.

An obvious answer to this reasoning is, that it proves too much, and is founded on a principle so comprehensive as to embrace all trade between neutrals and a nation at war. If it distresses a nation to interrupt that commerce, which has become lawful since the war, it would distress him much more to cut off all trade, that which was allowed in time of peace, as well as that which was not; and the same reason which is used to authorize an interruption of the one, would as well justify the other. Indeed, we have several times seen the like doctrine extended this length in the heat of contest; but no instance has occurred of an attempt to vindicate it in time of peace: for the legality of a trade in innocent articles, to a place not blockaded, and the right of the neutral to carry it on, depends entirely on the laws of the two countries between which, and by whose inhabitants, it is prosecuted, and in no degree on the consent of the belligerent. If this argument of distress, combined with that of an unaccustomed trade, should be admitted in all its latitude, no trade with belligerents would be legal to neutrals. The enemies of Great Britain would be disposed to attribute much weight to a consideration of the peculiar advantages which a Power constituted as hers may be supposed to derive, and such evils as she may be presumed to prevent by the relaxation of her commercial system. A continental Power may derive some accommodation and some convenience from relaxing her commercial regulations; but nothing essential to her safety, nothing, as was demonstrated in the last war, materially affecting the great objects of the contest. She might obtain the articles of East and West India produce a little cheaper by these means, than if compelled to procure them by her own ships, or through the medium of her enemy; for it is a circumstance which very much impairs the argument of distressing the foe, that in modern wars it is the practice of commercial nations, notwithstanding they respectively capture each other's property, to open their ports for the exchange of their merchandise, by the assistance of neutrals, and in this way afford the succor they mutually need. It will, however, be said that it is not the trade between neutral countries and the metropolitan dominions of Europe which is deemed illegal, but the trade of neutrals with their colonies. It is not easy to perceive the grounds on which this distinction rests, but without complaining of an exceptionable rule, because the practice under it is not as extensive as its principle might be supposed to warrant, it may be examined in the case to which it is applied. The argument of distressing the enemy is adduced to vindicate the interruption of the trade of neutrals with enemies' colonies. This distress can be inflicted in two ways: by depriving the colony of the necessary supplies, or the parent country of the colony productions. To supply the enemies' colonies is now considered legal, provided it be done from the neutral country. The argument, therefore, of distress, is narrowed down to a mere trifle; to the addition of a fraction in the price of the article supplied to the parent country; for, so far as respects the supply of the colony and the finding a market for its produce, and the arguments flowing from thence, these, surely the most plausible on the score of inflicting distress, are utterly abandoned. But further, the same commercial spirit which has been before noticed, leads the great nations of Europe themselves to contribute to those very supplies, the depriving the enemy whereof is alleged as a justification for interrupting the trade of neutrals. Not only a trade in Europe, but a regular and authorized trade, to the extent of every necessary and almost every other supply, was carried on during the last war between the British and Spanish colonies; and instances have again and again occurred, and before the close of the late war ceased to be considered as extraordinary, where the cargoes of neutral vessels bound to the Spanish colonies were seized by the British, and condemned in the vice-admiralty courts, on pretence that the trade was illegal; and the articles thus stopped and made prize of, under the plea of distressing the enemy, were shipped on board a Spanish or British vessel supplied with a British license, and sent to the original port of their destination. Surely such a mode of distressing the enemy may be more properly denominated distressing the neutral, for the purpose of supplying the enemy at the exclusive profit of the belligerent.

Such, sir, are some of the observations which these gentlemen make on the difference between the practice and avowed principles of belligerents, and the unavoidable consequences of such principles, and which satisfy their minds that, according to the practice of belligerents themselves, there is no foundation for the arguments raised on pretence of distressing the enemy, and that interrupting a trade in war, because not exercised in peace, is inconsistent with the equality and independence of nations, and an infringement on their perfect rights. It is also evident, that the wants and interests of all nations at war, even of those who possess the most powerful and commercial military navy, require them to contradict in their own practice those principles which are avowed in justification of the injuries they inflict on neutrals.

To support this doctrine, it is also necessary to assume as true, that all trade and intercourse between the colonies of the different European Powers and other countries, have been constantly and uniformly interdicted in time of peace, and that such colonies depended exclusively on the metropolitan kingdom for supplies of every kind.

That nothing could be received by or from them but through the mother country; except when the overpowering force of the public enemy had prevented all such communication. This supposed exclusive trade, so confidently assumed, will, on examination, be found subject to many exceptions. It is well known that some of the British West India colonies, during the commotion which existed in England in consequence of the disagreement between Charles the First and his Parliament, exported their produce to Europe by Dutch ships, manned with Dutch seamen, and that the navigation act originated in the double view of punishing some of these colonies, who had discovered an attachment to the cause of defeated royalty, and of curtailing the means enjoyed by the Dutch of increasing their wealth, influence, and power. An intercourse has always been admitted; at some times very restrained; at others more extended, as suited the caprice of the Governors, or as the necessity of the colonies required.

Until a period subsequent to the Treaty of Utrecht, France seems to have paid no attention to her West India colonies. Previous to that time they do not appear to have enjoyed any constant correspondence or direct intercourse with the mother country; and at all times, as well before, as since the independence of the continental colonies of Great Britain, a direct trade has existed between the colonies of France and those of Great Britain in the West Indies, and also with the settlements on the continent of North America, more or less limited, as real or pretended convenience demanded.

Great Britain, prior to the independence of the United States, had less occasion to admit the entry of vessels and merchandise from, or the export of, the produce of her colonies to any other than her own dominions: yet instances are not wanting of the relaxation of her navigation act for both purposes, and in the year 1739 a bill passed the Parliament, allowing the sugar colonies, for a limited time, to export their produce to foreign ports. In fact, colonies depending on other countries for their supplies, and at a distance from their parent country, must, at times, admit the intercourse of foreigners, or suffer the greatest impoverishment and distress. It will not be denied, that the British provinces in the West Indies depend, in a great measure, if not altogether, on the United States, for their corn. True it is, that the shipment is generally made in the British vessels; but should the United States deem it for their interest, to insist on its being transported thither in American ships, it is not certain that the convenience, not to say the necessities of the colonies, would not render an acquiescence advisable. The fact is, in regard to the colonies in the West Indies, whether belonging to France or Great Britain, that the monopoly has not been, and, in the nature of things, never can be very strict, constant, and exclusive. The United States always have enjoyed, and, without hazarding much, one may pronounce with confidence, that they always must enjoy a direct intercourse with their colonies, however adverse to the dispositions or supposed interest of the parent countries in Europe. Thus stands the fact of an accustomed trade in time of peace as relates to the West Indies. In regard to the East Indies, it is certain that the United States have always gone freely to the British settlements there, and it is believed that the vessels of our country were the first to export sugars from Bengal, and that their exportations have augmented immensely the culture of that article in that country. To many of the Dutch settlements our vessels have gone with but little interruption; and to some of these, and to the French possessions, more especially to the isles of France and Bourbon, the trade of the United States has been constant, uninterrupted, and increasing, ever since the year 1794. It is difficult, then, sir, for these gentlemen to conceive how the doctrine of the fact assumed by Great Britain can be supported by the law of nations, or reconciled to the truth.

Moreover, Great Britain professes that the decisions of her Admiralty Courts are always regulated by the law of nations; that they do not bend to particular circumstances, nor are guided by the orders or instructions of the Government. The principles of this law are immutable; being founded on truth and justice, they are ever the same. Now, it appears from the practice of Great Britain herself, that in the war of 1744, and in that which was concluded in 1783, whether the trade was an accustomed one in time of peace, made no part of the discussion, nor was it pretended that the trade having been prosecuted in peace, subjected the vessel or cargo to forfeiture in war. It seems more like the offspring of her pre-eminent power on the ocean in the two wars of 1756, and that which lately ended, than the legitimate doctrine of right and justice. In the war of 1756 Dutch vessels, by special license from France, were permitted to export the produce of the French colonies. These were captured and condemned, on the ground that, by adoption, they had become French vessels. Afterward the property was carried to Monte Christi, and exported thence in Dutch vessels. Particular trades and especial privileges were also allowed by France, to vessels belonging to citizens of Amsterdam, as a gratification for their peculiar exertions to induce the Stadtholder to take part with France against Great Britain. Vessels and their cargoes, so circumstanced, were captured and condemned by the British, and this principle was then brought forward to justify their conduct, as covering in their courts all the cases by a rule as extensive as was the power and cupidity of their cruisers on the sea.

In the war for the independence of America, this principle, set up for the first time in that which preceded it, and contrary to former practice, was abandoned. This is exemplified in the following case, viz: a vessel bound from Marseilles to Martinico and back again, was taken on the outward voyage; the Vice Admiralty Court at Antigua gave half freight. On appeal, the Lords of Appeal gave the whole. It is said, in answer to this, that France opened her colonies,

and though it was during the existence of war, yet it was the profession of always keeping them so, but was afterward found delusive. The Lords of Appeal, however, in the case of the Danish vessel, could not have acted upon such grounds: for their decision was in 1786, three years after the peace, and after it was manifest, if any doubt had before existed, that the general opening of the trade between the colonies and the mother country to foreigners, was a temporary expedient, and dependent on the duration of the war. The claim before them was merely equitable, being for freight of that part of the voyage which had not been performed, and to obtain which, the party claiming is bound to show that he has offended no law, and interfered with no rights of the belligerent.

What renders the conduct of Great Britain peculiarly injurious to the merchants of our country at this time is the extension of this offensive doctrine, contrary to her own express and public declaration of the law during the last war: for it was then declared, that the importation from an enemy's colony to the country to which the ship belonged, and the subsequent exportation, was lawful; and so of property, the produce of the parent country, going from the United States to the colony—Vide cases of Immanuel and Polly, in Robinson's Admiralty Reports, before cited. Whereas, property going from the United States, the produce of an enemy's country, to her colony, although *bona fide* imported and landed in the United States, and exported on the sole account and risk of the American merchant, is now taken and condemned on the ground that the same person and vessel imported and exported the same articles; and thus, by an arbitrary interpretation of the intention of the merchant, the second voyage is adjudged to be a continuance of the first. If this new and extraordinary doctrine of continuity is maintained on the part of Great Britain, and acquiesced in by the United States, a very large property, now afloat, may be subject to condemnation, and it must follow that an extensive trade, which has been carried on with great advantage by the United States for these twelve years, and admitted to be lawful, will be totally annihilated.

The Indus and cargo have been condemned on the mere possibility that the same might go to Europe from Boston in case of a peace, in which event Great Britain could pretend to no authority to question the voyage she should make.

Now, to adopt a principle of dubious right in its own nature, and then to extend such principle to a further restriction of the trade of the neutral, without notice, is spreading a snare to entrap the property and defeat the acknowledged rights to which he is entitled.

Such are its effects, both on the individual owners of this property, as well as on the underwriters. For Mr. Sears and Mr. Chapman, in planning this voyage, and, indeed, in every one they ever prosecuted, have endeavored to ascertain what the law authorized them to do, as that law was understood and practised by the belligerents, and for this purpose they examined the orders to the British cruisers, the adjudications in the British courts during the last war, and conceived themselves clearly within even the narrowest limits to which Great Britain professed to circumscribe the trade of neutrals. The underwriters, also, have been uniformly guided, in insuring property, by the rules declared and promulgated by the belligerents themselves. In the present case they considered that, according to the clearest evidence of those rules, they incurred no risk from British cruisers.

Should, then, Great Britain undertake to presume that the law would authorize the interruption of such a trade, these gentlemen cannot bring themselves to believe that, under even such impressions of her rights, she would so far forget what is due to her former understanding of the law, and to the encouragement given to such a commerce, as, without notice of her altered sentiments, to seize and confiscate the property of those who had so conformed their voyages to rules pronounced by herself.

I have the honor to be, &c.

C. GORE.

JAMES MADISON, Esq.,
Secretary of State.

BOSTON, *Nov.* 26, 1805.

SIR: Since making the statement herewith enclosed, the underwriters find themselves called upon to represent a new cause of complaint, founded on a still further extension of the principle before remarked on, and which is now made the ground of condemning property going to Europe merely because it is imported into the United States, and exported by the same person, although it has been landed and subjected to the payment of duties here, and was transporting in another vessel and belonging to different owners.

It is the case of property belonging to the same Mr. Sears, who shipped sundry goods (some of them imported by himself in various vessels, and others purchased here) on board the George Washington, Captain Porter, a general freighting ship bound for Amsterdam from Boston.

That vessel has been captured, and the property imported and thus exported, has been condemned in London. This is also abandoned to the underwriters.

This proceeding of the British has been so unforeseen and unexpected by even the most prudent and circumspect, that very serious and general consequences are to be apprehended in this part of the community.

Should the facts related in the statement of the case of the Indus, or of the George Washington now mentioned, require any further verification than what accompanies these papers, and you will please to notify me thereof, I will endeavor to supply the same.

I have the honor to be, &c.

C. GORE.

JAMES MADISON, Esq.
Secretary of State.

MARINE INSURANCE COMPANY,
NEW YORK, *May* 15, 1805.

SIR: On the trial of several vessels, taken on their voyage from this port to Curacoa, the enclosed certificate from Admiral Duckworth was adduced as evidence of the blockade of that island, and had, without doubt, great influence in their condemnation. It is proper to say that no such blockade was ever promulgated or known here; neither was it, as is usual in such cases, communicated to the masters of these vessels; but, on the contrary, they were taken possession of and sent to Jamaica, and there condemned as "enemy's property." As our public offices are deeply interested in these decisions, it becomes necessary for us to know whether this communication was ever made to our Government, and, if so, in what light it was received or considered, for on this will our success on the appeals depend; and, that you may have a correct view of the business, we cover you the masters' protests of the five vessels wherein we are more immediately concerned, from which the facts herein stated will appear, and on which we request your advice and opinion for our government in accepting or rejecting some overtures made us by the captors; and on this subject it is proper to add, that, when successful in an appeal, we sustain great injury from the sale or valuation of property. This arises from forced sales, or appraisement of goods not adapted to the market, and is a subject well worth the attention of the Government. We will illustrate this grievance by a recent case. A vessel, worth seven thousand dollars, was lately sold in Jamaica for one thousand; of course, our recovery is limited to this sum.

We are, with great respect, sir, the Marine Insurance Company of New York, by

W. NEILSON, *President.*

JAMES MADISON, Esq.

Certificate of the blockade of Curacoa, filed July 30, 1804.

This is to certify to whom it may concern, that I, Sir John Thomas Duckworth, Knight of the Bath, Vice Admiral of the Blue Squadron, and Commander-in-chief of His Majesty's ships and vessels employed at Jamaica, Bahama Islands, and seas adjacent, deeming it for the good of the King's service, and for the annoyance of the enemy, did direct the port of Amsterdam, in the island of Curacoa, to be blockaded by part of the naval force under my orders; and that notification of such blockade be transmitted to the British Minister in America; and to the Governors of the Danish and Swedish islands, also of Curacoa, and other Spanish ports, on the 2d day of March, 1804. And I do further certify, that the receipt of the said notification is acknowledged by the British Minister, and that it was communicated by him to the Government of the United States of America in the month of April following.

Given under my hand, on board His Majesty's ship Shark, in Port Royal harbor, this 30th day of July, 1804.

UNITED STATES OF AMERICA, } *ss:*
State of New York, }

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a notary public in and for the State of New York, by letters patent, under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that, on the day of the date hereof, personally came and appeared before me the said notary, at the city of New York, Abraham S. Hallett, of the city of New York, merchant, one of the society of the people called Quakers, the person named in the annexed affirmation, who, being by me duly affirmed, according to law, did declare and affirm, that the contents of the said affirmation subscribed by him were true.

Whereof, an attestation being required, I have granted this, under my notarial firm and seal. Done at the city of New York, in the said State of New York, the fourth day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, } *ss:*
City of New York, }

Abraham S. Hallett, of the city of New York, merchant, being duly affirmed, according to law, saith, that the annexed instrument of writing is a true and accurate copy of the protest which this affirmant received from Jamaica, and that John Bell, the master therein mentioned, is not at present in the city of New York; and he further saith, that he was the true and lawful owner of the brig Bulah Maria, and of her general cargo, on her late voyage; and that no person whatever, being a subject or subjects of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics, or inhabiting any of the territories of France, or of the United Provinces, or the said Republics, nor their factors nor agents, nor any other enemies of the Crown of Great Britain, had, at the time of the capture of the said vessel, any right, title, or interest, either directly or indirectly, in and to the said brig the Bulah Maria, her tackle, apparel, and furniture, or in the cargo before-mentioned, or any part thereof; but that the said brig Bulah Maria, her tackle, furniture, ammunition, and apparel, and her general cargo, did, at the time of the sailing of the said vessel from New York, and at the time of the capture thereof, belong to this affirmant, and would have so belonged to him in case the said vessel had arrived in safety at Curacoa, her port of destination, and until the same had been there sold and disposed of, for and on the account and benefit of this affirmant; and this affirmant further saith, that he was not, at the time of the shipping of the cargo on board of the said vessel, nor at any time after, nor is he at present, engaged in any partnership in any house of

trade belonging to any person or persons enemies of the Crown of Great Britain, residing within any of the territories of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics: and he further saith, that he is a natural born citizen of the United States of America, and was, at the time of the sailing of the said vessel on the voyage before-mentioned, and still is, a resident of the city of New York: and this affirmant further saith, that, when he despatched the said vessel on the voyage aforesaid, he did not know that the said island of Curacoa was in a state of blockade.

ABRAHAM S. HALLETT.

Affirmed, the 4th May, 1805, before me,
E. W. LAIGHT, *Notary Public.*

JAMAICA. *ss:*

John Bell, at present of the city and parish of Kingston, in the county of Surry, in the said island, master mariner, late master of a certain brig or vessel called the Bulah Maria, and Samuel Sargeant, at present of the said city and parish of Kingston, and apprentice to the said John Bell, and lately employed in that capacity on board the said brig, being duly sworn on the Holy Evangelists of Almighty God, severally and respectively make oath and say, that, on or about the 25th day of November last past, they, these deponents, sailed in and on board the brig Bulah Maria, from the port of New York, in the United States of North America, the said brig being cleared out and bound for the island of Curacoa, with a cargo on board her, consisting of provisions and a few other articles, consigned to Mr. Joseph Foulke, a resident merchant at the said island of Curacoa: and these deponents further severally make oath and say, that, in the prosecution of the said voyage, to wit, on or about the 15th day of December now last past, the said brig was brought to and boarded by His Majesty's sloop of war Kingfisher, the captain whereof examined the said brig's papers, and then suffered her to proceed on her said voyage: and these deponents further severally make oath and say, that on the 19th day of the said month of December, the said brig Bulah Maria, then being under the lee of the island of Bonnire, was brought to and boarded by a small schooner, a tender, as these deponents believe, to His Britannic Majesty's ship of war Franchise, and afterwards boarded by a boat belonging to said ship of war Franchise, the officer in which took this deponent, the said John Bell, and all his crew, (except the said Samuel Sargeant,) out of the said brig, together with the said brig's papers, and carried them on board the said ship of war Franchise; and this deponent, the said John Bell, for himself further saith, that, after he, this deponent, had delivered up his papers to the honorable John Murray, Esq., captain of the Franchise, he ordered this deponent to return on board the said brig, informing him, at the same time, that he should examine his papers as of the next day; and, after keeping the brig two days beating after the ship, he then sent an officer, together with —— Hall, one of the crew of the said brig, on board, with directions to the officer who had the charge of the said brig, to take her down to Jamaica, having previous thereto taken from on board the said ship six barrels of flour, four barrels of apples, two or three hundred bunches of onions, some candles, and sundry other articles: and this deponent, the said John Bell, further saith, that, after the arrival of the said brig at Port Royal, in the island of Jamaica aforesaid, which was on the 24th day of the said month of December, sundry quantities of apples, onions, and cheese, were taken out of the said brig, and, after her arrival at Kingston, in the said island, sundry articles of her cargo were in like manner taken thereout by the persons having the charge thereof, or by their privity or permisssion: and this deponent, the said John Bell, further saith, that, since his arrival in this island, he hath been informed that the said brig and cargo were captured on the ground of an intentional breach of blockade: and this deponent, the said John Bell, also saith, that the said brig and cargo were proceeded against in the Court of Vice Admiralty of the island of Jamaica aforesaid, and that he, this deponent, caused a claim to be put in for the same, on behalf of the respective owners thereof; but the said brig and cargo (except the private adventures of this deponent and the mate of the said brig) have been by the said court condemned and confiscated: and these deponents severally further say, that all the persons composing the crew of the said brig Bulah Maria, except these deponents and the said —— Hall, were detained, and kept on board the said ship Franchise, which said ship is not arrived in this island, to the knowledge or belief of these deponents: and lastly, these deponents, the said John Bell, for himself saith, that, upon the arrival of the said Bulah Maria in this island, the said Hall went away from the said brig, and this deponent hath never seen or heard anything of him since; by reason whereof, and of the aforesaid detention of the mate and the rest of the crew of the said brig, this deponent is deprived of the benefit of the testimony of any of his said crew, except his apprentice, the said deponent Samuel Sargeant, hereinbefore named.

JOHN BELL,
SAMUEL SARGEANT.

Sworn before me, this 16th day of January, 1805. WM. SAVAGE, *Magistrate.*

UNITED STATES OF AMERICA, } *ss:*
State of New York, }

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a public notary in and for the State of New York, by letters patent, under the great seal of the said State, duly commissioned and sworn; and in and by the said letters patent, invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths, to any person or persons," do hereby certify, that, on the day and date hereof,

before me, the said notary, at the city of New York, personally came and appeared, Abraham S. Hallett, of the said city, merchant, and one of the society of people called Quakers, the person named in the annexed affirmation, who, in my presence, subscribed the same, and being by me duly affirmed, according to law, did declare and affirm, that the contents of the same were true.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the fourth day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss.*:

Hezekiah Pinkham, at present of the city and parish of Kingston, in the county of Surry, and island aforesaid, master mariner, late master on board the schooner Favorite, from New York, in the United States of America, and Charles Coffin, also at present of the city and parish of Kingston aforesaid, mariner, mate on board the said schooner, being respectively duly sworn on the Holy Evangelists of the Almighty God, severally make oath and say, that, on Monday the 8th of October, now last past, the said schooner Favorite sailed from New York, aforesaid, with a cargo on board, consisting of flour, corn, Indian meal, spermaceti candles, tobacco, butter, and other articles, the property of, and belonging to, Abraham S. Hallett, of the said city of New York, merchant, destined to the island of Curacoa, and consigned to Mr. Joseph Foulke, a resident merchant; and also having on board two private adventures, the property of, and belonging to, Gilbert Shotwell and Charles Eyers, clerks in the said mercantile house of the said Abraham S. Hallett. And these deponents severally make oath and say, that they continued on their said voyage without meeting with any material occurrence, and at ten o'clock, A. M., on Thursday, the first day of the month of November, now last past, they made the island of Antigua, bearing southwest by south, distant nine leagues, and on Friday, the ninth day of the said month of November, they made the island of Bonaire, bearing north by east, distant about three leagues; shortly after which, the said schooner was brought to by His Britannic Majesty's ship of war Diana, Thomas James Maling, Esquire, commander, and His Britannic Majesty's sloop of war Pelican, John Marshall, Esquire, commander, and afterwards made prize of by them, on the ground, as they informed these deponents, that the said schooner was destined to a blockaded port, and thereupon the said schooner was sent down to Port Royal, in this island, for adjudication, where the said schooner arrived, on the 21st day of the said month of November; and these deponents further severally make oath and say, that shortly after the arrival of the said schooner in Port Royal aforesaid, the said Thomas James Maling and John Marshall, on behalf of themselves, their officers, seamen, and marines, instituted a suit in the Vice Admiralty Court of the said island against the said schooner and cargo on board her; and this deponent, the said Hezekiah Pinkham, having caused a claim to be filed to the said schooner and cargo, and private adventures on board her, on behalf of their respective owners thereof, the same came to be heard, at the Court of Vice Admiralty held in this city and parish of Kingston aforesaid, on Monday, the 17th of November, now instant, when his honor, the judge of the said court, was pleased to condemn the said schooner Favorite and cargo, and clerks' adventures; but from which said sentence this deponent's counsel prayed leave to appeal, and which was granted in the usual form.

HEZEKIAH PINKHAM,
CHARLES COFFIN.

Sworn before me, this 19th day of November, 1804. WM. SAVAGE.

UNITED STATES OF AMERICA, *City of New York*, } *ss:*

Abraham S. Hallett, of the city of New York, merchant, being duly affirmed, according to law, saith, that the annexed instrument of writing is a true and accurate copy of the protest which this affirmant received from Jamaica, and that Hezekiah Pinkham, the master of the schooner Favorite therein mentioned, is not at present in the city of New York, to the knowledge of this affirmant; and he further saith, that he was the true and lawful owner of the schooner Favorite, and of her general cargo, on her late voyage, and that no person or persons whatever, being a subject of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics, or inhabiting within any of the territories of France, of the United Provinces, or the said Republics, nor their factors or agents, nor any other enemies of the Crown of Great Britain, had at the time of the capture of the said vessel, any right, title, or interest, either directly in and to the said schooner the Favorite, her tackle, apparel, and furniture, or in or to the cargo beforementioned, or any part thereof; but that the said schooner the Favorite, her tackle, apparel, and furniture, and her general cargo, did at the time of the sailing of the said vessel from New York, and at the time of the capture thereof, belong to this affirmant, and would so have belonged to him, in case the said vessel had arrived at Curacoa, her port of destination, and until the same had there been sold and disposed of for, and on the account and benefit of the affirmant: and this affirmant further saith, that he was not, at the time of shipping the cargo, on board of the said vessel, or at any time after, nor is he at this present time engaged in any partnership in any house of trade belonging to any person or persons, enemies of the Crown of Great Britain, residing within any of the territories of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics; and he further saith, that he is a natural born citizen of the United States of America, and was at the time of the sailing of the said vessel on the voyage beforementioned, and still is a resident of the city of New York: and this affirmant further saith, that when he despatched the said vessel on the voyage aforesaid, he did not know that the said island of Curacoa was in a state of blockade.

ABRAHAM S. HALLETT.

Affirmed this 4th May, 1805, before me,
E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *State of New York*, } *ss:*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments, in writing, and to administer any oath, or oaths, to any person or persons, do hereby certify, that the writing hereunto annexed is a true and accurate copy of a protest signed Thomas Brown, and purporting to be sworn to by George Kinkead, which said protest appears to me, the said notary, to be an original instrument, which said copy, hereunto annexed, I, the said notary, have this day duly collated with the said original protest, and find the same to be, in all respects, a true and accurate copy of the said original.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the ninth day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss.*

Thomas Brown, late of Perth Amboy, in the county of Middlesex, in the State of New Jersey, in North America, a native citizen of the United States of America, but at present in the city and parish of Kingston, in the county of Surry, and in the island of Jamaica, mariner, late master of the American schooner Bethia, belonging to James Parker, Joseph March, and Cortlandt L. Parker, of Perth Amboy, aforesaid, merchants, and native citizens of the United States aforesaid, being duly sworn, solemnly maketh oath and deposeth, that the said schooner Bethia, under this deponent's command, sailed from the port of Perth Amboy, aforesaid, about the second day of December last past, being in the year of our Lord one thousand eight hundred and four, bound to the island of Curacoa, with a cargo of provisions, the property of the said James Parker, Joseph Marsh, and Cortlandt L. Parker. That he proceeded on his said intended voyage, without any material occurrences, and without meeting with any interruption, until the 22d day of said month of December, when being off the said island of Curacoa, the said schooner was boarded, and forcibly taken possession of by an officer and seamen from His Britannic Majesty's ship of war La Franchise, the honorable John Murray, Esq., commander, who took out of the said schooner the Bethia the mate and all the crew. And this deponent further saith, that the said schooner Bethia, then under the command of a prizemaster and four English seamen, continued in company with the said ship La Franchise, until 6 P. M. on the same day, when the prizemaster bore away for the island of Jamaica aforesaid, by order of the said honorable John Murray, Esq., and arrived in Kingston aforesaid, on the 28th day of said month of December; the said schooner being much damaged in her sails and rigging by the inattention of the prizemaster. And this deponent further maketh oath and saith, that the agents of the said ship La Franchise, having proceeded against the said schooner Bethia and cargo in the Court of Vice Admiralty, in the said island, for an intentional breach of blockade, this deponent caused a claim to be put in for the same, on behalf of the aforesaid owners. That on the 12th day of January, instant, the same came on to be heard, when his honor, the judge of the said court, was pleased to condemn the said schooner and cargo, as prize to His Britannic Majesty's said ship of war, La Franchise.

THOMAS BROWN.

Sworn before me, this —— day of January, 1805. GEORGE KINKEAD.

UNITED STATES OF AMERICA, *State of New York*, } *ss:*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested with full power and authority to attest oaths, to any person or persons, do hereby certify, that, on the day of the date hereof, before me the said notary, at the city of New York, personally came and appeared Jaques Ruden and Israel Benjamin Jacobs, who, in my presence, then and there respectively subscribed the affidavits hereunto annexed, and each being by me duly sworn, deposed and said that the contents of the affidavit by him were true.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 9th day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *City of New York*, } *ss:*

Jaques Ruden, of the city of New York, merchant, being duly sworn, saith, that he was the true and lawful owner of the American schooner the Performance, Isaiah Smart, master, her tackle, apparel, and furniture, and of the general cargo laden on board her at New York, the tenth of December, one thousand eight hundred and four, the said schooner then lying in the harbor of New

York, and bound on a voyage to Curacoa. And this deponent further saith, that no person or persons whatever, being a subject or subjects, citizen or citizens of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics, their factors or agents, nor any other enemies of the Crown of Great Britain, had, at the time of the shipping of the said cargo, or at the time of the capture of the said schooner, any right, title, or interest, either directly or indirectly, in and to the said schooner, her tackle, apparel, and furniture, or to her cargo, so laden on board of her by this deponent as aforesaid, or to any part thereof; but that the said schooner and her cargo aforesaid, did, at the time of the departure of the said vessel on the voyage aforesaid, and at the time of her capture, belong to this deponent, and would so have belonged to him had she arrived in safety at Curacoa, the port of destination. And this deponent further saith, that he is a citizen of the United States of America, and was, at the time of the shipping of the said cargo, and still is, a resident of the city of New York.

JAQUES RUDEN.

Sworn this 9th day of May, 1805, before me,
E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss.*

Isaiah Smart, at present of the city and parish of Kingston, in the county of Surry, in the said island, master mariner, master of a certain schooner or vessel called the Performance, Israel Benjamin Jacobs, at present of the said city and parish of Kingston, late supercargo on board of the said schooner, Benjamin Remington, at present of the same place, mariner, the mate of the said schooner, and Zachariah Rhodes, at present also of the same place, mariner, a seaman on board of the said schooner, being duly sworn on the Holy Evangelists of Almighty God, severally and respectively make oath and say, that, on or about the 13th day of December now last past, they, these deponents, respectively departed and sailed, in and on board the said schooner or vessel, called the Performance, from the port of New York, in the United States of North America, cleared out for and bound to the island of Curacoa, with a cargo consisting of provisions and a few bales of dry goods, the property of Jaques Ruden of the city of New York, merchant, consigned to this deponent, the said Israel Benjamin Jacobs, for sales and returns. And these deponents further severally make oath and say, that after their departure from New York, as aforesaid, they proceeded on their voyage for and towards Curacoa aforesaid, without anything material happening, (except meeting with several gales of wind) until about six o'clock in the morning of the 3th day of January last, when they had come in sight of the island of Bonaire, which was at that time bearing south southwest, and distant about three leagues; and these deponents say, that they made all sail, and run down with the said schooner close under the northwest point of the said island of Bonaire, making the best of their way for Curacoa; and that about nine o'clock in the morning of the said last mentioned day, a sail, which afterwards proved to be His Britannic Majesty's ship Franchise, commanded by the honorable John Murray, Esq. was descried from the said schooner, to the eastward, close under the said island of Bonaire, which sail immediately bore down for the said schooner: and these deponents further severally say, that the said schooner continued to make all sail for Curacoa, and the said ship Franchise chased the said schooner, firing frequently at her, till about 11 o'clock on the same day, when the peak of the said island of Bonaire bearing east northeast, three or four leagues distant, and the platform at Curacoa bearing southwest, and the said ship Franchise drawing near, the said schooner hove to for her to come up, which she did in a short time afterwards, and a boat was then sent from her on board the said schooner, with orders for these deponents, the said Isaiah Smart, Israel Benjamin Jacobs, and Benjamin Remington, to go on board the said ship Franchise; and these deponents, the said Isaiah Smart, Israel Benjamin Jacobs, and Benjamin Remington, for themselves, respectively, further severally say, that, in pursuance of the aforesaid orders, did go on board the Franchise, carrying with them all the papers belonging to the said schooner and her cargo, and that the honorable John Murray, Esq. the commander of the said ship, afterwards (and without warning of the said schooner from entering Curacoa,) took possession of the said schooner, and sent on board of her a prizemaster and crew, from the Franchise, (together with these deponents,) with orders to proceed with the said schooner for the island of Jamaica aforesaid, where she arrived on the 9th day of the said month of January last. And these deponents further severally say, that since the arrival of the said schooner in this island, she hath been, together with her cargo, proceeded against in the Court of Vice Admiralty of the said island; and these deponents, the said Isaiah Smart, and Israel Benjamin Jacobs, caused a claim to be interposed for the same; but the said schooner and her cargo (except the private adventures of these deponents, the said Isaiah Smart and Benjamin Remington) have been by the said court condemned and confiscated as good and lawful prize to His Britannic Majesty's said ship Franchise, on the ground, as these deponents are informed, and believe, of an intentional breach of blockade.

ISAIAH SMART.
ISRAEL B. JACOBS.
BENJAMIN REMINGTON.
ZACHARIAH RHODES.

Sworn before me this 11th day of February, 1805. WM. SAVAGE, *Magistrate.*

UNITED STATES OF AMERICA, } *ss:*
City of New York, }

Israel Benjamin Jacobs, at present in the city of New York, merchant, being duly sworn, deposeth and saith, that he was the supercargo of the schooner Performance, on her late voyage, and that the foregoing is a true and accurate copy of the original protest made at Jamaica, and that the facts therein set forth are true in all respects.

I. B. JACOBS.

Sworn this 9th day of May, 1805, before me.
E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, } *ss:*
City of New York, }

Thomas Stagg, junior, of the city of New York, merchant, being duly sworn, deposeth and saith, that he, together with Thomas Snell and Peter Stagg, likewise of the city of New York, merchants, were the true and lawful owners of the brig Lapwing, Lemuel Bourne, master, on her late voyage to Curacoa, and of the cargo on board of the said vessel, and that no person or persons whatever, being a subject or subjects, citizen or citizens of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian Republics, or inhabiting within the territory of France or the United Provinces, or of the Italian, Batavian, or Ligurian Republics, their factors or agents, or any other enemies of the Crown of Great Britain, had, either directly or indirectly, any right, title, or interest in the said brig, the Lapwing, or her cargo, or any part thereof, at the time of her sailing from New York, on her late voyage, or at the time of her capture, but that the said vessel and her cargo belonged to this deponent and the said Thomas Snell and Peter Stagg, and would so have continued to have belonged to them, had the said vessel arrived in safety at her port of destination, and until the said cargo had there been sold and disposed of, for and on account of this deponent and the said Thomas Snell and Peter Stagg; and this deponent further saith, that he was not, nor were the said Thomas Snell and Peter Stagg, or either of them, at the time of the sailing of the said vessel on the voyage aforesaid, or at any time after, nor are they, or either of them, at this present time, engaged in any partnership in any house of trade belonging to any person or person enemies of the Crown of Great Britain, residing within any of the territories of France, of the United Provinces, or of the Batavian, Italian, or Ligurian Republics. And he further saith, that he is a natural born citizen of the United States of America, and that the said Thomas Snell and Peter Stagg are likewise natural born citizens of the United States of America, and that he, this deponent, and the said Thomas Snell and Peter Stagg were, at the time of the shipping of the cargo on board of the said vessel, in the voyage aforesaid, and still are residents of the city of New York, carrying on trade under the firm of Snell, Stagg, and Co.; and this deponent further saith, that he did not know at the time of sailing of the vessel on the voyage aforesaid, that the island of Curacoa was in a state of blockade. And this deponent further saith, that the annexed instrument of writing is a true and accurate copy of the protest received by this deponent from Jamaica. THOMAS STAGG, jun.

Sworn this 10th day of May, 1805, before me,
E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, } *ss:*
City of New York, }

I, Edward W. Laight, a public notary for the State of New York, do hereby certify, that on the 10th day of May, in the year of our Lord one thousand eight hundred and five, personally appeared before me Thomas Stagg, jun., the person named in and who subscribed the aforegoing affidavit, and was by me duly sworn to the contents of the affidavit by him before subscribing.

Quod Attestor,
E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss:*

Lemuel Bourne, at present of the city and parish of Kingston, in the county of Surry, in the said island, and master mariner, late master of the brig Lapwing, from New York in the United States of America, and Charles Selden, also at present of the city and parish of Kingston aforesaid, mariner, late mate on board of the said brig, being respectively duly sworn on the Holy Evangelists of Almighty God, severally make oath and say, that, on the 28th of October now last past, the said brig Lapwing sailed from New York aforesaid, with a cargo on board of her consisting of dry goods, cheese, claret, flour, provisions and lumber, the property of, and belonging to Messrs. Snell, Stagg, and Co. of the said city of New York, merchants and co-partners, destined for the island of Curacoa, and consigned to a Mr. Joseph Foulke, merchant there; and these deponents further severally make oath and say, that they did not speak with any vessel, nor meet with any material occurrence during their voyage, save only that the said brig Lapwing was very leaky from the commencement of her voyage, and continued so until the time of her capture, as hereinafter is mentioned, insomuch as to render it necessary to pump every quarter of an hour. And these deponents further severally make oath and say, that, at eight o'clock A. M. on Monday, the 12th day of November now last past, they saw the island of Bonaire, and at two o'clock P. M. on the last mentioned day, when off the east end of Curacoa, the brig was captured by His Britannic Majesty's ship of war Diana, Thomas James Maling, Esq. commander, and sloop Pelican, John Marshall, Esq. commander, on the pretence, as they informed these deponents, that the said brig was bound to a blockaded port. And these deponents further severally make oath and say, that the said John Marshall took this deponent, Lemuel Bourne, and the whole of the crew, except this deponent, Charles Selden, and one sick man, out of the said brig Lapwing, on board the said sloop Pelican, and ordered the said brig Lapwing down to this island for adjudication. And these deponents further severally make oath and say, that the said brig Lapwing arrived in the harbor of Port Royal, in the said island of Jamaica, on the 21st day of the said month of November, and shortly after the said Thomas James Maling and John Marshall, on behalf of themselves and their officers, seamen, marines, and mariners, instituted a suit in the

Vice Admiralty Court of the said island against the said brig Lapwing and the cargo on board her; and this deponent, the said Lemuel Bourne, further saith, that having caused a claim to be filed in the said court, to the said brig's cargo, on behalf of the said Messrs. Snell, Stagg, and Co., the owners thereof, the same came on to be heard at the city and parish of Kingston aforesaid, on Monday the 17th day of December now instant, when his honor the judge of the said court was pleased to condemn the said brig and cargo, from which said sentence this deponent's counsel prayed leave to appeal, and which was granted in the usual terms.

LEMUEL BOURNE.
CHARLES SELDEN.

Sworn before me, this 19th day of December 1804.
WM. SAVAGE, *Magistrate*

BRITISH CAPTURES.

Schooner Charlotte, Masterton.

Insured, for B. Dupoy, 19th of October 1803, from Cape Francois to New York.

On cargo, $11,000 at four and a half per cent. - - - - - - $10,780

This cargo consisted solely of coffee, purchased and received from the French Government for the outward cargo sold to them, and it was at all times the true and *bona fide* property of B. Dupoy the assured.

This vessel sailed from Cape Francois 19th October, 1803, and on the same day, going out of the harbor, was taken by the British frigate Æolus, then lying there, and by Commodore Loring, of the British M. W., ordered for Jamaica. On the 24th, at midnight, captured by a French privateer commanded by one John Madelean, who carried them to St. Jago de Cuba. The captain applied to the Governor for redress, but none was afforded; the most part of the cargo taken out of the vessel, and the remainder offered for sale.

Schooner Independence, James Taylor.

Insured for B. Dupoy, 25th October, 1803, from New York to Cape Francois.

If forbid entering Cape Francois, to proceed to any port in the West Indies, not blockaded.

Vessel - - - - - - -	$2,200
Cargo - - - - - - -	3,300
	$5.574

Particulars of cargo: twelve casks of claret, pork, beef, flour, lard, cheese, sweet oil, soap, candles, onions, and empty bags. This vessel was within three leagues of the harbor of Cape Francois on the 16th November, 1803, His Britannic Majesty's sloop of war La Blanche and three others cruising off the harbor, and his register endorsed by Captain Mudge of the La Blanche not to enter said harbor, or go within three leagues of it; if he did, he should take possession of said schooner. In half an hour after the captain returned on board, a boat from the Bellerophon took charge of and ordered the schooner Independence for Jamaica, and she arrived there the 26th November. This vessel was condemned in Jamaica, and the cost to the owners enormous.

Ship Mercury, Speck

Insured for John Juhel, 24th July, 1804, from Martinique to New York.

In cargo - - - - - - $10,000

Cargo, two hundred and seventeen hogsheads clayed, six hogsheads Muscovado, and one tierce brown sugar. This vessel was captured 11th September, 1804, by the Galatea frigate, Heathcote, carried to Antigua, and there condemned on the 7th October, 1804.

This vessel was a fine French ship, purchased in Martinique by Archibald A. Cock for account of his master, John Juhel of New York. Archibald A. Cock had been sent to Martinique to collect debts chiefly arising from cargoes sent there while under the British Government, due the said John Juhel, to receive consignments of cargoes from him, to make contracts for sugar and coffee, and to pay for the same from proceeds of the outward cargoes, and make returns to New York.

So far as can be collected from the papers, it appears that A. A. Cock was considered as domiciled at Martinique, and consequently affects the property of his master, a citizen of the United States, but is generally condemned as enemy's property.

Schooner Nancy, Hurd.

Insured for John Juhel, 5th March, 1804, from New York to Martinique, and, if ordered away by a British cruiser, to proceed to St. Thomas, and from thence to New York, warranted American property, in cargo eight thousand five hundred dollars - - - - - - - $8,527

Cargo of this vessel sugar and coffee. This vessel arrived at Martinique without interruption, and, on the homeward voyage was captured on the 29th of April, 1804, by the frigate Boston, Captain Douglas, sent to and condemned at Halifax, for a breach of blockade at Martinique, notwithstanding the orders to Commodore Hood respecting the blockade of Martinique and Guadaloupe.

An appeal is preferred to the lords in England.

Brig Jefferson, J. Crocker.

Insured for Ignatius P. Longchamp, 28th June, 1804, from Bordeaux to New York.

Vessel - - - - - - -	$4,000
Cargo - - - - - - -	12,000
	$16,000

Cargo consisted of wines, brandy, and some other articles. This vessel was purchased in France with property left there by him and for his sole account. The cargo also purchased from the same means, the amount left in France in debts due Mr. Longchamp, as appears from sundry documents.

This vessel was captured off the Hook, on the 26th July, by the Cambrian and Leander, ordered for Halifax, the vessel and cargo condemned the 24th September, 1804.

This is a flagrant act of injustice. The only cause for condemnation we can discover, is, that Mr. Longchamp had been in France in the last three years, and that his brother was a conscript in the French service.

Mr. J. P. Longchamp is a native of Avignon.

An appeal is preferred to the lords in England.

Ship John, Patterson, from New Orleans to Bordeaux.

Insured for Joseph Thibaud, 13th March, 1805.

Cargo $4,000 - - - - - - $4,000

The John sailed from the Balize on the 28th of February, 1805, with a load of cotton, indigo, logwood, and mahogany; on the 30th of the same month, in latitude 36° 40′ north, lon. 64° 00′ west, was captured by the Cambrian, M. W. Captain Beresford, and ordered to Halifax. The ship is condemned on the ground that Mr. Carricabara, the former owner, a French citizen, never duly authorized Mr. Thibaud to make sale of the ship. The fact is, that Mr. Thibaud, the agent of Carricabara, did endeavor to sell the ship, but could not effect it: finally, he becomes himself the purchaser, and the amount passed to the credit of Mr. Carricabara. Afterwards Mr. Thibaud sold a moiety of said ship to a Mr. Ignatius Longchamp, and gave him a bill of sale therefor.

The above cargo is condemned merely because it does not appear to the Vice Admiralty Court at Halifax, what property Mr. Thibaud had at New Orleans to make the purchase.

Ship John, Patterson.

Insured from New Orleans to Bordeaux, for Joseph Thibaud.

Cargo $11,800 - - - - - $11,800

On sugar and indigo, the property of Mr. P. Lanusse, of New Orleans.

This property is reserved for further proof.

Schooner Araminta, Smith.

Insured for J. P. Durand, 31st July, 1824, at and from Cayenne to New York.

Cargo $12,000 - - - - - $12,000

Cargo consisting of rocoa, cotton, cocoa, and palm oil. This vessel sailed from Cayenne on the 18th of July, 1804, and on the 15th of August following, was captured within four leagues of the light-house of Sandy Hook by the Leander, B. M. W. Skeene, commander, and ordered for Halifax, where they arrived on the 27th of the same month.

The Araminta's cargo was condemned at Halifax on the ground, so far as we can collect, that Mr. Durand did not account for the means of purchase, and that the outward cargo, belonging to another person, was contraband of war.

Ship Manhattan.

Insured for Frederick and Philip Rhinelander, the 14th of June, 1804, from New York to Batavia, one other port in India, and back to New York.

In vessel $40,000, valued at that sum - $40,000

This vessel was chartered for a voyage to Batavia and back by Messrs. Minturn and Champlin, of New York, a cargo was purchased at Batavia, for their account, consisting of sugar, coffee, indigo, cotton-yarn, and spices. On the return was captured by the British armed brig Busy, Captain ——, carried to Bermuda, where, after much trouble, delay, and expense, the vessel was restored, as was the cargo also; but the captors appeal from the sentence, as it appears, merely for the purpose of creating profits from commission to the friends of the captors in Bermuda. The sole cause of capture, so far as can be learned, was, that a Dutch passenger was on board from the Cape of Good Hope.

Ship Penman, Coffin.

Insured for Byrd and Barron, 19th November, 1804, at and from Batavia to Muscat, and back to Batavia, vessel and cargo - - - $22,000

This vessel sailed on a voyage from New York to Antwerp, thence to India. The voyage insured was an intermediate one, on which she was captured, as sailing contrary to the British instructions of 1803.

The Penman was captured, on the 4th of October, by His Britannic Majesty's ship Tremendous, John Osborne, and carried to Columbo, in the island of Ceylon, and there condemned on the 31st of December, 1804, as having carried, and, at the time of the capture, carrying on an illicit trade between the Batavian Republic, her colonies in the East Indies, and of the colonies of her allies.

Schooner Fairplay, Robins.

Insured for P. A, Cammann, 10th of October, 1805, from New York to Curracoa; if blockaded, to proceed to a port that is not. Vessel, freight, and cargo, $15,690 - - - - $15,690

The schooner Fairplay sailed from New York in October, 1804, and was captured on the 7th of November following by His Majesty's ship Diana, and ordered for Jamaica. The capture was made on the pretence of the blockade at Curacoa.

The Fairplay was afterwards retaken by the mate, carried to Carthagena, and the property said to be left in the hands of the Spanish Government; whether any, or what, part will be recovered is uncertain.

Brig Joseph, Winship.

Insured for A. Kirkpatrick, 23d April, 1805, from St. Pierre's, Martinique, to New York.

Cargo $13,000 - - - - - $13,000

This vessel was captured on the 11th of July by a British ship of war, and carried to Tortola, and the cargo condemned on account that the outward cargo was contraband of war.

Ship Mary, Knight.

Insured for Henry Cheriot, 15th March, 1805, from Martinique to New York.

Cargo twenty thousand dollars, warranted that the outward cargo did not consist of articles contraband of war - - - - - $20.000

This was a cargo of sugar, the property of Mr. Cheriot.

The Mary was captured on the 26th of April, by His Britannic Majesty's ship Ostry, Captain Clinch, and carried to Antigua. The vessel is dismissed, but the cargo detained for proof, on suspicion of being French property. The costs in the island of Antigua are shamefully enormous.

Ship John, Patterson.

Insured for Francis Phillippon, 4th March, 1805, from New Orleans to Bordeaux.

Cargo - - - - - - - $10.000

This cargo consisted of two hundred and fifty boxes Havana sugar. The sugar, the property of a Mr. —— Phillippon, resident at New Orleans, and like Mr. Lauresse's property, is reserved for further proof.

Ship Enterprise, Thompson.

Insured for Joseph Thibaud, 9th of September, 1805, from Bordeaux to New York.

Cargo - - - - - - - $12 000

This vessel is captured and sent into Halifax; the cargo landed and detained for further proof.

Ship Hamilton, Masterton.

Insured for Labouisse & Co., 31st of August, and the 3d of September, 1805, from Bordeaux to New York.

Cargo - - - - - - - $12.000

This vessel was captured by the British brig Busy, Captain Byam, on the 18th September last, about fifty miles from Sandy Hook light-house, sent to Halifax, the cargo detained for further proof.

The Enterprise and Hamilton are two only of several vessels lately sent to Halifax, the proof required it is difficult, and in some cases impracticable, to furnish, and it is a question whether it ought to be submitted to. I subjoin a copy of a letter from Mr. Michael Wallace, the agent of the assured at Halifax. It fully details the sentiments of Judge Croke.

Copy of Mr. Stewart's letter to Mr. Wallace.

HALIFAX, *November* 8, 1805.

DEAR SIR: As the interlocutory decree of the Court of Vice Admiralty, in the cases of the ships Enterprise, Eugenia, Zulima, and Hamilton, will necessarily affect all other neutral ships engaged in the same trade, and as it is a decree that may lead to a final decision of infinite importance, I have thought fit, for the information of our American friends, to trouble you with a few lines on this subject.

These several ships and their respective cargoes were charged, generally, in the allegation of the King's advocate, to be enemies' property, and various grounds were adopted in support of the allegation. Among the number was a point of national law which the counsel for the captors thought fit to raise, upon very loose information afforded by letters found on board the ships, of a late decree of the Government of France, respecting the importation of goods of British growth or manufacture. It appeared by a number of these letters that certificates of origin, as they were termed, had been carried to France by these several ships, for the purpose of proving the growth and manufacture of their outward cargoes. It appeared, also, that, unless those certificates had been produced at Bordeaux, the vessels and their cargoes would, in all probability, have been condemned by the French Government, under the decree before mentioned. And it further appeared that the produce of the French colonies, of which the outward cargoes of those ships chiefly consisted, was exempted from duties on the production of the certificates.

Upon these facts it was contended, on the part of the captors, that a trade carried on to France by neutrals, under the decree in question, was an unusual course of trade, submitted to for the advantage of the enemy. That the certificates of origin were obtained conformably to that decree, and favored the views of the enemy by rejecting all goods of British growth or manufacture, and by entitling the neutral to the same exemption or reduction of duties, that would be granted to a Frenchman; and that such commerce was unneutral upon the general ground of avowed partiality to the known enemy of Great Britain.

On the part of the claimants, it was answered by their advocates, that the information afforded of the decree, as well as of the certificates of origin, and the duties in question, was extremely garbled and incorrect. That taking the facts, however, for granted, it did not appear that the course of trade was any other than that to which neutrals had been entitled by the law of nations for ages past. That the French Government had a right to impose any restrictions whatever in its own trade, and to admit neutrals to a participation of it upon such terms as a regard for its own interest would naturally dictate; that the decree which directed the certificates of origin was of late date, and it was impossible yet to ascertain what would be the conduct of neutrals with respect to it; but that, if they should still continue to carry on their commerce with France, under the restrictions imposed by that decree, they would have a complete right by the law of nations so to do, and would by no means be guilty of that gross partiality, which amounts to unneutral conduct.

The judge, however, was very much inclined to adopt, in his decree, the arguments of the King's advocate, and laid much stress upon the course of trade being unusual, and of its having been resorted to by the enemy, in consequence of our naval superiority. He admitted the certificate of origin would not of itself have been sufficient

cause of condemnation, and that a decision to this effect had been given by our courts at the close of the last war. But he observed that the decree in question might impose certain restrictions and limitations which, if complied with, would create a breach of neutrality; that if neutrals, who were favoring the commerce of France, were allowed the same privileges with Frenchmen, by an exemption from duties or otherwise, he could not but consider them in the same light with the subjects of France; and on that account he was desirous of ascertaining in what respect the course of trade *now* carried on with the French ports in the mother country differed from the former and customary line of commerce. He, therefore, directed further proof to be produced to the following points:

1. Of what colony or country the outward cargoes were the growth, produce, or manufacture.
2. Under what certificates the same were admitted to entry in the ports of France, and whether liable to foreign or reduced duties.
3. What are the French laws on this subject, and what limitations are imposed on return cargoes.

The judge, concerning the different interests in the cargoes, observed, that he should require from every claimant a notarial copy of the original letter or order, by virtue of which the goods from France were shipped on neutral account, and that all letters of correspondence, bills of lading, and invoices which concern such shipments, or notarial copies of them, must be produced to the court, verified by the attestation of clerks or other indifferent persons. This proof should be accompanied by the test affidavit, as it is called, of the party himself, swearing to his notarial character, and fully stating his right to the property claimed by him, and the funds by which he acquired it. It should conclude with the usual averment, that no enemy of Great Britain has any concern in the goods; that they were at the time they were shipped, and at the time of the capture, and would now be if restored, the sole and exclusive property of the claimant.

The judgments of professional gentlemen in the States can surely supply any further direction that may be necessary on the point of property.

You will, no doubt, write to your several correspondents by this opportunity, and I have only to request you will assure those gentlemen of the best having been done for them, and that they shall have a continuance of my exertions.

I am, &c. JAMES STEWART.

Ship Belisarius, Holmes, from New York to Bordeaux.

Insured for J. P. Longchamp, 12th June, 1805.

On cargo - - - - - -	$3,030
F. Huguet - - - - - -	775
E. Stevens - - - - - -	5,500
Ditto, freight - - - - -	1,500
	$13.805

This vessel was captured by the British, and carried into England; the property detained for further proof. This vessel and part of the cargo belongs to General Stevens, nor is there a doubt (so far as I can learn) but that the property was all American.

Brig Little Cornelia, from New York for Amsterdam.

Insured for J. Arden, the 6th, 13th, and 23d August, 1805.

On vessel - - - - - -	$4,500
On cargo of sugar - - - - -	13,000
On logwood - - - - - -	750
On freight - - - - - -	2,500
	$20.750

This vessel is sent into a port in England for adjudication; particulars not yet known. The property that of Mr. Arden, of this city; the sugars imported from Martinique, by him landed, and the duties secured here.

Ship Cicero.

Insured for Gouverneur and Kemble, the 13th August, and 2d September, 1805.

On cargo of Havana sugars - - $26,420

This vessel is also sent into England, no particulars known. The sugars the property of Messrs. Gouverneur and Kemble.

Total amount of British captures - $288,946

FRENCH CAPTURES, &c.

Brig Hector, of New York, Thomas Harding.

Insured for William Armstrong, junior, 28th June, 1804.

September 9, 1804, paid a total loss on several invoices:

Provisions and lumber - - -	$4,091 50
Ditto, another policy of provisions -	142 10
Ditto, on freight - - - -	2,009 00
	$6,242 60

Taken by two French privateers on the 23d July, and finally carried to Baracoa, in Cuba.

NOTE.—This property was British, in an American vessel. Protest sent to the Secretary of State's office, July 5, 1805.

Schooner Eagle, Thomas Barber.

Insured for John Troop, from New York to Jamaica, on the cargo, and to Jamaica back, on the vessel.

September 10, 1804, paid total loss on

vessel - - - - - - - -	$2,450
Cargo, provisions, and lumber - -	5,684
	$8,134

NOTE.—This vessel, as well as cargo, were owned by John Troop, a citizen of the United

States, and resident in New York, captured on the 17th June, 1804, by the French privateer schooner Sansculotte, Rolly, and carried to Baracoa.—Protest sent to the Secretary of State's office, 5th July, 1805.

Schooner Polly, John Biglay.

Insured for John Troop, from New York to Montego Bay, Jamaica.

October 22, 1804, paid a total loss on cargo - - - - - - - - $4,214

This was a cargo of provisions, shipped by John Troop for his own account.

Captured by a French privateer on 13th July, 1804. Protest sent to the Secretary of State's office, 5th July, 1805.

Brig Twins, Crowe.

Insured by Thomas Buchanan, 20th February and 11th March, 1805.

On vessel paid total loss - - -	$8,000
Freight do - - - - - - -	2,000
Cargo do - - - - - - -	10.595
	$20.595

From New York to Jamaica.

This vessel was owned by Thomas Buchanan, of New York. The cargo was on account of British planters in Jamaica, and vessel and cargo captured by three French privateers on the 11th April last, and carried to Baracoa, in Cuba.

Protest sent to the Secretary of State's office, 5th July, 1805.

Copy of a letter to the honorable Secretary of State.

OFFICE OF THE UNITED INSURANCE CO.,
NEW YORK *5th July*, 1805.

SIR: In behalf of the United Insurance Company, in the city of New York, I have the honor to transmit you an account of captures, made by certain French privateers, of property insured by the said company. We have no reason to believe that the property was ever condemned by any competent tribunal; on the contrary, we apprehend the same was converted to the private use of the captors, without the form of judicial proceeding.

Captures of a similar nature having frequently occurred, the United Insurance Company have felt it their duty to transmit to the Government of the United States a correct statement of the circumstances accompanying the violation of our neutral commerce, and a full detail of the facts will be found in the enclosed documents.

They confide in the wisdom and justice of Government to adopt all necessary measures for their indemnity for past injuries, and their security against future ones of a similar nature.

I have the honor, &c.

J. DELAFIELD, *Pres't.*

LIST OF CAPTURES.

Brig Hector, of New York, Thomas Harding, from New York to Jamaica.

William Armstrong, jun., Sept. 9, 1804, paid otal loss on several invoices:

Provisions and lumber - -	$4,091 20
Do. another policy, provisions -	142 10
Do. on freight - - - - -	$2,009 00
	$6.242 60

Taken by two French privateers on the 23d of July, and finally carried to Baracoa, in Cuba.

NOTE.—This property was British, in an American vessel.

Schooner Eagle, Thomas Barber.

New York to Jamaica on the cargo, and to Jamaica and back again on the vessel.

John Troop. September, 10, 1804, paid a total loss on vessel - - - - -	$2,450
On cargo, provisions and lumber -	5,684
	$8,134

Ship Andromache, Heckle.

Insured for Thomas Buchanan, 15th and 29th August, 1804, from New York to Jamaica.

Cargo belonging to persons resident in Jamaica, - - - - - - -	$8,900
Ditto, ditto - - - - - - -	475
Freight - - - - - - -	$3,000
Vessel - - - - - - -	$8,000
	$20,375

The Andromache was captured on the 5th October, 1804, by the French privateer Democrat, Jerome, commander; and, on the 9th of the same month, was re-captured by the British S. W. La Sagesse, carried to Jamaica, and the property in vessel and cargo released on paying a salvage of one eighth per cent. and charges.

Ship Almy, Crowe.

Insured for Thomas Buchanan, 3d July, 1805, from New York to Falmouth, Jamaica, cargo belonging to persons resident in Jamaica - - - -	$12,435 00
Total amount of French captures	$72,215 60

The Almy was captured on the 26th June, by the French privateer schooner La Confiance, Captain La Paze, and carried to Baracoa, in Cuba; arrived there 28th June.

SPANISH CAPTURES, &c.

Brig Success, Brum.

Insured for George Barnwall, from Jamaica to New York, 30th July, 1805; cargo ten puncheons rum - - - - - - - - - $630

The Success was captured on the 13th July, 1805 by a Spanish galley, belong to the Havana, called La Bonne Union, commanded by Captain Cæsar, manned with thirty or forty Spaniards and Frenchmen, with one Irishman, who served as an interpreter. That three days after the said capture, the said Captain Brum, the passengers, eight in number, and the people of the said brig, were all ordered below, and the hatches shut upon them; in this situation they were kept through the night. In the morning, the crew of the galley prepared their knives and cutlasses and clubs, opened the forecastle and called for the captain. That this appearer, with the view of preserving the captain's life, stepped forward and ascended to the deck; that the crew of the galley, with their instruments of slaughter, having arranged themselves in two ranks, compelled the seamen of the said brig to run the gauntlet, while each gave him a blow or a stab as he passed. That Captain Brum and his passengers and crew, were all, in succession, taken from the hold, and treated with the same horrid cruelty, excepting five French passengers. That an English gentleman, by the name of Smith, who was one of the passengers, was beaten with such severity that he sprang into the long boat and broke his ancle in two places; that the mate of said brig, two English passengers, and two seamen, were put in irons on board the galley, and three days afterwards sent ashore at Congaboutee, about one hundred and eighty miles from Havana, and the said brig and remainder of the crew were sent to Campeachy; and it is stated that the property is in the hands of the Government, subject to the orders of the owners.

PHILADELPHIA, *December* 10, 1805.

SIR: Among the numerous captures of American vessels, lately made by British cruisers, the circumstances attending four vessels, taken on their passage from Bordeaux, (three for New York, the other for this place,) has particularly attracted the attention of the merchants and insurance companies of this place, where the property has been principally insured.

Those vessels, carried cargoes from the United States to Bordeaux, and were returning with articles, the manufacture or growth of France, partly the proceeds of the goods they carried out, and partly purchased with their funds. The vessels and their cargoes were libelled in the Vice Admiralty Court at Halifax, and are held for further proof.

By a letter received from the proctor of the claimants, (a copy of which accompanies this,) it appears that the King's advocate advanced on the trial principles new and extraordinary, which were favorably received by the judge, who has called for proofs that have never been required on any former occasion. Such proofs, as have been usual, have actually been sent forward, but strong doubts exist whether the others called for, if obtainable, ought to be adduced. Wishing to act with due circumspection in an affair which may involve important consequences, it has been deemed advisable to submit the case, with such observations as have occurred to us, to the Department of State, that we may benefit of any advice or opinion you may favor us with.

The proofs required by the judge, which to us appears exceptionable, are:

1. Of what colony or country the outward cargo was the growth, produce, or manufacture.

2. Under what certificates were the same admitted to entry in the ports of France, and whether liable to foreign or reduced duties.

3. What are the French laws on this subject, and what limitations are imposed on return cargoes.

We consider the first as exceptionable, inasmuch as it has not been heretofore required; it has been held under former decisions of the British courts that return cargoes are not questionable on account of the outward one, except the latter consisted of articles contraband of war. In the last order of the British King, the exception is confined to the product of articles contraband of war: the embarrassment which the establishing this as a principle would occasion, is too obvious to require explanation.

"2. Under what certificate were the same admitted to entry in the ports of France, and whether liable to foreign or reduced duties."

To this, besides the objection already stated, it seems utterly irreconcilable to the principles of justice, that the claimants should be called upon either to prove a negative, or furnish a cause of condemnation of their property. It was suggested by the judge in his reasoning that the permission of importing into France the produce of her colonies by neutrals, while those of the British dominions were excluded, was, of itself, a breach of neutrality, and if on reduced duties that would be an additional reason.

The fact (as respects those ships,) is, that they carried from the United States cargoes taken on freight, from various people, and consisting of articles, the produce of the United States, and of the French and Spanish colonies; the cargoes with which they were returning are not precisely the proceeds of the outward ones, nor all belonging to the same persons; it is, therefore, imposing upon the owners of the present one a most unreasonable task, and has this still further disadvantage that, if those proofs are furnished in cases in which they are attainable, in every instance in which that could not be done, it may be deemed a ground for condemnation; besides, it would be used for a precedent on all future occasions.

To the third there is no objection, but that it puts upon the claimant a proof which, if material, ought to be adduced by the captors. If, as they contend, the laws of France, which provide for neutral commerce, are a ground of condemnation, the proof of the existence of such law in reason rests with the captors.

As the French laws are explained to us, they provide against the introduction into that kingdom of any goods or merchandise, the manufacture or growth of any of the dominions of Britain. And it is, therefore, required that all goods carried there should be accompanied with certificates, showing of what country they are the manufacture or growth, and such certificates are to be verified by the commercial agent of France at the port of their shipment, or his deputy; these

are called certificates of origin, and are indispensable.

With respect to the reduced duties, we understand that there has existed in France, (many years previous to the revolution,) a regulation which provided that the exporters of goods from her colonies, by paying certain duties at the place of export, would be allowed an abatement on the duties, to which they would otherwise be liable on their introduction into France. When that law was decreed, French subjects only could export the products of her colonies to the mother country. Since the revolution the like provision has been extended to all persons exporting those products; but we are informed that it is embarrassed with so many provisions and difficulties that the abatement in France is seldom claimed, and much seldomer obtained. Some imperfect notices, extracted from letters found on board those ships, has probably suggested this inquiry, and not any certain knowledge of the law, or its effect on the goods in question.

To the latter part of the third proof required, it can be established that no condition is exacted from the exporters of goods from France to any neutral country.

In the present state of our commerce, the principles to which we have referred cannot be viewed by the merchants and underwriters of this city without extreme anxiety. Relying on the decisions which formerly took place in the British courts, the merchants of this country have risked property to an immense amount, much of which is now at hazard, and depending on the establishment of the principles which are the subject of this communication.

The time limited for exhibiting our proofs at Halifax expires on the 8th February. If you shall deem it necessary to favor us with any communication on the subject, it may be in time, and will be used in such way as you may advise.

We are, &c.

THOMAS FITZSIMONS,
Pres't Del. Ins. Co. of Philadelphia.
JAMES S. COX,
Pres't Ins. Co. of Pennsylvania.
JOSEPH BALL,
Pres't Ins. Co. of Philadelphia.
CHARLES PETTIT,
Pres't Ins. Co. of North America.

JAMES MADISON, Esq.

HALIFAX, *November* 8, 1805.

DEAR SIR: As the interlocutory decree of the Court of Vice Admiralty in the cases of the Enterprise, Eugenia, Zulema, and Hamilton, will necessarily affect all the other ships engaged in the same trade; and as it is a decree which may lead to a final decision of infinite importance, I have thought it fit, for the information of our American friends, to trouble you with a few lines on the subject of it. These several ships, and their respective cargoes, were charged generally in the allegation of the King's advocate, to be enemy's property, and various grounds were adopted in support of the allegation. Among the number was a point of national law, which the counsel for the captors thought fit to raise, upon very loose information, afforded by letters found on board the ships, of a late decree of the Government of France respecting the importation of British goods or manufacture. It appeared, by a number of those letters, that certificates of origin, as they were termed, had been carried to France by these several ships, for the purpose of proving the growth and manufacture of their outward cargoes. It appeared, also, that unless these certificates had been produced at Bordeaux, the vessels and their cargoes would, in all probability, have been condemned by the French Government under the decree before mentioned; and it further appeared, that the produce of the French colonies, of which the outward cargoes of these ships chiefly consisted, was exempted from duties on the production of the certificates. Upon these facts, it was contended, on the part of the captors, that a trade carried on to France by neutrals, under the decree in question, was an unusual course of trade, submitted to for the advantage of the enemy; that the certificate of origin was obtained conformably to that decree, and favored the views of the enemy, by rejecting all goods of British growth and manufacture, and by entitling the neutral to the same exemption, or reduction of duties, that would be granted to a Frenchman; and that such commerce was unneutral, upon the general ground of avowed partiality to the known enemy of Great Britain.

On the part of the claimants it was answered by their advocates, that the information afforded of the decree, as well as of the certificate of origin, and the duties in question, was extremely garbled and incorrect; that taking the facts, however, for granted, it did not appear that the course of trade was any other than that to which neutrals had been entitled by the law of nations for ages past; that the French Government had a right to impose any restriction whatever upon its own trade, and to admit neutrals to a participation of it, upon such terms as a regard for its own interest would naturally dictate; that the decree which directed the certificate of origin was of late date, and it was impossible yet to ascertain what would be the conduct of neutrals with respect to it, but if they should still continue to carry on their commerce with France, under the restrictions imposed by that decree, they would have a complete right, by the laws of nations, so to do, and would by no means be guilty of that gross partiality which amounts to unneutral conduct. At all events, supposing the greatest mischiefs to result to the British Government from such commerce, it was a subject for the consideration of the Ministry, and could not be a ground of legal argument in a Court of Vice Admiralty.

The judge, however, was very much inclined to adopt, in this decree, the arguments of the King's advocate, and laid much stress upon the course of trade being unusual, and upon its having been resorted to by the enemy, in consequence of our naval superiority. He admitted that the certificate of origin would not, of itself, have been sufficient cause of condemnation, and that a decision to this effect had been given by our courts at the close of the last war; but he observed, that the decree in question might impose certain restrictions and limitations, which, if complied with, would create a breach of neutrality; that if neutrals, who were favoring the commerce of France, were allowed the same privileges with Frenchmen, by an exemption from duties, or otherwise, he could not but consider them in the same light with the subjects of France, and on that account he was desirous of ascertaining in what respect the course of trade now carried on with French ports, in the mother country, differed from the former and customary line of commerce. He, therefore, directed further proofs to be produced, to the following points: 1. Of what colony, or country, the outward cargoes were the growth, produce, or manufacture? 2. Under what certificates were the same admitted to entry into the ports of France, and whether liable to foreign or reduced duties? 3. What are the French laws upon this subject, and what limitations are imposed on return cargoes.

I should imagine that further proof might be obtained to these several points, by an application to the French Minister in America for the law on the subject, and by applying to the custom-house for the history of the outward cargoes. The judge, concerning the different interests in the cargoes, observed, that he should require from every claimant a notarial copy of the original letter, or order, by virtue of which the goods from France were shipped on neutral account, and that all letters of correspondence, bills of lading and invoices which concern each shipment, or notarial copies of them, must be produced to the court, verified by the attestation of clerks or other indifferent persons. This proof should be accompanied by the test affidavit, as it is called, of the party himself, swearing to his national character, and fully stating his right to the property claimed by him, and the funds by which he acquired it. It should conclude with the usual avowment, that no enemy of Great Britain had any concern in the goods; that they were, at the time they were shipped, and at the time of the capture, and would now be, if restored, the sole and exclusive property of the claimant. The judgments of professional gentlemen in the States, can supply any further directions that will be necessary upon the point of property. You will, no doubt, write to your several correspondents by this opportunity, and I have only to request that you will assure those gentlemen of the best having been done for them, and that they shall have a continuance of my exertions. I am, &c.

JAMES STEWART.

JOHN BLACK, Esq., of the house of Forsyth, Smith, and Co., Halifax.

NEWPORT, R. I., *December*, 7, 1805.

SIR: Subjoined you have a list of American vessels insured by the Rhode Island Insurance Company, established at this place, which have been captured by some of the Powers at war, and in consequence thereof abandoned to said company.

Schooner Polly of Newport: owners John Bigley and Charles Cozzens, both of said Newport, burden of vessel about one hundred tons.

Circumstances of the capture: On the 18th of June, 1803, she sailed from New York, bound on a voyage to Jamaica, and thence back to New York, with a cargo of lumber and provisions; vessel and cargo of the value of about five thousand dollars. On the 13th day of July following, on her outward passage, lat. 20° 20′ north, she was captured by a French privateer called the Two Friends, commanded by —— Beson, if his name be rightly recollected. The master with his papers was taken and detained on board the privateer; the mate and crew put on board a boat and compelled to leave the schooner and provide for their safety as they might; fortunately they arrived safe to land. Captain Bigley was put on shore at Miaguiagua, S. W. part of Porto Rico, being first stripped of his papers, and the property about him.

The prizemaster and men put on board the schooner, conducted her to Samana, in the island of Hispaniola. Vessel and cargo, according to information, were sold there by order of Government, and the proceeds deposited in the public treasury, to be paid over to the concern. The amount of these proceeds is not known; but report makes it a trifle compared to the value of the property. What or whether any process was instituted against her by the captors is not known, or whether they had any commission; it is supposed they had none. Owing to the difficulty and infrequency of the communication, it has not yet been in the power of the concern to obtain the proceeds.

Brig Orange, of Newport: owner, Thomas Dennis, of Newport; master, Stephen A. Wanton, of ditto; burden of the vessel about —— tons.

Circumstances of capture, &c.—On the 15th day of June, 1804, she sailed from Newport, bound on a voyage to Jamaica, and from thence back to Newport, with a cargo of dry and pickled fish, &c., valued at about eight thousand dollars. On the —— day of August, 1804, she was captured by a French privateer, called the ——, commanded by ——, and carried into Baracoa, and there disposed of by the captors, but in what manner is not known.

Schooner Sea Flower, of Newport: owner, John Clarke, of Newport; master, the same John Clarke; burden of the vessel about ninety-three tons.

Circumstances of capture.—On the 26th day of December, 1804, within one mile of the shore of the Island of Cuba, and in sight of the Moro Castle, and bound to Havana, she was captured by a French privateer, called the Napoleon, and commanded by ——, master. Captain Clarke petitioned the Government at the Havana to have the property liberated, as being captured within that jurisdiction. Pending this petition, to avoid delay and expense, Captain Clarke made a com-

promise with the captors, by which he agreed to pay them nine hundred dollars, and they agreed to release the property; he paid the nine hundred dollars, and they executed the release, and the prize-master and Frenchmen quitted the vessel. Clarke then informed the Government of what had been done, produced the release, and requested the Spanish guard on board the Sea Flower might be withdrawn. The Spanish Government demurred from day to day, on one pretence and another, till at length one of the officers of the privateer presented a new petition, claiming the prize anew. Thereupon the Government immediately decreed that the property should be delivered to the captors, upon their giving bonds to abide the decree of the French Government at St. Domingo. The agent of Clarke offered to take the property and deposit in court twenty-four thousand dollars, to abide the decision at St. Domingo. This was refused, and bond of the captors was accepted for only eighteen thousand dollars; and the only security required to this bond was a mortgage of some land in a distant part of the Island of Cuba. Whether any decree at St. Domingo has since been passed, we have not ascertained; but, from the best information, we presume a decree has been passed; the information is contradictory. One report states that the vessel was acquitted, and the cargo condemned, another that both were condemned.

Schooner Ann and Harriott, of Newport: owners, Robert Stevens and Robert Rogers, of Newport; master, William Shearman, of Newport; burden of the vessel about ninety-three tons.

Circumstances of the capture, &c.—On the 17th of June, 1805, she was captured by a French privateer, called the Lucerne, on her passage to Jamaica; afterwards, on the —— day of ——, 1805, she was recaptured by an English frigate of war, called the Diana, and commanded by —— Molony, and was sent into Jamaica, where the vessel and cargo were libelled and sold for salvage; value of the vessel and cargo about ten thousand dollars.

Brig Mary, of Newport: owner, Thomas Dennis, of Newport; master, John Davis, of ditto; burden of the vessel about one hundred tons.

Circumstances of the capture, &c.—On the 8th day of April, 1805, she sailed from Newport for Jamaica, loaded with codfish, provisions, &c.; that the 26th same month she was captured by a French armed boat, whether commissioned or not unknown. The crew of the brig were forced into a boat, with some provisions, and driven off to one of the Bermuda Islands. The brig and cargo were carried to Baracoa, in the Island of Cuba. No process whatever was instituted against the property by the captors; they there embezzled the cargo and sold the vessel. The loss is about ten thousand dollars.

The office has an interest in the brig Rowena, Robinson Potter, master, condemned in England in the course of the Summer past, but the circumstances of that case are not here detailed, as other offices, who have a greater interest in the same vessel, have already, or will represent them.

The vouchers, in proof of the foregoing statements, will be forwarded, if necessary, with perfect confidence that these lawless depredations on our commerce will be properly felt and noticed by our Government. I am, &c.

SAMUEL VERNON, Jr., *Pres't.*

Hon. JAMES MADISON, *Sec. of State.*

To the honorable James Madison, Esq., Secretary of State for the United States.

NEWPORT, R. I., *December* 11, 1805.

SIR: The Newport Insurance Company deem it their duty to exhibit to the Government a statement of the losses they have sustained during the present war, by the depredations of the belligerent Powers. Compared with its limited capital and enterprise, it is presumed there are few offices in the United States that have suffered more.

From the instances mentioned in the sequel, it may be collected that, since the 23d day of July, 1804, the aggregate loss to the merchants and the country by lawless captures, exceeds fifty-seven thousand dollars. The company conceive themselves justified in stating that these losses arose from contingencies which no commercial intelligence could foresee, and upon which no commercial prudence was bound to calculate.

The losses they have to enumerate, were sustained in the course of a legal, accustomed, and honestly neutral commerce, carried on by native American citizens, with American capitals, in American bottoms.

These losses may be arranged under two heads:

1st. Captures in the West Indies by piratical privateers with real or pretended French commissions. The property plundered by these privateers has been uniformly taken into the ports of the island of Cuba, and there, with the connivance, or under the protection of the Spanish Government, without any form of trial or pretence for legal condemnation, has been sold and distributed.

2d. Captures in the British Channel by British armed vessels, in consequence of the new principle lately announced by the Courts of Admiralty, viz: that in case a vessel has brought goods from the colony of a belligerent, although she brings them to the United States, and the owners there unlade them, pay the importation duties, finish the concerns of the old voyage, and select and undertake another, with the same vessel and goods, it shall not be deemed evidence of a new voyage, but, on the contrary, conclusive evidence of a continued and uninterrupted voyage from the colony of a belligerent.

Under the first head have occurred the following cases:

No. 1. Brig Orange, S. A. Wanton, master; Thomas Dennis, of Newport, Rhode Island, merchant, owner; laden with fish and provisions bound from Newport to Jamaica; vessel and cargo valued at $10,000. Insured by the Newport Insurance Company, $4.000 on cargo.

Circumstances of capture, &c.—The Orange was taken on the 21st July, 1804, by the French

privateer Voltiguese, Captain Moisson, about six leagues from the island of St. Domingo. The officers and men were stripped of everything, even to the clothes on their backs, and left entirely destitute. The property was taken to Baracoa, in the island of Cuba. No form of trial or condemnation was had. The cargo was distributed by the captors, in their own way, and the vessel, it is believed, burnt.

No. 2. Brig Sally, Stephen Chase, master; Seth Howard, owner; bound for the United States; vessel and cargo estimated at $,4000. Insured by the Newport Insurance Company, $2,700.

Circumstances of capture, &c.—The captain, in his protest, declares that, after being detained by an embargo at Falmouth, in Jamaica, he sailed from thence for Montego bay, on the 28th of April, 1805; that he had been out about four hours, when he was captured by a felucca, within a mile of the shore. The captain of the felucca informed Captain Chase he was a good prize, and that he had orders to capture all American vessels on the coast of Jamaica. The Sally was taken to Cape Coure, in the island of Cuba; no condemnation or form of trial was had, and Captain Chase, and three out of six of his men, after being stripped of their clothes were ordered to take to their boat. They did so, and fortunately arrived at Montego bay on the 29th of the same month.

No. 3. Schooner American Lady, Enoch Toby, master; owned by Bowen and Ennis, of Newport, merchants, and others, cargo rum, &c., bound from Jamaica to the United States; value of vessel and cargo $4,000, insured by the Newport Insurance Company, $2,950.

Circumstances of capture, &c.—This vessel sailed on the 16th February, 1805, from Morant bay, south side of Jamaica, bound for Camden, State of North Carolina. On the 20th of the same month, being about five leagues distant from the Isle of Pines, she was brought to by a small privateer under French colors, mounting one swivel gun, and manned by about fifteen men, principally Spaniards. The vessel was taken possession of, carried to the Isle of Pines, the captain and men plundered and abused, and left on shore at this desert island without any means of subsistence except a dozen of biscuits and a bottle of rum. They would have perished there had it not been for the compassion of a Spaniard, the only inhabitant of the island. The captain and crew remained at this place until another French privateer arrived there, when they were taken, at the request of Captain Toby, near Savannah La Mar, on the south side of Cuba, from whence they travelled to the Havana. The captain noted his protest with the American Consul, who attended him to the Governor. Captain Toby explained to the Governor the ill-treatment he had encountered; demanded a restoration of his vessel, which was now within the Governor's jurisdiction, and the release of Moses Henly, a free black, one of his crew, who had left a wife and family in the United States, and who was in the greatest distress, as the captors were determined to sell him a slave for life. The Governor made little or no reply to Captain Toby's remonstrances or petitions. After waiting some time, finding himself unable to obtain redress, he was compelled to abandon the property and return to the United States.

No. 4. Schooner Ann and Harriet, William Shearman, master, vessel and cargo valued at $10,000; vessel owned by Robert Rogers and Robert Stevens, and the cargo by John Mein, all of Newport, merchants, bound from the United States to Jamaica; $5,000 was insured by the Newport Insurance Company.

Circumstances of capture, &c.—This vessel was captured on the 8th of May last, by a French privateer, off Cape Maire, in the Island of Cuba, and was ordered for St. Jago de Cuba, but upon being chased by the English ship of war Diana, she was run on shore by the prizemaster. After considerable exertions, and throwing overboard a great part of her cargo, she was got off by the English recaptors, and taken by them to Kingston, Jamaica, where the vessel and remainder of her cargo were sold under the process of the Court of Vice Admiralty there. The salvage of one-eighth, which was awarded the recaptors, the destruction of part of the cargo, and the disadvantages under which the residue was sold, render this little less than a total loss.

These are the principal losses sustained by this company, arising from the piratical depredations of privateers in the West Indies.

In all these cases abandonments have been made to, and the sums insured paid by, this company.

Under the second head of loss, the following important cases have occurred:

No. 1. The brig Rowena, Robinson Potter, master, voyage from Newport to Antwerp; vessel and cargo valued at $26,735, owned by Christopher Grant Champlin, Esq., for himself, in his own right, and as administrator of Christopher Champlin, Esq., deceased; sum insured by the Newport Insurance Company, $15,000.

Circumstances of capture, grounds of condemnation, &c.—The owners of the Rowena had imported in her from Martinique a cargo of sugar and coffee. This cargo was legally landed, and the duties payable to the United States secured. The owners, finding no advantageous domestic market for their coffee and sugar, made general inquiries into the state of the European market. They began to contemplate generally an exportation; but whether that exportation would be to Copenhagen, Amsterdam, or Antwerp, or whether it was to be totally abandoned, was a matter in deliberation, and to be determined by the result of their inquiries. After a delay of some weeks it was ultimately decided to send the sugar and coffee to Antwerp. For this purpose a new voyage was concerted, a new crew hired, and a quantity of staves, the growth of our country, (and so expressly and minutely certified by the brig's papers,) was added to the original cargo. On the 6th of May last, the Rowena sailed from Newport, and on the 16th of June was captured off Ostend, by His Britannic Majesty's hired armed cutter the

Griffin, commanded by Lieutenant Forbes. The alleged pretence of capture was a suspicion that the Rowena intended to violate the blockade of Ostend.

This pretence, however, totally unsupported by facts or by appearances, was speedily abandoned, and the sole question at the trial, in the Court of Admiralty, was, whether the voyage was to be treated upon the footing, of one continued voyage from Martinique to Antwerp, *i. e.* from the colony of the enemy to the mother country. The judge, Sir William Scott, without entering into any discussion of the above question, or detailing at all the particular facts of this case, referred to his decision, in a case immediately preceding, viz: the Enoch, Doane, master, and declared, as he did not see sufficient reasons to distinguish this from the case of the Enoch, it must meet the same fate. The case of the Enoch is, without doubt, in the possession of Government, and, although, therefore, comment is unnecessary, and may be even deemed improper, yet we cannot forbear to remark, that the case of the Enoch is distinguishable from that of the Rowena in a very important particular. The Enoch, as Sir William Scott states, was under a charter party before she quitted Boston, to perform the voyage she did perform. Admitting a moment for the purposes of argument, (what can never be admitted in fact, without the prostration of neutral rights, and the destruction of the commerce of the country,) that the newly announced principle of Great Britain is one deducible from the law of nations, and that its application was correct in the case of the Enoch, it by no means follows that its application was likewise correct in the case of the Rowena. There was no charter party in the latter case; there was nothing indicating a primary and preconceived intention, viz: at the outset to go to Europe with the cargo procured in the West Indies. There existed nothing of which the case was first to be cleared, for the claimants to be entitled to the benefit of the rules of evidence, as laid down by the British courts. There was nothing, to speak in the language of those courts, to shift the burden of proof. But, waiving any observations on a difference so obvious, it does seem somewhat extraordinary, that the sentence in the case of the Rowena should have been, in reality, one of more severity than the sentence in the preceding case—in that, the property put on board at Boston was favorably considered, and restored. In the case of the Rowena, staves of the growth of the United States, and put on board at Newport, were not restored, but included in the undistinguishing clause of condemnation, which, in its style of absurd formality, pronounces the ship and cargo to have belonged, at the time of the capture and seizure thereof to the enemies of the Crown of Great Britain, and as such, or otherwise, liable to confiscation.

Besides the total loss, the company have paid $556, their proportion of $876, being the law costs attending the claim.

No. 2. Ship Hope, Robert Robinson, master; owners, George Champlin Esquire, Christopher Grant Champlin, Esq., as administrator of Christopher Champlin, Esq., and the master; voyage, from Newport to Amsterdam; value of ship and cargo, $108,631. Insured by the Newport Insurance Company, $15,000.

Circumstances of the case, capture, &c.—The voyage in which this ship was engaged, previous to the one in which she was captured, was from Newport to Batavia. She sailed from Newport in February, 1804, and arrived at Batavia in the following May. Owing to the scarcity of produce, and the number of ships endeavoring to procure it, after selling a small quantity of iron, which made a part of her cargo, the captain proceeded with his ship and specie to Manilla; he there purchased a cargo of sugar and indigo, and sailed about the 20th of November, 1804, for Newport, where he arrived on the 12th of May, 1805. The cargo was landed and delivered, and the importation duties secured to be paid. After a lapse of about six weeks, the owners, not finding a sufficiently favorable market at home, concluded on a new voyage to Amsterdam, for the purpose of re-exporting their sugar and indigo, the ship was, consequently, partially repaired, a new crew hired, and the sugar and indigo taken from warehouses and re-shipped. This ship sailed from Amsterdam on the 30th June, and was captured by His Britannic Majesty's hired armed cutter Swan, Lieutenant Cameron, and brought into Yarmouth, where, in consequence of the recess of the Admiralty Court, she was detained until the 12th of September, 1805, when, upon trial, the ship and cargo were restored, but without costs or damages. The condemnation was pressed, on the part of the captors, on the ground of its being a cargo taken in at an enemy's colony, and after touching at America, having been brought on to the enemy's country in Europe, without breaking the continuity of the voyage by any act done. And in respect of this question, the judge declared there was no evidence that the continuity of the voyage was interrupted. The cargo of the Hope was purchased in Manilla, in time of profound peace between England and Spain. The ship sailed from Manilla three weeks before the declaration of war, by Spain, against Great Britain, which took place the 14th December, 1804, and about seven weeks before reprisals, on the part of Great Britain. Yet, still it was urged by the captors that the cargo was purchased in contemplation of war, and the judge agreed that, if that had been proved, it would have operated exactly the same in effect as if actual hostilities had taken place; but, he said, as no proof appeared, and the fact being that war did not commence till after the vessel sailed, he thought it unlikely that Americans would speculate upon the subject. But, supposing, says he, that it was an importation from Manilla to Amsterdam, at this period, it would have been an importation perfectly legal, and all transactions in America may be laid out of the question; yet, for being engaged in a voyage perfectly legal, after having that voyage ruined by an illegal capture, the owners of the Hope were denied indemnity for damages sustained,

and compelled to pay costs, expenses, and law charges, to the amount of two hundred and sixty pounds sterling, about forty pounds of which were exactions for light-money, and Ramsgate and Dover harbor dues.

Such is the statement which this company, at the present juncture, has to make to the Government of the United States. The various protests, decrees, and other documentary evidence, confirmatory of this statement, shall be forwarded, when deemed necessary by the Government.

The Newport Insurance Company have a hope and confidence, that the General Government, whose right it is to regulate, would feel it their duty to protect commerce; that means will be found, in the wisdom and energy of Government, to procure *speedy compensation* to the sufferers, and redress to the nation for its *violated* rights and dignity.

With sentiments of high respect, I remain, on behalf of said company, your obedient servant.

SAMUEL ELAM, *President.*

IN SENATE OF THE U. STATES,
February 5, 1806.

The committee to whom was referred, on the 15th of January last, that part of the President's message which relates to the spoliation of our commerce on the high seas, and informs us of the new principles assumed by the British Courts of Admiralty, as a pretext for the condemnation of our vessels in their prize courts, respectfully report, for the consideration of the Senate, the following resolutions:

1. *Resolved*, That the capture and condemnation, under the orders of the British Government, and adjudication of their Courts of Admiralty, of American vessels and their cargoes, on the pretext of their being employed in a trade with the enemies of great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutral rights, and an encroachment upon their national independence.

2. *Resolved*, That the President of the United States be requested to demand and insist upon the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace, and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations, and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled.

3. *Resolved*, That it is expedient to prohibit by law the importation into the United States of any of the following goods, wares, or merchandise, being the growth, produce, or manufactures of the united Kingdoms of Great Britain and Ireland, or the dependencies thereof, that is to say, woollens, linens, hats, nails, looking-glasses, rum, hardware, slate, salt, coal, boots, shoes, ribands, silks and plated and glass-wares. The said prohibition to commence from the —— day of ——, unless previously thereto equitable arrangements shall be made between the two Governments on the differences subsisting between them, and to continue until such arrangements shall be agreed upon and settled.

BOSTON MEMORIAL.

To the President of the United States, and the Senate and House of Representatives of the United States of America, in Congress assembled:

The subscribers, a committee of the merchants of the town of Boston, duly empowered for the purpose, respectfully ask leave to address Government on a subject highly interesting to the commerce and prosperity of the United States, and involving in its results a great pecuniary property, acquired, as they believe, by honest exertions in the prosecution of an open, fair, and authorized trade.

While your memorialists have witnessed, with mingled feelings of indignation towards the perpetrators, and of commiseration for their unfortunate countrymen, the insults and barbarities which the commerce of these States has sustained from the cruisers of France and Spain, it is their object, in the present memorial, to confine their animadversions to the more alarming (because more numerous and extensive) detentions and condemnations of American vessels by Great Britain, and to advert to the principles recently avowed and adopted by her courts relative to neutral trade in articles of colonial produce—principles which, if admitted, or practised upon in all the latitude which may fairly be inferred to be intended, would be structive of the navigation, and radically impair the most lucrative commerce of our country.

The law of nations, like all other laws not formed by express compact, must, to give it an obligatory force, be founded on the rule of right, and be construed to exist only from open declaration, or from a tacit acquiescence, under its operation, by the parties interested in it. It is a law which can never be considered as absolutely permanent; for, being established by common consent, for the general good, it can only be supported so long as it produces the effect intended. And so various are the changes in the political world, from the relative situation of States at different epochs, and from the growth of new empires, that it may very possibly happen, that what promoted the public welfare at one time, (and therefrom became part of the law of nations,) might, at another period, tend only to the aggrandizement of an individual nation, at the expense, and to the depression and injury, of many other nations. In such case, it is but reasonable to expect that old principles, even if they had been once expressly admitted, would become obsolete, or be newly modified, and made to con-

form to a state of nations widely different from that in which they originated. At any rate, your memorialists presume it can never be justly contended that principles of maritime law have been admitted by a nation during whose existence they had never been avowed nor acted upon, merely because such nation did not anticipate and combat pretensions which it never imagined would be seriously advocated—principles that had been virtually abandoned subsequently to their first avowal, even during an intermediate and inveterate war, and during the prosecution of a trade which is now interdicted and alleged to be illegal, but which trade was at that time sanctioned by the promulgated decisions of her courts, and by an official communication from one of the highest organs of the very Government which is now attempting to destroy it; and, with its suppression, to annihilate or greatly diminish the commerce of neutral nations.

From the decree of the Lords of Appeal, in the case of the Essex, (Orne,) from the judgment of Sir William Scott; in several other cases since that decree, in direct contravention of his former decisions; from the multiplied arrestations and detentions of American vessels, of which every arrival furnishes a more extended list, there is great cause to apprehend that the British Government mean to set up as principle, that she has a right to interdict all commerce by neutrals to the ports of her enemies, which ports had not been opened previously to the commencement of hostilities; that if she permits a trade with them, in any degree, she has a right to prescribe the limits of it—to investigate the intention of the parties prosecuting it; and if such intention be not the actual disposition of the property in the neutral country, to consider the merchandise, even after the importation into such country, after having been landed therein, warehoused, and the duties paid on it, as only in the stage of a continued and direct voyage from the colony to the mother country, or *vice versa*, and therefore illegal, and liable to condemnation.

Speculating upon the apparent avowal of these principles, the vice admiralty judges of Great Britain, the officers of her ships of war and cruisers, seem to consider them as the signal for harassing and arresting neutral commerce, and vigilantly acting in conformity with these impressions. We find, that scarcely an American vessel can pass the Bahamas, the Straits of Gibraltar, or the English channel, without being seized, in some cases condemned, and in others released, either without damages, or with the conviction that the demand for compensation would be attended with greater expense than would be defrayed by a successful pursuit of it.

In some instances your memorialists find new vessels, on their first passage from the United States to Europe, arrested, carried out of their course, and injuriously detained, under the vexatious pretence of a continuity of voyage from the country or colony of a belligerent.

In another instance they have witnessed a vessel captured and condemned under the most frivolous pretext, when in the prosecution of an acknowledged and permitted trade, under circumstances which banished every shadow of doubt as to the real destination of the vessel, the identity of the owners, or the actual intentions of the parties.

Your memorialists allude to the case of the Indus, Myrick, which vessel was owned by gentlemen of this town, not engaged in commission business, possessing very abundant capital to undertake large and distant enterprises, and the fairness of whose intentions or conduct has never been questioned or suspected.

The Indus proceeded from Boston to Batavia, there purchased a cargo, and on the return therewith to Boston, was dismasted, and after suffering severely from the elements, obliged to put into the Mauritius; on her arrival there, the ship was found too much injured to prosecute the voyage, was condemned as not seaworthy, and sold. The captain, not being able satisfactorily to dispose at the Isle of France of that part of the cargo which remained, after defraying the expenses, purchased another vessel, gave her the same name, put on board the residue of his original cargo, and completed his loading with freight belonging to citizens of this town. With this remnant, saved from his misfortunes, he proceeded on the voyage, and had nearly reached the mouth of our harbor when his vessel was captured by a British cruiser, and carried into Halifax, and there by the Vice Admiralty Court condemned, because among the papers was found a memorandum, reminding the captain after his arrival within the harbor of Boston, to insert in the manifest to be delivered at the custom-house, that the ship was bound "for Boston and Embden"—a provision merely intended to operate in case of the restoration of peace before the return of the vessel, and which, as the laws of the United States were, when she departed from Boston, was needful to enable her to proceed to Europe without unloading the cargo, or the payment of duties; and which provision, the captain must have been well convinced, was rendered wholly nugatory with the second ship, because when he left the United States he knew that if any part of the cargo were entered, the whole must be landed; and having taken freight which he was obliged to deliver here, there no longer remained an election respecting the termination of the voyage, and that it must of necessity be concluded at Boston.

The precautionary memorandum to insert in the manifest, after the arrival of the vessel in our harbor, the words "Boston and Embden," was practised at the time for the same purpose by many of our most correct and intelligent merchants, and is no evidence of an intention to avail of the permission which it gave to proceed to Europe. In the case of the Indus, the owners have disavowed, most formally, under the existing political state of Europe, any intention of continuing the voyage; and this asseveration is corroborated by the strongest collateral evidence it is possible to adduce; the same orders having been given in previous enterprises, in none of which had the permission been availed of; but in

every case in which they were interested, the cargoes had been actually landed and sold in the United States, notwithstanding a similar declaration in the manifests.

In another case, your memorialists learn, that a vessel (the Aurora, Hall,) belonging to Portsmouth, New Hampshire, after having carried out a cargo of innocent merchandise, the property of natives and merchants of this town, to the neutral port of Leghorn, ordered from thence with specie to Calcutta, and from thence to return with a cargo to this place, has been arrested in the progress of the voyage, carried into Gibraltar, and may probably be condemned, because her outward cargo consisted of colonial produce, and because the captain was permitted by his orders to stop at the Isle of France on his voyage to Calcutta, and to avail himself of the state of the markets there, should they be favorable to procure a return cargo for Boston, thus embarrassing a trade which, whether prosecuted to the one place or the other, has by all parties been considered as open, and extending the taint of a cargo of colonial produce further than by most nations is attached to a loading of articles wholly contraband of war, for it is admitted by them, even in that case, that the offence is deposited with the cargo, and ceases on its delivery.

Your memorialists will not proceed to fatigue the attention of Government, by citing cases, which they presume, so soon as regular documents can be obtained, will be transmitted in precise statements to the Department of State. These few instances they have thought it needful to notice, in order to demonstrate, that unless the present disposition of the British Admiralty Courts and navy officers, can be counteracted and removed, a widely dispersed and unprotected commerce, extending to every region of the globe, will only serve to invite depredation, to bankrupt ourselves, and enrich others, until such commerce be swept from the face of the ocean, and leave nothing in its stead, but sentiments of hostility and acts of contention.

Without entering into elaborate disquisitions, your memorialists request permission to make a few remarks on what they conceive to be the principles assumed by Great Britain.

1st. It is contended by Great Britain that she has the right to interdict entirely a trade by neutrals to the ports of her enemies, such ports not having been open to them in time of peace, and that having the right to interdict this trade altogether, she has, *a fortiori*, the right to modify it as she pleases; and of consequence, if an enemy nation should remain in a state of war for half a century, any alteration of her colonial system, which, very probably the progress of events might have produced in time of peace, shall not be permitted to her, even should there have taken place during that time a total and acknowledged revolution of her Government, and an abolition of all her ancient systems.

2d. That having allowed a direct trade between the colonies of her enemies and neutral countries, she has a right to say, that such trade shall cease and determine in the neutral state, and that to prevent its further progress, she has the right to examine in all cases to whom property on the ocean belongs; to trace the evidence of a continuity of trade; to investigate the latent intentions of neutral merchants; to discriminate between importers and exporters, and then to accord to one part of a community what she denies to another part.

A tacit submission to pretensions thus lofty and comprehensive, but which your memorialists trust are most of them untenable, would, they conceive, be an abandonment of rights openly recognised, and a dereliction of the most important commercial interests of our country.

Reason and the most powerful considerations of equity enjoin it as a duty on the United States to oppose these pretensions; for, circumstanced as these States are, possessing an immensely extended and fertile territory, producing mostly the necessaries of life, which, with the merchandise obtained from abroad by the industry and enterprise of her citizens, she is obliged to barter, or furnish in payment for importations of foreign produce or manufactures—it behooves her, strenuously to contend for the rights of an open commerce in innocent articles between other nations that are willing to accord it and herself; for if the right be not both claimed and admitted, scarcely any of the European Powers can in future be engaged in warfare, without making the United States, in opposition both to her efforts and wishes, either a victim or party in the contest. For it is well known that the trade of this country with nearly all the colonies of European Powers is carried on by occasional permission, and by partial relaxations of the prohibitory system; and if the British contend that the port of Batavia shall not be opened to neutrals in time of war, because it has ordinarily been closed against them in periods of peace; that the temporary permission to trade there was extorted merely by the pressure of the maritime superiority of Great Britain, and that to relieve this pressure, by the purchase of Javanese produce, was counteracting the effect of her arms, and giving aid to her enemies in the war, it might with equal force, by parity of reasoning, be contended by France, or any other nation at war with Great Britain, that the limited permission given to the United States to trade at Jamaica in articles of the first necessity, was evidently granted with reluctance, and was extorted by the power of their arms on the continent of Europe; that to oppose and counterbalance these Great Britain was necessitated to victual and man immense fleets, and to organize and support numerous armies; that to provision these fleets, and provide for these armies, consumed all the produce of her country; that not having any articles of subsistence to spare, she must therefore either abandon her colonies to famine, or reduce or distress her armaments by diverting from them part of the supplies destined to their support, and that for the citizens of the United States to step in, and avail of even a six weeks' permission to supply her colonies, and

thus prevent their falling an easy prey into the arms of France from the pressure of their own necessities, and actually giving aid, and comfort, and existence to the enemy of France, was in effect making a common cause with her, and of course rendered the vessels of the United States, when captured in the prosecution of such trade, lawful prizes to the cruisers of France.

Thus your memorialists conceive these pretensions afford constant sources of collision, continually tending to involve these States in the issue of European wars, and would oblige the Government on the occurrence of such wars speedily to unite with one or other of the parties, in order that the commerce of the country might lawfully avail itself of some degree of security, from the protection which its own force and that of its allies could afford. To this state of things your memorialists believe it can neither be the interest nor the wish of the British Government to reduce our country.

The right of internal commercial regulation in articles of an innoxious nature, is one of the essential and inherent rights of every independent sovereignty, and with the exception of a trade to blockaded ports, or in articles contraband of war, every Government has a right to sell the surplus articles of its manufactures and produce to neutral merchants, who on their part, so long as they confine themselves to a fair and honorable course of dealing—purchasing exclusively for their own account, and refusing to cover the property of a belligerent, are entitled to the protection of their own and the respect of other Governments; for the most tenacious advocates for the rights of belligerents admit that, during war, neutrals have a right to enjoy in the utmost latitude the trade to which they had been accustomed in time of peace. Now, if a belligerent has the right to blockade an extended seacoast, and exclude neutrals from perhaps fifty different ports, (as was the case with the French ports in the Channel during the last war,) how can the neutral enjoy his usual peace-trade in its greatest latitude, unless this deprivation is balanced by another trade which is opened to him during the war?

As to the inquisitorial right of search into the ownership of neutral property set up by Great Britain, and the doctrine appended to it, that a neutral importer shall not again export his goods, but that they shall be first alienated and passed into the possession of others, your memorialists believe them to be unsound in principle, offensive in practice, and nugatory in effect; for the importation of merchandise into a neutral country, landing it, payment of duties on it, and exposing it for sale, as fully domesticates such merchandise, and makes it as much a part of the marketable stock of the country as the corn which is raised in the fields, or the beef that is fatted on its mountains; and thenceforward, it becomes as much the right of one citizen as another to export or appropriate it as he chooses; and the attempt by another Government subsequently to discriminate, and to deprive a neutral merchant of the right to purchase a cargo for exportation, because possibly he owned a fiftieth part of it on importation, can only excite irritation, invite collusion, lead to fictitious sales, and eventually would diminish in a very small, if in any degree, shipments of foreign produce.

This doctrine is probably more injurious in its operation to the United States than to any other country. Second to no nation on earth in enterprise, her citizens are yet inferior to those of many other countries in capital; hence arises the necessity of numerous associations in the prosecution of distant enterprises; and to exclude all the original associates from the rights of any subsequent trade in articles derived from adventures in which they had been concerned to perhaps a very small amount, and which adventures, after their arrival in the United States, are as much terminated, so far as respects the continuity of association, as if the property had been sunk in the ocean; and thus to throw advantages into the laps of their neighbors, from the participation of which they are interdicted, is manifestly arbitrary and unjust.

Your memorialists would with reluctance believe that the sacred tribunals of justice have become subservient to motives of political expediency, more especially in a nation whose judicial proceedings have frequently deserved, and commanded the respect of all civilized countries; yet they know not, easily, how to reconcile on any other ground the contradictory proceedings of the British Admiralty Courts during the last and present war.

In February, 1800, there came on for final adjudication before the High Court of Admiralty, in Great Britain, the case of the Polly, Laskey. This was a vessel bound from Marblehead to Bilboa, captured and carried into England, because she had on board 249 boxes of Havana sugars, and 80 hogsheads Caraccas cocoa, the produce of Spanish colonies, and was brought to trial principally under the pretence that, as she was carrying those articles to a port of Spain, the trade was in effect a direct one between the colony and the mother country, and therefore illegal, and subjecting the property to condemnation. The Polly was owned by a merchant of Marblehead, who in his attestation declared, that he had been in habits of trading both with Old Spain and with the Havana. In evidence on the trial it appeared, that the Polly on a previous voyage had been to Bilboa, that she took from thence bills of exchange on the Havana, that with these bills she in part paid for the identical sugars which were found on board of her at the time of capture; that for the residue of the purchase, bills were drawn from the Havana on the house in Bilboa, who did the business of the vessel on her former voyage; and by the certificate of the collector of the customs at Marblehead it appeared that the sugar had been imported from the Havana on board the Polly in June, and exported by her to Bilboa in August; the intermediate time being employed in repairing the vessel, and preparing her for the voyage. It also appeared by the deposition of the mate that the captain had destroyed some of his papers.

A case more pertinent to the question at issue, or more strongly marked, could scarcely be imagined by the strongest powers of invention.

For the captors, there appeared the King's advocate, (undoubtedly one of the ablest jurists in the nation,) and Mr. Arnold. In delivering its judgment, the court asked, whether it were contended, that an American could not purchase articles of this nature, and import them *bona fide* to America on his own account, and afterwards export them? It was answered no. The court then stated, that an American has undoubtedly a right to import the produce of the Spanish colonies for his own use, and after it is imported *bona fide* into his own country, he would be at liberty to carry them on to the general commerce of Europe. The vessel and cargo were restored to the neutral claimants.*

In 1801, in consequence of a decree of the Vice Admiralty Court at Nassau, condemning the cargo of an American vessel going from the United States to a port in the Spanish colonies, with a cargo consisting of articles the growth of Old Spain, our highly respectable and able Minister at the Court of London, immediately addressed Lord Hawkesbury, His Majesty's Secretary for Foreign Affairs, and remonstrated in a respectful, but firm and dignified manner against this infringement and violation of the rights of neutrals. The remonstrance met that prompt attention from the British Government which its merits demanded. The subject was referred to the consideration of the Advocate General, who reported: That the sentence of the Vice Admiralty Court at Nassau was founded in error; that it was now (1801) distinctly understood, and had been repeatedly so decided by the High Court of Appeals, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence even to the mother country of such colony, and in like manner, the produce and manufactures of the mother country may in this circuitous route legally find their way to the colonies; that a direct trade had not been recognised as legal, and the decision of what was, or was not, a direct trade, was a question of some difficulty, but that the High Court of Admiralty had expressly decided, and the Advocate General saw no reason to expect the Court of Appeals would vary the rule, that landing the goods, and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country.

The report of the Advocate General was accepted by the British Government, immediately transmitted by Lord Hawkesbury to Mr. King, and by His Majesty's express command, communicated by the Duke of Portland, the principal Secretary of State, to the lords commissioners of the admiralty, with the information that it was His Majesty's pleasure, that the doctrine laid down in the Advocate General's report should be immediately made known to the several judges of the vice admiralty courts, setting forth to them what is held to be law upon the subject, by the superior tribunals, for their future guidance and direction. †

Thus are obtained so recently as within five years, the deliberate opinions on the subject under discussion, of the most eminent English civilians, and of the High Court of Admiralty, corroborated (if one of the first law officers of the Crown may be credited,) by the repeated decisions of the Court of Appeals, which by its late and contradictory decree, in the case of the Essex, Orne, has caused so disastrous an arrestation and condemnation of American property.

Judgments thus perspicuously stated and enforced, by the highest authority, it was fair to consider as intended for a beacon, to direct to the channel, through which neutral commerce might be prosecuted with security. It is hoped the event will prove they were not a mere ignis fatuus to ensnare the innocent and unsuspicious.

At any rate, whether the doctrine were sound or not, or whether it injured Great Britain or not, it cannot become the integrity and magnanimity of a great and powerful nation, at once, and without notice, to reverse her rule of conduct towards other States and to prey upon the unprotected property of a friendly Power, the extension of whose commerce had been invited by the formal avowal of her intentions, and prosecuted under a reliance on her good faith, and from the confidence reposed, that her courts, uniform in their principles, would never be influenced by the time-serving politics of the moment.

But whatever may have been the motives for the proceedings on the part of Great Britain, the effect is notorious. From her recent conduct great losses have been sustained, our commerce has been checked and embarrassed, and large quantities of produce are now remaining locked up in this country, which were purchased for foreign markets, because our merchants cannot send it abroad, without taking risks on themselves, which prudence would not justify, or without paying such rates for insurance as the trade of the country cannot afford.

Thus circumstanced, the merchants of Boston have thought it their duty respectfully to make known their complaints to the Government. Believing the citizens of the United States desirous of cultivating relations of amity with the whole human race, and particularly connected as they are with Great Britain by habits of constant intercourse and by mutual wants, they cannot but hope that like dispositions are entertained by the British nation towards this country; and if measures were speedily taken for the amicable discussion by negotiation of our complaints, that a sense of her own interest, and respect for the rights of others, would induce her to depart from her pres-

* Robs. Reps.

† Duke of Portland's letter to Mr. King.

ent measures, and to conduct towards us with justice and liberality.

Under this persuasion, and without meaning in the smallest degree to derogate from the talents and attention of the American Minister at the Court of London, the subscribers, with deference and humility, beg leave to suggest, whether, when so important national interests are at stake, a special mission would not carry with it great influence, and be very instrumental in the accomplishment of our reasonable wishes.

In all events, fully relying that the subject of our difference with Great Britain will receive the due consideration of Government, and that such measures will in consequence be promptly adopted, as will tend to disembarrass our commerce, assert our rights, and support the dignity of the United States:

Your memorialists have the honor to remain, in behalf of their constituents and themselves, most respectfully,

JAMES LLOYD, Jr.
JOHN COFFIN JONES,
DAVID GREENE,
GEORGE CABOT,
ARNOLD WELLS,
THOMAS H. PERKINS,
DAVID SEARS.

Atttest: Isaac Winslow, *Secretary.*
Boston, January 20, 1806.

SALEM MEMORIAL.

To the honorable the Senate and House of Representatives of the United States, the memorial of citizens of Salem respectfully represents:

That, on ordinary occasions, they have deemed it unnecessary to apply for the redress of grievances to the Government of their country, confiding in the rectitude and wisdom of its councils; and, though their confidence, in this respect, is undiminished, yet, as questions of national moment are now agitated, and aggressions committed on our commerce in a manner unprecedented, they deem it their duty to approach the constituted authorities, and express their sentiments with fidelity and deliberation.

It has been a source of the purest satisfaction to your memorialists, that, while foreign nations have been engaged in wars, which, in their nature and consequences, have transcended the limits of human foresight, the United States have, under the benign care of Providence, been preserved in the enjoyment of peace and liberty. They have beheld with pleasure our commerce, at first feeble and confined, gradually expanding with awakened enterprise, until it has reached the farthest shores, and embraced the most inhospitable climes. This commerce, prosecuted with increasing vigor, and fostered by new aids, has continually brought to our ports the wealth of all nations, and by opening a liberal intercourse, added fresh zeal to foreign industry and domestic labor.

Your memorialists, considering war an evil which could not be confined in its consequences to belligerents, even when prosecuted with good faith and amicable intentions towards neutrals, and believing it the sound policy of the United States to avoid every entanglement in it, as injurious to internal improvement and external interests, have witnessed with unhesitating approbation the disposition to neutrality patronized by the General Government, at times when national wrongs have been pressed with peculiar aggravations, and seemed to point to summary redress. Firmness and moderation have happily secured all the advantages of successful war, and the sober appeal of reason carried conviction to foreign nations. From considerations of a similar nature your memorialists have submitted to the injuries of belligerents during the late European war, and awaited with confidence the decisions of tribunals instituted to adjust national rights, and afford a fair though tardy redress to grievances. To these tribunals, elevated in the presence of the world, as the learned and impartial courts of nations, they hoped that all parties might appeal for justice and receive a righteous award. In some instances they were disappointed; in others they realized their expectations. And even when they could not admit the correctness of decisions, principles were expounded and rules prescribed, which might serve as pole stars for future direction.

Your memorialists, however, have witnessed with deep regret and deep anxiety, that to some of these tribunals they can no longer appeal for safety. New interpretations of old rules, and new glosses on ancient doctrines, have been arrayed to control the circuit of neutral commerce, and restrain if not annihilate its most beneficial operations. Their surprise has been greater, because the nation who has adopted them, is one from whom we had a right to expect the most conciliatory conduct, since with her ultimately centre the proceeds of our commerce, and from her we purchase the greatest portion of her staple manufactures. The interests of Great Britain and the United States seem, in this respect, mutual. We consume the products of her industry, and give her in return, besides large sums of money, raw materials, by which she may levy new contributions. Similarity of manners and habits, of education and language have added artificial inducements for intercourse, and gained for her among us a respect, not slightly to be viewed or inconsiderately forfeited. On all occasions the United States have exhibited toward her an amicable interest, and a just, it may be added, a generous policy. If, therefore, we had favors to ask or to receive, our claims have been peculiarly strong upon her, because we have been emphatically the sinews of her opulence. But it is believed that the United States never asked of any nation more than justice, and are willing to be bound by the established rules of commerce. Your memorialists, therefore, express deep regret, because a confidence has been shaken which may not easily be restored, and deep anxiety, because the principles alluded to, if conceded, must eventually pros-

trate our trade, or leave it at the arbitrary discretion of belligerents. Whether peace or war prevail, the baneful influence will everywhere be felt, and in the latter predicament, we shall, as neutrals, share the mischiefs of it, without the chances of benefit.

With these impressions, your memorialists respectfully submit some observations on the nature and importance of the principle avowed by the British Admiralty. On the present occasion they would avoid the discussion of contested points respecting the freedom of commerce, on which civilians have entertained different opinions. They would avoid the question, how far even a direct trade, carried on by neutrals between the colonies and mother country, with *bona fide* neutral property, is protected by the law of nations, though it may justly be a ground of national investigation. They are willing to avoid these extrinsic though important subjects, and meet the principle of the English courts upon the laws and usages sanctioned by the practice of nations.

The principle recently established by Great Britain, is, as your memorialists understand it, that it is not competent for a neutral to carry on in war any trade, which he is not accustomed to do in peace; and that he shall not be permitted to effect that in a circuitous, which is inhibited in a direct trade. As corollaries from this principle, she insists that the colonial trade, exercised by neutrals, shall not extend beyond the accustomed peace establishment; and that whenever the neutral imports into his own country colonial produce, with the intention to tranship it to the mother country, if a direct intercourse be interdicted in peace, the circuity of the route shall not protect the property from confiscation. It seems admitted, that such circuitous route, with such intention, is not considered as evidence of enemy's property, confiscable within ordinary rules, but as a distinct, substantial, condemnatory principle, independent both in efficacy and application. For it yields not to the most clear proof of neutral property, or innocent though misdirected conduct. The unaccustomed trade, or the importation with specific intention are the tests by which every voyage is to be tried.

If these doctrines form a part of the law of nations, however mischievous they may be in operation, the United States must submit to them, until relaxed by particular convention. Though our commerce should be oppressed, and our enterprise crushed, yet are we bound to acquiesce, if the sanction of universal practice require it.

Your memorialists, however, beg leave, before they consider the law of nations in this particular, to advert to a few of the consequences resulting from this rule, and, if they do not greatly mistake, from thence will arise a strong argument of its inadmissibility.

In the first place, great evils must, in the nature of things, result from the indefiniteness of what is the accustomed trade. Nations are continually changing their policy, their imports and exports, their manufactures, their staples, and their commercial connexions. In peace, as well as in war, peculiar circumstances induce them to open or close a traffic, and these circumstances arise as often from accidental caprice as political wisdom. Beside these, the silent operations of time, by destroying old sources of revenue, and developing new wants, and, in a more important view, by erecting the grandeur of one State on the destruction of another, with secret fatality changes the channels of commerce, and forbids it to flow in an uniform course. It seems conceded on all sides, that the rule shall not apply to every case, and that those changes, which seem not the result of a necessity imposed by an enemy, are exempted from its operation. But, how shall these limits be defined? Every nation varies its policy in this respect in time of war; and even Great Britain relaxes her navigation act to meet the ordinary exigencies of it. On such occasions she admits neutrals to import into her dominions articles not the growth of their own country. She admits foreigners into her mercantile as well as military marine. She opens her colonies to importations strictly forbidden in peace, and allowed with jealous caution, even under the pressure of war. To changes of this nature, if they do not arise out of the predominance of the enemy's force, or out of any necessity resulting therefrom, her own civilians avow the rule of accustomed trade shall not extend. According to them, it is not every convenience or even every necessity arising out of the state of war, but that necessity which arises out of the impossibility of otherwise providing against the urgency of the distress inflicted by the hand of a superior enemy, that can be admitted to produce such an effect. But, in what manner shall this impossibility be determined? How shall we distinguish between the ordinary and the extraordinary necessities of war—between those evils inflicted by a superior force, and those resulting from general embarrassment? How shall we distinguish which is the predominant Power, when one may be conqueror at one point, and conquered at another—one all-powerful by sea, another all-powerful by land? How shall we provide for or foresee the changes of the day, when time with unmeasured rapidity retrieves losses in the hour of defeat, and destroys a Power in the hour of victory? In the opinion of your memorialists, there is but one test of such predominancy, and that within the old law of nations. It is, when the belligerent is able to blockade the ports of his enemy, and then his right to exclude neutrals is coextensive with this ability to blockade. If any other test be resorted to, if the unlimited ingenuity of Admiralty discretion be exercised in the application or denial of the rule, the right of neutrals will change with the policy of an Administration, and rise and fall with the pressure of hostilities, and the security of depredation. Surely no principle of the law of nations can be bottomed on so fluctuating a basis. It would reverse the nature of all law, which is fixed and determinate, and substitute a discretion little less injurious than despotism.

In another view, the rule appears to your memorialists not less untenable and unjust. It is stated as a part of it, that if colonial produce be

imported by any person, with an intention to tranship it on his own account to the mother country, it is subject to confiscation; but if imported for the purpose of general commerce, and thrown into the market for general transhipment, it is within the exception. To distinguish between general and particular intentions, and to separate things so subtle in their own natures, and almost incapable of proof, for the purposes of national decisions, seems a refinement reserved for the present age. In the nature of things, it can hardly be possible to determine the intention of a merchant in importation. These may be formed and fixed at one moment, and abandoned from change of circumstances at another. The situations of foreign markets, the plenty or deficiency of supply at home, the nature of his funds, the success of his incipient voyage, and numerous other accidents, must continually change the destination of importations and divert them into various channels. In no case, therefore, can there arise an indisputable presumption, that a merchant imports with a determination to export. Indeed, as his intention must frequently be ambulatory, the presumption lies as strongly the other way. And even if, in a few instances, that intention could be ascertained, thousands of cases must arise, in which it would be impossible to form a criterion for judgment. All must be doubt, caprice, or speculative construction.

These objections lie in the embarrassment attending the exercise of the rule respecting intentions. But a more serious one may be urged against it, grounded upon its inefficacy, as it respects both the neutral and the belligerent. As it respects the neutral, if the rule is once known, transfers of property will immediately be made. There will be an impossibility of preventing frauds in these transfers, if they deserve the name, by any tests applicable to them, unless restrictions are imposed or evidence required, which no authorities could procure, and no independent nation ought to submit to. As it respects the belligerent, the same produce after sale would according to his own principles be admissible to the ports of his enemy; and in that way the same assistance be supplied, and the same embarassments be prevented. The importer will communicate a title to his vendee, which he does not himself possess, and clothe his agent with an authority, which he cannot exercise at his own hands. The rule therefore would require the mere formality of a sale, but would effect none of the consequences, which it professes to value; and its foundation would be shaken by the extent of its exceptions. Considered in this view, your memorialists cannot but suppose, that no such modification will ultimately prevail; but by degrees the restriction will be absolute against all neutral carriage of colonial produce to the mother country under every variety of intention. In any other way it might be nugatory, and with this unmeasured influence it must be ruinous.

The foundation of this modern doctrine is laid in this principle, that the neutral has no right by an extension of this trade, to afford supplies to the belligerent, because by such trade he assists the belligerent to ward off the blows of his enemy, and oppose for a longer period the dominion of his force. But to this your memorialists deem it a conclusive answer, that this proposition proves too much; that if true, it is a foundation for a far more broad and sweeping principle; that every commerce with the belligerent is inhibited to neutrals, for every commerce assists him in resistance, and diminishes his necessities. A doctrine thus comprehensive has never yet been avowed, and it is presumed never will be. Yet such must be the logical conclusion; and it shows irresistibly the absurdity of the assumed premises. The accustomed as well as unaccustomed trade, is within the terms, and must stand or fall together. Either the doctrine is unsound, and assumed as a mere pretext for predatory seizures, or neutrals have no right as such, and must endure the calamities inflicted by belligerents in a contest, in which they have no voice, and from which they can reap only injury.

Other considerations add force to the preceding remarks. It is well known that in time of war neutrals cannot carry on even their accustomed trade in its full extent. They are prohibited from trading in contraband goods, and to blockaded ports. Variations necesarily arise in the relations of the hostile Powers, which the neutral ought to possess a right to turn to his profit, as an indemnity for the obstructions of his old trade. These obstructions are of a very serious nature. When exercised in the mildest form they produce oppressive searches and delays, expensive litigation, and often total failure of an otherwise lucrative voyage. Reason would therefore seem to declare, that for hazards of this nature the benefits arising to neutrals from war are not more than a just equivalent. But if the obstructions be enforced, and no new channels permitted, it seems hardly too much to say, that they must lead to an extinction of all neutral commerce. If one belligerent adopt the rule, another has the same right; and regulations of colonial monopoly would then serve as false laws only to ensnare and betray neutral navigation. It is somewhat singular, that a belligerent should invite a trade with itself, which it declares fraudulent with its enemy; and should lift the arm of power to crush the neutral, whose conduct is criminal only when it ceases to be partial.

Such are the remarks your memorialists respectfully submit upon the rule considered in itself; on this examination they confess it appears to them fundamentally incorrect. It subjects commerce to fluctuating decisions, overthrows the ordinary rules of evidence, and places an immense power to be wielded at the uncontrollable discretion of magistrates appointed by a single party. It wants therefore all the discriminative features of a fundamental proposition of the law of nations, uniformity, precision, and general applicability. It would, in their opinion, if established, create greater evils than it professes to redress, by perpetuating strife, destroying the emoluments of trade, embarrassing commercial intercourse, and letting loose the passions to prey on the miseries

and plunder the property of the innocent. It would subject neutrals to hazards nearly as perilous as those of actual hostilities; and, independent of its influence in stimulating to revenge and retaliation, it would transfer the benefits of peace to any victorious usurper of the ocean.

But your memorialists are unwilling to rest the question on the preceding grounds, however supported by reason. They appeal to higher considerations, and deny that the rule is, or ever has made, a part of public law, or acquired by usage or prescription, any authority among nations. They admit that uninterrupted and general usage, fortified by open acquiescence, forms a strong argument, perhaps a conclusive proof of the adoption of any rule. That if such usage had existed in the present case, and had been invariably pursued, the presumption would have been violent, that the doctrine was just, and ought not now to be shaken. But your memorialists have in vain sought in ancient jurists, universally consulted and approved, any principle that bears in its bosom the present. On the contrary, every page appears to give a direct contradiction. They adhere to the ancient interpretation of the law of nations, which pronounces that the goods of an enemy are lawful prize, and those of a friend free; that the neutral, except in cases of blockade and contraband, has a right to the uninterrupted pursuit of his commerce, when carried on with his own property, at all events in a direct trade from his own country. Such your memorialists deem to have been the incontestable rights of neutrals, established for more than two centuries by universal acknowledgement, and acted upon, while a flourishing intercourse subsisted among all maritime nations. During the same period, Great Britain, France, Spain, Portugal and Holland, possessed extensive colonies, and engaged in commercial enterprises with an uncommon spirit of rivalry. Had therefore any such rule, as is now claimed, existed, innumerable cases must have occurred in the controversies of these nations to legitimate its introduction and authorize its application. Yet no instance has been adduced in diplomatic or admiralty annals, which savours of a reference to such a rule. The approved publicists, to whom in national contests appeals are made, intimate none, and lay down the law in as broad and satisfactory terms, as your memorialists.

Your memorialists are aware that even the advocates of Great Britain have not pretended to ascertain the existence of the pretended rule previous to the year 1756. To this period they refer for its first establishment, and from this origin deduce its universal reception. They pretend not to quote any foreign adjudications in point, but rest satisfied, that their own courts were competent to establish the law, and to give it binding efficacy over all nations. To such conclusions your memorialists confess themselves unable to bow. They conceive that it is not within the authority of any nation to legislate for the rest; and that the law of nations being founded on the tacit convention of the nations that observe it, can be binding only on those nations which have adopted it. Any other conclusion would lead to the most mischievous consequences, and oblige every nation to vindicate every other from aggressions, though its own rights might be undisputed. To give any precedent therefore a binding authority among nations, it must have been recognised as such by them, and no argument of its admission can be drawn from their silence, when the subject did not necessarily engage their immediate interest. An injurious pretension, when not applied to a particular State, might be easily dismissed without consideration. But your memorialists, after all the inquiry which they have been able to make, confess themselves wholly ignorant of any precedent of the present rule in the year 1756. The cases of that period, which are relied on as proof, seem to them wholly inadequate for the purpose. As far as their researches extend, those cases respected the Dutch, and proceeded on a principle entirely different. These were cases in which Dutch vessels became the carriers of colonial produce, the property of the enemies of Great Britain. This trade was vindicated on the ground of a special treaty between Great Britain and Holland, which provided that free ships should make free goods, and it was ultimately declared illegal, because enemy's goods were protected by that treaty only in the accustomed trade. No controversy appears to have been raised of the security of neutral property under similar circumstances. Nor should it be forgotten that the Dutch protested in terms of the warmest reprobation against these condemnations, and asserted them to be contrary to the general law as well as the faith of treaties. These cases seem therefore certainly to fail in analogy with those which they are cited to govern. In the one the property is neutral; in the other, hostile; in the one, the trade is for the sole benefit of the neutral; in the other, for the sole benefit of the belligerent. In a word, the one respects the rights of peaceful nations according to the public law; the other, the construction of particular treaties. The precedent seems therefore to want every essential similitude; and is traverseable in every variety of application.

Yet, admitting the precedent to be in point, if it stand solitary, if it has subsequently slumbered during nearly fifty years, unacknowledged abroad and unenforced at home, it surely cannot weigh on the present occasion. It is conceded by the British civilians, that during the American Revolution the doctrine was entirely pretermitted, and the commerce of neutrals was pursued according to the ancient code. Many cases of this period might be cited from the Admiralty records, which overthrow the rule, and expressly vindicate the opposite. If precedents are to decide, the judgments of a tribunal established in Great Britain, under her sole appointment, and acting with open powers, must surely, when acquiescence creates the law, complete the renunciation of the contested rule. It is in vain to resort to conjectures or ingenious subtleties to fritter away authorities; the faith of the nation has been pledged by its tribunals, and it is too late now to travel

out of the record. Place the whole argument of precedent in its strongest light, and it will appear that, in the year 1756, the doctrine was first assumed, and in the year 1801 was first executed.

So far, however, from being recognised, this pretended rule of the year 1756 was pointedly denied at the moment of its introduction by the power affected by it; and on its late resuscitation, has met the determined reprobation of the United States. Our Minister at the Court of London, on the development of it in the year 1801, remonstrated against it in a spirited memorial. Indeed Russia, France, Sweden, Denmark, Prussia, Portugal, and Austria, in the celebrated league of armed neutrality in the year 1780 expressly declared, and Great Britain was then compelled to admit, as the law of nations, that all neutrals may freely navigate, from port to port, and on the coasts of the nations at war. Contraband articles and blockaded ports were the only admitted exceptions. This solemn protest of Europe, after an elaborate discussion, in which all neutral nations assisted, is singly opposed by the instructions of Great Britain, and is to be outweighed by an obscure and resisted precedent. Nay more, the united voice of the marine world and the practice of ages, must yield to the interested decisions of a single State and change with the varying policy of its Cabinet. There is indeed no difficulty in referring principles to former times, when it suits the public convenience; and, as the argument of ancient usage is of deep concern in national pretensions, it is too often a cover for unjustifiable spoliations.

With these preliminaries, your memorialists feel confidence in asserting that goods not contraband, fairly purchased by the neutral, are free to the market of every country, and protected from seizure, except in cases of blockade. Guided by these principles, they perceive a plain and honorable path for commerce. Beyond them, all is involved in uncertainty.

It is not the least singularity attending the conduct of the present war, that Great Britain has licensed her subjects in a trade, which she declares fraudulent in others; that she admits them unmolested to supply her enemy with means of resistance, when she declares confiscation as the penalty of neutral succor. Were the rule ever so just in itself, it certainly demands relaxation when the belligerent partakes the profits and connives at the breach. If its foundation be the unlawfulness of affording assistance to a distressed enemy, surely it ought not to be enforced, when that assistance is an unauthorized object of speculation with the distressing belligerent.

Your memorialists heartily concur with their fellow-citizens in repelling with indignation the imputation of fraud attached by Great Britain to our colonial commerce. They conceive it a fair, lawful, and honorable traffic, cherished by the resources of our own country, independent of all foreign succor. Fraud may occasionally contaminate the transactions of all nations; but no one who has estimated the extent of our resources, or the respectability of our merchants, could for a moment believe them subservient to the fraudulent purposes of any nations. It is our pride to believe that the American merchants, with very few exceptions, are as distinguished for good faith as any on earth. The imputation thrown on them is a masked pretence to repel the odium of vexatious injuries, and to excuse violations of law, which cannot be justified.

Your memorialists are sorry that other instances of hostile conduct have been manifested by Great Britain, less direct in their nature, but not less derogatory from our sovereignty than those above enumerated. The impressment of our seamen, notwithstanding clear proofs of citizenship, the violation of our jurisdiction by captures at the mouths of our harbors, and insulting treatment of our ships on the ocean, are subjects worthy of the serious consideration of our national councils, and will, we have no doubt, receive an early, prompt, and decisive attention.

Complaints also of a serious nature have arisen against other nations from the conduct of piratical depredators, and the lawless plunderings of privateers on our coasts. From whatever authority these evils proceed, whether from the secret connivance of foreign Powers, or the baneful machinations of individuals, we trust that our national honor will not long be unsupported by a national force.

These are the considerations which your memorialists beg leave to submit to the wisdom of the General Government. Though they have not suffered very greatly in their individual interests, they feel deeply impressed with the opinion, that the case is national, and the feelings should be the same. They cherish the hope that a sense of mutual interest and good faith will successfully terminate the present embarrassments. They wish for peace, for honorable peace. They ask for no measure but what justice approves and reason enforces. They claim merely to pursue a fair commerce with its ordinary privileges, and to support the independence of their country by the acquisitions of lawful industry. They wish to take no part in the contests which now convulse the world, but, acting with impartiality towards all nations, to reap the fruits of a just neutrality. If, however, conciliation cannot effect the purpose of justice, and an appeal to arms be the last and necessary protection of honor, they feel no disposition to decline the common danger, or shrink from the common contribution.

Relying on the wisdom and firmness of the General Government in this behalf, they feel no hesitation to pledge their lives and properties in support of the measures which may be adopted to vindicate the public rights, and redress the public wrongs. And as in duty bound will ever pray.

Signed in behalf of said inhabitants, by their authority.

JOHN HATHORNE,
JOSEPH SPRAGUE,
JONA. MASON,
B. CROWNINSHIELD, Sr.
JOSEPH WHITE, Jr.
JOSEPH STORY.

Salem, *February*, 1806.

NEW HAVEN MEMORIAL.

To the President of the United States, and the Senate and House of Representatives of the United States in Congress assembled; the memorial of the Chamber of Commerce in New Haven, respectfully represents:

That your memorialists have observed with no common degree of surprise and solicitude, the numerous embarrassments which the commerce of the United States has suffered, during the present war in Europe and the Indies, arising from the adoption of new principles by the Admiralty Courts of Great Britain, as well as from the depredations committed on our unprotected trade by lawless freebooters, and the unwarrantable impressment of our seamen. Your memorialists will not attempt to discuss at large the principle which they understand has been adopted by the Admiralty Courts of Great Britain, in recent decisions respecting the rights of neutral nations; it is sufficient for them to observe that, in their opinion, the principle assumed by Great Britain, of considering all the trade of a neutral nation as unlawful, which the same nation cannot carry on in time of peace, to be new and unwarrantable; a principle not authorized by the maxims of sound justice, which have long been received and respected by nations, as laws by which their mutual intercourse ought to be regulated.

Among independent nations, there are certain equal rights, founded on common principles of justice, from which proceed their reciprocal duties. These rights and duties have been long since ascertained by the mutual consent or express stipulations of civilized nations. They constitute the political morality of Kingdoms and States; the basis of the code of laws, which the commercial nations of Europe have long held themselves bound to respect, to which we cheerfully submit; and which we conceive, no nation can infringe without doing injustice to the whole family of mankind. So long as the council of nations and their courts of justice observe these laws, mutual confidence between nations can be obtained, and the rights of individuals preserved. But your memorialists cannot behold, without surprise and regret, a powerful and respectable nation, bending these principles of the common law of nations, to answer the political purposes, and introducing a versatile policy into the solemn adjudications of her courts. We hold it to be extremely important that all nations should combine against such innovations upon their rights; and in particular, that the United States, whose geographical position gives them the best chance for maintaining neutrality during wars in Europe, should firmly resist every encroachment upon the rights of neutral commerce.

In regard to the impressment of American seamen, your memorialists feel, in common with their fellow citizens, a lively indignation at the abuses of power often exercised by British officers upon American citizens. We have full confidence that the Government of the United States will adopt and pursue such measures for restraining these injurious proceedings, as the honor and interest of the United States shall require.

The depredations upon our defenceless commerce on the high seas, and even at the very entrance of our harbors, impress your memorialists with a lively sense of our national degradation, and of the urgent necessity for vigorous, effectual, and permanent measures for protecting the property of private citizens, and securing our country from the repetition of similar insults. Whatever system of policy a chimerical theory may suggest, we are persuaded that the question whether the United States shall have an active or passive commerce, is not now to be determined. Our citizens have already formed commercial habits which are too firmly established to yield to a different policy; and an active commerce is so directly connected with the agricultural interest, which it serves to cherish and encourage, that we apprehend the farmer, as well as the merchant, is deeply interested in the protection of trade. Nor can we hesitate to express our decided opinion, that, as a general proposition, the commerce of our country will amply reimburse the necessary expenses of protection. The situation of our country and its true policy forbid that a great navy should be maintained for the purposes of carrying on maritime war, or for settling and defending distant colonies; but we conceive that a number of ships sufficient effectually to protect our harbors, our seacoasts, and great commercial towns, and secure the honor of the American flag, on the waters adjacent to our own territories, will furnish not only the safest, but cheapest bulwark of defence. We highly applaud the policy that seeks to preserve peace; but even peace may be purchased at too high a price; and the history of all nations evinces that a State is never secure of peace, which has not at command the means of annoying an enemy, and repelling aggressions; and that an over timid policy, serves only to invite insults and generate a necessity for resorting to arms, which a state of preparation for war, and a bold attitude, would have preserved.

With these impressions of the necessity of measures for defending our commercial rights, which shall be firm, but temperate and bold, yet marked with a spirit of conciliation, your memorialists cordially unite with their fellow-citizens of other commercial towns, in expressing their sentiments freely to the Legislative and Executive authorities of their country; with assurances of their disposition to give aid and support to every measure of Government, calculated to accomplish this important object.

Signed, per order,

HENRY DAGGETT, *Pres't.*

New Haven, *Feb. 7th*, 1806.

NORFOLK AND PORTSMOUTH MEMORIAL.

[Presented to the House, February 20, 1806.]

At a meeting of the citizens of Norfolk and Portsmouth, assembled in consequence of the cri-

sis to which the differences between this country and Great Britain have advanced, L. WHEELER, Esq., was called to the chair, and Arthur Lee appointed secretary.

Resolved, unanimously, That a committee be appointed to draught resolutions expressive of the sentiments of our citizens in relation to Great Britain; and that this committee consist of William Wirt, Littleton W. Tazewell, Robert B. Taylor, Moses Myers, William Pennock, Theodoric Armistead, and John Granbery.

The committee, after a short retirement, reported the following resolutions, which were read, and unanimously agreed to:

1. *Resolved*, as the opinion of this meeting, That the law of nations, founded on the eternal principles of equal and reciprocal justice, and on the consent of nations, cannot be abrogated or altered at the mere will and pleasure of any one nation.

2. *Resolved*, as the opinion of this meeting, That Great Britain, in the selection and adoption of her maritime regulations, appears to make but a single inquiry, and that is, whether those regulations be conducive to her own interests; totally regardless whether they incroach, or not, on the rights of other nations, equally sovereign and independent with herself.

3. *Resolved*, as the opinion of this meeting, That the interest of Great Britain, and the law of nations, are not convertible terms; and that a measure, although highly expedient for her, although calculated to produce the effect of a general blockade on the nation with which she is at war, although tending to constrain to her own ports the commerce of neutrals, and to give her a monopoly of the commerce of the world, may, nevertheless, be a direct and palpable breach of national law, and an invasion of the rights, the independence, and sovereignty of other nations.

4. *Resolved*, as the opinion of this meeting, That of this description is that principle generated in the British Cabinet, which imposes a new restraint on the commerce of neutrals, which closes against them the ports of a belligerent, although such ports be avowedly free from blockade, although the neutral vessels contain no articles of contraband, and although the nation to which such ports belong, open them and invite the commerce of neutrals.

5. *Resolved*, That Great Britain, by impressing our citizens into her service, and compelling them to fight her battles, and to contribute to the capture and plunder of their own countrymen; by her various abuses of the laws of blockade; by the new principle which she hath prescribed as a part of the law of nations, and by which she effectually blockades the whole of every nation with which she is at war; by all these restraints and oppressions, imposed and practised by her on the liberty of our citizens, the freedom of our commerce, and the sovereignty of our nation, has given evidences of a hostile temper towards the United States, so strong, that, in the opinion of this meeting, it is expedient for our Government to adopt such measures as to their wisdom may seem best calculated to assert and maintain our rights, and to redress the injuries we have sustained.

6. *Resolved*, That we have an unshaken confidence in the wisdom and firmness of our national councils; and that we will, with our lives and fortunes, support whatever measures they may take to maintain the honor and independence of our nation inviolate.

7. *Resolved*, That the chairman be instructed to transmit the foregoing resolutions to Thomas Newton, Esq., our Representative in Congress, to be by him laid before that body.

LUKE WHEELER, *Chairman.*

Attest: ARTHUR LEE, *Secretary.*

NORFOLK, *Feb.* 12, 1806.

PETERSBURG MEMORIAL.

[Presented to the House, February, 13, 1806.]

At a meeting of the citizens of the town of Petersburg, at the town court-house, the 8th of February, 1806, convened agreeably to public notice given by the Mayor, to take into view the propriety of addressing the President and Congress on the present momentous situation of our national concerns, and to proffer the support of our blood and fortune in preserving our public honor and security, WILLIAM PRENTIS, the Mayor, was called to the chair, and John Dickson appointed secretary.

The following resolutions were severally proposed, and unanimously agreed to:

Resolved, That the citizens of the town of Petersburg, on reviewing the relations of the United States with foreign nations, are impressed with the certain, though melancholy truth, that their country has received from some of the belligerent Powers of Europe, the grossest insults and injuries; insults and injuries which it behooves the Government to redress, whatever hazards, difficulties, and dangers it may be necessary to incur, in order to obtain reparation.

Resolved, That as to the choice of means whereby national honor is to be vindicated, and national justice enforced, the citizens of the town of Petersburg repose the highest confidence in the wisdom of the General Government, that it will select such as best combine the advantages of being the least expensive and the most efficacious; the least burdensome, and the most energetic; peaceful, as far as possible; warlike, as far as necessary.

Resolved, That whatever burdens it may be necessary to impose; whatever force it may be necessary to employ in the prosecution of a just national redress; the citizens of Petersburg will cheerfully contribute their quota of the one, and bear their proportion of the other; and much as they deprecate war, as being unfriendly to the interest of their growing country, yet they will joyfully, at the call of Government, gird on the swords of their forefathers, or, like them, renounce the luxuries of Europe; preferring every evil to that of national disgrace; every deprivation to that of national honor.

And as, in moments of danger and difficulty like the present, it behooves every good citizen of the Republic, not only to deliver his opinion of public affairs, but to evince his zeal in support of measures of national redress and retribution,

Resolved, therefore, That the chairman and secretary of this meeting be directed to sign the foregoing resolutions in the name of this meeting, and to transmit them to the President and Congress of the United States.

WILLIAM PRENTIS, *Chairman.*

JOHN DICKSON, *Secretary.*

SPAIN.

[Communicated to Congress, March 20, 1806.]

To the Senate and House of Representatives of the United States:

It was reasonably expected that, while the limits between the territories of the United States and of Spain were unsettled, neither party would have innovated on the existing state of their respective positions. Some time since, however, we learned that the Spanish authorities were advancing into the disputed country to occupy new posts and make new settlements. Unwilling to take any measure which might preclude a peaceable accommodation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river, which, by delivery of its principal post, Natchitoches, was understood to have been itself delivered up by Spain; and, at the same time, to permit no adverse post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer at Natchitoches, learning that a party of Spanish troops had crossed the Sabine river, and were posting themselves on this side the Adies, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letters detailing this incident, that they may fully understand the state of things in that quarter, and be enabled to make such provision for its security as, in their wisdom, they shall deem sufficient.

TH. JEFFERSON.

MARCH 19, 1806.

Extract of a letter from Major Porter to the Secretary of War, dated

NATCHITOCHES, *February* 8, 1806.

SIR: Your letter of the 20th November was received on the 24th ultimo, and the request therein mentioned was, without loss of time, forwarded to the commandant at Nacogdoches, from whom I received, on the 4th instant, an answer, in which he refused to give the assurance required.

Deeming this reply decisive, I immediately detached Captain Turner, with sixty men, to remove a party of Spaniards that had, a few days before, passed and taken post on this side of the Adies, and to patrol the country between this post and the river Sabine; the former he easily accomplished, and is now performing the latter.

The report of preparations, making by our Spanish neighbors, for war, are various, but generally agree that considerable numbers of troops are progressing from the interior to the eastward: that near three hundred of them were, a few weeks since, at the great crossing of the Trinity, where there were two hundred beeves, five hundred horses, and a considerable magazine of flour: that they have ten guns now mounting at Nacogdoches, where most of them have been lately received; and that, immediately after Lieutenant Piatt, the bearer of my letter to the commandant of Nacogdoches, left that place on his return, a Spanish officer was despatched to Bayou aux Pierre to impress on the minds of the inhabitants of that settlement the allegiance that they owed to His Catholic Majesty; ordered them to join his standard whenever required; and informed them that the Red river would be the boundary line between the Spanish country and the United States.

NATCHITOCHES, *February* 1, 1806.

SIR: You are immediately to proceed with the detachment now under your command to the neighborhood of Adies, where, if you should fall in with a stationary party of armed Spaniards, you will command them, or any other armed party of foreigners which you may discover, to withdraw beyond the Sabine river. In case of their refusing to comply, you are to treat them agreeably to the orders of the Secretary of War, (a certified extract of which accompanies these instructions,) as far as relates to the pursuit, capture, and detention, of invaders or aggressors, and avoiding the spilling of blood, but when these orders cannot otherwise be executed. You are to patrol, if practicable, the country between this and Sabine. Be on your guard against surprise, and communicate to me, by express, from time to time, any occurence worty of note.

M. PORTER,

Major Artillerists, Commanding.

Capt. EDWARD TURNER.

ADIES, *February* 6, 1806.

SIR: After a tedious march we arrived in front of the Spanish post yesterday morning about half past eleven o'clock; found the Dons in some confusion, in consequence of their patrol having discovered us an hour before, (owing to our pilot bringing us in sight of the road.) I took a position which would have carried their camp, if there had been ten times their number, which was twenty. They saddled, mounted, and formed. At the Bayou le Glese, their patrol or picket halted our vanguard, and demanded why we were violating or invading His Majesty's territory. I requested him to withdraw with his guard inside his camp, where I would presently be, and inform his officer of my business. He implicitly obeyed. Upon my arrival at my position, I sent for Mr.

Duforest to tell the officer I wished a conference. Mr. Duforest was informed, in consequence of some information the corporal of the advanced guard had given, the officer had gone down the road to meet me. I waited some time his return, but not seeing him, I suspected he had purposely put him out of the way to gain time. I, therefore, after sending another message to the camp, formed my men, and marched through the thicket within forty yards, where I halted, and told the non-commissioned officer commanding that I should wait fifteen minutes for his officer, provided he made no movements in the interim. The officer soon after appeared, when I delivered him my commands. He readily agreed to abandon his position, but he said he could go no further than a creek, San Jose. After a good deal of altercation, he consented to move to the other side of the Sabine, and I gave him three hours to prepare to march. He begged I would not insist on his crossing the Sabine within five days, alleging that, in the miserable condition of his horses, it would be impossible without losing them, and requested that he might be allowed to look up some that were missing. I replied that, after reaching the other side of the Sabine, he might send in two or three of his men without arms to hunt them; and that he must get them as soon as possible. He replied he would, but it would necessarily take him four or five days. This morning I commenced my march for La Nan, and fell in with him in three miles. I signifying my surprise at his being no further, he made the old excuse of the impossibility of his horses to travel faster; and observed that he had been detained in trying to find some of his horses, two of which he had got, and four were yet missing. Not thinking it proper to rely exactly on his word, after again falling in with him, I made him subscribe to the enclosed terms, (which I hope may meet your approbation,) and shall follow his footsteps till my provisions are out.

Respectfully yours, &c.

E. D. TURNER.

Major Moses Porter.

At the Adies, *Feb'ry* 6, 1806.

I, Joseph Maria Gonzalez, ensign, commandant of His Most Catholic Majesty's troops on this side of the river Sabinas, hereby have agreed with Captain Edward D. Turner, captain in the United States' army, to return all said troops of His Catholic Majesty to the other side of the said river Sabinas, as soon as my horses will permit it, or in five days, or at furthest six, and to take my march this day; and I also oblige myself not to send any patroles on this side of the river Sabinas.

J. M. GONZALEZ, *Ensign.*

Witness: John D. Deforest.

[Communicated December 2, 1806, with the Annual Message at the commencement of the session.]

Natchitoches, *Aug.* 5, 1806.

Sir: It has been reported to me, for several days past, that a large body of the troops of the King of Spain had assembled near the Sabine, and were about to cross that river, and I am just informed that this body has crossed the said river, and taken post within the territory of the United States; it has therefore become my duty to address you on this subject, to demand an explicit avowal of the object of this movement, to insist on this body of troops being immediately withdrawn, and to warn you of the consequences which may result from its continuance within the territory of the United States.

It is well known that the Government of the United States and the King of Spain are at this moment negotiating on the subject of the boundaries of Louisiana, and there cannot be a doubt but an amicable adjustment of existing differences will soon take place.

The reinforcements which have lately reached this post are only intended as a security to the territory actually surrendered to us, and which we consider as extending to the Sabine. There is no disposition on the part of the United States to commit hostilities on the troops or possessions of Spain; but we cannot suffer aggressions on our territory, and should you persist in making them, you will be justly chargeable with the consequences which such conduct is calculated to produce. I have only to add, that, if you should think proper to remove the Spanish troops to the west side of the Sabine, and continue them there, no attempt will be made, on the part of the United States, to interrupt that friendship and harmony which ought to subsist between neighboring nations. But if you should attempt to continue these troops within the Territory of the United States after this explicit and friendly warning, it will be my duty to consider you as an invader of our territory and to act accordingly.

This letter will be handed to you by Major Moses Porter, of the artillerists of the United States, who will wait a reasonable time for your reply; which, if convenient, I hope may be accompanied by an English or French translation, to enable me to ascertain its contents with greater certainty. The Major will be attended by one non-commissioned officer, and one private soldier, of the Army of the United States.

I avail myself of this opportunity of tendering my best wishes for your health, happiness and honor, and am, sir, with respectful consideration, your obedient servant,

T. H. CUSHING, *Colonel, &c.*

To Colonel Herrera, &c.

Plantation of Mr. Prudhomme, *August* 6, 1806.

Sir: With all possible respect I answer your Excellency's letter which was delivered to me, at this place, by Moses Porter, Major of Artillery of the United States.

It is true that I have crossed the Sabine river with a detachment of troops belonging to the King, with orders from the Captain General (by whom I am governed) to keep this territory from all hostile attempts, as belonging, from time immemorial,

to the King, and which is a dependence of the province of Texas. The inhabitants still acknowledge obedience to our Government, notwithstanding the violence committed on a small detachment of our troops by those of the United States.

From this moment I hold myself responsible to the real letter of the orders that govern me, which are, by no pretext whatsoever, to interrupt or break the good intelligence which subsists between His Majesty and the United States; but I cannot permit, without violating my duty, any usurpation upon the land he possesses. If your Excellency makes any infringement, you, alone, will be answerable to the two Courts, and may interrupt the amicable convention, perhaps, now on foot, but of which I have no knowledge.

I did not send a translation of this in French or English, not having any person capable of translating, with purity, a thing of so serious a nature.

I felicitate myself of this opportunity in offering my best services.

Your very humble servant,

SIMON DE HERRERA.

Señor Don Thomas Cushing.

Natchitoches, *August* 26, 1806.

Sir: On my arrival at this post, I learned, with certainty, that a considerable Spanish force had crossed the Sabine and advanced within the territory claimed by the United States. It was hoped, sir, that, pending the negotiations between our respective Governments for an amicable adjustment of the limits of Louisiana, no additional settlements would be formed, or new military positions assumed, by either Power, within the disputed territory; a policy which a conciliatory disposition would have suggested, and justice sanctioned; but, since a contrary conduct has been observed on the part of certain officers of His Catholic Majesty, they alone will be answerable for the consequences which may ensue.

The above proceeding, sir, is not the only evidence of an unfriendly disposition which certain officers of Spain have afforded. I have to complain of the outrage lately committed by a detachment of Spanish troops, acting under your instructions, towards Mr. Freeman and his party, who were ascending the Red river under the orders of the President of the United States. Mr. Freeman and his associates were navigating waters which pass through the territory ceded by France to the United States; they were navigating a river on which the French had formerly made settlements far beyond the place where they were arrested; a fact of great notoriety, and in support of which the testimony of several citizens, residing at and near the post of Natchitoches, can be adduced.

But, nevertheless, Mr. Freeman and his party were assailed by a battalion of Spanish troops, and commanded to return: a proceeding the more exceptionable, since the objects of Mr. Freeman were merely scientific, having in view nothing hostile to Spain; objects which were long since communicated by me to His Excellency the Marquis of Casa Calvo, and which, through him, I presume, must have been made known to the Governor General of the province of Texas.

This detachment of Spanish troops, whose movements, I learn, are directed by your Excellency, did, on their march, commit another outrage towards the United States, and of which it is my duty to ask an explanation. In the Caddo nation of Indians the flag of the United States was displayed, and commanded from the chief and warriors all the respectful veneration to which it is entitled; but your troops are stated to have cut down the staff on which the pavilion waved, and to have menaced the peace and safety of the Caddos should they continue their respect for the American Government, or their friendly intercourse with the citizens of the United States.

I experienced the more difficulty in accounting for this transaction, since it cannot be unknown to your Excellency, that while Louisiana appertained to France, that the Caddo Indians were under the protection of the French Government, and that a French garrison was actually established in one of their villages: hence, it follows, sir, that the cession of Louisiana to the United States, "with the same extent which it had when France possessed it," is sufficient authority for the display of the American flag in the Caddo village, and that the disrespect which that flag has experienced, subjects your Excellency to a serious responsibility.

I am unwilling to render this communication unnecessarily lengthy, but I must complain of another outrage, which has been committed under the eyes of your Excellency. Three citizens of the United States, of the names of Shaw, Irvine, and Brewster, were seized by Spanish soldiers, within twelve miles of Natchitoches, and have been sent prisoners to Nacogdoches. I cannot suppose that this proceeding is unknown to your Excellency, and I should be wanting in duty did I not avail myself of the present occasion to demand information as to the cause of their arrest and detention. There is still another subject on which I must address your Excellency. It is reported to me, that several slaves, the property of citizens of the United States, have lately escaped from the service of their masters, and sought and found an asylum at Nacogdoches. I have seen the correspondence between your Excellency and Judge Turner upon this subject, and I learn your determination to await the orders of the Governor General of the province of Texas. I will forbear, therefore, for the present, to press their immediate delivery to the orders of their masters; but I must urge your Excellency to discourage, for the future, the escape of slaves from this to your territory, and I request that such as may repair to the bounds of your command may be forthwith returned. Your Excellency will readily perceive the cause of my solicitude on this subject. If fugitive slaves are to receive the protection of the Spanish authorities, the property of the citizens of this Territory is indeed insecure, and a good understanding between our two Governments ought not, and cannot, be preserved. During the last year, I had a correspondence with his Excellency the Marquis of Casa Calvo, (who was then at New Orleans,)

relative to some negroes who had escaped to Nacogdoches; and, in consequence of the interference of the Marquis, I am led to believe that they were restored. I was officially informed by the Marquis, that his conduct on the occasion was approved by His Catholic Majesty, and I consequently concluded that the mischief was at an end. It cannot, I presume, be unknown to the officers of His Catholic Majesty, that Ministers from the United States have repaired to Spain for the avowed purpose of amicably adjusting the existing differences. I should greatly regret, therefore, if any occurrences in this quarter should prevent that amicable arrangement which the interest of each nation would advise. But if the officers of Spain should persist in their acts of aggression, your Excellency will readily anticipate the consequences, and if the sword must be drawn, let those be responsible whose unfriendly conduct has rendered it indispensable.

Colonel Henry Hopkins, the Adjutant General of the militia of this territory, will have the honor to deliver to your Excellency this communication, and to await your answer.

I tender to your Excellency the assurances of my great respect and high consideration.

WILLIAM C. C. CLAIBORNE.

His Excellency Governor HERRERA.

SPANISH CAMP, *Aug.* 28, 1806.

SIR: The troops of the King my master, which I have the honor to command on this side of the Sabine, have no other object than to maintain good harmony between the United States and His Majesty, and to preserve inviolate the territory which belongs to him.

Major Freeman was navigating the Red river, on that part of the territory which never belonged to the province of Louisiana, now appertaining to the United States; for which reason he was notified by the commandant of the troops to retrograde as far back as the country that did belong to them. I agree with your Excellency, that all the territory which His Catholic Majesty ceded to France belongs to the United States, but the Caddo Indians are not on that land, but at a great distance from it, and live now on the territory of Spain. For which reason it was notified to them, that if they chose to live under the Government of the United States, they must go to the territory under their jurisdiction; but if they desired to remain where they were it was required of them to take down the American flag. They consented not to abandon their village; but being more tardy than was conceived they might have been in pulling down the flag, they (the Spaniards) were obliged to do it by force.

The reason why I detained the three citizens of the United States, was because they were found twice, and on different days, observing our positions and movements; and three several times that I questioned them, I observed they did not agree as to the motives of their visiting the place; but, finally, one of them told me they wished to establish themselves under the Government of the King at St. Antoine, which determined me to send them to the Governor of the province with an escort, as well on account of the distance of the road, as for having rendered themselves suspected persons. The detention of the runaway negroes of Louisiana at Nacogdoches, is an affair in suspense before the Captain General of this province, who likewise will have knowledge of the motives why those were sent back whom your Excellency cited. And for the better security of the matter, I shall send your letter which I received by Colonel Hopkins, and who likewise will be the bearer of this.

The troops of the King, neither from disposition nor character, will ever co-operate directly or indirectly in encouraging the emigrating of negro slaves. For my part, I assure your Excellency that those I command will commit no hostility which can frustrate the negotiations now pending between our Courts; but if I am provoked to it I shall endeavor to preserve the honor of my troops, and to fulfil the obligations with which I am invested; a duty which my character and that of my subalterns demands.

I avail myself of this opportunity to offer your Excellency my respect and consideration.

SIMON M. HERRERA.

His Excellency Gov. CLAIBORNE.

NATCHITOCHES, *August* 31, 1806.

SIR: By the return of Colonel Hopkins I am honored with your Excellency's reply to my communication of the 28th instant. I continue of opinion that the advance of Spanish troops within a territory claimed by the United States, is evidence of an unfriendly disposition; nor can I perceive anything in your Excellency's letter which can justify or extenuate the offensive conduct observed towards Mr. Freeman and his associates, or the indignity offered in the Caddo nation to the American flag.

You have not denied, sir, that the French, when in possession of Louisiana, had established a garrison on Red river, far beyond the place where Mr. Freeman and his associates were arrested on their voyage, or that the Caddo Indians were formerly considered as under the protection of the French Government. The silence of your Excellency on these points proceeds probably from a knowledge, on your part, of the correctness of my statements. I shall, however, touch no further on these transactions, in my correspondence with your Excellency, but will hasten to lay the same before the President of the United States, who will know what measures to direct when wrongs are offered to the American nation. I cannot however, refrain from expressing my displeasure at the arrest and detention, under your Excellency's orders, of three citizens of the United States, Shaw, Irvin, and Brewster; they are charged with no offence that would warrant imprisonment and transportation to St. Antonio. A state of actual war between our two nations could not have justified your conduct, towards those unoffending citizens. I can venture to assert, that the suspicions of your

Excellency as to the objects of Shaw, Irvine, and Brewster, are unfounded. They certainly would have no particular inducements to notice the positions or movements of your troops. The fact, I believe, is, that these men were desirous of gratifying their curiosity, and wished your Excellency's passports to visit St. Antonio. Under this impression, and from the circumstance that they were within the territory claimed by the United States, I deem it my duty to demand their release and speedy restoration to their country. It cannot be supposed that the distance to St. Antonio, or their personal convenience, occasioned the escort which attended them. They appear, on the contrary, to have been treated by your Excellency as State prisoners, and as such, I have information of their having passed through Nacogdoches under a strong guard. Your Excellency will recollect that the subjects of His Catholic Majesty are daily in the habit of visiting the post of Natchitoches, and cannot but observe the positions and movements of the American troops. They, however, are permitted to pass without molestation. A friendly and innocent intercourse between the citizens of the one, and the subjects of the other Power, has not, as yet, been interdicted by this Government. I am persuaded, therefore, that your Excellency will see that the arrest of Shaw, Irvine, and Brewster, was premature, and that their detention is highly improper. I have no personal knowledge of these three men; they are American citizens, and, of course, under the protection of the Government of the United States. In the name of that Government, therefore, I do now demand their release, and that they be restored to their country as soon as possible.

Pending the negotiations between our respective Governments, I could wish that hostilities should not commence in this quarter, but, if provoked to it, by the unjust aggressions of the forces of His Catholic Majesty, the troops of the United States will endeavor to maintain their own and their country's honor.

Lieutenant Duforest, of the American Army, is charged with the delivery of this letter to your Excellency, and to bear me such answer as you may think proper to return.

I renew to your Excellency the assurances of my respectful consideration.

WM. C. C. CLAIBORNE.

His Excellency Gov. HERRERA.

Extract of a letter from General Wilkinson to the Secretary of War, dated

HEADQUARTERS, NATCHITOCHES,
October 4, 1806.

I yesterday morning received Governor Cordero's answer to my address of the 24th ultimo, copies of which you have under cover.

The varied style of this letter, when contrasted with those of Governor Herrera to Colonel Cushing and Governor Claiborne, combined with the circumstance of the Spanish troops having recrossed the Sabine to a man, has induced me, on the ground of economy, and of expediency also, to discharge the militia who have reached this place, and to countermand those under march excepting about one hundred dragoons and mounted infantry, whom I shall retain in service, (until I am apprized of the determination of the Captain General, Salcedo,) to watch the movements of our neighbors.

HEADQUARTERS, ARMY OF THE U. S.
NATCHITOCHES, *Sept.* 24, 1806.

SIR: After the recent communications which have passed between his Excellency Governor Herrera, Colonel Cushing, and Governor Claiborne, and his reiterated repulsion of their reasonable and rightful demands, I will confess to your Excellency, that naught but the very high and solemn obligations which I owe to humanity, could vanquish the repugnance with which I now have the honor to address you, on a topic profoundly interesting to our respective nations, inasmuch as it may involve a question of peace or war.

The differences of opinion which have prevailed concerning the contested limits of Louisiana, having been submitted to amicable negotiation by our respective sovereigns, the appeal to rational inquiry is an admission of the dubiosity of the right, and therefore should prevent any change of military positions posterior to the delivery of the province of Louisiana to the United States.

The Government of the American Union, founded in right and conducted by reason, has been instructed by the history of other times how to value the blessings of peace, and, being unambitious of conquest or military fame, is desirous to preserve a fair and friendly understanding with all the Powers of the earth.

Thus circumstanced, and under daily expectation of a favorable issue to the depending negotiations, it would mark a sanguinary spirit, and be a most ungracious and unwarrantable deed, were the military officers of either Government, by an act of precipitancy, to frustrate the benevolent views of a pacific discussion, and make way for the commencement of hostilities, whose final issue may baffle human foresight, but whose probable consequences would be scenes of revolution and bloodshed, offensive to humanity, and subversive of the general policy of nations.

In this state of things, I am ready to pledge myself that, pending the negotiations of the two countries, nothing shall be attempted against His Catholic Majesty's subjects or territories by the troops under my command, unless his officers should attempt, as they have already done, to innovate the "statu quo" at the surrender of the province, by occupying new ground, or erecting new posts, or unless they should trespass on the rights of the citizens, or violate the sovereignty of these States; the former conduct will compel counter movements and occupancies, and the latter will not only justify recrimination, but will infalliby excite it, and thus hostilities may be produced, notwithstanding the peaceful dispositions of the high Powers to whom they are respectively accountable.

When the troops of the United States took possession of this post, the Spanish commandant from whom it was received, did not define the limits of his jurisdiction; yet it was notorious that Nacogdoches formed the barrier post of the approximate province of Texas. It was known, also, that controversies had existed between France and Spain respecting the western limits of Louisiana, and we had been assured by Monsieur Lausatt, the French Commissioner who delivered the province to the United States, that the pretensions of France went as far west as the Rio del Norte; but we are not informed that any line of demarcation had ever been traced to partition these provinces.

Whether such a line of territorial jurisdiction had ever been established or not between the provinces of Louisiana and Texas, one has been rendered indispensable by the sale of the former to the United States, for the administration of justice, the security of property, and the prevention of hostile collisions; and these States, with pretensions far more extensive, adopted the Sabine river as the most obvious, most convenient, most natural, and least exceptionable temporary boundary.

I am, therefore, sir, commanded by the President of the United States to inform you "that the actual quiet possession of the country by the United States east of the river Sabine, ought and will be considered as fully within the limits of the country surrendered to the United States on taking possession of this place; and, therefore, any attempt on the part of His Catholic Majesty's officers to disturb the existing state of things, by endeavoring to occupy any new post east of the Sabine, or westward or northward of the former boundaries, of what has been called West Florida, must be considered by the Government of the United States as an actual invasion of their territorial rights, and will be resisted accordingly." And while I submit these commands to your grave consideration, in the hope they may have due weight, it becomes my duty to demand from you the withdrawal of the troops of Spain to the west of the Sabine.

My sense of the high respect which is due from one old soldier to another, prohibits the idea of menace; but, as our honor forbids stratagem or deception before our swords have been drawn, I owe it to my own fame, and to the national character, to warn you that the ultimate decision of the competent authority has been taken; that my orders are absolute, and my determination fixed, to assert, and, under God, to sustain the jurisdiction of the United States to the Sabine river against any force which may be opposed to me.

Retire then, sir, I conjure you, the troops of your command from the ground in controversy, and spare the effusion of human blood, without prejudicing your own honor, or the substantial interest of His Majesty, your royal master.

Colonel Thomas H. Cushing, *chef-des-etats-major* of the Army of the United States, has my orders to deliver this letter to you, and wait a reasonable time for your answer.

I pray God to keep your Excellency in his holy protection for many years, and have the honor to be your most obedient and humble servant.

JAMES WILKINSON.

His Excellency Gov. CORDERO.

NACOGDOCHES CAMP, *Sept.* 29, 1806.

EXCELLENT SIR: By the hands of Colonel Thomas Cushing, chief of the general staff of the United States Army, I have had the honor, yesterday, to receive your Excellency's letter, written from your headquarters at Natchitoches.

Being unauthorized to enter into a discussion of the serious and interesting matters on which you treat, I hope your Excellency will excuse me for transmitting your letter, with the utmost celerity, to the hands of the Captain General Brigadier Nimesio Salcedo, under whose orders I act, and I shall transmit to your Excellency his answer, in the same manner, by the hands of an officer of my staff.

While thus acting, I have the honor to offer to your Excellency my respects and consideration, praying God to keep you alive many years.

I am, sir, your Excellency's most humble and obedient servant,

ANTONIO CORDERO.

His Excellency Don JAS. WILKINSON.

Extract of a letter from General Wilkinson to the Secretary of War, dated

NATCHITOCHES, *October* 21, 1806.

Accidental causes having detained the bearer, I am enabled to transmit you, under cover, the answer of Governor Cordero to my note of the 4th instant, of which a copy has been forwarded, and a duplicate will accompany this.

I send you a literal copy of the Governor's letter, in place of a very imperfect translation, which, however, serves to remove all doubts of the continued pretensions of the Spaniards to extend their jurisdiction to the Arroya Fonda, within seven miles of this post, and confirms my determination to advance to the Sabine, for which point, my arrangements being completed, I shall march to-morrow morning; but agreeably to the idea expressed in a former letter, I intend to propose to the Spanish commander the withdrawal of our troops, respectively, to the points of occupancy at the period of the surrender of the province to the United States, and in case of his refusal I shall be governed by circumstances.

I am informed the Captain General Salcedo was to be at Nacogdoches on the 22d proximo.

HEADQUARTERS, NATCHITOCHES,
October 4, 1806.

SIR: I have had the honor to receive your Excellency's letter of the 29th ultimo, by Colonel Cushing, and shall expect the answer of his Excellency the Captain General Salcedo with solicitude.

In the meantime, I shall move forward towards the Sabine, and, to prevent the misinterpretation

of my motives, I consider it proper to apprize you that this movement is made solely to demonstrate the pretensions of the United States to the territory east of that river, and with no hostile intentions against the troops or realms of Spain.

This step has been rendered essential to the honor of the United States, by the late movements and occupancy of his Excellency Governor Herrera, and is also justified by the position which the troops of your Excellency's command have recently taken, immediately on the western bank of the Sabine, sixty miles advanced of Nacogdoches.

I avail myself of a casual, but certain conveyance to transmit this letter to your Excellency, and I pray God to keep you in his holy protection for many years.

JAMES WILKINSON.

His Excellency ANTONIO CORDERO.

GREAT BRITAIN AND FRANCE.

[Communicated to Congress, February 19, 1807.]

To the Senate and House of Representatives:

I transmit to Congress a letter from our Ministers Plenipotentiary at London, informing us that they have agreed with the British Commissioners to conclude a treaty, on all the points which had formed the object of their negotiation, and on terms which they trusted we would approve.

Also, a letter from our Minister Plenipotentiary at Paris, covering one to him from the Minister of Marine of that Government, assuring him that the Imperial decree, lately passed, was not to affect our commerce, which would still be governed by the rules of the treaty established between the two countries.

FEB. 19, 1807. TH. JEFFERSON.

LONDON, *Dec.* 27, 1806.

SIR: We have the pleasure to acquaint you that we have this day agreed with the British Commissioners to conclude a treaty on all the points which have formed the object of our negotiation, and on terms which, we trust, our Government will approve. It will require only a few days to reduce it to form. When that is done, we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence, for the information and guidance of our Government, in such measures as may have reference to the subject.

We have the honor to be, &c.

JAMES MONROE,
WM. PINCKNEY.

JAMES MADISON, *Secretary of State.*

PARIS, *Dec.* 24, 1806.

SIR: I have the honor of transmitting the copy enclosed of a letter from His Majesty's Minister of Marine and Colonies, in answer to mine of the 10th instant, on the subject of the Imperial arrêt of the 21st of November, 1806.

An additional explanation, which it may be well to communicate, is, that neutral vessels coming from England or her colonies into the ports of France, &c., since the date of the aforesaid arrêt, will not be received; and that if any person or persons, charged with the ship, or other vessel, and cargo, shall be detected in evading this regulation, by means of false declarations, they shall forfeit the said ship, or other vessel, and cargo.

I am, sir, &c.

JOHN ARMSTRONG.

Mr. MADISON, *Washington.*

General Armstrong to the Minister of Marine and Colonies.

PARIS, *Dec.* 10, 1806.

The undersigned, Minister Plenipotentiary of the United States of America, has the honor of demanding from His Excellency the Minister of Marine and Colonies, the official explanation which may have been given to the Imperial decree of the 21st November, 1806, so far as that decree involves the rights of neutral nations.

The undersigned would more particularly wish to be informed, whether by "British Islands," mentioned in article one, are to be understood all islands in the possession of His Britannic Majesty, and islands merely, or, whether the rule will be so construed as to extend the blockade to the continental possessions also of his said Majesty?

Whether it be meant that the arrêt shall operate from its date, and that seizures made under it, before notice shall have been given, shall be considered legal?

Whether American vessels, navigating the high or narrow seas, shall be liable to seizure, on evidence only that they are going to, or returning from, a port or ports of His Britannic Majesty?

And whether the articles two and five shall operate only as domestic regulations, or whether their injunctions shall extend to citizens of foreign and independent nations?

His Excellency the Minister of Marine is sufficiently aware of the interest of the United States in the interpretation which shall be given to those articles, and will readily and justly appreciate the motives of the undersigned, in requesting that His Excellency's answer may be given as promptly as possible.

The undersigned has the honor of renewing, &c. JOHN ARMSTRONG.

The Minister of Marine and Colonies to the Minister Plenipotentiary of the United States.

PARIS, *Dec.* 24, 1806.

MR. MINISTER PLENIPOTENTIARY: I hasten to answer the note you did me the honor to address to me on the 10th of this month.

I consider the Imperial decree of the 21st of November last as, thus far, conveying no modification of the regulations at present observed in France, with regard to neutral navigators, nor consequently of the Convention of the 30th of September, 1800, (8th Vendemiaire, 9th year,) with the United States of America.

But although, by this answer, the four questions upon which your Excellency has desired to know my opinion have been implicitly resolved, I think I can add,

1st. That the declaration expressed by the first article of the decree of the 21st November, not at all changing the present French laws concerning maritime captures, there is no reason for inquiring what interpretation, or restriction, or extension, may be given to this article.

2d. That seizures, contrary to the present regulations concerning cruising, shall not be allowed to the captors.

3d. That an American vessel cannot be taken at sea, for the mere reason that she is going to a port in England, or is returning from one; because, conformably with the seventh article of the said decree, we are limited in France not to admit vessels coming from England or the English colonies.

4th. That the provisions of articles second and fifth of the said decree, naturally apply to foreign citizens domiciliated in France, or in the countries occupied by the troops of His Majesty the Emperor and King, inasmuch as they have the character of a general law; but, that it will be proper that your Excellency should communicate with the Minister of Exterior Relations as to what concerns the correspondence of the citizens of the United States of America with England.

I pray your Excellency, Mr. Minister Plenipotentiary, to receive the assurance of my high consideration.

The Minister of Marine and of the Colonies,
DECRES.

It will not escape General Armstrong, that my answers cannot have the development which they would receive from the Minister of Exterior Relations, and that it is naturally to him that he ought to address himself for these explanations, which I am very happy to give him, because he wishes them, but upon which I have much less positive information than the Prince of Benevento.
DECRES.

Imperial Decree of the 21st November, 1806.

ARTICLE 1. The British islands are declared in a state of blockade.

ART. 2. All commerce and correspondence with the British islands are prohibited. In consequence, letters or packets, addressed either to England, to an Englishman, or in the English language, shall not pass through the post office, and shall be seized.

ART. 3. Every subject of England, of whatever rank and condition soever, who shall be found in the countries occupied by our troops, or by those of our allies, shall be made a prisoner of war.

ART. 4. All magazines, merchandise, or property, whatever, belonging to a subject of England, shall be declared lawful prize.

ART. 5. The trade in English merchandise is forbidden; all merchandise belonging to England, or coming from its manufactories and colonies, is declared lawful prize.

ART. 6. One half the proceeds of the confiscation of the merchandise and property declared good prize by the preceding articles, shall be applied to indemnify the merchants for the losses which they have suffered by the capture of merchant vessels by English cruisers.

ART. 7. No vessel coming directly from England, or from the English colonies, or having been there since the publication of the present decree, shall be received into any port.

ART. 8. Every vessel contravening the above clause, by means of a false declaration, shall be seized, and the vessel and cargo confiscated, as if they were English property.

ART. 9. Our Tribunal of Prizes at Paris is charged with the definitive adjudication of all the controversies which may arise within our empire, or in the countries occupied by the French army, relative to the execution of the present decree. Our Tribunal of Prizes at Milan shall be charged with the definitive adjudication of the said controversies, which may arise within the extent of our kingdom of Italy.

ART. 10. The present decree shall be communicated, by our Minister of Exterior Relations, to the Kings of Spain, of Naples, of Holland, and of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and the barbarism of the English maritime laws. Our Ministers of Exterior Relations, of War, of Marine, of Finances, of Police, and our Postmasters General, are charged, each in what concerns him, with the execution of the present decree.

STATE OF THE FINANCES.

[Communicated to the Senate, December 8, 1806.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

Revenue and Receipts.

The net revenue arising from duties on merchandise and tonnage, which accrued during the year 1804, amounted, after deducting that portion which arose from the additional duties constituting the Mediterranean fund, to - $12,673,458

And that which accrued during the year 1805, amounted, after making a similar deduction, (as will appear by the statement A,) to - - 13,083,823

It is ascertained that the net revenue which has accrued during the three first quarters of the year 1806, exceeds that of the corresponding quarters of the year 1805; and that branch of the Government may, exclusively of the Mediterranean fund, be safely estimated, for the present, at thirteen millions of dollars.

The statement B exhibits in detail the several species of merchandise, and other sources, from which that revenue was collected during the year 1805.

It appears by the statement C that the sales of public lands have, during the year ending on the 30th September, 1806, exceeded 473,000 acres. The actual payments by purchasers have, during that period, amounted to $850,000, of which sum near $700,000 have been paid in specie, and the residue in stock of the public debt. The specie receipts from that source may, after deducting charges, and five per cent. reserved for roads, be estimated, for the ensuing year, at five hundred thousand dollars.

The receipts arising from the permanent revenue of the United States may, therefore, without including the arrears of direct tax and internal revenue, the duties on postage, and other incidental branches, be computed, for the year 1807, at - - - - - - - - - $13,500,000

And the payments into the Treasury during the same year, on account of the temporary duties constituting the Mediterranean fund, estimated at - - - - - - 1,000,000

Making, in the whole, an aggregate of 14,500,000

Expenditures.

The permanent expenses are estimated at $11,400,000, and consist of the following items, viz:

1. The annual appropriation of $8,000,000, for the payment of the principal and interest of the public debt, of which sum, not more than $3,600,000 will, for the year 1807, be applicable to the payment of interest - - - - $8,000,000
2. For the civil department, and all domestic expenses of a civil nature, including invalid pensions, the light-house and mint establishments, the expenses of surveying public lands, the fourth instalment of the loan due to Maryland, and a sum of $130,000 to meet such miscellaneous appropriations, not included in the estimates, as may be made by Congress - - - 1,150,000
3. For expenses incident to the intercourse with foreign nations, including the permanent appropriation for Algiers - - - - - 200,000
4. For the Military and Indian departments, including trading-houses, and the permanent appropriations for certain Indian tribes - 1,150,000
5. For the Naval establishment - 900,000

11,400,000

The extraordinary demands for the year 1807, already authorized by law, amount to two millions seven hundred thousand dollars, viz:

The balance of the American claims assumed by the French convention, which remained unpaid on the 30th Setember last, amounting to $700,000

And the two millions of dollars appropriated by the act of 13th February, 1806, making provision for defraying any extraordinary expenses attending the intercourse between the U. States and foreign nations - - 2,000,000

2,700,000

Making, together, - - - 14,100,000

From which it appears that, besides a surplus of four hundred thousand dollars, the resources of the ensuing year will be sufficient to meet the current demands, and to discharge, without recurring to the loan authorized by the last mentioned act, the extraordinary appropriation of two millions for foreign intercourse.

It is here proper to state, that, under the authority given by that act, a credit of one million of dollars has been opened in Holland, to the Ministers of the United States appointed to treat with Spain. Should the credit be used, the million will be charged to the proper appropriation; but, although the balance chargeable to the expenditure of the year 1807, will, in that case, be only one, instead of two millions, as stated in the above estimate, the general result will be the same, as it will then be necessary to replace, in Holland, the million thus employed for a different object than the payment of the foreign debt, to which it now stands charged.

The balance in the Treasury amounted, on the 30th day of September, 1805, to $4,558,664 02; and, on the 30th day of September, 1806, to $5,496,969 77. But it will, on account of the heavy payments to be made in the course of this month for the public debt, be probably reduced, on the 1st January, 1807, to a sum not much exceeding four millions of dollars.

Public Debt.

The annexed note of the proceedings of the Commissioners of the Sinking Fund, marked E, shows that a considerable portion of the annual appropriation of eight millions of dollars was applicable this year to the reimbursement or purchases of the domestic debt. No more than $17,517 61 were offered at market price, and accordingly purchased. The reimbursement of the Navy six per cent., amounting to $711,700, was, therefore, effected on the 30th day of September last, and that of the five and a half per cent. stock, amounting to $1,847,500, is advertised for the 1st day of January next. The payment of the last mentioned sum will be made by the Treasury in the course of this month. Although a more than usual portion of the appropriation for the calendar year 1806, falls, for that reason, on the last quarter, it appears, by the statement D, that the payments on account of the principal of the public debt have, during the year ending on the 30th day of September, 1806, amounted to near three millions two hundred and fifty thousand dollars.

It appears by the same statement, that the payments on account of the principal of the public debt have, from the 1st of April, 1801, to the 30th September, 1806, amounted to		$21,203,903 55
The payments on the same account, to be made by the Treasury in the course of this month, are—		
For the reimbursement of the five and a half per cent. stock		1,847,500 00
For the annual reimbursement of the six per cent. and deferred stocks		933,389 19
Amounting altogther to		24,044,772 74

And making the total of principal of the public debt, reimbursed from the 1st of April, 1801, to the 1st January, 1807, more than twenty-four millions of dollars.

During the same period, there have also been paid to Great Britain, in satisfaction and discharge of the money which the United States might have been liable to pay, in pursuance of the provisions of the sixth article of the Treaty of 1794, two millions six hundred and sixty-four thousand dollars; and to the holders of bills, drawn by the Minister of the United States, at Paris, on account of American claims assumed by the convention with France, a sum exceeding three millions and fifty thousand dollars; neither of which sums is included in the preceding statement of debt redeemed.

As the only parts of the public debt which the United States have a right to reimburse, during the year 1807, consist of the annual reimbursement of the six per cent. and deferred stocks, estimated at $1,540,740, and of the four and a half per cent. stock, amounting to $176,000, it will not be practicable, unless purchases can be effected within the limitations prescribed by law, to apply, during that year, the whole of the annual appropriation of eight millions of dollars. The unexpended balance, together with the appropriation for the year 1808, will enable the United States to reimburse, on the 1st of January, 1809, the whole of the eight per cent. stock, which is irredeemable before that day.

But in order that Congress may have a clear view of the situation of the public debt after the year 1808, and be enabled to decide on the propriety of making further legislative provision for that object, it appears necessary to state, distinctly, 1st. The operations which will take place in relation to the debt, during the years 1807 and 1808. 2dly. The several species and aggregate of debt, which will have been extinguished between the 1st April, 1801, and the 1st January, 1809. 3dly. The several species and aggregate of debt remaining unpaid on the last mentioned day. 4thly. A comparative view of the revenue, and annual payments on account of the debt, after that day.

1. The payments to be made during the years 1807 and 1808, on account of the principal and interest of the public debt, consist of the following items, viz:

Interest and reimbursement of the six per cent. and deferred stocks		$6,688,296 08
Of which sum, the sum required for interest is	3,512,337 83	
And the reimbursement of principal will amount to	3,175,958 25	
	$6,688,296 08	
Interest and charges on all the other species of debt		3,529,457 50
Principal of the eight per cent. and four and a half per cent stocks		6,538,400 00
Making altogether		16,756,153 58
That is to say, for interest	$7,041,795 33	
And in reimbursement of principal	9,714,358 25	
	16,756,153 58	

This sum exceeds, by only $756,000, the sixteen millions appropriated by law for those two years; and that difference may be supplied, according to law, from the surplusses of revenue already accrued, which are sufficient for that purpose, and which it will be eligible to apply in that manner, in order that the United States may not continue to pay an interest of eight per cent., any longer than they are compelled to do it by the terms of the loan.

2. The amount of debt redeemed from the 1st of April, 1801, to the 1st January next, has been already stated to be

	$24,044,792 74
And the principal which will be reimbursed during the year 1807 and 1808, amounts, by the preceding statement, to	9,714,358 25
Making together more than $33,750,000, reimbursed between the 1st of April, 1801, and the 1st January, 1809,	33,759,150 99

Which sum consists of the following items, viz:

The whole of the foreign debt	$10,236,108 05
The whole of the loans formerly obtained from the Bank of the United States, and of the Navy six, five and a half, four and a half, and eight per cent. stocks	12,537,600 00
Annual reimbursements of the six per cent. and deferred stocks	10,631,575 67
Payments in various species of stock, for public lands, stock purchased, and unfunded debt reimbursed	353,867 27
	33,759,150 99

3. The debt remaining unpaid on the 1st day of January, 1809, will consist of the following species:

Unredeemed amount of old six per cent. and deferred stocks, reimbursable only at the rate of eight per cent. a year (for principal and interest) on the nominal amount,	$27,142.357 21
Three per cent. stock	19,019,481 56
1796 six per cent. stock, redeemable in 1819	80,000 00
Louisiana stock, reimbursable in four annual instalments, in the years 1818, 1819, 1820, and 1821,	11,250,000 00
Amounting altogether to near fifty-seven millions and five hundred thousand dollars	57,491,838 77

The Louisiana stock cannot be reimbursed before the period fixed by the contract. The gradual operation of the annual reimbursement will extinguish the old six per cent. in the year 1818, and the deferred stock in 1824; after which year the only remaining encumbrance will be the interest on the three per cent. stock, which, in its present shape, may be considered as irredeemable. Purchases cannot be relied upon, as the application of even an inconsiderable sum would raise the stocks above the prices limited by law. It follows, that all the species of debt on which the entire annual appropriation of $8,000,000 could operate, will have been reimbursed prior to the year 1809; that the remaining debt cannot, without some modifications, assented to by the public creditors, be more rapidly or completely discharged than is here stated; and that the annual payments on that account will, after the year 1808, and prior to the year 1818, be reduced to the interest and annual reimbursement, amounting to near $4,600,000, as will more fully appear by the annexed table, marked G.

4. The revenue derived from customs during the year 1802, which was a year of European peace, was much less in proportion than that of any of the immediately preceding or following years, and yet exceeded ten millions of dollars. As it has been ascertained that the population of the United States increases at the rate of thirty-five per cent. in ten years, the revenue derived from customs for the year 1812, may be estimated at thirteen millions five hundred thousand dollars: to which, adding only five hundred thousand dollars, for the annual proceeds of the sales of public lands, will give fourteen millions of dollars for the total revenue of that year, or for the average revenue of the years 1809 and 1815. And this must be considered as a very moderate computation, since it does not include the revenue derived from New Orleans; is predicated on the supposition that the wealth of the United States increases in no greater ratio than their population; and does not exceed the sum, which, exclusively of the Mediterranean fund, was received last year into the Treasury.

The annual payments on account of the public debt will, during the same period, amount, as has already been stated, to $4,600,000. All the other expenses of the United States, whether domestic or foreign, of a civil nature, or for the support of the existing Military and Naval Establishments, do not, at present, exceed $3,500,000. The total annual expenditure, allowing four hundred thousand dollars a year for contingencies, may, therefore, be estimated, after the year 1808, at eight millions and a half; which, deducted from a revenue of fourteen millions, will leave a net annual surplus of five millions and a half of dollars.

The question now recurs, whether a portion of that surplus would not be most advantageously employed in hastening the reduction of the debt? Whether some mode may not be devised to provide, within a short period, for its final and complete reimbursement, and, thereby, release the public revenue from every encumbrance? This can only be effected by a modification of the debt, assented to by the public creditors; and a conversion of the old six per cent. deferred, and three per cent. stocks, on terms mutually beneficial, into a common six per cent. stock, redeemable within a limited time, has appeared the most simple and eligible, if not the only practicable plan, that can be adopted. For its details, a reference is respectfully made to a letter written in January last, to the Chairman of the Committee of Ways and Means, a copy of which marked F, is annexed. It will only be necessary to state, that, if such a plan should be sanctioned by Congress, and accepted by the creditors, those several species of debt, amounting, on the 1st of January, 1809, to something more than forty-six millions of dollars, would be converted into a six per cent. stock, amounting to less than forty millions of dollars, which the continued annual appropriation of eight millions of dollars would (besides paying the interest on the Louisiana debt) reimburse, within a period of seven years, or before the end of the year 1815, as will appear by the table marked H.

The total annual expenditure for those seven years, would then, allowing still $3,500,000 for current expenses, and $400,000 for contingencies, amount to something less than twelve millions of dollars; which, deducted from a revenue of fourteen millions of dollars, would still leave, after the year 1808, a clear surplus of more than two millions of dollars, applicable to such new objects of general improvement or national defence, as the Legislature might direct, and existing circumstances require. And, after the year 1815, no other encumbrance would remain on the revenue than the interest and reimbursement of the Louisiana stock, the last payment of which, in the year 1821, would complete the final extinguishment of the public debt. All which is submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Dec.* 5, 1806.

E.

At a meeting of the Commissioners of the Sinking Fund, on the 28th day of April, 1806—

Present:

JAMES MADISON, Secretary of State.
ALBERT GALATIN, Secretary of the Treasury.
JOHN BRECKENRIDGE, Attorney General.

The Secretary of the Treasury laid before the Board a report, dated the 26th April, 1806, which was read, and is as follows:

"That the current payments to be made by the Commissioners of the Sinking Fund, during the year 1806, are estimated as follows, viz:

Reimbursement and interest on the domestic debt - - - - - - -	$4,585,000
Instalments and interest on the Dutch debt, payable from 1st January, to 1st June, 1807, and which must, therefore, be remitted in 1806 - -	1,004,032
One year's interest on the Louisiana stock - - - - - - -	678,375
Amounting, altogether, to -	$6,267,407
And leaving, in order to complete the annual appropriation of eight millions of dollars, a sum exceeding one million seven hundred and thirty thousand dollars, exclusively of the interest which may be redeemed by the payment of said said sum, to be applied in such manner as the Board shall direct - - - - - -	1,732,593
	$8,000,000

That the said sum may be applied either to reimbursements or purchases of the public debt.

That the only portions of the debt which may be reimbursed, are:

The Navy six per cent. stock, amounting to - - - - - - - -	$711,700
The five and a half per cent. stock, amounting to - - - - - -	1,847,500
And the four and a half per cent. stock, amounting to - - - - - -	176,000

And that it is now submitted, whether, previous to advertising the reimbursement of the five and a half per cent. stock, it might not be advisable to ascertain whether a more advantageous application may be effected by purchases in the manner authorized by law."

Whereupon, it was *Resolved*,

1. That the sum which, after making the current payments mentioned in the preceding report, shall remain to complete the annual appropriation of eight millions of dollars, be applied in the following manner, viz: first, to the purchase of the eight per cent., old six per cent., and deferred stocks, at a price not exceeding the rates fixed by law; giving the preference, in the first place, to the eight per cent., and, in the next place, to the deferred stock, provided that the President of the United States shall assent to such application; and, secondly, in case that a sufficient quantity of stock cannot be purchased, to the reimbursement of the Navy six per cent. stock, and, at the option of the Secretary of the Treasury, either to the reimbursement of the five and a half per cent. stock, or of so much of the bills drawn on the Treasury, by the Minister of the United States at Paris, in conformity with the convention between France and the United States, of the 30th of April, 1803, as will be necessary to complete the payment of the said eight millions of dollars.

2. That the Treasurer of the United States be the agent, under the superintendence of the Secretary of the Treasury, for making the said purchases; that the said purchases be made by receiving sealed proposals for any sums which may be offered; and that the said agent forthwith advertise to receive such proposals, until the 13th day of June next, inclusively.

3. That notice of the reimbursement of such stocks as may be reimbursed, be given by the Secretary of the Treasury, prior to the first day of October, or the first day of June next.

JAMES MADISON, *Sec. of State.*
A. GALLATIN, *Sec. of Treasury.*
J. BRECKENRIDGE, *At. Gen. U. S.*

Attest: EDWARD JONES, *Secretary.*

F.

TREASURY DEPARTMENT,
January 20, 1806.

SIR: I had the honor, in my letter of the 28th ultimo, to suggest that a conversion of the old six per cent. deferred, and three per cent stocks, into a new six per cent. stock, would promote the intention of the Legislature to extinguish, within a fixed period, the whole debt of the United States. For a better understanding of the subject, a recapitulation of the several species of stock, which, on the first day of this year, constituted the public debt, is necessary. The first class embraces the several species of debt, reimbursable on or before the 1st day of January, 1809, viz:

1. *Dutch Debt.*

The amount of principal remaining unpaid on the 31st of December, 1805 - - *Guilders*,	5,500,000
Of which there had been remitted, previous to that day, in addition to the interest of the year 1806, a sum more than sufficient to discharge all the instalments payable in the same year, and amounting to -	2,000,000
Leaving for the balance of principal unprovided for - - - - -	3,500,000=$1,400,000

Nine hundred and twenty thousand dollars of that sum fall due in the year 1807, and the residue is payable in two equal instalments, of $240,000 each, on the 1st days of Febr'y, 1808 and 1809. The whole amount, therefore, will have been paid by the Treasury, before the end of the year 1808.

2. *Eight per cent. stock irredeemable till after the year* 1808.		
The original amount of that stock was - -	$6,480,400	
Of which had been paid, in payment for public lands, prior to the 1st of January, 1806 - -	50,900	
Leaving the amount unredeemed - -		6,429,500
Partial purchases may, perhaps, be effected within the limitations prescribed by Congress, during this and the two ensuing years; and, at all events, the whole will be reimbursed on the 1st day of January, 1809.		
3. *Debts reimbursable at the pleasure of the United States, viz:*		
Navy six per cent. stock -	$711,700	
Five and a half do. -	1,847,500	
Four and a half do. -	176,000	
		2,735,200
		10,564,700
Which will also be reimbursed before the year 1809, unless the price of stocks should render it more advantageous to purchase some other species of debt.		
The second class consists of debts payable at more distant periods, which it does not appear practicable to anticipate, viz:		
1. 1796 six per cent. stock, redeemable in 1819 -	80,000	
2. Louisiana stock, redeemable in four annual instalments, the first of which is payable in 1818 - - - -	11,250,000	
		11,330,000
The old six per cent. deferred, and three per cent. stocks constitute the last class, and amount to the following sums:		
The nominal amount of six per cent., - -	28,180,000	
Of deferred six per cent, is	13,660,000	
	41,840,000	
Of which has been redeemed, by the annual reimbursement of eight per cent. on account of principal and interest, omitting fractions, viz:		
On the six per cent. stock, at the rate of 30.16 per $100 - - - - -	8,500,000	
On the deferred stock, at the rate of 11.30 per $100 - - - - -	1,540,000	
	10,040,000	
Leaving the unredeemed amount on 1st January, 1806, in round numbers - - - -	31,800,000	
The nominal amount of three per cent., in round numbers also - -	19,050,000	
		50,850,000
Total amount of the public debt - - -		$72,744.700

Although the old six per cent. and deferred stock, they are both, in fact, an annuity of eight per cent. on the original amount, which, extinguishing the principal by degrees, will cease for the old six per cent. in the year 1818, and for the deferred in 1824. A certificate of six per cent. stock, of one hundred dollars nominal, was considered, on the 1st of January, 1806, as equal to sixty-nine dollars and ninety-four cents, real six per cent. stock, because thirty dollars and sixteen cents of the principal had been discharged by the annual reimbursement of eight per cent. instead of which, it was, properly speaking, an annuity of eight dollars for twelve years and something less than nine months. And in the same manner, a certificate of deferred stock, of one hundred dollars nominal, was considered as equal to eighty-eight dollars and seventy cents, real six per cent. stock, instead of which, it was, strictly speaking, an annuity of eight dollars for eighteen years and something less than nine months.

The proposition now submitted to the Committee of Ways and Means is, that, in exchange for the present six per cent. and deferred, a common six per cent stock shall be offered to the public creditors, equal in amount to the unredeemed amount of the present stocks, and redeemable at the pleasure of the United States: Provided, however, that no partial payment shall be made on any new certificate or credit, but that Government shall be obliged to reimburse, at a single payment, the whole amount of each such new certificate or credit, and to give previous reasonable notice of such intended reimbursement. Although peculiar circumstances may prevent a general acceptance of that proposal, the exchange would certainly be advantageous to the creditors. Because, 1st, it is difficult to calculate, and inconvenient to reinvest, four times in each year, the portion of principal reimbursed, which makes part of the quarterly dividend; and every stockholder who does not fully thus reinvest, insensibly consumes his capital. 2dly, an annuity for a limited term of years is uniformly sold at market for a price less than its intrinsic or arithmetical worth, as may be exemplified by the market value of every lease, and of every estate, less than

he absolute fee. For that reason, the Navy six per cents, which is redeemable at the pleasure of the United States, has always been worth, at market, something more than the old six per cent. and deferred stocks; and these, in England, do not even command a higher price than the American five and a half per cent. stock, which is, also, redeemable at will. 3dly, the time and manner in which the new stock would be reimbursed, would, as far as it is practicable, prevent any great fluctuation in its price, and fix its market value at par.

The exchange would also be advantageous to the public. 1st, Because Government will, thereby, be enabled to reimburse the whole in less than nine years instead of eighteen. And, 2dly, because, supposing that circumstances should render a resort to loans necessary, the terms on which these may be obtained, will, in a considerable degree, depend on the price of the existing stocks. It is, therefore, desirable that that species, the species of which has a tendency to regulate that of all others should be as valuable as its rate of interest will admit; and it has already been stated, that the present six per cent. and deferred stocks, being an annuity for a number of years, are generally worth less than their intrinsic value. It is believed that that effect was sensibly felt in the operations connected with the purchase of Louisiana.

The advantage of the proposed conversion being reciprocal, no sacrifice should be made by the United States, in order to insure the assent of the public creditors; those who may refuse it, will continue to receive the eight per cent. annuities, and these will, as has been stated, cease in the years 1812 and 1818. It appears, however, proper that such remaining annuities should be designated by their proper name, instead of carrying on the face of the certificates of stock, the deceptive appearance of a six per cent. stock. The annexed printed table, exhibiting the amount of principal redeemed on the first day of each quarter, shows the difficulty to a person not well versed in those transactions, of calculating the true nominal value or unredeemed amount of a stock which is perpetually diminishing, whilst its apparent nominal amount still remains the same. It may easily be understood, how it may, in some instances, happen, that the stockholder consumes his principal, whilst he supposes that he is only living on the interest; and how it does sometimes happen, that ignorant purchasers, thinking that the whole apparent nominal amount, as expressed on the face of the certificate, is still due by the United States, are induced to pay for stock more than its real value.

It is, therefore, proposed, that it should be enacted by law, that, in every case where it shall be necessary to issue new certificates, either in lieu of such as may be lost or destroyed, or by reason of a transfer of the property itself, or from the books of one office to those of another, the new certificate should, on the face thereof, express the true amount of the annuity due, and of the time when it shall cease, instead of stating, as at present, the nominal amount of the stock which was originally due.

A conversion of the three per cent. into the six per cent. stock cannot be so easily effected; nor, indeed, without some apparent sacrifice on the part of the United States.

A three per cent. will always be worth more at market than a six per cent. stock, which produces an equal interest—

1. Because there is a possibility that its nominal amount may ultimately be reimbursed.

2. Because, supposing it to be a perpetual annuity, the principal of which shall never be reimbursed, its market price is regulated, not only by the legal or market rate of interest in America, but by the price of similar foreign stocks, and by the demand for American stocks in foreign countries. More than eleven millions of dollars of the American three per cent. stock are held by persons residing in England, Holland, and other foreign countries. That stock is never worth less than sixty per cent. of its nominal amount, when the old six per cent. stock is at par. It cannot, therefore, be expected, that the holders will assent to any modification which will not secure to them advantages at least equal to those they now possess; and the question to be decided by the committee and by Congress, is, whether that debt shall, henceforth, be considered as a perpetual encumbrance on the nation, or whether such a compensation shall be offered to the creditors, as may induce them to accept a conversion which will secure the object heretofore contemplated—the total extinguishment of the American debt. It may not be improper to add, that, even to those who may think the accomplishment of that object either unimportant or impracticable, the taking into consideration such a state of things as may render new loans necessary, the existence of a three per cent. stock is ineligible. To a nation already encumbered with an immense debt, and subject, on account of her relative situation, to peace and war establishments of great magnitude and corresponding expense, the annual sum which it may be necessary to pay, in order to obtain extraordinary resources, becomes the primary consideration; and that species of stock which, in proportion to its rate of interest, is the most valuable at market, will naturally be created. The political and geographical situation of the United States permits at least a hope, that, under every contingency, the reimbursement of the debts which may necessarily be incurred, will at a subsequent period be attainable, and that the principal will not be increased for the sake of diminishing the intermediate payments of interest. As the ultimate value which a three per cent. stock may reach at market, has natural limits, and the probability of its reaching that value rests on uncertain contingencies, it is presumable that the assent of the creditors may be obtained on reasonable terms, and no greater sacrifice should certainly be made than the advantages expected from the operation will justify. In appreciating the value of the new six per cent. stock, which the creditors would receive, not only its nominal amount, but also the additional annuity which will be payable till the stock shall be reimbursed, must be taken into consideration. It will, on that account, be eligible to provide that it shall not be redeemable till after all the eight, five-and-a-half, four-and-a-half, and navy six per cent. stocks, as well as all the stock which may be created in exchange of the old six per cent. and deferred stocks, shall have been reimbursed—a period which, supposing no adverse circumstances to intervene, may be estimated at about eight years. Thus, supposing the three per cent. to be converted into a six per cent. stock, at the rate of sixty per cent. of its nominal amount, the creditors would, at the end of eight years, receive sixty dollars, and, in the meanwhile, an annuity of three dollars and sixty cents, instead of three dollars, which he now receives; both which provisions may be considered as nearly equal to a redemption at the rate of sixty-five dollars. It may be added, that this new stock would be worth more at market than the six per cent. created in exchange of the old six per cent. and deferred, and probably more than par. The Louisiana stock, which is irredeemable for twelve years, is now worth, in England, one hundred and five whilst the old six per cent. is only at ninety-five per cent.

Whatever reasonable rate may be paid for the proposed conversion, the United States will provide, at a fixed price, for the redemption of the debt; and the creditor, besides receiving an intermediate additional interest, will exchange the uncertain contingency of a supposed increase of value for the certainty of a reimbursement, greater than the highest price which the three per cent. stock has ever yet reached. It has already been stated, that more than eleven millions of dollars of the three per cent. stock, are held by persons residing in foreign countries. About fourteen millions of the unredeemed amount of the six per cent. and deferred stocks, are in the same situation. As it will be more difficult to obtain the assent of that class of stockholders, particularly as relates to the three per cent. stock, it might also be agreed that the interest due to them on the new stock, should, like that on the Louisiana stock, be paid in Europe—a provision which, without costing much to the United States, will be a strong inducement in favor of the proposed modifications. Nor would it be impracticable to provide for an exchange of certificates in Europe, which would remove the objection arising from the delays and dangers incident to a double transmission of papers across the Atlantic. Some subordinate details may be introduced in the law; but these outlines will be sufficient to convey an idea of the plan which appears to be the most simple and cheapest mode of effecting the object contemplated. Still, it is less the plan thus respectfully submitted, than the subject itself, which I have been desirous of bringing under the consideration of the committee. Although an ample appropriation has been made for the extinguishment of the whole of the public debt, the nature of the greater part of the stock will, unless some modification shall be obtained, prevent or considerably retard the accomplishment of that object. If no alteration shall take place in the nature of that stock, the Commissioners of the Sinking Fund will, after the year 1809, have no other means of applying near one-half of the annual appropriation, than by making purchases. Annual purchase to the amount of near $4,000,000, would necessarily raise the old six per cent. and deferred stocks above par, and the three per cent. stock to the highest price of which it is susceptible. As a necessary consequence, the commissioners would cease to purchase; and without any real advantage being obtained by the creditors, the United States would continue to be encumbered, for a number of years, with the eight per cent., and in perpetuity with the three per cent annuities. Years, perhaps the most favorable for the extinguishment of the debt, would elapse, and periods might follow when the pressure of the annual payments would be sensibly felt. To improve the present time, appears the most provident course; will, it is believed, conform with the public opinion; and is most consistent with the former acts of the Legislature.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon J. RANDOLPH, *Chairman.*

SALT TAX AND MEDITERRANEAN FUND.

[Communicated to the House, January 7, 1807.]

COMMITTEE ROOM, *Dec.* 12, 1806.

SIR: The Committee of Ways and Means, to whom has been referred that part of the Message of the President of the United States, of the 2d instant, which suggests the expediency of abolishing the duties on salt, and of continuing, for a limited time, those duties, the proceeds of which constitute the Mediterranean fund, have instructed me to request that you will furnish them with such information, in possession of the Treasury Department, as you may deem connected with the subject.

I am, sir, with very high respect, yours,

JOHN RANDOLPH.

THE SECRETARY *of the Treasury.*

TREASURY DEPARTMENT,
December 18, 1806.

SIR: I had the honor to receive your letter of the 12th instant, requesting such information as I might deem connected with the proposition for abolishing the duty on salt, and for continuing, for a limited time, the duties which constitute the Mediterranean fund.

An examination of the report made on the 5th instant, in obedience to the provisions of the act, supplementary to the act to establish the Treasury Department, will show, that, if no other expenses whatever shall be incurred, but such as are already actually authorized by law, neither the salt tax, nor the Mediterranean fund, are any longer wanted. The propriety of continuing the last-mentioned fund for a limited time, must be

decided by considerations connected with the political situation of the United States: for it is only to provide for the speedy payment of any contemplated acquisition of territory, without creating a new debt, or in case of war, that the fund can be wanted. Under existing circumstances, I should think it consistent with prudence to continue it for one year longer.

As to the duty on salt, the only additional information which appears connected with the subject, is what relates to the allowance heretofore made to vessels employed in the cod fishery: for this, perhaps, exceeds the duties paid on the importation of the salt employed in curing the fish. The allowance has amounted—

For the year 1803, to - - - -	$117,174
For the year 1804, to - - - -	145,987
For the year 1805, to - - - -	152,928

	Quintals.
The quantity of dried American fish exported during the year ending on the 30th September, 1803, to - - -	461,870
For the year ending on 30th September, 1804, to - - - - - -	567,825
And for the year ending 30th September, 1805, to - - - - - -	514,549

But the quantity of fish of that description, consumed within the United States, is not known.

The bounty paid on the exportation of pickled fish, pork, and beef, is said to be no more than the duty on the salt used in curing the same.

Should there be any points on which further elucidations are wanted, and the committee will be pleased to designate what they are, their directions will be immediately attended to.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

JOHN RANDOLPH, *Chairman, &c.*

TREASURY DEPARTMENT,
January 3, 1807.

SIR: I have the honor to enclose a statement of the quantity of salt imported into the several ports of the United States, and exported therefrom to foreign countries, during the year ending on the 30th day of September, 1805.

I have the honor to be, A. GALLATIN.

JOHN RANDOLPH, *Chairman, &c.*

Quantity imported—bushels - - -	3,652,276
Quantity exported— do. - - -	15,544

SINKING FUND.

[Communicated to the Senate, February 5, 1807.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of the 5th of February, 1806, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the fourth day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

G. CLINTON, *Pres. of Senate.*
J. MARSHALL, *Ch. Just. U. S.*
JAS. MADISON, *Sec. of State.*
A. GALLATIN, *Sec. of Treas'y.*
C. A. RODNEY, *Att'y General.*

WASHINGTON, *Feb.* 5, 1807.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance remaining unexpended at the close of the year 1804, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to $2,316,975 14

Together with the disbursements made during the year, 1805, out of the Treasury, on account of the principal and interest of the public debt, which disbursements, as appears by the statement C, annexed to the last annual report, amounted to - - - - - 7,328,509 07

And with a further sum, arising from profit on the remittances from America to Europe, purchased in the year 1805, which profit, as appears by the statement D, annexed to the last annual report, amounted to - - - - - - 117,137 52

$9,762,621 73

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury during the year 1805, on account of the principal of protested bills, and of advances made to Commissioners of Loans, as appears by the statement E, annexed to the last annual report, a sum of $66,703 02

2. The sums actually applied during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by statement A, to—

1. Paid in reimbursement of the principal of the debt	3,905,169 25	
2. Paid on account of interest and charges on the same - -	4,143,273 57	
		8,048,442 82

3. The balance remaining unexpended at the close of the year 1805, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by statement B, to - - 1,647,475 89

$9,762,621 73

That, during the year 1806, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

1. On account of the reimbursement and interest of the domestic debt - -	$7,136,368 03	
2. On account of the domestic unfunded debt - - - -	249 09	
3. On account of the principal and interest of the foreign debt, and of the interest on the Louisiana stock	1,811,389 78	
Amounting, altogether, as will appear by the annexed list of warrants C, to - - - -	$8,948,006 90	

Which disbursements were made out of the following funds, viz:

1. From the funds constituting the annual appropriation of eight millions of dollars for the year 1806, viz: from the fund arising from interest on the debt transferred to the Commissioners of the Sinking Fund, as per account I—	$864,964 02	
From the funds arising from the sale of public lands, being the amount of moneys paid into the treasury from the 1st of July, 1805, to 30th of September, 1806, as per account K	699,385 37	
From the proceeds of duties on goods, and wares, and merchandise, imported, and on the tonnage of ships or vessels - -	6,367,934 59	
		7,932,283 98
Which sum of $7,932,283 98, together with the sum advanced during the year 1805, on account of the appropriation for the year 1806, and amounting, as appears by the last annual report, to the sum of - -	67,716 02	
Makes, in the whole, the annual appropriation for the year, 1806 -	8,000,000 00	
2. From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels, advanced in part, and on account of the annual appropriation for the year 1807 -		1,003,700 70
3. From repayments in the Treasury, on account of remittances purchased for providing for the foreign debt, and of advances made to Commissioners of Loans, as will appear by the statement E, viz:		
Repayment of the purchase money and advances -	$6,000	
Damages and interest recovered - -	1,020	
		7,020 00
4. From the moneys appropriated by law for paying commissions to agents employed in the purchase of remittances for the foreign debt, being the amount paid at the treasury, during the year 1806, for that object, as will appear by the statement C - - - - -		4,912 22
		$8,948,206 90
That the abovementioned disbursements, together with the above stated balance of - - - -		1,647,475 89
Which remained unexpended at the close of the year 1805, and with a sum arising from profit on remittances from America to Europe, purchased in the year 1806, and amounting, as will appear by the statement D, to - - -		35,697 77
And with a further sum, arising from profit on the purchases of the public debt, made by the Commissioners of the Sinking Fund in the same year, and amounting, as will appear by the statement L, to -		437 96
And amounting, altogether, to		10.631.618 52

Which will be accounted for in the next annual report, in conformity with the accounts that shall then have been rendered to the Treasury Department.

That, in the mean while, the manner in which the said sum has been applied, is estimated as follows:

1. The repayments into the Treasury, on account of principal, during the year 1806, amounted, as by the abovementioned statement E, to the sum of - - - - - $6,000 00

2. The sums actually applied, during the year 1806, to the payment of the principal and interest of the public debt, are estimated as follows:

1. Paid in reimbursement of the principal of the public debt—	4,828,899 17	
2. Paid on account of interest and charges on the same	3,910,791 43	
		8,739,690 60

As will appear by the estimate F.

3. The balance remaining unexpended at the close of the year 1806, and applicable to payments falling due after that year, is estimated, as per estimate G, at - 1,885,927 92

10.631,618 52

That, in conformity with the proceedings and resolutions of the Commissioners of the Sinking Fund, of the 28th of April, 1806, a copy whereof, M, is annexed, and public notice having been given that proposals would be received by the Treasurer of the United States for the purchase of the public debt, $17,517 61 unredeemed amount of old six per cent. and deferred stocks, were purchased at 97½ per cent. as will appear by the statement L; the other offers, which amounted only to $91,956 nominal value, having been made at prices above the then market price of stocks, and accordingly rejected. And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, in trust for the United States, to the 31st of December, 1806, including the sum of $112,930 56, being the aggregate of the several species of stock transferred in the year 1806, in payment for public lands.

All which is respectfully submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Feb.* 4, 1807.

CLAIM OF CARON DE BEAUMARCHAIS.

[Communicated to the House, March 10, 1806.]

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Amelie Eugenie Beaumarchais, representative of Caron de Beaumarchais, deceased, by T. A. Chevallié, her attorney, made the following report:

The accounts between the United States and the late Caron de Beaumarchais, have undergone a long and laborious investigation at the Treasury. On mature consideration a balance has been found due from the United States to the estate of Mr. Beamarchais of $41,119 75; which sum is included in the estimates and will be covered by the general appropriation for the current year. The petitioner, feeling herself aggrieved by this result, (as her demand exceeded half a million of dollars,) makes the present application to Congress, as an appeal to their justice from the decision of the accounting officers.

From the importance of the case, as well to the United States as to the petitioner, your committee have given it their most deliberate attention; they have duly examined the numerous documents furnished them by the Secretary of the Treasury; they have patiently listened to the arguments and representations of the petitioner's agent, and they have sought information from whatever source it might be obtained, calculated in any degree to explain the mystery in which no inconsiderable part of the claim is involved.

Of the several articles of complaint stated in the petition, one only, in the opinion of your committee, merits consideration; the other items of the demand have been adjusted on principles long established at the Treasury, and repeatedly sanctioned by the House. It is alleged by the petitioner, "that the Comptroller, without any sufficient reason, deducted from her demand one million of livres, on pretence that the same was paid to Caron de Beamarchais, by the Government of France for account of the United States, although there is no proof of any such payment."

Among the documents transmitted to the committee, is a copy of a letter dated 20th November, 1802, from the Secretary of the Treasury to the Secretary of State, in justification of the decision already mentioned, which, it appears, had become the subject of a remonstrance to the Department of State, on the part of Mr. Pichon, the accredited agent of the French Government. This letter contains so clear and correct a view of the case, that your committee cannot present the subject to the House more advantageously than by incorporating it with their report. It is as follows:

"The claims of Mr. Beaumarchais against the United States were partly on account of some money advances in Europe; but principally for field artillery, military stores, and clothing, shipped in 1776 and 1777. Although the artillery, and the greater part of the military stores, appeared to have been taken from the King's stores and arsenals, the French Government gave an official notification in 1770 to Congress, that the United States must account with Mr. Beaumarchais for those supplies.

"The accounts have been examined and stated by the Auditor of the Treasury in 1791, on equitable and liberal principles, leaving an apparent balance in favor of Mr. Beaumarchais, but with the reservation of a question relative to a sum of one million of livres tournois, which the Comptroller, after due examination, has considered as a just charge against Mr. Beaumarchais. In order to enable you fully to understand the reasons on which that decision (in which I concurred) was grounded, I do myself the honor to enclose copies of the following documents:

"From those documents the following facts appear, and are not disputed by the parties:

"1st. The French Government furnished to the United States as aids and subsidies, nine millions of livres tournois, viz: three millions before the Treaty of February, 1778, and six millions in 1781, which nine millions were a gratuitous assistance, confirmed as such by the contract of the 26th February, 1783.

"2d. Of the three millions above-mentioned, furnished before the Treaty of February, 1778, two millions were paid to Mr. Grand, banker of the United States, and the other million was paid by the French Government, on the 10th day of June, 1776, to some person for the use of the United States, but neither to Mr. Grand, nor to any other agent of the United States.

"3d. The payment of the last-mentioned million, and the date when furnished, were, as well as the name of the person to whom paid, known to Count de Vergennes, as Minister of Foreign Affairs. The fact itself, and the date, were communicated by him, although he did not think proper to disclose the name of the individual who had received the money.

"4th. On the 10th June, 1776, the same day on which the million was, with the knowledge of, and probably through Mr. Vergennes' department, furnished by the Government of France to some person for the use of the United States, one million was, by order of Count Vergennes, paid to Mr. Beaumarchais, for which sum he was to be accountable to that Minister.

"5th. When the American Government applied, through its proper organ, to the French Government, for the name of the person to whom the million had been advanced for their use, the Minister of Exterior Relations gave it as the result of his inquiries, that Mr. Beaumarchais was the man, and accordingly furnished the Minister of the United States with a copy of Mr. Beaumarchais's receipt for that sum."

Such is the evidence which impressed a conviction that the advance of one million, made by the French Government on the 10th June, 1776, for the use of the United States, and the payment of one million, made by order of the Minister of Foreign Affairs to Mr. Beaumarchais, on the same day, were but one and the same transaction, and that the million having been, by a solemn contract, declared and acknowledged a gratuitous gift to the United States, was justly chargeable by them to Mr. Beaumarchais, who had received it.

On Mr. Beaumarchais's part, the receipt of the million is acknowledged, but a declaration made, that he accounted for it to the French Government. Of this, however, no proof is given; no official copy of that supposed settlement has been produced. Mr. Beamarchais's own declarations on that transaction do not tend to elucidate the mystery, and the letter of the Minister of Finance, deposited by Mr. Beamarchais's agent, so far as it proves any thing, corroborates the identity of the payment to Mr. Beaumarchais as being the advance made for the use of the United States, by showing that no other payment was made by the Royal Treasury to the United States during the year 1776.

"As the application which has rendered this communication necessary comes recommended by the French Government, permit me to observe, that the whole evidence on which the Treasury's decision is grounded, has been furnished to us by that Government. In 1783, the Minister of Foreign Affairs announced the existence of that gratuitous gift. In 1786, he declared it was made on the 10th June, 1776. In 1793, his successor informed us that it was paid on that day to Mr. Beaumarchais. If, for want of a proper or complete information, we have been led into an erroneous decision, it is to that Government we must apply for the means of rectifying it. We well know that they cannot wish us to pay a sum received twenty-six years ago, which, by solemn agreement, they have declared, and we have acknowledged, to be a gratuitous subsidy. But if, on the 10th June, 1776, another million, besides that paid to Mr. Beaumarchais, was advanced to any person for the use of the United States, either by the Royal Treasury, by the Minister of Foreign Affairs, or by any other department of the Government of France, it is only in the records of that Government, that the evidence of that fact can be found; and, if it shall be produced, we shall not hesitate to discharge Mr. Beaumarchais, and to debit the proper person; but until such documents shall be furnished, as will ascertain such improbable fact, the officers of the Treasury are bound to consider the letter of the Minister of Exterior Relations as conclusive evidence in support of their decision."

No further communication seems to have been received from the French Government upon this subject until after the petition, now under consideration, was presented to the House, referred to the Committee of Claims, and by them transmitted to the Secretary of the Treasury. To him the French Minister addressed a letter under date of the 1st January, 1806, a copy of which is herewith communicated, and from which the following is a translated extract:

"In consequence of the report made by Mr. Pichon, of the steps he had, by direction of his Government, taken in favor of the heirs of Beaumarchais, and, on the representation of that family, on the subject of the said million, which was still charged to them, notwithstanding the constant denials made by Mr. de Beaumarchais of his having ever received anything from the Government of France, the Minister of Exterior Relations ordered that the most exact researches should be made in the records of his Department, in order to obtain some elucidations respecting the abovementioned million, to enlighten his judgment, and to determine how far Government ought to interest itself in that transaction, and in favor of the Beaumarchais family. It has resulted that, in a file, entitled 'United States,' a receipt of Mr. Beaumarchais has been found, under the date of the 10th of June, 1766, (for a million,*) which was given to him by orders of the King, for an object of secret political service, of which he reserved the knowledge to himself. (These are the identical words inserted in the said order;) also the account rendered in the same year, by Mr. de Vergennes to his Majesty, of the application of that sum in conformity with his intentions; and also several letters proving that the same Minister, solicited by the Commissioners and agents of the United States to give some elucidations on the object to which the said million had been applied, and on the name of the person who had received it, had uniformly refused it, and when giving a new order to refuse it, had even caused it to be declared in 1786, that it would be inconvenient to grant the requested communication.

"In consequence thereof, the undersigned Minister Plenipotentiary has been authorized:

"1st. To renew the declarations made since 1778 to the Commissioners of the United States, and, in 1779, by his predecessor, Mr. Gerard, to Congress, that the French Government had† ever been unconnected with any of the commercial transactions of Mr. de Beaumarchais with the United States.

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* These words omitted in the original.

† Est resté constamment étranger à toutes les transactions, &c.

"2d. And to declare that the million given the 10th June, 1776, was given for an object of secret political service, of which the King had reserved the knowledge to himself, that it was immediately applied in conformity with his intentions, and the said application approved by him, as appears by the account rendered by Mr. de Vergennes, at the end of the year 1776; that it does not, therefore, appear either just or reasonable to confound that political object with the commercial operations of the same individual with Congress; and, consequently, that no induction can be drawn against the said Beaumarchais, as a personal creditor of the United States, for supplies furnished by him to them, from the voucher communicated by the ex-Commissary of External Relations, Bouchot, to the American Minister, since it so evidently appears that the million in question had a secret destination.

"The undersigned Minister Plenipotentiary will observe, that, by the forms used in France, in every secret operation, all the vouchers in support of the account are destroyed as soon as the competent authority has approved the expense; that the knowledge of the object to which the sums thus disbursed has been applied, remains only in the memory of the authority who gave the order, and of those who concurred in its execution; and that it cannot reasonably be supposed that Mr. de Vergennes should, even so late as 1786, have persisted in covering with a veil of mystery the application of the million in question, had it been given on account of the supplies furnished by Mr. de Beaumarchais."†

A satisfactory reply to the foregoing remarks will be found in the letter from the Secretary of the Treasury, addressed to the committee, and herewith presented. As this contains a summary statement of Mr. Beaumarchais's account, and a copy of his receipt already mentioned, the following extract is deemed necessary to be given:

The balance reported by the Auditor in favor of Mr. Beaumarchais, was, 1st January, 1791, for principal, - - - -			*Livres*	771,703	15	7
And for interest	1,508,528	2 1				
From which deducting the deductions made by the Comptroller, those which relate to the million only excepted, viz:	79,965	13 5		104,522	19	9
Would leave for the balance on 1st of January, 1791, principal				667,250	15	10
And interest -	1,428,592	9 8				
To which adding for interest on the principal, 1st of January, 1791, to 3d of February, 1806	604,186	14 6		2,032,749	4	2
				2,700,000	0	0

Would make an aggregate of 2,700,000 livres, equal to five hundred thousand dollars.

"In a contract concluded on the 25th February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count Vergennes and Benjamin Franklin, which may be found in the appendix to the 12th volume of the printed Journals of the old Congress, it was thought proper to recapitulate the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different classes, and, after stating the several loans obtained from or guarantied by France, the class was designated in the following words:

"In the third class, are comprehended the aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance, from the pure generosity of the King; three millions of which were granted before the Treaty of February, 1778, and six millions in 1781; which aids and subsidies, amount, in the whole, to nine million livres tournois. His Majesty hereby confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States."

"It was afterward discovered that only two millions had been thus received by the United States, before the Treaty of February, 1778; and, to an application made to Count Vergennes, in 1786, for the purpose of ascertaining when, and to whom, the other million had been paid, an answer had been returned, that the said million was paid on the 10th day of June, 1776, (a date prior to the arrival of any of the Commissioners of the United States in France;) but a copy of the receipt was refused, and the Minister did not think proper to disclose the name of the person who had received the money. On a subsequent application, made in 1794, to the French Government, the Minister of Exterior Relations gave it as the result of his inquiries, that Mr. Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the Minister of the United States with a copy of Mr. Beaumarchais's receipt for that sum, and in the following words: 'I have received from Monsieur de Vergier, agreeably to the orders transmitted to him, of Monsieur the Count de Vergennes, dated the 5th current, the sum of one million, for which I will account to my said Sieur de Vergennes. At Paris, this 10th June, 1776. (Signed,) Caron de Beaumarchais. Good for one million of livres tournois.'

"No doubt remains, that the advance of one million made by the French Government, on the 10th of June, 1776, for the use of the United States, and the payment of one million on the same day by order of the Minister of Foreign Affairs to Mr. Beaumarchais, were but one and the same transaction; for it appears by the letter of the Minister of Finance, a copy of which is annexed to the document (C,) that no other payment was made by the Royal Treasury to the United States, during the year 1776; and, by the French Minister's note, (D,) that Mr. Beaumarchais's receipt, and the settlement of his account, together with the correspondence above-mentioned with Count Vergennes on that subject, were found in the same file of papers, (*dossieur*,) and that that file was entitled 'United States.' The million being thus identified, and having, by a solemn contract, been declared and acknowledged a gratuitous gift of France to the United States, has been considered as justly chargeable by them to Mr. Beaumarchais, who had received it."

To these copious details, it would seem almost superfluous to add a single remark, further than to refer the House to the numerous documents accompanying this report. It may not, however, be improper to observe, that two points only present themselves for examination. Did Mr. Beaumarchais, on the 10th of June, 1776, receive from the French Government one million of livres in behalf of the account of the United States? If so, has he, or his representative, at any time, accounted with the United States for its expenditure?

The affirmative of the first question is irresistibly proved, not only by the evidence already referred to, but even by the admission of the petitioner's agent; notwithstanding the allegation in the petition, that no proof existed of any such fact.

In the second place, it is not pretended that any account of the expenditure has been rendered in form to the United States. But to silence all claim on their part, it is averred that the money was received for a secret political purpose, (acknowledged to be beneficial to the United States,) and that the French Government was and still is satisfied that the whole sum was duly applied to the object.

Admitting an agent or trustee might thus acquit himself of the accountability to the party alone interested in his operations, a supposition directly opposed to the clearest and best established rules of justice as applicable to individuals, still what is the evidence that a regular account of the disposition of this sum has ever been given even to the Government of France? Was the receipt either taken up or cancelled by Mr. Beaumarchais? or did he procure from the proper organ of the Government a release, or any other document, purporting his discharge from the liability created by the original instrument? Is it to be believed "the forms used in France" require, that in such cases, "all the vouchers in support of the account, as soon as the competent authority has approved the expense, are destroyed," while the original receipt for the money is carefully preserved? and that a secret agent, when once made accountable, can never afterward be discharged?

The declarations of Count de Vergennes, on which so much reliance is placed, are rather enigmatical than otherwise. Nor do the declarations of the Minister, in his note of the 1st of January last, afford a satisfactory solution of the question; especially when to these declarations is opposed the undisguised disclosure of the responsibility of Mr. Beaumarchais to the United States, which was made in form by the French Government in 1794.

That the services rendered by Mr. Beaumarchais to the United States during their Revolution were highly meritorious, is readily admitted. Whether these services entitle the petitioner to the bounty of Congress, is not now submitted to the consideration of the committee. They are restricted to the inquiry whether she has a rightful demand upon their justice; and, from every view they have been enabled to take of the subject, the claim does not appear to them to rest upon a solid basis.

Your committee are of opinion that the petitioner have leave to withdraw her petition.

D.

WASHINGTON CITY, *January* 1, 1806.

The undersigned, Minister Plenipotentiary of His Imperial and Royal Majesty, has received from Mr. Chevallié, agent of the heirs of Beaumarchais, a copy of a petition which he has presented to the honorable Congress of the United States, on the subject of the settlement of the account of supplies furnished by the late Mr. de Beaumarchais to the said States, by which it appears that the accounting officers have debited the late Mr. de Beaumarchais with a million, supposed to have been received by him from the Government of France on account of the said supplies.

In consequence of the report made by Mr. Pichon, of the steps he had, by the directions of his Government, taken in favor of the heirs of Beaumarchais, and on the representation of that family, on the subject of the said million, which was still charged to them, notwithstanding the constant denials made by Mr. de Beaumarchais of his having ever received anything from the Government of France, the Minister of Exterior Relations ordered that the most exact researches should be made in the records of his department, in order to obtain some elucidations respecting the above-mentioned million, to enlighten his judgment, and to determine how far Government ought to interest itself in that transaction, and in favor of the Beaumarchais family. It has resulted, that in a file entitled "United States," a receipt of Mr. Beaumarchais has been found, under the date of the 10th of June, 1776, (for a million*) which was given to him, by orders of the King, "for an object of secret political service, of which he reserved the knowledge to himself," (these are the identical words inserted in the said order;) also the account rendered in the same year by Mr. de Vergennes to His Majesty, of the application of that sum in conformity with his intentions; and also several letters, proving that the same Minister, solicited by the commissioners and agents of the United States to give some elucidations on the object to which the said million had been applied, and on the name of the person who had received it, had uniformly refused it; and when giving a new order to refuse it, had even caused it to be declared, in 1786,

* These words omitted in the original.

that it would be inconvenient to grant the requested communication.

In consequence thereof, the undersigned Minister Plenipotentiary has been authorized:

1st. To renew the declarations made since 1778, to the Commissioners of the United States, and in 1779 by his predecessor, Mr. Gerard, to Congress, that the French Government* had ever been unconnected with any of the commercial transactions of Mr. de Beaumarchais with the United States. 2d. And to declare that the million given the 10th of June, 1776, was given for an object of secret political service, of which the King had reserved the knowledge to himself; that it was immediately applied in conformity with his intentions, and the said application approved by him, as appears by the account, rendered by Mr. de Vergennes, at the end of the year 1776; that it does not, therefore, appear either just or reasonable to confound that political object with the commercial operations of the same individual with Congress; and, consequently, that no induction can be drawn against the said Beaumarchais, as a personal creditor of the United States, for supplies furnished by him to them, from the voucher communicated by the ex-Commissary of External Relations, Buchot, to the American Minister, since it so evidently appears that the million in question had a secret destination.

The undersigned Minister Plenipotentiary will observe, that by the forms used in France, in every secret operation, all the vouchers in support of the account are destroyed as soon as the competent authority has approved the expense; that the knowledge of the object, to which the sums thus disbursed has been applied, remains only in the memory of the authority who gave the order, and of those who concurred in its execution; and that it cannot reasonably be supposed that Mr. de Vergennes should, even so late as 1786, have persisted in covering with the veil of mystery the application of the million in question, had it been given on account of the supplies furnished by Mr. de Beaumarchais.

The Minister Plenipotentiary, in consequence of the preceding declarations and observations, recommends, in the name of his Government, to the justice and honor of the United States, the heirs of a man, who, having risked his whole fortune in their service, has left no other resource to pay his creditors, no other estate to his family, but the debt of the United States, to whom his zeal and activity were so essentially useful during the war which secured their liberty, and gave them a rank amongst nations, that the former Congress gave him, several times, assurances of their satisfaction in the most honorable terms.

The Minister Plenipotentiary, in addressing the preceding declaration and details to the Secretary of the Treasury, in order that they may accompany his report to Congress, requests him to accept the assurances of his high consideration.

TURREAU.

* Est resté constamment étranger à toutes les transactions.

TREASURY DEPARTMENT, *Jan.* 27, 1806.

SIR: I have the honor to enclose several documents respecting the late Mr. Beaumarchais' claim.

The Treasury settlement (marked A) shows the principles on which the account, which is for arms, military stores, and other supplies, furnished at the commencement of the Revolutionary war, has been adjusted; and exhibits a balance due to Mr. Beaumarchais' estate of $41,119 75, with interest from the first day of January, 1791, which balance has been included in the annual estimates of the appropriations necessary for the service of the year 1806.

For the grounds of the Comptroller's decision on three of the points complained of by the petitioner, viz: the commission, rate of exchange, and charge for sale of cordage at the Cape, I beg leave to refer to the Comptroller's letter, (marked B,) and to the documents accompanying the same.

The letter of the Secretary of the Treasury to the Secretary of State, (marked C.) together with the documents thereunto annexed, and the French Minister's note of the first instant, (marked D.) relate to the million of livres charged to Mr. Beaumarchais as an advance made to him by the French Government on account of the United States.

Should Congress be of opinion that he ought not to be charged with that sum, but that the account has, in other respects, been settled on proper principles, the balance due would be as follows, viz:

The balance reported by the Auditor in favor of Mr. Beaumarchais was, on the 1st January, 1791, for principal, *Livres*, 771,703, 15 7

	Livres.					
And for interest	1,508,528	2	1			
From which deducting the deductions made by the Comptroller, those which relate to the million only excepted, viz:	79,965	12	5	&	104,552	19 9
Would leave for the balance, on 1st of January, 1791, principal					667,250	15 10
And for interest	1,428,563	9	8			
To which adding for interest on the principal from 1st January, 1791, to 3d February, 1806 - -	604,186	14	6		2,032,749	4 2
					2,700,000	0 0

Would make an aggregate of 2,700,000 livres, equal to five hundred thousand dollars.

In a contract concluded on the 25th of February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count Vergennes and Benjamin Franklin, which may be found in the appendix to the 12th volume of the printed journals of the old Congress, it was thought proper to recapitulate the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different classes, and, after stating the several loans obtained from or guarantied by France, the last class was designated in the following words: "In the third class are comprehended the aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance, from the pure generosity of the King; three millions of which were granted before the treaty of February, 1778, and six millions in 1781, which aids and subsidies amount, in the whole, to nine millions livres tournois. His Majesty hereby confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States."

It was afterwards discovered that only two millions had been thus received by the United States before the treaty of February, 1778; and, to an application made to Count Vergennes, in 1786, for the purpose of ascertaining when, and to whom, the other million had been paid, an answer was returned that the said million was paid on the 10th day of June, 1776, (a date prior to the arrival of any of the commissioners of the United States in France,) but a copy of the receipt was refused, and the Minister did not think proper to disclose the name of the person who had received the money. On a subsequent application made in 1794, to the French Government, the Minister of Exterior Relations gave it, as the result of his inquiries, that Mr. Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the Minister of the United States with a copy of Mr. Beaumarchais, receipt for that sum, in the following words; "I have received from Monsieur de Vergier, agreeably to the orders transmitted to him, of Monsieur the Count de Vergennes, dated the 5th current, the sum of one million, for which I will account to my said Sieur Count de Vergennes. At Paris, this 10th June, 1776. Signed, Caron de Beaumarchais. Good for one million of livres tournois."

No doubt remains that the advance of one million made by the French Government on the 10th June, 1776, for the use of the United States, and the payment of one million, on the same day, by order of the Minister of Foreign Affairs to Mr. Beaumarchais, were but one and the same transaction: for it appears by the letter of the Minister of Finance, a copy of which is annexed to the document C, that no other payment was made by the Royal Treasury to the United States during the year 1776; and by the French Minister's note D, that Mr. Beaumarchais' receipt and the settlement of his account, together with the correspondence abovementioned with Count de Vergennes on that subject, were found in the same file of papers, (*dossier*,) and that that file was entitled "*United States.*" The million being thus identified, and having, by a solemn contract, been declared and acknowledged a gratuitous gift of France to the United States, has been considered as justly chargeable by them to Mr. Beaumarchais, who had received it.

It is urged, in behalf of the claimant, that it is highly improbable that the million should have been advanced on account of the supplies to be furnished by Mr. Beaumarchais. 1st, Because it was as early as 1778, and has uniformly since been declared by the French Government that they had no concern whatever in his commercial transactions with the United States. 2d, Because it is now in proof that the money was advanced for secret services of a political nature.

That argument could not, by the officers of the Treasury, be taken into consideration, because they were bound to require positive proof of the application of the money, in order to credit Mr. Beaumarchais for the expenditure.

But without wishing to diminish the weight which it may have with Congress, it must be observed, that the declaration of the French Government should be taken in its strictly literal sense, and as I understand it, excludes only a supposition that they had any concern in the commercial risks, profits, or losses of Mr. Beaumarchais. That it was not intended to convey the idea that they had not made to him sales or advances on account of his supplies, may be inferred from the fact, that the artillery and a considerable part of the military stores were taken from the King's stores and arsenals. Nor would it be extraordinary that advances made in 1776, in order to enable an individual to furnish warlike supplies to the United States, should have been considered by the French Government as an expense for a *secret political service.*

It is further objected that Mr. Beaumarchais having fairly accounted to his own Government, and to their satisfaction, for the application of that million, must be considered as discharged from any accountability to the United States.

It is evident that if he was rightfully charged by the United States for that sum, it is to them, and not to the French Government, that he is accountable. The solemn declaration that that million was a gratuitous gift to the United States, seems inconsistent with the supposition that it was not applied as an aid and subsidy, but given without their consent and knowledge to an individual, responsible for its application, not to the Government who had received, but to that who gave the subsidy. And that answer, so far as relates to the French Government, appears conclusive. The only question which, in the view I have taken of the subject, seems to admit of a doubt, is, whether, as the declaration made in the contract of 1783 between the two Governments is the foundation of the claim of the United States, Mr. Beaumarchais can legally be made responsible for the effect of an instrument subsequent by several years to the delivery of the supplies, to which he was not a party, and of which he does not appear to have had any notice.

Although Mr. Beaumarchais' account was not definitively settled by the Comptroller till 1805, the Auditor's report was made as early as 1793. The charge of one million is the only point relative to it which has come under my notice; and the documents herein enclosed contain all the evidence on that subject in this Department. His own declarations on that point may be seen in a memorial, dated Hamburg, April 10, 1795, written in the French language, and deposited in the Treasury, but which, as it seems to have been rather intended for Congress, is also enclosed. Should the committee think proper to investigate the merits of the original claim, with which I am unacquainted, the invoices, correspondence, and documents, which are voluminous, will be transmitted.

I have the honor to be, very respectfully, sir, your obedient servant.

ALBERT GALLATIN.

Hon. J. C. SMITH, *Chairman*, &c.

[Communicated to Congress, February 6, 1807.]

To the Senate and House of Representatives of the United States:

The Government of France having examined into the claim of Mr. de Beaumarchais against the United States, and considering it as just and legal, has instructed its Minister here to make representations on the subject to the Government of the United States. I now lay his memoir thereon before the Legislature, the only authority competent to a final decision on the same.

TH. JEFFERSON.

FEBRUARY 6, 1805.

WASHINGTON, *January* 14, 1807.

SIR: I have the honor to address to you, enclosed, an answer to the objection made by the Secretary of the Treasury to a complete settlement with the heirs of Mr. Beaumarchais. This answer is annexed to the note which I have had the honor to address to you on this subject.

Accept, sir, a new assurance of my high consideration.

TURREAU.

To Mr. MADISON.

Note of the Minister Plenipotentiary of France to the Secretary of State.

WASHINGTON, *January* 14, 1807.

The undersigned, Minister Plenipotentiary of His Imperial and Royal Majesty to His Excellency the President of the United States of America, has the honor to remind the Secretary of State, that, at the beginning of last year, and during the session of Congress, Mr. Chevallié, attorney in fact of the heirs of Mr. de Beaumarchais, took various steps with the Secretary of the Treasury to obtain a liquidation of the debt contracted by the United States with the said Mr. de Beaumarchais.

At the request of the attorney in fact, to whom the Treasury opposed a receipt of Mr. de Beaumarchais, in order to place to the debt of his heirs a million of *livres tournois*, the undersigned addressed, on the 1st of January, 1806, to the Secretary of the Treasury, an official note, which left no doubt of the destination of the million in dispute, the employment of which, agreeably to the orders of the King, was consecrated to a special and secret service, and, consequently, which had not and could not have any connexion with the transactions, bargains, and supplies, and, generally, with any mercantile operations which Mr. de Beaumarchais might have been concerned in with the Government of the United States of America.

This note, or rather this official declaration of the Minister Plenipotentiary of France, ought to have removed the only obstacle which was opposed to the entire liquidation with the heirs of Mr. de Beaumarchais, because the justice of their claim is demonstrated to conviction; and they were far from expecting that the Secretary of the Treasury would still retain doubts upon the legitimacy of their credit.

The heirs of Mr. de Beaumarchais now confide their interests to the protection of the French Government, as well as to the justice of the Federal Government; and the undersigned, in declaring to the Secretary of State, that this affair, on being examined in France with the most scrupulous attention, has presented to the judgment of the most enlightened and impartial men nothing but an incontestable conclusion in favor of the heirs of Mr. de Beaumarchais, will add, that it is no longer to Mr. Chevallié, it is no longer to a mere attorney in fact, that the said heirs have recourse to obtain a justice too long refused, but to the French Government itself, which calls with confidence, and through the organ of its Minister Plenipotentiary, the attention of the Secretary of State to interests no less sacred than the cause which produced them.

When the French Government raises its voice in favor of the unfortunate heirs of Mr. de Beaumarchais, the undersigned thinks it useless to recall to view the nature and importance of the services which their author rendered to the cause of independence. It would be to turn the mind back towards a period equally glorious for the two nations, but that France, always generous, knows how to forget, because the United States remember it.

After the ministerial declaration respecting the employment of the million, a declaration which, doubtless, and as a consequence of those mutual sentiments of respect and confidence which Governments ought to have for communications of this nature, would have been sufficient for the Secretary of the Treasury, if his powers had not been so limited; it is the duty of the undersigned, agreeably to the formal and repeated instructions which he has received in this respect, to address himself directly, and in the name of his Government, to that of the United States, and to request from the Secretary of State that at length justice should be done to the claim of the heirs of Mr. de Beaumarchais; a claim which the French Government would not have honored with its support, if it were not founded upon the immutable principles of reason and of right.

The undersigned seizes with eagerness this occasion of offering to the Secretary of State the homage of his high consideration.

TURREAU.

Claim of Mr. Beaumarchais to a million, against the United States, as payment for supplies which he furnished them.

Objections of the Treasury of the United States.

Objection. "It was afterwards discovered that only two millions out of the three granted as a gratuitous gift, before the treaty of February, 1778, had been thus received by the United States; and to an application made to Count de Vergennes in 1786, for the purpose of ascertaining when and to whom the other million had been paid, an answer was returned, that the said million was paid on the 10th day of June, 1776; but a copy of the receipt was refused, and the Minister did not think proper to disclose the name of the person who had received the money. On a subsequent application made to the French Government, the Minister of Foreign Relations gave it as the result of his inquiries, that Mr. de Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the Minister of the United States with a copy of Mr. de Beaumarchais' receipt for that sum.

"No doubt remains that the advance of one million, made by the French Government, on the 10th June, 1776, for the use of the United States, and the payment of one million on the same day, by order of the Minister of Foreign Affairs to M. Beaumarchais, were but one and the same transaction."

Answer. Before answering the objections of the Treasury of the United States, it is of importance correctly to state the question, which forms the subject of the present claim; because, by this means, all suppositions foreign to it will be avoided.

Did M. Beaumarchais receive from the Government of France a million on account of his supplies to the United States? This is the question.

The identity of the date given by M. de Vergennes, and of the receipt of M. de Beaumarchais, communicated by M. Buchot, has until now been the cause of a delay of justice on the part of the United States to the heirs of M. de Beaumarchais, and of the prejudices which the Treasury has conceived against this claim.

In M. de Beaumarchais, we are to perceive and recognise two characters: one, the secret agent of the French Government; and the other, a furnisher of supplies to the United States.

As secret agent of the Government of France, he received a million on the 10th June, 1776; in the same year M. de Vergennes, who had caused it to be given to him, and who had imposed upon him the obligation of rendering an account to himself for it, presented that account to the King, who approved it, and gave a discharge to Mr. de Beaumarchais. If M. Buchot, in communicating this receipt, had intimated, at the same time, that in the same file, and annexed to the receipt itself, were the account rendered to the King and the approbation in the margin signed by the King himself, certainly the Treasury would not have pretended a right to charge to the account of supplies by M. de Beaumarchais a million for which he had accounted, and from which he had been discharged by the authority which had given it to him.

As a furnisher of supplies to the United States, he did not receive the said million, and, consequently, he is a creditor, and will remain a creditor to the United States for this sum, until it is paid to him. Among the nine millions given as a free gift by the King, three were stated by the convention of 1783 as having been before 1778. Of these three the United States had the use of only two; and it is of that which is wanting that they require an account from M. de Beaumarchais.

Although the nine millions in question have been formally acknowledged to have been received by the convention of 25th February, 1783, signed by the American Commissioners, and ratified by Congress; and although this public act discharges M. de Beaumarchais from all accountability, nevertheless, the Government of France, in order to fulfil the claims of justice, as well as the desire of the United States to know what has become of this million, causes its Minister Plenipotentiary to declare:

1st. That the French Government has always remained a stranger to all the mercantile transactions of M. de Beaumarchais with the United States.

2d. That the million given on the 10th of June, 1776, to the said Sieur de Beaumarchais was for a secret political service, of which the King reserved to himself the knowledge.

3d. That the account of the employment of the said million was presented at the close of 1776, to the King, and approved by him.

4th. That M. de Beaumarchais has been discharged from it by His Majesty himself.

5th. And lastly, that the said million was not given on account of his supplies.

This declaration confirms those which have been made on divers occasions by M. de Vergennes and M. Gerard, as well to the American Ministers in France as to Congress, that the French Government has remained a stranger to the mercantile operations of M. de Beaumarchais; and that he became a creditor of the United States at the same time that he became a debtor of the King for the articles which he had permission to take from his arsenals, and which became his own property.

M. de Vergennes, in ordering a refusal to tell to whom the said million was given, and in causing it to be declared, in 1786, that it was inconvenient to tell, proves equally that it was a secret, and that the said million was given on account of the supplies of M. de Beaumarchais. For, to suppose the contrary, would be to think that this Minister wished a million more to be paid by the United States to M. de Beaumarchais than was

due to him. This opinion would shock whomsoever tha, was acquainted with the probity of M. de Vergennes.

Objection. "It is urged, in behalf of the claimant, that it is now in proof that the money was advanced for secret services of a political nature. That argument could not, by the officers of the Treasury, be taken into consideration, because they were bound to require positive proof of the application of the money, in order to credit M. Beaumarchais for the expenditure."

Answer. When the Treasury debited the account of M. de Beaumarchais with the said million, it had not the declaration of the Government of France that the said million had been employed in a political secret service, and had not been given on account of supplies. Now this circumstance is known, it may balance the account. It can be no more disputed that the King, who gave the nine millions, had the power of employing one of them towards the views and to the advantage of the cause which he supported, than his Ministers can be required to disclose the object of the service in which it was employed; because it is a secret which they ought to keep, and which M. de Vergennes declared it inconvenient to communicate even ten years afterwards.

The Secretary of the Treasury is so well persuaded of it, that he says, in his report, it must be observed that the declaration of the French Government should be taken in its strictly literal sense.

After an opinion thus expressed, and which manifests the respect and attention we owe to the declaration of a Government, it is justly believed that he would not have hesitated to strike the balance of M. Beaumarchais' account without comprising in it the said million, if he had not found himself bound by the premature opinion of his predecessors, and by the limitation of his powers.

Objection. "Nor would it be extraordinary that an advance made in 1776, in order to enable an individual to furnish warlike supplies to the United States, should have been considered by the French Government as an expense for a secret political service."

Answer. Did the Government of France keep it as a secret from the United States that it had given permission to M. Beaumarchais to obtain cannon, muskets, &c., from the magazines of the King? No.

Why, therefore, would it have made a secret of this million, if it had been given for the same articles?

Can it be supposed that the King gave a million to pay himself?

It will not be disputed that, at the epoch of the Treaty of 1778, which united the two Powers, there remained no longer any secret about M. de Beaumarchais having, before this time, furnished cannon, muskets, &c., taken from the magazines of the King. The arms of France engraved upon these pieces published the secret.

The Convention of 1783, openly avowed that three millions, gratuitously given by the King, had been given before the Treaty of 1778.

Thus the destination of the million given on the 10th of June, 1776, must be looked upon as very extraordinary, and as a secret; and it cannot, with justice, be debited to M. de Beaumarchais on account of his supplies.

Objection. "It is further objected, that M. de Beaumarchais, having fairly accounted to his own Government, and to their satisfaction, for the application of that million, must be considered as discharged from any accountability to the United States."

Answer. Is it correct to say, that an accountability is not due to a third party not named in the deed or obligation?

If this principle cannot be brought into doubt, M. de Beaumarchais, or rather the Government of France, says, M. de Beaumarchais has received from me a million, for which he is to account to me; he has rendered this account to me, I have approved it, and I have given him a discharge.

The transcript of this receipt will demonstrate to conviction the truth as well as the justice of what has been just advanced.

Copy of the receipt.

"I have received from M. du Vergier, agreeably to the orders which have been given to him by the Count de Vergennes, on the 5th current, the sum of a million, of which I will render an account to my said Sieur de Vergennes.

"At Paris, the 10th June, 1776.

"CARON DE BEAUMARCHAIS."

From whom did M. de Beaumarchais receive a million, according to this receipt?

From M. de Vergennes, by the hands of M. du Vergier.

To whom did his own receipt, and the will of him who gave him the million, impose upon him the obligation of accounting?

To M. de Vergennes.

Who received this account?

M. De Vergennes.

Who approved of the account, and gave M. de Beaumarchais a discharge?

The King himself, who gave the said million, and who ordered the destination of it.

The candor and the justice of the Secretary of the Treasury equally oppose, after this exposition of the said receipt, the demand of an account of the said million from M. de Beaumarchais; for, if even the account had not been rendered to the Government of France, no power, no person, unless he was delegated to its rights by a special power, could demand it; for M. de Beaumarchais, by his billet, is made a debtor of the Government of France; and, if it had been otherwise, he might as well have been the debtor of any other Power, or any other person, as of the United States.

If M. De Beaumarchais were paid by the United States, does the Secretary of the Treasury think that, possessed of his original receipt, he could prosecute him before any court of justice, and hope to recover the amount contained in the said receipt?

If his opinion should be in the affirmative, what risk would the United States run in paying the Beaumarchais family? because they would be certain of recovering what they paid.

To start a doubt, and yet draw from this doubt a conclusion in your favor, is contrary to justice; and, by removing the doubt, we remove the consequences.

M. de Beaumarchais, by his obligation, is accountable only to the Government of France. The above observations prove it to a demonstration.

Objection. "It is evident that, if he was rightfully charged by the United States for that sum, it is to them, and not to the French Government, that he is accountable. The solemn declaration that the million was a gratuitous gift to the United States, seems inconsistent with the supposition that it was not applied as an aid and subsidy, but given without their knowledge to an individual, responsible for its application, not to the Government who had received, but to that who gave, the subsidy."

Answer. He has rendered this account, the King has approved it, and he has been discharged from it. The million was given for a political secret service. Why would not the Secretary of the Treasury wish to look upon the destination of the King given to that one of the nine millions which is missing *as an aid and subsidy*, because this destination (which is a secret, and will always remain one) can have no other object than to favor the views and to assure the advantages to the United States, and may be denominated *aid and subsidy?*

The present Government of France has made all possible research, in order to enlighten its equity and its justice in an affair which interests a family, whose head employed all the fortune which he ought to have left it to the support of the American cause; and it is, after the most intimate conviction that this sum is due to M. de Beaumarchais, that it has charged its Minister Penipotentiary to declare anew, that the million given on the 10th June, 1776, to M. de Beaumarchais was employed in a secret service; that an account of it has been rendered to the King, and approved by him; and that it was not given on account of supplies furnished by the said Beaumarchais to the United States.

TURREAU.

WASHINGTON, *January* 14, 1807.

PATENT OF OLIVER EVANS.

[Communicated to Congress, December 13, 1805.]

To the honorable the Senate and House of Representatives of the United States, the petition of your petitioner respectfully showeth:

That your petitioner invented many useful improvements on the art of manufacturing of flour and meal, for which he obtained a patent dated 7th January, 1791, which expired on the 7th January last.

That your petitioner has experienced great and unforeseen difficulties in the introduction of his said improvements, the millers being unwilling to risk the expense until fully convinced of their utility by seeing them long and successfully used by others; and many delayed until your petitioner's patent has expired, although the improvements were proved to be of great utility by all who have used them. Also, the whole extent of country which your petitioner and his agent have been obliged to traverse, to make known his inventions, direct their erection, and make collections, has consumed the greatest part of the sums he has been able to collect; whereby the patriotic intention of Congress, in passing the patent law wherein they contemplated that the inventor of a useful improvement should be well rewarded, has in this case been completely frustrated; so far that your petitioner can, with safety, say that he has already expended more than the net profits arising from his invention, in bringing forward another and far more useful discovery and improvement on steam engines, the principles of which are extremely abstruse and difficult to investigate, and has been very expensive in the experiments necessary to put them in practice or operation, so as to be applied as a substitute for waterfalls in all cases where power may be wanted to move machinery, from the power of one man to that of one hundred horses. Also to a great variety of purposes to which the engines heretofore known could not be applied with profit; even to propel boats against the current of the Mississippi and carriages on turnpike roads; because his engines are from five to ten times more powerful than others, in proportion to their size and weight. But large sums are still necessary to be expended to bring into general use this invention, as it will meet with similar difficulties and delays, unless your petitioner be enabled to supply it himself to several of the purposes for which it is so well adapted. And also to compose and publish a new and expensive work explaining the principles and construction of his said improved engine, by many expensive engravings, without which this, as well as others which he will mention, can progress but extremely slow.

Your petitioner, long since, found it prudent to restrain his strong propensity for making improvements, and to confine them to such arts only as he was immediately engaged in; and to make it a rule that no more than the profits arising from the inventions he had already made should be applied to defray the expense of new ones.

During the American Revolution, he engaged in making wire, also wool and cotton cards. His improvements in those arts were profitable to him for a short time. When he commenced the manufacturing of flour in the year 1784, he was led to make his improvements on that art; he then and at that time conceived the principles by which he has now improved the steam engine, but waited until the profits arising from his other improvements on the manufacture of flour should be sufficient to defray the expense of experiments to make the improvements on steam engines,

which, after being suppressed for seventeen years, and running the risk of being totally lost, he commenced in the year 1801, and, at the expense of $3,700, including his own time, at last reduced to practice.

Your petitioner finds his knowledge on this subject so much enlarged, that he has conceived still greater improvements on steam engines and other arts intimately connected, which he has not yet put in practice; that is, to cause steam engines to last much longer, increase their power, fit them for peculiar purposes, and lessen their consumption of fuel to about one-fourth; drawings and written explanations of which he prepared and presented for the inspection of your honors last session, and which he deposited in the Patent Office; choosing rather to communicate his discoveries than suffer them to be lost. He does not hesitate to declare his sanguine expectations are, that when all these improvements, in addition to those he has already made, are put in operation and generally used, that they will, in this country, daily save the labor of one hundred thousand men. Under such impressions as these, he cannot willingly relinquish the pursuit of the means of bringing them into operation, without injury to himself, while there remains a gleam of hope.

Your petitioner conceives that the profits that would arise from the exclusive right of his own inventions for another term, would enable him to apply—

1. For the introduction of his steam engine - - - - - -	$3,000 00
2. For defraying the expense of experiments to put in operation his new principle to the further improvement of steam engines and other arts -	3,000 00
3. For composing and publishing a new work, to be entitled the *Young Steam Engineer's Guide*, with many engravings, explaining the principles of his various inventions - - -	3,000 00
Making, in all, which he wishes to expend for those useful purposes - -	$9,000 00

Your petitioner, not doubting but that your honorable bodies will be disposed to protect him in the enjoyment of his own inventions, so long as it may appear likely to be the means of bringing into use more useful improvements, the great expense of which must be defrayed from some source, he has therefore made the above statement, and prays for an extension of his patent for his improvements on the art of manufacturing flour and meal for such term as you, in your wisdom, may deem best; but securing to those who have already purchased the privilege of him their right of using the said improvements. This would enable your petitioner to collect the sums with greater facility already due him for the use of said improvements, which will not otherwise be worth the expense of collecting, being scattered over the United States, and which, added to what might become due, might be sufficient for his intended purposes. And your petitioner, on his part, promises faithfully to exert his abilities to bring to perfection and into use his said improvements, and to compose and publish his intended new work, as he may be enabled so to do.

OLIVER EVANS.

DISPUTED BOUNDARY OF GEORGIA AND NORTH CAROLINA.

[Communicated to the House, February 12, 1806.]

Mr. SPALDING made the following report: The committee to whom was referred the memorial of the Legislature of the State of Georgia, respecting disputed limits between that State and the State of North Carolina, having taken into consideration the matter of the said memorial, as well as such information as the documents attached to the memorial, and former reports made to this House, afford, beg leave to submit the following report:

Between the latitude of thirty-five degrees north, which is the southern boundary claimed by North Carolina, and the northern boundary of Georgia, as settled by a convention between that State and South Carolina, intervenes a tract of country supposed to be about twelve miles wide from north to south, and extending in length from the western boundary of Georgia, at Nicajack creek, on the Tennessee, to her northeastern limits on the Tugelo. This tract was, consequently, within the limits of South Carolina; and in the year 1787 it was ceded to the United States, who accepted the cession. This territory remained in possession of the United States until 1802, when it was ceded to the State of Georgia. From the most correct information relative to the said territory, it appears that it is inhabited by about eight hundred souls; and to adopt the words of a former report, it is not shown at what period they made the settlement, nor had they any title to the land on which they settled and made improvements. No such title, indeed, could have been created, as those lands remained within the boundary of the Cherokees until the year 1798, when a part of this territory was purchased by a treaty held at Tellico. It does not appear that the lines that bound the tract of land in question, and divide it from Carolina, have ever been established by public authority.

After the transfer of this territory by the United States to Georgia, the Legislature of that State, in compliance with the request of those self-governed people, praying that they might be allowed to participate in the civil rights enjoyed in common by the people of the United States, passed an act in the year 1803, to organize the inhabited part of the territory, and to form it into a county; authorizing, at the same time, the Governor to appoint commissioners to meet such commissioners as should be appointed by the Government of North Carolina, to ascertain and plainly mark the line dividing the territory from North Carolina. The Governor of North Carolina expressed a readiness to accede to the proposition, under the

provisions of a former act of the Legislature of that State, but clogged with a condition which the Legislature of North Carolina refused to depart from, and which the Legislature of Georgia refused to accede to. Her reason may be found in a letter from General Pickens, of the State of South Carolina, attached to a report made to this House respecting that territory while the property of the United States. The letter states, that before the people now inhabiting that territory settled on the land, it was surveyed, and grants obtained for most part of it from the State of North Carolina, and probably by men who cared little whether the land was within the Indian claim or the limits of South Carolina. Your committee conceive that they have no right to enter into the feelings of either of the parties, or to pronounce upon the justice of the condition made by North Carolina on the one part, or its rejection by Georgia on the other; and have, therefore, confined their attention to that part of the memorial which calls upon Congress to define and mark out the thirty-fifth degree of latitude, the line which North Carolina admits to bound her State upon the south, and north of which Georgia can have no claim of territory. Your committee, after giving to this point the most deliberate consideration, are of opinion that the United States are bound in good faith to use their friendly offices with the State of North Carolina for obtaining an amicable adjustment of the limits of the territory which they have transferred to Georgia, in all parts where such limits may be disputed. Your committee, therefore, beg leave to offer the following resolution:

Resolved, That the President of the United States be authorized to appoint a commissioner to meet such commissioners as may be appointed by the States of North Carolina and Georgia, for the purpose of ascertaining and running the line which divides the territory transferred by the United States to Georgia, from North Carolina.

IN THE HOUSE OF REPS.,
Friday, Nov. 29, 1805.

The Memorial of the Legislature of the State of Georgia to the Congress of the United States, respectfully showeth:

That, by the second article of the articles of agreement and cession, entered into the twenty-fourth day of April, one thousand eight hundred and two, between the commissioners appointed on the part of the United States and the commissioners appointed on the part of the State of Georgia, the United States ceded to the State of Georgia whatever claims, right, or title they had to the jurisdiction or soil of any of the lands lying within the United States, and out of the proper boundaries of any other States, and situated south of the southern boundaries of the States of Tennessee, North and South Carolina, and east of the eastern boundary of the territory ceded by Georgia to the United States, in the first article of the said articles of agreement and cession; which territory so ceded was accepted by the State of Georgia on the sixteenth day of June, one thousand eight hundred and two. From the most correct information which has been collected relative to the said territory, it appears that it is inhabited by about eight hundred souls, over whom the State of North Carolina had never claimed or exercised jurisdiction, had never demanded or received contributions from them, nor extended the protecting arm of Government to them. The State of Georgia, solicitous to afford that protection and security which is due from the Government to its citizens, in compliance with the humble and earnest request of those self-governed people, praying that they might be admitted to participate in the natural and civil rights enjoyed by the rest of their fellow-citizens, on the tenth of December, one thousand eight hundred and three, passed an act to organize the inhabited parts of the said territory, and formed it into a county, by the name of Walton; and by the said act authorized the appointment of commissioners to meet any commissioners who might be appointed by North Carolina, to ascertain and plainly mark the line dividing the two States westward of the western boundary of the State of South Carolina, the eastern boundary of Tennessee. This act was transmitted by the Governor of Georgia to the Governor of North Carolina, with assurances of his readiness to appoint the said commissioners. The Governor of North Carolina, under the provisions of an act of the Legislature of that State, passed the seventh of December, one thousand eight hundred and three, for appointing commissioners to extend the boundary line of the said State and South Carolina, expressed a readiness to appoint commissioners to act in conjunction with those who should be appointed on the part of Georgia, provided the running of the line should not affect the titles of those who held land in the said territory under the grants of the said State. To this provision the Governor of Georgia could not accede and the ascertaining and running the line was necessarily postponed until legislative interference should remove the difficulty. After the failure of the aforesaid application, the Governor of Georgia proceeded to organize the county of Walton, and to extend the fostering hand of Government to the inhabitants thereof. At this crisis an attempt was made by a few turbulent persons to prevent the operation of the laws of Georgia in that territory, alleging that the jurisdiction of North Carolina extended over the greater part thereof; but the county was so far organized, that an election was holden for representatives, who took their seats in the last Legislature of this State. To obviate all existing differences between the two States, the Legislature of Georgia, during their last annual session, on the tenth of December, one thousand eight hundred and four, passed a second act for the appointment of commissioners to co-operate with those who might be appointed by North Carolina, the Legislature whereof also passed an act, at their last annual session, to extend the provisions of their act of one thousand eight hundred and three, so far as to include Georgia as well as South Carolina, but clogged

with the same provision as to the legality of their grants. These two last-mentioned acts have been respectively transmitted by the Executive of each State to that of the other, and explanations have been reciprocally made, the result of which was a declaration on the part of the Governor of North Carolina, that although that State did not claim jurisdiction over the territory acquired by Georgia from the United States, yet she would not permit the line to be run, or the State of Georgia to exercise jurisdiction over the said territory and citizens, unless the grants of the description aforesaid should be previously acknowledged to be valid by the State of Georgia. This provision was by the Governor of Georgia held inadmissible, and no commissioners have been appointed. During the last recess of the Legislatures of the two States, a number of disorderly and lawless persons, acting, or pretending to act, under the authority of North Carolina, have invaded the rights of the good citizens of Walton county, and committed the most cruel outrages against their persons and property, have dragged a number of them from their peaceful habitations, and lodged them in the public jails of that State; and, by their violence and oppression, have compelled the wretched inhabitants of that territory to abandon their habitations, and fly from their oppressors, across the mountains, into the State of South Carolina, and the western counties of Georgia. Such is the dispersed situation of the inhabitants, and so complete is the state of disorganization which prevails in Walton county, that it is at this moment unrepresented in the Legislature of the State.

In rejecting the provision contained in the act of North Carolina, the Legislature of Georgia conceive that they have consulted the true interest of the citizens of and residents in that territory, a very small number of whom, if any, hold land under the State of North Carolina. To accede to the proposition of North Carolina would be improvident and unjust; improvident, because the State of Georgia has paid a valuable consideration for every acre of land in that territory; unjust, because the Legislature of Georgia are informed that large grants have issued to speculators and monopolizers, not only for the most part of that territory the Indian title to which is extinguished, but for a great part of that which is now the property of the aborigines.

The Legislature of Georgia, through every successive stage of these fruitless transactions, have felt with deep concern and tender solicitude for the situation of their unfortunate fellow-citizens, and made every effort in their power, by direct applications to the State of North Carolina, to remove every obstacle to their peace and welfare. These applications have failed to produce the desired effect. It is with sincere regret that the Legislature of Georgia feels itself constrained to approach the representatives of the nation, and apply to the justice of the Supreme Legislature of the Union.

The Legislature of Georgia are impressed with the most solemn conviction that this application to the National Government is the only mode which is now left them to pursue, and the only source from which they can expect a termination of the contest between the two States; they therefore entreat the Congress of the United States to interpose, and cause the thirty-fifth degree of north latitude to be ascertained, and the line between the two States to be plainly marked. This will completely terminate the question of jurisdiction between the two States, as North Carolina never contended that her jurisdiction or limits extended south of the thirty-fifth degree of north latitude, and Georgia has never claimed jurisdiction north of that line.

ABRAHAM JACKSON,
Speaker of the House.

IN THE HOUSE OF REPS.,
Friday, Nov. 29, 1805.

Resolved, That his Excellency the Governor be, and he is hereby, requested to transmit the foregoing memorial, together with the correspondence which has taken place upon the subject between the Executive of this State and the Executive of the State of North Carolina, to the Congress of the United States, with copies of the several laws passed by this State appertaining thereto.

Copy of a letter to His Excellency James Turner.

EXECUTIVE DEPARTMENT,
Louisville, Ga., Dec. 15, 1803.

SIR: I have the honor to transmit your Excellency an extract of a law passed by the Legislature of this State on the 10th instant.

You will find it expressive of a wish, on the part of this Government, to have the dividing line between your State and the State of South Carolina extended north of the Blue Ridge—Georgia having acquired the territory which was ceded by South Carolina to the General Government, situated south of the southern boundaries of North Carolina and Tennessee.

Within that tract of country are found many settlers, and it is necessary that government should be extended over them. I have to request you, therefore, to lay the extract of the law before the Legislature of your State, in order that a co-operation of measures may be had in fixing the line of demarcation between our States. On being apprized of the steps taken by North Carolina on the subject, I shall appoint commissioners, and attend to such arrangements as may be necessary for carrying the object wished for into effect.

With high consideration and respect, I have the honor to be your Excellency's most obedient servant, JOHN MILLEDGE.

Copy of a letter to His Excellency James Turner.

RALEIGH, *February* 25, 1804.

SIR: Your Excellency's letter of the 15th of December last, with its enclosure, has been duly received, but not until after the Legislature of this State had risen. The enclosed authenticated copy

of an act of the General Assembly of North Carolina was passed to meet the wishes of the State of South Carolina respecting boundary, and to settle a dispute on that subject that has subsisted for many years.

As a provision is made in that act for extending the line between North and South Carolina, until the same shall intersect the eastern line of the State of Tennessee, (the Legislature not adverting, it is presumed, to the circumstance of the western parts of South Carolina having become a part of Georgia,) I am of opinion that the commissioners on behalf of this State, after having extended the line between this State and South Carolina, with commissioners appointed by that State, to the western extremity thereof, will have the right, under the law, to extend, with commissioners appointed by your Excellency, the same from thence to the eastern boundary of the State of Tennessee.

If your Excellency thinks with me, that the law of this State will authorize the Commissioners appointed under that law to fix the line of demarcation between our States, it will be desirable that commissioners should be sent forward at the same time, that those of South Carolina may meet those of this State, as thereby a considerable saving of expense would be made to North Carolina, without any additional expense to Georgia.

Your Excellency shall be informed of the time and place of meeting of the Commissioners of this State, and those of South Carolina, should that State have made provisions to co-operate in the above-mentioned measures.

Your Excellency will pardon a seeming delay in not acknowledging the receipt of yours at an earlier day; being in daily expectation of hearing from the Governor of South Carolina on the same subject, was the reason it was postponed.

I have the honor to be, with high consideration and respect, your Excellency's most obedient servant, J. TURNER.

Governor MILLEDGE.

Copy of the Act of North Carolina, alluded to in the letter of Governor Turner.

An Act appointing Commissioners to extend the boundary line of this State, and the State of South Carolina.

Whereas it is of high importance that the limits of this State should be accurately defined and ascertained: and whereas all former laws have heretofore failed to have the desired effect:

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be appointed, by joint ballot of both Houses of the General Asssembly, and commissioned by the Governor, three commissioners to meet the commissioners who already are, or hereafter may be, appointed by the State of South Carolina, at such time and place as the Executive of the two States shall or may direct, and with them settle all and singular the differences, controversies, disputes, and claims, that may subsist between this State and the State of South Carolina; and to fix and establish permanently the boundary line between this State and the State of South Carolina; and the same to mark and ascertain as distinctly as may be, as far as the eastern boundary of the territory ceded by the State of North Carolina to the United States: *Provided, nevertheless*, That the extension of the said line shall not affect the titles of any person or persons to the lands entered in either of the said States; and this State will, at all times hereafter, ratify and confirm all and whatsover the said commissioners, or a majority of them, shall do in and touching the premises, by virtue of this act; and the same shall be binding on this State.

And be it further enacted, by the authority aforesaid, That the commissioners appointed in pursuance of this act shall, for their several services, be allowed the sum of forty shillings per day, and forty shillings for every thirty miles in travelling to and from the business contemplated by this act; and they shall make a return of their proceedings to the next General Assembly, after the time they shall have perfected the purposes of their appointment. And, further, said commissioners are hereby authorized and empowered to employ one or more surveyors, and such number of markers as they, or a majority of them, shall deem necessary; and there shall be allowed to each and every surveyor appointed by the commissioners forty shillings per day for their services, and forty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act; and to each marker or chain-carrier twenty shillings for every day they shall be employed in running and marking the lines as aforesaid, and twenty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act.

And be it further enacted, by the authority aforesaid, That in case of death, resignation, or refusal to act, of any of the commissioners herein appointed, the Governor of the State is hereby empowered to appoint and fill up any vacancy occasioned in manner as aforesaid; and that the Governor for the time being shall, as soon as may be, after the ratification of this act, transmit a copy thereof to the Executive of the State of South Carolina, accompanied with a request that the State of South Carolina should co-operate, without delay, with this State in effecting the purposes of this act.

And be it further enacted, That the Governor shall issue his warrant, upon application of said commissioners, declaring that they are ready and about to proceed to the running of the said line, on the Treasury, for the sum of two hundred pounds, and such further sum as the Governor may deem necessary for carrying this act into effect.

And be it further enacted, That all former acts, and parts of acts, coming within the meaning of this act, are hereby repealed and made void.

Read three times, and ratified in General Assembly the seventh day of December, A. D. one thousand eight hundred and three.

JOS. REDDUK, *Pres't Senate.*
S. CABARRUS, *Speaker H. C.*

Copy of a letter to His Excellency James Turner.

EXECUTIVE DEPARTMENT,
Louisville, Ga., April 6, 1804.

SIR: I have had the satisfaction to receive your Excellency's letter of the 25th of February last, in answer to the one I wrote you some time since, and regret much that my letter was not received early enough to have been laid before your Legislature when last in session. I have perused the act of your State, which you had the goodness to enclose me, and find that it vests the commissioners appointed under it with power to ascertain and mark the boundary line of North Carolina, as far as the State of Tennessee.

Though it was made to operate with commissioners to be appointed on the part of South Carolina, that State having long since ceded her territory west of the Blue Ridge of mountains to the United States, and the General Government having conveyed the same to Georgia, I feel no difficulty in appointing commissioners to co-operate with the commissioners under the act of your State, for the purpose of ascertaining and marking the line of limits between North Carolina and Georgia; but I cannot consent that titles to the lands entered in either of the States of North Carolina or South Carolina, shall not be affected by the extension of the line, if such lands should fall within the limits of Georgia; because, while the territory in that quarter, which is now attached to Georgia, was vacant, the State of South Carolina yielded it to the General Government; and any grant given by either of the States for land within it must consequently be void.

It is highly important that the limits of States should be accurately ascertained and defined: as this is not the case in regard to North Carolina and Georgia, and it appears, from the acts of the two States, to be their wish to effect so desirable an object, the present opportunity ought, without hesitancy, in my opinion, to be embraced. If, therefore, your Excellency will give the commissioners, on the part of your State, instructions accordingly, and notifying me of the time and place at which they attend, commissioners on the part of this State shall join them. I could wish this object to be accomplished as early as possible, as, by referring to the extract of the law I enclosed you, your Excellency will perceive that it is not to take effect until the dividing line between the two States shall be run, provided it is done within six months after its passage.

I am, sir, with great consideration and respect, your Excellency's most obedient servant,

JOHN MILLEDGE.

Governor TURNER.

A copy of a letter from His Excellency, James Turner.

RALEIGH, *May* 8, 1804.

SIR: The letter your Excellency did me the honor to address to me the 6th ultimo I now have before me. I am informed by the Governor of South Carolina, that my letter to him, on the subject of boundary, with which was enclosed an authenticated copy of an act passed by our Legislature at their session, on this subject, which letter was alluded to in mine to your Excellency of the 25th of February last, was not received in time to be submitted to the Legislature of that State, at their last session. He informs me that an extra session of the Legislature of that State will be held in the present month; that he will submit to their consideration the law of this State, and entertains no doubt but such measures will be adopted by them as will tend finally to close the differences between the two States respecting boundary. Should that be the case, it is highly desirable, on the part of the State, that the line of demarcation between North Carolina and Georgia should be ascertained and marked at the same time. The proviso, made in the law of this State, to secure to individuals the entries of lands made in either State, (if any such there be,) is the only part of that law to which your Excellency has objections. That proviso, in itself, is so just and reasonable, that I was persuaded no objections could be made to it. The policy of both nations and States, in similar situations, justified such a belief. The discontents, jealousies, controversies, and probably violences which might ensue, if such provision be not made, are such that I am persuaded your Excellency, on more mature consideration, will be induced to entertain a different opinion than the one expressed in your letter to me on that subject. Upon those considerations, I can, by no means, take upon myself the responsibility of instructing the commissioners, appointed by the Legislature of this State, to extend the line between North Carolina and Georgia, with commissioners on behalf of your State, unless that proviso is adopted by Georgia.

I will, in justice to the Legislature of this State, mention to your Excellency, that it is my belief that they have no knowledge of any lands being granted by this State that will fall in Georgia, on the lines being extended. I have seen a paragraph in the public papers, mentioning that the Legislature of your State would be in session in the course of the present month. Should that information be correct, I should be glad if your Excellency would represent the matter to them; and, if a similar proviso is adopted on the part of Georgia, it will be highly agreeable to me, and I am persuaded it will be to the Legislature, to finally ascertain and mark the line of limits between our States.

Your Excellency shall be informed when and where the Commissioners of this State and South Carolina meet, should that State (as is fully expected) make provision at the approaching session to co-operate with the measures of this State.

I have the honor to be, sir, with high consideration and respect, your Excellency's most obedient servant,

J. TURNER.

Governor MILLEDGE.

Copy of a letter to His Excellency James Turner.

EXECUTIVE DEPARTMENT,
Louisville, (Ga.) May 23, 1804.

SIR: I have the honor to acknowledge the receipt of your Excellency's letter of the 8th inst.,

in answer to mine of the 6th ultimo. Impressed with the correctness of my objection to the proviso contained in the act, a copy of which you enclosed me, and having been vested by an act of this State with the power of making the necessary arrangements for running and marking the dividing line between our States, I did not think it necessary to lay the subject again before the Legislature; and your last letter did not reach me until that body had completed the business for which it was convened, and adjourned.

Had titles to the land which is now claimed by Georgia been given by either of the States of North or South Carolina, previous to its cession by the latter State to the United States, such a proviso might, in my conception, with more propriety than at present, be contended for. But when it is recollected that the titles (should there be any) entered in either North or South Carolina for that land were given at a time when it was the property of the General Government, the justice of my objection presents itself to me too forcibly to be conceded. If, therefore, your Excellency will not consent to the running of the dividing line, under the superintendence of commissioners from both States, without a proviso on the part of Georgia similar to the one made by North Carolina, that object cannot be in that way accomplished, until the Legislatures of the two States come to some understanding on the subject.

I am, sir, with great consideration, respectfully, your Excellency's most obedient servant,

JOHN MILLEDGE.

J. TURNER, *Governor of North Carolina.*

A copy of a letter from His Excellency the Governor of North Carolina, dated

RALEIGH, *Oct.* 20, 1804.

SIR: Information has been lately made to me by one of the Representatives to our State Legislature for the county of Buncombe, that the State of Georgia had assumed jurisdiction over a settlement which lies on the head of French Broad river and the waters thereof, which settlement was made under, and has ever since been subject to, the laws of North Carolina, and is within the limits and jurisdiction of Buncombe county. The information states that the civil officers of this State are impeded in the performance of their duties, and that considerable confusion, in consequence thereof, is likely to ensue.

Your Excellency well knows that the first representation made by Georgia to this State, claiming, under the convention with the United States, the territory, of which that settlement is by Georgia supposed to be a part, and the wish to have the boundary line between the two States ascertained and marked, were contained in your letter to me of the 15th of December last, with which was enclosed an extract of a law of Georgia, passed at their then late session, providing for ascertaining and fixing the line of demarcation between that and this State, and for other purposes. It is also known to your Excellency that that communication was not received until after the Legislature of this State had risen; of course they had not, nor will they have, an opportunity of acting on those propositions until their next annual meeting, which will be on the third Monday in next month.

From these circumstances being known to your Excellency, I was really surprised on hearing that Georgia had extended her jurisdiction so as to interfere with that of North Carolina, and that, before the claim set up by Georgia had ever come, or even had an opportunity of officially coming, to the knowledge of the Legislature of this State; and more particularly when your Excellency had just reasons to believe, from the letters which had passed between us, that North Carolina would promptly adopt measures to co-operate with those of Georgia, to ascertain and finally fix the line of demarcation between the two States.

Had the information respecting the assumption of jurisdiction by Georgia been received at any other period than that so immediately preceding the meeting of the Legislatures of the two States, I certainly should (however disagreeable the consequences might have been) have deemed it my duty to have enforced the execution of the laws of this State in that quarter, and to have continued their authority until the line between the two States should be ascertained; but, being fully impressed with the belief that the Legislature of North Carolina is truly desirous of having the limits of the State accurately defined and marked, and that they will, at their approaching session, make ample provision for that purpose, I shall let the matter be over until their meeting. From the perusal of your Excellency's favor of the 23d May last, which was duly received, I find you still adhere to your opinion, that it would be wrong for Georgia to agree to confirm the titles of lands, which may be granted by either of the States, that may fall into the other, on the lines being established. On that subject I entertain the same opinion I heretofore expressed.

To disturb or nullify the titles to lands which individuals have honestly acquired, would be cruel to the last degree, and a matter of more serious consequence, and probably more difficult to reconcile than at first view would appear, especially in quarters the furthest removed from the seat of Government of each of the States; though this is quite an abstract question from ascertaining and marking the line, and which either State may adopt or reject, as their feelings or policy may dictate.

I shall subject the extract of the law, forwarded to me by your Excellency, and the correspondence which has taken place between us since, to the consideration of the approaching session of the Legislature; and I make no doubt but that they will adopt such measures as will, by a co-operation on the part of Georgia, tend to the ascertaining and finally fixing the line of demarcation between our States.

Your Excellency may rest assured, that, as far as I can, consistent with my duty, be instrumen-

tal in accomplishing so desirable an object, I shall do it with pleasure.

I have the honor to be, with high consideration and respect, your Excellency's most obedient and humble servant. J. TURNER.

Governor MILLEDGE.

EXECUTIVE DEPARTMENT,
Louisville, (Ga.,) Dec. 11, 1804.

I have the honor to transmit your Excellency an official copy of an act of the General Assembly of this State, passed the 10th instant. The importance of the subject to which it relates induces me to request that you will lay it before the Legislature of your State should they be in session when you receive this letter.

If commissioners are appointed on the part of North Carolina for designating the line of limits between the two States, on your Excellency's notifying me of the same, agreeably to the power I am vested with, I shall immediately appoint commissioners to join them.

I have the honor to be, with great consideration, your Excellency's most obedient servant,
JOHN MILLEDGE.

Governor TURNER.

EXECUTIVE DEPARTMENT,
Raleigh, (N. C.) Dec. 26, 1805.

SIR: I have the honor to enclose herewith to your Excellency an authenticated copy of an act of the General Assembly of this State, passed at their late session, entitled "An act to amend an act, entitled 'An act appointing commissioners to extend the boundary line of this State and the State of South Carolina,' passed at Raleigh, in the year one thousand eight hundred and three. Your Excellency will observe that, by this amendment, the provisions of the act of eighteen hundred and three, made for the purpose of extending the boundary line between this State and South Carolina, is extended to Georgia, for the same purpose.

If the Legislature of Georgia has made provisions to co-operate with the measures of this State, it is desirable that the business be proceeded on immediately. So soon as I am informed of their having done so, I shall be ready to fix with your Excellency the time and place of meeting of the commissioners.

Your Excellency, I am persuaded, is fully impressed with the importance of having the line of demarcation between our two States accurately defined and marked. Irregularities, I have understood, have already taken place; and if that country remains in its present situation, further disturbances may be expected, and probably of more serious consequences.

Your Excellency may be assured, that as far as I can contribute to the amicable accomplishment of so desirable an object, consistent with my duty and the laws of the State, it will afford me particular pleasure.

I have the honor to be, with respect and esteem, your Excellency's most obedient humble servant,
J. TURNER.

Governor MILLEDGE.

An Act to amend an act, entitled "An act appointing Commissioners to extend the boundary line of this State and the State of South Carolina," passed at Raleigh, in the year one thousand eight hundred and three.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the Governor, for the time being, and his successor, shall be, and he is hereby, vested with full power and authority to enter into any compact or agreement that he may deem most advisable for the interest of this State, with the legislative or executive powers of the States of South Carolina and Georgia, and for the extension of the same: *Provided, nevertheless*, That nothing herein contained shall be so construed as to affect any part or clause of the above recited act.

RALEIGH, *January* 8, 1805.

SIR: I had the honor of enclosing to you, the 26th ultimo, the copy of an act of our Legislature, passed at their late session, extending the provisions of an act, passed in 1803, for ascertaining and fixing the boundary line between this State and South Carolina to Georgia. Since which time, I have received your Excellency's favor of the 11th ultimo; also, the act of your State for the same purpose.

By a perusal of the act last forwarded to your Excellency, the following proviso will be observed: "*Provided, nevertheless*, That nothing herein contained shall be so construed as to affect any part or clause of the above recited act;" which confines the Executive of this State, in any agreement he may make with Georgia on the subject of boundary, to the provisions of the first mentioned act.

It is presumed that your Excellency has authority given to comply with the terms of that act by the late act of Georgia, which authorizes and requires you to appoint commissioners with full and competent power, &c.

If your Excellency think proper to proceed on those terms, and will name the time and place for the commissioners to meet, I will direct the commissioners on the part of this State to attend them. The month of March appears to me the most proper time; but, should your Excellency think any other preferable, I shall have no particular objections, provided it is not later than the middle of April.

For the same reasons mentioned in mine to your Excellency of the 26th ultimo, it is desirable that something should be done as soon as possible.

Be assured it will afford me pleasure if we can adjust this matter to the satisfaction of the citizens of each of our States.

I have the honor to be, with high respect and consideration, your Excellency's most obedient servant, J. TURNER.

His Excellency the GOVERNOR *of Georgia.*

EXECUTIVE DEPARTMENT,
Louisville, (Ga.,) Feb. 5, 1805.

SIR: Your two letters, one of the 26th of December, with its enclosure, and the other of the 8th of January, I had the honor to receive by the last Northern mail. I find that the Legislature of North Carolina has not in the least removed the difficulty by their late act, which I objected to in 1803. It is probable the Legislature of this State will be in session the latter end of April or first of May next, which will afford me an opportunity of laying your communication to me before them. If circumstances should not authorize an extraordinary call at the time I have mentioned, I will then apprize you of the measures I shall pursue; in the mean time, I feel persuaded that your Excellency will use every proper measure to discountenance irregularities by the citizens of your State on the inhabitants residing on the land the subject of controversy. I have this day received a letter from that quarter; and the outrages which are represented to me as having been committed by an armed force, said to be sent on purpose from one of the counties of your State, resembles more the doings of men warring against an enemy than the acts of citizens of the same nation towards each other; more especially, as the right of jurisdiction still remains matter of doubt between the two States.

I have the honor to be, with great respect, your Excellency's most obedient servant,
JOHN MILLEDGE.

His Excellency JAMES TURNER,
Governor of North Carolina.

A copy of a letter to His Excellency James Turner, Governor of the State of North Carolina.

EXECUTIVE DEPARTMENT,
LOUISVILLE, *Feb.* 17, 1805.

SIR: Since writing you on the 5th instant, two persons of respectable character, residing in the settlement at the head of French Broad river, now called Walton county, have visited this place. I herewith enclose you copies of affidavits which they have laid before me, stating the impressions under which they settled in that county, the subsequent steps taken by them, and the outrages committed within the settlements by the citizens of North Carolina.

The situation of those people must, in my opinion, be viewed by every dispassionate person as deplorable. If I am correctly informed of the history of the tract of country whereon they reside, I believe it to be this: Some short time previous to the year 1786, several individuals of the State of South Carolina formed themselves into a company, and obtained a grant or grants from that State for the lands which are now within the limits of Walton county. In 1786, the Legislature of South Carolina annulled the grants, as being improperly obtained, and in the year following, ceded that country to the General Government, and Congress (the North Carolina representation being present) accepted of the cession, according to the limits particularly specified in the deed of South Carolina. You will find, from a perusal of one of the affidavits, that the people settled on the land ceded by South Carolina to the United States, who are the same that now reside within the limits of Walton county, never contributed, by the payment of taxes, to the support of the government of North Carolina, nor did your State attempt to demand it from them, it being generally acknowledged that they resided without her limits. Thus circumstanced, and desirous of living under some regular constituted authority, they applied to the State of South Carolina to be admitted as members of her government, long before the deed of cession and agreement between the General Government and this State was entered into. They received for answer to their application, that South Carolina had yielded her right to the land on which they lived to the United States. They then petitioned Congress at different sessions, stating fully their situation, and requesting that Congress would retrocede the territory to South Carolina. This, however, was also denied them. They then brought with them to this place, while the Legislature of the State was in session, in the year 1803, the decision of Congress relative to their last memorial to that body, by which they were referred to Georgia. With a full view of all the circumstances I have mentioned, this State extended her government over them, not calculating in the least that the State of North Carolina, who had remained silent and inactive, both as it regarded the conduct of the State of South Carolina and the settlers, would ultimately contend, on any principle, for the right of soil. Georgia obtained the district of country described in the deed of cession of South Carolina from the General Government, by giving a valuable consideration for it; in doing so, the desire of an extension of jurisdiction did not so much influence her as the value of the soil. Should she agree to the running of the line under the provision of the act of North Carolina, there would not be, if the information I have had is correct, a single acre at her disposal, the whole being covered by grants of North Carolina, and what extent of country those grants might embrace is uncertain. Further, it is a principle justly established in law, that, to make an act binding on each party, there must be some show of reciprocity. From the provision of the act of your State, Georgia derives no advantage; North Carolina has the entire benefit. The provision, however, as it regards South Carolina, is correct. It would have been unjust that the citizens of your State, or those of South Carolina who claim under ancient grants, should be dispossessed of their lands, on finding, by adjusting the boundary line, that they were thrown without the State that they had derived their title from; but Georgia having never granted a single acre of land in the settlement in question, or near the

boundary line of the two States, there is not the least prospect that any of her citizens will have, upon the limits being extended, a claim upon land within the limits of your State. The provision, therefore ought to extend no further than South Carolina has exercised her patent authority, and she never legally extended it west of the ridge of mountains which is now the dividing line between that State and Walton county. If the persons claiming under North Carolina were the actual inhabitants at the head of French and Broad rivers, who have encountered all the difficulties attendant on settling a mountainous and frontier country, then, indeed, would the zeal which North Carolina discovers on this occasion, be truly laudable; but, when there is every reason to apprehend that, if her wish is consented to by this State, grants, some of which, if information says true, were obtained previous to the extinguishment of the Indian title, and some after the territory was known to be ceded to Georgia, will be confirmed to persons who reside at a considerable distance from the line, and who were induced to run it from motives of speculation only, I cannot feel justified in consenting that the proviso of the act of your State shall extend to this. I have to assure your Excellency that there is not a State in the Union more desirous than Georgia to be on terms of harmony and good-will with her sister States, or that would more deeply regret any cause which would induce her to depart from that good understanding which it is her anxious wish to maintain with the respective States; and there is no measure to obviate or remove any cause of dispute or irritation, consistent with the principles of justice and propriety, but the State would cheerfully acquiesce in. But, from a mature examination of all the circumstances of this case, I feel myself bound to say that I cannot consent to the running the line under the provision of the act of your State, and dissent to the same.

In order, however, to restore harmony, and prevent further disturbances among the inhabitants of Walton county and those of your State, I feel persuaded that your Excellency can have no objection to have the boundary line run, and let the proviso of your act be a subject for the after deliberation of the Legislatures of the two States. Should this proposition meet with your assent, you have only to notify me, and commissioners on the part of this State shall be appointed, and your Excellency shall be apprized of the time and place at which they will meet those of North Carolina. In the mean time, I have to request that your Excellency will discountenance, and by proper measures prevent, the outrages which the citizens of North Carolina are in the practice of committing on the unfortunate persons residing on the land, the subject of controversy.

I have the honor to be, with great respect and consideration, your Excellency's most obedient servant,

JOHN MILLEDGE.

His Excellency JAMES TURNER,
Governor of North Carolina.

GEORGIA, *Jefferson county:*

Personally appeared Richard Williamson, of the county of Walton and State aforesaid, who, being duly sworn, deposeth and saith: that, on the 19th day of December last, his county was invaded by a band of armed men, about the number of sixty or seventy, from the county of Buncombe and State of North Carolina, who were joined by twenty-four men, citizens of his own county, and there, with force and arms, did take him, (said Williamson,) with nine other citizens of his county, prisoners, and removed them, under guard, to Buncombe county, North Carolina, and confined them in the jail of said county for several days, upon no other charge than executing the laws of Georgia in said Walton county.

RICHARD WILLIAMSON.

Before me, February 16, 1805.
J. M. STERRETT, *J. In. Court.*

GEORGIA, *Jefferson county:*

Personally appeared, Richard Williamson and Reuben Allen, both of the county of Walton and State aforesaid, who, being duly sworn, deposeth and saith: that they both settled in that country in the years 1793 and 1794, under a full conviction that the lands on which they resided and made settlement were within the limits of South Carolina, until some time afterward being informed that South Carolina had ceded that tract of country to the General Government. We then remonstrated to the Government of the United States to recede said tract of country to South Carolina again; some time afterwards we received information that Congress had ceded said tract of country to Georgia; and further saith, that they never paid any tax, nor were taxes exacted of them from the State of North Carolina, nor ever applied to the Government of North Carolina for protection.

RICHARD WILLIAMSON,
REUBEN ALLEN.

Before me, 16th February, 1805.
J. M. STERRETT, *J. In. Court.*

A copy of a letter from His Excellency James Turner, Governor of the State of North Carolina.

SIR: I have the honor to acknowledge the receipt of your Excellency's favor of the 17th February last, covering two affidavits, which came to hand but a few days past; for the cause of such a long passage I am at a loss to account.

I wrote your Excellency the 12th of that month, and enclosed an extract from a letter I had received from John Williams, Esq., one of the members of the Legislature from the county of Buncombe, on the subject-matter contained in the affidavits of your Excellency enclosed, which, when received, I hope explained satisfactorily what actuated the citizens of North Carolina in doing what your Excellency deems an outrage on the citizens of Walton county.

The situation of any people must be truly deplorable, when a due course of law and justice

cannot be exercised; but doubly so when jurisdiction is claimed and alternately exercised by different governments, and the people divided in opinion among themselves, as to which of the governments jurisdiction rightly belongs. Such, if I am rightly informed, is the situation in which the settlers at the head of French and Broad river at present are placed; and thus they are doomed to remain, by the dissent your Excellency has made to one of the most important principles contained in the laws of North Carolina passed for the purpose of adjusting the boundary between our States, until a meeting of the Legislatures of the two States shall take place, and relieve them by enacting such laws as will insure the boundary between the States to be ascertained.

The history your Excellency has given respecting the manner the territory ceded by South Carolina to the United States was acquired by Georgia, I believe correct; and that the impressions of many might be the same, in settling on that territory, as those of the persons whose affidavits you have enclosed me, I am not disposed to doubt; for it is well known that there were settlers on that territory which North Carolina never did consider under her jurisdiction or within her limits.

Had Georgia extended her jurisdiction no further than over the settlers of that description, her right of doing so would not have been questioned by North Carolina, neither would there have been any interference of jurisdiction; but there are settlers of another description, said by Georgia to be on that territory, and over whom she claims jurisdiction. Her right of doing so never has been, nor ever will be acknowledged by North Carolina, until the boundary between the two States is ascertained, and it shall appear to be her right.

It has been the cause of no small inquiry, to know by what right or by what authority Georgia has assumed jurisdiction over a tract of territory settled by, and at all times considered by the citizens themselves, as well as by Government, under the jurisdiction of North Carolina. Surely, it will not be contended for, on behalf of Georgia, that North Carolina ought to relinquish the jurisdiction which she has exercised for many years over a settlement which she believes to be within her boundary, and without being even consulted on the occasion, merely because Georgia may imagine herself entitled to it.

If I am rightly informed as to the cause of an interference of jurisdiction between North Carolina and Georgia, it is this: the line between North Carolina and South Carolina never was extended (if as far) beyond the Blue Ridge of mountains which now divides South Carolina and Georgia. When North Carolina extended her settlements to the west of those mountains, and established the county of Buncombe, which was bounded on the south by South Carolina, there was nothing to direct the citizens (who in frontier counties are not the best informed as to fixing on proper degrees of latitude) where the limits of the State probably would be. Under these circumstances, entries of land were made, and titles granted to a number of individuals who settled on them, believing at the time, they were within the limits of North Carolina, and still continue in that opinion, although Georgia claims jurisdiction over them.

The honest and innocent individuals of the above description, "who encountered all the difficulties attendant on settling a mountainous and frontier country," whose rights may be affected on running the line, and the persons which North Carolina discovers such "zeal" to protect in their property, honestly acquired, as well as to preserve her faith inviolate; that induces her strenuously to insist on the titles to lands, granted by either of the States, to be confirmed on the lines being run, not because the advantage may be thought to be on her side, and that she may be benefitted in a pecuniary point of view—such a principle she disdains, and the sacrifices she has heretofore made, on similar occasions, are sufficient proof it it—but because she considers the faith of a State, when fairly and honestly pledged to individuals, sacred, and not to be violated or broken but in the most extreme cases; denying, in the most positive and unequivocal manner, that she ever granted an acre of land knowingly without her limits.

The information your Excellency has received, and that which I have been able to collect, respecting the quantity of land granted by North Carolina, either previous or subsequent to Georgia's having acquired the territory ceded by South Carolina to the General Government, within that territory, is very different. The information I have received on the subject is, that but a small quantity, if any, of either description, will be affected, should the proviso in the act of North Carolina be consented to by Georgia. As to the grants of former description, no knowledge can be obtained but from the opinions of those acquainted with the transactions of that country; but of the latter, some opinion, though not a correct one, may be formed. The enclosed paper, which I have procured from the Secretary's office, and which may be relied on as correct, contains a list of every grant, and the number of acres in each, that have issued to the county of Buncombe, (the only county grants can issue to, by which Georgia can be affected,) since April, 1802, (the time Georgia acquired that territory;) from a view of which, I am persuaded, your Excellency will think, with me, that, to judge from the quantities contained in the several grants, but a small quantity, if any, was entered or secured through motives of speculation; nor will the quantity granted appear otherwise than small, when the situation and extent of that country are viewed, it being one hundred and thirty miles in extent and from sixty to seventy in breadth, the most recently settled of any other county in the State, and abounds, in every part, in unappropriated lands. Allowing a proportionate quantity of the land granted to be in the quarter to affect Georgia, it cannot be an object with her, who abounds as much, or probably more than any other State in the Union in unappropriated lands, to insist on the establishment of a principle that manifestly tends to individual oppression.

Your Excellency's apprehensions, therefore, that the whole of the territory in question is covered

by the grants of North Carolina, I conceive are not well founded. Neither is your information correct, (if I am rightly informed,) that very few of the inhabitants on the territory in question are holders of land granted by North Carolina, but that the holders under the North Carolina grants reside at a considerable distance from the land. Should the boundary of Georgia extend as far north as she claims jurisdiction, my information induces me to believe that many of the present inhabitants are holders of land under North Carolina titles, which will become forfeited, unless the proviso mentioned is agreed to by Georgia.

The usage of nations, as well as the uniform policy adopted by every State in the Union, (Georgia in this instance excepted,) on fixing their boundary with a sister State, tends to prove that individuals' property, in such cases, ought to be protected; and as the territory in question, at the time it was acquired by Georgia, was known by her to be in the situation it now is, as respects the line and the lands entered, or very nearly so, there appears no reason, founded on justice, why we should depart from the uniform custom that has prevailed.

Your Excellency may be assured that North Carolina is as truly desirous as Georgia can be, and as much so as any State in the Union, of living on terms of harmony and good understanding with her sister States; nor is there a State in the Union who would regret more than she would a departure on her part from those just principles which free and independent States ought at all times to observe towards each other; nor would she on the present occasion persevere with such earnestness, were she not fully persuaded of the justness of the principle for which she contends.

On mature reflection, I am compelled to decline acceding to the proposition made by your Excellency, of running the line between our States, and leaving the question of the proviso in the act of this State to the after-deliberation of the Legislatures of the two States, from a thorough belief that, were I to accede to it, I should be acting directly in opposition to the known will and intention of the Legislature, and contrary, in my opinion, to propriety; nor do I think that any partial proceedings would be attended with beneficial effects—indeed, it is to be apprehended they might tend to irritate more than conciliate.

I have and shall continue to discountenance, by every means in my power, all outrages and violences, on the part of the citizens of North Carolina, towards those of Georgia, in the quarter now the subject of controversy; and hope the like will be done by your Excellency, on the part of the citizens of your State, to prevent, as far as possible, those animosities which but too frequently prevail in such cases.

I very much lament that so desirable an object as that of having the line ascertained and marked between the two States must be postponed for such a length of time; but it appears inevitable, under the laws of this State, while your Excellency retains your present opinion.

I have the honor to be, sir, with high consideration and respect, your Excellency's most obedient servant,

J. TURNER.

His Exc'y JOHN MILLEDGE,
Governor of the State of Georgia.

An Act to lay out and establish a county in a territory lately acquired by cession from the General Government.

Whereas, by certain articles of agreement and cession entered into on the 24th day of April, 1802, by and between the Commissioners of the State of Georgia on the one part, and the Commmissioners of the United States on the other part, a tract of territory, situated south of the southern boundary of the States of North Carolina and Tennessee, and adjoining this State, was ceded by the United States to the State of Georgia: and whereas the Indian claim to that part of the said territory lying at the head of French Broad river, and within the following boundaries, to wit: beginning on the summit of the ridge of mountains called the Blue Ridge, where the same is crossed by the latitude thirty-five degrees north of the equator; thence, with the said ridge of mountains, to the temporary boundary line, run by General Pickens, between the Cherokee tribe of Indians and the State of South Carolina; along the said boundary line, north, forty-five degrees east, to an ash tree, at the distance of forty miles on the said line from Tugalo river, near the Brass Town creek; thence, along the boundary line run by Colonel Meigs, under the authority of Congress, north, fifty degrees west, to the intersection of the said line with parallel of latitude thirty-five degrees north of the equator; thence, along the said parallel of latitude, to the summit of the Blue Ridge aforesaid, was extinguished by treaty held and concluded near Tellico, on the 2d day of October, 1798; and a considerable settlement has been formed thereat, and the inhabitants thereof have petitioned this Legislature to be incorporated in the Government of this State:

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met,* That the territory lying within the boundary last mentioned, to which the Indian claim hath been extinguished, shall be a county, to be called and known by the name of Walton.

SEC. 2. *And be it further enacted,* That Richard Williamson, Kitt Smith, James Lefoy, Ebenezer Fain, and Reuben Allen, be, and they are hereby, appointed justices of the inferior court of the said county, which court shall have the same powers and jurisdiction as the inferior courts of other counties within this State.

SEC. 3. *And be it further enacted,* That the justices of the inferior courts aforesaid, or any three or more of them, shall be, and they are hereby, invested with full power and authority to decide and fix upon some convenient situation, as nearly central as circumstances will admit of, on which shall be erected a court house and jail; to define the militia company districts, not exceeding two in the said county, which shall be added to and

become a part of the third brigade of the third division of the militia of this State; to appoint two constables, one for each militia company's district, who shall severally hold their appointments for two years from and after the date of their appointments, and until successors shall be appointed and qualified; to levy a county tax on the inhabitants of the said county, in such manner as they may deem least oppressive, for the purpose of raising a fund for building the court-house and jail, and other county purposes; and to appoint a collector to collect the same, who shall give bond, in the penalty of double the sum to be collected, with such security as the said justices may approve of, for the faithful discharge of his duty and the trust reposed in him.

SEC. 4. *And be it further enacted,* That, until a court-house shall be completed at the permanent seat, to be fixed upon as aforesaid, the court shall be holden, and other public business of the county transacted, at the dwelling-house of William Allen.

SEC. 5. *And be it further enacted,* That the justices of the inferior court aforesaid, or any three or more of them, shall assemble at the place herein before pointed out for holding courts, on the first Monday in January, 1804; and after publicly administering to each other, and severally subscribing the oaths prescribed by the laws and constitution of this State to be administered to the justices of the inferior courts, they shall nominate two justices of the peace in each militia company district, and transmit such nomination to his Excellency the Governor, without delay, in order that commissions may issue for such justices of the peace.

SEC. 6. *And be it further enacted,* That the inhabitants of the said county shall be entitled to elect and return one Senator and one Representative to the Legislature, under the same regulations and restrictions as other counties in this State: and to elect militia officers in the manner pointed out by the militia laws of this State.

SEC. 7. *And be it further enacted,* That it shall be the duty of the said justices of the inferior court, or any two or more of them, to give notice at the place appointed for holding courts, and at two other of the most public places within the county, twenty days previous to the day appointed for holding an election, and shall hold an election for clerk of the said court, sheriff, coroner, and county surveyor; which election shall be by ballot of all the free male white citizens of the said county above the age of twenty-one years, and shall be opened, held, and conducted by the said justices, in the same manner as other elections for county officers are held within this State; and the persons having the highest number of votes shall be declared duly elected, and shall hold their offices during the time prescribed by the laws and constitution of this State, and shall be commissioned by the Governor, and take the oaths of office prescribed by law.

SEC. 8. *And be it further enacted,* That all free white persons, citizens of the United States, being actual settlers within the limits of the said county, on the sixteenth day of May last past, who may henceforward conform to the laws and Government of this State, shall be entitled to a preference, founded on occupancy, to the lands on which such persons were so settled, not exceeding two hundred acres to any one family, and shall receive grants for the same, free of purchase, office fees excepted, when or so soon after as an office shall be opened for granting out the said land, as circumstances will permit.

SEC. 9. *And be it further enacted,* That his Excellency the Governor be authorized, and he is hereby requested, to make immediate application to the Government of North Carolina to co-operate with this State in running out and plainly marking the dividing line between the States, without delay, and for this purpose to appoint three fit and proper persons, with full power, on the part of this State, to join such persons as may be appointed with like powers, on the part of the State of North Carolina, to run and plainly mark the said dividing line. And this act shall stand suspended, and not take effect, until the aforesaid line shall have been run accordingly; provided the same shall be so run and marked within six months of the passing of this act.

ABRA'M JACKSON,
Speaker House of Reps.
DAVID EMANUEL,
President of the Senate.

Assented to, December 10, 1803.
JOHN MILLEDGE, *Gov'r.*

An Act appointing Commissioners for ascertaining and dividing the line between this State and the State of North Carolina.

Whereas, by an act of the Legislature of South Carolina, passed the eighth day of March, in the year one thousand seven hundred and eighty-seven, certain delegates were fully authorized to assign over to the United States all that tract of territory within the chartered limits of the said State, lying and being within the boundaries and limits hereinafter described, that is to say, all the territory or tract of country included within the river Mississippi and a line beginning at that part of the said river Mississippi which is intersected by the southern boundary line of North Carolina, and continuing along the said boundary line until it shall intersect a ridge or chain of mountains which divides the eastern from the western waters; thence along the said ridge of mountains to where it intersects a line to be drawn due west from the head of the southern branch of Tugalo river to the said mountains, and thence to run a due west course to the river Mississippi: and whereas the United States did accept of a deed of cession, executed by the said delegates in due form, on the seventh day of August, in the year of our Lord one thousand seven hundred and eighty-seven: and whereas, that previous to the date of the aforesaid deed of cession, that is to say, in the year of our Lord one thousand seven hundred and seventy-two, the Governors of the then provinces of North and South Carolina, by virtue of an order of George the Third, King of Great Britain,

appointed commissioners to alter the line between the two provinces aforesaid, now States of North and South Carolina, which said line was actually run and ascertained by the said commissioners; and that the said line was continued from the end of the line northwest from Little River, a due west course, to the lands belonging to the Catawba nation of Indians; thence northwardly with their lands, so as to leave the same in South Carolina; thence due west; by which proceeding it evidently appears that all the land comprehended within the limits of Walton county, and as far as the thirty-fifth degree of north latitude, continued to be the property of South Carolina, until their deed of cession to the United States: and whereas articles of agreement and cession were entered into, and signed, sealed, and executed by commissioners duly authorized by the United States and this State, respectively, on the twenty-fourth day of April, in the year of our Lord one thousand eight hundred and two, which were ratified by this State on the sixteenth day of June following, by which articles of agreement and cession aforesaid the United States conveyed to this State both the right of soil and jurisdiction to all the territory within the aforesaid boundaries and limits which the State of South Carolina had any claim to at the time the State made a cession of the same to the General Government:

And whereas the State of Georgia did, being vested by the articles of agreement and cession aforesaid with the right of soil and jurisdiction of the lands within the limits of the county of Walton, pass an act on the tenth day of December, in the year of our Lord one thousand eight hundred and three, entitled "An act to establish a county in the territory lately acquired by a cession of the United States," which said act has been carried completely into effect; and the said county of Walton, in pursuance of the same, hath been duly organized, and the authority of this State exercised therein:

And whereas it is necessary that commissioners, on the part and behalf of this State, should be appointed to meet any commissioners which may hereafter be appointed by the State of North Carolina for the purpose of marking more plainly the line, in every part, designating the county of Walton:

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and by the authority of the same*, That his Excellency the Governor be, and he is hereby, authorized and required to appoint two or more fit and proper persons, as commissioners on the part and behalf of this State, with full and competent power, to meet any two or more commissioners that may be appointed by the State of North Carolina for the purpose of designating more plainly and clearly the line of the aforesaid county of Walton.

ABRAHAM JACKSON,
Speaker of the House of Representatives.
JARED IRWIN,
President of the Senate.

Assented to: December 10, 1805.

SLAVE TRADE.

[Communicated to the House, February 13, 1806.]

To the Senate and House of Representatives of the United States:

It is to us a subject of deep regret that circumstances once more command an address to you in the language of solicitation. In thus calling your attention from objects of importance to those which may perhaps be deemed of inferior moment, we are not actuated by an ignoble passion for renown. Far otherwise; we are perfectly content to pass down the stream of time unnoticed by the world, unrewarded by celebrity. If the purposes which we hold up to view for attainment are but accomplished, entire satisfaction will be ours, though fame record not our actions. The existence of injustice and a wish to eradicate it, have alone drawn us from the obscurity of private life.

Sources of affliction still force themselves upon the feelings of your memorialists in viewing the land of their nativity and affection. Though the horizon in some places has resumed its native lustre, dark clouds intercept its splendor in others. We still hear the clanking fetters of slavery in the dominions of liberty; and we hear them with increasing noise.

That the cause of this injurious change should be legalized, we can but lament. We ask not the interposition of Congress. Though it is believed to be within their inclination, we know it is beyond their power. The object of this memorial is the removal of other evils.

Eminence in the slave trade has long disgracefully distinguished a number of the citizens of an Eastern State. Regardless of their own or their country's reputation, they have long been the inhuman forgers of chains for the sons of Africa. By their means the American flag still continues to flutter on an insulted territory, the witness of the greatest enormities. Parents are torn from children, husbands from wives; in a word, thousands of freemen are annually dragged into slavery, through the instrumentality of the vessels, the citizens, and the produce of the United States; and this, too, in undisguised contravention of the laws of their country. To one of the practices to which the African traders of the place alluded to have resorted for escaping even a chance of punishment, we beg leave to call the attention of the wisdom of the Union. We say chance of punishment, for he who there dares to step forward to assert the laws of the land hazards his life.

It is declared, in the first section of an act of Congress, passed May 10, 1800, unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold any right or property in any vessel employed in the transportation of slaves from one foreign country to another; and any right or property belonging as aforesaid shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same, &c. Under this act, giving the whole forfeiture to the informer, the vessels of those who incur its penalties are libelled and condemned by collusion with their friends. The defendants, by this mockery of justice, purge their vessels from crime, subjecting themselves merely to an inconsiderable expense. From unquestionable authority we are assured of several evasions of this description. To prevent them, and strengthen the provisions of the acts generally upon the subject of the slave trade, we would suggest to Congress the propriety of such an alteration in the law as to entitle the United States, in all cases, to a proportion of the condemned article; and annexing to the persons engaged in this traffic (since shame is a powerful motive to action) a disqualification to hold any office under the United States.

Your memorialists would further suggest another alteration of the penal code. By the same law of 1800, voluntarily serving on board vessels employed in the transportation of slaves from one foreign country to another is declared unlawful. The punishment of this offence is directed to be by indictment. By the existing law, criminal prosecutions can only be supported, with some few exceptions, by *viva voce* testimony. The accused, upon the trial, must be confronted by the witnesses against him. To seamen, the knowledge of infractions of the part of the law last alluded to is usually confined. Persons whose avocations constantly lead them from their homes to distant places, and whose attendance at trial it is of course generally impossible to secure, without subjecting them to the palpable injustice of confinement, or an inconvenience equally great, that of compelling by surety their presence at a particular day, on which, unexpectedly and unavoidably, they may be hundreds of miles from the scene of trial. This difficulty, it is apprehended, would be obviated by removing from written testimony the objection to which it is now liable in criminal prosecutions under the law of 1800, and giving it, in such cases, the force which it possesses in civil actions. We have not been able to discover any objection to depositions fairly taken in the presence of prosecutor and prosecuted. It is, however, with great deference, submitted to the superior judgment of Congress.

We hope that, in thus concisely urging upon your notice some apprehended defects in the laws for discouragement of the worst of crimes, impertinence will not be discoverable. Though the prospect is brightening on the eye of humanity, though the period rapidly advances in which Congress will acquire a capacity of performing, by a single unexpensive act, more good than perhaps ever fell to the lot of a Legislature to accomplish, we have not, hence, conceived ourselves at liberty to view with inactive zeal present excesses, to remedy which a competent authority exists.

Signed, by the order of the American convention for promoting the abolition of slavery, &c., held at Philadelphia, from the 13th to the 15th day of January, 1806.

GERSHOM CRAFT, *President.*

Attest:
JACOB WALN, JR., *Secretary.*

COLONIZATION FROM VIRGINIA.

[Communicated to the Senate, Jan. 16, 1807.]

IN THE HOUSE OF DELEGATES,
December 31, 1800.

Resolved, That the Governor be requested to correspond with the President of the United States on the subject of purchasing lands without the limits of this State, whither persons obnoxious to the laws or dangerous to the peace of society may be removed.

A copy from the Journal of the House of Delegates.

WM. WIRT, *Clk. Ho. Del.*

RICHMOND, *June* 15, 1801.

SIR: I enclose you a resolution of the General Assembly of this Commonwealth, of the last session, by which it is made my duty to correspond with you on the subject of obtaining, by purchase, lands without the limits of this State, to which persons obnoxious to the laws or dangerous to the peace of society may be removed. This resolution was produced by the conspiracy of the slaves which took place in this city and neighborhood last year, and is applicable to that description of persons only. The idea of such an acquisition was suggested by motives of humanity, it being intended by means thereof to provide an alternate mode of punishment for those described by the resolution who, under the existing laws, might be doomed to suffer death. It was deemed more humane, and it is hoped would be found in practice not less expedient, to transport such offenders beyond the limits of the State.

It seems to be the more obvious intention of the Legislature, as inferred from the resolution, to make the proposed acquisition of land in the vacant Western territory of the United States, but it does not appear to me to preclude one without the limits of the Union. If a friendly Power would designate a tract of country within its jurisdiction, either on this continent or on a neighboring island, to which we might send such persons, it is not improbable the Legislature might prefer it. In any event, an alternative could not otherwise than be desirable, since, after maturely weighing the conditions and advantages of each position, the Legislature might still prefer that which appeared to be most eligible.

It is proper to remark, that the latter part of the resolution, which proposes the removal of such persons as are dangerous to the peace of society, may be understood as comprising many to whom the preceding member does not apply. Whether the Legislature intended to give it a more extensive import, or, rather, whether it contemplated removing from the country any but culprits who were condemned to suffer death, I will not undertake to decide. But if the more enlarged construction of the resolution is deemed the true one, it furnishes, in my opinion, a strong additional motive why the Legislature, in disposing of this great concern, should command an alternative of places.

As soon as the mind emerges, in contemplating the subject, beyond the contracted scale of providing a mode of punishment for offenders, vast and interesting objects present themselves to view. It is impossible not to revolve in it the condition of those people, the embarrassment they have already occasioned us, and are still likely to subject us to. We perceive an existing evil, which commenced under our colonial system, with which we are not properly chargeable, or, if at all, not in the present degree; and we acknowledge the extreme difficulty of remedying it. At this point the mind rests upon suspense, and surveys with anxiety obstacles which become more serious as we approach them. It is vain for the Legislature to deliberate on the subject in the extent which it is capable of, with a view to adopt the system of policy which appears to it most wise and just, if it have not the means of executing it. To lead to a sound decision, and make the result a happy one, it is necessary that the field of practicable expedients be opened to its election on the widest possible scale.

Under this view of the subject, I shall be happy to be advised by you whether a tract of land in the Western territory of the United States can be procured for this purpose, in what quarter, and on what terms; and also whether any friendly Power will permit us to remove such persons within its limits, with like precision as to the place and conditions. It is possible a friendly Power may be disposed to promote a population of the kind referred to, and willing to facilitate the measure by co-operating with the accomplishment of it. It may be convenient for you to sound such Powers, especially those more immediately in our neighborhood, on the subject, in all the views which may appear to you to be suitable.

You will perceive that I invite your attention to a subject of great delicacy and importance; one which, in a peculiar degree, involves the future peace, tranquillity, and happiness of the good people of this Commonwealth. I do it, however, in a confidence that you will take that interest in it which we are taught to expect from your conduct through life, which gives you so many high claims to our regard.

With great respect, I have the honor to be, &c.

JAMES MONROE.

THOMAS JEFFERSON,
President of the United States.

WASHINGTON, *Nov.* 24, 1801.

DEAR SIR: I had not been unmindful of your letter of June 15, covering a letter of the House of Representatives of Virginia, and referred to in yours of the 17th instant. The importance of the subject, and the belief that it gave us time for consideration till the next meeting of the Legislature, have induced me to defer the answer to this date. You will perceive that some circumstances connected with the subject, and necessarily presenting themselves to view, would be improper but for your and the legislative ear. Their publication might have an ill effect in more than one quarter. In confidence of attention to this, I shall indulge greater freedom in writing.

Common malefactors, I presume, make no part of the object of that resolution. Neither the numbers nor the nature of their offences seem to require any provisions beyond those practised heretofore, and found adequate to the repression of ordinary crimes. Conspiracy, insurgency, treason, rebellion, among that description of persons who brought on us the alarm, and on themselves the tragedy of 1800, were doubtless within the view of every one; but many perhaps contemplated, and one expression of the resolution might comprehend, a much larger scope. Respect to both opinions makes it my duty to understand the resolution in all the extent of which it is susceptible.

The idea seems to be, to provide for these people by a purchase of lands; and it is asked whether such a purchase can be made of the United States in their Western territory? A very great extent of country, north of the Ohio, has been laid off into townships, and is now at market, according to the provisions of the act of Congress, with which you are acquainted. There is nothing which would restrain the State of Virginia either in the purchase or the application of these lands. But a purchase by the acre might, perhaps, be a more expensive provision than the House of Representatives contemplated. Questions would also arise, whether the establishment of such a colony within our limits, and to become a part of our Union, would be desirable to the State of Virginia itself, or to the other States, especially those who would be in its vicinity.

Could we procure lands beyond the limits of the United States, to form a receptacle for these people? On our northern boundary, the country not occupied by British subjects is the property of Indian nations, whose title would have to be extinguished, with the consent of Great Britain, and the new settlers would be British subjects. It is hardly to be believed that either Great Britain or the Indian proprietors have so disinterested a regard for us as to be willing to relieve us by receiving such a colony themselves, and as much to be doubted whether that race of men could long exist in so rigorous a climate. On our western and southern frontiers Spain holds an immense country, the occupancy of which, however, is in the Indian natives, except a few insulated spots possessed by Spanish subjects. It is very questionable, indeed, whether the Indians would sell; whether Spain would be willing to receive these people, and nearly certain that she would not alienate the sovereignty. The same question to ourselves would recur here also, as did in the first case: Should we be willing to have such a colony in contact with us? However our present interests may restrain us within our limits, it is impossible not to look forward to distant times, when our rapid multiplication will expand itself beyond those limits, and cover the whole northern, if not the southern continent, with a people speaking the same language, governed in similar forms and by similar laws. Nor can we contemplate with satisfaction either blot or mixture on that surface. Spain, France, and Portugal hold possessions on the southern continent, as to which I am not well enough informed to say how far they might meet our views. But either there or in the northern continent, should the constituted authorities of Virginia fix their attention of preference, I will have the dispositions of those Powers sounded in the first instance.

The West Indies offer a more probable and practicable retreat for them. Inhabited already by a people of their own race and color, climates congenial with their natural constitution, insulated from the other descriptions of men, nature seems to have formed these islands to become the receptacles of the blacks transplanted into this hemisphere. Whether we could obtain from the European sovereigns of those islands leave to send thither the persons under contemplation, I cannot say; but I think it more probable than the former propositions, because of their being already inhabited more or less by the same race. The most promising portion of them is the island of St. Domingo, where the blacks are established into a sovereignty *de facto*, and have organized themselves under regular laws and government. I should conjecture that their present ruler might be willing, on many considerations, to receive even that description which would be exiled for acts deemed criminal by us, but meritorious, perhaps, by him. The possibility that these exiles might stimulate and conduct vindictive or predatory descents on our coasts, and facilitate concert with their brethren remaining here, looks to a state of things between that island and us not probable on a contemplation of our relative strength, and of the disproportion daily growing; and it is overweighed by the humanity of the measures proposed, and the advantages of disembarrassing ourselves of such dangerous characters. Africa would offer a last and undoubted resort, if all others more desirable should fail us. Whenever the Legislature of Virginia shall have brought its mind to a point, so that I may know exactly what to propose to foreign authorities, I will execute their wishes with fidelity and zeal. I hope, however, they will pardon me for suggesting a single question for their own consideration. When we contemplate the variety of countries and of sovereigns towards which we may direct our views; the vast revolutions and changes of circumstances which are now in a course of progression; the possibilities that arrangements now to be made with a view to any particular place may, at no great distance of time, be totally deranged by a change of sovereignty, of government, or of other circumstances, it will be for the Legislature to consider whether, after they shall have made all those general provisions which may be fixed by legislative authority, it would be reposing too much confidence in their Executive to leave the place of relegation to be decided on by them, and executed with the aid of the Federal Executive. They could accommodate their arrangements to the actual state of things in which countries or Powers may be found to exist at that day, and may prevent the effect of the law from being defeated by intervening changes. This, however, is for them to decide. Our duty will be to respect their decision. Accept assurances, &c.

TH. JEFFERSON.

To Governor MONROE.

RICHMOND, *December* 21, 1801.

SIR: I have the pleasure to communicate to the General Assembly a copy of my correspondence with the President of the United States, in compliance with the resolution of the 31st of December last, relative to the purchase of lands without the limits of the State, to which persons obnoxious to its laws or dangerous to the peace of society, may be removed. As it was known that the United States had lands for sale in the Territory lying between the Ohio and the Mississippi, a proposition to make the acquisition by purchase conveyed the idea of a preference for a tract in that quarter; but, as such preference was not declared, and a liberal construction of the resolution admitted a greater scope, I thought it my duty to open the subject in that light to the President. His reply has stated fully and ably the objections which occur to such an establishment within the limits of the United States. He also presents to view all the other places on this continent, and elsewhere, which furnish alternatives, with the advantages and disadvantages attending each; and assures us of the promptitude and zeal with which he will co-operate in carrying into effect whatever plan the Legislature may adopt in reference to the object contemplated. It remains, therefore, for the General Assembly to explain more fully the description of persons who are to be thus transported, and the place to which it is disposed to give the preference. As soon as its sense is declared on those points, I shall hasten to communicate the same to the President, and shall not fail to lay the result before you at your next session. It is proper to add, that it is the wish of the President that the communication be considered as confidential.

I am, sir, with great respect and esteem, your very humble servant,

JAS. MONROE.

To the SPEAKER *of the House of Delegates.*

IN THE HOUSE OF DELEGATES,
Saturday, January 16, 1802.

The Legislature of this Commonwealth, by their resolution of December last, having authorized the Governor to correspond with the President of the United States relative to the purchase of lands without the limits of this State, to which persons obnoxious to the laws or dangerous to the peace of society might be removed, from which general expressions a difference of construction has prevailed; to reconcile which, recourse must be had to the actual state of things which produced the resolution: therefore,

Resolved, That, as the resolution was not intended to embrace offenders for ordinary crimes,

to which the laws have been found equal, but only those for conspiracy, insurgency, treason, and rebellion, among those particular persons who produced the alarm in this State in the Fall of 1800, the Governor be requested, in carrying the said resolution into effect upon the construction here given, to request of the President of the United States, in procuring the lands, to prefer the continent of Africa, or any of the Spanish or Portuguese settlements in South America.

Resolved, also, That the Governor be requested to correspond with the President of the United States, for the purpose of obtaining a place, without the limits of the same, to which free negroes or mulattoes, and such negroes or mulattoes as may be emancipated, may be sent, or choose to remove as a place of asylum; and that it is not the wish of the Legislature to obtain, on behalf of those who may remove or be sent thither, the sovereignty of such place.

Resolved, also, That the Governor lay before the next General Assembly the result of his communications, to be subject to their control.

WM. WIRT.
Clerk House of Delegates.

January 23, 1802.—Agreed to by the Senate.
H. BROOKES,
Clerk of the Senate.

A copy. Test:
JAMES PLEASANTS, Jr.,
Clerk House of Delegates.

RICHMOND, *February* 2, 1805.

GENTLEMEN: I have the honor to enclose a resolution of the General Assembly, for an explanation of which I beg leave to refer you to the copies of letters which passed between the President of the United States and Governor Monroe, and to one written by the President to me, and by this mail transmitted to our Senators in Congress; but, for more satisfactory information, I have to refer you to the President himself, to whom I shall apologise for requesting you to trouble him on this occasion; but I know that he will with pleasure give you all the information you may require. From the nature of the delicate business contemplated in the resolution, you will see the propriety of its being considered as secret and confidential.

I am, gentlemen, with great respect, your obedient servant,

JOHN PAGE.

The REPRESENTATIVES FROM VIRGINIA,
in Congress.

VIRGINIA.—General Assembly begun and held at the Capitol, in the City of Richmond, on Monday, the third day of December, in the year of our Lord one thousand eight hundred and four, and of the Commonwealth the twenty-ninth:

Resolved, That the Senators of this State in the Congress of the United States be instructed, and the Representatives requested, to exert their best efforts for the purpose of obtaining from the General Government a competent portion of territory, in the country of Louisiana, to be appropriated to the residence of such people of color as have been or shall be emancipated in Virginia, or may hereafter become dangerous to the public safety: *Provided*, That no contract or arrangement respecting such territory shall be obligatory on this Commonwealth until ratified by the Legislature.

CREED TAYLOR,
Speaker of the Senate.
H. HOLMES,
Speaker House of Delegates.

A copy. Test:
JAMES PLEASANTS, Jr.,
Clerk House of Delegates.

WASHINGTON *December* 27, 1804.

DEAR SIR: Resuming the subject of the resolutions of the House of Delegates of December 31, 1800, January 16, 1802, and February 3, 1804, I have it not in my power to say that any change of circumstances has taken place which enables me yet to propose any specific asylum for the persons who are the subjects of our correspondence. The Island of St. Domingo, our nearest and most convenient recourse, is too unsettled in the conditions of its existence to be looked to as yet for any permanent arrangements: and the European nations having territories in the same quarter, and possessing the same kind of population, are not likely to risk any change in the present state of that population. Whether the inhabitants of our late acquisition beyond the Mississippi, or the National Legislature, would consent that a portion of that country should be set apart for the persons contemplated, is not within my competence to say.

My last information as to Sierra Leone, is, that the company were proposing to deliver up their colony to their Government. Should this take place, it might furnish occasion for another effort to procure an incorporation of ours into it. An attack, during the war, has done the settlement considerable injury.

I beg you to be assured that, having the object of the House of Delegates sincerely at heart, I will keep it under my constant attention, and omit no occasion which may occur of giving it effect.

Accept my affectionate salutations and assurances of great respect and consideration.

TH. JEFFERSON.

Governor PAGE.

CUMBERLAND ROAD.

[Communication to Congress, January 31, 1807.]

To the Senate and House of Representatives of the United States:

In execution of the act of the last session of Congress, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," I appointed Thomas Moore of Maryland, Joseph Kerr of Ohio, and Eli Williams of Maryland,

commissioners to lay out the said road, and to perform the other duties assigned to them by the act. The progress which they made in the execution of the work, during the last season, will appear in their report now communicated to Congress; on the receipt of it, I took measures to obtain consent, for making the road of the States of Pennsylvania, Maryland, and Virginia, through which the commissioners propose to lay it out. I have received acts of the Legislature of Maryland and Virginia, giving the consent desired; that of Pennsylvania has the subject still under consideration, as is supposed. Until I receive full consent to a free choice of route through the whole distance, I have thought it safest neither to accept nor reject finally the partial report of the commissioners.

Some matters suggested in the report belong exclusively to the Legislature.

TH. JEFFERSON.

JANUARY 31, 1807.

The Commissioners acting by appointment under the law of Congress, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," beg leave to report to the President of the United States, and to premise that the duties imposed by the law became a work of greater magnitude, and a task much more arduous, than was conceived before entering upon it; from which circumstance, the commissioners did not allow themselves sufficient time for the performance of it before the severity of the weather obliged them to retire from it, which was the case in the first week in the present month, (December.) That, not having fully accomplished their work, they are unable fully to report a discharge of all the duties enjoined by the law; but, as the most material and principal part has been performed, and as a communication of the progress already made may be useful and proper during the present session of Congress, and of the Legislatures of those States through which the route passes, the commissioners respectfully state: that at a very early period it was conceived that the maps of the country were not sufficiently accurate to afford a minute knowledge of the true courses between the extreme points on the rivers, by which the researches of the commissioners were to be governed; a survey for that purpose became indispensable, and considerations of public economy suggested the propriety of making this survey precede the personal attendance of the commissioners.

Josias Thompson, a surveyor of professional merit, was taken into service and authorized to employ two chain-carriers and a marker, as well as one vaneman, and a packhorse man, and horse, on public account; the latter being indispensable and really beneficial in accelerating the work. The surveyors' instructions are contained in document No. 1, accompanying this report.

Calculating on a reasonable time for the performance of the instructions to the surveyor, the commissioners, by correspondence, fixed on the 1st day of September last, for their meeting at Cumberland, to proceed in the work; neither of them, however, reached that place until the 3d of that month, on which day they all met.

The surveyor having, under his instructions, laid down a plat of his work, showing the meanders of the Potomac and Ohio rivers, within the limits prescribed for the commissioners, as also the road between those rivers which is commonly travelled from Cumberland to Charlestown, in part called Braddock's road; and the same being produced to the commissioners, whereby straight lines and their true courses were shown between the extreme points on each river, and the boundaries which limit the powers of the commissioners being thereby ascertained, serving as a basis whereon to proceed in the examination of the grounds and face of the country; the commissioners thus prepared commenced the business of exploring; and in this it was considered that a faithful discharge of the discretionary powers vested by the law made it necessary to view the whole to be able to judge of a preference due to any part of the grounds, which imposed a task of examining a space comprehending upwards of two thousand square miles; a task rendered still more incumbent by the solicitude and importunities of the inhabitants of every part of the district, who severally conceived their grounds entitled to a preference.

It becoming necessary, in the interim, to run various lines of experiment for ascertaining the geographical position of several points entitled to attention, and the service suffering great delay for want of another surveyor, it was thought consistent with the public interest to employ, in that capacity, Arthur Rider, the vaneman, who had been chosen with qualifications to meet such an emergency, and whose service as vaneman could then be dispensed with; he commenced, as surveyor, on the 22d day of September, and continued so at field-work until the first day of December, when he was retained as a necessary assistant to the principal surveyor, in copying field notes as hastening the draught of the work to be reported. The proceedings of the commissioners are specially detailed in their general journal, compiled from the daily journal of each commissioner, to which they beg leave to refer under mark No. 2.

After a careful and critical examination of all the grounds within the limits prescribed, as well as the grounds and ways out from the Ohio westwardly at several points, and examining the shoal parts of the Ohio river as detailed in the table of soundings, stated in their journal, and after gaining all the information, geographical, general and special, possible and necessary, towards a judicious discharge of the duties assigned them, the commissioners repaired to Cumberland, to examine and compare their notes and journals, and determine upon the direction and location of their route.

In this consultation the governing objects were:

1st. Shortness of distance between navigable points on the eastern and western waters.

2d. A point on the Monongahela best calcu-

lated to equalise the advantages of this portage in the country within reach of it.

3d. A point on the Ohio river most capable of combining certainty of navigation with road accommodation; embracing, in this estimate, remote points westwardly, as well as present and probable population on the north and south.

4th. Best mode of diffusing benefits with least distance of road.

In contemplating these objects, due attention was paid as well to the comparative merits of towns, establishments, and settlements already made, as to the capacity of the country with the present and probable population.

In the course of arrangement, and in its order, the first point located for the route was determined and fixed at Cumberland, a decision founded on propriety, and in some measure on necessity, from the circumstance of a high and difficult mountain called Nobley, laying and confining the east margin of the Potomac, so as to render it impossible of access on that side without immense expense, at any point between Cumberland, and where the road from Winchester to Gwynn's crosses, and even there the Nobley mountain is crossed with much difficulty and hazard. And this upper point was taxed with another formidable objection; it was found that a high range of mountains called Dan's, stretching across from Gwynn's to Potomac, above this point, precluded the opportunity of extending a route from this point in a proper direction, and left no alternative but passing by Gwynn's; the distance from Cumberland to Gwynn's being upwards of a mile less than from the upper point, which lies ten miles by water above Cumberland, the commissioners were not permitted to hesitate in preferring a point which shortens the portage as well as the Potomac navigation.

The point on the Potomac being viewed as a great repository of produce which a good road will bring from the west of Laurel Hill, and the advantages which Cumberland, as a town, has in that respect over an unimproved place, are additional considerations operating forcibly in favor of the place preferred.

In extending the route from Cumberland, a triple range of mountains stretching across from Jening's run in measure with Gwynn's, left only the alternative of laying the road up Will's creek for three miles, nearly at right angles with the true course, and then by way of Jening's run, or extending it over a break in the smallest mountain on a better course by Gwynn's to the top of Savage mountain: the latter was adopted, being the shortest, and will be less expensive in hill-side digging over a sloped route than the former, requiring one bridge over Will's creek, and several over Jening's run, both very wide and considerable streams in high water; and a more weighty reason for preferring the route by Gwynn's is, the great accommodation it will afford travellers from Winchester by the upper point who could not reach the route by Jening's run short of the top of Savage, which would withhold from them the benefit of an easy way up that mountain. It is, however, supposed that those who travel from Winchester by way of the upper point to Gwynn's, are in that respect more the dupes of common prejudice than judges of their own ease, as it is believed the way will be as short, and on much better ground, to cross the Potomac below the confluence of the north and south branches (thereby crossing these two, as well as Patterson's creek, in one stream, equally fordable in the same season) than to pass through Cumberland to Gwynn's. Of these grounds, however, the commissioners do not speak from actual view, but consider it a subject well worthy of future investigation.

Having gained the top of Allegany mountain, or rather the top of that part called Savage, by way of Gwynn's, the general route as it respects the most important points, was determined as follows, viz:

From a stone at the corner of lot No. 1, in Cumberland, near the confluence of Will's creek and the north branch of Potomac river; thence extending along the street westwardly, to cross the hill lying between Cumberland and Gwynn's, at the gap where Braddock's road passes it; thence near Gwynn's and Jesse Tomlinson's, to cross the Big Youghiogana, near the mouth of Rogers' run, between the crossing of Braddock's road and the confluence of the streams which form the Turkey foot; thence to cross Laurel Hill, near the forks of Dunbar's run, to the west foot of that hill, at a point near where Braddock's old road reached it, near Guest's old place, now Colonel Isaac Mason's; thence through Brownsville and Bridgeport, to cross the Monongahela river below Josias Crawford's ferry; and thence on as straight a course as the country will admit to the Ohio at, a point between the mouth of Wheelen creek and the lower point of Wheelen island.

In this direction of the route, it will lay about twenty-four and a half miles in Maryland, seventy-five miles and a half in Pennsylvania, and twelve miles in Virginia; distances which will be in a small degree increased by meanders, which the bed of the road must necessarily make between the points mentioned in the location; and this route, it is believed, comprehends more important advantages than could be afforded in any other, inasmuch as it has a capacity at least equal to any other in extending advantages of a highway, and at the same time establishes the shortest portage between the points already navigated, and on the way accommodates other and nearer points to which navigation may be extended, and still shorten the portage.

It intersects Big Youghiogana at the nearest point from Cumberland, then lies nearly parallel with that river for the distance of twenty miles, and at the west foot of Laurel Hill lies within five miles of Connelsville, from which the Youghiogana is navigated; and in the same direction the route intersects at Brownsville, the nearest point on the Monongahela river within the district. The improvement of the Youghiogana navigation is a subject of too much importance to remain long neglected; and the capacity of

that river, as high up as the falls, (twelve miles above Connelsville,) is said to be equal, at a small expense, with the parts already navigated below. The obstructions at the falls, and a rocky rapid near Turkey Foot, constitute the principal impediments in that river to the intersection of the route, and as much higher as the stream has a capacity for navigation; and these difficulties will doubtless be removed when the intercourse shall warrant the measure. Under these circumstances the portage may be thus stated:

	Miles.
From Cumberland to Monongahela -	66½
From Cumberland to a point in measure with Connelsville, on the Youghiogana river - - - - - - - - -	51½
From Cumberland to a point in measure with the lower end of the falls of Youghiogana, which will lie two miles north of the public road - - - - - -	43
From Cumberland to the intersection of the route with the Youghiogana river -	34

Nothing is here said of the Little Youghiogana, which lies nearer Cumberland; the stream being unusually crooked, its navigation can only become the work of a redundant population.

The point which this route locates, at the west foot of Laurel Hill, having cleared the whole of the Alleghany mountain, is so situated as to extend the advantages of an easy way through the great barrier, with more equal justice to the best parts of the country between Laurel Hill and the Ohio. Lines from this point to Pittsburg and Morgantown, diverging nearly at the same angle, open upon equal terms to all parts of the Western country that can make use of this portage; and which may include the settlements from Pittsburg, up Big Beaver, to the Connecticut reserve, on Lake Erie, as well as those on the southern borders of the Ohio and all the intermediate country.

Brownsville is nearly equidistant from Big Beaver and Fishing Creek, and equally convenient to all the crossing places on the Ohio between these extremes. As a port, it is at least equal to any on the Monongahela within the limits, and holds superior advantages in furnishing supplies to emigrants, traders, and other travellers by land or water.

Not unmindful of the claims of towns, and their capacity of reciprocating advantages on public roads, the commissioners were not insensible of the disadvantage which Uniontown must feel from the want of that accommodation which a more southwardly direction of the route would have afforded; but as that could not take place without a relinquishment of the shortest passage, considerations of public benefit could not yield to feelings of minor import. Uniontown being the seat of justice for Fayette county, Pennsylvania, is not without a share of public benefits, and may partake of the advantages of this portage upon equal terms with Connelsville, a growing town, with the advantage of respectable water-works adjoining, in the manufactory of flour and iron.

After reaching the nearest navigation on the western waters at a point best calculated to diffuse the benefits of a great highway in the greatest possible latitude east of the Ohio, it was considered that, to fulfil the objects of the law, it remained for the commissioners to give such a direction to the road as would best secure a certainty of navigation on the Ohio at all seasons, combining, as far as possible, the inland accommodation of remote points westwardly.

It was found that the obstructions in the Ohio within the limits, between Steubenville and Grave Creek, lay principally above the town and mouth of Wheeling; a circumstance ascertained by the commissioners in their examination of the channel, as well as by common usage, which has long given a decided preference to Wheeling as a place of embarkation and port of departure in dry seasons. It was also seen that Wheeling lay in a line from Brownsville to the centre of the State of Ohio and Post Vincennes. These circumstances favoring and corresponding with the chief objects in view in this last direction of the route, and the ground from Wheeling westwardly being known of equal fitness with any other way out from the river, it was thought most proper, under these several considerations, to locate the point mentioned below the mouth of Wheeling. In taking this point in preference to one higher up, and in the town of Wheeling, the public benefit and convenience were consulted, inasmuch as the present crossing place over the Ohio from the town is so contrived and confined as to subject passengers to extraordinary ferriage and delay, by entering and clearing a ferry-boat on each side of Wheeling island, which lies before the town, and precludes the opportunity of fording when the river is crossed in that way above and below the island. From the point located, a safe crossing is afforded at the lower point of the island by a ferry in high, and a good ford at low water.

The face of the country within the limits prescribed is generally very uneven, and in many places broken by a succession of high mountains and deep hollows, too formidable to be reduced within five degrees of the horizon, but by crossing them obliquely, a mode which, although it imposes a heavy task of hill-side digging, obviates generally the necessity of reducing hills and filling hollows, which, on these grounds, would be an attempt truly quixotic. This inequality of the surface is not confined to the Allegany mountain; the country between the Monongahela and Ohio rivers, although less elevated, is not better adapted for the bed of a road, being filled with impediments of hills and and hollows which present considerable difficulties, and wants that superabundance and convenience of stone, which is found in the mountain.

The indirect course of the road now travelled, and the frequent elevations and depressions which occur, that exceed the limits of the law, preclude the possibility of occupying it in any extent, without great sacrifice of distance, and forbid the use of it, in any one part, for more than half a mile, or more than two or three miles in the whole.

The expense of rendering the road now in contemplation passable may, therefore, amount to a larger sum than may have been supposed necessary, under an idea of embracing in it a considerable part of the old road; but it is believed that the contrary will be found most correct, and that a sum sufficient to open the new could not be expended on the same distance of the old road with equal benefit.

The sum required for the road in contemplation will depend on the style and manner of making it; as a common road cannot remove the difficulties which always exist on deep grounds, and particularly in wet seasons, and as nothing short of a firm, substantial, well formed, stone capped road, can remove the causes which led to the measure of improvement, or render the institution as commodious as a great and growing intercourse appears to require, the expense of such a road next becomes the subject of inquiry.

In this inquiry the commissioners can only form an estimate by recurring to the experience of Pennsylvania and Maryland in the business of artificial roads. Upon this data, and a comparison of the grounds and proximity of the materials for covering, there are reasons for belief that, on the route reported, a complete road may be made at an expense not exceeding six thousand dollars per mile, exclusive of bridges over the principal streams on the way. The average expense of the Lancaster, as well as Baltimore and Frederick turnpike, is considerably higher; but it is believed that the convenient supply of stone which the mountain affords will, on those grounds, reduce the expense to the rate here stated.

As to the policy of incurring this expense, it is not the province of the commissioners to declare; but they cannot, however, withhold assurances of a firm belief that the purse of the nation cannot be more seasonably opened, or more happily applied, than in promoting the speedy and effectual establishment of a great and easy road on the way contemplated.

In the discharge of all these duties, the commissioners have been actuated by an ardent desire to render the institution as useful and commodious as possible; and, impressed with a strong sense of the necessity which urges the speedy establishment of the road, they have to regret the circumstance which delays the completion of the part assigned them. They, however, in some measure, content themselves with the reflection that it will not retard the progress of the work, as the opening of the road cannot commence before spring, and may then begin with the marking the way.

The extra expense incident to the service from the necessity (and propriety, as it relates to public economy,) of employing men not provided for by law, will, it is hoped, be recognised, and provision made for the payment of that and similar expenses, when in future it may be indispensably incurred.

The commissioners having engaged in a service in which their zeal did not permit them to calculate the difference between their pay and the expense to which the service subjected them, cannot suppose it the wish or intention of the Government to accept of their services for a mere indemnification of their expense of subsistence, which will be very much the case under the present allowance; they, therefore, allow themselves to hope and expect that measures will be taken to provide such further compensation as may, under all circumstances, be thought neither profuse nor parsimonious.

The painful anxiety manifested by the inhabitants of the district explored, and their general desire to know the route determined on, suggested the measure of promulgation, which, after some deliberation, was agreed on by way of circular letter, which has been forwarded to those persons to whom precaution was useful, and afterwards sent to one of the presses in that quarter for publication in the form of the document No. 3, which accompanies this report.

All which is, with due deference, submitted.

ELI WILLIAMS.
THOMAS MOORE,
JOSEPH KERR.

December 30, 1806.

BURR'S CONSPIRACY.

[The following documents accompanied the President's Message to Congress, of January 22d, 1807. The Message will be found in the Senate proceedings of that date, *ante* page 39.]

Deposition of General Wilkinson.

New Orleans, *Nov.* 25, 1806.

On the 30th of the same month I waited in person on Doctor E. Bollman, when he informed me that he had not heard from Colonel Burr since his arrival here; that he (the said Doctor E. Bollman) had sent despatches to Colonel Burr by a Lieutenant Spence of the Navy, and that he had been advised of Spence's arrival at Nashville, in the State of Tennessee, and observed that Colonel Burr had proceeded too far to retreat; that he (Colonel Burr) had numerous and powerful friends in the United States, who stood pledged to support him with their fortunes, and that he must succeed; that he (the said Doctor E. Bollman) had written to Colonel Burr on the subject of provisions, and that he expected a supply would be sent from New York and also from Norfolk, where Colonel Burr had strong connexions. I did not see or hear from the Doctor until the 5th instant, when I called on him the second time. The mail having arrived the day before, I asked him whether he had received any intelligence from Colonel Burr. He informed me that he had seen a letter from Colonel Burr of the 30th of October, in which he (Colonel Burr) gave assurances that he should be at Natchez with two thousand men on the 20th of December instant, where he should wait until he heard from this place; that he would be followed by four thousand more, and that he, (Colonel Burr,) if he had chosen, could have raised or got twelve thousand as easy as six thousand, but that he did not consider that number necessary. Confiding fully in this information, I became indifferent about further disguise. I then told the Doctor that I should most certainly oppose Colonel Burr if he came this way. He replied, that they must come here for equipments and shipping; and observed, that he did not know what had passed between Colonel Burr and myself; obliqued at a sham defence, and waived the subject.

From the documents in my possession, and the several communications, verbal as well as written, from the said Doctor Erick Bollman on this subject, I feel no hesitation in declaring, under the solemn obligation of an oath, that he has committed misprision of treason against the Government of the United States.

JAMES WILKINSON.

Signed and sworn to this 14th day of December, 1806, before me, one of the justices of the peace of this county.

J. CARRICK.

Philadelphia, *July* 25, 1806.

Dear Sir: Mr. Swartwout, the brother of Colonel S. of New York, being on the way down the Mississippi, and presuming he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure; as he is a most amiable young man, and highly respectable from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant, A. BURR.

His Excellency General Wilkinson.

Extract a letter from General James Wilkinson, dated

New Orleans, *Dec.* 14, 1806.

After several consultations with the Governor and judges, touching the arrest and confinement of certain known agents and emissaries of Colonel Burr, in this city and Territory, whose intrigues and machinations were to be apprehended, it is with their privity and approbation that I have caused three of them to be arrested, viz: Dr. Erick Bollman, Samuel Swartwout, and Peter V. Ogden, against whom I possess strong facts, and I have recommended to the Governor to have James Alexander, Esq., taken up on the ground of strong suspicion. These persons, and all others, who, by their character and deportment, may be considered hostile to the interests of the United States, or dangerous to this feeble frontier, under the menacing aspect of things from above, will, if my influence can prevail, be seized and sent by sea to the United States, subject to the disposition of Government, and accompanied with such information as may justify their confinement, and furnish a clew to the developement of the grounds, progress, and projectors of the treasonable enterprise in which they are engaged.

This letter will accompany Dr. Bollman, who is to be this day embarked in a vessel bound for Charleston, under the charge of Lieutenant Wilson of the artillery, who has orders to land with his prisoner at Fort Johnston or Fort Moultrie, to forward this despatch by mail, and to wait the orders of the Executive. Mr. Swartwout will be sent to Baltimore by a vessel which will sail some time the ensuing week, in custody of another subaltern, who will be the bearer of strong testimony against him and also Colonel Burr; and the others will follow, under due precautions, by the earliest opportunities which may present.

I deem it essential to keep these prisoners apart, to prevent the adjustment of correspondent answers or confessions to any examinations which may ensue; and I hope the measures of the Executive may be so prompt and efficient as to relieve the officers in charge of them from their trust before the interposition of the friends of the prisoners may effect their liberation.

By this procedure we may intimidate the confederates, who are unquestionably numerous in this as well as the adjacent Territory, disconcert their arrangements, and possibly destroy their intrigues; and I hope the zeal which directs the measure may be justified and approved, for while the glow of patriotism actuates my conduct, and I am willing to offer myself a martyr to the Constitution of my country, I should indeed be most grievously disappointed did I incur its censure.

Here, sir, we find the key to the Western States, and here we must form one grand depository and place of arms. Combine to this disposition a river fleet competent to its occlusion, and post it thirty or forty leagues above the Yazoo river, and we may repose in security; for the discontent and sufferings of our insurgent citizens, which must immediately ensue, will soon open their eyes to the wickedness of their leaders, and work a radical reformation without bloodshed. This is my plan for resisting an internal attack; for external defence, gunboats and bomb-ketches, with floating batteries, at the mouths of the Mississippi and the passes from Lake Pontchartrain, will be necessary.

Extract of a letter from General James Wilkinson, dated

New Orleans, *Dec.* 18, 1806.

Sir: Since my last of the 14th instant, writs of habeas corpus have been issued for the bodies of Bollman, Swartwout, and Ogden, the two latter by Judge Workman, who is strongly suspected of being connected with Burr in his conspiracy, as I have proof this man declared some time since that "the republican who possessed power, and did not employ it to establish a despotism, was a fool." His writ for Ogden was served on Captain Shaw of the Navy, who had him in charge, at my request, on board the Etna bomb ketch, and delivered him up, and Mr. Workman discharged him, without giving me a word of information, although he knew he was confined by my order for a treasonable combination with Burr, and Mr. Ogden now struts at large. Swartwout

I have sent off, and shall so report, holding myself ready for consequences. Bollman was required by the superior court, but I have got rid of that affair also, under the usual liability for damages; in which case I shall look to our country for protection.

I, James Wilkinson, Brigadier General and Commander-in-chief of the Army of the United States, to warrant the arrest of Dr. Erick Bollman, on a charge of treason, misprision of treason, or such other offence against the Government and laws of the United States, as the following facts may legally charge him with, on my honor, as a soldier, and on the Holy Evangelists of Almighty God, do declare and swear, that, on the sixth day of November last, when in command at Natchitoches, I received, by the hands of a Frenchman, a stranger to me, a letter from Dr. Erick Bollman, of which the following is a correct copy:

NEW ORLEANS, *Sept.* 27, 1806.

SIR: I have the honor to forward to your Excellency the enclosed letters, which I was charged to deliver to you by our mutual friend. I shall remain for some time at this place, and should be glad to learn where and when I may have the pleasure of an interview with you. Have the goodness to inform me of it, and please to direct your letter to me, care of ——, or enclose it under cover to them.

I have the honor to be, with great respect, sir, your Excellency's most obedient servant,

ERICK BOLLMAN.

General WILKINSON.

Covering a communication in cipher from Colonel Aaron Burr, of which the following is substantially as fair an interpretation as I have heretofore been able to make, the original of which I hold in my possession.

"I, Aaron Burr, have obtained funds, and have actually commenced the enterprise. Detachments from different points, and under different pretences, will rendezvous on the Ohio 1st November. Everything internal and external favors views. Protection of England is secured. T.* is gone to Jamaica to arrange with the Admiral on that station, and will meet at the Mississippi—England—navy of the United States are ready to join, and final orders are given to my friends and followers. It will be a host of choice spirits. Wilkinson shall be second to Burr only. Wilkinson shall dictate the rank and promotion of his officers. Burr will proceed westward, 1st August, never to return: with him goes his daughter: the husband will follow in October, with a corps of worthies. Send forthwith an intelligent and confidential friend with whom Burr may confer. He shall return immediately with further interesting details: this is essential to concert and harmony of movement. Send a list of all persons known to Wilkinson west of the mountains, who could be useful, with a note delineating their characters. By your messenger send me four or five of the commissions of your officers, which you can borrow under any pretence you please. They shall be returned faithfully. Already are orders to the contractor to forward six months' provisions to points Wilkinson may name. This shall not be used until the last moment, and then under proper injunctions. The project is brought to the point so long desired. Burr guaranties the result with his life and honor—the lives, the honor, and fortune of hundreds, the best blood of our country. Burr's plan of operations is to move down rapidly from the Falls on the 15th of November, with the first five hundred or one thousand men in light boats, now constructing for that purpose, to be at Natchez between the 5th and 15th of December: then to meet Wilkinson: then to determine whether it will be expedient, in the first instance, to seize on or pass by Baton Rouge. On receipt of this send Burr an answer. Draw on Burr for all expenses, &c. The people of the country to which we are going are prepared to receive us: their agents, now with Burr, say that, if we will protect their religion, and will not subject them to a foreign Power, in three weeks all will be settled.

"The gods invite to glory and fortune: it remains to be seen whether we deserve the boon. The bearer of this goes express to you: he will hand a formal letter of introduction to you from Burr, a copy of which is hereunto subjoined: he is a man of inviolable honor and perfect discretion: formed to execute rather than to project; capable of relating facts with fidelity and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of ——, and will disclose to you as far as you may inquire, and no further. He has imbibed a reverence for your character, and may be embarrassed in your presence: put him at ease, and he will satisfy you. Dr. Bollman, equally confidential, better informed on the subject, and more intelligent, will hand this duplicate.

"29th JULY."

The day after my arrival in this city, the 26th of November last, I received another letter from the Doctor, of which the following is a correct copy:

SIR: Your letter of the 6th instant has been duly received. Supposing that you will be much engaged this morning, I defer waiting on your Excellency till you will be pleased to inform me of the time when it will be convenient to you to see me.

I remain, with great respect, your Excellency's most obedient servant,

ERICK BOLLMAN.

[Communicated to Congress, January 26, 1807.]

To the Senate and House of Representatives of the United States:

I received from General Wilkinson, on the 23d instant, his affidavit charging Samuel Swartwout, Peter V. Ogden, and James Alexander, with the crimes described in the affidavit, a copy of which is now communicated to both Houses of Congress.

It was announced to me at the same time, that Swartwout and Bollman, two of the persons apprehended by him, were arrived in this city in custody each of a military officer. I immediately delivered to the Attorney of the United States in this district the evidence received against them, with instructions to lay the same before the judges, and apply for their process to bring the accused to justice; and I put into his hands orders to the officers having them in custody to deliver them to the marshal, on his application.

TH. JEFFERSON.

JANUARY 26, 1807.

I, James Wilkinson, Brigadier General and Commander-in-chief of the Army of the United States, to warrant the arrest of Samuel Swartwout, James Alexander, Esq., and Peter V. Ogden, on a charge of treason, misprision of treason, or such other offence against the Government and laws of the United States, as the following facts may legally charge them with, on the honor of a soldier, and on the Holy Evangelists of Almighty God, do declare and swear, that, in the beginning of the month of October last, when in command at Natchitoches, a stranger was introduced to me by Colonel Cushing, by the name of Swartwout, who, a few minutes after the Colonel retired from the room, slipped into my hand a letter of formal introduction from Colonel Burr, of which the following is a correct copy:

PHILADELPHIA, *July* 25, 1806.

DEAR SIR: Mr. Swartwout, the brother of Colonel S. of New York, being on his way down the Mississippi, and presuming that he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure, as he is a most amiable young man, and highly respectable from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant, A. BURR.

His Excellency General WILKINSON.

Together with a packet which he informed me he was charged by the same person to deliver me in private. This packet contained a letter in cipher from Colonel Burr, of which the following is substantially as fair an interpretation as I have heretofore been able to make, the original of which I hold in my possession.

"I, Aaron Burr, have obtained funds, and have actually commenced the enterprise. Detachments from different points, and under different pretences, will rendezvous on the Ohio, 1st November; everything internal and external favors views; protection of England is secured; T. is going to Jamaica to arrange with the Admiral on that station; it will meet on the Mississippi—England—Navy of the United States are ready to join, and final orders are given to my friends and followers; it will be a host of choice spirits; Wilkinson shall be second to Burr only; Wilkinson shall dictate the rank and promotion of his officers; Burr will proceed westward 1st August, never to return; with him go his daughter; the husband will follow in October with a corps of worthies.

"Send forthwith an intelligent and confidential friend with whom Burr may confer, he shall return immediately with further interesting details; this is essential to concert and harmony of movement. Send a list of all persons known to Wilkinson west of the mountains who may be useful, with a note delineating their characters. By your messenger send me four or five of the commissions of your officers, which you can borrow under any pretence you please; they shall be returned faithfully. Already are orders to the contractor given to forward six months' provisions to points Wilkinson may name. This shall not be used until the last moment, and then under proper injunctions. The project is brought to the point so long desired. Burr guaranties the result with his life and honor; with the lives, the honor, and fortune of hundreds, the best blood of our country. Burr's plan of operations is to move down rapidly from the Falls on the 15th November, with the first five hundred or one thousand men in light boats, now constructing for that purpose, to be at Natchez between the 5th and 15th of December, there to meet Wilkinson, there to determine whether it will be expedient, in the first instance, to seize on or pass by Baton Rouge on receipt of this. Send Burr an answer; draw on Burr for all expenses, &c. The people of the country to which we are going are prepared to receive us. Their agents, now with Burr, say, that if we will protect their religion, and will not subject them to a foreign Power, in three weeks all will be settled. The gods invite to glory and fortune. It remains to be seen whether we deserve the boon. The bearer of this goes express to you; he will hand a formal letter of introduction to you from Burr; he is a man of inviolable honor and perfect discretion, formed to execute rather than to project; capable of relating facts with fidelity, and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of ——, and will disclose to you as far as you inquire, and no further. He has imbibed a reverence for your character, and may be embarrassed in your presence; put him at ease, and he will satisfy you."—20th July.

I instantly resolved to avail myself of the reference made to the bearer, and, in the course of some days, drew from him (the said Swartwout) the following disclosure:

"That he had been despatched by Colonel Burr from Philadelphia; had passed through the States of Ohio and Kentucky, and proceeded from Louisville for St. Louis, where he expected to find me; but discovering at Kaskaskias that I had descended the river, he procured a skiff, hired hands, and followed me down the Mississippi to Fort Adams; and from thence set out for Natchitoches, in company with Captains Sparke and Hooke, under the pretence of a disposition to take part in the campaign against the Spaniards, then depending. That Colonel Burr, with the support of

* Truxton.

a powerful association, extending from New York to New Orleans, was levying an armed body of seven thousand men from the State of New York and the Western States and Territories, with a view to carry an expedition against the Mexican provinces; and that five hundred men, under Colonel Swartwout and a Colonel or Major Tyler, were to descend the Allegany, for whose accommodation light boats had been built and were ready."

I inquired, what would be their course? He said: "This Territory would be revolutionized, where the people were ready to join them; and that there would be some seizing, he supposed at New Orleans; that they expected to be ready to embark about the 1st of February; and intended to land at Vera Cruz, and to march from thence to Mexico." I observed, that there were several millions of dollars in the bank of this place; to which he replied, "we know it full well;" and, on my remarking that they certainly did not mean to violate private property, he said: They meant to borrow, and would return it; that they must equip themselves in New Orleans; that they expected naval protection from Great Britain; that the captains and the officers of our navy were so disgusted with the Government that they were ready to join; that similar disgusts prevailed throughout the Western country, where the people were zealous in favor of the enterprise; and that pilot-boat built schooners were contracted for along our Southern coast for their service; that he had been accompanied from the Falls of Ohio to Ka-kaskias, and from thence to Fort Adams by a Mr. Ogden, who had proceeded on to New Orleans with letters from Colonel Burr to his friends there." Swartwout asked me, whether I had heard from Doctor Bollman; and, on my answering in the negative, he expressed great surprise, and observed, "that the Doctor and a Mr. Alexander had left Philadelphia before him with despatches for me; and that they were to proceed by sea to New Orleans, where, he said, they must have arrived."

Though determined to deceive him, if possible, I could not refrain telling Mr. Swartwout it was impossible that I could ever dishonor my commission; and I believe I duped him by my admiration of the plan, and by observing "that, although I could not join in the expedition, the engagements which the Spaniards had prepared for me in my front might prevent my opposing it." Yet I did, the moment I had deciphered the letter, put it into the hands of Colonel Cushing, my Adjutant and Inspector; making the declaration that I should oppose the lawless enterprise with my utmost force. Mr. Swartwout informed me that he was under engagements to meet Colonel Burr at Nashville on the 20th of November, and requested of me to write to him, which I declined; and on his leaving Natchitoches about the 18th of October, I immediately employed Lieutenant T. A. Smith to convey the information in substance to the President without the commitment of names; for, from the extraordinary nature of the project and the more extraordinary appeal to me, I could but doubt its reality, notwithstanding the testimony before me; and I did not attach solid belief to Mr. Swartwout's reports respecting their intentions on this Territory and city, until I received confirmatory advice from St. Louis.

After my return from the Sabine I crossed the country to Natchez, and, on my descent of the Mississippi from that place I found Swartwout and Peter V. Ogden at Fort Adams; with the latter I held no communication, but was informed by Swartwout that he (Ogden) had returned so far from New Orleans on his route to Tennessee, but had been so much alarmed by certain reports in circulation, that he was afraid to proceed. I inquired whether he bore letters with him from New Orleans, and was informed by Swartwout that he did not; but that a Mr. Spence had been sent from New Orleans through the country to Nashville with letters to Colonel Burr.

I reached this city the 25th ultimo, and on the next morning James Alexander, Esq., visited me; he inquired of me, aside, whether I had seen Dr. Bollman? and, on my answering in the negative, he asked me whether I would suffer him to conduct Bollman to me? which I refused. He appeared desirous to communicate something, but I felt no inclination to inculpate this young man, and he left me. A few days after, he paid me a second visit, and seemed desirous to communicate, which I avoided until he had risen to take leave; I then raised my finger, and observed, "take care, you are playing a dangerous game." He answered, "it will succeed." I again observed "take care;" and he replied, with a strong affirmation, "Burr will be here by the beginning of next month." In addition to these corroborating circumstances against Alexander, I beg leave to refer to the accompanying documents A, B, from all which I feel no hesitation in declaring, under the solemn obligation of an oath, that I do believe the said Swartwout, Alexander, and Ogden, have been parties to, and have been concerned in, the insurrection formed or forming in the States and Territories on the Ohio and Mississippi rivers, against the laws and Constitution of the United States.

JAMES WILKINSON.

Sworn to and subscribed before me, this 26th day of December, in the year of our Lord one thousand eight hundred and six.

GEORGE POLLOCK,
Justice of Peace for Orleans county.

[Communicated to Congress, January 28, 1807.]

To the Senate and House of Representatives of the United States:

By the letters of Capt. Bissel, who commands at Fort Massac, and of Mr. Murrell to General Jackson, of Tennessee, copies of which are now communicated to Congress, it will be seen that Aaron Burr passed Fort Massac, on the 31st of December, with about ten boats, navigated by about six hands each, without any military appearance; and that three boats with ammunition were said to have been arrested by the militia at Louisville.

As the guards of militia, posted on various points of the Ohio, will be able to prevent any further aids passing through that channel, should any be attempted, we may now estimate with tolerable certainty, the means derived from the Ohio and its waters toward the accomplishment of the purposes of Mr. Burr.

TH. JEFFERSON.

NASHVILLE, *Jan.* 8, 1807.

SIR: I received your instructions dated the 2d instant, and agreeably thereto, I delivered your letter, addressed to General Thomas Johnson, to Colonel Cheatham, and it was forwarded to him immediately. I arrived at Centreville on the 4th instant; heard a report there that Colonel Burr had gone down the river with one thousand armed men; arrived at the mouth of Cumberland river that evening, and made inquiry concerning Colonel Burr; and was informed that he left that place on the 28th December, 1806, with ten boats, of different descriptions; had sixty men on board, but no appearance of arms. I left there on the 5th instant, and arrived at Fort Massac that evening; delivered your letter to Captain Bissel and received his answer; made some inquiries of him, and was informed that Colonel Burr had left that place on the 30th December, 1806, with ten boats. He likewise informed me that he had been on board the boats, and seen no appearance of arms or ammunition. On my return to the mouth of Cumberland river, I was informed that three boats had been stopped at Louisville, with a quantity of ammunition. There are about fifty men stationed at the mouth of Cumberland, under command of Colonel Ramsey.

I remain, with the highest esteem, yours,

JOHN MURRELL.

Gen. ANDREW JACKSON.

FORT MASSAC, *Jan.* 5, 1807.

SIR: This day, per express, I had the honor to receive your very interesting letter of the 2d instant; I shall pay due respect to its contents; as yet I have not received the President's Proclamation alluded to, nor have I received any orders from the Department of War relative to the subject matter of your letter.

There has not, to my knowledge, been any assemblage of men or boats, at this or any other place, unauthorized by law or precedency; but, should anything of the kind make its appearance, which carries with it the least mark of suspicion, as having illegal enterprises or projects in view, hostile to the peace and good order of Government, I shall, with as much ardor and energy as the case will admit, endeavor to bring to justice all such offenders.

For more than two weeks last past I have made it a point to make myself acquainted with the loading and situation of all boats descending the river. As yet there has nothing the least alarming appeared. On or about the 31st ultimo, Col. Burr, late Vice President of the United States, passed this with about ten boats, of different descriptions, navigated with about six men each, having nothing on board that would even suffer a conjecture, more than a man bound to market; he has descended the rivers toward Orleans. Should anything, to my knowledge, transpire, interesting to Government, I will give the most early notice in my power.

I have the honor to be, respectfully, sir, your obedient servant, DANIEL BISSEL.

General ANDREW JACKSON.

[Communicated to Congress, February 10, 1807.]

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress a letter from Cowles Mead, Secretary of the Mississippi Territory, to the Secretary of War, by which it will be seen that Mr. Burr had reached that neighborhood on the 13th January.

TH. JEFFERSON.

FEBRUARY 10, 1807.

Extract of a letter from Cowles Mead, Secretary and acting Governor of the Mississippi Territory, to the Department of War, dated

WASHINGTON, M. T., *Jan.* 13, 1807.

SIR: I have just time by the mail to inform you that I received this morning a letter from Colonel Burr, at Bayou Pierre, avowing the innocence of his views, and the fallacy of certain rumors against his patriotism; his object is agriculture, and his boats are the vehicles of emigration. However, several military corps were ordered to be on the alert, and apprehend him and all suspicious persons, on the day before the reception of this letter; these orders may possibly bring him into my possession. In his letter he hints at resistance to any attempt to coerce him, and deprecates a civil war. These hints will have no influence on my conduct; he will be apprehended, if possible, at the hazard of the lives of our militia and the honor of the Executive. We are all bustle and activity. I hope in a day or two to give you a better account of this troublesome man.

A boat passed Natchez last night, which was hailed and pursued by the guard; they fired two guns at the pursuers, and made their escape, being better manned.

The citizens of this country are republicans and patriots, and on their exertions I have every reliance.

[Communicated to Congress, February 19, 1807.]

To the Senate and House of Representatives of the United States:

I transmit to Congress a letter from Cowles Mead, Secretary of the Mississippi Territory, acting as Governor, informing us that Aaron Burr had surrendered himself to the civil authority of that Territory. TH. JEFFERSON.

FEBRUARY 19, 1807.

Extract of a letter from Cowles Mead, Secretary and acting Governor of the Mississippi Territory, to the Department of War, dated

WASHINGTON, M. T.,
January 19, 1807.

SIR: In obedience to your instruction by express of the 20th of December last, I, immediately after proroguing the Legislature, proceeded to put the Territory in a state of preparation for the arrestation of the suspicious persons and boats, which were contemplated therein. My militia were collecting at particular points on the river, when I received a letter from Colonel Burr, who had landed at Bayou Pierre with nine boats and about one hundred men. This letter went to an avowal of his innocence of the charges which rumor and public apprehension had announced against him, and solicited me to appease any fears which his approach had begotten; at the same time, he guarded me against the horrors of civil war, and the evils resulting from such a state of things. This seeming threat induced me to adopt a different mode of conduct from what the colonel might have expected; and, instead of adopting his pacific admonition, I ordered a very large portion of the militia of the Territory to rendezvous at certain points, and wait further orders. With the promptitude of Spartans, our fellow-citizens shouldered their firelocks, and in twenty-four hours I had the honor to review three hundred and seventy-five men at Natches, prepared to defend their country. They were ordered, under the command of Colonel Claiborne, to a point on the river, about twenty-one miles above the city, there to remain to guard the river, and intercept, for inspection, all boats that might descend the river. On the 16th I despatched two of my aids to Colonel Burr, who had tendered his respects to the civil authority. These gentlemen engaged on my part to give the colonel an interview in the neighborhood of the detachment stationed at the mouth of Cole's creek; conformably thereto, I met the colonel on the 17th, and, after a lengthy interview, he offered to surrender himself to the civil authority of the Territory, and to suffer his boats to be searched. On the 18th Colonel Burr, accompanied by my aids, Major Shields and Poindexter, rode down to the place, and was committed to the highest tribunal of the civil authority, where he now remains for trial.

Four gentlemen of unquestionable respectability, with a detachment of thirty men, are now in the act of making the search of the boats, and to-morrow I expect their report.

Thus, sir, this mighty alarm, with all its exaggeration, has eventuated in nine boats and one hundred men, and the major part of these are boys, or young men just from school. Many of their depositions have been taken before Judge Rodney, but they bespeak ignorance of the views or designs of the colonel. I believe them really ignorant and deluded. I believe they are the dupes of stratagem, if the asseverations of Generals Eaton and Wilkinson are to be accredited.

COWLES MEAD.

THE MILITIA.

[Communicated to the House April 18, 1806.]

The Committee, to whom was referred so much of the Message of the President of the United States of the third of December 1805 as relates to the organization and classification of the militia, and to the augmentation of the land forces, report, in part;

In relation to a classification and new organization of the militia. The most extensive view of this part of this subject, which has occurred to the committee, is, a division of the militia into four classes, in the following manner, viz. those between eighteen and twenty-one years of age, to compose one class; those between-one and twenty-six, to compose a second class; those between twenty-six and thirty-five, to compose a third class; and those between thirty-five and forty-five, to compose the fourth class, each class to be under a separate organization, and to be commanded by separate corps of officers. To this kind of organization, as it relates to the first class, we are met by a Constitutional objection. By the Constitution of the United States, Congress are empowered "to provide for organizing, arming and disciplining the militia, reserving to the States, respectively, the appointment of the officers.

By some of the State constitutions it is provided, that the captains and subalterns of the militia shall be chosen by such of the persons who compose the respective companies, as are upwards of twenty-one years of age, so that there is not Constitutional provision by which such States can appoint officers to command a class of the militia composed of minors.

Knowledge of tactics, and an acquaintance with subordination and discipline, are acquirements of such importance to our national defence that the promotion of them among the militia, ought to be a primary object with the Government, and, no doubt, is exceedingly desirable in the minds of the individual citizens. But such means ought to be adopted by the Government, as are best calculated to effect the object with as little fatigue and expense to individuals, as the nature of the case will admit. It is conceived, that the fatigue and expense of military discipline is, in a very great degree, proportionate to the population of the different parts of the country where the duty is performed, or, in other words, it is proportionate to the distance each individual, composing the different corps, is compelled to travel to reach his place of parade: under the present organization of the militia, this idea is fully verified; the difference in the expence of militia meetings in those parts of the country where the inhabitants are the most dispersed, when compared with similar meetings in the more populous parts, is very apparent; and, besides, the nature of the case compels us to believe, that the same cause will produce a similar disparity in military acquirements.

These, however, are evils which grow out of the nature of the case, and cannot be remedied

but by the increase of population, because the principles of the organization are calculated to render the formation of the different corps as compact as is consistent with proper military arrangements.

By the organization and classification of the militia in the manner which has been named, the limits of each corps must be extended over four times the quantity of territory it now occupies, and consequently would burden the citizens with a proportionate additional expense in the acquisition of a competent portion of military information, or operate as a proportionate preventive to such acquisition. The subject has been viewed in another point of light, that is, to call on the two senior classes to exercise but once in a year, so as to proportion the quantum of exercise to the extension of the corps. In this case all the evils attendant on the extension of the different corps over additional territory, will attach to the junior classes, which could attach to them in the other case; and the consequent hazard of a failure in discipline will remain.

Military knowledge, like that of every other science, without practice, is soon forgotten; and although it is not probable that the whole of the militia will be needed in the field, at any one time, yet, in case of invasion, it is very possible that all who are in the vicinity of the assailants, may be necessary, and as it is uncertain at what point an enemy may make his attack, all should be prepared to meet such an event; but from a deficiency in discipline, or the want of a competent knowledge in tactics in the two senior classes only, an important opportunity for a speedy extermination of an enemy might be lost, and the lives of many valuable citizens put in jeopardy. It is therefore believed that this experiment is inadmissible.

Another view of this subject has suggested a classification of the militia, by ages, under the existing organization, for the sole purpose of designating those persons who are under twenty-six years of age, as the only proper objects of militia duty in the field, except in cases of great emergency, and in their particular vicinage. From eighteen to twenty-one years of age, is a period of life in which the young men of the United States are employed in completing an education, in pursuit of mechanical information, or in acquiring a necessary acquaintance with some other branch of business, occupation, or profession, on the improvement of which they calculate to obtain a subsistence; from twenty-one to twenty-six, they are improving their previous acquirements in their occupations and professions, thereby laying a foundation for a decent support of themselves and families through life. This is a period also, at which the young men of the United States generally engage in matrimony, and become chargeable with families, all which renders their time as dear to them from eighteen to twenty-six years of age, as at any other period of life.

It would seem, therefore, that an arrangement which would compel this class of our citizens to bear the principal part of the burden of national defence, might justly be deemed a departure from that principle of distributive justice, which ought to be a paramount characteristic of the Government of the United States.

That young men would better endure the fatigues of a long campaign, than those more advanced in life, is not doubted; but whether on a sudden emergency, they would be more useful in repulsing an enemy than an equal number of enrolled militia, on an average, from eighteen to forty-five, is a question of doubt; if however, it should be considered that the advantage is in favor of the young men, it is confidently believed, that the advantage in that case, to the public, would not be of sufficient magnitude to justify the Government in imposing on them such an unequal burden.

If the proposed system should be adopted the total derangement of the existing organization of the militia, must be the consequence. It may be proper here again to remark, that by the Constitution of the United States is vested in the General Government, the power "to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; but the same article of the Constitution is express, in "reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." By this arrangement in the Constitution, the powers necessary to produce an efficient militia, are divided between the General Government and the State Governments. In pursuance of the power vested in the General Government, on this subject, Congress did, in the year 1792, pass an act to establish an uniform militia throughout the United States, which act seems to embrace all the principles in the case delegated to Congress. Soon after the passage of that law by Congress, a consideration of the subject was assumed by the legislatures of all the States, and laws have been passed by all the States for carrying that system into effect, so that by the co-operation of the General Government and the State Governments, the militia are now completely organized and officered throughout the Union. It is now thirteen years since this system has been in operation; the people practising under it have in a great degree become acquainted with it, and attached to it; and in many parts of the Union military discipline is rapidly progressing under it, and it cannot with propriety be doubted, that the militia of the United States under the existing organization are amply competent to a defence against the intrusion of any invading enemy. To derange this system then, and introduce one totally new and untried, one in which it is not certain that the State Legislatures will concur and which is of doubtful aspect, as it relates to the approbation of the body of the people, would, in the opinion of the committee, at this important crisis of our national affairs, be putting too much at risk.

They, therefore, recommend the following resolution.

Resolved, That it is inexpedient to adopt measures for the classification, or new organization of the militia.

TERRITORY OF MICHIGAN.

[Communicated to Congress December 23, 1805.]

To the Senate and House of Representatives of the United States:

The Governor and presiding Judge of the Territory of Michigan, have made a report to me of the state of that Territory, several matters in which being within the reach of the Legislative authority only, I lay the report before Congress.

TH. JEFFERSON.

DECEMBER 23, 1805.

DETROIT *October* 10, 1805.

The Governor of the Territory of Michigan and the presiding judge thereof, in compliance with the wishes of the Government and the people of the Territory, have the honor to make the following report relative to the affairs of the Territory.

By the act of the Congress of the United States establishing the Territory, the Government thereof was to commence from and after the 30th day of June, 1805. The presiding judge arrived at Detroit, the seat of the Government, on Saturday the 29th day of June, and the Governor on Monday the first day of July. The associate judge, who was previously a resident of the Territory, was already there. On Tuesday the 2d July, the Governor, in pursuance of the ordinance of Congress, administered to the several officers their respective oaths of office, and on the same day the operations of the Government commenced.

It was the unfortunate fate of the new Government to commence its operations in a scene of the deepest public and private calamity. By the conflagration of Detroit, which took place on the morning of the 11th of June, all the buildings of that place, both public and private, were entirely consumed; and the most valuable part of the personal property of the inhabitants was lost. On the arrival of the new Government, a part of the people were found encamped on the public grounds, in the vicinity of the town, and the remainder were dispersed through the neighboring settlements of the country; both on the British and American side of the boundary.

The place which bore the appellation of the town of Detroit, was a spot of about two acres of ground, completely covered with buildings, and combustible materials, the narrow intervals of fourteen or fifteen feet, used as streets or lanes, only excepted; and the whole was environed with a very strong and secure defence of tall and solid pickets. The circumjacent ground, the bank of the river alone excepted, was a wide commons: and though assertions are made respecting the existence, among the records of Quebec, of a charter from the King of France, confirming this commons as an appurtenance to the town, it was either the property of the United States, or at least such as individual claims did not attempt to cover. The folly of attempting to rebuild the town in the original mode was obvious to every mind; yet there existed no authority, either in the country or in the officers of the new Government, to dispose of the adjacent ground. Hence had already arisen a state of dissension which urgently required the interposition of some authority to quiet. Some of the inhabitants, destitute of shelter, and hopeless of any prompt arrangements of Government, had re-occupied their former ground, and a few buildings had already been erected in the midst of the old ruin. Another portion of the inhabitants had determined to take possession of the adjacent public ground, and to throw themselves on the liberality of the Government of the United States, either to make them a donation of the ground as a compensation for their sufferings, or to accept of a very moderate price for it. If they could have made any arrangement of the various pretensions of individuals, or could have agreed on any plan of a town, they would soon have begun to build. But the want of a civil authority to decide interfering claims, or to compel the refractory to submit to the wishes of a majority, had yet prevented them from carrying any particular measures into execution. On the morning of Monday, the first day of July, the inhabitants had assembled for the purpose of resolving on some definitive mode of procedure. The judges prevailed on them to defer their intentions for a short time, giving them assurances that the Governor of the Territory would shortly arrive, and that every arrangement, in the power of their domestic government, would be made for their relief. On these representations they consented to defer their measures for one fortnight. In the evening of the same day the Governor arrived. It was his first measure to prevent any encroachments from being made on the public land. The situation of the distressed inhabitants then occupied the attention of the members of the Government for two or three days. The result of these discussions was, to proceed to lay out a new town, embracing the whole of the old town and the public lands adjacent; to state to the people that nothing in the nature of a title could be given, under any authorities then possessed by the Government; and that they could not be justified in holding out any charitable donations whatever, as a compensation for their sufferings; but that every personal exertion would be used to obtain a confirmation of the arrangements about to be made, and to obtain the liberal attention of the Government of the United States to their distresses.

A town was accordingly surveyed and laid out, and the want of authority to impart any regular title without the subsequent sanction of Congress, being first impressed, and clearly understood, the lots were exposed to sale under that reservation. Where the purchaser of a lot was a proprietor in the old town, he was at liberty to extinguish his former property in his new acquisition, foot for foot, and was expected to pay only for the surplus, at the rate expressed in his bid. A considerable part of the inhabitants were only tenants in the old town, there being no means of acquiring any new titles. The sale of course could not be confined merely to former proprietors, but as far as possible, was confined to former inhabitants. After the sale of a considerable part, by auction, the remainder was disposed of by private contract, deducting from the previous sales the basis of the terms. As soon as the necessities of the immediate inhabitants were accommodated, the sales were entirely stopped until the pleasure of Government could be consulted. As no title could be made, or was pretended to be made, no payments were required, nor any moneys permitted to be received until the expiration of one year, to afford time for Congress to interpose. The remaining part was stipulated to be paid in four successive annual instalments. The highest sum resulting from the bids was seven cents, for a square foot, and the whole averaged at least four cents. In this way the inhabitants were fully satisfied to commence their buildings, and the interfering pretensions of all individuals were eventually reconciled. The validity of any of the titles was not taken into view. The possession under the titles, such as they were, was alone regarded, and the validity of title left to await the issue of such measures as Congress might adopt, relative to landed titles in the Territory of Michigan generally. It therefore now remains for the Congress of the United States either to refuse a sanction of the arrangement made, or by imparting a regular authority to make it, or in some other mode in their wisdom deemed proper, to relieve the inhabitants from one of the most immediate distresses, occasioned by the calamitous conflagration.

Strongly impressed with a sense of the worth of the people, and deeply commiserating their sufferings, of a great part of which they were eye witnesses, the officers of their local government cannot refrain from adding their warmest degree of recommendation to forward the liberality the Congress of the United States will unquestionably be inclined to exercise towards them; and the disposition which will doubtless prevail towards attaching their affections, promoting their interests, and relieving their distress. Whether a donation of the acquisitions, which have been stated, or of lands more remote, or the application of the proceeds to public purposes within the country, will be most advisable, the undersigned pretend not to say; but whatever relief may be extended to them on the part of the General Government, they hesitate not to assert, will be of the most essential utility to them, and rendered to objects of real merit.

The organization of the courts of justice next demanded consideration. A Judicial system was established on principles of convenience, economy, and simplicity. Courts were held under it, and all the existing business settled. Every subject requiring to be legislated upon was acted on, as far as the Government was competent to act. At the close of the other arrangements the militia of the Territory were completely organized and brought into the field.

The various acts, both of a Legislative and Executive description, will appear at large in the semi-annual report of them, which the laws of the United States require, and it will therefore be unnecessary to exhibit the details of them.

The grand juries constantly presented addresses to the courts on the subject of their land titles. The several companies of militia, elected delegates to a general meeting, which, among other objects, addressed the Government on the subject of their titles; and earnestly requested the personal attendance of the Governor and one of the judges during a part of the session of Congress. Indeed the confused situation of land titles, during the nine or ten years the United States have had possession of the country, has been such, and is so increasing by lapse of time, as now loudly to call for a definitive adjustment.

It is now nearly a century and a half since the first settlements were made in this country, under the French Government, and in the reign of Louis the Fourteenth, whose name it then bore, in common with what has since exclusively been termed Louisiana. In 1673, an officer, commissioned by the French Government, explored the waters of the West, taking his departure from Lake Michigan, he penetrated to the Ouisconsin river, and afterwards to the Mississippi, and returned through the Illinois country, after having sailed down the Mississippi within one degree of latitude of the Southern boundary of the United States, previous to the late treaty of Paris, of April, 1806, and that anterior to the discovery of the mouth of the Mississippi by La Salle. Prior to this era, the settlements of the Strait had commenced, and Detroit claims an antiquity of fifteen years superior to the city of Philadelphia. The few titles granted by the Government of France were of three French acres in front, on the banks of the river, by forty in depth, subject to the feudal and seignoral conditions, which usually accompanied titles in France. The ancient French code called *la coutume de Paris* was the established law of the country; and the rights of land were made strictly conformable to it. All these grants, however, required the grantee, in a limited period, to obtain a confirmation from the king; and, with the exception of a very few, this confirmation has never been made. On the conquest of the French possessions by Great Britain, in the war which terminated by the Treaty of Paris in the year 1763, as well in the original articles of capitulation in 1759 and in 1760, as in the subsequent treaty itself, the property of the inhabitants of the country is confirmed to them. The expression in the original is *leurs biens, nobles et ignobles, meubles et immeubles.* It is therefore conceived to comprehend these lands. On the acquisition by the United States of America of that portion of Canada which is now comprehended within the limits of the Territory of Michigan, by the definitive Treaty of Peace, at Paris, in 1783, the subjects of His Britannic Majesty are secured from loss, or damage in person, liberty, or property, and in the Treaty of London, negotiated between Mr. Jay and Lord Grenville, in November, 1794, they are still more particularly confirmed in their property of every kind, land, houses or effects. However defective, therefore, the class or original proprietors may be with respect to the evidence of title according to the American forms, it is conceived

their rights are extremely strong. The British Government granted few titles, and these were generally mere permissions of military officers to use or occupy certain pieces of land, often unaccompanied with any written evidences, but assuming, from long continued possession, an appearance of right. Under the American Government no titles of any kind have been granted.

From this state of things some consequences have resulted, which are not indeed difficult to foresee, but which it is difficult to remedy. One of these consequences, and perhaps not the least important, is the effect it had on the destiny and moral character of the progeny of the original colonists. When it is remembered, that the troops of Louis the Fourteenth, came without women, the description of persons constituting the second generation will not be difficult to conceive. When it is considered at the same time, that destitute of titles to land, they were precluded from the means of acquiring them, it will be obvious that an entrance into the savage societies, or at most employments in the commerce carried on with them, were their only resources. While therefore the American colonizations of the same, and of subsequent date, have grown into regular, agricultural, and opulent States, these countries have been destined to anarchy, to ignorance, to poverty. The emigrant, whom curiosity, or enterprise, at any time brought into the country, was either atracted to the British side of it, or disappeared in some mode less easy to account for. Accession by foreign population, and by natural increase, being thus at once cut off, the fate of this fine region has necessarily been that insignificance which still belongs to it. The British Government, in recent periods, have confirmed original proprietors, made a donation of a quantity equal to the original grant, termed a continuation; and have granted lands to settlers without any other price than common fees of office attending the acquisition of the grant. Such, however, is the inestimable value of liberty to man, that notwithstanding these, and, if possible, greater inducements to the settlers, the undersigned venture to predict a marked superiority to the American side, even at the prices at present required by the American Government, or at a slight variation of them, if the old claims are at once adjusted, and the country laid open to the acquisition of new title.

From the state of the country which has been represented, another consequence has resulted. Encroachments, in some instances, grafted on original title, and in others without a semblance of title, have been made on lands which are or ought to be, the property of the United States. Individuals have proceeded to extinguish the native right, contrary to the regulations of all the governments; and in some instances extensive settlements have been made on titles thus acquired. What arrangements the United States will make on this head it belongs not to us to anticipate; we shall only recommend a liberal and merciful disposition to the people of this country; of whom it may be safely asserted they are less to be charged with depravity of character, than their governments have been with cruel neglect and indifference.

The claims of the present inhabitants require to be considered under one more aspect, novel indeed, but not the less founded in truth. When the American comes into contact with the aboriginal, if he is not considered as an enemy, he is at least regarded as a character with whom they are to struggle, and if in no other, certainly in a pecuniary view. But the Canadian, allied by blood, by long established intercourse, by a countless reciprocity of services, their native claims having long, as to time, been extinguished, and their honor and good faith having been repeatedly pledged for his protection, is uniformly regarded as their brother, and with him they are disposed to make a common cause. Hence justice, and liberal justice, to the Canadian inhabitant is an important point of policy in the conduct of the American Government towards the aboriginal inhabitants.

The extent of the Canadian extinguishment of Indian title, though in itself indefinite, appears first to have received limits in the treaty of Fort McIntosh, in 1785. We there first find a written dereliction of Indian claim for a breadth of six miles, from La Riviere aux Raisins, now called Rosine, on Lake Erie, to the Lake St. Clair. In the subsequent treaty of Fort Harmar in 1789, the same dereliction is confirmed. In the ulterior Treaty of Greenville, in 1795, the confirmation is repeated, and additions made.

The Treaty with Great Britain, of 1783, and the subsequent one of 1794, were made for the accomplishment of great national objects, having very little connexion with Canadian and Indian claims. The Treaties of Fort McIntosh, Fort Harmar, and of Greenville, were all formed on other far more important points; and the quantity of extinguished Indian title in Michigan recognised by them is less to be considered as an acquisition of new title, than a definition of the old. The expense of those negotiations therefore can scarcely be said, in any sense, to attach to this country; and perhaps it may be truly said that all the Indian title at present extinguished within the Territory of Michigan has not cost the United States a single dollar; but is entirely a recognition of a previous, but indefinite title, extinguished by the Canadians. Hence, a question will arise whether it is more than barely justice to the inhabitants to allow them the whole of this part, or otherwise to permit the proceeds of it to be applied to their benefit in the education of their youth, in the erection of public buildings, such as court-houses and jails, which the late conflagration has entirely deprived them of, and in laying out roads, and other improvements in their country. Next to the adjustment of the old titles comes the acquisition of new. It is believed that at this period, and in a particular mode, a very large portion of Indian title may be shortly extinguished; but as this part of the subject may hereafter be deemed confidential, it is made the subject of a distinct report.

On an occasion like the present it may not be unadvisable to revise some of the regulations relative to the territory.

On all the subjects requiring legislation the present Government act with difficulty, and on many cannot act at all. All laws will be found to operate on particular places, times, and persons, and in no State which enters into the composition of the American Union, will an abstract code of principles be discovered free from a connexion, and that a very close one, with the places, times, and persons affected by them. Hence, the strict adoption of any code, or even of any one law, becomes impossible. To make it applicable it must be adapted to the geography of the country, to its temporary circumstances and exigencies, and to the particular character of the persons over whom it is to operate. Hitherto, it has been religiously the object to follow what has been deemed the substance of the law, whatever modifications the form of it was obliged to undergo. But different minds will not always correspond in sentiment on what is substance, and what is form; and in all the litigations which arise under laws, those affecting the validity of the law itself are the most intricate and difficult. Hence, in a country whose administration ought to be marked with simplicity, intricacy, procrastination and uncertainty in affairs, result. To adopt laws from all the original States the laws of all the original States ought to be furnished; and, waiving the difficulty and expense of procuring them, what body of men, under the pressure of immediate business, can acquire a complete acquaintance with them? The possession of all the codes, if it were possible, and a complete acquaintance with their contents, would still prove an abortive cure; for in many very simple cases, a strict precedent will be searched for in vain. Is the object to establish a ferry, to regulate the affairs of any district, to erect a court-house, or to institute a school, however urgent the call, however obvious the means, it must often be abandoned for want of a precedent that will apply; and often, when attempted, may be defeated, from the want of a strict correspondence between the law made and the precedent from which it professes to be adopted. The real security for the prevalence of republican principles rests not in a provision of this awkward kind; for even in the codes of the States the disciple of aristocracy may sometimes find a weapon. It rests in the general probability that the administration of this description will be conformable to the General Administration. It rests in the parental control of Congress. Experience is the best test of the propriety or impropriety of a law; and if a law be made which gives dissatisfaction, the natural resort is to the authority first making it for its correction, and when from defect of power or of inclination the evil is found irremediable, by them, to superior authority.

The requiring a possession of certain quantities of land in various officers is not only impracticable in the present instance; but the policy on which the provision may have originally been grounded has ceased to exist.

The southern boundary of the Territory is indefinite. Though in the present maps of the United States, a line of latitude through the southern bend of Lake Michigan appears to strike Lake Erie near the mouth of the Miami, yet in the maps of Arrowsmith and M'Kenzie, such a line of latitude would not strike Lake Erie, but pass entirely south of it. The anxiety of the southern settlers of the Territory is great, not to be attached to the State of Ohio, which would be incommodious to them, but to Michigan, which is so much more convenient. The western end of Lake Erie, even from Sandusky, would feel this convenience.

The case of the Wyandot Indians deserves the consideration of Government. They live in two towns, Maguaga and Brown's town, within the limits of the American title. To the Treaty of Fort Harmar, a clause was annexed stipulating that they might remain unmolested. In the Treaty of Greenville this provision is omitted. They constantly assert, and there are not wanting reputable citizens who join them in this assertion, that they were solemnly promised by General Wayne a continuance of the indulgence. It may therefore be worthy of serious consideration whether it may not be advisable in the adjustment of titles, to recognise their possessions, and invest them with the character of citizens.

WILLIAM HULL,
Governor of Michigan.
A. B. WOODWARD.
Presiding Judge of do.

TERRITORY OF ORLEANS.

[Communicated to the House, February 27, 1805.]

The committee, to whom were referred the memorial of the Legislative Council of the Territory of Orleans, and also the memorial of the House of Representatives of the same Territory, make the following report:

The object of the memorialists is to obtain from the General Government a grant of lands for the establishment and support of colleges, schools, and other seminaries of education, within the Territory of Orleans.

Your committee are of opinion, that it ought to be a primary object with the General Government to encourage and promote education in every part of the Union, so far as the same can be done consistent with the general policy of the nation, and so as not to infringe the municipal regulations that are, or may be adopted by the respective State authorities on this subject.

The benefits resulting to society in general from the establishment and support of public institutions for the education of youth, and the general diffusion of science, are too well known to all discerning persons to require any particular investigation on the present occasion. The National Legislature has, by several of its acts on former occasions, evinced, in the strongest manner, its disposition to afford the means of establishing and fostering with a liberal hand such public institutions.

By a resolution of the old Congress, under the Confederation, of the 20th March, 1785, it is declared that lot No. 16, of every township in the Territory Northwest of the river Ohio, (which is equal to one thirty-sixth part of the same) shall be reserved for the maintenance of public schools within the said township. It also appears by an act of Congress, passed the 3d March, 1803, that in addition to certain tracts of land before that time appropriated for that purpose, there were appropriated and vested in the Legislature of the State of Ohio, in trust, for the use of schools in that State, certain quarter townships, in certain tracts therein described, estimated to be equal to the one thirty-sixth part of all the lands contained in the said several tracts to which the Indian claim had been extinguished; also, the one thirty-sixth part of all the lands of the United States lying in the said State of Ohio, to which the Indian title had not been extinguished, which might be purchased of the said Indian tribes by the United States, making the quantity of land appropriated for the use of schools within the said State, equal, at least, to one thirty-sixth part of all the lands belonging to the United States within the same. A similar provision has also been made by a law passed in 1803, for the use of schools in the Mississippi Territory.

By this liberal policy, the General Government has secured to the people of the State of Ohio, and of the Mississippi Territory, a permanent fund for the promotion of learning and the general diffusion of knowledge within the same.

Your committee are of opinion, that it would be sound policy in the General Government, as well as consistent with equal justice, to act on this occasion with the same liberality towards the people of the Territory of Orleans that has been shown in relation to the State of Ohio and the Mississippi Territory; and to make the like provision for the establishment and support of public schools in the one case that has been made in the others.

In pursuing this line of conduct, the National Legislature will afford to the people of the Territory of Orleans the strongest proof of a disposition, not only to extend to them the rights and privileges of American citizens in general, but to place them on an equal footing with the citizens of the most favored portion of the Union, who have experienced the immediate attention of the General Government; and to observe towards them the fostering care of an indulgent parent, feeling a lively interest in their future prosperity and happiness. In this measure the people of that Territory will become sensible, in some degree at least, of the advantages they have derived, and may yet obtain, from being incorporated into the Union, and becoming a portion of a free and independent nation.

The committee have not been able to obtain official information to enable them to form a correct opinion with regard to the quantity or value of the public lands within the city of New Orleans, nor have they any information respecting the situation of the said lands in relation to the centre of the city, or the bank of the river Mississippi, and as it may probably be necessary for the General Government to reserve for public purposes some portions of the said lands, which cannot at present be designated, your committee are of opinion, that it would not be advisable, at this time, to appropriate or dispose of the lands belonging to the United States within the limits of the city of New Orleans.

Your committee respectfully submit to the House the following resolution:

Resolved, That for the establishment and support of public schools within the Territory of Orleans, there shall be appropriated, and reserved from sale, one thirty-sixth part of all the lands of the United States within the Territory, to which the Indian claim has been extinguished, or may hereafter be extinguished; which one thirty-sixth part shall consist of the section numbered 16, in each township, if the said lands shall be surveyed in townships of six miles square each, and the same divided into sections of one mile square each; and shall, if the lands be surveyed in a different manner, be designated by lots; and the lands, so appropriated, shall be applied to the use aforesaid, within the townships, or particular divisions not exceeding townships in extent, respectively, within which the same shall lie.

PUBLIC LANDS.

[Communicated to the House, Feb. 5, 1806.]

The Committee on Public Lands, to whom was referred a resolution, on the 26th day of March, directing them to inquire into the expediency of all such parts of the several acts, providing for the sales of the lands of the United States, as authorize a credit on any part of the purchase money of said lands, respectfully submit the following report:

The public lands are now sold in sections, half sections, and quarter sections; that is, in lots of six hundred and forty, three hundred and twenty, and one hundred and sixty acres, at not less than two dollars per acre, the purchaser paying one-fourth of the purchase money before he can procure a certificate descriptive of the tract purchased or be considered as a purchaser, another fourth part in two years, another part in three years, and the remaining fourth part in four years from the time of making the purchase. No interest is charged if the instalments are punctually paid as they become due; but in case of failure in punctuality of payment, interest is calculated from the time of sale. If full and complete payment is not made for any tract in one year after the last instalment has become due, such tract is to be sold by the register of the land office, at public vendue, for a price not less than the whole arrears due thereon, with the expense of sale, provided it will sell for so much; but if it will not, then the land is to revert to the United States, and the purchaser forfeits all he may have paid.

By a reference to the report of the Secretary of the Treasury, made on the 10th of December last, it appears that the balance due from purchasers of public lands in the State of Ohio, amounted, exclusively of interest, on the

1st October, 1803, to - -	$1,092,390
1st October, 1804, to - -	1,434,212
1st October, 1805, to - -	2,094,305

From this statement it appears, that the debt in the course of the two last years has nearly doubled, and it must continue to increase, not only in proportion to the increase of sales, but from an accumulation of arrears arising from failure in punctuality of payment.

By a letter and statement received from the Secretary of the Treasury, and which are hereunto annexed, and to be considered as part of this report, it appears that there was due on the 1st day of January last, on account of purchases made prior to the first day of January, 1801, upwards of $229,000, which, according to law, must be paid in the course of the present year, or the lands be exposed to sale. This sum, as appears by the Secretary's letter, is due from three hundred and nine persons. Although no sales have yet taken place, there is no doubt but some must be made, or the lands revert to the United States, if the law is rigidly executed. A very large proportion of the debtors whose lands are thus to be sold, or to revert, in the course of the present year, are no doubt inhabitants of the State of Ohio. It appears doubtful whether under these circumstances an attempt to sell would be attended with success. Judging from what has happened in similar cases in other States, a strong presumption arises, that a sale of the lands cannot be effected so as to raise the money. Few men are willing to incur the resentment of their neighbors by bidding for their property at public vendue, even when other neighbors are the creditors; and when the public is concerned, scarcely a man will be found hardy enough to do it. The lands will, therefore, in many instances revert to the Government, encumbered by the occupancy of a tenant, who ought to be evicted before another sale should be made. It might be added, that few strangers would run the risk of bidding for property at a vendue, when the united interest of the whole neighborhood was opposed to the sale.

Should this, on experience, prove to be the case, and the increase of the number of debtors bear any proportion to the increase of debt, as under the temptation held out by the present system of credit it no doubt will, there is reason to apprehend, that in a few years more there will be serious cause of alarm, not only on account of the debt due, but even from the lands which may remain unsold in that section of the Union. Strongly impressed as the committee are with this opinion, and believing, as they do, for the reasons assigned by the Secretary of the Treasury in his letter herewith submitted, that, in abolishing the credit given by the present system, and hereafter selling the public lands for ready money only, the actual receipts into the Treasury from this source would be very little, if at all reduced, and the revenue of course but little affected, they feel themselves constrained to adopt the opinion that it would be expedient to abolish the present system.

In expressing this opinion, the Committee feel some diffidence. The present system was adopted on mature deliberation, so far has succeeded very well in its operation; but, by the accumulation of debts, the evils which were dreaded, now begin to unfold themselves, and certainly wear an unpleasant aspect.

It is not believed that the proposed change of system will operate any serious inconvenience to persons whose circumstances furnish them any prospect of becoming purchasers. The small tracts in which the lands are now offered for sale, place them in the reach of every person who emigrates to that country with a view of purchasing; and unless the price should be greatly reduced, moneyed capitalists will not be induced to engage in that extensive speculation in land, which some years since prevailed so generally in every part of the country, and from which so many mischiefs have resulted.

The committee, on a full consideration of the subject, are induced respectfully to submit the following resolution:

Resolved, That it is expedient to repeal all such parts of the laws respecting the sale of the public lands, as authorize a credit on any part of the purchase money.

[The following letter, from the Secretary of the Treasury accompanies the above report.]

TREASURY DEPARTMENT, *Mar.* 28, 1806.

SIR: I had the honor to receive your letter of yesterday, requesting such information as may be connected with the proposition to repeal so much of the existing laws as authorizes a credit on any part of the purchase money of the public lands.

It will be seen by recurrence to the report made by this Department, on the 10th December, 1805, (statements G and C,) that the balance due by purchasers of public lands, in the State of Ohio, amounted, exclusively of interest, on the

1st October, 1803, to - -	$1,092,390
1st October, 1804, to - -	1,434,212
1st October, 1805, to - -	2,094,305

The debt has, therefore, been increased one million of dollars, or nearly doubled in two years; and it will every year be augmented, not only in proportion to the increase of sales, but also on account of the accumulation of arrears which may not be punctually paid.

It also appears, by the enclosed statement, that the sum due on the 1st of January last, for purchases made prior to the year 1805, and which ought to have been discharged before the end of the year 1805, is, exclusively of interest, $207,409 82. The interest due on that sum is estimated at about $22,000; the number of persons by whom it is due, is three hundred and nine; and it is estimated that the sum, including interest, which is due by persons who have paid only the first instalment, is - - - - - - $166,000

By persons who have paid the two first instalments - - - - - 28,000

By persons who have paid the three first instalments - - - - - -	35,000
Making for principal and interest, as above - - - - - - -	$229,000

In every case where those arrears will not be paid at the end of five years from the date of the purchase, (which, for the above sum, will be at various dates, but all in the course of this year) the land will, according to law, be sold or revert to the United States; but there is little danger of that contingency taking place in cases where the two or three first instalments have already been paid.

I feel no hesitation in repeating the opinion which was expressed two years ago, to a committee of the House, that sales for cash only would in every respect be preferable to the present mode.

Although no symptoms of that kind have yet appeared, the accumulation of a debt of $2,000,000, due by more than two thousand heads of families, and which is every day increasing in amount, and extending to a greater number of persons, may ultimately create in that section of the Union a powerful interest, hostile to the Federal Government, and which would endanger both the outstanding debt and the lands unsold.

The revenue will not be affected by the change; for, although a less quantity of lands will be sold, the actual receipts will continue to be in proportion to the existing means of payment; for such is the demand for the public lands, that the sales are limited only by the resources of the inhabitants and emigrants.

Nor is it believed that the measure will ultimately be injurious to the persons who become purchasers. Although some may thereby be prevented from purchasing, the number of actual delinquents shows that the credit allowed often induces individuals to make purchases beyond their means, and not less prejudicial to themselves than to the public. It must also be observed, that, though the nominal price on which lands are sold on credit, be two dollars per acre, the cash price, supposing the whole payment to be made at the time of the purchase, is only (on account of the discount of eight per cent. a year on the three last instalments, which is allowed for prompt payment,) one dollar and sixty-four cents per acre. A quarter section, containing one hundred and sixty acres, will, therefore, cost only two hundred and sixty-two dollars and forty cents. Prior to the act which authorized the sales of land in quarter sections, no man could become a purchaser, unless he paid, within three months thereafter, three hundred and twenty dollars if he had purchased an entire section, and one hundred and sixty dollars, if his purchase was for a half section. This shows that under the proposed alteration, it will require only one hundred dollars more in hand to become a purchaser, than was necessary under the former system. Should, however, that be considered as a formidable objection, I would think a moderate reduction of the price of lands less injurious than a continuation of the present mode.

I will only add, that if credits shall not be allowed hereafter, some indulgence, in point of time, may be given to those former purchasers, whose lands will otherwise be sold during the course of this year, on account of their not having completed the payments within five years of the time of purchase. Should the present system be continued, a more rigid enforcement of the law will be necessary. I have the honor to be, &c.

ALBERT GALLATIN.

Hon. ANDREW GREGG, *Chairman, &c.*

EXPEDITION OF LEWIS AND CLARKE.

[Communicated to Congress, February 19, 1806.]

To the Senate and House of Representatives of the United States:

In pursuance of a measure proposed to Congress by a Message of January 18th, one thousand eight hundred and three, and sanctioned by their approbation for carrying it into execution, Captain Meriwether Lewis, of the first regiment of infantry, was appointed, with a party of men, to explore the river Missouri, from its mouth to its source, and, crossing the highlands by the shortest portage, to seek the best water communication thence to the Pacific ocean, and Lieutenant Clarke was appointed second in command. They were to enter into conference with the Indian nations on their route, with a view to the establishment of commerce with them. They entered the Missouri May fourteenth, one thousand eight hundred and four, and on the first of November took up their winter quarters near the Mandan towns, 1,609 miles above the mouth of the river, in latitude 47° 21′ 47″ north, and longitude 99° 24′ 45″ west from Greenwich. On the eighth of April, one thousand eight hundred and five, they proceeded up the river in pursuance of the objects prescribed to them. A letter of the preceding day, April seventh, from Captain Lewis, is herewith communicated. During his stay among the Mandans, he had been able to lay down the Missouri, according to the courses and distances taken on his passage up it, corrected by frequent observations of longitude and latitude; and to add to the actual survey of this portion of the river, a general map of the country between the Mississippi and Pacific, from the thirty-fourth to the fifty-fourth degrees of latitude. These additions are from information collected from Indians with whom he had opportunities of communicating, during his journey and residence with them. Copies of this map are now presented to both Houses of Congress. With these I communicate also a statistical view, procured and forwarded by him, of the Indian nations inhabiting the Territory of Louisiana, and the countries adjacent to its northern and western borders; of their commerce, and of other interesting circumstances respecting them.

In order to render the statement as complete as may be, of the Indians inhabiting the country

west of the Mississippi, I add Dr. Sibley's account of those residing in and adjacent to the Territory of Orleans.

I communicate also, from the same person, an account of the Red river, according to the best information he had been able to collect.

Having been disappointed, after considerable preparation, in the purpose of sending an exploring party up that river in the Summer of one thousand eight hundred and four, it was thought best to employ the Autumn of that year in procuring a knowledge off an interesting branch of the river called the Washita. This was undertaken under the direction of Mr. Dunbar of Natchez, a citizen of distinguished science, who had aided, and continues to aid us, with his disinterested and valuable services in the prosecution of these enterprises. He ascended the river to the remarkable hot springs near it, in latitude 34° 31′ 4″ 16, longitude 92° 50′ 45″ west from Greenwich, taking its courses and distances, and correcting them by frequent celestial observations. Extracts from his observations, and copies of his map of the river, from its mouth to the hot springs, make part of the present communications. The examination of the Red river itself, is but now commencing.

TH. JEFFERSON.

FEBRUARY 19, 1806.

Extract of a letter from Captain Meriwether Lewis, to the President of the United States, dated

FORT MANDAN, *April 7th*, 1805.

DEAR SIR: Herewith enclosed you will receive an invoice of certain articles, which I have forwarded to you from this place. Among other articles you will observe, by reference to the invoice, sixty-seven specimens of earths, salts, and minerals, and sixty specimens of plants; these are accompanied by their respective labels, expressing the days on which obtained, places where found, and also their virtues and properties, when known. By means of these labels, reference may be made to the chart of the Missouri, forwarded to the Secretary of War, on which the encampment of each day has been carefully marked: thus, the places at which these specimens have been obtained, may be easily pointed out, or again found, should any of them prove valuable to the community on further investigation.

You will also receive herewith enclosed, a part of Captain Clarke's private journal; the other part you will find enclosed in a separate tin box. This journal will serve to give to you the daily details of our progress and transactions.

I shall despatch a canoe with three, perhaps four persons from the extreme navigable point of the Missouri, or the portage between this river and the Columbia river, as either may first happen. By the return of this canoe, I shall send you my journal, and some one or two of the best of those kept by my men. I have sent a journal kept by one of the sergeants, to Captain Stoddard, my agent at St. Louis, in order as much as possible to multiply the chances of saving something. We have encouraged our men to keep journals, and seven of them do, to whom in this respect we give every assistance in our power.

I have transmitted to the Secretary at War, every information relative to the geography of the country which we possess, together with a view of the Indian nations, containing information relative to them, on those points with which I conceived it important that the Government should be informed.

By reference to the muster rolls forwarded to the War Department, you will see the state of the party; in addition to which we have two interpreters, one negro man, servant to Captain Clarke; one Indian woman, wife to one of the interpreters, and a Mandan man, whom we take with a view to restore peace between the Snake Indians, and those in this neighborhood, amounting in total with ourselves to thirty-three persons. By means of the interpreters and Indians, we shall be enabled to converse with all the Indians that we shall probably meet with on the Missouri.

I have forwarded to the Secretary at War my public accounts, rendered up to the present day. They have been much longer delayed than I had any idea they would have been, when we departed from the Illinois; but this delay, under the circumstances which I was compelled to act, has been unavoidable. The provision perogue and her crew, could not have been dismissed in time to have returned to St. Louis last Fall, without evidently, in my opinion, hazarding the fate of the enterprise in which I am engaged; and I therefore did not hesitate to prefer the censure that I may have incurred by the detention of these papers to that of risking in any degree the success of the expedition. To me, the detention of these papers has formed a serious source of disquiet and anxiety, and the recollection of your particular charge to me on this subject, has made it still more poignant. I am fully aware of the inconvenience which must have arisen to the War Department, from the want of these vouchers, previous to the last session of Congress, but how to avert it was out of my power to devise.

From this place we shall send the barge and crew early to-morrow morning, with orders to proceed as expeditiously as possible to St. Louis; by her we send our despatches, which I trust will get safe to hand. Her crew consists of ten able-bodied men, well armed and provided with a sufficient stock of provision to last them to St. Louis. I have but little doubt but they will be fired on by the Sioux; but they have pledged themselves to us that they will not yield while there is a man of them living. Our baggage is all embarked on board six small canoes, and two perogues; we shall set out at the same moment that we despatch the barge. One, or perhaps both of these perogues, we shall leave at the falls of the Missouri, from whence we intend continuing our voyage in the canoes, and a perogue of skins, the frame of which was prepared at Harper's ferry. This perogue is now in a situation which will enable us to prepare it in the course of a few hours. As our vessels are now small, and the current of the river much more moderate, we calculate upon

travelling at the rate of twenty or twenty-five miles per day, as far as the falls of the Missouri. Beyond this point, or the first range of Rocky Mountains, situated about one hundred miles further, any calculation with respect to our daily progress, can be little more than bare conjecture. The circumstance of the Snake Indians possessing large quantities of horses, is much in our favor, as by means of horses the transportation of our baggage will be rendered easy and expeditious over land, from the Missouri to the Columbia river. Should this river not prove navigable where we first meet with it, our present intention is, to continue our march by land down the river, until it becomes so, or to the Pacific ocean. The map which has been forwarded to the Secretary of War, will give you the idea we entertain of the connexion of these rivers, which has been formed from the corresponding testimony of a number of Indians, who have visited that country, and who have been separately and carefully examined on that subject, and we therefore think it entitled to some degree of confidence. Since our arrival at this place, we have subsisted principally on meat, with which our guns have supplied us amply, and have thus been enabled to reserve the parched meal, portable soup, and a considerable proportion of pork and flour, which we had intended for the more difficult parts of our voyage. If Indian information can be credited, the vast quantity of game with which the country abounds through which we are to pass, leaves us but little to apprehend from the want of food.

We do not calculate on completing our voyage within the present year, but expect to reach the Pacific ocean, and return as far as the head of the Missouri, or perhaps to this place, before Winter. You may therefore expect me to meet you at Montachelio in September, 1806. On our return we shall probably pass down the Yellow Stone river, which, from Indian information, waters one of the fairest portions of this continent.

I can see no material or probable obstruction to our progress, and entertain, therefore, the most sanguine hopes of complete success. As to myself, individually, I never enjoyed a more perfect state of good health than I have since we commenced our voyage. My inestimable friend and companion, Captain Clarke, has also enjoyed good health generally. At this moment every individual of the party is in good health and excellent spirits, zealously attached to the enterprise, and anxious to proceed; not a whisper of discontent or murmur is to be heard among them; but all in unison act with the most perfect harmony. With such men I have everything to hope, and but little to fear.

Be so good as to present my most affectionate regard to all my friends, and be assured of the sincere and unalterable attachment of,

Your most obedient servant,

MERIWETHER LEWIS,
Captain 1st U. S. Reg't of Infantry.

TH. JEFFERSON,
President U. S.

A STATISTICAL VIEW

Of the Indian Nations inhabiting the Territory of Louisiana and the countries adjacent to its northern and western boundaries.

EXPLANATORY REFERENCES.

A. The names of the Indian nations as usually spelt and pronounced in the English language.
B. Primitive Indian names of nations and tribes, English orthography, the syllables producing the sounds by which the Indians themselves express the names of their respective nations.
C. Nick-names, or those which have generally obtained among the Canadian traders.
D. The language they speak. If primitive, marked with a *. Otherwise, derived from, and approximating to the.
E. Number of villages.
F. Number of tents or lodges of the roving bands.
G. Number of warriors.
H. The probable number of souls.
I. The rivers on which they rove, or on which their villages are situated.
J. The names of the nations or companies with whom they maintain their principal commerce or traffic.
K. The place at which their principal commerce or traffic is usually carried on.
L. The amount of merchandise necessary for their annual consumption, estimated in dollars at the St. Louis prices.
M. The estimated amount in dollars of their annual returns, at the St. Louis prices.
N. The species of peltries, furs, and other articles which they annually supply or furnish.
O. The species of peltries, furs, and other articles which the natural productions of their country would enable them to furnish, provided proper encouragement was given them.
P. The places at which it would be mutually advantageous to form the principal establishments, in order to supply the several Indian nations with merchandise.
Q. The names of the Indian nations with whom they are at war.
R. The names of the Indian nations with whom they maintain a friendly alliance, or with whom they are united by intercourse or marriage.
S. Miscellaneous remarks.

NOTATIONS.

– over *a* denotes that *a* sounds as in *caught taught*, &c.
^ over *a* denotes that it sounds as in *part, dart*, &c.
a without notation, has its primitve sound, as in *ray, hay*, &c., except only when it is followed by *r* or *w*, in which case it sounds as *â*.
' set underneath, denotes a small pause, the word being divided by it into two parts.

THE INDIAN TRADE.—The sums stated under and opposite "L." are the amounts of merchandise annually furnished the several nations of Indians, including all incidental expenses of transportation, &c., incurred by the merchants, which generally averages about one-third of the whole amount. The merchandise is estimated at an advance of one hundred and twenty-five per cent. on the sterling cost. It appears to me that the amount of merchandise which the Indians have been in the habit of receiving annually, is the best standard by which to regulate the quantities necessary for them in the first instance—they will always consume as much merchandise as they can pay for—and those with whom a regular trade has been carried on have generally received that quantity.

The amount of their returns stated under and opposite the amount "M." are estimated by the peltry standard of St. Louis, which is forty cents per pound for deer-skins; *i. e.*, all furs and peltries are first reduced by their comparative value to pounds of merchantable deer-skins, which are then estimated at forty cents per pound.

These establishments are not mentioned as being thought important, at present, in a Governmental point of view.

A. Grand Osâge.
B. Bâr-hâr-cha.
C. Grand Zo.
D. *
E. Two.
F.
G. 1,200.
H. 5,000.
I. At the three forks of the Arkansas river, and eighty leagues up the Osage river on the south side.
J. Merchants of St. Louis.
K. At their villages.
L. 15,000.
M. 20,000.
N. Principally skins of the small deer, black bear, some beaver, and a few otters and raccoons.
O. Small deer-skins, black bear, and a much larger proportion of beaver, otter, raccoon, and muskrat.
P. About the three forks of the Arkansas river, six hundred miles from its junction with the Mississippi.
Q. With all their Indian neighbors, except the Little Osage, until the United States took possession of Louisiana.
R. With the Little Osage only.
S. Claim the country within the following limits, viz: commencing at the mouth of a south branch of the Osage river, called *Neangua*, and with the same to its source, thence southwardly to intersect the Arkansas about one hundred miles below the three forks of that river; thence up the principal branch of the same, to the confluence of a large northwardly branch of the same, lying a considerable distance west of the Great Saline, and with that stream nearly to its source; thence northwardly towards the Kansas river, embracing the waters of the upper portion of the Osage river, and thence obliquely approaching the same to the beginning. The climate is delightful, and the soil fertile in the extreme. The face of the country is generally level and well watered; the eastern part of the country is covered with a variety of excellent timber; the western and middle country high prairies. It embraces within its limits four salines which are, in point of magnitude and excellence, unequalled by any known in North America—there are also many others of less note. The principal part of the Great Osage have always resided at their villages, on the Osage river, since they have been known to the inhabitants of Louisiana. About three years since, nearly one-half of this nation, headed by their chief, *The Big Track*, emigrated to the three forks of the Arkansas, near which, and on its north side, they established a village, where they now reside. The Little Osage formerly resided on the southwest side of the Missouri, near the mouth of Grand river; but being reduced by continual warfare with their neighbors, were compelled to seek the protection of the Great Osage, near whom they now reside. There is no doubt but their trade will increase. They could furnish a much larger quantity of beaver than they do. I think two villages on the Osage river might be prevailed on to move to the Arkansas, and the Kansas, higher up the Missouri, and thus leave a sufficient scope of country for the Shawnees, Dillewars, Miames, and Kickapoos. The Osages cultivate corn, beans, &c.

A. Little Osâge.
B. Ood'-zâ-tâu.
C. Petit Zo.
D. Osâge.
E. One.
F.
G. 300.
H. 1,300.
I. Near the Great Osages.
J. Merchants of St. Louis.
K. At their village.
L. 5,000.
M. 8,000.
N. The same as the Great Osages.
O. The same as the Great Osages.
P. The same as the Great Osages.
Q. With all their Indian neighbors, except the Great Osage.
R. With the Great Osage only.
S. See page 1041, S.

A. Kanzas.
B. Kar'-sa.
C. Kâh.
D. Osâge.
E. One.
F.
G. 300.
H. 1,300.
I. Eighty leagues up the Kanzas river, on the north side.
J. Merchants of St. Louis.
K. On the Missouri above the mouth of the Kanzas river, not stationary, and at their village.
L. 5,000.
M. 8,000.
N. The same as the Osage, with buffalo grease and robes.

O. The same as the Osage.

P. On the north side of the Kanzas river, at a bluff one and a half miles from its confluence with the Missouri.

Q. With all nations within their reach.

R. They are sometimes at peace with the Ottoes and Missouris, with whom they are partially intermarried.

S. The limits of the country they claim is not known. The country in which they reside, and from thence to the Missouri, is a delightful one, and generally well watered and covered with excellent timber. They hunt on the upper part of Kansas and Arkanzas rivers. Their trade may be expected to increase with proper management. At present they are a dissolute, lawless banditti; frequently plunder their traders, and commit depredations on persons ascending and descending the Missouri river; population rather increasing. These people, as well as the Great and Little Osages, are stationary, at their villages, from about the 15th of March to the 15th of May, and again from the 15th of August to the 15th of October; the balance of the year is appropriated to hunting. They cultivate corn, &c.

A. Ottoes.
B. Wâd-doké-tâh-tâh.
C. La Zóto.
D. Missouri.
E. Ottoes and Missouris, one.
F.
G. 120.
H. 500.
I. South side of the river Platte, fifteen leagues from its mouth.
J. Merchants of St. Louis.
K. On the Missouri, below the river Platte; not stationary, and at their villages.
L. 4,000, including the Missouris.
M. 8,000, including the Missouris.
N. Principally deer skins, black bear, a greater proportion of beaver than the Osage, some otter and raccoons.
O. Skins of the deer, black bear, beaver, otter, raccoon, muskrats, and wolves, buffalo robes, tallow and grease, bears' oil, deer and elk tallow, elk skins dressed and in parchment, all in much larger quantities than they do at present.
P. The Council Bluff on the southwest side of the Missouri, fifty miles above the mouth of the river Platte.
Q. With the Mahas, Pon'cârs, Sioux, the Great and Little Osage, Kanzas, and Loups.
R. With the Panis proper, Saukees and Renars.
S. They have no idea of an exclusive possession of any country, nor do they assign themselves any limits. I do not believe that they would object to the introduction of any well-disposed Indians. They treat the traders with respect and hospitality, generally. In their occupations of hunting and cultivation, they are the same with the Kanzas and Osage. They hunt on the Saline, Nimmehaw rivers, and west of them, in the plains. The country in which they hunt lies well; it is extremely fertile and well watered; that part of it which borders on the Nimmehaw and Missouri possesses a good portion of timber; population rather increasing. They have always resided near the place their village is situated, and are the descendants of the Missouris.

A. Missouris.
B. New'-dar-cha.
C. Missouri.
D. *
E. See page 1043, E.
F.
G. 80.
H. 300.
I. With the Ottoes.
J. Merchants of St. Louis.
K. Same as Ottoes, see page 1043, K.
L. See page 1043, L.
M. See page 1043. M.
N. Same as the Ottoes, page 1043, N.
O. Same as the Ottoes, page 1043, O.
P. The Council Bluff, on the southwest side of the Missouri, fifty miles above the mouth of the river Platte.
Q. With the Mahas, Poncars, Sioux, the Great and Little Osage, Kanzas, and Loups.
R. With the Panis proper, Saukees and Renars.
S. These are the remnant of the most numerous nation inhabiting the Missouri, when first known to the French. Their ancient and principal village was situated in an extensive and fertile plain on the north bank of the Missouri, just below the entrance of the Grand river. Repeated attacks of the small-pox, together with their war with the Saukees and Renars, has reduced them to their present state of dependence on the Ottoes, with whom they reside, as well in their village as on their hunting excursions. The Ottoes view them as inferiors, and sometimes treat them amiss. These people are the real proprietors of an extensive and fertile country lying on the Missouri, above their ancient village for a considerable distance, and as low as the mouth of the Osage river, and thence to the Mississippi.

A. Panias proper.
B. Pâ-nee.
C. Grand Par.
D. *
E. One.
F.
G. 400
H. 1,600.
I. South side of the river Platte, thirty leagues from its mouth.
J. Merchants of St. Louis.
K. On the Missouri, below the river Platte, not stationary, and at their village.
L. 6,400, including the Panias Republican.
M. 10,000, including the Panias Republican.
N. Fine beaver principally, a considerable proportion of beaver, some robes and a few raccoons.
O. Skins of the beaver, otter, raccoon, muskrats and wolves, buffalo robes, tallow and grease, elk skins and grease, also a number of horses.

P. The Council Bluff, on the southwest side of the Missouri, fifty miles above the mouth of the river Platte.

Q. With the Pania-pique, Great and Little Osage, Kansas, La Play, Sioux, Ricaras, and Paducas.

R. With the Loups, Mahas, Poncars, Ottoes, Missouris, and Ayauwais.

S. With respect to their idea of the possession of soil, it is similar to that of the Ottoes; they hunt on the south side of the river Platte, higher up and on the head of the Kansas. A great proportion of this country is open plains, interspersed, however, with groves of timber, which are most generally found in the vicinity of the water courses. It is generally fertile and well watered; lies level, and free of stone. They have resided in the country which they now inhabit, since they were known to the whites. Their trade is a valuable one, from the large proportion of beaver and otter which they furnish, and it may be expected yet to increase, as those animals are still abundant in their country. The periods of their residence at their village and hunting, are similar to the Kansas and Osages. Their population is increasing. They are friendly and hospitable to all white persons; pay great respect and deference to their traders, with whom they are punctual in the payment of their debts. They are, in all respects, a friendly, well disposed people. They cultivate corn, beans, melons, &c.

A. Panias Republican.
B. Ar-râh'-pâ-hoô.
C. Republic.
D. Pania.
E. Panias proper and Panias Republican live in the same village.
F.
G. 300.
H. 1,400.
I. With the Panias proper.
J. Merchants of St. Louis.
K. See page 1044 K.
L. See page 1044 L.
M. See page 1044 M.
N. See page 1044 N.
O. See page 1044 O.
P. See page 1044 P.
Q. See page 1044 Q.
R. See page 1044 R.
S. Are a branch of the Pania proper, or, as they are frequently termed, the *Big Paunch*. About ten years since they withdrew themselves from the mother nation, and established a village on a large northwardly branch of the Kanzas, to which they have given name. They afterwards subdivided, and lived in different parts of the country on the waters of the Kanzas river, but being harassed by their turbulent neighbors, the Kanzas, they rejoined the Panias proper last Spring. What has been said with respect to the Panias proper is applicable to these people, except that they hunt principally on the Republican river, which is better stocked with timber than that hunted by the Panias.

A. Panias Loups, (or Wolves.)
B. Skec'-e-ree.
C. La Loup.
D. Pania.
E. One.
F.
G. 280.
H. 1,000.
I. On the northeast side of the Wolf river, branch of the river Platte, thirty-six leagues from its mouth.
J. Merchants of St. Louis.
K. At the village of the Panias.
L. 2,400.
M. 3,500.
N. See page 1044 N.
O. See page 1044 O.
P. See page 1045 P.
Q. With Pania-picque, Great and Little Osage, Kansas, Le Plays, Sioux, Ricaras, Mahas, Poncars, Ottoes, and Missouris.
R. Panias proper, and Panias Republican.
S. These are also a branch of the Panias proper, who separated themselves from that nation many years since, and established themselves on a north branch of the river Platte, to which their name was also given. These people have likewise no idea of an exclusive right to any portion of country. They hunt on the Wolf river above their village, and on the river Platte above the mouth of that river. This country is very similar to that of the Panias proper, though there is an extensive body of fertile, well-timbered land between the Wolf river below their village, and the river Corn de Cerf, or Elkhorn river. They cultivate corn, beans, &c. The particulars related of the other Panias is also applicable to them. They are seldom visited by any trader, and therefore usually bring their furs and peltry to the village of the Panias proper, where they traffic with the whites.

A. Mahas.
B. O'-mâ'-hâ.
C. La Mar.
D. Osage, with different accent; some words peculiar to themselves.
E.
F. 60.
G. 150.
H. 600.
I. The river Quicurre and the head of the Wolf river.
J. Merchants of St. Louis.
K. At their old village, though no trade latterly.
L. 4,000, including the Pon'cârs.
M. 7,000, including the Pon'cârs.
N. See page 1044, N.
O. The same as the Ottoes and Missouris, with the addition of the skins of the Missouri antelope, (called cabri' by the inhabitants of the Illinois.)
P. See page 1045, P.

Q. Great and Little Osage, Kanzas, Loups, Ottoes, Missouris, and all the Sioux, except the Yankton Ahnâ.

R. With the Panias proper, Panias Republicans, Yanktons Ahna, Saukees, Renars, and Ayouwais.

S. They have no idea of exclusive possession of soil. About ten years since, they boasted 700 warriors. They have lived in a village, on the west bank of the Missouri, 236 miles above the mouth of the river Platte, where they cultivated corn, beans, and melons: they were warlike, and the terror of their neighbors. In the summer and autumn of 1802, they were visited by the small-pox, which reduced their numbers to something less than 300; they burnt their village, and have become a wandering nation, deserted by the traders, and the consequent deficiency of arms and ammunition, has invited frequent aggressions from their neighbors, which have tended to reduce them still further. They rove principally on the waters of the river Quicurre, or Rapid river. The country is generally level, high, and open: it is fertile, and tolerably well watered. They might easily be induced to become stationary: they are well disposed towards the whites, and are good hunters: their country abounds in beaver and otter, and their trade will increase and become valuable, provided they become stationary, and are at peace. The Tetons Bois brûle killed and took about 60 of them last summer.

A. Pon'cârs.
B. Poong-cär.
C. La Pong.
D. Mähä.
E.
F. 20.
G. 50.
H. 200.
I. With the Mahas.
J. Merchants of St. Lous.
K. No place of trade latterly.
L. See page 1046, L.
M. See page 1046, M.
N. See page 1044, N.
O. See page 1046, O.
P. See page 1045, P.
Q. See page 1047, Q.
R. See page 1047, R.

S. The remnant of a nation once respectable in point of numbers. They formerly resided on a branch of the Red river of lake Winnipie: being oppressed by the Sioux, they removed to the west side of the Missouri, on Poncar river, where they built and fortified a villege, and remained some years; but being pursued by their ancient enemies the Sioux, and reduced by continual wars, they have joined, and now reside with the Mahas, whose language they speak.

A. Ric'hrâs.
B. Siär-räh-he'.
C. La Ree.
D. Pania, with a different accent, and a number of words peculiar to themselves.
E. Three.
F.
G. 500.
H. 2,000.
I. On the southwest side of the Missouri, 1,440 miles from its mouth.
J. Merchants of St. Louis.
K. At their villages.
L. 2,500.
M. 6,000.
N. Buffalo robes principally, a small quantity of beaver, small foxes and grease.
O. Buffalo robes, tallow and grease, skins of beaver, small and large foxes, wolves, antelopes and elk in great abundance: also otter, deer and grizzly bears.
P. About the mouth of the river Chyenne, on the Missouri, or at the mouth of the Yellow Stone River.
Q. With the Crow Indians, Snake Indians, Panias Loups, Assinniboins, Nemosen, Alitan, la Plays, and Paunch Indians.
R. Chyennes, Wetepahatoes, Kiawas, Kanenavich, Staetan, Cattako, Dotame, Castahanas, Mandans, Ah-wah-haways, Minetares, and partially with the Sioux.
S. Are remains of ten large tribes of Panias, who have been reduced, by the small-pox and the Sioux, to their present number. They live in fortified villages, and hunt immediately in their neigborhood. The country around them, in every direction, for several hundred miles, is entirely bare of timber, except on the water courses and steep declivities of hills, where it is sheltered from the ravages of fire. The land is tolerably well watered, and lies well for cultivation. The remains of the villages of these people are to be seen on many parts of the Missouri, from the mouth of Tetone river to the Mandans. They claim no land except that on which their villages stand, and the field which they cultivate. The Tetons claim the country around them. Though they are the oldest inhabitants, they may properly be considered the farmers or tenants at will of that lawless, savage, and rapacious race the Sioux Teton, who rob them of their horses, plunder their gardens and fields, and sometimes murder them, without opposition. If these people were freed from the oppression of the Tetons, their trade would increase rapidly, and might be extended to a considerable amount. They maintain a partial trade with their oppressors, the Tetons, to whom they barter horses, mules, corn, beans, and a species of tobacco, which they cultivate; and receive in return, guns, ammunition, kettles, axes, and other articles which the Tetons obtained from the Yanktons of the N. and Sissatones, who trade with Mr. Cammeron, on the river St. Peters. These horses and mules the Ricaras obtain from their western neighbors, who visit them frequently for the purpose of trafficking.

A. Mandas.
B. Män-dän { Ma-too-ton'-ka, 1st village. / Roop-tar'-ha, 2d village.

C. Mandans.
D. *, some words resembling the Osage.
E. Two.
F.
G. 250.
H. 1,250.
I. On both sides of Missouri, 1612 miles from its mouth.
J. The Hudson Bay and Northwest companies, from their establishment on the Assinniboin.
K. At their villages.
L. 2,00.
M. 6,000.
N. Principally the skins of the large and small wolves, and the small fox, with Buffalo robes, some skins of the large fox and beaver, also corn and beans.
O. The same as the Ricars (see page 1048 O.) except the grizzly bear. They could furnish, in addition, the skins of a large species of white hare, a very delicate fur.
P. At or near the mouth of the Yellow Stone river.
Q. With no nation except a defensive war with the Sioux.
R. With all nations who do not wage war against them.
S. These are the most friendly, well disposed Indians inhabiting the Missouri. They are brave, humane, and hospitable. About 25 years since they lived in six villages, about forty miles below their present villages, on both sides of the Missouri. Repeated visitations of the small-pox, aided by frequent attacks of the Sioux, has reduced them to their present number. They claim no particular tract of country. They live in fortified villages, hunt immediately in their neighborhood, and cultivate corn, beans, squashes, and tobacco, which form articles of traffic with their neighbors the Assinniboin: they also barter horses with the Assinniboins for arms, ammunition, axes, kettles, and other articles of European manufacture, which these last obtain from the British establishments on the Assinniboin river. The articles which they thus obtain from the Assinniboins and the British traders who visit them, they again exchange for horses and leather tents with the Crow Indians, Chyennes, Wetepahatoes, Kiawas, Kanenavich, Stactan and Cataka, who visit them occasionally for the purpose of traffic. Their trade may be much increased. Their country is similar to that of the Ricaras. Population increasing.

A. Ahwähäway.
B. Ah-wäh-hä-way.
C. Gens des Soulier.
D. Menetarres.
E. One.
F.
G. 50.
H. 200.
I. On the southwest side of the Missouri, three miles above the Mandans.
J. See page 1049, J.
K. At the Mandan and Menetare villages.
L. 3000.
M. 1,000.
N. See page 1049, N.
O. See page 1049, O.
P. See page 1049, P.
Q. Defensive war with the Sioux, and offensive with Snake Indians and Flatheads.
R. With all who do not wage war against them, except the Snake Indians and Flatheads.
S. They differ but very little, in any particular, from the Mandans, their neighbors, except in the unjust war which they, as well as the Minetares, prosecute against the defenceless Snake Indians, from which I believe, it will be difficult to induce them to desist. They claim to have once been a part of the Crow Indians, whom they still acknowledge as relations. They have resided on the Missouri as long as their tradition will enable them to inform.

A. Minetares.
B. E-hät'-sär, { Me-ne-tar-re, 1st village. / Me-ne-tar-re-me-te-har-tar, 2d village.
C. Gross Ventres.
D. *.
E. Two.
F.
G. 6,000.
H. 2,500.
I. On both sides of Knife river, near the Missouri, five miles above the Mandans.
J. See page 1049, J.
K. At their villages and hunting camps.
L. 1,000.
M. 3,000.
N. See page 1049, N.
O. The same as the Mandans (see p. 1049, O.) with the addition of the white bear.
P. See p. 1049, P.
Q. Defensive war with the Sioux, and offensive with the Snake Indians and Flatheads.
R. With all, except the Snake Indians and Flatheads, who do not wage war against them.
S. They claim no particular country, nor do they assign themselves any limits; their tradition relates that they have always resided at their present villages. In their customs, manners, and dispositions, they are similar to the Mandans and Ahwahhaways. The scarcity of fuel induces them to reside, during the cold season, in large bands, in camps, on different parts of the Missouri, as high up that river as the mouth of the river Yellow Stone, and west of their villages, about the Turtle mountain. I believe that these people, as well as the Mandans and Ahwahhaways, might be prevailed on to remove to the mouth of Yellow Stone river, provided an establishment is made at that place. They have as yet furnished scarcely any beaver, although the country they hunt abounds with them; the lodges of these animals are to be seen within a mile of their villages. These people have also suffered considerably by the small-pox; but have successfully resisted the attacks of the Sioux. The Northwest Company intend to form an establishment in the course of

the next summer and autumn, on the Missouri, near these people, which, if effected, will most probably prevent their removal to any point which our Government may hereafter wish them to reside at,

A. Ayauwais.
B. Ah'-e-o-war'.
C. Ne Percé.
D. Missouri.
E. One.
F.
G. 200.
H. 800.
I. Forty leagues up the river Demoin on the southeast side.
J. Mr. Crawford, and other merchants from Michilimackinac.
K. At their village and hunting camps.
L. 3,800.
M. 6,000.
N. Deer skins principally, and the skins of the black bear, beaver, otter, grey fox, raccoon, muskrat, and mink.
O. Deerskins, beaver, black bear, otter, grey fox, raccoon, muskrat, and mink; also, elk, and deers' tallow and bear's oil.
P. At the mouth of the Kansas.
Q. Particularly with the Osage, Kansas, and Chippeways, la Fallorine, and those of Leach and Sand Lakes: sometimes with the Mahas and Sioux; Wahpatone, Mindawarcarton and Wahpacoota.
R. With the Ottoes, Missouris, Sioux, Yanktonahnah, and all the nations east of the Mississippi, and south of the Chippeways.
S. They are the descendants of the ancient Missouries, and claim the country west of them to the Missouri; but as to its precise limits, or boundaries, between themselves and the Saukees and Foxes, I could never learn. They are a turbulent savage race, frequently abuse their traders, and commit depredations on those ascending and descending the Missouri. Their trade cannot be expected to increase much.

A. Saukees.
B. O'saw-kee.
C. la Sauk.
D. *
E. Two.
F.
G. 500.
H. 2,000.
I. On the west side of the Mississippi, 140 leagues above St. Louis.
J. Merchants from Michilimackinac and St. Louis.
K. At their villages, on the Mississippi in sundry places, and at Eel river on the Wabash.
L. 4,000.
M. 6,000.
N. See p. 1051, N.
O. See p. 1051. O.
P. At Prairie de Chien. (or dog plain.)
Q. With the Osage, Chippeways generally, and Sioux, except the Yankton-ahnah.
R. Kansas, Ottoes, Missouris, Panias, Mahas, Poncars, and Ayauways, and all the nations east of the Mississippi, and south of the Chippeways, also with the Yankton-ahnahs.
S. Saukees and Renárs, or Foxes. These nations are so perfectly consolidated they may, in fact, be considered as one nation only. They speak the same language; they formerly resided on the east side of the Mississippi, and still claim the land on that side of the river, from the mouth of the Oisconsin to the Illinois river, and eastward towards Lake Michigan; but to what particular boundary, I am not informed; they also claim, by conquest, the whole of the country belonging to the ancient Missouris, which forms one of the most valuable portions of Louisiana, but what proportion of this territory they are willing to assign to the Ayouways, who also claim a part of it, I do not know, as they are at war with the Sioux, who live N. and N. W. of them, except the Yankton-ahnah. Their boundaries in that quarter are also undefined; their trade would become much more valuable if peace was established between them and the nations west of the Missouri, with whom they are at war; their population has remained nearly the same for many years; they raise an abundance of corn, beans, and melons; they sometimes hunt in the country west of them, towards the Missouri, but their principal hunting is on both sides of the Mississippi, from the mouth of the Oisconsin to the mouth of the Illinois river. These people are extremely friendly to the whites, and seldom injure their traders; but they are the most implacable enemies to the Indian nations with whom they are at war. To them is justly attributable the almost entire destruction of the Missouris, the Illinois, Cahokias, Kaskaskias, and Piorias.

A. Foxes.
B. Ot-tár gâr-me.
C. la Renar.
D. Saukee.
E. One.
F.
G. 300.
H. 1,200.
I. Near the Saukees.
J. Merchants of Michilimackinac and St. Louis.
K. See p. 1051, K.
L. 2,500.
M. See page 1051, N.
O. See page 1051, O.
P. At Prairie de Chien. (or dog plain.)
Q. See page 1052, Q.
R. See page 1052, R.
S. See page 1052, S.

A. SIOUX PROPER—(DARCOTAR.)

B.	C.	D.	E.	F.	G.	H.	I.	J.	K.
Wâh'-pa-tone - -	La Soo.	* Darcotar or Sioux.	One.	80	200	700	On the north side of the river St. Peters, 18 leagues from its mouth.	Messrs. Campbell, Dickson, and others, who trade to Michilimackinac.	On the Mississippi and St. Peters rivers, at sundry places not stationary.
							On the Mississippi, at the mouth of the river St. Peters.	Ditto.	Ditto.
Min'-da-wâr'-cârton -	Gens de Lake.	Ditto.	-	120	300	1,200	On the south-west side of the river St. Peters, 30 leagues above its mouth, in Arrow Stone Prairies.	Ditto.	Ditto.
Wâh'-pa-coo-ta -	La Soo.	Ditto.	-	60	150	400	On the heads of the river St. Peters and Red river of Lake Winnipic.	Mr. Cammaron, a merchant who trades extensively to Michilimackinac.	An establishment at the head of St. Peters river, about 130 leagues from its mouth.
Sissatoné - - -	La Soo.	Ditto.	-	80	200	600	From the heads of the river St. Peters and Red river to the Missouri, about the *great bend.*	Ditto.	Ditto.
Yank'-ton, (of the north or plains.)	La Soo.	Ditto.	-	200	600	1,600	From the river Ali Jacque eastwardly, on the lower portion of the river Sioux and heads of Foids river, Little Sioux and Demoin rivers.	Principally with Mr. Crawford, of the river Demoin.	On the river Demoin at their hunting camps, and sometimes at the Ayauwais village Prairie de Chieh.
Yank'-ton âh-nâh -	La Soo.	Ditto.	-	80	200	700	On the east side of the Missouri, from the mouth of White river to Teton river.	Mr. Loisell & Co., of St. Louis.	At the Cedar Island, and near the mouth of the Cheyenne river, on the Missouri.
Té-ton - - -	Bois brûle.	Ditto.	-	120	300	900	On each side of the Missouri, from the mouth of Teton river to the mouth of the Cheyenne river.	Ditto.	Ditto, and at the Rickaras.
Téton,-o-kan-dan-das -	La Soo.	Ditto.	-	50	120	360	From the mouth of the Cheyenne river on each side of the Missouri as high as the Rickaras.	Ditto.	Ditto.
Té-ton,-min-na-kine-oz'-zo -	La Soo.	Ditto.	-	100	250	750	On each side of the Missouri from the Rickaras to the mouth of Warreconne river.	Ditto.	Ditto.
Té-ton,-âh-o-né - -	La Soo.	Ditto.	-	120	300	900			

A. SIOUX PROPER.—(DARCOTAH.)—Continued.

B.	L.	M.	N.	O.	P.	Q.	R.
Wáh'-pa-tone - - -	10,000	18,000	Deer skins principally, skins of the black bear, otter, fisher, marten, raccoon, grey foxes, muskrats, and minks.	Skins of the small deer, black bear, otter, beaver, fisher, marten, raccoon, grey fox, muskrat, and mink; also, elk and deers, tallow and bears' oil.	On the west side of the Mississippi, about the mouth of St. Peters river, or falls of St. Anthony.	Principally with the Chippeways, La Follovoine, and those of Leach and Sandy lakes; defensive with the Saukees, Renars, and Ayauwais.	With the Sioux bands and all the nations east of the Mississippi, and south of the Chippeways, who never wage war against the nations on the Missouri.
Min'da,-wár'-cár-ton -	8,700	16,000	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
Wáh'-pa-coo-ta - -	3,800	6,000	Ditto, with a much larger proportion of otter.	Ditto.	Ditto.	With the Chippeways generally, and sometimes an offensive war on the nations most convenient to them on the Missouri.	Ditto.
Sis-sa-toné - - -	17,000	30,000	Ditto, with a much larger proportion of beaver, otter, and black bear.	Ditto.	About the head of the river St. Peters, at the portage between that river and the Red river, of lake Winnipie.	With the Chippeways generally, the Assinniboins, Christenois, Mandans, Minetares, Ahwahhaways and Chyennes.	Ditto, and partially with the Ricaras.
Yank'ton, (of the north or plains.)	1,800	3,000	Buffalo robes and wolf skins.	Ditto, and buffalo robes, tallow, dried meat, and grease, in addition.	Ditto, and on the Missouri, near the mouth of Chyenne river.	Ditto.	With the other Sioux bands, and partially with the Ricaras.
Yank'-ton ah'nah - -	3,000	5,000	Deer and raccoon principally, some black bear, beaver, and otter.	Buffalo robes, tallow, dried meat, and grease, skins of the small deer, black bear, wolves, elk, raccoon, elk and deers, tallow and bears' oil.	At the Council Bluff, or mouth of river Chyenne.	With the Ricaras and the nations on the lower portion of the Missouri and west of it within their reach, except the Mahas and Poncars; also with the Chippeways.	Mahas, Poncaras, Saukees, Renars, Ayauwais and the nations east of the Mississippi and south of the Chippeways; also, with the other bands of Sioux.
Té-ton - - - - -	5,000	7,000	Buffalo robes, grease and tallow, dressed buffalo skins, and some dried meat.	Buffalo robes, tallow, grease, and dried meat, skins of the beaver, small and large foxes, small and large wolf, antelope, elk, and deer, in great abundance; also, elk and deers' tallow, and grisly bears.	At or near the mouth of the Chyenne river.	With all the nations on the lower portion of the Missouri, and west of it within their reach; also, the Mandans, Ahwahhaways, the Minitares, Assinniboins, Christenois, and Chippeways.	With all the other bands of Sioux, and with none else except partially with Ricaras, whom they keep in perpetual dread of them, and plunder without reserve.
Té-ton,-o-kan-dan-dás -	1,500	2,500	Ditto.				
Té-ton,-min-na-kine-az'zo -	2,000	3,000	Ditto.				
Té-ton,-sáh-o-né - -	2,300	3,500	Ditto.				

S. WAHPATONE.—Claim the country in which they rove on the northwest side of the river St. Peter's, from their village to the mouth of the Chippewa river, and thence northeastwardly towards the head of the Mississippi, including the Crow-wing river. Their lands are fertile, and generally well timbered. They are only stationary while the traders are with them, which is from the beginning of October to the last of March. Their trade is supposed to be at its greatest extent. They treat their traders with respect, and seldom attempt to rob them. This, as well as the other Sioux bands, act in all respects, as independently of each other as if they were a distinct nation.

S. MINDAWARCANTON.—It is the only band of Sioux that cultivates corn, beans, &c., but not even cannot properly be termed a stationary people. They live in tents of dressed leather, which they transport by means of horses and dogs, and ramble from place to place during the greater part of the year. They are friendly to the greater part traders; but the inveterate enemies to their own supply their enemies, the Chippeways, to such as chandise. They also claim the country in which they hunt, commencing at the entrance of the river St. Peter's, and extending upwards, on both sides of the Mississippi river, to the mouth of the Crow-wing river. The land is fertile and well watered; lies level and is sufficiently timbered. Their trade cannot be expected to increase much.

S. WAHPACOOTA.—They rove in the country in the southwest of the river St. Peter's, from a place called the Hardwood to the mouth of the Yellow Medicine river; never stationary but when their traders are with them, and this does not happen at any regular or fixed point. At present they treat their traders tolerably well. Their trade cannot be expected to increase much. A great proportion of their country is open plains, lies level, and is tolerably fertile. They maintain a partial traffic with the Yanktons and Tetons to the west of them; to these they barter the articles which they obtain from the traders on the river St. Peter's, and receive in return horses, some robes and leather lodges.

S. SISSATONE.—They claim the country in which they rove, embracing the upper portions of the Red river, of Lake Winnipie, and St. Peter's. It is a level country, intersected with many small lakes. The land is fertile and free of stone; the most of it open plains. This country abounds more in the valuable fur animals, the beaver, otter, and marten, than any portion of Louisiana yet known. This circumstance furnishes the Sissatones the means of purchasing more merchandise in proportion to their number than any nation in this quarter. A great proportion of their trade with the Tetons, whom they annually meet at some point previously agreed upon, on the waters of James river, in the month of May. This Indian fair is frequently attended by the Yanktons of the North and Ahnah. The Sissatones and Yanktons of the North here supply the others with considerable quantities of arms, ammunition, axes, knives, kettles, cloth, and a variety of other articles; and receive in return principally horses, which the others have stolen or purchased from the nations on the Missouri and west of it. They are devoted to the interests of their traders.

S. YANKTONS OF THE NORTH.—This band, although they purchase a much smaller quantity of merchandise than the Sissatones, still appropriate a considerable proportion of what they do obtain in a similar manner with that mentioned of the Sissatones. This trade, as small as it may appear, has been sufficient to render the Tetones independent of the trade of the Missouri, in a great measure, and has furnished them with the means not only of distressing and plundering the traders of the Missouri, but also of plundering and massacreing the defenceless savages of the Missouri, from the mouth of the river Platte to the Minetares, and west to the Rocky mountains. The country these people inhabit is almost one entire plain, uncovered with timber; it is extremely level, the soil fertile, and generally well watered.

S. YANKTONS AHNAH.—These are the best disposed Sioux who rove on the banks of the Missouri, and these even will not suffer any trader to ascend the river, if they can possibly avoid it. They have, heretofore, invariably arrested the progress of all those they have met with, and generally compelled them to trade at the prices, nearly, which they themselves think proper to fix on their merchandise. They seldom commit any further acts of violence on the whites. They sometimes visit the river Demoin, where a partial trade has been carried on with them, for a few years past, by a Mr. Crawford. Their trade, if well regulated, might be rendered extremely valuable. Their country is a very fertile one; it consists of a mixture of wood lands and prairies. The land bordering on the Missouri is principally plains with but little timber.

S. TETONS BOIS BRULE, TETONS OKANDANDAS, TETONS MINNAKINEAZZO, TETONS SAHONE. These are the vilest miscreants of the savage race, and must ever remain the pirates of the Missouri, until such measures are pursued by our Government, as will make them feel a dependence on its will for their supply of merchandise. Unless these people are reduced to order by coercive measures, I am ready to pronounce that the citizens of the United States can never enjoy but partially the advantages which the Missouri presents. Relying on a regular supply of merchandise through the channel of the river St. Peter's, they view with contempt the merchants of the Missouri, whom they never fail to plunder when in their power. Persuasion or advice, with them, is viewed as supplication, and only tends to inspire them with contempt for those who offer either. The tameness with which the traders of the Missouri have heretofore submitted to their rapacity has tended not a little to inspire them with contempt for the white persons who visit them through that channel. A prevalent idea among them, and one which they make the rule of their conduct, is, that the more illy they treat the traders the greater quantity of merchandise

they will bring them, and that they will thus obtain the articles they wish on better terms; they have endeavored to inspire the Ricaras with similar sentiments, but happily without any considerable effect. The country in which these four bands rove is one continued plain, with scarcely a tree to be seen, except on the water courses, or the steep declivities of hills, which last are but rare. The land is fertile, and lies extremely well for cultivation; many parts of it are but badly watered. It is from this country that the Missouri derives most of its coloring matter; the earth is strongly impregnated with glauber salts, alum, copperas, and sulphur, and when saturated with water, immense bodies of the hills precipitate themselves into the Missouri, and mingle with its waters. The waters of this river have a purgative effect on those unaccustomed to use it. I doubt whether these people can ever be induced to become stationary; their trade might be made valuable if they were reduced to order. They claim jointly with the other bands of the Sioux, all the country lying within the following limits, viz: beginning at the confluence of the river Demoin and Mississippi, thence up the west side of the Mississippi to the mouth of the St. Peter's river, thence on both sides of the Mississippi to the mouth of Crow wing river, and upwards with that stream, including the waters of the upper part of the same; thence to include the waters of the upper portion of Red river, of Lake Winnipie, and down the same nearly to Pembenar river, thence a southwesterly course to intersect the Missouri at or near the Mandans, and with that stream downwards to the entrance of the Warrecunne creek, thence passing the Missouri it goes to include the lower portion of the river Chyenne, all the waters of White river and river Teton, includes the lower portion of the river Quicurre, and returns to the Missouri, and with that stream downwards to the mouth of Waddipon river, and thence eastwardly to intersect the Mississippi at the beginning.

The subdivisions of the Dacotar or Sioux nations, with the names of the principal chiefs of each band and subdivision.

Names of the Bands.	Names of the subdivisions.	Names of the Chiefs.	Remarks.
Mindawarcarton - -	Mindawarcarton.	*Ne-co-hun-dah.	Those marked with a star are the principal chiefs of their respective bands, as well as their own subdivisions.
	Kee-uke-sah.	Tar-tong-gar-mah-neg.	
	Tin-tah-ton.	Cha-tong-do-tah.	
	Mah-tah-ton.		
Wahpatone - -	Wah-pa-tone.	*Tar-car-ray.	
	O-ta-har-ton.	War-bo-sen-dat-ta.	
Wahpacoota - -	Wah-pa-coo-ta.	*War-cah-to.	
	Mi-ah-kee-jack-sah.	Chit-tah-wock-kun-de-pe	
Sissatone - - -	Sissatone.	*Wack-he-en-do-tar.	
	Caw-ree.	Tar-tung-gan-naz-a.	
Yankton, (of the North.)	Kee-uke-sah.	*Mah-to-wy-ank-ka - -	Said individually to be very friendly to the whites. He possesses great influence in his band and nation.
	Sah-own.	Arsh-kane.	
	Hone-ta-par-teen.	Pit-ta-sah.	
	Hah-har-tones.	Mah-pe-on-do-tak.	
	Hone-ta-par-teen-waz.	Tat-tung-gar-weet-e-co.	
	Za-ar-tar.		
Yankton-ahnah - -	Yank-ton-sa-char-hoo.	*Nap-pash-scan-na-mah-na	Accepted a medal and flag of the United States.
	Tar-co-im-bo-to.	War-ha-zing-ga - -	Accepted a medal.
Teton, (Bois brûle.) -	E-sah-a-te-ake-tar-par.	*Tar-tong-gar-sar-par -	Accepted a medal and flag.
	War-chink-tar-he.	Man-da-tong-gar - -	A great scoundrel; we gave him a medal before we were acquainted with his character.
	Choke-tar-to-womb.	Tar-tang-gar-war-har.	
	Oz-ash.	Mah-zo-mar-nee.	
	Me-ne-sharne.	Wah-pah-zing-gar.	
Teton, O-kan-dan-das -	She-o,	*O-ase-se-char.	
	O-kan-dan-das.	Wah-tar-pa.	
Teton, min-na-kine-az-zo	Min-na-kine-az-zo.	*Wock-ke-a-chauk-in-dish-kah.	
	Wan-nee-wack-a-ta-o-ne-lar.	Chan-te-wah-nee-jah.	
	Tar-co-eh-parh.	*Ar-kee-che-tar.	
Teton, sah-o-ne - -	Sah-o-ne.	War-min-de-o-pe-in-doo-tar.	
	Tack-chan-de-see-char.	Sharh-ka-has-car.	
	Sah-o-ne-hont-a-par-par.		

A. Chyennes.
B. Shâr'-ha.
C. La Chien.
D. *
E.
F. 110.
G. 300.
H. 1,200.
I. About the source of the river Chyenne, in the black hills.
J. Mr. Loiselle & Co., of St. Louis.
K. On the river Chyenne, not stationary, and at the Ricaras village.
L. 1,500.
M. 2,000.
N. Buffalo robes of best quality.
O. Buffalo robes, tallow, grease, and dried meat, skins of the beaver, small and large foxes, small and large wolf, antelope, elk and deer in great abundance; also, elk and deer tallow, a few grizzly bear, skins of the white bear, and big-horned antelopes.
P. At or near the mouth of Chyenne river.
Q. A defensive war with the Sioux, and at war with no other within my knowledge.
R. With all their neighbors except the Sioux.
S. They are the remnant of a nation once respectable in point of numbers; formerly resided on a branch of the Red river of Lake Winnipie, which still bears their name. Being oppressed by the Sioux, they removed to the west side of the Missouri, about fifteen miles below the mouth of Warricunne creek, where they built and fortified a village; but being pursued by their ancient enemies, the Sioux, they fled to the Black hills about the head of the Chyenne river, where they wander in quest of the buffalo, having no fixed residence. They do not cultivate. They are well-disposed towards the whites, and might easily be induced to settle on the Missouri, if they could be assured of being protected from the Sioux. Their number annually diminishes. Their trade may be made valuable.

A. Wetepâhâ'toes.
B. We-te-pâ-hâ'-to.
C. Wete-pahatoes,
D. *
E.
F. 70, including the Kiâwâs.
G. 200, including the Kiawas.
H. 700, including the Kiawas.
I. On the Paduca fork of the river Platte.
J. No trader.
K. L. M. N.
O. The same as the Tetons. (See first table; also, horses.
P. At or near the mouth of Chyenne river.
Q. A defensive war with the Sioux, and at war with no other within my knowledge.
R. With all their wandering neighbors to the West, and particularly with Ricaras, Mandans, Minatares, and Ahwahhaways, whom they occasionally visit for the purpose of trafficking their horses, mules, &c., for European manufactures.
S. They are a wandering nation, inhabit an open country, and raise a great number of horses, which they barter to the Ricaras, Mandans, &c., for articles of European manufactory. They are a well-disposed people, and might be readily induced to visit the trading establishments on the Missouri. From the animals their country produces, their trade would, no doubt, become valuable. These people again barter a considerable proportion of the articles they obtain from the Menetares, Ahwahhaways, Mandans, and Ricaras, to the Dotames and Castapanas.
A. Kiâwâs.
B. Ki-â-wâ.
C. Kiâwâs.
D. *
E.
F. See page 1061, F.
G. See page 1061, G.
H. See page 1061, H.
I. On the Paduca, and frequently with the Wetepahatoes.
J. No trader.
K. L. M. N.
O. See page 1061, O.
P. At, or near the mouth of Chyenne river.
Q. See page 1061, Q.
R. See page 1061, R.
S*. What has been said of the Wetepahatoes is in all respects applicable to those people also. Neither these people, the Wetepahatoes, nor the Chyennes, have any idea of exclusive right to the soil.

A. Kanenavish.
B. Kan-e-nâ'-vish.
C. Gens-des-Vache.
D. *
E.
F. 150.
G. 400.
H. 1,500
I. On the heads of the Paducas fork of the river Platte, and S. fork of Chyenne river.
J. No trade.
K. L. M. N.
O. See page 1061, O.
P. At or near the mouth of Chyenne river.
Q. See page 1061, Q.
R. See page 1061, R.
S*. See page 1062, S.

A. Staetan.
B. Sta'-e-tan.
C. Kites.
D. *
E.
F. 40.
G. 700.
H. 400.
I. On the head of the Chyenne, and frequently with the Kanenavish.
J. K. L. M. N.
O. See page 1061, O.
P. At, or near the mouth of Chyenne river.

Q. See page 1061.
R. See page 1061, R.
S. See page 1062, S.

A. Cataka.
B. Cat'-a-kâ.
C. Cat'akâ.
D. *
E.
F. 25.
G. 75.
H. 300.
I. Between the heads of the north and south forks of the river Chyenne.
J. K. L. M. N.
O. See page 1061, O.
P. At, or near the mouth of the Chyenne river.
Q. See page 1061, Q.
R. See page 1061, R.
S. See page 1062, S.

A. Nemousin.
B. Ne'-mo-sin.
C. Allebome.
D. *
E.
F. 15.
G. 50
H. 200.
I. On the head of the north fork of the river Chyenne.
J. No trader.
K. L. M. N.
O. See page 1061, O.
P. At or near the mouth of the Chyenne river.
Q. A defensive war with the Ricaras and Sioux.
R. The same as the Wetepahatoes (see page 1061, R.) except the Ricaras.
S. These differ from the others (viz. Wetepahatoes, Kiawas, Kanenavish, Staetan and Cataka) inasmuch as they never visit the Ricaras; in all other respects they are the same, see page 1062, S.

A. Dotame.
B. Do-ta'-me.
C. Dotame.
D. *
E.
F. 10.
G. 30.
H. 120.
I. On the head of the river Chyenne.
J. No trader.
K. L. M. N.
O. See page 1061, O.
P. At or near the mouth of the Chyenne river.
Q. See page 1061, Q.
R. See page 1061, R.
S. The information I possess, with respect to this nation, is derived from Indian information: they are said to be a wandering nation, inhabiting an open country, and who raise a great number of horses and mules. They are a friendly, well disposed people, and might, from the position of their country, be easily induced to visit an establishment on the Missouri, about the mouth of Chyenne river. They have not, as yet, visited the Missouri.

A. Castahana.
B. Cas-ta-ha'-na.
C. Castahana.
D. *
E.
F. 500.
G. 1,300.
H. 5,000.
I. Between the sources of the Padoucas fork, of the rivers Platte and Yellow Stone.
J. No traders.
K. L. M. N.
O. The same as the Chyennes (see p. 1061,O) and the skins of the lynx, or louverin, and martens in addition.
P. At or near the mouth of the river Yellow Stone on the Missouri.
Q. A defensive war with the Sioux and Assinniboins.
R. See page 1061, R.
S. What has been said of the Dotames is applicable to these people, except that they trade principally with the Crow Indians, and that they would most probably prefer visiting an establishment on the Yellow Stone river, or at its mouth on the Missouri.

A. Crow Indians.
B. Kee'-kât'-sâ.
C. Gens des Corbeau.
D. Minetarre.
E.
F. 350.
G. 900.
H. 3,500.
I. On each side of the river Yellow Stone, about the mouth of the Bighorn river.
J. No trader.
K. L. M. N.
O. See page 1064, O.
P. At or near the mouth of the river Yellow Stone, on the Missouri.
Q. Defensive with the Sioux and Ricaras.
R. The same as the Wetepahatoes, (see page. 1061, R.) except the Ricaras.
S. These people are divided into four bands, called by themselves Ahâh'-âr-ro'-pir-no-pah, Noo'-ta, Pa-rees-ear, and E-hart'-sar. They annually visit the Mandans, Minetares, and Ahwahhaways, to whom they barter horses, mules, leather lodges, and many articles of Indian apparel, for which they receive in return, guns, ammunition, axes, kettles, awls, and other European manufactures. When they return to their country, they are in turn visited by the Paunch and Snake Indians, to whom they barter most of the articles they have obtained from the nations on the Missouri, for horses and mules, of which those nations have a greater abundance than themselves. They also obtain of the Snake Indians, bridlebits and blankets, and some other articles which those Indians purchase from the Spaniards. The bridlebits and blankets I have seen in the possession of the Mandans and Minetares. Their country is fertile, and well watered, and in most parts well timbered.

A. Paunch Indians.
B. Al-la-kâ'-we-âh.
C. Gens de Panse.
D. *
E.
F. 300.
G. 800.
H. 2,300.
I. On each side of the Yellow Stone river, near the Rocky Mountains, and heads of the Bighorn river.
J. No trader.
K. L. M. N.

O. See page 1064, O.
P. At or near the mouth of the river Yellow Stone, on the Missouri.
Q. Defensive with the Sioux and Ricaras.
R. The same as the Wetepehatoes (see page 1061, R.) except the Ricaras.
S. These are said to be a peaceable, well disposed nation. Their country is a variegated one, consisting of mountains, valleys, plains, and woodlands, irregularly interspersed. They might be induced to visit the Missouri, at the mouth of the Yellow Stone river; and from the great abundance of valuable furred animals which their country, as well as that of the Crow Indians, produces, their trade must become extremely valuable. They are a roving people, and have no idea of exclusive right to the soil.

A.—ASSINNIBOIN.—(NACOTA.)

B.	C.	D.	E.	F.	G.	H.	I.	J.	K.
Ma-ne-to'-pâ -	Gens des Canoe.	Sioux, with some few words peculiar to themselves.	-	100	200	750	On the Mouse river, between the Assinniboin and the Missouri.	British Hudson's Bay, and the N. W. and X. Y. Canadian Companies.	Establishm'ts on the Assinniboin river.
O-scé-gâh -	Gens des Tee.		-	100	250	850	From the Missouri, about the mouth of Little Missouri, to the Assinniboin, at the mouth of Capelle river.		Establishm'ts on the Assinniboin and Capelle rivers.
Mâh'-to-pâ-nâ-to	Gens des grand Diable.		-	200	450	1,600	On the Missouri, about the mouth of the White Earth river, and on the head of the Assinniboin and Capelle rivers.		Do., & occasionally at the establish'ts on river Saskashawan.

A.—ASSINNIBOIN—(NACOTA)—Continued.

B.	L.	M.	N.	O.	P.	Q.	R.
Ma-ne-to'-pâ -	4,500	7,000	- - - -	Buffalo robes, tallow, dried and pounded meat and grease, skins of the large & small fox, small and large wolves, antelopes (or cabri) and elk in great abundance; also, some brown, white, and grizly bear, deer and lynx.	At or near the mouth of the river Yellow Stone, on the Missouri.	Reciproc'lly with the Sioux; offensive with the Ricaras, Castahana, Paunch, Crow, & Snake Indians, and all those southwest Missouri, within their reach.	With all their own tribes; Christenoes, (branch of the Knistenaus,) & partially with the Chippeways of Pembena, Algonquins of Portage de Prairie, Mandans, Minetares, & Ahwahhawas.
O-scé-gâh -	6,000	6,500	Buffalo meat dried or pounded, and grease in bladders principally; also wolves, a few beaver, and buffalo robes.				
Mâh'-to-pâ-nâ-to	8,000	8,000	- - - -	Do., with more bears, and some marten.			

S. MANETOPA, OSEEGAH, MAHTOPANATO—Are the descendants of the Sioux, and partake of their turbulent and faithless disposition: they frequently plunder, and sometimes murder, their own traders. The name by which this nation is generally known was borrowed from the Chippeways, who call them *Assinniboan*, which, literally translated, is *Stone Sioux*. Hence the name of *Stone Indians*, by which they are sometimes called. The country in which they rove is almost entirely uncovered with timber; lies extremely level, and is but badly watered in many parts. The land, however, is tolerably fertile, and unencumbered with stone. They might be induced to trade at the river Yellow Stone, but I do not think that their trade promises much. Their number continues about the same. These bands, like the Sioux, act entirely independent of each other, although they claim a national affinity, and never make war on each other. The country inhabited by the Mahtopanato possesses rather more timber than the other parts of the country. They do not cultivate.

Expedition of Lewis and Clarke.

A.—CHIPPEWAYS.

B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.
O-jib'-â-way	La Sauteur.	• -		-	400	1,600	On an island in a small lake, called Leach lake, formed by the Mississippi river.	N.W. Company.	At their villages & hunting camps on the Mississippi.	12,000	16,000
Ditto -		Chippeway		-	200	700	About the head of the Mississippi, & around Red lake.	Ditto -	At an establishm't on Red lake, and at their hunting camps.	8,000	10,000
Ditto		Ditto -		-	100	350	On the Red river of Lake Winnipie, and about the mouth of Pembanar river.	N. W. and X.Y. Companies.	Establishm'ts near the mouth Pembanar river, and at their hunting camps.	7,000	10,000

A.—CHIPPEWAYS—Continued.

B.	N.	O.	P.	Q.	R.
Ojibaway -	Beaver, otter, black bear, racoon, fox, marten, mink, fisher, and deer-skins.	Beaver, otter, black bear, racoon, grey fox, marten, mink, fisher, and deer skins.	On the north side of the Mississippi, at Sandy lake.	With all the tribes Sioux, Saukees, Renars, and Ayouwais.	All the tribes of Chippeways, and the nations inhabiting Lakes Superior, Michigan, and the country E. of the Mississippi.
Ditto -	Ditto, and bark canoes.	Ditto, and bark canoes.	On the Red lake, near the head of the Mississippi.	! The Sioux only.	
Ditto -	Ditto, principally, beaver and otter, but no canoes; some wolverine & lynx.	Ditto, except canoes, with wolverine and lynx in addition.	On the Red river of Lake Winnipie, about the mouth of the Assinniboin river.	† The Sioux, and partially with the Assinniboins.	Ditto, and with the Christenoes and Algonquins.

S. Chippeways, *of Leach lake.* Claim the country on both sides of the Mississippi, from the mouth of the Crow-wing river to its source, and extending west of the Mississippi to the lands claimed by the Sioux, with whom they still contend for dominion. They claim, also, east of the Mississippi, the country extending as far as Lake Superior, including the waters of the river St. Louis. This country is thickly covered with timber generally; lies level, and generally fertile, though a considerable proportion of it is intersected and broken up by small lakes, morasses and swamps, particularly about the heads of the Mississippi and river St. Louis. They do not cultivate, but live principally on the wild rice, which they procure in great abundance on the borders of Leach Lake and the banks of the Mississippi. Their number has been considerably reduced by wars and the small pox. Their trade is at its greatest extent.

Of Red lake. Claim the country about Red lake and Red lake river, as far as the Red river, of Lake Winnipie, beyond which last river they contend with the Sioux for territory. This is a low level country, and generally thickly covered with timber, interrupted with many swamps and morasses. This, as well as the other bands of Chippeways, are esteemed the best hunters in the northwest country; but from the long residence of this band in the country they now inhabit, game is becoming scarce; therefore, their trade is supposed to be at its greatest extent. The Chippeways are a well disposed people, but excessively fond of spirituous liquor.

Of river Pembena. These people formerly resided on the east side of the Mississippi, at Sand lake, but were induced, by the Northwest Company, to remove, about two years since, to the river Pembena. They do not claim the lands on which they hunt. The country is level and the soil good. The west side of the river is principally prairies or open plains; on the east side there is a greater proportion of timber. Their trade at present is a very valuable one, and will probably increase for some years. They do not cultivate, but live by hunting. They are well disposed towards the whites.

Expedition of Lewis and Clarke.

A. ALGONQUINS.

B.	C.	D.	E.	F.	G.	H.	I.	J.
O-jib'-a-wây	Algonquins -	Chippeways -			100	300	On the south side of Rainy Lake, Rainy Lake river, and the Lake of the Wood.	N. W. and X. Y. companies.
Ditto - -	Algonquins -	Chippeways -			200	600	About the mouth of the Assinniboin, on Red river.	N. W. and X. Y. companies.

A. ALGONQUINS—Continued.

B.	K.	L.	M.	N.
O-jib'-â-way - - -	Establishments on the rivers Winnipie and Rainy Lake, and at their hunting camps.	4,000	6,000	Principally birch bark canoes.
Ditto - - - -	Establishments on the Assiniboin at Fort de Prairie.	8,000	11,000	Beaver, otter, raccoon, black bear, large fox, mink, and a few deer.

A. ALGONQUINS—Continued.

B.	O.	P.	Q.	R.
O-jib'-â-way	The same as the Chippewas, but in small quantities, and canoes. (See page 1067, O.)	At the Red Lake establishment.	The Sioux, and partially with the Assiniboins.	All the the tribes of the Chippewas, Algonquins, and Christenoes.
Ditto - -	Beaver, otter, raccoon, black bear, large fox, mink, deer, wolves, and muskrats.	At the Red river establishment.		

S. Algonquins, *of Rainy Lake, &c.*—With the precise limits of the country they claim, I am not informed. They live very much detached, in small parties. The country they inhabit is but an indifferent one; it has been much hunted, and the game, of course, nearly exhausted. They are well disposed toward the whites. Their number is said to decrease. They are extremely addicted to spirituous liquor, of which large quantities are annually furnished them by the Northwest traders in return for their bark canoes. They live wretchedly poor.

Of Portage de Prairie.—These people inhabit a low, flat, marshy country, mostly covered with timber, and well stocked with game. They are emigrants from the Lake of the Woods and the country east of it, who were introduced, some years since, by the Northwest traders, in order to hunt the country on the lower parts of Red river, which then abounded in a variety of animals of the fur kind. They are an orderly, well-disposed people, but like their relations on Rainy Lake, extremely addicted to spirituous liquors. Their trade is at its greatest extent.

A. Christenoes or Knistenaus.
B. Chris'-te no.
C. Cree.
D. Chippeways, with a different accent, and many words peculiar to themselves.
E.
F. 150.
G. 300.
H. 1,000.
I. On the heads of the Assinniboin, and thence towards the Saskashawan.
J. Hudson's Bay, northwest and X. Y. companies.
K. Establishments on the Assinniboin, Swan Lake river, and the Saskashawan.
L. 15,000.
M. 15,000.
N. Beaver, otter, lynx, wolverine, marten, mink, wolf, small fox, (or kitts,) dressed elk and moose-deer skins.
O. The skins of the beaver, otter, lynx, wolf, wolverine, marten, mink, small fox, brown and grizzly bear, dressed elk and moose-deer skins, muskrat skins, and some buffalo robes, dried meat, tallow and grease.
P. On the Missouri, at or near the mouth of the Yellow Stone river.
Q. With the Sioux, Fall, Blood, and Crow Indians.
R. With the Assinniboins, Algonquins, Chippewas, Mandans, Minatares, and Ahwahhaways.
S. They are a wandering nation; do not culti-

vate, nor claim any particular tract of country. They are well disposed towards the whites, and treat their traders with respect. The country in which they rove is generally open plains, but in some parts, particularly about the head of the Assinniboin river, it is marshy and tolerably well furnished with timber, as are also the Fort Dauphin mountains, to which they sometimes resort. From the quantity of beaver in their country, they ought to furnish more of that article than they do at present. They are not esteemed good beaver hunters. They might probably be induced to visit an establishment on the Missouri, at the Yellow Stone river. Their number has been reduced, by the small-pox, since they were first known to the Canadians.

A. Fall Indians.
B. A-lân-sâr.
C. Fall Indians.
D. Minetare.
E.
F. 260.
G. 660.
H. 2,500.
I. On the head of the South Fork of the Saskashawan river, and some streams supposed to be branches of the Missouri.
J. Northwest Company.
K. Upper establishment on the Saskashawan; but little trade.
L. 1,000.
M. 4,000.
N. Beaver and marten.
O. Skins of the beavers, brown, white, and grizzly bear, large and small foxes, muskrat, marten, mink, lynx, wolverine, wolves, white hares, deer, elk, moose-deer, antelopes of the Missouri, and some buffalo.
P. At or near the falls of the Missouri.
Q. Defensive war with the Christenoes.
R.
S. The country these people rove in is not much known. It is said to be a high, broken, woody country. They might be induced to visit an establishment at the falls of the Missouri. Their trade may, no doubt, be made profitable.

A. Cattanahaws.
B. Cat-tan-a-hâws.
C. Cattanahâws.
D. *
E. F. G. H.
I. Between the Saskashawan and the Missouri, on waters supposed to be of the Missouri.
J. No trader.
K. L. M. N.
O. See page 1071, O.
P. At or near the falls of the Missouri.
Q. R.
S. What has been said of the Fall Indians is, in all respects, applicable to this nation. They are both wandering nations.

A. Blackfoot Indians.
B.
C. Blackfoot Indians.
D. *
E. F. G. H.
I. Between the Saskashawan and the Missouri, on waters supposed to be of the Missouri.
J. No trader.
K. L. M. N.
O. See page 1071, O.
P. At or near the falls of the Missouri.
Q. R.
S. See page 1071, S.

A. Blue Mud and Long Hair Indians.
B.
C. Blue Mud and Long Hair Indians.
D. *
E. F. G. H.
I. West of the Rocky mountains, and near the same on water courses supposed to be branches of the Columbia river.
J. No trader.
K. L. M. N.
O. Not known, but from the position of their country supposed to abound in animals similar to those mentioned in page 1071, O.
P. Q. R.
S. Still less is known of these people, or their country. The water courses on which they reside, are supposed to be branches of the Columbia river. They are wandering nations.

A. Flatheads.
B. Tut-seé-wâs.
C. Flat-head Indians.
D. *
E. F. G. H.
I. On the west side of a large river, lying west of the Rocky mountains, and running north, supposed to be the south fork of the Columbia river.
J. No trader.
K. L. M. N.
O. See page 1071, O.
P.
Q. Defensive war with the Minetares.
R.
S. The information I possess with respect to these people has been received from the Minetares, who have extended their war excursions as far westerly as that nation, of whom they have made several prisoners, and brought them with them to their villages on the Missouri. These prisoners have been seen by the Frenchmen residing in this neighborhood. The Minetares state, that this nation resides in one village on the west side of a large and rapid river, which runs from south to north, along the foot of the Rocky mountains on their west side, and that this river passes at a small distance from the three forks of the Missouri. That the country between the mountains and the river is broken, but on the opposite side of the river it is an extensive open plain, with a number of barren, sandy hills, irregularly distributed over its surface as far as the eye can reach. They are a timid, inoffensive, and defenceless people. They are said to possess an abundance of horses.

A. ALIATANS.

	B.	C.	D.	E.	F.	G.	H.	I.
Snake Indians - -	So-so-na' - - - So-so-bâ, and I'-â-kar	Gens des Serpent	*Aliatan.			Very numerous.		Among the rocky mountains, on the heads of the Missouri, Yellow Stone, and Platte rivers.
Of the West - -	Ali'-a-tân - - -	Aliatâ						Among the rocky mountains, and also in the plains at the heads of the Platte and Arkansas rivers.
La Plays - - -		La Plays	Aliatan.					The mountains on the borders of New Mexico, and the extensive plains at the heads of the Arkansas and Red rivers.

A. ALIATANS—Continued.

	J.	K.	L.	M.	N.	O.
Snake Indians - - -	With the Spaniards of New Mexico.	The place at which this trade is carried on is not known.				The same with the Fall, Catanahaws, and Blackfoot Indians, except buffaloes; but they have, in addition, immense quantities of horses, mules, and asses.
Of the West - -						Immense quantities of horses, mules, asses, buffalo, deer, elk, black bear, and large hares; and in the northern regions of their country, big horn, and Missouri antelopes, with many animals of the fur kind.
La Plays - - -						

A. ALIATANS.—Continued.

	P.	Q.	R.
Snake Indians - -	At or near the Falls of the Missouri.	Defensive war with the Ricaras, Sioux, Assinniboins, Christenoes, Ahwahhaways, Minetares, and all the nations inhabiting the Saskashawan river.	Mandans and Crow Indians, and all those who do not attack them.
Of the West - -	On the Arkansas, as high up as possible. It would be best that it should be west of the source of the Kansas, if it should be necessary even to supply it some distance by land.	Defensive war with the Great and Little Osages, Paniapique, Kansas, Pania Proper, Pania Republican, Pania Loups, Ricaras, and Sioux.	At peace with all who do not wage war against them.
La Plays - - -			

S. ALIATANS, *Snake Indians.* These are a very numerous and well disposed people, inhabiting a woody and mountainous country; they are divided into three large tribes, who wander at a considerable distance from each other; and are called by themselves So-so-na, So-so'bu-bar, and I-a-kar; these are again subdivided into smaller though independent bands, the names of which I have not yet learnt; they raise a number of horses and mules which they trade with the Crow Indians, or are stolen by the nations on the east of them. They maintain a partial trade with the Spaniards, from whom they obtain many articles of clothing and ironmongery, but no warlike implements.

Of the West. These people also inhabit a mountainous country, and sometimes venture in the plains east of the Rocky mountains, about the head of the Arkansas river. They have more intercourse with the Spaniards of New Mexico, than the Snake Indians. They are said to be very numerous and warlike, but are badly armed. The Spaniards fear these people, and, therefore, take the precaution not to furnish them with any warlike implements. In their present unarmed state, they frequently commit hostilities on the Spaniards. They raise a great many horses.

La Playes. These principally inhabit the rich plains from the head of the Arkansas, embracing the heads of Red river, and extending with the mountains and high lands eastwardly as far as it is known towards the Gulf of Mexico. They possess no fire arms, but are warlike and brave. They are, as well as the other Aliatans, a wandering pepple. Their country abounds in wild horses, besides great numbers which they raise themselves. These people, and the West Aliatans, might be induced to trade with us on the upper part of the Arkansas river. I do not believe that any of the Aliatans claim a country within any particular limits.

A. Pania Piqûe.
B.
C. La Paunee Piqûe.
D. Pania Proper.
E. F. G. H. I. J. K. L. M. N. O. P. Q. R.

S. These people have no intercourse with the inhabitants of the Illinois; the information, therefore, which I have been enabled to obtain, with respect to them, is very imperfect. They were formerly known by the name of the White Panias, and are of the same family with the Panias of the river Platte. They are said to be a well disposed people, and inhabit a fertile country; certain it is that they enjoy a delightful climate.

A. Paducas.
B.
C. La Paddo.
L. *
E. F. G. H. I. J. K. L. M. N. O. P. Q. R.

S. This once powerful nation has, apparently, entirely disappeared; every inquiry I have made after them has proved ineffectual. In the year 1724, they resided in several villages on the heads of the Kansas river, and could, at that time, bring upwards of two thousand men into the field (see Monsr. Duprat's History of Louisiana, page 71. and the map attached to that work.) The information that I have received is, that being oppressed by the nations residing on the Missouri, they removed to the upper part of the river Platte, where they afterwards had but little intercourse with the whites. They seem to have given name to the northern branch of that river, which is still called the Paducas fork. The most probable conjecture is, that being still further reduced, they have divided into small wandering bands, which assumed the names of the subdivisions of the Paducas nation, and are known to us at present under the appellation of Wetepahatoes, Kiawas, Kanenavish, Katteka, Dotame, &c., who still inhabit the country to which the Paducas are said to have removed. The majority of my information led me to believe that those people spoke different languages, but other and subsequent information has induced me to doubt the fact.

Historical sketches of the several Indian Tribes in Louisiana, south of the Arkansas river, and between the Mississippi and river Grand.

Caddoques, live about thirty-five miles west of the main branch of Red river, on a bayou or creek, called by them Sodo, which is navigable for perogues only within about six miles of their village, and that only in the rainy season. They are distant from Natchitoches about one hundred and twenty miles, the nearest route by land, and in nearly a northwest direction. They have lived where they now do only five years. The first year they moved there the small-pox got amongst them and destroyed nearly one half of them; it was in the winter season, and they practised plunging into the creek on the first appearance of the eruption, and died in a few hours. Two years ago they had the measles, of which several more of them died. They formerly lived on the south bank of the river, by the course of the river three hundred and seventy-five miles higher up, at a beautiful prairie, which has a clear lake of good water in the middle of it, surrounded by a pleasant and fertile country, which had been the residence of their ancestors from time immemorial.

They have a traditionary tale which not only the Caddos, but half a dozen other smaller nations believe in, who claim the honor of being descendants of the same family: they say, when all the world was drowned by a flood that inundated the whole country, the Great Spirit placed on an eminence, near this lake, one family of Caddoques, who alone were saved; from that family all the Indians originated.

The French, for many years before Louisiana was transferred to Spain, had, at this place, a fort and some soldiers; several French families were likewise settled in the vicinity, where they had erected a good flour mill, with burr stones brought from France. These French families continued there till about twenty-five years ago, when they moved down and settled at Campti, on the Red river, about twenty miles above Natchitoches, where they now live; and the Indians left it about fourteen years ago, on account of a dreadful sickness that visited them. They settled on a river nearly opposite where they now live, on a low place, but were driven thence on account of its overflowing, occasioned by a jam of timber choking the river at a point below them.

The whole number of what they call warriors of the ancient Caddo nation, is now reduced to about one hundred, who are looked upon somewhat like Knights of Malta, or some distinguished military order. They are brave, despise danger or death, and boast that they have never shed white man's blood. Besides these, there are of old men and strangers who live amongst them, nearly the same number, but there are forty or fifty more women than men. This nation has great influence over the Yattassees, Nandakoes, Nabadaches, Inies or Yachies, Nagogdoches, Keychies, Adaize and Natchitoches, who all speak the Caddo language, look up to them as their fathers, visit and intermarry among them, and join them in all their wars.

The Caddoques complain of the Choctaws encroaching upon their country; call them lazy, thievish, &c. There has been a misunderstanding between them for several years, and small hunting parties kill one another when they meet.

The Caddos raise corn, beans, pumpkins, &c., but the land on which they now live is prairie, of a white clay soil, very flat: their crops are subject to injury either by too wet or too dry a season. They have horses, but few of any other domestic animal, except dogs: most of them have guns and some have rifles: they and all other Indians that we have any knowledge of, are at war with the Osages.

The country, generally, round the Caddos is hilly, not very rich; growth a mixture of oak, hickory and pine, interspersed with prairies, which are very rich generally, and fit for cultivation. There are creeks and springs of good water frequent.

Yattassees, live on Bayou Pierre, (or Stony creek) which falls into the Red river, western division, about fifty miles above Natchitoches. Their village is in a large prairie about half way between the Cadoques and Natchitoches, surrounded by a settlement of French families. The Spanish Government at present exercise jurisdiction over this settlement, where they keep a guard of a non-commissioned officer and eight soldiers.

A few months ago, the Caddo chief with a few of his young men were coming to this place to trade, and came that way which is the usual road. The Spanish officer of the guard threatened to stop them from trading with the Americans, and told the chief if he returned that way with the goods he should take them from him: The chief and his party were very angry, and threatened to kill the whole guard, and told them that that road had been always theirs, and that if the Spaniards attempted to prevent their using it as their ancestors had always done, he would soon make it a bloody road. He came here, purchased the goods he wanted, and might have returned another way and avoided the Spanish guard, and was advised to do so; but he said he would pass by them, and let them attempt to stop him if they dared. The guard said nothing to him as he returned.

This settlement, till some few years ago, used to belong to the district of Natchitoches, and the rights to their lands given by the government of Louisiana, before it was ceded to Spain. Its now being under the government of Texas, was only an agreement between the commandant of Natchitoches, and the commandant of Nacogdoches. The French formerly had a station and factory there, and another on the Sabine river, nearly one hundred miles northwest of the Bayou Pierre settlement. The Yattassees now say the French used to be their people, and now the Americans.

But of the ancient Yattassees there are but eight men remaining, and twenty-five women, besides children; but a number of men of other nations have intermarried with them and live together. I paid a visit at their village last summer. There were about forty men of them altogether. Their original language differs from any other, but now all speak Caddo. They live on rich land, raise plenty of corn, beans, pumpkins, tobacco, &c.; have horses, cattle, hogs, and poultry.

Nandakoes, live on the Sabine river, sixty or seventy miles to the westward of the Yattassees, near where the French formerly had a station and factory. Their language is Caddo—about forty men only of them remaining. A few years ago they suffered much by the small-pox. They consider themselves the same as Caddos, with whom they intermarry, and are occasionally visiting one another in the greatest harmony—have the same manners, customs, and attachments.

Adaize, live about forty miles from Natchitoches, below the Yattassees, on a lake called Lac Macdon, which communicates with the division of Red river that passes by Bayou Pierre. They live at, or near where their ancestors have lived from time immemorial. They being the nearest nation to the old Spanish fort, or mission of Adaize, that place was named after them, being about twenty miles from them to the south. There are now but twenty men of them remaining, but more women. Their language differs from all others, and is so difficult to speak or understand, that no nation can speak ten words of it; but they all speak Caddo, and most of them French, to whom they were always attached, and joined them against the Natchez Indians. After the massacre of Natchez, in 1798, while the Spaniards occupied the post of Adaize, their priests took much pains to proselyte these Indians to the Roman Catholic religion, but, I am informed, were totally unsuccessful.

Aliche, (commonly called *Eyeish,*) live near Nacogdoches, but are almost extinct as a nation, not more than twenty-five souls of them remaining. Four years ago the small pox destroyed the greater part of them. They were, some years ago, a considerable nation, and lived on a bayou which bears their name, which the road from Natchitoches to Nacogdoches, crosses, about twelve miles west of Sabine river, on which a few French and American families are settled. Their native language is spoken by no other nation, but they speak and understand Caddo, with whom they are in amity, often visiting one another.

Keyes, or Keychies, live on the east bank of Trinity river, a small distance above where the road from Natchitoches to St. Antoine crosses it. There are of them sixty men—have their peculiar native language, but mostly now speak Caddo, intermarry with them, and live together in much harmony, formerly having lived near them, on the head-waters of the Sabine. They plant corn, and some other vegetables.

INIES, or TACHIES, (called indifferently by both names.) From the latter name, the name of the province of Tachus, or Texus is derived. The Inies live about twenty miles from Natchitoches, on a small river, a branch of Sabine, called the Naches. They are, like all their neighbors, diminishing; but have now eighty men. Their ancestors, for a long time, lived where they now do. Their language the same as that of the Caddos, with whom they are in great amity These Indians have a good character, live on excellent land, and raise corn to sell.

NABEDACHES, live on the west side of the same river, about fifteen miles above them; have about the same number of men; speak the same language; live on the best of land; raise corn in plenty; have the same manners, customs, and attachments.

BEDIDES, are on the Trinity river, about sixty miles to the south of Nacogdoches; have one hundred men; are good hunters for deer, which are very large and plenty about them; plant, and make good crops of corn; language differs from all other, but speak Caddo; are a peaceable, quiet people, and have an excellent character for honesty and punctuality.

ACCOKESAWS.—Their ancient town and principal place of residence, is on the west side of Colorado, or Rio Rouge, about two hundred miles southwest of Nacogdoches, but often change their place of residence for a season. Being near the bay, make great use of fish, oysters, &c.; kill a great many deer, which are the largest and fattest in the province; and their country is universally said to be inferior to no part of the province in soil, growth of timber, goodness of water, and beauty of surface; have a language peculiar to themselves, but have a mode of communication by dumb signs, which they all understand; number about eighty men. Thirty or forty years ago the Spaniards had a mission here, but broke it up, or moved it to Nacogdoches. They talk of resettling it, and speak in the highest terms of the country.

MAYES, live on a large creek called St. Gabriel, on the bay of St. Bernard, near the mouth of Guadaloupe river; are estimated at two hundred men; never at peace with the Spaniards, towards whom they are said to possess a fixed hatred, but profess great friendship for the French, to whom they have been strongly attached since Mons. de Salle landed in their neighborhood. The place where there is a talk of the Spaniards opening a new port and making a settlement, is near them; where the party, with the Governor of San Antoine, who were there last fall to examine it, say they found the remains of a French block-house. Some of the cannon now at Labahie, are said to have been brought from that place, and known by the engravings now to be seen on them.

The French speak highly of these Indians for their extreme kindness and hospitality to all Frenchmen who have been amongst them—have a language of their own, but speak Attakapa, which is the language of their neighbors, the Carankouas; they have, likewise, a way of conversing by signs.

CARANKOUAS, live on an island or peninsula, in the bay of St. Bernard, in length about ten miles, and five in breadth; the soil is extremely rich and pleasant; on one side of which there is a high bluff, or mountain of coal, which has been on fire for many years, affording always a light at night, and a strong, thick smoke by day, by which vessels are sometimes deceived, and lost on the shoaly coast, which shoals are said to extend nearly out of sight of land. From this burning coal there is emitted a gummy substance the Spaniards call *cheta*, which is thrown on the shore by the surf, and collected by them in considerable quantities, which they are fond of chewing; it has the appearance and consistence of pitch, of a strong aromatic, and not disagreeable smell. These Indians are irreconcilable enemies to the Spaniards, always at war with them, and kill them whenever they can. The Spaniards call them cannibals, but the French give them a different character, who have always been treated kindly by them since Monsieur de Salle and his party were in their neighborhood. They are said to be five hundred men strong, but I have not been able to estimate their numbers from any very accurate information; in a short time expect to be well informed. They speak the Attakapa language, are friendly and kind to all other Indians, and, I presume, are much like all others, notwithstanding what the Spaniards say of them, for nature is everywhere the same.

Last summer an old Spaniard came to me from Labahie, a journey of about five hundred miles, to have a barbed arrow taken out of his shoulder, that one of these Indians had shot in it. I found it under his shoulder blade, near nine inches, and had to cut a new place to get at the point of it, in order to get it out the contrary way from that in which it had entered. It was made of a piece of an iron hoop, with wings like a fluke, and an inche.

CANCES, are a very numerous nation, consisting of a great many different tribes, occupying different parts of the country, from the bay of St. Bernard, across river Grand, towards La Vera Cruz. They are not friendly to the Spaniards, and generally kill them when they have an opportunity. They are attached to the French; are good hunters, principally using the bow. They are very particular in their dress, which is made of neatly dressed leather; the women wear a long, loose robe, resembling that of a Franciscan friar; nothing but their heads and feet are to be seen. The dress of the men is straight leather leggings, resembling pantaloons, and a leather hunting-shirt, or frock. No estimate can be made of their number.

Thirty or forty years ago the Spaniards used to make slaves of them when they could take them. A considerable number of them were brought to Natchitoches and sold to the French inhabitants at forty or fifty dollars a head, and a number of them are still living here, but are now free. About twenty years ago, an order came from the King of Spain that no more Indians should be made slaves

and those that were slaves should be emancipated; after which, some of the women who had been servants in good families, and taught spinning, sewing, &c., as well as managing household affairs, married maitiffs of the country, and became respectable well-behaved women, and have now growing up, decent families of children—have a language peculiar to themselves, and are understood by signs, by all others. They are in amity with all other Indians except the Hietans.

TANKAWAYS, (or TANKS, as the French call them,) have no land, nor claim the exclusive right to any, nor have any particular place of abode, but are always moving, alternately occupying the country watered by the Trinity, Brazos and Colorado, towards Santa Fe. Resemble, in their dress, the Cances and Hietans, but all in one horde, or tribe. Their number of men is estimated at about two hundred; are good hunters; kill buffalo and deer with the bow; have the best breed of horses; are alternately friends and enemies of the Spaniards. An old trader lately informed me that he had received five thousand deer-skins from them in one year, exclusive of tallow, rugs, and tongues. They plant nothing, but live upon wild fruits and flesh—are strong, athletic people, and excellent horsemen.

TAWAKENOES, or THREE CANES.—They are called by both names indifferently; live on the west side of the Brazos, but are often, for some months at a time, lower down than their usual place of residence, in the great prairie at the Tortuga or Turtle, called so from its being a hill in the prairie, which, at a distance, appears in the form of a turtle, upon which there are some remarkable springs of water. Their usuual residence is about two hundred miles to the westward of Nacogdoches towards Santa Fe. They are estimated at two hundred men; are good hunters; have guns, but hunt principally with the bow; are supplied with goods from Nacogdoches, and pay for them in rugs, tongues, tallow, and skins. They speak the same language of the Panis, or Towiaches, and pretend to have descended from the same ancestors.

PANIS, or TOWIACHES.—The French call them Panis, and the Spaniards Towiaches; the latter is the proper Indian name. They live on the south bank of Red river; by the course of the river upwards of 800 miles above Natchitoches, and by land, by the nearest path, is estimated at about 340. They have two towns near together; the lower town, where the chief lives, is called Nitehata, and the other is called Towaahach. They call their present chief the Great Bear. They are at war with the Spaniards, but friendly to those French and American hunters who have lately been among them. They are likewise at war with the Osages, as are every other nation. For many hundreds of miles round them the country is rich prairie, covered with luxuriant grass, which is green summer and winter, with skirts of wood on the river bank, by the springs and creeks.

They have many horses and mules. They raise more corn, pumpkins, beans and tobacco, then they want for their own consumption; the surplusage they exchange with the Hietans for buffalo rugs horses and mules: the pumpkins they cut round in their shreads, and when it is in a state of dryness that it is so tough it will not break, but bend, they plait and work it into large mats, in which state they sell it to the Hietans, who as they travel, cut off and eat it as they want it. Their tobacco they manufacture and cut as fine as tea, which is put into leather bags of a certain size, and is likewise an article of trade. They have but few guns, and very little ammunition; what they have they keep for war, and hunt with the bow. Their meat is principally buffalo; seldom kill a deer, though they are so plenty they come into their villages, and about their houses, like a domestic animal: elk, bear, wolves, antelope and wild hogs are likewise plenty in their country, and white rabbits, or hares, as well as the common rabit: white bears sometimes come down amongst them, and wolves of all colors. The men generally go entirely naked, and the women nearly so, only wearing a small flap of a piece of a skin. They have a number of Spaniards amongst them, of fair complexion, taken from the settlement of Santa Fe, when they were children, who live as they do, and have no knowledge of where they came from. Their language differs from that of any other nation, the Tawokenoes excepted. Their present number of men is estimated at about 400. A great number of them, four years ago, were swept off by the small pox.

HIETANS, or COMANCHES, who are likewise called by both names, have a fixed place of residence; have neither towns nor villages; divided into so many different hordes or tribes, that they have scarcely any knowledge of one another. No estimate of their number can well be made. They never remain in the same place more than a few days, but follow the buffalo, the flesh of which is their principal food. Some of them occasionally purchase of the Panis, corn, beans and pumpkins; but they are so numerous, any quantity of these articles the Panis are able to supply them with, must make but a small proportion of their food. They have tents made of neatly dressed skins, fashioned in form of a cone, sufficiently roomy for a family of ten or twelve persons; those of the chiefs will contain occasionally fifty or sixty persons. When they stop, their tents are pitched in very exact order, so as to form regular streets and squares, which in a few minutes has the appearance of a town, raised, as it were, by enchantment; and they are equally dexterous in striking their tents and preparing for a march when the signal is given; to every tent two horses or mules are allotted, one to carry the tent, and another the poles or sticks, which are neatly made of red cedar; they all travel on horseback. Their horses they never turn loose to graze, but always keep them tied with a long cabras or halter; and every two or three days they are obliged to move on account of all the grass near them being eaten up, they have such numbers of horses. They are good horsemen and have good horses, most of which are bred by themselves, and being accustomed from when very young to be handled, they are remark-

ably docile and gentle. They sometimes catch wild horses, which are everywhere amongst them in immense droves. They hunt down the buffalo on horseback, and kill them either with the bow or a sharp stick like a spear, which they carry in their hands. They are generally at war with the Spaniards, often committing depredations upon the inhabitants of Santa Fe and St. Antoine; but have always been friendly and civil to any French or Americans who have been amongst them. They are strong and athletic, and the elderly men as fat as though they had lived upon English beef and porter.

It is said that the man who kills a buffalo, catches the blood and drinks it while warm; they likewise eat the liver raw, before it is cold, and use the gall by way of sauce. They are, for savages, uncommonly cleanly in their person: the dress of the women is a long loose robe, that reaches from their chin to the ground, tied round with a fancy sash, or girdle, all made of neatly dressed leather, on which they paint figures of different colors and significations: the dress of the men is, close leather pantaloons, and a hunting shirt, or frock of the same. They never remain long enough in the same place to plant anything: the small cayenne pepper grows spontaneously in the country, with which, and some wild herbs and fruits, particularly a bean that grows in great plenty on a small tree resembling a willow, called masketo; the women cook their buffalo beef in a manner that would be grateful to an English squire. They alternately occupy the immense space of country from the Trinity and Brazos, crossing the Red river, to the heads of Arkansa and Missouri, to river Grand, and beyond it, about Santa Fe, and over the dividing ridge on the waters of the Western Ocean, where they say they have seen large perogues, with masts to them; in describing which, they make a drawing of a ship, with all its sails and rigging; and they describe a place where they have seen vessels ascending a river, over which was a draw-bridge that opened to give them a passage. Their native language of sounds differs from the language of any other nation, and none can either speak or understand it; but they have a language by signs that all Indians understand, and by which they converse much among themselves. They have a number of Spanish men and women among them, who are slaves, and who they made prisoners when young.

An elderly gentleman now living at Natchitoches who, some years ago, carried on a trade with the Hietans, a few days ago related to me the following story:

About twenty years ago a party of these Indians passed over the river Grand to Chewawa, the residence of the Governor General of what is called the five internal provinces; lay in ambush for an opportunity, and made prisoner the Governor's daughter, a young lady, going in her coach to mass, and brought her off. The Governor sent a message to him (my informant) with a thousand dollars, for the purpose of recovering his daughter: he immediately despatched a confidential trader, then in his employ, with the amount of the one thousand dollars in merchandise, who repaired to the nation, found her, and purchased her ransom; but, to his great surprise, she refused to return with him to her father, and sent by him the following message: that the Indians had disfigured her face by tattooing it according to their fancy and ideas of beauty, and a young man of them had taken her for his wife, by whom she believed herself pregnant; that she had become reconciled to their mode of life, and was well treated by her husband; and that she should be more unhappy by returning to her father, under these circumstances, than by remaining where she was. Which message was conveyed to her father, who rewarded the trader by a present of three thousand dollars more for his trouble and fidelity; and his daughter is now living with her Indian husband in the nation, by whom she has three children.

Natchitoches, formerly lived where the town of Natchitoches is now situated, which took its name from them. An elderly French gentleman lately informed me, he remembered when they were six hundred men strong. I believe it is now ninety eight years since the French first established themselves at Natchitoch; ever since, these Indians have been their steady and faithful friends. After the massacre of the French inhabitants of Natchez, by the Natchez Indians, in 1728, those Indians fled from the French, after being reinforced, and came up Red river, and camped about six miles below the town of Natichitoches, near the river, by the side of a small lake of clear water, and erected a mound of considerable size, where it now remains. Monsieur St. Dennie, a French Canadian, was then commandant at Natchitoches; the Indians called him the Big Foot, were fond of him, for he was a brave man. St. Dennie, with a few French soldiers, and what militia he could muster, joined by the Natchitoches Indians attacked the Natchez in their camp, early in the morning; they defended themselves desperately for six hours, but were at length totally defeated by St. Dennie, and what of them that were not killed in battle, were drove into the lake, where the last of them perished, and the Natchez, as a nation, became extinct. The lake is now called by no other name than the Natchez lake. There is now remaining of the Natchitoches, but twelve men and nineteen women, who live in a village about twenty-five miles by land above the town which bears their name, near the lake, called by the French *Lac de Maire*. Their original language is the same as the Yattassee, but speak Caddo, and most of them French.

The French inhabitants have great respect for this nation, and a number of very decent families have a mixture of their blood in them. They claim but a small tract of land, on which they live, and I am informed, have the same rights to it from Government, that other inhabitants in their neighborhood have. They are gradually wasting away; the small-pox has been their great destroyer. They still preserve their Indian dress and habits; raise corn and those vegetables common in their neighborhood.

Boluxas, are emigrants from near Pensacola. They came to Red river about forty-two years ago, with some French families, who left that country about the time Pensacola was taken possession of by the English. They were then a considerable numerous tribe, and have generally embraced the Roman Catholic religion, and were ever highly esteemed by the French. They settled first at Avoyall, then moved higher up to Rapide Bayau, and from thence to the mouth of Rigula de Bondieu, a division of Red river, about forty miles below Natchitoch, where they now live, and are reduced to about thirty in number. Their native language is peculiar to themselves, but speak Mobilian, which is spoken by all the Indians from the east side of Mississippi. They are honest, harmless and friendly people.

Appalaches, are likewise emigrants from West Florida, from off the river whose name they bear; came over to Red river about the same time the Boluxas did, and have, ever since, lived on the river, above Bayau Rapide. No nation have been more highly esteemed by the French inhabitants; no complaints against them are ever heard; there are only fourteen men remaining; have their own language, but speak French and Mobilian.

Allibamis, are likewise from West Florida, off Allibami river, and came to Red river about the same time of the Boluxas and Appalaches. Part of them have lived on Red river, about sixteen miles above the Bayau Rapide, till last year, when most of this party, of about thirty men, went up Red river, and have settled themselves near the Caddoques, where, I am informed, they last year made a good crop of corn. The Caddos are friendly to them, and have no objection to their settling there. They speak the Creek and Chactaw languages, and Mobilian; most of them French, and some of them English.

There is another party of them, whose village is on a small creek, in Appelousa district, about thirty miles northwest from the church of Appelousa. They consist of about forty men. They have lived at the same place ever since they came from Florida; are said to be increasing a little in numbers, for a few years past. They raise corn, have horses, hogs, and cattle, and are harmless, quiet people.

Conchattas, are almost the same people as the Allibamis, but came over only ten years ago; first lived on Bayau Chico, in Appelousa district, but, four years ago, moved to the river Sabine, settled themselves on the east bank, where they now live, in nearly a south direction from Natchitoch, and distant about eighty miles. They call their number of men one hundred and sixty, but say, if they were altogether, they would amount to two hundred. Several families of them live in detached settlements. They are good hunters, and game is plenty about where they are. A few days ago, a small party of them were here, consisting of fifteen persons, men, women, and children, who were on their return from a bear hunt up Sabine. They told me they had killed one hundred and eighteen; but this year an uncommon number of bears have come down. One man alone, on Sabine, during the Summer and Fall, hunting, killed four hundred deer, sold his skins at forty dollars a hundred. The bears, this year, are not so fat as common; they usually yield from eight to twelve gallons of oil, each of which never sells for less than a dollar a gallon, and the skin a dollar more; no great quantity of the meat is saved; what the hunters don't use when out, they generally give to their dogs. The Conchattas are friendly with all other Indians, and speak well of their neighbors the Carankouas, who, they say, live about eighty miles south of them, on the bay, which I believe, is the nearest point to the sea from Natchitoches. A few families of Chactaws have lately settled near them from Bayau Beauf. The Conchattas speak Creek, which is their native language, and Chactaw, and several of them English, and one or two of them can read it a little.

Pacanas, are a small tribe of about thirty men, who live on the Quelqueshoe river, which falls into the bay between Attakapa and Sabine, which heads in a prairie, called Cooko prairie, about forty miles southwest of Natchitoches. These people are likewise emigrants from West Florida, about forty years ago. Their village is about fifty miles southeast of the Conchattas; are said to be increasing a little in number; quiet, peaceable, and friendly people. Their own language differs from any other, but speak Mobilian.

Attakapas. This word, I am informed, when translated into English, means man-eater, but is no more applicable to them than any other Indians. The district they live in is called after them. Their village is about twenty miles to the westward of the Attakapa church, toward Quelqueshoe. Their number of men is about fifty, but some Tunicas and Humas, who have married in their nation and live with them, makes them altogether about eighty. They are peaceable and friendly to everybody; labor, occasionally, for the white inhabitants; raise their own corn; have cattle and hogs. Their language and the Carankouas is the same. They were, or near, where they now live, when that part of the country was first discovered by the French.

Appalousas. It is said the word Appalousa, in the Indian language, means black head, or black skull. They are aborigines of the district called by their name. Their village is about fifteen miles from the Appelousa church; have about forty men. Their native language differs from all other; understand Attakapa and speak French; plant corn; have cattle and hogs.

Tunicas. These people lived formerly on the Bayou Tunica, above Point Coupee, on the Mississippi, east side; live now at Avoyall; do not at present exceed twenty-five men. Their native language is peculiar to themselves, but speak Mobilian; are employed, occasionally, by the inhabitants as boatmen, &c.; in amity with all other people, and gradually diminishing in numbers.

Pascagolas, live in a small village on Red river, about sixty miles below Natchitoches; are emigrants from Pascagola river, in West Florida; twenty-five men of them only remaining; speak

Mobilian, but have a language peculiar to themselves; most of them speak and understand French. They raise good crops of corn, and garden vegetables; have cattle, horses, and poultry, plenty. Their horses are much like the poorer kind of French inhabitants on the river, and appear to live about as well.

TENISAWS, are likewise emigrants from the Tenesau river, that falls into the bay of Mobile; have been on Red river about forty years; are reduced to about twenty-five men. Their village is within one mile of the Pascagolas, on the opposite side, but have lately sold their land, and have, or are about moving, to Bayau Beauf, about twenty-five miles south from where they lately lived: all speak French and Mobilian, and live much like their neighbors the Pascagolas.

CHACTOOS, live on Bayau Beauf, about ten miles to the southward of Bayau Rapide, on Red river, toward Appalousa: a small, honest people; are aborigines of the country where they live; of men about thirty; diminishing; have their own peculiar tongue; speak Mobilian. The lands they claim on Bayau Beauf are inferior to no part of Louisiana in depth and richness of soil, growth of timber, pleasantness of surface, and goodness of water. The Bayau Beauf falls into the Chaffeli, and discharges, through Appelousa and Attakapa, into Vermilion Bay.

WASHAS. When the French first came into the Mississippi, this nation lived on an island to the southwest of New Orleans, called Barritaria, and were the first tribe of Indians they became acquainted with, and were always friends. They afterward lived on Bayau La Fosh; and, from being a considerable nation, are now reduced to five persons only, two men and three women, who are scattered in French families; have been many years extinct, as a nation, and their native language is lost.

CHACTAWS. There are a considerable number of this nation on the west side of the Mississippi, who have not been home for several years. About twelve miles above the post on Oacheta, on that river, there is a small village of them of about thirty men, who have lived there for several years, and made corn; and likewise on Bayau Chico, in the northern part of the district of Appalousa, there is another village of them of about fifty men, who have been there for about nine years, and say they have the Governor of Louisiana's permission to settle there. Besides these, there are rambling hunting parties of them to be met with all over Lower Louisiana. They are at war with the Caddoques, and liked by neither red nor white people.

ARKENSAS, live on the Arkensa river, south side, in three villages, about twelve miles above the post, or station. The name of the first village is Tawanima, the second Oufotu, and the third Ocapa; in all, it is believed, they do not at present exceed one hundred men, and diminishing. They are at war with the Osages, but friendly with all other people, white and red; are the original proprietors of the country on the river, to all which they claim, for about three hundred miles above them, to the junction of the river Cadwa with Arkensa; above this fork the Osages claim. Their language is Osage. They generally raise corn to sell; are called honest and friendly people.

The forementioned are all the Indian tribes that I have any knowledge of, or can obtain an account of, in Louisiana, south of the river Arkensa, between the Mississippi and river Grand. At Avoyall there did live a considerable tribe of that name, but, as far as I can learn, have been extinct for many years, two or three women excepted, who did lately live among the French inhabitants on Washita.

There are a few of the Humas still living on the east side of the Mississippi, in Ixsusees parish, below Manchack, but scarcely exist as a nation.

That there are errors in these sketches is not to be doubted, but, in all cases out of my own personal knowledge, I have endeavored to procure the best information, which I have faithfully related; and I am confident any errors that do exist are too unimportant to affect the object for which they are intended. I am, sir, &c.

JOHN SIBLEY.

General H. DEARBORN.

To General Henry Dearborn, Secretary of War.

SIR: You request me to give you some account of Red river, and the country adjacent: I will endeavor to comply with your request, to the best of my knowledge and capacity. My personal knowledge of it is only from its mouth to about seventy or eighty miles above Natchitoches, being, by the course of the river, near four hundred miles. After that, what I can say of it is derived from information from others, on whose veracity I have great reliance—principally from Mr. Francis Grappe, who is my assistant and interpreter of Indian languages, whose father was a French officer, and Superintendent of Indian Affairs, at a post or station occupied by France, where they kept some soldiers, and had a factory, previous to the cession of Louisiana to Spain, situate nearly five hundred miles, by the course of the river, above Natchitoches, where he, my informant, was born, and lived upward of thirty years; his time, during which, being occupied alternately as an assistant to his father, an Indian trader and hunter, with the advantage of some learning, and a very retentive memory, acquired an accurate knowledge of the river, as well as the languages of all the different tribes in Louisiana, which, with his having been Indian interpreter for the Spanish Government for many years past, and (I believe) deservedly esteemed by the Indians, and all others, a man of strict integrity—has, for many years, and does now, possess their entire confidence, and a very extensive influence over them; and I have invariably found that, whatever information I have received from him, has been confirmed by every other intelligent person, having a knowledge of the same, with whom I have conversed.

NOTE.—Contrary to geographical rules, as I ascended the river, I called the right bank the northern one, and the left the southern.

The confluence of Red river with the Mississippi is, by the course of the latter, estimated about two hundred and twenty miles from New Orleans. Descending the Mississippi, after passing the Spanish line at the thirty-first degree of north latitude, it makes a remarkable turn to the westward, or nearly northwest, for some distance before you arrive at the mouth of Red river, as though, notwithstanding the immense quantity of its waters already, from its almost numberless tributary streams, it was still desirous of a further augmentation, by hastening its union with Red river, (which, perhaps, is second only in dignity to it,) that they might from thence flow on and join the ocean together, which, for many leagues, is forced to give place to its mighty current. But there are reasons for believing the Red river did not always unite with the Mississippi, as it does at present; and that no very great length of time has elapsed since the Mississippi left its ancient bed, some miles to the eastward, and took its course westwardly for the purpose of intermarrying with Red river. The mouth of the Chaffeli, which is now, properly speaking, one of the outlets of the river Mississippi to the ocean, is just below, in sight of the junction of Red river with the Mississippi; and, from its resemblance to Red river in size, growth on its banks, appearance, and texture of soil, and differing from that of the Mississippi, induces strongly the belief that the Chaffeli was once but the continuation of Red river to the ocean, and that it had, in its bed, no connexion with the Mississippi. There is no doubt but the Mississippi has alternately occupied different places in the low grounds through which it meanders, almost from the high lands of one side to those of the other, for the average space of near thirty miles. These two great rivers happening to flow, for a distance, through the same mass of swamp, that annually is almost all inundated, it is not extraordinary that their channels should find their way together; the remarkable bend of the Mississippi, at this place, to the westward, seems to have been for the express purpose of forming this union; after which it returns to its former course.

In the month of March, 1803, I ascended Red river, from its mouth to Natchitoches, in an open boat, unless when I chose to land and walk across a point, or by the beauty of the river bank, the pleasantness of its groves, or the variety of its shrubs and flowers, I was invited ashore to gratify or please my curiosity. On entering the mouth of the river I found its waters turgid, of a red colour, and of a brackish taste; and as the Mississippi was then falling, and Red river rising, found a current, from its mouth upwards, varying considerably in places, but averaging about two miles an hour, for the first hundred miles, which, at that time, I found to be about the same in the Mississippi; but, when that river is high, and Red river low, there is very little current in the latter, for sixty or seventy miles: the river, for that distance, is very crooked, increasing the distance, by it, from a straight line, more than two thirds; the general course of it nearly west: that I was able to ascertain, from hearing the morning gun at Fort Adams, for three or four mornings after entering the river, which was not at the greatest height by about fourteen feet; and all the low grounds, for near seventy miles, entirely overflowed like those of the Mississippi, which, in fact, is but a continuation of the same. Some places appeared, by the high water mark on the trees, to overflow not more than two or three feet, particularly the right bank, below the mouth of Black river, and the left bank above it; the growth, on the lowest places, willow and cotton wood, but on the highest, handsome oaks, swamp hickory, ash, grape vines, &c.

I made my calculation of our rate of ascent and distances up the river, by my watch, noting carefully with my pencil the minute of our stops and settings off, the inlets and outlets, remarkable bends in the river, and whatever I observed any way remarkable. About six miles from the mouth of the river, left side, there is a bayau, as it is called, comes in that communicates with a lake called Lake Long, which, by another bayau, communicates again with the river, through which, when there is a swell in the river, boats can pass, and cut off about 30 miles, being only 14 or 15 through it, and about 45 by the course of the river; and through the lake there is very little or no current; but the passage is intricate and difficult to find; a stranger should not attempt it without a pilot; people have been lost in it for several days; but not difficult for one acquainted; we, having no pilot on board to be depended on, kept the river.

From the mouth of Red river to the mouth of Black river, I made it 31 miles: the water of Black river is clear, and when contrasted with the water of Red river has a black appearance. From the mouth of Black river, Red river makes a regular twining to the left, for about 18 miles, called the Grand Bend, forming a segment of nearly three fourths of a circle; when you arrive at the bayau that leads into Lake Long, which, perhaps, is in a right line, not exceeding 15 miles from the mouth of the river. From Bayau Lake Long, to Avoyall landing, called Baker's landing, I made 33 miles, and the river is remarkably crooked. At this place the guns at Fort Adams are distinctly heard, and the sound appears to be but little south of east. We came through a bayau called Silver Bayau, that cut off, we understand, six miles; it was through the bayau about four miles. Until we arrived at Baker's landing, saw no spot of ground that did not overflow; the high water mark generally from 3 to 15 feet above its banks. After passing Black river, the edge of the banks near the river are highest; the land falls, from the river back. At Baker's landing I went ashore; I understood, from Baker's landing, cross the point, to Le Glass' landing, was only three or four miles, and by water fifteen; but I found it six at least, and met with

some difficulty in getting from where I landed to the high land at Baker's house, for water, though at low water it is a dry cart road, and less than a mile. I found Baker and his family very hospitable and kind; Mr. Baker told me he was a native of Virginia, and had lived there upwards of thirty years. He was living on a tolerable good high piece of land, not prairie, but joining it. After leaving Baker's house, was soon in sight of the prairie, which, I understand, is about forty miles in circumference, longer than it is wide, very level, only a few clumps of trees to be seen, all covered with good grass. The inhabitants are settled all around the out edge of it, by the woods, their houses facing inwards, and cultivate the prairie land. Though the soil, when turned up by the plow, has a good appearance, what I could discover by the old corn and cotton stalks, they made but indifferent crops; the timber land that I saw cleared and planted, produced the best; the prairie is better for grass than for planting. The inhabitants have considerable stocks of cattle, which appears to be their principal dependence, and I was informed their beef is of a superior quality: they have likewise good pork; hogs live very well; the timbered country all round the prairie is principally oak that produces good mast for hogs. Corn is generally scarce; they raise no wheat, for they have no mills. I was informed that the lower end of the prairie that I did not see was much the richest land, and the inhabitants lived better, and were more wealthy; they are a mixture of French, Irish, and Americans, generally poor and ignorant. Avoyall, at high water, is an island, elevated thirty or forty feet above high water mark; the quantity of timbered land exceeds that of the prairie, which is likewise pretty level, but scarcely a second quality of soil. Le Glass' landing, as it is called, I found about a mile and a half from the upper end of the prairie; the high lands bluff to the river. After leaving this place found the banks rise higher and higher on each side, and fit for settlements: on the right side pine woods sometimes in sight. I left the boat again about eight miles from Le Glass' landing, right side; walked two and a half miles across a point, to a Mr. Hoomes's; round the point is called sixteen miles. I found the lands through which I passed high, moderately hilly; the soil a good second quality, clay; timber, large oak, hickory, some short leaved pine; and several small streams of clear running water. This description of lands extended back five or six miles, and bounded by open pine woods, which continue, for thirty miles, to Ocatahola. I found Mr. Hoomes' house on a high bluff very near the river; his plantation the same description of land through which I had passed, producing good corn, cotton, and tobacco, and he told me he had tried it in wheat, which succeeded well, but having no mills to manufacture it, had only made the experiment. Mr. Hoomes told me all the lands round his, for many miles, were vacant. On the south side there is a large body of rich, low grounds, extending to the borders of Appalousa, watered and drained by Bayau Robert and Bayau Beauf, two handsome streams of clear water that rise in the high lands between Red river and Sabine, and after meandering through this immense mass of low grounds of thirty or forty miles square, fall into the Chaffeli, to the southward of Avoyall. I believe, in point of soil, growth of timber, goodness of water, and conveniency to navigation, there is not a more valuable body of land in this part of Louisiana. From Mr. Hoomes' to the mouth of Rapide Bayau is, by the river, thirty-five miles. A few scattering settlements on the right side, but none on the left; the right is preferred to settle on, on account of ther stocks being convenient to the high lands; but the settlers on the right side own the lands on the left side too; the lands on the Bayau Rapide are the same quality as those on Bayaus Roberts and Beauf, and, in fact, are a continuation of the same body of lands. Bayau Rapide is somewhat in the form of a half moon; the two points, or horns, meeting the river about twenty miles from each other: the length of the bayau is about thirty miles; on the back of it there is a large bayau falls in, on which there is a saw mill, very advantageously situated, in respect to a never failing supply of water; plenty of timber; and the plank can be taken from the mill tail by water. This bayau is excellent water; rises in the pine woods, and discharges itself each way into the river, by both ends of Bayau Rapide. Boats cannot pass though the bayau, from the river to the river again, on account of rafts of timber choking the upper end of it, but can enter the lower end and ascend it more than half through it. On the lower end of the bayau, on each side, is the principal Rapide settlement, as it is called; no country whatever can exhibit handsomer plantations, or better lands. The Rapide is a fall, or shoal, occasioned by a soft rock in the bed of the river, that extends from side to side, over which, for about five months in the year, viz: from July to December, there is not sufficient water for boats to pass without lightening, but at all other seasons it is the same as any other part of the river. This rock, or hard clay, for it resembles the latter almost as much as the former, is so soft it may be cut away with a penknife, or any sharp instrument, and scarcely turn the edge, and extends up and down the river but a few yards; and I have heard several intelligent persons give it as their opinion, that the extraordinary expense and trouble the inhabitants were at, in one year, in getting loaded boats over this shoal, would be more than sufficient to cut a passage through it; but it happens at a season of the year when the able planters are occupied at home, and would make no use of the river were there no obstructions in it; but at any rate, the navigation of the river is clear a longer proportion of the year than the rivers in the northern countries are clear of ice. But this obstruction is certainly removable, at a very trifling expense, in comparison to the importance of having it done; and nothing but the nature of the government we have lately emerged from, can be assigned as a reason for its not having been effected long ago.

After passing the Rapids there are very few

settlements to be seen, on the main river, for about twenty miles, though both sides appeared to me to be capable of making as valuable settlements as any on the river; we arrive then at the Indian villages, on both sides, situated exceedingly pleasant, and on the best lands; after passing which you arrive at a large, beautiful plantation of Mr. Gillard; the house is on a point of a high pine woods bluff, close to the river, sixty or seventy feet above the common surface of the country, overlooking, on the east, or opposite side, very extensive fields of low grounds, in high cultivation, and a long reach of the river, up and down; and there is an excellent spring of water issues from the bluff, on which the house is situated, from an apperture in the rock that seems to have been cloven on purpose for it to flow, and a small distance back of the house, there is a lake of clear water, abounding with fish in summer and fowl in winter. I have seen in all my life, very few more beautiful or advantageously situated places.

Six miles above Gillard's you arrive at the small village of Boluxa Indians, where the river is divided into two channels, forming an island of about fifty miles in length and three or four in breadth. The right hand division is called the Rigula de Bondieu, on which are no settlements; but, I am informed, will admit of being well settled; the left hand division is the boat channel, at present, to Natchitoches: the other is likewise boatable. Ascending the left hand branch for about twenty four miles, we pass a thick settlement and a number of wealthy inhabitants. This is called the *River Cane* settlement; called so, I believe, from the banks some years ago being a remarkable thick canebrake.

After passing this settlement of about forty families, the river divides again, forming another island of about thirty miles in length, and from two to four in breadth, called the *Isle Brevel*, after a reputable old man now living in it, who first settled it. This island is sub-divided by a bayau that communicates from one river to the other, called also Bayau Brevel. The middle division of the river, is called *Little River*, and it is thickly settled, and is the boat channel: the westward division of the river is called False river, is navigable, but not settled, the banks are too low; it passes through a lake called *Lac Occassa*. When you arrive at Natchitoches, you find it a small, irregular, and meanly built village, half a dozen houses excepted; on the west side of that division of the river it is on, the high pine and oak woods approach within two or three hundred yards of the river. In the village are about forty families, twelve or fifteen are merchants or traders, nearly all French. The fort built by our troops since their arrival, called Fort Claiborne, is situated on a small hill, one street from the river, and about thirty feet higher than the river banks. All the hill is occupied by the fort and barracks, and does not exceed two acres of ground. The southern and eastern prospects from it are very beautiful. One has an extensive view of the fields and habitations down the river, and the other a similar view over the river, and of the whole village. This town thirty or forty years ago, was much larger than at present, and situated on a hill about half a mile from its present site. Then most of the families of the district lived in the town, but finding it inconvenient on account of the stocks and farms, they filed off, one after another, and settled up and down the river. The merchants and trading people found being on the bank of the river more convenient for loading and unloading their boats, left the hill on that account; and others, finding the river ground much superior for gardens, to which they are in the habit of paying great attention, followed the merchants; after them the priests and commandant; then the church and jail (or calleboose,) and now nothing of the old town is left, but the form of their gardens and some ornamental trees. It is now a very extensive common of several hundred acres, entirely tufted with clover and covered with sheep and cattle. The hill is a stiff clay, and used to make miry streets; the river soil, though much richer, is of a loose, sandy texture; the streets are neither miry nor very dusty. Our wells do not afford us good water, and the river water, in summer, is too brackish to drink, and never clear. Our springs are about half a mile back from the river, but the inhabitants, many of them, have large cisterns, and use, principally, rain water which is preferred to the spring water. The planters along on the river generally use rain water; though when the river is high, and the water taken up and settled in large earthen jars, (which the Indian women make of good quality and at a moderate price,) it can be drank tolerably well, but it makes bad tea.

Near Natchitoches there are two large lakes, one within a mile, the other six miles to the nearest parts. One of them is fifty or sixty miles in circumference, the other upwards of thirty: these lakes rise and fall with the river. When the river is rising the bayaus that connect with the lakes, run into the lakes like a mill-tale, till the lakes are filled; and when the river is falling, it is the same the contrary way, just like the tide, but only annual. On these creeks good mills might be erected, but the present inhabitants know nothing of mills by water, yet have excellent cotton gins worked by horses. I do not know a single mechanic in the district, who is a native of it, one tailor excepted. Everything of the kind is done by strangers, and mostly Americans. Though Natchitoches has been settled almost one hundred years, it is not more than twelve or fifteen years since they ever had a plow, or a flat to cross the river with; both which were introduced by an Irish Pennsylvanian, under a similar opposition to the Copernican system. 'Tis almost incredible the quantity of fish and fowl these lakes supply. It is not uncommon in winter for a single man to kill from two to four hundred fowl in one evening; they fly between sundown and dark; the air is filled with them; they load and fire as fast as they can, without taking any particular aim, continuing at the same stand till they think they have killed enough, and then

pick up what they have killed; they consist of several kinds of duck, geese, brant, and swan. In summer, the quantities of fish are nearly in proportion. One Indian will, with a bow and arrow, sometimes kill them faster than another, with two horses, can bring them in; they weigh, some of them, thirty or forty pounds. The lakes likewise afford plenty of shells for lime; and at low water, the greater of them is a most luxuriant meadow, where the inhabitants fatten their horses. All round these lakes, above high water mark, there is a border of rich land, generally wide enough for a field. On the bank of one of them there is plenty of stone coal, and several quarries of tolerable good building stone; at high water boats can go out of the river into them. Similar lakes are found all along Red river, for five or six hundred miles, which, besides the uses already mentioned, nature seems to have provided as reservoirs for the immense quantity of water beyond what the banks of the river will contain; otherwise no part of them could be inhabited: the low grounds, from hill to hill, would be inundated. About twelve miles north of Natchitoches, on the northeast side of the river, there is a large lake called Lac Noiz; the bayau of it communicates to the Rigula de Bondieu, opposite Natchitoch, which is boatable the greater part of the year. Near this lake are the salt works, from which all the salt that is used in the district is made; and which is made with so much ease, that two old men, both of them cripples, with ten or twelve old pots and kettles, have, for several years past, made an abundant supply of salt for the whole district: they inform me they make six bushels per day. I have not been at the place, but have a bottle of the water brought to me, which I found nearly saturated. The salt is good. I never had better bacon than I make with it. I am informed, there are twelve saline springs now open; and by digging for them, for aught any one knows, twelve hundred might be opened. A few months ago, Captain Burnet, of the Mississippi Territory, coming to this place by Washita, came by the salt works, and purchased the right of one of the old men he found there, and has lately sent up a boat, with some large kettles and some negroes, under the direction of his son; and expects, when they get all in order, to be able to make thirty or forty bushels a day. Captain Burnet is of opinion, that he shall be able to supply the Mississippi Territory, and the settlements on Mississippi, from Point Coupee, upwards, lower than they can get it in New Orleans and bring it up. Cathartic salts, and magnesia, might likewise be made in large quantities, if they understood it. The country all round the Sabine and Black lake is vacant, and from thence to Washita, a distance of about one hundred and twenty miles, which I am informed affords considerable quantities of well timbered good uplands, and well watered. There is a small stream we cross on the Washita road, the English call it Little river, the French *Dogdimona*, affording a wide rich bottom: this stream falls into the Acatahola lake; from thence to Washita, it is called Acatahola river; its course is eastwardly, and falls into Washita, near the mouth of Tensaw, where the road from Natchitoches to Natchez, crosses it: from the confluence of these three rivers, downwards, it is called Black river, which falls into Red river, sixty miles below. There is a good salt spring near the Acatahola lake.

Ascending Red river, above Natchitoches, in about three miles arrive at the upper mouth of the Rigula de Bondieu: there are settlements all along; plantations adjoining. From the upper mouth of the Rigula de Bondieu, the river is in one channel through the settlement called Grand Ecore, of about six miles; it is called Grand Ecore, (or in English the Great Bluff,) being such a one on the left hand side, near one hundred feet high. The face next the river, almost perpendicular, of a soft white rock; the top, a gravel loam, of considerable extent, on which grow large oaks, hickory, black cherry and grape vines. At the bottom of one of these bluffs, for there are two near each other, is a large quantity of stone-coal, and near them several springs of the best water in this part of the country; and a lake of clear water within two hundred yards, bounded by a gravelly margin. I pretend to have no knowledge of military tactics, but think, from the river in this place being all in one channel, the goodness of the water, a high healthy country, and well timbered all round it, no height near it so high, its commanding the river, and a very public ferry just under it, that at a small expense, it would be capable of great defence with a small force. The road from it to the westward, better than from Natchitoch, and by land only about five miles above it, and near it plenty of good building stone. These advantages it possesses beyond any other place within my knowledge on the river, for a strong fort, and safe place of deposit. Just about this bluff, the river makes a large bend to the right, and a long reach nearly due east and west by it: the bluff overlooks, on the opposite side, several handsome plantations. I have been induced, from the advantages this place appeared to me to possess, to purchase it, with four or five small settlements adjoining, including both bluffs, the ferry, springs and lake, the stone quarries, and coal; and a field of about five hundred acres of the best low grounds, on the opposite side. After leaving Grand Ecore, about a mile, on the left side comes in a large bayau, from the Spanish lake, as it is called, boatable the greater part of the year. This lake is said to be about fifty miles in circumference, and rises and falls with the river, into which, from the river, the largest boats may ascend, and from it, up the mouths of several large bayaus that fall into it, for some distance, one in particular, called bayau Dupong, up which boats may ascend within one and a half mile of old Fort Adaize. Leaving this bayau about two miles arrive at a fork or division of the river; the left-hand branch bears westwardly for sixty or eighty miles; then eastwardly, meeting the branch it left, after forming an island of about one hundred miles long, and, in some places, nearly thirty miles wide. Six or seven years ago,

boats used to pass this way into the main river again; its communication with which being above the great raft or obstruction; but it is now choked, and requires a portage of three miles; but at any season, boats can go from Natchitoches, about eighty miles, to the place called the Point, where the French had a factory, and a small station of soldiers to guard the Indian trade, and is now undoubtedly a very eligible situation for a similar establishment. The country bounded to the east and north, by this branch or division of the river, is called the Bayau Pierre settlement, which was begun, and some of the lands granted before Louisiana was ceded to Spain by France, and continued under the jurisdiction of the commandant of Natchitoches until about twenty years ago, when, by an agreement between a Mr. Vogone, then commandant of this place, and a Mr. Elibarbe, commandant at Natchitoches, the settlement called Bayau Pierre was placed under the jurisdiction of the latter, and has so continued ever since. The settlement, I believe, contains about forty families, and generally they have large stocks of cattle: they supply us with our cheese entirely, and of tolerable quality, and we get from them some excellent bacon hams. The country is interspersed with prairies, resembling, as to richness, the river bottoms, and, in size, from five to five thousand acres. The hills are a good gray soil, and produce very well, and afford beautiful situations. The creek called Bayau Pierre, (stony creek) passes through the settlement, and affords a number of good mill seats, and its bed and banks lined with a good kind of building stone, but no mills are erected on it. Some of the inhabitants have tried the uplands in wheat, which succeeded well. They are high, gently rolling, and rich enough; produce good corn, cotton, and tobacco. I was through the settlement in July last, and found good water, either from a spring or well, at every house. The inhabitants are all French, one family excepted. A few miles to westward, towards Sabine, there is a saline where the inhabitants go and make their salt. On the whole, for health, good water, good living, plenty of food for every kind of animal, general conveniency, and handsome surface, I have seen few parts of the world more inviting to settlers.

Returning back again to the fork of the main river, we left, for the purpose of exploring the Bayau Pierre branch, we find irregular settlements, including Campti, where a few families are settled together on a hill near the river, northeast side. For about twenty miles the river land is much the same everywhere, but the Campti settlement is more broken with bayaus and lagoons than any place I am acquainted with on the river, and for want of about a dozen bridges is inconvenient to get to, or travel through. The upper end of this settlement is the last on the main branch of Red river, which, straight by land, does not exceed twenty-five miles above Natchitoches. At the upper house the great raft or jam of timber begins; this raft chokes the main channel for upwards of one hundred miles, by the course of the river; not one entire jam from the beginning to end of it, but only at the points, with places of several leagues that are clear. The river is very crooked, and the low grounds are wide and rich, and I am informed, no part of Red river will afford better plantations than along its banks by this raft, which is represented as being so important as to render the country above it of little value for settlements; this opinion is founded entirely upon incorrect information. The first or lowest part of the raft is at a bend or point in the river, just below the upper plantation, at which, on the right side, a large bayau, or division of the river, called Bayau Channo, comes in, which is free of any obstructions, and the greater part of the year boats of any seize may ascend it, into Lake Bistoni, through which, to its communication with the lake, is only about three miles; the lake is about sixty miles long, and lays nearly parallel with the river, from the upper end of which it communicates again with the river, by a bayau called Daichet, about forty miles above the upper end of the raft; from the lake to the river, through Bayau Daichet, is called nine miles; there is always in this bayau sufficient water for any boat to pass; from thence upwards Red river is free of all obstructions to the mountains. By Lake Bistino, and these two bayaus, an island is formed, about seventy miles long, and three or four wide, capable of affording settlements inferior to none on the river. From the above account you will perceive, that the only difficulty in opening a boat passage by this raft, through the lake, which is much shorter than by the course of the river, and avoid the current, and indeed, was the river unobstructed, would always be preferred, is this small jam of timber at the Point, just below the Bayau Channo, as it is called.

After the receipt of your letter I had an opportunity of seeing some of the inhabitants who live near this place, who informed me, that that small raft was easily broken, and that they had lately been talking of doing it. I persuaded them to make the attempt, and they accordingly appointed the Friday following, and all the neighbors were to be invited to attend and assist. They met accordingly, and effected a passage next to one bank of the river, so that boats could pass, but did not entirely break it; they intend to take another spell at it, when the water falls a little, and speak confidently of succeeding.

The country about the head of Lake Bistino, is highly spoken of, as well the highlands, as the river bottom. There are falling into the river and lake in the vicinity, some handsome streams of clear wholesome water from towards Washita, one in particular called Bayau Badkah by the Indians, which is boatable at some seasons; this bayau passes through a long, narrow, and rich prairie, on which my informant says, five hundred families might be desirably settled; and from thence up to where the Caddos lately lived, the river banks are high, bottoms wide and rich as any other part of the river. From thence it is much the same to the mouth of the Little river of the left; this river is generally from fifty to one

hundred yards wide; heads in the great prairies south of Red river, and interlocks with the head branches of the Sabine and Trinity rivers; and in times of high-water, is boatable forty or fifty leagues, affording a large body of excellent well timbered and rich land, the low grounds from three to six miles wide; but the quality of the water, though clear, is very inferior to that of the streams that fall into Red river on the north side. The general course of the Red river from this upwards is nearly from West to East, till we arrive at the Panis towns, when it turns northwestwardly. After leaving the mouth of the Little river of the left, both banks are covered with strong, thick cane for about twenty miles; the low-grounds very wide, rich, and do not overflow; the river widening in proportion as the banks are less liable to overflow; you arrive at a handsome rich prairie twenty-five miles on the right side and four or five miles wide, bounded by handsome oak and hickory woods, mixed with some short leaved pine, interspersed with pleasant streams and fountains of water. The opposite or left side is a continuation of thick cane; the river or low lands ten or twelve miles wide. After leaving the prairie, the cane continues for about forty miles; you then arrive at another prairie, called Little prairie, left side, about five miles in length, and from two or three in breadth; opposite side continues cane as before; low lands wide, well timbered, very rich, and overflow but little; the river still widening. Back of the low grounds is a well timbered, rich upland country, gently rolling and well watered; from the Little prairie, both banks cane for ten or twelve miles, when the oak and pine woods come bluff to the river for about five miles; left hand side, cane as before; then the same on both sides for from ten to twenty miles wide; for about fifteen miles, when the cedar begins on both sides, and is the principal growth on the wide, rich river bottom for forty miles; in all the world there is scarcely to be found a more beautiful growth of cedar timber; they, like the cedars of Libanus, are large, lofty, and straight.

You now arrive at the mouth of the Little river of the right; this river is about one hundred and fifty yards wide; the water clear as crystal; the bottom of the river stony, and is boatable, at high water, up to the great prairies near two hundred miles by the course of the river; the low grounds generally from ten to fifteen miles wide, abounding with the most luxuriant growth of rich timber, but subject to partial inundation at particular rainy seasons. After leaving this river, both banks of Red river are cane as before for about twenty miles, when you come to the round prairie, right side, about five miles in circumference. At this place Red river is fordable at low water; a hard stony bottom, and is the first place from its mouth where it can be forded. This round prairie is high and pleasant, surrounded by handsome oak and hickory uplands; left side cane as before, and then the same both sides for twenty miles to the long prairie, left side, forty miles long; opposite side cane as before; near the middle of this prairie, there is a lake of about five miles in circumference, in an oval form, neither tree nor shrub near it, nor stream of water running either in or out of it; it is very deep, and the water so limpid that a fish may be seen fifteen feet from the surface. By the side of this lake the Caddoquies have lived from time immemorial. About one mile from the lake is the hill on which they say the Great Spirit placed one Caddo family, who were saved when, by a general deluge, all the world were drowned; from which family all the Indians have originated. For this little natural eminence all the Indian tribes, as well as the Caddoquies, for a great distance, pay a devout and sacred homage. Here the French, for many years before Louisiana was ceded to Spain, had erected a small fort; kept some soldiers to guard a factory they had here established for the Indian trade, and several French families were settled in the vicinity, built a flour mill, and cultivated wheat successfully for several years; and it is only a few years ago that the mill irons and mill stones were brought down; it is about twenty-five years since those French families moved down, and fourteen years since the Caddoquies left it. Here is another fording place when the river is low. On the opposite side a point of high oak, hickory, and pine land comes bluff to the river for about a mile; after which, thick cane to the upper end of the prairie; then the same on both sides for about twelve miles; then prairie on the left side for twenty miles, opposite side cane; then the same for thirty miles, then an oak high bluff three miles, cane again for about the same distance, on both sides; then for about one league, left side, is a beautiful grove of pacans, intermixed with no other growth; after which, cane both sides for forty miles; then prairie, left side, for twenty miles, and from one to two miles only in depth; about the middle of which comes in a bayau of clear running water, about fifty feet wide; then cane again both sides of the river for about forty miles; then, on the right side, a point of high pine woods bluff to the river for about half a mile, cane again fifteen or sixteen miles; then a bluff of large white rocks for about half a mile, near one hundred feet high, cane again about forty-five miles to a prairie on the right side, of about thirty miles long, and twelve or fifteen miles wide; there is a thin skirt of wood along the bank of the river, that when the leaves are on the trees, the prairie is, from the river, scarcely to be seen. From the upper end of this prairie it is thick cane again for about six miles, when we arrive at the mouth of bayau Galle, which is on the right side, about thirty yards wide, a beautiful, clear, running stream of wholesome well tasted water; after passing which, it is thick cane again for twenty-five miles, when we arrive at a river that falls in on the right side, which is called by the Indians Kiomitchie, and by the French La Riviere la Mine, or Mine river, which is about one hundred and fifty yards wide, the water clear and good, and is boatable about sixty miles to the silver mine, which is on the bank of the river, and the ore appears in large

quantities, but the richness of it is not known. The Indians inform of their discovering another, about a year ago, on a creek that empties into the Kiomitchie, about three miles from its mouth, the ore of which they say resembles the other. The bottom land of this river is not wide, but rich; the adjoining high lands are rich, well timbered, well watered, and situated. About the mine, the current of the river is too strong for boats to ascend it, the country being hilly. After passing the Kiomitchie, both banks of the river are covered with thick cane for twenty-five miles, then, left side, a high pine bluff appears again to the river for about half a mile, after which nothing but cane again on each side for about forty miles, which brings you to the mouth of a handsome bayau, left side, called by the Indians Nahaucha, which, in English, means the Kick; the French call it Bois d'Arc, or Bowwood creek, from the large quantity of that wood that grows upon it. On this bayau trappers have been more successful in catching beaver than on any other water of Red river; it communicates with a lake, three or four miles from its mouth, called Swan lake, from the great number of swan that frequent it; it is believed that this bayau is boatable at high water for twenty or thirty leagues, from what I have been informed by some hunters with whom I have conversed who have been upon it. The low grounds are from three to six miles wide, very rich, the principal growth on it is the bois d'arc. The great prairies approach pretty near the low grounds on each side of this creek; leaving which it is cane both sides for about eight miles, when we arrive at the mouth of the Vazzures, or Boggy river, which is about two hundred yards wide, soft miry bottom, the water whitish, but well tasted. Attempts have been made to ascend it in perogues, but it was found to be obstructed by a raft of logs, about twenty miles up it. The current was found to be gentle, and depth of water sufficient; was the channel not obstructed might be ascended far up it. The low grounds on this river are not as wide as on most of the rivers that fall into Red river, but very rich; the high lands are a strong clay soil; the principal growth oak. After leaving this river, the banks of Red river are alternately cane and prairie; timber is very small, and scattered along only in places; it is only now to be seen along the water courses. From the Boggy river to the Blue river is about fifty miles, which comes in on the right side. The water of this river is called blue, from its extreme transparency; it is said to be well tasted and admired for its quality to drink. The bed of this river is lined generally with black and greyish flint stones; it is about fifty yards wide, and represented as a beautiful stream; perogues ascend it about sixty or seventy miles. The low grounds of Blue river are a good width for plantations, very rich; the growth pacan, and every species of the walnut. The whole country here, except on the margin of the water courses, is one immense prairie. After passing this river copses of wood only are to be seen here and there along the river bank for about twenty-five miles, to a small turgid river, called by the Indians Babachaha, and by the French Fouxoacheta; some call it the Missouri branch of Red river; it emits a considerable quantity of water; runs from North to South, and falls into Red river nearly at right angles, and heads near the head of the Arkensas, and is so brackish it cannot be drank. On this river, and on a branch of the Arkensas, not far from it, the Indians find the salt rock; pieces of it have often been brought to Natichitoches by hunters, who procured it from the Indians. From the mouth of this river, through the prairie, to the main branch of the Arkensas, is three days journey; perhaps sixty or seventy miles in a straight line. From this to the Panis,' or Towrache towns, by land, is about thirty miles and by water, double that distance; the river is nearly a mile wide. The country on each side, for many hundreds of miles, is all prairie, except a skirt of wood along the river bank, and on the smaller streams; what trees there are are small; the grass is green summer and winter. In between thirty-three and thirty-four degrees of north latitude, the soil is very rich, producing, luxuriously, exerything that is planted in it; the river from this upwards, for one hundred and fifty miles, continues at least a mile wide, and may be ascended in perogues.

Mr. Grappe, to whom I am indebted for the foregoing accurate description of Red river, informed me that his personal knowledge of it did not extend but little above the Panis towns; but Mr. Brevel, of the Isle Brevel, who was born at the Caddo old towns where he was, had been further up it, and that whatever account he gave me might be relied on.

I therefore sought an opportunity, a few days after, to obtain from Mr. Brevel ths following narrative, which I wrote down from his own mouth as he related it:

"About 40 years ago, I set off, on foot, from the Panis nation (who then lived about fifty leagues above where they now live) in company with a party of young Indian men, with whom I had been partly raised, on a hunting voyage, and to procure horses. We kept up on the south side of Red river, as near it as we could conveniently cross the small streams that fall in, sometimes at some distance, and at others very near it, and in sight of it. We found the country all prairie, except small copses of wood, cedar, cotton wood, or moscheto, among which a stick six inches in diameter could not be found; the surface becoming more and more light, sandy and hilly, with ledges of cliffs of a greyish sandy rock, but every where covered with herbage. We found many small streams falling into the river, but none of any considerable size, or that discharged much water in dry seasons, but many deep gullies formed by the rain water. After travelling for several days over a country of this description, the country became more broken, the hills rising into mountains, among which we saw a great deal of rock salt, and an ore the Indians said was my (meaning the white people's) treasure, which I afterwards learned was silver; and that, among

these mountains of mines, we often heard a noise like the explosion of a cannon, or distant thunder, which the Indians said was the spirit of the white people working in their treasure, which, I afterwards was informed, was the blowing of the mines, as it is called, which is common in all parts of Spanish America where mines exist. The main branch of the river became smaller, until it divided into almost innumerable streams that issued out of the valleys among these mountains; the soil is very light and sandy, and of a reddish grey color. We travelled on from the top of one mountain to the top of another, in hopes the one we were ascending was always the last, till the small streams we met with ran the contrary way, towards the setting sun, and the lands declining that way. We continued on till the streams enlarged into a river of considerable size, and the country became level, well timbered, the soil a rich black loam; the waters were all clear and well tasted. Here we found a great many different tribes of the Hietan, Appaches, and Concee Indians; we likewise fell in with them frequently from the time we had been a few days out from the Panis towns, and were always treated kindly by them. I believe the distance from the Panis old towns to where we saw the last of Red river water, is at least one hundred leagues; and in crossing over the ridge, we saw no animals that were not common in all the country of Louisiana, except the spotted tiger, and a few white bears. After spending some days on the western waters, we set off for the settlements of Santa Fe, steering nearly a southeast course, and in a few days were out of the timbered into prairie country; the country became broken and hilly, the waters all running westwardly; the country was also clothed with a luxuriant herbage, and we frequently passed mines of silver ore. We arrived, at length, at a small, meanly built town in the Santa Fe settlement, containing about one hundred houses, round which were some small, cultivated fields, fenced round with small cedar and moscheto brush, wattled in stakes. This little town was on a small stream of water that ran westwardly, and, in a dry season, scarcely ran at all; and the inhabitants were obliged to water their cattle from wells.

And I understood that the bayau upon which this town is situated, was no part of the Rio Grande, but fell into the western ocean; but of that I might have been mistaken. I understood that similar small towns, or missions were within certain distances of each other for a great extent southwardly towards Mexico; and that the inhabitants were mostly christianized Indians and Matiffs. That the mines in that settlement afforded very rich ore, which was taken away in large quantities, packed on mules, and had the same appearance of what we met with about the head branches of Red river. After furnishing ourselves with horses at this place, we set off again for the Panis towns, from whence we started, steering at first southwardly, in order to avoid a high, mountainous country, that is difficult to cross, that lies between Santa Fe and Red river. After traveling some distance south, we turned our course northeastwardly, and arrived at the Panis towns in eighteen days from the day we left Santa Fe settlements, and three months and twenty days from the time we started."

He is of the opinion, that from the Panis towns to Santa Fe, in a right line, is nearly three hundred miles, and all the country prairie, a few scattering cedar knobs excepted. After he had finished his narrative, I asked him how far Red river was boatable. He said, not much above the Panis old towns; not that he knew of any particular falls or obstructions, but that the head branches of the river came from steep mountains, on which the rain often poured down in torrents, and runs into the river with such velocity, sweeping along with it large quantities of loose earth, of which these hills and mountains are composed; that it rolls like a swell in the sea, and would either sink or carry along with it any boat that it might meet in the river. But, he observed at the same time, that his opinion was founded on no experiment that he had ever known made. I asked him if the Indians had no perogues high up in the river. He told me that the Indians there knew nothing of the use of them, for instead of their being, for hundreds of miles, a tree large enough for a canoe, one could scarcely be found large enough to make a fowl trough. I asked him what animals were found in the great prairies. He told me, that from Blue river, upwards, on both sides of Red river, there were innumerable quantities of wild horses, buffalo, bears, wolves, elk, deer, foxes, sangliers, or wild hogs, antelope, white hares, rabbits, &c., and on the mountains the spotted tiger, panther, and wild cat. He farther told me, that about twenty-three years ago, he was employed by the Governor of St. Antoine, to go from that place into some of the nations that lived towards Santa Fe, who were at war with the Spaniards, to try to make a peace with them, and bring in some of the chiefs to St. Antoine. He set off from that place with a party of soldiers, and was to have gone to Santa Fe; they passed on a northwestwardly course for about two hundred miles, but after getting into the Great Prairie, the season being dry, they were forced to turn back for want of water for themselves and horses, and that he does not know how near he went to Santa Fe, but believes he might have been half way.

The accounts given by Mr. Brevel, Mr. Grappe, and all other hunters with whom I have conversed, of the immense droves of animals that, at the beginning of winter, descend from the mountains down southwardly, into the timbered country, is almost incredible. They say that the buffalo and bear, particularly, are in droves of many thousands together, that blacken the whole surface of the earth, and continue passing, without intermission, for weeks together, so that the whole surface of the country is, for many miles in breadth, trodden like a large road.

I am, sir, &c.,

JOHN SIBLEY.

NATCHITOCHES, *April* 10, 1805.

Distances up Red river by the course of the river.

	Miles.
From the mouth of Red river to Black river	31
to Baker's landing, lower end avoyal	51
La Glee's ditto, upper end avoyal	15
Rice's	6
Hoome's	18
Nicholas Grubb's	21
mouth of bayau Rapide	15
Indian villages	22
Mount Pleasant, Gillard's place	7
mouth of Rigula de Bondieu	6
Mounete's plantation	10
mouth of Little river	24
bayou Brevell	20
Natchitoches	20
Grand Ecore	10
Compti	20
bayau Channo	15
lake Bistino, through bayau Channo	3
through lake Bistino to the upper end of Channo	60
through bayau Daichet to the river again	9
late Caddo villages where they lived five years ago	80
Little river of the left	80
Long prairie, left side	40
upper end of ditto	25
Little prairie, left side	40
upper end ditto	5
Pine Bluff, right side	12
upper end ditto	5
cedars	15
upper end ditto and mouth of Little river of the right	40
round prairie, right side, (first fording place)	20
lower end of Long prairie, left side	25
upper end ditto	40
next prairie, same side	12
upper end of the same	20
three mile oak and pine bluff	30
Pacan Grove	9
upper end of the same	6
prairie next above the pacans	40
upper end of the same	25
Pine Bluff, right side	45
White-oak Bluff	15
next prairie, right side	45
upper end ditto	30
bayau Galle, right side	6
mouth of Kiomitchie or Mine river	25
Pine Bluff, left side	25
bayou Kick or Bois d'arc creek	40
the Vazzures, or Boggy river, right side	8
Blue river, right side	50
Faux Oacheto or Missouri branch	25
Panis or Towiache towns	70
Panis or ditto old towns	150
head branch of Red river, or dividing ridge	300
To which may be added for so much the distance being shortened by going through Lake Bistino than the course of the river	60
Computed length of Red river from where it falls into the Mississippi	1,831
To which add the distance from the mouth of Red river to the ocean, by either the Mississippi or the Cheffeli, which was once probably the mouth of Red river	320
Total length of Red river	2.151

OBSERVATIONS,

Made in a voyage commencing at St. Catharine's landing, on the east bank of the Mississippi, proceeding downwards to the mouth of the Red river, and from thence ascending that river, the Black river, and the Washita river, as high as the hot springs in the proximity of the last mentioned river; extracted from the journals of William Dunbar, Esq., and Doctor Hunter.

Mr. Dunbar, Doctor Hunter, and the party employed by the United States to make a survey of, and explore the country traversed by the Washita river, left St. Catharine's landing, on the Mississippi, in latitude 31° 26′ 30″ N. and longitude 6hs. 5′ 56″ W. from the meridian of Greenwich, on Tuesday the 16th of October, 1804. A little distance below St. Catharine's creek, and five leagues from Natches, they passed the White Cliffs, composed chiefly of sand, surmounted by pine, and from one hundred to two hundred feet high. When the waters of the Mississippi are low, the base of the cliff is uncovered, which consists of different colored clays, and some beds of ochre, over which there lies, in some places, a thin lamina of iron ore. Small springs possessing a petrifying quality flow over the clay and ochre, and numerous logs and pieces of timber, converted into stone, are strewed about the beach. Fine pure argil of various colors, chiefly white and red, is found here.

On the 17th they arrived at the mouth of Red river, the confluence of which with the Mississippi, agreeably to the observations of Mr. De Ferrer, lies in latitude 31° 1′ 15″ N. and longitude 6hs. 7′ 11″ W. of Greenwich. Red river is here about five hundred yards wide, and without any sensible current. The banks of the river are clothed with willow; the land low and subject to inundation, to the height of thirty feet or more above the level of the water at this time. The mouth of the Red river is accounted to be seventy-five leagues from New Orleans, and three miles higher up than the Chafalaya, or Opelousa river, which was probably a continuation of the Red river when its waters did not unite with those of the Mississippi but during the inundation.

On the 18th the survey of the Red river was commenced, and on the evening of the 19th the party arrived at the mouth of the Black river, in latitude 31° 15′ 48″ N. and about twenty-six miles from the Mississippi. The Red river derives its name from the rich fat earth, or marle, of that color, borne down by the floods; the last of which appeared to have deposited on the high bank a stratum of upwards of half an inch in thickness.

The vegetation on its banks is surprisingly luxuriant; no doubt owing to the deposition of marle during its annual floods. The willows grow to a good size; but other forest trees are much smaller than those seen on the banks of the Mississippi. As you advance up the river, it gradually narrows; in latitude 31° .08 N. it is about two hundred yards wide, which width is continued to the mouth of Black river, where each of them appears one hundred and fifty yards across. The banks of the river are covered with pea vine and several sorts of grass, bearing seed, which geese and ducks eat very greedily; and there are generally seen willows growing on one side, and on the other a small growth of black oak. packawn, hickory, elm, &c. The current in the Red river is so moderate as scarcely to afford an impediment to its ascent.

On sounding the Black river a little above its mouth, there was found twenty feet of water, with a bottom of black sand. The water of Black river is rather clearer than that of the Ohio, and of a warm temperature, which it may receive from the water flowing into it from the valley of the Mississippi, particularly by the Catahoola. At noon on the 23d, by a good meridian observation, they ascertained their latitude to be 30° 36′ 29″ N. and were then a little below the mouths of the Catahoola, Washita and Bayau Tenza the united waters of which form the Black river, which in many places does not exceed eighty yards in width. The banks on the lower part of the river present a great luxuriance of vegetation and rank grass, with red and black oak, ash, paccawn, hickory, and some elms.* The soil is black marle, mixed with a moderate proportion of sand, resembling much the soil on the Mississippi banks; yet the forest trees are not lofty, like those on the margin of the great river, but resembling the growth on the Red river. In latitude 31° 22′ 46″ N. they observed that canes grew on several parts of the right bank, a proof that the land is not deeply overflowed; perhaps from one to three feet; the banks have the appearance of stability; very little willow, or other productions of a newly formed soil being seen on either side. On advancing up the river, the timber becomes larger, in some places rising to the height of forty feet; yet the land is liable to be inundated, not from the waters of this small river, but from the intrusion of its more powerful neighbor the Mississippi. The lands decline rapidly, as in all alluvial countries, from the margin to the Cypress swamps, where more or less water stagnates all the year round. On the 21st they passed a small, but elevated island, said to be the only one in this river for more than one hundred leagues ascending. On the left bank, near this island, a small settlement of a couple of acres has been begun by a man and his wife. The banks are not less than forty feet above the present level of the water in the river, and are but rarely overflowed: on both sides they are clothed with rich cane brake, pierced by creeks fit to carry boats during the inundation.

They saw many cormorants, and the whooping crane; geese and ducks are not yet abundant, but are said to arrive in myriads, with the rains and winter's cold. They shot a fowl of the duck kind, whose foot was partially divided, and the body covered with a bluish, or lead colored plumage. On the morning of the twenty-second, they observed green matter floating on the river, supposed to come from the Catahoola and other lakes and bayaus of stagnant water, which, when raised a little by rain, flow into the Black river; and also many patches of an aquatic plant, resembling small islands, some floating on the surface of the river, and others adhering to, or resting on the shore and logs. On examining this plant, it was found a hollow, jointed stem, with roots of the same form, extremely light, with very narrow willow shaped leaves projecting from the joint, embracing however, the whole of the tube, and extending to the next inferior joint or knot. The extremity of each branch is terminated by a spike of very slender, narrow seminal leaves from one to two inches in length, and one tenth, or less, in breadth, producing its seed on the underside of the leaf, in a double row almost in contact; the grains alternately placed in perfect regularity: not being able to find the flower, its class and order could not be determined, although it is not probably new. Towards the upper part of the Black river, the shore abounded with muscles and periwinkles. The muscles were of the kind called pearl muscles. The men dressed a quantity of them considering them as an agreeable food; but Mr. D. found them tough and unpalatable.

On arriving at the mouth of the Catahoola, they landed to procure information from a Frenchman settled there. Having a grant from the Spanish Government, he has made a small settlement, and keeps a ferry-boat for carrying over men and horses travelling to and from Natchez, and the settlements on Red river and on the Washita river. The country here is all alluvial. In process of time, the rivers shutting up ancient passages and elevating the banks over which their waters pass, no longer communicate with the same facility as formerly; the consequence is, that many larger tracts formerly subject to inundation, are now entirely exempt from that inconvenience. Such is the situation of a most valuable tract upon which this Frenchman is settled. His house stands on an Indian mount, with several others in view. There is also a species of rampart surrounding this place, and one very elevated mount,

*Among the plants growing on the margin of the river is the cheria root, used in medicine, and the cantac, occasionally used by the hunters for food: the last has a bulbous root, ten times the size of a man's fist. In preparing it, they first wash it clean from earth, then pound it well, and add water to the mass and stir it up; after a moment's settlement the water and ferula is poured off: this operation is repeated until it yields no more fecula, the fibrous part only being left, which is thrown away as useless: the water is then poured from the sediment, which is dried in the sun and will keep a long time. It is reduced into powder and mixed with Indian meal or flour, and makes wholesome and agreeable food. The labor is performed by the women whilst they are keeping the camp, and their husbands are in the woods hunting.

a view and description of which is postponed till the return; their present situation not allowing of the requisite delay. The soil is equal to the best Mississippi bottoms.*

They obtained from the French settler the following list of distances between the mouth of Red river and the post on the Washita, called Fort Miro.

	Leagues.
From the mouth of Red river to the mouth of Black river	10
To the mouth of Catahoola, Washita, and Tenza	22
To the river Ha-ha, on the right	1
To the Prairie de Villemont, on the same side	5
To the Bayau Louis, on the same side, rapids here	1
To Bayau Bœuf, on the same side,	4
To the Prairie Noyu, (drowned savanna,)	3
To Pine Point, on the left	4½
To Bayau Calmut	3½
To the Coalmine, on the right, and Gypsum on the opposite shore	3
To the first settlement	12
To Fort Miro	22
	91

From this place they proceeded to the mouth of Washita, in lat. 35° 37′ 7″ N. and encamped on the evening of the 23d.

This river derives its appellation from the name of an Indian tribe formerly resident on its banks; the remnant of which, it is said, went into the great plains to the westward, and either compose a small tribe themselves, or are incorporated into another nation. The Black river loses its name at the junction of the Washita, Catahoola, and Tenza, although our maps represent it as taking place of the Washita. The Tenza and Catahoola are also named from Indian tribes now extinct. The latter is a creek twelve leagues long, which is the issue of a lake of the same name, eight leagues in length and about two leagues in breadth. It lies west from the mouth of the Catahoola, and communicates with the Red river during the great annual inundation. At the west or northwest angle of the lake, a creek called Little river, enters, which preserves a channel with running water at all seasons, meandering along the bed of the lake; but in all other parts its superfices, during the dry season from July to November, and often later, is completely drained, and becomes covered with the most luxurious herbage; the bed of the lake then becomes the residence of immense herds of deer, of turkeys, geese, crane, &c., which feed on the grass and grain. Bayau Tenza serves only to drain off a part of the waters of the inundation from the low lands of the Mississippi, which here communicate with the Black river during the season of high water.

Between the mouth of the Washita, and Villemont's prairie on the right, the current of the river is gentle, and the banks favorable for towing. The lands on both sides have the appearance of being above the inundation; the timber generally such as high lands produce, being chiefly red, white and black oaks, interspersed with a variety of other trees. The magnolia grandiflora, that infallible sign of the land not being subject to inundation, is not, however, among them. Along the banks a stratum of solid clay, or marle, is observable, apparently of an ancient deposition. It lies in oblique positions, making an angle of nearly thirty degrees with the horizon, and generally inclined with the descent of the river, although in a few cases the position was contrary. Timber is seen projecting from under the solid bank, which seems indurated, and unquestionably very ancient, presenting a very different appearance from recently formed soil. The river is about eighty yards wide. A league above the mouth of the Washita, the bayau Ha-ha comes in unexpectedly from the right, and is one of the many passages through which the waters of the great inundation penetrate and pervade all the low countries, annihilating, for a time the currents of the lesser rivers in the neighborhood of the Mississippi. The vegetation is remarkably vigorous along the alluvial banks, which are covered with a thick shrubbery, and innumerable plants in full blossom at this late season.

Villemont's prairie is so named in consequence of its being included within a grant under the French Government to a gentleman of that name. Many other parts on the Washita are named after their early proprietors. The French people projected and began extensive settlements on this river, but the general massacre planned, and in part executed by the Indians against them, and the consequent destruction of the Natchez tribe by the French, broke up all these undertakings, and they were not recommenced under that Government Those prairies are plains, or savannas, without timber; generally very fertile, and producing an exuberance of strong, thick, and coarse herbage. When a piece of ground has once got into this state in an Indian country, it can have no opportunity of reproducing timber, it being an invariable practice to set fire to the dry grass in the fall or winter, to obtain the advantage of attracting game when the young tender grass begins to spring; this destroys the young timber, and the prairie annually gains upon the wood land. It is probable that the immense plains known to exist in America, may owe their origin to this custom. The plains of the Washita lie chiefly on the east side,

*There is an embankment running from the Catahoola to Black river (enclosing about two hundred acres of rich land,) at present about ten feet high, and ten feet broad. This surrounds four large mounds of earth at the distance of a bow-shot from each other; each of which may be twenty feet high one hundred feet broad, and three hundred feet long at the top, besides a stupendous turret situate on the back part of the whole, or farthest from the water, whose base covers about an acre of ground, rising by two steps or stories tapering in the ascent, the whole surmounted by a great cone with its top cut off. This tower of earth on admeasurement was found to be eighty feet perpendicular.

and being generally formed like the Mississippi land, sloping from the bank of the river to the great river. they are more or less subject to inundation in the rear; and in certain great floods the water has advanced so far as to be ready to pour over the margin into the Washita. This has now become a very rare thing, and it may be estimated that from a quarter of a mile to a mile in depth, will remain free from inundation during high floods. This is pretty much the case with those lands nearly as high as the post of the Washita, with the exception of certain ridges of primitive high land; the rest being evidently alluvial, although not now subject to be inundated by the Washita river in consequence of the great depth which the bed of the river has acquired by abrasion. On approaching towards the Bayau Louis, which empties its waters into the Washita on the right, a little below the rapids, there is a great deal of high land on both sides, which produces pine and other timber, not the growth of inundated lands. At the foot of the rapids the navigation of the river is impeded by beds of gravel formed in it. The first rapids lie in latitude 31° 48′ 57″ .5 N. a little above which there is a high ridge of primitive earth, studded with abundance of fragments of rocks, or stone, which appears to have been thrown to the surface in a very irregular manner. The stone is of a friable nature, some of it having the appearance of indurated clay; the outside is blackish from exposure to the air, within it is a grayish white; it is said that in the hill the strata are regular and that good grindstones my be here obtained. The last of the rapids, which is formed by a ledge of rocks crossing the entire bed of the river, was passed in the evening of the 27th; above it the water became again like a mill-pond, and about one hundred yards wide. The whole of these first shoals, or rapids, embraced an extent of about a mile and a half; the obstruction was not continued, but felt at short intervals in this distance. On the right, about four leagues from the rapids, they passed the "Bayau Aux Boeufs," a little above a rocky hill: high lands and savanna are seen on the right. On sounding the river they found three fathoms water on a bottom of mud and sand. The banks of the river, above the bayau, seem to retain vey little alluvial soil; the highland earth, which is a sandy loam of a light gray color, with streaks of red sand and clay, is seen on the left bank; the soil not rich, bearing pines, interspersed with red oak, hickory and dogwood. The river is from sixty to one hundred yards wide here, but decreases as you advance. The next rapid is made by a ledge of rocks traversing the river, and narrowing the water channel to about thirty yards. The width between the high banks cannot be less than one hundred yards, and the banks from thirty to forty feet high. In latitude 32° 10′ 13″ rapids and shoals again occurred, and the channel was very narrow; the sand bars, at every point, extended so far into the bend as to leave little more than the breadth of the boat of water sufficiently deep for her passage, although it spreads over a width of seventy or eighty yards upon the shoal.

In the afternoon of the 31st, they passed a little plantation or settlement on the right, and at night arrived at three others adjoining each other. These settlements are on a plain or prairie, the soil of which we may be assured is alluvial from the regular slope which the land has from the river. The bed of the river is now sufficiently deep to free them from the inconvenience of its inundation; yet in the rear, the waters of the Mississippi approach, and sometimes leave dry but a narrow strip along the bank of the river. It is however now more common, that the extent of the fields cultivated (from ¼ to ½ mile) remains dry during the season of inundation; the soil here is very good, but not equal to the Mississippi bottoms; it may be esteemed second rate. At a small distance to the east are extensive cypress swamps, over which the waters of the inundation always stand to the depth of from fifteen to twenty-five feet. On the west side, after passing over the valley of the river, whose breadth varies from a quarter of a mile to two miles, or more, the land assumes a considerable elevation, from one hundred to three hundred feet, and extends all along to the settlements of the Red river. These high lands are reported to be poor, and badly watered, being chiefly what is termed pine barren. There is here a ferry and road of communication between the post of the Washita, and the Natchez, and a fork of this road passes on to the settlement called the Rapids, on Red river, distant from this place by computation one hundred and fifty miles.

On this part of the river lies a considerable tract of land granted by the Spanish Government to the Marquis of Maison Rouge, a French emigrant, who bequeathed it with all his property to M. Bouligny, son of the late colonel of the Louisiana regiment, and by him sold to Daniel Clarke. It is said to extend from the post of Washita, with a breadth of two leagues, including the river down to the bayau Calumet; the computed distance of which along the river is called thirty leagues, but supposed not more than twelve in a direct line.

On the 6th of November, in the afternoon, the party arrived at the post of the Washita, in lat. 32° 29′ 37″ 25. N. where they were politely received by Lieutenant Bowmar, who immediately offered the hospitality of his dwelling with all the services in his power.

From the ferry to this place the navigation of the river is, this season, interrupted by many shoals and rapids. The general width is from eighty to a hundred yards. The water is extremely agreeable to drink, and much clearer than that of the Ohio. In this respect it is very unlike its two neighbors, the Arkansa and Red rivers, whose waters are loaded with earthy matters of a reddish brown color, giving to them a chocolate-like appearance; and, when those waters are low, are not potable, being brackish from the great number of salt springs which flow into them, and probably from the beds of rock salt over which they may pass. The banks of the river presented very little appearance of alluvial land, but furnished an infinitude of beautiful landscapes, heightened by the vivid coloring they derive from the autumnal

changes of the leaf. Mr. Dunbar observes, that the change of color in the leaves of vegetables which is probably occasioned by the oxygen of the atmosphere acting on the vegetable matter, deprived of the protecting power of the vital principle, may serve as an excellent guide to the naturalist who directs his attention to discovery of new objects for the use of the dyer. For he has always remarked that the leaves of those trees whose bark or wood are known to produce a dye, are changed in autumn to the same color which is extracted in the dyer's vat from the woods; more especially by the use of mordants, as alum, &c., which yields oxygen: thus the foliage of the hickory, and oak, which produces the quercitron bark, is changed before its fall into a beautiful yellow; other oaks assume a fawn color, a liver color, or a blood color, and are known to yield dyes of the same complexion.

In latitude 32° 18′ north, Dr. Hunter discovered along the river side a substance nearly resembling mineral coal; its appearance was that of the carbonated wood described by Kirwan. It does not easily burn, but on being applied to the flame of a candle, it sensibly increased it, and yielded a faint smell, resembling in a slight degree, that of the gum lac of common sealing wax.

Soft friable stone is common, and great quantities of gravel and sand upon the beaches in this part of the river. A reddish clay appears in the strata, much indurated and blackened by exposure to the light and air.

The position called Fort Miro being the property of a private person, who was formerly civil commandant here, the lieutenant has taken post about four hundred yards lower; has built himself some log-houses, and enclosed them with a slight stockade. Upon viewing the country east of the river, it is evidently alluvial; the surface has a gentle slope from the river to the rear of the plantations. The land is of excellent quality, being a rich black mould to the depth of a foot, under which there is a friable loam of a brownish liver color.

At the post of the Washita, they procured a boat of less draught of water than the one in which they ascended the river thus far; at noon, on the 11th of November, they proceeded on the voyage, and in the evening encamped at the plantation of Baron Bastrop.

This small settlement on the Washita, and some of the creeks falling into it, contains not more than five hundred persons, of all ages and sexes. It is reported, however, that there is a great quantity of excellent land upon these creeks, and that the settlement is capable of great extension, and may be expected, with an accession of population, to become very flourishing. There are three merchants settled at the post, who supply, at very exorbitant prices, the inhabitants with their necessaries; these, with the garrison, two small planters, and a tradesman or two, constitute the present village. A great proportion of the inhabitants continue the old practice of hunting during the winter season, and they exchange their peltry for necessaries with the merchants, at a low rate. During the summer these people content themselves with raising corn, barely sufficient for bread during the year. In this manner they always remain extremely poor. Some few who have conquered that habit of indolence, which is always the consequence of the Indian mode of life, and attend to agriculture, live more comfortably, and taste a little the sweets of civilized life.

The lands along the river above the post, are not very inviting, being a thin, poor soil, and covered with pine wood. To the right, the settlements on the bayau Barthelemi and Siard, are said to be rich land.

On the morning of the thirteenth, they passed an island and a strong rapid, and arrived at a little settlement below a chain of rocks, which cross the channel between an island and the main land, called Roque Raw. The Spaniard and his family settled here, appear, from their indolence, to live miserably. The river acquires here a most spacious appearance, being about one hundred and fifty yards wide. In the afternoon they passed the bayau Barthelemi on the right, above the last settlements, and about twelve computed leagues from the post. Here commences Baron Bastrop's great grant of land from the Spanish Government, being a square of twelve leagues on each side, a little exceeding a million of French acres. The banks of the river continue about thirty feet high, of which eighteen feet from the water are a clayey loam of a pale ash color, upon which the water has deposited twelve feet of light, sandy soil, apparently fertile, and of a dark brown color. This description of land is of a small breadth, not exceeding half a mile on each side of the river, and may be called the valley of the Washita, beyond which there is high land covered with pines.

The soil of the "Bayau des Buttes," continues thin, with a growth of small timber. This creek is named from a number of Indian mounts discovered by the hunters along its course. The margin of the river begins to be covered with such timber as usually grows on inundated land, particularly a species of white oak, vulgarly called the over cup oak; its timber is remarkably hard, solid, ponderous, and durable, and it produces a large acorn in great abundance, upon which the bears feed, and which is very fattening to hogs.

In latitude 32° 50′ 8″ north, they passed a long and narrow island. The face of the country begins to change; the banks are low and steep, the river deep and more contracted, from thirty to fifty yards in width. The soil in the neighborhood of the river is a very sandy loam, and covered with such vegetables as are found on the inundated lands of the Mississippi. The tract presents the appearance of a new soil, very different from what they passed below. This alluvial tract may be supposed the site of a great lake, drained by a natural channel, from the abrasion of the waters; since which period the annual inundations have deposited the superior soil; eighteen or twenty feet is wanting to render it habitable for man. It appears, nevertheless, well stocked with

the beasts of the forest, several of which were seen. Quantities of water fowl are beginning to make their appearance, which are not very numerous here until the cold rains and frost compel them to leave a more northern climate. Fish is not so abundant as might be expected, owing, it is said, to the inundation of the Mississippi, in the year 1799, which dammed up the Washita, some distance above the post, and produced a stagnation and consequent corruption of the waters that destroyed all the fish within its influence.

At noon, on the 15th of November, they passed the island of Mallet, and at ninety yards northeast from the upper point of that island, by a good observation ascertained their latitude to be 32° 59′ 27″.5 north, or two seconds and a half of latitude south of the dividing line between the territories of Orleans and Louisiana. The bed of the river along this alluvial country, is generally covered with water, and the navigation uninterrupted, but in the afternoon of this day they passed three contiguous sand-bars, or beaches, called "les trois battures," and before evening the "bayau de grand Marais," or great marsh creek on the right, and "la Cypreri Chattelrau," a point of high land on the other side, which reaches within half a mile of the river. As they advanced towards the marais de saline, on the right, a stratum of dirty white clay under the alluvial tract showed them to be leaving the sunken and approaching the highland country. The salt lick marsh does not derive its name from any brackishness in the water of the lake or marsh, but from its contiguity to some of the licks, sometimes called "saline," and sometimes "glaise," generally found in a clay, compact enough for potter's clay. The bayau de la Tulipe forms a communication between the lake and the river. Opposite to this place, there is a point of high land, forming a promontory, advancing within a mile of the river, and to which boats resort when the low grounds are under water. A short league above is the mouth of the grand bayau de Saline, (Salt Lick creek.) This creek is of considerable length, and navigable for small boats. The hunters ascend it to one hundred leagues, in pursuit of game, and all agree that none of the springs which feed this creek are salt. It has obtained its name from the many buffalo salt licks which have been discovered in its vicinity. Although most of these licks, by digging, furnish water which holds marine salt in solution, there exists no reason for believing that many of them would produce nitre. Notwithstanding this low and alluvial tract appears in all respects well adapted to the growth of the long moss, (tilandsia.) none was observed since entering it in latitude 32° 52′, and as the pilot informed them none would be seen in their progress up the river, it is probable that the latitude of thirty-three degress is about the northern limit of vegetation. The long-leaf pine, frequently the growth of rich and even inundated land, was here observed in great abundance; the short-leaved, or pitch pine, on the contrary, is always found upon arid lands, and generally in sandy and lofty situations.

This is the season when the poor settlers on the Washita turn out to make their annual hunt. The deer is now fat, and the skins in perfection; the bear is now also in his best state, with regard to the quality of his fur, and the quantity of fat or oil he yields, as he has been feasting luxuriantly on the Autumnal fruits of the forest. It is here well known that he does not confine himself, as some writers have supposed, to vegetable food; he is particularly fond of hog's flesh. Sheep and calves are frequently his prey, and no animal escapes him which comes within his power, and which he is able to conquer. He often destroys the fawn, when chance throws it in his way. He cannot, however, discover it by smelling, notwithstanding the excellence of his scent, for nature has, as if for its protection, denied the fawn the property of leaving any effluvium upon its track—a property so powerful in the old deer.* The bear, unlike most other beasts of prey, does not kill the animal he has seized upon before he eats it; but regardless of its struggles, cries, and lamentations, fastens upon, and if the expression is allowable, devours it alive. The hunters count much on their profits from the oil drawn from the bear's fat, which, at New Orleans, is always of ready sale, and much esteemed for its wholesomeness in cooking, being preferred to butter or hog's lard. It is found to keep longer than any other animal oil without becoming rancid, and boiling it, from time to time, upon sweet bay leaves, restores its sweetness, or facilitates its conservation.

In the afternoon of the 17th they passed some sand beaches, and over a few rapids. They had cane brakes on both sides of the river; the canes were small, but demonstrate that the water does not surmount the bank more than a few feet. The river begins to widen as they advance; the banks of the river show the high-land soil, with a stratum of three or four feet of alluvium deposited by the river upon it. This superstratum is grayish, and very sandy, with a small admixture of loam, indicative of the poverty of the mountains and uplands where the river rises. Near this they passed through a new and very narrow channel, in which all the water of the river passes, except in time of freshes, when the interval forms an island. A little above this pass is a small clearing, called "Cache la Tulipe," (Tulip's hiding place;) this is the name of a French hunter who here concealed his property. It continues the practice of both the white and red hunters to leave their skins, &c., often suspended to poles, or laid over a pole placed upon two forked posts, in sight of the river, until their return from hunting. These deposits are considered as sacred, and few

* It may not be generally known to naturalists, that between the hoof of the deer, &c., there is found a sack, with its mouth inclining upwards, containing more or less of musk, and which, by escaping over the opening, in proportion to the secretion, causes the foot to leave a scent on the ground wherever it passes. During the rutting season this musk is so abundant, particularly in old males, as to be smelt by the hunters at a considerable distance.

examples exist of their being plundered. After passing the entrance of a bay, which within must form a great lake during the inundation, great numbers of the long-leaf pine were observed, and the increased size of the canes along the river's bank, denoted a better and more elevated soil; on the left was a high hill (300 feet) covered with lofty pine trees.

The banks of the river present more the appearance of upland soil, the under stratum being a pale, yellowish clay, and the alluvial soil of a dirty white, surmounted by a thin covering of a brown vegetable earth. The trees improve in appearance, growing to a considerable size and height, though yet inferior to those on the alluvial banks of the Mississippi. After passing the "Bayau de Hachis," on the left, points of high land, not subject to be overflowed, frequently touch the river, and the valley is said to be more than a league in breadth on both sides. On the left are pine hills called "Code de Champignole." The river is not more than fifty or sixty yards wide. On the morning of the 20th they passed a number of sand-beaches, and some rapids, but found good depth of water between them. A creek called "Chemin Couvert," which forms a deep ravine in the high lands, here enters the river; almost immediately above this is a rapid where the water in the river is confined to a channel of about forty yards in width; above it they had to quit the main channel, on account of the shallowness and rapidity of the water, and pass along a narrow channel of only sixty feet wide. Without a guide a stranger might take this passage for a creek.

Notwithstanding the lateness of the season, and the northern latitude they were in, they this day met with an alligator. The banks of the river are covered with cane, or thick underbrush, frequently so interwoven with thorns and briars as to be impenetrable. Birch, maple, holly, and two kinds of wood to which names have not yet been given, except "water-side wood," are here met with, as also persimmons and small black grapes. The margin of the river is fringed with a variety of plants and vines, among which are several species of convolvulus.

On the left they passed a hill and cliff one hundred feet perpendicular, crowned with pines, and called "Cote de Finn," (Fin's hill,) from which a chain of high land continues some distance. The cliff presents the appearance of an ash-colored clay. A little further to the right is the Bayau d'Acasia, (Locust creek.) The river varies here from eighty to an hundred yards in width, presenting frequent indications of iron along its banks, and some thin strata of iron ore. The ore is from half an inch to three inches in thickness.

On the morning of the 22d of November, they arrived at the road of the Chadadoquis Indian nation, leading to the Arkansas nation; a little beyond this is the Ecor a Fabri, (Fabri's cliffs,) from eighty to one hundred feet high, and a little distance above, a smaller cliff called "Le Petit Ecor a Fabri," (the Little Cliff of Fabri.) These cliffs appear chiefly to be composed of ash-colored sand, with a stratum of clay at the base, such as runs all along under the banks of this river. Above these cliffs are several rapids; the current is swifter, and denotes their ascent into a higher country. The water becomes clear, and equal to any in its very agreeable taste, and as drinking water. In the river are immense beds of gravel and sand, over which the water passes with great velocity in the season of its floods, carrying with it vast quantities of drift wood, which it piles up, in many places, to the height of twenty feet above the present surface, pointing out the difficulty and danger of navigation in certain times of the flood; accidents, however, are rare with the canoes of the country.

As the party ascended, they found the banks of the river less elevated, being only from nine to twelve feet, and are probably surmounted by the freshes some feet. The river becomes more obstructed by rapids, and sand and gravel beaches, among which are found fragments of stone of all forms, and a variety of colors, some highly polished and rounded by friction. The banks of the river in this upper country suffer greatly by abrasion, one side and sometimes both being broken down by every flood.

At a place called "Auges d'Arelon," (Arelon's troughs) is laminated iron ore, and a stratum of black sand, very tenacious, shining with minute crystals. The breadth of the river is here about eighty yards: in some places, however, it is enlarged by islands, in others, contracted to eighty or one hundred feet. Rocks of a greyish color, and rather friable, are here found in many places on the river.* On the banks grow willows of a different form from those found below, and on the margin of the Mississippi; the last are very brittle; these, on the contrary, are extremely pliant, resembling the osier, of which they are probably a species.

At noon on the 24th, they arrived at the confluence of the lesser Missouri with the Washita; the former is a considerable branch, perhaps the fourth of the Washita, and comes in from the left hand. The hunters often ascend the Little Missouri, but are not inclined to penetrate far up, because it reaches near the great plains or prairies upon the Red river, visited by the lesser Osage tribes of Indians, settled on Arkansa; these last frequently carry war into the Chadadoquis tribe settled on the Red river, about west, south-west from this place, and indeed they are reported not to spare any nation or people. They are prevented from visiting the head waters of the Washita by the steep hills in which they rise. These mountains are so difficult to travel over, that the savages not having an object sufficiently desirable, never attempt to penetrate to this river, and it is supposed to be unknown to the nation. The Cadadoquis (or Cadaux, as the French pronounce the word) may be considered as Spanish Indians;

* The banks rise into hills of freestone of a very sharp and fine grit, fit for grindstones. The strata irregular, inclining from 20° to 30° down the river.

they boast, and it is said with truth, that they never have imbrued their hands in the blood of a white man. It is said that the stream of the Little Missouri, some distance from its mouth, flows over a bright splendid bed of mineral of a yellowish white color, (most probably martial pyrites;) that thirty years ago, several of the inhabitants, hunters, worked upon this mine, and sent a quantity of the ore to the Government at New Orleans, and they were prohibited from working any more.

There is a great sameness in the appearance of the river banks; the islands are skirted with osier, and immediately within, on the bank, grows a range of birch trees and some willows; the most elevated banks are covered with cane, among which grows the oak, maple, elm, sycamore, ash, hickory, dogwood, holly, ironwood, &c. From the pilot they learned that there is a body of excellent land on the Little Missouri, particularly on the creek called the "Bayau a terre noire," which falls into it. This land extends to Red river, and is connected with the great prairies which form the hunting grounds of the Cadaux nation, consisting of about two hundred warriors. They are warlike, but frequently unable to defend themselves against the tribe of Osages, settled on the Arcansa river, who passing around the mountains at the head of the Washita, and along the prairies, which separate them from the main chain on the west, where the waters of the Red and Arcansa rivers have their rise, pass into the Cadaux country, and rob and plunder them.

The water in the river Washita rising, the party are enabled to pass the numerous rapids and shoals which they meet with in the upper country; some of which are difficult of ascent. The general height of the main banks of the river is from six to twelve feet above the level of the water; the land is better in quality, the canes, &c., showinga more luxuriant vegetation. It is subject to inundation, and shows a brown soil mixed with sand. Near Cache Maçon (Maison's hiding place) on the right, they stopped to examine a supposed coal mine: Doctor Hunter, and the pilot, set out for this purpose, and at about a mile and a half northwest from the boat, in the bed of a creek,* they found a substance similar to what they had before met with under that name, though more advanced towards a state of perfect coal.

At the bottom of the creek, in a place then dry, was found detached pieces of from fifty to one hundred pounds weight, adjoining to which lay wood changing into the same substance. A stratum of this coal, six inches thick, lay on both sides of this little creek, over another of yellow clay, and covered by one foot of gravel; on the gravel is eight inches of loam, which bears a few inches of vegetable mould. This stratum of coal is about three feet higher than the water in the creek, and appears manifestly to have been, at some period, the surface of the ground. The gravel and loam have been deposited there since, by the waters. Some pieces of this coal were very black and solid, of an homogeneous appearance, much resembling pit coal, but of less specific gravity. It does not appear sufficiently impregnated with bitumen, but may be considered as vegetable matter in the progress of transmutation to coal.

Below the "Bayau de l'eau Froide," which runs into the Washita from the right, the river is one hundred and seventy yards, flowing through tolerably good land. They passed a beautiful forest of pines, and on the 28th fell in with an old Dutch hunter and his party, consisting in all of five persons.

This man has resided forty years on the Washita, and before that period, has been up the Arcansa river, the White river, and the river St. Francis; the two last, he informs, are of difficult navigation, similar to the Washita, but the Arkansa river is of great magnitude, having a large and broad channel, and when the water is low, has great sand banks, like those in the Mississippi. So far as he has been up it the navigation is safe and commodious, without impediments from rocks, shoals, or rapids; its bed being formed of mud and sand. The soil on it is of the first rate quality. The country is easy of access, being lofty open forests, unembarassed by canes or under growth. The water is disagreeable to drink, being of a red color and brackish when the river is low. A multitude of creeks which flow into the Arkansa furnish sweet water, which the voyager is obliged to carry with him for the supply of his immediate wants. This man confirms the accounts of silver being abundant up that river: he has not been so high as to see it himself, but says he received a silver pin from a hunter, who assured him that he himself collected the virgin silver from the rock, out of which he made the epinglete by hammering it out. The tribe of the Osages live higher up than this position, but the hunters rarely go so high, being afraid of these savages, who are at war with all the world, and destroy all strangers they meet with. It is reported that the Arkansa nation, with a part of the Choctaws, Chickasaws, Shawnese, &c., have formed a league, and are actually gone, or going, eight hundred strong, against these depredators, with a view to destroy or drive them entirely off, and possess themselves of their fine prairies, which are most abundant hunting grounds, being plentifully stocked with buffalo, elk, deer, bear, and every other beast of the chase common to those latitudes in America. This hunter having given information of a small spring in their vicinity, from which he frequently supplied himself by evaporating the water, Doctor Hunter, with a party, accompanied him, on the morning of the 29th November, to the place. They found a saline, about a mile and a half north of the camp from whence they set out, and near a creek which enters the Washita a little above. It is situated in the bottom of the bed of a dry gully. The surrounding land is rich, and well timbered, but subject to inundation, except an Indian mount on the creek side, having a base of eighty or a hundred feet diameter, and twenty feet high. After digging about three feet,

* Called Coalmine creek.

through blue clay, they came to a quicksand, from which the water flowed in abundance: its taste was salt and bitter, resembling that of water in the ocean. In a second hole it required them to dig six feet before they reached the quicksand, in doing which they threw up several broken pieces of Indian pottery. The specific gravity, compared with the river, was, from the first pit, or that three feet deep, 102.720, from the second pit, or that six feet deep, 102.104, yielding a saline mass, from the evaporation of ten quarts, which, when dry, weighed eight ounces: this brine is, therefore, about the same strength as that of the ocean on our coast, twice the strength of the licks in Kentucky called Bullet's lick, and Mann's lick, from which so much salt is made.

The "fourche de Cadaux" (Cadadoquis fork) which they passed on the morning of the 30th, is about one hundred yards wide at its entrance into the Washita, from the left: immediately beyond which, on the same side, the land is high, probably elevated three hundred feet above the water. The shoals and rapids here impede their progress. At noon they deduced their latitude, by observation, to be 30° 11′ 37″ N. Receiving information of another salt lick, or saline, Doctor Hunter landed, with a party, to view it. The pit was found in a low flat place, subject to be overflowed from the river; it was wet and muddy, the earth on the surface yellow, but on digging through about four feet of blue clay, the salt water oozed from a quicksand. Ten quarts of this water produced, by evaporation, six ounces of a saline mass, which, from taste, was principally marine salt; to the taste, however, it showed an admixture of soda, and muriated magnesia, but the marine salt greatly preponderated. The specific gravity was about 1.076, probably weakened from the rain which had fallen the day before. The ascent of the river becomes more troublesome, from the rapids and currents, particularly at the "isle du bayau des Roches," (Rocky creek island,) where it required great exertions, and was attended with some hazard to pass them. This island is three fourths of a mile in length. The river presents a series of shoals, rapids, and small cataracts; and they passed several points of high land, full of rocks and stones, much harder and more solid than they had yet met with.

The rocks were all silicious, with their fissures penetrated by sparry matter. Indications of iron were frequent, and fragments of poor ore were common, but no rich ore of that, or any other metal, was found. Some of the hills appear well adapted to the cultivation of the vine; the soil being a sandy loam, with a considerable proportion of gravel, and a superficial covering of good vegetable black earth. The natural productions are, several varieties of oak, pine, dogwood, holly, &c., with a scattering undergrowth of whortleberry, hawthorn, china briar, and a variety of small vines.

Above the Isle de Mallon, the country wears another aspect, high lands and rocks frequently approach the river. The rocks, in grain, resemble free stone, and are hard enough to be used as hand mill-stones, to which purpose they are frequently applied. The quality of the land improves, the stratum of vegetable earth being from six to twelve inches, of dark brown color, with an admixture of loam and sand. Below Deer Island they passed a stratum of free stone, fifty feet thick, under which is a quarry of imperfect slate in perpendicular layers. About a league from the river, and a little above the slate quarry, is a considerable plain, called, "Prairie de Champignole," often frequented by buffalo. Some salt licks are found near it, and in many situations on both sides of this river, there are said to be salines which may hereafter be rendered very productive, and from which the future settlements may be abundantly supplied.

About four miles below the "chuttes," (falls,) they, from a good observation, found the latitude 34° 21′ 25″.5. The land on either hand continues to improve in quality, with a sufficient stratum of dark earth of a brownish color. Hills frequently rise out of the level country, full of rocks and stones, hard and flinty, and often resembling Turkey oil stones. Of this kind was a promontory which came in from the right hand, a little below the chuttes; at a distance it presented the appearance of ruined buildings and fortifications, and several insulated masses of rock conveyed the idea of redoubts and out-works. This effect was heightened by the rising of a flock of swans which had taken their station in the water, at the foot of these walls. As the voyagers approached, the birds floated about majestically on the glassy surface of the water, and, in tremulous accents, seemed to consult upon means of safety. The whole was a sublime picture. In the afternoon of the third of December, they reached the chuttes, and found the falls to be occasioned by a chain of rocks of the same hard substance seen below, extending in the direction of northeast and southwest, quite across the river. The water passes through a number of branches worn by the impetuosity of the torrent where it forms so many cascades. The chain of rock or hill on the left, appears to have been cut down to its present level by the abrasion of the waters. By great exertion, and lightening the boat, they passed the chuttes this evening, and encamped just above the cataracts, and within the hearing of their incessant roar.

Immediately above the chuttes, the current of the water is slow, to another ledge of hard free stone; the reach between is spacious, not less than two hundred yards wide, and terminated by a hill three hundred feet high, covered with beautiful pines: this is a fine situation for building. In latitude 34° 25′ 48″ they passed a very dangerous rapid, from the number of rocks which obstruct the passage of the water, and break it into foam. On the right of the rapid is a rocky hill, covered with very handsome pine woods. The strata of the rock has an inclination of thirty degrees to the horizon, in the direction of the river, descending. This hill may be three hundred or three hundred and fifty feet high; a border or list of green cane skirts the margin of the river, beyond which gen-

erally rises a high, and sometimes a barren hill. Near another rapid they passed a hill on the left, containing a large body of blue slate. A small distance above the Bayau de Saline they had to pass a rapid of one hundred and fifty yards in length, and four feet and a half fall, which, from its velocity, the French have denominated "La Cascade." Below the cascade there are rocky hills, on both sides, composed of very hard free-stone. The stone in the bed of the river, and which has been rolled from the upper country, was of the hardest flint, or of a quality resembling the Turkey oil stone. "Fourche au Tigree," (Tiger's creek,) which comes in from the right, a little above the cascade, is said to have many extensive tracts of rich level land upon it. The rocky hills here frequently approach the Washita on both sides; rich bottoms are, nevertheless, unfrequent, and the upland is sometimes of moderate elevation and tolerably level. The stones and rocks here met with have their fissures filled by sparry and crystaline matter.

Wild turkeys become more abundant and less difficult of approach than below; and the howl of the wolves is heard during the night.

To the "Fourche of Calfat," (Caulker's creek,) where the voyage terminates, they found level and good land on the right, and high hills on the left hand. After passing over a precipitous rapid, seemingly divided into four steps or falls, one of which was at least fifteen inches in perpendicular height, and which together could not be less than five and a half feet, they arrived at Ellis's camp, a small distance below the Fourche au Calfat, where they stopped on the sixth of December, as the pilot considered it the most convenient landing from whence to carry the necessary baggage to the Hot springs, the distance being about three leagues. There is a creek about two leagues higher up, called "Bayau des Sources Chauds, (Hot springs creek,) upon the banks of which the hot springs are situated at about two leagues from its mouth. The banks of it are hilly, and the road less eligible than from Ellis's camp.

On ascending the hill, to encamp, they found the land very level and good, some plants in flower, and a great many evergreen vines; the forest oak with an admixture of other woods. The latitude of this place is 34° 27′ 31″.5. The ground on which they encamped was about fifty feet above the water in the river, and supposed to be thirty feet higher than the inundations. Hills of considerable height, and clothed with pine, were in view, but the land around, and extending beyond their view, lies handsomely for cultivation. The superstratum is of a blackish-brown color, upon a yellow basis, the whole intermixed with gravel and blue schistus, frequently so far decomposed as to have a strong aluminous taste. From their camp on the Washita, to the hot springs, a distance of about nine miles, the first six miles of the road is in a westerly direction without many sinuosities, and the remainder northwardly, which courses are necessary to avoid some very steep hills. In this distance they found three principal salt licks, and some inferior ones, which are all frequented by buffalo, deer, &c. The soil around them is a white, tenacious clay, probably fit for potters' ware; hence the name of "glaise," which the French hunters have bestowed upon most of the licks, frequented by the beasts of the forest, many of which exhibit no saline impregnation. The first two miles from the river camp is over level land of the second rate quality; the timber chiefly oak, intermixed with other trees, common to the climate, and a few scattering pines. Further on, the lands, on either hand, rise into gently swelling hills, covered with handsome pine woods. The road passes along a valley frequently wet by the numerous rills and springs of excellent water, which issue from the foot of the hills. Near the hot springs the hills become more elevated, steeper of ascent, and rocky. They are here called mountains, although none of them in view exceed four or five hundred feet in altitude. It is said that mountains of more than five times the elevation of these hills are to be seen in the northwest, toward the sources of the Washita. One of them is called the Glass, Crystal, or Shining mountain, from the vast number of hexagonal prisms of very transparent and colorless crystal which are found on its surface; they are generally surmounted by pyramids at one end, rarely on both. These crystals do not produce a double refraction of the rays of light. Many searches have been made over these mountains for the precious metals, but, it is believed, without success.

At the hot springs they found an open log cabin, and a few huts of split boards, all calculated for Summer encampment, and which had been erected by persons resorting to the springs for the recovery of their health.

They slightly repaired these huts, or cabins, for their accommodation during the time of their detention at the springs, for the purpose of examining them and the surrounding country; and making such astronomical observations as were necessary for ascertaining their geographical position.

It is understood that the hot springs are included within a grant of some hundred acres, granted by the late Spanish commandant of the Washita, to some of his friends, but it is not believed that a regular patent was ever issued for the place; and it cannot be asserted that residence, with improvement here, form a plea to claim the land upon.

On their arrival, they immediately tasted the waters of the hot springs; that is, after a few minutes cooling, for it was impossible to approach it with the lips when first taken up, without scalding: the taste does not differ from that of good water rendered hot by culinary fire.

On the 10th, they visited all the hot springs. They issue on the east side of the valley, where the huts are, except one spring, which rises on the west bank of the creek, from the sides and foot of a hill. From the small quantity of calcareous matter yet deposited, the western spring does not appear to be of long standing: a natural conduit probably passes under the bed of the creek, and supplies it. There are four principal springs rising immediately on the east bank of the creek, one of which may be rather said to spring out of the gravel bed of the run; a fifth, a smaller one than that above-mentioned, as rising on the west side of the creek; and a sixth, of the same magnitude, the most northerly, and rising near the bank of the creek: these are all the sources that merit the name of springs, near the huts; but there is a considerable one below, and all along, at intervals, the warm water oozes out, or drops from the bank into the creek, as appears from the condensed vapor floating along the margin of the creek, where the drippings occur.

The hill from which the hot springs issue is of a conical form, terminating at the top with a few loose fragments of rock, covering a space of twenty-five feet in diameter. Although the figure of the hill is conical it is not entirely insulated, but connected with the neighboring hills by a very narrow ridge. The primitive rock of this hill, above the base, is principally silicious, some part of it being of the hardest flint, others a free stone extremely compact and solid, and of various colors. The base of the hill, and for a considerable extent, is composed of a blackish blue schistus, which divides into perpendicular lamina-like blue slate. The water of the hot springs is, therefore, delivered from the silicious rock, generally invisible at the surface, from the mass of calcareous matter with which it is incrusted, or rather buried, and which is perpetually precipitating from the water of the springs: a small proportion of iron, in the form of a red calx, is also deposited; the color of which is frequently distinguishable in the lime.

In ascending the hill several patches of rich black earth are found, which appear to be formed by the decomposition of the calcareous matter: in other situations the superficial earth is penetrated or incrusted by limestone, with fine lamina, or minute fragments of iron ore.

The water of the hot springs must formerly have issued at a greater elevation in the hill, and run over the surface, having formed a mass of calcareous rock one hundred feet perpendicular, by its deposition. In this situation they found a spring, whose temperature was 140° of Fahrenheit's thermometer. After passing the calcareous region, they found the primitive hill, covered by a forest of not very large trees, consisting chiefly of oak, pine, cedar, holly, hawthorn, and others, common to the climate, with a great variety of vines, some said to produce black, and others yellow grapes, both excellent in their kinds. The soil is rocky, interspersed with gravel, sand, and fine vegetable mould. On reaching the height of two hundred feet perpendicular, a considerable change in the soil was observable; it was stony and gravelly, with a superficial coat of black earth, but immediately under it lies a stratum of fat, tenacious, soapy, red clay, inclining to the color of bright Spanish snuff, homogeneous, with scarcely any admixture of sand, not saline, but rather a soft agreeable taste: the timber diminishes, and the rocks increase in size to the summit. The whole height is estimated at three hundred feet above the level of the valley.

On examining the four principal springs, or those which yield the greatest quantity of water, or of the highest temperature, No. 1 was found to raise the mercury to 150°, No. 2 to 154°, No. 3 to 136°, and No. 4, to 132° of Fahrenheit's thermometer: the last is on the west side of the creek: No. 3 is a small basin, in which there is a considerable quantity of green matter, having much the appearance of a vegetable body, but detached from the bottom, yet connected with it by something like a stem, which rests in calcareous matter. The body of one of these pseudo plants was from four to five inches in diameter; the bottom a smooth film of some tenacity, and the upper surface divided into ascending fibres of half or three-fourths of an inch long, resembling the gills of fish, in transverse rows. A little further on was another small muddy basin, in which the water was warm to the finger: in it was a vermes about half an inch long, moving with a serpentine or vermicular motion. It was invariably observed, that the green matter forming on the stones and leaves covered a stratum of calcareous earth, sometimes a little hard, or brittle, at others soft and imperfect. From the bottom of one of the hot springs a frequent ebullition of gas was observed, which, not having the means of collecting, they could not ascertain its nature; it was not inflammable, and there is little doubt of its being carbonic acid, from the quantity of lime and the iron held in solution by the water.

They made the following rough estimate of the quantity of water delivered by the springs. There are four principal springs, two of inferior note; one rising out of the gravel, and a number of drippings and drainings, all issuing from the margin, or from under the rock which overhangs the creek. Of the four first mentioned, three deliver nearly equal quantities, but No. 1, the most considerable, delivers about five times as much as one of the other three; the two of inferior note, may, together, be equal to one; and all the droppings, and small springs, are probably underrated at double the quantity of one of the three; that is, all together, they will deliver a quantity equal to eleven times the water issuing from the one most commodiously situated for measurement. This spring filled a vessel of eleven quarts in eleven seconds, hence the whole quantity of hot water delivered from the springs at the base of the hill is one hundred and sixty-five gallons in a minute, or three hundred seventy-one and a half hogsheads in twenty-four hours, which is equal to a handsome brook, and might work an overshot mill. In cool weather condensed vapor is seen rising out of the gravel bed of the creek, from springs which cannot be taken into account. During the Summer and Fall the creek receives little or no water but what is supplied by the hot springs: at that season, itself is a hot bath, too hot, indeed, near the springs; so that a person may choose the temperature most agreeable to himself, by selecting a natural basin near to, or farther from, the principal springs. At three or four

miles below the springs the water is tepid and unpleasant to drink.

From the western mountain, estimated to be of equal height with that from which the hot springs flow, there are several fine prospects. The valley of the Washita, comprehended between the hills on either side, seemed a perfect flat, and about twelve miles wide. On all hands were seen the hills, or mountains, as they are here called, rising behind each other. In the direction of north, the most distant were estimated to be fifty miles off, and are supposed to be those of the Arkansas river, or the rugged mountains, which divide the waters of the Arkansas from those of the Washita, and prevent the Osage Indians from visiting the latter, of whom they are supposed ignorant; otherwise their excursions here would prevent this place from being visited by white persons, or other Indians. In a southwest direction, at about forty miles distance, is seen a perfectly level ridge, supposed to be the high prairies of the Red river.

Notwithstanding the severity of the weather, a considerable number, and some variety of plants were in flower, and others retained their verdure: indeed the ridge was more temperate than the valley below; there it was cold, damp, and penetrating; here dry, and the atmosphere mild. Of the plants growing here was a species of cabbage; the plants grow with expanded leaves, spreading on the ground, of a deep green, with a shade of purple: the taste of the cabbage was plainly predominant, with an agreeable warmth inclining to that of the radish; several tap-roots penetrated into the soil, of a white color, having the taste of horse-radish, but much milder. A quantity of them taken to the camp and dressed, proved palatable and mild. It is not probable that cabbage seed has been scattered on this ridge; the hunters ascending this river have always had different objects. Until further elucidation, this cabbage must be considered as indigenous to this sequestered quarter, and may be denominated the cabbage radish of the Washita. They found a plant, then green, called by the French "racing rouge," (red root,) which is said to be a specific in female obstructions; it has also been used, combined with the china root, to dye red, the last probably acting as a mordant. The top of this ridge is covered with rocks of a flinty kind, and so very hard as to be improper for gun-flints, for when applied to that use it soon digs cavities in the hammer of the lock. This hard stone is generally white, but frequently clouded with red, brown, black, and other colors. Here and there fragments of iron stone were met with, and where a tree had been overturned, its roots brought to view fragments of schistus, which were suffering decomposition from exposure to the atmosphere. On digging where the slope of the hill was precipitous, they found the second stratum to be a reddish clay, resembling that found on the conical hill, east of the camp. At two-thirds down the hill, the rock was a hard freestone, intermixed with fragments of flint, which had probably rolled from above. Still lower was found a blue schistus, in a state tending to decomposition where exposed to the atmosphere but hard and resembling coarse slate in the interior. Many stones had the appearance of Turkey oil stones: at the foot of the hill it expands into good farming lands.

Dr. Hunter, upon examining the waters of the hot springs, obtained the following results:

It differed nothing from the hot water in smell or taste, but caused a slight eructation shortly after drinking it.

Its specific gravity is equal to rain or distilled water.

It gave to litamus paper, a slight degree of redness, evincing the presence of the carbonic acid, or fixed air sulphuric, and threw down a few detached particles. Oxylat of ammoniac caused a deposition and white cloud, showing the presence of a small portion of lime. Prusiat of potash produced a slight and scarcely perceptible tinge of blue, designating the presence of a small quantity of iron.

Sixteen pounds of water evaporated to dryness left ten grains of a gray powder, which proved to be lime.

The myrtle wax tree grows in the vicinity of the springs. At the season in which the voyagers were there, the wax was no longer green, but had changed its colour to a grayish-white, from its long exposure to the weather. The berry when examined by a microscope, is less than the smallest garden pea, approaching to an oval in form. The nucleus, or real seed, is the size of the seed of a radish, and is covered with a number of kidney shaped glands, of a brown color and sweet taste; these glands secrete the wax which completely envelopes them, and, at this season, gives the appearance of an imperfectly white berry. This is a valuable plant and merits attention; its favorite position is a dry soil, rather poor, and looking down upon the water. It is well adapted to ornament the margins of canals, lakes, or rivulets. The cassina yapon, is equally beautiful, and proper for the same purpose: it grows here along the banks of this stony creek, intermingled with the myrtle, and bears a beautiful little red berry, very much resembling the red currant.

The rock through which the hot springs either pass or trickle over, appears undermined by the waters of the creek. The hot water is continually depositing calcareous, and, perhaps, some silicious matter, forming new rocks, always augmenting and projecting their promontories over the running water of the creek, which prevents its formation below the surface. Wherever this calcareous crust is seen spreading over the bank and margin of the creek, there, most certainly, the hot water will be found, either running over the surface, or through some channel, perhaps below the new rock, or dripping from the edges of the overhanging precipice. The progress of nature in the formation of this new rock is curious, and worthy the attention of the mineralogist. When the hot water issues from the fountain, it frequently spreads over a superficies of some extent; so far as it reaches, on either hand, there is a decomposition of, or growth of green matter. Several lamina of this

green matter will be found lying over each other, and immediately under, and in contact with the inferior lamina, which is not thicker than paper, is found a whitish substance resembling a coagulum; when viewed with a microscope, this last is also found to consist of several, sometimes a good number of lamina, of which that next the green is the finest and thinnest, being the last formed; those below increasing in thickness and tenacity until the last terminates in a soft earthy matter, which reposes in the more solid rock. Each lamina of the coagulum is penetrated in all its parts by calcareous grains, extremely minute, and divided in the more recent web, but much larger and occupying the whole of the inferior lamina. The understratum is continually consolidating, and adding bulk and height to the rock.

When this acquires such an elevation as to stop the passage of the water, it finds another course over the rock, hill, or margin of the creek; forming in turn, accumulations of matter over the whole of the adjacent space. When the water has found itself a new channel, the green matter, which sometimes acquires a thickness of half an inch, is speedily converted into a rich vegetable earth, and becomes the food of plants. The surface of the calcareous rock also decomposes and forms the richest black mould intimately mixed with a considerable portion of soil; plants and trees vegetate luxuriantly upon it.

On examining a piece of ground upon which the snow dissolved as it fell, and which was covered with herbage, they found, in some places, a calcareous crust on the surface; but in general a depth of from five inches to a foot of the richest black mould. The surface was sensibly warm to the touch. In the air the mercury in the thermometer stood at 44°; when placed four inches under the surface, and covered with earth, it rose rapidly to 68°; and upon the calcareous rock, eight inches beneath the surface, it rose to 80° This result was uniform over the whole surface, which was about a quarter of an acre.

On searching they found a spring, about fifteen inches under the surface, in the water of which the thermometer showed a temperature of 130°. Beneath the black mould was found a brown mixture of lime and silex, very loose and divisible, apparently in a state of decomposition, and progressing towards the formation of black mould; under this brownish mass it became gradually whiter and harder, to the depth of from six to twelve inches, where it was a calcareous sparkling stone. It was evident that the water had passed over this place, and formed a flat superfices of silicious lime stone; and that its position, nearly level, had facilitated the accumulation of earth, in proportion as the decomposition advanced. Similar spots of ground were found higher up the hill, resembling little savannas, near which hot springs were always discovered, which had once flowed over them. It appears probable that the hot water of the springs, at an early period, had all issued from its grand reservoir in the hill, at a much greater elevation than at present. The calcareous crust may be traced up, in most situations on the west side of the hill looking down the creek and valley, to a certain height, perhaps one hundred feet perpendicular; in this region the hill rises precipitously, and is studded with hard silicious stones; below, the descent is more gradual, and the soil a calcareous black earth. It is easy to discriminate the primitive hill from that which has accumulated, by precipitation, from the water of the springs; this last is entirely confined to the west side of the hill, and washed at its base by the creek, no hot spring being visible in any other part of its circumference. By actual measurement along the base of the hill the influence of the springs is found to extend seventy perches, in a direction a little to the east of north: along the whole of this space the springs have deposited stony matter, calcareous, with an addition of silex, or crystallized lime. The accumulation of calcareous matter is more considerable at the north end of the hill than the south; the first may be above a hundred feet perpendicular, but sloping much more gradually than the primitive hill above, until it approaches the creek, where not unfrequently it terminates in a precipice of from six to twenty feet. The difference between the primitive and secondary hill is so striking that a superficial observer must notice it: the first is regularly very steep, and studded with rock and stone of the hardest flint, and other silicious compounds, and a superfices of two or three inches of good mould covers a red clay; below, on the secondary hill, which carries evident marks of recent formation, no flint, or silicious stone, is found; the calcareous rock conceals all from view, and is, itself, frequently covered by much fine rich earth. It would seem that this compound, precipitated from the hot waters, yield easily to the influence of the atmosphere; for where the waters cease to flow over any portion of the rock, it speedily decomposes; probably more rapidly from the heat communicated from the interior of the hill, as insulated masses of the rock are observed to remain without change.

The cedar, and wax myrtle, and the cassina yapon, all evergreens, attach themselves particularly to the calcareous region, and seem to grow and thrive even in the clefts of the solid rock.

A spring, enjoying a freedom of position, proceeds with great regularity in depositing the matter it holds in solution; the border or rim of its basin forms an elevated ridge, from whence proceeds a glacis all around, where the waters have flowed for some time over one part of the brim; this becomes more elevated, and the water has to seek a passage where there is less resistance; thus forming, in miniature, a crater, resembling in shape the conical summit of a volcano. The hill being steep above, the progress of petrifaction is stopped on that side, and the waters continue to flow and spread abroad, incrusting the whole face of the hill below. The last formed calcareous border of the circular basin is soft, and easily divided; at a small depth it is more compact; and at the depth of six inches it is generally hard white stone. If the bottom of the basin is stirred up, a quantity of

the red calx of iron rises, and escapes over the summit of the crater.

Visitants to the hot springs having observed shrubs and trees with their roots in the hot water, have been induced to try experiments, by sticking branches of trees in the run of hot water. Some branches of the wax myrtle were found thrust into the bottom of a spring run, the water of which was 130° by Fahrenheit's thermometer; the foliage and fruit of the branch were not only sound and healthy, but at the surface of the water roots were actually sprouting from it: on pulling it up the part which had penetrated the hot mud was found decayed.

The green substance discoverable at the bottom of the hot springs, and which at first sight has the appearance of plush, on examination, by the microscope, was found to be a vegetable production. A film of green matter spreads itself on the calcareous base, from which rises fibres more than half an inch in length, forming a beautiful vegetation. Before the microscope, it sparkled with innumerable nodules of lime, some part of which was beautifully crystallized. This circumstance might cause a doubt of its being a true vegetable, but its great resemblance to some of the mosses, particularly the byssi, and the discovery which Mr. Dunbar made, of its being the residence of animal life, confirmed his belief in its being a true moss. After a diligent search, he discovered a very minute shell-fish of the bivalve kind, inhabiting this moss; its shape nearly that of the fresh water muscle; the color of the shell a grayish brown, with spots of a purplish color. When the animal is undisturbed, it opens the shell, and thrusts out four legs, very transparent, and articulated like those of a quadruped. The extremities of the fore legs are very slender and sharp, but those of the hind legs are somewhat broader, apparently armed with minute toes. From the extremity of each shell issues three or four forked hairs, which the animal seems to possess the power of moving. The fore legs are probably formed for making incisions into the moss, for the purpose of procuring access to the juices of the living plant, upon which, no doubt, it feeds. It may be provided with a proboscis, although it did not appear while the animal was under examination. The hind legs are well adapted for propelling it in its progress over the moss, or through the water.

It would be desirable to ascertain the cause of that perpetual fire which keeps up the high temperature of so many springs as flow from this hill, at a considerable distance from each other. Upon looking around, however, sufficient data for the solution of the difficulty is not discoverable. Nothing of a volcanic nature is to be seen in this country; neither could they learn that any evidence in favor of such a supposition was to be found in the mountains connected with this river. An immense bed of dark blue schistus appears to form the base of the hot spring hill, and of all those in its neighborhood. The bottom of the creek is formed of it, and pieces are frequently met with rendered soft by decomposition, and possessing a strong alumnious taste, requiring nothing but lixiviation and crystallization to complete the manufacture of alum. As bodies undergoing chemical changes generally produce an alteration of temperature, the heat of these springs may be owing to the disengagement of caloric, or the decomposition of the schistus. Another, and perhaps a more satisfactory cause may be assigned. It is well known that, within the circle of the waters of this river, vast beds of martial pyrites exist. They have not yet, however, been discovered in the vicinage of the hot springs, but may, nevertheless, form immense beds under the bases of these hills; and as, in one place at least there is evidence of the presence of bitumen,* the union of these agents will, in the progress of decomposition, by the admission of air and moisture, produce degrees of heat capable of supporting the phenomena of the hot springs. No sulphuric acid is present in this water. The springs may be supplied by the vapor of heated water ascending from caverns where the heat is generated, or the heat may be immediately applied to the bottom of an immense natural caldron of rock, contained in the bowels of the hill, from which, as a reservoir, the springs may be supplied.

A series of accurate observations determined the latitude of the hot springs to be 34° 31′ 4″ .16 north, and longitude 6*h*. 11′ 25″, or 92° 50′ 45″ west from the meridian of Greenwich.

While Mr. Dunbar was making arrangements for transporting the baggage back to the river camp, Doctor Hunter, with a small party, went on an excursion into the country. He left the hot springs on the morning of the 27th, and after travelling, sometimes over hills and steep craggy mountains with narrow valleys between them, then up the valleys, and generally by the side of a branch emptying into the Washita, they reached the main branch of the Calfat in the evening, about twelve miles from the springs. The stones they met with during the first part of the day, were silicious, of a whitish gray, with flints, white, cream-colored, red, &c. The beds of the rivulets, and often a considerable way up the hills, showed immense bodies of schistus, both blue and gray, some of it efflorescing, and tasting strongly of alum. The latter part of the day, they travelled over and between hills of black, hard, and compact flint, in shapeless masses, with schistus, as before. On ascending these high grounds, you distinctly perceive the commencement of the piney region, beginning at the height of sixty or seventy feet, and extending to the top. The soil in these narrow valleys is thin, and full of stones. The next day, which was stormy, they reached a branch of the Bayou de Saline, which stretches towards the Arkansa, and empties into the Washita many leagues below, having gone about twelve miles. The mountains they had passed being of the primitive kind, which seldom produce

* Having thrust a stick down into the crater of one of the springs, at some distance up the hill, several drops of petroleum, or naptha, rose and spread upon the surface. It ceased to rise at three or four attempts.

metals, and having hitherto seen nothing of a mineral kind, a little poor iron ore excepted, and the face of the country, as far as they could see, presenting the same aspect, they returned to the camp at the hot springs, on the evening of the thirtieth, by another route, in which they met with nothing worthy of notice.

In consequence of the rains which had fallen, Mr. Dunbar, and those who were transporting the baggage to the river camp, found the road watery. The soil on the flat lands, under the stratum of vegetable mould, is yellowish, and consists of decomposed schistus, of which there are immense beds in every stage of dissolution, from the hard stone, recently uncovered and partially decomposed, to the yellow, and apparently homogeneous earth. The covering of vegetable earth between the hills and the river is, in most places, sufficiently thick to constitute a good soil, being from four to six inches, and it is the opinion of the people upon the Washita, that wheat will grow here to great perfection. Although the higher hills, three hundred to six hundred feet in height, are very rocky, yet the inferior hills, and the sloping bases of the first, are generally covered with a soil of middling quality. The natural productions are sufficiently luxuriant, consisting chiefly of black and red oak, intermixed with a variety of other woods, and a considerable undergrowth. Even on these rocky hills are three or four species of vines, said to produce annually an abundance of excellent grapes. A great variety of plants which grow here, some of which, in their season, are said to produce flowers highly ornamental, would probably reward the researches of the botanist.

On the morning of the 8th January, 1805, the party left Ellis's, on the river camp, where they had been detained for several days, waiting for such a rise in the waters of the river, as would carry their boat in safety over the numerous rapids below. A rise of about six feet, which had taken place the evening before, determined them to move this morning, and they passed the *chuttes* about one o'clock. They stopped to examine the rocky promontory below these falls, and took some specimens of the stone which so much resembles the Turkey oil stone. It appears too hard.

The strata of this chain were observed to run perpendicularly, nearly east and west, crossed by fissures, at right angles, from five to eight feet apart; the lamina from one-fourth of an inch to five inches in thickness. About a league below, they landed at Whetstone Hill, and took several specimens. This projecting hill is a mass of grayish blue schistus, of considerable hardness, and about twenty feet perpendicular, (not regularly so,) and from a quarter to two inches in thickness, but does not split with an even surface.

They landed again on the morning of the 9th, in sight of the Bayau de la Prairie de Champignole, to examine and take specimens of some free stone and blue slate. The slate is a blue schistus, hard, brittle, and unfit for the covering of a house; none proper for that purpose have been discovered, except on the Calfat, which Dr. Hunter met with in one of his excursions.

On the evening of the tenth they encamped near Arclon's Troughs, having been only three days in descending the distance which took them thirteen to ascend. They stopped some time at the camp of a Mr. Le Fevre. He is an intelligent man, a native of the Illinois, but now residing at the Arkansas. He came here with some Delaware and other Indians, whom he had fitted out with goods, and receives their peltry, fur, &c. at a stipulated price, as it is brought in by the hunters. Mr. Le Fevre possesses considerable knowledge of the interior of the country; he confirms the accounts before obtained, that the hills or mountains which give rise to this little river are in a manner insulated: that is, they are entirely shut in, enclosed by the immense plains or prairies which extend beyond the Red river, to the south, and beyond the Missouri, or at least some of its branches, to the north, and range along the eastern base of the great chain or dividing ridge, commonly known by the name of the sand hills, which separate the waters of the Mississippi from those which fall into the Pacific ocean. The breadth of this great plain is not well ascertained. It is said by some to be at certain parts, or in certain directions, not less than two hundred leagues; but it is agreed by all who have a knowledge of the western country, that the mean breadth is at least two-thirds of that distance. A branch of the Missouri called the river Platte, or Shallow river, is said to take its rise so far south as to derive its first waters from the neighborhood of the sources of the Red and Arkansa river. By the expression plains or prairies in this place, is not to be understood a dead flat, resembling certain savannas, whose soil is stiff and impenetrable, often under water, and bearing only a coarse grass resembling reeds; very different are the western prairies, which expression signifies only a country without timber. These prairies are neither flat nor hilly, but undulating into gentle swelling lawns, and expanding into spacious valleys, in the centre of which is always found a little timber growing on the banks of the brooks and rivulets of the finest waters. The whole of those prairies are represented to be composed of the richest and most fertile soil; the most luxuriant and succulent herbage covers the surface of the earth, interspersed with millions of flowers and flowering shrubs, of the most ornamental kinds. Those who have viewed only a skirt of the prairies, speak of them with enthusiasm, as if it was only there that nature was to be found truly perfect; they declare, that the fertility and beauty of the rising grounds, the extreme richness of the vales, the coolness and excellent quality of the water found in every valley, the salubrity of the atmosphere, and above all, the grandeur of the enchanting landscape which this country presents, inspire the soul with sensations not to be felt in any other region of the globe. This paradise is now very thinly inhabited by a few tribes of savages, and by the immense herds of wild cattle, (bison) which people these countries. The cattle perform regular mi-

grations, according to the seasons, from south to north, and from the plains to the mountains; and in due time, taught by their instincts, take a retrograde direction. These tribes move in the rear of the herds, and pick up stragglers, and such as lag behind, which they kill with the bow and arrow, for their subsistence. This country is not subjected to those sudden deluges of rain which in most hot countries, and even in the Mississippi Territory, tear up and sweep away with irresistible fury, the crop and soil together; on the contrary, rain is said to become more rare in proportion as the great chain of mountain is approached; and it would seem that within the sphere of the attraction of those elevated ridges, little or no rain falls on the adjoining plains. This relation is the more credible, as in that respect our new country may resemble other flat or comparatively low countries, similarly situated; such as the country lying between the Andes and the western Pacific; the plains are supplied with nightly dews so extremely abundant, as to have the effect of refreshing showers of rain; and the spacious valleys, which are extremely level, may with facility be watered by the rills and brooks which are never absent from these situations. Such is the description of the better known country lying to the south of Red river, from Nacogdoches towards St. Antonio, in the province of Taxus: the crops are said to be procured there without rain; but agriculture in that quarter is at a low ebb; the small quantities of maize furnished by the country, is said to be raised without cultivation. A rude opening is made in the earth, sufficient to deposit the grain, at the distance of four or five feet, in irregular squares, and the rest is left to nature. The soil is tender, spongy and rich, and seems always to retain humidity sufficient, with the bounteous dews of heaven, to bring the crops to maturity.

The Red and Arkansas rivers, whose courses are very long, pass through portions of this fine country. They are both navigable to an unknown distance by boats of proper construction; the Arkansas river is, however, understood to have greatly the advantage with respect to the facility of navigation. Some difficult places are met with in the Red river below the Nakitosh, after which it is good for one hundred and fifty leagues (probably computed leagues of the country, about two miles each;) there the voyager meets with a very serious obstacle, the commencement of the "raft," as it is called; that is, a natural covering which conceals the whole river for an extent of seventeen leagues, continually augmenting by the drift-wood brought down by every considerable fresh. This covering, which, for a considerable time was only drift-wood, now supports a vegetation of everything abounding in the forest, not excepting trees of a considerable size; and the river may be frequently passed without any knowledge of its existence. It is is said that the annual inundation is opening for itself a new passage through the low grounds near the hills; but it must be long before nature, unaided, will excavate a passage sufficient for the waters of Red river. About fifty leagues above this natural bridge, is the residence of the Cadeaux or Cadadoquies nation, whose good qualities are already mentioned. The inhabitants estimate the post of Nakitosh to be half way between New Orleans and the Cadeaux nation. Above this point the navigation of Red river is said to be embarrassed by many rapids, falls and shallows. The Arkansas river is said to present a safe, agreeable and uninterrupted navigation as high as it is known. The lands on each side are of the best quality, and well watered with springs, brooks, and rivulets, affording many situations for mill-seats. From description it would seem that along this river there is a regular gradation of hill and dale, presenting their extremities to the river; the hills are gently swelling eminences, and the dales, spacious valleys with living water meandering through them; the forests consist of handsome trees, chiefly what is called open woods. The quality of the land is supposed superior to that on Red river, until it ascends to the prairie country, where the lands on both rivers are probably similar. About two hundred leagues up the Arkansas is an interesting place called the Salt prairie; there is a considerable fork of the river there, and a kind of savanna where the salt water is continually oozing out and spreading over the surface of a plain. During the dry summer season the salt may be raked up in large heaps; a natural crust of a hand's breadth in thickness is formed at this season. This place is not often frequented, on account of the danger from the Osage Indians; much less dare the white hunters venture to ascend higher, where it is generally believed that silver is to be found. It is further said, that high up the Arkansas river salt is found in form of a solid rock, and may be dug out with the crow-bar. The waters of the Arkansas, like those of Red river, are not potable during the dry season, being both charged highly with a reddish earth or mould, and extremely brackish. This inconvenience is not greatly felt upon the Arkansas, where springs and brooks of fresh water are frequent; the Red river is understood not to be so highly favored. Every account seems to prove that immense natural magazines of salt must exist in the great chain of mountains to the westward; as all the rivers in the summer season, which flow from them, are strongly impregnated with that mineral, and are only rendered palatable after receiving the numerous streams of fresh water which join them in their course. The great western prairies, besides the herds of wild cattle, (bison, commonly called buffalo,) are also stocked with vast numbers of wild goat (not resembling the domestic goat) extremely swift footed. As the description given of this goat is not perfect, it may from its swiftness prove to be the antelope, or it possibly may be a goat which has escaped from the Spanish settlements of New Mexico. A Canadian, who had been much with the Indians to the westward, speaks of a wool-bearing animal larger than a sheep, the wool much mixed with hair, which he had seen in large flocks. He pretends also to have seen a unicorn, the single horn of which, he says, rises

out of the forehead and curls back, conveying the idea of the fossil cornu ammonis. This man says he has travelled beyond the great dividing ridge so far as to have seen a large river flowing to the westward. The great dividing mountain is so lofty that it requires two days to ascend from the base to its top; other ranges of inferior mountains lie before and behind it; they are all rocky and sandy. Large lakes and valleys lie between the mountains. Some of the lakes are so large as to contain considerable islands; and rivers flow from some of them. Great numbers of fossil bones, of very large dimensions, are seen among the mountains, which the Canadian supposes to be the elephant. He does not pretend to have seen any of the precious metals, but has seen a mineral which he supposes might yield copper. From the top of the high mountain the view is bounded by a curve as upon the ocean, and extends over the most beautiful prairies, which seem to be unbounded, particularly towards the east. The finest of the lands he has seen are on the Missouri; no other can compare in richness and fertility with them. This Canadian, as well as Le Fevre, speak of the Osages of the tribe of Whitehairs, as lawless and unprincipled: and the other Indian tribes hold them in abhorrence as a barbarous and uncivilized race: and the different nations who hunt in their neighborhood, have their concerting plans for their destruction. On the morning of the 11th, the party passed the Petit Ecor a Fabri. The osier which grows on the beaches above, is not seen below upon this river; and here they began to meet with the small tree called "charnier" which grows only on the water side, and is met with all the way down the Washita. The latitude of 33° 40′ seems the northern boundary of the one, and the southern boundary of the other of those vegetables. Having noticed the limit set to the long moss, (Telandsia,) on the ascent of the river, in latitude 33°, Mr. Dunbar made inquiry of Mr. Le Fevre, as to its existence on the Arcansa settlement, which is known to lie in about the same parallel; he said, that its growth is limited about ten miles south of the settlement, and that as remarkably, as if a line had been drawn east and west for the purpose; as it ceases all at once, and not by degrees. Hence it appears, that nature has marked with a distinguishing feature, the line established by Congress, between the Orleans and Louisiana Territories. The cypress is not found on the Washita higher than thirty-four degrees of north latitude.

In ascending the river, they found their rate of going to exceed that of the current about six miles and a half in twenty-four hours; and that, on the 12th, they had passed the apex of the tide or wave, occasioned by the fresh, and were descending along an inclined plane. As they encamped at night, they found themselves in deeper water the next morning, and on a more elevated part of the inclined plane than they had been in the preceding evening, from the progress of the apex of the tide during their repose.

At noon, on the 16th, they reached the post of the Washita.

Mr. Dunbar being anxious to reach the Natchez as early as possible, and being unable to procure horses at the post, took a canoe, with one soldier and his own domestic, to push down to the Catahoola, from whence, to Concord, there is a road of thirty miles across the low grounds. He set off early on the morning of the 20th, and at night reached the settlement of an old hunter, with whom he had conversed on his way up the river. This man informed him, that at the place called the Mine, on the Little Missouri, there is a smoke which ascends perpetually from a particular place, and that the vapor is sometimes insupportable. The river, or a branch of it, passes over a bed of mineral, which, from the description given, is, no doubt, martial pyrites. In a creek, or branch of the Fourche a' Luke,* there is found on the beaches and in the cliffs, a great number of globular bodies; some as large, or larger, than a man's head, which, when broken, exhibit the appearance of gold, silver, and precious stones; most probably pyrites and chrystallized spar. And at the Fourche des Glaises a' Paul, (higher up the river than Fourche a' Luke,) near the river there is a cliff full of hexagonal prisms, terminated by pyramids, which appear to grow out of the rock; they are from six to eight inches in length, and some of them are an inch in diameter. There are beds of pyrites found in several small creeks communicating with the Washita, but it appears that the mineral indications are greatest on the Little Missouri, because, as before noted, some of the hunters actually worked on them, and sent a parcel of the ore to New Orleans. It is the belief here, that the mineral contains precious metal, but that the Spanish Government did not choose a mine should be opened so near to the British settlements. An express prohibition was issued against working these mines.

At this place Mr. Dunbar obtained one or two slips of the "*bois d'arc*," (bow wood, or yellow wood,) from the Missouri. The fruit, which had fallen before maturity, lay upon the ground. Some were of the size of a small orange, with a rind full of tubercles; the color, though it appeared faded, still retained a resemblance to pale gold.

The tree in its native soil, when laden with its golden fruit, (nearly as large as the egg of an ostrich,) presents a most splendid appearance; its foliage is of a deep green, resembling the varnished leaf of the orange tree, and, upon the whole, no forest tree can compare with it in ornamental grandeur. The bark of the young tree resembles in texture the dogwood bark; the appearance of the wood recommends it for trial as an article which may yield a yellow dye. It is deciduous; the branches are numerous, and full of short thorns or prickles, which seem to point it out as proper for hedges or live fences. This tree is known to exist near the Nakitosh (perhaps in latitude 32°,) and upon the river Arcansa, high up (perhaps in latitude 36°;) it is therefore probable that it may thrive from latitude 38° to 40° and will be a great acquisition to the United States if

* Three leagues above Ellis's Camp.

it possess no other merit than that of being ornamental.

In descending the river, both Mr. Dunbar and Dr. Hunter searched for the place said to yield gypsum, or plaster of Paris, but failed. The former gentleman states, that he has no doubt of its existence, having noted two places where it has been found; one of which is the first hill, or high land which touches the river on the west, above the bayau Calumet, and the other is the second high land on the same side. As these are two points of the same continued ridge, it is probable that an immense body of gypsum will be found in the bowels of the hills where they meet, and perhaps extending far beyond them.

On the evening of the 22d Mr. Dunbar arrived at the Catahoola, where a Frenchman of the name of Hebrard, who keeps the ferry across Black river, is settled. Here the road from the Washita forks, one branch of it leading to the settlement on Red river, and the other up to the post on the Washita. The proprietor of this place has been a hunter and a great traveller up the Washita and into the western country: he confirms generally the accounts received from others. It appears, from what they say, that in the neighborhood of the hot springs, but higher up, among the mountains, and upon the Little Missouri, during the summer season, explosions are very frequently heard, proceeding from under the ground: and not rarely a curious phenomenon is seen, which is termed the blowing of the mountains; it is confined elastic gas forcing a passage through the side or top of a hill, driving before it a great quantity of earth and mineral matter. During the winter season the explosions and blowing of the mountains entirely ceases, from whence we may conclude, that the cause is comparatively superficial, being brought into action by the increased heat of the more direct rays of the summer sun.

The confluence of the Washita, Catahoola, and Tenza, is an interesting place. The last of these communicates with the Mississippi low lands, by the intervention of other creeks and lakes, and by one in particular, called "Bayau d'Argent," which empties into the Mississippi, about fourteen miles above Natchez. During high water there is a navigation for batteaux of any burden along the bayau. A large lake, called St. John's lake, occupies a considerable part of the passage between the Mississippi and the Tenza; it is in a horseshoe form, and has, at some former period, been the bed of the Mississippi: the nearest part of it is about one mile removed from the river at the present time. This lake, possessing elevated banks, similar to those of the river, has been lately occupied and improved. The Catahoola bayau is the third navigable stream: during the time of the inundation there is an excellent commmunication by the lake of that name, and from thence, by large creeks, to Red river. The country around the point of union of these three rivers is altogether alluvial, but the place of Mr. Hebrard's residence is no longer subject to inundation. There is no doubt, that as the country augments in population and riches, this place will become the site of a commercial inland town, which will keep pace with the progress and prosperity of the country. One of the Indian mounts here is of a considerable elevation, with a species of rampart surrounding a large space, which was, no doubt, the position of a fortified town.

While here, Mr. Dunbar met with an American who pretended to have been up the Arkansas river three hundred leagues. The navigation of this river, he says, is good to that distance for boats drawing three or four feet water. Implicit faith, perhaps, ought not to be given to his relation respecting the quantity of silver he pretends to have collected there. He says he has found silver on the Washita, thirty leagues above the hot springs, so rich that three pounds of it yielded one pound of silver, and that this was found in a cave. He asserts, also, that the ore of the mine upon the Little Missouri was carried to Kentucky by a person of the name of Boon, where it was found to yield largely in silver. This man says he has been up the Red river likewise, and that there is a great rapid just below the raft, or natural bridge, and several others above it; that the Caddo nation is about fifty leagues above the raft, and near to their village commences the country of the great prairies, which extend four or five hundred miles to the west of the sand mountains, as they are termed. These great plains reach far beyond the Red river to the south, and northward over the Arkansas river, and among the numerous branches of the Missouri. He confirms the account of the beauty and fertility of the Western country.

On the morning of the 25th, Mr. Dunbar set out, on horseback, from the Catahoola to Natchez. The rain which had fallen on the preceding days rendered the roads wet and muddy, and it was two in the afternoon before he reached the Bayau Crocodile, which is considered half way between the Black river and the Mississippi. It is one of the numerous creeks in the low grounds which assist in venting the waters of the inundation. On the margins of the water courses the lands are highest, and produce canes; they fall off, in the rear, into cypress swamps and lakes. The waters of the Mississippi were rising, and it was with some difficulty that they reached a house near Concord that evening. This settlement was begun since the cession of Louisiana to the United States, by citizens of the Mississippi Territory, who have established their residence altogether upon newly acquired lands, taken up under the authority of the Spanish commandant, and have gone to the expense of improvement either in the names of themselves or others, before the 20th of December, 1803, hoping thereby to hold their new possessions under the sanction of the law.

Exclusive of the few actual residents on the banks of the Mississippi, there are two handsome lakes in the interior, on the banks of which similar settlements have been made. He crossed at the ferry, and at midday of the 26th reached his own house.

Dr. Hunter and the remainder of the party followed Mr. Dunbar down the Washita, with the boat in which they ascended the river, and, ascending the Mississippi, reached St. Catharine's landing on the morning of the 31st January, 1805.

Common names of some of the trees, shrubs, and plants, growing in the vicinity of the Washita.

Three kinds of white oak, four kinds of red oak, black oak, three kinds of hickory, one of which has an oblong nut, white and good, chinquepin, three kinds of ash, one of which is the prickly, three kinds of elm, two kinds of maple, two kinds of pine, red cedar, sweet gum, black gum, linden, two kinds of iron wood, growing on high and low lands, sycamore, box elder, holly, sweet bay, laurel, magnolia accuminata, black walnut, filbert, buckeye, dogwood, three kinds of locust, the three thorned and honey locust, hazle, beech, wild plum, the fruit red, but not good, bois d'arc, (bow wood,) called also bois jaune, (yellow wood,) a famous yellow dye, three kinds of hawthorn, with berries, red, scarlet, and black, lote tree, for Indian arrows, bois de carbane, a small growth, and proper for hoops, two kinds of osier, myrtle tooth ache tree, and magnolia.

A vine, bearing large, good black grapes in bunches, black grape, hill grape, yellow grape, muscadine, or fox grape, and a variety of other vines. The saw briar, single rose briar, and china root briar, wild gooseberry, with a dark red fruit, three kinds of whortle berry, wild pomegranate, passion flower, two sorts of sumach, winter's berry, winter's green, and a small red farinaceous berry like a haw, on a plant one inch high, which grows under the snow, and is eaten by the Indians, the silk plant, wild endive, wild olive, pink root, snake root, wild mint of three kinds, coloquintida, (bitter apple,) growing along the river side, clover, sheeps' clover, life everlasting, wild liquorice, marygold, mistletoe, thistle, wild hemp, bulrush, dittany, white and red poppy, yellow jessamine, poke, fern, capillaire, honeysuckle, mosses, petu to make ropes with, wormwood, hops, ipecacuanha, persicaria, Indian turnip, wild carrot, wild onion, ginger, wild cabbage, and bastard indigo.

Expedition of Lewis and Clarke.

Meteorological observations made by Mr. Dunbar and Dr. Hunter, in their voyage up the Red and Washita rivers, in the year 1804.

Time of observation. Day of the month.	Thermometer. Sun's rise.	3 P. M.	8 P. M.	In river water.	Wind.	Weather and Meteorological phenomena, &c.
1804.						
October 20	40°	80°	°	73°		
October 21	60	83	–	–	S. S. E.	Light clouds.
October 22	65	79	–	–	S. S. E.	Cloudy.
October 23	67	73				
October 24	54	68	–	71	N. NNW.	Cloudy in morning; evening clear.
October 25	49	60	–	68	North.	Cloudy morn; clear evening.
October 26	40	70	–	65	N. W.	Light clouds.
October 27	32	73	–	64	North.	Hoar frost; fog on river; clear above.
October 28	40	73	56	63		
October 29	41	85	62	62	NW. SW.	Fog on river.
October 30	47	83	60	60	W. N. W.	Fog on river; clear above.
October 31	44	84	–	62	NNW.	Ditto, ditto.
November 1	48	85	64	62	–	Calm and clear above.
November 2	48	84	78	62	S. S. E.	
November 3	52	86	72	64	–	Some light clouds.
November 4	54	83	63	64	–	Clear.
November 5	52	68	58	62	N. W.	Heavy fog and damp air.
November 6	45	79	–	64	West.	Heavy fog.
November 7	52	80	67	64	–	Clear. Lat. 32° 29′ N.
November 8	53	61	56	58	–	Cloudy. A disagreeable, damp day.
November 9	42	72	–	61	–	Cloudy, damp, and cold.
November 10	40	72	34	58	–	Clear and calm.
November 11	24	–	–	53	–	Ditto ditto.
November 12	36	–	54	54	–	Clear and calm; cloudy in evening.
November 13	33	66	62	55	South.	Fog on river; calm; evening cloudy.
November 14	44	58	44	55	–	Clear and calm.
November 15	38	60	50	54	–	Clear and calm.
November 16	38	51	42	54	North.	Morning calm; afternoon, cloudy, damp, and disagreeable.
November 17	40	41	44	54	–	Calm; fog on river. Lat. 33° 13′ N.
November 18	32	–	57	52	–	Serene morning; cloudy evening.
November 19	54	67	62	54	–	Cloudy; calm.
November 20	59	62	54	54	–	Cloudy; calm.
November 21	43	72	58	54	–	Calm; a little fog.
November 22	40	68				
November 23	48	72	54	54	–	Light clouds; calm.
November 24	48	72	59	54	–	Light clouds; calm.
November 25	–	–	–	–	–	Rainy.
November 26	50	68	62	57	–	Clear.
November 27	54	71	66	58	–	Cloudy.
November 28	68	78	73	60	–	Cloudy; calm.
November 29	72	76	52	62	South.	Cloudy and strong wind; rain 9 A. M.; clear at noon.
November 30	32	57	–	63	–	Cloudy and calm.
December 1	32	58	35	54	–	Clear and calm.
December 2	30	59	38	50	–	Clear and calm.
December 3	38	59	44	48	–	Clear and calm.
December 4	36	50	36	48	–	Clear and calm.
December 5	23	56	38	47	–	Serene and calm.
December 6	45	67	56	48	S. W.	Cloudy; light wind.
December 7	38	50	24	47	N. W.	Cloudy. Lat. 34° 27′ 31′.
December 8	10	47	–	43	N. W.	High wind; very serene.
December 9	19	52	28	41	N. W.	Very serene; wind moderate.
December 10	26	50	28	–	N. W.	Very serene; wind moderate. Lat. 34° 31″ N. at Hot Springs.
December 11	48	59	50	–	S. E.	Cloudy, damp, and penetrating.
December 12	36	44	32	–	North.	Cloudy, damp, and disagreeable.
December 13	26	40	30	–	North.	Cloudy, dark, and disagreeable.

Expedition of Lewis and Clarke.

METEOROLOGICAL OBSERVATIONS—Continued.

Time of observation. Day of the month.	Thermometer. Sun's rise.	3 P. M.	8 P. M.	In river water.	Wind.	Weather and Meteorological phenomena, &c.
1804.						
December 14	28°	40°	32°	°	N. E.	Cloudy, dark, and cold, with sleet.
December 15	26	32	30	–	N. W.	Wind strong; cloudy.
December 16	21	32	22	–	N. W.	Wind moderate.
December 17	26	42	28	–	N. W.	Wind moderate; bright morn; fine day; rain in the night.
December 18	34	36	32	–	North.	Cold and damp; dark and cloudy; rain at noon; hail and snow in evening.
December 19	30	30	23	–	West.	Snowing. Ground covered 4 inch. with snow.
December 20	30	36	32	–	West.	Light driving clouds from N. W.
December 21	32	–	31	–	North.	Cloudy and damp; snow on ground.
December 22	31	36	34	–	North.	Dark and cloudy; rain early in the day; snow in evening.
December 23	30	40	33	–	N. W.	Clouds begin to dissipate.
December 24	32	45	34	–	N. W.	Wind moderate.
December 25	34	50	44	–	N. W.	Cloudy.
December 26	34	50	34	–	N. W.	Clear and windy.
December 27	26	45	38	–	N. E.	Clear and cold.
December 28	34	32	30	–	S. W.	Cloudy in morning; snow in afternoon.
December 29	25	–	24	–	N. W.	Strong wind; stormy afternoon; calm night.
December 30	9	38	21	36	N. W.	High wind; last night very cold.
December 31	29	32	–	36	S. E.	Snow. Lat. 34° 28′ N.
1805.						
January 1	26	32	18	–	–	Snow.
January 2	6	45	32	32	–	Calm.
January 3	22	48	30	34	N. W.	Wind moderate.
January 4	22	50	32	36		
January 5	22	55	28	36	N. W. S. E.	Clear.
January 6	28	50	44	38	–	Cloudy and a little rain.
January 7	64	78	38	44	–	Night cloudy, cold, and moist.
January 8	28	37	37	46	–	Rain in evening and night.
January 9	42	36	24	44	North.	Dark, cloudy, and cold, with hail.
January 10	23	32	19	42	North.	Cold and damp. Lat. 34° N.
January 11	11	32	26	39	–	Fine morning, and very cold.
January 12	20	43	30	40	–	The air damp and penetrating.
January 13	27	53	30	40	N. E.	Morning fine and dry; evening moist.
January 14	23	53	32	40	N. W.	Light wind; atmosphere dry.
January 15	30	63	43	40	S. E.	Cloudy; wind light.
January 16	36	65	60	41	–	At Fort Miro. Lat. 32° 30′ N.
January 17	60	–	–	44	S. W.	Cloudy.
January 18						
January 19	–	58	50	43	S. W.	Clear.
January 20	56	51	40	43	–	Cloudy, and drizzly rain.
January 21	21	36	26	40	East.	Wind variable.
January 22	21	48	40	39	N. E.	Weather raw and cold.
January 23	49	64	54	42	S. E.	Clouds and drizzly raw.
January 24	55	50	46	43	–	Rain. Lat. 30° 37′ N.
January 25	36	40	40	40	–	Windy; cold and raw.
January 26	32	36	33	42	N. E.	Stormy and snow.
January 27	24	50	32	44	East.	Lat. 31° N.
January 28	26	56	40	34	North.	On Mississippi river; clear and moderate.
January 29	34	56	–	33	North.	Fine weather.
January 30	36	65	53	34	N. E.	Raw and cloudy.
January 31	56	–	–	38	S. E.	Cloudy and moderate.

FEES OF OFFICERS OF STATE COURTS.

[Communicated to the Senate, December 28th, 1807.]

DECEMBER 26, 1807.

SIR: In obedience to a resolution of the Senate of the 6th day of February last, I have the honor to enclose tables of fees and compensation paid in all the States composing the Union, except* Virginia and Kentucky, from which I daily expect to receive them. As soon as they are transmitted, they shall be laid before the Senate.

I have the honor to be yours, very respectfully,

C. A. RODNEY.

STATE OF NEW HAMPSHIRE.

Attorneys' Fees.—There shall be allowed in every bill of cost taxed for the plaintiff in the court of common pleas, the case originating there, $1 34; for the writ, including the declaration and attorney's fees, and to the defendant recovering cost in said court, and the party, whether plaintiff or defendant, recovering costs on an appeal from a justice of the peace, there shall be taxed $1 10 for attorney's fees; for the party recovering a bill of cost at the superior court, for attorney's fees, $2; for every complaint entered at the superior court, including drawing the complaint, $1 34; attorney's fee for drawing a writ, triable before a justice of the peace, 50 cents; attorney's fee for pleading for a defendant before a justice of the peace, 50 cents; drawing a complaint for discontinuance of an action before a justice of the peace, 50 cents.

Fees of the Clerk of the Court of Common Pleas.—For every action, petition, or complaint, entered in the court of common pleas, the clerk thereof shall receive 60 cents in full, for entry, verdict, nonsuit, or default, judgment recording and every service relative to such action, petition, or complaint, for which no fees are otherwise particularly prescribed by this act, the said clerk paying thereout the crier and sheriff's fees; for default or nonsuit, said sum, together with 90 cents to the justices, to be paid at the time of entry; for a blank writ and summons, 10 cents; for a writ of protection, 12½ cents; for each execution, 17 cents; for entering satisfaction for a judgment, 6 cents; for entering a continuance, 12½ cents; for each *venire* to be paid out of the county treasury, 4 cents; for every writ of possession, 25 cents; for each writ of subpœna, 10 cents.

Fees of the Clerk of the Superior Court.—For the entry of every action on petition, 67 cents; for entry of a complaint for not prosecuting an appeal, 34 cents; for entering a judgment, and recording it at large, 34 cents; for a writ of review, 50 cents; for a writ of *scire facias*, 50 cents; for a writ of execution, 25 cents; for a writ of possession, 58 cents; for a writ of *habeas corpus*, 34 cents; for entering an appearance, at the request of any party, 10 cents; for entering a satisfaction of a judgment on record, 12½ cents; for entering a continuance, 17 cents; for filing papers, 2 cents each; for certifying the proof of a deed in court, 17 cents; for each *venire* on certificate of the justices of the superior court, 4 cents, to be paid out of the county treasury; for a subpœna, 17 cents, for every recognisance, 17 cents; for every writ of protection, 17 cents; for discharging a recognisance, 17 cents.

Sheriff's Fees.—For the service of a writ of summons, or *scire facias*, either by reading it to the defendant, or leaving a copy, 23 cents for each defendant; for the service of a writ of attachment, with or without summons, 23 cents for each defendant; for a bail bond, to be paid by the person bailed, 17 cents; for the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs, as in personal actions; for levying executions in personal actions and extents, 2½ cents on the dollar for the first fifty dollars, 2 cents on the dollar for the second fifty dollars, 1 cent on the dollar for all sums from one hundred dollars to three hundred dollars; for all sums above three hundred dollars, a half cent on each dollar; the poundage on extents to be taken in the same paper, bills, notes, orders or certificates as the same extents issued for; for travel, for the service of each writ, execution, or extent, 3 cents per mile; the travel to be computed from the place of service to the office, or court, place, to which the writ is returnable, by the way most commonly used; and where there are several persons in the same writ, execution, or extent, upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it were served on the remotest person aforesaid: that no more than fifty miles' travel shall be allowed the sheriff, or other officer, serving any writ, execution, or extent, in any case; the travelling fees and fees of service on the writ in mesne process, and no more shall be allowed, in any case, than is so endorsed; and also the fees for service, poundage, and travel on executions and extents shall be particularly set down and expressed thereon; for summoning witnesses, 17 cents each; for serving a writ of execution for partition of real estate, on a judgment of court, 83 cents per day; and for travel and expenses, 4½ cents per mile; for every trial, 11 cents to be paid, with jurors' fees; for every default, 6 cents; for attending the grand jury, 34 cents per day; for attending the petit jury, 12½ cents each case, to be paid with the jurors' fees; for dispersing *venires*, 4 cents, each to be paid out of the county treasury; for dispersing proclamations, to be paid out of the county treasury, 4 cents each.

Coroners' Fees.—For serving writs the same fee for travel and service as to the sheriff; for every trial where the sheriff is concerned, 11 cents, to be paid with the jury's fees; for taking an inquisition, $1 50; to the foreman of the jury 50 cents; and other jurors 42 cents per day, and 20 cents for every ten miles' travel; to the constable, his expenses in summoning the jury of inquest and attendance, 67 cents per day: all fees attending inquisition on the death of any person shall be paid out of the estate of the deceased, and, in want thereof, by the county treasurer; the same being adjusted and allowed by the court of common pleas.

Grand Jurors' Fees.—To the grand jurors, 67 cents per day, to be paid out of the county treasury, and 4 cents per mile for their travel to and from court.

Petit Jurors' Fees.—To the foreman in every cause at the superior court, 50 cents; each other juror, 40 cents; and at the court of common pleas, to the foreman, in each cause, 45 cents; and to each other juror, 40 cents; and each petit juror attending either of the courts aforesaid, shall be paid out of the treasury of the county where said court is holden; 6 cents per mile for his travel to and from court.

Witnesses' Fees.—The witnesses before any justice of the peace, or at any of the courts aforesaid, shall be allowed for each day's attendance, 40 cents; and for every ten miles' travel, out and in, 40 cents; a ferry or toll-bridge to be reckoned as three miles' travel; and in the same proportion for a less number of miles.

By another statute, making compensation to grand and petit jurors, it is enacted, that each petit juror who shall attend the superior court of judicature, and each petit juror who shall attend the court of common pleas, in the several counties in this State, be allowed $1 per day for each day's attendance at such courts, to be paid together with his travelling fees, as by the law, allowed out of the treasury of the county where he may attend; and such fees for attendance shall be in lieu of the fees received for trials by causes; that the fees now allowed by law to petit jurors, for trials of causes, shall be paid to the clerks of the respective courts, who shall pay over the same to the treasurer of the county where such trials are had.

That the same compensation shall be allowed to grand jurors as by this act is allowed to petit jurors, for travel and attendance.

That each talesman empannelled at either of the courts aforesaid shall be entitled to receive 50 cents for the trial of each action, for which he may be empannelled, to be paid out of the treasury of the county where such trial may be had.

STATE OF MASSACHUSETTS.

Table of the fees and compensation of several officers, as regulated and established in the Commonwealth of Massachusetts, by an act of the Legislature passed on the 13th of February, 1796, and (being temporary) continued by another act passed in May, 1798.

Attorney's Fees, under the head of "allowance to parties and witnesses."—The parties recovering costs, for an attorney in all causes where an issue in law or fact is joined in the supreme judicial court, $2 50; and in all other causes in said court, $1 25; and in all causes in the courts of common pleas and courts of general sessions of the peace, where an issue in law or fact is joined, $1 50; and in all other causes in said court, $1; for the declaration in each writ, 50 cents.

Attorney General's Fees.—In a criminal cause where one or more defendants are tried by the jury at the same time in the supreme judicial court, or where the cause is determined by an issue in law, for the attorney general, or person attending for the commonwealth, $2 50; and if there be no trial by the jury, and the cause be not determined by an issue in law, $1 25; and in all other causes in the court of general sessions of the peace, $1 25; drawing an indictment in the supreme judicial court, $1 25; same in the general sessions of the peace, $1 25.

Fees of the Clerk of the Common Pleas.—For the entry of an action, including the taxing the bill of costs and filing the papers, 50 cents; entering and recording a verdict or report of referees, 12 cents; every action withdrawn or nonsuit, 8 cents; confessing judgment or default, or joinder in demurrer, 10 cents; entering up judgment and recording the same at large, when no issue is joined, 20 cents; and where an issue of law or fact is joined, 40 cents; acknowledging satisfaction of a judgment on the record, 8 cents; entering an appeal and recognising principal and surety, 15 cents; continuance of each cause, 12 cents; entering the surrender of a principal into court, and making record thereof, 15 cents; entering a petition and order thereon for the partition or sale of real estate, 20 cents; and recording such petition or order at the rate of 12 cents a page; entering a rule of court upon the parties submitting the cause to referees, 15 cents; proving a deed in court, and certifying the same, 20 cents; every blank writ of attachment with summons, 15 cents; writ of *scire facias*, or original summons, 15 cents; original or alias writs of execution in personal matters, and filing the same when returned, 25 cents; writ of possession in real actions, 40 cents; writ of protection or *habeas corpus*, 25 cents; subpœna for one or more witnesses, 10 cents; *duces tecum*, 25 cents; each *venire facias* for jurymen, 5 cents; opening and filing a deposition, 8 cents.

Clerk of the General Sessions of the Peace.—Entering an indictment, presentment, complaint, or information, including the recording of judgment therein, examining and casting the bill of costs and filing the papers, 65 cents; discharging recognisance, 10 cents; warrant for a criminal, 20 cents; subpœna for one or more witnesses, 10 cents.

Clerk of Sessions.—Each recognisance for an inn-holder or retailer, &c., and recording license, 15 cents; examining and casting the grand jurors' account yearly, and order thereon, 30 cents; examining any other account, 8 cents; recording reports of highways and other matters by order of the court, 12 cents per page; copies of all papers of records, 12 cents a page; entering an appeal and recognising principal and sureties, 20 cents; keeping an account of yearly attendance of the justices of the court of the general sessions, each term 75 cents.

Clerk of the Supreme Judicial Court.—Entry of each action for trial, 70 cents; entry of each complaint, 35 cents; receiving and recording ver-

*These statements were subsequently received and transmitted to the Senate.

dict, 40 cents; writ of review, 70 cents; writ of *scire facias*, 40 cents; original writ of execution, including taxing of costs, and filing the papers, 65 cents; alias writ of execution, 35 cents; alias writ of *haberi facias possessionem*, 50 cents; writ of *habeas corpus*, 40 cents; copies of all papers containing less than one page, 10 cents; of all papers containing more than a page, at the rate of 12 cents a page; entering a rule of court, 15 cents; confessing judgment or default, 20 cents; entering an appearance, 10 cents; acknowledging satisfaction of a judgment on record, 12 cents; continuing each cause, and entering the same next term, 20 cents; proving a deed of court and certifying, 20 cents; entering up a judgment and recording the same at large in cases where judgment is rendered on verdict, demurrer, or state of facts, 60 cents; and in all other cases, 30 cents; every action withdrawn or nonsuit, 20 cents; original writ of possession, including taxing, costs, and filing papers, 80 cents; for each *venire facias* for judgment, 6 cents; every writ and seal other than before mentioned, 40 cents; subpœna for one or more witnesses, 10 cents; recognisance, including principal and sureties, 20 cents; recording judgment in every criminal case, 40 cents; writ of protection, 20 cents; entering discharge of recognisance by proclamation, 15 cents; opening and filing a deposition, 10 cents.

Sheriffs and Constables' Fees.—Service of an original summons, 30 cents; and if on more than one defendant, then 30 cents for each; service of *capias* or attachment for each defendant, 30 cents; for special service of the same, at the request of the plaintiff, 60 cents for each defendant on whom such service is made; for each copy left according to law, in order to complete a service, or a copy or precept upon demand thereof, at the rate of 12 cents a page; for a bail bond and writing the same, including principal and sureties, 20 cents; serving a writ of possession, exclusive of fees for collection of costs, $1 10; if on more than one piece of land, 75 cents for each piece of land after the first; fees for collecting costs on a writ of possession, the same as on executions in personal actions; serving a warrant, 30 cents; sheriff's aid in criminal cases to each person for every twelve hours' attendance, including expenses, $1; and so in proportion for a greater or less time, and 4 cents for each mile's travel going out and returning home; summoning witnesses in criminal cases, 10 cents for each witness, and travel as in civil cases, unless in special cases, when the court may increase the fee to what they may judge reasonable; for attending the court and keeping the prisoner in criminal cases, 75 cents for every twelve hours, and so in proportion for a greater or less time; levying execution in personal actions, for the first one hundred dollars, 4 cents; for every dollar above that, and not exceeding two hundred dollars, 2 cents for every dollar; and for all above two hundred dollas, 1 cent for every dollar; travel for the services of such executions, and also of mesne processes or warrants to him directed, 4 cents a mile, the travel to be computed from the place of service to the court or place of return by the usual way; only one travel to be allowed for one writ of execution or warrant, and if the same be served on more than one person, then the travel shall be computed from that place of service which may be most remote from the place of return, with all further necessary travel in serving such execution, writ, or warrant. But if the travel from the place of service to the place of return be more than fifty miles, then only 1 cent per mile shall be allowed for all travel exceeding that distance; serving an execution upon a judgment of court for partition of real estate, or assigning of dower, $1 a day, and 4 cents a mile out from the place of his abode; every trial in a court of record, 15 cents; every default, 8 cents; to the officer attending the grand jury, for each day's attendance, 75 cents; attending the petit jury, for every cause, to be paid with the jury fees, 25 cents; for dispersing *venires* for jurymen, treasurer's warrants, and proclamations of all kinds, 8 cents each; for returning the certificates of votes of the several towns for governor and various other officers, to the secretary's office, 8 cents a mile, computing from the place of his abode to the said office, and but one travel to be allowed for the whole; for every deputy sheriff or constable who shall attend the supreme judicial court or court of general sessions of the peace or common pleas by their order, 75 cents a day; and, for the encouragement of the sheriff to take all possible care for the safe-keeping of prisoners, &c., he shall have such salary allowed him as the justices of the general sessions of the peace within the same county shall order, not exceeding forty dollars a year for the county of Suffolk, nor twenty-five dollars a year for any of the other counties.

Coroner's Fees.—For serving a writ, summons, or execution, and collecting the moneys due thereon, and for travel in returning precepts and inquisitions, the same allowance as is before mentioned for sheriffs for similar services; for a bail bond, 25 cents; for every trial where the sheriff is concerned, 25 cents, and the same for attending the jury therein; granting a warrant, and taking an inquisition on a dead body, $1; if more than one at the same time, and who came to their death by the same means, 20 cents for each one after the first; travel, and expense for taking an inquisition, $1 a day; to each of the jurymen for their travel, if above four miles out, 3 cents a mile each way, and for their services, 75 cents per day, including time and expenses; the constable, for his attendance, and expenses in summoning a jury, 90 cents a day.

Juror's Fees.—Grand jurors and jurors, for trials at each of the courts, 90 cents a day for their attendance, and 4 cents a mile for their travel out and home; and there shall be paid to the clerk of each of the aforementioned courts, $6 for the trial of each civil action, for the use of the county.

Witnesses' Fees.—To witnesses in civil or criminal cases, in all the courts before mentioned, 75 cents for each day's attendance, and four cents a mile for each day's travel going out and returning home; and before a justice of the peace, referees, or arbitrators, 33 cents a day, and for their travel the same as at other courts, provided such witnesses do personally attend said courts, respectively, and certify in writing their time and travel.

Register of Probate's Fees.—Writing a bond and letter of administration, 40 cents; writing a bond and letter of guardianship, and making record thereof, for one minor, 60 cents; and, if for more than one minor, for whom the said guardian is appointed, at the same time, 10 cents for each minor more than one; drawing a decree respecting probate of will or codicil, 40 cents; writing bond for the executor, 20 cents; writing warrant to appraise the deceased's estate, 20 cents; warrant to divide an intestate estate among the heirs, writing a warrant to set off widow's dower, or to examine the claims of an insolvent estate, 20 cents; entering the account of executor, administrator, or guardian, and an allowance thereof, or for entering on an inventory the oath of an executor or administrator, 15 cents; drawing up a decree on settlement or partition of an estate, 20 cents; drawing an order of distribution, 20 cents; a quietus, 20 cents; citation, 15 cents; summons for a witness or witnesses, 10 cents; proportioning an insolvent estate among creditors, at the rate of 50 cents for every twelve creditors, every creditor's proportion being distinguished; recording any matter at the rate of 12 cents for each page, and the same for copy; a bond of appeal 20 cents.

Prothonotary.—No officer known in Massachusetts *eo nomine*.—(See Clerk's Fees.)

BOSTON, *November* 20, 1806.

The foregoing table of fees and compensation to sundry officers of courts, as established by the existing laws of the Commonwealth of Massachusetts, collected by GEORGE BLAKE,

U. S. Att'y for Mass. Dist.

Besides the fees of the attorney general, as herein before enumerated, he is allowed by law an annual salary of $1,000; to which has been added invariably for many years past an annual grant of $500; so that his salary may be considered, in effect, and is so considered here, $1,500 a year.

GEORGE BLAKE.

STATE OF RHODE ISLAND.

The Attorney General is allowed—For every bill of indictment drawn and found by the grand jury, $1 50; for discharge of every person on bond to the peace, 35 cents; for every cause argued to the court or jury upon an issue joined in law or fact on behalf of the State, in criminal cases, $3; for every day's attendance on the General Assembly and courts, $1.

Other Attorneys are allowed—For a writ and declaration, $1; fee in the court of common pleas, $1; in the supreme judicial court, (one only to be taxed in a bill of cost,) $2.

Clerks of the Supreme Judicial Court are allowed—For the entry of every writ, action, or petition, 25 cents; for filing every reason of appeal, petition, motion, plea, or answer, 4 cents; for every interlocutory judgment, 10 cents; for all copies, for every lawful page, (200 words,) 10 cents; for every action called, 8 cents; for drawing and recording final judgment upon *nihil dicit*, 30 cents; where the general issue is pleaded, 40 cents; and in all cases where there are further pleadings, 58 cents; for swearing every witness, 4 cents; for a writ of execution and the endorsement, 25 cents; for every other writ, 15 cents; for entering a rule of court, 15 cents; for copying rule and writ to referees, 37 cents; for every bond or recognisance taken in court, 20 cents; for filing all other bonds or recognisances, 6 cents; for every bill of indictment found, 8 cents; for reading the same, 8 cents; for entering plea on the same, 8 cents; for drawing and reading sentence, 33 cents; for drawing and recording final judgment upon indictment, 50 cents; for every person summoned, 3 cents; for every paper in a case, 2 cents; for every discontinuance or default, 4 cents; for discharge of every bond or recognisance, 6 cents; for every petition read in court, 6 cents; for recording judgment thereon, 25 cents; for every citation or notification, 25 cents; for searching the records by the hour, 10 cents; for attending the court by the day, 50 cents, for acknowledging satisfaction of judgment upon record, 8 cents; for recording return of partition, $1; for taxing and examining the bill of cost in every case, 12 cents.

The Clerks of the Court of Common Pleas are allowed—For every original writ and seal, 6 cents; for the entry of every action or petition, 13 cents; for drawing and recording final judgment upon *nihil dicit*, 12 cents; where the general issue is pleaded, 20 cents; in all cases where there are further pleadings, 40 cents; for all copies, for every lawful page, (200 words,) 10 cents; for every *nolle prosequi*, discontinuance, nonsuit, *retraxit*, *nihil dicit*, or default, 5 cents; for a writ of execution and the endorsement, 25 cents; for all other writs, other than summons for vouchers, 20 cents; for every writ of summons to warrant, 50 cents; for filing every declaration, plea, reason of appeal, motion, or answer, 4 cents; for every action called, 3 cents; for entering a rule of court, 12 cents, for every interlocutory judgment, 6 cents; for copying rule and writ to referees, 40 cents; for every bond in the clerk's office, 8 cents; and where the attorney becomes bound, the same fee; for every person summoned, 3 cents; for every paper in a case, 2 cents; for searching the records by the hour, 10 cents; for taxing and examining the bill of cost, in every case, 8 cents; for swearing every witness, 3 cents; for entering appearance, 3 cents; for attending the court by the day, 25 cents; for recording every deputation or revocation thereof by the sheriff, 12 cents; for acknowledging satisfaction of judgment upon record, 8 cents; for recording return of partition, $1.

Clerks of the General Sessions of the Peace are allowed—For the entry of every indictment, 12 cents; for drawing and recording final judgment thereon, 50 cents; for filing recognisance, 4 cents; for drawing and filing recognisance, 16 cents; for the discharge of every recognisance, 5 cents; for a warrant of the peace or good behaviour, 12 cents. In all other respects the same as the clerks of the courts of common pleas, excepting that they are

not allowed compensation by the day. N. B.—The two offices are always united in the same person.

Clerks of the Courts of Probate are allowed—For entering a *caveat* against the probate of a will, or granting letters of administration, 2 cents; for citation to the parties concerned, 16 cents; for taking bond and granting letters of administration or testamentary, 50 cents; for registering and copying, for every lawful page, (200 words,) 10 cents; for drawing the probate of a will or allowance of an inventory or an account, 10 cents; for searching the record, by the hour, 10 cents.

Sheriffs are allowed—For serving a writ, if not more than a mile from the court-house or place of appearance, 20 cents; if more than a mile, 16 cents; for every mile's travel out beyond a mile, and the same back—the travel to be computed from the place to which the writ is returnable—to the defendant's place of abode, 2 cents; for the copy of a writ on warrant, 10 cents; for a bail bond in civil actions, 12 cents; and where bail is taken by endorsement on the writ, the same fee; for committing a prisoner on *mesne* process, 20 cents; for attending a justice's court, by the day, 25 cents; for serving all executions where a party is committed to jail, 70 cents; for serving all executions where the money due thereon is collected, not exceeding four dollars, 30 cents; if above four and not exceeding seven dollars, 40 cents; if above seven and not exceeding twenty dollars, 60 cents; if above twenty and not exceeding thirty dollars, 66 cents; if above thirty and not exceeding sixty dollars, 75 cents; if above sixty and not exceeding one hundred dollars, 90 cents; and for all executions above one hundred dollars, 1 per cent.—none of the lesser sums to be included in the greater; for travelling fees for serving executions, the same as for serving writs; for serving a writ of execution, returnable to any court out of the county where the same is served, the same number of miles' travel as if returnable to a court in the county where served; for serving a summons, if not more than a mile from the court-house or place of appearance, 12 cents; if more than a mile, the same travelling fee as for serving writs; for delivering possession of lands and tenements, while actually employed by the day, $1; for advertising real or personal estate to be sold at auction, 34 cents; for selling at public auction real or personal estate, if under one hundred and fifty dollars, 2 per cent.; if over one hundred and fifty and under three hundred dollars, 1½ per cent.; and for all sums over three hundred dollars, 1 per cent., to be computed on the amount of sales, and none of the lesser sums to be included in the greater; for serving warrants and other criminal processes, the same as for serving writs, unless the court to which such warrant or process is returnable shall make a further allowance for *extra* services; for attending the General Assembly, the supreme judicial court, and court of common pleas, by the day, $1.

Coroners are allowed—For taking every inquisition, $1; besides the above fee, for every day employed therein, $1; each juror, by the day, 50 cents.

Grand Jurors are allowed, each—For attendance by the day, 50 cents.

Petit Jurors are allowed, altogether—For every case submitted to them, $5.

Witnesses are allowed—For attendance by the day, 40 cents; for travel by the mile, 4 cents.

Received for transcribing, sixty cents, of David Howell, Esq. AMOS HOPKINS.

STATE OF RHODE ISLAND, &c.,
November 29, 1806.

The preceding [in MS.] six pages are truly extracted from the laws of this State.
Witness: SAMUEL EDDY, *Sec'ry.*

STATE OF CONNECTICUT.

SUFFIELD, *October* 24, 1806.

SIR: Your letter of the 9th August, enclosing a resolution of the Senate of the United States, passed the 17th April, 1806, was received the 24th September. The delay was occasioned by the letter being missent, &c. The officers mentioned in the resolution, and known in our laws, are attorneys-at-law, clerks of judicial courts, sheriffs, grand and petit jurors, and witnesses. The sums actually paid in many instances, so far exceed the fees authorized and allowed by *statute*, that I have been led to doubt how I should comply with the requirements of the resolution; and especially as the practice of demanding and receiving fees not allowed, or not specified by any statute, is sanctioned by the highest courts of law in the State.

Subjoined are extracts from the table of fees in the court above-mentioned, as fixed by the statute, entitled "An act for regulating salaries and fees."

State Attorney's Fees, not exceeding the following allowances:—For conducting and arguing each criminal case, not capital, before the superior court, on bill found by the grand jury, $9; drawing an indictment or information, $1: for a trial before the superior court in a criminal case on information, or for conducting and arguing a civil cause on behalf of the State, $7; for prosecuting a civil cause when judgment is given on confession or default, in the superior court, $3 34; for a capital trial, $14; in a criminal case on confession before the superior court, $5; in case of a *nolle prosequi* entered, or a return of not a true bill by a grand jury, $3 34; if an assistant attorney is allowed in any trial, not capital, before the superior court, in behalf of the State, his fee shall be $3 34; or, if capital, $7. In prosecutions on behalf of the State, before the county court, the attorney shall be allowed not exceeding two-thirds of the fees allowed for like services in the superior court, or less, at the discretion of the court.

Clerk of Superior Court's Fees.—For entering each action and judgment, 50 cents; filing each deposition, 5 cents; entering each judgment acknowledged, 17 cents; each writ of execution, 25 cents; for copies, each page of twenty-eight lines, ten words in a line, 25 cents.

Clerk of County Court's Fees.—For entering

each action, 5 cents; entering each judgment or continuance, 17 cents; signing each writ, 9 cents; taking a recognisance, 9 cents; each writ of execution, 17 cents. For copies, same as clerk of superior court.

Sheriff's Fees.—Serving every summons, 6 cents; if by copy, 9 cents; serving an attachment, 9 cents; bail bond, 17 cents; levying each execution, not exceeding $3 34, 17 cents; and two cents per dollar for every dollar beyond that sum in the same currency with the execution, or equivalent in lawful money; attending the general court or superior court, per day, $1; each mile's travel out, 5 cents; attending the county court, per day, $1 50.

Fees and Commissions allowed the Sheriff, where any person confined in jail on execution for any civil matter is permitted to have the liberties of the prison, the following allowance, and no more.—For every bond, $1; as commissions on any sum not exceeding $360, $225; on any sum not exceeding $750, $3 75; on any sum not exceeding $1,335, $5; on any sum not exceeding $2 400, $7 50; on any sum not exceeding $6,000, $15; on any sum not exceeding $13,350, $25; and on any greater sum than $13,350, three-sixteenths of one per cent.

Grand Jurors' Fees.—Each grand juror, for attending the superior court or county court, per day, 67 cents; travel per mile out, 6 cents.

Petit Jurors at Superior and County Courts.—For trying each action, (50 cents each,) $6; travel out, per mile, 5 cents.

The six dollars paid by the party whose case is tried; the travel paid by the county.

Witnesses.—Each witness in criminal cases, at the suit of the State, for attendance at the superior or county courts per day, 67; travel per mile, —.

The fees mentioned as allowed to attorneys are in cases at the suit of the State; the sums actually paid by suitors are, (that is, the usual fees for arguing a cause in the county court,) from $6 50 to $12; besides a term fee of from $3 to $5, at each term, while the cause is pending; for arguing before superior court, a fee of $5, each term the cause is pending; and for arguing, from $12 to $50, in proportion to importance of the cause.

It is difficult, and perhaps unnecessary, to furnish a correct statement of the actual fees and compensation, claimed and allowed to sheriffs and under-sheriffs; we have a form of action called debts by book, known, perhaps, only in Connecticut; in which the plaintiff declares that the defendant, or claimant, in a plea of debt, that the defendant owes him such a sum by book, which he has not paid, though often demanded, &c., to his damage, &c.; for this kind of action, and also the action on promissory notes, forms of the writ are prescribed by statute, and the statute specifying the sheriff's fees for serving writs of summons and attachments, has long since been construed as extending only to his fees for serving writs, the forms of which are prescribed by statute; these writs are very short: of course, the sheriff, for serving writs in actions of trespass, ejectment, trespass on the case, &c., also bills in chancery, in case he makes service by copy, as he may in all cases, and is bound to, in case he attaches property, he charges for a copy, from one to three dollars; also for his extra trouble procuring bail; as he claims, is reasonable, besides 17 cents for the bail bond; also for collecting, or levying and returning writs of execution; all the different forms whereof, known in the English law, are in commitment reduced to one, and go against the goods, chattels, or lands of the debtor; and, for want thereof, against his body. The sheriff is allowed two travels to the debtor's place of abode, and from thence to the office whence the writ issued; and also for any extra trouble, even if he makes return of *non est inventus;* if he commits the debtor to prison, he calls to his assistance one or two keepers, as he judges the case requires, whose fees and expenses, with his own, in carrying the debtor to jail, he charges on his writ, besides *the commission* allowed for collecting, &c. &c. If a prisoner, in jail on execution, who has the liberties of the prison, breaks his bonds, and the sheriff becomes liable, and is sued, although his bail are sufficient and ultimately save him harmless from the payment, still he charges a fee of from $7 to—, in proportion to the amount of the demand.

With respect to the clerks of the superior court and county courts, both offices are usually held by one person in the same county; the statute fixing their fees is now construed as extending only to the forms of action prescribed as before mentioned by statute, and the general issue is pleaded, in which cases the record may be very short; but in cases where the issue is formed by special pleadings, or special verdicts of a jury, decrees in chancery, &c., the clerk demands and receives for recording a judgment, from 22 cents to $5. Our superior and county courts are, by statute, vested with chancery powers; in this county, the superior and the county courts hold each three terms in a year; on the docket of the superior court at the last term there were 239 actions; at the last term of the county court, there were about 470 causes on their docket.

If the object is correct information as to the actual compensations allowed, the foregoing statements seemed necessary. Such are the practices sanctioned by our courts, with how much propriety or justice I will not say. It should, however, be remarked, that our statute fixing the fee table, as it is called, with but little variation or increase, is much the same as it stood half a century since; but as increasing compensation to officers is unpopular, especially in party times, the men in power withhold that which, under different circumstances, the unbiassed sense of the community would grant: hence the courts have resorted to construction, to obtain that compensation which the Legislature have not as yet allowed by statute. I began to make the extract at the date, but from many circumstances, unforeseen and unavoidable, it is not completed until this time. I hope neither your convenience nor the public business will be incommoded by the delay.

I am, sir, with great respect, your most obedient servant,

HEZ. HUNTINGTON.

Hon. Mr. BRECKENRIDGE.

STATE OF VERMONT.

An Act regulating Fees.

SEC. 1. *It is hereby enacted, by the General Assembly of the State of Vermont*, That the fees for the several officers and other persons hereinafter mentioned shall be as follows, viz:

Governor's Fees.—For signing a charter of land, $8; for every other charter or grant by him signed, $3.

Lieutenant Governor's Fees.—For attendance on council per day, $4; travel per mile, each way, 6 cents.

Counsellors' Fees.—For attendance, per day, $1 50; travel per mile, each way, 6 cents.

Representatives' Fees.—For attendance, per day, $1 50; travel per mile, each way, 6 cents; Speaker of the General Assembly, per day, $2 50; travel per mile, each way, 6 cents; clerk of the General Assembly, fees per day, $2 50; travel per mile, each way, 6 cents; engrossing clerk's fees per day, $2 50; travel per mile, each way, 6 cents.

Secretary of State's Fees.—Recording laws, for every hundred words, 7 cents; receiving and filing each petition of a private nature, 11 cents; receiving and filing each petition for grants of land, 17 cents; for drawing, attesting, and registering a charter for lands, $3 34; for copies of laws, petitions, and other papers, for each hundred words, 7 cents; for each citation between party and party, 17 cents; attendance on the General Assembly, per day, $2 50; travel per mile, each way, 6 cents; and there shall be paid to the secretary, for the use of the treasury, on filing each petition between party and party, $4.

Secretary of Council's Fees.—For each military commission, and affixing the seal thereto, he finding blanks, 25 cents; each commission for the judges of the supreme court, 34 cents; each commission for the judges of the county courts, and the probate courts, 34 cents; for justices' commission for each county, 75 cents; every order of council for the benefit of particular persons, 17 cents; affixing the State seal, (military commissions excepted,) 17 cents; attendance on council, per day, $2 50; travel per mile, each way, 6 cents.

Supreme Court's Fees.—Chief judge, while on the circuit, per day, $4 50; each side judge, while on the circuit, per day, $3 67; each motion for arrest of judgment, or new trial for the benefit of the judges, 67 cents; for allowing and signing writs of error, *audita querela*, *habeas corpus*, and taking recognisance for the same, 67 cents; and there shall be paid into the hands of the clerk, for the benefit of the judges, for each action tried, $2 50; and for each nonsuit, default, or confession, $1.

County Court's Fees.—For each action tried, there shall be paid to the clerk for the benefit of the judges, 67 cents; for each abatement, nonsuit, default, or confession, 34 cents; for each license for a tavern keeper, 50 cents; for each entry of an action for the benefit of the judges, 67 cents; the chief judge's share of the above perquisites to be one-quarter more than the side judges'. For allowing and signing *audita querela*, and *habeas corpus*, and taking recognisance in the same, for each judge 50 cents; for each motion in arrest of judgment and new trial, 50 cents.

Judge of Probate's Fees.—For granting administration, 34 cents, if the inventory exceed $166, 50 cents; receiving and approving each will, if the inventory do not exceed $166, 34 cents; if the inventory exceed that sum, 50 cents; allowing accounts, settling and dividing estates, 84 cents; every necessary order or rule, 17 cents; appointment of persons to inventory and appraise, 25 cents; appointing commissioner or commissioners to set off widow's dower, 25 cents; appointing guardians, 34 cents; fees for commissioners appointed on testate or intestate estates, per day, $1; travel per mile, 6 cents; executors and administrators, such sum per day as the judge of probate shall judge reasonable.

Register of Probate's Fees.—Drawing and filing an administration bond, thirty-four cents; drawing each letter of administration, twenty-four cents; drawing probate of will, if the inventory do not exceed $166, 34 cents; if it exceed $166, 42 cents; recording or copying will, codicil, inventory, or other necessary paper, for each hundred words, 8 cents; for every citation, 13 cents; for every quietus or acquittance, 42 cents; making out and registering commission to receive and examine the claims of creditors to insolvent estates, 50 cents; entering an order upon the administrator to pay the debts of the several creditors returned by commissioners, 25 cents; entering every other necessary order or rule, 9 cents; drawing and filing guardian bond, 34 cents.

Justice's Fees.—Drawing a writ, 17 cents; signing a summons, 9 cents; signing an attachment or summons when bond is given, 13 cents; subpœna for each witness, 6 cents; judgment in each action tried, 50 cents; if on verdict of jury, 67 cents; on confession of default, 25 cents; for taking deposition out of court, 34 cents; for citation to appear, 17 cents; each continuance, 17 cents; every warrant for criminals and bond, 34 cents; recognisance, 17 cents; each *venire* for a jury, 25 cents; for every appeal including the recognisance, 25 cents; for taking acknowledgment of deed, 12 cents; for recording execution, and officer's return thereon extended on real estate, which the officer for serving the same shall collect and pay, 75 cents; for issuing a citation to the adverse party on complaint of a prisoner to swear out of jail, 50 cents; for making and signing certificates to prisoners and jailers, each 25 cents; for attending court of jail delivery, 50 cents; for travel per mile each way, 6 cents; making rule of reference between parties, 50 cents; rendering judgment on the report of referees so appointed, 50 cents; for every execution, 25 cents.

Clerks of the Supreme and County Courts' Fees.—For signing each summons, 9 cents; for signing each summons or attachment when bond is given, 13 cents; for attendance at the supreme court per day, $1; entering each judgment on abatement, nonsuit, default or confession, 25 cents; clerks of the county court for entering each judgment of demurrer or after verdict, 50 cents; clerk of the supreme court for the same, $1; taking each recognisance in court, 17 cents; filing each necessary paper, 6 cents; every appeal or review, 34 cents; every rule or order of court, 9 cents; every continuance in supreme court, 16 cents; every continuance in county court, 8 cents; every execution, including the filing, 25 cents; for recording deputy sheriff's deputation and oath extended on real estate, with the officers' return who collect and pay the same, $1; every license to an innkeeper, 17 cents; for all copies or other services made or done by direction of the court, and not herein before enumerated, such sum or sums as shall be allowed by the courts respectively, according to their length and difficulty.

Attorney's Fees.—For drawing writ, and declaration or note, 17 cents; all other writs such sum as shall be allowed by the courts respectively, according to their length and difficulty.

State Attorney's Fees.—For every indictment or information, $1; if more than one count, such sum as shall be allowed by the court; term fee, $2; for each cause tried, not exceeding $5; copy of the indictment, such sum as shall be allowed by the court.

Sheriffs, Constables, and Collectors' Fees.—Serving every process on each defendant by reading, 6 cents; if by copy, 17 cents; for taking bail, 17 cents; for each mile's travel for the service of all writs and other processes, to be computed from the place of service to the place of return, 6 cents; for levying each execution amounting to three dollars or under, 15 cents; and for each three dollars over, 4 cents; for each day's attendance on appraisement or sale of estate taken in execution, 34 cents; for attending before a justice court when required, 34 cents; for attending freeholder's court, per day, $1; for copy of execution extended on lands, and the return thereof to the office for record, 50 cents; for attendance on the General Assembly or supreme or county court, per day, $1; constables for the like service, $1; collectors of taxes to be allowed the like fees as sheriffs, in cases of execution, when they levy on persons or estate, and one dollar out of each fifty dollars collected and paid into the State or county treasury: *Provided*, That no sheriff, constable, or other officer, shall be entitled to any fees for a return of *non est inventus* on any civil writ or process; sheriff and assistants per day, 67 cents; for half a day, 34 cents; for appraisers of real estate on execution, 67 cents; for half a day, 34 cents.

Parties and Witnesses' Fees in the Supreme and County Courts.—Term fee on abatement, nonsuit, or default, in the first term, $1; term fee in all other cases, $1; and the party recovering shall be allowed for his attorney on nonsuit or default, $1 50; for trial of issue of law or fact, $3; travel for plaintiff or defendant within this State, per mile, 5 cents; witnesses' travel, per mile, 5 cents; attendance per day, 75 cents; in justices' courts, travel for plaintiff or defendant and witnesses per mile, 5 cents; attendance of plaintiff or defendant and witnesses per day, 50 cents; for half a day, 34 cents.

Grand Juror's Fees.—Travel per mile, 6 cents; for each day's attendance on supreme and county courts, 75 cents; for each complaint, 50 cents.

Petit Juror's Fees.—Panel of, for trying each cause before the supreme or county court, $5; for trying each cause before a justice, to be advanced by the party praying the same in a civil action, $1 50; for trying each cause before a freehold court, such sum as shall be allowed by the justices holding the same, according to their travel and attendance.

Town Clerk's Fees.—For recording a common deed poll, including the certificate of filing, to be advanced by the party lodging the same for record, twenty cents; copying of the same twenty cents; and in the same proportion for all other deeds; recording survey bill, 9 cents; recording marriage, birth, or death, four cents; recording each mark, 9 cents; recording execution extended on real estate, with the officer's return thereon, to be collected and paid by the officer serving the same, $1; recording certificate of a religious sentiment, 12 cents.

Proprietor's and other Collector's Fees.—Travel from his dwelling-house to the place of sale, to be equally divided among the delinquent proprietors or land owners, per mile, 6 cents; for drawing and conveying an advertisement to be divided as aforesaid, $1; for attendance and sale of each delinquent proprietor's right, 34 cents; each deed of conveyance, including the acknowledgment, 34 cents; for each receipt for money before sale, 6 cents.

Jailer's Fees.—For commitment of a prisoner, 34 cents; for discharge of a prisoner, 34 cents; diet per week for State prisoners, $1; for the bonds for the liberties of the prison, 34 cents; fees for freeholders summoned to assess damages sustained in laying out highways, per day, 50 cents; for half a day, 33 cents.

Surveyor General's Fees.—Per day, exclusive of expenses, $1 50.

County Surveyor's Fees.—Exclusive of expenses, per day, $1.

Auditor of Account's Fees with the Treasurer.—Per day, $2.

Auditor of Accounts against the State.—While attending the Legislature, travel per mile, each way, 8 cents; attendance per day, $1 50.

Impounder's Fees.—For all horse kind, and neat cattle, per head, 11 cents; sheep per head, two cents; swine, per head, eight cents; three-fourths to the impounder, and the other to the pound keeper.

Notary Public's Fees.—For every protest under seal, $1; for every certificate under seal, 50 cents; for waiting on a person to demand payment, or witness any matter, and certify the same under seal, $1.

Sec. 2. *And it is hereby further enacted*, That the judges of the supreme court of judicature, judges of the county court, judges and registers of probate, justices of the peace, Secretary of State, Secretary of Council, clerk of the General Assembly, clerk of the supreme and county courts, town clerks, notaries public, sheriffs, and all other persons whose duty it may be by law to record any proceedings, or give any copies, attestations, or certificates other than such for which particular fee or fees is, are, or shall be established, shall be allowed seven cents for every hundred words, and for less than a hundred words in the same proportion; and for every certificate on the copy of the whole case, 17 cents; and for any other duty or service done or performed, such sum as shall be in proportion to the fees specifically provided by this or any other act for such officers or persons respectively.

Middlebury, *Oct.* 15, 1806.

The preceding is a true copy of an act regulating fees by the Legislature of the State of Vermont, the 27th day of October, in the year of our Lord 1798. Compared and examined by me.

THOMAS LEVERETT,
Secretary of State.

Fee for copy, $2.

STATE OF NEW YORK.

An Act regulating the fees of the several officers and ministers of justice within this State, passed April 8, 1806.

Be it enacted by the people of the State of New York, represented in Senate and Assembly, That no officer or other person shall exact, demand, or ask, or be allowed any greater or other fee or reward, for, or in respect of, any service hereafter to be done or performed, than such as is hereinafter specified, that is to say:

In the Court for the trial of Impeachments, and Correction of Errors.

The Clerk's Fees.—For reading and filing the writ, return, and record, 37½ cents; for filing every affidavit or other proceeding, 12½ cents; for entering every rule, 19 cents; for every certified copy of a rule, 19 cents; for entering every appearance, 12½ cents; for entering every judgment or dismission, 25 cents; for entering the judgment and *remittitur* on the roll, for each sheet containing seventy-two words, 12½ cents; for the seal to any record or process, 50 cents; for copies of records, pleadings, and other proceedings, for each sheet containing ninety words, 9 cents; for taxing a bill of costs, 50 cents.

The Crier's Fees.—In each cause, 37½ cents.

In the Court of Chancery.

The Master's Fees.—For every summons, 37½ cents; for copies of all charges and discharges brought in before the master, for each sheet containing ninety words, 9 cents; for scheduling writings, for each sheet of such schedule containing ninety words, 9 cents; for every report in pursuance of an order made upon hearing a cause, $1 25 cents; for every other report made upon petition or motion only, 62½ cents; for taking and drawing the acknowledgment or proof of a deed or mortgage, 37½ cents, (a lease and release to be considered as one deed;) for drawing every report, for each sheet containing ninety words, 12½ cents; for every copy thereof, each sheet as aforesaid, 9 cents; for swearing a defendant to an answer or plea, or swearing a witness, or taking an affidavit, 12½ cents; for signing every exhibit brought before him, 12½ cents; for the caption and writing of every recognisance, 37½ cents; for taxing every bill of costs before a decree, 37½ cents; for taxing a bill of costs after a decree, 75 cents. And all costs of the party plaintiff, including officers' fees, whensoever costs shall be directed to be taxed, shall be taxed in one bill only; and in like manner all the costs of the party defendant, including officers' fees, shall be taxed in one bill only, and only one fee shall be allowed for any such one taxation. And where moneys are ordered by the court to be put out by a master, or where an estate is ordered to be sold by a master, and where the master is ordered to take an account of an estate, or between partners in trade, the chancellor shall make such allowance to the master for the same as he shall judge reasonable.

The Register's Fees.—For drawing all rules and orders, for each sheet containing ninety words, 19 cents; and entering the same, for each sheet, 9 cents; for reading and filing every report, petition, or other paper, 12½ cents; for copies of all rules, orders, reports, affidavits, records, and proceedings, for each sheet containing ninety words, 9 cents; for every certificate, 19 cents; for entering a cause for hearing, 12½ cents; for making or certifying notes for the causes that stand for hearing; for grounding a subpœna to hear judgment; for each cause, 19 cents; for drawing every decree, for each sheet containing ninety words, 19 cents; but no record, writing, report, order, or proceeding, to be inserted therein, *verbatim*, or in *hæc verba*, shall be computed as any part of such draught. For engrossing every decree, including all reports, orders, and other proceedings, records, and writings inserted therein, for each sheet containing ninety words, and including parchment, 12½ cents; for entering every dismission, 50 cents; for examining and signing every decree, and attending the chancellor to get the same signed by him, $1; for searching for any order or decree, for every year in which such search is made, six cents; for entering all attachments and proclamations, 9 cents for each person; for entering every amercement, 19 cents; for entering an appearance upon process of contempt, 12½ cents; for engrossing all depositions, exhibits, records, and pleadings to be exemplified, for each sheet containing ninety words, 9 cents.

The Clerk's Fees.—For sealing every writ, 25 cents; for drawing and engrossing every subpœna or attachment, including parchment, 62½ cents; for drawing all other writs and commissions, when done by him, for every sheet containing ninety words, 19 cents; and engrossing, when done by him, for each sheet, including parchment, 12½ cents; for entering the defendant's appearance

and certificate thereof, and serving the same, 25 cents; and if two or more defendants appear at one time, no more than one fee for entering and certifying their appearance shall be allowed; for copies of all bills, answers, and other pleadings whatsoever, for each sheet, containing ninety words, six cents; for meeting to settle commissioners, on joining in commission, fifty cents; for every certificate that pleadings are filed, costs of contempt paid, or other matter necessary to be certified, twelve-and-a-half cents; for filing every bill, answer, plea, replication, rejoinder, demurrer, or other pleading, 12½ cents; for entering a rule to answer, reply, or rejoin, or other rule in the rule book, and copy thereof, and serving on the clerk of the opposite party, 25 cents; for entering receipt of rule to answer, reply, or rejoin, or other rule in the rule book, and making and serving a copy of the rule on the solicitor, 25 cents; for searching for any bill, answer, or other pleading, for every year in which such search is made, 6 cents; for attending master with rule book, on taxing costs, 25 cents; for attending court on hearing with the pleadings, whether they are read or not, 50 cents.

The Examiner's Fees.—For taking the examination of every deponent, for each sheet containing ninety words, 25 cents; for making a fair copy of the same on paper for the witness to sign, for each sheet, 12 cents; for certifying every exhibit shown to a witness on his examination, 25 cents; for copies of all depositions, exhibits, and interrogatories, when required, for each sheet containing ninety words, 12 cents; for attending court with depositions and exhibits, $1; for administering an oath, or taking an affidavit, 12 cents and 5 mills.

The Counsel's Fees.—For a retaining fee in each cause, $3 75 cents; but a retaining fee shall not be taxed or allowed to the same person both as counsellor and solicitor in the same cause; for perusing and signing every bill, answer, plea, demurrer, and other special pleadings, interrogatories, and exceptions, if not done by the person acting as solicitor in the same cause, $2 50 cents; for every motion of course before the chancellor, 50 cents; but no motion to be allowed for common process, nor for rules to answer, reply, rejoin, produce, or examine witnesses, or for publication or the like, which are to be issued or entered of course by the clerks; for every special motion, $1 25 cents; for arguing every plea or demurrer, $3 75 cents; for arguing before the master upon exceptions, or other special matter, $2 50 cents; for arguing before the chancellor upon petition or exceptions, $2 50 cents; for arguing upon the final hearing of any cause, $5; but no cost to be taxed for more than one counsel in the same cause.

The Solicitor's Fees.—For a retaining fee in every cause, $2 50 cents; but when the same person acts as solicitor and counsel, no retaining fee to be allowed as solicitor; for drawing every bill, answer, plea, demurrer, replication, rejoinder, interrogatories, exceptions, and other proceedings, for each sheet containing ninety words, 19 cents; but no record, writing, report, order, or proceeding, to be inserted therein, *verbatim*, or *hæc verba*, shall be computed as any part of such draught; for all engrossments, including parchment, 12½ cents for each sheet containing ninety words, computing all records, writings, reports, orders, and proceedings inserted therein, and all copies on paper, 6 cents for each sheet as aforesaid; for attending the chancellor on petition, 50 cents; for attending the court upon hearing upon every argument, $1 25; for attending the register upon drawing decretal order, 50 cents; for attending the chancellor upon every common motion, 50 cents; for attending upon every special motion when argued, 75 cents; for serving every order, 19 cents; for giving notice of the examination of a witness, either before the examiner, or a master, or commissioners, 25 cents; for drawing instructions for the examination, 25 cents; for abbreviating every bill, answer, and other pleadings, and depositions, and exhibits, 3 cents for each sheet containing ninety words; for drawing brief for counsel, 19 cents for each sheet containing ninety words, and a copy thereof, 6 cents for each sheet as aforesaid; for drawing charge or discharge before a master, for each sheet containing ninety words, 19 cents; for attending the master upon any matter referred to him, 50 cents; for attending the master upon a summons, 50 cents; for attending on taxing costs, 50 cents; for copy of a bill of costs, to be taxed before a decree made, 37½ cents; after a decree, 75 cents; for drawing notice of every motion, copy, and service, 37½ cents.

The Fees of the Sergeant-at-Arms.—For taking a person into custody, $1; for mileage, for each mile going out only 12½ cents; for the return of an order or process, 12½ cents; for attendance at every final hearing, 37½ cents; for serving every summons to attend a master, 12½ cents; for taking bail upon attachment or other process, 75 cents; and every person in contempt, before being discharged, shall, besides other fees, pay the Sergeant-at-Arms 83 cents.

In the Supreme Court.

Fees to the Commissioner in the city of New York for acts done by him appertaining to the office of Chancellor and Judge of the Supreme Court.—For taking bail, 37½ cents; for allowing every writ of error, writ of privilege, *habeas corpus*, *procedendo*, *certiorari*, or prohibition, 37½ cents; for taking the acknowledgment of satisfaction out of court, 37½ cents; for taking the acknowledgment or proof of a deed or mortgage, 37½ cents—a lease and release to be considered as one deed; for admitting an infant by guardian or next friend, 25 cents; for taking the acknowledgment of a fine by *dedimus*, 50 cents; for examining and signing the indentures of a fine, 50 cents; for examining and signing the enrolments of the several parts of a fine, 25 cents for each roll: for examining and signing the enrolments of a recovery, 62½ cents; for examining and signing the exemplification of a fine or recovery, 62½ cents; for taking an affidavit, 12½ cents; for taking acknowledgment of a warrant of attorney for levying a fine or suffering a recov-

ery, or to prosecute or defend a real action 25 cents; for allowing a warrant of attorney in other cases, 12½ cents; for every attendance at his chamber on motion, or on examining a witness, 62½ cents; for every order or certificate upon the act concerning insolvent debtors, 37½ cents; for every warrant, order, report, or certificate, or appointment of trustees upon the act relative to absconding or absent debtors, 37½ cents; to a commissioner for taking every affidavit to be read in the supreme court, 12½ cents.

In the Court of Errors and Supreme Court.

Counsel's Fees.—For perusing and amending every special pleading and entry, $1 25; for assisting on special motions, $1 25; for attending the court of errors to make or oppose a motion, $1 25; for trial of a cause, or arguing a demurrer or a special verdict, or in error, $3 75; but no costs shall be taxed for counsel in any cause but where counsel is actually employed, and then only for one counsel.

Attorney's Fees.—For a retaining fee, $3 62½ cts; but where several suits are brought upon one bond, note, or bill of exchange, no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail bond, or to the defendant's attorney, upon confessing judgment on a bond by virtue of a warrant of attorney; for drawing a copy of a warrant of attorney, 12½ cents; for every term, a term fee of 62½ cents, but no more than three to be allowed in any cause; for drawing all process and returns, admissions of guardians or next friends, all recognisances of bail, pleadings, adjournments, suggestions, special verdicts, demurrers to evidence, and other necessary entries, records, bonds to prosecute, and affidavits, 19 cents for each sheet containing seventy-two words; but no record, writ, return, pleading, bond, covenant, or other writing, to be inserted, *verbatim*, or *in hæc verba*, shall be computed as any part of draught; for engrossing the same, including parchment where used, and computing all records, writs, returns, pleadings, bonds, covenants, and other writing, inserted therein, 12½ cents for each sheet, containing seventy-two words, except that, for such engrossments as were formerly used to be made on paper, there shall be allowed only 6 cents for each sheet; for every necessary motion, 62½ cents; but no motion to be allowed upon judgment by confession, by virtue of a warrant of attorney, where no suit is brought either for entering the action, or a rule to plead; for every attendance before the court of errors in order to make a motion, or to oppose a motion, 62½ cents; for arguing every special motion, $1 25; for a fee on trial, inquest, or assessment of damages by the clerk, $1 50; for drawing every *postea*, 75 cents; for arguing demurrer, special verdict, or in error, $3 75; for drawing a brief, and a copy or copies thereof, $1 12½ cents; for drawing up a judgment, 75 cents; for entering the judgment on the roll, 37½ cents; for every notice, copy, and service on the opposite party, or his attorney, 25 cents; for copy and service of notice of trial on the clerk, 25 cents; for making a note of the issue for the judges, to be served on the clerk, with a copy of the notice of trial, and for copy and service, 37½ cents; for attendance on balloting or striking a jury, or both, 62½ cents; for attendance on examining a witness out of court, 25 cents; for attendance on taxing a bill of costs, 25 cents; for serving a certified copy of a rule, or a copy of a declaration, with a certified copy of a rule to plead, 19 cents; for copy of a bill of costs to be taxed, delivered to the opposite party or his attorney; if before issue joined or judgment, 37½ cents; if after, 75 cents; and no more than one writ of execution shall be taxed in any case.

Fees of the Clerk of the Supreme Court in civil causes.—For sealing a writ, entering the same, filing the precipe, and entering on the docket, 12½ cents; filing a declaration or other pleading, 12½ cents; entering an appearance or default, 12½ cents; entering every rule, 19 cents, a certified copy of a rule when required, 12½ cents; every report of damages assessed by him $1; entering every nonsuit, 19 cents; calling and swearing every jury, 25 cents; entering the return of a writ and filing the writ, 12½ cents; filing a writ of error, *habeas corpus*, or *certiorari*, with the return thereof, 12½ cents; swearing each witness, 6 cents; swearing a constable to attend a jury, 6 cents; reading every writing given in evidence, 12½ cents; filing every roll, 12½ cents; docketing a judgment, 25 cents; taking a verdict and entering the same in the minutes, 19 cents; entering a judgment, 19 cents; entering or filing a *retraxit* or discontinuance, 12½ cents; drawing and engrossing exemplifications of records, for each sheet containing seventy-two words, 12½ cents; for copies of records and pleadings, for each sheet containing seventy-two words, 9 cents; attending and striking a special jury, and delivering a copy of the panel to each party, 75 cents; copies of records to be returned upon writs of error, for each sheet containing seventy-two words, 12½ cents; filing an affidavit or other paper on request, 9 cents; entering satisfaction on record, 19 cents; searching the records in any one year, 12½ cents, and for every other year in which search is made, 3 cents; searching for a judgment, for every term in which such search is made, 6 cents; entering confession of lease, entry, and ouster, 19 cents; reading and entering a *postea*, 25 cents; swearing each witness to a will, 12½ cents; drawing the proof of wills and codicils, for each sheet containing seventy-two words, 19 cents; recording a will or codicil, and the proof as by law directed, 19 cents for each sheet containing one hundred and twenty-eight words; and for copies thereof, when required, 12½ cents for each sheet containing one hundred and twenty-eight words; examining and signing a note of a fine, 12½ cents; examining and signing the indentures of a fine, 37½ cents; making, entering, and endorsing each proclamation of a fine, 37½ cents; attending and examining the enrolment of the several parts of a fine, 62½ cents; examining and signing, and affixing the seal to the exemplification of a fine or recovery, 62½ cents; signing a judgment, 25 cents; and taxing every bill of costs, 50 cents.

Fees of the Clerks of the Supreme Court in criminal causes, (not capital,) where the service is done at the request of the defendant, but no fees to be allowed in any other case.—For entering an appearance, 12½ cents; entering the discharge of a person upon bail, 12½ cents; entering an imparlance, 12½ cents; entering or filing a plea, 12½ cents; reading a record or other writing given in evidence, 12½ cents; swearing a witness, 6 cents; respiting a recognisance 6 cents; taking a recognisance in court, and entering thereof, 37½ cents; copies of all indictments, informations, and pleadings when required, for each sheet of seventy-two words, 9 cents; entering a relinquishment of a plea, 12½ cents; entering a submission, 12½ cents; every subpœna for witnesses, 28 cents; entering an order or rule of court, 19 cents; a copy of an order or rule of court, 12½ cents; taking and entering a verdict when for the defendant, 19 cents; taxing and copying a special verdict, for each sheet containing seventy-two words, 19 cents; entering a judgment for defendant, 25 cents; reading and entering the allowance of a pardon or warrant of *nolle prosequi*, or *cessat processus*, 37½ cents.

Fees of the respective Clerks of the Circuit Courts and Sittings.—For entering in the judge's book every cause noticed for trial, 25 cents; filing every *nisi prius* record, 12½ cents; entering every rule, 19 cents; a copy of a rule, 12½ cents; entering confession of lease, entry, and ouster, 19 cents; for calling and swearing a jury, 25 cents; swearing each witness, 6 cents; swearing a constable to attend a jury, 6 cents; reading every deed and writing given in evidence, 12½ cents; filing a plea or bill of exceptions, 12½ cents; copies thereof, for each sheet containing seventy-two words, 6 cents; taking and entering a verdict, 19 cents; a certified copy of the minutes of a trial, 25 cents; copies, if required, of original writings read in evidence on the part of the defendant in cases of special verdict or demurrer to evidence, 9 cents for each sheet containing seventy-two words; entering every nonsuit, 19 cents; entering every appearance or default, 12½ cents; and $2 50 in each cause noticed for trial, and not countermanded in due time, in lieu of all travelling charges.

Fees of the Clerk of each Circuit Court in the Oyer and Terminer and General Jail Delivery.—For entering an appearance, 12½ cents; a subpœna, 25 cents; entering an order or rule of court, 20 cents; a copy of an order or rule of court, 12½ cents; entering a *nolle prosequi* or *cessat processus*, 20 cents; reading and entering an allowance of a pardon, 25 cents; swearing a witness, 6 cents; reading every paper given in evidence 12½ cents; respiting a recognisance, 6 cents; discharging a defendant by proclamation, 12½ cents; entering defendant's confession, 12½ cents; entering or filing defendant's plea, 12½ cents; taking a recognisance, 37½ cents; entering relinquishment of plea, 12½ cents; taking and entering verdict when for the defendant, 20 cents; taking and entering special verdict, for each sheet containing seventy-two words, 20 cents; copies of records, indictments, informations, and pleadings, when required, for each sheet containing seventy-two words, 9 cents; entering allowance of *habeas corpus*, writ of error, or *certiorara*, and returning the same, 50 cents.

Sheriff's Fees in the Supreme Court.—For serving a writ, 56 cents; every mile going, only 6 cents, to be computed in the county of Tioga from the bridge commonly called Nanticoke bridge, in the town of Union, and in every other county from the sheriff's place of abode, except where it is otherwise fixed by law; a bail bond, or a defendant's appearance endorsed, 37½ cents; returning a writ, if served, 12½ cents; every demand of a defendant, upon an exigent, and every proclamation upon a writ of proclamation, or in a real action, 12½ cents; summoning a jury, $1; a copy of the panel of jurors, 12½ cents; serving an execution for or under two hundred and fifty dollars, 2 cents and 4 mills per dollar; and for every dollar more than two hundred and fifty, 1 cent and 2 mills; the poundage on writs of *fieri facias*, and all other writs for levying moneys, to be taken only for the sum levied; advertising lands or tenements for sale on any execution, $1 87½, to be recovered in like manner as his poundage; and half that sum, if such execution be stayed or settled after advertising and before the sale; and no further sum shall be demanded for continuing such advertisement more than six weeks; for serving a writ of possession or restitution, without the aid of the posse comitatus, $1 25; and with the aid of the posse comitatus, $3 75; and mileage for every mile from the place fixed by law, 6 cents; every person committed to prison, 37½ cents; discharging every person from prison, 37½ cents; bringing up a prisoner by *habeas corpus* in civil causes, $1 50; and mileage for every mile from the jail, 12½ cents; executing a writ of inquiry, summoning the jury for that purpose, and returning the inquisition, $1 50; attending a view, $1 87½ per day; and going and returning, $1 25 per day; attending with a prisoner before a judge, on his being surrendered by his bail, and for receiving the prisoner in custody, $1; summoning the jury to inquire of a forcible entry or detainer, $2 50; copy of every writ, when demanded, 19 cents; serving an attachment against the estate of an absconding or absent debtor, so much as the judge who issued the warrant shall certify to be reasonable; serving a notification issued by the comptroller on any person to account for moneys received to the use of the people of this State, the like fees as on serving common process; and all services done by them in their offices for the public, whether in the supreme court or elsewhere, the like fees as are allowed for the like services in causes between private parties: *Provided*, That no sheriff shall be allowed any fee for the service or execution of any mesne process returnable on the first day of any term, unless the same shall be returned during such term, nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

The Crier's Fees in the Supreme Court.—For calling every action, 9 cents; ringing the bell for each action in court, 12½ cents; calling the jury.

12½ cents; swearing a witness, 6 cents; making proclamation for the discharge of any person, 9 cents; calling the plaintiff on a nonsuit, 9 cents; calling the defendant on a default, 9 cents; calling the defendant on a recognisance, 9 cents; every proclamation upon a fine, 9 cents.

The Juror's Fees in the Supreme Court, Circuit Courts and Sittings.—For every juror, in each action in which he is sworn, 12½ cents, if in the city and county of New York; and in any other city or county, 25 cents; every juror coming to and attending a view, and returning, 75 cents per day; every struck juror, or juror from a foreign county, coming to and attending at court and returning, 75 cents per day.

Fees to the Attorney General.—For his services on occasions where he may attend on behalf of the people of this State, without the State of New York, at the rate of $5 50 per day, besides all charges for expenditures and disbursements necessarily incurred by him in or about the prosecution or defence of any action, right, or claim, in which the people of this State may be interested; and the like sum per day for his services in attending any court of oyer and terminer any jail delivery in any county of this State, other than the city and county of this State, other than the city and county of New York, at the request of the person administering the government of this State, or of a judge of the supreme court.

Fees to the District Attorneys.—For drawing every precept and every indictment, including such as may be prepared by the direction of the grand jury, although afterwards not finally agreed to by them, at the court of oyer and terminer or jail delivery, and general sessions of the peace, 19 cents for drawing per folio; and for engrossing, 12½ cents per folio; process of subpœna actually made out and issued, 25 cents for every subpœna; for process actually made out and issued to bring in the defendants, 25 cents on each indictment; arguing the matter where the defendant shall submit, $1 25 cents; every trial, or arguing a demurrer, or in opposition to a motion in arrest of judgment, in the court of oyer and terminer or jail delivery, and general sessions of the peace, $4; the proceedings in outlawry, $12 50 cents for each defendant outlawed; and at the rate of 15 cents per mile, to be computed from their respective places of residence, for going to and returning from each court they shall attend; a transcript certified into the court of exchequer, 25 cents for each defendant named therein; making up a record by order of a judge, 19 cents for the draught, and 12½ cents for the copy, for each sheet containing seventy-two words, and the like compensation, if made up at the instance of a defendant, but then to be paid for by such defendant; and for their services at any court at which the attorney general shall also attend, at the request of the person administering the government of this State, or a judge of the supreme court, $5 for every day they shall so attend.

In the Court of Common Pleas and Mayor's Court.

Fees to the First Judge.—For a license to an attorney, $1;

Fees to the Recorder in the several Mayor's Courts.—For the first motion in every cause, 75 cents.

Fees to be divided among the Judges who are present when the service is done.—For the first motion in every cause in the court of common pleas, 37½ cents; admitting a person to practise as an attorney, 1 87½ cents; admitting a guardian on the act for the partition of lands, 25 cents.

Fees to be paid to the Judge, Mayor, or Recorder, who does the service.—For admitting an infant by guardian or next friend, 19 cents; taking bail in his own court, 25 cents; in the supreme court, 37½ cents; taking acknowledgment of satisfaction out of court, 12½ cents; attending or showing cause of action, or other special matter out of court, 25 cents; taking an affidavit, 12½ cents; allowing a warrant of attorney, 12½ cents; taking and drawing acknowledgment or proof of a deed of mortgage, lease and release to be considered as one deed, 37½ cents; a certificate or order concerning an insolvent debtor, 37½ cents; for a warrant, order, report, certificate, or appointment of trustees, in pursuance of the act concerning absconding and absent debtors, 37½ cents; signing a judgment, 12½ cents; taxing a bill of costs, 25 cents; but no judgment shall be signed or taxation of costs made by any assistant judge of any court.

Fees of Justices of the Peace.—For a precept to summon a jury to inquire of a forcible entry or detainer, 37½ cents; administering an oath, 12½ cents; swearing a jury to inquire of a forcible entry or detainer, 25 cents; a precept to summon a jury to try a traverse of the force, 37½ cents; swearing a jury to try the traverse, 25 cents; drawing the conviction on a forcible entry or detainer, $1; a warrant of restitution, 37½ cents; a *mittimus* for a fine or forfeiture, 19 cents; a warrant against any person for a breach of the peace or misdemeanor, 19 cents; a bond or recognisance, 25 cents; a summons upon a penal law, 12½ cents; drawing a conviction, 37½ cents; a warrant to levy a penalty, 19 cents.

The Attorney's Fees in the Court of Common Pleas and Mayor's Court.—For a retaining fee, $2 50 cents; but where several suits are brought upon one obligation, note, or bill of exchange, no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail bond, or to the defendant's attorney upon confessing judgment on a bond by virtue of a warrant of attorney; for a warrant of attorney, 12½ cents; drawing a copy of a plaint, 19 cents; every necessary motion, 25 cents; drawing a declaration, 75 cents; copy of a declaration, 37½ cents; drawing a plea, 25 cents; copy thereof, 12½ cents; drawing all other pleading, 12½ cents; for each sheet containing seventy-two words, and for a copy thereof, 6 cents for each sheet; drawing a writ of inquiry and copy, $1 12½ cents; drawing every notice of trial, copy and service, 25 cents; copy and serving on the judge or judges, 12½ cents; drawing every other notice, copy, and service, 19 cents; drawing a brief for a trial, or inquest, and copy, 75 cents; fee on trial, or for arguing demurrer, or special verdict, $2; fee on inquest or assessment of damages by the clerk, $1; attendance on a judge on examining a witness, or showing cause of action, or to mitigate bail, or other special matter, 25 cents; attendance on taxing costs, 25 cents; copy of a bill of costs to be taxed for the opposite party or his attorney, when required, 25 cents; drawing and copy of record of judgment, $1 50 cents.

Fees of the Clerks of the Court of Common Pleas and Mayor's Court.—For every writ of *capias*, entering the action and seal, 25 cents; a bond given by the plaintiff to prosecute when necessary, 25 cents; copy of a declaration, when required, 37½ cents; for copies of all other pleadings, when required, 6 cents for every sheet of seventy-two words; filing every declaration or other pleading or paper, 6 cents; entering a *retraxit*, or discontinuance, or satisfaction, 12½ cents; entering every rule, 12½ cents; and for a copy thereof, when required, 12½ cents; attending the striking or balloting a jury, or both, and making a copy of the panel for each party, 50 cents; entering an appearance or default, 6 cents; entering the return of every writ, 6 cents; and filling the writ 6 cents; drawing special bail, when he does it, 12½ cents; reading and entering allowance of *habeas corpus*, writ of error, or *certiorari*, and for the return thereof, 50 cents; a *venire*, or other jury process and seal, 37½ cents; a subpœna, 25 cents; calling a panel and swearing a jury, 19 cents; swearing each witness on trial, 6 cents; and swearing a constable, 6 cents; reading every paper given in evidence, 6 cents; receiving and entering a verdict, 12½ cents; entering judgment, 12½ cents; sealing a writ of inquiry, 19 cents; every report of damages assessed by him, $1; drawing a jury and making a panel at the instance of the sheriff or other proper officer, on jury process, 75 cents; making and returning a book of freeholders for striking a jury, $3 75 cents; an execution and seal, 37½ cents; entering recognisance of bail on record, 25 cents; drawing and copy of a record of judgment, when done by him, $1 50 cents; and for a copy to be signed when the attorney makes the draught, 75 cents; searching the records in any one year, 12½ cents; and for every other year in which search is made, 3 cents; for swearing each witness to a will or codicil, 6 cents; docketing a judgment, 12½ cents; filing a record 6 cents; searching for a judgment in one term, 12½ cents; and in every other term in which such search is made, 6 cents; drawing the proof of wills or codicils, 12½ cents for each sheet of seventy-two words; recording deeds, wills, and codicils, and the proof thereof required by law, 19 cents for each sheet containing one hundred and twenty-eight words; and for copies thereof, when required, 12½ cents for each sheet containing one hundred and twenty-eight words; entering or registering each mortgage, $1; entering satisfaction on every mortgage, 25 cents.

And the said clerk, as clerk of the general sessions of the peace, shall be entitled to the same fees for the like services as he is entitled to receive as clerk of the oyer and terminer and general jail delivery; and no person being bound by recognisance to appear and answer, or indicted and fined either in the supreme court or any court of oyer and terminer and jail delivery, or general sessions of the peace, shall be discharged until such person shall have paid the fees of the clerks of the said courts respectively.

The Sheriff's Fees in the Court of Common Pleas and Mayor's Court.—For serving a writ, 37½ cents; mileage to be computed as in the supreme court, 6 cents per mile; every bail bond, 37½ cents; returning a writ, if served, 9 cents; summoning a jury, 75 cents; a copy of the panel of the jurors, 12 cents; attending a view, $1 25 cents per day, and going and returning $1 per day; every demand of a defendant upon an exigent, and every proclamation on a writ of proclamation or in a real action, 12½ cents; for serving an execution for or under two hundred and fifty dollars, 6 cents for every two dollars and fifty cents; and for every two dollars and fifty cents more, 3 cents; the poundage on writs of *fieri facias*, and all other writs for levying money to be taken only on the sum levied; for serving a writ of possession or restitution, with the aid of the posse comitatus, $2 50 cents; and without such aid, $1 25 cents; and mileage, going only, for every mile from the place fixed by law 6 cents; for every person committed to prison, 37½ cents; for discharging every person from prison, 37½ cents; for executing a writ of inquiry, summoning the jury for the purpose, and returning the inquisition, $1 50 cents; for attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving the prisoner into custody, 50 cents; for copy of every writ, when demanded, 12½ cents; for serving an attachment against the estate of an absconding or absent debtor, so much as the judge who issues the warrant shall certify to be reasonable.

Provided, That no sheriff shall be allowed any fee for the service or execution of any mesne process returnable on the first day of any term, unless the same shall be returned during such term; nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

The Crier's Fees in the Courts of Common Pleas, Sessions, and Mayor's Courts.—For calling every action, 9 cents; for calling a jury, 12½ cents; for calling and swearing a witness, 6 cents; for ringing the bell, for every action, 9 cents; for calling a defendant, 6 cents; for calling a plaintiff, on a nonsuit, 6 cents; for making proclamation for the discharge of any person, 6 cents; for calling any person on recognisance, 6 cents.

The Coroner's Fees.—For the view of each body, $3 75: *Provided*, That in Richmond county the coroner's fees shall be no more than $2 50; for serving writs in all cases the like fees as are hereinbefore allowed to the sheriff for the like service; and the fees of the coroner for taking inquests in each county shall be certified by at least two of the supervisors, and paid by the treasurer of the county; and in the city of New York, the same shall be paid in the same manner as the

other contingent charges in the said city are directed to be paid.

The Juror's Fees in the Common Pleas and Mayor's Courts.—For every juror sworn in each action in the mayor's court of the city and county of New York, 12½ cents; and in any other court of common pleas or mayor's court, 25 cents; for each juror attending a view, 50 cents per day; for every struck juror, 75 cents per day.

The Constable's Fees.—For serving a warrant, 19 cents; for serving a summons, 12½ cents; for mileage, for every mile, going only, 6 cents; for levying a fine or penalty to the amount of two dollars and fifty cents or under, 12½ cents; and on all sums above two dollars and fifty cents at the rate of 12½ cents on every two dollars and fifty cents; for taking a defendant in custody on a *mittimus*, 12½ cents; for conveying a person to jail, 12½ cents if within one mile, and for every mile more, going only, 6 cents.

Fees of the Court of Probates.—For administering an oath, 12½ cents; for drawing the proof of a will or codicil, 19 cents for each sheet containing one hundred and twenty-eight words; for the probate of a will and the letters testamentary thereon, or letters of administration, 19 cents for each sheet of one hundred and twenty-eight words; for affixing the seal to the same, 75 cents; for drawing and copy of bond on granting letters of administration, 50 cents; for recording wills, codicils, and the proof thereof, and letters testamentary, and letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for entering and filing a *caveat*, 19 cents; for a citation to witnesses, or for any other purposes, including the seal, 75 cents; for taking, and entering, and filing a renunciation, 37½ cents; for filing an inventory, 12½ cents; for searching the records in his office in any one year, 12½ cents; and for every other year in which such search is made, 6 cents; for filing a petition, 12½ cents; for making and entering every order, 75 cents; for taking depositions, 19 cents for each sheet containing one hundred and twenty-eight words; for copies of all records, depositions, or other pleadings, when required, 12½ cents for each sheet containing one hundred and twenty-eight words; for every decree or sentence in suits for legacies, or distributions, or order for the sale of any real estate, $3 75 cents; for an execution, $1 25 cents; for hearing and determining where a will or administration is contested or upon appeal, $2 50 cents; for the seal to exemplifications, 75 cents.

Fees of the Surrogates.—For administering an oath, 12½ cents; for drawing the proof of a will or codicil, 19 cents for each sheet containing one hundred and twenty-eight words; for the probate of a will and letters testamentary thereon, or letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for the seal to the same, 75 cents; for the bond upon granting letters of administration, 50 cents; for recording wills, codicils, and the proof thereof, and letters testamentary, and letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for entering and filing a *caveat*, 19 cents; for filing every petition for the sale of any real estate, 12½ cents; for making and entering every order thereon, 75 cents; for every decree or order for the sale of any real estate, $3 75 cents; for a citation for witnesses, or any other purpose, including the seal, 75 cents; for taking, entering, and filing a renunciation, 37½ cents; for filing an inventory, 12½ cents; for searching the records in his office for any one year, 12½ cents; and for every other year in which said search is made, 6 cents; for taking depositions, 19 cents, each sheet containing one hundred and twenty-eight words; for copies of records or depositions, when required, 12½ cents for each sheet containing one hundred and twenty-eight words; for hearing and determining where a will or administration is contested, $2 50 cents; for the seal to exemplifications, 75 cents; but no fees shall be demanded or taken by any surrogate in any case where it shall appear to him, by the oath of the person applying for letters testamentary or of administration, that the goods, chattels, and credits of the testator or intestate do not exceed the value of $37 50.

Witnesses' Fees in the several Courts, and the charges of summoning them.—For each witness attending in his own county, 25 cents per day, besides his reasonable expenses; for attending from a foreign county, and coming and returning, 50 cents per day, besides his reasonable expenses; for the judge of the court of probates, the Secretary of State, or any clerk or surrogate attending on subpœna with wills, records, or other written evidence, $1 25 cents per day; for every surveyor, for going to and returning from a view, and going to, attending at, and returning from the trial, $1 25 cents per day; and for his actual service on the view, $2 50 cents per day; for serving a subpœna on each witness, 12½ cents.

Fees to be paid to the Secretary—Who shall keep an account of such fees, and exhibit the same quarter-yearly to the Comptroller of this State, who shall examine and file the same in his office, and certify the amount thereof to the treasurer, and the said Secretary shall pay the same to the treasurer:

For writing a *caveat*, 12½ cents; for searching the records in his office for any one year, 12½ cents; and for every other year in which such search is made, 6 cents; for copies of records, 12½ cents for each sheet containing one hundred and twenty-eight words; for every patent for lands, for a single lot, the sum of eight shillings; for each patent for more than one and less than four, the sum of twelve shillings for each patent; for more than three, and less than nine lots, the sum of sixteen shillings; and for each patent, for more than eight lots, the sum of twenty-four shillings; which fees shall be paid by the person of persons in whose favor any patent or patents shall issue.

Sec. 2. *And be it further enacted*, That no person empowered to administer oaths shall demand or take any fee for administering the oath of allegiance or oaths of office to the members of the Legislature, nor more than twenty-five cents for administering such oaths to any officer.

Sec. 3. *And be it further enacted*, That whenever the same person shall act as attorney and counsel, or as solicitor and counsel in the same cause, he shall not be entitled for the same service to fees, both as counsel and attorney, or as counsel and solicitor, but shall be allowed the fees of counsel only, in the courts of common law and chancery, for the particular service done as counsel; and the fees of an attorney or solicitor only for the particular service done as attorney or solicitor, and shall not, in any such case, be allowed any fees for attending upon or consulting with counsel, or for any copies of papers, pleadings, or records, for counsel.

Sec. 4. *And be it further enacted*, That if any person shall, knowingly or wilfully, exact or compel any person to pay for any of the services aforesaid any other or greater fee, sum of money, or reward, than is hereinbefore allowed for the same, every such person, upon conviction thereof, either at the suit of the party grieved, or upon information or indictment, shall pay to the party grieved treble damages, and such fine to the people of the State of New York as the court in which such conviction shall be had shall think proper to impose, and shall, also, if an officer, forfeit and lose his office.

Sec. 5. *And be it further enacted*, That all former acts regulating the fees of the said several officers and ministers of justice, shall be, and the same are hereby repealed.

STATE OF NEW JERSEY.

An Act to regulate Fees.

Section 1. *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That a sheet or folio shall contain one hundred words; and in all cases where an entry of any writing or copy is to be paid for, the said sheet shall consist of one hundred words.

Sec. 2 *And be it enacted*, That the officers and persons in this act named shall be entitled to demand and receive, for the services hereinafter mentioned, the fees thereto respectively annexed, and no more.

The Governor.—For a license of marriage, hand and seal, $1 34; for the seal to every probate of a will or letter of administration, $1 20; for every writ of error or other original writ, 40 cents; for the first rule in every cause in error, $1; for every judgment in a cause in error, $1; for a license to an attorney and solicitor, $3; for a license to a counsellor at law, $3; for the seal to a sheriff's commission, $1; for the seal to a commission for a clerk of any court, $1; for the seal to every certificate, exemplification, or other paper, $1 20.

Fees of the Court of Errors.

The Clerk's Fees.—For reading and filing the writ, return, and record, 34 cents; for filing every affidavit or other proceeding, 12 cents; for entering every rule, 20 cents; for every certified copy of a rule, 20 cents; for entering every appearance, 12 cents; for entering every judgment, 25 cents; for entering every judgment and *remittitur* on the roll, for each sheet, 12 cents; for the seal to any record or process, 50 cents; for copies of records, pleadings, and other proceedings, for each sheet, 9 cents; for taxing a bill of costs, 50 cents.

The Fees of the Secretary of this State.—For every order, warrant, or certificate, under the Governor's hand and seal, countersigned by the Secretary, 40 cents; for entering deeds and other writings on the record, for each sheet, 5 cents; for every copy of the same, and other papers in his office, for every sheet, 5 cents; for a commission for a sheriff, $1 34; for a commission for a clerk in any court, $1 34; for searching the records, for every book, 7 cents; for a license to an attorney and solicitor, $3; for a license to a counsellor at law, $3; and for every other commission to be paid by the treasurer of this State, 25 cents; for drawing a certificate to pass under the great seal or any other seal, and engrossing the same, for each sheet, 12 cents.

Fees of the Prerogative Office.

For engrossing a last testament and will and probate, for each sheet, 12 cents; for engrossing letters of administration, for each sheet, 12 cents; for recording last testaments and wills, and letters of administration, for each sheet, 8 cents; for filing every last testament and will, 10 cents; for recording inventory, for each sheet, 8 cents; for filing inventory, 8 cents; for every bond taken in the office, 34 cents; for every marriage license, $1 20; for entering and filing *caveat*, 20 cents; for searching the records for any one year, 12 cents.

Fees of the Prerogative Court.

The Ordinary.—For making every order or rule, $1; for the seal to citation, monition, or process, 50 cents; for hearing and determining every appeal, $4.

The Register.—For drawing citation, monition, or process, $1; for entering every order or rule of court, 20 cents; for copy thereof, 14 cents; for entering and filing appeal, 20 cents; for filing every petition, pleading, or other paper, 14 cents; for reading the same, 14 cents.

Fees of the Court of Chancery.

The Chancellor's Fees.—For seal to every common writ, 40 cents; for every opinion or order on a petition or motion controverted and argued in court, $1 34; for every order on petition out of court, 66 cents; for every common motion, 75 cents; for every dismission of a bill for want of prosecution, $1 34; for every decree, $2 50.

The Fees of Masters.—For every summons, 40 cents; for copy of all charges and discharges brought before the master, and scheduling writings, for each sheet, 10 cents; for every report in pursuance of an order made upon hearing a cause, $1 34; for every other report made upon petition or motion only, 67 cents; for drawing every report, for each sheet, 14 cents; swearing a defend-

ant to an answer or plea, or taking an affidavit, 20 cents.

Clerk's Fees.—For entering action, 20 cents; for entering appearance of the defendant, 20 cts.; for filing every bill, answer, plea, replication, and other pleading, and every affidavit, petition, report, examination, deposition, or other paper, 12 cents; for copy of the same, for each sheet, 8 cents; for entering rule to answer, reply, or other rule in a cause, 20 cents; for copy thereof, 12 cents; for searching for any bill, answer, pleading, or other paper, for every year in which such search is made, 8 cents; for entry of every dismission, 50 cents; for every commission to examine witnesses, $1 34; for entering a cause for argument or hearing, 50 cents; for swearing every witness 8 cents; for attending court on argument or hearing with the bill, answer, pleadings, and other documents and papers filed in the cause, 50 cents; for reading every bill, answer, or other pleading, document, or paper on argument or hearing, 20 cents; for money brought into court by order, and lodged with him, after the rate of one cent per dollar.

Examiner's Fees.—Taking the examination of every witness, for each sheet, 20 cents; certifying every exhibit shown to a witness, 30 cents.

Fees of Solicitor and Counsel.—For a retaining fee, $2; drawing every bill, answer, plea, demurrer, replication, and other pleading, and drawing exceptions and other proceedings, for each sheet, 20 cents; engrossing the same, for each sheet, 10 cents; drawing and engrossing every subpœna or attachment, 70 cents; drawing other process or writs, for each sheet, 20 cents; drawing notice of every motion, copy, and service, 40 cents; every motion of course, 80 cents; but no motion to be allowed for common process, nor for rules to answer, reply, or the like, which are to be entered of course by the clerk; every special motion, $1 50; counsel arguing every plea or demurrer, or upon petition, or exceptions, or other special matter, $3; counsel arguing upon the final hearing, $4; but no costs to be taxed for more than one counsel in a cause; drawing every decree, for each sheet, 20 cents; engrossing the same, for each sheet, 12 cents; for copy of every bill of costs to be taxed before a decree, 20 cents; copy of every bill of costs to be taxed after a decree, 30 cents; every term fee, 80 cents; but no more than three term fees to be allowed in any cause.

Sheriff's Fees.—To be the same as for the like services in the supreme court.

Fees of the Sergeant-at-arms in the Court of Chancery.—For attending the court at each of its stated terms, for every day, to be paid by the treasurer, $1; for attending every special sitting for the argument of any plea or demurrer in any cause or causes, to be paid by the party or parties applying for such special sitting and to be taxed to him or them in his or their bill of costs if costs shall be adjudged, $1.

In the Supreme Court.

Fees to be divided among the Judges who are attending court when the service is performed.—For a license to an attorney and solicitor, $3; for a license to a counsel, $3; for the first motion in every cause, 80 cents; for the trial or argument of every cause, $1; for assessment of damages, $1; for every recognisance, 40 cents; for every rule in a cause, 34 cents.

Fees to be paid to the Judge who shall perform the service.—For drawing order for bail, 40 cents; for every justification or disallowance of bail, 40 cents; for taking every affidavit, 14 cents; for allowing every writ of error, *habeas corpus*, *certiorari*, prohibition, *procedendo*, *supersedeas*, or other writ, where an allowance is necessary, 50 cents; for making a return of a writ of error, examining and annexing a transcript of the record thereto, and delivering the same to the court of appeals, $3; for signing and returning *postea*, $1; for order of commitment of every person surrendered by or in discharge of his bail 40 cts.; for signing judgment 50 cents.

Counsel's Fees in the Court of Appeals and Supreme Court.—For trial of a case, or arguing a demurrer or special verdict, $3; but no costs to be taxed for more than one counsel on each side; for attending the court of appeals to make or oppose a motion, $1 50.

Fees of Attorneys-at-law.—For a retaining fee in each cause, except in ejectment, $1; for drawing every summons, *capias*, or other mesne process, 34 cents; for drawing a warrant of attorney, 10 cents; for copy thereof, 7 cents; for drawing every affidavit, 14 cents; for copy of the same, when necessary, 7 cents; for drawing special bail-piece and attending the judge, 40 cents; for drawing notice of justification of bail, 30 cents; for copy and service thereof, 20 cents; for every declaration, plea, or other pleading, not exceeding three sheets, 70 cents; for copy thereof, when necessary, 30 cents; for every writ of error, dower, replevin, *habeas corpus*, *certiorari*, prohibition, *procedendo*, *scire facias*, *venire*, or *distringas*, 60 cents; for every declaration, plea, replication, or other pleading, exceeding three sheets, for every sheet, 20 cents; for copy thereof 12 cents; for copy of bond, note of hand, account, or other deed or writing, for every sheet, 9 cents; for every special motion, not exceeding two in any cause, 80 cents; for every subpœna, 34 cents; for every ticket for the same, 10 cents; for drawing notice of every motion, where notice of the same is necessary, 25 cents; for copy and service thereof, 20 cents; for attendance on striking a jury, $1; for drawing notice of trial, 25 cents; for copy and service thereof, 20 cents; for drawing every *breviat* 40 cents; for copy thereof, 14 cents; for arguing every special motion, $1 25; for arguing demurrer or special verdict, or trying every cause, except a cause in ejectment, $2; for drawing notice of taxing costs, where necessary, 25 cents; for copy and service thereof, 20 cents; for drawing *capias ad satisfaciendum*, 50 cents; for drawing execution against goods and chattels, 50 cents; for drawing execution against goods and lands, 70 cents; for term fee, 80 cents; but no more than two term fees to be allowed where judgment is entered by default, nor more than three in any case; for drawing declaration in ejectment, $1 50; for retaining fee in ejectment $1 50; for every attendance before the court of errors in order to make or oppose a motion, $1.

Fees of the Attorney General.—For every indictment to which the defendant or prisoner pleads guilty, $10; for every indictment to which the defendant or prisoner pleads guilty, and afterwards retracts his plea and pleads not guilty, $12; for every indictment to which the defendant or prisoner pleads not guilty, is tried, and found guilty $15; the above sums to be in full of the taxable costs and charges of the attorney general; but no costs shall be allowed where the indictment is quashed, the defendant is acquitted, or the judgment is arrested.

Fees of the Clerk of the Supreme Court in civil cases.—For drawing every summons, *capias*, subpœna, or other process, if he shall do it, 34 cents; for sealing every writ, 14 cents; for entering every action, 10 cents; for entering an appearance or default, 14 cents; for entering the return of a writ, 14 cents; for entering every rule of court, 16 cents; for a certified copy thereof, when required, 12 cents; for, filing every writ, declaration, pleading, roll, or other paper, 8 cents; for entering every *retraxit*, discontinuance, or nonsuit, 15 cents; for, reading every petition, and entering order thereon 20 cents; for every copy of such order 12 cents; for searching the records, 20 cents; for calling and swearing every jury, 40 cents; for swearing each witness 8 cents; for reading every record, deed, or writing, given in evidence, 14 cents; for swearing a constable to attend a jury, 8 cents; for taking a general verdict, and entering the same, 20 cents; for entering judgment, 12 cents; for entering every special verdict or demurrer to evidence, for each sheet, 12 cents; for copies of writs, declarations, pleadings, special verdicts, demurrers to evidence, records, and other papers, for each sheet, 8 cents; for reading and entering a *postea*, 20 cents; for entering satisfaction on record, 20 cents; for entering confession of lease, entry, and ouster, 20 cents; for recording every judgment in the book of judgments, $1; for taxing every bill of costs, 50 cents.

Fees of the Clerk of the Supreme Court, and of the Courts of Oyer and Terminer and General Jail Delivery, in criminal cases.—For entering every indictment and filing the same, 20 cents; for every process, subpœna, or other writ, 34 cents; for sealing the same, 14 cents; for every ticket for a subpœna, 10 cents; for entering an appearance or default, 14 cents; for entering a recognisance taken in court, 20 cents; for discharging by proclamation and entering the same, 20 cents; for entering and filing a plea, 14 cents; for entering a relinquishment of a plea 8 cents; for entering an order or rule of court, 16 cents; for a certified copy thereof, when required, 12 cents; for calling and swearing every jury, 40 cents; for swearing each witness, 8 cents; for reading every record, deed, or writing given in evidence, 14 cents; for swearing constable to attend jury, 8 cents; for taking and entering a general verdict, 20 cents; for entering every special verdict, for each sheet 12 cents; for entering judgment, 12 cents; for copies of writs, indictments, pleadings, special verdicts, and other papers, for each sheet, 8 cents; but no costs to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution; for taxing every bill of costs, 50 cents.

Fees of the Clerks of the Circuit Courts.—For entering every action, 10 cents; for filing every *nisi prius* record, 10 cents; for entering every nonsuit and rule, 10 cents; for a copy of a rule, 8 cents; for filing every *venire* or *distringas* and return, 10 cents; for entering every appearance or default, 10 cents; for entering confession of lease, entry, and ouster, 16 cents; for calling and swearing a jury, 30 cents; for swearing each witness, 8 cents; for reading every record, deed, or writing, given in evidence, 12 cents; for filing every bill of exceptions, 10 cents; for a copy thereof, for each sheet, 8 cents; for swearing a constable to attend a jury, 8 cents; for taking and entering a general verdict, 20 cents: for entering in the minutes every special verdict or demurrer to evidence, for each sheet, 12 cents; for copy thereof, for each sheet, 8 cents; for drawing *postea*, when a general verdict is found 70 cents; for taxing a bill of costs, 50 cents; for drawing *postea*, in case of a special verdict of demurrer to evidence, for each sheet, 8 cents.

Fees of Sheriffs.—For serving an attachment against the estate of an absconding or absent debtor, $2 50; for serving a *capias ad respondendum* or other mesne process, $1 50; for serving a *capias ad satisfaciendum*, $1 50; for returning every writ, 12 cents; for mileage on serving every writ, 2 cents, out and in, for every mile, to be computed from the court-house, but the whole mileage shall, in no case, exceed $2: *Provided*, That no mileage shall be allowed on a writ of *fieri facis*, partition, possession, restitution, *seisin*, *venire facias*, *distringas*, or inquiry; for serving every declaration in trespass and ejectment, and mileage as aforesaid, $2; for taking every bail bond in the supreme court, 70 cents; for taking every bail bond in the court of common pleas, 35 cents; for serving every *venire facias* or *distringas* and return, $1; for producing the list of freeholders, and attending the judge within the county, $2 70; and, if out of the county, 20 cents for every mile from the court-house of his county to the place where he shall attend the judge, in addition to the said fee of $2 70; for summoning a special jury, $2 70; for attending a jury of view, each day, $1 50; for executing every writ of partition, swearing the jury, and making return of the writ, $3; and, if the execution of the said writ shall occupy more time than one day, then, in addition to the above sum, he shall be allowed after the rate of $1 50 a day, for every day more that he shall attend the said jury; for executing every writ of possession and return, $2; for executing every writ of inquiry, summoning the jury, and returning the inquisition, $2; for serving every execution, if it be of or under one hundred dollars, $1; and if it be above that sum, 2 cents on every dollar, to be computed on the amount of the debt or damages paid

or secured to the plaintiff, by sale or otherwise; for advertising the property for sale, provided the sheriff attend in pursuance of the advertisement, $3 50; for the crier of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale, $1; for every adjournment of a sale, $1; but no more than one adjournment shall be allowed; and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending, and adjourning, as if he had but one execution; for a deed to a purchaser of real property, $2 50; for every person committed to prison, 25 cents; for discharging every person from prison, 12 cents; for victualling a prisoner for every day, 10 cents; for attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving him into custody, $1 50: That the sheriff shall file his taxed bill of costs with the clerk of the court, out of which execution issued, at the term next after the sale of the property, or, in default thereof he shall not be entitled to any costs; and, if any sheriff shall charge, in such bill of costs, for services not done, are not allowed by law, or shall take any greater fee or reward for any service by him done that is or shall be allowed by law, he shall pay to the party aggrieved $30, to be recovered by action of debt, with costs.

In the Courts of Common Pleas.

Fees to be divided among the Judges, who are attending court when the service is performed.—For the first motion in every cause, 50 cents; for every rule in a cause, 20 cents; for the trial or argument of every cause, 50 cents; for assessment of damages, 75 cents; for every writ of error or *habeas corpus* allowed and entered, 20 cents.

Fees to be paid to the Judge who performs the service.—For drawing order for bail, 25 cents; for taking bail, 25 cents; for every justification or disallowance of bail, 25 cents; for taking every affidavit, 10 cents; for order of commitment of every person surrendered by or in discharge of his bail, 20 cents; for signing every judgment, 50 cents.

In the Courts of General Quarter Sessions.

Fees to be divided among the Justices, who are attending court when the service is performed.—For the first motion in a cause, 50 cents; for every rule in a cause, 20 cents; for the trial or argument of every cause, 50 cents; for every recognisance, 25 cents.

Fees to be paid to the Justice of the Peace, who performs the service, where he is entitled to fees, and they are not otherwise ascertained by law.—For every recognisance, 25 cents; for a pass, 20 cents; for a *mittimus*, 25 cents; for taking examinations, for each sheet, 14 cents; for every oath or attestation, 5 cents; for a warrant against a person for a breach of the peace or a misdemeanor, 25 cents; for a summons on a penal law, 13 cents; for drawing a conviction, 25 cents; for a warrant to levy a penalty, 25 cents.

Fees of the Clerks of the Courts of Common Pleas.—For drawing every summons, *capias*, or other process, if he shall do it, 30 cents; for sealing every writ, 14 cents; for entering every action, 8 cents; for entering an appearance or default, 10 cents; for entering the return of a writ, 10 cents; for entering every rule of court, 10 cents; for a certified copy thereof, when required, 8 cents; for filing every writ, declaration, pleading, roll, or other paper, 8 cents; for entering every *retraxit*, discontinuance, or nonsuit, 8 cents; for reading every petition and entering order thereon, 15 cents; for every copy of such order, 10 cents; for searching the records, 12 cents; for calling and swearing the jury, 20 cents; for swearing each witness, 6 cents; for reading every record, deed, or writing, given in evidence, 10 cents; for swearing constable to attend a jury, 6 cents; for taking and entering a general verdict, 8 cents; for entering judgment, 8 cents; for entering every special verdict or demurrer to evidence, for each sheet, 10 cents; for taxing every bill of costs, 50 cents; for recording every judgment in the book kept for that purpose instead of judgment rolls, $1; for copies of writs, declarations, pleading, special verdicts, records, and other papers, for each sheet, 8 cents; for entering satisfaction on record, 14 cents; for reading and entering every allowance of a writ of error, habeas corpus, or other writ requiring an allowance, and returning the same, 50 cents; for entering deeds of conveyances on the record, for each sheet, 6 cents; for searching the records of such deeds, 7 cents.

Fees of the Clerks of the Courts of General Quarter Sessions.—For entering and filing an indictment, 16 cents; for every process, subpœna, or other writ 25 cents; for sealing the same, 14 cents; for every ticket for a subpœna, 9 cents; for entering an appearance of default, 10 cents; for entering a recognisance taken in court, 15 cents; for entering and filing a plea, 8 cents; for reading every petition and entering order thereon, 15 cents; for copy of such order, 10 cents; for every rule or order of court, 10 cents; for copy of such rule or order, 8 cents; for searching the records, 13 cents; for calling and swearing the jury, 20 cents; for swearing each witness, 6 cents; for reading every record or other writing given in evidence, 10 cents; for swearing constable to attend a jury, 6 cents; for taking and entering a general verdict 8, cents; for entering judgment, 8 cents; for entering every special verdict, for each sheet, 10 cents; for copies of writs, indictments, pleadings, special verdicts, and other papers, for each sheet, 8 cents; for entering the allowance of every habeas corpus, writ of error, or *certiorari*, and returning the same, 50 cents; but no cost to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted or discharged for want of prosecution; for taxing bill of costs, 50 cents.

Fees of Coroners.—For the view of a dead body, $2; for a precept to summon a jury, 50 cents; for swearing the jury, 25 cents; for swearing every witness, 6 cents; for drawing and returning the inquisition, $1; for taking examinations in writing, for each sheet, 14 cents; for burying a dead body, $4.

Which fees the collector of the county is hereby authorized and required to pay, on being taxed by the clerk of the court of common pleas of the county; and the said county collector shall be allowed the same, in the settlement of his accounts with the treasurer of the State.

Serving writs, advertising property, and making deeds, the same fees as are by law allowed to sheriffs for the same services, and under the like restrictions and regulations.

Criers' Fees.—For calling every action, 9 cents; for calling a jury, 12 cents; for swearing a witness, 6 cents; for calling the plaintiff on a nonsuit, 8 cents; for calling the defendant on a default, 8 cents; for calling the defendant on a recognisance, 8 cents; for calling the bail on a recognisance, 8 cents; for making proclamation to discharge a person, 8 cents.

Fees of Jurors.—Every juror, for each action on which he is sworn or affirmed, including a writ of inquiry, coroner's inquest, and indictment, 25 cents; for every juror who appears in a cause, but is not sworn or affirmed, 12 cents; for every juror going to, attending, and returning from, a view, for each day, $1; for every juror from a foreign county, going to, attending at, and returning from, court, being sworn or affirmed in a cause, for each day, $1; for every such juror who attends, and is not sworn or affirmed, to be allowed for going to, attending at, and returning from, court, after the rate of 50 cents for each day.

[No compensation whatever is allowed to grand jurors.]

Fees of Witnesses.—For every witness attending a court, or commissioners, or referees, or arbitrators, in his own county, for each day, 50 cents; for every witness, from a foreign county, attending a court, or commissioners, or referees, or arbitrators, after the rate of $1 a day, in which shall be included his or her going to, and returning from, the same, allowing one day for every thirty miles from and to his or her place of residence.

Fees to the Secretary.—For the Secretary of this State or any clerk attending on subpœna, with wills, records, or other written evidence, after the rate of $1 a day, and mileage as aforesaid.

Fees of Surveyors.—Every surveyor, for his actual service on a view, for each day, $2; every surveyor, for his going to and returning from a view, for each day, $1; for every chain-bearer, on a view, for each day, 70 cents; for serving a subpœna on each witness, 13 cents.

Fees of the Constable, where he is entitled to fees, and they are not otherwise ascertained by law.—The constable shall, for the same services, be allowed the same fees as are established by the act constituting courts for the trial of small causes; and, also, seventy-five cents per day each, for every day he shall attend at the supreme courts, circuit courts, courts of oyer and terminer and general jail delivery, courts of common pleas, and general quarter session of the peace, in the respective counties, to be paid by the county collector of the said counties on his producing a certificate from the presiding judge or justice of such court, setting forth the number of days he may have so attended: *Provided*, That when two or more courts are held at the same time, the constable shall receive no more than seventy-five cents per day for his attendance on all the said courts.

STATE OF PENNSYLVANIA.

Fees allowed to the Prothonotary of the Supreme Court.—For issuing every writ, docketing, and return, $1 80; for entering every appearance, 13 cents; for entering a special bail, 50 cents; for bail piece and seal, 50 cents; for filing declaration, plea, demurrer, replication, &c., and entering each, 13 cents; for filing all other papers, each, 20 cents; for every continuance, 13 cents; for every rule of reference, &c., 17 cents; for copy if demanded, 33 cents; for entering discontinuance, *retraxit*, or quashing writ of error, 13 cents; for every trial, swearing jury, and recording general verdict, 67 cents; for every trial, swearing jury, and recording special verdict, $1; for swearing each witness, 5 cents; for recording each judgment, 20 cents; for arrest of judgment, 13 cents; for acknowledging satisfaction 25 cents; for filing and entering report, 25 cents; for entering judgment thereon, 13 cents; for subpœna and seal, 50 cents; for each name after the first, 10 cents; for every ticket, if issued 25 cents; for copy of narr. &c., per line of twelve words, 1 cent; for drawing list of special jury, attending, striking, and copies, $1; for filing narr. in ejectment, and docketing the cause, 50 cents; for entering concession of lease, entry, and ouster, 13 cents; for entering every motion or rule, 13 cents; for calling plaintiff or defendant, and entering default, 26 cents; for entering *cesset executio*, 13 cents; *venire* or *distringas*, $1; for making up *nisi prius* record, per line of twelve words, 1 cent; for *postea* containing the proceedings at *nisi prius*, $1 33; for every such record, 20 cents; for copy per line of twelve words, 1 cent; for every certificate and seal, 67 cents; for commission to take depositions out of the State, $1 50; for filing interrogatories and copy per line, 1 cent; for reading and filing petition for divorce; docketing the same, $2 33; for issuing subpœna thereon, $1 50; for entering decree or judgment, 13 cents; for taking and entering acknowledgment of sheriff's deed, and recording certificate of acknowledgment under seal, $1 50; for entering judgment confessed, $1 50; for making up record, per line of twelve words, 1 cent.

Clerk of Oyer and Terminer.—For all services performed in any one prosecution, if paid by the party, $4; if paid by the county, $2.

Prothonotary of Common Pleas.—For issuing *levari facias* and *venditioni exponas*, $1 20; for issuing every other writ, docketing the same, and return, $1; for entering appearance, 7 cents; for entering special bail, 20 cents; for bail piece under seal, 33 cents; for entering surrender, 10 cents; for entering exonerator, 10 cents; for filing narr. plea, &c., on each, 7 cents; for filing reasons in arrest of judgment, and exceptions to report of referees, 6 cents; for filing all other papers of each party in one cause, and reading the same, if

necessary, 20 cents; for every continuance, 7 cents; for every rule of reference for trial or other rule, 13 cents; for copy thereof under seal, 33 cents; for entering discontinuance, *retraxit* or *nonsuit*, 7 cents; for entering a writ quashed, 7 cents; for swearing jury and constable, and recording general verdict, 50 cents; for swearing each witness 5 cents; for every trial where there is a special verdict recorded, 67 cents; for recording each judgment, 13 cents; for entering arrest of judgment, 13 cents; for acknowledging satisfaction, 13 cents; for entering report of referees, 20 cents; for entering judgment thereon, 13 cents; for issuing subpœna and seal, 33 cents; for every name after the first, 33 cents; for every subpœna ticket, 10 cents; for copy narr. or plea, per line, 1 cent; for drawing list of special jury, attending, striking, and copies, 67 cents; for filing narr. in ejectment, docketing the cause, 33 cents; for entering confession of lease, entry, and ouster, 10 cents; for entering every motion, 7 cents; for calling plaintiff or defendant, and entering default, 20 cents; for entering *cesset executio*, 10 cents; for every search of record, 13 cents; for copy thereof, per line, 1 cent; for certificate and seal, 32 cents; for commission to take depositions out of the State, $1; for filing interrogatories, 13 cents; for copy thereof, per line, 1 cent; for taking and entering acknowledgment of sheriff's deed, recording certificate, and seal, $1; for entering judgment confessed, $1 20; for entering amicable suit, 26 cents; for filing petition of insolvent debtor, recording order and proceedings, $1; for issuing *certiorari* to remove justice's proceedings, 53 cents.

Clerk of Quarter Sessions.—For filing and entering every recognisance taken out of court, 25 cents; for calling recognisance and forfeiture, 10 cents; for respiting recognisance, 10 cents; for discharging forfeited recognisance, 10 cents; for docketing every indictment found by the grand jury, 33 cents; for entering discharge by proclamation, 13 cents; for each recognisance, 13 cents; for entering plea not guilty, 13 cents; for entering special plea or demurrer, 20 cents; for entering submission, 13 cents; for retracting plea, 7 cents; for entering *nolle prosequi*, 13 cents; for calling and attesting jury, 26 cents; for attesting each witness, 5 cents; for entering verdict and judgment, 13 cents; for entering arrest of judgment, 13 cents; for entering every motion and rule, 7 cents; for entering process awarded, issuing process, taking return and recording, 67 cents; for issuing subpœna and ticket, 33 cents; for every name after the first, 3 cents; for reading, filing, and entering petition and order thereon, 25 cents; for copy of order to view a road, for every line, 1 cent; for seal, 7 cents; for reading and recording return, for every line, 1 cent; for order to open a road under seal, 67 cents; for performing all duties of clerk for each tavern license, $1; for copy of record, each line, 1 cent.

Sheriff.—For serving writs of arrest with commitment or bail-bond and return, $1 20; if more than one defendant, each 50 cents; for assigning bail bond, 13 cents; for serving summons in debt, copy narr. in ejectment, or copy of any other process, $1; for every defendant besides one, 50 cents; for serving *scire facias*, $1 20; for taking and filing replevin bond, attachment bond, or other indemnification, 33 cents; for travelling expenses each mile, 4 cents; for executing *fieri facias*, if money paid without sale, $1 20; for taking goods into custody, advertising and selling per pound, not exceeding one hundred, 7 cents; for every pound above one hundred, 4 cents; for keeping goods and chattels, fees to be regulated by the court in case of dispute; for selling lands levied on, or delivering them to the creditor, and making return for every pound, not exceeding one hundred, 7 cents; for every pound above one hundred, 4 cents; no poundage shall be paid for more than the real debt, &c.; for summoning and returning traverse jury in each cause that is tried, 40 cents; for summoning and returning special jury, to be paid by the party putting off or losing the cause, $2; for summoning jury of inquiry, &c., taking inquisition and return, $3; for executing writs and orders of partition or valuation, attesting jury and return, $3 33; if engaged more than one day, for each day's attendance after, $2; for summoning party to appear on partition, or summons of landlord against tenant, 75 cents; for poundage and commissions for receiving and paying money on attachment, *capias ad satisfaciendum*, or notice to recover rents, for every sum not exceeding one hundred pounds, 7 cents; for every pound above one hundred, 4 cents; but no poundage shall be paid for more than the real debt; turnkey's fees on commitment for any offence or criminal matter, to be paid on discharge of the prisoner, 67 cents; for sheriff's deed on sale of lands, $2 67; for acknowledging the same, 67 cents; for every criminal cause, $1 33; for every capital cause and *committitur* $3 33; for levying fines, &c., per pound, 7 cents; for making proclamation on divorce, $2; for serving witness with subpœna, 20 cents; for copy writ of arrest, for each line, 2 cents; turnkey's fees to be paid on discharge of a prisoner for debt above twenty pounds, 50 cents.

Sheriff.—For debt, if under twenty pounds, 33 cents; for serving process on indictment, $1 20; for serving citation and return in orphans' court, or register's court, 67 cents; for serving every attachment, $1 20; for executing *haberi facias possessionem*, *retorno habendo levari facias*, or *liberari facias*, each, $1 20; for returning of *non est inventus*, 25 cents; for *nulla bona*, 25 cents; for executing every death warrant, $12; to crier, for each action called in court, 10 cents.

Juries.—For every day's attendance at court, grand or petit, $1; for every inquisition on real estate, 26 cents; for inquisition of damages, 26 cents; for each day's attendance on view, or other service in the county, 50 cents.

Witnesses.—For each day's travelling to and from, and attendance at court, 50 cents; for each day's travelling to and from, and attendance before justice of the peace, 25 cents.

Clerk of Orphans' Court.—For reading and filing every petition or report, 13 cents; for entering thereof on record, 25 cents; for entering every judgment, order, or rule of court, 20 cents; for seal and certificate annexed to any copies for the use of the party, 33 cents; for copy of record, per line, 1 cent; for citation with seal, 33 cents; for subpœna with one name, 33 cents; for every name after the first, 4 cents; for every search, 10 cents; for entering appointment of guardians, 25 cents; for copy, certificate, and seal, 33 cents; for entry of settlement of accounts of executors, &c., 50 cents; for every copy thereof, not exceeding one hundred items, with certificate and seal, $1 25; for every additional item, 1 cent; for reading petition for pension, order, copy, and seal, 50 cents; for reading and filing petition of administrators, for sale of intestate lands, swearing or affirming them, and making the necessary orders thereon, 67 cents; for giving notice of sale, for every advertisement thought necessary by the court, 85 cents; for reading and filing petition for partition or valuation of intestate lands, and entering every order thereon, $2.

Register of Wills.—For the probate of a will, 67 cents; for registering the same, each line of twelve words, 1 cent; for bond of executors or administrators, and recording, $1; for filing and entering renunciation, 26 cents; for granting letters of administration, 75 cents; for annexing will, each line, 1 cent; for issuing citation, 26 cents; for entering *caveat*, 20 cents; for administering oath, 7 cents; for filing list of articles appraised, 13 cents; for filing list of articles sold at vendue, 13 cents; for examining, passing, and filing account of executor or administrator, $1 50; for copy, certificate, and seal, if not exceeding one hundred items, $1; for every additional item, 1 cent.

Coroner.—For viewing a dead body, $2 67; for summoning and qualifying inquest, drawing and returning inquisition, $1 33; for summoning and qualifying each witness, 20 cents, (to be paid out of the effects of the slayer, in case of murder or manslaughter, if he hath any; if not, by the county, with mileage from the court-house to the place of viewing the body;) for executing any process or writ of any kind, same fees as sheriff and mileage.

The prothonotaries or clerks of the supreme court, and the prothonotaries or clerks of the several courts of quarter sessions and common pleas, within the Commonwealth of Pennsylvania, furnish their accounts annually to the Comptroller and Register General; and of the amount of fees received during the space of one year, fifteen hundred dollars remain clear of tax, and the residue thereof is taxed seventy-five per cent.

The prothonotary of the supreme court of the eastern district, and the prothonotary of the common pleas of the city and county of Philadelphia, in addition to the above fifteen hundred dollars, are allowed five hundred clear of tax.

Attorneys in the Common Pleas.—For issuing *præcipe*, &c., in suits ended the first court, $1 67; if after the first court, the further sum of $1 66; for every suit prosecuted to judgment, discontinuance, $4; on appeals, if settled the first court, $1 33; if after the first court, $2; if judgment is rendered, &c., $3.

Fees in the supreme court double the amount of those in the common pleas.

STATE OF DELAWARE.

An Act for regulating and establishing Fees.

Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fees to be paid within this State shall be as hereinafter are ascertained, limited, and appointed, that is to say:

To the use of the State.—For a license to keep a public house of entertainment, and to sell all liquors, signed and sealed, $12; for a license for the same, and to sell all liquors except wine, $8; for a license to a hawker or peddler, travelling on foot, $4; for a license to such person travelling with one or more horses, $6; for a license of marriage, $2; for every impression of the great seal, in private cases, $1; for a commission for a sheriff or coroner, or writ of assistance to a sheriff, under the great seal, to be paid by the party, $10; for a commission for attorney general, register, recorder, or clerk, under the great seal, to be paid by the party, $10.

To the Secretary.—For drawing and engrossing a pardon or reprieve, under the great seal, to be paid by the party, $2; for every search, in private cases, 10 cents; for a certificate under the great seal to any instrument of writing, in private cases, to be paid by the party requiring the same, $1; for a certificate under his hand and seal of office, in private cases, 50 cents; for an exemplification of any record, roll, or paper in his office, in private cases, 1 cent per line of twelve words, to be paid by the party requiring the same. Every proclamation, commission of *dedimus potestatem* to qualify officers, commission to chancellor, judges of the supreme court and court of common pleas; every general commission of the peace, or commission for a single justice of the peace; every warrant for the execution of a criminal; all licenses to keepers of public-houses, hawkers, peddlers, or petty chapmen; licenses of marriage; all exemplifications of transcripts of records, rolls, or papers in his office; or other instruments which the public service of this State may require to be done *ex officio*.

To the Judges of the High Court of Errors and Appeals.—For taking bail out of court to prosecute a writ of error, $1.

To the Justices of the Supreme Court.—For allowing and signing, out of court, every *certiorari*, or *habeas corpus*, 33 cents; for taking a deposition out of court, drawn in form, 33 cents; for taking the acknowledgment of a deed, out of court, and certifying it under his hand, 60 cents.

To the Justices of the Court of Common Pleas: The same fees as are allowed to the justices of the supreme court for the like services.

To the Justices of the Peace.—For writing, signing, and sealing every warrant upon complaint, in criminal matters, 20 cents; for every *mittimus*, recognisance, or pass, 20 cents; for writing, sign-

ing, and sealing, every warrant for debt, attachment, arrest, or summons, 13 cents; for administering, and certifying at large, an oath or affirmation in proving specialties, notes, or accounts, against deceased persons, if drawn by the justices, 7 cents; otherwise, without fee or reward; for taking the acknowledgment of an indenture of apprenticeship, signing the same, and making a record thereof, 50 cents; for writing the assignment of a servant, signing the same, and making a record thereof, 20 cents; for taking a deposition or affidavit, drawn in form, 20 cents; for writing and signing a summons for witnesses, in all complaints, 7 cents for one witness, and not exceeding 13 cents for two or more; for signing judgment, 10 cents; for execution thereon, 13 cents; for viewing a force, 67 cents; for drawing a record thereof, 67 cents; for drawing a record in every case before them removed by *certiorari*, and returning the same, 33 cents.

To the Attorney General.—For the whole prosecution in every capital cause, to be paid by the party if convicted and able, but, if acquitted, to be paid by the county or party, as the court shall direct, $10; but if the bill be not found by the grand inquest, to be paid by the county, $2 40; for every other matter by bill of indictment, if found by the grand inquest, to be paid by the party, if convicted and able; but if not convicted, to be paid by the county or party, as the court shall direct, $2 40 cents; if not found, to be paid by the county, $1 20; for every attachment in the court of general quarter sessions of the peace and jail delivery, $1.

Sec. 8. To the Recorder of Deeds.—For recording, alphabeting, and comparing deeds and other writings, for each line of twelve words, 1 cent; for a copy or exemplification of any record in the said office, for each line of twelve words, 1 cent, to be paid by the party demanding the same; for searching any roll or record, 7 cents; for an endorsement or certificate on each deed proved and acknowledged, and every other certificate, and his hand and seal of said office thereto, 30 cents.

Sec. 9. To the Sheriff of each county.—For serving and making return of every summons, capias, or replevin, 47 cents; for serving every bench warrant or attachment for contempt, in vacation, 67 cents; for serving bench warrant or attachment issued returnable in term time, $1; for every writ of entry and return in a common recovery, 33 cents; for every writ of seisin, and return in the same, 33 cents; for taking goods into custody for safe-keeping when any part of the debt may be satisfied on such execution, 47 cents; for taking the body into custody for safe-keeping on an execution, 47 cents; for serving a summons, citation, subpœna, injunction out of chancery, orphans' court, or from the register for the probate of wills and granting letters of administration, 53 cents; for every proclamation of rebellion out of chancery, $1; for summoning and serving a witness with subpœna, and making return thereof, and mileage, 13 cents; for serving execution, and making return thereof, with an inventory and appraisement, &c., 80 cents; for every return of *non est inventus*, *nulla bona*, *nihil habet*, including mileage 20 cents; for copy of a summons, subpœna, &c., 13 cents; for delivery of a copy of declaration in ejectment, 27 cents, and mileage; in every other action, 7 cents; for every bail bond, replevin bond, or bond of indemnity, 33 cents; for mileage to and from the place of serving a writ, to be counted from the court-house, except where mileage is included, 2 cents; for turnkey fees on every *committitur*, when the person is actually in prison in the county jail, but not without, 27 cents; for a copy of a panel when demanded, 7 cents; for assigning every bail bond, 20 cents; for summoning the grand jury to attend for one year, $3; for summoning and qualifying two appraisers, to appraise goods taken in execution, including mileage, 53 cents; for advertising goods or lands for sale, to be paid by the party only in whose suits the said advertisements are made, for once advertising, and no more, 67 cents;* for selling goods or lands executed, or delivering to the creditors, and returning *fieri facias*, *venditioni exponas*, *liberari facias*, or *levari facias*, for any sum not exceeding fifty dollars, fifty three cents; and for all other debts, where the sum is above fifty dollars, three cents per dollar on the sale of personal estate, and two cents per dollar on the sale of real estate, for the whole debt and no more; and that no dollarage shall be paid for more than the real debt or damage due to the plaintiff named in the execution; and one cent per dollar on all prior judgments not on execution, paid off by money arising on the sale of lands by any execution, and that no dollarage shall be exacted in case there is not sufficient to satisfy the debt or damages, other than to the amount the goods or lands actually sold for; and that no creditor who may have had an execution laid on such goods or lands, or judgments on such lands, they being subject to prior executions or judgments, shall pay any dollarage, but for such sum as he or she actually receives on his or her debt; for summoning and inquiring into the value of rents, issues and profits of lands by two freeholders, making inquisition and return thereon, 67 cents, and mileage to the respective lands inquired on; for executing writs of *elegit*, summoning and qualifying the jury, and making return thereon, including mileage and the inquisition thereon, $4; for executing writ of inquiry of damages, and every other writ of inquiry, summoning and attesting the jury, and return thereof, including mileage, $3; executing writs of partition, summoning and attesting the jury, and making return thereof, including mileage, $4; for attending on the land to be divided, the first day, $1; for every day longer, 67 cents; serving a *venire facias* for a struck jury to attend on view and trial, including mileage, for serving a *venire facias* for a struck jury to attend on trial, $2;† for summoning and returning a jury, and annexing a panel to each *venire facias juratores*, 13 cents; for attending the first day, $1;* for every day longer, 67 cents;† for returning the *habeas corpora juratorum*, and *venire facias* thereon, 13 cents; for serving writs of attachment, taking the goods or lands, and making return, 67 cents and mileage; for levying the attachment in the hands of garnishees, and summoning them, 40 cents; for selling goods or lands upon an attachment, the same as on *fieri facias*; for executing precepts in cases of forcible entry and detainer, to wit; for summoning the jury and return, including mileage, $3; for attending the first day, $1; for every day longer, 67 cents; for serving a precept or writ of restitution, and mileage, $1 33; for executing a writ of estrepement for all services, besides mileage, $1 33; for levying fines and forfeitures, 2 cents per dollar; for whipping every person by judgment of court, 67 cents; for branding and pillorying a person, $1 33; for branding only, 67 cents; for pillorying only, 67 cents; for executing a sentence of death, $16; for every indictment tried or submitted, 67 cents; for summoning the members of the General Assembly, in their respective counties, on a writ from the Governor, $3, to be paid by the county.

In the Courts of Oyer and Terminer.—Making proclamation throughout the county, to be paid by the county, $2; for summoning the grand jury and petit jury, to be paid as above, $8; every *committitur* to be paid by the party, 53 cents; serving and returning every summons for a witness, 13 cents and mileage; attending on the said court during the sitting thereof, to be *ex officio*.

In the Court of Appeals.—For his attendance on the said court every day it is held, $1, to be paid by the State; same fees and mileage on writs, &c., as in the Supreme Court.

Sec. 10. *And be it enacted*, That none of the above fees shall be taken by any sheriff, on any execution issued by a justice of the peace.

Sec. 11. To the Clerk of the High Court of Errors and Appeals.—For writing, signing, &c., a writ of error, $1; for entering every action or appeal, 20 cents; for filing errors assigned, or causes of appeal, 13 cents; for reading the record, with all the proceedings below, 20 cents; for every *retraxit* actually filed, 13 cents; for every discontinuance or quashing of a writ of error or appeal, 13 cents; for entering every appearance at the first term, to be paid by the party appearing, 13 cents; for every imparlance or continuance, 13 cents; for entering every judgment, 20 cents; for writing every writ of restitution, *procedendo*, or other writ not before mentioned, $1; for entering every want of attorney or rule of court, 13 cents; for drawing a bill of costs, containing and specifying the particulars in words at length, and delivering the same to the party applying, 67 cents.

Sec. 12. To the Clerk of the Supreme Court and the Prothonotary of the Court of Common Pleas, in their respective courts.—For writing, signing, and sealing every *certiorari*, *habeas corpus*, *venire facias*, *habeas corpora juratorum*, writ of arrest, attachment, replevin, summons, or judicial writ, if drawn by the clerk, 47 cents; for entering every action or indictment, 4 cents; for filing every declaration or indictment, 4 cents; for copy of a declaration in any action or suit, made out and delivered, if required, 20 cents; for withdrawing or discontinuing every action, 4 cents; for every *retraxit*, if actually entered and filed, 4 cents; for filing every *demurrer*, plea, replication, and pleading subsequent and issue, in any action, to be paid by the party pleading, 7 cents; for filing record returned on a *certiorari*, 7 cents; for reading *certiorari* and return, 13 cents; for copy of every plea, replication, or pleading subsequent, to be paid by the party requiring the same, one cent for each line of twelve words; for calling the jury and attesting them, 13 cents; for attesting each witness on a trial, to be paid by the party producing such, 4 cents; for attesting the bailiff to attend the jury, 7 cents; for entering an arrest of judgment, to be paid by the party moving, 7 cents; for filing reasons in arrest of judgment, 3 cents; for recording every verdict, 13 cents; for entering a judgment, 7 cents; for entering every appearance at the first term, to be paid by the party appearing, 7 cents; for every imparlance or continuance, 3 cents; for entering a *committitur*, 3 cents; for admission of every guardian or next friend, and copy signed and sealed, 13 cents; for entering and filing every warrant of attorney, 4 cents; for drawing a bill of costs, containing and specifying the particulars in words at length, 7 cents; for acknowledging satisfaction of a judgment on record, 7 cents; for acknowledgment or proving of a deed in court, with a certificate signed and sealed, the whole business, 40 cents; for reading a deposition or affidavit, 3 cents; for recording a mark or brand, 13 cents; for search of a record, 7 cents; entering an appeal from the register or orphans' court, 7 cents; for filing exceptions, 7 cents; for filing record and proceedings returned, 7 cents; for every rule of reference, rule to plead, or other rule of court, 4 cents; for copy thereof, signed and sealed, 13 cents; for entering and filing every writ, original, or judicial, which by law is a returnable process, 4 cents; for taking and filing every affidavit in attachment or other matters, required to be done by him, 10 cents; for reading and entering a report of auditors, and filing the same, 7 cents; for entering on record the title of every deed acknowledged or proved in court, 7 cents; for entering and filing every recognisance of bail, 7 cents; for a copy of the same, with seal and certificate signed, 13 cents; for adjudication of a debtor to serve his creditors, and all proceedings relating thereto, 67 cents; for copy thereof, with seal and certificate signed, 33 cents; for reading and entering every petition, and order thereon for a sheriff to convey lands sold by any former sheriff, 67 cents; for copy thereof, with seal and certificate signed, if required, 67 cents;

* See chapter 58, c. This allowance altered, "for advertising the first time, 60 cents; and for the second and third time, 45 cents each."

† See chap. 58, c. This allowance altered, to wit: serving a *venire facias* for a struck jury, including mileage, "$2."

* See chap. 58, c. This allowance is increased to 90 cents.

† These allowances are made only in cases of attendance of sheriff in laying down pretensions, in cases of trespass or ejectment, for which see chapter 58, c.

for an exemplification in every common recovery under seal, $2; for entering, recording, and filing all the proceedings therein, $1 33; for writing, signing, and sealing every subpœna to give evidence, containing the names of four persons, to be paid by the party summoning, 33 cents; for every subpœna containing a less number, to be paid as above, 20 cents; for drawing out a list of forty-eight names from the sheriff's book of freeholders, for a special or struck jury, and all his services in striking the same, 40 cents; for copy of every record or other proceeding, for every line, twelve words to a line, 1 cent; for signing any writing not before enumerated, or where it is not written by the clerk, 7 cents; for affixing the seal of office to any writing not before enumerated, 13 cents; for entering up judgment by warrant of attorney, and all the services thereon, 67 cents; for confession of a judgment on an amicable suit, and all the services thereon, 50 cents; for recording a *testatum fieri facias*, 40 cents.

Sec. 13. And to the Clerk of the Supreme Court in the Court of Oyer and Terminer and General Jail Delivery, double the fees allowed the Clerk of the General Quarter Sessions of the Peace and Jail Delivery. (For these see after section 18.)—And for writing, signing, and sealing a precept for holding a Court of Oyer and Terminer, and general jail delivery, to be paid by the county, $1; for making a complete transcript of the whole record on a conviction for a capital offence, to be sent to the Governor, $2.

Sec. 14. And that the fees belonging to the Register of the Courts of Chancery shall be as follows, viz:—For writing, signing, and sealing every original writ, 40 cents; for every subpœna, *ad respondendum*, or other subpœna, with four names, if required, 33 cents; if only one name, 20 cents; for every attachment under seal, 47 cents; for every commission of rebellion, under seal, 80 cents; for every *audita querela* or writ of sequestration, if drawn by the clerk, under seal, 67 cents; for every writ of injunction, *habeas corpus*, or *ne exeat*, 47 cents; for a writ of execution of a decree, and seal, 67 cents; for entering every appearance, 7 cents; for writing and filing every decree, 1 cent per line of twelve words; for entering every dismission, 7 cents; for filing every bill, plea, answer, *demurrer*, replication, or rejoinder, 7 cents; for filing every affidavit, 4 cents; for filing interrogatories, depositions, per sheet, 7 cents; for filing a petition, 7 cents; for every rule, order to plead, answer, or *demurrer*, reply, or other rule, 7 cents; for a commission to examine witnesses, under hand and seal, 67 cents; for recording in books, by him provided for that purpose, of commission or deposition of witnesses, 1 cent per line, twelve words in a line; for a *dedimus potestatem*, 40 cents; for searching for every order or decree, 7 cents; for copy of any bill, answer, replication, decree, affidavit, order, &c., or of any deeds, papers, letters, or accounts left with him pursuant to an order of court, with certificate under hand, 1 cent per line, twelve words to a line.

Sec. 15. And that the fees belonging to the Clerk of the Court of the General Quarter Sessions of the Peace and Jail Delivery, shall be as follows, viz:—For writing, signing, and sealing every warrant of the peace or good behaviour, requiring to bring sureties, if drawn by the clerk, 10 cents; for writing, signing, and sealing every common warrant or *mittimus*, if drawn by the clerk, 13 cents; for every recognisance, if drawn by him, 10 cents; for every recognisance returned by a justice or conservator of the peace, 4 cents; for entering and filing an indictment, 4 cents; for copy thereof, if required, 13 cents; for making out process against the defendant upon an indictment, and fixing seal, 27 cents; for discharge of every person upon bail for the peace, good behaviour, contempt, or indictment returned ignoramus, 4 cents; for every plea of not guilty, 4 cents; for entering special plea or demurrer, 4 cents; for entering every submission, 7 cents; for calling the jury and attesting them, 13 cents; for attesting each witness on every trial, 4 cents; for entering every verdict, 10 cents; for entering every judgment, 4 cents; for copy of every judgment, with certificate, signed and sealed, 20 cents; for respiting a recognisance, 4 cents; for every writ of restitution, signed and sealed, 33 cents; for reading, entering, and filing every petition, 20 cents; for reading and filing the return of a road, 13 cents; for recording the same, or a copy thereof, 1 cent per line; for entering *nolle prosequi*, 7 cents; for a *similiter* to join issue, 7 cents; for a *venire facias*, signed and sealed, 20 cents; for reading the indictment and arraigning the criminal, 4 cents; for continuing the cause, 4 cents; for reading every deposition on trial, 4 cents; for entering the allowance of certiorari, writ of error, or procedendo, 4 cents; for entering a rule upon motion to arrest judgment, 7 cents; for entering every *committitur*, 13 cents; for entering the arrest of judgment, 7 cents; for an habeas corpus, signed and sealed, 20 cents; for drawing up and examining every record of all the proceedings upon an indictment, in a book of good paper, for every line containing twelve words, 1 cent; for copy thereof, 1 cent per line of twelve words; for making out the estreats for levying fines and forfeitures, 3 cents; for writing every recommendation for license to keep a public house, inn, tavern, or alehouse, 13 cents; for a process against a master to answer the complaint of an apprentice, or servant, signed and sealed, 20 cents; for writing, signing, and sealing every subpœna to give evidence, containing the names of four witnesses, 33 cents; and for every lesser number, 20 cents; for bills of costs, containing and specifying the particulars in words at length on each indictment, 7 cents; for writing, signing, and sealing every judicial writ in criminal causes, 20 cents; for every search, to be paid by the party, 7 cents; for his hand to any writing, other than as above-mentioned, 7 cents; for affixing seal of said office to any writing other than as above-mentioned, 7 cents; for reading every petition or other paper to the court, not before-mentioned, to be done *ex officio*.

Sec. 16. And that the fees belonging to the several Registers in this State shall be as follows, viz: For granting letters of administration, with

seal, and registering the same, and taking bond, $2; but if the estate be under eighty dollars, then half fees, and no more; for proving a will, with copy and seal, and recording the same, $2 27; for letters testamentary, with seal, and registering them, $1 07; for drawing, taking, and filing every bond to be given by executors, 53 cents; for every citation or attachment, with seal, 40 cents; for entering every citation, 4 cents; for filing an inventory, 7 cents; for copy of an inventory, for every line, 1 cent; for a search, 7 cents; for a copy of letters of administration, administration bond, or letters testamentary, being signed and sealed, 53 cents; for a caveat, 13 cents, for every renunciation entered in the office, 23 cents; for a copy of any record, paper, account, or will, to any person requiring the same, 1 cent per line, twelve words to a line; for appointing and qualifying two freeholders as appraisers, or warrant to swear them, 10 cents; for administering an oath or affirmation to executors, administrators, or subscribing witnesses to a will, to be done *ex officio*; for administering an oath or affirmation to any other witness, 7 cents; for taking a deposition in writing in any cause before him, 20 cents; for definitive sentence in any case before him, and recording the same, 53 cents; for every interlocutory order, 30 cents; for affixing his hand to any certificate not before mentioned, 13 cents; for filing every account, 7 cents; for adjusting and settling an executor, or administrator, or guardian's account, examining and casting up the inventory and appraisement, entering the order and final sentence thereon, making the calculations and distribution on said account, and making a record of such settlement, if such account be one hundred and twenty dollars, $1; if under eight hundred dollars, $2; and if above eight hundred dollars, $3; for writing, signing, and sealing every subpœna to give evidence, containing the names of four persons to be paid by the party summoning, 33 cents; and for every subpœna containing a less number, to be paid as above, 20 cents; for entering and filing every writ, which is by law a returnable process; 4 cents; for affixing the seal of office to any writing, not hereinbefore enumerated, 13 cents.

Sec. 17. That the fees belonging to the several Clerks of the Orphans' Courts in this State shall be as follow, viz:—For reading and filing a petition, 7 cents; for reading a will or inventory, 4 cents; for entering an order of court or final sentence, 10 cents; for reading letters of administration or testamentary, 4 cents; for the appointment of a guardian, taking bond, recording same, with a copy, under seal, 40 cents; for binding an orphan, with a copy, under seal, 33 cents; for reading, entering, and filing a petition for a division, or valuation, or sale of lands, &c., and order thereon, 20 cents; for recording and copying the same, 1 cent per line; for filing an appeal, and exceptions on an executor, administrator, or guardian's account, entering the order and final sentence, making the calculation and distribution on said account, filing the same, and all other services, 67 cents; for entering every order of court, 4 cents; for entering an acceptance and assignment of lands at the valuation, 7 cents; for drawing and taking a recognisance at large, in the name of the State, from any person accepting lands and tenements on a valuation, 20 cents; for each advertisement for sale of land, 7 cents; for every citation, signed and sealed, 20 cents; for qualifying every witness brought before the court, 4 cents; for every attachment for contempt, 20 cents; for every subpœna, containing the names of four persons, 33 cents; less than four, 20 cents; for recording every other matter and thing in the same court, copy of an administrator's account, or other record, when required, for every line, not less than twelve words, 1 cent per line; for the seal of office to any writing not before enumerated, if required, 10 cents; for certificate to any copy not before enumerated, 7 cents; for every search, 7 cents; for every bill of costs, containing and specifying the particulars, 7 cents; for reading and filing every return of division, valuation, or sale of lands, 20 cents.

Sec. 18. Attorney at Law.—For every writ, if drawn by the attorney, 40 cents; for every appearance, for either plaintiff or defendant, in a suit, $2 60; for every appeal bond for prosecuting an appeal in the court of appeals, one dollar; for every appeal bond for prosecuting an appeal from the orphans' court, one dollar; for drawing every warrant of attorney, thirteen cents; for giving oyer of a bond or other oyer, one cent per line, twelve words to a line, to be paid by the party craving oyer; for drawing out the general issue, 10 cents; for all pleadings in a cause subsequent to a declaration, to be paid by the party pleading, every line of twelve words, injunction, prohibition, &c., 1 cent; for declaration, plea, &c., by warrant of attorney, $2 67.

Sec. 19. And that the fees belonging to the Notaries and Tabellions Public for this State shall be as follow, viz:—For registering a bill of exchange, promissory note, or bank note, 20 cents; for registering a foreign sea protest, $1; for registering an obligation, letter of attorney, or writing of the usual length of one of these, with a probate, under seal, and certificate, $1; for registering a bill of sale, probate, &c., 80 cents; for registering a foreign bill of exchange, protested, with a certificate, 67 cents; for a certified copy of such protest, sixty-seven cents; for drawing and registering a common sea protest, with seal, sixty-seven cents; for drawing and registering a protest against a merchant or merchants for detaining a ship beyond proper time, with answer and persistance to protest, with seal, and registering, $4; for a certified copy of a common sea protest, under seal, $1 67; for a certified copy, under seal, of protest against a merchant, &c., $2; for attestation to a letter of attorney, obligation, &c., under seal, 60 cents; for notarial affidavit to an account, under seal, 53 cents; for protest of a bill of exchange for non-acceptance for non-payment, or promissory note for non-payment, and registering seal, &c., 80 cents.

Sec. 20. That the fees belonging to the Clerks of the Senate and House of Representatives shall be as follows, viz:—For reading every petition of

a private nature, and the several entries attendant thereon, to be paid by the party, 50 cents; for copy of every petition, when required, with the names of the signers thereof, and certificate, 50 cents, to be paid as above; for copy of every order of the House in private matters, and certificate, 23 cents, to be paid as above; for copy of any papers filed in the House, when required, for every line, twelve words to a line, 1 cent per line; for certificate thereto, 7 cents; for every search in private matters, 7 cents; for engrossing a bill, for every sheet, 2 cents per line of twelve words; for every day's attendance as clerk, transcribing, &c., $2 per day, and no more.

Sec. 21. And the fees belonging to the Sergeant-at-Arms shall be as follows, viz:—For serving every order, $1; for taking any person into custody, 33 cents; for travelling charges, per mile, 2 cents going and the same returning; for every day's attendance on any person, where committed, 26 cents.

Sec. 22. Fees to the Doorkeepers of the respective Houses.—For every day's attendance, $1.

Sec. 23. To the Bell-ringer of the General Assembly.—For each day, 33 cents.

Sec. 24. Fees to the Coroner of each county.—For viewing the body of any person slain or murdered, to be paid out of the goods and chattels, lands and tenements, of the murderer or slayer, if he hath any; but if he hath not, by the county, besides mileage, from the court-house to where the body is found, $1; for summoning and qualifying the inquest, drawing and returning the inquisition, including mileage, $2; for summoning and qualifying each witness, and mileage from the place where the body is found, 33 cents; for taking examinations or depositions of witnesses in writing, for each, 20 cents; for taking every recognisance, 10 cents; for summoning or arresting the sheriff, or any other person where he is party, executing a writ of *fieri facias*, or other execution, the same fees as are allowed the sheriff in like cases; for travelling charges, 12 cents per mile.

Sec. 25. To the Crier.—For every action entered in the supreme court and in the court of common pleas, 13 cents; for every suit in the court of appeals, 67 cents; for calling each witness on a trial, 2 cents; for calling a jury sworn at the bar, 7 cents; every indictment, 13 cents; calling a nonsuit, 7 cents; calling a default, 7 cents; every attorney admitted on record, $1; every common recovery suffered in court, 40 cents; every prothonotary, sheriff, clerk of the peace, or clerk of the supreme court, the first time after they undertake the execution of their respective offices, $1; clearing every person by proclamation, 7 cents; for every judgment in the orphans' court, each 10 cents; opening and adjourning the court, to be paid by the county, 7 cents.

Sec. 26. To the Surveyors of Lands.—For each day's attendance as a surveyor on view of land, or other service required to be performed by any act of Assembly of this State, for each day's necessary attendance, $2; for every map, plot, or draught, with explanatory notes, such sum as the court shall allow.

Sec. 27. To the Chain Carriers.—For each day with accommodation, 50 cents.

Sec. 28. And that the fees belonging to the jurors and inquests within this State shall be as follow, viz:—For trying all actions on issue joined, each juror sworn or affirmed, 13 cents; for every inquisition on writ of inquiry of damages, elegit, partition, inquest of office, or any other inquiry, each per diem, 33 cents; for every inquisition made by the coroner, or other proper officer, on view of a dead body, to each juror, 33 cents; for each juryman summoned, and attending on view, per diem, 33 cents; for each juror or freeholder appointed by the orphans' court, to divide or value lands under the intestate act of this State, or to view and make an estimate of the annual value, &c., of minors' lands, under the act for amending the laws relating to testamentary affairs, and for the better settling intestates' estates, 50 cents per diem; for every auditor appointed by rule of court, for making report or award, 67 cents; for every day after the first, 33 cents.

Every bailiff or constable attending the grand jury, 50 cents per diem, to be paid by the county.

Attending each petit jury on a trial, till they give in a verdict, 23 cents, to be paid by the party.

The sheriff and every inspector and clerk sworn and attending the general elections in each of the counties, $1 50 per day, and no more, to be paid by the county.

Every constable who shall attend the court of oyer and terminer and general jail delivery, or court of general quarter sessions of the peace and jail delivery, not exceeding three, to be selected by the court, 50 cents per diem.

Every grand juror summoned and sworn, for every day of his attendance and service in any of the courts of this State, provided he is sworn or affirmed before the charge is given, to be paid by the county, 80 cents.*

Every petit juror summoned, for every day of his attendance, provided he appears at every calling of his name by order of the court, to be paid by the county, 80 cents.†

Every witness, for every day of his or her attendance in any of the courts of this State, if he or she resides out of the county from whence the summons issues, 80 cents; and if in the county, 53 cents.‡

Every witness, for every day's attendance before a justice of the peace, 20 cents, and no more.

Sec. 29. *And be it enacted*, That the act entitled "An act to increase the daily allowance of grand and petit jurors and witnesses," is hereby repealed, made null, and void.

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* An additional allowance of three cents per mile from place of abode to court-house, for each day of their attendance, in chap. 104, c.

† A like additional allowance in chap. 104, c. as in preceding note.

‡ In said chap. 104, c. like additional allowance as to jurors before.

Sec. 30. To the Sheriff for serving executions issued by a Justice of the Peace.—For all executions for debts not exceeding fourteen dollars, the sum of forty cents; for all executions on debts above fourteen dollars, and not exceeding thirty-two dollars, at the rate of five per cent. on the sum actually levied and raised; and that no mileage or other fees shall be paid or allowed to any sheriff on any execution issued by a justice of the peace.

Sec. 31. Appraisers appointed by the register for the probate of wills and granting letters of administration, for any estate not exceeding one hundred and thirty-six dollars, by them appraised or valued, shall have and receive at the rate of two cents for every dollar; and for all estates above one hundred and thirty-six dollars, and not exceeding three hundred dollars, at the rate of one cent for every dollar: and for all estates exceeding three hundred dollars, at the rate of one cent for every three dollars, and no more.

Sec. 32. *And be it enacted*, That the act entitled "An act for appraisement of goods taken in execution," shall be, and is hereby, repealed.

Sec. 33. To a Constable for serving a warrant or summons in cases of debt.—For every warrant or summons, including mileage, and all services, except summoning of witnesses, until judgment is obtained, 32 cents; for summoning witnesses or auditors for the trial of any matter before a justice of the peace, 10 cents each, and mileage; for serving every warrant in criminal matters, including mileage, 50 cents; for summoning every witness, 10 cents, and mileage; for conveying any person to jail under a commitment, 20 cents, and mileage.

STATE OF MARYLAND.

April session, 1715, ch. 48, s. 7.

Fees allowed to Attorneys at Law in the courts of law and equity in the State of Maryland.—There shall be paid to any attorney or other person practising the law in any of the county courts of this province, for bringing, prosecuting, or defending any action, of what nature or quality soever, to final judgment, agreement, or other end thereof, the sum of one hundred pounds of tobacco, unless the principal debt and damage, or balance of any debt and damage sued for and recovered, do exceed the sum of two thousand pounds of tobacco or ten pounds sterling; that then the said attorney shall have two hundred pounds of tobacco, and no more; and to any attorney or other person practising the law in the provincial court, high court of chancery, commissary's court, or for prosecuting or defending any appeals, writs of error, or any other matter or thing whatsoever, before his Excellency the Governor and Council, the several sums hereafter expressed and set down; that is to say, for prosecuting or defending any cause, plaint, or action, of what nature soever in the provincial court,* to final judgment, agreement, or other end thereof, the sum of four hundred pounds of tobacco, and no more; for any fee in the high court of chancery, and court of vice-admiralty, six hundred pounds of tobacco, and no more; for any fee in the commissary's court, four hundred pounds of tobacco, and no more; for any fee upon any writ of error or appeal which shall be before his Excellency the Governor and Council,* six hundred pounds of tobacco, and no more; and to His Majesty's attorney general for any action in the provincial court, at the suit of His Majesty, indictment, presentment, or information, the sum of four hundred pounds of tobacco, and no more.

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* This court was afterwards called "The General Court."

November session, 1805, ch. 65, s. 16.

That all attorneys practising in the court of appeals of this State shall be entitled to receive the same fees as attorneys were entitled to receive in the late General Court.

The following fees are allowed to the several officers hereinafter mentioned by the act of November, 1770, ch. 25, to wit:

To the Register in Chancery.—A subpœna *ad respondendum*, with not more than three names and return, 12 pounds of tobacco; every name more than three, 2 pounds; an injunction, and return, 38 pounds; a writ of sequestration, and return, per side, and so pro rata, 8 pounds; an *audita querela*, and return, 86 pounds; filing every bill in chancery, 20 pounds; every court the same shall continue to be charged to the complainant only, 20 pounds; filing every answer in chancery, 17 pounds; every oath to the same if taken in court, 6 pounds; recording every return of commission and deposition, per side, and so, pro rata, 8 pounds; a writ of *ad quod damnum*, and return, per side, and so pro rata, 8 pounds; every order on motion, 12 pounds; for a *ne exeat*, and return, 64 pounds; for drawing any matter or thing not mentioned that passeth the seal, if it exceeds one side, computing seven words to be a line, and fifteen lines to a side, and so pro rata, 8 pounds; for recording the same, per side, as before, 8 pounds; search the first year, nothing; for all searches above one year, if the matter searched be found and no copy taken, 15 pounds; if copy taken, no charge for the search; for filing every plea in chancery if not recorded, 4 pounds; for filing every demurrer in chancery, if not recorded, 4 pounds; for recording the same per side, and so pro rata, 4 pounds; an attachment of contempt, and return, 8 pounds; a proclamation of rebellion, and return, 64 pounds; a commission of rebellion, and return, 64 pounds; filing accounts, books of accounts, bonds, deeds, or other papers or writings, referred to and made part of any bill in chancery, plea, answer, or other pleadings or process thereupon, if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; for filing every return of commission and deposition, if not recorded, four pounds; for recording the same, per side, and so pro rata, four pounds; for filing

* This court was afterward organized, and called "The Court of Appeals."

every deposition taken in court of chancery without commission, if not recorded, four pounds; for recording the same, per side, and so pro rata, four pounds; filing every petition in chancery and order thereon if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; filing every bond with or without security if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; for every subpœna with not more than three names and return, 12 pounds; for every name more than three, two pounds; a commission to examine evidences, per side, and so pro rata, 8 pounds; for copy of any matter or thing herein before-mentioned, if required and delivered, per side, and so pro rata, 8 pounds.

To the Clerks of the General Court on the Western and Eastern Shores, respectively.—A *recordari* and return, 6 pounds of tobacco; a writ of inquiry of damages and return, per side, and so pro rata, 8 pounds; for entering an appeal, eight pounds; a commission to take acknowledgments and return, 64 pounds; a writ of covenant to pass a fine, and return, 8 pounds; a writ of assize, and return, 51 pounds; a writ of *melius inquirendum* or *monstraverunt*, and return, 64 pounds; any warrant or license, 8 pounds; any other pass or discharge, 8 pounds; writing a sheriff's commission, bond, and recording it, 150 pounds; for filing every special plea and every other pleading to making up the issue for each if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; for filing every account, if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; for filing plots or warrant of survey out of the General Court, and depositions if not recorded, 4 pounds; for recording depositions, per side, and so pro rata, 4 pounds; taxing and filing bill of costs, 8 pounds; a copy thereof, if demanded, with the articles at large, 8 pounds; issuing every execution, and filing the same, and return, without any charge for copy of judgment, 14 pounds; *habere facias possessionem*, and return, 16 pounds; a writ of *posse comitatus*, and return, 51 pounds; a writ of discharge, if any, and return, 51 pounds; writing and recording a commission for every county court, 210 pounds; issuing and filing every common writ and return, 12 pounds; filing every declaration if not recorded, 4 pounds; for recording the same, per side, and so pro rata, 4 pounds; every appearance entered of either party in the General Court, six pounds; entry of defendant's imparlance, four pounds; a continuance or reference to be charged to the plaintiff only 4 pounds; making up the issue or issues in every suit, when done by the clerk, 20 pounds; rule to plead for trial when ordered by the court, 4 pounds; a *venire facias* for jurors, if issued by the order of the court, 16 pounds; a copy of the panel, 4 pounds; entering panel, 4 pounds; entering every verdict, 4 pounds; entering and signing judgment, 26 pounds; a short copy of the judgment, if demanded, 16 pounds, a transcript of the whole proceedings, per side, and so pro rata, 8 pounds; *scire facias* on a judgment, per side, and so pro rata, without any charge for search or copy of judgment, 8 pounds; *scire facias* against special bail, per side, and so pro rata, without any charge for search or copy of judgment, 8 pounds; a replevin, and return, 12 pounds; a *procedendo*, and return, 16 pounds; a writ of restitution, and return, 16 pounds; drawing *dedimus potestatem* to examine evidences, 32 pounds; a *habeas corpus*, and return, 22 pounds; an elegit, and return, 22 pounds; a warrant of survey, and return, 32 pounds; a *certiorari*, and return, 32 pounds; a commission of *audita*, and return, 32 pounds; a writ of diminution, and return, 16 pounds; a writ of error to the county court, and return, 38 pounds; a *scire facias* thereupon, and return, 16 pounds; a *supersedeas* thereupon, and return, 16 pounds; entering an acknowledgment of deed of conveyance in court, six pounds; recording a conveyance, per side, and so pro rata, 8 pounds; filing every recognisance taken out of court, if not recorded, 4 pounds; recording the same, per side, and so pro rata, 4 pounds; taking every recognisance in court, with or without sureties, 4 pounds; appearance of the principal to every recognisance, 8 pounds; for filing or taking every special bail in or out of court, 8 pounds; an attachment with *scire facias*, and return, 26 pounds; discharging every recognisance with or without security, 12 pounds; a copy of every recognisance, 12 pounds; every process to apprehend a criminal, issued by order of court, and return, 16 pounds; appearance of the person charged to every indictment or verdict, 8 pounds; *scire facias* against security for cost on a recognisance, per side, and so pro rata and return, without any charge for search or other matter, eight pounds; swearing every jury, 46 pounds; swearing every bailiff, 4 pounds; every oath taken in court, four pounds; *duces tecum*, and return, per side, as before, 8 pounds; affixing the seal of the court to the copy of any judgment or a transcript of any judgment or any record or certificate, 12 pounds; taking security on condemnation on attachment, 6 pounds; a writ of restitution, per side, and so pro rata, 8 pounds; entering action agreed, struck off, or abated, 2 pounds; a *scire facias* on a *certiorari*, per side, and so pro rata, 8 pounds; a *scire facias* on *audita querela*, per side, and so pro rata, 8 pounds; commission to examine evidences, per side, and so pro rata, 8 pounds; an attachment on non-compliance with the common rule in ejectment, per side, and so pro rata, eight pounds; a general court commission, per side, and so pro rata, eight pounds; a summons in partition per side, and return, and so pro rata, eight pounds; a writ of partition, and return, per side, and so pro rata, eight pounds; an attachment in partition and return, per side, and so pro rata, eight pounds; an *habere facias seisinam*, and return, per side, and so pro rata, eight pounds; every respite and continuance, 14 pounds; every order in criminal cases, 8 pounds; every indictment, per side, and so pro rata, 8 pounds; a copy of every indictment, per side, and so pro rata, 8 pounds; filing plea to the same, 8 pounds; recording the same, per side, and so pro rata, 8 pounds; confession to every indictment, 8 pounds; every indictment, after the first name, 10 pounds; allowance of a writ of error, 10 pounds; rule of trial, eight pounds: recording the verdict, 4 pounds; entering conviction and signing judgment, 25 pounds; every death warrant, 36 pounds; a writ of withernam, and return, 25 pounds; a writ of estrepement, and return, 25 pounds; for issuing commission to trustees under the act for regulating attachments, per side, and so pro rata, 8 pounds; filing same, and the return and proceedings of the trustees, 8 pounds; attachment of contempt, per side, 8 pounds; writ of dower, per side, 8 pounds; summons in dower, 8 pounds; for entering admission of guardian or next friend, 8 pounds; for entering commitment, 8 pounds; for entering suggestion of death, 4 pounds; for filing warrant of attorney, 4 pounds; entering award of execution, 8 pounds; filing bail piece, 4 pounds; filing *supersedeas*, 4 pounds; subpœna *ad justificandum*, 8 pounds; a *retorno habendo*, and return, per side, and so pro rata, 8 pounds; a writ of *distringas*, and return per side, and so pro rata, 8 pounds; a commission of oyer and terminer, per side, and so pro rata, 8 pounds; a commission of jail delivery, per side, and so pro rata, 8 pounds; a *dedimus potestatem* to swear the judges of assize or sheriff, per side, and so pro rata, 8 pounds; a writ of publication to the laws, 12 pounds; search the first year, nothing; for all searches above one year, if the matter searched for be found, 14 pounds; for recording or copying any matter or thing in this table enumerated, for which no other allowance hath been already made, and not prohibited to be recorded, per side, and so pro rata, 8 pounds; appearance and surrender in discharge of bail, eight pounds; filing every affidavit, 4 pounds; entering every default on recognisance, 4 pounds; entering list of common law fines, per side, and so pro rata, 8 pounds; for copy thereof, per side, and so pro rata, 8 pounds; for entering security for costs, 8 pounds; copy of orders for witnesses' attendance, 4 pounds; for entering *amerciament* on sheriff or coroner, on mesne process, 8 pounds; filing award, 4 pounds; for recording the same, per side, and so pro rata, 9 pounds.

To the Clerks of the County Courts.—For issuing every common writ and return, 10 pounds of tobacco; filing every declaration, if not recorded, 2 pounds; a copy of the same, if demanded, per side, and so pro rata, 4 pounds; every appearance entered of either party, 4 pounds; entry of imparlance, 2 pounds; for every continuance or reference, to be charged to the plaintiff only, three pounds; every subpœna, including all persons, applied for at the same time, 6 pounds; rule to plead, or trial moved for and entered, 2 pounds; for making up the issue or issues in every suit, when done by the clerk, 6 pounds; entering and signing judgment, 15 pounds; a *venire facias* for jurors, if issued by the court, 6 pounds; entering the panel, 2 pounds: copy of panel, two pounds; taxing and filing bill of cost, five pounds; copy thereof, if demanded with the articles at large, 5 pounds; issuing every execution, and filing the same, without any charge for copying judgment, 10 pounds; for filing every special bail, taken in or out of court, two pounds; a writ of inquiry of damages, per side, and so pro rata, 4 pounds; for entering an appeal, 4 pounds; a return of a *certiorari* or *habeas corpus*, and copy of the record, per side, and so pro rata, four pounds; entering a writ of error, 4 pounds; every oath taken in court, 3 pounds; proving a deed or writing, 4 pounds; a copy of the same, if required, per side, and so pro rata, 4 pounds; for entering *fieri facias*, where the same is executed, and schedule returned, but in no other case, per side, and so pro rata, 4 pounds; the same fees in elegits, 4 pounds; recording the mark of cattle or hogs, 3 pounds; taking and certifying acknowledgments of land in court, five pounds; recording a conveyance of land, per side, and so pro rata, 4 pounds; allowance of *habeas corpus*, 4 pounds; for all searches the first year, nothing; for all searches above one year, be the time of what length soever, if the matter searched for be found, 10 pounds; if copy taken, then, per side, and so pro rata, 4 pounds; every *scire facias*, per side, and so pro rata, without any charge for search or copy of judgment, 4 pounds; attachment on *scire facias*, 18 pounds; short copy judgment, if expressly demanded, 10 pounds; *habeas corpus*, and filing the same, and return, 8 pounds; elegit, and filing the same, and return, 8 pounds; *duces tecum*, and return, 40 pounds; taking security on condemnation, 8 pounds; entering action agreed, discontinued, struck off, or abated, two pounds; commission to examine evidences, and return, per side, and so pro rata, 4 pounds; a continuance or reference to be charged to the plaintiff only, two pounds; for filing every special bail, 2 pounds; if recorded, per side, and so pro rata, 4 pounds; for filing every replication, 3 pounds; if recorded, per side, and so pro rata, four pounds; for filing joinder, surrejoinder, two pounds; if recorded, per side, and so pro rata, four pounds; and for every other pleading for making up the issue for each, 2 pounds; if recorded, per side, and so pro rata, 4 pounds; for filing demurrer and joinder in demurrer, each, 2 pounds; if recorded, per side, and so pro rata, 4 pounds; for filing every account, 2 pounds; if recorded, per side, and so pro rata, 4 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, for which no other allowance hath been already made, per side, and so pro rata, 4 pounds; for entering return of every writ or other process, 2 pounds; for filing every paper not herein before mentioned, 2 pounds; for every rule, by order of court, 2 pounds.

Criminal Fees.—Filing every recognisance taken out of court, if not recorded, 2 pounds; for taking every recognisance, with or without sureties, in court, 3 pounds; appearances of the principal to every recognisance, 5 pounds; discharging of recognisance, with or without security, 8 pounds; every process to apprehend a criminal, issued by order of court, 10 pounds; every appearance of the person charged to every presentment or indictment, 5 pounds; every respite and continuance, 5 pounds; for every order, 4 pounds; a copy of recognisance, with or without security, 8 pounds; for filing every indictment or informa-

tion, 5 pounds; for recording the same, per side, and so *pro rata*, 2 pounds; a copy of the panel, 2 pounds; for recording the verdict, 10 pounds; entering and signing judgment, 15 pounds; a copy of the indictment, per side, and so *pro rata* 5 pounds; entering a plea 5 pounds; confession of indictment 5 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, for which no other allowance hath been already made, per side, and so *pro rata*, 4 pounds; for copy of every matter not hereinbefore enumerated, per side, and so *pro rata*, 4 pounds; for entering the panel, 2 pounds; for issuing every warrant of execution 8 pounds.

By November, 1787, ch. 34, there shall be a deduction of one-fourth part from all officers' fees allowed by this act, which are chargeable by law to the State, or any county, except sheriff's fees, for the imprisonment of persons criminally charged.

Chancery proceedings in County Courts.—Entering motion, and order thereon, 4 pounds; entering and signing decree, 15 pounds; taxing and filing costs, 5 pounds; copy costs, with articles at large, if demanded, 5 pounds; affixing the seal to any transcript or certificate, 5 pounds; filing every bill, 2 pounds; filing every answer, 2 pounds; filing every plea, 2 pounds; filing every demurrer, 2 pounds; filing accounts, book of accounts, bonds, deeds, or other papers or writings referred to, or made part of any bill in chancery, answer, or other pleadings or process thereupon, for each, 2 pounds; filing every return of commission and depositions, 2 pounds; commission to examine witnesses, per side, and so *pro rata*, 4 pounds; filing every return of commission and depositions, 2 pounds; filing every deposition, if taken in court and without commission, 2 pounds; filing every petition, and order thereon, 2 pounds; entering every appearance, 3 pounds; filing every bond, with or without security, 2 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, and for which no other allowance hath been made, per side, and so *pro rata*, 4 pounds.

To the Sheriff.—Serving writ, and return, 27 pounds; taking bail bond, 14 pounds; collecting officers' fees, for every hundred, six per cent.; for every commitment and releasement, 16 pounds; empannelling a jury, 90 pounds; serving *scire facias*, including the persons summoned, 23 pounds; serving citation, 23 pounds; executing a warrant of resurvey, per day, 75 pounds; summoning evidences to prove the bounds of land, for each person summoned, 23 pounds; if empowered to swear evidences, for every witness sworn by him, 10 pounds; serving a subpœna, and return, 23 pounds for keeping a prisoner in jail, and finding him victuals, per day, 12 pounds; serving a writ of possession in ejectment, and return, 112 pounds; writ of seisin on a common recovery, and return, 10 pounds; serving an ejectment, and return, 51 pounds; every election, for one or more members, 1,000 pounds; serving an attachment of contempt, and return, 38 pounds; serving writ of estrepement, and return, 75 pounds; serving *ne exeat*, and return, 200 pounds; serving a copy of declaration or short note, 4 pounds; summoning appraisers, to value goods taken by attachment, *fieri facias*, or replevin, for each appraiser summoned, 23 pounds; swearing the said appraisers, every oath, 10 pounds; serving an attachment on judgment or execution, and return, 8 pounds; executing a writ of *ad quod damnum* or *melius inquirendum*, and return, per day, 75 pounds; empannelling a jury on the same, 180 pounds; swearing the said jury, for every oath, 10 pounds; taking an inquisition, and returning the same with the said writ, 75 pounds; serving a writ of re-restitution, and return, 112 pounds; empannelling a jury to inquire of a forcible entry and detainer, 180 pounds; to each person summoned as an evidence on the same, 23 pounds; for summoning chain carriers, each, if required, 23 pounds; for swearing chain carriers, every oath, 10 pounds; for an arrest on a warrant, and return, in criminal cases, 18 pounds; for serving *duces tecum*, and return, 18 pounds; return on an attachment, when *mesne* process, 8 pounds; for laying an attachment in any garnishee's hands, for each garnishee 23 pounds; for all goods and chattels which any sheriff shall attach and take into his possession, or wherewith he shall be chargeable, the same fees as on executions; returning *fieri facias* on replevin, each, 8 pounds; the same fees on *fieri facias* or replevin as upon attachments; also, the same fees on appraisement and sale of goods distrained and sold for rent; serving writ of *retorno habendo*, and return, 75 pounds; serving a writ of *distringas*, and return, 75 pounds; serving the return of *elegit liberato*, 75 pounds; empannelling jury on *elegit* or extent, 180 pounds; for swearing the same, each, 10 pounds; serving writ of restitution, and return, 112 pounds; summons in partition, for every person summoned, and return, 23 pounds; serving writ of partition, and return, 26 pounds; empannelling jury thereon, 180 pounds; swearing the jury, each, 10 pounds; attendances, per day, 75 pounds; serving an attachment in partition, and return, 90 pounds; returning writ, inquiry of damages, 75 pounds; empannelling jury thereon, 180 pounds; swearing the same, each, 10 pounds; attendance per day, 75 pounds; proclamation of rebellion, and return, 90 pounds; serving withernam, and return, 75 pounds; and the same fees allowed as upon replevins.

By the 4th section of the act of November, 1779, ch. 25, it is provided, that poundage fees on any writ of *capias ad satisfaciendum* shall not be demanded or taken for any greater sum than the real debt, *bona fide* due and claimed by the plaintiff, amounts to.

By the 2d section of the act of November session, 1790, ch. 59, the sheriff, on the service of any execution for money or tobacco, shall charge and receive at the rate of seven and a half per cent. for the first ten pounds in money, or 1,000 pounds of tobacco; and three per cent. for the residue, in the same species the execution shall issue for. On execution or attachment on lands held for years, or a greater estate, only one-half the poundage fees; and if the estate in land shall not be chargeable by

appraisement, and delivered to the plaintiff, or by sale of the sheriff, one-quarter part of the poundage fees only shall be chargeable.

To the Clerk of the Court of Appeals.—Recording every writ of error, *scire facias*, and return, per side, and so *pro rata*, computing one hundred and five words to a side, the like for recording a transcript, the like fees for recording errors per side, and so *pro rata*, 8 pounds; entering and signing judgment, 47 pounds; taxing and filing a bill of cost, 8 pounds; copy of the same, if demanded, 8 pounds; filing bill of cost from the general, chancery, or any other court, 8 pounds; writ of diminution, and return, 22 pounds; writ of possession, or any other execution and return, 20 pounds; entering any motion or order, filing or recording any bond in court, entering any petition, entering and drawing any affidavit or deposition taken or returned into court, copy errors, recording proceedings transmitted from the chancery court, or copy the same, filing and recording any plea, replication, or demurrer, or copy the same in common law proceedings, entering and reference in court, and copy the same, or copying any other proceedings per side, and so *pro rata*, 8 pounds; issue and rule, 24 pounds; affixing the seal of the court to any copy of proceedings or exemplifications, 131 pounds; and for all other services the same fees as taken in the general court; the clerk of every court of delegates to have the same fees that are allowed and limited by this act to the clerk of the court of appeals, and no more.

The court of appeals being abolished by the Legislature, a new court was established, to be held on the Western and on the Eastern shores; and by the 15th section of the act of November session, 1805, ch. 65, it is enacted that the clerks of the court of appeals for the Western and Eastern shores, respectively, shall have the same fees for their services as the clerks of the county courts are entitled to for the same or similar services by law.

Crier's Fees in General Court.—Swearing every jury, 106 pounds; swearing every witness, 10 pounds; swearing the bailiff, 10 pounds; every oath taken in court, 5 pounds; every special bail, 54 pounds; clearing every prisoner by proclamation, if required, 60 pounds; for every recognisance, 20 pounds.

Coroner's Fees.—Viewing the body of any person or persons murdered or slain, or otherwise dead, by misadventure, to be paid out of the goods and chattels of the party so dead, if any there be, otherwise to be levied by the commissioners of the county where such accident shall happen, 250 pounds; arresting or summoning any sheriff sued or prosecuted in any court, and for taking security, 26 pounds; the same fees allowed wherein the sheriff is plaintiff or defendant, on all processes to the sheriff, and no more.

Crier's Fees in the County Court.—Swearing every jury, 36 pounds; swearing every bailiff, 4 pounds; every other oath in court, 3 pounds; for special bail, 20 pounds; clearing every prisoner by proclamation, if required, 30 pounds; for calling every recognisance, 16 pounds.

To the Registers of the Land Office on the Western and Eastern shores, respectively.—For a common warrant and entry, 33 pounds; for renewing the same, and entry, whether in or out of date, 33 pounds; for recording certificate, per side, computing one hundred and five words to a side, and so *pro rata*, 8 pounds; for making out a grant, 90 pounds; for recording the same, 67 pounds; for special warrant on the proclamation of escheat, or re-survey, including petition and order thereon, 250 pounds; for searching for any matter or thing first year, nothing; if the matter searched for be found, 14 pounds; for a special warrant for vacant cultivation, including petition, and order thereon, 150 pounds; for renewing every special warrant, whether in or out of date, 33 pounds; entering every *caveat*, and order, 24 pounds; for every deed or assignment, 75 pounds; for drawing a petition, at the request of the party, 54 pounds; for all copies, per side, as before, 8 pounds; for filing every paper, at the request of the party, 4 pounds; for entering every application for warrant, 10 pounds; for copy thereof, per side, and so *pro rata*, 8 pounds; for every seal, 10 pounds.

How the fees allowed in tobacco are to be payable, &c.—October session, 1780, ch. 23, s. 3. All fees and allowances made in tobacco shall be paid and discharged in tobacco, at the rate of 12*s.* 6*d.* per cwt., or in specie, valuing dollars at 7*s.* 6*d.*

Fees allowed to the Registers of Wills, in the several counties of the State, by the act of November session, 1797, ch. 76.—For every probate of will, where no controversy or letters granted, including demand, and all oaths necessary thereto, 80 cents; for granting letters of administration, swearing the administrators, taking bond, issuing warrant to appraisers, and warrant to swear them, or for probate of any will, granting letters testamentary, if required, taking bond, issuing warrant to appraisers to swear them, $3 20; *dedimus potestatem*, to take answer, per side, and so *pro rata*, 8 cents; for recording wills, inventories, accounts, or copying the same, per side, computing seven words to the line, and fifteen lines to a side, and so *pro rata*, 8 cents; taxing and filing costs, 8 cents; copy costs, if demanded and delivered, 8 cents; for drawing definitive sentence on plenary proceedings, and recording the same per side, and so *pro rata*, 8 cents; a writ of execution or definitive sentence, per side, and so *pro rata*, 8 cents; seal to definitive sentence, if required, 30 cents; seal to a writ of execution of definitive sentence, 30 cts; copy of every libel, answer, replication, or rejoinder, per side, if demanded, 8 cents; drawing deposition of witnesses, per side, and so *pro rata*, 10 cents; filing interrogatories, per side, and so *pro rata*, 4 cents; every common citation, per side, and so *pro rata*, 8 cents; every special citation, per side, and so *pro rata*, 8 cents; every attachment 30 cts; attachment on decree, per side, and so *pro rata*, 8 cts; subpœna for costs, 20 cents; every appearance of the party, 8 cents; entering of every return of process, 8 cents; *quietus est*, nothing; for a continuance or reference, to be charged to the libellant

only, 8 cents; for a search of the record, the first year, nothing; for every search afterwards, be the time of what length soever, if the matter searched for be found, 20 cents; exemplification of letters testamentary, or administration, under seal, 80 cents; commission or proclamation of rebellion, 80 cents; commission to examine evidences, and commission to auditors, 60 cents; *scire facias*, 60 cents; *duces tecum*, 30 cents; entering every motion in suits depending in court, and order thereon, 8 cents; if above one side, after the rate of per side, and so *pro rata*, 8 cents; entering prayer for appeal, 10 cents; filing every libel, answer, replication, petition, or exhibits, where not recorded, for each, 4 cents; for recording or copying any matter or thing not herein enumerated, if requested by the party, per side, and so *pro rata*, 8 cents; writ of sequestration and return, per side, and so *pro rata*, 16 cents; filing every matter, if not recorded, 4 cents; for entering and taking executor's renunciation, 8 cents; for entering widow's renunciation, 8 cents; for every oath, 4 cents; for every certificate, 8 cents; for making out and filing the balance, and distribution of a deceased person's estate, 60 cents; for taking bond for security of said balance, 40 cents; for filing the same, 4 cents; for recording the same, per side, and so *pro rata*, 8 cents; for entering choice or appointment of guardian, and approbation with sureties, 8 cents; for taking guardian's bonds, 40 cents; for filing the same, 4 cents; recording the same, per side, and so *pro rata*, 8 cents; for taking recognisance for apprentice bound in court, 40 cents; for warrant to sheriff to summon jury, 25 cents; for filing panel of jury, 4 cents; copy of the same, 8 cents; filing every presentment and entering order thereon, 12 cents; for *scire facias* against executors or administrators for costs, 40 cents; for every seal, 20 cents; for taking an appeal bond, 40 cents; for filing the same, 4 cents; recording the same, per side, and so *pro rata*, 8 cents; for stating and passing every account, 80 cents; for every voucher, 4 cents.

Allowances to Grand and Petit Jurors and Witnesses.—April session, 1715. c. 37, s. 8, and May session, 1719. ch. 3, s. 2. For every verdict given by the petit jury in any cause, to be paid by the party for whom such verdict shall pass, and be allowed in the bill of costs, twelve shillings.

November session, 1787, ch. 94. There shall be allowed to each grand and petit juryman, attending the general court, the sum of $2 50 for each and every day such grand and petit juryman shall attend for the discharge of his duty, besides itinerant charges.

There shall be allowed to each grand and petit juryman, attending the several county courts, and each petit juryman attending the orphans' court, the sum of $1 50 for each and every day such grand and petit juryman shall attend, for the discharge of his duty as such.

There shall be allowed to each witness, attending the general court, the sum of $1 50 for each and every day such witness shall attend for the discharge of his duty, besides itinerant charges.

There shall be allowed to each witness attending the county or orphans' court the sum of $1 for each and every day such witness shall attend for the discharge of his duty, besides itinerant charges to be allowed to witnesses coming from other counties.

STATE OF VIRGINIA.

Table of the Fees allowed by the law to Attorneys in the State of Virginia.

In the County Courts.—In common cases, $2 50; in all chancery suits, or real, mixed, or personal actions, where the title or bounds of lands shall or may come in question, $5; on petition for small debts, $1 25; for attending a survey in the county, for each day's attendance, $3 58; for any opinion or advice, where no suit is brought or defended, $1 67.

In the District Courts.—When the title or bounds of lands shall or may come in question, $5; in all other cases, except those transferred from the general court, $2 50; in the cases so transferred, the fees shall be the same as in the general court.

In the General Court.—For an opinion or advice, where no suit is brought or defended, $3 58; in any suit where the title or bounds of lands shall or may come in question, $16 66; in all other cases, $8 33.

In the High Court of Chancery.—In all cases the fee is $16 66.

In the Court of Appeals.—In all cases the fees are the same as in the general court.

The Clerk of the Court of Appeals—Shall receive the same fees as are allowed to the clerks of the general court and high court of chancery for similar services.

The Clerk of the High Court of Chancery.—For filing a bill, answer, replication, or other pleadings, each, 26 cents; for a copy thereof, for every twenty words, 2 cents; for entering every decree, 18 cents; for drawing up every decree at large, entering the substance of the bill, answer, or other pleadings, the substance of the evidence, and the decree thereupon, for every twenty words, 2 cents; for filing the depositions in every cause in behalf of each party, 26 cents; for a copy of the depositions, for every twenty words, 2 cents.

To the Clerks of the General Court.—For a copy of a warrant and inquisition of escheat, $1 92; or of an inquisition of escheat, 83 cents; for the probation of any testament, and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the probate, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement does not amount to more than three hundred dollars, $3 50; where the appraisement is more than three, and less than fifteen hundred dollars, $5; where more than fifteen hundred dollars, or where there is no appraisement, $7; for a copy of probate, or commission of administration, 70 cents; for recording the memorial of

each bargain sale, mortage, or other conveyance, marriage settlement, or deed of trust, 18 cents; for recording the certificate of a probate, or administration, 18 cents; for a copy of a will or inventory, 70 cents; and if the original is contained in more sheets than one one, for a copy of each sheet, 52 cents; for a copy of an account, 35 cents; for recording a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court, $2 62; for a copy of such deed or deeds, with the endorsement thereon, and for a certificate of the acknowledgment or proof, and recording, $1 57; for issuing a commission to take the acknowledgment and privy examination of a *feme coverte*, and recording it with the return of the commissioners, 87 cents; for a copy thereof, 52 cents; for recording a deed concerning slaves, or any personal matter only, $1 22; for a copy thereof, with a certificate of the acknowledgment or proof, and recording, 70 cents; for a deed of gift for slaves only, or for a copy thereof, 35 cents; for recording a letter of attorney acknowedged and proved in the general court, and everything relating thereto, $1 22; for a copy thereof, 70 cents; for recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of land, 70 cents; for a copy of a bond without condition, 35 cents.

In Actions and other Suits.—For every writ of error, *supersedeas*, or *scire facias*, 43 cents; for taking bond on issuing a writ of error or *supersedeas*, 43 cents; for every other writ in action or suit whatsoever, 35 cents; for entering the sheriff's return, and entering the bail by him returned in the entry book, 35 cents; for entering special bail, 35 cents; for entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party, 18 cents; for entering security for costs for persons out of the county, 35 cents; for filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or *supersedeas*, 25 cents; for copy of every declaration, plea or demurrer, or of errors, 35 cents; for every rule entered in the rule book, 35 cents; for a copy of every rule, 18 cents; for every order in court before trial, 18 cents; for a copy of the same, 18 cents; for filing papers for each party in any action or suit, 26 cents; for docketing every cause on the docket, (to be charged but once,) 18 cents; for every trial, swearing the jury and witnesses, and recording a general verdict, 87 cents; for administering an oath or affirmation in court, except witnesses to a jury, 18 cents; for every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict, $1 30; where there is no jury, but a case agreed, 43 cents; for swearing the witnesses for each party in every cause where there is no jury, 26 cents; for a copy of a case agreed, or notes of a special verdict, 43 cents; for entering every order made in court, after verdict or demurrer joined, 18 cents; for entering every continuance on the court docket, 18 cents; for entering every judgment, 18 cents; for making a complete record of every cause, inserting a case agreed, or special verdict at large, from the notes, and all deeds and other evidences at large, for every twenty words, 2 cents; for a copy thereof, or any part thereof, the same; for a recognisance in court, 35 cents; for filing a return of a *habeas corpus*, 26 cents; for filing the record on a writ of error, 26 cents; for copy of such record for every twenty words, 2 cents.

To the Clerk of the General Court or High Court of Chancery, (as the case may be.)—For taking a bond upon issuing injunctions, 43 cents; for every *dedimus potestatem*, 35 cents; for recording the report of auditors, when it is desired, 70 cents; for making a complete record of every cause, for every twenty words, 2 cents; for filing the return of a *certiorari*, 26 cents; for taxing the costs in any action or suit, and a copy thereof, 35 cents; for recording anything not herein particularly mentioned, or for a copy thereof, for every twenty words, 2 cents; for a search for anything, if above a year's standing, or reading the same or any part thereof, if required, if a copy be not taken, 18 cents; for every order to a witness for attendance, (to be charged to the party against whom the order goes,) 18 cents.

To the Clerks of the District Courts.—For issuing a summons on a petition for lapsed lands, 87 cents; for every order thereon, 26 cents; in all other cases, the same fees with those of the county courts for similar services; and for all other services, the same as those of the clerk of the general court.

To the Clerk of the District Court, or the Clerk of the High Court of Chancery, (as the case may be.)—For filing the record upon an appeal, or *supersedeas* for a county or other inferior court, 26 cents; for a copy of such record, for every twenty words, 2 cents.

To the Clerks of the County and Corporation Courts.—For every writ in the nature of an *ad quod damnum*, to be paid upon issuing such writ, 83 cents; for recording the same, with the inquisition thereupon, to be paid before inquisition recorded, $1 92 cents; for a copy of such writ and inquisition, to be paid down, 83 cents; for taking a bond upon issuing injunctions in chancery, 35 cents; for recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof, or acknowledgment, as the case is, and all matters relating thereto, $2 62; for a copy thereof, 95 cents; for recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands or tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof, or acknowledgment, as the case is, and all matters relating thereto, $1 75; for a copy thereof, 70 cents; for issuing and recording a commission to take the acknowledgment, and privy examination of a *feme coverte*, with the certificate of the commissioners, if such commission be required, 70 cents; for a copy thereof, 35 cents; for

recording a patent, 87 cents; for a copy thereof, 43 cents; for recording a deed concerning slaves, or any personal matter or thing only, with a certificate of its proof or acknowledgment, 70 cents; for a copy thereof, 52 cents: provided, however, that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only 36 cents; for recording a letter of attorney, 52 cents; for a certificate of the proof, or acknowledgment thereof, 18 cents; for a copy of a letter of attorney, with such certificate, 43 cents; for recording a bond, with conditions other than for performance of covenants in deeds of conveyance, or seulement of lands, 35 cents; for a copy of a bond, with condition, other than an appeal bond, the same; for a copy of any other obligation or promissory note, 18 cents; for the probation of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet, 70 cents; and if the will is contained in more than one sheet, for every such sheet, 35 cents; for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same, 70 cents; for recording an inventory, where the appraisement does not amount to more than thirty dollars, 18 cents; where the appraisement exceeds that value, and is under one hundred and fifty dollars, 87 cents; and where it shall exceed one hundred and fifty dollars, and is under three hundred dollars, $1 75; and where it shall exceed three hundred dollars, or there is no appraisement, $4 37; for a copy of a will or inventory, if the original is contained in one sheet, 52 cents; if the original is contained in more sheets than one, for a copy of every such sheet besides the first, 35 cents; for recording the age of a servant or slave, adjudged in court, 18 cents; for a certificate thereof, if required, 14 cents; for attending a court for examination of criminals and trial of slaves, if the court is held for that purpose, (to be paid by the public,) $3 50; for a copy of a list of tithables in his precinct, 35 cents; for the whole fee for an ordinary license and bond, 87 cents; for a copy of the rates of liquors, 26 cents; for a marriage license, certificate, and bond, 87 cents; for every search for everything above a year's standing, if a copy be not taken, 8 cents; for reading anything, if a copy be not required, 8 cents.

In Actions and other Suits.—For every writ other than such as are herein particularly mentioned, 18 cents; for a copy of such writ, 8 cents; for every writ of execution or *scire facias*, 26 cents: for a copy thereof, 14 cents; for recording the return thereof, 14 cents; for a writ of attachment in any action, 26 cents; for recording the return thereof, 26 cents; for an attachment granted by a justice of the peace, returnable to the court, and recording the return, and putting the same in the docket, 35 cents; for every summons to summon a garnishee on such attachment, 18 cents; for filing every bail bond, or entering the bail returned, 18 cents; for docketing every cause, except by petition, to be charged but once, 8 cents; for a copy of the return of any writ, 5 cents; for entering special bail, 18 cents; for entering security for costs for persons out of the county, 18 cents; for entering the appearance of the defendant or defendants, where there is no attorney, in any suit except by petition, 8 cents; for entering one or more attorneys for each party, 8 cents; for every petition, declaration, or other pleadings, except in suits by petition for debt, *detinue*, *assumpsit*, or trover, 18 cents; for a copy of any declaration, special plea, or demurrer, 18 cents; for a copy of any declaration, special plea, or demurrer, 18 cents; for a copy of a plea, if the general issue, 5 cents; for every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict, 70 cents; for every trial where there is a special verdict, or case agreed, and recording the same, $1 13; for swearing the witnesses in every other cause, where there is no jury, or case agreed, except by petition, 18 cents; for filing the papers of each party in every cause except by petition, and where there is a jury or case agreed, 18 cents; for a copy of a special verdict or case agreed, and everything therein set forth, or for making up a full and complete record, for every thirty words, 2 cents; for entering every judgment, or for a copy thereof, 18 cents; for filing a bill, answer, replication, and other pleadings in chancery, for each, 18 cents; for a copy thereof, for every thirty words, 2 cents; for a commission to examine witnesses, 43 cents; for attending and writing depositions taken against inspectors before justices of the peace, $1 75; for entering every decree in chancery, 26 cents; for filing the depositions in any suit, for each party, 8 cents; for every deposition taken in court, 18 cents; for a copy of a deposition, 18 cents; for administering an oath in court not relating to the trial of any cause then pending, and certifying the same, 18 cents; for every recognisance in court, 18 cents; for entering the order or orders in any cause in one court, 26 cents; for entering every order for attendance of witnesses, 18 cents; for a copy of any order, 18 cents; for recording the report of a jury in the county, surveyor, auditor, or viewers, 35 cents; for a copy thereof, 35 cents; for taxing costs to any judgment or decree where costs are recovered, or for a copy of a bill of costs, if required 20 cents; for a copy of an account, 18 cents; for entering an appeal, and taking bond to prosecute it, 35 cents; for a copy of the bond, 18 cents; for returning an appeal and security to the office of the court of chancery, or a district court, as the case may be, 52 cents; for returning a writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 35 cents; for a copy of the proceedings of the cause wherein the appeal is granted, for every thirty words, 2 cents; for recording the acknowledgment of satisfaction of a judgment, 18 cents; for entering each order for a witness's attendance, (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,) 18 cents; for a copy thereof, to be taxed and charged in like manner, 18 cents; for an attachment thereon, to be charged to the party against whom the attachment shall

be issued, 18 cents; for the whole fee, chargeable for every petition for debt, detinue, *assumpsit*, or trover, and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attorneys, for every order for continuance, and for issuing execution, where any of those matters happen, 87 cents; for entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs, 8 cents; for a summons for several witnesses living in one county, if summonses for all be taken out at one time, 18 cents; for recording anything not here particularly mentioned, or for a copy thereof, for every thirty words, 2 cents; for the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the general court, 52 cents.

To the Sheriff or Sergeant, (as the case may be.)—For an arrest, bond, and return, 63 cents; for returning a *capias non est inventus*, 21 cents; for serving a *scire facias* 30 cents; for serving any person with an order of court, and making return thereof, 30 cents; for pillorying any person, 42 cents; for putting into the stocks, 21 cents; for ducking any person, 42 cents; for putting in prison, and releasement, 42 cents; for serving a subpœna in chancery, 30 cents; for serving a summons upon a petition for debt, detinue, *assumpsit*, or trover, 30 cents; for serving a subpœna for a witness in any case in court, except summoned in court, 21 cents; for summoning an appraiser, auditor, viewer, or witness, to any deed, will, or writing, if required to be summoned, but not else, 21 cents; for summoning and empannelling a jury in every cause wherein a jury shall be sworn, $1 05; for coming to attending the district court with the *venire*, and return of the *venire facias*, the same as is allowed to a *venire man*, (to be paid by the public,) and for attending the district with stolen goods where there is no *venire*, the same; for summoning the justices of the county, and attending the court for the examination of a criminal, (to be paid by the public,) $4 20; for removing every criminal from the county jail, for every mile, 10 cents; for removing a debtor by *habeas corpus* from the county jail to a district jail, for every mile, 4 cents; for executing every condemned person, and all fees incident thereto, (to be paid as aforesaid,) $5 25; for summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear, $3 15; and if the jury do not appear, $1 57; for making a return of a writ of dower, partition, or in the nature of an *ad quod damnum*, $1 05; for every day's attendance upon a jury in the country after they are sworn, or attendance upon a surveyor when ordered by the court, $1 05; for serving a writ of *habere facias seisinam*, or *habere facias possessionem*, $1 05; for serving an attachment upon the body, 63 cents; for serving a writ of *distringas* issuing from a judgment in detinue when the specific thing shall be taken, $1 05; for serving a declaration in ejectment, if against one tenant, 63 cents; and if against more tenants than one, for serving the declaration on every other tenant, 30 cents; for whipping a servant, to be paid by the owner, and repaid by the servant, 42 cents; for whipping a free person by order of court, to be paid by such person, 42 cents; for whipping a slave by order of court, to be paid by the county, and repaid by the public, 42 cents; for taking a bond or bonds to the creditor, under the act, entitled "An act for reducing into one the several acts concerning executions and for the relief of insolvent debtors," 63 cents; for proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold or the debt paid, the commission of five per centum on the first three hundred dollars, or ten thousand pounds of tobacco, and two per centum on all sums above that, and one-half of such commission where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee, or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken; for serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution where the goods do not exceed that value, or are not sold, 63 cents; for every garnishee summoned on such attachment, 21 cents; for executing any writ of *distringas* or attachment on a decree in chancery, the same fee or commission upon the amount of the value of the goods and chattels recovered or money mentioned in such decree as is by law allowed for serving any other execution; for serving and returning a general or district court writ, summons, or order, where the same is not comprehended in any of the foregoing articles, 63 cents; for making a proclamation, as the law directs, in proving wills or proceeding to outlawry, 42 cents; for selling a servant at public outcry, by order of the court, and all fees incident, 42 cents; for keeping and providing for a debtor in jail, each day, 21 cents; for serving a justice's warrant, 21 cents; for summoning a witness before a justice, 10 cents; for all public services of the sheriff, to wit, attending the courts of claims, empannelling grand juries, publishing writs for electing delegates or senators, and attendance, serving all public orders of court, (except against guardians, where they shall stand out in contempt, to be charged to such guardian,) and all other public and county services, to be levied annually by the justices on the county, 25 cents.

To the Coroner.—For taking an inquisition on a dead body, to be paid out of the estate of the deceased, if the same be sufficient, if not, by the county, $2 80; for all other business done by him, the same fees as are allowed the sheriff for the same services.

Witnesses.—For attending the county courts, referees, commissioners, or other persons for the purpose of giving testimony, or on a survey of lands in the county where they reside, for every day, 53 cents; and those residing in, and summoned from, another county, the same, together with travelling expenses as in the superior courts; for attendance in the superior courts, for every

mile going and returning, each, 4 cents; for attendance each day, $1 04 cents; in criminal cases, either before the examining court or the district court, the same as in civil cases.

STATE OF NORTH CAROLINA.

A table of fees and compensation allowed by the laws of North Carolina to attorneys at law, prothonotaries, registers, and clerks of judicial courts, to sheriffs and coroners, to grand and petit jurors, and witnesses, viz:

To the Attorney General.—For every bill of indictment found, or presentment made, £1 6*s.* 8*d.*; if the bill be found *ignoramus*, the prosecutor shall pay 13*s.* 4*d.*

To the Solicitor General.—The same allowances and fees as the attorney general.

To the County Solicitor.—For prosecuting for the State, in any matter, civil or criminal, in any of the county courts, the same fees which are allowed by law to the attorney general for the like services.

To Attorneys.—For every suit in equity, £10; for every suit in the superior court, where the title of lands shall come in question, £5; for all other suits originally commenced in any of the said courts on the law side, £5; in all appeals from any other courts to said superior courts, £5; in all suits in the county courts, where the titles of lands shall come in question, £5; in all other suits originally commenced in the said county courts, £2; in every appeal from the judgment of a justice of the peace to said county courts, £1.

To the Clerks and Masters in Equity.—For a report on an answer, 3*s.*; for a report on an answer and plea, 4*s.*; for a report on a demurrer and answer, 4*s.*; for an affidavit to an answer, 1*s.* 6*d.*; for an affidavit to a bill, 1*s.* 6*d.*; for a separate affidavit, 2*s.*; for a copy of report by the office, copy-sheet containing ninety words, 2*s.*; for copies of proceedings and exemplifications, for each copy sheet, 2*s.*; for taking a bond, 1*s.* 6*d.*; for every rule given for service, 2*s.* 6*d.*; for every rule not for service, 2*s.* 3*d.*; for every subpœna, writ, or other process, 10*s.*; for every *dedimus* or commission, 5*s.* 4*d.*; for every injunction, 10*s.*; for drawing decrees, by the copy-sheet, 4*s.*; for enrolling a bill or answer, by copy-sheet, 2*s.*; for entering plea or demurrer, 2*s.*; for recording depositions to perpetuate testimony, for each copy-sheet, 2*s.*; for search, 1*s.*; for every dismission, 2*s.*; for a report stating an account, as much as the court may, in discretion, think adequate to the actual labor and trouble bestowed, not exceeding £25.

To the Clerks of the Superior Courts.—For every leading process returned to the first court, and all subsequent process, appearances, pleas, rules, orders, and other services necessary thereon, until the making up an issue, inclusive, and also for dismission or final judgment, where either happens, or for confession of judgment, 10*s.*; for every continuance or reference of every cause after the second court, including all the fees for every necessary service, 4*s.*; for the court at which the cause is determined, including all fees for every necessary service thereon, and entering final judgment, inclusive, 18*s.*; for every subpœna, provided the party insert no more than four witnesses in the same, 2*s.*; for every execution or order of sale, when necessarily issued and returned, including all services thereon, with taxing costs and copy, and entering satisfaction, 5*s.*; for every *scire facias* against bail, with making an issue thereon, or entering judgment without plea, including fees for every necessary service thereon, provided that the party cast shall not be subject to this unless the *scire facias* is requisite and required by the plaintiff, 8*s.*; for giving a copy of the record of any cause, when demanded by either of the parties, 6*s.*; for every recognisance, 2*s.*; for every order or rule of court, made in matters foreign to the suit depending in court, and copy thereof, when demanded, 2*s.* 8*d.*; for searching a record out of court, 1*s.*; for a commission to take the examination of a *feme coverte* or witnesses, in any cause depending, the return thereon entering, and all other services necessary thereon, 3*s.*; for a special *venire facias*, in an action of ejectment, or where the bounds of lands shall come in question, when the said writ shall be issued, 8*s.*; for a special verdict, demurrer, or motion in arrest of judgment, and argument thereon, 4*s.*; for a writ of error, *certiorari*, or appeal, with a transcript of the record, and all services necessary thereon, 8*s.*; for making out certificates of witnesses' or jurymen's attendance, 8*d.*; for every security taken to prosecute plaintiff's suit, or pay costs, 2*s.*; for entering the same, with the names of the security, 2*s.*; for advertising the distribution of the business of the next term for each county, £1; for fixing the seal to any instrument of writing that may require the same, 2*s.* 6*d.*; for indictment, calling the prisoner to the bar, charging or arraigning him, receiving and entering his plea at length, 10*s.*; for each recognisance, to be paid, so far as respects the person admitted to bail and his securities, at the time when taken, 2*s.*; for each subpœna in State cases, 2*s.*; for the trial, entering of final judgment, and issuing a copy of the sentence of the court, 18*s.*; for each continuance of an indictment, 4*s.*

To the Clerk of the County Court.—For every leading process returned to the first court, including all services, together with dismission or final judgment, where either happens, 10*s.*; for every presentment or indictment, 6*s.*; for entering and filing every recognisance, 2*s.*; for every continuance or reference of any cause after the second court, including all fees, for every service necessary thereon, 3*s.*; for the court at which the cause is determined, including all services, 7*s.* 6*d.*; for every subpœna, provided the party insert no more than four witnesses in the same, 1*s.* 6*d.*; for every execution or order of sale necessarily issued, including all services thereon, with taxing costs and copy, and entering satisfaction, 3*s.* 9*d.*; for every *scire facias* against bail, with making up an issue thereon, entering judgment without plea, including all pleas for every necessary service thereon, provided that the party paying costs shall not be

subject to this unless the *scire facias* is necessary and required by the plaintiff, 6*s.*; for copy of the record of any cause, 4*s.* 6*d.*; for every order or rule of court, made on matters foreign to the suit depending in court, and a copy thereof, if demanded, 2*s.*; for entering on the minutes the probate of wills, qualifying executors, making certificates, recording the will, and giving copy thereof, 8*s.*; for granting administration, taking bond, and all other services thereon, 6*s.*; for proving, and recording at length, and filing an inventory, account of sales, or account current, exhibited by any administrator, executor, or guardian, or for search, copy, or certificate of the same, if the estate be under one hundred pounds, 2*s.*; if above, 4*s.*; for every marriage license and bond, 8*s.*; for searching a record out of court, 2*s.*; for proving or entering acknowledgment of lands or other estate, and certifying the same, with order of registration, and examination of *feme coverte* without commission, 2*s.*; for a commission to take the examination of a *feme coverte* or witnesses, in a case depending in court, entering the return thereon, and other necessary services, 2*s.* 4*d.*; for guardian or other bond taken in court, including all services, 6*s.*; for indentures of apprenticeship 6*s.*; for a special verdict, or demurrer, or motion in arrest of judgment, 3*s.*; for a writ of error or appeal, with a transcript of the record, 8*s.*; for making certificates of witnesses' attendance, 8*d.*; for recording a mark or brand, and granting certificate thereof, 1*s.* All other services done by the clerks of the said courts are *ex officio*, amongst which are all notices or writs of *scire facias* against jurymen, and the courts may allow reasonable satisfaction for the same, not exceeding, per annum, £20; for every security taken for prosecuting a suit or paying costs, 2*s.*; for entering the same with securities' names, 2*s.*; for petition to correct error in grants or mean conveyances, 5*s.*; for affixing the seal where requisite, 2*s.* 6*d.*; for recording processioner's certificate, 2*s.* 6*d.*; for every search of the entry taker's book, 1*s.*; for copy of every location, 1*s.*; for issuing warrant, granting certificate, and affixing the seal as directed by act of 1796, c. 7, § 4, 4*s.*; for tavern license and bond, and copy of tavern rates, 8*s.*

To Sheriffs.—For selling an orphan's estate, to be allowed by the county court, not exceeding 2½ per cent.; for every arrest, 5*s.* 4*d.*; for every bail-bond, 2*s.*; for serving copy of declaration, 1*s.*; for serving a subpœna, for each person named therein, 2*s.* 8*d.*; for pillorying a person, 5*s.*; for an attachment, the same as for an arrest, and, if further trouble by moving of goods, to be taxed by the court; for executing a warrant of distress or execution against the body or goods, 2½ per centum; for summoning, empannelling, and attending on every jury, in every cause in court, 1*s.*; when a special *venire* shall issue by order of court, for summoning each juror and attending the same, 2*s.*; for putting a person in the stocks, and releasing, 5*s.* 4*d.*; for every commitment, 2*s.* 8*d.*; for every releasement, 2*s.* 8*d.*; for serving a writ of possession of land, 8*s.*; for serving and attending on any person on a habeas corpus, per day, 15*s.*; for calling every action in court, 4*d.*; for selling the estate of an intestate, to be allowed by the court, not exceeding 2½ per cent.; for summoning every warden of the poor, to be paid by the county, 2*s.* 1½*d.*; for services of equity, process, and incidental thereto, the same fees as for the like services at law; for apprehending any criminal, 10*s.*; for conveying any person in his custody, for criminal offence, to the jail where such person ought to be confined, at the rate of 6*d.* per mile; for each person composing the sheriff's guard, 3*d.* per mile; and 4*s.* for each day such sheriff shall maintain said prisoner; for carrying any sentence or order, on the part of the State, into execution, where the convict is to be corporeally punished, 10*s.*; for the execution and decent burial of a felon, £5.

To Coroners.—For attending on every inquest, £1 4*s.*; the same fees for discharging the duties of a sheriff as such sheriff would be entitled to by this act for performing the same services.

Jurors.—To each juror to the superior courts, (except in the districts of Morgan and Salisbury, and the counties of Persan, Chowan, and Robeson,) for every thirty miles in going and returning, 10*s.*; for each day's attendance, 10*s.*; to every juryman who shall attend the superior courts for the districts of Morgan and Salisbury, and from the counties of Chowan and Persan, for every day's attendance 8*s.*; for every thirty miles he shall travel in going to and returning from said courts, 8*s.*; and such sums as shall be necessarily expended by him in crossing ferries.

To Jurors attending the County Courts.—In most of the counties the jurors attending the courts are allowed nothing; in some, by particular laws, they are allowed a compensation, which varies in different counties, and is paid out of a tax to be levied in the county.

To Witnesses.—Each person, who shall attend any of the superior or county courts as a witness, shall be allowed for every day's attendance, and for every thirty miles he shall travel in going or returning from the said court, 8*s.*; for every day's attendance in the county courts, 4*s.*; and ferriages.

It may be proper to remark, that the currency of North Carolina is fixed by law at twenty shillings for every two dollars and a half; but a paper currency has been in circulation ever since the war, which is depreciated, and for many years past has been fixed by common consent at twenty per cent below par; that is to say, it has passed at the rate of twenty shillings for every two dollars. In this currency, the fees of attorneys, clerks, sheriffs, &c., have been generally paid; and, when they are paid in silver and gold, the dollars are received at the rate of two for every twenty shillings.

STATE OF SOUTH CAROLINA.

Table of Fees established by an act of the Legislature of South Carolina, passed Feb. 14, 1791.

Fees of the Secretary of State.—For every search, 8*d.*; for a commission for a place of profit, 15*s.*; for entering satisfaction on a mortgage, 1*s.*;

for recording a mark or brand, 1*s.*; for recording or copying any writing, for every copy sheet containing ninety words, 5*d.*; for drawing a proclamation and copy to the printer, to be paid by the State, 5*s.*; for a militia commission to be paid by the State, 4*s.*; for a pardon or reprieve, with the great seal, and recording, to be paid by the State. 5*s.*; for attending the courts of justice with records, 3*s.*; for finding the wax and appending the great seal to laws, to be paid by the State, for each law, 2*s.*; for a general commission of the peace for any county or district, to be paid by the State, 10*s.* 6d.; for making out a grant of lands, recording and fixing the great seal, 10*s.*; for a testimonial with the great seal, 5*s.*; for registering the certificate of a person becoming a citizen, 5*s.*

Fees of the Master and Commissioners in Equity.—For every summons, 1*s.* 9*d.*; for every copy of a charge or discharge, 1*s.*; for taking every affidavit in writing, 1*s.* 6*d.*; for every oath administered, 6*d.*; for taking every recognisance. 2*s.*; for every day's attendance in court on any cause, 3*s.* 6*d.*; for taking the oath of every defendant to an answer out of office, and attendance, 5*s.*; for every attendance in office. on summons of either party, or their solicitors, 3*s.* 6*d.*; for hearing and determining any contested matter, and order thereon, 5*s.*; for making up and returning every report into court, but only one report to be charged in each suit, 14*s.*; for commissions on sales, under decrees of the court, 3 per cent. for the first hundred, and 1 per cent. on all sums above; for drawing each set of conveyances, £1 5*s.*

Fees of the Register and Commissioners in Equity.—For affixing the seal of the court to subpœna or other writ, and signing the same, 2*s.* 6*d.*; for affidavit of service of subpœna or other writ, 2*s.* 6*d.*; for examining every witness, drawing depositions, exemplifications of proceedings in any cause, if required, containing minutes of a decree, all orders of court, or for copies thereof, per copy sheet of ninety words, 5*d.*; for every search, 8*d.*; for entering every cause for hearing, 1*s.*; for attending court in each cause, 3*s.* 6*d.*; for reading all papers in a suit, 2*s.*; for examining decree, affixing seal thereto, and attending the judges in court to sign, and certificates of examinations, 4*s.*; for notification to insert in gazette, by order of court, and attendance on printer, 1*s.* 6*d.*; for affixing every seal, and signing every commission to take answers, and examine witnesses, or for other purposes, 2*s.* 6*d.*

Fees of the Complainant's Solicitor in Equity.—Preparing and filing a bill in equity, with all necessary exhibits, £7; for drawing interrogatories in chief for complainant's witnesses, and cross-interrogatories, drawing and engrossing commissions, attending to strike commissioners, where necessary, with proper instructions. £3 10*s.*; for arguing exceptions of law before the master or judge at chambers when necessary, and attending thereon, including all charges incidental thereto, £2; for all other services in the cause, including briefs served on judges, except the decree, £3; for drawing and engrossing decree, per copy sheet, 5*d.*

Fees to Defendant's Solicitor.—For preparing and filing defendant's answer, and all necessary exhibits, £7; for drawing interrogatories in chief for defendant's witnesses, drawing and engrossing cross-interrogatories, commissions, attending to strike commissioners, where necessary, with instructions, £3 10*s.*; for arguing exceptions on points of law before the master or judges at chambers, when necessary, including notices, attendance, and all incidental charges relative thereto, £2; for all other services in the cause, including serving judges with briefs, and except the decree, £3; for drawing and engrossing decree, per copy sheet, 5*d.*

In the Superior Courts of Law.

Plaintiff's Attorney.—For filling up writs, signing, attendance to lodge the same with sheriff, and all incidental charges, when settled before declaration filed, in cases where no bail is required; £1; for every extra copy of a writ and notice, 1*s.* 6*d.*; for all subsequent proceedings whatever to the filing of the declaration, or obtaining interlocutory judgment inclusive, where no bail is required, £1 5*s.*; in all cases where special bail is required, 7*s.*; for all proceedings subsequent to the former, including final judgment and verdict, 15*s.*; for all other services whatever, including the whole proceedings to the issuing of execution, inclusive, 6*s.*; for all exhibits in cases of covenant, per copy sheet of ninety words, 5*d.*; to the jury in each cause tried, 5*s.*

Attorney's Fees in extraordinary cases.—For every demurrer, joinder, and argument on a point of law, £1 5*s.*; for every motion for new trial, or in arrest of judgment, or special matter and argument £1 5*s.*; for every renewal of writ or execution, 5*s.*; for filling up every writ of subpœna, and four tickets, inclusive, 5*s.*; for every rule to show cause in arrest of judgment, copy and notice, and motion for a new trial, 7*s.*; for preparing every commission to examine witnesses, where necessary, attending to strike commissioners, drawing interrogatories in chief, and cross-interrogatories, and instructions, £2; to each material witness attending the court, residing in the cities, towns, or villages where the courts are held, per day, 2*s.* 4*d.*; to each witness from the country, including horse hire per day, 4*s.* 8*d.*; all witnesses to be allowed their ferriage and toll; for commencing, and prosecuting, and defending a suit, by summary process, £1.

Attorney's Fees in all cases of Dower or Partition.—All fees from the commencement to the end of the proceedings, all services inclusive, surveyor's fees extra, £5.

Attorney's Fees on Writs of Attachment.—In addition to common costs on bond, note, or account, except printer's bill, £3.

Defendant's Attorney.—For appearance, filing bail, and imparlance, £1; for drawing and filing plea, or demurrer, or other proceedings, previous to joinder in demurrer, or issue taken, 17*s* 6*d.*; for verdict in cases found for defendant, *postea*, bill of costs, and attending taxation, copy, and notice, including all charges, 10*s.*; for drawing commissions to examine witnesses, drawing interrogatories, attending to strike commissioners, and instructions, all incidental charges inclusive, £2; for copies of all exhibits necessary to be filed by defendant, per copy sheet, 5*d.*

Attorneys in the County Courts.—For commencing, and prosecuting. and defending a suit in the county court, £1; for defending a person charged by indictment or information, or sued on a forfeited recognisance, £1; for commencing. and prosecuting. and defending a summons and petition, under the summary jurisdiction, 12*s* 6*s.*; for stating objections, and bringing up an appeal, all charges inclusive, 14*s.*

Clerks of the Superior Courts of Law.—For attending to sign a writ and affixing seal, 1*s.*; for filing a declaration, plea, replication, demurrer, joinder in demurrer, or other pleading, 9*d.*; for copying a declaration, or other writing, per copy sheet 5*d.*; for entering every special order of court, or copy, 6*d.*; for every search in the records, where the cause is ended, 8*d.*; for signing every judgment 2*s.*; for attending drawing, a jury for special court, 3*s.* 6*d.*; for each day's attendance at a special court, 3*s.* 6*d.*; for drawing a bail-piece, attending and taking bail, 2*s.*; for recording every judgment, or other writing, for every copy sheet, 5*d.*; for every recognisance, 2*s.*; for receiving money in court, and paying it again, 1 per cent.; for his attendance in every cause tried in court, swearing jury, and reading papers, and docketing the same, 2*s.*; for swearing every witness, 6*d.*; for every certificate, and signing, 6*d.*; for administering every oath, 9*d.*; for recording the verdict, 6*d.*; for attending at the judge's chambers on a special argument, 2*s.*; for recording or copying a plat of land, and copy, 2*s.* 4*d.*; for issuing a *certiorari*, or other special writ, and sealing, 3*s.* 6*d.*; for making out a license for the admission of an attorney, administering the oath, and recording qualification, £1 10*s.*; for a *dedimus potestatem*, and sealing 2*s.*; for filing and entering return thereof, 1*s.*; for entering a decree on summary process, and execution, 2*s.*; for recording the brand and mark of a stock of cattle, 1*s.* 6*d.*

Attorney General.—On papers returned, and no indictment given out, and *nolle prosequi* entered, £1 5*s.*; where an indictment is found £2; upon bill of indictment found and tried before petit jury and verdict or confession, £3 10*s.*

Clerk of the Sessions and Peace.—On a *nolle prosequi*, 7*s.*; when a bill is found or thrown out, 15*s.*; upon bill found, and trial before petit jury, and verdict, £1; on each writ of *venire* for summoning jurors, 1*s.* 6*d.*; on each writ of *habeas corpus*, or bench-warrant, 7*s.*; each writ of subpœna and tickets, 2*s.*; for every order of bastardy, taking a recognisance, and all other proceedings, 2*s.* 6*d.*; for each order for restitution of goods 1*s.* 2*d.*; on each certificate to the coroner, 8*d.*; for the whole fee of a tavern license and bond, 9*s.* 4*d.*

Sheriffs.—For serving every writ, or summons. or other process, taking bail, returning and proving service, and assigning bail-bond, 7*s.*; for copy left at the defendant's residence, or where he cannot be personally arrested, returning and proving service, 5*s.*; for mileage from the court-house of the districts respectively to the defendant's residence, or where he may be found or taken, but not for returning, each mile, 3*d.*; for commitment and releasement of any prisoner, 2*s.* 6*d.*; for summoning all juries to the sheriff of each district court, £15 per annum, to be paid by the State; to the sheriff of each county for summoning all juries in his county, and for serving public orders for the benefit of the county, £5 per annum, to be paid by the county; for serving any order or rule of court, except public orders or rules, and delivering a copy, 2*s.*; for serving every writ of subpœna and tickets, and returning the same, 2*s.*; for serving a bench-warrant or a warrant of a justice of peace, and return thereof, and proving service in the same manner as on services of writs, 4*s.*; for every return of a writ where the goods or persons are not to be found, 2*s.*; for dieting white persons in the several jails and workhouses in the State, allowing one pound of bread and one pound of flesh, wholesome provisions, per day, 1*s.*; for dieting negroes or other slaves, allowing wholesome food, per day, 8*d.*; for executing a person condemned to death, to be paid by the State, £1; for putting a person in the stocks, branding, pillorying, whipping, or cropping, to be paid by the State, each, 5*s.*; for bringing up a prisoner on *habeas corpus*, and discharging or reconveying to prison, to be paid by the party if solvent, and, if insolvent, then by the State, 5*s.*; for conveying a prisoner on *habeas corpus* or otherwise from one district or county jail to another, every mile he shall necessarily ride, going to and returning from, for each mile, 3d.; all necessary expenses to be allowed the sheriff in addition to the immediate foregoing charge; for levying an execution on the goods of the defendant and selling the same, for all sums where the debt does not exceed £100, two and a half per cent. commissions, and for all sums where the debt exceeds £100, one per cent., where an execution shall be lodged in the sheriff's office, only to bind the property with directions not to levy, for entering the same in his books, 2*s.* 6*d.*; for serving an execution against the body of defendant, and return, 7*s.*; for every prisoner brought up for trial at the sessions, to be paid by the State, 1*s.* 6*d.*; for drawing each set of conveyances, £1 5*s.*; for an inquisition by jury, taken on view of a dead person, and return, to be paid by the State, £2; in all cases where the defendant, after the sheriff may have levied on their property, shall settle with the plaintiff before actual sale, the sheriff in such cases shall only be entitled to one-fourth per cent., besides all reasonable disbursements, and also for fees for entering execution; but if the defendant shall pay the money to the sheriff, one per cent. in lieu of the one-fourth.

Coroner.—For every service done by the coroner, the same fees as are payable to sheriff for the same services.

N. B. If there be no coroner within twenty miles of the body found, the inquest may be made, and the fees may be taken by any justice of the peace in like manner; and who shall, in that case, have all the powers of the coroner.

Justices of the Peace.—For oath and warrant in all criminal cases, 2*s.*; for a recognisance and

return, 2*s.*; for a warrant in civil cases, 1*s.*; for a commitment, 1*s.*; for a warrant of hue and cry, 1*s.* 6*d*; for taking a deposition, 1*s.* 6*d.*; for administering every oath, 6*d.*; for a probate to any writing, signing, and swearing witness, 1*s.* 6*d.*; for examining and swearing witnesses, and hearing and determining the cause, 1*s.*; for every toll of estrays given in at the same time, and other incidental charges, agreeable to law, 3*s.*; for writing and signing an execution, 1*s.* 2*d.*; for issuing attachment, with the oath of the party, bond and return agreeably to law, 5*s.*; for every appeal, with the proceedings to the county court from a justice's judgment, bond and security inclusive, 3*s.*

Constables.—For serving a warrant, 2*s.* 6*d.*; for summoning a witness, 1*s.*; for summoning a coroner's jury and witnesses, all charges inclusive, 10*s.*; for putting a person in the stocks, to be paid by the State, 2*s.* 6*d.*; for serving an attachment on the effects of a person absconding, or about to abscond, making an inventory and return, returnable to the county court, 4*s.* 8*d.*; for the like services where the attachment is returnable before a magistrate, 2*s.* 4*d.*; for whipping a person by lawful authority to be paid by the State, 2*s.* 6*d.*; for levying an execution, 1*s.*; for poundage or commissions on all sums levied, five per cent; for mileage in all criminal cases, attachments, and levying executions, and in no other cases, for each mile out, but not for returning, 3*d.*; for carrying a hue and cry, to be paid by the State, 8*s.*; for his attendance in searching for stolen goods, for every day, at the request of the party complaining, 3*s.*

Notary Public.—For taking deposition and swearing witnesses, per copy sheet, 6*d.*; for every protest, 10*s.*; for a duplicate of depositions, protest, and certificate, per copy sheet, 5*d.*; for each attendance on any person to prove any matter or thing, and certifying the same, 3*s.*; for every notarial certificate with seal affixed, 2*s.* 6*d.*

Clergy of every settled church, of every denomination.—For registering every birth, marriage, or burial, 1*s.* 6*d.*; for every search of the register, 8*d.*; for every certificate from the register, 1*s.* 6*d.*; for every citation read in church, 5*s.*

Surveyor General.—For every search, 8*d.*; for copying plat and certificate, 5*s.*; for receiving, recording a plat, and sending the same to the secretary's office, to be passed into a grant, 10*s.*; for a certificate in all other cases, 1*s.* 6*d.*; for a deputation and instructions to a deputy surveyor, 5*s.*

Deputy Surveyor.—For surveying every acre of land, one half-penny; for making out a fair plat, certifying, signing, and returning the same, 10*s.*; for running old lines for any person, or between parties, where any disputes arise, or by order of court, while they are on the survey, 14*s.*; per day.

Powder Receiver and Inspector.—For every 100 lbs. weight of gunpowder received into the magazine, 3*s.* per 100 lbs., to be paid, one half on receiving the same into the magazine, and the other half on delivering the same.

Clerks of the Senate and House of Representatives.—For any copy or extract from the journals of either House, to any person requiring the same, except a member of either branch of the Legislature, or the Executive, each copy sheet, 5*d.*; for every search, 8*d.*

Commissioner of Locations.—For receiving applications, making entries, and granting warrants under hand and seal of office, 3*s.*; for recording a plat and sending it to the surveyor general's office, 7*s.*; for every search, 8*d.*

Register of Mesne Conveyances.—For a search, 8*d.*; for entering satisfaction on a mortgage, 1*s.*; for recording or copying deeds, each copy sheet, 5*d.*; for recording or copying a plat, 4*s.* 8*d.*; for a certificate from the office, 2*s.*

Fees of the Ordinary.—For a marriage license, bond, and registering, £1; for a citation and recording, 2*s.* 6*d.*; for qualifying administrators, bond, letters of administration, and warrant of appraisement, recording letters and oath, 14*s.*; for proving a will, probate, recording and filing the will, and certified copy, where it does not exceed four copy sheets, 9*s.* 4*d.*: and for every other copy sheet, 5*d.*; for qualifying executors, letters testamentary, and recording, 5*s.*; for warrant of appraisement, oath, and recording, 5*s.*, and if renewed, 2*s.* 9*d.*; for filing renunciation of executors and recording, 2*s.*; for a dedimus to prove a will, and qualifying executors, or administrators, and copy of oath, 7*s.*; for guardianship bond, letters and recording, 14*s.*; for entering caveat, or withdrawing, 2*s.*; for a search, 8*d.*; for hearing a litigated cause, 14*s.*; for swearing and examining each witness, 6*d.*; for recording or copying any other writing, per copy sheet, 5*d.*; for filing petition for sale of testator's effects, examining into the propriety of the proposed sales, and endorsing order thereon, 4*s.* 8*d.*; for examining the accounts of executors and administrators, vouchers and filing, for the first year's accounts, 14*s.*; and for every other year, 5*s.*

County Attorney.—For commencing and prosecuting an indictment, or information, tried by petit jury or confessed, £1; for entering a *nolle prosequi* by order of the court, 5*s.*; for commencing and prosecuting a *scire facias*, on forfeited recognisances, 9*s.* 4*d.*

County Court Clerk's Fees.—For the whole fees of a tavern license, or permit to retail spirituous liquors, and bond, and furnishing rates, 9*s.* 4*d.*; for every search, 8*d.*; for reading any paper or record filed in court, 6*d.*; for every writ issued, 2*s.*; for an attachment granted by the justice of peace, returnable to the court, and putting the same upon the docket, 1*s.* 6*d.*; for every summons for a witness or witnesses, 1*s.*; for entering every cause on the docket, to be charged but once, (except petition and summons,) 6*d.*; for entering every special bail, 2*s*; for entering security for costs for persons out of the county, 1*s.* 6*d.*; for entering the appearance of the defendants, (except on summons and petition,) 6*d.*; for all subsequent proceedings to final judgment and verdict, 3*s.* 6*d.*; for all other proceedings, executions inclusive, 2*s.*; for filing the papers of each party in every cause, where there is a jury or case agreed and argued, 1*s.*; for all and every other thing done by the

clerk during the trial of any issue, 2*s.*; for entering every judgment and copy thereof, 1*s.*; for every recognisance—for entering an appeal and taking bond, and for returning the same to the office of the clerk of the superior court, 4*s.* 3*d.*; for copy of proceedings of the cause, wherein the appeal is granted, for every copy sheet, 5*d.*; for an attachment, 1*s.* 5*d.*; for issuing petition and summons, and entering return thereof, 3*s.*; for entering decree and execution on summary process, 3*s.* 6*d.*; for recording every judgment or other writing, per copy sheet, or copy thereof, 5*d.*; for entering every toll of estrays, keeping the same affixed up at the court house, and all other incidental charges, 3*s.*

County Clerk's Fees, on Letters of Administration granted by the County Courts.—For a citation, 1*s.* 6*d.*; for each administration bond, 1*s.*; for letters of appraisement, 1*s.*; for a dedimus, 1*s.*; for probate of a will, 1*s.*; for granting letters testamentary, with the will annexed, 1*s.* 6*d.*; for recording any of the above instruments, and the appraisement per copy sheet, 5*d.*; for examining the accounts of executors and administrators, vouchers, and filing the same, under the inspection of the court, for the first year's account, 5*s.*; and for every other year, 2*s.* 6*d.*

Sec. 3. *And be it further enacted by the authority aforesaid*, That if any of the public officers of this State, or other person or persons, entitled to fees by this act, and in the foregoing lists particularly mentioned, shall take or receive any further, other, or greater fee or reward for any of the services in the said foregoing lists respectively mentioned, or shall invent or contrive any other or further fee or reward for any of the said services, then, and in every such case, the person or persons so offending, upon due proof and conviction, shall forfeit for the first offence, four times the amount of the sum so taken, paid, or received, to be recovered in any court of record in this State; one half to be paid to the person who shall sue for the same, and the other moiety to be paid into the public treasury for the use of the State, except in such counties where county courts are established; in which cases, the said last-mentioned moiety shall be paid for the use of the county; and for the second offence shall stand divested of his office, and be rendered incapable of re-appointment to the same; and on information from the court, under hand and seal, the Governor shall fill the vacancy, if the Legislature should not be sitting; and if in the county courts, the vacancies shall be filled up by the justices of the said county.

STATE OF GEORGIA.

"Fees and compensation paid to Attorneys at Law, Prothonotaries, Registers, and Clerks of judicial courts, to Sheriffs and Coroners, to Grand and Petit Jurors, and Witnesses," in the State of Georgia.

Sheriff's Fees, in civil cases.—For serving a copy of a process, and returning the original, 7*s.*; if more than one defendant, for each additional copy served, 2*s.* 4*d.*; for levying execution on the body or property, 7*s.*; for summoning each evidence, 2*s.* 4*d.*; on all sums where the execution does not exceed £15, 5 per cent. on the amount of property sold; on all sums above £15, and where the execution does not exceed £100, 2½ per cent.; on all sums where the execution exceeds £100, 1 per cent.; and that no commission shall be demanded where property is not actually sold. For making out and signing a bill of sale of other property, 4*s.* 8d.: *Provided*, That fees shall be allowed only for one bill of sale, where the same will be sufficient to convey the property sold to one person, or joint purchasers; unless the purchaser, or purchasers, shall choose more than one. For conducting a debtor, under confinement, before a judge or court, 4*s.* 8*d.*; for summoning a jury to try a caveat, and attendance, 4*s.* 8*d.*; for summoning a special jury, and all other services, attending trials of appeal cases, 4*s.* 8*d.*; for a bail bond, 4*s.* 8*d.*; for making out and executing titles to land, 14*s.*; (if wrote by the purchaser, 4*s.* 8*d.*)

Sheriff's Fees, in criminal cases.—For re-committing any person when a *habeas corpus* is brought to his relief, 4*s.* 8*d.*; for summoning a jury, 4*s.* 8*d.*; on every copy of a *mittimus*, 1*s.* 2*d.*; for every mile a prisoner shall be removed on a *habeas corpus*, 1*s.* 2*d.*; for removing a prisoner by *habeas corpus*, where no mileage is paid, per day, 4*s.* 8*d.*; for executing a criminal, 37*s.* 4*d.*; for conducting a prisoner, before a judge or court, to and from jail, 4*s.* 8*d.*; for executing a warrant of escape, 3*s.* 6*d.*, for each mile to serve, the same, 2*d.*; for executing and returning a bench warrant, 4*s.* 8*d*; for each mile to serve the same, 2*d.*; for putting a person into the stocks, 2*s.* 4d.; for whipping, cropping, or branding a criminal, 4*s.* 8*d.*; for apprehending a person suspected, if committed or held to bail, 4*s.* 8*d.*; for each person, not exceeding two, who may be employed to guard a prisoner to jail, per day, 4*s.* 8*d.*

Coroner's Fees.—For summoning an inquest on a dead body, and returning the inquisition, 46*s.* 8*d.*; for providing a coffin, and burial expenses, 14*s.* In all other cases, the same as the sheriff.

Register of Probate's Fees.—For receiving application, and granting citation, 4*s.* 8*d.*; for signing a warrant of appraisement, 2*s.* 4*d.*; for signing the probate of a will, 4*s.* 8*d.*; for recording a will or other paper, per copy sheet, 3½*d.*; for a certified copy of a will or other paper, per copy sheet, 3½*d.*; for receiving an appraisement, and recording the same, if under $100, 2*s.* 8*d.*; if above $100, 4*s.* 8*d.*: for receiving application, and granting letters dismissory, 4*s.* 8*d.*; for granting citation to show cause why administration should not be repealed or set aside, 9*s.* 4*d.*; for granting letters of administration, or letters testamentary, 9*s.* 4*d.*; for entering a *caveat* against administration being granted, or will proven, 4*s.* 8*d.*; for every marriage license, 4*s.* 8*d.*; for attending judges for determining a *caveat*, per day, 4*s.* 8*d.*

Fees of the Attorney General.—For drawing a *capias* against a person indicted and not bound over, or against a person presented by a grand jury, 1*s.* 2*d.*; for drawing a *capias* against a de-

faulting juror, 2*s.* 4*d.*; for dawing an indictment against a person presented by the grand jury, and bound over, 4*s.* 8*d.*; for entering a *nolle prosequi*, 7*d.*; for attending at judges' chambers to take the affidavit of any person, in criminal cases, 4*s.* 8*d.*; for drawing an affidavit, or any other instrument of writing, per copy sheet, 3½*d.*; for a subpœna in criminal cases, 1*s.* 2*d.*; for retaining fee against persons indicted, 14*s.*

Attorneys' Fees.—On each cause commenced and tried in the superior or inferior courts, 18*s.* 8*d.*; on each appeal prosecuted to judgment, except appeals from a justices' court, 18*s.* 8*d.* (where the defendant prevails, to receeive the fee in lieu of the plaintiff's attorney).

Jurors' and Witnesses' Fees, in civil cases.—To the petit jury, for each cause tried, to be paid by the plaintiff, and taxed in the bill of costs, 4*s.* 8*d.*; to a special jury, for each appeal tried, to be paid by the appellant, and taxed in the bill of costs, 4*s.* 8*d.*; to each witness, per day, for his or her attendance, and for coming and returning, allowing thirty miles for a day, not allowing for more than three witnesses, to be paid by the person summoning the same, and taxed in the bill of costs, 3*s.* 6*d.*; the witnesses to have the same allowance in criminal cases, where the person prosecuted is found guilty.

Clerk's Fees, in criminal cases.—For every writ and seal, 1*s.* 2*d.*; for every panel of a jury, 1*s.* 2*d.*; for every order on a fine for a juror, (unless excuse made,) and entering the same, 1*s.* 2*d.*; for ordering a fine peremptory, entering and reading, 1*s.* 2*d.*; for copying the same for the attorney general, 1*s.* 2*d.*; for fee on a writ of *capias* and seal, 1*s.* 2*d.*; for the clerk's attendance in hearing a motion in arrest of judgment, or at the judges' chambers on a petition preferred, or a *habeas corpus*, or to take the examination or information of any person, 3*s.* 6*d.*; for taking an examination, information, or affidavit, per copy sheet, six-and-a-quarter cents; for drawing a warrant, 1*s.* 2*d.*; for a commitment or liberate, 1*s.* 2*d.*; for taking an acknowledgment of bail before the judge, or in court, and drawing recognisance thereof, 2*s.* 4*d.*; for every subpœna ticket, 7*d.*; for every indictment, if the criminal be found guilty, 2*s.* 4*d.*; for every arraignment, or charging a defendant with indictment, if found guilty, 1*s.* 2*d.*; for entering a plea, 7*d.*; for calling a jury, 7*d.*; for clerk's attendance on every cause tried, 1*s.* 2*d.*; for every sentence or judgment, and entering the same, 1*s.* 2*d.*; for every copy of every indictment, or other paper, 4*d.*; for every copy of judgment to the sheriff and order thereon, 1*s.* 2*d.*; for calling a traverse, or discharging a recognisance, 1*s.* 2*d.*; for recording the proceedings of a cause, per copy sheet, 5½ cents; for every person acquitted by proclamation, 1*s.* 2*d.*; for every search, 7*d.*; for a writ of *dedimus potestatem*, 4*s.* 8*d.*; for renewal of *capias*, 1*s.* 2*d.*

Fees of the Clerk in the Superior Court, in civil cases.—For every suit commenced therein, if settled before judgment, and each nonsuit, 7*s.*; for each copy of a writ, where there are more than one defendant, after the first copy, 2*s.* 4*d.*; for every suit so commenced and prosecuted to judgment, including every service, to entering up satisfaction, 14*s.*; for each appeal, if settled before verdict, 4*s.* 8*d.*; for each appeal, prosecuted to judgment, including every service, to entering up satisfaction, 9*s.* 4*d.*; for every writ of subpœna and ticket, 7*d.*; for a writ of partition and lands, 14*s.*; for issuing a commission to examine witnesses, 4*s.* 8*d.*; for making out letters of guardianship, and security taken, 4*s.* 8*d.*; for every order for the sale of land, and copy thereof, 2*s.* 4*d.*; for recording any instrument of writing, per copy sheet, 6¼ cents; for each search, 7*d.*; for a certified copy of any record, per copy sheet, 3½*d.*; for every foreclosure of mortgage, and recording proceedings, 4*s.* 8*d.*; for every inquiry of title, respecting property levied on by the sheriff, and claimed by a third person, 4*s.* 8*d.*; for every tavern license, including every service therein, 4*s.* 8*d.*

Fees of the Clerk of the Inferior Court.—For each cause settled before judgment, and each appeal to the superior court, 7*s.*; for each copy of a writ, where there are more than one defendant, after the first copy, 2*s.* 4*d.*; for each cause commenced therein, and prosecuted to judgment, not appealed from, including every service, to entering satisfaction, 14*s.*; for subpœna tickets, commissions, and letters of guardianship, and inquiries respecting property claimed, nonsuits, and any other service performed, the same fees as allowed to the clerk of the superior court; for each appeal, prosecuted to judgment, from a justices' court, 4*s.* 8*d.*; if settled by the parties, 2*s.* 4*d.*; including every service, to entering satisfaction.

STATE OF KENTUCKY.

Table of Fees and Compensation allowed by law to the respective Officers and others, as hereinafter mentioned,

Attorneys-at-law in the Court of Appeals.—In every chancery cause, to be taxed in the bill of costs, $10; in every common law action, $5.

Note.—These are the fees taxed, but no attorney is restrained from receiving or demanding more from his client; and the fees paid, in fact, are in the general not less than $20 in common law cases, and $30 in chancery. Attorneys prosecuting for the Commonwealth are appointed in each county by the courts thereof, the circuit court appointing an attorney to prosecute therein, the county court also appointing their attorney; the allowance to each is at the discretion of the court annually, and varying according to the population, wealth, &c. of each county, from $100 to 300. No fees are taxed for attorneys in criminal cases; in civil cases, where the State prevails, the same fees are taxed against the defendant for the use of the attorney for the Commonwealth as in other similar cases.

To Sheriffs.—For an arrest and return, 62½ cents; for every bail bond, (by act of 1799, vol. 2 Brad. page 55,) 50 cents; for returning a *capias non est inventus*, 21 cents; for serving a *scire facias*, 31 cents; for serving any person with an order of

court, and making return thereof, 31 cents; for pillorying any person, 41½ cents; for putting into the stocks, 21 cents; for ducking any person, 41½ cents; for putting in prison and releasement, 41½ cents; for serving subpœna in chancery, 31 cents; for serving subpœna for a witness in any cause in court, except summoned in court, 21 cents; for summoning an appraiser, auditor, viewer, or witness to a deed, will, or writing, if required to be summoned, 21 cents; for summoning and empannelling a jury in every cause wherein a jury shall be sworn, $1 40; for summoning a jury in a criminal case, (act of 1802,) $1 50; for coming to and attending the district court with the *venire*, and return of the *venire facias*, the same as is allowed to a *venire man*, (to be paid by the public;) and for attending the district court with stolen goods, where there is no *venire man*, the same, $1 04; for summoning the justices of the county, attending a court of oyer and terminer, for the examination of a criminal, $4 17; for removing every criminal from any county jail to any public jail, for every mile, 12½ cents; for every horse impressed for that purpose, for each day, (act of 1802,) 25 cents; for removing a debtor by *habeas corpus* from any county jail to any public jail, for every mile, 4½ cents; for executing a condemned person, and all fees incident, $5 21; for summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear, $3 12½; and if the jury do not appear, $1 56; for making a return of a writ of dower, partition, or in nature of an *ad quod damnum*, $1 04½; for each day's attendance on a jury in the country after they are sworn, or attendance on a surveyor when ordered by the court, $1 04½; for serving a writ of *habere facias possessionem* or *seisinam*, 63 cts; for serving a declatation in ejectment, if against one tenant, 63 cents; if more than one, for every other tenant, 31 cents; for whipping a servant, to be paid by the owner, and repaid by the servant, 41½ cents; for whipping a free person by order of court, to be paid by such person, 41½ cents; for whipping a slave by order of court, to be paid by the public, 41½ cents; for selling a servant at public outcry by order of court, and all fees incident, 41½ cents; for keeping and providing for a debtor in jail, each day 21 cents; for keeping or providing for a runaway or criminal in jail, each day, to be paid by the public, 18 cents; for serving an execution, if the property be actually sold, or the debt paid, or where the sheriff shall have taken bond for the delivery of property, which, if not complied with at the day of sale, five per centum on the first hundred pounds, and two per cent. on all sums above that; and where he shall have levied an execution, and the defendant shall have replevied, or where, under the same circumstances, execution is stopped by injunction, writ of error, or *supersedeas*, by order of the party for whom it is issued, one-half the above commissions; for serving an attachment on the goods exceeding three pounds, if sold, the same fee as for serving an execution—where the goods do not exceed that value, or are not sold, 63 cents; for every garnishee summoned on attachment, 21 cents; for serving a writ of *distringas*, 66 cents; to the sheriff of Franklin for attending the court of appeals, for each day, $4; to all public services of sheriffs, viz: attending courts of claims, empannelling grand juries, publishing writs of election, and his attendance thereat, serving all public orders and courts, and all other public and county services, a yearly sum not exceeding $40, to be levied annually by the justices of the county; and the sheriff shall lay before the court an account of his services, to enable them to judge of the quantum within the said limit.

To the Coroner.—For an inquisition on a dead body, to be paid out of the estate of the deceased if the same be sufficient, if not, by the county, $6; all other services rendered by him, the same fees as are allowed sheriffs for similar services.

Guards, summoned and attending, to secure criminals in jail are allowed, per day, 75 cents; for travelling to and returning from guarding any prisoner to the public jail, (the said guards furnishing themselves at their own expense,) per mile, 3 cents.

To the Clerk of the Court of Appeals.—For every writ of *dedimus potestatem*, 37½ cents; for taking bond, issuing *supersedeas*, 43 cents; for entering the appearance of either party in person or by attorney, 16 cents; for every rule entered on the rule docket, 16 cents; for copy of every rule, 16 cents; for entering every continuance on the court docket, 25 cents; for administering an oath or affirmation in court, 16 cents; for entering every judgment, 25 cents; for copy thereof, 16 cents; for entering every decree, 50 cents; for copy of the same for every twenty words, 2 cents; for filing record upon an appeal, writ of error, or *supersedeas*, 25 cents; for copy of such record, for every twenty words, 2 cents; for taxing the costs in any action or suit, and a copy thereof, 35 cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 16 cents; for copy thereof, 16 cents; for attachment thereon, 16 cents; for every order in court, 25 cents; for recording a deed where one tract of land only is conveyed, taking the acknowledgment or proof thereof, and certifying the same, $1; for every tract more than one contained in such deed, 25 cents; for recording each certificate annexed to, or endorsed on such deed, when offered to be recorded, 16 cents; for a copy of any deed, three-fourths of the fee for recording the same; for recording a deed concerning slaves or personal matters only, $1; for a copy thereof, 75 cents; for recording a letter of attorney, 75 cents; for a copy thereof, 50 cents; for recording a bond with condition other than for the performance of covenants, 75 cents; for a copy of a bond with condition, 50 cents; for a search for anything above one year's standing, and reading the same over, or any part thereof, if required, 16 cents; for docketing every cause to be charged but once, 16 cents; for every other service of the clerk a reasonable compensation shall be made by the party, to be determined by the court, according to the equity of the case, and a regard to the fees herein allowed; for recording or transmitting a

memorial of a deed to the clerk of the county wherein the lands lie, 12½ cents.

The following fees established by the Court of Appeals by the power hereinbefore recited, viz: —For filing errors, or for a copy thereof, 35 cents; for filing the record upon the return of a *certiorari*, 25 cents; for entering the return of writ of error, *supersedeas*, *certiorari*, summons or execution, 28 cents; for recording a recital of a former grant or conveyance of land, &c., in any deed contained, 75 cents; for recording or copying a receipt, 16 cents; for recording a certificate endorsed on or annexed to any instrument of writing when offered for record, or for copy thereof, 16 cents; for entering every plea or for a copy thereof, 28 cents; for entering sheriff's return upon any writ or precept, or for a copy thereof, 28 cents; for swearing a jury in any cause or suit, 75 cents; for recording any verdict of a jury or matter, agreed by the parties, for every twenty words, 2 cents; for a copy of an execution and return thereon, 37½ cents; for recording the award of arbitrators, the report of auditors, viewers, or commissioners, or a copy thereof, for every twenty words, 2 cents; for a copy of any bond taken by any clerk of the superior or inferior courts directed by law to be taken, and not included in a complete record in such case, 50 cents; for copy of any account not included in a complete record, if it be contained in one page or less, or for recording the same, 35 cents; for recording or copying an account for every twenty words more than are contained in one page, 2 cents; for an order to advertise, or an order of survey, 37½ cents; for recording a connexion of surveys, or for a copy thereof for every survey in such connexion, 16 cents; for recording, making out a complete record, or for a copy thereof, for every twenty words, 2 cents: for recording or copying every paper not herein otherwise provided for, every twenty words, 2 cents; for recording a commission, or for issuing the same to take the relinquishment of a *feme coverte*, 50 cents; for recording bond for the conveyance of land or for a copy thereof, 50 cents; for recording articles of agreement or copy, $1; for filing the papers of each party in any cause, 25 cents; for affixing seal of office and certificate accompanying the same, 50 cents; for each certificate for which no fee is herein specially allowed, 25 cents; for recording every official certificate for which no fee is herein specially allowed 25 cents; for copy of a *caveat* separate from complete record, 25 cents; for copy of a grant or patent filed with papers, 43 cents; for copy of a plat and certificate, with papers, 25 cents; for copy of every entry from commissioners' books, 25 cents; for copy of every entry from surveyors' books 17 cents; for recording the return on a *mandamus* for every twenty words, or a copy thereof, 2 cents; for issuing execution, 33 cents.

Fees of the Clerk of the General Court.—For similar services, the same fees as the clerk of the court of appeals is entitled to; and for services not before specified, the same fees which were allowed to the late district and quarter session courts, viz: for every writ other than those particularly specified with the endorsement, 25 cents; for a copy thereof, 15 cents; for copy of a bail bond, 25 cents; for entering special bail, or for a copy thereof, if required, 18 cents; for filing declaration, plea, or demurrer, 10½ cents; for every *scire facias*, and recording the return, 40 cents; for every writ of *elegit*, 30 cents; for recording the return thereof, every twenty words, 2 cents; for taking bonds upon injunctions in chancery, or upon appeals or *certiorari*, 33 cents; for returning an appeal, writ of error, or *certiorari*, 25 cents; for filing the same, 12½ cents; for recording the acknowledgment of a satisfaction of a judgment, 18 cents; for each summons for a witness or witnesses, 18 cents; for administering an oath in court not relating to the trial of the cause, and certifying the same, 18 cents; for issuing a subpœna in chancery, 21 cents; for endorsement on a subpœna or injunction, 10 cents; for filing each bill, answer, replication, or other pleading in chancery, 10 cents; for recording report of surveyor for every twenty words, 2 cents; for a copy of the same for every twenty words, 2 cents; for every writ of *idiota inquirendo*, 25 cents; for recording return, for every twenty words, 2 cents; for making complete record in every cause, for every twenty words, 2 cents; for copy of the same, for every twenty words, 2 cents; for copy of every paper or record not otherwise provided for, every twenty words, 2 cents; for public services for which no fees are herein particularly provided, a yearly sum to be adjudged by the court, not exceeding $60.

Clerks are allowed a reasonable compensation for paper, books, and presses, to be adjudged of and certified by their respective courts.

Grand and petit jurors are not allowed any compensation; they are not called without the limits of their respective counties by the present laws establishing the judiciary; and repeated attempts have been unsuccessfully made in the Legislature to change the mode of summoning petit juries, (who are taken now from among the bystanders,) and to give them a compensation.

Jurors summoned by *venire facias*, for the trial of criminals, were allowed, under the district court system, where they were liable to be called without the limits of their respective counties, five shillings per day, for attendance and mileage, at the rate of two pence; and ferriages going and returning. Under the present circuit court system, they are allowed 2*s.* 1*d.* per day, for attendance, and mileage at the rate of 2*d.* going and returning, and ferriages.

Witnesses.—For attending the court of appeals or general court, 5*s.* per day; and where they reside without the county in which the court is holden, 2*d.* per mile, going to and returning from the court, and ferriages; for attending circuit courts, county court, arbitrators, to have their depositions taken, &c. &c. 2*s.* 1*d.* per day, and mileage going and returning where summoned beyond the limits of their county, at the rate of 2*d.* and ferriages; witnesses attending in criminal cases are entitled to similar allowances, to be paid by the Commonwealth, but not allowed in any case to

claim their attendance in more than one cause for the same attendance, though summoned in several cases; not more than three witnesses for proof of any one fact, to be taxed in the bill of costs.

FRANKFORT, KENTUCKY, *Dec.* 14, 1807.

SIR: The foregoing is a table of fees allowed by law in this State, extracted and compared with the different laws upon the subject.

Whilst the subject of fees and costs of judicial proceedings is before the Congress of the United States, it may not be unavailing to mention that the subject of costs in actions prosecuted on behalf of the Government, where such actions are unsuccessful, has produced much perplexity in the federal courts of this State, and the clerk's fees in particular. By the State regulations, all fees for public services in criminal and civil case, are included (some few services excepted) in a gross allowance to officers of courts for *ex officio* services, to be certified by the courts, not exceeding a limited sum; in misdemeanors, the prosecutor must be named at the foot of the indictment or presentment, and is liable for costs if unsuccessful, and may, at the discretion of the court, be compelled to give security for costs; if the prosecution succeeds, the costs are taxed against the prosecuted. Witnesses in criminal cases of felony are paid by the Commonwealth, but in all cases must look to the prosecuted or prosecutor as the case may be.

The claims of clerks, marshals, and witnesses, upon many *prosecutions* in this State which have ended *unsuccessfully*, particularly in cases arising under the late excise laws, are very considerable, and, indeed, remain as yet undecided to a considerable extent. What alteration or definite declaration of Legislative will in this respect, or whether any is necessary, I submit to your better experience as the Attorney General of the United States.

Believe me, sir, it will, at all times, be pleasing to render you, as an officer of the Government, or individually, any assistance in my power. I am, sir, very respectfully, your fellow-citizen.

GEO. M. BIBB.

C. A. RODNEY, Esq.

STATE OF TENNESSEE.

List of Fees due to the different Officers in Tennessee.

To Attorneys.—For each suit in chancery, $12 50; for each suit in the superior courts on the law side, $6 25; for each suit originally commenced in the county courts, $2 50; for each suit taken to said county courts by appeal, $1 25.

To the Attorney General.—For each bill of indictment, in Supreme Courts, (true bill,) $3 00; for each bill of indictment, in Supreme Court, (ignoramus) $1 25.

To clerks of the Supreme Court.—For every leading process returnable to the first court, including all services thereon, together with dismission or final judgment, (if either happen) $1 00; for every continuance or reference of every cause after the second court, including all fees for every necessary service, 40 cents; for entering every presentment or indictment, together with charging the prisoner and entering his plea, 60 cents; for the court at which the cause is determined, including all services in entering judgment, $1 60; for every subpœna, if not more than four witnesses inserted, 20 cents; for every execution and order of sale, and all services in issuing, taxing costs, and receiving return for the same, 40 cents; for every *scire facias* for bail, *all services thereon*, 80 cents; for a copy of a record of any cause when demanded by either party, 60 cents; for every recognisance, 20 cents; for every order or rule of court, made on a matter foreign to a suit depending, and a copy thereof, 24 cents; for searching a record out of court, ten cents; for a commission to take examination of witnesses on any cause depending, or to take examination of a *feme coverte*, and all services thereon, 20 cents; for a special *venire facias* to examine and return the bounds of land, 80 cents; for a special verdict, demurrer, or motion in arrest of judgment and argument thereon, 40 cents; for a writ of error, *certiorari* or appeal, with a transcript of the record, and all services, $1 60; for making certificates of witnesses and jurors' attendance, 6 cents; for each security taken in issuing a writ, 20 cents; for recording such bond, with security, 20 cents.

To Clerks and Masters in Equity.—For a report on an answer, 40 cents; for a report on a plea, and answer, 40 cents; for a report on a demurrer, and answer, 40 cents; for an affidavit to a bill or answer, 25 cents; for a separate affidavit, 25 cents; for a copy, by the office copy sheet, 25 cents: for a report stating an account, one per cent. on the amount of each act exhibited, if under £200, if over, one half per cent.; for copies of proceedings and exemplifications, (copy sheet,) 25 cents; for copies of bills or answers, (by copy sheet,) 25 cents; for every injunction, $1 50 cents; for every subpœna to answer writ or other leading process, $1 25; for every *scire facias*, 75 cents; for entering a plea or demurrer, 25 cents; for recording depositions to perpetuate testimony, by copy sheet, 35 cents; for every rule given for service, 25 cents; for every rule not for service, 15 cents; for every *dedimus potestatem*, 50 cents; for commissioners to take the affidavits of parties to an answer, $1 00 for every subpœna for witnesses (each witness,) 25 cents; for every order of publication, $1 00; for entering every issue of fact, and every service attending the trial by jury, $1 00; for each security for prosecution of a suit, 25 cents; for recording prosecution bond, 15 cents; for drawing decrees by the copy sheet, 25 cents; for enrolling same, by copy sheet, 25 cents; for drawing deed of conveyance, when decreed "for parties to convey the right," reciting suit &c. $2 00, for every notice issued not for publication, 25 cents; for searching the record out of court, 25 cents; for every continuance after first court, 25 cents.

To Sheriffs.—For every bail bond, 25 cents; for serving a copy of a declaration, 75 cents; for serving a subpœna, on each person, 25 cents; for pillorying a person, 50 cents; for each arrest on process, $1 00; for an attachment, the same as for an arrest; if additional trouble, to be taxed by

general court; for executing a warrant of distress or execution against the body or goods, at 2½ per cent., summoning jury, &c., 12 cents; for serving a *capias*, a writ for the body, $1 00; for putting persons in the stocks, and releasing, 50 cents; for commitment and releasement, each, 50 cents; for every *scire facias*, 60 cents; for returning the same, or any other process not found, half of the sum for executing it; for serving a subpœna in equity, 60 cents; for serving a writ of possession of land, $1 00; for executing any condemned person $12 50; for serving and attending any person on a *habeas corpus*, per day, $1 00; for whipping a person by order of court, 50 cents; for summoning garnishee, 60 cents; for every time an action is called in court, 4 cents; for imprisonment of felons or any other person, and finding them per day, 25 cents.

To Coroners.—The same fees as to sheriffs for similar services.

To Registers.—For registering each grant or deed where only one tract of land is conveyed 81¼ cents; for each tract over one, 25 cents; for each search of a register's book, 12½ cents; for each copy of deed, grant, &c., and a certificate, 75 cents.

To Grand Jurors and Petit Jurors other than Talesmen.—Attending the superior courts, per day, $1 00.

To Witnesses.—Attending the superior courts, per day, and for every thirty miles travelling $1 00.

STATE OF OHIO.

An Act regulating the Fees of Civil Officers, in civil and criminal cases.

Section 1. *Be it enacted by the General Assembly of the State of Ohio*, That, from and after the taking effect of this act, the fees and compensations of the several officers, and other persons herein mentioned, shall be as follows, and no more, viz:

Sheriff's Fees in the Common Pleas.—For the service of every writ or summons, and return thereof, (subpœnas only excepted,) when only one defendant is named therein, 15 cents; for every bail-bond, 60 cents; for every commitment to prison, 30 cents; for discharging a person from prison, 30 cents; for attending a prisoner before a judge, or in court, when required, 30 cents; for serving a writ of possession with the aid of the *posse comitatus*, $2; for serving the said writ without such aid, 75 cents; for executing a writ of inquiry, and returning the same with the inquisition, $1 25; for the copy of any writ or process necessary to complete a service, for each hundred words thereof, 10 cents; for serving and returning a subpœna for each person named therein and actually summoned, 10 cents; for travelling fees upon each writ of subpœna, 4 cents; for summoning a jury, to be allowed on each issue, including fees, 50 cents; for summoning a grand jury to attend the court of common pleas, including travelling fees, to be paid by the county $2; for making out a list, for striking a special jury, and delivering the same, 50 cents; for summoning a special jury, including travelling fees, $2; for travelling fees upon all writs, precepts, and subpœnas not otherwise provided for, to be computed from the place of return to the place of service, per mile 5 cents; for poundage on all moneys made on execution, 2 per cent.; for service of a declaration in ejectment and return, the same fees as allowed for the service of a summons; for making and executing a deed for land sold on execution, to be paid by the purchaser, $2; for making a deed for land sold for taxes, to be paid by the purchaser, $1; for serving a *scire facias*, and making return thereof, 35 cents; for serving any person with an order of court, and making return thereof, 30 cents; for serving a subpœna in chancery, 30 cents; for keeping and providing for a debtor in jail, each day 25 cents; on each action for opening court, to be charged once every term, 8 cents; on calling action, each term, 8 cents; for calling jury 10 cents; for calling each witness, 4 cents.

Sheriff's Fees in the Supreme Court.—For executing a criminal, to be paid out of the county treasury, $8; for bringing up a person on *habeas corpus* in civil causes, 75 cents; for travelling fees, the same as in common pleas; and all other services rendered in the supreme court, the same fees as allowed for similar services in the court of common pleas; provided that no compensation shall be allowed the sheriff for any service performed in the supreme court, for which service a compensation is not herein provided in the court of common pleas. For summoning a jury on forcible entry and detainer, or forcible detainer, $2; for serving a writ of restitution, 75 cents, and mileage thereon as in other cases; for serving summons in forcible entry and detainer, 35 cents, and mileage as in other cases.

When the State of Ohio fails in prosecution, or the defendant proves insolvent, or unable to pay the fees when convicted, no fees for any services, by the sheriff or other officer, in such case performed, shall be paid by the county treasury, (the ordinary diet, fuel and water, furnished to a prisoner, only excepted,) any law, custom, or usage to the contrary notwithstanding: *Provided*, That the sheriffs of the several counties, for their fees in all prosecutions, where the State of Ohio fails in prosecution, or where the criminal shall prove insolvent, or unable to pay, for publishing writs for electing members of the General Assembly, and all other public and county services not otherwise provided for, they shall, respectively, receive, annually, a sum not more than $60, nor less than $20, to be paid out of the county treasury upon the order of the commissioners.

Clerk's fees in the Supreme Court, in civil cases.—For filing ticket, sealing writ, and entering the same, 25 cents; for filing declarations or other papers, when required 6 cents; for entering the sheriff's return, 6 cents; for docketing every cause, to be charged but once, 6 cents; for entering the appearance of either party, by attorney or personally, to be charged but once, 8 cents; for entering every special rule, 6 cents; for entering every special bail 12 cents; for swearing and empannelling a jury, 25 cents; for administering an oath or affirmation (except to jurors) in court, 4 cents; for taking and entering verdict, 6 cents; for entering up every judgment, or a copy thereof, 16 cents; for engrossing special verdict, per sheet of one hundred words, 10 cents; for entering a discontinuance, 10 cents; for attending on striking special jury, and delivering copies, 50 cents; for entering satisfaction on record, 10 cents; for drawing process when required, for every sheet of one hundred words, 10 cents; for entering issue joined, 15 cents; for drawing cost bill, 35 cents; for copy of a rule of reference, 25 cents; for commission to take depositions with the seal of court, 50 cents; for each and every continuance, 10 cents; for a *venire facias*, 25 cents; for making a complete record in every cause, for every twenty words, 2 cents; for copy of record and proceedings when required, per sheet of one hundred words, 10 cents; for certificate, with the seal annexed, 50 cents; for every copy of every paper or record, not herein otherwise provided for, for every twenty words, 2 cents; for every writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 25 cents; for taking bond on issuing writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 37½ cents; for filing the record upon an appeal, writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 12½ cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 6 cents; for subpœna in chancery, 20 cents; for filing each bill, answer, replication, or other pleadings in chancery, 10 cents; for an order to advertise, 25 cents; for entering every decree at large, for every twenty words, 2 cents; for entering security for costs, 6 cents; for a search or examination of the records, if a copy is not required, 12½ cents, (suitors and officers of the court excepted.)

Clerk's Fees in the Supreme Court, in criminal cases.—For entering defendant's appearance, 8 cents; for discharging on bail, 10 cents; for drawing process, 25 cents; for entering plea, 6 cents; for drawing a subpœna and seal, 25 cents; for administering an oath or affirmation (excepting to jurors) in court, 4 cents: for making up the record, for every sheet of one hundred words, 10 cents; for entering judgment, 12½ cents; for taking cognizance, and entering the same, 25 cents; for copies of indictments or pleadings, per sheet of one hundred words, 10 cents; for copy of the traverse, 10 cents; for entering every order or special rule of court, 10 cents; for copy of the same, when required, 8 cents; for entering a *nolle prosequi* or *cessat processus*, 6 cents; for a search or examination of the records, and reading the same, if a copy is not required, 12½ cents.

Clerk's Fees in the Court of Common Pleas.—For filing ticket, and issuing capias, attachment, replevin, execution, certiorari, supersedeas, or summons, under the seal of the court, and entering the same, 25 cents; for drawing writs, *scire facias*, with the seal of the court annexed, per sheet of one hundred words, 10 cents; for entering the appearance of either party, by attorney or personal, to be charged but once, 8 cents; for entering the sheriff's return, 6 cents; for docketing every cause, to be charged but once, 6 cents; for filing declaration, demurrer, pleadings, depositions, or other necessary documents, each, 4 cents; for receiving the panel, and swearing the jury, 12 cents; for swearing each witness, 4 cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 6 cents; for swearing a constable, 4 cents; for taking and recording a verdict, 10 cents; for entering judgment, 10 cents; for entering a discontinuance, 10 cents; for entering every special rule, 6 cents; for a commission to take depositions, under the seal of the court, 50 cents; for every writ of subpœna for one or more witnesses, 12 cents; for taking bail, 12 cents; for issuing bail piece, when required, 40 cents; for recording the proceedings and judgment in each action, per sheet of one hundred words, 10 cents; for copy of record or pleading on file, when required, per sheet of one hundred words, 10 cents; for entering confession of judgment, 10 cents; for entering confession of lease, entry, and ouster in ejectment, 10 cents; for copy of a rule of reference, with the seal of the court annexed, 25 cents; for entering satisfaction of a judgment on record, 12½ cents; for the writ of *venire*, to be taxed on each issue tried, 12 cents; for entering a continuance, 10 cents; for a *venire facias* for a special jury, 25 cents; for attending the striking a special jury, and furnishing the panel thereof to each party, 50 cents; for reading and entering allowance of habeas corpus, writ of error, or *certiorari*, and the return, 15 cents; for making out a copy of a record, with the seal of the court and certificate annexed, upon appeal, writ of error, habeas corpus, or certiorari, and transmitting the same, for each sheet of one hundred words, 10 cents; for each certificate to which the county seal is required, and not herein provided for, 50 cents; for the probate of any will or testament, and certificate thereof, 33 cents; for recording a will, for every twenty words, 2 cents; for administering an oath to executor or administrator, and taking bond, 40 cents; for entering the order or orders for appraising the estate, 12½ cents; for copy thereof, 12½ cents; for letters of administration and copy, $1; for recording inventory, for every twenty words, 2 cents; for a copy of a will or inventory, for every twenty words, 2 cents; for filing appeal from justice of the peace, and docketing the same, 8 cents; for entering security for costs, 6¼ cents; for a search or examination of the records, and reading the same, if a copy is not required, 12½ cents; for a search or examination of the estray book, and reading the same, if a copy is not required, 6¼ cents; for entering appeal, and taking bond to prosecute it, 33¼ cents; for subpœna in chancery, 20 cents; for filing each bill, answer, replication, or other pleading, in chancery, 8 cents; for an order to advertise, 25 cents; for entering every decree at large, for every twenty words, 2 cents; for drawing cost bill, 35 cents; for entering allowance of writ of error, habeas corpus, or certiorari, 15 cents; and the clerks of the respective courts shall be allowed by the commissioners of their proper

county, annually, a reasonable compensation for money expended in purchasing blank books, which sum shall be paid out of the county treasury.

Clerk's Fees in the Court of Common Pleas in Criminal Cases.—For issuing a *capias* or other process upon indictment, under the county seal, 25 cents; writ of subpœna for one or more witnesses, 20 cents; a *venire* for traverse jury, to be allowed in each trial, 25 cents; entering defendant's appearance or plea, 6 cents; receiving the panel and swearing the jury, 12 cents; swearing each witness, 5 cents; swearing a constable, 4 cents; receiving and entering verdict, 12 cents; entering judgment, 16 cents; making up the record, for every sheet of one hundred words, 10 cents; copies of a record or original paper on file, when required, per sheet of one hundred words, 10 cents; drawing up a recognisance in form, when required, 25 cents; drawing cost bill, 35 cents: *Provided*, That the clerks of the courts of common pleas, in the several counties, for their fees in all prosecutions, where the State of Ohio fail, or where the criminal shall prove insolvent, or unable to pay, shall respectively receive, annually, a sum not exceeding $50, nor less than $20; and for opening, adjudging, and certifying the returns of members of the General Assembly, and county officers, they shall respectively receive, annually, a sum not exceeding $6, nor less than $2, to be paid out of the county treasury, upon the orders of the commissioners.

Recorder's Fees.—For recording a mortgage, deed of conveyance, letter of attorney, or any other instrument of writing, for every sheet of one hundred words, 12½ cents; all copies of records, for every sheet of one hundred words, 10 cents; every search, 12½ cents.

Coroner's Fees.—For the view of a dead body, $3; drawing all necessary writings, and making return, for every hundred words, 10 cents; for travelling, each mile, to the place of view, 5 cents; for issuing a *venire* for a jury, 25 cents; to each juror, upon inquisition of a dead body, 50 cents. The coroner's, constable's, and juror's fees, to be paid out of the county treasury. All services rendered, under the authority of the court, the same fees as are allowed the sheriff for the same services.

Fees of Justices of the Peace, in Civil Cases.—For a summons or *capias*, 12½ cents; every subpœna for one person, 10 cents; each person, in addition, 4 cents; entering judgment on trial, 25 cents; when confessed, 12½ cents; granting and issuing execution, 25 cents; a certified copy of proceedings, on an appeal or *certiorari*, 30 cents; every continuance or adjournment, at the request of the party, 10 cents; granting and entering rule of reference, 10 cents; copy thereof, 10 cents; taking recognisance of bail, 25 cents; issuing bail piece, 12 cents; swearing witnesses, each, 4 cents; issuing writs of attachments, 25 cents each; *scire facias*, 20 cents; advertising bans of matrimony, 50 cents; marrying, and making return thereof, $1 50 cents; the proof or acknowledgment of a deed or other instrument of writing, with a certificate thereon, 25 cents; taking depositions, 10 cents for every hundred words; for granting certificate, 10 cents; for entering discontinuance or satisfaction, 10 cents.

Fees of Justices of the Peace in Criminal Cases.—For a warrant in criminal cases, 25 cents; taking an examination in writing, 10 cents for every hundred words; swearing each person, 4 cents; taking recognisance, 25 cents; a commitment to jail, 25 cents; a search warrant, 25 cents.

Constables' Fees in Civil Cases.—For serving summons or other writ not herein provided for, on each person therein named, 10 cents; for travelling, in going to serve the aforesaid process, per mile, 5 cents; and when two or more persons are named in such process, mileage to be allowed only to the most remote place of service. For copy of a summons left at the place of abode, 12½ cents; for serving execution on body or goods, 20 cents, and mileage as above; for commitment to prison, 25 cents, and mileage as above; for summoning a jury upon a dead body, 75 cents; on all sums made on execution, 4 per cent.; for attending upon a jury, on each trial, 25 cents.

Constables' Fees in Criminal Cases.—For serving a warrant on each person named therein, and return, 25 cents, and mileage as in civil cases; for serving a subpœna on each person named therein, 10 cents, and mileage as above; for commitment of each person, 25 cents; for mileage from the place of examination to prison, each mile, 5 cents; for every day's attendance on the grand jury, 75 cents, to be paid out of the county treasury.

Jurors' Fees.—For each juror upon each cause he may be empannelled to try, 40 cents, to be advanced by the person in whose favor the verdict shall be given, and taxed in the bill of costs.

Grand Jurors' Fees.—For each day's attendance, 75 cents, which shall be paid out of the county treasury upon the order of the commissioners.

Witnesses' Fees.—For going to, attending at, and returning from court, under a subpœna, per day, 50 cents.

Fees under the law against Forcible Entry and Detainer.—There shall be allowed to the several persons performing services under said act, except for services hereinbefore provided for, the same fees as are allowed and taxed in the court of common pleas, for performing similar services.

Fees allowed for services actually rendered under the act for the Partition of Real Estate.—To each commissioner, for each day he shall be actually employed in the partition of any real estate, and in going to, and returning therefrom, $1 50; to the surveyor, for each day he shall be employed in making a survey under the said act, $2; to each chain-carrier and axe-man, for each day employed in making such survey, 75 cents.

Fees to the Officers of the Court.—The same fees as are allowed for the same or similar services in other cases of a like nature.

In the Supreme Court.—Attorneys and counsellors at law shall be entitled to receive of the party against whom judgment is entered, for a docket fee, after trial, $8; for a docket fee, if cause is settled before trial, $5.

In the Court of Common Pleas.—For a docket fee, after trial, $6; for a docket fee, if cause is settled before trial, $3.

Sec. 2. *Be it further enacted*, That in all cases in law where an officer, in the due execution of his office, shall be required to write or set up an advertisement for the sale of lands, such officer shall be allowed for every such advertisement, 25 cents; and if such advertisement is required to be published in a newspaper, the officer proving such publication shall be refunded the money he may pay therefor, to be taxed in the bill of costs.

Sec. 3. *Be it further enated*, That all and every of the respective officers, whose fees are herein ascertained, limited, and appointed, shall, and they are hereby required to make fair tables of their fees, respectively, according to this act, and to publish and set up the same in their respective offices, within three months after the taking effect of this act, in some conspicuous part, for the inspection of all persons who have business in the said offices, on pain of forfeiting, for each day the same shall be missing through the said officer's neglect, the sum of $5, which penalty may be recovered in any court of record by action of debt, one-half to the informer, and the other half to the use of the county where the offence shall have been committed. If any officer whatsoever shall ask, take, or demand greater fees than are hereinbefore expressed and limited, for any service to be done by him in his office, or if any officer shall charge or demand, and take any of the fees herein ascertained, when the business for which such fees are charged shall not have been actually done and performed, such officer, for every such offence, shall, on conviction thereof before any court of record for the proper county, forfeit and pay to the party injured any sum not exceeding fifty dollars. It shall and may be lawful for any person to refuse payment of fees to any officer, who shall not make out a bill of particulars signed by him, if required, and also a receipt or discharge signed by him, for the fees paid.

Sec. 4. *Be it further enacted*, That so much of the act entitled "An act to regulate county levies," as authorizes the county commissioners, at their annual meeting, to allow compensation to the justices of the peace, clerks of the courts of general quarter sessions of the peace, sheriff and constables, for services by them, or either of them, performed, for and on behalf of their several counties, respectively; also, the law, entitled "A law ascertaining and regulating the fees of the several officers and persons therein named," adopted and published at Cincinnati, the sixteenth day of June, one thousand seven hundred and ninety-five; also, the law in addition to the same, published at Cincinnati, the first day of May, one thousand seven hundred and ninety-eight; and also, the act entitled "An act regulating the fees of constables in the several counties within this Territory," passed at Cincinnati, the nineteenth day of December, one thousand seven hundred and ninety-nine; and also, the act, entitled "An act regulating the fees of civil officers, and for other purposes," passed the twenty-third day of January, one thousand eight hundred and two; and, also, the fourth section of the act, entitled "An act allowing compensation to the associate judges, and for other purposes," passed the eighteenth day of February, one thousand eight hundred and four, be, and the same are hereby, repealed: *Provided*, That nothing herein contained shall be considered to extend to, or affect the fees for services performed prior to the taking effect of this act.

This act shall take effect and be in force from and after the first day of June next.

Secretary of State's Office,
Chilicothe, Ohio.

I do certify, that the foregoing bill is a correct copy of the original roll in my office.

Given under my hand, this 6th day of November, 1806.

WILLIAM CREIGHTON, Jr.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE SECOND SESSION OF THE NINTH CONGRESS, BEGUN AND HELD AT THE CITY OF WASHINGTON, DECEMBER 1, 1806.

An Act to suspend the operation of an act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," and to remit the penalties incurred under the same.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the operation of the act, passed on the eighteenth day of April last, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," be, and the same hereby is, suspended until the first day of July next.

SEC. 2. *And be it further enacted*, That all penalties, fines, and forfeitures, which may have been incurred by virtue of the provisions of the aforesaid act, be, and the same hereby are, respectively, remitted, on payment, by the parties, by whom such penalty, fine, or forfeiture, may have been incurred, of all costs which have accrued, or may accrue before notice of this act shall have been received by the attorneys of the several districts of the United States.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized further to suspend the operation of the aforesaid act, if, in his judgment, the public interest should require it: *Provided*, That such suspension shall not extend beyond the second Monday in December next.

NATHANIEL MACON,
Speaker of the House of Representatives.
GEO. CLINTON,
Vice President of the United States and President of the Senate.

Approved, December 19, 1806.

TH. JEFFERSON.

An Act making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and seven.

Be it enacted, &c., That, for defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and seven, the following sums be, and the same hereby are, respectively appropriated; that is to say:

For the pay and subsistence of the officers, and pay of the seamen, two hundred and ninety-six thousand and forty-eight dollars.

For provisions, one hundred and twenty thousand eight hundred and fifty dollars and three cents.

For medicines, instruments, and hospital stores, five thousand dollars.

For repairs of vessels, one hundred and ninety thousand two hundred and eight dollars and sixty-seven cents.

For freight, store rent, commissions to agents, and other contingent expenses, seventy-five thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore, and forage for the staff, seventy-eight thousand six hundred and seventy-eight dollars and thirty cents.

For clothing for the same, fourteen thousand three hundred and sixty dollars.

For military stores for the same, five hundred and sixty dollars.

For medicine, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, one thousand one hundred and fifty dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premium for enlisting, musical instruments, bounty to music, and other contingent expenses, eight thousand one hundred and forty-five dollars.

For the expense of navy yards, comprising docks and other improvements, pay of superintendents, storekeepers, clerks, and laborers, sixty thousand dollars.

For ordnance, fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the several sums herein specifically appropriated, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, January 7, 1807.

An Act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and seven.

Be it enacted, &c., That, for defraying the expense of the Military Establishment of the United States, for the year one thousand eight hundred and seven: For the Indian department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be, and the same hereby are, respectively appropriated; that is to say:

For the pay of the army of the United States, three hundred and two thousand nine hundred and fifty-two dollars.

For forage, four thousand six hundred and eight dollars.

For the subsistence of the army and corps of

engineers, two hundred and thirty-five thousand five hundred and fifty-two dollars and fifty cents.

For clothing, eighty-five thousand dollars.

For bounties and premiums, fifteen thousand dollars.

For the medical and hospital departments, fifteen thousand dollars.

For camp equipage, fuel, tools, and transportation, ninety thousand dollars.

For fortifications, arsenals, magazines, and armories, two hundred and eighteen thousand five hundred and forty-two dollars, five cents.

For purchasing maps, plans, books, and instruments, one thousand five hundred dollars.

For contingencies, eighteen thousand dollars.

For the payment of such balances as have been ascertained, and which may be ascertained during the years one thousand eight hundred and six and one thousand eight hundred and seven, from actual settlements by the accountant from the War Department, and which cannot be discharged out of any existing appropriation, eight thousand dollars.

For the Indian department, one hundred thousand and six hundred dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, January 10, 1807.

An Act to alter the time of holding the Circuit and District Courts in the District of North Carolina.

Be it enacted, &c., That, instead of the times heretofore established by law, for the sessions of the circuit court for the district of North Carolina, the said courts shall hereafter commence and be holden on the twelfth day of May, and the twelfth day of November, in each year, anything contained in any former act or acts to the contrary notwithstanding. And all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, civil or criminal, commenced or to commence in the said court, and all recognisances returnable to the said court, on the twentieth day of June next, shall be continued, returned to, and have day, in the session to be holden by this act, and the same proceedings shall be had thereon as heretofore, and shall have all the effect, power, and virtue, as if the alteration had never been made: *Provided, nevertheless*, That when the twelfth day of May, or the twelfth day of November shall happen on Sunday, the next succeeding day shall be the first juridical day of the term.

Sec. 2. *And be it further enacted*, That the district courts of the United States for the district of North Carolina, shall, after the passing of this act, commence, and be holden on the following days, instead of the times heretofore established by law; that is to say: at Wilmington, in and for the district of Cape Fear, on the first Mondays in February, June, and October; at Newbern, in and for the district of Pamptico, on the Friday next after the first Mondays in February, June, and October; and at Edenton, in and for the district of Albemarle, on the first Tuesday which shall follow the Friday next after the first Mondays in February, June, and October. And that all actions, suits, writs, process, pleadings, or other proceedings, commenced or to commence, or which shall be now depending in any of the district courts of the district of North Carolina, shall be continued over, and have day in the next district court to be holden in the several districts as hereby established, anything in any former act or acts to the contrary notwithstanding.

Approved, February 4, 1807.

An Act for the relief of the sufferers by fire, in the town of Portsmouth, New Hampshire.

Be it enacted, &c., That all persons, who, being indebted to the United States for merchandise, have given bond therefor, with one or more sureties, payable to the collector of the district of Portmouth, in the State of New Hampshire, or to the collector of the district of Boston and Charlestown, and who have suffered a loss of property by the late conflagation at Portsmouth, shall be and hereby are allowed to take up, or have cancelled, all bonds heretofore given for duties as aforesaid, upon giving to collectors new bonds, with one or more sureties, to the satisfaction of the said collector or collectors, for the sums of their former bonds respectively, payable in twelve months from and after the day of payment specified in the bonds to be taken up and cancelled, as aforesaid; and the said collectors are hereby authorized to give up, or cancel all such bonds upon the receipt of others, as described in this act; which last mentioned bonds shall be proceeded with, in all respects, like other bonds which are taken by collectors for duties due to the United States: *Provided, however*, That nothing in this act contained shall extend to bonds which had fallen due prior to the twenty-fourth day of December last.

Approved, February 10, 1807.

An Act to provide for surveying the coasts of the United States.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized and requested to cause a survey to be taken of the coasts of the United States, in which shall be designated the islands and shoals, with the roads or places of anchorage, within twenty leagues of any part of the shores of the United States; and also the respective courses and distances between the principal capes, or head lands, together with such other matters as he may deem proper for completing an accurate chart of every part of the coasts within the extent aforesaid.

Sec. 2. *And be it further enacted*, That it shall be lawful for the President of the United States to cause such examinations and observations to be made, with respect to St. George's bank, and any other bank or shoal and the soundings and currents beyond the distance aforesaid to the Gulf Stream, as in his opinion may be especially subservient to the commercial interests of the United States.

Sec. 3. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized and requested, for any of the purposes aforesaid, to cause proper and intelligent persons to be employed, and also such of the public vessels in actual service, as he may judge expedient, and to give such instructions for regulating their conduct as to him may appear proper, according to the tenor of this act.

Sec. 4. *And be it further enacted*, That for carrying this act into effect there shall be, and hereby is appropriated, a sum not exceeding fifty thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 10, 1807.

An Act authorizing the erection of certain light-houses, and the fixing of stakes, buoys and beacons, at certain places therein named.

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause a good and sufficient light-house to be built at each of the following places, that is to say; on Fair Weather island, in the State of Connecticut, and at Naushawn island, near Tarpaulin cove, in the State of Massachusetts, at such points as the President of the United States may select for those purposes; and to appoint keepers, and otherwise provide for such light-houses, at the expense of the United States: *Provided*, That sufficient ground for the accommodation of said light-houses, respectively, can be obtained at a reasonable price: *And provided, also*, That the Legislatures of the States of Connecticut and Massachusetts, shall cede the jurisdiction over each respectively to the United States.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause the light-house at present established on Smith's point, at the mouth of the river Potomac, to be taken down, and to cause another good and sufficient one to be built at such other spot on the said point, as the President of the United States may select: *Provided*, That sufficient ground for the accommodation thereof can be obtained at a reasonable price; and provided also, that the Legislature of the State of Virginia shall cede the jurisdiction over the same to the United States. And the Secretary of the Treasury is hereby further authorized and directed to cause the light-house heretofore established on North Island, at the entrance into Winyaw bay, in the State of South Carolina, to be rebuilt in such manner as may in his opinion be most likely to secure its future safety.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause proper and sufficient buoys and stakes to be fixed in, and along the channel in Winyaw bay, leading to the harbor of Georgetown, in the State of South Carolina: and also, to cause proper and sufficient buoys and beacons to be placed on, or near the rocks and shoals in the channel leading into the harbor of Salem, in the State of Massachusetts.

Sec. 4. *And be it further enacted*, That, for the purpose of defraying the expenses which may be incurred in the execution of this act, the following sums shall be, and the same are hereby respectively appropriated, to be paid out of any moneys in the Treasury, not otherwise appropriated: that is to say, for building the light-house on Fair Weather island, five thousand dollars; for building the light-house at Naushawn island, two thousand five hundred dollars; for pulling down, and rebuilding the light-house on Smith's point, six thousand dollars; for rebuilding the light-house on North island, twenty thousand dollars; for fixing buoys and stakes in Winyaw bay, one thousand five hundred dollars; for fixing buoys and beacons in the channel leading to Salem harbor, one thousand five hundred dollars.

Approved, February 10, 1807.

An Act supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States."

Whereas it is desirable to adapt the nature of the provision for the redemption of the public debt to the present circumstances of the United States, which can only be done by a voluntary subscription on the part of the creditors:

Be it enacted, &c., That a subscription to the full amount of the old six per cent. deferred and three per cent. stocks be, and the same is hereby proposed; for which purpose books shall be opened at the Treasury of the United States, and by the several Commissioners of Loans, on the first day of July next, to continue open until the seventeenth day of March next following, inclusively, the fourteen last days of each quarter excepted, for such parts of the abovementioned descriptions of stock as shall, on the day of subscription, stand on the books of the Treasury, and of the several Commissioners of Loans, respectively; which subscription shall be effected by a transfer to the United States, in the manner provided by law for such transfers of the credit or credits standing on the said books, and by a surrender of the certificates of the stock subscribed.

Sec. 2. *And be it further enacted*, That for the whole or any part of any sum which shall thus be described, in old six per cent. or deferred stock, credits shall be entered to the respective subscribers, and the subscriber or subscribers shall be entitled to a certificate, or certificates, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to the amount of principal of the stock thus subscribed, which shall remain unredeemed on the day of such subscription, bearing an interest of six per centum per annum, payable quarter yearly, from the first day of the quarter, during which such subscription shall have been made, transferable in the same manner as is provided by law for the transfers of the stock subscribed, and subject to redemption at the pleasure of the United States: *Provided*, That

no single certificate shall be issued for an amount greater than ten thousand dollars: *And provided further*, That no reimbursement shall be made except for the whole amount of any such new certificate, nor till after at least six months previous public notice of such intended reimbursement.

Sec. 3. *And be it further enacted*, That for the whole or any part of any sum which shall thus be subscribed in three per cent. stock, credits shall likewise be entered to the respective subscribers; and the subscriber, or subscribers, shall be entitled to a certificate, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to sixty-five per centum of the amount of the principal of the stock thus subscribed, bearing an interest of six per centum, per annum, payable quarter yearly, from the first day of the quarter, during which such subscription shall have been made, and transferable and subject to redemption in the same manner, and under the same regulations and restrictions, as the stock created by the preceding section of this act: *Provided*, That no part of the stock thus created, shall be reimburseable without the assent of the holder or holders of such stock, until after the whole of the eight per cent. and four and a half per cent. stocks, as well as all the six per cent. stock which may be created by virtue of the preceding section, shall have been redeemed.

Sec. 4. *And be it further enacted*, That the Commissioners of the Sinking Fund shall be, and they are hereby, authorized to appoint an agent in London, and another in Amsterdam, whose duty it shall be to receive subscriptions and transfers, and to issue new certificates in the manner, and at the times above mentioned, and as the officers of the Treasury Department, or the Commissioners of Loans might do; that is to say, the agent in London in favor of such stockholders residing in the dominions of Great Britain, in Europe, and the agent in Amsterdam, in favor of such stockholders, residing in any other part of Europe, as may respectively become subscribers: *Provided*, That the certificates issued by the said agents shall bear interest only from the first day of the quarter next succeeding that in which the subscription shall have taken place, and that in relation to subscriptions made in old six per cent. or deferred stocks, the sums expressed in such new certificates shall be equal to the amount of the principal of the old six per cent. or deferred stocks thus subscribed, which shall remain unredeemed after payment of the dividend payable on such stock, on that day from which the interest of the new certificates shall commence. The foreign stockholders thus subscribing with either of the said agents shall be entitled to receive the dividend on the old six per cent. deferred, or three per cent. stock subscribed by them, respectively, which shall be payable on that day, from which the interest on the new certificates shall commence. And it shall be the duty of the said agents, respectively, to transmit, before the end of each quarter, to the Register of the Treasury, and to the several Commissioners of Loans, respectively, triplicate abstracts of the certificates of stocks subscribed, and of the new certificates issued by them, during such quarter, in order that the proper credits may be entered on the books of the Treasury, and of the Commissioners of Loans, as the case may be, to the holders of such new certificates. And the said agents, before they enter upon the execution of their several offices, shall, respectively, take an oath or affirmation for the diligent and faithful execution of their trust, and shall also become bound with one or more sureties, to the satisfaction of the Commissioners of the Sinking Fund, or of the Secretary of the Treasury, in the penal sum of twenty thousand dollars, with condition for their good behaviour in their said offices.

Sec. 5. *And be it further enacted*, That the holders of old six per cent. deferred, or three per cent. stock, who may become subscribers, as aforesaid, either in the United States or in Europe, and who, on the first day of July next, and also on the day of the subscription, shall be resident in Europe, may at their option, which must be made at the time of subscribing, receive the interest accruing on the stock created by virtue of the preceding sections of this act, either in the United States as other creditors, or at London, or Amsterdam: that is to say, the stockholders residing, at the times above mentioned, in the dominions of Great Britain, in Europe, at London, and at the rate of four shillings and six pence, sterling, for each dollar; and the stockholders residing, at the times above mentioned, in any other part of Europe, at Amsterdam, and at the rate of two guilders, and a half guilder, current money of Holland, for each dollar; in which last mentioned option the condition shall be expressed in the new certificates to be issued, and the credit, or credits, to be given to the proprietors thereof, shall be entered, and shall thereafter be transferable only on the books of the Treasury: *Provided, however*, That the interest thus payable in London and Amsterdam, shall not be payable until the expiration of six calendar months from the day on which the same would be payable in the United States, and shall be subject to a deduction of one half of one per cent. on the amount payable, for commission to the bankers paying the same: *And provided also*, That every proprietor of such stock may, on surrendering his certificate, receive another to the same amount, the interest whereof shall be payable quarter yearly in the United States, in the same manner as that accruing on the stock held by persons residing in the United States.

Sec. 6 *And be it further enacted*, That the same funds which heretofore have been, and now are, pledged, by law, for the payment of the interest, and for the redemption or reimbursement of the stock which may be subscribed by virtue of the provisions of this act, shall remain pledged for the payment of interest accruing on the stock created by reason of such subscription, and for the redemption or reimbursement of the principal of the same. It shall be the duty of the Commissioners of the Sinking Fund to cause to be

applied, and paid out of the said fund, yearly, and every year, such sum, and sums, as may be annually wanted to discharge the annual interest and charges accruing on the stock which may be created by virtue of this act. The said Commissioners are hereby authorized to apply, from time to time, such sum and sums, out of the said fund, as they may think proper, towards redeeming, by purchase, or by reimbursement, in conformity with the provisions of this act, the principal of the said stock. And the annual sum of eight millions of dollars, vested by law in the said Commissioners, shall be, and continue appropriated to the payment of interest and redemption of the public debt, until the whole of the stock which may be created by the preceding sections of this act, shall have been redeemed, or reimbursed.

Sec. 7. *And be it further enacted*, That there shall be allowed to each of the agents to be appointed by virtue of this act, in addition to the necessary expenses incurred by them for printing, stationery, and postage, a sum of three thousand dollars, as a full compensation for their services. The said agents, and the Commissioners of Loans, shall also be allowed such additional sum as may be actually and necessarily expended for the clerk hire requisite for carrying this act into effect. And for defraying the said compensations and allowances, and such other contingent charges as may be incurred for carrying this act into effect, a sum not exceeding sixteen thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, is hereby appropriated.

Sec. 8. *And be it further enacted*, That whensoever notice of reimbursement shall be given, as prescribed by the second and third sections of this act, the certificates intended to be reimbursed, shall be designated therein. In every reimbursement the preference shall be given to such holders of certificates as, previous to the said notice, shall have notified in writing to the Treasury Department their wish to be reimbursed. If there should not be applications to the Treasury sufficient to require the payment of the whole sum to be applied to that purpose, the Secretary of the Treasury, after paying off all sums for the payment of which application shall have been made, shall determine, by lot, what other certificates shall be reimbursed so as to make up the whole amount to be discharged: and in case the applications shall exceed the amount to be discharged, the Secretary of the Treasury shall proceed to determine, by lot, what applications shall be entitled to priority of payment.

Sec. 9. *And be it further enacted*, That the agents appointed by virtue of this act, and the several Commissioners of Loans, shall observe and perform such directions and regulations, as shall be prescribed to them by the Secretary of the Treasury, touching the execution of this act.

Sec. 10. *And be it further enacted*, That nothing in this act contained shall be construed, in anywise, to alter, abridge, or impair the rights of those creditors of the United States, who shall not subscribe to the loan created by virtue of this act.—[Approved February, 11, 1807.

An Act to extend the power of granting writs of injunctions to the judges of the district courts of the United States.

Be it enacted, &c., That, from and after the passing of this act, the judges of the district courts of the United States shall have as full power to grant writs of injunctions to operate within their respective districts, in all cases which may come before the circuit courts within their respective districts, as is now exercised by any of the judges of the Supreme Court of the United States, under the same rules, regulations and restrictions, as are prescribed by the several acts of Congress, establishing the judiciary of the United States, any law to the contrary notwithstanding: *Provided*, That the same shall not, unless so ordered by the circuit court, continue longer than to the circuit court next ensuing, nor shall an injunction be issued by a district judge, in any case where a party has had a reasonable time to apply to the circuit court for the writ.

Approved February 13, 1807.

An Act to annex certain shores and waters to the district of Mississippi; and to authorize the building a custom-house at New-Orleans.

Be it enacted, &c., That, from and after the thirtieth day of June next, all the shores and waters of the river Ohio, and of the several rivers and creeks emptying into the same; and also, all the shores and waters of the rivers which empty into the river Mississippi, or any of its branches, be, and the same are hereby annexed to, and shall make part of the district of Mississippi.

Sec. 2. *And be it further enacted*, That a surveyor shall be appointed for each of the following towns or places, that is to say: Pittsburg, Charlestown, Marietta, Cincinnati, Limestone, Louisville, Massac, and Natchez, who shall be authorized to grant temporary registers to vessels of the United States, in the same manner, and on the same terms and conditions as may be done by the collectors of the several districts of the United States; and each of the said surveyors, besides the fees paid in relation to the admeasurement, and registering of vessels, shall receive an annual salary of one hundred and fifty dollars.

Sec. 3. *And be it further enacted*, That the collector of the district of Mississippi shall, on the surrender of any temporary register, granted to a vessel of the United States as aforesaid, issue a permanent register for such vessel: *Provided*, That the master of such vessel shall take the usual oath, and perform all the other conditions required by the registering act, except that he shall not be obliged to give any new bond to the said collector.

Sec. 4. *And be it further enacted*, That so much of any act or acts as erects any of the shores or waters, annexed by this act to the Mississippi district, into separate districts be, and the same is hereby, repealed.

Sec. 5. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be built upon

some convenient site, belonging to the United States, in the city of New Orleans, a good and sufficient house, to serve as an office and place of deposit for the collector of the customs at that place. And the sum of twenty thousand dollars is hereby appropriated to defray the expense of erecting the same, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 13, 1807.

An Act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding thirty thousand men.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, not exceeding thirty thousand men, who shall be clothed, and furnished with horses, at their own expense, and armed and equipped at the expense of the United States, after they shall be called into service, except such of them as may choose to furnish their own arms, and whose commissioned officers shall be appointed in the manner prescribed by law in the several States and Territories to which such companies shall, respectively, belong: *Provided*, That where any company, battalion, regiment, brigade, or division of militia, already organized, shall tender their voluntary service to the United States, such company, battalion, regiment, brigade, or division, shall continue to be commanded by the officers holding commissions in the same, at the time of such tender, and any vacancy thereafter occurring shall be filled in the mode pointed out by law in the State or Territory wherein the said company, battalion, regiment, brigade, or division, shall have been originally raised.

Sec. 2. *And be it further enacted*, That any company, battalion, regiment, brigade, or division, thus offering itself for the service, shall be liable to be called upon to do military duty at any time the President of the United States shall judge proper, within two years after he shall accept the same, and shall be bound to continue in service for the term of twelve months after they shall have arrived at the place of rendezvous, unless sooner discharged, and when called into actual service, and whilst remaining therein, shall be under the same rules and regulations, and be entitled to the same pay, rations, forage, and emoluments of every kind, bounty and clothing excepted, with the regular troops of the United States: *Provided*, That in lieu of clothing, every non-commissioned officer and private, in any company, who may thus offer themselves, shall be entitled, when called into actual service, to receive in money, a sum equal to the cost of the clothing of a non-commissioned officer, or private, (as the case may be,) in the regular troops of the United States.

Sec. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to organize the companies so tendering their service, as aforesaid, into battalions, squadrons, regiments, brigades, and divisions, as soon as the number of volunteers shall render such organization, in his judgment, expedient; but until called into actual service, such companies shall be bound to do regular militia duty, as is required by law, in like manner as before the passage of this act.

Sec. 4. *And be it further enacted*, That in case any volunteer above-mentioned, while in actual service, shall sustain any damage, by injury done to his horse, or such other equipment as shall have been furnished at his own expense, or by loss of the same, without any fault or negligence on his part, a reasonable sum, to be ascertained in such manner as the President of the United States may direct, shall be allowed and paid to such volunteer for each and every such damage or loss.

Sec. 5. *And be it further enacted*, That the sum of five hundred thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, be, and the same hereby is, appropriated towards defraying any expense incurred by virtue of the provisions of this act.

Approved, February 24, 1807.

An Act establishing Circuit Courts, and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio.

Be it enacted, &c., That so much of any act or acts of Congress, as vests in the district courts of the United States, in the districts of Kentucky, East, and West Tennessee, and Ohio, the powers, authority, and jurisdiction of the circuit courts of the United States, shall be, and the same is hereby, repealed.

Sec. 2. *And be it further enacted*, That, for the purpose of holding therein the circuit courts, to be established by this act, the State of Kentucky shall constitute one district, the State of Tennessee, one district, and the State of Ohio, one district; and the said districts of Kentucky, Tennessee, and Ohio, shall constitute, and be denominated the seventh circuit. And there shall be holden annually in each district of the said circuit, two courts, to be called circuit courts, and to consist of one justice of the Supreme Court of the United States, and the judge of the district where such court shall be holden. And the sessions of the said courts, in the district of Kentucky, shall be held at Frankfort, and commence on the first Monday in May and November, annually; in the district of Tennessee, at Knoxville and Nashville alternately, to commence on the first Monday in June and third Monday in October, annually, beginning at Nashville; and in the district of Ohio, at Chilicothe, to commence on the first Monday in January and September, annually. And the circuit court of Tennessee shall designate at which of the two places, where the said court is hereby directed to be holden, the office of clerk thereof shall be kept.

Sec. 3. *Be it further enacted*, That all the authority, powers, and jurisdiction, vested in the several circuit courts of the United States, or the judges thereof, or either of them, shall be and hereby are vested in, and may be exercised by, the several circuit courts of the seventh circuit and the judges thereof; and that all actions, causes, pleas, process, and other proceedings, relative to any cause, civil or criminal, which shall be returnable to or depending in the several district courts of Kentucky, Tennessee, and Ohio, acting as circuit courts, on the first day of May next, shall be and hereby are declared to be respectively transferred, returnable, and continued, to the several circuit courts constituted by this act, at the times herein appointed for the session of each of the said courts, and shall be heard, tried, and determined therein, in the same manner, and with the same effect, as if no change had been made hereby in the courts of the said district. And the said circuit courts of the seventh circuit shall be governed by the same laws and regulations as apply to the other circuit courts of the United States, and shall appoint clerks of the said courts, respectively, who shall reside and keep the records of the said courts at the places of holding the courts, whereto they shall respectively belong, except as hereinbefore provided; and shall perform the same duties, and be entitled to and receive the same emoluments and fees, respectively, which are by law established for the clerks of the other circuit courts of the United States.

Sec. 4. *And be it further enacted*, That the State of Tennessee shall be divided into two districts, for the purpose of holding district courts in the same—one to consist of that part thereof, which, by the laws of the said State, now forms the districts of Washington and Hamilton, which shall be called the district of East Tennesssee; and one other, to consist of all that part of the State of Tennessee which the laws of the said State now forms the districts of Winchester, Mero, and Robertson, which shall be called the district of West Tennessee; and all the authority, powers, and jurisdiction, vested in the several district courts of the United States and the judges thereof, in those districts in which circuit courts are now held, shall be retained, and may be exercised by the several district courts of Kentucky, East and West Tennessee, and Ohio, and the several judges thereof. And the sessions of the said district courts shall, after the first day of May next, be as follows: in Kentucky, at Frankfort, two sessions, to commence on the first Mondays in June and December, annually; in East Tennessee, at Knoxville, two sessions, to commence on the third Monday in April and second Monday in October, annually; and at Nashville, two sessions, to commence on the fourth Mondays in May and November annually; and in Ohio, at Chilicothe, three sessions, to commence on the first Mondays in June and October, annually; and all actions, causes, pleas, process, and other proceedings, relative to any cause, civil or criminal, which shall have been issued, and shall be returnable to or depending in the said several district courts of the United States, acting as district courts, on the said first day of May next, shall be returned and held continued to the said several district courts, respectively, at the times herein before appointed for holding the same.

Sec. 5. *Be it further enacted*, That the Supreme Court of the United States shall hereafter consist of a Chief Justice and six Associate Justices, any law to the contrary notwithstanding. And for this purpose, there shall be appointed a sixth Associate Justice, to reside in the seventh circuit, whose duty it shall be, until he is otherwise allotted, to attend the circuit courts of the said seventh circuit, and the Supreme Court of the United States, and who shall take the same oath and be entitled to the same salary as are required of and provided for the other Associate Justices of the United States.

Approved, February 24, 1807.

An Act to continue in force, for a further time, an act entitled "An act to suspend the commercial intercourse between the United States, and certain parts of the island of St. Domingo."

Be it enacted, &c., That the act entitled "An act to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo," passed on the twenty-eighth day of February, one thousand eight hundred and six, be and the same hereby is continued in force until the end of the next session of Congress, and no longer.

Sec. 2. *And be it further enacted*, That the prohibitions and provisions of the aforesaid act shall be construed, and are hereby declared to extend to Gonaive and Tortuga, and to any other dependency of the said island of St. Domingo, not in possession of, or under the acknowledged Government of France.

Approved February 24, 1807.

An Act respecting seizures made under the authority of the United States, and for other purposes.

Be it enacted, &c., That when any prosecution shall be commenced on account of the seizure of any ship or vessel, goods, wares, or merchandise, made by any collector or other officer, under any act of Congress authorizing such seizure, and judgment shall be given for the claimant or claimants, if it shall appear to the court before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the said court shall cause a proper certificate or entry to be made thereof; and in such case the claimant or claimants shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to action, suit, or judgment on account of such seizure and prosecution: *Provided*, That the ship or vessel, goods, wares, or merchandise, be, after judgment, forthwith returned to such claimant or claimants, his, her, or their agent or agents.

Sec. 2. *And be it further enacted*, That the accounting officers of the Treasury be, and they are hereby, directed to allow to the collector of New York, in the settlement of his accounts, the amount of damages and costs recovered from and paid by him, by virtue of judgments rendered in the Supreme Court of the State of New York, on

account of the seizure of the ship Liberty, and of the ship Two Marys; which vessels had been seized and libelled for a presumed infraction of the provisions of the act, entitled "An act concerning the registering and recording of ships or vessels."

Approved, February 24, 1807.

An Act further supplementary to the act, entitled "An act concerning the District of Columbia."

Be it enacted, &c., That so much of the act entitled, "An act additional to, and amendatory of an act entitled, "An act concerning the District of Columbia," as directs that no *capias ad satisficiendum* shall hereafter issue on any judgment rendered by a single magistrate, or in any case where the judgment shall not exceed twenty dollars, shall be, and the same is hereby repealed. and in all such cases a writ or writs of *capias ad satisfaciendum* may hereafter issue, anything in the said recited act to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That such writs of *capias ad satisfaciendum* shall be issued, directed, and made returnable in like manner, and the clerk and constable shall be entitled to the same fees therein, as the said act hereinbefore recited directs and allows in cases of executions against the goods and chattels of the debtor.

Sec. 3. *And be it further enacted*, That the eighth section of the aforesaid act shall be, and the same is hereby also repealed.

Approved, February 24, 1807.

An Act to punish frauds committed on the Bank of the United States.

Be it enacted, &c., That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist, in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be a bill or note issued by order of the President, Directors and Company of the Bank of the United States, or any order or check on the said Bank or Corporation, or any Cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the President, Directors and Company of the Bank of the United States, or any order or check, on the said Bank or Corporation, or any Cashier thereof, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, or counterfeited bill, or note, purporting to be a bill, or note, issued by order of the President, Directors and Company of the Bank of the United States, or any false, forged or counterfeited order or check, upon the said Bank or Corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered bill or note, issued by order of the President, Directors and Company of the Bank of the United States, or any falsely altered order or check, on the said Bank or Corporation, or any Cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation, or any other body politic, or person; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for a period not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars; *Provided*, That nothing herein contained shall be construed to deprive the courts of the individual States of a jurisdiction under the laws of the several States, over the offence declared punishable by this act.

Sec. 2. *And be it further enacted*, That the act, entitled "An act to punish frauds committed on the Bank of the United States," passed the twenty-seventh day of June, one thousand seven hundred and ninety eight, shall be and the same is hereby repealed: *Provided, nevertheless*, That the repeal of the said act shall not be so construed, as to prevent the trial, condemnation, or punishment of any person, or persons, charged with or guilty of a violation of any of its provisions, previous to the passing of this act.

Approved, February 24, 1807.

An Act to extend the time for locating Virginia military warrants, for returning surveys thereon to the office of the Secretary of the Department of War, and appropriating lands for the use of schools, in the Virginia military reservation, in lieu of those heretofore appropriated.

Be it enacted, &c., That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands within the tract reserved by Virginia, between the little Miami and Scioto rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed a further time of three years, from the twenty-third of March next, to complete their locations, and a further time of five years from the said twenty-third of March next to return their surveys and warrants, or certified copies of warrants, to the office of the Secretary of the War Department, anything in the act entitled "An act to ascertain the boundary of the lands reserved by the State of Virginia, northwest of the river Ohio, for the satisfaction of her officers and soldiers on continental establishment, and to limit the period for locating the said lands," to the contrary notwithstanding: *Provided*, That no locations, as aforesaid, within the abovementioned tract, shall, after the passing of this act, be made on tracts of land for which patents had previously been issued, or which had been previously surveyed; and any patent which may, nevertheless, be obtained for land located contrary to the provisions of this section, shall be considered as null and void.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to obtain copies of all the locations and surveys which have been, or may be made within the abovementioned tract, and to cause to be run or surveyed, as many straight lines across the same, as he may deem necessary, not exceeding three; and from these and such other documents as may be obtained, to cause to be made a general connected plat of all the lands located and surveyed within the same; a copy of which shall be deposited in the War Department, and another copy shall be laid before Congress, together with an estimate of the surplus which may remain, after satisfying the bounties abovementioned. And the expenses incurred in surveying the lines, and obtaining the copies aforesaid, and in preparing the general plat abovementioned, shall be defrayed out of the moneys appropriated for completing the surveys of the public lands northwest of the river Ohio.

Sec. 3. *And be it further enacted*, That eighteen quarter townships and three sections, to be selected by the Secretary of the Treasury, by lot, in that tract of land in the State of Ohio, lately purchased from the Indians, and lying between the tract commonly called the United States military tract, and the tract commonly called the Connecticut reserve, be and the same are hereby appropriated for the use of schools, in that tract of land in the State aforesaid, commonly called "the Virginia military reservation," and be vested in the Legislature of that State, in trust for the use aforesaid, and for no other use, intent, or purpose whatever; which said eighteen quarter townships and three sections, are thus appropriated and vested in lieu of the one thirty-sixth part of the tract aforesaid, called the "Virginia military reservation," which, by a former act, had been appropriated and vested as aforesaid, for the use of schools within the same: *Provided, however*, That no quarter townships, including the section number sixteen of such township, shall be selected as aforesaid for the purpose abovementioned. *And provided, also*, and it is hereby understood and declared, that the said eighteen quarter townships and three sections shall be appropriated and vested, for the purposes aforesaid, only on condition that the Legislature of the State of Ohio shall, within one year after the passing of this act, pass a law accepting the said eighteen quarter townships and three sections, for the purposes aforesaid, in lieu of the thirty-sixth part of the tract commonly called "the Virginia military reservation," heretofore appropriated and vested by law for the use of schools within the same; and releasing to the United States all their claim, right, title, and interest, and all the right, title and interest of the inhabitants of the tract of land last mentioned, to the thirty-sixth part of the said tract heretofore appropriated and vested by law for the use of schools within the same. And if the Legislature of the said State shall not pass a law as aforesaid, within one year after the passing of this act, the said eighteen quarter townships and three sections shall not be considered and held as appropriated and vested for the purposes aforesaid, but shall be disposed of in the same manner as is or may be provided, by law, for the disposal of other public lands in the same tract.

Approved, March 2, 1807.

An Act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight.

Be it enacted, &c., That, from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States or the territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of color, with intent to hold, sell, or dispose of such negro, mulatto, or person of color, as a slave, or to be held to service or labor.

Sec. 2. *And be it further enacted*, That no citizen or citizens of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself, or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto, or person of color, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labor: and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned, in any of the circuit courts or district courts, for the district where the said ship or vessel may be found or seized.

Sec. 3. *And be it further enacted*, That all and every person so building, fitting out, equipping, loading, or otherwise preparing or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars, one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

Sec. 4. *And be it further enacted*, If any citizen or citizens of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, take on board, receive, or transport, from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of color, in any ship or vessel, for the purpose of selling them in any port or place within the jurisdiction of the United States as slaves, or to be held to service or labor, or shall be in any ways aiding or abetting therein, such citizen or citizens, or person, shall severally forfeit and pay five thousand dollars, one moiety thereof to the

use of any person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel in which such negro, mulatto, or person of color, shall have been taken on board, received, or transported, as aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts in the district where the said ship or vessel may be found or seized. And neither the importer nor any person or persons claiming from or under him, shall hold any right or title whatsoever to any negro, mulatto, or person of color, not to the service or labor thereof, who may be imported or brought within the United States, or territories thereof, in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the Legislatures of the several States or Territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of color.

SEC. 5. *And be it further enacted*, That, if any citizen or citizens of the United States, or any other person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of color, with intent to sell him, her, or them, for a slave or slaves, or to be held to service or labor, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of color, so transported as aforesaid, for a slave, or to be held to service or labor, every such offender shall be deemed guilty of a high misdemeanor; and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

SEC. 6. *And be it further enacted*, That, if any person or persons whatsoever shall, from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of color, for a slave, or to be held to service or labor, who shall have been imported or brought from any foreign kingdom, place, or country, or from the dominions of any foreign State immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale such negro, mulatto, or person of color, was so brought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally forfeit and pay for every negro, mulatto, or person of color, so purchased or sold as aforesaid, eight hundred dollars—one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: *Provided*, That the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of color, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the Legislatures of the several States in that respect, in pursuance of this act and the Constitution of the United States.

SEC. 7. *And be it further enacted*, That, if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay, or harbor, or on the high seas, within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of color, for the purpose of selling them as slaves, or with intent to land the same in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized, should he deem it expedient, to cause any of the armed vessels of the United States to be manned and employed to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States to seize, take, and bring into any port of the United States, all such ships or vessels, and moreover to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against according to law, and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or revenue cutter thereof; and the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy: *Provided*, That the officers and men, to be entitled to one-half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of color, found on board of any ship or vessel so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of color, to such

person or persons as shall be appointed by the respective States to receive the same; and if no such person or persons shall be appointed by the respective States, they shall deliver every such negro, mulatto, or person of color, to the overseers of the poor of the port or place where such ship or vessel may be brought or found, and shall immediately transmit to the governor or chief magistrate of the State an account of their proceedings, together with the number of such negroes, mulattoes, or persons of color, and a descriptive list of the same, that he may give directions respecting such negroes, mulattoes, or persons of color.

SEC. 8. *And be it further enacted*, That no captain, master, or commander of any ship or vessel of less burden than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of color, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labor, on penalty of forfeiting for every such negro, mulatto, or person of color, so taken on board and transported as aforesaid, the sum of eight hundred dollars—one moiety thereof to the use of the United States, and the other moiety to any person or persons who shall sue for and prosecute the same to effect: *Provided, however*, That nothing in this section shall extend to prohibit the taking on board or transporting on any river or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of color, (not imported contrary to the provisions of this act) in any vessel or species of craft whatever.

SEC. 9. *And be it further enacted*, That the captain, master, or commander of any ship or vessel, of the burden of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise from any port in the United States to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of color, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labor, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of color, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of color, with the name and place of residence of every owner or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one; otherwise to the surveyor, before whom the captain, master, or commander, together with the owner or shipper, shall severally swear or affirm, to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States, from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the State they are held to service or labor; whereupon, the said collector or surveyor shall certify the same in the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination. And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander having first made out and subscribed duplicate manifests of every negro, mulatto, and person of color, on board such ship or vessel as aforesaid, and without having previously delivered the same to the said collector or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of her destination, take on board any negro, mulatto, or person of color, other than those specified in the manifests as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States having jurisdiction thereof; and the captain, master, or commander of every such ship or vessel shall moreover forfeit, for every such negro, mulatto, or person of color, so transported or taken on board, contrary to the provisions of this act, the sum of one thousand dollars—one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

SEC. 10. *And be it further enacted*, That the captain, master, or commander of every ship or vessel, of the burden of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto, or person of color, to sell or dispose of as slaves, or to be held to service or labor, and arriving in any port within the jurisdiction of the United States, from any other port within the same, shall, previous to the unlading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver to the collector, if there be one, or if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed, to the truth of which, before such officer, he shall swear or affirm, and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading or suffering such negro, mulatto, or person of color, to be put on shore; and if the captain, master, or commander of any such ship or vessel, being laden as aforesaid, shall neglect or refuse to deliver the manifest at the time and in the manner herein directed, or shall land or put on shore any negro, mulatto, or person of color, for the purpose aforesaid, before he shall have delivered his manifest as aforesaid, and obtained a permit for that purpose, every such captain, master, or commander, shall forfeit and pay ten thousand dollars, one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

Approved, March 2, 1807.

An Act to reduce the expenses attending the administration of justice in the District of Columbia.

Be it enacted, &c., That, for the service of any writ, warrant, attachment, summons, or order of court, the marshal for the District of Columbia, shall be entitled to receive the fee of fifty cents only, for each person on whom served; and for the taking any bond required by law, a fee of fifty cents only; and for such services as are not enumerated in this, or some other act of Congress, he shall receive the like fees and compensation, if they be performed in the county of Alexandria, as by the laws of Virginia, in force on the first Monday of December, in the year eighteen hundred, were allowed to the sheriff of a county, for the like services; and if they be performed in the county of Washington, the like fees and compensation, as by the laws of Maryland, in force on the day last mentioned, were allowed to a sheriff of a county, in Maryland, for the like services.

Sec. 2. *And be it further enacted*, That the clerk of the circuit court of the District of Columbia, for the county of Alexandria, shall be entitled to receive for his services, the same fees only, as by the laws of Virginia, in force on the day last mentioned, were allowed to the clerk of the district court in that State, for the like services; in chancery proceedings, the same fees only, as were allowed by the said laws to the clerk of the high court of chancery, in the said State, for like services; and for such services as were not, by the said laws, to be performed by the clerk of either of the said courts in Virginia, he shall receive such fees only, as were allowed by the said laws, to the clerk of a county court in the said State, for the like services.

Sec. 3. *And be it further enacted*, That the clerk of the said circuit court of the District of Columbia, for the county of Washington, shall be entitled to receive the same fees only, for his services, as by the laws of Maryland, in force on the said first Monday of December, in the year eighteen hundred, were allowed to the clerk of the General Court of Maryland, for the like services; and for his services in chancery proceedings, the same fees only, as by the said laws were allowed to the register of the court of chancery of Maryland, for the like services; and for such services as were not, by the said laws, to be performed by the said clerk of the said General Court, or by the said register, he shall be allowed such fees and compensation only, as by the said laws were allowed to a clerk of a county court in Maryland, for the like services; *Provided*, That nothing in this act shall prevent the said marshal and clerk from receiving their daily compensation for attending court as heretofore.

Sec. 4. *And be it further enacted*, That such of the said fees as, by the laws aforesaid, are chargeable in tobacco, shall be paid in money, at the rate of one dollar and seventy five cents for one hundred pounds of tobacco. And it shall be the duty of the said marshal, and the said clerk, of the said circuit court, respectively, to make a table of their respective fees, in dollars and cents according to this act; and to keep a copy thereof at all times, exposed to public view, in their respective offices; and all fees and costs shall be taxed, and fee bills for collection stated in money only.

Sec. 5. *And be it further enacted*, That in suits at common law in the said circuit court the taxable fee to an attorney, shall be five dollars only; and in suits in chancery, the taxable fee to a solicitor shall be ten dollars only: *Provided*, That nothing in this act shall extend to the official services of the attorney of the United States for the District of Columbia.

Sec. 6. *And be it further enacted*, That all *temporary* statutes of the States of Virginia and Maryland, which, by the first section of the act concerning the District of Columbia, passed on the twenty-seventh of February, one thousand eight hundred and one, were adopted for the said District, shall not expire within the said District, by virtue of any limitation in said statutes contained; but shall remain in force as at the time of their adoption, unless other provision has been or shall be made by Congress respecting the same.

Sec. 7. *And be it further enacted*, That all laws, and parts of laws, contrary to, or inconsistent with this act, shall be, and the same are hereby repealed.

This act shall commence and be in force from and after the passing thereof.

Approved, March 3, 1807.

An Act allowing an additional compensation to the Judges of the Mississippi, Indiana, Michigan, and Louisiana Territories.

Be it enacted, &c., That each of the Judges of the Mississippi, Indiana, Michigan, and Louisiana Territories, appointed under the authority of the United States, be entitled to the annual sum of twelve hundred dollars, in lieu of his present compensation, to commence on the first day of January last.

Approved, March 3, 1807.

An Act making appropriations for finishing the south wing of the Capitol, and for other purposes.

Be it enacted, &c., That, in addition to the appropriations already made, the following sums of money shall be, and the same are hereby appropriated, to be applied under the direction of the President of the United States, to the purposes hereinafter mentioned, that is to say:

For finishing the south wing of the Capitol, twenty-five thousand dollars.

For furnishihg the same for the accommodation of the House of Representatives fifteen thousand dollars.

For making a new roof, and other repairs to the north wing of the Capitol, twenty-five thousand dollars.

For opening and repairing avenues and roads within the territory of Columbia, three thousand dollars.

For repairs and improvements on the President's house, and the lot of ground on which the same stands, fifteen thousand dollars.

Sec. 2. *And be it further enacted*, That the several sums of money hereby appropriated, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1807.

An Act making appropriations for the support of Government, during the year one thousand eight hundred and seven.

Be it enacted, &c., That, for the expenditure of the civil list, in the present year, including the contingent expenses of the several departments and officers; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expenses of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands, and for satisfying certain miscellaneous claims; the following sums be, and the same hereby are respectively appropriated, that is to say:

For compensation granted by law to the Members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars.

For the expense of fire wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, twenty-four thousand two hundred dollars.

For all contingent expenses of the library, and librarian's allowance for the year one thousand eight hundred and seven, eight hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that Department, thirteen thousand dollars.

For the incidental and contingent expenses of the said Department, four thousand two hundred dollars.

For printing and distributing copies of the laws of the second session of the ninth Congress, and printing the laws in newspapers, eight thousand two hundred and fifty dollars.

For special messengers charged with despatches, two thousand dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, sixteen thousand seven hundred dollars.

For the expense of translating foreign languages, allowance to the person employed in receiving and transmitting passports and sea letters, stationery and printing, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy seven dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, the clerks and persons in his office, twelve thousand two hundred dollars.

For expense of stationery, printing, and incidental and contingent expenses in the office of the Auditor of the Treasury, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and two cents.

For expense of stationery and printing in the Register's office, (including books for the public stock, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For purchasing books, maps, and charts for the use of the Treasury Department, four hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund two hundred and fifty dollars.

For fuel, and other contingent expenses of the Treasury Department, four thousand dollars.

For defraying the expenses incident to the stating and printing of the public accounts, for the year one thousand eight hundred and seven, two hundred dollars.

For compensation to a Superintendent employed to secure the buildings and records of the Treasury, during the year one thousand eight hundred and seven, including the expense of two watchmen, and for the repair of two fire engines, buckets, lanterns, and other incidental expenses, one thousand one hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For the expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to clerks employed in the Paymaster's office, one thousand eight hundred dollars.

For fuel in the said office, ninety dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for the said office, four thousand six hundred dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand eight hundred and ten dollars.

For expense of fuel, stationery, printing, and

other contingent expenses in the office of the Secretary of the Navy, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, ten thousand four hundred and ten dollars.

For contingent expenses in the office of Accountant of the Navy, five hundred dollars.

For compensation to the Postmaster General, to the Assistant Postmaster General, and clerks, and persons employed in the Postmaster General's office, fourteen thousand four hundred and fifty dollars.

For expense of fuel, candles, house rent for the messenger, stationery, chests, &c., exclusive of expenses for prosecution, portmanteaus, mail locks, and other expenses incident to the Department, these being paid for by the Postmaster General, out of the funds of the office, two thousand five hundred dollars.

For compensation to the several Loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the several Commissioners of Loans, and for an allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expenses of the several loan offices, fifteen thousand dollars.

For compensation to the Surveyor General, and for that of the clerks employed by him, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of the State of Tennessee, clerks employed in his office, stationery, and other contingencies, three thousand two hundred dollars.

For compensation to the officers of the Mint:

The Director, two thousand dollars.

The Treasurer, one thousand two hundred dollars.

The Assayer, one thousand five hundred dollars.

The Chief Coiner, one thousand five hundred dollars.

The Melter and Refiner, one thousand five hundred dollars.

The Engraver, one thousand two hundred dollars.

One clerk at seven hundred dollars.

And two clerks at five hundred dollars.

For the wages of persons employed in the different branches of melting, coining, carpenter's, millwright's, and smith's work, including the sum of one thousand dollars per annum, allowed to an assistant coiner, and die forger, who also oversees the execution of the iron work, seven thousand two hundred and seventy-eight dollars.

For the repairs of furnaces, costs of rollers and screws, timber, bar iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand six hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, thirteen thousand dollars.

For incidental and contingent expenses of the executive officers of the said Territory, and for express hire, and compensation of an Indian interpreter, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, five thousand nine hundred and fifty dollars.

For expense of stationery, office rent, and other contingent expenses in said Territory, three hundred and fifty dollars.

For compensation of the Governor, Judges, and Secretary of the Indiana Territory, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, five thousand one hundred and fifty dollars.

For expense of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, five thousand one hundred and fifty dollars.

For expense of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, two thousand dollars.

For additional compensation to the clerks of the several Departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding, for each Department, respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," thirteen thousand two hundred and sixty-nine dollars.

For compensation granted by law to the Chief Justice, Associate Judges, and District Judges of the United States, including the Chief Justice and two Associate Judges of the District of Columbia; to the Attorney General and to the Judge of the District of Orleans, fifty-nine thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation to the Marshals of the districts of Maine, New Hampshire, Vermont, Kentucky, Ohio, East and West Tennessee, and Orleans, one thousand six hundred dollars.

For defraying the expenses of the Supreme Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and likewise for defraying the expenses of prosecution for offences against the United States, and for safe-keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late Government, eight hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and seven, to the fourth of March, one thousand eight hundred and eight, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, and certain contingent expenses, eighty-three thousand nine hundred and sixty-one dollars and eight cents.

For erecting a light-house on St. Simon's island, in Georgia, the former appropriation of seven thousand dollars for that object having been carried to the surplus fund, nineteen thousand dollars.

For erecting light-houses at the mouth of the Mississippi river, and at or near the pitch of Cape Look-out, in North Carolina, in addition to the sums heretofore appropriated by law for those objects, the balance of a former appropriation for those objects, of twenty-four thousand six hundred and twenty-five dollars and ninety-six cents, having been carried to the surplus fund, fifty-five thousand dollars.

For erecting a light-house on Whitehead, at the entrance of Penobscot bay, the former appropriation for that object having been carried to the surplus fund, two thousand two hundred and five dollars and eighty cents.

For the erection of beacons in the harbor of New York, in addition to the sums heretofore appropriated, one thousand two hundred dollars.

For defraying the expenses incurred in surveying the coast of North Carolina, between Cape Hatteras and Cape Fear, in addition to the sum heretofore appropriated for that object, one thousand three hundred dollars.

For compensating the commissioners in the aforesaid service for the loss of their effects incident to the service, on board the revenue cutters wrecked at Ocracock; the amount of which loss the accounting officers of the Treasury are hereby authorized to liquidate and allow, upon satisfactory proof being exhibited to them of such loss, one thousand six hundred dollars.

For carrying on the surveys of public lands in the State of Ohio, and in the several Territories, seventy-three thousand one hundred and eighty dollars.

For expenses of intercourse with foreign nations, thirty-three thousand and fifty dollars.

For contingent expenses of intercourse with foreign nations, twenty thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For contingent expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the relief and protection of distressed American seamen, five thousand dollars.

For the salaries of the agents at London, Paris, and Madrid, for prosecuting claims in relation to captures, six thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations heretofore made shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1807.

An Act making compensation to Messrs. Lewis and Clarke, and their companions.

Be it enacted, &c., That the Secretary of War be, and he is hereby, directed to issue land warrants to Meriwether Lewis and William Clarke, for one thousand six hundred acres each; to John Ordway, Nathaniel Prior, the heirs or legal representatives of Charles Floyd, (deceased,) Patrick Gass, William Bratton, John Collins, John Colter, Pier Cruzatte, Joseph Field, Reuben Field, Robert Frazier, Silas Goodrich, George Gibson, Thomas P. Howard, Hugh Hall, Francis Labuiche, Hugh M'Neal, John Shields, George Shannon, John Potts, John Baptiste Le Page, John B. Thompson, William Werner, Richard Windsor, Peter Wiser, Alexander Willard, Joseph Whitehouse, George Drulyard, Tousaint Charbono, Richard Worfington, and John Newman, for three hundred and twenty acres each: which several warrants may, at the option of the holder or possessor, be located with any register or registers of the land offices, subsequent to the public sales in such office, on any of the public lands of the United States, lying on the west side of the Mississippi, then and there offered for sale, or may be received at the rate of two dollars per acre, in payment of any such public lands.

Sec. 2. *And be it further enacted*, That double pay shall be allowed, by the Secretary of War, to each of the before named persons, agreeably to the time he or they may have served, in the late enterprise to the Pacific Ocean, conducted by Messrs. Lewis and Clarke, and that the sum of eleven thousand dollars be and the same hereby is appropriated to discharge the same, out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1807.

An Act repealing the acts laying duties on salt, and continuing in force for a further time the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Be it enacted, &c., That, from and after the thirtieth day of June next, the act, entitled "An act laying an additional duty on salt imported into the United States, and for other purposes," passed the eighth day of July, one thousand seven hundred and ninety-seven, shall be, and the same hereby is, repealed, and that, from and after the thirty-first day of December next, so much of any act as lays a duty on imported salt be, and the same hereby is, repealed; and, from and after the day last aforesaid, salt shall be imported into the United States free of duty: *Provided*, That for the recovery and receipt of such duties as shall

have accrued, and on the days aforesaid, respectively, remain outstanding, and for the recovery and distribution of fines, penalties, and forfeitures, and the remission thereof, which shall have been incurred before and on the said days, respectively, the provisions of the aforesaid act shall remain in full force and virtue.

SEC. 2. *And be it further enacted*, That, from and after the first day of January next, so much of any act as allows a bounty on exported salt provisions and pickled fish, in lieu of drawback of the duties on the salt employed in curing the same, and so much of any act as makes allowance to the owners and crews of fishing vessels, in lieu of drawback of the duties paid on the salt used by the same, shall be, and the same hereby is, repealed: *Provided*, That the provisions of the aforesaid acts shall remain in full force and virtue for the payment of the bounties or allowances incurred or payable on the first day of January next.

SEC. 3. *And be it further enacted*, That so much of the act, passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, be, and the same hereby is, continued in force until the first day of January next, and no longer: *Provided, however*, That the additional duty laid by the said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, March 3, 1807.

An Act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants.

Be it enacted, &c., That any officer or soldier of the Virginia line, on continental establishment, or his legal representatives, to whom a land warrant has issued by virtue of any resolution of the Legislature of Virginia, as a bounty for services which, by the laws of Virginia, passed prior to the cession of the Northwestern Territory to the United States, entitled such officer or soldier to bounty lands, shall if the said warrant has been or shall be located within three years from the twenty-third of March next, and a survey thereof has been or shall be, within five years from the said twenty-third of March next, returned to the office of the Secretary of War, obtain a patent for the same, in the same manner, and on the same conditions, as patents are obtained for lands located and surveyed on other warrants of the officers and soldiers of the Virginia line, on continental establishment: *Provided*, That no patent shall be obtained on such resolution warrant, unless there is produced to the Secretary of War satisfactory evidence that such warrant was granted for services which, by the laws of Virginia passed prior to the cession of the Northwestern Territory, would have entitled such officer or soldier, his heirs or assigns, to bounty lands, and also a certificate of the Register of the Land Office of Virginia that no other warrant has issued from the said land office for the same services.

SEC. 2. *And be it further enacted*, That no patent shall be issued, by virtue of the preceding section, for a greater quantity of land, than the rank or term of service of the officer or soldier, to whom or whose legal representatives such resolution warrant has been granted, would have entitled him to under the aforesaid laws of Virginia; and whenever it appears to the Secretary of War that the survey or surveys, made in virtue of any resolution warrant, is for a greater quantity of land than the officer or soldier is entitled to for his services, the Secretary of War shall certify, on the said survey or surveys, the amount of such surplus quantity, and the officer or soldier, his heirs or assigns, shall have leave to withdraw his survey from the office of the Secretary of War, and resurvey his location, excluding such surplus quantity, in one body, from any part of his resurvey, and a patent shall issue upon such resurvey as in other cases.

Approved, March 3, 1807.

An Act regulating the grants of land in the Territory of Michigan.

Be it enacted, &c., That all the decisions made by the commissioners appointed for the purpose of examining the claims of persons claiming lands in the district of Detroit, in favor of such claimants, as entered in the transcript of decisions which have been transmitted by the said commissioners, to the Secretary of the Treasury, according to law, be, and the same are hereby confirmed.

SEC. 2. *And be it further enacted*, That, to every person or persons in actual possession, occupancy, and improvement, of any tract or parcel of land, in his, her, or their own right, at the time of the passing of this act, within that part of the Territory of Michigan, to which the Indian title has been extinguished, and which said tract or parcel of land was settled, occupied, and improved, by him, her, or them, prior to and on the first day of July, one thousand seven hundred and ninety-six, or by some other person or persons, under whom he, she, or they, hold or claim the right to the occupancy, or possession thereof, and which said occupancy or possession has been continued to the time of the passing of this act; the said tract or parcel of land thus possessed, occupied, and improved, shall be granted, and such occupant or occupants shall be confirmed in the title to the same, as an estate of inheritance, in fee simple: *Provided, however*, That no other claims shall be confirmed, by virtue of this section, than such as have been entered with the register of the land office of Detroit, within the time, and in the manner, provided by law, and by the commissioners, aforesaid, have been inserted in their report, transmitted as aforesaid; nor shall more than one tract or parcel of land be thus granted to any one person, and the same shall not contain more than the quantity claimed, nor more than six hundred and forty acres: *And provided, also*, That the same shall not extend to any tract heretofore

reserved, or which may, by the President of the United States, be set aside for public uses, in the town of Detroit and its vicinity, or on the island of Michilimackinac.

SEC. 3. *And be it further enacted*, That the Secretary of the Territory of Michigan, together with the register and receiver of public moneys of the land office of Detroit, shall be commissioners for the purpose of ascertaining and deciding on the rights of persons claiming the benefit of this act; and the said commissioners shall, previous to entering on the duties of their appointment, respectively take and subscribe the following oath or affirmation, before some person qualified to administer the same: I, —— ——, do solemnly swear (or affirm) that I will impartially exercise and discharge the duties imposed upon me, by an act of Congress, entitled "An act regulating the grants of land in the Territory of Michigan." And it shall be the duty of the said commissioners to meet at the town of Detroit, on or before the first day of July next, and they shall not adjourn to any other place, or for any longer time than three days, until the first day of January next, or until they have completed the business of their appointment. And the said commissioners, or a majority of them, shall have power to hear and decide in a summary manner, all matters respecting such claims, to compel the attendance of witnesses, to administer oaths and examine witnesses, and such other testimony as may be adduced, and to determine thereon according to justice and equity. Minutes of the proceedings, decisions, meetings, and adjournments of the board, shall be regularly entered by the register, in a book to be kept for that purpose, together with the evidence on which such decisions are made, unless such evidence has already been entered according to law in the book or books of minutes, kept by the commissioners appointed under former acts, to investigate the claims to land in the district of Detroit. And when it shall appear to the said commissioners that the claimant is entitled to a tract of land by virtue of this act, they shall give a certificate thereof, stating the circumstances of the case, and that the claimant is entitled to receive a patent for such a tract of land, by virtue of this act; which tract shall be surveyed in conformity with the decision of the commissioners, at the expense of the party, and under the direction of the surveyor general, by such of his assistants, residing in the Territory of Michigan, as the said surveyor general shall appoint for that purpose: *Provided*, That the whole expense of surveying and marking the lines, shall not exceed three dollars for every mile that shall be actually run, surveyed, or marked. The surveyor general shall transmit to the register of the land office at Detroit, general and particular plots of all the lands surveyed as aforesaid, and shall also forward copies of the said plots to the Secretary of the Treasury. The commissioners shall transmit to the Secretary of the Treasury a transcript of their decisions in favor of claimants, which shall contain a statement of the evidence on which each respective claim is founded, and shall be signed by the said commissioners, and shall state the names of the parties in whose favor the certificates have been granted, the number of acres granted, and the situation of the land. And the certificate and certificates granted as aforesaid, by the commissioners, being duly entered with the register of the land office of Detroit, prior to the first day of January, one thousand eight hundred and nine, shall entitle the party or parties, as soon as the plot or plots aforesaid shall have been transmitted to the said register, to receive from him a certificate or certificates, for each of which certificates the register shall receive one dollar, directed to the Secretary of the Treasury; and if it shall appear to the satisfaction of the said Secretary that such certificates have been fairly obtained, according to the true intent and meaning of this act, then, and in that case, patents shall issue, in like manner as is provided by law for the other lands of the United States.

SEC. 4. *And be it further enacted*, That the powers vested by this act in the commissioners abovementioned shall not extend to the lots in the town of Detroit, the claims to which shall be ascertained and decided upon, in the manner provided by the act, entitled "An act to provide for the adjustment of titles of land in the town of Detroit, and Territory of Michigan, and for other purposes."

SEC. 5. *And be it further enacted*, That the Secretary of the Territory of Michigan shall be entitled to receive five hundred dollars, in full for all the services rendered by him under this act, to be paid out of the sums which have been or may be appropriated for carrying into effect the several laws enacted for the disposal of public lands, and for the adjustment of claims in the Indiana or Michigan Territories.

Approved, March 3, 1807.

An Act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians; and to establish a land office in the Mississippi Territory.

Be it enacted, &c., That, for the purpose of carrying into effect a treaty, made on the twenty-third day of July, one thousand eight hundred and five, between the United States and the Chickasaw nation of Indians, the following sums, to be paid out of any moneys in the Treasury not otherwise appropriated, be, and the same hereby are, appropriated, in conformity with the stipulations contained in the said treaty; that is to say: to the said Chickasaw nation, twenty thousand dollars; to George Colbert and O'Koy, each, one thousand dollars; and to Chinubbe Mingo, chief of the nation, an annuity of one hundred dollars, during his natural life.

SEC. 2. *And be it further enacted*, That it shall be the duty of the surveyor general of the public lands south of Tennessee, to cause to be surveyed and laid out, in the same manner as is provided by law for the other public lands in the Mississippi Territory, so much of the lands ceded to the United States by the Cherokees and Chickasaws

as lies within the said Territory; and the President of the United States is hereby authorized, whenever he shall think it proper, to establish a land office for the sale of the said lands, and to appoint a register of the same, and a receiver of the public moneys accruing from the sale of the said lands, whose respective emoluments and duties shall be the same as those of the registers and receivers of the other land offices in the said Territory.

Approved, March 3, 1807.

An Act respecting claims to land in the Territories of Orleans and Louisiana.

Be it enacted, &c., That so much of the first section of the act, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana," as provides that no incomplete title shall be confirmed, unless the person in whose name the warrant or order of survey had been granted, was, at the time of its date, either the head of a family or above the age of twenty-one years, be, and the same is hereby, repealed.

Sec. 2. *And be it further enacted*, That any person or persons, and the legal representative of any person or persons, who, on the twentieth day of December, one thousand eight hundred and three, had for ten consecutive years prior to that day, been in possession of a tract of land not claimed by any other person, and not exceeding two thousand acres, and who were on that day resident in the Territory of Orleans or Louisiana, and had still possession of such tract of land, shall be confirmed in their titles to such tract of land: *Provided*, That no claim to a lead mine, or salt spring, shall be confirmed merely by virtue of this section: *And provided, also*, That no more land shall be granted by virtue of this section than is actually claimed by the party, nor more than is contained within the acknowledged and ascertained boundaries of the tract claimed.

Sec. 3. *And be it further enacted*, That the claim of the Corporation of the city of New Orleans, to the commons adjacent to the said city, and within six hundred yards from the fortifications of the same, be, and the same are hereby, recognised and confirmed: *Provided*, That the said Corporation shall, within six months after passing this act, relinquish and release any claim they may have to such commons beyond the distance of six hundred yards aforesaid: *Provided also*, That the Corporation shall reserve for the purpose, and convey gratuitously for the public benefit, to the company authorized by the Legisture of the Territory of Orleans, as much of the said commons as shall be necessary to continue the canal of Carondelet from the present basin to the Mississippi, and shall not dispose of, for the purpose of building thereon, any lot within sixty feet of the space reserved for building a canal, which shall forever remain open as a public highway: *And provided, also*, That nothing herein contained shall be construed to affect or impair the rights of any individual or individuals to the said commons, which are derived from any grant of the French or Spanish Government.

Sec. 4. *And be it further enacted*, That the Commissioners appointed or to be appointed for the purpose of ascertaining the rights of persons claiming land in the Territories of Orleans and Louisiana, shall have full powers to decide according to the laws and established usages and customs of the French and Spanish Governments, upon all claims to lands within their respective districts, where the claim is made by any person or persons, or the legal representative of any person or persons, who were on the twentieth of December, one thousand eight hundred and three, inhabitants of Louisiana, and for a tract not exceeding the quantity of acres contained in a league square, and which does not include either a lead mine or salt spring, which decision of the Commissioners, when in favor of a claimant, shall be final against the United States, any act of Congress to the contrary notwithstanding.

Sec. 5. *And be it further enacted*, That the time fixed by the act abovementioned, and by the acts supplementary to the same, for delivering to the proper register or recorder, notices in writing and the written evidences of claims to land, be, and the same is hereby extended, for the Territories of Orleans and Louisiana, till the first day of July, one thousand eight hundred and eight; and persons delivering such notices and evidences shall be entitled to the same benefit as if the same had been delivered within the time limited by the former acts; but the rights of such persons as shall neglect so doing within the time limited by this act, shall, so far as they are derived from or founded on any act of Congress, ever after be barred and become void, and the evidences of their claims never after admitted as evidence in any court of law or equity whatever.

Sec. 6. *And be it further enacted*, That the commissioners appointed, or to be appointed, for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana, shall respectively transmit to the Secretary of the Treasury and to the surveyor general, or officer acting as surveyor general, transcripts of the final decisions made in favor of claimants by virtue of this act, and they shall deliver to the party a certificate, stating the circumstances of the case, and that he is entitled to a patent for the tract of land therein designated, which certificate shall be filed with the proper register or recorder, within twelve months after date. And the register or recorder shall thereupon (a plat of the tract of land therein designated, being previously filed with him, or transmitted to him by the officer acting as surveyor general in the manner hereinafter provided,) issue a certificate in favor of the party, which certificate, being transmitted to the Secretary of the Treasury, shall entitle the party to a patent, to be issued in like manner as is provided by law for the issuing of patents for public lands lying in other Territories of the United States.

Sec. 7. *And be it further enacted*, That the tracts of land thus granted by the commissioners

shall be surveyed at the expense of the parties, under the direction of the surveyor general, or officer acting as surveyor general, in all cases where an authenticated plat of the land, as surveyed under the authority of the officer acting as surveyor general under the French, Spanish, or American Governments respectively, during the time either of the said Governments had the actual possession of the said Territories of Orleans and Louisiana, shall not have been filed with the proper register or recorder, or shall not appear of record on the public records of the said Territories of Orleans and Louisiana. The said commissioners shall also be authorized, whenever they may think it necessary, to direct the surveyor general, or officer acting as such, to cause any tract of land already duly surveyed, to be resurveyed at the expense of the United States. And the surveyor general, or officer acting as such, shall transmit general and particular plats of the tracts of land thus surveyed, to the proper register or recorder, and shall also transmit copies of the said plats to the Secretary of the Treasury.

Sec. 8. *And be it further enacted*, That the commissioners aforesaid shall respectively report to the Secretary of the Treasury their opinion on all the claims to land within their respective districts, which they shall not have finally confirmed by the fourth section of this act. The claims shall, in the said report or reports, be arranged into three general classes, that is to say: first, claims which, in the opinions of the commissioners, ought to be confirmed in conformity with the provisions of the several acts of Congress, for ascertaining and adjusting the titles and claims to land within the Territories of Orleans and Louisiana; secondly, claims which, though not embraced by the provisions of the said acts, ought nevertheless, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government; thirdly, claims which neither are embraced by the provisions of the said acts, nor ought, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government; and the said report and reports being in other respects made in conformity with the forms prescribed according to law, by the Secretary of the Treasury, shall by him be laid before Congress, for their final determination thereon, in the manner and at the time heretofore prescribed by law for that purpose.

Sec. 9. *And be it further enacted*, That the following allowances and compensations shall be made to the several officers hereinafter mentioned, that is to say: to the principal deputy of the surveyor general, for the district of Louisiana, at the rate of five hundred dollars a year, from the time he entered into the duties of his office, in addition to the fees which he is entitled to receive by law. To the register of the western district of the Orleans Territory, and to the clerk of the board of commissioners for that district, one thousand dollars each, for their services as commissioners and clerk respectively, during the year one thousand eight hundred and six. To each of the deputy registers of the Territory of Orleans, five hundred dollars in full, for their services subsequent to the first day of January last, in addition to the fees to which they are legally entitled. To each of the commissioners, at the rate of two thousand dollars a year; to each of the clerks of the boards, and to each of the agents employed by the Secretary of the Treasury, at the rate of fifteen hundred dollars a year, and to each of the translators, at the rate of six hundred dollars a year, to commence from the first day of July next, in the district of Louisiana, and from the first day of January next, in the Territory of Orleans, and to continue to the time when each board shall be respectively dissolved: *Provided*, That no more than eighteen months compensation be thus allowed to the said commissioners, clerks, and translators, and that the compensation of any such officer absenting himself from his district, or failing to attend to the duties of his office, shall cease during such absence or failure.

Approved, March 3, 1807.

An Act making further appropriations for fortifying the ports and harbors of the United States.

Be it enacted, &c., That a sum of money, not exceeding one hundred and fifty thousand dollars, in addition to the sums heretofore appropriated, be, and the same is hereby, appropriated, to enable the President of the United States to cause the ports and harbors of the United States to be better fortified and protected.

Sec. 2. *And be it further enacted*, That the money appropriated by this act, shall be paid out of any money in the Treasury of the United States, not otherwise appropriated.

Approved, March 3, 1807.

An Act authorizing the employment of the land and naval forces of the United States, in cases of insurrections.

Be it enacted, &c., That in all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purposes, such part of the land or naval force of the United States, as shall be judged necessary, having first observed all the pre-requisites of the law in that respect.

Approved, March 3, 1807.

An Act in addition to an act, entitled "An act in addition to an act, entitled 'An act supplementary to the act providing for a Naval Peace Establishment, and for other purposes."

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized, in addition to the present naval peace establishment, to employ a number of able seamen, ordinary seamen, and boys, not exceeding five hundred,

should the exigency of the public service require the same.

Approved, March 3, 1807.

An Act making appropriations for carrying into effect certain treaties with the Cherokee and Piankeshaw tribes of Indians.

Be it enacted, &c., That, for carrying into effect a convention between the United States and the Cherokee nation of Indians, the following sums, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same hereby are, appropriated; that is to say: to the said Cherokee nation, two thousand dollars, and the further annual sum of two thousand dollars for four years successively; and to the Cherokee chief, called the Black Fox, the annual sum of one hundred dollars, during his natural life.

Sec. 2. *And be it further enacted*, That, for carrying into effect a treaty between the United States and the Piankeshaw tribe of Indians, concluded at Vincennes, on the thirtieth day of December, one thousand eight hundred and five, there shall be, and hereby are, appropriated, in addition to appropriations for carrying into effect former treaties, a sum of one thousand dollars, and a further annual sum of three hundred dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 3, 1807.

An Act disapproving of an act passed by the Governor and Judges of the Territory of Michigan, entitled "An act concerning the bank of Detroit."

Be it enacted, &c., That an act, entitled "An act concerning the bank of Detroit," adopted and published by the Governor and Judges of the Territory of Michigan, on the nineteenth day of September, in the year of our Lord one thousand eight hundred and six, is hereby disapproved of by Congress, and that the same shall be of no force or effect.

Approved, March 3, 1807.

An Act to establish certain Post Roads; and for other purposes.

Be it enacted, &c., That the following post roads be established:

In Orleans.—From New Orleans, to the Balize, and from New Orleans by the mouth of the Fourche, mouth of the canal at Attakapas, Lake Veret, the ferry of Lake Veret, the mouth of Teache, the church of Attakapas, and the church of Appelousas, to Rapides. And the Postmaster General be, and he is hereby authorized to allow and pay to the postmaster, which may be appointed at the Balize, in addition to the legal fees of office, such sum as he may judge reasonable, not exceeding four hundred dollars per annum, as a compensation for his services.

Sec. 2. *And be it further enacted*, That the President of the United States is hereby authorized to cause to be opened a road from the thirty-first degree of north latitude to New Orleans, on the route from Athens to New Orleans, under such regulations as may be agreed upon for that purpose between the Executive of the United States and the Spanish Government: And he is hereby authorized to expend, in opening the same, any part of the money heretofore appropriated for opening a road on the said route from the frontier of Georgia, to the thirty-first degree of north latitude, which remains unexpended.

Approved, March 3, 1807.

An Act making appropriations for extra services, to the Governor, Judges, and Secretary of the Indiana Territory.

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, directed to pay to the Governor, Judges, and Secretary of the Indiana Territory, out of any money in the Treasury, not otherwise appropriated, the sum of three hundred dollars each, as a compensation for the extra services by them performed, in obedience to the act, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof."

Approved, March 3, 1807.

An Act to prevent settlements being made on lands ceded to the United States, until authorized by law.

Be it enacted, &c., That, if any person or persons shall, after the passing of this act, take possession of, or make a settlement on, any lands ceded or secured to the United States, by any treaty made with a foreign nation, or by a cession from any State to the United States, which lands shall not have been previously sold, ceded, or leased by the United States, or the claim to which lands, by such person or persons, shall not have been previously recognised and confirmed by the United States: or if any person or persons shall cause such lands to be thus occupied, taken possession of, or settled; or shall survey or attempt to survey, or cause to be surveyed, any such lands; or designate any boundaries thereon, by marking trees, or otherwise, until thereto duly authorized by law; such offender or offenders, shall forfeit all his or their right, title, and claim, if any he hath, or they have, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, which he or they shall have taken possession of, or settled, or cause to be occupied, taken possession of, or settled, or which he or they shall have surveyed, or attempt to survey, or cause to be surveyed, or the boundaries thereof he or they shall have designated, or cause to be designated, by marking trees or otherwise. And it shall moreover be lawful for the President of the United States, to direct the marshal, or other officer acting as marshal, in the manner hereinafter directed, and also to take such other measures, and to employ such military force as he may judge necessary and proper to remove from lands ceded, or secured to the United States, by treaty, or cession as aforesaid, any person or persons who shall hereafter take possession of the same, or make, or attempt to make a settlement thereon,

until thereunto authorized by law. And every right, title, or claim, forfeited under this act, shall be taken and deemed to be vested in the United States, without any other or further proceedings: *Provided*, That nothing herein contained shall be construed to affect the right, title, or claim, of any person to lands in the Territories of Orleans or Louisiana, before the boards of commissioners established by the act, entitled "An act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans and the district of Louisiana," shall have made their reports, and the decision of Congress been had thereon.

Sec. 2. *And be it further enacted*, That any person or persons who, before the passing of this act, had taken possession of, occupied, or made a settlement on any lands ceded or secured to the United States, by any treaty made with a foreign nation, or by a cession from any State to the United States, which lands had not been previously sold, ceded, or leased, by the United States, or the claim to which lands had not been previously recognised and confirmed by the United States; and who at the time of passing this act does or do actually inhabit and reside on such lands, may, at any time prior to the first day of January next, apply to the proper register or recorder, as the case may be, of the land office established for the disposal, registering, or recording of such lands, or to such person or persons as may by such registers or recorders respectively, be appointed for the purpose of receiving such applications, stating the tract or tracts of lands thus occupied, settled, and inhabited by such applicant or applicants, and requesting permission to continue thereon; and it shall thereupon be lawful for such register or recorder respectively to permit, in conformity with such instructions as may be given by the Secretary of the Treasury, with the approbation of the President of the United States, for that purpose, such applicant or applicants to remain on such tract or tracts of land, not exceeding three hundred and twenty acres for each applicant, as tenants at will, on such terms and conditions as shall prevent any waste or damages on such lands, and on the express condition that such applicant or applicants shall, whenever such tract or tracts of land may be sold, or ceded by the United States, or whenever, for any other cause, he or they may be required under the authority of the United States so to do, give quiet possession of such tract or tracts of land, to the purchaser or purchasers, or remove altogether from the land, as the case may be: *Provided, however*, That such permission shall not be granted to any such applicant, unless he shall previously sign a declaration stating that he does not lay any claim to such tract or tracts of land, and that he does not occupy the same, by virtue of any claim or pretended claim derived or pretended to be derived from any other person or persons: *And propided, also*, That in all cases where the tract of land applied for, includes either a lead mine or salt spring, no permission to work the same shall be granted without the approbation of the President of the United States, who is hereby authorized to cause such mines or springs to be leased for a term not exceeding three years, and on such conditions as he shall think proper.

Sec. 3. *And be it further enacted*, That all the applications made, and provisions granted by virtue of the last preceding section, shall be duly entered on books to be kept for that purpose, by the registers and recorders aforesaid respectively; and they shall be entitled to receive from the party for each application, fifty cents, and for each permission, one dollar.

Sec. 4. *And be it further enacted*, That it shall be lawful, after the first day of January next, for the proper marshal, or officer acting as marshal, under such instructions as may for that purpose be given by the President of the United States, to remove from the lands aforesaid any and every person or persons, who shall be found on the same, and who shall not have obtained permission to remain thereon as aforesaid: *Provided*, That three months previous notice shall be given to all such person or persons, as aforesaid, who were settled on such lands prior to the passing of this act. And every such person, who shall at any time after the expiration of three months after such notice shall have been given, be found on any part of the lands aforesaid, shall moreover incur a penalty of one hundred dollars, to be recovered in any court having jurisdiction of the same, and be moreover liable, on conviction, to imprisonment, at the discretion of the court, not exceeding six months; and the certificate of the proper register, or recorder, shall be a sufficient evidence that the tract of land which was occupied by the offender had not been previously sold, leased, or ceded, by the United States, that the claim to such tract had not been recognised and confirmed by the United States, and that the person occupying the same, and removed, or to be removed, by the marshal, had not obtained permission to remain thereon, in conformity with the provisions of this act: *Provided always, and it is further enacted*, That nothing in this section contained shall be construed to apply to any person claiming lands in the Territories of Orleans or Louisiana, whose claim shall have been filed with the proper commissioners before the first day of January next.

Approved, March 3, 1807.

An Act confirming claims to land in the district of Vincennes, and for other purposes.

Be it enacted, &c., That all the decisions made by the commissioners appointed for the purpose of examining the claims of persons claiming lands in the district of Vincennes, in favor of such claimants, as entered in the transcripts of decisions which have been transmitted by the said commissioners, to the Secretary of the Treasury, according to law, be, and the same are hereby, confirmed.

Sec. 2. *And be it further enacted*, That the confirmations or grants of land, made in the said district of Vincennes, by the Governors of the Northwest and Indiana Territories, prior to the estab-

lishment of the board of commissioners aforesaid, and in conformity with the act, entitled "An act for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions," be, and the same are hereby, confirmed; unless when actually rejected by the said commissioners; although the persons entitled to the land may not have given notice of their claim, as required by the several acts making provision for the disposal of the public lands in the Indiana Territory: *Provided, however*, That no other claims shall be confirmed by virtue of this section than such as, having been entered on the Territorial records, have, by the commissioners aforesaid, been inserted in their reports transmitted as aforesaid.

Sec. 3. *And be it further enacted*, That the several persons, or the legal representatives of the several persons, to whom or to whose assigns the several tracts of the tract of land near Vincennes, known by the name of the "Upper Prairie," have been heretofore confirmed, be, and they are hereby, respectively confirmed in their claims to the respective tracts also claimed by them, and in their actual possession, lying in that tract of land containing two hundred and forty-four acres, which is known by the name of "Continuation," and is situated between the boundaries of the tracts already confirmed and the river Wabash.

Sec. 4. *And be it further enacted*, That the several persons whose claims are confirmed by this act, and had not been actually located prior to the establishment of the board of commissioners, be, and they are hereby, authorized to enter their locations with the register of the land office of Vincennes, on any part of the tracts set aside for that purpose, by virtue of the act, entitled "An act respecting the claims to lands in the Indiana Territory, and State of Ohio," and in conformity with the provisions of that act: *Provided*, That such location shall be made prior to the first day of July, one thousand eight hundred and eight; and the right of any person who shall neglect to locate prior to that day, shall become void, and forever be barred.

Sec. 5. *And be it further enacted*, That every person, or the legal representative of every person, whose claim to a tract of land is confirmed by this act, and who had not previously obtained a patent for the same, from the Governor either of the Territory Northwest of the Ohio, or of the Indiana Territory, shall, whenever his claim shall have been located and surveyed, be entitled to receive, from the register of the land office at Vincennes, a certificate stating that the claimant is entitled to receive a patent for such tract of land by virtue of this act; for which certificate the register shall receive one dollar; and which certificate shall entitle the party to a patent for the said tract, which shall issue in like manner as is provided by law for the other lands of the United States.

Sec. 6. *And be it further enacted*, That the register and receiver of public moneys in the district of Kaskaskias be allowed till the first day of December next, to complete the investigation of claims to land in the said district. And each of the said officers, and the clerk of the board, shall be allowed an additional compensation of five hundred dollars in full for his service in relation to such claims.

Sec. 7. *And be it further enacted*, That the public sales of the public lands in the district of Vincennes may be continued six weeks, if the term of three weeks, now prescribed by law, shall not be found sufficient to offer all the lands within the said district for sale.

Sec. 8. *And be it further enacted*, That persons entitled to a right of pre-emption to lands in the Mississippi Territory, shall be allowed till the first day of January next, to make the first payment of the purchase money of such lands.

Approved, March 3, 1807.

An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times herein mentioned, that is to say:

Richard Fairbrother, at the rate of three dollars per month, to commence on the twenty-sixth day of May, one thousand eight hundred and six:

John De Voe, at the rate of two dollars and fifty cents per month, to commence on the first day of August, one thousand eight hundred and six:

Peter Demarest, at the rate of three dollars and seventy-five cents per month, to commence on the first day of August, one thousand eight hundred and six:

Stephen Ogden, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of August, one thousand eight hundred and six:

John Berry, at the rate of five dollars per month, to commence on the second day of September, one thousand eight hundred and six:

John King, at the rate of four dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and six:

Robert Ames, at the rate of five dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and six:

Charles Gowin, at the rate of two dollars and fifty cents per month, to commence on the thirty-first day of October, one thousand eight hundred and six:

Francis L. Slaughter, at the rate of three dollars per month, to commence on the fifteenth day of November, one thousand eight hundred and six:

William Re Beck, at the rate of four dollars per month, to commence on the twenty-second day of November, one thousand eight hundred and six:

Spafford Ames, at the rate of five dollars per month, to commence on the eleventh day of December, one thousand eight hundred and six:

Josiah Jones, at the rate of four dollars per month, to commence on the twenty-second day of December, one thousand eight hundred and six:

Samuel Dowdney, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of December, one thousand eight hundred and six:

Eliphalet Easton, at the rate of five dollars per month, to commence on the thirty-first day of December, one thousand eight hundred and six:

Joseph Ligon, at the rate of three dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven:

John Hubbard, at the rate of three dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven.

Daniel Guard, at the rate of two dollars and fifty cents per month, to commence on the twenty-third day of January, one thousand eight hundred and seven:

Elisha Forbes, at the rate of three dollars per month, to commence on the twenty-fourth day of January, one thousand eight hundred and seven:

Alexander Simonton, at the rate of three dollars per month, to commence on the ninth day of January, one thousand eight hundred and seven:

Noah Robinson, at the rate of ten dollars per month, to commence on the twenty-third day of October, one thousand eight hundred and six:

Charles Mynn Thruston, at the rate of twenty dollars per month, to commence on the fourteenth day of July, one thousand eight hundred and six:

Jonas Farnsworth, at the rate of ten dollars per month, to commence on the second day of September, one thousand eight hundred and six:

Benoni Hathaway, at the rate of ten dollars per month, to commence on the sixth day of September, one thousand eight hundred and six:

Thomas Marshal Baker, at the rate of ten dollars per month, to commence on the twenty-ninth day of September, one thousand eight hundred and six:

James Dysart, at the rate of ten dollars per month, to commence on the eighteenth day of December, one thousand eight hundred and six:

Henry Ten Eyck, at the rate of ten dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven:

John Little, at the rate of twenty dollars per month, to commence on the thirteenth day of January, one thousand eight hundred and seven:

Thomas Harris, at the rate of fifteen dollars per month, to commence on the third day of October, one thousand eight hundred and six:

Daniel Ball, at the rate of ten dollars per month, to commence on the 17th day of February, one thousand eight hundred and seven:

Sec. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names, the said increase to commence at the times herein mentioned, that is to say:

Seth Wyman, four dollars per month, to commence on the sixteenth day of June, one thousand eight hundred and six:

George Bradford, five dollars per month, to commence on the fifteenth day of August, one thousand eight hundred and six:

Abel Furney, five dollars per month, to commence on the twenty-ninth day of August, one thousand eight hundred and six:

Charles Scott, five dollars per month, to commence on the first day of September, one thousand eight hundred and six:

Ephraim Baily, five dollars per month, to commence on the fourth day of September, one thousand eight hundred and six:

Asa Ware, five dollars per month, to commence on the ninth day of September, one thousand eight hundred and six:

Daniel Hickey, five dollars per month, to commence on the twenty-fourth day of September, one thousand eight hundred and six:

Daniel Nutting, two dollars per month, to commence on the seventh day of October, one thousand eight hundred and six:

Abel Woods, five dollars per month, to commence on the tenth day of October, one thousand eight hundred and six:

Joseph Morril, five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and six:

William Neley, five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and six:

Elisha Frizle, three dollars and seventy-five cents per month, to commence on the third day of November, one thousand eight hundred and six:

William Burritt, five dollars per month, to commence on the third day of November, one thousand eight hundred and six:

Benjamin Smith, five dollars per month, to commence on the third day of November, one thousand eight hundred and six:

George Pittman, five dollars per month, to commence on the first day of February, one thousand eight hundred and seven:

Gustavus Alrick, three dollars and thirty-three cents and one-third of a cent per month, to commence on the twenty-first day of November, one thousand eight hundred and six:

Jabes Pembleton, two dollars and fifty cents per month, to commence on the twenty-seventh day of December, one thousand eight hundred and six:

Wiat Hinkley, five dollars per month, to commence on the twenty-eighth day of December, one thousand eight hundred and six:

Edward Evans, five dollars per month, to commence on the fifteenth day of January, one thousand eight hundred and seven:

Moses Wing, five dollars per month, to commence on the twenty-fourth day of December, one thousand eight hundred and six:

John Cavenough, three dollars per month. to commence on the seventeenth day of January, one thousand eight hundred and seven:

Richard Hardin, five dollars per month. to commence on the eleventh day of September, one thousand eight hundred and six:

Jonathan Holton, ten dollars per month, to commence on the eighth day of September, one thousand eight hundred and six:

Jonathan Willard, five dollars per month, to commence on the eighth day of September, one thousand eight hundred and six:

Thomas Pearson, thirteen dollars thirty-three cents and one-third of one cent per month, to commence on the twenty-eighth day of July, one thousand eight hundred and six:

John Maynard, six dollars per month, to commence on the twenty-fifth day of July, one thousand eight hundred and six:

Thomas Avery, sixteen dollars sixty-six cents, and two-thirds of one cent per month, to commence on the third day of October, one thousand eight hundred and six:

Ebenezer Coe, twenty dollars per month, to commence on the thirty-first day of July, one thousand eight hundred and six:

Ebenezer Bancroft, six dollars per month, to commence on the thirty-first day of October, one thousand eight hundred and six:

William Worthington, fifteen dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and six:

David Hawley, ten dollars per month, to commence on the eighth day of December, one thousand eight hundred and six:

Sec. 3. *And be it further enacted*, That the pension of Benjamin Bartlett, of Massachusetts, who was employed in the service of the United States as an escort, spy, and guide, at the pay of one dollar per day during hostilities with certain Indian tribes, in the year one thousand seven hundred and ninety-four, and was disabled by being wounded while in said service, be increased to five dollars per month.

Sec. 4. *And be it further enacted*, That the pensioners becoming such by virtue of this act shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the pension list of the United States, under such restrictions and regulations in all respects as are prescribed by the laws of the United States, in such cases provided.

Approved, March 3, 1807.

An Act making provision for the disposal of the public lands, situated between the United States' military tract and the Connecticut reserve, and for other purposes.

Be it enacted, &c., That, for the disposal of the lands of the United States, situated between the United States' military tract and the Connecticut reserve, a land office shall be established, which shall be kept at such place as the President of the United States may direct: and that, for the disposal of the lands of the United States lying on the Ohio river, between the Cincinnati and Vincennes districts, a land office shall be established at Jeffersonville: and for each of the said offices a register and receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensation, emoluments, duties, and authority, shall, in every respect, be the same, in relation to the lands which shall be disposed of at their offices, as are or may be provided by law, in relation to the registers and receivers of public moneys in the several offices established for the disposal of the lands of the United States, north of the river Ohio, and above the mouth of Kentucky river.

Sec. 2. *And be it further enacted*, That all the lands of the United States, in the said districts, shall, with the exception of the section number sixteen, and with the exception also of thirteen sections, including the lower town of the Delaware tribe of Indians, and their improvements, which said thirteen sections shall be designated by the Secretary of the Treasury, and shall be reserved for the use of the said tribe and their descendants, so long as they continue to reside thereon and cultivate the same, be offered for sale to the highest bidder, under the direction of the register of the land office, and of the receiver of public moneys, at the places, respectively, where the land offices are kept, and on such day or days as shall, by proclamation of the President of the United States, be designated for that purpose: the sales shall remain open at each place for six weeks, and no longer: the lands shall not be sold for less than two dollars an acre, and shall, in every other respect, be sold in tracts of the same size, and on the same terms and conditions as have been, or may be by law provided for lands sold north of the river Ohio, and above the mouth of the Kentucky river. All the lands of the United States, in the said districts, with the exceptions above-mentioned, remaining unsold at the close of the public sales, may be disposed of at private sale, by the register of the respective land offices, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, as are or may be provided by law, for the sale of the lands of the United States north of the river Ohio, and above the mouth of the Kentucky river. And patents shall be obtained for all lands sold in said districts, in the same manner and on the same terms as are provided by law, for other public lands sold in the State of Ohio and the Indiana Territory.

Sec. 3. *And be it further enacted*, That the several superintendents of public sales, directed by this act, shall receive six dollars a day for each day's attendance on the said sales.

Sec. 4. *And be it further enacted*, That the President of the United States, in the recess of Congress, shall have full power to appoint and commission the registers and receivers of public moneys of the land offices established by this act, and their commissions shall continue in force until the end of the session of Congress next ensuing such appointment.

Sec. 5. *And be it further enacted*, That the

several lead mines in the Indiana Territory, together with as many sections contiguous to each as shall be deemed necessary by the President of the United States, shall be reserved for the future disposal of the United States; and any grant which may hereafter be made for a tract of land containing a lead mine, which had been discovered previous to the purchase of such tract from the United States, shall be considered fraudulent and null: And the President of the United States shall be, and is hereby, authorized to lease any lead mine, which has been or may hereafter be discovered in the Indiana Territory, for a term not exceeding five years.

Sec. 6. *And be it further enacted*, That George Ash shall have the right of pre-emption to six hundred and forty acres of land, including his improvement on the river Ohio, below the former Indian boundary line; the boundaries of the tract shall be designated by the register of the land office, and the said land shall be granted to him at the same price, and on payment being made in the same manner as for other public land sold at private sale; the respective instalments of the purchase money shall become due at the same time with the payments on the first public lands sold in that district.

Approved, March 3, 1807.

Resolution to publish the report and chart of the survey of the coast of North Carolina.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be published the report and chart of a survey of the coast of North Carolina, made by Thomas Coles and Jonathan Price, under the act of Congress passed at the last session for that purpose.

Approved, March 2, 1807.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

TENTH CONGRESS—FIRST SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

TENTH CONGRESS—FIRST SESSION.

COMPRISING THE PERIOD FROM OCTOBER 26, 1807, TO APRIL 25, 1808, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

1852.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE TENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, OCTOBER 26, 1807.

A PROCLAMATION

By the President of the United States of America.

Whereas great and weighty matters claiming the consideration of the Congress of the United States form an extraordinary occasion for convening them, I do by these presents appoint Monday the twenty-sixth day of October next for their meeting at the City of Washington; hereby requiring the respective Senators and Representatives then and there to assemble in Congress, in order to receive such communications as may then be made to them, and to consult and determine on such measures as in their wisdom may be deemed meet for the welfare of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand.

Done at the City of Washington, the thirtieth day of July, in the year of our Lord one thousand eight hundred and seven, and in the thirty-second year of the Independence of the United States.

[L. S.]

TH. JEFFERSON.

By the President:
JAMES MADISON, *Secretary of State.*

MONDAY, October 26, 1807.

Conformably to the above Proclamation of the President of the United States, of the 30th July last, the First Session of the Tenth Congress commenced this day, at the City of Washington, and the Senate assembled, in their Chamber, in the Capitol.

PRESENT:

GEORGE CLINTON, Vice President of the United States, and President of the Senate.
NICHOLAS GILMAN, from New Hampshire.
JOHN QUINCY ADAMS and TIMOTHY PICKERING, from Massachusetts.
BENJAMIN HOWLAND, from Rhode Island.
STEPHEN R. BRADLEY, from Vermont.
SAMUEL L. MITCHILL, from New York.
JOHN CONDIT and AARON KITCHEL, from New Jersey.
SAMUEL MACLAY and ANDREW GREGG, from Pennsylvania.
SAMUEL WHITE, from Delaware.
SAMUEL SMITH and PHILIP REED, from Maryland.
JAMES TURNER, from North Carolina.
THOMAS SUMTER, from South Carolina.
JOHN MILLEDGE, from Georgia.
BUCKNER THRUSTON, from Kentucky.
JOSEPH ANDERSON and DANIEL SMITH, from Tennessee.

JESSE FRANKLIN, appointed a Senator by the Legislature of the State of North Carolina, for the term of six years, commencing on the fourth day of March last; GEORGE JONES, appointed a Senator by the Executive of the State of Georgia, to fill the vacancy occasioned by the death of ABRAHAM BALDWIN; NAHUM PARKER, appointed a Senator by the Legislature of the State of New Hampshire, for the term of six years, commencing on the fourth day of March last; JONATHAN ROBINSON, appointed a Senator by the Legislature of the State of Vermont, to supply the place of ISRAEL SMITH, whose seat has become vacant; and EDWARD TIFFIN, appointed a Senator by the Legislature of the State of Ohio, for the term of six years, commencing on the fourth day of March last, respectively took their seats, and produced their credentials, which were read; and the oath prescribed by law was administered to them.

JOHN POPE, appointed a Senator by the State of Kentucky, for the term of six years, commencing on the fourth of March last, stated that the Governor and Secretary being absent when he left home, he came to the seat of Government without his credentials; but that he expected they would be speedily forwarded to him: whereupon, he took his seat in the Senate, and the oath was administered to him as the law prescribes. The oath was also administered to Messrs. BRADLEY, GREGG, MILLEDGE, and REED, their credentials having been read and filed during the last session.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

Ordered, That Messrs. ANDERSON and BRADLEY be a committee on the part of the Senate, together with such committee as the House of Rep-

resentatives may appoint on their part, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

On motion, it was

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose; provided that the same be furnished at the usual rate for the annual charge of such papers; and provided, also, that if any Senator shall choose to take any newspapers, other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

On motion, it was

Resolved, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one Assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him, weekly, for that purpose, to commence with, and remain during the session, and for twenty days after.

On motion, it was

Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each house, who shall interchange weekly.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

A motion was submitted, by Mr. ANDERSON, for consideration, as follows:

Resolved, That a committee be appointed to take into consideration the expediency of authorizing the State of Tennessee to reduce the price of certain lands which were ceded to the said State by the United States, by an act, entitled "An act authorizing the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated lands within the same, to such price as the Legislature of said State may, in their judgment, deem expedient; and that the committee have leave to report by bill or otherwise.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have elected JOSEPH B. VARNUM, one of the Representatives for Massachusetts, their Speaker, and are ready to proceed to business. They have appointed a committee on their part, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

The Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, October 27.

Mr. ANDERSON reported, from the joint committee, that they had waited on the President of the United States, agreeably to the resolution of yesterday, and that the President informed the committee that he would make a communication to the two Houses this day, at 12 o'clock.

The PRESIDENT communicated the petition of Samuel Biddle and others, American citizens, impressed on board His Britannic Majesty's ship Wolverine; and the petition was read.

Ordered, That it be communicated to the House of Representatives.

BRITISH AGGRESSIONS.

The PRESIDENT also communicated the declaration of the American citizens on the Mobile, with relation to British aggressions; which was read, and ordered to lie on the table.

It is as follows:

At a meeting of the inhabitants of Washington county, Mississippi Territory, at the court-house in the town of Wakefield, on the 8th of September, 1807, in consequence of the attack by the British ship-of-war Leopard on the United States' frigate Chesapeake, the following declaration of the sentiments of the meeting was unanimously adopted:

Situated in a remote corner of the territory of the United States, and unconnected with every other body of American citizens, the people inhabiting the country lying on the waters of the Mobile have at length heard of the outrage which has been committed on our national rights by the arrogant representatives of British despotism. We think and feel on the occasion as every American thinks and feels. We despise the bully and the coward who, as Captain of the Leopard, was the instrument of exhibiting the enormous extent of the claims of the pretended mistress of the ocean. But our attention is in an instant drawn from him to ourselves and our own situation. Is national independence a dream! Shall Great Britain or any other nation come at pleasure into our territory, and lay hold of whomsoever she pleases, under the pretence that this man is her subject, and that man is in her employ; that here there is a felon, and there a deserter! Our national ships are our territory, in whatever quarter of the world they are found; much more so, then, when within our own acknowledged limits and jurisdiction. We care not who the men were that were demanded from the Chesapeake; we care not whence they came, where they were born, nor who claimed allegiance from them. Had they fled from Europe stained with blood, no foreign force had a right to invade our territory; no foreign officer, civil or military, had a right to exercise his functions within our limits, or to transport the supposed offender to the precincts of a distant tribunal.

If there be a mutual convention between two nations reciprocally to deliver up felons, it is well; but no one nation has a right to force another into such a stipulation. And shall the plea, not of a treason, not of a murder, not of a felony having been committed, but the mere plea of desertion from a service, the tyranny and enormities of which are now arming the whole civilized world against it—shall such a plea be ground sufficient for us to stifle our jealousy of national rights, or to surrender our claims to perfect and unqualified independence!

England may count upon our divisions. She is mistaken. The violence of her conduct has united all America. We judge not only from what we hear, but from what we see among ourselves. Our own settlement originally consisted, and still in a great degree

consists, of those who adhered to England in the Revolutionary war. They were led by principle; their elders taught them that resistance was sinful; and they imbibed from their infancy a deep veneration for their King. But the delusion lasts no longer. We have since seen that King engaged in almost incessant wars on the liberty and happiness of man; whilst the Government which has succeeded his in America has preserved us in peace with all the world, and been preeminently occupied in promoting our national prosperity. Old factions are forgotten; we all view with the same sensibility any outrage on the honor of our common country; and old Whigs and old Tories will cordially unite in devoting their lives and fortunes to avenge the wounded dignity of America against the insults and oppressions of any Government upon earth. What may be the immediate issue of an appeal to arms we know not. That knowledge is confined to the Lord of Hosts; and on him, trusting to the justice of our cause, we rely with humble confidence.

But, though the operations and events of war are always uncertain, we can calculate with some confidence that a five years' state of non-intercourse with Great Britain will establish the manufactures of America on a foundation which no return of peace will ever shake. It will render us forever after in a high degree independent of the British manufactures of wool, and still more so of those of cotton. Our planters, too, will hereafter find their market at home; and the British navy, if Britain and her navy should continue to exist, will at length find that her tyranny on the ocean has given commercial independence to those confederated States which British tyranny on the land first led to political independence.

Had we not been told that in the United States the people are divided into parties, some of whom are virulent opposers of the system and measures of the present Federal Administration, we should not have deemed it necessary on this occasion to express our full confidence in the wisdom and patriotism of those to whose executive management our national affairs are entrusted. As to ourselves, we have neither seen nor have we looked for the splendor and pageantry of a monarchy, overstraining the sinews of national strength and industry to support large mercenary armies and unwieldy navies; but we have thought that we have seen the genuine product of republican institutions—a love of peace, a high regard for the ease and happiness of the people, a vigilant attention to public expenditures, and a strong anxiety to promote internal improvements. War will, indeed, open a new theatre for the talents of our rulers; but we have a strong confidence that that intellectual and moral pre-eminence which, amidst the convulsions of the world, has been so conspicuous in peace, will not become extinct on the instant of the appearance of war.

As to ourselves and our own local concerns, it is true we have sometimes feared that we were overlooked in the council of the nation. Our population is small; we are surrounded, except on the Spanish side, by the most powerful tribes of Indians existing within the original limits of the United States. The want of land cuts off from us the prospect of having our strength increased. We had hoped that a treaty entered into with the Choctaws, which, by making a valuable addition to our land, would have invited population, and placed us in a state of greater security and respectability, would have been ratified. But we have been disappointed. Yet, few as we are, we consider ourselves as an advanced guard, destined to defend the immense tract of valuable territory which lies between the settlements on the Mobile and the State of Tennessee. We may perish at our posts, but we shall not slumber there.

We have likewise suffered multiplied injuries, inflicted upon us in a regular system by the agents of the Spanish Government. But if we have ever thought ourselves neglected, such thoughts, at the present momentous crisis in our national affairs, shall no longer find a harbor in our breasts. If, when we have been the objects of incessant oppression from the officers of His Catholic Majesty, for a series of years; if, when the produce of our lands, before it could reach a market in even our own territories, has been subjected to a duty of twelve per centum ad valorem to a foreign monarch; if, when we have been constantly the sport of vexatious searches and arbitrary seizures; if, when we have been compelled to pay twelve per centum to the King of Spain on everything which we have imported, even from the next town within the American limits; if when, through the joint operation of revenue systems of Spain and the United States, we have frequently been obliged to pay from forty-two to forty-seven per centum ad valorem on the price, when first imported into the United States, of the most essential articles for family comfort; if, when suffering, not yesterday or to-day only, but every day and every year, for a length of time, this series of oppressions, without hearing one clear and decided expression of national indignation, we have sometimes, in the spirit of despondency, been ready to fear that we never should be thought worthy of enjoying the rights and protection of American citizens, the moment has now arrived when we feel ourselves called upon to discard our personal jealousies; the moment has now arrived when we shall cease any longer to regard our local grievances, till those of the nation are redressed. We will give to the Spaniard his twelve per centum; we will continue to pay a double price for the commodities of Europe; we will again, if need be, pay sixteen dollars per barrel for the flour of Kentucky, whilst our neighbors at the Natchez, unencumbered by the Spanish obstacles, are paying only four; we will view these things light as compared with a deliberate, and authorized, and systematic violation of our territory by a foreign Power. We will devote ourselves to our country at large, and from this moment cease to seek any other object than permanency to national existence, and reality to national independence.

The charter of that independence was drawn up in 1776; it was ratified by the peace of 1783; but it still cries out for the blood of American citizens to seal it and to give it practical validity. Our blood shall be mingled with that of other Americans in offering the solemn sacrifice.

Resolved, unanimously, That the chairman of this meeting forward to the President of the United States a copy of this declaration, and that he give it such other circulation as he may deem necessary.

PRESIDENT'S ANNUAL MESSAGE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Circumstances, fellow-citizens, which seriously threatened the peace of our country, have made it a duty to convene you at an earlier period than usual.

The love of peace, so much cherished in the bosoms of our citizens, which has so long guided the proceedings of their public councils, and induced forbearance under so many wrongs, may not insure our continuance in the quiet pursuits of industry. The many injuries and depredations committed on our commerce and navigation upon the high seas for years past, the successive innovations on those principles of public law which have been established by the reason and usage of nations as the rule of their intercourse, and the umpire and security of their rights and peace, and all the circumstances which induced the extraordinary mission to London, are already known to you. The instructions given to our Ministers were framed in the sincerest spirit of amity and moderation. They accordingly proceeded, in conformity therewith, to propose arrangements which might embrace and settle all the points in difference between us, which might bring us to a mutual understanding on our neutral and national rights, and provide for a commercial intercourse on conditions of some equality. After long and fruitless endeavors to effect the purposes of their mission, and to obtain arrangements within the limits of their instructions, they concluded to sign such as could be obtained, and to send them for consideration, candidly declaring to their other negotiators at the same time that they were acting against their instructions, and that their Government therefore could not be pledged for ratification. Some of the articles proposed might have been admitted on a principle of compromise, but others were too highly disadvantageous; and no sufficient provision was made against the principal source of the irritations and collisions which were constantly endangering the peace of the two nations. The question, therefore, whether a treaty should be accepted in that form could have admitted but of one decision, even had no declarations of the other party impaired our confidence in it. Still anxious not to close the door against friendly adjustment, new modifications were framed, and further concessions authorized than could before have been supposed necessary; and our Ministers were instructed to resume their negotiations on these grounds. On this new reference to amicable discussion we were reposing in confidence, when, on the 22d day of June last, by a formal order from a British Admiral, the frigate Chesapeake, leaving her port for a distant service, was attacked by one of those vessels which had been lying in our harbors under the indulgences of hospitality, was disabled from proceeding, had several of her crew killed, and four taken away. On this outrage no commentaries are necessary. Its character has been pronounced by the indignant voice of our citizens with an emphasis and unanimity never exceeded. I immediately, by proclamation, interdicted our harbors and waters to all British armed vessels, forbade intercourse with them; and, uncertain how far hostilities were intended, and the town of Norfolk, indeed, being threatened with immediate attack, a sufficient force was ordered for the protection of that place, and such other preparations commenced and pursued as the prospect rendered proper. An armed vessel of the United States was despatched with instructions to our Ministers at London to call on that Government for the satisfaction and security required by the outrage. A very short interval ought now to bring the answer, which shall be communicated to you as soon as received; then, also, or as soon after as the public interests shall be found to admit, the unratified treaty and proceedings relative to it, shall be made known to you.

The aggression thus begun has been continued on the part of the British commanders, by remaining within our waters in defiance of the authority of the country, by habitual violations of its jurisdiction, and, at length, by putting to death one of the persons whom they had forcibly taken from on board the Chesapeake. These aggravations necessarily lead to the policy either of never admitting an armed vessel into our harbors, or of maintaining in every harbor such an armed force as may constrain obedience to the laws, and protect the lives and property of our citizens against their armed guests. But the expense of such a standing force, and its inconsistence with our principles, dispense with those courtesies which would necessarily call for it, and leave us equally free to exclude the navy as we are the army of a foreign Power from entering our limits.

To former violations of maritime rights another is now added of very extensive effect. The Government of that nation has issued an order interdicting all trade by neutrals between ports not in amity with them. And being now at war with nearly every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first port they touch, or to return home without the benefit of going to any other market. Under this new law of the ocean, our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas is threatened with the same fate.

Our differences with Spain remain still unsettled; no measure having been taken on her part, since my last communication to Congress, to bring them to a close. But under a state of things which may favor reconsideration, they have been recently pressed, and an expectation is entertained that they may now soon be brought to an issue of some sort. With their subjects on our borders no new collisions have taken place nor seem immediately to be apprehended. To our former grounds of complaint has been added a very serious one, as you will see by the decree, a copy of which is now communicated. Whether this decree, which professes to be conformable to that of the French Government of November 21, 1806, heretofore communicated to Congress, will also be conformed to that in its construction and application in relation to the United States, had not been ascertained at the date of our last communications. These, however, gave reason to expect such a conformity.

With the other nations of Europe our harmony has been uninterrupted, and commerce and friendly intercourse have been maintained on their usual footing.

Our peace with the several States on the coast of Barbary appears as firm as at any former period, and as likely to continue as that of any other nation.

Among our Indian neighbors in the Northwestern quarter, some fermentation was observed soon after the late occurrences, threatening the continuance of our peace. Messages were said to be interchanged, and tokens to be passing, which usually denote a state of restlessness among them, and the character of the agitators pointed to the sources of excitement. Measures were immediately taken for providing against that danger; instructions were given to require explanations, and, with assurances of our continued friendship, to admonish the tribes to remain quiet at home, taking no part in quarrels not belonging to them. As far as we are yet informed, the tribes in our vicinity, who are most advanced in the pursuits of industry, are sincerely disposed to adhere to their friendship with us, and to their peace with all others. While those more remote do not present appearances sufficiently quiet to justify the intermission of military precaution on our part.

The great tribes on our Southwestern quarter, much advanced beyond the others in agriculture and household arts, appear tranquil and identifying their views with ours, in proportion to their advancement. With the whole of these people, in every quarter, I shall continue to inculcate peace and friendship with all their neighbors, and perseverance in those occupations and pursuits which will best promote their own well-being.

The appropriations of the last session, for the defence of our seaport towns and harbors, were made under expectation that a continuance of our peace would permit us to proceed in that work according to our convenience. It has been thought better to apply the sums then given towards the defence of New York, Charleston, and New Orleans, chiefly, as most open and most likely first to need protection, and to leave places less immediately in danger to the provisions of the present session.

The gunboats, too, already provided, have, on a like principle, been chiefly assigned to New York, New Orleans, and the Chesapeake. Whether our movable force on the water, so material in aid of the defensive works on the land, should be augmented in this or any other form, is left to the wisdom of the Legislature. For the purpose of manning these vessels, in sudden attacks on our harbors, it is a matter of consideration whether the seamen of the United States may not justly be formed into a special militia, to be called on for tours of duty in defence of the harbors where they shall happen to be; the ordinary militia of the place furnishing that portion which may consist of landsmen.

The moment our peace was threatened, I deemed it indispensable to secure a greater provision of those articles of military stores with which our magazines were not sufficiently furnished. To have awaited a previous and special sanction by law would have lost occasions which might not be retrieved. I did not hesitate, therefore, to authorize engagements for such supplements to our existing stock as would render it adequate to the emergencies threatening us; and I trust that the Legislature, feeling the same anxiety for the safety of our country, so materially advanced by this precaution, will approve, when done, what they would have seen so important to be done, if then assembled. Expenses, also unprovided for, arose out of the necessity of calling all our gunboats into actual service for the defence of our harbors, of all which accounts will be laid before you.

Whether a regular army is to be raised, and to what extent, must depend on the information so shortly expected. In the mean time, I have called on the States for quotas of militia, to be in readiness for present defence; and have, moreover, encouraged the acceptance of volunteers, and I am happy to inform you that these have offered themselves with great alacrity in every part of the Union. They are ordered to be organized, and ready at a moment's warning, to proceed on any service to which they may be called, and every preparation within the Executive powers has been made to insure us the benefit of early exertions.

I informed Congress at their last session of the enterprises against the public peace, which were believed to be in preparation by Aaron Burr and his associates, of the measures taken to defeat them, and to bring the offenders to justice. Their enterprises were happily defeated by the patriotic exertions of the militia whenever called into action, by the fidelity of the Army and energy of the Commander-in-Chief, in promptly arranging the difficulties presenting themselves on the Sabine, repairing to meet those arising on the Mississippi, and dissipating, before their explosion, plots engendering there. I shall think it my duty to lay before you the proceedings, and the evidence publicly exhibited on the arraignment of the principal offenders before the circuit court of Virginia. You will be enabled to judge whether the defect was in the testimony, in the law, or in the administration of the law, and wherever it shall be found, the Legislature alone can apply or originate the remedy. The framers of our Constitution certainly supposed they had guarded, as well their Government against destruction by treason, as their citizens against oppression, under pretence of it, and if these ends are not attained, it is of importance to inquire by what means more effectual they may be secured.

The accounts of the receipts of revenue during the year ending on the thirtieth day of September last, being not yet made up, a correct statement will be hereafter transmitted from the Treasury. In the mean time, it is ascertained that the receipts have amounted to near sixteen millions of dollars, which, with the five millions and an half in the Treasury at the beginning of the year, have enabled us, after meeting the current demands and interest incurred, to pay more than four millions of the principal of our funded debt. These payments, with those of the preceding five and a half years, have extinguished of the funded debt twenty-five millions and a half of dollars, being the whole which could be paid or purchased within the limits of the law and of our contracts, and have left us in the Treasury eight millions and a half of dollars. A portion of this sum may be considered as a commencement of accumulation of the surplusses of revenue, which, after paying the instalments of debt as they shall become payable, will remain without any specific object. It may partly indeed be applied towards completing the defence of the exposed points of our country, on such a scale as shall be adapted to our principles and circumstances. This object is doubtless among the first entitled to attention, in such a state of our finances, and it is one which, whether we have peace or war, will provide security where it is due. Whether what shall remain of this, with the future surplusses, may be usefully applied to purposes already authorized, or more usefully to others requiring new authorities, or how otherwise they shall be disposed of, are questions calling for the notice of Congress, unless indeed they shall be superseded by a change in our public relations, now awaiting the determination of others. Whatever be that determination, it is a great consolation that it will become known at a moment when the Supreme Council of the nation is assembled at its post, and ready to give the aids of its wisdom and authority to whatever course the good of our country shall then call us to pursue.

Matters of minor importance will be the subjects of future communications, and nothing shall be wanting on my part which may give information or despatch to the proceedings of the Legislature in the exercise of their high duties, and at a moment so interesting to the public welfare.

TH. JEFFERSON.

OCTOBER 27, 1807.

The Message was read, and three hundred copies thereof, together with the documents therein referred to, ordered to be printed for the use of the Senate.

WEDNESDAY, October 28.

Mr. ADAMS submitted the following motions, for consideration:

"That so much of the President's Message as relates to the recent outrages committed by British armed vessels within the jurisdiction, and in the waters of the United States, and to the Legislative provisions which may be expedient as resulting from them, be referred to a select committee, with leave to report by bill or otherwise."

"That so much of the said Message as relates to the formation of the seamen of the United States into a special militia, for the purpose of occasional defence of the harbors against sudden attacks, be referred to a select committee, with leave to report by bill or otherwise."

Mr. MITCHILL submitted the following motion for consideration:

Resolved, That the part of the President's Message which relates to the defence of our seaport towns and harbors, and the further provisions to be made for their security, be referred to a select committee, with leave to report by bill or otherwise.

THURSDAY, October 29.

JAMES HILLHOUSE, from the State of Connecticut, attended.

A message from the House of Representatives informed the Senate that the House concur in the resolution sent from the Senate for the appointment of Chaplains to Congress during the present session.

On motion, the Senate proceeded to the election of a Chaplain on their part, in pursuance of the resolution of the two Houses, and the whole number of votes collected was 21, of which the Rev. Mr. GANTT had 11, and was accordingly elected.

FRIDAY, October 30.

The Senate took into consideration the motion made on the 28th instant, "That so much of the 'Message of the President of the United States as 'relates to the recent outrages committed by Brit-'ish armed vessels within the jurisdiction and in 'the waters of the United States, and to the Le-'gislative provisions which may be expedient as 'resulting from them, be referred to a select com-'mittee, with leave to report by bill or otherwise," and agreed thereto; and,

Ordered, That Messrs. ADAMS, SMITH, of Maryland, MILLEDGE, MITCHILL, and ANDERSON, be the committee.

The Senate, also took into consideration the other motion made on the 28th instant, "That so 'much of the Message of the President of the 'United States as relates to the formation of the 'seamen of the United States into a special mili-'tia, for the purpose of occasional defence of the 'harbors against sudden attacks, be referred to a 'select committee, with leave to report by bill or 'otherwise," and agreed thereto; and,

Ordered, That Messrs. SMITH of Maryland, BRADLEY, and SUMTER, be the committee.

A motion was made by Mr. ADAMS that the following rule be added to the rules for conducting business in the Senate.

"At the commencement of every session a committee of three members shall be appointed, whose duty it shall be to audit and control the contingent expenses of the Senate.

Ordered, That this motion lie for consideration.

Mr WHITE submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire into the expediency of extinguishing the claims of the United States to certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, and that the said committee have leave to report by bill or otherwise.

MONDAY, November 2.

JOHN GAILLARD, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March last, and JOHN SMITH, appointed a Senator by the Legislature of the State of New York, for the term of six years, commencing on the fourth day of March last, respectively took their seats, and the oath prescribed by law was administered to them: their credentials having been read and filed during the last session.

On motion, by Mr. MILLEDGE, it was

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable ABRAHAM BALDWIN, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm.

On motion, by Mr. HILLHOUSE, it was

Resolved, That the members of the Senate from a sincere desire of showing every mark of respect due to the memery of the honorable URIAH TRACY, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm.

The PRESIDENT communicated certain resolutions of the Legislature of the State of New York, that an application be made to the President of the United States to fix on a plan for the permanent defence of the port of New York; and approving of the conduct of the Senators and Representatives of that State, in Congress, in advocating and enforcing the claims of the State in this respect; and the resolutions were read.

A message from the House of Representatives informed the Senate that the House have appointed the Reverend Mr. BROWN, a Chaplain to Congress on their part, during the present session.

TUESDAY, November 3.

ANDREW MOORE, from the State of Virginia, attended,

The PRESIDENT communicated a letter, signed William Eaton, enclosing the translation of a petition of Hamet Bashaw Caramalli, stating his services and sufferings in behalf of the United States, in which, relying on promises of remuneration, he hath exposed his life, and sacrificed

all his means, and praying relief; and the petition was read, and ordered to lie for consideration.

WEDNESDAY, November 4.

The Senate resumed the motion made on the 25th October, "That a committee be appointed 'to take into consideration the expediency of au-'thorizing the State of Tennessee to reduce the 'price of certain lands which were ceded to the 'said State by the United States, by an act enti-'tled 'An act authorizing the State of Tennessee 'to issue grants and perfect titles to certain 'lands therein described, and to settle the claims 'to vacant and unappropriated lands within the 'same," to such price as the Legislature of the 'said State may, in their judgment, deem expe-'dient; and that the committee have leave to 'report by bill or otherwise;" and the motion was agreed to; and

Ordered, That Messrs. ANDERSON, BRADLEY, and ADAMS, be the committee.

The Senate resumed the motion made on the 30th October, that the following rule be added to the rules for conducting business in the Senate:

"At the commencement of every session a committee of three members shall be appointed, whose duty it shall be to audit and control the contingent expenses of the Senate."

And the motion was agreed to; and ordered that Messrs. ADAMS, ANDERSON, and GAILLARD be the committee.

On motion, it was

Ordered, That Messrs. GREGG, THRUSTON, and JONES, be a committee for the examination of engrossed bills, agreeably to the twenty-second rule for conducting business in the Senate.

The following motion was submitted by Mr. BRADLEY, for consideration:

Resolved, That a committee be appointed to inquire whether any, and, if any, what further and more effectual provisions are necessary in addition to the act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction;" with leave to report by bill or otherwise.

THURSDAY, November 5.

The Senate resumed the motion made on the 30th October, "That a committee be appointed to 'inquire into the expediency of extinguishing the 'claims of the United States to certain balances 'reported to be due from several of the States to 'the United States by the Commissioners appoint-'ed to settle the accounts of the individual States 'with the United States; and that the said com-'mittee have leave to report by bill or otherwise;" and the motion was adopted; and

Ordered, That Messrs, WHITE, FRANKLIN, and SMITH, of New York, be the committee.

Mr. TIFFIN submitted the following motion for consideration:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following section be submitted to the Legislatures of the several States, which, when ratified and confirmed by the Legislatures of three-fourths of the said States, shall be valid and binding, as a part of the Constitution of the United States, in lieu of the first section of third article thereof:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices for —— years, shall be removed by the President on the address of two-thirds of both Houses of Congress requesting the same, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

On motion, it was

Resolved, That Mr. ROBINSON be of the committee for enrolled bills, jointly with such committee as may be appointed for that purpose on the part of the House of Representatives.

Mr. MITCHILL submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire whether any, and what, alterations are necessary to be made in the laws respecting insurrections and violations of the public peace and authority, as well as the laws respecting the conspiracy or enterprise of private individuals against foreign nations in amity with the United States; with leave to report by bill or otherwise.

FRIDAY, November 6.

The Senate assembled; and adjourned to 11 o'clock to-morrow morning.

SATURDAY, November 7.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, in obedience to the act, entitled "An act to establish the Treasury Department;" and the report was read, and ordered to lie for consideration; and that the usual number be printed for the use of the Senate.

The PRESIDENT communicated a letter from the Governor of the Indiana Territory, together with certain resolutions of the Legislative Council and House of Representatives of the said Territory, on the expediency of suspending the sixth article of compact contained in the ordinance for the government of the Northwest Territory, passed the 13th day of July, 1787, which respects the admission of slaves; for reasons mentioned in the said resolutions; also, a remonstrance of sundry citizens of Clark county, in Springville, in the said Territory, against the said resolutions; and stating the expediency of suspending any proceedings on the subject, until the period arrives when the said Territory may be admitted into the Union; and the communications were read.

Ordered, That they be referred to Messrs. FRANKLIN, KITCHEL, and TIFFIN, to consider and report thereon

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MONDAY, November 9.

Mr. POPE, appointed a Senator by the State of Kentucky, produced his credentials, which were read and ordered to lie on file.

The motion made on the 6th instant, "That a 'committee be appointed to inquire whether any, 'and, if any, what, further and more effectual 'provisions are necessary, in addition to the act, 'entitled 'An act for the more effectual preserva-'tion of peace in the ports and harbors of the 'United States, and in the waters under their ju-'risdiction,' with leave to report by bill, or other-'wise," was resumed and adopted; and

Ordered, That it be referred to Messrs. ADAMS, SMITH of Maryland, MILLEDGE, MITCHILL, and ANDERSON, the committee appointed the 30th October, to consider that part of the Message of the President of the United States which respects "the recent outrages committed by British armed vessels," and that Messrs BRADLEY, and SUMTER be added to the said committee.

TUESDAY, November 10.

A letter was communicated from Dr. GANTT, declining his appointment to be Chaplain.

On motion, that the Senate proceed to the election of a Chaplain in place of Mr. GANTT, declined, it was agreed to postpone the appointment until to-morrow.

The Senate resumed the motion made on the 5th November: "That a committee be appointed 'to inquire whether any, and what, alterations 'are necessary to be made in the laws respecting 'insurrections and violations of the public peace 'and authority, as well as the laws respecting the 'conspiracy or enterprise of private individuals 'against foreign nations in amity with the United 'States; with leave to report by bill or otherwise."

Ordered, That the further consideration thereof be postponed.

WEDNESDAY, November 11.

The Senate proceeded to the election of a Chaplain, in place of Mr. GANTT, declined, and the Reverend Mr. MCCORMICK was chosen.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making further appropriations for the support of the Navy of the United States during the year 1807," in which they request the concurrence of the Senate.

The bill was read, and ordered to the second reading.

THURSDAY, November 12.

The bill, entitled "An act making further appropriations for the support of the Navy of the United States during the year 1807," was read the second time, and referred to Messrs. ANDERSON, GILMAN, and ADAMS, to consider and report thereon.

FRIDAY, November 13.

SLAVERY IN INDIANA TERRITORY.

Mr. FRANKLIN, from the committee to whom were referred, on the 7th instant, the resolutions of the Legislative Council and House of Representatives of the Indiana Territory, on the propriety of suspending the sixth article of compact contained in the Ordinance for the government of the Northwestern Territory, passed the 13th day of July, 1787, together with a remonstrance of certain citizens of Clark county against the said resolutions, made report; which was read, and ordered to lie for consideration.

The report is as follows:

The Legislative Council and House of Representatives, in their resolutions, express their sense of the propriety of introducing slavery into their Territory, and solicit the Congress of the United States to suspend, for a given number of years, the sixth article of compact, in the Ordinance for the government of the Territory Northwest of the river Ohio, passed the 13th day of July, 1787. That article declares: "there shall be neither slavery nor involuntary servitude in the said Territory."

The citizens of Clark county, in their remonstrance, express their sense of the impropriety of the measure, and solicit the Congress of the United States not to act on the subject, so as to permit the introduction of slaves into the Territory; at least until their population shall entitle them to form a constitution and State government.

Your committee, after duly considering the matter, respectfully submit the following resolution:

Resolved, That it is not expedient at this time to suspend the sixth article of compact for the government of the Territory of the United States Northwest of the river Ohio.

In the Legislative Council and House of Representatives of the Indiana Territory.

Great solicitude has been evinced by the citizens of this Territory on the subject of the introduction of slaves. In the year 1802 a special convention of delegates from the respective counties petitioned Congress for a suspension of the sixth article of compact, contained in the Ordinance of 1787. In 1805 a majority of the members of the Legislative Council and House of Representatives remonstrated with Congress on the subject. In 1806 the Legislative Council and House of Representatives passed sundry resolutions, which were laid before Congress, declaratory of their sense of the propriety of admitting slaves; and, as the citizens of the Territory decidedly approve of the toleration of slavery, the Legislative Council and House of Representatives consider it incumbent on them briefly to state, on behalf of themselves and their constituents, the reasons which have influenced them in favor of the measure.

In the first place, candor induces us to premise that, in regard to the right of holding slaves, a variety of opinion exists; while some consider it decent and just to acquire them either by purchase or conquest, others consider their possession, by either tenure, as a crime of the deepest stain; that it is repugnant to every principle of natural justice, of political rights, and to every sentiment of humanity. Without entering into the merits of this controversy, it need only to be remarked, that the proposition to introduce slavery into the Territory is not embraced by them. It is not a question of liberty or slavery. Slavery now exists in the United States, and in this Territory. It was the crime of England, and their misfortune; and it now becomes a question, merely of policy, in what way the slaves are to be disposed of, that may be least dangerous to the

community, most useful to their proprietors, and by which their situation may be ameliorated.

As the law of Congress, prohibiting the further importation of slaves into the United States, takes effect the 1st of January next, it is evident that the proposed toleration will not increase the number in the United States.

It is believed (and has not experience verified the fact!) that such is the number of slaves in the Southern States, that the safety of individuals, as well as the political institutions of those States, are exposed to no small hazard. However desirable it may be to emancipate them, it can never be done until they are dispersed; it would be equally impolitic for the whites as for the slaves. The great current of emigration is constantly flowing from the Eastern and Southern States to the Western States and Territories. The increase of population in the western country for the last twenty years may afford some idea of its probable amount in the course of the present century; it must be immense; and were all the Territories opened to the introduction of slaves, a large proportion of them would naturally be drawn from the Southern States.

From a reference to the States of Kentucky and Tennessee at the time of the last United States' census, it is not believed that the number of slaves would ever become so great as to endanger either the internal peace or future prosperity of the Territory. It is also rendered improbable from the interior situation of the Territory, its climate, and productions.

Slavery is tolerated in the Territories of Orleans, Mississippi, and Louisiana: why should this Territory be excepted?

It is believed that slaves, possessed in small numbers by farmers, are better fed and better clothed than when they are crowded together in quarters by hundreds: their situation in Kentucky, Tennessee, and the back parts of Maryland and Virginia, verify this belief.

Resolved, by the Legislative Council and House of Representatives of the Indiana Territory, That it is expedient to suspend for a given number of years the sixth article of compact, contained in the Ordinance for the government of the Northwestern Territory, passed the 13th day of July, in the year 1787.

Resolved, That a copy of the foregoing be forwarded to the Vice President of the United States, with a request that he will lay the same before the Senate; and that a copy be forwarded to the Speaker of the House of Representatives, with a request that he will lay the same before the said House of Representatives; and that the Governor of this Territory be requested to forward the same, as aforesaid.

JESSE B. THOMAS,
Speaker of the House of Representatives.
SAMUEL GWATHMEY,
President pro tem. of the Legislative Council.

Passed the Legislative Council, September 19, 1807.
Attest: H. HURST, *Chief Clerk.*

At a numerous meeting of the citizens of Clark county, in Springville, (agreeably to notice previously given,) on Saturday, the 10th day of October, 1807, for the purpose of taking into consideration the resolutions passed at the last session of the Legislature of the Indiana Territory, praying the Congress of the United States to suspend for a certain time the sixth article of compact contained in the Ordinance, Mr. John Beggs was chosen Chairman, and Davis Floyd, Secretary.

On motion,

Ordered, That a committee of five suitable persons be appointed to draught and report to this meeting, a memorial to Congress, in opposition to the resolutions of the Legislature of the Indiana Territory, on the subject of slavery in this Territory, by the suspension of the sixth article of compact contained in the Ordinance.

And the said committee was appointed, of Messrs. Abraham Little, John Owens, Charles Beggs, Robert Robertson, and James Beggs.

Mr. Little, from the aforesaid committee, reported a memorial, pursuant to the aforesaid order, in the words and figures following, viz:

To the Senate and House of Representatives of the United States, in Congress assembled:

The memorial of the citizens of Clark county, humbly showeth, that great anxiety has been, and still is, evinced by some of the citizens of this Territory, on the subject of the introduction of slavery into the same; but in no case has the voice of the citizens been unanimous. In the year 1802, at a special convention of delegates from the respective counties, a petition was forwarded to Congress, to repeal the sixth article of compact contained in the Ordinance; but the representation of all that part of the Territory east of Vincennes were present, and were decidedly opposed to that part of the petition.

In the year 1805 the subject was again taken up and discussed in the General Assembly, and a majority of the House of Representatives voted against said memorial on the aforesaid subject, and, consequently, the memorial was rejected, as the Journals of that House doth sufficiently evince; but a number of citizens thought proper to sign the same, and among the rest, the Speaker of the House of Representatives and the President of the Council, (though the President of the Council denies ever having signed the same;) and, by some legislative legerdemain, it found its way into the Congress of the United States, as the legislative act of the Territory. In the present year of 1807, the subject was again taken up by the Legislature of this Territory, and a majority of both Houses passed certain resolutions (in the proportion of two to one) for the purpose of suspending the sixth article of compact contained in the Ordinance, which, we presume, are before your honorable body. But let it be understood, that in the Legislative Council there were only three members present, who, for certain reasons, positively refused to sign the said resolutions; and they were reduced to the last subterfuge of prevailing on the President to leave his seat, and one of the other members to take it as President *pro tem.*, for the purpose of signing the said resolutions. Whether this be right or wrong, judge ye. And although it is contended by some, that, at this day, there is a great majority in favor of slavery, while the opposite opinion is held by others, the fact is certainly doubtful. But when we take into consideration the vast emigration into this Territory, and of citizens, too, decidedly opposed to the measure, we feel satisfied that, at all events, Congress will suspend any legislative act on this subject until we shall, by the Constitution, be admitted into the Union, and have a right to adopt such a constitution, in this respect, as may comport with the wishes of a majority of the citizens. As to the propriety of holding those in slavery whom it hath pleased the Divine Creator to create free, seems to us to be repugnant to the inestimable principles of a republican Government. Although some of the States have, and do hold slaves,

yet it seems to be the general opinion, even in those States, that they are an evil from which they cannot extricate themselves. As to the interest of the Territory, a variety of opinions exist; but suffer your memorialists to state, that it is a fact that a great number of citizens, in various parts of the United States, are preparing, and many have actually emigrated to this Territory, to get free from a Government which does tolerate slavery. The toleration of slavery is either right or wrong; and if Congress should think, with us, that it is wrong, that it is inconsistent with the principles upon which our future constitution is to be formed, your memorialists will rest satisfied that at least this subject will not be by them taken up until the constitutional number of the citizens of this Territory shall assume that right. It is considered useless for your memorialists to recapitulate the many reasons and objections which might be advanced, relying that this subject is fully and fairly understood by your honorable body, as it relates to the natural right, policy, and prosperity of a free and independent nation.

On motion,

Resolved, That the Chairman be requested to forward duplicate copies of these proceedings, (signed by the said Chairman, and countersigned by the Secretary,) one to the Vice President of the United States, or President of the Senate *pro tem.*, and one to the Speaker of the House of Representatives in the Congress of the United States.

By order of the meeting:

JOHN BEGGS, *Chairman.*

Attest:

DAVIS FLOYD, *Secretary.*

MONDAY, November 16.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act making further appropriations for the support of the Navy of the United States during the year 1807, reported certain documents, and the bill without amendment.

Ordered, That they lie for consideration.

Mr. GREGG presented the petition of William Lewis and Hugh Maxwell, stating that they have on hand a number of the Journals of Congress, under the Confederation, of Folwell's edition, which they will dispose of for the use of Congress, at the price heretofore stipulated by Government; and the petition was read, and referred to Messrs. GREGG, HOWLAND, and BRADLEY, to consider and report thereon.

NATIONAL DEFENCE.

Mr. MITCHILL rose to call the attention of the Senate to a motion he had made at the commencement of the session, relative to additional means of defence, and further measures of security to the seaports and harbors of the nation. This important subject had been introduced by him at an early day. It had been printed and laid upon the table for consideration, and it was his original intention to have suffered it to lie there until the official intelligence alluded to in the Message of the President should arrive from Great Britain.

Recent and alarming information, which had reached the seat of Government since the rising of the Senate on Friday last, though tinctured with rumor and resting on the credibility of private communication, had, however, altered his mind upon the business. The invasion of Zealand, the capitulation of Copenhagen, and the capture of the Danish fleet, were events of the utmost moment to neutral Powers, and taught them that the greatest moderation, prudence, and forbearance, were of no avail in guarding a mild, an unoffending, and peaceful people, against the violence of its rapacious and stronger neighbor. A visitation of a similar nature might, in the course of things, be expected from the same quarter, and the fairest of our commercial cities might be wrapt in flames or battered to ruins.

Year after year had rolled away in fruitless negotiation. He doubted whether, in the present posture of affairs, there would be any satisfactory adjustment of the points in dispute. It did not indeed follow that the failure to effect a treaty would necessarily bring on a war. But the dominion of the ocean was so proudly usurped by Britain, and the usurpation maintained by such a prodigious naval force, that it would be calculating extravagantly upon our good fortune to expect that our rights would not be invaded by them: and in an age of the world, when it was fashionable for ruling statesmen to sweep away, like cobwebs, abstract principles of right and written maxims of public law, it was surely a season when the weaker Powers ought to employ every precaution for their safety.

It was not his intention to recommend the construction of a Navy, carrying metal enough to dispute the empire of the high seas. His only object was to provide a force sufficient to protect our acknowledged territory, and to preserve peace within our seaports and harbors. During the intervals of peace, it was the duty of wise statesmen to prepare for war. Although the United States had been in the enjoyment of that blessing, with little interruption, for more than twenty years, there had been too little done to guard against those evils which, in the common course of events, it was scarcely possible to avoid. But although threatened with hostility from various quarters, the nation, on the whole, enjoyed a good share of tranquillity. There was yet time to prepare for the political tempest which would probably succeed the claim we had long experienced. The Treasury was in a condition to furnish the necessary sums, without imposing a cent of tax upon ourselves. And with time and money at our disposal, he conceived it to be a duty of the most imperative obligation that Congress should now retrieve, by more than ordinary exertions, the carelessness and neglect of preceding sessions.

During the last meeting of the National Legislature, indeed, a decent appropriation was made for the repair and erection of defensive works where they should appear to be most wanted. But how inadequate was this provision! Exigencies had arisen during the recess, which had obliged the President to contract debts on the national account to almost three-fourths of a million of dollars. And the bill on your table, Mr. President, has been brought in to make good this anticipated fund. Had Congress made more ample arrangements for the general safety, had they taken effectual measures of defence at an earlier day, or had they made the legal provision for purchasing the stores and implements which the general welfare requires, the Executive would not have been compelled to take the step which he has done, of pledging the national faith for a large amount of unappropriated money. But the Secretary of the Navy has acted wisely as well as boldly on this emergency; and the only sentiment to be uttered on the occasion is, that in consideration of the reluctance manifested by Congress to adopt an effectual system, and of the pressure of the existing circumstances, it was greatly to be lamented he had not anticipated three times as much.

Yet, even after all this expenditure, the Atlantic coast was certainly not protected as became a nation professing the feelings of bravery and honor, and boasting annually of its great and accumulating wealth. The vexations, captures, seizures, and murders, committed by the subjects of foreign sovereigns within the United States, were encouraged by their total impunity. And a sheet of paper containing a proclamation was read by them with little other concern than they perused anything else in print. Mr. M. said he was entirely persuaded that something more might be done, and ought to be done, to enforce respect to our laws within our undisputed limits, and at any rate he was convinced of the propriety of making a strong experiment for the purpose.

Mr. M. then took a survey of the coast from North to South, and asking whether it was not expedient to do something more for the security of the capital, and other numerous ports of Massachusetts? Did the capacious but defenceless harbor of Newport deserve to be left in its present condition? As to New York, which might be called the heart of the Union, it would be unkind and unnatural if he did not experience the keenest sensibility for its safety. Considerable indeed had been done towards its defence out of the appropriation for the year and out of the Executive anticipation. Of this, he thought it becoming in him to make a public acknowledgment. But much more remained still to be accomplished; and this would require the aid of additional appropriations. The harbor of New York and the entrance of the Chesapeake were the favorite places of rendezvous to piratical and hostile fleets. They were peculiarly exposed to their aggressions and insults; and were worthy of more powerful protection than had hitherto been extended to them. In coupling Norfolk with the city near the Hudson, he meant to express, from the openness of their ports, and their contiguity to the ocean, the equal claim they had, especially after the recent transactions in their respective neighborhoods, not to the favoritism or partiality, but to the equal justice and to the protecting arm of the nation. Though North Carolina might be considered as safe behind her shoals and beaches, it was far otherwise with her sister State on the south. For Charleston presented itself to his eye as requiring further succor from Government. The same remark applied to Georgia. For the works at Savannah had not recovered from the ruinous state to which they were reduced by the storm of 1804; and St. Mary's, now that the African slave trade was prohibited, would deserve further reparation, as well for the purpose of excluding the ships of enemies as of those who make merchandise of men.

Tracing the shore along to the mouths of the Mississippi, he beheld a weak and vulnerable point at Orleans; and whether that region was considered as the seat of domestic feuds, or the mark of foreign aggressions, it undoubtedly required a more stable and energetic support.

Although his proposition had a peculiar reference to the Atlantic boundary where our territory lay contiguous to the pretended domain of the British as lords of the seas, he did not wish to be understood as confining his ideas of protection to that quarter of the Union. He felt that as a statesman and Senator all and every part of the nation was entitled to the protecting care of the Government; and the States of the West and the North were as proper objects of its care and defence as those of the East and the South. If any gentleman would propose a plan for increasing the security of the inland frontier, where danger was to be apprehended from the savages and their European connexion, he would give it his hearty aid and co-operation. Whether the post near Natchez or at Natchitoches, the Chickasaw Bluffs or Massac, St. Louis or Miami, Detroit or Michilimackinac, stood in need of repairs or reinforcements, he was ready to vote the necessary appropriations. The warlike and murderous Sioux were actually at war with us on the Missouri; and a state of commotion scarcely less than a war had long existed in Michigan. Whatever was necessary for teaching Indians to dread our displeasure, and for bending the stubborn will of insurgents to the yoke of the laws, should receive from him all the countenance he could give. To Vermont, and the whole country bordering on Canada, he would vote ordnance and arms.

To some persons the posture of our affairs might appear less serious than they did to him. He was no alarmist; but the prostration of our commerce, the murder of our citizens, the violation of our sovereignty, and the postponement of reparation, were, each of them, solemn matters. They demanded something more than that passive and forbearing temper, of which our nation had given proofs almost without a parallel. There was a period of extreme endurance; and that period was now come. The people who enjoyed liberty held it upon this express condition, that they should maintain it against all who should attempt to wrest it from them or encroach upon it.

To spend our breath in inquiries whether a King in Europe is mad or in his senses, is as idle as the prating of the Athenians whether Philip of Macedon was sick or was dead. While they were talking about it, their independence was destroyed. Let us be active, and neither be surprised in our

sleep, nor in a reverie that is no better than slumber. But on a theme so copious, sir, it would be easy to expatiate at great length. The only difficulty I feel is in condensing my remarks. For moderate as my eloquence is, it would not be difficult for any one, possessing powers of speech smaller even than mine, to discourse to you for hours.

Mr. ROBINSON advocated the motion in warm and decided terms; when the question was put and carried, *nem. con.*—that the part of the President's Message which relates to the defence of our seaport towns and harbors, and the further provisions to be made for their security, be referred to a select committee, with leave to report by bill or otherwise; and a committee was accordingly appointed, consisting of Messrs. MITCHILL, ADAMS, SUMTER, MILLEDGE, and ROBINSON.

On motion, the Senate adjourned.

TUESDAY, November 17.

The PRESIDENT communicated a letter from JAMES FENNER, stating the resignation of his seat in the Senate.

The Senate took into consideration the report of the committee to whom was referred, on the 7th instant, the resolutions of the Legislative Council and House of Representatives of the Indiana Territory, on the propriety of suspending the 6th article of compact contained in the ordinance for the government of the Northwestern Territory, and agreed thereto; and,

Resolved, That it is not expedient, at this time, to suspend the 6th article of compact for the government of the Territory of the United States Northwest of the river Ohio.

On motion, it was

Ordered, That the Secretary transmit the following papers, to be filed in the office of the Secretary of State:

An authenticated copy of the cession of North Carolina of certain Western Territory to the United States:

An act of cession by the State of Delaware to the United States of a light-house and piers, and A deed of cession of the same:

An act of cession of the State of Georgia to the United States of the light-house on Tybee Island:

A deed of cession by the State of Georgia to the United States of a light-house on Tybee Island: also,

A deed of cession by the State of Connecticut to the United States of certain territory called the "Western Reserve of Connecticut."

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act making further appropriations for the support of the Navy of the United States during the year 1807;" and the bill was reported to the House without amendment.

On the question, Shall this bill be read the third time? it passed in the affirmative.

Mr. TIFFIN submitted the following motion for consideration:

"*Resolved*, That a committee be appointed to inquire whether any and what alterations are necessary to be made in the 'Act for establishing circuit courts, and abridging the jurisdiction of the district courts, in the districts of Kentucky, Tennessee, and Ohio;' with leave to report by bill or otherwise."

WEDNESDAY, November 18.

Mr MACLAY presented the memorial of Archibald M'Call, of the city of Philadelphia, stating he united with several of his fellow citizens in representing to Congress, at the last session, the general hardships to which they had been exposed by a rigorous enforcement of the ten days' limitation allowed for signing bonds, in order to secure the benefit of drawback, and that he is debarred the drawback on certain teas imported into the port of Philadelphia; and praying relief, for reasons stated at large in his memorial; which was read, and ordered to lie on the table.

The motion made yesterday by Mr. TIFFIN was considered and adopted; and

Ordered, That Messrs TIFFIN, ANDERSON, and POPE, be the committee.

The bill, entitled "An act making further appropriations for the support of the Navy of the United States during the years 1807," was read the third time, and passed.

THURSDAY, November 19.

The credentials of ELISHA MATHEWSON, appointed a Senator by the Legislature of the State of Rhode Island, in the place of JAMES FENNER, elected Governor, were read.

FRIDAY, November 20.

Mr. MATHEWSON, from the State of Rhode Island, took his seat in the Senate, and the oath prescribed by law was administered to him.

Mr. MITCHILL, from the committee to whom was referred that part of the Message of the President of the United States which relates to the defence of the seaport towns and harbors of the United States, reported, in part, a letter from the Secretary of the Navy; also, a bill to appropropriate money for the construction of an additional number of gunboats; and the bill was read and ordered to a second reading.

The following is the letter and bill:

NAVY DEPARTMENT, *Nov.* 8, 1807.

SIR: In answer to your letter of the 16th instant, in which you ask for such information in relation "to the defence of our seaport towns and harbors, and the further provision to be made for their security," as the Navy Department may possess: I have the honor to state that in aid of the fixed fortifications, which will be submitted by the Secretary of War, it is presumed that there will be required at the ports and harbors, mentioned below, the number of gunboats annexed to them respectively, viz:

At New Orleans, 16; Savannah, 8; St. Mary's, 4; Charleston, S. C., 10; Georgetown, do. 1; Wilmington, N. C., 3; Ocracock, 4; Albemarle Sound, 1; Norfolk, 60; Alexandria, 2; Baltimore, 3; Philadelphia, 4; Delaware bay and river, 10; Egg harbor, N. J., 1; Amboy, 2; New York, 50; Long Island, 4; New London, 6; Connecticut Shore, 6; Newport, R. I., 12; Tiverton, 1; Boston, 12; Salem and Newburyport, 6; Portland, 6; New Bedford, 4; Marblehead and Cape Ann, 2; York, Kennebunk, and Saco, 2; Kennebeck, Sheepscut, Damariscotta, Broad Bay, St. Georges', 5; Penobscot, 3; Frenchman's Bay, 2; Passamaquoddy Bay, 3; Portsmouth, N. H., 4. Making in all, - - 257

Of which we have at this time provided, - - 69

Would leave to be provided, gunboats, - - 188

The building of these gunboats is estimated on an average, each, at $5,000, 188 gunboats, at $5,000, make - - - - - - $940,000

Deduct the amount of timber contracted for, as stated in the exhibit of extraordinary expenses incurred by the Navy Department since the 22d June last, - - 87,500

Would leave to be appropriated for building of 188 gunboats, - - - - - $852,500

Respectfully submitted.

ROBERT SMITH.

Hon. S. L. MITCHILL, Chairman, &c.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to cause to be built a number not exceeding —— gunboats, and to equip, arm, man, fit out, and employ the same, for the better protection of the ports and harbors of the United States, and for such other purposes as in his opinion the public service may require.

SEC. 2. *And be it further enacted*, That a sum not exceeding —— dollars be, and hereby is appropriated, for this purpose, out of any moneys in the Treasury not otherwise appropriated.

MONDAY, November 23.

The bill to appropriate money for the construction of an additional number of gunboats was read the second time, as in Committee of the Whole, and the further consideration thereof postponed until Wednesday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Agreeably to the assurance given in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings and of the evidence exhibited on the arraignment of Aaron Burr and others, before the circuit court of the United States held in Virginia in the course of the present year, in as authentic form as their several parts have admitted.

TH. JEFFERSON.

NOVEMBER 23, 1807.

The Message and documents therein referred to were read and ordered to lie for consideration.

[See Appendix for the documents.]

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories," in which they request the concurrence of the Senate.

The bill was read, and ordered to the second reading.

TUESDAY, November 24.

The bill, entitled "An act allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories," was read the second time, and referred to Messrs. SMITH of Maryland, POPE, and SMITH, of Tennessee, to consider and report thereon.

BRITISH AGGRESSIONS.

Mr. ADAMS, from the committee to whom was referred "so much of the Message of the President of the United States as relates to the recent outrages committed by British armed vessels within the jurisdiction and within the waters of the United States, and to the Legislative provisions which may be expedient as resulting from them; with instructions to inquire whether any and what further and more effectual provisions are necessary in addition to the act, entitled 'An act for the more effectual preservation of peace in the ports and harbors of the United States, and the waters under their jurisdiction," reported a bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction; and the bill was read, and ordered to the second reading.

[The three first sections provide for the arrest of offenders against the laws of the United States, who shall be on board of foreign armed vessels, authorizing the use of the military for that purpose.]

SEC. 4. And in order to prevent insults to the authority of the laws whereby the peace of the United States with foreign nations may be in danger, *Be it further enacted*, That it shall be lawful for the President of the United States, either to permit or interdict, at his discretion, the entrance of the harbors and waters under the jurisdiction of the United States, to all armed vessels belonging to any foreign nation, and by force to repel and remove them from the same, except when they shall be forced in by distress, by the dangers of the sea, by being pursued by an enemy, or when charged with despatches or business from the Government to which they belong; in which cases, as well as in all others when they shall be permitted to enter, the commanding officer shall immediately report his vessel to the collector of the district, stating the object or causes of his entering the harbor or waters, shall take such position therein as shall be assigned him by such collector, and shall conform himself, his vessel, and crew, to such regulations, respecting health, repairs, supplies, stay, intercourse, and departure, as shall be signified to him by the said collector, under the authority and directions of the President of the United States, and not conforming thereto, shall be required to depart from the United States.

SEC. 5. And whereas the commanders of certain British armed vessels have committed repeated acts of insubordination to the laws, violence to the persons, and trespasses on the property of the citizens within the ports and harbors of the United States, and by continued acts of outrage and aggression have forfeited all

claim to hospitality; and when required by the President of the United States, in pursuance of the authority given him by law, immediately to depart from the harbors and waters of the United States, have, in open defiance of the laws and government thereof, refused to depart, and, in violation of the laws of nations, have maintained themselves in hostile array, within the harbors and waters under the jurisdiction of the United States, and against the dignity of the same: Therefore, *Be it further enacted*, That no British armed vessel shall be admitted to enter the harbors and waters under the jurisdiction of the United States, but every British armed vessel is hereby interdicted except when they shall be forced in by distress, by the dangers of the sea, or when charged with despatches or business from their Government, or coming as a public packet for the conveyance of letters, in which case the commanding officer shall conform to the provisions contained in the fourth section of this act; and not conforming thereto shall be required to depart from the United States; *Provided*, That whensoever reparation shall be made to the United States, by the British Government, to the satisfaction of the President of the United States, for the outrages upon the national sovereignty and independence of the United States, committed on the twenty-second day of June last past, by the attack of a British squadron upon the United States frigate Chesapeake, and continued by numerous other acts of insult, aggression, and hostility, to the present time, it shall be lawful for the President of the United States, by proclamation, to remove this interdiction of all British armed vessels; and thereupon they may be admitted to enter the ports, harbors, and waters, under the jurisdiction of the United States, on the same footing and conditions as the armed vessels of other foreign nations.

SEC. 6. *And be it further enacted*, That if any armed vessel whatsoever, interdicted by any of the provisions of this act, or by proclamation of the President of the United States, issued under the authority thereof, shall, contrary to the true intent thereof, enter any of the harbors or waters under the jurisdiction of the United States, or if the commander of any armed vessel, admitted into any of the said harbors or waters, shall refuse or fail to comply with the regulation signified to him by the collector of the district as aforesaid, it shall be the duty of the collector, immediately to require, in writing, the commander of any such armed vessel to depart with his vessel, from the waters and jurisdiction of the United States, conformably to the provisions of this act. And if, after such requisition to depart, the commander of such armed vessel shall, in defiance thereof, fail, or refuse so to do, and with his vessel wilfully remain within, or return to any of the harbors or waters within the jurisdiction of the United States, every such vessel shall be deemed to have made an hostile invasion of the territory of the United States, and while remaining in the harbors or waters under the jurisdiction of the United States, shall be proceeded against as a vessel of an enemy, and may be seized, taken, and brought into any port of the United States, with her apparel, guns, and appurtenances, and, with the goods and effects on board the same, shall, conformably to the laws of nations, be liable to forfeiture and condemnation, and may be libelled and proceeded against in the District Court of the United States, for the district into which the same may be brought; and the forfeiture of every such armed vessel, goods, and effects, so seized, taken, and condemned, shall accrue wholly to the captors, and the proceeds thereof shall be distributed in the same manner as prize money. And the said captors shall also be entitled to receive the same bounty as is provided in the seventh section of the "Act for the better government of the Navy of the United States," passed the twenty-third day of April, one thousand eight hundred, and the President of the United States is hereby authorized and required to instruct the commanders of the armed vessels of the United States to subdue, seize, and take by force or otherwise every such interdicted armed vessel which shall be found violating the territory of the United States as aforesaid.

SEC. 7. *And be it further enacted*, That all pacific intercourse with any interdicted foreign armed vessel, the officers or crew thereof, is hereby forbidden, and if any person shall afford any aid to such armed vessel, either in repairing her, or in furnishing her, her officers, or crew, with supplies of any kind, or in any manner whatsoever, or if any pilot shall assist in navigating the said armed vessel, contrary to this prohibition, unless for the purpose of carrying her beyond the limits and jurisdiction of the United States, the person or persons so offending shall be liable to be bound to their good behaviour, and shall also forfeit and pay a sum not exceeding —— thousand dollars, to be recovered upon indictment or information, in any court of competent jurisdiction, in which last case, the said forfeiture shall accrue in equal portions to the United States and the informer.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, or such other persons as he shall have empowered for that purpose, to employ such part of the land forces of the United States, or the militia thereof, as he shall deem necessary, to compel the departure of any interdicted foreign armed vessel; and the said land forces and militia are hereby authorized, in execution of orders from the President of the United States, to seize, subdue, and bring in for forfeiture and condemnation, or to burn, sink, or destroy such interdicted foreign armed vessel, as the emergency of the case may require; and the President of the United States is hereby further authorized to refuse permission to any vessel belonging to the same nation, or to its citizens or subjects, to make entry or unlade, so long as the said interdicted armed vessel shall remain in the harbors or waters of the United States, in defiance of the public authority.

SEC. 9. *And be it further enacted*, That whenever any collector, conformably to the provisions of this act, shall have required, in writing, the commander of any foreign armed vessel to depart, and the said commander shall fail or refuse so to do, and remain in hostile array, in defiance of the laws and Government of the United States, it shall be the duty of such collector, within —— days, to publish, in one or more newspapers, his requisition to the said commander, and the neglect or refusal of the said commander to comply therewith; whereupon, it shall be lawful for any person or persons, in any manner whatsoever, whilst such armed vessel shall so remain within the jurisdiction of the United States, to burn, sink, or destroy every such armed vessel, and a bounty of —— dollars shall be paid by the United States, to such person or persons, for every gun carried by such armed vessel so burnt, sunk, or destroyed, when the same shall be effected otherwise than by the armed vessels of the United States.

SEC. 10. *And be it further enacted*, That if, while any interdicted foreign armed vessel shall so remain within the waters and jurisdiction of the United States,

in defiance of their laws and authority, any of her officers or crew shall land, and be found on shore in any place within the jurisdiction of the United States, they shall be arrested and imprisoned at the discretion of the President of the United States.

SEC. 11. *And be it further enacted*, That whensoever any officer of an armed vessel commissioned by any foreign Power, shall, on the high seas, commit any trespass, or tort, or any spoliations on board any vessel of the United States, or any unlawful interruption, or vexation of trading vessels, actually coming to or going from the United States, it shall be lawful for the President of the United States, on satisfactory proof of the facts, by proclamation, to interdict the entrance of the said officer, and of any armed vessel by him commanded, within the limits of the United States; and if at any time after such proclamation made, he shall be found within the limits of the United States, he shall be liable therefor to be arrested, indicted, and punished by fine and imprisonment, in any court in the United States, having competent jurisdiction, and it shall be a part of the sentence, that he shall, within such time after the payment of his fine, and the expiration of his term of imprisonment as the court shall direct, leave the United States never to return. And if he shall return within the limits of the United States, after the passing of such sentence, or be found therein, after the period limited by the court as aforesaid, he shall again be liable to be indicted, fined, and imprisoned, at the discretion of the court: *Provided always*, That if the said officer shall also have committed any other offence, made punishable by this act, he shall be liable to prosecution and punishment, the provisions of this section to the contrary notwithstanding.

SEC. 12. *And be it further enacted*, That, for the purpose of carrying this act into effect, the President of the United States be, and he is hereby authorized and empowered, to cause to be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, to be stationed at such ports and places on the seacoast, as he may direct, and to cause to be engaged, in addition to those now in the service, anything in any former act of Congress to the contrary notwithstanding, so many captains, officers, able seamen, ordinary seamen, and boys, as shall be necessary for the same, who shall not be engaged to serve for a period exceeding —— years; but the President may discharge the same sooner, if in his judgment their services may be dispensed with: And to satisfy the necessary expenditures to be incurred therein, a sum not exceeding —— dollars shall be, and is hereby, appropriated, and shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 13. *And be it further enacted*, That the President of the United States shall be, and he hereby is, authorized and required to give, as soon as may be, after the passage of this act, to the collectors of the respective districts, and to such other persons as he may think proper, the necessary instructions for carrying this act into effect, particularly marking out the line of conduct to be observed by the marshal and the several collectors in performing the duties enjoined by this act.

SEC. 14. *And be it further enacted*, That if any person shall be sued for anything done in pursuance of, or in obedience to this act, he may plead the general issue, and give this act in evidence, anything in any law, custom, or usage, to the contrary notwithstanding.

SEC. 15. *And be it further enacted*, That this act shall continue in force —— years, and from thence until the end of the next session of Congress, and no longer.

WEDNESDAY, November 25.

The bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction, was read the second time as in Committee of the Whole, and the further consideration thereof postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to appropriate money for the construction of an additional number of gunboats; and, after debate, it was agreed that the further consideration thereof be the order of the day for Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the purchase of certain copies of the journals of Congress;" also, a bill, entitled "An act to incorporate the Trustees of the Baptist Church, in the City of Washington;" in which bills they request the concurrence of the Senate.

The bills last mentioned were read, and ordered that they severally pass to the second reading.

Mr. ADAMS submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a return of the number of American seamen impressed or detained by British armed vessels, whose names have been reported to the Department of State since the last statement made to Congress; mentioning the names of the persons impressed, the time and place of their impressment, the names of the ships, and, as far as may be known, of the officers by whom they were impressed, together with any material facts or circumstances in relation to the same; stating, also, the whole number of seamen impressed since the commencement of the present war, what number of the persons impressed, according to the last statement of the Secretary of State, has since been restored, and the numbers still detained by the British, since demand of their restoration made; with the reasons assigned for their detention.

On motion, by Mr. POPE, it was

Resolved, That a committee be appointed to inquire whether any, and, if any, what, additional force is necessary to the military establishment of the United States; and

Ordered, That Messrs. POPE, SMITH of Maryland, and BRADLEY, be the committee.

THURSDAY, November 26.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill entitled "An act allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisana, and Michigan Territories, reported the bill without amendment.

Mr. POPE presented the petition of William Wells, stating that he had resided on and occupied, for many years, a tract of land situate at

Fort Wayne, in the Indiana Territory, at the confluence of the rivers St. Joseph's and St. Mary's which form the Miami of the Lake, on which he has made improvements, at a considerable expense; that he has made application to the proper officers of the United States to purchase said tract, but has not been able to succeed; and therefore prays that Congress would in their wisdom pass a law granting him the right of pre-emption to a tract of twelve hundred and eighty acres, to include his improvements at the confluence of the rivers aforesaid, for reasons stated in his petition; which was read, and referred to Messrs. POPE, TIFFIN, and GREGG, to consider and report thereon.

The bill entitled "An act authorizing the purchase of certain copies of the journals of Congress," was read the second time, and referred to Messrs. GREGG, HOWLAND, and BRADLEY, the committee who have under consideration the petition of William Lewis and Hugh Maxwell on this subject, to consider and report thereon.

The bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," was read the second timd, and referred to Messrs. BRADLEY, FRANKLIN, and MACLAY, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction; and, after progress, adjourned.

FRIDAY, November 27.

CHAUNCEY GOODRICH, appointed a Senator by the Legislature of the State of Connecticut, to fill the vacancy occasioned by the death of the late Hon. Uriah Tracy, attended, and his credentials were read; and the oath prescribed by law was administered to him.

JOHN SMITH, from the State of Ohio, attended.

Mr. MACLAY presented the petition of a number of merchants of the city of Philadelphia, praying the repeal of the "Act to prohibit the importation of certain goods, wares, and merchandise," passed the 18th day of April, 1806, for reasons mentioned in the petition; which was read.

CASE OF JOHN SMITH.

Mr. MACLAY offered the following resolution:

Resolved, That a committee be appointed to inquire and report to the Senate their opinion whether John Smith, a Senator from the State of Ohio, ought not to be expelled from the Senate, in consequence of the part which he took in the conspiracy of Aaron Burr, against the peace and prosperity of the United States, or what other steps, in their opinion, it may be necessary and proper, under the present circumstances, for the Senate to adopt.

Mr. POPE moved to amend this resolution; to make way for which amendment, Mr. MACLAY withdrew his resolution.

Mr. THRUSTON offered the following resolution as an amendment, omitting that part in italics, which Mr. JONES moved as an amendment to the amendment:

Resolved, That a committee be appointed to inquire whether it be compatible with the honor and privileges of this House, that John Smith, a Senator from the State of Ohio, against whom bills of indictment were found at the Circuit Court of Virginia, held at Richmond in August last, for treason and misdemeanor, should be permitted any longer to have a seat therein; and that the committee do inquire into *all the facts regarding the conduct of Mr. Smith, as an alleged associate of Aaron Burr*, and report the same to the Senate.

Mr. HILLHOUSE objected to the resolution on the ground of allowing the committee too wide a latitude.

Mr. ADAMS vindicated the resolution from this objection.

Mr. POPE moved an adjournment, to allow further time for reflecting on the most correct course to be pursued.

Mr. THRUSTON advocated the powers given by the resolution to the committee; and, in reply to some observations previously made, remarked that a very different species of testimony from that required by a court of law would constitute sufficient ground for the Senate to act on in a case where the effect might be the expulsion of a member.

The motion to adjourn was lost, only four members rising in favor of it.

Mr. HILLHOUSE replied to the observations of Mr. THRUSTON on the score of testimony. He viewed those observations as extremely dangerous. Should they be carried into effect, the character of a man, however innocent, might be blasted. He thought the case called for great circumspection. He wished the inquiry to be made, and had prepared a resolution, which he read, as follows, as expressive of his opinion of the most proper course:

Resolved, That the Message of the President of the United States of November 23, 1807, together with the documents which accompanied the same, be referred to a committee to inquire how far John Smith, a member of this Senate, has been connected with or concerned in the transactions therein referred to, and report whether any and what proceedings ought to be had by this Senate in relation to said John Smith, and to send for persons, papers, and records.

Mr. TIFFIN rose, merely to state that he had seen attested copies of record in the case of Mr. SMITH, and to communicate to the Senate the contents of a letter which he had just received from him. The letter is as follows:

WASHINGTON, *November* 27, 1807.

DEAR SIR: Just having heard that a motion is pending in the Senate to appoint a committee to inquire into certain charges exhibited against me at Richmond, by the late grand jury, I beg you, sir, to assure the Senate, in my name, that nothing will afford me more pleasure than to have a public investigation of the said charges, and an opportunity to vindicate my innocence; and I beg you, from your seat, to make this statement.

I am, dear sir, respectfully, yours, &c.,

JOHN SMITH.

Hon. Mr. TIFFIN.

Mr. S. SMITH said, that, however unpleasant it might be, it was the duty of the Senate to meet

the proposed inquiry. It did not follow that such an investigation would go to criminate Mr. SMITH. It might, on the contrary, issue in his exculpation. He understood that that gentleman had expressed his conviction that a full investigation would completely exculpate him from the charges which had been preferred against him. Be this as it might, Mr. S. thought there were circumstances, which had been disclosed at Richmond, which called upon the Senate to go into the inquiry.

He alluded to the testimony of Blannerhasset's gardener and Lieutenant Jackson. He had, however, heard that Mr. SMITH thought it in his power to do away the charges flowing from these statements. Why an opportunity to do this should be refused, he could not understand. He added that he perceived no objection to an examination of two of the members of the grand jury, who held seats in the other House, with regard to the grounds on which the bills of indictment had been found; from which examination, it would appear whether there was any necessity for sending for other testimony. These considerations would induce him to vote for the resolution, at the same time that he was little solicitous as to the particular resolution which should be adopted.

Mr. MITCHILL stated that Mr. SMITH had expressed to him his regret at not having been tried at Richmond on both the charges preferred against him, as he was confident that he could have established his innocence. What was the object of the resolution? To give him this opportunity—to allow him the only resource that remained—to allow him to be tried here by his peers. Therefore, so far as it related to the character of Mr. SMITH, or to the dignity of the Senate, the inquiry seemed a proper one, and he should consequently vote for the resolution.

Mr. THRUSTON said that he felt some delicacy in having hazarded an opinion on the subject of testimony, which seemed in some respects to militate against the provisions of the Constitution. What he had uttered on this point had been the result of momentary impressions, and might possibly, on further reflection, be considered, even by himself, as erroneous. He should be sorry, that, on a point of so much importance, anything which had thus hastily fallen from him should go abroad which might be erroneous. But as the remark had dropped from him, he would briefly state the grounds on which he had made it, which he still felt to be satisfactory. He was still of opinion that the Senate, in such a case, were not bound by the technical rules of law, as rigidly observed in courts. Various considerations compelled them to pay particular regard to their character and convenience. Hence the Constitution had conferred upon them an unlimited power to expel a member. In such a case they were constituted both accusers and judges, in direct violation of the common principles of law. A member might be expelled for acts which would not render him amenable to a court of justice. He was therefore of opinion, that in this case, the Senate might decide upon what appeared to them credible testimony, although it should not be of such a character as would be admitted in a court of law.

The question was then taken on the resolution offered by Mr. THRUSTON, and amended by Mr. JONES, and carried without a division; and Messrs. ADAMS, MACLAY, FRANKLIN, S. SMITH, POPE, THRUSTON, and ANDERSON, were appointed the committee.

In the course of the proceedings, Mr. WHITE read the following resolution, as such an one as he thought it most expedient to adopt:

Resolved, That a committee be appointed to inquire whether any and what proceedings should be had against John Smith, a Senator from the State of Ohio, in relation to any connexion he may be supposed to have had with the conspiracy or any illegal enterprise of Aaron Burr; and that the said committee have power to send for persons, papers, and records, on the subject committed to them, and to report the facts to the Senate.

MONDAY, November 30.

The Senate resumed the motion made on the 25th instant, on the subject of impressed seamen; and

Resolved, That the President of the United States be requested to cause to be laid before the Senate a return of the number of American seamen impressed or detained by British armed vessels, whose names have been reported to the Department of State since the last statement made to Congress; mentioning the names of the persons impressed, the time and place of their impressment, the names of the ships, and, as far as may be known, of the officers by whom they were impressed, together with any material facts or circumstances in relation to the same; stating, also, the whole number of seamen impressed since the commencement of the present war; what number of the persons impressed, according to the last statement of the Secretary of State, has since been restored, and the numbers still detained by the British since demand of their restoration made, with the reasons assigned for their detention.

Ordered, That the Secretary lay this resolution before the President of the United States.

Mr. ADAMS stated that he was instructed, by the committee appointed on the 27th instant to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, to submit to the Senate the following resolution; which was read and agreed to:

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as may be in his possession in relation to the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

Ordered, That the Secretary lay this resolution before the President of the United States.

Mr. ADAMS, from the same committee, also stated that he was instructed to submit to the Senate the following resolution; which was read and agreed to:

Resolved, That the committee appointed on the 27th instant, to inquire and report the facts respecting the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr, be authorized to extend their inquiries to any other facts which, in their opinion, would be incompatible with his duty

as a Senator of the United States; and that they be authorized to send for persons, papers, and records.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the second reading of the bill to appropriate money for the construction of an additional number of gunboats; and

Ordered, That the further consideration of this bill be postponed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act allowing additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories; and the bill having been reported to the House without amendment, on the question, Shall this bill be read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the preservation of peace, and maintenance of the authority of the United States in the ports, harbors, and waters under their jurisdiction; and, after progress, adjourned.

TUESDAY, December 1.

The bill, entitled "An act allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories," was read the third time, and passed.

BRITISH AGGRESSIONS.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the preservation of peace, and maintenance of the authority of the United States, in the ports, harbors, and waters under their jurisdiction; and the PRESIDENT reported the bill amended.

On motion, it was agreed to strike out the 15th section.

On motion to strike out the 5th section, as follows:

"And whereas the commanders of certain British armed vessels have committed repeated acts of insubordination to the laws, violence to the persons, and trespasses on the property of the citizens within the ports and harbors of the United States, and by continued acts of outrage and aggression have forfeited all claim to hospitality; and when required by the President of the United States, in pursuance of the authority given him by law, immediately to depart from the harbors and waters of the United States, have, in open defiance of the laws and Government thereof, refused to depart, and, in violation of the laws of nations, have maintained themselves in hostile array within the harbors and waters under the jurisdiction of the United States, and against the dignity of the same: Therefore, *Be it further enacted*, That no British armed vessel shall be permitted to enter the harbors and waters under the jurisdiction of the United States; but every British armed vessel is hereby interdicted, except when they shall be forced in by distress, by the dangers of the sea, or when charged with despatches or business from their Government, or coming as a public packet for the conveyance of letters; in which cases, the commanding officer shall conform to the provisions contained in the fourth section of this act; and not conforming thereto, shall be required to depart from the United States: *Provided*, That it shall be lawful for the President of the United States, whenever he may deem it expedient, by proclamation, to remove this interdiction of all British armed vessels."

It passed in the negative—yeas 3, nays 26, as follows:

YEAS—Messrs. Goodrich, Hillhouse, and Pickering.

NAYS—Messrs. Adams, Anderson, Bradley, Condit, Franklin, Gaillard, Gilman, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Mitchill, Moore, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner, and White.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

WEDNESDAY, December 2.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to appropriate money for the construction of an additional number of gunboats.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction, was read the third time; and the blanks having been filled, on the question, Shall this bill pass? it was determined in the affirmative—yeas 26, nays 3, as follows:

YEAS—Messrs. Adams, Anderson, Bradley, Condit, Franklin, Gaillard, Gilman, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Mitchill, Moore, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Goodrich, Hillhouse, and Pickering.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the request made in the resolution of the Senate, of November 30, I must inform them, that when the prosecutions against Aaron Burr and his associates were instituted, I delivered to the Attorney General all the evidence on the subject, formal and informal, which I had received, to be used by those employed in the prosecutions. On the receipt of the resolution of the Senate, I referred it to the Attorney General, with a request that he would enable me to comply with it, by putting into my hands such of the papers as might give information relative to the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr, and having this moment received from him the affidavit of Elias Glover, with an assurance that it is the only paper in his possession which is within the term of the request of the Senate, I now transmit it for their use.

TH. JEFFERSON.

DECEMBER 2, 1807.

The Message was read.

Ordered, That the Message, and paper therein mentioned, be referred to the committee appointed, on the 27th of November last, to inquire into the conduct of Mr. Smith, as an alleged associate of Aaron Burr.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" a bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes;" also, a bill, entitled "An act to change the name of the district of Biddeford and Pepperelborough, in Massachusetts, to that of Saco."

The bills were read, and ordered to the second reading.

THURSDAY, December 3.

Mr. MITCHILL, from the committee to whom was referred that part of the Message of the President of the United States which relates to the defence of the seaport towns and harbors, further reported, in part, sundry documents on the subject. He also reported a bill making an appropriation for the more effectual defence of the ports and harbors of the United States;" which was read, and ordered to the second reading.

The bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes," was read the second time, and referred to Messrs. MITCHILL, MILLEDGE, and ANDERSON, to consider and report thereon.

The bill, entitled "An act to change the name of the district of Biddeford and Pepperelborough, in Massachusetts, to that of Saco," was read the second time, and referred to Messrs. ADAMS, HILLHOUSE, and PICKERING, to consider and report thereon.

The bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," was read the second time, and referred to Messrs. MOORE, POPE, and BRADLEY, to consider and report thereon.

The bill to appropriate money for the construction of an additional number of gunboats, was read the third time, and a motion for a postponement thereof until Monday next having been disagreed to, on the question, Shall this bill pass? it was determined in the affirmative.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act to appropriate money for the construction of an additional number of gunboats."

FRIDAY, December 4.

Mr. ADAMS stated that he was instructed by the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, to submit the following resolution; which was read and agreed to:

Resolved, That the committee appointed to inquire into the conduct of John Smith, a Senator from the State of Ohio, be authorized to admit the attendance of Mr. Smith.

Mr. POPE, from the committee to whom was referred the motion to inquire whether any, and, if any, what, additional force is necessary to the Military Establishment of the United States, asked and obtained leave to report by bill. He accordingly reported a bill supplementary to the act, entitled "An act fixing the Military Peace Establishment of the United States;" which was read, and ordered to the second reading.

The bill making an appropriation for the more effectual defence of the ports and harbors of the United States, was read the second time, and the further consideration thereof postponed until Monday next.

The following motion was submitted for consideration by Mr. GILMAN:

Ordered, That the Secretary of the Senate (under the direction of the Vice President) do engage an additional engrossing clerk, who shall also attend to such other duties as the President of the Senate may from time to time direct.

MONDAY, December 7.

Mr. ADAMS stated that he was instructed by the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, to submit the following resolution; which was read and agreed to:

Resolved, That the committee appointed to inquire and report the facts relating to the conduct of John Smith, a Senator from the State of Ohio, be authorized to cause to be printed, under their inspection, all such documents and papers touching the subject-matter of the inquiries on which they have been appointed, as may appear necessary to the committee, previous to the presentation of the same to the Senate.

Mr. MOORE, from the committee to whom was referred the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," reported amendments; which were read, and ordered to lie for consideration.

The bill supplementary to the act, entitled "An act fixing the Military Peace Establishment of the United States," was read a second time, and the further consideration thereof postponed until to-morrow.

Mr. SMITH, of Maryland, presented the memorial of the Mayor of Georgetown, in behalf of the citizens thereof, remonstrating against the passage of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and the memorial was read, and ordered to lie until the bill, to which it refers, be considered as in Committee of the Whole.

The Senate resumed the second reading of the bill making an appropriation for the more effectual defence of the ports and harbors of the United States, and ordered that the further consideration thereof be postponed until to-morrow.

TUESDAY, December 8.

Mr. ADAMS, from the committee to whom was referred, on the 3d instant, the bill, entitled "An

act to change the name of the district of Biddeford and Pepperelborough, in Massachusetts, to that of Saco," reported it without amendment. On the question, Shall it be read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill making an appropriation for the more effectual defence of the ports and harbors of the United States, and ordered that the further consideration thereof be postponed until to-morrow.

WEDNESDAY, December 9.

WILLIAM H. CRAWFORD, appointed a Senator by the Legislature of the State of Georgia, to fill the vacancy occasioned by the death of Abraham Baldwin, attended and produced his credentials, which were read, and the oath prescribed by law was administered to him.

The Senate resumed the second reading of the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States."

Ordered, That this bill be recommitted to the original committee, consisting of Messrs. POPE, SMITH of Maryland, and BRADLEY, further to consider and report thereon.

The Senate resumed the amendments reported by the select committee, to the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia."

Ordered, That the bill and amendments be recommitted to the committee who reported them, further to consider and report thereon.

The bill, entitled "An act to change the name of the district of Biddeford and Pepperelborough, in Massachusetts, to that of Saco," was read the third time, and passed.

The Senate took into consideration the motion made on the 4th instant, that the Secretary of the Senate do engage an additional engrossing clerk; and disagreed thereto.

THURSDAY, December 10.

The several committees not having perfected their reports, the Senate adjourned.

FRIDAY, December 11.

Mr. MITCHILL, from the committee to whom was referred, on the 3d instant, the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes," reported it without amendment.

Ordered, That the further consideration of this bill be the order of the day for Thursday next.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making an appropriation for the more effectual defence of the ports and harbors of the United States; and ordered that the further consideration thereof be postponed to Monday next.

Mr. POPE, from the committee to whom was recommitted, on the 9th instant, the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States," reported the bill without amendment.

Mr. MOORE, from the committee to whom was recommitted, on the 9th instant, the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," reported an amendment; which was read, and ordered to lie for consideration.

And on motion, the Senate adjourned.

MONDAY, December 14.

Mr. ADAMS presented the memorial of the merchants and others, of the town of Boston, praying some modification, suspension, or repeal, of the act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," passed the 18th day of April, 1806, so as to conform it to the existing circumstances of the United States; and the memorial was read and referred to Messrs. SMITH, of Maryland, ADAMS, SUMTER, GREGG, and GILMAN, to consider and report thereon.

On motion to refer the memorial of the merchants and others, of the city of Philadelphia, presented on the 27th of November last, to the same committee, it was determined in the affirmative—yeas 16, nays 13, as follows:

YEAS—Messrs. Adams, Anderson, Bradley, Crawford, Condit, Goodrich, Gregg, Hillhouse, Howland, Maclay, Mathewson, Pickering, Smith of New York, Sumter, Turner, and White.

NAYS—Messrs. Gaillard, Gilman, Kitchel, Milledge, Mitchill, Moore, Parker, Pope, Robinson, Smith of Maryland, Smith of Tennessee, Thruston, and Tiffin.

Mr. GREGG, from the committee to whom was referred, on the 27th November last, the bill entitled, "An act authorizing the purchase of certain copies of the Journals of Congress," reported the bill with amendments; which were read.

Ordered, That the bill making an appropriation for the more effectual defence of the ports and harbors of the United States be postponed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States; and the bill having been amended, was reported to the House accordingly. On the question, Shall the bill be engrossed and read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives, informed the Senate that the House have passed the bill, entitled "An act to appropriate money for the construction of an additional number of gunboats," with amendments, in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the amendment reported by the select committee, to the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia;" and the report of the select committee having been amended, was agreed to; and, after debate, the Senate adjourned.

TUESDAY, December 15.

On motion by Mr. BRADLEY,

Resolved, That a committee be appointed to inquire whether any, and what, further provisions are necessary in addition to, and alteration of, an act, entitled "An act to establish the judicial courts of the United States," with leave to report by bill or otherwise; and,

Resolved, That Messrs. BRADLEY, ANDERSON, and GREGG, be the committee.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia."

Ordered, That the further consideration thereof be postponed.

The Senate took into consideration the amendments reported by the special committee to whom was referred the bill, entitled "An act authorizing the purchase of certain copies of the Journals of Congress;" and the bill having been by the President reported as amended, on the question, Shall the bill be read a third time as amended? it was determined in the negative. So the bill was lost.

The bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States," was read the third time.

Ordered, That this bill be recommitted to the original committee, further to consider and report thereon; and that Messrs. ANDERSON, and SUMTER be added to the committee.

And on motion, the Senate adjourned.

WEDNESDAY, December 16.

The Senate resumed the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia; and, a motion was made, by Mr. ADAMS, to amend the 14th section. Whereupon,

Ordered, That the bill, together with the amendment, be taken into consideration to-morrow, as in Committee of the Whole.

On motion by Mr. MILLEDGE,

Ordered, That the articles of agreement and cession, entered into on the twenty-fourth of April, 1802, between the Commissioners of the United States and those of Georgia, be printed for the use of the Senate.

And on motion, the Senate adjourned.

THURSDAY, December 17.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes;" and, after debate, the further consideration thereof was postponed until Monday next.

Mr. POPE, from the committee to whom was recommitted the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States," reported the bill with amendments; which were read and ordered to lie for consideration.

And on motion, the Senate adjourned.

FRIDAY, December 18.

EMBARGO.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent Powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis. TH. JEFFERSON.

DECEMBER 18, 1807.

Ordered, That the message, together with the papers therein referred to, be committed to Messrs. SMITH, of Maryland, ADAMS, ANDERSON, BRADLEY, and GREGG, to consider and report thereon; and that the same be considered as confidential.

Mr. SMITH, from the abovementioned committee, stated that he was instructed to ask leave to report by bill. And leave having been given, he reported in part a bill laying an embargo on all ships and vessels in the ports and harbors of the United States: and the bill was read and ordered to the second reading.

On motion, that the bill be now read the second time, it was objected to, as being contrary to the 12th rule for conducting business in the Senate. Whereupon, the following motion was made, by Mr. SMITH of Maryland, and agreed to:

Resolved, That so much of the 12th rule for doing business in the Senate, as requires that three readings shall be on three different days, unless the Senate unanimously direct otherwise, be suspended for three days.

And the bill was read the second time, as in Committee of the Whole, and, by the President, reported to the House without amendment; on the question, Shall this bill be engrossed and now read the third time it was determined in the affirmative—yeas 22, nays 7, as follows:

YEAS—Messrs. Adams, Anderson, Bradley, Condit, Gaillard, Gregg, Howland, Kitchel, Mathewson, Milledge, Mitchill, Moore, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennesse, Thruston, Tiffin, and Turner.

NAYS—Messrs. Crawford, Goodrich, Hillhouse, Maclay, Pickering, Sumter, and White.

And Mr. GREGG having reported the bill correctly engrossed, it was read the third time; on motion, to postpone the further consideration of the bill until Monday next, it was passed in the negative.

On motion, by Mr. CRAWFORD, that this bill be postponed until to-morrow, it was passed in the negative—yeas 12, nays 16, as follows:

YEAS—Messrs. Crawford, Gaillard, Goodrich, Hill-

house, Maclay, Mathewson, Milledge, Pickering, Pope, Thruston, Turner, and White.

NAYS—Messrs. Adams, Anderson, Bradley, Condit, Gilman, Gregg, Howland, Kitchel, Mitchill, Moore, Parker, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, and Tiffin.

On the question to agree to the final passage of this bill, it was determined in the affirmative—yeas 22, nays 6, as follows:

YEAS—Messrs. Adams, Anderson, Bradley, Condit, Gaillard, Gilman, Gregg, Howland, Kitchel, Mathewson, Milledge, Mitchill, Moore, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, Tiffin, and Turner.

NAYS—Messrs. Crawford, Goodrich, Hillhouse, Maclay, Pickering, and White.

So it was, *Resolved*, That this bill pass, and that the title thereof be "An act laying an embargo on all ships and vessels in the ports and harbors of the United States."

Ordered, That the Secretary, confidentially, request the concurrence of the House of Representatives in this bill.

SATURDAY, December 19.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States;" and the PRESIDENT having reported the bill to the House amended, on the question, Shall the bill be engrossed and read a third time as amended? it passed in the affirmative.

The Senate took into consideration, as in Committee of the Whole, the amendment proposed by Mr. ADAMS to the 14th section of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia;" which was amended, and agreed to; and the bill having been further amended, two new sections were submitted by Mr. ANDERSON, for consideration.

Ordered, That the further consideration of the bill, together with the proposed amendments, be postponed until Monday next.

The Senate adjourned to 6 o'clock in the evening.

SATURDAY EVENING, 6 *o'clock.*

The Senate assembled; and, on motion, adjourned to Monday morning.

MONDAY, December 21.

Mr. REED, from the State of Maryland, attended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia," together with the proposed amendments thereto, on motion, to postpone the further consideration of the bill to the first Monday in December next, it passed in the negative; on motion, to postpone the further consideration of the bill to the first Tuesday in January next, it passed in the negative. And the two new sections proposed having been disagreed to, the President reported the bill amended.

On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States," was read the third time; and the blank having been filled, on motion, it was agreed that the further consideration thereof be postponed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes;" and Mr. MOORE submitted an amendment to the first section for consideration; and, on motion, it was agreed that the further consideration of the bill and amendment should be postponed.

TUESDAY, December 22.

A confidential message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," with amendments; in which they request the concurrence of the Senate.

The Senate took into consideration the amendments of the House of Representatives to the bill last mentioned; and concurred therein.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats,'" in which they request the concurrence of the Senate.

Mr. GREGG reported, from the committee, that they had examined and found correctly engrossed the amendments to the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia."

The bill last mentioned was read the third time; and, after debate, on motion, it was agreed to postpone the consideration of the bill, for the purpose of receiving the report of a committee; and Mr. SMITH, of Maryland, from the committee to whom was referred the Message from the President of the United States of the 18th December, made a further report, in part: Whereupon,

Ordered, That 500 copies of the Message, and certain documents therein referred to, also, of "the act laying an embargo on all ships and vessels in the ports and harbors of the United States," be printed for the use of the Senate; and that the injunction of secrecy on the Message and papers therein referred to, also on the proceedings in relation to the last mentioned act, be taken off.

On motion, to reconsider the order for publication, the Senate adjourned.

WEDNESDAY, December 23.

The bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats,'" brought up yesterday from the House of Representatives, was read. On motion, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. MITCHILL, SUMTER, ADAMS, MILLEDGE, and ROBINSON, the committee to whom was referred, on the 16th of November last, that part of the Message of the President of the United States which relates to the protection of the seaport towns and harbors of the United States, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes;" and the consideration thereof was then further postponed.

THURSDAY, December 24.

The Senate resumed the third reading of the bill supplementary to an act, entitled "An act fixing the Military Peace Establishment of the United States;" and

Resolved, That this bill pass, and that the title thereof be "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States.'"

Mr. MITCHILL, from the committee to whom yesterday was referred the bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats,'" reported the bill without amendment.

Ordered, That the further consideration thereof be postponed until Saturday next.

On motion, that the further consideration of the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, in the District of Columbia," be postponed until the second Tuesday in January next—a motion was made to amend the motion, and strike out "second Tuesday in January," and insert "first Monday in December;" and a division of the question was called for; and on the question for striking out, it was determined in the negative. And the original motion was agreed to.

SATURDAY, December 26.

The Senate assembled, and a quorum not attending, adjourned till Monday morning.

MONDAY, December 28.

The PRESIDENT communicated a report of the Attorney General of the United States, in pursuance of a resolution of the 6th of February last, on the table of fees and compensation paid in all the States composing the Union, except the States of Virginia and Kentucky; which were read, and referred to Messrs. BRADLEY, WHITE, and CONDIT, to consider and report thereon to the Senate.

The PRESIDENT communicated the petition of Bartholomew Berry, a wounded soldier in the Revolutionary war; also, wounded in the army under the command of the late General Wayne, and praying relief; and the petition was read, and referred to Messrs. REED, GREGG, and BRADLEY, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats;'" and Mr. MILLEDGE submitted sundry amendments for consideration; and, on motion that the bill, together with the proposed amendments, be recommitted to the original committee, the Senate were equally divided, and the PRESIDENT determined the question in the affirmative.

Ordered, That Messrs. GREGG and TIFFIN be added to the committee.

TUESDAY, December 29.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend certain privileges, as therein mentioned, to Anthony Boucherie;" also, a bill, entitled "An act supplemental to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;'" in which they request the concurrence of the Senate.

The bill first mentioned in the message was read, and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. TIFFIN, CONDIT, and GREGG, to consider and report thereon.

The bill last mentioned in the message was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes," together with the proposed amendment; and, after having agreed to amend the amendment, the Senate adjourned.

WEDNESDAY, December 30.

Mr. MITCHILL, from the committee to whom was recommitted the bill, entitled "An act supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," reported amendments; which were agreed to.

On motion, by Mr. CRAWFORD, further to amend the bill, as follows:

"*Provided*, That the following sums be laid out and expended for the purposes above mentioned, at the places and within the limits hereinafter enumerated, viz.: At New Orleans, sixty thousand dollars: within the States of Georgia, South Carolina, and North Carolina, two hundred and fifty-two thousand dollars: upon the Chesapeake and its waters, one hundred and sixty thousand dollars: within the Delaware bay and

river, New Jersey, and New York, three hundred thousand dollars: within the States of Connecticut and Rhode Island, thirty-one thousand dollars: within Massachusetts and New Hampshire, one hundred and thirty-five thousand dollars: and for other places not enumerated, or in addition to those places above-mentioned, sixty-two thousand dollars:"

It was determined in the negative—yeas 11, nays 19, as follows:

YEAS—Messrs. Anderson, Crawford, Gaillard, Goodrich, Hillhouse, Maclay, Milledge, Pickering, Sumter, Turner, and White.

NAYS—Messrs. Adams, Bradley, Condit, Gilman, Gregg, Howland, Kitchel, Mathewson, Mitchill, Parker, Pope, Reed, Robinson, Smith of New York, Smith of Tennessee, and Tiffin.

Ordered, That the consideration of the bill be further postponed.

The bill, entitled "An act supplemental to an act, entitled 'An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee,'" was read the second time, and referred to Messrs. CRAWFORD, BRADLEY, and GREGG, to consider and report thereon.

On motion, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes," was further postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate to Congress the enclosed letters from Governor Hull, respecting the Indians in the vicinity of Detroit, residing within our lines. They contain information of the state of things in that quarter which will properly enter into their view in estimating the means to be provided for the defence of our country generally.

TH. JEFFERSON.

DECEMBER 30, 1807.

The Message and papers therein mentioned were read, and ordered to lie for consideration.

THURSDAY, December 31.

Mr. TIFFIN, from the committee to whom was referred the bill, entitled "An act to extend certain privileges, as therein mentioned, to Anthony Boucherie," reported the bill without amendment; and the bill was ordered to a third reading.

CASE OF JOHN SMITH.

Mr. ADAMS stated that the committee appointed on the 27th November last, "to inquire whether it be compatible with the honor and privileges of this House that JOHN SMITH, a Senator from the State of Ohio, against whom bills of indictment were found at the Circuit Court of Virginia, held at Richmond in August last, for treason and misdemeanor, should be permitted any longer to have a seat therein," were ready to report: and he made the following motion, which was read and agreed to:

Ordered, That John Smith, a Senator from the State of Ohio, be notified by the Vice President to attend in his place.

The VICE PRESIDENT accordingly notified Mr. SMITH in the words following:

SIR: You are hereby required to attend the Senate in your place without delay.

By order of the Senate:

GEO. CLINTON,
President of the Senate.

JOHN SMITH, Esq., *Senator from the State of Ohio.*

And Mr. SMITH attended.

Whereupon, Mr. ADAMS made a report from the committee last mentioned; and the report was read, and three hundred copies thereof were ordered to be printed for the use of the Senate.

The report is as follows:

Your committee are of opinion, that the conspiracy of Aaron Burr and his associates against the peace, union, and liberties of these States, is of such a character, and that its existence is established by such a mass of concurring and mutually corroborative testimony, that it is incompatible not only with the honor and privileges of this House, but with the deepest interests of this nation, that any person engaged in it should be permitted to hold a seat in the Senate of the United States.

Whether the facts, of which the committee submit herewith such evidence as, under the order of the Senate, they have been able to collect, are sufficient to substantiate the participation of Mr. Smith in that conspiracy, or not, will remain for the Senate to decide.

The committee submit also to the consideration of the Senate, the correspondence between Mr. Smith and them, through their chairman, in the course of their meetings. The committee have never conceived themselves invested with authority to try Mr. Smith. Their charge was to report an opinion relating to the honor and privileges of the Senate, and the facts relating to the conduct of Mr. Smith. Their opinion, indeed, cannot be expressed in relation to the privilege of the Senate, without relating, at the same time, to Mr. Smith's right of holding a seat in this body; but, in that respect, the authority of the committee extends only to proposal, and not to decision. But as he manifested a great solicitude to be heard before them, they obtained permission from the Senate to admit his attendance, communicated to him the evidence in their possession, by which he was inculpated, furnished him, in writing, with the questions arising from it, which appeared to them material, and received from him the information and explanations herewith submitted as part of the facts reported. But Mr. Smith has claimed, as a right, to be heard in his defence by counsel, to have compulsory process for witnesses, and to be confronted with his accusers, as if the committee had been a circuit court of the United States. But it is before the Senate itself that your committee conceived it just and proper that Mr. Smith's defence of himself should be heard. Nor have they conceived themselves bound in this inquiry by any other rules than those of natural justice and equity, due to a brother Senator on the one part, and to their country on the other.

Mr. Smith represents himself, on this inquiry, as solitary, friendless, and unskilled, contending for rights which he intimates are denied him; and the defender of Senatorial privileges which he seems apprehensive will be refused him by Senators, liable, so long as they hold their offices, to have his case made their own. The committee are not unaware that, in the vicissitudes of

human events, no member of this body can be sure that his conduct will never be made a subject of inquiry and decision before the assembly to which he belongs. They are aware that, in the course of proceeding which the Senate may now sanction, its members are marking out a precedent which may hereafter apply to themselves. They are sensible that the principles upon which they have acted ought to have the same operation upon their own claims to privilege as upon those of Mr. Smith; the same relation to the rights of their constituents, which they have to those of the Legislature which he represents. They have deemed it their duty to advance in the progress of their inquiry with peculiar care and deliberation. They have dealt out to Mr. Smith that measure, which, under the supposition of similar circumstances, they would be content to find imparted to themselves; and they have no hesitation in declaring that, under such imputations, colored by such evidence, they should hold it a sacred obligation to themselves, to their fellow Senators, and to their country, to meet them by direct, unconditional acknowledgment or denial, without seeking a refuge from the broad face of day in the labyrinth of technical forms.

In examining the question whether these forms of judicial proceedings, or the rules of judicial evidence, ought to be applied to the exercise of that censorial authority which the Senate of the United States possesses over the conduct of its members, let us assume, as the test of their application, either the dictates of unfettered reason, the letter and spirit of the Constitution, or precedents, domestic or foreign, and your committee believe that the result will be the same; that the power of expelling a member must, in its nature, be discretionary, and in its exercise always more summary than the tardy process of judicial tribunals.

The power of expelling a member for misconduct results, on the principles of common sense, from the interest of the nation, that the high trust of legislation should be invested in pure hands. When the trust is elective, it is not to be presumed that the constituent body will commit the deposite to the keeping of worthless characters. But when a man, whom his fellow-citizens have honored with their confidence, on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart.

The question upon the trial of a criminal cause, before the courts of common law, is not between guilt and innocence, but between guilt and the possibility of innocence. If a doubt can possibly be raised, either by the ingenuity of the party or of his counsel, or by the operation of general rules in their unforeseen application to particular cases, that doubt must be decisive for acquittal, and the verdict of not guilty, perhaps, in nine cases out of ten, means no more than that the guilt of the party has not been demonstrated in the precise, specific, and narrow forms prescribed by law. The humane spirit of the laws multiplies the barriers for the protection of innocence, and freely admits that these barriers may be abused for the shelter of guilt. It avows a strong partiality favorable to the person upon trial, and acknowledges the preference that ten guilty should escape rather than that one innocent should suffer. The interest of the public that a particular crime should be punished, is but as one to ten, compared with the interest of the party, that innocence should be spared. Acquittal only restores the party to the common rights of every other citizen; it restores him to no public trust; it invests him with no public confidence; it substitutes the sentence of mercy for the doom of justice; and to the eyes of impartial reason, in the great majority of cases, must be considered rather as a pardon than a justification.

But when a member of a legislative body lies under the imputation of aggravated offences, and the determination upon his cause can operate only to remove him from a station of extensive powers, and important trust, this disproportion between the interest of the public and the interest of the individual disappears; if any disproportion exists, it is of an opposite kind. It is not better that ten traitors should be members of this Senate than that one innocent man should suffer expulsion. In either case, no doubt, the evil would be great. But, in the former, it would strike at the vitals of the nation; in the latter it might, though deeply to be lamented, only be the calamity of an individual.

By the letter of the Constitution, the power of expelling a member is given to each of the two Houses of Congress, without any limitation other than that which requires a concurrence of two-thirds of the votes to give it effect.

The spirit of the Constitution is, perhaps, in no respect more remarkable than in the solicitude which it has manifested to secure the purity of the Legislature by that of the elements of its composition. A qualification of age is made necessary for the members to insure the maturity of their judgment; a qualification of long citizenship, to insure a community of interests and affections between them and their country; a qualification of residence, to provide a sympathy between every member and the portion of the Union from which he is delegated; and to guard, as far as regulation can guard, against every bias of personal interest, and every hazard of interfering duties, it has made every member of Congress ineligible to office which he contributed to create, and every officer of the Union incapable of holding a seat in Congress. Yet, in the midst of all this anxious providence of legislative virtue, it has not authorized the constituent body to recall in any case its Representative. It has not subjected him to removal by impeachment; and when the darling of the people's choice has become their deadliest foe, can it enter the imagination of a reasonable man that the sanctuary of their legislation must remain polluted with his presence, until a court of common law, with its pace of snail, can ascertain whether his crime was committed on the right or on the left bank of a river; whether a puncture of difference can be found between the words of the charge and the words of the proof; whether the witnesses of his guilt should or should not be heard by his jury; and whether he was punishable, because present at an overt act, or intangible to public justice, because he only contrived and prepared it? Is it conceivable that a traitor to that country which has loaded him with favors, guilty to the common understanding of all mankind, should be suffered to return unquestioned to that post of honor and confidence, where, in the zenith of his good fame, he had been placed by the esteem of his countrymen, and in defiance of their wishes, in mockery of their fears, surrounded by the public indignation, but inaccessible to its bolt, pursue the purposes of treason in the heart of

the national councils! Must the assembled rulers of the land listen with calmness and indifference, session after session, to the voice of notorious infamy, until the sluggard step of municipal justice can overtake his enormities! Must they tamely see the lives and fortunes of millions, the safety of present and future ages, depending upon his vote, recorded with theirs, merely because the abused benignity of general maxims may have remitted to him the forfeiture of his life?

Such, in very supposable cases, would be the unavoidable consequences of a principle which should offer the crutches of judicial tribunals as an apology for crippling the Congressional power of expulsion. Far different, in the opinion of your committee, is the spirit of our Constitution. They believe that the very purpose for which this power was given was to preserve the Legislature from the first approaches of infection. That it was made discretionary because it could not exist under the procrastination of general rules; that its process must be summary, because it would be rendered nugatory by delay.

Passing from the Constitutional view of the subject to that which is afforded by the authority of precedent, your committee find that, since the establishment of our present National Legislature, there has been but one example of expulsion from the Senate. In that case, the member implicated was called upon, in the first instance, to answer whether he was the author of a letter, the copy of which only was produced, and the writing of which was the cause of his expulsion. He was afterwards requested to declare whether he was the author of the letter itself, and declining, in both cases, to answer, the fact of his having written it was established by a comparison of his handwriting, and by the belief of persons who had seen him write, upon inspection of the letter. In all these points the committee perceive the admission of a species of evidence, which, in courts of criminal jurisdiction, would be excluded, and, in the resolution of expulsion, the Senate declared the person inculpated *guilty of a high misdemeanor*, although no presentment or indictment had been found against him, and no prosecution at law was ever commenced upon the case.

This event occurred in July, 1797. About fifteen months before that time, upon an application from the Legislature of Kentucky, requesting an investigation by the Senate of a charge against one of the members from that State, of perjury, which had been made in certain newspaper publications, but for which no prosecution had been commenced, the Senate did adopt, by a majority of sixteen votes to eight, the report of a committee, purporting that the Senate had no *jurisdiction* to try the charge, and that the memorial of the Kentucky Legislature should be dismissed. There were, indeed, very sufficient reasons of a different kind assigned in the same report, for not pursuing the investigation, in that particular case, any further; and your committee believe that, in the reasoning of that report, some principles were assumed and some inferences drawn, which were altogether unnecessary for the determination of that case, which were adopted without a full consideration of all their consequences, and the inaccuracy of which was clearly proved by the departure from them in the instance which was so soon afterwards to take place. It was the first time that a question of expulsion had ever been agitated in Congress, since the adoption of the Constitution. And the subject being thus entirely new, was considered perhaps too much with reference to the particular circumstances of the moment, and not enough upon the numerous contingencies to which the general question might apply. Your committee state this opinion with some confidence, because of the sixteen Senators who, in March, 1796, voted for the report dismissing the memorial of the Kentucky Legislature; eleven, on the subsequent occasion, in July, 1797, voted also for that report, which concluded with a resolution for the expulsion of Mr. Blount. The other five were no longer present in the Senate. Yet, if the principles advanced in the first report had been assumed as the ground of proceeding at the latter period, the Senate would have been as impotent of jurisdiction upon the offence of Mr. Blount as they had supposed themselves upon the allegation against Mr. Marshall.

Those parts of the fifth and sixth articles, amendatory to the Constitution, upon which the report in the case of Mr. Marshall appears to rely for taking away the jurisdiction of the Senate, your committee suppose can only be understood as referring to prosecutions at law; to suppose that they were intended as restrictions upon powers expressly granted by the Constitution to the Legislature, or either of its branches, would, in a manner, annihilate the power of impeachment as well as that of expulsion. It would lead to the absurd conclusion that the authority given for the purpose of removing iniquity from the seats of power, should be denied its exercise in precisely those cases which most loudly call for its energies. It would present the singular spectacle of a Legislature vested with powers of expelling its members, of impeaching, removing, and disqualifying public officers, for trivial transgressions beneath the cognizance of the law, yet forbidden to exert them against capital or infamous crimes.

Those two articles were in substance borrowed from similar regulations contained in that justly celebrated statute, which for so many ages has been distinguished by the name of the Great Charter of England. Yet in that country, where they are recognised as the most solid foundations of the liberties of the nation, they have never been considered as interfering with the power of expelling a member, exercised at all times by the House of Commons; a power which there, however, rests only upon Parliamentary usage, and has never been bestowed, as in the Constitution of the United States, by any act of supreme legislation. From a number of precedents which have been consulted, it is found that the exercise of this authority there has always been discretionary, and its process always far otherwise than compendious in the prosecutions before the judicial courts. So far, indeed, have they been from supposing a conviction at law necessary to precede a vote of expulsion, that, in one instance, a resolution to demand a prosecution appears immediately after the adoption of the resolution to expel. In numerous cases the member submits to examination, adduces evidence in his favor and has evidence produced against him, with or without formal authentication; and the discretion of the House is not even restricted by the necessary concurrence of more than a bare majority of the votes.

The provision in our Constitution which forbids the expulsion of a member by an ordinary majority, and requires for this act of rigorous and painful duty the assent of two-thirds, your committee consider as a wise and sufficient guard against the possible abuse of this legislative discretion. In times of heat and violent party spirit, the rights of the minority might not always be duly respected, if a majority could expel their members under no other control than that of their own discretion. The operation of this rule is of great efficacy, both over the proceedings of the whole body, and over the conduct of every individual member. The times when the most violent struggles of contending parties occur—when the conflict of opposite passions is most prone to excess—are precisely the times when the numbers are most equally divided; when the majority amounts to the proportion of two-thirds, the security in its own strength is of itself a guard against extraordinary stretches of power; when the minority dwindles to the proportion of one-third, its consciousness of weakness dissuades from any attempts to encroach upon the rights of the majority, which might provoke retaliation. But if expulsion were admissible only as a sequel to the issue of a legal prosecution, or upon the same principles and forms of testimony which are established in the criminal courts, your committee can see no possible reason why it should be rendered still more imbecile by the requisition of two-thirds to give it effect.

It is now the duty of your committee to apply the principles which they have here endeavored to settle and elucidate, to the particular case upon which the Senate have directed them to report. The bills of indictment found against Mr. Smith, at the late session of the circuit court of the United States at Richmond, (copies of which are herewith submitted,) are precisely similar to those found against Aaron Burr. From the volume of printed evidence communicated by the President of the United States to Congress, relating to the trial of Aaron Burr, it appears that a great part of the testimony which was essential to his conviction upon the indictment for treason, was withheld from the jury upon an opinion of the court, that Aaron Burr, not having been *present* at the overt act of treason alleged in the indictment, no testimony relative to his conduct or declarations elsewhere, and subsequent to the transactions on Blannerhasset's island, could be admitted. And, in consequence of this suppression of evidence, the traverse jury found a verdict "that Aaron Burr was not proved to be guilty, under that indictment, by any evidence submitted to them." It was also an opinion of the court, that none of the transactions, of which evidence was given on the trial of Aaron Burr, did amount to an overt act of levying war, and, of course, that they did not amount to treason. These decisions, forming the basis of the issue upon the trials of Burr, anticipated the event which must have awaited the trials of the bills against Mr. Smith, who, from the circumstances of his case, must have been entitled to the benefit of their application; they were the sole inducements upon which the counsel for the United States abandoned the prosecution against him.

Your committee are not disposed now to question the correctness of these decisions on a case of treason before a court of criminal jurisdiction. But whether the transactions proved against Aaron Burr did or did not amount, in technical language, to an overt act of levying war, your committee have not a scruple of doubt on their minds that, but for the vigilance and energy of the Government, and of faithful citizens under its directions, in arresting their progress and in crushing his designs, they would, in a very short lapse of time, have terminated not only in a war, but in a war of the most horrible description, in a war at once foreign and domestic. As little hesitation have your committee in saying, that, if the daylight of evidence, combining one vast complicated intention, with overt acts innumerable, be not excluded from the mind by the curtain of artificial rules, the simplest understanding cannot but see what the subtlest understanding cannot disguise, crimes before which ordinary treason whitens into virtue; crimes of which war is the mildest feature. The debauchment of our Army, the plunder and devastation of our own and foreign territories, the dissolution of our national Union, and the root of interminable civil war, were but the means of individual aggrandizement, the steps to projected usurpation. If the ingenuity of a demon were tasked to weave, into one composition, all the great moral and political evils which could be inflicted upon the people of these States, it could produce nothing more than a texture of war, dismemberment, and despotism.

Of these designs, a grand jury, composed of characters as respectable as this nation can boast, have, upon the solemnity of their oaths, charged John Smith with being an accomplice. The reasons upon which the trial of this charge has not been submitted to the verdict of a jury, have been shown by your committee, and are proved by the letter from the Attorney of the United States, for the district of Virginia, herewith reported. And your committee are of opinion that the dereliction of the prosecution on these grounds cannot, in the slightest degree, remove the imputation which the accusations of the grand jury have brought to the door of Mr. Smith.

Your committee will not permit themselves to comment upon the testimony which they submit herewith to the Senate; nor upon the answers which Mr. Smith has given as sufficient for his justification. Desirous as the committee have been that this justification might be complete, anxiously as they wished for an opportunity of declaring their belief of his innocence, they can neither control nor dissemble the operation of the evidence upon their minds; and, however painful to their feelings, they find themselves compelled by a sense of duty, paramount to every other consideration, to submit to the Senate, for their consideration, the following resolution:

Resolved, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr against the *peace*, *union*, and *liberties*, of the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States. And that he be therefor, and hereby is, expelled from the Senate of the United States.

The documents accompanying the report are very voluminous. Among them is the answer of Mr. JOHN SMITH, covering ninety-six manuscript pages.

Mr. ADAMS also offered a further report, made in consequence of a supplementary instruction of the Senate. This report states the existence of an allegation against JOHN SMITH, that, since his election as a Senator, he had taken an oath of allegiance to the King of Spain. On inquiry, the committee consider the oath as having been taken, but previously to his election. They conclude with the opinion that it is unnecessary to take further order on this charge.

The first report was ordered to be printed. On the printing of Mr. SMITH'S answer, a short and desultory conversation took place. A part of that answer goes to implicate the character of Judge Nimmo, and the committee being of opinion that this part of the answer was altogether irrelevant

to the charges against Mr. S., it was thought by them unnecessary and improper uselessly to criminate Judge Nimmo by making the publication, leaving it, however, to the discretion of the Senate. This conversation was arrested by the reading of the whole paper, and others connected with it.

The motion to print Mr. SMITH's answer was then renewed and insisted upon by Mr. HILLHOUSE. It was opposed by Messrs. ADAMS, POPE, BRADLEY, and CRAWFORD, on the ground that it contained observations relative to Judge Nimmo, altogether irrelevant; that these, together with accompanying letters, related to his private life while in England, and that it would be highly improper for the Senate to sanction such a publication, especially in the case of one who could not be heard before them, in vindication of his character. It was, finally, on the suggestion of Mr. GOODRICH, determined to return the answer to Mr. SMITH, that he might expunge the exceptionable matter. In this Mr. SMITH acquiesced; when the Senate adjourned about 4 o'clock.

MONDAY, January 4. 1808.

JAMES A. BAYARD from the State of Delaware attended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" in which they request the concurrence of the Senate.

The bill was read and ordered to the second reading.

The PRESIDENT communicated a letter from JOHN SMITH, a Senator from the State of Ohio; which was read.

Mr. ADAMS laid before the Senate a letter from Mr. SMITH, directed to the chairman of the Committee of Inquiry, appointed 27th November; which letter Mr. S. requested might be considered as a part of his answer; and the letter was read.

The bill, entitled "An act to extend certain privileges, as therein mentioned, to Anthony Boucherie," was read the third time and passed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats;'" and the President having reported the bill to the House amended, it was ordered to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes;" and, on motion, to strike out of section 1, lines 6 and 7 of the bill, these words: "and having paid 'a county or territorial tax assessed at least six 'months previous to such elections;" and insert, 'and who has a legal or equitable title to a tract 'of land, by virtue of any act of Congress, or who 'may become the purchaser of any tract of land 'from the United States, of the quantity of fifty 'acres, or who may hold in his own right a town 'lot, of the value of one hundred dollars, within 'the said territory:"

A division was called for; and, on the question for striking out, it was determined in the affirmative—yeas 20, nays 11, as follow:

YEAS—Messrs. Bayard, Bradley, Crawford, Goodrich, Gregg, Hillhouse, Maclay, Mathewson, Milledge, Mitchill, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Turner, and White.

NAYS—Messrs. Adams, Anderson, Condit, Gilman, Howland, Kitchel, Parker, Pope, Reed, Robinson, and Tiffin.

On motion to insert, at the end of the third section, the following:

"*Provided*, That the provisions of this act shall not take effect, until the assent of the Legislature of the State of Georgia shall be given thereto:"

It passed in the negative—yeas 3, nays 27, as follows:

YEAS—Messrs. Crawford, Milledge, and Turner.

NAYS—Messrs. Adams, Anderson, Bayard, Bradley, Condit, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Maclay, Mathewson, Moore, Parker, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and White.

And the PRESIDENT having reported the bill, amended in the first and second sections, it was ordered to the third reading as amended.

TUESDAY, January 5.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," reported it with amendments; which were read; and ordered to lie for consideration.

The bill, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" was read the second time and referred to Messrs. SMITH of Maryland, ADAMS, and GAILLARD, to consider and report thereon.

The bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats,'" was read the third time and passed, with amendments.

The bill entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes," was read the third time as amended; on the question, Shall this bill pass as amended? it was determined the affirmative—yeas 18, nays 8, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Gilman, Goodrich, Gregg, Howland, Kitchel, Mathewson, Moore, Parker, Pope, Reed, Robinson, Smith of Maryland, Thruston, Tiffin, and White.

NAYS—Messrs. Bradley, Crawford, Maclay, Milledge, Smith of New York, Smith of Tennessee, Sumter and Turner.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" reported the bill with amendments; which were read for consideration.

On motion, by Mr. ADAMS, the minutes of the Committee of Inquiry, appointed the 27th November last, on the conduct of JOHN SMITH, a Senator from the State of Ohio, also, sundry papers relative to the inquiry, were read; and, on motion, by Mr. BRADLEY, it was agreed that the report of the committee be the order of the day for Thursday next.

WEDNESDAY, January 6,

The PRESIDENT communicated the report of the Postmaster General, in compliance with the 30th section of the act to establish the Post Office; also, his report, in obedience to the act of Congress, passed on the 21st April, 1806, which were severally read for consideration.

The Senate took into consideration the amendments reported by the select committee to the bill, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States;'" and on motion, to agree to the following amendment to section 2, line 13, of the bill: after the word "cargo," insert, "and shall never thereafter be allowed a credit for duties on any goods, wares, or merchandise, imported by him or them, into any of the ports of the United States:" it was determined in the affirmative—yeas 25, nays 5, as follows:

YEAS—Messrs. Adams, Anderson, Bradley, Condit, Crawford, Gaillard, Gilman, Gregg, Howland, Kitchel, Maclay, Milledge, Mitchill, Moore, Parker, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

NAYS—Messrs. Bayard, Goodrich, Hillhouse, Pickering, and White.

And the bill having been further amended, two additional amendments were proposed for consideration; and on motion the Senate adjourned.

THURSDAY, January 7.

WILLIAM B. GILES, from the State of Virginia, attended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" and the President reported the bill amended; and, further amendments having been agreed to, on the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to revive and continue in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

CASE OF JOHN SMITH.

Conformably to the previous order of the Senate, the report of the select committee was read—Mr. SMITH being at this time in his seat.

Mr. ADAMS observed that on Monday a letter had been received from Mr. SMITH addressed to the Senate, which had been then read, and on which it was perhaps proper that some order should be taken before the report was acted upon. Several requests were made on which some determination ought to be previously had.

[Mr. ADAMS here read the letter.]

Mr. A. proceeded, by observing that the letter represented that all the evidence adduced by the committee, excepting the two bills of indictment, was either taken ex parte, or without allowing Mr. S. sufficient time to interrogate the witnesses; that it asked for the aid of counsel; for time; and for the means of adducing proof in his defence. It represented that a more summary procedure was recommended in the report. It admitted that there was no necessity of a legal conviction previous to the expulsion of a member of the Senate: but contended that proof of the facts charged must be first established in a legal way; and that the Senate could then only exercise this Constitutional right of expulsion.

Mr. A. observed that the letter contained two distinct requests; one to be heard by counsel, the other, to have an opportunity of a trial, under the same rules of evidence as prevail in judicial tribunals.

Mr. JOHN SMITH rose, and said he would submit the requests he had to make in the form of a motion; which he accordingly did in the following terms:

"That John Smith be informed specifically of the charges against him; that he be allowed to make a defence against such charges, and have process to compel the attendance of witnesses, and the privilege of being heard by counsel."

The VICE PRESIDENT inquired whether this motion were seconded. After pausing for a reply, he said he should, without a second, consider it as an application of Mr. SMITH to the Senate.

Mr. ANDERSON intimated an opinion that it would be best to consider the requests distinctly.

The VICE PRESIDENT having read the first request,

Mr. ADAMS said he had been looking for precedents that bore on this case. With regard to the first and second requests, he was of the opinion that it was neither consistent with the powers of the Senate, nor proper, to grant them. With regard to the third request, there was a precedent in favor of allowing counsel on one point, viz: to show cause why the report of the committee should not be adopted. [Mr. A. here cited the case of William Blount to this effect.] To the last request, therefore, he had no objection. To

the two other requests he had an objection. He considered it neither necessary nor proper that the specific charges should in such case be made out. The charges in this case were repeatedly stated in the report to be founded on the bills found by the grand jury. These, and the evidence on which they are sustained, had been communicated to Mr. SMITH.

As to the request to be entitled to the benefit of all the rules of evidence enforced in courts of law, and to compulsory process for the attendance of witnesses, Mr. ADAMS had great doubts whether such a power existed in the Senate. The compulsory process issued by a court was a subpœna to a judicial officer of the United States commanding the witnesses to attend in person. If this order was not obeyed, the court had power to issue an attachment to bring the witness into court by force: and the laws had provided that every such person should be compensated. He would ask, by what process, and under what penalties, the Senate could compel the attendance of witnesses. If they refused to attend, would it be said the Senate possessed the power of issuing an attachment for contempt.

Mr. SMITH complains that the proceedings against him have been ex parte. Mr. ADAMS said they might necessarily be so on the question of expulsion. If the member were tried as before a court, there must be a prosecutor. Who was in this case the prosecutor? There was none, unless they should appoint an Attorney General.

Another complaint, made by Mr. SMITH, was the taking depositions as evidence. But if we go by the rules of courts, not only these depositions, but the Message of the President, (containing the proceedings in the case of Burr) are mere waste paper. We must have all the witnesess here.

Another thing. It had been decided in the courts that the President was liable to process, and that he might be required to adduce papers. If this rule apply in this case, we can receive no communication from the President as testimony. We must issue our subpœna *duces tecum*, to bring him before us, and have him sworn. Mr. A. would ask gentlemen whether this was practicable or possible? He conceived not.

As to the reasoning in the report he should say no more about it. The letter and spirit of the Constitution, and every precedent that could be adduced, concurred to show that proceedings of this kind must be summary, and, consequently were not in the least analogous to the rules of courts.

Mr. SMITH had charged the committee with an error in citing the case of Blount in support of their opinion. But the report stated that Mr. Blount was called to give evidence relative to a letter with the writing of which he was charged. Was that such evidence as would be admitted in a court of justice?

The report also stated that in that case a comparison of hands had been admitted as evidence, which would not have been admissible in a court of law. A witness would be allowed there to express his belief that such were the handwriting of another; but there was a great difference between this and a comparison of hands. In the case of Algernon Sidney, the latter species of proof, it was true, had been admitted; and he had been convicted and executed; but it was known that the admission of this species of evidence had afterwards been the ground for a reversal of his attainder.

Mr. MITCHILL remarked that the authority under which the Senate were acting was given by the Constitution, which provides that "each House may, with the concurrence of two-thirds, expel a member." This was a broad power; and there was no particular form or course prescribed for its exercise. The request of Mr. S. is to have the proceedings here similar to those established in the judicial courts. Mr. M. said he did not conceive that the organization of the Senate admitted this. He certainly considered himself in a light very different from that of an accuser. It was sufficient for him, on this point, that if the gentleman wished a trial, he might have had it at Richmond, by giving his attendance there, instead of remaining at a distance. In this way he might have undergone a purgation by law on specific charges. Why he had not done this, he could himself best say.

Mr. M. viewed the power of expulsion as one which was to be exercised under a sound discretion and on the principles of honor and justice, and that the Senate, in discharging their duty, were bound by higher rules than the mere technical rules of law, by the great rule "to do unto others as you would others should do unto you." The organization of the Senate was such as to preclude it from sitting as a court of justice in such a case. Should it resolve itself into a judicial form, the trial of a member would be protracted to an endless length. He could have no idea of their getting through the case this session, and the member might in all probability continue to hold his seat until the expiration of the time of his appointment. For these reasons he believed that another course than that desired by the gentleman must be taken; one, which, although not conformable to the proceedings of a court of law, would be equally conformable to the principles of justice.

Mr. M. said, that with regard to the conduct of the principal in this conspiracy, there could be no hesitation in the mind of any man in believing that the design was to sever the Union, and to invade the territory of a foreign Power at peace with the United States, and that the circumstances of the acquittals at Richmond were such that the impression was very strong on the public mind that the individuals acquitted had not wrought an exoneration from suspicion. To these circumstances the committee in their report refer, so far as relates to an alleged accomplice. And if there were an individual in the Senate who had participated in this conspiracy, it was a subject for the exercise of the sound discretion of the Senate, whether such a person should remain in it. For these reasons, Mr. M. said he was against complying with the two first requests of Mr. S.

With regard to the other, although he did not consider it absolutely incumbent on the Senate to grant it, in a case where the gentleman inculpated was present and possessed in himself the ample means of defence; yet when he made the request that he might be so indulged, he could not refuse granting it.

Mr. HILLHOUSE said he should not go into any consideration of the subject, in answer to the gentleman who had spoken, as to the nature of this case. He was not prepared for such an examination; nor had the Senate reached this stage of the business. He could only observe that in the case of Blount there was no such testimony admitted as in the present case. The fact was this: The committee appointed made a certain discovery of a letter alleged to be in the handwriting of Mr. Blount, which could be proved by two Senators present. The declarations of those Senators were not received as testimony; but a magistrate was sent for, and the two Senators were sworn; and there was no testimony received but what would have been legal testimony in a court of justice. They called on Mr. Blount to say whether the letter was in his handwriting; he declined answering; and the call was not enforced. What the gentleman from Massachusetts had read was merely the report of a committee.

Mr. H. said it appeared to him premature to go into this discussion at this time. A person was accused. The report in this case was sufficient ground for proceeding without an indictment.

In this respect, therefore, he did not think it necessary to do anything. The first point to be decided was, whether this person should have the aid of counsel. If so, it was proper that he should have it, as well with regard to the mode of conducting the trial, as on the trial itself. Such was the course pursued in the case of Blount. He should therefore move that John Smith, of Ohio, be heard by counsel, not exceeding two. After this, other questions as to time and testimony might arise; on all which the accused ought to be heard.

Mr. ADAMS did not believe the course recommended by the gentleman from Connecticut correct. It seemed to him extremely improper to bring in counsel to debate with the members of the Senate on every point that might be raised. If this course were adopted, the counsel would become a member of the Senate, and be entitled to make motions, which would be debated by him and the members. So far as the precedent in the case of Blount went—and however he might respect the gentleman from Connecticut, he must respect still more the information contained in the record of that case—he was willing to go. If this were a new case, he might be of a different opinion. He believed that in the country from which most of their precedents were derived, it was wholly unprecedented for counsel to be heard on a motion of expulsion. But he had no objection to the allowance of counsel to show why the report should not be adopted. But to place every member of the Senate in the same situation with counsel was highly improper, and yet this would infallibly follow should the ideas of the gentleman prevail. To obviate this difficulty he moved to add, "to show cause why the report of the committee should not be adopted"—which was the course pursued in the case of Blount.

Mr. HILLHOUSE wished to say one word on the difficulty started by the gentleman from Massachusetts, which, in his opinion, could never arise except from the imprudence of members. He presumed that every member would have such a regard to his character as not to enter into litigation with lawyers. The Senate would undoubtedly proceed with its usual solemnity; would hear the defence, and afterwards take the subject up by themselves in the same way as they did in the case of Blount; in which case the counsel were fully heard; after which the Senate took up the subject and debated it by themselves very largely.

Mr. BAYARD said he did not know that the amendment varied materially from the original motion, which, if adopted, would leave the whole question as open as under the original motion. For, if adopted, the counsel may come forward and show that the report ought not to be adopted, because the facts set forth in it were not legally proved, because time had not been allowed the accused to adduce testimony, and from other considerations. But he would take the liberty of telling the gentleman from Massachusetts that he had not taken the amendment which he had proposed from the record in the case of Blount. The resolution adopted in that case was the same as had been moved in this case by the gentleman from Connecticut; and that resolution having been adopted, the additional words—those words now moved as an amendment—were merely the act of the President of the Senate in addressing the counsel. The Journal says, "the President then said," &c.

Mr. B. said he considered the course pointed out by the gentleman from Connecticut correct. The only existing motion was to allow Mr. SMITH to be heard by counsel, to which there did not appear to be any objection. He should, indeed, think it strange if there were, as in justice and candor the Senate were bound to give him the same advantages that were allowed to any other person on his defence. It was a maxim of the best lawyers that no man ought to be counsel in his own case; for when we are agitated by those feelings which are unavoidably excited when our lives, our characters, or property, are at stake, we are seldom able to conduct our case with that coolness and perspicuity often essential to a favorable issue.

As this case too would form a precedent, it ought to be considered what a disparity of talent characterized even the members of the same body. The gentleman from Massachusetts, for instance, might be able to make a powerful defence, while other members, not possessed of the same intellectual attainments, or not accustomed to public speaking, might experience no inconsiderable embarrassment. Such, Mr. B. believed, was in some measure the situation of the present party, who was not a professional man, and not so exten-

sively in the habit of public speaking as other members of the Senate.

Mr. B. viewed it premature to decide what course should be taken by counsel. It would be prejudging the case to decide on these points before a hearing; it would be first to punish and then to listen to the defence. If, said he, the benefit of counsel is allowed, let us do it in a handsome, in a liberal manner, worthy the dignity and character of this body; and not in such a way as to exhibit the mere semblance and shadow of justice.

Mr. B. said he did not think it necessary to go into a detail on the request made by Mr. SMITH. As to being furnished with a specification of the charges against him, he thought nothing could be more reasonable. Was he to be suffered to wander in darkness? How could he be prepared for defence until he knew what the charges were? To furnish a specification of the charges preferred against an accused man was consonant to all the proceedings which he knew of, not only in this country, but in every country on earth where there existed a shadow of liberty. Were they to be told that the life of Mr. SMITH was not jeopardized; that even his property was not implicated. True. But he would appeal to the honorable feelings of the body, whether his interest in this decision might not be more valuable to him and his posterity than if he were to be sent to the scaffold and his property be confiscated. Its effect was to deprive him of his honest fame, which would be forever gone. Wherever such an interest existed, they were bound to protect the reputation of an individual by the same principles and rules which were provided by the benignant indulgence of the laws in cases where life and property was implicated. Mr. B. could not say that the charges ought to be specified with the minuteness of a special pleader. But they ought to be so specified that the accused could clearly comprehend and meet them. When, however, he referred to the resolution, he was ready to consider it as sufficiently explicit, and willing to rest this point on that ground.

The next question is, whether Mr. SMITH shall be allowed to make any defence, and if so, by what rules of evidence it, as well as the charges against him, shall be supported. I have read, said Mr. B., the report of the committee. It is certainly an eloquent report. I do not say that I approve all the principles it maintains, but I am willing to allow that it is drawn by the hand of a master. It has, however, one fault, and that is, that it does not bear on the point in question. On abstract principles it is very elaborate; but it leaves the mind, so far as relates to this case, as barren of information as it was before. I do not consider the question to be, whether there was a conspiracy of which Burr was the author. That such a conspiracy did exist I firmly believe; and I further believe that scarcely a man in the United States doubts it. Nor is it the question, whether the course pursued against Burr has been as discreet as it might have been, or whether certain alleged subtilities ought to have been discarded by the courts of law. The only question is, whether JOHN SMITH did participate in this conspiracy. If he did, even in the smallest criminal degree, I shall have no hesitation in giving my vote for his expulsion. But Mr. SMITH declares that he had no criminal participation in it. He says his doors may have been hospitably opened to Aaron Burr, and though appearances may to a certain degree be against him, he had no criminal intent—he contemplated no severance of the Union—he meditated no invasion of the territory of a nation in amity with the United States. Give him an opportunity, and he says he can explain everything alleged against him. I am not making the defence of JOHN SMITH, I am only contending that he ought to be heard. But what signifies hearing a man, if he be not given an opportunity of defence? What is the question? Merely a question of fact, whether he be guilty or innocent of this participation. Will you not allow him to be tried? How? By evidence. And what is the ordinary evidence in such cases? That of witnesses. Suppose he is accused on the testimony of a single individual? I demand, whether you will suffer your zeal to punish the offence, so far to transport you, as to lead you to punish without investigating the evidence? Would not this be a mockery of justice, to say you will hear the defence, and yet not investigate the credibility of testimony?

In reply to the remark of Mr. ADAMS, that this case was different from ordinary cases, inasmuch as there was no prosecutor or party, Mr. B. said that the committee was to be considered as taking a part in it.

But it was said that from the nature of the case it was necessary to be expeditious, and that the decision did not admit of delay. Mr. B. said this wore too much the semblance of that revolutionary spirit which had been so conspicuously displayed in another country. The only question was a mere question of fact; and instead of determining this on the established principles and rules of common law, gentlemen contend for our taking our own conceits and whims for evidence. If, said Mr. B., you will not take the ordinary rules of evidence, what rules will you take? Will it be said that mere hearsay shall be received; or ex parte depositions taken in a case not connected with that under consideration? I beg the House to consider the consequence of such procedure. Though such a decision may be fair in this case, who will pretend to say what may not be the consequences of such a precedent? If such a principle is to prevail, what more will be necessary than to send to the woods, take the deposition of a man you know nothing about, and in which there may consequently be the vilest perjury, and receive this as proof, without giving the party accused an opportunity of defending himself? A more dangerous principle cannot be established.

As to the precedent relied upon, the gentleman from Connecticut has shown that the observations of the gentleman from Massachusetts are not correct.

[Mr. B. here read extracts from the Journals, to show that, what had been ascribed to the Senate, was only the act of a committee.]

Mr. B. said he was not, in these remarks, finding fault with the report of the committee, who were only to be considered in the light of a grand jury or inquisition, whose opinion was not final. In the case of Blount, the Senate, after a report of a select committee, had required the same strictness of evidence that is required in criminal cases. It was not possible in a civil or criminal case more strictly to prove a paper, than had been done in that instance.

There was, moreover, a strong distinction between the case of Blount and this case. In the first case there was but one point of fact; the letter being proved to be that of Mr. Blount everything was established. He denied it; when proved, stronger evidence could not be adduced.

How different is this case! There is no letter of Mr. SMITH that establishes his guilt. He is charged with participating with Col. Burr. How are points which go to establish this participation to be met but by witnesses from Ohio? With regard to one witness, Mr. B. said he was informed that Mr. S. believed himself able to disprove his allegations by other witnesses.

Mr. B. said, he would ask gentlemen to bring the case home to themselves. Suppose a deposition taken, several hundred miles off, criminating them, and that they had the means of proving it false by distant witnesses? Could anything be more injurious to them than to precipitate a trial, and prevent the party from meeting fairly and fully the accusation against him?

Mr. B. said, he had gone further than he had intended when he first rose. He had no other object in rising than to point out the course which he thought ought to be pursued. The present question simply was to allow counsel. He did hope and presume there would be no difficulty on this point. In his opinion, the Senate ought not to decide whether the party should have compulsory process for the attendance of witnesses until counsel were heard, although he perceived no defence which could be made by the party without such evidence. He concluded by expressing a hope, that, if if it should be found, that Mr. S. did participate in the conspiracy of Aaron Burr, they would all concur in the final vote they should give.

Mr. ADAMS said, he would not trespass on the time of the Senate by entering into the wide field the gentleman from Delaware had indulged in, when the only question was on the amendment. The gentleman had commenced his remarks by saying, that this amendment would make no alteration in the original motion. Well, if it made no alteration in it, was it necessary by a speech of an hour-and-a half to enter into such a wide discussion? In fact, Mr. A. said, he did not yet know, whether the gentleman intended to vote for the amendment or not. He had not informed them on this point. He had, it was true, told them the report related to any other than the subject before them. Might he not so far retort as to say that his speech related to anything but the subject before the Senate?

The remarks of the gentleman related to topics that might be very properly discussed before the final decision of the Senate. As to the admissibility of testimony, Mr. A. did not consider that point as precluded by the motion.

But there were some remarks offered by the gentleman, which Mr. A. could not hear and remain silent. The gentleman had observed, that he could not say there was, in this instance, no party, but that the committee was that party, that the committee was an inquisition.

Mr. BAYARD disclaimed any reference to a Spanish inquisition; he merely meant by "inquisition" a term equivalent to grand jury.

Mr. ADAMS said, he had no idea of being himself a party in this case. So considering it, he must view everything said on this point irrelevant. The gentleman asks, if we depart from the principles of a court of law, what principles we will follow? Whether we will follow our own conceits, and whims, or mere hearsay? No, sir, said Mr. A., I desire the Senate to take none of them. I wish them to take for their guide a sound discretion, what the Constitution requires and what every man's experience in private life teaches him the value of. It is as necessary here as anywhere else. Why take the rules of evidence as prescribed in a court of justice? Are there no other rules? I say those rules are most properly confined there; and the moment we issue from those halls we must take others. No man who has a sense of religion can take them without departing from his faith. Why are we bound by them any more than a man is in his private family? Suppose a man detects his servant in stealing, and tells his other servants to turn him out of his kitchen? Would he listen to the remonstrance, that he was acting unjustly, because the act was not proved in a court of law, according to the technical rules of evidence, and wait until it was so proved? I presume not. Well, if a man, in all the transactions of life, is not bound by those rules, why are we bound by them, when the Constitution gives us a discretion to act as we see fit? Discretion is neither whimsy nor caprice.

But when the gentleman proceeds and inquires whether we are to take *ex parte* depositions, that is another thing. Such depositions have been taken, not only against, but for, Mr. SMITH. Indeed, two-thirds of them are of the latter description. The nature of this species of testimony will be weighed, and we may safely trust to the reason and discretion of every Senator to give it its proper weight.

The gentleman says, as to the conspiracy of Burr, it is admitted, on all hands, there is no question. In so saying, the gentleman undertakes to answer for more than he (Mr. A.) would, as it is very probable, if counsel should be allowed, they would make this the first point. They will tell you that the conspiracy must be first proved by testimony admissible in a court of justice.

The gentleman contends for the ground of pre-

cedent in the case of Blount, and says that the depositions of the two Senators was the only evidence received in the Senate on that occasion. Did the gentleman, in a court of justice, ever hear a judge ask the accused if he wrote a letter containing matter against himself? If he has, it is a kind of court of justice, Mr. A. said, he had never heard of. This very question was put in the case of Blount. There was no answer. But was it not considered as evidence? If not, why was it asked?

Mr. A. said, he should not enter further into the subject. The gentleman, with great eloquence, had argued in favor of allowing counsel. To that no objection had been made. In support of this request, it had been said that a member may be accused who has not the faculty of public speaking. This, Mr. A. believed, was not the case with regard to the member implicated, but if it were, and counsel should not be allowed, he believed that, in the opinion of the Senate and of the world, he would not be destitute of counsel.

Mr. ANDERSON observed, in support of the amendment, that it specified the subject on which counsel were to be heard. Without such specification there would be no data for them to act on. Being a member of the committee that brought in the report, although the observations of the gentleman from Delaware were irrelevant to the question before them, Mr. A. said, he should take some notice of them. The gentleman said when he looked around him, he could not say there was no party——

[Mr. BAYARD explained, and disclaimed any insinuation that any member of the Senate was a party against Mr. SMITH. He only meant to say that the committee had an active agency in bringing forward the charges.]

Mr. ANDERSON then explained the manner in which the business originated at the instance of Mr. SMITH.

Mr. A. added that, when the whole subject came before the Senate, it would be found that the report was not founded on a single witness or deposition; and that the witnesses had been examined by Mr. SMITH. He had only thought it proper to say thus much at this time, as the other points introduced were altogether irrelevant.

Mr. HILLHOUSE said he had no objection to the amendment, as from the explanation of gentlemen it did not appear intended to exclude discussion on any preliminary questions that might be raised. Before he sat down, he wished to know whether the gentleman from Massachusetts, in his closing observation, referred to him? whether he meant to insinuate that he was acting as advocate or counsel for the individual accused? He did nothing but from a sense of impartial justice, and the duty he owed his country.

Mr. CRAWFORD saw no reason for restricting the number of counsel, and moved to strike out the restriction.

Mr. ANDERSON, viewing the allowance in the light of a favor, was for limiting the number of counsel.

Mr. GILES thought it would be best to limit the number of counsel. He wished, however, to ask whether Mr. S., while this business was pending, had a right to a vote as a Senator, as this circumstance might greatly influence his mind. The bodies from which they usually derived their precedents were only considered as bound, on a question of expulsion, by a sound discretion. Could the Senate lay their hands on a member while such a question was pending? If not, and the ideas avowed by gentlemen should prevail, a decision might be protracted to the full period of the member's time of service. And, if they could, the effect would go to deprive a State of half its representation. He made these remarks to show that this case was extremely different from those cases ordinarily brought before a court of justice.

Mr. G. said that the case of an impeachment was very different from that of expulsion, for which the Constitution had prescribed different modes of procedure. In the former they sat in a judicial character, while in the latter they appeared to act in their legislative capacity. From this it would seem that a very different course ought to be pursued in the two cases. A gentleman had inquired what security there could exist, if the procedure of courts of justice were violated? That, said Mr. G., arising from a sound discretion, which I believe as efficient as that which rests on the technical rules of law, and to guard which against abuse, the concurrence of two-thirds of the body is requisite.

Mr. G. said, he had one word to say as to the ideas of the gentleman from Delaware. He would show, by his own remarks, that he was guided by contradictory principles. He has observed that he is persuaded that all America is satisfied that Aaron Burr is guilty of a conspiracy. Did this conviction arise from the proceedings at Richmond? No. And yet he is of opinion that he is guilty; in which, I, said Mr. G., concur, It must be, therefore, on other principles than those of courts of justice. I conclude, therefore, that we must, under such circumstances, resort to different principles.

Mr. CRAWFORD withdrew his motion.

Mr. S. SMITH asked for the yeas and nays, lest, from the length of time taken up by the gentleman from Delaware, there might be some impression made on the public mind, that there existed an objection to the allowance of counsel.

Mr. BAYARD said, if the gentleman from Maryland had attended to his remarks, he would not have made this observation, as they had arisen naturally from the ideas expressed by the gentleman from Massachusetts. He was sensible of the embarrassment suggested by the gentleman from Virginia; he was, however, also sensible of the justice due to an accused member of the Senate; and, if they decided without evidence, they would condemn him unheard. To allow him counsel, without allowing him the means of defence, would be a mere mockery of justice; it would be to allow the form, and deny the substance. They had been told that the Senate ought to be governed by a wise discretion. To show the light in which

the discretion of a judge ought to be viewed, he would quote the words of Lord Camden.

[Here Mr. B. quoted the strong language of Lord C. on this point.]

Mr. BAYARD here recapitulated, and expanded several of the arguments previously insisted upon by him.

But, said Mr. B., I am told by the gentleman from Virginia that I have departed from my own rule in what I have admitted with regard to the conspiracy of Burr. I stated that I had no doubt of the conspiracy of Burr; and the gentleman asks on what ground I have embraced this conviction? I believe it on the same ground that I believe there is such a place as Kentucky, or Paris, without any deposition to that effect. But, I will go further. In the whole course of the defence of Mr. SMITH, this conspiracy is admitted. Why, therefore, should we, in this case, dispute its existence? In all controversies, whatever is not denied is considered admitted. The only real question, therefore, is, whether JOHN SMITH participated in this conspiracy? If the conspiracy is denied, I say it ought to be proved. I will put a case. Suppose a gentleman charged with participating in a conspiracy set on foot by Gen. Wilkinson? I mean not to insinuate that he has ever been concerned in one, but I have a right to put the case; not meaning to injure that gentleman by intimating the smallest belief in it, but merely putting the case, as such a charge has been made in the other House; suppose the individual charged, and brought on his trial, and he should aver that he did not participate in such a conspiracy, and declare that no such conspiracy existed? Am I to be told that, because this individual is charged with participating in it, it is to be taken for granted that it did exist? Suppose him charged with participating with a man I never heard of, may I not call for proofs of the conspiracy of that man? And have I not a right to call for facts, and demand witnesses? I do not, however, presume that the general conspiracy of Aaron Burr will be denied; for the acquittals at Richmond do not negative the charge of a conspiracy, as stated by the gentleman from Virginia.

The gentleman from Massachusetts has been called upon for an explanation, but he has not condescended to make an explanation. May I be permitted to repeat the request? Does the gentleman mean to insinuate that any member on the floor, from other than public considerations, would defend an accused man, or on grounds which he considered wrong? If the gentleman persists in refusing an explanation, I have a right to say, in this case, we want no attorney general; and, if there is none, that still a prosecutor would not be wanting.

The VICE PRESIDENT called the attention of the Senate to the real question under consideration, and intimated his expectation that gentlemen would confine themselves to it.

Mr. POPE presumed that, after this admonition from the Chair, it would be out of order to reply to the remarks of Mr. BAYARD, which he should otherwise have noticed.

The question was then taken on the resolution offered by Mr. HILLHOUSE, and amended at the instance of Mr. ADAMS, (in which amendment Mr. H. acquiesced,) and carried by a unanimous vote, as follows:

Messrs. Adams, Anderson, Bayard, Bradley, Condit, Crawford, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Maclay, Mathewson, Milledge, Mitchill, Moore, Parker, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner and White.

FRIDAY, January 8.

The bill entitled "An act to revive and continue in force for a further time the first section of the act, entitled, 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the second time, and referred to Messrs. SMITH of Maryland, BRADLEY, and ADAMS, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES.

To the Senate and House of Representatives of the United States.

I communicate, for the information of Congress, the report of the Director of the Mint, of the operation of that establishment during the last year.

TH. JEFFERSON.

JANUARY 8, 1808.

The Message and report referred to were read; and ordered to lie for consideration.

Another Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

I now render to Congress the account of the fund established for defraying the contingent expenses of Government for the year 1807. Of the sum of $18,012 50, which remained unexpended at the close of the year 1806, $8,731 11 have been placed in the hands of the Attorney General of the United States, to enable him to defray sundry expenses incident to the prosecution of Aaron Burr and his accomplices, for treasons and misdemeanors alleged to have been committed by them. And the unexpended balance, of $9,275 39, is now carried, according to law, to the credit of the surplus fund.

TH. JEFFERSON.

JANUARY 8, 1808.

The Message and papers therein referred to were read.

The Senate took into consideration, as in Committee of the Whole, the amendments reported to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington;" and ordered that the further consideration thereof be postponed until the 25th of the present month.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force for a limited time an act, entitled 'An act continuing for a limited time the salaries of the officers of Government therein mentioned." in which they request the concurrence of the Senate.

The bill last brought up for concurrence was

read, and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. ANDERSON, GREGG, and ADAMS, to consider and report thereon.

The bill, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" was read the third time as amended; and the blank having been filled, the bill was passed with amendments.

SATURDAY, January 9.

Mr. CRAWFORD, from the committee to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee,'" reported amendments; which were read for consideration.

MONDAY, January 11.

Mr. ADAMS submitted the following motion for consideration:

"*Resolved*, That a committee be appointed, with leave to report by bill or otherwise, and instructed to inquire at what period the present embargo can, consistently with the public interest, be removed; and whether, in what manner, and to what extent, upon its removal, the merchant vessels of the United States shall be permitted, in defence of their lawful commerce, to be armed against, and to resist, foreign aggression."

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act to continue in force, for a limited time, an act, entitled 'An act continuing, for a limited time, the salaries of the officers of Government therein mentioned,'" reported the bill with amendments; which were read for consideration.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported to the bill, entitled "An act supplementary to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" and, the PRESIDENT reported the bill amended.

Ordered, That it pass to the third reading as amended.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act to revive and continue in force, for a further time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" reported the bill without amendment.

On motion, it was agreed to amend the bill, by expunging the words "and no longer," after the words "January next."

Ordered, That the bill pass to the third reading as amended.

TUESDAY, January 12.

A message from the House of Representatives informed the Senate that the House have passed an act, entitled "An act for the relief of Oliver Evans;" also, a bill, entitled "An act to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase;" in which bills they request the concurrence of the Senate.

The two bills last brought up for concurrence were read, and ordered to the second reading.

On the request of Mr. SMITH, of Ohio, for a copy of the minutes of the committee appointed on the 27th of November last, to inquire into his conduct; and, also, a copy of all the correspondence between them and himself:

The following motion was made by Mr. CRAWFORD:

Ordered, That a copy of the minutes of the committee appointed on the 27th of November last, to inquire into the conduct of John Smith, of Ohio; also, a copy of the correspondence between the committee and the said Smith, be furnished to the said John Smith.

And on the question to agree to this motion, it was determined in the affirmative—yeas 17, nays 9 as follows:

YEAS—Messrs. Bayard, Crawford, Goodrich, Gregg, Hillhouse, Howland, Mathewson, Milledge, Mitchill, Pickering, Pope, Reed, Smith of New York, Sumter, Thruston, Turner, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Giles, Gilman, Kitchel, Moore, Parker, and Smith of Tennessee.

WEDNESDAY, January 13.

Mr. FRANKLIN, from the State of North Carolina, attended.

The bill, entitled "An act for the relief of Oliver EVANS," was read the second time, and referred to Messrs. GREGG, GILES, and MITCHILL, to consider and report thereon.

The bill, entitled "An act to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase," was read the second time, and referred to Messrs. MITCHILL, WHITE, and BRADLEY, to consider and report thereon.

Mr. TIFFIN stated, that, agreeably to the instructions of the Legislature of the State of Ohio, he submitted a resolution for consideration; which was read, and is as follows:

Resolved, That a committee be appointed to inquire into the expediency of authorizing a loan, for seven years, of seven thousand stand of arms, and twenty pieces of artillery, with carriages complete, to the State of Ohio; for the purpose of assisting to arm the militia of the said State, under such restrictions as the President may prescribe, as to their safe-keeping and re-delivery; and that they have leave to report by bill or otherwise.

The PRESIDENT communicated the report from the Secretary of the Treasury, in obedience to the resolution of the Senate of the 3d of March last; which was read for consideration.

The bill, entitled "An act to revive and continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" was read the third time as amended.

Resolved, That this bill pass with amendments.

The bill, entitled "An act supplementary to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee,'" was read the third time as amended.

Resolved, That this bill pass with amendments.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported to the bill, entitled "An act to continue in force for a limited time an act, entitled 'An act continuing, for a limited time, the salaries of the officers of Government therein mentioned;'" and the President reported the bill amended.

Ordered, That it pass to the third reading as amended.

CASE OF JOHN SMITH.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the committee appointed the 27th of November last, to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio.

The PRESIDENT stated to Mr. SMITH, that he had now an opportunity to show cause why the report of the committee should not be adopted; and he was desired to name his counsel.

He accordingly informed the Senate that he had engaged Luther Martin and Francis S. Key, Esquires, as counsel; and on the motion of Mr. Bradley, Shall Mr. Key be admitted as counsel for Mr. Smith? it was determined in the affirmative; and on motion, Shall Mr. Martin be admitted as counsel for Mr. Smith? it was determined in the negative.

On request, by Mr. BAYARD, that Mr. SMITH inform the Senate whether, under present circumstances, he is ready to proceed—Mr. SMITH, by his counsel, offered his affidavit, together with the following application:

"John Smith, of Ohio, offers his affidavit to the honorable Senate, and requests a reasonable time to procure the testimony therein stated, and the proper means to enable him to produce it."

The affidavit was read as follows:

JOHN SMITH, of Ohio, makes oath on the Holy Evangelists of Almighty God that he can prove, by legal and competent testimony, the truth of the following facts, and that he can produce such proof before the honorable Senate of the United States, if allowed a reasonable time, and the usual means for that purpose.

He can prove that the testimony delivered against him before the grand jury at Richmond, is utterly destitute of credit—of one of those witnesses, Elias Glover, he can prove, that the general character is such as to render him unworthy of belief, that he has been guilty of acts of the greatest baseness, has been published as a liar, and is generally considered in the country where he resides and is known as a person destitute of truth; this he can prove by the testimony of the most respectable persons in Cincinnati, by Dr. Stall, John Sellman, Stephen McFarland, Judge Dunlavy and many others.

Of the other witness, Peter Taylor, the obscurity of his situation, as servant of Blannerhasset, his being a foreigner, and scarcely known in the country, may have prevented a sufficient developement of character, to ascertain, from that source, whether he is worthy of belief or not—but of his statement, as also of Glover's, he can prove the falsehood, by contradicting, by the most respectable witnesses, what he has alleged. And he fully expects to prove neither of these witnesses can be believed, in several material parts of their testimony, and that therefore they are unworthy of credit.

These contradictions relative to these witnesses, he can prove by Captain Gordon, Fielding Lowry, William McFarland, Colonel Chambers, General Gano, Mr. —— Longworth, and several others.

He also expects to prove that the conversation related by Colonel Taylor, was not correctly understood or accurately remembered by him. He believes that General Findley, (who is stated by Colonel Taylor to have been present,) will remember that they were the sentiments and arguments of a writer in a public paper which he was detailing, and that he expressed no wishes or ideas of his own on the subject. And that he will be enabled by this witness to disprove the fact of his entertaining erroneous opinions, if the Senate shall think such a charge requires to be disproved.

He further expects to prove that the orders drawn on him, by Aaron Burr, were not drawn in consequence of any participation in any of his projects; he can produce the strongest circumstantial evidence to account for and explain in the most satisfactory manner this transaction; he can show that neither in this nor in any other communication with Aaron Burr, did he act secretly or attempt any concealment; that he often mentioned the circumstance of Burr's having left this money with him—of his having written to him, and showed a copy of his letter, (which he took for the purpose,) and the answer thereto, and conversed freely and openly upon these subjects, shortly after they occurred, and long before they became circumstances of suspicion against him. This he can prove by Major Biggs, General Carbery, Jacob Burnett, General Findley, and several other characters of unquestioned respectability. He can also prove that his seeing Colonel Burr at Frankfort was merely accidental—that he was carried there by business, and had, during the short period of his stay there, no opportunity of confidential intercourse, had any cause or inclination for it existed. He can prove this by Mr. Hart, the president of the bank of Lexington, Alexander Parker, John Jordon, Dr. Chambers, James Chambers, and others.

He can also prove the nature and existence of the engagements which compelled him to leave home on the last of May, and occasioned his absence at the time the bills of indictment were found against him. That he had business requiring his presence in New Orleans; that he went thence to an estate which he holds in West Florida, and where he was then actually completing a settlement and laying out a town; and while in West Florida, received the newspaper announcing the finding of the bills of indictment against him. That he immediately prepared to surrender himself for trial, and that he did so, taking only those measures to prevent Governor Claiborne's executing his threat of sending him in irons to Richmond, which a desire of avoiding unmerited pain and mortification required and justified. These facts he can prove by A. D. Abrahams, Harris Hoe, John Murdoch, Ira C. Kneeland, David Bradford, Governor Williams, Benjamin Simmons, and many others.

He confidently expects that he can thus disprove and expose the testimony exhibited against him, and that he can thus explain satisfactorily these and all other circumstances which may have excited suspicions against him.

He also hopes and believes that he will be enabled to show the origin and progress of a scheme, from which all the accusations against him have proceeded. He expects to disclose a confederacy between the witness, Elias Glover, with others of his enemies, particularly with Matthew Nimmo, a man (if possible) more infamous than himself, and the base means which their malevolence suggested to injure him; that the identical deposition of Glover now produced against him, was the effect of this combination; that it was procured at the instigation of Nimmo, and forwarded by him, in a letter of accusation against him to the President of the United States, some time in February last, and that this Glover, in consequence of this his voluntary deposition, was (as he no doubt expected to be) subpœnaed to attend at Richmond, and indulged with an opportunity of gratifying his malice, and completing the purpose for which his calumny was intended.

He further states that it has been wholly and evidently out of his power to procure the testimony herein stated, so as to produce it at this moment. That he did not know till very recently what would be exhibited against him, and of course would be material and necessary for him to prove. That he expects and believes he can establish the truth of everything herein stated, if indulged with reasonable time and the means of enforcing the attendance of his witnesses.

On this 13th of January, 1808, the within named John Smith, made oath, that the facts herein stated are true, as stated, to the best of his knowledge and belief. Sworn to before me.

ALLEN B. DUCKETT.

The letter of the 4th of January, to the PRESIDENT, from Mr. SMITH, requesting to be heard by counsel, was again read.

On motion, by Mr. GILES,

Ordered, That the affidavit and application, together with the subsequent report of the committee appointed 27th of November last, to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, be printed for the use of the Senate.

On motion, by Mr. GILMAN, it was agreed that the further consideration of the application of Mr. SMITH, made this day by his counsel, be postponed until to-morrow.

THURSDAY, January 14.

Mr. ADAMS moved that sundry amendments and notes of reference be entered upon the minutes of the proceedings of the committee appointed on the 27th of November last, to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged accomplice of Aaron Burr; which were read, and ordered to be entered accordingly.

Mr. GREGG reported, from the committee, that the amendments to the bill, entitled "An act to continue in force, for a limited time an act, entitled 'An act continuing, for a limited time, the salaries of the officers of Government therein mentioned," were correctly engrossed; the bill was then read the third time as amended, and passed.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act for the relief of Oliver Evans," reported it without amendment.

CASE OF JOHN SMITH.

Agreeably to the order of the day, the Senate resumed the consideration of the application of JOHN SMITH a Senator from the State of Ohio, filed yesterday, as follows: "JOHN SMITH, of Ohio, 'offers his affidavit to the honorable Senate, and 'requests a reasonable time to procure the testi-'mony therein stated, and the proper means to 'enable him to produce it."

Mr. ADAMS expressed his readiness to vote for any reasonable proposition which should designate the time and means, but declared himself unfriendly to such a general proposition as that before the Senate.

Mr. GILES expressed a coincidence of sentiment with Mr. ADAMS, and suggested the kind of resolution which he considered it proper for the Senate to adopt. While he was thus expressing himself, Mr. THRUSTON drew up a resolution, which Mr. GILES offered, and which, substantially, postponed the further consideration of the report to the —— day of ——, to allow Mr. SMITH time to adduce testimony.

Mr. BAYARD expressed similar ideas to those of Mr. GILES, but thought the object aimed at would be better effected by adopting a resolution of a different form. He said he had prepared two resolutions, one for allowing time, and the other prescribing the mode of obtaining testimony. He then read the first, substantially as follows:

"*Resolved*, That John Smith, of Ohio, having made affidavit to the materiality of witnesses now absent, by whom he states that he will be able to disprove the charges alleged against him, be allowed time until the —— day of —— next, to obtain any witnesses and to procure any evidence he may deem material to his defence."

Mr. ADAMS said he did not perceive any objection to this proposition. [In a subsequent period of the debate he declared that on a further consideration of it, he thought there were serious objections to it.]

Mr. GILES being inclined to think this proposition preferable to that offered by himself, withdrew the latter.

A long discussion then ensued, in which Messrs. BAYARD and HILLHOUSE supported; and Messrs. ANDERSON, MOORE, S. SMITH, GREGG, and CRAWFORD, opposed the foregoing resolution.

During the course of this discussion, it was moved to commit the resolution to a select committee. In the propriety of this course there was a general acquiescence. Mr. CRAWFORD read a resolution, conformable to his ideas of propriety, which, in substance, involved a postponement till the —— day of —— next, at which time the Senate would hear such witnesses as should appear for or against John Smith, whose testimony had a tendency to support or destroy the testimony of Elias Glover, Peter Taylor, and Colonel James Taylor.

The motion for commitment prevailed, and all the resolutions offered, together with the affidavit of Mr. Smith, were referred to a select committee, consisting of Messrs. ANDERSON, GILES, ADAMS, CRAWFORD, and BAYARD.

In this discussion all the speakers agreed in the propriety of allowing some time, the only question being as to the proper time. Mr. GREGG expressed himself in favor of allowing till the first of February, while Mr. BAYARD said he was not for allowing such a length of time as would preclude a definitive decision during the present session.

Strong objections were urged against precipitating a decision of such vast importance to the sitting member, and the injustice of deciding without allowing him a full hearing, was painted in vivid colors. In answer to this, the charge of the existence of a spirit of precipitation was denied, and it was said that Mr. S. ought, as soon as he heard of the bills found at Richmond, to have prepared himself for his defence; that he ought particularly to have taken these steps, as soon as the report was made on his expulsion; and that it was to be presumed that he had made every preparation he could. To this it was replied that the depositions he had brought with him could not from their nature have been intended as evidence on his trial, but merely intended to show the grounds of his defence, and to arrest the force of public opinion, that might otherwise have operated materially to his prejudice.

In animadverting on the time proper to be allowed, Mr. ANDERSON went into an examination of various parts of the testimony, to show that the acknowledgments of Mr. Smith tended forcibly to establish the truth of several of the charges, and particularly to confirm the testimony of E. Glover; and that there were several points of the testimony before the Senate which no further testimony could invalidate, and which consequently it was not incumbent on the Senate to allow Mr. S. the means of obtaining.

This suggestion was warmly repelled by Messrs. HILLHOUSE and BAYARD as incorrect, and they called upon the Senate to forbear from forming a definitive opinion until they had heard both sides of the question.

It was contended by some of the speakers that the resolution to be adopted by the Senate, ought to specify the points of defence, and to limit the witnesses summoned to such persons as could testify on them, and that the inconveniences against obtaining testimony by depositions was so great as to render that course altogether ineligible.

FRIDAY, January 15.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase," reported it without amendment.

Ordered, That this bill pass to a third reading.

Mr. WHITE, from the committee to whom was referred the subject, on the 5th of November last, reported a bill to extinguish the claims of the United States to certain balances, reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States; and the bill was read and ordered to the second reading.

SATURDAY, January 16.

Mr. ADAMS presented the memorial of Joseph Chase and Jared Gardner, of the island of Nantucket, agents to, and on behalf of, the owners of the ship Manilla and cargo, stating that the said ship is now lying in the harbor of Port au Prince, in the West Indies, loaded, and waiting the orders of her owners to return to some port in the United States; and praying that she, together with her cargo, may be exempted from the penalties of the laws on her return, for reasons stated at large in the memorial; which was read and referred to Messrs. ADAMS, GILMAN, and SMITH, of Maryland, to consider and report thereon.

The PRESIDENT communicated a report from the Secretary of the Treasury, with a statement, prepared in obedience to the provisions of the act, entitled "An act to regulate and fix the compensations of clerks, and to authorize the laying out certain public roads, and for other purposes;" and the report was read, and ordered to lie for consideration.

The bill to extinguish the claims of the United States to certain balances, reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, was read the second time.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act for the relief of Oliver Evans;" and the President reported the bill without amendment. The bill was then, by unanimous consent, read the third time, and passed.

The bill, entitled "An act to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase," was read the third time, and passed.

On motion, by Mr. GILES,

Resolved, That so much of the Message of the President of the United States, communicated to Congress on the 27th day of October last, as relates to the defects in the penal laws of the United States, be referred to a committee, to examine and report, and that the committee have leave to report by bill or otherwise.

Ordered, That Messrs. GILES, ADAMS, BAYARD, ANDERSON, and CRAWFORD, be the committee.

Mr. ANDERSON from the committee to whom were referred several resolutions, which were offered to the consideration of the Senate, in the case of JOHN SMITH, Senator from the State of Ohio, reported the following resolution, which was read for consideration:

Resolved, That, on the first day of March next, the Senate will receive such testimony as John Smith, Senator from the State of Ohio, may then adduce in his defence, and that the Senate will then proceed to the final consideration of the report of the committee, appointed on the twenty-seventh day of November last, to inquire into his conduct as an alleged associate of

Aaron Burr; provided, in case Mr. Smith shall adduce evidence to discredit any witness whose testimony has been made use of against him, that he shall make it appear to the Senate that reasonable notice had been given to the witness, so intended to be discredited, of the time and place appointed for the taking of such evidence, and that he was served with a copy of this resolution.

MONDAY, January 18.

The PRESIDENT communicated the general account of the Treasurer of the United States, from October 1, 1806, to October 1, 1807; as, also, the accounts of the War and Navy Departments for the same period; together with the reports of the accounting officers of the Treasury thereon; which were read for consideration.

A message from the House of Representatives informed the Senate that the House do not agree to the amendments of the Senate to the bill, entitled "An act to continue in force, for a limited time, an act entitled 'An act continuing for a limited time the salaries of the officers of Government thereon mentioned.'"

The Senate took into consideration the resolution of the House of Representatives disagreeing to their amendments to the bill, entitled "An act to continue in force for a limited time an act, entitled 'An act continuing for a limited time the salaries of the officers of Government therein mentioned;" and receded from their amendments to the said bill.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to extinguish the claims of the United States to certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States; and the President reported the bill to the House without amendment.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

CASE OF JOHN SMITH.

Mr. ANDERSON moved that the Senate proceed to the examination of Col. James Taylor, at their bar.

Mr. MACLAY, after some preliminary remarks to show the incorrectness of further delay, moved to postpone the motion, for the purpose of taking into consideration the report of the —— day of December.

A short conversation ensued on the course of procedure, in which it was remarked that, as Mr. SMITH had made some complaints relative to the examination of Colonel Taylor before the committee, and as he (Colonel Taylor) had been a long time absent from his family and was extremely anxious to return home, it was most advisable, before any further steps were taken, that he should be examined.

Mr. GILES rose to state to the Senate two circumstances which had been mentioned to him on the part of the accused. One was, that he (Mr. SMITH) had no objection to going on with the examination of Colonel Taylor as soon as his counsel came from the court-room, where he was now engaged, which he was advised would be in about half an hour; the other was, his wish to be excused by the Senate from voting on any question until a final decision on the question of expulsion.

The PRESIDENT said the Senate could make no such order.

Mr. BAYARD intimated that this would not be an inhibitory order of the Senate, but the mere allowance of the prayer of a member, who, on his own application, would be excused from voting, and that such an allowance was frequently made in individual cases.

Mr. GILES said that the gentleman from Delaware had exactly stated the grounds on which the application was made. It could not be viewed in the light of a prohibitory order, but as an order passed at the special instance of Mr. SMITH. Mr. G. observed that he had been induced to make this application because he thought it right in itself, and as it had been often done in particular cases. The present question was, whether, in this case, there was good reason for the request. For his own part, Mr. G. said, he perceived no objection to excusing Mr. SMITH from voting, although he should be averse to laying any prohibition upon him.

Mr. ADAMS said if the right of Mr. SMITH to vote centered in himself, he should have no objection to this application. But, by the application, it was required that not only he, JOHN SMITH, should not vote, but that the State of Ohio should lose one vote in that body until a final decision of the question of expulsion. It came, therefore, in a different shape, and assumed greater importance than a mere question respecting Mr. SMITH. As it respected Mr. SMITH individually, Mr. A. did not know why he had asked to be excused from voting on the questions that might come before the Senate. Had he ever been compelled, or even called upon to vote? Why, then, were the Senate called upon to say, by an act of theirs, that the State of Ohio should be deprived of a vote in the Senate until the final decision of this question? If Mr. SMITH himself chose not to vote, he was satisfied he would not be compelled to vote, and if he wished to vote, Mr. A. knew of no authority the Senate possessed to refuse him. Such a refusal would be a sacrifice of the rights of Ohio.

Mr. ANDERSON was against agreeing to this application, as its allowance would virtually go, by excusing Mr. SMITH from voting on all other questions, to admit him to vote on his own case. It was, moreover, going too far thus to deprive, by an act of the Senate, a State of one-half of its representation in that body. If Mr. SMITH did not vote, it ought to be his individual act, and not that of the Senate.

Mr. GILES said that, to save time, and to enable the Senate to deliberate further on this point before they decided upon it, he would withdraw the application for the present. He did not, however,

take this step because he perceived the force of the remarks offered by gentlemen, or that he had any reason to question the accuracy of the first suggestions of his own mind; but, to prevent any present embarrassment, and that the Senate might proceed in the examination of Colonel Taylor.

It was then determined, without a division, to proceed to the examination of Colonel Taylor at the bar of the Senate.

While the Senate were waiting for Mr. SMITH's counsel, Mr. ANDERSON moved that John Graham, Esq., be notified to attend at the bar of the Senate to give testimony in this case. Mr. A. remarked that the occasion of calling on Mr. Graham arose out of the testimony of Colonel Taylor, which he read.

The motion of Mr. ANDERSON was agreed to.

On motion of Mr. ANDERSON,

Resolved, That Colonel James Taylor be examined at the bar of the Senate, in the case of John Smith, a Senator of the State of Ohio; that the questions put to Colonel Taylor shall be reduced to writing and submitted to the President, who shall judge of the propriety of the question proposed.

After waiting a considerable length of time, Mr. F. S. Key, the counsel of Mr. SMITH, appeared, when Colonel James Taylor was sworn and examined at the bar of the Senate, the questions put to him being submitted in writing, conformably to the above order, and the answers received orally.

TUESDAY, January 19.

The PRESIDENT communicated the report of the Secretary of the Treasury, prepared in obedience to the directions of the act, entitled "An act regulating the currency of the foreign coins in the United States;" and the report was read for consideration.

CASE OF JOHN SMITH.

The Senate resumed the examination of the witnesses in the case of JOHN SMITH, a Senator the State of Ohio.

Mr. SMITH attended with his counsel.

James Taylor was again called, examined, and cross examined.

On motion, by Mr. ADAMS, Mr. Taylor was requested to file attested copies of extracts of certain letters written by him to the Secretary of State, and read this morning as part of his testimony.

John Graham was called, sworn, and examined.

James Taylor was again called and cross examined.

Mr. POPE submitted the following motion for consideration:

Resolved, That the Secretary of the Senate do issue a subpœna, in the usual form, to cause to be summoned to appear before the Senate, on the 1st Monday in March next, Elias Glover, then and there to give testimony in the case of John Smith, a Senator from the State of Ohio, regarding his alleged participation in the conspiracy of Aaron Burr.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government during the year 1808," in which they request the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

WEDNESDAY, January 20.

The bill, entitled "An act making appropriations for the support of Government during the year 1808," was read the second time, and referred to Messrs. SMITH of Maryland, BRADLEY, and ADAMS, to consider and report thereon.

CASE OF JOHN SMITH.

On motion, by Mr. ADAMS, Mr. TIFFIN, a Senator from the State of Ohio, was sworn as a witness in the case of JOHN SMITH, Senator from that State, examined and cross examined.

After the examination of Mr. TIFFIN, the following report of the select committee was taken into consideration:

Mr. Anderson, from the committee to whom was referred several resolutions, which were offered to the consideration of the Senate, in the case of John Smith, Senator from the State of Ohio, reported the following resolution:

Resolved, That on the first day of March next, the Senate will receive such testimony as John Smith, Senator from the State of Ohio, may then adduce in his defence, and that the Senate will then proceed to the final consideration of the report of the committee appointed, on the 27th of November last, to inquire into his conduct, as an alleged associate of Aaron Burr: *Provided*, in case Mr. Smith shall adduce evidence to discredit any witness, whose testimony has been made use of against him, that he shall make it appear to the Senate, that reasonable notice had been given to the witness so intended to be discredited, of the time and place appointed for the taking of such evidence, and that he was served with a copy of this resolution.

Mr. ROBINSON moved to strike out "the first day of March," for the purpose of inserting "on Monday the 25th instant."

Mr. ANDERSON suggested the propriety of dividing the question, and observed that it had been stated by Mr. SMITH that it would be the beginning of February before he could have the assistance of counsel in the room of Mr. MARTIN.

Mr. ROBINSON acquiesced in dividing the question.

Mr. BAYARD said he understood that it was the object of the motion to preclude Mr. SMITH from the opportunity of adducing additional evidence. The committee to whom the different resolutions were referred, in the report made by them, went on the principle that it was correct and obligatory on the Senate to hear any evidence Mr. SMITH could bring from the State of Ohio, the scene of the offences alleged against him. The first of March been fixed on as the result of a calculation, which had allowed two weeks to travel to Cincinnati, two weeks to collect evidence, and two weeks to return. It would be impossible, in a less period of time, to accomplish this object. If, therefore, the amendment were adopted, it must be on the prin-

ciple of denying to Mr. SMITH the opportunity of obtaining this evidence. To deny him such an opportunity, Mr. B. should view as equivalent to an absolute denial to hear him. For what, said he, is a hearing? Not the vain words of counsel unsupported by evidence. Mr. SMITH is charged by the allegation of certain facts. If, then, he is not heard in his defence through the medium of facts, he is substantially not heard at all. I will put the case, that, under present circumstances, grounds of suspicion exist that render him unworthy of a seat in this body. But how often has every man, conversant with criminal justice, on the hearing of ex parte evidence, decided one way, and afterwards on hearing both sides decided otherwise? I would ask gentlemen, what they would say of the judge or jury who, on hearing one side, should declare that the case was so plain that it would be a waste of time to hear the other? Is this procedure sanctioned by any court in this country, or in any part of the world? It is a mockery of justice to say to an individual accused, we will hear you, and yet preclude him from all possible means by which he can be fairly tried.

Mr. SMITH says he can adduce proof to show the existence of a conspiracy to destroy his character; unless, therefore, you allow him a reasonable time, you prejudicate his case. You refuse him the means of a defence.

Further, the committee viewed this, not merely as a decision on the personal application of Mr. SMITH, but as establishing an important precedent that would not be confined to this individual case. Let it also be observed that the charges in this case are generally founded on conversations—charges which, even if unfounded, are, from their peculiar nature, the most difficult to be repelled. Shall we, under all these circumstances, say we will hear Mr. S., and yet not listen to his defence? If we will not allow him a reasonable time, we may as well decide on his case at once; for to allow him counsel, without giving him materials for a defence, will be a burden instead of a benefit.

Mr. FRANKLIN, of North Carolina, spoke against the amendment. He read the provision of the Constitution that authorizes the expulsion of a member, and then observed that a member might be expelled on various grounds, some of which, such as disorderly behaviour, might occur under the eye of the Senate, in which case it would be unnecessary to go abroad for testimony; but that the charges in this case were not of this nature. They had been preferred on testimony received from a distance; and all that Mr. SMITH asked was the indulgence in the same right of going abroad for evidence to confront that brought against him. And if, as he alleged, he could defend himself by this testimony, Mr. F. was of opinion that the first of March allowed him no more time than was reasonable.

Mr. ADAMS said he should not have risen, had not the gentleman from Delaware stated the motives of the committee in allowing Mr. SMITH until the first day of March to adduce additional testimony, and had he not stated that the committee considered this as not only correct in itself, but obligatory upon the Senate. I, said Mr. A., as a member of that committee, thought it not obligatory, though I assented to the resolution. I thought, and still think it a measure resting with the discretion of the Senate to adopt or refuse. Nor do I think, if this resolution shall not be adopted, that such a refusal could be considered as refusing a hearing. Notwithstanding, however, this opinion, I gave it my assent, and although circumstances have since occurred which render delay less necessary, I am still in favor of it.

[Mr. ADAMS here specified some of the prominent points of Colonel James Taylor's testimony before the Senate, as highly corroborative of his previous testimony before the committee. And as to the evidence of Peter Taylor, Mr. A. said it was strongly supported by a late article of the Richmond Enquirer, which he read.]

Mr. ADAMS observed that, under these circumstances, the probability that Mr. SMITH would be able to discredit the witnesses, who had testified against him, was very much weakened. He might go on, and say that the importance of discrediting Glover's testimony was also very much weakened by the evidence of Colonel Taylor at the bar of the Senate; for the gist of Mr. SMITH's affidavit was to show that the charges against him had arisen from a confederacy between Nimmo and Glover. Whatever the testimony of Nimmo and Glover was, it appeared, that it was not transmitted to the Executive until December, 1806; while, by the evidence of Colonel Taylor, it appeared that he had communicated grounds of suspicion totally separate from Nimmo and Glover, six weeks previously.

Mr. ADAMS concluded by observing that, notwithstanding these strong circumstances, he was not disposed to refuse the indulgence desired by Mr. SMITH; not because he believed he would not be heard without it, or that he had not already been allowed ample time to collect testimony, or that it was obligatory on the Senate to allow further time; but because he was willing to allow him every indulgence consistent with a shadow of reason.

The question was then taken by yeas and nays on striking out "the first of March," as follows:

YEAS—Messrs. Anderson, Condit, Gilman, Kitchel, Maclay, Mathewson, Moore, Parker, Robinson, and Smith of Tennessee—10.

NAYS—Messrs. Adams, Bayard, Crawford, Franklin, Gaillard, Giles, Goodrich, Gregg, Hillhouse, Howland, Milledge, Mitchill, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, Thruston, Turner, and White—21.

The yeas and nays were then taken on the original resolution, and are as follows:

YEAS—Messrs. Adams, Anderson, Bayard, Condit, Crawford, Franklin, Gaillard, Giles, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Milledge, Mitchill, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Turner, and White—25.

NAYS—Messrs. Gilman, Maclay, Mathewson, Moore, Parker, and Robinson—6.

On motion of Mr. ADAMS, *Ordered*, That the Secretary of the Senate cause to be obtained, from the files of the Circuit Court for the Virginia district, a certified copy of the papers under the signature of the Querist, and a file of the Enquirer for the year 1807.

Mr. POPE called up for consideration the resolution, offered by him some days since, which, as amended at his instance, was read as follows:

Resolved, That the Secretary of the Senate do issue a *summons* [in the original resolution, subpœna] in the usual form, to cause to be summoned to appear before the Senate, on the first day in March next, Elias Glover and William McFarland, then and there to give testimony in the case of John Smith, a Senator from the State of Ohio, regarding his alleged participation in the conspiracy of Aaron Burr.

Mr. POPE said, if there was no opposition to its adoption, he should be averse to trespassing on the time of the Senate; but if there were objections to it, he should think it his duty to assign the reasons that induced him to offer it.

Mr. ADAMS said he certainly had some objections to its adoption. In the first place it imposed a duty on the Secretary which he would find it difficult, if not impracticable, for him to discharge. It required a subpœna to be issued in the "usual form." What form? Mr. A. questioned whether this would not be the first subpœna ever issued by him. If it were meant that it should be in the usual form prescribed in a court of law, Mr. A. doubted whether the power to issue it resided in the Senate. The process of a court was issued under law, and under a penalty attached to non-attendance. Should a witness refuse to attend, he was liable to further process to coerce his attendance; and the same law likewise provided that witnesses thus summoned should be compensated. Mr. A. said he knew of no such power inherent in the Senate. In cases of impeachment, it was true, certain processes had been issued in the nature of subpœnas; but actual subpœnas had never been issued. A summons had been issued, but not under any penalty for non-attendance, and certainly no process of attachment had ever been issued by the Senate to enforce the attendance of witnesses. Besides, if one witness is summoned, the Senate may be called upon to summon an hundred. And suppose the witnesses summoned shall not attend. Have you not, by summoning them, acknowledged their materiality? And might not their non-attendance be a ground for a continuance? Suppose a party, for the purpose of producing this effect, wishes a witness not to attend, and he summon him, and he does not attend, where will the delay end?

Further, the Constitution says no money shall be drawn from the Treasury but under an appropriation made by law, which requires the concurrence of the two Houses. What assurance have we that the other branch of the Legislature will authorize the compensation of witnesses? Have we not, in the case of an impeachment, been for two years in collision with the other House on the compensation of witnesses?

Mr. A. concluded by observing that he believed the course of proceedings in the Senate were such, that they must take such testimony as they could get, and rest satisfied with collecting it by the best means in their power.

Mr. POPE said, he was not a little surprised at the arguments adduced by the gentleman from Massachusetts. He did not care for the mere *words* of the proposition he had submitted, or whether the term "subpœna" was retained or stricken out. It was the principle only of the resolution which he regarded. Mr. P. said he must acknowledge that, on this subject, he was so unfortunate as to entertain ideas which were considered in the Senate as of a peculiar character, although sanctioned by the usage of ages. Having been recently translated from the bar to the Senate, he might perhaps have been mistaken in his opinion of the course most proper to be pursued on this occasion, and have considered the Senate as too much under the influence of rules of law. But he must say, that whatever errors might have tinged his first impressions, he still viewed the Senate as bound by the rules of equity and justice.

What was the object sought for in this case? To ascertain whether John SMITH is guilty of a certain criminal conduct. [Mr. P. here read the resolution offered by the select committee for expelling Mr. SMITH.] Is it not evident, then, said Mr. P., that we are now sitting to try and determine whether Mr. SMITH has been guilty of this criminal conduct? And ought we not, in so doing, to observe the rules best calculated to ascertain the truth? What, then, are the best means for attaining this end? Indisputably, by having the witnesses brought to our bar, who can furnish important information. I ask every member whether his mind will not be best satisfied by the presence of the witnesses, which will afford the fullest means of obtaining a correct statement of facts. Are not the benefits of the cross-examination of witnesses acknowledged by every man in the least conversant with courts of justice? And is not this invariably considered as the right of the accused? A right not derived from any rule of strict law, but from the principles of natural justice. I am equally surprised at the doubts expressed of our power to summon witnesses. If we have a right to inquire into the conduct of a Senator, we have necessarily a right to every incidental power essential to the making the inquiry. Where a power is given by the Constitution to do a particular thing, I have always deemed it a sound construction, that, by necessary implication, every incidental power is given which is necessary to carry the main power into full effect. But it is said that we have no fund out of which to compensate witnesses, and that the concurrence of the other House must be obtained before they can be indemnified. But are we, in the discharge of an important duty, involving the dearest interests of an individual, to act on the idea that the other House will not concur in providing for the expenses necessarily attendant upon it? The case of the impeachment of Chase has been instanced: and what is that case? In that case process was

issued for witnesses to ascertain certain facts; and I ask whether, previously to the issue of process, any law was passed making provision for defraying the expenses either attendant on their service, or for compensating the witnesses? This case therefore furnishes a strong argument against the conclusions of the gentleman from Massachusetts.

It may not be improper for me here to express my ideas of the powers of the Senate on the expulsion of its members. By the Constitution the Senate are empowered with the concurrence of two-thirds to expel a member. It follows that the Senate has, on this point, unlimited power, and, as incidental to its exercise, the power of receiving any kind of evidence that shall be satisfactory to them. In some cases they may expel a member for disorderly behaviour passing under their own view; they may, in other cases, expel on common fame; and in others, on account of his being found guilty of some particular, infamous crime; and some gentlemen seem to be of opinion, that a member may be expelled in consequence of having lost the confidence of his constituents. This resolution, however, is not bottomed on any of these circumstances, but on alleged particular criminal conduct. Is it not then proper to investigate whether Mr. S. has been guilty of this conduct or not? For recollect, when this body pronounces on the alleged charges, they pronounce to the nation that Mr. SMITH stands condemned of being guilty of treasonable conduct.

It may, perhaps, be contended, that after the indictments found against Mr. SMITH at Richmond, and after the rumor of his participation in the treasonable schemes against the peace of the Union, the Senate ought, on common fame, to expel him. I am, however, of opinion, that this is not the proper course, but that it is right to give him an opportunity of defending himself. One of the witnesses deemed material in this case is Mr. Glover. So far as we know anything of him he possesses a fair character. But his deposition has been taken *ex parte*. In Mr. SMITH's answer, it appears that Mr. McFarland was present at the conversation alluded to in that deposition. As then the testimony of Glover is admitted to be important, is it not proper to obtain the best evidence the nature of the case admits of? I confess that, for one, I feel some difficulty in pronouncing a man guilty on *ex parte* evidence. Let us put the case home to ourselves. Suppose an individual should send a deposition from Kentucky charging me with an infamous crime. Would I not have reason to think the Senate guilty of injustice, should they not give me an opportunity of cross-examining the witness on whose evidence the charge was founded? But it is said the witnesses summoned may not attend. Well, if so, we shall have done everything in our power to obtain the best evidence, and we shall then be compelled to give the evidence we have the weight which its *ex parte* character deserves.

Again: it is said, if we summon Glover, Mr. SMITH may call upon us to summon a hundred witnesses in his defence. This, however, will altogether rest in the discretion of the Senate. While I contend for the propriety of summoning these two witnesses, let it not be understood that I am in favor of summoning witnesses to every collateral point. For while I deem it important to summon witnesses to establish the most important features of this case, I think depositions will answer as to the general character of the witnesses.

One other idea operates on my mind in favor of adopting this resolution. We have passed a resolution authorizing Mr. SMITH to take such depositions as he pleases to assail the character of Mr. Glover. If Mr. G. is anxious to defend his character, he will no doubt feel disposed to travel here at his own expense. But is it not just that his expenses should be defrayed; and will it not be a piece of oppression to him not to grant this process?

Before I sit down I will suggest one other idea with regard to the power of the Senate in this case. Suppose a question of expulsion to arise dependant on record evidence, and a summons should go to the clerk at Richmond to send certain records. How are we to pay the clerk the expense of getting attested copies of these records? Out of what fund is it to be drawn? Is it not clear that we must depend on the concurrence of the other House in defraying it. So, in the present case, we ought to take it for granted that the other House will do what is reasonable and just.

Mr. REED observed that Peter Taylor was a material witness in the present case, and he could see no reason for drawing a distinction between him and Glover and McFarland. All their characters were implicated. If one, therefore, was summoned, he thought they should all be summoned, and he should vote against the resolution unless Peter Taylor was likewise introduced into it.

Mr. POPE said, if the gentleman from Maryland wished the name of Peter Taylor introduced, he hoped that he would make a motion to that effect. He had no objection to summon him likewise.

Mr. GILES remarked that the suggestion of the gentleman from Maryland furnished a strong argument against the original resolution. If the Senate adopted the principle contained in that resolution, there would be no end of the exercise of the power of summoning witnesses. Suppose, after we have adopted this resolution, Mr. SMITH comes forward and says he has many material witnesses, and that he considers it extremely hard that they should come on at his expense. If the Senate regarded the obligation of consistency, would they not be obliged to summon these witnesses on the part of Mr. SMITH? With the gentleman from Kentucky, I foresee many inconveniences attending the present mode of procedure. But the question is, whether we are in a capacity to remedy them? I believe that we have already provided for the protection of witnesses in the resolution adopted, as far as we can. I am satisfied that all we can do in this case is to take voluntary testimony. The committee thought, that, under the peculiar circumstances of the case, if a witness were to be discredited, it would be proper to give him previous notice.

Mr. GILES said he was not ready at present to decide on the power of the Senate to summon a witness. But he would remark that, in a similar case, it had been thought necessary by the other House to have an express law passed. He alluded to the provision for summoning witnesses in the case of a contested election. For these and various other considerations, Mr. G. thought the course designated by the committee the best that could be pursued in this case.

Mr. POPE said that the inconveniences attending the course suggested by him could not be so great as gentlemen imagine. In ordinary criminal cases, the expenses of the accused were not paid by the public. So in this case, if Mr. SMITH brought forward his witnesses, the Senate would not be bound to defray their expenses.

The claim of Mr. SMITH, as well as that of every person accused before this body, to have his expenses reimbursed, must depend on our justice and sound discretion. If we have power to inquire into any fact not coming within our own view, we certainly ought to pursue that course of investigation that is best calculated to produce a correct result. Mr. P. added, that he had, as one of the committee, consented to propose a resolution for the expulsion of Mr. SMITH, but was desirous of having the witnesses named in the resolution examined at the bar of this House before a final decision. He therefore hoped that the resolution would be adopted, although, from the general opposition which had been discovered to this mode of procedure, he had but little reason to expect it.

Mr. FRANKLIN said a few words against the resolution, which was heard too indistinctly to report.

Mr. ANDERSON said that much pains had been taken to assimilate the powers of the Senate in the present case to those exercised in the case of an impeachment. In cases of impeachment, it would however be recollected, that it had invariably been found necessary to pass special rules, and among them one prescribing the form of a summons or subpœna. Nor did he believe that, in the present instance, they could adopt the resolution offered by the gentleman from Kentucky, without afterwards determining the form of the summons.

Under the proceedings of courts of justice particular writs were provided for particular cases. But this was not the case in the Senate. No rule was prescribed for the Secretary. If he then was not competent to fixing the form, was the President? No. As his power was altogether derivative, the Senate alone was competent.

But, Mr. A. said, he denied that the Senate in this case had any such power; for he could not consider them, in such a case, as acting in a judicial capacity. The Constitution says: "Each 'House shall be the judge of the elections, returns, and qualifications of its own members; 'and a majority of each shall constitute a quorum 'to do business; but a smaller number may adjourn from day to day, and may be authorized 'to compel the attendance of absent members, in 'such manner and under such penalties as each 'House may provide." In this case they are vested with judicial powers so far as relates to enforcing the attendance of members. But what is the next clause? "Each House may determine the 'rules of its proceedings, punish its members for 'disorderly behaviour, and, with the concurrence 'of two-thirds, expel a member."

If in this case the Constitution meant to confer a judicial power to summon witnesses, it would have said so.

The question was then taken by yeas and nays on the resolution, which was disagreed to, as follows:

YEAS—Messrs. Bayard, Goodrich, Hillhouse, Pickering, Pope, Smith of Maryland, and White—7.

NAYS—Messrs. Adams, Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Mitchill, Parker, Reed, Robinson, Smith of New York, Smith of Tennessee, Sumter, and Turner—23.

THURSDAY, January 21.

The Senate resumed the motion, made on the 11th instant,

"That a committee be appointed, with leave to report by bill or otherwise, and instructed to inquire at what period the present embargo can, consistently with the public interest, be removed; and whether, in what manner, and to what extent, upon its removal, the merchant vessels of the United States shall be permitted, in defence of their lawful commerce, to be armed against and to resist foreign aggressions;"

And on the question to agree to this motion, it was determined in the negative.

Ordered, That the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," be the order of the day for to-morrow.

The bill to extinguish the claims of the United States to certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, was taken up for a third reading.

On motion, by Mr. ADAMS, to postpone the further consideration of this bill to the first Monday in December next, it was determined in the affirmative—yeas 17, nays 16, as follows:

YEAS—Messrs. Adams, Condit, Crawford, Gaillard, Giles, Gilman, Howland, Kitchel, Mathewson, Milledge, Moore, Parker, Pickering, Robinson, Smith of Tennessee, Sumter, and Thruston.

NAYS—Messrs. Anderson, Bayard, Bradley, Franklin, Goodrich, Gregg, Hillhouse, Maclay, Mitchell, Pope, Reed, Smith of Maryland, Smith of New York, Tiffin, Turner, and White.

FRIDAY, January 22.

The Senate resumed the third reading of the bill, entitled "An act authorizing the erection of a

bridge over the river Potomac, in the District of Columbia;" and on the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 18, nays 14, as follows:

YEAS—Messrs. Bayard, Bradley, Condit, Crawford, Franklin, Gaillard, Gilman, Goodrich, Howland, Kitchel, Mathewson, Milledge, Moore, Pope, Robinson, Smith of Tennessee, Turner, and White.

NAYS—Messrs. Adams, Anderson, Giles, Gregg, Hillhouse, Maclay, Mitchill, Parker, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, and Thruston.

SATURDAY, January 23.

The Senate assembled, and a quorum not attending, adjourned.

MONDAY, January 25.

Mr. TIFFIN called up the motion made on the 5th of November last, for an amendment to the Constitution of the United States.

Ordered, That this motion be referred to Messrs. TIFFIN, ROBINSON, GILES, ADAMS, and ANDERSON, to consider and report thereon.

Mr. ROBINSON submitted the instructions of the Legislature of the State of Vermont, to the Senators in Congress, on this subject; which were read, and referred to the same committee.

Mr. SMITH of Maryland, from the committee to whom was referred, on the 20th instant, the bill, entitled "An act making appropriations for the support of Government during the year 1808," reported the bill with amendment.

The PRESIDENT communicated the report of the Secretary of War, made in compliance with the fifth section of the "Act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes;" which was read, and ordered to lie for consideration.

Agreeably to the order of the day, the Senate resumed the consideration of the amendments reported by the committee to the bill, entitled "An act to incorporate the Trustees of the Baptist Church, in the city of Washington."

Ordered, That the further consideration of this bill be postponed until to-morrow.

The PRESIDENT communicated a letter from James Taylor, requesting compensation as a witness in the case of John Smith of Ohio: which was read, and referred to Messrs. ADAMS, ANDERSON, and TIFFIN, to consider and report thereon.

TUESDAY, January 26.

Ordered, That the amendments to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the city of Washington," be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee, to the bill, entitled "An act making appropriations for the support of Government during the year 1808," which was agreed to, and a further amendment was proposed.

Ordered, That the further consideration of this bill be postponed until to-morrow.

Mr. REED, from the committee to whom was referred, on the 28th of December last, the petition of Bartholomew Berry, a wounded soldier in the Revolutionary war, asked and obtained leave to bring in a bill to revive and continue in force the 19th section of an act, entitled "An act to ascertain and fix the Military Establishment of the United States," and to extend the provisions thereof. And the bill was read, and ordered to the second reading.

WEDNESDAY, January 27.

The bill to revive and continue in force the 19th section of an act, entitled "An act to ascertain and fix the Military Establishment of the United States," and to extend the provisions thereof, was read a second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. ADAMS, from the committee to whom was referred, on the 25th instant, the letter of James Taylor, asked and obtained leave to bring in a bill to provide for the payment of certain expenses incurred in the inquiry into the conduct of JOHN SMITH, a Senator from the State of Ohio; which was read, and ordered to the second reading.

Mr. ADAMS gave notice, that he should to-morrow ask leave to bring in a bill to revive and continue certain causes and proceedings in the district court of the District of Columbia.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select Committee to the bill, entitled "An act making appropriations for the support of Government during the year 1808;" and the President reported it to the House amended.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the city of Washington."

Ordered, That the bill, together with the said amendments, be recommitted to Messrs. MILLEDGE, ROBINSON, and MACLAY, further to consider and report thereon.

THURSDAY, January 28.

A Message from the House of Representatives announced to the Senate the death of EZRA DARBY, Esq., a representative from the State of New Jersey, and that his remains will be interred to-morrow, at 12 o'clock.

On motion, by Mr. CONDIT,

Resolved, That the Senate will attend the funeral of EZRA DARBY, Esq., late a member of the House of Representatives, to-morrow, at 12 o'clock.

The bill to provide for the payment of certain expenses incurred in the inquiry into the conduct of JOHN SMITH, a Senator from the State of Ohio, was read the second time; and, on the question,

Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Agreeably to notice given yesterday, Mr. ADAMS asked and obtained leave to bring in a bill to revive and continue certain causes and proceedings in the district court of the District of Columbia; and the bill was read, and ordered to the second reading.

The bill to revive and continue in force the nineteenth section of an act, entitled "An act to ascertain and fix the Military Establishment of the United States, and to extend the provisions thereof," was read the third time and passed.

The bill, entitled "An act making appropriations for the support of Government, during the year 1808," was read the third time as amended.

Resolved, That this bill pass as amended.

FRIDAY, January 29.

The Senate went into the consideration of Executive business, and then adjourned.

MONDAY, February 1.

The bill to revive and continue certain causes and proceedings in the district court of the District of Columbia was read the second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

The Senate having advised and consented to the ratification of the treaty with the Ottaways, Chippeways, Wyandots, and Pottawatomies, concluded at Detroit, on the 17th day of November last; and, also, to the treaty concluded with the Choctaws at Pooshapukanuck, on the 16th of November, 1805, I now lay them before both Houses of Congress for the exercise of their Constitutional powers as to the means of fulfilling them.

TH. JEFFERSON.

JANUARY 30, 1808.

The Message was read, and ordered to lie for consideration.

The bill to provide for the payment of certain expenses incurred in the inquiry into the conduct of JOHN SMITH, a Senator from the State of Ohio, was read the third time and passed.

CLAIM OF THOMAS PAINE.

The PRESIDENT communicated an address, signed Thomas Paine, stating his claim on the United States for services rendered during the Revolutionary war, and his title to remuneration. The address was read, and is as follows:

NEW YORK, *January* 21, 1808.

To the honorable the Senate of the United States:

The purport of this address is to state a claim I feel myself entitled to make on the United States, leaving it to their Representatives in Congress to decide on its worth and its merits. The case is as follows:

Towards the latter end of the year 1780, the Continental money had become so depreciated (a paper dollar not being more than a cent) that it seemed next to impossible to continue the war.

As the United States were then in alliance with France, it became necessary to make France acquainted with our real situation. I therefore drew up a letter to Count de Vergennes, stating undisguisedly the true case, and concluding with the request whether France could not, either as a subsidy or a loan, supply the United States with a million sterling, and continue that supply, annually, during the war.

I showed the letter to Mr. Marbois, Secretary to the French Minister. His remark upon it was, that a million sent out of the nation exhausted it more than ten millions spent in it. I then showed it to Mr. Ralph Izard, member of Congress from South Carolina. He borrowed the letter of me, and said, "We will endeavor to do something about it in Congress."

Accordingly, Congress appointed Colonel John Laurens, then aid to General Washington, to go to France and make a representation of our situation, for the purpose of obtaining assistance. Colonel Laurens wished to decline the mission, and that Congress would appoint Colonel Hamilton; which Congress did not choose to do.

Colonel Laurens then came to state the case to me. He said he was enough acquainted with the military difficulties of the Army, but that he was not enough acquainted with political affairs, nor with the resources of the country, to undertake the mission; "but, said he, "if you will go with me, I will accept it;" which I agreed to do, and did do.

We sailed from Boston in the Alliance frigate, Captain Barry, the beginning of February, 1781, and arrived at L'Orient the beginning of March.

The aid obtained from France was six millions of livres as a present, and ten millions as a loan, borrowed in Holland, on the security of France.

We sailed from Brest in the French Resoulue frigate the first of June, and arrived at Boston on the 25th of August, bringing with us two millions and a half of livres, in silver, and convoying a ship and a brig laden with clothing and military stores. The money was transported with sixteen ox teams to the National Bank at Philadelphia, which enabled the army to move to Yorktown to attack, in conjunction with the French army under Rochambeau, the British army under Cornwallis. As I never had a cent for this service, I feel myself entitled, as the country is now in a state of prosperity, to state the case to Congress.

As to my political works, beginning with the pamphlet *Common Sense*, published the beginning of January, 1776, which awakened America to a declaration of independence, as the President and Vice President both know, as they were works done from principle, I cannot dishonor that principle by asking any reward for them. The country has been benefited by them, and I make myself happy in the knowledge of it. It is, however, proper for me to add, that the mere independence of America, were it to have been followed by a system of government modelled after the corrupt system of the English Government, it would not have interested me with the unabated ardor it did. It was to bring forward and establish the representative system of government, as the work itself will show, that was the leading principle with me in writing that work, and all my other works, during the progress of the Revolution. And I followed the same principle in writing the *Rights of Man*, in England.

There is a resolve of the old Congress, while they sat at New York, of a grant of three thousand dollars to me. The resolve is put in handsome language, but it has relation to a matter which it does not express. El-

bridge Gerry was chairman of the committee who brought in the resolve. If Congress should think proper to refer this memorial to a committee, I will inform that committee of the particulars of it.

I have also to state to Congress, that the authority of the old Congress was become so reduced towards the latter end of the war, as to be unable to hold the States together. Congress could do no more than recommend, of which the States frequently took no notice; and when they did, it was never uniformly.

After the failure of the five-per-cent. duty, recommended by Congress, to pay the interest of a loan to be borrowed in Holland, I wrote to Chancellor Livingston, then Minister for Foreign Affairs, and Robert Morris, Minister of Finance, and proposed a method for getting over the whole difficulty at once; which was, by adding a Continental Legislature to Congress, who should be empowered to make laws for the Union, instead of recommending them; so the method proposed met with their full approbation. I held myself in reserve, to take the subject up whenever a direct occasion occurred.

In a conversation afterwards with Governor Clinton, of New York, now Vice President, it was judged that, for the purpose of my going fully into the subject, and to prevent any misconstruction of my motive or object, it would be best that I received nothing from Congress, but leave it to the States, individually, to make me what acknowledgment they pleased.

The State of New York made me a present of a farm, which, since my return to America, I have found it necessary to sell; and the State of Pennsylvania voted me five hundred pounds, their currency. But none of the States to the east of New York, or the south of Philadelphia, ever made me the least acknowledgment. They had received benefits from me, which they accepted, and there the matter ended. This story will not tell well in history. All the civilized world know I have been of great service to the United States, and have generously given away talent that would have made me a fortune.

I much question if an instance is to be found in ancient or modern times of a man who had no personal interest in the cause he took up—that of independence and the establishment of a representative system of government, and who sought neither place nor office after it was established—that persevered in the same undeviating principles as I have done, for more than thirty years, and that in spite of difficulties, dangers, and inconveniences, of which I have had my share.

THOMAS PAINE.

TUESDAY, February 2.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to erect a light-house on Point Judith, in the State of Rhode Island;" also, a bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1808;" in which bills they request the concurrence of the Senate. And that the House of Representatives disagree to the amendment of the Senate to the bill, entitled "An act making appropriations for the support of Government during the year 1808."

The two bills last brought up for concurrence were read, and ordered to the second reading.

The bill to revive and continue certain causes and proceedings in the district court of the District of Columbia was read the third time and passed.

WEDNESDAY, February 3.

The bill, entitled "An act to erect a light-house on Point Judith, in the State of Rhode Island," was read the second time, and referred to Messrs. MATHEWSON, GILMAN, and ADAMS, to consider and report thereon.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1808" was read the second time, and referred to Messrs. SMITH of Maryland, ADAMS, and SUMTER, to consider and report thereon.

The PRESIDENT communicated an application, signed B. Henry Latrobe, respecting the avenue to the gallery of the Senate Chamber; which was read, and referred to Messrs. MITCHILL, ADAMS, and PICKERING, to consider and report thereon.

On motion by Mr. ADAMS,

Resolved, That the report of the Secretary of the Treasury, on the subject of drawbacks on exportation, made on the 13th of January, pursuant to a resolution of the Senate of the 3d of March last, be referred to a special committee, with leave to report by bill or otherwise.

Ordered, That Messrs. ADAMS, BRADLEY, and GILMAN, be the committee.

The Senate proceeded to consider the resolution of the House of Representatives disagreeing to their amendment to the bill, entitled "An act making appropriations for the support of Government during the year 1808." Whereupon,

Resolved, That they recede from their said amendment.

On motion, by Mr. ANDERSON:

Resolved, That a committee be appointed to take into consideration the claims of sundry persons, which claims have been derived under the State of North Carolina, to certain lands lying within the State of Tennessee, and within the Congressional reservation south and west of a line described in the first section of an act, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;" and that the committee have leave to report by bill or otherwise.

Ordered, That Messrs. ANDERSON, BRADLEY, and ADAMS, be the committee.

THURSDAY, February 4.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Having received an official communication of certain orders of the British Government against the maritime rights of neutrals, bearing date the 11th of November, 1807, I transmit them to Congress, as a further proof of the increasing dangers to our navigation and commerce, which led to the provident measure of the act of the present session, laying an embargo on our own vessels.

TH. JEFFERSON.

FEBRUARY 2, 1808.

The Message and papers accompanying it were read, and referred to Messrs. SMITH, of Maryland, ADAMS, ANDERSON, BRADLEY, and GREGG, the committee to whom were referred, on the 18th of December last the Message and communications from the President of the United States, of that date, to consider and report thereon.

FRIDAY, February 5.

Mr. MITCHILL presented the several petitions of Isaac Clason and James Creighton, merchants, of the city of New York, stating that, through unavoidable casualties, they were deprived of the benefit of drawback on certain goods exported according to law, and praying relief; and the petitions were read and severally referred to the committee appointed on the 3d instant, on the report of the Secretary of the Treasury of the 13th of January last, to consider and report thereon.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 3d instant, the bill entitled "An act making appropriations for the support of the Navy of the United States during the year 1808," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

The PRESIDENT communicated the report of the Commissioners of the Sinking Fund, stating the measures which have been authorized by the Board, subsequent to their report of the 5th of February, 1808, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the fourth day of the present month, and in the statements therein referred to, which are therewith transmitted, and prayed to be received as part of their report.

And the report was read and ordered to lie for consideration.

Mr. MITCHILL, from the committee to whom was referred, on the 3d instant, the letter of B. Henry Latrobe, respecting the avenue to the gallery of the Senate Chamber, reported that it is not expedient for the Senate to make any order thereon; and the report was adopted.

Mr. GILES, from the committee to whom was referred, on the 16th January, so much of the Message of the President of the United States, communicated to Congress on the 27th of October last, as relates to the defects in the penal laws of the United States, with leave to report by bill or otherwise, reported in part a bill for the punishment of treason and other crimes and offences against the United States; and the bill was read and ordered to the second reading.

Mr. MATHEWSON, from the committee to whom was referred, on the 3d instant, the bill, entitled "An act to erect a light-house on Point Judith, in the State of Rhode Island," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. MITCHILL presented the memorial and petition of Daniel Ludlow and others, purchasers, at different times and prices, of large tracts of land, within the limits of the lands granted by the State of Georgia to sundry companies, lying in the waters of the Tennessee, Tombigbee, and Mississippi rivers, praying that provision may be made by law, to enable them to bring their claims before the Supreme Court of the United States, in order that a definitive judgment may be obtained thereon, or that an equitable compensation be made to them by agreement, arbitration, or otherwise; and, on the question, Shall the memorial be read? it was determined in the affirmative—yeas 22, nays 3, as follows:

YEAS—Messrs. Adams, Anderson, Bayard, Bradley, Condit, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Mitchill, Parker, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of Tennessee, Sumter, and Tiffin.

NAYS—Messrs. Crawford, Milledge, and Moore.

The memorial was accordingly read.

MONDAY, February 8.

The bill for the punishment of treason, and other crimes and offences against the United States, was read the second time. On motion, it was agreed that this bill be the order of the day for Thursday next.

Mr. GREGG presented the petition of General Arthur St. Clair, stating that he had advanced money for the recruiting service during the Revolutionary war, and praying reimbursement; and the petition was read and referred to Messrs. GREGG, BRADLEY, and SUMTER, to consider and report thereon.

The bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1808," was read the third time and passed.

The bill, entitled "An act to erect a light-house on Point Judith, in the State of Rhode Island," was read the third time and passed.

TUESDAY, February 9.

Mr. MILLEDGE gave notice, that he would tomorrow ask leave to bring in a bill for erecting a light-house on the south point of the island of Sapelo, in the State of Georgia.

WEDNESDAY, February 10.

Agreeably to notice given yesterday, Mr. MILLEDGE asked and obtained leave to bring in a bill for erecting a light-house and placing buoys at the places therein mentioned; and the bill was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate to Congress, for their information, a letter from the person acting in the absence of our Consul at Naples, giving reason to believe, on the affidavit of a Captain Sheffield, of the American schooner Mary Ann, that the Dey of Algiers has commenced war against the United States. For this no just cause has been given on our part within my knowledge. We may daily expect more authentic and particular infor-

mation on the subject from Mr. Lear, who was residing as our Consul at Algiers.

TH. JEFFERSON.

FEBRUARY 9, 1808.

The Message and letters therein referred to were read, and ordered to lie for consideration.

SHIP MANILLA.

Mr. ADAMS reported, from the committee to whom was referred, on the 16th January last, the memorial of Joseph Chase and Jared Gardner, agents to and on behalf of the owners of the ship Manilla and cargo; and the report was read, as follows:

The material facts stated in the memorial appear to be these—

That the act of Congress, suspending the commercial intercourse between the United States and certain parts of the island of St. Domingo, passed the 28th of February, 1806, and expired by its own limitation in one year from that day.

That, by an act passed on the 24th of February, 1807, this suspension was continued until the present session of Congress.

That, by a provision in the first of these acts, its operation was to commence from and after notice of its passage to the several collectors; which provision was omitted in the second.

That, on the 7th of March, 1807, after the expiration of the act first abovementioned, and before the renewal of the suspension was known to the memorialists or to the collector of the customs in the island of Nantucket, they obtained from him a regular clearance for the ship Manilla and her cargo, for Gonaives, in the said island of St. Domingo, in pursuance of which the vessel sailed, and was, by the latest advices, lying at Port au Prince, laden, and waiting for orders from the owners, who are desirous of ordering her to proceed for some port in the United States, with her cargo.

That complaint having been made to the collector of the port of Nantucket, he had noted his intention to seize the vessel and cargo, on her return from the voyage, for the purpose of having them condemned, as forfeited for infraction of the last mentioned act of 24th February, 1807.

That after notice of this complaint, the memorialists petitioned the district judge for the district of Massachusetts, who examined and transmitted to the Secretary of the Treasury, a statement of the facts, with the application of the memorialists, for the exercise of the mitigating power vested by law in him.

That the Secretary of the Treasury declined interfering until the law should have had its full operation, on a doubt entertained by him whether the renewal of the suspension was not really known, in the island of Nantucket, at the time of the clearance and departure of the vessel; which fact, he supposed, would best be ascertained upon the trial, after the seizure should take place.

Under these circumstances, the memorialists have applied to Congress for relief. And your committee, highly approving the vigilance and caution which governed the Secretary of the Treasury, in his determination on the case, are, however, of opinion, that the request of the memorialists is reasonable and ought to be granted.

They observe, that the collector of Nantucket, in his affidavit, exhibited before the district judge of Massachusetts, declares, upon oath, that, at the time when the Manilla cleared out, he had no knowledge of the act by which the suspension of the trade with St. Domingo was continued; and that he has no reason to believe that the memorialists had any knowledge of it. To corroborate this evidence, the committee remark that it was scarcely possible it should have been known there, even by an extraordinary course of conveyance, in so short a time, and at that particular season of the year.

As the option of ordering their ship to the United States must, at all events, remain with the memorialists, they might, with some reason, hesitate in their decision, if they should have reason to expect that still more decisive proof of a negative kind will be required on the trial, to redeem them from the penalties of the forfeiture. Nor does it appear just or necessary to expose them to the necessity of exhibiting such proofs, and incurring the expenses and trouble of a trial, at a distance from their own residence, if they should find their interest in ordering the vessel to return to a port in some other district of the United States than their own.

With these impressions, the committee request leave to report a bill for the relief of the memorialists, and conformable to the prayer of their petition.

Mr. ADAMS then obtained leave to bring in a bill for the relief of Joseph Chase and Jared Gardiner; which was read, and ordered to the second reading.

THURSDAY, February 11.

The bill for erecting a light-house, and placing buoys at the places therein mentioned, was read the second time.

The bill for the relief of Joseph Chase, Jared Gardner, and others, was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise;" in which they request the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

TREASON AND OTHER CRIMES.

The bill reported by Mr. GILES, for the punishment of treason and other crimes and offences against the United States, was considered as in Committee of the Whole. After having been read by sections from the Chair, some verbal amendments were made to the first section. The words of this member of the bill are as follow:

Be it enacted, &c., That if any persons owing allegiance to the United States of America, shall levy war against them, by assembling themselves together with intent forcibly to overturn or change the Government of the United States, or any one of the Territories thereof, or forcibly to dismember the said United States, or any one of them, or any one of the Territories thereof, or forcibly to resist the general execution of any public law thereof, or forcibly to take possession of, or hold any fort, magazine, dock, navy yard, or of any public vessel of the United States, or to forcibly invade or hold any part of the United States, or of the Territories thereof, against the authority of the United States, or if any person or persons shall traitorously aid or assist in the doing any one of the acts aforesaid, although not personally present when any such act is done or committed, and being convicted of any one or more of the aforesaid acts, on confession in open court, or on the testimony of two witnesses to the same overt act of treason, whereof he or they may stand indicted, such person or persons shall be judged guilty of treason against the United States, and shall suffer death.

These alterations having been agreed to, chiefly in the form of the bill, by the transposition of certain words—

Mr. MITCHILL expressed his disagreement to the principle itself of the bill. He questioned whether Congress had authority to act upon the subject. The powers of the Legislature were, on the crime of treason, limited by the Constitution; and it deserved mature consideration, whether, on the present occasion, we were not about to transgress the bounds within which we ought to move. By the third section of the third article of that great charter of our rights and privileges, it is declared, that "treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." Here is the definition of treason in the Constitution, that great national instrument, which is the law-paramount of the land, and by which Congress itself must be governed.

The Convention of 1787, when devising a frame of Government for a free people, well understood the commotions that frequently agitated societies of men claiming the right to speak and to act as they pleased. That sagacious body possessed perfect knowledge, from history, of the proscriptions and attainders which an overbearing majority were but too prone to pass upon those who differed from them in their preference of one man or measure to another, or who thwarted their views of interest or ambition, of resentment, or power. They, therefore, provided a salutary check upon the will of the Congress itself, thereby guarding against that heat and violence which the collisions of party have been often observed to produce. Thus was a security enjoyed by the minority of the two Houses, and of their adherents and supporters throughout the nation, against the exterminating spirit which the majority might feel, and, in an evil hour, be tempted to exert.

Such was his understanding of the meaning of this part of the Constitution. But the bill before you, Mr. President, has a bold and innovating aspect. It ventures into declarations of various actions, which shall be deemed to constitute levying of war. If this proceeding is correct, it will be in our power, or in the power of a future Congress, to declare that certain other actions, not specified in this bill, shall also be construed as criminal in the same atrocious degree. And a succeeding Legislature may enlarge the catalogue, until constructive treasons shall be multiplied to a most alarming amount. The people of this free and happy country will be disarmed of the shield by which their sages and patriots, who devised the present admirable frame of Government, intended to protect them, even from legislative injury. And they will be exposed to all the multiplied evils, of treasons declared by Congress; and it may possibly happen, in some future time, less auspicious than the present, that the majority of that body may be actuated by passions and stimulated by motives of a sanguinary tendency. We ought to take measures of precaution against such alarming consequences. I feel a strong repugnance to the demolition of established landmarks. I have, said he, a great veneration for these monuments, erected by our predecessors. And, I fear, the enactment of the present bill will be accompanied with the overthrow of one of the most valuable safeguards of the Constitution. He was willing to admit the great uncertainty with which the doctrine of treason was clouded. All our trials for that offence had demonstrated the unsettled condition of the law. But it was by no means certain that this was a sufficient reason for Congressional interference. He felicitated himself, and he congratulated the Senate and his country, that arraignments for treason had hitherto been few and rare. There had not been time nor opportunities enough to elaborate the ultimate decisions of the law. The human mind did not acquire knowledge by intuition, but by experience. The march of the understanding in the investigation of truth was slow. In cases of jurisprudence, as well as in every other intellectual research, the advances toward truth were gradual. Case after case must be studiously considered, judgment after judgment must be rendered and revised, and consequence after consequence traced to their terminations. In such a course of proceeding, it might happen, according to the amount of business which occurred, that generation might follow generation, and age succeed to age, before the *summa ratio*, the high result of reason on the subject, could be attained. According to this method, of perfecting the law by practice, many trials for treason would be necessary to make its exact meaning known. And, for his own part, he was willing to postpone for centuries this painful mode of delineating the endless number of species and varieties that a Legislature could, in a day, arrange, under the generic term of treason.

But, why was it necessary for Congress to expound the Constitution? Was there not a department of the Government, to which the interpretation of the statutes enacted by the two Houses, treaties concluded with foreign nations by the President and Senate, and the great national act of the Convention, as ratified by the several States, was specially entrusted? He meant the body of the Judiciary, consisting of men selected from the class of citizens, for the express purpose of declaring what the law is. It seemed more orderly and regular to permit the judges to remove the existing obscurity in the law, by the exercise of their professional talents, than to alter by statute a course of investigation which con-

formed to the true theory of the Constitution. It is certain that inconveniences of a serious kind do exist; but had we not better bear them than run the risk of rendering them worse by tampering? It would be lamentable indeed if the remedy we are about to apply should prove worse than the disease. It might, perhaps, be a fault in him that he regarded the courts of justice with a sort of habitual reverence. He owned that he might be mistaken in viewing the present invasion of their province with a sentiment that alarmed his solicitude while it awakened his sensibility. But so it was. He would not conceal his preference to the tried and settled method of deducing the rules and maxims of the law through the constituted tribunals.

Mr. M. said, he would state another consideration, which was very impressive on his mind. It was the power claimed and exercised by the judges to repeal or nullify statutes by declaring them unconstitutional. Suppose the bill on your table, Mr. President, should pass; and it should afterward be considered by the Judiciary as a statute which the Constitution forbade Congress to enact? Would it not be pronounced void, and all proceedings under it be discontinued or dismissed? This, then, is the dilemma to which we are reduced; if Congress proceeds in the manner proposed by the bill to define treason, and their acts are binding upon the judges, then succeeding Congresses may multiply the species of those offences to any number that may suit the purposes of an infuriated majority, and the courts be compelled to carry those acts into operation, however mischievous or ruinous; or, if statutes which, in the opinion of the judges, militate against the spirit and letter of the Constitution, are declared by them to be of no force or effect, we certainly legislate to no purpose. As to the power of deciding on the unconstitutionality of statutes, the courts had, it was well known, exercised it in several instances. Many able statesmen had been induced to believe this was a sound and legitimate employment of their functions. And as the powers granted by the Constitution were at present understood and exercised, he doubted whether, even if this bill should ripen into a statute, it would bear the test of judicial scrutiny.

These were imperfect sketches of some of the ideas which he entertained on this important subject. They were uttered in this incipient stage of the debate for the purpose of gaining further information. No one could be insensible of the toil that had been expended by the committee, and more especially by his honorable and learned friend, the Chairman, in preparing it. He wished for a full discussion of this great question, and he entertained no doubt it would be examined with a seriousness worthy of so "high an argument."

For the purpose, therefore, of bringing the subject to a point, and of inviting the supporters of the bill to offer all the reasons they may think proper to urge in its support, Mr. M. concluded by making a motion to strike out the section.

Mr. GILES then rose, and delivered a speech substantially as follows:

He said, that on a subject of so much delicacy, difficulty, and importance, as the one now under consideration, it was natural to expect that the committee who reported the bill would be called upon to present to the Senate the reasons which had induced them to advocate the principle upon which that bill was predicated. That, as he considered each individual gentleman of that committee better qualified than himself to state the general motives operating on the committee, and, certainly, to state his own individual impressions upon the subject, Mr. G. would confine himself to stating some of the leading motives of his own conduct in introducing the principle reported in the bill.

Mr. G. begged to be indulged with a few preliminary observations, which, although not directly in point upon the Constitutional question presented for discussion, would, ultimately, be found to be not without some bearing upon it.

Mr. G. proceeded to observe that one great object of every Government was the protection of the rights of individuals, and however diversified the forms of different Governments may have been at different times, they have all, at all times, concurred, at least in this one point, that one of the most effectual means of protecting rights is the punishment of wrongs. In the execution of this delicate power, so peculiarly interesting to the governed, different Governments have been variously organized as to the manner of executing it. In Governments founded on force, the power of punishing has generally been left solely to the will and pleasure of the Executive. In Governments founded on consent, the modifications of this power have been various, according to the degree of confidence or jealousy entertained by the people towards their rulers. Modern jurists have extended their political speculations very far, in multiplying barriers for the protection of innocence against possible or presumed oppressions on the part of the Government, and it is, even now, questionable whether they have not extended them so far as to have them practically converted into shields for the protection of guilt—an effect that never could have been intended by the most speculative philanthropists. Indeed, it has been seen that, in a nation celebrated for its political intelligence, as well as for its military prowess, the visionary idea was once conceived of placing the protection of all rights upon the sole basis of the perfectibility of man. But, if this political vision was ever attempted to be reduced to practice, it was soon abandoned, because it was found not suited to the meridian of even that gallant nation who had the credit of the invention. Hence, I conclude that the power of punishing wrongs is an essential ingredient in the formation of all Governments, and that it ought not to be so limited and restrained, as to destroy its practical energy. The Constitution of the United States displays much of this spirit of jealousy against its administrators, and the amendments to it still more. Of course they impose many limitations and restraints upon the Government in the execution of the power of punishing. This may be

accounted for by the circumstances which preceded and gave rise to the Constitution and its amendments. The American Revolution was produced by the oppressions of a distant Government, and in the formation of all the State constitutions which preceded that of the United States, the whole of which was founded upon the fair consent of the people, this natural effect was produced, viz: that in the formation of their own governments, the people transferred a great portion of the jealousies they felt against the rulers of a distant Government to the rulers they were about to establish for their immediate Government at home. The Constitution of the United States, although formed some time after the Revolution, yet exhibits a great portion of the spirit of jealousy produced by it, and the amendments still more, probably from the passions called into action by the eloquent and animated discussions against the adoption of the Constitution itself. The formation and adoption of the Constitution of the United States are deemed to be among the most wonderful political events ever presented to the contemplation of the human mind. Considering the cotemporaneous passions excited by the conflicting systems of policy observed by the different States in relation to each other, the strong jealousies existing in relation to real or supposed differences of interest amongst the different States, and highly excited by animated discussions upon great national objects, just preceding the calling the Convention, the differences of habits, manners, and opinions, amongst the people in different parts of the United States, &c., &c., it is wonderful that a Constitution, founded on a spirit of mutual concession, should be formed, so admirably calculated to combine and protect the interest of the whole, and, at the same time, so peculiarly adapted to the peculiar character, genius, and temper of the American people.

In addition to these and many more difficulties, the Convention were without a model for imitation. They had to solve the new and difficult political problems of extracting from pre-existing state governments, all powers of a general nature, and of leaving with them the exercise of all powers of a local nature; and these powers, thus selected, were to be so modified and adjusted as to suit the high and jealous temper of the American people. Notwithstanding all these difficulties, it will be found, upon the most critical examination of the instrument, that, whilst it contains sufficient energy completely to effect the object of its institution, it affords to innocence the most complete protection against the oppression of Government that ever has been devised by any political institution. To effect this great object, it was determined to distribute these general powers amongst three great departments forming the Government of the United States, the Legislative, Executive, and Judiciary departments. Mr. G. said this adjustment had been made with such consummate wisdom and skill, that, whenever it had been made his duty to examine the arrangement, his reflections had always resulted in new and increased admiration of the excellency of its provisions. The theory of three distinct departments in government is, perhaps, not critically correct; and, although it is obvious that the framers of our Constitution proceeded upon this theory in its formation, yet, in the practical adjustment of the departments to each other, it was found impossible to carry this theory completely into effect. In the nature of things there can be but two great departments in government: the Legislative, whose duty it is to prescribe rules of conduct, or in other words to make laws for the government of the people; the Executive, to carry those laws into effect. But as from the imperfection of language the meaning of the laws is not definitively understood, the Judiciary department is introduced to explain the meaning of the laws prescribed by the Legislature—to aid the Executive in carrying those laws into effect. Hence, it is obvious that the Judiciary is a branch of the Executive department, and, accordingly, under the Constitution, the President appoints all judicial officers, and, except the judges, all other officers of the courts hold their offices during his pleasure.

Mr. G. observed it was not his intention or wish to legislate into the Constitution one scintilla of power not intrinsically contained in the instrument itself, nor, by a weak or timid exercise of the powers it does intrinsically contain, to paralyze or destroy its energy, and thus to counteract the great objects of its institution—the common defence and general welfare. It will be observed, said Mr. G., that he did not use these terms as conferring on the Government any power whatever, but merely as the ends for which the specified powers were conferred; nor did he propose to disturb the distribution of the powers among the several departments of the Government. He had made these remarks to rescue the Constitution from certain absurdities which had been attributed to it by the application of certain generic and technical phrases in the interpretation of it, instead of examining its own intrinsic organization. For instance, superficial observers take it for granted that the three great departments of the Government are co-ordinate, and independent of each other. It is to be observed that the words *co-ordinate*, *independent*, are not to be found in any part of the Constitution. They are borrowed from the technical phraseology of another country, and do not apply to the Constitution of the United States, at least not without great limitation. If by the word *co-ordinate* is meant that the Judiciary Department is equal in dignity, *co-ordo*, it is admitted. If it be meant in point of time, *co-ordo*, it is not the fact. The Legislative department pre-existed the Judiciary department; for, according to the Constitution, the establishment of the Judiciary department was entrusted to the Legislative department, and, of course, that department must necessarily pre-exist the department to be established by it, and the fact is well known to be so. With respect to the word *independent*, as applicable to the Judiciary, it is not correct, nor justified by the Constitution. This term is borrowed from Great Britain, and by some incorrect apprehension of its meaning

there, or from some other cause, is applied here to the department itself, instead of the officers of the department. In Great Britain the phrase is "an independent judge," not "an independent judicial department." According to the English Constitution, such a phraseology would be absolute nonsense. In this country the terms have been used as synonymous, whereas there is the most palpable difference both in the form and effect of their meaning. An independent department of a Government is conceived to be a department furnished with powers to organize itself, and to execute the peculiar functions assigned to it without the aid, or in other words, independent of any other department. A moment's attention to the Constitution will serve to show that this is not the Constitutional character of our Judicial department. An independent judge may be defined to be a person who, in the exercise of judicial functions, is placed above temptation in the discharge of his judicial duties; or, in other words, a judge who will neither gain nor lose anything by deciding for or against the Government, or for or against any individual, or number of individuals; or, a judge whose salary is fixed, and who does not hold his office at the pleasure of another person.

In England the King is the fountain of honor and justice, and formerly decided upon the meaning of the laws in his own person; afterwards, that branch of executive duties was confided to his commissioners, who were appointed by him, held their appointment during his pleasure, and were dependent upon him for their compensations, until by the statute of 13 of William III., it was declared that the judges should hold their offices during good behaviour; still, however, their offices were vacated upon the demise of the Crown until the 1st of Anne, when it was declared that the offices of the Judges should not be vacated until six months after the demise of the Crown; and, finally, by a statute of 1st of George III., the salaries of the judges were fixed, and it was declared that their offices should not be vacated upon the demise of the Crown. This statute completely established what in England is called *the independence of the judges.* But to infer from this that the judicial department there is independent of the Parliament, would be an absolute misapplication of terms, and incompatible with every principle of the British constitution. From these observations it is not to be inferred that our Constitution is precisely analogous to the British in all these respects, but to show the meaning of the term "independent" in the country from which it was borrowed, and its misapplication to our Constitution. It was his wish to discard these technical, general terms, which rather embarrass than assist us in the correct interpretation of the Constitution. It was his wish to examine the instrument, and to deduce our interpretation of it from its own context. For whatever degree of independence is attached either to the judicial department, or to the judges themselves, according to the Constitution, it was his wish should be fully enjoyed by the department or the judges without the smallest abatement; but the Constitution, as it is, should be a standard of interpretation, not what it is described to be by general borrowed misapplied phrases.

With this general exposition of the Constitution, he would now proceed to examine the precise question under consideration. The question is, can Congress declare by law what acts amount to treason against the United States under the Constitution? He said that from the best reflections he had been able to bestow upon the subject, under a strong sense of the duty imposed upon him, he had no doubt but Congress can and ought to do so. And since his reflections he had wondered that he ever had doubted the legislative right. The first clause in the Constitution upon which this question arises is in the following words:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Mr. G. said that the only reason which could be deduced from this clause for excluding Congress from passing all laws which might be deemed necessary and proper for carrying into effect the power therein contained, was, that in the distribution of powers, this particular power was classified amongst the judicial powers. But it will be observed that it is not directed exclusively to the judiciary, nor legislative department; and it will also be observed, that some of the powers classified under the judicial department are particularly directed to the legislative department. Hence it may be fairly concluded, that the mere classification of this power with the judicial powers is not of itself sufficient to exclude the necessary legislative power for carrying it into effect.

A reason however may be assigned, perhaps not satisfactory to all, for this classification of powers. It is derived from the last part of the clause, which seems to be a limitation to the judicial, as well as legislative department. This part of the clause requires two witnesses, at least, to the overt act of treason, as indispensable to a conviction; whereas in other criminal cases, conviction may be had, according to the ordinary rules of evidence in courts, upon the testimony of one witness. This limitation upon the ordinary rules of evidence in courts, would of itself have justified the classification of this power according to the Constitutional arrangement. Hence it appears irresistibly conclusive, that, according to this particular clause of the Constitution, the power of declaring what act shall amount to the treason of levying war, and of adhering to the enemies of the United States, is conferred on the Government generally, and not on any department exclusively.

This clause must evidently be considered, both as conferring power and limiting its exercise. The word "consist" is the word conferring power; the word "only" is the word limiting its exercise.

The word "consist" is directory to the Government generally, and not to any department exclusively. The word "only" excludes from the whole Government the power of introducing all constructive or imaginary treasons, and limits its power only to the two species of treason included within that term, to wit: the treason "of levying war" and "of adhering to the enemies of the United States." The word "only" therefore in this clause relates only to the species of treasons embraced by it, and not to any particular acts which may amount to treason under either of these species. Hence, the clear and obvious language of the Constitution is this: the Government of the United States may declare what acts amount to the treason of "levying war and adhering to the enemies of the United States," but it shall not declare any other act whatever treasonable. The reason of this arrangement will be the more obvious, by reference to the doctrine of treason in the country from which these terms are borrowed. In England, exclusive of the two species of treason recognised by our Constitution, there are various other treasons, and many of them constructive; such as imagining the King's death, &c.; showing too much civility to the Queen or Princesses, &c.; counterfeiting the King's coin, &c. The great object therefore of the Constitution was to exclude from the Government of the United States this whole family of treasons; and the terms used are extremely proper for this exclusion and for the inclusion of the two species only recognised by the Constitution.

But it is said treason is already defined by the Constitution. Is the fact so? Let the inquiry be made; and also the extent to which the definition goes. "Treason against the United States 'shall consist only in levying war against them, 'and in adhering to their enemies, giving them 'aid and comfort." Two species of treason are here defined; but no act amounting to either species of treason is defined. Ask the question, what is treason against the United States? The Constitution answers, "levying war against them, or adhering to their enemies." Reverse the question, what is levying war against the United States, or adhering to their enemies? The answer is, treason. No act which will amount to either of these offences is defined. This definition, although extremely useful as a guide to the Government, is of no practical use to the citizen, because it gives him no information of any act which amounts to treason; and which, if he commits, he will be guilty of treason, and subject to the highest punishment known to our laws. This knowledge of the nature and tendency of acts is the only knowledge that can be useful and necessary to the citizen.

It appeared to him wonderfully strange that offences the most complicated in their nature, the most dangerous in their effects to society, and the most fatal to the individual committing them, should not be explained to the people, but should be locked up in the breast of the judge, and that an attempt to explain them legislatively to the people should be thought to be an alarming invasion of their rights, if not criminal in itself. But if the terms levying war, &c., do not define treason, it is presumed that some gentleman in his place will tell us what specific acts will constitute the offence; for his part he had paid great attention to the subject, and in the present state of things, he acknowledged himself perfectly incompetent to it. Nor would the difficulties be lessened by a recurrence to all the judicial opinions yet given upon the subject. These attempts had demonstrated not only the incorrectness of the supposition that these treasonable acts were defined, but the indispensable necessity of some legislative definition; for it is believed that no two judges have yet delivered the same opinion upon some of the most essential characters of many of these acts; and if judges themselves should not be able to comprehend, and precisely to fix this Constitutional definition, how can it be expected that the people at large can do so? He had always been taught to believe that one essential characteristic of a free from a despotic Government consisted in giving full information to the citizen of every penal act, and the punishment consequent upon its commission; and is there nothing in the Constitution which recognises this principle, and almost makes it injunctive upon the Government? In the 6th article of the amendments to the Constitution, most of which may be considered as a bill of rights, I find these words: "In all criminal prosecutions the accused shall enjoy the right to a 'speedy trial, &c., and be informed of the nature 'and cause of the accusation," &c. For what purpose should he be informed of the nature and cause of the accusation; if, when he is informed of both, he is unable to ascertain by examining the law whether he has been guilty of any offence or not? And is it not of infinitely more importance to the citizen to know the nature and consequences of any particular act he is about to commit, than to be informed of the nature and cause of his accusation; when, after he shall have been thus informed, he is unable to ascertain by any law whether the nature and cause of the accusation against him be criminal or not? Indeed, without the knowledge of the criminality of the charge, a knowledge of the charge itself would be of very little advantage to him. Again, suppose a citizen should be indicted upon the identical words of the Constitution, "of levying war," without the specification of any particular overt act amounting to that offence, would such a definition be sufficient for conviction? Certainly not. More definition is therefore required than can be found in the Constitution.

The next question which presents itself for consideration is, how can this further definition be obtained? What department is most competent to it? What is the proper department under the Constitution? He said, there can be no doubt but the legislative is the only Constitutional and competent department for that purpose.

Mr. G. said, it would be recollected that according to the interpretation put upon the clause of the Constitution first read, it was stated that the power of declaring or ascertaining the acts which

would amount to the treason of "levying war, &c., and adhering to the enemies, &c.," was conferred on the Government generally, and not on any department exclusively. If this position be correct, which appeared to him to be a plain matter of fact, he would now call the attention of the Senate to another clause in the Constitution, which he considered directory as to the proper department for exercising this power. The clause he alluded to was in the eighth section of the first article of the Constitution. He would read both clauses together—third section, third article:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." Eighth section, first article: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof."

Now ask the question, is the power of declaring or ascertaining what acts amount to the treason of "levying war against the United States, or of adhering to their enemies," &c., vested by the Constitution in the Government of the United States? Answer. It certainly is. What is the proper department for passing all laws necessary and proper for carrying this power into execution? The Constitutional answer certainly is, Congress. If this exposition be correct, and it appeared to him to be self-evident, it is no longer a Constitutional question, but it is a question of expediency. Is it necessary and proper, under existing circumstances, to pass such laws? This question has been before answered in part, but would be further examined presently. The clause in the Constitution last read, had also had a general cabalistical phrase applied to it. It is called "the sweeping clause," and attempts have been made to infer from it general powers to the Government; although he should discard that interpretation, and readily admit, that it confers no power of itself upon the Government; it is of infinite importance in adjusting all powers vested in the Government and by the Constitution. It determines upon the department, in which the ultimate power of the Government is vested. The first part of the clause relates to powers previously, and specifically given to Congress. The words are, "to make all laws necessary and proper for carrying into execution the foregoing powers." This, although extremely proper, is the least important part of this clause; because all necessary and proper means for carrying into execution all the powers specifically vested in Congress, might have been inferred; it was however, perhaps, better to express it, and leave nothing to inference; but the remaining part of the clause is the real operative part of it. The words are, "and all other powers vested by this Constitution in the Government of the United States, or any department or officer thereof." The wisdom and foresight of the framers of our Constitution, is particularly discernible in this article. They clearly foresaw, that many difficulties might arise in the execution of many of the powers vested in the Government of the United States or in some of the departments thereof, which, at that time, could not be conceived or imagined. For the purpose, therefore, of meeting these difficulties, and insuring the due execution and administration of the Government, this clause was introduced, declaring, in effect, that whenever any such difficulties should occur in relation to any powers vested in the Government, &c., Congress should have power to pass all laws necessary and proper for relieving them from such difficulties, and carrying such vested powers into due execution. This clause, in his opinion, therefore, must be considered as also settling all questions among the departments respecting the ultimate deposite of power.

But a formidable difficulty is here interposed. The danger of legislating on this subject. It is said, if Congress should undertake to declare what acts amount to the treason "of levying war, and adhering to the enemies, &c., they may declare acts treasonable, not embraced by these definitions and limitations; and supposing they should do so, where is the remedy? In the first place, it may be observed, that there is no such supposition warranted by the Constitution. The supposition itself is therefore unconstitutional. The Constitution has furnished certain guards against its violation, in this respect as well as in all others. The Representatives are chosen at certain short periods: are themselves subject to the same rules of conduct prescribed to others; and take a solemn oath to support the Constitution of the United States. It is believed that these guards are sufficient for the protection of the Constitution, and that the danger of its violation is merely imaginary; but in the next place, this supposition might be answered by another. Suppose the judges were to declare certain acts treasonable which are not embraced by those species of treason defined in the Constitution, where is the remedy? The danger in this case appears to be greater than in the other, and there is no remedy at all, because the judges are irresponsible; except, to use their own language, to God and their own consciences. They are not responsible to the people, who alone possess the ultimate censorial power; whereas their Representatives are responsible directly to them at short periods, and the President and Senate, indirectly, responsible to them at periods somewhat longer. But it can be demonstrated, that the Judiciary department, under its present organization, is utterly incompetent to the due exercise of this power, as will be clearly seen from the following statement.

The Supreme Court of the United States has no criminal power whatever. That power is confided to the circuit courts. There are eighteen circuit courts in the United States, including the circuit court of Columbia, and excluding all the Territorial courts. These courts are composed of twenty-eight judges, and are held at eighteen different places, without any connexion with each other. As far as the opinions of these judges have been ascertained, it is believed that no two

of them have concurred as to all the acts which amount to the treason of levying war, the only species that has yet been presented to them for adjudication. The other species, "of adhering to the enemies of the United States," &c., not having yet occurred, the United States having enjoyed almost an unintermitted state of peace ever since the adoption of the Constitution. If that species of treason should become frequent, a circumstance highly probable, in case of a change in the state of the nation to a state of war, a similar result may be expected. What prospect of settling principles correctly can we have, if eighteen different tribunals should settle the same question in eighteen different ways? Yet his honorable friend from New York seems disposed to wait with patience until some certainty can be established in the usual course of judicial decision, which, even in the event of concurring opinions, could not happen in a century; and unless there should be some new order of things in that respect, could never happen at all. Instead of certainty in the ascertainment of offences, confusion incalculable must be the consequence.

But let us see what the Chief Justice says upon this subject, in his opinions delivered upon the trials at Richmond:

"It is true, that in that case, after forming the opinion that no treason could be committed, because no treasonable assemblage had taken place, the court might have dispensed with proceeding further in the doctrines of treason. But it is to be remembered, that the judges might act separately, and perhaps at the same time, on the various prosecutions which might be instituted, and that no appeal lay from their decisions. Opposite judgments on the point would have presented a state of things infinitely to be deplored by all. It was not surprising then that they should have made some attempt to settle principles which would probably occur, and which were in some degree connected with the point before them."

"This court is told that, if this opinion be incorrect, it ought not to be obeyed, because it was extra-judicial. For myself, I can say that I could not lightly be prevailed on to disobey, were I even convinced that it was erroneous; but I would certainly use any means which the law placed in my power to carry the question again before the Supreme Court for reconsideration, in a case in which it would directly occur and be fully argued."

Here we see the Chief Justice pathetically deploring the consequences of opposite decisions upon the same point, and lamenting his inability to bring these cases before the Supreme Court. For what? He tells us to *settle principles*, or, in other words, to prescribe rules for the government of the circuit courts, in which consists the very essence of legislation. Hence the judicial legislation of the Supreme Court is to exclude Congressional legislation; but he evidently admits the incompetency of the circuit courts to legislate upon this subject; and, unfortunately for the legislation of the Supreme Court, it has no jurisdiction in criminal cases; and, therefore, there is no legal mode of bringing the cases before them for the purpose of settling principles, or in other words, for the purpose of legislation. Hence will result all the confusion which the Chief Justice so properly and pathetically deplores. Yes, sir, the uncertainty and confusion resulting from contradictory decisions of your courts upon the doctrine of treason against the United States will be such, that no man can know when an act is innocent or guilty, and when his innocence or guilt will very much depend upon the court before which he may happen to be brought for trial. Our situation will be, probably now is, like that described in England in the time of Henry IV., after a great many statutes had been passed, and contradictory adjudications had been made in relation to this same doctrine of treason. In the preamble to the statute of the first of Henry IV., the situation of the nation, in relation to treason, is thus described: "That no man knew what he 'ought to know, or to do, or to say, or to speak, 'through doubt of such pains." This, if not now, will inevitably be the case of this country, unless some legislative corrective of the present system be applied. There are also great objections to the forms of judicial legislation; they consist too much in inference, too little in dictum. They want the words, "Be it enacted," &c. The judges blend their reasonings with their inferences, so that it requires great legal skill to make the proper analysis. A plain man of the best understanding could never do it. The enacting clauses are obscured by the preamble. It is like enacting our speeches, interspersed with our laws. Take for instance the judicial opinions lately delivered in the United States upon the various questions of treason which have been brought before the courts, and ask yourself this question: Do you understand the doctrine of treason now better than you did before the opinions were given? Is not the subject rendered more confused and uncertain? Can you tell whether accessorial treasons in England are principal treasons in the United States? Judge Chase and others say they are. Judge Marshall says he does not know whether they are or not, but his reasoning would go to show that they are not. In the doctrine of treasons, this is an all-important question; and if the judges cannot agree, how can plain men settle the question, and why is it that the people should be kept in the dark upon this branch of our penal laws alone? It cannot be on account of the heinousness of the offence, its dangerous tendency towards society, nor its fatal effects to the individual committing it. All these reasons plead loudly in favor of telling the people plainly what the acts are involving such consequences, that they may take care to avoid their commission.

He then proceeded to examine some further consequences of a different interpretation of the Constitution, to which he begged the most serious attention of the Senate. If the judges are to declare what acts amount to treason against the United States, without any legislative aid, one of two consequences will inevitably result. Either the statutes of England, in relation to these species of treason, the decisions of the English judges thereupon, and perhaps the opinions of some of their elementary writers, will become the law of the United States, and even immutable or funda-

mental law; or all acts amounting to treason must be transcribed only on the minds of the judges. Upon the first of these points, let us examine the decisions of the judges themselves.

He would first call the attention of the Senate to a rule of court laid down in the trial of Fries, and found in the Appendix to Tucker's *Blackstone*, pages 14 and 15:

"Judge Chase, on the subsequent trial of Fries, declared 'That the court would admit, as a general rule, of quotations from the English books; not as authorities whereby they were bound, but as opinions and decisions of men of great legal learning and ability. But even then the court would attend carefully to the time of the decision, and in no case must it be binding on the juries.' As this was pronounced as a general rule by the court, and not as the opinion of a single judge, we may consider it now settled that the English authorities are not binding as precedents; consequently they do not form part of the law of the land, but are to be respected only as the opinions of men of great legal learning and ability, which may nevertheless be canvassed as freely as the opinions of other men. Neither are we bound to suppose that the framers of our Constitution meant to adopt those decisions as a guide to our courts in the interpretation of the definition of treason against the United States."

According to this decision, English authorities are to have no binding influence on the courts, but are to be respected as the opinions and decisions of men of great legal learning and ability.

Let us now turn to the decision of the Chief Justice at Richmond, with this same rule of court before him. It is suggested to have been before him, because this celebrated treatise of Judge Tucker, upon the doctrine of treason, was referred to in the same decision, and almost the whole of the Chief Justice's reasoning upon accessorial treasons was drawn from it.

"What is the natural import of the words 'levying war;' and who may be said to levy it? Had their first application to treason been made by our Constitution, they would certainly have admitted of some latitude of construction. Taken most literally, they are, perhaps, of the same import with the words 'raising or creating war,' but, as those who join after the commencement are equally the objects of punishment, there would probably be a general admission, that the term also comprehended making war, or carrying on war."

"But the term is not for the first time applied to treason by the Constitution of the United States. It is a technical term. It is used in every old statute of that country, whose language is our language, and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our Constitution in the sense which had been affixed to it by those from whom we borrowed it. So far as the meaning of any terms, particularly terms of art, is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is, therefore, reasonable to suppose, unless it be incompatible with other expressions of the Constitution, that the term 'levying war' is used in that instrument in the same sense in which it was understood in England and in this country, to have been used in the statute of the 25th of Edward III., from which it was borrowed.

"It is said that this meaning is to be collected only from adjudged cases. But this position cannot be conceded to the extent in which it is laid down. The superior authority of adjudged cases will never be controverted. But these celebrated elementary writers, who have stated the principles of the law, whose statements have received the common approbation of legal men, are not to be disregarded. Principles laid down by such writers as Coke, Hale, Foster, and Blackstone, are not lightly to be rejected."

It cannot escape observation that the Chief Justice here expressly lays it down, that the laws of England, in relation to these species of treason, form the substratum of our laws, from which figurative expression, is evidently inferred an undeniable declaration, on the part of the judge, that the laws of England, in these respects, are the foundation (substratum) of our laws; or, in other words, the fundamental, immutable laws of the United States, and, of course, in their essential operation, a part of the Constitution of the United States. But, the Chief Justice goes further, and declares that the decisions of the English judges form a part of these fundamental laws, and even the principles in relation thereto, laid down by their celebrated writers, are not to be disregarded. It is hardly to be presumed that, before this declaration, it had ever entered into the imagination of any man, that our Constitution was composed of such materials. If it be the case, however, it is devoutly to be wished that these laws, decisions, and principles, of elementary writers, should be collated, printed, and annexed to our Constitution as legitimate parts thereof; and if Congress are to be excluded from all participation in the exercise of this authority, the Supreme Court could not render a greater service to their country than to make the collation with all convenient despatch, for the information of Congress, and still more for the people at large. But, sir, are there no objections to these substrata of our laws? On no one subject of jurisprudence in Great Britain have there been such monstrous perversions of justice, and such passionate and contradictory decisions, as on the doctrine of treason, and why? Because they have been almost always made in violent and troublesome times, and generally after bloody contests for the Crown. If his interpretation of the Constitution should be deemed incorrect, rather than hold some of his most important rights upon substrata like these, he had thought of preparing an amendment to the Constitution, to authorize Congress to declare what acts should amount to treason against the United States. But, in reflecting upon that subject, he found the eighth section of the first article of the Constitution as good a provision for that purpose as could be drawn by way of amendment, and he begged gentlemen to reflect upon it, and see whether they could prepare a better, to wit:

"Congress shall have power to pass all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

But, sir, let us now discard this doctrine of the Chief Justice, and take up the rule laid down by the court on the trial of Fries: that the British laws, decisions, and elementary principles, are not the substrata of our laws on the doctrine of treason, but merely entitled to certain respect in guiding the courts to correct decisions. I would then ask, where is the doctrine of the treason written? If our laws of treason are not taken from these sources, where are they written? Nowhere, unless on the minds of the judges. Sir, there are great objections to this sort of transcription: first, the transcript will be different on the mind of every different judge; second, it may be different upon the mind of the same judge at different times, and under different circumstances. The retina of the human mind is not fit parchment for the transcription of laws. It is too much like changeable silk. It may vary its complexion, especially when held up to political sunshine. He begged the Senate to take a view of the judicial proceedings which had taken place in the United States in relation to this subject. Without pretending to go minutely into the examination of the evidence before the courts on the trial of Fries, and the late trials at Richmond, a general view of the different results of these trials had always appeared extraordinary to him. Fries, and other ignorant Germaus, from a very limited district of country, being hostile to an act of Congress, assembled themselves, and with arms forcibly rescued some persons from the custody of the marshal of Pennsylvania; the prisoners not being charged with treason, and as soon as the rescue was effected, returned peaceably to their homes, and, it is believed, never after assembled in arms for any other purpose. This was considered by the court as unquestionable treason against the United States.

The transactions disclosed on the trials at Richmond, seemed to be of a very different character. It appeared there, that a design to dismember the United States by force, and to establish a separate Government in the part thus separated, and also to seize upon, and include in such Government some of the territories of Spain, had been deliberately formed by the most active, daring, intelligent, and enterprising citizens of the United States. That partisans were engaged to effect this design, extending themselves from the city of New York, in the direction of the Lakes, and from thence to Orleans, and from Philadelphia, from this place, &c., to Pittsburg, and in that direction to Orleans, which appeared to be the first object of attack, and from whence further operations were to be determined on. That, in pursuance of this design, a number of men with arms had convened at the mouth of Cumberland, with the chief projectors of this enterprise at their head, and entered into a formal capitulation for surrendering themselves to the authority and laws of the United States, after having cautioned the acting officer of the United States against compelling them to shed blood in a civil contest by refusing their terms of surrender, and thus urging them to resistance. These transactions, according to the opinion of the court, unquestionably do not amount to treason against the United States, and the persons committing them ought not even to be committed for trial before the tribunal having cognizance thereof. But the assemblage is described by the judge as demeaning themselves in a peaceable and orderly manner; no act of violence was committed, nor any outrage on the laws practised. There was no act of disobedience to the civil authority, nor were there any military appearances, although the men were drawn up in something like a semicircle, &c., the capitulation, and its accompanying circumstances, to the contrary notwithstanding. This circumstance, however, was not thought worth mentioning by the judge in his recapitulation of the evidence.

These judicial results appeared strange to him, and he believed they did to every impartial man in the United States. He did not mean to infer from these circumstances anything more than that the highest judicial officers were not exempt from the frailties and feelings of human nature; nor did he mean to use them for the purpose of detracting one atom of independence from the judges; very far from it. He wished they were more independent than he feared they were. But he entertained a very different opinion of the honorable and dignified character of an independent judge; of a department in some respects dependent, and of a judge, who, forgetting the nature of his office, is perpetually aspiring not only to render his department absolutely independent, but to render it supreme over all the other departments of the Government; in the one case he is placed in the elevated and dignified attitude of distributing justice impartially among his fellow-citizens; in the other, he is reduced to the miserable political intriguer, scrambling for power; for when once this appetite for power is indulged, the sacred mantle of the judicial character will be found but a feeble barrier against its influence. There was nothing in names—it was not material whether they were called judges, or consuls, or censors—once place power before their eyes, and they would all, with an equal impulse, pursue the means best calculated to attain it. This is human nature; and, under such circumstances, raise this sacred mantle of the judge, and you will find concealed beneath it strong marks of the frailties common to human nature. Hence this argument, derived from the sacredness of the judicial character, had but little influence on his mind; and therefore could never be an inducement for him to yield to their claims to ultimate and unlimited powers; even the oaths taken by the judges have been suggested by them as arguments in favor of their claims to the ultimate power of the Government. Without seeming to recollect that their number is seven, and that the same oath is taken by above one hundred and seventy members of both Houses of Congress; and, as a further protection of the Constitution, Congress is composed of two branches, placed as mutual checks on each other.

He said, he would now detain the Senate only

a few moments longer, while he made a few observations on the only remaining clause in the Constitution connected with this subject. It is the last clause of the third section of the third article of the Constitution, in these words: "The 'Congress shall have power to declare the punishment of treason, but no attainder of treason 'shall work corruption of blood, or forfeiture, ex-'cept during the life of the person attainted." It will be here observed that this clause relates solely to legislative powers, although it is classified with the power of the judicial department. An inference has been drawn from this clause—as the power of declaring the punishment of treason, is expressly given to Congress, it excludes the inference that Congress may also declare what acts shall amount to treason. This, however, is a mere inference; and if that effect was intended by the framers of the Constitution, they would certainly have expressed it—for it is not possible to conceive, if this idea once presented itself to them, they would have left a subject of so much delicacy and importance to mere inference. This clause was evidently introduced with very different views, and, so far from its excluding a legislative declaration of the acts amounting to treason, it affords an argument in favor of that construction. This clause, like the preceding one, is intended both to confer power, and to limit its exercise. It gives to Congress the power of declaring the punishment of treason, but limits its exercise to attainder of blood only during the life of the person convicted. But may not Congress, consistently with this clause, apply different degrees of punishment to different degrees of treason? Are there not different degrees of moral turpitude, in different degrees of treason? And how can Congress possibly graduate according to the degrees of moral turpitude, different punishments to different acts, without defining the acts to which such punishments are to be applied? He acknowledged he could not see how it could be done without such definition. The doctrine of apportioning punishments to crimes, according to the standing of moral turpitude, has always been a favorite one in this country, and very probably was not without its effect in introducing this clause into the Constitution. He said he had done enough, however, for his argument, if he had shown that the inference generally deduced from this clause was not warranted by it. He had now presented to the Senate the leading motives with him for introducing the principle of the bill; and if he had occupied more of their time, than was agreeable, he hoped the delicacy, difficulty, and importance of the subject would furnish his apology.

FRIDAY, February 12.

The bill, entitled "An act supplementary to the act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise," was read the second time and referred to Messrs. SMITH of Maryland, ADAMS, and MITCHILL, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for erecting a light-house, and placing buoys, at the places therein mentioned; and the President reported the bill amended; and on the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

The bill for the relief of Joseph Chase, Jared Gardiner, and others, was read the third time, and passed.

Ordered, That the consideration of the bill for the punishment of treason, and other crimes and offences against the United States, be further postponed until Tuesday next.

MONDAY, February 15.

Mr. MITCHILL presented the memorial and petition of Philip Turner, late of the State of Connecticut, but now of the State of New York, stating that, at the commencement of the Revolutionary war, he was appointed Surgeon General, and afterwards one of the fifteen hospital physicians; that, in June, 1781, he retired from the service; and that, on application to Mr. Howel, the postmaster, for settlement, there arose a difference of opinion, as to the allowance to which he was entitled, and your petitioner has remained from that time without his compensation, and now prays relief; and the petition was read and referred to Messrs. MITCHILL, BRADLEY, and FRANKLIN, to consider and report thereon.

Mr. TIFFIN, from the committee to whom the subject was referred, on the 18th November last, reported the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio;" and the bill was read, and ordered to the second reading.

The bill for erecting a light-house, and placing buoys at the places therein mentioned, was read the third time, and ordered to lie for consideration.

TUESDAY, February 16.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States.

I communicate, for the information of Congress, a letter from the Consul of the United States at Malaga, to the Secretary of State, covering one from Mr. Lear, our Consul at Algiers, which gives information that the rupture threatened on the part of the Dey of Algiers has been amicably settled, and the vessels seized by him are liberated. TH. JEFFERSON.

FEBRUARY 15, 1808.

The message and papers were read, and ordered to lie for consideration.

The Senate resumed the third reading of the bill for erecting a light-house and placing buoys at the places therein mentioned; and the blank having been filled, the bill was passed.

The bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of

Kentucky, Tennessee, and Ohio," was read the second time; and, after debate, the further consideration of the bill was postponed until to-morrow.

On motion, by Mr. GILES, it was agreed that the consideration of the bill for the punishment of treason, and other crimes and offences against the United States, be postponed until Thursday next.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act extending the right of suffrage in the Indiana Territory;" a bill, entitled "An act making appropriations for carrying into effect certain Indian treaties;" a bill, entitled "An act making additional compensation to the marshals for the districts of North Carolina and New Jersey;" a bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress;" a bill, entitled "An act to allow the importation of old copper free of duty;" a bill, entitled "An act for the relief of Edward Weld and Samuel Beebee;" also, a "Resolution to authorize the disposition of certain charts of the coast of North Carolina;" in which bills and resolution they request the concurrence of the Senate.

The bills and resolution were read. And, by unanimous consent, the bill, entitled "An act extending the right of suffrage in the Indiana Territory," was read a second time, and referred to Messrs. ANDERSON, TIFFIN, and ADAMS, to consider and report thereon.

By unanimous consent, the bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read a second time, and referred to Messrs. SMITH, of Tennessee, ADAMS, and ANDERSON, to consider and report thereon.

By unanimous consent, the bill, entitled "An act making additional compensation to the marshals for the districts of North Carolina and New Jersey," was read a second time, and referred to Messrs. TURNER, CONDIT, and KITCHEL, to consider and report thereon.

By unanimous consent, the bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress," was read a second time, and referred to Messrs. FRANKLIN, GREGG, and MOORE, to consider and report thereon.

By unanimous consent, the bill, entitled "An act to allow the importation of copper free of duty," was read a second time, and referred to Messrs. ROBINSON, GILMAN, and SMITH, of Maryland, to consider and report thereon.

By unanimous consent, the bill, entitled "An act for the relief of Edmund Weld and Samuel Beebee," was read a second time, and referred to Messrs. GILMAN, THRUSTON, and ANDERSON, to consider and report thereon.

By unanimous consent, the "Resolution to authorize the disposition of certain charts of the coast of North Carolina," was read the second time, and referred to Messrs. ADAMS, FRANKLIN, and SUMTER, to consider and report thereon.

The following motion was submitted by Mr. GILES, for consideration:

Resolved, That a committee be appointed to inquire whether, under the laws establishing the several courts of the United States, the Supreme Court thereof is now authorized to issue the writ of habeas corpus in criminal cases; and to report whether, in their opinion, it is expedient that the authority to issue such writ should be vested in that court, and that the committee have leave to report by bill or otherwise.

On motion, by Mr. ADAMS,

Ordered, That the petition of Archibald McCall and others, presented on the 18th November last, be referred to the committee appointed the 3d instant, on the report of the Secretary of the Treasury on the subject of drawbacks on exportation, to consider and report thereon.

WEDNESDAY, February 17.

Mr. SMITH, of Tennessee, from the committee to whom was referred the bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," reported it without amendment.

Ordered, That this bill be read a third time.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio."

On motion of Mr. ADAMS to strike out the second section of the bill, as follows:

And be it further enacted, That, from and after the first day of July next, the district judge in the district of Ohio, shall be, and hereby is, entitled to a salary of fifteen hundred dollars annually, to be paid quarter-yearly, at the Treasury of the United States:

It was determined in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Adams, Bradley, Condit, Crawford, Franklin, Gaillard, Gilman, Goodrich, Hillhouse, Howland, Maclay, Mathewson, Milledge, Mitchill, Parker, Pickering, Robinson, Smith of New York, Smith of Tennessee, Sumter, and Turner.

NAYS—Messrs. Anderson, Gregg, Kitchel, Pope, Smith of Maryland, Thruston, Tiffin, and White.

On motion, by Mr. ADAMS, the bill was recommitted to the original committee, further to consider and report thereon; and, on motion, by Mr. ANDERSON, Messrs. ADAMS and BRADLEY were added to the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Samuel Whiting," in which they request the concurrence of the Senate.

The bill was read, and ordered to the second reading.

THURSDAY, February 18.

The bill, entitled "An act for the relief of Samuel Whiting," was read the second time, and referred to Messrs. BRADLEY, WHITE, and ADAMS, to consider and report thereon.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress," reported the bill with an amendment; which was read, and ordered to lie for consideration.

Mr. TIFFIN, from the committee to whom was recommitted the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," reported the bill with amendments; which were read, and ordered to lie for consideration.

On motion, by Mr. WHITE, it was agreed that the consideration of the bill for the punishment of treason, and other crimes and offences against the United States, be further postponed, and made the order of the day for Monday next.

The Senate took into consideration the motion made on the 16th instant, on the subject of issuing writs of habeas corpus in criminal cases; and the motion having been amended, was adopted, as follows:

Resolved, That a committee be appointed to inquire whether any further Legislative provision be necessary for regulating the manner of issuing and executing the writ of habeas corpus by the courts of the United States, and that the committee be empowered to report by bill or otherwise.

Ordered, That Messrs. GILES, ADAMS, ANDERSON, CRAWFORD, and BRADLEY, be the committee.

The bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read the third time, and passed.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act extending the right of suffrage in the Indiana Territory," reported it without amendment; and the bill was ordered to the third reading.

Mr. ROBINSON, from the committee to whom was referred the bill, entitled "An act to allow the importation of old copper free of duty," reported an amendment; which was read, and ordered to lie for consideration.

FRIDAY, February 19.

Mr. TURNER, from the committee to whom was referred the bill, entitled "An act making additional compensation to the marshals for the districts of North Carolina and New Jersey," reported it without amendment.

Ordered, That this bill pass to the third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The States of Pennsylvania, Maryland, and Virginia, having, by their several acts, consented that the road from Cumberland to the State of Ohio, authorized by the act of Congress of March 29th, 1806, should pass through those States, and the report of the Commissioners, communicated to Congress with my Message of January 31, 1807, having been duly considered, I have approved of the route therein proposed for the said road as far as Brownsville, with a single deviation since located, which carries it through Uniontown.

From thence, the course to the Ohio and the point within the legal limits at which it shall strike that river, is still to be decided. In forming this decision, I shall pay material regard to the interests and wishes of the populous parts of the State of Ohio, and to a future and convenient connexion with the road which is to lead from the Indian boundary near Cincinnati, by Vincennes, to the Mississippi at St. Louis, under authority of the act of April 21, 1806. In this way we may accomplish a continued and advantageous line of communication from the seat of the General Government to St. Louis, passing through several very interesting points of the Western country.

I have thought it advisable also to secure from obliteration the trace of the road so far as it has been approved, which has been executed at considerable expense, by opening one-half of its breadth through the whole length.

The report of the Commissioners, herewith transmitted, will give particular information of their proceedings under the act of March 29, 1806, since the date of my Message of January 31, 1807, and will enable Congress to adopt such further measures relative thereto as they may deem proper, under existing circumstances.

TH. JEFFERSON.

FEBRUARY 19, 1808.

The Message and papers were read, and ordered to lie for consideration.

The Senate took into consideration the bill, entitled "An act to allow the importation of old copper free of duty," together with the amendment reported by the committee; and the further consideration thereof was postponed until Monday next.

The bill, entitled "An act extending the right of suffrage in the Indiana Territory," was read the third time, and passed.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled 'An act for the relief of Samuel Whiting," reported it without amendment; and the bill was ordered to the third reading.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio."

Ordered, That the bill and amendments be recommitted to the committee who had the bill last under consideration, further to consider and report thereon.

Mr. POPE communicated a resolution and instruction of the Legislature of the State of Kentucky to their Senators in Congress, on the expediency of opening a wagon road from Ohio river, to intersect the road leading from Cincinnati to Fort Wayne; which was read, and referred to Messrs. POPE, THRUSTON, and BRADLEY, to consider and report thereon, by bill or otherwise.

MONDAY, February 22.

Mr. MACLAY, agreeably to instructions from the Legislature of the State of Pennsylvania to their Senators in Congress, submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the first section of the third article of the Constitution of the United States be so altered and amended "that the judges of the courts thereof shall hold their offices for a term of years; that they shall be removed by the President of the United States on the address of the majority of the members present, of the Senate and House of Representatives of the United States in Congress assembled; and that on all trials of impeachment for high crimes and misdemeanors, a majority of the Senate shall be competent to conviction."

And the resolution was read, and referred to Mr. TIFFIN and others, the committee appointed the 25th of January last, on this subject, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress," together with the amendment reported by the special committee; and the President having reported the bill amended, on the question, Shall the bill be read a third time as amended? it was determined in the affirmative.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the second reading of the bill for the punishment of treason and other crimes and offences against the United States; and, after debate, the Senate adjourned.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise," reported the bill with amendments; which were read, and ordered to lie for consideration.

DEATH OF HON. JOHN DICKINSON.

Mr. WHITE.—Mr. President: It is with much pain and regret, sir, that I rise to announce to the Senate the irreparable loss our country has sustained in the death of one of her worthiest citizens and most distinguished patriots. Time has measured and told the days of another venerable sage of the Revolution. JOHN DICKINSON, the illustrious cotemporary and friend of Washington and Franklin, is now no more—his head and his heart devoted to the service and love of his country, till his locks were bleached by the frosts of more than seventy winters, have now descended in silence to the grave. No humble eulogy of mine shall attempt to approach his exalted merit. The happiness of his fellow-citizens was his only aim, and upon the grateful hearts of his countrymen is indelibly engraven the dearest memento of his wisdom and his worth. Those who shared his personal acquaintance will never forget his private virtues—volumes from his pen, that do honor to the age, that will be read and admired as long as the love of science and freedom shall be cherished, record his inflexible patriotism; and the liberties of this country, which he contributed so essentially in establishing, will I hope long, very long indeed, sir, continue to be the proud and unshaken monument of his fame. The feelings of every gentleman of this honorable body will I am sure be in unison on the motion I am about to propose; it is an humble tribute of respect to the memory of the deceased, in the form of the following resolution:

Resolved, unanimously, That the Senate is penetrated with the full sense of the merit and patriotism of the late JOHN DICKINSON, Esq., deceased, and that the members thereof do wear crape on the left arm, for one month, in testimony of the national gratitude and reverence towards the memory of that illustrious patriot.

This resolution was immediately adopted.

TUESDAY, February 23.

Mr. GILMAN, from the committee to whom was referred the bill, entitled "An act for the relief of Edward Weld and Samuel Beebee," reported amendments; which were ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act supplementary to an act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise," and the President having reported the bill to the House amended, it was ordered to the third reading as amended.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress," correctly engrossed. The said bill was then read the third time, and passed.

Agreeably to instruction from the Legislature of the State of Pensylvania to their Senators in Congress, Mr. MACLAY submitted the following resolution, which was read for consideration:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House agreeing thereto, That the Constitution of the United States be so altered and amended, as to prevent the Congress of the United States, and the Legislature of any State in the Union, from authorizing the importation of slaves.

The bill, entitled "An act for the relief of Samuel Whiting," was read the third time, and passed.

The bill, entitled "An act making additional compensation to the Marshals for the district of North Carolina and New Jersey," was read the third time, and passed.

On motion, by Mr. POPE, the bill for the punishment of treason and other crimes and offences against the United States, was postponed until to-morrow.

Mr. MITCHILL submitted the following motion for consideration:

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appro-

priated by the "Act making further appropriation for the support of a library," passed the 21st February, 1806; and that the Secretary give information thereof to the House of Representatives.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act supplementary to the act, entitled 'An act to prohibit the importation of certain goods, wares, and merchandise,'" correctly engrossed. The bill was then read the third time as amended, by unanimous consent, and passed.

Mr. ADAMS, from the committee to whom was referred the "Resolution to authorize the disposition of certain charts of the coast of North Carolina," reported the same without amendment. And the bill was ordered to a third reading.

WEDNESDAY, February 24.

The Senate proceeded to consider the motion submitted yesterday; and

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appropriated by the "Act making further appropriation for the support of a library," passed 21st February, 1806; amd that the Secretary give information thereof to the House of Representatives.

Ordered, That Messrs. MITCHILL, ADAMS, and GILES, be the committee on the part of the Senate.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill, entitled "An act for the relief of Edmund Weld and Samuel Beebee;" and the President having reported the bill to the House amended,

Ordered, That it pass to the third reading as amended.

Mr. GREGG, from the committee, reported the resolution for the appointment of a joint committee on the arrangements for the library, correctly engrossed.

Mr. MILLEDGE, from the committee to whom was recommitted the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," together with certain amendments proposed, reported further amendments; which were read, and ordered to lie for consideration.

Mr. POPE, from the committee to whom was referred, on the 26th of November last, the petition of William Wells, reported a bill granting William Wells the right of pre-emption;" which was read and passed to the second reading.

TREASON AND OTHER CRIMES.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the punishment of treason and other crimes and offences against the United States.

Mr. POPE moved that the further consideration of the bill be postponed until the first Monday in December next.

The PRESIDENT having put the question—

Mr. POPE said, that after the very able and ingenious argument of the honorable Chairman of the committee, (Mr. GILES,) who reported the bill, it was with very great reluctance and diffidence that he rose to offer his view of the question.

The bill, however, assumed a principle entirely new, and went to create offences which had been, he believed, heretofore unknown in the General Government, or any of the State governments. The importance as well as novelty of the subject, rendered a full discusssion of its merits necessary, before the House pronounced a final decision. A sense of duty, therefore, prompted him, feeling a conviction that the measure was unconstitutional and inexpedient, to express his sentiments on the subject.

Questions of this kind, said Mr. P., whatever may be their ultimate fate, answer one good purpose. They invite an examination of the first principles—they lead us to explore the foundation of our political fabric, and the boundaries which the people of these States have drawn around the powers of Congress. We should have constantly in view that the people are the fountain of all power, and when we are about to do any act, it is our duty to inquire whether we have received from that fountain any grant of power to authorize it. Before I proceed to investigate the merits of this bill, I must beg leave to strip this debate of one subject, with which it has been encumbered, and which I think ought not to have been introduced to play upon the question before us. I mean the judiciary, and the independence of judges. Many observations have been made on this subject, the relevancy of which I have not perceived; for, whether their independence be retained or diminished, I presume their judicial functions will not be altered. The orbit in which the Constitution has destined the judiciary to move will remain the same.

On the subject of the independence of the judiciary, I have never indulged much theoretic speculation. My impressions are rather the result of education and habit, than of a thorough examination of the principles on which they are predicated. After the declaration of American Independence, the people of the several States, in forming their constitutions, introduced this principle of an independent judiciary; and at the time the Federal Constitution was adopted, it appears to have been a favorite one with all parties. For my part, I have considered the Constitution defective in not providing for the removal of judges by address, for any reasonable cause which does not constitute matter of impeachment. The American people have incorporated into their system of Government such features of the British Government as were supposed to favor the liberty of the subject.

It seems to have been supposed at the time this subject was before the nation, to be necessary to interpose some barrier to protect the rights of the minority against the persecuting spirit of an overbearing majority, and to secure an accused individual against oppression and injustice from the strong arm of power. The independence of the Federal Judiciary was deemed a valuable safe-

guard against the encroachments of the Federal Government on the rights of the people, and the sovereignty of the States. The value and importance of this principle here was probably estimated in a great measure by its supposed effects in the British Government. To protect the weak against the strong, to secure to every man, whatever may be his condition, equal and impartial justice, is certainly the legitimate end of every government. To accomplish this great object, it seems to have been thought necessary to give our judicial tribunals such a degree of independence as would enable them to administer justice to all without respect to persons uninfluenced or overawed by any power or party in the Government. Whether this principle is correct in the full extent to which it has been carried by our Constitution, it would be perhaps premature for me now to decide, inasmuch as we have reason to expect that the question will be presented to us in a distinct and independent form. I shall regret to see our judges the tools of an administration, or associated with an opposition for the purpose of embarrassing it. Whenever a judge profanes the temple of justice by acting the part of the political partisan, he ought to be execrated by every honest man in the nation.

I shall rest here on the present occasion, laying entirely out of view the independence of the judiciary, and will proceed to inquire whether we have the power to legislate as proposed by the bill. The House will please to mark the essential difference between the constitutions of the several States and the Constitution of the United States. The former are limitations of power; the latter a special grant of power. The Legislatures of the several States have all power not expressly prohibited. The Congress of the United States has no power but what is expressly given. But while I notice this distinction, let it not be understood that I am opposed to fair and liberal construction.

It will not be amiss to retrospect the state of things before the Federal Constitution was adopted. The States were united by a compact purely federal—the old Congress had no authority to enforce their laws or ordinances by acting upon the people individually. Its acts were binding on the States, and depended on their agency to carry them into effect. This form of Government was found by experience to be inefficient, and the present Constitution was presented to the view of the American people. This is partly federal, partly national. It authorizes Congress to carry their powers into effect by an agency on the people; and it will be recollected that of this national consolidating feature the people were most jealous, and against it the opposition was principally directed. It was apprehended that this Government would accumulate powers by implication, until it would swallow up the State governments in one great consolidated empire. It will be recollected that before the present Constitution was adopted, the States respectively had power to punish all crimes committed within their respective jurisdictions; and all powers not granted to this Govern ment having been reserved to the States and the people, it follows that all crimes are cognizable by the States, except such as are specified in the Federal Constitution.

In the enumeration of powers granted to Congress the Constitution contains the following provision: "To constitute tribunals inferior to the 'Supreme Court; to define and punish piracies 'and felonies committed on the high seas, and of-'fences against the law of nations." Here a power is expressly given both to define and punish; but when the Constitution speaks of the crime of treason a very different phraseology is made use of. It seems to have been deemed necessary to give Congress a power to punish treason, but the framers of our Constitution, warned by the history of other nations of the abuses and oppressions which had been committed in prosecutions for this offence, that treasons had been the great engine by which violent parties in free Governments had borne down each other, deemed it of importance to the liberties of the people to oppose a barrier to this danger by inserting in the Constitution a definition of the crime. This definition is as follows: "Treason against the United States shall 'consist only in levying war against them, or in 'adhering to their enemies, giving them aid and 'comfort." This definition was considered clear, precise, and determinate, and certainly intended to be as fixed and immutable as the Constitution itself. The Constitution then proceeds: "No per-'son shall be convicted of treason unless on the 'testimony of two witnesses to the same overt act, 'or on confession in open court." "The Congress 'shall have power to declare the punishment of 'treason, but no attainder of treason shall work 'corruption of blood or forfeiture, except during the 'life of the person attainted." The Constitution has not only provided a barrier against legislative tyranny, but, by fixing the proof necessary for conviction, has furnished innocence a great security against that odious class of beings, so common in despotic Governments, called spies and informers.

The last clause I have read merits particular notice. It gives to Congress power to declare the punishment of treason, but none to define it. In the clause respecting piracies and felonies a power is expressly given both to define and punish. These several parts of the Constitution which I have read seem by necessary implication to negative the power of Congress to define this crime. It is certainly our sacred duty to expound this instrument according to the will of those who framed it, as far as that will can be fairly collected; whether, then, the exposition I have given is vested by the Constitution itself or by the sense of the American people after it was framed, and before it was finally ratified, the result will be the same. It is well known that the work called the Federalist was written by several members of the Convention that framed this Constitution; in one of the numbers comprised in that work the same construction is given to this clause for which I contend; and the author assigns the reasons why power is given to Congress to define piracies, &c., and none to define treason. This exposition of

the clause respecting treason is also maintained by Colonel George Nicholas and Mr. Edmund Randolph, in their speeches in the Virginia Convention, and Mr. Randolph, it will be recollected, was a member of the convention which framed this Constitution. Still further to corroborate the opinion I have advanced, I will beg leave to read the observations of Judge Wilson on this subject, in one of his lectures to his students. I rely much on the opinion of Judge Wilson; he was also a member of the Convention, a man of eminent talents, and if his judgment was under any bias, it was rather in favor of increasing than diminishing the powers of the Federal Government. He expresses himself as follows:

"Treason is unquestionably a crime most dangerous to the society and most repugnant to the first principles of the social compact. It must however be observed that as the crime itself is dangerous and hostile to the State, so the imputation of it has been and may be dangerous and oppressive to the citizens. To the freest Governments this observation is by no means inapplicable, as might be shown at large by a deduction, historical and political, which would be both interesting and instructive; but at present we have not time for it.

"To secure the State and at the same time to secure the citizens; and according to our principles, the last is the end and the first is the means, the law of treason should possess the two following qualities: 1st. It should be determinate. 2d. It should be stable."

After reciting the observations of the celebrated Montesquieu on the crime of treason, he proceeds:

"In point of precision and accuracy, with regard to this crime, the common law, it must be owned, was grossly deficient. Its description was uncertain and ambiguous; and its denomination and penalties were wastefully communicated to offences of a different and inferior kind. To lop off these numerous and dangerous excrescences, and to reduce the law on this important subject to a designated and convenient form, the famous statute of treasons was made in the reign of Edward the Third, on the application of the Lords and Commons. This statute has been in England, except during times remarkably tyrannical or turbulent, the governing rule with regard to treasons ever since. Like a rock, strong by nature and fortified as successive occasions required, by the able and the honest assistance of art, it has been impregnable by all the rude and boisterous assaults which have been made upon it at different quarters, by ministers and by judges; and as an object of national security, as well as of national pride, it may be styled the legal Gibraltar of England."

In a subsequent part of the same lecture he observes:

"This statute was a safeguard from the arbitrary constructions of courts. It was a shelter from judicial storms, but it was no security against legislative tempests. No Parliament, however omnipotent, could bind its successors, possessed of equal omnipotence; and no power higher than the power of Parliament was then or is yet recognised in the judicial system of England. What was the consequence? In the furious and sanguinary reign of Henry the Eighth, the malignant spirit of inventing treasons revived, and was carried to such a height of mad extravagance, that, as we have seen on another occasion, the learned as well as the unlearned, the cautious as well as the unwary, the honest as well as the vicious, were entrapped in the snares. Admonished by the history of such times and transactions as these, when legislators were tyrants or tools of tyrants, the people of the United States have wisely and humanely ordained that treason against the United States shall consist, &c. In this manner the citizens of the Union are secured effectually from even legislative tyranny; and in this instance, as in many others, the happiest and most approved example of other times has not only been imitated, but excelled. This single sentence comprehends our whole of national treasons and, as I mentioned before, is transcribed from the statute of Edward the Third."

In addition to the opinions which I have cited, I will beg leave to add that of Judge Tucker, whose learning, ability, and political sentiments, entitle it to very high respect. It will be recollected, also, that the attention of the American people was particularly awakened to an examination of this Constitution after it was framed, and before it was ratified. During that period, every section, clause, and line, was strictly scrutinized, and I believe in no instance did the Constitution receive the construction now contended for. Before the statute of Edward the Third, the judges had great latitude of discretion in defining treason, and, being tools of the Crown, the subjects were harassed and oppressed to such a degree that the Lords and Commons procured this famous statute of treasons to be passed, in order to render this crime so definite and certain that people could understand it, and to abridge the arbitrary discretion of the judges. We are, therefore, compelled to believe that the wisdom of that Parliament was exerted to make as clear and precise a definition of this crime as the English language would enable them. This definition of this species of treason which consists in levying war, stood the test of nearly six hundred years' experience without amendment. If the English courts have in any instances departed from this definition, we must attribute it to the violence of the times in which the decisions were given, rather than to any defect in the law. The experience of the world has proved that in all countries the tone of public feeling will in some degree influence all the operations of Government, and hence it appears, that when a nation is agitated by danger from foreign or domestic enemies, the laws are executed with more rigor than in a time of perfect tranquillity. Although we have reason to felicitate ourselves that we are exempt from the great evils and oppressions incident to despotic Governments, yet I fear that party spirit, when it runs high, will not only influence the general course of our political affairs, but too often tinge the decisions of our judicial tribunals. I believe, however, that the evils felt in Great Britain from prosecutions for this crime were produced by the unprincipled pliability of Parliament in manufacturing new and artificial treasons, during the reigns of tyrannical princes, and especially that of the celebrated monster Henry the Eighth, than to any other cause. If any shades of difference are to be found in the decisions of our own courts, or any contrariety of opinion among learned men on the subject of treason, it is rather to be attributed to the prevalence

of party spirit or contrariety of intellect, than to any real defect in the Constitutional definition of the crime. This Constitution was framed but a few years after the close of our glorious Revolution, when the feelings and prejudices of the American people were very strong against everything British. Strange, then, that those who drafted this instrument, in their zeal to guard the people from oppression, should have borrowed from a British statute a definition which experience had proved to be defective. Let it be remembered, too, that the Convention who framed it was composed of some of the first statesmen and patriots that ever adorned any age or nation, and we must presume that if they could have devised a better definition, they would certainly have done it. My opinion is, that every definition of crime should be concise, and that confusion and uncertainty is generally increased by amplification. If, however, all America has hitherto misunderstood this clause in the Constitution, and we have a power to legislate on the subject, and it is expedient to do so, I will cheerfully lend my feeble aid to remedy the evils which are supposed by the committee to exist.

Permit me, however, first to examine the ground on which this power is claimed. The honorable Chairman (Mr. GILES) has told us that our right to declare what act or acts shall amount to a levying of war is derived from that clause in the Constitution which gives Congress power to make all laws which shall be necessary and proper, for carrying into execution the powers previously granted, and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof. This is carrying the doctrine of implication much further than has ever been contended for. I have never understood this clause as containing any separate and independant grant of power, but as auxiliary merely. Before we can bottom any measure on this clause, it is necessary to connect it with some power granted to or vested in this Government. We cannot surely imply a power to amend defects in the Constitution, and yet the course of reasoning of the honorable Chairman, however plausible and ingenious, if it proves anything, tends to prove that such a power is implied, and inasmuch as treason is not sufficiently defined by the Constitution, Congress has a right to define it, or, which I consider the same thing, to explain the term levying war. If the Constitution is defective, it belongs to the people, not to Congress, to provide a remedy. It is our duty to exercise power granted, and not to assume what we may deem necessary for the general welfare. It ought to be remembered that the people have already been alarmed by this doctrine of implication. The tocsin has been sounded, and they have, at least by implication, evinced their hostility to this latitude of the construction. I presume gentlemen will not pretend to derive a power to pass this bill from the supposed expediency of the measure. I recollect to have heard some years ago a sentiment expressed by some character of high standing, whose name I have forgotten, that constitutionality and expediency were convertible terms, very much censured. It is very dangerous to indulge this doctrine of expediency at the expense of the fundamental principles of our Government.

The plea of expediency is too often resorted to, to justify the greatest outrages. It was on the broad and indefinite ground of expediency that Great Britain seized on the fleet of Denmark, and that the great belligerents of Europe have prostrated the maritime rights of neutral nations. This plea of expediency, when at war with the sacred principles of our Government ought never to be excused or palliated, but in extreme cases, in times of great public danger. At a moment when a Government is agitated and convulsed, when its very existence is at stake, I should perhaps be as little pleased with the squeamish politician who would be stickling for Constitutional niceties, but rather be disposed to admire the bold statesman, who would step forth and use the means necessary to dissipate the impending storm. A state of things is possible in all Governments, when all the general rules and maxims established for the security of liberty must bend to the supreme law, the safety of the nation. Our Constitution has anticipated such a state. But such is not now our situation, we are not legislating for a moment or to meet a particular emergency; we are passing a general permanent law, by which the conduct and trials of our citizens are to be regulated.

The honorable Chairman made some observations about cabalistic words, by which he supposes some may have been misled, the drift of which I confess I did not comprehend. I presume that the framers of our Constitution would not have used any but appropriate words and phrases. Much has been said about common law and English books, calculated more to prejudice than convince. To ascertain the meaning of any legal or technical phrases we resort to English law books, as we do to an English dictionary and English writers, to ascertain the meaning of any English word or phrase. The reports of the decisions of our own courts will gradually supersede the use of British authorities.

The honorable Chairman emphatically asks, what is levying war? And I might in turn inquire what is war, and where do we find the meaning of the term or word? The Constitution says, we shall have power to declare war. To ascertain what constitutes war we must resort to different writers on the subject. War may be waged between nations in many different ways. It might take a volume to explain the different warlike attitudes which nations may assume towards each other, and a man may be guilty of levying war in various ways. Levying war is the act or fact which constitutes the crime of treason, as the killing a man with malice prepense is the act which constitutes the crime of murder. The levying of war is a complicated operation, which may be composed of many subordinate facts, it is the principal fact or result which must be proved or produced by the evidence, before a court and jury can convict a man of treason, as

killing a man with malice prepense is the principal fact or result which must arise out of the evidence before a man can be convicted of murder. If a man at the head of fifty thousand, ten thousand, one hundred thousand, or five hundred men should seize on the city of New Orleans, in defiance of the authority of the United States, all men would consider it a levying of war; in a case of this kind there would be but one opinion. But if only two or three men were to assemble armed with intent forcibly to overturn the Government of the United States, I presume no man would call this a levying war, the idea would be ridiculed by the whole nation. The great difficulty is in fixing the line of partition between those acts which amount to levying war and those which do not, but nearly approach it. Crimes of different species are often separated by such delicate shades as to render it difficult to distinguish them; some slight difference is discernible between the opinions of different judges and writers who have undertaken to draw the line of distinction between murder and manslaughter; and in the application of any definition of crime to the variety of cases which happen, a difference of opinion frequently occurs between the most profound judges. Neither human wisdom nor human language is competent to define crimes with such certainty and precision as will prevent contrariety of opinion in many equivocal cases which will arise. This perfect uniformity, which gentlemen seem to be in pursuit of, is unattainable; the attempts of the honorable committee, however laudable, appear to me extremely visionary. In order to guard entirely against this contrariety of opinion, of which gentlemen complain, some scheme must be devised for producing an uniformity of intellect, and compelling all men to view subjects through one common medium; something must be trusted to the good sense of the courts and juries; some confidence must from necessity be reposed. Although the wisdom of this nation was exerted to draw with precision the line of demarcation between the powers of the Federal and the State Governments, yet have we been differing about it ever since. There are many acts which all agree we have power to do, and there are many others which all agree we are not authorized to do; but questions frequently occur, about which there is great contrariety of opinion, and which must be settled by the good sense of those who have to decide them. These inconveniences which grow out of the operations of our Government were foreseen, they result from the imperfection of all human institutions. How often does it happen that the highest offender against our laws eludes the stroke of justice, by the error of the judge, the jury, or the application of those rules and maxims which have been established for the security of liberty! It was expected by the framers of our Constitution that those bulwarks which they reared for the protection of innocence, would often afford impunity to the guilty. All our republican institutions are bottomed upon the humane principle that it is better that many guilty persons should escape than one innocent man should suffer. Shall we, because some partial inconveniences have been experienced, prostrate the sacred barriers fixed by the Constitution? No, sir. The wise statesman, the friend to freedom and human happiness, will reconcile himself to the lesser evil.

It is, sir, an invincible objection to this bill, that it violates that political axiom in the science of free Governments, that the Legislative, Judicial, and Executive departments ought to be separate and distinct. It has been hitherto deemed wise to separate the power of interpreting laws from the Legislative and Executive powers. This maxim pervades all the Governments of the Union as well as the Constitution under which we are assembled. It is a principle for which the greatest statesmen who have figured on the American theatre, and especially those most famed for their attachment to liberty, have professed a sacred regard. If this maxim be recognised, it is a question worthy of consideration, whether the first section of this bill, which goes to explain the Constitutional definition of treason, be in its nature a legislative or a judicial act. That Congress, as well as every legislative body, has a power to add explanatory sections to any law within its power to alter or repeal, I will not deny; but I contend with great confidence that Congress has no power to expound the Constitution or any law which they cannot repeal, to govern any other department of the Government. Can Congress give a construction to a treaty to govern our judicial courts? Surely such a power was never contended for.

By the compact between Virginia and Kentucky, when the latter became an independent State, it was stipulated that all titles to land derived from the State of Virginia should be decided by the laws of that State then in force. Great uncertainty and confusion attended the construction of that law in the courts of Kentucky. But I presume it would hardly be contended that the Legislature of Kentucky could remedy the evil by a Legislative explanation of the law. And why? Because it is a law over which it has no control. The Executive and Judiciary derive their powers partly from the Constitution and partly from the acts of Congress. Can it be pretended that Congress has power, by a Legislative interpretation, to direct or control either the Executive or Judiciary in the exercise of powers derived from the Constitution? Certainly not. Each department, within its own sphere of action, must judge of the Constitution for itself.

The people have, by the Constitution, enacted the declaratory part of the law of treason by defining it, giving to Congress power to add the vindicatory part by declaring the punishment; these combined constitute the law of treason, by which every man accused must be tried, the interpretation and application of which belongs not to Congress, but to courts and juries. By the first and second sections of the bill we are not only assuming the exercise of judicial powers, but we are abridging the rights of juries. Before any man can be convicted of treason, he must be found

guilty by a jury of his peers of the act of levying war; and whether levying war is considered a fact or compounded of law and fact, it is equally the province of the jury to decide it, whatever may be the opinion of the court. What are we attempting to do by this bill? Why, sir, we are undertaking to specify what acts shall amount to the fact or act of levying war, or, rather, declaring what evidence shall be sufficient to convict a man of the crime. A very strange opinion has been advanced by an honorable member of the committee, from Massachusetts, (Mr. ADAMS.) He contends that we have a right to give our opinion or exposition of this clause of the Constitution, but that courts and juries will not be bound by it, if they should think differently. If this bill, when passed, will not be obligatory, it proves that we have no power to pass it. The Constitution declares that the Constitution itself, and all laws passed in pursuance thereof, shall be the supreme law of the land. According to the opinion of the gentleman from Massachusetts, we might have Judicial construction, Legislative construction, and Executive construction, conflicting with each other. This would be a state of confusion and collision which could never have been intended by the wise framers of our happy Constitution.

The honorable Chairman has, however, controverted this right of the courts to disregard our explanation. I am not disposed, on the present occasion, to discuss at large the question whether the judicial courts can disregard an act of the Legislature which they may deem unconstitutional. I am not an advocate for the power of the Judiciary to declare an act of Congress unconstitutional, in the latitude in which the proposition is generally stated. I presume that it cannot be pretended that the judges are authorized to erect themselves into a board of censors, and *ex mero motu* by a written declaration to nullify an act of the Legislature. But if a question of which they have cognizance is brought before them for adjudication, in a course of legal proceeding touching the life, liberty, or property of an individual or individuals, in deciding which it becomes necessary to disregard the Constitution or an act of Congress, they must give effect to the Constitution, which is the supreme law, flowing immediately from the sovereign power, the people, rather than to the act of a subordinate authority. Every department within its sphere must judge for itself of the Constitution, and is bound to support it. The exercise of this negative power by the courts results from necessity in the discharge of their judicial functions. A court of justice ought to decide every case according to right, whether that right be deduced from an act of Congress or the Constitution. I believe it was generally understood, when this Constitution was adopted, that the Judiciary would, when necessary and proper, exercise this negative power.

The different departments were expected to check and restrain each other from exceeding the proper limits. This negative power for which I have contended has, I believe, been exercised by the courts of the United States and of most of the States, ever since the commencement of the Government, without producing any serious inconveniences. Legislatures have in some instances inadvertently violated the Constitution. I cannot, however, perceive the necessity of stirring or deciding this question at present. If we believe that the Constitution authorizes the passage of this bill, we ought to presume that the judges will entertain the same opinion. The Legislature should not, without apparent necessity, bring itself into collision with any other department of the Government. A state of hostility between the different departments is very much to be deplored. I consider this instability with regard to fundamental principles extremely unfortunate. It is essential to the happiness of every people, and the permanency of every Government, to have them fixed and settled by a constitution or habit. Great leading principles, when once established and understood, serve as landmarks to direct those entrusted with the administration of the Government, and to warn the people when their important rights are assailed.

One observation has been made in favor of this bill rather specious, but entirely destitute of solidity. We are told that it is necessary to amend the definition of treason to enable the people to understand it. I presume no amendment or explanation is necessary for the honest part of the community. By the law of treason, as it now exists, every man is punishable who is guilty of levying war, in whatever manner it may be done; but if we specify the particular acts, and declare that those only shall constitute the crime, we thereby enable the villain with more certainty to defy public justice.

There is one consideration which ought to impress itself on the mind of every member of this body. If we assume the power of specifying what acts shall amount to a levying of war, every future Legislature can exercise the same power; and hence it will follow that treason, instead of being fixed and immutable by the Constitution, will always depend on the arbitrary opinion of the party that happens to predominate in the Government. Sir, this barrier of the Constitution must not be broken down. This once passed and we are afloat on a boundless ocean, without anything to guide or restrain us but our own will, whim, and caprice.

I will now call the attention of the Senate to another prominent feature in this bill. The section concerning conspiracy. It is in the following words:

"SEC. 3d. *And be it further enacted*, That if any persons shall conspire together with intent to commit any one or more of the acts which, if committed, would amount to treason against the United States, according to the two first sections of this act, every person so offending, upon being thereof convicted, shall be adjudged guilty of a conspiracy to commit treason against the United States, and shall be punished by fine not exceeding —— dollars, and by imprisonment and hard labor for a term not exceeding —— years, nor less than —— years."

The Senate will please to recollect the position which I have already laid down, that those crimes which are common to all governments, or rather which are not peculiar to nor result from the particular policy or measures of the Federal Government, were punishable by the States respectively before the present Constitution was adopted, and that Congress has no cognizance of any of this description, except such as are specially made so by the Constitution. Conspiracy, murder, &c., are crimes common to all governments, and consequently are not punishable by this Government, unless committed by persons upon whom its jurisdiction has attached in the course of its legitimate operations. Conspiracy is an offence no where mentioned in the Constitution. It may be said that many offences are contained in our penal code not specified in the Constitution: To this I reply that most of those offences are what may be termed *mala prohibita*, and have been created as necessary auxiliaries to the execution of powers delegated. This Constitution being a special grant of power, those acting under its authority cannot claim the exercise of any power not delegated or vested in them, except such incidental powers as may be requisite to carry the specified powers into effect or result from the exercise of them. The power to punish conspiracy cannot be included with the class of incidental or resulting powers.

This clause may be fairly objected to, as unconstitutional, on another ground. The offence created by it savors very much of that species of treason known in despotic governments, which is committed by imagining the death of the royal person or conspiring against his life. This section is intended, if I understand it, to punish an intent to commit treason. If it is improper to violate the Constitution directly, it is equally so to do it indirectly. I infer that the people of the United States, by declaring that treason should consist only in levying war, &c., intended to proscribe every other species of it; and it may be questioned whether we can with propriety introduce another species of treason into our penal code under the name of conspiracy. Besides it will violate that provision which requires two witnesses to an overt act; for if this clause is retained and the bill passes, I presume a single witness proving an intent to commit treason will be sufficient for conviction. A few fugitive expressions which may escape men in a moment of boasting dissipation, if related on oath in a court of justice by a pimping informer, may be competent to destroy them. In governments founded on force, the despot, conscious that he has no place in the affections of his subjects and consequently jealous of their fidelity, has his secret spies and informers to watch their most minute transactions. Every whisper alarms him. In such governments many, who have been ornaments of human nature, have been sacrificed by the instrumentality of informers, at the shrine of individual malice, or to suit the convenience of ministry. The witness who swears to another's private intentions, unconnected with any open deed, can perjure himself with impunity; the accused has no means of controverting the fact, the armor of conscious innocence cannot save him from ruin. In this Government, which is founded on the affections and interest of the great majority of the people, that jealousy so common in those governments ought not to be indulged. This strict scrutiny into the conduct of individuals is unnecessary here, and tends very much to diminish the stock of private confidence and social felicity. This crime called conspiracy, however odious, is in its nature so vague and indefinite, and liable to be proved by testimony of so suspicious a character, that I fear it would be dangerous to give it a place in our criminal code. Conspirators, when their guilt is well ascertained, will generally be punished with sufficient severity by that great censor, public opinion. It does not appear to be entirely congenial with either the genius or practice of the American Government to punish a man for his wicked intentions, until they have eventuated in the perpetration of some unlawful act.

I will now pass to the last section of the bill, which seems to merit some notice. It is in these words: "*And be it further enacted*, That if any 'person or persons shall attempt, by written or 'printed publications, or by advisedly speaking to 'or addressing an assemblage of people exceeding '—— persons, to promote and bring about a dismemberment of the United States or any of the 'territories thereof, or to erect or establish any 'government within the jurisdiction and against 'the authority of the United States, the person 'so offending," &c. This section is liable, independent of others, to the Constitutional objection made to that concerning conspiracy; and I am satisfied that the committee themselves, upon a reconsideration, will be convinced that it is highly impolitic.

When I first read it, I was reminded of a story I have some where read, that a man, whose inclination had never prompted him to go beyond the gates of Rome, sickened and died, when the Emperor issued an edict directing him to be confined within those very limits which he had never wished to pass. The moment we say to the people they shall not speak, we prompt them to throw off the authority of this Government. No man censures more highly than myself the circulation of opinions of this kind, but I believe the censure which awaits the authors of them at the bar of public opinion, is an adequate check. If there are any who entertain such sentiments, let them stand as monuments of the safety with which error of opinion may be tolerated, while reason is left free to combat it. If it should ever be found politic and necessary to suppress publications of this kind, it would be better for the States to legislate on the subject than this Government. An act passed by a State would have more effect upon the conduct of its own citizens than one passed by the General Government. This will be denounced as another sedition law, as violating the freedom of speech and the press; and, without answering any good purpose, may in its consequences do much mischief. I confess I have very little faith in the efficacy of penal laws on the durability of the Union. By the passage of this bill, instead of suppressing the evil, we shall only put a weapon into the hands of its enemies. We had better repose on the affections and attachment of the people to the Government, than attempt to operate upon them by penal sanctions. This Union must be preserved by the tie of common interests or force. It is an objection to this bill that it is calculated to increase the jurisdiction of the federal courts. I would prefer to have it diminished. This federal judiciary is, to the people I represent, the most odious feature in the Government. It has been already very inconvenient and oppressive to them, and would have been much more so but for some late decisions of the Supreme Court of the United States. These decisions have very much lessened the evil. Certain circumstances which have transpired within the last two years awakened my attention to the subject of union, and the general course of policy, in the internal administration of our Government, which ought to be pursued to preserve it. My reflections have convinced me that we must, as far as the Constitution will authorize, restrain the consolidating principle. This Government should interfere as little as possible with the interior of the States. To them must be left the cognizance of such offences of an inferior grade as may require the corrective hand of Government. This Government must act on a more elevated theatre. Its attention must be directed principally to national objects. If it is necessary to give it more energy, it must be done, not by increasing its agency in the interior, but by giving it a physical force, which will enable it to hold the vulnerable points and command the greater exterior of this extensive country. If the national consolidating principle is kept within its proper limits, and the federative character of the Government retained, I cannot foresee either the necessity or expediency of a severance of the States, although our population should expand to where the Missouri hides its head in the Rocky Mountains. The State governments are not only necessary rallying points against usurpation, but I believe the freedom and happiness of the people require that they should have, as exclusively as the nature of our Government can possibly permit, the control of their own citizens and the administration of their internal concerns.

While I applaud the motives which dictated this measure, and feel with the honorable committee an ardent solicitude to punish traitors, and check the spirit of disunion, they must pardon me for believing that, in their patriotic zeal to promote the public good, they have mistaken the extent of our powers as well as the means of attaining the object they have in view.

THURSDAY, December 25.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act for the relief of Edward Weld and Samuel Beebee," correctly engrossed. The bill was read the third time, and passed.

The "resolution to authorize the disposition of certain charts of the coast of North Carolina," was read the third time, and concurred in.

On motion, by Mr. ANDERSON, it was agreed that the bill for the punishment of treason, and other crimes and offences against the United States, be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes; also, a bill, entitled "An act making appropriations for the support of the military establishment of the United States for the year 1808;" in which bills they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act to allow the importation of old copper free of duty;" and the PRESIDENT having reported the bill to the House amended, it was ordered to the third reading as amended.

The bill granting William Wells the right of pre-emption was read the second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The two bills last brought up for concurrence were read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the amendments to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington;" and after progress, on motion, by Mr. BRADLEY, the further consideration of the bill was postponed until to-morrow.

Mr. POPE, from the committee to whom was referred, on the 19th instant, the resolution of the Legislature of the State of Kentucky on the subject, reported a bill for opening a road in the Indiana Territory; which was read, and ordered to the second reading.

FRIDAY, February 26.

The following Message was received from the President of the United States:

To the Senate and House of Representatives of the United States:

I enclose, for the information of Congress, letters recently received from our Ministers at Paris and London, communicating their representations against the late decrees and orders of France and Great Britain, heretofore transmitted to Congress. These documents will contribute to the information of Congress, as to the dispositions of those Powers, and the probable course of their proceedings towards neutrals, and will doubtless have their due influence in adapting the measures of the Legislature to the actual crisis.

Although nothing forbids the general matter of these letters from being spoken of without reserve, yet, as the publication of papers of this description would restrain injuriously the freedom of our foreign correspondence, they are communicated so far confidentially, and

with a request that, after being read, to the satisfaction of both Houses, they may be returned.

TH. JEFFERSON.

FEBRUARY 26, 1808.

The Message and papers accompanying it were read.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The dangers to our country, arising from the contests of other nations, and the urgency of making preparation for whatever events might affect our relations with them, have been intimated in preceding messages to Congress. To secure ourselves by due precautions, an augmentation of our military force, as well regular as of volunteer militia, seems to be expedient. The precise extent of that augmentation cannot as yet be satisfactorily suggested; but that no time may be lost, and especially at a season deemed favorable to the object, I submit to the wisdom of the Legislature whether they will authorize a commencement of this precautionary work, by a present provision for raising and organizing some additional force, reserving to themselves to decide its ultimate extent on such views of our situation as I may be enabled to present at a future day of the session.

If an increase of force be now approved, I submit to their consideration the outlines of a plan proposed in the enclosed letter from the Secretary of War.

I recommend, also, to the attention of Congress, the term at which the act of April 18, 1806, concerning the militia, will expire, and the effect of that expiration.

TH. JEFFERSON.

FEBRUARY 25, 1808.

The Message and papers therein mentioned were read, and referred to Messrs. GILES, SUMTER, SMITH of Maryland, BRADLEY, and ADAMS, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House of Representatives concur in the resolution of the Senate for the appointment of a joint committee on the arrangements for the library, and have appointed a committee on their part.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act to allow the importation of old copper free of duty," correctly engrossed. The bill was read the third time; and the title having been amended, by adding, after "copper," "saltpetre and sulphur."

Resolved, That this bill pass with amendments.

Mr. GREGG, from the committee, reported the bill granting William Wells the right of preemption, correctly engrossed. The bill was read the third time; and the blank being filled with the words "six hundred and forty," it was passed.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1808," was read the second time, and referred to Messrs. ANDERSON, BAILEY, and FRANKLIN, to consider and report thereon.

The bill, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes," was read the second time and referred to Messrs. MITCHILL, SMITH of Maryland, and ADAMS, to consider and report thereon.

The bill for opening a road in the Indiana Territory was read the second time, and ordered to lie for consideration.

MONDAY, February 29.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1808," reported it without amendment, and the bill was ordered to the third reading.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes," reported the bill without amendment.

The Senate resumed the second reading of a bill for opening a road in the Indiana Territory; and, after debate, the further consideration of the bill was postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for procuring an additional number of arms; also, a bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804;" in which they request the concurrence of the Senate.

The bills were read, and ordered to the second reading.

Mr. GILES, from the committee to whom was referred, on the 26th instant, the Message of the President of the United States, of that date, on the subject, reported, in part, a bill authorizing the President of the United States to raise an additional military force; which was read, and ordered to the second reading.

On motion, by Mr. SMITH, of Maryland, it was agreed, by unanimous consent, that the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804," be now read the second time.

Ordered, That it be referred to Messrs. SMITH of Maryland, KITCHEL, and FRANKLIN, to consider and report thereon.

On motion, by Mr. ANDERSON, it was agreed that the bill for the punishment of treason and other crimes and offences against the United States, be postponed until to-morrow.

On motion, by Mr. BRADLEY, it was agreed that the bill, entitled "An act to incorporate the Trustees of the Baptist Church, in the City of Washington," be postponed until to-morrow.

TUESDAY, March 1.

The bill authorizing the President of the United States to raise an additional military force, was read the second time.

The bill, entitled "An act for procuring an additional number of arms," was read the second time, and referred to Messrs. SMITH of Maryland, BRADLEY, and SUMTER, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the punishment of treason and other crimes and offences against the United States; and, after debate, the further consideration of the bill was postponed until Thursday next.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1808," was read the third time.

Resolved, That the Senate concur in this bill.

The bill, entitled "An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes;" was read the third time.

Resolved, That the Senate concur in this bill.

Agreeably to the order of the day, the Senate resumed the consideration of the resolution reported by the select committee for the expulsion of JOHN SMITH, a Senator from the State of Ohio.

Mr. SMITH being absent, Mr. Key attended as his counsel.

On request, by Mr. Key, that Mr. Harper be permitted to attend, also, as counsel on behalf of Mr. SMITH, a motion was made by Mr. BRADLEY, that Mr. Harper be admitted as one of the counsel for Mr. SMITH; and it passed in the affirmative. Whereupon, Mr. Harper attended.

The following request was submitted by Mr. Key:

JOHN SMITH, of Ohio, by his counsel, prays the honorable Senate to grant him further time to produce his testimony and prepare for his defence.

On motion, by Mr. TIFFIN,

Ordered, That the papers directed to the Secretary of the Senate, and which were taken as testimony in the case of JOHN SMITH, of Ohio, be referred to a select committee, to examine and report thereon, and that Messrs. ANDERSON, ADAMS, and TIFFIN, be the committee.

WEDNESDAY, March 2.

The bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States" was read the second time, and referred to Messrs. SMITH of Maryland, ADAMS, and HILLHOUSE, to consider and report thereon.

Mr. ANDERSON, from the committee appointed to examine and separate the depositions transmitted in the case of JOHN SMITH, a Senator from the State of Ohio, reported that they had performed that service.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804," reported an amendment; which was read, and ordered to lie for consideration.

IMPRESSMENT OF AMERICAN SEAMEN.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, of November 30, 1807, I now transmit a report of the Secretary of State on the subject of impressments, as requested in that resolution. The great volume of the documents, and the time necessary for the investigation, will explain to the Senate the causes of the delay which has intervened.

MARCH 2, 1808. TH. JEFFERSON.

DEPARTMENT OF STATE, *Feb.* 29, 1808.

Agreeably to a resolution of the Senate of the 30th November last, the Secretary of State has the honor to submit to the President, for the information of the Senate, the statements herewith enclosed, from No. 1 to 18, inclusive.

No. 1. A statement of impressments from American vessels into the British service, since the last report made from this department on the 5th March, 1806, founded upon documents transmitted in the first instance to this office.

Those from No. 2 to 13 inclusive, being a series of returns and abstracts received from General Lyman, the agent of the United States at London, giving an account of the applications made by him in relation to seamen, from 1st April, 1806, to 30th June, 1807, and of the result of those applications, and exhibiting other particulars required by the resolution.

Not having received any returns from the West Indies since the date of the last report to the House of Representatives on this subject, nor from General Lyman for the quarter ending on the 1st January last, the Secretary of State has not the means at present of giving, with any degree of precision, the information asked for in the last clause of the resolution. From the returns in the office it would appear that four thousand two hundred and twenty-eight American seamen had been impressed into the British service since the commencement of the war, and that nine hundred and thirty-six of this number had been discharged, leaving in that service three thousand two hundred and ninety-two. General Lyman, in a letter dated on the 21st October, 1807, estimates the American seamen now detained in the British service at a number greatly beyond what is here stated; but he does not give the data on which his estimate is made.

All which is respectfully submitted.

JAMES MADISON.

The PRESIDENT *of the United States.*

The Message and papers were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the President of the United States to raise an ad-

ditional military force; and, after progress, adjourned.

THURSDAY, March 3.

Mr. THRUSTON informed the Senate that he had received from the Governor of Kentucky several resolutions, passed by the Legislature of that State, and addressed to the Congress of the United States, expressing their confidence in the wisdom, justice, and impartiality, of the present administration of the General Government, and their opinion of the outrageous and insulting conduct of one of the belligerent Powers towards the United States; and promising support to any measures for vindicating the national honor which the wisdom of Government may prescribe; and the resolutions were read.

The Senate resumed the consideration of the request of JOHN SMITH, submitted on 1st instant, by his counsel, as follows: "JOHN SMITH, of Ohio, 'by his counsel, prays the honorable Senate to 'grant him further time to produce his testimony 'and prepare for his defence;" and on motion, by Mr. ADAMS, the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of Aaron Burr, was postponed to Tuesday, the 15th instant.

On motion, by Mr. ADAMS,

Ordered, That the papers received by the Secretary of the Senate relating to the case of JOHN SMITH, a Senator from the State of Ohio, be subject to the inspection of his counsel.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning public contracts;" also, a bill, entitled "An act in further addition to an act, entitled 'An act to amend the judicial system of the United States;" in which bills they request the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the President of the United States to raise an additional military force; and, after debate, the bill was referred to the committee who reported it, further to consider and report thereon.

Mr. ADAMS, from the committee to whom the subject was referred on the 5th and 16th of February, reported a bill authorizing the issuing of debentures in the cases therein mentioned; and the bill was read, and ordered to the second reading.

Mr. TIFFIN, from the committee to whom was committed the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of Kentucky, Tennessee, and Ohio," reported amendments; which were read, and ordered to lie for consideration.

FRIDAY, March 4.

The PRESIDENT communicated several letters from Elias Glover, referring to depositions enclosed, in the case of JOHN SMITH, a Senator from the State of Ohio; and the letters were read.

On motion, by Mr. GREGG,

Ordered, That the counsel on behalf of JOHN SMITH, a Senator from the State of Ohio, be authorized to take copies of the depositions in the case, under the direction of the Secretary of the Senate.

The bill, entitled "An act concerning public contracts," was read the second time, and referred to Messrs. ANDERSON, THRUSTON, and TURNER, to consider and report thereon.

The bill, entitled "An act in further addition to an act, entitled 'An act to amend the judicial system of the United States," was read the second time, and referred to Messrs. HILLHOUSE, CRAWFORD, and FRANKLIN, to consider and report thereon.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act in relation to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States," reported amendments; which were read, and ordered to lie for consideration.

On motion, by Mr. POPE,

Ordered, That the bill for the punishment of treason and other crimes and offences against the United States, be the order of the day for Monday next.

The Senate resumed, as in Committee of the Whole, the amendments reported by the committee to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington;" and the President having reported the bill to the House amended, it was ordered to a third reading as amended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to amend the act, entitled "An act to establish circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio:" and the report of the select committee having been amended, was agreed to; and the President having reported the bill to the House accordingly, on the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act for procuring an additional number of arms," reported an amendment.

The Senate proceeded, as in Committee of the Whole, to consider the said amendment; and it was agreed to; and the bill having been further amended, the President reported it to the House accordingly; and the bill was ordered to the third reading as amended.

The bill authorizing the issuing of debentures in the cases therein mentioned, was read the second time, and made the order of the day for Tuesday next.

Mr. GREGG reported, from the committee, that the amendment to the bill entitled "An act for procuring an additional number of arms," was correctly engrossed. The bill was read the third time, by unanimous consent, and the title having been amended, by adding thereto the words, "for the purchase of saltpetre and sulphur,"

Resolved, That this bill pass with amendments.

MONDAY, March 7.

Mr. HILLHOUSE, from the committee to whom was referred the bill, entitled "An act in further addition to an act, entitled 'An act to amend the judicial system of the United States," reported the bill with amendment. The bill was then by unanimous consent read the third time, and passed.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," correctly engrossed. The bill was read the third time and passed as amended.

Mr. GREGG, from the committee, reported the bill to amend the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," correctly engrossed. The bill was then read the third time and passed.

Mr. GILES, from the committee to whom was referred the bill authorizing the President of the United States to raise an additional army, reported amendments; which were read, and ordered to lie for consideration.

Mr. MITCHILL, from the committee to whom was referred, on the 15th of February, the petition of Philip Turner, made a report; which was read for consideration.

Mr. MITCHILL, from the same committee, asked and obtained leave to report a bill for the relief of Philip Turner; which was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In the city of New Orleans, and adjacent to it, are sundry parcels of ground, some of them with buildings and other improvements on them, which it is my duty to present to the attention of the Legislature; the title to these grounds appears to have been retained in the former sovereigns of the Province of Louisiana, as public fiduciaries, and for the purposes of the province some of them were used for the residence of the Governor, for public offices, hospitals, barracks, magazines, fortifications, levees, &c., others for the town-house, schools, markets, landings, and other purposes of the city of New Orleans; some were held by religious corporations, or persons; others seem to have been reserved for future disposition. To these must be added a parcel, called the batture, which requires more particular description: it is understood to have been a shoal or elevation of the bottom of the river, adjacent to the bank of the suburbs of St. Mary, produced by the successive depositions of mud during the annual inundations of the river, and covered with water only during these inundations; at all other seasons it has been used by the city, immemorially, to furnish earth for raising their streets and court yards, for mortar, and other necessary purposes, and as a landing or quay for unlading firewood, lumber, and other articles brought by water. This having been lately claimed by a private individual, the city opposed the claim on a supposed legal title in itself; but it has been adjudged that the legal title was not in the city. It is, however, alleged that that title, originally in the former sovereigns, was never parted with by them, but was retained in them for the uses of the city and province, and consequently has now passed over to the United States. Until this question can be decided under Legislative authority, measures have been taken according to law, to prevent any change in the state of things, and to keep the grounds clear of intruders. The settlement of this title, the appropriation of the grounds and improvements, formerly occupied for provincial purposes, to the same or such other objects as may be better suited to present circumstances, the confirmation of the uses in other parcels to such bodies, corporate or private, as may of right, or on other reasonable considerations, expect them, are matters now submitted to the determinations of the Legislature.

The papers and plans now transmitted will give them such information on the subject as I possess; and, being mostly originals, I must request that they be communicated from the one to the other House, to answer the purposes of both.

TH. JEFFERSON.

MARCH 7, 1808.

The Message was read, and ordered to lie for consideration.

On motion, by Mr. ADAMS,

Ordered, That three hundred copies of the message and documents received from the President of the United States, on the 2d instant, relative to impressed American seamen, be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the amendments of the select committee to the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States," which were further amended and agreed to; and the President having reported the bill to the House amended accordingly, the bill was ordered to the third reading as amended.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 30th of October last, so much of the Message of the President of the United States, at the commencement of the session, as relates to the formation of the seamen of the United States into a special militia for the defence of the harbors against sudden attacks, reported a bill for the establishing a militia for the port and harbor service of the United States; which was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee to the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli in the year 1804." And, on the question to agree to the said amendment, as follows:

"SEC. 2. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to cause the said monument to be erected in such place as the President of the United States may direct, to-

gether with such railing and covering as may be necessary for protecting the same from injury. And, for the purpose of carrying the above object into effect, the sum of —— dollars is hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

It was determined in the affirmative—yeas 18, nays 12, as follows:

YEAS—Messrs. Adams, Anderson, Bayard, Bradley, Gilman, Goodrich, Maclay, Mathewson, Mitchill, Moore, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Tiffin.

NAYS—Messrs. Condit, Crawford, Franklin, Gaillard, Gregg, Howland, Kitchel, Milledge, Parker, Robinson, Sumter, and Turner.

And the PRESIDENT having reported the bill to the House amended, it was ordered to the third reading as amended.

Mr. GREGG reported, from the Committee, that the amendments to the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" were correctly engrossed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for opening a road in the Indiana Territory; and on the question, Shall this bill be engrossed and read the third time, it was determined in the affirmative.

TREASON AND OTHER CRIMES.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the punishment of treason, and other crimes and offences against the United States.

On motion, by Mr. MITCHILL, to strike out the first section, as follows:

"*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That if any person owing allegiance to the United States of America, shall levy war against them, by assembling themselves together, with intent forcibly to overturn or change the Government of the United States, or any one of the Territories thereof, or forcibly to dismember the said United States, or any one of them, or any one of the Territories thereof, or forcibly to resist the general execution of any public law thereof, or forcibly to take possession of, or hold, any fort, magazine, dock, navy-yard, or of any public vessel of the United States, or forcibly to invade or hold any part of the United States, or of the Territories thereof, against the authority of the United States, or if any such person or persons shall traitorously aid or assist in the doing any one of the acts aforesaid, although not personally present when any such act is done or committed, and being convicted of any one or more of the aforesaid acts, on confession in open court, or on the testimony of two witnesses to the same overt act of treason, whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death:"

It was determined in the negative—yeas 15, nays 17, as follows:

YEAS—Messrs. Bayard, Bradley, Gilman, Goodrich, Gregg, Hillhouse, Maclay, Milledge, Mitchell, Pickering, Pope, Reed, Thruston, Turner and White.

NAYS—Messrs. Adams, Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Howland, Kitchel, Mathewson, Moore, Parker, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, and Tiffin.

On motion, by Mr. ADAMS, it was agreed to recommit the bill to the committee that reported it; and, on motion, by Mr. CRAWFORD, Messrs. POPE and FRANKLIN were added to the committee.

TUESDAY, March 8.

The bill for establishing a militia for the port and harbor service of the United States was read the second time, and ordered to lie for consideration.

The bill for the relief of Philip Turner was read the second time; and on the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, authorizing the President of the United States to raise an additional military force; and the amendments reported by the select committee having been agreed to, and the bill further amended, the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act remitting the duties payable on the importation of a monument, to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804," correctly engrossed. The bill was then read the third time, as amended, and passed.

Mr GREGG, from the committee, reported the bill for opening a road in the Indiana Territory correctly engrossed; and the bill was read the third time.

On motion, by Mr. POPE, the bill was recommitted to the committee by whom it was reported, further to consider and report thereon.

The bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" was read the third time as amended.

Resolved, That this bill pass with amendments.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the issuing of debentures in the cases therein mentioned, and the further consideration of the bill was postponed until to-morrow.

WEDNESDAY, March 9.

Mr. GREGG, from the committee, reported the bill authorizing the President of the United States to raise an additional military force, correctly engrossed. The bill was read the third time; and the title having been amended,

Resolved, That this bill pass, and that the title thereof be "An act for raising an additional military force."

The bill for the relief of Philip Turner was read the third time, and passed.

A message from the House of Representatives

informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act remitting the duties payable on the importation of a monument, to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804." They concur in the amendments to the bill, entitled "An act for procuring an additional number of arms;" also, in the amendments to the bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," with amendments; in which they request the concurrence of the Senate; and that they have passed a bill, entitled "An act authorizing the sale of public arms;" in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill authorizing the issuing of debentures, in the cases therein mentioned.

On motion, by Mr. BRADLEY,

Ordered, That this bill be recommitted to the committee that reported it, and that Messrs. ANDERSON and BAYARD be added to the committee, further to consider and report thereon.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" and concurred therein.

The Senate proceeded to consider their amendment disagreed to by the House of Representatives to the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year 1804;" and it was *Resolved*, That the Senate recede from their said amendment.

The bill for establishing a militia for the port and harbor service of the United States, was read the second time, and the further consideration thereof was postponed.

THURSDAY, March 10.

The bill, entitled "An act authorizing the sale of public arms," was read the second time, and referred to Messrs. REED, GAILLARD, and BRADLEY, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for establishing a militia for the port and harbor service of the United States; and the further consideration of the bill was postponed until to-morrow.

FRIDAY, March 11.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act concerning public contracts," reported it without amendment.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act granting William Wells the right of pre-emption," with amendments; in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for establishing a militia for the port and harbor service of the United States.

On motion, by Mr. BAYARD, the further consideration of the bill was postponed to the first Monday in December next.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act for erecting a light-house and placing buoys at the places therein mentioned," with amendments; in which they request the concurrence of the Senate. The House of Representatives have passed a bill, entitled "An act extending the time for issuing and locating military land warrants; a bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes;" also, a bill, entitled "An act authorizing a detachment from the militia of the United States;" in which bills they request the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act granting William Wells the right of pre-emption," and concurred therein.

Mr. ADAMS, from the committee to whom was referred the bill authorizing the issuing of debentures in the cases therein mentioned," reported an amendment; which was read, and ordered to lie for consideration.

The Senate proceeded to consider the amendments of the House of Representatives to the bill entitled "An act for erecting a light-house and placing buoys at the places therein mentioned."

Ordered, That the said amendments be referred to Messrs. MITCHILL, MILLEDGE, and GOODRICH, to consider and report thereon.

On motion, by Mr. GREGG, the bill, entitled "An act extending the time for issuing and locating military land warrants," was read the second time by unanimous consent, and referred to Messrs. GREGG, FRANKLIN, and TIFFIN, to consider and report thereon.

The bill, entitled "An act authorizing a detachment from the militia of the United States," was read the second time by unanimous consent, and referred to Messrs. SUMTER, REED, and BRADLEY, to consider and report thereon.

The bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes," was read the second time by unanimous consent, and referred to Messrs. FRANKLIN, GREGG, and MATHEWSON, to consider and report thereon.

MONDAY, March 14.

A message from the House of Representatives informed the Senate that the House have passed

a bill, entitled "An act concerning courts martial and courts of inquiry," in which they request the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act extending the time for issuing and locating military land warrants," reported the bill without amendment, and it was ordered to the third reading.

Mr. MITCHILL, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act for erecting a light-house and placing buoys at the places therein mentioned," made report. Whereupon,

Resolved, That the Senate concur in the said amendments.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act concerning public contracts; and, on motion of Mr. S. SMITH to amend the bill, the further consideration thereof was postponed until to-morrow.

Mr. GILES, from the committee to whom was referred the bill for the punishment of treason and other crimes and offences against the United States, reported amendments.

TUESDAY, March 15.

The bill, entitled "An act concerning courts-martial and courts of inquiry," was read the second time, and referred to Messrs. GILES, ADAMS, and GREGG, to consider and report thereon.

On motion of Mr. S. SMITH,

Ordered, That the Message of the President of the United States, on the 7th instant, relative to public grounds in and adjacent to the city of New Orleans, be referred to Messrs. GILES, S. SMITH, and ANDERSON, to consider and report thereon.

The PRESIDENT communicated a report of the Secretary of the Treasury, with a statement of the emoluments of the officers employed in the collection of the Customs, for the year 1807; which were read.

The bill, entitled "An act extending the time for issuing and locating military land warrants," was read the third time and passed.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill for the punishment of treason and other crimes and offences against the United States; and the further consideration of the bill was postponed until to-morrow,

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee to the bill authorizing the issuing of debentures in the cases therein mentioned, which was agreed to; and the PRESIDENT having reported the bill to the House amended accordingly, on the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee to the bill, entitled "An act concerning public contracts;" and the further consideration of the bill was postponed until to-morrow.

CASE OF JOHN SMITH.

Agreeably to the order of the day, the Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of AARON BURR.

Messrs. HARPER and KEY, counsel for Mr. SMITH, attended.

Mr. HARPER read a letter from Mr. SMITH, requesting further time to enable him to prepare for his defence; and requested, in Mr. SMITH's behalf, an extension of the time accordingly. The letter is as follows:

CINCINNATI, *Feb.* 12, 1808.

GENTLEMEN: After the Senate had resolved to hear my testimony on the first of March, I made, without a moment's delay, the best arrangement in my power to collect it. Being fully convinced that my defence would be incomplete without the testimony of witnesses in the States of Connecticut, New York, Kentucky, and Ohio, and in the Territories of Orleans and Mississippi, and it being physically impossible for me within the short period allowed by the resolution to attend in person at each of those places, I wrote to individuals with whom I was acquainted, and on whose friendship and exertions I thought a reliance could be placed, requesting them to procure the testimony required from five respective neighborhoods, and to forward it without a moment's delay to the seat of Government. At the same time it was necessary for me, by the resolution under which I acted, to designate the particular days which the evidence at each place would be taken, and to give reasonable notice of the same to the persons whose testimony might be affected or was intended to be impeached thereby. At this time you know I was at Washington City. My witnesses were dispersed, as stated above, and the persons on whom a service of notice was required, were in different parts of the country.

Thus circumstanced, the task before me appeared an Herculean one; but the object to be obtained was of infinite moment to myself, my family, and my friends, and, may I not add, not wholly uninteresting to my country. I therefore did not permit myself to despair for a moment, but made every exertion in my power to put myself in a state of preparation to meet the inquiry on the day appointed. Having arranged the time of taking testimony in different places, written to those by whose aid I expected to procure it, and forwarded notices to the persons who, by the resolution, were entitled to receive them, I immediately set out for Cincinnati, to attend in person to the taking of testimony in this State, and in Kentucky; but my journey was so impeded by excessive rains, bad roads, and high water, that I did not arrive at this place, till the evening of the ninth instant and to increase my embarrassment, already too great, it appeared, on inquiry, that the notice which I had forwarded by mail under cover to the postmaster, for Elias Glover, had not come to hand. The day appointed by that notice was the tenth instant; it therefore became necessary, as well on his account as my own, to appoint a more distant day: I accordingly gave notice that I should proceed, on the thirteenth instant, to take testimony, and immediately despatched messengers to bring in my witnesses from Lebanon, Dayton, Hamilton, and Laurenceburg.

The moment I can obtain the depositions of the witnesses in this quarter, which will unavoidably occupy some days, I shall, without losing a moment, proceed to Lexington, and from thence to Bellpree and Marietta, on my way to the seat of Government, at each of which places I expect to procure testimony that will be important in my defence. What length of time will be required to complete this tour, God only knows, but I pledge myself that it shall be accomplished in as short a space as is within the power of human exertions, and yet I cannot venture a hope of being so successful as to come at the place of my destination by the first of March. I have contemplated forwarding my testimony by mail as fast as I can obtain it—that as much of it may be before the Senate as shall be possible, prior to the day appointed for the investigation, though I dread the consequences that may be expected from the irregularity and uncertainty of the mail, at this inclement season, when its progress is so often retarded by bad roads, ice, and high water. If such difficulty and unavoidable delay is found to attend the attempt made by myself to obtain evidence in this quarter, what have I not to fear for the exertions of those in other places, who have not the same motives to stimulate them, that I feel! It is truly a painful idea, that a question of such importance to my feelings, character, family, and future prospects in the world, should be decided in my absence, or even in my presence, before I can be prepared to meet it—knowing, as I do, that nothing is wanting to secure my reputation and establish my innocence, before the Senate and the world, but testimony that I can and will procure if indulged with reasonable time. Do not conjecture that I feel the most distant desire of evading the inquiry, or of delaying it one day longer than necessity compels me to request, and justice entitles me to expect. It has been invited by me, and I wish to meet it during the present session; nor can I yet believe there is one solitary member on the floor of the Senate who seeks a sacrifice, by hurrying me through the forms of a trial with such rapidity as to exclude the possibility of a defence, and thus to cut me off from the hope of every advantage I have calculated on deriving therefrom. Although I might collect much of the evidence in this part of the country, and reach the seat of Government with it by the first of April, yet I cannot collect the whole, as some of the witnesses are now absent on business; nor can I reasonably hope to receive returns from my friends, to whom I have written, in other quarters, before the middle of that month: And permit me to assure gentlemen that the facts which I can unequivocally prove by the witnesses in Connecticut, in the northern parts of the State of New York, and at Point Coupee, and in that quarter, will compose a most important part of my justification. The season of the year in which I am compelled to collect the evidence required to meet the charges, presents difficulties peculiar to itself: the reluctance with which persons who have a knowledge of facts tending to criminate another, discover their information when they know it will be required and used as testimony; the difficulty of procuring the attendance of witnesses without the aid of compulsory process, which has not been allowed me, and particularly when a part of those witnesses are the personal enemies of the party wanting them, as is unfortunately my case; the necessity of giving personal and reasonable notice to those who may be affected by the testimony, and of proving before the Senate the actual service of that notice, added to the uncertainty of finding the witnesses at their usual places of abode, create embarrassments and delays not easily to be overcome. But I have said enough to apprize you of my situation, prospects, and wishes, and I must rely on your justice and candor, for the result, which I cannot but hope and expect will be a reasonable extension of the time heretofore granted.

I am, gentlemen, very respectfully, yours, &c.

JOHN SMITH, of Ohio.

Hon. J. A. BAYARD, and W. B. GILES.

Mr. HILLHOUSE moved a postponement to the first Monday, of April.

Messrs. ROBINSON, CRAWFORD, GREGG, and ANDERSON, opposed, and Mr. ADAMS supported this motion.

Mr. KITCHEL expressed a hope that, if a postponement obtained, it would not be to so distant a day.

Mr. HILLHOUSE acquiesced in the suggestion.

Mr. GILES moved a postponement to Monday week. This motion was supported by Messrs. GILES, ADAMS, and BAYARD, and was opposed by Messrs. S. SMITH and ANDERSON; when the question was taken by yeas and nays, and the motion negatived—yeas 15, nays 17.

At the request of Mr. SMITH's counsel the business was postponed till to-morrow.

The arguments assigned in favor of postponing to a future day the consideration of the report relative to Mr. SMITH, principally, were, that he had not had sufficient time to obtain testimony, owing to the distance of the scene, and the badness of the roads and weather; that the proposed delay, being within the session, could not be prejudicial to the public interest or that of the State of Ohio, as ample time would still remain for discussion.

On the other hand, it was contended that ample time had already been allowed; that it was to be presumed that all the testimony he could procure was already either in the possession of the Senate or of his counsel; that it was but too probable, from the contemplated period of the session when Mr. S. left the city, that it was not his intention to meet an investigation before the Senate; that Congress had already entered the sixth month of their session, and that there was reason to expect that they would not continue to sit more than a few weeks; and that if the motion to postpone prevailed, their attention would, at the close of the session, be distracted by this subject, when business of great national moment would probably claim their whole time.

During the discussion, Mr. HILLHOUSE said he had received an anonymous letter in relation to his conduct in this case, and took occasion to say that he should treat all such improper attempts to influence him with contempt.

Mr. S. SMITH observed, that he too had received an anonymous letter, which had, however, given him but little concern.

Mr. ADAMS said, he believed, if they were to compare notes, it would be found that many of the members had been honored with anonymous letters on this business. He, for one, had received anonymous letters, bearing date at Cincinnati and elsewhere. He, added, that during the session he had received many epistles of this description, and on various subjects, some couched in terms of

censure, and others in terms of approbation, neither of which would have any influence on the discharge of his public duty.

WEDNESDAY, March 16.

Mr. ANDERSON, from the committee appointed on the 3d of February to consider the subject, reported a bill making provision for the disposal of the public lands of the United States in the State of Tennessee, and for other purposes; which was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to prolong the continuance of the Mint at Philadelphia," in which they request the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Mr. GREGG, from the committee, reported the bill authorizing the issuing of debentures in the cases therein mentioned, correctly engrossed.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

Mr. HARPER, of counsel for Mr. SMITH, offered a memorial, signed by himself and Mr. KEY, requesting further time, until the first Monday in April. The principal reasons assigned for this request are:

1. The want of due formality in the deposition of George Rustell, which went to impeach the credibility of Elias Glover. This deficiency arose from the deposition having been taken without proof of notice to Elias Glover. The counsel intimate their expectation that a deposition, with the requisite formalities, will be received by the first Monday in April.

2. They state that none of the expected depositions, to prove that the visit of Colonel Burr was merely a visit of ceremony or politeness, had been received, which they can ascribe to no other cause than a want of time.

3. The absence of Mr. SMITH, and their consequent inability to do justice to his defence, as well from the want of his aid, as from the want of important testimony probably in his possession.

4. The memorial states that on the postponement which took place on the first of this month, in consequence of personal conversation with several of the committee, and particularly the Chairman, one of the counsel (Mr. Key) had informed Mr. SMITH that there was no doubt of an indulgence to the 1st of April, and that he might safely regulate his movements so as to be here by that time.

Mr. HARPER added, that the counsel of Mr. SMITH disclaimed any intention unnecessarily to delay this case; and that they pledged themselves, if this indulgence should be granted, to ask no further.

Mr. ADAMS presumed it was not the intention of the counsel to misunderstand or misrepresent anything which he had said to him. The facts were these: On the 1st of March the counsel informed him that Mr. SMITH was neither present nor ready for his defence. He (Mr. A.) then observed, that if he desired it, he would make a motion for postponement, and asked him to mention to what day he wished the postponement. The counsel replied that it might be a month before Mr. SMITH would be ready; but he would prefer a postponement for a shorter time, that if Mr. SMITH should previously arrive, the business might be taken up. He (Mr. A.) had certainly no objection to a further continuance; but if the counsel, from anything which he had said, considered the Senate as pledged, he must have misunderstood him.

Mr. KEY said he might have misunderstood the gentleman. He did not consider the Senate as pledged; but his impression was, that there could be no doubt that further time would be allowed, and under that impression he had written to Mr. SMITH.

Mr. HARPER said the counsel did not wish to consider any member of the Senate as pledging the Senate. He knew that that could not be the case. That this was, therefore, a mistake, on their part, he admitted. But if it were to be attended with ill consequences, he hoped they would be confined to them, and not fall on Mr. SMITH.

Mr. BRADLEY moved that the further consideration of the case be postponed until the first Monday in April.

Some intimation having been made to limit the postponement to the 1st day of April, Mr. HARPER said he would extend the pledge he had made to that day.

On the motion of postponement to the 1st Monday of April, the Senate divided—yeas 16 nays 16.

The PRESIDENT declaring himself in the negative, the question was lost.

Mr. BAYARD moved a postponement to the first day of April, and supported the motion at some length. [His remarks are generalized in the following summary of the arguments.]

The VICE PRESIDENT said that the remarks of the gentleman who had just spoken made it proper for him to explain the reasons which had induced him to give his casting vote against the motion. When Mr. SMITH made his first application for further time, it was founded on his affidavit. This was, at the time, thought essential to justify the indulgence, and great weght was attached to it. It was not material what his private sentiments were as to that procedure. Further time has since been allowed to him, and an extension of it had been now asked on the mere suggestion of his counsel, without affidavit. With respect to the mistake stated to have been committed by his counsel, he should have been disposed to have given the most liberal decision. Had not the counsel attended from the commencement of the business, and seen that there was nearly an equal vote on the previous indulgence, and if this (notwithstanding any conversation he might have had with an individual member) was not a sufficient admonition to be prepared, he knew not what could be. He would add, that the protraction of the business to the 1st Monday of April would be a pledge on the part of the Senate that they would remain in session to that day, or it would operate to the letting Mr. SMITH go without a hearing.

The postponement was advocated by Messrs. BAYARD, HILLHOUSE, POPE, PICKERING, and GILES; and opposed by Messrs. S. SMITH, CRAWFORD, ANDERSON, and MITCHILL.

The advocates of the motion contended that the Senate, having agreed to hear Mr. SMITH, it became incumbent upon them to allow him sufficient time to collect the materials for his defence; that sufficient time had not been granted; that the season had been unusually bad for travelling, and that the mail, on which he had in some instances relied, had frequently failed; that the mistake into which his counsel had fallen was extremely natural, when it was considered that the disposition of business before Congress generally depended on the chairmen of committees; that if sufficient time were not allowed in this instance, the decision of the members might be exposed to great embarrassment, and some, who, on a full disclosure of facts, might vote for his expulsion, under such circumstances, might decide otherwise; that in the mere point of economy of time, the delay desired ought to be granted; for that, if the case were at present prematurely brought on, the counsel, under the delicate circumstances in which they were placed, could not fail, from time to time, to renew an application for further time, in which, considering the equal vote of the Senate, much discussion would unavoidably arise.

The opponents of the postponement observed that the present case was very different from those generally brought before courts of justice; that all that was necessary for the Senate, was to be convinced of the unworthiness of Mr. SMITH to hold a seat, to expel him; that, notwithstanding, time, and in their opinion ample time, had been allowed him to make his defence; that all the material evidence from the States where he had not been in person, was already received, and that it was to be presumed, from the depositions received, that all the evidence in his power to collect, was also received from the other States; that the only material evidence of which the charges against him were sustained, was that of Elias Glover, Peter Taylor, and Colonel James Taylor, and that various depositions relative to them were in possession either of the Senate or the counsel; that, under these circumstances, it could only be inferred to be the object of Mr. SMITH, by these frequent applications for delay, altogether to avoid an investigation before the Senate; that, unless the present time was improved, the session would be so nearly brought to a close, and so much business, probably of the utmost importance, be then pressing for the entire attention of Congress, as altogether to prevent the investigation of this case, or that full and dispassionate examination of it that it became the Senate to make.

They added, that if the Senate proceeded immediately in the consideration of the report, if any thing occurred which made a further delay necessary, it was in their power to, and they no doubt would, allow further time.

The question was taken by yeas and nays on postponement to the first day of April, and carried—yeas 17, nays 15, as follows:

YEAS—Messrs. Adams, Bayard, Bradley, Gaillard, Giles, Goodrich, Hillhouse, Howland, Mathewson, Milledge, Pickering, Pope, Reed, Smith of New York, Sumter, Thruston and White.

NAYS—Messrs. Anderson, Condit, Crawford, Franklin, Gilman, Gregg, Kitchel, Maclay, Mitchel, Moore, Parker, Robinson, Smith of Maryland, Smith of Tennessee, and Turner.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the punishment of crimes and other offences against the United States; and, after debate, adjourned.

THURSDAY, March 17.

The bill, entitled "An act further to prolong the continuance of the Mint at Philadelphia," was read the second time, and referred to Messrs. ANDERSON, FRANKLIN, and REED, to consider and report thereon.

The bill making provision for the disposal of the public lands of the United States in the State of Tennessee, and for other purposes, was read the second time.

Mr. BRADLEY submitted the following motion for consideration:

"That a committee be appointed, to join such committee as the House of Representatives may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same."

Mr. SUMTER, from the committee to whom was referred the bill, entitled "An act authorizing a detachment from the militia of the United States," reported an amendment, which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments to the bill for the punishment of treason and other crimes and offences against the United States, and, after progress, the consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I have, heretofore, communicated to Congress the decrees of the Government of France, of November 21, 1806, and of Spain, of February 19, 1807, with the orders of the British Government of January and November, 1807.

I now transmit a decree of the Emperor of France, of December 17, 1807, and a similar decree of the 3d of January last, by His Catholic Majesty.

Although the decree of France has not been received by official communication, yet the different channels of promulgation through which the public are possessed of it, with the formal testimony furnished by the Government of Spain, in their decree, leave us without a doubt that such an one has been issued. These decrees and orders, taken together, want little of amounting to

a declaration that every neutral vessel found on the high seas, whatsoever be her cargo, and whatsoever foreign port be that of her departure or destination, shall be deemed lawful prize, and they prove more and more the expediency of retaining our vessels, our seamen, and property, within our own harbors, until the dangers to which they are exposed can be removed or lessened.

MARCH 17, 1808. TH. JEFFERSON.

The Message and papers therein referred to were read.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes," reported amendments, which were read.

FRIDAY, March 18.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments proposed to the bill, entitled "An act concerning public contracts; and

Ordered, That the said bill be recommitted to Messrs. GILES, ADAMS, SMITH of Maryland, ANDERSON, and THRUSTON, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill for the punishment of treason, and other crimes and offences against the United States, which were agreed to; and the bill having been further amended, on motion, it was agreed further to postpone the consideration thereof.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to amend the act, entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," with amendments, in which they request the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The scale on which the military academy at West Point was originally established has become too limited to furnish the number of well-instructed subjects in the different branches of artillery and engineering which the service calls for. The want of such characters is already sensibly felt, and will be increased with the enlargement of our plans of military preparation. The Chief Engineer having been instructed to consider the subject, and to propose an augmentation which might render the establishment commensurate with the present circumstances of our country, has made the report which I now transmit for the consideration of Congress.

The idea suggested by him, of removing the institution to this place, is also worthy of attention. Besides the advantage of placing it under the immediate eye of the Government, it may render its benefits common to the Naval department, and will furnish opportunities of selecting, on better information, the characters most qualified to fulfil the duties which the public service may call for. TH. JEFFERSON.

MARCH 18, 1808.

The Message and papers therein mentioned were read, and referred to Messrs. SMITH of Maryland, BRADLEY, GILMAN, ANDERSON, and SUMTER, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes," which were amended and agreed to, and the President reported the bill to the House accordingly.

Ordered, That this bill pass to the third reading as amended.

The Senate considered the amendments of the House of Representatives to the bill, entitled "An act to amend the act, entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts in the districts of Kentucky, Tennessee, and Ohio," and concurred therein.

MONDAY, March 21.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act further to prolong the continuance of the Mint at Philadelphia," reported it without amendment.

Ordered, That this bill pass to a third reading.

Mr. GREGG reported, from the committee, that the amendments to the bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes," were correctly engrossed.

The bill last mentioned was read the third time as amended, and passed.

The PRESIDENT communicated a further report of the Attorney General, in pursuance of the order of the Senate of 6th February, 1807, with the table of fees paid in the States of Virginia and Kentucky: which were read.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making provision for the disposal of the public lands of the United States in the State of Tennessee, and for other purposes; and on motion, by Mr. BRADLEY, to amend the bill, it was agreed that the further consideration thereof be postponed until to-morrow.

Mr. GILES, from the committee to whom was referred the bill, entitled "An act concerning courts martial and courts of inquiry," reported it with amendments: which were read, and ordered to lie for consideration.

The Senate took into consideration, as in Committee of the Whole, the amendment reported by the select committee to the bill, entitled "An act authorizing a detachment from the militia of the United States;" and the President reported the bill amended accordingly.

Ordered, That it pass to the third reading as amended.

Mr. ANDERSON presented the petition of Richard Sparkes, stating that, in March, 1806, in descending the Tennessee river with a detachment of the troops of the United States, his boat was stove and sunk, whereby the petitioner lost private property to a considerable amount, together with three hundred dollars public money, for which he

is held accountable, and praying relief; and the petition was read, and referred to Messrs. ANDERSON, BRADLEY, and GREGG, to consider and report thereon.

Mr. REED, from the committee to whom was referred the bill, entitled "An act authorizing the sale of public arms," reported amendments; which were read, and ordered to lie for consideration.

TUESDAY, March 22.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

At the opening of the present session I informed the Legislature that the measures which had been taken with the Government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part; that instructions had consequently been sent to our Ministers there to resume the negotiations, and to endeavor to obtain certain alterations, and that this was interrupted by the transaction which took place between the frigates Leopard and Chesapeake; the call on that Government for reparation of this wrong produced, as Congress have been already informed, the mission of a special Minister to this country, and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our Minister resident at London, and his communications to that Government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special Minister charged with the adjustment of that difference; the instructions to our Ministers for the formation of a treaty; their correspondence with the British Commissioners and with their own Government on that subject; the treaty itself, and written declaration of the British Commissioners accompanying it, and the instructions given by us for resuming the negotiation, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State from one of our late Ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty, and of its several articles, may be fairly presented and understood.

Although I have heretofore, and from time to time, made such communications to Congress as to keep them possessed of a general and just view of the proceedings and dispositions of the Government of France towards this country, yet, in our present critical situation, when we find that no conduct on our part, however impartial and friendly, has been sufficient to insure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers which for these reasons I now lay before you embrace all the communications, official or verbal, from the French Government, respecting the general relations between the two countries which have been transmitted through our Minister there, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had, from time to time, been given them. Some of these papers have already been submitted to Congress; but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th February, I communicated to both Houses the letter of General Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence. But, perceiving that this caution, proceeding purely from a regard for the public good, has furnished occasion for disseminationg unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow-citizens, will more than countervail the ordinary objection to such publications. It is my wish, therefore, that it may be now published.

TH. JEFFERSON.

MARCH 22, 1808.

The Message and papers therein referred to were in part read, and five hundred copies of the Message and papers, numbered 1, 2, and 3, therein referred to, ordered to be printed for the use of the Senate.

WEDNESDAY, March 23.

Mr. GREGG reported, from the committee, the amendment to the bill, entitled "An act authorizing a detachment from the militia of the United States," correctly engrossed. The bill was read the third time as amended, and passed.

The Senate proceeded in reading the papers communicated with the Message of the President of the United States of the 22d instant; and, on motion adjourned.

THURSDAY, March 24.

The Senate proceeded in the reading of the papers communicated with the Message of the President of the United States of the 22d instant; after which the Senate adjourned.

FRIDAY, March 25.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress a statement of the militia of the United States, according to the latest returns received by the Department of War. From the State of Delaware alone no return has ever been made.

TH. JEFFERSON.

MARCH 25, 1808.

The Message and statement were read, and ordered to lie for consideration.

The following Message was also communicated from the PRESIDENT:

To the Senate and House of Representatives of the United States:

I transmit to both Houses of Congress a report from the Surveyor of the Public Buildings, of the progress made on them during the last season, of their present state, and of that of the funds appropriated to them. These have been much exceeded by the cost of

the work done, a fact not known to me till the close of the season. The circumstances from which it arose are stated in the report of the Surveyor.

MARCH 25, 1808. TH. JEFFERSON.

The Message, and report were read, and ordered to lie for consideration.

Another Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

In proceeding to carry into execution the act for fortifying our ports and harbors, it is found that the sites most advantageous for their defence, and sometimes the only sites competent to that defence, are, in some cases, the property of minors, incapable of giving a valid consent to their alienation, in others belong to persons who may refuse altogether to alienate, or demand a compensation far beyond the liberal justice allowable in such cases. From these causes the defence of our seaboard, so necessary to be pressed during the present season, will, in various parts, be defeated, unless a remedy can be applied. With a view to this, I submit the case to the consideration of Congress, who, estimating its importance, and reviewing the powers vested in them by the Constitution, combined with the amendment providing that private property shall not be taken for public use without just compensation, will decide on the mode proper to be pursued.

I am aware that, as the consent of the Legislature of the State to the purchase of the site may not, in some instances, have been previously obtained, exclusive legislation cannot be exercised therein by Congress until that consent is given. But, in the meantime, it will be held under the same laws which protect the property of the United States, in the same State; and the Legislatures, at their next meetings, will have opportunities of doing what will be so evidently called for by the particular interests of their own State.

MARCH 25, 1808. TH. JEFFERSON.

The Message was read, and referred to Messrs. SMITH of Maryland, ADAMS, ANDERSON, MITCHILL, and SUMTER, to consider and report thereon.

The bill, entitled "An act further to prolong the continuance of the Mint at Philadelphia, was read the third time, and passed.

The Senate took into consideration the amendments reported by the select committee, to the bill, entitled "An act authorizing the sale of public arms;" and, after progress, it was agreed that the consideration thereof be further postponed.

The following motion was submitted by Mr. SMITH, of Maryland, for consideration:

"That a committee be appointed to direct the printing of the papers referred to in the Message of the President of the United States, of the 22d instant, in such order as they may deem proper."

The Senate proceeded in reading the papers communicated with the Message of the President of the United States, of the 22d instant; after which the Senate adjourned.

SATURDAY, March 26.

The following motion, by Mr. FRANKLIN, was submitted for consideration:

Resolved, That a committee be appointed, to join such committee as the House of Representatives may appoint on their part, to consider and arrange the printing of the documents communicated to the two Houses of Congress by the President of the United States, on the 22d day of March, 1808.

On motion, by Mr. ANDERSON,

Ordered, That five hundred additional copies of the Message of the President of the United States, of the 22d March, 1808, and papers numbered 1, 2, and 3, therein referred to, be printed for the use of the Senate.

The Senate proceeded, in the reading of the papers communicated with the Message of the President of the United States, of the 22d instant; after which the Senate adjourned.

MONDAY, March 28.

The Senate considered and agreed to the motion made on the 25th instant, as follows:

Resolved, That a committee be appointed to direct the printing of the papers referred to in the Message of the President of the United States, of the 22d of March, in such order as they may deem proper; and

Ordered, That Messrs. SMITH of Maryland, ADAMS, and MITCHILL, be the committee.

Mr. SMITH of Maryland, from the committee appointed the 18th instant, to consider the Message of the President of the United States, of that date, on the subject, reported a bill in relation to the Military Academy of the United States; which was read, and ordered to a second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act authorizing the sale of public arms;" and the President reported the bill to the House amended accordingly.

Ordered, That it pass to the third reading, as amended.

Mr. GREGG reported, from the committee, the amendments to the bill last mentioned correctly engrossed; and the bill was, by unanimous consent, read the third time, and passed as amended.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making provision for the disposal of the public lands of the United States, in the State of Tennessee, and for other purposes; and a further amendment was submitted by Mr. FRANKLIN; and, on motion, the consideration of the bill was further postponed until to-morrow.

On motion, it was agreed that the bill for the punishment of certain crimes and offences against the United States be the order of the day for to-morrow.

The Senate finished reading the papers communicated with the Message of the President of the United States of the 22d instant; and then adjourned.

TUESDAY, March 29.

Mr. GILES, from the committee to whom the subject was referred, on the 18th of February last, reported a bill regulating the proceedings in issuing and executing the writ of habeas corpus, for the purpose of inquiring into causes of commitment; and the bill was read, and ordered to the second reading.

The bill, in relation to the Military Academy of the United States, was read the second time, and the further consideration thereof postponed until to-morrow.

Ordered, That the consideration of the bill, entitled "An act concerning courts martial and courts of inquiry," with the amendments reported, be postponed until to-morrow.

Mr. GREGG, from the committee to whom was referred the petition of Arthur St. Clair, made report; which was read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill making provision for the disposal of the public lands of the United States, in the State of Tennessee, and for other purposes," together with the amendments proposed; and, on motion, the bill and amendments were recommitted to the original committee, further to consider and report thereon, and Messrs. CRAWFORD and FRANKLIN were added to the committee.

The bill authorizing the issuing of debentures, in the cases therein mentioned, was read the third time, and it was agreed that the further consideration thereof be the order of the day for to-morrow.

The Senate resumed the second reading of the bill for the punishment of treason and other crimes and offences against the United States; and the bill having been further amended, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

WEDNESDAY, March 30.

Mr. GREGG, from the committee, reported the bill for the punishment of treason and other crimes and offences against the United States, correctly engrossed.

The bill regulating the proceedings in issuing and executing the writ of habeas corpus, for the purpose of inquiring into causes of commitment, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act concerning courts martial and courts of inquiry;" and, after progress, the consideration thereof was further postponed until to-morrow.

THURSDAY, March 31.

The motion submitted by Mr. BRADLEY, the 17th instant, was resumed. Whereupon,

Resolved, That a committee be appointed, to join such committee as the House of Representatives may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same;" and Messrs. BRADLEY and GREGG were appointed the committee on the part of the Senate.

The Senate resumed the third reading of the bill authorizing the issuing of debentures in the cases therein mentioned; and, on motion by Mr. BRADLEY, that the further consideration of this bill be postponed until the first Monday in December next, it was determined in the affirmative—yeas 15, nays 14, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Howland, Kitchel, Maclay, Milledge, Pope, Robinson, Smith of Tennessee, Sumter, and Turner.

NAYS—Messrs. Adams, Bayard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Mathewson, Mitchill, Pickering, Smith of Maryland, Smith of New York, Thruston, and White.

FRIDAY, April 1.

Mr. GILES, from the committee to whom was recommitted, on the 18th of March last, the bill, entitled "An act concerning public contracts," reported it with a further amendment; and the report was read for consideration.

Mr. SMITH of Maryland, from the committee appointed the 28th of March last on the subject, made report. Whereupon,

Resolved, That one thousand copies of the papers respecting the French affairs, communicated with the Message of the President of the United States of the 22d ultimo, be printed for the use of the Senate; and that three hundred copies of all the other papers (not confidential) referred to in the said Message, be also printed for the use of the Senate.

The following motion was submitted, by Mr. ANDERSON, for consideration:

Resolved, That the correspondence between Mr. Monroe and Mr. Canning, and between Mr. Madison and Mr. Rose, relative to the attack made upon the frigate Chesapeake by the British ship of war Leopard; and, also, the communication made to the Senate by the President on the 30th day of March last, be referred to a select committee, with leave to report thereon by bill or otherwise.

CASE OF JOHN SMITH.

This being the day assigned for hearing counsel, the PRESIDENT said the Senate were ready to hear the counsel of JOHN SMITH, in anything they had to offer why the resolution (for expelling him) should not be adopted.

Mr. ADAMS submitted it to the Senate, whether it was not most proper that the counsel should be permitted to show cause, why the report should not be adopted. He remarked that in like cases the whole report, comprising the grounds on which the final resolution was founded, had been the subject of discussion, and of approbation or rejection. He considered this the correct course, that the world and posterity might know the grounds on which the Senate acted.

A short conversation ensued on this suggestion of Mr. ADAMS, in which the principles of the report were incidentally noticed. In reply to Mr. ADAMS's remarks, it was said that it could not be expected that a deliberative body, however agreed in the guilt or innocence of the accused, would be

able to unite in their agreement to a complicated report, embracing a variety of abstract and disputable principles.

Mr. GILES intimated the idea that this discussion was premature; that, as the Senate had by their vote determined to hear counsel on the report, it was proper that this course should, in the present stage of the business, be pursued. After having heard counsel, it would be for the Senate, as they then should see fit, either to decide on the resolution alone, or on the report connected with it.

This suggestion having been acquiesced in, without any vote—

Mr. KEY, of counsel for Mr. SMITH, asked for subpœnas for Messrs. DAVENPORT, MORROW, and STURGIS, of the House of Representatives, to attest the credibility of witnesses; and likewise for a subpœna for General Wilkinson.

It was intimated that the usual mode of proceeding in such a case was to request the attendance of the members of the other House.

Mr. KEY then opened the defence by a few very concise preliminary remarks. He observed that the counsel of Mr. SMITH felt highly gratified in appearing before the Senate with a body of testimony sufficiently strong to flatter them with the assurance of a favorable result; that all the apprehensions which had arisen from the distance and the extent of the testimony were almost removed; and that although testimony was still coming in, they were fully satisfied with that they had already received.

He said they would be able to show that the testimony of Elias Glover was not worthy of credit. He admitted that if this testimony were correct, JOHN SMITH was unworthy of his seat; but they would be able entirely to destroy its weight by destroying his credibility. They would, likewise, be able to show that there was nothing else in the other testimony which materially affected the character of the accused. They would also, after this, enter into a consideration of the principles on which a decision in this case ought to be made, and endeavor to show that that decision could only be made according to legal evidence; that the Senate were bound by judicial principles, and that the accused was consequently entitled to the same privileges as he would be in a court of justice.

Mr. KEY said he should first proceed to offer depositions to discredit Elias Glover. He would show that he had not only made charges, which were contradicted by respectable testimony, but likewise by his own declarations at other times. He would commence with the proof of his general character, and show that it had been such, ever since he entered into life, as to destroy the weight of his testimony; he would show that he had in several instances perjured himself. He would then show his inducements to perjure himself in this case, by establishing the existence of a combination, of which he was the head, to ruin Mr. SMITH.

Mr. KEY was about to read sundry depositions taken at Newtown, Connecticut. Previous to this he read the certificates of notice given by Mr. SMITH to Mr. Glover, of his purpose to take depositions relative to his character. From these it appeared that Mr. SMITH had, on the 10th of February, notified him of his intention to take depositions at Delhi, New York, on the 15th February, at Newtown, Connecticut, on the 20th, in the Mississippi Territory on the 25th, at Cincinnati the——

Mr. CRAWFORD objected to reading these depositions. He observed that they went seriously to affect the character of Mr. Glover; that the Senate had, in such a case, prescribed that the depositions should only be received in case of reasonable notice having been given to the person, whose character it was intended to di-credit: that in this case no such reasonable notice had been allowed; that the notice was too short to be of the least use to Mr. Glover.

Mr. HARPER, of counsel for Mr. SMITH, observed that as much time had been given by Mr. SMITH as he could possibly spare. The times fixed for taking depositions at the several places, had been as distant as they could be, consistently with Mr. SMITH's getting the testimony forwarded to the seat of Government by the 1st of March; the period then fixed by the Senate for his hearing.

Mr. S. SMITH stated that, although the resolution fixing the 1st of March for a hearing had passed on the 20th of January, the notices of Mr. SMITH were not dated till the 10th of February, at Berrysville, in Virginia, where he had put them into the post office.

A short debate followed, in which the principal circumstances noticed were, that according to Mr. SMITH's affidavit, on which the first postponement had taken place, it was not expected that depositions to discredit Elias Glover's would be taken at any other place than Cincinnati; that, if these depositions, though informal, were read, they would be taken by the Senate only for what they were worth, and that, if ex parte evidence was received in favor of Mr. SMITH, it could not be rejected when against him.

On reading the depositions, seventeen members, being a majority, rose in the affirmative.

The counsel then read the depositions of Calvin Chamberlain, Henry Peck, jun., Ely Perry, William Meeker, Daniel Wheeler, John Norfrog, Luther Bulkley, Zalmon Tousy, jun., Cyrus Sprindle, James Nicholls, Solomon Booth, Oliver Tousy, Gideon Fisher, Stephen Beers, jun., N. Hays, Joseph Michin, Solomon M. Sackriden, James Monger, Homer R. Phelps, Joshua H. Brent, Gabriel North, John T. Moore, Philip Gabehart, Cyrenus Foote, Roswell Hodgkiss, Benijah Beardley, E. K. Granger, Henry Tyler, John B. Judson, Samuel Stephen, George Fost, Asa Tyler, Nathan T. Tyler, John S. Gano, Francis Dunlavy, John Sellman, Stephen MacFarland, Geo. Gordon, Edward H. Stall, Thomas N. Still.

These depositions are made by persons residing in the States of Connecticut, New York, and Ohio.

About 4 o'clock the Senate adjourned.

SATURDAY, April 2.

GREAT BRITAIN AND FRANCE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Believing that the confidence and union of our fellow-citizens, at the present crisis, will be still further confirmed by the publication of the letter of Mr. Champagny to General Armstrong, and that of Mr. Erskine to the Secretary of State, communicated with my message of the 30th ultimo; and, therefore, that it may be useful to except them from the confidential character of the other documents accompanying that message, I leave to the consideration of Congress the expediency of making them public. TH. JEFFERSON.

APRIL 2, 1808.

The Message was read. Whereupon, on motion, by Mr. GILES, it was

Resolved, That five hundred copies of the foregoing Message, together with five hundred copies of the note from Mr. Erskine, His Britannic Majesty's Minister Plenipotentiary, to Mr. Madison; and also, of the note from Mr. Champagny, Minister of Foreign Relations of His Majesty the Emperor of France, &c., to Mr. Armstrong, communicated to Congress with the Message of the President of the United States on the thirtieth day of March last, be printed for the use of the Senate.

The letters are as follows:

WASHINGTON, *Feb.* 23, 1808.

SIR: I have the honor to transmit to you the copies of certain Orders of Council, which His Majesty has thought proper to issue in consequence of the hostile conduct of France towards the navigation and commerce of Great Britain and of neutral States.

His Majesty has been induced hitherto to forbear recurring to measures of this nature, by the expectation that the Governments of the neutral States, who have been the objects of the French decrees, would have been awakened to a just sense of what they owe to their interests and own rights, and would have interposed with effect, either to prevent the execution of the French decrees, or to procure their abrogation.

But His Majesty having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures as, by retorting on the enemy the inconveniences and evils produced by his injustice and violence, may afford the only remaining chance of putting an end to a system, the perseverance in which is not more injurious to His Majesty's dominions than to nations not parties to the war between Great Britain and France.

The principle, upon which His Majesty finds himself compelled to proceed, would justify a complete and unqualified retaliation on his part of the system announced and acted upon by France, in respect to His Majesty's dominions: and His Majesty might, therefore, have declared in a state of rigorous and unmitigated blockade, all the coasts and colonies of France and her allies. Such a measure, the maritime power of Great Britain would have enabled His Majesty to enforce; nor would those nations, which have acquiesced, without effectual remonstrance, in the French decree of blockade, have derived any right from the perfect execution of a corresponding determination on the part of His Majesty, to complain of His Majesty's enforcing that measure, which the enemy has executed imperfectly, only from the want of the means of execution.

His Majesty, however, actuated by the same sentiments of moderation by which His Majesty's conduct has been uniformly governed, has been desirous of alleviating, as much as possible, the inconveniences necessarily brought upon neutral nations by a state of things so unfavorable to the commercial intercourse of the world; and has, therefore, anxiously considered what modifications it would be practicable to apply to the principle upon which he is compelled to act, which would not, at the same time that they might afford relief from the pressure of that principle upon neutral or friendly nations, impede or enfeeble its operation upon the enemy.

In pursuance of this desire, the Order in Council, which, if it had ended with the sixth paragraph, would have been no more than a strict and justifiable retaliation for the French decree of November 1806, proceeds, as you will observe, sir, to provide many material exceptions, which are calculated to qualify the operation of the order upon neutral nations in general, but which must be considered as most peculiarly favorable to the particular interests of the United States.

It will not escape you, sir, that by this Order in Council, thus modified and regulated, the direct intercourse of the United States with the colonies of the enemy is unrestrained; an indulgence which, when it is considered to be (as it really is) not only a mitigation of that principle of just reprisal upon which the order itself is framed, but a deviation in favor of the United States, from that ancient and established principle of maritime law, by which the intercourse with the colonies of an enemy in time of war is limited to the extent which that enemy was accustomed in time of peace to prescribe for it, and which, by reference to the conduct of France in a time of peace, would amount to a complete interdiction, cannot fail to afford to the American Government a proof of the amicable disposition of His Majesty towards the United States.

You will observe, sir, also, that the transportation of the colonial produce of the enemy from the United States to Europe, instead of being altogether prohibited (which would have been the natural retaliation for the rigorous and universal prohibition of the British produce and manufactures by France) is freely permitted to the ports of Great Britain, with the power of subsequently re-exporting it to any part of Europe, under certain regulations.

The object of these regulations will be the establishment of such a protecting duty, as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain. In this duty it is evident that America is no otherwise concerned than as being to make an advance to that amount for which it is in her own power amply to indemnify herself at the expense of the foreign consumer.

Another most important relaxation of the principles upon which His Majesty's orders proceed, is that which licenses the importation of all flour and meal, and all grains, tobacco and other articles, the produce of the soil of America, with the exception of cotton, through the ports of His Majesty's dominions, into those of his

enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which His Majesty has deprived his measure of its most efficacious and hurtful operation against the enemy, through motives of consideration for the interests of America. The reason why His Majesty could not feel himself at liberty, consistent with what was necessary for the execution of his purpose, in any tolerable degree, to allow this relaxation to apply to cotton, is to be found in the great extent to which France has pushed the manufacture of that article, and the consequent embarrassment which a heavy impost upon cotton, as it passes through Great Britain to France, must necessarily produce.

I cannot refrain from calling the attention of the Government of the United States to the contrast between the different modes in which His Majesty's orders and those of France are carried into execution. By His Majesty's, the utmost consideration is manifested for the interests of those nations whose commerce he is reluctantly compelled to impede, and ample time allowed for their becoming acquainted with the new regulations and conforming to them. Whereas France, without any previous notice, and without any interval, applies her orders to trade already entered upon, in ignorance of any such orders, and subjects to condemnation ships, whose voyages, when commenced, were in strict conformity to all the regulations at that time promulgated by France.

Even with these and other modifications, His Majesty is not unaware that a measure extorted from him by the injustice of the enemy, must inevitably produce inconveniences to the neutral parties who are affected by its operation.

The right of His Majesty to resort to retaliation cannot be questioned. The suffering occasioned to neutral parties is incidental, and not of His Majesty's seeking.

In the exercise of this undoubted right, His Majesty has studiously endeavored to avoid aggravating unnecessarily the inconveniences suffered by the neutrals. And I am commanded by His Majesty, especially, to represent to the Government of the United States, the earnest desire of His Majesty, to see the commerce of the world restored once more to that freedom which is necessary for its prosperity; and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary; but His Majesty entertains the conviction, upon which alone his present measures are founded, that it would be vain to hope for such a retraction, until the enemy shall himself have been made to feel a portion of the evils which he has endeavored to inflict upon others.

I have the honor to be, with great consideration and respect, sir, your most obedient, humble servant.

D. M. ERSKINE.

Hon. JAMES MADISON, *Sec'ry of State.*

Translation of a letter from M. CHAMPAGNY, *to Gen.* ARMSTRONG, *dated Paris, Jan.* 15, 1808.

SIR: The different notes you have done me the honor to address to me have been laid before His Majesty.

The proceedings of England towards all Governments are so contrary to the law of nations, and to all the rules constantly observed even among enemies, that no recourse against this Power is any longer to be found in the ordinary means of repression. In order to annoy her, it is become necessary to turn against her the arms which she makes use of herself; and if transient inconveniences result therefrom, it is to her alone, they are to be imputed. Since England respects no laws, how could they be respected with regard to her? The maritime laws which she violates, ought they still to be a protection to her? And if some Powers tolerate the infraction committed on their independence, could they have the right to require that France alone should restrain herself within limits which her enemy has everywhere overleaped?

The United States, more than any other Power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of her flag, nay, against that of their territory, and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th November have made a fresh attack on their commerce, and on their navigation, as they have done on those of all other Powers.

In the situation in which England has placed the continent, especially since her decrees of the 11th of November, His Majesty has no doubt of a declaration of war against her by the United States. Whatever transient sacrifices war may occasion, they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle, and the anarchy which that Government wishes to establish on the seas. If it be useful, and honorable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of those violations. War exists, in fact between England and the United States; and His Majesty considers it as declared, from the day in which England published her decrees. In that persuasion His Majesty, ready to consider the United States as associated with the cause of all the Powers, who have to defend themselves against England, has not taken any definitive measure towards the American vessels which may have been brought into our ports. He has ordered that they should remain sequestered, until a decision may be had thereon, according to the dispositions which shall have been expressed by the Government of the United States.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of Aaron Burr. Messrs. Harper and Key, his counsel, attended.

The following motion was submitted, by Mr. MILLEDGE, for consideration:

Resolved, That a message be sent to the House of Representatives requesting that Messrs. Sturges, Davenport, and Jeremiah Morrow, members of that House, be permitted to attend the Senate, to give evidence to the characters of sundry witnesses in the case of John Smith, a Senator from the State of Ohio.

Mr. KEY proceeded with the testimony on the part of Mr. SMITH, and read the depositions of Thomas Rawlings, Jacob Fouble, Wm. McFarlane, Richard Southgate, Ethan Stone, Samuel I. Brown, Pallas P. Stewart, D. L. Kearney, Ephraim Morgan, Jacob Burnett, Arthur St. Clair, jr., George Russell, Nathaniel Nicholls, John Armstrong, Isaac G. Burnett, Nicholas Longworth, James Laurie, B. Chambers, Stephen McFarland, Griffin Yeatman, and Barnet Hulings, to discredit the testimony of Elias Glover.

Mr. HARPER, then, in order to present a connected view of the whole testimony, read the depositions of Peter Northrop, Nathan Platt, G. Somers, Henry Bottsworth, Philip Nichols, Josiah Fairchild, Sampson Burch, Jonathan Goodsall, Timothy Shepherd, Bennet Perry, Henry Foote, Gideon Boxford, Michael Parks, Samuel Beers, Moses Boxford, Mox K. Boxford, Asa Chapman, Amos Beers, Truman Beers, David Beers, David B. Beers, John Bennet, G. Hansford, Henry Rice, Josiah Hansford, Benjamin Hall, R. Griffin, —— Watkins, Wm. Watkins, Joshua Webster, John C. Hodgkiss, Wm. Andrews, and R. Baldwin, in support of the character of Elias Glover.

Mr. KEY said he would, in the next place, proceed to adduce evidence relative to the affidavit of Peter Taylor. Although the counsel, he said, of Mr. SMITH, did not consider the evidence of Peter Taylor, of Col. James Taylor, and others, as proving anything material against Mr. SMITH, yet they would be able to show that it abounded with mistakes. With regard to Peter Taylor, they should not question his general character, but they would offer evidence to show that the circumstances and situation in which he was placed were not such as entitled his testimony to credit; they would show that he had testified to what were not facts. They should prove this by his own declarations, as well as by those of others.

Mr. K. then read the deposition of Peter Taylor, lately taken at Marietta, and the depositions of Dudley Woodbridge, John Brough, and Morris P. Belknap.

Mr. HARPER said, that among the charges preferred against JOHN SMITH, was his having expressed to Colonel Taylor sentiments unfavorable to the Union. Although they might contend that such a charge, if substantiated, contained nothing of criminality, they were not disposed to rest the defence on that ground. They denied the charge. In saying this, they did not believe that Colonel Taylor had intentionally misstated the expressions of Mr. SMITH; they would, however, adduce the testimony of a man who was present at the conversation alluded to, who considered it very differently from Colonel Taylor, viz: Doctor John Sellman, a man of respectable character, both as to veracity and knowledge.

He then read the depositions of Doctor John Sellman and General Henry Carberry.

The last point, Mr. H. said, on which they would adduce testimony, was relative to the journey of Mr. SMITH to Frankfort, where he had an interview with Colonel Burr; and they would show that his objects and motives in taking it, altogether regarded the transaction of his own personal concerns.

The counsel then read the depositions of Joseph Taylor, John Jordan, jr., Thomas Hart, Daniel Bradley, Alexander Parker, and James Kelly.

Adjourned to Monday.

MONDAY, April 4.

The Senate took into consideration the motion made by Mr. ANDERSON on the first instant, and which was adopted, as follows:

Resolved, That the correspondence between Mr. Monroe and Mr. Canning, and between Mr. Madison and Mr. Rose, relative to the attack made upon the frigate Chesapeake, by the British ship of war Leopard; and, also, the communications made to the Senate by the President of the United States on the 30th day of March last, be referred to a select committee, with leave to report thereon by bill or otherwise.

Ordered, That Messrs. ANDERSON, ADAMS, GILES, SMITH, of Maryland, and BRADLEY, be the committee.

The bill for the punishment of treason, and other crimes and offences against the United States, was postponed until to-morrow.

Ordered, That the consideration of the bill, entitled "An act concerning courts martial and courts of inquiry," be further postponed until to-morrow.

Mr. ADAMS gave notice that he should, to-morrow, ask leave to bring in a bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

Mr. SMITH attended, together with Messrs. Harper and Key, counsel on his behalf, who proceeded in reading their depositions.

The depositions transmitted to the Senate, on behalf of Elias Glover, were also read; after which, it was agreed that the further consideration of the report be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the report of the select committee on the bill, entitled "An act concerning public contracts;" and, after progress, the Senate adjourned.

TUESDAY, April 5.

Mr. ANDERSON, from the committee to whom was referred the bill making provision for the disposal of the public lands of the United States in the State of Tennessee, reported it with further amendments; which were read for consideration.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of JOHN SMITH, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

Mr. SMITH attended, together with Messrs. Harper and Key, counsel on his behalf.

Mr. HARPER read the depositions of Joseph H. Brett, John T. Moore, Gabriel North, Erastus Root, C. Keiser, Isaac G. Burnett, David Zeigler, John Bradford, Jacob Broadwell, Jos. Van Horne, Samuel Hildige, Geo. Williamson, M. Williams, and William Goforth. Messrs. Van Rensselaer,

Jeremiah Morrow, Tallmadge, Bacon, and Davenport, of the House of Representatives, and Mr. Tiffin, of the Senate, were then examined, and attested to the general respectability of character of several of the witnesses from whom depositions had been received on the part of Mr. SMITH.

Mr. KEY then rose to show why the report of the Committee should not be adopted. He spoke as follows:

Mr. President: In the discharge of that duty to which we are now called by the permission of this honorable body, nothing could have been more gratifying than to have waived all objections to this proceeding or any of its forms; to have presented our evidence and rested our defence upon the unanswerable proofs which it contains. We could have wished to have trespassed no otherwise upon the attention of the Senate than by contrasting the purity, truth, and respectability of that evidence, with the foulness, falsehood, and infamy, of those to which the present accusation owes its origin and support. Were the principles which have always heretofore governed legislative and judicial assemblies in the investigation of facts admitted to their just and usual rank on this occasion, was the Senate to be guided by its own former decisions, or by those of every other intelligent tribunal, this would have been the course which we would most gladly have pursued.

But, sir, these principles are denied, and the force of these precedents attacked in the report which the Senate are now called upon to adopt, with a zeal and ability which we cannot hope successfully to resist; and new principles and a new mode of proceeding are recommended, by which we cannot consent to be tried; which, we humbly conceive, render innocence, nay, even the proof of innocence, an unavailing defence.

It is therefore, sir, that we feel ourselves most reluctantly compelled to protest against this inquiry; to plead to the jurisdiction of the Senate, and to deny the obligation of answering to this charge in any manner and any place, where those rights of defence which justice, law, and established custom, entitle us to, are refused or doubted.

I shall therefore contend, that the Senate have no right to inquire into the truth of a charge which is indictable in a court of law. And I will undertake to prove this, by resorting to the same sources from which a contrary conclusion is attempted to be drawn in this report;—the commands of the Constitution; the dictates of reason, and the sanction of precedents.

The seventh amendatory article of the Constitution directs "that no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except," &c. If it is said that this restriction relates merely to the judiciary, I ask why are certain cases contained in the exception which could not in their nature have the least connexion with judicial proceedings? Why are cases in the army or navy excepted? If a soldier could not have been held to answer for a capital offence, but for the exception contained in this article, can one of the members of this House, unless a similar exception is shown? If it would not have been sufficient, in order to try such a case, otherwise than by indictment, to say that this article related only to judicial cases, so neither can the Senate give themselves jurisdiction in this case by adopting this construction.

But, sir, the following article is still more conclusive. "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed."

Let me ask, if this privilege, thus expressly secured by the most positive terms, is not violated by a proceeding like this? The member accused of an indictable offence may, and most probably always will be indicted; he has a right to a speedy trial. Can the Senate have the power to deny him this right, by instituting an inquiry either before or just after he is indicted, and thus delaying the trial until they have procured the testimony of witnesses, and decided upon the accusation? Such a delay would be unavoidable and considerable, where the offence was committed at a distance, and thus the accused is deprived of his Constitutional right to a speedy trial. But what is of yet more importance to him, he is denied the right of a trial by an impartial jury. For, when this House has declared, after a deliberate investigation, that he is guilty, what jury would be unprejudiced by such a decision? Or, if they declare him innocent, will any jury be likely to convict him upon the same testimony? Thus, in either case, he will not have a trial by an impartial jury.

But, sir, if these injunctions of the Constitution can by any ingenuity be evaded, what answer can be given to those which are dictated by the equally authoritative voice of reason?

In the first place, such proceedings here are unnecessary, and, if unnecessary, surely unreasonable; for this House and (more particularly from their numbers) the other branch of our National Legislature may, if these inquiries are sanctioned, be called on repeatedly during a session to institute similar proceedings. When we consider the feelings which are excited by a warmly contested election, and the resentments of disappointed candidates, it is by no means improbable that many such cases will occur in both Houses. Let the time and attention which this has occupied, (and surely there has been no unnecessary delay) be considered, and it will be obvious that nothing but the most imperious necessity can justify the Legislature in neglecting (as they manifestly must do) the various and important national concerns which are pressing upon them, and overlooking the interests of the country, in their search after the crimes of each other—crimes too, sir, which are cognizable and punishable elsewhere; which it is the peculiar and exclusive duty of our courts to pronounce upon; which they can always pronounce upon in less time, for they sit more frequently; with less inconvenience, for they have nothing else to do, and I may add with equal justice; for this honorable House must sanction the characters selected to fill them. When they have thus pronounced, their record can be enrolled in

this House, and if it contains a member whose guilt is declared by that record, nothing else will be necessary to remove the pollution.

The necessity, however, of this interference by the Senate, between the accusation and the sentence of guilt, is warmly urged in the report of the honorable committee. It is there contended that the Senate are compelled to assume the jurisdiction and discharge the duties of a court, because those duties are neglected and violated by our courts.

Yes, sir, we are told that our judicial tribunals not only allow to notorious offenders impunity for years, but that when a criminal is arrested and brought before them for trial, instead of ascertaining his guilt or innocence, they amuse themselves and him by inquiring into the "possibility of his innocence." Whether this be a correct representation; whether the counsel for a criminal may plead to an indictment "that he is possibly innocent," without any danger of the district attorney's demurrer or the ridicule of the court; whether our judges be thus negligent, corrupt, and foolish beyond all former example, I shall not pretend to inquire. But admitting it, how strange is the conclusion drawn from it! The judiciary is depraved; they disregard their duties, and therefore it is urged, that the legislative department should disregard their own duties to perform those of the judiciary. If, sir, this is the degraded condition of our courts, it is within the power, and it is the duty of this honorable House to restore purity and vigor to that department, not by assuming judicial functions, but by the exercise of its legitimate legislative authority. Let them frame a law compelling courts to do their duty; obliging them to catch offenders in a reasonable time, and to punish such as are guilty, notwithstanding they may be "possibly innocent."

Thus, sir, no actual or fancied depravity in our judicial tribunals can impose on this House the necessity of inquiring into indictable offences committed by its members. And not only is it unnecessary, but most oppressive and unjust. I can conceive nothing more injurious to a person accused of a crime than to have the public, from whom his jury are to be selected, prejudiced against him. There is little difference between punishing a man without a trial and destroying the purity of that trial. Let me ask if any honorable member of this House can reconcile it to his reason and sense of justice to express a public opinion of the guilt of a person about to be tried for an offence? And if he would feel this restraint as an individual, let me now urge him to forbear from throwing the weight of his authority, and of the high official station which he bears, into those scales of justice which should be most accurately balanced and held with the most even and steady hand. The offence charged upon Mr. Smith is confessedly indictable. Though the malice of his enemies has been lately foiled in its attempt to procure a prosecution against him at Chilicothe, though that grand jury disbelieved his slanderers, yet even in this case he may be subjected to answer to an indictment for this offence. If this should happen, can it be pretended that a laborious investigation and a solemn decision of the Senate of the United States will be without its influence upon that fair and impartial trial which is his right? Will the court and the jury feel no prejudice against him whose crime has been publicly ascertained and declared by so high an authority? The most innocent man alive could expect nothing but the confirmation of that sentence. The slightest circumstance would in such a trial be considered as conclusive proof—the most infamous witness thought worthy of credit—for where would he be disbelieved who had been listened to here? I should not be, sir, without my apprehensions that even the ghost of Elias Glover's departed reputation might be conjured up by the magic of a vote of this House, might stalk into a court of justice restored to its capacity of mischief, and armed with the recommendations of the Senate of the United States. I might even feel afraid of this shadow.

To these self-evident dictates of reason, thus concurring with the opinion of our Constitution, allow me now to add the resistless force of the most deliberate and respectable precedents. These, sir, will show that the principle for which we now contend has already received the solemn sanction of the Senate. The case of Mr. Marshall is precisely similar to the present. This gentleman, while a member of this House, was accused of perjury, and an inquiry into his conduct solicited. A committee, highly respectable for talents, was appointed, as in this instance; and their report is now among the records of this House. This report avows in the most unequivocal language (as will be seen by reference to it) that the Senate had no jurisdiction; that the offence was cognizable in a court, and therefore could not be inquired into here; and the Senate, by a very large majority, concurred with this report. The weight of this decision, so confessedly in point, is now most ingeniously resisted in the present report. It is said to have been adopted without due consideration, and afterwards departed from, at the very next session, in the case of Blount. There are no marks of haste or prejudice to be discovered in the conduct of the Senate on that occasion; no reason to suppose that they acted without that discernment and deliberation which should always attend the proceedings of this House. The accusation was presented by the Legislature of Kentucky, a source entitled to respect and consideration. Nor could they have been prejudiced in favor of their associate, for he was anxious to waive all objections to their jurisdiction. It would indeed be strange that the very individuals who voted for this report should so soon afterwards have sanctioned a directly contrary one—and though it is contended by the present honorable committee that they have done so, I yet hope to acquit them from a charge of such gross inconsistency.

The decision in the case of Blount, instead of being contradictory of any principle established by the case of Marshall, is in the strictest conformity with it—they are perfectly reconcilable, and mutually strengthen each other, and both enforce

the principle I am now contending for. The offence with which Mr. Marshall was charged was perjury, an indictable offence. That alleged against Mr. Blount was the writing a letter, certainly highly improper and reprehensible, but for which it cannot be pretended that he was liable to indictment. This at once explains the grounds of these two decisions. In one case the Senate saw that our courts had cognizance of the offence; that, if guilty, a conviction there could be produced as the ground of expulsion; they therefore decided that they could not inquire. In the other case, the member was subject to no prosecution, and they therefore with equal propriety and perfect consistency determined to inquire. Thus, sir, the authority in the case of Marshall is unimpeached by that of Blount, nay, they both concur to deny the correctness of such a proceeding as the present, where the offence charged is indictable.

These, sir, are the only instances which have occurred in this country—and I shall not think it necessary to refer to the precedents of any other, to support a principle which has received so solemn and deliberate a decision here. Yet, if those of England are resorted to, they will be found consistent with them, except on one occasion, in which prejudice and intemperance evidently operated. I allude to the case of Wilkes, the proceeding in which case was declared at the time to be unprecedented, and is now almost universally allowed to have been unjust. I do not suppose that the authority of this case can be held up as superior to that of decisions here, and will therefore make no attempt to show the impropriety of that proceeding, and that even if justifiable there, there could be no pretence or excuse for introducing such a precedent in our country. I have now, sir, endeavored to show from the Constitution, from reason, and from precedent, that the Senate are forbidden to proceed in this inquiry.

But, sir, if I have been unsuccessful in this attempt; if the Senate do proceed; if Mr. SMITH's guilt or innocence is to be established without a trial in a court of justice; let me at least hope that he will be tried as if he was in a court of justice, and that none of the substantial benefits allowed in judicial investigations will be denied him here. This honorable House, sir, are not now sitting in their usual deliberative capacity: this is no question of expediency. The moment this inquiry was instituted, every such question was waived, and this House became, to all intents and purposes, a judicial tribunal. For, what is that but a judicial tribunal which investigates a criminal accusation, and forms and pronounces a judgment upon its truth? However different, then, the forms of this proceeding may be from those usually adopted in judicial tribunals, let me at least hope that we shall find the substance the same. But this, sir, the present report of the honorable committee forbids us to expect. The principles which always regulate judicial tribunals are denied to be authoritative here; and it is therefore urged that the depositions of witnesses with whom the accused has never been confronted—to whom he has never been permitted to put a question—should be received as evidence against him. Nay, the most fundamental principle in criminal inquiries; the most obvious dictate of justice—that which presumes innocence till guilt is proved—is now advised, (I humbly apprehend for the first time,) not only to be dispensed with, but to be reversed. And why, sir, should the Senate, when acting as a judicial tribunal, thus disdain to resort to judicial principles and precedents? Does not the source whence they were derived deserve a respectful consideration? The situation of our country; the security which every man feels in the enjoyment of all his rights and possessions; that quiet and repose which is everywhere visible, constitute the best panegyric upon our civil tribunals, and is an unanswerable proof of the purity and respectability with which they are filled—of the fidelity and ability and wisdom with which their duties are discharged. And if we look to the tribunals of that country from which our system of jurisprudence has been so wisely borrowed, we shall find them every way worthy of our regard and admiration. I do not, I think, speak from any professional prejudices, when I affirm that the judicial department of that Government has always displayed the most marked superiority over every other. In times of the greatest political depravity, when every other branch of their civil institutions was stained with pollution, into the sanctuary of their courts corruption did not dare to enter; and a profligate Ministry, as their history will show, have always found it cheaper and easier to purchase a whole Parliament than a single judge. Nor, sir, can it justly be said that those principles, thus selected by intelligent men for the promotion of justice, and matured and perfected by the wisdom and experience of successive ages, are either unreasonable in themselves or inapplicable to the present occasion. If the presumption in favor of the innocence of an accused person is universally and properly allowed—if it operates in favor of the meanest vagrant indicted for the most petty offence, the punishment of which is merely to subject him to confinement in a comfortable jail, or a few stripes upon a back already hardened by the lash—under what pretence can it be denied in the present inquiry, when an honorable member of this House, the purity of whose past life has procured him this high mark of confidence from his fellow-citizens, is about to be tried for the most odious offence, and doomed to the most ignominious punishment? And what, sir, can be alleged against the justice of that great rule of evidence which brings a man's accusers from that secrecy which falsehood will always seek, commands them to stand before his face, to submit to his examination, and to bear the keen searchings of the eyes of the beholders? Can it possibly be thought more consistent with justice to dispense with this rule, and introduce a mode of proceeding which is to give the name and effect of evidence to *ex parte* depositions, taken not only without any notice to the accused, but in the most secret and concealed manner, for the very purpose of preventing him from having any knowledge of them? There are, sir, depositions upon your table of the contents of which, and even of the names

of the deponents, neither the accused nor his counsel had the slightest information till they were yesterday read as evidence against him. And these deponents too, sir, are many of them the very persons who (as Mr. SMITH has proved) were called upon by him to ascertain certain facts in his defence, and who refused to attend or to answer any of his inquiries. Against these new slanders, sir, what opportunity has the accused had of defending himself? Can he be expected to produce testimony from Ohio to-day to disprove facts or to discredit witnesses which he never heard of till yesterday? Permit me, sir, to call the attention of the Senate to one circumstance which has taken place in this inquiry, which proves, more strongly than any arguments I can urge, the flagrant impropriety of considering such information as testimony. When the deposition of Elias Glover was first read in the Senate, and a summary proceeding was urged, this witness was no doubt believed; and had a decision taken place before Mr. Smith could have produced testimony to discredit him, his guilt would have been declared and his disgrace effected by a paper which is now rendered as perfectly harmless as if it had never been stained by falsehood. Will the Senate then receive proof taken under similar circumstances, and again run the risk of doing an act of injustice which they had before so happily escaped?

Here, sir, the case of Blount has been again introduced, and it is stated that the Senate on that occasion departed from the ordinary rules of evidence, and acted upon such as a criminal tribunal would have declared inadmissible. We are most willing, sir, to submit to this precedent, we consider its authority most respectable, and earnestly solicit that the principles there established may regulate the present proceeding.

What, then, is the evidence which the Senate received in the case of Blount, and which a court would have rejected? The report informs us, and so was the fact, that the Senate acted upon the "production of the original letter and proof of Mr. Blount's handwriting, made by the persons who had seen him write." Instead of this being testimony that a criminal court would have rejected, (as it is stated to be in the report,) it is in my humble apprehension the very evidence, and the only evidence, which such a court would have received.

I should not, sir, thus hazard an opinion in opposition to that advanced by the honorable committee, was I not supported in it by the universal practice of all courts, and the concurrence of all writers upon the law of evidence, and enabled to declare that no instance can be produced of a contrary decision.

There can therefore, sir, be shown neither reason nor precedent for departing in this instance, nor in any other, from those rules and principles which constitute our system of jurisprudence—a system worthy of the admiration of the world, as being the most distinguished production of human intelligence, and worthy of our warmest affection, as being the greatest blessing we enjoy.

Having now, sir, stated these objections against the present inquiry, and more particularly and more earnestly against the principles which the honorable committee have recommended to govern it, I gladly proceed to discharge the remaining part of my duty, by submitting a few remarks upon the testimony exhibited upon this occasion. It will be readily admitted that, excepting Elias Glover, no witness deposes directly and positively to the guilt of the honorable member accused. Their testimony is wholly circumstantial, and I hope to be enabled to show, that from no circumstance they state can guilt be fairly inferred. But the chief question to be ascertained, the point on which this inquiry will be found wholly to turn, is the degree of credit which is to be given to the testimony of Elias Glover. I am much gratified, sir, in recollecting the importance attached to the evidence of this witness in the commencement of this proceeding, and the almost universal acknowledgment that Mr. Smith's fate depended upon the truth or falsehood of his testimony. We are most willing to rest it upon this issue; we could not ask a more favorable one than that which compels every man before he can believe in the guilt of the accused, to the necessity of first believing in the truth of Elias Glover, and this I now proceed to show is impossible.

The first question asked on these occasions, is, "What is the general character of the witness?" We have traced this person, sir, from his first setting out in life, have followed him into every place where he has lived, and put this question to his neighbors. How is it answered? At Newtown, Connecticut, where he first established himself, thirteen deponents declare him unworthy of credit; with some slight difference of expression, this is clearly and positively affirmed by them all. One of them, however, (Mr. Oliver Tousy, I believe,) states that he made particular inquiries of almost all the respectable persons in and about Newtown, and that he inquired of none but respectable persons; that, from the result of these inquiries, he is induced to believe that was a respectable jury taken from Newtown and Elias Glover sworn as a witness before them, he would not be believed. It seems, sir, that he soon changed so disagreeable a situation. We next hear of him at Delhi, in Delaware county, New York. From this place, sir, we have produced to you the depositions of twenty-one witnesses, who all concur in a similar opinion of his infamy, using, if possible, still stronger language than the witnesses from Newtown. By what means can a character thus charged be defended? Can it be said that these men are selected, and are his enemies? They swear they are not. That they are not themselves credible? Many of them were, fortunately, known to the honorable members of the other House, who have told you they are respectable. Among them are the chief judge and the associates, and the sheriff of the county in which he practised, of whom one is now a Senator of New York, and two of the others members of Assembly; nor can such testimony be outweighed by that which his father and his uncle have collected in support of his character. There are few

men so infamous but that some persons may be always found to declare a good opinion of them. and what sort of persons these are who have said they never heard anything against the reputation of Elias Glover, it may not be difficult to ascertain. Upon this subject, it is only necessary to recal the attention of the Senate to the manner in which those depositions in New York are proved to have been taken by his uncle, David Beers. who is himself one of the deponents. Ezekiel K. Granger states that this man used every expedient to prevent the attendance of Mr. Smith's attorney; that he refused to examine any witness in his presence, and that nearly half of whom he did procure to depose, are the relations of Glover; a circumstance on which the deponents are entirely silent. In addition to this, he is proved by one of those persons to have altered and misstated his testimony. Surely his character is very far from receiving any support from depositions thus taken. We have also produced a record from Delaware county court, which, though it may not prove him guilty of forgery, yet contains evidence charging him with an act almost equally dishonorable. From this accumulating weight of disgrace, thus increasing with his progress in depravity, he again finds it necessary to escape, and wisely determines to fix upon a still more distant residence. The last two or three years of his life have been spent in the State of Ohio, and, during that period, I shall be able to show that he has reached a height of profligacy even beyond the promise of his former years. The numerous witnesses from Cincinnati, though not particularly questioned as to his general character, (being examined to impeach his credit on other grounds!) yet show the degree of estimation in which he is there held: and thus, sir, we flatter ourselves with having produced the most ample proof that truth is not to be expected from this witness; that he would not shrink from perjury, when prompted to accomplish a favorite object. That such an object was presented to him on this occasion; that the inducements to his crime were considerable, is obvious. We are informed by many of the deponents from Cincinnati, particularly by Mr. Burnet and Mr. St. Clair, that he had long felt and evinced the most malignant animosity towards Mr. Smith. The existence of this disposition in himself, and others associated with him in the same dishonorable cause, is further evidenced by the base and unmanly means they have used during this inquiry. I allude, sir, to their refusal to give evidence for Mr. Smith, and then secretly sending their depositions to the Senate; conduct in every respect worthy of the friends of Elias Glover; and also to those anonymous slanders which have been forwarded (doubtless from the same source) to almost every honorable member of this House. Of these deponents, and the support their testimony attempts to give to the character of Glover, little need be said. I cannot suppose it possible the Senate will receive this evidence, or, if received, that any reliance will be placed upon it. The profligacy, however, of the principal one among them is so palpable and audacious that it deserves some little notice; I mean William McFarland, the friend to whom Elias Glover alludes as having been present when Mr. Smith acknowledged his participation in the conspiracy. This man, sir, has had the effrontery (after refusing to answer Mr. Smith's interrogatories) to send on to the Senate an affidavit in which he states that Elias Glover's deposition is substantially correct; yet he had been sworn at Richmond, and we have his affidavit, and again at Chilicothe before the grand jury, and we have a statement of his evidence. They afford the most direct contradiction of his present deposition that can be conceived. Unless Mr. McFarland then will condescend to tell us, how are we to ascertain which is true and which is false? As it now stands we have, in addition to his declarations to General Gano, and Mr. Burnet, one or two of his depositions acquitting Mr. Smith, to set off against the one which accuses him. Of the other deponents I shall say no more than what appears from their own representation, (and nothing more harsh could well be said of them,) they are the friends of William McFarland and Elias Glover. To have obtained the enmity of men disgraced by such a friendship is no small honor to Mr. Smith.

However conclusive this proof of the general character of this witness may appear, it yet constitutes but a small part of the infamy with which we have overwhelmed him. We have shown his capacity for perjury. and the disposition he must have felt to exert it on this occasion. I now proceed to point out the actual commission of it, in the most wilful, premeditated, and repeated instances. This witness, it seems, appeared before a grand jury at Chilicothe, in January last, which body had the penetration to discern his falsehoods, though no testimony was produced to discredit him. One of the jurors, Mr. Ethan Stone, has stated to us in his deposition the substance of his examination on that occasion, from his notes, which he tells us he was very particular in taking. His statement is also corroborated by General Gano and Colonel Armstrong, who were members of the same jury. We are thus informed that Elias Glover on that occasion declared "that 'he had never published or offered for publi-'cation any piece in ridicule of the measures ta-'ken by Government to arrest the progress of 'Burr's conspiracy." Of the falsehood of this assertion we have produced the most undeniable evidence.

The editor of the Western Spy, David L. Carney, deposes that Glover brought him such a piece, which he refused to publish. Ephraim Morgan swears that he was present at the time, and confirms this statement. If Mr. Glover is disposed to dispute the point with these two witnesses, we will call a third, to whom, however objectionable, he must submit. This is no other than himself. He told Mr. Arthur St. Clair (as that gentleman states in his deposition) that "he 'had published one piece, ridiculing the measures 'taken to stop Burr, and had written another '(which he offered to show him) which the printers had refused to publish." He again told the same to Mr. Jacob Burnet, and urged him to join in squibbing the measures of Government. Can anything be more complete and confounding than this detection? Let us view another instance. The same grand juryman informs us that during his examination he declared, "that he never had any correspondence with Colonel Burr;" these are the words taken from Mr. Stone's notes. And yet he tells Captain Nichols, whose deposition we have produced, that he had written to Burr, and that he daily expected to hear from him. In addition to this, the testimony of Mr. George Russell is before the Senate, who is personally known to several of the honorable members of this House, who declares that Glover actually gave him a letter to carry to Colonel Burr, with injunctions to burn it if he did not see him.

I might, sir, point out other instances of falsehoods equally gross, but it cannot be necessary to take a particular notice of each. I shall therefore only call the attention of the Senate to a circumstance which exhibits a number of them in one general point of view. He appears from his own testimony to have been the person who furnished Matthew Nimmo with his information relative to Mr. Smith's participation in the conspiracy. Now the information he gave Nimmo should certainly agree with that which he now gives us in his deposition. Yet they are essentially different, nay, even directly contradictory, as is obvious from comparing them.

But, sir, independent of all these circumstances, I would ask nothing more to discredit the witness than the internal evidence of falsehood which his deposition bears. What can be more incredible than the facts he states? Mr. Smith is an associate in Burr's conspiracy, and yet never commits an act which evinces the least participation in it, never affords it the least support, never endeavors to interest his friends and dependants in it, but would have remained wholly unknown and unsuspected but for his disclosure to Elias Glover; and this confidant, whom he thus highly trusts, was at that very moment, and before and afterwards, his open and irreconcilable enemy.

He further tells us that he received this communication "under the strictest injunctions of se-'crecy; that to divulge it on any occasion less preg-'nant with evil would reflect infamy and disgrace 'upon his character and conduct, and that he there-'fore balanced between his honor and his patriot-'ism, before he could divulge it." Now, can Mr. Glover reasonably expect any one to believe this? And if we were thus to indulge him, how much reputation would he save by it? Does a man of character ever allow any circumstances, however "pregnant with evil," to induce him to receive a communication, promise to conceal it, and then divulge it? Where, sir, does he find a sanction for a doctrine so absurd and detestable? Does that sacred volume which he has dared to profane with his touch, and thus openly contemns, allow any such dispensation from the eternal and immutable laws which it awfully commands us on all occasions to observe? Is any such ridiculous exception to be there found, which shall justify a man in violating the plainest rule of morality and becoming a scoundrel for the good of his country? But even if this pretext could account for his disclosure to Nimmo, in November, it can be no pretence for his afterwards voluntarily and certainly unnecessarily reducing it to an affidavit in February. Some delay in making out this deposition might be necessary, from the nice balance which he tells us he was adjusting. With his honor in one scale and his patriotism in the other, it is not wonderful that it should take him a month or two to ascertain which of these two straws was the heaviest; but it is singular that his patriotism should not preponderate till all symptoms of danger to his country had disappeared—till the conspiracy was completely defeated.

There are, sir, two other depositions relative to the credit of this witness which I had intended to notice. Mr. Longworth details to us a conversation held between him and Glover, early in February, and just after he had made his affidavit. Glover then told him that he had not "acted against Mr. Smith;" that "he thought him unjustly accused," and believed "he had no share in the conspiracy." In the April following, Dr. Lanier's deposition informs us of an interview (at which he was present) between Mr. Smith and Glover. How strongly marked is the conduct of each on that occasion. In Mr. Smith we see the firmness of an innocent man, indignantly daring forth his slanderer, and in the other a soul as contemptible for its meanness as detestable for its vices, descending (if indeed such a creature can properly be said to descend to anything) to the grossest falsehoods and most humiliating prevarications.

I have done, sir, with this witness. I fear I have detained the Senate unreasonably upon this subject. I therefore leave him to that contempt which I trust he will meet with here, and to that punishment which public justice will hereafter inflict upon him. For should he escape from this, I have no doubt it will be owing more to his own agility than to the crippled condition of our courts. Nor shall I have much apprehensions of his acquittal, even if he is allowed to plead that "he is possibly innocent."

I now proceed to make a few hasty observations upon the circumstantial testimony offered by other witnesses in support of this accusation, and first by Peter Taylor. The circumstances principally relied on in the statement of this witness is the conversation which he details between Mr. Smith and himself, and particularly the charge which Mr. Smith, he says, gave him "not to go to a tavern, lest the people should sift him with questions." Admitting this conversation to be correctly repeated, nothing can be more unfair and unreasonable than to infer from it that Mr. Smith was concerned in the conspiracy, or even acquainted with its object. May it not be more properly attributed to his knowledge of the public agitation, which Mr. Burr's movements had excited, his belief that they were innocent, and his apprehensions that this agitation might be dan-

gerously increased by Peter Taylor's representation and exaggerations of Mrs. Blannerhasset's alarm. There are various other motives equally pure to which this direction might have been owing, and it would therefore be unjust to attribute them to a criminal one. It could not have arisen from any fears in Mr. Smith that this man would disclose any of the plans of the conspirators. He had himself already "sifted him with questions" and could learn nothing, and therefore could not have supposed that others would be more successful.

But, sir, this admission is fully as unreasonable as the conclusion attempted to be drawn from it. We do not impeach the character of Peter Taylor; we do not say that he has wilfully misrepresented this conversation, but we deny him that degree of intelligence, recollection, and accuracy, so essential to a witness who is to repeat a conversation with necessary correctness. Can this honorable House infer guilt from words, without very strong evidence that they are accurately related? The least variation, the suppression or addition of a syllable, may make the most material difference. May he not have misunderstood Mr. Smith? May he not have forgotten parts of the conversation, and be indistinct and confused in his recollection of it? We have, sir, among these depositions a most remarkable instance, in which two gentlemen, both respectable and intelligent, undertake to detail to us the particulars of one of Mr. Smith's conversations, (I mean Col. Taylor and Dr. Sellman,) and their statements are directly contradictory. Let us now look for a moment at the deposition of this witness, and see whether it bears those marks of accuracy which should entitle him to attention. Besides that gross stupidity so observable in every sentence of it, there are several of the most palpable misstatements contained in it. First he tells us that Dudley Woodbridge was on the bank of the river when the boats left the island, after midnight, and yet that person and the man who slept with him, depose that he was not out of bed after 10 o'clock. Again he states, in his last deposition, that when he went to Mr. Smith's they had never seen each other before, and yet on his examination at Richmond he had stated that Mr. Smith knew him; and this strange contradiction is made, although the statement of his former evidence, in the Richmond Enquirer, was but the moment before read over to him, and acknowledged to be correct. There is one other remarkable instance, which shows that he cannot even remember with any tolerable distinctness his own conversations. On the statement of his evidence at Richmond he tells us that when Blannerhasset and himself were returning to the island, after he had left Mr. Smith's, he was urged by him to accompany him in this expedition, that he refused all the honors offered him, unless he should be permitted to take his wife with him. Now, sir, he could have said no such thing to Blannerhasset, for his wife had been dead for a month or two; he himself admits in his subsequent deposition that she died in September, and this conversation took place late in October or early in November following.

It is totally immaterial to what cause these palpable misstatements are to be attributed; they essentially affect his accuracy as a witness, and show how little reliance is to be placed on this part of the evidence.

There are various other circumstances which have been collected by the malignant industry of Mr. Smith's enemies, in that strict scrutiny to which all his actions have been subjected, and these have been exaggerated and distorted till they were made to bear some suspicious appearances. Of these it can be necessary to say but little. I rejoice that Mr. Smith has been enabled to present so complete and satisfactory an explanation of them. Of his entertaining Colonel Burr at his house I shall say nothing, since if that fact merited consideration, it would equally criminate most of the repectable people in Cincinnati, and particularly Colonel Taylor himself, who informed us that he waited on Colonel Burr and invited him to dinner.

But it is said he corresponded with Colonel Burr; true, sir, but in what manner? Not in cipher, as it is well known the associates in this project made their communications to each other; or in any secret manner whatever. Mr. Smith immediately and publicly speaks of it. We have offered the depositions of many of the first characters in that country, to whom Mr. Smith showed these letters just after they were written; of one particularly who was present when he received Colonel Burr's answer from the post office and to whom he instantly handed it. We have produced to you these two letters and they contain nothing criminal; nothing but what persons in their situation and with their views might be supposed to have written. Nor can there be the least pretence for supposing they were fabricated for the purpose of removing suspicions. For at the time they were shown by Mr. Smith he was suspected by nobody, nor had he any reason to suppose he ever should be.

He has been also charged with receiving and forwarding despatches from Blannerhasset to Burr. This circumstance is mentioned by Colonel Taylor, as one which operated to Mr. Smith's disadvantage. Now, sir, he has shown the nature of these despatches by the depositions of persons who were requested to convey them, and by others who saw them opened, and by many to whom Mr. Smith openly spoke of them. They contained a silk coat and a note from Blannerhasset requesting him to forward it to Mr. Burr.

Equally unreasonable were the conjectures formed from his having accepted and paid a draught of Colonel Burr's. To this circumstance we have offered every explanation of which it was susceptible. We have proved by various depositions that it is usual for persons travelling in that country to deposit their money in safe hands and afterwards draw for it, and we have clearly shown that this draught must have originated in that manner from Mr. Smith's mentioning it at the time. General Carberry informs

us that about the time of Colonel Burr's departure Mr. S. told him that he had left in his care a part of his baggage and a sum of money. All these circumstances, Mr. S., if guilty, would have endeavoured to conceal; and yet it appears that the first information of them, and that too immediately on their occurring, is uniformly derived from himself. Neither can his guilt be inferred from his son's being the bearer of a letter to Blannerhasset's island, even if it were admitted (of which however there is not the least shadow of proof) that he knew the contents of the letter he carried. Mr. Smith has proved that he was then, and had been for some time, absent from home, and that he expressed strong disapprobaton of his son's imprudence upon his return.

Another incident in this string of vague possibilities is his happening to go to Frankfort at a time when Colonel Burr was there. He has explained the motives of this journey. Mr. Kelly, Mr. Hart, and several other gentlemen depose to the business which occasioned it.

His absence from the United States at the time the indictment was found against him, is, I understand, also relied upon. If this indeed appeared to have been owing to any desire to avoid an investigation into his conduct, if he had sought to remain within the Spanish territory, and had been unwillingly brought forward to answer this charge, it would indeed have been a circumstance amounting to proof infinitely stronger than all which this inquiry has produced. But if his conduct was directly the reverse of this; if he was carried there by important and indispensable engagements; if, when there, informed of the indictment, he immediately relinquished his business, and took the most prompt and decided steps to return and face the prosecution, and did so return, (of all which he has produced the most conclusive evidence;) then, sir, this circumstance not only ceases to afford any presumption of guilt, but clearly evinces his innocence.

Having now, sir, endeavored to show the futility of the testimony adduced to support this charge, it might be sufficient here to rest our defence of the honorable member accused. But, sir, though more may be unnecessary, I rejoice that more is in our power; that we have been enabled not only to destroy the force of the proof offered to criminate him, but to exhibit the most complete and direct evidence of his innocence. I am sensible, sir, that I have trespassed greatly upon the indulgence of this honorable Senate. I shall not, therefore, take that view of this part of the case which its importance deserves; but will only beg leave to suggest a few considerations which appear to my mind unanswerable, which will render all doubt upon this subject (if indeed a doubt yet remains) utterly impossible.

In the first place, to what but his innocence can it be attributed that such numbers of the conspirators knew nothing of his association with them? We have produced the depositions of several who appear to admit that they had been induced to participate in this enterprise, and they declare their ignorance and disbelief that Mr. Smith was in any way concerned in it. Nay, sir, let us look at the declarations of their chief, Colonel Burr himself. He has various communications with persons whom he was desirous to bring over to his views, many of which are detailed to us in the report of the evidence at Richmond. In these he makes the most flattering representations of his prospects, endeavors to show the adequacy of his means, the number and consequence of his adherents. Among these he never mentions Mr. Smith, though there was no man, in the whole Western country, the importance of whose cooperation would have been more obvious. Here is one striking instance of this, which I beg leave to mention. Lieutenant Jackson deposes that when Colonel Burr gave him the draught on Mr. Smith, he directed him to call on General Tupper, to whom he referred him for information relative to the objects of the enterprise. Now, sir, if Colonel Burr had known Mr. Smith as one of his associates, why should he have been silent on this occasion; why should he not have allowed Mr. Jackson to get his information from Mr. Smith, when he presented his draught, without proceeding to General Tupper?

All the other conspirators seem equally ignorant of Mr. Smith's participation. When Bollman and Swartwout communicated with General Wilkinson, in the most unreserved manner, they seem to know nothing of it; they give him no intimation that the army contractor, the very man who was supplying his troops with provisions, had any connexion with their schemes.

Let us even descend to Glover and McFarland; that these men were engaged in this expedition, after the proofs we have produced, cannot be questioned. And what are they able to say to criminate Mr. Smith?

If they were all living in the same place, associates in the same conspiracy, is it possible they would not have had frequent interviews? Would they not have had it in their power to produce some act, or at least some avowal to others, by which his guilt could be proved, beyond the possibility of denial? Yet we hear Mr. McFarland frequently acknowledging and twice even swearing that he knew nothing of Mr. Smith's connexion with it, and all that their malignant efforts have enabled them to collect, is one solitary conversation depending wholly upon the unsupported assertion of Elias Glover.

Thus, sir, it appears that if Mr. Smith was a party in this conspiracy, the persons from whom he most studiously concealed it were those who were associated in the same project. Neither are they more fortunate who were particularly engaged in watching the progress of this enterprise and asertaining who were its partisans. General Gano states that he used various means to determine whether the reports relative to Mr. Smith were well founded, and he satisfied himself of his innocence. He also directed Major Riddle to assist this inquiry; that officer reported to him that he had frequent conversations with Mr. Smith, and had endeavored to ascertain whether he knew anything of Burr's plans, and was con-

vinced that he did not. Even Colonel Taylor, with whom these suspicions were strengthened by the conversation relative to a disunion, which he thought he had heard from Mr. Smith, was yet so far from discovering anything to confirm them in his inquiries, that he calls on Mr. Smith to aid him in procuring information, and frequently declares (as General Carberry's deposition informs us) that he did not believe Mr. Smith was an accomplice.

In the next place, sir, how can Mr. Smith's guilt be in any manner reconciled with his conduct in opposing the progress of the expedition. Major Martin, Dr. Stall, General Gano, Mr. Totten, and numerous other witnesses prove that it was principally owing to Mr. Smith's exertions that any effectual support was rendered to the measures of Government. When the President's proclamation was received at Cincinnati, it seems there was no means of arming the militia. The orders to the keepers of the arsenal, to deliver out the public arms, had been neglected, and he persisted in refusing to deliver them without. At this juncture Mr. Smith, with that earnestness and decision which so strongly mark his character, crosses the river at midnight, offers his bond to Major Martin, in the penalty of $10,000, to indemnify him; procures the arms, and delivers them to the officers; prepares barracks and supplies for the militia; furnishes one of his own boats, and in short makes every arrangement to obstruct the passage of the expected armament.

It may perhaps, sir, be here objected, that these circumstances rather prove that Mr. Smith then abandoned the enterprise than that he never participated in it. That the vigilant measures taken by Government alarmed him, and that therefore, hopeless of its success, he sought by a zealous opposition to escape detection. However plausible this may seem, the least reflection will show how unreasonable is this suspicion.

How does it appear that the situation of the conspirators was at this time more unpromising than at any former period? They had thus far proceeded without meeting any obstacles; their plans were arranged and ripe for execution; they were hourly expected to embark. And what was there so alarming in the measures taken to oppose them as to strike a panic into Mr. Smith and subvert his resolutions? The militia were called out it is true, but they were without arms. Their officers inform us that they could not even station a guard upon the river. I should rather suppose that this circumstance would have been considered as more auspicious than anything he could have expected. Nor does it appear that this effect was produced in the minds of any of the party. For even at a subsequent period, and after the militia, by Mr. Smith's exertions, had procured arms, we find Captain Nicholls at Cincinnati still adhering to their views and far from despairing. Nay, even Elias Glover (whose courage appears from Dr. Lanier's deposition to be about equal to his veracity,) and who doubtless was as ready as any one to renounce his associates when he saw them sinking, is seen at the same period persisting in his adherence to them. He tells Captain Nicholls to hasten his departure lest the guard should stop his boats, declares that he will shortly follow, and informs him that he had sent off an express to the party at the island. There is one other circumstance that totally overthrows this suspicion. If Mr. Smith had thus not only deserted but opposed his associates, would it not have excited their resentment? And would they not have revenged themselves for his treachery by disclosing his participation and showing that he was equally guilty with themselves?

It cannot be necessary to contrast this conduct with that which we might expect to find in Mr. Smith, if, most unfortunately for his country and for himself, he had really been concerned in this enterprise. It is well known that the circumstance which first excited the suspicion of Government, were the unusual preparations made by Colonel Burr and his party on the western waters. From these suspicions they would have been perfectly secure by obtaining the co-operation of Mr. Smith. His contracts for the supply of the army, and his engagements to prepare boats for the navy, would have enabled him to collect any quantity of provisions and materials, and place them in suitable situations without exciting the least attention: and whenever they were ready to act, he might in a moment have stopped the supplies of your armies, and suddenly directed all his resources to aid in the most effectual and fatal manner the objects of the combination.

Thus, sir, in short it appears, that Mr. Smith has not merely forborne from the commission of these acts which if guilty it is almost certain we should have discovered in him, but has pursued a most decided and distinguished course of conduct, utterly unaccountable upon any other presumption than that of his innocence.

I will now, sir, conclude by adding to these considerations those which naturally result from the view, which the testimony affords us, of Mr. Smith's character and situation in life, and the various honorable and lucrative employments committed to his trust. These alone, if properly considered, will be found more than sufficient to outweigh all the circumstances adduced against him. I will not undertake to point out the objects of Colonel Burr and his partisans, but am very willing to admit the correctness of the information collected by the honorable committee on this subject, and so eloquently detailed in their report. They are there represented as having been only prevented, by the "vigilance of Government and of 'faithful citizens under its direction from a speedy 'termination not only in war, but in war of the 'most horrible description, in war at once foreign 'and domestic;" that "the debauchment of our 'army, the plunder and devastation of our own and 'foreign territories, the dissolution of our national 'Union, and the root of interminable civil war, 'were but the means of individual aggrandizement, 'the steps to projected usurpation."

Now, sir, is Mr. Smith the sort of man to whom conspirators, who were in their senses, would have proposed such a scheme as this? Would he have

been solicited to join in the dismemberment of the Union, whose interest was so materially connected with its continuance, the profits of whose employment wholly depended upon it? Would he have been asked to join in "a war of the most horrible description" who is represented as enjoying every domestic comfort in the bosom of a happy and numerous family? Would he be called upon to unite in a scheme of plunder and devastation, who had every reason to be satisfied with his present possessions, who had so much to risk and so little to gain from civil commotion? Would he have been called upon to make all these sacrifices to the madness of ambition who was already distinguished even beyond his wishes?

Surely, sir, this is the first time that robbers ever made offers of partnership to the man whom they were about to plunder—that incendiaries ever called upon him for assistance whose house was to be destroyed by their flames.

No man in the whole Western country would have been more certainly ruined by the success of this project than Mr. Smith. There is therefore no man from whom it would have been more studiously concealed. To a disposition of this sort I think it not at all improbable is to be in some degree attributed the circumstance of Colonel Burr's stopping at his house. As Mr. Smith's guest he would have it in his power to say just as much as he pleased of his plans, and no more. In such a situation he would be less liable to the importunity of inquiries.

Let us, sir, for a moment fancy ourselves present at a consultation upon this subject between Colonel Burr and his confederates at Cincinnati; and let us suppose that that gentleman had so far lost his usual discernment, had felt such confidence in his personal influence as to presume that he could seduce Mr. Smith from his interest as well as from his duty. After inquiring about Major Kibby, (whom it seems he was anxious to see, and who is represented to be in distressed circumstances,) let us suppose that he mentions Mr. Smith. What would his associates, Glover and McFarland, say to this? Would they not fear, that as Mr. Smith was their enemy, he would be tempted to inform against them? Would they not also know that if Mr. Smith assented to the proposal he would hold his rank in the expedition much above them, and would have it it his power materially to affect their interests? Would they not at least have thought it highly dangerous to trust such a secret to a man so connected with the Government they were about to oppose? These considerations would instantly have dictated a most decided reply. They would have said "you can have no hopes of Mr. Smith, his interests are too obviously opposed to our designs; he is too well satisfied with his present situation to consent to the change we contemplate; he is too highly trusted and favored by the Administration. He is, they would add, (repeating an expression used by Glover on a former occasion,) "a damned army contractor and gunboat builder;" he makes too much by the present system of things to be trusted with a scheme for overturning it. No, sir, from him our plans must be concealed; he is easily deceived; tell him a plausible story about your settlement of lands, show him your Washita grants; tell him his sons are fine promising young men, and offer to take them under your patronage." The force of these observations it would have been impossible to evade.

And, sir, whatever Colonel Burr's designs may have been, to whom does it appear that he actually did communicate them? To what kind of men does he apply to procure partisans? Why, sir, like a celebrated character of antiquity, to whom he was long ago compared, it is always the discontented, the embarrassed, the turbulent, the idle, the ambitious, and the enterprising. Nor does it appear that even to all these he fully explained himself. He had a variety of schemes suited to every taste, to every possible occasion. But among this mixed assemblage of characters, collected by these means, there is not one to be found who had not some strong and ruling passion to which he could successfully apply himself. Thus, to the romantic enthusiasm of Dr. Bollman, he would expiate on the glorious and benevolent attempt to liberate, enlighten, and exalt a nation of slaves. To the youthful heroism of Swartwout he would paint, in all their fascination,

> "The plumed troop and the big wars,
> That make ambition virtue!"

And turning from these he would address himself to such creatures as Glover and McFarland, and to them he would talk of plunder. But, sir, what motive could he expect to find in the breast of Mr. Smith that would prompt him to listen to a project that assumed any aspect of disunion, that discovered the least mark of treason, that bore even the most distant indications of "war and devastation?" What air-built castle could he picture to him to tempt him to overturn the fair and substantial fabric of his honors, the solid foundation of his happiness?

I feel, sir, that I have detained the honorable Senate upon this subject longer than I had designed. I have considered this as a question of the highest possible importance to Mr. S; as one on the issue of which more than his life depended. It is true, it has been differently represented, and I have heard it said, with surprise, that the decision merely determines the right of the accused member to his seat and inflicts no punishment. I shall not attempt to describe (indeed no description could do justice to it) the horrors of that punishment threatened by the resolution now before us. I will only ask the honorable members of this House, who are now anticipating an honorable discharge from their duties and a joyful return to their homes, to contrast the feelings excited by these anticipations, with those which they may presume are passing in the breast of Mr. Smith. I can fancy no tortures more deadful, no execution more ignominious, than that to which he must submit, whose infamy is proclaimed to the nation, whose name is blotted from your journals; who is driven slowly and reluctantly to a home where he may hope to hide himself, but which he

yet trembles to approach; who is tormented by the reflection that every step brings him nearer to the malignant exultation of enemies, to the cold civility of friends, to the inconsolable agony of a disgraced and distracted family. Surely the honorable members of this House will not inflict a punishment like this, without the most deliberate and unprejudiced consideration, without the most confirmed conviction of its justice.

From the painful necessity of such a decision, I trust that they are sufficiently preserved by the proofs which we have exhibited; that we may confidently hope for a far different result to this inquiry; one which shall effectually wipe from the reputation of Mr. Smith the only spot which slander has ever breathed upon it; which shall restore him to the undiminished confidence of his country and of these his honorable associates.

With this sense of its importance, and encouraged by these hopes, Mr. Smith has been enabled (by almost incredible efforts) to collect from the most distant points, and within a very limited period, that mass of testimony which has so long occupied your attention. To the same motives, sir, is to be attributed (and on that account I trust will be excused) the additional fatigue which I have occasioned.

When Mr. KEY had concluded, the Senate adjourned.

WEDNESDAY, April 6.

The PRESIDENT communicated a report of the Secretary of the Treasury, respecting roads and canals, prepared in obedience to the resolution of the Senate, of the 2d of March, 1807; which was read.

Ordered, That the report, together with the documents therein referred to, be committed to Messrs. ADAMS, REED, WHITE, FRANKLIN, and BRADLEY, to consider and report thereon.

The Senate took into consideration, as in Committee of the Whole, the amendments reported by the select committee to the bill making provision for the disposal of the public lands in the State of Tennessee; and having, in part, agreed thereto, the President reported the bill to the House amended accordingly. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill for the punishment of treason, and other crimes and offences against the United States, was read the third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Milledge, Mitchill, Moore, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Turner.

NAYS—Messrs. Adams, Bradley, Gilman, Goodrich, Hillhouse, Maclay, Pickering, Reed, Sumter, and White.

So it was, *Resolved*, That this bill pass, and that the title thereof be "An act for the punishment of certain crimes and offences against the United States."

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

Mr. SMITH attended, together with Messrs. HARPER and KEY, counsel on his behalf.

Messrs. RUSSELL and GARDENIER, Representatives from New York, were examined as to the credibility of several of the deponents on the part of Mr. Smith.

Mr. HARPER then rose and addressed the Senate as follows: It now remains for me, Mr. President, to perform that part of the duty in this case which it has been thought proper that I should undertake, and to close the defence of Mr. Smith. Fortunately for me and for him, my colleague has left me but little to do; for little indeed can be added to the force of those arguments, both on the law and facts, by which this honorable body has been instructed and entertained. To present the subject in a few additional points of view, and to enlarge a little more on some of the arguments touched by my colleague, than fell within the limit which he had proscribed to himself, is all that I can hope to accomplish; and this I shall attempt, with as much brevity as the nature and extent of the matter to be treated will permit.

And here let me premise, Mr. President, that if nothing but the character and fortune of Mr. Smith were involved in the decision to be pronounced in this case, we should abandon at once every legal objection, and confine the defence to the testimony alone; for it is the wish of the accused to be acquitted on the broad and plain ground of innocence; on the ground that he has done nothing criminal or even improper; and not on the ground that the evidence against him is not such as the law permits to be received, or that the offences alleged against him do not in law warrant an expulsion.

But believing, as we do, that Constitutional rights of great importance in themselves, and embracing the whole community in their extent, will be most materially affected, should the principles contained in the report of the committee in this case be adopted by this honorable body; should it be determined that Mr. Smith can be proceeded against in this way, upon this evidence, and for the acts with which he now stands charged; we, as integral members of the community to which those rights belong, feel it our duty, in behalf of ourselves and our fellow-citizens, as well as of our client, to enter our most solemn protest against the whole proceeding. We object therefore to the jurisdiction of the Senate in this case, on the ground that the offence alleged against Mr. Smith is not cognizable by this body; and we also contend that the evidence adduced in support of the charge, is not such as the law permits to be received.

This brings me to the inquiry, for what offences can the Senate expel?

If this question, Mr. President, were "*res integra*," I might contend, on what I conceive to be

solid Constitutional ground, that the power of expulsion is confined to acts done in the presence of the Senate; acts which tend to prevent or interrupt its deliberations, and which therefore the necessity of self-preservation, and the very nature and object of its institution, require that it should have the power promptly and effectually to suppress. This power is necessarily incident to every deliberative assembly. It would, I apprehend, exist in this honorable body, by necessary implication, if the Constitution had not given it in express words. Indeed, the Constitutional provision is to be considered rather as a limitation, than as a grant of this power.

But I am aware, Mr. President, that the nature of the offences to which this power extends, is not a new question; and that the power of expulsion has already been carried, by a decision of the Senate,* further than to acts done in the presence and view of the body. To this decision I am not now disposed to object. I acknowledge it as an authority, so far as it goes. But it does not extend to our case, nor oppose the principle for which I mean to contend. The offence alleged against William Blount, though an offence of a dangerous and infamous nature, was not an offence for which he could have been indicted. And I am willing to admit that where a Senator commits an offence of that nature, though not in the presence and view of the House, the Senate may, from the necessity of the case, proceed immediately by way of expulsion. Otherwise they would be obliged to retain among them a member who might have rendered himself notoriously infamous.

But when the offence, as in this case, is the proper subject of indictment, I contend that this body must wait for an indictment, before it can expel. For the Constitution has provided that, "in all 'criminal prosecutions, the accused shall enjoy 'the right to a speedy and public trial, by an im-'partial jury of the State and district wherein the 'crime shall have been committed."

The Constitution also gives the power of expulsion. But these two Constitutional provisions are so to be construed as that both may be effectual. One must not be allowed, by the extent of its operation, to destroy or infringe the other. By the course for which we contend, both provisions will be preserved. The accused will be tried in the manner prescribed by the Constitution. If convicted, the record of his conviction will furnish unexceptionable testimony of his guilt; and this House may proceed to expulsion, if the offence be of such a nature in their opinion as to require it.

Nor would I contend, Mr. President, that an acquittal on an indictment should, in all cases, be considered by this honorable body as proof of innocence. If the fact proved, though not coming within the legal definition of the offence charged in the indictment, were yet of a criminal or an infamous nature, the Senate, upon having the evidence laid before them, might still proceed to expulsion; because it would then appear that the offence, though infamous or dangerous, was not indictable. As if a man should be indicted for perjury, and it should be clearly proved at the trial that he had taken a false oath, but he should escape conviction by showing that it was not taken before a person authorized to administer the oath. On this evidence the Senate ought to expel.

Or if evidence had been offered which was sufficient to satisfy every man's mind, that the offence charged in the indictment had been committed; but this evidence, on account of some legal objection to its competency, had been rejected by the court, and the offender consequently acquitted. Such an acquittal ought not to satisfy this honorable body. This evidence which the court, acting under strict and positive rules of law, could not receive, ought to be considered here; and if found worthy of belief, on full investigation, it ought to produce an expulsion. Many instances of this nature might be adduced; but they will readily occur to the minds of honorable members.

Thus I admit, that the *nolle prosequi*, entered in the case of Mr. Smith at Richmond, ought not to preclude the Senate from proceeding; because it was entered on account of a legal exception taken and sustained in the case of Colonel Burr, which did not in any degree affect what may be called the moral merits of the case.

But where it is apparent, as in this case, that the offence charged, if it has been committed, is the proper subject-matter of an indictment, and is still open to be tried in that way, I contend that an indictment ought to precede the exercise of the power of expulsion. It is clearly in the power of this House to order an indictment, whenever it shall receive such information, concerning the conduct of any of its members, as to make such a proceeding necessary. The proper course, when such information is laid before it, is to consider in the first place whether the offence charged be of an indictable nature, and whether the evidence capable of being adduced, be such as a court of law can receive. Should the affirmative appear, the matter is to be referred to the public prosecutor of the district where the offence was committed, with an order from this House to prosecute the offender. Should the negative appear, or should a prosecution take place, and the offender escape by any legal exception, not affecting the moral merits of the case; the power of expulsion may then be exercised, on the best evidence that the case will admit. Should he be acquitted by the jury, on a full view of the facts, and on the broad ground of innocence, the acquittal ought to avail him here and everywhere. Should he be convicted, the record of his conviction furnishes complete ground for his expulsion. Thus every part of the Constitution is reconciled, as far as the nature of things will permit.

But it may be said, shall the Senate be compelled to retain in its bosom, while this long process of indictment is going on, a man whom every other member may believe to be guilty of the most infamous crimes? No. I would not carry the principle so far. In all doubtful cases, however strong the grounds of suspicion might ap-

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* Case of William Blount.

pear to some men's minds, the member ought to be presumed innocent, till his guilt is established, in the manner provided by the Constitution and the laws. But in some very flagrant cases, which may be supposed, where the criminal act might be perfectly notorious, or might rest upon such proof as to leave no room for doubt, I would admit that the Senate ought not to retain the offender in its bosom, but, when it ordered, a prosecution might at the same moment sequester him from his seat, till his guilt or innocence should be legally established. Such a step, as tending to prejudge the case, ought indeed to be taken with great caution; but it is easy to conceive of circumstances which might render it proper, and indeed indispensable.

Will it be objected that this proceeding by indictment is too slow for the occasion? But I ask whether the trial before the Senate can be more speedy? To those who are of opinion that a member may be expelled without a trial, or, what is the same thing, without having time allowed him to collect evidence for his defence, I have nothing to say. But I would ask those who think that reasonable time ought to be allowed to a member, for making his defence, whether, after some reflection and calculation, they can believe that such a trial here would consume less time, or require less delay, than a prosecution by indictment, in the district where the offence is supposed to have been committed? If witnesses are to be heard, consider from how great a distance they are to be brought? If you dispense with the personal attendance of witnesses, and receive their depositions, consider in what remote places these depositions must be taken, and how much time must necessarily be consumed, in taking and returning them! The act will generally be done in the district where the Senator lives. That district may be Maine, Kentucky, or Georgia. In that district the witnesses will generally be found; and from thence they or their depositions must be brought to Washington. But let the trial be before a jury in the district, and the witnesses are at hand. The whole investigation may therefore take place in less time, and in a manner incomparably more perfect and satisfactory, than before this honorable House.

I adduce what has happened in this very case, as proof that I am correct in my position. Since this proceeding commenced, the circuit court of the United States has been holden in the district of Ohio, where Mr. Smith lives, and where, if anywhere, all the acts alleged against him were done. We have heard of the proceeding, and adjournment of that court. Consequently in that court John Smith should have been tried for those acts, and the record of his acquittal or conviction might now be on your table.

But, Mr. President, however weighty I may think the objection which I have now urged, it is in my mind of far less moment than that which applies to the evidence in this case.

I do not contend that all the strict rules of the common law, relative to evidence in criminal cases, ought to be adhered to in the proceeding by expulsion. Many of them would tend more, perhaps, to the exclusion of truth, by shutting out that moral evidence which satisfies the mind, than to the protection of innocence. But there is one great rule of evidence, founded in the most solid reason and the most enlightened views of human nature, which is never departed from in our courts, and ought never to be departed from anywhere. That rule I mean which requires, that a man tried for an offence, by which his safety or his fame may be affected, shall be confronted with the witnesses against him: shall have his accusers face to face, before his judges and before the world: shall be enabled to refresh the recollection of the witness, and to probe his conscience, by a cross-examination; and thus to bring forth the truth to light, in spite of prevarication, forgetfulness, or inaccuracy of expression.

How much of the credit due to a witness depends upon his manner of giving his testimony! Of this you cannot judge, unless you have him before you. It is then only that you can observe the workings of his countenance, the tones of his voice, and the expression of his eye; that you can distinguish between the firm frankness of integrity, and the boldness of impudent and hardened guilt; between the timid accents and downcast eye of bashful rusticity, and the faltering voice and fallen looks of conscious hesitating perjury; between the natural consistency of truth, and the artificial connexion of studied falsehood.

Nor is this power of cross-examination much less important in the case of an honest witness. For a dishonest witness, its use is to probe his conscience; for an honest one, to refresh his recollection, and correct his inaccuracies.

How often have we seen the most honest witness, in delivering his testimony before a court of justice, omit, through forgetfulness or inadvertency, or perhaps through an opinion that they were unimportant, circumstances which, when drawn forth by a cross examination, appeared to be very material? How often have we seen such a witness express himself so inaccurately, as to convey a meaning intirely different, from what it has appeared on a cross-examination that he intended to express?

Without a cross-examination these effects, often so fatal, of misconception, forgetfulness, and inaccurate language, must pass uncorrected; and when the testimony is taken in writing, instead of being orally delivered to those who are to decide on it, they are exposed moreover to the misconceptions, the inaccuracy, and the carelessness or haste of the writer.

How imperfect and deceptive must that testimony be, which comes to us through such a medium! It was to remedy this imperfection, so pregnant with danger to life, liberty, and reputation, that our forefathers, breaking in this instance through the gloom of barbarism which surrounded them, adopted the profound and luminous rule for which I contend, and steadily adhered to it, through every change of time and circumstances.

I therefore, solemnly protest, Mr. President, in my character of an American citizen, as well as in that of counsel for Mr. Smith, against the admission of depositions as evidence in this case. I protest against the admission of this clandestine, this furtive testimony, which shuns the light of day, and by which an honest man may at any time be rendered the victim of skulking perjury and cowardly malice. I claim for my client the privilege of being confronted with his accusers, at this bar, if here he must be tried; of subjecting the consciences of those accusers to the scrutiny of a cross-examination, in the presence of his judges: and for myself, for him, and for every member of this community, I protest against the violation of a rule, handed down for our safety from the earliest times, regarded with increasing reverence by every successive generation, and held sacred amidst the wildest excesses of civil discord, of triumphant party vengeance, and of regal oppression.

But it may be said, as it has been very plainly intimated, in the report which is to be considered as the indictment in this case, that the rules of evidence need not be so strictly observed in trials of this kind, because the consequence of conviction is not a punishment, but merely the withdrawal of a trust.

And is there then no punishment, but that which immediately applies to the person or the purse? Is this idea, worthy of none but the most base and abject slaves, to be gravely and authoritatively promulgated to the American people? Are they to be told, and by a vote too of this House, that disgrace is not a punishment? That it is no punishment for an American citizen to be stigmatized by the sentence of one branch of his Government, to be driven for an imputed crime from the honorable station in which he had been placed, and to be held up to his family, his friends, his fellow-citizens, and posterity, as a wretch unworthy of public confidence or private regard? Is this no punishment? And will gentlemen who inculcate this idea, in application to my client, lay their hands on their hearts and tell me, whether they would not consider that a punishment, in application to themselves? Whether they would not rather submit to the loss of their fortunes, or to any degree of bodily suffering, than to have such an opprobrium stamped on their names, such a stain fixed on the honor of their children?

Every honorable member of this body I am sure will answer in the affirmative; for who would not prefer bodily pain and the loss of property, to such disgrace as must result from an expulsion from this House, for the crime of which my client is accused.

Again, Mr. President. If Mr. Smith should be expelled, on these depositions of Elias Glover and his coadjutor, McFarland, whom he has had no opportunity to cross-examine, he would still be liable to prosecution at law for this offence. On this prosecution no direct use could be made of the depositions of Elias Glover and McFarland. Those witnesses must be produced in person. But still Mr. Smith would go before his jury, with this expulsion stamp upon his forehead. Nothing could prevent this expulsion, produced by the ex parte clandestine depositions of Glover and McFarland, from operating to his prejudice, on the minds of the jury. And thus a species of evidence which the law expressly excludes from criminal prosecutions would, through the act of this honorable body, thus rendered accessory to the violation of the laws, be allowed to produce a most important though indirect effect, in a criminal case.

If therefore, Mr. President, we had no defence, or only a weak one, on the facts in the case, I should insist that this prosecution, being for an offence cognizable by indictment, and resting on evidence which the law excludes, ought to be dismissed. Standing, however, as my client does strong on the facts; holding in my hand abundant proof of his innocence, I shall by no means rest his defence on this legal ground, impregnable as I deem it; but having entered in his name, and in my own, as one of the American people, this protest against a proceeding which I regard as a violation of our Constitutional privileges, I now proceed to investigate the evidence adduced in support of the charges against Mr. Smith, and to contrast it with that whereby his innocence is completely established.

I am to premise that the charge against Mr. Smith is, that he was connected with Colonel Burr in the late conspiracy. This connexion is alleged as the sole ground of expulsion; and it is attempted to be proved in various ways.

1. By the conversation stated by Elias Glover and McFarland.
2. By the facts stated by Peter Taylor.
3. By the conversation stated by Major Riddle.
4. By the conversation stated by Colonel James Taylor.
5. By Mr. Smith's journey to Frankfort, in 1806.
6. By the bill drawn by Colonel Burr on Mr. Smith, in favor of Jacob Jackson.
7. By that drawn on him by Colonel Burr, in favor of Belknap.
8. By a supposed contradiction between Mr. Smith's statement respecting the settlement of the Washita lands, in his deposition before Matthew Nimmo, and the facts which appeared in evidence at Richmond. And
9. By a supposed similarity between the style of the conversation stated in Glover's deposition and that of Mr. Smith's own deposition before Nimmo.

By some of those proofs and circumstances, or by all of them taken together, it is contended that a criminal connexion between Smith and Burr in the late conspiracy is established; and it is therefore incumbent on me to consider them all; which I shall proceed to do in the order in which they have been stated, and with as much brevity as the extent and variety of the matter will admit.

As to the conversation stated by Elias Glover, I admit that, if it did take place, it furnishes sufficient proof of a criminal participation by Mr. Smith, in the enterprise of Col. Burr, and sufficient ground for a vote of expulsion. We are, therefore, to show that Glover's deposition, even when bolstered up by the furtive skulking affida-

vit of his confederate, McFarland, is entitled to no credit. This we undertake, and unless we do it in a satisfactory manner, I admit that we fail in our defence.

And, first we rely upon his bad character generally. To prove it, we trace him from Newtown, in Connecticut, the place of his birth and education, to Brookfield, and from thence to Delaware county, in the State of New York. Five witnesses at the first of those places, seven at the second, and twenty-one at the last, many of them proved to be men of note and character where they live, and none of them proved or even stated to be otherwise, have deposed that Elias Glover is a man of general bad character. Several of them add, that he is not entitled to belief on his oath. Now, let me ask, against what man of good character could so many of his neighbors and acquaintances be brought to give such testimony? The fact alone that so many men, who knew him in the places where he has resided, consider him as a man of bad character, affords plenary proof that he is so. These witnesses do not depose to particular facts, but they speak of his general reputation, which they state to be a bad one. This testimony is by no means rebutted by the depositions produced on behalf of Glover. The deponents state that they never heard anything against his character. This may be true, and yet his character a very bad one. But, take these depositions in their most liberal construction, and what does the whole testimony amount to? Certainly to this, that one half of his neighbors consider him as a knave, and the other half admit that, for anything which they know, or have heard, he may be an honest man. Surely, this is too equivocal a reputation to entitle the ex parte deposition of its possessor to belief in a case of this nature.

It must farther be remarked, Mr. President, that the bad opinion which these numerous witnesses express of Elias Glover's reputation, does not and cannot proceed from party feelings or political animosity; for the principal witnesses, and those who have spoken in the strongest terms, are proved to be of that political party to which Glover has taken so much pains to prove that he belongs. They, as well as Glover and McFarland, are proved to be most excellent republicans; and they have the advantage of being proved also to be men of good character.

If we pursue Elias Glover in his next and last emigration to Cincinnati, in the State of Ohio, we shall find that the bad character, which he acquired in early life, attends him still in his riper years. Col. James Taylor, who was examined at the bar of the Senate, stated that there were two parties in Cincinnati, "one of whom spoke well of Elias Glover, and the other very unfavorably." These two parties are not the two political parties which divide our country. On the contrary, they both appear, with the exception of some very few individuals, to be composed of exceedingly good democratic republicans. What, then, were these two parties? One, I answer, was composed of that portion of the citizens of Cincinnati, who espoused the interests of Mr. Smith; and the other consisted of those who had united themselves with his persecutor, Glover. The first speak "very unfavorably" of Glover; and the last, as might be expected from his associates and coadjutors, speak well of him.

And who, let me ask, belong to the party which speaks very ill of this man? It must be answered, Gen. Gano, General Carberry, Mr. Burnett, Mr. Stone, Dr. Sellman, and a number of others, who have been proved to be men of the first respectability in that part of the country. Has any such favorable account been given of those who speak well of him? Far from it. We know but little of them, and that little is very little to their honor. Some of them, when called on by Mr. Smith to give evidence in this case, refused to be examined. Some of them are proved to have been connected with Glover, in the enterprise of Col. Burr. And McFarland, the chief of the party, was extremely active and zealous in obtaining recruits for that enterprise. When he and Glover found that the enterprise had failed, they took refuge, as is customary, in outrageous patriotism; became the zealous hunters-up and denouncers of treason; and, to use the language of Dr. Goforth in his deposition, attempted to lay the body of John Smith as a pedestal whereon to rebuild their own fallen reputations. Such men as these, no doubt, speak well of Glover. Be it so. But, while Gen. Gano, Doctor Spellman, Mr. Burnet, and almost every other respectable man in the place, speak very ill of him, I shall take the liberty of contending that "*cælum non animum mutavit*;" that he has not changed his manners with his residence; and that he still merits and enjoys at Cincinnati that opprobrious distinction to which the achievements of his early life gave him a title.

But, Mr. President, it is not on the general bad character of this man, however clearly established, that we solely rely, for destroying his credibility. I shall next proceed to show, that he has been guilty of wilful and deliberate false swearing in no less than three instances.

Being interrogated before the grand jury at Chilicothe, whether he had ever written and offered for publication, a piece ridiculing the measures adopted by the Government for suppressing Col. Burr's enterprise? He answered on his oath that he had not. He was, perhaps, not bound to answer, but he did answer, and answered in the negative. This is stated in the deposition of Ethan Stone, who was a member of the grand jury, and has been proved at your bar to be a man of very respectable character.

And yet, two printers, Samuel L. Browne and D. L. Carney, connected with Glover in politics, expressly swear that he did bring such a piece to them for publication, and that they refused to admit it, because of its tendency to bring those measures of the Government into derision and contempt.

Again: on being further interrogated by the grand jurors, he admitted that he did write such a piece, but that it was intended to ridicule the conduct of the officers who had been appointed to carry the measures of Government into execution, and not the measures themselves. Yet, Mr. Burnett swears that Glover confessed to him that he had written the piece for the express purpose of turning the measures of Government into ridicule, and offered it to him for perusal.

Here could be no mistake. Either Glover or the other witnesses have sworn to a falsehood. When their characters are contrasted with his, there can be no hesitation where to fix it.

He also swore, before the grand jury, that he had never corresponded with Col. Burr. This question, also, he was not bound to answer; but, to prevent suspicion, he did answer it in the negative—so says Gen. Gano; and yet George Russell, a man admitted to be respectable and intelligent, swears that, in the Fall of 1806, Glover gave him a letter, to be delivered to Col. Burr, with directions to burn it if he did not see Burr. This proves that he did correspond with Colonel Burr, because the letter was too important to be delivered by Russell to any but Col. Burr himself.

And this testimony is supported by that of Captain Nichols, who states, in his deposition, that when he was descending the Ohio, in the command of one of Colonel Burr's boats, Glover came on board of the boat, and advised him how to proceed with it, so as to elude the officers of Government; and yet this is the man who accuses John Smith of participating in the views of Col. Burr! This is the jealous patriot who swears that he communicated with Colonel Burr for no other purpose, but to discover his views and pervert them!

But, the general bad character of Glover, and the deliberate falsehoods, on oath, of which he has been proved guilty, are not all that we have to oppose to his testimony against our client. That testimony has been positively contradicted by his friend and confederate, McFarland. Glover introduces his account of Mr. Smith's conversation with him, about Col. Burr's plans and views, by stating that it took place in the presence of a friend, who accompanied him to Smith's house. It is fully proved that McFarland was his friend. McFarland, therefore, must have heard the conversation, if it ever took place, and he must have remembered it too, for it is impossible to believe that a conversation so interesting, so remarkable, from such a man as Mr. Smith, and on a subject which then so greatly agitated men's minds, could pass, in the presence of any man, without taking strong hold on his attention, and sinking deep into his memory.

Let us, then, hear McFarland on the subject of this remarkable conversation, in which Mr. John Smith developed the treasonable character of Col. Burr's enterprise, and confessed his own participation.

We first find him conversing with Gen. Gano, to whom, long after this conversation between him, Smith, and Glover, is stated to have taken place, he declared that he was wholly ignorant of Burr's plans, which could not have been the case had he heard such a conversation as Glover relates. He also stated to Gen. Gano, at the same time, that Glover's statement on this subject was incorrect; and he told another witness, Mr. Longworth, that he knew nothing of Col. Burr's plans, or against Mr. Smith; which he could not have said with truth, had such a conversation, as Glover relates, taken place in his presence.

But all this, it may, perhaps, be said, is mere conversation, and a man, when not on oath, may easily be supposed to deny a fact, when it tends to implicate himself in guilt.

Let us, then, hear McFarland on oath. When examined at Richmond, on the trial of Col. Burr, though sworn to tell the whole truth, he says not one word of this most remarkable and important conversation. And lately, before the grand jury at Chilicothe, when interrogated as to this very point, he declared that he knew nothing of the matter—that he had some faint recollection of a conversation between Mr. Smith and Mr. Glover, on the subject of Colonel Burr's enterprise, but could recall to his mind none of the particulars. This fact, and also the admission of Glover and McFarland, that McFarland was the friend stated by Glover to have been present at this conversation, are proved by Ethan Stone, General Gano, and John Armstrong, three members of the grand jury, in their joint deposition of February 20, 1808.

Now, Mr. President, let me ask whether any man can believe that such a conversation took place, in the presence and hearing of Mr. McFarland; that such confessions and disclosures on this most interesting subject were made by Mr. Smith; and that McFarland had lost all recollection of them, when examined before the grand jury, in January last? I answer, that it is impossible; and that McFarland's testimony, therefore, amounts to a flat contradiction of Glover's on this point.

And let it be remembered, that when Mr. Smith, under the order of the Senate to take testimony for his defence, summoned this same McFarland to give evidence on these points, and put questions to him for the purpose of obtaining a full explanation, he positively refused to answer. I hold in my hand the summons, the proof of its service, the questions of Mr. Smith, and the magistrate's certificate of McFarland's refusal. This wretch, who now appears among the accusers of John Smith, when called upon to meet his intended victim, face to face, and undergo the scrutiny of a public examination, shrunk like a villain and a coward from the investigation. Eager to destroy Mr. Smith, but not yet prepared to meet the terrors of direct perjury, his mind maintained a short and faint struggle between the desire of gratifying his malice and some remaining sense of shame; but it was short and faint, indeed. For, within a few days, his malice triumphed, and he made an *ex parte*, clandestine deposition, not only without notice to Mr. Smith, but carefully concealed from his knowledge, in which, in the teeth of all his former declarations and oaths, he declares that Glover's statement is correct. And this deposition, conceived in malice and brought forth in perjury, is sent forward to this bar, to bolster up the accusation against our honorable client! What words can describe the mingled emotions of indignation and disgust which such hardened profli-

gacy (fortunately, but seldom exemplified) must excite in every virtuous mind!

I here dismiss McFarland, but I have not yet done with his confederate, Glover, whose testimony against my client is further contradicted by Matthew Nimmo, another of the actors in this black tragedy.

I hold in my hand an extract from Nimmo's communication to the President, bearing date the 28th November, 1806. This extract, which was furnished by Nimmo, and is proved to be in his handwriting, contains some information relative to Mr. Smith's connexion with Colonel Burr; which, as it states, "was communicated by Colonel Burr, in a confidential manner, to the person from whom Nimmo received them." The person from whom Nimmo received these communications was no other than Elias Glover. This is manifest from Glover's deposition, made not long afterwards, on the 2d February, 1807, before this same Matthew Nimmo. Now, it will be found, on a comparison, that Nimmo's statement to the President, founded on Glover's communication, contradicts Glover's deposition in two or three essential points. In the communication to Nimmo, he alleges that he received his information, in a confidential manner, from Colonel Burr himself. In his deposition, he swears that he derived it from the conversation of Smith, held in the presence of McFarland. In the statement to Nimmo, he says that Mr. Smith had lately sent down the river considerable shipments for the use of Col. Burr; but in his deposition this most important fact is omitted. In the statement to Nimmo, it is said that "Next week two of his (Smith's) sons descend the Ohio to join Burr's troops, and Mr. Smith follows shortly after." In the deposition, Mr. Smith is made to "express his regret that his engagements were such that he could not go immediately himself, which he would do, if the situation of his affairs would permit."

Strong as these contradictions are, we have still stronger behind. We have seen Glover's deposition contradicted by McFarland and Nimmo, two of his friends and confederates. We now introduce Glover himself contradicting his own deposition.

Let it be kept in mind, that the conversation stated in Glover's deposition took place in September, 1806. He swears that, in that conversation, Mr. Smith opened the criminal views of Burr, and his own participation. Now, hear what he said in February following on this subject to Mr. Longworth, one of those respectable witnesses whose testimony we have adduced.

Mr. Longworth, in a deposition made in the presence of Glover, who attended and cross-examined, after stating the substance of a conversation between Glover and himself, relative to Mr. Smith, in February, 1807, proceeds thus: "And, to the 'best of his (this deponent's) recollection, he (the 'said Glover) then declared, in express terms, that 'he believed Mr. Smith unjustly accused, and that 'he was not concerned with Burr in his expedi-'tion." Contrast this with the deposition of this same Glover, made February 2, 1807, a little while before the conversation with Longworth, for the purpose of criminating Smith, as an associate of Burr.

And James M. Lanier, another of the witnesses, tells us, in his deposition, that in April, 1807, Glover, when charged by Smith with having given information against him, at first denied the fact, and afterwards, when more closely pressed, confessed that he had given information, but declared that it was nothing of any moment, or capable of operating to the disadvantage of Smith, towards whom he expressed a friendly disposition. And yet, he had then made the deposition which is now relied on for producing the disgrace and ruin of Mr. Smith! Can it be possible that a tribunal composed of men with honorable feelings, will listen for a moment to the testimony of a wretch who thus fabricates in the dark an instrument of destruction, smooths his face to the smile of friendship while he is preparing the mortal stab, and solemnly denies his hellish machinations in order to lull his victim into a fatal security?

The falsehood of this accusation, independently of the direct proof of it which we offer, is rendered in the highest degree probable by the extreme enmity which Glover is proved to have borne towards Smith, and the active endeavors which he had used to injure him. General Gano informs us in his first deposition, that, as early as July 4th, 1806, Glover had abused Smith most virulently in a public oration. Francis Dunlavy states in his deposition, that, in August, 1806, Glover displayed "very great animosity against Mr. Smith." And Colonel Taylor, in his testimony at this bar, informed us that Glover was "extremely active" in the measures attempted for the injury of Mr. Smith by a party in Cincinnati, in the autumn of 1806. Doctor Sellman, Stephen McFarland, George Jordan, and John H. Stall, furnish us in their depositions with a detail of those measures in which Glover was extremely active. Let us hear what they were.

A meeting of the citizens of Cincinnati was called for some public purpose, and was very numerously attended. Some resolutions were passed by a very large majority. There is a small, but noisy party in Cincinnati, calling itself "The Republican Society." Some of its members attended, and offered resolutions tending to criminate or vilify John Smith. They were indignantly rejected by a large majority. These zealous republicans, finding themselves out-voted, and being determined, as is usual, not to submit to the majority, when against them, resolved to make sure of their mark by calling clandestinely another meeting, to which none but such as were selected by them for the purpose, and furnished with tickets, should be admitted. The meeting was accordingly held the next evening in the upper room of a tavern, and an attempt appears to have been made, to pass the resolutions which the full meeting had rejected, and which would, no doubt, have been then palmed upon the public as the sense of the "people of Cincinnati"—for republicans love to speak in the name of the people. But the people, in this instance, chose to

speak for themselves. They burst open the doors of the conclave, and defeated the scheme. But the most zealous of the patriots were not to be so repulsed. A few of them, and among the rest, the President, and Mr. Secretary Glover, made their escape, met in private, and actually passed their resolutions, which they forthwith published; taking care, at the same time, to suppress the resolutions which had been adopted at the full and public meeting, and of which, Glover, as secretary of the meeting, had possessed himself.

Is it difficult to believe—indeed, is it not highly probable, that a man of Glover's principles and character, who has gone such lengths as these, to injure a person against whom he had conceived a resentment, would stop at a false oath, if likely to effect his purpose? And ought not testimony given under such circumstances, to be viewed with the utmost distrust?

Furthermore, can anything be more improbable than that Smith should make such a communication to Glover—to Glover his enemy, his public traducer—who, in July, had abused him in a public speech; and in August, had displayed very great animosity against him? What motive for such a choice of a confidant, in an affair on which his character, his fortune, and even his life, might depend? How does it happen, that a man of John Smith's understanding and prudence, passed over the long list of his respectable and tried friends at Cincinnati, and fixed upon Elias Glover, to whom alone, to confide the most important secret of his life? A man with whom he had long been on very ill terms; of whom, as Mr. Isaac Burnett informs us in his deposition, he had long been in the habit of thinking and speaking very ill, and whom, according to the same gentleman, he was much surprised at seeing in his house! All this, it must be allowed, is passing strange; and it will certainly require more than the oath of Elias Glover to make us believe it.

Again. Why make this grave discourse to Glover, concerning Burr's plans? Was it to enlist volunteers? No! for Smith never appears to have mentioned the subject to any other person, and if he was in Burr's secrets, he knew that Glover and McFarland were already enlisted. That they were engaged, is proved beyond the least doubt. The evidence on this point is full and unquestionable. They were not only engaged, but very actively and zealously engaged. This, Smith, if he was also engaged, must have known. Why, then, make a grave and mysterious disclosure, to two of his confederates, of the plans in which they were mutually embarked? Can anything be more ridiculous than the idea of a conspirator making a formal disclosure of the conspiracy to two of his associates? This single consideration, would be sufficient to prove that the story of this disclosure was invented by Glover, as a screen for his own guilt.

But how does it happen, that Smith, in looking round for a confidant, did not think of his friend Kelly, his confidential agent, and the usual depository of all his plans and thoughts? Kelly, to whose character men of the first rank in Kentucky, and amongst them Henry Clay, lately a Member of this House, have borne the most honorable testimony, tells us in his deposition, that the highest degree of intimacy and friendship subsisted between him and Smith, who wished to advance his fortune, and was very desirous of assisting him. Yet, Smith communicated to him nothing of Burr's plans. Desirous as Smith felt of promoting Kelly's fortune, and well acquainted as he was with the benefits of a contractorship, he would hardly have failed to hold out to his friend the brilliant post of contractor-general, or paymaster to Burr's army; which, especially when the treasures of Mexico should once be occupied, would have been so well adapted to Kelly's talents, and so fully adequate to all his desires. Smith, however, does nothing of all this; and he not only avoids all mention of these momentous and magnificent schemes to Kelly, but observes an equal silence to his friends, Gano, Longworth, Findley, and Sellman, while he singles out his persecutor and calumniator, Glover, as the chosen depository of this great secret, and very gravely communicates it to him and McFarland, with a full knowledge that they were, already, at least as well apprized of it as himself.

Mr. President, this tale refutes itself. It is impossible for any man of common sense to believe it. But, independently of external refutation, the communication stated by Glover to have been made by Smith, carries internal evidence of its falsehood, by the contradictions and absurdities wherewith it abounds. Can any one believe that a man of John Smith's intelligence and knowledge, told the ridiculous story about the frigate which Mr. Somebody was building, or had completed, in the Southern States, to be employed in this expedition? What! An individual in this country build a frigate, to which so few fortunes are adequate? Mr. Alston, who is probably the person meant, though rich, is well known not to have the means of building a frigate, even were he disposed to expend his whole fortune in such an enterprise. And this frigate, moreover, was to be built in secret. Nobody was to see it; for otherwise, the building of it by an individual, so strange a thing, would have been a matter of notoriety, with which the newspapers would have rung, and which it would have been wholly unnecessary for Smith to communicate to Glover and McFarland, and ridiculous in the last degree to communicate confidentially. A frigate built by an individual, and built in secret! Can any one believe that John Smith, a Senator, and a man of information, could tell so absurd a tale? Sir, a frigate cannot be built in a dry-dock, although it may be kept there. It must be built openly. It must be seen. Its commencement, and its progress, would be as well known on the Ohio, long before it could be completed, as on the Potomac. And to represent John Smith, a Senator, and a man of sense, gravely telling such a tale to Glover, a lawyer, and McFarland, a judge, both men of some information, accustomed to read the newspapers, and therefore knowing the falsehood of the tale, is an absurdity so gross, that

one is wholly at a loss to conceive how Glover, who, depraved as he is, by no means appears destitute of understanding, came to admit it into his fabrication. We can account for it only by a reference to the kindness of an overruling Providence, which, for the protection of innocence, sometimes impels guilt to mar its own schemes, by a strange intermixture of folly with its wickedness.

This deposition presents another instance of the same kind though not equally glaring. Glover swears that this communication was made to him, by Smith, under the strictest injunctions of secrecy. And yet, he had stated, in the beginning of the deposition, that the communication was made in the presence of a friend, who proves to be William McFarland. This is another instance in proof of the old adage, that, "liars ought to have good memories." Before Glover came to the end of his deposition, he forgot what he had said in the beginning, and thus fell into another of those Providential contradictions by which the falsehood of made-up stories is often detected.

Reviewing, then, Mr. President, all these considerations—the bad general character of Glover, at all the places where he had lived; the repeated instances of wilful false-swearing which had been fixed upon him; the contradiction of this story by his friends and confederates, McFarland and Nimmo, as well as by himself; his enmity to Smith, and Smith's ill-opinion of him; Smith's silence on this subject to all his usual confidants and intimate friends; and the inherent contradictions and absurdities of the story itself, I think myself warranted in saying, that, the credibility of Glover is completely overthrown, and that his testimony must be laid out of the case.

I come next to that of Peter Taylor, and here I feel myself greatly relieved, in being able to absolve him from the guilt of wilful false swearing. His character is said to be fair, and, for ought we know, is so. We are far from a wish to impeach it. But we shall show that in some of the minute circumstances which he relates, and which are adduced as grounds of suspicion against Mr. Smith, he probably mistakes, and that the others are satisfactorily explained.

In ascertaining what degree of credit is due to an honest witness, especially in relating, after a considerable lapse of time, minute facts, which derive their complexion from circumstances apparently trivial, it is proper, in the first place, to consider his education and habits of life, and to inquire how far they have a tendency to produce that accuracy and precision of conception and language, whereon the weight of such testimony almost wholly depends. Apply this rule to Peter Taylor. Admit him to be perfectly honest in his intentions. But we find him to be an illiterate laborer, sometimes employed as a menial servant. Such a man is likely enough to have a distinct perception, and an accurate recollection, of such facts as he is accustomed to observe. But when he speaks of things out of the usual track of his business, his thoughts, and his observation; when he attempts at such a distance of time, to relate very minute facts, in which he could not have taken any interest at the time; I ask, if we can implicitly rely on the clearness of his comprehension, or the exactness of his memory? Is it not highly probable that he may have misconceived at the time, or forgotten since, some of those circumstances, apparently minute, on which the character of the whole transaction frequently depends?

But if, in addition to this general reasoning, it should appear that the witness has, in relating other parts of this transaction, committed several mistakes, will it not be admitted that his recollection is too confused or imperfect to command our confidence or influence our decisions? This is the case with Peter Taylor. In his testimony, taken at Richmond, from which the part now used against Mr. Smith is extracted, he relates that, in October, 1806, Blannerhasset, on their return from Kentucky, pressed him to join Colonel Burr's expedition, and that he consented to go, provided he might take his wife and family; to which Blannerhasset did not consent. On his cross-examination, he states that his wife died in the September preceding. He also relates, in his direct testimony, that when the party left Blannerhasset's island he saw Dudley Woodbridge on the bank. And it is proved by Woodbridge himself, and by Morris B. Belknap, that Woodbridge was at that time in bed, and was not on the bank at any time during that night. These are small mistakes, but they prove that Taylor's recollection of minute circumstances, such as those which he details concerning Mr. Smith, cannot be relied on.

The first of these circumstances is, that Mr. Smith, on being informed that he was a servant of Blannerhasset, asked him to go up stairs. This, at first view, might have a suspicious appearance, as if Mr. Smith wished to make or receive some communications which required privacy. But when we learn that Mr. Smith had his office up stairs, where he usually wrote, and that he wished to write a letter by Taylor, the mystery vanishes, and the circumstance stands fully explained.

But he wrote a letter to Colonel Burr. No doubt, Mr. President, a letter from Mr. Smith to Colonel Burr, at that time, has in itself a suspicious appearance. But we are made acquainted with the contents of the letter, and the suspicion disappears. Instead of being a criminal correspondence concerning an enterprise in which they were mutually engaged, it is a letter informing Colonel Burr of the suspicions afloat concerning his plans and movements, and requesting an explanation, for Smith's own satisfaction. Nothing could be more natural than such a step, on the part of Mr. Smith. Colonel Burr had long been his acquaintance and friend, and recently his guest. He could not, therefore, be indifferent, either on Colonel Burr's account or his own, to the reports in circulation. These reports were founded on mysterious circumstances, which Mr. Smith supposed could be satisfactorily explained, and he wrote to obtain this explanation. No conduct could be more rational or more commendable. It was kind and candid towards his friend, and cautious towards himself.

The answer which he obtained was well calculated to quiet his alarms. His original letter is not in our power, but we have produced a copy of it. The answer, however, in the handwriting of Colonel Burr, is now in my hand. This letter is no after-thought; no subsequent contrivance for exhibition; for Mr. Broadwell has proved that he saw it delivered to Mr. Smith from the post office. Let it be attentively read; let the situation of Col. Burr and of Mr. Smith at that time be considered; and then let gentlemen candidly declare, whether they think that Mr. Smith, after receiving that letter, could regard Colonel Burr in any other light than that of an honorable man, indignantly repelling unfounded and injurious suspicions? [Here Mr. HARPER produced the original letter, the handwriting and authenticity of which were recognised by several of the Senators.]

But Mr. Smith inquired anxiously about the news, in the part of the country from which Peter Taylor had come. And what more natural, what more usual, than to inquire the news, especially in a time of alarm and apprehension? The operations of Colonel Burr were the subject of general conversation, and had excited no small alarm. The plot, whatever it was, appeared to thicken about Blannerhasset's island. Of course every one felt anxious to know what was going on at that place, and in its neighborhood. This circumstance, then, is of no moment; and the letter, the only ground of suspicion, being fully explained, everything is explained, except the last fact stated by Taylor, on which I will now bestow some attention.

Taylor states that Mr. Smith offered him something to drink, and "charged him not to go to any tavern, lest the people should be sifting him with their questions." Sift him about what? Did Smith then suppose that Blannerhasset's gardener and servant was possessed of the secrets of the conspiracy, which might be sifted out of him? Is it credible that so gross and absurd an idea could be entertained, by a man of his understanding? Had he used precautions to prevent Blannerhasset himself from being sifted, there would have been some sense in it: but to suppose him afraid of the gardener's being sifted, about things which if he knew them himself he must have been satisfied that the gardener could not know, is to impute to him more folly than those who charge him with a principal participation in Colonel Burr's designs would be willing to admit.

Will it be said that Smith was afraid of the gardener's being sifted, about the public occurrences in the island and its neighborhood, which a person in his situation might be supposed to know? I answer, why should he be so afraid? As those circumstances were notorious, the gardener could do no harm by telling them; and they would speedily be known at Cincinnati, whether he told them or not.

It is therefore impossible to suppose that Smith's wish to keep Peter Taylor away from the taverns, if he really had such a wish, proceeded from any fear of disclosures which Taylor might make. It is much more probable that Taylor, whose recollection we have already found to be very imperfect, or to whom these little circumstances could not then have appeared to be of any importance, has fallen into a mistake in relating them, than that John Smith did so foolish a thing. He might, indeed, caution Taylor not to go to a tavern, for fear that he should get engaged in drinking, and delay his time—a thing which he knew was very likely to happen to a man in Taylor's situation; and it is possible, that in order to keep him away, he endeavored to alarm him about something that might happen to him at the tavern. This matter, floating confusedly in Taylor's brain, has at last assumed the form of this story about sifting, which has found its way into his testimony, and is now adduced to fix a charge of treason on John Smith.

And it is not a little surprising, if we are implicitly to believe Peter Taylor, that Mr. Smith, after having taken so much pains to keep him away from the taverns, for fear of his being sifted, should immediately have sent him to one to get his horse fed; thus exposing him, for the value of a gallon of oats, to the very danger from which he had just appeared so anxious to guard him. "He then showed me, says Taylor, a tavern, and 'told me to go to get my horse fed by the hostler, 'but not to go into the house." Does not this prove that if Smith wished to keep Taylor out of the taverns, it was to preserve him from the temptation to get drunk and lose his time, and not to keep him out of the way of questions? Had the latter been his object, would he have sent this man to a tavern at all? Would he not have had the horse fed in his own stable, or sent him to the tavern by his own servant?

I here dismiss the story of Peter Taylor, Mr. President, presuming to believe that the only fact of any moment, the letter, is satisfactorily cleared up by the letter itself and Colonel Burr's answer; and that the other slight and trivial circumstances of suspicion are fully explained, or resolved into the confusedness and inaccuracy of Taylor's recollection. Certainly facts so doubtful in themselves, so inconsiderable, so capable of being misunderstood by the witness, ought not to have any weight in such a case as this.

The testimony of Major John Riddle comes next to be considered; in which he states that Mr. Smith told him that he knew more of Colonel Burr's plans than any other person in the State of Ohio, except one. Smith no doubt did, at that time, suppose that he knew a great deal about Burr's plans, for he had then received the letter in which Burr affects to explain them. It is not therefore surprising that he should make this remark to Major Riddle; but as Major Riddle was, at the time of this communication, the commander of a body of militia, stationed on the Ohio to oppose Burr's progress, it would have been most surprising if Smith, having a knowledge of Burr's real plan, had selected this officer as a person to whom to boast of it. This consideration discloses the true nature of Smith's communication to Major Riddle. He believed

that he knew Burr's plans, and that they were innocent. He therefore told Major Riddle so; but had he really known them to be criminal, this officer was one of the last persons in the world to whom he would have disclosed his knowledge. Thus this casual communication to Major Riddle, which the malicious industry of Mr. Smith's enemies has hunted up and adduced as a proof of his guilt, appears to be a most convincing proof of his innocence.

But Mr. Smith also told Riddle "that if Burr 'succeeded, he would prefer living at Cincinnati, 'to Philadelphia or New York, on account of busi-'ness." Succeeded in what? Why in the innocent plans, which Smith had just before told Riddle that he understood better than any person in Ohio, but one. These plans, as explained by Colonel Burr to Mr. Smith, were to form a strong and numerous settlement on the Washita, and in case of a Spanish war to invade Mexico, under the authority of the Government. And Mr. Smith, without more aid from the imagination than men usually obtain in such cases, might have brought himself to believe that in case these plans should succeed, they would give rise to a vast trade between the country on the Ohio, and the new settlement or conquests; that Cincinnati would become the centre of this trade, and that he, by reason of his connexions and situation, would be able to obtain a large share in it. This might have been an airy speculation, but it was certainly an innocent case; for it is manifest that the plans on the success of which it was bottomed were innocent plans. Such Smith, at that time, supposed Burr's plans to be; or he would not have made his knowledge of them a subject of conversation with Major Riddle.

That Major Riddle himself viewed the matter in this light, is evident from his conduct. He was stationed on the river, with the command of a detachment of militia, and had orders from his superior officer, General Gano, to collect as much information as possible respecting Col. Burr's plans and associates, and to report this to his General. Of this we are informed by a deposition of General Gano himself; who also states that Major Riddle did report to him, but made no mention of this conversation with Mr. Smith, nor alluded to Mr. S. in any manner. This conversation, therefore, must have been on the whole of such a nature, or accompanied by such circumstances, as to make it appear perfectly innocent to Major Riddle; who, otherwise, must have communicated it as matter of suspicion at least to his commander. Had we enjoyed the opportunity of cross-examining Major Riddle, these circumstances, and the rest of the conversation, would no doubt have been recalled to his recollection, and fully explained by him. In an ex parte deposition they have been forgotten, or omitted as unimportant—an additional and very striking example of the importance of the privilege of being confronted with the witnesses against us, and of the danger of admitting any species of ex parte testimony.

I come now, Mr. President, to the testimony of Colonel James Taylor, who represents Mr. Smith as having, in a conversation with him and others at Cincinnati, expressed opinions favorable to a separation of the Union.

It is to be recollected that Dr. Sellman, the brother-in-law of Colonel Taylor, and a warm friend of the present Administration, was also present at this conversation. This clearly appears from Dr. Sellman's deposition of February fifteenth, 1808, compared with the testimony of Colonel Taylor. Dr. Sellman has stated this conversation with great accuracy: and he represents Mr. Smith as having not even expressed an opinion, much less a wish that the Union would be dissolved, but merely as having repeated the opinions of a writer, under the signature of the Querist, who had advocated a separation. Dr. Sellman tells us that there were five or six persons present, none of whom however he names, except Mr. Smith and Colonel Taylor. Let us take his own words:

"After attending some time to the conversation, I noticed that a reference was occasionally made to a publication, or publications, in the Marietta paper. For some time I was at a loss to determine whether those gentlemen were expressing their own opinions, or those contained in that publication; for I was not present at the commencement of the conversation, though it did appear to me to be a detail of the opinions set forth in that publication. As it is now impressed on my mind, I believe, to more fully satisfy myself, I asked a question. Nor can I perfectly remember whether I intended the question particularly for Mr. Smith, or for both the gentlemen; but I believe it was intended for Mr. S. 'Do you expect or apprehend an early separation of the Union?' To which Mr. S. replied, 'Not in my life time; and I hope, or pray to God, I may never live to see it, whether it takes place sooner or later.' This declaration being perfectly satisfactory to me, I paid little or no attention to the conversation, and afterwards, I believe soon afterwards, left the place. I did not hear Mr. S., or any person present, advocate a separation of the Union; nor have I ever before or since that time, heard Mr. S. advocate a separation of the Union."

Thus, then, we see, sir, that these two witnesses—men of equally fair and respectable character, and equal intelligence—differ entirely in their manner of understanding this conversation, in which they both took a part. Colonel Taylor understands Mr. Smith to have advocated a separation, and Dr. Sellman declares that he did not advocate it, but merely repeated the arguments of the Querist, and expressed his hope that a separation might never take place, and that, if it did, he might not live to see it. Now let me ask whether this contradiction, between two witnesses equally entitled to credit, does not leave the matter at least in doubt? Do not the scales hang in equilibrium? And in this state of doubt, can you decide in the affirmative? Does not the matter remain precisely as if there were no proof on either side; and can you decide affirmatively in the absence of proof? Is it not a fair and rational, as well as legal, presumption, that a man is innocent till his guilt appears; and can you say that Mr. Smith's guilt appears, when the only

witness against him is contradicted by a witness of equal credit?

But I go further, Mr. President. I contend that every presumption derived from the nature of the case, and the circumstances and situation of the parties, is in favor of the statement made by Dr. Sellman. In the first place, it appears that Dr. S.'s attention was particularly drawn to the subject, and that he asked a question for the express purpose of ascertaining whether those gentlemen spoke their own sentiments, or merely repeated those of the writer. It is not therefore at all probable that he would forget, or so widely mistake, a fact, to which his attention was so strongly attracted. Had Mr. Smith advocated a separation, as is now supposed by Colonel Taylor, Dr. Sellman could not possibly have been in doubt on the subject, and his question would have been useless and silly.

Secondly, we find Dr. Sellman very accurate and positive in his recollection of Mr. Smith's answer. It is impossible to suppose him mistaken in a point which interested him so much, and must have made so strong an impression on his mind. This answer of Mr. Smith is utterly inconsistent with the statement of Colonel Taylor; for it is incredible, that after having advocated a separation to Colonel Taylor and General Findley, he should immediately, and in their presence, deprecate it to Dr. Sellman as a misfortune, which he hoped, if it must befall us, he should not live to see.

Thirdly, as Dr. Sellman was warmly opposed to a separation, it is most certain that his attention must have been very strongly arrested, and indeed his indignation excited, by such a conversation as Colonel Taylor attributes to Mr. Smith; which could not have escaped his attention, or so soon have been effaced from his memory.

It appears, in the fourth place, that there were several other persons present at this conversation. Dr. Sellman says five or six, though he does not name any of them. Colonel Taylor says that General Findley was present. Now let me ask, if such sentiments had been expressed, in such a company, by a man holding Mr. Smith's situation in the Government, would they not have attracted great attention, and given rise to much conversation? Would not the matter, in all probability, have come to the ears of some of those persons in Cincinnati who have been so active and persevering in collecting testimony against Mr. Smith? And would not some of those who heard this conversation, beside Colonel Taylor, have been called on to testify?

Again. Why should Mr. Smith, on this occasion alone, have made himself the advocate of dismemberment? Had he been disposed to preach this doctrine, in the hope of making converts, would he have confined his exertions to this one time and place? There is no evidence, or even accusation of his having broached the subject any where else; and if he had done so, it could hardly have escaped notice. Had he been a promoter of separation, would he have addressed himself solely to those persons whom he must have known to be most averse from it; or would he not have chosen for his hearers the weak and ignorant, who were most likely to be affected by the usual arguments in favor of such a measure?

All these difficulties are reconciled by supposing, with Dr. Sellman, that Mr. Smith merely repeated, without approbation, the opinions of the Querist; and that Colonel Taylor misunderstood him as stating his own opinions and wishes. He might even have gone further, and have expressed an opinion or apprehension of his own, that the Union would one day separate. That such a speculative opinion, or rather fear, is entertained by many among us, who most ardently deprecate the event, is notorious; and we find, from General Carberry's testimony, that Colonel Taylor himself is of this number. He told Gen. Carberry that he thought the Union would separate in twenty years, and Gen. C. reproved him for fixing even an imaginary period to its duration. It does not follow from this that Colonel Taylor wished for a separation; and, surely, what he innocently thought and expressed, as a matter of speculative opinion, or of fear and dread, Mr. Smith may have innocently thought and expressed in the same manner. That Colonel Taylor should mistake the nature and extent of these expressions; should understand them as arguments in favor of separation, is far more probable, than that Mr. Smith should have advanced such arguments, at such a time, and in such company. When to this strong probability we add the positive testimony of Dr. Sellman, I cannot but confidently hope that it will remove every doubt on the subject. Had Mr. Smith advocated a separation of the Union at such a time, it would no doubt have justified strong suspicions of his being connected with the plans of Colonel Burr, which probably had dismemberment, in part at least, for their object. But I humbly trust, Mr. President, that the charge, without impeaching the integrity of so respectable a witness as Colonel Taylor, has been completely disproved.

The next circumstance alleged against Mr. Smith, as evidence of a connexion with Colonel Burr, is the visit which he paid to Frankfort, in Kentucky, in the autumn of 1806. This has been supposed to be a visit to Colonel Burr; but the testimony which we have adduced shows most satisfactorily, that it was a journey on public business. To this point, our evidence is full and complete. Mr. Smith, then contractor for the army, was called on for very large supplies, on account of the additional force called to the Sabine. He found, on inquiry from his agents in Kentucky, whose depositions we have produced, and who are proved to be men of character, that purchases could be made there on very advantageous terms, for cash. He was not in cash, and therefore resolved to try whether he could sell or discount bills on Philadelphia. The best prospect of making this operation to advantage, and indeed the only prospect of making it at all, was with the Insurance Company at Lexington, which acts as a bank and exchange office. He accordingly went to Lexington for that purpose. On his ar-

rival there, he heard, for the first time, as is fully proved, that Colonel Burr was on his trial at Frankfort, where most of the directors of this Insurance Company were attending the trial. He then resolved to go to Frankfort, for the purpose of sounding them on the subject. He arrived there in the evening, and stopped at a tavern, where he soon learned that Colonel Burr also lodged. In the course of the evening, he paid a short complimentary visit to Colonel Burr, saw some of the directors, learned from them that his object of selling or discounting bills could not be accomplished, and early next morning set out on his return home. All these facts are satisfactorily proved. I will not recapitulate the testimony, which is fresh in the recollection of the honorable members. But, I ask, what is there criminal or suspicious in this transaction? Surely, it would be a waste of time to employ it in the refutation of such a charge.

The next point to which I am to call the attention of this honorable House, is the bill drawn by Colonel Burr on Mr. Smith, in favor of Lieutenant Jackson. The drawing of this bill is adduced as proof of connexion between Colonel Burr and Mr. Smith. It admits of most satisfactory explanation in two different ways.

In the first place, it is notorious that Colonel Burr, in order to increase the number and the confidence of his partisans, was in the habit of representing himself as being connected with, and supported by, many persons, whose names he supposed would add some credit and weight to his enterprise; and who are known to have opposed his schemes, instead of being engaged in them. Of this, the case of Commodore Truxtun is a striking instance. In this case, we find that Colonel Burr was very desirous of engaging Mr. Jackson in his enterprise. Jackson was reluctant and doubtful. Mr. Smith was a man of note and consequence, whose name might well be supposed to have much influence on the mind of a youth like Jackson; and to draw a bill on him, for an object connected with the enterprise, was an indirect, but very significant mode of telling Jackson that he was engaged. To artifices of this kind, we know that this unhappy man had constant recourse. He, no doubt, sometimes deceived himself; but he very often attempted to deceive others, in hopes of drawing them into those schemes, which have plunged him into irretrievable ruin.

Secondly, we know that Colonel Burr, when he set out from Cincinnati on his journey down the river, left a sum of money in the hands of Mr. Smith. This is proved to be usual with persons travelling in that country, and may have been done by Col. Burr, from motives of convenience, or with a view of giving himself the appearance of a connexion with Mr. Smith, by drawing on him. But it was done. The money was in Mr. Smith's hands. Colonel Burr had drawn for it, in favor of Belknap, and he could not have known that Belknap's bill had been accepted, or would be so, before Jackson's should be presented. He had drawn in favor of Belknap, for his own use. He might, therefore, well have supposed that the money was still in Mr. Smith's hands, and that he had a right to draw for it.

But, in whatever way we account for his drawing this bill, it was his own act; an act which he had no right to do, beyond the money left by him in Mr. Smith's hands. To bring this act home to Mr. Smith, and make it evidence against him, it must be shown that he had given Colonel Burr authority to draw. In other words, had agreed to supply him with funds. Drawing the bill is nothing more than a declaration by Colonel Burr; and this declaration cannot affect Mr. Smith, unless he authorized it previously, or confirmed it afterwards by paying the bill. Colonel Burr drew a bill on me for $1.500, which I had not authorized, and declined to accept. Because Colonel Burr thought fit to take this step, am I, therefore, to be considered as engaged in his schemes? Surely, his mere declaration cannot be allowed to criminate Mr. Smith. If it could, how extensively would the principle operate! How many of the best men in the country would be implicated!

There is another circumstance which strongly confirms the view which we give of this subject. When Colonel Burr directed Jackson to call on Smith with the bill, he does not tell him to apply to Smith for any information concerning his plans. On this subject, he referred him solely to General Tupper. So says Jackson, expressly. But why to Tupper, rather than Smith? Smith was a much more important man than Tupper; and if engaged in the scheme, was quite as capable of giving him information. He would have given it much sooner, too, for Tupper lived at Marietta, and Smith at Cincinnati; where Jackson, in his journey up the river, would first arrive. Why, then, I say, direct the application to Tupper, rather than to Smith? Sir, the reason is obvious. Colonel Burr, though he might have been willing to insinuate, by drawing the bill, that Mr. Smith was engaged, knew very well that he was not; and that, if he should direct Jackson to call on him for information, it would lead to detection. This fact alone proves, more strongly than a thousand witnesses, the innocence of Mr. Smith. Witnesses may misunderstand, forget, or prevaricate; but facts like this lay open the hearts of men, let us into their inmost thoughts, and speak a language which we can neither misunderstand nor disbelieve.

As to the bill drawn by Colonel Burr on Mr. Smith, in favor of Belknap, which Mr. Smith paid, and which forms the next head of accusation, I beg leave to read to the Senate the testimony of General Carberry. He states that, some time before the date of this bill, Mr. Smith informed him that Colonel Burr, finding it inconvenient to carry his money with him, when he went down the Ohio, left it at Cincinnati in the care of Mr. Smith; a circumstance which the same witness proves to be usual, with persons travelling in that country, and on which it is impossible to lay any stress: for every body must admit that had the money been left for any improper purpose, Mr. Smith

would have kept the knowledge of it to himself, instead of communicating it as he did to General Carberry. The bill drawn in favor of Belknap, and paid, might of itself, standing alone, furnish some ground of suspicion against Mr. Smith, as tending to show that he was in the habit of supplying Colonel Burr with funds; but when it comes to be connected with the deposit of money, which is proved by General Carberry, it is completely explained. For nothing was more natural than that Colonel Burr, having left his money with Mr. Smith, should direct it to be paid to a person to whom he owed it, or who was to employ it for his benefit.

I come now, Mr. President, to the seeming contradiction between the statement of Mr. Smith, and the testimony taken at Richmond on the trial of Colonel Burr, upon which I understand that some stress is laid. I say the "seeming contradiction," because I feel confident of being able to show clearly that no real contradiction exists.

Mr. Smith, in his deposition before Matthew Nimmo, states that Colonel Burr, early in September, 1806, spoke of the settlement of his Washita lands. By the testimony given at Richmond in the trial of Colonel Burr, by Lynch, from whom those lands were purchased, it appears that the contract was not made with Colonel Burr till after the time when Mr. Smith states this conversation to have taken place. Hence it is inferred that Colonel Burr could not have spoken to Mr. Smith of his Washita lands.

But is it forgotten that Colonel Burr was in the habit of speaking of these lands as his, and of his intention of settling them, long before the period assigned by Mr. Smith for this conversation? This appears from the testimony of Commodore Truxtun, delivered at Richmond on the same trial. He states, that in the Summer of 1806, before Colonel Burr set out for the Western country, he spoke of his Washita lands, and of his plan of settlement. This he did either because he had then made an informal contract for those lands, and therefore considered them as his, though the formal contract of sale was not then made; or because he had then contrived this disguise for his projects, and merely made use of it to cover his real design, from Smith and others with whom he thus conversed. In either case he would speak of the land as belonging to him. Indeed this whole argument against Mr. Smith rests on the idea that Colonel Burr cannot be supposed to have said anything that was not true. Mr. Smith states that Colonel Burr spoke of his Washita lands, at a time when those lands in fact were not his. Therefore Mr. Smith must have stated an untruth. I believe that gentlemen will not, on reflection, find this argument very solid.

One more point, Mr. President, and I shall conclude an argument, by which I fear this honorable body has been, as I certainly have, very much fatigued.

It is said that there exists a strong similarity between the deposition of Elias Glover, and the statement made by Mr. Smith himself, on oath; whence it is inferred that the deposition must be true. I must confess that I have not been able to discover this similarity; but if it really exist, it may be easily accounted for. Mr. Smith's statement was sworn before Nimmo, on the sixth of January 1807. Nimmo, it appears, kept a copy, for on the next day he certifies a paper as being a true copy of the deposition sworn to before him by Mr. Smith. This he could not have done, unless he had kept a copy, with which to compare this paper. On the second of February following, Glover made this deposition, before the same Matthew Nimmo. Now we know that Nimmo was the confidential friend and adviser of Glover; and we may very easily conceive that, before Glover prepared his deposition, he had been indulged by his friend with a persual of the copy of Mr. Smith's, and that to give the greater air of truth to this tale, he imitated the language as much as he could, and followed the statement of facts, as far as would suit his purpose.

Again. It is very probable that Nimmo wrote the deposition of Glover; and that, having Smith's deposition on the same subject fresh in his recollection, he fell insensibly into the use of the phrases. This is known frequently to happen. Or the resemblance may be merely accidental. And surely a resemblance between some phrases of these two depositions, which may have proceeded from accident, or from design in Nimmo or Glover, is very weak ground for inferring the truth of facts so utterly improbable as those stated by Glover, and so strongly contradicted by the great mass of testimony which we have produced; among which are the declarations of Glover himself, and the oath of his friend and confederate McFarland.

Having now, Mr. President, reviewed all the grounds on which the charge against Mr. Smith is rested; having, as I presume to hope, satisfactorily explained all the objections which have been urged against him; and presented all the facts fairly, and as clearly as was in my power, to the view of this honorable House; I am far from intending to trouble it with any arguments of mine on the subject. The enlightened individuals who compose it are much more capable than me of drawing the proper inferences from the testimony which has been laid before them, and on which they have bestowed a most patient and laborious attention: and to their judgment I cheerfully, and I may be permitted to say confidently, submit the cause of my client. They will doubtless bear in mind, that in this cause is involved his honor, dearer to him than property or even life; and that in pronouncing their decision they are to be guided by testimony, and not by conjecture; by the light of truth, and not by the dark and deceptive glimmerings of suspicion.

When Mr. HARPER had concluded, the consideration of the subject was further postponed.

THURSDAY, April 7.

Mr. ADAMS presented the petition of a number of merchants of the town of Boston, praying to export certain quantities of fish, for reasons mentioned in the petition; which was read, and re-

ferred to Messrs. ADAMS, ANDERSON, and GILES, to consider and report thereon.

Mr. BRADLEY reported, from the joint committee appointed to inquire what business is necessary to be done by Congress, in the present session, and when it may be expedient to close the same; and the report was read for consideration.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act concerning courts martial and courts of inquiry;" and on motion, by Mr. GOODRICH, to strike out of section 1, line 5, the following words: "or court of inquiry;" it was determined in the negative—yeas 12, nays 17, as follows:

YEAS—Messrs. Adams, Anderson, Crawford, Gilman, Goodrich, Hillhouse, Maclay, Pickering, Reed, Sumter, Turner, and White.

NAYS—Messrs. Bradley, Condit, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Mathewson, Moore, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Tiffin.

Ordered, That the further consideration of this bill be postponed until to-morrow.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr; and Mr. Smith attended.

Mr. ANDERSON moved to postpone the consideration of the report in this case until to-morrow, to give the members an opportunity to collate the new testimony offered. This motion was lost.

Mr. S. SMITH offered a resolution requesting the President to lay before the Senate the letter of Judge Nimmo to him, the letter of Mr. Smith, covering the depositions of himself and his son, and such other papers as may be in the possession of the Executive touching any alleged connexion between Mr. Smith and Burr's conspiracy.

This motion was agreed to, subject to the understanding that it should not interrupt the progress of any discussion which might arise on the report.

Mr. ANDERSON having expressed his surprise at the attempt to precipitate a decision, and declared his inability to take that full view of the subject (which he desired to do,) before to-morrow, on motion of Mr. WHITE, its further consideration was postponed until to-morrow.

In the course of the remarks, which fell from Mr. GILES, he observed that he considered Elias Glover as so completely discredited, that he desired no further information to make up his opinion.

FRIDAY, April 8.

A message from the House of Representatives informed the Senate that the House concur in the bill sent from the Senate, entitled "An act for raising an additional military force," with sundry amendments; in which they request the concurrence of the Senate.

The amendments were read, and ordered to lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

Agreeably to the request of the Senate, in their resolution of yesterday, I have examined my papers and find no letter from Matthew Nimmo, of the date of November 28th, 1806, nor any other from him of any date but that of January 23, 1807, now transmitted, with all the papers in my possession which accompanied it. Nor do I find any letter from John Smith, of Ohio, bearing date at any time in the month of January, 1807.

Having delivered to the Attorney General all the papers respecting the conspiracy of Aaron Burr, which came to my hands during or before his prosecution, I might suppose the letters above requested had been delivered to him. But I must add my belief that I never received such letters, and the ground of it. I am in the habit of noting, daily, in the list kept for that purpose, the letters I receive daily, by the names of the writers, and dates of time, and place, and this has been done with such exactness that I do not recollect ever to have detected a single omission. I have carefully examined that list from the 1st of November, 1806, to the last of June, 1807, and I find no note, within that period, of the receipt of any letter from Matthew Nimmo, but that now transmitted, nor of any one of the date of January, 1807, from John Smith, of Ohio. The letters noted as received from him within that period, are dated at Washington, February 2, 2, 7, and 21, which I have examined, and find relating to subjects entirely foreign to the objects of the resolution of the 7th instant; and others dated at Cincinnati, March 26, April 6, 13, and 17, which, not being now in my possession, I presume have related to Burr's conspiracy, and have been delivered to the Attorney General. I recollect nothing of their particular contents. I must repeat, therefore, my firm belief, that the letters of Nimmo, of November 28, 1806, and of John Smith, of January, 1807, never came to my hands, and that if such were written, (and Nimmo's letter expressly mentions his of November 28,) they have been intercepted, or otherwise miscarried.

TH. JEFFERSON.

APRIL 8, 1808.

The Message and papers were read, and ordered to lie for consideration.

The bill making provision for the disposal of the public lands in the State of Tennessee, was read the third time; and passed.

CASE OF JOHN SMITH.

The Senate resumed the consideration of the first report of the committee appointed to inquire into the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr.

A short conversation arose on the course of proceeding, some diversity of opinion existing as to the propriety of deciding on the report generally, or on the resolution of expulsion with which it concludes. When on motion of Mr. FRANKLIN, it was agreed, without a division, to proceed to the consideration of the resolution, as follows:

Resolved, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr against the peace, union, and liberties, of

the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States; and that he be therefor, and hereby is, expelled from the Senate of the United States.

Mr. ADAMS then rose and addressed the Senate in substance as follows:

Mr. President:—The question now under consideration appears in strict propriety to import, only a discussion on the point of fact, and its determination can decide only whether Mr. Smith has or has not been a participator in the conspiracy of Aaron Burr, so far as to be no longer worthy of a seat upon this floor. But as the learned and ingenious counsel of Mr. Smith have rested a part of his defence, upon objections against the principles, recommended in the report, and upon which the Senate have hitherto proceeded in this case, I shall be permitted, in the course of the remarks I am now about to submit to the Senate, to make such observations upon the principles contended for by those gentlemen, as have occurred to me, as well as upon the view of the evidence now in our possession, and by which my vote upon the resolution will be governed.

And I cannot but express my satisfaction, that the principles of the report have been brought to so severe an ordeal, and have been called to encounter the whole argument and eloquence of two such powerful adversaries. Far it is from my wish, sir, that those principles should receive the countenance and sanction of this body, unless upon the severest scrutiny they shall be found to stand upon the foundation of reason, of the Constitution, and of precedent. If the principles proposed by Mr. Smith and his counsel are more sound, they ought unquestionably to prevail, and, in order to try their respective validity, my task will be to examine the objections which the learned counsel have urged against the principles of the report, and to animadvert upon those which they have proposed to substitute in their stead.

The first objection is to the jurisdiction of the Senate. It is said that we had no right to try this case at all, or at least that if we were authorized to enter upon it for purposes of inquiry, we had no right to pursue it for purposes of decision. And although this inquiry was originally solicited with earnestness by Mr. Smith himself, I am not desirous of depriving him of the benefit which he can now derive from a denial of our jurisdiction. His counsel now solemnly protest in his name and their own against our indulgence in granting him his request. If indeed they are right, if we have no authority to try, the consequence would lead further than the gentlemen themselves would be willing to allow. Their argument denies the right of the Senate to take this question at all. A vote of rejection would affirm the jurisdiction of the Senate, as much as a vote of adoption. Acquittal implies the jurisdiction of the tribunal, as much as conviction. This is obvious from the practice of the common law courts, where the plea to the jurisdiction must always be decided before the general issue can be tried. Mr. Smith, however, ought not to be denied the advantage of both his grounds. If there are members of the Senate who, though convinced that the facts are sufficient for his expulsion, have been convinced by the arguments of his counsel that they ought not to have been tried here, they will vote against the resolution. If there are others who believe the course we have taken to be correct, but that the evidence is not sufficient to warrant expulsion, they also will vote against the resolution. The result of every doubt, whether of right or of fact, will operate in favor of Mr. Smith. I do not incline, therefore, to their separation.

Let us then examine the reasons upon which the jurisdiction of the Senate has been contested. The two gentlemen, who so ably conducted the defence of Mr. Smith, did not in all respects take the same grounds; but I shall notice the arguments adduced by each of them, which appear to me material, without always discriminating by which of them they were urged.

It was said by the gentleman whom we had last the pleasure of hearing on this subject, (Mr. HARPER,) that if this question were new, he should contend that the power of expulsion, given by the Constitution to each of the two Houses of Congress, was restricted to a mere regulation of police, for the preservation of order, and that they could institute no inquiry into the conduct of their members, except for offences committed in the presence of the House. But this ground was taken only to be abandoned; for the gentleman admitted that the authority of precedent was against him, and to that authority he was willing for himself and his client to submit. I can subscribe neither to the doctrine, nor to the reason for its abandonment. It is a question of Constitutional power; and as such, if the precedents had been ever so much multiplied, they could not avail against the Constitution. In the conflict between two such unequal authorities, that of precedent ought always to yield. Besides, there is but one precedent which could in this case call for submission. I have sometimes heard it said that two precedents were equivalent to a principle; but I never before understood that one precedent could be admitted as of force to silence contradiction. No, sir, there is a better reason than submission to precedent, for rejecting this limitation upon the authority of the Senate. There is no such limitation in the letter of the Constitution; there is none such in its spirit; and to introduce such a limitation, would involve us in the absurdity—to my mind the monstrous absurdity—that a man might be convicted of the most infamous crimes that can disgrace the human character, and, unless their punishment be capital, would be entitled perhaps for years to hold his seat in the Supreme Councils of the nation. This consequence is inevitable; for his constituents cannot recall him; and it has been determined, upon the fullest determination, and by a solemn decision, that a member of the Senate is not liable to the process of impeachment. There is then no remedy but expulsion; for the idea that a man thus blasted in character, and thus debased in conduct, should be permitted to remain a member of the Legislature, is so disgraceful to the reputation of this body, and so per-

nicious to the interest of the whole nation, that it cannot for a moment be admitted. I will only add the remark, that if in this objection there were any substance, it ought to be presented to us in a different form. If any member thinks it has weight, he should offer a resolution to arrest all further proceedings. Its argument is not that this resolution should be rejected, but that the question ought not to be taken. It is in the nature of what we call the previous question.

Another objection, however, was taken, and insisted on with some earnestness by both the counsel. They took a distinction between indictable offences, and offences not indictable. And they contended that the jurisdiction (as they term it) of the Senate is confined to the latter. That for all indictable crimes, if complaint be made to the Senate against one of its members, the Senate might indeed institute an inquiry, but that for trial they must pass a resolution directing the proper law officer to commence a prosecution, and, until its issue, *sequester* the member from his seat.

I well remember, and it will be recollected by many other members of this House, that on the impeachment of Judge Chase, this same distinction between indictable and unindictable offences was made. But the argument resulting from it was directly the reverse of that which is now advanced. It was then insisted, with great plausibility, though I confess not entirely to my conviction, that no offence could be impeachable, unless it were also indictable. And the counsel dwelt with great force upon the dangerous tendency of the principle that a public officer might be removed, "for paltry errors and indiscretions too insignificant to have a name in the penal code." There is so much weight in this reasoning, that before hearing the counsel of Mr. Smith, I did expect it would be applied to his case, that it would be asserted that he had done nothing indictable, and that for no other kind of offence could he be liable to expulsion. The counsel, however, have preferred to try the other side of this two-edged sword, and to insist that offences not liable to indictment, are the only kinds of misconduct for which the Senate can remove a member on an investigation of the facts, by themselves.

They say that by the sixth article amendatory to the Constitution, the trial by jury is secured to every citizen, in all criminal prosecutions. We had occasion yesterday on the court-martial bill, to remark that this article must be understood to have reference to the trials in courts of common law. The soldier, under your rules and articles of war, if criminally prosecuted, must be tried not by a jury, but by a court martial. The trial by jury is secured for the decision of questions arising from what the elementary writers on government call civil rights—the rights which in republican Governments are enjoyed alike by every citizen, as subject to the laws. These are altogether different from political rights; or rights which we enjoy as partakers of the public power; as members of the sovereignty. Among these are the rights of electing and being elected; and the rights of office enjoyed by all public functionaries—such is the right possessed by each of us to his seat upon this floor. One of the greatest writers upon the nature of laws, the ingenious and profound Montesquieu, pointedly cautions his readers and all students in the laws, not to confound the rules and principles belonging to these distinct classes of rights. The trial by jury meant by this article of the Constitution, is reserved for the decision of questions affecting the civil, and not the political rights of the citizen. The sentence is to operate upon his individual person, or property, but not upon his political franchises. To decide upon these, other courses of proceeding are provided—courts martial for military men, impeachment for civil officers, and for members of the Legislative body, the process which we are now pursuing.

But it is said that if the Senate try and decide upon offences committed by their members, they will still remain liable to indictment, and the weight of such a decision by the Senate would have an oppressive influence to dictate the verdict of the jury. This argument pays a very poor compliment to the juries of our country. It rests upon a position, which I trust is altogether unfounded, that they will be governed by a bias in direct violation of their oaths. Our juries, sir, are always sworn to give their verdicts according to the evidence, and certainly no vote of expulsion could be offered in evidence to a jury, upon a criminal prosecution. So far as I have any experience of juries, I have always seen them sufficiently guarded against any bias of external circumstances; especially such as might operate unfavorably to the person upon trial. It is the natural character of our countrymen, and it may be safely relied on. No jury would ever be warped from the line of their duty, to condemn a person accused upon a resolution of this body, which could not be adduced to them in evidence.

We are told that this is the precise distinction between the two cases, which have heretofore occurred in the Senate. That the case of Mr. Marshall was, and that of Mr. Blount was not, an indictable offence, that this distinction perfectly reconciles the proceedings in those two cases. But no such distinction appears upon the face of those cases. From the terms in which the report against Mr. Blount was expressed, it would seem as if the reporters had a doubt of the opposite kind; a doubt like that urged on Mr. Chase's impeachment, that is, whether a member could be expelled for an offence not indictable; for after describing at some length the moral complexion of Mr. Blount's act, they expressly add that it amounts to a high misdemeanor, words which seem expressly chosen to intimate an opinion that the act was indictable; a misdemeanor being the technical language of the law, the special characteristic of an indictable offence.

The course recommended to the Senate, as a substitute instead of that which they have pursued, is itself liable to objections, insuperable to my understanding. I do not find in the Constitution any authority given to the Senate to direct any law officer of the United States to com-

mence a prosecution at law, against one of their members. Neither do I find them invested with the power of sequestering a member from his seat. The gentleman said, it was incidental to the power of expulsion. If so, the incident is much broader than the power itself—the superstructure far more extensive than the base. The power of expulsion operates only upon the member. The State retains all its right to be represented, and only suffers during the time, which it may require to supply the vacated place. But when you sequester a member from his seat, you also sequester his State from its proper representation. You leave her only one member, while all her sisters have two—and if this sequestration is to continue through all the imparlances of a prosecution in a court at law, this suspension of the State's representation might last through a whole Senatorial term of duty. The same principle, in its application to the other House, would often sequester a district of people from their share in the national representation during the full Congressional period—not to mention the opportunities it would afford to personal enemies and political opponents of taking an obnoxious member from his seat, by the mere institution of a criminal process against him. Another obstacle to this procedure arises from the danger of transferring the decision upon the qualifications of your members from your own body to a different, and perhaps a distant tribunal. It proposes to place the trial of the cause under one jurisdiction, and the sentence to be pronounced by another. Instead of acting upon evidence and information exhibited to your own view, you must take upon trust the correctness of proceeding of every county court of criminal jurisdiction throughout the Union, and resign the right of your members to their seats into the hands of every jury in a court of quarter sessions. This consequence is so obvious, and so incompatible with the clearest privileges of this body, that the counsel themselves perceived it, and shrunk back from their own conclusions. They admitted that after the trial at law, the verdict of the jury would not be conclusive, as a ground for the decision of the Senate on the question for expulsion—nay, they admitted that even after a verdict of acquittal, the Senate might again enter upon the inquiry. If the acquittal were on fair and honorable grounds, they thought the Senate would be bound to abide by it, but if it should be obtained upon legal exceptions, or by the exclusion of evidence upon objections to the mere legal competency of the testimony, we might resume the investigation, and proceed to expel the acquitted member, on such evidence excluded by the formal limitations of practice in the judicial court. But, sir, how are the Senate to know, unless it be from the face of the record, upon what grounds the party was acquitted? His plea to the indictment is, "not guilty." This is the issue upon the trial, and under this issue the person accused is entitled to the benefit of every exception of legal form as well as honorable substance. The jury are judges both of the law and the fact. The testimony, whether admitted or excluded, seldom appears upon the record. The jury on combining every point, both of law and of testimony, find it sufficient to convict the party accused, and they return a general verdict in the two words of his plea "not guilty." They give no reason for their verdict. The jury at Richmond, indeed, on the trial of Mr. Burr for treason, did assign a reason—but this was an extraordinary exception—they are not obliged to give their reasons, and they scarcely ever do give them. How then are we to know whether the acquittal was honorable or otherwise, by receiving testimony? Why then we return to that original foundation of our own sound discretion, upon which I have contended that our authority rests. We send the party to a court of law for trial, and the court sends him back to us for two—one for himself, and one for the jury which acquitted him. We go from discretion to law; and then, with an aggravated burden, return from law to discretion.

Let us, however, for a moment suppose that this doctrine of Mr. Smith's counsel is correct, and that our authority to try this cause is appellate, and not original. The consequence is, that we ought now to do what they tell us we ought to have done at first. Their argument invites us now to sequester this gentleman from his seat, and send him to a circuit court of the United States for trial by jury, with directions to the proper law officer to commence a prosecution against him, and with the whole mass of evidence which has been here produced against him; that the personal attendance of the witnesses may be obtained at the proper time and place. If, sir, the object were to deprive Mr. Smith of his seat for the remainder of his term, this process would answer as effectually as the adoption of the resolution before you. I must, therefore, believe that it cannot be Mr. Smith's desire that we should, on this occasion, renounce our own course, to follow that inculcated upon us by his counsel.

Having, then, disposed of the objections to the jurisdiction of the Senate, let us pass to those which have been urged with equal solemnity against the species of evidence which has been received. I listened with great attention to the comparison drawn by the gentleman who insisted most upon this point, and, in particular, to the parallel which he drew between the relative merits of written and oral testimony. There are doubtless advantages to be derived from the examination of witnesses in person, which cannot be communicated to written depositions. But theoretical perfection must necessarily yield to possible practice. The evidence on such an inquiry as this, is, from the necessity of the case, all voluntary. The member whose conduct is implicated, has great advantages for defence, which he would not possess on a trial in a court of law. He is defended by the able counsel admitted at your bar, when there is no legal counsel against him. He has the opportunity to collect, with all the industry and activity inspired by his interest, every particle of evidence that can be brought in his favor, while that which appears against him, must come without search; must present itself

uninvited. No member of this body can be charged with the duty, and surely none would spontaneously undertake the task of summoning witnesses to attend here in person from the two extremities of the Union; nor, were they summoned, is it at all clear that they would be compelled to attend. To call exclusively for the evidence of witnesses in person, is therefore to strike at the root of the Senate's power to pursue such an inquiry as this. It is to make the power expressly delegated nugatory. So at least it would be in the great number of cases; and, in the present instance, it would require us to go through this whole investigation again. We must consider everything hitherto done as an absolute nullity, and send for perhaps an hundred witnesses, from New Orleans to Newtown, in Connecticut, to assemble here at some day of the next session, (we shall certainly not have time for it during the present,) to testify to the conduct of Mr. Smith, and to the characters of the witnesses for and against him. This objection, therefore, if valid, would, in its operation, be as unfriendly to Mr. Smith as the last. As that would send him to a court of law for the trial of a title extinct before it could be confirmed, so this would postpone the question upon the right to his seat, until the seat itself will be vacated by the lapse of time. It is, I presume, from this necessity of the case, that in the British House of Commons, proceedings of this nature are always in a great degree summary, and that the evidence upon which they proceed is subject to none of the restrictions to which they so rigidly adhere in their courts of law. As our power of expulsion is granted in the Constitution, and as it was no doubt originally derived from the English Parliamentary usage, I thought it my duty to consult with as much care and attention as a limited time would allow, the journals and debates of the House of Commons in England, to ascertain what their practice had been in these cases. Nor could I hear, without astonishment, the assertion so confidently made by one of the gentlemen of counsel for Mr. Smith, (Mr. Key,) that no instance of this summary proceeding could be found in the British Parliament, unless it were in the time of Cromwell. Where the gentleman obtained his information, it is not my business to inquire; but I can say that, in my examination of the journals, I have been unable to find a single instance in which any other than a summary process is pursued, or in which the judicial rules for authenticating evidence are required. That this, however, may no longer rest upon assertion, I shall now read you, sir, two cases which occurred—not in the time of Cromwell, but in that of Queen Anne. The first is that of Thomas Ridge, which, in the Parliamentary Debates, is related thus:—(Vol. 14, p. 177.)

"On the third of January, Mr. Harley, Chancellor of the Exchequer, acquainted the Commons, 'that on examinations relating to the Navy, taken before the Lords Commissioners of the Treasury, some considerable abuses had been discovered in the victualling, and that a member of that House was named therein: upon which the Commons resolved to present an address to the Queen, to have those examinations laid before them: which being done accordingly, and the same referred to a committee, Mr. Ridge, the member named therein, desired that he might attend that committee to make his innocency appear.' He attended the committee; they reported against him, and, afterwards, on the 15th, 'the commons took into consideration the report from the committee appointed to inquire into the abuses of the victualling; and the report being read, it was unanimously resolved, that it appears to this House that in the management of Her Majesty's brew-house, as well as in the contracts for furnishing the Navy with beer, there have been many notorious embezzlements and scandalous abuses, to the defrauding the public of great sums of money, to the injury and discouragement of the seamen; and ordered that the commissioners of victualling have a copy of the said report.'

"After this Mr. Ridge was heard in his place to the matter of the report relating to him, and being withdrawn, it was resolved—

"1. That it appears to this House that Thomas Ridge, Esq., a member of this House, is guilty of great frauds and abuses, by having contracted to furnish five thousand five hundred and thirteen tons of beer upon his own account, and two thousand seven hundred and four tons of beer in partnership with Mr. Dixon, and having received bills for the whole, although he delivered but three thousand two hundred and thirteen tons of the first, and one thousand two hundred and sixty-nine, upon the latter contract.

"2. That Thomas Ridge, Esq., be for the said frauds and abuses expelled this House.

"3. That an humble address be presented to Her Majesty, that she will be pleased to give direction to her Attorney General to prosecute the said Mr. Ridge, for the said frauds and abuses—p. 181."

Shall we now be told, Mr. President, that the practice of the English House of Commons, on cases of expulsion, is never summary; that they first send the member to a court of law for his trial; that they receive against him none but judicial evidence? Here is a case, not in times of violence and faction; not for political motives, or to remove an able and obnoxious member, but for mere fraud and embezzlement; the member is merely named in certain written examinations; on that evidence, after reference to a committee, and their report, he is expelled, and immediately after, an address to the Queen is voted, to direct a prosecution against him for the same acts.

The next case is that of Mr. Walpole. He was implicated in a report from the Commissioners of public accounts; he was heard before them, and there had a witness sworn to an affidavit in his favor. On their report, they presented to the House the depositions of this witness, which were received and read. Another witness was called in and examined, apparently not on oath, before the House itself. Mr. Walpole was heard in his place, and withdrew; after which the House came to the following resolutions:

"1. That Robert Walpole, Esq. (a member of this House,) in receiving the sum of five hundred guineas, and in taking a note for five hundred pounds more, on account of two contracts, for forage of Her Majesty's troops quartered in North Britain, made by him when Secretary at War, pursuant to a power granted to him by the late Lord Treasurer, is guilty of a high breach of trust and notorious corruption."

"2. That the said Robert Walpole, Esq., be for the said offence committed prisoner to the Tower of London, during the pleasure of this House; and that Mr. Speaker do issue his warrant accordingly.

"Then a motion being made and the question put that the House should adjourn, it passed in the negative; and after a small debate it was resolved (though by a small majority of about thirty voices,) that the said Robert Walpole, Esq. be for the said offence also expelled the House."

The only cases of expulsion which I recollect to have occurred during the present reign are those of Mr. Wilkes, which occasioned so great a fermentation in that country, from a subsequent question raised by the House of Commons in their decision that by the mere fact of expulsion he was incapacitated from being elected again. I shall not refer to this case at all as a precedent, but will barely read to you a few remarks made on it by Mr. Belsham, an historian who has been censured as leaning to an excess in favor of republican principles. He says:

"It could not be denied that the House of Commons had ever exercised a judicial authority, *which could in no other hands be so properly placed*, in determining upon the validity of returns, and the qualifications of their own members. This authority might undoubtedly be abused, or indiscreetly exercised, but all power is in its own nature liable to abuse; and if so vague an objection be admitted, the powers vested in all political bodies, however constituted, must be annihilated, and the bonds of civil society are at once dissolved. The power of expulsion, for such offences as appear to the House to render any of its members unworthy of the trust reposed in them, had been exercised in numerous instances, from time immemorial;" and afterwards, "It must nevertheless be acknowledged, that a discretionary power of expulsion is liable to be perverted to very bad purpose; and, therefore, it was judged proper by an act passed in the course of the ensuing session to specify the offences which shall in future render incapacitation the necessary result of expulsion."

There was one other observation of the same gentleman, (Mr. KEY,) contesting a position in the report of the committee, which I think it necessary to notice, because it is the renewal of an objection already refuted upon this floor. In referring to the proceedings on the expulsion of Mr. Blount, the report says:

"In that case the member implicated was called upon, in the first instance, to answer whether he was the author of a letter, the copy of which only was produced, and the writing of which was the cause of his expulsion. He was afterwards requested to declare whether he was the author of the letter itself; and declining in both cases to answer, the fact of his having written it was established by a comparison of his handwriting, and by the belief of persons who had seen him write, upon inspection of the letter. *In all these points the committee perceive the admission of a species of evidence which in courts of criminal jurisdiction would be excluded.*"

Very soon after the report was made, Mr. Smith, in a letter, I think, addressed to you, Mr. President, asserted that this was a mistake on a point of law—that the comparison of hands, and inspection by persons who had seen the party write, was evidence admitted in every day's practice on criminal prosecutions at law. Part of this doctrine was afterwards disclaimed in debate on the floor. It was acknowledged that comparison of hands is never admitted as evidence on criminal trials. I know very well that inspection of the handwriting, by persons who have seen the party write, is evidence at law; but it must be upon oath. In Mr. Blount's case it was received by the committee, without oath; and it was in allusion to this that the report included it as part of the testimony admitted there, though it would have been excluded from a court of law. I know also, that the same testimony was in that case afterwards given in the Senate, upon oath. The report never meant to say that formal evidence was excluded. It only noticed the informal evidence which was admitted.

I have now finished my remarks upon that part of Mr. Smith's evidence, which rests upon the supposed irregularity of the proceedings which have hitherto been sanctioned by the Senate, on this investigation, and upon objections against the principles maintained in the report of the committee. The question on the facts remains still to be discussed.

What, then, is the evidence of Mr. Smith's participation in the conspiracy of Aaron Burr?

Since the resolution now under consideration was first offered to the Senate, the state of the evidence has very considerably changed; in some respects favorably for Mr. Smith's defence; in others, to my mind, more inauspiciously. The testimony of Elias Glover, I consider as totally discredited; but since the deposition produced by Mr. Smith to the committee, with his answers to their queries, I gave very little credit to that witness, even before the accumulation of evidence against him, which Mr. Smith has since obtained, and recently exhibited to the Senate. Even then I thought the testimony of Glover could be of very little weight, otherwise than as it was confirmed by that of others. With the same exception, I now give it no credit at all. Stripped of the confirmation which it may receive, from admitted circumstances from other testimony, and from Mr. Smith's own acknowledgments, I consider the case as if no affidavit of Glover belonged to it.

But if the credit of Elias Glover has been annihilated, that of Peter Taylor has been beyond all controversy confirmed. In his answers to the committee, Mr. Smith denied almost all the material facts, (and material in the highest degree they are,) attested by Peter Taylor, respecting him, on the trials at Richmond, and he declared his belief that he could prove, by witnesses of the first respectability, his want of character as a man of truth and veracity. Since then, Mr. Smith has had the fullest opportunity to cross-examine the man himself, and to take testimony to his general character. And what is the result? The general character of Peter Taylor has risen purified

from the furnace. In every witness of whom the question was asked, he had found a panegyrist. One or two mistakes of circumstances perfectly immaterial to Mr. Smith, or to any other person implicated, have been discovered in a lynx-eyed scrutiny of his testimony at Richmond; and the candor with which he instantly acknowledged them, and the firmness with which, on Mr. Smith's inquiries, he persevered in asserting all the important facts of his narrative, have given to his evidence a much greater weight than it could claim before. So decisive indeed is it, that Mr. Smith's counsel now solemnly admits those facts which Mr. Smith had as solemnly denied in his answer; and argues with his usual ingenuity to dispel their effect.

Of Colonel James Taylor, the testimony has been in one respect counteracted, and in another much strengthened. His character was so well known, and so universally respected, that no attempt could be made to assail it, other than on the basis of a supposed mistake. This mistake, Mr. Smith, in his affidavit, made before he left this place, asserted that he expected to prove by General Findley; the only third person in hearing, according to Colonel Taylor's statement, when the conversation, occasioned by the *Querist*, occurred. Mr. Smith returns without the deposition of General Findley; but in its stead he brings a deposition of his friend Dr. Sellman, and also a private letter to him from the same Dr. Sellman, intimating that General Findley could not confirm Colonel Taylor's testimony; but with a broad insinuation that General Findley would not give that deposition in favor of Mr. Smith, which he ought, for fear of losing his office. On the fact of this particular conversation, then, we must balance the weight of testimony apparently contradictory. It is barely possible that the conversations mentioned by the two witnesses, were not the same, but held at different times; and as evidence seemingly variant between two persons of character, ought always, if possible, to be reconciled, perhaps the fair and candid construction would be that. If, however, it was the same conversation, we must be reduced to the necessity of choosing which of the two witnesses has been most correct in his recollection. I cannot but consider the express testimony of Colonel Taylor, confirmed by the silence of General Findley, as that which is best entitled to our belief. Colonel Taylor, we know, was on this occasion a most reluctant witness; he had been the friend and intimate acquaintance of Mr. Smith; his principle obviously was to say as little as possible, consistent with his obligations to speak the truth. The impressions on his mind did not stand singly upon his judgment; he had compared them with those of General Findley, and by that comparison had found them confirmed. They had not slumbered upon his memory for a length of time, so as to lose their distinctness. He had communicated them to the Secretary of State in his letter of the 13th of October, 1806, written a very few days after the conversation was held. An extract of this letter is in evidence before us, and it tallies exactly with Colonel Taylor's testimony given to the committee and before the Senate. The impartiality of Colonel Taylor, his candor, his tenderness for Mr. Smith, the excellency of his general character, and his appeal to the recollection of another respectable witness in confirmation of his own, all combine to give his testimony the highest claim to our belief. With Dr. Sellman I have no personal acquaintance, and can, therefore, speak of him only upon the evidence exhibited here on this occasion. He appears at least in the character of a very ardent partisan of Mr. Smith. In the newspapers transmitted to us, I see his name at the foot of several very violent publications, which have not been read, but which show that fifteen months ago he had in some sort staked his own character upon the reputation of Mr. Smith. A number of depositions concur to prove that he, in company with a man who has since been convicted of an atrocious robbery, was at the head of a party who burst open the doors, and broke in upon a meeting of private citizens assembled to pass certain resolutions unfavorable to Mr. Smith, and threatened them with a coat of tar and feathers. The insinuation in his private letter to Mr. Smith, against the fair fame of General Findley, bears no distinguishing features of an ingenuous mind. I cannot believe that General Findley, a man of honorable consideration in society, holding an important public trust, could have been actuated by such unworthy motives in declining to contradict Colonel Taylor's deposition. Could he have done it consistently with truth, he had every inducement that could operate upon generous feelings to do it. His contradiction would not have impaired the reputation of Colonel Taylor. It would not have induced a probability that he was mistaken. But to Mr. Smith it was of the first importance—his reputation in the world, his seat in the councils of the nation, the comfort of his life, the peace and happiness of his family, were all at stake, and called in the most imperious manner for the testimony of a man, who, by merely declaring that he had understood his meaning differently from the witness appealing to him, might have removed from him the burden of this imputation. It is impossible to believe that he was deterred from such an act of signal justice, by the base and contemptible fear of losing his office.

But, in addition to the evidence exhibited before the departure of Mr. Smith from this place, a multitude of new depositions are now produced; most of them obtained by himself, for the purpose of his own exculpation, and two or three furnishing strong additional circumstances against him; even those which he brings for his own discharge, have disclosed a fact of the highest import, in my estimation, very unfriendly to his defence. I mean his studious avoidance of appearing before the grand jury at Frankfort, in Kentucky, on the second complaint against Burr, in December, 1806. From the fullest consideration which I have been able to bestow upon the whole mass of this additional testimony, I have not discovered in it any ground sufficient for the rejection of this resolution. I still am convinced that it ought to pass. The most material of all the witnesses, to demonstrate that conduct of Mr. Smith, which, in my mind, imposes upon the Senate the necessity of coming to this decision, is *himself*. It is the coincidence between his course of conduct and that of Mr. Burr; his own tardy acknowledgments; his own alternate denials and admissions; his own consciousness of participation in unlawful proceedings, and the testimony of his own witnesses, which constitute the most irresistible evidence against him. The other witnesses and the circumstances of the times, chiefly serve to corroborate and elucidate, what he and his witnesses show, in feeble characters, and indistinct obscurity.

To exhibit this coincidence of conduct between Mr. Smith and Mr. Burr, in that light of which it is susceptible, it may be necessary, Mr. President, to review the transactions of Col. Burr, in relation to these projects, from the time when he descended from that chair, in which you now sit, until the arrival of the President's Proclamation at Cincinnati, on the 13th of December, 1806; and to compare the conduct of Mr. Smith, contemporaneous with the several events of public notoriety, and with the facts testified by the witnesses, in the volume of evidence taken at Richmond, and transmitted to Congress by the President of the United States, with the purposes and views of Mr. Burr, at the several stages in the progress of this conspiracy.

On the 3d day of March, 1805, the term of Mr. Burr's career as Vice President of the United States expired. How long, before that time, he had been revolving in mind his designs upon the western division of the Union, we need not inquire; but that they were then entirely new, there is every reason to believe. It is known to many, perhaps to all the members of this body, who were in the Senate at that time, that Mr. Burr, during that period, paid a very studied attention, and professed a peculiar respect to Mr. Smith. Very soon after this, in the Spring, Summer, and Autumn of 1805, Mr. Burr was traversing the Western States and Territories, down to New Orleans, busily engaged in making every preparation possible, at that time, for the campaign of the ensuing year; even then we find, from a great variety of testimony, that Cincinnati, Mr. Smith's place of residence, was a spot where a great portion of Mr. Burr's exertions had been made; even then, from the depositions produced by Mr. Smith, it appears that a Western empire, with *Cincinnati* for its capital, had been fully disclosed to William McFarland. This importance of Cincinnati may serve to explain Mr. Smith's observation to Major Riddle, that, if Burr succeeded, he would prefer living at Cincinnati, rather than at Baltimore or Philadelphia.

In the Winter of 1805, Mr. Burr returns, to spend his time at this place, and at Philadelphia. Here it was that he made his overtures to Mr. Eaton, from whose testimony, I must ask your permission, sir, to read two or three extracts, showing how far his projects were then matured:

"Col. Burr now laid open his project of revolutionizing the territory west of the Alleghany; establishing an independent empire there—New Orleans to be the capital, and he himself to be the chief; organising a military force on the waters of the Mississippi, and carrying conquest to Mexico."

"He stated to me that he had in person (I think the preceding season) made a tour through that country; that he had secured to his interests, and attached to his person, the most distinguished citizens of Tennessee, Kentucky, and Territory of Orleans; that he had inexhaustible resources and funds; that the army of the United States would act with him; that it would be reinforced by ten or twelve thousand men from the above-mentioned States and Territory."

"He had mentioned to me none, as principally and decidedly engaged with him, but General Wilkinson, a Mr. Alston, who, I afterward learned, was his son-in-law, and a Mr. Ephraim Kibby, who, I learned, was late a captain of rangers in Wayne's army." "Of Kibby, he said, that he was brigade major in the vicinity of Cincinnati, (whether in Ohio or in Kentucky, I know not,) who had much influence with the militia, and had already engaged the majority of the brigade to which he belonged, who were ready to march at Mr. Burr's signal. Mr. Burr talked of this revolution as a matter of right inherent in the people, and Constitutional; a revolution which would rather be advantageous than detrimental to the Atlantic States; a revolution which must eventually take place; and for the operation of which the present crisis was peculiarly favorable; that there was no energy, to be dreaded, in the General Government, and his conversations denoted a confidence that his arrangements were so well made that he should meet with no opposition at New Orleans, for the army and the chief citizens of that place were ready to receive him."

Such, then, was the plan of Mr. Burr, and such, by his declarations, the state of his preparatory measures in the Winter of 1805-'6; and I have read the part of his statement relative to Major Kibby, (and I mention it now, lest I might hereafter forget it,) because it may serve to explain what Mr. Smith said to Major Riddle just after the arrival of the President's Proclamation at Cincinnati; that he (Smith) knew more of Burr's plans than any man in the State of Ohio, except *one*. Here, it seems, there was one man, who knew them very sufficiently; and it appears, by the depositions produced by Mr. Smith, that William McFarland also knew a great deal of them.

Let us follow Mr. Burr to Philadelphia, and notice some particulars of his conversations there with Commodore Truxtun, in July, 1806. I shall read from the Commodore's testimony only those parts which may serve best to connect the chain of events, and to show the consistency of Burr's purposes. He had previously, in the Winter, talked with that gentleman about land speculations, but in July, 1806, "He observed, (says the 'Commodore,) that he wished to see, or to make 'me (I do not recollect which) Admiral; for he 'contemplated an expedition into Mexico, in the 'event of a war with Spain, which he thought 'inevitable. Mr. B. then asked me if I would 'take the command of a naval expedition. I 'asked him if the Executive of the United States 'was privy to or concerned in the project. He

'answered me emphatically that they were not. 'I told Mr. Burr that I would have nothing to do 'with it." "Mr. Burr observed that, in the event 'of a war, he intended to establish an independ- 'ent Government in Mexico; that Wilkinson, the 'Army, and many officers of the Navy, would 'join. I replied, that I could not see how any of 'the officers of the United States could join."

"Mr. Burr asked me if I would not write to 'General Wilkinson, as he was about to despatch 'two couriers to him. I told him that I had no 'subject to write on, and declined writing."

This conversation was about the last of July; and I must now recur to one or two passages in the famous ciphered letter to Gen. Wilkinson. In the copy I have before me, it has no date,* but the formal letter of introduction, which Mr. Swartwout carried with it, is dated 25th July, 1806. It was, then, written on or near the same day when Mr. Burr had his last conversation with Commodore Truxtun.

This letter indicates that Mr. Burr was on the point of departure for the execution of the enterprise, which it declares, he had actually commenced; that detachments were to rendezvous on the Ohio, 1st November, and to move down rapidly from the falls on the 15th of November, with the first five hundred or one thousand men, in light boats, constructing for that purpose.

It adds: "Burr will proceed westward, first 'August, never to return; with him goes his daugh- 'ter; the husband will follow in October, with a 'corps of worthies."

Finally, the letter contains also this passage: "Already are orders to the contractor given to for- 'ward six months' provisions to points Wilkin- 'son may name; this shall not be used until the 'last moment, and then under proper injunc- 'tions."

Whether Mr. Burr did actually leave Philadelphia on the 1st of August, as his letter announces, I am unable to collect from any of the testimony that has fallen under my observation; but on the 21st of August, he had reached Pittsburg; and there he invited himself to dinner the next day with Col. Morgan, in a manner precisely similar to that in which he so shortly afterward invited himself to pass five or six days at the house of Mr. Smith. At Colonel Morgan's, he dined and lodged one night. I shall not recur specially to the remarkable testimony of Colonel Morgan and his son, for it must be fresh in the recollection of every one who hears me. I shall barely notice that, during his short visit here, he broached all his doctrines respecting the imbecility of the present Administration, and the right, the interest, and the provocations which the Western people had to separate them from the Atlantic States. He was here commencing that mode of operation for effecting the dismemberment of the Union, which, in his subsequent letter of the 26th October to Mr. Smith, he states to be the only mode in which that object could be accomplished. His experiment did not commence in the right place. His attempt to tamper with men of honor and sentiment, met the reception it deserved. He left the house before breakfast the next morning.

On the 1st of September, he had descended the river and was upon Blannerhasset's island; and, on the 4th of the same month, appeared in the newspaper, at Marietta, the first number of the *Querist*, which was followed by two or three more. I have been unable to obtain a copy of these papers, but the substance of their contents is well known. Their object was to prepare the minds of the people, in that part of the country, for a separation from the Atlantic States; they dilated upon all the topics so familiar in the mouth of Mr. Burr; and so much were they identified with his doctrines, that Dr. Wallace, one of the witnesses at Richmond, with whom Burr had conversed on these subjects in the Summer of 1805, declares that, on his first perusal of these papers, he drew from their internal evidence the conclusion that the ideas were Burr's, and the language Blannerhasset's. Blannerhasset was, indeed, the writer, and precisely at the same time and immediately after, was ranging the country with the activity and spirit of a recruiting officer —promising the plunder of banks at New Orleans and of Mexican mines—settling the hereditary succession of the fancied Crown; and teeming with embassies and empires.

On the very same day that the first number of the "Querist" appeared at Marietta, the 4th of September, Mr. Burr, by the pencilled note, invites himself to the house of Mr. Smith, in Cincinnati, where he is hospitably received and entertained five or six days. During this time, he spends an evening at William McFarland's, where he holds exactly the same kind of conversation about the impotence of Government, the rights and wrongs of the Western country, and their inducements to separate from the rest of the Union. About the 10th of September, he leaves Mr. Smith's; proceeds to Lexington, in Kentucky, where he arrives and concludes his contract for the Washita lands, before the close of that month.

Mr. Smith, in his answers to the queries of the committee, (an answer which he offered to make upon oath,) says that, on this visit, Colonel Burr tarried with him five or six days, and then progressed on his journey—for what he next adds, I must refer to his own words:

"But he did not disclose to me ANY object he had in view. Meanwhile the voice of suspicion and jealousy was raised against him, and although I knew as little of his objects in visiting the Western States as either of you, still, as I had entertained him in conformity to the customs in which I was reared, and according to my own sense of propriety, I felt uneasiness and jealousy in consequence of these reports."

The character of Colonel Burr is now generally well understood; and, when combined with the circumstances I have just mentioned, and with others which I am about to mention, it is difficult to conceive that his visit to Mr. Smith at this time should have been made without design. For the projects he contemplated, and which he was

* It was dated 29th July.

then attempting to carry into execution, Mr. Smith was a man of the very first importance. As a Senator of the United States, it is obvious how useful his services might become, in his attendance here, during the session of Congress. As a contractor for building gunboats, and for supplying the Army with provisions, he could, without exciting suspicion, and without danger of detection, be of the greatest use in performing the same services, and furnishing for Mr. Burr the same kind of supplies. As a man of influence and consideration in the State to which he belonged, his aid in propagating the doctrines of disunion, and in contributing to the accomplishment of that end, were not less desirable. The motives of profit and of distinction which might be held up to his expectations, were of a nature as persuasive upon a mind, which could be as susceptible of receiving them, as those of making Truxtun an Admiral, or Eaton a General. Is it, then, credible that, while Burr was proceeding upon his business, with all the activity and energy of his character; while his boats were building and his provisions collecting; while he was obtruding almost upon every stranger and transient acquaintance, that he found, in his way, the opinions which were suitable to his purpose—while Blannerhasset was filling the newspapers with rebellion, and engaging men for war, under his standard—is it credible, I say, that Burr should have solicited entertainment under the roof of Mr. Smith, and obtained it, for five or six days, without so much as intimating to him any one of his purposes? Is it credible that, in the course of that visit, and in the intimacy between the parties, which the whole transaction so strongly implies, amidst the violent suspicions with which Mr. Burr, even then, was notoriously surrounded, there should never have occurred to the friendly solicitude of Mr. Smith a single inquiry which would have led to a disclosure, real or pretended, of the object of Mr. Burr's visit, and of his progress through the Western States? Should this be deemed, under all these circumstances, a credible thing, I then ask, how Mr. Smith's asseveration that Burr did not then disclose to him ANY object he had in view, is to be reconciled with Mr. Smith's affidavit of 6th January, 1807, in which he says, "Burr did then speak to him about his project of settling a large tract of his Washita lands."

It is one of the peculiarities attending Burr's conduct, through the whole of his conspiracy, that he had always an ostensible object, to serve as a mask to the real design. One of the difficulties and inconveniences of this method of transacting business, is, that in exhibiting the purpose, which is meant only for show, it is apt to be materially variant from itself at different times. It is often variant, not upon trivial incidents, with which the best human memory cannot be accountable for perfect accuracy, but upon the most essential part of the story. It is inconceivable to me, that, at that precise period of Mr. Burr's experiment upon the Western States, he should thus have been, at his own desire, the guest of Mr. Smith, five or six days, without making to him any communication of his real views, while he was so liberally disseminating them to others far less intimate to his acquaintance, and far less important to his purposes —and when we find Mr. Smith's own narrative, upon this very point, so variant from itself at different times, how can we suppress the belief that the real story was not that which could safely be told?

The conversation to which Colonel James Taylor attests, occurs within a very few days after the departure of Mr. Burr from Mr. Smith's house, at this period. The subject of that conversation was the separation of the States. Mr. Smith takes pains to circulate that *Querist*, which was to scatter the seeds of disunion throughout the Western country. Mr. Smith adopts its arguments as his own; and adds others of the same tendency to assist its effects. Mr. Smith contends that these doctrines, however obnoxious then, *in less than two years would become* ORTHODOX. Is there no knowledge and participation in Burr's projects on the face of these expressions? We are told they were speculative opinions; and we hear complaints that a man should be held accountable for his political speculations. But when speculative opinions are associated with military preparations, and a formidable enterprise in the very process of execution, then, sir, they assume a very different complexion from that of free and legitimate discussion. Speculative opinions, at all times, have such an influence upon practice, that I hold it not very justifiable in a man vested with public trust, to speak in terms of approbation, of a dismemberment of this Union, upon any contingency, or at any distance of time. We ought to deprecate this greatest of all possible calamities, for our posterity as well as for ourselves. Yet, I acknowledge, that even these dangerous opinions, when merely speculative, may be expresssed without evil intentions, and ought not to draw the weight of public censure upon the person using them, in the form of a decision of this body. It is the time, the occasion, the circumstance, upon which this speculative opinion was divulged, which display it as evidence of Mr. Smith's participation in Burr's conspiracy against the Union.

We have followed the course of events until the close of September, about which time Blannerhasset follows Mr. Burr into Kentucky. In the course of that and the following month, the preparations and conversations of both these personages: the numbers of the Querist, and certain publications of an opposite character, which appeared in another newspaper, called the Western World, had roused the suspicions, the anxieties, the resentments of the people in that part of the Union, to the highest degree. About the 20th of October, Mrs. Blannerhasset found it necessary to despatch Peter Taylor from the island, into Kentucky, for the purpose of warning Burr, that he could not, with personal safety to himself, return to the island. Taylor was to go first to Chilicothe, then to Smith's, at *Cincinnati;* and there he was to be told where Burr and Blannerhasset were to be found. At this time, it was no longer

safe to inculcate the disunion of the States. The people there, I thank God, were not to be deluded by Mr. Burr's mode or by any other mode of effecting a dismemberment. They were true to themselves and to their country. The public odium had arrived at such a pitch, that it might not be advisable for Mr. Smith to appear so intimate with Burr, as to know where he was to be found, and it might also be necessary for him to have the ostensible object of Burr's purposes ascertained. For, although he says that, when Burr was with him in September, he had talked about the settlement of the Washita lands, yet, at that time, the purchase was not made.

This view of the state of things at that time will explain the particulars of Peter Taylor's testimony: When he arrives at Mr. Smith's, and inquires for Burr and Blannerhasset, Mr. Smith answers, that he knows nothing of either of them. That Taylor must be mistaken; that was not the place; but finding Taylor to be Blannerhasset's servant, he tells him, "he expected they were at Lexington, at the house of a Mr. Jourdan." Now, sir, what does this denial, in the first instance, that he knew anything of them; and this pointing so precisely afterwards to the very house where they were to be found, indicate? The counsel for Mr. Smith says, that Taylor was sent there for Mr. Burr's great-coat; nothing of that appears in the evidence. But, from Taylor's declaration, it appears that he was sent there to ascertain where Burr and Blannerhasset were to be found; that Mr. Smith, at first, denied knowing where they were, and afterwards told him the very house in Lexington where they were to go for them. As the sole object of Taylor's going to Mr. Smith, was to inquire where Burr and Blannerhasset were, and as, before, he left the house, Mr. Smith gave him a letter for Burr, under *cover*, to Blannerhasset, it is impossible to doubt the correctness of Taylor's testimony in that respect; that Mr. Smith told him where to go. The inference is irresistible. This accurate knowledge where they were, and this express denial of that knowledge to a man whom he supposed a stranger, is a proof that, even then, Mr. Smith knew much more than he was willing to avow.

The remainder of Peter Taylor's story, so far as it respects Mr. Smith, all concurs to establish the same fact. Mr. Smith's anxious inquiries for the *news*; for what was passing; for what was *said*, about General Wilkinson; the charge to Peter Taylor not to go to a tavern, lest he should be sifted with questions; and, finally, the letter, professedly to Blannerhasset, but enclosing one to Mr. Burr, all combine to exhibit a state of mind agitated and alarmed, studious of concealment, and fearful of detection.

Above all, consider the inquiry, what was *said* about General Wilkinson. What could have associated in a mind utterly ignorant of all Burr's projects, inquiries about Wilkinson, with the then situation of Burr and Blannerhasset? Recollect the passage of the ciphered letter: "Already has 'the contractor orders to furnish six months pro-'visions at the points Wilkinson shall name; 'this shall be used only at the last moment, and 'then under proper injunctions."

Mr. Smith has, at one time, denied all the material facts attested by Peter Taylor; and he attempted to disgrace his character; so little has he been borne out by his own evidence, now produced, that he formally admits the very facts he had denied. The same course has been pursued with regard to Colonel James Taylor's testimony. Sir, this treatment of the witnesses is not calculated to inspire confidence in the solidity of Mr. Smith's defence. Unfounded attacks upon the character of a respectable witness, not only confirm, but aggravate the weight of his testimony.

If, however, the testimony of Peter Taylor needed confirmation, it would be found in the substance of the letter itself, of which he was the bearer, and of the answer to that letter. To these two documents, I now ask the particular attention of the Senate. The letter is dated 23d October, 1806, and says: "I beg leave to inform you 'that we have, in this quarter, various reports pre-'judicial to your character. It is believed by many 'that your design is to dismember the Union; al-'though I do not believe that you have any such 'design, yet, I must confess, from the mystery and 'rapidity of your movements, that I have fears, 'let your object be what it may, that the tranquil-'lity of the country will be interrupted, unless 'it be candidly disclosed, which I solicit, and to 'which, I presume, you will have no objection."

Now, what is the solicitude manifested in this letter? It is not so much, that Mr. Burr's object should be declared, *not* to be the dismemberment of the Union. It asks for something which may be *told*, to prevent the tranquillity of the country from being interrupted. And it very explicitly intimates what must be *denied*. It is an answer of a very peculiar kind, which appears to be wanted; an answer contained in the letter itself. A voucher is wanted to deny the project for dismembering the Union; and to speak with certainty of the ostensible object. This was the settlement of the Washita lands. Mr. Smith, in one of his narratives, says that Burr had talked with him on this subject in September before; but the purchase of the lands was not then concluded. It was uncertain whether that could now be spoken of as the professed purpose, and Mr. Smith's letter was well adopted to obtain that certainty.

Mr. Burr's answer appears perfectly to have understood the object of these inquiries. Much has been said by Mr. Smith about the apparent *frankness* and *candor* of this letter, and on this document he relies, with great emphasis, as a complete justification of all his subsequent confidence in Mr. Burr. To me, sir, it bears a very different aspect. Considering it in the light of an answer to the solicitude of a man altogether unconscious of Mr. Burr's real designs, and aware of the extremely suspicious appearances in which the conduct of Mr. Burr was involved, this answer appears to me calculated for anything rather than to restore confidence. To manifest its real character, let us attend to some of its most remarkable passages. Mr. Burr says:

"If there exists any design to separate the Western from the Eastern States, I am totally ignorant of it. I never harbored or expressed any such intention to any one, nor did any person ever intimate such design to me. Indeed, I have no conception of any mode in which such a measure could be promoted, except *by operating on the minds of the people*, and demonstrating it to be their interest. I have never written or published a line on this subject, nor ever expressed any other sentiments than those which you have heard from me in public companies, at Washington and elsewhere, *and in which I think you concurred.*"

At this passage there are the following notes by Mr. Smith:

"J. Smith has heard Colonel Burr and others say, that in fifty or an hundred years, the territory of the United States would compose two distinct Governments."

I return to the letter:

"I have no political view whatever. Those which I entertained some months ago, and which were communicated to you, have been abandoned."

Here is another note by Mr. Smith:

"J. Smith presumes that Mr. Burr refers to an invitation to settle in Tennessee, of which he heard him speak."

The letter proceeds:

"Having bought of Colonel Lynch four hundred thousand acres of land on the Washita, I propose to send thither, this Fall, a number of settlers—as many as will go and labor a certain time, to be paid in land, and found in provisions for the time they labor—perhaps one year. Mr. J. Breckinridge, Adair, and Fowler, have separately told me that it was the strong desire of the Administration that American settlers should go into that quarter, and that I could not do a thing more grateful to the Government. *I have some other views, which are personal, merely, and which I shall have no objection to state to you personally, but which I do not deem it necessary to publish. If these projects could anyway affect the interests of the United States, it would be beneficially; yet, I acknowledge that no public considerations have led me to this speculation, but merely the interest and comfort of myself and my friends.*"

And, finally, there is the following marginal admonition:

"It may be an unnecessary caution, but I never write for publication."

Thus you see, sir, that the design of separating the States is denied in terms explicit, as Mr. Smith's letter had desired; but, with how much regard to truth, this volume of evidence at Richmond has sufficiently proved. The purchase of the Washita lands is announced to have been completed. Thus far, the answer is precisely such as the letter seemed to ask; but all the rest is darkness and oblivion. The caution against publication was itself not naturally suited to inspire confidence. It seems to say, You may show this letter, but you must not publish it. The other allusions are so obscure—so unintelligible—that Mr. Smith has found it necessary to make them clear by explanatory notes. There is a reference to former conversations on the subject of a separation of the States, in which Mr. Smith is *reminded that he concurred* with the sentiment which Mr. Burr had expressed. Mr. Smith's note intimates that this refers to opinions about the separation of the Union in some fifty or a hundred years. But, if Burr's speculations in public companies postponed to so distant a date the event, which he was projecting, to Eaton, to the Morgans, to Blannerhasset, to McFarland, and Glover, he had been urging the propriety of their accomplishment at a much earlier day. And, from the testimony of Col. James Taylor, it would seem that the concurrence of sentiment for which Mr. Burr refers to the consciousness of Mr. Smith, extended no less to the practical projects than to the speculative opinions of Burr—to the separation of the States within five or two years rather than to the disemberment of the next century. The mode, says Mr. Burr, for promoting such a measure would be by operating on the minds of the people, and demonstrating it to be their interest. Now this was the very mode in which Mr. Burr and Blannerhasset under him had been attempting to promote the measure. Burr had been so operating at Cincinnati the year before this. And William McFarland at least had persuaded, that Cincinnati was to be the Capital of the Western empire. He had been so operating all the way at least from Pittsburg, in August, and until he left Cincinnati in September, only six weeks before these letters were written. The *Querist* was one of these instruments of the *mode* for operating, upon the minds of the people. And when the *Querist* first appeared, Mr. Smith had expressed his approbation of its contents. Is not this the sort of concurrence to which Mr. Burr alludes, rather than that of speculating upon the destinies of a future age? The rest of the letter is equally obscure. Mr. Burr's abandonment of a project for settling in Tennessee requires the explanation of a note from Mr. Smith; and that note is conjectural. Mr. Burr has some other views, merely personal, which he can only communicate *personally*. If they could affect the interests of the United States, it would only be beneficially; but they were prompted by no public considerations, but merely for the interest and comfort of himself and his friends.

Mr. President, I ask again the attention of the Senate to this remarkable sentence. Did Mr. Smith, on receiving the letter, understand this sentence, or did he not? If he did, where is the whole defence which he has now set up? If he did not, was this paragraph calculated to inspire his confidence? Was it calculated to remove suspicions? Projects which could only be *personally* disclosed! Projects which might affect the interests of the United States! Projects prompted by *no public* considerations! but merely by personal interest for himself and *his friends!* And was this to remove suspicion from the mind of a Senator of the United States? Was this an answer to calm anxieties and restore confidence? Is not the very language of it suspicious? Equivocal? Ambiguous? I ask every member of this Senate to put the question to himself. Had you been at that time in the midst of the scene of Burr's operations, and had you received such an answer

to a letter of solicitous inquiry, would it not have increased instead of allaying your alarm? Would you not have seen in this paragraph a concealment suspicious in itself—darkened still further by expressions of dangerous import and of doubtful legality? Strange indeed must be the texture of that mind to which this answer could restore unqualified confidence in the writer!

But, sir, if Mr. Smith had seen nothing in this letter to startle confidence, instead of composing it, was there nothing in the course of public events at that time, which might and should have aroused him to more than suspicion? Mr. Burr's letter was dated on the 26th of October; within ten days from that time, that is, on the 5th of November following, the District Attorney of the United States in Kentucky filed a complaint against Mr. Burr, for a violation of the laws of the United States in setting on foot an expedition against Mexico, which complaint I beg leave to read—

"J. H. Daviess, attorney for the said United States, in and for said district, upon his corporal oath, doth depose and say, that the deponent is informed, and doth verily believe, that a certain Aaron Burr, Esq. late Vice President of the United States, for several said months past hath been and is now engaged in preparing and setting on foot, and in providing and preparing the means for a military expedition and enterprise, within this district, for the purpose of descending the Ohio and Mississippi therewith, and making war upon the subjects of the King of Spain, who are now in a state of peace with the people of the United States, to wit: on the province of Mexico, on the westwardly side of Louisiana, which appertain and belong to the King of Spain, an European prince, with whom the United States are at peace.

"And said deponent further saith, that he is informed, and fully believes, that the above charge can, and will be fully substantiated by evidence, provided this honorable court will grant compulsory process to bring in witnesses to testify thereto.

"And this deponent further saith, that he is informed, and verily believes that the agents, and emissaries of the said Burr, have purchased up, and are continuing to purchase large stores of provisions as if for an army, while the said Burr seems to conceal in great mystery, from the people at large, his purposes, and projects: and while the minds of the good people of this district seem agitated with the current rumor, that a military expedition against some neighboring Power is preparing by said Aaron Burr.

"Wherefore, said attorney, on behalf of said United States, prays that due process issue to compel the personal appearance of the said Aaron Burr in this court, and also of such witnesses as may be necessary in behalf of the said United States; and that this honorable court will duly recognize the said Aaron Burr, to answer such charges as may be preferred against him in the premises. And in the mean time, that he desist and refrain from all further preparation and proceeding in the said armament, within the said United States, or the territories, or dependencies thereof."

It will be remembered that on this complaint a grand jury was summoned, and on the 8th of November discharged, because Davis Floyd, whom the attorney deemed a material witness, and whom we now know to have been one of Mr. Burr's principal associates, was absent. We all know what the effect of this transaction was here. Certainly not of inspiring *confidence* in those who were *ignorant* of Mr. Burr's real designs.

No, sir! The confidence, which this abortive attempt to bring Mr. Burr to justice inspired, was in himself and associates. He wrote immediately to Blannerhasset, not to apprehend any danger from this prosecution, (which his friends then and so long after called a persecution,) but *delay* in the settlement of the lands; and one fortnight after—that is, on the twenty-third day of November—we see him again at Cincinnati, making the promised personal and confidential communication to Mr. Smith, which he had not dared in the letter of 26th October to commit to paper—and no wonder; for it is a complete and unquestionable acknowledgment of the identical crime, for which Mr. Burr had been summoned into court at Frankfort, not twenty days before, and discharged merely from the failure of a witness to attend. But it is not merely a confession of *that* guilt, it imports much more; and the very terms used by Mr. Smith, relating it, in his affidavit of 6th of June, 1807, show that he understood it as importing more. Mr. Burr tells Mr. Smith, that his design "is not dishonorable, or *inimical* to this Government;" he "repeated that his object was *not hostile to the people of the United States or dishonorable to himself*;" and that he would be "the *best neighbor this country ever had.*" Whether the design was honorable or dishonorable, Mr. Smith should have judged for himself. That it was not inimical to this Government, there was little reason for him to believe, when coupled with those boiling resentments, which overflowed from the lips of Mr. Burr in the very act of making this acknowledgment. "In this Gov-'ernment he had been persecuted, shamefully per-'secuted, and he was sorry to say, that in it all pri-'vate confidence between man and man, seemed 'to be nearly destroyed." And in this state of temper, Mr. Burr "ventured to tell Mr. Smith 'that if there should be war between the United 'States and Spain, he *Burr*, should *head a corps 'of volunteers, and be the first to march in the 'Mexican provinces*; if peace should be preserved, 'which he did not expect, he should settle his 'Washita lands, and make society as pleasant as 'possible."

And this is the communication, which *added strength* to Mr. Smith's confidence in Mr. Burr! This is the communication upon which Mr. Smith engaged his two sons to go as Burr's associates!

The attack upon Mexico was to be *in case* war should take place between Spain and the United States. But is it possible, sir, that a man of Mr. Smith's understanding should *at that time*, and under these circumstances, have given an instant of credit to that shallow pretence? If Mr. Swartwout, one of Burr's acknowledged associates, was ashamed of pretending to rely on this tale of contingent war, and frankly told the grand jury at Richmond that they were to attack Mexico, to

be sure, in case of a war with Spain; but if there had been *no* war *he* was ready to forget the law of the United States against such expeditions. If Commodore Truxtun, a private citizen, smarting under the injuries which he conceived he had suffered from the Administration, even in July, while the project was but in prospect, and not in actual execution, made his first and emphatical question, whether the Government of the United States was acquainted with it, and on being informed that that they were not, instantly refused to have any concern with it; let me ask, whether in the last days of November, while Burr was persevering in his preparations, after having been brought before a judicial court upon the very charge, and dismissed solely because a witness was absent, *a Senator of the United States*, receiving this communication from Burr himself, could possibly be the dupe of this pretence? Whether his first question ought not to have been that of Commodore Truxtun: Is the Executive of the United States informed of your designs? Is it possible, sir, that this disclosure of the intended Mexican invasion, could confirm the confidence of Mr. Smith, when it was the very thing for which the district attorney not three weeks before had entered the complaint against Mr. Burr, before the court of the United States competent to try that offence? Is it possible that Mr. Burr's confession of his guilt should have been the confirmation of Mr. Smith's confidence? Yes, sir; so far as relates to the misdemeanor—to Mr. Smith's participation in the project for invading Mexico—his own affidavit on the 6th of January, 1807, is evidence, which, in my mind, nothing can control. His engagement of his two sons to Mr. Burr, admits neither of denial nor of jurisdiction.

About ten days after this, on the second and third of December, Mr. Smith goes to Cynthiana, Frankfort, and Lexington, to purchase provisions, and to sell bills of exchange. Here he accidentally sees again Mr. Burr. He he finds that Mr. Burr is for the second time charged, and now before a grand jury, with that very offence of preparing an expedition against Mexico, which in his confidential communication to Mr. Smith he had explicitly avowed. And Mr. Smith, by the testimony of three of his own witnesses, hurries away from the scene to avoid being subpœnaed as a witness, declaring that he knows nothing on the subject that could either criminate or justify Mr. Burr. The first of these witnesses is Kelly, Mr. Smith's confidential agent and storekeeper at Cynthiana; of whose character as a man of uprightness and veracity, the most respectable attestations are produced. After stating the motive of Mr. Smith's going to Cynthiana, and thence to Lexington, Kelly's deposition, produced there by Mr. Smith himself, proceeds thus:

"He returned and informed me that on his arrival at Lexington he understood that the principal men, with whom he wished to transact business, were at Frankfort; that he was also informed that a prosecution, the second time, was commenced against Colonel Burr, and he (Smith) was told, that if it was known he was in the State, he would be subpœnaed as a witness; that he told his informers he would not put them to the trouble to summon him, if he had a fresh horse he would go on there immediately; finding he could not see the men he wished to see, he started for Frankfort; that on his arrival there he inquired for Major Morrison, I think he said, in two or three public houses, but could not find him; that he was informed the investigation into Burr's conduct before the grand jury was delayed for want of General Adair, who was said to be a principal witness against him, and that in all probability proceedings would be staid for several days, and as he (Smith) could not be detained so long from his business, particularly as he *knew nothing that would either criminate or exculpate Colonel Burr*; that if his testimony could be of any benefit either way he would have staid with pleasure, but *as he was entirely ignorant of any of Burr's political views*, he conceived to stay there for no purpose would be doing injustice to his private as well as public concerns, and therefore, as he was not summoned, he started away early next morning."

Mr. Jordan's deposition, after relating Mr. Smith's applications to him respecting the bills of exchange, says—

"The conversation then turned on the pending trial of Colonel Burr; and I mentioned that I had been called on as a witness; and observed that Burr had also been at your house; and was it known that you were in this place, that you would also be called on. You said you was willing; *that you knew nothing of the business*; but, as you could not get your business accomplished here, that if you had a fresh horse you would go to see Major Morrison, and save them any trouble of subpœnaing you."

The deposition of Joseph Taylor is to the same effect; that Mr. Smith denied all knowledge of anything which could operate either for or against Mr. Burr.

Now, sir, how was the fact? Was Mr. Smith thus ignorant? It seems to me that he was not. The disclosure which on the 23d of November, he himself has sworn Mr. Burr had made to him in confidence, was knowledge of the most decisive character on the question before the grand jury; was knowledge, which, had Mr. Smith been even a private citizen, he was bound in duty to have gone and related to them. Admitting that even Mr. Smith could have believed that Burr intended the Mexican invasion, only in case a war should break out; still the preparations he was making were unlawful; still he was guilty of the very charge made against him then before the grand jury; and had confidentially avowed the object to Mr. Smith. Had Mr Smith gone before that grand jury, and told them, from the lips of Mr. Burr, what the affidavit of 6th January, 1807, declares upon oath; that grand jury, instead of dismissing Mr. Burr as they did, with commendation and applause, would have been bound, with the oath of God upon their consciences, to find a bill against him. The confession of Mr. Burr unquestionably brought him within the operation of the statute upon which he was prosecuted, and I cannot but attribute to Mr. Smith's studious avoidance of attending upon that grand jury, all the unfortunate, and I may say calamitous consequences which have befallen this nation, from the failure

of bringing Burr to justice at that time. Had he then been indicted, on Mr. Smith's testimony alone, he must have been convicted. The alarms, the agitations, the extraordinary and irregular stretches of power at New Orleans, which have distressed every free and patriotic heart, would have been needless; would have been prevented. The progress of that pernicious enterprise would have been arrested there. The whole judicial authority of the United States would have been laid prostrate before the wiles of conspiracy. There would have been no trial; no occasion for a trial at Richmond; treason would have been nipped in the bud, and Mr. Smith himself would at this day have been here, in the full enjoyment of his reputation, with his consciousness of having rendered a service of the highest importance to his country. But, sir, unfortunately for him; unfortunately for us; unfortunately for his country, he had engaged his two sons to Mr. Burr. He could not testify against Burr without condemning himself, and he shrunk from the presence of the grand jury.

Ten days after this the President's proclamation and Governor Tiffin's orders for the militia to be called out, both arrived on the same day, the 13th of December, at Cincinnati; and from that time Mr. Smith's exertions to carry into effect the orders both of the General and State Government were characterized with great and extraordinary zeal. But even then he writes to the Secretary at War a narrative not exactly conformable to that afterwards contained in the answer to the committee; in the answer Mr. Smith declares repeatedly that all his *doubts* and *suspicions* about Mr. Burr, had been removed by his openhearted candid letter of 26th October. In the letter to the Secretary of War, he speaks of himself as harboring so strong suspicions on Burr's subsequent visit to Cincinnati in November, as then to have *asked* him *pointedly* if any object he had in view justified the suspicions that prevailed about him, and that from Mr. Burr's apparent candor in answering this question he (Smith) entertained no doubt of him. Now this apparent candor, was an acknowledgment of the very same undertaking which the President's proclamation called upon the people to suppress. The proclamation had no reference to the part of Burr's project which aimed at the dismemberment of the Union—it was the intended invasion of Mexico, which it extended the arm of the nation to restrain—the very expedition upon which Mr. S. had engaged his two sons.

How was it possible that this disclosure of an unlawful design could have restored the confidence and received the countenance of Mr. Smith? It is this, with the circumstances attending it, and which I have noticed, that render Mr. Smith himself the most material of all the witnesses against him. The letter, I have shown, contained little to remove, and much—very much—to excite suspicion. The avowal of the intended march to Mexico was an avowal of guilt. Mr. Smith does not pretend that Mr. Burr hinted to him that the design was approved by the Government. The bitterness with which he spoke of the Government was surely, of itself, an indication to the contrary. Did not Mr. Smith know that this was an unlawful enterprise? Could he have been ignorant of this before? The first prosecution in Kentucky must surely have given him sufficient notice of that. Before he engaged his two sons, ought he not to have inquired how the Washita settlement was to be made?—how the same preparations could be transformed, at pleasure, from purposes of war to purposes of agriculture?—how the same men and the same things could possibly be applied to the invasion of one country and the settlement of another?—by what magic they were to beat their swords into ploughshares, and their spears into pruning-hooks? Even Peter Taylor—the stupid Peter Taylor, as Mr. Smith has pronounced and his counsel endeavored to prove him; even Peter Taylor—when Blannerhasset attempted to engage *him* for the Washita settlement, inquired what kind of *seed* they should carry with them; nor would he be satisfied with Blannerhasset's evasions of this question, but urged him with it until he forced out the whole project—the Mexican empire—the royal diadem of Mr. Burr—and the dismemberment of the American Union! Peter Taylor was indeed, as Mr. Smith says, a gardener. He certainly cannot, in point of understanding, be compared with Mr. Smith; yet, even he could bethink himself of the articles which would be suitable for his agency in a settlement of lands; even he could discern the difference between gardenseeds and gunpowder. And yet, Mr. Smith, a Senator of the United States—a settler in a new country—a confidential and intimate friend of Mr. Burr—engaged his two sons for an amphibious expedition of settlement or war, without putting a single question to ascertain how these schemes of contrariety could be reconciled together—without one single inquiry which could lead to a colorable pretence of right for the warlike part of the plan—preparations for war—levying of troops! Was a Senator of the United States to wait for the President's proclamation to learn the unlawfulness or the danger to the liberties of the country of such enterprises, undertaken without public authority? Was he yet to learn that the power of making war and of raising soldiers has been deemed by the people of this nation of such magnitude and danger that they would not entrust them to the Executive authority, but have expressly and cautiously reserved them exclusively to the representatives of the nation assembled in Congress? And, until the declaration of war by Congress, he surely knew that every preparation of expeditions to invade the territories of a neighboring Sovereign, was, even in the incipient stage of beginning and setting on foot, in direct violation of the laws of the land. The pretence that it was to be pursued only in case war should take place, did not make it at all more lawful, but made it, if anything, more dangerous. Suppose, sir, that war had been declared, was it for Aaron Burr to say who should *head* corps of volunteers, or who should be *the first* to march into the Mexican provinces? Entertaining the opinion that I do and then did of Mr. Burr, I should have considered it as one of the greatest misfortunes which could have befallen the United States, even if they were at war, to have had such a man as him at the head of their armies. Nor can I consider it but as highly unbecoming in a member of the National Legislature to have given him countenance in this project of forcing himself upon the Government of the Union as the General of an army for the invasion of Mexico. It was encouraging and aiding a violation of the Constitution in its vital principles; it was setting an example more to be dreaded by the people of the Union than the most formidable foreign war. And of all this Mr. Smith himself is the self-accusing witness. All the other witnesses are but in confirmation and aggravation of these decisive facts. Some of them indicate circumstances of very strong suspicions that Mr. Smith's participation was much earlier and much deeper. Others strikingly demonstrate that he was acting under a consciousness of unlawful engagements; and all concur in producing upon my mind the conviction that this resolution ought to pass.

Mr. President, I have discharged a painful obligation. No discussion has ever devolved upon me, as a member of this body, in which I have taken a part with more reluctance than in this. Until these transactions occurred, there was perhaps not another member of the Senate in whose integrity I more confided: and but for this, there is none whom I should more readily take by the hand as a friend and a brother. I trust, sir, that I feel as I ought for his personal situation on this occasion, as well as for the interests and the feelings of his family. I am sensible, and have never lost sight of what is due from me to him as members of this Assembly. But there is also a duty to the character and reputation of this body; a duty to the State whose representation on this floor has been in part entrusted to him; and a duty to the whole nation whose public servants we are. In the discharge of these duties, I have felt myself compelled to submit these observations to the Senate, and with these I shall conclude.

When Mr. ADAMS had concluded, on motion of Mr. GILES, the further consideration of the subject was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act concerning courts martial and courts of inquiry;" and, after progress, adjourned.

SATURDAY, April 9.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transportation of certain documents, by mail, free of postage," in which they request the concurrence of the Senate.

CASE OF JOHN SMITH.

Agreeably to the order of the day, the Senate took up the resolution reported by the committee, appointed on the 7th of November last, to consider the subject; to wit:

Resolved, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr, against the peace, union, and liberties, of the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States; and that he be therefor, and hereby is, expelled from the Senate of the United States

Mr. HILLHOUSE.—The cause before the Senate has been so fully heard, and so ably discussed, that it was my intention to have given a silent vote, had not the gentleman from Massachusetts (Mr. ADAMS) declared in so pointed a manner that even voting on the resolution would sanction the report of the committee which accompanied it; a report containing principles which I can never sanction by my vote; principles which go to discredit all our criminal tribunals, and those rules of proceeding and of evidence which govern the decisions of courts; rules which alone can shield innocence, and protect an accused individual against a Governmental prosecution, or the overwhelming power of a formidable combination of individuals, determined on his destruction—principles which would plant a dagger in the bosom of civil liberty.

Of the many erroneous principles contained in that report, there is but one which I shall think it necessary particularly to notice. The question (says the report) upon the trial "of a criminal 'cause, before the courts of common law, is not 'between guilt and innocence, but between guilt 'and the possibility of innocence." This is a principle which I can never sanction, nor in the smallest degree countenance by my vote. In every country where civil liberty and individual rights are regarded, the common law rule is, that the trial is between innocence and guilt; and that every person is to be deemed innocent until his guilt is proved; a rule which, so long as we shall preserve our liberties, cannot be abandoned. Once admit that the person accused is to be presumed guilty, and to be put to prove the possibility of his innocence, and the same circumstances that would otherwise go to establish innocence, would be converted into proof of guilt. In the present case, admit the presumption of innocence, and many parts of the conversations and conduct of the member accused, which are now relied on as proof of his guilt, may be accounted for, as being exactly what an honest, unsuspecting man would have said and done; but upon the supposition that he was engaged in Aaron Burr's conspiracy, many presumptions of his guilt may be drawn from them. This has been the ground assumed by the gentleman from Massachusetts, and on this he has built his argument. In this way the accused member, by doing what was commendable, and what was his duty as a good citizen to do, has furnished evidence of his guilt.

As to the two precedents referred to, and which appear on the journals of the Senate, they are misapprehended, and the facts entirely misstated in the report of the committee. In one case I was an actor in the scene, being then a Senator, and have a perfect recollection of the facts, and know the statement to be wholly erroneous. Referring to the case of William Blount, the report says:

"In all these points the committee perceive the admission of a species of evidence, which in courts of criminal jurisdiction would be excluded; and in the resolution of expulsion, the Senate declared the person inculpated, *guilty of a high misdemeanor*, although no presentment or indictment had been found against him, and no prosecution at law was ever commenced upon the case."

By the journals of the Senate, it appears that—

"On motion, Mr. Martin and Mr. Cocke of the Senate, being sworn, severally testified, on the inspection of the letter said to be written by Mr. Blount, that it was his handwriting, they being acquainted therewith, and having seen him write."

This entry on the Journal corresponds with my recollection of the fact. This was legal testimony, and the only testimony admitted on the trial. [Here Mr. ADAMS called for the reading of that part of the Journal which states that Mr. Blount was requested by the President of the Senate to declare whether or not he was the author of the letter. The Journal was read, and was as follows, viz:

"The President requested of Mr. Blount to declare, whether or not he was the author of the letter, a copy of which was communicated with the Message of the President of the United States of the 3d instant. Mr. Blount declined an answer."

Mr. A. said that this was evidence not admissible in a court of law.]

Mr. HILLHOUSE proceeded.—I sat in judgment on that case, and know that Mr. Blount's declining to answer was not considered as evidence. The question was asked, because Mr. Blount might have no objection to answer; he might have supposed the contents harmless, or have been able to give a satisfactory explanation thereof—he being a member of their own body—it was no more than civil to give him this opportunity before they proceeded to prove the letter upon him. It was impossible the Senate should have made the inquiry for the purpose of drawing from Mr. Blount an accusation of himself; or that they should be capable of converting his refusal to answer into proof of guilt, in direct violation of that fundamental principle of civil liberty, that no man shall be compelled to accuse himself. The rule goes so far as to protect even a witness from being obliged to answer any question which may go to criminate himself. What is said respecting the comparison of his handwriting, appears by the journals not to have taken place in the Senate, or on the trial, but before the committee who made the report, and the preparatory arrangements for the trial.

In regard to the other precedent, the report of the committee goes on to say:

"The event (the expulsion of William Blount) occurred in July, 1797. About fifteen months before that time, upon an application from the Legislature of Kentucky, requesting an investigation by the Senate of a charge against one of the members from that State of perjury, which had been made in certain newspaper publications, but for which no prosecution had been commenced, the Senate did adopt, by a majority of sixteen votes to eight, the report of a committee, purporting that the Senate had no jurisdiction to try the charge, and that the memorial of the Kentucky Legislature should be dismissed. There were, indeed, very sufficient reasons, of a different kind, assigned in the same report, for not pursuing the investigation in that particular case any further; and your committee believe, that in the reasoning of that, some principles were assumed, and some inferences drawn, which were altogether unnecessary for the determination of that case, which were adopted without a full consideration of all their consequences, and the inaccuracy of which was clearly proved by the departure from them in the instance which was so soon afterwards to take place. It was the first time that a question of expulsion had ever been agitated in Congress, since the adoption of the Constitution. And the subject, being thus entirely new, was considered perhaps too much with reference to the particular circumstances of the moment, and not enough upon the numerous contingencies to which the general question might apply. Your committee state this opinion with some confidence, because of the sixteen Senators, who, in March, 1796, voted for the report dismissing the memorial of the Kentucky Legislature; eleven, on the subsequent occasion, in July, 1797, voted also for the report, which concluded with a resolution for the expulsion of Mr. Blount. The other five were no longer present in the Senate. Yet if the principles advanced in the first report had been assumed as the ground of proceeding at the latter period, the Senate would have been as impotent of jurisdiction upon the offence of Mr. Blount, as they had supposed themselves upon the allegations against Mr. Marshall."

Mr. President, I was not then of the Senate, but feel for the character of its members, and regret extremely, that, in drawing this report, it should have been deemed necessary to mention the then Senate, which was composed of many of the most respectable characters of our country, in a manner that seems reproachful, and to imply that the majority were governed in their votes by political or party considerations. Could it be necessary to state, in such a pointed manner, that, of the sixteen Senators who, fifteen months before, voted for the dismissal of the Kentucky memorial, eleven voted for the expulsion of Mr. Blount, the other five being no longer present, both cases involving the same principle? Was it necessary to insinuate that that subject was considered, perhaps too much, with reference to the particular circumstances of the moment? It is still more unfortunate that such reproachful insinuations should have been made, seeing, upon a careful examination of the report in the case of Mr. Marshall, it is manifest that its principles are entirely misapprehended. That part of the report reads thus:

"Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle, that, 'consent takes away error,' as applying on this occasion to give the Senate jurisdiction. But, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury; and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialist why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law, concur in presuming that he is innocent; and the committee are compelled by a sense of justice to declare, that, in their opinion, this presumption in favor of Mr. Marshall, is not diminished by recriminating publications which manifest strong resentment against him. And they are also of opinion, that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed."

Mr. President, the principle laid down in this report, as I then, and now understand it, is, that the Constitution not having given to the Senate criminal jurisdiction, the consent of the party could not give it. That it could not refer to the power of expulsion is manifest, because the jurisdiction of the Senate in cases of expulsion, is, by the Constitution, express and unlimited; provided, only, that there be the concurrence of two-thirds. When the report says "the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it," it must be understood to be an answer to Mr. Marshall's application for a trial to vindicate his character. The Senate not finding any occasion to pursue the inquiry for the purpose of exercising their censorial power of expulsion, assumed the principle, and in my opinion correctly, that, to establish the principle of innocence or guilt for any other purpose, they had no jurisdiction; the consent of the party could not give jurisdiction. To assume such jurisdiction, would be to convert the Senate into a criminal tribunal, which, by the Constitution, is reserved to the common law courts, and an impartial jury of the State and district. The reason for distinguishing the power of expulsion from the exercise of criminal jurisdiction, will be sufficiently manifest from a reference to the memorial and report, from which it will further appear, that the charge was grounded on what had taken place in the Court of Appeals of Kentucky, eighteen months previous to Mr. Marshall's having been appointed a Senator, and had been the subject of newspaper discussion, and was fully known to the Legislature when the appointment was made. In the present case, suppose the Senate had been satisfied that no inquiry was necessary for the purpose of exercising their censorial power of expulsion, and Mr. Smith had requested the Senate to institute an inquiry for the purpose of giving him an opportunity of vindicating his innocence, would not the Senate have given him the same answer as was given in the case of Mr. Marshall? "No person can be held to answer for an infamous crime, unless on a presentment, or indictment of a grand jury," &c.; "that as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it?" That the Senate have no power, by the Constitution to transform themselves into a court of criminal juriediction to try any offence whatever, but a right, only, to inquire into such facts as may be necessary to enable them to exercise the power of expulsion. That the Constitutional authority of the Senate to expel a member, is not the jurisdiction of a court instituted for the trial and punishment of crimes, but a political power, to be exercised only when necessary for preserving the purity of this branch of the Legislature, is evident, from the consideration that it does not exempt a person from the liability to be tried and punished by the criminal tribunals of the country. The use that is attempted to be made of this precedent, shows in a strong point of light the impropriety and impolicy of attempting to settle abstract questions, or to detail reasons, not necessary for coming to a proper result in the case before us, being liable to be misunderstood or misstated.

I do, most fully, agree with the gentleman from Massachusetts, that the Senate, for the purpose of exercising their censorial power of expulsion, have cognisance of the case before us. That, for that purpose, they have cognisance of all crimes and offences, and are not bound to wait for the proceedings of the courts of common law. I further admit, that the same degree of evidence is not necessary to justify an expulsion of a member, as to convict him before a court and jury. For example, on a charge of treason, two witnesses are necessary to a conviction. On such a charge, I should not hesitate to expel a member on the testimony of a single witness of irreproachable character. What I insist on, is, that the evidence admitted must be legal evidence, and such as would be admissible in a court of law; not *ex parte* depositions, hearsay evidence, or surmises founded on mere conjecture or suspicion.

Were I, in deciding this case, to be governed by political or party considerations, I should incline to vote in favor of the resolution on your table. But, when we reflect, that agreeing to the resolution is to disrobe a Senator of his honor, to doom a fellow citizen, an amiable family, and an innocent posterity, to perpetual infamy and disgrace, party and political considerations ought not, cannot, influence the decision. Impartial justice and the testimony, alone, must govern, and I flatter myself, will govern, every member of this Senate in the vote he is about to give.

Elias Glover, having volunteered in giving his deposition, when no accusation existed, was to be considered rather an accuser than a witness. An *ex parte* deposition, taken under such circumstances, could not by me be considered as evidence on a question of expulsion, had not the accused member and his counsel agreed to its admission, by which I was bound to consider it as evidence. And in my mind it is so material, that if the force of it had been destroyed by counter testimony, I must have voted for the resolution before us. But I have listened with pleasure, for it always gives me pleasure when a person accused can prove his innoceuce, to the evidence adduced, which has completely done away the force of Glover's deposition. The gentleman

from Massachusetts admits, and every member who has spoken seems to agree, that no reliance can be placed upon it. I shall therefore lay that out of the case; as also the other evidence attempting a direct proof of a participation in Aaron Burr's conspiracy, as in this also I fully agree with the gentleman from Massachusetts that it amounts to very little. It is the conduct and confessions of Mr. Smith by which his guilt is endeavored to be established; and when such talents and eloquence as are possessed by the gentleman from Massachusetts are brought to bear upon, and are urged with so much energy and force against an individual accused of being concerned in plots and conspiracies against the Government of his country, charges peculiarly calculated to excite jealousy and suspicion, innocence itself could hardly expect to escape. After hearing his able and eloquent argument, I was much gratified by the motion of the gentleman from Virginia, (Mr. GILES,) to postpone. I wished for one night to consider the subject; I was not then prepared to make a reply.

The gentleman from Massachusetts has relied on the conversations, confessions, and conduct of Mr. Smith to prove his guilt, but he does not take the whole conversation and confession together; and it is a rule of law, always admitted, and never to be departed from, that when the confession of the party is taken, the whole must be taken together; and not to make out proof of guilt, by selecting different detached parts, leaving out other parts that go to explain what otherwise might appear criminal. A strict adherence to this rule will leave little of evidence, or even ground of suspicion of guilt in this case. If all Mr. Smith's conversations and confessions are taken together, there can remain little doubt of his innocence.

The first circumstance in Mr. Smith's conduct which is laid hold on, and on which the gentleman from Massachusetts has built his argument to establish his guilt, is, that Mr. Smith has confessed that in September, 1806, he gave Aaron Burr a hospitable reception under his roof, for four or five days; that he afterwards saw him again at Cincinnati and in Kentucky. What was there suspicious in all this? Who was Aaron Burr? And what was the situation of Mr. Smith in relation to him, that extending to him the rights of hospitality should excite suspicion, and fix the imputation of crime? Aaron Burr was a man who had stood high in the confidence of the people of the United States—a man who had been associated with the present Chief Magistrate, and had received an equal number of the votes of the Electors for President—a man who had been by the voice of his country placed in the second office in the nation—a man who for four years filled the Chair you now occupy, and presided over this Senate with impartiality and dignity; and in a manner to command universal approbation. So great was the ascendancy which he had acquired in this body, that towards the close of his term of service a bill was passed granting to him for life the privilege of sending and receiving letters and packets through the mail free of postage, a privilege which had never been extended to any but a President of the United States and Mrs. Washington. So great was the confidence of a majority of the Senate in Aaron Burr, as to produce an unusual zeal, no doubt a laudable zeal, for passing the bill. It was pressed in an unusual manner; and we were called to a decision when he was himself in the Chair; he who could almost look down opposition. Under such circumstances it was painful to oppose the bill; and nothing but a strong sense of duty could have impelled any one to make opposition. The yeas and nays on the Journal* will show how great a portion of the Senate, of which number was Mr. Smith, had so high a confidence in Mr. Burr. At that time I had no more suspicion than the majority of Colonel Burr's having any treasonable designs; though in opposition to the bill, I did state it as a possible case, that a Vice-President, ambitious of rising to the first office in the nation, and meeting with disappointment, might become disaffected, and engage in treasonable plots to overturn the Government, and avail himself of his privilege and the mail to circulate his treason into every corner of the Union. The bill was arrested in the House of Representatives.

The Senate also adopted the following:

"*Resolved, unanimously*, That the thanks of the Senate be presented to Aaron Burr, in testimony of the impartiality, dignity, and ability with which he has presided over their deliberations; and of their entire approbation of his conduct, in the discharge of the arduous and important duties assigned him as President of the Senate."

I was happy on this occasion to unite in what I considered a just tribute of applause for his conduct as President of the Senate.

This was the close of Aaron Burr's political career; this was the last public office he sustained in the nation, and from that time, till Mr. S. received the pencilled note asking for the hospitality of his house for a few days, it was not publicly known that he had done anything to take off the impression which his official conduct as Vice President, and those public acts of the Senate, had made. Under these circumstances, and considering the intimacy and friendship which had been contracted while they were associated in the same political body, the Senate of the United States, what could Mr. Smith do? What did his early impressions, all the habits of his life, and the honorable feelings and sentiments of a gentleman imperiously demand of him to do? The answer will be anticipated; he could do no otherwise than extend to him the rights of hospitality, receive and treat him as a gentleman.

*YEAS—Messrs. Adams, Anderson, Bradley, Breckenridge, Brown, Cocke, Condit, Dayton, Gaillard, Jackson, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Vermont, White, and Wright—18.

NAYS—Messrs. Baldwin, Ellery, Franklin, Hillhouse, Howland, Logan, Maclay, Olcott, Pickering, Plumer, Stone, Sumter, and Worthington—13.

Had he been an entire stranger he could not have done otherwise, without being considered as having disgraced his native State, for he was born in Virginia, so famed for hospitality, not only to friends, but to strangers. Had Mr. S. done otherwise than he did, would he not have been disowned as unworthy to be called a Virginian? This act of hospitality and politeness is now considered as a crime, which is to fix indelible disgrace on Mr. S. and his family.

The next thing relied on is, that Mr. S. being informed of the projects and schemes of Mr. Burr concealed them. The gentleman from Massachusetts has told us that, if Mr. S. had come forward and testified before the grand jury of Kentucky, Burr would have been convicted, and his treasonable plot, which has done so much mischief, arrested. The disclosure which Mr. S. states to have been made to him, (and there is no proof on the subject but what comes from himself) is as follows—viz: Colonel Burr said to him, "Mr. 'Smith, my object in a few months will be dis-'closed; you will not find it dishonorable or ini-'mical to this Government. I feel superior to 'the mean artifices which are ascribed to me; cal-'umniators I do not notice, for as fast as you put one 'down, another will rise up. This much I will 'venture to tell you, if there should be war be-'tween the United States and Spain, I shall head 'a corps of volunteers, and be the first to march 'into the Mexican provinces; if peace should be 'preserved, which I do not expect, I shall settle 'my Washita lands, and make society as pleasant 'about me as possible." Now I ask, Mr. President, was there anything criminal, was there anything unlawful in all this? Was there anything to excite suspicion that Aaron Burr was engaged in a treasonable plot to sever the Union, or invade the territory of a friendly Power, in amity with the United States? Was it not, on the contrary, expressly said not to be dishonorable or inimicable to the Government? Was there any reason to suppose our Government would not, in the event of a war with Spain, accept the services of a corps of volunteers; when the policy seems to have been to rely on volunteers; and laws have frequently passed calling for, and authorizing the employment of such force? The evidence of Mr. S., had he appeared before the grand jury, instead of criminating Colonel Burr, must have operated in his favor; for to have headed a corps of volunteers under such circumstances would have been laudable. Has Mr. S. ever manifested any unwillingness to disclose what he knew of Burr's projects? On the contrary, has he not always done it freely, when there was a fit occasion, not only to his friends but the officers of Government?

But the gentleman from Massachusetts has compared the case of Mr. Smith with that of Commodore Truxtun, and stated that upon Burr's disclosing his plans to the latter, he was asked this all-important question—"Is the Executive of the United States privy to or concerned in the project?" This, says he, ought to have been the conduct of Mr. Smith; this would have been his conduct if he had been an innocent and an honest man. I little thought that Commodore Truxtun's deposition would have been resorted to in this case; a deposition which had not been read, a deposition not taken on the trial in the presence of Mr. Smith, nor in any way relating to his case. It must be an uncommon zeal that could have induced any one, possessing the legal knowledge of the gentleman from Massachusetts, to have resorted to that as evidence. But, sir, the answer to this is plain. Mr. Burr did not go as far with Mr. Smith as with Commodore Truxtun, otherwise Mr. Smith would probably have asked him the same question. But so much reliance having been had on Commodore Truxtun's deposition to prove Mr. Smith's guilt, on the score of omissions, as well as of what he has done, I must be permitted to read a part of that deposition: it is in these words, viz:

"About the beginning of the winter of 1805—6, Colonel Burr returned from the western country and came to Philadelphia. He frequently in conversation mentioned to me certain speculations in western lands. These conversations were uninteresting to me, and I did not pay much attention to them. Colonel Burr requested me to get the Navy of the United States out of my head, as he had something in view, both honorable and profitable, which he wished to propose to me. I considered this as nothing more than a desire to get me interested in land speculations. These conversations were frequently repeated; and some time in the month of July, 1806, Colonel Burr observed that he wished to see me unwedded from the Navy of the United States, and not to think any more of those men at Washington. He observed that he wished to see or to make me (I do not recollect which) admiral; for he contemplated an expedition into Mexico, in the event of a war with Spain, which he thought inevitable. He asked me if the Havana could not be easily taken in the event of a war. I told him that it would require the co-operation of a naval force. Mr. Burr observed, that might be obtained. He pursued the inquiry as to Carthagena and La Vera Cruz; what personal knowledge I had of those places, and what would be the best mode of attacking by sea and land. I gave my opinion very freely. Mr. Burr then asked me, if I would take the command of a naval expedition. I asked him, if the Executive of the United States was privy to or concerned in the project. He answered me emphatically, that they were not. I asked him that question because the Executive had been charged with a knowledge of Miranda's expedition. I told Colonel Burr, that I would have nothing to do with it; that Miranda's project had been intimated to me, and that I had declined any agency in those affairs. Mr. Burr observed that, in the event of a war, he intended to establish an independent Government in Mexico; that Wilkinson, the Army, and many officers of the Navy, would join. I replied, that I could not see how any of the officers of the United States could join. He said that Gen. Wilkinson had projected the expedition, and that he himself had matured it; that many greater men than Wilkinson, were concerned (or would join;) and thousands to the westward."

Mr. President, notwithstanding Colonel Burr had gone much farther in communicating his plans and projects to Commodore Truxtun than he had done to Mr. Smith, and notwithstanding those insinuations of weaning him from the Navy, forgetting those men at Washington, &c.—which

must have excited suspicion in the mind of a man of Commodore Truxtun's discernment, that Colonel Burr's project was unlawful, and not known to or approved by the Government—yet Commodore Truxtun, in whose honor and integrity I have the highest confidence, did not put the question, which the gentleman from Massachusetts relies on so much, and approves so highly, as evincing his integrity; and for not asking which Mr. Smith is to be suspected of a participation in guilt. It was when Colonel Burr asked Commodore Truxtun directly if he would take the command of a Naval expedition, and not till then, that he put the question. Had Colonel Burr asked Mr. Smith to engage supplies of provisions, gunboats, arms or men, for his expedition, then, and not till then could it be expected that Mr. Smith should have asked such a question; so far from saying anything to excite Mr. Smith's suspicions, Colonel Burr had expressly declared his object was not dishonorable or inimical to this Government. That Commodore Truxtun was dissatisfied with the Administration appears by his answer to a question of Mr. McRae in the same deposition, viz: "Were the remarks which he made on 'your relation to the Navy, calculated to fill your 'bosom with resentment against the Government? 'A. My bosom was already full enough, but certainly Colonel Burr spoke in concert with my 'feelings."

General Eaton's deposition has been introduced under like circumstances, and for the same purpose as that of Commodore Truxtun. He testifies that:

"During the winter of 1805–6, I cannot be positive as to the distinct point of time, yet during that winter, at the City of Washington, Colonel Burr signified that he was organizing a secret expedition, to be moved against the Spanish provinces on the southwestern frontiers of the United States, I understood; under the authority of the General Government. From our existing controversies with Spain, and from the tenor of the President's Address to both Houses of Congress, a conclusion was naturally drawn, that war with that country was inevitable. I had then just returned from the coast of Africa; and having been for many years employed on our own frontiers, and on a foreign coast still more barbarous and obscure, I knew not the extent of the reputation which Colonel Burr sustained in the consideration of his country. The distinguished rank which he had held in society, and the strong marks of confidence which he had received from his fellow citizens, gave me no right to doubt of his patriotism. As a military character, I had been made acquainted with him, but not personally; and I knew none in the United States in whom a soldier might more surely have confided his honor, than in Colonel Burr. In case of enmity to this country, from whatever quarter it might come, I thought it my duty to obey so honorable a call as was proposed to me. Under impressions like these, I did engage to embark in the enterprise, and did pledge my faith to Colonel Burr. At several interviews, it appeared to be the intention of Colonel Burr to instruct me by maps and other documents, of the feasibility of penetrating to Mexico. At length, from certain indistinct expressions and inuendoes, I admitted a suspicion that Colonel Burr had other objects. He used strong expressions of reproach against the Administration of the General Government; accused them of want of character, want of energy, want of gratitude. He seemed desirous of irritating my resentment by reiterating certain injurious strictures cast upon me on the floor of Congress, on certain transactions on the coast of Africa, and by dilating on the injuries which I had sustained from the delays in adjusting my account, for moneys advanced for the United States; and talked of pointing out to me modes of honorable indemnity. I will not conceal here that Colonel Burr had good grounds to believe me disaffected towards the Government."

Here, Mr. President, we find that General Eaton also was deceived, so completely deceived as to engage himself in the enterprise. Here is also evidence of the estimation in which Aaron Burr was held at Washington, the seat of the General Government, where Congress were assembled, and Mr. Smith was attending as a member of the Senate, the forepart of the year 1806, the very year when Mr. Smith is to be suspected of a crime, for extending to Colonel Burr the rights of hospitality: nor does General Eaton suspect the views and projects of Colonel Burr to be unlawful or improper, until he began to use strong expressions of reproach against the Administration. General Eaton was also a man dissatisfied with the Administration.

It is asked how it was possible for Colonel Burr to have been so long with Mr. Smith and not have disclosed to him his plans, as he had done to others. The reason is obvious; Commodore Truxtun was dissatisfied with the Government, and full of resentment; he was, therefore, the man most likely for Aaron Burr to apply to, expecting, no doubt, to engage him in his projects; to him he would be likely to communicate his sentiments and feelings with freedom. Far otherwise was the case of Mr. Smith. He was enjoying the sunshine of the Government; he was going on in the full tide of prosperity; his fellow citizens had bestowed on him the highest honors in their gift. He was a Senator of the United States; the Administration had extended to him their patronage and favor, by giving him contracts for supplying the army, and building gunboats, lucrative employments. Aaron Burr could not expect to engage this man in any treasonable plot against the Government, until he should have made him willing to sacrifice all his honors and all his prospects; and to make the communication without engaging him, was to defeat all his prospects; knowing that Mr. Smith could have no possible wish for a change, he would be the last to whom he would dare to make a disclosure of his projects. There were reasons, and strong reasons, why he should wish to preserve the confidence of Mr. Smith, which made it important to him to be on good terms with him, so long as he was attempting to blind the eyes of the people, and make them believe he was acting in concert with the Government; to do which, there could not have been a more ready expedient than to take up his lodgings at the house of the contractor for the army of the United States, and to appear to possess his confidence. All his art, all his

address, therefore, would be made use of to deceive Mr. Smith, and make him believe his views and projects were fair and honorable. This will fully explain the appearance of confidence which seems to have existed between Mr. Smith and Colonel Burr, as well as their correspondence, previous to the President's proclamation.

The gentleman from Massachusetts thinks the story about the settlement of the Washita lands so ridiculous, and the disguise so thin, that Mr. Smith must have seen through it, and known that Aaron Burr's projects were unlawful; and from that circumstance draws presumption of guilt. Is it surprising that Mr. Smith in his situation, and with the information he possessed, should believe this story, when a gentleman of Commodore Truxtun's discernment, and after having had a much more full developement of Colonel Burr's views and projects, believed it, and which in his deposition he affirms to be the fact? In answer to the following question, put by Colonel Burr, "had you reason to doubt my intention to settle lands?" Commodore Truxtun answered, "If there was no war, I took it for granted that was your intention." Nor is it so astonishing as the gentleman seems to think it, that Mr. Smith should consent to let his two sons go with Colonel Burr. It is the wish of every parent to see his children well established; and what is more profitable, or promises a more advantageous and certain establishment, than the settlement of new lands? People are generally induced very readily to believe what they wish, and is it at all surprising that Mr. Smith should be easily induced to think well of a project which was proposed to benefit his own sons? Surely his participation in Aaron Burr's treason cannot be presumed from such circumstances.

The conduct of Mr. Smith from the first moment that official information was given to the people of the United States, that Aaron Burr's projects were treasonable or unlawful, was such as, instead of exciting suspicion of his being an accomplice, merits the applause of his country. Not like a timid traitor, affrighted at the rustling of a leaf, did he endeavor to conceal the intercourse and correspondence between him and Aaron Burr; or like a bold traitor attempt to defeat the measures adopted to counteract the project and arrest the culprits; or to paralyze exertion by casting ridicule upon them, as did that prime patriot Glover, the accuser of Mr. Smith? No, sir, the day after the President's proclamation arrived, he writes a letter to the Secretary of War informing him of the substance of Aaron Burr's communication to him. He finds that the militia called into service on this occasion, were destitute of arms, and unable to obtain them from the public stores of the United States, though application had been made for that purpose by the commanding officer; and that without arms they could render no service. He goes in the night to the keeper of the arms, and endeavors to persuade him to deliver them out, who still refused, though shown the President's proclamation, without an order from the Secretary at War; fearing he might lose his office for acting without orders. Under these circumstances, this same John Smith, charged with being an associate of Aaron Burr in this very treason, pledged his own private obligations for ten thousand dollars to indemnify the officer for delivering out the arms. This was done, not after Aaron Burr was arrested, or there was a prospect of the project's being defeated; but immediately, on the first alarm excited by the President's proclamation, and the spirited and patriotic exertions of the State of Ohio.

The gunboats which Mr. Smith was building, and which his accusers have intimated were intended for Colonel Burr, were afterwards carried down the river to New Orleans and delivered to the order of General Wilkinson; and all the provisions purchased by Mr. Smith appear to have been fairly and promptly delivered to our army; not a man—not a musket—not a barrel of flour—not a single article of provisions of any kind—or anything that could aid or comfort Colonel Burr in his expedition has ever been furnished to him or any of his agents. How then has Mr. Smith participated in the treason of Aaron Burr? I find no evidence of the fact. I can discern no reasonable ground to suspect any such participation.

The testimony of Colonel Taylor, whom I deem a man of honor and truth, furnishes one other ground from which a presumption is attempted to be drawn to implicate Mr. Smith. He says that in conversing with Mr. Smith about certain political publications in a newspaper, signed the Querist, in which a division of the Union and a separation of the Western from the Atlantic States was advocated, he understood Mr. Smith to advance those sentiments as his own. Mr. Smith says he only described them as the sentiments of the writer. Suppose Colonel Taylor's recollection to be correct, what crime was there in advancing mere speculative opinions, or expressing his sentiments on that or any other subject, provided he violated no law. Are we not in a free country, in which it is lawful to speculate on the science of government as well as any other? If that privilege be denied, ours will no longer deserve the name of a free country. But is it not possible that Colonel Taylor may be mistaken? How often do we find conversations which take place among friends misunderstood and incorrectly stated! Every day's experience shows us that even in public debate, in this Senate, the observations of gentlemen are so misstated as to require explanation. But Dr. Sellman's deposition removes all doubt; he says, and he is admitted to be a man of good character, that he understood Mr. Smith only to have repeated, not his own sentiments, but those of the Querist. Dr. Sellman testifies:

"The first persons I approached were Mr. John Smith and Colonel James Taylor. After attending some time to the conversation, I noticed a reference was occasionally made to a publication or publications that had appeared in the Marietta paper. For some time I was at a loss to determine whether those gentlemen were expressing their own opinions, or those contained in that publication, for I was not present at the commencement of the conversation, though it did appear to me to be a detail of the opinions set forth in that publication.

As it is now impressed on my mind, I believe, to more fully satisfy myself, I asked a question. Nor can I perfectly remember, whether I intended the question particularly for Mr. Smith or both of the gentlemen, but believe it was intended for Mr. Smith. Do you expect or apprehend an early separation of the Union! To which Mr. Smith replied, not in my life-time; and I hope and pray to God I may never live to see it, whether it takes place sooner or later."

Here can be no mistake; so far from engaging in a treasonable plot to sever the Union, he deprecated such an event in the most solemn manner. Where then is the evidence whereon we can ground so important a vote as that which shall adopt the resolution on your table? A vote which is to disrobe a Senator of his office and of his honor? Nothing but jealousy, that jealousy which frequently attaches itself to a charge of treason and conspiracy, and must in this case have taken hold of the mind of the gentleman from Massachusetts, could have induced a belief that there was evidence to prove on Mr. Smith a participation in the conspiracy of Aaron Burr. That master of the human heart, Shakspeare, says—

"———Trifles, light as air,
Are, to the jealous, confirmations strong,
As proofs of holy writ."

The truth of this is remarkably verified in the case before us. Is there not some reasons to apprehend that there has been too great a disposition to convert suspicion into proof? Ought we not to be on our guard when it is proved that there has been a powerful combination of men, calling themselves a republican society, to ruin Mr. Smith, the individuals of which, when called before a magistrate to testify, declare that they are bound to secrecy by a solemn obligation to the society, which is paramount to their oath, when sworn as witnesses, and which will not admit of their disclosing any facts, or their proceedings, any farther than they are permitted to be made public by the society? And in sundry of the depositions on your table they have accordingly refused to answer questions, and in some instances to testify at all. Such a society disgraces the name of Republican, by acting on principles tyrannical and oppressive.

I have detained the Senate longer than I intended; but to Mr. Smith the cause is all-important, and we ought to pause before we condemn a fellow-Senator upon the ground of mere suspicion—direct proof there is not; we ought not hastily to agree to a resolution which shall fix perpetual infamy on a fellow man, an amiable family, and his unoffending posterity; for the infamy which will be attached by a vote of expulsion will not be forgotten so long as this Senate and the nation shall endure.

Mr. GILES.—Mr. President: I am called upon as a member of this Senate to pronounce an opinion upon the following resolution:

"*Resolved*, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr, against the peace, union, and liberties of the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States, and that he be therefor, and, hereby is, expelled from the Senate of the United States."

A declaration upon this subject ought not to be made, but upon the most attentive examination of the evidence produced in the case, and the most mature deliberation thereupon. The sentence to be pronouced is important to the justice of the United States; but more particularly so to the reputation of the person accused; it will have also an inseparable influence upon that of his family. To him and them its effects are all-important. The resolution solemnly and unequivocally asserts, that John Smith, &c. participated in the conspiracy of Aaron Burr. Before I can make this assertion, I must have some evidence of the fact. I must acknowledge, that upon the most attentive examination of all the papers, and the most respectful attention to all the arguments in the case, I have not been able to discover any satisfactory evidence of that fact. Yesterday I paid great attention to the eloquent, dignified and candid observations of the gentleman from Massachusetts (Mr. ADAMS,) both as to the jurisdiction of the Senate to inquire into this case, and the evidence exhibited in support of the charges against the accused. The gentleman from Massachusetts, I am perfectly convinced, has been influenced in the whole course of this inquiry by the purest and most laudable motives; and I think he is justly entitled to the thanks of the Senate for the judicious conduct he has recommended to be pursued. I perfectly concur with that gentleman in opinion, on the point of jurisdiction; and upon a retrospect of the whole proceedings of the Senate, I am happy to say, that it appears to me the best course for the purposes of justice, has been pursued, that could have been devised, in the novel and difficult case presented for consideration. A liberal indulgence has been given to the accused to procure testimony in his defence; and the witnesses implicated have been protected from injury, by requiring that they should have notice of the time and place of taking all depositions affecting their credibility. The only ground of difference in opinion between the gentleman from Massachusetts and myself, is, in the interpretation of the evidence in the case. I shall state the points of difference between us upon this subject, without any other argument than what may be necessary to explain the reasons of this difference.

The first point of difference relates to the declarations of Aaron Burr. From these declarations, although general in their nature, and in no instance made in relation to the accused, inferences of guilt are attached to him. In almost every case, to apply the declarations of one man to the condemnation of another, would not be a just rule of evidence; in this case, it would be peculiarly unjust. Because it is well known that Burr was in the constant habit of making misrepresentations in relation to other persons, and that he was influenced by a particular motive in doing so. He appeared to consider that as one of the most effectual means to enhance the importance and promote the success of his enterprise. If his declarations are to be admitted as evidence against other persons, they would apply to some of the most respectable citizens of the United States as well as to the accused, which it is not pretended would be just or correct in relation to them; and I can see nothing in his observations bearing on the case of Mr. Smith, that would not apply with a greater force against others, who are neither implicated nor suspected. I therefore put Burr's declarations entirely out of the case, and disregard all inferences drawn from them.

The next point of difference between the gentleman and myself, arises from a suggested inconsistency between the letters, the affidavits, and the answer of Mr. Smith. I have paid particular attention to these papers, connected with the remark made by the gentleman, and am unable to discover the inconsistency suggested. They appear to me to be substantially the same. The remark was, that in one of these papers Mr. Smith states, that Burr did not disclose to him any of his objects; in another he admitted that he did disclose to him his object of settling his Washita lands. The remark which occurs to me in reply is, that Mr. Smith merely states an immaterial fact in one paper, which he omits in another, as unnecessary. In this, I see neither contradiction nor inconsistency. But the real explanation of this incidental circumstance will be found in the papers themselves. The one omitting the fact in question, in speaking of the objects of Burr, evidently alludes to the unlawful objects of which he has since been accused, and which did not comprehend the settlement of the Washita lands. This circumstance, therefore, must in any point of view be deemed trivial unless connected with some other of more importance; and according to my explanation of it, of no consequence at all. I would here remark, that the fact asserted in the resolution, is susceptible of the clearest and most certain proof, and is of such a nature, that if Mr. Smith had committed it, it would be scarcely possible for him to escape detection by positive proof. I am therefore not satisfied to form my opinion on trivial circumstances, particularly when so easily and naturally susceptible of explanation, consistently with innocence. Mr. Smith's own conduct is the sole criterion by which he ought to be judged. If this standard should once be departed from, and questionable incidents resorted to, instead of obtaining truth, we shall probably fall into error.

The gentleman from Massachusetts and myself, in our consideration of this case, concur in the entire exclusion of the testimony of Elias Glover and all the papers connected with it. We, in one respect however, differ on this part of the subject. He read and relied upon the deposition of Major Riddle forwarded by Glover, which I exclude from all consideration—not because I know anything injurious to the character of that gentleman; nor because I conceive the contents of the deposition incapable of explanation, consistently with the innocence of Mr. Smith; but on account of the manner of taking, and presenting it to the Senate. This deposition with others appears to have been taken and forwarded by Elias Glover, for the purpose of implicating Mr. Smith. They were taken without notice, and in the absence of Mr. Smith, although I believe he was at the time of taking them in the same town where they were taken. Some of these witnesses had been summoned to testify in his favor and in his presence—part of them refused to attend, part of them attended and refused to answer all questions put to them by Mr. Smith. I consider this conduct as such a departure from everything that is just, fair, and honorable, and an evidence of such an incorrect state of mind in relation to Mr. Smith, that I do not think they are entitled to the respect of evidence in the examination of his case; I therefore exclude them altogether.

I consider this conduct as disrespectful to the Senate, and, on the part of Glover, altogether inexcusable. Because, when the Senate were informed that Mr. Smith intended to attempt to discredit the evidence of Glover, they imposed a positive condition on him, that Glover should have reasonable notice of the time and place of taking all depositions for that purpose; thus manifesting a laudable tenderness for his reputation, which he has strangely repaid in this disrespectful attempt upon the fairness, justice, and candor, of their proceedings. I cannot forbear making one more observation on the conduct of Elias Glover: he appears, throughout the whole of the depositions taken by him and in his presence, to endeavor to cover his own misconduct by enlisting in his favor the party feelings, which he presumes to attribute to the Senate; thus he has invariably asked, whether he was not a zealous Republican, and firm supporter of this Administration? I consider this conduct as an unjustifiable and indelicate attack upon the justice and candor of the Senate, whilst it furnishes a poor apology for his own abberrations from the truth; it has a tendency, and must have been intended, upon a question of guilt or innocence, to draw the Senate from the immutable principle of justice and truth, *as the standard of trial*; and to substitute, in their stead, the dangerous touchstone of party sensibility. I have had too long experience of the correct motives which actuate the Senate in all their deliberations, to feel any apprehensions, in the present case, from these unfortunate attempts; but it is time the world should know, that they are improperly applied, when addressed to the Senate of the United States.

Having candidly stated the impressions upon my mind made by the portion of the papers just alluded to, and the observations of the gentleman from Massachusetts thereupon, I will now proceed to examine the other papers more relied on by him, and entitled to more respect as evidence. The course the gentleman pursued was fair and candid, and well calculated to give a correct view of the conduct and object of the accused; I shall, therefore, pursue the same course, which was to take the facts in their chronological order. The first fact, in relation to Mr. Smith's conduct, to which our attention has been called, was on the 4th of September, 1806. On this day Burr, having previously addressed a note of invitation to Mr. Smith, presented himself at Mr. Smith's

house, where he was hospitably received and entertained, until the tenth of the same month. Burr had, before this time, been at Blannerhasset's Island, where it is probable, in concert with Blannerhasset, certain pieces, under the signature of the Querist, were written; and, about the time of Burr's leaving the Island, were published. The object of these pieces evidently was to make an experiment upon the disposition of the Western people, as to the separation of the Union, then certainly in the contemplation of Burr. It was an object near his heart, and, no doubt, deemed all-important to the success of his ambitious views. Mr. Smith states that this subject was never mentioned by Burr to him during his stay at Mr. Smith's house, from the 4th to the 10th of September. The observation made upon this part of the evidence, is, that it is strange that Burr should not have mentioned this subject, under the peculiar circumstances of the case. I concur, perfectly in the observation. I think it strange that Burr should not have mentioned the subject; but am I to infer that he did mention it, merely because it is strange that he should not have mentioned it? Is its being strange, that it did not happen, evidence of the fact, that it did happen; particularly, when there is no other evidence of the fact, but all the evidence upon that point is against the fact? I will here make an observation, of a general nature, which has had great weight with me in forming my opinion upon the whole merits of this case. It is, that it does not appear, from any part of the evidence, that Burr deemed it prudent, at any time, to disclose his illicit objects to Mr. Smith; or that he ever considered Mr. Smith as a safe depositary of his secrets. This want of confidence in Mr. Smith, for his illicit objects, is discernable in many parts of the evidence, and this consideration alone lessens the presumption of Burr's making the separation of the Union a subject of conversation whilst at Mr. Smith's house. Burr, also, would naturally be cautious and reserved upon that subject, until the experiment, then about to be made on the people, should disclose itself, and some certain estimate be formed of its effects. Again, sir, whilst Mr. Smith has solemnly sworn that such conversation did not take place, and there is no evidence whatever to show that it did—there are other circumstances strongly supporting his assertion. It is known that Burr generally disclosed his plans to persons unfriendly to the Administration, and feeling strong excitements and irritations against it. He considered such persons only fit for his purposes. In this, however, much to the honor of American citizens, he was mistaken. But he had no reason to believe Mr. Smith was a person of this description. Very far otherwise. For, independent of Mr. Smith's general attachment to the Administration, he held the dignified station of Senator, and a profitable contract under the Government: Burr had no reasonable expectation that Mr. Smith was ready to abandon these certain advantages for the uncertain prospects arising from Burr's wicked and visionary projects; and, of course, would be cautious of making such an unpromising attempt; one, which, if it failed, would subject him to certain and instantaneous detection. Another strong circumstance in favor of this conclusion, is derived from Burr's letter to Mr. Smith, of the 20th of October, 1806. One of the expressions alluded to, is the following: "I have never written or 'published a line on this subject, (the separation 'of the Union,) nor ever expressed any other sen-'timents than those which you have heard from 'me in public companies, at Washington and 'elsewhere, and in which, I think, you concurred." Here is a direct reference to this subject, but it is not intimated that any conversation took place at Smith's house in relation to it, but "in public companies at Washington and elsewhere." As far, therefore, as mentioning the conversation as happening at other places, and omitting it as having happened at Mr. Smith's house, upon a recent visit there, can go, it serves to show that such conversation, in all probability, did not take place there, and leaves a very strong inference in favor of Mr. Smith's statement. Am I, then, to infer a fact of guilt against all these circumstances in favor of innocence? My mind is incapable of making such an inference. It would be, to convert the rules of the evidence of facts into improbable grounds of inducing suspicions—error, not truth, must be the consequence of such substitution.

The next evidence in point of time from which some circumstances of suspicion are inferred against Mr. Smith, is the testimony of Colonel James Taylor. To this evidence, I concur with the gentleman from Massachusetts in paying great respect, because it was given with intelligence, candor, and circumspection, highly honorable to Colonel Taylor. The substance of his testimony is, that some short time after the 10th September, and after the pieces under the signature of the Querist had been published, and become the subject of general conversation, being in company with Mr. Smith and others, in Cincinnati, the sentiments avowed in those pieces became the subject of a particular conversation, in which, according to the impressions made on his mind, Mr. Smith advocated a separation of the Union; and he thought, not only delivered this opinion, as an opinion recommended by the Querist, but as his own. I differ in several important respects with the gentleman from Massachusetts as to the true explanation of this testimony, taken in connexion with other evidence, bearing irresistibly upon the same point. In the first place, it is to be ascertained, whether Mr. Smith really did express this opinion in the sense imputed to him by Colonel Taylor, or whether Colonel Taylor is not mistaken in that respect? And, in the next place, whether, if he did so express himself, it was done with any mischievous intent?—both these circumstances being necessary to constitute a criminal act. I am strongly inclined to think, indeed I am almost perfectly satisfied, that Colonel Taylor is mistaken in this particular point of his evidence. There is part of Colonel Taylor's own evidence, which furnishes strong considerations

for caution in interpreting the rest. The candor and circumspection observed by the deponent, in this particular point of evidence, is so honorable to him, that I beg leave to present it to the Senate in his own words. After answering many questions put to him by Mr. Smith, Colonel Taylor concludes his evidence with the following voluntary observation: "I beg leave further to state, 'that Mr. Smith has generally been viewed as a 'friendly, benevolent, worthy man, and his fami-'ly, (consisting of an amiable wife, and daughter, 'and several very promising sons,) have been con-'sidered entitled to, and held a place in the first 'circles of society in our quarter."

What could have induced Colonel Taylor to make this observation upon closing his evidence? There is no doubt, sir, it was intended as a caution to the Senate in the interpretation of other circumstances, although related by himself. It evidently arose from a consciousness that those circumstances were vague and uncertain, and that his impressions of them might be mistaken. It was the spontaneous conviction of an amiable mind, laboring under an impression, that innocence might become the victim of its own honest misconceptions. I will now state my reasons for the conviction that Colonel Taylor was mistaken in supposing that Mr. Smith spoke of the separation of the Union as an opinion of his own, and not as the opinion inculcated by the Querist.

The opinions expressed in the Querist had not only become the subject of general conversation, but were the subject of that particular conversation. Mr. Smith probably recited these opinions in an unguarded manner; and from that circumstance, it was not unnatural that Colonel Taylor's impressions might have been formed. This appears from the deposition of Doctor Sellman, who was present at the same conversation; and swears expressly that he was induced to put this question to Mr. Smith, most probably from the unguarded manner of expressing himself: Are these your own opinions, or those expressed in the Querist? To which Mr. Smith replied, they were the opinions of the Querist, and not his own opinions; and added, that he deprecated a separation of the Union, and hoped to God never to live to see the day when that event should take place. Here is the positive evidence of Doctor Sellman to the particular fact in question; whereas Colonel Taylor speaks of the impression made on his mind by the whole tenor of the conversation. Colonel Taylor must therefore be mistaken, or Doctor Sellman wilfully forsworn. Would it be proper to make this presumption against Doctor Sellman? Who is Doctor Sellman? A gentleman of irreproachable character; the friend and brother-in-law of Colonel Taylor; and, I believe, the friend of the Government and of the Administration. Doctor Sellman does not stop here; he swears that he is in habits of intimacy with Mr. Smith, and that he never did, before or since that period, hear Mr. Smith express any opinion in favor of a separation of the Union, but has often heard him express opinions directly and positively against it. Does Colonel Taylor contradict this statement? No, sir, but confirms it. He also swears that he never heard Mr. Smith express that opinion at any other time before or since. Now, sir, as Col. Taylor himself states that the pieces signed the Querist, were the subject of the conversation in question, and that he never before or since that time, heard Mr. Smith express analogous opinions with those of the Querist; and when Doctor Selman swears positively, that during that particular conversation, he put the identical question to Mr. Smith, Are you speaking your own opinions, or those of the Querist?—and that he unequivocally answered, not his own, but those of the Querist? and, also, swears positively that he never did, before or since that time, hear Mr. Smith express analogous opinions to those of the Querist, but often the reverse—would it not be a strange perversion of the rules of evidence to say, that on that particular occasion alone, he expressed opinions in direct hostility with those expressed during the whole course of his life, both before and afterwards? But this is not all. This case furnishes evidence still more conclusive, if possible, in favor of my interpretation.

If Mr. Smith had been in the habit of expressing this opinion, would not the zeal, the activity, and the intelligence, of Elias Glover and his associates, have discovered and communicated it? Men, who, not content with the most inveterate accusations and persecutions against Mr. Smith, in their individual capacities, have formed clubs, and at length associated themselves in a corporate character under the imposing name of the Republican Society, for that and other purposes. After their profusion of other charges, which they could not substantiate, is it to be presumed that they would have omitted this charge, if it had been true, and thus could have substantiated it? Their not having made, is almost conclusive proof with me, that it did not exist. But further, what does General Carberry say upon this subject? That he is in habits of intimacy with Mr. Smith, and that he never heard him express a sentiment in favor of the separation of the Union, but often the reverse. That he did, however, on one occasion, hear Colonel James Taylor express an opinion, in company with several persons, that a separation of the Union would take place at some distant time, say ten or twelve years. And upon his asking Colonel Taylor, after retiring from the company, if he did not think it imprudent to express that opinion, even speculatively, Colonel Taylor admitted that he thought it was, and made some patriotic observations on the occasion.

This leads me to examine the second question in relation to this point. Even admitting that Mr. Smith did express the opinion attributed to him by Colonel Taylor, *as his own*, was it done with any criminal intent? I am satisfied it was not.

I cannot help remarking here, that I do not concur with the gentleman from Connecticut, (Mr. HILLHOUSE,) who seemed to intimate that there was nothing criminal in expressing speculative opinions in favor of a separation of the Union. In my opinion, if the expression of that speculative opinion be

accompanied with an intent to gain proselytes, and thus to effect the object, it is highly criminal; because it is an opinion tending directly to subvert the Constitution and Government of the United States, and to attempt that object in any way, I deem highly criminal. What is treason but speculative opinions against the fundamental principles of the Government, accompanied with an attempt to carry such opinions into effect by force?

The only difference, therefore, between these offences consists in this: that the criminal object in the one case is to be effected by force; in the other by persuasion. But I do not believe that Mr. Smith could have any such object in view. To whom was this conversation addressed? To gentlemen of the first respectability—known to be firm friends of the Government. To Colonel Taylor, to General Findley, to Dr. Sellman, &c., &c. Could Mr. Smith presume for a moment that he could make proselytes of gentlemen of this description? Could he suppose that they were fit objects to be used in illicit enterprises? Certainly not. Does either of them state that he made any attempts of this kind? Certainly not. Is there any other instance of his having expressed any opinion in favor of a separation of the Union during the whole course of his life? Certainly not. This is the only solitary instance of such an expression that has been adduced or pretended. Is there any criminal intent ascribed to Colonel Taylor for the expression of a similar opinion to General Carberry? Certainly not. What rule of evidence is applicable to Mr. Smith which is not applicable to Colonel Taylor? Is it just to condemn one man for the expression of an opinion, when the expression of the same opinion by another does not even subject him to suspicion? From all these circumstances I am satisfied, first, that Mr. Smith did not express the opinion in favor of the separation of the Union, in the sense attributed to him by Colonel Taylor; and, in the next place, if he did, it was not expressed with any criminal intent. The next evidence, in point of time, from which inferences are drawn injurious to Mr. Smith, is the testimony of Peter Taylor. It relates to circumstances which took place at Mr. Smith's house on the 23d of October, and shortly afterwards. The first observation made in relation to this point is, that Mr. Smith, in his answer, states that Peter Taylor is a man unworthy of credit, for several reasons mentioned by him, and that he was incorrect in his evidence in the recital of several incidental circumstances; whereas it is said that Peter Taylor is a man of fair character, though ignorant and uninformed, and that his testimony is unimpeached. I readily admit that Mr. Smith's impressions in relation to Peter Taylor's character are more unfavorable than are warranted from the state of the evidence before the Senate; but this is not wonderful, when all circumstances are considered. When it is considered that a deadly wound to Mr. Smith's character was apprehended by him to be about inflicted by Peter Taylor's evidence, which consisted principally in the recital of incidental circumstances, in some of which he was evidently mistaken; when all the knowledge Mr. Smith had of him was, that he was one of Blannerhasset's servants, and presumed to be both ignorant and uninformed, it is not wonderful that Mr. Smith should have entertained a worse opinion of him than he merited; but I see nothing criminal in this misconception. It was a perfectly innocent and natural one.

I readily also admit that, in general, Peter Taylor's character for truth and veracity stands unimpeached, although it must at the same time be admitted that he was mistaken in some of the many incidents he relates; and in one very remarkable instance, to wit: forgetting the death of his wife, which happened about six weeks before, he mentions a circumstance of making a further provision for her support. I mention this, however, not for the purpose of having an injurious influence upon the general course of his evidence, but merely as a caution against paying too much respect to the episodes or the incidental circumstances mentioned by witnesses, and particularly by him. Inferences of guilt ought very cautiously to be drawn from such sources. But I see nothing in the material and substantial part of Peter Taylor's evidence but what is perfectly consistent with Mr. Smith's innocence, and, in my judgment, tends strongly to support it. As this evidence has been very much relied upon to criminate Mr. Smith, let it now be critically examined in a spirit of justice and impartiality. Peter Taylor's evidence is substantially as follows: During the month of October, Mrs. Blannerhasset having become very much alarmed for the safety of her husband, in consequence of the resentment of the people in the neighborhood against him, produced by the pieces under the signature of the Querist, which he acknowledged himself to be the author of; and believing that Burr had instigated him to that conduct, dispatched Peter Taylor, her gardener, in quest of Blannerhasset, with a letter, requesting that he would return to the island, and would prohibit Burr from again returning thither. Being uncertain where Blannerhasset might be, but presuming he would be found with Burr, she directed Peter Taylor to search for him, first at Chilicothe, and if he should not be found there, at Cincinnati, and to inquire at the house of John Smith, store-keeper. In pursuance of these instructions, Peter Taylor being unsuccessful in his search at Chilicothe, arrived at Mr. Smith's house in Cincinnati on the 23d of October. When Mr. Smith came out to him, he inquired for Burr and Blannerhasset; his object, he states to be, to see if Mr. Smith could give any account of them. Mr. Smith first told him that he had mistaken the place; that they were not there, and he knew nothing of them. But upon telling Mr. Smith that he was one of Blannerhasset's servants, and was sent in quest of him by Mrs. Blannerhasset, Mr. Smith took him up stairs to a chamber he was accustomed to write in, to write a letter to Mr. Blannerhasset, and told him they would probably be found at Mr. Jourdan's in Lexington, Kentucky, where it appears from his evidence that Mrs. Blannerhasset originally intended that he should go, if he should not find Blannerhasset before he should arrive there, &c. From these circumstances, strong instances of guilt are deduced against Mr. Smith. Making allowances for the eccentricities of Peter Taylor's recital, and the inaccuracies of some trivial incidents, which appear to me very obvious, I see nothing at all improper or unnatural in Mr. Smith's conduct. Upon Peter Taylor's first inquiry, Mr. Smith supposed he was mistaken in the place. Was not this supposition very natural, when probably Blannerhasset never was at Mr. Smith's house at all, and Burr had left it the 10th September preceding, nearly six weeks before that time, and certainly was both mysterious and rapid in his movements; but when Peter Taylor tells Mr. Smith that he was going in quest of Blannerhasset, with a letter from Mrs. Blannerhasset, to Lexington; then Mr. Smith tells him he will probably find them at Mr. Jourdan's—the place where it is probable Burr told him he should take his lodgings—and proposed to send a letter to Blannerhasset by the witness, which he immediately wrote and gave to the witness; during which time there was some very common, and, in my judgment, very immaterial conversation, between Mr. Smith and the witness, perhaps not very accurately related. So far, certainly this transaction cannot be deemed criminal; but the letter addressed to Blannerhasset covered one to Burr, and upon its being presented to Burr, who was found at Lexington before Blannerhasset was, Burr premising that it contained one addressed to him, opened it, and found that he was right in his conjecture. This circumstance is said to be extremely suspicious, and from it an improper connexion between Colonel Burr and Mr. Smith is inferred. I readily admit, that in itself it is a suspicious circumstance; and if the evidence stopped here, it might be difficult to account for it without some grounds for the inference of such connexion. But I consider the evidence upon this point complete and positive, and that there is nothing left to inference. In the first place, it should be recollected that Peter Taylor was in quest of Blannerhasset with a letter for him from his wife; the presumption, therefore, was, that he would find Blannerhasset before he did Burr; and, if so, he would not find Burr at all, because his object would be answered, and his journey at an end. This circumstance, no doubt, induced Mr. Smith to put his letter to Burr under cover to Blannerhasset; but as Burr, contrary to Mr. S.'s expectation, was first found, why did he open the letter to Blannerhasset, upon the presumption that it contained one for him? Although I think this circumstance of no importance, as the letter itself is before us, I will yet state my impressions respecting it. Burr probably knew that Blannerhassett was an entire stranger to Mr. Smith; he therefore thought it improbable that Mr. S. would write to him; Burr could also discover, by feeling the letter, that it contained an enclosure, and as he had but recently abused Mr. Smith's friendship and hospitality, and knew of the unfavorable impressions on the public mind against every one who had confided in him in any way whatever, it is but natural to conclude he conjectured that Mr. Smith had availed himself of the opportunity by Peter Taylor of writing to him upon that subject. But why are explanations of this circumstance called for? Why indulge suspicions respecting an object, when the object of such suspicions is itself before us? Why infer an improper connexion, when the evidence of the real connexion, or the object of the correspondence itself is before us? This will be found in the identical letter written by Mr. Smith to Mr. Burr, and delivered by Peter Taylor. Let us discard inferences, and attend to the contents of the letter, and see if there is anything criminal in them. The authenticity of this letter is admitted by all.

No. 21.

J. Smith's letter to A. Burr, 23d October, 1806, sent by Peter Taylor.

CINCINNATI, *Oct.* 23, 1807.

DEAR SIR: Having an opportunity of writing a line by one of Blannerhasset's domestics, I beg leave to inform you that we have in this quarter various reports prejudicial to your character.

It is believed by many that your design is to dismember the Union. Although I do not believe that you have any such design, yet I must confess, from the mystery and rapidity of your movements, that I have fears, let your object be what it may, that the tranquillity of the country will be interrupted, unless it be candidly disclosed, which I solicit, and to which I presume you will have no objection.

I am, dear sir, your most obedient servant,

JOHN SMITH.

Colonel BURR.

I differ more from my honorable friend from Massachusetts, upon the interpretation of this part of the evidence than upon any other, and think his inference more unreasonable and improbable. He seems to admit that the letter itself contains nothing criminal, but infers a criminal intent in writing it. He supposes it to have been the effect of an arrangement previously concerted with Burr to divert and deceive the public attention, and seems to consider it a masterpiece of diplomatic skill; and thus he ascribes to Mr. Smith the character of consummate duplicity. I think the character of this transaction is just the reverse. I think it the letter of a plain, unsuspicious, deluded man. It should be observed, that, it is scarcely possible that such an arrangement should have been made between Burr and Mr. Smith as is presumed; because, at the time Burr left Mr. Smith's house, neither of them could have been apprized of Peter Taylor's mission. He was sent by Mrs. Blannerhasset, without the knowledge of either of them, in consequence of circumstances which had taken place after Burr had left the island, as well as Mr. Smith's house; circumstances which Mr. Burr could not have wished or expected, and, therefore, could not be presumed to have taken precautions against them; nor can it be presumed that Mr. Smith could have availed himself of an opportunity of which he was no apprized, in a moment, without a minute for de

liberation, to contrive and execute such a plan; nor could Burr have been furnished with any clue to his object, if he had. It would, indeed, have been a *chef d'œuvre* in the diplomatic art; it would have been beyond the skill of the Prince of Benevento himself; nor could Mr. Smith have been made competent to it by his most diligent attention as the Prince's pupil for three months, being about the time, in the course of Mr. Smith's whole lifetime, in which he is presumed to be completely converted from a plain dealing, honest man, into the prince of intriguers and negotiators. Human nature is not capable of such a conversion, if it wished it; Mr. Smith could not, if he would, have thus metamorphosed his own character. The inferences of the gentleman, therefore, are strained, unnatural, and scarcely possible. If we give the letter its common and natural import, it is perfectly innocent, if not laudable. Mr. Smith, doubtless, felt some uneasiness at the general resentment displayed against Burr, and might apprehend it would be applied to him in consequence of having hospitably entertained Burr at his house; and, believing Burr to entertain no dishonorable views, he very naturally and properly wrote to him to disclose his objects, that he might tranquillize the public mind respecting them. But inferences are made from Burr's letters, in reply, unfavorable to Mr. Smith. I differ entirely with the gentleman from Massachusetts, in the interpretation of the contents of that letter. This latter, being in reply to Mr. Smith, is such a material part of the evidence, that I wish to present it entire to the Senate:

"*A. Burr's answer to John Smith, Oct.* 26, 1806.

"LEXINGTON, *Oct.* 26, 1806.

"DEAR SIR: I was greatly surprised and really hurt by the unusual tenor of your letter of the 23d, and I hasten to reply to it, as well for your satisfaction as my own. If there exists any design to separate the Western from the Eastern States, I am totally ignorant of it; I never harbored or expressed any such intention to any one, nor did any one ever intimate such design to me. Indeed, I have no conception of any mode in which such a measure could be promoted, except by operating on the minds of the people, and demonstrating it to be their interest. I have never written or published a line on this subject, nor ever expressed any other sentiments than those which you may have heard from me in public companies at Washington, and elsewhere, and in which I think you concurred.* It is a question on which I feel no interest, and certainly I never sought a conversation upon it with any one; but, even if I had written and talked ever so much of the matter, it could not be deemed criminal.

"But the idea, I am told, which some malevolent persons circulate, is, that a separation is to be effected by force; this appears to me to be as absurd and as unworthy of contradiction, as if I had been charged with a design to change the planetary system. All the armies of France could not effect such a purpose, because they could not get here, and if they could get here, they could not subsist, and if they could subsist, they would certainly be destroyed.

"I have no political views whatever; those which I entertained some months ago, and which were communicated to you, have been abandoned.*

"Having bought of Colonel Lynch four hundred thousand acres of land on the Washita, I propose to send thither this Fall a number of settlers, as many as will go and labor for a certain time, to be paid in land and found in provisions for the time they labor—perhaps one year. Mr. J. Breckenridge, Adair, and Fowler, have separately told me that it was the strong desire of the Administration that American settlers should go into that quarter, and that I could not do a thing more grateful to the Government. I have some other views which are personal merely, and which I shall have no objection to state to you personally, but which I do not deem it necessary to publish; if these projects could any way affect the interests of the United States it would be beneficially, yet I acknowledge that no public considerations have led me to this speculation, but merely the interest and comfort of myself and my friends.

"This is the first letter of explanation which I have ever written to any man, and will probably be the last. It was, perhaps due to the frankness of your character, and to the friendship you once bore me. I shall regret to see that a friendship I so greatly valued must be sacrificed on the altars of calumny.

"Be assured that no changes on your part can ever alter my desire of being useful to you, and pray you to accept my warmest wishes for your happiness.

"A. BURR.

"It may be an unnecessary caution, but I never write for publication.

"Hon. JOHN SMITH."

The first observation made by the gentleman from Massachusetts, upon the contents of this letter, was, that it appeared wonderful to him that this letter should have reinstated Burr in Mr. Smith's good opinion, after some doubts of his views had been excited in Mr. Smith's mind, by the general clamor of the country against him. The impression produced upon my mind, by observing the contents of this letter, is just the reverse. I think the letter written with great art and address, and well calculated to produce the effect on Mr. Smith's mind, which he states it did produce, the restoration of Burr to his confidence. To form a just opinion on this point, it should be recollected that Burr had previously insinuated himself into Mr. Smith's confidence, and that Mr. Smith was not at that time apprized of his illicit objects; because, at that time, they were not generally disclosed; and because, it appears, from several passages in the letter itself, that Burr had not disclosed them to Mr. S. Since Burr's objects have been generally known, we may find passages in the letter obscurely pointing toward them. Of this description is the one referred to by the gentleman from Massachusetts. Speaking of the separation of the Union, Burr writes:

NOTES in the handwriting of Mr. Smith.

* Mr. J. Smith has heard Colonel Burr and others say that, in fifty or an hundred years, the territory of the United States would compose two distinct Governments.

* Mr. J. Smith presumes that Mr. Burr refers to an invitation to settle in Tennessee, of which he heard him speak.

"Indeed, I have no conception of any mode in which such a measure could be promoted, except by operating on the minds of the people, and demonstrating it to be their interest."

The very mode, says the gentleman, which he was then pursuing. This is very true, but of that it is certainly not in proof that Mr. Smith had any knowledge; and this letter serves to demonstrate, in connexion with many other circumstances, that he had not. But, in the very next sentence, Burr proceeds:

"I have never written or published a line on this subject, nor ever expressed any other sentiments than those which you may have heard from me in public companies at Washington and elsewhere."

And immediately preceding it, he thus writes:

"If there exists any design to separate the Western from the Eastern States, I am totally ignorant of it; I never harbored or expressed such intention to any one, nor did any person ever intimate such design to me."

Now, sir, take these sentences together, and let any candid mind say, circumstanced as Mr. Smith was, in relation to Burr, whether it was not perfectly natural for him to draw the conclusions he did? Whether these sentences do communicate to Mr. Smith any illicit object on the part of Burr? Whether they do not contain a denial of any intention or effort on his part to effect a separation of the Union? To my mind they do. I am not, therefore, surprised that Mr. Smith drew the inference from them which he did; and I should have been much surprised, indeed, if, from them alone, he had drawn any inference of improper views on the part of Burr. I said there were passages in this letter, which furnished the strongest presumption that Mr. Burr had not communicated his illicit objects to Mr. Smith. Let me now call the attention of the Senate to some of them. After speaking of his intention to settle the Washita lands, Burr writes thus:

"I have some other views, which are personal merely, and which I shall have no objection to state to you personally, but which I do not deem it necessary to publish; if these objects could in any way affect the United States, it would be beneficially," &c.

If Burr had already communicated his views to Mr. Smith, why should he say in this letter, "I shall have no objection to state to you personally;" certainly if he had already stated them, this profession would not only have been unnecessary, but foolish. Burr again writes:

"This is the first letter of explanation which I have ever written to any man, and will probably be the last. It was, perhaps, due to the frankness of your character and to the friendship you once bore me; I shall regret to see that a friendship I so greatly valued, must be sacrificed on the altars of calumny. Be assured that no changes on your part can ever alter my desire of being useful to you; and I pray you to accept my warmest wishes for your happiness."

Here follows the postscript:

"It may be an unnecessary caution, but I never write for publication."

From the whole tenor of this letter the real connexion between Mr. Smith and Burr may be easily discerned; but it is particularly demonstrated by these last sentences. In them the real state of Burr's mind may be clearly seen. They discover a man conscious of having abused the unguarded confidence and misplaced friendship of another, which he was about to lose by the public exposure of his views. They display despondency and regret at the circumstance, and attempt to make a miserable atonement by a renewal of professions. They demonstrate, too, that there was no participation in the conspiracy. In further corroboration of these conclusions, it ought not to escape notice that, on Burr's next visit to Cincinnati, he took lodgings at a tavern, and avoided Mr. Smith's hospitality, which would, doubtless, have been still open to him; he having been more successful in regaining Mr. Smith's confidence by the artful letter written by him, than he had expected. This, I believe to be the plain, obvious, and natural import of this letter. To suppose that it was the effect of a preconcerted arrangement between Burr and Mr. Smith, and intended to disguise the real connexion between them, would be a strained, improbable, unnatural supposition, and, therefore, in my judgment, ought not to be relied upon in any case, but especially not upon a question of guilt or innocence. The postscript of the letter itself furnishes another strong presumption against this conclusion. The next circumstance, in point of time, from which inferences injurious to Mr. Smith are drawn, happened on the 2d or 3d of December, at Frankfort, in Kentucky. At this time and place, Burr was attending on the court upon his second trial. Mr. Smith was drawn thither by business, when a short interview took place between himself and Burr, very immaterial in its objects or consequences. The ground of crimination deduced from this circumstance, is, that Mr. Smith did not voluntarily attend the court as a witness against Burr, and testify to the disclosures which Burr had made to him upon his last visit to Cincinnati. Mr. Smith stated, at the time, his willingness to attend, but believed he knew nothing relevant to the ground of charge against Burr.

The gentleman from Massachusetts differs from Mr. Smith in opinion on this point, and conceives that if Mr. Smith had attended that court, and disclosed what he has since disclosed, in relation to Burr's last communications to him, it would have been sufficient for Burr's conviction. I differ entirely from the gentleman on this point. All that we know relative to Burr's disclosure of his views, at that time, is furnished by Mr. Smith himself. What was disclosed, it would probably be best to take from Mr. Smith's own words:

"The candor discovered in the above recited letter (of October 26, 1806,) inspired my confidence, and when he made his second visit to Cincinnati, in November last, he disclosed his plan fully to my view, as I thought, which added strength to my confidence. He being about to take leave of me, observed: 'Mr. Smith, my object in a few months will be disclosed; you will not find it dishonorable or inimical to this Government. I feel superior to the mean artifices which are ascribed to me; calumniators I do not notice,

for as fast as you put one down, another will rise up. This much I will venture to tell you, if there should be war between the United States and Spain, I shall head a corps of volunteers, and be the first to march into the Mexican provinces; if peace should be preserved, which I do not expect, I shall settle my Washita lands, and make society as pleasant about me as possible. In this Government I have been persecuted, shamefully persecuted, and, I am sorry to say, that in it all private confidence between man and man, seems to be nearly destroyed.' He showed me a deed for a large tract of land on Red river, and said, 'if I would consent to let my sons go thither, he would provide well for them,' to which I gave consent, though I never communicated it to my eldest son until last Saturday, the day on which he returned from Marietta, and not till he expressed a disinclination to co-operate with Colonel Burr's object, till he knew whether it was hostile to the Government of the United States or not. Colonel Burr told me, further, 'that very many of his friends, in different parts of the United States would remove and settle with him, and that he would be the best neighbor this country ever had,' and repeated 'that his object was not hostile to the people of the United States, or dishonorable to himself;' and, further, 'that, in a few months, many of his enemies would be proud to call him their friend.'"

What is here disclosed? Two objects only. The first to settle his Washita lands, the second, in the event of war with Spain, to head a company of volunteers, and be the first to march into Mexico. What was the charge against Burr? A misdemeanor, by beginning and setting on foot, a military expedition or enterprise against a nation with which the United States were at peace, &c. Would this evidence have had any tendency towards supporting this charge? Certainly not. Spain had nothing to do with the settlement of the Washita lands, and with respect to the contemplated military expedition into Mexico, it was to be undertaken only in the event of war, and of course could be no violation of a law which forbids such enterprises, only against nations with which the United States are at peace. The evidence, therefore, could not support the charge; and whether such enterprise in time of war would have been lawful or not, would have depended upon the circumstance of the partisan's acting with or without a commission from the United States, but the gentleman from Massachusetts remarks that this pretended condition, upon which the expedition against Mexico was to be undertaken, was too thin a disguise to impose upon the most credulous or ignorant. I will here admit that I always thought it a very thin disguise; but did everybody think so, and particularly before Burr's other views were disclosed? It is known that many men of the first talents were deceived by this disguise long after this period. It was urged by many as a substantial ground of defence in favor of Burr, during the whole course of his trial at Richmond, and many adhered to it, even after the trial was over. Why is it expected that Mr. Smith particularly ought not to have been the dupe of this disguise at that particular period? It cannot be because he is known to have reposed a blind confidence in Burr. It is probable that Burr's knowledge of that circumstance induced him to suggest the disguise. It is certainly the circumstance which lulled Mr. Smith's suspicions, and made him the dupe of the artifice. It may be said, and truly said, he ought to have been more guarded; it would certainly have been better for Mr. S. to have been a better judge of human nature, and his present condition is sufficient evidence of the misfortune of the want of that knowledge, but it is no evidence of a crime, or of a criminal intent. The only conclusion I draw from this circumstance is, that Mr. Smith furnishes a striking example of a plain dealing, unsuspicious man, involved in irretrievable difficulties from the professions and flatteries of an artful and designing one.

The next observation made upon this part of the evidence disclosed by Mr. S. is, that he consented to let his sons go with Burr, from which a knowledge of Burr's illicit views is inferred. It certainly would be an incorrect application of the rules of evidence to infer an object different from the one disclosed by the evidence, particularly when the one expressed is much more natural and probable than the one inferred. Mr. Smith himself furnishes both the fact and the object. He says, he was induced to consent to his sons going with Burr, from Burr's promises to advance their fortunes by giving them large portions of his Washita lands Was not this a very natural object? What could be more natural or probable than for a father to be influenced by a motive of advancing his son's fortunes? But it is said this conduct discovered too much confidence in Burr, and too much simplicity in Mr. Smith, there must be therefore some other concealed motive for it. It is admitted that none is proved, and I believe none exists. It is perfectly consistent with all the rest of the evidence. It does demonstrate too much confidence and too much simplicity; but it demonstrates nothing else. It demonstrates no crime. It does not demonstrate any participation in the conspiracy of Aaron Burr. We have now passed through these scenes of inferences and suspicions, and arrived at the 14th of December, 1806. The gentleman from Massachusetts, with his usual candor, here states, that from this time Mr. Smith's conduct became exemplary, from this date every effort on his part was made to defeat the conspiracy; he contributed his full quota of exertion for that purpose, and succeeded. How can this laudable conduct be reconciled with the inferences of guilt made against him? Why, sir, another inference more preposterous than any other, is brought up to support all the former inferences, in my judgment, sufficiently preposterous and improbable in themselves. It is said that this laudable exertion to suppress the conspiracy by Mr. Smith was intended as a cover to his former misconduct. But certainly, sir, before this inference is drawn, the former misconduct ought to be proved. It ought not to be made evidence of the misconduct itself. It certainly cannot be a correct rule of evidence to infer a wrong motive from a right action. But, sir, this inference is made against every rule of

probability. It is not probable that if the conspiracy should be suppressed by Mr. Smith's exertions in common with others, that such suppression would cover his own misconduct. It would have been the most effectual mode of detecting and exposing it. What hope could Mr. Smith have indulged, that if he had been engaged in the conspiracy, and had turned traitor to the rest by exerting himself in its suppression, that he would have been exempted from exposure? Would not such conduct have tended to excite the resentment of the other conspirators against him, and to call forth from them every exertion to expose him? This conduct was placing them at defiance, and in my judgment, is one of the strongest circumstances of his innocence. It was not at all calculated to cover his participation, and it appears to me absurd to conclude that it was resorted to for that purpose. But, sir, look at Mr. Smith's disclosure to the Secretary of War at this period. At this time he could not have anticipated any prosecution against himself. It was the day after the receipt of the President's proclamation. At that time he communicates to the Secretary of War all the communications made by Burr to him at any previous time, confirmed in every respect by the evidence of General Gano. I believe he did it with candor, and then he makes the following natural and correct observations, after having stated that Burr had deceived him with his apparent candor, that he had before believed Burr's views to be honorable, he remarks: "From the proclamation of the Pres-'ident, I am induced to believe that he is pos-'sessed of much more information than has come 'under my notice, and therefore the utmost at-'tention will be paid to it, as the people here are 'universally (almost) well disposed to the Gov-'ernment, &c."

Upon the supposition that Mr. Smith is innocent, this conduct is natural and its object obvious. Upon the supposition of his guilt, it is unaccountable, and would have been without a rational object. I cannot, therefore, infer guilt against all the probabilities of innocence. I have now gone through all the evidence which has been deemed by the gentleman from Massachusetts the most material against Mr. Smith. I have omitted many circumstances both in the papers formerly before the Senate, and those now presented by Mr. Smith's counsel, tending further to demonstrate his innocence; to these I merely request the attention and recollection of the Senate. It has not been my object to dilate on them, but merely to state the reasons on my mind why the conviction of Mr. Smith's guilt was not produced on it, which has been on the gentleman's from Massachusetts. This has been done by the best consideration of those parts of the evidence, which he so ably and eloquently selected and presented to our view; of course the worst part of the picture has been constantly before us. Upon a candid review of all the circumstances, to what do they amount? To suspicions, and suspicions only—suspicions unnatural and improbable. Has a single act of participation in Burr's conspiracy been proved? Not to my discernment. Has any been suggested to have been proved? I have heard of none. If any criminal act has been committed, why do not gentlemen tell us what it is—in what it consists? Why do they not put their finger upon it? I call upon gentlemen, I challenge them to do it. That at least must be done, before I can convict the accused of guilt.

I have already extended my observations much further than I originally intended; but I am still impelled, by an indescribable and irresistible impulse, to make a few more general observations. They are impelled by impressions resulting from a view of the general complexion of the case under consideration. The conspiracy of Aaron Burr has been so mysterious, complicated, and extensive, that the patriotic mind has been left in great doubt and uncertainty in fixing on the objects connected with it. The wickedness, and dangerous tendency of his plans, have excited a just and general detestation and indignation against the author, and all his associates. This state of feeling opens the mind to jealousies and suspicions; and the transition of this feeling is extremely easy and natural from the author, and his known associates, to persons who are merely objects of these jealousies and suspicions. This happens to be the unfortunate lot of all, who ever happened to repose a mistaken confidence in Burr. That this is the peculiar misfortune of Mr. Smith, at the present moment, can any gentleman doubt, who will take an impartial review of the whole evidence and proceedings in the case? When we see gentlemen of the most discerning minds, and the most amiable and merciful dispositions on all other occasions, with the best intentions, in this distort the rules of evidence, and resort to trivial, inconsistent, and unnatural incidents, as evidences of guilt, without pretending to name or describe in what the criminal act consists; how can the phenomenon be accounted for but from the influence of this patriotic, but misguided sensibility? I really fear, that this laudable but dangerous sensibility has too much influence on the Senate at this moment for the purposes of justice and of truth. In this state of mind, sir, it peculiarly becomes the justice and circumspection of the Senate to guard against the influence of trivial incidents and suspicious circumstances. We ought to recollect the peculiar force and applicability of the quotation of the gentleman from Connecticut (Mr. HILLHOUSE:)

"——Trifles, light as air,
Are, to the jealous, confirmations strong
As proofs of holy writ."

We ought to recollect that the question before us is not as to the existence, the extent, or the wickedness of Burr's plans; but whether Mr. Smith participated in them or not. No gentleman feels more detestation for the conspiracy than myself, nor would do more to detect and punish its author and all his associates; but I should revolt at the idea of an indiscriminate punishment, involving both innocent and guilty; and how can the just discrimination be made, but by evidence? Evidence interpreted by rules long settled and ap-

proved. Ought not the Senate to be particularly circumspect, lest, by departing therefrom, innocence might become the victim of an incautious sensibility? Again, sir, the popular feeling and opinion are known to be directed with peculiar earnestness and force against all the participators in this abominable conspiracy; and particularly against Mr. Smith, upon the presumption of his being one of them. Is it not to be feared, sir, that this circumstance has given an importance to some of the incidents relied upon against him, which they do not merit, when tested by the ordinary rules of evidence? Under these circumstances are not Mr. Smith's chances for justice, *for sheer justice*, materially lessened? Does it not require more than an usual effort of the mind to incur the responsibility attached to the attestation of his innocence? It certainly does, sir; I am now acting with a full knowledge and under a deep impression of that responsibility. But, sir, when the alternative is presented whether I shall incur the responsibility, or violate my conscience, by acting against my conviction of right, I cannot hesitate a moment in the choice to be made. I must follow the honest conviction of my own judgment, and although that may be and probably is a fallible standard; it is the best that God and nature have bestowed on me, and it shall be implicitly and sacredly obeyed under any circumstances, in which it is possible to place me. I know too that the people of the United States are just and liberal, and that they themselves would regret that the innocent should be numbered with the guilty by too complaisant a respect for their feelings; particularly when they reflect, that in this particular case, they have not the whole evidence before them, and of course cannot form the most accurate estimate of its bearings and effects. Gentlemen, sir, have thought proper to make professions of their impressions in Mr. Smith's favor, until he was accused; to obviate, I presume, the idea of their being influenced by any feelings personally hostile to him. I verily believe they are not. I readily admit that if feelings have been too much intermingled in this inquiry, they have been of a public and not of a personal nature. I have not been much in the habit of appealing to the motives which actuate my public conduct. I have been willing that it should be the test of its own responsibility—it is the only criterion by which I ever wish to be judged. But upon this occasion I might observe, that my prepossessions in relation to Mr. Smith have not been of the character described by others. The circumstance of his becoming a public contractor whilst Senator, opened my mind much more to suspicion, than it would otherwise have been. It is also known that his general course of political conduct was not such as I generally approved. My prepossessions therefore were not favorable to Mr. Smith; and if I had contented myself to act under their influence, there is no doubt as to the course I should now take, but I felt myself imperiously called upon to act under a more sacred influence; a sacred obligation to truth and justice. I have conscientiously obeyed it; and the result is, a conviction that Mr. Smith is not guilty of the crime imputed to him; I shall therefore disregard these prepossessions. Again, sir, are we not to look at the effects of the sentence we are called upon to pronounce? If the effects of the sentence were merely to deprive Mr. Smith of his seat in this Senate, it would be a matter of little moment. Gentlemen often voluntarily deprive themselves of that honor, but if we compulsively deprive Mr. Smith of his seat, we disrobe him also of his reputation and his honor. The effects of the sentence will not stop here; it will have an unavoidable influence on the standing and character of his family. Are we to be told, sir, that our feelings respecting his family are to be blunted, and that we must give a loose to our suspicions and jealousies against him alone? Are we to be told that his own former good character must not be brought into consideration, to counteract the inferences from trivial incidents, surmises, and suspicions? When has it been, sir, that in questions of guilt or innocence, former good character has been excluded from all consideration in weighing circumstances? Why was it that Colonel Taylor reminded us that Mr. Smith was always esteemed "a friendly, worthy, and benevolent man," and his family amiable and respectable? It was, sir, from a conscientiousness in him that those circumstances were important, and ought to be taken into serious consideration in forming a correct estimate of circumstances related by himself. Against positive evidence, I admit that the circumstance ought not to be regarded, although it would afford matter of serious regret; but against episodes, questionable incidents, surmises, and suspicions, it ought to be weighed; and if weighed in the scales of justice, would outweigh them altogether. What was it which has entitled Colonel Taylor's testimony to the peculiar character of candor and circumspection? It was his voluntarily mentioning this circumstance more than any other? And are the Senate about to disrespect the very caution and admonition which has called forth in his favor so much of their just applause? We are bound, sir, by every principle of justice and propriety to reflect, impartially to reflect upon the awful effects of the sentence we are called upon to pronounce. We ought to reflect that Mr. Smith himself is an object of suspicion merely, not of ascertained guilt—that his family is amiable, innocent, and not suspected; we ought deeply to reflect, that the blow meditated against merely suspected guilt, will necessarily strike deep into the bosom of amiable and unsuspected innocence. If, in the opinions I have expressed, and the vote I am about to give upon this occasion, I shall disappoint the expectations of my friends in this body, gentlemen whose friendship I highly value, and whose opinions I highly respect; if I shall disappoint the expectations of the people at large; if, indeed, I shall disappoint my own original expectations and feelings, I shall enjoy the pleasing consolation of reflecting that I have been influenced solely by an honest conviction, produced by the best attention I was able to bestow on the subject. It will be some consolation also to me, to reflect, that I am giving one strong instance of de-

monstration to the world, that I set too high a value upon the reputation and honor of a fellow-citizen, to sacrifice them upon the unhallowed altars of prejudice, suspicion, expediency, or popularity, under any circumstances, however imperious and responsible. If a single act of participation in Burr's conspiracy had been proved against Mr. Smith, I would not hesitate to pronounce him guilty, although it would be in obedience to a painful and reluctant duty; but to pronounce him guilty of that abominable crime, when I believe him innocent, is an operation too harsh for my mind to perform. It revolts at the very suggestion. No consideration on earth could induce me to make the assertion.

Mr. ANDERSON said, when he moved the postponement of this business, the day before yesterday, it was from a desire to collate the testimony; which, having done, he was prepared to vote when he first took his seat this morning, and had not intended to have taken any part in the discussion of the subject. But, seeing that almost all the strong points of circumstantial testimony had been either overlooked or not duly appreciated by the gentlemen (Mr. HILLHOUSE and Mr. GILES) who had spoken against the adoption of the resolution, and who had, withal, entered with great warmth into the discussion, he felt himself bound, as a member of the committee to whom the case of Mr. Smith had been referred, to examine some of the prominent parts of the evidence, and to present it impartially to the view of the Senate. Mr. A. said, in the course of his examination of the evidence, he should not, as the gentleman who preceded him had done, entirely discard the testimony of Elias Glover, but should make that testimony, in its proper place, a part of the ground-work of his observations, and support it by Mr. Smith's own affidavit, and his admission of parts of it in his answer to the committee. Mr. A. said in order to have a correct view of the case, it would be necessary to recite sundry parts of the testimony—as, by combining and comparing it alone, could the subject be clearly understood—and he would begin with the evidence of Peter Taylor, (as being the first in order,) who states that in the month of October, 1806, he was sent, by Mrs. Blannerhasset, to Lexington, after Mr. Blannerhasset, with a letter, to prevent Colonel Burr from coming back with him to the island. That he was ordered to call at Mr. John Smith's. That he called at Mr. Smith's store and asked for him. When he came out, Taylor inquired for Colonel Burr, and Blannerhasset. Mr. Smith said he knew nothing of either of them. That he, Taylor, must be mistaken as to the place where he was to inquire. Taylor said he was right. That he was directed to inquire for John Smith, storekeeper, Cincinnati; and asked Mr. Smith if he did not recollect a young man that had come for Colonel Burr's top coat, (great coat,) and informed Mr. Smith he had lived with Mr. Blannerhasset three years? He says, that, when Mr. Smith heard him talk so, he took him up stairs and asked him the news. Wanted to know what was passing; what was said about General Wilkinson; and if he, Taylor, would carry a letter from him to Blannerhasset; which he agreed to. Mr. Smith then informed Taylor that he would find Burr and Blannerhasset at the house of a Mr. Jordan, at Lexington, where he found Mr. Burr, who, among other inquiries, asked what letters he had? Taylor replied he had two; one from Mrs. Blannerhasset, and one from John Smith, of Cincinnati. The letter from John Smith, Mr. Burr allowed, was for him, (it was directed to Blannerhasset,) but on Mr. Burr's opening it, he found it contained a letter for him. Having recited some parts of the testimony of Peter Taylor, I shall proceed to make some observations thereon. And here let me premise, that the general character of Peter Taylor has, heretofore, stood the test of the strictest scrutiny at Richmond; and, on a recent inquiry into his veracity, and general character, the counsel of Mr. Smith has found both so well sustained, that they have not, in the course of their arguments, attempted to invalidate it, but have contented themselves with pointing out some small mistakes, that have not, in the least degree, lessened the validity of his testimony. With this fair character, then, does Peter Taylor stand before you, and his testimony must receive that portion of credit which is due to established integrity. But, notwithstanding the credit of this witness, thus established, Mr. Smith, in his answer to the committee, denies almost everything that has been sworn to by Peter Taylor. We must then believe, either that Peter Taylor, with all his fairness of character, and totally disinterested, has sworn false respecting the conversation with Mr. Smith, or that Mr. Smith, in his answer to the committee, must have denied what he knew to be true. Which are we to believe? I shall make no comment. Every member of the Senate can form as correct an opinion for himself upon this subject, as I could possibly express. Let us now examine what the testimony of Peter Taylor amounts to against Mr. Smith. Taken by itself, although it may excite strong suspicion, perhaps no great criminality could attach to it; but, combine it with many other circumstances, and it wears a different aspect. I pass over the extraordinary conversation between Mr. Smith and Peter Taylor, and come to the question asked by Mr. Smith. What was said about General Wilkinson? Why is the name of General Wilkinson introduced by Mr. Smith? The Senate will recollect, that, in the deciphered letter, written by Colonel Burr to General Wilkinson, which was read yesterday by the honorable chairman of the committee, (Mr. ADAMS,) Colonel Burr tells General Wilkinson that the contractor will supply provisions, to be sent to such points as Wilkinson shall direct. Mr. Smith is the contractor for supplying the army; and a strong inference would here arise that he was the person meant by the term contractor; hence his question—What is said about General Wilkinson? And this question, asked under the peculiar circumstances which here present themselves, implies a knowledge of Colonel Burr's plans, which are developed by the

communication General Wilkinson made to the President, of the contents of the deciphered letter. Add to these considerations, Mr. Smith's first denying to Taylor that he knew anything about Burr or Blannerhasset, and shortly after, when he found Taylor was a domestic of Blannerhasset's, he directed Taylor to the house in Lexington, where he would find Colonel Burr; and they certainly excite a strong impression that Mr. Smith had a knowledge of Colonel Burr's plans and movements. It will be recollected that Mr. Smith asked Taylor to carry a letter from him to Blannerhasset; but, from the testimony of Taylor, it appears that the letter was for Colonel Burr. The contents of this letter, and the answer thereto, are presented to us, and from them arguments have been drawn to prove that Mr. Smith is entirely innocent. But the very able elucidation which had been given of those letters by the honorable chairman of the committee, (Mr. ADAMS,) has not, I expect, left a very strong impression of the innocence of Mr. Smith, either with respect to the tenor of the correspondence, or the object of it. A very different construction has, however, been attempted to be given to the contents of this letter, and the answer thereto, by the gentleman from Virginia, (Mr. GILES.) Which will best comport with the whole train of Mr. Smith's conduct in relation to Colonel Burr's plans, the Senate will determine.

I shall now proceed to examine the testimony of Elias Glover, and I think I can show, that Mr. Smith's own affidavit does most fully support some of the most material parts of it; and it is worthy of remark, that Mr. Smith, in his answer to the committee, admits more of the facts sworn to by Elias Glover, notwithstanding the very bad character Mr. Smith gives him, than he admits of the facts stated in Peter Taylor's deposition, whose character with all the pains that have been taken to invalidate it, yet remains untarnished. For this extraordinary procedure it may be necessary to account. With respect to Peter Taylor, it will be recollected, Mr. Smith had never admitted the material parts of the conversation as stated by Taylor to have taken place. That Taylor's weight of testimony of course depended on his own character, and Mr. Smith in his affidavit presented to the Senate, says, that he can prove the falsehood of the statement of this witness. Thus was this man's testimony to be positively disproved, which however has failed. But Glover's could not be completely prostrated in the same way, because Mr. Smith had on his oath admitted sundry of the facts stated by Glover, and that at a time when Mr. Smith hardly calculated upon being arraigned before the Senate under the present charge. It therefore became necessary that Glover's general character should be so completely destroyed by positive swearing, as to disprove, if possible, even the very facts which are fully corroborated by Mr. Smith's own admission on oath. But, Mr. President, when I look around, and observe that many of this body, either on the bench or at the bar, have been much accustomed to compare positive swearing with strong circumstantial testimony, I have not a doubt, but that each of those different kinds of evidence will be duly and deliberately estimated. I will now proceed to state some of the material parts of Elias Glover's testimony, and will afterwards compare those parts with Mr. Smith's own affidavit. In Glover's deposition he states that on the 23d November he, in company with a friend, (this friend appears to be William McFarland,) went to Mr. Smith's, and had a conversation with him, in which Mr. S. stated that Mr. Burr had disclosed to him his object, which he had never fully done before—which was, in the first place, should a war take place between the United States and Spain, to head a corps of volunteers, and march into the Mexican provinces; a great number of enterprising young men were engaged for that purpose—that his preparations on the western waters were extensive—that the plan had been long maturing, and expressed a full confidence in Colonel Burr's success. Mr. Smith said, that his sons were going to Orleans in a few days, and that he had consented that Colonel Burr should there take them into his charge; he having assured him, that he, Burr, would provide well for them—he also said, that Burr wanted the gunboats he was then building. Mr. S. said he had not been well treated about the boats he had before built. Mr. S. in his deposition sent to the President, some time after the proclamation issued, states that when Burr made his second visit to Cincinnati, in November, 1806, he disclosed his plan fully to him as he thought. Being about to take his leave, he said, Mr. Smith, my object in a few months will be known, you will not find it dishonorable or inimical to this Government. Thus much I will venture to tell you, if there should be a war between the United States and Spain, I shall head a corps of volunteers, and be the first to march into the Mexican provinces. In this statement of Mr. Smith, he fully confirms the deposition of Glover; and he also admits that he agreed to let his sons go with Colonel Burr. This is another very important point, which goes to support the testimony of Glover. For how could Glover have known this fact, but from Mr. Smith himself—for Mr. S. seems to have been so cautious about communicating it, that from his own affidavit made the 6th January, 1807, he swears that he never communicated it to his eldest son, until the Saturday preceding the 6th January. There is one point of some importance, which Mr. S. though virtually, does not absolutely deny, but evidently intends to deny it in his answer to the committee. It is that part of Glover's testimony respecting the gunboats, which is supported by the letter of the Accountant of the Navy in answer to one from the Chairman of the committee. The accountant says, that Mr. Smith had previous to November, 1806, built two gunboats for the United States, and that from some change in the plan, there arose a difficulty in fixing a proper valuation. Glover says, Mr. Smith told him he had not been well treated about them at Washington. I would ask how could Glover ever have known that there had been the smallest

difficulty about Mr. Smith's gunboats which he built for Government, if Mr. S. himself had not communicated it. There is no great criminality in this communication, but it certainly tends to prove substantially the conversation between Mr. Glover and Mr. Smith. Thus, I conceive, have several important and material parts of the testimony of Elias Glover been supported, and so far as circumstantial testimony can tend to establish facts, in the deposition of Glover entitled to credit.

It has been attempted to be shown, that Glover was a bitter enemy of Mr. Smith, and affidavits to that effect have been produced, from which it is inferred that no kind of communication whatever could, or had, taken place between them. In the deposition of General Gano, it is stated that, in the Summer of 1806, Mr. Glover did, in an electioneering conversation, make use of harsh epithets respecting Mr. Smith. But from the deposition of Mr. Carr, at whose house Mr. Glover boarded, it appears that Mr. S. did visit Mr. G. at his lodgings, and that he saw them engaged in private conversation in the Fall of 1806.

Mr. Dugan, who is stated to be a merchant at Cincinnati, deposeth that he boarded in the same house with Mr. Glover, in the Fall of 1806; that he has seen Mr. Smith going to Glover's lodgings, at the dusk of evening, and that Mrs. Carr, the landlady frequently expressed herself in the following terms: "I wonder what brings Mr. Smith so often to this house after dark, and causes him to stay so long in Mr. Glover's room?" or words to that effect. Now, if we believe these witnesses, and we have no reason to doubt their veracity, there certainly must have been a very good and intimate understanding, between Mr. Smith and Mr. Glover, in the Fall of 1806, and this will account for Mr. Smith's free communication to Mr. Glover, and the deposition of William McFarland proves the conversation between Mr. S. and Mr. G. to be substantially correct, and as Mr. Smith has fully proved that Glover and McFarland were both concerned in Burr's plans, it will remain with the Senate to say whether it has not also been proved that Mr. Smith was likewise concerned. I shall take a very short view of Mr. Smith's journey to Frankfort, at the time he saw Col. Burr there, shortly after the conversation which has been stated to have taken place at Mr. Smith's own house, with Glover and McFarland. Some business led Mr. S. to Lexington, where he was informed by a Mr. Jordan, that if it was known he (Smith) was there, he would be summoned as a witness against Colonel Burr, who it was said was at that time arraigned at Frankfort. Mr. S. said that he was willing, and that he knew nothing of the business. A similar conversation passed between Mr. S. and a Mr. Kelly, by which it appears that Mr. Smith did go to Frankfort on his own business; that for want of General Adair, Mr. Burr's trial before the grand jury was delayed; but Mr. Smith said, he could not be detained at Frankfort from his business, particularly as he knew nothing that would either criminate or exculpate Colonel Burr. Thus we see Mr. Smith denying any knowledge whatever of Col. Burr's plans, although he had acknowledged that Colonel Burr had disclosed his views to him; and the charge then against Colonel Burr was, an intention to invade the Spanish provinces. Mr. Smith's testimony, had it been given, would certainly have thrown much light on the subject, and might have put a complete stop to all the future consequences which created so much agitation throughout every part of the continent.

In about ten days after this affair happened, on the evening of the sixteenth December, Mr. Smith told Mr. Token, as appears by his deposition, that he never believed Colonel Burr to be engaged in hostility against the United States, until he saw the President's proclamation. Until then he believed, as we had been in expectation of a war with Spain, that if Colonel Burr was engaged in any enterprise, it was under the protection, and with the advice of, our Government. About the same time Mr. Smith makes a similar communication to Mr. Gano, who inquired of him if he was acquainted with Burr's designs and mysterious movements in the Western country. Mr. Smith said he had endeavored to find out, but could not, further than they were honorable, and would be approved by the United States; that he was going to settle his Washita lands, and would, if a war should take place between Spain and the United States, be ready to embark in it, and that many who were now his enemies, would then be glad to call him their friend. Major Riddle states that he had the command of the militia that were called out to stop Burr's boats; that he was stationed near Mr. Smith's house, and had instructions from his superior officer to try to find out whether Mr. S. knew anything of Burr's affairs, and what he knew; and that, in one of the conversations had with him, Mr. S. said he knew more of Burr's concerns than any man in the State of Ohio, but one. Those various declarations thus made by Mr. S. at several different times, and under different circumstances, appear to be entirely inconsistent with one another. We see by the testimony of Jordan and Kelly, that Mr. Smith declared that he knew nothing about Mr. Burr's business, and nothing that could criminate or exculpate him. We have seen what Glover stated of what Mr. Smith communicated to him; we have seen that statement confirmed by Mr. Smith's own affidavit, sent to the President, and we now see what Mr. S. has declared to Mr. Token and Mr. Gano; to the former he says, that if Burr was engaged in any enterprise, it was under the protection, and with the advice, of our Government; this was the very language Mr. Burr himself held out to induce the unwary and unsuspecting to join him. To Mr. Gano, Mr. Smith says, he had endeavored to find out Burr's plans, but could not, further than that they were honorable, and would be approved by the United States; and to Major Riddle, he says, he knew more of Burr's plans than any man in the State of Ohio, but one. These three last conversations took place about ten days after Mr. Smith had declared to Jordan and Kelly, that he knew nothing of Burr's business, or anything that could

criminate or exculpate him. How are these various declarations of Mr. S. to be reconciled? At one time, he says, he knows nothing of Burr's affairs; ten days after, he says, he knew more of his concerns than any man in the State of Ohio, but one; and goes so far as to say, that if Burr was engaged in any enterprise, it was under the protection, and with the advice, of our Government; and all this after Mr. Burr had told him that he had been persecuted in this Government, shamefully persecuted, and that, in it, all private confidence between man and man seemed to be nearly destroyed. Could, or did, Mr. Smith believe that the Government countenanced any of the plans of Mr. Burr? It appears to me impossible. What, then, could induce him to make such a declaration, and at different times? Did Mr. S. believe that the Government would give its sanction to an illegal act? For, as a member of the National Legislature, he must have known that it was not authorized by law, and that the President would not dare, in violation of the Constitution, (even if he had ever so great an inclination,) to countenance an enterprise that would inevitably involve our country in war? And did Mr. S. believe that the Administration had such unbounded confidence in Mr. Burr as to entrust him with so important an expedition at that critical period? Yet these things we must believe, if we believe Mr. Smith sincere in his declaration; and if we do believe him sincere in saying that if Mr. Burr was engaged in any enterprise, it was under the protection, and with the advice, of our Government, we must believe that he was conversant with Mr. Burr's plans, which must have been very plausibly impressed upon him indeed, to have induced him to have formed so extraordinary an opinion.

I shall now proceed to the testimony of Colonel James Taylor, who, in answer to a question put by the committee, makes the following statement: "That a piece signed Querist, published at Marietta, in the Fall of 1806, excited a good deal of 'agitation at Cincinnati; that he was anxious to 'see the piece, and expressed himself to this effect 'to Mr. John Smith, of that place. Mr. S. promised to procure the paper, which he did. In a 'few days after, Colonel Taylor fell in company 'with Mr. Smith and General Findley, in Cincinnati, when the conversation turned upon the 'subject of a separation of the Union. Mr. S. advanced, as his opinion, many of the arguments 'in the Querist; spoke as to the difference of interest between the Western and Atlantic States; 'and observed, that, although the doctrine was 'unpleasant at that time, in less than two years, 'it would become orthodox." Mr. Taylor says, one of the arguments made use of was, that we derived very little advantage from the great expense of foreign Ministers and Consuls, and the Navy. He observed, that a few British ships or armed vessels, at the mouth of the Mississippi, could block up our trade effectually. This conversation, abstractly considered, (though peculiarly improper in a Senator or member of the National Government,) might not of itself be considered criminal; but combine it with Colonel Burr's conversation with General Morgan and his sons, as stated in their depositions, to the very same purport; add thereto the time at which the piece signed Querist was published, which was immediately on Colonel Burr's arriving in that country; supporting the same doctrine, and considering the separation of the Union as a part of Colonel Burr's great plan, and connect this communication of Mr. Smith's with the several conversations hereinbefore detailed, and the information which Mr. Smith himself acknowledges to have received from Colonel Burr; and it appears to me almost impossible not to believe that Mr. S. was concerned in Burr's projects. Some attempt has been made by Mr. S. to explain away or invalidate the testimony of Colonel Taylor; but the stern integrity of his character is such, blended with the very candid manner, the great reluctance with which he gave in his evidence before the committee; the extreme tenderness he evinced towards Mr. Smith and his family, were so conspicuous, that the evidence which has been presented to countervail the effect of Colonel Taylor's testimony, has not made the smallest impression upon my mind; and the very circumstance of Mr. Smith not obtaining the deposition of Gen. Findley, who, Colonel Taylor says, was present, confirms me in the belief, that if that testimony was produced, it would fully accord with Colonel Taylor's. I have now discharged my duty as a member of the Committee, and whatever may be the determination of the Senate, I shall rest satisfied. The duty that the Committee had assigned them, in the case of Mr. Smith, has been an extremely unpleasant one; but they have deemed it their duty, uninfluenced by personal feeling or public opinion, to observe an undeviating course, and to endeavor to bring fairly and fully to the view of the Senate, the whole merits of the case; upon which I am constrained to pronounce, however painfully, that, in my opinion, the resolution ought to be adopted.

Mr. POPE.—It is with reluctance that I rise at so late an hour to express the reasons which will influence my vote. The very able and luminous view which my honorable friend from Virginia has taken of this subject, will supersede the necessity of many additional remarks from me.

The counsel of Mr. Smith have opposed the resolution on two grounds. First, that the Senate have no jurisdiction in the case; second, that the evidence does not warrant its adoption. Although I have dissented, and still dissent from the opinion of other gentlemen in their application of some of the principles laid down in the report of the committee. I concur with them, on the general ground of jurisdiction. Their arguments on this point were very plausible and ingenious. They have contended that the Senate has no power to inquire into any offence of which one of its members may be accused, that is cognizable in a civil court of criminal jurisdiction. Every man is equally amenable to the general laws of the land, and liable to be prosecuted and punished in the

civil courts; but when a man is clothed with a legislative character, he is placed in a new relation; and, besides being amenable to the judicial tribunals of his country, he becomes, to a certain extent, responsible for his conduct to that body to which he belongs; and that body has a power to inquire into it, without the aid of a civil court. Whenever a member of this House shall be charged with a crime punishable by the general laws of the country, it may be a question worthy of consideration, whether to refer it to the civil court, or to have it examined before this body. On this question, the reasoning of the counsel, when addressed to the sound discretion of the Senate, would merit attention. If, however, the Senate should deem it necessary or expedient to make the inquiry, I entertain no doubt of its power to do so.

I will add nothing more on the subject of jurisdiction, but proceed to consider whether the resolution is supported by the evidence before us. The gentlemen for and against the resolution who have preceded me, seem to consider Glover discredited, and in their arguments, have laid his affidavit entirely out of the case. I shall not inquire into the credibility of this witness, after the solemn protest I have so often made against the us of ex parte testimony, either to criminate the accused, or to impeach the characters or credibility of the witnesses; the Senate must be satisfied that I should be very unwilling to bottom my vote on such testimony. My mind revolts at the idea of pronouncing a man guilty of an infamous crime upon a private ex parte affidavit, especially of a private conversation, so liable to be misunderstood, and so impossible to be disproved. The precedent would be a monstrous one, and the first, I believe, known in this country. I cannot give my vote to sanction it. We are called upon to declare to this nation, that Mr. Smith has been guilty of participating in the conspiracy of Aaron Burr against the peace, liberties, and union, of the people of these States. To authorize us to pronounce the sentence, one of two things ought to appear; either that he has committed some treasonable act, or that Burr's treasonable project was disclosed to him; and that he connived at, or improperly concealed, it; for, I presume, it will be conceded that it should appear that Mr. Smith has been guilty of some act of a treasonable nature. Glover was the important witness against Mr. Smith before the grand jury at Richmond, and his testimony has been deemed very material during the present investigation. If his affidavit is abandoned, I would thank some gentleman to specify the evidence which proves Mr. Smith guilty of committing or concealing anything treasonable. We are told, however, that, although no particular part of the evidence, or no single link in the chain proves his guilt, yet the whole circumstances combined make it sufficiently manifest. I must confess, that many circumstances which do not appear to have any necessary connexion with each other, have been put together with great ingenuity, and from them strong inferences drawn unfavorable to Mr. Smith. After exhibiting this chain in its most plausible and imposing attitude, I believe gentlemen will be at a loss to inform us what is the result, or what particular part, if any, it proves Mr. Smith has performed in this conspiracy of Burr. My friend from Virginia has well explained the circumstances stated by Peter Taylor. Peter Taylor may be mistaken in some of the circumstances, but, admitting the whole to be true, there is nothing incompatible with innocence. It is evident that Mrs. Blannerhasset's sending Peter Taylor the letter from Smith to Burr, and Burr's answer, were not the result of any previous concert, but grew out of the circumstances of the moment. The conversation, mentioned by Colonel Taylor, has been much relied on. I have, from personal acquaintance, as well as from character, too much confidence in the honor and veracity of Colonel Taylor, to suspect, for a moment, that he would intentionally misrepresent; but if the testimony of Doctor Sellman is to be regarded, we might be induced to suppose it possible that Colonel Taylor, either did not apprehend Mr. Smith's meaning correctly, or that he did not hear the whole of his observations. I am not, however, convinced that Colonel Taylor has been mistaken. I disapprove, very much, the dissemination of such sentiments; it tends to weaken the bond of Union, but it cannot, surely, be deemed an infamous or criminal act, which will constitute a ground of expulsion. It is worthy of remark, that almost the whole of the testimony against Mr. Smith relates to conversations; a species of testimony which should be received with great caution. I beg leave to remind gentlemen of some circumstances which have occurred in this city during the present session. Conversations, which have been repeated on the same or the day after they took place, have been understood, and represented differently, by different gentlemen who were present. The gentlemen who have advocated the expulsion of Mr. Smith, have relied principally on Mr. Smith's own statements. If Mr. Smith's explanation of his own conduct is to be resorted to, the whole should be taken together. It would be very unfair to garble it. However improper or dangerous it may be considered, to permit a man to prepare the means of a military expedition against a foreign Government, without the authority of his own, Mr. Smith's explanation in his answer, his conduct and declarations, after the President's proclamation arrived at Cincinnati, his letter to the Secretary of War, of the 14th of December, 1806, afford a strong presumption that he had no criminal intentions. In his letter to the Secretary of War, he stated that, about two weeks before he had called on Burr, then at Cincinnati, and requested to know his object; Burr answered that, in the event of war with Spain, which he deemed inevitable, he would head a corps of volunteers, and march into Mexico; but if peace should be preserved, which he did not expect, he would make a settlement of lands. This was the only disclosure, if it may be called one, which it appears was ever made to him, and this he communicated to the Government two weeks after he received it; but observes, in his letter, that Burr

had expressed himself, with apparent frankness and candor, that he could not believe that he was engaged in any criminal project. Inasmuch, however, as the President had issued his proclamation, he presumed he must have more information than himself, and considered it his duty to enforce it.

All parties about Cincinnati seem to agree that Mr. Smith was one of the most active and efficient men in arresting the progress of the expedition. He procured the public arms on his own responsibility, and put them in the hands of the militia. It has been said that he pursued this course to blind the people, and not from patriotic motives; this is uncharitable indeed. If Mr. Smith had disregarded the warning of the President and discountenanced an attempt to stop the expedition, such conduct would have been relied on as very strong evidence of his connexion with Burr; so, that, whether he was active or passive, his conduct, after suspicion had alighted upon him, would have been equal evidence of his guilt. Whatever may have been Mr. Smith's confidence in Burr previous to the arrival of the proclamation, it is evident that he abandoned him the moment he was denounced by the Government. If it be true, as has been alleged, that Mr. Glover was a partisan of Burr's, it is strange, if Mr. Smith was also concerned, that Mr. Smith and Mr. Glover should have conducted themselves so differently after the arrival of the proclamation; and it appears to me very extraordinary that Mr. Glover, if he had been initiated into the secrets of Mr. Burr's projects, should, in his communications to the Government, have implicated no person except Mr. Smith, who had been so active in defeating them. Can it be seriously contended that Mr. Smith's hospitality to Burr and his confidence in him is evidence of his criminal participation? Surely not. If such circumstances are deemed sufficient to prove a man a traitor to his country, hundreds of innocent persons might be implicated. When Mr. Burr was in the Western country in the Fall of 1806, I thought, and still think, that the charges made against him in the public prints, and in court by the attorney of the United States, if not sufficient to convict him of crime, ought at least to have put us on our guard, and I considered any attempt, under these circumstances to give eclat, or to turn public opinion in his favor, imprudent and improper; but, sir, I should not feel myself authorized to pronounce every man a traitor, who treated Mr. Burr with respect, before the President's proclamation reached that country. The gentleman from Tennessee has contended that we ought not to require the same evidence that would be requisite to convict a man of treason before a petit jury. No position, received in the light in which this appears to have been considered by many during the present investigation, is more fallacious or dangerous; that we are not bound by the forms or technicalities of the law, I admit; but I contend, with confidence, that the Senate of the United States, when called upon to declare the existence of a fact, are as much bound by justice and conscience to require proof of it, as any other tribunal. A court and jury would not perhaps require the proof to be as clear and conclusive in a case where the sum of twenty pounds only was in dispute, as in a case of life and death; and it may be said, with at least some plausibility, that we ought not to be as scrupulous on the present occasion, where reputation only is involved, as if life was at stake. The difference consists, not in the tribunals which decide, but the importance of the questions to be decided. In every case where a fact is in question, the triers or judges ought to require convincing evidence of it before they assert it. It has been said that if odium or suspicion has attached to a man's character, he ought to be expelled. This ground, if tenable, cannot be relied on in the present state of this question. If this was a proper ground of expulsion, we should have expelled Mr. Smith when he first presented himself here in November last, on account of the odium which had attached to his character by the finding of the indictments at Richmond; but this ground was abandoned. It was decided by this Senate that Mr. Smith was entitled, on the principles of justice, to an opportunity of controverting the charges against him before he should be banished from this House. We have proceeded to inquire into the fact. The question now to be decided is not, whether he is a suspicious character, but whether he is proved by the evidence before us to be guilty of crime. I cannot act upon suspicion, or mere conjecture. I will not bottom my vote upon anything which does not present itself in the shape of substantial evidence. Were I a citizen of the State of Ohio, mere suspicion or distrust of his integrity, or the circulation of opinions which I disapproved, might be a sufficient reason to me to withdraw my confidence from Mr. Smith, to refuse him my suffrage; very different is my situation. It does not depend on my choice or opinion, who shall represent the State of Ohio in this Senate. I do not feel myself authorized to deprive Mr. Smith of his seat here, until he is proved to have been guilty of some infamous or disgraceful conduct. I have heard other intimations to awaken suspicion of Mr. Smith; but which I cannot regard in deciding on his case. Although I am not prepared to say that my mind is entirely satisfied of Mr. Smith's innocence, I am ready to declare that there is no proof to authorize me to pronounce him guilty. It is an axiom, which both education and experience have taught me to venerate, that no man ought to be declared guilty of crime on mere suspicion. Notwithstanding my hostility to the wicked and dangerous projects of Burr and his associates, and the reluctance I feel to vote in favor of a man even suspected to have been concerned with him; notwithstanding the popular indignation, which, to the honor of our country, has been so justly and so strongly manifested against this party; and notwithstanding the attempt, which from some of these affidavits, appears to have been made to bring party feeling and party sensibilities to play upon this question, not of a political nature, but one in which the personal rights and fame of a member are involved, I feel

myself constrained by a sense of duty and propriety to vote against the resolution.

Mr. CRAWFORD had determined to take no part in this discussion. The exposition which the subject had received from the gentleman from Massachusetts, was so clear, so comprehensive, and at the same time so candid, as to supersede the necessity of any remarks from him. He felt, however, constrained to make a few remarks in reply to the gentleman from Virginia. The Senate has been told by that gentleman, that its dignity has been assailed by the depositions taken on the part of Mr. Glover, in support of his credibility, that they have been procured on the presumption that this body is to be governed by political prejudices. If this objection is well founded, it applies with equal force to the conduct and testimony of Mr. Smith. From the first, to the last word of Mr. Smith's answer, he endeavors to impress upon this body the zeal with which he has been devoted to the present Administration. In the deposition of every witness examined by Mr. S. as to his own conduct, the witness is questioned upon that point—his zeal for the Administration is the principal point which he labors to establish. If then the dignity of the Senate is assailed by Glover it is equally so by Mr. Smith.

Another very convenient method of destroying the force of the depositions inculpating Mr. S. has been adopted by the gentleman from Virginia, and also from Kentucky. We are first told, that they have been taken without proper notice to Mr. Smith; but as many of Mr. Smith's depositions were taken in the same manner, and liable to the same objection, it was necessary to find some other objection to them, and especially to Mr. Riddle's deposition. What, sir, is this formidable objection to his deposition? One, sir, which if well founded must be effectual. We are gravely told, sir, if Mr. Riddle is an honest man, and not connected with A. Burr that Mr. S. would never have disclosed his views to him; and that if he was one of Burr's associates he cannot be an honest man, and therefore is not entitled to credit. This, sir, is a two-edged sword, which is destructive to the credit and reputation of Mr. Riddle indeed; and the same candid mode of reasoning, would be equally destructive to the reputation and credit of any other man. If the witness is an honest man, you are not to believe him, because Mr. Smith would not be so foolish as to disclose his views to him; and if he is a dishonest or suspicious character, to whom Mr. Smith might safely disclose his iniquitous plans, then you must believe him, because of his suspicious character. This reasoning may be ingenious, but it certainly has nothing in it of sincerity and candor.

The gentleman from Connecticut cannot believe that A. Burr, ever disclosed his projects to Mr. Smith, because all the persons to whom he disclosed them, were inimical to the Administration. It is true that in the Atlantic States, at least east of the Allegany mountains, that artful traitor addressed himself to persons who were in a state of enmity with the Government and to no other. He applied to General Eaton, who believed he had just cause of complaint against the Administration; who believed he had suffered absolute injustice at their hands. For the same reason he applies to Commodore Truxtun. But, sir, trace him from Philadelphia to Pittsburg—view his conduct on the western side of the same mountains. What is his conduct there? What is his conduct and conversation with the Morgans? His conduct and the motives of his conduct are changed. Here he endeavors to convince every man that it is the interest of the Western country to separate from the Atlantic States. Here he addresses himself to the most respectable and influential characters, who stood high in the estimation of the public, who had no cause of complaint against the Administration. The Morgans were not anti-ministerialists—they were respectable, they were influential; it was therefore important to obtain their countenance and support. Blannerhasset was a man of wealth and talents, and of easy credulity. He is applied to and secured. The next we hear of Aaron Burr is at the house of Mr. Smith. This gentleman stood high not only in his own State, was not only a Senator of the United States, but also a contractor for furnishing the Army of the United States. It was an object of the highest importance to the success of Aaron Burr's plans to obtain his aid and co-operation. But we have been told that it is improper in the investigation of this subject, to introduce the acts and sayings of Aaron Burr. If this is correct, there is an end of the question. After deciding this point, it was wholly unnecessary for the gentleman from Virginia to have performed the Herculean labor which he afterwards attempted. How sir, is it possible to convict John Smith of a participation in the views or plans of Aaron Burr, if the sayings and acts of Aaron Burr are to be excluded from the investigation? It is impossible sir. If this attempt to keep out of view the words and actions of Aaron Burr had been made by an advocate in a criminal court, it would justly be entitled *a coup de main*. Aaron Burr had the strongest possible inducements to seduce Mr. Smith and to obtain his countenance and assistance. He was contractor for your Army. He could procure supplies for his men, and the then situation of your Army was such, that the supplies procured and sent by the contractor might with equal facility be converted to the use of Aaron Burr or applied to the support of the legitimate army. The procurement of supplies in sufficient quantity for Burr and his men, by any other person, would have excited suspicion, and created alarm. He arrived at Mr. Smith's on the 4th September and remained an inmate of his house until the 9th or 10th, and yet Mr. Smith says he never mentioned to him any of his designs or plans, not even of the settlement of Washita lands. This he asserts in his letter of the 14th December to the Secretary of War. On the 6th January afterwards, he says and swears that Burr did during his first visit mention the settlement of those lands. Yet the gentleman from Virginia not only discovers no contradiction between the oath and letter, but thinks he discovers strong evidence of their consis-

tency and agreement. To me, sir, there appears a direct and palpable contradiction. On the 23d of October Peter Taylor arrives at the house of Mr. Smith and inquires of him, at his own door, whether he knew anything of Burr and Blannerhasset. "He allowed he knew nothing of them; that I must be mistaken; this is not the place; I said no, this was the right place," "Mr Smith, store-keeper, Cincinnati." "Sir I have lived with Blannerhasset for three years." Mr. Smith then took him up stairs, or he followed him up. He then made inquiries which tend strongly to prove that he was one of Burr's confidants, and gives Peter Taylor the very information he had asked, and the very information of which he had just before declared his ignorance. The testimony of this man is admitted by every one to be worthy of the highest credit. I shall therefore leave to the gentleman from Virginia the rugged task of proving the innocence of Mr. Smith without impeaching Peter Taylor's veracity.

That Mr. Smith should write a letter to Burr and direct it to Blannerhasset has been satisfactorily explained. But it is not easy to explain, nor has it been explained, by what means Burr could devise that the letter directed to Blannerhasset was a letter written to him, or contained a letter for him. The construction which this transaction, and the letters written by Mr. Smith and Burr to each other, have received from the gentleman from Massachusetts is the only candid and rational construction of which they are susceptible.

The Senate have been cautioned not to lay much stress upon the testimony of Colonel James Taylor, not because he is unworthy of credit, but because he deposes to a conversation which has long since past, and because Dr. Sellman was present and heard no such expressions. Sir, I believe the deposition of Colonel James Taylor contains not only a perspicuous declaration of what he believed, but also a correct statement of facts; a correct statement of what he heard. His deposition, it is true, was made long after the conversation happened; but shortly after that event he reduced it to writing, and communicated it to the Secretary of State, and to that writing he referred when under examination before the Senate. He also swears he conversed with General Findley, and that his understanding of that conversation was the same. Compare the circumstances under which Colonel Taylor testifies, with those which attend Dr. Sellman's deposition. If he was present at all, it does not appear that any circumstance whatever occurred to impress that conversation upon his mind—it does not appear, that he ever thought of it afterwards, until he was called upon to depose, which was more than fifteen months subsequent to the conversation; but it does appear that Dr. Sellman has acted the part of a partisan of Mr. Smith's. In truth, sir, there is not a single circumstance tending to confirm his statement of that conversation, in opposition to that of Colonel James Taylor.

I agree with the gentleman from Massachusetts, that it would be improper to declare a member of this body unworthy of his seat for the expression of mere speculative opinions; but the expression of these opinions, connected with other circumstances which preceded, and followed after it, amounts to very strong proof. We are called upon by the gentleman from Virginia, and also from Kentucky, to lay our fingers upon that particular part of the testimony which produces conviction in our minds, of the guilt of Mr. Smith. To this call, sir, I will observe that in all cases of circumstantial evidence, convictions are the result of a combination of circumstances; they are not produced by any one link in the chain of testimony, but by the whole chain taken together. If, sir, a conviction could not take place in a court of justice unless the jury could put their fingers upon the particular part of the testimony which established the guilt of the accused, it might happen that in nine cases out of ten the culprit would be acquitted.

My friend from Kentucky says, if John Smith has participated in Burr's treasonable and unlawful projects, it must have been by performing some act or in concealing it—that he is not charged with having performed any act, and that therefore the charge must be founded on his concealment of what he knew. I will not say that Mr. Smith has been charged with enlisting troops for Aaron Burr; but sir, I will say, that he has been guilty of an act very much like it—an enlistment of the strongest character—an engagement, or enlistment of his two sons to go with Aaron Burr—to march under his banner—subject to his control, under his absolute government, dependent upon him for their future prospects and station in life. And here, sir, I refer to the deposition of Mr. Smith himself. He swears, that Aaron Burr did at his second visit visit to Cincinnati, disclose his views of invading Mexico; and yet, sir, he engaged his sons in the enterprise.

But, sir, there is one point in the testimony, which of itself produces something like conviction on my mind, that Mr. S. was guilty of participating in Burr's plans. And here, sir, I will refer to the deposition made by Mr. Smith, and that of A. D. Smith already referred to by the gentleman from Tennessee, for a different purpose. Mr. S. swears that he never communicated to his son the engagement, with Burr until the day he returned from Marietta, and not till he had expressed a disinclination to co-operate with Colonel Burr's object. This deposition was made on the 6th January, 1807, and by a deposition of A. D. Smith of the same date, it appears he returned from Marietta on the 3d day of that month. It also appears in evidence, that for some time previous to this day, Mr. Smith had been in Kentucky, and that during that time A. D. Smith had become the bearer of a letter to Blannerhasset from Burr, and for that purpose had gone to Marietta and Belle Pre; and that the 3d of January was the day he met his father on his return. But A. D. Smith on the 13th August, at Richmond, swears, that he never received any overtures from Burr on that subject; yet he considered himself as engaged under him, for he says—"From the papers which daily 'teemed with the treason of Colonel Burr's de-

'signs; the frequent solicitations, and injunctions 'of my father, to relinquish the idea of descending 'the Mississippi as an accomplice of Colonel 'Burr's; and General Eaton's deposition alone in-'duced me to abandon him and his projects." Here, sir, the son declares he did not engage himself with Aaron Burr, yet he was engaged; he knew that he was engaged, and reluctantly broke that engagement. The father swears he engaged him; but that he never disclosed that engagement to him until he expressed his disinclination to go. From whom did A. D. Smith receive the knowledge of this engagement? The answer is too plain; from his father, and not communicated to him on his return from Marietta, but before he set out for that place; before the father set out for Kentucky; and a knowledge of this engagement is the only probable reason of his becomeing the bearer of that letter. But, sir, there is another contradiction, which ought to be noticed here. A. D. S. and his father met on his return from Marietta, and the frequent solicitations and injunctions of the father induced the son to abandon B.; yet the father swears he never disclosed the engagement he had made until the son had expressed a disinclination to go with B. This expression of Mr. S.'s is a contradiction in itself; but when compared with the declarations of the son, the contradiction is gross, and palpable. How could he solicit and enjoin his son to violate an engagement, which he knew nothing of? Sir, it is impossible to reconcile these contradictions. Upon this occasion my mind has received no bias whatever from the conversations and whispers alluded to by the gentlemen from Kentucky. I have lived in a section of the country that has not felt the general impression made by the movements and enterprises of Aaron Burr. I have attended to nothing but the testimony. I have had no acquaintance with Mr. Smith; I entertain no prejudice against him. I should feel as much gratified as any member of this body, to be able, consistently with my duty, to vote for his retaining his seat. Sir, the feelings of this House have been addressed—an appeal has been made to the humanity of the Senate. We have a duty to discharge which is paramount to humanity; instead of resigning ourselves to our feelings, we ought to exercise our judgment, and do that which the public good imperiously requires. From a full examination of the evidence, I am constrained to say, that the conduct of Mr. Smith has been such as to render it highly improper for him to retain his seat in the highest council of the nation.

Mr. ADAMS.—Mr. President, I had not intended to have risen again upon the discussion of this question, nor should I now rise but that the gentlemen from Virginia and from Kentucky (Mr. GILES and Mr. POPE) have so emphatically called upon the members who have expressed their intention of voting for this resolution, to lay their fingers upon specific facts which will warrant their votes. I agree perfectly with those gentlemen that suspicions, however strong, are no sufficient foundation for such censure as this upon the conduct of a public man. I certainly would not give my voice to the passage of this resolution upon mere suspicion. And I may confidently say to the members of this Senate, who have long witnessed my conduct here, that suspicion and jealousy form no part of my character. If in this respect I have ever been chargeable with error, I believe it may be thought to have proceeded rather from an excess than from a deficiency of confidence in the political integrity of other men.

The reason assigned in the resolution is the participation of Mr. Smith in the conspiracy of Aaron Burr, against the peace, union, and liberties of the nation. The conspiracy against our peace consisted in the projected Mexican invasion. The unquestionable fact which establishes Mr. Smith's participation in this part of the plan, is his engagement of his two sons for it, when communicated in special confidence by Mr. Burr. The other part aimed against the union and liberties of this country, consisted in the systematic attempt to instigate the people of that part of the country to a separation from the Atlantic States. The fact which establishes Mr. Smith's participation in this, is the conversation attested to by Colonel James Taylor, in which we see Mr. Smith's active co-operation towards the accomplishment of that object, in the mode which Mr. Burr himself says in his letter to him, is the only practicable mode for effecting it. These two facts demonstrate Mr. Smith's participation in the whole plan. The testimony of Peter Taylor proves a consciousness in Mr. Smith of unlawfulness in the whole enterprise. The pains which he took to avoid the grand jury at Frankfort, on the second arrest of Mr. Burr, and his declarations to so many persons that he knew nothing of the business, after Burr had so fully disclosed it to him, are something more than suspicious. The denial and subsequent admission of many material facts, the attempts to discredit witnesses of the fairest character, the varieties in Mr. Smith's own narratives, and the incredibility of many things upon which he principally relies, all concur in proving, that there is another narrative of the real transactions which has not been told. These are the foundations of inferences, which may indeed possibly be erroneous; but the engagement of his two sons is admitted by himself, and his promotion of disunion is fully proved by Colonel James Taylor.

The gentlemen from Virginia and Kentucky make very light of these facts. The first of them says, that Mr. Smith's testimony could not have proved anything against Burr, because Burr had told him he should attack Mexico if a war should take place. Why, sir, if this justifies Mr. Smith, it justifies Burr himself. He always declared his intentions against Mexico were to depend on the event of a war. I will not repeat what I have said before, and urge the utter impossibility that a man of common sense could be the dupe of this pretence; but if he were, Mr. Burr's preparations then were equally in violation of the law, whether a war had or had not ensued. If there can possibly remain a doubt of this, I must ask

your leave, sir, to read you the section of the law itself.

"*And be it further enacted and declared*, That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise to be carried on from thence against the territory or dominions of any foreign Prince or State with whom the United States are at peace, every such person so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall suffer fine and imprisonment at the discretion of the court in which the conviction shall be had, so as that such fine shall not exceed three thousand dollars, nor the term of imprisonment be more than three years."

Now, sir, the offence is beginning or setting on foot, or providing or preparing the means for an expedition against a foreign Prince, with whom the United States are at peace, no exception for those with whom they shall be at war. Indeed the moment when there is a prospect of war is the very time when the remedies of this act are the most important and necessary. For such private enterprises have the strongest of possible tendencies to involve the nation in war, and they are precisely the things against which the law was intended to guard. Mr. Smith knew we were not at war with Spain. He knew that until war was declared, Burr's preparations were in the face of the law. Yet he engaged his two sons, and hurried away from Frankfort to avoid the grand jury, under the express and repeated allegation that he knew nothing of the business.

The gentleman from Kentucky says, that there were perhaps five hundred persons of distinction beyond the mountains, who gave as much countenance to Burr's projects, as from the evidence before us appears to have been given by Mr. Smith. Sir, I am very sorry to hear it, and I hope the gentleman is mistaken. If there are five hundred, or even fifty persons of a standing in society on the level of Mr. Smith, who, after personal and confidential communications from Burr of so much as Mr. Smith avows, gave him so much countenance as to engage themselves, or any part of their families, in his projects, the situation of that country and of this is truly alarming. Consider, sir, the character of Mr. Burr's projects and preparations even as they were avowed. The very act of raising men for military purposes, is a usurpation of the sovereign power—a usurpation of the most dangerous description. The determination to invade Mexico was not even pretended to be dependent upon authority from your Government. Mr. Burr was to be not hostile; he was to be a good neighbor. In every one of these terms, independent and sovereign power is directly implied. Is it possible, sir, to consider this as an offence of trivial magnitude?

I ask once more, had the war broken out, would you have consented to the appointment of Aaron Burr as commander-in-chief of your Army? Would the President have nominated him to this body? Would you have confirmed his appointment if nominated? I can speak but for one; but so far would he have been from receiving my vote, that I should have considered the appointment of him as a calamity to this nation heavier than the war. Of what avail are all the guards of your Constitution and laws, if a private individual by raising troops can compel you to place him at their head, in the heat of war? Are you aware of what import to this nation in case of war would be the character of your commander-in-chief? If we need warning let us ask counsel of the days that are past. What was it that carried this nation triumphantly through that tremendous conflict of the Revolutionary war, and secured to us the enjoyment of all the blessings which we have since possessed as an independent people? Was it not, under Heaven, in a great measure attributable to the character of the man who was selected as the commander of your armies? A man whom adversity could not break down—a man whom prosperity could not corrupt—in defeat, a pillar of strength—in victory, a crown of glory to his country; whose triumphs were the triumphs of the nation, in which every heart could participate? But what could have been the condition of this Union then, what would it be now, with a war upon your hands, if a desperate, an unprincipled, a profligate military adventurer, by levying bands of armed men without any authority, could intrude, could force himself upon this people as the leader of their armies? There is no danger that can befall us from which our ruin would so inevitably follow. Under such a General, defeat would be the mildest form that misfortune could assume. Every victory he should obtain, would be but a step to his own aggrandizement at the expense of our freedom, and the more brilliant his success might be, the more formidable would be his means for riveting chains upon this country. Sir, a design like this ought to have met from a Senator of the Union—from one of the guardians of the people's rights—instead of encouragements, the most determined opposition; and from this Senate it ought, as I conceive, to meet the most pointed reprobation. It is my deep conviction of this, and certainly no personal animosity to Mr. Smith, which has occasioned the zeal in the course of this proceeding, which has been made the occasion of reproach against me. The gentleman from Virginia, with all the powers of his eloquence, has this day appealed to the sympathetic feelings of the Senate, and roused every sentiment of compassion, which good men always delight to indulge, in behalf of Mr. Smith. He has painted in colors glowing with ardent benevolence the sufferings which must ensue to Mr. Smith, and the distress of an amiable family, which a decision unfavorable to him would occasion. Sir, I honor the source from which such observations proceeded—to the sentiments which dictated them. I trust our hearts all instinctively respond. But permit me to say, they are not the sentiments upon which the merits of this question can be properly decided. In the feelings of the man we are not to forget the duties of the citizen and of the legislator. We have seen the highest judicial authori-

ties of this Union unable to execute justice upon a crime of the most heinous and aggravated character. We are now to determine whether another of those great political institutions, on which the liberties of the nation are founded, shall be laid prostrate before the artifices of conspiracy and treason. The resort to the tenderness of our nature, and to the afflictions of an innocent family, augurs indeed not very auspiciously to the innocence upon which we are called to pronounce. It is an act of duty, and not of inclination which I feel myself bound to discharge, and that duty will still compel me to vote for the adoption of the resolution.

Mr. GILES.—Mr. President, I must acknowledge my obligations to the gentleman from Massachusetts (Mr. ADAMS) for the display of candor he has just given to the Senate. The gentleman from Georgia (Mr. CRAWFORD) misconceived the object of my call upon the favorers of this resolution. I did not call upon them to put their fingers upon any particular paper, or document, which proved any particular criminal act; but I called upon them to put their finger upon any criminal act, which they conceived to be proved by the whole, or any part of the evidence, by one link, or any number of links, or the whole chain taken together. The gentleman from Massachusetts has so understood me; and has undertaken to comply with the call. I have so much confidence in the candor and judgment of the gentleman, that I always deem it a misfortune to differ with him in opinion; but I cannot help observing, that, on the present occasion, his observations have added greatly to my confidence in the opinions I before expressed. I conceive the subject now before us, to be stript of most of its difficulties; it is now reduced within very narrow limits. The gentleman has put his finger upon only two acts of criminality against Mr. Smith. It is therefore fairly to be presumed, that in his judgment there cannot be any others imputed to him. These two acts consist in Mr. Smith's giving his two sons permission to accompany Burr in the settlement of his Washita lands; and in his conversation with Colonel Taylor, respecting the separation of the Union. Let these two acts of imputed criminality be examined. With respect to Mr. Smith's giving permission to his sons to accompany Burr in the settlement of his Washita lands, it should be remarked that all the information we have upon this subject comes from Mr. Smith himself, that it was communicated to the Secretary at War immediately after the receipt of the President's proclamation, and long before Mr. Smith had been accused, or suspected; and when he could not possibly have anticipated either suspicion or accusation. If Mr. Smith therefore conceived this to be a criminal act, is it possible to conceive, that he would have communicated it to the Secretary at War? Would not conscious guilt have induced him to conceal the circumstance? Mr. Smith communicates the fact and the object; in neither of which, can I see the smallest semblance of criminality. There can be nothing criminal in permitting his sons to partake of Mr. Burr's promised bounty, in the distribution of his Washita lands; as little criminality do I see in his permission to his sons to accompany Burr in an expedition against Mexico, *in the event of a war with Spain*—the condition alone, upon which the enterprise was to be undertaken; nor was this declaration of Burr's at all calculated to alarm Mr. Smith's suspicions, or to lessen his misplaced confidence in Burr. Suppose any gentleman in this Senate, residing in our northeastern frontiers, were to say in debate, that, in the event of a war with Great Britain, he would head a company of volunteers, and be the first to march into Canada; would it alarm our suspicions? Would it lessen our confidence in his integrity or patriotism? Certainly not. Why then should Mr. Smith be condemned, when, under precisely similar circumstances, the same expression did not alarm his suspicions, and enable him to penetrate into Burr's treasonable designs? It should be recollected, that Mr. Smith's confidence in Burr continued until the arrival of the President's proclamation; before that was known, he believed Burr's views to be honorable; but as soon as Burr was denounced by the President, Mr. Smith, with a laudable confidence in the proceedings of Government, surrendered his good opinion of him, and used the most active and effectual exertions to detect and suppress the conspiracy. What offence then does this transaction disclose against Mr. Smith? Why, nothing more than this:—that he did not penetrate into Burr's treasonable designs; that he was not a keener observer of the human character, and a better judge of human nature; but it discloses no act of participation in Burr's conspiracy—it discloses no crime. It was Mr. Smith's misfortune, the deplorable effects of which he feels at this moment; but it furnishes no evidence of even any intention to commit a crime, nor any knowledge of the intention of Burr to commit one. With respect to the other act of criminality imputed to Mr. Smith—his conversation about the separation of the Union—so far from this being a criminal act, amounting to a participation in Burr's conspiracy, it is no act at all. The evidence only discloses the impressions on the mind of the witness, as to the general result of a conversation. This impression is also proven to have been mistaken, by positive and irreproachable evidence. But, sir, in all cases, evidence of inferences from conversations, ought to be received with great caution, and limitation. How often, sir, do we hear the results of conversations, differently related by different auditors; even the most discerning and honest? How often do we see on this floor inferences made, from observations in debate, which are not attributable to them? Recollect, sir, a conversation during this present session, related from the President's table, respecting the additional army proposed to be raised. Gentlemen with the best intentions, I was informed, related it very differently; yet so much attention was paid to this uncertain mode of communication, that it was said to have arrested, for several days, the progress of the bill in the House of Representatives.

In the case before us, the impressions of the witness are not only positively disproved, but the witness himself admits that this is the only solitary instance in which expressions to the same effect were used by Mr. Smith, within his knowledge; and several respectable witnesses depose to their intimacy with Mr. Smith, and that they never heard such sentiments delivered by him at all, but often the reverse. I have, therefore, no hesitation in saying that I am perfectly convinced that Col. Taylor was mistaken in his impressions of the conversation; and I think it not improbable that if he himself were here, and could attend to the evidence, he would admit it was probable he was mistaken, because in his evidence he speaks of it rather as a questionable than as a positive point. I hope, then, sir, I may be excused from making a solemn declaration to the world that John Smith participated in the conspiracy of Aaron Burr, when the chairman of the committee of investigation, who has bestowed so much labor upon the subject, and is so entirely qualified for it, when called on, refers me to circumstances of the character just described, as the only acts of criminal participation on the part of Mr. Smith.

But, Mr. President, when in the United States, on all former occasions, we justly boasted of our laws and our liberality—of the security of the citizen in his property and reputation—of tempering our justice with mercy and forbearance—how does it happen, that in this case alone, the rules for the ascertainment of truth, long settled and approved, should be completely subverted, and these sacred considerations disregarded? How does it happen, on this occasion, that all the presumptions in favor of innocence should be converted into presumptions in favor of guilt? When did it before happen, sir, that former good conduct, and uniform good character, were discarded in an estimate of questionable incidents? When did it before happen, that laudable acts for the detection and suppression of offences were brought in evidence to prove a participation in those offences? When did it before happen, sir, that a citizen was solemnly declared guilty of a participation in offences, when those who pronounce the sentence cannot even name or describe the acts amounting to such participation? And when before did it happen, sir, that a citizen was stripped of his honor and his reputation, without the proof of a single act of criminality, and when his amiable and unoffending family was remorselessly involved in his unmerited doom? It surely cannot, in this case, be intended as an expiatory sacrifice to popular sensibility. It surely cannot be intended as a substitution for the punishment of the arch traitor who has strangely escaped from the clutches of the law. No, sir, it cannot be ascribed to such motives. It must be ascribed to a patriotic detestation of the whole conspiracy, and a fatal inaccuracy in discriminating the innocent from the guilty—fatal indeed, sir, to the accused and his family! Sir, to behold the honor and fame of an innocent fellow-citizen thus sacrificed, is an awful spectacle. I acknowledge that my feelings are much excited by a contemplation of the novel and extraordinary scene before us; but I hope the Senate will not accuse me of an attempt to influence their feelings in a case where the judgment ought to be so materially consulted. No, sir, I have no such design. I have only indulged the honest impulse of my own. I hope, at the same time, sir, that my opinions are not to be the less respected because they are approved by my feelings. I should suppose that the union of judgment and feeling would give a more sacred sanction to opinions it approved. I will, however, indulge myself no further in this investigation, but conclude with observing that I shall vote against the resolution, solely from the conviction of the innocence of the accused.

The question was now taken to agree to the resolution, and determined in the negative, two thirds of the Senators present not concurring therein—yeas 19, nays 10, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Crawford, Franklin, Gaillard, Gilman, Gregg, Kitchel, Maclay, Mathewson, Milledge, Moore, Robinson, Smith of Maryland, Smith, of Tennessee, Sumter, Tiffin and Turner.

NAYS—Messrs. Giles, Goodrich, Hillhouse, Howland, Pickering, Pope, Reed, Smith of New York, Thruston, and White.*

* Mr. Smith did not formally resign his seat in the Senate, but addressed the following letter to the Governor of Ohio.

WASHINGTON, *April* 25, 1808.

To his Excellency Thomas Kirker, Speaker of the Senate and acting Governor of the State of Ohio.

SIR: I take the liberty of hereby making known, through you, a determination which I have long since formed, to resign my seat in the Senate of the United States. You will excuse my troubling you on this occasion, instead of the President of that honorable body; I prefer this course, though it may appear an unusual one, because I do not feel any obligation to conform to any ceremonies of retiring, which are not agreeable to me, and because I wish to give my reasons for withdrawing from political life, and to give them with more freedom than might possibly be considered consistent with the courtly style which might be required in an address to the Senate.

I am the more anxious to avow my motives, as I fear they may be misunderstood, and that such may be attributed to me as I would scorn to allow the least share of influence on my actions. It may be supposed, that, dissatisfied with the result of the late inquiry into my conduct, mortification and disappointment must have driven me from my seat in a body, of whose members a considerable portion, in point of numbers, have declared me unworthy of an association with them. This, sir, is far from being the case. I never expected, ardent as were my hopes, to extirpate all prejudices, to remove all doubts—I could not expect to convince those who were determined never to change their opinions, or that those who wished to pronounce on my guilt (in a summary manner) without allowing me to exhibit any evidence of my innocence, would listen to that evidence when I produced it; I could only offer a luminous mass of proofs to the world, but I could not force open all eyes to behold it. That this result was, however, in some measure different from what I expected, I pretend not to deny; that nineteen men could be found in the Senate of the United States to pronounce me guilty, I did not suppose possible, and I will frankly own that when I saw it, though indignation was the predominant sentiment of my heart, yet it was in some degree mixed with other and more painful feelings. But, sir, it was the weakness only of a moment. I had many sources of consolation to add to those which a proud consciousness of innocence afforded me. In the first place, I saw who were the advocates of this resolution, and who were its opponents, and though I will not say that I did not regret the censure of the former, (for I desire the good opinion of all, the little as well as the great,) yet the open and honorable approbation of the latter extinguished every trace of such feeling; I saw, what the nation will see, and what every man must acknowledge, (who does not count Senators, like cattle, by the head,) that my right to my seat and character was established by as remarkable a preponderance of the talents, worth, and respectability of that House as ever distinguished one of its votes.

I also recollected that this proceeding was a public one, the proofs and principles on which it was conducted within my reach, and that it was in my power to exhibit them fairly and impartially, and claim an honorable acquittal from all who would do me the justice to read them—that if amenable to the laws of my country (as I certainly am if guilty,) I might be called to appear before any of her tribunals, and welcome with exultation any investigation.

I have it, also, sir, in my power to answer a question which may be here very naturally asked—"How is it possible, (it may be said,) that nineteen Senators could solemnly affirm the truth of an accusation, without some testimony to warrant it?" I am not so uncharitable as to say that all, or even many, of those gentlemen really believed me innocent; nor will I say, that all, or, perhaps, even any of them, are incapable of forming a correct opinion upon a plain matter of fact. No, sir, I do not thus, so highly impeach either their hearts or heads. But, I answer, (and it is an answer which they will, one day, have to urge as their excuse for the injustice they have done me,) that they had yielded, perhaps without a struggle, to the control of the most obstinate prejudice; that they wished to believe me guilty, and believed what they wished. They are not the only men who have been thus seduced. What absurdities are not believed; what glaring truths denied; what violations of propriety committed, when prejudice usurps the throne of the mind, and assumes the dominion of reason? To prove the complete surrender of their faculties to these motives, I need only refer to the proceedings of the Senate, during their investigation of my conduct. As I mean to detail these, together with the discussion, hereafter, I will now only ask, to what, but the most inveterate prejudice, can the very first step taken by the committee be attributed—when, on my application to their chairman to know whether I should be allowed to appear before the committee to hear my accusation, and procure proofs in my behalf, a resolution is adopted, forbidding any member to hold a private conversation with me on the subject! What, but prejudice, could have directed their answer to my subsequent demand of a hearing, when I am told that committee "have no authority to hear me in my defence!" When constituted for the purpose of inquiring into the truth of a charge, could reason tell them to confine their inquiry to the proofs against me, and to listen to no evidence in my favor? What but a partial and prejudiced report could be expected from an inquiry thus conducted? And, when this report is examined, what can excuse the extraordinary principles, and the gross mistakes, (to speak most tenderly of it,) which are contained in so labored a production? Passing over many circumstances of intemperate zeal and precipitation which attended the whole proceeding, what, but the blindness of prejudice, can account for the vote, given by most of these nineteen gentlemen, to decide immediately upon the accusation, without allowing any opportunity of procuring evidence to discredit or explain what was offered against me; and that, too, after I had stated, upon affidavit, the materiality of the testimony I could produce? Surely, men who were impartially and dispassionately inquiring after truth, could never have wished to declare a man guilty of a crime, and inflict upon him the severest punishment, without permitting any other testimony to be offered to them, except that which was intended to criminate him! Yet, this mode of "summary proceeding," as it was termed, was warmly recommended in the report, and found many advocates in the Senate. There is one circumstance, which so plainly shows the spirit of injustice and persecution manifested towards me by most of these gentlemen, (the weight of whose opinions it is surely fair that I should thus be allowed to deprecate,) that I cannot forbear to state it. When it was determined by the Senate that I should be permitted to procure evidence in my behalf, and the first day of March appointed for me to produce it, I was directed to give "reasonable notice" to all the witnesses against me, whom I meant to discredit, of the time and place of taking my depositions. This was on the 20th of January. The principal witness against me, Elias Glover, was in Cincinnati; the witnesses to discredit him, were in a distant part of New York and Connecticut, where he had formerly lived, and one or two in New Orleans. It will, therefore, be obvious that it was impossible for me to give him any such notice of which he could, in any manner, avail himself, provided my depositions were taken in time to reach Washington by the first of March. Yet, all that could be expected, I did. I proceeded immediately to Cincinnati, and thinking that perhaps the mail might out-travel me, I did send him a notice, by the mail, from Berryville, Virginia, on the 25th of January, (which on my arrival was also repeated,) and in which, I informed him that I should take testimony to discredit him on the 15th and 20th of February, in New York and Connecticut; that the time limited by the Senate would not allow me to delay it, but that I would permit him to appoint any subsequent day to cross-examine the witnesses I should produce, and would direct them to attend, if he thought

MONDAY, April 11.

Mr. GILES communicated the instructions of the Legislature of the Commonwealth of Virginia to their Senators in Congress, to endeavor to obtain an amendment to the Constitution, respecting the removal from office, by the vote of a majority of the whole number of the members of the respective State Legislatures, their Senators who have been, or may be, appointed to Congress.

The Senate took into consideration the report of the joint committee, made on the 7th instant, of "what business is necessary to be done by Congress, at the present session, and when it may be expedient to close the same;" and,

Resolved, That the President of the Senate and the Speaker of the House of Representatives. be authorized to adjourn their respective Houses on Monday the twenty-fifth day of April instant.

Ordered, That the Secretary notify the House of Representatives accordingly.

The bill brought up on the 9th instant for concurrence, entitled "An act to authorize the transportation of certain documents, by mail, free of postage," was three times read by unanimous consent, and passed.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act for raising an additional military force," and agreed thereto.

Mr. MITCHILL, from the joint committee, appointed on the 24th of February last, to have the application of the money appropriated by the "Act making a further appropriation for the support of the library," made report; which was read for consideration.

The President communicated sundry resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, respecting the misconduct of Peter B. Bruin, presiding judge of the said Territory; which were read.

The Senate resumed, as in Committee of the Whole, the report of the select committee, on the bill, entitled "An act concerning public contracts," and agreed thereto; and having further amended the bill, the President reported it to the House accordingly.

he could do so before the Senate would decide upon the subject. Notwithstanding this, when I offered the depositions, thus taken, of between twenty thirty and forty witnesses, to prove the infamy of this accuser, it was, to my amazement, urged that they ought not to be read, because the witness discredited did not receive that "reasonable notice" which the order of the Senate had rendered impossible; and most of these nineteen gentlemen actually voted to reject them.

What renders this still more extraordinary, is, that all the evidence they received to criminate me, (except that of Colonel Taylor, (was taken not only without any notice whatever to me, but with the most studied secrecy. Many were produced which I had never heard until they were read as evidence against me, two days before the final decision of the question; these also containing new accusations charging me with new facts, to refute which, I, of course, had no opportunity of producing evidence.

If any other proof, in addition to that which appears on the face of the proceedings, of the existence of prejudice against me can be necessary, it may be seen in the frank and honorable avowal of Messrs. Giles and Pope. These gentlemen candidly owned that their impressions had been strongly excited against me; that they were really apprehensive that their prejudices were so strong as almost to unfit them from rendering me strict and impartial justice; yet these gentlemen arose superior to an influence which so frequently subdues the powers of less vigorous minds; they declared that the proofs of my innocence were so clear and conclusive; that I had so completely disproved or explained every suspicious circumstance against me, that they not only believed me unconnected with the conspiracy, but entitled to the thanks of my country, for exertions in suppressing it. Certainly I can have no cause to regret any censure which has procured me the honor of so distinguished a commendation.

By what means or by whose agency these prejudices were excited against me, to what vicious sources they are to be attributed, it cannot be necessary to show. My accuser had the art to connect his tale with some trifling circumstances which might, until explained, justify suspicion; and although my testimony did explain them and prove his perjury most conclusively, it might yet have come too late for those minds, which, having once formed an opinion, think it true wisdom to persevere in it. I might also, sir, have shown (as I hope I did) at the commencement, and through the whole course of this inquiry, an unbending and unconciliating demeanor toward men who had manifested such a readiness to suspect me. There may, also, sir, have been some political feeling on this as on all other occasions. Some parts of my public conduct may have been disagreeable to my associates; some of my declarations and opinions (for even these were subjected to the scrutiny of their investigation) might, perhaps, be considered such as to render it 'incompatible with the privileges and dignities of the Senate, that I should retain a seat among them.

There is one circumstance of this nature which I so strongly suspect to have been the source of some displeasure against me, and which is, in some measure, connected with the origin of the charge against my conduct, that I must be excused for detailing it: It will be recollected that this accusation was first made by a certain Matthew Nimmo, and forwarded, together with Glover's affidavit, in letters to the President of the United States. Had these creatures slandered me where they were known, I should have been careless of the consequences, but as their infamy might not be notorious enough to reach the President, I felt no little anxiety, as soon as I had reason to suspect what they had done, to remove any doubts their misrepresentations might have excited. I therefore wrote to him requesting to know by whom and of what I was accused? Not being answered, and thinking what I asked was reasonable, I wrote again and again. After a long time, I received an answer, which is now before me, in which I am told, that, 'though sorry to refuse any request of mine, a compliance with what I asked would be a breach of trust. That it is essential for the public interest that people should be induced to give him information, and therefore necessary that what is thus deposited should be secret and sacred.' I must confess that the 'salutations and assurances of great esteem and respect' which accompanied this polite refusal did not satisfy me. I considered that, if I could convince the President of the falsehood of this charge, (which I am sure I could have done) that the opportunity of doing so ought not to have been denied me. But if I could not, the information would then be strengthened and would justify him in any proceedings against me. And why should this concealment be insisted on only against me? Why should they be shown to others? Can anything be more unaccountable than that I should be told, in May, 1807, 'that, writing from Monticello, where he had not his papers to turn to, he could not even say whether he had received such as I mentioned,' but that if received, it would be a breach of trust to inform me of them, and yet that he should have just before delivered them to the Attorney General of the United States? When I ask for the means of refuting an insidious calumny, I am told 'that there is no danger of my being injured by it, as he considers such information as a mere suggestion for inquiry, that these papers must, therefore, be kept secret and sacred,' when in fact, instead of being kept secret and sacred, they had not been kept at all, but were at that moment in the hands of others as the foundation of a prosecution against me, and when too many of them, though material to my defence before the Senate, were actually lost. But, sir, independent of my individual wrongs, I did think it a most extraordinary and highly dangerous principle, which was thus brought into action and avowed in this letter. It opened to my view a system of encouraging malicious spies and informers, which I had always heard execrated as the most odious features of tyranny, and never expected to see practised in a free Government like ours. I could not see how it was 'essential to the public interest' thus to subject men of the fairest characters to the most malignaut accusations, thus to patronize and protect the base and cowardly slanderer by sheltering his falsehoods and himself from exposure and disgrace. I, also, was still less reconciled to this principle, by observing the plea of State expediency or necessity (the very language of despotism) urged in support of it. Such, sir, were my thoughts upon this subject, and, warm with these feelings, I attempted not to conceal them, but (as I always have done, and I trust I ever shall) I expressed them frequently and freely. Nay, I did more, and what, to a guilty man, would have been the most impolitic and unsafe step which could be taken. I wrote to this very Matthew Nimmo, avowing my surprise and indignation at the treatment I had received from him and the Government. All which declarations, and this letter, were, as might naturally be expected, and as the event has shown, detailed and transmitted with due diligence to Washington, where they were no doubt 'kept secret and sacred,' until they were called forth by the late inquiry in the Senate. It is not my object, sir, to criminate the conduct of the President in this particular. He acted, no doubt, upon principles, in his opinion, correct; and, though I think them erroneous and unjust, I have no wish to question the sincerity of that avowal, which, I understand, he has made of his conviction of my innocence, and only regret that he did not think himself justified to allow me an earlier opportunity of justifying myself.

Nor have I stated this for the purpose of charging either the President with using, or any members of the Senate with submitting to, any influence or control in the institution or conduct of the proceedings against me. I am certainly less than ever disposed to indulge suspicions, when I have just seen how fatally even some honest minds may be seduced by them. I might otherwise have thought it even yet uncertain whether I was beyond the reach of that secret, mysterious, and inquisitorial power to which I have been subjected—whether it ceases its operations when it has collected its proofs—or whether it is also "essential to the public interest" to continue its unseen agency in dictating or devising a punishment.

No, sir, I only contend, that, by thus censuring the Administration, I must have subjected myself, in some degree, to the displeasure of that Administration and its zealous supporters, and that to this is to be attributed (without in any manner impeaching their integrity, for whose integrity renders him superior to all human infirmities!) that prejudice which I have so manifestly shown in the judgment of those who censure me; and it is most probable that this feeling towards me was considerably increased by the inclination which this conduct indicated of withdrawing my allegiance from that Administration and that party to which I have rendered my decided, though not obsequious support. I have thus endeavored to show that those prejudices, which so often and so powerfully pour themselves into deliberative bodies, from party spirit, political resentments and attachments, and various other sources, and which were so wisely foreseen and guarded against by the framers of our Constitution, operated so plainly and forcibly on this occasion as to leave me no room to be dissatisfied with a decision, which, under existing circumstances, I regard as a signal triumph.

There is also one other motive, sir, to which I should be equally unwilling that my resignation should in any degree be attributed—I mean, to a request to that effect which the Legislature of Ohio thought proper to make of me. However willing I might have been to retire from my station, I could not think it either reasonable or just to ask me to do so, and thus shrink from an expected inquiry, which I was most solicitous to meet. Had I been as guilty as those gentlemen believed me, the case would have been different; and, though I am now willing to make allowances for a hasty and intemperate vote, and am persuaded that every member of that Legislature will do me the justice to examine my justification, and have the candor to avow his mistake, I yet must beg to be excused from paying any respect to a proceeding which unjustly prejudiced my cause, and sanctioned a calumny which I had then no opportunity of refuting.

No, sir, my determination to abandon a public life has arisen from no consideration in any manner connected with the circumstances I have been detailing. It has been formed upon mature reflection and observation, and would have been long since effectuated but for those accusations against my conduct, which my duty to myself, my family, and my friends, called upon me to defy and expose. I had long before seen enough of the political world, the bitterness of its contests, the malignity of its persecutions, the overbearing arrogance of some, and the disgraceful compliances and base arts of others, to excite my disappointment and aversion. To such a state of things have these incessant heats and struggles reduced our country, that any man who looks calmly around him must see and deplore their poisonous effects. Not only in the councils of the nation, but in almost every station of life, he may see in politics the source of numberless vexations and oppressions—the fruitful mother of a thousand calamities—the betrayer of principles—the corrupter of morals. Has a man attached himself to a party; he is in chains. From that moment he is expected to renounce his own opinions—his own principles—and follow blindly wherever he is led. He is to support and oppose measures, not as his own conscience and understanding shall inform him, but often in direct opposition to the clearest dictates of both. Does he dare to break from this disgraceful bondage—is he rash enough even to speak with irreverence of any of the idols whom he is commanded to worship—he is denounced, reviled, and upon the slightest pretext persecuted to his ruin. I have long thought, sir, that a far different spirit from this was necessary to give dignity, harmony, and strength, to public deliberations, and to save our nation; that every man should cast off this vassalage of party; that he should not only disdain any obligation to adopt the opinions and support the measures of others, but that he should exert his own talents in the most unprejudiced manner, and act only as his own conscience directed him, without any solicitude as to who should vote with him or against him.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act concerning courts martial and courts of inquiry," and agreed thereto, and farther amended the bill; and the President reported the bill to the House amended.

The Senate resumed the second reading of the bill in relation to the military academy of the United States; and the further consideration thereof was postponed until Friday next.

The Senate resumed the second reading of the bill regulating the proceeding in issuing and executing the writ of habeas corpus, for the purpose of inquiring into the causes of commitment; and it was agreed that the further consideration thereof be postponed until the first Monday in December next.

TUESDAY, April 12.

Mr. ADAMS stated, that he, together with his colleague, were instructed by the Legislature of the State of Massachusetts, to use their best endeavors to procure such an amendment to the Constitution of the United States, as will empower the President of the United States to remove from office any of the judges of the courts of the United States, upon an address to him made for that purpose, by a majority of the House of Representatives, and two-thirds of the Senate, in Congress assembled.

On motion, by Mr. ADAMS,

Ordered, That the instructions be referred to the committee appointed the 25th of January last, on the subject of amendments to the Constitution, to consider and report thereon.

Mr. ADAMS, from the committee appointed the 6th instant, on the report of the Secretary of the Treasury, respecting roads and canals, reported that 1,200 copies of the following papers be printed for the use of the Senate, to wit:

A letter from the Secretary of the Treasury on roads and canals, together with his report thereon;

Circular queries on the subject;

Mr. Latrobe's communication marked E; and,

Mr. Fulton's letter marked F.

The bill, entitled "An act concerning public contracts," was read the third time. On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 21, nays 4, as follows:

YEAS—Messrs. Adams, Crawford, Gaillard, Goodrich, Gregg, Hillhouse, Kitchel, Maclay, Mathewson, Milledge, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Andersen, Bradley, Condit, and Howland.

Agreeably to notice given on the 4th instant, Mr. ADAMS asked and obtained leave to bring in a bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason; and the bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter and establish certain post roads," in which they request the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. POPE gave notice that he should to-morrow ask leave to bring in a bill for the establishment of a turnpike in the county of Alexandria, in the District of Columbia.

On motion, by Mr. ADAMS,

Resolved, That the Secretary of the Treasury be requested to transmit to each member of Congress, after the close of the session, franked, by the mail, six copies of his report on the subject of roads and canals, together with the accompanying documents, twelve hundred copies of which have been this day ordered to be printed.

Mr. BRADLEY gave notice that he should to-morrow ask leave to bring in a bill to alter the time for the next meeting of Congress.

Mr. SMITH, of Maryland, gave notice that he should to-morrow ask leave to bring in a bill to continue in force an act declaring the assent of Congress to certain acts of the States of Maryland and Georgia.

AMENDMENTS TO THE CONSTITUTION.

Mr. HILLHOUSE.—Being about to offer a resolution proposing sundry important amendments to the Constitution of the United States, I must ask the patience and attention of the Senate to some preliminary remarks, to explain their tendency and object.

The situation of the United States at the time of the meeting of the Convention for forming the Constitution, I well remember; and it will be recollected by every member of this Senate to have been such as to excite the anxious solicitude of every considerate man in our country. External pressure being removed, the recommendations of Congress had ceased to have effect on the States. We were a nation without credit and without resources; or rather without the means of drawing them forth. Local policy began to operate in a manner that tended to excite jealousy and discontent among the States; and there was reason to fear that we were exposed, and at no remote period, to all the calamities of civil war. Under these circumstances, the present Constitution was promulgated, and was eagerly seized on by the great body of the people, as the palladium of our liberties, and the bond of our Union. I was of the number of those who approved it, though some parts of it appeared to me mere theories in the science of Government, which I hoped in the experiment would prove salutary; but my expectations were not sanguine.

It has been with anxious concern that I have seen a disposition, and various attempts, to make partial amendments to the Constitution, which have, in some instances, prevailed. Others are in progress. All are aimed at particular detached parts; which, without examining or regarding the bearing on other parts, like partial alterations in a curious complicated machine, may, instead of benefiting, destroy its utility.

Some gentlemen have expressed their regret for having voted for amendments already adopted. Other amendments are on your table, and coming from such high authority as to demand serious attention. From the alarm and jealousy excited in the public mind, there is danger of other partial amendments still more injurious. Believing as I do, that amendments, and important ones too, are necessary, which materially affect the office of President, and the power of the two Houses of Congress, and without which our country will be exposed to incalculable evils; under these impressions, and to attempt a radical cure, I am induced to come forward at this time with my amendments.

Before I proceed with my explanatory remarks, I must take the liberty of stating, that in using the terms monarchy, aristocracy, or democracy, I do not use them as the cant words of party; I use them in their fair genuine sense. The terms Federalist and Republican, I do not use by way of commendation or reproach; but merely by way of description, as the first names of individuals, to distinguish them from others of the same family name.

Federalists and Republicans never divided upon the elementary principles of government. There are very few Americans who are not in principle attached to a free republican government; though they may differ on minor points, and about the best mode of organizing it. Persons attached to monarchy or aristocracy are few indeed; they are but as the dust in the balance. No one in his sober senses can believe it practicable, or politic if practicable, to introduce either. If ever introduced, which God forbid, it must be done at the point of the bayonet.

It is well known that the denominations of the parties, called Federalists and Republicans, were applied, the former to those who supported, the latter to those who opposed the two first Administrations formed under the Federal Constitution. Those who opposed those Administrations, wishing to obtain the governing power, and disliking the name of Anti-Federalists, given to the first opposers of the Constitution, assumed the more popular name of *Republicans*. It cannot be expected that a politician, when he has made himself up for a political ball or masquerade, will exhibit his true character. Many of the most florid speeches are made more with an eye to the people, than to the body to which they are addressed. To find the true character of man, you must look to his homespun, every-day dress; if you do this, will you not find a full proportion of good Republicans, as they are called, who exhibit no more of that virtue called humility than their neighbors, and who manifest no greater regard for equal rights? The supposed differences are more imaginary than real. Names may, and sometimes do, deceive ignorant, uninformed individuals; but these names now scarcely do that.

As the amendments I shall propose are not to commence their operation, until the 4th of March, 1813, which is beyond the term of service of any one now in office, they cannot be considered as having any personal application; and I assure this Senate, that I do not intend, by anything I shall say, any personal or party allusion. As I am about to tread on delicate ground, and do not wish to give offence, I thought it incumbent on me to make these explanations.

Some of the important features of our Constitution were borrowed from a model which did not very well suit our condition: I mean the Constitution and Government of England, a mixed monarchy, in which monarchy, aristocracy and democracy, are so combined as to form a check on each other. One important and indispensable requisite of such a Government is, that the two first branches should be hereditary, and that the Monarch should be the fountain of honor and source of power. In the United States, the People are the source of *all* power.

We have not the materials for forming an Executive capable of wielding royal prerogatives; nor an aristocratic Senate, which could form a barrier between the exercise of such prerogatives and the spirit of democracy. The President and Senate, depending for office on a popular election, are constrained to regard popular opinion. The idea of insuring an energetic and fair administration of the Government, by increasing patronage, and accumulating power and prerogatives in the hands of the President, is visionary.

Two evils to be guarded against in a republican government, (such as is that of the United States, and such as I hope and trust it ever will be,) are *ambition* and *favoritism*. The former induces the most aspiring, artful, and unprincipled men to assume the garb of patriotism for the purpose of obtaining office and power; and when they have obtained it, they extend their patronage and favor

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We have, I hope, some such characters as these—some shining examples of this independence and greatness of mind—and no man more sincerely wishes than I do to see their numbers and consequence strengthened. But of this I almost despair. To stem this prevailing and overwhelming current, calls for the united force and talents and confidence of our country. Sensible that I could yield but a feeble and inefficient aid to this great object, I willingly retire, with the hope that my place may be filled by one who possesses more ability (more zeal he cannot) to support the honor and interests of the nation.

I have been insensibly drawn, sir, into a much more considerable detail than I had intended. It will be attributed, I trust, to my desire to place in a correct point of view the motives which have prompted me to this, the last act of my political life.

I pretend to no stoical indifference to the opinions of my fellow-citizens—to those particularly with whom I have been more immediately and dearly connected, who, unsolicited, have honored me with their confidence on many occasions, and whose esteem and friendship I have regarded as my greatest enjoyment. I have felt an irresistible impulse to justify myself, and this must be, in some degree, my excuse for having thus trespassed on your patience.

I am, sir, with due respect, your Excellency's most obedient servant, JOHN SMITH, *of Ohio.*

to those who have been most active and instrumental in procuring their elevation.

There is no position more generally admitted to be true, than that man is fond of power. When ambition is alive, and competitors for office take the field, those means which promise success will be resorted to. None are more powerful, or can be used to greater effect, than the gift of lucrative and important offices; and none will be more zealous and indefatigable in their exertions than expectants of such offices. A golden eagle will bribe but one man; but an office may operate as a bribe to one hundred expectants. A man who would spurn at a direct offer of money, may be induced to believe he may accept an office without dishonor. To an ambitious man, how great must be the self-denial that would not permit him to use such powerful means to obtain an election which alone can raise him to the most dignified office in the nation!

Placing in the hands of the Chief Magistrate, who depends on a popular election, prerogatives and powers in many respects equal, in some, exceeding in practice those exercised by the King of Great Britain, is one of the errors of the Constitution. This error can be corrected only in one of two ways; either the office must be stripped of those high prerogatives and powers, and the term of holding the office shortened, or some other mode devised, than a popular election, for appointing a President: otherwise, our country must perpetually groan under the scourge of party rage and violence, and be continually exposed to that worst of all calamities, civil war.

The President of the United States is Commander-in-chief of the Army and Navy; and, when called into actual service, of all the militia of the nation. He has the sole power of nominating to offices; and exercises the power, at his will and pleasure, of removing from office. He has a qualified negative on all laws. He has the sole power of directing the diplomatic intercourse with foreign nations, and of forming treaties; which, though he cannot ratify, he may reject without the approbation of the Senate. He has the power, not of declaring war in form, but of adopting a course of measures which will necessarily and inevitably lead to war. He has the power of granting pardon for all offences against the United States, except in cases of impeachment. He is entrusted with the execution of all laws, and grants commissions to all officers. These are some of the powers and prerogatives vested by the Constitution in the President; others will be found by a careful perusal of it. Can these great powers and high prerogatives be more safely trusted in the hands of the President, who may be an aspiring man, and may have friends and favorites about him anxious for office, than with the immediate representatives of the people, and the Senate representing the sovereignty of the States?

I may be told, and I admit, that it is easier to point out defects in the Constitution, than to propose remedies: on this point I feel the difficulty; I feel great diffidence. The magnitude of the subject presents to my mind embarrassments hard to be surmounted; and nothing could have induced me to hazard my amendments, but a sense of duty enjoined by my official situation, and a distressing apprehension of the danger to which we are exposed. I shall not shrink from the task of proposing a remedy, and attempting to avert the impending danger.

I am aware I have engaged in a difficult undertaking. I have to oppose deep-rooted prejudices and long established opinions, which will be abandoned with reluctance. I have to contradict favorite theories, long ago adopted, and still strenuously maintained. It is therefore to be expected that arguments which go to destroy the former, or contradict the latter, will be admitted with caution, and listened to with a reluctant ear. Some of the amendments, when first presented to my mind, made but a slight impression, and I was disposed to pass them by as impracticable or ineffectual: but experience and mature reflection have satisfied me both of their correctness and importance.

I am aware that the amendments will not be approved by many individuals in this nation, under an apprehension of their tending to lower the tone and energy of the Government. They will be denounced by all office hunters, demagogues, and men of inordinate ambition, more anxious for their own elevation to office than for the public good. All artful men, who rely more on their dexterity and skill in intrigue, than upon honest merit, to secure an election, will raise their voices and cry aloud against them. They will describe them as utopian and visionary; as departing from the elective principle; and as lowering the dignity and character of the Government. But the great body of the people, who compose that portion of the community which can have no views or interests incompatible with the general welfare, which can have no other wish or desire than to see the nation prosper, and which the feelings of nature would stimulate to do what would advance the prosperity and happiness of future generations, will, I flatter myself, lend a listening ear, and grant me a candid and patient hearing. I must also be permitted to indulge the hope, that, in this honorable body, the amendments will not be hastily rejected; nor until they shall have undergone an attentive and critical examination.

A prominent feature of the amendments is, to shorten the term of service of the President, Senators, and Representatives; observation and experience having convinced me, that in an elective Government, long terms of office and high compensations do not tend to make independent public servants, while they produce an anxious solicitude in the incumbents to keep their places; and render seekers of office more eager to obtain them, and more regardless of the means.

It is a sound position, that in a republican Government like ours the public will, that is, the sentiment of the majority, when fairly and fully ascertained, should prevail: it will, in most cases, comport with the public good. Opinions produced by a sudden impulse of passion, by a feverish, unnatural excitement, or by the intrigues of artful, designing men, are those against which it is necessary to provide. The idea of tying up the hands of the people, who in fact possess the whole power, to prevent the execution of that public will, is chimerical; there are no cords strong enough to hold them. The most effectual, and indeed the only effectual guard, against popular passion and jealousy, is to let the people see clearly and distinctly that there always exists an opportunity for a fair expression and execution of the public will, and that they are in no danger from abuse of power; seeing their public functionaries are obliged frequently to resort to them for a renewal of their authority to exercise their power. No man's jealousy or fears can be excited respecting the exercise of a power which he clearly sees to be subject to his own control. What excites alarm among the people is, an accumulation of power in the hands of an individual, or of a small body of men, which, added to long duration in office and high salaries, they believe may endanger their liberties. To this poison, frequent elections are a complete antidote. Here the people see and understand that there is perfect security; and when an attempt is made to excite their fears or alarm their jealousy, they will ask, what possible danger can there be? have we not the power in our own hands? and must not these public functionaries, at short intervals, resort to us for power to act at all? A popular flame cannot be kept alive where there is no fuel to feed it.

My first amendment goes to reduce the term of service of the members of the House of Representatives to one year. (See Article 1.)

No inconvenience can arise from this arrangement; because there is a Constitutional provision that Congress shall assemble once in every year. That body, composed of the immediate representatives of the people, ought to exhibit a fair representation of their sentiments and will; and, coming fresh from the people to the Congress of each year, will, it may be presumed, fairly express such sentiments and will. And if, in an interval from one session of Congress to another, there be a real change of public sentiment, why should not that change be expressed? Will an attempt in their Representatives to resist it, tend to tranquillize the public mind? or will it not, like persecution in religion, tend to make proselytes to their sentiments?

Constitutions, except so far as they are necessary to organize the several departments of Government, and bring the public functionaries into a situation to deliberate and act; and, in the General Government, to draw the line of demarcation between that and the State governments, to prevent interference and collision, are of little avail; and present but feeble barriers against the public will. Whenever a measure is understood and believed to be necessary to promote the general welfare, the people will not fail to effect it. If they cannot, by construction, get round the Constitution, they will, by an amendment, go directly to their object. Of the truth of this, experience has furnished ample proof. The danger is, that by attempting to extend Constitutional restrictions too far, unnatural and mischievous exertions of power may be produced.

By the second amendment, the term of service of the Senators is to be reduced to three years; one third to be chosen each year. (See Article 2.)

The Senate, I am aware, may be surprised, and perhaps feel some displeasure, that one of their own body should propose an amendment, which, in the estimation of some, may tend to lessen their dignity, and destroy their independence. Did I believe this, I should be the last to offer it. If the Senate will hear me patiently, I think I can show that it will produce no such effect.

In the affairs of Government, *theories* are more deceptive than in any other of our concerns. Matters of *fact* and *experience* alone can be safely relied on. That the six years' term of service of Senators does not tend to permanency, the two Houses of Congress furnish a striking example. In the Senate greater changes have taken place than in the other House, in which I see many members with whom I had the honor to serve, previous to my being elected Senator. In this body there is not a single person who was a member when I first took my seat; and but one who had before been a member. Half the present Senate have been taken from the House of Representatives; where, from having been submitted to the frequent choice of the people, they had acquired their confidence. The same observation holds good also in State Legislatures; where the shorter the term of service, the more uniformly and steadily have the same members been returned. In defiance of all *theories*, this is the *fact*. To me the reason is obvious. The oftener a Representative is returned to his constituents, and is by them re-elected, the obligation of duty on his part is increased, and their confidence strengthened. As in private life, a frequent interchange of kind offices begets attachment and friendship. The shorter the term of service, the less the inducement to individual exertion to obtain the place; and the people will be left to a more *free* and *uninfluenced* exercise of the right of suffrage. It is an axiom not to be questioned, that the people, left to a *free*, *unbiassed* exercise of the right of suffrage, will, in most instances, make a judicious and wise choice. They can have no interest or inducement to do otherwise. When they have found a good man, *capable* and *faithful*, they will, if left to themselves, be inclined to continue him in the public service, so long as he shall continue to be capable and faithful.

Senators represent the rights and interests of States in respect to their sovereignty. In them, therefore, the States ought to feel a *confidence*. And this confidence will rather be increased than lessened by shortening the term of service to three years. Shall I be told that the Legislatures of the States are not to be relied on for their *stability* and *patriotism*? that it would be unsafe, every third year, to trust them with the appointment of their Senators? No, surely. The several States are the *pillars* on which the Constitution of the United States *rests*, and *must rest*. If these pillars are not sound, if they are composed of feeble,

frail materials, then must the General Government moulder into *ruin*. This, however, is not my belief; I have confidence in the State Governments. I am for keeping them in their *full vigor* and *strength*. For if any disaster befals the General Government, the States, having within their respective spheres, all the power of independent Governments, will be the arks of safety, to which the citizens can flee for protection from *anarchy*, and the horrid evils which follow its train. I have therefore uniformly been opposed to measures, which had the remotest tendency to their consolidation.

When I shall have stated the next amendment, it will be found that my plan, instead of lessening the dignity and importance of Senators, will magnify their office, and make it the object of desire and laudable ambition to the best characters and greatest talents of our country: for, from the Senate, I propose that the President of the United States shall always be taken; and in a manner that will exclude all *cabal* and *undue influence* in obtaining that high office—a mode in which the man of modest merit shall have an equal chance of success with the most daring and artful intriguer.

The third amendment provides for the appointment of a President. He is to be taken by lot from the Senate, and is to hold his office for one year. (See Article 3.)

This mode promises many advantages, and only two objections against it present themselves to my mind; one, that it is a departure from the *elective principle;* the other, that it will not always insure the best talents. I should not have proposed this mode, if any other could have been devised, which would not convulse the whole body politic, set wide open the door to *intrigue* and *cabal*, and bring upon the nation incalculable evils; evils already felt, and growing more and more serious. Upon mature examination, those objections appear less formidable than at first view.

When Senators shall be chosen with an eye to this provision, every State will be anxious to make such a selection of persons as will not disgrace it in the eventual elevation of one of them to the Presidential chair. Every State Legislature would, in the choice of a Senator, consider itself as nominating a candidate for the Presidency. The effect of this arrangement would be, in reality, that, instead of the States appointing Electors to choose a President, the Legislatures themselves would become the Electors; with this advantage, that the nomination would be made when not under the influence of a Presidential electioneering fever. In the regular course of appointing Senators, only one nomination would be made at one time in each State; and in most cases, three years would elapse before he could be designated for the Presidency. The great caution in the selection of Senators, with a reference to that high office, would produce another excellent effect: it would insure the continuance, in that body, of men of the most respectable talents and character—an object of the highest importance to the general welfare. In the mode directed by the Constitution for choosing a President by the House of Representatives, there is almost as great a departure, as in what I propose, from the pure elective principle; which requires perfect freedom of choice among all who are eligible; and that the ballot of each qualified voter shall have equal weight in making such choice. Whereas, by the Constitution, the House are confined to three candidates, and must vote by States; so that a State having twenty-two members, has but one; and, consequently, no more weight than a State having only a single member. And those States whose members shall be equally divided, will have no vote. These circumstances considered, the present Constitutional mode of choosing a President by the House of Representatives, when tested by the pure elective principle, may be deemed, as to the mode of choosing, and the object of the choice, as exceptionable as the appointment by lot; while it remains liable to all the evils of a contested election, from which the appointment by lot is wholly free.

In answer to the second objection, it may be fairly presumed, that the Senate will always be composed of men possessed at least of decent talents. And such men, with honest views, long experience, and the aid of the Heads of Departments and other officers, would be able to do the public business correctly. It is not necessary, it is not desirable, that the President should command the armies in person; and all our foreign relations may be managed through the agency of able Ministers, whose appointments are to be approved both by the Senate and House of Representatives. The several Executives, ever since the adoption of the Constitution, have been in the habit of calling to their aid a Cabinet Council, composed of the Heads of Departments; who ought to consist, as they probably will, of men of talents, integrity, and experience; and who, upon the plan proposed, being likely to continue long in office, will thereby give stability and system to the measures of Government.

The affairs of almost all Governments have been managed by Ministers subordinate to the Chief Magistrate. To this rule Alexander the Great, of ancient times, and of late the great Frederick of Prussia, and the Emperor Napoleon, furnish exceptions. Here let me ask, have the rights of individuals, or the liberties of mankind, been more safe, or have public affairs been conducted in a manner more promotive of the happiness of the people, when such mighty Monarchs have swayed the sceptre, than when the Chief Magistrate has possessed only moderate talents? Let history and our own observation decide.

If the appointment by lot will not always insure a President of the first rate talents, neither will the present mode of electing; for when party spirit runs high, and parties are nearly balanced, candidates will be set up, not for their talents, but because they are popular and can command votes. And there may be a possibility of having a President for four years, distinguished neither for talents nor integrity. A President appointed by

lot, will possess the advantage, and in practice it will be found a very great advantage, of coming into office free from party influence; which, under the present mode of electing, is seldom if ever to be expected; and it is to be feared that it will be too powerful to suffer even an honest man to do right.

Ours is intended to be a Government of laws; the only kind of Government under which a country can be said to be free. Every departure from this principle will be of dangerous tendency; and every grant of power or discretion, the exercise of which is not prescribed by law, is a departure, and so far produces a Government of men. No matter whether this power or discretion be placed in the hands of one man or a small body of men, short of the whole Legislature, which alone perfectly represents the nation. For this reason I always disliked that part of the Constitution which authorized the President and Senate to make appointments to office; and still more the exercise of a power assumed by the Executive of removing from office; a power which I can no where find given in the Constitution. It must be admitted, that if we are to have a Government of men, and not of laws, and the President is to be intrusted with the exercise, at his discretion, of great powers and prerogatives, he ought to possess transcendent talents, and great integrity and firmness. But if the Legislature will be at the trouble of making all necessary laws for regulating and managing the affairs of the nation, as it is their duty to do, and the amendments I propose to regulate the appointments to, and removals from office, shall be adopted, there will be very little left to the discretion of the President; and without hazard to the public welfare, he may be taken by lot from the Senate.

To cross the Atlantic, in the first instance, required the genius, firmness, and enterprise, of a Columbus; but with the aid of a compass and charts, a man of moderate talents and information, and possessing common prudence, may navigate the ocean in safety. To organize and put in operation a new Government, requires great talents and rare accomplishments; but now that our Government is under way, and furnished with laws and a well digested system, which are the compass and charts of the political pilots, with these aids a number of men may be found in every State fully competent to take the helm. And after the present plan shall have been sometime in fair operation, we may presume on having Presidents taken by lot from the Senate, equal in talents and integrity, and superior in experience, impartiality, and regard to the public good, to Presidents chosen in the present mode. For it should be remembered, that the purpose for which Senators are appointed, (which is to manage public affairs, and represent the State in one of the important and independent branches of the National Council,) will insure practical men, who, generally speaking, may be more safely trusted, and more fully relied on for prudent and efficient management of the concerns of the nation, than men famed for science and abstruse learning. The latter will be more likely to be well acquainted with nice theories in Government, than with what is practically useful.

Appointing a President by lot from the Senate, will give every State an equal and fair chance of participating in the dignity of that high office; will prevent the possibility of bargaining among the large States to the total exclusion of the middling and small States; and will thus remove one ground of State jealousy, which must inevitably grow out of our present mode. As it regards the sovereignty of the respective States, the appointment by lot is in exact conformity to the principles of the Constitution; for in the event of an election of a President by the House of Representatives, each State has an equal vote, conformably with its equal rights as sovereign and independent; so that, in respect to peace and union, this mode of appointing a President would produce effects of great and lasting importance.

Being always disposed to ground my political maxims on experience and fact, and not on theories, however flattering in their appearance, I am happy to have it in my power to say, that this mode of appointing important officers, by lot, where intrigue or undue influence was apprehended, is not novel. It has been practised with advantage in many republics, and particularly in some of the republics of Switzerland, where civil liberty and equal rights were well understood and enjoyed. The limits of my explanatory remarks will not admit of my going into the subject at large and producing the authorities; which, however, should it become necessary, I will not fail to do on some future occasion. But I cannot forbear to mention the instance of a small republic in Switzerland, where a Chief Magistrate was appointed, by lot, out of five candidates, nominated by Electors. No evil or inconvenience is stated to have arisen from it; on the contrary, it was attended with many benefits. It checked intrigue, cabal, and undue influence, and tranquillized the State. One-third of the Senate is not so great a number of candidates for the United States as five for that small republic. The greater the number, the more effectually does it exclude intrigue and cabal; for there would be little inducement to electioneer for the chance of being selected, by lot, as President, for one year only, out of a class who shall have served three years in the Senate. If such a mode was found salutary in a small republic, (less likely than a large one to be convulsed by a popular election,) it must prove much more so in such a widely extended country as the United States, where the consequences to be apprehended from civil commotion can better be imagined than described.

In Berne, the largest of the republics of Switzerland, whose "whole administration has been celebrated for its uncommon moderation, precision, and despatch," the bailiffs, who, in their bailiwicks, "represented the sovereign authority, put the laws in execution, acted as judges in civil and criminal cases," and whose offices were lucrative, were appointed, by lot, from the Grand Council. The bailiffs were formerly elected; but

this mode was abandoned on account of the undue influence which operated, and which ever will operate, in the election to an office to which are attached great power and emolument.

As the President is to be taken from the Senate, and, if worthy of the Senatorial office, must have experience, and be well informed of the affairs of the nation—and can also avail himself of the information and talents of every member of the Government—there can be no solid objection to reducing his term of service to one year. The President will always enter on his office at the close of the session of Congress; and during the recess have time to make himself more fully acquainted with the state of the nation, so as to present a proper view of it to the next Congress, as well as to conduct successfully the public business to the end of his term. No serious embarrassment or inconvenience, in conducting the public business, has been felt from the change of a President or the Head of a Department. There are and always must be subordinate officers around the Government, well acquainted with the routine of business; which will and must proceed in its usual course. If any example were necessary to show that no injury would arise to the nation from an annual appointment of a President, I might instance the ancient Republic of Rome—where, in the days of her greatest virtue, prosperity, and glory, her chief magistrates, or consuls, were chosen every year. But, being taken from the Senate, a body conversant with the management of their public affairs, as is our Senate, no evil accrued to the public.

The office of President is the only one in our Government clothed with such powers as might endanger liberty; and I am not without apprehension that, at some future period, they may be exerted to overthrow the liberties of our country. The change from four to ten years is small; the next step would be from ten years to life, and then to the nomination of a successor; from which the transition to an hereditary monarchy would almost follow of course. The exigencies of the country, the public safety, and the means of defence against foreign invasion, may place in the hands of an ambitious, daring President, an army, of which he would be the legitimate commander, and with which he might enforce his claim. This may not happen in my day; it probably will not; but I have children whom I love, and whom I expect to leave behind me, to share in the destinies of our common country. I cannot therefore feel indifferent to what may befall them and generations yet unborn.

I do not desire in the smallest degree to lessen the President's power to do good; I only wish to place such salutary checks upon his power, as to prevent his doing harm. His power of nominating and appointing to office, and removing from office, will still be continued; with only the additional check of requiring the consent of the House of Representatives, in one case, and of the Senate and House in the other. All his other powers will remain the same as at present, and there will be but little danger of an abuse of those powers. if the term of Presidential office be reduced to one year, and the appointment be by lot: which will render it impossible to bring the high perogatives of this office to aid in procuring it. An artful intriguer cannot then point to the various lucrative offices, in the gift of the President, for the purpose of stimulating exertion in favor of his election; than which a more powerful engine could not have been devised.

Party spirit is the demon which engendered the faction that have destroyed most free governments. State or local parties will have but a feeble influence on the General Government. Regular, organized parties only, extending from the northern to the southern extremity of the United States, and from the Atlantic to the utmost western limits, threaten to shake this Union to its centre. No man can be so blind but he must see, and the fact is too notorious to be denied, that such parties have commenced in this country, and are progressing with gigantic strides. The danger is great, and demands an early and decisive remedy. There is but one, which presents itself to my mind; this is, to cut off the head of the demon. For without a head, without a rallying point, no dangerous party can be formed, no such party can exist. There is but a single point in the Constitution, which can be made to bear upon all the States at one and the same time, and produce a unity of interest and action, and thus serve as the rallying point of party; and that is the Presidential election. This most dignified and important office of President, made more desirable by having attached to it a high salary, great power, and extensive patronage; cannot fail to bring forth and array all the electioneering artillery of the country; and furnish the most formidable means of organizing, concentrating, and cementing parties. And when a President shall be elected by means of party influence, thus powerfully exerted, he cannot avoid party bias, and will thence become the chief of a party, instead of taking the dignified attitude of a President of the United States. If some other mode of filling the Presidential chair, than that of a general election throughout the United States, were devised and adopted, it would be impossible to form national parties. There would in some instances be State and local parties, but they would have a very inconsiderable effect on the General Government; they would be like town or county parties in States, which have a limited operation on the councils of the State. Indeed this Presidential election does more than anything else towards making parties in States—parties dangerous to their ancient institutions, and producing an injurious effect upon their most important concerns. In one word, it is now manifest, that the present mode of electing a President is producing, and will produce, many and great evils to the Union, and to the individual States.

The framers of the Constitution were, I am told, strongly impressed with a sense of the difficulties and dangers which would attend a Presidential election, and hence the various projects which were offered, considered, and rejected. But

to prevent a total failure of the object of their convening, they finally adopted the novel and complicated mode contained in the Constitution: calculating upon it as a mode that would secure a fair, unbiassed exercise of the right of suffrage. To guard against official and Congressional influence, the electors were to be chosen in each State, of whom no member of Congress or officer of the United States was to be one. To prevent combinations among the States, there was allowed but a short interval between the time of their being elected and that of giving in their votes. To prevent cabal among the electors, they were to meet in their respective States, and give in their votes on the same day. To guard against State attachments, two persons were to be voted for as President, one of whom at least was not to be of the same State with themselves. And to insure a fair canvass of the votes, they were to be opened, and the election declared, in the presence of both Houses of Congress; the person having the greatest number of votes, if a majority of the whole number of electors appointed, to be President; and if more than one have such majority, and have an equal number of votes, the House of Representatives to choose by ballot one of them for President: if no one have a majority, then, out of the five highest, the House of Representatives in like manner to choose a President. In both cases the votes are to be taken by States, the representatives from each State having one vote. This mode, so beautiful in theory, has substantially failed in practice.

The ingenuity of man being great, is it not to be feared that the time will come, and would it not be cause of deep regret if the time should come, when the country shall be so divided into parties, that a small number of persons, and those exclusively members of Congress, (who are intended by the Constitution to be excluded from all intermeddling in Presidential elections,) and that too in the very focus of Presidential and official influence, (which the Constitution meant carefully to guard against,) shall nominate a President? And to secure his election, it will be required that every person before he shall receive a vote or an appointment as an elector, shall pledge himself to support such nomination; and thus the President will in fact be made to choose the electors, instead of the electors choosing the President.

Various modes of election or appointment of a Chief Magistrate have been tried; sometimes the choice has been confided to the people—sometimes to a Legislature—sometimes to a Senate—sometimes to electors chosen by the people, or the Legislature—and sometimes by electors designated by a complication of lot and ballot. But in no instance of the election of a Chief Magistrate, clothed with royal prerogatives, where the votes were permitted to be given directly for the candidate, has it been possible to exclude undue influence, intrigue, and cabal; which have produced serious evils, and sometimes ended in civil war: evils so great and terrible, as to induce most nations to prefer an hereditary succession.

If this mode of appointing a President by lot should not be approved, I see but one other shield from the calamities to be apprehended from a popular election of a Chief Magistrate. This is, to strip the office of royal prerogatives, and of all power excepting so much as shall enable the President to become the organ of the public will, in such manner as shall be directed by law; to shorten the term of service, and lessen the salary. This will moderate the desire of obtaining the office, and paralyze individual exertion. If we mean to preserve both our internal peace and liberties, we must consent to give up the trappings, as well as the name of royalty; and be content to wear the humble garb of Republicans. If we will not make this sacrifice—if we will have the splendor of royalty—must we not, like the Israelites of old, have a King?

The experiment of a Chief Magistrate with limited powers, and no discretionary prerogatives, has been successfully tried in some of the States, and those not inferior in respectability and importance to any in this Union. The Chief Magistracy is conferred by annual elections; and the Governor is little more than *primus inter pares*—the first among his equals. Those States have been remarkable for their uniform, steady, and firm adherence to their ancient institutions; and the Governors of no States have displayed more energy in the execution of the laws, both of the General and State Governments, in aiding the prompt and impartial administration of justice, or in calling forth the military force for defence. In those States, prior to Presidential elections, very little party animosity or divisions existed, either in relation to the election of Governor, or to the manner of executing his office. In these cases, the Governor not having the general power of nominating or appointing to, or removing from office, sudden, frequent and general changes of the subordinate officers of the State, do not take place. And can it admit of a question whether the public good is advanced by such changes? Is there not danger that such extraordinary powers as are given in some Constitutions may be abused? Is it not possible, nay more, is it not probable, that Chief Magistrates may be found, who will use their powers to aid their elections, and to reward such as shall be most active and zealous in promoting them?

Of the impropriety and impolicy of the present mode of electing a President, can there be stronger proof, can there be a more convincing evidence, than is now exhibiting in the United States? In whatever direction we turn our eyes, we behold the people arranging themselves under the banners of different candidates, for the purpose of commencing the electioneering campaign for the next President and Vice President. All the passions and feelings of the human heart are brought into the most active operation. The electioneering spirit finds its way to every fireside; pervades our domestic circles; and threatens to destroy the enjoyment of social harmony. The seeds of discord will be sown in families, among friends, and throughout the whole community. In saying this, I do not mean anything to the disadvantage

of either of the candidates. They may have no agency in the business; they may be the involuntary objects of such competition, without the power of directing or controlling the storm. The fault is in the mode of election; in setting the people to choose a King. In fact, a popular election, and the exercise of such powers and prerogatives as are by the Constitution vested in the President, are incompatible. The evil is increasing, and will increase, until it shall terminate in civil war and despotism. The people, suffering under the scourge of party feuds and factions, and finding no refuge under the State, any more than in the General Government, from party persecution and oppression, may become impatient, and submit to the first tyrant who can protect them against the thousand tyrants.

I have dwelt so long on this amendment, because of the novelty, in this country, of appointing a Chief Magistrate by lot. The facility of appointing by lot was obvious; but it seemed necessary to exhibit, and to demonstrate the many and highly important advantages which will arise from this mode of appointing a President of the United States. The principal of these I will now present in one short view:

1st. It will make the Senate more respectable.

2d. It is prompt and certain.

3d. It will avoid the evils of a disputed election, now unprovided for in the Constitution.

4th. It will exclude intrigue and cabal.

5th. It gives talent and modest merit an equal chance.

6th. It is economical.

7th. It gives to the people a President of the United States, and not the chief a party.

8th. It removes temptation to use power otherwise than for public good.

9th. It will annihilate a general party pervading the whole United States.

10th. It will remove a direct, powerful, and dangerous influence of the General Government on the individual States.

11th. It will prevent the influence of a Presidential election on our domestic concerns and foreign relations. And,

12th. It will secure the United States against the usurpation of power, and every attempt, through fear, interest, or corruption, to sacrifice their interest, honor, or independence; for one year is too short a time in which to contrive and execute any extensive and dangerous plan of unprincipled ambition; and the same person cannot be President during two successive years.

Reducing the Presidential term of service to one year will remove the necessity of attaching to the office the splendor of a palace. The simplicity of ancient Republics would better suit the nature of our Government. The instances of persons called from the plough to command armies, or to preside over the public councils, show that in a Republic pomp and splendor are not necessary to real dignity. Cincinnatus, who was content with the scanty support derived from tilling, with his own hands, his four-acre farm, has been as celebrated in history as the most splendid monarchs. By these remarks I would not be understood to object against giving adequate salaries to all public functionaries. In the case of subordinate officers, it may be left to Legislative discretion. But the President having such great power and extensive influence, his compensation ought to have a Constitutional limit, and not exceed fifteen thousand doliars. (See Article 4.)

Less than that, perhaps, may by the Legislature be judged sufficient.

It will be readily seen that, upon my plan, the office of Vice President can be no longer useful. It is therefore to be abolished, and provision made for choosing a Speaker of the Senate. (See Article 5.)

The exercise of the power of appointment to office is both delicate and difficult. To exclude the operation of favoritism is important, as it regards the public good. And it is not less so to secure in the various offices men of talents and integrity. Almost any Government, under the management of able and honest men, will prove a blessing; and the best form of Government, in the hands of bad men, will be a curse to a people. The principle of checks applies with more force, and the necessity of them is as great, in relation to appointments to office, as in passing laws; favoritism being more likely to have influence in such appointments. The next amendment, therefore, is to provide a like security in both cases, by requiring the advice and consent of the Senate and House of Representatives to appointments to office, where other provisions shall not be made by law. (See Article 6.)

This additional check will make it somewhat more difficult to obtain an office; but that will be more than countervailed by the additional guard which it will afford against the introduction of bad men. It is impossible for any President to know the characters of most candidates for office. The knowledge of the Senate is also very limited, as every day's experience shows; the Senators being obliged, individually, to make application to members of the other House for information. Both President and Senate are exposed to misinformation. Under these circumstances, what better source of information can we have than the Representatives of the people, coming from every portion of the Union? They can, and when it is made their official duty, they will, give correct information. Another circumstance which renders this amendment proper, is, that the President is taken from the Senate; some check, therefore, against the favoritism of the Senate would seem proper. The requiring of the concurrence of both Senate and House of Representatives would induce a greater caution in the Executive in making nominations, and more circumspection in the Senate in passing upon them.

Most of the observations on the preceding amendment will apply to the next which I shall propose; which is, to make the consent of the Senate and House of Representatives necessary to removals from office. (See Article 7.)

Though no express power is given by the Constitution to the President to remove from office, it

has been assumed and exercised in a manner which gives to the President almost the absolute power of appointment; for, having the power to fill vacancies which take place during the recess of the Senate, the persons so appointed to hold their offices to the end of the next session of the Senate, and having exercised the power of making vacancies at pleasure, by removal from office; no appointments made by and with the advice and consent of the Senate, can continue more than one day, or while the Senate continue their session, if the President is pleased to exercise his power of removal. A tremendous power this, which will enable a President to remove every officer of the army, from the commanding general to an ensign, at pleasure; to appoint and grant commissions to his partisans, to continue in force to the end of the next session of the Senate; to remove all civil officers, judges only excepted, and to make new appointments for the same term: thus having the absolute command both of the sword and the purse, a sufficient length of time for an enterprising, ambitious man to execute his purposes, especially after having had two or three years to mature his plans; and when aided by the whole civil authority and military power of the country, placed in the hands of men devoted to his views, and subordinated to his will. Such officers, having lawful commissions, issued in conformity to the provisions of the Constitution, could not be resisted without incurring the penalties of the law, and being liable to criminal prosecutions and infamous punishment; which, no doubt, would be promptly executed upon them. Then would treason laws, sedition laws, and the whole penal code, be brought into active operation.

Having these impressions, I have never been able to persuade myself to believe that the framers of the Constitution, whose great aim was to give security to our nation's rights, and who have so carefully guarded all the lesser avenues to the Temple of Liberty against the unhallowed footsteps of usurpation and despotism, should not only have thus left wide open the principal gate, but have delivered into the hands of such an assailant the key of the temple, and the very sentinels placed to guard the entrance.

Having gone through, and explained the various amendments which I propose to offer for consideration, I will close my observations with a few general remarks upon the different kinds of Government, including our own.

In a monarchy, the powers of Government are concentrated in one man, whose will is the supreme law. This is the most energetic and powerful of all Governments for military enterprise or conquest. The whole resources of the nation being subject to the control of a single chief, are capable of being directed with the greatest energy and effect. In the hands of an able Prince, whose measures are directed by wisdom and a supreme regard for the public welfare, and whose aim is to promote the real prosperity and happiness of his subjects, (which, unfortunately, too seldom happens,) this kind of Government is perhaps as conducive to the tranquillity of the nation as any other. But such a Government cannot be elective, as the experience of all ages has demonstrated. It must be hereditary, and is thus liable to all the chances of a weak or wicked succession. And the proportion of such characters is too great to be risked, but in cases of inevitable necessity. In regard to the United States, this form of Government is out of the question. We have neither the materials of which to form such a Government, nor the disposition to introduce it.

Aristocracy is a Government in the hands of nobles. Venice, among others, exhibited an example, where the rights and interests of the few were preferred to those of the many. It was a most undesirable Government. To form an aristocracy, privileged orders and hereditary succession are indispensable. The moment you limit the privilege, in its duration, to any term short of life, or admit the popular voice in its creation, by subjecting it, at regular periods, to a popular election, it ceases to possess the necessary attributes of aristocracy. The United States do not possess the materials for forming an aristocracy. We have no privileged orders; nor should we readily consent to make a selection of men on whom we would confer such privileges, and agree that they should enjoy them as a right of inheritance. It is impossible, therefore, that an aristocracy should grow up or exist in the United States. We have not the means of making even an aristocratic branch to our Government.

A Democracy is a government wholly in the hands of the people; where, in their own proper persons, and not by representatives, they manage their own national concerns. Athens, in ancient Greece, nearly answered this description; and, as long as the people preserved their virtue, it was powerful, prosperous, and happy. The great evil to which such a government is exposed, is, that, in a sudden impulse of passion, or of groundless jealousy, the people are excited to some rash and mischievous act, which, when their passions subside, they review with the deepest remorse. A popular assembly, inflamed by artful designing men, condemned Socrates, the good and great, to die. After the sentence was executed, their passions subsided; they repented the rash deed, and decreed distinguished honors to his name. When the morals of the people begin to decline, "Demagogues, the greatest curse of free Governments," make their appearance; and, under the garb of patriotism and love of country, insinuate themselves into the confidence of the people; procure their own elevation to office; and, by their machinations and intrigues, carried on under this specious garb, finally overturn the liberties of their country. Of this melancholy truth, the experience of former republics furnishes abundant proofs, and these ought to serve as a beacon to our country. The people can have no possible interest in supporting such men: but, led into a blind confidence in them by their professions of patriotism, are made the instruments of their own destruction. In ancient republics, the wisest and most virtuous of their citizens were sometimes exclud-

ed from office, banished, and even put to death. When a citizen claims to be an exclusive patriot, and is very officious in proclaiming his own merit, it is time for the people to be alarmed.

When the three kinds of Government above described are united, as in the Government of Great Britain, it is called a mixed Monarchy. There is always such a spirit of jealousy existing between aristocracy and democracy, and between monarchy and democracy, that they cannot long exist together, without a third balancing power. As well might a man take up his abode in a tiger's den, as aristocracy with democracy, unless protected by the strong arm of monarchy. Neither can monarchy and democracy dwell together, unless the throne be surrounded by a powerful aristocracy. Singly, democracy is an over-match for either. The reason is obvious—there is the physical force, numbers. Whenever an attempt has been made to oppose either monarchy or aristocracy, singly, as a check on democracy, they have been found too feeble to support themselves: discord has arisen; which has generally terminated in the overthrow of such check; and democracy, remaining master of the field, and freed from all restraint or check, has degenerated into faction, and paved the way to despotism—despotism of the worst kind, which has entered at the door of discord and civil war. It is a cause of deep regret that it should have been the unhappy lot of most countries where liberty has found an asylum, to lose it by its own excess. And this will be our case, unless effectual provision be made to stem the torrent of party spirit and violence.

To superficial observers, our Government may seem to be assimilated to the mixed Government before mentioned. But, as the materials necessary to compose such a Government do not and cannot exist among us, whatever attributes of power appropriate to these deficient materials, are introduced into our Constitution, ought to be taken away; for in practice they are found only to bring evils, unmixed with benefits. Ours is a free representative Republic, deriving all power from the people; and, when amended as I propose, for the purpose of checking party spirit, Executive influence, and favoritism, will correctly express the public opinion, and declare the public will. The people being numerous, and spread over a large extent of territory, cannot meet together and personally manage the public concerns; and are, therefore, obliged to elect a few individuals to represent them in public councils, and confide to them the management of their public affairs. Every branch of our Government, being elective, rests on the public will. And, could the people be left to a fair, uninfluenced exercise of their right of suffrage, and our public councils be guided in their deliberations and decisions by an honest zeal for the public good, regardless of personal views of elevation to or continuance in office, ours would be the best and happiest Government that does, or ever did exist.

That I may not be misunderstood, I do most expressly declare, that, in a free Government, such as is that of the United States, deriving its power wholly from the people, I do consider *checks* to be necessary; nay, more, to be indispensable. Without them, the Government could not exist, but would be like a ship under full sail, in a brisk wind, without ballast. But the checks must comport with the principles of a popular government; which, including all hereditary distinctions, must depend for its support on a proper distribution of power. Those principles require, what experience has demonstrated to be correct, that, as those who exercise the powers of government are *individually equal* in their *rights*, and alike derive their authorities, directly or indirectly, from the people: they be divided, whenever they are assembled, into several branches, or departments, each, when acting on the same measure, having a check on the other. Thus, in the Legislature, the two Houses must each have an absolute negative on the doings of the other; and the Executive a qualified negative on both. In *this* there is security, that every subject will be *discussed* and *decided* on in the two Houses *separately*. This will tend to arrest *hasty* measures, and prevent *favoritism*: for, upon the plan proposed, it would be rare indeed if an excitement of *passion*, or a *sudden impulse* of feeling, should operate, at the same moment, in the three departments, to induce the adoption of an improper measure; or that a candidate for office should have such good fortune as to secure the concurrence of all three to his appointment, on the ground of mere *favoritism*.

The different branches of the Government, from a regard to their own privileges and character, and influenced each by that *esprit du corps* and self-respect which political bodies naturally possess, will feel a pride in correcting the errors and mistakes of the other. An act, after it has passed both Houses, must be considered and decided upon by the Executive, who, if he disapproves, is to return it, accompanied with his reasons for such dissent. Then it is to undergo a revision; and cannot take effect but by a concurrence of two-thirds of each branch, under the high responsibility of having the measure entered at large on the public journals, with the reasons against its adoption, together with the name and vote of each member—who thereby pledges himself for its policy and correctness. Under these checks, it would be strange, indeed, if a measure, manifestly ruinous in its consequences, or very injurious to the nation, should not be arrested in its progress; if, however, it should unfortunately be otherwise frequent elections, and the short duration of the term of office, will put it in the power of the *nation* to *correct* the *evil*. Improper acts sometimes pass, through inattention, or misapprehension of their tendency—this is to be expected; it is incident to human frailty.

It having been shown that a long term of service does not tend to produce an independent course of conduct, but the contrary, the term of service ought to conform to the convenient and beneficial organization of the Government. One year for the House will bring every session of

Congress to succeed a new election; one-third of the Senators will also have been newly elected. Two-thirds of the Senate remaining, they can check a ruinous measure brought forward by the House of Representatives, chosen under any sudden impulse, which for a moment might agitate the nation, and under the influence of which the election may have been made, until the people shall have had one year to consider, and a new election shall have taken place; when, if the measure be still persisted in, it may be considered as a fair expression of the public will, and ought to pass. Any attempt to add a further check or restraint would be useless, perhaps injurious; as it might lead the people to such an exertion of power to overcome such restraint, as might make a breach in the Constitution.

In the opinions of men respecting *liberty* and *free government*, there are two extremes to which we are exposed, which are the *Scylla* and *Charybdis* of such governments, and which ought carefully to be shunned, as the inclination to one or the other exposes to shipwreck. On one hand, too great an apprehension of danger from popular instability and violence may excite a wish to increase the *energies* of the Government to *excess*. This, instead of insuring personal safety, and giving stability and security to our systems, tend to excite *jealousy* and *fears* among the people, and to impel them to exertions of power often injurious, and sometimes dangerous. On the other hand, apprehensions of *mighty evils* from too much *energy* in government, have produced the opposite extreme, and have led many to attempt to take away all restraint on the *popular will*, and induced a wish to place the supreme legislative and executive power in the hands of a single body, chosen under the greatest possible popular feeling; excluding altogether the benefits of those checks which secure deliberation. A division of the same men into two branches, deliberating *separately*, and rendered *independent* of each other, by a negative reciprocally absolute, would conduce to *consideration*, and a *prudent result*, and afford a great security against rash intemperate acts.

Another rock, which presents danger, and on which liberty has most generally been shipwrecked, is party spirit. Whenever a free people become so divided into parties, as, that all elections and appointments to office become a struggle between the ins and the outs; liberty is in danger, the public good is lost sight of, and the Government degenerates into a faction, which is made subservient to the most oppressive party persecutions, and is subject to continual fluctuation and change. At such times, modest merit retires from public employment, and the affairs of the nation fall into the hands of men, whose sole recommendations are zeal and violence. As the ins have nothing to give, and the outs will have the public offices at their disposal, on the event of a successful election, the Government will be continually vibrating between parties. What possible interest can the great body of the people have in such a state of things? Are the interests, peace, and happiness, of the many, to be sacrificed to the few? Are the people's rights nothing, and the claims of a few individuals to office everything? And who are these few? They are office hunters, and ambitious men, who, not content to walk in the paths of private life, aim only at their own elevation; men who profess to love the people, in order to mount on their shoulders to power and wealth. It may be asked, why is it thus? I answer, that such men, regardless of the real interest, always address themselves to the passions of the people, which lock up their understandings and judgments close prisoners.

The only effectual way of remedying these evils, is, to remove the causes. This may be done by returning the Representatives, by frequent elections, to the people; by shortening the terms of service of the President and Senate; by reducing the salary of the President; by avoiding, as much as possible, the accumulation of power in the hands of an individual, or a small body of men; and, above all, by constituting such a mode of obtaining a Chief Magistrate as shall not be made the instrument of arraying the people, from one end to the other of this extended empire, into parties, under different chiefs, the candidates for the Presidential chair.

The organization of the General and State Governments exhibits the most remarkable combination of checks and balances of individual and State security ever known. The General Government, as it regards the nation, has a sovereign and controlling power over the seventeen State governments; while each of these, independent and sovereign for all local and State purposes, depends on, and is connected with, the General Government by the strong attraction of its national interests. The General Government, like the sun in the solar system, is the centre of attraction, and the bond of union; and its provisions for the common defence and general welfare, like the rays of the sun, give life and activity to the nation. As the planets, in their revolutions around the sun, have their distinct spheres of attraction and control; so the States, separately, possess complete sovereignty, each within its own jurisdiction and limits, extending to its citizens protection to life, liberty, and property. How much is it to be lamented, that a system, so beautiful in theory, and so beneficial in practice, should be disturbed by that fiend, party spirit—that prince of the power of the air, who can invade every sphere—that demon, who can pass the bounds of every State, and, by sowing discord and divisions, destroy social harmony, overturn the most valuable institutions, and endanger the liberties of our country!

I have been obliged, for the purpose of explaining the practicability and operation of the amendments, and of proving and illustrating their utility, to take a considerable range; though they are simple, few in number, and easily made; and, when made, will leave the other provisions of the Constitution unimpaired, and in their fair, full, and perfect operation. They may be comprised under four heads:

1st. As to the Legislative body, to shorten the

term of service of the Representatives from two years, to one, and of the Senators from six years, to three.

2d. As to the Executive, to shorten the term of office of the President from four years, to one, reduce his salary, and alter the mode of his appointment.

3d. To abolish the office of Vice President.

4th. To place an additional check on the President's power of appointing to and removing from office.

I shall be asked, whether, at a time when we are threatened with danger from abroad, and have party dissensions at home, is it not an inauspicious season for bringing forward amendments to the Constitution? Why I have been so long silent, and have not before presented this all-important subject to the view of Congress and the nation? These are questions which I have well considered, and I have fully satisfied myself that now is the proper time, and probably the only time, to engage attention. In times of perfect tranquillity every man is occupied with his farm, his merchandise, and other objects by which he may acquire subsistence, wealth, and honest fame. Seeing no immediate danger, he gives himself no concern about the Constitution. The time of danger is the only time when public attention can be universally excited.

The Constitution, in those parts which I propose to change, appeared so beautiful in theory that no attempt to alter it would have attracted the smallest notice, until, by experiment, it should be found to be ineffectual for the purpose intended—a fair election of a President, and a beneficial exercise of the powers and provisions of the Constitution. The experiment has been made, and many of the people of the United States are now satisfied that amendments are necessary, are indispensable; and this is, perhaps, the first moment when I could have gained an audience to such amendments as I think necessary, and such as alone can effect a radical cure.

From the circumstances of the time, may I not hope for their adoption? Is there not reason to fear, that, if we sail on a little longer in the stream of party, the current will set so strongly, that we cannot return; but must descend a cataract, which will dash in pieces our national ship?

The importance of the subject will furnish my apology, for having taken up so much of the time of the Senate, in explanatory remarks. The sentiments I have expressed have not been hastily adopted; they are not the sudden impulse of the moment; nor do they proceed from the collision of party. They are the sober sentiments of my heart; some of which I have long entertained, and often expressed to my most intimate and confidential friends. And they are sentiments which seventeen years' experience, as a member of the Senate and House of Representatives under this Constitution, has served to impress and enforce on my mind; and, during that whole period, there has not occurred one solitary fact to disprove their correctness.

May I be permitted, in this hour of alarm, when almost the whole civilized world is engaged in a destructive and exterminating war, when thick clouds hang lowering over our heads, and danger surrounds us on every side, to invoke patriotism—to call to our aid love of country—to enable us to make a willing sacrifice, on the altar of the public welfare; of all local and party feelings, of all groundless jealousy, and of whatever can excite and keep alive divisions among us. Let us unite in providing for the public defence. Let us candidly come forward and repair any breach which may have been made in the Constitution, the fortress of our safety and union; and carefully set out and correct such errors, and supply such defects, as it shall be found to contain; not in a manner to promote any particular or favorite object, but so as to add to its strength and durability, that it may secure to unborn millions the blessings of peace and good government, and fix on a solid basis their liberty and independence.

Mr. HILLHOUSE then submitted the following amendments to the Constitution of the United States, which were read for consideration:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States; all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz:

Articles in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States pursuant to the fifth article of the original Constitution.

ARTICLE 1. After the third day of March, one thousand eight hundred and thirteen, the House of Representatives shall be composed of members chosen every year by the people of the several States: their Electors in each State shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature: and their term of service shall expire on the first Tuesday of April in each year.

ART. 2. After the third day of March, one thousand eight hundred and thirteen, the Senators of the United States shall be chosen for three years; and their term of service shall expire on the first Tuesday of April.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be, into three classes. The seats of the first class shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that one-third may be chosen every year. Vacancies to be filled as already provided.

ART. 3. On the 3d day of March, one thousand eight hundred and thirteen, the President of the United States shall be appointed, and shall hold his office until the expiration of the first Tuesday of April, one thousand eight hundred and fourteen. And on the first Tuesday of April, one thousand eight hundred and fourteen, and on the first Tuesday of April in each succeeding year, the President shall be appointed to hold his office during the term of one year. The mode of appointment shall be as follows:

In presence of the Senate and House of Representatives, each Senator belonging to the class whose term of service will first expire, and constitutionally eligible to the office of President, of which the House of Representatives shall be the sole judges, and shall decide without debate, shall, beginning with the first on the alphabet, and in their alphabetical order, draw a ball out of a box, containing the same number of uniform balls as there shall be Senators present and eligible, one of which balls shall be colored, the others white. The Senator who shall draw the colored ball shall be President. A committee of the House of Representatives, to consist of a member from each State, to be appointed in such manner as the House shall direct, shall place the balls in the box, shall shake the same so as to intermix them, and shall superintend the drawing thereof.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties thereof, if Congress be then in session, or, if not, as soon as they shall be in session, the President shall, in the manner before-mentioned, be appointed for the residue of the term. And until the disability be removed, or a President be appointed, the Speaker of the Senate shall act as President. And Congress may, by law, provide for the case of removal by death, resignation, or inability of the President, and vacancy in the office, or inability of the Speaker of the Senate; and such officer shall act accordingly, until the disability of the President be removed, or another be appointed.

The seat of a Senator who shall be appointed as President, shall thereby be vacated.

ART. 4. After the third day of March, one thousand eight hundred and thirteen, the compensation of the President shall not exceed fifteen thousand dollars a year.

ART. 5. After the third day of March, one thousand eight hundred and thirteen, the office of Vice President shall cease. And the Senate, on the same day in each year, when the President shall be annually appointed, shall choose a Speaker; and in the absence of the Speaker, or when he shall exercise the office of President, the Senate shall choose a Speaker *pro tempore*.

ART. 6. After the third day of March, one thousand eight hundred and thirteen, the President shall nominate, and, by and with the advice and consent of the Senate, and of the House of Representatives, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But Congress may, by law, vest the appointment of such officers as they think proper, in the President, by and with the advice and consent of the Senate; and of the inferior officers in the President alone, in the Courts of Law, or in the Heads of Departments. But no law vesting the power of appointment shall be for a longer term than two years. All proceedings on nominations shall be with closed doors, and without debate; but information of the character and qualifications of the person nominated shall be received.

ART. 7. After the third day of March, one thousand eight hundred and thirteen, the President shall have power to fill all vacancies that may happen during the recess of Congress, by granting commissions which shall expire at the end of their next session. No removal from office shall take place without the consent of the Senate and of the House of Representatives. But Congress may, by law, authorize the removal by the same power, as may, by law, be authorized to make the appointment. But in every case of misconduct in office, where the consent of the Senate, or of the Senate and House of Representatives, shall be necesary to a removal, the President, during the recess of Congress, may suspend the officer, and make a temporary appointment of a person to exercise the office, until the next meeting of Congress, and until a decision can be had by the Senate, or by the Senate and House of Representatives, as the case may be, on a question for the removal of the officer suspended. All proceedings respecting removal from office shall be had, without debate, upon the information and reasons which shall be communicated by the President, and with closed doors.

WEDNESDAY, April 13.

Agreeably to notice of yesterday, Mr. BRADLEY asked and obtained leave to bring in a bill to alter the time for the next meeting of Congress; and the bill was read, and ordered to the secoud reading.

Agreeably to notice of yesterday, Mr. SMITH of Maryland, asked and obtained leave to bring in a bill to revive and continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia;" which was read twice, by unanimous consent, and ordered to be engrossed and read a third time.

Mr. MITCHILL stated that the Senators and Representatives in Congress from the State of New York were requested, by a resolution of the Legislature of that State, to represent, in the most earnest manner, to the National Government, the exposed situation of the port of New York; and also the destitute condition of their seamen, and the danger of their migration to foreign countries for employment; and the resolution was read for consideration.

The bill, entitled "An act to alter and establish certain post roads," was read the second time and referred to Messrs. CRAWFORD, GREGG, GILMAN, ADAMS, and BRADLEY, to consider and report thereon.

On motion, by Mr. SMITH of Maryland,

Resolved That the committee to whom is referred the bill, from the House of Representatives, entitled "An act to alter and establish certain post roads," be directed to require from the Postmaster General information whether any, and, if any, what, appropriations will be necessary to carry into execution the said bill, if the same shall pass into a law.

The Senate resumed the second reading of the bill, entitled "An act concerning courts martial and courts of inquiry;" and, on motion, by Mr. ANDERSON, to add the following as section sixth:

"*And be it further enacted*, That no judge to whom application shall be made in manner provided by the first section of this act, shall authorize a subpœna to issue to summon a citizen to appear before any court martial, or court of inquiry, to give evidence, except in cases where the charge against an officer or soldier shall be for a breach of some one or more of the articles of war:"

It passed in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Anderson, Crawford, Gilman, Good-

rich, Hillhouse, Maclay, Mathewson, Mitchill, Pickering, Reed, Sumter, Turner, and White.

NAYS—Messrs. Adams, Bradley, Condit, Gaillard, Giles, Gregg, Howland, Kitchel, Milledge, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Thruston, and Tiffin.

And the PRESIDENT reported the bill to the House as amended, and it was ordered to the third reading as amended.

Mr. GREGG, from the committee, reported the bill to revive and continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," correctly engrossed, and it was agreed, by unanimous consent, that the bill be now read the third time.

Resolved, That this bill pass, and that the title thereof be, 'An act to revive and continue in force 'An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia."

Mr. SMITH of Maryland, presented the petition of sundry inhabitants of Charles county, in the State of Maryland, praying the establishment of a post office at a place called Cobbneck, in the said county; and the petition was read, and referred to Mr. CRAWFORD, and others, to whom was committed the bill, entitled "An act to alter and establish certain post roads," to consider and report thereon.

The bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, was read the second time, and referred to Messrs. ADAMS, BRADLEY, and REED, to consider and report thereon.

Agreeably to notice given yesterday, Mr. POPE asked and obtained leave to bring in a bill for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia; and the bill was read, and ordered to the second reading.

THURSDAY, April 14.

Mr. BRADLEY requested, and by unanimous consent obtained, leave to bring in a bill to continue in force for a limited time, "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction; and the bill was twice read by unanimous consent. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. REED presented the petition of Nathaniel Brashears, praying remission of the forfeiture of his recognisance, entered into on a presentment of the grand jury for assault and battery, at the circuit court for the District of Columbia, in December term, 1805, for reasons stated in the petition; which was read, and referred to Messrs. REED, BRADLEY, and CRAWFORD, to consider and report thereon.

On motion of Mr. GILES, on behalf of the committee to whom was referred, on the 15th March last, the Message of the President of the United States, relative to public ground in and adjacent to the city of New Orleans, the committee was discharged.

Mr. SMITH, of Maryland, requested, and by unanimous consent obtained, leave to bring in a bill authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States; and the bill was read twice, by unanimous consent. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. SMITH, of Maryland, gave notice that he should to-morrow ask leave to bring in a bill, in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes.

The bill to alter the time for the next meeting of Congress was read the second time, and ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the legal representatives of Thomas Barclay, deceased," in which they request the concurrence of the Senate; which bill was read twice, by unanimous consent, and and referred to Messrs. MITCHILL, SMITH of Maryland, and WHITE, to consider and report thereon.

The bill, entitled "An act concerning courts-martial and courts of inquiry" was read the third time as amended. On the question, Shall this bill be read the third time as amended," it was determined in the affirmative—yeas 17, nays 12, as follows:

YEAS—Messrs. Adams, Bradley, Condit, Gaillard, Giles, Gregg, Howland, Kitchel, Milledge, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Thruston, and Tiffin.

NAYS—Messrs. Anderson, Crawford, Gilman, Goodrich, Hillhouse, Maclay, Mitchill, Pickering, Reed, Sumter, Turner, and White.

FRIDAY, April 15.

A message from the House of Representatives notified the Senate of the death of JACOB CROWNINSHIELD, Esq., late a member of that House, and that his funeral will take place to-morrow morning, at 10 o'clock.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act for the relief of the legal representatives of Thomas Barclay, deceased," reported the bill without amendment; and, by unanimous consent, the bill was read the third time, and passed.

Mr. ANDERSON, from the committee appointed on the 4th instant on the subject, reported in part a bill to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto; and the bill was read, and ordered to the second reading.

The Senate resumed the second reading of the bill in relation to the Military Academy of the United States; and it was agreed that the further consideration of the bill be postponed until the first Monday in December next.

The bill for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia, was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill to continue in force, for a limited time, "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction," was read the third time and passed.

The bill authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States, was read the third time and passed.

The bill to alter the time for the next meeting of Congress was read the third time, and the further consideration thereof postponed to Tuesday next.

On motion, by Mr. GILMAN,

Resolved, That the Senate will attend the funeral of Mr. CROWNINSHIELD to-morrow morning at 10 o'clock.

EMBARGO.

Agreeably to the notice given yesterday, Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes; and the bill was read, and ordered to the second reading. The bill is as follows:

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, no vessels of any description whatever, and wherever bound, whose employment is confined to the navigation of bays, sounds, rivers, and lakes, within the jurisdiction of the United States, (packets, ferry-boats, and vessels, exempted from the obligation of giving any bond whatever, only excepted,) shall be allowed, to depart from any port of the United States, without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure, a manifest of the whole cargo on board, including articles of domestic growth or manufacture, as well as foreign merchandise. And it shall also be the duty of the owners, agents, or factors of every such vessel, to produce within one month thereafter, to the collector of the district from which the vessel departed, a certificate of the landing of the whole of such cargo in a port of the United States, within the bay, sound, rivers, or lakes, to which the navigation of such vessel is confined, signed by the collector or surveyor, of the port where the cargo shall have been landed.

SEC. 2. *And be it further enacted*, That if any vessel described in the next preceding section, shall depart from a port of the United States without a clearance, or before the manifest of the cargo shall have been delivered to the collector or surveyor, in the manner therein prohibited, or if a certificate of the landing of the cargo shall not be produced within the time and in the manner therein provided, such vessel and cargo shall be forfeited, and the owner or owners, consignee, agent, factors, freighters, master or skipper of such vessel, shall respectively forfeit and pay a sum not exceeding —— thousand dollars, nor less than —— thousand dollars: *Provided always*, That nothing herein contained shall be construed to bar or prevent the recovery of the penalty on the bond given for each vessel.

SEC. 3. *And be it further enacted*, That during the continuance of the act, laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, it shall be the duty of the master or person having charge or command of any vessel, flat, or boat, intended to that part of the river Mississippi, which lies between the southern boundary of the Mississippi Territory and the river Iberville, if going down the said river, to stop at Fort Adams, and if going up the river, to stop at Iberville, and at each place, as the case may be, to deliver to an inspector of the revenue, to be stationed there for that purpose, a manifest of the whole cargo on board, and also to produce within two months thereafter to the same officer, a certificate of the landing of the same in some port of the District of Mississippi, and within the jurisdiction of the United States; which certificate shall be signed by the collector or one of the surveyors of the District of Mississippi, or if the cargo shall be landed more than thirty miles from the place of residence of any such officer, by a State or Territorial judge, having jurisdiction at the place of such landing.

SEC. 4. *And be it further enacted*, That if any vessel, flat, or boat, shall enter that part of the river Mississippi, as prescribed in the next preceding section, without stopping and delivering a manifest in the manner therein provided, or if a certificate of the landing of the cargo, shall not be produced within the time and in the manner therein provided, such vessel, flat, or boat, and cargo, shall be forfeited, and the owner or owners, consignee, agent, factors, freighters, master, or skipper, of any such vessel, flat, or boat, shall respectively forfeit and pay a sum not exceeding —— dollars, nor less than —— dollars.

SEC. 5. *And be it further enacted*, That no ship or vessel, having any cargo whatever on board, shall, during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, be allowed to depart from any port of the United States for any other port or district of the United States, adjacent to the territories, colonies, or provinces of a foreign nation: nor shall any clearance be furnished to any ship or vessel bound as aforesaid, without special permission of the President of the United States. And if any ship or vessel shall, contrary to the provisions of that act, proceed to any port or district adjacent to the territories, colonies, or provinces of a foreign nation, such ship or vessel, with her cargo, shall be wholly forfeited; and if the same shall not be seized, the owner or owners, agents, factors, and freighters of such ship or vessel, shall for every such offence forfeit and pay ——; and the master of such ship or vessel, as well as all other persons who shall knowingly be concerned in such prohibited voyages, shall each respectively forfeit and pay —— for every such offence, whether the vessel be seized or not.

SEC. 6. *And be it further enacted*, That the commanders of the public armed vessels, and gunboats of the United States, shall, as well as commanders or masters of the revenue cutters and revenue boats, be authorized, and they are hereby authorized, to stop and examine any vessel, flat, or boat, either on the high seas or within the jurisdiction of the United States, which there may be reason to suspect to be engaged in any traffic or commerce, or in the transportation of merchandise of either domestic or foreign growth or manufacture, contrary to the provisions of this act, or of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or of any of the acts supplementary thereto; and if upon examination it shall appear that such vessel, flat, or boat, is thus engaged, it shall be the duty of the commander to seize every such vessel, flat, or boat, and to send the same to the nearest port of the United States for trial.

SEC. 7. *And be it further enacted*, That the Comptroller of the Treasury be, and he is hereby authorized to remit the duty accruing on the importation of goods of domestic produce, or which being of foreign produce, had been exported without receiving a drawback, which may have been or may be re-imported in vessels owned by citizens of the United States, and which having sailed subsequent to the first day of October last, and prior to the twenty-second day of December last, may be or have been stopped on the high seas by foreign armed vessels, and by reason thereof have returned, or may hereafter return into the United States, without having touched at any foreign port or place. And the said Comptroller is likewise authorized to direct the exportation bonds given for foreign merchandise exported with privilege of drawback, in such vessel, and re-exported in the same, in the manner aforesaid, to be cancelled, the duties on such re-importation being previously paid, and on such other conditions and restrictions as may be necessary for the safety of the revenue.

SEC. 8. *And be it further enacted*, That during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, no foreign ship or vessel shall go from one port in the United States to another; and should any foreign ship or vessel, contrary to this section, go from one port of the United States to another, the vessel with her cargo shall be wholly forfeited, and the owner or owners, agent, factors, freighters, and master of such ship or vessel, shall forfeit and pay a sum not exceeding —— dollars, nor less than —— dollars.

SATURDAY, April 16.

The Senate adjourned to twelve o'clock, and attended the funeral of the honorable JACOB CROWNINSHIELD. After which they returned to their Chamber, and the VICE PRESIDENT having retired for the remainder of the session, the Senate proceeded by ballot to the choice of a PRESIDENT *pro tempore*, as the Constitution provides; and the honorable SAMUEL SMITH was elected.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable SAMUEL SMITH their President *pro tempore*; and that the Secretary make a like communication to the House of Representatives.

Mr. ANDERSON, from the committee, reported a bill to authorize the President of the United States to suspend the operation of the act prohibiting the importation of certain goods, wares, and merchandise, and the acts supplementary thereto; and the bill was read and ordered to the second reading.

The bill to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, was read the second time, as in Committee of the Whole, and amended. On motion to strike out of section 1, these words: "In the event of such peace, or suspension of hostilities, between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe in the judgment of," and insert, after "States," in the 7th line, "if he shall judge the same expedient be, and;" it was determined in the negative—yeas 4, nays 24, as follows:

YEAS—Messrs. Goodrich, Hillhouse, Maclay, and Pickering.

NAYS—Messrs. Adams, Anderson, Condit, Crawford, Gaillard, Giles, Gilman, Gregg, Howland, Kitchel, Mathewson, Milledge, Mitchill, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

And the PRESIDENT reported the bill to the House amended. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. ADAMS, from the committee to whom was referred the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, reported it without amendment; and on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. GREGG, from the committee, reported the bill for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia, correctly engrossed; and the bill was read the third time and passed.

FOREIGN RELATIONS.

Mr. ANDERSON, from the committeee appointed the 4th instant, on the correspondence between Mr. Madison and Mr. Rose, relative to the attack made upon the frigate Chesapeake by the British ship of war Leopard; and, also, the communications made to the Senate, by the President of the United States, on 30th March last, made a further report; which was read for consideration; and 5000 copies ordered to be printed for the use of Congress. The report is as follows:

That, on a review of the several orders, decrees, and decisions of Great Britain and France, within the period of the existing war, it appears that, previous to the measures referred to in the letters from Mr. Erskine to the Secretary of State, and from M. Champagny to General Armstrong, various and heavy injuries have

been committed against the neutral commerce and navigation of the United States, under the following heads:

1st. The British order of June, 1803, unlawfully restricting the trade of the United States, with a certain portion of the unblockaded ports of her enemies, and condemning vessels with innocent cargoes, on a return from ports where they had deposited contraband articles.

2d. The capture and condemnation, in the British Courts of Admiralty, of American property, on a pretended principle, debarring neutral nations from a trade with the enemies of Great Britain, interdicted in time of peace. The injuries suffered by the citizens of the United States, on this head, arose, not from any public order of the British Council, but from a variation in the principle, upon which the Courts of Admiralty pronounced their decisions. These decisions have, indeed, again varied, without any new orders of council being issued; and in the higher Courts of Admiralty some of the decisions which had formed the greatest cause for complaint, have been reversed, and the property restored. There still remains, however, a heavy claim of indemnity for confiscations, which were made during the period of these unwarrantable decisions, and for which all negotiation has hitherto proved unavailing.

3d. Blockades notified to the Minister of the United States at London, and thence made a ground of capture, against the trade of the United States, in entire disregard of the law of nations, and even of the definition of legal blockades, laid down by the British Government itself. Examples of these illegitimate blockades will be found in the notifications of the blockade of May 16, 1806, of the coast from the river Elbe to Brest, inclusive; blockade of the 11th of May, 1807, expounded 19th June, 1807, of the Elbe, Weser, and Ems, and the coast between the same; blockade 11th May, 1807, of the Dardanelles and Smyrna; blockade of 8th January, 1808, of Carthagena, Cadiz, and St. Lucar, and of all the intermediate ports between Carthagena and St. Lucar, comprehending a much greater extent of coast than the whole British navy could blockade, according to the established law of nations.

4th. To these injuries, immediately authorized by the British Government, might be added other spurious blockades by British naval commanders, particularly that of the Island of Curracoa, which, for a very considerable period, was made a pretext for very extensive spoliations on the commerce of the United States.

5th. The British proclamation of October last, which makes it the duty of the British officers to impress, from American merchant vessels, all such of their crews as might be taken or mistaken for British subjects; those officers being the sole and absolute judges in the case.

For the decrees and acts of the French Government, violating the maritime law of nations, in respect to the United States, the committee refer to the instances contained in the report of the Secretary of State, January 25, 1806, to the Senate; in one of which, viz: a decree of the French General Ferrand, at St. Domingo, are regulations sensibly affecting the neutral and commercial rights of the United States.

The French act next in order of time, is the decree of November 21, 1806, declaring the British isles in a state of blockade, and professing to be a retaliation, on antecedent proceedings of Great Britain, violating the law of nations.

This decree was followed, first, by the British order of January, 1807, professing to be a retaliation on that decree, and subjecting to capture the trade of the United States, from the port of one belligerent, to the port of another; and, secondly, by the orders of November last, professing to be a further retaliation on the same decree, and prohibiting the commerce of neutrals, with the enemies of Great Britain, as explained in the aforesaid letter of Mr. Erskine.

These late British orders again, have been followed by the French decree of December 17, purporting to be a retaliation on the said orders, and to be put in force against the commerce of the United States, as stated in the aforesaid letter of M. Champagny.

The committee forbear to enter into a comparative view of those proceedings, of the different belligerent Powers, deeming it sufficient to present the materials, from which it may be formed. They think it their duty, nevertheless, to offer the following remarks, suggested by a collective view of the whole.

The injury and dangers resulting to the commerce of the United States, from the cause and increase of these belligerent measures, and from similar ones adopted by other nations, were such as first to induce the more circumspect of our merchants and ship-owners, no longer to commit their property to the high seas, and at length to impose on Congress the indispensable duty of interposing some legislative provision, for such an unexampled state of things.

Among other expedients, out of which a choice was to be made, may be reckoned:

1. A protection of commerce by ships of war.
2. A protection of it by self-armed vessels.
3. A war of offence as well as of defence.
4. A general suspension of foreign commerce.
5. An embargo on our vessels, mariners, and merchandise.

This last was adopted, and the policy of it was enforced, at the particular moment, by accounts quickly after confirmed, of the British orders of November, and by the probability that these would be followed, as has also happened, by an invigorated spirit of retaliation, in other belligerent Powers. The happy effect of the precaution is demonstrated by the well-known fact, that the ports of Europe are crowded with captured vessels of the United States, unfortunately not within the reach of the precaution.

With respect to a protection of our commerce by ships of war, it must be obviously impracticable, in any material degree, without a lapse of time, and an expense, which amounts to a prohibition of that resort; besides that, it would necessarily involve hostile collisions with one or more of the belligerent Powers.

Self-armed merchantmen would have the same tendency, at the same time, that they would be utterly inadequate to a security against the multiplied fleets and cruisers to be encountered.

An entire suspension of foreign commerce, as the resort in the first instance, would evidently have produced some inconveniences, not incident to the embargo, as it was modified. But the committee do not suppress their opinion, that, after a reasonable time, it may not improperly take the place of the embargo; in case of a protracted adherence of the belligerent Powers, to their destructive proceedings against our neutral commerce.

With respect to a resort to war, as a remedy for the evils experienced, the committee will offer no other reflection, than that it is in itself so great an evil, that the United States have wisely considered peace and

honest neutrality, as the best foundation of their general policy. It is not for the committee to say under what degree of aggravated injuries and sufferings, a departure from this policy may become a duty; and the most pacific nation find itself compelled to exchange for the calamities of war, the greater distresses of longer forbearance.

In the present state of things, the committee cannot recommend any departure from that policy which withholds our commercial and agricultural property from the licensed depredations of the great maritime belligerent Powers. They hope that an adherence to this policy will eventually secure to us the blessings of peace, without any sacrifice of our national rights; and they have no doubt that it will be supported by all the manly virtue which the good people of the United States have ever discovered, on great and patriotic occasions. But the committee would suggest, on this subject, that better councils in the belligerent Governments, producing a juster conduct towards neutral nations, would render a continuance of the embargo unnecessary, and that it will be a provident measure to vest in the Executive a power, in such an event, to suspend until the next session of Congress, wholly, or in part, the several acts prohibiting the departure of our vessels for foreign ports.

Although the committee have abstained from entering into any particular comparison of the proceedings of the French and British Governments towards the United States; they cannot reconcile, with their duty, or with the just sensibility of the nation, not to advert to the tenor and language of the late communications, made by the respective organs of those Governments.

In the letter of M. Champagny, the United States are not only threatened with confiscation, as the final destiny of American property, seized under the French decrees, unless disposition shall be manifested by them against Great Britain, satisfactory to France, but they are even declared, without reserve of any sort, to be actually in a state of war against Great Britain.

In the letter of Mr. Erskine to the Secretary of State, the United States are explicitly charged with justly subjecting their commerce to confiscations, under the British orders, by not opposing an effectual resistance against the decrees of France; in other words, by not making war against that nation, in case no other interposition should be effectual.

There are, in this exposition of the British orders, certain features which claim particular attention; among the regulations, of which they consist, it is provided, that the commerce of the United States, bound from their own ports to its legal and ordinary markets, shall pass through British ports, shall there, in all cases, take their clearances from British officers, shall, in some cases, obtain special licenses, and in others, pay a direct and avowed tax; thus putting the United States on a commercial footing, even worse than was allowed to British colonies, which were left free to carry their exports directly to foreign markets, in cases where an intermediate voyage to the parent country would be too oppressive. In the present case, not a single article is permitted to be sent from the United States to the most southern parts of Europe, without a previous voyage to Great Britain; and, in some instances, not without purchasing even that privilege, without paying a tribute to the British Treasury.

The committee have taken into consideration the documents relating to the attack on the frigate Chesapeake; but they have not deemed it their duty, in the actual posture of the subject, to make any other remark than, that it strengthens the motives of persevering in all the provisional and precautionary measures hitherto contemplated.

MONDAY April 18.

The bill in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes, was read the second time as in Committee of the Whole; and Mr. ANDERSON was requested to take the Chair; and, after debate, the PRESIDENT resumed the Chair, and Mr. ANDERSON reported sundry amendments; and the Senate having agreed thereto, and further amended the bill, on the question, Shall this bill be engrossed and read a third time? on request, by Mr. HILLHOUSE, it was agreed to take the question by yeas and nays; and on motion by Mr. POPE, it was agreed that the further consideration of the bill be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act concerning public contracts," with amendments, in which they request the concurrence of the Senate. They have passed the bill sent from the Senate, entitled "An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia," with an amendment, in which they request the concurrence of the Senate.

They have passed a bill, entitled "An act for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates separately;" also, a bill, entitled "An act to continue in force an act, entitled 'An act to extend jurisdiction in certain cases to the State judges and State courts, and for other purposes;" in which bills they request the concurrence of the Senate.

The two bills last brought up for concurrence were read and ordered to the second reading.

The bill to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, was read the third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 24, nays 4, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Crawford, Gaillard, Gilman, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Mitchill, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Goodrich, Hillhouse, Pickering, and Sumter.

The bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, was read the third time, and passed.

The Senate took into consideration the amendment of the House of Representatives to the bill, entitled "An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia;" and concurred therein.

The Senate took into consideration the amendments to the bill, entitled "An act concerning public contracts;" and concurred therein.

Mr. TURNER gave notice that he should, to-morrow, ask leave to bring in a bill to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's.

The bill to authorize the President of the United States to suspend the operation of the act prohibiting the importation of certain goods, wares, and merchandise, and the act supplementary thereto, was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

TUESDAY, April 19.

The bill to authorize the President of the United States to suspend the operation of the act prohibiting the importation of certain goods, wares, and merchandise, and the acts supplementary thereto, was read the third time, and passed.

The bill, entitled "An act to continue in force an act, entitled 'An act to extend jurisdiction in certain cases to the State judges and State courts, and for other purposes," was read the second time, and referred to Messrs. ANDERSON, MITCHILL, and POPE, to consider and report thereon.

The bill, entitled "An act for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates separately," was read the second time, and referred to Messrs. GOODRICH, SMITH, of New York, and MATHEWSON, to consider and report thereon.

Agreeably to notice given yesterday, Mr. TURNER asked and obtained leave to bring in a bill to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's; and the bill was twice read by unanimous consent. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the second reading of the bill in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes; and on motion, by Mr. MITCHILL, to strike out of section one, line ten, the word "port," and insert the word "district:" it was determined in the negative—yeas 9, nays 17, as follows:

YEAS—Messrs. Goodrich, Hillhouse, Mathewson, Mitchill, Pickering, Pope, Reed, Smith of New York, and Smith of Ohio.

NAYS—Messrs. Anderson, Condit, Crawford, Gaillard, Gilman, Gregg, Howland, Milledge, Kitchel, Maclay, Milledge, Robinson, Smith of Maryland, Smith of Tennessee, Sumter, Thruston, Turner, and White.

On motion, by Mr. WHITE, to strike out the first section of the bill, as follows:

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That, during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, no vessel, of any description whatever, and wherever bound, whose employment is confined to the navigation of bays, sounds, rivers, and lakes, within the jurisdiction of the United States, (packets, ferry boats, and vessels exempted from the obligation of giving any bond whatever, only excepted) shall be allowed to depart from any port of the United States without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure a manifest of the whole cargo on board, including articles of domestic growth, or manufacture, as well as foreign merchandise. And it shall also be the duty of the owners, agents, or masters, of every such vessel, to produce, within one month thereafter, to the collector of the district from which the vessel departed, a certificate of the landing of the whole of such cargo in a port of the United States, within the bay, sound, rivers, or lakes, to which the navigation of such vessels is confined, signed by the collector or surveyor of the port where the cargo shall have been landed:"

It was determined in the negative—yeas 6, nays 20, as follows:

YEAS—Messrs. Goodrich, Hillhouse, Mitchill, Pickering, Smith of Ohio, and White.

NAYS—Messrs. Anderson, Condit, Crawford, Gaillard, Gilman, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, and Turner.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative—yeas 21, nays 6, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Crawford, Gaillard, Gilman, Howland, Kitchel, Maclay, Mathewson, Milledge, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

NAYS—Messrs. Goodrich, Hillhouse, Mitchill, Pickering, Smith of Ohio, and White.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act making provision for arming and equipping the whole body of the militia of the United States;" in which bill they request the concurrence of the Senate.

The bill last mentioned was twice read by unanimous consent, and referred to Messrs. ANDERSON, SUMTER, and ADAMS, to consider and make report thereon.

Mr. ANDERSON gave notice that he should to-morrow ask leave to bring in a bill for the relief of Richard Bland Lee.

The Senate resumed the third reading of the bill to alter the time for the next meeting of Congress, and the further consideration thereof was postponed until Thursday next.

Mr. CRAWFORD, from the committee to whom was referred the bill, entitled "An act to alter and establish certain post roads," reported the bill with amendments; which were read, and, after debate, the further consideration of this bill was postponed until the first Monday in December next.

Mr. REED, from the committee to whom his petition was referred, reported a bill for the relief of Nathaniel Brashears; which was read, and ordered to the second reading.

Mr. CRAWFORD gave notice that he should to-morrow ask leave to bring in a bill for establishing certain post roads.

Mr. POPE gave notice that he should to-morrow ask leave to bring in a bill to incorporate a company for opening the canal in the city of Washington.

Mr. GOODRICH, from the committee to whom was referred the bill, entitled "An act for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates, separately," reported it without amendment; and the bill was ordered to the third reading.

The following motion was submitted by Mr. WHITE, for consideration:

Resolved, That it is expedient to authorize the President of the United States to have manned and equipped for service, with all convenient despatch, the frigates and other vessels of war of the United States, to be used as, in his opinion, the circumstances of the country, and the conduct of foreign Powers towards the United States, may require.

WEDNESDAY, April 20.

Mr. MATHEWSON presented the memorial of the freemen of the town of Newport, in the State of Rhode Island, stating that, in the present perilous crisis of national affairs, our country may not be able much longer to preserve its pacific system, but, on the contrary, may soon be involved in hostilities; and remonstrating against the neglect of the fortifications of their port and harbor, as a national grievance, and asking redress, for reasons stated at large in their memorial; which was read, and referred to the Secretary of War.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act to continue in force an act, entitled 'An act to extend jurisdiction, in certain cases, to the State judges and State courts, and for other purposes," reported it without amendment, and the bill was ordered to the third reading.

The Senate took into consideration the motion submitted yesterday, to authorize the President of the United States to have manned and equipped the frigates and other vessels of war, to be used as, in his opinion, the circumstances of the country may require; and it was referred to Messrs. WHITE, ADAMS, and ANDERSON, to consider and report thereon.

Agreeably to notice given yesterday, Mr. ANDERSON asked and obtained leave to bring in a bill for the relief of Richard Bland Lee; and the bill was read, and ordered to the second reading.

Agreeably to notice given yesterday, Mr. POPE asked and obtained leave to bring in a bill to incorporate a company for opening the canal in the city of Washington; and the bill was read, and the consideration thereof postponed until the first Monday in December next.

A motion was made, by Mr. SMITH, of Ohio, that he be furnished with attested copies of such papers and documents as he may require of the Secretary of the Senate, in relation to the late inquiry into his conduct, and that he shall have leave to withdraw such papers as relate to John and Matthew Nimmo.

Mr. WHITE, from the committee to whom the subject was referred, by permission, reported a bill to authorize and require the President of the United States to cause to be prepared for service the frigates and other armed vessels of the United States; and the bill was read, and ordered to the second reading.

The bill in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes, was read the third time as amended. On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 21, nays 5, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Crawford, Gaillard, Gilman, Gregg, Howland, Kitchel, Mathewson, Milledge, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

NAYS—Messrs. Goodrich, Hillhouse, Mitchill, Pickering, and White.

On motion, by Mr. THRUSTON, it was agreed to reconsider the resolution of yesterday, for postponing, until Thursday next, the consideration of the bill for altering the time for the next meeting of Congress; and, on motion, by Mr. ANDERSON, to recommit the bill, it passed in the negative. On the question shall this bill pass? it was determined in the affirmative—yeas 18, nays 9, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Gaillard, Gilman, Goodrich, Howland, Kitchel, Milledge, Mitchill, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Thruston, Tiffin, and White.

NAYS—Messrs. Crawford, Gregg, Hillhouse, Maclay, Mathewson, Pickering, Smith of Tennessee, Sumter, and Turner.

The bill, entitled "An act for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates, separately, was read the third time, and passed.

On motion, it was agreed, by unanimous consent, that the bill, entitled "An act to continue in force an act, entitled 'An act to extend jurisdiction in certain cases to the State Judges and State Courts, and for other purposes," be now read the third time.

Resolved, That this bill pass.

The bill to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's, was read the third time, and passed.

The bill for the relief of Nathaniel Brashears was read the second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act making provision for arming and equipping the whole

body of the militia of the United States," reported it without amendment,

Ordered, That this bill pass to a third reading.

BANK OF THE UNITED STATES.

Mr. GREGG presented the memorial of the stockholders of the Bank of the United States, signed Samuel Breck, chairman, representing that, by an act of Congress, passed on the 25th of February, 1791, the subscribers to the capital stock of the said Bank, their successors, and assigns, were incorporated for a term of years, which act will expire on the 4th day of March, 1811; and praying a renewal of their charter, for reasons stated at large in their memorial; which was read, and referred to the Secretary of the Treasury, to consider and report thereon at the next session of Congress. The memorial is as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled. the memorial of the Stockholders of the Bank of the United States respectfully showeth:

That, by an act of Congress, passed on the 25th of February, 1791, the subscribers to the capital stock of the Bank of the United States, their successors, and assigns, were incorporated for a term of years, which will expire on the fourth day of March, in the year one thousand eight hundred and eleven.

That, contemplating the extensive operations of the bank, the intimate connexion of the institution with the public credit and finances, and the dispersed and distant residence of many of the stockholders, your memorialists deem it a duty to the Government, and to the commercial world, as well as to themselves, to submit, at this period, to the Legislative consideration, the expediency of protracting the duration of their charter. Without an early assurance upon this subject, every motive of prudence and justice will enforce the adoption of adequate measures, to prevent the dangers and mischiefs of a sudden dissolution of the corporation. The different branches, as well as the principal bank, must immediately co-operate in those measures. The facilities now enjoyed for the collection of the revenue, and the payments of the public debts or engagements, will be unavoidably impaired. And it will readily be perceived, that the activity of a capital, amounting to ten millions of dollars, cannot possibly cease, without producing great disappointment and embarrassment in the trade and commerce of the Union.

That, while your memorialists use the precaution of the present address, they reflect with pleasure upon the honorable claim to the patronage of the Government, founded upon the public services which the institution has already performed: Thus,

It has enriched the Treasury, by the share which the Government subscribed to its capital stock; for the subscription was made through the medium of a loan from the bank itself, (obtained at an annual interest less than the amount of the annual dividend) and when a sale of stock was effected, the profit realized by the Government exceeded a sum of six hundred and fifty thousand dollars.

It has aided the Government to maintain inviolate the public faith and credit both at home and abroad; for it has, on various applications, advanced to the amount of many millions of dollars, (at an interest sometimes of six, and sometimes at five per cent.,) in anticipation of the public revenue.

It has enabled the Government to collect its revenue, and to perform its pecuniary engagements, with ease, economy, and security; for offices of Discount and Deposite have been established in every eligible position; not always for the general emolument of the institution, but sometimes, (on the suggestion of the Secretary of the Treasury) for the peculiar accommodation of the public. The great mass of revenue has been thus carefully collected, and the interest of the public debt has been punctually paid; while, with equal promptitude, the public money has been transferred from the bank to the offices, or from one office to another, in such proportions, and at such times, as the arrangements of the Government required. And these operations (manifestly hazardous, inconvenient, and expensive) have hitherto, been performed upon the responsibility of the institution, without a pecuniary compensation or charge.

That your memorialists, indulging in this retrospect, cannot be insensible to the advantages which they also have derived from a fiscal intercourse between the Government and the bank. It is not, however, the amount of the public deposite that has essentially contributed to those advantages; for the amount of the deposite so fluctuates, is liable to such changes of place, and, in its transfer, is attended with so much care and cost, that it can hardly be regarded as a profitable item in the estimates of a discount day. Nor are the advantages of public patronage discernible in the emoluments arising from the general business of the bank; for its dividends have always been moderate, (frequently less, and seldom more, than eight per cent. per annum) and usually inferior to the dividends of similar establishments. But your memorialists cheerfully acknowledge, that the confidence of the Government, founded upon a constant knowledge of the interior management and condition of the bank, has attracted the confidence of Europe, as well as of America, towards the institution; has conferred upon it a character of dignity and stability, and has enabled its directors to set an example of prudence, candor, and impartiality, honorable to themselves, and beneficial to the community.

That your memorialists presume not to enlarge upon the national policy of their institution, either with a view to a continuance of the blessings of peace, or to the possible vicissitude and exigence of war. The officers of State can best represent the public uses of a bank, upon extraordinary as well as ordinary occasions; and the wisdom of the Legislature will doubtless embrace in its decisions, all the considerations of present convenience and future safety. But, at a crisis of some apprehension and alarm, your memorialists respectfully accompany the expression of a cordial attachment to the honor, tranquillity, and happiness, of their country, with an assurance that the Government may confidently rely, in every emergency, upon the prompt and legitimate aid of the institution.

That, under these impressions, and with these dispositions, your memorialists solicit a renewal of their charter for an additional terms of years; and they are persuaded that the reasons which have been assigned will induce the Legislature to make an early and a favorable decision upon the subject.

Signed by order and on behalf of the general meeting of the stockholders of the Bank of the United States.

SAMUEL BRECK, *Chairman.*

PASCHALL HOLLINGSWORTH,
Secretary.

THURSDAY, April 21.

Mr. GREGG asked and obtained leave to bring in a bill for the relief of George Hunter; which was twice read by unanimous consent. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The bill to authorize and require the President of the United States to cause to be prepared for service the frigates and other armed vessels of the United States," was read the second time; and, on motion, to strike out of section 1, lines 3 and 4, the words "be, and he is hereby, authorized and required to:" it passed in the negative—yeas 12, nays 14, as follows:

YEAS—Messrs. Adams, Anderson, Gilman, Goodrich, Hillhouse, Mitchill, Pickering, Reed, Smith of Maryland, Sumter, Thruston, and White.

NAYS—Messrs. Condit, Crawford, Gaillard, Gregg, Howland, Kitchel, Maclay, Mathewson, Milledge, Pope, Robinson, Smith of Ohio, Tiffin, and Turner.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning invalid pensioners;" also, a bill, entitled "An act to establish certain post roads in the State of Georgia;" in which they request the concurrence of the Senate.

The bill brought up for concurrence entitled "An act concerning invalid pensioners," was twice read, by unanimous consent, and referred, together with the report of the Secretary of War, and the resolutions of the Legislature of the State of North Carolina, on the subject of invalid pensioners, to Messrs. MITCHILL, GREGG, and ANDERSON, to consider and report thereon.

The bill, entitled "An act to establish certain post roads in the State of Georgia," was read, and ordered to the second reading.

The bill, entitled "An act making provision for arming and equipping the whole body of the militia of the United States," was read the third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 19, nays 4, as follows:

YEAS—Messrs. Anderson, Crawford, Gaillard, Gilman, Goodrich, Hillhouse, Howland, Maclay, Milledge, Mitchill, Pope, Reed, Robinson, Smith of Maryland, Sumter, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Condit, Gregg, Kitchel, and Mathewson.

The bill for the relief of Richard Bland Lee was read the second time; On the question, Shall this bill be engrossed, and read a third time? it was determined in the negative. So the bill was lost.

The motion made yesterday, that the Secretary of the Senate deliver to Mr. SMITH of Ohio, attested copies of certain papers; also, the original papers mentioned therein; was considered and agreed to.

EXPORTATION OF FISH.

Mr. ADAMS, from the committee to whom was referred, on the 7th instant, the petition of a number of merchants of the town of Boston, praying liberty to export certain quantities of fish, made report; which was read for consideration. The report is as follows:

The petitioners represent that they have on hand a large quantity of dry and pickled fish, which, unless exported before the Summer heats, will be liable to perish. And they state the peculiar hardships to which they will be liable, under the operation of the embargo, by the necessary destruction of their property, while the rest of the community will be affected only so far as to interrupt their customary commerce.

The committee perceive, and regret, the extraordinary pressure with which this important national measure must operate on those citizens who hold perishable articles for exportation. But, as this is not exclusively the case with the petitioners, but extends to many other classes of citizens, and to other articles of exportation, and as both Houses of Congress have recently manifested the determination of adhering to the general policy of the embargo, for the present, as the only remaining hopes of the nation, for averting the aggravated evils of war, the committee do not perceive any admissible principle upon which the prayer of the petitioners can be granted.

As, however, a conditional power of suspending the embargo, in whole or in part, and under such restrictions as may be found necessary, has been given to the President of the United States, to be exercised during the recess of Congress, the committee believe that, if any circumstance should occur, which can justify a relaxation of the embargo, in any respect, the case of the petitioners will be among the first entitled to consideration and relief.

FRIDAY, April 22.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled an act concerning invalid pensioners," reported it with amendments: which were read, and agreed to; and the bill ordered to the third reading as amended.

Mr. REED submitted the following for consideration:

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to John Mathers, Francis Durity, and Tobias Simpson, the sum of —— dollars each; and to the Chaplain of this House ——, in addition to their usual compensations.

The bill, entitled "An act to establish certain post roads in the State of Georgia," was read the second time, and amended.

Ordered, That it pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of an additional military force for the year 1808;" also, a bill, entitled "An act making an appropriation to supply a deficiency in an appropriation for the support of Government during the present year, and making an appropriation for defraying the expenses incident to the valuation of houses and lands, and the enumeration of slaves, within the United States;" in which bills they request the concurrence of the Senate.

The bill, entitled "An act making appropriations for the support of an additional military force for the year 1808," was twice read, by unanimous consent, and referred to Messrs. WHITE, ADAMS, and ANDERSON, to consider and report thereon.

The bill, entitled "An act making an appropriation to supply a deficiency in an appropriation for the support of Government during the present year, and making an appropriation for defraying the expenses incident to the valuation of houses and lands, and the enumeration of slaves, within the United States," was twice read, by unanimous consent, and referred to Messrs. REED, WHITE, and ANDERSON, to consider and report thereon.

Mr. REED, from the committee on the bill last mentioned, reported it without amendment; and it was agreed, by unanimous consent, that this bill be now read the third time.

Resolved, That this bill pass.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act concerning invalid pensioners," correctly engrossed; and, by unanimous consent, the bill was read the third time, as amended, and passed.

The bill for the relief of George Hunter was read the third time by unanimous consent, and paesed.

The bill to authorize and require the President of the United States to cause to be prepared for the service the frigates and other armed vessels of the United States, was read the third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 21, nays 5, as follows:

YEAS—Messrs. Adams, Anderson, Condit, Crawford, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Howland, Milledge, Mitchill, Pickering Pope, Reed, Robinson, Smith of Maryland, Sumter, Thruston, Tiffin, and White.

NAYS—Messrs. Kitchel, Maclay, Mathewson, Smith of New York, and Turner.

A member casually absent, when taking the yeas and nays on this bill, requested, and was permitted, by unanimous consent, to insert his vote in the affirmative, as it would make no alteration in the determination of the question.

Mr. GREGG, from the committee, reported the amendments to the bill, entitled "An act to establish certain post roads in the State of Georgia," correctly engrossed. The bill last mentioned was read, by unanimous consent, the third time, as amended, and passed.

A motion was made, by Mr. TIFFIN, for consideration, as follows:

Resolved, That the Secretary of the Senate do settle the account of John Smith, Senator of Ohio, from the period of his first appearing in the Senate, as well as his mileage, in coming to and going from the seat of Government.

SATURDAY, April 23.

Mr. WHITE, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of an additional military force for the year 1808," reported the bill without amendment; and the bill was read the third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of
Representatives of the United States:

I transmit to both Houses of Congress a letter from the Envoy of His Britanic Majesty at this place, to the Secretary of State, on the subject of certain British claims to lands in the Territory of Mississippi, relative to which several acts have been heretofore passed by the Legislature.

TH. JEFFERSON.

APRIL 22, 1808.

The Message was read, and ordered to lie for consideration.

The Senate took into consideration the motion made yesterday, and amended it as follows: that the Secretary of the Senate do settle the account of JOHN SMITH, a Senator of Ohio, from the period of his first appearing in the Senate; and, on the question to agree thereto, it passed in the negative.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act in addition to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and for other purposes," with amendments; also, the bill, entitled "An act to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's," with amendments;" in which amendments, respectively, they request the concurrence of the Senate.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act in addition to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes;" and

Ordered, That they be referred to Messrs. ANDERSON, ADAMS, and GREGG, to consider and report thereon.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's;" and concurred therein.

The motion made yesterday, that the Secretary of the Senate do pay, out of the contingent fund, to John Mathers, Francis, Durity, and Tobias Simpson, —— dollars each, and to the Chaplain, —— dollars, in addition to their several compensations, was read the second time.

Mr. ANDERSON asked and obtained leave to bring a bill for the relief of Richard Sparks; which was three times read by unanimous consent, and passed.

MONDAY, April 25.

A message from the House of Representatives informed the Senate that they concur in the bill sent from the Senate, entitled "An act authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States," with amendments; in which they request the concurrence of the Senate.

The Senate took into consideration the amendments to the bill last mentioned; and concurred therein.

Mr. ANDERSON, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act in addition to an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and for other purposes,'" reported the amendments with amendments thereto; which were read and agreed to.

On motion, by Mr. CRAWFORD,

Resolved, That the Secretary of the Senate cause to be printed one hundred and twenty copies of the act laying an embargo, and the several acts supplementary thereto, and transmit them to the members of the Senate.

The bill for the relief of Nathaniel Brashears was read the third time, and the further consideration thereof postponed until the first Monday in November next.

On motion, by Mr. WHITE, it was agreed to suspend the twelfth rule for conducting business in the Senate until to-morrow. Whereupon, the motion made on the 22d instant was read the third time, amended, and agreed to, as follows:

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to John Mathers, Francis Dority, and Tobias Simpson, the sum of sixty dollars each; and to the Chaplain of this House one hundred dollars, in addition to their usual compensation.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to make good a deficit in the appropriation of 1807, and to make a further appropriation for completing the south wing of the Capitol, and for other purposes;" in which they request the concurrence of the Senate.

The bill was twice read.

On motion, by Mr. REED, to strike out of the first section the following words: "for completing the wall of the President's house, planting the ground, so as to close this part of the expenditure, building a solid flight of steps to the principal door, and minor expenses, fourteen thousand dollars:" it passed in the negative—yeas 3, nays 18, as follows:

YEAS—Messrs. Anderson, Pickering, and Reed.

NAYS—Messrs. Adams, Condit, Crawford, Gaillard, Gilman, Goodrich, Gregg, Howland, Hillhouse, Mathewson, Milledge, Mitchill, Robinson, Smith of Maryland, Smith of New York, Sumter, Turner, and White.

On motion, by Mr. GREGG, to insert, at the end of the first section, these words: "For executing the work deficient in the interior of the south wing, and painting, eleven thousand five hundred dollars:" it passed in the affirmative—yeas 17, nays 4, as follows:

YEAS—Messrs. Adams, Condit, Gilman, Goodrich, Gregg, Howland, Mathewson, Milledge, Mitchill, Pickering, Robinson, Smith of Maryland, Smith of New York, Sumter, Thruston, Turner, and White.

NAYS—Messrs. Anderson, Crawford, Gaillard, and Reed.

And the bill having been further amended, the President reported it to the House accordingly, and it was agreed that the bill pass to the third reading as amended. The bill was then read a third time, and passed.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to authorize and empower the President of the United States to exchange the lands whereon the fort and battery now stand in the town of Portland, for lands more suitable for fortification, and the protection of said harbor and town of Portland, in the district of Maine."

The bill last mentioned was read, and, by unanimous consent, a second time as in Committee of the Whole, and amended; and the President reported it to the House amended accordingly; on the question, Shall this bill pass to the third reading as amended? it was determined in the affirmative. The bill was then read the third time as amended, and passed.

On motion, by Mr. ADAMS.

Resolved, That there be paid to Samuel Eliot, jun., the sum of two hundred dollars for extra services during the present session of Congress, on the inquiry into the conduct of John Smith, a Senator from the State of Ohio, as an alleged associate of Aaron Burr, to be paid from the appropriation made by law for the payment of expenses on the said inquiry.

The Senate adjourned to five o'clock this afternoon.

FIVE O'CLOCK, P. M.

A message from the House informed the Senate that the House agree to some, and disagree to others of the amendments of the Senate to the act entitled "An act to make good a deficit in the appropriation of eighteen hundred and seven, for completing the public buildings, and for other purposes."

The Senate proceeded to consider their amendment to the bill, entitled "An act to make good a deficit in the appropriation of eighteen hundred and seven, for completing the public buildings, and for other purposes," disagreed to by the House of Representatives; Whereupon,

Resolved, That they recede from their said amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act supplemental to 'An act regulating the grants of lands in the Territory of Michigan,'" to which they desire the concurrence of the Senate; they have passed a resolution for the appointment of a joint committee to notify the President of the United States of the intended adjournment of Congress, in which they desire the concurrence of the Senate.

The bill, entitled "An act supplemental to an act regulating the grants of lands in the Territory of Michigan," was read three times by unanimous consent, and passed.

The Senate proceeded to consider the resolution of the House of Representatives for the appointment of a joint committee to notify the President of the United States of the intended adjournment; and, it being suggested that the said resolution was incomplete,

Resolved, That the Senate do disagree thereto.

On motion,

Resolved, That Messrs. MITCHILL and CRAWFORD be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Ordered, That the Secretary acquaint the House of Representatives therewith, and request the appointment of a committee on their part.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate for the appointment of a joint committee to wait on the President of the United States and notify him of the intended recess, and have appointed a committee on their part.

Mr. MITCHILL, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress; Whereupon, the President adjourned the Senate until the first Monday in November next.

TRIAL OF AARON BURR.

[Communicated to the Senate of the United States, on the 23d of November, 1807.]

To the Senate and House of Representatives of the United States of America:

Agreeably to the assurance given in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings and of the evidence exhibited on the arraignment of Aaron Burr and others, before the circuit court of the United States held in Virginia, in the course of the present year, in as authentic form as their several parts have admitted.

TH. JEFFERSON.

NOVEMBER 23, 1807.

At a court of the United States for the fifth circuit in the Virginia District, commenced and holden at the Capitol, in the city of Richmond, on Friday, the twenty-second day of May, in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States the thirty-second.

VIRGINIA DISTRICT:

In the Circuit Court of the United States of America, in and for the fifth circuit and Virginia district.

The grand inquest of the United States of America for the Virginia district, upon their oaths do present, that Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, being an inhabitant of, and residing within the United States, and under the protection of the laws of the United States, and owing allegiance and fidelity to the same United States, not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the devil, wickedly devising and intending the peace and tranquillity of the said United States to disturb, and to stir, move, and excite insurrection, rebellion, and war against the said United States, on the tenth day of December, in the year of Christ one thousand eight hundred and six, at a certain place called and known by the name of Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against the said United States; and in order to fulfil and bring to effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, he, the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year one thousand eight hundred and six aforesaid, at the said island, called Blannerhasset's island as aforesaid, in the county of Wood aforesaid, in the district of Virginia aforesaid, and within the jurisdiction of this court, with a great multitude of persons, whose names at present are unknown to the grand inquest aforesaid, to a great number, to wit, to the number of thirty persons and upwards, armed and arrayed in a warlike manner, that is to say, with guns, swords, and dirks, and other warlike weapons, as well offensive as defensive, being then and there unlawfully, maliciously, and traitorously assembled and gathered together, did falsely and traitorously assemble and join themselves together against the said United States, and then and there with force and arms did falsely and traitorously, and in a warlike and hostile manner, array and dispose themselves against the said United States; and then and there, that is to say, on the day and in the year aforesaid, at the island aforesaid, commonly called Blannerhasset's island, in the county aforesaid of Wood, within the Virginia district, and the jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he, the said Aaron Burr, with the said persons so as aforesaid traitorously assembled and armed, and arrayed in manner aforesaid, most wickedly, maliciously, and traitorously did ordain, prepare, and levy war against the said United States, contrary to the duty of their said allegiance and fidelity, against the Constitution, peace, and dignity of the said United States, and against the form of the act of the Congress of the said United States in such case made and provided.

And the grand inquest of the United States of America for the Virginia district, upon their oaths aforesaid, do further present, that the said Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, being an inhabitant of and residing within the United States, and under the protection of the laws of the United States, and owing allegiance and fidelity to the same United States, not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the devil, wickedly devising and intending the peace and tranquillity of the said United States to disturb, and to stir, move, and excite insurrection, rebellion, and war against the said United States, on the eleventh day of December, in the year of our Lord one thousand eight hundred and six, at a certain place called

and known by the name of Blannerhasset's island in the county of Wood, and district of Virginia aforesaid: and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against the said United States, and in order to fulfil and bring to effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, he, the said Aaron Burr, afterwards, to wit: on the said last mentioned day of December, in the year one thousand eight hundred and six aforesaid, at a certain place commonly called and known by the name of Blannerhasset's island, in the said county of Wood, in the district of Virginia aforesaid, and within the jurisdiction of this court, with one other great multitude of persons, whose names at present are unknown to the grand inquest aforesaid, to a great number, to wit, to the number of thirty persons and upwards, armed and arrayed in a warlike manner, that is to say, with guns, swords, and dirks, and other warlike weapons, as well offensive as defensive, being then and there unlawfully, maliciously, and traitorously assembled and gathered together, did falsely and traitorously assemble and join themselves together against the said United States, and then and there with force and arms did falsely and traitorously, and in a warlike and hostile manner, array and dispose themselves against the said United States; and then and there, that is to say, on the day and in the year last mentioned, at the island aforesaid, in the county of Wood aforesaid, in the Virginia district, and within the jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he, the said Aaron Burr, with the said persons, so as aforesaid, traitorously assembled and armed, and arrayed in manner aforesaid, most wickedly, maliciously, and traitorously did ordain, prepare, and levy war against the said United States; and further to fulfil and carry into effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, against the said United States, and to carry on the war thus levied as aforesaid against the said United States, the said Aaron Burr, with the multitude last mentioned, at the island aforesaid, in the said county of Wood, within the Virginia district aforesaid, and within the jurisdiction of this court, did array themselves in a warlike manner, with guns and other weapons, offensive and defensive, and did proceed from the said island down the river Ohio, in the county aforesaid, within the Virginia district, and within the jurisdiction of this court, on the said eleventh day of December, in the year one thousand eight hundred and six aforesaid, with the wicked and traitorous intention to descend the said river and the river Mississippi, and by force and arms traitorously to take possession of a city commonly called New Orleans, in the Territory of Orleans, belonging to the United States, contrary to the duty of their said allegiance and fidelity, against the Constitution, peace, and dignity of the said United States, and against the form of the act of Congress of the United States in such cases made and provided.

HAY, *Attorney of the United States for the Virginia district.*

A true bill: JOHN RANDOLPH.

THURSDAY, *May* 28.

This day came the attorney for the United States and Aaron Burr, and, by consent of the said Aaron Burr, it is considered that he enter into a recognisance in the sum of ten thousand dollars, and give one or more securities in the like sum, with condition for his personal appearance before this court on to-morrow, then and there to answer such charges as shall be exhibited against him on behalf of the United States, and not to depart without the leave of the said court. Whereupon the said Aaron Burr, Luther Martin, Thomas Taylor, John G. Gamble, and William Langbourne, here in court acknowledge themselves to be indebted to the United States as follows: the said Aaron Burr in the sum of ten thousand dollars, and the said Luther Martin, Thomas Taylor, John G. Gamble, and William Langbourne, in the sum of two thousand five hundred dollars each, of their respective goods and chattels lands and tenements, to be rendered for the use of the said United States; yet upon this condition, that if the said Aaron Burr shall make his personal appearance before this court to-morrow, then and there to answer such charges as shall be exhibited against him on behalf of the United States, and shall not depart thence without the leave of the said court, then this recognisance is to be void.

FRIDAY, *May* 29.

Aaron Burr this day appeared in court, in compliance with his recognisance entered into yesterday.

SATURDAY, *June* 13.

On the motion of Aaron Burr, and for reasons appearing to the court, it is ordered that a *subpœna duces tecum* be awarded to summon the President of the United States, or such of the Secretaries of the Departments, as may have the papers hereinafter mentioned, or any of them, with their keeping; to bring forthwith to this court a letter from General Wilkinson to the President of the United States, dated the 21st day of October, 1806, as mentioned in the President's Message of the 22d day of January, 1807, to both Houses of Congress; together with the documents accompanying the same letter, and a copy of the answer of said Thomas Jefferson, or of any one by his authority, to the said letter, and the military and naval orders given by the President of the United States, through the Departments of War and of the Navy, to the officers of the army and navy at or near the New Orleans stations, touching or concerning the said Burr or his property.

WEDNESDAY, *June* 24.

The grand jury this day appeared in court, and presented—

"An indictment against Aaron Burr, for treason—a true bill.

"An indictment against Aaron Burr, for a misdemeanor—a true bill."

And the said grand jury again retired.

On the motion of George Hay, attorney for the United States for this district, it is ordered that Aaron Burr, who is present in court, be committed to the custody of the marshal of this district, to be by him safely kept until discharged by due course of law.

FRIDAY, *June* 26.

We, who are counsel in the defence of Colonel Aaron Burr, at the suit of the United States, beg leave to represent to the court, that, in pursuance of our duty to him, we have visited him in his confinement in the city jail; that we could not avoid remarking the danger which will most probably result to his health from the situation, inconveniences, and circumstances attending the place of his confinement; but we cannot forbear to declare our conviction, that we ourselves cannot freely and fully perform what we have undertaken for his defence, if he remains in the jail aforesaid, deprived as he is of a room to himself; it being scarcely possible for us to consult with him upon the various necessary occasions which must occur. From all which we believe that he will be deprived of that assistance from counsel which is given to him by the Constitution of the United States, unless he be removed.

Sworn to in open court by

EDMUND RANDOLPH,
JOHN WICKHAM,
BENJAMIN BOTTS.

WILLIAM MARSHALL, *Clerk.*

Whereupon, it is ordered that the marshal of this district do cause the front room of the house now occupied by Luther Martin, Esq., which room has been and is used as a dining-room, to be prepared for the reception and safekeeping of Colonel Aaron Burr, by securing the shutters to the windows of the said room by bars, the door by a strong bar or padlock; and that he employ a guard of seven men, to be placed on the floor of the adjoining unfinished house, and on the same story with the before described front room, and also at the door opening into the said front room; and, upon the marshal's reporting to the court that the said room has been so fitted up, and the guard employed, that then the said marshal be directed, and he is hereby directed, to remove to the said room the body of the said Aaron Burr from the public jail, there to be by him safely kept.

RICHMOND, *July* 26, 1807.

SIR: The question submitted to me, whether in the house now occupied by Mr. L. Martin, counsel for Colonel Burr, a room or rooms may be so prepared as to form a place of security against escape, I have considered; and, on inspection of the premises, I am of opinion that if the shutters of the windows of the second or any other story be secured by bars, the door by a strong bar or padlock, and if a guard be stationed on the floor of the adjoining house, and also at the door of the above rooms, no person can escape therefrom without risk of his life.

B. HENRY LATROBE.
Surveyor of the public buildings of the United States.

THE MARSHAL OF THE UNITED STATES.

District of Virginia.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district, and thereof arraigned, and pleaded not guilty to the indictment, and for his trial put himself upon God and the country; whereupon he is remanded to jail. And as the trial of the said Aaron Burr cannot be had in the county of Wood, where the offence is alleged to have been committed, without great inconvenience, it is ordered that a *venire facias* issue to the marshal of this district to be directed, commanding him to summon forty-eight fit persons, qualified as the law directs, twelve of whom from the said county of Wood, to appear here on the third day of August next, as a *venire* for the trial of the said Burr.

IN COUNCIL, MONDAY, *June* 29, 1807.

The board being informed that an affidavit has been filed in the circuit court of the United States for the Virginia district, which states that the jail for the county of Henrico and city of Richmond is inconvenient and unhealthy, and so crowded with State offenders and debtors that there are no private apartments therein for the reception of persons charged with offences against the laws of the United States, it is therefore advised that the Governor be requested to tender to said court (through the Federal attorney of the district of Virginia) apartments in the third story of the public jail and penitentiary house, for the reception of such persons as shall be directed, under the authority of the United States, to be confined therein.

Extract from the minutes.

DANIEL L. HILTON,
Clerk of the Council.

Which tender the court doth accept for the purposes above mentioned.

COUNCIL CHAMBER,
TUESDAY, *June* 30, 1807.

SIR: In pursuance of an advice of the Council of State, I beg leave, through you, to inform the circuit court of the United States now sitting, that any persons who may be confined in the jail and penitentiary house, on the part of the United States, will be considered as in the custody and under the sole control of the marshal of the district; that he will have authority to admit any person or persons to visit the confined that he may think proper; and that he will be authorized to select, for the purposes aforesaid, any apartments in the penitentiary, now unoccupied, that he may deem most conducive to safety, health, and convenience.

I am, with great respect, sir, your obedient servant,

W. H. CABELL.

In consequence of the offer made by the Executive of the apartments in the third story of the penitentiary and State prison for persons who may be confined therein, under the authority of the United States, and of the foregoing letter from the Governor of this Commonwealth, it is ordered, on the motion of the attorney of the United States, that, so soon as the apartments in the second story of the public jail and penitentiary shall be fit for the reception and safekeeping of Aaron Burr, he be removed thereto, and safely kept therein by the marshal until the 2d day of August next, when he shall be brought back to the prison where he is now placed, there to be guarded in like manner as at present, until the further order of the court.

And, at a court of the United States for the fifth circuit and Virginia district, continued by adjournment, and held at the Capitol, in the city of Richmond, on Monday, the third day of August, one thousand eight hunded and seven, Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the marshal of this district.

MONDAY, *August* 10.

Aaron Burr, being brought into court, acknowledged that he had received, according to law, a copy of the indictment against him for high treason in this court, a list of the jury, and a list of one hundred and thirty-one witnesses, in his case, mentioning the names and place of abode of such witnesses and jurors, three entire days antecedent to this day; and he consents to waive all advantage and objection, in point of form in the delivery thereof, and all exception to any mistake, omission, or deficiency in the names of the jurors or witnesses, and the description of their places of residence, or defect in not stating the residence of any of the witnesses.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district; and thereupon the names of the *venire*, summoned in pursuance of the *venire facias*, awarded in this cause, being called, Richard E. Parker, David Lambert, Hugh Mercer, and Edward Carrington, were accepted by the prisoner, and sworn.

TUESDAY. *August* 11.

Aaron Burr, late of the city of New York and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district.

In consequence of challenges to the persons summoned, as a *venire* for the trial of Aaron Burr, who stands indicted for treason, there is a defect of jurors for the said trial; it is therefore ordered that the marshal of this district return to the court at twelve o'clock on Thursday next, forty-eight jurymen *de talibus circumstantibus* to complete the pannel of the said jury.

MONDAY, *August* 17.

Aaron Burr, being brought into court, acknowledges that he has received, according to law, a list of four witnesses in his case, in addition to the list heretofore furnished him, mentioning the names and places of abode of such witnesses, three entire days antecedent to this day; and he consents to waive all advantage and objection in point of form in the delivery thereof; and all exception to any mistake, omission, or deficiency in the names of the witnesses, and the description of their places of residence or defect in not stating the residence of any of the witnesses.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the marshal of this district; and thereupon the names of the persons summoned in pursuance of the process awarded in this cause being called, Christopher Anthony, James Sheppard, Reuben Blakeley, Benjamin Graves, Miles Bott, Henry E. Coleman, John M. Sheppard, and Richard Curd, who, being elected, tried, and sworn the truth of, and upon the premises to speak, together with Richard E. Parker, David Lambert, Hugh Mercer, and Edward Carrington, sworn on Monday last, completed the jury for the trial of the said indictment.

TUESDAY. *September* 1.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the mashal of this district; and the jury sworn in this cause having heard the evidence, upon their oath do say, that the said Aaron Burr is not guilty of the treason aforesaid, as in pleading he hath alleged, and thereupon proclamation was made as the manner is.

THURSDAY, *September* 3.

Ordered, That Aaron Burr, against whom an indictment was lately depending in this court for treason, and upon which the jury on Tuesday last brought in a verdict of not guilty, be acquitted and discharged of the said offence, and go thereof without day. And it is ordered, that the said Aaron Burr enter into a recognisance himself in the sum of five thousand dollars, and give two or more securities in the sum of five thousand dollars for the said Burr's appearance before this court to-morrow, then and there to answer an indictment against him for a misdemeanor. Whereupon the said Aaron Burr acknowledged himself to be indebted to the United States in the sum of five thousand dollars of his lands and tenements, goods and chattels, to be levied, and to the United States rendered: yet upon this condition, that, if the said Aaron Burr shall make his personal appearance before this court to morrow, at twelve o'clock, then and there to answer the said indictment for a misdemeanor, and shall not depart thence without leave of the said court, or until discharged by due course of law, then this recognisance to be void.

SATURDAY, *September* 5.

William Langbourne and Jonathan Dayton, here in court, acknowledge themselves to be indebted to the United States in the sum of five thousand dollars of their lands and tenements, goods and chattels, to be levied, and to the United States rendered: yet upon this condition, that, if Aaron Burr shall make his personal appearance here before the judges of this court, at ten o'clock on Monday next, to answer an indictment against him for a misdemeanor, and shall not depart thence without leave of the said court, or until discharged by due course of law, then this recognisance is to be void.

DISTRICT OF VIRGINIA, *to wit:*

Circuit Court of the United States of America for the fifth circuit and district of Virginia.

The grand inquest of the United States of America, in and for the body of the district of Virginia, upon their oath do present that Aaron Burr, late of the city of New York, and district of New York, attorney-at-law, did, on the tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the United States, to wit, at a certain island in the river Ohio, called Blannerhasset's island, in the county of Wood, within the district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, begin a certain military expedition to be carried on from thence against the dominions of a foreign Prince, to wit, the dominions of the King of Spain, the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, and within the jurisdiction of the said United States, to wit, at a certain island in the river Ohio, called Blannerhasset's island, in the county of Wood, in the district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms did set on foot a certain military enterprise, to be carried on from thence against the territory of a foreign Prince, to wit, the territory of the King of Spain, the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their oath do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at an island in the river Ohio, called Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, provide the means, to wit, boats, men, provisions, fire-arms, gunpower, bullets, leaden bars, and other military munition, for a certain other military enterprise to be carried on from thence against the dominions of a foreign Prince, to wit, against the dominions of the King of Spain; the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at an island in the river Ohio, called Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, prepare the means, to wit, boats, men, provision, fire-arms, gunpowder, bullets, leaden bars, and other military munition, for a certain other military expedition, to be carried on from thence against the province of Mexico in North America, the said province of Mexico then and there being the territory of a foreign Prince, to wit, the territory of the King of Spain, and the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at an island in the river Ohio, called Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, provide the means, to wit, boats, men, provisions, fire-arms, gunpowder, balls, leaden-bars, and other military munition, for a certain other military expedition to be carried on from thence against the dominions of some foreign State, to the jurors aforesaid yet unknown, with whom the United States were then and there at peace, against the form of the statute in such

case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present that the said Aaron Burr, afterwards, to wit: on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at Blannerhasset's island, in the river Ohio, in the county of Wood and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, set on foot a certain other military enterprise, to be carried on from thence again the dominions of some foreign State, to the jurors aforesaid yet unknown, with whom the United States were then and there at peace, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity.

GEORGE HAY.
Of the city of Richmond, attorney of the U. S. for Virginia district, prosecutor.

A true bill: JOHN RANDOLPH.

MONDAY, *September* 7.

THE UNITED STATES vs. AARON BURR. } *Upon an indictment for a misdemeanor.*

This day came as well George Hay, general attorney for the United States for this district, as the defendant by his attorney; and thereupon the said defendant saith that he is not guilty of the misdemeanor for which he stands indicted, and of this he putteth himself upon the country, and the attorney for this district likewise.

TUESDAY, *October* 20.

THE UNITED STATES vs. AARON BURR. } *Upon an indictment for a misdemeanor*

The jury sworn in this case having, on the fifteenth day of the last month, brought in a verdict of not guilty, it is ordered that the said Aaron Burr be acquitted of the offence aforesaid, and go thereof without day.

On the motion of Aaron Burr, who is confined in the jail of Henrico county as a debtor, it is ordered that a writ of *habeas corpus* be awarded to the sheriff of said county to be directed, to cause him to bring forthwith to this court the body of the said Aaron Burr.

The sheriff of Henrico by virtue of a writ of *habeas corpus* to him directed, this day produced in court the body of Aaron Burr detained in his custody on civil process; whereupon, it is ordered that the said Aaron Burr be committed to the custody of the marshal, to be by him safely kept until he shall be transmitted to the State of Ohio, there to be tried for a misdemeanor against the United States, in beginning, or setting on foot, or preparing or procuring, the means of a military expedition or enterprise against Mexico, a province in North America, of the King of Spain, with whom the United States were and are at peace.

A copy, test:

W. MARSHAL, *Clerk.*

STATE OF VIRGINIA, *Henrico county, to wit:*

William Waller Henning, and William Munford, both of the city of Richmond, personally appeared before me, Daniel L. Hylton, a justice of the peace for the said county, and made oath that the printed statements of the evidence of witnesses, examined before the circuit court of the United States for the fifth circuit and district of Virginia, contained in the thirty-four pages hereunto annexed, which evidence was delivered in court, on a motion for an attachment against General James Wilkinson, on the several trials of Aaron Burr for treason against the United States, and for a misdemeanor, and on a motion for the commitment of Aaron Burr, Herman Blannerhasset, and Israel Smith, for the purpose of their being sent out of the said district of Virginia for trial, are, in the opinion of the said Hening and Munford, substantially faithful and accurate. A very large proportion thereof has been corrected by means of the joint notes of the said deponents, Hening and Munford, and of Thomas Ritchie, editor of the Enquirer. The said printed statements have been generally examined, and acknowledged to be substantially correct by the witnesses themselves: and these deponents, who, either jointly or severally, took notes of the whole thereof, firmly believe that no error of any importance can be discovered in any part of the same. In testimony whereof, the said Hening and Munford have sworn and subscribed to this affidavit, this twenty-first day of October, 1807.

Sworn and subscribed before me, in due form of law, the day and date above written.

DANIEL L. HYLTON,
J. P. for Henrico county.

WM. W. HENING,
WM. MUNFORD.

Debate on motion for an attachment against General James Wilkinson.

TUESDAY, *June* 24.

On this occasion the following testimony was produced: JAMES KNOX, on the part of the prisoner; Lieutenant GAINES and Mr. GRAHAM, on behalf of the prosecution.

JAMES KNOX says he went to New Orleans in March; soon after his arrival, received a note from General Wilkinson, the object of which appeared to be to get information about Sergeant Dunbaugh; waited on the General; he asked me if I was not afraid to come before him after what had been said about him? Told him I was not. Asked me if I knew, and was at liberty to say anything of the party coming down the river? I told him I was at liberty to say anything I knew. He said he was very uneasy, had lost his wife; but that gave him little uneasiness compared with the state of the country; he asked me if I would go to Richmond; said he would do anything to aid me; I told him I expected money in ten days, and would then go; he offered me what money I might want; would not accept any; was served with a subpœna by Lieutenant Gaines; short time after arrested by the sheriff and carried to

Judge Hall's; judge not at home; the Governer recommended to the sheriff if the judge was not at home, to let me go at liberty till next day; Judge Hall told me I must either give my affidavit, or go to Richmond; told him could not give my affidavit without advice, but should go to Richmond when I got money; the judge said I must then give security or go to jail: gave two securities in five hundred dollars each, appeared next day; judge had printed interrogatories; I asked him to let me read them; gave them back; he asked me to answer them; told him I had not counsel, and could not answer them without; saw counsellor Carr, he told me they had no right to compel me to answer the interrogatories. The judge persisted, and asked me some of the questions; I told him, to save trouble, I would relate what occurred while coming from Meadville to that place. The judge sent for Mr. Fort; Mr. Fort made some observations, and also refused to answer the interrogatories; he and myself sent to jail by the judge, and confined with negroes and others; Mr. Fort was shortly after bailed by his friends; some of mine came to relieve me; were told the sum demanded was five or ten thousand dollars; I stayed three days in jail; was then taken out by Sergeant Dunbaugh and others who had side-arms; the men went with us to the water; Sergeant Dunbaugh and myself went on board; asked Dunbaugh if that was a guard; said it was not; has since told me it was; asked if Lieutenant Gaines was on board; was told he soon would be; asked leave to go on shore for my clothes; refused; when Dunbaugh took me from the jail, he had an order which he handed to the jailer; wrote, while in jail, to Lindsley and Doctor Monhollen; told them if they came to Orleans what they might expect. When Lieutenant Gaines came on board the vessel, he said I was in an ill humor; told him I was; he advised me, as I was there, to bear my situation with patience; asked him to let me go on shore for my clothes; he said he could not, had nothing to do with it; General Wilkinson alone could do it; brought to Richmond without clothes; Captain G. said he had forty dollars for me; told him I did not want it, if I could be permitted to go on shore; he said I was not compelled to take it; I told him I must accept it, unless permitted to go on shore, the money was sent on shore, my bill to my landlord paid, and twenty dollars returned me by Governor Claiborne, who came on board and accompanied us six or eight miles.

On our passage, Captain Gaines said I must understand I was sent by Judge Hall. General Wilkinson asked me the next day if I had any objection to going to Richmond, and if Captain Gaines had not spoken to me on the subject; I told him he had; that I was ill used; brought off without clothes or money; General Wilkinson said, if so, I had been badly used: that that was the first he heard of it; asked again if I was averse to going; told him I was not, if properly treated; he said if I would give my honor that I would go, I should be no longer controlled; I refused; told him I had asked two favors of him and Mr. Gaines, and should not ask a third from any man; after some time, he asked me if twenty dollars would be of service to me; told him I had no clothes, and must have some; he then talked with Mr. Lindsley, and returned to me, and asked if fifty dollars would serve me; told him that sum would be requisite to get me clothes; came to Richmond in a pilot boat; Lieutenant Moxley said he was to take charge of General Wilkinson's passengers; carry them to Richmond, and there to wait General Wilkinson's orders.

Cross-examination by the counsel of the United States.

Question. Have you any military commission?

A. None.

Q. Where were you born?

A. Maryland; left it very young; resided in Pennsylvania, and left it some time in November last; left Pennsylvania, Meadsville, for New Orleans, 24th or 25th November; went down the Allegany and Ohio to Beaver; went thence with about twenty or thirty to Blanerhasset's island; left that place some time in December, Blannerhasset and another with them; stopped at Shawany town; went with about double the number to Cumberland Island; stayed a day and a half, met with Colonel Burr and a few others; the whole number fifty or sixty, about seven or eight boats, five fire-arms; went thence to Fort Massac. Sergeant Dunbaugh joined them there with a musket; after meeting with Colonel Burr, considered himself under his direction, went to Natchez; Colonel Burr did not accompany them; went from Natchez to New Orleans; some of the boats chartered, and others sold; arrived at Orleans 13th or 16th March; first notice, after seeing General Wilkinson, of proceedings against him was, when carried before Judge Hall; was said to be carried under an affidavit of General Wilkinson before Judge Hall; Captain G. requested him to write to him on shore, and he would get what he wanted; he was not permitted to send the letter; never mentioned to General Wilkinson till arrived in Hampton Roads; treated as others while on his way; arrived at Richmond on Friday evening; put up at the Bell. Three days elapsed before he saw Colonel Burr; mentioned the treatment he had received to Colonel Burr, and intended mentioning it to the court on his first appearance, but was told it was unnecessary.

Miscellaneous questions and answers.

Whilst at the mouth of Cumberland river, and when Colonel Burr made his escape, he was one that took Colonel Burr in a wherry and carried him some distance; left him in the woods; did not hear him address any one. The note wrote him by General Wilkinson, and sent by Dunbaugh, was left at his house sealed; the object was to obtain some information about Dunbaugh; no letters; carried Colonel Burr's things to a parson Bruin's, as he was told; had but few guns; those traded for as they desended the river; vessel sailed from New Orleans in half an hour after General Wilkinson came on board; the one hun-

dred and fifty dollars offered him by General Wilkinson, he was induced to believe, was to bribe him to give evidence against Colonel Burr; said he could obtain from Colonel Tyler a sufficiency to carry him home under his agreement with that gentleman; this conversation took place before the subpœna was served.

Lieutenant Gaines received a letter from Attorney General of the United States enclosing subpœnas for witnesses against Colonel Burr; went to New Orleans in consequence, and arrived on 7th May; called several times at the house where C. Knox stayed with Mr. Lindsley and Dr. Monhollen; was told by the landlord those gentlemen walked out whenever he approached; he told his business, and at length saw them; they said they had belonged to Burr's party, and did not wish to appear against him; he told them the commander-in-chief offered them a passage in the United States' sloop with him; Knox said he could not come till he had made some money arrangements; he applied to Judge Hall; the judge directed him to obtain an affidavit of the refusal, and he would take the proper steps; he said the subpœna must be served by the marshal or sheriff, and proposed appointing him a deputy; he refused, unless he could afterwards be released from any further service in that capacity; Knox appeared always ill-natured, which induced him to ask him if he could do anything for him; he obtained from the United States' agent at that place forty dollars, and offered it to Knox, which he, after some hesitation, accepted. Offered him paper, &c., and requested him to write to some friend on shore, or myself; heard nothing more from him. In serving the subpœna, he acted under the authority of the Attorney General, in every other respect, while at New Orleans, under the authority of the marshal at that place. At Hampton Roads Knox said he wished to come to Richmond, but wished to leave that vessel; I told him he should, but had not determined how he could be conveyed to Richmond; his getting off gave me no concern, because I supposed he could be again caught in some part of this country; whilst the witness was on shore General W. procured a vessel, and sent the witness to Richmond; he considered the witness under his authority, and not as a military officer, but as deputy marshal.

He gave to Sergeant Dunbaugh an order at New Orleans, to receive from jail, and deliver to the commanding officer on board the United States' sloop Revenge, the body of James Knox. He should not have conceived any citizen of New Orleans bound to execute that order; he did not consider Sergeant Dunbaugh further bound than in compliance with his promise; he was called Sergeant Dunbaugh, but did not consider him under his authority as a military officer; General Wilkinson made his affidavit at his own quarters; he delivered it to a judge; they consulted counsel; he delivered to General Wilkinson subpœnas from the attorney of the United States, one for himself, and another for Mr. Graham; he always considered himself bound to obey the orders of General Wilkinson; he considered General Wilkinson as having full control of the officers on board the Revenge, if he chose to exercise it; on their way to Virginia, they stopped at the Havana for fresh supply of water and other necessaries; while preparing to go on shore, a shot was fired from the castle, and orders given to come on shore; they went on shore at the request of the persons on board made to Wilkinson and Read; had good provisions, &c., on board; heard Read direct the cook to let those people have their provisions regularly; he, on several occasions, received advice of counsel how to act in executing the business in which he was engaged; the money received from the military agent was obtained after several applications from the witness; he was advised by General Wilkinson and the attorney to procure money and furnish them; on application to the military agent, he said he had been directed to advance for that purpose.

Mr. Graham. A short time after the arrival of Captain Gaines at New Orleans, he was told that there was a subpœna for him; that there was a vessel of the United States that would convey him to Richmond. I then went to General Wilkinson to know whether he could be accommodated, the vessel being small, and his health bad. General Wilkinson said he understood there was several witnesses in town, some of them unwilling, others unable to come round; asked if I knew of any legal means to force them; told him I supposed the judge could inform him; waited on the judge himself to know whether there was such legal process. At this time, or some other, General Wilkinson told me to ask the judge if there was any impropriety in advancing money to the witness, or to what amount; the judge said, so far from it, the witness had a right to demand it.

The judge said, if the witnesses refused to answer interrogatories, or refused to enter into recognisance, then he felt that, under the law, he would be authorized to send such witnesses round under the care of the district marshal. He saw, a few days after, in an outer room at the judge's, Mr. Knox talking with Mr. Keen, an attorney; some short time after Knox came before the judge. The judge asked him if he was then willing to answer questions, or enter into recognisance; he declined doing either. The judge then showed a Mr. Fort, who was in the same situation with Knox and Read, the law, and advised them to do one of the two, or he should be obliged to act rigidly towards them, contrary to his wish. The judge asked Mr. Fort to answer the interrogatories, which he refused to do. The judge then sent for the marshal, and committed both of them. In the afternoon Captain Fort gave security in five hundred dollars for his appearance at Richmond.

He understood Captain F. had taken passage for New York, in order to come to Richmond; but F. told the witness he could not leave New Orleans without injury to his business. Mr. Keen intimated to the judge he did not appear as an attorney, but expressed some doubt of the correctness of the preceedings. The ship's stores were good, and the persons treated civilly and not restrained. The cause of calling at the Havana was owing to bad winds, and being chased close in by a British cruiser. Captain Read, Gaines, Mr. Smith, and myself, went on shore to procure fruit, &c.; remained there about three hours. He thinks they would not have gone on shore but for a shot from the fort under which they run; the naval and other officers are under the command of General Wilkinson; were formerly under the control of the Government, but the alarmed situation of the country had induced the giving the command to W.; saw no guard on his way to New Orleans; he went down the river with Captain Fort, who said his object was to go to Mexico, of which declaration, he, the witness, made no secret. He was asked to use his influence with Captain Gaines to prevail on him to accept from the judge the appointment of deputy marshal.

Lieutenant Gaines, upon being called up again, said, he is an officer of the United States' army; never consulted General Wilkinson about accepting the appointment of deputy marshal. He understood Fort was included in the same affidavit with Knox. He sailed from New Orleans in the Revenge; saw General Wilkinson exercise no kind of authority on the voyage.

Evidence of General Eaton.

TUESDAY, *August* 19.

Mr. Hay asked the witness if he had heard the opinion of the court delivered, and understood the restrictions with which he was to give his testimony. He was answered in the affirmative.

Mr. Eaton, holding a piece of paper in his hand, inquired of the court whether he might occasionally recur to his notes for the purpose of refreshing his memory.

Chief Justice. Were they written by yourself?

Answer. They were.

Mr. Wickham. At what time were they taken?

Answer. The notes which I hold in my hand are mere memoranda drawn up here, and taken partly from my recollection of notes which I made at the different times the conversations passed between Colonel Burr and myself, and partly from notes which I have at my lodgings.

Col. Burr. At what time did you say you took the original notes?

Answer. At the time I had the conversations with you, sir.

The court decided that he should not recur to his notes.

Mr. Eaton, addressing the court: I wish, sir, to be indulged in a few preliminary remarks. I have long been before the public; much strictures and some severity have passed upon me; I wish to be instructed whether I may, in stating my evidence, occasionally make explanations with respect to my own conduct, and the motives which governed me.

Chief Justice. The court will be better able to judge of the propriety of any explanation when the case shall occur; there may be cases in which it may be necessary; and if there should be particular objections to any of your explanations you may apply to the court for their decision.

Mr. Eaton. Concerning any fact which may go to prove treason against Colonel Burr, I know *nothing;* concerning certain transactions which are said to have happened at Blannerhasset's island, I know *nothing;* but concerning Colonel Burr's expressions, and his treasonable intentions, I know *much;* and it is to these that my evidence relates.

Mr. Martin interrupted the witness, and inquired as to the effect of the opinion of the court, whether the witness could go into evidence of any transactions distinct from that stated to have taken place at Blannerhasset's island.

Chief Justice. The opinion of the court is this: that any proof of intention formed before the act itself, if relevant to that act, may be admitted. One witness may prove the intention at one time, and another witness may prove it at another time, so as to prove the continuance of the intention throughout the whole transaction: and therefore proof of very remote intentions may be relevant to this particular act.

Mr. Martin. I hope, when he speaks of a treasonable intention not applicable to this particular act, the court will stop him.

Mr. Eaton. During the winter of 1805—6, I cannot be positive as to the distinct point of time, yet, during the winter, at the city of Washington, Colonel Burr signified to me that he was organizing a secret expedition to be moved against the Spanish provinces on the southwestern frontiers of the United States—I understood, under the authority of the General Government. From our existing controversies with Spain, and from the tenor of the President's address to both Houses of Congress, a conclusion was naturally drawn that war with that country was inevitable. I had then just returned from the coast of Africa; and having been for many years employed on our own frontiers, and on a foreign coast, still more barbarous and obscure, I knew not the extent of the reputation which Colonel Burr sustained in the consideration of his country. The distinguished rank which he had held in society, and the strong marks of confidence which he had received from his fellow-citizens, gave me no right to doubt of his patriotism. As a military character I had been made acquainted with him, but not personally; and I knew none in the United States in whom a soldier might more securely have confided his honor than in Colonel Burr. In case of enmity to this country, from whatever quarter it might come, I thought it my duty to obey so honorable a call as was proposed to me. Under impressions like these, I did engage to embark in the enterprise, and did pledge my faith to Colonel Burr. At several interviews, it appeared to be the intention of Colonel Burr to instruct me, by maps and other documents, of the feasibility of penetrating to Mexico. At length, from certain indistinct expressions and inuendoes, I admitted a suspicion that Colonel Burr had other projects. He used strong expressions of reproach against the administration of the General Government; ac-

cused them of want of character, want of energy, want of gratitude. He seemed desirous of irritating my resentment, by reiterating certain injurious strictures cast upon me on the floor of Congress, on account of certain transactions on the coast of Africa, and by dilating on the injuries which I had sustained from the delays in adjusting my account for moneys advanced for the United States; and talked of pointing out to me modes of honorable indemnity. I will not conceal here that Colonel Burr had good grounds to believe me disaffected towards the Government; I had, indeed, suffered much from delays in adjusting my accounts for cash advanced to support the credit of the Government whilst I was consul at Tunis, and for the expense of maintaining the war with Tripoli. I had but a short time before been compelled ingloriously to strike the flag of my country from the ramparts of a defeated enemy, where it had flown for forty-five days. I had been compelled to abandon my comrades in war on the fields where they had fought our battles. I had seen cash offered to the half-vanquished chief of Tripoli, (as he had himself acknowledged,) as the price of pacification—[Mr. Wickham.—By whom? Answer. By our negotiator]—when as yet no exertion had been made by our naval squadron to coerce that enemy. I had seen the conduct of the author of these blemishes on our then proud national character, if not commended, not censured; whilst my own inadequate efforts to support that character were attempted to be thrown into shade. To feelings naturally arising out of circumstances like these, I did give strong expressions. Here I beg leave to observe, in justice to myself, that however strong those expressions, however harsh the language I employed, they would not justify the inference that I was prepared to dip my sabre in the blood of my countrymen, much less of their children, which I believe would have been the case had this conspiracy been carried into effect. [Mr. Martin objected to this language.] I listened to Colonel Burr's mode of indemnity; and as I had by this time begun to suspect that the military expedition he had on foot was unlawful, I permitted him to believe myself resigned to his influence, that I might understand the extent and motive of his arrangements. Colonel Burr now laid open his project of revolutionizing the territory west of the Allegany; establishing an independent empire there, New Orleans to be the capital, and he himself to be the chief; organizing a military force on the waters of the Mississippi, and carrying conquest to Mexico. After much conversation (which I do not particularly recollect) respecting the feasibility of the project, as was natural, I stated impediments to his operations; such as the republican habits of the citizens of that country, their attachment to the present administration of Government, the want of funds; the opposition he would experience from the regular army of the United States stationed on that frontier, and the resistance to be expected from Miranda, in case he should succeed in republicanizing the Mexicans. Colonel Burr seemed to have no difficulty in removing these obstacles. He stated to me that he had in person (I think the preceding season) made a tour through that country; that he had secured to his interests and attached to his person the most distinguished citizens of Tennessee, Kentucky, and Territory of Orleans; that he had inexhaustible resources and funds; that the army of the United States would act with him; that it would be reinforced by ten or twelve thousand men from the above-mentioned States and Territory; that he had powerful agents in the Spanish territory; and "as for Miranda," said Mr. Burr, facetiously, "we must hang Miranda." In the course of repeated conversations on this subject, he proposed to give me a distinguished command in his army; I understood the second command. I asked him who would command in chief. He said General Wilkinson. I observed that it was singular he should count upon General Wilkinson. The distinguished command and high trust he held under Government, as the commander-in-chief of our army, and as Governor of a province, he would not be apt to put at hazard for any precarious projects of aggrandizement. Colonel Burr stated that General Wilkinson balanced in the confidence of his country; that it was doubtful whether he would much longer retain the distinction and confidence he now enjoyed; and that he was prepared to secure to himself a permanency. I asked Colonel Burr if he knew General Wilkinson. He said "yes," and echoed the question. I told him that twelve years ago I was at the same time a captain in his wing of the legion of the United States, his acting brigade major and aid-de-camp, and that I thought I knew him well. He asked me what I knew of General Wilkinson I said I knew General Wilkinson would act as lieutenant to no man in existence. "But you are in an error," said Mr. Burr: "Wilkinson will act as *lieutenant* to *me*." From the tenor of much conversation on this subject, I was prevailed on to believe that the plan of revolution meditated by Colonel Burr, and communicated to me, had been concerted with General Wilkinson, and would have his co-operation; for Colonel Burr repeatedly and very confidently expressed his belief that the influence of General Wilkinson with his army, the promise of double pay and double rations, the ambition of his officers, and the prospect of plunder and military achievements, would bring the army generally into the measure. I pass over, here, a conversation which took place between Colonel Burr and myself respecting a central revolution, as it is decided to be irrelevant by the opinion of the bench. [Mr. Hay—you allude to a revolution for overthrowing the Government at Washington, and of revolutionizing the Eastern States.] I was passing over that to come down to the period when I supposed he had relinquished that design, and returned to his project in the West. I was thoroughly convinced myself that such a project was already so far organized as to be dangerous, and that it would require an effort to suppress it; for, in addition to positive assurances that Colonel Burr had of assistance and co-operation, he said that the vast extent of territory of the United States beyond the mountains which offered to adventurers, together with a view of the mines of Mexico, would bring adherents to him from all quarters of the Union. The situation which these communications, and the impressions they made upon me placed me in, was peculiarly delicate. I had no overt act to produce against Colonel Burr. He had given me nothing upon paper; nor did I know of any person in the vicinity, who had received similar communications, and whose testimony might support mine. He had mentioned to me none as principally and decidedly engaged with him but General Wilkinson; a Mr Alston, who I afterwards learned was his son-in-law; and a Mr. Ephraim Kibber, who I learned was late a captain of rangers in Wayne's army. Of General Wilkinson, Burr said much, as I have stated; of Mr. Alston very little, but enough to satisfy me that he was engaged in the project; and of Kibby he said that he was brigade major in the vicinity of Cincinnati, (whether in Ohio or in Kentucky I know not,) who had much influence with the militia, and had already engaged the majority of the brigade to which he belonged, who were ready to march at Burr's signal. Mr. Burr talked of this revolution as a matter of right inherent in the people, and constitutional; a revolution which would rather be advantageous than detrimental to the Atlantic States; a revolution which must eventually take place, and for the operation of which the present crisis was peculiarly favorable; that there was no energy to be dreaded in the General Government; and his conversations denoted a confidence that his arrangements were so well made, that he should meet with no opposition at New Orleans: for the army and the chief citizens of that place were ready to receive him. On the solitary ground upon which I stood, I was at a loss how to conduct myself, though at no loss as respected my duty. I durst not place my lonely testimony in the balance against the weight of Colonel Burr's character, for, by turning the tables upon me, which I thought any man capable of such a project was capable of doing, I should sink under that weight. I resolved therefore with myself, to obtain the removal of Mr. Burr from this country in a way which would be satisfactory and honorable to him; and on this I did consult him, without his knowing my motive. Accordingly I waited on the President of the United States, and, after a desultory conversation, in which I aimed to draw his attention to the West, I said to him, (I took the liberty of suggesting to the President,) that I thought Colonel Burr ought to be removed from the country, because I considered him dangerous in it. The President asked where he should send him. I said to England or Madrid, it has been said in some publications that I added Cadiz. The President, without any positive expression, (in such a matter of delicacy,) seemed to think the trust too important, and expressed something like a doubt about the integrity of Mr. Burr. I frankly told the President that perhaps no person had stronger grounds to suspect that integrity than I had; but that I believed his pride of ambition had so predominated over his other passions, that when placed on an eminence and put on his honor, a respect to himself would secure his fidelity. I perceived that the subject was disagreeable to the President; and to bring him to my point in the shortest mode, and in a manner which would point to the danger, I said to him, if Colonel Burr was not disposed of, we should in eighteen months have an insurrection, if not a revolution, on the waters of the Mississippi. The President said he had too much confidence in the information, the integrity, and attachment of the people of that country to the Union, to admit any apprehensions of that kind. The circumstance of no interrogatories being made to me, I thought imposed silence upon me at that time and place. Here, sir, I beg indulgence to declare my motives for recommending that gentleman to a foreign mission at that time; and in the solemnity with which I stand here, I declare that Colonel Burr was neutral in my feelings; that it was through no attachment to him that I made that suggestion, but to avert a great national calamity which I saw approaching, to arrest a tempest which seemed lowering in the West, and to divert into a channel of usefulness those consummate talents where to mount "the whirlwind and direct the storm." About the time of my having waited on the President, or a little before, I determined at all events to have some evidence of the uprightness of my intentions, and to fortify myself by the advice of more experienced men. I waited upon two members of the House of Representatives, whose friendship I had the honor long to retain, and in whose wisdom and integrity I had full faith. I am at liberty to give their names, if required; and I believe a Senator, but of that I am not certain. I opened to them the projects of Colonel Burr. They did not seem much alarmed.

[Mr. Martin objected to the witness stating any of the observations of other persons to himself. After some desultory conversation, the bench supported the objection.]

Mr. Eaton. I did ask indulgence of the court to make such explanations, because perversions of my conduct were before the public; but I waive this indulgence, contented with meeting these perversions at some other time and place.

[Chief Justice. You have used that indulgence.]

Little more passed between Colonel Burr and myself, relevant to this inquiry, whilst I remained at Washington, though he was solicitous to engage me in his Western plans. I returned to Massachusetts, to my domestic concerns; and thought little more of Colonel Burr, or his projects, until in October last, a letter was put into my hands from Mr. Belknap to T. E. Danielson, stating that boats were building on the Ohio.

Mr. Burr. Have you that letter?

Mr. Eaton. No.

Mr. Burr. It is improper to state it.

Mr. Hay. It is immaterial; Mr. Belknap is here.

Mr. Eaton. As to letters, I have no correspondence with Colonel Burr; I was about to state,

that I made a communication to the President of the United States, through the hands of the Postmaster General, stating the views of Colonel Burr.

Question by the prosecution.

Mr. Wirt. Was there any conversation between you and the prisoner, in which you spoke of the odium attached to the name of *usurper?*

Answer. That conversation was excluded by the opinion of the court, as relating to the central project.

Mr. Hay. Did you mean to state that the honorable indemnity proposed to you by the prisoner, was to be included in this plan?

Answer. I understood it to be included in the permanent rank and emolument to be assigned to me; in his full confidence that he should erect a Government, of which he was to be the chief; which was so often and so strongly repeated, that I could not misunderstand him.

Cross-questioned.

Mr. Martin. Do you recollect when you arrived in Washington?

Answer. I said that I did not recollect particularly; but the principal part of these conversations must have been between the middle of February and the middle of March.

Q. Was there any particular conduct calculated to put an end to Colonel Burr's importunities?

A. Yes. At some time of our last interviews, I laid on his table a paper containing this toast, which I had given to the public: "The United 'States.—Palsy to the brain that should plot to 'dismember, and leprosy to the hand that will not 'draw to defend our Union."

Q. Where was that toast drunk?

A. I cannot say. This question was made to me from authority; it was sent, with other toasts I corrected, to a paper at Springfield. I laid this paper on Colonel Burr's table, that he might see it; and I have reason to believe that he did.

Q. Was it drunk at any distant place? At Philadelphia?

A. I do not recollect; I thought at first it was at Philadelphia; but I had received many hospitalities throughout the Union; many of my toasts were published; and, in the hurry of passing and repassing, I have completely forgotten.

Mr. Burr. Do you recollect when you left Washington?

A. About the first of April.

Mr. Burr. Then this paper was put on my table previous to that day?

Mr. Eaton. I will state the circumstances which induced me to believe you had seen it: we were at Alexandria together, and you made no longer such communications to me as heretofore; I meant you to see it, because I had given it to the world, and with it my sentiments.

Q. Then you are not certain when and where this toast was drunk?

A. I am not. But I am certain it was not at Washington, because I gave another there when called upon.

Q. Did you not say that all those conversations happened between the middle of February and the middle of March?

A. No; I did not say so. I said the principal part of these conversations.

Q. You say this toast was printed at Springfield? A. I did.

Q. Did you transmit it for publication?

A. Yes, I did.

Q. Do you recollect from what place?

A. Not distinctly.

Q. Have you in your possession a paper containing that toast?

A. I have not, here.

Q. You have mentioned something about a communication which you made to the President, through the Postmaster General? Look at that paper, is that your signature?

A. It is. I must give a short account of that paper. Mr. Eaton then mentioned that the notes on the two first pages were drawn up by Mr. Granger, from conversations which had passed between Mr. Granger and a Mr. Ely, on certain communications made to Mr. Ely by Mr. Eaton, respecting Colonel Burr's plans; that he had seen Mr. Ely at Northampton, at the session of the court of common pleas, at a time when they had first heard of the building of boats on the Ohio. The notes on the last page, in Mr. Granger's writing, and subscribed by himself, were from subsequent conversations between him and Mr. Granger.

Mr. Burr. You spoke of accounts with the Government; did you, or the Government, demand money?

A. They had no demand on me; I demanded of them.

Q. Did they state in account a balance against you?

A. I expended money for the service of the United States, when employed in my agency at Tunis; an account of which, being presented to the accounting officers of the Treasury, was refused to be allowed by them, there being no law, as they conceived, to justify it. I applied to Congress, a committee of which reported that they supposed the account to be within the discretion of the accounting officers of the Treasury. In this situation the business stood, when I was ordered to the coast of Barbary; and when I returned, found that new difficulties had occurred to an adjustment. Leaving out the sums which I had advanced, the Government had a balance against me. The last session of Congress has provided for the payment, and the Commissioners have settled it.

Mr. Martin. What balance did you receive?

A. That is *my* concern, sir.

Mr. Burr. What was the balance against you?

Mr. Eaton, (to the court.) Is that a proper question, sir?

Mr. Burr. My object is manifest; I wish to show the bias which has existed on the mind of the witness.

Chief Justice saw no objection to the question.

Mr. Eaton. I cannot say to a cent or a dollar; but I have received about $10,000.

Mr. Burr. When was the money received?

A. About March last.

Q. You mentioned Miranda; where did you understand he was gone?

A. On the benevolent project of revolutionizing the Spanish provinces.

Q. What part of them?

A. Caraccas. I had some reason, too, to know something of the project; because I, too, was invited to join in *that.* He, too, was to have been an Emperor of Mexico; he might have been troublesome to us; and, of course, when I asked you what was to be done with him, you observed, "hang him."

Q. Did you understand I was to do all at once; to execute the central project, too, as well as that in the West?

A. I have no objections to answering that, but it will be nothing in your favor. When you were speaking of a central revolution, not much was said about the revolution in the West; had the other been effected, I doubt much whether you would have been willing to have separated that part.

Q. You spoke of a command?

A. You stated what I have already mentioned, that you were assured, from the arrangements which you had made, that an army would be ready to appear when you went to the waters of the Western country. I recollect, particularly, the name of Ephraim Kibby. You asked about his spirit; you asserted that his brigade was ready to join you; and that the people also in that country were ready to co-operate. You spoke of *your* riflemen, *your* infantry, *your* cavalry. It was with the same view you mentioned to me that that man, (pointing to General Wilkinson, just behind him.) was to have been the first to aid you; and from the same views, perhaps, you have mentioned me.

Mr. Martin objected to the witness interposing his own feelings in this manner.

Mr. Hay. Some allowance is to be made for the feelings of a man of honor.

Mr. Eaton, bowing, apologized to the court for the warmth of his manner.

Mr. Burr. You spoke of my revolutionizing the Western States; what were the boundaries of the new empire?

A. Your line was to be the Allegany mountain. You were certain about Kentucky and Tennessee, but expressed some doubts about Ohio; I well recollect *that,* on account of the reason which you gave, that they were too much of a plodding, industrious people to engage in your plans.

Q. How was this business to be effected?

A. I understood that your agents were in the Western country; that the commander-in-chief was ready to co-operate with his army; and that these, with the adventurers that would join you, would compel the States to a separation. Indeed, you considered New Orleans as already yours, and that, from this point, you would make conquests, and consolidate your empire.

Q. Was it, after all this, that you recommended me to an embassy?

A. Yes, because I thought it the only way to avert a civil war.

Q. Did you communicate then your recommendation to me?

A. Yes; and you gave a modest assent to the proposal.

Q. What, then, would have become of your command?

A. That, I had disposed of myself.

Q. Did you understand that you had given me a definitive answer?

A. No; after you had developed yourself, I determined to use you until I got everything out of you; and on the principle that, "when innocence is in danger, to break faith with a bad man is not fraud, but virtue."

Q. Did you think that your proposition as to a foreign embassy, which was so incompatible with my own plans, would be received by me with indifference, had I abandoned the project?

A. You seemed to me to want some distinguished place; as to the mode, you were indifferent; and you seemed to acquiesce in the plan of a foreign embassy.

Mr. Hay. You said that you received about $10,000 from the Government. Did the act of Congress give you a definite sum, or refer your accounts to the Department of State?

A. The act of Congress gave the accounting officers the power of settling with me, according to equity, under the inspection of the Secretary of State; under whose Department I had served; and the settlement was accordingly made.

Evidence of Commodore Truxtun.

TUESDAY, *August* 18.

Mr. Hay. Were you present when the court delivered their opinion relative to the order in which the evidence is to be introduced?

Answer. I was; and understood the purport of it. I know nothing of any overt act, or treasonable designs, or communications of Colonel Burr.

Q. Does your testimony relate to conversations with Colonel Burr about the taking New Orleans?

A. I know nothing about the taking of New Orleans. They related to the Western country; to the Spanish territories; to the settlement of lands; to the digging of canals, and the building of boats.

Mr. Hay then observed, that he had no questions at present for Commodore Truxtun.

Mr. Wickham. Then, sir, I hope I may be permitted to ask Commodore Truxtun: 1st. Whether he had not many and minute conversations with Colonel Burr? and 2d. Whether those conversations related to treason?

Mr. Hay objected to Mr. Wickham's putting these questions; and said, if the gentleman expected, by a contrivance of this sort, to exclude the witness, he would ask a few questions.

Mr. Wickham insisted on his right to examine the witness, as the counsel for the United States had relinquished him; and said he could assure the gentleman that it was not a *contrivance,* but the exercise of a right.

Mr. Wirt. The court knows that there are two indictments against the accused. The witnesses have been summoned promiscuously; and it is not possible for the prosecutor to know the particular point to which every witness is to testify. From what Commodore Truxtun has said, it appears that his evidence related to the misdemeanor. But, if he be suffered to come in on the present case, ought not his examination to be free and complete?

Mr. Hay. Upon recollecting the substance of Commodore Truxtun's testimony, I cannot but believe that it applies directly to the present occasion. It bears most strongly upon General Eaton's testimony. From Eaton's evidence, the treasonable project and the misdemeanor were intimately connected. Of course, what goes to establish the one of these projects, will, so far, contribute to prove the other.

Mr. Hay said it always gave him great pleasure to repair any injury which he might inadvertently have done to the feelings of any gentleman. He acknowledged that he ought not to have made use of the term contrivance, in the manner he had done. Addressing Commodore Truxtun: Had you not several conversations with the accused upon the subject of the Mexican expedition?

Commodore Truxtun. About the beginning of the Winter of 1805–'6, Colonel Burr returned from the Western country, and came to Philadelphia. He frequently, in conversation, mentioned to me certain speculations in western lands. These conversations were uninteresting to me; and I did not pay much attention to them. Col. Burr requested me to get the Navy of the United States out of my head, as he had something in view, both honorable and profitable, which he wished to propose to me. I considered this as nothing more than a desire to get me interested in land speculations. These conversations were frequently repeated; and some time in the month of July, 1806, Col. Burr observed that he wished to see me unwedded from the Navy of the United States, and not to think any more of those men at Washington. He observed that he wished to see or to make me (I do not recollect which) admiral; for he contemplated an expedition into Mexico, in the event of a war with Spain, which he thought inevitable. He asked me if the Havana could not be easily taken in the event of a war. I told him that it would require the co-operation of a naval force. Mr. Burr observed, that might be obtained. He pursued the inquiry as to Carthagena and La Vera Cruz; what personal knowledge I had of those places, and what would be the best mode of attacking them by sea and land. I gave my opinion very freely. Mr. Burr then asked me if I would take the command of a naval expedition. I asked him if the Executive of the United States was privy to or concerned in the project. He answered me, emphatically, that they were not. I asked him that question because the Executive had been charged with a knowledge of Miranda's expedition. I told Mr. Burr that I would have nothing to do with it; that Miranda's project had been intimated to me, and that I had declined any agency in those affairs. Mr. Burr observed, that in the event of a war he intended to establish an independent Government in Mexico; that Wilkinson, the army, and many officers of the navy would join. I replied, that I could not see how any of the officers of the United States could join. He said that General Wilkinson had projected that expedition, and that he himself had matured it; that many greater men than Wilkinson were concerned, or would join; and thousands to the westward.

Mr. Hay. I beg you to refresh your memory. Do you recollect whether he said that General Wilkinson had seriously joined it?

Answer. I asked him if General Wilkinson had seriously engaged in such a scheme. He said that he had, and many greater men than Wilkinson.

Mr. Hay. I ask you, sir, whether at that time you were in the service of the United States?

Answer. I was declared not to be.

Mr. Hay. I wish you to suppose that I do not mean to hurt your feelings by any question; but it is necessary to account to the jury for the application which was thus made to you by the accused. Did you not express some dissatisfaction at the treatment of the Government?

Answer. I certainly was hurt at it?

Mr. Burr asked me if I would not write to General Wilkinson, as he was about to despatch two couriers to him. I told him that I had no subject to write on, and declined writing. Mr. Burr observed that several officers would be pleased at being under my command. He spoke highly of a Lieutenant Jones, and asked me whether he had not sailed with me. I answered him that he had not; and that I could give no account of him, as I did not know that I ever had seen him. Mr. Burr observed that the expedition could not fail; that the Mexicans were ripe for revolt; and that he was incapable of anything chimerical, or that could lead his friends into a dilemma. He showed me the draught of a periogue, such as plies between Powle's Hook and New York; asked my opinion as to the construction of boats, and whether those were adapted to the Mississippi river and the waters emptying into it. I gave my opinion that they were. He asked me whether I could get a naval constructor to make several copies of the draught. I spoke to a naval constructor, but he could not make the draughts as soon as Col. Burr wished, and the draught was returned to him. Mr. Burr told me he intended those boats for the conveyance of agricultural products to New Orleans, and, in the event of a war, for transports. I know they were not calculated for transports by sea, nor were they calculated for carrying guns; but having determined not to have anything to do with the Mexican project, I said very little about the boats. But I well recollect that, in subsequent conversations, about the latter end of July, I told Col. Burr there would be no war with Spain. He seemed very sanguine that there would. He said, however, if he was disappointed in war, that he was about concluding a bargain for a large tract of land on the Washita; and that he intended to invite his friends to join him in the settlement of it. He said that in one year he would have one thousand families of respectable and fashionable people, and some of them men of property; and that it would be a charming society; that in two years there would be double the number; and that, being on the frontier, they would be ready to march immediately, whenever a war took place. I have endeavored to narrate the substance of these several conversations as nearly verbatim as I can recollect. I may not have done it exactly; but, as nearly as possible, I believe it is correct.

Questioned by the prosecution.

Mr. McRae. Do I understand you correctly when I suppose you said that Col. Burr requested you to get the Navy of the United States out of your head, and to think no more of those men at Washington?

Answer. Yes, correctly?

Mr. Hay. Did these conversations take place after the declaration that you were no longer in the service of the United States?

A. The whole of them.

Colonel Carrington, (one of the jury.) Did they take place some time in July?

Answer. Yes.

Mr. Botts. Did Colonel Burr think there would be war, and you that there would not?

A. I observed to him there would be no war, though I saw great cause of it.

Mr. Hay. You say that those conversations took place after you were out of service; had you expressed your dissatisfaction at your being declared out of service?

A. Yes; frequently.

Q. I believe there were some publications on the subject?

A. There were.

Colonel Carrington. You stated that there were several conversations?

A. Yes; the first was on Colonel Burr's return; the second in July, 1806; and the third about the last of July.

Q. In 1805 were you in the service of the United States?

A. The misunderstanding between the Secretary of the Navy and myself took place in March, 1802.

Q. Your first conversations were about building bridges, settling lands, &c.?

A. Yes; when Colonel B. first returned from the westward.

Mr. McRae. He did not express to you his designs respecting the Washita land till he had discovered your aversion to the Mexican project?

A. He did not; early in the conversations between us, I had declined all agency in the Mexican project. The conversation about the Washita lands was the last; but he had previously spoken about speculations in Western lands generally.

Mr. Wirt. Did he say at the latter end of July that he was about concluding a bargain for the Washita land?

A. I think so; I cannot recollect distinctly the order of time, or the precise number of conversations; I have mentioned, as nearly as possible, those that did occur.

Mr. Hay. When he proposed to make you admiral, did not the thought strike you how he was to accomplish this?

(Mr. Burr denied that Commodore Truxtun had said that Mr. Burr had promised to make him an admiral.)

Commodore Truxtun. Mr. Burr told me he wished to make or see me one; I do not particularly recollect which was his expression.

Mr. Hay. Colonel Burr spoke of an attack upon the Spanish provinces by sea and land; how was the navy to be procured?

A. Colonel Burr said he intended to provide a formidable navy after he had completed the expedition, and had established an independent Government.

Mr. Hay. From what quarter of the world was the expedition by sea to go?

A. I do not know; I did not ask him where it was to go from.

Mr. Hay. Did you not understand that you were to command the expedition by sea?

A. He asked if I would command; I asked him if the President of the United States was privy to the project. He answered, emphatically, that he was not. I then declined, and asked no more questions about the expedition.

Mr. Baker. I understood you to say that the navy was to have been erected after the Government was established?

A. Yes; after speaking of establishing himself in Mexico, and creating an independent Government, he said he intended to provide a formidable navy, at the head of which, I understood, he wished me to be.

Mr. McRae. Did he not talk of a naval expedition against the Havana?

A. I told Colonel Burr that the Havana could not be taken without a naval force; he said *that* could be obtained.

Cross-examined.

Mr. Burr. Did I not say I had never seen Lieutenant Jones?

A. I do not recollect that; you spoke highly of him.

Q. Do you not recollect I stated, if there was a war, that private enterprise and private expeditions would be proper and lawful?

(Mr. Hay objected to the question, because seemingly intended for the jury.)

Q. Did I say that many of the officers of the army and navy *would* join, or *probably* would join?

A. I think you said they *would* join.

Q. Was I not acquainted with your controversy with the Navy Department; had we not talked together for many years on the subject; did I not state to you that there was no intention to reinstate you; that you were duped by Smith and others; that they had no serious intentions of serving you; was not that the reason that I wished to unwed you from the navy?

A. You did state these facts.

Q. Do you not find that I was right? A. I know that.

Q. Did I not often talk to you about the settlement of lands? A. you did.

Q. Were we not intimate? A. Yes.

Q. Was there any reserve between us?

A. None.

Q. Did you ever hear me say anything about dismembering the Union, or seizing on New Orleans?

A. Never.

Q. Did I not state to you the advantages which would result from the establishment of an independent Government in Mexico, and the forming of a commercial connexion with this country?

A. Yes.

Q. You mentioned periogues; are they fit for any military purpose?

A. No; you stated that you intended them for the conveyance of agricultural products in time of peace, and, in war, for transports.

Q. Had you reason to doubt my intention to settle lands?

A. If there was no war, I took it for granted that such was your intention.

Q. If there had been a war, and the invasion of Mexico had obtained the sanction of Government, would you have joined me?

A. I would have got out of my bed at twelve o'clock at night to fight against England, France, or Spain, in case my Government had required my services

Mr. Wirt. When Colonel Burr spoke of a commercial connexion with this country, did you understand it was founded on the idea of his establishing an independent Government in Mexico?

A. I so understood it.

Mr. Hay. Did the prisoner, during any of these conversations, speak of any commercial speculations in which he, individually, or any of his friends, had an interest?

A. He spoke of the settlement of Western lands, from which produce might be carried down the waters of the Mississippi.

Mr. McRae. Were the remarks which he made on your relation to the Navy calculated to fill your bosom with resentment against the Government?

A. My bosom was already full enough, but certainly Mr. Burr spoke in concert with my feelings.

Mr. Hay. Could an expedition at sea be made as effectually against La Vera Cruz from any other port in the Western country as New Orleans?

A. New Orleans would be a proper place for preparing an armament, but no vessel of burden could sail from that place; the expedition might be carried on more conveniently from some port of the Atlantic States; but in the Western country there is no port better than New Orleans.

Mr. Parker, (one of the jury.)—Did you understand for what purpose the couriers were sent by Colonel Burr to General Wilkinson?

Answer. I understood that there was an understanding between them about the Mexican project.

Mr. Martin. Are there not preparations now making in Philadelphia, in contemplation of a war with England?

A. In New York there are.

Mr. Burr. Is it not a common thing in England to make such preparations?

A. Yes, in expectation of a war.

Mr. McRae. And when they make preparations, they do it openly?

A. Yes, it is no secret.

Q. Have you heard any person spoken of as intended for the commander of the vessel building in New York?

A. No.

Mr. Botts. Can ships be built secretly? can they be built in a corner of the room?

A. No.

Evidence of Peter Taylor.

Mr. Hay. This witness will directly prove the connexion of Mr. Burr with Mr. Blannerhasset, and his connexion with the crime itself.

Peter Taylor. The first information I got upon this subject was from Mr. Blannerhasset, when Mr. Blannerhasset and Mr. Alston were gone down the river. The people got much alarmed about this business, and Mrs. Blannerhasset sent me to Lexington after Mr. Blannerhasset, with a letter to prevent Colonel Burr from coming back with him to the island; I went through Chilicothe, but I did not find Mr. Blannerhasset there, and I then went on to Cincinnati; my orders were to call on Mr. John Smith; I called at Mr. Smith's store, where I saw his son; I asked if his father was at home; he said yes; I then informed him that I wished to speak to him; his son went and told him a man wanted to see him. When he came out, I inquired for Colonel Burr and Blannerhasset, to see whether he could give me any account of them; he allowed he knew nothing of either of them; that I must be mistaken; this was not the place; I said no, this was the right place—"Mr. John Smith, storekeeper, Cincinnati;" says I, "do not you recollect a young man who came here some time ago for Colonel Burr's top coat;" (great coat?) I said—"Sir, I have lived with Mr. Blannerhasset for three years."

When Mr. Smith heard me talk so, he took me up stairs to talk with me. He wanted to know the news our way; I told him how the people had got alarmed; he wanted to know what was passing; I told him that, from the information I had got from Mr. Blannerhasset, the people were going to make a new settlement of lands; that was all I knew; he seemed surprised; he asked what was said about General Wilkinson; I said I knew nothing about it; he asked me if I would carry a letter from him to Blannerhasset; I told him I would carry anything, so it was not too burdensome; so he sat down and wrote a letter. He asked whether I wished to drink, for he had chastised [charged] me not to go to any tavern, lest the people should be sifting me with their questions; I drank, and then he showed me a tavern, and told me to go to get my horse fed by the hostler, but not to go into the house; I asked him where I

should find Colonel Burr and Blannerhasset; he said he expected they were at Lexington, at the house of a Mr. Jourdan; he gave me the letter, which I carried. When I got to Lexington, it was Saturday about one o'clock; Mr. Jourdan happened to be in the street and knew me; he said: "Peter, your old master is not in town;" he told me so before I asked him; but, he said, he expected him either that night or to-morrow early. He inquired what was the news in our parts, and I told him; I asked him what I was to do with my horse; he said that he was to be put at the livery stable; he then went up stairs to Colonel Burr, as I supposed; he came down and beckoned me in; he then went up stairs and showed me what room to go in; when I went into the room, there was Colonel Burr. Colonel Burr wanted to know what was the news in our parts; I began to tell him that my business was to prevent Colonel Burr from going back to the island.

Q. Did you not know Colonel Burr at that time.

A. I did not; he had been on the island three times, but I was sick and did not see him. When I told Colonel Burr that, says he "I am the very man involved in this piece of business, and you must tell me all you know;" I said, "If you come up our way, the people will shoot you." I told him it was my sincere opinion that it was not safe for him to come up our way; I told him that I had heard several declare that they had rather shoot him than let it alone; he seemed surprised, and wondered what the people had got in their heads; I told Colonel Burr what excuses I had made for him before; I told them he was going on a great land speculation, but the people said all that was a fib, and that he had something else in his head.

Then Colonel Burr asked me what letters I had? I said two—one was from Mrs. Blannerhasset, and the other from John Smith, of Cincinnati; the letter from John Smith he allowed was for him, and asked me if I was willing he should open it; I told him I supposed it made no difference between him and Blannerhasset, and he might, and handed it to him. He broke the seal open, and showed me that there was a letter inside for himself; he said, See. what I told you was right; and, after some talking. I asked him whether I was at liberty to go down stairs; I went down, and left the opened letter with him. I then went to Mr. Jourdan and asked him whether I was to stay at his house or go to a tavern? He said I was to go to a tavern, and he would pay for me. Mr. Jourdan wished me to go the next day to Millersburg after the saddle-bags left there by Mr. Blannerhasset; I went, and left Mrs. Blannerhasset's letter with Mr. Jourdan, expecting Blannerhasset to go there before me; I returned on Monday by one o'clock, and there Mr. Blannerhasset was come, and preparing to go home. We started, and got ten miles that night; we stopped at a tavern; I went to see after the horses, and he went into the house; there were people drinking in the house, who wanted to know his name; he told them it was Tom Jones; he came out and told me the people in the house had asked, and he had told them his name was Tom Jones, and I must mind and make no mistake, but call him Jones too; so he passed by the name till he got to the Mud Licks. He then told me he was known there, and I must call him by his own name.

Q. When did these things happen?

A. All this was in October, 1806, I believe.

He then began, at every tavern we came to, to inquire for young men—good orderly men—that would be conformable to order and discipline, and would find themselves in rifles and blankets; he allowed that Colonel Burr and he, and a few of his friends, had bought eight hundred thousand acres of land, and that they wanted young men to settle it; he said he would give any young man who would go down the river one hundred acres of land, plenty of grog and provisions while going down the river, and three months' provisions after they had got to the end; every young man was to carry his own rifle and blanket; I agreed to go myself, if I could carry my wife and family, but he said he must have further consultation about that. As we rode together, I began to think, and asked him what kind of seed we should carry with us? He said we did not want any, we should find everything where we were going.

Mr. Wirt. Of what occupation were you on the island? Answer. A gardener.

Mr. Wirt. I put this question that the jury might understand his last observation.

I urged that subject to him several times; at length he made a sudden stop and said: "Peter, between you and me, we are going to take Mexico, one of the finest and richest places in the whole world;" he said that Colonel Burr would be the King of Mexico, and that Mrs. Alston would be the Queen of Mexico, whenever Colonel Burr died; he said that Colonel Burr had made fortunes for a great many in his lifetime, but nothing for himself, but now he was going to make something for himself; he said that he had a great many friends in the Spanish territory; two thousand Roman Catholic priests were enlisted in his corps; that those priests, and the societies which belonged to them, were a strong party; that the Spaniards like the French had got tired of their Government, and wanted to swap it; he told me that the British were also friends to this expedition; and that he was the very man who was to go to England on this piece of business for Colonel Burr; that he had been a friend to Colonel Burr in this business, and had assisted him more than any other man in America.

He asked me if I would not like to go; I said I should certainly like to see my friends there. I then asked him what was to become of the men who were going to settle the lands he talked about? Were they to stop at the Red river, or to go on? He said, You'll see how I'll fix them, when I get them far enough down the river. If they did not conform to order and discipline, he swore by God he'd stab them. I was astonished; I told him I was no soldier, and could not

fight. He said it made no odds, he did not want me to fight; he wanted me to go and live with Mrs. Blannerhasset and the children, either at Natchez or some other place, while he went on the expedition. I talked to him again, and told him the people had got it into their heads that he wanted to divide the Union. He said Colonel Burr and he could not do it themselves. All they could do was to tell the people the consequence of it. He said the people there paid the Government upwards of $400,000 a year, and never received any benefit from it. He allowed it would be a very fine thing if they could keep that money among themselves, and make locks, and build bridges, and cut roads. About two weeks after I got home, he sent me to Dr. Bennet's of Mason county, with a letter. He wanted to know if Dr. Bennet wouldn't sell him the arms belonging to the militia, if he could sell them and keep himself out of danger; if he could, he'd give him a draught upon his friend in Kentucky for payment; if he could not sell them without putting himself in a hobble, he must send him word where they were kept, and he would come and take them away in the night. I was not to give the letter to Dr. Bennet until the doctor promised to deliver it back for me to burn it, for Mr. Blannerhasset told me to do so, and said it contained high treason. I did as he told me, and burnt it. The doctor said he was acquainted with the plot, and could not join in it.

Questioned by the prosecution.

Mr. Hay. When did the boats leave the island?

Answer. It was intended to sail on the 6th December; but they did not come till 10th, (Sunday,) and they sailed on Wednesday night following.

Question. How many boats were there?

A. Four.

Q. How many men from the boats came ashore? A. About thirty.

Q. What did the men do who did not belong to the boats?

A. Some were packing meat, and some were packing other things.

Mr. McRea. Who went off on Wednesday night?

A. Mr. Blannerhasset and Mr. Tyler, and the whole of the party.

Q. At what time of the night? A. about one o'clock.

Q. Did all that went down to the island go away?

A. All but one, who was sick.

Mr. Hay. Had they any guns?

A. Some of them had. Some of the people went a shooting, but I do not know how may there were.

Mr. J. M. Sheppard, (a juryman.) What kind of guns—rifles or muskets?

A. I do not know.

Q. Were there any pistols?

A. I saw none but Blannerhasset's.

Q. Was there any powder or lead?

A. Both; I saw some powder in a long, small barrel like a churn, but I was so employed that I could not notice particularly. Some of the men were engaged in running bullets, but I do not know how many.

Mr. McRae. Why did they leave the island at that hour of the night?

A. Because they were informed that the Kanawha militia were coming down there.

Q. Did you carry some boxes to the boats?

A. I carried a half bushel of candles and some brandy; several boxes were carried, and a great many things of which I knew nothing.

Mr. Hay. Were you on the island when they went off?

A. Yes; they held a council at the foot of the pier, to determine which was the best way to go. Mr. Blannerhasset said, if he went in a canoe, he would be an easy prey. I said to them, "best stick together." And so they determined to stick together. They went off in great haste.

Q. Why did they go in a body?

A. I suppose for security.

Cross-questioned.

Mr. Wickham. You saw General Tupper and Mr. Woodbridge that night?

Answer. Yes; as I went from the boats to the house.

Q. Was Colonel Burr there?

A. No; I did not see him.

Q. Did you understand whether he was in that part of the country at that time?

A. I understood not.

Substance of the evidence of Peter Taylor, on the 9th of September, upon the trial for a misdemeanor.

Mr. Hay then called up Peter Taylor, (H. Blannerhasset's gardener.) He stated that there were about thirty of the party who landed on the island; that Comfort Tyler, as he had understood, had had the direction of them before they arrived there; that Blannerhasset and Love were the only persons whom he recollected that they had taken with them from the island; that he had seen a few arms, and also powder, bullets, and provisions; he recited his interview with Dr. Bennett, (whom Mr. Hay stated had departed from Richmond, in spite of all his admonitions;) he repeated, in the most consistent manner, Blannerhasset's communication to him how they were going to take Mexico, and make Burr its King, and his daughter to be his successor; as also his conversation with Aaron Burr at Lexington. He stated that he saw no appearance of any preparations to settle land; that Blannerhasset, it was true, had originally held out the gift of a certain number of acres to every lively and orderly young man who would accompany him without their families or women, but that he afterwards had avowed the capture of Mexico as the object of these preparations.

TUESDAY, *September* 15.

Peter Taylor was then interrogated about the corn purchased by Blannerhasset on the island. He said that this corn was kiln-dried on the island, then carried to the mills on the Muskingum and on the Kanawha; that the meal was brought back to the island, but he was not certain whether any had been carried away by Blannerhasset's party.

HENRICO COUNTY, *to wit:*

This day General John Morgan, of Washington county, in the State of Pennsylvania, personally appeared before me, Thomas H. Prosser, a justice of the peace for the county of Henrico aforesaid, and made oath, that the annexed statement of his evidence, as given in the circuit court of the United States for the fifth circuit and Virginia district, upon an indictment in the case of the United States against Aaron Burr for treason, which is contained in the third and fourth columns of the second page of "The Virginia Gazette and General Advertiser," No. 1491, of Vol. XXI, is correctly printed, except as to the variations hereafter mentioned, viz:

In the twelfth line from the bottom of the third column and second page, instead of the word "things" read "subjects."

In the eighth line of the same column and page from the bottom, after the word "fellows," insert "under arms, or imbodied."

In the twenty-ninth line from the top of the fourth column, and second page, between the words "Bradford" and "lived," insert "formerly."

In the sixty-ninth line from the top of the same column and page, after the word "rent," read "interview."

In the seventy-seventh line from the top of the same column and page, after the word "recollect," add "my impression was, that he thought him a fine fellow."

In the ninetieth line of the same column and page, from the top, for "return," read "returned."

In the one hundred and tenth line from the top of the same column and page, instead of "T. E." insert "Thomas B. Hulings."

The said General John Morgan also made oath, that his evidence, stated in the same paper, No. 1492, Vol. XXI, in the second column and second page, is correctly printed with the following variation, viz:

In the forty-eighth and forty-seventh lines from the bottom, instead of "I'll be damned, sir, if you could take the little town of Cannonsburg," read "By God, sir, you cannot take our little town of Cannonsburg."

And that the evidence contained in the said two papers, thus corrected, contained the truth.

JOHN MORGAN.

Given under my hand this 24th day of September, 1807.

THOMAS H. PROSSER.

Evidence of General John Morgan.

WEDNESDAY, *August* 19.

Some time in August last, about this time twelve months, my father put a letter into my hands, signed Aaron Burr, in which he said that himself and his friend, Colonel Dupiester, would dine with him the following day. My father requested me and my brother to go and meet Colonel Burr, which we did, about seven miles distant. After a few words of general conversation, Colonel Burr observed to me, that the Union could not possibly last, and that a separation of the States must ensue in four or five years, as a natural consequence. Colonel Burr made many inquiries of me, relative to the county of Washington; particularly to the state of its militia; the discipline, arms, accoutrements, and the character of its officers. These conversations continued some time, besides other subjects which I cannot recollect, because I did not expect to be called upon in this way. After travelling some miles we met one of my workmen, a likely young man. Colonel Burr said he wished he had ten thousand such fellows under arms or imbodied. At my father's table, during dinner, Colonel Burr again observed that the separation of the Union must take place inevitably, in less than five years. [Shall I give the answers that were made? Mr. Wirt. Perhaps it may serve to connect your narrative better.] I recollect that it was my father who answered him, God forbid! Colonel Burr, in the course of conversation, observed, that, with two or three hundred men, he could drive the President and Congress into the Potomac; and with four or five hundred men he could take possession of the city of New York. After dinner, he walked with me to my brother's mill, and, in course of the walk, spoke of war and military men; asked me if either of my brothers had a military turn? On our return, after I had introduced him to my brother, Colonel Burr said he wished he could see him at the head of a company of grenadiers; he was a fine, stout-looking fellow. These circumstances induced me to speak to my father. I warned him to beware of Colonel Burr; told him that, in the course of that night, Colonel Burr would seek an interview with him, and that I suspected something was going on, I knew not what. The next morning, I rode with Colonel Burr to the town of Washington, about nine or ten miles. We had much conversation, principally on military affairs, and on the state of the militia. Colonel Burr urged the necessity of attending to military discipline. He told me that, in New York, the exertions of a single person (Mr. Swartwout) had produced a great effect. He asked me if I thought I could raise a regiment in Washington county, or whether I could raise one with more facility in New Jersey? [Mr. Wirt. You have lived in New Jersey? Answer. Yes.] At Washington we took a walk, Colonel Burr, Colonel Dupiester, and myself, down town; and I pointed out to him the house where Mr. Bradford formerly lived, who had been at the head of the Western insurrection. He inquired about Mr. Bradford. He was at Baton Rouge, as I believed. I told him his son was in town, and Colonel Burr expressed a wish to see him. Colonel Burr mentioned to me that he had met with several who had been engaged in the Western insurrection, and particularly a Major in the North-western Territory (whose name I do not recollect) who had told him, that if he was ever engaged in a similar business, he pledged himself it should

not end without bloodshed. He said that he was a fine fellow. It was on these circumstances that I advised my father to apprize the President of the United States that something was going forward.

Question by the prosecution.

Mr. Hay. When Colonel Burr left that part of the country what course did he take?

Answer. I knew he went to the town of Washington, and from there to Wheeling, as I supposed.

Mr. Wirt. Were the subjects of a separation of the Union and military matters predominant in the conversations of Colonel Burr?

A. I have stated them as they occurred; our conversations were general and mixed, but these seemed to be the leading topics.

Mr. Wirt. Were the conversations ever long on either of these subjects?

A. Never long; they chiefly occurred in a rapid ride.

Mr. Hay. Do you recollect any opinion expressed by the accused concerning Bradford's capacity for such an undertaking as the Western insurrection?

A. I recollect it very well; he said that Bradford was very incompetent to an enterprise of that kind; and that, in such a case, there ought to be the utmost confidence in the leader.

Mr. Parker, (one of the jury.) Which of the Bradfords did he mean, the elder or the younger?

A. The elder; he was speaking of Bradford who headed the Western insurrection.

Mr. McRae. Did he name any particular person as qualified for such an enterprise?

A. No.

Mr. Wirt. At what time in the month of August was this interview?

A. I think between the 20th and 25th.

Mr. Parker, (one of the jury.) Did Colonel Burr make any further remark when he spoke of the Major who said that, if he were engaged in another insurrection, it should not end without bloodshed?

A. No. He spoke of him as a fine fellow.

Q. by same. Did he approve or condemn the sentiment?

A. I do not recollect; my impression was, that he thought him a fine fellow.

Cross-examined.

Mr. Burr. You spoke of a letter from me to your father; do you know whether he had written me, some time before, a letter of invitation to his house?

A. Yes: he had written about a year before to you at Pittsburg; that letter is yet unopened in my brother Tom's bureau; you had left that place before the letter arrived, and he did not know of your being in the Western country on your last visit till he received your note.

Q. Did your father communicate to you our night's conversation?

A. Yes.

Q. Before we rode?

A. No: not till I returned from Washington.

Q. Do you recollect of my having made several inquiries also about the seminaries of learning, and of one that was projected in your neighborhood, and of my suggesting the necessity of encouraging it?

A. You spoke much, too, on that subject.

Q. Was there anything serious in the conversation about the Major?

A. Nothing particularly serious; you mentioned the incident.

Q. Did I seem to know anything of Bradford before you told me?

A. You seemed to know the circumstances of the Western insurrection very well.

Q. Did you not tell me that Bradford was a noisy sort of a demagogue?

A. I did not: I have no objections to give my opinion of Mr. Bradford; I mentioned him to you as a mere lawyer.

Q. Did I seem to know that Bradford lived at Pittsburg before you mentioned it, and pointed out his house?

A. You did not seem to know it.

Q. Who were at dinner at your father's?

A. My father, mother, wife, sister, Colonel Dupiester, Mr. T. Hulings, and my brother Tom.

General Morgan was then called in at the request of the prisoner.

Mr. Burr. What was the situation of your father about the time of my visit?

A. He had lately had a fall, which had done him considerable injury.

Q. I mean as to his capacity. Did you not make an apology to Judge Thilman for the state of his mind?

A. I did tell Judge Thilman that my father was old and infirm, and, like other old men, he told long stories, and was apt to forget his repetitions.

Mr. McRae. Did Colonel Burr draw a comparison between the Eastern and Western people? or what was his reply when you said you would be damned if the little town of Cannonsburg could be taken by so small a force? What was the prisoner's reply to your exclamation?

A. When Colonel Burr said that, with two hundred men, he could drive the President and Congress into the Potomac, I must confess that I felt myself hurt, and replied, with some warmth, "I'll be damned, sir, if you could take the little town of Cannonsburg with that force." Colonel Burr replied, "Confine yourself to this side of the mountain, and it is another thing; or you are right."

Mr. Burr. Do you recollect that the probability of a Spanish war was mentioned?

A. It was a general subject of conversation.

HENRICO COUNTY, *State of Virginia, to wit:*

This 25th day of September, 1807, Colonel George Morgan, of Morgansey, in the county of Washington and State of Pennsylvania, appeared before me, Thomas H. Prosser, a justice of the peace for the county of Henrico aforesaid, and made oath that the annexed statement of his evidence, as given in the circuit court of the United States for the fifth circuit and Virginia district, upon an indictment in the case of the United States against Aaron Burr for treason, which is contained in the first and second columns of the second page of the Virginia Gazette and General Advertiser, No. 1,492 of Volume XXI., is as correctly printed as the said Morgan can now recollect, except as to the variations hereinafter mentioned, viz:

In the 4th line of the said testimony, instead of "nephews," read "cousins" by the name "Pollock" of North Carolina, then at Princeton College, and a third by the name of "Edwards," the son of Pierpont Edwards, then of Connecticut.

In the 28th line, dele "branded to me" and insert "brought."

In the second line above the cross-examinations, dele the words "these gentlemen wrote a joint," and insert "wrote, or said they would write, as I requested, to the President," or perhaps to the Secretary of State.

And that the evidence contained in the said paper, thus corrected, contains the truth.

GEORGE MORGAN.

Given under my hand this twenty-fifth day of September, 1807.

THOMAS H. PROSSER.

Cut out from a Pittsburg newspaper, called the Commonwealth, dated August 27th, 1806.

The Hon. Aaron Burr was in this town *incog.* for several days previous to Friday last, when he departed, in company with a French or Spanish gentleman, his companion, for Kentucky. Our fellow-citizens, generally, feel anxious to know the object of Mr. Burr's journey, at this time; and as he was perfectly *taciturn* during his stay, many conjectures are afloat. We hope the Western editors will give a good account of him.

PITTSBURG, *August* 21, 1806.

DEAR SIR: Being on my way to Lexington, I learn, with great satisfaction, that a road not very circuitous will take me near your door. I avail myself of the opportunity of one of my attendants, who is going forward with my baggage, to offer compliments and salutations, and to say that if this shall find you at home, I will have the pleasure of dining with you to-morrow and will take the liberty of introducing my friend and fellow-traveller, Colonel Dupiester. We shall leave this after breakfast, and be with you before two.

Accept assurance of the great respect and consideration with which I am, your obedient,

AARON BURR.

I beg to be recalled to the recollection of Mrs. M. and your son.

Evidence of Colonel George Morgan.

WEDNESDAY, *August* 19.

Colonel Morgan, (the father of the last witness.) There has been a long acquaintance between Colonel Burr and myself. He had introduced to my notice two of his nephews, by the name of ——, and a third by the name of Edwards, Pierpont Edwards. I had received many civilities from Colonel Burr in New York, after these things had passed; from which I had formed such an attachment to him, that I should never have forgotten it, had not this late business taken place. About three years ago, Colonel Burr was under a considerable, and as I thought unjust persecution. I had then a younger son, (who is now here,) studying law at Pittsburg. I wished to make him known to Colonel Burr, and wrote to invite Colonel Burr to Morgansey; particularly on account of his persecution; but, in all probability, would have done so without. I enclosed the letter to my son at Pittsburg. Colonel Burr, however, had left Pittsburg before my letter reached it, and it now remains unopened in my son's scrutoire at Pittsburg. On the 24th last August, I received a letter from Colonel Burr, dated at Pittsburg, informing me that he should dine with me the next day. [Here *Mr. Hay* handed the letter to Colonel M., who said the letter was dated on the 21st, and that he had not for sometime seen it, as he had transmitted it to the President of the United States.] This letter was handed to me by a man who called himself Count Willie. Colonel Burr mentioned he had sent it by one of his attendants. I believe my son did not call on me that evening; but the next morning I informed him, if I was able, I should certainly go and meet Colonel Burr; and I requested him and his brother to do it, with a letter of introduction explanatory of their names and their intention. What conversation took place between him and my son, I shall not state.

When Colonel Burr and myself walked out together, he mentioned that Colonel Dupiester was one of the first military characters of the age. I shall pass over the conversation and incidents during dinner. After dinner, I spoke of our fine country; I observed that when I first went there, there was not a single family between the Allegany mountain and the Ohio; and that, by and by, we should have Congress sitting in this neighborhood, or at Pittsburg. We are allowed to sport these things over a glass of wine; but I have no doubt that it will be the case. "No, never," said Colonel Burr; "for in less than five years you will be totally divided from the Atlantic States." The Colonel entered into some arguments to prove why it would and should be so. The first reason was, the produce of the sales of the Western lands being carried to the Atlantic States, and that the people to the West should not be tributary to them. He said that our taxes were heavy; and demanded, why we should pay them to the Atlantic parts of the country? By this time, I took an opportunity to observe "God forbid that any such change should took place, at least in my time!" This observation terminated the conversations as to that particular point. Next, Colonel Burr spoke of the weakness and imbecility of the Federal Government [*Mr. Wirt.* Who started that subject? Answer Colonel Burr, as one of the reasons for a division.] I do not recollect saying anything on the subject; but it struck my mind very forcibly that all was not right. He said, with two hundred men he could drive Congress, with the President at its

head, into the river Potomac; or that it might be done; and he said with five hundred men he could take possession of New York. What struck me was, that he appealed to Colonel Dupiester if it could not be done, and he bowed assent. There was a reply made to this by one of my sons, that he would be damned if he could take our little town of Cannonsburg with that force. Some short time after this, Colonel Burr went out from the dining room to the passage, and, as he went out, he made a motion to my son Thomas, who did not perceive it, and no person could interpret what it meant; however, as he went out he beckoned to him. They then walked out together, and had some conversation; what that conversation was, I shall leave to my son himself to tell. Soon after, a walk was proposed by some of the company to my son's mill. The observations made by the ladies as to the probable designs of Colonel Burr it is unnecessary to mention; but our women are all Democrats. When they returned, my son told me to be cautious, and said, "You may depend on it, Colonel Burr will this night open himself to you; he wants Tom to go with him." After the usual conversation, Colonel Burr went up stairs, and, as I thought, to go to bed. My daughters went to bed. My wife was reading to me, as is usual when the family have retired. About eleven o'clock, and when I thought he had been asleep an hour, she told me that Colonel Burr was coming down, and, as she had heard my son's conversation, she added "Now you'll have it." Colonel Burr came down with a candle in his hand; Mrs. Morgan immediately retired. The Colonel took his seat by me; he drew from his pocket a book which looked like a memorandum book. After looking in it some time, he asked me if I knew a Mr. Vigo, a Spaniard, at Vincennes. I replied, yes; I knew him. I had reasons to know him; one was, that I had reason to believe that he was deeply involved in the British conspiracy of 1788, as I supposed; the object of which was to separate the States, and which General Nevill and myself assisted to suppress. I called it a nefarious scheme to aim at the division of the States; I was careful to put great emphasis on the word *nefarious*. Colonel Burr, finding what kind of a man he had to deal with, suddenly stopped, thrust into his pocket the book, which I saw had blank leaves in it, and retired to bed. I believe I was pretty well understood. The next morning, Colonel Burr and Colonel Dupiester went off before breakfast, without my expecting it, in company with my son; and from that time to this, I have not seen him, but in this place. My son, on his return, gave it as his opinion, (his mother and I having already made up ours) that I should apprize the President of our impressions, and point out a mode by which Colonel Burr might be followed step by step. [*Mr. McRae.* In your conversation at the table, after your son had said he would be damned if your little town of Cannonsburg could be taken with such a force, do you recollect that the prisoner drew any comparison between the Eastern and Western people? Answer. Yes, perfectly; he said, "keep yourself on this side of the mountain, and you'll never be disturbed;" by which I understood him to mean disunion.] There is one more circumstance which I must state to the court. The Sunday after, the judge of our circuit court dined with me. I requested him to mention the circumstances to General Nevill, and invited him the following Sunday to dinner, with Judges Thilman and Roberts, for I had business of the first importance to communicate. They did not dine with me on that day, but they did on the following Sunday. These gentlemen wrote a joint letter to the President, informing him of my communications to them.

Cross-examined.

Mr. Burr. Are you certain that I came down in the night?

A. Yes. Mrs. Morgan said, Colonel Burr is coming down—now you'll have it.

Q. What sort of a book was the one I had in my hand? Was it bound?

A. It was not so large as this; I do not recollect whether it was bound, as it would not be very polite in me to take particular notice of such things when gentlemen are at my own house.

Q. When you spoke of a nefarious plan, to what transaction did you allude?

A. To Vigo's plan, which I conceived was intended to dissever the Union.

Q. Did the ladies take any part in the conversation at dinner?

A. They felt it.

Q. Who were present when Judge Thilman saw you?

A. General Neville and Judge Roberts.

Q. Was there any other from Pittsburg?

A. None.

Q. Your conversation was then jocular about the moving of Congress to Pittsburg?

A. I spoke in a jocular manner; but I was seriously of that opinion, and am so still.

Q. Did not some person at table say a movement of that kind would produce a separation of the Union?

A. I do not recollect.

Q. Did you not once live on the Mississippi?

A. I did, with the approbation of my country.

Q. Where was it?

A. At New Madrid.

Q. On which side of the Mississippi?

A. The west.

Q. In the Spanish Territories?

A. With the approbation of the Spanish Government.

Q. How long did you live there?

A. About forty days. I went from that place to New Orleans, where I detected a British spy.

Q. In what year?

A. In '88.

Evidence of Jacob Allbright.

WEDNESDAY, *August* 19.

Mr. Hay. Our object is to prove by his testimony, the actual assemblage of men on Blannerhasset's island. It goes of course to prove directly the overt act.

Jacob Allbright. The first I knew of this business was, I was hired on the island to help to build a kiln for drying corn; and, after working some time, Mrs. Blannerhasset told me that Mr. Blannerhasset and Colonel Burr were going to lay in provisions for an army, for a year. I went to the mill where I carried the corn to be ground after it had been dried. I worked four weeks on that business in the island; last fall, (or in September,) after Blannerhasset had come home—he had been promising me money for some time—I stept up to him; he had no money at the time, but would pay me soon. Says he "Mr. Allbright, you are a Dutchman." But he asked me first and foremost, whether I would not join with him, and go down the river. I told him I did not know what they were upon; and he said "Mr. Allbright, we are going to settle a new country;" and I gave him an answer, that I would not like to leave my family; he said he did not want any families to go along with him; then he said to me "You are a Dutchman, and a common man; and as the Dutch are apt to be scared by high men, if you'll go to New Lancaster, where the Dutch live, and get me twenty or thirty men to go with us, I will give you as many dollars." I went home then, and gave him no answer upon that. In a few days after, a number of boats came and landed at the island; the snow was about three inches deep, and I went out a hunting; I was on the Ohio side; I met two men; I knew they belonged to the boats, but I wanted to find out; and they asked me whether I had not given my consent to go along with Blannerhasset down the river. As we were talking together, they named themselves Colonel Burr's men, belonging to the boats landed at the island. When they asked me whether I had not consented to go down with Blannerhasset, I put a question to them; I told them I did not know what they were about; and one of the gentlemen told me they were going to take a silver mine from the Spanish. I asked the gentlemen whether they would not allow that this would raise a war with America; they replied no, and said that as there were but a few of them, if they went with a good army, they would give it up, and nothing more would be said about it. I had all this conversation with two of the men; these men showed me what fine rifles they had; then I went to the island, and Blannerhasset paid me off in Kentucky notes; people, however, did not like these notes, and I went over to Virginia to get them changed; I got two of the notes changed, and one a ten dollar note, was returned on my hands. I went to the island again the day the proclamation came out; but before I went to Blannerhasset's house, I heard he was not at home, but at Marietta; I went to the Virginia side, where I met three other men belonging to the boats, with three complete rifles; they made a call upon me to take them to the island in my canoe, and I excepted to it, but afterwards I carried over the third man, who stood close by my canoe when I came down to it. After being some time on the island, I went down to the four boats; Blannerhasset was not at home yet, and I saw some of the boat people shooting at a mark; they had a fire between the bank and the boats; I went up to the house, and Blannerhasset came home; he seemed very much scared; one of the men came up to ask him for something, and he told him "Don't trouble me, I have trouble enough already." He went up to his chamber, and I saw no more of him; I asked an old gentleman to go up to his chamber and change my note for silver; he did go and brought me silver. By and by I heard that they were going to start that night; thinks I, "I'll see the end of it." This was the night of the very day that Blannerhasset got back from Marietta; he got back before night; when night came on, I was among the men, and also in the kitchen, and saw the boatmen running bullets. One of them spoke out to the others, "Boys, let's every one of us mould as many bullets as we can fire twelve rounds." After that, I saw no more till after twelve o'clock at night; then Blannerhasset came down from the chamber and called up some of his servants; he had four or five trunks; there were not trusty hands enough to carry them to the boats, and some person called after my name, and asked me to help them; and I carried one of the trunks and moved along with them; when we got down, some person, I don't particularly know, but think it was Blannerhasset himself, asked me to stand by the trunks till they were put in the boats. When the last of them went off, I saw men standing in a circle on the shore; I went up to them; perhaps they were five or six rods from the boats. The first thing I heard was, their laying plans how Blannerhasset and Comfort Tyler should get safe by Galliopolis; one Nahum Bent was called forward, and, when he came, Blannerhasset asked him whether he had not two smart horses; Nahum Bent answered no, he had but one; then Blannerhasset told him to go to Captain Dennie and get his sorrel horse; and Nahum Bent told him that the sorrel horse had no shoes on; and Blannerhasset said the roads were soft and would not hurt the horse. Blannerhasset told Nahum Bent to meet him and C. Tyler with the horses somewhere about Galliopolis; Bent inquired how he was to find him out; should he inquire for him? "No." "Have you no friends there? "No." Mrs. Blannerhasset then came forward, and she told Blannerhasset and C. Tyler that they must take a canoe and get into it before they got to Galliopolis and fall down the stream of the Ohio, for nobody would mind two people going down the stream; she said she would pay for the canoe; N. Bent was told to meet them above Galliopolis about daybreak, and then they might go round Galliopolis. Then a man by the name of Tupper laid hands upon Blannerhasset, and said, "Your body is in my hand, in the name of the commonwealth," or such a word as that. As quick as Tupper made that motion, there were seven or eight muzzles levelled at him. Tupper looked about him, and said, "Gentlemen, I hope you will not do the like." A man next to me, about two yards off, who had a shot gun said, "I'd as lieve as not." Tupper then changed his

speech, and said he wished him luck, and safe down the river. Tupper before told Blannerhasset he should stay and stand his trial; but Blannerhasset said no; the people in the neighborhood were coming down next day to take him, and he would go. Next day after I saw the Wood county militia going down. The people went off in the boats that night between twelve and one o'clock.

Q. All?

A. All but one, who was a doctor. All had some kind of arms.

Q. How many were there in all?

A. About twenty or thirty, in all, to the best of my knowledge, but I did not count them. All the men, however, were not on shore; some were in the boats; every man I saw had arms of some sort.

Q. At what time of the year was this?

A. I do not recollect the particular time; I recollect the year, but not the month.

Q. Do you recollect whether it snows in that climate in September?

A. I do not recollect; I know not the month, only the year; it was last Fall.

Examined by the counsel for the prosecution.

Mr. Wirt. Had you seen Colonel Burr on the island?

Answer. Yes.

Q. Was he there before Blannerhasset went to Kentucky?

A. He was.

Q. Under whose command were the boats?

A. Comfort Tyler and Mr. Knox were the commanders, I believe.

Q. Did the boats quit the island at the time of hearing about the proclamation?

A. Yes.

Q. Did the county militia go there next day?

A. Yes.

Mr. Burr. Did you see Peter Taylor there that night?

A. I did.

Q. Did you hear him converse with Blannerhasset or any other person?

A. I do not recollect.

Mr. Wirt. How long did Aaron Burr remain on the island?

A. I do not recollect.

Q. How long was he there before the arrival of the boats?

A. About six weeks.

R. E Parker, (one of the jury.) How long was it from Colonel Burr's leaving the island to Blannerhasset's leaving it?

A. I cannot tell; I did not take particular notice; I do not live on the island.

Q. How long did the boats continue there?

A. I don't know.

Cross-examined.

Mr. Burr. Do you know General Tupper?

Answer. Yes.

Q. Is that the person?

A. Yes.

Q. When the muskets were levelled at him, did they seem to have a mind to hurt him?

A. Yes; a gentleman near me said, "I'd as lieve shoot as not."

Mr. Burr. You said differently on a former occasion; don't you recollect saying before, it looked like exercising?

A. I do not.

[A desultory conversation here ensued between the opposite counsel. Mr. Burr professed that it was his intention to degrade the witness by invalidating his credibility. The cross-examination proceeded.]

Mr. Burr. Have you not been examined before?

A. Yes.

Q. By whom?

A. By Mr. Jackson.

Q. Had he not printed questions in his hand?

A. He had a paper in his hand.

Q. Did he set down your answers?

A. Yes.

Q. How long after the guns were pointed at General Tupper before the men went to their boats?

A. I do not recollect; anything that I am not certain of I cannot speak to.

Q. Was Mrs. Blannerhasset there when the guns were pointed?

A. Yes.

Q. Was Tupper inside of the circle?

A. Yes.

Q. Was she, too?

A. I don't recollect.

Q. Did you see Mr. Woodbridge there?

A. I don't know him.

Q. How long did you work with Blannerhasset?

A. Six weeks.

Q. At what time was it you saw me there?

A. I do not recollect.

Mr. Burr. The counsel for the United States know, I presume, this circumstance, and have testimony to ascertain it.

Mr. Hay. We have not, as far as I am informed.

Mr. Burr. I will state that it was the last day of August and first of September that I was on the island.

Mr. Anthony, (one of the jury.) Did you see any powder?

A. No.

Mr. Hay. Were you in the boats?

A. I was not.

Mr. Burr. Where does General Tupper live?

A. In Marietta.

Q. Does he not belong to the State of Ohio?

A. Yes.

Q. When did you first know him?

A. Last Fall.

Mr. Burr then asked the clerk for the statement which he had taken of Allbright's testimony, when it was submitted to the court on a former occasion, on the motion for holding Colonel Burr to higher bail. The clerk handed him the copy, and the prisoner proceeded with the examination:

You said before, that the men who raised their muskets against Gen. Tupper were not in earnest?

A. That was a piece of my opinion. I did not know whether they were in earnest, as there was no quarrel among them, and no firing afterwards.

Mr. Burr. I beg the court to call on the prosecution for the deposition of this witness, taken before John G. Jackson.

Mr. Hay. Can gentlemen, when they please, thrust their hands into my portfolio?

Chief Justice was not satisfied that the court had a right to call for the affidavit.

Mr. Wickham said it was obvious that there were certain suspicions attached to the credibility of the witness, and that it was their desire to compare his present testimony with his former affidavit.

Mr. Hay objected that Mr. Jackson might not have taken down the testimony of the witness in his language, but couched it in his own; hence there might be an apparent variation between the present evidence and the affidavit. Besides, the witness might not have recollected a great many circumstances at that moment, which have subsequently occurred to his mind since he was set to thinking upon them.

Mr. Burr. We have a right to coerce this paper; if gentlemen will not surrender it, I may at all events avail myself of their refusal. My object is to prove such a diversity between the statements of the witness at different times, as may destroy all faith in his recollections.

Mr. Hay. Then, sir, although I might retain this paper, the gentlemen are welcome to make all the use of it they can; take it. [Mr. Hay thereupon delivered them the paper; but no use was afterwards made of it.]

Mr. Burr then proceeded. Did you say that all in the circle had arms?

A. All that I saw.

Q. How many were there in the circle?

A. I did not count.

Q. What kind of guns had they?

A. Rifles and shot guns.

Q. Did you see any guns with bayonets?

A. I saw none.

Q. When did you see most arms, in the day or in the night?

A. I saw more of them in the day; but it was in the night that I saw most arms in their hands.

Mr. Parker, (a juror.) Why did you think that most of them had arms?

A. Because I was with them almost all night; in the day I saw some of them shooting at marks, and I saw other arms at that time lying upon the beach. From the evening, until they started, I think I saw arms enough to arm all the men who were there.

Mr. Wickham. Did you see them all with arms at once?

A. No.

Q. Did you know the men who had arms?

A. No.

Q. How, then, are you certain that you did not see the same arms at different times in the hands of different persons?

A. I don't know, certainly.

Mr. Burr. If gentlemen have now done with the witnesses as to the overt act, or when they have done, I will thank them to inform us; for then we shall have some considerations to offer to the court.

Mr. Hay. We have other additional testimony to offer on this very point.

Examination of William Love.

Mr. Hay. Were you on Blannerhasset's island?

Answer. Yes; but not there at the time when Colonel Tyler's boats arrived there; I was then at Marietta; and it was on Sunday that I went down in a skiff with two barrels of salt.

Q. How many boats were at the island?

A. Four.

Q. How many men?

A. I cannot tell you; but I suppose about twenty or twenty-five, belonging to Colonel Tyler's boats.

Q. Did you see any arms?

A. I saw the men had rifles; I know that Mr. Blannerhasset took away with him two blunderbusses, one pair of horse pistols, a pair of pocket pistols, and a dirk; some fusees were put in the boat, but not more than three or four.

Q. And what arms had Tyler's men?

A. Pistols, dirks, and rifles, they brought there; but not all were armed with rifles; I know not whether they were armed with different things. Being Mr. Blannerhasset's servant, (that is, his groom,) I went down the river with him.

Q. Did you see Taylor and Allbright there?

A. I knew Peter Taylor very well, and I saw Allbright; I saw Mr. Woodbridge too.

Q. What time did they set sail?

A. We were the last to embark, and we set off between 12 and 1 o'clock; we parted with General Tupper in the greatest friendship.

Q. Did you see the prisoner on the island?

A. I never saw Colonel Burr on the island; I first saw him at Natchez, about two and a half years ago.

Q. What took place after you left the island?

A. That night was very cold; the next morning we stopped and made fires. Mr. Blannerhasset and Colonel Tyler went ashore and called the company together; and the best I could make out was, that the Governor of Ohio had issued State warrants against Mr. Blannerhasset and Tyler; and that they wanted to make their escape as fast as possible. I went down with the party to Bayou Pierre, where—

Mr. Burr expressed a wish that the attention of the witness should be at present confined to the transactions on the island.

Mr. Martin. Gentlemen had better confine themselves to facts within the district of Virginia. When they travel beyond the district, we shall have some important questions to bring forward; we shall object to the production of such evidence.

Mr. Hay acquiesced, for the present, in this arrangement.

Cross-examined.

Mr. Burr. Were not some of Mr. Blannerhasset's clothes put up in the boats?

Answer. Yes.

Q. Were not his books put up in boxes and trunks?

A. None, that ever I saw.

Q. How long had you lived with Mr. Blannerhasset?

A. Ten or twelve days.

Q. How many guns had the party?

A. I do not know; a great many of the men went out a hunting.

Q. Did you see anything like military appearance?

A. The men were in a state of preparation to defend themselves, because they expected people from the mouth of the Kanawha to attack Blannerhasset and the island. And, to the best of my opinion, they did not mean to be killed without some return of the shot. It was said at Marietta that the people of Kanawha were to attack him; and I suppose they would have done the best to resist. I should be sorry if a man slapped me on my face without returning the blow.

Q. Was there no disturbance among the party on the island?

A. None: I did not part with my friends in England more comfortably than in parting with the people on the island.

Mr. Parker, (a juror.) Did you ever see all the men with arms?

A. I cannot say. When I got to the mouth of Cumberland river, I saw a chest of arms opened.

Mr. Burr. Were any chests of arms put into the boats at the island?

A. Not that I saw. They might have been put on board without my seeing them. Many things were put into the boats before I got in.

Mr. McRae. Was the chest which you saw opened at the mouth of Cumberland the same as those that you saw go from the island?

A. No.

Q. What did you think of this business?

A. I understood the object of the expedition was to settle the Washita lands.

Mr. Hay. Were the persons who went from that island young, active men?

A. Yes.

Mr. Burr. What kind of looking men were they?

A. They looked like gentlemen, such as live upon their own property.

Q. Did they look like men used to work?

A. They did not.

The witness added that Mrs. Blannerhasset was at the boats when they started, and that the night was rainy and freezing.

Examination of William Love, continued.

FRIDAY, *September* 18.

Mr. Hay. Did you not go down with the boats?

Answer. I went down from Mr. Blannerhasset's island; I considered myself as his servant.

Q. Did you see any boxes of arms?

A. I saw one chest in Mr. Floyd's boat.

Q. How many men went from Blannerhasset's island?

A. About twenty-five.

Q. Did any more men join you on the way?

A. None.

Q. Were there any other boats at the mouth of Cumberland?

A. Some, but not belonging to our party.

Q. Did any men join you before you got there?

A. Mr. Blannerhasset did.

Q. How many boats went from the mouth of Cumberland river?

A. I do not recollect how many.

Q. Were there ten—were there six?

A. There were more than six altogether.

Q. Did no one join you at the mouth of Cumberland but Colonel Burr?

A. Yes, some more.

Q. Who were in the other boats?

A. Mr. Floyd had joined us with three boats at the falls of the Ohio: one was loaded with provisions, and the rest had provisions likewise.

Q. How many men were in those boats?

A. I do not recollect?

Q. Were there twenty?

A. There were about eight.

Q. How many boats were there in all?

A. There were four of Colonel Tyler's; two of Colonel Burr's, from Nashville; one of Mr. Ellis's, and two of Mr. Floyd's, who joined at the falls of Ohio; and Captain Dean's boat, called the commissary boat, and one small boat of Mr. Blannerhasset's.

Mr. Hay. Tell me what you know about the arms, and recollect what you said before on this subject. [Counsel for the accused objected to this mode of interrogation.] How many chests of arms did you see at the mouth of Cumberland?

A. I saw one chest and a box with rifles; there were several other chests like that one, but whether they contained Mr. Blannerhasset's books, or the arms, I am not able to say.

Q. What was the size of the chest?

A. Of course, as long as a musket.

Q. But of what depth?

A. I never measured the dimensions, but it was about as deep as my knee.

Q. Could you straddle over it with your legs?

A. I could not.

Q. Where did you first see this chest?

A. At the mouth of Cumberland.

Mr. McRae. What sort of arms?

A. French.

Q. I mean of what form and nature—were there any bayonets?

A. There were.

Q. Was this box opened?

A. It was opened by the carelessness of the people who took it in the boat.

Q. What kind of chest was it?

A. It was rough.

Q. Were there any others of the same appearance?

A. Yes, but I know not their contents.

Q. Do you recollect one thing, were these chests heavy? A. They were.

Q. Did you see any other military apparatus; any bullets?

A. I did. There were some bullets in a barrel, standing at the bow of one of Colonel Tyler's boats. Some said there were about six hundred in it.

Mr. Wirt. Did you see any powder?

A. I am not certain whether I saw one or two, but I am certain I saw one tin canister of powder, that was put on board at Blannerhasset's island.

Mr. Blannerhasset. You said you saw the boxes that were said to contain my books in the commissary boat; did you notice them?

A. I did not see them.

Q. Did any one tell you that I had put arms on board?

A. No one.

Mr. Hay. Did you go ashore at the mouth of Cumberland?

A. I did.

Q. What passed there?

A. All the young men went up. Colonel Burr wanted them to come up for him to pay his addresses to them?

Q. Well, and where did he receive them?

A. A little piece above the bank.

Q. You did not see them form a circle?

A. No; I was not with them.

William Love called in again.

MONDAY, *September* 21.

Mr. Hay. Where did you separate from the party?

Answer. At Bayou Pierre.

Mr. Hay. State the circumstances which induced you to leave them?

A. The boat was going down to Natchez, and I went down in it.

Q. What boat?

A. The boat with two horses in it.

Mr. Wirt. Did you go in Boyce's boat to Natchez?

A. Yes.

Mr. Hay. Did you go in consequence of any direction from Mr. Blannerhasset?

A. I did not.

Q. Why did you leave them?

A. I was not in the party, and I thought I might as well leave them.

Q. Was there no particular circumstance as to Mr. Blannerhasset, which induced you to do it?

A. Yes; when I was in the boat Mr. Blannerhasset ordered me out, for he wanted to speak to the men in my absence. I was not pleased at this, as I thought my life as sweet as the rest of them. Captain Elliot, however, came and told me I might join as a volunteer, and gave me a musket. I went over to the party; but finding that I could not keep as high as the rest of them, I got discontented, and was determined to go to Natchez.

Q. In what boat did you see the chest of arms?

A. In Major Floyd's boat.

Mr. Wirt. Do you know any anything of the guard?

A. I was not there at that time.

Mr. Hay. In what boat were the other chests?

A. I do not say they were arms, but I saw some boxes on board of Captain Dean's boat.

Mr. Wirt. Did you say you had no other reason for quitting but because you could not keep up appearances?

A. None.

Cross-examined.

Mr. Burr. Who brought you round here from New Orleans?

Answer. General Wilkinson. I was introduced to him by Sargeant Dunbaugh, before I was subpœnaed. Every one of the party whom he could find was carried to the General.

Q. Did General Wilkinson ask you any questions?

A. He asked some.

Q. Was this before or after you were subpœnaed?

A. Before.

Q. Did you receive any money?

A. I received about twenty dollars from the military agent after I was subpœnaed. Since I came here I have refunded it to the marshal.

Testimony of Thomas Hartley.

FRIDAY, *September* 18.

Mr. Hay. Were you at the mouth of Cumberland?

Answer. No; I was at Fort Massac when the boats were there; I had left it two weeks before.

Q. You were with Colonel Burr at Fort Massac?

A. I was. [Colonel Burr objected to this question; Fort Massac was in the Indiana Territory.]

Q. Did you descend the Mississippi, and with whom?

A. With Mr. Fort and Mr. Hopkins.

Q. Where were you joined by Mr. Burr's party?

A. Just below Fort Massac. They passed the fort in the night, and we joined them next morning.

Q. How many boats had they?

A. About eight or ten.

Q. Do you know whether they had any arms in the boat?

A. I saw none but fowling-pieces.

Q. Did you descend the river with them?

A. Yes; I went to New Madrid by the directions of Colonel Tyler.

Q. Were you not left behind to enlist men?

[The counsel for the accused objected to the principle as well as form of this question. After some discussion, the Chief Justice decided that the principle of the question might be relevant.]

Mr. Hay. Will you state, then, for what purpose you were left behind?

A. All the boats landed at New Madrid on New Year's day, and stayed four days. Mr. Hopkins and Mr. Wood, and myself, went before to get more men. We got two, and some more joined at Nantes-de-Grace.

Q. On what terms did they join?

A. At twelve and a half dollars a month, and one hundred acres of land besides.

Mr. McRae. And what services were to be performed?

A. They were to go to the Washita country, and also to descend to New Orleans to work on Colonel Burr's boats.

Mr. Wirt. Was Colonel Burr looked on as the head of this party?

A. He was.

Q. Did you and these recruits understand that they were to be placed under Colonel Burr's command?

A. They were to be delivered to him, and to go on board his boats.

Cross-examined by the accused.

Mr. Burr. Who wrote the articles under which they were engaged?

Answer. Mr. Hopkins.

Q. Repeat them?

A. I do not particularly recollect them.

Q. But there was something about the Washita lands?

A. They were to go there after they had gone to New Orleans.

Mr. Wirt. These men who were engaged in New Madrid, did they join the detachment?

A. They did, at the mouth of Cole's creek.

Q. Do I understand that the sole object was the settlement of the Washita lands?

Mr. Botts objected to these questions. How could these transactions affect Colonel Burr, when they took place in his absence? The objection was overruled, and Mr. Hartley replied, that the contract declared they were to serve for six months; that they were to settle on the Washita lands, but that they were to go on to New Orleans.

Mr. Wirt. Did you see the men assembled before they arrived at the Chickasaw Bluffs?

A. I did not overtake them before they got to Cole's creek.

Mr. Burr. You said they were to go to Washita and to New Orleans; were they to go in *any* event?

A. They were to go to the Washita, but the articles did not specify what business they were to follow; the only service which was mentioned was, that they were to work the boats down.

Mr. Baker objected to this kind of evidence. He contended that the best sort of evidence ought in every case to be produced, and that no *paper* ought to be mentioned which was not exhibited in court. The objection was overruled; when Mr. Hay asked the witness whether he was certain they were to go to New Orleans first?

A. I am; I recollect the articles were read after we got into the boat.

Mr. McRae. And they were to serve six months?

A. They were.

Examination of Simeon Poole.

THURSDAY, *August* 20.

I never was on the island at that time, but was opposite to it; I saw boats and men there, if I mistake not, about the 10th of December. I arrived opposite the island about dusk, at the distance of about 150 or 120 yards from it. I do not know how many boats were there. I saw people walking about in the evening; and in the course of the night they built a fire; and I saw some persons by the light that appeared to be armed, and as if they were sentinels.

Mr. Hay. Why did you think they were?

Answer. I do not know they were, but they appeared so to my view. I did not go over that night, nor did I offer to go. Boats were passing and repassing during the night from the island to the main land, which I supposed belonged to the island; not large boats, but small craft. I did not speak to them. I stood as much undiscovered as possible, as I was authorized by the Governor of Ohio to apprehend Blannerhasset, and I went for that purpose.

Question. Were there any indications of arrangements about a watchword?

Answer. Yes; in the evening I saw some boats cross, when a particular word was given. When the people on the Ohio side wanted to go across, they would hail for a boat; the people on the island would ask "what boat?" If the answer was "I's boat," the boat immediately put off.

Cross-examined.

Mr. Burr. How long did you stay out that night?

Answer. Perhaps till 10 o'clock.

Question. Was it not cold enough to render a fire pleasant?

Answer. It was.

Question. Is it not usual for boats to build fires on the banks when it is so cold?

Answer. It is.

The witness also stated, in the course of his examination, that there seemed to be a good many men on the island; that lanterns were passing during the night between the house and boats, as if there was business between them; that he could not say whether the persons whom he had called sentinels were not merely loitering around the fire; that he thought it likely that, if he too had used the watchword, the boats would have put off for him; that he heard several hails from the Ohio side that did not give the word, and no boat came from the island; but a boat always came when that answer was given. He himself was on the Ohio side.

Examination of Maurice P. Belknap.

Mr. Hay. Will you tell us, sir, what you saw on the island?

Mr. Belknap. On the evening of the 10th of December I was at the island of Mr. Blannerhasset. I arrived there between 8 and 9 o'clock in the evening. I hailed a boat, and they asked my name. Having given it, a skiff was immediately sent over, with two of Blannerhasset's servants. Having crossed, I met with Mr. Woodbridge, who returned to the house with me. When I went into the house, I observed a number of men, who, from the promiscuous view I had of them, might have been about twenty. The two or three I noticed near the door had rifles, and appeared to be

cleaning them. These were all the arms I saw, for I merely passed through the room where they were. Near the place where I landed, I noticed two or three boats, and people about them. It was a dark evening, and the light in the boats was the only circumstance which made me notice them.

When cross-examined, Mr. B. said that he had given no watchword when he hailed, but only his name. He was not certain whether any other person had crossed during the night. He saw Mr. Dana there, but does not know at what time he crossed.

The testimony of Maurice P. Belknap continued.

WEDNESDAY, *September* 9.

I was requested by Mr. Blannerhasset to carry a letter to John Jordan, at Lexington, Kentucky. In that letter was enclosed one to Colonel Burr. Some time previous to Blannerhasset's asking me to go to Lexington, I stated to him that I believed the expedition was an unlawful one. I showed him a letter which I had received from one of my friends, and told him I would have nothing to do with the expedition. He declared that it was not unlawful. For that reason, he read to me his letter to Colonel Burr. In that letter, he, in substance, congratulated Colonel Burr on his acquittal at Lexington, and that the grand jury did not find a bill against him; he mentioned the state of the boats building on the Muskingum, though I do not particularly recollect what he said concerning them.

[Here Mr. Belknap was asked at what time was this? He answered, about the middle of November, 1806.]

The letter mentioned likewise the quantity of provisions that he should have to take down the river with him; (I particularly recollect corn meal as one of the articles;) and also that he should probably take his family down with him. The letter was of considerable length; I cannot recollect half of it. I delivered it to Mr. Jordan. He broke the seal of the cover addressed to him, and requested me to take the enclosed one to Col. Burr, at Frankfort. I carried it to Frankfort, and delivered it to Colonel Burr: and took a letter back from him to Blannerhasset. Colonel Burr, before he closed his letter, handed it to me; I read a part of it, and asked him an explanation of a part which I did not understand. He then took it and read to me the whole, as I supposed. The substance was, that he thanked Mr. Blannerhasset for his exertions in preparing the boats; he stated he should probably leave that place in eight days for Nashville; that he should probably go down the river before Blannerhasset; that he was glad to hear that his family was going down; and that he would procure for them a comfortable settlement at Natchez or at New Orleans, until they could be better situated on the Washita; he requested Blannerhasset to make all possible speed, as the probability was that the river would close soon.

Examined by the counsel for the United States.

Mr. Hay. Do you recollect that he stated any other reasons?

Answer. No.

Question. Did you carry any verbal instructions?

Answer. Yes; Burr requested Blannerhasset to have the boats in the day time to carry a white flag, and in the night a lamp.

Question. Believing, when you were first informed of this expedition, that its object was lawful, had you not acceded to it?

Answer. Yes.

Question. Supposing its object was proper and lawful?

Answer. Yes; Mr. Blannerhasset said the officers of Government knew and approved of it.

Mr. McRae. Did he mention the object of the enterprise?

Answer. He stated that he expected there would be a war with Spain; and, on that event, those who went down the river would join the regular army, and go against the Spaniards. If there was no war, they would then make a settlement on the Washita. He mentioned several persons to me who had joined it; among the rest he named General Eaton and Mr. Gallatin; he named Gen. Wilkinson too.

Mr. Wirt. Did you go down with him?

Answer. I did not.

Question. What prevented you?

Answer. On my return, I found in the post office a letter for me from young Mr. Danielson, General Eaton's son-in-law, stating the substance of General Eaton's deposition. I repeated this important contradiction of one of Blannerhasset's statements to a number of my friends; and this occasioned many to abandon the expedition, finding they had been deceived.

Mr. Hay. Had you any conversation with Col. Burr?

Answer. No; he only asked me the prospect as to the boats and the number of men; I had very little conversation with him.

Mr. McRae. You say that you and many others withdrew from the enterprise on finding yourselves deceived?

Answer. Yes; I recollect that Mr. Cushing, Mr. Dana's brother, and several others from Marietta, forsook it.

Mr. Hay. Did you carry no message from Burr to Blannerhasset, warning them to depart in consequence of danger?

Answer. No; nothing but what I have related, except that he said it appeared, from the newspapers, that the public mind was much agitated; that, therefore, there might be some difficulty in getting down the river; but he hoped they would not oppose the constituted authorities.

Question. Were the men preparing to depart when you got to the island?

Answer. Yes; I was surprised to find so many men in the hall; they appeared to be in confusion; and one of them was wiping a gun. I supposed their number to be about twenty.

Mr. Wirt. When Burr spoke of those boats and

men, did he speak of them as one having authority over them?

Answer. He spoke of them as one concerned; I do not recollect that he said anything about authority.

Mr. McRae. When he spoke of the people going to descend the river, did he call them *his* people?

Answer. I do not recollect that; but he was speaking of the people who Blannerhasset had informed him were coming down.

Question. Did he speak as being in connexion with them?

Answer. He did.

Mr. Hay. Did you hear nothing of the proceeding of the Legislature of Ohio before you carried the letter?

Answer. Not till my return.

[The Chief Justice here observed that that Legislature did not meet till afterwards. Colonel Burr said "the Legislature did not meet till the 4th of December; and Frankfort, where Mr. Belknap saw me, is about two hundred miles from the island. *Mr. Hay.* I did not know the date of Mr. Burr's letter. *Mr. Belknap.* It was dated about the last of November or 1st of December; and I returned to the island about the 10th of December.]

Mr. McRae. Upon your return to the island, had you any private conversation with Mr. Blannerhasset?

Answer. Yes.

Question. Did he make any inquiries concerning Colonel Burr?

Answer. He asked about his health, and the probability of his going down the river.

Question. Did nothing of any moment occur relating to Blannerhasset's departure?

Answer. Nothing that I recollect.

Question. Did he not state the reasons of his departing so precipitately?

Answer. He said he expected some difficulty, and had detained Tyler some days; he had kept his proceedings secret, and apprehended some danger from the people of Kenawha, if he did not depart immediately.

Question. Did you carry no despatches for Jordan?

Answer. None.

Mr. Wirt. Did you understand both from Blannerhasset and Burr that they were connected in the enterprise?

Answer. Yes.

Mr. McRae. Was there much rumor and noise among the people on this subject before you went to Lexington? Answer. Yes.

Question. Was it not the opinion of the people that they intended to invade Mexico?

Answer. There were various opinions concerning them.

[Mr. Martin and Colonel Burr both objected to this question as improper.]

Question. Did Colonel Burr ask you about the state of the public mind?

Answer. Yes; he asked me what was going on abroad: such was his expression; and I told him.

Question. Did he make no other inquiry?

Answer. He asked if if I had seen anything in the papers from the Government on this subject. I answered that I had not.

Mr. Hay. What did he say when you mentioned that alarms had been excited?

Answer. He said they proceeded from wrong impressions.

Mr. McRae. What invitations were held out to induce you to join in the enterprise?

Answer. None particularly, except that if, when I descended the river, I should not find Generals Eaton and Wilkinson either there, or coming there, and if there was no Spanish war, then Blannerhasset was to bear my expenses back.

Question. Then you considered yourself as engaged for a Spanish war?

Answer. I did.

Question. And Mr. Gallatin was to have joined?

Answer. Yes, most particularly; so Mr. Blannerhasset said.

Cross-examined by the accused and his counsel.

Colonel Burr. Do you recollect any specific offer of land which I made to Mr. Blannerhasset in my letter?

Answer. No. I recollect you authorized him to offer a certain quantity to young men.

Question. Do you not recollect I offered him forty thousand acres?

Answer. I do not.

Question. Did I not show you a map of the land?

Answer: You did.

Question. Did I not show you some deeds for the land?

Answer. I do not recollect.

Question. Do you recollect that I stated in my letter the advantages and disadvantages of his coming down; that, if he could not live in peace with his neighbors, he had better come down?

Answer. I recollect something in that way. But the impressions on my mind were that you expected him to come down.

Question. You state that you had offers from Blannerhasset; had you any from me?

Answer. Not from you.

Question. Did I mention anything about a party with Tyler?

Answer. No.

Question. How many guns did you see on the island?

Answer. I saw no more than three.

Question. Did I ever speak of the party on the island as *my people*?

Answer. No. Your expressions were generally *they*.

Mr. Hay. When you arrived at the island, and made your communication to Mr. Blannerhasset, did you immediately retire to bed and not examine particularly? A. Yes.

Chief Justice. What did Mr. Blannerhasset say to you about your finding Generals Eaton and Wilkinson?

A. He said, if I did not find them at the place to which we were to go, and there were no Spanish war, he would bear my expenses home again. He said in case there was no Spanish war, they were to settle Washita lands.

Mr. McRae. Do you recollect any others whom he mentioned to you as concerned in the enterprise?

A. He mentioned Mr. Dayton, Mr. Devereux of Baltimore, and Colonel Smith of New York.

Mr. Wirt. Did he say that Colonel Burr was concerned?

A. In our first conversation on the subject, he said he did not know what Colonel Burr meant to do; and, as to his influence, he observed "you know he is not high in the confidence of his country." In all the other conversations he did speak of him as the head of the party.

Mr. McRae. Did you say that you stated to Mr. Blannerhasset the reasons for your declining?

A. I did to his lady, after his departure.

Mr. Wirt. Did I understand you correctly as saying that Colonel Burr said he had no improper design, and that the people were under wrong impressions?

A. Yes.

Q. Were you at the boats?

A. No; I landed some rods above them.

Mr. Carter Berkley, (one of the jurors.) Did you hear Blannerhasset say that the men came down the river to the island by Burr's direction?

A. I did not hear him say one way or another.

Examination of Edmund P. Dana.

THURSDAY, *August* 20.

On the evening of the 10th December I understood that the boats were about to start with Comfort Tyler and his men down the river. Two other young men and myself were determined to cross over from Bellepré where I live. We went down to the landing opposite the island, about dusk; took a skiff, and landed at the upper part of the landing. We then went to the house. Tyler's boats lay below our own about seven or eight rods. I heard some persons talking, but it was dark and I could not distinguish any one. We went into the hall, a large room, where there were a number of men; I remained but a short time and did not count them, but I suppose there were about fifteen or sixteen. One of them was running bullets; and there was nothing but hubbub and confusion about the large fire. I was then introduced into a chamber, where there were Tyler, Blannerhasset, Colonel Smith of New York, and several other gentlemen. I was introduced to Mr. Smith and Dr. McCastle, who had his lady there. Colonel Tyler I had seen the day before.

Mr. Coleman, (a juror.) Is it proper to ask any questions about the conversation which took place with those gentlemen?

Chief Justice. It is left to the consent of the accused.

Mr. Burr. If any of the jury think proper, I can have no objections. The inquiry was not pressed.

When cross-examined, Mr. D. said he was a perfect stranger to the people in the hall, but that on his going in they did not appear to be alarmed.

Edmund P. Dana sworn.

FRIDAY, *September* 25.

I never saw Colonel Burr but once previous to my seeing him in this place.

In November last Mr. and Mrs. Blannerhasset came to my house in Bellepré; his object was to purchase cider. In the course of our conversation, he said he was going down the river, that he had been purchasing land in the West in company with Mr. Burr and others, and that he was going to settle it. This was about the middle of the day, and my father gave them an invitation to stay to dinner. They stayed, and there was a good deal of conversation at dinner on these subjects. Mr. Blannerhasset stated the particular advantages of the Washita land above the rest of the country; that it was near the market, and calculated for the raising of cotton. He said there was a large association for this purpose, and that he wanted young men to go. Those who embarked early, if they succeeded in the undertaking, would no doubt make their fortunes. I observed to my brother, who was sitting with us, that if fortunes were so easily made, he had better go. Mr. Blannerhasset replied, that he wanted such men as we were. He said he did not want to carry us without my father's consent. My father observed that we were our own men, and might act as we thought proper. I think Mr. Blannerhasset bargained for five or six barrels of cider, which he said he was going to carry down the river with him. He invited us to the island, where he would give us more particular information of his designs.

A short time after I was in the orchard gathering apples. Mr. Blannerhasset came to me, to talk more about the enterprise down the river: he asked me if I had any serious intention of going. I said I was unsettled; I would embrace any favorable opportunity to better my situation; and if I knew the object of this enterprise, I could better tell whether I would go or not. I observed that there were some rumors that the plan was unfavorable to the Government, and, if it was, that I would have nothing to do with it. He pledged his most sacred honor to me, and swore on the honor of a gentleman, that the plan was not hostile to the Government; and he went on to name several characters who he said were concerned; that the association was very extensive, spreading from Maine to Georgia. I asked him to name them. He said that Colonel Burr was one, whose talents he then highly commended. I said, if the plan was a lawful one, it was a good one, from the high opinion I had formed of his talents. He said that General Wilkinson was to join with his army. He mentioned General Jackson, of Tennessee, who was then preparing a body of militia, (two or three thousand, I think,) and who was ready to join them. He mentioned General Dayton. I think I asked him if the Swartwouts of New York were not concerned. (There was a gentleman than at our house by that name.) He said they were. He named a number of other characters, whom I do not recollect.

Mr. Hay. Were you on the island on the night of his departure?

A. I was. Mr. Blannerhasset told me if I would come over to see him, he would show me a plan of the Washita country. Some few days after this I went over to the island. Mr. Blannerhasset was at home, but engaged with some gentlemen who were there. He made no further communication to me, seeming to doubt whether I was seriously disposed towards his plans. I stayed only a few minutes. I do not recollect that I have omitted a part of the conversation with him. When he said that Generals Wilkinson and Jackson were going to join with their troops, I asked him what this was for—if for the settlement of lands, they surely were not necessary. He said that there were a great many Indians and Spaniards in that country, who they must go prepared to resist.

I had no further conversation with him till the 9th or 10th of December, when he sent a servant to know whether he could get three or four horses to ride to Marietta. I said that he might have all that I had. About twelve o'clock in the day several gentlemen came—among them were Mr. Blannerhasset, Mr. Tyler, and I think Mr. Smith—there were six gentlemen. I understood they were going up the Muskingum after the boats. Some time in the afternoon they returned. They rode to the landing opposite the island, and sent the horses down. I understood, from flying reports, that they expected opposition, and had returned. Hearing that they were to start that evening, I felt anxious to see their departure, and to find out their object. With two young men I went down to the river, found a skiff at the landing, and passed over. We landed just above where Tyler's boats lay, went to the house, into a large room where a number of men were collected around the fire, and Colonel Tyler among them. I told him that I understood they were about to start down the river. We walked out into the north wing of Mr. Blannerhasset's house together, and there a young man by the name of Bent observed to me that he understood from Mr. Blannerhasset I had some intentions to join.

Mr. Botts objected to this species of testimony. Did Mr. Blannerhasset hear of this conversation afterwards, and approve it? Witness. No.

Mr. Wirt. Who was in company with you? Witness. Mr. Tyler was.

Mr. Hay contended that a declaration made in the presence of one accomplice would bear upon all the rest.

Mr. Botts contended, that if this kind of testimony were admitted, it would be impossible to exclude any source of information or conjecture—newspaper statements or flying reports.

The Chief Justice observed, that, as he was sitting there in the character of an examining magistrate where the rules of evidence were not so inflexibly rigid as in a court of justice, and as Mr. Tyler was probably a party concerned, he was disposed to hear the testimony.

Witness. I replied, that when I knew the object of the expedition, and liked it, I would then determine; that Mr. Blannerhasset had been telling me a story about settling land, in which I did not place much confidence. Colonel Tyler observed that it was a fact they had made the purchase, but that they had other objects in view. I told him that I had my own opinion on the subject; that I supposed their operations lay towards Mexico. If they were, I felt strongly disposed to be friendly towards them. There was at that time a strong talk about a Spanish war. He observed that I was not much mistaken in my opinion. I told him, that since the subject was first mentioned to me by Mr. Blannerhasset, I had been at some pains to examine the geography of that country; that I found the people there very numerous, and that this handful of men would not be able to make any impression on them. Colonel Tyler observed, that with five hundred well-armed and well-disciplined men, he thought they would be able to effect it. I asked him if they had attended to the different routes through that country? He observed, perfectly; they were acquainted with every cow-path in that country. He said they were not going for plunder or rapine, but to relieve the distressed inhabitants of Mexico, and that they had been invited for five years past. I think I observed then, (although I am not very positive in the expression,) that if that was their object, and they would avow it, they would get three men to join them for one that they got now. I think his answer was, that it was not politic that their military movements should be divulged, or, that their object should be known to any but their leaders; that the Spaniards would get information of it, and fortify themselves.

The conversation closed here. I wished them success in their enterprise, and told them, that if I thought proper to join them, it would be at some point down the river: I was not then ready. Col. Tyler withdrew into the chamber. Mr. Blannerhasset observed, that they were going to start that night; that the Legislature had passed a law which he thought unconstitutional; that he did not apprehend an arrest, but on account of the delay. He said something about his going; that he was sorry, after living so long among us, to be forced to go down in the night, but he was afraid of delay—he was afraid of being stopped; and, the season was so far advanced, the river might freeze up, and he could not go down. About nine o'clock I bid them adieu, and left the island.

Cross-examined.

Mr. Botts. Did Blannerhasset and Tyler speak of a Spanish war as an event that would certainly take place?

Answer. They did. I think Colonel Tyler said there was a strong prospect of war, and, if there was one, he would be there ready to join in it.

Examination of Israel Miller.

FRIDAY, *August* 21.

Mr. Miller stated that he had arrived on the island between the 7th and 10th December last, in company with Colonel Tyler and Israel Smith, with four boats and about thirty-two men, with

five rifles and about three or four pairs of pistols, in all, that he knew of; that he had joined them at Beaver, and gone down with them to Blannerhasset island; and there he saw one blunderbuss and two pairs of pistols. He saw but one man running bullets.

Israel Miller.

MONDAY, *September* 21.

Mr. Hay. Were you at the mouth of Cumberland?

Answer. I was. I went down with Mr. Tyler from Pennsylvania.

Question. Had you any communication with Mr. Burr?

Answer. I was introduced to Mr. Burr by Mr. Tyler at the island opposite to the mouth of Cumberland. I never held any conversation with Mr. Burr.

Question. How many men were there at the mouth of Cumberland?

Answer. On the whole, between sixty and seventy. I am certain there were not one hundred.

Question. What did Mr. Burr say to the party on the island?

Answer. He said he had something to communicate, which he would take another time for.

Mr. McRae. How many boats were at the mouth of Cumberland?

Answer. I believe, ten.

Question. How many men in each boat?

Answer. There were seven in the boat I belonged to; I know not how many were in the others.

Cross-examined.

Mr. Burr. How many men went from Blannerhasset's island?

Answer. About thirty-one men.

Q. Were these men used to labor—to farming, or mechanics?

A. Most of them were fit for it. There were only a few of them not used to labor.

Q. Did they not do hard work?

A. They did.

Q. What arms did they bring from Blannerhasset's island?

A. I saw only one blunderbuss, one fusee, and a pair of pistols.

Q. How much powder?

A. I saw only a small keg.

Q. How many pounds do you suppose it contained?

A. About ten or fifteen.

Q. Were they not short of powder to kill game? Did they not very often come into your boat and borrow some?

A. They did.

Q. What kind of game?

A. Ducks and turkeys.

Mr. McRea. Do they kill this kind of game with bullets?

A. Yes.

Mr. Burr. If the gentleman had ever been in Kentucky, he would have known that it was considered inglorious there to kill a squirrel, or even ducks, with anything but bullets.

James McDowell.

FRIDAY, *September* 18.

Mr. Hay. Did you go as low as the Chickasaw Bluffs?

Answer. I did.

Q. What number of men were assembled at the mouth of the Cumberland river?

A. About one hundred.

Q. How many additional men joined them there?

A. I do not recollect.

Q. Did you see any boxes of arms?

A. No.

Q. Did you see any guns with bayonets?

A. I saw a few.

Q. Any pistols?

A. Six or eight pairs, and some rifles.

Q. Do you know of any men who joined them at Fort Massac?

Mr. Burr objected to this question. Fort Massac was in the Indiana Territory.

Mr. Hay. Did you see any powder?

A. Yes.

Q. What quantity?

A. A couple of small casks.

Q. Did you see any bullets, and what quantity?

A. I helped to run some myself, and saw one barrel about two-thirds full. I saw those bullets below Bayou Pierre.

Q. Did you see Blannerhasset and Smith?

A. Yes.

Q. Did this party seem to be under Burr's command?

A. They said they were Colonel Burr's boats and party. They regarded themselves as under his direction.

Q. Were there any other officers apparently under his command?

A. Yes. Colonel Tyler was an officer, and Mr. Blannerhasset seemed to be one; but not to have so much command as Colonel Tyler.

Mr. Wirt. Did you see any agricultural tools, such as ploughs and hoes, adapted to the settlement of lands?

A. Not any.

Q. Were there any families; that is, any men with their wives?

A. There were two families.

Q. Of what description of character was this party composed?

A. Principally of young men.

Q. Did they appear to be men accustomed to plantation labor?

A. Some of them appeared fit; but most of them seemed like gentlemen.

Mr. Hay presumed that it would not be departing from the opinion of the court if he asked a question concerning some transactions out of the United States which might serve to elucidate the state of the party at the mouth of Cumberland. Might he not, for instance, inquire whether the witness had seen any boxes of arms at Bayou Pierre? because it was perfectly fair to infer that, if they had not been subsequently received, they must have been with the party at the mouth of Cumberland river.

Mr. Burr. No precise inference can be drawn from that circumstance, because these arms may have been received into the boats below the line of Tennessee.

The Chief Justice thought it a proper question: if the acts attempted to be proved were done in the United States, evidence might be drawn from any place to prove them. But no evidence could be produced to prove an act that was not done in the United States.

Mr. Baker. This is really a strange mode of inferring circumstances by contrast. The witness says expressly that they were not at the mouth of Cumberland, and yet he is interrogated whether he did not see them at Bayou Pierre.

Mr. McDowell. I did not say that they were not at the mouth of Cumberland; I said only that I did not see them there.

Mr. Hay. Was there any fact to induce you to believe that there were chests of arms on board?

A. I did not see them; but they took in some boxes at Blannerhasset's island.

Q. Did they take in any boxes between the mouth of Cumberland and Bayou Pierre?

A. None.

Mr. Wirt. You say there were about one hundred men at the mouth of Cumberland river. Was there any accession to this party afterward?

A. It was increased before we got to Cole's creek.

Q. What was the total amount of the party?

A. There were about one hundred and thirty at Cole's creek.

Q. Was there any application to you to join them?

A. Mr. Blannerhasset applied to me.

Q. In what manner?

A. He asked me to go along with him; but I said I did not wish to go without knowing where they were going. He was at me two or three times. He said that many men were going without knowing any more than I did. I told him I had very little in the world, but that I did not wish to leave it in that way.

Mr. Burr here interrupted the examination. He observed that the counsel for the prosecution were bound to prove the overt act first; that there was no impropriety in producing circumstances explanatory of the overt act; but how could these conversations between other persons, and held in his absence, contribute to establish this act; or how could they affect him?

Mr. Hay contended that these circumstances might contribute to show the intentions of the party and the character of the enterprise.

The Chief Justice considered this as admissible testimony. If the counsel for the prosecution charge a military assemblage at the mouth of Cumberland, they were at liberty to produce every circumstance explanatory of the nature of the assemblage. He considered conversations among the men themselves at the mouth of Cumberland as admissible, because they contributed to show the nature of the expedition; and why should not conversations that were afterward held be as explanatory as those which were there maintained? The charge, too, was not confined to the mouth of that river, but was extended to any place below that which was in the limits of the United States. It is, then, immaterial where these conversations passed, because they make a part of the transactions at the places actually charged.

Mr. Botts objected that these conversations were not held within the United States, because the jurisdiction of the Mississippi had never extended beyond the margin of the Mississippi. Some conversation here ensued, when Mr. McDowell was dismissed, and William Love (the quondam groom of Blannerhasset) was called into court.

James McDowell, again called in.

MONDAY, *September* 21.

Mr. Hay. How far did your evidence go on your former examination?

Mr. Wirt. The court stopped him within the limits of the United States.

Mr. Hay. Do you recollect anything that passed after you left the mouth of Cumberland?

The witness replied to successive interrogatories, that he saw eight or ten arms in the boat which he sat out in, the boat of Captain Tyler and Major Smith; that he saw guns, but not so many, in the other boats; that Colonel Tyler was the captain of that boat; that he thought there were about one hundred and thirty men at Cole's creek; that at a little bayou below Bayou Pierre, the boats stopped and Colonel Burr got out; he knew nothing of clearing ground for exercising the men; he did not see the boxes opened; that some of the boxes were four feet long and some six; that they were heavy, and he could not lift them; he saw six or seven boxes; that a few miles below Cole's creek, they went up on a hill, and formed a circle; Colonel Burr told them he was a thorn in their side, so long as he remained with them; that he had been taken from them two or three times; he had been carried on his trial to Washington; and that he was now about to leave them; he told them what was his was theirs, (alluding, as the witness supposes, to his property;) and that they might go on and settle the Washita country which he had purchased.

Cross-examined.

Mr. Burr. Did you see General Wilkinson at New Orleans?

A. I do not know whether I saw him.

Q. Who invited you to come here?

A. I was summoned in Pennsylvania.

Mr. Blannerhasset. Do you recollect being in Dean's boat?

A. I do.

Q. Do you not recollect that its roof was leaky? A. I do.

Q. Do you not recollect that I expressed some fears lest the leaks should injure my boxes?

A. I do not recollect.

Examination of Jacob Dunbaugh.

SATURDAY, *September* 19.

Mr. Hay. Will you describe the situation of the party at the mouth of the Cumberland river?

Witness. Am I to be confined to the Cumberland river?

Mr. Hay. You may go down to the Chickasaw Bluffs.

Mr. Botts. Go down to the Mississippi river, and whether you are to go further the court will instruct you.

Some desultory conversation here ensued on this point, after which the witness proceeded.

On the 26th December, 1806, very early in the morning, a small skiff, with four men and a Mr. Hopkins, arrived at Fort Massac. Some time after the arrival of this skiff Captain Bissel, (commanding at the fort,) detailed me for command to go to the mouth of Cumberland river to purchase a beef for him.

Q. What were you?

A. I was, and am still, sergeant in the Army of the United States. He told me I was to call on Colonel Burr with his compliments; and if Col. Burr wanted my assistance, that I was to furnish it. Captain Bissel told me this Mr. Hopkins, who came in the skiff with four men, was going up with me. When we got half way up the Cumberland river, we stopped, and I asked Mr. Hopkins his business at Fort Massac, and he said it was to ask Captain Bissel whether he would oppose Colonel Burr's passing by the fort? I got to the mouth of Cumberland, about half an hour before sunset on the 26th December, and landed; Colonel Burr was then encamped on Cumberland island. After I had crossed over to the island, I saw Colonel Burr, and delivered Captain Bissel's message. Colonel Burr said he was much obliged to him, and that Captain Bissel was very good; Colonel Burr asked me, "is not this my old friend?" I had seen him before. He said he believed I drank no brandy, and asked me if I would not have a glass of wine? When I drank I said, "here's success to Colonel Burr and his undertaking;" and Mr. Blannerhasset (this was the first time I ever saw him) stamped his foot and said "Amen." Colonel Burr told me I must take breakfast with him next morning; I replied that I would. On the 27th, I saw Colonel Burr, and told him I was going to the garrison. He told me to bear his compliments to Capt. Bissel, and asked me if I could take a barrel of apples to him; I told him I would. While they were getting the apples on board, the wind sprung up very fresh, and I was not able to start. In the course of that day I crossed him several times over to the Kentucky shore, and several of his men. During that day, Colonel Burr asked me how I would like to go down the river with him? I replied very well, if I could obtain the consent of my General; he said that would make no odds; he would fix it without. This was on the 27th, and on the 28th I called on Colonel Burr, and told him I was going to Fort Massac; he sent his compliments to Captain Bissel, but said he expected he would get there before me; I told him that he might man his barge as well as he could, I would arrive there before him. I arrived in the garrison some time in the afternoon.

Mr. Botts. There you may stop. It is impossible to progress without running into some impropriety, unless we ascertain the limits within which the witnesses are to be confined.

Mr. Hay observed that he did not mean to prove any acts at Fort Massac.

After some conversation, the examination proceeded.

Mr. Hay. Did you see any military parade?

A. I saw the men drawn up at the mouth of the Cumberland.

Q. How many men?

A. I did not count them; but I suppose there were about one hundred.

Q. What kind of men?

A. Generally, young men.

Mr. Wirt. Did they look like hard laborers?

A. The principal part did not.

Q. How drawn up? Were they drawn up in a line?

A. No; they were drawn up in three wings.

Q. What do you mean by three wings?—divisions?

A. [The witness here described their position, by drawing a figure on the floor with his foot.] They described three sides of a square; Colonel Burr was introduced by Colonel Tyler, beginning at the left; the party gradually fell in, and formed a circle.

Mr. Hay. How introduced?

A. He went round and shook hands with every man.

Mr. Hay. Did you not see some chests of arms?

Mr. Burr objected to this manner of putting the question.

Mr. Hay admitted he had put the question inadvertently; he merely wished Mr. Dunbaugh to state what he knows of the chests of arms.

Mr. Botts. State what you know of any chests of arms within the United States.

Witness. I did not see more than a few rifles at the mouth of Cumberland.

Mr. Hay. I think the court yesterday decided that we were at liberty to state any circumstances out of the United States, which were explanatory of the acts done within the United States.

On this topic a long and desultory discussion ensued. The Chief Justice at length decided, that if an overt act be laid at the mouth of the Cumberland river, if a military assemblage was said to be *there* assembled, that evidence beyond the limits of the States might be produced to show the military attitude of the party; that, with respect to this particular question, if the witnesses could show that no other arms were put on board, and if certain arms were put on board at a certain place, it was some presumption that these arms had been at the mouth of Cumberland river; and that he understood it was the intention of the prosecution to show that this party were in such a state at such a place, that they might be able to infer that the party were in a similar state at the mouth of Cumberland. In this point of view he conceived that such evidence was admissible.

Mr. Hay. State, then, Mr. Dunbaugh, what you know on this subject. Did you leave Fort Massac with Colonel Burr?

A. I overtook him at New Madrid on the first of January.

Q. Did you then go down the river with him?

A. Yes; in his own boat.

Mr. Wickham repeated his objections to this kind of evidence. How was the witness to know whether arms might not have been subsequently put on board the boats? He was not always in Colonel Burr's boat, nor was Colonel Burr's boat with the rest. Can this be good testimony?

Chief Justice. The attorney is to show that hereafter; he is to show that there was no connexion between the boats and the shore.

Mr. Wickham. But suppose he has no testimony to that effect?

Chief Justice. Whether arms were subsequently introduced is a mere matter of inference, dependent on the whole of the evidence on both sides. It depends on a variety of circumstances, such as the situation of the shore and the country, &c.

Mr. Hay. State, then, Mr. Dunbaugh, what you know about the arms on board the boats.

Witness. Some time in January we left Bayou Pierre, and descended to Petit Gulph, three miles below, on the opposite side; Colonel Burr went ashore, and returned to the Petit Gulph; the boats all shoved off at once; Colonel Burr's was rather behind. The night we left Petit Gulph, Colonel Burr, and Wylie went into the bow of the boat for an axe, auger, and saw; they went into Colonel Burr's private room and began to chop; he ordered no person to go out, but I did go out; I saw a skiff lying aside of Colonel Burr's boat. After they had done chopping, a Mr. Pryor and a Mr. Tool got out of the window; I got on the top of the boat, and saw two bundles of arms tied up with cords, and sunk by cords going through holes at the gunwales of Colonel Burr's boat; I observed to Mr. Pryor that he must be careful to bring up the boat, or else it could not get close to shore.

Mr. Hay. How many arms were there?

A. There were about forty or forty-three stands I saw, besides pistols, swords, blunderbusses, fusees, and tomahawks.

Mr. Wirt. Is not the coast opposite to New Madrid a part of Tennessee?

A. No; it is the Indiana Territory.

Q. Were you on board any of the other boats?

A. Several.

Q. Did they keep together?

A. They did when they could.

Q. Did you see arms in the other boats?

A. I saw several stands of arms, that is, muskets with bayonets, in Floyd's boat, and about twelve rifles.

Q. Were you near enough to Colonel Burr, at the mouth of Cumberland, to hear his observations to his party?

A. I was; he said there were too many bystanders to divulge his plans.

Q. Were any men obtained, after you joined them?

A. One, who got aboard at New Madrid.

Q. Were you commissioned by Colonel Burr to obtain men?

A. No; not citizens.

Q. What do you mean by the word "citizens?"

Here Dunbaugh was stopped by the opposite counsel, and his examination proceeded no further on this day.

Conclusion of Jacob Dunbaugh's evidence.

MONDAY, *September* 21.

Mr. Hay. State what passed between Colonel Burr and yourself, about your getting people to join him?

Witness. I stopped before with saying that Colonel Burr had not spoken to me to engage citizens, but he had spoken to me about soldiers. On the 30th of December, after Colonel Burr had obtained Captain Bissel's consent for me to go with him, I went to Colonel Burr, where he was encamped, about a mile or two below the garrison at Fort Massac, on the Indiana side; Colonel Burr asked me into his cabin, (a private room he had,) and asked me if I could get ten or twelve of the best men in the garrison to go along with him; I asked him how it was to be done; he said, "get them to desert;" I told him no; he asked me if I could not steal out of the garrison arms, such as muskets, fusees, and rifles; I told him that I would not, if I could, for him or any other man on earth; that I had always been well treated by the officers of the army; I told him that I had a rifle of my own, and he told me to bring it with me, and he would pay me for it. I started then to the garrison and prepared myself to go; that was, after Colonel Burr had obtained liberty of my captain.

The counsel for the accused contended that this kind of testimony was not at all relevant, to the subject. After some discussion, the examination proceeded.

Witness. At the mouth of Cumberland, Walter Davidson engaged a man by the name of Casey.

Q. On what terms? Witness. I do not particularly recollect.

Q. How do you know that Davidson was the agent of Colonel Burr?

Witness. He belonged to the party, and told me he was agent for Colonel Burr.

The substance of the engagement was, he was to receive $12 50 per month for six months, clothes and victuals for six months, and one hundred acres of land, to fight against all opponents. This Mr. Davidson, Plumb, and Andrew Wood, were sent to New Madrid to enlist more men.

[The witness here returned to that point in his narration at which he had been interrupted on his former examination.]

When I returned to Fort Massac, on the 28th December, I gave Colonel Burr's compliments to Captain Bissel, and told him that Colonel Burr had sent him a barrel of apples. The next day (29th) this Mr. Davidson, Plumb, and Andrew Wood, came to the garrison very early in the morning, in a skiff; this was the time when they told me they were going to enlist more men for Colonel Burr. They bought a skiff of me, that was left with me to sell by a Mr. Cutler, a surveyor; their own skiff was afterwards carried off by Colonel Burr's party. That evening, after sundown, a barge

came down to Fort Massac with twelve men in it; Colonel Tyler and Major Hill were in it, and I think also Major Smith. They went up to Captain Bissel's quarters, where they stayed about twenty minutes, and I then heard Colonel Tyler tell the boat's crew to return to where Col. Burr was encamped, with some other instructions that I did not hear. Between twelve and one o'clock that night Colonel Burr's boats passed by the fort, and landed about one or two miles below the garrison. [*Mr. Hay.* How many men were then in the garrison? A. forty-four men. Q. Was that the usual complement of men? A. No; some of the troops had gone to Newport, and some to other places. Q. Was there any artillery? A. None. Q. How wide is the river at that place? A. about a mile wide.] Next morning Captain Bissel told me to get six men, with the Clinker boat, to take him down the river a small piece. While the men were getting ready, a Mr. Fort, (perhaps his christian name was John) who had been lying there several days, asked me how I would like to go along. I told him I should like it very well, if I could get leave to go. He told me he had been speaking to Captain Bissel the evening before, and that Captain Bissel had consented to let me go. While the boat was getting ready, Captain Bissel, Colonel Tyler, Major Hill, and I believe Major Smith, came down. Captain Bissel got in his own boat, the rest pushed off in the boat that had been lying there several days, and fell down in company with him to where Colonel Burr was encamped. Captain Bissel went into Colonel Burr's boat, and, while there, Colonel Burr asked him to let me go with him. I heard it, because though I was not in the same room, there was a thin partition between us, and I heard him ask Captain Bissel: I did not hear Captain Bissel's answer. Captain Bissel came out, got into his own boat, and, after going one or two hundred yards, we landed and walked up to the garrison. On 30th December, while I was in the military store, a man came in, who brought two letters from Colonel Burr; he gave Captain Bissel one, and the other to me. Captain Bissel went out, and after I had done in the store he called me, took me through the sally port to the back of the garrison, and asked me whether Col. Burr had been speaking to me about the furlough. I told him no. He asked me whether I wanted a furlough to go. I told him, with his approbation and advice, I would take one. Captain Bissel said he would not advise me, but if I wanted one for twenty days, he would give me one. He told me before the twenty days were out I should see the General. He asked me if Col. Burr had told me any secrets, if he had, that I must keep them to myself. I accepted of Capt. Bissel's offer, and he told me to get ready to go with Col. Burr. I then went and saw Col. Burr, and the conversation passed about the men and arms, which I have already related. That evening (on 30th Dec.) Capt. Bissel sent for me to his quarters, and told me he was going to advise me what I was to do; he advised me never to forsake Col. Burr; that he would do something for me; he told me that if ever Col. Burr got on a field of battle never to leave him on the ground: at the same time he made me a present of a silver breastplate. That evening I went to Captain Bissel's for my furlough; he gave me a furlough, with a letter to General Wilkinson, to be delivered by Col. Burr. Col. Burr had then started, and I was to give him the letter as soon as I overtook him. On the 31st December, being the day for muster and inspection, I asked Capt. Bissel if I was to show my clothing; I said they were all packed up and on board. He told me I must borrow some for inspection; which I accordingly did, agreeably to his orders. While the men were on parade, I went to his lady's quarters to take my leave, and, on my return, Capt. Bissel having brought the men to a ground, he told me, "Dunbaugh, I wish you success, let you go where you will." I wanted to see Dr. Tuttle before I went, and Capt. Bissel told me if I had no particular business I had better go on, and if any one asked me where I was going, I was to say I was only going a few miles down the river, and that I was coming back again. There was one of Col. Burr's boats with eight hands to take me to him.

We overtook Colonel Burr, on the 1st January, at New Madrid. I handed him the letter for General Wilkinson, and he broke it open. I told him the letter was for General Wilkinson. He asked pardon, took me into his cabin, and sealed it up. I asked him what boat I was to go in, and he said, in his own, as its accommodations were better than in any other. We left New Madrid about 11 or 12 o'clock that day, (the 1st January.) Andrew Wood remained at New Madrid, and Plumb and Walter Davidson, who had been sent on to enlist men, got on board the boats, and Mr. Hopkins was left in their places to enlist. After we got into the stream, a keelboat came alongside, and took Colonel Burr into another boat some hundred yards off. I saw him on the bow of that boat, giving some instructions, but I could not hear him. Major Floyd had charge of this keelboat and crew, and I understood they were instructed to be at Natchez in four days. When we got within forty-five miles of the Chickasaw Bluffs, Colonel Burr asked me if I would go ahead with him to Chickasaw Bluffs, in a small boat, as I was acquainted with the river. I told him I would. We got into a small boat with twelve more men, and he gave general orders to the other boats to follow on, so as to reach the Bluffs early next morning. We got there between 12 and 1 o'clock that night, (the 3d January.) After we landed, Colonel Burr told me I must go up to the garrison, and ask the commanding officer if he could not get quarters that night for himself and men. When I arrived at the garrison, I was conducted to Lieutenant Jackson's quarters; he returned his compliments, and said he would furnish them with lodgings. Col. Burr went up with some of his men and supped. The next morning, Colonel Burr asked me if I was acquainted with the men in the garrison. I told him I was. He asked me if I could not get ten or twelve of the best men to desert. I told

him I would not. He then said he would speak to them himself, and get two of the best men, and asked me to name them, which I did. [Upon being interrogated, the witness said there were nineteen men in the fort, few pieces of cannon, and the river about as wide as at Fort Massac.] Some time in the afternoon, I asked Colonel Burr if he had got the men to go with him. He said he had. Some time that evening, he told me that Lieutenant Jackson and the other men would follow in a few days. That day Colonel Burr employed a man (one Skinner) to run him some musket-balls. He run him six hundred, for which Colonel Burr paid him one dollar. He bought three dozen tomahawks out of the factory, which Colonel Burr distributed among his men—some he had helved. That day all the boats landed at the Bluff, and on the 15th they all started, except a small boat left for Colonel Burr. He soon overtook us, and got into his own boat. No one came from the garrison with him. We proceeded to a place called Palmyra, thirty-five miles above Bayou Pierre, on the 10th January. Colonel Burr again asked me if I would go down to Bayou Pierre with him.

Mr. Wickham asked the court whether the witness should proceed? How was this kind of testimony calculated to prove the overt act? How was it relevant to the charge? Was it not better for gentlemen to extract whatever they deemed material out of the witness by putting interrogatories?

Mr. Wirt. The witness was just coming to certain declarations of the accused, which directly related to the objects of this expedition; when he has arrived at Bayou Pierre, and is about to tell something that is important, he is stopped.

Chief Justice wished the attorney to put interrogatories.

Mr. Hay. Did you ever get out of Colonel Burr's boat to go into another?

A. Never, except at Chickasaw Bluffs and Bayou Pierre, when I went with Colonel Burr, at his particular request?

Q. Did you go ashore at Judge Bruin's? and state what happened there.

The counsel for the accused objected to this general interrogatory.

Chief Justice. Ask him whether anything happened there respecting this expedition?

Mr. Hay. Perhaps the witness may omit facts, because he deems them unimportant, which I may consider extremely relevant. Did anything happen at Judge Bruin's respecting a publication? and state what it was.

Witness. On Sunday, the 11th January, while we were three or four hundred yards from the shore, Colonel Burr told me to arm myself with a rifle, and conceal a bayonet under my clothes; he told me he was going to tell me something I must never relate again; he then told me that General Wilkinson had betrayed him; that he had played the devil with him, and had proved the greatest traitor on the earth. I told him I could not believe it, and asked him how he knew it; he said he had seen published in a paper a letter, which he had some time before written to General Wilkinson in ciphers; he mentioned that General Wilkinson had made oath to this letter before the court, or in open court, I do not recollect which; he then told me he was fearful of being injured or taken; that I must keep a good look out about Judge Bruin's. Colonel Burr went into Judge Bruin's to breakfast, and I went into the cotton gin that was near the house; a boat came, and he told me to take a spy-glass and see whether it was his boat; I could not determine; he then directed me to go down, and, if it was his boat, to fire a musket.

Q. Where is Judge Bruin's?

A. About a mile and a quarter below Bayou Pierre.

Mr. Wirt. Where did he say he had seen the paper?

A. The paper had been handed by Judge Bruin to Colonel Burr the evening before.

Q. What was the conversation at Judge Bruin's?

A. Colonel Burr asked him if he had any papers; he handed him this paper, and, after reading it fifteen or twenty minutes, he rose up, and said he must go to the boats.

Mr. Hay. Did the troops from the boats land there?

A. Yes.

Q. With what view did the men go ashore below the mouth of Bayou Pierre?

A. They landed about two or three miles below, in the Louisiana Territory.

The opposite counsel objected to these questions, but were overruled by the court.

Mr. Hay. State what happened at the landing of the men.

Witness. Some days after the men landed, (they all landed.) Colonel Burr ordered ground to be cleared for a parade ground, for the purpose of exercising the men; I never saw the ground myself, nor the men exercising. Some of the men, however, are here; Dr. Menholland is one of those men who assisted in clearing off the ground. There was a guard of twelve men paraded at this place; Wyllie, for one, had a rifle and sword.

Mr. Wirt. Were there any Indians at that place?

A. None.

Q. What produced this guard?

A. They understood that the militia were coming to take Colonel Burr, and these twelve men were placed to alarm the boats.

Q. Was this before or after sinking the muskets?

A. It was before.

The witness, upon being further interrogated, deposed: That a Mr. Lemaster had taken out of a hogshead, then in Mr. Blannerhasset's boat, a barrel of potatoes, with which he said he was going to fill the box of arms, so as to make it appear like a box of potatoes; that he was asked, in the presence of Colonel Burr, to go and help to clear the ground; that Colonel Fitzpatrick came to take an inventory of all the goods and arms that he could see; but that he did not see Colonel Fitzpatrick search for the arms.

Mr. Burr. Where was I all this time.

A. I know not, but I saw you handing two or three muskets out of the cabin window of your own boat into Mr. Blannerhasset's boat. The witness further stated that the arms which were sunk were sunk between Petit Gulph and Cole's Creek; that Colonel Burr was looked upon as the commander-in-chief of the expedition; that, in the night, his boat was distinguished by two lanterns, placed one above another, whereas the rest had but one; and that in the day time, handkerchiefs were hoisted in some of the boats, by way of flag.

Cross-examined.

Mr. Burr. You say your furlough was for twenty days?

A. It was.

Q. After the expiration of this furlough, were you not advertised as a deserter?

A. I was.

Q. Were you taken up.

A. I was not.

Q. When you got to Baton Rouge, did you write to General Wilkinson?

A. I did.

Q. What did you write?

A. That my furlough had been taken from me; and that, if he would send me a furlough or a pardon, I would come on in three days.

Q. Did you promise to give any information against me?

A. I did not.

Mr. Wirt observed that he was authorized by General Wilkinson to say that he had the original furlough given by Captain Bissel.

Mr. Martin. Did he send you a pardon?

A. General Wilkinson wrote to me to come down.

Q. Have you that letter?

A. No; it was taken from me at Baton Rouge; Governor Folk has it at this moment.

Q. Did you write to Captain Bissel?

A. I did; I mentioned to Captain Bissel that, as both of us might be injured by this transaction, if he would say that he had sent me as a spy, it would clear both him and myself.

Q. When were you discharged from the army?

A. I was not discharged in 1805, when I travelled with you.

Q. Why were you discharged? Show your hand to the court.

A. There is my hand, (one of the fingers appeared to have been injured;) I can show my discharge; I procured a substitute, and many have liberty to procure them.

Mr. Hay. Hand me the discharge. [The witness accordingly presented it.*]

Mr. Burr. Did you come round with General Wilkinson?

A. I did.

Q. Were you subpœnaed?

A. I did not know I was.

*The discharge states that, "having served three years and six months, and being permitted to procure a substitute in his place, J. D. is hereby discharged."

Q. Who requested you to come round from New Orleans?

A. I came by request of General Wilkinson.

Q. Did he say for what?

A. He said as a witness.

Q. You gave a deposition in New Orleans?

A. Yes.

Q. At whose request?

A. At General Wilkinson's.

Q. When I came down the Mississippi in 1805, by whose orders did I have the men?

A. I thought by General Wilkinson's.

Q. Had they arms?

A. I think not.

Q. Had they colors?

A. They had, and they were flying every day.

Q. Did you not tell me you expected your discharge?

A. Yes.

Q. Do you not know that the soldiers at Chickasaw Bluffs wanted to go with me, and I refused them?

A. I recollect that you wanted me to get them to go, but I refused.

Q. Did you not tell me that some of them wanted to go?

A. I mentioned one or two.

Q. Did any go?

A. No.

Q. Why?

A. You told me that the lieutenant and all would follow in a few days.

Mr. Wirt. This previous voyage you took the year before. Were they not troops of the United States?

A. They were.

Q. These soldiers; were they going where their company was?

A. The whole company were going to New Orleans; and this barge, with ten men, was sent on ahead.

Q. And this flag belonged to them?

A. It did.

Mr. Wickham. Were they regimental colors?

A. They were colors made for the barge.

Chief Justice. Did you tell Captain Bissel that Colonel Burr had applied to you to get the men to desert?

A. I did not.

Mr. Wirt. Did you not reject the proposition?

A. I did.

At the request of the Chief Justice, the witness here described the particular manner in which the arms were sunk. He said that they were so deep in the water as to prevent the boat from going within fifty yards of the shore. He also related his visit to Judge Bruin's, where Colonel Burr got the newspaper. He also stated, at the request of the court, the contents of his letter to General Wilkinson; that if he would send him the furlough, which Lieutenant Rodney had taken from him, or a pardon, he would be there in three days. General Wilkinson informed him that he had behaved very wrong in leaving the man he was going down with; but if he would come down, he should not be molested.

Mr. Wirt. Where did the party break up?

A. A few miles below Cole's creek.

Q. How far is Cole's creek from Bayou Pierre?

A. About twenty-five miles.

Q. When was it that this parting speech was made at Cole's creek?

A. About the 6th or 7th of February.

TUESDAY, *September* 22.

Jacob Dunbaugh was re-examined. He stated there were two keels and four batteaux; that Mr. Burr had told him, between Chickasaw Bluffs and Bayou Pierre, that his first object was to seize Baton Rouge, and make that his home until he could collect his forces, which he expected would amount to 10 or 12,000; he stated that Mr. Blannerhasset told him that Governor Folk, of Baton Rouge, would order the men to take the flints out of their guns; he said that some of the men went up the Red River.

Upon being cross examined, he stated that he had made a deposition at New Orleans at the request, but not compulsion, of General Wilkinson; that he was well acquainted with the construction of batteaux; that they could go up the stream, and that they were built for that purpose.

Evidence of Stephen S. Welch.

MONDAY, *September* 21.

Q. Were you at the mouth of Cumberland?

A. I was. I only joined there. I was there with a load, and Captain Berry wished me to join and go down the river to make a settlement, for that it was advantageous to young men. I said that I had no incumbrance; and, being a single man, I was willing to go.

Q. Who is Berry?

A. John Berry, a man I met there.

Mr. Burr. He was called captain of the boat.

Witness. He was appointed captain of the boat I went in. I agreed to go down. The proposition made to me by Captain Berry was to settle the Washita country; to have a certain portion of land, besides other compensation.

Q. What was it?

A. Captain Berry offered me ten dollars a month; but I said I was not for hire, and, as I was a young man, would go as a volunteer.

Q. Did you descend the river with them?

A. Yes.

Q. Do you recollect hearing any conversation from Mr. Burr to Mr. Floyd, on the subject of arms?

A. I do not.

Q. Did you go to Bayou Pierre?

A. I did, and also to Natchez.

Q. What became of Mr. Blannerhasset?

A. I think he went down to Natchez with us. I think that the boat with his family aboard was struck on the point of an island above Natchez, and that I assisted to get her off. I did not see Mr. Blannerhasset there, but I was told that he went to Natchez.

On being further interrogated, the witness deposed that he was on the piece of ground cleared for exercising; that he was stationed there with sixteen or seventeen others as a guard to watch the boats, about 200 yards from it; that the boats were then on the west side of the Mississippi; that he understood, as the reason of this arrangement, that militia were expected to come and carry the boats to Cole's creek; that the orders of the guard were to let no one pass to the boats without giving the countersign "look sharp;" and to fire if any one attempted to pass, not with an intention of hitting them, but as an alarm to the boats; that a Mr. Noland from Berry's boat gave the orders, but he knew not who gave them to him; Noland was sometimes styled lieutenant, and sometimes ensign; that sentinels were placed out, who were relieved every two hours through the night, till daylight; the guard were not.

Q. Were you ever better informed about the object of this expedition? The witness said he had not been from those who had any authority, or who he supposed were better informed than himself; but there was a talk among the men that they were going to take Baton Rouge.

Q. Why did your impressions change?

A. The witness said, that he did not know who was the first person that started such a conversation, but that *he* had first heard it from two or three, or more, who were talking in the bow of the boat; that he came forward and heard it; that it was further said that they were going to drag the men to Florida. Some of them were very much scared at the time. He further said, that there were somewhere about one hundred men at the mouth of Cumberland; that they had no agricultural tools, no ploughs, hoes, or harrows, except edged tools, to fell timber; that the search made by Captain Fitzpatrick was at the bayou below bayou Pierre; that, being only in one boat when it was searched, he does not know whether the search was a fair one; that he never saw, but did hear, that arms had been sunk and concealed; that he saw, not heard, of the stopping a leak produced by two auger holes and ropes in the back part of the gunwale, in the cabin occupied by Mr. Burr; for that Mr. Pryor being unable to stop the leak, he had called him, and he had stopped it.

Cross-examined.

Mr. Burr. Did you know Dean's boat?

A. It sailed with us in company from the mouth of Cumberland: but I do not certainly know whether it was connected with us.

Q. What became of Boyce's boat?

A. It went down to Natchez.

Mr. Wirt. Who dismissed you from this party?

A. When the boats were stopped, and the eruption took place, I went down to Natchez.

Mr. Wirt. When Colonel Burr left the party, was there any ceremony of parting? any speech?

A. He did speak to them. He said he would have to leave them until he could see them again. I think he said his property was to be distributed among them.

Q. Was anything said about wages; about the means of paying them?

A. I do not recollect.

Mr. Burr. How did you come round from New Orleans?

A. I came with General Wilkinson.

Q. Were you subpœnaed?

A. I was.

Q. Had you any communication with General Wilkinson?

A. Not until after I had received the subpœna.

Q. Did you receive any money there? any from General Wilkinson?

A. Yes. I received ten dollars from General Wilkinson, to help me to bear my expenses as a witness.

Q. Did you give any deposition there?

A. None but some statement of my evidence taken down by General Wilkinson; but I did not give my qualification to it.

Samuel Moxley.

MONDAY, *September* 21.

Mr. Wirt. Were you with this party?

Answer. I was.

Q. Where did you join them?

A. At the falls of Ohio.

Q. Were you at the mouth of Cumberland?

A. I was.

Q. In whose boat did you descend the river?

A. In Captain Berry's boat, which was built at the falls of the Ohio, and there joined the party. Major Floyd's boat also joined them there, besides a small batteau, which was not loaded with provisions, as the other two were.

Q. Did you not proceed down the river with the boats which came from Blannerhasset's island?

A. Yes; we were sometimes in company with them.

Q. How many men were at the mouth of Cumberland?

A. I suppose not more than one hundred.

Q. Did you see these men introduced to Colonel Burr?

A. I did not.

Q. Nor heard his speech?

A. I heard nothing about it until I got to New Orleans.

Q. Did you conceive that you belonged to this party?

A. I did.

Q. With whom did you make an engagement?

A. With Mr. Berry, of Indiana, twelve miles from Jeffersonville.

Q. What was the nature of that engagement?

A. To descend the Ohio and Mississippi, and to ascend the Red river, to settle the Washita lands. I was not certain whether these lands belonged to Colonel Burr or Mr. Lynch; but I supposed the latter. It was also stated that, should our frontiers be invaded by the Spaniards, we were to render every assistance in our power to resist them.

Q. How many arms were in your boat?

A. About eight or nine.

Q. How many men?

A. About sixteen.

Q. Were you at the bayou below Bayou Pierre?

A. I was.

Q. Did anything of consequence occur there?

A. I do not know what you may deem important.

Q. Were there any guards stationed there?

A. There were; and for this purpose the militia were said to be crossing the river above us in rafts, and the guards were to give the alarm.

Q. Was any ground cleared to exercise men?

A. There was ground cleared, but I do not know for what purpose.

Q. How large a slip?

A. About half an acre.

Q. To what purpose was it applied?

A. I know not; but the guard were stationed there.

Q. Was it that the guard might stay there?

A. I know not; but when it was cleared, I did not see the necessity of clearing it.

Q. What instructions were given to the guard?

A. I heard only from others, that, if any one approached, they were to fire two guns; and then the guard were to go off in a small boat.

Q. Do you think the object of this enterprise was to settle lands?

Mr. Burr objected to such inquiries. How could the mere opinions of a witness have any influence in a court of justice? Might not those opinions be formed from idle rumors? Gentlemen have substantially asserted that four-fifths of the people of this State have been duped by such false rumors. The same means of deception were used in Kentucky; but they were not so easily duped as the gentleman represents the Virginians to have been.

Chief Justice. Let the question be proposed in this form: Did you see anything in the party itself which induced you to think there was a different object?

A. I did not, before the arrival of the militia, when I began to entertain doubts of the object.

Mr. Wirt. Was there any part of your engagement about a service of six months?

A. We were engaged for six months.

Mr. McRea. What service?

A. I am not certain. We were to stay there to settle land; and it was supposed the settlement would be made in that time.

Q. What consideration were you to receive?

A. Ten dollars a month, and one hundred acres of land.

Mr. Wirt. Had you any manual exercise as you went down?

A. We had, on the roof of the boat, two or three times.

Q. The boats were roofed?

A. Yes, they were flat on the top; the exercise was of our own accord.

Mr. Hay. Did you see the same operation in other boats?

A. I did not.

Mr. Wirt. Did you see anything of the search by Colonel Fitzpatrick?

A. I was there. It happened at Thompson's bayou.

Q. Did Fitzpatricck see all the arms?

A. The muskets were taken from our boat before Colonel Fitzpatrick made the search.

Q. To what boat were they carried?

A. I know not; but they were taken out of ours.

Q. Do you know anything about the burying or conceaing of arms?

A. I do not.

Q. Do you know anything of holes bored in the gunwales of Colonel Burr's boat?

A. I do not.

Q. You were in your own boat, I suppose?

A. I was. We were at too great a distance from them to have seen any such occurrence.

Q. Do you know anything of it from public conversation among the men?

A. I understood that the arms had been concealed. I heard it talked of in the company of the men, by different persons, that they were tied to a sawyer;* also, that they were taken up the bayou and buried; and that they were concealed underneath Colonel Burr's boat.

No cross-examination.

Chandler Lindsley.

MONDAY, *September* 21.

Question. Where did you begin with your voyage?

Answer. I descended the river with Mr. Ellis. from Pittsburg.

Q. What was the object of the voyage?

A. Mr. Ellis called it a trading voyage.

Q. Did you join the party at the mouth of Cumberland?

A. I did.

Q. What do you suppose was the force at the mouth of Cumberland?

A. I should suppose that there were about seventy or eighty men. The circle, to which Colonel Burr was introduced, consisted of thirty or forty; and I should suppose they composed about one half of the whole.

Q. Did you stop at Cincinnati?

A. I did.

Q. Did you receive any information of the party there?

A. I heard that Colonel Burr had been there a day or two before, and had excited some consternation among the people there.

Q. Did you stop at the falls of the Ohio?

A. The water was low. and occasioned us to remain there two or three days.

Q. Was any of the party there?

A. Mr. Kibby was there, engaging men to settle Washita land.

Q. Do you recollect his Christian name?

A. I do not.

Q. On what terms did he wish to engage?

A. Mr. Kibby stated to us the articles of agreement. They were nearly the same as those which Mr. Moxley has described.

Q. Were there any signatures to the articles?

A. There were about ten or twelve.

Q. What were the terms?

A. It obliged them to go down the Ohio and Mississippi, and ascend the Red River to the mouth of Black River, and those waters, up to the Washita river; and it was annexed, that, if the frontier was invaded, they were to resist.

Q. Did you descend the Mississippi?

A. I went to Natchez with Major Floyd and Ralston, and about fifteen others, in a keel boat, purchased by Colonel Burr of Mr. Ellis.

Q. What was in the boat?

A. Bar-iron, hoes, mattocks, and a few barrels of apples.

Q. Do you know where the bar-iron and other articles were obtained?

A. Yes; they were purchased by Colonel Burr of Mr. Ellis, at the mouth of Cumberland.

Mr. Wirt. Was Mr. Ellis's being there accidental?

A. At the time Mr. Ellis was at the falls, Major Floyd talked of making a contract with Mr. Ellis for these articles: he did not, however, buy them, but told Mr. Ellis that he would see Colonel Burr on the river, and that he was confident that the Colonel would purchase the whole.

Q. Where were these articles from?

A. From Pittsburg.

Mr. Wirt. My object is to ascertain, sir, whether Burr's meeting with Ellis was in consequence of any previous arrangement between them, or the mere effect of accident. Can you inform me as to the point? Was Mr. Ellis's voyage preconcerted with Colonel Burr?

A. Mr. Ellis, sir, was on a general trading voyage.

Mr. Hay. How many of those articles were there?

A. I know not. Mr. Ellis has, I believe, an inventory of them; and he is here.

Mr. Wirt. Was Mr. Blannerhasset at the mouth of Cumberland when the tools were purchased?

A. He was.

Q. Was any proposition made to you to join the party? A. There was.

Q. Who made it?

A. Colonel Tyler asked me. I told him that if there was nothing hostile in their views, and there was a prospect of gain, I would join. He said if there was anything hostile, he would be as far from it as any man.

Q. Did you not join?

A. I did. I had a right to withdraw whenever I pleased. The greater part of Colonel Tyler's men were, I think, on the same terms.

Mr. Hay. Why did you make that reservation?

A. From the reports which were then in circulation.

Mr. Wirt. What were the terms?

A. I joined on the same terms as the other young men who were with him. Colonel Tyler told me he was going to settle Washita land, and those who went on first were at liberty to purchase land.

Mr. Hay. For what time did you engage?

A. I was at liberty to leave them whenever I pleased.

* A sawyer is the log of a tree, or a whole tree, fixed to one end in the bottom of the Mississippi, and plays up and down with the current, like a man who is sawing timber.

Mr. Wirt. Did you hear any observations from Colonel Burr at the mouth of Cumberland?

A. Only a few words. He said that he had intended to have communicated his designs at that place, but that certain reasons prevented him. I understood him to say that Colonel Tyler, Major Smith, and Floyd, would make those reasons known to us.

Mr. Wirt. Do you know anything of the transactions at Thompson's bayou?

A. I was not there.

No cross-examination.

Chandler Lindsley again called.

SATURDAY, *Oct.* 3, 1806.

Colonel Burr. Do you know whether Dunbaugh, after his examination, had an opportunity of seeing his deposition?

A. I recollect some time in June, he said he could recollect his affidavit given in New Orleans, *verbatim*. He said he had a copy of it. Some time afterwards he was in his chamber, and I was passing by or was in the same room with him, and I saw him on the bed with a paper in his hand. I asked him if it was a copy of his affidavit, and he said yes.

Q. Did you afterwards see it in his hand?

A. No.

Mr. Martin. At what time did you see him with that paper?

A. In the month of June, previous to his examination before the grand jury.

Mr. Hay. Where do you reside?

A. My former residence was in Connecticut.

Q. Where is it now?

A. I have not fixed the place, but expect to return to Bristol in Connecticut.

Mr. Wirt. Is that the place of your nativity?

A. Yes.

Examination of John Mulhollan.

MONDAY, *September* 21, 1806.

Witness. Do you wish me to state where I joined the party.

Mr. Hay. Yes.

Witness. I joined Mr. Tyler and Mr. Smith at Beaver, in Pennsylvania.

Mr. Hay. Was there any agreement between you, or what was your reason for joining them?

A. My first reason was, my meeting with a William Davis, from the back part of the State of New York. He said that he was going down with a party to see the country. I wished, too, to see the country, but Mr. Davis told me he could not engage me, but he would go to Beaver and mention me to Mr. Tyler. When Davis got to Meadville, he met with Major Smith, to whom he communicated my wishes, and informed him that I was at Waterford. Major Smith called on me at Waterford, presented me with Mr. Davis's compliments, and informed me that Mr. Davis and himself would be pleased to see me at Beaver. There I met with Mr. Tyler; he told me that he had an idea of going to the Red River to settle land.

Q. Did he mention Colonel Burr's name?

A. He did not mention his name while we were at Beaver.

Q. And why did you go?

A. I felt much disposed to see the country.

Q. Was there no particular contract made between you?

A. Not at that time.

Mr. Wirt. Was there any agency given you to engage men or provisions?

A. I was sent back to Waterford to hurry on salt for salting provisions that were expected at Beaver. I was also to engage what men I could; they were to find themselves in clothes and blankets.

Q. Did you engage any men?

A. Yes, several; about fifteen from Meadville.

Q. What terms did you hold out to those men?

A. They were to ascend the Red River.

Q. Were there no lands promised them? no compensation?

A. None.

Q. What instructions did you give them; or were they to go to Tyler?

A. They were to go to Colonel Tyler, at the mouth of Beaver, for such instructions as he thought proper.

Q. Did you receive any instructions as to the kind of men you were to engage?

A. None.

Q. As to the young or old?

A. I would not, of course, engage old men.

Q. Any with families?

A. Some with families did go; I was allowed to take any I thought proper.

Q. Did you go to Blannerhasset's island?

A. I did.

Q. Was it known at Beaver that the Marietta boats were to be of the party?

A. It was not. I knew that Blannerhasset was to join, but I believe the boat I was in would not have stopped at the island, had it not been grounded.

Q. Did Blannerhasset go with you from the island?

A. He did.

Q. Was there any difficulty about his going with you? was any vote taken?

A. Major Tyler and Smith asked us if we were willing that he should go with us; and we said we had no objection. It was mentioned among us, that he was under some apprehension of a mob arresting him.

Q. Was there any rumor or alarm among you about the militia of Kanawha or Wood county?

A. We had heard that there was a mob coming, and we were determined to resist them; but we should not have resisted the militia with legal authority.

Q. What do you mean by "legal authority?" do you mean that if they had a warrant from the civil authority, you would not have resisted?

A. Such was our meaning, but we would have resisted a mob.

Q. What do you mean by a mob?

A. If the mob had come, we should have asked for the authority under which they acted; and if

they had gone, they should have gone away without gaining their intentions.

Q. Was there any preparation made for resistance?

A. Not that I know of.

Q. Any bullets run?

A. There were; but they were to kill game and shoot at marks, which we frequently did on the river.

Q. Where were you joined by other boats?

A. By two of Mr. Floyd's, at the falls of the Ohio.

Q. Did you see any arms?

A. There were about thirty-five or thirty-six muskets or stands of arms, which I saw when we got to the Mississippi.

Q. Any arms of any other description, such as rifles?

A. There were three or four rifles.

Q. What particularly happened on going down the river?

A. At Shawneetown there was an address drawn up to the Washita or Western Land Speculation Company, tendering our services in any legal and honorable enterprise. This was signed by all of Tyler's party.

Q. Who formed that company?

A. There were no names mentioned in the address; but I considered Colonel Burr as one, though his name was not mentioned.

Q. Who drew up the address?

A. Major Tyler and Smith.

Q. Are the phrases "legal and honorable enterprise," repeated from memory?

A. They are.

Q. Was it presented by Tyler and Smith?

A. It was.

Q. How many signers were to it?

A. About thirty or thirty-two.

Q. Had you any assurance that the plan would be disclosed to you at the mouth of Cumberland?

A. None from those who had a right to be informed. Such, however, was the talk among the men as we went down.

Q. When you were at the mouth of Cumberland, were you introduced to Colonel Burr?

A. I was, on the 27th December. We arrived there on the 26th.

Q. What took place on this introduction?

A. Nothing particular.

Q. At this introduction, did the party form anything like the three sides of a square?

A. They did.

Q. Was he introduced along the line?

A. He was, to the men, one by one.

Q. After this ceremony, was there any speech from Colonel Burr?

A. I was not near enough to hear what he said, but I understood he said he would impart something at another time.

Q. Did you receive any instructions to run bullets and make cartridges?

A. One day, while we were in the Mississippi, Colonel Burr came into our boat, and asked whether there was any one there who could make cartridges? I told him that I had never made any, but I believed I could make them, and I made three or four dozen.

Q. Did Colonel Burr act as the head of the party?

A. I considered him as such.

Q. Did you understand that the real object was to settle Washita lands? A. It was so stated.

Q. Was there no occurrence or particular conversation which induced you to believe there was a different object?

Mr. Botts. Was there any conversation in the presence of Colonel Burr?

A. It was not a general conversation.

Mr. Hay. Is it a fact, or is it not a fact, that many of the men did suppose there was a different object?

A. I do not recollect, nor did I attend to them; because I did not suppose they knew more about it than myself.

Q. Do you know anything about the seizing of Baton Rouge?

A. I never heard it before we got below Bayou Pierre, and then there were some conversations among the men about it; but I did not hear it suggested by any person that there was any design of invading any part of the United States, nor did I ever hear anything from Colonel Burr, or any of the leaders, about invading Mexico.

The counsel for the accused said that it was unnecessary to make any statement on that subject.

Mr. Hay. The present inquiry relates as well to the misdemeanor as to the treason. —

Mr. Martin. We have never heard of such a charge before.

Mr. Hay observed that he had also reduced this charge to writing, and had notified its existence to one of the opposite counsel, though it had never been publicly read in court. The clerk then read the paper in the following terms:

"The attorney of the United States for the Virginia district charges Aaron Burr, Herman Blannerhasset, and Israel Smith, with a misdemeanor against the United States, in beginning, or setting on foot, or preparing, or providing the means of a military expedition or enterprise against Mexico, a province in North America of the King of Spain, with whom the United States are at peace."

Mr. Hay. It is immaterial, besides, whether this charge has been preferred; because, though the charge actually alleged is treason, yet if the other crime should occur during the investigation of the evidence, it is the province of the court to inquire into it.

Chief Justice. It would certainly be unnecessary to re-examine the same witnesses a second time.

Mr. Wirt. Did you then hear nothing of the Mexican invasion?

A. I did not, from any leading characters.

Mr. Hay. Who did you consider as the leading characters?

A. Colonel Burr, Tyler, Smith, Blannerhasset, and Floyd.

Q. Had you not been informed of the plan by the President's proclamation?

A. That did not reach us before we got to Bayou Pierre.

Q. Were you at Thompson's bayou?

A. I was.

Q. Do you know anything of the ground that was cleared for exercising the men?

A. I assisted in clearing it.

Mr. Burr. The witness does not, perhaps, attend to the question: Was this ground cleared for exercising the men?

A. There was a talk that it was for that purpose; but I do not know whether it was for that.

Mr. Wirt. Do you say that the men never exercised there?

A. Never to my knowledge.

Q. Do you know anything of the guard?

A. Yes. Some time in the afternoon, a young man came up the river in a canoe, and said there were four hundred militia, without any authority, coming to destroy the boats that night. This was told to Colonel Burr, and we determined to get out of their way, if possible. Major Floyd concluded to put out sentinels to give us information of their approach. The signal was to be the firing of a gun.

Mr. Wirt. I understand this bayou is below Bayou Pierre?

A. It is.

Q. I understood you also that you did not receive the President's proclamation before you arrived at Bayou Pierre?

A. I said that it had not reached us before we got to Bayou Pierre; but I am not certain whether it was there that we received it.

Chief Justice. Had you received the proclamation before the guard was put out?

A. I do not recollect.

Mr. Burr. Was it not afterwards?

A. I do not recollect; I heard that it was contained in some newspaper, perhaps in your boat.

Mr. Wirt. Do you know anything of the search?

A. I do; I was in our boat at that time. When Colonel Fitzpatrick came, Colonel Tyler lifted the curtain, and he was introduced. We did not change our posture.

Q. How many arms did he find there?

A. There were a couple of rifles belonging to a Mr. Lamb, and some pistols.

Q. Did you hear of the searching of the boats?

A. I did not trouble myself about them.

Q. Did you hear of the sinking of arms?

A. I did not.

Cross-examined.

Mr. Wirt. How many guns had you at Beaver?

A. Five rifles.

Q. Did you see any more guns at any other time?

A. I did not.

Q. Among the four boats that went from the island, how many?

A. Not more than five that I saw.

Q. Did you stop accidentally at the island?

A. I supposed so at first; but I afterwards understood that Colonel Tyler and Mr. Blannerhasset were connected.

Q. How much powder had you with you?

A. About twenty-five pounds.

Q. Did you not borrow from one another?

A. We did.

Q. Was the powder scarce among you at last?

A. It was.

Q. Was there any game killed?

A. I believe two deer were killed at the time we were at the island.

Q. Was there any disturbance on the island?

A. None.

Q. Had you any reason to believe that any of that party would have assisted in any unlawful design?

A. None.

Q. Did you see a printed report by Mr. Fitzpatrick?

A. No.

Q. Did you understand that the country was much alarmed there?

A. They were.

Q. And that the party was to be mobbed?

A. Yes.

Q. That they were coming on board at night with tomahawks and knives?

A. I do not recollect.

Q. Would not the militia have suffered extremely if I had not fed them?

A. I know that you sent over provisions to them.

Q. How many of them were there?

A. About seventy.

Q. Did you not understand that I had made a treaty with Cowles Mead, for the preservation of my people?

A. I did not know.

Q. Who sent us word that we must move down to the mouth of Cole's creek?

A. Major Fleehearty. The answer from Major Floyd was, that he must get more militia.

Mr. Burr. This was a piece of impertinence in Fleehearty; for it was after the stipulations entered into between Mr. Mead and myself. I was at that time fifty miles off, at Washington, Mississippi Territory, where I went to stand a trial.

Mr. Blannerhasset. Did you hear of any report about arresting me on the night I left my island?

A. I did hear something about it, but I believe it was not before the next morning.

Q. By whom? the militia?

A. No.

Mr. Hay. Did you not hear of an arrest by General Tupper?

A. I did not; but the morning after I left the island, Mr. Blannerhasset himself mentioned that he understood there was a writ or warrant to do it, and asked us if we were willing to take him along after *that* was out.

Mr. Wirt. Was Major Fleehearty a militia officer?

A. He seemed so, from his dress.

Mr. Burr. Was there not a good deal of talk about a Spanish war?

A. Yes. I saw a good deal about it myself in the newspapers.

Evidence of Hugh Allen.

TUESDAY, *September* 22.

Mr. Hay. Where did you embark?

A. I embarked at Beaver, with Major Tyler and Smith.

Q. On what terms?

A. Mr. Tyler and Mr. Smith told me they were going to settle lands; and whatever profits they shared I should share, I bearing an equal proportion of the expenses.

Q. How many men did you see at the mouth of Cumberland?

A. About seventy.

Q. Was that the whole party?

A. Perhaps there might be more. Mr. Tyler's party was about forty; and Mr. Floyd's about thirty or forty; so there were, in all, about seventy or eighty.

Q. How many men came with Mr. Burr to the mouth of Cumberland?

A. I do not know.

Mr. Wirt. Did Tyler's and Floyd's parties arrive there together?

A. We got there first, by a few hours.

Q. When did you arrive there?

A. On the evening of the 26th of December.

Q. Had Colonel Burr a party like Tyler and Floyd?

A. There were a number of boats there which I understood were Colonel Burr's.

Q. Did anything occur to change your opinion of the object of this enterprise?

A. The only ground of my ever changing my opinion was, when I understood that the Government designed to arrest Colonel Burr.

Mr. Hay. And do you think that men would have left the better part of the world to go and settle a wilderness? Why did you go?

A. I made my calculations on this subject; Mr. Tyler and Mr. Smith had said that the object was the settlement of lands which would be profitable.

Cross-examined.

Mr. Burr. How many guns were in your boats?

A. Five rifles, and one fusee gun.

Q. Did you get any more except at Blannerhasset's island?

A. None.

Q. Did you ever see muskets and bayonets in those boats?

A. Never.

Q. What was the construction of the boats? Were they able to get up the stream?

A. They were.

Q. Did you ever see any boats that could get up the stream with them?

A. I never saw the experiment tried.

Q. Do you know whether I had a single man at the mouth of Cumberland with me, except Dunnahue, the pilot?

A. I do not know him, nor how many were with you.

[Mr. Burr here stated that he had hired hands at Nashville to bring him down to the mouth of Cumberland.]

Mr. Burr. Were you present when I was introduced to the party?

A. I was; when you were introduced, you said you had intended saying something to us then, but for certain reasons of your own you had deferred it.

Q. Did I say that I had anything like secrets to disclose?

A. You did not.

Q. Had you any reason to suspect that any of the party meditated hostility against the United States?

A. Never.

Q. What do you call the captain of a boat? is it not every man who stands at the helm?

A. The way was to make him captain who is supposed to be the best waterman.

Q. How are new countries settled? Is it not the way to send a party on before, to explore it, and prepare for the reception of others?

A. I never settled a new country; but I suppose that is the way.

Mr. Wirt. Ay! that is an historical fact, for which we had better apply to the general records of nations.

Q. Did you see any powder on Blannerhasset's island?

A. I saw a quarter cask with about 25 lbs. of powder.

Mr. Burr. Did you use that continually on the river?

A. Those who chose did.

Q. Did you know of any more powder on board the other boats?

A. None, till latterly.

Q. Were there not some kegs of biscuit?

A. Yes.

Q. Were there any bullets in barrels?

A. All the bullets I saw were in canisters on Blannerhasset's island.

Mr. Wirt. Had you any reason to believe that you were going to New Orleans?

A. Not before I got to Natchez, when I determined myself to go down.

WEDNESDAY, *September* 23.

On account of Mr. Fisk's indisposition, the following deposition was taken and read:

The affidavit of David Fisk, of lawful age, who being first sworn before me, Daniel L. Hylton, a justice of the peace for the county of Henrico, saith: that some time in the month of September, 1806, a certain Davis Floyd, of the Indiana Territory, came to this affiant, and asked him if he did not wish to take a voyage down the river with him during the course of the fall or winter; that he was going to settle a new country, the Washita, on the Red river. This happened either the next day, or a few days after Colonel Burr had left Jeffersonville, the residence of the said Floyd. At that time this affiant did not tell him whether he would go or not; but about two or three weeks afterwards he did agree to go, the said Floyd having several times mentioned what a fine chance there would be for him; that they would not agree to give to any one man more than twelve dollars a month, and one hundred and fifty acres

of land at the end of six months, besides clothes and provisions; but as he and this affiant were well acquainted, if he would have confidence in him, he would do something very clever for him; and if they succeeded in their object, there would be fortunes made for all that went. This affiant asked what other object they had besides settling the Washita land. The said Floyd answered, that there was a new road to be cut a great distance, and several houses to be built, which would be a very profitable undertaking. No positive bargain was made between the said Floyd and this affiant. On the 16th of December, 1806, this affiant moved down the river from the falls of the Ohio, in the Indiana Territory, with the said Davis Floyd, with two boats and one batteau, which the said Floyd had built there. On the same day, just as they were about to start, they were joined by Herman Blannerhasset, Comfort Tyler, and Israel Smith, with four batteaux and a number of men; the exact number he cannot state, nor does he know the number that started with the said Floyd; but when the boats joined Colonel Aaron Burr at the mouth of Cumberland, (which was of a Saturday night, either on Christmas night or the first Saturday after Christmas,) he understood that the whole number of men, including those of the said Aaron Burr, were one hundred and three. After the boats had left the falls of the Ohio three or four days, he discovered for the first time, on board one of Floyd's boats, a chest and a box, the former of which, it afterwards appeared, contained muskets and bayonets, a few fusees, and blunderbusses and pistols; the latter rifles. A day or two afterwards, the said Floyd inquired of the men if they did not want, each of them, a gun to take care of; that he had some there which he was afraid would get rusty. The chest and box was then opened, and all the arms taken out and cleaned, and some of them occasionally used by the men in hunting as they went down the river. There were as near as he can judge, between twenty-five and thirty muskets with bayonets, two or three fusees, three or four blunderbusses, ten pairs of pistols, and about eight or ten rifles.

Some short time after the boats had joined Colonel Burr, and before they had got into the Mississippi river, while this affiant was lying sick on his trunk, he heard the said Floyd tell several of the men that they were going to take Baton Rouge and Mexico; this affiant asked how they were going to do it with so few men; the said Floyd answered, that a large party of men were to join us at Natchez, and General Wilkinson and his army were to join us at the mouth of Red river. Nothing of importance occurred till the boats got down to Bayou Pierre. A day or two before their arrival there, Colonel Burr took a boat and four or five men, and went on ahead, as this affiant understood, to do some business, which he expected to do before the boats got down. Floyd's boat, in which he went himself, and in which this affiant was, arrived there on a Sunday morning, and the other boats not till the evening. On our arrival, Col. Burr was standing on the bank of the river, about a mile above the town; some short time after the men from our boat went ashore, this affiant saw Colonel Burr and a certain Robert A. New, (who had the charge of Floyd's boat in his absence, he having then gone to Natchez,) talking together for some time. The said New then came on board our boat, and called all the men into it, and said he understood they were all going to be stopped, and inquired of them whether they would stand by Colonel Burr and go on, or quit. Most of the men were for going on, but two or three were for quitting. In the course of that day, this affiant mentioned to the said New that he mistrusted they were going on some unlawful scheme. He assured him that they were not, that nothing was going to take place but what was lawful and countenanced by the Government. After dark the boats were removed over to the other side of the river. This affiant inquired the reason of their being removed, and was answered by the said New, that there was a party of men coming to take them, and it was best for them to make their escape. The boats lay seven or eight days at that place, and then moved about six miles lower down. While the boats were lying there, they were searched by several military officers, by the permission of Colonel Burr; but the night before they were searched, all the muskets and pistols, except a few pairs belonging to individuals, were taken out; the rifles were left. This affiant never knew what became of the muskets and pistols; some of the men said they were sunk in the river, others that they were hid in the woods. One night, while the boats were lying at the place, a young man came and said there were three or four hundred men crossing above us, and many below us, and that we should all be taken. A guard was posted at some distance from the encampment on that night, but what their orders were this affiant does not know, as he was not one of the number. After our removal from this place, Colonel Burr went to the town of Washington to stand his trial; but it not coming on, he returned. He remained with the party one night, then went again to take his trial, and did not return till it was over. He remained with the boats one day, told the men that he stood his trial, and was acquitted; but that they were going to take him again, and he was going to flee from oppression. He said that what property there was the men might sell, and make the most they could of; and if there was not enough to satisfy them, they might go to the Washita land, and take up what land they wanted, and go to work upon it. The boats and provisions were taken to Natchez, and part of them sold, and part of the provisions stored which would not readily sell, and the money divided among the men. The boats were different in their construction from any this affiant had ever seen, rather larger than were usual on those waters, and such of them as were sold, brought seventy-five dollars apiece—the usual price of boats being from twenty to thirty dollars. But there was a great demand for boats at that time to freight cotton down the river.

Evidence of Hugh Allen.

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On account of Mr. Fisk's indisposition, the following deposition was taken and read:

The affidavit of David Fisk, of lawful age, who being first sworn before me, Daniel L. Hylton, a justice of the peace for the county of Henrico, saith: that some time in the month of September, 1806, a certain Davis Floyd, of the Indiana Territory, came to this affiant, and asked him if he did not wish to take a voyage down the river with him during the course of the fall or winter; that he was going to settle a new country, the Washita, on the Red river. This happened either the next day, or a few days after Colonel Burr had left Jeffersonville, the residence of the said Floyd. At that time this affiant did not tell him whether he would go or not; but about two or three weeks afterwards he did agree to go, the said Floyd having several times mentioned what a fine chance there would be for him; that they would not agree to give to any one man more than twelve dollars a month, and one hundred and fifty acres

of land at the end of six months, besides clothes and provisions; but as he and this affiant were well acquainted, if he would have confidence in him, he would do something very clever for him; and if they succeeded in their object, there would be fortunes made for all that went. This affiant asked what other object they had besides settling the Washita land. The said Floyd answered, that there was a new road to be cut a great distance, and several houses to be built, which would be a very profitable undertaking. No positive bargain was made between the said Floyd and this affiant. On the 16th of December, 1806, this affiant moved down the river from the falls of the Ohio, in the Indiana Territory, with the said Davis Floyd, with two boats and one batteau, which the said Floyd had built there. On the same day, just as they were about to start, they were joined by Herman Blannerhasset, Comfort Tyler, and Israel Smith, with four batteaux and a number of men; the exact number he cannot state, nor does he know the number that started with the said Floyd; but when the boats joined Colonel Aaron Burr at the mouth of Cumberland, (which was of a Saturday night, either on Christmas night or the first Saturday after Christmas,) he understood that the whole number of men, including those of the said Aaron Burr, were one hundred and three. After the boats had left the falls of the Ohio three or four days, he discovered for the first time, on board one of Floyd's boats, a chest and a box, the former of which, it afterwards appeared, contained muskets and bayonets, a few fusees, and blunderbusses and pistols; the latter rifles. A day or two afterwards, the said Floyd inquired of the men if they did not want, each of them, a gun to take care of; that he had some there which he was afraid would get rusty. The chest and box was then opened, and all the arms taken out and cleaned, and some of them occasionally used by the men in hunting as they went down the river. There were as near as he can judge, between twenty-five and thirty muskets with bayonets, two or three fusees, three or four blunderbusses, ten pairs of pistols, and about eight or ten rifles.

Some short time after the boats had joined Colonel Burr, and before they had got into the Mississippi river, while this affiant was lying sick on his trunk, he heard the said Floyd tell several of the men that they were going to take Baton Rouge and Mexico; this affiant asked how they were going to do it with so few men; the said Floyd answered, that a large party of men were to join us at Natchez, and General Wilkinson and his army were to join us at the mouth of Red river. Nothing of importance occurred till the boats got down to Bayou Pierre. A day or two before their arrival there, Colonel Burr took a boat and four or five men, and went on ahead, as this affiant understood, to do some business, which he expected to do before the boats got down. Floyd's boat, in which he went himself, and in which this affiant was, arrived there on a Sunday morning, and the other boats not till the evening. On our arrival, Col. Burr was standing on the bank of the river, about a mile above the town; some short time after the men from our boat went ashore, this affiant saw Colonel Burr and a certain Robert A. New, (who had the charge of Floyd's boat in his absence, he having then gone to Natchez,) talking together for some time. The said New then came on board our boat, and called all the men into it, and said he understood they were all going to be stopped, and inquired of them whether they would stand by Colonel Burr and go on, or quit. Most of the men were for going on, but two or three were for quitting. In the course of that day, this affiant mentioned to the said New that he mistrusted they were going on some unlawful scheme. He assured him that they were not, that nothing was going to take place but what was lawful and countenanced by the Government. After dark the boats were removed over to the other side of the river. This affiant inquired the reason of their being removed, and was answered by the said New, that there was a party of men coming to take them, and it was best for them to make their escape. The boats lay seven or eight days at that place, and then moved about six miles lower down. While the boats were lying there, they were searched by several military officers, by the permission of Colonel Burr; but the night before they were searched, all the muskets and pistols, except a few pairs belonging to individuals, were taken out; the rifles were left. This affiant never knew what became of the muskets and pistols; some of the men said they were sunk in the river, others that they were hid in the woods. One night, while the boats were lying at the place, a young man came and said there were three or four hundred men crossing above us, and many below us, and that we should all be taken. A guard was posted at some distance from the encampment on that night, but what their orders were this affiant does not know, as he was not one of the number. After our removal from this place, Colonel Burr went to the town of Washington to stand his trial; but it not coming on, he returned. He remained with the party one night, then went again to take his trial, and did not return till it was over. He remained with the boats one day, told the men that he stood his trial, and was acquitted; but that they were going to take him again, and he was going to flee from oppression. He said that what property there was the men might sell, and make the most they could of; and if there was not enough to satisfy them, they might go to the Washita land, and take up what land they wanted, and go to work upon it. The boats and provisions were taken to Natchez, and part of them sold, and part of the provisions stored which would not readily sell, and the money divided among the men. The boats were different in their construction from any this affiant had ever seen, rather larger than were usual on those waters, and such of them as were sold, brought seventy-five dollars apiece—the usual price of boats being from twenty to thirty dollars. But there was a great demand for boats at that time to freight cotton down the river.

Q. After the boats and men had joined Colonel Burr at the mouth of Cumberland, who appeared to have the command of the expedition?

A. It was generally understood that the expedition was under the command of Colonel Burr; but I do not recollect to have heard him give any orders, except as to the sale of the boats and provisions, after we were stopped; though I often saw him in conversation with Blannerhasset, Tyler, Smith, Floyd, and New, and supposed that he communicated his orders to them.

DAVID FISK.

HENRICO COUNTY, &c.

Sworn to before me, in due form, agreeably to law, this 22d September, 1807.

DANIEL L. HYLTON.

Question by defendant. How did you understand the number of men to be one hundred and three?

A. From some of the men; I never counted them. This included the men in all the boats at the island.

Q. How many men came with Colonel Burr?

A. I do not know, but not more than three or four, I believe.

Q. Do you include Dean's, Ellis's, and Boyce's boats? A. Yes.

Q. Where did the conversation with Floyd about Mexico and Baton Rouge take place? and was Colonel Burr, Blannerhasset, or Smith, present?

A. I do not recollect at what place it happened; but neither of the three gentlemen named above was present.

Q. Was Colonel Burr present when the boats were searched, or was he then at Washington?

A. He was with the boats.

Q. Did Blannerhasset have any command over any of the boats?

A. None, except his own boat, which was in company.

Q. Did you not at this time expect a war with Spain?

A. I did; it was the general expectation of the party.

Q. How did you understand Mr. Floyd as to Mexico and Baton Rouge?

A. I expected we were going on in the event of war, and that we should be joined by the army of the United States.

Q. Were you not told that, in the event of no war, you were to settle the Washita lands?

A. Yes; and, after we were stopped, Colonel Burr advised us to proceed and make the settlement.

SEPTEMBER 23.

The foregoing questions were put to Mr. David Fisk by the counsel for Colonel Burr, and his answers thereto sworn to in my presence, a justice of the peace for the city of Richmond.

ANDERSON BARRET.

Evidence of Alex. Henderson, of Wood county.

About the last of August, or first of September, 1806, Mr. Blannerhasset wrote to me that he and Mrs. Blannerhasset intended to visit my family in the course of a few days. On the day appointed he and Mrs. Blannerhasset came in company with my brother John. After taking some refreshment, Mr. Blannerhasset entered into some conversation about the severance of the Union; he mentioned the advantages that would arise to the people in the Western country from a separation; that we were paying three or four millions of dollars to the support of the present Government, when with one hundred thousand we might support a government of our own. He mentioned Colonel Burr's name, as a man of brilliant or splendid talents, as well as of great goodness of heart, (or some expression of that sort,) that he had made the fortunes of hundreds without at all advancing his own; he mentioned, as an instance, the Manhattan Bank and Company. This conversation took place before dinner. After dinner a walk was proposed to my mill. I objected to it, as I was weak, and not able to walk. Mr. Blannerhasset mentioned that I was as well able to walk as himself, and insisted that I should go along with my brother and himself. Shortly after we got into the meadow Mr. Blannerhasset mentioned that he had a great deal of confidence in my brother and myself. We assured him that we should not betray it, and that it was not misplaced. He then mentioned that, under the auspices (I think that was the expression) of Colonel Burr, a separation of the Union was contemplated; that no particular line of division had as yet been fixed on, whether it was to be the Allegany, or whether or not the South Branch of the Potomac; (I well recollect that he mentioned the rich settlement on the South Branch was to be included;) that New Orleans was to be seized; the bank or banks of New Orleans to be seized; that all the military stores in that country were to be seized; that a park of artillery, at or near New Orleans, which was said to belong to the French, (I think fifty pieces,) and which Mr. Jefferson was too economical to purchase, was also to be seized, and that country revolutionized in the course of nine months. He mentioned that the principal characters throughout the Union were acquainted with or concerned (I do not recollect which) in the enterprise; that the officers of the Army and Navy were secured. He mentioned General Eaton as being engaged, Mr. John Graham, Mr. Alston, Colonel Burr's son-in-law, as enamored of the scheme. He mentioned other names, I think, but I cannot recollect any, except Robert G. Harper, who was either concerned or engaged. My brother asked Mr. Blannerhasset what kind of Government was intended to be established? Mr. Blannerhasset mentioned that it was not yet determined on, but a more energetic one than the present was contemplated. My brother asked him if any foreign Power was to be engaged in it? He said that there was not. My brother asked him if John Randolph, member of Congress, was acquainted with and engaged in it? Did I mention that Mr. Blannerhasset said that he himself had embarked in the scheme? Mr. Blannerhasset replied that Mr. Randolph was not. He mentioned the great advantage that would arise to those who took an early and active part in the enterprise. Mr. Blannerhasset then mentioned his own property.

Mr. Wirt. What it was worth?

A. Yes. He mentioned that he was a partner in the firm of Dudley Woodbridge & Co.; that he had property in the funds of Great Britain. He mentioned that he had five thousand dollars (I think such was his statement) in the hands of a gentleman in Philadelphia or New York; that he had a suit against Mr. Woodbridge's father, in Marietta, for some five or ten thousand dollars, I do not remember which. He valued his property on the island at fifty thousand dollars. I do not recollect of any other particular communication from Mr. Blannerhasset.

Mr. Hay. With what view did you understand this detail of his property was made?

A. Shall I tell you my impressions? I have omitted one particular expression of his as relating to his English funds: "that they could not get at them."

Mr. Wirt. Did he say who *they* were?

A. He did not; but I supposed the Government of the United States, in case of hostilities.

Mr. McRae. Did you understand with what view it was he spoke of his other property?

Mr. Martin objected to any such interrogatories about the *impressions* or *inferences* of a witness. If the publication of this trial goes to Europe, what a contemptible opinion will it afford of our judiciary proceedings!

Chief Justice. Was there anything else, besides what you have stated, from which you made this inference?

A. Nothing else.

Mr. McRae. Was there anything calculated to make a particular impression on your mind?

A. My impression, from his statement, was, that he intended to show, if he risked so much property, that we might surely risk the little we had.

Mr. Wirt. Will you state the answer you made to this application?

A. We did not positively tell Mr. Blannerhasset that we would join in the enterprise, but that we must take time to consider it; that we had relations on this side of the mountains, whom we must consult.

Mr. Wirt. Did Mr. Blannerhasset mention the effect this revolution would have on Wood county?

A. He said that it could not long remain neutral, and that we must take an active part for or against.

Mr. Blannerhasset. Do you mean Wood county?

A. I mean that part of the country.

Alexander Henderson's testimony continued.

WEDNESDAY, *September* 23, 1806.

Mr. Wirt. Could you understand why your brother inquired whether John Randolph was not concerned?

A. Because Mr. Blannerhasset had mentioned that the leading characters in the Union were concerned, and we considered John Randolph as a man of great character, and a leading man.

Mr. Wirt. Did you understand whether he said anything of Mr. Jefferson?

A. Mr. Blannerhasset said, if Mr. Jefferson was any way impertinent, that Colonel Burr would tie him neck and heels, and throw him into the Potomac.

Q. What did he say of his means of opposition to the Government?

A. He mentioned that with three pieces of artillery, and three hundred sharpshooters, he could defend any pass in the Allegany mountains that he had seen, against any force the Government could send against him.

Mr. Wirt. Did he show any composition he was about to publish?

A. He showed me the first and second numbers of the *Querist*, which he intended to publish; at all events he showed me one, which he read to me, and then gave it to me to read the over night; I kept it all night, and returned it to him next morning.

Mr. Hay. Did he say that he had written those pieces?

A. So I understood.

Mr. Wirt. Did he say that he was going to publish them?

A. He said that he was going to Marietta next day to attend to the publication; for that the printer was a timid man, and required to be backed.

Q. What did you inform him about your own intentions?

A. We informed him that we knew not whether we could or could not join in the scheme; we, however, told Mr. Blannerhasset that he must not consider us in any way committed.

Mr. Wirt. Do you recollect if he told you what particular circumstances would prevent your long remaining neutral; was it any commercial arrangement?

A. I think he said that, being in possession of the New Orleans country and the mouth of the river, we could not remain neutral.

Q. Do you carry your produce to market through that channel?

A. We do not.

Mr. Hay. He said that Mr. Graham was engaged; had you seen Mr. Graham on the subject?

A. I had not seen Mr. Graham for eight or ten years before; but I saw him a short time after this interview. On the 20th of November I received a letter from Mr. Graham, earnestly requesting an interview with me at the mouth of Little Kenawha. I met him there on the 22d. I must confess that I felt every inclination to disclose this secret to him when I first met him, but I did not conceive myself justifiable, because I had promised to keep this communication secret. Considering, however, that Mr. Blannerhasset had positively assured me that Mr. Graham was positively concerned in it, I asked him first if he was concerned in any scheme with Colonel Burr down the river. He said he was not; and, moreover, that he was authorized to prevent and arrest any such illegal

proceedings. I did, then, conceive myself justified in communicating to him the substance of the scheme. Before this time, about the 1st of October, we had determined to oppose the scheme; and went down to the mouth of Kanawha to inform Mr. Blannerhasset of our intentions, but he was gone down to Kentucky, perhaps with Mr. and Mrs. Alston; and we then sent a message to that effect to Mrs. Blannerhasset, that they might not be deceived as to our intentions. At the same time, my brother and myself proposed a meeting of the citizens of Wood county, in order to obtain the sense of the people on what course they ought to pursue.

Mr. Hay. And was there a meeting?

A. There was.

Q. Did you come to any resolutions?

A. We did.

Mr. McRae. What was the substance of them?

A. That we were determined to support the constituted authorities of our country.

Mr. Martin. And were the resolutions published?

A. They were, I think, in a paper published in Morgantown.

Mr. Hay. Do you know Blannerhasset's writing?

A. I am not certain.

Q. Did you ever see him write?

A. I do not recollect.

Q. Did you receive those two letters from him?

A. I did.

Mr. Hay. This letter, dated on the 31st August, mentions his intentions to visit you.

Witness. It may not be improper to state what gave occasion to that letter. Mrs. Blannerhasset insisted on taking my little boy home for two or three weeks with her family; I agreed to it reluctantly. Three or four days after they had left us, I sent my overseer for my boy, who brought the child, with that second letter from Mr. Blannerhasset. This second letter covered an extract from a Marietta paper, signed "Querist," relative to the "Western World," and referred to in that letter.

Mr. Wirt. Do you know Peter Taylor? what is his character?

A. I have heard no one speak of him but Mr. Blannerhasset, who spoke of him in very high terms.

Q. What is your brother's name? John G. Henderson?

A. Yes.

Q. Did he not represent Wood county?

A. He did some years ago.

Cross-examined.

Mr. Blannerhasset. Have you not been a representative of Wood county?

A. Yes.

Q. You lived in Wood county some time before I knew you?

A. I did.

Q. Had you any reasons for not cultivating my acquaintance sooner?

A. I had: the reasons were partly private, and partly political: I have no objection to state those reasons: the political reason, that you were a democrat, and I was opposed to the present administration.

Q. Do you not recollect that I opposed the election of your brother, J. G. Henderson; and that my vote was refused?

A. I do: for I then personated my brother.

Q. Do you not recollect that it was refused because I had at that time no deed for my land?

A. I do.

Q. Do you not recollect that I had the honor of voting for you on a subsequent occasion?

A. I do.

Q. Was it not after that election that our acquaintance was formed?

A. It was: before that election I do not recollect to have known you.

Alex. Henderson's cross-examination continued.

THURSDAY, *September* 24, 1806.

Mr. Blannerhasset. Do you recollect, at the time of our conversation, you expressed any personal dislike of Colonel Burr? Did you not express a sense of hostility towards him?

A. I am sorry that the gentleman has put the question; I am sorry to wound any man's feelings wantonly. But I always thought him a dangerous man, and the late occurrences have not at all changed my opinion.

Mr. Martin. How long has your opinion of him been formed?

A. Ten or fifteen years ago, when he was making the tour of Virginia.

Mr. Martin. Not when he was said to be fixing means to overturn the Federal administration?

A. I do not recollect; but I heard much at that time of Colonel Burr.

[Mr. Hay here wished to identify the two letters, which Mr. Henderson had presented to the court from Mr. Blannerhasset.

Mr. Botts, however, admitted them.

They were then read by M. Hay, but they contained nothing important. The examination then proceeded.]

Mr. Hay. Did you, sir, read the "Querist?

A. I read the first number in manuscript; it was signed *Querist*.

Q. I think you said, yesterday, that Mr. Blannerhasset confessed he was the author, and was going to Marietta to publish it?

Mr. Blannerhasset rose, and objected to reading these publications on such evidence. He observed that somebody may have written under the same signature on the very same subject; and that there was a lacuna or chasm which was required to be filled up.

Mr. Hay. We will fill up that chasm; Mr. Neal copied it.

Mr. Neal was then called into court and sworn.

Mr. Hay. Will you state to the judge what you know of the publication in the Marietta Gazette, under the signature of *Querist*?

A. About 1st September, Mr. Blannerhasset sent for me, and told me that he had something to copy about the division of the States, and the printer had met with some difficulty in understanding the writing of the first number. I copied the second and third numbers, and carried them to Fairlamb, the printer at Marietta, and gave them to him.

Q. Did you read the papers as they came out?

A. Yes; Mr. Blannerhasset supplied me with the whole.

Q. Did they correspond with the manuscript?

A. Yes; the very same, I think.

The court accepted them, but, on the suggestion of Mr. Hay, the reading was waived, and they were to be put into the possession of the Chief Justice.

At Mr. Hay's suggestion, all the witnesses who had been examined were agreed to be discharged, except General Eaton; he declared that he did not "wish to go."

Alexander Henderson again called in by the counsel for the accused.

Here, at Mr. Wickham's request, the counsel for the prosecution read the numbers of the *Querist*, from the Ohio Gazette. They consist of a short interlocutory essay, containing some strictures on "The Western World," and of three other numbers, whose decided object appears to have been to demonstrate to the Western people the advantages that would result to them from a dissolution of the Union, and their *constitutional right* to adopt this expedient. Every line of them breathes the air of a discontented, disaffected, and revolutionary spirit.

Mr. Wirt (to the court.) It is remarkable that Col. Burr was at the island on the 1st of September, and the first number of the *Querist* is dated on the 4th.

Evidence of John Graham.

THURSDAY, *Sept.* 24.

In the latter end of October last, I received a letter from Mr. Madison, requesting that I would pass through the Western country, on my return to New Orleans. I know not whether it be proper to assign to the court the reasons of this wish. It may serve, however, to explain my conduct in the Western country. Mr. Madison stated to me, as a reason for this request, that Government had received information from various quarters that a project was on foot to sever the Union, or to invade the territory of Spain.

Mr. Wickham objected to this explanation.

Witness. It was to show that I had acted in obedience to my duty as an officer of the Government.

Mr. Wickham. What office did you hold?

A. I was Secretary of the Orleans Territory.

When I arrived at Marietta, about the middle of Nov., I made inquiries, and heard what it may not, perhaps, be proper to state. Mr. Duval called on me, and informed me that Mr. Blannerhasset had just arrived with him, and would wait upon me. After passing the usual compliments, and expressing his pleasure at seeing me, he begged leave to read to me certain letters, which he had received by Captain Elliot of the Western country, who had just returned from Pittsburg. Mr. Blannerhasset made many inquiries relative to Comfort Tyler, Dean, and Butler, and the preparations which they were making for their expedition down the river; what number of men and settlers they had obtained. Mr. Elliot gave him to understand that there would be more settlers than there would be boats for them. When Mr. Blannerhasset received this information, he observed that they could descend in his boats, as he had more boats than men. Before Capt. Elliot quitted the room, Mr. Blannerhasset handed me a letter, which he had received, a few days before, from Col. Burr, in Kentucky. Shall I state my recollection of the contents of that letter?

Mr. McRea. Do you believe the letter to have been Col. Burr's?

A. I believe it was Col. Burr's writing; for, though I had never seen Col. Burr write, yet I had seen many letters said to be written by Col. Burr. I merely mention this letter to show that it gave rise to a conversation between Mr. Blannerhasset and myself, relative to the contents of this letter. The conversation was somewhat desultory, nor do I particularly recollect the order in which the several topics were introduced. In general, I recollect that Mr. Blannerhasset animadverted upon the conduct pursued towards Col. Burr at Frankfort; stating however, his belief that this conduct was not authorized by the Government. He mentioned that Col. Burr had purchased, from Colonel Lynch, I think, a certain part of the Baron Bastrop's grant in the Territory of Orleans. He stated, also, that he was to have an interest in his purchase, and seemed desirous of impressing on my mind a belief that the object of his preparations was the settlement of this land; but I cannot now recollect that, in the course of conversation, he did positively avow it. His object seemed to be to avoid an explicit avowal; but he said that this was their object; that it was a legal one, and Government would have no right to interfere, until it was ascertained that they (meaning Colonel Burr and himself, as I understood) had an ulterior object. He contended that they had a right to go towards this object with just such preparations as they thought proper. This was an opinion in which I did not acquiesce. I made few inquiries; but he admitted, in the course of conversation, that he was building boats for the expedition in which he was engaged with Colonel Burr; that he was engaging young men, single and without families, to go down armed; he said they would have no cannon, but they would have rifles. He stated, in the course of conversation, the use to which these rifles might be applied—to resist the Indians, and Spaniards, or to kill game. It is justice to Mr. Blannerhasset to add, that he said he did not solicit men to go; that he took such only as pleased to go; and that he did not expect more than three hundred men would go with him. He stated, also, that he was engaging provisions for this same expedition. From what I had heard after my arrival at Marietta, and from

the manner in which Mr. Blannerhasset entered my room and made those communications, I was rather induced to believe that he conceived me to be one of the party.

Q. Why, from his manner?

A. My acquaintance with him before was slight, and yet he was extremely polite to me, and expressed how happy he would be at seeing me in his own house. For reasons which it is unnecessary to take up the time of the court with, I was anxious to undeceive Mr. Blannerhasset. I asked him if he had stated I was one of the party. He said that he had, and that he understood so from Colonel Burr. When I assured him I was not, he expressed considerable surprise, not by verbal declarations, but by the marked air of his countenance. He observed to me that I did not know Col. Burr, and passed some eulogiums upon him; and asked me, in a very impressive manner, whether I had not heard of an association in New Orleans for the invasion of Mexico. I told him that I had not, and ventured to assure him that there was no such association there. He told me that there certainly was, and that about three hundred men had signed to such an association, (I think that was his expression,) for the purpose of invading Mexico. After I had repeated my thorough conviction that there was none such, and assigned the fact of his being deceived about me as a presumptive reason why he should be deceived about others, he told me that he had obtained this information from Mr Bradford.

Considering Mr. Blannerhasset at that time as a deluded man, I endeavored to draw him off from the undertaking in which he was engaged; and, considering it was more the policy of the Government to prevent than to punish such enterprises on the Ohio, I informed him that, so far from being concerned in the plan, I was an agent of the Government authorized to inquire into the facts relative to this enterprise in the Western country, and to take such steps as might be necessary for repressing it. I then stated to him, from reasons drawn from Colonel Burr's visit to New Orleans in the preceding Summer, from the information which the Government had received, and from the nature of the preparations which Mr. Blannerhasset himself was then making, why I believed that the object of Colonel Burr was either to attack the territories of the United States, or those of Spain. I assured him, at the same time, that any collection or combination of armed men on the Ohio would, under these circumstances, be considered as a violation of the laws, and repressed accordingly. He again contended that they had a right to go down the river as they thought proper, inasmuch as they avowed the settlement of the Washita, which was a legal object. Though we could not agree on this point, he asked me whether there would be any objection or opposition made to those men, if they went down in small parties? I gave him to understand that this would depend upon circumstances; but that, when they were collected, they would be arrested, and the enterprise would end in the ruin and disgrace of all those who were concerned in it.

During this conversation, I stated to Mr. Blannerhasset, pointedly, that I knew not the opinions of Mr. Jefferson or Mr. Madison; that these were my own opinions; and that I had the power to act under the Government of the United States as circumstances required; that I was authorized to call on the constituted authorities of the country, if the Constitution was about to be violated. I wish the court to understand that I was to consider the moving down the Ohio as a violation of the law, and I was then to call on the constituted authorities. When I spoke of the reasons which influenced my belief as to Colonel Burr's plans, Mr. Blannerhasset observed to me, that, however acute the opinions of gentlemen might be, he and Colonel Burr were as well acquainted with the Constitution and the laws as the Administration itself; and that they knew very well what they were about.

Q. What produced this remark?

A. I do not recollect, but perhaps it may have been the arguments which I had used to show that the expedition was a violation of the laws. Mr. Blannerhasset said that he had joined his friends in this undertaking, and could not abandon them, unless they consented to give the thing up; and asked me if he was at liberty to communicate to Colonel Burr the information I had given him. I told him he was. I do not recollect whether I have mentioned the opinion I expressed to Mr. Blannerhasset of the validity of Bastrop's grant. I told him all that I knew of the title, and that Colonel Burr would have no title to it; and that, if he had, the Orleans land could be no object with Mr. Blannerhasset.

Mr. Wirt. How came you, sir, informed about this title?

A. I had been at New Orleans, where the subject was much talked of,

Q. Have there been any judicial proceedings about it?

A. I told Mr. Blannerhassett that Mr. Lynch claimed under Mr. E. Livingston; that this was a considerable purchase: and that Mr. Livingston had invalidated this contract in court.

[Mr. Burr. I deny that this is a fact.]

The next day, perhaps that afternoon, I met Mr. Blannerhasset at another house, in company with gentlemen, most of them strangers to me. Mr. Blannerhasset was speaking, and avowing that Mr. Burr had a great many friends in Kentucky. I observed that this would much depend upon his object; if to settle the Washita lands, the people would wish him well; but if it was to attack the territories of Spain, or those of the United States, he would have very few friends. In reply, Mr. Blannerhasset observed that, whatever was his object, he either had, or would have, a great number of friends. This was in a public room in a tavern; several gentlemen were present; I recollect particularly a Major Sproat. Either on that evening, or the evening of the next day, Mr. Blannerhasset said he was writing to Colonel Burr. He invited me to his room, and

wished to know how much of our conversation he might communicate to Colonel Burr? I told him the whole, if he chose; that the information was intended for him, but that he might communicate it to Colonel Burr. During this time, and for a few days afterward, the intercourse between us was friendly; but, after I had had a conversation with Mr. Henderson, I had no further communications with him, save dining with him one day at the same table, and he arose immediately after dinner; and I did not see him again until we met in the Mississippi Territory.

Mr. Hay. Had you any communication with Mr. Burr?

A. I had, and in the Mississippi Territory, too. In consequence of the information I had received from Mr. Henderson and others, I lodged information with the Governor of Ohio, and a law was passed; and I was also instrumental at Frankfort, in Kentucky, in the passage of a similar law. Their object was to put an end to these expeditions. When I arrived at the little town of Washington, in the Mississippi Territory, about the latter end of January or beginning of February, I heard that Colonel Burr was in the house.

Mr. Hay. Where is Washington? on the Mississippi river?

A. No: it is ten miles from it, and seven miles back of Natchez. It is the seat of Government of the Mississippi Territory. I waited on Colonel Burr, principally with a view to ascertain whether the information I had given to Mr. Blannerhasset had been communicated to him. I asked him whether Mr. Blannerhasset had communicated our conversation to him. He said he had. I told him, on entering his room, that I had just arrived from the upper country, and perhaps he might be anxious to hear the news. He told me that Mr. Blannerhasset had accused me of a breach of hospitality. I replied that I never was in his house in my life. He spoke of his protested bills, drawn in Lexington, and seemed to attribute their protest to the measures adopted by the Government. I told him that, just before I left Lexington, the merchants there had received information that they would be paid. He said that they ought to be paid, as the man on whom they were drawn had the funds to pay them with. He then spoke of the measures pursued by Government as ruinous and rigorous, (I am not certain which was his expression;) that they had detained his people.

Q. Was this before or after his trial?

A. It was before; he had then entered into recognisance.

He said that he had invited investigation into his conduct; he spoke of the measures of the military, and his determination to resist them; I understood him to mean the military of the United States; he either said he had, or that he would, order his people to resist them. He said that he had claimed the protection of the civil authority, and thought that protection would be adequate to his safety. He spoke, too, of the Washita settlement; I believe he told me that he should send his people there, but did not know whether he should venture into the Territory himself; intimating, as I thought, an apprehension of General Wilkinson. He asked me, if I knew what had given rise to the President's proclamation? I told him that I did not, unless it was General Eaton's communication. The court will see, from the date of the proclamation, that any information I could have imparted had not then reached the seat of Government. Colonel B. observed, that the machinations of his enemies had led to these proceedings; and that facts did not support and justify them. I assured him that those who were alarmed and agitated were not his enemies; at least, this was the idea I intended to convey; and after stating to him the alarm extending through the Western country, I proposed to him that he should make some public declaration as to his real object. His reply to this was, that he was a party concerned, and that no declaration of his could have any effect. He seemed disposed to ridicule the idea of his bringing about a separation of the Union by physical force; that it was to be produced by moral, not physical causes. I mentioned to Colonel Burr that I had heard in the Western country of a considerable number of men, perhaps two thousand, being collected for the purpose of invading Mexico. His reply was, that he supposed that event was in the case of a war with Spain. I told him no, that I had not understood it as depending on that condition. He then said something about the Washita lands, and replied, that, perhaps, when they had a separate Government, something of that sort might be attempted (meaning, as I understood, the invasion of Mexico.) Soon after this, or at least before I heard any explanation of what he meant by a "separate Government," a gentleman of his family came in, and I took my leave. I had no further conversations with Mr. Burr or Mr. Blannerhasset. I lodged an information against Mr. Blannerhasset, and was with him before a magistrate.

Mr. Hay. Did you make any particular observations to Mr. Blannerhasset about the sort of preparations he was making?

A. He spoke of the settlement of the Washita as their object. He never positively told me it was, but he said they avowed it as their object. I observed to him as a reason why I should think it was, that young men without families, or without any of the implements of husbandry, were engaged to go. He said that their arms were to kill turkeys or Indians. He then launched out into an abuse of the Administration, their neglect of the Army and Navy, &c. I forgot to state this circumstance. When Mr. Blannerhasset met me, to know how far he was at liberty to communicate my opinions to Colonel Burr, I urged to him the impropriety of his engaging in these objects; he said it was impossible that Colonel Burr could have so much deceived him and his son-in-law, Mr. Alston.

Mr. Wirt. Was this remark after you had announced yourself as the agent of Government?

A. It was.

Q. Did he say anything to your objection about the want of implements of husbandry?

A. He did say something about the opening of roads, but he never did tell me the real object.

Q. Do you know anything of the Washita land?

A. I never was on it.

Q. What is its character?

A. Some say it is good, and some say it is bad. I believe the greater part of it is covered with water, but there is some very fine land.

Mr. Graham cross-examined.

THURSDAY, *September* 24.

Mr. Burr. Did you ever see Bastrop's patent?

Answer. Never.

Question. Did you read it?

A. No: I always understood that there never was one.

Mr. Burr. You have said that the greater part was water; I will assure the court that it was laid out without any water. Were you ever examined before?

A. Yes: I made a deposition when I lodged information before the Legislature of Ohio.

Q. Were you examined on any other occasion?

A. I was before a grand jury.

Q. Did you say anything then of a conversation you had with General Nevill?

A. Yes: I told General Nevill that I had come to make some inquiries into this affair. General Nevill informed me what had passed in his conversation with Mr. Morgan. He said the people had apprehended that your object was the separation of the United States; but that if it was the invasion of Mexico, you would be better received on your return than you had ever been.

Q. Did you not then speak of the boats?

A. I did.

Q. Did you not say they were unfit to go up the stream?

A. I so understood at that time.

Q. Do you know that they were seized by Government to send troops up the stream?

A. I did not hear of it before I came here.

Q. Did I give you a welcome reception?

A. I was not acquainted with your manner. It was cold, but I thought respectful.

Q. Have you not heard Governor Williams, Mead, and Rodney, say that they would not suffer the military to take me?

A. I most certainly recollect that I both thought and said that it was improper to take you by military authority; and I heard Governor Williams say, if the attempt was made, he was not authorized to sanction it.

Q. Had you not heard of the stipulations made to me by Williams and Mead?

A. I knew not of Governor Williams stipulating with you; I heard of Mr. Mead's doing it.

Q. Was there no law to arrest me?

A. I mentioned to Governor Williams that, if the laws were not sufficiently energetic, to meet such occurrences, it was better to provide one; but I never saw the law.

Q. Did you not hear of an officer being there to arrest me?

A. I had a conversation with a Lieut. Peter, who was lately in this place, relative to this subject.

The counsel for the prosecution objected to this course of examination.

Chief Justice. If Mr. Burr means to allege these measures as an excuse for his own military preparations, he may press these inquiries.

Mr. Burr. I did suppose, from the sort of duties which Mr. Graham discharged in that country, that he must have known of the stipulations of Mead and Williams; and that, in direct violation of these, a party of officers in disguise, (that is, without their uniform,) and with concealed weapons, as dirks and pistols, were there to seize me. Mr. Graham certainly knows something on this subject.

Mr. Graham. I can only speak of my conversation with Governor Williams and Lieutenant Peter, for with no others did I communicate on this subject. Governor Williams told me that a Dr. Carmichael had been authorized to come to the Mississippi Territory and seize you; whether this was before or after your trial, I know not. He said that he was extremely unwilling to have any such thing done. I observed that it was extremely improper to suffer a person to be seized, who was then in the custody of the law. He said that he had remonstrated with Doctor Carmichael; that Doctor Carmichael had given it up, and returned.

Mr. Burr. Did Carmichael belong to the Army?

A. No: to the Mississippi Territory. I was proceeding to state that the night Colonel Burr left Washington, I heard some of the officers in the room in which I slept conversing about him, and one of them observed, that if Colonel Burr was not arrested on that night, he would make his escape. The gentlemen left the room, and I afterwards understood from Lieutenant Peter, that an application had been, or was about to be, made to Governor Williams, for permission to arrest Colonel Burr. Lieutenant Peter having understood that I had heard part of this conversation informed me that he had come with officers to arrest Colonel Burr; and I advised him to do nothing that would violate the laws of the country. He gave me to understand that, at that moment, he felt himself bound to obey the orders of his General, like a good soldier. I urged every consideration I could suggest against the exercise of military authority; and I did then understand that it was not his intention to proceed against Colonel Burr. Indeed, I understood that Colonel Burr had made his escape. I advised Governor Williams to make such arrangements with him as would send him on to Washington for trial, or to detain him in that Territory for trial.

Mr. Blannerhasset. You stated that you had given information against me, and led to a prosecution?

A. I did not say that I had led to a prosecution, but only that I had given information against you, that you might be taken to the district where the expedition had been fitted out.

Q. Why did you prefer Judge Toulman to Judge Rodney; the last being the senior judge?

A. I made no choice.

Q. Did you not understand that Judge Toulman was the judge of Tombigbee county?

A. I understood that he was judge of the Mississippi Territory, and Judge Toulman still insists upon it that he possesses this authority.

Q. Did you not apply to the Attorney General of that Territory?

A. Certainly not. Judge Toulman would have interfered, but Judge Rodney issued a writ of habeas corpus.

Q. Was it by direction or request of the Government, that you informed against me for the misdemeanor?

A. By neither.

Q. Do you not expect to pay the $1,000?

A. I expect not.

Q. To whom are you to pay it?

Mr. Graham here addressed the court; he said that Judge Rodney had refused to send Mr. Blannerhasset round for trial; but held him to bail; that he himself had been recognised; that the court was to sit some time in May; the judge considered the Supreme Court as the proper tribunal; the Attorney General thought otherwise; that before the court met he had besides been indisposed, and had obtained the certificate of his physician that he could not attend that court.

Mr. Burr. Are you still Secretary of the Orleans Territory?

A. I am not.

Q. Do you now hold any office under the Government, and what is it?

A. I am chief clerk in the office of Secretary of State.

Q. Was there any arrangement made to seize Colonel Burr after their judicial proceedings against him?

A. Governor Williams and myself both agreed that his trial in the Mississippi Territory was a mere farce, and that something ought to be done. He proposed to see Colonel Burr, and make some arrangements with him to come on to the city of Washington for his trial. Colonel Burr informed him that he was merely going to ride to Colonel Osborne's for that night. Governor Williams informed me that he received a great coat at the suburbs of the town, and disappeared.

Mr. Wirt. Was not Colonel Burr held in recognisance?

A. Yes.

Q. Did you see such a recognisance?

A. Yes; I saw it myself in the clerk's office.

Mr. Burr. If it is there, I pronounce it to be a forgery.

Mr. Hay observed that the truth would appear in time.

Mr. Hay. Were any legal proceedings pending at the time of his departure?

The witness asked the court if this was a proper question?

Chief Justice. It is a mere difference of opinion about a fact.

Colonel Burr contended that this recognisance had been complied with. [Governor Williams says not.]

Mr. Hay. Was his departure from Washington sudden?

A. It was certainly sudden, as Governor Williams told me he had been promised with a call from Colonel Burr.

FRIDAY, *September* 25, 1806.

Mr. John Graham was again called in at the request of the accused.

Mr. Wickham. You stated something about a communication from Mr. Blannerhasset, respecting Mr. Bradford?

A. I stated that Mr. Bradford was the person who (according to Mr. Blannerhasset) had given him the information respecting the Mexican association at New Orleans.

Mr. Burr. Do you know whether it was the practice then to seize on individuals by military authority?

A. I recollect to have been at Natchez, when about sixty persons were arrested on the suspicion of being concerned with you.

Q. I do not mean so late a period as that. As you were appointed to an office under the Government, I wish to know whether you, as an agent of Government, would countenance military arrests?

A. I certainly would not.

TUESDAY, *September* 29.

The examination of the witnesses was resumed on the part of the United States, although Colonel Burr was still unable to attend on account of his indisposition.

Mr. Graham observed, that when he was before the court the other day, he had omitted, he believed, to detail a part of a conversation which he had with Mr. Blannerhasset. He was also apprehensive that he had not been so explicit in relation to his conversation with General Nevill as he could have wished. He, therefore, requested permission of the court to add a few observations, by way of explanation.

He said that Blannerhasset observed, in the course of their conversation, that both Colonel Burr and himself believed that the people of the Western country would be benefitted by a separation of the Union; but they had found that they were not ripe for the measure; and as they had no personal views, they were not disposed to hasten the event. I understood him to mean that the people of the Western country were not ripe for the measure. I think Mr. Blannerhasset went on to say that this was an event that must happen; but of this I am not so certain. This conversation took place at Marietta.

Mr. Hay. At what period of the conversation?

A. At the first conversation. Indeed I had but one conversation with him; our subsequent interviews and conversations were merely casual.

Mr. Hay. Was it at the first part of your conversation with him?

A. No: Towards the close; and after I had informed him that I was an accredited agent of the Government.

I have some reason to believe that I may have been misunderstood with respect to what I said

relative to General Nevill. Colonel Burr had asked before what conversation I had about a gentleman in the neighborhood of Pittsburg, before the grand jury, without mentioning his name. The allusion was understood to be to General Nevill; and whenever I mention the name of a gentleman, it is my wish to state every circumstance which occurred as nearly as possible. My recollection of the conversation with General Nevill is this: After detailing the conversations which he had had with others, he said that there had been strong prejudice against Colonel Burr about Pittsburg: that the people there were attached to the Union, and believed that Colonel Burr had intended to separate it. Afterwards, he said there was reason to believe that the expedition was meditated against the Spaniards, and his visits might be more welcome.

[From the rapidity of Mr. Graham's pronunciation, it was impossible for us* not to commit some inaccuracies in the report of his testimony. Mr. Graham's absence prevented us from having the opportunity of correcting it before it was published. The two following errors occur in the statement of his opinion as to the Washita land:

Mr. Graham did not tell Mr. Blannerhasset that Colonel Burr would have no title under Bastrop's grant. He hazarded a doubt, or gave an opinion on that subject, for which he assigned his reasons; among these, that Colonel Lynch (under whom he understood Colonel Burr claimed) had purchased a part of this grant from Mr. Edward Livingston; that he had not complied with the conditions of the contract; and that it had been set aside by a decree of the Supreme Court of the Orleans Territory. From the manner in which this circumstance is reported in the Enquirer, it might be supposed that Colonel Lynch had no claim to any part of this grant, save what he derived from Mr. Livingston; an idea which Mr. Graham never meant to convey to Mr. Blannerhasset or any other person; for he expressly told Mr. Blannerhasset that Colonel Lynch had a claim to a part of this grant, which he derived from another source. Mr. Graham mentioned the purchase from Mr. Livingston, because he was under the impression that Colonel Lynch had sold his whole interest in this grant to Colonel Burr.

When Mr. Graham was asked as to the character of this land, he answered, that those who were interested in it said it was very good; those who were not, said that some of it was fine land, but that a great part of the grant was covered with water. Mr. Graham did not mean to say, as it is stated in the Enquirer, that the "greater part" was in that situation.]

Evidence of John G. Henderson.

THURSDAY, *September* 24.

I rode with Mr. Blannerhasset and his wife to my brother's house on the second Monday in September last. When we got near to my brother's, Mr. Blannerhasset introduced the subject of the separation of the Union. He stated, I think, that it was to be conducted under the auspices of Colonel Burr. He mentioned that there were many eminent characters in the Eastern and Western States concerned. He mentioned the names of General Eaton and Mr. John Graham, perhaps others at that time; I do not recollect. I do not believe that anything more passed between us till we arrived at my brother's; when we got to my brother's, we took some refreshment (dinner.) I was not much in company with Mr. Blannerhasset till dinner, and I do not know whether his conversation led to that subject or not. After dinner we walked into the meadow; my brother, Mr. Blannerhasset, and myself. The subject was then renewed, under injunctions of secrecy, which we agreed to observe: Mr. Blannerhasset observed that it was a subject of great importance. He stated that the object was the separation of the Union; he mentioned characters who were concerned in it; observed that Colonel Burr was at the head of it, or words to that effect. He spoke very much in praise of Colonel Burr; mentioned an instance of his goodness of heart with respect to the Manhattan Company, and making the fortunes of many without benefitting himself. General Eaton's and Mr. Graham's names were again mentioned as concerned, and a number of others whom I do not recollect, that were acquainted with it; among the rest was Mr. Harper, and Mr. Alston's name was mentioned as being highly pleased with the scheme. In the course of conversation, Mr. Blannerhasset observed that New Orleans would be seized. He mentioned that the park of French artillery at New Orleans, which Mr. Jefferson was too economical to purchase, was to be procured; whether seized, or obtained in any other way, I do not recollect. He stated that the people in the lower country were displeased with the present Government on account of their interests not being protected or attended to. He seemed to apprehend no opposition in that quarter. He said the attempt would be made in less than nine months; that he himself had embarked in it. He observed that it would be a favorable juncture for effecting the object, owing to a want of energy in the administration; I am not, however, certain whether he, or which of us, made the observation; we all three concurred in it. I think Mr. Blannerhasset observed, that he hoped he should see my brother at the head of a regiment of horse at some time, but I do not recollect. He seemed anxious for us to join. Some time in the course of conversation, the name of Mr. Granger was mentioned; I thought in a threatening style, as if he would have cause to repent his having made use of an expression some time before published, importing that danger was threatening in the West. I do not know whether my brother was present during this observation. Mr. Blannerhasset said, that we must take an active part one way or the other, as we could not remain neutral. He mentioned an expression of Colonel Burr's, respecting the people in the city, or the administration, that if they were

* By *us*, it is meant the Richmond Enquirer, from which journal this report is principally copied.

any wise impertinent, he would tie them neck and heels, and throw them into the Potomac.

Mr. Hay. Did I understand you to say that this was an expression as quoted from Colonel Burr.

Answer. Yes. We desired Mr. Blannerhasset, just before he left my brother's, not to consider us as committed; that it was a subject which required reflection; and that we must consult our friends on this side the mountains, who were interested in that country. I mentioned it to my father, under the same injunctions on which I had received it from Mr. Blannerhasset. I recollect having asked Mr. Blannerhasset, when he spoke of the leading characters of the Union, whether John Randolph had been made acquainted with it. He answered no.

Mr. Wirt. Why did you put that question?

A. Because Mr. Blannerhasset had said that the leading characters of the country were concerned. I asked Mr. Blannerhasset what kind of a Government he would establish in the Western country. He said that this was not yet determined, but that a more energetic one than the present would be adopted. I asked Mr. Blannerhasset, also, if any foreign Power was concerned. He assured me there was not.

Mr. Hay. You asked him what form of Government was to be established?

A. Yes.

Q. Where did you suppose the seat of this energetic Government was to be?

A. He did not mention, but I supposed it was some central place.

Mr. McRae. Did he mention the line of division?

A. He did not particularly, but he said that the people in the South Branch would be in an awkward situation.

Q. Did he mention the Allegany?

A. I do not recollect.

Q. Did he mention any thing about commanding the passes of the Allegany?

A. Yes. He said that, with a few cannon and a few sharpshooters, he could defend any pass in the Allegany.

Q. Did he mention the "Querist" in your presence?

A. He did.

Q. What did he say of it?

Answer. He read one number of it. The first words in it were, "Universal history everywhere teaches or informs," or some such expressions.

Question. Did you remember what was the object of these pieces?

Answer. I understood that it was to promote the separation of the Union.

Mr. McRae. Do you recollect any observations about Blannerhasset's property?

Answer. I think he estimated his property on the island at $50,000; and besides, he had a small fund in Europe, which he said would be safe. He said they could not touch that.

Mr. McRae. What did he mean by "they?"

Answer. I do not know his allusion; but I suppose he meant the Government.

Mr. Wirt. Do you recollect any observation about the expense of supporting Government?

Answer. He said that we were contributing three or four millions to the present Government, when one hundred thousand would be sufficient for a Government of our own.

Witness. I have omitted to state that, after my brother received his last letter from Mr. Blannerhasset, my brother and myself went down to inform him of our decided opposition to this plan. He and Mr. Alston were gone down the river, and we directed the overseer to inform Mrs. Blannerhasset of our intentions. There was a subsequent meeting of the people of Wood county on this subject, and resolutions were adopted in opposition to the scheme; and a month afterwards, the militia volunteered their services to suppress it. Shortly after I left that country for Dumfries.

Cross-examined.

Mr. Wickham. Was this conversation in earnest or jocular?

A. Perfectly serious.

Q. Did you hold any conversations with Mr. Blannerhasset before this which led to it? Were you in the habit of expressing opinions adverse to the Union?

A. I never was opposed to the Union.

Q. Is it talked of in that country?

A. It has been talked of as an event that would take place in half a century or a century.

Q. Was your deposition ever taken?

A. It never was.

Q. At whose instance did the meeting of the people you spoke of take place?

A. Several of us called it, and, among the rest, my brother and myself.

Q. And they passed resolutions about this plan?

A. They did.

Q. How were they informed of this scheme?

A. From reports in the county.

Q. Did you communicate any information to this meeting?

A. No; nor my brother; anything but general observations.

Q. What was the purport of these resolutions?

A. Nothing but to prepare for the danger which was to be apprehended. One of the resolutions alluded particularly to Colonel Burr.

Q. Was Mr. Blannerhassett's name ever mentioned?

A. A proposition was made to insert Mr. Blannerhasset's name in one of the resolutions; but I opposed it.

Q. Did you communicate on this subject with Mr. Graham?

A. I had left the county at that time.

Mr. Martin. What were your politics?

A. They were federal, and are so still.

Mr. McRae. What have you considered Mr. Blannerhasset's politics to be?

A. Democratic.

Chief Justice. Did you understand that this separation was to be effected by political means, quietly, or by force?

A. I understood him to mean, that if the lower

country was, in their possession, it would bring the upper country along with it.

Mr. McRae. And he conceived the lower country to be dissatisfied with the Government?

Answer. He did.

Mr. Wirt. Did Mr. Blannerhasset state the manner in which this revolution was to be brought about?

A. No; he did not.

Q. Did the meeting in Wood county arise from any of Mr. Blannerhasset's declarations, or from the movements on the Ohio?

A. I suspect the last.

Mr. Blannerhasset. What movements?

A. I did not myself use that word. I alluded to the building of the boats and kiln-drying meal, &c.

Mr. John Henderson returned to supply an omission in his evidence: that Blannerhasset informed him, that the officers of the Army and Navy were disgusted with the Administration, and disposed to join. Mr. Blannerhasset also mentioned, in the course of the day, that General Moreau was expected to reside near Pittsburg.

SATURDAY, *September* 26.

Mr. John G. Henderson wished to correct an error in his evidence, with respect to the time of the second meeting of the people in Wood county. The first meeting was on a Monday, and the second on the Saturday following.

Evidence of Charles Duval.

THURSDAY, *September* 24.

Two years ago I saw Mr. Burr in New Orleans, but never since; but I have had frequent communications with Mr. Blannerhasset. The first time I ever had any was at Marietta, in September, 1806, when I had flour to sell. I asked him whether he did not want to buy flour, and he engaged twenty barrels; he did not, however, receive more than five or six barrels of it. I mentioned to him that I had understood from Mrs. Blannerhasset that he was going down the river, and a number of my acquaintances were going with him, and that I did not know but that I too would go, if I knew what he was going for. He told me that Colonel Burr, and himself, and others, had purchased large tracts of land, and wanted settlers to go on it. I told him I had land enough at home, and that I did not want to go to settle land. He then represented it as though there was something else in view; but he did not tell me at that time. He said that a number of people were going who had never asked what they were going for; they believed it to be something worth going for. They were leaving their plantations, their neighbors, everything. He said if he was going to leave his, I might surely leave mine; and that I might suppose it was for something very handsome. I mentioned something about his leaving his own plantation; a man who was so well situated as he was. He said that what he had there he did not regard as a straw, in comparison of the object which he had ahead. I had a great many interviews with him on the subject; sometimes he told me one thing, and sometimes another. I told him that Mrs. Blannerhasset had informed me that Mr. Graham was one of the party. Mr. Blennerhasset agreed that it was so. The court will be pleased to notice that Mr. Graham and myself had once travelled to New Orleans together. He mentioned, if I would go with him, could I arm myself with a gun? I told him I had a rifle that I could take with me; that I never had used a musket. He said that that would answer. He asked me if the young men on the Muskingum, who were like to go with me, had arms or could get them? I told him it was probable they all had arms, as they belonged to the militia. He said, if they would find arms, he would find ammunition. Just before Mr. Blannerhasset's boats went off, Mr. Graham came to Marietta, and Mr. Blannerhasset was that night at my father's house. My father told me that my old friend, Mr. Graham, was in town; and Mr. Blannerhasset told my mother that she had better not let me go to to see Mr. Graham, for Mr. G. would certainly persuade me to go down the river.

Mr. Hay. Will you state the different objects which Mr. Blannerhasset held out to you?

A. He mentioned to me that he was going out into the Spanish territory, about the same time that he spoke of my arming; and said he supposed we should have a little fighting to do; but the Spaniards were cowards, and would soon run.

Mr. Hay. Did you understand where you were to fight the Spaniards?

A. Somewhere about the Washita lands; that they might be troublesome, and that he wanted men of my description to do it.

Mr. Hay. Did he profess any other object?

A. My father asked him what he wanted me for; if to work, that I would not work at home. He said he did not want all to work. He wanted men of my description; he did not care if he had one thousand such.

When he was bringing up this kiln-dried meal, I asked him what it was for; he said that it was to take down the river. I asked him why he did not get flour. Because, he said, they were going into the Spanish country, and flour would not keep as well. He told me he wanted us to get knapsacks to carry eight or ten days' provision for marching. I mentioned that I was a poor traveller, and I would get me a Spanish horse and ride. He said he was going out among the Spaniards, an ignorant set of men, and he wanted clever young men to go and take command of them; to have a commission and some office too. I mentioned to him that I would not hesitate to go there and stay two or three years, if I could make my fortune. He said, if I once got there, he'd warrant I never would return, I would be so fond of the place. I told him I never wished to go to a place whence I could not return to visit my friends. He said I should like the country so well, that I would be contented to stay there. He told me that when we got to the mouth of Cumberland river we should be joined by Colonel Burr and the whole party, when the whole secret would be

divulged; and if I did not like it, he would bear my expenses back to Marietta. I told him that if I went down, and a number of my friends were going also, I should like to have choice of my boat's crew. He said if it was so, I must still expect to be under the same regulations as regular troops; that was, that we might have the privilege of choosing our own officers, till we got to the mouth of Cumberland; there we were to meet Colonel Burr; and we must then submit to such regulations as Colonel Burr thought proper. My motive for making this proposition as to my friends was, that a number of strangers were going, and I did not wish to be with them. I recollect nothing further of any great importance.

Mr. Duval's further examination was postponed, and the court adjourned till to-morrow.

Continuation of Charles Duval's testimony.

FRIDAY, *September* 25.

Mr. Hay. Do you recollect any conversation with Mr. Blannerhasset about the temper of the people of New Orleans?

A. Mr. Blannerhasset told me that the citizens were dissatisfied with the Government under which they lived, and with Governor Claiborne; and that he would go to the Spanish country, and there establish a government independent of the government at New Orleans. He mentioned, at the same time, that Mr. Graham was much beloved by the people and party there. I observed to him that when I was in that country, I frequently heard the people talking against Governor Claiborne.

Q. Did he mention a particular time for the execution of this project?

A. He mentioned that he was to be at New Orleans by Christmas.

Q. Do you recollect of General Tupper's saying anything about Allbright (a witness for United States) after Tupper returned home?

A. I did not hear him; but I heard people say that Tupper had declared Allbright had perjured himself, and he would make it appear.

Q. Did you know Allbright, and what was his character?

A. I was at Bellepré a few days before I left home; and the people said that Allbright was an honest, industrious Dutchman, and they would take his word as soon as General Tupper's.

Mr. Wickham objected to these inquiries. Why were they not made when General Tupper was here?

Mr. Hay. It is a great pity, indeed, that he did not wait this investigation.

Mr. Wickham. He did wait six months.

Mr. Hay. Had you any particular communications with Mr. Blannerhasset about your going with him to New Orleans?

A. He told me that I might go to New Orleans with him, and if, when I got there, I did not like the place, I might see Mr. Graham, who was a particular friend of mine, and he would, no doubt, put me into some business.

Q. Was this before or after you understood that Mr. Graham was not of the party?

A. It was after. Mr. G. advised me to have nothing to say to this project; and that if I wanted to go down the river, it would be more to my credit to go any other way.

Q. Do you know anything of the kiln-dried meal?

A. I do; it was ground and stored at my father's mill; about sixty barrels were of kiln-dried meal, and twenty or thirty that were not kiln-dried. The boats dropped down and took in the meal.

Q. Where is your father's mill?—on the Muskingum?

Answer. It is.

Q. Do you say that Blannerhasset's boats dropped down and took in the meal?

A. I do.

Q. What boats?

A. Those which were built by Colonel Barker up the Muskingum. Ten of these boats were finished. They dropped down to the mill about half way to Marietta, took in the meal, and stopped at Marietta.

Mr. Hay. Were any uncommon exertions made to finish the boats by a certain time?

A. Mr. Blannerhasset said if the boats were not all done by a particular time, he would take those that were finished, and leave the rest; and Colonel Barker got all the hands he could.

Q. And were any additional hands employed for completing the boats within the short time prescribed by Mr. Blannerhasset?

A. There were.

Cross-examined.

Mr. Wickham. Did Mr. Blannerhasset say anything to you of a war with Spain?

A. Yes; he mentioned to me, I think, that he expected there would be one.

Q. And was it pretty generally expected in that part of the country?

A. I believe it was.

Q. Was it generally wished for?

A. I think not.

Q. Have you made any other affidavit than in this court?

A. None.

Q. Did you give no information to Governor Tiffin?

A. None.

Q. What has become of the boats and kiln-dried meal?

A. Eaten up, I suppose, by this time.

Mr. Martin. What! the boats too? Who took this meal?

A. It was taken by General Buel, and, as it was said, under the orders of the Government.

Q. What became of the boats?

A. They were taken to a creek at Marietta. Some were sunk, some were broken to pieces, and others were fitted up to carry away troops of the United States.

Mr. Burr. Were these troops taken up the Mississippi above its junction with the Ohio?

A. So I heard.

Q. To St. Louis? A. I heard so.

David C. Wallace sworn.—In the Fall of 1806 Mr. Blannerhasset informed me that he was engaged in a plan with a number of persons, which he thought would be highly advantageous, and that he was authorized to offer me the appointment of surgeon-general; I inquired, surgeon-general of what? and he replied, that he was not at liberty to explain, until I had engaged in the expedition; he used various arguments to induce me to join; he said that I should be in very excellent company; that the association would consist of respectable individuals, and particularized Colonel B.; he thought that after so long an intimacy I might rely on his friendship. The conversation ended with my peremptory refusal to join in any expedition, the nature and plan of which I was not fully informed of, and approved. I heard Mr. Blannerhasset make proposals to several individuals to join; offering one hundred acres of land, each man to furnish himself with a rifle and blanket; he stated that when they got to the mouth of Cumberland the plan was to be disclosed; all those who did not like it were at liberty to return; some of the men engaged, others took time to consider the proposition fully. At this time the boats building up the Muskingum were nearly completed, and a general rumor prevailed that Burr, Blannerhasset, and Co., were preparing an expedition to dissever the States, and to carry war into Mexico. When Mr. Blannerhasset again asked me to join, I replied that the same objections continued, and that I was not yet informed of the objects of the expedition; to which he replied, "You have heard what we were about;" which I understood as assenting to the truth of these reports. I told Mr. Blannerhasset that I expected they would be stopped descending the river: to which he replied, that he did not believe the country would be able to stop them; that he would have five hundred men from Marietta: he would have seven boats at that place, and they would be joined by others from above. I remarked that the people in the Western country were excellent marksmen, and that the woods on the banks of the river would afford them an excellent covering for firing upon those who were descending the river. He replied that, "in that case we would land a party, and set fire to every house and town." I rode with Mr. Blannerhasset to see the boats that were building up the Miskungum, where he showed the builder of the boats and myself the articles by which the people under his command, as he called them, were to be governed on descending the river. Each boat's crew was to choose the captain, until they joined Colonel Burr at the mouth of Cumberland, where he was to direct their proceedings. At the boat yard he directed the builder to have an apartment fitted up in his boat for Colonel Burr, as he expected the Colonel, when he joined him at the mouth of Cumberland, would sometimes wish to stay with him. I observed to Mr. Blannerhasset that I did not believe the plan would succeed, as the people generally detested and execrated the plan. To which he replied, "if the people could not see their interest, we will not cram the measure down their throats." Mr. Blannerhasset showed me some letters he had received from Colonel Burr about this period—[Mr. Wirt. At what time was it? A. Between September and the time of going down the river.]—in one of which he admonished him not to be alarmed by the remarks respecting his arrest in Kentucky, as he apprehended no danger but delay to retard the intended settlement on the Washita. A person present (Captain Elliot) inquired whether Colonel Burr had mentioned anything about the expedition; to which he replied, "No; nothing comes to us on that subject by mail." Mr. Blannerhasset spoke to me to furnish them a quantity of medicines, and such directions for using them, as were calculated for a military expedition.

In a conversation with Colonel Burr in 1805, he expatiated upon the situation of the Western country; on its being compelled to pay large sums for the sale of lands which were spent in the Atlantic States, and the $3,000,000 which he said we paid for tax. These observations made by Colonel Burr induced me to believe—

Mr. Botts objected to the witness stating any of his own inferences.

Witness. Colonel Burr observed that this same money would vastly improve the commerce of the Western country.

Mr. Hay. Did you ever read the Querist?

A. I read the first and second numbers at Cincinnati.

Q. Did the observations in these papers recall to your recollection your conversation with Mr. Burr?

A. They did. When I saw these papers, I was asked my opinion about the author; I said that in my opinion Colonel Burr had suggested the ideas, and that Mr. Blannerhasset had put them into words.

Q. Were the rumors that you spoke of general?

A. They were so. They were in every man's mouth.

Cross-examined.

Mr. Wickham. Have you had a medical education?

A. Yes; I received it in the University of Pennsylvania.

Q. Had you ever performed any surgical operation?

A. I had not. I never practised physic, nor did I ever intend it.

Q. Was this conversation with Mr. Blannerhasset after or before your refusal to join?

A. All the conversations were after that.

Q. Did any of the men applied to by Mr. Blannerhasset in your presence go?

A. I do not know.

Q. What was the tenor of these rumors?

A. That this party intended to effect a separation of the Union, and to carry an expedition into Mexico.

Q. When the offer of surgeon general was made to you, did you believe it to be serious?

A. I cannot be certain of Mr. Blannerhasset's motive for making this proposition, but supposed

that his object was to induce me to join, although I had not practised physic.

Mr. Martin. Were you in the habit of curing gun-shot wounds, or cutting off limbs?

A. No, sir, nor did I wish it.

Mr. Wickham. When were you in Philadelphia?

A. In 1790 and 1800.

Q. Whose lectures did you attend?

A. I attended Dr. Woodhouse's, Rush's, Wistar's, and Barton's. Wistar was joint professor of anatomy and surgery with Shippen.

Q. Did you attend all the lectures?

A. Yes, sir.

Mr. Hay. How long were you engaged in the study of medicine?

A. Seven years.

Mr. Hay. Did Mr. Blannerhasset know of this?

A. He did.

Mr. Wirt. Did you attend any surgical operations in the hospital? A. I did, one winter.

Mr. Wickham. With whom did you study?

A. I studied about three years with Dr. White of Philadelphia.

Mr. Hay. Was this the same as Dr. White of Baltimore? "No." said Mr. Martin; "he was then in Ireland."

Witness. What, Dr. White of Philadelphia?

Mr. Martin. Oh! no; Mr. Hay and myself *understand* each other.

Evidence of Robert Wallace.

FRIDAY, *September* 25.

Q. Where do you live?

A. I live in Marietta.

Some time last fall, I received a message from Mr. Blannerhasset to come down to the island. I went; it was soon after Mr. Blannerhasset returned from Kentucky. After I had been there some time, Mr Blannerhasset took me into a small room, and said he wished to speak to me privately. He then asked me if I had not heard that he was going down the river; I told him that I had; he asked me if I would go with him. He said he was not at liberty to reveal the object entirely, but if I would depend on his friendship he would do well for me. He spoke of the settlement of the Washita land, but intimated that there was something else in view. On the same evening there were several young men at Mr. Blannerhasset's house from Bellepré; they were all requested to join the expedition and go down with him; they were all to furnish themselves with a rifle and blanket. The next morning I had some more conversation with Mr. and Mrs. Blannerhasset. Among other things, I asked whether Government countenanced this expedition; I had heard something from Captain Elliot, the evening before, that this was an expedition intended against Mexico. Mr. Blannerhasset replied that it was immaterial whether Government aided it or not; Government was weak; they would have nothing to do with Government, unless it opposed the expedition; in that case, they would make resistance. Mr. Blannerhasset laughed at my staying at home and spending my life in obscurity behind the counter; it was a dull life; he told me if I would go with him, I would have an opportunity to distinguish myself. On the next day I rode up to Marietta with Mr. Blannerhasset, and on the way he was engaging several young men to go down the river with him, offering them lands; among the rest was one Rattburn, a schoolmaster; I told him he was a drunkard, and could do nothing towards the settlement of lands. "No matter," said Mr. Blannerhasset; "when he is brought under good discipline, he will make a good soldier, and his allowance will not be large enough to make him drunk." Mr. Blannerhasset was then going up the Muskingum, to see after Colonel Burr's boats that were building there, and to hurry their finishing.

Mr. Blannerhasset was at my father's house afterwards, and I was in the room when he offered my brother the place of surgeon general. My father told Mr. Blannerhasset, he had better give up the enterprise, and stay at home on his island; that it was impossible he could succeed; that his force was too small, and the opposition too great. Mr. Blannerhasset said that General Wilkinson and the army would join him. When I was at the island, Mr. Blannerhasset told me that he expected that we should have a little fighting with the Spaniards, but that they were great cowards, and would soon run and leave everything in our possession. In the month of August, Mr. Blannerhasset was at my father's house and used many arguments to prove that it was the interest of the Western States to separate themselves from the Union.

Mr. Wirt. Did Blannerhasset speak of Burr?

A. Yes, I understood that he spoke of him as the leader; I recollect to have asked him whether Colonel Burr was concerned. He answered, that he was one of the leaders. He also mentioned General Eaton as one concerned.

Mr. Hay. Did he mention what would be the result to you and to himself if the enterprise should succeed?

A. He said, if we succeeded, that our fortunes would be made; if not, that he was a ruined man.

Q. Did he say what he would do in case he met with resistance in his descent down the river?

A. Mr. Blannerhasset said they could land and burn the houses and towns, if the people attempted to oppose them.

Q. What arms did you see on the island?

A. I saw two or three guns, three blunderbusses, three braces of pistols, a sword and dirk, a keg of powder, and some bullets.

Mr. Martin. Were these arms owned by Mr. Blannerhasset for any long time?

A. Yes: I had seen them some time before.

Cross-examined.

Mr. Wickham. Did you ever agree to go with Mr. Blannerhasset?

A. I was undertermined if I should go; I said I was willing to go with my father's consent. Mr. Blannerhasset also said that he had so much respect for my father as not to wish me to go without it.

Q. Was there any talk of a Spanish war?

A. Mr. Blannerhasset gave some hints of such an event.

Mr. D. Woodbridge came into court to explain an observation which had been used on a former occasion. He said that the partnership accounts between him and Mr. Blannerhasset had been settled; from which it might be inferred that all their accounts had been settled. The truth, however, was, that though their partnership was dissolved, their private accounts were not yet adjusted.

Return J. Meigs, jr., was then introduced; he inquired whether he should state anything about the seizing of the boats.

Mr. Hay. No, sir; I wish you to state particularly what passed between General Tupper and yourself.

Mr. Burr. And what is that inquiry to the court?

Mr. Wirt. It is to fortify Jacob Allbright's testimony. I presume that such will be the conclusion, if it appears that General Tupper has told Mr. Meigs the very things which Allbright has substantially related.

Mr. Hay. Has not General Tupper left his affidavit?

Mr. Wickham. I know not; but when that shall be produced to the court, it will be time enough to introduce Mr. Meigs.

Mr. Hay. We have Mr. Meigs' affidavit, and, if it be necessary, we will introduce it. Mr. Meigs was then discharged from further attendance.

David Gillmore sworn

Mr. Blannerhasset was in Marietta at the latter end of October, with General Tupper. Mr. Blannerhasset asked me if I was the person who gave tuition in Marietta. After a short introduction, he observed that he was about to descend the Ohio and go up the Red river, to make a settlement; that he supposed the accumulations I might make from my instructions were not adequate to what I might make with him. He would like to have me go with him; that he was going to settle a new country, which would be advantageous to those who would volunteer to go round to that settlement. He mentioned the fertility of the country—the advantages of a market that was near to it, not far from New Orleans. He thought the prospects were so promising and flattering that I could not hesitate a moment in determining in favor of going. I said, if I knew the object, and was certain of benefitting myself, I would have no objections to go. He then observed that Mr. Belknap was a fine and promising young man; that he stood high in his estimation, and he would give me the same privileges as Mr. Belknap would derive. That evening he insisted very urgently upon my going down the river with him. I wanted time to consider; but that if he would make any engagements on which I could rely, I was willing to join. I said I would call at his island on the next Saturday. We walked to Mr. Woodbridge's, and he made inquiries if I was acquainted with surveying. I said if I could get anything in that way I would go, but I had heard of other objects being in view.

Mr. Hay. Did you press him to disclose the real objects of this plan?

A. I did. He referred me to Mr. Belknap; and if I concluded to go, he would let me know more when I called on him.

Q. Did you see Mr. Belknap?

A. I did; but I had not time enough to enter into the merits of the cause. Afterwards I visited Mr. Blannerhasset, and he asked me whether I had determined to go down the river. I told him that I had not yet had sufficient time to talk with Mr. Belknap. I asked him what were the prospects, and what were the discoveries of the objects he would make to me, and then I would tell him whether I would go or not. He said that I must engage first, and then he would tell me. Mr. Blannerhasset seemed willing to say very little on the subject, and seemed rather to consider me as a spy. I wanted some assurances, and perhaps intimated that I wanted everything to be put on paper. I told him that I had heard they would bear the expenses of the people back, and I think he said that that would be very unreasonable. I made some inquiries as to their numbers, and he said that some were coming down the river from Pittsburg—enough to furnish crews to the boats that were building on the Muskingum—I think he mentioned two hundred. He mentioned General Eaton as engaged. I asked him whether he expected three or four thousand men down the river. He said he could not tell. I asked him if he expected one thousand. He could not inform me. He observed that it was necessary for every person who descended the river to carry arms. I asked him the reason, and he said that there were a number of Spaniards or Indians on the Red river, who might attack them if they were not armed. He then observed that he would prefer rifles in preference to common fowling-pieces.

Cross-examined.

Q. Did any person go from your part of the country but Mr. Blannerhasset?

A. No one from Marietta.

General William Eaton sworn.

SATURDAY, *September* 26.

Mr. Hay. We only wish that part of your testimony, sir, which you have not yet delivered. You recollect that there was a part of it which was excluded by the decision of the court.

General Eaton. I know nothing concerning Blannerhasset and Smith. I have no recollection that their names were mentioned to me till after the prosecution was commenced. All that I know of Burr's project to dismember the Union is already before the court. After Colonel Burr had expressed to me the intended projects already related, and overcome my objections, he went so far as to assert that he would erect his standard at the seat of Government. Mr. Burr inquired of me, with what officers of the Marine corps and of the Navy I was acquainted. I told him with most of them. It is impossible for me at this period to remember distinctly every adverb expressed to me in the course of conversation; but this I perfectly

recollect, that if he could gain the Marine corps, and secure to his interests the naval commanders, Truxtun, Preble, and Decatur, he would turn Congress neck and heels out of doors, assassinate the President, (or what amounted to that,) and declare himself the protector of an energetic Government. If that distinct expression was not used, (though the impression is strong on my mind that it was used in the course of conversation,) yet he used such expressions as these: "Hang him!"—"throw him into the Potomac!"—"send him to Carter's mountain!" Mr. Burr proposed to me to endeavor to gain the Marine corps, and to sound Preble and Decatur, with whom I had been in habits of intimacy, but I had not been so with Truxtun. A circumstance now occurs to my recollection: he also desired me to gain a Captain Davidson—a very brave man, and who is as honest as he is brave. Mr. Burr seemed to select a Mr. Reynolds—a lieutenant of marines, a handsome and excellent officer—whom he wished to engage. He grew importunate on the subject of the Marine corps, and asked me, with some eagerness, how the Marine corps stood. I answered him, "Make yourself easy, sir; the Marine corps stand as they should stand." Here, I beg leave to observe, that I never felt myself prepared to insult the honor of either of those gentlemen by making such propositions to them; and if I had thought them corruptible, I was not yet prepared. I remonstrated with Colonel Burr on the fallacy of his hopes to engage such men as Truxtun, Preble, and Decatur, in the projects he had conceived—observing that these gentlemen were clothed with well-merited honors, independent in their circumstances, and that such were not the materials for a revolution. This, Mr. Burr admitted, but observed that they were undoubtedly, like others, conscious of the imbecility of the Government, and, like all military men, would prefer (I think that was his expression) a government of more energy, where enterprise would be encouraged and merit duly rewarded.

I stated obstacles to the project then in speculation, such as I thought insurmountable. I asserted that it would be impossible to find a party of men in this country who would support him, in projects of such a treasonable, and, I think, I said, murderous nature. He observed that he knew better the dispositions of the principal citizens of the United States than I did. He made reference, I think, to the political divisions of the people. At this distant moment, however, I cannot be positive. I recollect to have mentioned to Colonel Burr that I had lately travelled from one extreme of the Union to the other; and though I found a diversity of political sentiment among the people, they appeared united at the most distant aspect of national danger. He again recurred to the weakness, and want of energy of the Administration, and to his own resources; he seemed to make his project meritorious, as he said the degraded situation of our country required more energy in the Government; he said that the blow must be struck, and if he struck it at that time and place, he would be supported by the best blood of America. I observed that one solitary word would destroy him. He asked me what word. I said, "USURPER." He smiled at my want of confidence, and quoted examples from ancient and modern history, in which, I think, were named Julius Cæsar, Cromwell, and Bonaparte. Much speculative conversation passed, which I cannot distinctly recollect, but which went to convince me of the unprepared state of the people of these United States to defend themselves against an energetic blow; which conversation was pretty much closed by this observation of mine, that, if he should succeed at the seat of Government, his throat would be cut in six weeks by Yankee militia.

Cross-examined.

Mr. Baker. At what time was this conversation held?

Answer. Between the middle of February and the last of March, 1806.

Q. Cannot you come nearer to the time?

A. We had frequent conversations. I received various notes from Colonel Burr, requesting to see me. Our conversations were commonly held at the house of Mr. Wheaton, Sergeant-at-Arms, where Colonel Burr boarded. I frequently dined at that house with gentlemen in Congress, and we sometimes passed an hour or a half before dinner in conversation. We had interviews at other times, when the subject was started.

Mr. Botts. At what particular period was it, sir, that you exclaimed against the views of Colonel Burr?

A. As to the time, I do not recollect.

Q. I mean as to the stage of your communication?

A. It was when he opened his views to me of overturning the Government. But, through the whole of our intercourse, I used such strong expressions of disapprobation against his plans, that Colonel Burr ought to have been satisfied that he had no right to use *my* name.

Q. Was there no particular expression by which you conveyed to him your unwillingness to associate in his plans?

A. I have already stated to the court that my expressions must have convinced Colonel Burr that I was not disposed for the enterprise.

Q. Was there no particular objection you made more distinguished than any other by energy of language?

A. None more so than I have already stated. I did not think it good policy to awaken the suspicions of Colonel Burr.

Q. Do you recollect the time when you threw off the mask?

A. It was when I told him that the people were not prepared for his usurpations; that the very name of *usurper* would put him down; and, although he might calculate on the weakness of some quarters of the Union, yet there was strength in the North, which would cut him off. When Colonel Burr returned to the subject of dismembering the Union, the central project seemed to have been abandoned.

Mr. Wickham. You said that it was not your

policy to be more explicit; will you explain what you meant by that observation?

A. I have already given you an explanation of that before the court and the jury, but I will repeat it. I knew not that Mr. Burr had made communications to any one else; and if I had positively declared that I would oppose him, I doubted whether he would not turn the tables upon me. I had a further view. Had Mr. Burr, by means unknown to me, got his outrage upon the Government into motion, I should have endeavored to have been near him.

Q. Was your conversation about the marine corps before or after throwing off the mask?

A. I think it was previous. My memory, as to time, is not the most accurate. Many things may have escaped my memory; and, as it relates to the question of time, I cannot be positive on the subject.

Mr. Botts. Did you say that your toast was printed in a Springfield paper?

A. I was about to observe, with the permission of the court, on that subject. I never meant to be positive on that point. I am impressed with the opinion that this toast went through the hands of Stephen Pynchon, of Brimfield, and through him to said paper. The toasts have been given to the public, and it is more than possible I gave it more than once.

Q. Who was the printer of the Springfield paper?

A. I do not, at this time, recollect his name, though he is among the number of my friends.

Mr. Wickham. Or the title of the paper?

A. "The Spy."

Mr. Botts. You have detailed a number of harsh expressions which you used to Colonel Burr. Did he keep in perfect good temper all this time?

A. Colonel Burr, sir, has a powerful command of his muscles; I did not find at all times that they were unruffled; I could read in his countenance, sometimes concern, sometimes solicitude, and sometimes a disposition to make a trifle of my objections.

Q. I think you said, that it was generally your purpose not to disclose, in your intercourse with Colonel Burr, that you were inimical to his views?

A. You understood me correctly.

Q. But that, nevertheless, his muscles were sometimes ruffled?

A. They were.

Q. Were your observations, then, of a nature to ruffle him?

A. I spoke to Colonel Burr, sir, with much plainness; and, even if I had been cordial in my approbation of his plans, I should have sounded my objections, that I might have tried his force. I have done the best that I could for my country; I have attempted to exert all my wisdom; it was a painful ground on which I was taken. I took the advice of two intelligent gentlemen, whose names I am at liberty to mention, and they did not think it advisable for me to make a full disclosure to the Government, for my solitary communication would not avail against the weight of Colonel Burr's character; for, with all the evidence even now before the world, I still feel the weight of that character.

Mr. Baker. And who were the gentlemen that advised you?

A. The Honorable Samuel Dana and John Cotton Smith.

Mr. Burr. Had we any conversation before the month of January?

A. It recurs to me as highly probable that I first spoke to you in Philadelphia, between the 20th and 24th of December.

Q. On this subject?

A. I had a communication with another gentleman, at that time, of a very indefinite nature. At Philadelphia you gave me no distinct nor well-digested ideas of the project, but you spoke of a Spanish war.

Mr. Martin. We must have that gentleman's name. Who was it?

A. Jonathan Dayton.

Mr. Burr. Had you any expectations or promises of a military command from Government?

Answer. It is true that the chief clerk in the Department of War, though in confidential terms, asked me whether I would accept a vacant rank of lieutenant colonel on the establishment? I answered that I would take no rank on a peace establishment. There were no other overtures to me on this subject; but, when there was a prospect of war, you, and other men whom I thought as honorably of as I then thought of you, proposed a command to me in case of war. It is true that a gentleman near the Government asked me if I would take a command under the celebrated General Miranda. I asked him if he was authorized by Government to make this proposition? He said, no! I then observed the question required no measure, (as I found that, too, to be a project of darkness.) I was determined to know to what it all tended.

Mr. Baker. Who was that man?

Answer. Dr. William Thornton. I will ask the indulgence of the court to make one observation. It has been asserted by Colonel Burr that it was his intention to disqualify me for the stand which I now occupy; I shall remain here a reasonable time to indulge him in the attempt; it will not avail him. Let him look through all the pages of my life; he may find some errors and extravagances there, but he will find neither felony, nor fraud, nor neglect of duty.

Evidence of General Wilkinson.

SATURDAY, *September* 26.

Mr. Hay. Will you be so good as to state the written communications made to you by Colonel Burr, and the oral communications of Mr. Swartwout?

General Wilkinson. On or about the 8th of October of the last year, (1806,) I was sitting, in the evening, with Colonel Cushing, at his quarters, and with him alone, when a gentleman entered.

Mr. Hay. At what place?

A. At Natchitoches. The gentleman inquired

for Colonel Cushing, who rose and received him; he presented a letter to the Colonel, who broke the seal and read it. The gentleman then announced himself to be the Mr. Swartwout referred to in that letter, and Colonel Cushing introduced him to me as the friend of General Dayton; handing me, at the same time, the letter, a copy of which I have, and the contents of which I well recollect. The General then produced a paper, said to be the deposition of Colonel Cushing, which comprehended this letter.

Mr. Botts. When you are about to show a paper, you will please submit it to our inspection.

General Wilkinson. I shall be governed by the Judge in that respect.

Mr. Botts. Then we shall request the Judge to govern you in that respect.

General Wilkinson. I shall endeavor to conduct myself with propriety, and in the most decorous manner to the court.

[Here General Wilkinson recapitulated the contents of the letter which may be seen in the annexed deposition of Col. Cushing, marked A.]

Mr. Swartwout took a seat, and informed us, that, being on his way down the Mississippi for New Orleans, in company with a Mr. Ogden, they had heard at Fort Adams of the impending operation against the Spaniards, which had induced him to ascend the Red river in order to join me, and volunteer his services in the campaign; and that Mr. Ogden had proceeded on his journey to New Orleans. Colonel Cushing retired a few minutes, and, pending that interval, Mr. Swartwout slipped from his side pocket a letter and packet, or envelope, which he said he was charged by Colonel Burr to deliver to me. I hold the letter in my hand. It is a formal letter of introduction of Mr. Swartwout by Col. Burr.

Mr. Martin observed that, if any letters were produced, they should be lodged with the clerk, where both parties might have an opportunity of inspecting them.

Chief Justice. Not unless they are read. [The letter was laid upon the clerk's table.]

I inquired of Mr. Swartwout where Col. Burr was? He answered that he was in Philadelphia, or that he had left him there. Colonel Cushing returned, and the conversation took a general course. After some time Mr. Swartwout withdrew, and I retired to my chamber, and in the packet or envelope I found a letter addressed to me in cipher from Colonel Burr.

Chief Justice. I did not understand you. How did you get that letter?

A. It was in the packet or envelope. This letter was principally in cipher; the closing paragraph, however, was in the ordinary script. I resorted to the key, and attempted an interpretation of the letter. I did not complete it, but discovered enough in the course of the evening to satisfy me that there was some illicit project on foot. I arose early in the morning and called on Colonel Cushing, my second in command and adjutant and inspector to the army. I stated to him that Mr. Swartwout had borne me a letter from Colonel Burr, the nature of which I explained, and observed to him that Mr. Swartwout's declarations that he had come with a view to volunteer his services against the Spaniard, were merely intended to cover his real design. I then communicated to Colonel Cushing the measures which I should pursue, enjoining on him, at the same time, to observe the strictest secrecy. Were it permissible to be read, here is a statement of facts, sworn to by Colonel Cushing. [The General held, at this time, in his hand, the paper marked A.]

Mr. Wirt. This statement is signed by Colonel Cushing, with a certificate of his qualification, in legal form, annexed.

Mr. Wickham. An affidavit forming no part of the case before the court cannot be introduced.

Mr. Hay. General Wilkinson states that, on the morning after the letter was partly deciphered, he stated to Colonel Cushing its contents, and communicated to him the measures which he should pursue. These are facts detailed in that deposition, and, if the gentlemen do not wish to see them, there is an end of the controversy.

The General proceeded. One paragraph of the letter I have observed was in the ordinary script. [Here the paragraph was read by General Wilkinson in the following words: "He is a man of inviolable honor and perfect discretion; formed to execute rather than to project; capable of relating facts with fidelity, and incapable of relating them otherwise; he is thoroughly informed of the plans and intentions of —— ——, and will disclose to you as far as you inquire, and no farther. He has imbibed a reverence for your character, and may be embarrassed in your presence; put him at ease, and he will satisfy you."] I determined to avail myself of this reference to obtain from Mr. Swartwout that information which I could not discover from the letter—that is, the object to which Colonel Burr expressly directed his views; and, in the course of several days, I obtained from him, substantially, the following facts: That he had left Colonel Burr at Philadelphia, occupied almost day and night on an enterprise which he had in contemplation. That he lived in a retired part of the city, in a small house with several rooms, where he received persons with whom he had to transact business; and that he saw no two persons at the same time. He observed to me that Commodore Truxtun was frequently with him, and zealously engaged in his enterprise. He observed, at the same time, that a man who superintended the public buildings at Washington was also zealously engaged in his enterprise. He did not recollect his name, but on my mentioning the name of Latrobe, he said that was the man. He said that he had been despatched by Colonel Burr from Philadelphia, and had traversed the States of Ohio and Kentucky. I so understood the gentleman at that time, but have since discovered that he descended the river.

Mr. Botts. By whom did you understand that he had descended the river?

A. By a man who informed me he had rowed him down from Pittsburg.

Another reason why I may have been mistaken

was this: he informed me that he had passed to Frankfort in quest of General Adair, for whom he had despatches from Colonel Burr; and, not hearing of him there, had returned back to Lexington in pursuit of him, where he was informed by Major Waggoner that General Adair (being in ill health) had gone to some medical spring, and that, if he would wait a few days, he might see him; that he did so, and thus had an interview with him, without incurring any suspicion; at which time he delivered his despatches. He said General Adair was zealously engaged in the enterprise, and observed, "tell him I will not write to him, but that I expect to meet him at the place; that he may depend I will meet him at the spot;" or words to that effect.

Mr. Swartwout proceeded to inform me that he came to Louisville, and felt himself at a loss how he should reach me with the most certainty; that a rumor had prevailed there that I had descended the river. Finally, on the advice of Mr. Floyd, he determined to go across the country, under an expectation of finding me at St. Louis. Accompanied by Mr. Ogden he prosecuted his journey to Kaskaskias. Finding that I had descended the river, he determined to alter his route; he purchased a skiff, employed hands, and followed me down to Fort Adams. At this point I asked him whether this sudden change of route might not expose him to suspicions? He said that, to guard against this, he had wounded his horse with a penknife, and informed the people that his intentions were to have visited St. Louis; but having experienced this accident, he should pursue his original destination, which was to descend the river to New Orleans. On arriving at Fort Adams, and discovering that I had proceeded to Natchitoches, he determined to follow me; and his friend, Mr. Ogden, (pursuing his route,) went on with despatches from Col. Burr to his friends in New Orleans. Mr. Swartwout informed me that Colonel Burr, supported by a numerous and powerful association, extending from New York to New Orleans, was about to levy an armed force of seven thousand men, with a view to carry an expedition against the Mexican provinces; that five hundred men would descend the Allegany river with Colonel Swartwout and a Major or Colonel Tyler; that the boats were already built. He observed that this Territory would be revolutionized, where the people were ready to join; and that some seizing, he supposed, would be necessary at New Orleans; that they expected to make their embarcation about the first of February; that they proposed landing at La Vera Cruz, and marching from thence to Mexico. I observed to him that there were large sums of money in the Bank of New Orleans. He replied that he knew that full well. I observed, "surely you will not violate private property?" He said, "We mean only to borrow, and will return it;" that they must equip themselves at New Orleans; that naval protection would be had from Great Britain; that Commodore Truxtun and the officers of the navy were so disgusted with the Government, that they were ready to join; and that pilot-boat built schooners were contracted for on the southern coast of the United States for the service.

He inquired of me whether I had heard of Dr. Bollman? and, on my replying in the negative, he expressed some surprise; observed that Dr. Bollman and a Mr. Alexander had been despatched from Philadelphia, by sea, to New Orleans, with despatches from Colonel Burr to me, and that they must have arrived. Mr. Swartwout informed me that he was obliged to go to New Orleans; and was also under engagements to meet Colonel Burr and General Dayton at Nashville on the 20th of November. I think Mr. Swartwout left Natchitoches about the 18th of October for New Orleans, as I understood.

It may be proper, in this stage of my testimony, to say that the envelope, which contained the ciphered letter from Colonel Burr, covered also two other letters. To save misapprehension, it may also be proper to say that, when I speak of an envelope, it is in contradistinction to a sealed packet. It occurs to my recollection that a letter, addressed to John Peters, Esq. of Nashville, was enclosed in the envelope, as well as another letter from General Dayton, in cipher. See [Dayton's letter, note C.]

Mr. Baker. Do you say that the letter from General Dayton was enclosed in another ciphered letter?

A. No. I say expressly the reverse. It came with it.

Mr. Wickham objected to reading the letter from General Dayton. He said that General Dayton being absent, he had no opportunity of consulting him, or of ascertaining his wishes respecting it. If there be no other evidence that the letter was from General Dayton except that a letter was received by General Wilkinson, purporting to be a letter of General Dayton's, it was not evidence.

Mr. Hay. The fact stated by General Wilkinson is, that he received this letter. It may have had a considerable influence with him, as to the course which he pursued. He received the letter, together with another ciphered letter from Colonel Burr; and the fact being that he received this letter, purporting to be a letter from General Dayton, it surely may be read.

Mr. Wickham. If the letter by itself would not be evidence, its being connected with others would not make it so.

Mr. Hay. On that distinction I mean to offer it. If General Dayton were before the court, he might require some other evidence as to the authenticity of the letter. General Wilkinson is telling his whole story; he is to give his whole narrative; and all the circumstances will bear upon each other.

The Chief Justice at first said that, if General Wilkinson could say that the letter influenced his conduct, it might be read; but, finally, he observed that, on a motion now before the court, it might be improper to read it. If it be the intention of General Wilkinson to state that certain conduct of his was produced by that letter, he may state that such conduct was produced.

General Wilkinson. I must say this letter materially influenced the measures which I pursued.

Mr. Hay. There is certainly a wide difference between this case, a mere examination before a judge, and a trial before a jury. This letter may identify General Dayton with the meeting at the mouth of Cumberland.

General Wilkinson. Here is the letter, addressed to J. Peters, Esq., signed A. Stephens. It appeared to be in a disguised hand; but I have no doubt of its being the handwriting of Colonel Burr. [See note D.]

I returned from the operations against the Spaniards November, 5th and on the next morning—

Chief Justice. To what place did you return?

A. To Natchitoches.

On the morning of the 6th of November, a small Frenchman (whom I had never seen before, nor have I ever seen him since) presented a packet to me, and took his leave. This I found to be a letter from Dr. Bollman, covering a letter from Colonel Burr. The letter from Dr. Bollman, in his proper handwriting, bears date September 27, 1806, from New Orleans. [See note ***] Here is the ciphered letter enclosed by Dr. Bollman, and I find it is an exact duplicate, as it professes to be, of the one received by Mr. Swartwout, with this variation: "Dr. Bollman, equally confidential, better informed on the subject, and more intelligent, will hand this duplicate." [This letter was laid upon the clerk's table.] That letter also enclosed one from General Dayton.

Mr. McRae. Of the same tenor as the former?

A. No; quite different.

This letter of General Dayton is partly in cipher, and partly in the common script. [See note E.]

Mr. Wirt. Are you acquainted with General Dayton's handwriting?

A. Perfectly.

Mr. Hay. How did you become acquainted with it?

A. From a long and familiar correspondence. Here is a letter from General Dayton to me, introducing his son, which will show the similarity of the handwriting. [Here the General produced the letter of introduction.] On the same morning I received the following information from Natchez, in a letter from James L. Donaldson, dated the 30th of November, 1807: [Here General Wilkinson offered to read the letter, but it was rejected by the court.—See note F.] In consequence of this letter from Mr. Donaldson, and my reflections on the letters from Colonel Burr, I determined to concentrate my whole force at New Orleans as soon as possible. [Mr. Hay said that he was willing, in order to save time, to waive everything which related to the operations of the Army; and requested that General Wilkinson would proceed to relate what occurred at New Orleans.] I proceeded from Natchitoches to Natchez, and, descending from that place, reached Fort Adams on the 18th of November, where I found Mr. Swartwout, who had been taken ill on his route from Natchitoches to New Orleans, and, for his accommodation, was invited by some one of the officers to that place. He informed me that Mr. Ogden had reached that place on his way to Tennessee; but, being alarmed by the rumors which prevailed in that part of the country, he was afraid to proceed, and had halted there. I inquired of Mr. Swartwout whether Mr. Ogden had borne any letters. He said that he had not; but that Lieutenant Spence, of the Navy, had been sent, some time before, from New Orleans through the country, with letters from Colonel Burr. I proceeded on, and reached New Orleans on the 25th of November, in the evening; and on the 26th, in the morning, I received this letter from Dr. Bollman: [Here General Wilkinson produced the letter.—See note G.] This letter reminds me of a circumstance which I had omitted. The morning after I had received the letter of Doctor Bollman at Natchitoches, I acknowledged the receipt of it in a short note, and informed him that I should be in New Orleans about the 20th. I did not call on Doctor Bollman till the 30th. After the ordinary salutations, I inquired whether he had heard of Colonel Burr since his arrival. He informed me that he had not. I asked him whether he had heard of Lieutenant Spence's arrival in Tennessee. He inquired how I came to know anything of Lieutenant Spence. I informed him that it was through Mr. Swartwout. He assured me that he had sent despatches for Colonel Burr by Lieutenant Spence, and that he had heard of his arrival at Nashville. He then inquired what part I meant to take. I observed that I felt myself delicately situated. It was impossible that I could take any part while I held my commission, and I was so circumstanced that I could not get rid of it. He asked me what I thought of the competency of the force for the undertaking. I observed that it depended upon a variety of circumstances, such as winds, weather, composition, and appointment of the troops, skill in conduct, the resistance of their opponents, and other causes on which the success of military operations depends. But I gave it as my opinion that the force was insufficient. He said that Colonel Burr had gone too far to retract; that he had numerous and powerful friends in the United States, who stood pledged to support him with their fortunes, and that he must succeed. He then inquired of me my opinion as to the state of the magazines of provisions in New Orleans. I observed that, if Colonel Burr descended with the force proposed, they would starve, unless he brought provisions along with him, for I had before ascertained precisely the quantity then on hand. He said that it was his opinion, also, that there would be a scarcity of provisions; that he had written to Colonel Burr on the subject, and that he expected a supply from New York and Norfolk, where Colonel Burr had many friends. He said that he had noticed in the public prints the sailing of some vessels with flour, and supposed that they might be destined for that place. I did not see Doctor Bollman afterwards till the 5th of December, the day after the arrival of the mail; and I called on him to inquire the news.

He said that he had seen a letter from Colonel Burr, of the 30th of October, in which he stated that he should be at Natchez on the 20th of December, with two thousand men, to be followed by four thousand more, and that he could have raised or levied twelve thousand men as easily as six, if he had thought them necessary. I then informed Doctor Bollman that, if Colonel Burr came to New Orleans, I should oppose him. He replied, they must come there for provisions and equipments. He observed that Colonel Burr had great confidence in me, but he did not know what passed between us, and asked if I could not make such a defence as would cover my reputation, and still permit him to come. I replied in the negative, and we then parted. Some few mornings afterwards, he called at my quarters; there was a gentleman in the room, and I took him into the piazza. He said that he wanted to know my determination. I expressed my surprise, and told him that he knew my determination.

Mr. Hay. While you were thus extracting from Doctor Bollman the secrets of his party, were you taking any measures for the security of New Orleans?

A. Yes; my orders and instructions will show what measures I deemed it my duty to pursue. For these I am responsible to the Executive of the United States.

Mr. Martin. Are the ciphered letters filed?

A. Yes.

Q. Is the key furnished?

A. Here it is.

[Mr. Botts mentioned the situation of Mr. Tazewell, who was summoned as a witness on the part of Colonel Burr. He said that Mr. Tazewell had represented the situation of his family to be such as to require his immediate return home. Mr. Botts observed that, although he had introduced the request of Mr. Tazewell to be discharged, he should be compelled to oppose it.]

Mr. Tazewell stated that he had been unexpectedly summoned, he well knew, to answer interrogatories as to certain proceedings before the grand jury; that he had just been informed of an occurrence in his domestic affairs which made it indispensably necessary for him to return immediately; that there were many gentlemen in this place and its vicinity of the grand jury, who were as competent to give evidence on the points to which he should be called upon to depose as he possibly could be, and who would be subjected to no kind of inconvenience in attending. If he were to be examined at all, he requested that it might be immediately done, for the situation of his family was such that he should be compelled to return.

The Chief Justice said to Mr. Tazewell that he knew full well that it was not in the power of the court to discharge him.

Mr. Botts said it was impossible to examine Mr. Tazewell till General Wilkinson had gone through his testimony. It was not possible to know the importance of his evidence till General Wilkinson was cross-examined.

Mr. Hay observed that it was an unprecedented measure to introduce any member of the grand jury to prove what had passed in the jury room.

Mr. Botts. We have not said for what purpose we mean to introduce him.

Mr. Hay. I presume I may be permitted to *presume* for what purpose.

Mr. Baker said that he meant to speak generally of the propriety and convenience of giving testimony as to what passed in the grand jury room. One good effect, at least, would result from it: that, by introducing witnesses to prove what had passed there, it would prevent people from giving information to the grand jury which they could not support elsewhere.

Mr. Botts called for the key to the ciphered letters of Colonel Burr. General Wilkinson handed him a small pocket dictionary, and a paper containing certain hieroglyphics.

Mr. Botts. In the duplicate received by Dr. Bollman there is an erasure; will you be so good as to explain the cause of it?

General Wilkinson. That erasure was made by myself, and the words afterwards introduced by me. I have a deposition which will be more satisfactory than my own explanation.

Mr. Botts. Whose deposition?

A. Mr. Duncan's.

[Mr. Wirt read the deposition of Mr. Duncan; for which see note H.]

Mr. Botts. When was the erasure made?

A. During the sitting of the Legislature in New Orleans.

Q. When were the words restored?

A. I cannot now state with certainty.

Q. Was the letter exhibited to the Legislature?

A. It was introduced, but I confined myself to oral communications.

Q. What was the occasion of the erasure?

A. To put it out of the power of a certain faction in the Legislature, to whom, at that time, I intended to submit the paper; to conceal it from that faction who were opposed to my measures, and who, I believed, were inimical to the true interests of their country, and were laboring to excite suspicions that I was connected with Colonel Burr, in order to destroy the public confidence in me, and thus to defeat my measures. At the head of this faction I considered John Watkins, Esq., the Speaker. Having determined not to submit the letter, I restored the words.

Q. Did you prepare any translation to submit to the Legislature?

A. No; I only made notes.

Q. Did you make a translation for any other purpose?

A. Only a partial and imperfect one.

Q. For what purpose?

A. To understand it.

Q. Was there any other occasion for which a translation was made?

A. No.

Q. Did you make any translation for the Executive? A. No.

Q. Were those words, "yours, postmarked 13th of May, is received," erased?

A. Yes.

Q. Where is the copy of your letter covering a copy of that of Colonel Burr, and your depositions to the President of the United States?

A. It is among my papers.

Mr. Hay. Do I understand you correctly when I suppose you say that the translation intended for the Legislature of New Orleans was sent to the President? A. No.

Mr. Hay immediately observed that, on recollecting dates, he perceived that he had misunderstood General Wilkinson; that the letter was sent to the President before the session of the Legislature of New Orleans.

Mr. Botts. Do I understand you to say that this was *your* translation of the letter which was intended for the Legislature of New Orleans?

A. No; it was Mr. Duncan's.

Mr. Botts. Have you ever sworn that this was a true translation?

A. No; only substantially so.

General Wilkinson. May I be permitted to offer a few words of explanation? When Dr. Bollman was arrested, I will confess to you that I was so little acquainted with judicial proceedings, that I did not know it was necessary to do more than accompany him with a letter of advice. I was about to send him off in this way, when Mr. Duncan suggested to me the propriety of sending forward a deposition to justify his commitment. I put the letter into the hands of Mr. Duncan, with the key; and he made out the interpretation. When Mr. Duncan presented the translation to me, I stated my objections to the omissions. He urged me to sign the deposition. The time was urgent; the express waiting; and I confess that I feared a rescue. This did not give me much time to consult my understanding. If I had, it is probable that I should have resisted the signing of the deposition, with those omissions, notwithstanding my confidence in the judgment and integrity of my counsel. I was also at the time oppressed by domestic afflictions, and my mind was hurried and agitated by the painful and interesting scenes which surrounded me.

Mr. Botts. Were there variations between this original letter in cipher, and that sent on to the President?

A. Yes.

Q. Were they noticed by you or by Mr. Duncan in your presence?

A. I suppose so; because I objected generally, to the omissions.

Q. How was the cipher formed?

A. It consisted of an American edition of Entick's dictionary, and of hieroglyphics.

Q. Which was formed first?

A. The dictionary.

Q. When was that formed? [Here General Wilkinson referred to a letter, without a signature, dated in 1800, and said he presumed it must have been formed about that time.]

Q. Do you know the time of the year?

A. I presume it was October.

Mr. Baker. To whom was that letter addressed?

A. To myself.

Q. By whom was it written?

A. By Colonel Burr. [General Wilkinson observed that it was a private letter, to which he referred merely to refresh his memory, the concluding paragraph of which is, "When I receive your cipher and your address, you shall hear from me." Mr. Wickham insisted on seeing the letter; General Wilkinson refused; but said it was at the disposal of Colonel Burr, and handed it to him.]

Mr. Botts. With whom was the cipher formed?

A. Colonel Burr and myself.

Q. When were the hieroglyphics agreed upon?

A. To the best of my recollection the hieroglyphics, which refer to the alphabet, were formed about the change of the Administration, after the induction of the President. The hieroglyphics are divided into two parts: one part relates to the alphabet and figures, and the other part to arbitrary names or designations.

Q. When were the arbitrary names established?

A. I think in the year 1795 or 1796, but not delivered to Colonel Burr at that time.

Q. Who originally devised the cipher?

A. That you hold in your hand (the hieroglyphics) was devised partly by myself and partly by Captain Campbell Smith.

Q. Are you sure that it was in 1796 in which that part was devised?

A. I think I said in 1795 or 1796, but could not ascertain which; but, adverting to the motives which induced me to form it, I think it was in 1794.

Q. Are there no circumstances which can enable you to ascertain the time?

A. I could have proved with certainty the time, if a witness whom I had summoned had attended. Here is another cipher made by Captain Smith, in 1794; and the hieroglyphics representing the President and Vice President are the same with those used in the cipher with Colonel Burr.

Col. Burr. What was the mode adopted by you of sending round the prisoners? By public vessels?

A. No. My plan was to engage passages on board private vessels, and to lay in a double stock of stores for their accommodation.

Q. When did your despatches go on board the vessel? Can you ascertain the time?

A. Not without recurring to my correspondence.

Mr. Wirt. You had been for many years in habits of intimate correspondence with Col. Burr?

A. Yes.

Continuance of Gen. Wilkinson's evidence.

TUESDAY, *September* 29.

Gen. Wilkinson, addressing the Judge:

From the rapidity with which the interrogatories were put, and the promptitude of my answers when last before you, I fear some misapprehension may have occurred; I therefore beg leave to explain the facts to which the interrogatories appeared to be pointed, which I trust I shall be able to do clearly, concisely, and satisfactorily.

The only explanation of the ciphered letters of Col. Burr, transmitted by Swartwout and Bollman, which I have made, was done hastily, and by piecemeal, at Natchitoches; I think I have called this an imperfect interpretation, and I have done so, because, although it gave me their full sense, yet, by omissions and abbreviations, it could not be well understood by another.

On reflection, I think it was from this document, and not from notes, that the purport of Col. Burr's letters was given to the Legislative Council and Representatives of the Territory of Orleans. I find the summons from the House bears date the 15th of January last, and I believe the examination commenced on the 17th. It lasted two days, and therefore I cannot recollect the particular course or circumstances. I find, by references to my papers, that certain documents were submitted to the clerk to be read under restrictions; and it is probable I carried with me to the House all the papers respecting the subject of inquiry.

I have some impression that this same document was proffered to the grand jury to aid them in their interpretation of the ciphered letters of Colonel Burr, but I cannot speak with certainty. This examination lasted several days, and, like that before the Legislative Council and Representatives of the Territory of Orleans, was diffuse, desultory, and complicated; and therefore it is impossible for me to charge my memory with minutiæ.

The interpretation of Mr. Duncan was made the 25th or 26th of December, 1806, twenty days before my examination by the Legislative Council and Representatives of the Territory of Orleans.

I did not transmit an interpretation of the ciphered letter to the President, but I well recollect explaining it to Mr. Isaac Briggs, the confidential messenger sent with my letter of the 12th of November, who was charged also to make oral communications to the President.

By reference to the original letter, it will be found that a deposition is attached to it: this was done preparatory to the transmittal of it to the President, as was my intention, by a special messenger; but the fear that it might be lost changed my determination. I kept it in my possession, and brought it with me.

Referring to Colonel Burr's letter of the 10th of October, 1800, I have said that I believed the cipher depending on the book was formed in that year, yet it may have been afterwards. I perfectly remember that, about that period, Colonel Burr informed me he had to send one hundred and fifty miles for the counterpart of the book; and, also, in answer to a letter I wrote him from the frontier of Georgia, the Oconee river, in the year 1802, he then being in Charleston, he informed me he could not write as freely as he wished, as he had not the cipher with him.

In accounting for the erasure of the duplicate of Colonel Burr's letters, I have mentioned the apprehension which had been excited of my being an accomplice of Colonel Burr's, and that I was preparing for his reception. This device had excited such alarm, and the friends of Government were so incensed, that I was cautioned by Silas Dinsmore, Esq. to take care how I moved, as I was in danger of being tarred and feathered.

After General Wilkinson had finished his address to the court, Mr. Martin asked him if he had the original translation of the ciphered letter of Colonel Burr? His answer was, I have not. I have looked for it, but cannot find it.

General Wilkinson then said that he wished to present the deposition of Captain Walbeck, formerly a member of his family. It went to explain his very general habit of corresponding in cipher. [See the deposition of Captain J. B. Walbeck.]

Mr. Wickham. Have you ever accurately deciphered the letter sent to the President?

A. No. I have said before that the only interpretation I ever made was hastily done at Natchitoches.

Q. Then you are not able now to point out the difference between Mr. Duncan's tranlation and the original letter?

A. Specifically I cannot, *substantially* I can. Such parts were left out as were calculated to inculpate me, for the reasons already stated.

Q. I observe one of the ciphers in hieroglyphics designed in 1799 or 1801.

A. That is erroneous. When the hieroglyphics were formed, they were taken from a small slip of paper, and annexed to that in your hand to prevent its being lost.

Q. Can you tell when they were made?

A. I cannot, precisely. I have before stated the time, as nearly as I can.

Q. Can you tell upon what occasion they were made?

A. For the purpose of communicating with Colonel Burr.

Q. Do you recollect your having sent a letter to Colonel Burr, from St. Louis, in May or June, 1806?

A. I have such an impression, but have not the most distant recollection of its contents.

Mr. Wirt submitted it to the court whether it could be proper for the opposite counsel to interrogate General Wilkinson as to a letter which was in their own possession. If they meant to rely upon the letter as evidence, they ought to produce it. He considered it unfair to select such parts as might tend to inculpate General Wilkinson, and keep back those which would lead to an explanation of his conduct.

Mr. Wickham said it was their paper, and they were not bound to produce it till they thought proper. Their object was to cross-examine the witness, and see whether he was consistent with himself. This they had a right to do.

The Chief Justice said that the question would not be permitted to have any bearing on the cause, unless the letter was produced. Anything drawn out of the letter would not be testimony, unless the opposite party, who had it in their possession, would exhibit it to the court; but it was obvious that they had another object, which was to ascertain the consistency of the witness.

Mr. Wirt. If the object be to shake the credibility of the witness, it is not fair to him and to the conduct of the cause to exhibit the whole letter?

Mr. Baker. A very ingenious mode has been adopted by the gentlemen. We put the questions, and they undertake to furnish the answers, without leaving it to the witness to do it himself. We do intend to shake the credibility of General Wilkinson, and to make him produce the shake himself.

Mr. McRea. I understand the court to say that the examination, as to the contents of the letter, shall have no effect, unless the letter itself be produced.

Chief Justice. General Wilkinson says that he has no recollection of the contents of the letter. The subject-matter of the letter cannot be established by the examination; but the witness may be cross-examined for the purposes avowed by the opposite counsel.

Mr. Wickham. Do you recollect that you did write to Col. Burr in 1806?

A. I have before stated that I have such an impression; but I have no recollection of the contents of any communication made to him, although I remember the motive which induced me to write.

Q. You have no recollection of any particular expression?

A. No: except in a letter of October or November, 1805.

Q. Have you no recollection of any expression or sentiment expressed in your letter of 1806?

A. I have no recollection.

Q. Was it your expression that we should have a war with Spain?

A. It was my opinion; and there was a very general impression that we should have a war with that Power.

Q. Do you recollect writing anything respecting the measures of the Government in relation to a war with Spain? Have you no recollection of any opinion expressed in a letter to Col. Burr?

A. I do not recollect having expressed any opinion respecting the measures of the Government. The only expression of which I have any idea, is one used in a letter of October or November, 1805, in which, I believe, I say, "I fear Miranda has taken the bread out of your mouth."

Q. There were letters published from you while in the neighborhood of the Spaniards. Have you copies of those letters here?

A. I have the whole correspondence.

Q. We only want the letters of September and October, which state that war with Spain is inevitable.

General Wilkinson. I think I may have said so, and I believe that I have papers here which throw some light on the subject. Here are my instructions to the officer who commanded the troops when they left St. Louis. [General Wilkinson handed to Mr. Wickham copies of his instructions to Col. Cushing.]

Mr. McRea. What is the date of those instructions?

A. The 6th and 8th of May, 1806.

General Wilkinson said that he would with pleasure submit the whole correspondence, if he could do it consistently with his own ideas of propriety; but there were contained in it such secret military operations as it might be improper to expose.

Mr. Wickham. I think you state that, at that time, the expectation of war with Spain was very general?

A. It was so; and, if my instructions to Col. Cushing can be read, they will show my own impresssions.

[Here Mr. McRea read the instructions of Gen. Wilkinson to Col. Cushing, of the 6th and 8th of May, 1806, for which see notes K and L.]

Q. I think you have said there was a universal expectation of war with Spain, about the time when the troops of that nation crossed the Sabine?

A. Yes, I have said so; I had made arrangements for a general attack.

Q. To what cause are we to ascribe the accommodation which took place between the two armies?

A. To a wish to spare the effusion of blood, and, perhaps, because on one side there was reluctance to fight.

Q. On which side? A. On the side of Spain.

Q. Can you tell the particular motives which induced them to recross the Sabine, and change their position?

A. I think I can explain them. Immediately on my arrival at Natchitoches, on the 24th of September. I addressed a letter to Governor Cordero, whom I considered the Commander-in-Chief of the Spanish forces on that frontier; I communicated to him my orders from the President and urged him, on the ground of right and of humanity, to withdraw his troops from the east of the Sabine, and recross that river. Whether this or the vigorous preparations for offensive operations which I immediately commenced on my arrival at Natchitoches, produced the effect or not, I cannot tell; but the fact is, that the Spaniards, about the 27th of the month, raised their camp at Bayou Pierre, marching by their right, intersected the highway from Natchitoches to Nacogdoches, about twenty miles in my front, pursued that route, and recrossed the Sabine about the 29th or 30th.

Q. Was this after you had received the ciphered letter?

A. No; it was some time before.

Q. Had you any correspondence with the Spanish commandant on the subject of Colonel Burr's expedition against Mexico?

A. None. The earliest communications which I made on that subject were after my return to Natchez?

Q. Has the jurisdiction of the United States ever been exercised as far as the Sabine?

A. I cannot tell.

Q. Was it in consequence of instructions from the Government that you concluded the convention with the Spanish commandant?

A. No.

Q. I do not recollect whether the convention has ever been published?

A. Never.

Q. Have you any copy of that convention?

A. Yes; but, until it shall be the pleasure of the Government to publish it, I do not think myself at liberty to divulge its contents; I do not think it reconcilable to the duty of a military commander to anticipate his Government in the publication of official communications.

Q. Were there any secret articles in that convention?

A. None. There was but one article.

Q. Was there any sum of money agreed to be paid on either side?

A. Not one cent.

Q. You note two letters of the President, one of the 21st of October, and the other of the 12th of November, 1806. Have you a copy of that of the 12th of November? and will you give me leave to ask whether that letter was before the grand jury?

A. It was submitted to the grand jury.

Mr. Wickham said that they called for a copy of that letter; if the counsel on the other side thought proper to oppose it, they might do it at once.

Mr. Hay. We shall certainly oppose the production of the letter; the President has been consulted on the subject, and he has excepted such parts as he thought it would be improper to produce.

The Chief Justice remarked that, after the President had been consulted, he could not think of requiring from General Wilkinson the exhibition of those parts of the letter which the President was unwilling to disclose.

Mr. Wickham. The whole letter having been before the grand jury, and acted upon by them, we certainly have a right to call for it also.

Q. Were the Spaniards in considerable force on the east side of the Sabine?

A. They were reputed to be so.

Q. What was the strength of the army of the United States?

A. About five hundred effective men.

Q. What orders did you receive from the Government in the months of December and February last?

A. I cannot say what particular orders I received during those months. Owing to the frequent changes of my position, I was for more than six months without orders. But it is impossible for me to answer the interrogatory to the extent to which it is put, without subjecting myself to severe military penalties; nothing can be more improper or dishonorable than to divulge military orders of a secret or confidential nature.

Mr. Wickham. There can be no doubt but, under the sanction of the oath which General Wilkinson has taken, he may be compelled to give testimony as to the points on which he has been interrogated. In England, nothing is more common than for the most secret transactions to be disclosed in a court of justice. Considerations of delicacy in the witness have never been permitted to have any weight.

Mr. Hay. There is a material difference; those were cases between individuals; this is a communication from the Executive Government. We are not at liberty to dive into the secrets of the Executive Department to know what orders they have given to their agents, and to proclaim those orders to the world—orders which are given for the public good. There can be no doubt but that the public good does require that various orders of the Government should forever remain a secret.

Mr. Wickham. The gentleman did not understand my question. I asked General Wilkinson what orders he had received from Government in relation to Colonel Burr!

Q. Did you receive any orders to attack Colonel Burr and his party?

A. That question may require some qualification.

Q. Did you send any officers in disguise to take Colonel Burr?

A. I sent three.

Q. Their names?

Mr. Hay said he did not think General Wilkinson was bound to answer such questions; that he was not bound to furnish evidence against himself, or to subject himself to prosecution. Although he believed that the exigencies of the times would justify the measure which General Wilkinson had adopted, it was left with himself to determine whether he would answer the question or not.

General Wilkinson. If the question goes to criminate myself, I presume that I am not bound to answer it.

Chief Justice. Would General Wilkinson be subjected to an action for sending to apprehend Colonel Burr, unless he had been seized?

Mr. Hay. It may go to criminate him as a military man; he may have acted without orders.

Mr. Wickham. I do not presume that he acted without orders, but under the orders of the Government.

The Chief Justice said that he could not perceive the application of the evidence; but as evidence was introduced to show the flight of Colonel Burr from Washington, this, he presumed, was intended to account for it.

Mr. Wickham. Will you state the names of the officers sent to apprehend Colonel Burr?

A. Captain Hook, Lieutenant Peter, Lieutenant Mulford, Doctor Davidson of the army, and Doctor Carmichael, of the Mississippi Territory.

Q. Did you direct them to go without uniform?

A. I believe I did.

Q. Did you direct them to conceal the object of their mission?

A. I feel great delicacy in revealing my orders. I think I did mention to them the propriety of going in the attire of private citizens, to elude the vigilance of Burr's spies, many of whom were in New Orleans, and would give him notice of their departure from that place; it was also prudent to send them in that manner, that the jealousy of the

Spaniards, through whose territories they had to pass, might not be excited. They were sent privately, for the success of the enterprise depended upon it.

Q. Did you give them written or oral instructions?

A. Both.

Q. Have you copies of the written instructions?

A. Not here.

Q. Will you furnish copies?

Mr. Hay objected to the production of those orders; he said that they had a right to impeach the credibility of the witness, but not to compel him to disclose the orders given to those under his command.

Q. Were these orders to seize Colonel Burr wherever they could find him?

A. They were sent on that service expressly. I think the orders were confined to Natchez; information having been received that Colonel Burr had taken up his quarters there.

Q. Were there any orders to seize him, even in court?

A. I cannot say, but presume there were not.

Q. Were any private soldiers sent on this service?

A. No.

Q. Were any soldiers sent to Lieutenant Jones's gunboats?

A. Infantry were furnished to supply the place of marines in all the gunboats.

Q. Were any instructions sent by you that the men in Lieutenant Jones's gunboats should act?

A. I gave Lieutenant Jones no orders, as he was not under my command.

Q. Was Commodore Shaw considered under your authority?

A. He was rather considered as co-operating with me; but he had a discretion of his own.

Q. Was there a recommendation to Commodore Shaw to give directions to Lieutenant Jones to take any measures to apprehend Colonel Burr?

A. I think the orders required him to do so.

Q. What orders were given for the disposal of Colonel Burr?

A. The orders were that he should be put on board a vessel, and sent by the way of New Orleans to the City of Washington.

Q. Were these orders written?

A. I believe they were.

Q. What orders had you from the Government, or did you do it on your own authority?

[General Wilkinson took time till to-morrow to consider the subject, and to examine his papers.]

Q. When you were at New Orleans, were not letters addressed to other persons frequently brought to you from the post office; by whose orders were they delivered to you; were they opened, and with what view?

Mr. Hay thought they had no right to ask such a question. It might be important between the United States and General Wilkinson. But it does not appear to be proper to interrogate him as to his conduct any where, unless it has some bearing on the cause; nor can a witness be asked any question, the answering of which might subject him to a prosecution. If we had introduced evidence on that point, they had a right to cross-examine him.

Mr. Wickham. We may suppose, without impeaching the credit of General Wilkinson, that he will give as favorable an account of his conduct as any man standing in his situation may be disposed to do. General Wilkinson has detailed a number of facts to account for the conduct of Colonel Burr: he has taken very strong ground. We wish to show that the General has the strongest possible motive to criminate Colonel Burr. We were permitted to ask him about sending officers in disguise to seize Colonel Burr; we wish now to prove some other seizures. This evidence has a direct reference to the case of Colonel Burr. If General Wilkinson took all these measures, it will surely have a tendency to weaken his testimony.

Mr. Martin. We mean to show that General Wilkinson is identified with the Government; and the Government had declared they would justify him. We have a witness to prove the express declaration of the Secretary of War, that General Wilkinson stood low with the Government till his energetic measures at New Orleans had raised him in the estimation of the President. They can only justify his acts, by showing an impropriety in the conduct of Colonel Burr. The more we show that the Constitution has been trampled on, and the rights of the citizens invaded, the more they will endeavor to show the impropriety of the conduct of Colonel Burr, in order to justify it.

Mr. Hay. Mr. Martin has avowed the motives of Colonel Burr's counsel to be to identify General Wilkinson with the Government. Admitting that General Dearborn had made the declarations ascribed to him; admitting that the President had formed that opinion of General Wilkinson, how can his answer to the question propounded have any bearing on this case? Suppose General Wilkinson should say, that, in consequence of the expected arrival of Colonel Burr, the agitated state of the country, and knowledge that he was surrounded by the accomplices and partisans of Burr in New Orleans, he had taken letters from the post office (and he would only have done what he ought,) how could it affect the present case? It is manifest that an answer of General Wilkinson must leave the question between the United States and Colonel Burr exactly where it was before.

Mr. Wickham. When these questions were asked Mr. Murray before, they were thought proper, and he was even cross-examined by the counsel for the prosecution. The gentleman had ascribed to Colonel Burr improper acts. Now, to impeach General Wilkinson's credibility, we show that he has been guilty of violent acts. Is he not interested to show the conduct of Colonel Burr to be improper, in order to justify his own?

Mr. Baker. Suppose, says Mr. Hay, this declaration of General Dearborn to be true; suppose that General Wilkinson did not deserve to stand high in the confidence of the Government; would

it not have any bearing on the case? would it not leave the question between the United States and Colonel Burr exactly where it was before? At one time the counsel on the other side seem willing to give the General up. Now they stand forward as the champions of the worthy General. Suppose it be proved that he has thrust his hand, or directed others to do it, into the post office, and pillaged letters. Suppose it be proved that he has made erasures in letters, and then sworn that translations of them were true copies, which were as much like the originals as any other thing; and that he has sworn to this, that, and the other, whether true or false; will not all these things affect his credibility?

Mr. Wickham said it was a question entirely for the consideration of General Wilkinson himself. If he thought proper to answer the question, it was not the business of the prosecution to interfere.

The Chief Justice, after making some remarks on the nature of the question, observed that General Wilkinson was not bound to answer any question that might criminate himself.

Some observations were made as to the extent of the opinion of the court. Mr. Wirt supposed, from the decision of the court in the case of Wyllie, that General Wilkinson could not be bound to answer the question.

Mr. Wickham thought directly the reverse.

Mr. Wickham (to General Wilkinson.) You have heard the opinion of the court. Were or were not letters addressed to other persons frequently sent from the post office to you; by whose orders, and were they opened, and with what view? Can you answer that question without criminating yourself?

A. I shall not answer that question.

Mr. Wickham. Were orders sent to stop and examine travellers?

A. There were. These were the joint orders of Governor Claiborne and myself. At that time Colonel Burr was daily expected at Natchez with two hundred men, and I wished to cut off all communications between that place and New Orleans, in order to prevent him from receiving information from his adherents, and to gain time for strengthening our defences. The imperious circumstances which justified this measure I will relate. A general panic had seized the friends of the Government in New Orleans.

[Here General Wilkinson was interrupted by the counsel of Colonel Burr, who objected to his stating the motives which governed him.]

Mr. Wirt said, that if the witness were called on to accuse himself of arbitrary acts, he ought to explain the motives with which those acts were committed.

Mr. Wickham said it was their wish to go on with the cause, without being interrupted with the explanation of the witness, and after they had gone through, the counsel for the prosecution might ask for any further explanation which they deemed proper.

Mr. Wirt observed that he did not mean to interrupt the examination. But it was well known that the proceedings of each day are published; and it is important to the feelings of the witness that he should state the grounds on which it proceeded.

Mr. Martin. The proceedings have heretofore been published, without regard to the feelings of Colonel Burr.

Mr. Wickham (to General Wilkinson). When did General Adair arrive in New Orleans?

A. On the 14th of January.

Mr. Wickham. Has your conduct, in seizing Adair, Ogden, Swartwout, and others, been approved or disapproved by the Government? Have you received any communication from the Government on that subject?

Mr. Hay. It has been the constant effort of the counsel on the other side to identify General Wilkinson with the Government. We have heard of the plundering of the post offices, violating oaths, and prostrating private rights. Now it is asked if the Government approved of these acts. Is it decorous, is it proper, to pursue this course? They may ask questions to implicate General Wilkinson, but is it proper to endeavor to cast an imputation upon the Government? I feel no solicitude on the subject; for when all the circumstances are considered, and the real situation of that country understood, though I will not say that the measures were strictly lawful, yet I will say the exigencies of the times called for them; and that the person who held the high and responsible situation of General Wilkinson was bound to pursue the course which he did. General Wilkinson still retains the command of the army. If the gentleman wish to infer from that circumstance that the Government approved of his conduct, let them do so.

Mr. Wickham. It is not our intention to criminate the Government, but to obtain the truth. We hope that General Wilkinson will not say that his conduct has been approved by the Government. Is this a State secret?

The Chief Justice said, that he should be sorry to require an answer which would state the opinions of the Government. He was sorry that an objection had been made to answer the question.

Mr. Hay said, he believed that the Government knew nothing about it, and rather than it should be supposed that the Administration directed measures which they were unwilling to avow, let them go on. He was willing that they should go on; and, instead of making this an inquiry into the conduct of Colonel Burr and his accomplices, let it be solely, as it seemed to be, an inquiry into the conduct of the Government.

Mr. Wickham repeated the same question to General Wilkinson, whether his conduct in seizing General Adair, Ogden, Swartwout, and others, had been approved or disapproved by the Government; and whether he had received any communication from the Government on the subject?

General Wilkinson said he had no objection to answer the question, except so far as the answer might be considered as a disclosure of what might be deemed private instructions. In the first instance, said General Wilkinson, I acted on my own responsibility. I have said that I was left six months without orders. But I seized no man under the orders of the President.

THURSDAY, *October* 1.

General Wilkinson was about to explain more fully some of the interrogatories put to him at his last examination, when he was interrupted by

Mr. Wickham, who declared that he felt no disposition to interfere with the explanations of the witness, but was very anxious to go on with the cause. With respect to the motives with which any act was done, he knew nothing and cared nothing.

The Chief Justice declared that General Wilkinson had a right to explain any interrogatories; and again repeated the substance of the opinion which he had before given.

General Wilkinson proceeded: I have been asked whether, in October, 1806, I did not expect immediate hostilities with the Spaniards? I was required to account for the cause of the sudden change of position of the Spanish army? I was interrogated as to the convention with the Spanish commandant, and, with peculiar delicacy, I was asked whether any money was received as a condition? also, whether I had not posted guards on the highways about New Orleans, to intercept travellers? To these interrogatories, quite unexpected, I made such replies as I was then enabled to do from memory. By referring to my papers, they will show that I did expect a war with Spain so early as September, 1806. [Here the General referred to an extract of his letter of the 8th of September, and his letter of the 4th of October, 1806, to the Secretary of War, which were read. See notes M., N.] On my advance to take command of the barrier post, I passed Fort Adams on the 12th of September. There I found two letters from Colonel Cushing, detailing his correspondence with the Spanish commander. I was then asked for a copy of the convention. I am now about to do that for which my country and gentlemen of my profession may, perhaps, condemn me. But, under the charges and insinuations by which my character has been assailed, I flatter myself that, should I be guilty of any impropriety, the circumstances in which I am placed will excuse me. Here are all the papers relative to that convention. [Gen. Wilkinson produced a number of letters containing the correspondence between him and the Spanish commandants, about the time the troops of that nation recrossed the Sabine.]

Mr. Martin said they wished to have the papers, and hoped the court would have no objection.

The Chief Justice observed that he had no objection, but wished it to be distinctly understood that he would not coerce the production of any paper which related to a negotiation between this country and any foreign Government.

Mr. Martin said that would depend upon circumstances. He held it a sacred principle, that if the Government thought proper to prosecute a citizen, they were bound to produce every paper which might be necessary for his defence, or give up the prosecution.

Mr. Hay thought it would be improper to read the papers, because they related to a negotiation with a foreign Government, and because they had no relation to the subject before the court. General Wilkinson had, indeed, from the insinuations which had been made, been induced to produce those papers; but it was evidently done with a considerable degree of embarrassment, and would not justify the reading of them if it were otherwise improper.

Mr. Wickham. I have asked for the convention with the Spanish commandant, but am told that it was a State secret. I concur with Mr. Martin, that when an individual is prosecuted by the Government, no State secret should prevent the production of every paper necessary for his defence.

General Wilkinson said, he wished it to be understood that these were very imperfect translations of the letters from the original Spanish, and therefore that he could not deliver them, but under the stipulation that they should be accurately translated before publication, as he had discovered Governor Cordero and Governor Herrara to be officers of polished education, from his correspondence with them. He had made this stipulation as a duty which military men owe to one another throughout the world. These letters contain the convention, a convention without an article.

The Chief Justice said that he would not compel the production of the convention, unless its bearings on the case be shown.

Mr. Martin. We have a right to it. I hope it will be noted that we have made a solemn demand of these papers.

General Wilkinson proceeded: The next question which was asked was, whether I had not made private communications to Lieutenant Jones. I have said that I gave no orders to Lieutenant Jones; but if I had, here are documents to show, if not a justification of my conduct in all the measures I presumed, at least an extenuation. [Here General Wilkinson presented several papers, showing the agitated state of New Orleans, and the dangers with which it was threatened. They were not read. See O, P, Q, R.]

Mr. Wickham to General Wilkinson. Do you recollect the last question I put to you? Has your conduct in seizing Swartwout, Bollman, Ogden, and Adair, been approved or disapproved by the Government? And have you received any communications from the Government on this subject?

General Wilkinson said he must refer to his Honor to know whether he was bound to answer that question.

The Chief Justice declared that it might be answered under the restrictions already laid down.

General Wilkinson. I can say that three of those persons, perhaps four, were seized on my own responsibility, without any orders from the Government.

Mr. Wickham. Which three?

A. Bollman, Swartwout, Ogden, and perhaps Adair.

Q. Had you any orders then or afterwards to seize them? Had you any orders with respect to the seizure of Colonel Burr by military force?

A. No, not at that time.

Q. Had you any afterward?

A. That is a question of very great delicacy with me. (Addressing the judge:) Can a question be fairly put, and an answer coerced, which may destroy a man's honor?

Mr. Wickham said there was no rule of law which prevented a witness from giving an answer, unless it subjected him to a criminal prosecution. Mere sympathies were no cause of refusal. However unpleasant these questions might be to General Wilkinson, it would be a shameful dereliction of duty in the counsel of Colonel Burr not to put them. He said that he had not experienced any sympathies toward his client.

General Wilkinson (to the judge.) Is a trial before a court martial similar to a criminal prosecution? I might be subjected to military punishment, to as severe punishment as could be inflicted by a civil tribunal, for revealing my orders.

The Chief Justice said that he was not sure that General Wilkinson could be required to answer that question.

Mr. Wickham contended that there could be no articles of war which could punish a man for disclosing what he is called upon to declare in a court of justice. The court had a right to require the disclosure, and would enforce its own authority.

Mr. McRae contended, that when the answer required would lead to the discovery of a fact which might subject a man to punishment, it was always deemed a good reason to withhold it. He understood the answer which might be given by General Wilkinson to be of this nature. The question was calculated to extract from him a fact, the disclosure of which might tend to subject him to punishment. He could not say what would be done before a military tribunal, but it was possible that he might be punished if he should answer in a particular way. Suppose he should say that the Government did not authorize him to seize the persons of Burr and his accomplices, and that he acted upon his own responsibility; or suppose he should be acting under the authority of Government, but, upon examining his powers, should find that he transcended them: would not a disclosure of this fact criminate him, and subject him to prosecution?

The Chief Justice said that the question did not lead to the fact of seizing those persons, but to the authority with which it was done. If Gen. Wilkinson had committed the act with authority, he must show his orders.

Mr. Wickham said he did not believe that anything which General Wilkinson could say would be legal evidence in the cause. It was not that kind of evidence which was admissible in prosecutions of this nature; but it was important to know what orders the Government had given, and whether he had exceeded those orders.

Mr. Martin. We wish to know the conduct and character of the Government on this occasion. We wish to know whether any, and what, orders were given by the Government? Is there to be one rule as to the prosecution who wish to take the life of one man away, and another rule as to the man whose life they seek to take?

Mr. Hay had no objection to an answer from General Wilkinson as to the conduct of the Government throughout. He said that Mr. Martin had disclosed his real object to try the Government and not the accused. Will this ascertain the innocence or guilt of Colonel Burr? The object evidently was to arraign the Government before the bar of the public; but he was perfectly satisfied that when the conduct of the Government should be known, the people of the United States would think that the Government had done exactly as it ought to have done.

Mr. Wickham. In commenting on the evidence we shall endeavor to show that a number of witnesses have been brought forward by the Government who have taken a most decided part in the prosecution; and that their real object has been to render themselves acceptable to the Government.

General Wilkinson. I had an order from the Government.

Mr. Wickham. From what department?

A. From the Administration.

Q. From whom? A. From Mr. Jefferson.

Q. Have you any written order?

A. I have among my papers, but I will not produce it; I had rather go to jail.

Mr. Wickham demanded the production of the order; but said that if General Wilkinson required time to consider the consequences of a refusal, he had no objection to allow it to him.

General Wilkinson, (addressing the Judge.) You are, from professional experience, more competent to decide on the propriety of revealing my orders than I possibly can be. The letter which conveys the particular order alluded to may embrace a variety of other matter, many parts of which it would be highly criminal in me to divulge. I conceive I should forfeit my honor, and the confidence of all military men, if I were to reveal my correspondence with the Government, without the command of my superior.

Mr. Hay had no doubt but the order was in strict conformity with the law; but if there be private and confidential communications in the letter, it would not be required of General Wilkinson to produce it.

Chief Justice. If the order be mingled with other things, private and confidential, the court will not require its production.

Mr. Wickham (to General Wilkinson.) Did you, by letter or otherwise, request any person, not of the Army, to seize Colonel Burr and put him on board a vessel?

A. I gave instructions to a gentleman who is now here, (Silas Dinsmore, Esq.,) and who is not of the Army.

Q. Did you give such orders to others?

A. I recollect Doctor Carmichael, but no other person, except the officers of the Army.

Q. Do you recollect expressing to any person that he would confer the highest obligation on the Government by seizing Colonel Burr?

A. It is probable that I did, for those were my sentiments. My great object was to apprehend him and deliver him over to the civil power for trial; and the City of Washington was the place to which I wished him sent; but I had no idea of doing injury to his person. I recollect a German came to me, and proffered to take Colonel Burr; but, on coming to particulars, he said he would take him, dead or alive. I was shocked at the idea, and declined employing him.

Q. Have you the cipher No. 2?

A. I have not.

Q. Are you acquainted with a person by the name of Kibby?

A. I am acquainted with two of that name.

Q. Where do they reside? where does Timothy Kibby reside?

A. In Louisiana.

H. Have you had any communication with him on the subject of the invasion of Mexico, and when?

A. I cannot recollect; I have seen a deposition ascribed to him, inserted in the public prints, replete with falsehoods.

Q. You are not certain, then, whether you ever wrote to him on the subject?

A. I am certain that I never wrote to him specially on that subject. He was an officer of the militia, and I might have corresponded with him on some matters relating to his command. I recollect to have received an order from the Government to ascertain the strength of the militia in the Territory, and I might have spoken or written to him on that subject.

Q. Can you say whether you did or did not?

A. I cannot.

Q. Did you inform him of the object of Lieutenant Pike's expedition?

A. I think not, from the deposition I have seen; here are my orders to Lieutenant Pike. [General Wilkinson produced his instructions to Lieutenant Pike; see notes S, T.]

This is the information given by me to General Samuel Smith, which goes to illustrate my ideas of the state of our controversy with Spain. [Here General Wilkinson read the extract of a letter annexed, marked V.]

Mr. Wickham. You mentioned that Swartwout was with you about the 1st of October?

General Wilkinson. I think about the 8th or 10th; I believe I said the middle, because I marched on the 23d, and Swartwout had left me some days before.

Mr. Wickham. Your letter to the Government is of the 21st of October; will you assign a reason for so long delay?

A. I took time cautiously to draw from Mr. Swartwout what information I could obtain, lest I should excite suspicion. Another circumstance was, that I was busily engaged in making arrangements of the artillery, transports, and other military equipments, in order to take the field.

Mr. Wickham. You say, in your letter to the President, "that you are not only uninformed of the prime mover and ultimate objects of the daring enterprise, but you are ignorant of the foundation on which it rests, of the means by which it is to be supported, and whether any immediate or collateral protection, internal or external, is expected." I beg leave to ask, why you stated this to the President after getting the information you did from Swartwout?

A. The answer is very plain, but the question is complex; if you will dismember it, I can answer it.

Mr. Wickham read an extract from the letter, (being part of that just quoted.) and said, I think this is different from the information you gave the court.

General Wilkinson. I doubted the information I received from Swartwout; I could not suppose that Colonel Burr, or any other individual, would have the audacity or folly to undertake such an enterprise without the assistance of some foreign Power; I could not, therefore, view him as the prime mover, but as the instrument. I doubted Swartwout's declarations, and, although they had an effect upon my mind, I could not place solid confidence in them. He said that the people of the Territory were ready to join; he was a stranger in the country, and therefore could know nothing of their dispositions but from information; I was acquainted with them, and had heard of no such disposition.

Q. Then you doubted whether Swartwout was authorized to make these communications?

A. I beg your pardon; I believe that he was authorized and instructed to deliver me lessons of falsehood.

Q. Then you say that you still doubted?

A. It is so expressed in the letter.

Q. These expressions, I understood, conveyed the true state of your mind at that time?

A. I wish you to understand me. When I contemplated the audacity, the iniquity, and the folly of the enterprise, I did believe that Colonel Burr was stimulated by some foreign Power. With respect to revolutionizing the Territory, I could not place any solid confidence in it, until I received the communication of James L. Donaldson, Esq., when, combining all the circumstances, I wrote my letter of the 12th of November.

Q. Then I understand you to say that this was the true state of your mind at that time?

A. Yes. Propounding this question brings to my recollection a subject not thought of before. I inquired of Mr. Swartwout from whence Colonel Burr derived his funds; he said, from the aid of friends and the sale of property, in which sale he had been employed. I knew that Colonel Burr had no property. This declaration of Swartwout gave me less confidence in his communications.

Q. I observe, in your letter of the 21st of October, this expression—"my desire to avert a great national calamity." At that time you had

doubts whether the enterprise might not be salutary?

A. Would it be improper to assign my reasons why I supposed it might be salutary? As I passed through Natchez, I understood that Mr. Meade, who exercised the functions of Governor, had spoken of an attack on the Spanish post of Baton Rouge, and I was informed by a Mr. Dunlop and a Mr. Smith, that he had said the Government would connive at the measure.

Q. This postscript on the letter: "should Spain be disposed to war seriously with us, might not some plan be adopted to correct the destination of the associates, and, by a suitable appeal to their patriotism, engage them in the service of their country? I merely offer the suggestion as a possible expedient to prevent the horrors of a civil contest; and I do believe that, with competent authority, I could accomplish the object." Am I to understand that this postscript contains the true state of your mind at that time?

A. There is some uncertainty whether that postscript is a part of the original letter; it is noted on the corner in my own handwriting, and not in that of Mr. Burling, who was then one of my aids-de-camp, and by whom the copy was made.

Mr. Baker. It never was understood that a copy would be received by Colonel Burr. Now we see the necessity of having the original.

General Wilkinson. I have no sort of hesitation to state what my feelings were. If the Spaniards had been seriously disposed to war, I did believe that, by a suitable appeal to the feelings and patriotism of the deluded citizens who might have descended with Colonel Burr, they would have been induced to join our standard, and oppose a foreign enemy, sooner than to enter into a conflict with their own countrymen. My idea was this: that the President should have forwarded to me blank commissions, to be offered to influential leaders.

Mr. Wickham. This postscript says nothing as to leaders, but to the body in general.

General Wilkinson. I cannot give any definite idea of my sensations at the moment; I think I could not have meant leader, but the leaders.

Q. If you were ignorant of the intention of the leaders, why not as well apply the expression to the leader?

A. Because I did not think I could offer anything to him which he would accept.

Q. As to the postscript you are uncertain whether it was written at the time of the original letter?

A. Though I am uncertain of that, yet I believe it contains a correct representation of my feelings.

Mr. Randolph. In case of actual hostilities, were you authorized to accept the services of volunteers?

A. I should certainly think I was.

Q. And to commission them?

A. No: but I might have mustered them. The President has no power to grant commissions, but with the approbation and consent of the Senate. I recollect that, during the Administration of Washington, volunteers were accepted: there were no commissions granted, but warrants of authority, which were obligatory in those corps, but conferred no command over an officer of the line.

Mr. Randolph. My question is this: If hostilities had been determined on with the Spaniards, would General Wilkinson have been authorized to accept the services of volunteers?

A. I think so at present, but a reference to my instructions will more fully show.

Q. And to drive the Spaniards beyond the Sabine, and pursue them into Mexico?

A. Not to pursue them beyond the Sabine.

Q. If the Spaniards had not made the convention, and receded from their position on the east side of the Sabine, would you have attacked them?

A. Yes.

Q. From your own responsibility, or the orders of the Government?

A. From specific instructions. I had contemplated the possibility of such an event, and had given my orders accordingly. [These orders were not offered in evidence, but may be seen in note W.]

Mr. Martin. Did you not drive them beyond the Sabine?

A. (Witness smiling.) It was a sort of driving.

Mr. Wickham. You say that the first intimation you had of Colonel Burr's designs was from the ciphered letter?

A. I have said so; but I had received a number of ambiguous hints before.

Q. In what way?

A. By letter.

Q. When did you communicate the contents of this ciphered letter to the Government?

A. You will observe, in my letter of the 12th of November, reference is made to a confidential messenger, Mr. Briggs, to whom I repeatedly read the ciphered letter, to enable him to communicate the contents to the President.

Q. What communication did you make through Mr. Briggs? was it Mr. Duncan's translation?

A. No; Mr. Briggs left Natchez immediately after the date of my letter of the 12th of November; Mr. Duncan's translation was made in New Orleans after I arrived there.

Q. Have you the paper about you, containing the instructions to Briggs?

A. I gave no instructions to Briggs, except verbal ones.

Q. Have you the translation made by you?

A. No; I have looked for it, but cannot find it.

Q. Was it before the grand jury?

A. Yes; it was an old worn-out paper.

Q. Was this information by Briggs an exposition of the whole contents?

A. I read the heads to him, and verbally explained the contents.

Q. Was the letter completely deciphered?

A. I have said *no* frequently; I have said that the only interpretation made by me was hastily done at Natchitoches?

Q. Then did you not relate the whole contents to Briggs?

A. I laid it before him, and explained the contents as already stated.

Mr. Randolph. I think, in this letter, you say. "Miranda has taken the bread out of your mouth?"

A. No; you are quite mistaken. That letter was written, I believe, in October, 1805.

Q. Admitting it to have been so far back, how came it to be a matter of surprise to you that an expedition was set on foot, according with your own ideas? or that you should say Colonel Burr's views were not distinctly known until you received the ciphered letter?

A. I had received a number of ambiguous letters from Colonel Burr; and in a letter of mine to him, I made use of the expression, "I fear Miranda has taken the bread out of your mouth," in order to draw from him his real object.

Q. In what manner did you consider Miranda as taking the bread out of his mouth?

A. If I can state the grounds of those opinions, I would say that they were derived from letters I received from Colonel Burr, which I am not at liberty to disclose.

Mr. Randolph. Was the position taken by the Spanish forces, considered by the President as an invasion of our territory?

A. Certainly.

Mr. McRae. I understood that opinion was founded upon what appeared in the public prints.

General Wilkinson. The President's orders were explicit; to drive them out of the territory claimed by the United States. These orders I communicated to the Spanish commandants.

Mr. Randolph. In the intercourse between you and the Spanish commandants, were all the forms of war observed?

General Wilkinson. In what respect?

Mr. Randolph. As to the military interviews; I considered this a state of war.

A. Between Natchitoches and Nacogdoches there was a constant intercourse.

Mr. Randolph. But in the relation of one army to another?

General Wilkinson. I can state the situation. I remember that the day on which I reached the Sabine, my advanced guard captured three Spaniards without arms, on the left bank. I had them returned to the Spanish commandant, and desired that he would not permit a repetition of the trespass.

Mr. Wickham. I think you said that you wrote to Colonel Burr from Natchitoches.

General Wilkinson. When did I say so?

Mr. Wickham. I thought I heard you say so.

General Wilkinson. You guess well; but, if I am not mistaken, you got that information from Swartwout.

Q. Did you write?

A. I did.

Q. What did you do with the letter?

A. Destroyed it.

Q. Did it go out of your hands?

A. It did; it was sent to Natchez, to which place I followed, recovered, and destroyed it. I will give you my reasons for so doing. After writing, I received the letter from Mr. Donaldson, dated 30th of October, and conveying the information received from Myers Michael, which removed my doubts as to the extent of Mr. Burr's designs, and their sinister nature.

Q. Then I understand you to say, that Mr. Donaldson gave you the first correct information?

A. It excited very strong apprehensions in my mind, that some general and deep-rooted conspiracy had taken place above.

Q. You have no recollection of the letter of the 13th of May?

A. No; I wish it could be produced. It would release me from all obligation to withhold the confidential letters of Colonel Burr.

Q. Did you write him any other letters?

A. I have an impression on my mind that I wrote him two or three letters.

Mr. Wickham. The ciphered letter gave you the first idea of a plan of revolutionizing the Western country?

A. The ciphered letter gave me no information on that subject.

Mr. Wickham. Did you ever give the Government any information before?

A. I had no definite idea of Colonel Burr's plans. I had received from him several letters of a very ambiguous cast, but they contained nothing treasonable. I wrote to a minister, (Robert Smith,) and in my letter I say "Burr is about something, but whether internal or external, I cannot discover. I think you should keep an eye to him."

Mr. Wickham. When was that letter written?

A. I cannot tell when I wrote it.

Q. When was Colonel Burr at St. Louis?

A. Colonel Burr was at St. Louis on the 11th of September, 1805, and left that place on the morning of the 19th. In the interim he had been in that quarter of the country where Kibby lives, though I do not know that he saw him.

Q. Which Kibby?

A. The fellow who gave the deposition which has been published.

Q. What is the date of your orders for descending the river? A. I cannot tell.

Q. Have you those orders here?

A. I am not certain; most of my papers are in Williamsburg. The troops descended in the beginning of May.

Q. Did you authorize any officer to arrest any person after you descended?

A. No: I gave instructions to Lieutenant Peter, whom I had left at Natchez, and required him to give me regular information. [See deposition of Lieutenant Peter, note X.] At the time I descended the river we had no posts except the Chickasaw Bluffs, on the Mississippi, and Massac, near the mouth of the Ohio, except a small party at the Arkansas, and opposite to Cincinnati.

Mr. Hay. Was there any post between the Chickasaw Bluffs and Massac?

A. No.

Q. Was there any military post between Pittsburg and New Orleans?

A. None except those which I have mentioned.

Mr. Wickham asked General Wilkinson for his alphabetical cipher, who went to his lodgings for it.

Mr. Wickham (to General Wilkinson after his return to court.) Can you ascertain when the hieroglyphic cipher was made?

A. The arbitrary characters were designed, I think, in 1794; but I do not say it was given to Colonel Burr at that time.

Q. Will you give me leave to ask upon what occasion it was formed?

A. I will with pleasure. Pending the Indian war, we had unhappily much dissension in the Army. I felt myself extremely oppressed and persecuted, and I had reason to believe that every artifice was put in operation to injure my standing with the Government, and to have me removed from service, if possible; and there were many who shared my persecution. In the autumn and winter of the year alluded to, a number of officers retired from the Army, either on furlough or by resignation, among whom was that most gallant officer, Captain Leonard Covington, since a member of Congress. At this time my quarters were embosomed in a wilderness, and remote from any post office, and we had no regular mail. The cipher was, therefore, designed to secure safety to a free correspondence and an unreserved interchange of sentiment respecting public men and public measures, particularly such as related to the army.

Mr. Wickham. I think you say it was formed in 1794?

A. Yes; and I will give you my reasons. I have another cipher, in which the hieroglyphics representing the President and Vice President are the same as in that now before the court, which was designed by Captain Smith for Captain Covington, in the year 1794, at the time he retired from the Army. [See an extract of a letter from Captain Covington to General Wilkinson, note Y.]

Mr. Wickham. I observe the word "republican" is represented in the hieroglyphic by '76. "aristocratic" by '89. "navy," by '96. "City of Washington," by a single house, and that an indifferent one. Pray, why was that, as the seat of Government was not removed till many years afterwards? I observe the City of Washington, but not Philadelphia, nor any place mentioned as the seat of Government.

A. The cipher was formed by my aid-de-camp, Captain Smith; and the designations originated in his caprice, without my privity or participation.

Mr. Wickham. Do you recollect for what purpose New Orleans was designated in the hieroglyphics?

A. I can probably account for it. If you will refer to those periods, you will discover that we were in an equivocal situation with all the maritime Powers, more particularly with England and Spain. The navigation of the Mississippi had been a subject of much discussion, and one in which the Western people felt a considerable degree of interest. The Ohio is also designated. That is probably confined to mere locality. We were then engaged in a war with the Indians, and were in the woods on the waters of the Ohio. I have before said that I could not account for the various designations; but I offer these as circumstances which may have influenced Capt. Smith in forming them.

Mr. Wickham. Do you recollect when the alphabet in cipher was put on this paper? (alluding to a paper on which the hieroglyphics were written, which he then held in his hand.)

A. Last winter; I believe they were put on to prevent them from being lost.

Mr. Wickham. Have you brought up the letter or communication from the Government which we wished to have here to look at?

A. I have not.

Mr. Hay. I think you said there was no military post between Pittsburg and New Orleans but Fort Massac, the Chickasaw Bluffs, and one at Cincinnati?

A. Yes; that at Cincinnati was established by the Government after the flight of Blannerhasset.

Q. Was there none at Natchez?

A. There were only Lieutenant Peter and a few men left at that place to keep a look out, and give me regular information.

FRIDAY, *October* 2.

Mr. Wickham called on General Wilkinson to produce the President's letter approving his measures.

Gen Wilkinson. By referring to my papers, I discover I have made a mistake. I find I have no orders from the President directing the seizure of Colonel Burr; the order is from the Secretary of War, and has been already published, directing me to seize the principals in the enterprise. I did believe I had an order from the President specifically directing the arrest of Colonel Burr. The mistake arose from my misapprehension of the tenor of a letter from the President, of February, which blends public communications with private affairs.

Mr. Wickham. Have you no letter from the Secretary of War approving your conduct in general terms?

A. I never had such letter from him. The approval of my conduct is expressed in qualified terms.

Mr. Wickham. You wrote the President about these transactions; was the letter to which you referred an answer to these communications?

A. That letter, in its public relation, merely acknowledges the receipt of two letters from me, and the arrival of a confidential messenger I sent to the President. It gives some directions, but generally conveys information merely.

Mr. Wickham then applied for the production of this letter; it might be important to Colonel Burr in this point of view. General Wilkinson sends on certain communications by Mr. Briggs, and in this letter the President acknowledges the receipt of them. So that, by referring to that letter, it was easy to know what were the communications made to the President by General Wilkinson.

Mr. Martin. We have a right to demand this letter.

Chief Justice. It is easy to read the passage

which refers to the two letters and to Mr. Briggs's communications.

Mr. Martin proposed to put the letter into the hands of the Chief Justice, who might mark such passages as he might think improper to be read.

General Wilkinson. The letter is in the hands of the attorney for the United States.

Mr. Hay. If the court will state those subjects to which the letter should relate to have any bearing on this case, I am ready to produce such passages.

Mr. Burr observed that he knew of but one ground on which a public document should be withheld from a court of justice, which was, that it might contain something relative to foreign negotiations actually pending, and the public good required its concealment. But, in the present case, the transactions referred to in the letter might have passed over; a letter, too, which is not a public document, but a private communication.

Mr. Martin. No Government ever dared to suppress information which was necessary to an individual against whom it had commenced a prosecution. There never was such an attempt to establish a new principle, as is done on the present occasion.

Mr. Hay. Mr. Martin asserts that there never was such an instance as the present, and that we are attempting to establish principles altogether new. I do not, sir, attempt to establish new principles; I do aver my confident opinion, that this paper does not, in the slightest degree, relate to the present case. I will not say that the gentlemen know this fact, nor do I say they have other objects in view; what effects they may have out of doors, what materials of declamation they may furnish to gentlemen of a certain way of thinking, I know not. But I do assure gentlemen, that when this letter is produced, it will have a very different effect from what they may contemplate.

[Mr. Hay then read the last paragraph of the letter.]

Mr. Burr. If there be a single sentence in that letter relating to me, I have a right to demand it. Why is greater regard paid to the President's secrets than to mine? My papers have been fraudulently seized, and such passages only culled from them as suited the purposes of my enemies.

Mr. Hay. I am placed in an embarrassing situation; I have no objection to the production of this paper; but, in my opinion, it has not the smallest application to the present case. If this letter ever is produced, it will but place the conduct of the President on that high ground of propriety which has ever been contemplated and assigned to him by the people of the United States. If gentlemen want this letter, let them state how it is relevant. I am content that you, sir, (the Chief Justice,) should read this letter, or that any other person should; but I cannot consent to produce every paper which gentlemen may think proper to ask for.

Mr. Wirt. These gentlemen, it seems, are carrying on an impeachment against the President of the United States. What is their object in demanding this letter? It is no more than vainly to attempt to inculpate the President, and to gratify their spleen and their resentment against him. Is that their object? Is Aaron Burr more or less guilty because he has approved or disapproved the measures of General Wilkinson? They want to ask you which is the most guilty, Thomas Jefferson or Aaron Burr? Are you, then, trying the President? And even if you were, would you not have him here, and give him an opportunity of answering to his accusers? This letter, sir, if ever it is produced, will show that the motives of the Administration were as pure and as proper as its friends could wish, or its enemies could fear; it will appear that the reprobated conduct of General Wilkinson, in this instance, was such as was justified by the circumstance of the case; and that if the Administration have approved it, they have approved of nothing but what was proper. We hope that, unless the court be satisfied of the relevancy of this paper, they will not unnecessarily violate the sanctity of private correspondence.

Mr. Wickham. It has been said that we wish to inculpate the Government. No, sir, our object is to defend ourselves; and if, in doing this, we do inculpate the Government, so much the worse for them. When, sir, the Government have spent $100,000 on this prosecution; when every quarter has been ransacked for evidence against us; is it not important for us to show from what motives this prosecution has been commenced? General Wilkinson has been under examination these two days. He has produced documents which he has mutilated and then restored. Gentlemen say that he is the pivot on which the prosecution turns. We wish, sir, to examine how far this witness has been consistent with himself, and what credit is due to his declarations.

Mr. Martin. It has been already decided in this court, that the President has no more rights here than the man who walks the streets in rags. "What!" says the gentleman, "will you then violate the sanctity of private correspondence?" Sir, when that gentleman made this declaration, I looked at his face to see whether it did not blush with shame, and even burst with blood, at expressing such a sentiment.

Mr. Wirt. I hope, sir, the redness of a man's face is no evidence of his guilt. Mr. Martin mistakes me. I demanded whether this court would violate the sanctity of correspondence, unless there was an adequate necessity for it.

The argument was continued for some time in this desultory manner; after which the Chief Justice observed, that he much regretted that any difficulty had occurred on the subject; that it was irksome to him, and it was with considerable reluctance that he required the production of such a paper; but that he did only what his duty prescribed to him; that it was impossible for him to determine, even if he saw the letter, how much of it was relevant to the present case, because he could not anticipate what ground of defence would be taken by the accused. He saw, however, no necessity for reading it in public.

Mr. Wickham. Let us see the letter, and then

if we think it to be relevant to the present case. we may read it in the cause; but no copy need be taken.

Mr. McRae. I should rather, sir, that it be exhibited in the most public form. It is the only way to avert the misrepresentation of its contents.

[Mr. McRae then read the letter marked Z.]

Mr. Wickham demanded the production of the whole letter of the 12th of November.

Q. General Wilkinson, did you lay it before the grand jury?

A. I did.

Mr. Burr. The entire letter has been used against me before the grand jury. All idea of State secrets is therefore at end; and there can be no objections to produce the whole of it in court. I shall expect that General Wilkinson will bring the whole of it into court to-morrow.

Mr. Hay. I have nothing, sir, to say on this subject.

Chief Justice. The President has certified his reasons for communicating only certain parts of that letter; and he believes that the other parts have no application to the present prosecution.

Mr. Martin. I hope the court has not already decided that point. Has not this court already declared that the President has no more power here than any other man? If this be law, for which gentlemen now contend, God forbid that I should remain a citizen of the United States! And is Mr. Jefferson to be a judge of the relevancy of evidence, in a prosecution in which he has taken so active a part against the accused? Mr. Jefferson, sir, is a man of no great legal knowledge. He was of no celebrity as a lawyer before the Revolution, and he has since been so much engaged in political pursuits, that he has had time enough to unlearn the little law he ever knew.

Mr. Hay. The only end of this conversation is to abuse Mr. Jefferson.

Mr. Martin. Sir, we shall so use Mr. Jefferson as not to abuse him. Remember that the life and liberty of Colonel Burr are shown to be no longer dependent on Virginians, and therefore I am freed from any restraint in declaring what I think. If Mr. Jefferson himself were here, would not this court call him before it, and make him disclose, upon oath, the contents of that letter? Suppose, sir, that in this letter General Wilkinson has denounced Governor Claiborne and Cowles Meade; suppose that he has represented all the people of New Orleans as disaffected; suppose that he has attempted to throw every influential man but himself under the suspicions of the Government, in order that he may raise himself into favor; is this a satisfactory reason why this letter should be respected or withheld?

Mr. Burr repeated that this letter had been laid before the grand jury; that it was, therefore, no longer a State secret; and that he had a *right* to ask for anything which General Wilkinson had showed or said to the grand jury.

Chief Justice. After such a certificate from the President of the United States as has been received, I cannot direct the production of those parts of the letter, without sufficient evidence of their being relevant to the present prosecution. I should suppose, however, that the same source, which informed you of the existence of this paper, might inform you of the particular way in which it was relevant.

Mr. Burr. In such a case, I ask no man's opinion but my own.

Chief Justice. I cannot assist you.

Mr. Burr. Have not I a right to ask what any one said before the grand jury?

Mr. Wickham read certain parts of the *extracted, and furnished* copy, to show that, from the context of those parts, the omitted passages bore directly on the subject. The President of the United States might have had proper reasons, on account of General Wilkinson, to withhold those parts, but General Wilkinson himself has no right to withhold them; and if he produced the whole letter before the grand jury, for the sake of criminating Colonel Burr, he may certainly be called upon to lay it before this court.

General Wilkinson begged leave to correct the expression of the gentleman about his motives. He did not produce this letter before the grand jury to criminate Colonel Burr, but to vindicate himself.

Mr. Wickham. That is the very thing which I say. Why did he wish to vindicate himself, but to give greater effect to his crimination of Colonel Burr?

General Wilkinson begged leave to state another consideration. When he appeared before the grand jury, he recollects Mr. Taylor of the grand jury inquired of him, whether he introduced certain papers to vindicate his own conduct, and that he replied in the affirmative; he remembers, also, observing to the grand jury, that certain parts of his informations involved such delicate personalities, that he should not willingly give it publicity; and therefore he hoped what he said would be received in confidence; to which a member, (Mr. Barbour,) after some pause, replied, "Whatever you say here, sir, is received in confidence."

Mr. Hay. Mr. Tazewell is here, and will confirm that statement.

Mr. Burr. Then they did a very improper thing; and I hope this court will not countenance such a proceeding. The gentleman must be mistaken, sir. The grand jury could not thus receive secret information.

Mr. Hay observed that gentlemen acted very precipitately in condemning the grand jury unheard; and appealed to Mr. Tazewell for what he knew on this subject.

Mr. Burr. They have no right to introduce a witness now, when we have one under examination.

Mr. Wirt supposed that, when the grand jury was thus charged by the accused or his counsel, they had a right to appear in vindication of their own conduct.

Mr. Burr. That may be pleasant occupation to the court *hereafter*; but at present we have a witness under examination.

After a long and desultory argument, the Chief Justice determined that the correct course was, to leave the accused all the advantages which he might derive from the parts actually produced; and to allow him all the advantages of *supposing* that the omitted parts related to any particular point. The accused may avail himself of them as much as if they were actually produced.

Mr. Wickham. We shall then insist, in the course of argument, that our suppositions, if not disproved, must be received as evidence.

Mr. Martin. And I shall take the liberty of stating what is actually contained in the omitted parts of the letter; for I know what they are.

Mr. Wirt. Mr. Martin, sir, is privileged to say what he pleases of any person or thing.

Mr. Burr (to General Wilkinson.) Was there not an order given by you to seize the person of Mr. Pintard?

A. I have no recollection that I gave such orders; and I conclude, from the circumstance of an explanation I made in the newspapers, that I did not.

Mr. Burr. I have seen an order, said to have been from you, for seizing him?

A. I do not recollect it; but if any such is shown to me, I shall certainly confess it.

Q. Did you give any orders to arrest Daverzac?

A. I gave orders only; I stationed a guard about two miles above New Orleans, to stop boats and persons.

Q. What were the orders given to that guard?

A. To stop all persons descending the river.

Q. And to seize papers too?

A. I do not recollect.

Q. Were the papers of Mr. Pintard brought to you?

A. They were, but they were immediately returned.

Mr. Hay. Is it the opinion of the court that General Wilkinson is to be interrogated about all his transactions at New Orleans? I objected not to hearing the truth, but I cannot consent to this sacrifice and waste of time. I believe it to be a principle of law, that, when a witness is introduced by the prosecution, he is only to be cross-examined about the points of his original testimony. Is this prosecution never to end? Or are we to wait to give the accused an opportunity of entrapping General Wilkinson, which they avow to be the object of these interrogatories?

Mr. Wickham. It is a novel idea just started by the gentleman. If such were the law, the prosecution need only to seize on the most material witness on behalf of the accused, examine him only as to a few points, and then dismiss him. All his evidence in favor of the accused would, consequently, be lost.

Mr. Hay. The law is laid down in 2d Atkins.

The Chief Justice overruled the objection, and the examination proceeded.

Mr. Burr. What letters directed to me did you take from Pintard or Daverzac? A. None.

Q. Did you return to those gentlemen all the papers you took from them?

A. I think I did not; but I do not recollect what part of them I retained.

Q. You have read the Constitution; by what authority did you seize private papers?

General Wilkinson (to the court.) Am I bound to answer questions which may criminate myself?

Mr. Burr. To state the authority by which he seized the papers cannot criminate him, though the fact of seizing might.

Chief Justice (to General W.) When you discover that any question may criminate you, you need not answer it.

Mr. Baker. And when he does resort to that expedient, he is to be understood as shuffling from the question, and is likely to criminate himself by his answers.

Mr. Wirt. And it is also understood that when called on in this manner, he may explain his conduct by drawing a picture of the defenceless condition in which he found New Orleans, and the necessity of resorting to such strong measures for its defence.

Mr. Baker. And if he does give us a picture, it must be a true and faithful one.

Chief Justice. I have stated to General Wilkinson that he is at liberty to explain the motives of his conduct.

General Wilkinson. Then, sir, I will explain and substantiate the motives of my placing this guard, and of my other measures. Here is a paper, a letter of advice from General Jackson to Governor Claiborne, warning him of the approach of a large body of men to New Orleans, combined and engaged for unlawful purposes. Here, sir, is a deposition which goes to show that Judge Prevost, the step-son of Colonel Burr, saluted a public officer in the streets of Orleans, and congratulated him on the arrival of General John Adair, as the second in command to Colonel Burr, at New Orleans. Here is a deposition of Commodore Shaw, which shows that Bradford, the printer, had reported a most terrific account of the movements in the upper country, of an armed brig being equipped, and even of 12,000 stands of arms being issued by Colonel Burr. These were the reasons for my taking such decided steps; and so impressed was I with the dangerous situation of my country, that, if I had omitted these precautionary measures, I should have deserved the severest denunciations of the Government. I was prompted by that pure patriotism which has always influenced my conduct, and my character for which I trust will never be tarnished. I shall continue to defy the utmost art, fraud, deception, and villany that my enemies can practise towards me.

Mr. Wickham objected to the production of the depositions.

After a desultory argument, the Chief Justice determined that it was not correct to read them. If these affidavits had been made previous to the transactions at New Orleans, they might have been read as explanatory of the grounds of General W.'s conduct; but, being taken since, they are objectionable, as every thing of that kind ought to be subjected to a cross-examination. General Wilkinson has stated the grounds of his

own conduct, and very properly; but he has no right to support his explanation by illegal evidence.

Mr. Baker. The court having disposed of the depositions, the only question that remains relates to the letter. On this question two points occur: 1st, whether this is a correct copy of a certain letter; and, 2dly, whether that letter was written by General Jackson.

Chief Justice (to General Wilkinson.) Do you know the handwriting of General Jackson?

A. I know it only by comparison; I never saw him write.

Mr. Wickham. Did you compare this letter?

A. My clerk did, and he is here.

Mr. McRae. Is it not your best belief that this is a true copy of the original?

A. I believe it to be a correct copy.

Q. Did not this letter form the ground, in part, of your conduct?

A. It did certainly influence my conduct.

Mr. Wickham objected to its being read, because it was only proved to be a true copy by the general recollection of the witness.

Some desultory discussion ensued.

Chief Justice. Both sides admit that it is immaterial whether General Wilkinson's impressions of the state of New Orleans were actually true or false. Both sides admit that he may produce any letter which is verified by himself. But this copy is not proved by him to be a true copy. There is no objection to General Wilkinson's stating the contents of this letter; but that statement cannot be confirmed by the copy that is offered.

Mr. Wickham. There is one thing more to be considered. The court has not come to any positive decision as to the letter of 12th November. If General Wilkinson does not produce the omitted parts, by the rules of evidence we are at liberty to state and to use them, until they are disproved. General Wilkinson may, if he pleases, produce the whole letter at any subsequent period.

Mr. Hay. The President of the United States has prescribed the course which should be pursued. It is he, and not General Wilkinson, who withholds the omitted parts. Is it fair, then, that the opposite counsel should supply these omissions as they please, and that their suppositions should be received as evidence?

Chief Justice. I have already decided this question. It is certainly fair to supply the omitted parts by suppositions, though such ought not to affect General Wilkinson's private character. If this were a trial in chief, I should, perhaps, think myself bound to continue the cause, on account of the withholding the parts of this paper; and I certainly cannot exclude the inferences which gentlemen may draw from the omissions.

General Wilkinson. I have to offer, sir, a letter from James L. Donaldson, which Mr. Martin called for yesterday.

Mr. Martin. This is only an extract.

General Wilkinson. I had no other.

Mr. Martin, (returning the paper.) We take no extracts.

Mr. Wirt, (in an under key.) Unless it be of molasses.

General Wilkinson. I have also another paper; it is the extract of a letter from Mr. Covington, showing that the cipher was invented in 1794.

Mr. Wickham. Did you ever use these ciphers, or any of them, or any other cipher, in correspondence with the Baron Carondelet?

A. No; but I must reflect on that question before I answer it decidedly.

SATURDAY, *October* 3.

Mr. Martin. You offered an extract of your instructions to Lieutenant Pike yesterday; we wish to see them.

General Wilkinson. I have now in my hand a complete copy of these instructions. If they are admitted, I wish them to be read. [They were received and deposited with the clerk.] Mr. Martin had asked me yesterday respecting the information which Major Bruff had given to General Smith and Mr. Read, of the Senate. I have a copy of it. Here it is.

Mr. Martin. We only want to know when it was received.

Answer. I do not recollect; it was dated on the 1st of March, 1807, at the City of Washington.

Mr. Martin. Then it could have no influence on your conduct at New Orleans. We do not want the paper. [See note A A.]

General Wilkinson said that this same Major Bruff had been summoned here as a witness by Colonel Burr, to take revenge, as he had alleged, for past injuries.

Colonel Burr asked whether this was offered as testimony?

General Wilkinson. No; I only offer what I can prove.

Colonel Burr said that, if General Wilkinson had any further evidence to give, he would go on with it. But these appeared to be mere conversations, and he did not know whether dictated by passion or not.

General Wilkinson, (addressing the Judge.) I stand here in a very complex character. On the one hand, summoned as a witness on the part of the United States; on the other, arraigned as an offender by Colonel Burr and his counsel. I therefore hope that, should I commit any impropriety, it will be ascribed to the peculiarity of my situation.

Mr. Wickham. I ask you if you had any communications with Timothy Kibby, and whether you had ever made any propositions to him as to an invasion of Mexico?

A. I cannot charge my recollection. There was a very general idea that hostilities with Spain would certainly take place. It is possible that I might have spoken to him, as an officer of the militia, with respect to the probable force which he could bring into the field in case of such an event.

Q. Have you ever made any confidential communications to him or to any other person on that subject?

A. I am not conscious that I ever did.

General Wilkinson, having been informed that there were no more questions to be propounded to

him, addressed the judge as follows: Upon a former occasion, you will recollect, sir, that reference has been made to a certain letter of which so much has been said. That letter is designated by the words said to be used in it, "yours, postmarked the 13th of May, has been received." Yet that letter has been withheld, under the pretext of delicacy; while we have seen it employed in the most artful and insidious manner to injure my reputation and tarnish my fame. Sir, I demand the production of that letter. I hope that a reputation acquired by nearly thirty years of service is not to be filched from me by the subtlety, artifice, or fraud of Colonel Burr and his counsel. I hope that, on Monday next, you will permit me to introduce a variety of letters and documents explanatory of the insinuations and inuendoes which are calculated to implicate me as an accessory in his plans. A member of the grand jury has been brought forward to state what my evidence was; which is an additional reason why I should be permitted to explain. It was my intention to have commenced my testimony by giving a regular detail of the proceedings of Colonel Burr from his first passage of the mountains, but I have been advised to confine myself to a narration of the occurrences which commenced at Natchitoches. It is now my duty to go back to that period, and trace Colonel Burr step by step.

The Chief Justice said that the court could not sit to hear anything except what related to the cause. As to the intention with which Gen. Wilkinson had done any particular act, he had been permitted to explain, in the whole course of his testimony. With respect to what had been drawn from Mr. Tazewell, as he understood it, there was no variation between his statement and that of General Wilkinson. The papers which General Wilkinson wished to refer to had as well appear before the public in any other way as through the channel of this court.

Mr. McRae said he did not know that General Wilkinson had gone so fully into the explanation of the various parts of his evidence as he intended. He had understood the court to say, that General Wilkinson might be permitted to explain himself as to any particular fact mentioned in the course of his testimony. It is the wish of General Wilkinson, on every occasion, to explain the motives which governed him; and if in some points he has not been so full as he intended, he hoped that the court would still hear him.

Mr. Wickham. General Wilkinson must necessarily stand in a very delicate situation. Very heavy charges are brought against Colonel Burr, which are attempted to be established by the testimony of General Wilkinson. It must have been foreseen that the counsel of Colonel Burr, if they did their duty, would endeavor to impeach the credibility of General Wilkinson as a witness. But this is a common case. It is a thing which may happen in the case of every witness who is brought before the court. A witness is brought forward on whose testimony much reliance is placed. He is, of course, cross-examined to see whether he be consistent with himself, or whether his credibility can be impeached. In the present case, I am certain that General Wilkinson has been treated with every degree of delicacy which the nature of the case would admit of. With respect to myself, I am conscious of having done nothing but what my duty dictated, and of having used as much delicacy towards General Wilkinson as his relation would justify. We do not see the necessity or propriety of General Wilkinson's entering into explanations. If these are to be made, they had better be reserved for some other time, and some other place.

Colonel Burr. General Wilkinson has been sworn to tell the truth, the whole truth, and nothing but the truth. If he has not told the truth, let him do it now; and not, by his explanations, interrupt the examination of other witnesses.

General Wilkinson. I have received, and have now in my possession, a number of letters from Colonel Burr, of an ambiguous nature, combining matters personal with matters political; but they contain nothing which would subject him to legal penalty or legal obstruction. I have before observed, that under the circumstances in which these letters were received, I did not feel myself at liberty to divulge their contents without the permission of Colonel Burr. I now ask that permission, for I feel that delicacy which others profess to feel. The letter post marked the 13th of May, has often been mentioned, and has been used to injure my character, and envelope it in doubts and suspicions. This letter, if written at all, must have been in answer to one received from Colonel Burr. Why has it not been produced? I challenge its production; for if it were brought forward, it would release me from all obligation to silence, and would enable me to exhibit to public view the letters of Colonel Burr. Sir, I am incapable of uttering an intentional falsehood; and, under the solemnity of the oath which I have taken, I have no hesitation in saying that the declaration of that gentleman (pointing to Colonel Burr) that he had put the letter beyond his power and with my knowledge, is totally destitute of truth.

A A.

WASHINGTON, *March* 1, 1807.

Major Bruff communicated to S. S. and Colonel Read:

That Judge Easton, (immediately after the first number of the Western World appeared,) told him (Bruff) that it was in his power to ruin Colonel Burr; that he had told him his plans; that they were such as had made his hair stand on end, but he had gone so far that he could not recede. Bruff told him, that he owed it to himself, as an honest man, to inform Government. That I cannot do, said E., for I am under an oath of secrecy. But you had previously taken an oath, paramount to any other, to your country; I cannot tell, said E., but I will communicate the whole to you, if you will come under an oath of secrecy; indeed, continued he, Colonel Burr told me, that he had heard of you, that he had heard you was a brave man, had sense and firmness, and desired me to

speak to you. I am therefore at liberty to tell you all the plans, if you will swear that you will keep the secret. Bruff refused, and advised Easton to act like a man of honor and a friend to his country, or he would hereafter repent.

Evidence of Commodore Shaw.

FRIDAY, *October* 2.

Mr. Wickham. For what is Commodore Shaw introduced?

Mr. Hay. To authenticate the copy of the letter from General Jackson to Governor Claiborne, shown to General Wilkinson.

Commodore Shaw. I recollect to have seen the original.

Mr Wickham. You will please, sir, to state its contents.

Commodore Shaw. Governor Claiborne sent his servant to me with an invitation to dinner; adding that he wished to see me on public business. I was unable to wait upon him that day; but I saw him on a subsequent day, when he took a letter from his pocket and showed it to me. It was a letter from General Jackson to himself, and had been thrown into the office by some anonymous person. This letter gave Governor Claiborne a strong suspicion of General Wilkinson and reminded him of the *ides of March*, and insisted upon the necessity of placing New Orleans in a state of defence.

Chief Justice. When was this?

A. Some time in December.

Chief Justice. Did report convey any information of troops approaching New Orleans?

A. Yes. Every day in December and January rumors were arriving of the movements of troops on our southwestern frontiers; and my impression was, that everything should be done for the safety of the city; and that if General Wilkinson had not taken the measures that he did, he would have deserved censure.

Mr. McRae. (looking in the letter in his hand.) Do you recollect whether General Jackson recommended in his letter, that the Governor should use every possible means of defence?

Mr. Wickham objected to putting questions from the letter.

Chief Justice. You must not, sir, take the letter in your hand, and propose questions from it. It is really of no consequence whether the letter be read or not. No doubt the substance of it has been stated.

Mr. McRae. Have I no right to read over the letter, and afterwards to interrogate the witness as to its substance? It is my object, I confess, to draw out the substance of the original letter.

Mr. Wickham. In that letter were there not strong suspicions expressed against General Wilkinson?

A. There were.

Mr. Wickham. I should suppose, then, that General Wilkinson might have easily judged from that circumstance of the correctness of the rumors which were circulated about Colonel Burr.

Mr. McRae. State, sir, what you know of these transactions.

A. The alarm at New Orleans in December and January was very considerable. We did not know when the enemy would advance upon us. There was an apprehension of an attack by sea, and I was then authorized to purchase a large ship, to be stationed at the Balize. The gunboats, which had been ordered to enter Lake Pontchartrain, were commanded to take a different position. Some time after there was a report that a fleet, under English colors, was actually cruising off the mouth of the Mississippi; and this increased the alarm?

Mr. Burr. Was it a fact or not that this fleet was there?

A. I do not know. Such was the report, and it was brought by a packet which comes up weekly from the Balize. It was not said to be a fleet of merchantmen, but of ships of war. The report was, I believe, on the custom-house books. Mr. Bradford, the printer, also made a communication to me on the 6th of January, which produced a considerable effect. He informed me that he had spent some time in the city of Washington and Philadelphia; and from Philadelphia he had travelled to Pittsburg, and from thence proceeded to New Orleans; that he had seen a number of men under arms at the mouth of Cumberland river; two gunboats building, which the men at work on board told him would be delivered up by Colonel Lyon to Colonel Burr; besides a number of small arms, and a thirty-two pounder, ready to go aboard; and that this flotilla was to be under the command of Captain Talbot.

Mr. McRae. Did this information reach General Wilkinson?

A. Yes. I told him of it myself. The communication was made in the company of Mr. Haynes and Major Spence.

Mr. Wirt. What was the situation of New Orleans at that time? was it in a condition to defend itself against any attack by sea?

A. It was in a very defenceless condition.

Mr. Wickham. Were these rumors before General Wilkinson's arrival at New Orleans, or afterwards?

A. Afterwards. General Wilkinson made to me a full communication of all he knew; I dare say, a week before it was known to the public. He showed me the ciphered letter from General Dayton, with his signature to it. This enabled me the sooner to get my naval preparations ready.

Mr. Hay. Did General Wilkinson give you this information under injunctions to keep it secret until the proper time should come for divulging it?

A. He did; until he could obtain more complete information from some of Colonel Burr's agents then in town.

Mr. Hay. Was Colonel Freeman then at New Orleans? A. He was.

Mr. Wirt. What was the strength of the garrison in New Orleans?

A. In the upper fort there were two three pounders and one twenty-four pounder. All the guns in the lower fort were dismantled. In the upper fort there were six men and a corporal's guard. I am sure there were not more than three guns there.

Mr. Wirt. What was the number of regular men in garrison?

A. It was a small garrison. Generally there were parts of four companies of regulars there. What was the precise number of men I do not recollect.

Mr. Hay. Did not those who were responsible for the safety of New Orleans suspect many of disaffection?

A. I did suppose there were many in and near New Orleans who were inimical to the Government of the United States.

Mr. Wirt. Suppose an attack had been made by a fleet from below and an army from above, would the people of the city have resisted with a proper spirit?

A. I thought, sir, that the people were not as patriotic as they ought to have been. Many endeavored to discourage the belief that there was any danger of an attack.

Cross-examined.

Mr. Wickham. Did General Wilkinson show you the ciphered letter?

A. Yes; in manuscript.

Q. Did he show you the translation?

A. He did.

Q. Was it General Wilkinson's copy?

A. I so understood it.

Q. As a copy of the whole letter?

A. Yes; as the true copy of the whole letter received by General Wilkinson through Mr. Swartwout.

Q. Did you say there were four companies of regulars at New Orleans?

A. I said they were not full.

Q. Was there any alarm before General Wilkinson got down?

A. None that I heard of.

Mr. Wickham. Did you suspect the people of New Orleans to be disaffected because they would not believe these rumors?

A. No; not for that reason. I believed them disaffected for other reasons.

Mr. Wickham. Whilst these rumors prevailed, did the ordinary commerce of the flat-bottomed boats coming down the river continue? A. It did.

Q. Did the mails arrive as usual?

A. They were not regular in January. I thought some of my letters were detained, and I then determined to communicate with the Government by water.

Q. Did you obey any orders from General Wilkinson?

A. No; our service was quite distinct; but I had orders to co-operate with General Wilkinson, and he might send the squadron to what point he pleased.

Q. Who gave you the orders to apprehend Colonel Burr?

A. They were from Government, and I think from General Wilkinson. My orders from the Government have been published, and I suppose Colonel Burr may have seen them in Natchez. The original orders are at my lodgings.

[Here Mr. Hay produced a copy of these orders.]

Mr. Burr. That is not the order, Commodore Shaw, which was published at Natchez?

A. [Having read it.] The very same sir, verbatim.

Q. Did you not see an order in the newspapers directing my boats to be destroyed, &c.?

A. I did not, sir. These orders (those in his hand) were put on the custom-house books.

Mr. Burr. Was there any qualification "if attacked," in the order that was published?

A. There was.

Q. Was it not an order to attack and destroy, without any qualification?

A. Oh, no, sir.

Documents referred to in Gen. Wilkinson's Evidence.

A.

Deposition of Colonel Cushing.

On or about the 8th of October, 1806, I was sitting at the dining-table, in my quarters at Natchitoches, with General Wilkinson, when a gentleman entered the room and inquired for Colonel Cushing. I rose to receive him, and he presented to me the letter from General Dayton, of which the following is an exact copy, viz:

ELIZABETHTOWN, N. J., *July* 27, 1806.

DEAR SIR: This will be presented to you by my nephew, a son of the late General Matthias Ogden, who commanded one of the Jersey regiments in the Revolutionary war, and whom you probably recollect. He is on his way to New Orleans, and is advised by me to call at your post, if it should be at Fort Adams, or elsewhere upon the Mississippi, as I am told it is. His merits, and the esteem in which he is held by me, make me anxious to procure for him a welcome reception, even for the short stay of a few hours that he will be able to make with you.

Any instance of friendly attention or assistance shown to him and his very worthy companion, Mr. Swartwout, will be gratefully acknowledged, and regarded as a favor conferred on

Dear Sir, your sincere and very humble servant, JONATHAN DAYTON.

Colonel CUSHING.

The gentleman informed me that he was the Mr. Swartwout mentioned in the letter, and I presented him to General Wilkinson as the friend of General Dayton, and requested him to take a seat with us at the table, which he did. Mr. Swartwout then observed that Mr. Ogden and himself, being on their way to New Orleans, had learned at Fort Adams that our troops and some militia were assembling at Natchitoches, from whence they were to march against the Spanish army then in our neighborhood, and that the object of his visit was to act with us as a volunteer. He remained with us some time, and conversed on various topics, but said nothing which could excite a suspicion against him; and he left us with a strong impression on my mind that his business to New Orleans was of a commercial nature, and could be conducted by Mr. Ogden during his absence. While he was in my quar-

ters I was called out on business, and was absent from five to ten minutes.

The next morning I was walking on the gallery in front of my quarters, when General Wilkinson came up, and taking me aside, informed me that he had something of a very serious nature to communicate to me; so much so, that, although it was necessary to hold it in strict reserve for the present, he begged me to bear it in mind, that I might be able to make a fair statement of it at any future period. He then asked me if I knew or had heard of an enterprise being on foot in the Western States. I replied that I had heard nothing on the subject, and asked him what the enterprise was to which he alluded. He then said, "Yes, my friend, a great number of individuals possessing wealth, popularity, and talents, are at this moment associated for purposes inimical to the Government of the United States. Colonel Burr is at their head, and the young gentleman who delivered you the letter last evening is one of his emissaries. The story of serving as a volunteer is only a mask. He has brought me a letter from Colonel Burr, which, being in cipher, I have not yet been able fully to make out; but I have discovered that his object is treasonable, and that it is my duty to oppose him by every means in my power. He assures me that he has funds—says the Navy are with him—offers to make me second in command, and to give the officers of the Army anything I may ask for them; and he requests me to send a confidential friend to confer with him at Nashville, in Tennessee. In fact, he seems to calculate on me and the Army as ready to join him." I then asked the General whether he had received any information or instruction on this subject from Government; to which he replied that he had not, and that he must therefore adopt such measures as in his judgment were best calculated to defend the country. He said he would immediately march to the Sabine, and endeavor to make such terms with the Spanish commander as would justify him in removing the greater part of his force to the Mississippi; and that the moment this should be effected, he would send me to New Orleans in a light barge, with orders to secure the French train of artillery at that post, and to put the place in the best possible situation for defence; and that he would follow, with every man that could be spared from Natchitoches, with all possible expedition. He told me that he would give the information he had received to the President of the United States, and solicit particular instructions for his government. But, as delay might prove ruinous, he would pursue the course before suggested, as the only means in his power to save the country, until the pleasure of the President could be known. On our march to the Sabine, the General told me that he thought his presence at New Orleans at as early a period as possible was absolutely necessary, and that the moment he could make terms with the Spanish commander he would set out for that place, and leave me to bring on the troops.

T. H. CUSHING.
Col. 2d Reg't Inf'y, &c.

NATCHITOCHES, *Nov.* 15, 1806.

Sworn to before me, at the city of New Orleans, this 20th day of May, 1807.

GEO. POLLOCK,
J. P., Parish of Orleans.

B.

PHILADELPHIA, *July* 25, 1806.

DEAR SIR: Mr. Swartwout, the brother of Colonel S. of New York, being on his way down the Mississippi, and presuming that he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure, as he is a most amiable young man, and highly respectable, from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant,

A. BURR.

His Exc'y GEN. WILKINSON.

C.

Copy of a letter from General Dayton to General Wilkinson, written in cipher, except those parts printed in italics. This cipher was designed by General Dayton, and founded on the hieroglyphics known to General Wilkinson and Colonel Burr.

JULY 24, 1806.

X Λ !.) O ◡ / ⌒ ⌒ ·· V ⌒ — O- *IV"*

[ ]

It is now well ascertained that you are to be displaced in next session. Jefferson will affect to yield reluctantly to the public sentiment, but yield he will. Prepare yourself, therefore, for it. You know the rest.

You are not a man to despair, or even despond, especially when such prospects offer in another quarter. Are you ready? Are your numerous associates ready? Wealth and glory—Louisiana and Mexico. *I shall have time to receive a letter from you before I set out for Ohio*—OHIO. *Address one to me here, and another to me in* Cincinnati. *Receive and treat my* nephew *affectionately, as you would receive your friend*

DAYTON.

[·]

D.

SIR: I have concluded to undertake the land *purchose* which we *talket* of last winter, and *determinet* to go on the lands this fall—any number of settlers could be had on this side the mountains, but I should *prefor* to have the greater part from the Western country. You promised to write about the horses, but have heard nothing from you, and suppose there will be no difficulty on that head. The money for the first payment is now ready. I shall be *att* Frankfort *abouth* the 15th *Augus*, and hope then to meet you and Colonel Lynch there; it is quite necessary that I should see Lynch, as I shall be provided with cash to go on vigorously with our speculation. Some of the concerned are now on their way to see you, and will be with you

nearly as soon as this letter. Please to encourage them, and give them a good account of things.

Your humble servant,

A. STEPHENS.

JOHNN PETERS, Esq. *Nashville.*

Letter from Dr. Bollman to General Wilkinson.

NEW ORLEANS, *Sept.* 27, 1806.

SIR: I have the honor to forward to your Excellency the enclosed letters, which I was charged to deliver to you by our mutual friend.

I shall remain for some time at this place, and should be glad to learn where and when I may have the pleasure of an interview with you. Have the goodness to inform me of it, and please to direct your letter to me, to the care of Messrs. Chew and Relf, or enclose under cover to them.

I have the honor to be, with great respect, sir, your Excellency's most obedient servant,

ERICK BOLLMAN.

General WILKINSON.

E.

JULY 16, 1807.

MY DEAR FRIEND: As you are said to have removed your headquarters down the river, and there is a report that the Spaniards intercept our mails which pass necessarily through the territory occupied by them, in order to reach you, I think proper to address you in cipher, that the contents may be concealed from the Dons, if they shall make so free as to open the letter. Take the following for the catchword or checkword, and you may very readily decipher the figures, viz: in your own hieroglyphics [.]; but in your alphabet thus:

[Hieroglyphics.]
V ⌒ — O / Λ

Everything, and even Heaven itself, appears to have conspired to prepare the train for a grand explosion; are you also ready? For I know you flinch not when a great object is in view. Your present is more favorable than your late position; and as you can retain it without suspicion or alarm, you ought, by no means, to retire from it until your friends join in December, somewhere on the river Mississippi. Under the auspices of Burr and Wilkinson, I shall be happy to engage; and when the time arrives, you will find me near you.

Write and inform me by first mail what may be expected from you and your associates. In an enterprise of such moment, considerations even stronger than those of affection impel me to desire your cordial co-operation and active support.

DAYTON.

Wealth and honor.
Adieu!
Courage and union. } BURR AND WILKINSON.

Let me hear from you by mail, as well as by the first good private conveyance, and believe me, with the best wishes for your prosperity and happiness, most truly, your friend and servant,

JONA. DAYTON.

If you write in cipher, use the same word, viz:
V ⌒ — O / Λ

F.

Extract of a letter from Jas. L. Donaldson, Esq., to General James Wilkinson.

NATCHEZ, *October* 30, 1806.

Michael Myers arrived here to-day in thirteen days from St. Louis, on his way to New Orleans. He made a communication to me, with permission to transmit to you, which might stagger even credulity. On his information, he says he is certain, and firmly believes in the intelligence he communicates. This is neither more nor less than that a plan to revolutionize the Western country has been been formed, matured, and is ready to explode; that Kentucky, Ohio, Tennessee, Orleans, and Indiana, are combined to declare themselves independent on the 15th November; that proposals have been made to some of the most influential characters at St. Louis, by an accredited agent of the conspiracy, to join in the plan; that this person, whose name Myers refuses to reveal, is in a most respectable line of life, and had the most unquestionable vouchers of his mission in French and English; that he declared if *money* was necessary, that it might be commanded to any extent.

It is proper to add that the persons thus applied to at St. Louis altogether refused to concur in any plan of the kind, saying that it should be only superior force that should dispense with their oath of fidelity to the United States. This may all appear to a person, as well acquainted as you are with the politics of the Western country, as a *second Spanish conspiracy*, and as such be ridiculed; and such is my impression of the wonderful plan. But Myers so firmly believed it, that, having set forth on his journey by land to the United States, he was induced by his fears hastily to return to arrange his business at all events, and prepare for an explosion. He most solemnly protests the truth of the communication, and declares there are only four persons in St. Louis who are privy to the disclosures made by the secret agent. It is not improbable that this may be a *ruse de guerre*, a stratagem set on foot by the patron of the Western World, to foster and keep alive the dissensions, which, excited by the pretended exposition of ancient conspiracies, may be fanned into a flame, by spreading an alarm of an immediate and pressing treasonable combination. This I am apt to believe is the case; and, in order more fully to succeed, they may study and affect mystery, as better calculated to excite suspicion, and that they may have the honor of a *new discovery*. However, be the matter as it may, I communicate it to you as I received it, and have only to regret that you had it not in person from Myers's information, of which, whatever your judgment might pronounce, the solemnity of his assertion, and his certainty of the plan, (although he was not at liberty to divulge the means,) must have staggered the mind capable of *believing it*.

G.

NEW ORLEANS, *November* 25, 1806.

SIR: Your letter of the 6th instant has been

duly received. Supposing that you will be much engaged this morning, I defer waiting on your Excellency till you will be pleased to inform me of the time when it will be convenient to you to see me.

I remain, with great respect, your Excellency's most obedient servant,

ERICK BOLLMAN.

His Excellency Gen. Wilkinson, Fauxbough Marigny, the house between Madame Frevigne and Mlle. McCarty.

H.

The deposition of A. L. Duncan, a witness in behalf of the United States against Aaron Burr, taken at the request of said witness, but by the consent of George Hay, Esq., attorney for the United States in the district of Virginia, and of the said Aaron Burr, to be read in evidence, if required, on all trials, motions, or other proceedings in course of law in which the said Aaron Burr shall be concerned, at the prosecution of the said United States.

I consent that this affidavit may be read in all cases in which the United States are concerned against Aaron Burr, in the same manner as above expressed.

GEO. HAY, *U. S. Attorney for Virginia district.*

During the commotions excited in New Orleans last winter by what was termed Colonel Burr's conspiracy and his associates and accomplices in that place, I was called upon in my professional capacity by General Wilkinson for counsel and advice in some measures which he was about to adopt. The temper and disposition which I had discovered in New Orleans, and the reports which daily reached that city from above, induced the belief that half measures were not suited to the times, and that the public safety required the exertion of extraordinary energies. I therefore urged the General repeatedly to the seizure of suspected persons, and the declaration of martial law. When Bollman was seized, I suggested to the General the expediency of transmitting with him a statement of facts, on oath, to justify the step, and to warrant his commitment. He then put the letters which he said were written to him by Colonel Burr, and which he also said were transmitted to him by Swartwout and Bollman, into my hands, on which, together with some further information and knowledge of their views which the General possessed, I framed the deposition which accompanied Bollman, intentionally omitting everything which was calculated to inculpate the General, or which might, by exciting suspicions, have a tendency to weaken his testimony. Having prepared the deposition, I presented it to General Wilkinson to be disposed to, who strongly and repeatedly objected to the omission I had made, and urged warmly that the whole should be introduced. He also desired that a declaration of Bollman, with which he frequently interlarded his conversation, should be entered, viz: "That he had come to New Orleans with views to the settlement of lands on the Washita, and was a mere spectator." And it was only after a full exposition of the sole objects of the document, that I could prevail on him to depose to it. It is idle and absurd to impute any sinister intention to the omission, because, on any trial which might ensue, it was known the original documents must be introduced as they have been. I recollect, during the winter, General Wilkinson was called before the Legislature of the Territory to give an account of the state of public affairs, and he informed me he had intended to submit to their inspection Colonel Burr's duplicate, he having erased such parts as had been intended to implicate him, as he knew several of the members, and particularly the Speaker, to be interested in opposition to his measures, and for the promotion of such a state of things as were best calculated to favor Colonel Burr's enterprise. I understand that the erasure made on this duplicate was but partial, the General having determined to give oral information to the Legislature, which employed him two successive days; and that he considered the duplicate unimportant, (whilst the original has been preserved untouched,) excepting the short paragraph relative to Bollman, which is preserved in its original state, and the only words erased, "Your letter, post-marked 13th May, is received," have been re-inserted in the General's own hand. On or about the 15th August, since my arrival in this city, General Wilkinson put into my hands, and those of J. L. Donaldson, Esq. four or five letters, observing to us: "I submit to you those letters which I have not examined since I left St. Louis; they are from Colonel Burr; I do not recollect their particular contents, but having received them in confidence, and knowing they blend personalities with politics, I have not permitted myself to re-examine them, because I feel an insuperable repugnance to violate the trust of any man. I give them to you, here is the cipher, decipher them, consider their contents well, and then inform me whether their promulgation may be necessary to my honor." We did so, and we gave the General our opinion that the promulgation might be necessary and proper. From an examination of those letters, and the General's evident surprise, and prompt declaration of his ignorance when we communicated certain passages of these letters, it was my own and Mr. Donaldson's opinion, that he had but partially deciphered them.

In answer to interrogatories on the part of Colonel Burr, I recollect to have solicited the command of a party to Natchez for the purpose of arresting Colonel Burr, and believing from the instructions which the General possessed, together with the state of things at that period, that the measure was warrantable; and having seen several communications from the Government to General Wilkinson, and particularly that in reply to his letter of the 21st of October, I had no doubt of the sanction of Government to any measures which were calculated to defeat the views of Colonel Burr. I have seen communications of a confidential nature from the President to General Wilkinson, and I believe in reply to the General's letter of the 21st of October.

A. L. DUNCAN.

City of Richmond, *sct.*

Sworn to and subscribed before me, this 5th day of September, 1807.

HENRY S. SHORE.

Test: Wm. Marshall, *Clerk.*

I.

Deposition of Captain J. B. Walback.

I had the honor to become acquainted with General James Wilkinson some time in August 1799; became attached to his military family in December, 1800; was appointed an aid-de-camp in the Spring following, and continued in that capacity until the last of November, 1804.

During the above period, I have witnessed that General Wilkinson did employ ciphers of different kinds in his correspondence; among them was an English pocket dictionary. Several of these ciphers I have made myself; designed copies of some of them are still in my possession, and others I have recognised since my arrival at the city of Richmond; particularly one to the late General James Jackson, and another to the late Major General Alexander Hamilton; a third to a Mr. Hulings, then at New Orleans; a fourth to Colonel Cushing; a fifth to Mr. Silas Dinsmore, and one to myself. Several of these were projected in 1802 and 1803, at the time the port of New Orleans was shut, and for the purpose of procuring and conveying intelligence to the Government.

Q. Did you ever observe in General Wilkinson any act or disposition, which marked inattention to his duty, as to the zealous and faithful discharge of the trust reposed in him as an officer of the United States?

A. From my own observation and experience, (being now nearly twenty-six years in military life,) I can declare that I have never known an officer more zealously devoted to the service in which he was engaged, and I can safely declare that I have never seen an officer of General Wilkinson's rank voluntarily and cheerfully expose himself to such privations, hardships, and sufferings in the course of his duty, as I have seen him meet with alacrity.

Q. Do you know the handwriting of Captain C. Smith?

A. I do.

Q. Are these hieroglyphics of his writing?

A. They are.

Q. Are they the same which were employed by Colonel Burr in his correspondence with General Wilkinson?

A. They are the same which are employed in Colonel Burr's letters, shown me since my arrival at the city of Richmond, and said to be delivered by Messrs. Swartwout and Bollman to General Wilkinson.

Q. Do you recollect when Captain C. Smith left General Wilkinson's family?

A. Some time in July, 1801.

Q. Do you think General Wilkinson afterwards saw or was near him?

A. I am certain not, because General Wilkinson did not return from the Mississippi until May, 1804, and Captain Smith resided in the State of Maryland, and died in the Winter of 1803 or 1804.

Q. Have you seen General Wilkinson employ the pocket dictionary now presented to you in writing cipher?

A. I have.

Q. Will you say in what year?

A. I am not positive as to the year, but it was during the period I was attached to his military family.

Q. Did you hear a sentiment from General Wilkinson calculated to disaffect the troops, or to abate their zeal for its promotion?

A. No; on the contrary, I have witnessed that General Wilkinson always used his utmost endeavors to promote harmony, comfort, and good order among the troops, and by his precepts as well as example, to insure subordination and patriotism.

J. B. WALBACK,
Captain Artillery.

I am content that the above shall be read as evidence in all cases between the United States and Colonel Burr; and that anything which may be added by the affiant, by way of answer to interrogatories, may also be read.

GEORGE HAY,
U. S. Attorney for Richmond district.

City of Richmond, *ss.*

Sworn to and subscribed before me, an alderman of the city aforesaid, this 15th day of September, 1807.

HENRY S. SHORE.

K.

St. Louis, *May* 6, 1806.

Sir: You are to embark to-morrow, and will sail early the next morning, with Lockwood's and Strong's companies for Fort Adams, and on arriving there, you are to add Campbell's company to your detachment, and must proceed without a moment's unnecessary delay up Red River to Natchitoches, where you are to take the command.

The point of your destination being deemed at present a critical one, it is desirable your companies should be kept complete to the establishment; and for this purpose you are to make such disposition of the recruits ordered from Tennessee or elsewhere, as may be found necessary.

Your remote position from the posts east of the Mississippi, renders it convenient and necessary that they should, as heretofore, report directly to and receive orders from head-quarters; but the commandants are to report to you monthly, and will be liable to your orders as senior officer of the district, whenever the public service may require the interposition of your authority, which should be made with due caution, to avoid clashing with the arrangements which may issue from head-quarters.

The posts west of the Mississippi are subject to

your immediate command, and are to be governed accordingly. You are to appoint general courts-martial within the limits of your district, and are to decide on all sentences which may not affect a commissioned officer, agreeably to the rules and articles of war.

At the distance which separates us, it would be vain and presumptuous to prescribe precise rules for your conduct in command, where the occurrence of incidents and change of circumstances may be so unexpected and variable as to baffle anticipation, and to render positive orders destructive to the interests of the country. You are, therefore, to meet the public service with a sound discretion, and will be held responsible for events. The trust is a high and important one; but it is with singular pleasure I can observe, that my long experience of your judgment and capacity leaves no doubt on my mind, that the result will justify the public confidence, and prove honorable to your name and profession.

I will, therefore, submit one observation only to your consideration; it is, that you should not fail to employ the force confided to your command whenever it may be found most necessary to protect or defend the rights and interests of our country within the sphere of your authority.

With the warmest wishes for your fame and happiness, I am, sir, your faithful friend, and obedient servant,

JAMES WILKINSON.

Colonel Th. H. Cushing,
Second regiment infantry.

L.

Instructions from General Wilkinson to Colonel Cushing.

St. Louis, *May* 8, 1806, 1 o'clock, A. M.

Sir: Advice yesterday received from Major Porter makes it my duty to direct the acceleration of your movements by every practicable means, and I trust that in the present state of the waters, you may reach Fort Adams on the 20th instant.

On arriving at that post, the information you may receive must determine the course of your conduct. Should the Spaniards have resumed their positions east of the Sabine, or assumed a menacing aspect at Nacogdoches, you must add to your command every man at Fort Adams, excepting a mere *locum tenens*, leaving orders at that place for Lieutenant Colonel Kingsbury to fall down to the mouth of the Red River, and there wait the return of a sufficient number of your barges for his transport to the high grounds, from whence it may become expedient for you to march the whole of your command, excepting the boats' crews.

I hope Major Porter may have the precaution to transmit the Executive a copy of the information he has forwarded to me, and that you may receive from that source, at an early period, decisive instructions for your government; in the meantime, though war be our trade, it is not only opposite to the genius and disposition of our country, but also to its substantial interests. The sword must not, therefore, be drawn but in the last extremity, to punish outrage, to resist invasion, or repel an attack.

Should indications justify it, (and you must take measures to ascertain, if possible, the designs of your neighbors,) you are to call to your aid every man who can safely be spared from the garrison under your orders, and will employ every pains and exertion to put them in the highest state of fitness for offensive operations.

You will find, in the hands of Major Porter, an order from the Secretary of War, which might justify you in pushing your neighbors beyond the Sabine river, should they have recrossed it to the eastward. But, as it appears from the public prints, that a pacific negotiation has, on our part, ensued these orders, you must not strain their construction to favor the effusion of blood, and involve our country in the certain calamities and uncertain events of war.

Learn, with all possible precision, the force, composition, and station, of the troops opposed to you; be yourself prepared for the combat; and, if a conflict must ensue, having previously animated your men by a strong exhortation, and sworn your officers in their presence to fall or conquer, make your onset with the bayonet; and your own glory, the honor of our arms, and the interests of the nation, will be insured and maintained.

Wishing you life and laurels, health and fame, I am your faithful friend and fellow soldier,

JAMES WILKINSON.

Col. T. H. Cushing,
1st regiment U. S. infantry.

P. S. You are to take with you from Fort Adams an eight inch howitzer, which you will find there properly equipped and amply ammunitioned.

M.

Extract of a letter from General James Wilkinson to the Honorable H. Dearborn, Secretary of War, dated

Natchez, *September* 8, 1806.

I arrived at this place last evening at six o'clock, and addressed a note to the Secretary of the Territory, (Governor Williams being absent,) of which you have a copy, under cover, with this answer; this morning I waited on him, and have seen the plan adopted by Governor Claiborne and himself, the first article of which appears to be in direct opposition to your order respecting the removal of the Spaniards from Bayou Pierre, to which place I understand they have fallen back from the vicinity of Adayes, and I hope they may continue there until my arrival at Natchitoches, for which place I shall commence my journey the moment after I have arranged with the Secretary of the Territory for such auxiliary force of militia as may eventually become necessary from his jurisdiction. Governor Claiborne has, I understand, arrayed militia in the western counties of the Territory of Orleans; but I shall discourage their march until I have penetrated

the designs of the Spaniard, and may find him deaf to the solemn appeal which I shall make to his understanding, his interest, and his duty.

Let the President be assured, sir, I shall drain the cup of conciliation to maintain the peace of our country and that the sword shall not be drawn but in the last extremity, after reason and remonstrance have failed to preserve inviolate our territory east of the Sabine; but, at the same time, that an awful responsibility restrains the inclinations and ambition of the soldier to this temperate course of conduct, in opposition to the order which I think I discern in the Executive officers of these Territories, I will pledge my life to him that no act shall be suffered, within my knowledge, to tarnish the national honor or affect the lustre of his Administration.

If the precautions embraced by my instructions to Colonel Cushing, of which I transmitted you a copy from St. Louis, have prevented the effusion of blood, I must believe I have done some good to the State, because the retrospection of the Spaniards has rendered the ultimate appeal unnecessary, at least for the present: and as nothing can be lost, and everything may be gained, by a little delay, it seems better that the opportunity for exciting hostilities should have escaped, than that it should have been seized on to let slip the dogs of war before the effect of conciliatory measures had been duly tested.

The retrograde of the Spaniards is not accounted for, but may be ascribed to three causes; the unhealthiness of the troops, the want of forage for the immense cavalcade with with which they are encumbered, or the failure of provisions; but as they would scarcely have made so formidable and bold an advance, in the face of the prohibition uttered by Major Porter, without positive orders from the competent authority, it is reasonable to presume, when the cause of their progression has been removed, they may resume their former position, for which events some preparatory arrangements must be commenced. The Spaniards who have approached Natchitoches being all mounted and without artillery, and each private being obliged to keep up four horses and a mule for service out of his pay of one hundred dollars per month, it will be impossible for them to maintain a fortification; but the same circumstance will enable them to refuse or give battle to our infantry, at their discretion. To remedy this disadvantage, and enable me, should I be forced to appear to arms, to drive them effectually beyond the Sabine or to cut them up, I shall endeavor to procure about four or five hundred dragoons and mounted militia from the two Territories, unless I should find them so incautious as to enable me, by a forced march of the established troops, to surprise their camp under cover of the night; but this is scarcely to be expected, if the commanding officer possesses a spark of military knowledge or experience.

A blow once struck, it would appear expedient that we should make every advantage of it; and if men and means are furnished I will soon plant our standards on the left bank of Grand river. But I must beg leave to remark to you that, for distant operations, or the protection of our Western frontier against the predatory incursions of the Spanish cavalry, a body of mounted men is absolutely indispensable.

N.

Copy of a letter from General Wilkinson to the Secretary of War.

Headquarters, Natchitoches,
October 4, 1806.

Sir: I yesterday morning received Governor Cordero's answer to my address of the 24th ultimo, copies of which you have under cover. The varied style of this letter, when contrasted with those of Governor Herrara to Colonel Cushing and Governor Claiborne, combined with the circumstances of the Spanish troops having recrossed the Sabine to a man, has induced me, on the ground of economy and expediency, also to discharge the militia who had reached this place, and to countermand those under march, excepting about one hundred dragoons and mounted infantry, whom I shall retain in service until I am apprized of the determination of the Captain General Salcedo, to watch the movements of our neighbors, to prevent their sinister intrigues with our disaffected citizens, and, should they re-enter our territory, to aid the established troops in expelling them.

The Spaniard raised his camp at the Bayou Pierre on the 27th ultimo, traversed the country to the highway leading from this place to Nacogdoches, which he intersected on the 29th, about twenty-six miles in my front; and on the 30th crossed the Sabine, and took post on the right bank, where Colonel Cushing left him the 1st instant. But, notwithstanding, I have been determined to diminish my force, as the pretensions of General Herrara have not been retracted, nor our jurisdiction acknowledged, and as the position taken on the right bank of the Sabine is a material departure from the state of things at the surrender of the province to us, and exposes our territory to immediate invasion, I shall continue my preparations for defence and offence, and to wipe off the species of stigma which cavillers may attach to the Spanish repossession of the ground from whence we had driven them; to give confidence to our friends, to confirm the wavering and the disaffected; and, above all, to assert unequivocally the pretensions of the Government, I have taken post within the limits claimed by the officers of Spain, and in a few days shall move forward to the east bank of the Sabine, where I shall wait the answer of the Captain General Salcedo. Were I required to justify this step, I should reply that the United States having forced a Spanish guard to retire from a position within their acquired territory, that Power protested against the act, denied their pretensions, and armed for the avowed purpose of recovering the ground from which they had been driven; that a Spanish commander of respectable rank, at the head of a considerable force in military array, did not only recover that ground,

but took position much nearer to our barrier, and far within our limits; that this officer claimed the jurisdiction of the country east of the Sabine to the Arroyo Hondo, in behalf of his master the King of Spain, and declared his determination to protect and defend it as such. Were we to suffer such outrages upon the national sovereignty to pass over without notice, injurious interpretations might be levelled at our military character, and our forbearance might be construed into a tacit dereliction of our claims.

Under these circumstances, and to do away the shadow of right which the Spaniards may endeavor to found on their posterior occupancy, I feel it incumbent on me to take possession of the controverted tract to its utmost verge, where my conduct will be regulated by that of my neighbors, who the last evening occupied the spot where Colonel Cushing left him on the 1st instant with his advanced guard mounted immediately on the bank of the river; but you may rest assured, nothing shall be done on my part to excite unreasonable jealousies or to provoke hostilities; and, therefore, to prevent the misinterpretation of my movements, I have taken the precaution to write Governor Cordero this day warning him of my intentions, and the motives by which I am actuated, agreeably to the copy now transmitted you. Of the militia from this territory, about four hundred have turned out, which was more than I expected. From the Mississippi Territory I have not yet heard, and therefore cannot say in what force they are advancing. I have hope from the aspect of Mr. Cordero's letter, and the actual state of their military at this moment, of which I have acquired the most clear and particular knowledge, that our differences here may be adjusted on honorable terms, and without bloodshed. I shall, however, be prepared for events, and will keep you regularly advised of every material occurrence.

With great consideration and respect, I am, sir, your obedient servant.

JAMES WILKINSON.

Hon. HENRY DEARBORN, *Secretary of War.*

O.

Letter from General Andrew Jackson to His Excellency William C. C. Claiborne, Esq.

NOVEMBER 12, 1806.

SIR: Although it is a long time since I sat down to write to you, still that friendship which once existed remains bright on my part; and although since I had the pleasure of seeing you I have waded through difficult and disagreeable scenes, still I have all that fondness for my old and former friends that I ever had; and their memory has been more endeared to me by the treachery I have experienced since I saw you by some newly acquired ones. Indeed, I fear treachery has become the order of the day. This induces me to write you. Put your town in a state of defence, organize your militia, and defend your city as well against internal enemies as external. My knowledge does not extend so far as to authorize me to go into detail, but I fear you will meet with an attack from quarters you do not at present expect. Be upon the alert, keep a watchful eye on our General, and beware of an attack as well from your own country as Spain. I fear there is something rotten in the state of Denmark. You have enemies within your own city that may try to subvert your Government, and try to separate it from the Union. You know I never hazard ideas without good grounds; you will keep these hints to yourself. But I say again, be upon the alert; your Government I fear is in danger; I fear there are plans on foot inimical to the Union; whether they will be attempted to be carried into effect or not, I cannot say; but rest assured they are in operation, or I calculate boldly. Beware of the month of December. I love my country and Government; I hate the Dons; I would delight to see Mexico reduced, but I will die in the last ditch before I would yield a foot to the Dons, or see the Union disunited. This I will write for your own eye and for your own safety; profit by it, and the ides of March remember.

With sincere respect, I am, as usual, your sincere friend, ANDREW JACKSON.

Mrs. Jackson desires her best wishes to you.

P.

Deposition of Commodore Shaw.

Be it known that, on or about the 7th day of January, Anno Domini 1807, Mr. Bradford, printer of the New Orleans Gazette, waited on this deponent, Captain Shaw, of the United States navy; and, after delivering a letter from a correspondent, he observed, that he had spent some time in the City of Washington and Philadelphia, and from Philadelphia he had travelled to Pittsburg, and from thence proceeded towards New Orleans; that the country through which he had passed was filled with commotion, and that there was a great number of the friends and followers of Colonel Burr. Mr. Bradford also mentioned that he had seen at the mouth of Cumberland river some of the public gunboats, and a number of men employed in fitting them out, and that they were to join Colonel Burr; that the men at work on board the gunboats told him (Bradford,) that Colonel Lyon had given up the gunboats to Colonel Burr, and that he (Colonel Lyon) was one of Burr's partisans. Bradford further observes that he saw a number of small arms which he supposed were carried on board the gunboats, and that the men at work on board the gunboats informed him (Bradford) that Colonel Burr had issued arms and ammunition to twelve thousand men; that Burr's flotilla consisted of seven gunboats and a brig of ten guns; and that Captain Talbot was commander of the flotilla. Bradford also observed, that he was suspected; and that, in order to show his innocence, he would wait on General Wilkinson and disclose to him all he knew concerning Burr and his plots; and further this deponent saith not.

JOHN SHAW.

Sworn and subscribed before me, this 12th day of May, 1807.

B. CENAS, *Justice of the Peace.*

Q.

Deposition of Com. Shaw and William Tharp.

Be it remembered, that this day, to wit, the 16th day of April, Anno Domini 1807, personally appeared before me, the subscriber, one of the justices of the peace for the city and parish of New Orleans, John Shaw, Esq., captain in the United States' Navy, and William Tharp, Esq., who being first duly sworn on the Holy Evangelists of Almighty God, declare and say, that on or about the 15th day of January last, 1807, passing from the coffee-house, about the hour of 12 o'clock at noon, they were accosted opposite the principal by Judge Prevost of this place, who observed that he was happy to inform these deponents that General Adair, the second in command to Colonel Burr, had arrived in town, and was then at Madame Nourages; that he had just waited on him, or had seen the man who had created so much stir, who said Colonel Burr would be in town in three days after him; that it would soon be discovered if the constitution and justice would prevail, or that of the usurpation of power and tyranny manifested in the measures at present adopted. Other remarks were made by the judge, in tone and gesture discovering evident marks of irritation and opposition to the measures of the officers of the Government, and impressed one of these deponents with an idea that the judge's object was to be personal with Capt. John Shaw, and extorted a reply that he (Captain Shaw) knew no private character; he obeyed and executed his orders without partiality, and should always be alert to meet and apprehend the disturbers of the peace and harmony of Government. These deponents remained but a few minutes with Judge Prevost, and went to the lodgings of the captain, where the deponents considered it correct to inform General Wilkinson that General Adair was then in town, which Captain Shaw did by sending his servant with a note to General Wilkinson.

JOHN SHAW.
WILLIAM THARP.

Sworn to and subscribed before me, the day and year within written.

B. CENAS, *Justice of the Peace.*

R.

Copy of a letter from Wm. White to Col. Andrew Burk, of New Orleans.

MIDDLETON, *December* 23, 1806.

DEAR SIR: Expect a large military force to take possession of your city; should it not happen before this reaches you, you may look out with hourly expectation of seeing it, headed by Col. Burr.

This is intended, should you see it in time, to apprize, in order that you may be in readiness to make your advantages of the times. A number of persons from this neighborhood are engaged in this expedition; amongst the number is your old acquaintance, Mr. A. Ralston.

Believe me to be, though much disappointed, still respectfully, yours,

WM. WHITE.

COL. ANDREW BURK, *New Orleans.*

S.

Instructions to Lieutenant Pike.

ST. LOUIS, *June* 24, 1806.

SIR: You are to proceed without delay to the cantonment on the Missouri, where you are to embark the late Osage captives, and the deputation recently returned from Washington, with their presents and baggage, and are to transport the whole up the Missouri and Osage rivers to the town of the Grand Osage.

The safe delivery of this charge at the point of destination constitutes the primary object of your expedition, and therefore you are to move with such caution as may prevent surprise from any hostile band, and are to repel with your utmost force any outrage which may be attempted.

Having safely deposited your passengers and their property, you are to turn your attention to the accomplishment of a permanent peace between the Canzes and Osage nations; for which purpose you must effect a meeting between the head chiefs of those nations, and are to employ such arguments, deduced from their own obvious interests, as well as the inclinations, desires, and commands of the President of the United States, as may facilitate your purpose and accomplish the end.

A third object of considerable magnitude will then claim your consideration. It is to effect an interview and establish a good understanding with the Ya-i-tans, or Cammanchees.

For this purpose you must interest Whitehair of the Grand Osage, with whom and a suitable deputation you will visit the Panis Republique, where you may find interpreters, and inform yourself of the most feasible plan by which to bring the Cammanchees to a conference. Should you succeed in this attempt (and no pains must be spared to effect it) you must endeavor to make peace between that distant powerful nation, and the nations which inhabit the country between us and them, particularly the Osage; and, finally, you will endeavor to induce eight or ten of their distinguished chiefs to make a visit to the seat of Government next September; and you may attach to this deputation four or five Panis, and the same number of Canzes chiefs. As your interview with the Cammanchees will probably lead you to the head branches of the Arkansas and Red River, you may find yourself approximated to the settlements of New Mexico, and, therefore, it will be necessary you should move with great circumspection, to keep clear of any hunting or reconnoitering parties from that province, and to prevent alarm or offence; because the affairs of Spain and the United States appear to be on the point of amicable adjustment; and, moreover, it is the desire of the President to cultivate the friendship and harmonious intercourse of all the nations of the earth, and particularly our neighbors the Spaniards.

In the course of your tour, you are to remark particularly upon the geographical structure, the natural history, and population of the country through which you may pass, taking particular care to collect and preserve specimens of every-

thing curious in the mineral or botanical worlds, which can be preserved and are portable. Let your course be regulated by your compass, and your distances by your watch, to be noted in a field-book; and I would advise you, when circumstances permit, to protract and lay down in a separate book the march of the day, at every evening's halt.

The instruments which I have furnished you will enable you to ascertain the variation of the magnetic needle and the latitude with exactitude; and at every remarkable point, I wish you to employ your telescope in observing the eclipses of Jupiter's satellites, having previously regulated and adjusted your watch by your quadrant, taking care to note with great nicety the periods of immersion and emersion of the eclipsed satellite. These observations may enable us, after your return, by application to the appropriate tables, which I cannot now furnish you, to ascertain the longitude.

It is an object of much interest with the Executive, to ascertain the direction, extent, and navigation of the Arkansas and Red river; as far, therefore, as may be compatible with these instructions, and practicable to the means you may command, I wish you to carry your views to those subjects, and, should circumstances conspire to favor the enterprise, that you may detach a party with a few Osages to descend the Arkansas under the orders of Lieutenant Wilkinson, or Sergeant Balling, properly instructed and equipped, to take the courses and distances, to remark on the soil, timber, &c., and to note the tributary streams. This party will, after reaching our post on the Arkansas, descend to Fort Adams, and there wait further orders; and you, yourself, may descend the Red river, accompanied by a party of the most respectable Cammanchees, to the post of Natchitoches, and there receive further orders.

To disburse your necessary expenses, and to aid your negotiations, you are herewith furnished six hundred dollars' worth of goods, for the appropriation of which you are to render a strict account, vouched by documents to be attested by one of your party.

Wishing you a safe and successful expedition, I am, sir, with much respect and esteem, your obedient servant,

JAMES WILKINSON.

Lieut. Z. M. Pike.

T.

Additional instructions to Lieut. Pike.

Cantonment, (Mo.,) *July* 12, 1805.

Sir: The health of the Osages being now generally restored, and all hopes of the speedy recovery of their prisoners from the hands of the Pattawatamies, being at an end, they have become desirous to commence their journey for their villages, you are, therefore, to proceed to-morrow.

In addition to the instructions given you on the 24th ultimo, I must request you to have the talks, under cover, delivered to White Hair and the Grand Pesse, the chief of the Osage band, which is settled on the waters of the Arkansas, together with the belts which accompany them. You will also receive, herewith, a small belt for the Panis, and a large one for the I-e-tans or Cammanchees.

Should you find it necessary, you are to give orders to Mongrain, the resident interpreter at the Grand Osage, to attend you.

I beg you to take measures for the security and safe return of your boat from the Grand Osage to this place.

Doctor Robinson will accompany you as a volunteer. He will be furnished medicines, and for the accommodation which you give him he is bound to attend your sick.

Should you discover any unlicensed traders in your route, or any person from this Territory or from the United States, without a proper license or passport, you are to arrest such person or persons, and dispose of their property as the law directs.

My confidence in your caution and discretion has prevented my urging you to be vigilant in guarding against the stratagems and treachery of the Indians, holding yourself above alarm or surprise; the composition of your party, though it be small, will secure to you the respect of a host of untutored savages.

You are to communicate from the Grand Osage, and from every other practicable point, directly to the Secretary of War, transmitting your letters to this place, under cover, to the commanding officer, or by any more convenient route.

I wish you health, and a successful and honorable enterprise, and am, yours, with friendship,

JAMES WILKINSON.

Lieut. Z. M. Pike.

V.

Extract of a letter from General Wilkinson to General S. Smith, dated

Fort Adams, *Sept.* 12, 1806.

At this moment thus stands the account between us and the Spaniards on the side of Texas: we dishonor the armies of Spain, and (as they allege) violate their territory, by forcing their advanced post, and compelling their officer to fall back many miles. [See General Dearborn's order to Porter.] In consequence, the Spaniard reinforces, advances, resumes his former ground, and braves us. We remonstrate and menace, but he keeps possession of the disputed tract. Is not the balance against us? It is my friend, and I will restore what we have—I trust in Heaven—without bloodshed; but at all events.

W.

General Morning Orders.

Headquarters, Camp la Piedra,
26 *miles from Natchitoches, Oct.* 28, 1806.

Parole.—C. Sign.

The depending movement of the troops is not to seek an enemy, but to assert a right of sovereignty; this right is denied by the Spanish commander in our front, who has recently warned the General, that he considers his advance an act of hostility, with his orders to compel him to resist. Whatever, then, may be the calculation or the result, the safety and honor of the corps and the national interests require that every individual attached to the expedition should move and act as if an engagement were certain and inevitable. We are obliged to wait the attack, and our opponents, being all mounted, may give or refuse themselves at their discretion; and, of consequence, will avail themselves of any advantage we may offer them.

The signal to prepare for action, when encamped, will be a gun from the left, on which every man who bears arms will take his place in the line, and the whole wait orders. The signal to form, when under march, will be a gun from the front. The infantry, with their field pieces, will immediately form two lines with two hundred yards interval, and on the flanks of the road. Farrar's dragoons will retire by the road to the rear, and form a column prepared to charge. Major Welch's mounted infantry will skirmish, and fall back on the right or left of the front line, as the ground and other circumstances may render most advantageous. The moment the signal is given, the rear guard, pioneers, and every man of the line are to join their corps, leaving their packs and teams in charge of Mr. Ragan and the engagees of the quartermaster's and contractor's departments. Should an attempt be made to turn our flanks, which is probable, the infantry will form the hollow square, and the artillery take post on the angles, to enfilade the enemy with grape and canister. Major Welch's men to retire toward the rear, and endeavor to outflank our assailants; keeping up as quick and deadly a fire as possible. An officer to each division of the infantry will take post with the front rank; every other officer will be in the rear to see the men do not throw away their fire; and if one should be found so dastardly as to give back, to put him to instant death.

Under all circumstances, the artillery will receive orders when to fire: but the infantry, with shouldered arms, are to await the approach of the enemy, until within forty yards, when the front rank is to present, level well, fire, and charge bayonet. If the enemy are not broken or staggered, the second rank are to aim at their breasts, and when at fifteen yards are to pour in their fire, and, should they still come on, are to be received by both ranks with dauntless resolution on their bayonets. The dragoons are reserved for a critical effort, and will receive orders when and where to make it. The gentlemen will bear in mind that, whatever may be the order of the charge, the instant they close with the enemy, the action will become pell-mell. They should be careful to level their blows at the neck, rather horizontally than perpendicularly, and in general to cut and pass from man to man.

The Spanish force is greatly superior, and all mounted, but is undisciplined. Their attack will be made in great disorder, and probably with velocity and an air of boldness; because they will depend more on noise and appearance than the solid shock. It will be our part to present a rampart of bayonets whenever attacked. Let the officers be attentive to their men, and the men be silent and obedient to their officers. Let each individual put confidence in his own strength and the co-operation of his flank files. Above all, let us avoid hurry, which always produces confusion; and superiority of numbers will serve but to augment our triumph and increase the honor of our arms.

X.

I arrived at Natchez about the 27th of October from the Missouri, where I received a letter from General Wilkinson, dated Natchitoches, 23d October, 1806, directing me to despatch an express with a return of my detachment, and to fall down to Fort Adams, and take the command of that post. I arrived at Fort Adams about the 3d of November, and took command from Lieutenant Sevier; on my arrival, I found a Mr. Swartwout confined in the Doctor's quarters, with a violent attack of bilious fever. I was introduced to him, I think, by Dr. Davidson, who informed me that Mr. Swartwout had been to Natchitoches, and on his return to the mouth of Red river had been violently attacked and sent up to the garrison for medical aid; that he had gone down to see him and found him in a dreadful hovel, and had advised his embarking on board a barge which was ascending to the fort, where he could be more comfortably situated, and have his constant attendance. On the 12th, I received letter No. 1, hereunto attached, dated Natchitoches, 6th of November; this was handed to me by Lieutenant Graham, who informed me of the termination of the expedition to the Sabine, and that the troops were then on their return. Letter No. 2, hereunto attached, informed me of the return of the General to Natchez, which created some anxiety in my mind, in consequence of the orders exacting secrecy and ordering boats for the movement of all the military stores from Fort Adams. On the 15th, several of the officers arrived from Natchitoches, and visited their families, who were at a loss to account for the rapid movement of the troops from Natchitoches to New Orleans, and the embarcation of the military ordnance stores at Fort Adams confirmed us in the belief that danger was apprehended from some quarter, and that New Orleans must be the point of attack. We continued in this situation until the morning of the 18th, when the General arrived and requested me to walk with him to the battery, where he communicated to me the designs of Colonel Burr, informing me that he had received several letters from Colonel Burr, through one of his agents, (Mr. Swartwout,) and that Burr's principal attack would be upon New Orleans. I was never more astonished, not having heard that any suspicions were entertained against him; I informed the General the situation in which I found Swartwout on my arrival, and requested leave to arrest him. The General refused, saying that he expected to get much more out of him; that he had held out to Swartwout the idea of his not opposing Colo-

nel Burr, and he should assemble his whole force at New Orleans, to enable him to defend that place, and defeat the whole plan. I was directed to continue my civilities as before, for fear that Mr. Swartwout might get alarmed at the movement of the troops and military stores. On the 19th, I received orders to proceed with my command to Natchez, with instructions to take the necessary measures to ascertain the approach of a body of armed men from the Ohio country, and to give the General the earliest information, by express, of every movement from that quarter, either at Natchez, or by sending a confidential party up the river, above the Yazoo, in the disguise of hunters; and I accordingly communicated regularly every information I could collect. About the last of December I saw two letters, one from the Postmaster of Nashville to Henry Turner of Natchez, dated the 13th of December, stating that Colonel Burr was then in Nashville, and that he meant to proceed on the 20th to the mouth of Cumberland, where, report said, he would have assembled from five to eight thousand men, and that it was generally believed that he intended a visit to Mexico. The other letter to a Mr. Wood from Nashville, spoke of Colonel Burr's being in Nashville; that two of his proselytes left town that morning for New Orleans by land; from the best of my recollection the above statement of the letters to Turner and Wood is correct, and Colonel Burr's arrival very daily expected by all persons at Natchez. For my own part, I did not doubt it; and considering this information as all important to the General, I proceeded for New Orleans, arrived there on the 2d January, and communicated it to him. Soon after, this information was corroborated by the arrival of Bradford, the printer of the Gazette d'Orleans.

GEORGE PETER.

COUNTY OF WASHINGTON, *sct.*

On this 19th day of September, 1807, George Peter came before me, a justice of the peace for the county aforesaid, and made oath on the Holy Evangely of Almighty God, that the facts stated in the foregoing are true as stated.

THOS. CORCORAN.

Y.

Extract of a letter from Leonard Covington to General Wilkinson.

MAY 15, 1807.

You well know how much has been said and insinuated about the memorable ciphered letter, handed you by Swartwout, and of the means by which you unlocked the cipher; and, although this circumstance has never been explained by yourself or the Administration, and has been seized upon by your enemies as matter for crimination and ground for suspicion, yet I have never been at a loss, in my own mind for a satisfactory explanation. You may not, perhaps, recollect, that in the year 1794, when I left the western country, [army,] that you requested me to interchange with you a cipher for the purpose of corresponding thereby; and, at the time, you informed me that you had practised that method with many of your friends. This circumstance coming to my recollection, I have examined amongst my old papers and found the cipher, which is at your service, if it, and the circumstances connected therewith, can in any way advantage you. Pray, snatch one moment, if possible, and let your friends here know how you feel and are situated, &c., &c. Your favors by Mr. J. Johnson, all came safely to hand, and have warmed the feelings of your friends in this quarter. I pray God to keep you in his holy protection, and that he may make thine enemies thy footstool. Farewell.

L. COVINGTON.

Gen. JAMES WILKINSON.

Z.

WASHINGTON, *January* 3, 1807.

DEAR SIR: I had intended yesterday to recommend to General Dearborn the writing to you weekly by post, to convey information of our Western affairs, as long as they are interesting; because it is possible, though not probable, you might sometimes get the information quicker this way than down the river; but the General received, yesterday, information of the death of his son in the East Indies, and, of course, cannot now attend to business. I therefore write you a hasty line for the present week, and send it in duplicate by the Athens and Nashville routes.

The information in the enclosed paper as to proceedings in the State of Ohio is correct. Blannerhasset's flotilla of fifteen boats and two hundred barrels of provisions is seized, and there can be no doubt that Tyler's flotilla is also taken, because, on the 17th of December, we know there was a sufficient force assembled at Cincinnati to intercept it there, and another party was in pursuit of it on the river above. We are assured that these two flotillas composed the whole of the boats provided. Blannerhasset and Tyler had fled down the river. I do not believe that the number of persons engaged for Burr has ever amounted to five hundred, though some have carried it to one thousand or thirteen hundred. A part of these were engaged as settlers of Bastrop's land, but the greater part were engaged under the express assurance that the projected enterprise was against Mexico, and secretly authorized by this Government. Many were expressly enlisted in the name of the United States. The proclamation which reached Pittsburg, December 2, and the other parts of the river successively, undeceived both these classes, and, of course, drew them off; and I have never seen any proof of their having assembled more than forty men in two boats from Beaver, fifty in Tyler's flotilla, and the boatmen of Blannerhasset's. I believe, therefore, that the enterprise may be considered as crushed; but we are not to relax in our attentions until we hear what has passed at Louisville. If everything from that place upwards be successfully arrested, there is nothing from below that is to be feared. Be assured that Tennessee, and particularly General Jackson, are faithful. The orders lodged at Massac, and the Chickasaw Bluffs, will probably secure the interception of such fugitives from justice as may escape from Louisville, so that I think you will never see one of them. Still, I would not wish, till we hear from Louisville, that this information should relax your preparations in the least, except so far as to dispense with the militia of Mississippi and Orleans leaving their homes under our orders of November 25th. Only let them consider themselves under requisition, and be in a state of readiness, should any force too great for your regulars escape down the river. You will have been sensible that those orders were given while we supposed you were on the Sabine, and the supposed crisis did not admit the formality of their being passed through you. We had considered Fort Adams as the place to make a stand, because it covered the mouth of Red river. You have preferred New Orleans on the apprehension of a fleet from the West Indies. Be assured there is not any foundation for such an expectation but the lying exaggerations of these traitors, to impose on others, and swell their pretended means. The very man whom they represented to you as gone to Jamaica, to bring the fleet, has never been from home, and has regularly communicated to me everything which has passed between Burr and him. No such proposition was ever hazarded to him. France, or Spain, would not send a fleet to take Vera Cruz; and though one of the expeditions, now near arriving from England, is probably for Vera Cruz, and perhaps already there, yet the state of things between us, renders it impossible they should countenance an enterprise unauthorized by us. Still, I repeat that, these grounds of security must not stop our proceedings or preparations until they are further confirmed. Go on, therefore, with your works for the defence of New Orleans, because they will always be useful, only looking to what should be permanent, rather than means merely temporary. You may expect further information as we receive it; and, though I expect it will be such as will place us at our ease, yet we must not place ourselves so until we be certain, but act on the possibility that the resources of our enemy may be greater and deeper than we are yet informed of. Your two confidential messengers delivered their charges safely. One arrived yesterday only, with your letter of November 12th. The oral communications he made me are truly important. I beseech you to take the most special care of the two letters which he mentioned to me—the one in cipher, the other, from another of the conspirators of high standing, and send them to me by the first conveyance you can trust. It is necessary that all important testimony should be brought to one centre, in order that the guilty may be convicted, and the innocent left untroubled. Accept my friendly salutations and assurances of great esteem and respect. TH. JEFFERSON.

Evidence of Gabriel G. Van Horne.

THURSDAY, *October* 1.

Witness. I was at the Chickasaw Bluffs at the time of Colonel Burr's descent down the river. On the 4th day of January, 1807, Lieut. Jacob Jackson came to the United States' factory at Fort Pickering, accompanied by a gentleman, whom he introduced to Thomas Peterkin, United States' factor, Peter Morgan and myself, clerks to said factory, as Colonel Aaron Burr. After some conversation, Colonel Burr and Lieutenant Jackson left the factory, and went to the garrison. Shortly after, one of the soldiers of the same garrison came to the factory with an order, signed A. Burr, for thirty pounds' weight of lead; twenty-eight pounds were delivered to the soldier. In the space of about four hours, the same soldier returned to the factory with a number of musket balls in his hat, saying he wanted to have them weighed, he took them away in his hat. In the course of the day, some boats came to the Bluffs, and the men came up to the factory. Colonel Burr requested Mr. Peterkin to let the men have the goods, and he would pay for them. Colonel Burr was frequently at the factory in the course of the day, and often had conversations with Mr. Peterkin.

In the evening, Mr. Peterkin, Mr. Morgan, and myself, went to the garrison, where we found Colonel Burr. I took notice that Colonel Burr was frequently called to the door by the men that had arrived in the boats, to have private conversation with them. Lieutenant Jackson asked Colonel Burr when Mr. Blannerhasset would be there; to which Colonel Burr replied, that he was then floating by, and could not land his boat. In the morning, Colonel Burr came to the factory, and demanded a bill for the articles which his men had got the day before. The bill was made out, amounting to sixty or seventy dollars, which he paid. The only articles I can remember were the lead, three dozen tomahawks, and three bear-skins. After paying the bill, Colonel Burr departed, and I saw him no more.

Cross-examined.

Mr. Burr. What kind of tomahawks were these; were they intended for war, or for more peaceable purposes?

A. They were such as were generally used for shingling.

Mr. McRae. Would they do well for fighting?

A. They would answer very well.

Evidence of George Poindexter, Esq.

Mr. Hay. Is this the original agreement entered into between Cowles Meade, acting Governor of the Mississippi Territory, and Aaron Burr?

A. Yes. If it is proper, sir, I will state the circumstances which led to the agreement, and Colonel Burr's surrender to the civil authority of the Mississippi Territory.

Chief Justice. Proceed, sir.

Witness. On the day preceding the date of this agreement, I was appointed by the Hon. Cowles Meade, then the acting Governor of the Mississippi Territory, an honorary aid-de-camp, for the express purpose of visiting Colonel Burr at the boats near the mouth of Bayou Pierre, on the western margin of the river Mississippi; which I did, in company with Major William B. Shields.

The object of this visit was to gain correct information as to the situation of Burr; to ascertain his views, so far as he would communicate them; and to procure his pacific surrender to the civil authority. We were accompanied by a Mr. Ralston, one of Burr's party, who had called on Judge Rodney to give his deposition. We arrived that night at Judge Bruin's, who resides near the mouth of Bayou Pierre. The next morning we proceeded down the river till we came opposite to Colonel Burr's boats, and Ralston gave a signal for a boat, which was immediately sent over for us. Before we embarked, we were joined by Colonel Thomas Fitzpatrick. Several persons, then unknown to me, but whose names I have since understood, came on horseback to the bank of the river, and crossed with us. I supposed them to be agents, sent by Burr into the country, to collect information respecting the public sentiment concerning him, and to induce the citizens to believe his plans were laudable, and sanctioned by Government. When we reached the western bank of the river, we were met by Colonel Burr, to whom Major Shields handed a letter, of which he was the bearer, from Mr. Meade, acquainting Colonel Burr with the object of our visit. In the letter there was a sentence relating to the restoration of tranquillity in the Territory, which sentence Burr repeated once or twice with a sneer, adding, that "he had no intention to injure the citizens of the United States." Colonel Burr then expressed himself to this effect: "As to any projects or plans which may have been formed between General Wilkinson and myself heretofore, they are now completely frustrated by the perfidious conduct of Wilkinson, and the world must pronounce him a perfidious villain." Burr, also, in speaking of Wilkinson, said: "If I am sacrificed my portfolio will prove him to be a villain." He further stated, that, so far from having any designs hostile to the citizens of the United States, he had intended to meet Mr. Meade at Gibson Port on the day of a general muster, which happened at that place about the time of his arrival at Bayou Pierre, but was deterred from doing so, by a belief that he would be assassinated were he seen passing through the Territory. He then pointed to his boats, and asked if there was anything military in their appearance. I told him it was true his men did not appear to be armed, but they were just such persons as I should expect to see about a camp—they did not seem to be in a situation to settle themselves on farms. I also remarked to Colonel Burr, that I had no hesitation in giving him the most perfect assurance of personal safety while in the Territory, until he should be disposed of according to the laws of his country; that the object of Mr. Meade in calling out the militia was to preserve inviolate the laws and Constitution of the United States; that, if that object could be secured without the employment of force, it would be preferable; but assured him that force would be used, if necessary, for which purpose the militia were then on their march to arrest his progress. Colonel Burr declared his willingness to submit to the civil authority, and proposed that an interview should take place between himself and the acting Governor on the next day, at some convenient place in the Territory; that we should guaranty his person from actual violence in the meantime, and restore him to his boats, if Mr. Meade should not accept his surrender to the civil authority; that his boats and people should keep the position they then occupied, until after the proposed interview took place; and that, in the meantime, *his people* (as he called them) should commit no breach of the peace, nor violate any law of the United States or the Mississippi Territory. The place designated at which Colonel Burr should meet the Executive was the house of Thomas Calvit, a respectable citizen of the Mississippi Territory, who resides near the mouth of Cole's creek, where the detachment of militia which had ascended the river was stationed. The substance of these propositions was committed to writing at the request of Col. Burr, and copies interchanged. The copy given to Colonel Burr is in the handwriting of Major Shields, and that which remained in our possession is in the handwriting of Colonel Burr, subscribed by him in my presence, and also by the witness, Colonel Thomas Fitzpatrick. Colonel Burr, according to stipulation, descended the river on the 17th day of January last, (the day after the agreement was entered into,) as far as the mouth of Cole's creek, in company with Colonel Fitzpatrick, who directed him to be taken in charge by Captain Davidson's company of dragoons, and conducted to the house of Mr. Calvit. In a short time after Colonel Burr's arrival, Mr. Meade and himself commenced a conversation on the subject of his surrender to the civil authority of the Territory. I do not know everything that passed between them, but understood the following terms were offered to Colonel Burr by Mr. Meade: 1. That the agreement entered into for the purpose of procuring that interview should be declared void; 2. That Burr should surrender himself unconditionally to the civil authority, and proceed directly to the town of Washington: 3. That his boats should be searched, and all military apparatus found on board of them to be disposed of as the Executive should think fit. To these terms Mr. Meade required Colonel Burr's unequivocal reply, as I understood, in fifteen minutes; and if not agreed to, Burr was to be instantly returned to his boats, and the militia ordered to seize the whole party by force. The terms were agreed to, and carried into effect. Colonel Burr declared himself unwilling to fall into the power of General Wilkinson, and requested, if any attempt should be made to seize him by a military force from New Orleans, that it might be opposed. I was myself of opinion that General Wilkinson would make no such attempt, as it would tend to subvert the laws and Constitution of the United States, and also the municipal regulations of the Territory. Had such an effort been made while Mr. Meade was the acting Governor, I have reason to believe that he would have maintained the empire of the law and the rights of the civil authority by force, if necessary. Major Shields and myself attended Colonel Burr to the town of Washington, where

he was delivered over to the custody of the law, and the examination of the witnesses immediately commenced before Judge Rodney. A committee of five gentlemen, as well as I recollect, was appointed to examine the boats, who proceeded up the river for that purpose, and, I believe, made their report to the Executive.

I was then called on in my official capacity as attorney general to give a written opinion as to the course which ought to be pursued with Colonel Burr. I did so, and that opinion, I believe, was filed in the office of the Secretary of the Mississippi Territory. My opinion was, that we had no evidence to convict Colonel Burr of any offence in the Mississippi Territory; that the supreme court of the Territory, to which a jury was about to be summoned, had no original jurisdiction of any prosecution, and could only take cognizance of points of law reserved at the trial in the circuit court; that, therefore, Burr ought to be sent under a sufficient guard, directed to the city of Washington, where the Supreme Court of the United States would be in session, and the judges attending from every part of the Union could direct the accused to be tried in the district where from the evidence it might appear that an overt act of treason had been committed. But Judge Rodney thought differently, and a *venire facias* was issued, requiring the attendance of seventy-six jurors at an adjourned session of the supreme court of the Mississippi Territory held in February last. From the number of jurors attending, a grand jury of twenty-three persons was selected, who received a charge from Judge Rodney, and adjourned until the next day. At the meeting of the court the next morning, I moved to discharge the grand jury; 1st, Because the court did not possess original jurisdiction in any case; 2d, Because the depositions submitted to my inspection did not furnish sufficient evidence to convict Colonel Burr of the offences with which he was charged, so as to bring them within the Mississippi Territory; 3d, That a warrant might issue, transmitting the accused to a court having competent jurisdiction to try and punish him, if guilty of the crimes alleged against him. The court being divided on this motion, it was overruled. The grand jury then retired. I determined to prefer no indictment, and left the court. In the evening, while I was engaged in the Legislature, a message was sent me by the court requesting my attendance. I immediately repaired to the court-room, and was desired to look at the presentments of the grand jury. I perused them, and found that the grand jury had presented the acting Governor for calling out the militia—the manner in which Colonel Burr had surrendered to the civil authority—the proceedings at New Orleans; and I believe the General Government itself did not escape. I felt and declared my astonishment at such unwarrantable proceedings, and informed the court that I should take no further notice of the presentments, and retired. Judge Rodney, I believe, likewise censured the conduct of the grand jury. It may be proper to mention that a respectable proportion of the jury withheld their signatures from those presentments. Colonel Burr that evening went to the house of Colonel Osmun, and disappeared. I afterwards attended the court, and had a judgment *nisi* entered on the recognisance given by Colonel Burr and his securities, Lyman, Harding, and Benijah Osmun; a *scire facias* was issued and served on the securities, which is now depending before the supreme court of the Mississippi Territory. What happened after Colonel Burr withdrew I know not, except from hearsay.

Cross-examined.

Mr. Martin. Have you a copy of the recognisance said to have been entered into by Colonel Burr?

Answer. I have not, but have seen a copy in the hands of Mr. Hay.

Q. Were you present when it was executed?

A. No.

Mr. Martin. You said that the judges ordered seventy-six jurors to be summoned. Who were the judges?

A. Bruin and Rodney.

Mr. Wickham. Do you know anything of military men sent from New Orleans to seize Colonel Burr?

A. I understood that there were, and that Dr. Carmichael, who resides in the Mississippi Territory, was one.

Q. Was there an expectation in that part of the country that General Wilkinson had sent men for that purpose, and that Colonel Burr would be seized?

A. It was talked of, and generally disapproved.

Q. Where was Colonel Burr at the time of his entering into the convention on the west side of the Mississippi?

A. He was in the Territory of Orleans, and, in pursuance of his agreement, came over to the Mississippi Territory.

Q. Did Colonel Burr seem to be apprehensive of military force?

A. He did not, except that he was particularly unwilling to fall into the hands of Gen. Wilkinson. He inquired of Colonel Fitzpatrick, Major Shields, and myself, whether there was any pass or way above Natchez through which he could get to Washita, and wished to know whether there was any person who could be employed to pilot him. We gave him no satisfactory answer on the subject. My own impression was, that he wanted to establish himself on the Washita as a place of rendezvous, to which his men might rally.

Q. Have you understood that an officer of the army was sent by General Wilkinson to take Col. Burr?

A. I heard a lieutenant of the army (but I had rather not mention his name) say that he was one of the persons employed for that purpose.

[Here Mr. Hay offered to read the recognisance entered into by Colonel Burr in the Mississippi Territory.]

Mr. Martin objected to its being read, and declared it to be a forgery. He said he was willing to

answer the consequences to Judge Rodney, and to give it under his hand that it was a forgery.

Mr. Hay. Judge Rodney is so near, Mr. Martin, that you can answer for it with perfect safety.

Mr. Poindexter. Mr. Harding, one of the securities in the recognisance, said that the recognisance returned by Judge Rodney was not the one entered into by Colonel Burr, Mr. Osmun, and himself. But I do not think it was believed by one honest man in the Territory.

Mr. Hay. Did the paper, of which this is an authentic copy, bear any mark of erasure?

A. Not that I recollect. It was in the usual form in which Judge Rodney took other recognisances; that the persons bound should attend from day to day, until discharged by the court. The recognisances of Blannerhasset and others, taken on the same occasion, were in the same form. Judge Rodney informed me that Mr. Harding sat down to draw the recognisance, and, after beginning it, said it was useless to go through with it; that they would acknowledge themselves bound before him, and he might make out the recognisance in due form at his leisure.

Mr. Wickham. Then you understood Mr. Rodney to say that the recognisance was not reduced to writing until the departure of Colonel Burr from his presence?

A. I so understood him.

Q. Then it was no recognisance at all?

A. That is a question of law.

Mr. Hay. As something has been said about Mr. Rodney, what is his general character?

A. One of the most honest men under heaven, and an old Revolutionary patriot.

Mr. Hay. And this is the man who has been charged with forgery by Mr. Martin!

Mr. Martin. Let him be who he will, I charge him with having returned a different recognisance from that which was entered into before him.

FRIDAY, *October* 2.

Mr. Poindexter was again called, and further examined.

Colonel Burr. Do you recollect whether it was one of the stipulations between Mr. Meade and me that military authority should be laid aside?

Answer. You were not required to surrender yourself a prisoner of war, but you surrendered unconditionally to the civil authority.

Q. Did not Mr. Meade promise to disuse all military authority as to me?

A. I do not recollect to have heard Mr. Meade say any such thing.

Q. Did you not hear Mr. Meade felicitate me on my fortunate escape from a party who were armed with knives and tomahawks for the purpose of coming on board my boat and massacring me?

A. I was not present at any such felicitation.

Q. Had Mr. Meade in his possession any document which would authorize him to issue any civil process against me?

A. Mr. Meade was an Executive officer, and could not issue a civil process in any case.

Q. Did not Mr. Meade declare to me that there was not any document in the Territory to authorize the issuing of civil process against me?

A. I do not recollect to have heard any such declaration.

Q. Had Judge Rodney any document before him that would authorize the issuing such process?

A. That is matter of opinion. There were sundry depositions in his possession, some of which were given by persons belonging to your party; many of whom voluntarily came forward and had their own depositions taken, in order to induce a belief that they had forsaken you. That was the general impression, as it appeared to me, and I believe it to be the fact. In those depositions they stated nothing of importance against you.

Q. Were not some persons seized by military force, and brought before Judge Rodney?

A. Not after your surrender to the civil authority, until the discovery of a paper which was said to have been taken out of the cape of a negro boy's coat. There was then some seizures at Natchez, by order of the Executive; and the persons seized were detained under a guard a short time, but whether they were brought before Judge Rodney or not I do not know.

Here Mr. Poindexter observed: One circumstance I omitted to mention yesterday which took place at the time when I visited Burr's boats. A boat commanded by Lieutenant Paterson of the militia, with between twenty and thirty armed men, landed about two hundred yards below, on the west side of the Mississippi, for the purpose of ambuscading the men of Burr's party who were separated from their boats, and were amusing themselves in the woods. A person whom I did not know at that time, but whom I have since found to be Davis Floyd, approached Colonel Burr, and asked him what was to be done; saying that a boat had landed a short distance below on the same side of the river; that he was not afraid to attack the boat, provided such were his directions. Colonel Burr immediately requested Colonel Fitzpatrick to interfere to prevent any attack from the boat; which he immediately did, and directed the lieutenant to return with his men to the mouth of Cole's creek.

Colonel Burr. Did you not hear Mr. Meade say that if Wilkinson should attempt to arrest me by military force, he would join me with the militia to prevent it?

A. I never did; but I remember Mr. Meade said that he would not permit any military force to come into the Territory, and arrest you out of the hands of the civil authority, if he could prevent it. He kept some militia in readiness for the purpose of supporting the civil authority, and acting as circumstances might direct. We were of opinion that a majority of the people who were about the court-house at Washington at the time the grand jury made their presentments were the friends of Burr, consisted generally of persons who had come promiscuously into the Territory, and it was supposed would interfere to rescue him, if necessary. My own impression was, and I believe it was the general impression, that he wished the force immediately about himself to cut a diminutive figure, while a majority of his adherents were dispersed over the country for the purpose of making favorable impressions on the people concerning him.

Mr. Hay here produced the papers said to have been found in the cape of the negro boy's coat, which paper is in the following words: "If you are yet together, keep together, and I will join you to-morrow night. In the mean time, put all your arms in perfect order. Ask the bearer no questions, but tell him all you may think I wish to know. He does not know that this is from me, nor where I am." Directed to C. T. and D. F.

Mr. Hay asked Mr. Poindexter if that was the original paper said to have been found in the cape of the negro boy's coat? He answered, yes.

Mr. Hay. Who were supposed to be meant by C. T. and D. F.?

A. Comfort Tyler and Davis Floyd.

Q. Is that paper in the handwriting of Colonel Burr?

A. I believe it is.

Mr. Wickham. Where did you first see that paper?

A. In the hands of Governor Williams.

Mr. Burr. How long were the persons who were seized at Natchez, after that note was found, detained in custody?

A. I do not recollect how long, particularly; but one or two days, I believe. Many of the young men arrested at Natchez declared that if Burr's designs were against the Government of the United States, they would be the first men to turn against him, and cut his throat. There are a number of them now remaining in the Territory; for he has supplied us with schoolmasters, singingmasters, dancingmasters, and doctors in abundance.

Mr. Hay. Where was Colonel Burr at the time when this paper was found?

A. He had disappeared, and was generally supposed to be at a Doctor Cummings's, near Gibson Port.

The undersigned certifies that the foregoing is a true statement of his evidence, as given in open court in the examination, on a motion to commit Aaron Burr, on a charge of treason against the United States.

GEORGE POINDEXTER.

OCTOBER 13, 1807.

Evidence of Major James Bruff.

TUESDAY, *October* 6.

Mr. Martin. Had you any communications with General Wilkinson about the time of his return to St. Louis?

Mr. Hay requested that the object for which the witness was introduced should be stated.

Mr. Martin said it was to prove the same as Timothy Kibby; that General Wilkinson held out the same inducement to him to join in an expedition against the Spaniards.

Mr. Hay objected to the introduction of the testimony on principle; he said that no man could be presumed to come prepared to explain every particular act of his life; that the *general reputation* of a witness could alone be inquired into, in order to assail his character. This he held to be a sacred rule of law and of justice.

Mr. Martin contended that the evidence was pertinent. General Wilkinson had declared that he had no knowledge of Colonel Burr's views till he had received the ciphered letter; we will prove that he had. He did not mean to say that the views of Colonel Burr were criminal; on the contrary, they were perfectly innocent; nor would General Wilkinson have been guilty if he had joined in them; but now General Wilkinson, in order to obtain favor with the Government, had turned traitor to Colonel Burr.

Mr. Wickham argued that the testimony of Major Bruff was admissible, to show an inconsistency in that of General Wilkinson.

General Wilkinson. May I be permitted to make one observation? I am not in the smallest degree surprised at the language which has, upon this and several other occasions, been used by the counsel of Colonel Burr—men who are hired to misrepresent.

Mr. Wickham. I will not submit to such language from any man in court.

The Chief Justice declared the style of General Wilkinson to be improper, and that he had heard too much of such language in court.

[General Wilkinson apologized. He said that it was impossible he could offer any intentional disrespect to the court, but he could not remain silent when he heard himself called a traitor.]

General Wilkinson proceeded: I am astonished at the explanation of the objects for which this witness is called; had I known the purpose for which he *volunteered* his services, (for he was not summoned,) I should have been able to produce documents to show the long, the implacable hatred which he has borne towards me.

Mr. Wickham said that Major Bruff was under the protection of the court.

General Wilkinson. I pray that his testimony may be introduced.

Mr. Hay observed that he had no doubt of the law, as to the right to impeach the credibility of a witness by showing an inconsistency in his testimony; he admitted that, if Major Bruff's evidence were introduced for that purpose, it was proper, but if for any other purpose, it was improper. They had no right to interrogate him for the purpose avowed by Mr. Martin: to show that General Wilkinson entertained the same views as Colonel Burr. However, as General Wilkinson was content that Major Bruff should proceed, he would not object.

The Chief Justice declared that he would not hear the witness as to any *particular* allegations against General Wilkinson, but with respect to any inconsistency in his testimony he must hear him.

Major Bruff proceeded: My testimony will arise from a number of conversations with General Wilkinson.

In four of these conversations, General Wilkin-

son took me aside; in three of which he locked me up in his room. The first hint I had of a connexion between General Wilkinson and Colonel Burr was drawn from two paragraphs in Kentucky newspapers, in the Spring of 1805, before General Wilkinson reached St. Louis: the first alluded to the old plan to form a separate government west of the Allegany, and ascribed it to General Wilkinson and associates, and doubting whether that scheme had yet been abandoned; the next was an extract of a letter from Fort Massac, published in the papers, which stated that Colonel Burr had been several days there with General Wilkinson, probably giving the General lessons on government, or digesting a new code or constitution for the government of Louisiana. These hints, with information received from Captain Stoddard immediately from Fort Massac, and who assured me that Colonel Burr had been there several days, closely engaged with General Wilkinson, and that he had or was about to furnish him with a barge or crew, in which he was to descend the Mississippi to New Orleans—

Mr. Wirt. You have not said when.

Witness. In June, 1805. These circumstances put me on my guard, and determined me to watch the motions of General Wilkinson and Burr.

As the General approached St. Louis, ascending the Mississippi from Fort Massac, he despatched a light barge ahead, with directions for me to meet him six or eight miles below, as he had something to communicate to me. I obeyed. We met, landed, and ascended the bank; the General took me into the woods. As we walked on, the General observed that he had been informed the Territory was divided by parties, (I mean Upper Louisiana,) which he attributed to the Americans, and said he would crush party or perish in the attempt; I observed that there had been some party business about the time of the French Convention and the memorials to Congress, but none since, except the aversion which the French appeared to have to the expense, delay, and uncertainty of our laws, and the introduction of lawyers. He then asked me how I stood with the French inhabitants, for he had heard there was some misunderstanding or coolness between us, occasioned by my observations about antedated concessions and fraudulent grants; I observed that some uneasiness had been excited by a report which I had made to the Secretary of War respecting private surveys which took in public property, but I believed they were then satisfied I had merely done my duty; he observed that he had witnessed their many attempts in the lower country to defraud the public, (the Orleans or Mississippi Territory, I do not know which;) that he knew them and mankind generally, and, if I would place my dependence on him, he would manage them for me.

Mr. Hay. He would manage them for you?

A. Yes; it alluded to a difference between me and the French. About this time, some Frenchmen from St. Louis had found us out, and were rushing through the bushes on us; he damned them for their intrusion. [Mr. Hay. To their faces? Answer. No, to me.] said he had something of importance to communicate, and hoped to have an opportunity there; but that he would take the first opportunity, after he had got settled, of making an important communication. A day or two after his arrival at St. Louis, his orderly came to me; I attended. I was taken into the parlor, and he locked the door.

Mr. McRae. What time?

A. About the last of June, or the first or second day of July.

Q. Can you name the day?

A. I cannot.

General Wilkinson. Can you come within five days?

A. No, I cannot. We commenced walking. The General appeared to be ruminating, and, after two or three turns, he asked me what sort of government would suit Louisiana. Without hesitation, I replied a representative republic would meet both the wishes and expectations of the people. He answered that he was surprised to hear me say so, for the French could not understand its principles, or be brought to attend elections; that the American inhabitants were a turbulent set, the mere emptyings of jails, or fugitives from justice, and did not deserve a free government; that a military government was best for these people, and no other was contemplated for them.

[Here Mr. Hay, observing that Major Bruff retired to a table on which several papers were laid, asked him when he had made the statement of his testimony which he was then giving. On being answered that it was recently done, and since his arrival here, Mr. Hay requested that he would not again look at it; Major Bruff said that his statement was drawn from a number of letters which he had written to his friends about the time of the transactions alluded to, and from an intended publication against the General.]

That the politics of the United States had undergone a great change; that the honest and wise had united to save the Federal Constitution, and prevent a division of property, which the Democrats aimed at; that the Democratic party in Congress had split and dwindled; and that John Randolph, Nicholson, and Leib, had lost all their influence both in Congress and with the Executive. I observed that he attributed principles and motives to the Republicans which they abhorred.

Mr. Hay. To which party do you belong?

A. To the Democratic.

Mr. Martin. Were you not then a Democrat, and did not General Wilkinson know you to belong to that party?

A. Yes.

On this subject we had a good deal of conversation. I remarked on the folly to suppose John Randolph would consent to throw his property into the public stock, in order to have a scramble for a part of it. However, the General observed that the object of the Democrats was to produce a state of anarchy and confusion; to seize on the property of the Federalists, and divide it among themselves; and this, too, he told me with a very serious face. I will make one observation here: it is that these conversations, which I had with the General, were at different times, and it is possible that I may not have classed them precisely in point of time; but I am certain that they did happen, as nearly as I have stated; and, if the General will be candid, he will acknowledge it.

General Wilkinson. Indeed, I will not.

He said that Pennsylvania was convulsed by the Democrats; yet they would not succeed in turning out McKean, or introducing their arbitration system. I think that this ended the conversation. We got warm, the General threw open the door, and I walked out.

After dinner his orderly came for me again. I attended, was taken into his room, and the door fastened. He assumed a milder manner, and assured me that the politics not only of the United States, but of the Executive, had changed; that the difference between the present and former Administration was merely in name; that parties were kept alive by the cunning, in order to help them to office, or to keep them in; that the people mistook the character of Mr. Jefferson; that a want of energy was no part of it, but rather obstinacy. Here he observed that the French had not been enough attended to in the Territorial appointments; that they were the natives, and the Americans were ungrateful intruders, and now railed against a King and Government which had raised them from ashes.

Mr. Wirt. To whom did he allude?

A. I considered that he pointed his remarks to Mr. Austin particularly. It was the Spanish King and Government to which I alluded.

He then observed that Governor Claiborne (a miserable thing or tool) had distributed the appointments, in the lower country, among his American followers and dependants, and had neglected the French, for which he was execrated, despised, and forsaken by every person of talents and honor, except by a Dr. Watkins, who, no doubt, had some personal views. I observed that, in the lower country, the great body of the people were French; but that, in the upper country, there were more than two Americans for one Frenchman, and that the disproportion increased daily by emigration, and would soon entitle us to elections. He replied, God forbid we should ever see an election in Louisiana, and then observed it was the intention of the Government to depopulate that country, except the villages of St. Louis, St. Geneva, and St. Charles, and a small district of country around each, merely sufficient to support them; that land would be offered to the inhabitants on the east side of the Mississippi, which if they refused to move to, they would be pushed over at the point of the bayonet, and that I should be employed in the business. As I found that my replies only irritated the General, and kept back the important communications, I therefore determined, when I could not acquiesce in sentiment with the General, I would endeavor to be silent till I got the *important secret;* but I found I had already gone too far. The General appeared to be vexed and disappointed, threw open the door, and I walked out.

The next morning his orderly came for me again. I attended, and we had another parlor conversation with closed doors. He assumed a friendly manner, and begged me to recollect that it was some time since I had left the Atlantic States, and assured me that public opinion had undergone a great change in favor of energetic Governments and measures; that, if I persisted in exploded notions, they would injure me with my Government; that Democratic notions produced licentiousness; and that the very existence of an army and democracy was incompatible; that Republics were ungrateful; jealous of armies and military merit; and made no provision for the superannuated and worn out officers, but who were left to starve. In these latter opinions I agreed with him. The General seemed pleased that I should assent to any of his opinions. He was now silent. While we walked the floor one or two turns, with his eyes down on the floor, and seemed to be musing, he observed that he was fertile in schemes, and had made fortunes for many who did not then thank him for it. I smiled. He said, perhaps you think I had better have made my own fortune; true, but I have now a *grand scheme* in contemplation that will not only make my fortune, but the fortunes of all concerned. He paused, as if waiting for my answer. I was silent; had nothing to say; but wanted him to explain and go into the detail. After walking the floor several times, during which he appeared much agitated and vexed, he threw open the door, and I walked out, with only this glimpse of the *secret* which he had been so long preparing for me.

As I attended daily for orders until the arrival of Colonel Cushing, the next morning I found the General rather distant and reserved. He observed that he had yet enemies in the Army, and, among them, some from his own State; that he either hated or loved Marylanders more than others. Presuming this intended for me, I replied, I suppose you take me for a Marylander? Why, are you not? I answered, no. I was born in Jersey, but had the good luck to be brought young to Maryland, of which State my father, grandfather, and great-grandfather were natives. Born in Jersey! (replied the General,) a second cousin to a Yankee; a damned cunning fellow, I suspect. This was the first rude thing he had said to me; for before this I was treated with respect, and had received many friendly letters from him; I therefore attributed this to my declining to join him in his scheme to make fortunes. Some time after the troops removed to Cold Water, an officer informed me that they were encamped on a low, damp bottom, subject to be overflowed—

[Mr. Hay objected to the course of testimony pursued by the witness.

Colonel Burr said that he did not know the whole extent of his testimony, but that he had been introduced to show palpable contradictions in the evidence of General Wilkinson.]—

The Missouri on the one side, and a marsh or

bog on the other, and the whole cantonment commanded by a high second bank or hill in its rear. I observed the situation was not only unmilitary, but would become the grave of the troops if they were not removed. At that time I did not know that the General had contracted for the ground as private property, "a snug fixture where he might hang up his sword." The morning after this conversation I was sent for by the General, and severely and rudely reprimanded before two strangers, and forbidden to interfere with his plans and measures. I replied, it was my duty and inclination to obey his military arrangements; but should I discover any plans or measures which put to hazard the peace and safety of the United States, I would not keep silence, be the consequences what they might. He understood me; and from that moment I believe my ruin was determined upon.

Colonel Burr arrived a little time after this at St. Louis. [*Mr Wirt.* At what time? Answer. I believe in August. 1805.] A Judge Easton, who appeared to think very highly of Colonel Burr, and boasted of possessing a part of his confidence, informed me that Colonel Burr had inquired of him whether there was any officer of experience and enterprise who could be trusted with the command of an expedition to Santa Fe, and gave me a very inquisitive look. I demanded by what authority Colonel Burr made the inquiry, or in what light I was to view it. He replied that Colonel Burr, at that time, held no public office, but that he had powerful friends, and would probably be in a very exalted situation before long; that I had been well spoken of to Colonel Burr, (I suppose by himself,) and he advised me to make him my friend. I answered that the inquiry was a suspicious one; for if Government chose to employ me in that or any other way, it had a right to command my services; for I was in service at that time. We dropped the subject. [*Mr. Martin.* Was Easton at St. Louis? Answer. Yes. Question. Was he in habits of great intimacy with General Wilkinson? Answer. Yes. there appeared to be a good understanding between the three.] But as General Wilkinson, some time before, had written me "that every information of the route to Santa Fe would be highly acceptable, and recently sounded my inclination towards energetic Governments, and his grand scheme to make fortunes, I no longer doubted of their connexion.

Mr. Martin. How long was Colonel Burr at St. Louis? how was he treated by General Wilkinson? and how was he sent across the river?

A. When he arrived I was not in town, but understood that the General had rode out with him to the cantonment to view his troops; I saw the Colonel on the evening he returned. The Colonel strictured the situation, and laughed at the General's military notions.

Mr. Wirt. At Cold Water?

A. Yes, at Cold Water, and christened afterwards Bel Fontaine.

Q. How far from St. Louis?

A. Twelve or fourteen miles.

Mr. Martin. When Colonel Burr was there, how was he treated?

A. The General made a dinner, it was understood, for Colonel Burr; I was invited; the Colonel did not attend, but was said to be sick. When Colonel Burr was leaving St. Louis, I was about to cross the river to my plantation on the opposite side; his baggage was brought to the ferry-boat, when I saw the General's barge getting ready with colors and a complete crew in uniform. I afterwards saw the Colonel pass my farm on his journey, in company with Doctor Browne only; Easton was not with him.

Some time after Colonel Burr left St. Louis, General Wilkinson and Mr. Easton fell out. Easton complained that the General persecuted him; and often talked in a dark, mysterious manner, about a Western empire. Captain Stoddard also hinted to me, after his return from Fort Massac, that some great scheme was in agitation between Colonel Burr and General Wilkinson, but did not say what. Easton positively stated that there was a connexion between General Wilkinson and Colonel Burr. He complained that the General persecuted him. I observed that it was very strange that he should be the common friend of Colonel Burr and General Wilkinson, and yet they should misunderstand one another about him; that I rather suspected the General finding him unpopular with the French, and that he would not answer their purpose, had persuaded Colonel Burr to shake him off. Easton replied that Col. Burr was in his power, and he dared not treat him in a deceitful manner. I replied, I did not know Colonel Burr; but that his enemies represented him as an artful intriguer. Some time afterwards, Mr. Easton came to me and observed that he believed my conjectures about Colonel Burr were true, and that he was to be made a sacrifice of; that he should go on to the seat of Government and try what he could do for himself. Easton was then a judge, appointed by the President, but not confirmed by the Senate, and he was apprehensive he would not be; that Gen. Wilkinson was using his influence to prevent the confirmation; but observed that Colonel Burr was much in his power, for that he had made him proposals which made the hair rise upon his head, astonished and confounded him so that he was struck dumb. [*General Wilkinson.* Were these his very words? Answer. Yes.] That Colonel Burr observing this, would have retracted, but it was too late. I urged him to explain the nature of the proposals. He said he was under an obligation of secrecy; but no obligation should hold him if he found Colonel Burr false to him. I observed to him that he well knew that any obligation which led him to conceal or commit a crime, could not be binding. He observed, he was going on to the seat of Government, and should see Colonel Burr, and then he should take his measures. I saw Easton after his return; I urged him to explain the business which he had mentioned before; but he pretended to have forgotten that such a conversation had ever passed between us. [*Mr. Hay.* Was his appointment confirmed? A. No; he lost his appointment, and had seen Col. Burr.] About this time, a paper called the "Western World" made its appearance, one of which was, I believe, directed to the General weekly. [*Mr. Hay.* After the return of Easton? A. Yes.] It roundly accused General Wilkinson of the old plan, of being concerned with Miranda, and connected with Colonel Burr. I observed to Easton, that I believed I should get the whole story from the "Western World," without being under any obligations to him; that if he had done his duty he might have served himself and his country, and perhaps prevented the effusion of blood. He observed, that he had once attempted to make a disclosure to Government, but instead of being countenanced, he got a reprimand. I demanded the instance; he said that he had written to a Senator in Congress, either from Vermont or New York, that he could prove General Wilkinson to be the projector of Miranda's expedition. The gentleman acknowledged the receipt of his letter, but informed him he had burnt it, advised him to mind his own business, and take care how he meddled with men high in power and office.

Mr. Martin. Had General Wilkinson any conversation with you with respect to the appointment of a certain John Smith, of Louisiana?

A. I had a conversation with him about John Smith; I remember going into the General's office, when he handed me two letters, one from Major Hunt, the civil and military commandant; the other from Smith, who complained that the commandant had ordered him off the mineral lands. The General censured the order, and asked me if I knew who John Smith was. I replied no, but had been informed he was one of Cox's captains. So Major Hunt insidiously observes, replies the General; but that does not lessen him in my esteem. He added that Smith was brother-in-law to Mr. Early, a member of Congress, who had brought forward a resolution to reduce the Army and dispense with his services as General; that there were many of his stamp in Congress; therefore, they must be attended to and kept in good humor, or we shall be turned to the right about.

Mr. Martin. Did you appear before the Secretary of War in order to make a statement as to the conduct of General Wilkinson, which you considered endangered the United States, and what was his reply?

Mr. Hay objected to the question, as it had no relation to the subject.

Mr. Wickham said that General Wilkinson had been interrogated by them, and required to say whether his conduct was approved or disapproved by the Government; that the Government had taken the most active part in this prosecution, and it was right and proper that the sentiments of the Government should be known.

The Chief Justice said the difference was this: the evidence of General Wilkinson arose from communications officially made directly from the Government. This is a different case; the evidence here offered consists of conversations with the officers of the Government.

Mr. Martin said that the Secretary of War was applied to in his official character, and in his official character he had said that General Wilkinson must and would be supported; that he had stood low in the estimation of the Government before his energetic measures at New Orleans, but now he stood very high.

Mr. Hay was about to make some observations in opposition to the introduction of such evidence, when General Wilkinson consented that the witness should go on.

Witness. In March, 1807, a few days before the rising of Congress, I was in the City of Washington, and waited on the Secretary of War; and the subject which gave rise to this visit and conversation between the Secretary of War, the Attorney General, and myself, was an appeal from the sentence of a general court martial, whose proceedings I contended had been arbitrary and oppressive, and the sentence illegal and unjust.

Mr. Wirt. Against whom?

A. Myself; and that I was not arrested until after General Wilkinson had sounded and found I would not answer his purpose; and, I believe, for fear I might penetrate his plans and be a spy on his actions, he determined to put me aside. The Secretary of War replied, that there had been a time when General Wilkinson did not stand well with the Executive; but his energetic measures at New Orleans had regained him his confidence, and he would support him.

Mr. Wirt. Who?

A. I mean the President. I asked if an inquiry into the conduct of General Wilkinson, his oppressions and illegal acts, and his connexion with Colonel Burr, might be expected? He answered, there might be an inquiry after the present bustle was over; but at present he must and would be supported. I then observed that, if an inquiry might be expected in a reasonable time, I would ask a furlough and wait; but, if not, I should resign immediately. He observed that I must not calculate on a speedy inquiry; but, if I was determined not to serve under General Wilkinson, my only resort was to resign immediately.

Mr. Martin. Who said so, General Dearborn?

A. Yes, General Dearborn. He, however, recommended me to draw up a short statement of facts for the President respecting my trial and sentence. I replied that if I did, I should certainly charge General Wilkinson with having been connected with Colonel Burr, and with having made attempts to bring me over to his grand scheme of making fortunes. He replied, if these are your impressions, you will be correct in stating them. This was the first conversation I had with the Secretary of War.

I had a second conversation with the Secretary of War, in which I insisted that General Wilkinson was acquainted with Burr's plans; that I would produce proof that he had been concerned, and did not secede till he found that Colonel Burr had commenced the enterprise with a handful of men, that the country was alarmed, and that the project was a desperate one. I then had a conversation with the Attorney General, on the legality of restoring my pay and emoluments, which

had been suspended by the sentence of the court martial. I informed him that a connexion between General Wilkinson and Colonel Burr could certainly be proved. He observed that the General had been low with the President, but at that time stood high, and would be supported. He observed, however, that there was a great deal of mystery in the allusions of Colonel Burr's letter to General Wilkinson, as well as their making use of a cipher. He advised me not to resign, but to wait events, for the Secretary of War had informed him that I was the only republican field officer in the service, and that public opinion was very fluctuating and whimsical.

After this I had a conversation with the Secretary of War and the Attorney General together. I think that Captain Clarke, the companion of Lewis, was also present. The Secretary of War shut the doors. We had some previous conversation; as, after the Attorney General came in, the Secretary of War introduced it again by observing that he had been informed that Colonel Burr had accompanied General Wilkinson to the Western country, spent several days with him at Massac, and then furnished the Colonel with a barge and men to descend the Mississippi to New Orleans. I replied that this was one among many reasons to suspect a good understanding, connexion, and cooperation between the General and Colonel; that I imagined both of them were well informed of the old plan attributable to the General and his associates, to form a separate government west of the Alleganv under the auspices of Spain or England; of his famous memorial, which it is said procured him exclusive privileges from the Spanish Government; and the extraordinary visit Colonel Connelly, from Canada, paid him in Kentucky; but that there were recent events which were not without suspicion, such as his having spent the last winter of Colonel Burr's Vice Presidency at Washington; their great intimacy; the interest made to get General Wilkinson appointed and confirmed Governor of Upper Louisiana, with Burr's brother-in-law Secretary to the Territory, and many of his friends to places of trust and influence; General Wilkinson's drawing several hundred troops into a cantonment near the mouth of the Missouri; his connexions with Colonel Burr, General Adair, John Brown, of Kentucky, John Smith, of Ohio, and several others, since implicated or suspected of being concerned with Colonel Burr; to procure a charter for cutting a canal on the Indiana side of Ohio, on which a charter-bank was ingrafted, and would have produced those funds, the want of which seems first to have made the General to hesitate, (alluding to a paragraph in the ciphered letter.) I then stated Colonel Burr's visit to New Orleans, in a barge furnished by General Wilkinson; and that, after visiting the lower country, he came to St. Louis. I then stated the conversation with Judge Easton, as before mentioned, and the intimacy of those three persons; and that, when Col. Burr was about leaving St. Louis, the General had a barge got ready, with much parade, to put him over the Mississippi; that, some time after Colonel Burr's return to the Atlantic States, Miranda's expedition got ready and sailed, which a gentleman promised, if called on, to come forward and prove General Wilkinson to be the projector of; (that gentleman is Judge Easton.) I then observed that it was not easy to suppose that Colonel Burr, who knew Wilkinson's character, his former attempts, and desperate fortune, should spend so much time with him at Washington, where the scheme seems to have been first projected; pass through the country where Colonel Burr must commence his enterprise, where Wilkinson was well acquainted, and where Burr wanted agents (alluding to the Ohio) and partisans; yet never found him to make proposals, but wait till all was ready, and then make his first overtures by a letter; and, before he knew of the success of that letter in converting a patriot General into a traitor, should throw himself and his best friends, his choice spirits, into the power of a General he had so much insulted; that the General's measures in Upper Louisiana certainly had a tendency to disgust the people with the change of Government, and to prepare them for a revolt; that I did not know the General's attempts upon other officers, but he certainly had tried me; but if, on the contrary, Colonel Burr did communicate his plans to the General, either at Washington, at Massac, or St. Louis, and the General did not immediately inform his Government, he has not only grossly imposed on them and the public at large, but has been guilty of misprision of treason and perjury. The Attorney General, after I had gone through my statement and information, in substance and order nearly as related, asked me what would be the result, if all this should be proven? Why, just what the Federalists and the enemies of the present Administration wish; it would turn the indignation of the people from Burr on Wilkinson; Burr would escape, and Wilkinson take his place. I observed that it possibly might be the event; but justice and honor required that the whole truth should be known, let it operate as it might.

I then left the Attorney General and Secretary of War together, and, stepping down to the post office, found letters from St. Louis, detailing the operations of Colonel Burr, and a party from St. Louis and St. Geneva, the common friends of General Wilkinson and Colonel Burr, who attempted to join him with twelve thousand weight of lead.

Mr. Wirt. From whom was the letter?

A. Samuel Hammond. That letter offered proof that the party sent by General Wilkinson to Santa Fe was connected with, and a part of Colonel Burr's plans. As that letter related to the subject which we had been talking on, I sent it to the Secretary of War and the Attorney General; and another letter, which came on with it, to the point, from Judge Easton. They wrote that Major Wescot and Dr. Stell had left St. Louis and were joined by a Mr. Smith, Dodge, &c., from St. Geneva, who attempted to join Colonel Burr near the mouth of the Ohio. The Secretary of War returned the letters and thanked me; but I have been surprised after offering proof, and naming gentlemen who knew that a connexion existed between General Wilkinson and Colonel Burr, that none of them were summoned to the grand jury. Major Bruff was here asked who those gentlemen were; and he mentioned General Adair, Judge Easton, and Major Kibby, who would prove the object of the expedition to Santa Fe, also Mr. Provenchere. He then stated that he had seen a letter from General Wilkinson to General Adair, in which General Wilkinson urged him to come on; said that he could not go without him; and then asked if he was ashamed to serve under a Spanish conspirator.

Gen. Wilkinson. When was that letter dated?

A. I do not recollect when. General Adair read it to me; he offered me a copy, which made me the less particular about its date.

Q. Where was the letter received? Was it at Washington in March last?

A. It was the letter which induced General Adair to go to New Orleans, as he said.

General Wilkinson pressed him to come on; said that thirty thousand troops would be sufficient to effect their purpose, as they would have little more to do than to take possession of the country; that they were to divide them into three columns, and General Adair was to have the command of one of them.

Mr. McRae. What country were they to take possession of?

A. I cannot say; but my impression was the Spanish country.

The General then chided him for the caution he used in writing; asked him if he was afraid to trust his friend, or ashamed to serve under a Spanish conspirator. At the bottom of the letter were these words: "We shall certainly have a Spanish war."

Chief Justice. Do you know the handwriting of General Wilkinson?

A. I do very well; I sat by General Adair when he read the letter; and it appeared to be the handwriting of General Wilkinson, but I did not take it up to compare it.

Mr. Martin. Do you remember the date?

A. I cannot tell the date or the place from which it was written.

Mr. Hay. Did it appear as if it was an ancient date, or modern?

A. Recent. General Adair complained bitterly; he said that this letter had induced him to go to New Orleans, where he was seized by General Wilkinson.

Mr. Wirt. Will you name all the witnesses who could give evidence of the connexion between Colonel Burr and General Wilkinson?

A. Judge Easton, to prove that General Wilkinson was the projector of Miranda's expedition; and to prove his connexion with Colonel Burr; Major Timothy Kibby, the person whose deposition has been circulated, and Pierre Provenchere, who could prove the connexion between General Wilkinson and Colonel Burr, and who was the common friend of both; Colonel Samuel Hammond, with whom General Wilkinson had a conversation nearly similar to the one he held with me and Samuel Hammond, jun. I believe I did not mention Colonel Dupiester, to prove the designs of the party, as to the establishment of a Western empire. I think Dupiester was mentioned as the friend of Colonel Burr, and, as I am informed, came from St. Louis as his agent, and brought with him his commissions and proclamations.

Mr. McRae. Did you see him at St Louis?

A. Yes: a Colonel's commission, it is said, was offered to Colonel Chotau, who attempted to throw it into the fire.

Mr. Hay. From whom did the proclamations and commission come?

A. They were said to be from Colonel Burr?

Mr. Hay. Who was to have commanded the horse?

A. A Mr. Delony, who had been an officer of the horse in the French service, it was said, was offered a distinguished command in Col. Burr's army. A Colonel Dupiester, it was said, brought on letters, one to Provenchere, and another to Timothy Kibby, a common friend of Colonel Burr and General Wilkinson.

Chief Justice. Did you see these letters?

A. We had a little democratic club intended to counteract those gentlemen. A Mr. Wherry, to whom Provenchere showed the letter, took a copy of it, and brought it down to us.

Mr. Wirt. What was in the letter?

A. Something to this purport: "He was ready; hoped they were ready; and that the expedition would begin to move about the 15th November."

Mr. Martin. How long have you been in the American service?

A. I bore arms in 1775 against the tories; had a second Lieutenant's place in 1776; and continued in service throughout the war.

Q. Have you been in the service ever since?

A. I entered the service again in 1794, under an expectation of bearing arms against the British; for I had been taken a prisoner during the war, and had not been well treated by them.

Q. What was your grade when you left the army?

A. Major of artillery.

Mr. Wickham. Did you see such a deposition as that of Timothy Kibby in the hands of the Attorney General or Secretary of War?

A. No; I gave them the letter already spoken of; I expected that all the gentlemen whose names I mentioned would have been summoned. It has been said that I came on here as a volunteer. I certainly should have come on in any event; but I was surprised that those gentlemen should not have been summoned, and that the inquiry should be on one side only.

Mr. Wirt. Is the Samuel Hammond you have mentioned the same person who had a commission in the time of Genet?

A. The very same.

Mr. Hay. I think you said it was in June, 1805, that General Wilkinson disclosed to you this important secret?

A. Not in June; some time in the summer; I think in July.

Q. What was the impression on your mind at the time, did you suppose it was some project hostile to the United States?

A. I did suspect that he had some grand project in view. I expected that he would have made the disclosure without my saying that I wished him to make my fortune. I did not intend to come under any obligation, or to commit myself.

Q. When was the first time that you made any communications to the Government, or any of its officers, with respect to those projects?

A. I have a letter here dated January 8, 1806, in which I say: "I have no confidence in the patriotism of General Wilkinson; and, as a man, I think of him with horror."

Mr. Wirt. To whom was that letter addressed?

A. To the Secretary of War.

General Wilkinson. Were you under arrest at that time?

A. No; I was not; (looking at his papers.) It does not appear, from this letter, that I was under arrest at that time.

Mr. Hay. I want to know the *fact* whether you were under arrest or not?

A. I was not.

Q. What was the interval between your arrest and the trial by the court-martial?

A. I believe eight or ten days, but I am not certain.

Mr. McRae. Had you not been in expectation of an arrest?

A. I had expected it for some time. In a conversation with the General, about my saying that he would not be in service six months, and he got very warm, and said, "this is sedition." I replied, then "arrest me."

Mr. Hay. At what time did this conversation take place about Cold Water when you stated, in your evidence, your ruin was decided on?

A. I think in September, 1805. Then commenced a system of persecution which terminated in my arrest. I was charged, among other things, with contempt of the General; that I never denied. I was found not guilty of all the other charges, except that one. Major Bruff then said that the sentence of the court-martial had been disannulled by the President of the United States; and his pay and emoluments, which had been suspended by the sentence, restored. [*Gen. Wilkinson.* I understood that was by stipulation. What is the date of the President's reversal? A. I believe it was on the 12th of March last; and my pay and emoluments being restored, is equivalent to a reversal.] *Major Bruff* proceeded: The Secretary of War observed that the President was disposed to do me justice; but it was a delicate point; and there was no precedent where a sentence had been confirmed by the Commander-in-chief, and afterwards reviewed by the President. I answered, that I thought it was not very delicate in General Wilkinson to approve a sentence when it was a mere personal thing between us. I understood that it was about the 15th of November, when the expedition was to have commenced, and the Mexican standard (an emblem of the sun) to have been raised. This delayed my departure from St. Louis. I expected to have seen Knights of the Sun and Lords of Mexico among the chiefs of those chosen spirits.

Mr. Martin. Whose property is the place called Cold Water.

A. I understand the greater part belongs to General Wilkinson; about four acres of which is deeded to the United States for a factory. He wrote on to me to purchase such a place. It was about this place that General Wilkinson made a rude attack upon me which I have before mentioned; but, I believe, the true source was, that I had said to an officer, in the confidence of General Wilkinson, that he would not be in office six months. I knew that Congress was about to meet, and that it was contrary to the genius of our Government that he should hold the two offices of General and Governor of Louisiana.

General Wilkinson. When did you receive the first intimation of my intention to retire from service?

A. This is intimated in a letter from the General, dated April 5, 1805. [Here Major Bruff read a letter from General Wilkinson to him. See reference A.]

Q. Did I not reiterate this intention after I came to St. Louis?

A. I believe you did.

Q. Do you recollect at what period after I got to St. Louis, whether late or early?

A. I cannot recollect. You often mentioned the subject.

Q. Were you subpœnaed to attend this place?

A. I was. I saw a subpœna in the hands of a gentleman for me; and Mr. Martin had told me in Baltimore that there was one ordered; and, therefore, I considered myself as subpœnaed from Queen Anne's county in Maryland.

Q. Then you had a conference with Mr. Martin?

A. I had.

Q. Do you recollect to have said that you were very reluctant to come, but Mr. Martin had promised to lash me into tortures?

A. I have said that, from a conversation with Mr. Martin, I had reason to believe that your letter to Colonel Burr, "post marked 13th of May," would be produced; but that I should have come, in any event. [Here a certificate of Colonel Meigs was read; for which see note B.] The first intimation I had of this letter was from a letter written by a gentleman of the grand jury to a friend of mine, stricturing the testimony of General Wilkinson, given before that body; that part of the letter was confidentially read to me.

Major Bruff was about to state a conversation with Mr. Martin, when he was interrupted by Colonel Burr, who said he could not consent to a narration of the conversations which might have been held with his counsel.

General Wilkinson. Did you say that you believed Burr was guilty; but that I had done you a serious injury, and you thought this a good time to seek redress?

A. I have said that I believed Colonel Burr, concerned in that expedition with you. I have said so, and I think so still.

Mr. McRae. Will you state the character of Judge Easton?

A. I have accused him of an endeavor to swindle me out of half the land we purchased, in common, on which an arbitration is now depending.

General Wilkinson. Had you no land speculations with Easton?

A. No. I had no *speculations*; but we made a purchase of a single tract of land together. Perhaps you call that land speculations.

Q. You said that, when Colonel Burr arrived at St. Louis, Easton and myself were intimate?

A. I thought so.

Q. Did you not know that, about that time, I did not suffer him to come into my house?

A. I heard him say, after Colonel Burr had left St. Louis some little time, that you were persecuting him.

Commodore Shaw was called by the prosecution.

Mr. Hay. Did you travel in the stage with Major Bruff, as he was coming to this place?

Answer. I did.

Q. Will you state the conversation which passed in the stage?

A. The conversation was lengthy, and not particularly addressed to me. I understood, as Major Bruff stated, that a conspiracy had been organized in the Western country; at the head of which was Burr; and that General Wilkinson and several others, were implicated; that he had kept a watchful eye on them; had been on the alert; and that he had a just right to know that such a conspiracy existed. He said that General Wilkinson had done him a serious injury; and that he had come on, from some information Mr. Martin had given him, to tell a long story.

Q. What was the drift of the conversation; that he intended to injure General Wilkinson?

A. The impression on my mind was, that General Wilkinson had done him a serious injury, and he was coming to retaliate; but I cannot recollect the very words.

The Chief Justice declared that *impressions* were not evidence. Witness must always depose to *facts*.

Mr. McRea, to Major Bruff. I understand you to say that you were summoned from Queen Anne county, in Maryland. Did you ever see the subpœna there?

A. No.

Q. What induced you, then, to think that you were summoned there?

A. I own property in Queen Anne county, where I had been making arrangements for my return from the Western country. I went to Baltimore to transact some business, where I met with Mr. Martin. He told me that if I had not come to Baltimore he should have gone to see me. I asked him if the letter, "post-marked 13th of May," would be produced. He said, he believed it would; and informed me that I might consider myself summoned, for that he should order a subpœna for me."

Captain Daniel Bissel, called by the prosecution.

General Wilkinson. Were you a member of the court martial which sat on the trial of Major Bruff?

Answer. I was.

Q. By whom was Major Bruff arrested?

A. By Captain Richmond. He preferred the charges, and solicited the arrest.

Q. How many members composed the court; their names and rank?

A. Colonel Thomas Hunt, president; Colonels Cushing and Kingsbury, Captains Lockwood, Bissel, Strong, and Many; Lieutenants Peters, Mulford, Carson, Whitlock, Richardson, and Kimball.

Q. Was the court unanimous in their sentence?

Some doubts arose about the propriety of answering this question, consistently with the articles of war. It was waived for the present.

Mr. Martin. Was it not some short time before the court-martial, that an address to the President was handed about, which was signed by most of the officers?

A. I believe it was.

Q. Did Major Bruff sign it?

A. I do not know that he did. I did not see his name to it.

Q. Did not the officers impugn the honor of any man who refused to sign it?

A. It has been more than two years since the address was circulated; and I cannot recollect what were the impressions of the moment. Major Bruff said, he had seen a mutilated copy of the address published in the papers. The address was to the President; the object of which was, to continue General Wilkinson in the office of commander-in-chief while he was Governor of Louisiana. It says a great many handsome things about his services from Canada to Florida, and the sufferings he had undergone in the cause of his country. (Refer to note C.)

A.

(CONFIDENTIAL.)

April 5, 1807.

I am desirous, like yourself, to make a snug fixture, and hang up my sword. Our soil, we may thank God, is not favorable to military pursuits, and the profession of arms has become disreputable in our free and peaceful country. Will you look out for a handsome spot for me, five or six miles from St. Louis, of one thousand acres, more or less, rich, well timbered, and lying well for cultivation, with excellent water, and a mill-seat. I shall want such a spot. Will you have the goodness to look for one without speaking; and if a bargain presents, you may make, in your own name, a provisional contract, to be off or on in six months. Pardon the freedom I take with, and the trouble I offer, you.

With esteem and respect, your most obedient servant,

JAMES WILKINSON.

Major Bruff.

B.

Colonel Meigs's certificate.

RICHMOND, *September* 23, 1807.

I certify that, at Richmond, during the trial of Colonel Burr, for treason, Major James Bruff informed me that he was attending as a witness for Colonel Burr, for which he was sorry; that L. Martin had promised him, if he would attend as a witness, he Martin, would expose the character of General Wilkinson, by introducing into court a certain letter written by General Wilkinson to Aaron Burr, which letter Colonel Burr had declined submitting to the grand jury; and that Mr. Martin declared that he would lash General Wilkinson into tortures; and, upon these promises, he came.

R. J. MEIGS, Jr.

To his Excellency THOMAS JEFFERSON,
President of the United States:

Sir: It does not comport with the pride of a soldier tacitly to behold his General assailed by unmerited slanders; or to suffer the veteran, with whom we have run a *long* course of hardships and perils, to fall a victim to undeserved calumnies. The spirit of a soldier revolts against such apathy, and every man of sensibility would condemn such cold heartedness.

We mean not to offend by this offering of a just tribute to merit; nor to derogate from the worth of the living or the dead, by those expressions of our sentiments.

We have seen with horror, and have felt with indignation, the various attempts which have been made to blast the character of General James Wilkinson. Some of us have served under his command twelve years, and have followed him from Canada to Florida; and all have been habituated to his command for many years, during which period we have seen him encountering almost every vicissitude to which active military life is incident. Generous, benevolent, and humane; his heart, his hand, and his purse, are ever open, and ready to succor distress and relieve misfortune; hardy, enterprising, daring, and brave, he encounters obstacles with alacrity, and is most exalted when pressed by difficulties. The ice, snow, and wintry blasts of the North; the arid sands and burning sun of the South; wild mountains and morasses, present no impediments to his course, where duty calls. Ready to take the lead in every extremity, he never exacts from others what he is not willing himself to perform. Daring, yet vigilant and cautious, he is provident in warding dangers, and resourceful in mastering them.

Let him be judged by his orders and arrangements, and military men will honor his principles and practices; rigid in his discipline, exact in his police, and indefatigable in every branch of service. He delights to comfort and cherish the sick soldier, and pays a sacred respect to the laws of his country, and the rights of his fellow-citizens, of which numerous instances could be quoted.

With him for a leader, we shall neither fear danger nor foresee difficulties, but shall march to battle with the assurance of victory.

The subscribers, composing the whole of the officers present at the cantonment and St. Louis, would suffer martyrdom sooner than profess what they do not believe, or proffer homage where it is not due; and with these sentiments, they hesitate not to declare, that they have offered the opinions of every man of honor who carries the sword of the United States.

THOMAS HUNT, *Col. 1st U. S. reg. inf.*
TH. CUSHING, *Lieut. Col. Adj. and Insp.*
J. KINGSBURY, *Lieut. Col. 1st reg. inf.*
B. LOCKWOOD, *Capt. 1st reg. of inf.*
ELIJAH STRONG, *Capt. 1st reg. inf.*
DANIEL BISSEL, *Capt. 1st reg. inf.*
JAMES RICHMOND, *Capt. 1st reg. inf.*
JAMES B. MANY, *Captain artillerists.*
GEO. PETERS, *1st Lieut. reg. artillery.*
CLARENCE MULFORD, *Lieut. artillery.*
WM. CARSON, *Lieut. 1st reg. inf.*
A. WHITLOCK, *Lieut. 1st reg. inf.*
W. RICHARDSON, *2d Lt. & adj. 1st reg. inf.*
JOSEPH KIMBLE, *Lieut. Adjutant.*
WM. KING, *Surgeon's mate.*
A. SANGRAIN, *Surgeon's mate.*
JOHN H. ROBINSON, *Acting Surg's mate.*

WEDNESDAY, *October* 7.

Mr. McRea requested that, on account of the extreme indisposition of one of Mr. Wirt's children, which prevented him from attending, the court might be adjourned till to-morrow. Independently of this circumstance, General Wilkinson, whose feelings had been severely wounded by the testimony of a witness yesterday, was in the course of preparation to remove those unjust imputations. He hoped that no objection would be made to the adjournment.

Mr. Hay said that, by an arrangement of the counsel of the United States, the principal part of the reply would devolve upon Mr. Wirt. It was therefore important that he should be present, to know what ground had been occupied by the counsel who preceded him. He did not expect any inconvenience would result from the proposed adjournment; and hoped it would not be opposed.

The adjournment was opposed by *Colonel Burr*, who stated that one of his counsel had been placed in the same situation as Mr. Wirt, and no indulgence was asked of the court on that account. He also mentioned that the court had, at its own request, proceeded with the examination when he was too much indisposed to attend.

The Chief Justice, after hearing an explanation from Major Bruff, about that part of his testimony respecting his daily attendance for orders, and going through the examination of John Brockenbrough and Joseph C. Cabell, Esquires, two of the members of the grand jury, adjourned till to-morrow.

Major Bruff begged leave to correct an error in part of his evidence given yesterday, in a point not material. This respected his attendance at the office of General Wilkinson every day. After his remark about Cold Water, and his saying

that should he discover plans and measures which put to hazard the peace and safety of the United States, he should not keep silence, be the consequence what it might. General Wilkinson was not visible to him for several days. Other officers attended, said Major Bruff; but I was not admitted in his presence. I wrote to the General, and I received an answer, which I have not here. It, however, stated that I should receive such attention as my conduct and rank entitled me to.

General Wilkinson, in explanation of Major Bruff's testimony.

THURSDAY, *October* 8.

Mr. Hay said he was ready to go on with the argument of the cause, but would not do it unless directed by the court. An attack had been made on General Wilkinson by Major Bruff, which it was the right and the duty of General Wilkinson to explain. Not a word, in the long and labored narrative of Major Bruff was testimony applicable to the case before the court. But, having made such serious charges against General Wilkinson, justice requires that the General should be heard in explanation.

General Wilkinson. I have several matters to submit to the court, which have been brought to my recollection by the occurrences of yesterday and the day before.

Grand jurors have been brought forward to contrast my evidence before that body with what I have said here. In the wide range of testimony which has been permitted, a witness may be readily misconceived by others, or misunderstand himself. In the case of Mr. Tazewell, your honor's sense of his testimony was in direct opposition to that of Mr. Burr's counsel; and in the case of Mr. Cabell, one of the most correct men in the world, he had misconceived, or did not understand me, respecting the mode in which Swartwout delivered Mr. Burr's letter to me. It is with deep regret I trespass on the time of the court; but when every art is employed, and witnesses are raked and scraped from every quarter to rip up the remotest transactions of my life, to affect my credibility, to wound my fame, and rob me of my reputation—

Here Mr. Wickham interrupted General Wilkinson, and said he must object to the course which he was about to pursue. General Wilkinson stands here on the same ground as any other witness. Let his explanations apply to his evidence, but not let him go into other subjects.

Mr. McRae hoped that the same indulgence which had been extended to others would be granted to General Wilkinson. It will be recollected with what patience their witness, Major Bruff, had been heard for six hours, while he was merely indulging himself in the carnage of General Wilkinson's reputation. General Wilkinson, who had been listening with most exemplary patience, now comes forward to explain; and, in the midst of a very short and respectful exordium, he is interrupted by the counsel on the other side.

The Chief Justice said there could be no doubt of the disposition of the court to hear as full an explanation as General Wilkinson might please to make; but he being merely in the character of a witness, would confine himself to a narrative of facts, and resort to argument as little as possible.

Mr. Hay hoped that something of argument would be permitted. Gen. Wilkinson had been assailed vitally, intentionally, and deliberately, by Major Bruff; and his explanations could not be so well understood unless he should, in some instances, resort to argument.

The General resumed: When I was first brought before the court, it was my intention to have commenced with Mr. Burr at Washington and traced him step by step from his passage of the mountains until his return; but I was confined to such facts as were deemed immediately revelant to the question before the court; and, therefore, I commenced with the reception of his letter at Natchitoches.

I now, sir, find myself obliged to adopt this course in order to explain certain observations which have come from the grand jurors, and also the inuendoes and insinuations of the witness, Major Bruff; who having charged me with a sinister connexion with Mr. Burr, has travelled from Washington to St. Louis to find matter for justification of the imputation. He has laid some stress on the interest which he says was made (by Mr. Burr and his friends) to procure me the government of Louisiana. I am under no obligation to explain how I procured that government; if I were, I could say it had been tendered to me by the President, two months before they had any idea of the circumstance.

I am charged with having invited Colonel Burr to the Western country. Herein I have been misunderstood, for the thing is not so. A few days after Colonel Burr descended from the Vice Presidential chair, an inquiry was made by me, as to the course he intended to pursue; he told me he intended to visit New Orleans, and I remember his very words were, "I have a few thousand dollars left, and I will not go to work until they are spent." I was solicitous to see him reinstated in the councils of his country; and speaking to the Hon. John Fowler, then a member of Congress, on the subject, he informed me that Mr. Lyon had suggested the idea of Burr's going to Tennessee, to procure his election to a seat in Congress, as residence was not a necessary qualification to election in that State, and requested me to speak to Burr on the subject; I did so, and I think he said it was a luminous idea, appeared to be delighted with the plan, and in concert with Mr. Fowler and Mr. Lyon, I then understood, and have since been assured by the former, who is now in town, the plan was digested without my presence or participation at any interview.

Mr. Burr soon after proceeded to Philadelphia; he wrote to me on the 26th of March requesting a letter of introduction to General Adair, and informing me he should set out for the Western country about the 10th of April. The next letter I received from him was at Pittsburg, dated the 30th of April, in which he tells me he should sail

that day for the Lower country, and is sorry he could not see me. At Louisville I received a third letter from him, dated the 19th May, in which he deeply regrets he could not see me there, and begs me to forward the letters of introduction I had promised him for New Orleans, after him, to that city. He proceeded from Louisville to Frankfort; and, I am authorized to say, did there apply to John Brown, Esq., to aid him in his proposed election in Tennessee, and to that end requested letters from Mr. Brown to his friends there. He then proceeded to Nashville, where, it appears, he remained beyond his calculation. I fell down the river to Massac, where Colonel Burr arrived on the 8th of June; and instead of spending several days in giving me lessons on government, and preparing a new code or constitution for Louisiana, he the next day prosecuted his voyage for New Orleans, in company with several officers of the army, who had been ordered to that city on a general court-martial; and it will be proven that I furnished him neither barge nor crew.

I heard no more of Mr. Burr until the 30th July, when I received a letter from him at the crossings of the Tennessee river, in which he informed me he was on the way to Lexington, and hoped to be with me at St. Louis about the 1st of September. He arrived at St. Louis on the 11th of that month, in the evening; expressed a wish to visit St. Charles, and I accompanied him in his route to the cantonment of the troops, about eleven miles distance, from whence he proceeded without me, crossed the Missouri to St. Charles, from thence passed over Portage des Sioux to the Mississippi and descended that river in a canoe to St. Louis. I think it was in our ride to the cantonment that Mr. Burr, speaking of the imbecility of the Government said it would moulder to pieces, die a natural death, or words to that effect, adding that the people of the Western country were ready for revolt. To this I recollect replying, that, if he had not profited more by his journey in other respects, he had better have remained at Washington or Philadelphia; for surely, said I, my friend, no person was ever more mistaken! The Western people disaffected to the Government! They are bigoted to Jefferson and democracy. And the conversation dropped. Mr. Burr, I think, on the same ride, spoke to me of purchasing an estate in that country, observing he had received advice of a sum of money which he should receive on his return to the Eastward, and asked me if I would resign my Government to him, in the course of the winter, if he should desire it. This I rejected on account of the emolument, which was $2.000 per annum, (for I was disgusted with the Government.) and he offered to indemnify me.

Nothing particular passed between us, after this, until the afternoon before his departure, which was on the 19th of September in the morning. He informed me that he wished to have some conversation with me, and I invited him to my house for the purpose. In the course of this interview he asked me "whether I could be content to vegetate or moulder in that damned Government," meaning the Government of Louisiana. I expressed my satisfaction with the situation, observing that "I was making arrangements to retire to private life; that I was tired of the erratic life I had long led, and that the delicate situation of my wife, to whom I owed more than I could render, made it necessary." After some pause, he asked me if my energies and enterprise were lost or dead; to which I replied, that my energies and enterprise had profited me through life little else than to expose me to perils and hardships. He then observed, but suppose some grand enterprise should present which would lead direct to fame and fortune. To this I replied, with indifference at first, remarking that I had been so long looking in vain for something of the kind, that I had given up the expectation; but added, after a short pause, that, if the Government should think proper to direct anything of the kind, he would not find that my energies or enterprise were lost. Surely, replied he, under the authority of the Government, and naming a minister, asked me if an order from him would satisfy me; to which I answered, that an order from any minister was obligatory on me, as they were all organs of the Presidential will. Well, said he, such a measure has been thought of, but it is unnecessary to go into the details of a project which may never be carried into effect; and I replied, that I had no curiosity to hear; and here you have as much of his designs as I possessed.

It has been observed that I have said I had no idea of any project of Colonel Burr before the receipt of his letter by Swartwout. This I deny. I have said I had no idea of any illicit design, such as would subject him to legal penalty or legal obstruction. Between the period of Mr. Burr's leaving St. Louis, and May, 1806, I received six letters from him; I have said that those letters blended matters political with matters personal. I have considered those letters confidential; they were so received, and I will not expose them, but in the last extremity, without Colonel Burr's permission; but if I have that permission, I will do it now; I have asked it, and do again ask it. Those letters were of an ambiguous aspect, speaking of some enterprise without designating any, and were calculated to inculpate me, should they be exposed. I have said I made a communication to a public minister, the Secretary of the Navy, to the following effect: "Burr is about something, but whether internal or external I cannot discover." It has been made a question how I could, feeling the friendship I professed for Colonel Burr, make such a communication when unapprized of any criminal intention; and I reply, that I justify it from a sense of public duty, paramount to all other obligations; from the consciousness that, if Mr. Burr intended no harm, the communication could do him none, as it was confidential; on the ground of self-security against events.

I had formed several opinions of Mr. Burr's views; sometimes I thought them chimerical; and the most definite idea I had ever attached to them was, that he had formed some connexion

with the British Government; that he was to operate with an expedition by the Gulf against the Mexican provinces; and that the United States were, in case of a war, which was every where expected, to co-operate by the Mississippi. I recollect well this impression, from the circumstance of my having mentioned to several persons, that if they would show me the embarcation of an army in England, equipped for a southern climate, I would tell them we would have a war with the Spanish Provinces; and from this impression my idea respecting Miranda's taking the bread out of his mouth must have sprung. I beg it may be remembered at this time, that Colonel Burr descended from the Vice Presidential chair with great *eclat*, and I did believe he was not only re-ascending in the public confidence, but in the confidence of the Executive; and, for these reasons, his step-son, Judge Prevost, had been appointed district judge to the Territory of Orleans. The republican body of the Senate had addressed Governor Bloomfield to enter a *nolle prosequi* on his behalf, in a case of great hardship and delicacy. The Senate had addressed him in the most flattering terms; and Dr. Browne, the gentleman who had married his wife's sister, had been appointed (solely on the recommendation of Colonel Burr) Secretary to the Territory of which I had been appointed Governor.

Frequent reference has been made to the letter said to be post-marked 13th of May. I have said I do not recollect whether I wrote Colonel Burr such a letter or not, and, of course, I have no recollection of the contents; but I said I believed I had written him three letters after he had left St. Louis, and this was my idea; but I recollect no particulars except the expression relating to Miranda, though I recollect perfectly the motives with which I did write him. I now find, from his letter of the 16th of April, that he had received no letter from me after October or November, 1805; and, therefore, I conclude I wrote him but two letters from the period he left me at St. Louis to the present day. I again required that the letter imputed to me, "post-marked 13th of May," should be produced. I think it was in the letter I wrote in October or November, 1805, that I make mention of Miranda; and I now believe it was after the receipt of a letter from him, on the 24th of December, 1805, that I warned the Secretary of the Navy against him. It has been said by one of the grand jury, that I declared I had employed language in my notes or letters to draw from Colonel Burr his real objects, that I might, in case they were commendable, partake of them; and if otherwise, report him to the Government. I acknowledge the first motive, but I do not recollect the alternative. If his plans had been vicious, I should have done my duty; if they had been innocent, I should not have reported him. I find, by reference to my correspondence, that I received no orders to leave St. Louis until the 11th of June, 1806; the troops had sailed the 8th of May, and I was left to exercise the functions of civil Governor, God knows without an idea of leaving the country, until the order arrived; and the much talked-of letter bears "post-mark 13th May," a month before I received my orders.

Mr. Hay. Will you state what passed between yourself and Major Bruff, when he descended the river to meet you on your approach to St. Louis?

Answer. I will. But I can state before you, sir, (addressing the judge,) and before God, (turning up his eyes to Heaven, and placing his hands on his heart,) that this whole narrative is either a vile fabrication, or a distortion of facts; and I will show why this man, above all others in the world, should not be in my confidence. On my arrival at Fort Massac, I met a number of officers under orders to attend a general court martial at New Orleans, among whom was Capt. Stoddart, who had taken possession of Louisiana on the part of the United States, and preceded Major Bruff in the command of St. Louis, and had acted as civil commandant of the country, until he had been superseded by the appointment of Governor Harrison, who had acted as Governor of Indiana, and also of Louisiana, until I was appointed to that Territory. In the course of my inquiries of Capt. Stoddart, relative to the state of the Territory, he informed me that Major Bruff had, by his conduct, made himself very unpopular with the inhabitants. In ascending the Mississippi, I halted at Kaskaskias, where I received a letter from Governor Harrison, by the hands of a Mr. Wallace, or a Captain Prince, who were in company; of which letter I hold an extract in my hand. [The reading of this extract was opposed by the counsel of Mr. Burr. The Chief Justice declared that General Wilkinson might either read the extract, or state its contents. General Wilkinson read the extract.*] The letter is dated the 7th of June, 1805, and was received on the 29th or 30th of the same month, and I met Major Bruff on the 3d of July. At the same place I received by a despatch boat an invitation to dine on the day of my arrival at St. Louis, with Mr. Augustus Chouteau, who, I understood, was the senior magistrate of the district, and as good a man as there is in that or in any other country. As I approached St. Louis, I sent a light barge ahead, and requested Major Bruff to meet me, for he also had invited me to dine with him on the day of my arrival. Knowing the jealousy of his disposition, and being desirous to conciliate and prevent exception, I wished to explain to him my motives for giving a preference to Mr. Chouteau's invitation; which I did when we met, by stating to him that, approaching the Territory in my capacity of Governor, the first respect was due to the civil magistrate; that I gave Mr. Chouteau the preference on this ground, and hoped he would excuse it. I met Major Bruff on the beach, under

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* *Extract of a letter from Gov. William Harrison to Gen. James Wilkinson.*

VINCENNES, *June* 7, 1805.

"Receive, I pray you, no impressions relative to the people of St. Louis, from Major Bruff, for reasons that I will hereafter explain. The bare idea of his being in your confidence would frighten some of them out of their senses."

a steep bank. I did not take him into the woods, nor had I any conversation with him of the import he has stated. We ascended the river about a mile, and were hailed from the shore. The boats landed, and I was met, I think, by three gentlemen—Mr. Augustus Chouteau, Mr. Anthony Soulard, and Mr. Charles Gratiot, who were introduced to me on board my barge, and invited me to land and take horse to St. Louis, to which I consented; and, debarking, I was received by a troop consisting of fifty or sixty dragoons, commanded by Capt. P. Chouteau, the brother of Mr. A. Chouteau. These, I presume, were the Frenchmen who hunted us up in the woods. I mounted a horse which had been provided for me, and was escorted to St. Louis. These are the facts, so far as they relate to the interview with Major Bruff. I dined with Mr Chouteau, but found that Major Bruff had anticipated Mr. Chouteau, and had engaged every officer to dine with him. I was left alone.

Mr. Hay. Had you those other conversations mentioned by Major Bruff, in which he states you have been ruminating about a grand project, which was to make the fortunes of all concerned?

A. It is impossible for me to say what conversations I had with the officers of the garrison, especially the one whom I found in command; but from the circumstances already stated, it is impossible I could have had those conversations with Major Bruff mentioned by him. The Major, in order to substantiate his tale, has affected an air of mystery, and his imagination has furnished the scenery; for this purpose, he takes me into the woods, has us hunted up by a Frenchman, then locks a door where there was no lock, it being fastened by hooks and staples; nor was it necessary to shut it at all, as the ordinary guard at head-quarters gave two sentinels for its protection. This locking of the door betrayed some concert; for I well remember that, a few days ago, one of the counsel of Colonel Burr. (Mr. Martin,) demanded of me, emphatically, whether I did not recollect being locked up in a room with a gentleman, and having a long conversation with him.

Q. Did you ever select Major Bruff for the purpose of making confidential communications, or state to him anything about the prospect of making fortunes?

A. No, never.

Colonel Burr. Are you acquainted with a Mr. Bon Ami, a magistrate of New Orleans?

A. I have no recollection of any person of that name.

Mr. Wickham called for the production of the original letter of Governor Harrison to General Wilkinson, from which an extract had been read. The counsel of Colonel Burr contended, that as an extract had been read from it, they had a right to the whole letter, as the best evidence. They were answered by the counsel for the United States, that there was not a word in the letter which had any relation to Major Bruff, except the paragraph which had been read; and that the letter was entirely private and confidential.

After some further debate, the Chief Justice declared, that he felt great repugnance at the idea of producing the letter, as it was entirely private and confidential, and he was certain that neither the letter nor the extract could be evidence in the cause; but it was a rule of law, that when an extract was read, the whole paper must be read if demanded. In the present case, the whole letter must be produced, or the extract be withdrawn.

Mr. Hay remarked that General Wilkinson had been drawn into the production of the extract by the opinion of the court.

General Wilkinson addressed the Judge, and declared that he had produced the extract by his permission, and that without that permission he would not have produced it; that he held the letter sacredly confidential, and would go to jail rather than produce it.

The Chief Justice directed that the extract should be withdrawn, and requested all those who took notes of the proceedings would erase everything which had been said about the letter or the extract.

Mr. Martin hoped they would erase the impression from the public mind.

Mr. Wickham. You have said something about dining; did you not write to Major Bruff from Kaskaskias, excusing yourself from not dining with him?

A. I cannot recollect.

Mr. Wickham. Are you certain that the door had no lock?

A. I have my clerk here, who can prove that it had no lock; it was fastened with hooks and bolts, after the French manner.

Mr. Wickham. Do you recollect what gentleman went down in the barge with Major Bruff?

A. I cannot.

Mr. Wickham. Do you recollect whether Mr. Gratiot came with him?

A. I have said that Mr. Gratiot, Mr. Chouteau, and Mr. Soulard, met me; but whether they came with Mr. Bruff I cannot say.

Mr. Wickham. Will you say whether you first met Mr. Chouteau and Mr. Soulard in the woods?

A. I have already stated the circumstance of their going out of the boat with me, and accompanying me to St. Louis.

Major Bruff was called in and cross examined by the prosecution.

Mr. Hay. I think you said that you had taken up some impressions of General Wilkinson's connexion with Colonel Burr, previous to his arrival at St. Louis? A. I had.

Q. Do you recollect having any conversation with an officer, stating that your reasons for writing General Wilkinson to dine with you, were on account of the injuries which had been done to his character?

A. No, but I have argued that the cropping order was perfectly a military one, and that he had a right to issue it; but I said nothing of his moral character. Nor have I justified his prosecution of Colonel Butler. I have also said he had some good military notions, though I do not know how, or in what service he acquired them.

Q. Do you recollect having any conversation with General Wilkinson in presence of Colonel Cushing?

Witness. What conversation do you allude to?

Mr. Hay. Had there been a coldness between you long anterior to the arrival of General Wilkinson?

A. Yes, I had long been persecuted by the General, but wished to bury the hatchet. I had been confined to a garrison without the liberty of going out of it, except by the permission of a superior officer, who was posted three hundred miles distant. Here is a postscript to a letter which proves an order to that effect from General Wilkinson. (See note D.)

Mr. Martin. Where did this superior officer live?

A. At Norfolk, and I was stationed about thirty miles from Wilmington, in North Carolina.

Mr. McRae. What was your construction of that order; is it possible that you could take it literally, and suppose that you were to be constantly confined within the walls of the garrison?

A. The order shows the intention; but the place had no walls; it was therefore nugatory; yet I considered the intention to confine me to the spot, nor did I leave it till I had permission. General Wilkinson ought to have known the situation, but it appeared he did not. I wrote to the Secretary of War, or Colonel Burbeck, from whom I received orders that admitted of my occasionally leaving the works and place.

Mr. Hay. Will you state whether General Wilkinson wrote to you to purchase some land?

A. I have a letter here, of the 5th April, 1805, which speaks of that subject. (See letter A. page 577.)

Q. When did General Wilkinson speak to you about his intention to quit the army and retire to private life?

A. I have had a number of conversations with General Wilkinson, and, in my evidence, I have endeavored to throw them into as much order as possible; but it is difficult to state any precise time when he mentioned to me that subject.

Q. Was it at St. Louis?

A. Yes, but the letter before mentioned gives a full explanation of his intention.

Q. Did he continue in this style of conversation after his arrival at St. Louis?

A. He did.

Q. But your suspicions still continued of his connexion with Colonel Burr?

A. I have stated that my suspicions arose from two paragraphs in two separate Kentucky papers.

Mr. Hay. You stated in your evidence the other day that you made a communication to the Secretary of War, and said to him that you could prove General Wilkinson's connexion with Colonel Burr. Will you state why you said so?

A. In one of my conversations I named witnesses who, I believed, could prove it, and insisted it was susceptible of proof. I not only thought so then, but think so still; and shall make it my duty to collect and exhibit proofs.

Mr. McRae. Did you say that General Wilkinson's having dined with Mr. Chouteau filled you with indignation?

A. I have said that I thought it an indignity offered me, and it was so thought by the officers. But let me here say, that General Wilkinson having denied our interview in the woods and rooms are incorrect, and I can completely prove it on my return to St. Louis.

Q. Did you not recommend Cold Water as a suitable spot for a cantonment?

A. While General Wilkinson was at Washington I received several letters from, in one of which he stated that a cantonment was wanting for five hundred men. He directed me to select a spot near Cahokia. He described the kind of position he wished. I reported several situations answering his instructions, but I do not recollect that I mentioned Cold Water among them; although I had viewed it, and thought it offered a good military position, (but not in the bottom;) which the General fixed on; nor did I conceive it was contemplated to have a cantonment in the midst of the settlements.

Mr. McRae. Were you not in treaty for it yourself?

A. I was. I wanted it for a farm and mill-seat, and not for a military post.

Q. Do you know whether that place is occupied as a military post, or used merely for the convenience of the soldiers while stationed there?

A. I think it a very unmilitary position. The troops were posted in a thick wood, which they had to cut down, dig up the roots, and grub up the bushes, for a parade. It may hereafter make a good meadow or field, when they are ordered on.

Q. Is there a factory there?

A. Yes.

Q. Good water?

A. There is a good spring and a handsoome marsh next to the second bank. There is also a commanding situation for a cantonment within the purchase, but not at that spot.

Q. Are you certain that there was a good understanding between General Wilkinson, Colonel Burr, and Judge Easton?

A. I believe there was. Easton often visited him, and endeavored to reconcile us after we fell out; and the General has sometimes read to me paragraphs from letters he had received from Colonel Burr, about the probability of a war with Spain, and a change of politics in the United States. He also read others from Dayton, and John Smith of Ohio, &c.

Q. Have you any reason to believe there was an intimacy between General Wilkinson and Judge Easton?

A. I have said I believed there was; Easton has told me so.

Q. Have you any other reason?

A. Easton was almost every day with the General.

Q. At what period?

A. On General Wilkinson's arrival, previous to the 4th of July, and for some time after, Easton was frequently in the General's office, and spoke of him in the highest terms.

Q. Was there any intimacy previous to the General's arrival?

A. I never saw them together previous to the General's arrival.

Q. Did Major Kibby reside on the frontiers previous to the arrival of General Wilkinson?

A. I believe he did. I have seen him, and understood he lived near St. Charles; I esteemed him as a man of honor, whose word and oath would be taken where, perhaps, General Wilkinson's would be shaken.

Q. When Major Kirby made the deposition which has been mentioned, was it not reported and believed that Lieutenant Pike and his party had been destroyed?

A. I cannot tell when he made the deposition.

Q. When you first heard of the deposition, was it not reported that Pike and his party were killed?

A. On recollection, I think I have seen an account in some newspapers of their having been destroyed; but the only report which I deemed correct was, that they were taken by the Spaniards, and conducted to Santa Fé.

Q. Did not Major Kibby quit our Government, and become a subject of the King of Spain?

A. That is my presumption. I found him in that Territory when I arrived there; but as I did not review the possession, it is mere conjecture.

Q. When Judge Easton mentioned to you that Colonel Burr had made him certain proposals, did he speak of any particular newspaper?

A. Not that I recollect.

Q. You have said there once seemed to be a good understanding between General Wilkinson and Burr; why would Burr apply through Easton for a man of enterprise, and not immediately to General Wilkinson himself?

A. The Colonel can best answer this question; but, if I may be allowed to conjecture, it was because the General had tried me before, and found I was too much of a democrat to be made a traitor of.

Q. But will you say how Burr came to apply to Easton?

A. You had better ask Colonel Burr that question; he may answer it.

Q. Were you and General Wilkinson about that time at variance?

A. Yes. He had before reprimanded me about the freedom with which I spoke of his military position at Cold Water, measures and plans.

Q. Did Easton know it?

A. I presume he did.

Q. You said that you had informed some of the heads of Departments that Judge Easton could prove General Wilkinson to be the projector of Miranda's expedition; will you state when you gave that information?

A. In March last.

Q. When did you first obtain it?

A. Just before I left St. Louis, in November last.

Mr. McRae. Then you received it in November, and communicated it in March?

Major Bruff. I left St. Louis in November for the seat of the General Government, but was detained on the way, so that I did not arrive until about the last of February.

Mr. McRae. Did I understand you that in August, 1806, you suspected an improper connexion between Burr and Wilkinson?

A. I have said that the first hint I had was from two paragraphs in two separate newspapers. This was afterwards strengthened by the information of Captain Stoddart, of Burr's being at Fort Massac, and the attempt of General Wilkinson to sound me.

Q. I speak of the time when the impressions were formed. Did that suspicion exist in August, 1805?

A. Yes, that they were connected in some plan.

Q. Believing as you did, why did you not communicate your suspicions to some of the officers of the Government?

A. I do not always communicate my suspicions; I was waiting for acts; my letters will show the nature of the communications I made. I have a copy of one with me.

Q. When is the first letter dated which communicates those hints?

A. The one I have with me is dated the 8th of January, 1806.

Mr. McRae. Did you state in that letter all the various circumstances you have mentioned; such as General Wilkinson's taking you into the bushes, your being surprised by a party of Frenchmen, and his having mentioned to you the plan of a grand project, by which all concerned were to make their fortunes?

Major Bruff. What will be the consequence if I read a part of that letter; will the letter itself be demanded?

Chief Justice. Certainly; but you may state from recollection.

Mr. Hay. You said it was your intention to state facts; and I wish to know whether these facts were stated. Now here are important facts.

Major Bruff. Hints were thrown out in the letter of the 8th of January, 1806; but nothing communicated till March, 1807, that can be regarded as a statement of facts. I however think I had given hints before, but have not the letters with me to refresh my memory, nor can I read what I intended as hints, from the one I have with me.

Mr. Hay. I assure you I shall not call for it if you say it is a confidential letter.

Major Bruff. Then I will say, generally, that I did give hints about which I expected the Secretary of War would have called for explanations, and demanded proofs. I also made a communication to Captain Lewis immediately after his return, and related to him the conversations between Judge Easton and myself.

Q. What Captain Lewis; the one who explored the waters of the Missouri and Columbia rivers, and the western part of the continent, as far as the Pacific Ocean?

A. The same.

Mr. Hay. But did you tell him of the conversations which had passed between Gen. Wilkinson and yourself? did you inform him that General Wilkinson had mentioned to you the grand expedition?

A. I believe that I hinted something of that nature.

Mr. McRae. Will you say whether you made a disclosure to the Secretary of War before the 8th of January, 1806?

A. I have said, over and over, that I believe I had hinted suspicions of Wilkinson's measures in previous letters, but have not those letters with me. I did think that Wilkinson and Burr were connected and acting in concert; and under this impression remained in that country till 15th November, 1806, in order to counteract and oppose their attempts, and pull down their standard.

Mr. McRae. Did you write prior to the 8th January, 1806?

A. I was in the habit of writing to Joseph H. Nicholson and other public characters.

Q. Had you written letters to them injuriously to General Wilkinson before the 8th of January, 1806?

A. My letters detailed Wilkinson's measures, which I considered suspicious and hostile to the interests of the United States and of Louisiana. I also stated that General Wilkinson appeared to consider me as a spy on his conduct, and had deprived me of all command and intercourse with the troops, and had prejudiced the officers against me.

Q. But had you written to any of the heads of Departments prior to the 8th January, 1806?

A. How often will you ask me this question? I have repeated, over and over, that I have not the correspondence with me; what do you wish me to say? I will repeat that my impressions are, that I gave the Government hints before that time that General Wilkinson's conduct was suspicious.

Mr. Hay. Did you think it was incumbent on you to state to the Secretary of War your suspicions of the patriotism of General Wilkinson, if they had been well founded, and your ideas of the views of Colonel Burr?

A. I was waiting for something unequivocal; I expected it to happen every day.

Mr. McRae. Did you say the other day that the Secretary of War had declared that General Wilkinson would be supported by the Government?

A. I did; the Secretary of War appeared angry, and frowned when I denounced Wilkinson, and said he must and would be supported.

Q. At what time did Judge Easton leave the Territory for the seat of Government?

A. I think in November, 1805.

Mr. McRae. Did you not give Easton special letters of introduction to your friends?

A. I believe I did; or, if I did not, I ought to have done so. He was then denouncing Burr and Wilkinson.

Q. Was that after you suspected him of treasonable designs?

A. It was after he mentioned the treasonable designs of Burr and Wilkinson.

Q. Did you not write to your friends particularly recommending Easton?

A. I wrote to Mr. Robert Wright and General Samuel Smith, as to the state of the Territory; and that Judge Easton was persecuted by Wilkinson, and was united with us to penetrate and defeat their designs.

Q. As far back as November, 1805, was there a public denunciation?

A. I gave the conversations with Judge Easton the day before yesterday.

Q. When did Judge Easton swindle you?

A. My information was long since that conversation.

Q. Are you on terms of intimacy with him now?

A. No; at variance. We have an arbitration depending.

Evidence of Captain Edward Pendleton Gaines.

Mr. McRae. We wish Captain Gaines to state the conversations of Major Bruff as he came on to this place in the stage.

Captain Gaines. Some time in the beginning of August, I passed in the mail stage from Alexandria to this place; and a little after daylight of the first morning after we had left Alexandria, I found Major Bruff and Lieutenant Swearingen were passengers. They got into conversation about Burr's trial. I paid very little attention to it; for, indeed, I did not calculate on its ever being noticed again; but my curiosity was at length excited by his saying that he was informed by Luther Martin, of Baltimore, that a subpœna was out for him; and, hearing of it, he had come on voluntarily for the purpose of giving evidence against General Wilkinson. I remarked to him that, as he had volunteered his services, it was presumable he had something of importance to communicate, and inquired what it was? He mentioned several things which he has already stated to the court; and, among others, a communication from Judge Easton, in which he (Easton) observed that he had written a letter to a member of Congress, offering to prove General Wilkinson to be the projector of Miranda's expedition. This appearing to be the principal evidence which he had to offer against General Wilkinson, I expressed my surprise that he should come for that purpose, as it could not be considered legal evidence. It appeared to me, from the whole tenor of his conversation, that he considered himself injured by General Wilkinson, and spoke particularly of his arrest. He stated that General Wilkinson had done him a considerable injury; and that the communications which he had now to make would bear very heavily on the General, or would do him as great an injury.

Mr. Hay. Do you recollect any particular expressions?

A. The substance of the conversation was, as I have already detailed it, that General Wilkinson had done him a serious injury in the case before the court martial, and now he would have it in his power to give evidence which would bear

hard upon the General, or do him as serious an injury.

Evidence of Captain Daniel Bissel.

Mr. McRae. It will be recollected that Captain Bissel was a member of the court martial which sat on the trial of Major Bruff, and has been partly examined. We wish now to ask some further information from him.

Mr. McRae (to Captain Bissel.) Was the court unanimous in the sentence passed upon Major Bruff?

A. There was a legal majority in favor of the sentence; some were for one more severe, but none for a milder one.

Q. What was the character of Major Bruff among his brother officers and the people at large?

A. I have been but little acquainted with Major Bruff. I had received letters from him and written in answer on public business, before I became personally acquainted with him. On my return to St. Louis in 1805, I found Major Bruff in great disrepute among his brother officers. He had been charged with being a partisan, and with having excited jealousies among the officers. He did not visit General Wilkinson; and a great many things were said of him, but I did not inquire into the particulars. I had never spoken to General Wilkinson about him, but made inquiries of Captain Richmond, and many others, and found that they united in an opinion very unfavorable to the Major.

Q. What is your opinion of the cantonment of Cold Water, as to the healthiness and the convenience of wood and water?

A. There is a great abundance of wood, and the best water in that part of the country. The cantonment is on the first bank, in a sandy and dry situation. It is not a commanding situation, because a hill runs parallel with the river, about half a mile distant from the cantonment. I was informed by my brother, Captain Russel Bissel, who was for some time stationed there, that the troops were very healthy. They were very healthy when I was there on the court martial, and have been reputed to be very healthy ever since.

Q. Was that situation chosen for a place of rendezvous, or a permanent position?

A. I cannot say what was the object of the station; it is very convenient as a place of rendezvous, and also for the collection and transportation of provisions and military stores.

Q. What is the general character of Judge Easton?

A. I have generally understood he bore an infamous character.

Q. Did Major Bruff give Judge Easton a room in the quarters furnished by the public to Major Bruff? A. That I know nothing of.

Mr. Martin. Is that the Judge Easton who was commissioned by Mr. Jefferson?

A. I suppose so.

Mr. McRae. Did General Wilkinson furnish a barge to Colonel Burr when he left St. Louis?

A. The barge and men which Colonel Burr had were furnished by myself; I received no orders from General Wilkinson on the subject. It was my own private barge, and the men belonged to my company, who were going down the river on public duty about the same time. It was an accommodation to Colonel Burr, and no injury to myself. General Wilkinson never gave me either verbal or written orders to my recollection, to furnish a barge and men to Colonel Burr.

Mr. Randolph. I am requested to ask you, whether, on the court martial for the trial of Major Bruff, Gen. Wilkinson was not a witness against him? and whether Major Bruff did not put a question to him about the conversation in the woods below Carondelet?

A. I have no recollection of any such question; the affair lasted very long, and a number of questions were asked which I cannot possibly recollect.

Q. During the court martial, did not the officers invite Major Bruff to dine with them?

A. I recollect having dined with him at two places; perhaps more.

Q. Do you recollect General Wilkinson saying, in answer to some question, that he did not keep a memorandum of small conversations?

A. I recollect such an answer of General Wilkinson, but I do not recollect the question.

Major Bruff. As my character has been brought in question, I beg leave to submit extracts of several letters from the General himself, who ought to know more of me than any other officer present. [Here Major Bruff read the extracts marked E, F, G, and H.] The proceedings of the court-martial have been furnished me, and, among the documents, is note of 3d of October, 1805, which he read.

Mr. McRae. Did you return an answer to that note?

A. I had an interview with the General. [Major Bruff here read an extract of a letter from General Wilkinson of the 4th of August, 1797, (G,) and another, shortly after the death of General Wayne, stricturing the character of that officer, dated June 18, 1807.]

Evidence of Lieutenant Clarence Mulford:

Mr. McRae. Are you well acquainted with Major Bruff.

A. I served under him.

Q. What was his general character?

Q. That is a very delicate question. Unfortunately for Major Bruff he had not many friends either among the citizens or officers.

Chief Justice. What was the character of Major Bruff as a man of truth?

A. I never heard it called in question.

Mr. McRea. What was his general character, before the arrival of General Willkinson, as a man of integrity and truth? I say his general character, for I never will inquire as to the every particular act of a man's life.

A. I cannot say. I do not know how he was esteemed as a man of integrity and truth; I never heard it impeached, but think the General had

more friends than he. I know that he was not liked as the commandant of the post.

Q. What kind of a position is Cold Water? is it a desirable one?

A. I thought it the most desirable one I ever saw, as to healthiness, wood, water, and the convenience with which provisions and military stores might be collected.

Q. Were you placed there for the accommodation of the troops, or for any military operations?

A. That place was selected for a cantonment, and for that purpose it is the most eligible I ever saw.

Q. What is Judge Easton's general character?

A. It is not good.

Q. Did Major Bruff accommodate Judge Easton with quarters in the garrison, which had been furnished to the Major by the public?

A. He did. When I speak of Major Bruff as not a good commandant of a post, I mean as to his not agreeing with the officers. As to his military skill, I say naught.

Colonel Henry Gaither was called in and interrogated as to the character and conduct of Major Bruff during the Revolutionary war.

Colonel Gaither. As to Major Bruff's standing in the continental service, he was very young when he entered into it; he was a very active, brave enterprising officer; he was sundry times badly wounded, and, as soon as he was able, always returned to duty; he stood very high among the officers.

Mr. Martin. Was his reputation high among the officers?

A. He stood high with the officers of the higher grades, particularly with General Otho H. Williams, Colonel Smith, and the rest of the field officers.

Q. As to his character in private life?

A. I frequently met with him in the Society of Cincinnati, and have long known him in private life, and never heard anything against him. His character, as far as I have ever known or heard, has always stood fair.

Mr. Bruff. I was never arrested nor even reprimanded during the whole course of the Revolutionary war, and services since; but, on the contrary, have had many flattering things said to and of me throughout my military life, till General Wilkinson differed with me. Captain Richmond, the officer who signed the charges and solicited my arrest, I considered as my friend; he was at my house almost every day before the troops moved to Cold Water, and on terms of intimacy, until the moment of my arrest. As to any disagreement with the officers of the garrison at St. Louis, I had none, except about duty. When I arrived, the garrison was in the most wretched order; not an officer understood the manual of artillery exercise; they did not even know how to post the men to the pieces, or the priming and loading motions. I, therefore, kept the officers to close duty, and it was for that cause, if any, that they complained and were dissatisfied; the inhabitants noticed and applauded the difference in the police and appearance of the men. Respecting the French, I had no personal difference with any one of them, nor did I ever injure any in their person or property; if I was unpopular with them, it must have arisen from loose observations I may have made about antedated concessions and grants, fraudulent surveys that took in the public works. The judges, military commandants, and lawyers, except Donaldson, were opposed to the General's measures, and friendly to me; and the bar volunteered their services in my court-martial, and the principal part of the Americans were on my side of the question; but I did not visit the cantonment. On being upbraided with my unsociable disposition on that account, I observed that they did not want democrats there, alluding to General Wilkinson's arragements to keep me from it, and mixing with the officers.

Lieutenant Mulford, being asked whether the majority of the people were friends to Major Bruff or General Wilkinson, observed: I fully believe that by far the greater part of the people, both French and Americans, were the friends of General Wilkinson.

Major Bruff replied that the President of the United States was the best judge of that. The only instance in which we tried our strength was a petition respecting the removal of Gen Wilkinson from that Government, and the appointment of his successor.

D.

Extract of a letter from Gen. Wilkinson, dated

HEAD-QUARTERS, WASHINGTON CITY,
October 15, 1806.

Your residence will necessarily be within the walls of the place, and you will not absent yourself from it, without permission from your superior officer, who, under such indulgence, must be responsible for consequences.

JAMES WILKINSON.

Captain BRUFF.

E.

Extract of a letter from General Wilkinson, dated

DETROIT, *August* 4, 1797.

Your ideas touching the association of talents and duty are familiar to me, and will always have influence on my conduct; and, from the specimens of your intelligence which have fallen under my observation, it is but justice for me to declare that I take pride in such an officer, and that I shall feel pleasure in serving and obliging the man.

With much consideration, I am, respectfully, sir, your most obedient servant,

JAMES WILKINSON.

Captain BRUFF.

F.

Extract of a letter from General Wilkinson, dated

HEAD-QUARTERS, FORT WAYNE,
June 18, 1797.

The neglects of which you complain, and which I make no doubt are well founded, are by no means partial. The condition of that part of the army, stationed in this quarter, is truly deplorable, and, at this moment, presents a frightful picture to the

scientific soldier; ignorance and licentiousness have been fostered, while intelligence and virtue have been persecuted and exiled; the consequences were, that factions have been generated to sanction enormity, and it followed that all ideas of system, economy, order, subordination, and discipline, were banished, and that disorder, vice, absurdity, and abuse, infected every member of the *corps militaire*. To clear this Augean stable of anarchy and confusion; to abstract order from chaos; to incorporate the shattered parts of companies and of regiments, and to attach responsibility to its proper subjects, have employed my days and my nights for two months, and my work is not yet half finished; though, with the zealous co-operation of the intelligent and honorable part of my officers, I despair not of the final result.

I am, sir, your most obedient servant.

JAMES WILKINSON.

Captain Bruff.

G.

Your request for personal accommodation, so far as it depends on me, shall be strictly respected; for I find no pleasure in life equal to that of serving an old meritorious soldier of the Revolution.

H.

It is necessary that you should descend the river, and take the temporary command of Fort Adams, on special service, which has strong claims to your skill and experience.

War Department, *March* 18, 1807.

Sir: Your letter of the 17th instant has been received. It is with regret that I find myself compelled, by the principles established in this Department, as well as by a sense of official duty, to accept your resignation; and it is hereby accordingly accepted, to take effect on the 30th of June next; in the mean time, you are at liberty to attend to your private affairs. That the remainder of your life, a great part of which you have spent in the service of your country, may be as happy as the lot of humanity admits, is my sincere wish.

I am, very respectfully sir, your obedient servant.

H. DEARBORN.

Major James Bruff.

Evidence furnished by the District Attorney.

Witnesses on behalf of the accused.

Friday, *October* 2.

Littleton W. Tazewell was called to be sworn as a witness on the part of the accused.

I wish before I am sworn, that the point should be determined by the court, whether, as a grand juror, I am bound to give evidence of what passed in the grand jury room. I do not wish that the community or the grand jury should lose any right they may have by any acquiescence of mine, if by law a grand juryman ought not to be called upon to state what happened before the grand jury. I submit myself to the court, and will act according to its judgment.

Chief Justice. There is no doubt but it would be improper for a grand juror to be examined to establish facts as founded on the evidence given before a grand jury, because the statements sworn to before them are only *ex parte:* but as to what a witness now called upon did say before the grand jury, evidence may be given by any grand juryman to prove the consistency or inconsistency of the witness. As an individual, I cannot say but I approve of the original policy of the law, which prescribed in the oath of grand jurymen a clause of secrecy; but when the Legislature of my country have changed that law, and struck out of the oath what relates to secrecy, it proves to me that the Legislature think differently.

Mr. Hay. This circumstance has weight. I thought that we could not come to this question to-day, but it involves the most serious consequences. The grand juryman is called to establish some change between the statement of General Wilkinson before the grand jury, and his statement made known in court. The court ought to hesitate before they admit such testimony. I have been told that the reason which induced the Legislature to make the alteration in the oath of grand jurymen was this; all presentments were to be made on the knowledge of two of their own body, (or on other legal evidence,) and as their oath required that they should keep secrecy, it was often impossible for the attorneys who prosecuted for the Commonwealth to prosecute with effect, as they could not know the names of the witnesses, and to remove this obstacle to public justice, the clause of secrecy was stricken out. If the opinion of the court be not decisively made up, I should wish to have an opportunity of reflecting on the subject, and showing that this evidence ought not to be admitted.

Mr. Wickham observed, that the Legislature had no doubt well weighed the policy of the clause requiring secrecy, and had determined against it; that there was no reason why they could and should not adhere to this legislative alteration; and that, as to a witness, anything he had said any where might be given in evidence against him, to show his inconsistency.

Mr. Martin. A grand juryman can, like any other man, prove facts known to himself, independently of what the witnesses proved before the grand jury.

Mr. Hay said that Mr. Martin did not understand him; and explained further that Mr. Henning had informed him that the Legislature were induced to make the alteration in the oath for the reasons already stated.

Mr. Martin observed, that the only reason that justified the grand jury's oath of secrecy was to prevent offenders against the laws from getting information of inquiries made against them and escaping; that this held no longer after the grand jury had been discharged; that while the grand jury were deliberating, it was proper to keep these proceedings secret; and that those against whom presentments were to be made should not have notice to make their escape; but that to prevent grand jurors from giving evidence after they are

dispersed, was to lay the foundation for the most atrocious and most infamous perjuries; that any man might go before the grand jury and charge another who was innocent with the most intriguous and enormous crimes in the world, and have him arrested and confined, and yet remain perfectly safe and secure from any punishment for his perjury.

Chief Justice. The question as to the policy or motive of the Legislature in changing the oath is different from the question before the court, which is, what is the legal effect of change? The original policy required the oath; but as the Legislature have changed it, I cannot see how the inference can be avoided, that their opinion of the policy is altered.

Mr. Wirt. If it should be discovered that in the original institution secrecy was necessary, independently of the oath, the court would not then receive the testimony without the consent of both parties.

After some few desultory remarks relative to reserving their objection to Mr. Tazewell's testimony,

Mr. Burr said that gentlemen might submit to his testimony with a *protestando.*

The Chief Justice again stated that the original policy of the institution which presented the oath of secrecy being changed, the testimony he supposed, must be heard; and

Mr. Tazewell was sworn.

Mr. Burr. Can you state the questions you put to General Wilkinson in the grand jury, and his answers?

Mr. Tazewell. It would be perfectly impossible to state them all, from the length of time he was under examination; but I have notes of the facts stated by him, from which and my memory I may be able to answer any questions which gentlemen may be pleased to ask.

Mr. Burr. State what you recollect about the formation of the cipher.

Mr. Tazewell. There are three kinds of ciphers. The original cipher was produced before the grand jury, in order to enable them to decipher the letter received from yourself, (addressing himself to Colonel Burr.) It is the alphabetical cipher, formed from an edition of Entick's Pocket Dictionary, now before the court; but as proper names occurred, the dictionary would not answer the purpose, and arbitrary marks were invented to represent them. The hieroglyphics were stated by General Wilkinson himself, without any interrogatory put to him, to have been devised by Captain Campbell Smith, in the year 1794; the dictionary, and arbitrary alphabet, and arbitrary signs for units, were designed in 1799 or 1800.

Colonel Burr. Were there any objections made as to these dates?

A. There were objections as to these dates in my own mind. The cipher was formed in 1794. On the face of the cipher these words occurr, "*Canada*, *Louisiana*, and *New Orleans*." It seemed to me a circumstance somewhat singular, that as early as the year 1794 ciphers relative to those countries should have been adopted, when probably no individual in this country had the acquisition of Louisiana in contemplation, as it was not purchased till some years afterwards. I asked him why he thought of a cipher expressive of that country at that time? He said that he could not explain the reason then, but that he would examine his papers and would tell us. The next day General Wilkinson, of his own accord, told us that the treaty with Spain about the free navigation of the Mississippi was formed about the year 1794. But he had correspondence on that subject, which was of great moment to the Western country; that in the year 1794 he was an officer in the army which marched near Canada against the Indians; and thus, therefore, part of the cipher had relation to Canada. He said that the cipher might have been formed in the year 1794, 1795, or 1796; but he believed in the year 1794. He was asked whether he could be more explicit as to the time, and he gave the same answers as he gave to-day in court.

Q. Did he assign any other reason why the cipher had relation to this country?

A. I do not recollect that he did, or whether we asked any further questions on that subject.

Mr. Burr. Did General Wilkinson say anything about this letter to me?

A. It was a subject of great interest with the grand jury to understand the cipher and the contents of the ciphered letter; after deciphering it, it excited a strong wish in them to see the letter post-marked the 13th of May, referred to in it, as having been received from General Wilkinson, by you, in the course of the correspondence between you. That wish was strengthened by the testimony of Mr. Swartwout, who said that he had seen a letter from General Wilkinson to yourself; that it was partly in common writing, and partly in writing in cipher; and that the letter contained these words: "I am ready."

Questions were put to General Wilkinson, whether he had written such a letter. He answered that his impression was, that he had written one, perhaps two or three letters; that he was not sure, but that his impression was, that he had written some letters. He was then interrogated as to the contents of those letters. He said he could not recollect them, but there was one expression which he wrote on that occasion which he did recollect; and his object in writing it was, to discover Mr. Burr's real designs; that expression was, "I fancy Miranda has taken the bread out of your mouth; and I shall be ready for the grand expedition before you are."

Mr. Burr. What motive did he assign for saying that Miranda would take the bread out of my mouth and that he would be ready for the grand expedition before I would?

A. He said he had had an interview with you at St. Louis; in which you stated, that you had some great project in contemplation; but whether it was authorized by the Government, or not, he did not explain, nor did you then inquire. He said this was all the information he was possessed of, at that time, of your designs; that he was sat-

isfied you had some great project in view; but had not expressed what that project was; that he was therefore anxious to extract from you your real designs, that the object of the correspondence was to develop those designs.

Mr. Burr. Did he assign any reasons for wishing to develop my designs?

A. I do not recollect that he did, or did not; but the avowed object was to communicate them to the Government.

Mr. Wickham, (holding in his hand a key to one of the ciphers.) Has there been any addition or alteration in this paper, since you saw it before the grand jury?

A. I will state my impressions, sir. I well recollect that this endorsement suggested one doubt to the grand jury: "I solemnly swear, that the numbers and hieroglyphics within, excepting those which denote the alphabet and the units, 'Burr' and 'Wilkinson,' were written by the late Captain Campbell Smith, in the year 1804, '5, or '6, then acting as my aid-de-camp." Mr. Randolph and myself had been both acquainted with Captain C. Smith, and supposed there was some mistake in this date. I recollect putting this question to General Wilkinson: "Do you think that this cipher could have been formed in 1804, '5, or '6, as Captain C. Smith must have been dead before that time?" The General, after some consideration, suggested that there must be a mistake in the date, and that "1794" was intended instead of 1804. I think, also, that the figures 1801, on the face of this paper, have been added since it was laid before the grand jury; I suppose that General Wilkinson's memory has become refreshed and more correct since his examination.

Mr. Hay. General Wilkinson was not interrogated here about this alteration.

Mr. Tazewell. General Wilkinson was asked whether this was an affidavit which he intended to swear to? He answered that there was a mistake specified in the endorsement, and that it ought to have been 1794, '5, and '6, as it is now put, instead of 1804, '5, and '6, (as it was then written.)

Mr. Hay. This endorsement is not in General Wilkinson's handwriting.

General Wilkinson. It is the hand of my clerk, Mr. Naw, who is here.

Mr. Hay. If Mr. Tazewell is here introduced merely to show these variations, why was not General Wilkinson himself interrogated about them? He could have himself explained them.

Mr. Burr. We have not heard of these variations before.

Q. Was not the year 1793 first mentioned as the date of the cipher?

A. I do not recollect.

Mr. Barker. Do you recollect, when it was represented to him that it was impossible a certain date could be correct, that he immediately changed it?

A. I am not certain.

Mr. Burr. Did you not understand that the motive of his holding a correspondence with me was to draw from me my views?

A. I am not certain that this was his language.

Q. Did you understand him to say that his object was to communicate my views to the Government?

A. Such, sir, is my impression. Indeed, this inference from his answers was so palpable, that I did not think it necessary to ask the question.

General Wilkinson. Do you recollect, sir, of any stipulation or acknowledgment, before the grand jury, that what passed there was in confidence?

A. I have lately conversed with another grand juryman, and I have now reason to believe that something of the kind did pass. You had the letter of the 12th November in your hand. You read a part, and paused; you observed, that perhaps it was not proper to read the whole. Mr. Barbour then said, that certainly it should be received in confidence.

Mr. Martin. You ought not to have entered into any such engagement.

Mr. Tazewell. I beg you to understand Mr. Martin, that I did not; but when I heard the letter, I thought it improper to mention it, and as a gentleman, sir, I will not. And though I have frequently spoken of General Wilkinson's testimony, I have never mentioned the contents of that letter.

General Wilkinson. Did you not understand me to say that my expressions, calculated to draw forth the views of Colonel Burr, particularly related to my letters in the Spring of 1806?

A. The only letters which General Wilkinson spoke of were subsequent to Mr. Burr's visit to St. Louis. General Wilkinson thought it probable that he had written the letter post-marked the 13th of May; but he did not positively recollect.

Several other questions were put to and answered by Mr. T., which the rapidity of his manner made it impossible for us to take down.

SATURDAY, *October* 3.

Mr. Tazewell was again called by Colonel Burr, and asked whether he had observed any inconsistency in the evidence of General Wilkinson?

Mr. Tazewell said it was not for him to state what his impressions were, arising from the whole tenor of General Wilkinson's evidence. Indeed, it was impossible for him to answer a question put in that way; if he were asked whether in any particular part of General Wilkinson's testimony he had observed a variance, he would answer the question. He was then asked whether he had observed any inconsistency or contradiction in the evidence delivered by General Wilkinson before the judge, and that given to the grand jury? His answer was, none at all. But, said Mr. Tazewell, as I have gone so far in speaking of my impressions, it may be proper for me to state what opinion I had formed. I must say, that I saw no good reason for General Wilkinson to invite Colonel Burr to the Western country.

Mr. Hay. Do you recollect whether the testimony of Swartwout coincided with that of General Wilkinson?

A. They could not be said to oppose each other in their testimony. Mr. Swartwout was

examined first, and many of the circumstances to which he deposed were unknown to General Wilkinson.

Mr. Hay. I speak as to the conversations between Mr. Swartwout and General Wilkinson.

Mr. Tazewell. Perhaps there was this difference: General Wilkinson stated, that in the absence of Colonel Cushing, which was spoken of by both of them, Mr. Swartwout slipped into his hands the ciphered letter from Colonel Burr. Mr. Swartwout, who discovered the utmost frankness and candor in his evidence, stated the transaction in a different manner. He declared that the letter was delivered openly, without an effort to conceal it.

Mr. Hay. But they both stated the fact to be the same, that it was delivered in the absence of Colonel Cushing?

A. Yes. They both stated the fact in the same way. I would not be willing to be understood that I doubted anything Mr. Swartwout said. Although he appeared before the grand jury under very unfavorable circumstances, and my impressions were very strong against him; yet the very frank and candid manner in which he gave his testimony, I must confess, raised him very high in my estimation, and induced me to form a very different opinion of him from that which I had before entertained.

Deposition of Matthew Ellis.

SATURDAY, *October* 3.

Mr. Burr. What do you know of Dunbaugh? Did you see him at Baton Rouge?

A. I did. He told me that he had just got out of prison for debt, by paying part of the debt, and giving bail for the rest.

Q. But what passed between you?

A. When I met him I was surprised to see him; he said he had been arrested in Natchez by Lieutenant Romney.

Q. For what cause?

A. As a deserter.

Mr. McRae. At what time did you see him at Baton Rouge.

A. On Sunday, the 28th of March.

Mr. Burr. What further account did he give of himself?

A. He said that he had been sent down the river, that he had made his escape, and had demanded protection of Governor Grandpre at Baton Rouge. He said that he intended to stay there till he got his pardon from General Wilkinson, which he had written for.

Mr. Burr. His pardon for what?

A. For desertion. He told me he had descended the river with you at Captain Bissel's request; and that he had written to General Wilkinson, that if a pardon was sent to him he would come down and give information of all that he knew against you. He also put a letter into my hands for Captain Bissel.

Q. What was the purport of that letter?

A. To inform him that he repented leaving the garrison at Fort Massac in that manner, and to request him to support the statement he had made about leaving the fort. When he gave me that letter, he requested me to put it in the nearest post office, and not to let Lieutenant Romney have it.

Q. What did he propose to Captain Bissel in that letter?

A. I did not see that letter; and I know only what he told me. He told me that his letter to Captain Bissel corroborated that to General Wilkinson.

Cross-examined.

Mr. Hay. What State do you belong to?

A. I belong to Pennsylvania, but I came from Natchez to this place.

Q. When did you descend the river?

A. On the 20th of November.

Q. In what boat?

A. In my own.

Q. Are you the person who sold your boat to Blannerhasset at the mouth of Cumberland?

A. I sold it to Mr. Burr; but went down in her to Natchez.

Q. You came with certain articles?

A. Yes.

Q. On a general trading voyage?

A. Yes.

Mr. Wirt. You went down in your own boat after you sold her to Burr?

A. Yes; I was not to deliver her till I got to Natchez.

Mr. McRae. What time did you pass Blannerhasset's island?

A. I do not exactly recollect; but some time in the latter end of November.

Mr. Hay. Where did Blannerhasset and his squadron fall in with you?

A. Not before I arrived at the mouth of Cumberland.

Q. Did you sell your merchandise to Colonel Burr?

A. The greater part.

Q. What induced you to go down the river with them to Natchez, after your boat was sold?

A. Because it was not paid for.

Mr. McRae. What articles did you sell to Colonel Burr?

A. A parcel of hoes, axes, iron, and ploughs. I was not to receive any pay till I got to Natchez.

Q. Were there any boats at the mouth of Cumberland? Was Blannerhasset there?

A. I believe he was.

Q. Was Floyd? A. Yes.

Q. Tyler? A. Yes.

Q. Israel Smith? A. I expect he was.

Q. You went down with Floyd ahead?

A. Not altogether under Floyd.

Q. Why did you go ahead?

A. I did not know.

Q. When did you leave Natchez?

A. About the first of March.

Q. You were not sent to New Orleans by any body? A. No.

Q. What carrried you to New Orleans?

A. Business of my own.

Q. Did you carry anything for sale to New Orleans?

A. May be I had a few deer skins and some racoon skins left.

Mr. Wirt. How long did you remain in New Orleans?

A. About eight or ten days.

Q. Did you see Colonel Burr on your return?

A. I did.

Q. Where did you see him last?

A. At Washington, in the Mississippi Territory, where I was at the trial of Colonel Burr.

Q. Were you there when the trial closed?

A. No; I went up several times to hear it, but the crowd was so great that I could not get in.

Q. Why did you go to Washington?

A. I went to see Colonel Burr for a settlement.

Q. What claims had you on Colonel Burr?

A. I do not exactly recollect the amount.

Q. Any claims for your boat?

A. Colonel Burr consented I might take back my boat.

Q. What other claims had you? Any for iron?

A. Yes, and for apples and other articles. Colonel Burr told me not to part with the axes, mattocks, and ploughs, at all events.

Mr Hay. Had you any previous acquaintance with Dunbaugh?

A. No, but I had seen him once before.

Mr. McRae. Were you never requested by any one to converse with Dunbaugh?

A. No.

Q. Were you acquainted with none of the party before you saw them at the mouth of Cumberland?

A. None, I believe.

Q. How came it to pass that you had the conversation with Jacob Dunbaugh?

A. It was accidentally. He came into the tavern where I was.

Q. Where did you intend to go when you left Pittsburg?

A. To no particular place.

Q. Did you understand nothing at the mouth of Cumberland of the purpose for which those men were gathered together?

A. I heard at the falls that they were going to settle lands.

Q. Were any propositions made to you to join the party?

A. No; I never conversed with any but Colonel Burr, and then only to make a bargain.

Q. Were you to have waited at Natchez till the arrival of Colonel Burr?

A. Yes; I got to Natchez on the 5th of January. The trial of Colonel Burr was in February.

Q. What did you wait so long for?

A. I had business with Mr. Ponsonby.

Q. Did that business detain you so long?

A. No; I chose to remain. It was partly curiosity and partly business that detained me; I might have finished my business in a day or so.

Q. Did you get payment for the articles in the boat?

A. No; I never have for any of them.

Q. Did you deliver any of them?

A. I did, some of them.

Mr. McRae. Were you summoned here?

A. Yes; Mr. Ashley sent me word to be here.

Q. Had Mr. Ashley been down the river?

A. No; Mr. Ashley was in the back part of the country.

Q. What reason had you to believe that Mr. Ashley had the power to summon you?

A. I was told that he was summoning others, and he sent me a verbal message to come, but I don't know by whom; I understood, too, from Captain Floyd, that I should be wanted.

Q. When did you receive a subpœna?

A. Not before I came here.

Deposition of Captain Bissel.

Mr. Burr. You have heard the testimony of Dunbaugh; I wish you to state everything that came within your personal knowledge; how he came off; whether on my application, or by your direction. Did you receive any message from me by Mr. Hopkins?

A. No further than a billet you sent me on the morning of the 26th. It was delivered at my quarters at Fort Massac, by Mr. Hopkins. He was introduced to me by Mr. Fort, who had been previously introduced to me by a merchant of New Haven. Mr. Fort walked up with him, and took breakfast with me. I had then heard of Colonel Burr's acquittal in Kentucky, and I supposed he was peaceably descending the river.

Mr. Wickham read the billet, in the following terms:

1.

MOUTH OF CUMBERLAND, *Dec.* 25.

DEAR SIR: I avail myself of the opportunity of Mr. Hopkins to offer you salutations and the compliments of the season. Having proposed to descend the river in a few days, I shall have the pleasure of paying my respects to you on my way, and of receiving your commands for the South.

I am, dear sir, very respectfully, your obedient servant, A. BURR.

Capt. BISSEL, *Com'g at Massac.*
(per Mr. Hopkins.)

Mr. Burr. Did you receive any other letter from me besides that?

A. None—I had a little conversation with Mr. Hopkins—none about Colonel Burr's passing the garrison. On the evening of the 29th was the next information I received. Mr. Tyler arrived with his barge; they took supper with me. After supper, some one of the gentlemen said they must return to Colonel Burr, who would stay in the bend, above, all night. I invited some of the gentlemen to take a pallet with me, which they agreed to. Colonel Burr's boats, nevertheless, came down in the night. I had retired to bed, when my sentry hailed aloud. I arose, and, undressed, repaired to the fort. Some one said that Colonel Burr's boats were passing. I thought this a singular thing, after I had been told that Colonel Burr would stay in the bend, above. His boats went down to the bend or bayou, a mile below the fort. When I returned to the house, I found that Tyler had gone to the boats.

Mr. Burr. Is not the lower bend a good harbor?

A. It is.

Q. Is not the river just opposite to the garrison a bad one?

A. It is. I have seen boats sometimes staved on the rocks in that part of the river. I rose soon in the morning to pay my respects to Colonel Burr. I went down in my boat, and was introduced into his room. I invited him to breakfast, which he declined—I invited him to dinner, but he declined all my civilities. He asked me if I had received any news from below. I replied that I had not. He then informed me that General Wilkinson had made a compromise with the Spaniards. He said he was very sorry for it, and that General Wilkinson ought to have fought them. I observed, that I supposed General Wilkinson had acted by orders.

Mr. Burr. How came Dunbaugh to go?

A. After breakfast, while I was at my ice-house, Dunbaugh came and asked for a furlough for twenty days. He had previously asked me for a furlough to go down the river to do business. After a short time, I agreed that he should go. This happened while on parade, and not at the back of the fort, as his testimony states. It is proper to mention that a boy had come up with two billets—one for Dunbaugh, and the other for me. Here is mine. When I was in Colonel Burr's boat, he had asked me if I knew of any opportunity to send to St. Louis by the way of the lead mines, and whether he could procure an express. I told him that I had reviewed my garrison, and that I had thought of sending a messenger, as he had a good horse; that if he would bear his expenses, Dunbaugh might go.

Mr. Burr. Is it not impossible to get an express in that part of the country?

A. It is. There is no population in the neighborhood of the garrison. The Indian title is just extinguished. They are just surveying the land, but it is at present a mere military post.

[Here Mr. Wickham read the letter, in the following terms:]

2. JANUARY 30.

SIR: If you will give Sergeant Dunbaugh a furlough for twenty days, I engage that he shall conform to the terms of it. In this case, he will not go to the lead mines.

Very respectfully, your obedient servant.
A. BURR.

Mr. Burr. Was Dunbaugh inspected?

A. He was, and mustered too.

Q. Did he show his clothes?

A. He did.

Q. Did you tell him to borrow any clothes, in which he was to appear on parade?

A. I did not. His own clothes were then there, and are now in his own box at Fort Massac. He wanted to carry his clothes, but I forbade him. I gave him this furlough, with a pointed order to return at the end of twenty days.

3.

FORT MASSAC, *Dec.* 31, 1806.

Sergeant Jacob Dunbaugh, of my company, has leave of absence for twenty days from date, at which time he is to return to this garrison.

D. BISSEL, *Captain 1st. Regt. U. S. infantry, comm'g.*

Endorsement.

BRUINSBURG, *January* 23.

Sergeant Jacob Dunbaugh having expressed a wish to return to his company at Fort Massac, and there being no regular officer at this place, I have, from a respect to the public service, on his application, to request that he may be permitted to join his company.

BENJAMIN BRUIN.

Endorsed: "on hour way to Pety Gulph directed to Joseph Calverts too miles from the gulph."

When I handed him this furlough, I delivered him a small billet for General Wilkinson, informing him of what I had done: here is a copy of that letter.

4.

FORT MASSAC, *Dec.* 31, 1806.

SIR: Sergeant Jacob Dunbaugh, of my company, having solicited the indulgence of a furlough for twenty days, and Colonel Burr pledging himself that Dunbaugh should conform to the terms of it, I have thought proper to grant the indulgence, and hope it may meet your approbation.

Colonel Burr will inform you how I am and how situated. Mrs. Bissel is still confined to the house, but I think recovering.

I am, respectfully, your obedient servant.
DANL. BISSEL, *Captain.*

Gen. WILKINSON, (per Col. BURR.)

Mr. Burr. Do you remember sending me any message by Dunbaugh, to the mouth of Cumberland?

A. I remember well that I sent him to buy a beef; and told him, if he saw Colonel Burr, he was to present my compliments to him; but I did not tell him to proffer my services to Colonel Burr, nor to any one else; I am an officer of the United States only; that part of his evidence is false.

Mr. Burr. Did you receive a letter from Dunbaugh whilst he was at Baton Rouge?

A. Yes. On the 11th of June I received a letter which he wrote me from Baton Rouge. There is no date to it; the post-mark is Washington, Miss. Ter. I received it with other letters from New Orleans.—Captain Bissel then read the following letter:

5.

HONORED SIR: With sorrow I take Pen in hand to inform you that I had to tell the officers that you sent me as a Spy against Colonel Burr and had to make outt of what I new againg him I wrote that you sent me on that Purpes the thought My Captain was interrested I told them that he did not know what Burr's mening was to take some men down the River with him. My Captain thought as I had been down with him before that I cold find out what his intention was. Lieuteant Roney took me up as a Dis-

eerter and put me on board of the Schooner Revenge to send me to New Orleans but I did not go he tuck my furlow from me I told Him if He would give me my furlow that I would go to the General but he would not.

I should be thankful if my Captain would send some money if their is any for me and my Boots if my Detes air paid. I wishd more than A thousand times I had staid at Fort Massac I have nothing more But still remain your humble Servant.

J,, DUNBAUGH *Sergt.*

(In the margin.) John Freehard is in due me 3 Dollars.

DAN'L BIESEL *Capt. Commanding.*

I am at Baton Rouge and will Remain until I Get a pardon.

Mr. Burr. Had J. Dunbaugh been discharged from service the year before?

A. Dunbaugh had been a faithful sergeant, but I represented to General Wilkinson the propriety of permitting him to find a substitute, who could do more service, as *he* had lost the use of one of his fingers. This defect is mentioned in the advertisement of him as a deserter.

Mr. Burr. Has he been tried yet for desertion?

A. No: I have not yet preferred a charge against him.

Q. Is he liable to a prosecution?

A. Yes, I suppose so.

Q. Did you ever make him a present of a breastplate?

A. I did, but not at the time he has stated. It was one day when I lost a son. Mr. Owens was about leaving the garrison at that time, and presented me with a very handsome breastplate. I gave my old one to my sergeant. This was about the last of October, or the beginning of November.

Q. Did you make a report to the Government, which has been published?

A. I think a letter of mine to the Secretary of War has been published, with a letter of General Jackson's.

Cross-examined.

Mr. Hay. Is this the furlough that you gave?

A. It is; but there is some endorsement on it, of which I know nothing.

Mr. Hay. Ay, that is some writing of Judge Bruin's.

Mr. Burr. Have magistrates a right to enlarge furloughs?

A. I know of no such thing in the articles of war.

Mr. Hay. Had you any previous acquaintance with Colonel Burr?

A. Yes. I had seen him at Fort Massac, in General Wilkinson's quarters.

Q. Did you know that Dunbaugh was going down the river?

A. Yes; I gave him permission; and such had been my confidence in Colonel Burr, and such my ignorance of the movements in the Western country, that had he asked me for a sergeant and six men, I should have indulged him.

Q. When you gave him his furlough, how far down the river did you expect him to go?

A. I supposed not farther than Madrid. However, I do not recollect that I gave him any particular injunction as to that point, because he was to return any time within twenty days.

Mr. Hay. You say that he was your confidential sergeant?

A. He was. I had raised him from a first corporal. He was illiterate, and I had requested him to learn to write. Perhaps I had set copies for him myself.

Q. You had a good opinion of him, then, till lately?

A. I had.

Mr. Wirt. You said that Col. Burr wanted a messenger to go to St. Louis?

A. I did.

Q. Do the lead mines lie on a land route to St. Louis?

A. They do.

Mr. Wirt. I see, in Burr's letter, that Dunbaugh was not to go by the lead mines. Did you understand that he was going by them?

A. Oh! no; I supposed that he was going down the river to New Madrid; perhaps to bring back letters. I knew nothing of Col. Burr's movements.

Q. Did you conceive that Col. Burr guaranteed his return?

A. I had but a short conversation with Colonel Burr, for I was at that time busy. Dunbaugh applied to me for a furlough, but he had before applied to me for one to go to New Madrid.

Q. Then I understand you did not rely on Burr's guaranty?

A. I cannot say. When this billet was put into my hands, I was engaged on parade; and I believe I told Dunbaugh that I would see about it.

Mr. McRae. I think you said, that you knew nothing of this expedition?

A. I had heard that Col. Burr had been tried and acquitted in Kentucky. I had heard it from travelling, ignorant people, who could not give me much information.

Q. Then you had received no such information as induced you to question the propriety of his movements?

A. None. I was acquainted with his standing, when he left the Senate of the United States. I respected him as a former Vice President of the United States, and I felt disposed to treat him with all the civility which was due to his rank.

Q. When you granted this furlough to Dunbaugh, did you not advert to his engaging in Burr's service, and exhort him to obey his orders?

A. I did not. I only granted him a furlough for twenty days.

Q. Did you speak at all with Dunbaugh when he applied for the furlough?

A. I recollect to have told him that Colonel Burr had also applied for him to go. I always speak to my men when they go on furlough, to enjoin on them propriety of conduct. I did not call him to my room and give him any private instructions, as his testimony states. I might

have called him before me, and told him to treat Col. Burr with politeness. I so felt towards him both at that time and in 1805.

Mr. Burr. Have you the advertisement of desertion?

A. Yes; it is filed in court. It was read.

No. 6.

TEN DOLLARS REWARD.

FORT MASSAC, *Jan.* 19, 1807.

Deserted, on the 19th of January, 1807, when on the indulgence of a furlough, Jacob Dunbaugh, sergeant in Captain D. Bissel's company, 1st United States' regiment of infantry. He is of a Dutch descent, and is about twenty-eight years of age, five feet one and a half inches high, brown hair, blue eyes, fair complexion. He is by trade a hatter. He has lost the use of one of his fingers on the left hand, which stands crooked inward. Whoever will take up said deserter, and deliver him up to any military officer in the United States, shall receive the above reward and reasonable expenses.

DANIEL BISSEL, *Capt. com.*

[*Endorsement.*]

I do here certify that the within advertisement, among several others of the same tenor and date, was handed to me by Captain Daniel Bissel on the morning of my departure from Fort Massac, 1st of February last; which advertisements I distributed in the Territories of Mississippi and Orleans. I do further certify, that Captain Bissel requested me to make use of every exertion in my power to have the within mentioned deserter apprehended.

Given under my hand, this twenty-eighth day of July, at Nashville, in the year 1807.

THOS. A. CLAIBORNE.

When Dunbaugh overstayed his time, I wrote to some of my friends, among the rest to Lieutenant Hughes, requesting him to report to General Wilkinson the desertion of Dunbaugh; I expressed the great confidence I had in him, my anxiety lest he should have been deluded away by the followers of Colonel Burr, or lest he should be sick. If he was sick, I requested Mr. Claiborne to furnish him with some money; if he was not, to advertise him as a deserter.

Mr. Hay. Have you any objection to produce that letter?

A. I will look at it, and then determine.

I presume it would be unnecessary to state the civilities which have passed to and from Colonel Burr. On Butler's trial I was frequently with him in the morning. He had been acquainted with Mrs. Bissel from a child. He had sent her a barrel of apples from the mouth of Cumberland; and she had returned some little thing or other, such as preserves.

Examination of Judge Todd.

SATURDAY, *October* 3.

Colonel Burr. Did Colonel Lynch submit to you, for your opinion, the title-papers of Bastrop's grant?

A. Colonel Lynch showed me the title-papers on which he said the grant was founded.

Q. Did you say anything about my having acquired an interest in it?

A. No.

Q. Did you give any opinion as to the title?

A. I was not sufficiently informed of the laws of the Territory to give any decided opinion. I discovered the grant was founded on a condition which it was said had not been complied with, and I was rather inclined to doubt its validity.

Q. Were you in Kentucky during the Summer of the last year?

A. I was.

Q. Was there a good deal of alarm among the people?

A. There was.

Q. Was that owing to any acts which I had done?

A. I saw publications in the prints stating that preparations were making of boats and provisions in the State of Ohio; a publication also appeared in the "Western World," under the signature of "Observer," which excited a good deal of alarm.

Q. How many years have you been a resident of Kentucky?

A. Ever since 1786.

Q. Can you state what has been the general reputation of General Wilkinson for the last four or five years?

A. For the last four or five years I have not seen General Wilkinson.

Mr. Wirt. His reputation, as to what?

Colonel Burr. As to integrity and truth.

A. I never heard that questioned. For the last twelve months there has been an unfavorable opinion against him, owing to his official and public conduct; but I never heard of anything further against him but what related to his official and public conduct. There have been publications and republications circulated injurious to him; but whether true or false, I cannot say.

Mr. Wirt. Do you recollect what kind of an instrument Bastrop's grant is?

A. Not of the kind I have usually seen. The instrument is from the Governor of New Orleans to Bastrop, granting him so much land on condition that he would settle so many families upon it: the Government of Spain to furnish them with provisions for such a length of time. I understood from Colonel Lynch that the Government had not complied with the condition on its part.

Mr. Hay. Do you recollect whether the time for the performance of the condition had elapsed?

A. Yes, it had elapsed.

Q. Did Lynch show you anything deducing his title from Bastrop?

A. No, but he said his title was regularly deduced from Bastrop.

Q. Was it the original, or a copy of the grant you saw?

A. It was the original, in the Spanish language.

Mr. McRae. Was the only evidence of Lynch's title his own declarations? Was there no other evidence of title to him?

A. No other evidence deducing a title from Bastrop.

Evidence of Colonel McKee.

Mr. Burr. Did you see any person seized in the Mississippi Territory?

A. At Natchez I saw upwards of twenty of your party seized.

Q. When was this?

A. About the 18th of February.

Q. Was it before or after my trial?

A. It was after the trial.

Q. Did you see Mr. Graham there?

A. I saw the Governor, Colonel Claiborne, and Mr. Graham.

Q. Had you any conversation with either of those gentlemen about seizing me by military authority?

A. I did converse with Mr. Graham on that subject. I expressed my regret at seeing you seized. He told me that I should soon perceive the cause of it.

Q. Did you know of any measures for seizing me by martial law?

A. I heard that some had been taken, and these reports were still further confirmed by a letter which I received from General Wilkinson.

Q. What was in the letter?

A. The postscript stated that if I wished to make myself acceptable to the Government, I must seize Burr, Blannerhasset, Smith, Tyler, Floyd, or Ralston.

Q. Who conveyed this letter to you?

A. Commodore Shaw.

Q. "If you wished to make yourself acceptable to the Government?"

A. If you wished to tax the Government beyond denial, or some such expression.*

Q. Was any proposition made to you by Gen. Wilkinson relative to the Spanish colonies?

A. There was.

Q. Was there any invitation to you in relation to these colonies?

A. In 1805, about Christmas, I received a letter from General Wilkinson, asking me whether I could not raise a number of cavalry to follow his fortunes on a crusade to Mexico.

Q. Have you that letter?

A. I have it not here, but on the Mississippi. I do not particularly recollect its date.

Q. What number of cavalry was mentioned?

A. I know not.

Mr. Blannerhasset. At the time General Wilkinson wrote to desire you to seize me, was I in the hands of the civil authority?

A. So I understood.

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* *Copy of a postscript to a letter of General James Wilkinson to John McKee, dated*

"NEW ORLEANS, *Feb.* 8, 1807.

"If you want to distinguish yourself, and tax the Government beyond denial, go alone and seize Burr, or Blannerhasset, or Tyler, or Ralston, or Floyd, or all of them, and deliver them to the flotilla."

Cross-examined.

Mr. McRae. You held an office under the General Government?

A. I have not been in one for four years.

Q. What office was it?

A. I was agent for Indian affairs to the Choctaw nation.

Q. And when did your office cease?

A. I was removed by the President in 1802.

Q. Did you not receive a letter from Colonel Burr through the hand of Lieutenant Jackson?

A. I did.

Q. Where is that letter?

A. It is destroyed.

Mr. McRae. State its principal contents.

A. It was written on the 6th of January, 1807, and invited me to meet him at Bayou Pierre on the 13th.

Q. Do you recollect whether there was nothing more in this letter, besides the invitation?

A. I recollect nothing more. The letter itself I burnt.

Mr. Hay. Was no particular object stated in this letter?

A. No.

Q. And why, sir, did you burn that letter?

A. Because I saw men arrested for much less matter than carrying such a letter, and I put it out of my possession.

Q. You say there was a postscript to a letter which you received from General Wilkinson; what did you understand was the purport of that letter?

A. I did suppose that we should go to war with the Spaniards.

Q. Did he state that the expedition was unauthorized by Government?

A. He did not.

Mr. Wirt. He gave you, then, no impressions of an illicit object?

A. He did not at that time.

Q. You answered it?

A. Yes.

Q. Where is your answer?

A. This is my answer.

Here Mr. Hay read the following letter:

CHICKASAWS, *February* 26, 1807.

DEAR GENERAL: Your kind remembrancer of the 3d of December I received, and had written to you immediately after at the Bluffs, but a French-Indian countryman, who promised to call on me for it, went off without doing so. I had written a great deal about recruiting in Tennessee, about cutting and slashing, and packing dollars, and enjoying *otium cum dignitate*. But "all our differences amicably settled with Spain" knocks all these Utopia to the devil, and I am again awake to the painful anxiety attendant on a state of suspense. I have requested my friend Moore to press the Secretary to decide, and I expect his answer in less than a month. Whatever my fate may be, I must always feel myself deeply your debtor for the solicitude you have manifested for me.

Has any news reached your capital from Captains Lewis and Clarke? it is rumored here that

they have been killed; I hope, sincerely, there is nothing in it.

I have the honor to be, with esteem and affection, your friend,

JOHN McKEE.

His Exc'y General WILKINSON.

Mr. Hay. Is that also your writing, dated as late as February last?

Answer. It is.

Mr. Wirt. At the time of this correspondence, and before, did you consider General Wilkinson as your friend, whose agency you were willing to employ with the Secretary of War?

A. I expected much less, sir, from his interest than his disposition to serve me.

Q. You considered him, then, as a friend, whom you would be willing to trust? A. I did.

Q. Is this your writing?

A. It is.

Here Mr. Wirt read the following letter:

CHICKASAWS, *August* 1, 1805.

DEAR SIR: Your friendly talk from Pittsburg, 13th May, I had the pleasure to receive, at this place, a few days ago. I thank you sincerely for your letter to the Secretary of War. I hope it will have the effect at least of relieving me from the most painful suspense I have ever experienced. I had addressed him myself from Tennessee just before I set out, and am now beginning to look for his answer. I would have written you sooner on the subject of my expectations, but I thought them so well founded as not to require even mentioning to the Secretary; they were founded on a direct and unsolicited promise from himself to me that I should be provided for in Louisiana as soon as the Government should be organized. This was confirmed to me afterwards through Colonel Moore and General Trigg, and last winter he repeated to several of my friends his continued disposition to serve me; but I remain as ignorant as I was two years ago in what way. I hope it may be in your quarter, and soon, for a state of suspense is a penance worse by far than fasting. I trust, like a good Catholic, that I am in a fair way for heaven, even if I should have to pass through a jail.

I think I understood from Mr. Dinsmore that he had written to you at large on the late successful negotiation with this nation; he has to-day started to Natchez, from thence to the Choctaws, where, about the beginning of October, the Commissioners are to meet that nation at Mount Dexter, and make another attempt to treat for land. I have had some talk with both the White and Red Mingoes, about securing a tract of land to a Choctaw boy that has contrived to prattle himself into my affection; this is my business here; my prospects of success are not very flattering, as I find the business must be clogged with other negotiations.

On the 28th ultimo Colonel Burr passed this on his return from New Orleans to Nashville, and I understand he intended to visit your Government.

If I am disappointed in the hope of going up the Mississippi when I leave this, I will inform you of my course and prospects.

With sincere respect and esteem, I have the honor to be, your Excellency's obedient servant,

JOHN McKEE.

His Exc'y General WILKINSON.

Mr. McRae then also read the three following letters:

CHICKASAWS, *October* 19, 1805.

DEAR GENERAL: Your friendly letter of the 8th ultimo I received by post on the 15th instant, and from some cause or other it was the most acceptable I ever received. It found me here alone, far gone in the blue devils, doubting whether I had not better expatriate myself, and try my fortune amid the storm now gathering in Europe. You cannot think it strange that I feel extremely mortified when I tell you that I have, a year past since May last, been waiting in daily expectation of receiving orders to repair, in a public capacity, to some part of your Government; this expectation was excited by the unsolicited promises of the Secretary of War. It is true he has still held out to my friends the idea that he intended to provide for me, and it must be admitted he has taken time enough to do it well. In the meantime, however, I am suffering the most painful anxiety, and my cash is exhausted to a small sum. I have always suspected Claiborne of injuring me with the Government, though he declared, with uplifted hands, to the contrary. I was informed that he had, in 1801, made some representations to you and Colonel Hawkins, founded on a report made to him by Colonel Joslyn, that I had abused him and the President, in a conversation at Mr. McIntosh's, in this nation, in very severe and improper language. I have since seen Colonel Joslyn, who gave me a certificate, of which the enclosed is a copy; for what I said of Mr. Claiborne, a candidate for an office in the State of which I am a citizen, I certainly can be accountable only to him, not to the Government that has since clothed him with the mantle of its power. If I had learned *ornate et polite dicere* to a man whose head and heart were neither of them formed to my taste on the scale of great Mingo's, perhaps I might have been fitted with an office ere this; however, *nil desperandum, Teucro duce.* I'll remain here till X'mas. The Choctaw treaty, I fear, will fall through this season, and that will not be among my least disappointments, for I had some expectation of procuring at it a tract of land for my young Choctaw. It is reported here from Cumberland that the Secretary of War has written that, if the Choctaws wish to sell land, they must send deputies to Washington.

Cressite, &c., is very catholic; but when I proceeded farther, to "bleach high," I blushed to the finger's ends; but why, I would not tell you for all my hopes in the Government—on paper I mean.

With sincere respect and esteem, I have the honor to be, your excellency's obedient servant,

JOHN McKEE.

His Exc'y Gen. WILKINSON.

The irregularity of the mail-carriers occasioned this to be a mail later than I expected. I am now informed by a letter from Mr. Dinsmore, that the Commissioners will meet the Choctaws about the 1st of November; and, this morning, I set out with your friend, General W. Colbert, to Mount Dexter, to attend the treaty. J. McK.

CHICKASAW BLUFFS, *Dec.* 26, 1806.

DEAR GENERAL: So many opportunities present themselves here for conveying a letter towards Orleans, that I would be ungrateful to leave this without at least offering you the compliments of the season, and my hearty prayers for the success of your bark on this tempestuous sea of liberty; for, with all my confidence in her staunchness, I cannot help feeling some anxiety on account of sunken rocks and the cursed pirates that infest her track.

I set out to-morrow morning for the Chickasaws; and if you should have leisure to inform me of your health, by post, I will remain there long enough to receive it, and I hope not much longer.

I have the honor to be, with very sincere respect and esteem, dear General, your ob't serv't,

JOHN McKEE.

His Exc'y Gen. WILKINSON.

NATCHEZ, *January* 25, 1807.

DEAR GENERAL: I wrote you a note from the Chickasaw Bluffs about X'mas. Soon after I set out for this place, where I have been for ten days, and will yet remain, perhaps, two weeks longer, just to laugh at the ridiculous scenes that are passing before us. Here is a wide field for conjecture, and every man takes his own direction. The Little Mingo here has assumed a military attitude to defend the altar and the throne, as well against Colonel Burr as the encroachments of the army.

I have little doubt that, ere this, you will have set me down as a Burrite, and as little that you will believe me when I assure you that, as yet, I am not; and I must know the object and the means better than I do before I can be. It is true that, having nothing to do, and hearing that some great enterprise was on foot, patronised by many great men, and winked at by the Government, I came here to profit of any opportunity that might offer of bettering my situation by honorable enterprise. As yet, I see no way open but in the face of my country's laws; and, desperate as my fortune is, I will never deliberately do an act that will prevent me from returning to the spot where I was born.

I have lately received a letter from Mr. Simpson, saying, "your friend, General W., wishes you were here, as he has it in his power to serve you."

This, to me, just now, is very interesting information; and by return of the mail will be glad to hear from you.

Need I tell you that considerable pains are taken and taking here to render your name unpopular; and by persons, too, I am informed, who speak much of the laws and constituted authorities of the country.

Your friends, Dinsmore, Freeman, and McKee, occupy a room here, and laugh at this puddle in a storm.

I have the honor to be, very respectfully, your excellency's obedient servant,

JOHN McKEE.

His Exc'y Gen. WILKINSON.

HUNSTON, *February* 16, 1807.

DEAR GENERAL: I received, a few days since, at Natchez, your favor of the 8th instant, and nothing could have given me more pleasure; for the strange distant reserve of some of my friends in this quarter, and an observation from Doctor Carmichael that my note from the Bluffs had excited some suspicions of me in a bosom that shall never be justified in harboring any, had mortified me sorely; read that note again, and if it does not speak the language of a heart that loves you, I must have been very unfortunate in expressing myself.

I never was a *Burrite*, nor can I ever give myself up to schemes of lawless plunder; it is certain that, in my present situation I might have engaged in any honorable enterprise, however hazardous, but the late one, such as it has been represented, is such as I hope no friend of mine will ever suspect me of favoring.

I have not the means, and, if I had, I have not at this moment the time, to give you much information on the state of things in this country.

May your purse keep pace with your heart, and may you live a thousand years.

Your affectionate friend,

JOHN McKEE.

His Exc'y Gen. WILKINSON.

Mr. Burr. Did you make any reply to that postscript?

Answer. I did not. I answered the letter itself.

Mr. Hay complimented Colonel McKee's letters; declaring them to be excellent *models of the epistolary style.*

Mr. Burr here observed, that a number of witnesses whom he had summoned, had gone away during his indisposition; and that he had but one more witness to produce, except to establish certain circumstances against General Eaton.

Mr. Blannerhasset then requested that a Mr. Gates might be called in on his behalf.

Testimony of Mr. Gates.

Mr. Blannerhasset. Will you state what you know about the seizing of the boats and provisions near Marietta?

A. I was present at the seizing of the boats. There were a few barrels of kiln dried corn meal on board, and a few barrels of apples belonging to Mr. Putnam.

Q. Did you see any officers on duty?

A. I saw militia officers; General Buell and his aid-de-camp, Major Clark.

Q. Were you a militia man?

A. I told them they had no right to call upon me in that character, during my present capacity.

Q. You had been used only to carry a fife, and not a musket?

A. Yes.

Q. Did they accept of your apology for not acting?

A. They said if I would attend at 12 o'clock, with my musket, I should be immediately discharged.

Q. Did you see any authority under which General Buell acted?

A. Yes. He showed me a paper, which he said was his authority from Governor Tiffin.

Q. Did you see the boat that was built for my family? What has become of it?

A. The last time I saw it, it lay in a very uneasy posture near Marietta.

Cross-examined.

Mr. Wirt. As far as I understand you, you were called on to attack the boats?

A. Yes.

Q. And you were unwilling to do it?

A. I was.

Q. That is, you were willing to whistle, and not to fight?

A. Yes.

The following deposition of Charles Fenton Mercer was then offered on the part of the accused, and read:

STATE OF VIRGINIA, *City of Richmond:*

Personally appeared before me, Edward Carrington, one of the magistrates of the city of Richmond aforesaid, Charles Fenton Mercer, of the county of Loudon, and State aforesaid, a witness summoned to attend the trial of Aaron Burr, who, being duly sworn on the Holy Evangelists of Almighty God, deposed as follows, viz: That, having been called to the neighborhood of Point Pleasant, at the mouth of the Great Kenawha, between the 20th of September and the 6th of December, 1806, to transact some business relative to an estate which he has in the county of Mason, he became acquainted with Mr. Herman Blannerhasset, through the introduction of Mr. J. Alston, of South Carolina, once a fellow-student of the deponent's in the college of New Jersey. This acquaintance commenced about the first of November, near an open boat on the Ohio, in which Mr. Alston, attended by his family, with a carriage and a pair of horses, and accompanied by Mr. Blannerhasset, was descending the river as far as Kentucky, from whence he expected to prosecute his journey home by land. The reputation which Mr. Blannerhasset had acquired for talents, learning, and taste, and an eccentric, and somewhat a romantic mode of life, rendered this unexpected interview one of the most interesting events which occurred to this deponent during his residence on the Ohio, and he accepted with much pleasure an invitation from Mr. Blannerhasset to visit his then beautiful and once much celebrated island. It is true, that about that period, and for several weeks before, reports were in circulation, that Mr. Blannerhasset was engaged with Colonel Burr in some common enterprise, to which many persons imputed a highly criminal design. But those reports, and especially the injurious suspicions often connected with them, seemed to have arisen from pre-existing prejudices against Colonel Burr, which it was not difficult to trace to an origin very remote from the design now ascribed to him. As the reports were believed and propagated by those who spoke of them with a conviction and a zeal proportioned to their ignorance or malignity, and, as they were, in themselves, most improbable, absurd, and ridiculous, the deponent considered them entitled to no serious consideration. About the middle of November, the deponent again saw Mr. Blannerhasset, at the house of Colonel Andrew Lewis, on the Ohio, three miles above Point Pleasant, where he alighted from his horse for an hour or two, in his journey from Kentucky. In a conversation which then occurred, he adverted with much sensibility to the reports above-mentioned, which had then become more current, and to which, every day was adding some new exaggeration, and declared them to be utterly false. He was the last man in the world, he said, who would be disposed to disturb the peace, or impair the prosperity of the United States. Weary of political agitations in his native country, he had sought, he added, and found, an asylum in America, the tranquillity of which he never could violate. He had, indeed, he admitted, united with Colonel Burr (whom public rumor had injured as much as himself,) in the plan of colonizing and improving a large tract of country on the Red river, originally granted by the King of Spain to one Baron Bastrop, and lately purchased by Colonel Burr of a gentleman of Kentucky. The tract contains eight hundred thousand acres, and the consideration which Colonel Burr and himself were to pay for it was $40,000; but, by distributing a part of it in hundred acre farms, among a number of emigrants, whom such an inducement, they expected, would invite to join them, they had no doubt, on the most moderate estimate, of being able to raise the value of the remainder to more than $1,000,000. Mr. Blahnerhasset declined the pressing invitation of Colonel Lewis to make a longer suspension of his journey, alleging as his reason for prosecuting it with greater rapidity, that the servant who accompanied him had been sent to him in Kentucky, by Mrs. Blannerhasset, to urge his immediate return home, for the protection of his house from the fury of a mob who had threatened to burn it down. He added, also, that he expected to leave the island in ten or twelve days after his return, as it was his intention to remove his family down the river before the severity of the approaching winter set in; and renewing his former invitation to the deponent, politely hoped he would commence his journey to the interior of Virginia within that period.

Some time after this conversation, on Saturday evening, the sixth day of December, the deponent arrived, in the course of his journey home, at the shore of Ohio opposite to the island of Mr. Blannerhasset, and having first learned, with some

surprise, that Mr. Blannerhasset was yet on the island, crossed over to his house in a violent storm of wind and rain. That evening and the following day he spent at the most elegant seat in Virginia, and in the society of Mr. Blannerhasset and his lovely and accomplished lady. He saw no other persons on the island, except their two infant children, their servants, Mr. Neale, the clerk of the court of Wood county, a Mr. Putnam, who had come from the Ohio side of the river to rent the island of the proprietor who was soon to abandon it, some young ladies who visited Mrs. Blannerhasset on Sunday morning, and two or three of the inhabitants of the Virginia shore, who came to inquire of the deponent the price of some lands which he had advertised in the adjoining county of Mason. The deponent having expressed a desire, which he had felt on visiting this country the year before, to become the purchaser of Mr. Blannerhasset's farm, he had the goodness to show him the plan and arrangement of his house. Every room within it was opened to his inspection. As he walked through its different apartments, the proprietor frequently apologized for the confusion into which its furniture was thrown by his preparation for his leaving it; and observed that the greater part of his furniture, his musical instruments, and his library, containing several thousand volumes of books, were packed up for his immediate removal. His children were also habited in their travelling dresses. Nothing, he added, delayed his departure, except the unfinished condition of the boats which were to take him down the river. Finding that Mr. Blannerhasset estimated his farm, containing one hundred and eighty acres of land, with its improvements, at $50,000, which, he remarked, was ten thousand dollars less than they had cost him, the deponent abandoned all idea of becoming their purchaser, and the rest of the time which he spent at this beautiful seat was employed in conversation with its proprietor and his family. It turned upon his removal to the Washita, the name of his new purchase. He pressed the deponent to become a participant in it, suggesting how much it would augment his fortune, and enforcing the inducement which he offered to his interest, by an assurance that the society which he invited the deponent to join, would soon become the most select and agreeable in America. He spoke of Colonel Burr as the moral head of it, and when the deponent expressed a doubt of the permanency and happiness of a union formed under such auspices, and dwelt on such traits of the general character of Col. Burr as he deemed exceptionable, Mr. Blannerhasset vindicated him with the enthusiasm of an ardent admirer and friend, and furnished the deponent with facts of which he had never before heard, and which he treasured in his memory as the foundation of further inquiry into the character of that gentleman. They related entirely to occurrences of ancient date, and on this side of the Allegany.

Mr. Blannerhasset having intended, before the deponent reached his house, to visit Marietta on Sunday evening, the deponent availed himself of a double motive to quit this attractive spot. He did not leave it, however, without regretting that the engagements of its proprietor and his own dreary journey, but just begun in the commencement of Winter, forbade him to prolong a visit, which, although so transient, had afforded him so much pleasure. It is but a tribute of merited gratitude to add, that he left it in perfect good will to all its inhabitants. All that he had seen, heard, or felt, corresponded so little with the criminal designs imputed to Mr. Blannerhasset, that if he could have visited him with unfavorable sentiments, they would have vanished before the light of a species of evidence which, if not reducible to the strict rules of legal testimony, hath, nevertheless, a potent influence over all sensitive hearts, and which, though it possess not the formal sanction, hath often more truth than oaths or affirmations. What! will a man who, weary of the agitations of the world, of its noise and vanity, has unambitiously retired to a solitary island in the heart of a desert, and created there a terrestrial paradise, the very flowers and shrubs and vines of which he has planted, nurtured, and reared with his own hands; a man whose soul is accustomed to toil in the depths of science, and to repose beneath the bowers of literature, whose ear is formed to the harmony of sound, and whose touch and breath daily awaken it from a variety of melodious instruments—will such a man start up in the decline of life from the pleasing dream of seven years' slumber, to carry fire and sword to the peaceful habitations of men who have never done him wrong? Are his musical instruments and his library to be the equipage of a camp? Will he expose a lovely and accomplished woman and two little children, to whom he seems so tenderly attached, to the guilt of treason and the horrors of war? A treason so desperate! A war so unequal! Were not all his preparations better adapted to the innocent and useful purpose which he avowed, rather than to the criminal and hazardous enterprise which was imputed to him? Whence arose those imputations? From his union with Colonel Burr. But it is evident that he has been led to this union from his admiration of the genius and his confidence in the virtue and honor of the person with whom it has connected him. That which with a harsh-judging world is the foundation of a belief of his guilt, when thoroughly and candidly examined, carries on its face, therefore, the stamp of his innocence. Such were the sentiments with which the deponent left the island of Mr. Blannerhasset. He has only to add, that he reached Marietta after a ride of fourteen miles, in company with that gentleman, at nine o'clock at night; that he slept at the same house with him, and parted from him with much regret on Monday morning at the house of Judge Woodbridge. Mr. Blannerhasset on that day went up the Muskingum to visit his boats, and the deponent prosecuted his journey home.

Given under my hand, this twenty-first September, 1807.

E. CARRINGTON.

SATURDAY, *October* 17.

Mr. Lemuel Henry, of the Mississippi Territory, (who heretofore gave in his testimony) was again called, at the instance of Colonel Burr, and examined.

Mr. Burr. Mr. Henry, were you at the town of Washington when I came there?

A. Yes.

Q. Was there a guard established in the street and about the house in which I lodged? What message did I send to Cowles Mead concerning it; and what was his answer?

A. There was a guard stationed as you mentioned, but Mr. Mead said it was intended as much for the protection of your person as for the public safety.

Q. Did I desire you to remonstrate with Mr. Mead against the establishment of that guard as a violation of our treaty or agreement?

A. You desired me to remonstrate with him about it, and I understood you to complain of it as a violation of his agreement with you. I mentioned this to him, and he said that the guard was necessary for your protection as well as for the public safety.

Mr. McRae. Do you know anything about that armistice?

A. Only from report.

Q. Anything from Cowles Mead?

A. Not at all.

SATURDAY, *October* 3.

Elijah Jones was called on the part of Mr. Blannerhasset.

Mr. Wickham. Will you relate the conversations and transactions that passed between Mr. Blannerhasset and yourself?

The counsel for the prosecution objected to this question. Could the declarations of Mr. Blannernasset be considered as evidence?

Mr. Wickham inquired whether the declarations previous to the act alleged as an offence might not be received as evidence?

Mr. Blannerhasset observed, that his declarations had been frequently quoted and urged against him, particularly in relation to the Mr. Hendersons. Had he not the same right to quote his own declarations when they were brought forward for his vindication?

Chief Justice. Any person who accompanied Mr. Blannerhasset may be considered as a competent witness.

Mr. Hay. Did you then go down the river?

A. I did not.

Q. Did you agree to go with Mr. Blannerhasset?

A. There were no articles of agreement between us, though I agreed to go. There was, however, nothing binding, and I did not go.

Mr. Hay. How easy would it have been for Mr. Blannerhasset to have made certain propositions to this gentleman, for the express purpose of keeping his real objects out of view!

Chief Justice. What prevented your going?

A. Because Mr. Blannerhasset went off before the time that was appointed. If he had remained, if the boats had been finished and not stopped, I certainly should have gone.

Chief Justice. Proceed with your evidence.

Witness. In the Fall of 1806, I called on Mr. Blannerhasset at Marietta, to know on what terms I could go down the river with him. I informed him that if we could agree on terms, I would go with him. He said that I should be furnished with liquors and provisions when going down the river, and that at the end of the journey I should receive one hundred acres of land: yet still the engagement was to be no ways binding upon me, and I might leave him whenever I was dissatisfied. I mentioned there was a rumor in circulation that there was something else in view besides the settlement of the Washita, and that his designs were hostile to the United States; if so, he had better inform me at once, for if he took me with him under such circumstances, he would take an enemy. He said they were not hostile to the United States. I asked him, if they were obstructed by a party in descending the river, whether they would defend themselves. He replied that he would not resist the constituted authority, or persons lawfully authorized to stop him; but if they were not lawfully authorized, the laws of the United States would bear him out in resisting. He observed, that those who went on the first to settle lands would have the most, as he would do the most to help them.

Mr. Wickham. Then your agreement was, to leave Mr. Blannerhasset whenever you pleased.

A. It was.

Q. Was the President's proclamation received before their departure?

A. I think it was not till afterward, though I am not positive.

Chief Justice. Mr. Woodbridge said that it was not received till Friday afterward.

Cross-examined.

Q. At what time did he say that he should leave the island?

A. Different times were stated. He intended to have started earlier than he did, but Colonel Barker did not finish the boats in time. He then said that he should start as soon as they were finished.

Q. Did he positively deny that he had any hostile designs against the United States?

A. He did deny it. I told him if he had any designs hostile to the United States, he had better tell me at once, and not take me in; for if he did, he would take an enemy. He lifted up his hands to Heaven, and said he had not.

Mr. McRae. Did he say that you should receive information of the object of the expedition at the mouth of Cumberland?

A. Yes; that I should get such satisfactory information at the mouth of Cumberland as would confirm me in my resolution to go on. I asked him if Colonel Burr was to meet him down the river. He said it was probable, but he did not say where; but he seemed to speak of the mouth of Cumberland as being the place where he was to meet him.

Mr. Hannerhasset. Did I not observe that information would also be given to you at Limestone or at the Falls, and at other places down the river?

A. Yes. You said that I should get better information than I had received at Marietta.

Q. Did you not understand that the further you went down the river, and the nearer you got to the Washita land, the better information you would receive about that land?

A. I understood from you that I would receive such satisfactory information down the river as would determine me to go on.

Evidence of Thomas Bodley.

Mr. Burr. Do you know of my purchases of land of Colonel Lynch?

A. I do. I think in the month of September, 1806, while Colonel Burr was in Kentucky, he and Colonel Lynch came to my office. I was clerk of the circuit court in Kentucky, and mine was an office of records. They stated to me that they were making a contract for land, and asked me to draught a deed for them. I was at that time much engaged myself; I made a memorandum of the terms which they explained to me, and directed one of the young men in the office to draught a deed. That deed did not please them, and another was draughted, which was recorded in the office of William Todd, notary public. After the deed was draughted, they showed me the plot of land, and Colonel Lynch told me that he had sold his interest or part of his interest in the Washita grant; that Colonel Burr had settled a part of the purchase money with Mr. E. Livingston, and had received the balance in Kentucky bank bills and draughts on New York. A part of the bills I myself received from Colonel Lynch in payment of a debt.

Mr. Burr. About that time was there not a great deal of conversation about a Spanish war?

A. There was a great deal.

Q. Were not expeditions against the Spanish territories a very common topic?

A. The Spanish was frequently mentioned at musters. War was considered as inevitable; and it was said to be so stated in letters from the Commander-in-Chief on the Sabine.

Q. Was there not a general ardor on the subject, especially among the younger part of the community?

A. There was. There was a great deal of zeal in some parts of the country. A great many expressed a willingness to join in the war. There are many young men in Kentucky at any time ready to engage in a war that is authorized by the Government, and particularly in one with Spain.

Cross examined.

Mr. Hay. Is it customary in that country to have deeds recorded in a notarial office?

A. It is when the deed is to go to a different State.

Mr. Hay asked Mr. Wickham if there was any copy of that paper in court?

Mr. Wickham replied that there was not.

Mr. Hay. As the paper has been mentioned, it is better to produce it in court.

Mr. Burr. As gentlemen had said that my purchase of Washita land was all pretence, I wished to show that money had been paid on that transaction. I did not come here with my deed to establish a title.

Mr. McRae (to Mr. Bodley.) Did you see the deed?

A. I saw the original. It is not now on record, and I recollect its contents.

Q. How much land was the deed for?

A. I am not certain about the number of acres; but the impression on my mind is, that it was for three hundred thousand acres.

Mr. Hay. Did you not understand from the parties that the period had expired for complying with the conditions of Bastrop's grant?

A. I understood that it had been so from a default of the Government, but that it had afterwards renewed the grant.

Q. Was this transaction with you before or after Judge Todd was consulted?

A. It was one or two years after the consultation.

Mr. Wirt. Did you see the original Spanish grant?

A. I am not certain. I saw many papers recorded in my office, but I am not certain whether that was among them. I saw a copy in the hands of Colonel Lynch.

Mr. Hay. Did Colonel Lynch ever show any grant tranferring Bastrop's title to him?

A. I do not think he did.

Mr. Wirt. On whom were the draughts on New York drawn? A. On George M. Ogden.

Mr. Burr. Had we any conversations about a Mexican expedition?

A. Yes, frequently; and frequently he spoke about a Spanish war. He spoke several times on this subject to me and others. He thought, if there was any war with Spain, that it was the interest of the United States to carry an expedition into Mexico. He said that he himself would willingly engage, and asked me whether men could be got in Kentucky to embark in it. I told him I thought they could.

Mr. Hay. Did you make any contract with Colonel Burr for flour?

A. He said that he expected to settle the Washita land, and in the event of a war he would stipulate with his men to go against the Spaniards; and that he would take from me any quantity of flour, not exceeding two boat loads.

Evidence of Colonel Charles Lynch.

Mr. Burr. Will you relate whether I purchased any land of you, and how much?

A. Yes. You purchased my interest in Bastrop's grant, wherein were about three hundred and fifty thousand acres.

Q. Did I pay you any money?

A. Yes; about four or five thousand dollars.

Q. Did you suppose the three hundred and fifty thousand acres was exclusive of Livingston's claim?

A. I will explain. I claimed under Morehouse, and also purchased a mortgage of Stephen Wartz. I found that Edward Livingston had also purchased the same mortgage. I commenced a writ against Morehouse, and was about to commence one against Livingston, but I purchased him out. Under that compromise I was entitled to about seven hundred thousand acres. The survey was made, and marked upon the grant. I was entitled to six-tenths, and he to four-tenths of the whole grant of twelve hundred thousand acres.

Q. Was it a separate or joint interest of mine?

A. A joint interest.

Q. Was I to settle what you owed to Livingston?

A. That was my object in selling.

Mr. Hay. Had you a suit with Livingston?

A. No. I was about to commence a suit, but we compromised. I agreed to give him thirty thousand dollars for his interest. Then I sued Morehouse. Colonel Burr was to pay Livingston the amount of my purchase of him; he also paid me four or five thousand dollars in money, and was to take up certain paper which I valued at thirty thousand dollars more.

Mr. McRae. Did you receive any draughts from Colonel Burr?

A. Yes.

Q. On whom were they drawn?

A. On Mr. Ogden, of New York.

Q. Had you any grant conveying an absolute title?

A. In 1796, the petition was presented by Bastrop; in 1797, Bastrop was to furnish five hundred families, the Government to find them in provisions for six months; but it being inconvenient to the Government to furnish the provisions, a letter of office was given to Bastrop, by the Baron de Carondelet, to dispense with the necessity of introducing the families.

Q. Will you state the various proceedings which have taken place on this grant?

A. First, there was the petition, then the survey upon that, the patent, and then the letter of office.

Mr. Burr. Did you get the opinion of James Brown as to the validity of Bastrop's grant?

A. Yes; and of Mr. Gurley too. They both said that the title was good.

Mr. McRae. Do you suppose there is no necessity to carry families there now for the purpose of saving the title?

A. No; not now.

Colonel Burr. Have you an account of the nature of the soil and of the land included in the grant?

A. I have been on the land and spent several days in exploring it. I have a certificate with me signed by several respectable gentlemen, stating it to be very valuable. [Here Colonel Lynch produced the certificate.]

Mr. Hay. What is your own opinion of its value?

A. I think it very valuable.

Q. How far is it situated up the Red River from its mouth?

A. About two hundred miles. It lies on the Washita river, and extends towards the Mississippi; from which, in a direct line, it is not more than twenty or thirty-five miles.

Mr. Burr. Was your contract with me in consideration of money only, or upon condition of settlement?

A. I considered the condition of settlement the principal consideration.

Mr. McRae. What is the date of your contract with Colonel Burr?

A. Last Fall. The first thing I did was to contract with Colonel Burr, after his arrival in Kentucky.

Colonel Burr. Was there anything said about corn which you were to furnish me with?

A. Yes. I was to furnish you with a quantity of corn. I received a letter from Colonel Burr about it, when he was at the mouth of Cumberland. He wrote from the mouth of Cumberland that he should want more corn than I had agreed to furnish him with. He stated that he was going with a few friends to the lands on the Washita, and wished me to send him some more corn, and some utensils.

Q. What kind of utensils?

A. To clear two roads from the Mississippi. By cutting a road twenty-five miles, three hundred may be saved.

Q. What proportion of the land is prairie?

A. I do not know precisely; but I suppose about one hundred thousand acres.

Q. What is the character of that kind of land?

A. It is esteemed among the French and Spaniards the most valuable; because it is fit for immediate cultivation.

Mr. Hay. You spoke of a letter from Baron de Carondelet, dispensing with the settlement of the land; was that before the cession to the United States?

A. Yes; in 1797. All the transactions about it were in 1797. I have got letters stating that the commissioners appointed to adjust the claims to lands in that Territory thought it as good a title as any in Kentucky.

Mr. Wirt. Have you got a copy of your deed?

A. No.

Q. Did it contain a general or a special warranty?

A. In every conveyance of the kind, there is always a clause providing in case of an interference by Congress.

Evidence of Silas Dinsmore.

MONDAY, *October* 5.

Mr. Hay. Were you in New Orleans when General Wilkinson arrived there in November last? A. I was.

Q. Did he make any communications to you?

A. He made a very full and general statement of the situation of the country, and of his apprehensions of approaching danger.

Q. How soon after his arrival?

A. I think on the 26th or 27th of November. He arrived there on the evening of the 25th, and made his communications to me very shortly after his arrival.

Q. Were these communications made under any injunctions of secrecy?

A. They were.

Q. Were you acquainted with the state of the public mind at New Orleans at the time of the arrival of General Wilkinson?

A. I had discovered nothing unusual about that time.

Q. What was the state of the public mind after the approach of Burr was announced? Did there appear to be a considerable party disposed to favor the views of Colonel Burr?

A. A considerable party appeared to be in favor of Colonel Burr, and were much opposed to the measures of General Wilkinson.

Q. What appeared to be the general impression on the minds of the citizens? And what was their conduct before and after General Wilkinson exposed the plans of Colonel Burr?

A. Before the disclosure of those plans, it was a general subject of inquiry as to the conduct of General Wilkinson in taking post at New Orleans; and many censured the measure. About that time several numbers of the Western World appeared, in which many severe strictures were cast on General Wilkinson and others; which, after the disclosure made by General Wilkinson, at the Government House, occasioned very considerable commotions among the citizens. It became a general topic of conversation in the coffee-house, the hotels, and even in the streets. I will repeat further, that there appeared to be a large proportion of the mercantile interest in favor of General Wilkinson's conduct; some censured and some doubted. General Wilkinson condescended to ask my opinion, having previously made a full disclosure of the dangers apprehended, and of the measures which he had adopted. I did give my advice in favor of seizing every man whom he found opposed to his measures. This was after a development of the state of affairs by General Wilkinson. [*Mr. Martin.* And that not to be depended upon. *Mr. Wirt.* That will be a subject of discussion hereafter. *Mr. Martin.* I know that. *Mr. Wirt,* (in a lower tone of voice, to Mr. Martin,) *You know a good deal of those things.*]

Mr. Hay. Did you see Colonel Burr at Washington, in the Mississippi Territory?

A. Yes. I received a verbal message from him, by an unknown person, and returned an apology for not waiting on him that day, but went to see him the next day. I met him in company, but he solicited no private interview, and I had none with him.

Q. Was there any circumstance which particularly attracted your notice?

A. No. I never saw him till he was in the hands of the civil authority.

Q. Do you recollect whether in New Orleans, and while General Wilkinson was there, intelligence frequently came down the river stating the approach of Colonel Burr and his party?

[Mr. Wickham objected to the witness speaking of mere reports, as being nothing better than hearsay evidence. Mr. Wirt contended it was admissible evidence; and that it was proper to show the state of the public mind, arising from those rumors which were generally circulated, to justify the strong measures which were taken. The Chief Justice said that neither hearsay nor rumors could be regarded as legal evidence; but, if there be the slightest shade of difference in the testimony, that of rumor, in such a case as the present, was the most tolerable.]

A. There were frequent reports to that effect. Among other rumors, Mr. John Clay, a respectable merchant of New Orleans, came to General Wilkinson's quarters, on the morning of the 8th or 9th of December, and asked to see the General. When shown to him, he observed, in my presence, "I feel it my duty, General, to inform you that I have received a letter from Kentucky informing me that Colonel Burr has seized on the arsenal in Kentucky, (I think near the mouth of Kentucky river,) and has availed himself of all the arms and ordnance stores there deposited." A few minutes after, Governor Claiborne came in, and said, "General, I have received correct information, on which I can depend, that a squadron of the British fleet is cruising off the Balize."

Q. Have you ever been on service with General Wilkinson?

A. Not in a military character.

Q. Have you ever in a civil? A. Yes.

Q. What was his general reputation as to integrity?

A. I never knew anything as to his integrity, but what was purity itself. So far as his conduct came within my own knowledge, it always appeared to me to be perfectly correct.

Q. How long have you known General Wilkinson?

A. It is a little more than five years since I first knew him. I have been in some service with him for months together in the forest, while we were engaged in running the national boundary line.

Q. Have you ever discovered anything which betrayed a want of patriotism in General Wilkinson?

A. No. His patriotism was of the most ardent kind—such as I wish to possess myself, and could wish every other citizen to possess.

Q. Did he ever write to you about raising a military corps?

A. Yes; but that was predicated on the idea of a rupture with Spain.

Mr. Randolph. Have you got the letter?

A. I do not know. I have several letters from General Wilkinson, which I have on file; but I have not examined whether this particular one is among them or not.

Q. What is the date of the letter?

A. 1805.

Q. What induced you to suppose that there was a probability of a war with Spain at that time?

A. From interviews with the General, in the year 1803, and subsequent correspondence with him till 1805. The first was occasioned by the doubtful state of our negotiations with Spain; the second from the detention of a part of the ceded territory. From many circumstances, it was supposed a rupture was inevitable.

Q. What was the space of territory in dispute?

A. From the parallel of latitude of thirty-one degrees north, to the Gulf of Florida, and from the Mississippi to the river Perdido.

Colonel Burr. Did General Wilkinson offer you a reward for apprehending me?

A. I think four or five thousand dollars were offered in behalf of the Government.

Q. When was that offer made?

A. Some time in December last.

Q. Did you undertake to effect it?

A. I did, as far was practicable and expedient.

Q. Was that offer predicated on an order of the Government, or was it the fiat of the General?

A. I do not know.

Q. Did he satisfy you that he had authority for making the offer? A. I do think he did.

Q. When did you leave New Orleans?

A. On the morning of the 9th or 10th of December.

Mr. Baker. When was the offer made?

A. Just about that time.

Colonel Burr. Did you send an order to the Choctaws to take me?

A. I carried myself the proclamation of Governor Williams to the Upper Choctaws, and employed runners to carry proclamations, with instructions to intersect the paths in every direction; and wrote to the agent in the Chickasaw nation to the same effect.

Mr. Wirt. What do you mean by saying that you undertook to arrest Colonel Burr, as far as was *expedient?*

A. I meant that if I should have found him at large I should have taken him, but not out of the hands of the civil authority.

Q. Were there not officers sent up to take him?

A. Yes; and I was instructed to co-operate with them; but he being exactly where General Wilkinson wished him—in the hands of the civil authority—I advised the officers to return, and they separated.

Colonel Burr. Were you to seize me privately?

A. Yes, if practicable.

Q. Was I not reputed to be at the head of an army, by General Wilkinson?

A. Yes, and by others too.

Q. How, then, were these men to take me? When were those officers sent?

A. I can inform you when I first saw them, which was on the 1st of February.

Q. Of the orders of the officers you know nothing?

A. Only what I saw—an order from Commodore Shaw to Lieutenant Jones to receive you.

Q. You said the officers returned on your advice: did you see them retire, or do you know when they left that part of the country? Had they separated before I left the town of Washington?

A. I cannot tell when you left there; but the last time I saw them was on the 5th of February, at Natchez.

Colonel Burr to Commodore Shaw. I understood that you received orders from General Wilkinson: were these orders from the Government?

A. I think they were the result of an arrangement between Governor Claiborne and General Wilkinson. I did not know, at that time, that I was subject to the orders of General Wilkinson; but always understood that I was to co-operate with him. I considered that as Governor Claiborne took the responsibility, I was to co-operate, and that the orders were given conjointly with General Wilkinson.

Colonel Burr to Mr. Dinsmore. Did General Wilkinson express any doubt of the militia?

A. He expressed no doubts of the Creoles; but he doubted the incongruous group which constituted the citizens of New Orleans.

Q. Did he doubt the civil authorities?

A. He did entertain doubts of the Judges.

Mr. Martin. Did he express any doubts of Governor Claiborne?

A. He had no doubt of the integrity of Governor Claiborne, and of his attachment to the Government. He said that they had, at one time, been on such terms as not to act together, but he was in hopes they would unite.

Q. Did he doubt Governor Mead?

A. Yes; because he did not co-operate with the General, and refused to furnish his quota of men.

Mr. Hay. Did General Wilkinson doubt the patriotism of Governor Claiborne?

A. He was far from doubting his patriotism, but said he wanted firmness.

Mr Martin. Did he doubt James Brown? [Mr. Wirt objected to such a course of interrogation, as indelicate and improper. Mr. Martin defended it, on the ground that, from the conduct of General Wilkinson, it would seem that men, even high in authority, could not be trusted.]

The following affidavit contains the substance of the testimony delivered by the witness in court, on Monday, the 5th of October, except that he was not interrogated as to the paper found in the cape of the negro boy's coat, in the handwriting of Colonel Burr; that fact having been previously established, as far as Mr. Henry's knowledge extended, by the evidence of Mr. Poindexter.

The evidence of Lemuel Henry, a resident of Washington county, Mississippi Territory.

The said Henry being at the town of Washington, in the Mississippi Territory, attending his duty as a member of the Legislative Council, was introduced to Colonel Burr, by Colonel McKee, on the first evening of the arrival of Colonel Burr at that place, after his submission to the civil power.

Colonel Burr, Colonel McKee, James Callier, and the said Henry, were alone present, when, in the course of conversation, it was mentioned by the said Callier, that if he (Colonel Burr) had gone over to Washington county, on the Mobile, and impressed upon the minds of the people there that his enterprise was a secret one against the Spaniards, and with the sanction of our Government, he might have procured men enough to have taken Mobile; at which place he would have got a sufficiency of arms and ammunition, and

armed vessels to convey his troops to whatever place he pleased. Colonel Burr then began to inquire into the situation of the Mobile, and of Washington county. In the course of the conversation, the difficulties to which the people of Washington county were subjected from the exactions of the Spaniards, and their unfriendly disposition towards us, were mentioned. Colonel Burr observed that he had seen with regret the memorials of those people treated with contempt or neglect in Congress; that, while they were reading, the members would be scraping their feet, and would pay no attention to them; and that they were no sooner read than the House passed on to some other subject. He was surprised, he said, that the people of that country had not made some exertion to release themselves from the difficulties under which they labored; that the Government having neglected them, it was a natural right, and ingrafted in the Constitution, for a people, when the Government does not secure to them those rights to which, by their situation, they are entitled, either to erect a new Government for themselves, or to take protection under such other Government as would promise them a happier situation. The expression that the right was ingrafted in the Constitution, was used with a considerable degree of emphasis by Colonel Burr, and, I confess, excited in my mind no small share of astonishment, considering his situation; nor could I account for his addressing these observations to us, unless it was that both Mr. Callier, and myself represented that part of the Territory which was particularly exposed to the exactions of the Spanish Government.

On the Sunday before Colonel Burr finally left the town of Washington, and after the boats which descended the river with him had been searched for arms, and a report made, as I understood, that there were none of any consequence found, a certain Robert A. New, who appeared to be in habits of the strictest intimacy with Colonel Burr, and lodged in the same room with him, offered to sell me a parcel of arms. The said New and myself were for several days in a treaty for a quantity of provisions, which was brought down in the boats called Colonel Burr's boats. He said that the provisions were not his private property, but that he was agent for the owners, between whom some matters were to adjust respecting them. On the day last mentioned, (viz: the Sunday before Colonel Burr left the town of Washington, and after the boats had been searched for arms,) the said New asked me how I would like to purchase a parcel of arms. I asked him how many there were. He answered, about forty or fifty, or between forty and fifty; do not recollect which, and as elegant muskets and bayonets as I ever saw. He offered them to me at a price which I considered only about one-third of their value; and assigned as a reason for selling them so low, that they were lost to them at that time, and it was better to get something for them than nothing. I observed to him jocularly, that they could not have been of much use in settling the Washita lands. He said it was unnecessary to say to me, or to any man of understanding, that the men I saw engaged in this business had no other view than that of settling a new country; that they were generally too well fixed at home to embark on so dull an enterprise; but that this was a good idea to hold out to the world; and it seemed to go down pretty well. Knowing that there had been a search for the arms, and an official report that they could not be found, I inquired of Mr. New, how they were to be got. He said that they would not be delivered to me, but would be placed where I could get them; and I think said at any place I should direct in the neighborhood. I declined making any purchase of him.

With respect to the last arrest of the partisans of Colonel Burr, when a considerable number were arrested, it arose from the following circumstances: in a few days after Colonel Burr had left the town of Washington, and was said to have escaped, and after the Governor's proclamation for his apprehension had issued, as I understood, a negro boy was discovered near the mouth of Cole's creek, (opposite to which Colonel Burr's boats were stationed,) riding on a horse which had belonged to Colonel Burr, and having on his surtout coat, as I heard. These circumstances created a suspicion; the boy was searched, and there was found sewed up in the cape of his coat a paper in these words: "If you are yet together, keep together, and I will join you to-morrow night; in the mean time put all your arms in perfect order; ask the bearer no questions; but tell him all you may think I wish to know. He does not know that this is from me, nor where I am. C. T. and D. F." This paper was proved to be in the handwriting of Colonel Burr by a Colonel Fitzpatrick, as I understood. In consequence of this discovery, a number, perhaps between twenty and thirty men, said to be adherents of Colonel Burr, were arrested and put under guard. They were not in close confinement when I saw them, nor did I ever hear of their being in that situation. They were only guarded till the alarm was over. I saw several of them going to their lodgings to dinner, and, as I understood, they were usually put on their honor to return at a particular time and place.

LEMUEL HENRY.

HENRICO COUNTY, &c.

Sworn to before me in due form, agreeably to law, 14th October, 1807.

DANIEL L. HYLTON.

Examination of Evidence.

MONDAY, *October* 5.

This day Mr. Burr proceeded to put into execution his threats against General Eaton.

Mr. Burr addressed the court. I have understood, sir, that there are certain proceedings of a court martial, of which General Eaton is the subject, and in which he was charged with offences that would disqualify him as a witness. After a satisfactory search, I find that the papers were burnt in the War Office. I have procured a deposition of the chief clerk in the War Office to show that such is the fact. This is to establish

the loss of the papers, with a view to let in oral testimony

Mr. Hay objected to this proceeding. Suppose that this deposition did actually establish the fact for which it was produced, yet why establish it in this court?

Mr. Hay said he would object to the production of the records of a court martial. He presumed that Gen. Eaton's trial was of a military nature, for some neglect or violation of military duty, and not for any charge of a civil nature. Taking this fact for granted, he presumed that the court would not permit the introduction of the original records. The accused was at liberty to go into evidence as to the general character of a witness, but not as to any particular fact. Under such circumstances, it was unnecessary to occupy the time of the court, either with this affidavit or with parol evidence.

Mr. Burr. The affidavit proves that such papers were burnt in the War office. We shall prove by a witness that such a court martial was held, and that General Eaton was found guilty of certain crimes, which would disqualify him as a witness in a court of justice. We shall prove that he has been convicted by a court martial of *crimen falsi*; and that the records of these proceedings were transmitted to the War Office, where they were burnt. We shall then produce a witness to prove these charges. Then will arise a novel question, how far a man convicted of a crime, not in a court of common law jurisdiction, is disqualified from serving as a witness in a court of common law, if it be such a crime as would amount to such a disqualification in a court of common law. When the court shall hear the proof, the question will then arise as to General Eaton's credibility and competency. We shall urge it as to both these points. We shall show that the crimes were great enough to affect his competency, and, if they were of an inferior dye, they would affect his credibility.

Mr. Hay presumed that evidence might be at any time brought up to affect the *competency* of a witness, but that if it was intended to impeach his credibility, it could only be done on the ground of general character; and that no witness's credibility could be attacked by any particular charge, unless he had received previous notice, and was permitted to prepare for his defence.

After some discussion, the Chief Justice overruled Mr. Hay's objection. Mr. Burr then read the following affidavit:

DISTRICT OF COLUMBIA,
Washington county, ss.

Personally appeared before me, one of the justices of the peace of the United States in and for the county of Washington, in the District of Columbia, John Smith, chief clerk in the War Office, who, being duly sworn, deposeth and saith, that, having searched the records and papers in the War Office, there are no records of proceedings of courts martial, or any papers or proceedings relative to the same, previous to the year one thousand eight hundred and one, and that he hath understood, and verily believes, that all records and proceedings of courts martial, which were deposited in said office previous to the —— day of November, in the year one thousand eight hundred and one, were burned with the office, and a number of other papers, on that day; that, having come into the office since the above date, he never saw any record or proceedings of a court martial held on William Eaton, and that there is no record or proceeding of any such court martial now in the War Office, to the best of this deponent's knowledge and belief.

Sworn before me, this 24th day of September, A. D. 1807.

RICHARD PARROTT.

Annexed is the certificate of James Madison, Secretary of State, that the above R. Parrott is a justice of the peace, as above stated.

Evidence of Colonel Henry Gaither.

Mr. Burr. Are you acquainted with General Eaton?

Answer. I am; early in 1796.

General Eaton. I presume I have a right to know what is to be proved by this witness.

Mr. Wickham. With respect to General Eaton's right, that is out of the question; he forgets that this is a case between the United States and Mr. Burr.

Mr. Burr. I have stated twice that Colonel Gaither is to prove certain proceedings of a court martial. We shall prove the conviction of General Eaton for certain crimes; and we may, perhaps, go further, and say something as to his general character.

General Eaton. I am willing, sir, that the most minute acts of my life should be inquired into; but, sir, I have been taken by surprise; I did not suppose that the tombs were to be ransacked, to establish things which happened beyond the flood; but the records of that court martial should be produced here; the law, in every case, requires the best evidence.

Mr. Wickham. It is unfortunate that General Eaton did not know that the records were burnt.

General Eaton. You, sir, know that there are always three copies of the proceedings of a court martial. This man, who arrested me, if he had done his duty, ought to have kept one copy; the judge advocate another; and a triplicate copy of them is filed in the Department of War; but, sir, if all these copies are lost, I will supply them; and though my copy may not be *verbatim* and minute, I will furnish the general contents. I waive my demand for the copy of the record; and, if testimony be now introduced, I shall only claim the privilege of explaining, after the witness has concluded. After a few remarks from the bench, Colonel Gaither proceeded.

Witness. In the early part of 1796, my acquaintance with Captain Eaton commenced on the river St. Mary's, at a fort then building, called Fort Pickering, where he then commanded. I commanded the troops of the United States, on the Oconee. On the information of Captain Duns-

combe, I had Captain Eaton arrested, and had a court martial; the trial was held—

Mr. Burr. What offences were charged?

A. I do not recollect; I was not present at the court martial.

Mr. Burr. State them as far as you know.

Witness. There was something about dealing in the soldiers' rations, and something about selling the public corn to the inhabitants of that part of the country.

Mr. Burr. For his own profit?

A. So the report ran. The number of charges against him I do not recollect; but he was found guilty of some one, or perhaps the whole. I had the proceedings, signed by the President of the court, Captain Freeman, and Captain Eaton was suspended from command, either for three or six months.

Q. What did you do with these proceedings?

A. They were sent to the Secretary of War; they were upwards of one hundred pages. I do not know whether I confirmed the sentence or not. There were some letters from Captain Eaton, requesting me not to send them on.

General Eaton. I wish those letters produced.

Q. And what did you do with Eaton? Did you send him on?

A. He was to be under arrest for some months after the confirmation of these proceedings. Many things were laid against him; Major Commandant Freeman complained of his quarters being stoned in the night, and supposed Captain Eaton was the cause of it. I thought it best, in consequence of these complaints, to send him on to the Secretary of War, he being of no use there, so long as he was suspended.

Mr. Wirt. Was the sentence ever confirmed by the Secretary of War?

A. I do not know; I never heard.

Mr. Hay. Will you be pleased to say what charges you do recollect?

A. I cannot repeat the charges. There was something about selling public corn to the inhabitants, and clothing his soldiers with nankeens, which he had brought from Philadelphia, and on which he made a profit. However, I never attended the court; I only arrested him.

Q. Can you form any conjecture as to the number of charges?

A. I cannot. The whole record was not filled up with the charges, but they also contained the proceedings, and Captain Eaton's defence.

Q. Do you know whether you confirmed the sentence or not?

A. I do not recollect; but I believe I did not, from having received some letters from Captain Eaton, insinuating that I would not do justice, at which I was much hurt.

Q. And you do not know whether the Secretary of War confirmed the sentence?

A. I do not. I never heard anything more about it, until I heard of his being sent as Consul to Tunis.

Mr. Wirt. Then he was appointed to Tunis after all these proceedings?

Mr. McRae. When an officer is convicted of a crime, is it not customary to cashier him?

A. It depends on the nature of the offence. I have seen them sometimes cashiered, and sometimes rebuked.

Q. Was it not regular for you first to have acted on this sentence?

A. By the rules and articles of war I might have done it; and, so far, indeed, until it touched his commission.

General Eaton. Are you positive that the suspension of the court was for three or six months?

A. I do not say that the sentence ran for three or six months. There was a suspension for months or years.

Mr. McRae. For years! There is a very great difference between years and months.

Chief Justice. That is of no importance.

Mr. McRae. It certainly shows the incorrectness of the witness's memory.

Q. Did you say that General Eaton wrote you not to send the records to the Secretary of War?

A. So I understood from his letters. He wanted a conference with me.

General Eaton. Are you confident whether this request was made before or after the trial?

A. I am not confident. It has been a great while ago.

Mr. Hay. Is it customary for the Secretary of War to send an answer when a sentence is sent to him for confirmation?

A. Yes; but many letters from him to me never arrived, and some that arrived were broken open.

Q. And you sent General Eaton to the Secretary of War?

A. Yes; a vessel was going from St. Mary's to Philadelphia. I wrote to Captain Eaton to come down, and sent him on to Philadelphia for further instructions.

Mr. McRae. Did you hear from General Eaton afterwards?

A. Just before he shipped himself off to Tunis, he wrote to me.

Mr. Martin. Did the complaints cease after he went to Philadelphia?

A. Yes, we were perfectly tranquil.

Mr. Wickham. Do you recollect any charge of putting an infant on the muster-roll, and drawing rations for him?

A. No.

Q. A little boy?

A. Yes; a fifer. I thought it improper to have two fifers and a drummer on the roll.

Q. What was his name?

A. Donaldson, or Danielson.

Mr. Hay. Was this one of the charges before the court martial?

A. No.

Mr. Hay. Then you will answer no questions as to that.

Mr. Wirt. How long did you remain in the army after this? A. Till June, 1802.

Q. Did you resign then?

A. I got a letter from the Secretary of War, revoking my commission.

Mr. Hay. Were you not yourself under arrest?

A. Yes; by the civil authority, and then by the military.

Q. At what time?

A. In 1802.

Q. Was nothing done in the military arrest?

A. I considered my dismission as giving me liberty to withdraw, and I came off.

Q. By whom were you arrested?

A. By General Wilkinson.

Mr. Wirt. What officers composed the court martial that tried General Eaton?

A. Major Constant Freeman, President, Captain S. Tinsley, Captain Nichol, and some other officers; I am not certain whether Captain Davidson and Ensign McCall were the other members.

General Eaton. They were Ensign McCall and Lieutenant Thompson.

Q. Did they remain in service?

A. Freeman is now a major; Thompson is dead; McCall, I think, is in service.

Evidence of Captain Samuel Tinsley.

Mr. Burr. You were a member of the court martial that was held over General Eaton at St. Mary's?

A. I was.

Q. What were the charges?

A. I recollect but one.

Q. And what was that?

A. For speculation. When General Eaton went there, he had brought round with him some nankeens, which he had made up into summer coats, and furnished to his men on profit, as was supposed.

Q. Was he found guilty of these charges?

A. He was suspended from his command.

Mr. Hay. Do you recollect to which charge the sentence of the court applied?

A. I do not.

Mr. Wirt. Do you know whether that sentence was ever confirmed?

A. I never heard.

Mr. Wickham. What was the general character of General Eaton in the garrison? was he generally respected?

A. He was not generally liked by the officers.

Q. Do you recollect any charge about public corn?

A. I cannot, distinctly; there was something said about it. I understood that there was some corn sold by General Eaton.

General Eaton. That is true.

Mr. Wickham. We are asking the witness.

General Eaton. I will save you that trouble, sir.

Mr. Burr. The question is, were the avails applied to his private profit.

A. It was so said.

Mr. McRae. No, sir. Do *you know* anything of it?

A. I do not.

Q. How long was General Eaton suspended?

A. For three or six months.

Mr. Hay. You stated that the corn was sold by General Eaton's order; was it publicly sold?

A. I do not recollect.

General Eaton. Was not the corn sold by the commissary of the garrison, Thompson? Was it not sold through the quartermaster's department?

A. I cannot tell.

Mr. McRae. Was it sold secretly?

A. I will state what I heard; that a part of the corn was sold, and applied to the use of part of General Eaton's family: so Thompson said.

General Eaton, in explanation of Colonel Gaither's testimony,

MONDAY, *October* 5.

[Colonel Burr. Before General Eaton goes on, I wish to know how he stands before the court, whether as giving testimony, or as a party. If he is to be considered as giving testimony, we may ask him some questions. If the court thinks proper to indulge him in any observations, I have no objection.]

General Eaton. I understood, by the opinion of the court expressed a few days ago, that explanations, in the situation in which I am placed, are admissible.

Chief Justice. But you will confine yourself to explanations only.

General Eaton. In the Fall of the year 1795, I received an order from the Secretary of War to take a command on the St. Mary's, being then a Captain on the Military Peace Establishment. Colonel Gaither at that time commanded the regulars on that station, and James Seagroves was Indian agent for the Southern nations. Reports from these gentlemen represented to the Government of the United States the people of Georgia as disaffected, insurrectious, and disorganizing; that they were in the back country, under the command of General Clarke, preparing an expedition against East Florida; they represented General James Jackson as the head or patron of this description of citizens; they described the Indians as hostilely disposed, and the Spaniards as balancing between dispositions of war and peace.

[Did I state that my orders from the Secretary of War were distinct and special? I accepted the command with distinct and special instructions from the Secretary of War.]

These same reports recommended the establishment of a trading factory on the waters of the St. Mary's; and also recommended that a military post be stationed there, with a view of overawing the Indians, or resisting them, if necessary; of keeping the Spaniards in check, and an eye of vigilance toward any disorderly citizens of Georgia, who might attempt to make aggressions on the territory of a friendly neighbor. Early in the month of January, 1796, I arrived at Coleraine, a post on the waters of the St. Mary's, with directions and special instructions from the Secretary of War, pointing directly toward these objects; and shortly after took my post at the head of three companies of infantry. I ought to mention that, in passing through Savannah, I waited on General Jackson, and communicated to him the two first objects of my command. He apprehended no danger; but said that, in case of need, he would order to my assistance any number of

militia which circumstances should require. This, I confess, surprised me not a little, and gave me reason to suspect the accuracy of information given by Seagroves and Gaither. But I still concealed from General Jackson one of the objects of my command, which was to keep a watchful eye on the citizens of Georgia.

I much disliked the position assigned to us by Seagroves, on the St Mary's, as a military post. The trading-house, in freshets, was below high-water mark. There were no military sites near it; and the circumjacent country was a low pitch-pine barren. The water was bad, being that of the river St. Mary's.

Though there had been some commotions on that frontier, yet I found the Indians friendly, the Spaniards peaceable, and the citizens of Georgia tranquil, except some internal discontents concerning the Yazoo grants.

The post at Coleraine was designated by Seagroves as the best military position on the waters of the St. Mary's. I reconnoitred the country up and down the river; and nine miles above the post by land, I found an elevated site, good encamping ground, and fair springs of running water. The reports which my duty required me to make contrasted these relative positions and relative facts, and were so diametrically opposite to what had before been represented, that I soon found myself in collision with Seagroves. I had discovered that the position recommended by Seagroves was his own private property, and that he owned thirty thousand acres of land adjoining; and I was told (but this I do not assert as a fact) that Colonel Gaither was in partnership with him.

Colonel Gaither visited me at my post in the month of February, I think; and, among other friendly things, offered me a partnership in a purchase which he had made in the Yazoo grants, on advantageous terms. This I declined, as I disliked that business in all its shapes. It occurs to me, also, that Seagroves, about the same time, proposed to me, as an inducement to remove my family and settle in Camden county, to accept, as a compliment, four or five thousand acres of land in the neighborhood of Coleraine. I told him jocosely, but supposed he understood me, that he did not bid high enough.

In the Summer following, whether in July or August, I cannot say, commissioners arrived, who were appointed by the Government of the United States to treat with the Indians, to settle certain boundaries and disputes about boundaries which had not before been adjusted. About that time the misunderstanding between Colonel Gaither and Mr. Seagroves and myself became very distinct and visible; there was not much intercourse between us; and I was not desirous to become a partisan among the officers, as everybody knows the advantage which *great men* have on such occasion. This commission was composed of General Perkins, Colonel Hawkins, and George Clymer. They requested me to act as Secretary to the commission; and two of them, I think General Perkins and Colonel Hawkins, took lodgings in the block-house which I occupied. After the termination of the negotiations with the Indians, those two gentlemen proposed to reconnoitre the country, expressing much dissatisfaction with the position at Coleraine. I rode with them in different directions and at different times, and at length showed them the position nine miles above Coleraine, which I have before mentioned, called Trader's Hill. This they surveyed as far as they could by an ocular survey, and viewed it very attentively. They seemed much satisfied with it, and spent the greater part of the day there at the spring. On our return to our quarters, Colonel Hawkins asked me for a copy of my letter to the Secretary of War, describing the relative position of those two posts, and also what I had stated as to the situation of the other objects under my charge. I showed him that copy. He read it attentively, and, making an apostrophe to me, said, "I think, sir, I will now inform you that the commissioners have private instructions to ascertain the truth of certain controversies between you and certain gentlemen high in trust here; and I have the pleasure to inform you that we shall bear testimony to the truth of all your statements." I confess I considered this as a great gain, if not a triumph over those gentlemen, Seagroves and Gaither; and as such I spoke of it. I heard much of the observations of the two gentlemen of whom I have spoken. Seagroves said, that Eaton must be got off this place; Gaither replied, "Leave that to me." He could not remove me by his own order, and resorted to a court martial as his dernier resort. Unwilling to suffer the embarrassment of an arrest and trial, I wrote to Colonel Gaither, and proposed an interview. Whether he condescended to answer my letter or not, I do not remember. But I was soon after arrested on five several charges; either of which, if supported, would be sufficient to cashier the best officer in the service. I cannot give those charges in their regular order, but I can give them with their specifications.

1st. General charge: Disobedience of orders. Specification. Disobedience of the orders of Colonel Gaither with respect to some of the police of the garrison, in which he had no right to interfere. But the specification was not reported, and on it, as well as the general charge, I was acquitted.

2d. General charge: Neglect of duty. The specification, amount, and result of that general charge, the same as the first. I was acquitted.

Q. What was the specification of that charge?

A. Some little arrangement in the garrison as to the men.

3d. General charge: Speculation.—Specification. In paying the arrearages of bounty to some of the men of my company in goods taken from the factory, and in supplying them with certain articles of clothing. It appeared in evidence that these arrangements were with the unanimous vote of the company; and though much pains had been taken, but one solitary soldier could be found to say that he was dissatisfied, notwithstanding every one voted for the measure. My object was

to give the men clothing suited to the climate, without any private views whatever. The same arrangement had been made by every commanding officer there, and with the approbation of Gaither. On this general charge I was acquitted.

4th. General charge: Peculation.—Specification. In selling public corn. I admitted the fact, and showed in evidence, by the testimony of two commissioned officers, that this corn, about twenty five or thirty bushels, was perishing on my hands, and was sold by the verbal order of Colonel Gaither, given in their presence, and the avails placed in the quartermaster's hands, for the purpose of procuring hospital supplies. Acquitted on the general charge.

Lastly. Fraud.—Specification. For having retained from the garrison certain rations of flour due as arrearages, and storing them in the magazine. The fact of retaining the rations and storing them in the general magazine, I also admitted; and showed in evidence, that I retained them to meet a claim of the contractor for an equal number of rations used or destroyed by the soldiers when he had laid in provisions unfit for use. The soldiers being without corn or flour, I sent to the contractor, advising him of it. He wished me to use some damaged flour, which I refused; but the soldiers, from necessity, were compelled to open several barrels, and select such as could be used. This occasioned a considerable loss, which the contractor wished me to bear. I absolutely refused, and he instituted a suit against me. When the provisions arrived, I ordered the contractor to provide a number of rations for the soldiers, equal to those to which they were entitled when he had left them without wholesome provisions. On his refusal, I retained that number for the benefit of the soldiers, and had them stored in the general magazine. I was acquitted on that charge.

For what good reason I know not, or for what good purpose I see not, except like Felix, to show the Jews peculiar favor, I was sentenced to be suspended from command only for two months. The proceedings of the court martial were sent to Colonel Gaither, whose duty it was to decide upon them. Finding that his object was not attained he did not decide upon the sentence, from what spirit of benevolence I know not; but he kept me in a burning sun, confined within the walls of my own fort, for more than a month, without letting me know the sentence of the court. At length he informed me by an order that I was to repair to the seat of Government, and receive further instructions. As I had suffered myself to be arrested by his order, I was compelled to obey, and went round to the seat of Government. I presented myself to the Secretary of War, and begged to know what standing I had as respected my rank. He said, we have been made acquainted with the unhappy misunderstandings which have existed in Georgia, and we consider you as we have always done. [Mr. Hay. Who was the Secretary of War? Answer. McHenry.] The sentence never was approved of; and President Washington pronounced on the whole proceedings, that they were a tissue of persecution and wickedness; as I was told by a gentleman who heard him use the expression.

To throw some little light on the declaration of Colonel Gaither, that I was appointed to a foreign command, I will observe that, at my own request, I was permitted to resume my command on the St. Mary's. After my orders to return to Georgia, I was detained for the purpose of attending a court martial, which was to sit at Fort Mifflin, until the extraordinary session of Congress, and until Blount's conspiracy exploded. I was then employed by the Government to apprehend certain of his associates. During which session, or about that time, our treaty with Tunis arrived, and was not fully approved by the Senate, it was ratified with the exception of three articles. A proposal was made to me by the Secretary of State to take an embassy to Tunis to ratify that treaty, and to accept of a consular agency. As I never had any predilection for a military peace establishment, I engaged to go on that service. But before I left the seat of Government, I saw Seagroves removed, and the post at St. Mary's left with a sergeant's command, which may account for the subsequent tranquillity of the place. Since which, Mr. Gaither has been permitted to retire in arrest.

Colonel Burr. Can you assign any date to the court martial which sat at Fort Mifflin?

A. I cannot.

Q. Was it in 1796?

A. If I am correct, in the extraordinary session of Congress, which I think was in 1797, I am correct as to the court martial. After I was ordered to Georgia, I remained for some time to sit as a member of the court martial. But before I could make my arrangements to leave the seat of Government, the extraordinary session of Congress had commenced.

Q. Was it the same year, and pending the extraordinary session of Congress, that you were employed to seize Romaine and others? Was silence imposed upon you by the Secretary as to the seizing of Romaine?

A. I cannot say distinctly; though secrecy might have been enjoined, yet I have no objection to state the manner of the arrest of Romaine.

Colonel Burr (to Col. Gaither.) Was speculation countenanced with the soldiers?

A. No; in no instance.

Q. Did you order the corn to be sold?

A. I know nothing about the corn, or anything about it.

Colonel Burr (to General Eaton.) On which charge were you convicted?

A. On some specification of a general charge. On every general charge I was acquitted. You know the nature of a general charge. You know, too, that, with the stern and just character of General Washington, he would keep no man in office who had been guilty of any of the charges exhibited against me.

Colonel Burr (to Colonel Gaither.) When was Seagroves removed?

A. The latter end of the same year, 1796. He was removed in consequence of a treaty with the

Indians, making some variation in our boundaries.

Colonel Gaither. General Eaton has said a great many things that I know nothing about, and never heard of before. As to land in partnership with Seagroves, and reports to the Government, I am a total stranger to either circumstance. I recommended strongly to the Secretary of War a removal of the military post from Coleraine, and recommended Trader's Hill. I found Captain Eaton and Captain Tinsley at Coleraine when I arrived there.

Mr. McRae (to Colonel Gaither.) How long were you at Coleraine before the arrival of General Eaton?

A. He was there before me.

Q. Did General Eaton go there with orders from the Secretary of War?

A. Yes; I suppose so.

Q. You suppose General Eaton had no hand in choosing the place?

A. I suppose not.

A more correct statement of the evidence of John Brokenbrough and Joseph C. Cabell, delivered in court on Wednesday, the 7th of October.

John Brokenbrough and Joseph C. Cabell, members of the grand jury, were called by Colonel Burr.

Colonel Burr. I will ask you both, gentlemen, whether General Wilkinson, before the grand jury, acknowledged that, in any of his letters he had used the words, "he was ready?"

Mr. Brokenbrough. I recollect that General Wilkinson acknowledged that, in the Winter of 1805-6, he had written to you several letters, in one of which he used the expression "what has become of the grand expedition? I fear Miranda has taken the bread out of your mouth. I shall be ready before you." He also assigned as a reason for writing such a letter, that he had done it with a view of drawing from you a full disclosure of your project; if it should be correct and patriotic, that he might unite in it; if improper, that he might reject it. I asked General Wilkinson whether he had written the letter post-marked "13th May:" he said he did not recollect.

Colonel Burr. What period was assigned to that letter containing the expressions just quoted?

A. The winter of 1805-6.

Mr. Cabell being requested by Colonel Burr to state his recollection of the evidence of General Wilkinson as to the points above-mentioned, proceeded, in substance, as follows:

General Wilkinson had stated that he had had an interview with you at St. Louis, at which you mentioned a grand project; but that you did not enter into particulars. He remarked that he had made some inquiries as to the nature of the enterprise; but you observed it was unnecessary to enter into particulars, for it was possible it might never be carried into effect. After Colonel Burr left St. Louis, General Wilkinson remarked that he had revolved in his mind the conversation which had passed between him and Colonel Burr, when he spoke of a Western enterprise; and concluded that an attack on Mexico was contemplated, which was to be carried on by the aid of a British fleet through the Gulf of Mexico; that he had written several notes to Colonel Burr with a view to ascertain his real design, between the time of their interview at St. Louis, and the commencement of the following summer; but did not appear to be positive as to the number or nature of those letters. But he remarked that his object was to draw from Colonel Burr a disclosure of the nature of the enterprise—if it were proper, that he might participate in it; but if not, that he might communicate the information to the Government. General Wilkinson, on being interrogated as to the contents of his letters, said he could not recollect precisely their terms, and but only two expressions which he had used in one of them: "I fear Miranda has taken the bread out of your mouth; I shall be ready for the grand enterprise before you are." I must repeat, that General Wilkinson did not appear to be positive as to the dates, number, or contents of those letters, but only as to these two expressions.

With respect to the letter post-marked "13th May," General Wilkinson, on being interrogated, was not positive whether he had written it, but said he believed he had.

Mr. Wickham. Do you recollect whether General Wilkinson produced a copy, which he said was a true copy of the ciphered letter?

A. I do not recollect. I recollect General Wilkinson tendered a copy.

Mr. Wickham (to Mr. Brokenbrough.) Do you recollect whether General Wilkinson produced any fair copy of the ciphered letter to the grand jury?

A. I recollect we had a newspaper in which it was published; and, as we deciphered the original, we often compared our translation with that copy, and found some variations.

Mr. Hay. Have you a copy of the ciphered letter, as translated by the grand jury?

A. I have.

Mr. Wickham stated there were material and essential variations between the translation made by the grand jury, and that published.

Mr. Cabell said, he begged leave to observe that General Wilkinson was one out of fifty witnesses examined by the grand jury, that his examination took up four days, and that such circumstances only were treasured up as were deemed material.

Mr. McRae. Have you attended to the examination of General Wilkinson before the judge? will you state whether his testimony corresponded with that delivered before the grand jury?

A. That is a very extensive question, and one which it is impossible to answer. During the examination of General Wilkinson before the judge, my attention was often call d off, and, therefore, I cannot pretend to say whether his testimony throughout corresponded with that delivered before the grand jury. If you will state any particular part of his testimony, I will endeavor to recollect whether it corresponded.

In general, as far as I have attended to the evidence of General Wilkinson, given before the judge, the narrative is very much the same with that delivered before the grand jury, with some slight variations. For instance, I understood General Wilkinson said before the court, that but one letter passed between him and Colonel Burr, from the time of their interview at St. Louis till the commencement of the next Summer; before the grand jury, I understood him to have said some letters or notes.

The circumstance of the packet being slipped from the side pocket of Mr. Swartwout, and thrust into the hands of General Wilkinson in the absence of Colonel Cushing, at the interview at Natchitoches, was mentioned by the General to the grand jury; if the same was not stated in court, as I have understood, that makes another variance.

Mr. McRae. It was mentioned to the court by General Wilkinson.

Mr. Cabell. Then, sir, I stand corrected. I have already said I could not pretend to an accurate recollection of all General Wilkinson's testimony before the court.

Mr. Wickham (to Mr. Brokenbrough.) Do you recollect any variance between the evidence of Mr. Swartwout and General Wilkinson?

A. As to the delivery of the letter from Colonel Burr, there was no difference; but in the details of their conversations there was a very important one.

Here some desultory conversation took place between the counsel on both sides and the court, on the subject of Mr. Tazewell's reply to the question propounded to Dr. Brokenbrough. The counsel for the prosecution and the Chief Justice disagreed in their notes.

Mr. Wickham asked Mr. Cabell the same general question.

Mr. Cabell answered, that the statement of Mr. Tazewell had appeared to him to be very plain and correct, and had been delivered with his usual ability. Being called on to state how far General Wilkinson and Mr. Swartwout agreed in their testimony before the grand jury, in relation to their conversations at Natchitoches, I must say that they coincided in some respects, and differed in others. The material variance is this: Swartwout most positively denied that he had made any criminal communications whatever; and denied his having said anything about seizing. According to General Wilkinson, the communications of Swartwout were criminal; according to Swartwout, they were innocent and honorable.

As I have spoken in such high terms of Mr. Tazewell's statement, I must beg leave to except from that sentiment the inference which he drew from the manner in which Mr. Swartwout delivered his testimony before the grand jury. The manner of Mr. Swartwout was certainly that of conscious innocence; but there is other testimony in the case. I choose to suspend my opinion of characters till this investigation shall have terminated.

Evidence of Thomas Power.

SATURDAY, *October* 17.

Colonel Burr. This witness is to be examined for two purposes: first, to verify certain papers; secondly, to prove that General Wilkinson was at a certain period in the pay of the Spanish Government; and then, by other witnesses, we shall prove that his pay has continued, and that he has frequently been in the habit of receiving large sums of Spanish silver. The object is to impeach his credibility, by proving the falsehood of his declaration that he had not corresponded with the Baron de Carondelet.

Mr. McRae said it was not regular to offer proof of any particular crime to impeach the credibility of a witness. No rule of evidence is more clear than that the general character of the witness is all that should be investigated for that purpose; since every man ought to have notice to enable him to defend himself against any specific charge. He observed that General Wilkinson had, heretofore, been slanderously accused of being a pensioner of Spain; that, being desirous of giving his calumniators an opportunity of proving their charges against him, he had once requested General Washington, when he was President, and afterwards Mr. Adams, to direct a court-martial for his trial; but they, (satisfied of his innocence,) refused his request. General Hamilton also declared that he thought the charge a slander, and a trial unnecessary.

Mr. Wickham. Receiving money from the King of Spain is not an indictable offence. Our ground of defence is, that Colonel Burr's expedition was in concurrence with General Wilkinson against the dominions of the King of Spain, in case of a war. If we prove, that, at the time Wilkinson was pretending to favor Burr's expedition, and secretly determined to defeat it, he was receiving a Spanish pension; this will explain his conduct. He defeated the enterprise of Burr by hatching a charge of treason against the United States, on purpose to serve the King, whose money he was receiving.

Mr. Martin. I am not surprised that gentlemen should have so much feeling on this subject, especially the gentleman who made this objection. There can be no prosecution against a man for receiving Spanish money. Mr. Benjamin Sebastian, in Kentucky, was, indeed, accused of this as an offence, and it was proved upon him; but I have not heard, though he voluntarily resigned his office of judge, that any prosecution was instituted against him. For my part I wish there was a little more Spanish money among us; I should like to have some of it myself. We wish to show that General Wilkinson is interested in the destruction of Colonel Burr; that he has placed himself in such a situation that he must hang Colonel Burr, or be himself eternally detested. He offered to be tried by a court-martial, because he knew that the only witness against him was out of the power of the process of the United States, being in the dominions of the King of Spain.

Mr. McRae. The gentlemen have heretofore been arguing that the United States were, in fact, at war with Spain. If so, it would have been a great crime in Wilkinson, an officer of the United

States, to receive a pension from the King of Spain.

Mr. McRae also read a part of the ninth section of article first of the Constitution of the United States, which declares, that "no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever, from any King, Prince, or foreign State." Would it not, then, said Mr. McRae, be a crime in General Wilkinson, holding a commission under the Government of the United States, to violate the Constitution by receiving a present from the King of Spain? Being admitted to be a crime, it cannot, under the rule of law which I have mentioned, be offered in evidence. If, in fact, any money was received by him, it might have been in commercial intercourse with some Spanish officer; and, if he had been informed in time of the accusation against him, he might have explained the circumstance, and shown that such was the case.

Mr. McRae also remarked the inconsistency of the arguments of the counsel for Colonel Burr; their insisting that his intentions were perfectly innocent, (being merely the settlement of the Washita lands,) and yet attempting to brand General Wilkinson with guilt, for being a participator in those intentions. If they were both equally guilty, this would not render Aaron Burr less criminal.

Mr. Wickham. We never said that General Wilkinson and Colonel Burr were equally guilty. What I said was, that both were engaged in an honorable enterprise in the event of a war with Spain. What we charge General Wilkinson with is, having united with Colonel Burr, and then deserting him; turning traitor, and representing the case quite different from the truth.

The Chief Justice. It is absolutely necessary to hear the testimony to judge of the fact. The only difficulty is, that it does not appear, under the impressions I now have, what effect it can have. If it was proved that General Wilkinson had been a pensioner of the Court of Spain, it could have no influence on the case.

Mr. Wickham. We say that General Wilkinson had an interest with the King of Spain, and, in order to preserve the dominions of that monarch which he knew were about to be attacked, he withdrew from Colonel Burr, and represented an enterprise, which was perfectly innocent and eventual, as one highly criminal.

Mr. Martin. General Wilkinson, by betraying Colonel Burr, had a double motive: the one was to acquire favor with his own Government; the other with the King of Spain.

The Chief Justice. I do not understand it to be your object to prove a continuing pension.

Colonel Burr. Our object is to prove the receipt of fourteen thousand and odd dollars at one time, and some knowledge of the payment of other sums of money to General Wilkinson.

Colonel Burr (to Mr. Power.) Are you acquainted with Alexis Bon Ami?

A. Yes.

Q. Do you know his signature?

A. I think I do.

Q. Is he a justice of the peace in New Orleans?

A. Yes.

[Here Colonel Burr produced a certificate from the office of the Secretary of State, showing that Mr. Bon Ami was a justice of the peace for New Orleans.]

Q. Are you acquainted with the signatures of Messrs. Derbigny and Mercier?

A. With both, very well.

Q. Will you look at those papers? (showing him their depositions, signed by them respectively, and attested by Bon Ami, a justice of the peace for New Orleans.)

Mr. Power said he believed the signatures to those depositions were in the handwriting of the persons whose names were annexed to them.

Colonel Burr. Do you know whether Mr. Mercier was subpœnaed to attend here?

A. I believe he was. I heard him say that he was subpœnaed, but the afflictions of his family were such, arising from the death of his father-in-law, that he could not possibly attend.

Q. Do you know why Mr. Derbigny is not here? do you know whether he was subpœnaed?

A. I heard him say he was.

Q. Why did he not attend?

A. I heard him say it would be the utter ruin of his family if he were to take such a long and expensive journey, and, in the meantime, neglect his business.

Q. Is he a man upon whose personal exertions his family depend for a subsistence?

A. I believe so.

Colonel Burr (to Mr. Power.) Do you know of any correspondence in cipher by General Wilkinson with Baron Carondelet?

[Mr. Hay objected to the question on the grounds before stated; and because the answer, whether it be in the negative or affirmative, could have no influence on the cause.

Mr. Wickham said that General Wilkinson, in the course of his examination, had been asked whether he had been in the habit of corresponding with the Baron Carondelet in cipher, and had answered "No;" but immediately afterwards said "he did not recollect." He admitted that the answer of General Wilkinson was hastily given; but still, if we are able to prove that he had been in the habit of corresponding with the Baron Carondelet in cipher, his saying that he did not recollect such a correspondence will have a direct tendency to weaken his testimony. If a witness has sworn to a particular fact, although immaterial to the cause, the opposite party may falsify that part, for the purpose of impeaching the credibility of the witness.]

Colonel Burr repeated the last question to Mr. Power. Do you know of any correspondence in cipher by General Wilkinson with the Baron Carondelet?

Mr. Power (addressing the judge.) I hope the court will indulge me with a few remarks, in order to show the delicacy and hardship of the situation in which I am placed. I had, for many

years previous to the cession of Louisiana to the United States, been a Spanish officer and a Spanish subject. [Question. Are you a Spanish officer now? Answer. Yes.] My domicile is in New Orleans, but I reside there under a stipulation in the treaty, which allows that privilege. Under this safeguard and protection I was residing and little expected that I should be disturbed or molested for doings, of which I know nothing. On the 16th of August, an attorney or agent of Colonel Burr presented me with a subpœna. I objected to receiving the subpœna, saying that it was irregular and illegal, first, because no writ could be served on Sunday; and secondly, because it ought to have come through the hands of the marshal of the district. I soon found that my objections were nugatory. I had heard that several others had been subpœnaed, and were excused from attending by giving their affidavits. I offered to do the same, and to declare that I was totally ignorant of Burr's plans.

Those objections of mine were not admitted; nor would my affidavit be received. On my expressing a reluctance to attend, I was given to understand, by the agent of Col. Burr, that by the same authority which was exercised on Knox last Winter, and by which he was put on board a ship and confined with malefactors, I should be treated in the same way. This, I confess, had more weight with me than all his logic. [Col. Burr. Are you about to object to answering the question? A. I am, sir.] I believe it is a fact too generally known that for several years prior to running the boundary line between the United States and the Spanish provinces, I was employed as an agent for my Government.

Mr. Hay. Are you going to answer the question as to the correspondence?

A. I am about to show my situation to be so delicate, that I cannot, consistently with honor, answer it; nor can I answer any question which may operate against the King my master.

Colonel Burr. Had you any mercantile connexion with General Wilkinson?

A. I had not.

Colonel Burr said that he did not think that there had been any pretext offered which would justify an evasion of the question.

Mr. Power. What would be the amount of the deposition of a man, who, in the very act of deposing, was breaking his most sacred engagements, and pronouncing himself a perjured villian?

Colonel Burr. Are you under the obligation of an oath as to the transaction?

A. I am under the obligation of the honor of an officer; an obligation of the highest dignity, which was imposed upon me when I accepted the badge of my office. I never did repeat any set form of words; the mere formulary of an oath was never proposed to me; and my superior officer knew my sentiments too well to offer me such an insult. Such a proposition I should have rejected with disdain and indignation.

Mr. Wickham said that, however unpleasant it might be to Mr. Power to answer the question, or whatever his ideas might be as to his ordinary engagements, still it was necessary, for the sake of justice, that the question should be answered. Mr. Power's being an officer of the King of Spain could not release him from the obligation to give evidence in a court of justice. He was now here, within the power of the court, and would be dealt with as any other citizen of the United States.

The Chief Justice said the question must be answered, though he was very sorry that the necessity existed. The objection to answer was not a valid one.

Mr. Power. I have already said that when the interest of the King, my master, is implicated, I will not answer. The court may take what measures it pleases. (Addressing Colonel Burr:) Place yourself in my situation, Colonel Burr; put your hand upon your own bosom, and say what you would do yourself.

Mr. Martin (in a plaintive tone of voice) begged Mr. Power to recollect that the life of a man was at stake—a man who was prosecuted with rigor by his own Government. He must recollect the importance and necessity of calling in the aid of all the evidence which can be procured to exempt him from unmerited punishment.

Mr. Power. I feel full well the situation of Colonel Burr, but I have more at stake than Colonel Burr: I have my honor, my reputation, which are more dear to me than life or property. What would my family, my children, do with property, if these were violated?

Mr. Wickham said he would not press the answer at this time, nor apply to the court to take the necessary measures to enforce it, but would give Mr. Power a few hours to reflect. He will be expected to attend here at three o'clock, at which time the same question will be repeated.

Mr. Power attended a little before three o'clock, and remained for several minutes after; but Mr. Wirt being then in the midst of his argument, he was not called until after he had left the court-room. He was again introduced on Monday.

Colonel Burr offered to read the depositions of Messrs. Mercier and Derbigny.

Mr. Hay objected, both because it was improper to read depositions where the witnesses might be had, and because they contained matter improper to be given in evidence. He instanced the deposition of Mr. Stoddart, which the court would not suffer to be read; although, besides being subpœnaed, he (Mr. Hay) had written him several letters pressing his attendance. He said that the absence of the witnesses could not be justified on the grounds stated by them. The excuse offered by one was nothing but the death of his father-in-law; and by the other, was, that the distance and expense attending the journey, and the losses of his personal exertions for a subsistence to his family, would produce utter ruin to them if he were to attend. Many other witnesses had attended under circumstances much more oppressive.

The counsel for Colonel Burr contended that there was a wide difference between the case of Mr. Stoddart and that of these witnesses. Mr. Stoddart was convenient to the court, and his attendance might be enforced. Besides, they did

not understand the deposition of Mr. Stoddart to be absolutely, but only provisionally rejected; and that it might be read, if his attendance could not be procured.

The Chief Justice decided that the depositions might be read if they contained no matter which was improper to be given in evidence. [It was finally agreed that the judge should take the depositions, and select such parts as were legal evidence.]

MONDAY, *October* 19.

After Mr. Wirt had finished his excellent speech, the examination of several witnesses took place.

The question concerning Mr. Power's refusal to give evidence recurred. That gentleman was still determined not to reveal any political transactions in which he had been employed as an officer of the Spanish Government.

The counsel for Colonel Burr insisted that he should be compelled to state all that he knew concerning a correspondence between General Wilkinson and the Baron de Carondelet.

The Chief Justice observed that the existence of such a correspondence could be of importance in the present case no further than that it might be considered as discrediting General Wilkinson's declaration, that he did not recollect his having carried on a correspondence with the Baron de Carondelet, in a cipher similar to that which was used by Colonel Burr. He said that the object of that correspondence would, if explained, have no effect on his decision, relative to the motion now before him. He therefore required Mr. Power to answer questions as to the existence of such a correspondence, but not as to its objects.

Mr. Power was then examined, and stated that a correspondence, in a complicated cipher, in which a small dictionary was used, was carried on for some time between General Wilkinson and the Baron de Carondelet, but whether it was the same as that used by Colonel Burr he did not know.

Evidence of Lieutenant Jacob Jackson, delivered in court, on Monday the 19th of October, 1807, which evidence was revised, and again sworn to by him, on Tuesday the 20th of the same month, in the form of a deposition.

I, Jacob Jackson, a second lieutenant in the regiment of artillerists, do certify and say, that, on the 3d or 4th day of January, 1807, Aaron Burr arrived at the Chickasaw Bluffs, in the night time, with one boat, and sent to the commanding officer of the garrison, wishing to know whether he could have quarters in the garrison during the night. Being the commanding and only officer there, I informed the messenger that the said Burr could be accommodated. Accordingly, he came to the garrison in company with several other gentlemen; and the next morning he asked me whether I had heard of the attempts made in Kentucky to prosecute him, under an apprehension that he was about to invade the Spanish dominions. I answered that I had not. He then went on to observe that he had been prosecuted, but that nothing could be made out against him; that he was going on a project which many wished to know, but that from their inquisitiveness he was not disposed to gratify them. "It was a project, however," said he, "which was honorable to myself, and which would be the making of those who should follow me, provided they survived the undertaking." He continued to observe that the subjects of Spain were in a very distressed situation, and that his project would tend to relieve them from the tyranny of their Government. I was then asked by him what I thought the opinion of my brother (a member of Congress) was on the subject. I answered that I did not know. He then asked me what I thought of such a project myself. I answered, that, if the United States were going to war with Spain, I should be very glad to embark in the enterprise. On which he remarked, that the leading characters in the United States did not mean openly to carry on a war against the Spaniards, but that they secretly favored his views. I then told him that, if such was the case, I was willing to engage in the enterprise; and, after telling me again that the leading men in the United States (by which I supposed he meant to include the heads of departments) approved his measures, he remarked that he wished to engage young men; that he wished me to go with him, for one; and that, in case I complied, he would give me a captain's commission. Fully believing, from the conversation and high standing of said Aaron Burr, that a war was secretly to be carried on by the United States, against some of the territories of Spain, I finally consented to engage under him. He then observed that I might probably want some money to raise a company. I replied that I did not want more than was sufficient to take me home, and mentioned one hundred and fifty dollars. He inquired whether I could not let him have some arms and ammunition. I replied that I had a small supply of these articles, but that I did not think myself authorized to furnish him. On which he observed, that he had got some at another garrison, and that I should be justified in supplying him. To which I replied, that I did not wish to implicate myself. He then requested me to let some of my men repair two or three muskets, and run him some balls, (the lead he procured at the public factory,) as he wanted, in descending the Mississippi, to kill game for the use of himself and the residue of his men who were behind; and I accordingly suffered the muskets to be repaired and the balls to be run.

In the course of various conversations, he frequently requested me to let him have some soldiers to go with him, which I as often refused. At last, he wished me to let him have a soldier to carry a letter to Colonel John McKee, in the Chickasaw nation; and, on my refusal, he requested me to give one of my soldiers a pass for twenty days, and observed, that if he did not return, I could not be blameable. This I also refused. In the course of this conversation, he asked me whether I could not then go with him, or soon follow him, and take with me the soldiery under my command. In answer to which, I remarked (being somewhat alarmed at his propositions) that I was about to send in my resignation; and that, as soon as I was discharged from the service, I had no objection to following him; but that I could not undertake to seduce the soldiery from their duty while I held a commission. I also observed, that my family was respectable, and that I would not do anything to injure the feelings of my relations, or to wound my reputution as an officer; and that, whatever might be his projects, I did not wish to hear anything more about them, unless they were honorable. To which he replied, that his views were honorable, and that, by complying with his request, I should not incur any blame; that many of the Army were actually engaged with him, and that he expected to derive great assistance from the present military force; that General Eaton was coming round with the Navy, and that he expected soon to receive ten thousand stands of arms. He moreover observed, that as he was acquainted with my father, he should like to have me join him, and the sooner I did it the better. I replied, that it might be some time before I could receive an answer to my resignation, but that, when I did, I would follow him, provided I found him patronized by the United States. He then observed, that it would not do to delay business, and would therefore furnish me with money to raise a company. He asked me the expense of a man to carry a letter to Colonel McKee, in the Chickasaw nation. I replied, about fifteen dollars. He then asked me how many Indians I thought Colonel McKee could raise in the Choctaw nation. My reply was, that I did not know; but that Colonel McKee had resided there some time, and his influence was probably considerable.

On the morning of the 6th of the said January, just before he started down the Mississippi, on my entering the room where the said Burr was, he said to me, there is something for you on the mantel-tree piece, over the fire; on which I took from thence one hundred and fifty dollars in bank notes, and a draft on John Smith for five hundred dollars, which he at the same time presented me, observing that a draft was easier carried than money; that as to a receipt for the money, he should not take any; and that, in case I disliked his plans, he relied on my honor to return it. This money and draft were given me by the said Burr for the express purpose of raising a company of men to join him, and for building a boat calculated to ascend currents, particular instructions about which he gave me.

He further observed, that he *intended to fix himself in the Spanish dominions, and there proclaim his intentions;* that if I was not informed of them before he left the Bluffs, he wished me, on my way to Virginia, to call on General Tupper, at Marietta, to whom he should communicate his intentions, as soon as he had fixed himself in the Spanish dominions, and that he would communicate them to me. And, at the same time, he gave me a letter to said Tupper, which I burned as soon as I received the President's proclamation. And, on his leaving the Bluffs, he pressed me to leave the garrison in fifteen days, and not to wait for the acceptance of my resignation: and, on my way down the Mississippi, to endeavor to get as many of the soldiery at the Bluffs to accompany me as possible.

And further this deponent saith not.

JACOB JACKSON,
Lieutenant regiment of artillerists.

HENRICO COUNTY, *sct:*

Sworn to before me, in due form, agreeable to law, this 20th October, 1807.

DANIEL L. HYLTON,
Justice of the Peace for said county.

CITY OF RICHMOND, *sct:*

This day, the 21st of October, 1807, Thomas Ritchie, editor of the Enquirer, published in this city, made oath before me, a magistrate of the said city, that the ten half sheets annexed hereto, containing opinions of the Circuit Court of the United States for the fifth circuit and district of Virginia, in the case of Aaron Burr, &c., were printed in the Enquirer, from the original manuscript furnished by Chief Justice Marshall; and that the proof sheets were always submitted to his inspection and correction.

Given under my hand, the day and year above written.

WM. RICHARDSON, *Mayor.*

Opinion of the court on the motion made by the counsel for the United States, Monday, May 25, 1807, to commit Aaron Burr for treason, after the grand jury were sworn, and before the indictment was laid before them.

TUESDAY, *May* 26.

The court delivered the following opinion, on Mr. Hay's motion for commitment:

In considering the question which was argued yesterday, it appears to be necessary to decide:

1st. Whether the court, sitting as a court, possesses the power to commit any person charged with an offence against the United States.

2d. If this power be possessed, whether circumstances exist in this case which ought to restrain its exercise.

The first point was not made in the argument, and would, if decided against the attorney for the United States, only change the mode of proceeding. If a doubt can exist respecting it, that doubt arises from the omission, in the laws of the United States, to invest their courts, sitting as courts, with the power in question. It is expressly given to every justice and judge, but not to a court.

This objection was not made on the part of Colonel Burr; and is now mentioned, not because it is believed to present any intrinsic difficulty, but to show that it has been considered.

This power is necessarily exercised by courts in discharge of their functions, and seems not to have been expressly given, because it is implied in the duties which a court must perform; and the judicial act contemplates it in this light. They have cognizance of all crimes against the United States;

they are composed of the persons who can commit for those crimes; and it is obviously understood by the Legislature, that the judges may exercise, collectively, the power which they possess individually, so far as is necessary to enable them to retain a person charged with an offence, in order to receive the judgment which may finally be rendered in his case. The court say this is obviously understood by the Legislature, because there is no clause expressly giving to the court the power to bail or to commit a person, who appears in the discharge of his recognisance, and against whom the attorney for the United States does not choose to proceed; and yet the 33d section of the judicial act evinces a clear understanding in the Legislature, that the power to take bail is in possession of the court.

If a person shall appear in conformity with his recognisance, and the court passes away without taking any order respecting him, he is discharged. A new recognisance, therefore, or a commitment on the failure to enter into one, is in the nature of an original commitment; and this power has been uniformly exercised.

It is believed to be a correct position, that the power to commit, for offences of which it has cognizance, is exercised by every court of criminal jurisdiction, and that courts, as well as individual magistrates, are conservators of the peace.

Were it otherwise, the consequence would only be, that it would become the duty of the judge to descend from the bench, and, in his character as an individual magistrate, to do that which the court is asked to do.

If the court possesses the power, it is certainly its duty to hear the motion which has been made on the part of the United States; for, in cases of the character of that under consideration, its duty and its power are co-extensive with each other. It was observed, when the motion was made, and the observation may now be repeated, that the arguments urged, on the part of the accused, rather prove the motion on the part of the United States unnecessary, or that inconveniences may result from it, than the want of a legal right to make it.

The first is, that the grand jury being now in session, ready to receive an indictment, the attorney for the United States ought to proceed by bill, instead of applying to the court, since the only purpose of a commitment is to bring the accused before a grand jury. This statement contains an intrinsic error, which destroys its operation. The commitment is not made for the sole purpose of bringing the accused before a grand jury; it is made for the purpose of subjecting him, personally, to the judgment of the law, and the grand jury is only the first step towards that judgment.

If, as has been argued, the commitment was simply to detain the person until a grand jury could be obtained, then its operation would cease on the assembling of a grand jury; but such is not the fact. The order of commitment retains its force while the jury is in session; and, if the prosecutor does not proceed, the court is accustomed to retain a prisoner in confinement, or to renew his recognisance to a subsequent term.

The arguments drawn from the general policy of our laws, from the attention which should be bestowed on prosecutions, instituted by special order of the Executive, from the peculiar inconveniences and hardships of this particular case, from the improper effects which inevitably result from this examination, are, some of them, subject for the consideration of those who make the motion, rather than of the court, and others go to the circumspection with which the testimony in support of the motion ought to be weighed, rather than to the duty of hearing it.

It has been said that Colonel Burr already stands charged with treason, and that, therefore, a motion to commit him for the same offence is improper; but the fact is not so understood by the court. The application to charge him with treason was rejected by the judge, to whom it was made, because the testimony offered in support of the charge did not furnish probable cause for the opinion that the crime had been committed. After this rejection, Colonel Burr stood, so far as respected his legal liability to have the charge repeated, in precisely the same situation as if it had never been made. He appears in court now as if the crime of treason had never before been alleged against him; that it has been alleged, that the Government had had time to collect testimony for the establishment of the fact; that an immense crowd of witnesses are attending for the purpose; that the prosecutor, in his own judgment, has testimony to support the indictment, are circumstances which may have their influence on the motion for a commitment, or on a continuance, but which cannot deprive the attorney for the United States of the right to make his motion. If he was about to send up a bill to the grand jury, he might move that the person he designed to accuse should be ordered into custody, and it would be in the discretion of the court to grant or to reject the motion.

The court perceives, and regrets, that the result of this motion may be publications unfavorable to the justice, and to the right decision of the case; but, if this consequence is to be prevented, it must be by other means than by refusing to hear the motion. No man, feeling a correct sense of the importance which ought to be attached by all to a fair and impartial administration of justice, especially in criminal prosecutions, can view, without extreme solicitude, any attempt which may be made to prejudice the public judgment, and to try any person, not by the laws of his country and the testimony exhibited against him, but by public feelings, which may be, and often are, artificially excited against the innocent as well as the guilty. But the remedy, for a practice not less dangerous than it is criminal, is not to be obtained by suppressing motions, which either party may have a legal right to make.

It is the choice of the prosecutor, on the part of the United States, to proceed with his motion; it is the opinion of the court that he may open his testimony.

OPINION OF THE COURT.

On the question, whether Jacob Dunbaugh's affidavit, taken at New Orleans, and certified by B. Cenas, Justice of the Peace, was admissible as evidence on the motion for commitment—pronounced Thursday, May 28.

The Chief Justice pronounced the opinion of the court in the following words:

On the part of the United States, a paper purporting to be an affidavit, has been offered in evidence, to the reading of which two exceptions are taken:

1st. That an affidavit ought not to be admitted where the personal attendance of the witness could have been obtained;

2dly. That this paper is not so authenticated as to entitle itself to be considered as an affidavit.

That a magistrate may commit, upon affidavits, has been decided in the Supreme Court of the United States, though not without hesitation. The presence of the witness to be examined by the committing justice confronted with the accused is certainly to be desired, and ought to be obtained, unless considerable inconvenience and difficulty exist in procuring his attendance. An *ex parte* affidavit, shaped, perhaps, by the person pressing the prosecution, will always be viewed with some suspicion, and acted upon with some caution; but the court thought it would be going too far to reject it altogether. If it was obvious that the attendance of the witness was easily attainable, but that he was intentionally kept out of the way, the question might be otherwise decided.

But the particular case before the court does not appear to be of this description. The witness resides at a great distance; and there is no evidence that the materiality of his testimony was known to the prosecutors or to the Executive in time to have directed his attendance. It is true that general instructions, which would apply to any individual, might have been sent, and the attendance of this or any other material witness obtained under those instructions; but it would be requiring too much to say that the omission to do this ought to exclude an affidavit. This exception, therefore, will not prevail.

The second is, that the paper is not so authenticated as to be introduced as testimony on a question which concerns the liberty of a citizen.

This objection is founded on two omissions in the certificate.

The first is, that the place at which the affidavit was taken, does not appear;

The second, that the certificate of the Governor does not state the person who administered the oath to be a magistrate, but goes no further than to say, that a person of that name was a magistrate.

That, for aught appearing to the court, this oath may or may not, in point of fact, have been legally administered, must be conceded.

The place where the oath was administered not having been stated, it may have been administered where the magistrate had no jurisdiction, and yet the certificate be perfectly true. Of consequence, there is no evidence before the court that the magistrate had power to administer the oath, and was acting in his judicial capacity.

The effect of testimony may often be doubtful, and courts must exercise their best judgment in the case; but of the verity of the paper there ought never to be a doubt. No paper-writing ought to gain admittance into a court of justice as testimony, unless it possesses those solemnities which the law requires. Its authentication must not rest upon probability, but must be as complete as the nature of the case admits of. This is believed to be a clear legal principle. In conformity with it is, as the court conceives, the practice of England and of this country, as is attested by the books of forms; and no case is recollected in which a contrary principle has been recognised. This principle is, in some degree, illustrated by the doctrine with respect to all courts of a limited jurisdiction. Their proceedings are erroneous, if their jurisdiction be not conclusively shown. They derive no validity from the strongest probability that they had jurisdiction in the case; none, certainly, from the presumption that, being a court, a usurpation of jurisdiction will not be presumed. The reasoning applies in full force to the actings of a magistrate whose jurisdiction is local. Thus, in the case of a warrant, it is expressly declared that the place where it was made ought to appear.

The attempt to remedy this defect, by comparing the date of the certificate given by the magistrate with that given by the Governor, cannot succeed. The answer given at bar to this argument is conclusive. The certificate wants those circumstances which would make it testimony, and without them no part of it can be regarded.

The second objection is equally fatal. The Governor has certified that a man of the same name with the person who has administered the oath is a magistrate, but not that the person who has administered it is a magistrate.

It is too obvious to be controverted, that there may be two or more persons of the same name; and, consequently, to produce that certainty which the case readily admits of, the certificate of the Governor ought to have applied to the individual who administered the oath. The propriety of this certainty and precision in a certificate, which is to authenticate any affidavit to be introduced into a court of justice, is so generally admitted, that I do not recollect a single instance in which the principle has been departed from.

It has been said that it ought to appear that there are two persons of the same name, or the court will not presume such to be the fact. The court presumes nothing. It may or may not be the fact, and the court cannot presume that it is not. The argument proceeds upon the idea that an instrument is to be disproved by him who objects to it, not that it is to be proved by him who offers it. Nothing can be more repugnant to the established usage of courts.

How is it to be proved that there are two persons of the name of Cenas in the Territory of Orleans? If, with a knowledge of several

weeks, perhaps months, that this prosecution was to be carried on, the Executive ought not to be required to produce this witness, ought the prisoner to be required, with the notice of a few hours, to prove that two persons of the same name reside in New Orleans?

It has been repeatedly urged that a difference exists between the strictness of the laws which would be applicable to a trial in chief, and that which is applicable to a motion to commit for trial.

On the reality of this distinction the present controversy affords conclusive proof. At a trial in chief, the accused possesses the valuable privilege of being confronted with his accuser. But there must be some limit to this relaxation, and it appears not to have extended so far as to the admission of a paper not purporting to be an affidavit, and not shown to be one.

When it is asked whether every man does not believe that this affidavit was really taken before a magistrate, it is at once answered that this cannot affect the case. Should a man of probity declare a certain fact within his own knowledge, he would be credited by all who knew him, but his declaration could not be received as testimony by the judge, who firmly believed him. So a man might be believed to be guilty of a crime, but a jury could not convict him, unless the testimony proved him to be guilty of it. This judicial disbelief of a probable circumstance does not establish a wide interval between common law and common sense. It is believed, in this respect, to show their intimate union.

The argument goes to this: that the paper shall be received and acted upon as an affidavit, not because the oath appears to have been administered according to law, but because it is probable that it was so administered.

This point seems to have been decided by the Constitution.

"The right of the people," says that instrument, "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched, and the person or things to be seized."

The cause of seizure is not to be supported by a probable oath, or an oath that was probably taken, but by oath absolutely taken. This oath must be a legal oath; and if it must be a legal oath, it must legally appear to the court to be so. This provision is not made for a final trial; it is made for the very case now under consideration. In the cool and temperate moments of reflection, undisturbed by that whirlwind of passion with which in those party conflicts which most generally produce acts or accusations of treason the human judgment is sometimes overthrown, the people of America have believed the power even of commitment to be capable of too much oppression in its execution, to be placed, without restriction, even in the hands of the National Legislature. Shall a judge disregard those barriers which the nation has deemed it proper to erect?

The interest which the people have in this prosecution has been stated; but it is firmly believed that the best and true interest of the people is to be found in a rigid adherence to those rules which preserve the fairness of criminal prosecutions in every stage.

If this was a case to be decided by principle alone, the court would certainly not receive this paper. But if the point is settled by decisions, they must be conformed to.

It has been said to be settled in the Supreme Court of the United States by admitting the affidavit of Wilkinson, to which an exception was taken, because it did not appear that the magistrate had taken the oaths prescribed by law. It was said that, as by law he could not act until he had taken the oaths and he was found acting, it must be presumed that this prerequisite was complied with; that is, that his acting as a magistrate under his commission was evidence that he was authorized to act.

It will not be denied that there is much strength in the argument; but the cases do not appear to be precisely parallel.

The certificate that he is a magistrate, and that full faith is due to his acts, implies that he has qualified, if his qualification is necessary to his being a complete magistrate, whose acts are entitled to full faith and credit.

It is not usual for a particular certificate, that a magistrate has qualified, to accompany his official acts.

There is no record of his qualification, and no particular testimonial of it could be obtained.

These observations do not apply to the objections which exist.

But it is said that the certificate is the same with that in General Wilkinson's affidavit.

If this objection had been taken and overruled, it would have ended the question. But it was not taken, so far as is now recollected, and does not appear to have been noticed by the court. It is not recollected by the judge who sat on that occasion to have been noticed. A defect, if it be one, which was not observed, cannot be cured by being passed over in silence.

The case in Washington was a civil case, and turned upon the point, that no form of the commission was prescribed, and, consequently, that it was not necessary to appear on the face of it that it was directed to magistrates.

That it was the duty of the clerk to direct it to magistrates, and he should not be presumed to have neglected his duty in a case in which his performance of it need not appear on the face of the instrument.

That the person intending to take this exception ought to have taken it sooner, and not surprise the opposite party when it was too late to correct it.

But the great difference is, that the privy examination was a mere ministerial act; the administering an oath is a judicial act.

The court is of opinion that the paper, purporting to be an affidavit made by Dunbaugh, cannot be read, because it does not appear to be on oath.

Opinion on the motion for a writ of subpœna duces tecum, to be directed to the President of the United States, pronounced June 13, 1807.

The discussion of this question was at length waived, when the Chief Justice delivered the following opinion on the motion to issue a *subpœna duces tecum*, directed to the President of the United States. The object of the motion now to be decided is to obtain copies of certain orders understood to have been issued to the land and naval officers of the United States for the apprehension of the accused; and an original letter from General Wilkinson to the President, in relation to the accused, with the answer of the President to that letter, which papers are supposed to be material to the defence. As the legal mode of effecting this object, a motion is made for a *subpœna duces tecum* to be directed to the President of the United States.

In opposition to this motion, a preliminary point has been made by the counsel for the prosecution. It has been insisted by them that, until the grand jury shall have found a true bill, the party accused is not entitled to subpœnas or to the aid of the court to obtain his testimony.

It will not be said that this opinion is now, for the first time, advanced in the United States; but certainly it is now, for the first time, advanced in Virginia. So far back as any knowledge of our jurisprudence is possessed, the uniform practice of this country has been to permit any individual, who was charged with any crime, to prepare for his defence, and to obtain the process of the court for the purpose of enabling him so to do. This practice is as convenient, and is as consonant to justice as it is to humanity. It prevents, in a great measure, those delays which are never desirable, which frequently occasion the loss of testimony, and which are often oppressive, that would be the inevitable consequence of withholding from a prisoner the process of the court, until the indictment against him was found by a grand jury. The right of an accused person to the process of the court, to compel the attendance of witnesses, seems to follow necessarily from the right to examine those witnesses; and, wherever the right exists, it would be reasonable that it should be accompanied with the means of rendering it effectual. It is not doubted that a person, who appears before a court under a recognisance, must expect that a bill will be preferred against him, or that a question concerning the continuance of the recognisance will be brought before the court. In the first event, he has the right, and it is, perhaps, his duty, to prepare for his defence at the trial. In the second event, it will not be denied that he possesses the right to examine witnesses on the question of continuing his recognisance. In either case, it would seem reasonable that he should be entitled to the process of the court, to procure the attendance of his witnesses.

The genius and character of our laws and usages are friendly, not to condemnation at all events, but to a fair and impartial trial; and they, consequently, allow to the accused the right of preparing the means to secure such a trial. The objection that the attorney may refuse to proceed at this time, and that no day is fixed for the trial, if he should proceed, presents no real difficulty. It would be a very insufficient excuse to a prisoner who had failed to prepare for his trial, to say that he was not certain the attorney would proceed against him. Had the indictment been found at the last term, it would have been, in some measure, uncertain whether there would have been a trial at this, and still more uncertain on what day that trial would take place; yet subpœnas would have issued returnable to the first day of the term; and if, after its commencement, other subpœnas had been required, they would have issued returnable as the court might direct In fact, all process, to which the law has affixed no certain return day, is made returnable at the discretion of the court.

General principles, then, and general practice, are in favor of the right of every accused person, so soon as his case is in court, to prepare for his defence, and to receive the aid of process of the court, to compel the attendance of his witnesses.

The Constitution and laws of the United States will now be considered for the purpose of ascertaining how they bear upon the question.

The eighth amendment to the Constitution gives to the accused, in all criminal prosecutions, a right to a speedy and public trial, and to compulsory process for obtaining witnesses in his favor. The right given by this article must be deemed sacred by the courts, and the article should be so construed as to be something more than a dead letter. What can more effectually elude the right to a speedy trial than the declaration that the accused shall be disabled from preparing for it, until an indictment shall be found against him? It is certainly much more in the true spirit of the provision which secures to the accused a speedy trial, that he should have the benefit of the provision which entitles him to compulsory process as soon as he is brought into court.

This observation derives additional force from the consideration of the manner in which this subject has been contemplated by Congress. It is obvious, by the intention of the National Legislature, that, in all capital cases, the accused shall be entitled to process before indictment found. The words of the law are: "and every such person or persons, accused or indicted of the crimes aforesaid, (that is, of treason, or any other capital offence,) shall be allowed and admitted, in his said defence, to make any proof that he or they can produce by lawful witness or witnesses, and shall have the like process of the court, where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them."

This provision is made for persons accused *or* indicted. From the imperfection of human

language, it frequently happens that sentences which ought to be the most explicit are of doubtful construction; and in this case, the words "accused *or* indicted" may be construed to be synonimous to describe a person in the same situation, or to apply to different stages of the prosecution. The word *or* may be taken in a conjunctive or a disjunctive sense. A reason for understanding them in the latter sense is furnished by the section itself. It commences with declaring that any person who shall be accused *and* indicted of treason, shall have a copy of the indictment, and at least three days before his trial. This right is obviously to be enjoyed after an indictment, and, therefore, the words are "accused *and* indicted." So, with respect to the subsequent clause, which authorizes a party to make his defence, and directs the court, on his application, to assign him counsel. The words relate to any one accused *and* indicted. But when the section proceeds to authorize the compulsory process for witnesses, the phraseology is changed. The words are, "and every such person or persons accused *or* indicted," &c.; thereby adapting the expression to the situation of an accused person both before and after indictment. It is to be remarked, too, that the person so accused *or* indicted, is to have "the like process to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them." The fair construction of this clause would seem to be that, with respect to the means of compelling the attendance of witnesses to be furnished by the court, the prosecution and defence are placed by the law on equal ground. The right of the prosecutor to take out subpœnas or to avail himself of the aid of the court in any stage of the proceedings previous to the indictment is not controverted. This act of Congress, it is true, applies only to capital cases; but persons charged with offences not capital have a Constitutional and legal right to examine their testimony, and this act ought to be considered as declaratory of the common law in cases where this Constitutional right exists.

Upon immemorial usage, then, and upon what is deemed a sound construction of the Constitution and law of the land, the court is of opinion that any person charged with a crime in the courts of the United States has a right, before as well as after indictment, to the process of the court, to compel the attendance of his witnesses. Much delay and much inconvenience may be avoided by this construction; no mischief which is perceived can be produced by it. The process would only issue when, according to the ordinary course of proceeding, the indictment would be tried at the term to which the subpœna is made returnable, so that it becomes incumbent on the accused to be ready for his trial at that term.

This point being disposed of, it remains to inquire whether a *subpœna duces tecum* cannot be directed to the President of the United States, and whether it ought to be done in this case?

This question originally consisted of two parts. It was at first doubted whether a subpœna could issue, in any case, to the Chief Magistrate of the nation; and, if it could, whether that subpœna could do more than direct his personal attendance; whether it could direct him to bring with him a paper which was to constitute the gist of his testimony?

While the argument was opening, the attorney for the United States avowed his opinion that a general subpœna might issue to the President, but not a *subpœna duces tecum*. This terminated the argument on that part of the question. The court, however, has thought it necessary to state briefly the foundation of its opinions that such a subpœna may issue.

In the provisions of the Constitution and of the statute which gave to the accused a right to the compulsory process of the court, there is no exception whatever. The obligation, therefore, of those provisions is general; and it would seem that no person could claim an exemption from them but one who would not be a witness. At any rate, if an exception to the general principle exists, it must be looked for in the law of evidence. The exceptions furnished by the law of evidence (with one only reservation) so far as they are personal, are those only whose testimony could not be received.

The single reservation alluded to is the case of the King. Although he may, perhaps, give testimony, it is said to be incompatible with his dignity to appear under the process of the court. Of the many points of difference which exist between the First Magistrate in England and the First Magistrate of the United States, in respect of the personal dignity conferred on them by the Constitution of their respective nations, the court will only select and mention two. It is a principle of the English constitution that the King can do no wrong; that no blame can be imputed to him; that he cannot be named in debate.

By the Constitution of the United States, the President, as well as every other officer of the Government, may be impeached, and may be removed from office on conviction of high crimes and misdemeanors.

By the constitution of Great Britain, the Crown is hereditary, and the Monarch can never become a subject.

By that of the United States, the President is elected from the mass of the people, and, on the expiration of the time for which he was elected, returns to the mass of the people again.

How essentially this difference of circumstances must vary the policy of the laws of the two countries in reference to the personal dignity of the Executive chief will be perceived by every person. In this respect, the First Magistrate of the Union may more properly be likened to the First Magistrate of a State—at any rate under the former confederation; and it is not known ever to have been doubted that the Chief Magistrate of a State might be served with a *subpœna ad testificandum*.

If, in any court of the United States, it has ever been decided that a subpœna cannot issue to the President, that decision is unknown to this court.

If, upon any principle, the President could be construed to stand exempt from the general provisions of the Constitution, it would be because his duties as Chief Magistrate demand his whole time for national objects. But it is apparent that this demand is unremitting, and if it should exist at the time when his attendance on a court is required, it would be known on the return of the subpœna, and would rather constitute a reason for not obeying the process of the court, than a reason against its being issued. In point of fact, it cannot be doubted that the people of England have the same interest in the service of the Executive Government, that is, of the Cabinet council, that the American people have in the service of the Executive of the United States, and that their duties are as arduous and as unremitting. Yet it has never been alleged that a subpœna might not be directed to them.

It cannot be denied, that, to issue a subpœna to a person filling the exalted station of the Chief Magistrate, is a duty which would be dispensed with much more cheerfully than it would be performed; but, if it be a duty, the court can have no choice in the case.

If, then, as it is admitted by the counsel for the United States, a subpœna may issue to the President, the accused is entitled to it of course; and whatever difference may exist with respect to the power to compel the same obedience to the process, as if it had been directed to a private citizen, there exists no difference with respect to the right to obtain it. The guard furnished to this high officer to protect him from being harassed by vexatious and unnecessary subpœnas, is to be looked for in the conduct of a court after those subpœnas have issued, not in any circumstance which is to precede their being issued.

If, in being summoned to give his personal attendance to testify, the law does not discriminate between the President and a private citizen, what foundation is there for the opinion, that this difference is created by the circumstance that his testimony depends on a paper in his possession, not on facts which have come to his knowledge otherwise than by writing? The court can perceive no foundation for such an opinion. The propriety of introducing any paper into a case as testimony, must depend on the character of the paper, not on the character of the person who holds it. A *subpœna duces tecum*, then, may issue to any person to whom an ordinary subpœna may issue, directing him to bring any paper of which the party praying it has a right to avail himself, as testimony, if, indeed, that be the necessary process for obtaining the view of such paper.

When this subject was suddenly introduced, the court felt some doubt concerning the propriety of directing a subpœna to the Chief Magistrate, and some doubt also concerning the propriety of directing any paper in his possession, not public in its nature, to be exhibited in court. The impression that the questions which might arise in consequence of such process were more proper for discussion on the return of the process than on its issuing, was then strong on the mind of the judges; but the circumspection with which they would take any step which would, in any manner, relate to that high personage, prevented their yielding readily to those impressions, and induced the request that those points, if not admitted, might be argued. The result of that argument is a confirmation of the impression originally entertained. The court can perceive no legal objection to issuing a *subpœna duces tecum* to any person whatever, provided the case be such as to justify the process.

This is said to be a motion to the discretion of the court. This is true; but a motion to its discretion, is a motion not to its inclination but to its judgment, and its judgment is to be guided by sound legal principles.

A *subpœna duces tecum* varies from an ordinary subpœna only in this, that a witness is summoned for the purpose of bringing with him a paper in his custody. In some of our sister States, whose system of jurisprudence is erected on the same foundation with our own, this process, we learn, issues of course. In this State it issues not absolutely, of course, but with leave of the court. No case, however exists, as is believed, in which the motion has been founded on an affidavit, in which it has been denied, or in which it has been opposed. It has been truly observed, that the opposite party can regularly take no more interest in the awarding a *subpœna duces tecum* than in the awarding an ordinary subpœna. In either case he may object to any delay, the grant of which may be implied in granting the subpœna; but he can no more object regularly to the legal means of obtaining testimony which exists in the mind, than in the papers of the person who may be summoned. If no inconvenience can be sustained by the opposite party, he can only oppose the motion in the character of an *amicus curiæ*, to prevent the court from making an improper order, or from burdening some officer by compelling an unnecessary attendance. This court would certainly be very unwilling to say that, upon a fair construction, the Constitutional and legal right to obtain its process to compel the attendance of witnesses does not extend to their bringing with them such papers as may be material in the defence. The literal distinction which exists between the cases is too much attenuated to be countenanced in the tribunals of a just and humane nation. If, then, the subpœna be used without inquiry into the manner of its application, it would seem to trench on the privileges which the Constitution extends to the accused; it would seem to reduce his means of defence within narrower limits than is designed by the fundamental law of our country, if an overstrained rigor should be used with respect to his right to apply for papers deemed by himself to be material. In the one case, the accused is made the absolute judge of the testimony to be summoned; if, in the other, he is not to judge absolutely for himself, his judgment ought to be controlled only so far as it is apparent that he means to exercise his privileges, not really in his own defence, but for purposes which the court ought to discountenance. The court would not lend its

aid to motions obviously designed to manifest disrespect to the Government, but the court has no right to refuse its aid to motions for papers to which the accused may be entitled, and which may be material in his defence.

These observations are made to show the nature of the discretion which may be exercised. If it is apparent that the papers are irrelative to the case, or that, for State reasons, they cannot be introduced into the defence, the *subpœna duces tecum* would be useless; but, if this is not apparent, if they may be important in the defence, if they may be safely read at the trial, would it not be a blot in the page which records the judicial proceedings of this country, if in a case of such serious import as this the accused should be denied the use of them?

The counsel for the United States take a very different view of this subject, and insist that a motion for process to obtain testimony should be supported by the same full and explicit proof of the nature and application of that testimony, which would be required on a motion which would delay public justice; which would arrest the ordinary course of proceeding, or which would in any other manner affect the rights of the opposite party. In favor of this position has been urged the opinion of one, whose loss as a friend and as a judge, I sincerely deplore; whose worth I feel, and whose authority I shall at all times greatly respect. If his opinion were really opposed to mine, I should certainly, revise, deliberately revise, the judgment I had formed; but I perceive no such opposition.

In the trials of Smith and Ogden, the court in which Judge Patterson presided required a special affidavit in support of a motion made by the counsel for the accused for a continuance and for an attachment against witnesses who had been summoned and had failed to attend.

Had this requisition of a special affidavit been made as well as a foundation for an attachment, as for a continuance, the cases would not have been parallel; because the attachment was considered by the counsel for the prosecution merely as a mean of punishing the contempt; and a court might certainly require stronger testimony to induce them to punish a contempt than would be required to lend its aid to a party in order to procure evidence in a cause. But the proof furnished by the case is most conclusive, that the special statements of the affidavit were required solely on account of the continuance.

Although the counsel for the United States considered the motion for an attachment merely as a mode of punishing for contempt, the counsel for Smith and Ogden considered it as compulsory process to bring in a witness, and moved a continuance until they could have the benefit of this process. The continuance was to arrest the ordinary course of justice, and therefore the court required a special affidavit, showing the materiality of the testimony before this continuance could be granted. *Prima facie* evidence could not apply to the case, and there was an additional reason for a special affidavit. The object of this special statement was expressly said to be for a continuance.

Colden proceeded: "The present application is to put off the cause on account of the absence of witnesses, whose testimony the defendant alleges is material for his defence, and who have disobeyed the ordinary process of the court. In compliance with the intimation from the bench yesterday, the defendant has disclosed, by the affidavit which I have just read, the points to which he expects the witnesses who have been summoned will testify.

"If the court cannot, or will not issue compulsory process to bring in the witnesses, who are the objects of this application, then the cause will not be postponed.

"Or if it appears to the court that the matter disclosed by the affidavit might not be given in evidence if the witnesses were now here, then we cannot expect that our motion will be successful. For it would be absurd to suppose that the court will postpone the trial on account of the absence of witnesses whom they cannot compel to appear; and of whose voluntary attendance there is too much reason to despair; or on account of the absence of witnesses, who, if they were before the court, could not be heard on the trial." (Page 12.)

This argument states unequivocally the purpose for which a special affidavit was required.

The counsel for the United States considered the subject in the same light. After exhibiting an affidavit for the purpose of showing that the witnesses could not probably possess any material information, Mr. Sanford said: "It was decided by the court yesterday that it was incumbent on the defendant, in order to entitle himself to a postponement of the trial, on account of the absence of these witnesses, to show in what respect they are material for his defence. It was the opinion of the court that the general affidavit in common form would not be sufficient for this purpose; but that the particular facts expected from the witnesses must be disclosed, in order that the court might, upon those facts, judge of the propriety of granting the postponement." (Page 27.)

The court frequently treated the subject so as to show the opinion that the special affidavit was required only on account of the continuance; but what is conclusive on this point is, that, after deciding the testimony of the witnesses to be such as could not be offered to the jury, Judge Patterson was of opinion that a rule to show cause why an attachment should not issue ought to be granted. He could not have required the materiality of the witness to be shown on a motion the success of which did not, in his opinion, in any degree, depend on that materiality; and which he granted, after deciding the testimony to be such as the jury ought not to hear. It is then most apparent that the opinion of Judge Patterson has been misunderstood, and that no inference can possibly be drawn from it opposed to the principle which has been laid down by the court. That principle will, therefore, be applied to the present motion.

The first paper required is the letter of General Wilkinson, which was referred to in the Message of the President to Congress. The application of that letter to the case is shown by the terms in which the communication was made. It is a statement of the conduct of the accused, made by the person who is declared to be the essential witness against him. The order for producing this letter is opposed—

1st. Because it is not material to the defence.

It is a principle universally acknowledged, that a party has a right to oppose to the testimony of any witness against him the declarations which that witness has made at other times on the same subject. If he possesses this right, he must bring forward proof of those declarations. This proof must be obtained before he knows positively what the witness will say; for if he waits until the witness has been heard at the trial, it is too late to meet him with his former declarations. Those former declarations, therefore, constitute a mass of testimony which a party has a right to obtain, by way of precaution, and the positive necessity of which can only be decided at the trial.

It is with some surprise an argument was heard from the bar, insinuating that the award of a subpœna on this ground gave the countenance of the court to suspicions, affecting the veracity of a witness who is to appear on the part of the United States. This observation could not have been considered. In contests of this description the court takes no part; the court has no right to take a part. Every person may give in evidence testimony such as is stated in this case. What would be the feelings of the prosecutor, if in this case the accused should produce a witness completely exculpating himself, and the attorney for the United States should be arrested in his attempt to prove what the same witness had said upon a former occasion, by a declaration from the bench that such an attempt could not be permitted, because it would imply a suspicion on the court that the witness had not spoken the truth? Respecting so unjustifiable an interposition but one opinion would be formed.

The second objection is, that the letter contains matter which ought not to be disclosed.

That there may be matter, the production of which the court would not require, is certain; but that in a capital case, the accused ought not in some form to have the benefit of it, if it was really essential to his defence, is a position which the court would very reluctantly deny. It ought not to be believed that the department which superintends prosecutions in criminal cases would be inclined to withhold it. What ought to be done under such circumstances presents a delicate question, the discussion of which, it is hoped, will never be rendered necessary in this country. At present it need only be said that the question does not occur at this time. There is certainly nothing before the court which shows that the letter in question contains any matter the disclosure of which would endanger the public safety. If it does contain such matter, the fact may appear before the disclosure is made. If it does contain any matter which it would be imprudent to disclose, which it is not the wish of the Executive to disclose, such matter, if it be not immediately and essentially applicable to the point, will, of course, be suppressed. It is not easy to conceive that so much of the letter as relates to the conduct of the accused can be a subject of delicacy with the President. Every thing of this kind, however, will have its due consideration on the return of the subpœna.

3dly. It has been alleged that a copy may be received instead of the original; and the act of Congress has been cited in support of this proposition.

This argument presupposes that the letter required is a document filed in the Department of State, the reverse of which may be, and most probably is, the fact. Letters addressed to the President are most usually retained by himself. They do not belong to any of the Departments. But were the fact otherwise, a copy might not answer the purpose. The copy would not be superior to the original, and the original itself would not be admitted, if denied, without proof that it was in the handwriting of the witness. Suppose the case put at the bar, of an indictment on this letter for a libel, and on its production it should appear not to be in the handwriting of the person indicted. Would its being deposited in the Department of State make it his writing, or subject him to the consequence of having written it? Certainly not. For the purpose, then, of showing the letter to have been written by a particular person, the original must be produced, and a copy could not be admitted.

On the confidential nature of this letter, much has been said at the bar, and authorities have been produced, which appear to be conclusive. Had its contents been orally communicated, the person to whom the communications were made could not have excused himself from detailing them, so far as they might be deemed essential in the defence. Their being in writing gives no additional sanctity; the only difference produced by that circumstance is, that the contents of the paper must be proved by the paper itself, not by the recollection of the witness.

Much has been said about the disrespect to the Chief Magistrate, which is implied by this motion, and by such a decision of it as the law is believed to require.

These observations will be very truly answered by the declaration that this court feels many, perhaps peculiar motives, for manifesting as guarded a respect for the Chief Magistrate of the Union as is compatible with its official duties. To go beyond these would exhibit a conduct which would deserve some other appellation than the term respect.

It is not for the court to anticipate the event of the present prosecution. Should it terminate as is expected on the part of the United States, all those who are concerned in it should certainly

regret that a paper which the accused believed to be essential to his defence, which may, for aught that now appears, be essential, had been withheld from him. I will not say that this circumstance would in any degree tarnish the reputation of the Government, but I will say that it would justly tarnish the reputation of the court which had given its sanction to its being withheld. Might I be permitted to utter one sentiment with respect to myself, it would be to deplore most earnestly the occasion which should compel me to look back on any part of my official conduct with so much self-reproach as I should feel, could I declare, on the information now possessed, that the accused is not entitled to the letter in question, if it should be really important to him.

The propriety of requiring the answer to this letter is unquestionable. It is alleged that it most probably communicates orders showing the situation of this country with Spain, which will be important on the misdemeanor. If it contains matter not essential to the defence, and the disclosure is unpleasant to the Executive, it certainly ought not to be disclosed. This is a point which will appear on the return.

The demand of the orders which have been issued, and which have been, as is alleged, published in the Natchez Gazette, is by no means unusual. Such documents have often been produced in the courts of the United States and the courts of England. If they contain matter interesting to the nation, the concealment of which is required by the public safety, that matter will appear upon the return. If they do not, and are material, they may be exhibited.

It is said they cannot be material, because they cannot justify any unlawful resistance which may have been employed or meditated by the accused.

Were this admitted, and were it also admitted that such resistance would amount to treason, the orders might still be material, because they might tend to weaken the endeavor to connect such overt act with any overt act of which this court may take cognizance.

The court, however, is rather inclined to the opinion that the subpœna, in such case, ought to be directed to the head of the department in whose custody the orders are, and the court must suppose that the letter of the Secretary of the Navy, which has been stated by the attorney for the United States to refer the counsel for the prisoner to his legal remedy for the copies he desired, alluded to such a motion as is now made.

The affidavit on which the motion is grounded has not been noticed. It is believed that such a subpœna as is asked ought to issue, if there exist any reason for supposing that the testimony may be material, and ought to be admitted. It is only because the subpœna is addressed to those who administer the Government of this country, that such an affidavit was required as would furnish probable cause to believe that the testimony was desired for the real purposes of defence, and not for such as this court will forever discountenance.

Opinion delivered June 18, 1807, on the question whether Charles Willie should be compelled to answer certain questions.

As soon as the court assembled, the Chief Justice delivered the following opinion in the case of Willie:

In point of law the question now before the court relates to the witness himself. The attorney for the United States offers a paper in cipher which he supposes to have proceeded from a person against whom he has preferred an indictment for high treason and another for misdemeanor, both of which are now before the grand jury, and produces a person said to be the secretary or clerk of the accused, who is supposed either to have copied this paper by his directions, or to be able to prove in some other manner that it has proceeded from his authority. To a question demanding whether he understands this paper, the witness has declined giving an answer, saying that the answer might criminate himself; and it is referred to the court to decide whether the excuse he has offered be sufficient to prevent his answering the question which has been propounded to him.

It is a settled maxim of law that no man is bound to criminate himself. This maxim forms one exception to the general rule which declares that every person is compellable to bear testimony in a court of justice. For the witness, who considers himself as being within this exception, it is alleged that he is, and from the nature of things must be, the sole judge of the effect of his answer: that he is, consequently, at liberty to refuse to answer any question, if he will say upon his oath that his answer to that question might criminate himself.

When this opinion was first suggested, the court conceived the principle laid down at the bar to be too broad, and, therefore, required that authorities in support of it might be adduced. Authorities have been adduced, and have been considered. In all of them the court could perceive that an answer to the question propounded might criminate the witness, and he was informed that he was at liberty to refuse an answer. These cases do not appear to the court to support the principle laid down by the counsel for the witness, in the full latitude in which they have stated it. There is no dictum which takes from the court the right to consider and decide whether any direct answer to the particular question propounded could be reasonably supposed to affect the witness. There may be questions, no direct answer to which could in any degree affect him, and there is no case which goes so far as to say that he is not bound to answer such question. The case of Goosly, in this court, is perhaps the strongest that has been adduced. But the general doctrine of the judge in that case must have referred to the circumstances which showed that the answer might criminate him.

When two principles come in conflict with each other, the court must give them both a reasonable construction, so as to preserve them both to a reasonable extent. The principle which entitles the United States to the testimony of every citizen, and the principles by which every witness is privileged not to accuse himself, can neither of them be entirely disregarded. They are believed both to be preserved to a reasonable extent, and according to the true intention of the rule, and of the exception to that rule, by observing that course which it is conceived courts have generally observed. It is this: When a question is propounded, it belongs to the court to consider and to decide whether any direct answer to it can implicate the witness. If this be decided in the negative, then he may answer it without violating the privilege which is secured to him by law. If a direct answer to it may criminate himself, then he must be the sole judge what his answer would be. The court cannot participate with him in this judgment, because they cannot decide on the effect of his answer, without knowing what it would be, and a disclosure of that fact to the judges would strip him of the privilege which the law allows, and which he claims. It follows, necessarily, then, from this state of things, that if the question be of such a description that an answer to it may or may not criminate the witness, according to the purport of that answer, it must rest with himself, who alone can tell what it would be, to answer the question or not. If, in such a case, he says upon his oath that his answer would criminate himself, the court can demand no other testimony of the fact. If the declaration be untrue, it is in conscience and in law as much a perjury as if he had declared any other untruth upon his oath; as it is one of those cases in which the rule of law must be abandoned, or the oath of the witness be received.

The counsel for the United States have also laid down this rule according to their understanding of it; but they appear to the court to have made it as much too narrow, as the counsel for the witness have made it too broad. According to their statement, a witness can never refuse to answer any question unless that answer, unconnected with any other testimony, would be sufficient to convict him of a crime. This would be rendering the rule almost perfectly worthless. Many links frequently compose that chain of testimony which is necessary to convict any individual of a crime. It appears to the court to be the true sense of the rule, that no witness is compellable to furnish any one of them against himself.

It is certainly not only a possible but a probable case, that a witness, by disclosing a single fact, may complete the testimony against himself, and to every effectual purpose accuse himself as entirely as he would do by stating every circumstance which would be required for his conviction. That fact of itself might be unavailing, but all other facts without it would be insufficient. While that remains concealed within his own bosom, he is safe; but draw it from thence, and he is exposed to a prosecution. The rule which declares that no man is compellable to accuse himself, would most obviously be infringed by compelling a witness to disclose a fact of this description.

What testimony may be possessed, or is attainable against any individual, the court can never know. It would seem, then, that the court ought never to compel a witness to give an answer which discloses a fact that would form a necessary and essential part of a crime which is punishable by the laws.

To apply this reasoning to the particular case under consideration. To know and conceal the treason of another is misprision of treason, and is punishable by law. No witness, therefore, is compellable by law to disclose a fact which would form a necessary and essential part of this crime. If the letter in question contain evidence of treason, which is a fact not dependent on the testimony of the witness before the court, and, therefore, may be proved without the aid of his testimony, and if the witness was acquainted with that treason when the letter was written, he may probably be guilty of misprision of treason, and, therefore, the court ought not to compel him to answer any question, the answer to which might disclose his former knowledge of the contents of that letter.

But if the letter should relate to the misdemeanor and not to the treason, the court is not apprized that a knowledge and concealment of the misdemeanor would expose the witness to any prosecution whatever. On this account the court was at first disposed to inquire whether the letter should be deciphered, in order to determine, from its contents, how far the witness could be examined respecting it. The court was inclined to this course, from considering the question as one which might require a disclosure of the knowledge which the witness might have had of the contents of this letter when it was put in cipher, or when it was copied by himself, if, indeed, such was the fact. But on hearing the question more particularly and precisely stated, and finding that it refers only to the present knowledge of the cipher, it appears to the court that the question may be answered without implicating the witness, because his present knowledge would not, it is believed, in a criminal prosecution, justify the inference that his knowledge was acquired previous to this trial, or afford the means of proving that fact.

The court is, therefore, of opinion that the witness may answer the question now propounded.

The gentlemen of the bar will understand the rule laid down by the court to be this:

It is the province of the court to judge whether any direct answer to the question which may be proposed will furnish evidence against the witness.

If such answer may disclose a fact, which forms a necessary and essential link in the chain of testimony, which would be sufficient to convict him of any crime, he is not bound to answer it so as to furnish matter for that conviction.

In such a case the witness must himself judge what his answer will be; and if he says on oath that he cannot answer without accusing himself, he cannot be compelled to answer.

Opinion on the motion for an attachment against Gen. Wilkinson, pronounced Saturday, June 27.

The Chief Justice delivered the following opinion on the motion for an attachment against General Wilkinson:

The motion now under consideration was heard at this time because it was alleged to be founded on a fact which might affect the justice of the case in which the court is about to be engaged, and because while the bills were depending before the grand jury, the court might, without impeding the progress of the business, examine into the complaint which has been made.

The motion is to attach General Wilkinson for a contempt of this court, by obstructing the fair course of justice, with regard to a prosecution depending before it. In support of this charge has been offered the testimony of Mr. Knox, who states a conversation between General Wilkinson and himself, previous to his being served with a subpœna, the object of which was to extract from him whatever information he might possess, respecting the expedition which was the subject of inquiry in this court; and who states, also, that he was afterwards summoned before Judge Hall, who examined him upon interrogatories, and committed him to jail, whence he was taken by order of the deputy marshal, who was a military as well as civil officer, and put on board the Revenge, in which General Wilkinson sailed, for the purpose of being brought from New Orleans to Richmond.

That unfair practices towards a witness, who was to give testimony in this court, or oppression under color of its process, although those practices and that oppression were acted in another district, would be punishable in the mode now suggested, provided the person who had acted therein came within the jurisdiction of the court, is a position which the court is not disposed to controvert; but it is also believed that this mode of punishment ought not to be adopted unless the deviation from law could be clearly attached to the person against whom the motion was made; and unless the deviation was intentional, or unless the course of judicial proceeding was, or might be, so affected by it, as to make a punishment in this mode obviously conducive to a fair and correct administration of justice.

The conversation which took place between General Wilkinson and the witness, on the arrival of the latter in New Orleans, was manifestly held with the intention of drawing from him any information which he might possess, relative to the expedition which was then the subject of inquiry. In this intention, there was nothing unlawful. Government, and those who represent it, may justifiably and laudably use means to obtain voluntary communications, provided those means be not such as might tempt the person making them to give an improper coloring to his representations, which might afterwards adhere to them when repeated in court. The address stated to have been employed, the condescension and regard with which the witness was treated, are not said by himself to have been accompanied with any indications of a desire to draw from him more than the truth. The offer of money, if with a view to corrupt, could not be too severely reprehended. It is certainly a dangerous species of communication between those who are searching for testimony, and the person from whom it is expected. But in this case, the court cannot contemplate the offer as being made with immoral views. The witness had a right to demand from those he was expected to accuse a small sum of money, sufficient to subsist him on his return to his home. He was asked whether, on receiving this sum, his objections to giving testimony would be removed. This was certainly a delicate question, but it might be asked without improper motives, and it was pressed no further. This is not shown to be an attempt to contaminate the source of justice, and a consequent contempt of the court, in which it is administered.

The imprisonment of Mr. Knox, and the order for conveying him from New Orleans to Richmond, were the acts of Judge Hall. Whether his proceedings were legal or illegal, they are not shown to have been influenced by General Wilkinson, and this court cannot presume such to have been the fact. General Wilkinson, therefore, is not responsible for them. They were founded, it is true, on an affidavit made by him; but there was no impropriety in making this affidavit, and it remained with the judge to decide what the law would authorize in the case.

All the subsequent proceedings were directed by the civil authority. The agents who executed the orders of the judge were, indeed, military men, who, most probably, would not have disobeyed the Commander-in-chief; but that officer is not responsible in this way for having failed to interpose his authority, in order to prevent the execution of the orders of the judge, even if those orders ought not to have been given.

Upon a full view of the subject, the case appears to have been this. General Wilkinson was desirous that the testimony of the witness should be obtained; and, aware of the accusations which had before been brought against him for the use he had made of the military power, he was desirous of obtaining the testimony by lawful means, and, therefore, referred the subject to a judge of the Territory, under whose orders all subsequent proceedings were taken. Whether the judge did or did not transcend the limits prescribed by law, those ministerial officers who obeyed his orders cannot be supposed to have acted with a knowledge that he had mistaken his power. Should it be admitted that this would be no defence for them in an action to obtain compensation for the injury, yet it furnishes sufficient evidence that no contempt was intended to this court by General Wilkinson; that he had not been guilty of any intentional abuse of its process, or of any oppression in the manner of executing it.

It is said that Captain Gaines, the gentleman who the marshal appointed as his deputy for this particular purpose, had not taken the oath of office, and was, therefore, not legally qualified to act in that character. However correct this observation may be in itself, it does not appear to the court to justify an attachment against General Wilkinson. The person who sees in the possession of another, a commission as deputy marshal, and sees that others act under the commission, ought not to be subjected to a process of contempt for having made no inquiries respecting the oath which the law requires to be taken.

The attachment will not be awarded, because General Wilkinson cannot be considered as having controlled or influenced the conduct of the civil magistrate, and because in this transaction his intention appears to have been not to violate the laws. In such a case, where an attachment does not seem to be absolutely required by the justice due to the particular individual against whom the prosecution is depending, the court is more inclined to leave the parties to the ordinary course of law, than to employ the extraordinary powers which are given for the purpose of preserving the administration of justice in that purity which ought to be so universally desired.

Opinion on the question concerning the order in which the evidence to the jury, on the trial of Aaron Burr for treason, was to be introduced; pronounced on Tuesday, August 18, 1807.

Although this is precisely the same question relative to the order of evidence which was decided by this court on the motion to commit, yet it is now presented under somewhat different circumstances, and may, therefore, not be considered as determined by the former decision. At that time no indictment was found, no pleadings existed, and there was no standard by which the court could determine the relevancy of the testimony offered, until the fact to which it was to apply should be disclosed. There is now an indictment specifying the charge which is to be proved on the part of the prosecution; there is an issue made up, which presents a point to which all the testimony must apply, and, consequently, it is in the power of the court to determine, with some accuracy, on the relevancy of the testimony which may be offered.

It is contended in support of the motion which has been made, that, according to the regular order of evidence, and the usage of courts, the existence of the fact on which the charge depends, ought to be shown, before any testimony explanatory or confirmatory of that fact can be received. Against the motion, it is contended that the crime alleged in the indictment consists of two parts—the fact and the intention; and that it is in the discretion of the attorney for the United States, first to adduce the one or the other; that no instance has ever occurred of the interference of a court with that arrangement which he has thought proper to make.

As it is not unfrequent, the argument on both sides appears to be in many respects correct. It is the most usual, and appears to be the natural order of testimony to show, first the existence of the fact respecting which the inquiry is to be made. It is unquestionably attended with this advantage; there is a fixed and certain object to which the mind applies with precision all the testimony which may be received, and the court can decide with less difficulty on the relevancy of all the testimony which may be offered. But this arrangement is not clearly shown to be established by any fixed rule of evidence, and no case has been adduced in which it has been forced by the court on the counsel for the prosecution.

On one side, it has been contended that, by requiring the exhibition of the fact in the first instance, a great deal of time may be saved, since there may be a total failure of proof with respect to the fact; and this argument has been answered by observing, that, should there even be such failure, they could not interpose and arrest the progress of the cause; but must permit the counsel for the prosecution to proceed with that testimony which is now offered.

Levying of war is a fact which must be decided by the jury. The court may give general instructions on this as on every other question brought before them, but the jury must decide upon it as compounded of fact and law. Two assemblages of men, not unlike in appearance, possibly may be the one treasonable and the other innocent. If, therefore, the fact exhibited to the court and jury should, in the opinion of the court, not amount to the act of levying war, the court could not stop the prosecution, but must permit the counsel for the United States to proceed to show the intention of the act, in order to enable the jury to decide upon the fact coupled with the intention.

The consumption of time would probably be nearly the same, whether the counsel for the prosecution commenced with the fact or the intention, provided those discussions which respect the admissibility of evidence would be as much avoided in the one mode as in the other. The principal importance which, viewing the question in this light, would seem to attach to its decision, is the different impressions which the fact itself might make, if exhibited at the commencement or close of the prosecution.

Although human laws punish actions, the human mind spontaneously attaches guilt to intentions. The same fact, therefore, may be viewed very differently, where the mind is prepared, by a course of testimony, caculated to impress it with a conviction of the criminal designs of the accused, and where the fact is stated without such preparation. The overt act may be such as to influence the opinion, on the testimony afterwards given, respecting the intention; and the testimony respecting the intention may be such as to influence the opinion on the testimony which may be afterwards given respecting the overt act.

On the question of consuming time, the argument was placed in one point of view, by the counsel for the defence, which excited some doubt. The case was supposed of only one witness to the overt act, and a declaration that it could be proved by no other. The court was asked whether the counsel would be permitted then to proceed to examine the intentions of the accused, and to do worse than waste the time of the court and jury

by exposing, without a possible object, the private views and intentions of any person whatever. Perhaps, in such a case, the cause might be arrested, but this does not appear to warrant the inference that it might be arrested, because the fact proved by the two witnesses did not appear to the court to amount to the act of levying war. In the case supposed, the declaration of the law is positive, and a point proper to be referred to the court occurs, which suspends the right of the jury to consider the subject, and compels them to bring in a verdict of not guilty. In such a case no testimony could be relevant, and all testimony ought to be excluded. Suppose the counsel for the prosecution should say that he had no testimony to prove the treasonable intention; that he believed confidently the object of the assemblage of men on Blannerhasset's island to be innocent; that it did not amount to the crime of levying war—surely it would be a wanton and useless waste of time to proceed with the examination of the overt act. When such a case occurs, it cannot be doubted that a *nolle prosequi* will be entered, or the jury be directed, with the consent of the attorney, to find a verdict of not guilty.

It has been truly stated that the crime alleged in the indictment consists of the fact, and of the intention with which that fact was committed. The testimony disclosing both the fact and the intention must be relevant. The court finds no express rule stating the order in which the attorney is to adduce relevant testimony, nor any case in which a court has interfered with the arrangement he has made. No alteration of that arrangement, therefore, will now be directed.

But it is proper to add that the intention, which is considered as relevant in this stage of the inquiry, is the intention which composes a part of the crime; the intention with which the overt act itself was committed; not a general evil disposition, or an intention to commit a distinct fact. This species of testimony, if admissible at all, is received as corroborative or confirmatory testimony. It does not itself prove the intention with which the act was performed, but it renders other testimony probable which goes to that intention. It is explanatory of, or assistant to that other testimony. Now it is essentially repugnant to the usages of courts, to the declarations of the books by whose authority such testimony is received, that corroborative or confirmatory testimony should precede that which it is to corroborate or confirm. Until the introductory testimony be given, that which is merely corroborative is not relevant, and, of consequence, if objected to, cannot be admitted without violating the best settled rules of evidence.

This position may be illustrated by a direct application to the testimony of General Eaton. So far as his testimony relates to the fact charged in the indictment, so far as relates to levying war on Blannerhasset's island, so far as relates to a design to seize on New Orleans, or to separate by force the Western from the Atlantic States, it is deemed relevant, and is now admissible. So far as it respects other plans, to be executed in the City of Washington or elsewhere, if it indicates a treasonable design, it is a design to commit a distinct act of treason, and is, therefore, not relevant to the present indictment. It can only, by showing a general evil intention, render it more probable that the intention in the particular case was evil; it is merely additional or corroborative testimony, and therefore, if admissible at any time, is only admissible according to rules and principles which the court must respect, after hearing that which it is to confirm.

The counsel will perceive how many questions respecting the relevancy of testimony, the arrangement proposed on the part of the prosecution will most probably produce. He is, however, at liberty to proceed according to his own judgment, and the court feels itself bound to exclude such testimony only, as, at the time of its being offered, does not appear to be relevant.

Opinion on the motion to stop the introduction of evidence in the trial of Aaron Burr for treason; pronounced Monday, August 31.

The question now to be decided has been argued in a manner worthy of its importance, and with an earnestness evincing the strong conviction felt by the counsel on each side that the law is with them.

A degree of eloquence, seldom displayed on any occasion, has embellished a solidity of argument and a depth of research, by which the court has been greatly aided in forming the opinion it is about to deliver.

The testimony adduced on the part of the United States, to prove the overt act laid in the indictment having shown, and the attorney for the United States having admitted, that the prisoner was not present when the act, whatever may be its character, was committed, and there being no reason to doubt but that he was at a great distance and in a different State, it is objected to the testimony offered on the part of the United States to connect him with those who committed the overt act, that such testimony is totally irrelevant, and must, therefore, be rejected.

The arguments in support of this motion respect, in part, the merits of the case, as it may be supposed to stand, independent of the pleadings, and, in part, as exhibited by the pleadings.

On the first division of the subject, two points are made:

1st. That, conformably to the Constitution of the United States, no man can be convicted of treason who was not present when the war was levied.

2d. That, if this construction be erroneous, no testimony can be received to charge one man with the overt acts of others, until those overt acts, as laid in the indictment, be proved to the satisfaction of the court.

The question which arises on the construction of the Constitution, in every point of view in which it can be contemplated, is of infinite moment to the people of this country, and to their Government, and requires the most temperate and the most deliberate consideration.

"Treason against the United States shall consist only in levying war against them."

What is the natural import of the words "levying of war?" and who may be said to "levy" it? Had their first application to treason been made by our Constitution, they would certainly have admitted of some latitude of construction. Taken most literally, they are, perhaps, of the same import with the words *raising* or *creating* war; but as those who join after the commencement are equally the objects of punishment, there would, probably, be a general admission that the term comprehended making war, or carrying on war. In the construction which the courts would be required to give these words, it is not improbable that those who should raise, create, make, or carry on war, might be comprehended. The various acts which would be considered as coming within the term, would be settled by a course of decisions; and it would be affirming boldly to say, that those only who actually constituted a portion of the military force appearing in arms could be considered as levying war. There is no difficulty in affirming that there must be a war, or the crime of levying it cannot exist; but there would often be considerable difficulty in affirming that a particular act did, or did not, involve the person committing it in the guilt, and in the fact of levying war. If, for example, an army should be actually raised, for the avowed purpose of carrying on open war against the United States, and subverting their Government, the point must be weighed very deliberately before a judge would venture to decide that an overt act of levying war had not been committed by a commissary of purchases, who never saw the army, but who, knowing its object, and leaguing himself with the rebels, supplied that army with provisions; or, by a recruiting officer, holding a commission in the rebel service, who, though never in camp, executed the particular duty assigned to him.

But, the term is not, for the first time, applied to treason by the Constitution of the United States. It is a technical term. It is used in a very old statute of that country whose language is our language, and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our Constitution in the sense which had been affixed to it by those from whom we borrowed it. So far as the meaning of any terms, particularly terms of art, is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is, therefore, reasonable to suppose, unless it be incompatible with other expressions of the Constitution, that the term "levying war," is used in that instrument in the same sense in which it was understood in England and in this country to have been used in the statute of the 25th Edward III., from which it was borrowed.

It is said that this meaning is to be collected only from adjudged cases. But this position cannot be conceded to the extent in which it is laid down. The superior authority of adjudged cases will never be controverted. But those celebrated elementary writers, who have stated the principles of the law, whose statements have received the common approbation of legal men, are not to be disregarded. Principles laid down by such writers as Coke, Hale, Foster, and Blackstone, are not lightly to be rejected. These books are in the hands of every student. Legal opinions are formed upon them, and those opinions are afterwards carried to the bar, the bench and the Legislature. In the exposition of terms, therefore, used in instruments of the present day, the definitions and the *dicta* of those authors, if not contradicted by adjudications, and if compatible with the words of the statute, are entitled to respect. It is to be regretted that they do not shed as much light on this part of the subject as is to be wished.

Coke does not give a complete definition of the term, but puts cases which amount to levying war. "An actual rebellion or insurrection," he says, "is a levying of war." In whom? Coke does not say whether in those only who appear in arms, or in all those who take part in the rebellion or insurrection by real open deed.

Hale, in treating on the same subject, puts many cases which shall constitute a levying of war, without which no act can amount to treason, but he does not particularize the parts to be performed by the different persons concerned in that war, which shall be sufficient to fix on each the guilt of levying it.

Foster says, "the joining with rebels in an act of rebellion, or with enemies in acts of hostility, will make a man a traitor." "Furnishing rebels or enemies with money, arms, ammunition, or other necessaries, will *prima facie*, make a man a traitor."

Foster does not say that he would be a traitor under the words of the statute, independent of the legal rule which attaches the guilt of the principal to an accessary, nor that his treason is occasioned by that rule. In England this discrimination need not be made, except for the purpose of framing the indictment; and, therefore, in the English books we do not perceive any effort to make it. Thus, surrendering a castle to rebels, being in confederacy with them, is said by Hale and Foster to be treason under the clause of levying war; but whether it be levying war in fact, or aiding those who levy it, is not said. Upon this point Blackstone is not more satisfactory. Although we may find among the commentators upon treason, enough to satisfy the inquiry, What is a state of internal war? yet, no precise information can be acquired from them which would enable us to decide with clearness, whether persons not in arms, but taking part in a rebellion, could be said to levy war, independent of that doctrine which attaches to the accessary the guilt of his principal.

If, in adjudged cases, this question has been taken up and directly decided, the court has not seen those cases. The arguments which may be drawn from the form of the indictment, though strong, is not conclusive. In the precedent found

in Tremaine, Mary Speake, who was indicted for furnishing provisions to the party of the Duke of Monmouth, is indicted for furnishing provisions to those who were levying war, not for levying war herself. It may correctly be argued that, had this act amounted to levying war, she would have been indicted for levying war, and the furnishing of provisions would have been laid as the overt act. The court felt this when the precedent was produced. But the argument, though strong, is not conclusive; because, in England, the inquiry, whether she had become a traitor by levying war, or by giving aid and comfort to those who were levying war, was unimportant; and because, too, it does not appear, from the indictment, that she was actually concerned in the rebellion; that she belonged to the rebel party; or was guilty of anything further than a criminal speculation in selling them provisions.

It is not deemed necessary to trace the doctrine that, in treason, all are principals, to its source. Its origin is, most probably, stated correctly by Judge Tucker, in a work, the merit of which is with pleasure acknowledged. But if a spurious doctrine has been introduced into the common law, and has, for centuries, been admitted as genuine, it would require great hardihood in a judge to reject it. Accordingly, we find those of the English jurists, who seem to disapprove the principle, declaring that it is now too firmly settled to be shaken.

It is unnecessary to trace this doctrine to its source, for another reason. The terms of the Constitution comprise no question respecting principal and accessary, so far as either may be truly and in fact said to levy war. Whether in England a person would be indicted in express terms for levying war, or for assisting others in levying war; yet, if in correct and legal language, he can be said to have levied war; and if it has never been decided that the act would not amount to levying war, his case may, without violent construction, be brought within the letter and the plain meaning of the Constitution.

In examining these words, the argument which may be drawn from felonies, as for example, from murder, is not more conclusive. Murder is the single act of killing with malice aforethought. But war is a complex operation, composed of many parts, co-operating with each other. No one man, or body of men, can perform them all, if the war be of any continuance. Although, then, in correct and in law language, he alone is said to have murdered another who has perpetrated the fact of killing, or has been present aiding that fact, it does not follow that he alone can have levied war who has borne arms. All those who perform the various and essential military parts of prosecuting the war, which must be assigned to different persons, may, with correctness and accuracy, be said to levy war.

Taking this view of the subject, it appears to the court, that those who perform a part in the prosecution of the war may correctly be said to levy war and to commit treason under the Constitution. It will be observed, that this opinion does not extend to the case of a person who performs no act in the prosecution of the war, who counsels and advises it, or who, being engaged in the conspiracy, fails to perform his part. Whether such persons may be implicated by the doctrine, that, whatever would make a man an accessary in felony, makes him a principal in treason; or are excluded, because that doctrine is inapplicable to the United States, the Constitution having declared that treason shall consist only in levying war, and having made the proof of *overt acts* necessary to conviction, is a question of vast importance, which it would be proper for the Supreme Court to take a fit occasion to decide, but which an inferior tribunal would not willingly determine, unless the case before them should require it.

It may now be proper to notice the opinion of the Supreme Court, in the case of the United States against Bollman and Swartwout. It is said that this opinion, in declaring that those who do not bear arms may yet be guilty of treason, is contrary to law, and is not obligatory, because it is extra-judicial, and was delivered on a point not argued. This court is, therefore, required to depart from the principle there laid down.

It is true that, in that case, after forming the opinion that no treason could be committed, because no treasonable assemblage had taken place, the court might have dispensed with proceeding further in the doctrines of treason. But it is to be remembered, that the judges might act separately, and, perhaps, at the same time, on the various prosecutions which might be instituted, and that no appeal lay from their decisions. Opposite judgments on the point would have presented a state of things infinitely to be deplored by all. It was not surprising, then, that they should have made some attempt to settle principles which would probably occur, and which were in some degree connected with the point before them.

The court had employed some reasoning to show that, without the actual imbodying of men, war could not be levied. It might have been inferred from this, that those only who were so imbodied could be guilty of treason. Not only to exclude this inference, but also to affirm the contrary, the court proceeded to observe: "It is not the intention of the court to say that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting, by force, a treasonable object, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

This court is told that, if this opinion be incorrect, it ought not to be obeyed, because it was extra-judicial. For myself, I can say that I could not lightly be prevailed on to disobey it, were I even convinced that it was erroneous; but I would certainly use any means which the law placed in my power to carry the question again before the

Supreme Court for reconsideration, in a case in which it would directly occur, and be fully argued.

The court which gave this opinion was composed of four judges. At the time I thought them unanimous, but I have since had reason to suspect that one of them, whose opinion is entitled to great respect, and whose indisposition prevented his entering into the discussions on some of those points which were not essential to the decision of the very case under consideration, did not concur in this particular point with his brethren. Had the opinion been unanimous, it would have been given by a majority of the judges. But should the three who were absent concur with that judge who was present, and who perhaps dissents from what was then the opinion of the court, a majority of the judges may overrule this decision. I should, therefore, feel no objection, although I then thought, and still think, the opinion perfectly correct, to carry the point, if possible, again before the Supreme Court, if the case should depend upon it.

In saying that I still think the opinion perfectly correct, I do not consider myself as going further than the preceding reasoning goes. Some gentlemen have argued as if the Supreme Court had adopted the whole doctrine of the English books on the subject of accessaries to treason. But certainly such is not the fact. Those only who perform a part, and who are leagued in the conspiracy, are declared to be traitors. To complete the definition, both circumstances must concur. They must "perform a part," which will furnish the overt act, and they must be "leagued in the conspiracy." The person who comes within this description, in the opinion of the court, levies war. The present motion, however, does not rest upon this point; for, if under this indictment the United States might be let in to prove the part performed by the prisoner, if he did perform any act, the court could not stop the testimony in its present stage.

2. The second point involves the character of the overt act which has been given in evidence, and calls upon the court to declare whether that act can amount to levying war. Although the court ought now to avoid any analysis of the testimony which has been offered in this case, provided the decision of the motion should not rest upon it, yet many reasons concur in giving peculiar propriety to a delivery, in the course of these trials, of a detailed opinion on the question, What is levying war? As this question has been argued at great length, it may probably save much trouble to the counsel now to give that opinion.

In opening the case it was contended by the attorney for the United States, and has since been maintained on the part of the prosecution, that neither arms nor the application of force or violence are indispensably necessary to constitute the fact of levying war. To illustrate these positions several cases have been stated, many of which would clearly amount to treason. In all of them, except that which was probably intended to be this case, and on which no observation will be made, the object of the assemblage was clearly treasonable. Its character was unequivocal, and was demonstrated by evidence furnished by the assemblage itself. There was no necessity to rely upon information drawn from extrinsic sources, or, in order to understand the fact, to pursue a course of intricate reasoning, and to conjecture motives. A force is supposed to be collected for an avowed treasonable object, in a condition to attempt that object, and to have commenced the attempt by moving towards it. I state these particulars because, although the cases put may establish the doctrine they are intended to support, may prove that the absence of arms, or the failure to apply force to sensible objects, by the actual commission of violence on those objects, may be supplied by other circumstances; yet they also serve to show that the mind requires those circumstances to be satisfied that war is levied.

The construction of the opinion of the Supreme Court is, I think, thus far correct. It is certainly the opinion which was at the time entertained by myself, and which is still entertained. If a rebel army, avowing its hostility to the sovereign power, should front that of the Government—should march and countermarch before it—should manœuvre in its face, and should then disperse from any cause whatever without firing a gun—I confess I could not, without some surprise, hear gentlemen seriously contend that this could not amount to an act of levying war. A case equally strong may be put with respect to the absence of military weapons. If the party be in a condition to execute the purposed treason without the usual implements of war, I can perceive no reason for requiring those implements in order to constitute the crime.

It is argued that no adjudged case can be produced from the English books where actual violence has not been committed. Suppose this were true. No adjudged case has, or, it is believed, can be produced from those books in which it has been laid down that war cannot be levied without the actual application of violence to external objects. The silence of the reporters on this point may be readily accounted for. In cases of actual rebellion against the Government, the most active and influential leaders are generally most actively engaged in the war; and as the object can never be to extend punishment to extermination, a sufficient number are found among those who have committed actual hostilities to satisfy the avenging arm of justice. In cases of constructive treason—such as pulling down meeting-houses—where the direct and avowed object is not the destruction of the sovereign power, some act of violence might be generally required to give the crime a sufficient degree of malignity to convert it into treason, to render the guilt of any individual unequivocal.

But Vaughan's case is a case where there was no real application of violence, and where the act was adjudged to be treason. Gentlemen argue that Vaughan was only guilty of adhering to the King's enemies, but they have not the authority of the court for so saying. The judges unquestionably treat the cruising of Vaughan as an overt act of levying war.

The opinions of the best elementary writers concur in declaring, that, where a body of men are assembled for the purpose of making war against the Government, and are in a condition to make that war, the assemblage is an act of levying war. These opinions are contradicted by no adjudged case, and are supported by Vaughan's case. This court is not inclined to controvert them.

But although, in this respect, the opinion of the Supreme Court has not been misunderstood on the part of the prosecution, that opinion seems not to have been fully adverted to in a very essential point, in which it is said to have been misconceived by others.

The opinion, I am informed, has been construed to mean that any assemblage whatever for a treasonable purpose, whether in force or not in force, whether in a condition to use violence or not in that condition, is a levying of war. It is this construction which has not indeed been expressly advanced at the bar, but which is said to have been adopted elsewhere, that the court deems it necessary to examine.

Independent of authority—trusting only to the dictates of reason—and expounding terms according to their ordinary signification—we should probably all concur in the declaration that war could not be levied without the employment and exhibition of force. War is an appeal from reason to the sword, and he who makes the appeal evidences the fact by the use of the means. His intention to go to war may be proved by words, but the actual going to war is a fact which is to be proved by open deed. The end is to be effected by force, and it would seem that in cases where no declaration is to be made, the state of actual war could only be created by the employment of force, or being in a condition to employ it.

But the term having been adopted by our Constitution, must be understood in that sense in which it was universally received in this country when the Constitution was framed. The sense in which it was received is to be collected from the most approved authorities of that nation from which we have borrowed the term.

Lord Coke says, that levying war against the King was treason at the common law. "A compassing or conspiracy to levy war," he adds, "is no treason; for there must be a levying of war in fact." He proceeds to state cases of constructive levying war, where the direct design is not to overturn the Government, but to effect some general object by force. The terms he employs in stating these cases are such as indicate an impression on his mind that actual violence is a necessary ingredient in constituting the fact of levying war. He then proceeds to say, "An actual rebellion or insurrection is a levying of war within this act." "If any with strength and weapons invasive and defensive doth hold and defend a castle or fort against the King and his power, this is levying of war against the King." These cases are put to illustrate what he denominates "a war in fact." It is not easy to conceive "an actual invasion or insurrection" unconnected with force, nor can "a castle or fort be defended with strength and weapons invasive and defensive" without the employment of actual force. It would seem, then, to have been the opinion of Lord Coke, that to levy war there must be an assemblage of men in a condition, and with an intention, to employ force. He certainly puts no case of a different description.

Lord Hale says, (149. 6,) "what shall be said to be a levying of war is partly a question of fact; for it is not every unlawful or riotous assembly of many persons to do an unlawful act, though *de facto* they commit the act they intend, that makes a levying of war; for then every riot would be treason, &c., but it must be such an assembly as carries with it *speciem belli*, the appearance of war, as if they ride or march *vexillis explicatis*, with colors flying, or if they be formed into companies, or furnished with military officers, or if they are armed with military weapons, as swords, guns, bills, halberds, pikes, and are so circumstanced that it may be reasonably concluded they are in a posture of war, which circumstances are so various that it is hard to describe them all particularly."

"Only the general expressions in all the indictments of this nature that I have seen are *more guerrine arraiati*, arrayed in warlike manner."

He afterwards adds, "If there be a war levied as is above declared, viz: an assembly arrayed in warlike manner, and so in the posture of war for any treasonable attempt, it is *bellum livatum*, but not *percussum*."

It is obvious that Lord Hale supposed an assemblage of men in force, in a military posture, to be necessary to constitute the fact of levying war. The idea he appears to suggest, that the apparatus of war is necessary, has been very justly combated by an able judge who has written a valuable treatise on the subject of treason; but it is not recollected that his position, that the assembly should be in a posture of war for any treasonable attempt, has ever been denied. Hawk. ch. 17, sec. 23, says, "That not only those who rebel against the King, and take up arms to dethrone him, but also, in many other cases, those who, in a violent and forcible manner, withstand his lawful authority, are said to levy war against him; and therefore those that hold a fort or castle against the King's forces, or keep together armed numbers of men against the King's express command, have been adjudged to levy war against him."

The cases put by Hawkins are all cases of actual force and violence. "Those who rebel against the King, and take up arms to dethrone him." In many other cases those "who, in a violent and forcible manner, withstand his lawful authority." "Those that hold a fort or castle against his forces, or keep together armed numbers of men against his express command."

These cases are obviously cases of force and violence.

Hawkins next proceeds to describe cases in which war is understood to be levied under the statute, although it was not directly made against the Government. This Lord Hale terms an *interpretatio*, or constructive levying of war, and it will be perceived that he puts no case in which actual force is dispensed with.

"Those also, he says, who make an insurrection in order to redress a public grievance, whether it be a real or pretended one, and, of their own authority, attempt with force to redress it, are said to levy war against the King, although they have no direct design against his person, inasmuch as they insolently invade his prerogative, by attempting to do that by private authority which he by public justice ought to do, which manifestly tends to a downright rebellion; as where great numbers *by force* attempt to remove certain persons from the King," &c. The cases here put by Hawkins of a constructive levying of war do, in terms, require force as a constituent part of the description of the offence.

Judge Foster, in his valuable treatise on treason, states the opinion which he has quoted from Lord Hale, and differs from that written so far as the latter might seem to require swords, drums, colors, &c., what he terms the pomp and pageantry of war, as essential circumstances to constitute the fact of levying war. In the cases of Damaree and Purchase, he says, "the want of those circumstances weighed nothing with the court, although the prisoners' counsel insisted much on that matter." But, he adds, "the number of the insurgents supplied the want of military weapons, and they were provided with axes, crows, and other tools of the like nature proper for the mischief they intended to effect. *Furor arma ministrat.*"

It is apparent that Judge Foster here alludes to an assemblage in force, or, as Lord Hale terms it, "in a warlike posture;" that is, in a condition to attempt or proceed upon the treason which had been contemplated. The same author afterwards states at large the cases of Damaree and Purchase, from 8th State Trials, and they are cases where the insurgents not only assembled in force, in the posture of war, or in a condition to execute the treasonable design, but they did actually carry it into execution, and did resist the guards who were sent to disperse them.

Judge Foster states, section 4, all insurrections to effect certain innovations of a public and general concern, by an armed force, to be, in construction of law, high treason within the clause of levying war.

The cases put by Foster of constructive levying of war, all contain, as a material ingredient, the actual employment of force. After going through this branch of the subject, he proceeds to state the law in the case of an actual levying of war, that is, where the war is intended directly against the Government.

He says, section 9, "An assembly armed and arrayed in a warlike manner, for a treasonable purpose, is *bellum livatum* though not *bellum percussum*. Listing and marching are sufficient overt acts without coming to a battle or action. So, cruising on the King's subjects under a French commission, France being then at war with us, was held to be adhering to the King's enemies, though no other act of hostility be proved."

"An assembly armed and arrayed in a warlike manner for any treasonable purpose" is certainly in a state of force; in a condition to execute the treason for which they assembled. The words "enlisting and marching," which are overt acts of levying war, do, in the arrangement of the sentence, also imply a state of force, though that state is not expressed in terms; for the succeeding words, which state a particular event as not having happened, prove that event to have been the next circumstance to those which had happened; they are "without coming to a battle or action." "If men be enlisted and march," that is, if they march prepared for battle or in a condition for action, (for marching is a technical term applied to the movement of a military corps,) it is an overt act of levying war, though they do not come to a battle or action. This exposition is rendered the stronger by what seems to be put in the same sentence as a parallel case with respect to adhering to an enemy. It is cruising under a commission from an enemy without committing any other act of hostility. Cruising is the act of sailing in warlike form and in a condition to assail those of whom the cruiser is in quest.

This exposition, which seems to be that intended by Judge Foster, is rendered the more certain by a reference to the case in the State Trials from which the extracts are taken. The words used by the Chief Justice are, "when men form themselves into a body, and march, rank and file, with weapons offensive and defensive, this is levying of war with open force, if the design be public." Mr. Phipps, the counsel for the prisoner, afterwards observed, "intending to levy war is not treason unless a war be actually levied." To this the Chief Justice answered, "Is it not actually levying of war, if they actually provide arms and levy men, and, in a warlike manner, set out and cruise, and come with a design to destroy our ships?" Mr. Phipps still insisted "it would not be an actual levying of war unless they committed some act of hostility. "Yes, indeed," said the Chief Justice, "the going on board and being in a posture to attack the King's ships." Mr. Baron Powis added, "but for you to say that, because they did not actually fight, it is not a levying of war, is it not plain what they did intend? That they came with that intention, that they came in that posture, that they came armed, and had guns and blunderbusses, and surrounded the ship twice; they came with an armed force, that is a strong evidence of the design."

The point insisted on by counsel in the case of Vaughan, as in this case, was, that war could not be levied without actually fighting. In this case the counsel was very properly overruled; but it is apparent that the judges proceeded entirely on the idea that a warlike posture was indispensable to the fact of levying war.

Judge Foster proceeds to give other instances of levying war:—"Attacking the King's forces in opposition to his authority, upon a march or in

quarters, is levying war." "Holding a castle or fort against the King or his forces, if actual force be used in order to keep possession, is levying war. But a bare detainer, as suppose by shutting the gates against the King or his forces, without any other force from within, Lord Hale conceiveth, will not amount to treason."

The whole doctrine of Judge Foster, on this subject, seems to demonstrate a clear opinion that a state of force and violence, a posture of war, must exist to constitute, technically as well as really, the fact of levying war.

Judge Blackstone seems to concur with his predecessors. Speaking of levying war, he says: "This may be done by taking arms not only to dethrone the King, but under pretence to reform religion or the laws, or to remove evil counsellors, or other grievances, whether real or pretended; for the law does not, neither can it, permit any private man, or set of men, to interfere forcibly in matters of such high importance."

He proceeds to give examples of levying war, which show that he contemplated actual force as a necessary ingredient in the composition of this crime. It would seem, then, from the English authorities, that the words "levying war" have not received a technical different from their natural meaning, so far as respects the character of the assemblage of men which may constitute the fact. It must be a warlike assemblage, carrying the appearance of force, and in a situation to practise hostility.

Several judges of the United States have given opinions at their circuits on this subject, all of which deserve and will receive the particular attention of this court.

In his charge to the grand jury, when John Fries was indicted, in consequence of a forcible opposition to the direct tax, Judge Iredell is understood to have said, "I think I am warranted in saying, that if, in the case of the insurgents who may come under your consideration, the intention was to prevent, by force of arms, the execution of any act of the Congress of the United States altogether, any forcible opposition, calculated to carry that intention into effect, was a levying war against the United States, and, of course, an act of treason." To levy war, then, according to this opinion of Judge Iredell, required the actual exertion of force.

Judge Patterson, in his opinions delivered in two different cases, seems not to differ from Judge Iredell. He does not, indeed, precisely state the employment of force as necessary to constitute a levying of war, but in giving his opinion in cases in which force was actually employed, he considers the crime in one case as dependent on the intention; and in the other case he says, "combining these facts and this design," (that is, combining actual force with a treasonable design,) "the crime is high treason."

Judge Peters has also indicated the opinion that force was necessary to constitute the crime of levying war.

Judge Chase has been particularly clear and explicit. In an opinion, which he appears to have prepared on great consideration, he says: "The court are of opinion, that if a body of people conspire and meditate an insurrection to resist or oppose the execution of a statute of the United States by force, that they are only guilty of a high misdemeanor; but if they proceed to carry such intention into execution by force, that they are guilty of the treason of levying war; and the quantum of the force employed neither increases nor diminishes the crime; whether by one hundred, or one thousand persons, is wholly immaterial. The court are of opinion, that a combination, or conspiracy, to levy war against the United States, is not treason, unless, combined with an attempt to carry such combination or conspiracy into execution, some actual force or violence must be used in pursuance of such design to levy war; but that it is altogether immaterial whether the force used be sufficient to effectuate the object. Any force connected with the intention will constitute the crime of levying war."

In various parts of the opinion delivered by Judge Chase in the case of Fries, the same sentiments are to be found. It is to be observed that these judges are not content that troops should be assembled in a condition to employ force. According to them some degree of force must have been actually employed.

The judges of the United States, then, so far as their opinions have been quoted, seem to have required still more to constitute the fact of levying war than has been required by the English books. Our judges seem to have required the actual exercise of force, the actual employment of some degree of violence. This, however, may be, and probably is, because in the cases in which their opinions were given, the design not having been to overturn the Government, but to resist the execution of a law, such an assemblage would be sufficient for the purpose as to require the actual employment of force to render the object unequivocal.

But it is said all these authorities have been overruled by the decision of the Supreme Court in the case of the United States against Swartwout and Bollman. If the Supreme Court have, indeed, extended the doctrine of treason further than it has heretofore been carried by the judges of England or of this country, their decision would be submitted to. At least this court could go no further than to endeavor again to bring the point directly before them. It would, however, be expected that an opinion which is to overrule all former precedents, and to establish a principle never before recognised, should be expressed in plain and explicit terms. A mere implication ought not to prostrate a principle which seems to have been so well established. Had the intention been entertained to make so material a change in this respect, the court ought to have expressly declared, that any assemblage of men whatever, who had formed a treasonable design, whether in force or not, whether in a condition to attempt the design or not, whether attended with warlike appearances or not, constitutes the fact of levying war. Yet no declaration to this amount is made.

Not an expression of the kind is to be found in the opinion of the Supreme Court. The foundation on which this argument rests is the omission of the court to state that the assemblage, which constitutes the fact of levying war, ought to be in force, and some passages which show that the question respecting the nature of the assemblage was not in the mind of the court when the opinion was drawn, which passages are mingled with others, which at least show that there was no intention to depart from the course of the precedents in cases of treason by levying war.

Every opinion, to be correctly understood, ought to be considered with a view to the case in which it was delivered. In the case of the United States against Bollman and Swartwout, there was no evidence that even two men had ever met for the purpose of executing the plan in which those persons were charged with having participated. It was, therefore, sufficient for the court to say, that, unless men were assembled, war could not be levied. That case was decided by this declaration. The court might, indeed, have defined the species of assemblage which would amount to levying of war, but, as this opinion was not a treatise on treason, but a decision of a particular case, expressions of doubtful import should be construed in reference to the case itself; and the mere omission to state that a particular circumstance was necessary to the consummation of the crime, ought not to be construed into a declaration that the circumstance was unimportant. General expressions ought not to be considered as overruling settled principles, without a direct declaration to that effect. After these preliminary observations the court will proceed to examine the opinion which has occasioned them.

The first expression in it, bearing on the present question is, "to constitute that specific crime for which the prisoner, now before the court, has been committed, war must be actually levied against the United States. However flagitious may be the crime of conspiracy to subvert, by force, the Government of our country, such conspiracy is not treason. To conspire to levy war, and actually to levy war, are distinct offences. The first must be brought into operation by the assemblage of men for a purpose treasonable in itself, or the fact of levying war cannot have been committed."

Although it is not expressly stated that the assemblage of men for the purpose of carrying into operation the treasonable intent, which will amount to levying war, must be an assemblage in force, yet it is fairly to be inferred from the context; and nothing like dispensing with force appears in this paragraph. The expressions are, "to constitute the crime, war must be actually levied." A conspiracy to levy war is spoken of as "a conspiracy to subvert, by force, the Government of our country." Speaking in general terms of an assemblage of men for this or for any other purpose, a person would naturally be understood as speaking of an assemblage in some degree adapted to the purpose. An assemblage to subvert, by force, the Government of our country, and amounting to a levying of war, should be an assemblage in force. In a subsequent paragraph the court says, "it is not the intention of the court to say, that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled in order to effect, by force, a treasonable purpose, all those who perform any part, however minute, &c., and who are actually leagued in the general conspiracy, are traitors. But there must be an actual assembling of men for the treasonable purpose to constitute a levying of war."

The observations made on the preceding paragraph, apply to this: "A body of men actually assembled, in order to effect, by force, a treasonable purpose," must be a body assembled with such appearance of force as would warrant the opinion that they were assembled for the particular purpose; an assemblage to constitute an actual levying of war should be an assemblage with such appearance of force as would justify the opinion that they met for that purpose. This explanation, which is believed to be natural, certainly not a strained explanation of the words, derives some additional aid from the terms in which the paragraph last quoted commences: "It is not the intention of the court to say that no individual can be guilty of treason who has not appeared in arms against his country." These words seem to obviate an inference which might otherwise have been drawn from the preceding paragraph. They indicate that, in the mind of the court, the assemblage stated in that paragraph was an assemblage in arms; that the individuals who composed it had appeared in arms against their country; that is, in other words, that the assemblage was a military, a warlike assemblage.

The succeeding paragraph in the opinion, relates to a conspiracy, and serves to show that force and violence were in the mind of the court, and that there was no idea of extending the crime of treason, by construction, beyond the constitutional definition which had been given of it.

Returning to the case actually before the court, it is said "a design to overturn the Government of the United States in New Orleans, by force, would have been unquestionably a design which, if carried into execution, would have been treason, and the assemblage of a body of men for the purpose of carrying it into execution, would amount to levying of war against the United States."

Now what could reasonably be said to be an assemblage of a body of men for the purpose of overturning the Government of the United States in New Orleans by force? Certainly an assemblage in force, an assemblage prepared and intending to act with force, a military assemblage. The decisions heretofore made by the judges of the United States, are then declared to be in conformity with the principles laid down by the Supreme Court. Is this declaration compatible with the idea of departing from those opinions on a point within the contemplation of the court? The opinions of Judge Patterson and Judge Iredell are

said "to imply an actual assembling of men, though they rather designed to remark on the purpose to which the force was to be applied than on the nature of the force itself." This observation certainly indicates that the necessity of an assemblage of men was the particular point the court meant to establish, and that the idea of force was never separated from this assemblage.

The opinion of Judge Chase is next quoted with approbation. This opinion, in terms, requires the employment of force.

After stating the verbal communications said to have been made by Mr. Swartwout to General Wilkinson, the court says: "If these words import that the Government of New Orleans was to be revolutionized by force, although merely as a step to, or a mean of, exciting some greater projects, the design was unquestionably treasonable, and any assemblage of men for that purpose would amount to a levying of war."

The words "any assemblage of men," if construed to affirm that any two or three of the conspirators who might be found together after this plan had been formed, would be the act of levying war, would certainly be misconstrued. The sense of the expression "any assemblage of men" is restricted by the words "for this purpose." Now could it be in the contemplation of the court that a body of men would assemble for the purpose of revolutionizing New Orleans by force, who should not themselves be in force?

After noticing some difference of opinion among the judges respecting the import of the words said to have been used by Mr. Swartwout, the court proceeds to observe: "But whether this treasonable intention be really imputable to the plan or not, it is admitted that it must have been carried into execution by an open assemblage for that purpose, previous to the arrest of the prisoner, in order to consummate the crime as to him."

Could the court have conceived "an open assemblage" "for the purpose of overturning the Government of New Orleans by force" "to be only equivalent to a secret furtive assemblage, without the appearance of force?"

After quoting the words of Mr. Swartwout, from the affidavit, in which it was stated that Mr. Burr was levying an army of seven thousand men, and observing that the treason to be inferred from these words would depend on the intention with which it was levied, and on the progress which had been made in levying it, the court say, "the question then is, whether this evidence proves Colonel Burr to have advanced so far in levying an army as actually to have assembled them."

Actually to assemble an army of seven thousand men is unquestionably to place those who are so assembled in a state of open force. But as the mode of expression used in this passage might be misconstrued so far as to countenance the opinion that it would be necessary to assemble the whole army in order to constitute the fact of levying war, the court proceeds to say: "It is argued that since it cannot be necessary that the whole seven thousand men should be assembled, their commencing their march by detachments to the place of rendezvous must be sufficient to constitute the crime."

"This position is correct, with some qualification. It cannot be necessary that the whole army should assemble, and that the various parts which are to compose it should have combined. But it is necessary there should be an actual assemblage; and therefore this evidence should make the fact unequivocal.

"The travelling of individuals to the place of rendezvous, would, perhaps, not be sufficient. This would be an equivocal act, and has no warlike appearance. The meeting of particular bodies of men, and their marching from places of partial to a place of general rendezvous, would be such an assemblage."

The position here stated by the counsel for the prosecution is, that the army "commencing its march by detachments to the place of rendezvous, (that is, of the army,) must be sufficient to constitute the crime."

This position is not admitted by the court to be universally correct. It is said to be "correct with some qualification." What is that qualification?

"The travelling of individuals to the place of rendezvous," and by this term is not to be understood one individual by himself, but several individuals either separately or together, but not in military form, "would, perhaps, not be sufficient." Why not sufficient? Because, says the court, "this would be an equivocal act, and has no warlike appearance." The act, then, should be unequivocal, and should have a warlike appearance. It must exhibit, in the words of Sir Matthew Hale, *speciem belli*, the appearance of war. This construction is rendered in some measure necessary when we observe that the court is qualifying the position. "That the army, commencing their march by detachments to the place of rendezvous, must be sufficient to constitute the crime." In qualifying this position they say, "the travelling of individuals would, perhaps, not be sufficient." Now, a solitary individual travelling to any point, with any intent, could not, without a total disregard of language, be termed a marching detachment. The court, therefore, must have contemplated several individuals travelling together; and the words being used in reference to the position they were intended to qualify, would seem to indicate the distinction between the appearances attending the usual movement of a company of men for civil purposes, and that military movement which might, in correct language, be denominated "marching by detachments."

The court then proceeded to say, "the meeting of particular bodies of men, and the marching from places of partial to a place of general rendezvous, would be such an assemblage."

It is obvious from the context that the court must have intended to state a case which would in itself be unequivocal, because it would have a warlike appearance. The case stated, is that of distinct bodies of men assembling at different places and marching from these places of partial to a place of general rendezvous. When this has been done, an assemblage is produced which would in itself be unequivocal. But when is it done? what is the assemblage here described? The assemblage formed of the different bodies of partial at a place of general rendezvous. In describing the mode of coming to this assemblage the civil term "travelling" is dropped, and the military term "marching" is employed. If this was intended as a definition of an assemblage which would amount to levying war, the definition requires an assemblage at a place of general rendezvous, composed of bodies of men who had previously assembled at places of partial rendezvous. But this is not intended as a definition; for, clearly, if there should be no places of partial rendezvous, if troops should imbody in the first instance, in great force, for the purpose of subverting the Government by violence, the act would be unequivocal; it would have a warlike appearance, and it would, according to the opinion of the Supreme Court, properly construed, and according to the English authorities, amount to levying war. But this, though not a definition, is put as an example; and surely it may be safely taken as an example. If different bodies of men, in pursuance of a treasonable design, plainly proved, should assemble in warlike appearances at places of partial rendezvous, and should march from those places to a place of general rendezvous, it is difficult to conceive how such a transaction could take place without exhibiting the appearance of war, without an obvious display of force. At any rate, a court in stating generally such a military assemblage as would amount to levying war, and having a case before them in which there was no assemblage whatever, cannot reasonably be understood in putting such an example, to dispense with those appearances of war which seem to be required by the general current of authorities. Certainly they ought not to be so understood when they say in express terms, that "it is more safe as well as more consonant to the principles of our Constitution, that the crime of treason should not be extended by construction to doubtful cases; and that crimes not already within the constitutional definition, should receive such punishment as the Legislature, in its wisdom, may provide."

After this analysis of the opinion of the Supreme Court, it will be observed, that the direct question whether an assemblage of men which might be construed to amount to a levying of war, must appear in force or in military form, was not in argument or in fact before the court, and does not appear to have been in terms decided. The opinion seems to have been drawn without particularly adverting to this question; and, therefore, upon a transient view of particular expressions, might inspire the idea that a display of force, that appearances of war were not necessary ingredients to constitute the fact of levying war. But upon a more intent and more accurate investigation of this opinion, although the terms *force* and *violence* are not employed as descriptive of the assemblage, such requisites are declared to be indispensable as can scarcely exist without the appearance of war and the existence of real force. It is said that war must be levied in fact; that the object must be one which is to be effected by force; that the assemblage must be such as to prove that this is its object; that it must not be an equivocal act, without a warlike appearance; that it must be an open assemblage for the purpose of force. In the course of this opinion, decisions are quoted and approved, which require the employment of force to constitute the crime. It seems extremely difficult, if not impossible, to reconcile these various declarations with the idea that the Supreme Court considered a secret, unarmed meeting, although that meeting be of conspirators, and although it met with a treasonable intent, as an actual levying of war. Without saying that the assemblage must be in force or in warlike form, they express themselves so as to show that this idea was never discarded, and they use terms which cannot be otherwise satisfied.

The opinion of a single judge certainly weighs as nothing if opposed to that of the Supreme Court; but if he was one of the judges who assisted in framing that opinion, if while the impressions under which it was framed were yet fresh upon his mind, he delivered an opinion on the same testimony, not contradictory to that which had been given by all the judges together, but showing the sense in which he understood terms that might be differently expounded, it may fairly be said to be in some measure explanatory of the opinion itself.

To the judge before whom the charge against the prisoner at the bar was first brought, the same testimony was offered with that which had been exhibited before the Supreme Court, and he was required to give an opinion in almost the same case. Upon this occasion he said, "war can only be levied by the employment of actual force. Troops must be imbodied; men must be assembled in order to levy war." Again he observed, "the fact to be proved in this case is an act of public notoriety. It must exist in the view of the world, or it cannot exist at all. The assembling of forces to levy war is a visible transaction, and numbers must witness it."

It is not easy to doubt what kind of assemblage was in the mind of the judge who used these expressions, and it is to be recollected that he had just returned from the Supreme Court, and was speaking on the very facts on which the opinion of that court was delivered.

The same judge, in his charge to the grand jury who found this bill, observed, "to constitute the fact of levying war, it is not necessary that hostilities have actually commenced by engaging the military force of the United States, or that measures of violence against the Government shall have been carried into execution. But levying war is a fact in the Constitution of which force is an indispensable ingredient. Any combination to subvert by force the Government of the United States, violently to dismember the Union, to compel a change in the administration, to coerce the repeal or adoption of a general law, is a conspiracy to levy war, and if the conspiracy

be carried into effect by the actual employment of force, by the imbodying and assembling men for the purpose of executing the treasonable design which was previously conceived, it amounts to levying of war. It has been held that arms are not essential to levy war, provided the force assembled be sufficient to attain or perhaps to justify attempting the object without them." This paragraph is immediately followed by a reference to the opinion of the Supreme Court.

It requires no commentary upon these words to show that, in the opinion of the judge who uttered them, an assemblage of men which should constitute the fact of levying war must be an assemblage in force, and that he so understood the opinion of the Supreme Court. If, in that opinion, there may be found in some passages a want of precision, an indefiniteness of expression, which has occasioned it to be differently understood by different persons, that may well be accounted for when it is recollected that in the particular case there was no assemblage whatever. In expounding that opinion the whole should be taken together, and in reference to the particular case in which it was delivered. It is, however, not improbable that the misunderstanding has arisen from this circumstance. The court unquestionably did not consider arms as an indispensable requisite to levy war; an assemblage adapted to the object might be in a condition to effect or to attempt it without them. Nor did the court consider the actual application of the force to the object at all times an indispensable requisite; for an assemblage might be in a condition to apply force, might be in a state adapted to real war, without having made the actual application of that force. From these positions, which are to be found in the opinion, it may have been inferred, it is thought too hastily, that the nature of the assemblage was unimportant, and that war might be considered as actually levied by any meeting of men, if a criminal intention can be imputed to them by testimony of any kind whatever.

It has been thought proper to discuss this question at large, and to review the opinion of the Supreme Court, although this court would be more disposed to leave the question of fact, whether an overt act of levying war was committed on Blannerhasset's island to the jury under this explanation of the law, and to instruct them that, unless the assemblage of Blannerhasset's island was an assemblage in force, was a military assemblage in a condition to make war, it was not a levying of war, and that they could not construe it into an act of war, than to arrest the further testimony which might be offered to connect the prisoner with that assemblage, or to prove the intention of those who assembled together at that place. This point, however, is not to be understood as decided. It will, perhaps, constitute an essential inquiry in another case.

Before leaving the opinion of the Supreme Court entirely, on the question of the nature of the assemblage which will constitute an act of levying war, this court cannot forbear to ask why is an assemblage absolutely required? Is it not to judge in some measure of the end by the proportion which the means bear to the end? Why is it that a single armed individual, entering a boat and sailing down the Ohio for the avowed purpose of attacking New Orleans, could not be said to levy war? Is it not that he is apparently not in a condition to levy war? If this be so, ought not the assemblage to furnish some evidence of its intention and capacity to levy war before it can amount to levying war? And ought not the Supreme Court, when speaking of an assemblage for the purpose of effecting a treasonable object by force, be understood to indicate an assemblage exhibiting the appearance of force?

The definition of the attorney of the United States deserves notice in this respect. It is, "when there is an assemblage of men convened for the purpose of effecting by force a treasonable object, which is meant to be employed before the assemblage disperses, this is treason."

To read this definition without adverting to the argument, we should infer that the assemblage was itself to effect by force the treasonable object, not to join itself to some other bodies of men, and then to effect the object by their combined force. Under this construction, it would be expected the appearance of the assemblage would bear some proportion to the object, and would indicate the intention. At any rate, that it would be an assemblage in force. This construction is most certainly not that which was intended, but it serves to show that general phrases must always be understood in reference to the subject-matter, and to the general principles of law.

On that division of the subject which respects the merits of the case connected with the pleadings, two points are also made:

1st. That this indictment having charged the prisoner with levying war on Blannerhasset's island, and containing no other overt act, cannot be supported by proof that war was levied at that place by other persons in the absence of the prisoner, even admitting those persons to be connected with him in one common treasonable conspiracy.

2dly. That admitting such an indictment could be supported by such evidence, the previous conviction of some person who committed the act which is said to amount to levying war, is indispensable to the conviction of a person who advised or procured that act.

As to the first point, the indictment contains two counts, one of which charges that the prisoner, with a number of persons unknown, levied war on Blannerhasset's island, in the county of Wood, in the district of Virginia, and the other adds the circumstance of their proceeding from that island down the river for the purpose of seizing New Orleans by force.

In point of fact, the prisoner was not on Blannerhasset's island, nor in the county of Wood, nor in the district of Virginia.

In considering this point, the court is led first to inquire whether an indictment for levying war must specify an overt act, or would be sufficient if it merely charged the prisoner in general terms

with having levied war, omitting the expression of place or circumstance.

The place in which a crime was committed is essential to an indictment, were it only to show the jurisdiction of the court. It is also essential for the purpose of enabling the prisoner to make his defence. That at common law an indictment would have been defective which did not mention the place in which the crime was committed, can scarcely be doubted. For this it is sufficient to refer to Hawkins, b. 2, ch. 25, sect. 84, and ch. 23, sect. 91. This necessity is rendered the stronger by the constitutional provision, that the offender "shall be tried in the State and district wherein the crime shall have been committed," and by the act of Congress, which requires that twelve petty jurors at least shall be summoned from the county where the offence was committed.

A description of the particular manner in which the war was levied seems also essential to enable the accused to make his defence. The law does not expect a man to be prepared to defend every act of his life which may be suddenly and without notice alleged against him. In common justice, the particular fact with which he is charged ought to be stated, and stated in such a manner as to afford a reasonable certainty of the nature of the accusation, and the circumstances which will be adduced against him. The general doctrine on the subject of indictments is full to this point. Foster, (p. 149,) speaking of the treason of compassing the King's death, says "from what has been said, it followeth that in every indictment for this species of treason, and indeed for levying war and adhering to the King's enemies, an overt act must be alleged and proved. For the overt act is the charge to which the prisoner must apply his defence."

In page 220, Foster repeats this declaration. It is also laid down in Hawk. b. 8, ch. 17, sec. 29; 1st Hale, 121; 1st East, 116; and by the other authorities cited, especially Vaughan's case. In corroboration of this opinion, it may be observed, that treason can only be established by the proof of overt acts, and that by the common law, as well as by the statute of 7th of William III., those overt acts only which are charged in the indictment can be given in evidence, unless, perhaps, as corroborative testimony after the overt acts are proved. That clause in the Constitution, too, which says that in all criminal prosecutions the accused shall enjoy the right "to be informed of the nature and cause of the accusation," is considered as having a direct bearing on this point. It secures to him such information as will enable him to prepare for his defence.

It seems, then, to be perfectly clear that it would not be sufficient for an indictment to allege generally that the accused had levied war against the United States. The charge must be more particularly specified, by laying what is termed an overt act of levying war. The law relative to an appeal, as cited from Stamford, is strongly corroborative of this opinion.

If it be necessary to specify the charge in the indictment, it would seem to follow, irresistibly, that the charge must be proved as laid.

All the authorities which require an overt act require also that this overt act should be proved. The decision in Vaughan's case is particularly in point. Might it be otherwise, the charge of an overt act would be a mischief instead of an advantage to the accused. It would lead him from the true cause and nature of the accusation, instead of informing him respecting it.

But it is contended, on the part of the prosecution, that, although the accused had been never with the party which assembled at Blannerhasset's island, and was at the time at a great distance and in a different State, he was yet legally present, and therefore may properly be charged in the indictment as being present in fact.

It is, therefore, necessary to inquire whether, in this case, the doctrine of constructive presence can apply.

It is conceived by the court to be possible, that a person may be concerned in a treasonable conspiracy, and yet be legally, as well as actually, absent while some one act of treason is perpetrated. If a rebellion should be so extensive as to spread through every State in the Union, it will scarcely be contended that every individual concerned in it is legally present at every overt act committed in the course of that rebellion. It would be a very violent presumption (indeed, too violent to be made without clear authority) to presume that, even the chief of the rebel army was legally present at every such overt act. If the main rebel army, with the chief at its head, should be prosecuting war at one extremity of our territory, say in New Hampshire, if this chief should be there captured and sent to the other extremity for the purpose of trial; if his indictment, instead of alleging an overt act which was true, in point of fact, should allege that he had assembled some small party, which, in truth, he had not seen; and had levied war, by engaging in a skirmish in Georgia, at a time when, in reality, he was fighting a battle in New Hampshire—if such evidence would support such an indictment by the fiction that he was legally present, though really absent, all would ask to what purpose are those provisions in the Constitution which direct the place of trial, and ordain that the accused shall be informed of the nature and cause of the accusation?

But, that a man may be legally absent, who has counselled and procured a treasonable act, is proved by all those books which treat upon the subject, and which concur in declaring that such a person is a principal traitor, not because he was legally present, but because, in treason, all are principals. Yet the indictment, I say, upon general principles, would charge him according to the truth of the case. Lord Coke says, "if many conspire to levy war, and some of them do levy the same, according to the conspiracy, this is high treason in all." Why? Because all were legally present when the war was levied? No. "For in treason," continues Lord Coke, "all be principals, and war is levied." In this case the indictment, rea-

soning from analogy, would not charge that the absent conspirators were present, but would state the truth of the case. If the conspirator had done nothing which amounted to levying war, and if, by our Constitution, the doctrine that an accessary becomes a principal be not adopted, in consequence of which the conspirator could not be condemned under an indictment, stating the truth of the case, it would be going very far to say that this defect, if it be termed one, may be cured by an indictment stating the case untruly.

This doctrine of Lord Coke has been adopted by all subsequent writers; and it is generally laid down, in the English books, that whatever will make a man an accessary in felony will make him a principal in treason; but it is no where suggested that he is, by construction, to be considered as present, when in point of fact he was absent.

Foster, 341, has been particularly quoted, and certainly he is precisely in point. "It is well known," says Foster, "that in the language of the case there are no accessaries in high treason; all are principals. Every instance of incitement, aid, or protection, which, in the case of felony, will render a man an accessary before or after the fact, in the case of high treason, whether it be treason at common law or by statute, will make him a principal in treason." The cases of incitement and aid are cases put as examples of a man's becoming a principal in treason, not because he was legally present, but by force of that maxim in the common law, that whatever will render a man an accessary at common law, will render him a principal in treason. In other passages, the words "command" or "procure" are to indicate the same state of things, that is, a treasonable assemblage produced by a man who is not himself in that assemblage.

In point of law, then, the man who incites, aids, or procures a treasonable act, is not merely, in consequence of that incitement, aid, or procurement, legally present when that act is committed.

If it does not result from the nature of the crime, that all who are concerned in it are legally present at every overt act, then each case depends upon its own circumstances; and, to judge how far the circumstances of any case can make him legally present who is in fact absent, the doctrine of constructive presence must be examined.

Hale, in his 1 vol. p. 615, says, "regularly, no man can be a principal in felony unless he be present." In the same page he says, "an accessary *before* is he that, being absent at the time of the felony committed, doth yet procure, counsel, or command another to commit a felony." The books are full of passages which state this to be the law. Foster, in showing what acts of concurrence will make a man a principal, says, "he must be present at the perpetration, otherwise he can be no more than an accessary before the fact."

These strong distinctions would be idle to treason; at any rate, they would be inapplicable, if they were to be entirely lost in the doctrine of constructive presence.

Foster adds, p. 349, "when the law requireth the presence of the accomplice at the perpetration of the fact in order to render him a principal, it doth not require a strict actual immediate presence, such a presence as would make him an eye or ear witness of what passeth." The terms used by Foster are such as would be employed by a man intending to show the necessity that the absent person should be near at hand, although, from the nature of the thing, no precise distance could be marked out. An inspection of the cases, from which Foster drew this general principle, will serve to illustrate it.—(Hale, 439.) In all these cases, put by Hale, the whole party set out together to commit the very fact charged in the indictment, or to commit some other unlawful act, in which they are all to be personally concerned at the time and place, and are, at the very time when the criminal fact is committed, near enough to give actual personal aid and assistance to the man who perpetrated it. Hale, in p. 449, giving the reason for the decision in the case of the word decree, says, "they all came with an intent to steal the deer, and consequently the law supposes that they came all with the intent to oppose all that should hinder them in that design." The original case says this was their resolution. This opposition would be a personal opposition. This case, even as stated by Hale, would clearly not comprehend any man who entered into the combination, but who, instead of going to the park where the murder was committed, should not set out with the others, should go to a different park, or should even lose his way.—Hale, 534.

In both cases here stated, the persons actually set out together, and were near enough to assist in the commission of the act. That in the case of Pudsy, the felony was, as stated by Hale, a different felony from that originally intended, is unimportant in regard to the particular principle now under consideration, so far as respected distance; as respected capacity, to assist in case of resistance, it is the same as if the robbery had been that which was originally designed. The case, in the original report, shows that the felony committed was in fact in pursuance of that originally designed. Foster (350) plainly supposes the same particular design, not a general design composed of many particular distinct facts. He supposes them to be co-operating with respect to that particular design. This may be illustrated by a case which is perhaps common. Suppose a band of robbers confederated for the general purpose of robbing. They set out together, or in parties, to rob a particular individual, and each performs the part assigned to him. Some ride up to the individual and demand his purse; others watch out of sight to intercept those who might be coming to assist the man on whom the robbery is to be committed. If murder or robbery actually take place, all are principals, and all, in construction of law, are present. But suppose they set out at the same time or at different times, by different roads, to attack and rob different individuals or different companies, to commit distinct acts of robbery. It has never been contended that those who committed one act

of robbery, or who failed altogether, were constructively present at the act of those who were associated with them in the common object of robbery, who were to share the plunder, but who did not assist at the particular fact. They do, indeed, belong to the general party, but they are not of the particular party which committed this fact. Foster concludes this subject by observing that, "in order to render a person an accomplice and a principal in felony, he must be aiding and abetting at the fact, or ready to afford assistance if necessary." That is, at the particular fact which is charged, he must be ready to render assistance to those who are committing that particular fact; he must, as is stated by Hawkins, be ready to give immediate and direct assistance.

All the cases to be found in the books go to the same point. Let them be applied to that under consideration.

The whole treason laid in this indictment is the levying of war in Blannerhasset's island; and the whole question, to which the inquiry of the court is now directed, is, whether the prisoner was legally present at that fact.

I say this is the whole question, because the prisoner can only be convicted on the overt act laid in the indictment. With respect to this prosecution, it is as if no other overt act existed. If other overt acts can be inquired into, it is for the sole purpose of proving the particular fact charged; it is as evidence of the crime consisting of this particular fact, not as establishing the general crime by a distinct fact.

The counsel for the prosecution have charged those engaged in the defence with considering the overt act as the treason, whereas it ought to be considered solely as the evidence of the treason; but the counsel for the prosecution seem themselves not to have sufficiently adverted to this clear principle, that though the overt act may not be itself the treason, it is the sole act of that treason which can produce conviction; it is the sole point in issue between the parties. And the only division of that point, if the expression be allowed, which the court is now examining, is the constructive presence of the prisoner at the fact charged.

To return, then, to the application of the cases.

Had the prisoner set out with the party from Beaver for Blannerhasset's island, or perhaps had he set out for that place, though not from Beaver, and had arrived in the island, he would have been present at the fact; had he not arrived in the island, but had taken a position near enough to co-operate with those on the island, to assist them in any act of hostility, or to aid them if attacked, the question whether he was constructively present would be a question compounded of law and fact, which would be decided by the jury, with the aid of the court, so far as respected the law. In this case the accused would have been of the particular party assembled on the island, and would have been associated with them in the particular act of levying war said to have been committed on the island.

But if he was not with the party at any time before they reached the island; if he did not join them there, or intend to join them there; if his personal co-operation in the general plan was to be afforded elsewhere, at a great distance, in a different State; if the overt acts of treason to be performed by him were to be distinct overt acts; then he was not of the particular party assembled at Blannerhasset's island, and was not constructively present, aiding and assisting in the particular act which was there committed.

The testimony on this point, so far as it has been delivered, is not equivocal. There is not only no evidence that the accused was of the particular party which assembled on Blannerhasset's island, but the whole evidence shows he was not of that party.

In felony, then, admitting the crime to have been completed on the island, and to have been advised, procured, or commanded by the accused, he would have been incontestably an accessary, and not a principal.

But in treason, it is said, the law is otherwise, because the theatre of action is more extensive.

The reasoning applies in England as strongly as in the United States. While in '15 and '45 the family of Stuart sought to regain the Crown they had forfeited, the struggle was for the whole kingdom; yet no man was ever considered as legally present at one place when actually at another, or as aiding in one transaction while actually employed in another.

With a perfect knowledge that the whole nation may be a theatre of action, the English books unite in declaring, that he who counsels, procures, or aids treason, is guilty accessarily and solely in virtue of the common law principle, that what will make a man an accessary in felony makes him a principal in treason. So far from considering a man as constructively present at every overt act of the general treason in which he may have been concerned, the whole doctrine of the books limits the proof against him to those particular overt acts of levying war with which he is charged.

What would be the effect of a different doctrine? Clearly that which has been stated. If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia, at a great distance from him, then he is present at every overt act performed anywhere; he may be tried in any State on the continent, where any overt act has been committed; he may be proved to be guilty of an overt act laid in the indictment in which he had no personal participation, by proving that he advised it, or that he committed other acts.

This is, perhaps, too extravagant to be in terms maintained. Certainly, it cannot be supported by the doctrines of the English law.

The opinion of Judge Patterson in Mitchell's case has been cited on this point. (2 Dal. 348.)

The indictment is not specially stated; but from the case as reported, it must have been either general for levying war in the county of Allegany, and the overt act laid must have been the assemblage of men and the levying of war in that county; or it must have given a particular detai

of the treasonable transactions in that county. The first supposition is the most probable; but let the indictment be in the one form or the other, the result is the same. The facts of the case are, that a large body of men, of whom Mitchell was one, assembled at Braddock's Field, in the county of Allegany, for the purpose of committing acts of violence at Pittsburg; that there was also an assemblage at a different time at Couche's Fort, at which the prisoner also attended. The general and avowed object of that meeting was to concert measures for resisting the execution of a public law. At Couche's Fort, the resolution was taken to attack the house of the inspector, and the body there assembled marched to the house and attacked it. It was proved by the competent number of witnesses, that he was at Couche's Fort armed; that he offered to reconnoitre the house to be attacked; that he marched with the insurgents towards the house; that he was with them after the action, attending the body of one of his comrades who was killed in it. One witness swore positively that he was present at the burning of the house, and a second witness said that "it ran in his head that he had seen him there." That a doubt should exist in such a case as this, is a strong evidence of the necessity that the overt act should be unequivocally proved by two witnesses.

But what was the opinion of the judge in this case? Couche's Fort and Neville's house being in the same county, the assemblage having been at Couche's Fort, and the resolution to attack the house having been there taken, the body having for the avowed purposes moved in execution of that resolution towards the house to be attacked, he inclined to think that the act of marching was in itself levying war. If it was, then the overt act laid in the indictment was consummated by the assemblage at Couche's and the marching from thence, and Mitchell was proved to be guilty by more than two positive witnesses. But, without deciding this to be the law, he proceeded to consider the meeting at Couche's, the immediate marching to Neville's house, the attack and burning of the house, as one transaction. Mitchell was proved by more than two positive witnesses to have been in that transaction, to have taken an active part in it; and the judge declared it to be unnecessary that all should have seen him at the same time and place.

But suppose not a single witness had proved Mitchell to have been at Couche's, or on the march, or at Neville's. Suppose he had been at the time notoriously absent in a different State. Can it be believed by any person who observes the caution with which Judge Patterson required the Constitional proofs of two witnesses to the same overt act, that he would have said Mitchell was constructively present, and might, on that straining of a legal fiction, be found guilty of treason? Had he delivered such an opinion, what would have been the language of this country respecting it? Had he given this opinion, it would have required all the correctness of his life to strike his name from the bloody list in which the name of Jeffries is enrolled.

But to estimate the opinion in Mitchell's case, let its circumstances be transferred to Burr's case. Suppose the body of men assembled in Blannerhasset's island had previously met at some other place in the same county, and that Burr had been proved to be with them by four witnesses; that the resolution to march to Blannerhasset's island for a treasonable purpose had been there taken; that he had been seen on the march with them; that one witness had seen him on the island, that another thought he had seen him there; that he had been seen with the party directly after leaving the island; that this indictment had charged the levying of war in Wood county generally; the cases would then have been perfectly parallel, and the decisions would have been the same.

In conformity with principle and with authority, then, the prisoner at the bar was neither legally nor actually present at Blannerhasset's island; and the court is strongly inclined to the opinion that, without proving an actual or legal presence by two witnesses, the overt act laid in this indictment cannot be proved.

But this opinion is controverted on two grounds.

The first is, that the indictment does not charge the prisoner to have been present;

The second, that, although he was absent, yet, if he caused the assemblage, he may be indicted as being present, and convicted on evidence that he caused the treasonable act.

The first position is to be decided by the indictment itself. The court understands the allegation differently from the attorney for the United States. The court understands it to be directly charged, that the prisoner did assemble with the multitude, and did march with them. Nothing will more clearly test this construction than putting the case into a shape which it may possibly take. Suppose the law to be, that the indictment would be defective unless it alleged the presence of the person indicted at the act of treason. If, upon a special verdict, facts should be found which amounted to a levying of war by the accused, and his counsel should insist that he could not be condemned because the indictment was defective in not charging that he was himself one of the assemblage which constituted the treason, or because it alleged the procurement defectively, would the attorney admit this construction of his indictment to be correct? I am persuaded that he would not, and that he ought not to make such a concession. If, after a verdict, the indictment ought to be construed to allege that the prisoner was one of the assemblage at Blannerhasset's island, it ought to be so construed now. But this is unimportant, for if the indictment alleges that the prisoner procured the assemblage, that procurement becomes part of the overt act, and must be proved, as will be shown hereafter.

The second position is founded on 1 Hale, 214, 288, and 1 East, 127.

While I declare that this doctrine contradicts every idea I had ever entertained on the subject of indictments, since it admits that one case may be stated and a very different case may be proved, I will acknowledge that it is countenanced by the

authorities adduced in its support. To counsel or advise a treasonable assemblage, and to be one of that assemblage, are certainly distinct acts, and, therefore, ought not to be charged as the same act. The great objection to this mode of proceeding is, that the proof essentially varies from the charge in the character and essence of the offence, and in the testimony by which the accused is to defend himself. These dicta of Lord Hale, therefore, taken in the extent in which they are understood by the counsel for the United States, seem to be repugnant to the declarations we find every where, that an overt act must be laid and must be proved. No case is cited by Hale in support of them; and I am strongly inclined to the opinion, that, had the public received his corrected, instead of his original manuscript, they would, if not expunged, have been restrained in their application to cases of a particular description. Laid down generally, and applied universally to all cases of treason, they are repugnant to the principles for which Hale contends, for which all the elementary writers contend, and from which courts have in no case, either directly reported or referred to in the books, ever departed. These principles are, that the indictment must give notice of the offence; that the accused is only bound to answer the particular charge which the indictment contains, and that the overt act laid is that particular charge. Under such circumstances, it is only doing justice to Hale to examine his dicta; and if they will admit of being understood in a limited sense, not repugnant to his own doctrines, nor to the general principles of law, to understand them in that sense.

"If many conspire to counterfeit, or counsel, or abet in it, and one of them doth the fact upon that counselling or conspiracy, it is treason in all, and they may be all indicted for counterfeiting generally within the statute, for in such case, in treason, all are principals."

This is laid down as applicable singly to the treason of counterfeiting the coin, and is not applied by Hale to other treasons. Had he designed to apply the principle universally, he would have stated it as a general proposition; he would have laid it down when treating on other branches of the statute, as well as in the chapter respecting the coin; he would have laid it down when treating on indictments generally. But he has done neither. Every sentiment bearing in any manner on this point, which is to be found in Lord Hale while on the doctrine of levying war, or on the general doctrine of indictments, militates against the opinion, that he considered the proposition as more extensive than he has declared it to be. No court could be justified in extending the dictum of a judge beyond its terms, to cases in which he has expressly treated, to which he has not himself applied it, and on which, he, as well as others, has delivered opinions which that dictum would overrule. This would be less justifiable, if there should be a clear legal distinction indicated by the very terms in which the judge has expressed himself between the particular case to which alone he has applied the dictum, and other cases, to which the court is required to extend it.

There is this clear legal distinction: "They may," says Judge Hale, "be indicted for counterfeiting generally." But, if many conspire to levy war, and some actually levy it, they may not be indicted for levying war generally. The books concur in declaring that they cannot be so indicted. A special overt act of levying war must be laid. This distinction between counterfeiting the coins, and that class of treasons among which levying war is placed, is taken in the statute of Edward III. That statute requires an overt act of levying war to be laid in the indictment, and does not require an overt act of counterfeiting the coin to be laid. If in a particular case, where a general indictment is sufficient, it be stated that the crime may be charged generally, according to the legal effect of the act, it does not follow that, in other cases, where a general indictment would be insufficient, where an overt act must be laid, that this overt act need not be laid according to the real fact. Hale, then, is to be reconciled with himself, and with the general principles of law, only by permitting the limits which he has himself given to his own dictum, to remain where he has placed them.

In page 238, Hale is speaking generally of the receiver of a traitor, and is stating in what such receiver partakes of an accessary. 1st. "His indictment must be special of the receipt, and not generally that he did the thing; which may be otherwise in case of one that is procurer, counsellor, or consenter."

The words "*may* be otherwise," do not clearly convey the idea that it is universally otherwise. In all cases of a receiver, the indictment *must* be special on the receipt, and not general. The words "it *may* be otherwise in case of a procurer, &c.," signify that it may be otherwise in all treasons, or that it may be otherwise in some treasons. If it may be otherwise in some treasons, without contradicting the doctrines of Hale himself, as well as of other writers, but cannot be otherwise in all treasons without such contradiction, the fair construction is, that Hale used these words in their restricted sense; that he used them in reference to treasons in which a general indictment would lie; not to treasons where a general indictment would not lie, but an overt act of the treason must be charged. The two passages of Hale, thus construed, may, perhaps, be law, and may leave him consistent with himself. It appears to the court to be the fair way of construing them.

These observations relative to the passages quoted from Hale apply to that quoted from East, who obviously copies from Hale, and relies upon his authority.

Upon this point, Keeling, 26, and 1st Hale, 626, have also been relied upon. It is stated in both, that, if a man be indicted as a principal and acquitted, he cannot afterwards be indicted as accessary before the fact; whence it is inferred, not without reason, that evidence of accessorial guilt may be received on such an indictment. Yet no case is found in which the question has been made and decided. The objection has never been taken at a trial and overruled, nor do the books say it

would be overruled. Were such a case produced, its application would be questionable. Keeling says, an accessary before the fact is, *quodammodo*, in some manner, guilty of the fact. The law may not require that the manner should be stated; for in felony, it does not require that an overt act should be laid. The indictment, therefore, may be general; but an overt act of levying war must be laid. These cases, then, prove, in their utmost extent, no more than cases previously cited from Hale and East. This distinction between indictments which may state the fact generally, and those which must lay it specially, bears some analogy to a general and a special action on the case. In a general action the declaration may lay the *assumpsit* according to the legal effect of the transaction: but, in a special action on the case, the declaration must state the material circumstances truly, and they must be proved as stated. This distinction also derives some aid from a passage in Hale, 625, immediately preceding that which has been cited at the bar. He says: "If A be indicted as principal, and B as accessary, *before* or *after*, and both be acquitted, yet B may be indicted as principal, and the former acquittal as accessary is no bar."

The crimes, then, are not the same, and may not indifferently be tried under the same indictment. But why is it that an acquittal as principal may be pleaded in bar to an indictment as accessary, while an acquittal as accessary may not be pleaded in bar to an indictment as principal? If it be answered that the accessorial crime may be given in evidence on an indictment as principal, but that the principal crime may not be given in evidence on an indictment as accessary, the question recurs, on what legal ground does this distinction stand? I can imagine only this: An accessary being *quodammodo* a principal in indictments where the law does not require the manner to be stated, which need not to be special, evidence of accessorial guilt, if the punishment be the same, may possibly be received; but every indictment as an accessary must be special. The very allegation that he is an accessary must be a special allegation, and must show how he became an accessary. The charges of this special indictment, therefore, must be proved as laid; and no evidence which proves the crime in a form substantially different can be received. If this be the legal reason for the distinction, it supports the exposition of these dicta which has been given. If it be not the legal reason, I can conceive no other.

But suppose the law to be as is contended by the counsel for the United States. Suppose an indictment charging an individual with personally assembling among others, and thus levying war, may be satisfied with the proof that he caused the assemblage; what effect will this law have upon this case?

The guilt of the accused, if there be any guilt, does not consist in the assemblage, for he was not a member of it. The simple act of assemblage no more affects one absent man than another. His guilt, then, consists in procuring the assemblage; and upon this fact depends his criminality. The proof relative to the character of an assemblage must be the same, whether a man be present or absent. In the general, to charge any individual with the guilt of an assemblage, the fact of his presence must be proved. It constitutes an essential part of the overt act. If, then, the procurement be substituted in the place of presence, does it not also constitute an essential part of the overt act? Must it not also be proved? Must it not be proved in the same manner that presence must be proved? If, in one case, the presence of the individual makes the guilt of the assemblage his guilt, and, in the other case, the procurement by the individual makes the guilt of the assemblage his guilt, then presence and procurement are equally component parts of the overt act, and equally require two witnesses.

Collateral points may, say the books, be proved according to the course of common law; but is this a collateral point? This cannot be. The presence of the party, where presence is necessary, being a part of the overt act, must be positively proved by two witnesses. No presumptive evidence, no facts from which presence may be conjectured or inferred, will satisfy the Constitution and the law. If procurement take the place of presence, and become part of the overt act, then no presumptive evidence, no facts from which the procurement may be conjectured or inferred, can satisfy the Constitution and the law. The mind is not to be led to the conclusion that the individual was present by a train of conjectures or inferences, or of reasoning; the fact must be proved by two witnesses. Neither, where procurement supplies the want of presence, is the mind to be conducted to the conclusion that the accused procured the assembly, by a train of conjectures, of inferences, or of reasoning; the fact itself must be proved by two witnesses, and must have been committed within the district.

If it be said that the advising or procurement of treason is a secret transaction, which can scarcely ever be proved in the manner required by this opinion, the answer which will readily suggest itself is, that the difficulty of proving a fact will not justify conviction without proof. Certainly, it will not justify conviction without a direct and positive witness in a case where the Constitution requires two. The more correct inference from this circumstance would seem to be, that the advising of the fact is not within the Constitutional definition of the crime. To advise or procure a treason is in the nature of conspiring or plotting treason, which is not treason in itself.

If, then, the doctrines of Keeling, Hale, and East, are to be understood in the sense in which they are pressed by the counsel for the prosecution, and are applicable in the United States, the fact that the accused procured the assemblage on Blannerhasset's island must be proved, not circumstantially, but positively, by two witnesses, to charge him with that assemblage. But there are still other most important considerations which must be well weighed before this doctrine can be applied to the United States.

The eighth amendment to the Constitution has been pressed with great force, and it is impossible not to feel its application to this point. The accused cannot be truly said to be "informed of the nature and cause of the accusation," unless the indictment shall give him that notice which may reasonably suggest to him the point on which the accusation turns, so that he may know the course to be pursued in his defence.

It is also well worthy of consideration, that this doctrine, so far as it respects treason, is entirely supported by the operation of the common law, which is said to convert the accessary before the fact into the principal, and to make the act of the principal his act. The accessary before the fact is not said to have levied war. He is not said to be guilty under the statute. But the common law attaches to him the guilt of that fact which he has advised or procured, and, as contended, makes it his act. This is the operation of the common law, not the operation of the statute. It is an operation, then, which can only be performed where the common law exists to perform it. It is the creature of the common law, and the creature presupposes its creator. To decide, then, that this doctrine is applicable to the United States, would seem to imply the decision that the United States, as a nation, have a common law which creates and defines the punishment of crimes accessorial in their nature. It would imply the further decision, that these accessorial crimes are not, in the case of treason, excluded by the definition of treason given in the Constitution. I will not pretend that I have not individually an opinion on these points, but it is one which I should give only in a case absolutely requiring it, unless I could confer respecting it with the judges of the Supreme Court.

I have said that this doctrine cannot apply to the United States without implying those decisions respecting the common law which I have stated, because, should it be true, as is contended, that the Constitutional definition of treason comprehends him who advises or procures an assemblage that levies war, it would not follow that such adviser or procurer might be charged as having been present at the assemblage. If the adviser or procurer is within the definition of levying war, and, independent of the agency of the common law, does actually levy war, then the advisement or procurement is an overt act of levying war. If it be the overt act on which he is to be convicted, then it must be charged in the indictment; for he can only be convicted on proof of the overt acts which are charged.

To render this distinction more intelligible, let it be recollected, that although it should be conceded that since the statute of William and Mary, he who advises or procures a treason, may, in England, be charged as having committed that treason, by virtue of the common law operation, which is said, so far as respects the indictment, to unite the accessorial to the principal offence, and permit them to be charged as one, yet it can never be conceded that he who commits one overt act under the statute of Edward, can be charged and convicted on proof of another overt act. If, then, procurement be an overt act of treason under the Constitution, no man can be convicted for the procurement under an indictment charging him with actually assembling, whatever may be the doctrine of the common law in the case of an accessorial offender.

It may not be improper in this place again to advert to the opinion of the Supreme Court, and to show that it contains nothing contrary to the doctrine now laid down. That opinion is, that an individual may be guilty of treason "who has not appeared in arms against his country; that if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable object, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

This opinion does not touch the case of a person who advises or procures an assemblage, and does nothing further. The advising, certainly, and perhaps the procuring, is more in the nature of a conspiracy to levy war, than of the actual levying of war. According to the opinion, it is not enough to be leagued in the conspiracy, and that war be levied, but it is also necessary to perform a part; that part is the act of levying war. This part, it is true, may be minute; it may not be the actual appearance in arms; and it may be remote from the scene of action, that is, from the place where the army is assembled; but it must be a part, and that part must be performed by a person who is leagued in the conspiracy. This part, however minute or remote, constitutes the overt act on which alone the person who performs it can be convicted.

The opinion does not declare that the person who has performed this remote and minute part, may be indicted for a part which was, in truth, performed by others, and convicted on their overt acts. It amounts to this, and nothing more: that when war is actually levied, not only those who bear arms, but those who are leagued in the conspiracy, and who perform the various distinct parts which are necessary for the prosecution of war, do, in the sense of the Constitution, levy war. It may, possibly, be the opinion of the Supreme Court, that those who procure a treason and do nothing further, are guilty under the Constitution; I only say that opinion has not yet been given; still less has it been indicated that he who advises shall be indicted as having performed the fact.

It is, then, the opinion of the court, that this indictment can be supported only by testimony which proves the accused to have been actually or constructively present when the assemblage took place on Blannerhasset's island, or by the admission of the doctrine that he who procures an act may be indicted as having performed that act.

It is further the opinion of the court, that there is no testimony whatever which tends to prove that the accused was actually or constructively present when that assemblage did take place. Indeed, the contrary is most apparent. With respect

to admitting proof of procurement to establish a charge of actual presence, the court is of opinion, that, if this be admissible in England on an indictment for levying war, which is far from being conceded, it is admissible only by virtue of the operation of the common law upon the statute, and, therefore, is not admissible in this country, unless by virtue of a similar operation; a point far from being established, but on which, for the present, no opinion is given. If, however, this point be established, still the procurement must be proved in the same manner and by the same kind of testimony which would be required to prove actual presence.

The second point in this division of the subject is, the necessity of adducing the record of the previous conviction of some one person who committed the fact alleged to be treasonable.

This point presupposes the treason of the accused, if any has been committed, to be accessorial in its nature. Its being of this description, according to the British authorities, depends on the presence or absence of the accused at the time the fact was committed. The doctrine on this subject is well understood, has been copiously explained, and need not be repeated. That there is no evidence of his actual or legal presence, is a point already discussed and decided. It is then apparent that, but for the exception to the general principle which is made in cases of treason, those who assembled at Blannerhasset's island, if that assemblage was such as to constitute the crime, would be principals; and those who might really have caused that assemblage, although, in truth, the chief traitors, would, in law, be accessaries.

It is a settled principle in the law, that the accessary cannot be guilty of a greater offence than his principal. The maxim is *accessorius sequitur naturam sui principalis;* the accessary follows the nature of his principal. Hence results the necessity of establishing the guilt of the principal before the accessary can be tried. For the degree of guilt which is incurred by counselling or commanding the commission of a crime depends upon the actual commission of that crime. No man is an accessory to murder unless the fact has been committed.

The fact can only be established in a prosecution against the person by whom a crime has been perpetrated. The law supposes a man more capable of defending his own conduct than any other person, and will not tolerate that the guilt of A shall be established in a prosecution against B. Consequently, if the guilt of B depends on the guilt of A, A must be convicted before B can be tried. It would exhibit a monstrous deformity, indeed, in our system, if B might be executed for being accessary to a murder committed by A, and A should afterward, upon a full trial, be acquitted of the fact. For this obvious reason, although the punishment of a principal and accessary was originally the same, and although in many instances it is still the same, the accessary could in no case be tried before the conviction of his principal; nor can he yet be tried previous to such conviction, unless he require it, or unless a special provision to that effect be made by statute.

If, then, this was a felony, the prisoner at the bar could not be tried until the crime was established by the conviction of the person by whom it was actually perpetrated.

Is the law otherwise in this case, because in treason all are principals?

Let this question be answered by reason and by authority.

Why is it that in felonies, however atrocious, the trial of the accessary can never precede the conviction of the principal? Not because one is denominated the principal and the other the accessary; for that would be ground on which a great law principle could never stand. Not because there was in fact a difference in the degree of moral guilt; for in the case of murder committed by a hardy villain for a bribe, the person plotting the murder and giving the bribe is, perhaps, of the two, the blacker criminal; and, were it otherwise, this would furnish no argument for precedence in trial.

What, then, is the reason?

It has been already given. The legal guilt of the accessary depends on the guilt of the principal; and the guilt of the principal can only be established in a prosecution against himself.

Does not this reason apply in full force to a case of treason?

The legal guilt of the person who planned the assemblage on Blannerhasset's island depends, not simply on the criminality of the previous conspiracy, but on the criminality of that assemblage. If those who perpetrated the fact be not traitors, he who advised the fact cannot be a traitor. His guilt, then, in contemplation of law, depends on theirs; and their guilt can only be established in a prosecution against themselves. Whether the adviser of this assemblage be punishable with death, as a principal or as an accessary, his liability to punishment depends on the degree of guilt attached to an act which has been perpetrated by others, and which, if it be a criminal act, renders them guilty also. His guilt, therefore, depends on theirs; and their guilt cannot be legally established in the prosecution against him.

The whole reason of the law, then, relative to the principal and accessary, so far as respects the order of trial, seems to apply in full force to a case of treason committed by one body of men in conspiracy with others who are absent.

If from reason we pass to authority, we find it laid down by Hale, Foster, and East, in the most explicit terms, that the conviction of some one who has committed the treason must precede the trial of him who has advised or procured it. This position is also maintained by Leach in his notes on Hawkins; and is not, so far as the court has discovered, anywhere contradicted.

These authorities have been read and commented on at such length, that it cannot be necessary for the court to bring them again into view. It is the less necessary, because it is not understood that the law is controverted by the counsel for the United States.

It is, however, contended, that the prisoner has waived his right to demand the conviction of some one person who was present at the fact, by pleading to his indictment.

Had this indictment even charged the prisoner, according to the truth of the case, the court would feel some difficulty in deciding that he had, by implication, waived his right to demand a species of testimony essential to his conviction. The court is not prepared to say that the act which is to operate against his rights did not require that it should be performed with a full knowledge of its operation. It would seem consonant to the usual course of proceeding in other respects in criminal cases, that the prisoner should be informed that he had a right to refuse to be tried until some person who committed the act should be convicted, and that he ought not to be considered as waiving the right to demand the record of conviction, unless, with the full knowledge of that right, he consented to be tried. The court, however, does not decide what the law would be in such a case; it is unnecessary to decide it; because pleading to an indictment in which a man is charged as having committed an act, cannot be construed to waive a right which he would have possessed, had he been charged with having advised the act. No person indicted as principal can be expected to say I am not a principal, I am an accessary; I did not commit, I only advised the act.

The authority of the English cases on this subject depends, in a great measure, on the adoption of the common law doctrine of accessorial treasons. If that doctrine be excluded, this branch of it may not be directly applicable to treasons committed within the United States. If the crime of advising or procuring a levying of war be within the Constitutional definition of treason, then he who advises or procures it, must be indicted on the very fact, and the question whether the treasonableness of the act may be decided, in the first instance, in the trial of him who procured it, or must be decided in the trial of one who committed it, will depend upon the reason, as it respects the law of evidence, which produced the British decisions with regard to the trial of principal and accessary, rather than on the positive authority of those decisions.

This question is not essential in the present case; because, if the crime be within the Constitutional definition, it is an overt act of levying war, and, to produce a conviction, ought to have been charged in the indictment.

The law of the case being thus far settled, what ought to be the decision of the court on the present motion? Ought the court to sit and hear testimony which cannot affect the prisoner, or ought the court to arrest that testimony? On this question much has been said—much that may, perhaps, be ascribed to a misconception of the point really under consideration. The motion has been treated as a motion confessedly made to stop relevant testimony, and, in the course of the argument, it has been repeatedly stated, by those who oppose the motion, that irrelevant testimony may and ought to be stopped. That this statement is perfectly correct, is one of those fundamental principles in judicial proceedings which is acknowledged by all, and is founded in the absolute necessity of the thing. No person will contend that, in a civil or criminal case, either party is at liberty to introduce what testimony he pleases, legal or illegal, and to consume the whole term in details of facts unconnected with the particular case. Some tribunal, then, must decide on the admissibility of testimony. The parties cannot constitute this tribunal, for they do not agree. The jury cannot constitute it, for the question is, whether they shall hear the testimony or not. Who, then, but the court can constitute it? It is, of necessity, the peculiar province of the court to judge of the admissibility of testimony. If the court admit improper or reject proper testimony, it is an error of judgment, but it is an error committed in the direct exercise of their judicial functions.

The present indictment charges the prisoner with levying war against the United States, and alleges an overt act of levying war. That overt act must be proved according to the mandates of the Constitution of the act of Congress, by two witnesses. It is not proved by a single witness. The presence of the accused has been stated to be an essential component part of the overt act in this indictment, unless the common law principle respecting accessaries should render it unnecessary; and there is not only no witness who has proved his actual or legal presence, but the fact of his absence is not controverted. The counsel for the prosecution offer to give in evidence subsequent transactions at a different place and in a different State, in order to prove—what? The overt act laid in the indictment? That the prisoner was one of those who assembled at Blannerhasset's island? No; that is not alleged. It is well known that such testimony is not competent to establish such a fact. The Constitution and law require that the fact should be established by two witnesses; not by the establishment of other facts, from which the jury might reason to this fact. The testimony, then, is not relevant. If it can be introduced, it is only in the character of corroborative or confirmatory testimony, after the overt act has been proved by two witnesses in such manner that the question of fact ought to be left with the jury. The conclusion that, in this state of things, no testimony can be admissible, is so inevitable that the counsel for the United States could not resist it. I do not understand them to deny that, if the overt act be not proved by two witnesses, so as to be submitted to the jury, all other testimony must be irrelevant, because no other testimony can prove the act. Now, an assemblage on Blannerhasset's island is proved by the requisite number of witnesses, and the court might submit it to the jury whether that assemblage amounted to a levying of war; but the presence of the accused at that assemblage being no where alleged, except in the indictment, the overt act is not proved by a single witness, and, of consequence, all other testimony must be irrelevant.

The only difference between this motion, as made, and the motion, in the form which the coun-

sel for the United States would admit to be regular, is this: It is now general for the rejection of all testimony. It might be particular with respect to each witness as adduced; but can this be wished, or can it be deemed necessary? If enough is proved to show that the indictment cannot be supported, and that no testimony, unless it be of that description which the attorney for the United States declares himself not to possess, can be relevant, why should a question be taken on each witness?

The opinion of this court, on the order of testimony, has frequently been adverted to as deciding this question against the motion.

If a contradiction between the two opinions does exist, the court cannot perceive it. It was said that levying war is an act compounded of law and fact, of which the jury, aided by the court, must judge. To that declaration the court still adheres.

It was said that, if the overt act was not proved by two witnesses, no testimony, in its nature corroborative or confirmatory, was admissible, or could be relevant.

From that declaration there is certainly no departure. It has been asked, in allusion to the present case, if a general, commanding an army, should detach troops for a distant service, would the men composing that detachment be traitors, and would the commander-in-chief escape punishment?

Let the opinion which has been given answer this question. Appearing at the head of an army would, according to this opinion, be an overt act of levying war; detaching a military corps from it for military purposes might also be an overt act for levying war. It is not pretended that he would not be punishable for these acts; it is only said that he may be tried and convicted on his own acts, in the State where those acts were committed, not on the acts of others, in the State where those others acted.

Much has been said, in the course of the argument, on points on which the court feels no inclination to comment particularly, but which may, perhaps, not improperly, receive some notice.

That this court dares not usurp power is most true.

That this court dares not shrink from its duty is not less true.

No man is desirous of placing himself in a disagreeable situation. No man is desirous of becoming the peculiar subject of calumny. No man, might he let the bitter cup pass from him without self-reproach, would drain it to the bottom. But if he has no choice in the case, if there is no alternative presented to him but a dereliction of duty, or the opprobium of those who are denominated the world, he merits the contempt, as well as the indignation, of his country, who can hesitate which to embrace.

That gentlemen, in a case the utmost interesting, in the zeal with which they advocate particular opinions, and under the conviction, in some measure, produced by that zeal, should, on each side, press their arguments too far, should be impatient at any deliberation in the court, and should suspect or fear the operation of motives to which alone they can ascribe that deliberation, is, perhaps, a frailty incident to human nature; but, if any conduct on the part of the court could warrant a sentiment that they would deviate to the one side or the other from the line prescribed by duty and by law, that conduct would be viewed by the judges themselves with an eye of extreme severity, and would long be recollected with deep and serious regret.

The arguments on both sides have been intently and deliberately considered. Those which could not be noticed, (since to notice every argument and authority would swell this opinion to a volume,) have not been disregarded. The result of the whole is a conviction as complete as the mind of the court is capable of receiving on a complex subject, that the motion must prevail.

No testimony relative to the conduct or declarations of the prisoner elsewhere and subsequent to the transaction on Blannerhasset's island can be admitted, because such testimony, being in its nature merely corroborative, and incompetent to prove the overt act in itself, is irrelevant until there be proof of the overt act by two witnesses.

This opinion does not comprehend the proof by two witnesses that the meeting on Blannerhasset's island was procured by the prisoner. On that point the court, for the present, withholds its opinion, for reasons which have been already assigned; and as it is understood from the statements made on the part of the prosecution that no such testimony exists. If there be such, let it be offered, and the court will decide upon it.

The jury have now heard the opinion of the court on the law of the case. They will apply that law to the facts, and will find a verdict of guilty or not guilty, as their own consciences may direct.

Opinion of the court on the proper process to be employed for bringing Aaron Burr before the court to answer the indictment for the misdemeanor. Delivered by the Chief Justice on Thursday, September 3.

The question now before the court is, whether bail be demandable from a person actually in custody, against whom an indictment for a misdemeanor has been found by a grand jury. As conducing directly to a decision of this point, the question has been discussed, whether a summons or a *capias* would be the proper process to bring the accused in to answer the indictment, if, in a point of fact, he was not before the court.

It seems to be the established practice of Virginia in such cases, to issue a summons in the first instance; and, if by any act of Congress the laws of the several States are adopted as the rules by which the courts of the United States are to be governed in criminal prosecutions, the question is at an end; for I should admit the settled practice of the State courts as the sound construction of the State law under which that practice has prevailed.

The thirty-fourth section of the judicial act, it is contended, has made this adoption.

The words of that section are: "That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply."

It might certainly well be doubted, whether this section, if it should be construed to extend to all the proceedings in a case where a reference can be made to the State laws for a rule of decision at the trial, can comprehend a case where, at the trial in chief, no such reference can be made. Now, in criminal cases, the laws of the United States constitute the sole rule of decision; and no man can be condemned or prosecuted in the federal courts on a State law. The laws of the several States, therefore, cannot be regarded as rules of decision in trials for offences against the United States. It would seem to me, too, that the technical term, "trials at common law," used in the section, is not correctly applicable to prosecutions for crimes. I have always conceived them to be, in this section, applied to civil suits, as contradistinguished from criminal prosecutions, as well as to suits at common law as contradistinguished from those which come before the court sitting as a court of equity or admiralty.

The provision of this section would seem to be inapplicable to original process for another reason. The case is otherwise provided for by an act of Congress. The fourteenth section of the judicial act empowers the courts of the United States "to issue all writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law."

This section, seems to me, to give this court power to devise the process for bringing any person before it, who has committed an offence of which it has cognizance, and not to refer it to the State law for that process. The limitation on this power is, that the process shall be agreeable to the principles and usages of law. By which I understand those general principles and those general usages which are to be found, not in the legislative acts of any particular State, but in that generally recognised and long established law, which forms the substratum of the laws of every State.

Upon general principles of law, it would seem to me that, in all cases where the judgment is to affect the person, the person ought to be held subject to that judgment. Thus, in civil actions, where the body may be taken in execution to satisfy the judgment, bail may be demanded. If the right of the plaintiff is supported by very strong probability, as in debt upon a specialty, bail is demandable without the intervention of a judge. If there be no such clear evidence of the debt, bail is often required upon the affidavit of the party. Now, reasoning by analogy from civil suits to criminal prosecutions, it would seem not unreasonable where there is such evidence as an indictment found by a grand jury, to use such process as will hold the person of the accused within the power of the court, or furnish security that the person will be brought forward to satisfy the judgment of the court.

Yet the course of the common law appears originally to have been otherwise. It appears, from Hawkins, that the practice of the English courts was to issue a *venire facias* in the first instance, on an indictment for a misdemeanor. This practice, however, is stated by Blackstone to have been changed. He says, (vol. 4, p. 319,) "And so in the case of misdemeanors, it is now the usual practice for any judge of the court of King's Bench, upon certificate of an indictment found, to award a writ of *capias* immediately, in order to bring in the defendant."

It is, then, the English construction of the common law, that although in the inferior courts the *venire facias* might be the usual course, and although it had prevailed, yet, that a judge of the King's Bench might issue a capias in the first instance.

This subject has always appeared to me, to be in a great measure governed by the thirty-third section of the judicial act. That section provides that, for any crime or offence against the United States, the offender may, agreeably to the usual mode of process against offenders in that State where he is found, be arrested, and imprisoned or bailed, as the case may be.

This act contemplates an arrest, not a summons; and this arrest is to be not solely for offences for which the State laws authorize an arrest, but "for any crime or offence against the United States." I do not understand the reference to the State law respecting the mode of process as overruling the preceding general words, and limiting the power of arrest to cases in which, according to the State laws, a person might be arrested, but simply as prescribing the mode to be pursued. Wherever, by the laws of the United States, an offender is to be arrested, the process of arrest employed in the State shall be pursued; but an arrest is positively enjoined for any offence against the United States. This construction is confirmed by the succeeding words: "The offender shall be imprisoned or bailed, as the case may be." There exists no power to direct the offender, or to bind him, without bail, to appear before the court, which would certainly have been allowed, had the act contemplated a proceeding in such a case which should leave the person at large without security. But he is absolutely to be imprisoned, or bailed, as the case may be.

In a subsequent part of the same section, it is enacted "that, upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death."

There is no provision for leaving the person at large without bail, and I have ever construed this section to impose it as a duty on the magistrate, who proceeds against any offender against the United States, to commit or bail him. I perceive in the law no other course to be pursued.

This section, it is true, does not respect the process upon an indictment. But the law would be inconsistent with itself if it required a magistrate to arrest for any offence against the United

States; if it commanded him on every arrest to commit or to bail, and yet refused a *capias*, and permitted the same offender to go at large so soon as an indictment was found against him. This section, therefore, appears to me to be entitled to great influence in determining the court on the mode of exercising the power given by the fourteenth section in relation to process.

On the impeachment which has been mentioned, this point was particularly committed to Mr. Lee, and the law upon it was fully demonstrated by him.

The only difficulty I ever felt on this question was produced by the former decisions of Judge Iredell. If the State practice on this subject had been adopted, I should have felt myself bound by that adoption. But I do not consider the State practice as adopted; Mandell's case was a civil suit, and the decision was that the State rule respecting bail in civil actions must prevail. Sinclair's case was indeed a case similar to this, and in Sinclair's case a *venire facias* was issued. But I am informed by the clerk that this was his act, at the instance of the attorney, not the act of the court. The point was not brought before the court.

In Callender's case a *capias*, or, what is the same thing, a bench warrant, was issued. This was the act of the court; but, not having been an act on argument, or with a view of the whole law of the case, and of former decisions, I should not have considered it as overruling those decisions, if such existed. But there has been no decision expressly adopting the State practice, and the decision in Callender's case appears to me to be correct.

I think the *capias* the more proper process. It is conformable to the practice of England at the time of our revolution, and is, I think, in conformity with the spirit of the 33d section of the judicial act. I shall, therefore, adopt it.

To issue the *capias* to take into custody a person actually in custody would be an idle ceremony. In such a case the order of the court very properly supplies the place of a *capias*. The only difference between proceeding by *capias*, and by order, which I can perceive, would be produced by making the writ returnable to the next term.

Opinion delivered on Monday, September 14, 1807, *on the motion for exclusion of evidence on the trial of Aaron Burr for a misdemeanor.*

The present motion is particularly directed against the admission of the testimony of Neale, who is offered for the purpose of proving certain conversations between himself and Herman Blannerhasset. It is objected that the declarations of Herman Blannerhasset are, at this time, inadmissible on this indictment.

The rule of evidence which rejects mere hearsay testimony, which excludes from trials of a criminal or civil nature the declarations of any other individual than of him against whom the proceedings are instituted, has been generally deemed all essential to the correct administration of justice. I know not why a declaration in court should be unavailing, unless made upon oath, if a declaration out of court was to criminate others than him who made it; nor why a man should have a Constitutional claim to be confronted with the witnesses against him, if mere verbal declarations, made in his absence, may be evidence against him. I know of no principle, in the preservation of which all are more concerned; I know none, by undermining which, life, liberty, and property, might be more endangered. It is, therefore, incumbent on courts to be watchful of every inroad on a principle so truly important.

This rule, as a general rule, is permitted to stand; but some exceptions to it have been introduced concerning the extent, of which a difference of opinion prevails, and that difference produces the present question.

The first exception is, that in cases of conspiracy, the acts, and it is said by some the declarations, of all the conspirators may be given in evidence on the trial of any one of them, for the purpose of proving the conspiracy; and this case, it is alleged, comes within the exception.

With regard to this exception a distinction is taken in the books between the admissibility and operation of testimony which is clear in point of law, but not at all times easy to practise in fact. It is, that although this testimony be admitted, it is not to operate against the accused unless brought home to him by testimony drawn from his own declarations or his own conduct.

But the question to be considered is, does the exception comprehend this case? Is this a case of conspiracy, according to the well established law meaning of the term?

Cases of conspiracy may be of two descriptions:

1st. Where the conspiracy is the crime, in which case the crime is complete although the act should never be formed; and in such cases, if several be indicted, and all except one be acquitted, that one cannot, say the books, be convicted, because he cannot conspire alone.

2d. Where the crime consists in the intention, and is proved by a conspiracy, so that the conviction of the accused may take place upon evidence that he has conspired to do any act which manifests the wicked intention.

In both these cases an act is not essential to the completion of the crime, and a conspiracy is charged in the indictment as the ground of accusation. If the conspiracy be the sole charge, as it may be, the question to be decided is not whether the accused has committed any particular fact, but whether he has conspired to commit it. Evidence of conspiracy, in such a case, goes directly to support the issue. It has, therefore, been determined that the nature of the conspiracy may be proven by the transactions of any one of the conspirators in furtherance of the common design; the degree of guilt, however, of the particular conspirator upon trial must still depend on his own particular conduct.

In the case at bar the crime consists not in intention, but in acts. The act of Congress does not extend to the secret design, if not carried into open deed, nor to any conspiracy, however extensive, if it do not amount to a beginning or setting on foot a military expedition. The indictment contains no allusion to a conspiracy, and, of consequence, the issue to be tried by the jury is not whether any conspiracy has taken place, but whether the particular facts charged in the indictment have been committed.

I do not mean to admit that, by any course which might have been given to the prosecution, this could have been converted into a case of conspiracy; but most assuredly if it was intended to prove a conspiracy, and to let in that kind of testimony which is admissible only in such a case, the indictment ought to have charged it.

I have not been able to find in the books a single decision or a solitary dictum which would countenance the attempt that is now made to introduce as testimony the declarations of third persons, made in the absence of the person on trial, under the idea of a conspiracy, where no conspiracy is alleged in the indictment. The researches of the counsel for the prosecution have not been more successful; but they suppose this case, though not within the letter, to come clearly within the reasoning of those cases where this testimony has been allowed.

It has been said that, wherever the crime may be committed by a single individual, although in point of fact more than one should be concerned in it, as in all cases of felony, the prosecution must be conducted in the usual mode, and the declarations of third persons cannot be introduced at a trial; but whenever the crime requires more than one person, where, from its nature, it cannot be committed by a single individual, although it shall not consist in conspiracy, but in open deed, yet it is the nature of a conspiracy, and evidence of the declarations and acts of third persons, connected with the accused, may be received, whether the indictment cover such testimony or not.

I must confess that I do not feel the force of this distinction. I cannot conceive why, when numbers do in truth conspire to commit an act, as murder or robbery, the rule should be that the declaration of one of them is no evidence against another; and yet, if the act should require more than one for its commission, that the declarations of one person engaged in the plot would immediately become evidence against another. I cannot perceive the reason of this distinction; but, admitting its solidity, I know not on what ground to dispense with charging in the indictment the combination intended to be proved. If this combination may be proved by the acts or declarations of third persons, made in the absence of the accused, because he is connected with those persons; if, in consequence of this connexion, the ordinary rules of evidence are to be prostrated, it would seem to me that the indictment ought to give some notice of this connexion.

When the terms in the indictment necessarily imply a combination, it will be admitted that a combination is charged, and may be proved. And when A, B, and C, are indicted for murdering D, yet, in such a case, the declarations of one of the parties, made in the absence of the others, have never been admitted as evidence against the others. If, then, this indictment should even imply that the fact charged was committed by more than one person, I cannot conceive that the declaration of a *particeps criminis* would become admissible on the trial of a person not present when they were made, unless those declarations form a part of the very transaction charged in the indictment.

If in all this I should be mistaken, yet it remains to be proved that the offence charged may not be committed by a single individual. This may, in some measure, depend on the exposition of the terms of the act; and it is to be observed that this exposition must be fixed. It cannot vary with the varying aspect of the prosecution at its different stages. If, as has been said, a military expedition is begun or set on foot, when a single soldier is enlisted for the purpose, then unless it be begun as well by the soldier who enlists as by the officer who enlists him, a military expedition may be begun by a single individual. So, if those who engage in the enterprise follow their leader from their confidence in him, without any knowledge of the real object, there is no conspiracy, and the criminal act is the act of an individual. So, too, if *the* means are *any* means, the crime may unquestionably be committed by an individual. Should the term be even so construed as to imply that all the means must be provided before the offence can be committed, still all the means may, in many cases, be provided by a single individual. The rule, then, laid down by the counsel for the prosecution, if correct in itself, would not comprehend this case.

2dly. There are also cases in the books where acts are in their nature joint, and where the law attaches the guilt to all concerned in their commission, so that the act of one is in truth the act of others; where the conduct of one person in the commission of the fact constitutes the crime of another person; but this is distinct from conspiracy.

If many persons combine to commit a murder, and all assist in it, and are actually or constructively present, the act of one is the act of all, and is sufficient for the conviction of all.

So in acts of levying war, as in the cases of Damane and Purchase, the acts of the mob were the acts of all in the mob whose conduct showed a concurrence in those acts, and in the general design which the mob were carrying into execution. But these decisions turn on a distinct principle from conspiracy. The crime is a joint crime, and all those who are present, aiding in the commission of it, participate in each other's action, and in the guilt attached to those actions. The conduct of each contributes to show the nature of this joint crime; and declarations made during the transaction are explanatory of that transaction; but I cannot conceive that, in either

case, declarations, unconnected with the transaction, would have been evidence against any other than the person who made them, or persons in whose presence they were made. If, for example, one of several men who had united in committing a murder, should have said that he, with others, contemplated the fact which was afterwards committed, I know of no case which would warrant the admission of this testimony upon the trial of a person who was not present when the words were spoken. So if Damane had previously declared that he had entered into a confederacy for the purpose of pulling down all meeting-houses, I cannot believe that this testimony would have been admissible against a person having no knowledge of the declaration, and giving no assent to it.

In felony, the guilt of the principal attaches to the accessary, and, therefore, the guilt of the principal is proven on the trial of the accessary. In treason, all are principals, and the guilt of him who has actually committed the treason does, in England, attach to him who has advised, aided, or assisted that treason; consequently, the conduct of the person who has perpetrated the fact must be examined on the trial of him who has advised or procured it. But, in misdemeanors by statute, where the commission of a particular fact constitutes the only crime punished by the law, I believe there is no case where the declaration of a *particeps criminis* can affect any but himself.

3dly. The admission of the declarations of Mr. Blannerhasset may be insisted upon under the idea that he was the agent of Colonel Burr. How far the acts of one man may affect another criminally, is a subject for distinct consideration; but I believe there is no case where the words of an agent can be evidence against his principal on a criminal prosecution. Could such testimony be admissible, the agency must be first clearly established, not by the words of the agent alone, but by the acts of the principal, and the word must be within the power previously shown to have been given.

The opinions of the circuit court of New York in trials of Smith and Ogden have been frequently mentioned. Although I have not the honor to know the judge who gave those decisions, I consider them as the determination of a court of the United States, and I shall not be lightly induced to disregard them, or unnecessarily to treat them with disrespect. I do not, however, perceive in the opinions of Judge Talmadge any expression indicating that the declarations of third persons could be received as testimony against any individual who was prosecuted under this act. If he has given that opinion, it has certainly escaped my notice, and has not been suggested to me by counsel. He unquestionably says, in page 113 of the trial, "that the reference which was made to the doctrine of conspiracy did not apply in that case." The reference alluded to was the observation of Mr. Emmet, who had said "that if the object was to charge Colonel Smith with the acts of Captain Lewis, they ought to have laid the indictment for a conspiracy." The opinion of the judge, that the doctrine of conspiracy had no application to the case, appears to me to be perfectly correct.

I feel, therefore, no difficulty in deciding that the testimony of Mr. Neale, unless he can go further than merely stating the declarations made to him by Blannerhasset, is at present inadmissible.

But the argument has taken a much wider range. The points made comprehend the exclusion of other testimony suggested by the attorney for the United States, and the opinion of the court upon the operation of testimony. As these subjects are entirely distinct, and as the object of the motion is the exclusion of testimony supposed to be illegal, I shall confine my observations to that part of the argument which respects the admissibility of evidence of the description of that proposed by the attorney for the United States.

The indictment charges the accused in separate counts with beginning, with setting on foot, with preparing, and with providing the means for a military expedition to be carried on against a nation at peace with the United States. Any legal testimony which applies to any one of these counts is relevant. That which applies to none of them must be irrelevant.

The expedition, the character and object of that expedition, that the defendant began it, that he set it on foot, that he provided and prepared the means for carrying it on, are all charged in the indictment, and, consequently, these charges may be all supported by any legal testimony. But that a military expedition was begun and set on foot by others, or that the means were prepared or provided by others, is not charged in this indictment, is not a crime which is or can be alleged against the defendant, and testimony to that effect is therefore not relevant.

All testimony which serves to show the expedition to have been military in its character, as, for instance, testimony respecting their arms and provisions, no matter by whom purchased, their conduct, no matter by whom directed, or who was present, all legal testimony which serves to show the object of the expedition, as would be their actually marching against Mexico, any public declarations made among themselves stating Mexico as their object, any manifesto to this effect, any agreement entered into by them for such an expedition—these, or similar acts, would be received to show the object of the expedition.

In the trials of Smith and Ogden they were received. Whether the particular acts of the accused, on which his guilt or innocence depends, must precede this species of testimony, or may be preceded by it, is a question which merely respects the order of evidence. There can be no doubt that at some stage of the prosecution either before or after the particular part performed by the accused has been shown, the character and object of the expedition may be shown, and that by any legal testimony calculated to develop that character and object. Whether this testimony is admissible before the proof which particularly applies to the part performed by the accused, or

ought to be introduced by first proving that part, is a question which is not made in this case, and which was not made in the case of Smith and Ogden. In that case it was certainly entirely unimportant, and it is probably not less so in this.

It has been also contended that the acts no more than the declarations of third persons can be given in evidence on this indictment.

It has been already said that those acts of equipment which go to show the character of the expedition may be given in evidence. If, for example, Blannerhasset, Tyler, Smith, or any other persons, provided arms, ammunition, or provisions, which were applied to the armament, this would be evidence, because it would show the character of the expedition. This was done in the case of Smith and Ogden, without inquiring who provided the arms, for they belonged to the expedition. Captain Lewis, for instance, purchased several military equipments. It was not deemed necessary to show that Smith was connected with Lewis, for these purchases were made for the expedition, and Smith was not charged with providing them. He was charged with providing other means; and the means provided by Lewis served to show the character of the expedition.

But although the acts of all persons providing means applied to the expedition may be given in evidence, upon the same principle that the state of the expedition may be shown, it does not follow that other acts of third persons may be given in evidence.

It has also been contended that no transactions out of the district are testimony.

This position is correct to a considerable extent, but not to that extent in which it is laid down. A declaration of Mr. Burr, for example, made in Kentucky, or elsewhere, that he did set on foot a military expedition on Blannerhasset's island to be carried on against the dominions of the King of Spain, while the United States were at peace with that Power, would, I think, be evidence; so would the actual marching of the troops proved to be raised by him against the province of Mexico. Testimony which goes directly to prove the indictment may, I think, be drawn from any place.

But I do not understand this to be the point really in contest. I understand the counsel of the United States to insist, that providing means in Kentucky, that enlisting men in Kentucky, that joining the expedition in Kentucky, may be given in evidence to show that the accused did begin and set on foot the expedition in Blannerhasset's island, or did provide the means at that place, as charged in the indictment. This I understand to be the great question which divides the prosecution and defence.

It is, I believe a general rule, that in criminal prosecutions, a distinct crime for which a prosecution may be instituted cannot be given in evidence in order to render it more probable that the particular crime charged in the indictment was committed; if gentlemen think me wrong in this, I will certainly hear them upon the point, but I believe the position to be correct. Now providing the means for a military expedition in Kentucky, to be carried on against the dominions of a prince with whom the United States are at peace, is certainly in itself a distinct offence upon which an indictment may be as well supported as it can be for providing means for the same or a similar expedition in Virginia. According to the rule laid down, then, this testimony cannot be received unless it goes to prove directly the charges contained in the indictment. But how can it go directly to prove those charges? Does it follow that the man who has provided the means in Kentucky has also provided the means in Virginia? Certainly it does not follow; and, consequently, the acts alleged in Kentucky do not prove the charges contained in the indictment. They would prove the defendant to have been connected in the enterprise, and gentlemen argue as if they thought this sufficient for their purpose. I shall be excused if I employ a few moments in stating my reasons for thinking it not sufficient.

I have already said, and surely no man will deny it, that two distinct persons may at different places furnish different means for the same enterprise. It will, I presume, not be contended that one of them may be indicted for the means provided by the other. So, too, if the same man shall provide means for the same enterprise at different places, as in Virginia and Kentucky, I do not imagine that an indictment for providing arms in Virginia could be supported by proving that he provided ammunition in Kentucky. They are distinct offences, for either of which he may be punished; and the commission of the one may render more probable, but does not prove the commission of the other.

How, then, do gentlemen mean to make this testimony relevant? It is by making the acts of Blannerhasset, Tyler, and Smith, the acts of Burr; by insisting that their acts show an unlawful expedition to have been begun by him in Virginia, or that the means for that expedition were provided by him in Virginia. This being accomplished, his acts in Kentucky may be adduced to corroborate or confirm the testimony which discloses his conduct in Virginia.

As preliminary, then, to this testimony, such proof of the specific charges contained in the indictment may be given, as may be left to the consideration of the jury.

This proof relates to place as well as to fact. "Of whatsoever nature an offence indicted may be," (says Hawkins, b. 2, ch. 25, sec. 35,) "whether local or transitory, as seditious words or battery, &c. it seems to be agreed that if upon not guilty pleaded, it shall appear that it was committed in a county different from that in which the indictment was found, the defendant shall be acquitted."

This rule is stronger in the United States, where it is affirmed by the Constitution itself, and where the jurisdiction of the court is limited to offences within the district. Its obligation, therefore, is complete.

If there be any direct testimony that an expedition was begun, or set on foot, or that the means

were provided or prepared in Virginia, that testimony has not yet been heard, so far as I recollect. If there be such testimony, it must also be shown that the expedition was begun, or that the means were prepared by the accused. No single act of his in Virginia has been offered in evidence. He made a contract in the State of Ohio for boats and provisions, which may have been intended as a part of the expedition, but no contract appears to have been made in Virginia, nor were the boats constructed or provisions procured in Virginia. How, then, is it to appear that he begun or set on foot a military expedition in Virginia, or that he provided or prepared the means for such an expedition?

It is said that if he gave orders from Kentucky or elsewhere, and in consequence of those orders the means were provided in Virginia, the accused is within the letter of the act as well as its spirit, and has himself provided the means in Virginia.

If these orders were in proof, the court as well as the counsel would be enabled to view the subject with more accuracy, and to treat it with more precision. Since those orders are not adduced nor accurately stated, and the question has been argued without them, the court must decline giving any opinion, or consider the orders as offered, and say what orders would be admissible and what inadmissible. The latter course may save the bar the trouble of another argument.

To whom are orders supposed to have been given, and who are supposed to have executed them?

They must have been given to accomplices, or to those who had no share in the expedition.

If accomplices, under the direction of Colonel Burr, have provided the means, can their liability to the penalties of the law be doubted? I presume not. If persons engaged in the expedition have provided the means for carrying it on, it will, I presume, be admitted that they are within the letter and the spirit of the act. Each man has himself provided and prepared those particular means which he has furnished. If Colonel Burr, as was the case with Colonel Smith, has supplied money for the expedition, then money may be charged as the means provided by him; but if that money was advanced to an accomplice, its investment in means for the expedition is the act of the accomplice, for which, being a free agent, he is himself responsible. The accomplice has committed the very act which the law furnishes. Has the accused, by suggesting or procuring that act, also committed it?

I will not say how far the rule that penal laws must be construed strictly, may be carried without incurring the censure of disregarding the sense of the Legislature. It may however, be safely affirmed that the offence must come clearly within the description of the law, according to the common understanding of the terms employed, or it is not punishable under the law. Now to do an act, or to advise or procure an act, or to be connected or leagued with one who does that act, is not the same, in either law language or in common parlance; and if they are not the same, a penalty affixed to the one is not necessarily affixed to the other. The penalty affixed to the act of providing the means for a military expedition is not affixed to the act of advising or procuring those means to be provided, or of being associated with the man who has provided them. The distinction made by the law between these persons is well settled, and has been too frequently urged to require further explanation. The one is a principal, the other an accessary. In all misdemeanors, punishable only by a statute which describes as the sole offender the person who commits the prohibited act, the one is within and the other not within the statute. In passing the act under consideration, Congress obviously contemplated this distinction. I presume that in a prosecution under the 3d section, for fitting out a privateer, it would not be alleged that a person who was concerned with the men who actually fitted out a privateer, but who performed no act himself, could be convicted on an indictment not for being concerned in fitting out the privateer, but for actually fitting her out. These are stated in that section as separate offences.

This distinction taken in the law is well understood, and cannot be considered as overlooked by those who frame penal acts. They cannot be considered as intending to describe one offender, when they describe another; and if experience suggests defects in the penal code, the Legislature exclusively judges how far those defects are to be remedied.

While expounding the terms of the act, it may not be improper to notice an argument advanced by the attorney for the United States, which was stopped by my observing that he had not correctly understood the opinion delivered in the case of treason. He understood that opinion as approving the doctrine laid down by Keeling and Hale, that an accessary before the fact might plead, in bar of an indictment as accessary, that he had been acquitted as principal; whence it was inferred, that on an indictment for doing an act, evidence of advising or producing that act might be received. I was certainly very far from approving this doctrine. On the contrary, I declared it to contradict every idea I had ever formed on the subject. But if it were correct, I endeavored to show that it could not affect that case. My disapprobation of the doctrine induced me to look further into it, and my persuasion that it is not law is confirmed. Hale, v. 2, p. 292, says, "if A and B be indicted of the murder of C, and upon their evidence it appears that A committed the fact, and B was not present, but was accessary before the fact, by commanding it, B shall be discharged."

In Hale, 2, ch. 85, sec. 11, Hawkins discusses this subject, shows in a note the contradiction in those authorities which maintain the doctrine, cites the opposing authorities, and obviously approves the opinion which is here given. It is apparent then, that the law never considers the commission and the procurement of an act, even where both are criminal, as the same act.

I cannot, therefore, consider means provided by

those who are his accomplices in the expedition, as means provided by Colonel Burr.

If the means were provided by order of the accused, by persons not accomplices, and not guilty under the act, the law may be otherwise. I shall not exclude such testimony. There is, however, some doubt whether the place of trial should be where the orders were given, or where they were executed.

At common law, if an act was procured or advised at one place, and executed at another, it was doubted whether the procurer could be tried at either place, because the offence was not complete at either. This difficulty was removed by a statute made in the reign of Edward VI. If there be testimony showing, by orders from the accused, that means were provided in Virginia by a person not an accomplice, it may be received, and the question respecting the scene of trial put in a way for final decision.

The question whether all the means must be provided before the offence described in the statute has been committed, relates to the effect rather than to the exclusion of the testimony. I shall certainly not reject any evidence which shows that any means *were provided by the accused in the place charged in the indictment.*

Upon the subject of beginning and setting on foot a military expedition or enterprise, it would be unnecessary at this time to say anything, were it not on account of the question respecting the introduction of testimony out of the district.

What is an expedition? What is an enterprise?

An expedition, if we consult Johnson, is "A march or voyage with martial intentions." In this sense it does not mean the body which marches, but the march itself. The term is, however, sometimes employed to designate the armament itself, as well as the movement of that armament.

An enterprise is "An undertaking of hazard—an arduous attempt." The proper meaning, then, of this word also describes the general undertaking, and not the armament with which that undertaking is to be accomplished.

The first count in the indictment charges that Burr began the expedition in Blannerhasset's island; the second and third, that he set on foot the enterprise in Blannerhasset's island.

If the term *expedition* is to be taken in its common and direct sense—that is, to mean a march or a voyage with martial intentions—it began where that march or voyage begun; and it must have been begun by the accused to bring him within the act.

If the term be taken in its figurative sense, to designate the armament itself, instead of the movements of that armament, then I cannot readily conceive an act which begins an expedition, unless the same act may also be said to provide the means of an expedition. The formation of the plan in the mind is not the commencement of the expedition within the act. Our laws punish no mental crimes not brought into open deed. The disclosure of that plan does not begin it. If it did, the first disclosure would be the beginning. I find a difficulty in conceiving any act which amounts to beginning an expedition, which does not also amount to providing the means for an expedition. However, if there can be such an act, and if it has been committed in Virginia, it may certainly be given in evidence.

The same observations apply to setting on foot an enterprise.

These remarks are made to show what it will be necessary to prove, in order to let in corroborative proof.

It is, then, the opinion of the court, that the declarations of third persons, not forming a part of the transaction, and not made in the presence of the accused, cannot be received in evidence in this case.

That the acts of accomplices, except so far as they prove the character or object of the expedition, cannot be given in evidence.

That the acts of the accused in a different district, which constitute in themselves substantive cause for a prosecution, cannot be given in evidence, unless they go directly to prove the charges laid in the indictment.

That any legal testimony which shows the expedition to be military, or to have been designed against the dominions of Spain, may be received.

That any testimony showing that the accused performed within the district any one of the acts charged in the indictment may be received.

Gentlemen will know how to apply these principles. Should any difficulty occur in applying them, the particular case will be brought before the court and decided.

CITY OF RICHMOND, *sct.:*

This day, the 28th of October, 1807, Thomas Ritchie, editor of the Enquirer, published in this city, made oath before me, a magistrate of the said city, that the annexed sheet, containing the opinion of the circuit court of the United States for the fifth circuit and Virginia district, in the case of Aaron Burr, &c., &c., was printed in the Enquirer from the original manuscript furnished by Chief Justice Marshall.

Given under my hand, the day and year above written. WM. RICHARDSON, *Mayor.*

Conclusive Opinion of the Chief Justice Marshall, on the motion for commitment, delivered on Tuesday, October 20, 1807.

Much of the difficulty of the present case arises from its being attended by circumstances entirely opposite to those which are usually found in motions of a similar description.

An examining magistrate commits, and ought to commit, on probable cause. In defining his duty, after stating that he may arrest, either upon his own suspicion or that of others, Blackstone adds: "But in both cases it is fitting to examine upon oath the party requiring a warrant, as well to ascertain that there is a felony or other crime actually committed, (without which no warrant should be granted,) as also to prove the cause and probability of suspecting the party against whom the warrant is prayed."

But, although the existence of a fact as the foundation of a charge must be proved before a magistrate can legally imprison a citizen, it is not believed to be true that the same necessity exists for ascertaining with equal clearness the full legal character of that fact, or the degree of guilt which the law attaches to it. On a charge of murder, for example, the homicide must be proved; but the inquiry whether it be justifiable or otherwise is seldom made by an examining magistrate. He could not refuse to commit, unless it was perfectly clear that the act was innocent. An opinion that a jury ought to acquit would not warrant a refusal on his part to take the steps which might bring the accused before a jury.

In cases where the legal effect of the act alleged to be criminal is in any degree doubtful, it would greatly derange the regular course of justice, and enable many offenders to escape, should a magistrate refuse to arrest until he had received full proof of guilt. If the fact be of such a character as perhaps to be construed into a high and dangerous crime, with the aid of other testimony, which the nature of the case admits, it would seem to be a duty to secure the person, in order to abide the judgment of the law.

Among the many reasons which may be enumerated for committing in a doubtful case, are:

1. That, upon a considerable portion of a criminal charge, it is the peculiar province of a jury to decide;

2. That additional testimony is to be expected; and,

3. That the person most commonly making the commitment is a justice of the peace, not authorized finally to try the offender, and who, consequently, whatever may be the fact, is not presumed to be so competent a judge of the law of the case as he is to whom the power of deciding it is confided.

Had these proceedings commenced with the present motion, founded on testimony such as is now adduced, I certainly should have felt no difficulty in deciding on it. But the proceedings are not now commencing. The persons against whom this motion is made have been seized—one in the Mississippi Territory, one in Kentucky, and one in the western parts of Pennsylvania or New York, and brought to this place for trial. An immense number of witnesses have been assembled, and a very extensive investigation of the transactions alleged to be criminal has taken place. The result has been the acquittal of one of the accused, upon the principle that the offence, if committed anywhere, was committed out of the jurisdiction of this court; and a *nolle prosequi* has been entered with respect to the others. The witnesses intended to establish the charge before a jury have been examined, and the probability of obtaining testimony which can materially vary the case is admitted to be very remote. The great personal and pecuniary sufferings already sustained must be allowed also to furnish some motives for requiring rather stronger testimony to transmit the accused to a distant State for trial, than would be required in the first instance. It may likewise be added, as a consideration of some weight, that the judge who hears the motion, though sitting as an examining magistrate, is one of those who is by law intrusted with the power of deciding finally on the case; and there seems to be, on that account, the less reason for referring the party to a distinct tribunal, on a point on which a slight doubt may exist.

I do not believe that in England, whence our legal system is derived, a justice of *assize* and *nisi prius*, after hearing the whole testimony, would commit for trial in another county a man who had been tried in an improper county, unless the probable cause was much stronger than would be required on ordinary occasions.

These conflicting considerations certainly render the questions to be decided more intricate than they would be in a different state of things. After weighing them, I have conceived it to be my duty not to commit on slight ground; but at the same time I cannot permit myself to be governed by the rules which would regulate my conduct on a trial in chief.

There are certain principles attached to the different characters of a judge sitting as an examining magistrate, and on a trial in chief, which must essentially influence his conduct even under circumstances like those which attend the present case. It is a maxim, universal in theory, though sometimes neglected in practice, that if, in criminal prosecutions, there be doubts either as to fact or law, the decision ought to be in favor of the accused. This principle must be reversed on a question of commitment. In a case like the present, if the judge has formed a clear opinion on the law or fact, which there is not much reason to suppose additional testimony might be obtained to change, it would be injustice to the public, to the accused, and to that host of witnesses who must be drawn from their private avocations to the trial, should he take a step which, in his judgment, could produce only vexation and expense; but if he entertains serious doubts as to the law or fact, it is, I think, his duty, even in a case like this, not to discharge, but to commit.

The charges against the accused are:

1st. That they have levied war against the United States at the mouth of Cumberland river, in Kentucky; and,

2d. That they have begun and provided the means for a military expedition against a nation with which the United States were at peace.

With respect to one of the accused, a preliminary defence is made in the nature of a plea of *autrefois acquit*.

If the question raised by this defence was one on which my judgment was completely formed in favor of the person by whom it is made, it would certainly be improper for me to commit him; but if my judgment is not absolutely and decidedly formed upon it, there would be a manifest impropriety in undertaking now to determine it. This does not arise from any fear to meet a great question whenever my situation shall require me to meet it, but from a belief that I ought as well to avoid the intrusion of my opinions on

my brethren in cases where duty does not enjoin it on me to give them, as the withholding of these opinions where my situation may demand them. The question whether *autrefois acquit* will be a good plea in this case is of great magnitude, and ought to be settled by the united wisdom of all the judges. Were it brought before me on a trial in chief, I would, if in my power, carry it before the Supreme Court; when brought before me, merely as an examining magistrate, I should deem myself inexcusable were I to decide, while a single doubt remained respecting the correctness of that decision.

To settle new and important questions in our criminal code, especially where those questions are Constitutional, is a task upon which a single judge will at any time enter with reluctance; certainly, he would not willingly engage in it while acting as an examining magistrate. There is a decent fitness which all must feel in bringing such questions, if practicable, before all the judges. In England, trials which are expected to involve questions of great magnitude, are seldom assigned to one or two judges. At that interesting crisis, when Hardy, Tooke, Thelwall, and others, were indicted for treason, Chief Justice Eyre was aided and supported by four associate judges, of high talents and character. It would, I have no doubt, in that country be a matter of surprise if any person, whatever might be his station in the judiciary, should undertake to settle a great and novel point on a question of commitment. Although, in the United States, our system does not admit of a commission authorizing a majority of the judges to constitute a court for the trial of special criminal cases, yet it does not admit of carrying a doubtful and important point before the Supreme Court, and I should not feel myself justified were I now to give an opinion anticipating such a measure.

I shall, therefore, consider this motion as if no verdict had been rendered for either of the parties.

Both charges are supported by the same transaction and the same testimony. The assemblage at the mouth of Cumberland is considered as an act of levying war against the United States, and as a military armament collected for the invasion of a neighboring Power with whom the United States were at peace.

From the evidence which details that transaction, it appears that from sixty to one hundred men, who were collected from the upper parts of the Ohio, under the direction of Tyler and Floyd, had descended the river, and reached the mouth of Cumberland about the 25th of December, 1806. The next day they went on shore, and formed a line, represented by some as somewhat circular, to receive Colonel Burr, who was introduced to them, and who said that he had intended to impart something to them, or that he had intended to communicate to them his views, but that reasons of his own had induced him to postpone this communication; or, as others say, that there were then too many bystanders to admit of a communication of his objects.

The men assembled at the mouth of Cumberland appear to have considered Colonel Burr as their chief. Whatever might be the point towards which they were moving, they seemed to have looked upon him as their conductor.

They demeaned themselves in a peaceable and orderly manner. No act of violence was committed, nor was any outrage on the laws practised. There was no act of disobedience to the civil authority, nor were there any military appearances. There were some arms, and some boxes, which might or might not contain arms. There were also some implements of husbandry, but they were purchased at the place. These men assembled under contracts to settle a tract of country on the Red river. No hostile objects were avowed; and, after continuing a day or two on an island in the mouth of the river, the party proceeded down the Ohio.

There are some circumstances in this transaction which are calculated to excite attention and awaken suspicion. If the exclusive object of those who composed this meeting was to settle lands, it would naturally form the subject of public conversation, and there would most probably have been no impediment to a free communication respecting it. The course of the human mind would naturally lead to such communications. The silence observed by the leaders on this subject, connected with hints of ulterior views, seems calculated to impress on the minds of the people themselves that some other project was contemplated, and was probably designed to make that impression.

That the men should have been armed with rifles was to be expected, had their single object been to plant themselves in the Washita; but the musket and bayonet are, perhaps, not the species of arms which are most usually found in our frontier settlements; nor were the individuals who were assembled of that description of persons who would most naturally be employed for such a purpose. The engagement for six months, too, is a stipulation for which it is difficult to account, upon the principle that a settlement of lands was the sole or principal object in contemplation.

These are circumstances which excite suspicion. How far they may be accounted for by saying that ulterior eventual objects were entertained, and that the event on which those objects depended was believed to be certain, or nearly certain, I need not determine; but I can scarce suppose it possible that it would be contended by any person that the transactions at the mouth of Cumberland do in themselves amount to an act of levying war. There was neither an act of hostility committed, nor any intention to commit such act avowed.

Very early in the proceedings which preceded this motion, I declared the opinion that war might be levied without a battle, or the actual application of force to the object on which it was designed to act; that a body of men assembled for the purpose of war, and being in a posture of war, do levy war; and from that opinion I have certainly felt no disposition to recede. But the intention is an indispensable ingredient in the com-

position of the fact; and, if war may be levied without striking a blow, the intention to strike must be plainly proved.

To prove this intention, the prosecutor for the United States offers evidence of conversations held by the accused, or some of them, with various individuals at different times, relative to the views which were entertained, and the plans which had been formed, and of certain facts which took place after leaving the mouth of Cumberland; for, although it was decided not to be within the power of this court to commit for trial in a Territory of the United States, yet every transaction within a Territory has been given in evidence, in the expectation that such testimony might serve to explain the meeting at the mouth of Cumberland, and because it was believed to be proper for an examining magistrate to receive it.

That conversations or actions at a different time and place might be given in evidence as corroborative of the overt act of levying war, after that had been proved in such a manner as to be left to a jury, I never doubted for an instant; but that, in a case where the intent could not be inferred from the fact, and was not proved by declarations connected with the fact, among which I should include the terms under which those who composed the assemblage were convened together, this defect could be entirely supplied by extrinsic testimony, not applying the intent conclusively to the particular fact, is a point on which I have entertained doubts which are not yet entirely removed. The opinion of Judge Iredell, in the case of John Fries, according to my understanding of it when read at the bar, appears to bear strongly on this point; and that opinion would be conclusive with me, at least while acting as an examining magistrate. I have not reviewed it particularly, because my decision will not depend on the propriety of admitting this mode of proving the intent.

It has also been made a question whether, after proving a connexion between the accused for some general object, the conversations of one of them may be given in evidence against any other than himself for the purpose of proving what that object was. On the part of the United States it is insisted that such conversations may be given in evidence on an indictment for treason in levying of war. By the defence it is contended that such evidence is only admissible on indictments for a conspiracy, or on indictments where a conspiracy may be laid as an overt act.

The principle that one man shall not be criminated by the declarations of another, not assented to by him, not made in due course of law, constitutes a rule of evidence which ought not unreflectingly to be invaded.

It is one of those principles which I do not think myself required to decide, because I am not sure that its decision, however interesting it might be on a trial in chief, would essentially affect the question of commitment; nor am I confident that its decision, as argued on the part of the United States, would introduce the testimony it was designed to introduce. In the English books, generally, the position that the declarations of a person not on trial may be given in evidence against a man proved to have been connected with him, is laid down only in cases of conspiracy, where the crime is completed without any other open deed. The position is certainly not laid down with respect to such cases in terms which exclude its application to others; but it is laid down in general terms, and is affirmed to apply to those particular cases, without being affirmed to apply to others. From this general observation relative to the English books, East is to be excepted. He states the proposition generally; yet it may well be doubted whether this general statement was not with a view to the law in that treason which, in England, almost swallows up every other.

But admitting the law to be the same in treason by levying war in cases of conspiracy, how far does it extend?

The doctrine on this subject was reviewed in the cases of Hardy and Tooke. On the part of the Crown, a letter of Thelwall containing seditious songs, composed by himself and sung in the society, was offered as evidence against Hardy, who was connected with Thelwall. This testimony was rejected, because it was not a part of the transaction itself, but an account of that transaction given by Thelwall to a person not engaged in the conspiracy. The court was divided; three for rejecting, and two for admitting the evidence.

A letter addressed by one conspirator to another, but not proved to have been received, was then offered and admitted against the opinion of the Chief Justice, who thought that such a letter did not amount to an act done, which might be evidence, but only to a relation of that act, which could not be evidence. He was overruled, because a letter from one conspirator to another on the conspiracy, was a complete act in that conspiracy.

The next paper offered was a letter from a society in the conspiracy, which was found in the possession of one of the conspirators, and this was unanimously admitted.

The principle which appears to be established by these decisions is, that a letter from one conspirator to another on the subject of the conspiracy is evidence against all, but that a letter from a conspirator to a person not connected with him, stating facts relative to the conspiracy, is only evidence against himself. How far a conversation held with a stranger, for the purpose of bringing him into the plot, may be considered as a transaction, and, therefore, testimony to show the general conspiracy, does not appear from these decisions.

This species of evidence is received to show the general object of the conspiracy, but can affect no individual further than his assent to that object can be proved by such testimony as is admissible in ordinary cases.

I notice this point for the purpose of observing that I do not decide it on the present motion.

The first question which arises on the evidence is—

With what objects did those men convene who assembled at the mouth of Cumberland?

Was it to separate the Western from the Eastern States, by seizing and holding New Orleans?

Was it to carry on an expedition against Mexico, making the embarcation at New Orleans?

Was this expedition to depend on a war with Spain?

The conversation held by Colonel Burr with Commodore Decatur stated his object to be an expedition against Mexico, which would be undertaken, as the Commodore understood, with the approbation of Government, in the event of war.

To General Eaton he unfolded, in various conversations, plans for invading Mexico, and also for severing the Western from the Atlantic States.

To Commodore Truxtun he spoke of the invasion and conquest of Mexico in the event of a war, as a plan which he had digested in concert with General Wilkinson, and into which he was extremely desirous to draw the Commodore. A circumstance was narrated by this witness, which has been noticed by the counsel for the United States, and deserves consideration. It is the declaration of Colonel Burr that he was about to despatch two couriers with letters to General Wilkinson relative to the expedition. It was at this time that Messrs. Bollman and Swartwout are said to have left Philadelphia, carrying each a copy of the ciphered letter, which has constituted so important a document in the various motions that have been made on this occasion. This letter, though expressed in terms of some ambiguity, has been understood by the Supreme Court, and is understood by me, to relate to a military expedition against the territories of a foreign Prince. In this sense the testimony offered on the part of the United States shows it to have been also understood by Bollman, by Swartwout, and by General Wilkinson. The inference is very strong, that this letter is the same to which Colonel Burr alluded in his conversation with Commodore Truxtun, and strengthens the idea that the accused gave to that gentleman a true statement of the real object, so far, at least, as relates to the point against which his preparations were to be directed. All the conversations relative to an expedition by sea would be equally inapplicable to any attempt on the territories of the United States, and to the settlement of lands.

His conversations with the Messrs. Morgan certainly indicate that his mind was strongly directed to military objects, that he was not friendly to the present Administration, and that he contemplated a separation of the Union as an event which would take place at no very distant day.

His conversation with Lieutenant Jackson points in express terms to hostility against Spain.

The conversations of Mr. Blannerhasset evince dispositions unfriendly to the Union, and his writings are obviously intended to disaffect the Western people, and to excite in their bosoms strong prejudices against their Atlantic brethren. That the object of these writings was to prepare the Western States for a dismemberment, is apparent on the face of them, and was frequently avowed by himself. In a conversation with the Messrs. Henderson, which derives additional importance from the solemnity with which his communications were made, he laid open a plan for dismembering the Union under the auspices of Mr. Burr. To others, at subsequent times, he spoke of the invasion of Mexico, as the particular object to which the preparations then making were directed. In all, those whom he sought to engage in the expedition, the idea was excited that, though the Washita was its avowed object, it covered something more splendid; and the allusions to Mexico, when not directed, were scarcely to be misunderstood.

The language of Comfort Tyler also tends to prove that the enterprise was destined against Mexico.

The communications made to General Wilkinson deserve much consideration in marking the real intention of the parties, because it is obvious that Col. Burr, whether with or without reason, calculated on his co-operation, with the army which he commanded, and that on this co-operation the execution of his plan greatly, if not absolutely, depended. To General Wilkinson, both the ciphered letter and the explanations made by Bollman and Swartwout, declared the expedition to be military, and to be intended against Mexico.

I do not think the authenticity of this letter can now be questioned. When to the circumstances enumerated by the counsel on the part of the United States are added the testimony of Mr. Swartwout, and its being written in a cipher previously established between General Wilkinson and Colonel Burr, I think it sufficiently proved, at least for the present, although not in the handwriting of the person to whom it is ascribed.

The conversation stated by General Wilkinson as passing between Mr. Swartwout and himself, so far as it is contradicted by that gentleman, cannot affect Mr. Burr; for this plain reason: the person alleged to have made those declarations avers not only that he never made them, but that he was never authorized to make them; that he never heard from Mr. Burr any sentiment indicating designs against any part of the United States, and never even suspected him of such designs. If, then, General Wilkinson be correct, I must consider the observations he narrates as the conjectures of Mr. Swartwout, not authorized by Mr. Burr.

It is also a circumstance of some weight, that Mr. Burr's declarations at the mouth of Cumberland furnish strong reasons for the opinion that he did not wish those to whom he addressed himself to consider the Washita as his real ultimate object; and the reference to further information from their particular leaders would naturally induce the expectation, that without any open avowal their minds would be gradually conducted to the point to which their assent was to be obtained. We find there were rumors among them of attacking Baton Rouge, of attacking other parts of the Spanish dominions, but not a sugges-

tion was heard of hostility against the United States.

On comparing the testimony adduced by the United States with itself, this is observable. That which relates to treason indicates the general design, while that which relates to the misdemeanor points to the particular expedition which was actually commenced. Weighing the whole of this testimony, it appears to me to preponderate in favor of the opinion that the enterprise was really designed against Mexico.

But there is strong reason to suppose that the embarcation was to be made at New Orleans, and this, it is said, could not take place without subverting for a time the Government of the Territory, which it is alleged would be treason. The Supreme Court has said, that to revolutionize a Territory by force, although merely as a step to or a means of executing some greater projects, is treason. But an embarcation of troops against a foreign country may be made without revolutionizing the Government of the place, and without subverting the legitimate authority. It is true that violence might probably result from such an attempt, and treason might be the consequence of its execution; but this treason would arise incidentally, and would not be the direct object for which the men originally assembled. This treason would attach to those who committed it, but would not, I am inclined to think, infect a previous assemblage, convened for a distinct purpose. If the object of the assemblage at the mouth of Cumberland was to embark at New Orleans for the purpose of invading Mexico, the law relative to that assemblage would be essentially different from what it might be if their direct object was to subvert the government of New Orleans by force. If in prosecuting their purpose at New Orleans war should be levied, this would be treason at New Orleans where the fact was committed, but it could not, I think, be said to be treason by levying war at the mouth of Cumberland, where the fact was neither committed nor intended. It might be otherwise if, at the mouth of Cumberland, the determination to subvert the government of a Territory by force had been formed.

This opinion may be in some degree illustrated by the doctrine of the English books. Levying war is an overt act of compassing the King's death. So is a conspiracy to levy war, provided the conspiracy be direct against the King or his Government. But if it be a conspiracy to do an act of constructive treason, which act, if done, would support an indictment for compassing the King's death, the conspiracy without the act will not support the indictment. So in this case, if the object be the embarcation of a body of men against a foreign country, in the execution of which war may or may not be levied, the fact becomes necessary to constitute the treason.

It is also a circumstance of considerable weight with me, that the proof exhibited by the United States to establish a general design to dismember the Union, applies only to Colonel Burr and Mr. Blannerhasset. It is not proved to have been ever communicated even to Tyler or Floyd. There is not only a failure to prove that such a design was communicated to or entertained by the men who were assembled at the mouth of Cumberland, but the contrary is in full evidence. The United States have adduced several witnesses belonging to that assemblage who concur in declaring that they heard nothing, that they suspected nothing, and that they would have executed nothing, hostile to the United States. This testimony cannot be disregarded, for it is uncontradicted, and is offered by the prosecution. How can this assemblage be said to have levied war against the United States?

Had Burr and Blannerhasset constituted this meeting, no man could have construed it into an act of levying war, whatever might have been their purpose. Their being joined by others having no hostile intentions against the United States, who were attached to them with other views, and who would not permit themselves to be employed in the execution of such intentions, does not seem to me to alter the case. The reason why men in a posture of war may be said to levy war before a blow is struck, is, that they are ready to strike, and war consists in the various movements of a military force, as well as in actual fighting. But these men were not ready nor willing to strike, nor could their chief be ready to strike without them. He had yet to prevail upon them to come into his measures. This is not a meeting for the purpose of executing a formed design, but a meeting for the purpose of forming a design. It is, therefore, more in the nature of conspiracy than of actual war.

Suppose Mr. Burr had, at the mouth of Cumberland, declared his object to be to seize upon New Orleans and dismember the Union; and that, upon this declaration, his men had universally abandoned him; could this have been denominated an act of levying war? If we forget the Constitution and laws of our country, if we suppose treason, like moral guilt, to consist in the intention, and that it may be legally evidenced by words declaring that intention, the answer to this question may be in the affirmative; but if it can consist only in an open deed of levying war, I confess myself unable to perceive how such a proposition can be construed into such a deed.

The case does not appear to me to be essentially varied by the circumstance that this design was not avowed, and that the men followed Colonel Burr with other views. Upon general principles, it appears to me, that unless some act be committed from which a treasonable intent may be inferred, that the treasonable intent must be proved in the assemblage, where that assemblage is composed of free agents, as well as in the person who convenes them, before the law considers war as being actually levied. This opinion is supposed to be contrary to the decision in the case of the Earls of Essex and Southampton. I have examined that case as reported in the State Trials, and do not think it in any respect contradictory to the ideas I have delivered.

The design of the Earl of Essex was to force his way into the palace, and to remove certain

counsellors from the Queen, who were his enemies; but he intended no hurt to the person of the Queen. For the purpose of executing this design, he assembled a large body of armed men at his own house, who continued to be imbodied after being ordered by the proper authority to disperse; and he also entered the city of London for the purpose of raising the citizens in order further to aid him in the execution of his plan. Several consultations had been previously held, at which the Earl of Southampton assisted, and it is not alleged in the case that he was not fully informed of these projects. He believed that no design was entertained against the person of the Queen; and, therefore, that his acts were not treasonable; but in the law he was mistaken. In fact, no particular design against her person was entertained, and Essex as little suspected as Southampton that they were committing treason. They were ignorant that the law pronounced those facts to be treason, but they were neither ignorant of the facts themseves nor of the real intention with which those facts were committed.

In this case the judges delivered their opinion of the law on two points. The one "that in case where a subject attempted to put himself into such strength as the King shall not be able to resist him, and to force and compel the King to govern otherwise than according to his own royal authority and direction, it is manifest rebellion." The other, "that in every rebellion the law intendeth as a consequent the compassing the death and deprivation of the King, as foreseeing that the rebel will never suffer that King to live or reign who might punish or take revenge of his treason or rebellion."

Under this law opinion of the judges, Essex and Southampton were condemned and executed. The only difference between them was that the quarrel was the quarrel of Essex, and Southampton only adhered to him; but he adhered to him knowing what he did, and the intention with which he acted.

Believing, then, the weight of testimony to be in favor of the opinion that the real and direct object of the expedition was Mexico, and inclining also to the opinion, that in law, either acts of hostility and resistance to the Government, or a hostile intention in the body assembled, is necessary to convert a meeting of men with ordinary appearances into an act of levying war, it would, in my judgment, be improper in me to commit the accused on the charge of treason.

It is contended that they are not guilty of a misdemeanor, on one of these grounds: Either the United States were actually at war with Spain, or the expedition was dependent on war; and, in the event of peace, was to be converted into a settlement on the Washita.

It is alleged that we were at war with Spain, because a Spanish army had crossed the Sabine, and entered the territory of the United States.

That a nation may be put in a state of war by the unequivocal aggressions of others without any act of its own, is a proposition which I am not disposed to controvert; but I cannot concede this to be such an act. The boundaries claimed by the United States to their recent purchase of Louisiana are contested by Spain. Now if either nation takes possession of the contested territory as its own, it is an act which the opposite Government may elect to consider either as an act of war or otherwise; and only the Government can make that election. No citizen is at liberty to make it, or to anticipate his Government.

But it is alleged that war, if not absolutely made, appeared to be inevitable; and that the prosecution of the expedition depended on its taking place. That the probability of war was great may be admitted; and this may extenuate the offence, but it still remains an offence which is punishable by law. If the expedition was really eventual, and was not to take place in time of peace, then, certainly, preparations might be made for it without infracting any law; but this is a fact proper for the exclusive consideration of a jury, and I shall make no comment upon it which might, the one way or the other, influence their judgment.

I shall commit Aaron Burr and Herman Blannerhasset, for preparing and providing the means for a military expedition against the territories of a foreign Prince, with whom the United States were at peace. If those whose province and duty it is to prosecute offenders against the laws of the United States shall be of opinion that a crime of a deeper dye has been committed, it is at their choice to act in conformity with that opinion.

Israel Smith is not proved to have provided or prepared any means whatever, and therefore I shall not commit him. If he has really offended against the laws, he may be prosecuted for the treason in Kentucky, or for the misdemeanor in his own State, where, if anywhere, his offence has been committed.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE TENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, OCTOBER 26, 1807.

MONDAY, October 26, 1807.

This being the day appointed by Proclamation of the President of the United States, of the thirtieth day of July last, for the meeting of the Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—Peter Carlton, Daniel M. Durell, Francis Gardner, Jedediah K. Smith, and Clement Storer.

From Massachusetts—Joseph Barker, John Chandler, Orchard Cook, Richard Cutts, Josiah Deane, William Ely, Isaiah L. Green, Daniel Ilsley, Josiah Quincy, Ebenezer Seaver, William Stedman, Samuel Taggart, Joseph B. Varnum, and Jabez Upham.

From Vermont—Martin Chittenden, James Elliot, James Fisk, and James Witherall.

From Rhode Island—Nehemiah Knight, and Isaac Wilbour.

From Connecticut—Epaphroditus Champion, Samuel W. Dana, John Davenport, Jonathan O. Mosely, Timothy Pitkin, jr., Lewis B. Sturges, and Benjamin Tallmadge.

From New York—John Blake, junior, Barent Gardenier, John Harris, Reuben Humphreys, William Kirkpatrick, Josiah Masters, Samuel Riker, John Russell, Peter Swart, David Thomas, John Thompson, James J. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, and Daniel C. Verplanck.

From New Jersey—Ezra Darby, William Helms, John Lambert, Thomas Newbold, James Sloan, and Henry Southard.

From Pennsylvania—David Bard, Robert Brown, William Findley, John Heister, Robert Jenkins, James Kelly, William Milnor, Daniel Montgomery, jr., John Porter, John Pugh, John Rea, Jacob Richards, Matthias Richards, John Smilie, Samuel Smith, and Robter Whitehill.

From Maryland—John Campbell, Charles Goldsborough, Philip B. Key, Edward Lloyd, William McCreery, John Montgomery, Nicholas R. Moore, Roger Nelson, and Archibald Van Horne.

From Virginia—Burwell Bassett, William A Burwell, Matthew Clay, John Clopton, John Dawson, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, David Holmes, Walter Jones, Joseph Lewis, jr., John Love, John Morrow, Thomas Newton, jr., John Randolph, and John Smith.

From North Carolina—Evan Alexander, Willis Alston, jr., Thomas Blount, John Culpepper, Thomas Kenan, Lemuel Sawyer, Richard Stanford and Meshack Franklin.

From North Carolina—Lemuel J. Alston, jr., William Butler, Joseph Calhoun, Thomas Moore, John Taylor, and David R. Williams.

From Georgia—William W. Bibb, Howell Cobb, Dennis Smelt, and George M. Troup.

From Ohio—Jeremiah Morrow.

From Kentucky—Joseph Desha, Benjamin Howard, and Richard M. Johnson.

From Tennessee—John Rhea, and Jesse Wharton.

The Assistant Clerk of the House announced 117 members and one delegate to be present, being a majority of the whole number. He then inquired if it were the pleasure of the House to proceed to the appointment of a SPEAKER, which being determined in the affirmative, the members proceeded to ballot for that officer, Messrs. CUTTS, HELMS, and JOHN CAMPBELL, being named tellers.

The tellers, after examining the votes, reported that 117 were received, and JOSEPH B. VARNUM, a Representative from the State of Massachusetts, having fifty-nine of them, was declared to be duly elected.

The votes were given as follows, viz:

Joseph B. Varnum, 59; Charles Goldsborough, 17; Burwell Bassett, 17; Josiah Masters, 8; Thomas Blount, 7; John Dawson, 4; John Smilie, 2; Benjamin Tallmadge, 1; Timothy Pitkin, 1; and R. Nelson, 1.

The SPEAKER being conducted to the Chair, by Mr. VAN CORTLANDT and Mr. ALSTON, addressed the House as follows:

Gentlemen of the House of Representatives:

You will please to accept my most grateful acknowledgments for the honor which by your suffrages on this occasion you have conferred upon me. I am sensible of my own inability to perform the important duties you have been pleased to assign me, in the most desirable manner; but relying on your candor and readiness to afford me your aid, I accept the trust. And be assured, gentlemen, that it will be my assiduous endeavor to discharge the duties of the office faithfully and impartially; and in a manner which, in my opinion,

shall be best calculated to meet your wishes and afford me the consolation of an approving conscience.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was administered by Mr. Van Cortlandt, one of the Representatives for the State of New York, to the Speaker; and then the same oath, or affirmation, was administered by Mr. Speaker to all the members present.

George Poindexter, Esq. having also appeared as the delegate from the Mississippi Territory of the United States, the said oath was administered to him by the Speaker. The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. Speaker to the Clerk.

A message from the Senate informed the House that a quorum of the Senate is assembled, and ready to proceed to business. Also, that the Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

Ordered, That a message be sent to the Senate, to inform them that a quorum of this House is assembled, and have elected Joseph B. Varnum, Esq., one of the Representatives for the State of Massachusetts, their Speaker; and that the Clerk of this House do go with the said message.

Mr. Bassett, Mr. Goldsborough, and Mr. Mastens, were appointed a committee on the part of this House, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communication that he may be pleased to make to them.

Resolved, That the rules and orders established by the late House of Representatives, shall be deemed and taken to be the rules and orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

ELECTION OF CLERK, &c.

The House next proceeded to the election of a Clerk. The same tellers which had been appointed on the former election having been named by the Speaker on this, the members proceeded to ballot. It appearing to the tellers, on examining the votes, that one of the members had, by mistake, voted twice, this balloting, after a few desultory remarks, was set aside, and a fresh one taken, the result of which was as follows: Nicholas B. Vanzandt, 37; Patrick Magruder, 26; James Elliot, 16; J. W. King, 16; ——, 14; ——, 14; ——, 5; ——, 1.

No person having a majority of votes, another balloting took place, the votes of which were: N. B. Vanzandt, 52; P. Magruder, 28; J. Elliot, 15; J. W. King, 10; W. Lambert, 7; T. Hansford, 4; and C. Minifie, 1.

A third balloting was about to take place, when Mr. Randolph rose, and observed that he never felt more reluctance in addressing the House than on the present occasion; but a sense of the duty which he owed to that body, and which he should always endeavor to fulfil to the best of his ability, impelled him to speak. He perceived among the candidates for the office of Clerk of that House—a high and honorable trust—a person who came before him in such a shape, and under such circumstances, that were he to withhold the information, which he was about to give, from the House, and this person should be elected, he could not answer for the neglect. The person to whom he alluded had a plurality of votes on the last ballot. This person the session before the last, was chief Clerk in the office of Mr. Beckley. There was an order of the House that the doors should be closed. The Clerk is a sworn officer, bound not to divulge the proceedings of the House on such occasions. He did his duty; but the assistant clerks did not perform theirs. They posted themselves at the gallery door, where, it was found, on examination, that every word could be as distinctly heard as on the floor of the House. These clerks heard the debates which took place, and the person to whom he had alluded was one of them. Mr. R. said he had heard repeated some of the expressions which he had used in the House, before he reached his lodgings at Georgetown. This person came to him afterwards and apologized for his conduct. [Here Mr. Vanzandt (the Clerk alluded to) making a motion of his head, significant of his dissent from the truth of his allegation, Mr. R. said he perceived that what he said was contradicted, and was about to sit down. The Speaker desired him to proceed. He said he must decline entering into a contest of this kind and added only, that a person who was capable of violating his duty in a subordinate trust, certainly ought not to be elected to the important office in question.]

Mr. Alston thought the House ought to adjourn, in order to afford an opportunity of examining into this matter, and made a motion to this effect; which motion was negatived.

The propriety of postponing the appointment of a Clerk till to-morrow was suggested, in order that the House might proceed with business. A motion made for this purpose was negatived.

The Speaker informed the House that he had received a letter from the person officiating as Clerk, which he was requested to lay before the House. The letter was read by the Speaker. It desired permission to be heard at the bar of the House in order to disprove the assertions which had been made by the member from Virginia in respect to the writer's conduct at a former session.

Mr. Smilie hoped no order would be taken upon this letter. He thought the request to be heard at the bar of the House a very extraordinary one, and if listened to might form a dangerous precedent.

The House proceeded to another balloting for Clerk, the result of which was: Patrick Magruder, 52; James Elliot, 27; Nicholas B. Vanzandt, 16; Josias W. King, 9; Theodosius Hansford, 5; and William Lambert, 8.—117.

Fifty-nine votes being necessary to a choice, another balloting was immediately had, when Patrick Magruder was declared to be duly elected, he having seventy-two votes. The votes given to the other candidates were not announced.*

* *Circular addressed to the members of the House of Representatives of the United States.*

Washington City, *Oct.* 29, 1807.

Sir: I feel compelled, from the duty I owe to myself and family, to answer the charges which were on Monday last so unexpectedly advanced against my character, of having improperly divulged the secret proceedings of the House, during the first session of the ninth Congress. The charges themselves give me no uneasiness, for I can prove them to be totally unfounded, and which, even admitting them to be true, would constitute no breach of confidence or honor. But I might have expected that the gentleman from Virginia, who made them, would at least have shown some respect for my feelings in the manner in which he introduced them to the knowledge of the House. He had during the last Summer received from me a personal notice at his own house, of my intention of applying for the office of Clerk of the House of Representatives. He ought then to have stated the objections he had to my character, or have taken the course usually adopted against a candidate. Had he given me notice of his intention of stating publicly to the House his objections to me, I would have been prepared with such evidence as must have removed all unfavorable impressions from the minds of those who were unacquainted with me. But to rise suddenly in his place, and that too, after a second ballot for Clerk, to address a public body, many of whom were unacquainted with me, to bring charges against my character without leaving me the power of self-defence, was a course of conduct, the propriety of which I must leave to himself to explain, and to the public to judge.

But it is not the object of this address to recriminate; nor shall I advert to the singularity of permitting a public denunciation of the character of a private individual to have its intended effect where the privilege of self-defence is not also permitted. I shall briefly state the circumstances which gave rise to Mr. Randolph's impressions.

At the commencement of the secret proceedings of the *first* session of the *ninth* Congress, no precaution was taken by the House to have doorkeepers stationed at each of the passages leading to the hall of the House to prevent persons from listening. It was not, therefore, to be wondered at if the nature and subject of the debates should accidentally transpire while curiosity respecting them was so much alive. A gentleman of the name of Charles Evans did discover what was the subject of those debates, and heard the speeches of Messrs. Randolph and Eppes. He communicated the substance of them *publicly*, and I immediately afterwards communicated what I had heard from him to Mr. Bedinger, then a member from Kentucky, *with the express view of convincing him how easy it was for the proceedings of the House to become public, notwithstanding the order for closing the doors*; and it is highly probable that Mr. Bedinger repeated it to other members, without being particular in relating also the manner in which I became possessed of a knowledge of the debates. And it is a matter of notoriety that such is the strength and clearness of the voice of Mr. Randolph that it can be heard even outside of the walls of the Capitol.

Mr. Bedinger, after my communication to him, frequently assured me that he was taking every precaution to prevent the possibility of any prejudice to my character, which might result from the nature of the communication I had made to him. I have written to him to verify this statement. Had I been guilty of any breach of confidence, is it to be supposed I would have communicated what I had so improperly discovered to a member of the very body whose secret proceedings I am charged with having disclosed? Or that, being an officer, I would in so palpable a manner, have exposed myself to the censure of the House, and to public disgrace?

It has been said that I was found listening in the committee room adjoining the House of Representatives. This charge I also declare to be unfounded. I was never in that committee room but once during the session of the House with closed doors, and then I was in company with Mr. Burch, junior, one of the clerks, upon business relating to the office. And besides, the Sergeant-at-Arms and a late Clerk in the office were in the room at the time we entered it, and I did not hear anything of what was going on in the House. The charge of listening at the gallery door I absolutely deny.

The gentleman from Virginia, my unjust and cruel accuser, has stated that I confessed my fault and apologized for it to him. In this particular he is very incorrect. On hearing during that session that he had brought into the House some charge of the same kind, I waited upon him and informed him what I have here stated, with which he then appeared to be perfectly satisfied. If he construed anything I then said into an apology he must have strangely misunderstood me. It would not, however, be strange if he had forgotten the particulars of a conversation that occurred nearly two years ago. Had he or any other member believed the report to be correct at the time it was first circulated, would not some inquiry have been instituted into it, and if proved guilty my dismissal from office have then taken place! But no mention of it was ever made after my conversation with Mr. Randolph. And I repeat it, that with the statements I then made to him he appeared perfectly satisfied. From that period I have been continued in the office as principal Clerk, and for a considerable time during the last session acted as Clerk of the House.

In addressing you, sir, on this subject, the solicitude I feel for my character is my only object. Had I met with an adversary against whom I could have been permitted to contend on equal grounds, or have given me notice of his intended attack, I might, perhaps, been your choice as Clerk of the House, and enjoyed an eligible situation for the support of my family. But to preserve a character unblemished, which was on Monday last, so undeservedly aspersed, and to return my thanks to those who gave me their support, are the only objects I have now in view.

Tuesday, October 27.

Several other members, to wit: from Virginia, Abram Trigg and Alexander Wilson; from South Carolina, Robert Marion; and from Tennessee, George W. Campbell; appeared, produced their credentials, were qualified, and took their seats in the House.

Mr. Bassett, from the committee appointed

yesterday to wait upon the President of the United States, to inform him Congress was formed and ready to receive any communication he might have to make to them, reported, that he would make a communication to the two Houses by message at 12 o'clock this day.

The House proceeded, by ballot, to the appointment of a Sergeant-at-Arms to this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of Thomas Dunn.

A Message was received from the President of the United States, which, with the documents accompanying the same, were referred to the Committee of the Whole on the state of the Union. [*Vide* Senate Proceedings, of this date, *ante*, page 14.]

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of differnt denominations, be appointed to Congress for the present session; one by each House, who shall interchange weekly. Also, communicating to the House the petition of Samuel Biddle and others, impressed American seamen, now detained on board the British sloop of war Wolverine.

The said petition of Samuel Biddle, and others, was read, and referred to the Secretary of State, with instruction to examine the matter thereof, and report the same, together with his opinion thereupon, to the House.

Resolved, That the Clerk of the House cause the members to be furnished, during the present session, with three newspapers to each member, such as the members respectively shall choose, to be delivered at their lodgings; and that if any member shall choose to take any newspaper other than a daily paper, he shall be furnished with as many of such papers as shall not exceed the price of a daily paper.

I have the honor to be, very respectfully, sir, your obedient servant,

NICHOLAS B. VANZANDT.

October 28, 1807.

I, Charles Evans, of Georgetown, in the District of Columbia, do hereby certify and declare, that the foregoing statement by Mr. Vanzandt, as far as the same respects my public communication, is strictly true.

CHARLES EVANS.

Witness; John Thompson.

City of Washington, *Oct.* 27, 1807.

I do hereby certify that on the day alluded to yesterday, by the honorable John Randolph, I myself went into the committee room, adjoining the Representatives room, in consequence of the door being open, and without key, with Mr. J. W. King, and stood by the fire, to prevent strangers from entering; that I asked Mr. King if he could hear anything said in the House; he said no—not a word. We then sat down by the fire. Soon after came in Mr. Vanzandt and Mr. Burch, and went to a map near the door entering the Representatives room, when I informed them the House was on confidential business, and they immediately left the committee room.

JOSEPH WHEATON,
Sergeant-at-Arms.

Mr. Thomas moved the following resolution, which was agreed to without a division:

Resolved, That Thomas Claxton be appointed Doorkeeper of this House.

"The following resolution was next moved:"

"*Resolved*, That Jesse Edwards be appointed Assistant Doorkeeper."

Mr. Nelson observed, that he believed there were a number of candidates for this office; and every one ought to have a fair chance to be elected. He had expected this officer would have been appointed by ballot; but if this was not to be the course taken, he should move a resolution similar to the one which had been read, in favor of Benjamin Burch.

Mr. Thomas had been informed that it was usual for the Doorkeeper himself to appoint his deputy. If this had been the course heretofore pursued, he hoped it would be adopted in the present case.

Mr. Findley thought it would be best for the Doorkeper to nominate his deputy, which nomination might be approved or disapproved by the House. He wished therefore, the election of this officer might be postponed till to-morrow, in order to afford time to examine into the character of the person proposed.

Mr. Smilie hoped the resolution would lie on the table. It was well known that the regular and proper mode of appointing officers is by ballot. It is true, that in some instances this mode has been depated from. The House had done so just now in the case of the Doorkeeper. But there was a good reason for this departure. The person in contemplation was an old officer, against whom he had never heard any man make an objection, and against whom there was no opposition. But the present case is very different. A new officer is to be chosen from amongst a number of candidates, most of whom are unknown to a large majority of the members. He hoped the House would therefore proceed to make a choice in the regular mode by ballot, that every candidate might have a fair chance of being elected.

A motion was made, that the House adjourn, which was negatived, there being only eighteen votes in favor it.

Mr. Sloan nominated John Sessford as a candidate for the office of Assistant Doorkeeper—for he deemed it to be the proper mode first to nominate and then to ballot for the office in question.

Mr. Alston hoped the gentleman who had proposed the resolution in favor of Jesse Edwards, would withdraw it, and suffer the election to take place by ballot.

The gentleman consenting, Mr. A. moved that the election of an Assistant Doorkeeper be postponed till to-morrow at twelve o'clock.

This motion was negatived, there being only twenty-six votes in favor of it.

Mr. Dawson nominated Joseph Pollock.

The members then proceeded to ballot, and the votes having been collected and examined, the Tellers reported, that there were present 108 members, and that Jesse Edwards, having fifty-nine votes, was duly elected.

STANDING COMMITTEES.

Mr. Dawson suggested the propriety of proceeding to the appointment of the standing committees. It had been customary heretofore to make these appointments at an early period of the session. He therefore moved the appointment of a Committee of Elections.

It was again moved that the House adjourn. The motion was negatived, 55 to 45.

Mr. D. renewed his motion for the appointment of a Committee of Elections.

Mr. Alston thought it best to move the appointment of all the standing committees together, as had been heretofore the practice.

Mr. Dawson had no objection to this course. He therefore moved, that a Committee of Elections, a Committee of Claims, a Committee of Commerce and Manufactures, a Committee of Ways and Means, a Committee of Public Lands, a Committee of Revisal and Unfinished Business, and a Committee of Accounts, be appointed.

Mr. Blount having always entertained an opinion that it would be best, and would relieve the Speaker from a very unpleasant duty, to have these Committees appointed by ballot, he would move thus to amend the motion of the gentleman from Virginia. He thought this mode of electing the standing committees, as well as the select committees, to which shall be referred the different subjects contained in the President's communication, would be most satisfactory to the House and to the Speaker also.

Mr. Findley observed, that this was a question of considerable importance; and as the House was then very thinly attended, he hoped this resolution, with the proposed amendment, would be permitted to lie on the table till to-morrow, and made a motion to this effect.

Mr. Smilie said, the House had, in several instances, tried to appoint committees by ballot, but had always found it attended with difficulty; and he now very much doubted the propriety of the proposed amendment.

The Speaker reminded Mr. S. that the motion before the House was for a postponement of the appointment of these committees till to-morrow.

Mr. S. said he meant to give reasons in favor of the appointment. In the election of these committees, it was proper to select the most fit characters for each—on the Committee of Commerce and Manufactures, for instance, there ought to be placed commercial men; on the Committee of Ways and Means, such as were best acquainted with subjects of finance, &c., whereas in committees appointed by ballot, it will depend on accident whether fit persons be appointed or not. Besides, in such elections there is no responsibility; the contrary is the case when the Speaker selects the members of a committee. He is responsible for the choice he makes, and will therefore exercise great precaution in it. From these considerations, he hoped the postponement would be agreed to.

Mr. Blount rose to express his entire approbation of the proposed postponement. He wished the decision to be made in a full House; and when the question of agreeing or disagreeing to the amendment which he had offered shall be under consideration, it will be in order to give reasons for and against the different modes proposed of electing committees.

The motion for postponement was carried, seventy-four votes being in favor of it.

Wednesday, October 28.

Another member, to wit: William Hoge, from Pennsylvania, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. Benjamin Parke, returned to serve in this House as the Delegate from the Indiana Territory of the United States, appeared, produced his credentials, was qualified, and took his seat in the House.

The House proceeded to consider the resolution of the Senate, for the appointment of two Chaplains to Congress for the present session; and the same being read, was agreed to by the House.

The Speaker laid before the House a letter from Benjamin H. Latrobe, Surveyor of the Public Buildings at the City of Washington, communicating an explanatory report of the principles on which the south wing of the Capitol, in the City of Washington, was formed, and the progress which has been made in the completion of the same; which was read, and laid on the table.

STANDING COMMITTEES.

The unfinished business of yesterday respecting the appointment of standing committees was taken up, and the amendment of Mr. Blount, directing their election to be by ballot, being under consideration,

Mr. Blount said, he did not think it necessary to use any arguments in support of his motion, but, as he considered it as embracing an important principle, he would take the liberty of calling for the yeas and nays upon it.

The yeas and nays were agreed to be taken.

Mr. Sloan observed, as the yeas and nays were to be taken on this question, he thought it necessary to state the reasons which would govern his vote. The old members of the House would recollect that, at a former session, he had brought forward a resolution similar to the present, which was lost. But he considered the present case to be somewhat different. There are many new members in the House at the present time, not qualified to vote by ballot, because unacquainted with the members. An additional reason for his voting differently at present, was, that the number of the committees was considerably extended, and he did not think it necessary to take up the time of the House in balloting for so many. His opinion was, that the three most important committees ought to be appointed by ballot, to wit: The Committee of Claims, the Committee of Commerce and Manufactures, and the Committee of Ways and Means. He should, therefore, vote in the negative.

The question being called for, the Speaker

stated to the House that the Clerk had not yet prepared an alphabetical list of the members, so that he could not proceed to call the names of members in the manner prescribed by the rules of the House.

Mr. Blount supposed it would make no difference if the names of the members should be called by States. He only wished to see how gentlemen who had so strenuously advocated the balloting for these committees heretofore would now vote. He hoped the House would unanimously agree to dispense with the rule of the House on this occasion.

The question was put, but there being a few negatives, the rule could not be dispensed with.

Mr. Blount declined withdrawing the motion for taking the yeas and nays, and an alphabetical list was directed to be prepared.

Mr. Thomas was informed that it would take half an hour to make out the proposed list, and as there was other business on the table, he moved that the present motion should lie on the table for one hour.

Mr. Van Cortlandt thought this a novel procedure. He believed it would not be in order to postpone the business, except to a day certain.

The Speaker said that a motion might be made at any time for a resolution to lie on the table without specifying any time.

The motion for laying on the table was carried, there being 76 votes in favor of it.

NEWSPAPERS FOR MEMBERS.

Mr. D. R. Williams said, that the order passed yesterday, respecting newspapers, was an exact copy of the resolution on that subject, which had been entered into for several years past, and upon which a different construction had been put by the two Houses. One part of the members took papers for their own information, and another took them for the information of their constituents. Those of us, said Mr. W., who are solicitous to send information to our friends abroad, agreeably to our construction of the resolution, have received only half the advantage from it which had been received by others. [Mr. W. here read the resolution, which provides that each member shall be served with three daily papers, or as many of such other newspapers as they may direct.] Under this resolution the members of this House supposed they could only take three papers, whether daily or not; whereas the members of the Senate understood that they might take to the value of three daily papers in as many others as they thought proper. That a fair construction of this order might be had, he moved that it be reconsidered.

After a few unimportant remarks on this subject—

Mr. Randolph said, that the House was about to establish a dangerous precedent in a very unimportant case. It was in cases of this description that dangerous precedents crept in. It is proposed to reconsider a deliberate act of this House. Passed just now? No; passed yesterday. To what may this lead? This House may at some future time do a deliberate act, and the succeeding day, in a thin House, that act may be rescinded; may on another day be again reconsidered, and again reinstated. And if a precedent of this kind be established, it will be impossible to come to a definitive conclusion on any question. He had himself expected, and very probably the Speaker may so think on more mature reflection, that a motion to reconsider what was done yesterday, is not in order; but, if it should be otherwise determined, he trusted this House would not countenance such procedure. He would rather never read another newspaper as long as he lived, than attempt a reversal of this decision.

Mr. Quincy agreed with the gentleman from Virginia as to the impropriety of reversing the order of yesterday; he thought the decision of the Speaker was correct, according to the rule of the House, which he read; and observed that that rule contained no limitation within which motions for reconsideration were to be made.

Mr. Randolph supposed the gentleman from Massachusetts had misunderstood him. He did not mean to question the decision of the Chair; he did not understand that there had been any decision; he had supposed the circumstance to have escaped the observation of the Chair. But if the course proposed were correct, and any act of this House may be reconsidered on a succeeding day, (he spoke of acts in which the other branch of the Legislature did not concur,) it would be in order to reconsider the appointment of any of the officers of this House; and no member would say that it would be in order to reconsider such an appointment.

Mr. D. R. Williams acknowledged the justness of the observations of the gentleman from Virginia. The gentleman from Massachusetts, in order to obviate the difficulty into which they had got, had pointed out a different mode of accomplishing his object. He would therefore withdraw his former motion, and offer in its place, the following resolution:

"Whereas doubts have arisen as to the construction of the order yesterday, respecting the furnishing of newspapers to the members of the House of Representatives; to remove which,

"*Resolved*, That the Clerk be directed to obtain newspapers from any number of offices which members may direct, provided the expense does not exceed the amount of the price of three daily newspapers."

The Speaker informed the House that the Clerk had prepared an alphabetical list of the members.

STANDING COMMITTEES.

Mr. Blount hoped the question on his amendment to the resolution for appointing standing committees would immediately be taken.

Mr. Elliot said, that this question would decide a principle of some consequence. The gentleman from New Jersey, (Mr. Sloan,) had exceeded his usual ingenuity in his endeavors to convince the House of the correctness of the vote he was about to give against a measure which he had once so strongly advocated. But he says we were then

all old members, capable of exercising this important privilege. While he believed the powers heretofore vested in the Speaker had been well executed, and he had no doubt, were they continued, would be still so executed; and while he wished to see the Chair vested with all the powers incident to that high office, yet, as he had always been of opinion the best way of electing standing committees would be by ballot, and he had not been convinced to the contrary by the ingenuity of the gentleman from New Jersey, he should vote for the amendment.

Mr. Sloan rose to explain; and said he meant to make no insinuations to the prejudice of any members of this House; he only meant to say that, being strangers, they would be at a loss how to make a choice of proper characters to fill these committees.

The question on the amendment was then taken by yeas and nays—yeas 24, nays 87, as follows:

Yeas—Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, John Campbell, Howell Cobb, John Dawson, Joseph Desha, James Elliot, John W. Eppes, Meshack Franklin, James M. Garnett, Peterson Goodwyn, Edwin Gray, Edward Lloyd, John Randolph, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, Jedediah K. Smith, John Smith, Richard Stanford, Archibald Van Horne, and Isaac Wilbour.

Nays—Evan Alexander, Lemuel J. Alston, junior, Willis Alston, junior, David Bard, Joseph Barker, John Blake, junior, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, John Clopton, Orchard Cook, John Culpepper, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, junior, Josiah Deane, Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, James Kelly, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Thomas Newton, junior, Timothy Pitkin, junior, John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Russell, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, David R. Williams, and James Witherall.

The question on the amendment being lost, the original resolution which vests the appointment in the Speaker was agreed to without a division; and the following standing committees thereupon appointed:

Committee of Elections—Mr. Findley, Mr. D. R. Williams, Mr. Matthew Clay, Mr. Lambert, Mr. Blake, Mr. Sturges, and Mr. Elliot.

Committee of Claims—Mr. Holmes, Mr. Thos. Moore, Mr. Nelson, Mr. Pitkin, Mr. Seaver, Mr. Johnson, and Mr. Humphreys.

Committee of Commerce and Manufactures—Mr. Newton, Mr. McCreery, Mr. Cutts, Mr. Dana, Mr. Marion, Mr. Thomas, and Mr. Porter.

Committee of Ways and Means—Mr. George W. Campbell, Mr. Willis Alston, Mr. Eppes, Mr. Smilie, Mr. Tallmadge, Mr. Fisk, and Mr. Montgomery, of Maryland.

Committee on the Public Lands—Mr. Boyle, Mr. Jeremiah Morrow, Mr. Goodwyn, Mr. Russell, Mr. Darby, Mr. Ely, and Mr. Smelt.

Committee of Revisal and Unfinished Business—Mr. Clopton, Mr. Van Rensselaer, and Mr. Durell.

Committee of Accounts—Mr. Nicholas R. Moore, Mr. Stedman, and Mr. Milnor.

Thursday, October 29.

Another member, to wit: William Blackledge, from North Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanied with a report from the Secretary of the Navy, of the extraordinary expenses incurred by that Department for the year one thousand eight hundred and seven; which were read and ordered to be printed.

The Speaker also laid before the House a letter and report of the principal clerk in the office of the late Clerk of the House of Representatives of the United States, of the execution of the resolution of the House, of the third of March, one thousand eight hundred and seven; which were read, and referred to the Committee of Accounts.

The Speaker also laid before the House sundry documents touching the elections of the members returned to serve in this House, for the State of Virginia; which being received,

Ordered, That the said documents, together with all the documents touching of elections of members to this House, from the several States, and the elections for the delegates from the several Territories, be referred to the Committee of Elections.

The Speaker laid before the House a letter from the Executive of the State of New York, enclosing sundry resolutions of the Legislature thereof, relative to the protection of the port of New York; which were read, and ordered to be printed.

On motion of Mr. Rhea, that the House do come to the following resolution:

Resolved, That the Committee on Public Lands do inquire into the expediency of laying off, and describing, by certain metes and bounds, a tract of country to which the Indian title hath been extinguished, within the limits of Louisiana, and to include all the settlements within the said Territory; and of having the said tract of country laid off into townships and sections, half and quarter sections, agreeable to the several laws heretofore made, for surveying the public lands

of the United States; and also, to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within —— years, actually improve and reside thereon.

The question thereupon being taken, it passed in the affirmative.

On motion of Mr. Thomas, that the House do come to the following resolution:

Resolved, That a Committee be appointed to inquire whether any, and what amendments are necessary to be made in the acts establishing a post office and post roads within the United States; and that the said committee have leave to report by bill, or otherwise:

Ordered, That the said resolution do lie on the table.

A message from the Senate, informed the House that the Senate have appointed the Reverend Mr. Gantt, to be one of the Chaplains to Congress, on their part.

REFERENCE OF THE MESSAGE.

Mr. Dawson moved that the House should go into a Committee of the Whole on the state of the Union.

Mr. Thomas wished this business might be laid over until to-morrow. Gentlemen had not yet had sufficient time to examine the President's communication.

The House agreed to go into Committee of the Whole, there being 47 for it, and 42 against it.

The Speaker called Mr. Dawson to the Chair; but he declined, stating that he had prepared some resolutions, which he was about to offer.

Mr. Bassett was then requested to take the Chair; and

Mr. Dawson offered the following resolutions:

1. *Resolved*, That so much of the Message of the President of the United States as relates to aggressions committed within our ports and waters by foreign armed vessels, to the violations of our jurisdiction, and the measures necessary for the protection of our ports and harbors, be referred to a select committee.

2. *Resolved*, That so much of said Message as relates to violations of our maritime rights, to impositions on, or interdictions of our neutral rights, be referred to the Committee of Commerce and Manufactures.

3. *Resolved*, That so much of said Message as relates to our intercourse with the Indian tribes, be referred to a select committee.

4. *Resolved*, That so much of said Message as relates to our military and naval establishments, be referred to a select committee.

5. *Resolved*, That so much of said Message as relates to our finances, be referred to the Committee of Ways and Means.

6. *Resolved*, That so much of said Message as relates to the enterprises against the public peace, and the means of preventing the same, and of punishing their authors, be referred to a select committee.

The first resolution being under consideration,

Mr. Quincy thought this resolution embraced objects unconnected with each other, and objects of magnitude sufficient to warrant a separation of them. The first part of the resolution relates to aggressions committed in our ports and waters. The most material object contained in the President's Message, said Mr. Q., has relation to an attack upon one of our vessels by an armed ship of a particular nation, and all the the other circumstances mentioned are stated merely as aggravations of this attack. He therefore submitted, with deference to the committee, the propriety of referring whatever relates to the attack on the Chesapeake to a select committee; and entering into a separate resolution for the appointment of a distinct committee to consider what may be necessary for the further defence of our ports and harbors. Upon this view of the subject, he would offer an amendment to the resolution in question. He wished to add, after the word "resolved,"

"That so much of the Message of the President of the United States as relates to the attack made on the frigate Chesapeake be referred to a select committee; and that the committee be instructed to inquire into the circumstances of that attack, the causes assigned for making it, and the manner in which it was repelled, and to report the result of such inquiries in detail to this House."

Mr. Quincy stated his object for wishing to give the inquiry this direction was, in the first place, to submit the most prominent subject in the Message to a distinct committee—a subject which stood most prominent in the public mind—a subject which had occasioned a great degree of irritation, and concerning which it was expected the public would no longer remain ignorant of all the circumstances of the transaction. The Message of the President, he said, properly led to this inquiry, and this House ought to pursue it. But he was not for a mere reference of the subject, leaving the committee to act as they might choose upon it; he wished specific instructions to be given them. Indeed, he considered the honor of the nation deeply concerned in the object of the last part of his proposed amendment. He hoped, therefore, the matter would not be huddled up, but that a proper inquiry would be entered into, in the manner proposed.

Mr. Elliot inquired of the chairman if an amendment offered to a resolution, which embraces the same objects with the original motion, ought not to be considered as a complete substitute. It appeared to him that this was the case at present, and that the motion of the gentleman from Massachusetts could not therefore be in order.

The Chairman did not consider the proposed amendment as a substitute for the original motion, and therefore in order.

Mr. Alston could not conceive the object of the gentleman from Massachusetts in making this motion. He surely does not mean to justify the conduct of the British. It will be time enough to enter into an inquiry on this subject hereafter. The matter is proposed to be committed generally, and the committee will make such a report as they think proper. If this report should not be satisfactory to the gentleman from Massachusetts, he can propose any modification of it which he may judge necessary. Does the gentleman mean to cramp the operations of the committee, by giving them his special instructions? He hoped no step would be taken which should be calculated

to narrow the inquiries of this important committee.

Mr. Dawson observed, that the gentleman from Massachusetts had mistaken his intention in offering the resolution under consideration. He did not mean the proposed committee to inquire particularly into the attack on the Chesapeake. Such an inquiry would be at present premature. When the time arrived for taking up this subject, he should be as ready as the gentleman from Massachusetts, or any other gentleman, to enter upon it. Mr. D. read that part of the Message of the President which has reference to this affair, and asked the members of the committee if it would not be altogether premature to go into this subject before the House received the information which the President of the United States has said he expects shortly to be able to lay before them. His object was to make the ground of refetence as general as possible.

Mr. Quincy said that the gentleman from North Carolina had asked what was his object in making this motion. He would answer, that it was to have the whole detail of the affair respecting the Chesapeake laid upon our tables. It was asked if he meant to justify the British. He knew not why this question should be put. His motion was a plain one. He wished to have the facts which he called for before him, and he should not then be afraid to meet the gentleman from North Carolina, or any other. His principles and feelings were as purely American as those of any gentleman. He wished to gain facts, and, to obtain these, he thought it best to fix on single objects, and not to extend our views over the whole horizon. In reference to what had fallen from the gentleman from Virginia, what he had proposed would have nothing to do with our negotiations abroad. No expression of the opinion of this House is required. All that is asked, is, that the committee shall collect a detail of facts. The committee will not make their report until they think proper; but the inquiry ought to be instituted. Suppose our dispute with Great Britain should be amicably settled, would not the inquiry be necessary? Would you not inquire into the causes which led to the attack? He considered the dispute as being not only between us and Britain, but between us and France. At any rate he wanted the facts, and when they were before the House, a correct judgment might be formed of the affair. The honor of the nation was concerned to know whether a proper degree of resistance had been made to repel the attack of the British by our officers; if not, the opinion of this House ought to be expressed on the occasion.

Mr. Elliot felt equally anxious with the gentleman from Massachusetts to receive the information required by this proposed amendment; but he could not consent to suppress the original resolution proposed by the gentleman from Virginia. He did not rise to appeal from the decision of the Chair, or to question the correctness of its opinion; but his own ideas of the spirit of the rules of this House would govern his vote on this occasion, were every other consideration out of view. This rule states, that "No new motion or proposition shall be admitted, under color of amendment, as a substitute for the motion or proposition under debate." Without appealing from the decision of the Chair, he could not help considering the present motion to be a violation of this rule, as it was, in his opinion, under color, a complete substitute for the original motion. He thought one part of the information required by this amendment was altogether unnecessary—he alluded to that part which asks for the manner in which the attack was repelled. Every man, woman, and child, in the United States, knew that no resistance was made. If he were to vote for the resolution, he should wish the word *received* to be used instead of the word "repelled;" but, as he had already stated, he believed the motion was in conflict with a rule of the House, and therefore he could not vote for it.

Mr. Smilie said, there was one thing which the gentleman from Massachusetts himself, on reflection, must think improper—that was, that part of the motion which relates to the manner in which the attack was repelled. He understood the commander of the Chesapeake was now on trial, and he hoped this House would not do any act which might have an influence on that trial. Whether that officer acted properly or improperly will be determined by the proper tribunal before which it will be tried. Indeed he saw no necessity for this amendment. The original resolution gives the committee full power on this subject, and it cannot be supposed that a committee of this House will not do their duty. He had no doubt but that, before this business was got through, there would be complete information before the House. We should know whether the seamen taken from the Chesapeake were really British subjects or American citizens. The inquiry will force itself upon us, and the resolution as it stands will be sufficient for the purpose.

Mr. Quincy rose to explain. The gentleman from Pennsylvania had said that he deemed it improper to pass this resolution at this time, because of the effect it might have on the trial now pending. If the object of this motion had been to obtain from the House a vote of censure on one side or the other, he should not now have proposed it: it was merely a direction to the committee in what manner they were to proceed, and to collect a statement of the facts attendant on this occurrence. If the principle were correct, that this House should be prevented from exercising its duties on any point, because a trial was pending in some of the courts, what would be the consequence? Nothing further would be necessary to evade inquiry than to put an officer under arrest, bring him to trial, and postpone the decision from time to time, and thus prevent this House from performing its duty. He saw no weight in this argument.

The amendment was rejected, without a division.

The resolutions being gone through, a motion was made for the Committee to rise; which, being agreed to, the Speaker resumed the chair, and the House immediately took up the resolutions, and agreed to them unanimously.

Mr. Blount, Mr. Chandler, Mr. Burwell, Mr. Goldsborough, Mr. Riker, Mr. Troup, and Mr. Witherall, were appointed a committee, pursuant to the first resolution.

Mr. Cook, Mr. Bibb, Mr. Sloan, Mr. Desha, and Mr. Harris, were appointed a committee, pursuant to the third resolution.

Mr. Dawson, Mr. Helms, Mr. Rea, of Pensylvania, Mr. Butler, Mr. Van Cortlandt, Mr. Champion, and Mr. Storer, were appointed a committee, pursuant to the fourth resolution.

Mr. Randolph, Mr. Blackledge, Mr. Lloyd, Mr. Quincy, Mr. Hoge, Mr. Masters, and Mr. Wilbour, were appointed a committee, pursuant to the sixth resolution.

Friday, October 30.

The House proceeded to consider the motion made yesterday by Mr. Thomas, in the words following to wit:

Resolved, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States; and that the said committee have leave to report by bill, or otherwise.

And the question being taken that the House do agree to the same, it was resolved in the affirmative.

Ordered, That Mr. Rhea of Tennessee, Mr. Southard, Mr. Kenan, Mr. Verplanck, Mr. Green, Mr. Carlton, Mr. Chittenden, Mr. Davenport, Mr. Knight, Mr. Whitehill, Mr. Trigg, Mr. Pugh, Mr. Lemuel J. Alston, Mr. Cobb, Mr. Van Horne, Mr. Jeremiah Morrow, and Mr. Howard, be appointed a committee, pursuant to the said resolution.

On motion of Mr. Rhea of Tennessee, that the House do come to the following resolution:

Resolved, That the Committee on Public Lands do inquire into the expediency of laying off and describing, by certain metes and bounds, a tract of country, to which there is no existing Indian title, within the limits of the Territory of Orleans, and to include all the settlements on the West side of the river Mississippi, within the said Territory, and of having the said tract of country laid off into townships, sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States; and also to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within —— years, actually improve and reside thereon:

And the question being taken that the House do agree to the same, it was resolved in the affirmative.

Mr. Van Cortlandt presented a petition and memorial of Joshua Barney, of the city of Baltimore, which was received and read, stating his claim to a seat in this House, as the Representative for the said city of Baltimore, instead of William McCreery, who hath been returned to serve as one of the members for the fifth district of the State of Maryland.—Referred to the Committee of Elections.

On motion of Mr. Chandler,

Resolved, That a committee be appointed to prepare and report such standing rules and orders as are proper to be observed in this House.

Ordered, That Mr. Winns, Mr. Gray, Mr. J. Campbell, Mr. Brown, and Mr. Gardner, be appointed a committee, pursuant to the said resolution.

Ordered, That the letter and report of Benjamin H. Latrobe, which was read, and ordered to lie on the table, on the twenty-eighth instant, be referred to the committee last appointed.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress, on the part of this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. Obadiah B. Brown.

Monday, November 2.

Several other members, to wit: from Massachusetts, Ezekiel Bacon; from New York, Gurdon S. Mumford; from North Carolina, James Holland; from Kentucky, Matthew Lyon; and from South Carolina, Richard Winn; appeared, produced their credentials, were qualified, and took their seats in the House.

On motion of Mr. Quincy, that the Journal of this House, of the first day of the present session, be so amended as to express the date of the Proclamation of the President of the United States, therein referred to; the question was taken thereupon, that the Journal be so amended, and it was resolved in the affirmative: And thereupon, the said amendment was made accordingly, by filling up the first blank therein contained, with the word thirtieth, and the second blank with the word July.

Mr. Thomas said, he had the honor to be appointed a member of the Committee of Commerce and Manufactures. He believed it would be allowed by the members who knew him, that he had never failed to perform any duty assigned to him by the House, nor should he ask to be excused from serving on this committee, were it not for this circumstance. At the time the committee was appointed, the immediate representative of the city of New York was not present: that gentleman, said he, is now in his place, who, besides being the representative of that important commercial city, is much better acquainted with questions of commerce than myself. He hoped the House would therefore grant his request.—Granted, and on motion, Mr. Mumford was appointed in his place.

On motion of Mr. Thomas,

Ordered, That the letter from the President of the Senate, and Speaker of the House of Assembly, of the State of New York, enclosing resolutions of the Legislature thereof, which was read, and ordered to lie on the table, on the twenty-ninth ultimo, be referred to the committee appointed on so much of the Message from the President of the United States, at the commencement of the present session, as relates "to the aggressions committed within our ports and harbors by foreign armed vessels; to violations of our jurisdiction; and to measures necessary for the protection of our ports and harbors."

Tuesday, November 3.

The Speaker laid before the House a letter from William Eaton, enclosing a communication from Hamet Bashaw Caramalli, Ex-Bashaw of Tripoli, stating the distressed situation to which he has been, and is now reduced, and praying relief from the Government of the United States, together with a representation from the said William Eaton, relative to the justice and equity of the said claim, for sundry reasons therein mentioned.

Ordered, That the said letter and communication be referred to Mr. Thomas, Mr. Smith of Virginia, Mr. Holland, Mr. Taylor, Mr. Montgomery of Pennsylvania, Mr. Taggart, and Mr. Lyon; to examine and report their opinion thereupon to the House.

The Speaker laid before the House a letter and memorial from Duncan McFarland, of the State of North Carolina, accompanied with sundry documents, stating his claim to a seat in this House, in the room of John Culpepper, who hath been returned as the member from the seventh elective district of the said State.—Referred to the Committee of Elections.

Mr. Cook said, that, in the year 1799, a port of entry was established for the port of Thomaston, in the district of Waldoborough, which had been found altogether unnecessary, and the money paid to the surveyor was so much lost to the United States: He should therefore move the following resolution, to effect the purpose he had in view:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of abolishing the office of Surveyor of the port of Thomaston, in the district of Waldoborough, and that they report by bill or otherwise.

The resolution was agreed to.

MISSISSIPPI TERRITORY.

Mr. Poindexter said, that a memorial from the Legislature of the Mississippi Territory, was presented on the 27th of January last, praying for a revision and amendment of the land laws, and for an extension of the right of suffrage. He wished to refer these subjects to distinct committees, and for this purpose moved the following resolution:

Resolved, That so much of the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, presented to this House on the 27th day of January, 1807, as relates to the several acts of Congress "regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee," praying that the same may be revised and amended, be referred to the Committee on Public Lands, and that the said committee have leave to report by bill or otherwise.

Mr. Pitkin doubted the propriety of the proposed reference, empowering the committee to report by bill. He wished the subject of this memorial to take the usual course.

Mr. Poindexter said he would explain the reasons why he proposed this specific resolution. Had the gentleman heard the memorial read, he would have observed that it embraced a variety of subjects, a part of which would be properly referred to the Committee on Public Lands; but another part he should propose to refer to a select committee: for, if the whole memorial were referred to the Committee on Public Lands, it would be found that they could not act upon certain parts of it. That the whole might be in a state of progress, he thought it necessary to divide the subject. Should this resolution be agreed to, he should propose another, in relation to the right of suffrage.

The reading of the memorial was called for, which was read accordingly.

Mr. Pitkin said, that, from the information given by the gentleman from the Mississippi Territory, he was willing the business should take the course which he had proposed.

The reference was agreed to.

Mr. Poindexter then moved the following resolution.

Resolved, That so much of the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, as relates to the extension of the right of suffrage in said Territory, be referred to a select committee, and that the said committee have leave to report thereon by bill or otherwise.

The resolution was agreed to, and Mr. Barker, Mr. Thompson, Mr. Kelly, Mr. Morrow of Virginia, and Mr. Poindexter, were appointed the committee.

POST OFFICE AND POST ROADS.

Mr. Thomas moved that the bill which was before the House last session, on the subject of the post office and post roads, and which was indefinitely postponed, with the petitions which had been presented on that subject, should be referred to the committee appointed to consider this subject at the present session.

Mr. Dana doubted the propriety of referring a bill of last session to any committee of this House.

Mr. Thomas said that the Post Office Committee was empowered to report by bill or otherwise; that the bill proposed to be referred to them was the report of a former committee, and a part of the unfinished business of last session. The propriety of establishing different roads had been considered; and it would probably save the present committee much trouble, to have that report before them.

Mr. Dana wished, if the gentleman had any precedent in view, that he would produce it. For his part, he believed the proposition perfectly a novel one.

Mr. W. Alston said it would be improper to refer a bill of last session. What, he inquired would the committee do with a bill thus referred? They must dispose of it in some way. When a former report is referred to a committee, it may be made a part of the report of such committee; but they cannot make a bill of the last session a part of their report. The committee would doubtless cast their eye over the bill in question, without making any direct reference of it, and would make such use of it as they might think proper.

Mr. Newton proposed a division of the question. There could be no doubt of the propriety

of referring the petitions presented at the last session.

Mr. Thomas had no objection to modify his motion, and to omit the reference of the bill.

Mr. Ely could see no reason why all the applications made at the last session for alterations in the post roads should be referred to the committee of the present session. Many of those applications might not now find any gentlemen to support them. He thought the better way would be for members to bring forward such alterations as they may wish, without reference to what had taken place at last session.

Mr. Thomas withdrew his motion, and proposed a resolution instructing the Post Office Committee to inquire into the expediency of establishing a new road in a certain part of his district.

Messrs. Lewis, Swart, Storer, and Rhea of Tennessee, offered similar resolutions, which were agreed to.

Wednesday, November 4.

Mr. Nelson presented petitions from sundry qualified electors of Montgomery county, in the third Congressional district of the State of Maryland, and of that part of Frederick county included in the said district, praying, for the reasons therein stated, that the election of Philip Barton Key, the sitting member in this House for the said district, may be vacated and annulled; and that such order may be taken thereupon as may be agreeable to the Constitution and laws of the United States, and to the rules of this House.—Referred to the Committee of Elections.

Mr. R. Nelson did not know whether the motion he was now to make was in order, or not. He had been instructed to move that the memorial of Sir James Jay, presented at a former session, and referred to the Secretary of State, together with the Secretary's report thereon, and the report of a select committee upon that report, be now referred to a Committee of the whole House.

Mr. Southard doubted the correctness of referring the report of a committee of a former House to a Committee of the Whole. The usual mode was, to refer a report of a former Congress to a select committee; that committee would report to the House, and their report might be referred to a Committee of the Whole.

Mr. Nelson had no objection to any course the House thought proper. Perhaps a reference to a select committee would be best.

The petition and documents were accordingly referred to a select committee of five members, consisting of the following gentlemen: Mr. Jones, Mr. Stanford, Mr. Van Allen, Mr. Upham, and Mr. Heister.

Mr. Lewis said, that, as at the present period of the session there was very little if any business of national importance before the House, he took the liberty of reviving a subject of some importance to the people at large, and particularly interesting to the inhabitants of the District of Columbia. About four years ago, petitions were presented to the House praying for the erection of a bridge across the Potomac, and the subject had been revived at every session since. A bill had passed by a large majority in this House to effect this desirable purpose, but the other branch of the Legislature, from considerations which it was not necessary for him to detail, had postponed the bill. In order to bring this subject again before Congress, he moved that the petitions which had been presented for and against this measure, should be referred to a select committee, with leave to report by bill or otherwise.—Agreed to, and Mr. Lewis, Mr. Mosely, Mr. Swart, Mr. Bard, and Mr. Franklin, were appointed a committee.

Thursday, November 5.

Mr. George Washington Campbell, from the Committee of Ways and Means, presented a bill making further appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and seven; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Findley, from the Committee of Elections, to whom were referred the certificates and other credentials of the members returned to serve in this House, made a report, in part, thereupon, which was ordered to lie on the table.

REVOLUTIONARY PENSIONS.

Mr. Dana said it was well known, that during the last Congress, an act was passed for the relief of persons claiming pensions. The object of the act was, to grant relief to some whose cases were not embraced by the former act, and to grant an increased allowance to others who had not, as yet, received sufficient. This act provides for taking depositions before the district judge, in cases where the claimants have never been placed on the pension list, as well as for examination of the claims of those who apply to have their pensions increased. Whether any compensation should be allowed for issuing commissions, or for making the examinations required, is not declared by the act. A difference of practice, he understood, had taken place. In some cases, commissions were issued gratuitously by the district judge; in other cases, these poor solicitors were obliged, from their small pittance, to pay for these services. If any compensation were to be allowed for this service, he thought it should be paid from the public treasury. Whatever might be the mode adopted, he wished it to be fixed by law. For this purpose he offered the following resolution:

"*Resolved*, That a committee be appointed to inquire what compensation shall be allowed for issuing commissions giving authority for taking testimony, or examining evidence relative to claims or applications under the act to provide for persons who have been disabled by known wounds received in the Revolutionary war, and that the committee have leave to report by bill or otherwise."

Mr. D. said he had intended to have had this resolution referred to the Committee of Claims, but finding the chairman of that committee opposed to it, he would move a reference of it to a select committee.—Agreed to.

CORRECTION OF THE JOURNAL.

Mr. Gardenier said, that in examining the printed sheet of the Journal laid upon the table this morning, he observed that his name was altogether omitted in the yeas and nays taken on the question deciding the mode of appointing the standing committees. It was, no doubt, in the recollection of the House, that, in calling the names of the members, the Clerk had, by mistake, placed his name among the yeas instead of the nays, and he desired at the time to have the error corrected. But, instead of that being done, he found that his name was altogether omitted. In order to correct this error, he moved the following resolution:

Resolved, That the Journal of this House, of the 28th of October, be amended, by placing the name of Barent Gardenier amongst those who voted in the negative on the amendment proposed by Mr. Blount to the resolution appointing standing committees.

This motion occasioned some debate as a question of order. It was opposed on the ground of its being a dangerous precedent to suffer the Journal to be corrected several days after a question had been decided. It was said that, if this were to be allowed, the alteration might sometimes change the decision of a question. That any mistake in the Journal ought to be corrected immediately after the entries are read. That errors in the yeas and nays should be rectified at the time they are called over; and, that all other errors should be corrected on the morning of the succeeding day, when the Journal is read to the House.

On the other hand, it was contended that the member from New York had taken the earliest opportunity which had offered of correcting the error, as, until the printed Journal was laid upon the table, he had no opportunity of ascertaining it, the yeas and nays never having been read since he attempted to correct them, at the time the notes were taken; that he had a Constitutional right to have his name on the Journal on this question, and, therefore, demanded it; that the fact was known to be as stated, and that no danger could, therefore, arise from the precedent.

The motion was supported by Mr. Gardenier, Mr. Ely, Mr. Quincy, Mr. Desha, Mr. Pitkin, Mr. Williams, and Mr. Tallmadge, and opposed by Mr. Smilie, and Mr. Alston. It was finally adopted, with a preamble moved by Mr. Tallmadge, stating the grounds of the motion.

FRIGATE CHESAPEAKE.

Mr. Quincy said, the House would recollect that when in Committee of the Whole on the state of the Union, some days ago, he submitted an amendment to a resolution of the gentleman from Virginia (Mr. Dawson) which went to an inquiry into the circumstances of the attack on the Chesapeake, and the causes assigned for it, as well as the manner in which it was repelled. At that time two objections of some apparent validity were urged against this motion; the one was that it might have an improper effect upon a pending trial, the other was as to its form. To obviate these objections, he had modified the resolution, which he should now offer to the House.

Mr. Q. read his motion, as follows:

"*Resolved*, That the committee to whom was referred so much of the Message of the President of the United States as relates to aggressions committed within our ports and waters, by foreign armed vessels, to violations of our jurisdiction, and to measures necessary for the protection of our ports and harbors, be instructed to inquire into the circumstances of the attack made on the frigate Chesapeake in June last, and the pretexts or causes assigned for making it, and to report the same in detail to the House."

Mr. Q. would lay before the House his reasons for offering this resolution. He could not acquiesce in the course which had been given to that part of the President's Message which relates to the attack on the Chesapeake. He could not reconcile it with the sense of justice or with the honor of this House. He asked gentlemen to consider our situation in relation to this subject. A violent attack is made upon one of our public ships of war, in a manner undeniably hostile. A great degree of excitement has taken place in the public mind throughout the continent. Our newspapers have teemed with every species of information, a part of which has been correct, and a part incorrect; which has sometimes fallen short of the truth, and sometimes exceeded it; has been sometimes official, and sometimes inofficial. In this situation of things, the President of the United States deemed it wise and prudent to call an extraordinary session of this Legislature. We are now assembled. He has made a communication to us, and this attack is a striking feature in it. This is our situation. What have we done? The House has gone into a Committee of the Whole, taken up the Message of the President, cut it up into parts, according to Parliamentary custom; and we have taken as many of those parts as we pleased and referred them to particular committees; some of which are a kind of patchwork committees. In all of these references, notwithstanding it was the very object which occasioned the early meeting of the present session, no mention is made of the attack on the Chesapeake. The committee, which he proposed to instruct on this subject, had what related to aggressions committed within our ports and waters submitted to them generally, but they have no compass by which to steer; no prominent object is placed before them. He could not reconcile this manner of acting with his duty. He deemed it necessary to obtain a full developement of all the circumstances relative to this affair, in order that Congress, and the people at large, may form a correct judgment of our situation. The course adopted is not the course to gain the information so desirable. It is a course of Parliamentary ignorance, not a course of developement. It is a course of concealment. He spoke as to the general effect of measures, and not as to gentlemen's motives.

He inquired of gentlemen what method they

would pursue, if they wanted to understand any particular subject? Would they not refer it to a distinct committee, and not mix it up with extraneous matter? And if you give a committee two or three distinct objects to act upon, but wish them to attend more especially to one, it is proper to give them specific instructions to that point. This is the way to come at the proper understanding of a subject. But, on the contrary, if it were the wish of any member of this House to promote concealment, to prevent a knowledge of facts, the way is obvious. It would be to place three or four subjects together, and to suffer the committee to which they are referred to act as they please upon them. We know that committees thus left to themselves, will never do too much.

It was because the people of the United States wish to know something on this subject, that he made this motion. It may be said that this committee have already the power, and that they may make the necessary inquiries without this instruction. But it is the duty of this House to be certain that they will do so. Indeed, if the committee were now proceeding in this inquiry, this would be no good reason why this motion ought not to be adopted. If, without being instructed by this House, the committee should report the facts now called for, the honor of the act would rest upon that committee; whereas it ought to rest upon this House.

Perhaps it may be said, as on a former occasion, that every man, woman, and child, in the United States is acquainted with these facts; but what is known from popular report, or newspaper information, is not the kind of knowledge we want. We want facts from the proper authority.

An objection had been made to this course, that it would be casting a censure upon the committee. Not so; it would be no more than drawing the attention of an organ of the House to a particular subject. It may be objected to, because a negotiation is pending; but what is done by Congress, at this time, can have no effect on a negotiation carrying on across the Atlantic. The House is at present calm and tranquil, and this is therefore a proper time to undertake an investigation of the facts required. Let the negotiation terminate as it may, we shall never have a fair inquiry into these facts, unless we enter upon it at present. Suppose, said he, the negotiation has a favorable issue, and no inquiry has been made, is there a member present who will say the inquiry would then be entered upon? No, it would be said to be an old wound, which ought not to be probed, but forgotten. But suppose, on the other hand, that the negotiation should be abruptly broken off, and this House should be called upon to put the nation in hostile array, would that be a proper time for entering upon the proposed inquiry? Would the House be in a fit state for deliberating upon the facts required? Indeed, the subject appeared to him so clear, and the duty to bring forward this motion so impressive, that he could not refrain from making it.

Mr. BURWELL said, he had hoped he should have been able to have satisfied the gentleman from Massachusetts, as to the attention of the committee to whom this duty was assigned; but after an expression which had dropt from him, he despaired of doing it. He would, however, inform the House that the committee to whom the subject was referred were engaged in a course of investigation on the very part of it now agitated, and had come to a determination to obtain, from the proper authority, a correct detail of the circumstances attending this particular attack; not content with this, they were about to call on the Government for a detail of all aggressions that had been committed within our ports and waters.

The gentleman has told us that the House should at least have the honor of instituting this inquiry. By the resolution on which this committee act, they were directed by the House to report on every aggression committed against the United States; they would no doubt perform their duty, and he did not see what more the House could now do, except they wished that every sheet of the journals should manifest their feelings on this occasion.

It had been observed, that perhaps this business would be smothered up, and that we might never have a correct account of it. Mr. B. said he would venture to assure the gentleman that the subject would meet with an ample examination, and that a few days only would elapse before the committee would lay before the House a full account of all aggressions or violations that had been committed. He, for his own part, thought it the duty of the House to examine into the transaction. Why, said he, should we shrink from any investigation? Has anything occurred which should prevent a complete disclosure? He hoped not; and that, although the gentleman was desirous the anxiety of the House should appear on each day's record, he would rest satisfied, and permit the committee to go on in the course which they had commenced.

The gentleman said, that the proper way to smother this matter up, was to refer the subject generally to a committee, who would only pay attention to such parts of it as they thought proper. If this were correct, did it not operate most strongly against his resolution? For, if he were afraid the committee to whom the subject is referred would not act on it, the proper mode would be to refer it to a select committee.

Mr. B. said he would not have risen on this occasion, had the chairman of the committee to whom it was referred been present when the resolution was proposed. He hoped, from every view of the subject, the House would conceive that the committee were discharging their duty, and that this resolution was unnecessary.

Mr. BLOUNT said, that, at the moment the gentleman from Massachusetts had moved this resolution, he was in the committee-room, in the act of addressing a note to the Secretary of State on this subject, according to the direction of the committee, calling for a full and correct statement of all the facts relative to the aggression committed on the frigate Chesapeake. For the satisfaction of the gentleman, he would read the note which

he had written. [Mr. B. then opened and read the note.]

Mr. ALSTON doubted whether the committee had power to act on this particular outrage. He did not know the precise spot in which the attack on the Chesapeake was committed — whether within the waters of the United States or not. If not, it was possible that the resolution under which the committee was acting would not authorize them to make the inquiry proposed. If it would, the committee would no doubt do their duty, and make report of every circumstance of the transaction. If it should, however, be found, that the particular aggression alluded to by the gentleman from Massachusetts was not committed within our jurisdiction, a resolution something like the one proposed by that gentleman would be proper. He should wish the subject to be referred to a select committee. The proper way would be, to go into a Committee of the Whole on the state of the Union, and a motion to that effect might be made.

Mr. DANA thought with the gentleman from North Carolina, that the subject of the attack made on the Chesapeake was not referred to any committee whatever. The first resolution entered into appointed a committee, of which the gentleman from North Carolina (Mr. BLOUNT) is chairman, to inquire into "aggressions committed *within our ports and waters*," &c. From the Message of the President of the United States, it appeared that the Chesapeake had left her port. The attack on her was made in the main ocean, at the distance of more than a maritime league from the shores of the United States; and we had never, by any act of the Legislature or Executive, claimed territorial jurisdiction for more than a maritime league from the shore. It was understood that this attack was made at the distance of *three* leagues — clearly beyond any sea ever claimed as a territorial sea by the United States. It was not in the Gulf, or within any promontory or cape, so as to make it territorial. This being the case, the outrage must be considered as committed *at sea*, and therefore not yet referred to any committee. Shall we, said he, wholly omit to refer the investigation of this subject? When that broad question was presented to their observation, he trusted there would be no difficulty in deciding it. If there were any one subject which required the particular attention of Congress, it was this attack on the Chesapeake; if there were any subject on which the whole nation felt one sentiment, it was on this outrage; if there were any subject that could involve a question of war or peace, it was this; if there were any principle that needed no treaty stipulations to bind it, it was, in his view, that a national ship of the United States enjoys absolute immunity. He should think an acknowledgment of our independence as necessary in a treaty as a concession that our national ships ought to be free from search. This was a clear, prominent principle, perfectly distinct from any other. It admitted of no modification; there could be no question as to the exemption of a national flag from search. If the British Government assumed a different principle, he did not see a possibility of avoiding war. Admitting all the men taken from the Chesapeake to be Britons, they had no right to take a man from a public-armed ship of the United States.

The President of the United States had not undertaken to detail all the circumstances attending this affair; there was no necessity for it; he could only give us general information. This was sufficient to induce us to turn our eyes to the most serious results. Wishing for peace, as long as National Sovereignty and National Liberty can be preserved, we do not seek for war, but it is forced upon us. He wished to disclaim all invective, and should not go into an investigation, till the particular facts were disclosed; till this disclosure took place, he should say nothing of the commander of the ship which attacked the Chesapeake; but if he had acted without authority, his blood alone could atone for it.

In whatever light the subject was viewed, Mr. D. deemed it of so much importance, so strongly marked in the political history of our country, that it should be clearly and correctly understood. He, therefore, wished the inquiry to be conducted with all the attention due to the subject; for this reason he should vote for the resolution. He had no doubt but the gentlemen composing the committee in question would attend to this subject, but he doubted whether the inquiry was properly in their power, except that part of it which relates to violations of our jurisdiction. The British ships of war had remained in our waters ever since the commission of the act, in contradiction and defiance of the proclamation of the President of the United States, which still exists in full force. It ought, in his opinion, either not exist, or be obeyed; if they did not choose to obey it, and the means of compelling them were in the power of the United States, they should be taught obedience by compulsion. He concluded by saying that he should vote for the resolution, from a wish that the subject might be fully investigated.

Mr. BLOUNT observed, that whatever doubt might exist as to this subject's being referred to the committee of which he was chairman, there could surely be no doubt of its being referred to some committee. [Mr. B. read two of Mr. DAWSON's resolutions.] It must either be referred to this committee, or to the Committee of Commerce and Manufactures. If it be the opinion of the House that this subject ought to go to the last named committee, he should be glad to have the determination made.

Mr. SMILIE had no doubt that the resolution appointing a committee relative to maritime aggressions, of which the gentleman from North Carolina was chairman, included the attack on the Chesapeake. Indeed, it appeared, from the members of that committee, that they were proceeding with the subject, and, therefore, needed no directions as to their duty in that respect. This being the case, why is the motion brought forward? He could not help remarking that the

measure was very indecorous towards that committee. Were it ever known, Mr. S. asked, that business was taken out of the hands of a committee, before it is seen that they neglect to attend to it? There is no reason to believe the committee will not do their duty. Is not every member of that committee as much concerned for the welfare of this country as the gentleman from Massachusetts? And no one will say they do not possess the necessary capacity for making the inquiry.

The gentleman from Connecticut (Mr. Dana) has declared he never will consent to a treaty with Great Britain, except they give up the point of searching our armed vessels. He hoped the gentleman would go a little further, and take some steps for the security of our seamen. No doubt the British Government will disavow the conduct of their Admiral in the late outrage; but will this satisfy the people of the United States? No; something more will be necessary. Mr. S. could see no occasion for introducing so much warmth as the gentleman from Connecticut appeared to display, into this discussion. For his part, he thought the committee who had this subject under consideration was fully capable of investigating it, and he had no doubt would soon make a satisfactory report to the House. They could none of them be suspected of having any predilection for Britain. He had no doubt, if the time should arrive, which shall call for active measures against that country, the members of that committee and their friends will be found as zealous in defence of their country as the friends of the present motion.

Mr. Upham said, that it appeared to be the opinion of every gentleman of this House, that the affair of the Chesapeake ought to be inquired into. They differed only about the proper course to be pursued. A diversity of opinion exists as to the reference which has been made of the subject. He could see no objection to the adoption of this resolution, as it could produce only good effects. He thought all ought to agree in passing it.

Mr. Smilie wished to make one remark in reference to what had been said respecting the attack on the Chesapeake having been made without our jurisdiction. Wherever our armed ships are, there is our jurisdiction.

Mr. Dana explained what he had said respecting the formation of a treaty with Great Britain, which the gentleman from Pennsylvania appeared to have misunderstood.

The yeas and nays were called for, and agreed to be taken.

Mr. Alexander said, that notwithstanding he was opposed to the amendment offered by the gentleman from Massachusetts, some days ago, he was in favor of the present motion. It was nothing more than an instruction to a committee to inquire into an affair of great national concern. Notwithstanding he had little doubt that the first resolution (which had been read) was intended to include an inquiry into this subject, yet he thought it highly proper that this motion should be adopted. Though the attack upon the Chesapeake was made more than a maritime league from the shore, every armed ship, of whatever nation, is under the jurisdiction of the nation to which she belongs, wherever she may be. He was nevertheless in favor of making an inquiry into this affair. He was not for doing this, because he was of opinion that the committee would not do their duty. But he would have it done, that Congress might act upon it, and show to the world, that though we have suffered many abuses from the British nation, here we will take our stand. He did not think this resolution ought to be considered in an offensive light by the committee whom it went to instruct. He did not believe it was so intended.

Mr. Nelson would not have risen on this question, had not the yeas and nays been called; but this having been done, he meant to give the reasons which would govern his vote. He was opposed to the resolution on the table, not because he wished to have anything relative to the attack on the Chesapeake smothered; but because he considered the subject as already referred. The committee had already progressed in the business, and in two or three days the House might expect a report. He did not wish to enter into a resolution for the purpose of showing Great Britain what ground we are determined to take. He did not want to bully the British nation; he would be for showing them by acts, and not by words, what we would do. He never wished to legislate where legislation was unnecessary; and this subject having been once referred, he was not for referring it again. This kind of procedure reminded him of a master's treatment towards a negligent servant. He tells him to do a certain thing to-morrow; then calls him again, and cautions him again and again to do the same thing. And the passing of this resolution would be saying to the committee, "Take care you do your duty, Mr. Committee," after having been duly charged with it.

Mr. Sloan said, that indisposition had prevented him from offering his sentiments on this occasion before, and would now prevent him from saying much. Is not this subject already referred to a committee of this House? Have we any reason to believe this committee will not do their duty? Have the committee had sufficient time to make their report? They have not; and he took it for granted that the subject was properly before them. He never knew a resolution like the present brought forward, except there were good grounds for charging a committee with remissness in the discharge of their duty. He might go further, and inquire into the causes which produced this motion. He thought he could see them, and if his state of health would have permitted, he would have endeavored to explain them to the House. But he should satisfy himself with cautioning members against giving a vote which would cast an undeserved censure upon an important committee.

Mr. Newton did not mean to enter at large into this subject. He meant barely to go into the inquiry whether the affair of the Chesapeake was referred to a committee or not. Mr. N. read the

resolution making the reference, and insisted that this object was clearly embraced in it, and now before the proper committee. He differed in opinion from the gentleman from Connecticut. (Mr. Dana.) that the attack was made on the Chesapeake without the jurisdiction of the United States. Nor did he think any gentleman could assert this with any degree of certainty. He, who was much nearer the scene of action than the gentleman who had made this assertion, did not believe that this was the case. What he had to say as to the enormity of this attack, he should reserve for the proper time. At present, as the committee are already progressing with their inquiries on this subject, he was decidedly opposed to this resolution.

Mr. G. W. Campbell would reserve his opinion as to the extraordinary attack upon the Chesapeake to a more suitable opportunity than the present. He rose merely to state his reasons for the vote which he was about to give. It appeared clearly to him that this subject came within the first resolution referred under the Message of the President. To come to a different determination now, he should consider as passing a censure upon this House for having neglected its duty in omitting to refer to a committee the most important subject contained in the Message, and that which had occasioned the present early meeting of Congress.

The House would not surely give the resolution this construction. The committee to whom it had been referred had not so construed it, and were the House to pass the resolution now before it, it would amount to a declaration that the committee had misconstrued the resolution referred to them, and proceeded to act upon a subject without being authorized to do so. He hoped, therefore, as there was no necessity for it, and as it would be an improper interference with the business of the committee, that the motion would be negatived.

Mr. Gardenier regretted extremely that there should be any difference of opinion in respect to the resolution before the House. His surprise was still greater than his regret. The attack made on the Chesapeake by the Leopard had excited more sensation than perhaps any event since our Revolutionary war. It had induced the President to call Congress together at an earlier day than usual; and yet this subject had not been specifically noticed by any resolution of this House. A violation of our rights so prominent, he thought it the duty of the House to take up specifically, and act on it accordingly; to show that our feelings were in unison with those of the people of the United States on the one hand, and of the President on the other. He said it appeared to be the sense of the House that the subject should be inquired into. If it were already referred to a committee, he saw no objection to instructing this committee what course they should pursue. To the same committee had been referred a variety of subjects; and he could see no indecorum in telling that committee to what particular point their attention should be directed, though he had no doubt but the committee would do what they believed to be their duty.

It had been asked, would the House say that so important a subject as this had not yet been acted upon? He presumed the House would say the truth. If the subject was not referred, the House would say this, and their duty required that they should make a reference. The gentleman from North Carolina had said the subject was certainly before some committee; but he did not tell the House which committee he thought had cognizance of it. Certainly, if this aggression had been committed at so great a distance from the shores as had been represented, it was not within the power of the committee appointed under the first resolution. But the gentleman from Virginia had told them that he did not know that this violation was committed without the jurisdiction of the United States. If this afforded any argument, it would be, that, inasmuch as the House did not know where it was committed, it was proper to take measures to ascertain the truth. If it were committed without the jurisdiction of the United States, it did not come within the province of the committee who had the subject under consideration; and in order to make an inquiry, it was necessary to give them further powers. The resolution now before the House would prevent all difficulty on the subject; it tells the committee that it is the subject to which the House requires their particular attention; he thought it proper, therefore, in every point of view, that this resolution should pass. He hoped that there would be an unanimity of vote on this subject; that the House would proceed directly to the object for which they were summoned together, and would act as though they were engaged in one common concern. To this end, said he, let us determine to what committee the subject belongs; they will soon report, and we shall have the subject completely before us.

Mr. Blount observed that the gentleman, just sat down, had misrepresented him. That gentleman had stated that he (Mr. B.) had not expressed an opinion to which of the committees the attack on the Chesapeake was referred. He had expressly stated, that the committee of which he was a member had entered upon the subject, and that at the moment when this resolution was brought forward, he was in the act of writing a note to the Secretary of State for information, and which he read in his place. The committee, nor any member of it, ever entertained any doubt on the subject. It was the first business on which they proceeded. He believed the members of this committee felt as desirous of pursuing this inquiry, and of laying all the information they could obtain before the public, as any gentleman who clamored upon it. There was no inclination in this committee to pass over this attack in silence, nor could they be justly charged with delay in giving their attention to it.

Mr. Quincy disclaimed any intention of passing a censure upon the committee who were said to have this subject under consideration. He had no doubt their views were as pure and patriotic

as his own. He thought the House had not been sufficiently explicit in their reference of this subject. He knew it was the general opinion of the House that this business had been already referred; he had, therefore, modified his resolution to its present form. He saw no indelicacy in this. So far from it, a committee ought to consider it an honor to be instructed by this House: it was adding all the wisdom of the House to the wisdom of the committee. He had no intention of making any clamor on the subject, or of offending that committee. His own opinion, was that the attack on the Chesapeake was not referred at all; or, if it were referred, it was not referred to the committee, whom he proposed to instruct. It appeared that this committee and the Committee of Commerce and Manufactures had themselves entertained doubts on the subject; but after holding a conference had determined that the committee appointed on aggressions within our ports and waters should take it up. The confessions of gentlemen themselves appeared to call for a motion like the present, and he hoped it would be agreed to.

Mr. FISK entertained no doubt, nor did the committee who had taken up the subject appear to have any, as to the reference of the attack on the Chesapeake. He, therefore, conceived it unnecessary to pass this resolution. The committee had already taken up the subject, and would soon be ready to report upon it. It would, therefore, be very improper now to come to a resolution to direct their attention to what they are already engaged upon.

The question was called for and taken—yeas 24, nays 93, as follows:

YEAS—Evan Alexander, Epaphroditus Champion, John Culpepper, Samuel W. Dana, John Davenport, jun., Joseph Desha, James Elliot, William Ely, Barent Gardenier, Robert Jenkins, Joseph Lewis, jun., William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Rowan, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, James J. Van Allen, and Killian K. Van Rensselaer.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, Richard Cutts, Ezra Darby, John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, John Love, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, John Porter John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, David Thomas, John Thompson, Abram Trigg, George M. Troup, Philip Van Cortlandt, Archibald Van Horne, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and James Witherall.

And so the said motion was rejected.

FRIDAY, November 6.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report, and sundry documents, marked A. B, C, and D, prepared in obedience to "An act supplementary to the act, entitled 'An act to establish the Treasury Department;" which were read, and, on motion of Mr. WILLIS ALSTON, referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from William Henry Harrison, Governor of the Indiana Territory of the United States, enclosing certain resolutions passed by the Legislative Council and House of Representatives of the said Territory, relative to a suspension, for a certain period, of the sixth article of compact between the United States and the Territories and States Northwest of the river Ohio, made the thirteenth of July, 1787; which were received and read, and referred to Mr. JACOB RICHARDS, Mr. KIRKPATRICK, Mr. LOVE, Mr. DEANE, Mr. DAVENPORT, and Mr. PARKE, to examine and report their opinion thereupon to the House.

The SPEAKER laid before the House certain proceedings, together with a memorial of the citizens of Clark county, in the Indiana Territory, signed by John Beggs, their Chairman, and attested by Davis Floyd, their Secretary, in opposition to the letter and resolutions of the Legislative Council and House of Representatives of the said Territory, hereinbefore recited, so far as the same relates to the toleration and admission of slaves within the same.—Referred to the select committee last appointed.

Mr. LEWIS, from the committee appointed on the fourth instant, presented, a bill authorizing the erection of a bridge over the river Potomac, within the District of Columbia; which was read twice and committed to a Committee of the Whole on Monday next.

MONDAY, November 9.

On motion of Mr. PARKE,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the laws fixing the salaries of the Secretaries of the Mississippi, Indiana, and Michigan Territories; and that they have leave to report by bill, or otherwise.

Ordered, That Mr. BASSETT, Mr. MATTHIAS RICHARDS, Mr. KEY, Mr. BACON, and Mr. SAWYER, be appointed a committee, pursuant to the said resolution.

Mr. BOYLE presented a memorial of Return J. Meigs, junior, and others, witnesses on behalf of the United States, against Aaron Burr, attending the Circuit Court for the Virginia district, at the city of Richmond, in the month of September last, praying that an additional allowance to the compensation fixed by law, may be granted to the memorialists, for the reasons therein stated.—Referred to the Committee of Claims.

Mr. MUMFORD presented a memorial of the Mayor, Aldermen, and Commonalty, of the city of New York, for and in behalf of the Corporation and inhabitants thereof, praying that such appropriations may be made, and efficacious measures taken, for the protection and defence of the said city and its harbor, as to the wisdom of Congress shall seem meet.—Referred.

Mr. SMILIE presented a petition of the messengers of the Departments of State, Treasury, War, and Navy, praying an additional compensation.

Mr. SMILIE also presented a petition of Alexander McDonald, messenger to the office of the Register of the Treasury of the United States, to the same effect.

The said petitions were referred to the Committee of Ways and Means.

Mr. FINDLEY, from the Committee of Elections, to whom was referred, on the thirtieth ultimo, the memorial of Joshua Barney of the State of Maryland, stating his claim to a seat in this House, as one of the Representatives for the said State, in the room of William McCreery, who hath been returned as duly elected, made a report, in part, thereupon, which was read, and referred to a Committee of the Whole House on Thursday next.

Mr. RANDOLPH said, that at the last session, or the session before, a bill had been passed to defray certain expenses arising from the impeachment of Samuel Chase; that this bill had provided compensation for witnesses only. There were several persons, other than witnesses, whom it was incumbent on the House to compensate, as marshals who served process issuing from the Senate, for which there was no provision by law; there were also some services of a minor nature, which the managers had thought necessary, and which should be compensated. He therefore moved that the Committee of Ways and Means be instructed to inquire whether appropriations are necessary to defray the expenses arising from the impeachment of Samuel Chase.—Agreed to.

BRIDGE ACROSS THE POTOMAC.

Mr. KEY presented a memorial from the mayor and citizens of Georgetown, in the District of Columbia, against the contemplated bridge over the Potomac; which was referred to the Committee of the Whole, to whom had been referred the bill on that subject.

Mr. K. said, that the bill for the erection of the bridge was made the order of the day for this day; as the subject was particularly interesting to the citizens of his district, and he expected that to-morrow there might be documents laid on the table which would throw considerable light on the subject, he moved that the consideration of the bill should be postponed till Wednesday.

Mr. LEWIS wished that the subject should progress as fast as possible; but if additional documents were expected, he had no objection to the postponement; which was accordingly agreed to.

Mr. KEY moved that the memorial which he had just presented should be printed.

This was objected to by Messrs. LEWIS and UPHAM, on the ground that no petition or document on this subject had been printed, and it would be partial to order one only to be printed, and that they could not all be printed in a reasonable time.

The motion for printing was insisted on by Messrs. KEY, NELSON, and SLOAN, on the ground that all the other documents had been in the possession of the House for four years, who had become acquainted with their contents; that this petition contained matter entirely new, and which could not be understood from barely hearing it read.

The motion was negatived—56 to 46.

APPROPRIATIONS FOR THE NAVY.

Agreeably to the order of the day, the House went into a Committee of the Whole on the bill making an appropriation for the further support of the Navy Establishment during the year 1807.

On motion of Mr. G. W. CAMPBELL, the blanks in the bill were filled up in the following manner:

For pay and subsistence of officers and seamen	$74,750 29
For provisions	31,468 15
For repairs of vessels	142,884 61
For pay and subsistence of the marine corps	18,500 00
For clothing for the same	10,139 42
For medicines and hospital stores	1,263 40
For ordnance and military stores	310,554 60
For timber for the navy	87,500 00

The bill being gone through, a motion was made for the Committee to rise; when

Mr. QUINCY wished to ask a question of the chairman of the Committee of Ways and Means. In the estimate which they have received from the Secretary of the Navy, it was stated that the timber procured was "for building 73 gunboats;" the appropriation in the bill was "for the navy." He wished to know the reason for this variance; whether this timber was the same as that specified for the gunboats; if so, whether it was anything else than gunboat timber?

Mr. G. W. CAMPBELL said that he would endeavor to satisfy the gentleman from Massachusetts. Upon conversing with the Secretary of the Navy, the committee were informed that this timber was procured of such quality that it might answer any ordinary naval purposes; it was perhaps contemplated to be used for the erection of gunboats, but had been so selected that it could be appropriated to other purposes if necessary.

Mr. QUINCY said, the Committee would recollect that in the communication from the President of the United States to this House, he first states that he has made a greater provision of those articles of military stores, with which we

were not before sufficiently furnished; he then states that he had also incurred some expenses, unprovided for, for gunboats. Mr. Q. understood, by the communication from the Treasury and Navy Departments, that the present appropriation was for extraordinary expenses incurred for the Navy, other than those which come under the general name of military stores, and not including those expenses for gunboats. He asked of the chairman of the Committee of Ways and Means, merely for information, whether these extraordinary expenses were those which the President alluded to? Whether expenses, not produced to the House, were not yet behind the curtain? Whether they were the whole expenses that had been incurred?

Mr. G. W. Campbell said he could only answer to the gentleman's inquiries that, as the Message from the President of the United States had informed the House that certain extraordinary expenses had been incurred, and that estimates would be laid before them, and as such estimates had been laid before the House, the committee had conceived that these expenses were the same as those mentioned by the President, and acted upon them under that impression. They had no information before them from which they could inform the House whether there were other expenditures made, and they had not inquired whether the Message had reference to any other.

Mr. Quincy hoped the Committee would excuse him, if he proposed another question. The Committee would perceive that in the documents accompanying the bill, there was a statement of articles said to be purchased. He wished to know of the Committee of Ways and Means whether, in the common sense of the word, these articles were actually purchased and paid for, or only contracted for? If purchased and paid for, out of what moneys the payment had been made? Whether out of the public Treasury, from the private resources of the Secretary of the Navy, or from appropriations destined to other objects. The Committee would see the direction he wished to give to this inquiry; that the Committee might know before they voted this appropriation the course which had been adopted by the officers of the Navy Department.

Mr. Epps said that neither he, nor any other member of this House could satisfy all the inquiries of the gentleman from Massachusetts. All the expenses provided for by this law, were not authorized by existing laws. Under the extraordinary circumstances which had occurred on the 22d of June last, at a time when the gentleman from Massachusetts himself had declared that the most violent attack which ever disgraced the country was made, the Executive had the choice of two courses: either immediately to convene the representatives of the people, or to demand reparation from Great Britain. As the last was the course pointed out by the laws and example of nations, it was deemed proper to postpone the meeting of the Legislature till it could be ascertained whether or not the outrage had been authorized by the British Government. In the meantime it was deemed necessary to provide for such exigencies as might occur. Under former appropriations, military stores had been procured, but all the stores thus obtained were found to belong properly to the War Department; and although the Department of War was sufficiently supplied with saltpetre, the Navy Department was not; and in case of any pressing emergency, it would have become necessary to purchase it at a high price. If it is was asked why saltpetre was purchased in preference to powder, it was because it had been found that powder could not be preserved in magazines; on this account it was thought better to purchase the ingredients for making powder than to purchase the article itself, as it could be made as fast as wanted. He believed that all the other items of the stores depended on a similar principle.

Under the existing law of the land the President was authorized to increase the Marine Corps to the number of 1004; under present circumstances he thought proper to exercise that power. No appropriation had been made for the purpose, but it was presumed that if the law provided the power of increasing this corps, it intended that they should be supported and clothed.

As to timber, the same reasoning would apply. It was thought essential to make preparations to guard our defenceless ports, and to prevent our cities from being burned or destroyed. With a view to this purpose it was thought proper to procure a quantity of timber for gunboats, and in order to enable the Legislature to give such a form to the preparations for the defence of our harbors as they should think fit, the timber was so selected as to suit any purpose. And if it should not be necessary to make use of this timber, it was well known that it could be sold without loss.

There had been no other expenses incurred than those rendered necessary by the situation in which the country was placed by the attack on the Chesapeake, and he believed the present bill included every additional expenditure that was made.

Mr. Quincy observed, that in making these inquiries his intention was not to cast any blame on the incurring of these expenses. His single object was, that he and the House might understand how the thing was done? He did not perceive that either the chairman of the Committee of Ways and Means, or the gentleman last up, had answered his question. One of them had detailed at length the proceedings since the affair of the Chesapeake, which Mr. Q. did not wish to condemn. He wished the House should understand in what manner this business had been managed. Situated as he was upon this floor, possessing no more means of information than any other gentleman in the House, he understood that the articles had been purchased and paid for. Reasoning in his own mind on this subject, as he would on any subject in common life, he could see but three funds from which this $600,000 could be derived. The first fund was the Treasury; it was certainly not obtained thence, as they all knew that the Treasurer cannot pay any money but by warrants, and the Secretary of the Treasury cannot issue any warrant except on an appropriation by law. This, then, was not the fund. The next arose from the Secretary of the Navy having in his hands appropriations of money destined for purposes authorized by law, which he may have applied to purposes which were not so authorized. He did not believe that there was so much more money than was necessary appropriated to any specific objects in the hands of the Secretary as would enable him to meet these additional expenses without affecting other appropriations.

Mr. Q. could then only suppose that the Secretary of the Navy had purchased and paid for those articles from his own private purse or that of some other person. He wished to know how it was? If he could not obtain information this way, he must try some other. He wished that the laws of the country should be so modified as to give all security to the individual who had taken on himself so great a responsibility.

Mr. G. W. Campbell said he understood that the gentleman's objections at first were not against the appropriation or the propriety of making it; but now he wished to know whether a subordinate officer had actually paid this money, or whether it remained unpaid, and if paid, where the Secretary got the money to pay it. For himself, he considered it of no importance in what manner the money was paid, whether in dollars or in bank notes, or in any other way. The President had declared that he deemed it necessary to procure these materials, because appearances indicated an approaching rupture; if they had not been procured then, they might have become scarce, and perhaps could not be had at all. The materials were stored; the Secretary of the Navy had said that they were purchased. He conceived it immaterial whether the money was actually paid, or whether any individual had become responsible for it. It was not usual for the Committee of Ways and Means or for the House to go into minutiæ, or to inquire whether the money were paid in one way or in another. He asked the gentleman from Massachusetts if it was of any importance whether it were paid a month ago, or should be paid a month hence. The gentleman seemed to endeavor to propose some question that would produce difficulty; he professed to be in favor of the appropriation, and yet wished to throw some obstacle in the way to obstruct its passage. Even had the Secretary appropriated money to this exigency which had been otherwise appropriated, it was a customary measure. There was a time when this doctrine was advocated by the very gentleman who now seemed to oppose it. Mr. C. here read that part of the Message from the President to Congress which relates to this subject. He then contended that this proved that the articles spoken of were secured, and that the persons of whom they were procured were satisfied with the security of the Government for the purchase. If the propriety of incurring those expenses were brought into question, it might be necessary to give some answer to objections which should be offered. But as it seemed that the propriety of the measure was not questioned, he should go no further into the subject.

Mr. Randolph said from what he had heard of the debate, it appeared to him, that some doctrines had been advanced by the gentleman on his left, (Mr. Campbell,) which had not been heretofore considered as the true old Whig doctrine, the true Republican or Democratic doctrine. He had heard it stated, with some surprise, that the misappropriation of public money, or, in other words, to apply public money which had been appropriated for one object to another, was a matter of little importance, and unworthy of being made a question of inquiry in this House. He thought very differently. He had not heard much of the debate; but he had heard enough to convince him that an alarming—a damning heresy on the subject of politics, was likely to become prevalent in this body. Mr. R. said he would take the liberty of reading an extract from the first communication which the present President of the United States made to Congress, in which he recommends as prudent to multiply barriers against the misapplication of public money, by confining expenditures to express appropriations. Mr. R. read the passage to which he alluded, as follows:

"In our care, too, of the public contributions intrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money, and by bringing back to a single department all accountabilities for money, where the examination may be prompt, efficacious, and uniform."

These opinions, said he, are at total variance with the doctrine now advanced—the present doctrine threatens a war of extermination to these opinions. Doctrines which were then held sacred, and on which he had always acted, and upon which he trusted he should always continue to act, appeared now to be deserted.

The gentleman from Tennessee, (Mr. Campbell,) had stated that there was a time when certain gentlemen sanctioned the doctrines for which he now contends. It was equally true, he said, that there were others, who, contemporaneously, too, defended the principles for which he now contended. Does the gentleman from Tennessee consider us as political roundabouts to be changed by changing circumstances! If this be the fact, the sooner we know it the better.

Mr. R. called the attention of the House to an inquiry formerly made into the conduct of Gen. Hamilton, supported by a colleague of his now in the Senate. What was the crime alleged against the General? It was, that he had applied moneys appropriated for one purpose to de-

fray the expense of another. This was the charge which was then made, and supported with great ability.

Mr. R. allowed that the crisis which occasioned the extraordinary expenses in question was an imminent one. It was so critical, that Congress ought to have been immediately convened, in order that they might have given authority by law for these extraordinary expenses, and for adopting such measures as national feeling and national honor called for.

He confessed he felt extremely reluctant to vote large sums for the support of our degraded and disgraced Navy, for expenses, too, that had been illegally incurred. He had endeavored in vain to procure Gallatin on Finance, (which certainly ought to be in their library.) In that book he recollected a case exactly opposite to the present, where the President of the United States during the Pennsylvania insurrection, made use of money to defray the expenses incurred, which had been appropriated for a different object; but not having the book in his possession he would not venture to quote it, lest he should not do it correctly. Mr. R. concluded by saying, that when he rose, he did not mean to have said so much on the subject. If anything had escaped him grating to any gentleman's feelings, he hoped it would not be ascribed to an intention to offend; but he could not withhold his indignation on hearing such anti-republican and high federal public opinions, as had been supported by the gentleman from Tennessee.

Mr. Fisk said, that the bill now before the House went to provide for two objects; the one authorized by law, to wit, the increase of the Marine Corps; the other unauthorized, the procuring of timber and purchase of ordnance, &c. The Secretary of the Navy told them, in his communication and in his letter to the Committee of Ways and Means, that they had no stock of these articles on hand; and that saltpetre was wanting, and was then purchased at the lowest price; timber also had been procured, which was in the highest degree necessary for the defence of our ports and harbors. It would not be doubted, but the President had a right to make these provisions; he should have thought him deficient in duty if he had not done it. The President had thought it advantageous to lay in these stores, from the aspect of the times; it simply rested with the House to say whether this appropriation should be made or withheld. If, in paying this money or appropriating it, any fault had been committed by the officers of Government, if they had exceeded or violated their trusts, it would be time enough to inquire into it when it came properly before the House.

The gentleman from Virginia considered these doctrines as anti-republican; whether this were the case or not, the example had been set before. There was a case on record which would justify them. He alluded to a bill passed the first session of the ninth Congress.

He thought it therefore very immaterial whether the money had been paid out of moneys not appropriated, or out of moneys otherwise appropriated. It was conceived that Congress would justify the act by an actual appropriation. The only part of the expenditure which the House could object to, was that which related to saltpetre and naval stores; and he conceived these had been purchased with a due regard to the interest of the nation.

Mr. G. W. Campbell regretted very much that the gentleman from Virginia had either misunderstood him, or had misstated what had fallen from him. What he had said was this, and this only: that there might be a case which would authorize the application of money destined for one purpose to another; he was not prepared to say that this was such a case, but that such a case might happen. He felt surprised that these doctrines were stigmatized as anti-republican or federal, and that it had been said they were playing a game of political roundabout; the expression was not surely meant to convey an idea that they were now advocating a doctrine which they had once opposed? He had said that it was unnecessary to inquire whether these sums were paid or not; he had not said it was immaterial whence they had been drawn, if they were paid. He appealed to the Chairman, and to the House, if these were not the expressions he had used. He thought that the exigency would warrant the purchase of these materials. The President had told them those were extraordinary expenditures; hence he could not see how this question involved the principle of applying money destined for one purpose to another.

He felt as much reluctance to vote for large naval appropriations as the gentleman from Virginia; he never had been in favor of them, nor ever should be. He conceived that if anything could authorize such expenditures, this outrage did; and if the President had neglected to put the nation in a state of defence, the people would have had reason to complain of the inefficiency of Government. It was the duty of the President to adopt such measures as would have been authorized by Congress had they been sitting at the time.

The question now was, whether the House would sanction these expenditures or not: whether the exigency of the case would justify them? He had not expected that objections would have been made to the details of the bill, or that it would have become a question whether the money was actually paid by the Secretary of the Navy, or not.

Mr. Quincy said, that the question he had asked was so simple and direct that he could not see how the Chairman of the Committee of Ways and Means, or any other member, could have mistaken it. These articles had been purchased three months ago. Was it not clear that there was interest due on the purchase; how was it to be paid? If no interest was due, the moneys of the United States had been applied; if the interest was due, where was the specific appropriation to pay it? He asked these questions for information, and not with a design to create difficulty.

As to the passage quoted by the gentleman from Vermont, with a design to show the similarity of the proposed measure to one formerly adopted, that was an expense authorized by law, for which a sum of money had been appropriated by law, but which was not sufficient to cover the whole expenditure; this was an expenditure which had not been authorized.

Mr. Randolph said, if the gentleman from Tennessee had not before played a roundabout game, he appeared now to have done it. The gentleman might explain away what he had said, but he did not make his argument different from what he had understood it.

He thanked the gentleman from Vermont, (Mr. Fisk,) for having referred him to a former report of the Committee of Ways and Means, in which he, as chairman of that committee, had made a similar application to the Secretary of the Navy for information to that now recommended, and to which a definite answer was given. He supposed the gentleman, by quoting only a part of the report, did not mean to garble it. [Mr. R. read the letter which he wrote to the Secretary for information, and his reply.] Mr. R. said at that session he reprehended the conduct of that officer, and in this very particular.

Mr. R. certainly understood the gentleman from Tennessee to say, that it did not matter whether the Secretary of the Navy had paid for the extraordinary supplies in question in bank notes or specie, or whether they were paid for at all. Now, he was of opinion that it did matter very materially. He reminded the gentleman that he did not appear in opposition on this occasion. He came into the House without knowing what question was before it. He was told the question was for the Committee to rise; but he had heard doctrines delivered which he considered subversive of opinions which he, and the republicans with whom he had acted, had always considered sacred. But he was advocating principles which the gentleman from Tennessse had opposed. He never recollected to have seen him in opposition; he meant to cast no such imputation upon him. Mr. R. said he did not mean to oppose the present appropriation; for, though he should do it reluctantly, he meant to vote in favor of it. But he felt the same reluctance in giving this vote, that he should feel in paying a gambling debt to a swindler. He considered the Navy of the United States disgraced, and he felt the same kind of reluctance in appropriating money for its support, which a master felt at paying the expenses of an unprofitable and disgraced servant.

Mr. Smilie said, the gentleman from Massachusetts had inquired whether money had been actually paid for these specific articles, or contracts only made for them? On this point they could not satisfy the gentleman. He thought the only question on the passage of this bill was, would the House cover these expenditures by an appropriation, or not? They had a right to answer this plain question in the affirmative or negative; but it appeared doubtful whether they would answer it at all. He thought he perceived, from the questions of the gentleman from Massachusetts, an intention to cast some imputation of a criminal nature on the President of the United States, or on the Secretary of the Navy. Whether such criminality existed, or not, was not the question before the House. It had been customary, whenever the Secretary of the Navy or any other officer of the Government had made disbursements which were not authorized, to cover them by an appropriation. This question, therefore, did not necessarily involve any inquiry of the kind which had been made.

He did not mean to point out the propriety or impropriety of the arguments which gentlemen had used. If they believed that the conduct of the Executive had not been correct, they would not vote for the appropriations. It had been said that Congress should have been convened immediately; it was true the President had a right to call them sooner, if he thought the interest of the country required it, but he had postponed the meeting till the fermentation should have subsided, and an answer might have been received from Great Britain to the demand which had been made for reparation. If he had convened them so early as the month of August they could not have come here to legislate without danger to their health.

Mr. S. was in favor of specific appropriations, and against the practice of drawing money from the Treasury without appropriation previously made; but every gentleman knew that there were cases in which this form must be dispensed with, and in this instance he thought the circumstances of the case justified the measures adopted.

Mr. Dana perceived it was not in the power of the Chairman of the Committee of Ways and Means to answer the inquiries which had been made, because he would not permit himself to indulge a thought that he possessed the desired information, and yet withheld it. He thought that the want of this information might lead to a misstatement of facts; and though he did not pretend to be in the secrets of the Cabinet, he was inclined to the opinion that a full disclosure would be more satisfactory to the House, to the Executive, and to the people. If this were made, they would be denied the liberty of roving at will, conjecturing as they chose. But, said he, are we not called upon to grant money, and shall we not know for what purpose? Does the President call upon us for an appropriation, and shall we not have leave to inquire what expenses it is intended to cover? The very act they were about to pass was declaratory of their approbation of the conduct of the Executive; they were therefore entitled to information on the subject. As the representatives of the people, the peculiar guardians of the public Treasury, they were entitled to it.

He believed that no blame should attach to the Secretary of the Navy or any other person on account of this expenditure; but in every case in which money had been expended without order, the least that could be expected was a fair disclosure of the circumstances attending the transaction. Could not the Executive and departments trust to the candor and liberality of the House? Did they

refuse to confide in the House? Mr. D. was desirous of the fullest information, which he thought would redound more to the credit of the Administration than this silence on the subject.

Waiving the right to make these inquiries, he thought then, two questions occurred for consideration. The first was the great broad question, whether or not it was proper for Congress to make appropriations to cover expenditures of public money not previously authorized by law. Prior to the year 1801, expenses were incurred without the express sanction of Congress; they were incurred with a view to the public service in case of emergency. It was then discretionary with Congress either to approve or disapprove this conduct; if they approved it they passed a bill making an appropriation to cover the expenditure. In 1801, from the highest authority, a doctrine the reverse of this was avowed; that it was a part of political prudence to discountenance and disallow all applications of money to purposes not authorized by law; so that if money destined for one object was applied to another, or money unappropriated was applied to any object without being previously authorized by law, this doctrine went to disallow it. In 1807, when public expectation was directed to the Executive, it had been thought proper to incur certain expenses for insuring the public safety. A public officer, who in a moment of public exigency undertakes to purchase supplies, may rely on public support. If the Legislature condemns the procedure, the officer must bear the loss. Would you, said Mr. D. had you assembled at this time, with a knowledge of all the existing circumstances—would you have authorized these expenses to be incurred? This was the fair question, and was presented to them under favorable circumstances for determination. In 1801, this doctrine had been contradicted, disavowed; it was with satisfaction he now observed that practice taking place under high authority which had before been denounced. He felt highly gratified with this change, and certainly would not reproach gentlemen for it; they had learnt wisdom by an experience of six years, which had taught them the error of their doctrines; the privilege of being wiser on this day than five years since ought not to be denied. He declared then, that as respected the general principle, he concurred decidedly with the Executive.

The second question was on the particular subject: should they advocate the expenditures for these particular purposes, supposing that they had perfect information on the subject? As respected the subsistence for seamen, repairs for vessels, &c. they were previously authorized by law. The President was authorized to increase the number of seamen, but the appropriation already made would not cover the additional expense. It was beyond all question, that as this power had been given to the President, Congress were pledged to cover the expenditure. The next article was, for pay and subsistence of the marine corps. There was a clear power vested in the President to increase this corps; and as Congress had authorized that increase, they were pledged to defray the additional expenses. Passing by ordnance and military stores, the last article was for timber for the Navy. He could have wished that this article had been something more explicit; he apprehended it was timber for gunboats; if so, on that subject there seemed to be some questions. He found in the estimate of the naval expenditures, timber for seventy-three gunboats; he did not doubt but they might be useful; but they were not designated by name in the bill, and should they be found to be useless, the stigma might be cast on the Navy generally. As respects this timber, for gunboats, he asked, had there been any authority given to the Executive of the United States to purchase such timber? At the last session of this body, there was before the House a bill authorizing, (among other objects) the building a number of gunboats, but which failed of success. A motion was made by himself to strike out the words "for building gunboats," so as to authorize the provision of timber for general naval purposes. Against this motion he found a long list of names, for it had no high authority to recommend it. They could have the whole number of gunboats that were necessary built in one month, even if it were a thousand. For himself, he was now clearly in favor of timber for gunboats, not because he considered them an adequate defence for the United States, but as they might be useful in some cases to a certain extent, as a subordinate part of a system of defence; this was their true character. Hence it was that the erection of gunboats gave so much amusement to mischievous tongues and editors, when considered as forming in themselves a system of defence. He was clearly in favor of pursuing the same plan as that for which he had before voted; and the gentlemen who had condemned the measure proposed by himself last session, might vote for the same now, as it was backed by higher authority.

Mr. Thomas wished the Chairman to state the question before the House, that gentlemen might see how far they wandered from it.

The Chairman stated the question to be on the rising of the Committee in order to report the bill.

Mr. Newton said, he rose merely to state to the Committee a matter of fact; and when he had stated that fact, he thought he would be justified in the inference he should draw from it. Considerable preparations had been made in the part of the country which he had the honor to represent, in consequence of the outrage which had been committed. He knew it to be a fact that citizens of that district had furnished articles for the service of the United States, and rendered important services, and that they were now anxiously waiting for the passage of this law, that they might receive the moneys which would become due to them under its sanction. This being the fact in his district, he had no doubt the same fact existed in other parts of the United States. He did not know that the Executive of the United States had purchased or paid a cent for saltpetre; but as the United Staaes were indebted to citizens in his district, the probability was that they were indebted in other parts of the Union.

Mr. G. W. Campbell said he would make but a few additional remarks on this subject; the Committee of Ways and Means had conceived they had done their duty by taking the only means in their power to acquire information. He was surprised that there could be a division of sentiment among the members of the House with regard to the manner of making this appropriation. He declared that he still held the same principles he had always maintained, so far as respected specific appropriations; but a case might happen in which they might be dispensed with, as cases of exigency required extraordinary remedies. After making some remarks on what had been said respecting heretical doctrines, and deviations from republican principles, he assured the gentleman on his right (Mr. Randolph) that he was the last whose political principles he should follow. The gentleman from Connecticut had said the House were called upon to make appropriations, but had not been specifically informed what expenditures they were to cover. The objects of the appropriations had been detailed to the House by the Secretary of the Navy, and by members on the floor. It did not appear to be the desire of the gentleman to know for what particulars the expenditure had been made, but whether they were actually paid for or not; this he must say, appeared to him perfectly immaterial, and that if the occasion was sufficient to justify the expenses incurred, the appropriation was proper and ought to be made. He thought the taking money from an appropriation to the one object, and applying it to another, might be admitted in such an emergency; which might also warrant the Executive in incurring expenses not authorized by law.

Mr. Randolph observed, that he understood the gentleman from Tennessee to say, that he should not apply to him for instruction in political principles. He would assure the gentleman he was one of the last persons he should wish to instruct: and when he wanted pupils, he should not solicit him to become one. Mr. R. said he had been involved in this debate prematurely. He had heard the order of the day stated from the Chair, and no person called it up. He then walked out of the House in search of a book; from the extraordinary echo of this large room, there being great difficulty in hearing, and being heard, when he returned he had not distinctly understood the question.

He wished to be understood as giving his vote upon the same ground with his friend and colleague who had just sat down. The expense having been incurred by the patriotism of our citizens, it would be an indelible disgrace not to discharge it. But in doing this he did not mean to commit himself as voting for a navy, or the expenses arising out of a navy, except in a case such as the present, where a debt had been actually incurred.

The gentleman from Pennsylvania had agreed with him perfectly in professions; he had therefore nothing more to do than to ask him, as he had heretofore done, to act with him. This gentleman, as indeed every other gentleman, had taken a wide range on this question. In the first place, the expenses were not authorized by law; and inquiry had been made why they were incurred without authority, and a reason assigned that there was a great crisis—an insult had been received which every man must feel—in short, the circumstances were such, that the Legislature ought to have been convened. The gentleman from Pennsylvania had urged as a reason for their not being convened, that our health might be endangered by coming here so early in the session. He wished his old friend from Pennsylvania, he hoped he might be permitted to call him so, would convey them to a place where they might be convened without danger. Another reason was, that they would have been convened at a time when they would have felt a deep and particular sense of national indignity. Mr. R. said he thought they ought to have been summoned then, and not to have suffered this impression to be weakened. There was a time when that gentleman and some other gentlemen, in discussing a subject which they called British aggressions, were as warm as he was disposed to be temperate; now that gentleman was as temperate as he was warm. Which had the better reason? He deemed it to be the interest of this nation to preserve peace with all mankind; to hold the balance of humanity with a steady hand. He had before deemed it the interest of the country to be at peace with Great Britain for reasons which he had before urged, on that floor, and which he would not state again; but now, *tempora mutantur*. The nation had received a blow. The President had been insulted in his palace by the Minister of one foreign Power, and now had received a blow on his cheek from the navy of another.

Mr. Smilie said that he was perhaps more temperate than his friend from Virginia; but he hoped when that gentleman arrived to his period of life, he would be equally temperate with him. Yet he did possess a temper, and could display it when our violated rights were the subject. Mr. S. then alluded to an ancient nation, who were wont to discuss great national questions twice, once when they were drunk, that they might not want spirit, and once when they were sober, that they might not be deficient in prudence. And he did believe, however others thought, that prudence required a temperate course, and that they ought not to have been under the immediate influence of passion when they took their seats on this occasion.

The question was now taken on the rising of the Committee, and carried. The amendments, agreed to in committee, were all agreed to without a division, excepting that making an appropriation for timber, on which the House divided—ayes 103; when the bill was ordered to a third reading to-morrow.

Tuesday, November 10.

APPROPRIATIONS FOR THE NAVY.

An engrossed bill making further appropriations for the support of the Navy of the United States,

during the year one thousand eight hundred and seven, was read the third time.

Mr. J. Montgomery said, that as the yeas and nays had been required, he should exercise the right of assigning reasons for the vote he was about to give. This bill provides for extraordinary expenses incurred in the Navy Department since the 22d June last. These extraordinary expenses had resulted from the cowardly attack committed by the Leopard on the Chesapeake. This act, marked with such daring and atrocious circumstances, had excited the detestation of every American—one sentiment, on this subject, pervaded the Union. The President of the United States had adopted firm, energetic, and dignified measures on the occasion; amongst others, those which had occasioned the expenses for which this bill provides. He had heard no complaint that the Executive was defective, either in prudence or energy. He was authorized, and he exercised the authority vested in him by law, to call out the marine corps to its full complement. He had exercised the authority given to him by the act of 1806, in preparing the gunboats for service. The sense of the nation, and the exigency of the times, called upon him to do so. Other expenses, incident to calling out the marine corps, and manning gunboats, were comprised under the different articles of clothing, &c. These extraordinary expenses, the President was authorized to incur, the state of the country justified him in exercising that authority, and Mr. M. was of opinion that the honor of the nation called upon the House to make the appropriation. Then, as to these extraordinary expenses which had been incurred, there could be no difficulty; their honor was at stake for the payment. There was another item, which, he presumed, would meet with as little difficulty as any other. He was instructed to say, as a member of the Committee of Ways and Means, that the provisions specified in the bill were used by the militia called out for the protection of the port most in danger. Was there any member in the House who would hesitate to make an appropriation of $31,000 for that purpose?

At this important juncture, when our country was in danger, the Executive had examined the state of the several Departments. In the War Department there were sufficient supplies of military stores; in the Navy Department there were none, except a few pounds of powder. At this alarming crisis, the country being threatened with war, the people looked up to the President for energetic conduct. He did not hesitate to make expenditures to supply these necessaries for the Departments. Of the Navy Department there was more required than of the War Department, because the outrage had been committed on the ocean. What more prudent, more correct conduct than that of the President could be wished, or what more could the people expect, than that he should have made these necessary provisions of ordnance, and military stores, and timber for gunboats? The President had judged it expedient to make preparation; and the state of affairs had called for a warlike attitude; for, said Mr. M., we have learned from our departed Washington that, to command peace, we must be prepared for war. The President had acted upon this principle, which the House, no doubt, would approve. There was no law at that time, nor had any law yet been passed, to authorize the purchase of these articles; but the President of the United States, when his country was in danger, hesitated not to take upon himself the credit and proper responsibility. Upon these items, what was the language of the President of the United States, contained in the Message delivered to us? Strong, and forcible, and clearly showing the necessity for incurring these expenses: "The moment our peace was threatened, 'I deemed it indispensable to secure a greater provision of those articles of military stores with 'which our magazines were not sufficiently furnished. To have awaited a previous and special 'sanction by law, would have lost occasions which 'might not be retrieved. I did not hesitate, therefore, to authorize engagements for such supplements to our existing stock, as would render it 'adequate to the emergencies threatening us, and 'I trust that the Legislature, feeling the same 'anxiety for the safety of our country so materially advanced by this precaution, will approve 'when done, what they would have seen so important to be done, if then assembled."

Mr. M., hoped his trust was well founded; that the Legislature, feeling the same anxiety for the public safety so materially promoted by this precaution, would declare that this was what they would have done had they been in session. He asked, had the President of the United States passed over this great emergency, and failed to make these preparations, ought he not to have been censured for a neglect of duty? As these articles, therefore, had been purchased because the interest and safety of the country had required them, and the expenses had been incurred for the public safety, the House could not hesitate to give their sanction to the appropriation.

It had been asked by a gentleman from Massachusetts, whether these articles were actually paid for? If paid for, out of what moneys had the payment been made? The President had said that he had authorized engagements for these articles; the Government was pledged for them; and the House were as strongly called on, by faith and honor, to make an appropriation for them, as they were bound to do in the case of the marine corps.

Mr. M. said it had been asked by another gentleman, perhaps from Connecticut, whether the timber mentioned was for general naval purposes, or intended for gunboats only? At this important crisis, when hostilities were menaced, it had been thought prudent to lay up a stock of timber for building gunboats, and it was accordingly done. But, in laying it up, it had been contracted for, and prepared, in such a manner as to answer any naval purposes. If our differences should be amicably settled, and it was not required that gunboats should be erected, the material would still be on hand for the use of the Navy.

It had been stated, he believed by a gentleman from Virginia, that appropriations had been anticipated—that this was not the language held by the President of the United States, or these the principles defended by him in his first communication made to Congress in 1801. Mr. M. said he admired the principle laid down by the gentleman. Appropriations should never be anticipated but in extreme cases. The principle was, in general, correct. But, he would ask the gentleman from Virginia, who had taken this ground yesterday, if a case could not occur in which it might be departed from? He would ask any gentleman, need there exist a stronger case than the present to justify such a departure? He believed not.

They had been told by a gentleman from Connecticut, that, in the manner in which they were now acting in making appropriations, they were justifying the measure upon arguments resorted to by the former Administration. God forbid, said he, that we should take any of the principles of the former Administration for our rule of conduct. The present measure stood on firm ground. The exigencies of the times had justified the anticipation, and not the example of the former Administration.

They had been told by a gentleman, yesterday, that our Navy had been disgraced by this outrage. True, if the officer of the degraded vessel, instead of a verbal answer from the mouth of his trumpet, had sent a metal one from the mouth of his cannon, the honor of the Navy of the United States would have been preserved. That officer, and his conduct, were now under investigation; but, from the courage, character, and patriotism of the other officers of our Navy, the country might be assured that, if opportunity offered, they would retrieve its reputation.

It had been said that the Government had received two marked insults from foreign Powers. He presumed one case alluded to was that of the Spanish Minister. If he was wrong in this idea, he wished to be corrected. This Minister began to show his Spanish airs to our homespun Government. He was informed that a demand would be made for his recall. If it should be thought, that I am incorrect in this, said Mr. M., resort to the Department of State, where the facts may be obtained. What was the conduct of this Ex-Minister? Did he dare to pesist in this insolence? No! he meanly solicited our Government not to write on, or represent his conduct to the Spanish Government. Our Government granted his solicitations. If they got rid of him, it was immaterial in what manner. After he had thus obtained his point, what was his conduct? He came within the City of Washington, contrary to the understanding which had taken place. Did the Government then put up with his behaviour? He received, on the contrary, an intimation that his company would be dispensed with. In the course of a few days he slunk off to Philadelphia. Under such circumstances, he presumed no American would feel the dignity of the nation injured in this case.

In the other case, it had been said, we had received a blow. And a blow only? No! murder had been committed. The reeking blood of our fellow-citizens, and the insulted dignity of the nation, called for satisfactory retribution or speedy retaliation. If retribution is refused, then the Constitution did not vest the power in the President of the United States to resent the injury—it did vest it in the Congress of the United States. If such a crisis should take place, they would meet it with energy and firmness, and use every effort to efface the insult.

The present measure, now under consideration, said Mr. M., is the first defensive measure presented for our determination. If we give this measure a quibbling, quirking, or reluctant affirmative, the people will be disappointed in their hopes. I have no apprehension that we shall do so. I believe the contrary. I have no doubt but that the patriotic characters, here called together, on the exigency of the moment and to whom are intrusted the honor of the nation, will realize all the wishes of the people.

Mr. M. concluded by saying that, feeling conscious of the rectitude of his intentions, as far as his feeble abilities would permit, he had discharged his duty to his country, to his constituents, and to himself.

Mr. Randolph hoped the time would come, and that very soon, when we should have an opportunity of going into a regular discussion of the points touched upon by the gentleman from Maryland, and of some others. He trusted that, in the first place, the question would be regularly brought before the House—and the late experiment had thrown considerable light upon the subject—whether the United States ought to maintain a Navy, and to what extent? Whether an establishment which for years had proved a moth in the public purse, and which, when the exigency of the moment called for its last exertions, had proved only a conductor of dishonor to the nation, deserved to be cherished with the tenderness, and supported at the expense, which had hitherto been lavished upon it? He hoped this question would be fairly met and as fairly decided; for, strange as it might appear, this great point had never been directly settled since the present Administration came into office, but had heretofore been determined in an oblique, collateral way. He hoped, too, that the question would be discussed, how far the present state of our political relations abroad had grown out of the proceedings of the memorable session of 1805-'6, and how far—perhaps this might prove the only opportunity for such a discussion—the measures taken by the Executive upon the capture of the Chesapeake comported with the wishes and expectations of the people, and with the maxims of a sound, dignified, and enlightened policy.

The gentleman from Maryland, who had just sat down, allowed that the positions contended for yesterday, in opposition to the practice of contracting public debts or expending public money illegally, were, in the general, good, but seemed to consider them liable to many and great exceptions. On this subject he would produce an authority which would show what had been the

opinion of the Republican party, when they were out of power, and how far it supported the doctrine which gentlemen had now undertaken to defend. Here Mr. R. quoted Gallatin on the Finances of the United States, page 81:

"Another irregularity has once taken place upon an extraordinary occasion. Although the President of the United States was authorized to call out the militia to suppress insurrections, no moneys were appropriated for that service. When the Western insurrection took place, until Congress had covered the expenditures of that expedition by an appropriation made only on the 31st of December, 1794, the expenses were defrayed out of the moneys appropriated for the Military Establishment. Yet even the principle, by which the specific appropriations for the several objects of the Military Establishment have been considered as a general grant for the whole, could not authorize the application of a part of that grant to the expenses of that expedition. No further discretion had been claimed by virtue of that principle than that of indistinctly applying the whole sum appropriated by law to any of the objects enumerated and specified under distinct heads in the law itself. But, as the militia called out to suppress an insurrection make no part of the Military Establishment, the expenses attending such a call were not among the various objects enumerated in the law making appropriations for the Military Establishment. The moneys drawn from the Treasury on that occasion were paid out of a fund appropriated for other and distinct purposes; they were not drawn agreeably to the Constitution, in consequence of any appropriation made by law. It might be a defect in the law, authorizing the expense, not to have provided the means; but that defect should have been remedied, by the only competent authority, by convening Congress. The necessity of the measure may, in the mind of the Executive, have superseded every other consideration. The popularity of the transaction" (and he might have added, of the agent) "may have thrown a veil over its illegality, but it should by no means be drawn hereafter into precedent."

Mr. RANDOLPH believed that the opinion which he had just read would bear him fully out in the principles which he had laid down yesterday as those on which the old Whig or Republican minority in Congress had acted, on which they had specifically, as well as virtually, pledged themselves to the nation to continue to act, and which, when they deserted, they deserved the reprobation of every honest mind. Can any man pretend to say that the Western insurrection, in the very infancy of this Government, presented a case of less public exigency than the capture of the Chesapeake? And yet the then President of the United States, for having illegally defrayed the expense of that expedition, instead of convoking the Legislature and acting under its authority, had deservedly received the censure—not of the multitude, for they were with him—but of the thinking few. He was condemned by the reflecting part of the community, and the system on which he acted and which his successor had subsequently pushed to the most extravagant lengths, was finally arrested by the public voice.

In a preceding part of his work, (page 79,) the Secretary passes some deserved strictures on the practice of mingling appropriations:

"The appropriations heretofore made for the Military Establishment have been subdivided into a number of separate heads, making specific and distinct appropriations for the pay of the Army, for its subsistence, for clothing, &c.; and it was supposed that the moneys thus distinctly appropriated were respectively applied to the specific objects, for which they were appropriated. It, however, appears by a letter from the Secretary of the Treasury of May, 1796, that by far the greatest part of the expenditures for the military department are found by experience to be unsusceptible of that particular distribution which is observed in the issues of moneys appropriated to other objects, and that appropriations for military purposes ought to be considered as a general grant of such sums as the public service is found to require, to be issued according to exigencies, and applied and accounted for pursuant to law."

The House will recollect, that at this time, we had not that other department, which has since proved yet more unsusceptible of any economical regulation, or legal control. The Secretary of the Treasury goes on to say:

"It would seem that, if those appropriations are considered by the Treasury Department, as general, of which grants, to be issued according to exigencies that that or some other Executive Department is to judge, and if, therefore, the moneys specifically appropriated to one head of service are applied to another head, they are not applied and accounted for pursuant to, but contrary to law. Such a mode is undoubtedly liable to great abuses; it deceives the Legislature, who, when appropriating one hundred thousand dollars for the defensive protection of the frontiers, did not think that the Treasury would assume a power to apply them to the Quartermaster's, or any other department. It deprives the Legislature from any control, not only over the distribution of the moneys among the several heads of service, but even over the total sum to be expended. For the million and a half of dollars appropriated for the annual support of six thousand men, the nominal establishment, may be spent in the same time, and in fact has actually been expended within fourteen months for the three thousand five hundred men who constituted the effective establishment. The same abuse has, for a considerable time, prevailed in England, where it has, at several periods, been taken notice of, and did lately produce a motion of impeachment against the Ministers.

"On the other hand, it is impossible for the Legislature to foresee, in all its details, the necessary application of moneys; and a reasonable discretion should be allowed to the proper Executive Department. The most proper way would perhaps be, not to enter into so many details; not to make specific appropriations for every distinct head of service, but to divide the general appropriation under a few general heads only, allowing thereby a sufficient latitude to the Executive officers of Government, but confining them strictly, in the expenditure under each of these general heads, to the sum appropriated by law."

The two cases noticed by Mr. Gallatin, were the mingling or lumping of appropriations, and the expenditure of money on objects authorized by law, but for which there was no appropriation. The present case not only embraced those two, but another, and much stronger case than any which Mr. Gallatin had imagined—the expenditure of money not only without an appropriation, but upon objects not previously authorized by law.

But, Mr. R. said, it was asserted that the articles were not paid for, that contracts only had been made for them. So much the worse. In point of principle there was no difference between contracting an illegal debt, and making an illegal disbursement of money. But in point of economy, there was a great difference against the former. If these articles had been bought with cash they would have cost less. Merchants all over the world looked to *profit*. Would they deliver upon contract to be paid some months hence, provided Congress approved, their saltpetre, for instance, at a cash price, at a time, too, of imminent danger of war, and when every article of military equipment must be expected to rise enormously in value? He could not see in such a procedure (granting the fact to be so, of which, however, he doubted) a theme for eulogy on the economy of men in office, or any mark of promptitude to provide for the public defence, which could be done effectually by the Legislature alone.

He put it to the candor of the gentleman from Maryland to say whether, if the President had pursued a different course—had met the public expectation and convened Congress—he could not have found in the respect shown by the Executive for the laws, and the Constitutional rights of that House, by a prompt recurrence to the only source of legislative authority, a more ready and natural defence of his conduct than that which he had laboriously but fruitlessly taxed his ingenuity to produce. The gentleman's argument proved too much. The more he magnified the danger of the crisis, to justify an illegal and unconstitutional expenditure of the public money, the more clearly did he demonstrate the necessity of convening Congress. But, sir, when the call for an immediate preparation to meet the emergency of the times, is dinned into our ears, will any man pretend to say that such preparation has been made; that we are now prepared for war? Could any gentleman bring himself to believe that a few pounds of saltpetre had put the nation in a posture of defence, or that we had any other preparation than that which stout and willing hearts afforded? The measures which had been taken were, as far as respected a violation of the Constitution and laws, certainly efficient, but in relation to defence, next to nothing. We were nearly in the same state of preparation now as two years ago, when the non-importation law, that *panacea* of political empiricism, came into vogue. So late as the last session of Congress, the House had been told by a gentleman from Massachusetts, not now in his place, that this law had already done wonders; that until it had passed, Great Britain would not listen to any proposition from our Ministers; but no sooner was it enacted, than her ears were opened, and a disposition manifested to grant our demands. But a regular course of this nostrum had ended, as all quackery was sure to do, in an aggravation of the disease. The gentleman from Maryland had said something which he could not distinctly hear, concerning the Spanish Minister. He hoped the gentleman did not consider him as an apologist of Spain, or her Minister. He had warned the House two years ago of the consequences of truckling to Spain—of the inevitable effect of such mean submissions on the conduct of other nations towards us. What then was prophecy is now history.

A fear had been expressed, that, if a reluctant assent were given to this bill, we should disappoint the hopes of the people. Mr. R. said he *did* give a reluctant assent. Because it was a measure of defence? No, because it was a half measure, a mere make-believe, a tub to the political whale, something like the famous act for raising volunteers, which had caused so much confusion in our militia system, that in fact it could not be executed, because, more especially, the expense had been illegally incurred. But he would be the last to give a reluctant assent to vigorous and efficient measures originated in a Constitutional way, which might be deemed essential to the national defence, or to the vindication of the national honor. If, instead of waiting the slow return of the Revenge, Congress had been assembled immediately on the attack of the Chesapeake, to provide for the common defence, he would have given his warmest assent to any measures that could have been devised for retrieving the national honor. For, if anything was worth going to war for, it was a nation's honor, since it is inseparable from a nation's safety.

Mr. QUINCY deemed it his duty to assign his reasons for the vote he was about to give. The House would recollect, that, in the course of proceeding which had taken place yesterday, this bill containing so many appropriations, and coming before the House under such peculiar circumstances, and a motion being made for the Committee to rise, he had assumed the parliamentary right of asking of the organ of the House a few questions, in order to ascertain the particular objects of these appropriations, whether the amount of appropriations in the bill covered the whole extent of military stores mentioned in the President's Message, as having been purchased, and whether they extended over all the expenditures which had been made? He had conceived that all the questions he had asked, were relevant to the subject, and such as he had a right to ask. He had expressed no disapprobation of the appropriation or the expenditure which produced it, but merely asked for information. There was no gentleman of the Committee of Ways and Means who pretended to illuminate the subject; on the contrary, not a collateral remark had been made. It had been said that he wished to overthrow the bill. Being placed in this situation, he deemed it his duty to add a few remarks to show what were the real objects of his inquiries.

He laid it down as a principle, and he called on gentlemen to contradict it, that this was a particular case on our records, unprecedented as he believed. The gentleman from Virginia had an-

ticipated his ideas on the subject: that, though under former appropriations there had been misappropriations, there had been no instance in which there was not a previous appropriation. This was a new case—a leading case—for which there was no precedent. He wished to know its particular circumstances, how the faith and honor of the nation was pledged, and how it had been done? He thought he had a right to ask this. He made the inquiry for another reason: in all cases under the former Administration, although misappropriations had been made, the whole procedure had been avowed; always appeared on the records, from reports of the committees, or from some representation to the House. As an evidence of this, Mr. Q. referred to a report of a committee made on the 22d of May, 1794, in which the committee expressly said:

"It has occasionally happened that the omission or delay of appropriations by law, renders it impossible to satisfy, in regular course, demands upon the Treasury, which have been incurred pursuant to law, and the satisfying of which is essential to the public service.

"In such cases, the course has been for the Secretary of the Treasury to request informal advances by the banks, to the persons to whom the payments are to be made, to be reimbursed when provision is made by law. The account of such advances are distinct from that of the Treasurer, and the advances are reimbursed, when provision is made by law, by warrants upon the Treasurer."

If that Administration were now in power, and the principles now prevailing, which were then justified, he would have given them his sanction, because the course was obvious. But in the report of the committee of investigation made to the House in 1802, this proceeding had been declared irregular; and the Secretary of the Navy, in his letter to that committee, had expressly made representations of various errors in the Treasury Department, in applications of money. This being the case, was it not proper that the House should understand the mode in which this had been done? Whether any money had been drawn out of the Treasury, and how got at? Mr. Q. had meant to cast no imputation on the bill. There were two things to be considered; one, the correctness of the end, the other, the correctness of the means to that end. He believed it had been proper, under all circumstances for the Executive to take measures for providing those means; but did it follow that the House should authorize them without information on the subject? They should know the particulars; they should ask for them. Did the House know anything about it? No. The gentleman from Maryland who had just spoken, had stated that no money had been actually paid; and yet the Secretary of the Navy states explicitly. "We have consequently purchased all that has been offered for sale at a reasonable price." What payment had been made for the purchase he should like to know.

Mr. Q. said he had no objection to the object of the bill; but wished to be enabled to give his full and perfect approbation to the measure. At present he could only give a half way assent; but could not say the whole course had been correct. If any reflection were cast on this occasion, it should be on the committee who reported the bill.

Mr. W. ALSTON said, the question was, as he understood it, whether the House would pass a law for defraying the extraordinary expenses which had been incurred in consequence of certain events. To him the discussion which had taken place, was the most extraordinary which he had ever witnessed. Instead of coming forward and opposing this measure, gentlemen employ themselves in justifying their conduct on former occasions, and abusing the Administration. If they wish to arraign the Executive or any of its acts, let them come forward in a manly manner, and lay a resolution on the table for the purpose: and not arraigh their conduct, while they sanction the measure. This was the proper way, and if he were displeased with the Administration it was the course which he would pursue. Was it fair for gentlemen who approve its conduct, to propose measures which would cast a censure upon every step which had been taken? He thought not.

The gentleman who had just sat down, had said, that he wished no concealment, he wanted information. Surely that gentlemen had not read the estimate from the Secretary of the Treasury laid on their tables; for in that he might find ample information; it stated the very articles for which those expenses had been incurred. It had been said there was no law to cover this expense: no person denied that. Was it a question material to the House whether they were paid for or not, or if paid for whether out of any particular appropriations? The prices given for the particular articles were shown to them; there were merchants in the House who knew what the price of those articles should be; he presumed that if any extraordinary price had been given, some gentleman would have said so.

It had been said that the President should have called Congress, and not have violated the laws of his country. He thought this the greatest emergency that had ever occurred, and that we were now better prepared to decide on the important question of peace or war, than at the moment when the event had taken place which called them together. The course which had been pursued would be sanctioned by all prudent men, and if by this course war had been averted, the voice of the nation would approve it. The cases which he had heard cited did not apply, for in the present case there had been no improper application of public money; what contracts had been made it was not for him to inquire, but it appeared that not a cent had been drawn from the Treasury without appropriation.

Mr. CHANDLER remarked that the gentlemen from Massachusetts and Virginia had argued much on the subject of this appropriation. Their whole argument had gone to show, that it was improper to apply money to one purpose which had been appropriated to another; or at all to apply money which had not been appropriated. It appeared to him that the present case differed very much from that of applying money without previous appropriation: there had been no money applied. The exigency of the country, in the opinion of the Executive, required these contracts to be made. They had been made; but no money had been paid. The gentleman from Massachusetts wished to be told the difference between paying for an article and purchasing it: the distinction was obvious, an article may be purchased to-day and paid for to-morrow. He must confess that in this case he could neither see misappropriation or misapplication.

Mr. FISK said, he had understood that there were diseases both of body and mind, which admitted of no radical cure. The disposition to find fault was one of these. The gentleman from Massachusetts had complained that the Committee of Ways and Means had not done their duty; he wanted to know the prices given for the several articles before he could give the bill his full assent. At present he was in Egyptian darkness; an obscurity so great as to be tangible; this being his situation, it was doubtful whether any ray of light reflected by reason could reach his optical nerve; there could be no doubt but his mind was clouded, for had he read three lines more of the letter of the Secretary of the Navy to the committee, a part of which he had just read, he would have found the very information he wanted: "We have consequently purchased all that has 'been offered for sale at a reasonable price. For 'that stated in the estimate we have given different prices, the lowest of which has been 16, and 'the highest 18 cents per lb. For powder, cannon, 'cannon-ball, copper, canvass, and cordage, we 'have contracted at the ordinary market prices."

Here they found the prices which were given for saltpetre; the other articles were purchased at the market price. Did the gentleman wish the House to return the letter to the Secretary, to ask what the market prices were? Surely not. Mr. F. conceived the only question now was, whether it was expedient to make the appropriation, (it was at their option,) or withhold it. The money had not been paid. The President had told them that he made the purchase on his own responsibility; yet the gentleman from Massachusetts thought the money was actually paid, because purchase implied payment: the gentleman might, as a professional man, have found a very plain distinction between purchase and payment. The same gentleman had said, that the Executive, in the present instance, had exceeded the powers delegated by the Constitution much more than had been done by his favorite Administration in the case cited by the gentleman from Virginia (Mr. RANDOLPH.) Mr. F. thought very differently. In that case money appropriated for one object was taken from it and applied to another: in the present case no money had been drawn from the Treasury; no money had been paid.

The gentleman from Virginia had reminded them of the measures adopted the first session of the ninth Congress, to which he attributed the late outrage committed by a British ship on one of our public armed vessels. Mr. F. called upon the House to decide whether the measures then pursued provoked, or the conduct of the then minority in Congress invited, this outrage; that minority which endeavored to distract and weaken the counsels of our Government, who declaimed against all opposition to British usurpation, and declared, that the British navy was the only barrier between us and universal despotism. These things circulated and were read with avidity in that country, and no doubt induced that nation to believe that there was a strong party in this country in her favor, and that she might insult us with impunity. But, thank God! said Mr. F., the indignation expressed by the country on the late outrage will convince them of the error into which they had fallen.

Mr. UPHAM asked the patience of the Committee, while he made a few remarks. He believed that there was a general concurrence of opinion, that the Executive had no right to appropriate money for any object not authorized by the Legislature; the Legislature had not authorized the making contracts or purchases; but, as the general principle of appropriation was not contested, it became a question whether more good or evil would have resulted from calling Congress together previous to making these preparations. Upon a whole view of the subject, and as it was necessary to send a vessel with despatches to England and allow time for its return, it was perhaps better for the President to act as he had done.

He believed that it was unanimously agreed by the motion, that if the English Government had directed the search of a national ship, it was a cause for war; there was no question but an aggression had been committed by searching a national ship by force; and it appeared, from the letter from Admiral Berkley to Captain Humphreys, that it was done by order. This being an encroachment on the laws and usages of nations, he did not wish it to be understood that he thought it improper to make these preparations to resent it. But if they permitted their officers to make contracts unauthorized, if the Legislature were not to examine into, and scrutinize these things, they might conceive they had a right to act in this manner, and it would become a matter of course for them to do so. As to the general principle then there could be no question; but he believed, with the gentlemen from Virginia, that there might be a case where it would be necessary to make preparations before the Legislature could be called; and in that case there should be no sort of reluctance to sanction such measures; at the same time, were it possible, it might be safer to call Congress together.

Under every circumstance of the case, however, he was inclined to believe that the Executive had acted correctly in this case; at the same time that he thought there was no impropriety in making inquiries as to particulars. He concluded by declaring that he should vote for the bill.

Mr. SLOAN would detain the Committee but a moment; he only rose to drop a few hints as to the extraordinary nature of this debate, in the

course of which the proceedings of the first session of the Ninth Congress had been brought into view. As they had been brought forward so far, he would bring them still further into view. If the feelings of members were to be harrowed up, and what they had then said introduced at this time, he would inform the gentleman from Virginia, who had undertaken to quote words which had been used at that time, that he too was in possession of words then used by him. Who had been accessary to the present situation? Was it not the conduct of the minority, who were then, and now are, in an underhand way, impeaching the conduct of the Executive? He would ask, and submit the question to the people of the United States, whether the language which had been just quoted by the gentleman from Vermont, had not conduced to this result? Such words as these—that the battle of Trafalgar prevented the fleets of France and Spain from levying contributions on our commerce in our own seas; that if we offended the Minister of the British nation, he would put forth his strength, and make us feel it; that he would cover the ocean with vessels of war; that the British would burn our seaport towns, and drive us from the sea-coast over the mountains! Let the good people of the United States say whether it was observations of this nature which he had noted down, and had in his possession, coming from a member on the floor of Congress, or whether the prudent measures of the President had a tendency to bring about the present trouble. Mr. S. wished the people to pronounce who were the true friends of the liberty and prosperity of the United States.

Mr. D. R. WILLIAMS.—I have remained silent to this late period of the debate, expecting the information which I am anxious to obtain would have been extracted by the inquiry of others; nor should I have now risen, had not the question been repeatedly called for from several parts of the House. I am fearful it will be taken before I can be gratified with that which I solicit. To the courtesy of the gentleman from Maryland (Mr. MONTGOMERY) I make my application—he is a member of the Committee of Ways and Means, best informed on the details of the bill, and indisputably has told us more this day, than we were favored with yesterday. I hope, sir, I am not to be marked and noted as an opponent of the Administration, nor as in the remotest degree attempting to assail the purity of Executive motives, in making this request; yet, it appears from expressions which have escaped the gentleman from North Carolina (Mr. W. ALSTON) and some others, this may be the fact, and that the cry of mad dog, opponent to the Administration, is to be directed against every one who shall be so hardy as to ask more information relative to this momentous subject than precisely so much as the committee has thought proper to give. In the most ordinary cases, this House has not been accustomed to act in the dark, and I hope it never will; but on a subject of the last importance, involving a sacred, a Constitutional question, it is infinitely more important that we should proceed understandingly. The gentleman from North Carolina will allow me to say, it is particularly his duty, with the other members of his committee, to furnish all the information required, as he is now one of the principal characters on whom the House is made to rely for fiscal knowledge. There is one item in this bill, which has escaped notice, and which, to me, appears very extraordinary. We are about to make the appropriation for a deficiency of $87,500, incurred by the purchase of timber for the Navy, says the bill, and yet there is no responsible person making the demand, no document on the table relative to it. There is a sum similar to this in the estimate from the Secretary, it is true, but that is alleged to have been paid for timber for gunboats. Appropriations heretofore have been perfectly distinct, for these two objects, and so they should be now. I was much surprised yesterday, that the usual accuracy of the gentleman from Connecticut (Mr. DANA) had totally failed him, while speaking of this timber for gunboats. The gentleman improved it as an occasion of triumph, and he will permit me to say he triumphed excessively, that this measure which he had proposed at the last session of Congress, but which was then rejected, was now like to pass, through the same House, with an overwhelming majority; because, as he observed, it is now presented to us under the auspices of the highest authority in the Government. The gentleman is completely mistaken; there is no such recommendation in the Message, no such responsibility is therein assumed. The subject of gunboats is mentioned but twice in the Message. In the first place they are thus spoken of: "The gunboats too, already provided, have, 'on a like principle, been chiefly assigned to New 'York, New Orleans and the Chesapeake. Whether 'our moveable force on the water, so material in 'aid of the defensive works on the land, should be 'augmented in this or any other form, is left to 'the wisdom of the Legislature." Again—"Ex-'penses, also unprovided for, arose out of the neces-'sity of calling all our gunboats into actual service," &c. Thus it appears, this object of expenditure is no where alluded to in the Message, for it will not be contended, they are considered "supplements to our existing stock" of military stores. The Chairman of the Committee of Ways and Means has asked of the Secretary of the Navy, and asked loosely too, for such information as he may deem material; and the answer of the Secretary, which must be presumed to contain all the information required, is as silent about these $87.000 worth of timber as the message itself. Upon what authority then is this item introduced, this article which no body acknowledges, which no one is responsible for? I would rather ask if it is not altogether a mistake in the estimate? It seems a mistake, not less monstrous than this would be, is acknowledged to have been committed; for assuredly, it would be a less error to estimate timber for the repairs of vessels than 64,000 lbs. of sheet iron. I voted against the purchase of timber at the last session, I see no reason to change that vote, and will therefore vote against it now; as I certainly

shall, on all occasions, against any measure, under any circumstances, which shall have for its object an increase of the Navy.

Mr. EPPES said, he did not rise for the purpose of entering into a discussion of questions not connected with the passage of the bill. He thought it important the public should correctly understand the grounds on which this appropriation was called for. That money ought not to be drawn from the Treasury unless previously appropriated by law was a sacred Constitutional principle—a principle which he would always support, and to secure which he would go as far as any member of the House. He did not consider that on the present occasion, this principle, so sacred to republicans, had been violated. What was the state of facts on the present occasion? At a time when the public peace was violated, the Executive, on its own responsibility, had authorized contracts for articles of the first necessity—articles essential, in the event of war, to support the honor and maintain the independence of the nation—among these articles, the materials for making gunpowder, for which there was a pressing and urgent necessity. The contracts for the materials for powder and the contracts for timber were not authorized by any existing law. The crisis was one which demanded an immediate supply of such articles as were deemed essential for defence. Both the materials for powder and the timber were considered as absolutely necessary. The Executive did not hesitate to assume the responsibility which the emergency required. Contracts were authorized for articles deemed essential for the public safety, and, on the meeting of the National Legislature, a communication made as to the course pursued. He had stated on a former day his ideas fully as to the other articles in the appropriation, and how far they were authorized by the existing laws. He did not consider it necessary at present to examine the question whether these articles ought at once to have been secured by contract after the outrage on the Chesapeake on the 22d of June, or whether Congress ought first to have been convened. The Legislature, when possessed of all the circumstances which attended that transaction, must decide whether the emergency justified the course pursued—how far a sound discretion has been exercised in assuming this responsibility, and whether the engagements thus entered into ought now to be completed.

Mr. LOVE said he had not intended to have risen on this subject, nor should he then have been subjected to the embarrassment he felt in addressing the Speaker, was it not for the apprehension he entertained, that it might be supposed by his constituents that he was influenced in the vote he was about to give by the same reasons which had been offered by gentlemen, who, arguing against the passage of the bill, had yet declared their ultimate intention to vote for it.

If there is any question in this debate, said Mr. L., it is a Constitutional one. The arguments of the gentleman from Massachusetts (Mr. QUINCY) and those of the gentleman from Virginia (Mr. RANDOLPH,) prove that this, if any, is the ground of opposition. In the authority introduced and relied on by these gentlemen there was, if he recollected it right, (for it was some time since he read the book,) a discussion of the question arising under that section of the Constitution, which declares that no money shall be drawn from the treasury, but in consequence of appropriations made by law. He concurred with the gentleman from Virginia in the respect which is due to the opinions of the Secretary of the Treasury, whose authority is quoted; and if, said Mr. L., I were satisfied that the reasoning he has advanced applied to the provisions of this bill, I would rather incur all the risk which on this or any future occasion might be the consequence of refusing to give our aid to the Executive, when it had, on a great emergency, advanced its personal responsibility, than lend my voice in support of a measure I deemed unconstitutional. If the gentleman who introduced this authority had read a little further back, I think it would have been found, that the first case put by the writer, in illustration of the Constitutional principle, was that, where, under a former administration, a sum of money had been appropriated by law to the discharge of the principal of some of our foreign debts, and it was applied in discharge of the interest. It was certainly more advantageous to the United States to discharge the principal than the interest. But the gentleman from Massachusetts (Mr. QUINCY) has said that in all instances, under the former Administration, there was a particular object for which money was appropriated; yet we find that in the case just mentioned, although the subject was the same, the particular object of application was very different. It appears to me that a misunderstanding of the terms appropriation and application, among us, has produced much of the present debate; they have been indiscriminately used, and for the purpose of expressing the same ideas, although in the authority relied on, the Secretary of the Treasury has, in all the cases he has adduced in illustration, drawn the distinction. In the present case an act of hostility towards this country had called forth the energies of the Government. Contracts for articles of necessity have been made, and the responsibility of the officers of Government stands pledged for their fulfilment. I view the measures contemplated by the bill, as involving a question of expediency only. This being the case, I need add nothing to the arguments equally urged on both sides, in support of the propriety of an expenditure from the highly aggravating cause of it.

Whether, indeed, the former measures of this Government have had the effect of producing the causes of the great national excitement we have witnessed, as some gentlemen seem to suppose, or whether the conduct of Great Britain has its origin in a determined spirit of hostility towards this country, is in the present discussion entirely unimportant; whether the unexampled outrage she has committed on Denmark, or the unprovoked attack on the vessels of Spain, have been invited by the pusillanimity of those coun-

tries, as is suggested was the case with us, are questions which I shall not now discuss.

Mr. Cook expressed his full approbation of the conduct of the Executive, and the officers of the departments. There had been no wrong application of public money, for none had been drawn out of the Treasury. It was merely a question of expediency with the House whether they would sanction the measures which had been adopted; the President had not bound them to do it, and they were at liberty to act as they chose. Approving as he did the course pursued, he should vote in favor of the bill.

Mr. Lyon would not occupy the House long on a subject of so little importance. On the score of consistency he should vote as he had always done. When appropriations were made without authority, if he liked them he had voted for them; if he did not, he had voted against them. He thanked the President for the promptitude which he had manifested by his conduct on this occasion, and could see no harm which could arise from it. If the House approved the measures, they would vote for them; it would be immaterial to them whether the bargain were made to day or to-morrow. And as he did like them, and the House liked them, he would vote for the bill without detaining them a minute longer on the subject.

Mr. Gardenier had been much pleased with the debate which had taken place on this subject, in the course of which gentlemen had an opportunity of expressing their opinion not only on this particular subject, but generally. The attack on the Chesapeake made on the 22d of June last, had called from the nation one universal expression of abhorrence; one burst of execration at that daring assault, had resounded from every part of the Union. It was the voice of a powerful nation, calling for satisfaction for her insulted rights; and when heard, it would be respected. In no part of the community had this expression been more sincere than in the city in which he resided (New York,) that city which would endure, if any part of the country suffered, the most dreadful calamities of war; that city, defenceless, unprovided, and exposed, whose inhabitants had been told by gentlemen on the floor of that House, that they must fly to the mountains for protection; in that city the same sentiments prevailed which existed in every part of our country.

At this period, the President, feeling without doubt the same sentiments as had been unanimously manifested by the people, had thought proper to go into the expenditure for which an appropriation was now asked. Mr. G. said, it could not be doubted, but the President, when he pledged the faith of the Government for the purchases which were made, had violated that article of the Constitution which lodged in that House the only power of appropriation. He was not, however, one of those who thought such conduct could not be justified; he thought it could; not because he would encourage liberties to be taken with the Constitution, not because he held the Constitution less sacred than any gentleman on the floor of that House; but because the safety of the nation is the supreme law.

While he expressed himself pleased with the debate, Mr. G. could not agree with the gentleman from North Carolina, who thought it an extraordinary one; for whatever were the object, if any officer of the Government had transcended his powers as limited by the Constitution, it was not proper that the procedure should be treated with levity. As such a conduct might encourage violations of the Constitution, he was glad that no expenditure could take place without exciting the attention of the House; that when exercising its prerogative, the Executive would not be encouraged in putting its hands into the Treasury. It would show to the President or any other officer, that the House were jealous of their Constitutional rights. Mr. G. could not say with some gentlemen that it would have been imprudent, or in any degree improper, to have convened Congress earlier than the day on which they had met; and though he would permit the President to do these things, he would only permit it when Congress could not be convened in sufficient time. Four months had elapsed since the outrage had been committed; during what portion of this interval, the expenses of the Navy Department had been incurred was not known; but in all probability Congress might have been convened in sufficient time to have made a previous appropriation.

The gentleman from Pennsylvania had told them that it was the custom of an ancient nation to deliberate on a question twice, once when drunk, and once when sober; therefore Congress should not have been convened whilst they felt the first sense of indignation. Did the gentleman mean to say that this was a drunken nation? That a nation glowing with indignation at an act of insult was in a state of intoxication? Was not this a period at which the Representatives should have been assembled? Mr. G. trusted that however great the general execration, however great the excitement, the Representatives would have been sufficiently cool. He did not think that these sentiments had in any degree subsided; he saw no appearance of it in the country, none in the House, none in the gentleman from Pennsylvania; the same feelings were still cherished that existed four months ago.

Upon the whole, however, Mr. G. thought the Executive had on this occasion conducted fairly, with a single eye to the public interest. He should vote for the bill, not as a precedent, or to encourage any Department in the unauthorized use of the public treasure, but because he thought the measure proper.

Mr. Smilie did not mean to insinuate that the nation was drunk; he meant that the hour of extreme feeling was not the proper time for deliberation. Whilst he entertained that sentiment, he honored American feelings on the occasion; he rejoiced to see that spirit shown. Since he was up, he would just take notice of the idea that seemed to have taken possession of several gentlemen as to the convention of Congress at an earlier period. He had mentioned yesterday why he thought the

President had acted prudently in not calling Congress sooner; suppose they had been convened in the month of August; it was true they could have made an appropriation, but they could not have decided on the main subject, nor could they now. They must have waited, at an enormous expense to the Union, for despatches from Europe. Under these impressions, he was one of those who believed that the President had acted properly. Many things had been said in the course of debate, irrelevant to the subject. As to a review of what had been done in 1805–6, it was improperly introduced; at another time, when the proceedings of the Legislature of that day should come properly before them, he was willing to meet a discussion, and to justify those measures. On that occasion he had thought, as he did now, that war was one of the worst of evils; and that no nation should engage in it when by any other means she could preserve her honor. He was now, as then, opposed to war; but if it should be forced upon the nation, he should be one of the last to shrink from it. He thought that the going to war on this aggression, under present circumstances, would be acting precipitately; as no nation should go to war till she gave her opponent an opportunity to justify her conduct.

Mr. Randolph begged leave to be indulged with a few words by way of explanation. Much had been said on a former occasion about dumb legislation. He believed they had almost reached that point at present. In the magnificent apartment in which they sat, and which was fitted for any purpose rather than that for which it was designed, it was scarcely possible to hear, or to make one's self heard. This was surely no distant approach to legislation without debate. In consequence of the effort which he had been compelled to exert, at no small expense of constitution, his attention had been forcibly dragged from the subject before them, and he had perhaps used some expressions which fell short of his meaning, and others which did not come up to it. He wished to be clearly and emphatically understood as to the course which he thought it incumbent on the Executive to have pursued, and consequently to what extent the course which had been pursued met his disapprobation. He thought Congress ought to have been immediately convened on the capture of the Chesapeake, and our Ministers at London instantly recalled, after having made an explicit and peremptory demand of redress—and that redress, too, by a British envoy dispatched to the United States for the especial purpose. Congress being convened, the nation should have been put into a posture of defence, waiting a reasonable time to receive redress by an envoy. That being refused, instant retaliation should have been taken on the offending party. Mr. R. would have invaded Canada and Nova Scotia, and made a descent on Jamaica. He would have seized upon Canada and Nova Scotia, not with a view to their incorporation into our system of Government, but as pledges to be retained against a future pacification, until we had obtained ample redress for our wrongs. Whilst he held these sentiments he entirely concurred with the gentleman from Pennsylvania, (Mr. Smilie,) that war was a great evil, never to be resorted to without a solemn demand of reparation from the offender, and giving him a fair opportunity to make due atonement for the injury, or insult, which he had offered: but there was a mode of demanding as well as of receiving redress.

Mr. R. said he should forever protest, wherever it could possibly be avoided, and here it might have been avoided, against expenditure of public money without the previous sanction of law. But condemning an expense and refusing to appropriate money to discharge it were different things. A man, for instance, might highly disapprove his wife's running up a large account with a merchant, without his knowledge or consent, which his honor would nevertheless compel him to pay. Incurring a debt was one thing, and discharging it another. Mr. R. believed it was within the knowledge of many members of that House that during the late war between France and England, which was terminated by the peace of Amiens, the extraordinary expenses, that is, the expenses incurred without the knowledge and concurrence of Parliament—such expenses as this bill provides for—exceeded the ordinary or authorized expenses during a single year of that war, although these last amounted to near twenty millions sterling! Ought we not then, said he, to set our faces against the introduction of a principle, which must necessarily lead to consequences so ruinous? Would any man put the additional security which we derived from a few military stores, in competition with a violation of the Constitution, in a point too involving the dearest privileges of that House? Whilst he held this language, he was not insensible to the impending danger, nor unwilling to make efficient provision to meet it. Let us not, he said, deceive ourselves with the idea that we are to have a war of military parade. Sacrifices they would be called upon to make, and he was prepared to meet them. He hoped they would enter into it, if war we must have, with a full conviction of its justice and necessity, and with hearts resolutely bent to endure all its privations and abide by all its hardships. He had on a former occasion said, that if Great Britain put forth her strength we should feel it; she had put forth her strength and they had felt it—you feel it now, sir, said he, in every fibre of your heart. It could not be expected that he should answer insinuations of a British party in that House, coming too from such persons. Neither could it be expected that he should sink into that vile and supple thing, an humble follower, a pliant tool of a majority, and tacitly disavow the principles for which he contended two years ago. He had then, as far as in him lay, endeavored to avert the situation of affairs which now exists, and under the same circumstances he should do so again. It had been said that it was idle to retrospect on the causes which led to that situation, and he agreed that it was, so far as related to the foreign Power, but not as it related to the conduct of our own Government. It was totally immaterial what were

the previous points in dispute between us and Great Britain. Her conduct had put it out of our power to look back upon them; to examine into them; had precluded all deliberation. We had received a blow, and it was out of the question to enter into the merits of the disputes which had produced it. To Great Britain the door of discussion was shut, was barred, and she must knock with the light tap of solicitation before it could be opened to her. But let no gentleman calculate upon throwing the difficulties into which the country was brought, upon those who had opposed the measures of imbecility and irritation which led to them. He could not consent to take upon himself any part of the credit which the non-importation law conferred upon its supporters, however anxious they might be to share it with him.

If the gentleman who had alluded to something in Gallatin on the finances. (Mr. Love,) and who had begun very early to instruct them in the meaning of terms which, it seemed, they had been all their lives using without understanding, (a specimen of his embarrassment and modesty which Mr. R. had not expected,) had read a little farther, he would have found this passage:

"It was this transaction which gave rise to the following motion made in the House of Representatives in February, 1793, viz: '*Resolved*, That the Secretary of the Treasury has violated the law passed on the 4th of August, 1790, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit: 1st, by applying a certain portion of the principal borrowed to the payment of the interest falling due upon that principal, which was not authorized by that or any other law,' &c. Although it is now demonstrated by the official statements (from which the statements Nos. 11 and 12 are abstracted) that that resolution was strictly and literally true, it was at that time negatived by a large majority."

Now, gentlemen would pardon him for not feeling that religious deference for the dicta of a majority which some of them entertained, when he saw that a resolution, demonstrated by official statements to be strictly and literally true, might nevertheless be negatived by a large majority.

There was one thing which he begged leave to notice in his desultory way—a sort of political quibbling on the terms, money drawn out of the Treasury. The mass of the good people of the United States did not know that in their plain, plantation sense of the word, we had no Treasury—that the banks were our treasurers. Thus money may be drawn out of the bank which is not drawn out of the Treasury, because it is not issued according to law. It is only when issued agreeably to law that it can be said to be drawn out of the Treasury at all, and it may, in technical phrase, be drawn out of the Treasury without a single dollar being removed. For instance: one million is voted for the naval service. The head of the department applies to the Secretary of the Treasury, upon whose warrant so much money is placed to the credit of the Navy Department at the bank. As soon as the money is made liable to the order of that department, it is out of the Treasury, although not a dollar has changed its place. On the contrary, where a head of department wants money, purchases may be made upon credit, with an understanding at the banks and with the purchaser that the notes are issued for the service of Government. Discounts are obtained and the United States pay the difference, in the price of the commodity. Here, although the money has gone out of the bank, it is, in legal phrase still in the Treasury, until Congress meet and pass an appropriation law, when having been paid to take up the notes it marches again out in official costume and parade.

Gentlemen had indulged themselves in the course of this extraordinary debate—extraordinary he must call it—had tumbled headlong into it, by expressing the most rigid attachment to the strictest principles of financial policy, and in return all they asked was, that in this, or any other case, where it might suit them, people would not be unreasonable enough to expect from them an adherence to those principles; like some other secretaries they made a sort of commutation between the rigor of their public professions and their private morals. But Mr. R. would not agree that the austerity of their principles should cover the looseness of their practice. If their former professions now called for more than they found themselves able to perform, it would be more fair and manly honestly to confess it, to abjure their old faith and take up one better suited to their frail and imperfect condition.

One of the observations of the gentleman from Pennsylvania was thrown away upon him; he could not feel it. If the expense of convening Congress were to be made a pretext for acting without its authority, we might as well give the Executive a power of attorney at once to legislate for us. He scouted such an idea. It would have been better to have convened Congress at the expense of half a million, than that a single cent should have been drawn out of the Treasury without a previous appropriation by law.

The question was now taken on the passage of the bill, and decided in the affirmative—yeas 124, nays 2, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, John Love, Matthew Lyon, Robert Marion, Josiah Masters William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherall.

Nays—William Hoge and David R. Williams.

Mr. Van Horne presented a petition of sundry inhabitants of the City of Washington, in the Territory of Columbia, praying that so much of a law of Congress, passed on the first day of May, one thousand eight hundred and two, and which expired, by its own limitation, on the first of May, in the present year, as relates to the incorporation of a company for the purpose of opening and completing a canal in the City of Washington, may be revived and continued, and that such rights, powers, and privileges, may be vested in, and granted to, the said company, as may be deemed most proper for effecting the object stated by the petitioners.—Referred to Mr. Van Horne, Mr. Wharton, Mr. Rowan, Mr. Van Allen, and Mr. Love; to consider, and report their opinion thereupon to the House.

Mr. Clopton, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine and report such laws of the United States as have expired, or are near expiring, made a report, in part, thereupon; which was read, and ordered to lie on the table.

Wednesday, November 11.

Mr. Rhea of Tennessee, Chairman of the Committee on Post Offices and Post Roads, presented to the House a letter addressed to him from Gideon Granger, Postmaster General of the United States, accompanied with sundry applications and petitions for the establishment of new post roads, and the alteration of existing post roads—Referred to the Committee on Post Offices and Post Roads.

A message from the Senate informed the House that the Senate have appointed the Reverend Mr. McCormick a Chaplain to Congress, for the present session, on their part, in the room of the Reverend Dr. Gantt, who hath declined that appointment.

PUBLIC LANDS.

Mr. J. Morrow said, that an act for the sale of public lands had been passed in 1796, which provided that certain sections should be reserved for the disposal of Congress in each township; in 1800, an act was passed authorizing the Surveyor General to lease these sections, parts of which were accordingly leased. An act had been since passed authorizing the sale of the sections heretofore reserved for the disposition of Congress, with a provision attached to it, that no section should be sold at a lower rate than eight dollars per acre. This price was so extravagantly high, that it appeared from the report of the Secretary of the Treasury only four sections had been sold in the course of the last year. To reduce the price fixed, so as that all the public lands might be sold and occupied, he moved the following resolution.—He remarked that a similar resolution was last year referred to the Committee on Public Lands, who reported a bill; but from the press of business it was not acted on:

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of making further provision for the sale of the lands reserved for the disposition of Congress—and that they have leave to report by bill or otherwise.

The resolution was agreed to.

ARMS AND ORDNANCE.

Mr. Dawson said, within a few days a number of gentlemen in the House had expressed much feeling on the subject of the injuries which have been received from a foreign Power, and seemed desirous of a minute inquiry into the business. He rejoiced at these expressions of indignation. Whether it would become proper not only to speak, but to act, depended on circumstances not within their control. He was informed by the Secretary of War that there were in the magazines of the United States a great number of stands of arms, of our own manufacture, which were daily increasing. It appeared that some of the States were in want of arms; the distribution of these would be serviceable both to the United States and to the States individually. For this reason he moved the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of selling to the individual States or Territories, who may wish to purchase, any arms or ordnance owned by the United States and which may be parted with without injury to the public; and that they report by bill or otherwise.

Mr. Nelson had no objection to the principle embraced by the resolution, but thought it was improperly referred. He moved that the resolution should be amended so as to refer it to the committee on so much of the President's Message as relates to military establishments, &c.

Mr. Dawson had no objection.

The resolution thus amended was agreed to.

IMPORTATION OF SLAVES.

Mr. Randolph said, that at the last session of Congress, an act had been passed prohibiting the importation of slaves into any port or place in the United States after the 1st day of January next. One of the sections of that act contained a principle in his opinion totally subversive of the right of property in slave-holders. He had wished the subject to have been considered at the last session;

but from the late period at which it had been brought forward, the House had declined acting upon it. He would say no more upon the subject at this time, but wished a bill to be brought in for amending the act, for which purpose he moved the following resolution, which was adopted:

Resolved, That a committee be appointed to inquire into the expediency of amending the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight."

Mr. Randolph, Mr. Calhoun, Mr. Southard, Mr. S. Smith, Mr. Gardenier, Mr. Tallmadge, and Mr. Barker, were appointed the said committee.

BRIDGE ACROSS THE POTOMAC.

The House went into Committee of the Whole on the bill for erecting a bridge over the Potomac river.

Mr. Lewis having moved to fill up the blank in the first section by inserting the names of various persons contemplated as commissioners for receiving subscriptions,

Mr. Nelson said that, in order to supersede the amendment of the gentleman from Virginia, and that the question of the justice and policy of the measure might be brought before the House, he would move to strike out the first section of the bill.

Mr. Lewis observed that, after a subject had been so often discussed by the House, and received its assent for four years successively, it might be expected the gentleman from Maryland would offer some reasons for his objection to a principle sanctioned by the House. When reasons were offered against it, he should be prepared to meet them, and give reasons in its favor.

Mr. Nelson said, that when a measure of this kind was proposed, it had always struck him that the gentlemen who advocated it should themselves give some reason why it should take effect, and when a measure was offered which was unknown to a great body of the House, it was incumbent on the proposer to show some reason why it was necessary; if it was not necessary, it should not be agreed to. It was putting the cart before the horse, to show reasons why it should not be adopted; but he would dispense with the point of form, and comply with the wish of the gentleman from Virginia.

Mr. N. said, if he were addressing a body composed of the same members as heretofore, he should not repeat those ideas which he had heretofore expressed. But, although this body was the same, its component parts were very different; to some of them, the subject was new, as he did not expect that any impressions had been made on them outside of the walls of the House. If he were prepared on the subject fully, which he certainly was not, he would divide it into two parts. *First.* He would contend that Congress had no power to pass this bill. It was unconstitutional. They had received from the States of Maryland and Virginia no right to pass such a law. This District was ceded by them, and they had given no such right. But he would pass over this point. The arguments which he had used the last session as best calculated to elucidate the subject, had escaped his memory. *Second.* A few words as to the policy of the bill. This building (the Capitol) was situated in the City of Washington, a place designated as the permanent Seat of Government, containing a large tract of ground, so large that the interests of one part of it differed from those of the other, each cavilling and disputing whether the proposed measure should be carried into effect; one part strongly asserting one right, and the other as strongly asserting the other. This was their unfortunate situation. The people of the eastern end of the town, and of Alexandria, had become jealous of the little town of Georgetown; and the citizens of Georgetown say, that in order to injure the town, this measure is proposed, which would destroy the interests of that town and the western part of Washington, by erecting a bridge, which would stop the navigation of the Potomac, as respects Georgetown and the western part of the city, from the sea. Mr. N. asked whether members were prepared to sacrifice one part of the citizens of this District to raise up the other? Would it not be better to leave them in their present situation, to do as well as they could?

The Potomac washed a great part of the upper country of Maryland and Virginia. The people above the falls were interested against this measure. It was advantageous to them to have a market as high up as possible. This they possessed in Georgetown. But, when this bridge shall be thrown across the river, they must go down to Alexandria at an increased expense. Was the House to gratify a few people about the Capitol, and at Alexandria, against the interests of the western part of the City, Georgetown, and of a back country of an extent of one hundred and fifty miles? Was it good policy in the House, in order to gratify some of the members of that House, or those people who keep huckster's shops about the Eastern Branch, or a few broken merchants at Alexandria, to sacrifice a great part of the State of Maryland? He wished gentlemen to come to that House with a disposition to do justice to all, and not to raise up one part at the expense of another. But, these circumstances were predicated on the ground that the bridge would operate in that manner. He was not as well informed on that subject as he might be, for he was an inland man and did not know much about navigation; but, he was induced to believe that a bridge of this kind would destroy the navigation of the river, as far as the bridge itself. It was impossible to say with certainty that it would have that effect; but, would the House run the risk, when it was even possible that it might destroy the interests of the people on the waters of the Potomac?

Mr. N. hoped that some gentleman better informed on the subject than he was, would afford more information. He went on this principle, viz: that, in the Legislature, every man would do

justice. The doubt alone, on the subject, should prevent them from passing this law; and, said Mr. M., as no man can say with certainty that it will not have the expected effect, let the people remain in the situation in which they now are, and in which nature has placed them.

Mr. Lewis said he should certainly enter into this discussion with extreme reluctance, not arising from want of such information as would enable him to convince the Committee it was proper to pass this bill, but, because they must be already wearied with the subject. And, were it not for the members present to whom the subject was new, he should not trouble the House with any observations on the question. Those gentlemen who had been there at former sessions, were so well convinced of the propriety of the votes they had then given, that he should not have insulted their understandings by repeating reasons in favor of the measure. But the Committee would pardon him if he entered somewhat into detail to satisfy the minds of members who had not had an opportunity of hearing arguments before.

The gentleman from Maryland had taken a ground which he did not expect would, at this time, have been brought up, the unconstitutionality of the measure. That point had been settled three years ago, on the subject of the causeway erected from Mason's island to the other side of the river. It was decided at that time that Congress had exclusive jurisdiction. Should it be said that they had been legislating here since the year 1800, without knowing they possessed a Constitutional right to do it? He did not expect this would now become a question. He asked the gentleman from Maryland why he, who so strongly advocated the Constitutional right to pass a law for erecting this causeway, which obstructed one arm of the Potomac, should now oppose the erection of a bridge, which would be no obstruction. Three years ago, Mr. L. said, he had voted with that gentleman on the subject. He did so because the people of Georgetown thought it would deepen the channel. He himself did not think it would have that effect; but, as they wished to try, he had no objection to the experiment, and voted for it. He was then as much in favor of the causeway, as he was now in favor of the bridge. What was the opinion of the State of Maryland? To evince what that opinion was, Mr. L. quoted the preamble of an act passed by the Legislature of that State in 1791, viz:

"Whereas it is represented to this General Assembly, by Samuel Blodget, Robert Peter, William Deakins, junior, James M. Lingan, and Uriah Forrest, that they, together with others, are desirous of forming a company for the purpose of erecting a bridge over the river Potomac, at or near Georgetown; and, whereas this General Assembly approve the measure, which, if effected, will tend to facilitate the communication, and contribute to the convenience of the citizens of the United States."

But if it were necessary to occupy the time of the Committee on that subject, he would go back to the original claim of the State of Maryland to the territory which they had ceded; but the matter was too clear to admit of a doubt, and he would not trespass unnecessarily upon the time of the Committee.

The gentleman from Maryland had said that, if this bridge was erected, the navigation of the river would be stopped. Was this the fact? Did they propose to stop the navigation? Certainly not. What did the petitioners ask? They asked a free passage over the Potomac, which would not only save the people of the District, but the people of the Union, almost half the whole distance which they had now to travel in going from one end of the District to the other. It was a fair compromise between the people of the United States and the people of Georgetown. If they will permit us to cross the river in a safe and expeditious manner, over a bridge, we will permit their vessels to pass up and down the river through a draw, without any cost or detention. Would it be said that the people of Georgetown possessed a greater right to accommodation from the waters of the Potomac than the citizens of the United States generally, who had equal claims with themselves? But is this the only bridge over a navigable river in the United States? If it were we ought to deliberate well before we decided in its favor; but bridges had been established all over Europe, and the greatest part of this country upon situations much more favorable to navigation than that in which the present bridge is contemplated, and experience had proved their very great benefit to the public, and no real injury to individuals. A bridge had been erected within the District of Columbia, over the Eastern Branch, possessing a navigation far superior to that of Georgetown; but as the public good required its erection, although a total destruction of a valuable ferry was the consequence, yet no opposition was made to it.

This bridge was authorized by the Legislature of Maryland, who considered a pile bridge no obstruction to the navigation of that river. From what had been said by the gentleman from Maryland, it might have been supposed that this bridge would effect a complete annihilation of the navigation. To the Northward, it was well known to gentlemen from thence, that bridges were built in almost every direction, and over navigable streams leading to towns above them, possessing ten times the commercial importance of Georgetown, and yet no serious inconvenience had been experienced, or injury sustained. In Massachusetts alone there were many bridges below large and flourishing towns. Roxbury, Cambridge, and Charlestown, had bridges; the two first were ports of delivery, which was the best evidence of their commercial importance. There were also in Massachusetts two other bridges, Chelsea, and Malden, through both of which you must pass to get to Medford, a large and flourishing commercial town, and they had been told that property above those bridges had experienced no diminution in value in consequence of their erection.

What obstruction would this bridge afford to the trade of Georgetown? No square-rigged ves-

sel of burden will risk an approach to Georgetown for the purpose of being fully loaded there. Last year, indeed, a few went up empty, took in part of their cargoes there, then dropped down below the situation for the proposed bridge and to Alexandria, where they completed their loads. The only square-rigged vessel belonging to Georgetown, as he was told, was the William Murdock. Captain Tom, and it would not be denied that she did not pretend to load there. It was well known to the members of that House, that, at the last session, this vessel loaded at the Eastern Branch, and that the tobacco with which she was loaded passed by the Capitol in drays from Georgetown; and notwithstanding all this, they were now seriously called upon by the people of Georgetown to protect this grand depository for exportation.

So far from being injured, Mr. L. contended that the navigation of the river Potomac would be benefited by the bridge. It was well known that in many parts of Europe, and of this country, piers had been sunk in rivers to deepen the channel; it could not be contended, therefore, that the bridge would injure the channel. It might be some inconvenience to pass the draw; but so trifling as to be no object when compared with its general utility. He had in his possession soundings of the river Potomac, which would show, that except a channel of about two hundred yards, the depth at the intended site of the bridge did not average more than five feet. If a vessel passed the draw with a fair wind, she would meet with very little delay; if the wind was not fair, they could not now beat up so narrow a channel, but must lie by; if the bridge was there, they could fix a rope or ropes to the bridge, and pass through by their assistance, and there remain in safety till the wind and tide should prove favorable.

Mr. L. said he had some certificates in his possession, which had been taken with a view to operate against the erection of the bridge; but he thought they were in its favor. They were intended to show the great amount of the exports of Georgetown, and they proved what he wished to establish, that large vessels could not get to Georgetown, and that the exports were generally in small craft—[Mr. L. here read the certificates.] He said he would refer to a statement which was made by a bridge builder in the State of Massachusetts, made at the request of the Legislature of the State of Delaware, who were then about to erect a bridge. These were not certificates in the common way, but sworn to before the proper authority. [Mr. L. here read this statement, which went to prove that bridges, with well constructed draws, were not injurious to navigation, and that the average detention of vessels did not exceed eight minutes at the draw, and that property, in no instance, had been reduced in value in consequence of erecting bridges below it.] Mr. L. said he had read this deposition of Mr. Mills as being the best evidence on the subject; from which there could be no doubt with the Committee, but a bridge could be so constructed as to affect very little the navigation of the river over which it was erected. The only question now was, would this bridge injure the navigation? and if it did, would it injure it to that extent that it would counterbalance the general good resulting from it. He could not conceive that the navigation could receive any injury; and he believed that the inhabitants of Georgetown would sustain but little inconvenience from it. From a statement from the Collector of the port, he wished to show the number of vessels which had been entered at the custom-house in eight years, as well foreign as those in in the coasting trade—[Mr. L. then read the statement alluded to.] It appeared from this statement that the whole number of vessels which had entered at the port of Georgetown in eight years, was 270. He wished it to be understood by the Committee, that though entered at Georgetown, a large portion of these vessels never went to Georgetown at all; all vessels for the Eastern Branch must enter at Georgetown, as that was the only port of entry for both places. Deduct one-third of the whole as the number that probably went to the Eastern Branch, and there would only be 180 left as having gone to Georgetown, of all descriptions; about 23 vessels a year, not quite one for every two weeks. For these few vessels were five or six millions of citizens to be deprived of the convenience of travelling? It was said that the people of Georgetown would suffer; it is granted, in proportion to the detention of the vessels at the draw, but no further. If the vessel was detained ten or fifteen minutes, or an hour, whatever was the value of that detention, would be all the loss the owner would experience.

The gentleman from Maryland had said, that for 150 miles above the contemplated bridge, the interests of the people on the river Potomac would be considerably injured. Mr. L. said his constituents were as much interested in the importance of the river Potomac as any in the United States. How could their interests be injured by it? Their boats travelled down the river, and came to Georgetown or Alexandria, as they chose; it was totally unimportant to them whether a bridge was erected or not; as they could pass between the piers. The people on the Potomac were interested in favor of it; many men of large landed property in the district he had the honor to represent, were very anxious for its erection; and why? Because they were interested in the prosperity of the City of Washington. As the city increased, so did the value of their property. Why did the State of Virginia make a donation of as large a sum as $125,000 towards establishing a city in this place? That it might improve the property in the State of Virginia. The very moment that Congress removed to this city, the property lying above it on the river Potomac, rose in value more than 50 per cent. Suffer this place to go to ruins, and their property sinks to its former level. For these reasons they are greatly interested in the erection of this bridge.

The House had been told by the gentleman from Maryland, that the channel to Georgetown would be impaired by the proposed bridge, and, by the citizens of Georgetown, that the causeway

might remove the mud bank below Mason's island. If the mud was removed from thence, it would only settle below, and form another obstruction. Upon this subject, though he was sorry to detain the Committee so long, he would read the evidence of Mr. Latrobe, an excellent engineer, and surveyor of the public buildings of the United States.

[Mr. L. here read the letter of Mr. Latrobe, in answer to an inquiry of a committee on the subject of the bridge at a former session.]

Mr. L. observed, that upon all subjects of this kind, it was to be expected that a considerable diversity of opinion would exist among those interested. It was therefore not at all strange that this opposition should be made on the part of Georgetown. The same opposition would be produced by the mere circumstance of changing a road, removing a court-house, &c., of which he had known instances. They were not, however, to be actuated by the private feelings or animosities of any part of the District; the measure was for the general good, and if no great injury would result from it, it should be adopted. The House was now called upon by a part of the District to aid them in the improvement of this place. Year after year complaints were heard from one end of the country to the other of the want of accommodations in Washington; and these so loud that motions had been made to remove Congress from this place. If the nation were not willing at their own expense to improve it, in the name of God let the people do it. It was not for the promotion of the interest of any one particular part of the District that Mr. L. advocated the measure; as a Representative of the people, he felt no interest for any particular part more than another. He wished to promote the interests and prosperity of the city, which was the fixed seat of Government, as permanent as the Government itself. When a dam was proposed to be built over one arm of the Potomac for the advantage of Georgetown, no complaints were made; they were permitted to do it A bridge also had been erected on the Potomac above Georgetown, at the Little Falls, which had thrown the commerce of Virginia from its natural channel to Georgetown, which would otherwise have gone to towns in Virginia. Destroy the importance of this city, and their commerce will travel to Baltimore; therefore the people of Virginia were interested in its improvement. They asked for a bridge, for what? To permit an easy intercourse with the State of Virginia.

Confined within ten miles square, under one Government, would you not permit them a passage by a bridge over a river sometimes impassable? They had courts in Washington and courts in Alexandria; two banks on the other side, and two on this. To attend courts, witnesses, jurors, lawyers, &c., must travel from one side of the river to the other; their passage might be obstructed by ice, freshets, &c., in the river. It was well known that there were times when the river could not be passed at Georgetown; what was the consequent situation of a man who had an important suit in a court on the opposite side of the river? He could not come; a decision could not be had; he might be nonsuited. As to the banks, by the act establishing a branch bank of the United States at Washington, a portion of the directors are to be chosen from Alexandria; they were authorized to meet at Washington once a week to make discounts, &c.; business must be laid over if they could not attend. The greatest inconvenience, it might be called *oppression*, would attach to the poor people of Washington and Alexandria. A great many men could not keep horses; when they want to go to either place, they must hire horses, travel twelve miles over a rough road, pass over the ferry if they can; and if detained till evening, could not get home, but must stay all night at a tavern, at great expense. No poor man could have justice on such terms. But if a bridge saved half the distance, it was but an easy walk to those who could not afford to hire horses; whether detained or not, they might sleep at home. Until these grievances were remedied, they would never cease to petition. The people of one part of the District could travel securely up and down the banks of the Potomac, and the people of another part could not pass it. Should the little circumscribed spot of Georgetown be placed in opposition to the whole United States? The inhabitants had told Congress that they should be ruined by the bridge; and they had talked about it so long, till they almost believed it, without being able to assign any reason for their apprehension.

The gentleman from Maryland had asked, would they injure Georgetown to gratify Washington or Alexandria? No, said Mr. L., we will not injure them. But, other people have rights, as well as the citizens of Georgetown, and the interests of one part of the community should yield to those of the whole.

Mr. L. said he had now stated some of the reasons which operated with him, and would, he hoped, operate with the Committee, as applied to the bridge. Now he would state some as they applied to the Government and to the people at large. In winter, the mails had been detained, and members of Congress had been delayed, from the impossibility of crossing the Potomac. This prevention might be productive of the most serious consequences. Gentlemen might expect communications of the greatest importance. From not receiving them in time, circumstances of the most disagreeable nature might result. A great saving to the Government would also arise from the bridge. From carrying the mail between Washington and Alexandria over the bridge, instead of by the present circuitous route, five hundred dollars per year would be saved, and about the same sum in the mileage of members of Congress from the Southward. This Mr. L. said he considered of some importance; and, as he did not make declarations which could not be substantiated, he would read a letter from the Post Office Department to substantiate what he had said. [Mr. L. read this letter to that effect.] There was another very important thing to be mentioned. The mail

stage alone could carry ten passengers. Supposing a saving of five miles would be seventy-five cents saved to each passenger going, and the same returning. One dollar and fifty cents each a day, and ten passengers each day, would be fifteen dollars. If the bridge was erected, there might be thirty or forty carriages passing and repassing each day. There would be a great saving of money. But to some people, that would be nothing, compared with the saving of time. A person wishing to travel from Washington to Alexandria now, was obliged to take the whole day for it; whereas, if the bridge was erected, it would take only from one to two hours.

Mr. L. concluded by saying he was sorry to have occupied so much of the time of the Committee. They must be even more fatigued than himself, and, till he could hear some arguments from gentlemen on the other side of the question, he should say no more.

Mr. Key.—The honorable member from Virginia, the friend and patron of the bridge contemplated to be erected over the tide water of the Potomac, has said, that he would not have addressed the Committee but for the purpose of operating conviction on the minds of the new members. I am among the number of those, and have heard him with pleasure, but yet remain to be convinced of the propriety of the measure. I have heard nothing to satisfy my mind that Congress are competent to legislate on the subject, and if competent, that there is any imperious public necessity which at this time demands the erection of the bridge, at the expense of the agricultural interest that borders on the Potomac and its tributary streams.

The State, of which I am a citizen, feels so deep an interest to repel this measure, that an unanimous vote of both branches of the Legislature passed at the last session of Assembly to instruct their Senators in Congress to vote against it; and the district which I have the honor to represent, watered by the Potomac and the Monocacy, feels deeply interested in the issue of this question. Supported by interests of such weight and respectability, and of a nature that this Committee will never disregard, I will endeavor to examine, whether Congress have power to pass this law, and if, even they possess the power, whether the exercise of it at this time is demanded by motives of public policy.

The clause of the Constitution of the United States which authorized Congress to accept a district not exceeding ten miles square, for the purpose of exclusive legislation, originated from causes well known to the honorable members of this Committee; when the Convention was framing the Constitution, the protection and security of the future seat of Government and Legislature of the Union, and the departments surrounding them, were objects of primary importance. Past experience had taught them, in a well remembered event, how dangerous their situation was, in the heart of a State incompetent to their protection; and it was within the range of probability, that in the progress of future legislation the States surrounding the seat of Government might be hostile to all its operations. To avoid a repetition of past insult, to guard against future accident, and to create self-protection and security, were the causes that led the Convention to possess the Legislature of the United States of exclusive legislation over the ten miles square, within which their permanent residence was to be placed. The cession by the State of Virginia on one side of the Potomac, and by Maryland on the other, with the acceptance thereof by the President, consummated the objects contemplated by the Constitution. Comparing these instruments together, the Constitution of the United States, the cession and acceptance, and having a steady eye to their object and policy, can we discern anything like a power to enable Congress to do any act that should impede or injure the navigation of the river, to the irreparable injury of the immense and fertile upper country dependant on its waters? For my part, I can see no such power growing out of the object and intention of those instruments. Nay, Mr. Chairman, I advance a stronger position, it was not within the ordinary powers of legislation of the States of Virginia and Maryland to give to Congress such rights, to the injury of their own citizens. By the charter of Maryland, the whole bed of the Potomac river, in its whole extent, was given to the Calvert family, saving and reserving to all the subjects of then (then) Crown of England the free and undisturbed use of its navigable waters. It has never been conceived from the earliest settlement of Maryland that any part of a navigable river was the subject of grant, capable of destruction, or being impaired by law. Like the ocean and the air, it was common and free to all, not only from principles of natural law, but from express grant and stipulation. These principles have been solemnly recognised by the States of Virginia and Maryland by their compact, deliberately entered into, each guarantying the free and undisturbed enjoyment of the Potomac to its citizens. It never was conceived that this solemn stipulation was impaired by a cession of the Territory to Congress. Such a construction would be a violation of all good faith and moral conduct to the citizens, holders of lands on the waters or drafts of the river; for this right of free navigation the upper landholders had paid a valuable consideration. Land is higher from contiguity to water and easy access to market; and this facility of carrying produce to market, by enhancing the value of the land, is a component part of its price in all contracts for it; and to be deprived of this benefit is as essential an injury, as if part of the land itself was taken away. I contend that Maryland could not deprive her citizens of this right without a compensation; that the eternal principles of justice oppose it; the fundamental maxims of a Republic oppose it; and not having the right she could not by the act of cession surrender it to the Government of the United States. It is, however, contended that this question is settled by a decision of Congress in passing a law for the erection of a causeway to Mason's island; but to this a satisfactory answer

may be readily given; that act was to improve the navigation of the river, and it never can be seriously urged, that a power to improve includes the right to destroy. Two channels had been formed, which, by dividing the water, lessened the quantity passing through the older channel. The act authorized the filling or stopping up one, to restore the whole river to its original bed, and thus deepen and place it in its pristine state. The argument urged against me proves too much, for if you could not stop up a channel formed in the last twenty years past by one extraordinary flood, accompanied by an immense mass of ice, and restore the ancient bed and channel, you would be equally prohibited from moving a sunken tree or any other obstruction injurious to navigation; a doctrine too absurd to be supported. Suppose any extraordinary event should force the Potomac through the Tiber into the city and Eastern Branch, could no step be taken to stop the torrent, and place it in its original situation? I hold it most clear that it might. A right to use does not imply a right to abuse, nor does the power of improving in any manner include a right of destroying the subject susceptible of improvement; on these principles the act for the causeway was a proper, legal, justifiable act, and in no manner resembling the present object of erecting a bridge over the whole river below tide water.

If my reasoning excites a doubt in the minds of this Committee, they will reject this bill; but if I am mistaken, if the right is clearly vested in Congress, then I ask where is the imperious public necessity that demands this measure? Does it arise from the overgrown population of this city? Alas, sir! its silent streets and scattered houses demonstrate the contrary. It trembles to its base, and needs the fostering hand of Government, soon I ardently hope to be given to it. Does this imperious public necessity result from the commercial intercourse between the city and Alexandria? No, sir. The little that exists is borne on its proper element, the water, and would never pass this bridge. Does this imperious necessity proceed from the fertility and produce of the surrounding country? No, sir, our fertile lands are on the margin of the river which floats their produce to either market, and the hills and surrounding country exhibit a strong picture of poverty and health. Where does the fertility of the honorable gentleman's mind find this imperious necessity for a bridge? 1st. In a few bank directors coming to this city from Alexandria to obtain discounts. 2d. In the convenience of summoning jurors from one side to the other, which, by the by, can never happen, the different sides of the river being governed by different laws and courts. When such causes are assigned for such an object, and in some of which the honorable gentleman has been so greatly mistaken, weak indeed must the case be; but far different in reality are the motives which lead to the erection of this bridge. I wish prosperity to the whole of this District, but never can consent to build up one part on the ruins of another.

But it is said the Southern mail is often delayed. True, sir, but the causes most frequently exist on the other side of Alexandria, where miserable bridges, if any, are erected over streams that suddenly swell to torrents, and occasion obstructions to the mail. The operations of Government go on well, and without complaint, which would certainly exist if any serious cause existed. Again, sir, it is said, that the road to Alexandria would be shortened by this bridge. True, sir, but are all our post roads straight? Is it ascertained where the Southern post road is to go? And is it no object to direct a road to call at a town of importance?

Georgetown receives down the Potomac, and exports a considerable quantity of tobacco, and near 100,000 barrels of flour annually. Must a town, rapidly rising in capital and consequence, be struck from the post road? Why this injury to Georgetown alone? Why are not all other towns excluded from the post road because not in a direct line from point to point? And why, sir, I demand, is the post road in its great Southern direction turned to the left to gratify Alexandria? The principal object of post roads is to facilitate the connexion between commercial towns, and Georgetown is not to be sacrificed that Alexandria may receive a mail thirty minutes sooner!

I hope and trust, from the reasons yet assigned, that this Committee will never agree to pass this bill.

The honorable gentleman from Virginia in the zeal of argument has said, the erection of this bridge is a benefit to Georgetown, and the upper country of the Potomac. We thank him for the intended boon, but we are in the habit of judging of what promotes our own interest, and must decline the intended favor. That it will be an injury to Georgetown, no man can seriously doubt. Does not the value of property in a town depend much on public opinion, and does not the sentiment unanimously expressed against this bridge as a prejudicial measure give decisive proof of what will be the consequence? Does not the sensibility of Georgetown attest the people's fears? Pass the bill, and their property will fall twenty per cent. What moneyed capitalist will settle in a town where so general a sentiment prevails so injurious to its interests?

Is not Georgetown destined by nature to become the great depositary of the immense produce of an extensive and fertile country? Is not the Potomac to become the connecting link with the Western waters? and will it not, at no distant day, bear on its bosom a great portion of the wealth of the Western world? Does it not already furnish 100,000 barrels of flour, a thousand of whiskey, a considerable quantity of tobacco; and in the future improvement and settlement of our country, in a state of advanced population, and as I anxiously hope, a great metropolis here, have we not every reason to believe, unless paralyzed by this measure, that Georgetown is destined to be a place of immense commercial con-

sequence? and shall we thus injudiciously blast its future hopes?

A few observations as to the upper country connected with the Potomac. If public sentiment lessens the value of property in Georgetown, will not its capital be lessened? And does not the diminution of its capital injure it as a market? And will not this seriously affect the landed interest above? Can any axiom be more clear than that all the cost, commission, and expenses of carrying an article to a foreign market, falls on the farmer who makes it; the more delays, and the greater difficulty, the more is the injury. A boat of one hundred barrels of flour navigated by five hands, is at the expense of six dollars per day. If no market is at Georgetown, and the boat proceeds to Alexandria, it occupies a day to go, and a day to return, here twelve dollars' expense ensues to store it or place it on board a ship at Alexandria. This increased expense will be entirely saved the owner, if it is stored or shipped at Georgetown. Of all labor-saving machines a ship is one of the greatest, and if loaded at Georgetown will carry 5,000 barrels to Alexandria at an expense that will carry 500 barrels in boats. If the effect of the portage is to destroy the navigation to Georgetown, this increased expense of the portage to market falls entirely on the farmer, for he can only obtain the price of the article, after deducting the labor and expense of carrying it to market, and this expense is greatly increased if the produce be taken by land. The agriculturist of the upper country will have his produce diminished in value by this bridge, if it occasions an obstruction in the approach by water to the natural market at Georgetown; it operates as an internal tax on the farmer to support the moneyed speculator in bridges. My district feels this with sensibility, because to a large portion of it, Georgetown is the principal—nay, the only market. That the erection of the bridge will have this effect, Mr. Chairman, I cannot doubt. This bridge is proposed to be on piles, near a mile in length, with a draw thirty feet wide. In rivers not liable to excessive freshes, where a steady tide ebbs and flows, vessels may without great delay pass draws; but to him who knows the extent of the Potomac, the immense streams that feed it, and the mountains that furnish its sources, it must be obvious that such a bridge and draw can never answer. There is no regular, steady tide, of strength to carry a vessel through the draw, and unless the wind is directly fair, great delay and consequent expense must ensue. Northwest winds, against which a vessel may beat up in a channel of 250 yards, will prevent her approach to the draw; the freshets in the river, which bring the boats down to market will propel the tide below the bridge, and in that event no access can be had against the current to the draw, and the delay and expenses will soon force commerce to a more convenient port.

Is it not doubtful whether any bridge can stand the immense volume of water, which rising at times forty feet above its natural bed, charged with immense masses of ice, shall precipitate itself against the piers? Is it not certain that these piers will accumulate masses of mud, which will inevitably destroy the channel in process of time? Violent rains on cultivated fields bear away such portions of earth in every stream to the Potomac, as make it in all freshes excessively turbid and muddy; the velocity of the river, till it passes below Mason's island, holds in suspension the finer particles, but the river suddenly becoming wider, the velocity is diminished in proportion to its expansion, and an immediate deposition takes place, which will be greatly increased by every obstacle retarding the stream, and of course quickening the precipitation of the sand, mud, and sediment. Sand bars are all formed at the mouths of great rivers which penetrate far into a mountainous country, by an unceasing law of nature—the gravitation of matter; for the force of the current diminished by whatever cause, such as meeting with and opposing the tide below, a greater superficial expansion, or a bridge, the deposition of the matter held in suspension by the momentum of the current begins; sand being of a more specific gravity first precipitates itself, thus bars are formed, and as the river becomes more quiescent, the fine particles of earth in the form of mud deposit themselves, making islands and adding to the soil by alluvium. In this case all these causes will combine to destroy the navigation. Every fresh of this immense river, charged from the mountains and its cultivated banks with a vast portion of feculent matter, propels the opposing tide to near the spot contemplated for the bridge; there the conflict of the current and tide ceasing, produces a quiescent state, favorable to immediate deposition, which is further accelerated by the sudden expansion of the river just above, and will be completely effected below, if this bridge should be erected with a number of piers at every thirty feet over for a mile in extent. The imperishable laws of matter fix the destiny of Georgetown, and the destruction of the navigation of the river, if this law passes.

I can only add that whenever the public exigency shall imperiously demand a sacrifice of private rights, those whom I represent will cheerfully bear the privation, but until some absolutely certain, manifest, public good, shall so require, they have confidence that the wisdom of this House will never exact it.

Mr. Nelson would not delay the rising of the Committee, but the gentleman from Virginia had mentioned as one reason why the bill should pass, that there were two banks on this side and two on the other side of the river. To Mr. N. the multiplication of corporations was one of the most alarming evils; there were already in this district of ten miles square four corporations, and now it was proposed to raise another. What would be the situation of the agricultural people of the United States, if every moneyed man was a member of some corporation? In the State of Maryland, from the influence of banks, turnpike companies, &c., every man became a slave to some corporation or other. The proposed corporation might receive ten or fifteen per cent. on their stock, out of the pockets of the poor people. Would the House countenance a measure of this kind, which would give so much influence to moneyed men? He hoped they would not.

Mr. Smilie said, when the Committee considered that a large portion of the inhabitants of Georgetown conceived that their rights would be injured by the proposed measure, and wished for a fair discussion, they would think with him that the Committee should rise and have time allowed them to consider it.

The Committee then rose and obtained leave to sit again.

Thursday, November 12.

Two other members, to wit: from Massachusetts, Jacob Crowninshield; and from Pennsylvania, Joseph Clay, appeared, produced their credentials, were qualified, and took their seats in the House.

The Speaker laid before the House sundry documents, transmitted to him by Duncan MacFarland, of the State of North Carolina, relative to his claim to a seat in this House, as a Representative for said State, in the room of John Culpepper; which were referred to the Committee of Elections.

On motion of Mr. Darby,

Ordered, That the petition of the Baptist Congregation in the City of Washington, praying that an act of incorporation may be passed for the benefit of the said corporation, which was presented to this House on the eighth of December, 1806, be referred to Mr. Darby, Mr. Taggart, and Mr. Culpepper; to examine and report their opinion thereupon to the House.

Mr. Poindexter said, that in the year 1803, a law passed directing the appointment of Commissioners for adjusting claims to lands west of Pearl river, in the Mississippi Territory. It was expected at that time that the business would be completed in twelve months. But it had been found, from the multiplicity of claims, that the business was much more complex than had been expected. The original compensation made to these officers (at the rate of six dollars per day, so as not to exceed two thousand dollars each,) had not been sufficient to reward their services. Application had been made to the Secretary of the Treasury, who declined advancing money without the authority of Congress. For these reasons he moved the following resolution, which was adopted:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of allowing additional compensation to the Board of Commissioners for ascertaining claims to lands west of Pearl river in the Mississippi Territory, pursuant to an act for regulating grants of lands, &c., passed in 1803, and that they report by bill or otherwise.

Mr. Cook said, that some late occurrences had determined the nation to oppose resistance against a proud, haughty, and piratical nation. To do this, various means were necessary; what more so than soldiers? As the former services of many were still unpaid, they would find difficulty in procuring them now. The family of the war-worn soldier was suffering for want, while other people were enjoying the recompense so justly due to his toils. In a public capacity, they should act as in a private, by paying all just and honorable debts. To bring this principle into practice, he moved the following resolution, which was adopted, ninety-four members rising in favor of it, and a committee of seventeen appointed accordingly, viz, Mr. Cook, Mr. Elliot, Mr. Wilbour, Mr. J. K. Smith, Mr. Mosely, Mr. Thompson, Mr. Helms, Mr. Milnor, Mr. N. R. Moore, Mr. Clopton, Mr. Wilson, Mr. Holland, Mr. Taylor, Mr. Smelt, Mr. J. Morrow, Mr. Desha, and Mr. Wharton.

Resolved, That a committee be appointed to inquire if any, and, if any, what description of claims against the United States are barred by the statute of limitations, which in reason and justice ought to be provided for by law, and that they report by bill or otherwise.

Mr. Barker, from the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, reported a bill to extend the right of suffrage in the Mississippi Territory, and for other purposes; which was read twice, and referred to a Committee of the whole House.

Mr. G. W. Campbell presented the memorial of a number of persons residing in the States of Tennessee and Georgia, praying that they may be incorporated for the purpose of opening and rendering navigable that part of the river Tennessee, in the Mississippi Territory, known by the name of the Muscle Shoals; and also for the purpose of making certain commercial establishments on the head waters of Tombigbee river, adjacent to the Muscle Shoals, and also praying to have the use of a road or roads through the Indian territory, with the assent of the Indian tribes claiming the same.—Referred to a select committee of seven, consisting of Mr. G. W. Campbell, Mr. Jones, Mr. Blackledge, Mr. Butler, Mr. Durell, Mr. Storer, and Mr. Humphreys.

MARYLAND CONTESTED ELECTION.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Elections, to whom was referred the memorial of Joshua Barney, of the State of Maryland. The report of the Committee of Elections is as follows:

The Committee of Elections, to whom was committed the petition of Joshua Barney, of the city o Baltimore, praying to be admitted to a seat in the House, he having, in his opinion, the highest number of votes given to a candidate legally qualified to represent the city of Baltimore, having carefully examined the facts stated on both sides, and compared the laws of Maryland under which the said election was held, with the Constitution of the United States, report—

That, by an act of the Assembly of Maryland, passed in November, 1790, it is required that the member shall be an inhabitant of his district at the time of his

election, and shall have resided therein twelve calendar months immediately before.

By another act of the Assembly of Maryland, passed in November, 1802, it is enacted that Baltimore town and county shall be the fifth district, which district shall be entitled to send two Representatives to Congress, one of which shall be a resident of Baltimore county, and the other a resident of Baltimore city.

That Joshua Barney is a citizen of Maryland, and has been a resident of Baltimore city for many years.

That William McCreery has been for many years a citizen of Maryland, and a resident of the city of Baltimore; but that, in the year 1803, he removed himself and his family to his estate in Baltimore county; that, from that time, though he himself has occasionally resided in Baltimore, yet he, with his wife and family, have not made the city their settled residence.

That William McCreery states that his intention was, and still is, to reside with his family on his country estate in summer, and in the city of Baltimore in winter; but that, ever since he has removed his family to his farm, he has been obliged every winter, in the public service, to reside, and frequently with his family, in the city of Washington, which prevented him from removing his family, agreeably to his intention, to the city of Baltimore; but he resided himself in the city of Baltimore five or six days before the election; that he and his family were residing in the same situation, when he was elected to serve in the ninth Congress, that they were, when he was elected into the present Congress; that, however, not wishing to have been taken up as a candidate at the last election, he expressed to some of his friends some apprehensions that exceptions might be made on account of his constant family residence not being in the city of Baltimore.

At the election in that district for the Congress now in session, Nicholas R. Moore had 6,164 votes; he is a resident in Baltimore county: and William McCreery, against whose right to a seat in this House objection is made on account of residence, had 3,559 votes; and Joshua Barney, who claims a seat in this House, and it is admitted is a resident of Baltimore city, had 2,063 votes; and John Seat, also a resident in Baltimore city, had 353 votes. The above statement of facts being admitted by the parties, further evidence was not required. No question was taken on the legal residence of William McCreery in the city of Baltimore.

The committee proceeded to examine the Constitution, with relation to the case submitted to them, and find that qualifications of members are therein determined, without reserving any authority to the State Legislatures to change, add to, or diminish those qualifications; and that, by that instrument, Congress is constituted the sole judge of the qualifications prescribed by it, and are obliged to decide agreeably to the Constitutional rules; but the State Legislatures being, by the Constitution, authorized to prescribe the time, place, and manner of holding the elections, in controversies arising under this authority, Congress are obliged to decide agreeably to the laws of the respective States.

On the most mature consideration of the case submitted to them, the committtee are of opinion that William McCreery is duly qualified to represent the fifth district of the State of Maryland, and that the law of that State, restricting the residence of the members of Congress to any particular part of the district for which they may be chosen, is contrary to the Constitution of the United States: therefore,

"*Resolved*, That William McCreery is entitled to his seat in this House."

Mr. FINDLEY said, that being chairman of the Committee of Elections, it became his duty to explain the principles by which that committee were governed in making the report, but being apprehensive that he could not make himself extensively heard, he would not detain the Committee long. The Committee of Elections considered the qualifications of members to have been unalterably determined by the Federal Convention, unless changed by an authority equal to that which framed the Constitution at first; that neither the State nor the Federal Legislatures are vested with authority to add to those qualifications, so as to change them. That the State Legislatures cannot prescribe the qualifications of their own members is evident, it is believed, from their respective constitutions; and that they are authorized to judge of the qualifications of their own members by their own constitutional rules only, and of the election of their own members by their respective election laws, must be admitted. Congress, by the Federal Constitution, are not authorized to prescribe the qualifications of their own members, but they are authorized to judge of their qualifications; in doing so, however, they must be governed by the rules prescribed by the Federal Constitution, and by them only. These are the principles on which the Election Committee have made up their report, and upon which their resolution is founded.

A state of facts is fairly given; no witnesses were introduced, nor corrupt abuses in conducting the election alleged. The claim of the petitioner was solely founded on the laws of Maryland, and on the allegation that the sitting member was not qualified agreeably to these laws, that though he resided in the district for which he was elected, yet he did not reside in that part of it which the law of Maryland had prescribed in addition to the qualifications prescribed by the Constitution of the United States. It will be observed by the report itself that the committee did not decide on the allegations for or against the sitting member's legal residence in the city of Baltimore, but upon his Constitutional qualifications, and the majority of legal votes. On all the facts stated in the report, however, the parties themselves were agreed, not only in stating the case, but on the final revision of the report.

The committee however submitted the question and took the vote on the case only as it related to the fifth district of the State of Maryland, viz: Baltimore city and county, which were by the law of Maryland entitled to send two members, one of which was to have resided in the city, and the other in the county, twelve months immediately preceding the election. Mr. McCreery, the sitting member, as he stated, and which was admitted, had removed his family to his country seat for their summer residence, with intention to have returned to the city in winter; but having every winter to reside at the City of Washington as a member of Congress, where he frequently brought his family, prevented him

from residing in the city of Baltimore in the winter.

It appeared to the committee, that if the State Legislature had a right to prescribe in what part of the same district, and for what length of time, each of the Representatives should reside, they had also a right to prescribe in what street or what house of a street they must reside, and for what length of time. Having thus far endeavored to explain the principles by which the committee were governed in making their report, on which no doubt other members of the committee will give further information, or support such as I have given, I will proceed to other circumstances.

It is proper to inform the Committee of the whole House, that the Committee of Elections were not unanimous in these sentiments. The minority advocated the right of the State Legislature to prescribe additional qualifications to the members from the respective States; that the qualifications prescribed by the Federal Constitution were only of a negative or restraining nature, viz: to enable Congress to consider such members as had not resided seven years in the United States, who were not twenty-five years of age at the time of their election, and inhabitants of the State for which they are elected, as disqualified, but not to be considered as restraining the State Legislatures from adding such qualifications as they thought proper.

Mr. F. said that he would detain the Committee a little longer, in order to make a few observations, but he wished these observations to be considered as his own, and not as those of the Committee of Elections. That committee had decided only on the local case of the fifth district of Maryland, but his observations were intended to apply to the principle generally. The qualifications of the National Legislature are of a national character, and as such must be uniform throughout the nation, and prescribed by the authority of the nation, and by it exclusively; but no State Legislature is vested with national authority, they cannot make citizens for the nation, nor prescribe qualifications either for citizens or for Executive officers of the nation, much less can they prescribe qualifications for the National Legislature, other than the nation itself has prescribed, nor abridge the Constitutional power of Congress to decide on the qualifications of its own members, agreeably to the rules prescribed by the Constitution; that authority, expressly vested by the whole, cannot be abridged or changed by a part—by a seventeenth part of the nation.

It is a fundamental principle in a free government that the citizens should be protected in the enjoyment of all their natural rights, except in so far as the enjoyment of these rights are incompatible with the safety of society, and consequently with the support of a free government. It is the natural right of all men to choose whom they please, without regard to age, residence, &c., to represent and advocate their interests; but it is necessary for the protection of society that this right be abridged, but it ought to be no further abridged than is absolutely necessary for the safety of the society, and of this the society itself are the only competent and authoritative judges; and in the United States the society have decided on this principle by their general and ratifying conventions, and they have delegated no authority even to Congress, much less to States, to alter or add to or diminish these qualifications. The Federal Constitution indeed provisionally delegates to the State Legislature the authority of directing the time, place, and manner of holding elections at the discretion of Congress. It is not necessary nor convenient that the time, place, and manner of holding elections should be uniform, therefore nothing but abuses or usurpations of power by the States, can ever excite or justify Congress in assuming the exercise of it, which, however, they may do at discretion.

The right of prescribing new or additional qualifications of members of Congress, is not a question between the Federal and State Governments; it rests between the State Legislature and the people. The Federal Constitution has declared that the citizens of every State have a right to exercise their free choice in voting for men having the qualifications therein described; but some of the State Legislatures say they shall not enjoy that right, but shall be obliged to vote for members with such qualifications as we shall from time to time prescribe; that we have a right to prescribe what qualifications we please, and change them as often as we please, &c. The question before the Committee of the Whole is, whether or not every State Legislature has a right to abridge the people's right of choice of a member to represent them in Congress to what extent they think proper, and whether Congress, in the exercise of its judicial power of judging of the qualifications of its members, is bound by the various and changeable additions made by individual State Legislatures, or by the permanent and uniform rules prescribed by the Constitution which both they and the State Legislatures have sworn to support. In deciding agreeably to the Constitutional rule, Congress is not increasing its powers, nor encroaching on the powers of the State Governments. It is only exercising its Constitutional authority in protecting the rights of the citizens against the encroachment on their liberties by their own State Legislatures, and in preserving uniformity of qualifications. Most certainly the Constitution secures to every citizen who has a right to give a vote, a right to give that vote to any citizen constitutionally qualified whom he pleases. The law of Maryland says they shall not have that liberty, they shall vote only for a man who notwithstanding his having resided seven years, or probably all his life in the United States, has not so resided in a particular part of a district. They are entitled to elect two members, but shall only vote for one of them on one side of a given line, and for the other, on the other side, though they possibly might have resided not many perches apart; but it is not so much the varied changea-

ble qualifications that have been prescribed as the variety and uncertainty of what on this principle, if admitted, may be made, that renders it so highly objectionable.

Mr. F. said, there was ground to believe that but few State Governments had taken this ground; he was certain several States had never set up such a claim. He would, however, only now instance Pennsylvania, the State which he had the honor to represent. When the Federal Government went into operation, the question of qualifications was very seriously and deliberately discussed in the Legislature of that State. They were divided into parties on the question. Some, and indeed the majority, believed and decided that the Constitution could only admit of a general election. The difference of opinion continued, but before the next election the State was divided into districts, but in the election for the third Congress the members were voted by a general ticket; finally, all the parties agreed that while prescribing the manner was intrusted to the State Governments, the State might be represented by districts, or by a general election, as might seem expedient, but that either way it must be done agreeably to the Constitutional rule, that votes might be given for any qualified inhabitant of the State. It is but in very few instances indeed that a member has been elected over the line of the district for which he was chosen, and these few instances were not only the most popular, but the most beneficial. Pennsylvania still continues to act on that principle, believing she is bound by the Constitution to do so, and no complaint has ever been laid before Congress from that State on the principle now contended for. The honor of the district and the influence of the candidates are always sufficient to secure the representation in the district, unless the advantage of going out of it is very evident. In that State, where some districts are entitled to send three members and others two, the parties generally plan to have the candidates distributed to promote the success of their ticket, but where this does not succeed, no harm is done, the Constitutional rule is not infringed, and the people are contented.

The Constitution is the bond of union between the people of the United States; to make this bond complete it was necessary that there should be a uniform rule of naturalization and a uniform rule of qualifications for the people's Representatives in Congress; both these rules have been established by the Constitution, and it is by the Constitutional rule alone that Congress can decide on the cases arising under them. If this is not the case, Congress have no uniform rule to decide by.

To talk of inconveniences resulting from the rule, is to no purpose to our decision, for we are not authorized to make a Constitution, but to decide agreeably to the rule already prescribed; however, in stating the inconveniences, they are generally extreme and improbable cases, such as have never happened to the States that have adhered most closely to the prescribed rule, nor are ever likely to happen, but the dangers and inconveniences of departing from any uniform rule of qualifications are obvious. The members of different States will have different, or even inconsistent qualifications, such as would disqualify a member from serving in one State who would be well qualified to serve in another State. Those States which adhere to the Constitutional rule would be represented differently from those who do not, and those differently from each other; and with them there might and probably would be changes without end or certainty.

But, Mr. F. said, it was not his intention at this time to enlarge in a detailed manner, he had no doubt but that this would be sufficiently done in the course of the discussion by others. He would, however, observe that the power of prescribing additional qualifications has not by the people in their conventions been granted to Congress, nor does Congress claim or pretend to exercise it. They have not, either by the federal ratifying conventions or by the State constitutions, vested that power in the State Legislatures. Whence then did the State Legislatures derive this right of making supplements to the qualifications prescribed by the Federal Constitution? Not from the people, in any known manner.

The Federal Constitution has restrained the natural rights of the people with respect to the qualifications of their Representatives as far as was then thought necessary for the safety of the Union, and no further. The State Legislatures are corporate bodies, they do not act by natural right, they are restrained by both the State and the Federal Constitutions. The power of prescribing qualifications either for members of the State Legislatures or of Congress, has not been vested in them, therefore, whenever they exercise this authority they do it by an assumption of unauthorized power. The State or Federal Legislatures possess no original rights, but only such as are derivative and representative. All original powers are naturally and originally in the people, and every assumption of the powers and rights belonging to them is an encroachment on the sovereignty which the people have retained in their own hands.

Let it not, however, be said that no power to prescribe additional qualifications exists in the United States; if it does not exist in the State Governments, it exists in the people of the United States, who are the real sovereigns, and is by them transferred to the State Legislatures, and to Congress, two thirds of both agreeing; in this way several amendments to the Federal Constitution have been made, and more may be made, or the people may call a Federal Convention, but a State Legislature was never authorized to abridge the Constitutional liberty of the people in voting for their Representatives.

Mr. F. said he had never heard the opposite doctrine advocated but by introducing extreme and improbable cases, such as had never happened in States which adhered strictly to the Constitutional rule, nor were likely ever to happen. Such as, that if the people were admitted to vote for any inhabitant of the State duly qualified agreeably to the Constitution, they might, or would

vote for an idiot, a madman, or an infamous character, or would vote for all the members to represent the different districts of a large State, out of one district, &c. He said that these objections required but a very short answer. In the States who adhered to the Constitution no one instance of that kind had happened, and if ever it did happen, it would be an indubitable proof that the people who did so, were either idiots, madmen, or infamous characters themselves, and, therefore, totally disqualified to be citizens of a Republican Government, and only fit to be slaves to a master; and that those who made use of such arguments only did so to save the people from their worst enemies, themselves. To this he was not prepared to give his assent.

Mr. Sturges said that the report, now before the Committee, presented two questions for their consideration—1. A question of fact; 2. A question arising under the Constitution of the United States, or, in other words, from comparing the law of Maryland with that instrument. As he was one of the Committee of Elections, and joined in the opinion which was reported, he was saved the necessity (in consequence of the view they had of the question) of considering the question of fact. He would, however, make one observation respecting the question of fact, which was, that whatever declarations Mr. McCreery might have made, or whatever doubts he might have expressed previous to the election, as to his right of being a candidate, if he had been in an error, it could, upon no principle with which Mr. S. was acquainted, affect his right.

As to the second question. Mr. S. said he knew of no clause of the Constitution which could have a bearing of any importance upon it, except the second clause of the second section of the first article, which was in these words: No person shall 'be a Representative who shall not have attained 'the age of twenty-five years, and been seven years 'a citizen of the United States, and who shall not, 'when elected, be an inhabitant of the State in 'which he shall be chosen." In this clause, they found that the framers of the Constitution had enumerated the qualifications of the candidate. He would answer, that, when the framers of the Constitution undertook deliberately to enumerate the qualifications, it was presumable they meant that no others should be necessary. It was not by any means a necessary, but, as Mr. S. conceived, a forced application, that, because the States were not prohibited in express terms, they did possess the right. The implication was, in his opinion, directly the reverse. But it had been said, and would undoubtedly be urged, though it had not yet been stated in the debate, that whatever powers were not expressly denied in the Constitution to the States, or, in other words, what had not expressly been granted by the States to the General Government was retained by the States. He acceded to the correctness of the position generally. But a distinction was to be observed in those cases where, from the nature of the subject, there was no incompatibility; where there was no clashing in the concurrent exercise of powers by the General and the State Governments, the principle would apply; but in those cases where, from the nature of the subject, there would be an incompatibility, the principle did not, and ought not to apply. For instance, in attending to the Legislative powers granted to the General Government by the eighth section of the first article of the Constitution, they found that Congress had the power "to lay and collect taxes." In this clause, the same power was not denied to the States, and it was retained by them. But, why? Because, from the nature of the subject, there would, in its exercise, be no interference with the General Government. In the seventh clause of the same section and article, Congress have the power "to establish post offices and post roads." A power over the same subject was not in express terms denied to the States. But had the States a right to establish post offices and post roads? He answered, no. Why not? For the reason and on account of the distinction he had mentioned—because, from the nature of the subject, were they to exercise the power, there would be an interference with the powers of Congress; and there would be a serious inconvenience; for it was desirable, and indeed indispensable, that there should be a uniformity in the laws regulating post offices and post roads. So in the case now before the Committee. Should the States be allowed the power to determine the qualifications of the elected, more especially where they have the right to superadd, after the Constitution had enumerated certain qualifications, that incompatibility, that interference of powers which he had mentioned would exist.

Will gentlemen attend to the consequences of the doctrine they contend for against the acceptance of the report? If the States had a right to superadd, why might they not say, by law, that the candidate should have an income of $10,000 per year? Why not, if they should think it expedient, apportion the number of Representatives to which they are entitled, among the different professions of the community? Why not say that a certain number should be physicians, a certain number lawyers, and a certain number clergymen? Why not say that the candidate should be an inhabitant of the particular State any number of years he pleases—say twelve or any other number—although, by the Constitution, a residence of seven years within the United States is sufficient? Why not say he should profess certain political principles? Why not that he should possess certain moral qualifications? Or, to come more nearly to the particular case now under consideration, if they had a right to restrict the residence to a particular town in the district, why not to a particular street in that town, or even to a particular house? Were gentlemen prepared to admit these consequences? Or would they say these were extreme cases? He asked them, on his part, to designate in their doctrine the line to which the States might go, and which they might not pass. He found there appeared to be an alarm excited as to the validity of district elections, as practised in many of the States. That question was not now before the Committee; but, respecting it, he

remarked that the States had a right to adopt regulations relative to the "times, places, and manner of holding elections;" and it was not by any means clear, that restricting the residence of the candidate within the district was not a right vested in the States by the term "manner." Besides, the States had a right to send one Representative for every 33,000 inhabitants. Now, if the States had a right, by virtue of the power to determine as to the "manner," to say that a certain number of the electors included within a certain district shall vote together, it seemed to be reasonable that the candidate should also reside in the same district. But, granting that the doctrine urged in favor of the report should be attended with the consequences which had excited the alarm, yet he trusted, if the argument was a sound one, as to the particular case now under consideration, that it would not be rejected.

Being, as he before observed, one of the Committee of Elections, and of the opinion of the majority, he felt it incumbent on him to assign the reasons for his opinion.

Mr. Randolph said he had been informed by a member of the committee, yesterday, that the printed report was extremely defective. The report was not laid on his table till yesterday; and he did not think the members had yet had time to form their opinions on so momentous a question. He therefore moved that the Committee rise.

Mr. Smilie remarked that this was a question which had never yet been decided, although very important. He wished the Committee not to rise so soon; for time could not be more usefully employed than in discussing it.

Mr. Sawyer said, that as the facts which had been reported by the committee did not go far enough to prove that Mr. McCreery was a resident of the city of Baltimore, as the laws of Maryland required, he thought they might be permitted to take it for granted that he was not, notwithstanding the committee have drawn an inference contrary to the evident tenor of those facts. In regard to the *ex parte* representation of Mr. McCreery, which they had thought proper to superadd to this special verdict, from which they were to argue the Constitutional law, even if it were properly verified, it would add very little to the proof necessary to establish that qualification; because it merely stated that Mr. McCreery had expressed an intention of becoming a resident of the city of Baltimore, but had not carried that intention into effect, further than he could be said to do by a residence of five or six days. The only part therefore of the report of the committee which merited their attention, was that which involved the constitutionality of the Maryland law. As the second section of the first article of the Constitution of the United States related to this subject, he asked that it be read for the information of the House. [Here the Clerk read that part of the Constitution.]

By this article, it appeared that the general qualifications specified are, that a person, to become eligible to a seat in this House must have arrived at the age of twenty-five years, have been seven years a citizen of the United States, and twelve months a resident of the State from which he was to be elected; leaving, as might be naturally supposed, to the States respectively, the addition of such other particular qualifications as they might think proper to impose, not incompatible with those fundamental ones laid down in that article. This clause might be considered the text from which each State might make a practical commentary not at variance with the letter of it. But it was contended by the chairman of the committee, (Mr. Findley,) that those positive qualifications assumed by that article of the Constitution contained a negative prohibition to every State of the right of imposing any others. Mr. S. said he was not prepared at present to grant any rights under the Constitution but such as had been stipulated for by express provision. He should by no means consider himself justifiable in surrendering one of the most essential rights of each State, (and of his own among the rest,) by mere implication. So far as an effective operation of this clause depended upon a latitude of construction, he was perfectly willing it should have it; but there was not the least necessity for such a construction in the case, because an inclusion of the condition of a residency in a State was not an exclusion of a residency in a district; and a State, by annexing the latter condition to the former, did not in any respect affect the full operation of that clause of the Constitution, according to its sense, expressed or implied. There was no necessity, under the most liberal construction of this article, to suppose that a residency in a State should supersede the necessity of a residency in a district. So far from the views which the framers of the Constitution had being thwarted by a construction of the kind he contended for, it would be the means of more completely carrying them into effect, unless it could be supposed that a person's being better qualified than the Constitution required should disqualify him altogether; for undoubtedly the surest, and in fact the only way of becoming a resident of a State, was to become a resident of a district—for every State was composed of districts.

But even supposing that they should be impeded in their progress by the difficulty which a construction either way would produce, in rendering a negative injury to the Constitution, or a positive one to the States, still their doubts would be dispelled and their progress made easy by another clause in the Constitution, and which was added for the express purpose of clearing up all doubts that might arise under its interpretation. It was this: whatever powers and authorities are not expressly delegated by the Constitution to the United States, or necessarily arising under it, shall be reserved to the States themselves, or to the people. Now, he hoped that a mere commencement to exercise a certain power under the Constitution was not to be considered as a complete termination of it, with regard to the States. A right could not be said to be delegated absolutely, which may be exercised conjointly. He thought, therefore, that he could lay it down as an undeniable rule, that the right which each

State had to require a person to become a resident of the district for which he may be elected, was not delegated expressly by the Constitution, for there were no words in it to that effect, neither did it flow from a necessary operation of any of its provisions; therefore, it must belong to the States themselves, or to the people.

It might as well be said that no State had a right to lay itself out into districts, as to say the Constitution denied them the right to elect persons who must become residents of those districts. Every argument which went to show that this right could not be enjoyed by a State, went equally to prove that their mode of dividing States into districts, and the elections which were made to that House accordingly, were fundamentally wrong and unconstitutional; because those divisions were marked out as the only practicable mode by which persons could acquire that qualification which the State of Maryland in this instance, as well as most of the States in similar instances, had thought proper to create. This qualification the law of Maryland expressly stated to be, that one of the persons to be elected from the district of Baltimore should have been a resident of the city twelve months immediately previous to the election. Mr. McCreery was not a resident of the city one year previous to the day of election, therefore he could not be entitled to a seat in that House. Independent of the right which the State of Maryland had to impose this qualification, in a general point of view, she had particular reasons for the application of it in this particular point. Baltimore was a rich, growing, commercial city, and her interests were too important to go unrepresented on that floor. But, in the exercise of that right, they might observe the utmost liberality on the part of Maryland, for she conceded the right to the county, exclusively, of appointing a Representative who was a resident of the county, at the same time she wished to enjoy a similar right. In other large commercial districts, they observed the representation was altogether from the cities. Philadelphia, for instance, enjoyed that advantage over the counties of her district, which her superior population afforded her, by sending three Representatives to this House. But Baltimore, by a spirit of magnanimity, was disqualified from the enjoyment of any other privilege than what was exercised by the county, though in a little time her increasing population would enable her to enjoy a similar advantage with Philadelphia. How little this moderation in the equal distribution of a favor deserved the total abrogation of it on her part, must readily appear, upon any grounds of common justice; but if it were not extended to her from the peculiar hardships of her case, Mr. S. trusted it would be conceded to her, according to the political rights enjoyed and expressed by the State of Maryland. He was the more earnest in this case, because, while he advocated the rights of the State of Maryland, he felt for those of his own State, which might at a future period be jeopardized like those of the devoted city of Baltimore.

The conclusion which he drew from the premises was this: the State of Maryland had a right to impose this qualification, because it was neither expressly delegated nor impliedly assumed under the Constitution of the United States; she had exercised this right by declaring that the city and county of Baltimore should elect one Representative each. The county of Baltimore, in pursuance of this regulation, had given a majority of its votes to Nicholas R. Moore, and the city of Baltimore had given a majority of its votes to Commodore Barney, who, in his opinion, was as legally entitled to his seat as Mr. S. himself, or any other gentlemen on the floor. The whole dispute rested between Mr. Moore and Mr. McCreery, who should obtain a majority of the votes of the county, leaving the city entirely out of view, as neither of them could represent her, not being residents therein. As the majority had fallen on Mr. Moore, he has been duly elected, and the county had no right to send Mr. McCreery here also; for if she could elect two Representatives, she could with the same propriety elect three or four, or a dozen, which would be absurd. He therefore hoped and trusted the report would not be agreed to.

Mr. Randolph said he would withdraw his motion for the Committee to rise, as he perceived gentlemen persist in debating the merits of the main question.

That House had never been called upon to make a more important decision than the one now proposed. He wished he was prepared for the discussion. He had scarcely run over the report of the Committee of Elections; but it was one of those questions upon which his mind had been so long unalterably fixed, that he could not refrain from the endeavor to warn the Committee of the dangerous ground which they were invited to tread. In undertaking to decide upon the validity of the law of the State, they touched upon a subject which should never be approached but under the most imperious necessity, and where no shadow of doubt could hang upon their decision. It might be said that with the *reasoning* of the report they had nothing to do; it was the committee's reasoning, not theirs; that they acted on the naked resolution only. But it was obvious to the meanest capacity, that when the committee thought the fact of Mr. McCreery's residence in Baltimore so unimportant that no question was taken upon it, and grounded their resolution solely upon the unconstitutionality of the law requiring it, that House could not affirm the resolution without affirming, at the same time, the only point upon which the committee had decided in favor of the sitting member. What were they required to do? To declare the law of Maryland, long reverenced and obeyed, under which successive elections had been held, and never before questioned—to pronounce this law to be a dead letter, entitled to no respect, even from her own citizens, and to absolve them from all obedience to it! Was it matter of surprise that the members of the House were startled at an innovation so daring and so dangerous? He had laid it down as a principle not to be questioned, that Congress should never un-

dertake to pronounce upon State regulations, but in cases too clear to admit a contest, and where the decision could not be evaded without manifest detriment to the public good. If he were called upon to establish a criterion, an infallible touchstone of the soundness of political principles, it should be made to consist of nothing so much as a sacred regard for the rights of the States. An enlarged and liberal construction of State rights was, with him, an indispensable requisite, and he could never give his confidence to a politician indisposed to such a construction. He viewed the proposed measure but as the commencement of a series, as the entering wedge. If they began with declaring one law of one State unconstitutional, where were they to stop? They might, they would go on (it was the natural tendency of power never to be satiated as long as there was anything left to devour) until the State Governments, stripped of all authority, rendered contemptible in the eyes of the people for their imbecility, and odious for their expense, mere skeletons of Governments, the shadows of their former greatness, should be forever abolished, and a great consolidated empire established upon their ruins. Mr. R. looked forward to such an event as the death warrant of the existing Constitution, and of the people's liberties. If they wished to preserve the Constitution, they must learn to respect the rights of the States, and not bring the whole artillery of the Federal Government to bear upon them. In such a contest, the States must fall, and when they did fall, there was an end of all republican government in the country.

The second paragraph of the second section of the first article of the Constitution had, to his extreme surprise, been construed by the Committee of Elections as restricting the States from annexing qualifications to a seat in the House of Representatives. He could not view it in that light. Mark the distinctions between the first and second paragraphs. The first is affirmative and positive. "They shall have the qualifications necessary to the electors of the most numerous branch of the State Legislature." The second merely negative. "No person shall be a Representative who shall not have attained the age of twenty-five years," &c. No man could be a member without these requisites; but it did not follow that he who had them was entitled to set at naught such other requisites as the several States might think proper to demand. If the Constitution had meant (as was contended) to have settled the qualification of members, its words would have naturally ran thus: "*Every person* who has attained the age 'of twenty-five years, and been seven years a citi-'zen of the United States, and who shall, when 'elected, be an inhabitant of the State from which 'he shall be chosen, shall be eligible to a seat in 'the House of Representatives." But so far from fixing the qualifications of members of that House, the Constitution merely enumerated a few *disqualifications* within which the States were left to act. It said to the States, you have been in the habit of electing young men barely of age; you shall send us none but such as are five and twenty: some of you have elected persons just naturalized; you shall not elect any to this House who have not been seven years citizens of the United States. Sometimes mere sojourners and transient persons have been clothed with legislative authority; you shall elect none whom your laws do not consider as inhabitants. Thus guarding against too great laxity in the State regulations, by general and negative provisions, leaving them, however, within the limits of those restrictions, to act for themselves; to consult the genius, habits, and if you will, the prejudices of their people.

The first paragraph which he had read was positive and affirmative. By it, *every* person having the qualification requisite to an elector of the most numerous branch of his State Legislature, was entitled to vote for members of the House of Representatives. Yet, nevertheless, the qualification rested with the State. They might make it a part of the qualification of an elector, that he should reside within his district, county, or borough. Would it not be absurd to say that a man might take his seat in that House, who, at the same time, was not qualified to vote for a member of it? It had always been supposed that the elected should possess higher qualifications than the elector; yet here it would be entirely reversed. And why should it be supposed that whilst the Constitution had vested in the State the greater power, that which was most capable of abuse, the unlimited right of prescribing the qualifications of the voter, it had denied to them, by a forced implication, the right of prescribing the qualification of the person voted for, having respect, however, to the disqualifications enumerated in it? The construction of the Constitution, for which he had contended, was so obvious and natural, that it had been adopted by the States, and acted upon from the commencement of the Government, without any man dreaming of, or starting an objection to it. And the uniform practice of near twenty years, and the laws of the States in which the practice originated, were to be overturned at once, with as little ceremony as they would change one of their rules. If the doctrine of the Committee of Elections be sanctioned, Mr. R. said he did not know by what authority he himself could claim his seat. The law of Virginia, under which he held it, was equally unconstitutional with the law of Maryland. Indeed, it might be demonstrated, perhaps, that we had been living for years under an unconstitutional Government. Laws could not be valid which were passed by persons unconstitutionally elected. We should rip up the Government to its very foundations. The State of Virginia appointed her electors by a general ticket, (to keep out the heathen,) but each elector was to come from a particular *district*, notwithstanding twenty-four separate districts sent twenty-four electors by general ticket. If the State had no right to prescribe that the elector should be a resident of his district, the President had been unconstitutionally elected, in the first instance, by the electors, and in the second by members of that House voting by States, which

members themselves had no right to their seats, the law under which they were appointed being null, void, and of no effect. Were gentlemen prepared for such conclusions as these?

Mr. R. said a gentleman from Maryland had obliged him by calling his attention to that article of the Constitution which enjoins that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Now, if it were laid down as a principle that the State had no right to require the residence of a member of that House within his district, the whole representation of Maryland might be taken (as they would be taken) from the town of Baltimore. Transient persons from other States, happening to arrive at Baltimore on the day before the election, who, if elected, would declare their determination to become permanent residents, might be returned as members of that House, and must maintain their seats under this decision. The House of Representatives would become a mere shadow, a mockery of representation; not such as the people were attached to, in support of their claim to which they had bled, but such a representation as an English lawyer allowed us to possess in the British House of Commons, when he discovered that the different grants in America, being held as part and parcel of the manor of East Greenwich, all the Colonies were represented by the knights of the shire for Kent. He believed they would possess just as much knowledge of the interest of their constituents in the one case, as has been exhibited in the other, and would demonstrate the same sort of care of their persons and purses. Mr. R. said he held residence within the body of the county or district, to be of the very essence of representation. To be a good Representative, a man must not only reside among the people, he must be one of them, bound to them by every tie of habit, interest, and affection; not a stranger, having no common feeling with them, known to them only by report, and imposed upon them by cabal, intrigue, and corruption.

He believed there were no gentlemen of that House who had maintained a more uninterrupted harmony with each other, than that which subsisted between himself and the two gentlemen from Baltimore, (Messrs. Moore and McCreery.) Their whole intercourse had consisted of an interchange of civilities and courtesies. But this could not affect his opinion upon the present question. But whilst he thought Mr. McCreery certainly, and Mr. Moore *possibly*, not entitled to a seat, he could not agree with a gentleman from North Carolina, that Mr. Barney was duly elected. He would never consent to a man's sitting in that House upon the votes of a minority of the qualified electors of his district. He respected the rights of the people not less than the rights of the States. If a majority of the electors had voted for an unqualified person, believing him to be qualified, he believed the election should be set aside, and it should be put into the power of the people to send the man of their choice, who should be duly qualified. Mr. R. said that the votes not being given in exact conformity to law, perhaps the whole election should be set aside; but he inclined to the opinion that Mr. Moore was duly elected as the county member; that the votes given to Mr. McCreery were under the idea that he still continued a resident of the city; that, being unqualified, his seat should be vacated, and a new writ issued to fill the vacancy.

If the report of the Committee of Elections should be affirmed, it would be an era in the history of this Government. For the first time, and when the nation was supposed to be under the guidance of men supposed to be friendly to the interests of the States and people, the law of a State was to be declared unconstitutional. Before the Committee undertook to pronounce this sentence, to set this awful precedent, it behooved them to pause and consider well. This decision, said Mr. R., will not be final. It will be but the forerunner of a long series of acts, abrogating the laws and usages of the States, endeared to the people by habit, and sanctified by reason. Before you enter upon this fatal act, be you well assured that the right is indisputably your own, and that you are called upon to exercise it by considerations which it would be criminal to resist. Beware lest, whilst you proudly assert your power, you do not meet the reprobation of the great body of the American people.

Mr. J. Clay felt as high a respect for the rights of States and citizens as his friend from Virginia; but at the same time differed from him as to the construction of the Constitution. It was true that the Constitution was not affirmative; it was true that it decided the qualifications of Representatives in vague terms. The Constitution said, "No person shall be a Representative who 'shall not have attained to the age of twenty-five 'years, and have been seven years a citizen of the 'United States, and who shall not, when elected, 'be an inhabitant of the State in which he shall 'be chosen." Would his friend from Virginia say that the States had a right to narrow this ground? He believed not. The case was precisely the same with respect to the election of the President. "No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of the Constitution," &c. He presumed that mere transient persons passing though a State, or residing in a State for a short time, could not be elected.

If the Legislature of the States had no Constitutional right to narrow the qualifications, they had no right to superadd to them.

While up, he would notice an error which the gentleman from North Carolina had fallen into, as to Philadelphia having three Representatives; there was one from the city, one from the county, and one from the county of Delaware; this, it was true, did not detract from the merit of his reasoning, but still it was an error. There was another argument of the gentleman, which deserves consideration. It was, that a person might be elected who was not a resident of the district, and who was not entitled to vote as an elector. He believed that an instance of this kind had oc-

curred in the representation from Pennsylvania; and perhaps, it would be admitted that although, in Virginia, none but freeholders vote at elections, a man might be a member of that House, and not a freeholder. This had been said to be the first case in which the rights of the States had been tried on that floor. The Committee would recollect that, in the first session of the ninth Congress, Cowles Mead was returned as a member of that House; the election was disputed, and Mr. Spaulding was declared by this House to be duly elected. Mr. Mead was returned as elected under a positive statute of the State of Georgia, which directed that the returns should be made in a certain time, and that all the returns made after that time should be void. What was the decision of the House? That no State had the power of making laws, to decide upon the returns of members of Congress. If it were decided that the States had not a right to interfere with the returns, how much more clear was it that they could not interfere with the qualifications.

The Constitution of the United States gave to the people the right of making an election of members of Congress from all the inhabitants who were within the State. He believed the question involved the liberties of the people. If they decided the State had a right by law to add to the qualifications of Representatives established by the Constitution, they decided that the right of the people to choose out of the whole State might be taken away, and the liberty of election thus abridged.

Mr. Smilie said he would not detain the Committee long. The gentleman from Virginia seemed to be exceedingly warm with respect to the rights of the States, as interested in the pending decision. With respect to the rights of the States, nobody who knew him ever doubted his opinion. When the Constitution, which he held in his hand, was adopted by the State of Pennsylvania, because it encroached too much on the State rights, he had voted against it; his country had decided otherwise, and it was now become the law of the land. He had taken an oath to support that Constitution, and, however favorable he was to the rights of the States, he must adhere to that oath. He would make one preliminary remark; that there was a principle in a Republican Government, of as much importance as any other, as respected the safety of the Government, that the qualifications of the people elected should be firm, steady, and unalterable. If, by rejecting this report, they sanctioned a contrary principle, they could not tell how they might be represented at a future time. By the first clause of the second section of the first article of the Constitution, (to which Mr. S. referred,) it was fixed with a precision which could not be controverted, what were the qualifications of voters; with respect to residence, could anything be more precise than the provision contained in the second clause of the same section? Now, if they rejected the report of the Committee of Elections, they would say that the States might abridge those qualifications which the Constitution provided. By the Constitution of the United States, every citizen having the qualifications pointed out in that instrument was qualified to serve as a member of this House. If they rejected the report of the committee, they would say that persons, although possessing the qualifications laid down by the Constitution, could not be entitled to a seat. Had they a right to do it? Mr. S. said there had been a good deal said about negative or positive declarations in the Constitution. Would the gentleman say that the States had a right to pass laws of naturalization contrary to those of the United States, and to the provision of the Constitution which directed that they should be uniform? Many articles in the Constitution pointed out the same principle.

But dangers had been talked of with respect to the States, if this report were adopted. Mr. S. thought dangers of more magnitude might arise from its rejection. He believed if they allowed the State of Maryland the power of abridging these rights, it would be the most unlucky event that had taken place since the institution of the Government. He hoped the contrary.

Mr. Fisk said there was one part of the Constitution, applicable in the present discussion, which had not been noticed. He alluded to the fourth section of the first article: "The time, places, and manner," &c. Mr. F. would only ask the gentleman from Virginia, who had so ably defended the rights of the States, if the power of Congress was not co-equal and co-extensive with that of the States? Congress might alter and prescribe the rule of elections so far as respected the time, *manner*, and place. If the gentleman contended that the States had a right to fix qualifications, he must also admit that Congress had the same right.

Mr. Randolph said that, lest he should be unable to attend the next day, he would, before the Committee rose, suggest, more particularly to the members of the Southern States, one of the consequences which might flow from the construction of the Constitution contended for by his friend from Pennsylvania. He knew the temper of that gentleman's mind so well, that if, upon a more mature consideration of this subject, he should see the fallacy of the position which he had advanced, he would have the candor to retract it; and he felt such confidence in the excellence of his friend's understanding, and the purity of his intentions, that he did not despair of his conversion. On a former occasion, when a bill to prevent the introduction of Maroon negroes into the United States from St. Domingo was pending, its most important provisions were opposed and defeated on the ground of its interfering with the established privileges of the people of color in certain States, who might be, and in fact were, mariners. They were then told, and no doubt truly, that the laws of a certain State knew of no distinction amongst its *citizens*, and gentlemen opposed it, as infringing the rights of their *constituents*. Let this fact be taken in connexion with that clause of the Constitution which secures to the citizens of each State the privileges of citizens of the respective States, and then deny

to the States the power of superadding any qualification—of color, for example. What was the undeniable inference, the monstrous and abominable conclusion?

Mr. R. reminded his friend from Pennsylvania that the decision in the case of Mr. Spaulding turned not upon the invalidity of the act of Georgia. Her right to pass the law in question was never questioned; but it was in proof to the House that an act of God, the great hurricane, rendered it physically impossible to execute the law, and therefore it was dispensed with. It was an unforeseen interposition of Providence which nullified the law of Georgia in that case. Suppose an officer should intentionally keep back his returns, or should be waylaid on the road by the partisans of the unsuccessful candidate, and robbed of them, would that deprive the person really elected of his right to his seat? Certainly not. The gentleman from Vermont had quoted a part of the Constitution which had nothing to do with this subject—which, in fact, in that day, was nothing better than a dead letter. Would the gentleman from Vermont move for a bill to regulate the time, place, and manner of holding elections in the several States for members to that House? After all that could be said, practice, long-established practice, under the Constitution, was the best evidence what the Constitution was. Powers indisputably exercised by the States ever since its adoption, were as much departed from the General Government, and imparted to the States, as if especially delegated by the Constitution itself.

The Committee rose, and obtained leave to sit again.

Friday, November 13.

MARYLAND CONTESTED ELECTION.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Elections, to whom was referred the memorial of Joshua Barney, of the State of Maryland.

Mr. Bibb being about to offer an amendment, (but which was afterwards withdrawn, to make way for that offered by Mr. Montgomery,) said he was too much indisposed at that time to enable him to enter fully into a discussion of the subject; but he thought it incumbent on him to state some of the reasons which induced him to move this amendment. Upon examination of the report of the committee, might be found these words: "The committee proceeded to examine 'the Constitution with relation to the case submitted to them, and find that the qualifications 'of members are therein determined without reserving any authority to the State Legislature 'to change, add to, or diminish those qualifications," &c. It was for the purpose of objecting to the report generally, that it might not become a precedent, that Mr. B. made any observations; but it appeared particularly strange to him that the committee should have inserted these words in the report, when it was known to the committee that there was in the Constitution a general reservation of all power not expressly delegated. The only question was, whether there be delegated to Congress a right to fix the qualifications of its members, or whether the States had not a right to alter or modify them. The words from which the inference in the report was drawn, were these: "No person shall be a Representative who shall not have attained to the age of twenty-five years," &c. These were certain qualifications which they had a right to require, and without which no person could be entitled to a seat in that House. The language was not such, according to legal construction, as to induce the House to say that the State authorities might not require other qualifications. If it had been thought by the framers of the Constitution that the States had no right to diminish or alter qualifications, they would have said that Congress should have the sole power of fixing them. As this, however, was not material to the question, as it now appeared before the House, he would make a few observations as to the grounds on which he thought it properly rested. From the report, it appeared that the law of 1790, which required a candidate to be an inhabitant, required a residence of twelve months previous to the election; but that which required one to be an inhabitant of the town and one of the county, did not say twelve months' residence, but simply provided that, at the time of the election, he should be resident there. It did appear that, five or six days previous to the election, Mr. McCreery did reside there; consequently Mr. McCreery was an inhabitant according to the law of Maryland, and entitled to be elected. It was always with Mr. B., and would be, as long as he had the honor to retain a seat in that House, a general principle, from which he would never depart except from the strongest conviction of its impropriety, that a member who was returned by a majority of votes of his constituents, should be entitled to his seat. Mr. B. could only vote otherwise, in a case where some bribery or corruption should be shown to have been used.

Mr. Montgomery wished the gentleman to withdraw the amendment which he had proposed, in order that it might be substituted by the one he held in his hand to the same effect.

Mr. Bibb consented to withdraw it.

Mr. Montgomery then offered the following as an amendment to the report:

"Whereas William McCreery was a resident of the city of Baltimore, in the year 1803; that he resided partly in Baltimore city and partly in the county of Baltimore, until the October election in 1804, when he was elected a Representative to Congress, in which capacity he served till March last, during which time he had a legal residence; and whereas it does not appear that he has since abandoned or forfeited that residence. Therefore

Resolved, That William McCreery is entitled to a seat in this House."

Mr. W. Alston said that, although he might be perfectly satisfied with the reasoning of the amendment just offered, yet he was opposed to its adoption at present, because he thought the

reasoning of the Committee of Elections much more proper. He would not question the correctness of the preamble just offered, but did not wish to vote for it, in consequence of the reasons which had been given in its favor. He saw no objection to voting for the resolution as reported by the committee, and every member must be satisfied that, in voting for the resolution, they did not adopt the reasoning contained in the report; for that was the reasoning of the committee, and not of the House. If the fact of Mr. McCreery's residence in the county, instead of the city of Baltimore, had been stated in the report, and also that the law of Maryland was Constitutional, he should yet have believed that he could have voted for the resolution, to the exclusion of every other part of the report, if he thought proper to do so, because the reasoning of a committee had no weight on his mind; the result was what he looked at. The committee had stated all the facts, and, in his opinion, had wisely avoided giving an opinion on the residence of Mr. McCreery. Every member was left at liberty to draw his own conclusions from the facts stated, without being biassed by the opinion of one of the standing committees of the House. They all knew what effect the opinion of a standing committee had upon the House.

Mr. A. said that he would, while up, offer a few reasons which had induced him to believe that no State had a right to add one single qualification to Representatives, or to diminish those laid down by the Constitution of the United States. Once permit the States to depart from the straight line, and where would they stop them? If they were permitted to go one step, were any bounds prescribed in the Constitution at which they could be stopped? That part of the Constitution which had been read by many gentlemen, and which described certain qualifications, upon possession of which a person might be entitled to a seat upon that floor, contained no such restriction. Several States in the Union had passed laws upon this subject; the State of which he had the honor to be in part a Representative, had divided the country into districts, and provided that every person returned should have resided in the district for which he was elected at least twelve months previous to the election. But, Mr. A. said, he had always believed, that had the people of one district chosen to elect a man from another district, possessing other qualifications as required by the Constitution, he would be entitled to his seat. He had understood that the Legislature of Virginia had prescribed, among other qualifications, that no person should be elected a Representative unless he was possessed of a freehold estate. What might be the consequence of this? They might say that no man should be elected who did not possess fifty, one thousand, or ten thousand, acres of land. They might even prescribe the particular quality of the land, or its situation.

The case from Georgia, of Mead and Spaulding, had been so ably argued by the gentleman from Pennsylvania, (Mr. J. CLAY,) that he would not dwell upon it; it was certainly a case in point. The Legislature of Georgia, in prescribing rules for conducting her elections, had said that the returns should be made within twenty days. How did the House act on this occasion, although there was a manifest violation of that law? The House, regardless of that law of Georgia, decided that the member elected should be entitled to his seat. This was a case stronger than the present, and in deciding on it the House had decided against the right of States even to regulate the manner of elections, which was more than he contended for.

The Constitution of the United States, when speaking of the qualifications of Electors of President and Vice President, varied in its language from that part which spoke of Representatives, because it says "each State *shall* appoint," &c. The Constitution, in speaking of Representatives, had neither said the States should assign qualifications, nor that they might; he, therefore, thought that any person possessed of qualifications, as required by the Constitution, and who was duly elected, was entitled to his seat, notwithstanding State regulations.

Mr. ROWAN was opposed to the amendment, because it threw behind the screen the main question, on which the House ought to come to a decision. It was the first case in which a decision would be had, whether the State authorities could be blended with those of the General Government, or whether each should exercise its respective authority. He held it essential to the sovereignty of the Union that the National Legislature should, whenever the question came legitimately before them, decide upon the constitutionality of any law; without such an exercise of authority, the national sovereignty was prostrated, and must ultimately fall. It seemed to him essential to the wellbeing of the nation that the energies with which that sovereignty of the Union was vested, should be retained to itself, and should not be encroached on by the State authorities. As the whole to a part, so was the national existence to that of the State authorities; but while they preserved the national existence, they should be particularly careful of the attributes of the State authorities, one of which was now under consideration. Had the Legislature of Maryland exercised a power permitted them by the Constitution? If they had, should the sovereignty of the Union acquiesce in it? Should they acknowledge a principle which might hereafter assail it more vitally? No; for in this early period of the Government, a case has occurred upon which the right of each State can and ought to be determined as to the prerogative in question. The present is that case. A man had been elected, and had taken his seat in Congress from the State of Maryland; his election had been contested, because, said the applicants, the sitting member was not a resident of Baltimore, a part of the district from which he was elected. Had the Legislature of the State of Maryland the power of thus contracting the choice of the people? If they had the power of restricting the choice of Representatives as to place, why not as to other qualifications? They might say that no man was qualified to serve as a Representative in the Congress of the United States who was not a farmer, a mechanic, or of any other profession. Grant them the power of adding qualifications, and where would they fix a limit? The Constitution did not provide against the introduction of a political test. The State Legislature might enact that no person should be a Representative who was not a Federalist; how would the committee reconcile this with that part of the Constitution which had undertaken to guaranty to the States a republican form of Government? If the Legislature determined that members from the State of Maryland should possess a certain property, that they should be worth £500 or £1,000, would it not be verging towards aristocracy? If they were to say that all the members of the State should be chosen from the town of Baltimore, would it not appear absurd? And yet they had as much right to do this as to say that each member should be a resident of a particular district. The Legislature was only authorized by the Constitution to say that they should reside in the State from which they were elected.

But, admitting that the right rested with the States, ought not qualifications always be settled by convention? Where was the use of the Constitution if the Legislature of a State could fix or vary qualifications? It seemed then that it was proper for the Convention of the United States to fix unalterably the proper qualifications. If they had not done this, it would have seemed to Mr. R. doubtful whether the power resided in Congress or the States. Was it proper that a part of the Union should have the sole and paramount power of fixing qualifications for members of the Union? In doing this, did they not legislate for other States? And if this were the case, should not Congress interfere? Mr. R. supposed that those gentlemen who advocated the right of State Legislatures to fix qualifications, would be shocked were Congress to assume that right; and yet Congress possessed every capacity from the people to legislate on this subject that the State of Maryland possessed. It would be somewhat better that they should, because they would be supposed to know the wishes of the Union better than so small a part of it as a State. He therefore contended that the qualifications for a Representative to Congress were unalterably fixed by the Convention; the Constitution was the place to look for them, and not the statute book, for if it were, they would float on popular caprice.

But to ascertain whether the Constitution did fix these qualifications or not, Mr. R. said he would request the attention of the Committee to a few arguments. It was a principle in law that everything which the parties who wrote, had said in a writing, was all they intended to say. If they had said nothing, it was presumed that they had reserved it for further consideration; but if they said anything on a subject, it was supposed they had said all they meant. Now the framers of the Constitution had prescribed certain qualifications; if they had intended that any other should be necessary, they would have said so. In the preceding clause they had given to the State sovereignties the right to fix the qualifications of electors: "The electors in each State shall have the qualifications requisite for the most numerous branch of the State Legislature." Here they have thrown upon the State Legislature the whole power to affix qualifications to the electors, as well of the members of Congress, as of the President and Vice President; not so as to the elected; it might have been unfortunate if they had; the different interests of the different States would have assigned different qualifications. In such circumstances, could any unanimity have been expected? No. It had therefore forcibly obtruded itself upon the people, that they should affix permanent qualifications, which were only that a member should have arrived to the age of twenty-one years, have been seven years a citizen of the United States, and should be an inhabitant of the State for which he should be chosen. No power had been given to the State sovereignties to superadd qualifications; if they had left this power with the States, this Government would not have been a Union, but a distraction. But if the Legislature may annex additional qualifications to the members of the House of Representatives, so they may also to the Senate. The members of the Senate were considered as particularly the Representatives of the States, the members of this House as Representatives of the people of the Union—distinct interests. And if the House decided that the State of Maryland did possess power to annex qualifications, they decided against the liberties of the people, for the members who composed the United States Convention were from the people, they performed the functions of Representatives of the people, and of Representatives of the State sovereignties. To the State sovereignties they granted additional rights, and others they reserved, among which last was the power of choosing the Representatives of the people, subject only to the qualifications of residence, &c. The State of Maryland had waived the qualifications thus fixed, and confined the residence of the member from that State to Baltimore, a particular part of his district.

Mr. R. said he was the more anxious on this question, because it appeared that other encroachments had been made on the Constitution. A gentleman from North Carolina had said that in his State the residence was confined to the respective districts from which they were elected. It was therefore high time the people should rectify these errors, or he agreed with the gentleman from Virginia, though from different causes, the Constitution would soon become a dead letter; he thought it, therefore, important to determine whether States were to the Union what counties were in relation to the States. He believed that, as to the purpose of electing members to the lower House of Congress, the States were to the Union what counties were to a State, and that districts in a State were to that State what elections precincts were to a county; all for the convenience of the electors, and not in abridgment of their rights. We should be shocked at a law requiring a county Represen-

tative to reside in a particular one of its several precincts; not less improper is it to require that the Representative in Congress from a State should reside in a particular part of any one district of the State. The people cannot be confined in their choice of a Representative within narrower limits than those of the State.

Mr. R. said the House ought to go on Constitutional grounds; and he held it, and was willing to express it as his opinion on the question, that persons voting for a member of Congress had a right to vote for a candidate residing out of their district as well as in it, and that, if a man out of a district had a majority of votes given in that district, he was duly elected a member of that House. Suppose the Legislature of Maryland, instead of determining that one Representative should be chosen from the city of Baltimore, had declared that all the Representatives of the State should be chosen from Baltimore. If she had power to confine one to a particular district, why not all? If they permitted the Legislature to contract the choice within a district, why not to a part of it? He was, therefore, impressed that, in advocating the doctrine he laid down, he was advocating the rights of the people; for it appeared that the rights of the electors and the elected, were invaded at the same time. On one side they had encroached on the liberties of the people to be chosen, and on the other side contracted the latitude of their choice.

Mr. R. said that he believed it was one of the most prominent attributes of sovereignty to extend its power; that each sovereignty was, politically, though not physically, of equal power; that sovereignty, whether of the States or the Union, had an equal bias to self-extension. While they guarded against encroachments on State sovereignties, they must not let them encroach on the sovereignty of the Union. The rights of each consisted in the true observance, on the part of each, of the rights of the others. The State of Maryland had encroached on the rights of the people of the Union; for it was a particular right of the sovereignty of the Union to fix qualifications for Representatives to Congress, as they are fixed in the Constitution, which right the Legislature of Maryland had contravened.

He was struck yesterday by the force of an argument of the gentleman from Pennsylvania, who had cited the naturalization law in illustration of the present case. Would it be permitted to any State to enact laws regulating this matter after Congress had legislated upon the subject? He presumed not; for, if one State might, so might another, and they would not concur; hence a want of uniformity would result. Now, it seemed to Mr. R., that if a State could not legislate in the latter case, they could not in the former; they were subjects on which uniformity was at least equally important. On a uniformity of qualification for members of that House depended everything dear to the nation; it was a point on which the people of the Union ought to be most jealous, and the last on which they should be assailed. He should vote for the resolution of the Committee of Elections, but he wished the subject to be divided, that separate questions might be taken on each point. He was unwilling that there should be anything connected with the Constitutional point, that not a doubt might remain on its decision. The evils which had been represented yesterday as likely to result from this decision by the gentleman from Virginia, whose talents and motives he had always been in the habit of revering, Mr. R. thought, bore no proportion to evils which might result from a contrary decision. He had said that transient persons might be elected members of that House: the confidence in this particular was reposed with the people; they were to take care that a man who did not possess Constitutional qualifications should not be sent there; and if it were discovered by the House that one of its members was not constitutionally qualified, his seat would be vacated.

Mr. R. observed that the doctrine laid down by some gentlemen, that the electors and elected should possess similar qualifications, did not seem to him to be the sense of the Constitution, for it had annexed different qualifications. Perhaps it would be good policy in the States not to annex qualifications even to an elector, which did not attach to the elected. It seemed that the State of Virginia had enacted that no person should be entitled to vote who was not a freeholder; and it was argued that, therefore, no person could be elected who did not possess that qualification, which was contrary to the sense of the Constitution.

Mr. R. said he would therefore conclude, with expressing an opinion in favor of the resolution of the Committee on Elections; and that he was convinced of the right of the House to determine on the constitutionality of a State law, when it came legitimately before them, as in the present case. Whilst he relied on the State sovereignties, he also revered the National sovereignty, as one, without which, the State sovereignties could not be preserved; and by which, if the State sovereignties were assailed, they could alone be rescued.

Mr. Johnson said, it was with reluctance that he submitted to the consideration of the Committee a few remarks on this subject. It was not his wish, at this or any other time, to occupy the attention of the House unnecessarily. The importance and magnitude of the principles involved in this question might have been considered sufficient to have prevented a new member from rising at all; but the course which the argument had taken, and the form which the discussion had assumed, had alone induced him to express the reasons which would influence him to vote in favor of the report. It had been said that there was, on this occasion, a conflict between the State and Federal sovereignties: he considered the State sovereignties as the great palladium against anti-republican tendencies and encroachments on rights; and, while he retained a seat in that House, he would, in any conflicting case, give the power contended for to the States. But, on this occasion, the question was on the Federal Constitution, and whether any State Legislature, or

any other power of legislation, could add qualifications to any member of that House. He laid it down as a principle, that every contraction of qualifications for Representatives was an abridgment of the liberty of the citizen. The power of adding other qualifications than those fixed by the Constitution would, in his opinion, be a breach of the right of suffrage. If the principles contended for in the Constitution were not calculated to secure the liberties of the people, and a resolution to amend the Constitution were offered, he should be the first to sanction it. But when they contended for an abridgment of the liberties of the people, as by this amendment, he should oppose it. He was in favor of the report of the committee. One single reflection on this subject had influence on his mind. The observations of the gentleman from Virginia had almost made him doubt whether to give a positive vote on this principle; but he was not satisfied that any Legislature of the Union had a discretion under the Constitution to legislate on these important principles; he thought that discretion rested only with a convention of the people; he thought that any right to abridge qualifications was denied, both to the State Legislatures and to the legislation of the Union. Was it not a principle of Republican Government, that they should have well defined the qualifications of the electors and the elected? Should any power but the people themselves have a right to alter the qualifications required by the Constitution, and then in convention only? Would any power less than a convention of the State of Maryland assume the right of adding a disqualification?

The gentleman from Virginia had told them that the Constitutional disqualifications were negative. There were three: that no person should be eligible as a Representative who shall not have attained to the age of twenty-five years; who had not been a citizen of the United States seven years; and who was not an inhabitant of the State at the time of his election. This clause of the Constitution being negative, it had been said that the State Legislatures were not precluded from adding others: the reason for this negative expression was obvious. The people had a natural right to make any choice; and that would be an unlimited right, but for the Constitution. Every rational being would be eligible by the people, if no disqualification were annexed; and it seemed to Mr. J., if there actually existed no disqualification, the people would exercise their right of choice with much prudence: it would be consistent with their natural liberty. It therefore appeared unnecessary for the Constitution to have stated, affirmatively, who should be eligible, because all were so but those barred by the exception; an expression, then, of the negatives was all that could be necessary. There was a great distinction between the power of the people in convention, and the power of a Legislature growing out of a Constitution, which the people had entered into in their sovereign capacity. The great object of the people in convention was for the purpose of fixing upon primary and fundamental rules and regulations, to give form and organic structure to the society and body politic: among those primary principles, none had been considered more important than those which fixed the qualifications of electors and the elected. The term of service and tenure of office were principles which had never been left to the power of legislation, because they were the basis, the foundation, of our Republican institutions.

Mr. J. said, there were now in the Union seventeen States, and he would ask for a case in which these principles had been left in the power of any Legislature. They had, in all cases, been fixed by the people in convention. If, in this instance, disqualifications could be added, the same negative expressions ran through the Constitution, as respected all other elective officers, the President, Vice President, and Senators, and other disqualifications could, by the same rule, be extended to them.

One word on the subject of the State sovereignties and Federal Government. There were many subjects in which they had concurrent powers. In those cases, Mr. J. said, he would always decide in favor of the States.

Mr. Randolph moved that the Committee should rise, in order to recommit the report to the Committee of Elections to the end that the fact of residence might be ascertained.

Mr. Troup most heartily gave his assent to the proposition. Ever since the report had been laid on the table, he had been seriously impressed with the solemn import of the question submitted to the House for decision; a decision which might yet be avoided if the facts were as stated by the gentleman from Maryland. He was averse to deciding it on Constitutional ground, although, were the question of necessity before them, he should not hesitate about it. He felt himself embarrassed when called on to decide on a right exercised by States, and he thought the House trod on delicate ground, when, by adopting this report, they proclaimed to the world their own omnipotence. They ought to avoid, if possible, a decision on the rights which had been exercised by States. For this reason he should hope the Committee would rise.

Mr. Quincy did not understand the precise reason given by the gentleman from Virginia, for his motion that the Committee should rise. He believed the gentleman was not present before the House went into Committee of the Whole, when a motion was made to recommit, in order to obtain further information. It was then stated that all the facts, in the possession of the Committee, were before the House. If the gentleman had no other view than this, he should vote against the motion.

Mr. Desha hoped the motion would prevail. The present was an all-important question, one on which he had not prepared himself to vote, and he wished to obtain time to deliberate on the subject.

Mr. Love said he had indulged a hope that a recommitment of the report of the committee might have taken place, from a supposition that

there were other facts attending the case, which, from the point on which the committee had decided, might, by them, have been deemed unimportant.

The great respect, said Mr. L., which I feel for the political characters and talents of the members of the Committee of Elections, has given this report a very imposing influence on my mind; yet, however painful it is to me to differ in opinion with that most respectable committee, on this occasion I conceive my duty makes it indispensable that I should express my dissent from the doctrines contained in their report.

In discussing the great Constitutional question I conceive to be involved in the report, I shall adopt the division which the subject seems naturally to require.

1st. Whether the right to legislate on the subject contemplated by the laws of Maryland, mentioned in this report, does not, of necessity, reside in some Legislative delegation; and, if so,

2dly. Where does it reside?

I shall contend for the affirmative of the first proposition. The great object of Government no doubt is to attain to that degree of political perfectibility, which, without invading the natural rights of men, shall be consistent with expediency and convenience. Is the power, then, contended for by Maryland, in the act of her Assembly, consistent with expediency, and no infraction of individual rights? If it is, I presume it is included in the common and usual powers of legislation, and must be found to exist either in our State or General Government. The confusion that would be attendant on the mode of election, and the total want of any local representation, are too obvious to need comment. The right to legislate at all upon this subject, I had not until to-day supposed would be questioned; and I confess, although now denied, I have heard no satisfactory reason offered in support of such an opinion.

Forming, then, as I presume, a proper object of legislation, I will next proceed to inquire where, according to the nature of our civil institutions, it must be presumed to reside.

If it resides in the General Government, it must be admitted that, according to the nature of that instrument, it must be found to be expressly delegated. An argument to prove this position, I should have presumed, at this time of day, unnecessary. If there are any here who doubt this position, I would, in the first place, refer them to all writers on the subject of our political institutions; for all who speak on the subject admit that the powers delegated to the Federal Government are to be taken strictly, and that nothing is considered as granted unless expressed to be so. I would next refer such gentlemen to the first section of the first article of the Constitution of the United States, which is in these words: "All Legislative powers herein granted shall be vested in a Congress," &c. And if a doubt yet remained that no powers were granted to the General Government, except those expressly enumerated, I would finally remind them of the provisions contained in the twelfth article of the amendments to the Constitution of the United States, and in the solemn, emphatic language of the gentleman from Pennsylvania, (Mr. Smilie,) invoke them to remember their oaths when about to decide this question.

But it has been argued, and such seem to be the principles on which the report is grounded, that the power to make laws on this subject is expressly vested in Congress; and in support of this proposition, different parts of that instrument are relied on. Let us examine those parts. The first mentioned in argument is in these words: [Here Mr. L. read the first and second paragraphs of the second section of the first article of the Constitution.] Here no grant of power is to be found. I never before understood that a restriction in any instrument, which is in its nature negative, could imply a positive conveyance of a right, or that more was withheld than the negative, or exception expressed; on the other hand, it is a maxim of construction, as it respects our Constitution, that no rights pass by implication.

Another part of the Constitution which has been argued on in support of the resolution, is the fourth section of the same article; and something has been inferred from the latter part of this section in favor of the power, because it would seem that only a concurrent right is granted the States of legislating on the time, place, and manner of holding the elections. This is not an exclusive one in Congress; and although I am not of opinion that any part of the Constitution may, by *non-user*, become obsolete, according to a rule of construction which applies to laws, yet, I think, on another ground, that the supposition is correct, that this power vested in Congress may be considered as a dead letter, because it never will be acted on; for, before a regulation can be made in pursuance of it, such regulation must be concurred in by the other branch of this Legislature, who are the immediate representatives of the States, in their political capacities, and who will, of course, guard their rights; and because, too, before such regulation would be carried into effect, it must receive, most probably, the Presidential approbation.

But it has been further argued that the right of enacting laws on the subject which the law of Maryland contemplates, is vested in Congress, under the fifth section of the first article of the Constitution; the words are, "Each House shall be the judge of the elections, returns, and qualifications of its own members." And it seems to be presumed that, because we are to be the judges of those qualifications, we have consequently, the right to constitute or enact the qualifications. The functions appear to me to be entirely distinct, as much so as the power of making the law is distinguished from the power of judging on it when made. One gentleman, indeed, the gentleman, I believe, from Connecticut, (Mr. Sturges,) has properly observed that we were acting, on this subject, in a judicial character, and in this opinion I concur.

We have been alarmed, from different quarters of the House, with the great dangers which would

result to the Government, from admitting that the State Legislatures should have the right of enlarging the qualifications prescribed in the Constitution for the elected; and some gentlemen have said that if the power exercised by the law of the State of Maryland is yielded to be in the States, they may superadd the age of thirty or forty to that of twenty-five, as fixed on by the Constitution; while others have deprecated the exercise of those powers by the States, lest they might require that the residence of the elected should be confined to a particular street or house, or that he should profess particular political opinions. To all this kind of argument, but one kind of answer need be offered; and that is, that we must rely on the discretion of the State sovereignties to exercise this, as well as all their other powers, under the control of a sound discretion. Nor can I for a moment suppose that those powers, necessary to the proper management of our political institutions, are confided with less safety, or subjected to a greater risk of abuse from the State, than from Congressional authority. I should, on the contrary, think that a power so necessary to be exercised, would be most safely confided, where the responsibility to the constituent was most sensibly felt. This is the case in a greater degree in the State governments, than under the Constitution of the United States. In the former, the elections are annual in all the States, I believe, while the elections to Congress are biennial. Much less risk is certainly to be apprehended from the acts of seventeen or more distinct sovereignties, each of which is composed of as many members as constitute the National Legislature, than from the conduct of a Congress, consisting of members from the distant and distinct parts of a widely extended empire, comparatively few in number, and whose peculiar interests might lead them to the adoption of measures inimical to the freedom of election. If the members of a State Assembly might be presumed to entertain designs of fixing their friends or themselves in office, by making an income of fifty thousand dollars per annum the qualification of a member, as the gentleman from Kentucky seemed to suppose, the danger would certainly be less, when the same power was confided to a body elected for the term this is. But why is so much to be apprehended from the exercise, by the States, of the power acted on by the Legislature of Maryland? Can we be afraid to trust the States with the exercise of this little power, with the most unreserved discretion, while they hold, under the express provisions of the Constitution, powers so much more important? Do gentlemen reflect that in the hands of the State governments, is the power to terminate, at will, the existence of one branch of this Legislature, and of another entire department of the Federal Government? Yes, sir, in the palms of their hands do the State sovereignties hold the being of the other branch of the National Legislature; and without their resuscitating breath, the Executive of the Federal Government must die, and be extinct forever. Good policy, as well as the happiness of us all, requires, that we should endeavor to harmonize with the States. Let us avoid all collisions of authority; they may disturb the peace of us all.

In the opinion I have formed on this subject, I feel great confidence, from the uniformity of construction which the State Legislatures have put on their powers. In perhaps every State in the Union, have laws been enacted of a similar nature to that which is now the subject of consideration. In Virginia, I acknowledge there is such a law as the gentleman from North Carolina (Mr. Alston) has mentioned. It certainly goes further in principle than the law of Maryland. Yet I think it a wise one in securing to the people the choice of Representatives, whose interests are, in some measure, assimilated to their own. Fourteen or fifteen other States, I believe, have, many years ago, and some of them of a date perhaps coeval with the operations of the General Government, passed laws of a similar nature with that under discussion. When we find so many distinct, enlightened bodies as the State Legislatures are, simultaneously acting in the same manner, on the same subject, without any previous concert, I confess it strongly supports me in the correctness of the opinion I have formed.

Mr. Rhea, of Tennessee, and Mr. J. Clay, wished the Committee to rise, in order to a recommitment of the report to the Committee of Elections.

Mr. M. Clay advocated the report, and opposed the recommitment. But if gentlemen wished the Committee to rise, to give them further time to display their talents, he had no objection, though he must say he was averse to these long arguments, and would rather have one good vote than fifty bad speeches.

Mr. Blackledge wished for a division of the question, so as to ascertain the sense of the House on both the contested points.

Mr. Gardenier was opposed to deciding on the Constitutional question, as he thought it was not necessarily before the House. It did not interfere with his making up his mind, nor need it with others.

The Committee then rose, and obtained leave to sit again.

Monday, November 16.

Two other members, to wit; from Virginia, Wilson Carey Nicholas; and from North Carolina, Nathaniel Macon; appeared, produced their credentials, were qualified, and took their seats in the House.

Mr. Holmes said he was instructed by the Committee of Claims to move, that they be discharged from the further consideration of several petitions on compensation for services during the Revolutionary war, and to move that they be referred to the committee appointed on the subject of claims barred by the statutes of limitation.—Agreed to.

Mr. J. Clay observed that he understood many large purchases had been lately made by different agents for the United States, some of whom are

paid for their services a certain per centage on the amount of these purchases. He thought this the worst possible way of expending the public money. For the purpose of inquiry, and to bring the subject before the House, he moved the following resolutions, which were adopted:

Resolved, That the Secretary of War be directed to lay before this House an account or estimate of the purchases of merchandise and supplies made on behalf of the United States by the Superintendent of Indian Trade, by the Surveyor of Public Supplies, and by the military agents in the different districts, for the three years ending the 30th day of September last, specifying, as far may be practicable, the amount purchased, for what departments, at what place, and by what officer, together with the emoluments, commissions, or salary allowed to such officer.

Resolved, That the Secretary of the Navy be directed to lay before this House an account or estimate of the purchases of merchandise and supplies made on behalf of the United States by the navy agents in the different ports of the United States, for the three years ending on the 30th day of September last, specifying, as far as may be practicable, the amount purchased in each year, at what port and by what agent, together with the emoluments, commissions or salary allowed to such agent.

Mr. POINDEXTER, after a few preliminary observations, exposing various defects in the organization of the courts of the Mississippi Territory, moved the following resolution, which was adopted; and a committee appointed accordingly, consisting of Mr. ELLIOT, Mr. VAN ALLEN, Mr. KEY, Mr. HOWARD, and Mr. POINDEXTER.

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary in the act entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes," and also in the act, entitled "An act to allow jurisdiction in certain cases to the Territorial courts," and that they report thereon by bill or otherwise.

Mr. BARKER moved the following resolution, which was negatived, 50 to 47:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of granting a bounty on all salt which shall be manufactured in the United States, and report by bill or otherwise.

Mr. M. CLAY moved the following resolution, which was adopted, and a committee appointed, consisting of Mr. M. CLAY, Mr. THOMAS, Mr. BUTLER, Mr. DANA, Mr. CHANDLER, Mr. HELMS, and Mr. DESHA:

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary to be made in the militia laws, and that they report by bill or otherwise.

Mr. DANA said he had a resolution prepared for the purpose of calling the attention of a committee of this House to a subject materially interesting to the sovereignty of the nation; the committee he wished to instruct was that on aggressions committed on our waters, &c., but as he did not see the chairman of that committee in the House, he should lay it on the table and call it up when that gentleman was present.

The resolution laid on the table was as follows:

Resolved, That the committee to whom was referred so much of the Message of the President of the United States as relates to aggressions within our ports and waters, to violations of our jurisdiction, and to measures necessary for the protection of our ports and harbors, be instructed to inquire into the expediency of providing for the employment of adequate force to compel the immediate departure of such foreign armed vessels as may be found remaining within the waters of the United States in defiance of any interdictory Proclamation duly issued by the President of the United States; and that the committee have leave to report by bill, or otherwise.

MARYLAND CONTESTED ELECTION.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Elections, to whom was referred the memorial of Joshua Barney, of the State of Maryland, stating his claim to a seat in this House, as one of the Representatives for the said State.

Mr. BIBB said, that when he had spoken on this report on a former occasion, he was too much embarrassed by his ill health to go fully into the subject. It appeared to him to embrace two distinct questions. He was himself in favor of rejecting the report, and yet agreeing with the resolution which it recommended. In order to overcome the difficulty in which he found himself, he had proposed a resolution, which he had withdrawn in order to make way for that proposed by the gentleman from Maryland, (Mr. MONTGOMERY,) which was also afterwards withdrawn. To effect his wishes, he now offered the following resolution:

"*Resolved*, That William McCreery is duly elected, agreeably to the laws of Maryland, and is entitled to his seat in this House."

Mr. B. said that it appeared there was a majority of the House in favor of the election of Mr. McCreery, but that there was a difference of opinion as to the reasons which should influence that decision. To avoid this inconvenience, it had been suggested by the gentleman from New York, (Mr. GARDENIER,) that it would be better to take the question on the fact of his election only, unconnected with the report of the Committee of Elections. If there were any other mode of getting over this difficulty, Mr. B. would not have proposed this resolution. The report now before them declared Mr. McCreery entitled to his seat, and assigned certain reasons for it. It had been said by a gentleman, whose opinions he highly respected, that they were now about to decide on the resolution, and not on the report. If Mr. B. could have believed this, he should not have wished the report to be amended; but it appeared to him, that if ever hereafter a similar case should occur, by resorting to the public journals, it would be found that this decision had been made on the report of the Committee of Elections, who had given certain reasons for their opinion, and these reasons would certainly be considered as adopted by the House. He could see no escape from the difficulty, but by such a resolution as that which he had proposed; for, if a decision were taken on that, and

a majority were in favor of the sitting member, there would be an end to the business.

Mr. B. said, as he had offered this resolution, and stated the grounds on which it was founded, he would state some of the reasons which had operated on his mind in its favor. A law had been passed by the Legislature of Maryland, some years ago, which directed that a Representative from the State should have been a resident of the district from which he was elected, and should have been so twelve months previous to the election. By another act passed since, the district of Baltimore was entitled to two Representatives—one from the town, and one from the country. By this law, no term of residence was prescribed; it merely directed that the Representative from the town should be a resident. The law not declaring the length of time necessary to a residence, the House were at liberty to put the same construction on the law as had been assumed by the inhabitants of the town of Baltimore. It appeared that Mr. McCreery had resided sometimes in the country, and sometimes in the city. His intention was to reside there during the Winter, but he was called away by public business. And, though it did not appear that Mr. McCreery did reside in the city during the Winter months, it appeared that he would have done so, but that his absence at Washington on public business prevented him. He was, therefore, to be considered as fully and completely a resident as if he had actually resided there during the Winter. Mr. B. recollected that, on this subject a decision had taken place in the State which he had the honor to represent. A plea was offered against the due election of the Governor, on the ground of non-residence. His situation was similar to that of Mr. McCreery. His plea of residence was sustained, and it was decided that he was a resident of the city of Savannah.

In the construction of laws, Mr. B. said, it was a sound principle, that whenever the reason of the law was satisfied, the law itself was satisfied. Who were the people interested in the decision of this question? The people of Baltimore themselves. What view had the Legislature of Maryland when they passed this law? They had presumed that there might be a collision of interests between the city and the county—between the commercial and agricultural interests—and thought correctly that they should both be represented. Therefore, had the law been passed which directed that one should be chosen from the city, and one from the county. For several years, Mr. McCreery had been a Representative from the city of Baltimore. At the last election he had received a large majority, not from the county only, but from the city of Baltimore. Now, if the people who were interested in the election, had, by their suffrages, determined that Mr. McCreery was a resident of the city of Baltimore, and were willing that he should be their Representative, why was any question necessary, even as to his residence?

Mr. B. concluded with saying that this decision of the people would be, with him, a sufficient inducement to vote in favor of the sitting member.

Mr. RHEA, of Tennessee, suggested to the gentleman from Georgia the propriety of withdrawing his amendment, in order to allow Mr. R. to make a motion for striking out of the report of the Committee of Elections the word *therefore*, preceding the resolution which terminated the report, and which would completely separate the resolution from the report. An amendment of this kind, Mr. R. thought, would remove all difficulty.

Mr. QUINCY would submit to the Committee a few observations on the great question now under consideration. He had heard the observations of the honorable chairman of the Committee of Elections, (Mr. FINDLEY,) and the arguments of a member of the committee, (Mr. STURGES,) in favor of the report, and he confessed he was perfectly satisfied with the reasoning of the report, and with the justice of the decision which it recommended. But his mind, as well as that of every member in the House, was turned very forcibly to the subject by the solemn appeal made to them by the gentleman from Virginia, who had placed the subject in so strong a point of view, that it had determined him (Mr. Q.) to look into the Constitution, and consider it well before he gave his vote on the question. He had done so, and it had only more fully satisfied him of the justice of the report. He should not submit to the House the reasons which had actuated him in this decision, had they been anticipated by any gentleman who had yet spoken on the subject.

In order to the investigation of this report, it would be necessary for him first to make one or two remarks in reply to observations made by the gentlemen from Virginia on his right and left, (Mr. LOVE and Mr. RANDOLPH.) The gentleman on his left, who first spoke on the question, had said that, in declaring a law of a State unconstitutional, they were proceeding on dangerous ground, and had objected to a decision on the law of Maryland from that consideration. Mr. Q. said, if they even thought with that gentleman, they were compelled to decide the question. But there was a way of amending the Constitution of the United States; and if the people did not approve the decision which the House might make, the remedy was in their own hands. The question therefore of danger was not a consideration to deter the House from the exercise of its duty; they were to look into the Constitutional right, and pursue the path of their duty, without suffering themselves to be influenced by any other consideration. There was another observation of the gentleman from Virginia, which he should not have noticed at all, if it had not been thrown out so conspicuously; it was to this effect: that a respect for the State laws was a criterion of the American character. This observation, Mr. Q. said, confined within its proper sphere, was undeniably correct: but so was respect for personal and national rights a criterion of American character. He did not mean to apply this observation to the gentleman from Virginia, because his expression had not authorized it; but if it were meant by the gentleman, that the national rights should yield to the State rights, he could not reconcile the doctrine with his sense of duty. Powers were given to Congress by the peo-

ple, to be exercised agreeably to the provisions laid down in the Constitution. It was their duty to examine what those powers were, and when ascertained, to exercise them in all cases on subjects which came properly before them. He thought the General Government should yield no further to States than it would to individuals. He respected the State authorities within their natural and Constitutional bounds, moving within the orbits which had been assigned them. If they transcended these orbits, they should meet with no respect from him. The Constitution contemplated, and indeed made it a duty, that they should examine into these things.

There was an error in point of fact, which it appeared to Mr. Q. had crept into the arguments of gentlemen who supported the constitutionality of this law, viz: that the Constitution was a confederation of the States. The gentleman from Virginia, who had so forcibly drawn his attention to the subject, had quoted the Constitution in support of this argument. There was an important article in the Constitution which the gentleman had no doubt not intentionally omitted, that "The powers not delegated to the United States 'by the Constitution, nor prohibited by it to the 'States, are reserved to the States respectively, 'or to the people." It was a delegation of powers in the Constitution, not merely to the States, but to the people, who constituted those States. The language of the Constitution was not *we the States*, but *we the people* of those States. Their power was derived from the people; they were responsible for the exercise of that power to the people, and not to the States. The authority of Congress was as broad as that of the States, within the limits prescribed by the Constitution, and as dear to the people. The only question in all these cases was, whether the powers they exercised were agreeably to the Constitution. The people were the basis of their power, and this House derived its authority from them, and not from the States. The people had not allowed them to receive their powers from the States; they meant that Congress should receive their powers from the people alone; and the people had said to them, "Exercise these powers," without allowing them to make any barter or sacrifice of them, or to yield them to the States.

Much had been said, and a loud warning given to the House, not to adopt powers by mere construction. Mr. Q. was happy, that in this case, they were assuming no powers not expressly delegated to them; and this brought him to the arguments which he would offer on the provisions of the Constitution.

Mr. Q. said that he laid it down as correct, that there was a great distinction between *powers granted* and *rights reserved* to the people. In the first clause of the fourth section of the first article of the Constitution, it was provided that "the 'times, places, and manner of holding elections 'for Senators and Representatives shall be pre-'scribed in each State by the Legislature thereof; 'but the Congress may, at any time, by law, make 'or alter such regulations, except as to the place 'of choosing Senators." Here was a power granted, and to whom? To the States. It was a qualified power which the people had granted; for in case Congress chose to exercise this power, the States could not exercise it; but till that time the States were at liberty to exercise it. What was the power? The power of prescribing times, places, and manner. Did the case at present under consideration come within either of these? No construction of the Constitution would warrant the supposition that it was included in either. It must be remembered, that if the power of fixing qualifications be not given in this clause, it was given nowhere; there was no delegation of it to the people, or to the States. Another part of the Constitution says, "each House shall be the judge of the elections, returns, and qualifications of its own members," &c. Here then it appeared that the power of judging of the qualifications of its own members was given to that House, and not to any State. The time, place, and manner, they *might* direct; but the power of determining on Constitutional qualifications belonged *exclusively* to that House. As to rights reserved, now came in the tenth amendment to the Constitution, cited by the gentleman from Virginia on his right, which speaks of rights reserved to the States, or to the people. What rights? When the whole right of voting was the subject of consideration, as it was at the formation of the Constitution, the exclusion of a part was the inclusion of the remainder. The Constitution had said that certain persons should not have a right to be elected members of this House: was not this a declaration that all others might? This was a right then which was reserved to the people, and not to the States. Gentlemen might show the wisdom of giving it to the States, but not the necessity, except they could show some objection to the people's exercising that power.

He would not, upon this occasion, enter into any inquiry on the question of expediency, because, according to his view and clear conception of the Constitution, he could not consider an attempt made by a Legislature of any State to annex qualifications, in any other light than as a direct violation of the rights reserved to the people. All question on expediency was therefore at an end, although the arguments which had been drawn from the consideration of expediency were very strong; for if the States could annex one qualification, they could annex another, and they would make one class of men alone eligible, and destroy the fundamental principles of our Government.

The gentleman from Virginia had, the other day, introduced a doctrine intended to excite the apprehensions of the members of the House. He had said that, by the laws of some States, persons of color would have a right to enjoy the privilege of a seat on that floor. Would it be said, from this reason, that the States had a right to affix qualifications? The case was so extremely absurd that Mr. Q. would not have noticed it, but from an effect which this power in the State might produce, and one much more likely to happen than that which the gentlemen had supposed, considering the prejudices of the Southern States. Suppose that one of the Northern States should say that *none but* a black man or a man of color should be elected. He did not expect it ever would be the case, but merely placed the question in a strong point of view, to show that the power contended for by the gentleman might have fully as dangerous an operation as the denial of that power.

The other gentleman from Virginia (Mr. LOVE) had asked if they could not trust the States. Certainly they could. But if the authority now exercised by some of the States did not belong to them, they neglected their duty if they did not put a stop to it. The doctrine which the gentleman had urged, did not flow from the conclusions of the case which he had cited. The power of dividing the State into districts for the election of Representatives, was within the authority of the States; but when they said they should be residents in those districts, they exceeded their Constitutional authority. Such a law, so far as it could operate on the people, was no more than a recommendation to them, from the sovereignty of a State, that they should choose a Representative resident within their own particular district. But if the people choose to elect an individual in every other respect qualified, out of any other part of the State, in making that choice they would exercise no more than their right.

Mr. Q. would, in conclusion, merely recapitulate his arguments. 1. He contended that the right to be elected, was a right of the people, which they had reserved to themselves, except as limited by the Constitution. 2. That they had not given to Congress the power to increase the number of qualifications, because it came within neither time, place, nor manner. 3. That if the House should determine that the States had a power to annex these additional qualifications, they would sanction in the States an exercise of authority which could not be justified by the Constitution of the United States.

Mr. KEY.—Mr. Chairman, if the Committee will have the goodness to indulge me, I will assign the reasons which induce me to hope the present amendment may be rejected. I am in some measure called upon by the observations of an honorable member who has taken part in this debate, and who has endeavored to alarm our fears for the safety of the State sovereignties, in case the law of Maryland should be declared unconstitutional. If the Legislature of Maryland has, in the instance before us, transcended its authority, however delicate the ground we tread on, our duty must be performed. We are to decide on the Constitutional qualifications of a member returned duly elected, and on this subject our powers are judicial, not legislative. Under the Constitution, we are expressly made judges of the qualifications of the members. We are sworn to support that Constitution, and must discharge that duty with integrity and uprightness.

One objection to the amendment is, that it covertly causes us to decide on the very point which it openly professes to avoid. Whoever votes in favor of the proposed amendment, does recognise the constitutionality of the State law; and hereafter it will be cited as a precedent in support of State authority; and, if such be the opinion of the Committee, let it be openly and fairly avowed.

It has been said by an honorable gentleman from Virginia, that if there was an unerring criterion by which to judge of a person's political sentiments, it was his adherence to the State sovereignties; and so far I agree with him; but permit me to go one step further, and say that it is equally an unerring criterion to judge of a person's political correctness, to ascertain his attachment to the Constitution of the United States; for it is in vain to profess an attachment to one, at the expense of the other; both, as the basis of political security, must be equally respected. The State and General Governments must respectively move in their proper orbits, constitutionally assigned them; like a well constructed piece of mechanism, all will move harmoniously whilst each part performs what is assigned it. Should, however, the State governments usurp authority over the qualifications of Representatives, we must not shrink from our duty, but judicially declare the usurpation, and pronounce the act void.

The question is not fairly presented to the House. It is not whether Mr. McCreery or Mr. Barney is entitled to a seat in this House. That is a minor consideration, wholly absorbed. The real question is this: "Shall a portion of the people of the United States, claiming their Representative under the Constitution of the United States, be restricted in their choice by a State law? Can a State abridge the elective franchise, by superinducing other qualifications in the elected than those required by the Constitution of the United States?" I have before stated, and I now repeat, that I will not vote on this subject, because I may be supposed to have an interest in the decision, as it involves principles to be decided in my own case; but though I shall not vote, I hold myself free to assign my reasons, and thereby endeavor to protect in my constituents those privileges which the State has endeavored to take from them. To whoever will attentively consider, and compare the different passages in the instrument in my hands, (the Constitution of the United States,) there can exist no doubt but that all legislation is closed as to the qualifications of the elected or Representative; being a Constitutional provision, neither Congress nor the State Legislatures can interfere.

By the second section of the first article, it is declared, "The House of Representatives shall 'consist of members chosen every second year by 'the people of the United States, and the electors 'in each State shall have the qualifications requisite for electors of the most numerous branch of 'the State Legislature." This is all that respects voters. Let it be remembered that the Convention who formed the Constitution of the United States, had met to form a National Government, and that the right of suffrage presented itself clothed with great difficulties, no two States having precisely the same qualifications. In the State of Virginia, a freehold qualification was

necessary to entitle a citizen to vote. In some States a certain amount of personal property was necessary; in others universal suffrage prevailed; in some was combined, with the elective franchise, a longer or shorter period of previous residence, of age; and one permitted a certain class of females to vote. From this view of the elective franchise, may at once be perceived the difficulties under which the Convention acted, and the almost impossibility of a uniform qualification: for, had the Convention adopted, as a uniform rule, the qualifications prescribed in any one State, it would have violated the habits and practice of almost every other State. To avoid this difficulty in a Government founded on compromise, and to go into operation on the subsequent adoption and approbation of the citizens, a most happy expedient was devised, which was, to give to the electors in each State for Representatives to Congress, the same qualifications that were requisite for the most numerous branch of the State Legislatures. This could not fail to be acceptable to each State, because it adopted the usage of each State. Our patriot Convention conformed, as far as was practicable, to the wishes of the several States, and this spirit of compromise pervading the Constitution of the United States was the pledge of its adoption.

The second paragraph of the second section of the first article of the Constitution of the United States is in these words: "No person shall be a 'Representative who shall not have attained the 'age of twenty-five years, been seven years a citi- 'zen of the United States, and who shall not, when 'elected, be an inhabitant of that State in which 'he shall be chosen." Before we examine this article, let us see by whom, and for whom it was framed.

The Convention who formed the Constitution of the United States, represented not the States, but the people of the United States. They met to form not a State government, but a National Government for the people of the United States. The sovereignty of each State was solemnly guarantied by the Constitution, and as each State, whether great or small, was equally sovereign and independent, each State is equally represented in the Senate of the United States; each State sends two members; and this is the federative feature in our Constitution; but the House of Representatives was intended as the immediate representation of the people of the United States. The Constitution begins: "We, the people of the United States;" and the Constitution having defined the qualifications of the electors, it proceeds to define those of the Representative, or elected. It was surely competent to the Convention, who represented the people of the United States, to say what qualifications their agent, Representative, or law-maker, should possess, and they accordingly fix three: 1st, That he shall be above the age of twenty-five. 2d. Seven years a citizen of the United States. And, 3d. An inhabitant, when elected, of the State in which he shall be chosen. Uniformity could not, I have shown, be obtained as to the qualification of the electors; but it was most desirable in the elected, and, as it could be easily obtained, is accordingly specified in the Constitution; and the expression of these qualifications in the Constitution, is the exclusion of all others; so, to define the qualifications of the elected, was within the power of the Convention, was their duty, and is set forth in the Constitution itself.

But it is objected that the expressions used in the Constitution are negative ones, and do not prevent the States from superadding other qualifications. To this I answer, first, that if the words are changed into positive instead of negative terms, it makes no difference in the meaning; for instance, each Representative shall be above the age of twenty-five, &c., creates no difference in the construction or meaning of the article. You may make a new article to remove the difficulty, but the present one cannot be altered in signification, whether the terms remain negative, or are changed to affirmative ones. I will hereafter consider the effect of these words, when used to describe the qualifications of President.

Secondly. As to the power of the States to superinduce other qualifications to the three enumerated in the Constitution of the United States, I say, and I lay it down as a political truth, that the States, in their sovereign capacities, have no power, right or authority to interfere with the elections of Representatives to Congress, except so far as the Constitution of the United States gives them special powers so to do. By what authority do the several States interfere in elections of Representatives to Congress? Let each man honestly put this question to himself. Is it under the principles of State sovereignty? No. By what authority, then? I answer, by the express authority of the Constitution of the United States, in these words; first paragraph of fourth section of article first: "The times, places, 'and manner of holding elections for Senators 'and Representatives shall be prescribed in each 'State by the Legislature thereof; but Congress 'may, at any time, by law, make or alter such 'regulations, except as to the places of choosing 'Senators." Every man acquainted with our political institutions must say that the State Legislatures derive their authority from the above article, to interfere with the United States elections. It was impracticable for the Convention to introduce an election law into the Constitution; they, therefore, left certain powers with the States. What are those powers? To regulate the time, place, and manner of holding elections. It is a special, limited power, for particular designated objects. The first branch of the power gives authority to the State Legislatures to regulate the time of holding the election; surely the time of holding the election has no relation to the previous residence or qualification of the candidate. Secondly. The State Legislatures may regulate the place of holding elections; manifestly this power has no reference to the qualification of the candidate. And thirdly: The State Legislatures may regulate the manner of holding elections. Now the manner of holding an election has no

connexion with the previous residence or qualification of a candidate; but it implies that the election may be *viva voce*, by ballot, by districts for the convenience of the voters, or by the States in a general ticket. When the Constitution designates three qualifications, and no more, and when that same Constitution gives to the States the limited power to prescribe the time, place, and manner of holding elections, can any reasonable man believe that the States have power to add qualifications of age, property, or residence? If the States have power to add one qualification, they have power to create all. If they can make one year's previous residence in a district necessary, they have equal power to make forty necessary; and if they can limit the residence (as in this case of McCreery) to a particular part of the district, they may to a particular house in the district, and so localize a man as to take all power of election from the people; totally destroy the elective franchise. They may say, with equal power, that no man under £1,000 a year shall be a Representative. Mr. Chairman, the people of every State in the Union have a direct interest in every member of the House of Representatives; these members do not represent, in this House, the people of any particular State, but the people of the United States generally, and are competent to raise taxes from the whole people of the United States, though all the Representatives of any one State should oppose the law, and to bind all the people in every State by their votes and acts: hence the people in each State are interested in the qualifications of the Representatives of every State, and no one State can destroy the right. It was from this great principle that every Representative, from whatever State he comes, may, by his acts and votes, bind the citizens of other States, declare war, or lay taxes, that the Constitution defined the qualifications of the elected; limited the power of the States simply to the time place, and manner of holding the elections; and declared, in terms too plain to be perverted, "We the people" of the United States have declared who may elect, and who be elected, and we leave to the States (until Congress shall otherwise direct) the power to prescribe the time, place, and manner of letting such qualified electors choose such qualified Representatives.

It has been said, but faintly relied on, that if the States have power to fix election districts for the electors, they may equally locate the Representative. But this is a great mistake. The Constitution, in permitting the States to determine the manner of holding elections, permits them, if it suits their convenience, to hold them in districts; but the attempt to curtail and rob the people of their elective franchise, by making the eligibility of the candidate depend on the locality of his residence, is out of their power, and not given to them by the Constitution. As to the propriety and policy of such power being placed in a State, it is not now a question. We are not framing a constitution. We are examining where it is placed by our Constitution. If it is not well placed, there is a Constitutional mode of altering it.

But gentlemen say that the States, for twenty years past, have added qualifications of residence to Representatives. To this I answer, that if the Representative is a resident of the district, he must, *ex necessitate*, be of the State and of course have the Constitutional qualification. But I perceive great danger in this doctrine. Violations of the Constitution, by some of the States, are now cited as precedents from which destructive conclusions are drawn, although the cases cited have never been acted on. Thus the assumption of power by the Legislatures of some States, is made to justify itself. If these innovations, thus practised, and never brought judicially into view of this House, are permitted to go on, they will, in time, like water dropping on a stone, wear away the very substance of the Constitution.

Now is the time to act on the subject. It is fairly before us on the report of the committee; and in what capacity do we act? In our judicial capacity, as judges, under these words in the first article of the fifth section: "Each House shall be 'the judge of the elections, returns, and qualifica- 'tions of its own members." We have no discretion as a legislative body. We cannot look into the policy or propriety of the qualifications. We are sworn to support the Constitution. We sit as judges under it, and it is our bounden duty to declare if the State of Maryland has violated the United States Constitution, by imposing on a Representative other qualifications than that instrument requires.

It is a sound rule, in construing instruments, to examine the different parts of them, and if the same words are used on a similar subject, they must have the same interpretation. I pass by the Senatorial qualifications, where the same negative expressions are used. I will proceed to the qualifications of the President of the United States, article 2, section 1, paragraph 5: "No person, ex- 'cept a natural born citizen, or a citizen of the 'United States at the adoption of this Constitution, 'shall be eligible to the office of President; nei- 'ther shall any person be eligible to that office who 'shall not have attained to the age of thirty-five 'years, and been fourteen years a resident within 'the United States." The expressions used in this article are in negative terms, in the same manner as those used with respect to qualifications of the Representatives; and does any reasonable man, and does any friend of the Constitution, say that the States can superinduce or add any other qualification to the President than those designated by the Constitution? If negative expressions apply to one case, so they do to the other. If the doctrine of reserved powers applies to one case, so it does to the other. What would be the absurd consequence of investing the State sovereignties with power to add other qualifications to the President? The nine small States might add qualifications of age, residence, or property, and the eight large States, from their numbers, might elect a President without any of the qualifications limited by the majority of the States. What a singular phenomenon this would produce! A President elected by a large majority of the elec-

tors without the qualifications prescribed by a majority of the States? An argument producing such absurdities need not be pressed further. It is impossible to let the States interfere with the qualifications of the Representatives, and yet restrain them from interfering with the qualifications of the President. Very nearly the same expressions are used in each case in the same instrument, defining the qualifications.

A distinction is attempted which cannot be maintained, viz: "that the President is elected for the United States, and that no State can alter the qualifications in which all have an interest." I admit it; and this argument is most strongly in my favor, for all the citizens of the United States have an interest in each Representative, and therefore no State can alter the qualifications of a Representative; each Representative may, by his single voice, declare war or lay taxes. He who can command the sword and the purse of the people must represent them; and consequently each member must represent the people of the United States, not the people of his State; for to say that a person can, by his voice, lay taxes on persons whom he does not represent, or make them go to war, is a principle hostile to republicanism, and tears up the foundation of our Government.

It is said the States ought to have power to add qualifications of residence, or the people may choose transient persons; but this argument proves too much, because, when pushed far, it proves the people not competent to self-government.

I derive some consolation from the circumstance that I am a young member of little or no political influence; hence, my arguments have nothing to recommend them but their intrinsic weight, and, in a Constitutional question, this is most desirable. We should be on our guard against the high character and influence of the gentleman from Virginia, whose opinions, from his talents and standing in society, may be received as correct, without accurately investigating them. But, is my doctrine new, Mr. Chairman? No, sir; it is a doctrine coeval with the Constitution, and supported by our ablest men. In a work of high celebrity, *The Federalist*, composed by JAY, HAMILTON, and MADISON, men eminently distinguished for their patriotism and their talents, and who, with dignified reputation, have filled the highest offices in our country, this doctrine is explicitly stated and ably maintained. The same doctrine is supported in the debates in the Virginia Convention, where some illustrious characters exhibited their acknowledged talents. There, sir, an objection was taken, that there was no freehold qualification in the Representative, the darling object of Virginia. Those who made this objection, never supposed the qualifications were not fixed by the Constitution; for, men of such talents and reputation would never have urged that as an objection to the Constitution if, for a moment, they had supposed the Legislatures of the States competent to make such alteration.

I have yet, sir, another high authority. A learned commentator on Blackstone, every way distinguished for his worth and his learning, has, on this very subject, suggested doubts "if State 'qualifications, that is, a freehold required by 'the Virginia laws, were not rendered void by 'the Constitution of the United States." [See *Judge Tucker's Commentaries.*] The Judge's doubts are suggested only, but this was all he could do, for delicacy and propriety would not permit him to give an absolute opinion on a subject which might come judicially before him. Fortified with these opinions, and justified by the Constitution itself, I fear no hazard in the assertion "that the States are not competent to 'divest the people of their elective franchise, se-'cured by the Constitution, and that such an at-'tempt is an usurpation of power on the part of 'the States."

To guard the elective franchise sacredly, is the first of Republican duties—it is the shield with which the people protect themselves—and this franchise is equally endangered, whether the law imposes a qualification on the electors or the elected. If only freeholders can vote, the number of votes is diminished; if only freeholders can be elected, then the number out of whom the choice is to be made is lessened. Suppose £500 a year required in an elector, none but the rich could vote; suppose £500 a year required in the elected, then none but the wealthy could be chosen, and the power of prescribing such a qualification makes the people victims. Fortunately the Constitution of the United States requires no property qualification in the elected, but leaves the door open to merit of every description. One argument, Mr. Chairman, remains to be considered, greatly relied on, but which will not stand the test of rigid examination. Gentlemen say that the Constitution only requires three qualifications in the Representative, and that the States have authority to superinduce others, under the tenth amendment to the Constitution, which is in these words: "The powers not delegated to the United 'States by the Constitution, nor prohibited by it 'to the States, are reserved to the States respect-'ively, or to the people." I ought here to state, that I do not consider the qualifications of Representatives as at all coming within the meaning of powers granted by the Constitution, but rather as the means by which the powers granted are to be carried into effect, as an incident to the organization of the House of Representatives; yet I will not detain the Committee on this subject, but leave their good sense to examine it, and proceed to answer the argument. "Powers not delegated 'to the United States, nor prohibited to the States, 'are reserved to the States respectively, or to the 'people."

I consider the States and the people, as expressed in this article, not to be synonymous terms, but used to contradistinguish one from the other. I beg the Committee to retain one clear distinction in their minds, that the Government of the United States represents the States in their sovereign capacities in the Senate, and that the people of the United States are represented in the House of Representatives. With this distinction kept in view, a lucid exposition of the article of

reserved powers will at once appear: the powers reserved are reserved to the sources from which they came. Before the adoption of the Constitution of the United States, the several States were independent sovereignties; as such, each had the right to levy war, make trenties, coin money, &c.: these portions of the sovereignty of each State have, for the general safety of the Union, been delegated exclusively to the United States, but other sovereign powers, such as legislation, &c., have been retained by each of the States. The meaning of this article then is, that all sovereign powers, not delegated to the United States, nor prohibited to the States respectively, remain to the States in their sovereign capacity; so in like manner all powers vested in the people of the United States, which are not delegated to Congress, nor prohibited to the people, belong to the people as the fountain of power in a republican Government. Now the qualifications of a Representative to Congress never could emanate from the States in their sovereign capacities, because such power or appointment was unknown to the States in those capacities, and never did exist with them, of course could not be reserved to them; but the qualifications of a Representative to Congress did flow from the people of the United States, who created the appointment for their own protection and government, and any power to alter those qualifications, not given by the Constitution to the United States, nor prohibited to the people, is reserved to the people, and not to the States.

To form a correct idea of this subject, and of the true meaning of the article of reserved powers, it is only necessary to trace with precision in what body the power was originally lodged; to that body it is reserved. If it was lodged in the States as sovereignties, then the reservation is to the States in that capacity; but if it was a power in the people, and such as the States in their sovereign capacity never had exercised or could exercise, (as in the present case,) then it was reserved to the people, to be used or controlled by them in the manner prescribed by the Constitution.

I have trespassed long on the indulgence of the Committee; my apology is, that the subject is one of vast importance and interest to the people; and whatever may be the decision of the House, my consolation arises from an honest but feeble attempt to protect to the people the blessings of the Constitution of the United States, which forms the rock of our political safety, and which we must support with reverence if we wish to remain happy, united, and free.

Mr. HOWARD observed, that when it was recollected that the question which now presented itself for our discussion and decision was a Constitutional one, of the highest interest and concern, it would furnish some apology for his partaking in the debate so soon after his admission to a seat. It was said that they trod on delicate ground in deciding this question, for, by their vote, they pronounced the law of a sovereign State either to be valid or null, and of no effect. He said, however delicate this ground might be, yet, if the path of duty led them over it, he hoped they would enter upon it with caution, firmness, and deliberation.

The Legislature of Maryland, said Mr. H., has passed a law superadding to the members of this House qualifications other than those required by the Constitution of the United States. Those gentlemen who advocate her right so to do, seem to think, when we undertake to determine the Constitutionality of the law, it amounts to an infringement of her rights as a sovereign State; in fine, that this becomes a question of power between the General Government and the State sovereignties. Mr. H. said, for his part he thought differently: that, as a member of this House, he not only disclaimed all power to legislate upon the subject of the qualifications of the elected, but denied the right of Congress either to dispense with those required by the Constitution, or to superinduce others. He conceived that the qualifications of members was a fundamental regulation fixed by the Constitution, and unalterable but by a change or amendment of the instrument itself.

While some gentlemen on the other side of the question expressed their abhorrence at the exercise of a power derived from implication, others contended that, from the negative words employed in the second section of the first article of the Constitution of the United States, a power was implied to exist somewhere to add other qualifications to the elected, besides those therein required; and that it was left with the States, by virtue of that provision of the Constitution which declared that all powers not delegated to the General Government, nor prohibited to the States, were reserved to the States respectively, or to the people. But, said Mr. H., while gentlemen contend for this rule of construction, they ought to be aware of its operation when applied to other sections of the Constitution couched in similar terms. Apply it to that section which prescribes the qualifications of your Senators, and, if gentlemen be correct, the States have the power to enlarge the qualifications of a Senator, to say, for instance, that he shall have attained to the age of thirty-five years, instead of thirty; or that he shall have been fifteen years a citizen of the United States, instead of nine, as required by the Constitution; or, what would be still more absurd, that a State has the power to add a new qualification, that no person should be eligible to the Senate, unless he resided in a particular part of the State designated by the law itself. Apply the same rule to the fifteenth section of the second article, which prescribes the qualfications of President, and it proves that the States have the power to declare by law that no person shall be eligible to the office of President unless he is a resident of a particular State or section of the Union. Mr. H. said, if gentlemen would only go through the Constitution and apply this rule of construction to every part of it, the phraseology of which was the same with that of the section under their immediate consideration, they would discover its fallacy, and the endless diffi-

culties and absurdities into which it would lead them. Mr. H. said, gentlemen seemed to think the right of the States to legislate on the subject of qualifications, was well secured and fortified by the provision of the Constitution. "that 'all the powers not delegated to the General 'Government, nor prohibited to the States, are 'reserved to the States respectively, or to the 'people." He considered it a self-evident proposition, that no power could be imparted by the States to the General Government, or reserved from it, which was not previously possessed by them. It, therefore, was incumbent upon gentlemen in opposition to prove that the States, anterior to the adoption of the Federal Constitution, were vested with that power; which could not be done. The States in the formation of our Federal compact, certainly delegated a portion of their powers, previously possessed, to the General Government, and this reservation of power, so far as it related to the States, had reference to the residuum of those powers which they wished to retain and exercise exclusively.

Mr. H. said, an honorable member from Virginia (Mr. RANDOLPH) had enumerated many evils which might result from the want of power in the States to legislate upon this subject, among others, that a man of color might find his way into this House as a member, for anything which appeared in the Federal Constitution. Mr. H. observed that had he no other security against an event so unpleasant, but that confidence which he had in the discretion of his countrymen in the exercise of their right of suffrage, he would not be disposed to indulge apprehensions; but, were that confidence wanting, he discovered an ample guard provided by the Constitution itself, in that section now under consideration, which declared that no person should be a Representative unless he shall have been a citizen of the United States seven years, &c. Mr. H. observed that the word citizen was a complex term, and in its Constitutional acceptation meant something more than a mere inhabitant; it meant a man possessed of certain civil and political rights: every citizen must be an inhabitant, but it did not follow that every inhabitant was a citizen. Mr. H. asked the gentleman if the man of color possessed those characteristics of a citizen, or whether he was not rather one of those unfortunate people who had no political rights; governed by laws of which he was not only ignorant, but in the formation of which he had no participation. If the gentleman was prepared to say that this kind of person came up to the Constitutional meaning of a citizen, he would admit that the event, equally deprecated by that gentleman and himself, might possibly happen.

Mr. H. observed, that a gentleman from Virginia (Mr. LOVE) had given an elaborate argument upon this question, which went to show what the Constitution ought to be, instead of proving what it was. To this he could give but one answer; that twenty years ago, it might well have suited the floor of a convention, but was entirely inapplicable to the present inquiry.

Mr. H. said it was unnecessary to inquire how far it might have been expedient to have left the subject of qualification liable to change or modification by the States or Federal Government. He conceived that the people had a right, under the Constitution, to elect any man to this House, who had been a citizen of the United States seven years, attained the age of twenty-five years, and was an inhabitant of the State at the time of the election. He considered the right of suffrage as indispensable to the preservation of our liberties, that it was one of those rights which so long as it was enjoyed and exercised with discretion by the people, so long would they have in their hands the means of putting down odious men and oppressive measures. Mr. H. said that he thought Mr. McCreery was entitled to his seat, not because he was possessed of qualifications required by the provisions of the law of Maryland, but because he possessed those qualifications which were required by the Federal Constitution, the supreme law of the land.

The Committee now rose, and had leave to sit again.

TUESDAY, November 17.

Another member, to wit; MARMADUKE WILLIAMS, from North Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. JACOB RICHARDS, from the committee to whom was referred, on the sixth instant, a letter from William Henry Harrison, Governor of the Indiana Territory, enclosing certain resolutions passed by the Legislative Council and House of Representatives of the said Territory, relative to a suspension of the sixth article of compact between the United States and the Territories and States Northwest of the river Ohio; and to whom was also referred a memorial of the inhabitants of Clark county, in the said Territory, in opposition to the said resolutions; made a report, in part, thereupon; which was twice read, and referred to a Committee of the Whole House on Monday, the thirtieth day of the present month.

Mr. BASSETT, from the committee appointed on the ninth instant, presented a bill allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories; which was read twice and committed to a Committee of the Whole on Thursday next.

Mr. POINDEXTER presented to the House a memorial accompanied with certain proceedings of a number of citizens of Wilkinson county, in the Mississippi Territory of the United States, signed by Joshua Baker, their Chairman, and attested by William Connell, their Secretary, stating certain grievances to which they have been, and are now subjected, in relation to the purchase of lands, pre-emption rights, and other important objects therein specified, which they pray may be taken into consideration, and such relief afforded therein, as to the wisdom of Congress, shall seem meet.—Referred to the Committee on the Public Lands.

Mr. DARBY, from the committee appointed on

the twelfth instant, presented a bill to incorporate the Trustees of the Baptist Church, in the city of Washington; which was read twice and committed to a Committee of the Whole on Friday next.

On motion of Mr. JOSEPH CLAY,

Resolved, That a committee be appointed to consider whether any, and, if any, what, alterations are necessary in the several acts for the encouragement of learning and promotion of the useful arts; and that the committee be authorized to report by bill, or otherwise.

Ordered, That Mr. JOSEPH CLAY, Mr. MACON, Mr. NICHOLAS, Mr. MOSELY, and Mr. CROWNINSHIELD, be appointed a committee, pursuant to the said resolution.

DEBTS DUE TO GREAT BRITAIN.

Mr. LYON said some proceedings had come to his knowledge which he wished to expose, which he thought should be done with closed doors; on which the galleries were immediately cleared, conformably to a standing rule of the House.

Mr. LYON then submitted the following resolution:

Resolved, That provision ought to be made by law, forbidding all transfers of rights of action, and of all moneys and other property either real or personal, to or by any subject of the Crown of Great Britain, and also forbidding any citizen or resident in the United States paying any debt or demand to any such subject.

Mr. LYON, on offering this resolution, observed that he had understood that Mr. Erskine, the British Minister, had recently transferred stock possessed by his father to a large amount in the American funds. He said he considered this as a strong indication of hostility on the part of England towards this country. He expressed the opinion that Britain had in numerous instances so infracted the treaty between the two countries that it could no longer be considered as obligatory on the United States, who consequently possessed the moral right of declining, on her part, to respect those stipulations, whose observance might be injurious to her. He said he thought it became the United States in the present state of affairs to hold such pledges as she possessed against the acts of injustice which might be committed by Britain, and that by adopting this resolution, she would retain in her hands the means of indemnity, in case such acts should be committed; and if they should not, no injury could ensue from its adoption.

A universal sentiment was unreservedly expressed that such a step at this time was improper. Not a single member supported the resolution; but all censured its imprudence. The general opinion was that if persisted in by the mover, the doors should be instantly opened, and the resolution rejected in public. Mr. LYON then withdrew the resolution, and the galleries were opened, with the understanding that all secrecy was at an end.

FRIGATE CHESAPEAKE.

Mr. BLOUNT, from the committee to whom was referred so much of the Message of the President as relates to aggressions, &c., made a report.

The report commences with an expression of sensibility at the outrage committed on the Chesapeake; states the receipt of information relative thereto from the State and Navy Departments; presents a general view of the circumstances; observes that it might be said to have been incontestably proved that William Ware, John Strachan, and Daniel Martin, are citizens of the United States. But the committee add, that they conceive it unnecessary for them or the House to go into any inquiry on that part of the subject, as in their opinion whether the men taken from the Chesapeake were or were not citizens of the United States, and whether the Chesapeake was or was not within the acknowledged limits of the United States at the time they were taken, the character of the act of taking them remains the same.

"From the foregoing facts, it appears to your committee that the outrage committed on the frigate Chesapeake has been stamped with circumstances of indignity and insult of which there is scarcely to be found a parallel in the history of civilized nations, and requires only the sanction of the Government under color of whose authority it was perpetrated to make it just cause of, if not an irresistible call for, instant and severe retaliation. Whether it will receive that sanction, or be disavowed, and declared an unauthorized act of a subordinate officer, remains to be determined by the answer which shall be given to the demand of explanation. That answer (now daily expected) will either sink the detestable act into piracy, or expand it to the magnitude of premeditated hostility against the sovereignty and independence of this nation; and until its true character shall be fixed and known, your committee deem it expedient to decline expressing any opinion as to the measures proper to be adopted in relation to it. But, as other acts of aggression have been committed within our ports and waters by British ships-of-war, as well anterior as posterior to this, some of them manifesting the same disregard of our national rights, and seeming to flow from the same contempt for the authority of our laws; and especially as the British squadron, of which the Leopard was one, after being notified of the President's proclamation, ordering them to depart from the waters of the United States, which they knew had been published in conformity to an act of Congress, anchored within the capes of Chesapeake Bay, and in that situation remained, capturing American vessels, even within our acknowledged territorial limits, and sending them to Halifax for adjudication—impressing seamen on board American vessels—firing on vessels and boats of all descriptions, having occasion to pass near them in pursuit of their lawful trade, and occasionally denouncing threats, calculated to alarm and irritate the good people of the United States, particularly the inhabitants of Norfolk and Hampton—all which facts are substantiated by the accompanying documents, Nos. 1 to 6—the committee are of opinion that it is expedient to provide more effectually for the protection of our ports and harbors; but not being prepared to report specifically on that subject, they ask further indulgence of the House, and beg leave to submit for their consideration the following resolution:

"*Resolved*, That the attack of the British ship-of-war Leopard on the United States frigate Chesapeake was a flagrant violation of the jurisdiction of the United States, and that the continuance of the British squadron (of which the Leopard was one) in their waters, after

being notified of the proclamation of the President of the United States, ordering them then to depart the same, was a further violation thereof."

The report was referred to a Committee of the Whole on Monday.

On a motion of Mr. BASSETT, that the proceedings of this day, with closed doors, ought to be kept secret, the question being taken thereupon, it passed in the negative—yeas 22, nays 104, as follows:

YEAS—Ezekiel Bacon, Joseph Barker, John Chandler, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, William Findley, James Fisk, Isaiah L. Green, William Helms, Benjamin Howard, Daniel Illey, John Lambert, John Montgomery, Ebenezer Seaver, James Sloan, Jedediah K. Smith, Henry Southard, Clement Storer, David Thomas, and Isaac Wilbour.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Joseph Clay, Matthew Clay, John Clopton, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durrell, James Elliot, William Ely, John W. Eppes, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, William Hoge, James Holland, David Holmes, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jun., John Love, Matthew Lyon, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Mathias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James J. Van Allen, Philip Van Cortlandt, Archibald Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

WEDNESDAY, November 18.

Mr. MUMFORD presented the petition of a number of merchants of the city of New York, stating, that owing to the ambiguity of the law respecting the importation of copper, some difference of opinion had taken place among the collectors of revenue, and praying that the law may be amended.—Referred to the Committee of Commerce and Manufactures.

Mr. HOLMES said he was instructed by the Committee of Claims, to move that they be discharged from the further consideration of several petitions and claims for compensation for services rendered during the Revolutionary war, and to move that they be referred to the committee appointed on claims barred by acts of limitation, &c.—Agreed to.

BRITISH AGGRESSIONS.

Mr. QUINCY said the House might have observed, that in the Message of the President of the United States to Congress, delivered on the 27th of October, there was an express reference to a certain Proclamation interdicting our ports and harbors to British armed vessels. It was in Great Britain, he understood, an universal Parliamentary rule that proclamations of this kind should be laid before Parliament; and in this country it had heretofore been the usual practice. In the case of the Proclamation of Neutrality, issued by President Washington, in 1793, in his first communication to Congress, he laid it before them, and it was entered on the Journals. Circumstances of however great notoriety were not official information on which they could act; but, were it so, he had not been able to find it in any papers he could procure. He had expected it would have been connected with the report of the committee on aggressions; but, as it was not yet before the House, he moved the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House, a copy of his Proclamation interdicting our harbors and waters to British armed vessels, &c., referred to in his Message of the 27th of October last.

Mr. CROWNINSHIELD could not see any necessity for calling for this paper. He well recollected that the President had issued proclamations on other subjects which had never been laid before the House. That issued in the case of an aggression committed by Captain Whitby, commanding an armed ship of Great Britain, had not been transmitted to the House; so, in the case of the famous conspiracy of Mr. Burr, a proclamation was issued at the time, and not laid before the House, nor had the House thought necessary to call for these papers. They were before the public, and every member of the House must have perused them. Mr. C. wished his colleague to show some necessity for the present call; for he could see none. The practice which had taken place in other countries was not to govern them; he might as well have drawn a precedent from the practice of France, Germany, or any other country, as from Great Britain. Besides, he doubted whether it was the practice there. It was well known that, under that Government, the King and Council legislated in a variety of instances. The citizens of this country had suffered severely by these measures. They legislated for neutrals in this way, and property to an immense amount had been taken from our merchants under these orders, and Mr. C. did not know that their acts in such cases had been laid before the Parliament, or even called for. He should, however, have no objection to the call in this instance, but that he saw no necessity for it. The gentleman might perhaps not have seen the Proclamation; but it was well known that it had

been published in almost all the papers in the Union. It first appeared in a paper of this city, and he presumed was copied from that paper into the others. He had no doubt but the Proclamation would be communicated, or any other paper that might be called for.

Mr. ALSTON said, it was certainly very immaterial whether the resolution was adopted or not; but it was certainly causing considerable trouble for nothing, to submit such a resolution to the House. The gentleman might have laid his hands on it in any paper published in the Union. Did that gentleman receive an official copy of the proclamation for convening Congress at this time? If he did, Mr. A. said he had an advantage over him; for he saw the Proclamation in the newspapers, and came on in consequence; and if there had been any proclamation issued, Mr. Q. could have found it in the newspapers. He had an objection to this resolution, because it was going out of the way; he had never before known an instance of a call upon the President for any proclamation which he had not thought proper to lay before them.

Mr. QUINCY said he had cited the example of Great Britain, because that was the country from whose Parliamentary practice so many precedents had been drawn. The Proclamation of President Washington, however, was published in all the papers on the continent, and yet the President had laid it before Congress on the first day of the succeeding session. He would refer to the mode in which it was presented, in order to convince the House it had been heretofore done. The case was thus: The President of the United States, after some prefatory observations, tells them that the Proclamation laid before the House had been issued. Immediately after this, the Journal says, a Message was received from the President of the United States, enclosing a copy of the Proclamation. The case in the present instance was of much more importance: he had no conception, before he saw the report of the committee, but that it would be laid before them; he had not conceived it possible that it would not be laid before them in some way. It had been said, that he should give reasons for calling for it. He thought that in an important case like this the House should know what was done. He had no objection to the Proclamation; but it contained certain national principles to which they ought to refer.

He was at a loss to account for the opposition which this motion received from some quarters of the House; it was impossible it could be made on any other grounds than a determination to vote down at all events any question that might be moved, or any inquiry that might be requested on the part of gentlemen of one description in the House. It seemed to him, to be following up the advice which had lately been given to them through the channel of a paper printed in this city, which was understood generally to speak a demi-official language. I have before me, (said he,) the words in which this House were a short time since addressed in that paper, by a person making observations on a motion which Mr. Q. had made, and which was negatived. Mr. Q. then read the following paragraph from the National Intelligencer, of November 9:

"Let them weigh well the advice of an enemy before they adopt it. Let them act as they have done in the present instance. Let them entertain no apprehensions on the sense of popularity, even though their adversaries should sound the tocsin of alarm, and declare themselves in patriotic strains the exclusive friends of the people. Let them remember that while their opponents have nothing to do but talk, *they have to act.*"

And was this the language in which this House was to be addressed through the medium of a newspaper printed at their doors? Was a mere Printer to obtrude upon them his advice, as to what course they were to pursue, in relation to the interest of the nation, and to denounce a portion of the House as unworthy of notice or confidence? He hoped not. But he could account for the opposition which was now given to this motion from no other reasons; for if a Proclamation of this kind had been issued, they ought to have it before them.

Mr. Q. said, he possessed no interests different from any other member of this House; and, assuming the right to which he was entitled, he would ask for information when he had occasion for it.

Mr. CROWNINSHIELD felt much surprised at what had been said by the gentleman last up. Had Mr. C. said anything about it, had he made any allusion to what had appeared in a newspaper in this city; the publication was made before he had been able to arrive at this city. [Mr. QUINCY here remarked, he did not refer to him.] Mr. C. did not know to whom he could refer, except to him or his friend from North Carolina. He had no intention to make any remark to hurt the gentleman's feelings with respect to what had appeared in a newspaper of this city; but what relation could that have to the subject under consideration? If the paper alluded to had infringed any privilege appertaining to him as a member of that House, of which Mr. C. said he knew nothing, he had his remedy. If of a personal nature, the gentleman had other means of satisfaction. He was perfectly at a loss as to the object the gentleman could have in bringing the matter up now. Mr. C. had alluded to the same paper: It was the only paper of any consequence in the city, and the President was obliged to take that course to circulate official acts throughout the Union. It had always been the custom of the President to publish his Proclamations, but in no instance had he laid them before the House. The two extraordinary sessions of Congress had been held by Proclamation published in the newspapers, and the Proclamations for convening them had not been laid before the House. It having been done by another President had no bearing on the present case: no law existed authorizing President Washington to issue such a Proclamation, as that referred to; but the Proclamation now referred to, as well that in the case of Mr.

Burr were issued under an act of Congress. Mr. C. had no particular objection to the call; but he could not see the necessity for it. With respect to precedents in other countries, he wished them to have no influence on the proceedings in this.

Mr. Burwell did not rise to oppose the resolution; he was willing that the Proclamation should be sent to them by the President; but the gentleman had expressed his surprise that he did not find that Proclamation contained in the report of the committee. The only reason was, that they had supposed it was sufficiently official in the newspapers, and had referred to them when occasion required, as they would have done to any other authority. He held it a correct proceeding, that it was the right of any member of that House to call for any information relative to any subject; he should always favor such an application; he therefore did not rise to oppose the gentleman's motion, but to apologize for the committee's not having reported it.

Mr. Dana, said, that the observations of the gentleman from Virginia had been made with his general candor he had no doubt, but the committee considered such reference as they had made correct; but as no public prints were strictly official, and as they were called upon to deliberate on the Proclamation itself, he thought it necessary they should have it before them. Were they not called together on this subject particularly, he might not see the same necessity for having it; but as it was to be the basis in some measure of their proceedings, they ought to have an official copy of it. Mr. D. also thought it was more correct, whenever Congress were called together by Proclamation, that they should be specially notified. The gentleman from Massachusetts was in an error so far as related to the form of giving notice of extraordinary sittings; he had understood the gentleman to say, that Congress were called together by a Proclamation published in a newspaper, which was official notice. This was not the correct course. It was true they were now all gathered together; but their journals would not show how. When an extraordinary session had been called formerly, a letter had been addressed to each member from the Secretary of State, enclosing the proclamation for the purpose; and this was capable of being done in every instance, by transmitting these letters to the Executive of each State, who might notify them individually. This had been the course, and he thought it more correct than the other.

The question on the resolution being taken, was carried, 70 to 32; and Messrs. Quincy and Burwell named a committee to wait on the President for the purpose.

MARYLAND CONTESTED ELECTION.

The House went into Committee of the Whole; Mr. Bibb's amendment still under consideration.

Mr. Desha was opposed to the amendment offered by the gentleman from Georgia, because it declared that Mr. McCreery was elected agreeably to the laws of Maryland, which appeared to him very doubtful. As the law of Maryland made it necessary for the candidate to reside in the town of Baltimore, he could not think Mr. McCreery's coming to the city five or six days previous to the election, could be considered an actual residence, especially when his family had resided in the country for two or three years. He was opposed to it for another reason. He did think the agreeing to this amendment would be virtually sanctioning the constitutionality of the law of Maryland.

Believing this to be a very important question, a question in which a great Constitutional point was involved, he wished to assign the reasons that should influence him to vote. In the first place, said Mr. D., I will declare that I am never willing to give up any privileges or rights guarantied to me as a free citizen of the United States. Believing it to be my privilege to vote for whom I may think proper within the limits of the State in which I reside, and thinking it to be the true spirit and meaning of the Constitution, that I am bound by a solemn obligation to support, I would stand with firmness in opposition to any attempt that might be made, by any man or set of men, to deprive me of that privilege. The Legislature of Maryland passed an act of Assembly dividing the State into Congressional districts, and I think very properly too; because I consider it as a great convenience to the people in their elections, and where an agreement takes place among the people of the States, it may be done and be no infraction of the Constitution. But does the Legislature of that State suppose they have the power to confine men as candidates to certain situations, or to abridge the liberty of the voters, so as to deprive them of their choice if they should reside within the limits of the State? If they do, I hold it as an assumption of power, not warranted by the Constitution, because, if they have the power to confine men as candidates to certain districts, from the same reasoning, they might confine their candidates to any certain town, and direct that the whole number of members allowed to the State, should reside in that town; by which the expanded principles of republicanism, that diffuse justice and liberty throughout the land, would be narrowed down to a contracted aristocracy. Could this be the meaning or the intention of the framers of the Constitution? I think not. Neither do I believe it to be consistent with the true letter or spirit of the Constitution. The second section of the first article of the Constitution points out the qualifications of Representatives—it makes a certain specified age one necessary qualification, a certain number of years residence within the United States a second qualification, and actual residence within the State to which he is a Representative, a third qualification. These three are all the qualifications required by the Constitution for Representatives. Is it presumable, if other qualifications had been thought necessary, that the framers of that instrument would have omitted so important a point? What would be the consequence that would inevitably arise from the States having the power to add qualifications to

the elected? The consequence would be, the want of uniformity in the qualifications of the members on the same floor, which in my conception would be a serious evil; inasmuch as it would have a tendency to produce discord and jarrings in council, the result of which might be productive of the downfall of the republican fabric. The States have the power of fixing the qualifications of the electors, but not the elected. In speaking on this question, the gentleman from Virginia (Mr. Randolph) thanked his God, in very emphatical terms, that the qualifications of electors in his State were bottomed on the soil. I am equally as thankful as that gentleman, that in Kentucky the qualifications of electors are bottomed on reason and liberality, or in other words, age and residence, and not on an aristocratical foundation. But, sir, to the point. I think the powers of the Federal and State Governments ought to be kept distinct and separate. The Federal Government ought strictly to adhere to the powers delegated to it by the Constitution; but ought not in any instance, to encroach upon the State sovereignties, nor ought the State Governments to encroach on the Federal powers; but, on the contrary, they ought to be extremely tenacious of their own. Their powers by the Constitution are particularly designated, and in my opinion distinct and separate; and while they continue to act so as not to transcend the powers delegated to them by the Constitution, they will stand as a prop to each other. No storm, be it ever so violent, or come from what quarter it may, will be able to shake the fabric. But when even the State sovereignties and Federal Government get to jarrings, or by encroachments impinge on each other, the props are removed and the fabric will be in danger of falling. We are placed here as guardians of the people's rights and privileges. Do not then let us hold out with one hand a fair appearance of zeal for the rights of the people and the public good, and at the same time take every advantage imaginable with the other, by curtailing their Constitutional privileges, and, instead of allowing the people a complete range to select a man worthy of representing them in Congress, confine them to certain situations. I dislike this kind of political hypocrisy. I dislike anything that looks like sporting with the rights of the people, with the rights of those that I consider the firm supporters of the republican fabric. One word as to the pretensions of the petitioner, Mr. Barney. He prays to be admitted to a seat in place of the sitting member. Admitting that Mr. McCreery was not eligible, I should not consider myself at liberty to vote in favor of Mr. Barney taking his seat as a member in this House. It would be a vital stab to the liberty of the people, in not allowing a majority to govern. Supposing there had been but the two candidates, Barney and McCreery, and that Barney being very unpopular had got but few votes, and McCreery being very popular had got nearly all the votes that were given; but owing to ineligibility arising from want of age, residence, or some other cause, could not be admitted to a seat in this House. I ask, could any man in his reason, say that Barney was entitled to a seat? Could it be the will of the majority? No, the answer must be in the negative. For these reasons, in addition to what has been offered, I am bound to vote in favor of the report made by the Committee of Elections—considering this House as possessed of the legitimate power to judge of the qualifications of its own members.

Mr. Sawyer said, that after the few preliminary observations he took the liberty of offering the other day, he meant to trespass but a moment or two on their patience at present. If the arguments which had been offered on the other side of the question, depended upon their own weight, he should not consider them of such a nature as to endanger the refutation of those which had been employed by the gentlemen on his side. But if they could succeed in their earnest endeavors to dragoon the Constitution of the United States into their service, then indeed they would become truly formidable. He confessed, however, that after all that had been said on this subject, he could not see how this question could be placed on Constitutional grounds. Perhaps the gentlemen could enlighten him a little by explaining the nature of the tenure under which they held their seats in that House. Why, is it not predicated upon an act similar to that which they now condemn as unconstitutional? Were they not elected from separate districts in pursuance of acts made, requiring them to become residents of those districts? But this, the gentleman who had first preceded him, (Mr. Desha,) admitted was not unconstitutional. Where was the difference between a person's being required to reside in one given place, more than in another given place within a State? Between residing within a county or a town? It was not disputed, that the law of Maryland, so far as it regarded the district, or county of Baltimore, was perfectly proper. But the moment it presumed to touch the city it became unconstitutional. By what Owyheetian priestly art had the gentleman thus contrived to taboo the city of Baltimore, by laying her under a Constitutional interdict? It was really useless to dwell longer on this point. The grounds which he had taken had not been, nor could they be shaken; and to answer the arguments of the gentleman, would oblige him to recapitulate those which had been already so ably and so forcibly employed by his worthy friend from Virginia, (Mr. Randolph) and another gentleman from the same State (Mr. Love.)

If the gentleman from Maryland had really felt, as he had declared, too much delicacy to have voted on this question, he thought he would also have felt too much to have spoken on it. He would not have taken up an hour and a half of the time of the House in discussing a question, in the event of which he was so immediately interested. But what did the whole of his speech amount to after all? Why, it was literally *vox* and *præterea nihil*. It has already been refuted by anticipation. It was like all the speeches on that side of the question, either composed of the most strange, violent, and unnatural suppositions,

or of political propositions in which they fully agreed. The whole of the instances and examples which gentlemen had cited against what they called narrowing down, or to use a culinary figure of the gentleman from Kentucky (Mr. Rowan) against frittering away this article of the Constitution, were such as were expressly prohibited by that instrument. It expressly declared they should not extend the qualification to more than twenty-five years of age, seven years' citizenship, and one year's residency; but it did not contain a syllable against their designating the place where that residency was to be accomplished. Why would gentlemen continue to introduce cases of express prohibition, such as were never denied, and bring them to bear upon such as were purely discretionary and unprohibited? If they had no new grounds to go upon, he hoped they would spare the House the pain of being obliged to hear the constant repetition of arguments which could have no relation to the subject.

If the law of Maryland had required a person to be twenty-six years of age, eight years a citizen, or two years a resident, then indeed there would have been some grounds for the objection of unconstitutionality, for there the Constitution spoke an audible language. But the law of Maryland required no such thing; it only pointed out the place where the residents were to remain no longer than the time limited by the Constitution. The Constitution had led them into a strange land, and left them to rove about in uncertainty; but the law of Maryland, in the true spirit of hospitality, and perhaps of prudence, had conducted them to a spot of rest and repose. This conduct of Maryland was perfectly ancillary to the Constitution.

As the fund of argument and reason seemed to be pretty well exhausted on this subject, which was evident from the constant repetition that occurred, by way of diversifying the entertainment a little, he would put an allegory to the gentleman from Pennsylvania (Mr. Findley.) Suppose that he should happen to be travelling in company with some fifteen friends on a journey, until, wearied with fatigue and hunger, they alighted at an humble cottage. The hostess was a plain old lady, who in the hurry and confusion of lately setting out in the world, had not been able to provide a sufficient stock of necessaries and furniture. She, however, without any idle parade of words or ceremony, offered them the best she had about the house, which might happen to consist of a large tray full of hominy. In looking about for something to eat with, the gentleman might find an old one-pronged fork, placed by the side of his plate. Would that gentleman feel himself restrained from taking out his knife and whittling himself a kind of spoon or paddle to feed himself with? Would he sit there and starve over his hominy, while the rest of the company were helping themselves very heartily with such instruments as they could get hold of, for fear the old lady would dismiss him from her house, if he attempted to use any other instrument than the one-pronged fork? No, sir, he would have a better opinion of his hostess' civility than to think it necessary to affect this squeamish modesty; he would naturally conclude that as a fork was placed by the side of his plate, her intention was that he should eat, and that it would be quite immaterial to her what means he employed to fulfil that object. Yet that gentleman would starve the State of Maryland by denying her the liberty of using a spoon to eat out of the great political dish, while all her sisters were using the same instruments, merely because a one-pronged fork was placed by the side of her plate at the Constitutional table.

His worthy friend from Virginia, (Mr. Randolph.) and also the gentleman from Georgia, (Mr. Bibb) seemed to differ with him in opinion with respect to Mr. Barney's claim to a seat in that House. He had since reconsidered the subject, and given their arguments a due consideration, but, with the utmost deference to their superior judgment, he still retained the same opinion he expressed the other day. An insuperable difficulty would arise from a contrary treatment. If two candidates from the county should get more votes than the one from the city, how should they remove the difficulty? And the House might be well assured this would always be the case where more than one offered in the county, because it contained a large majority of the voters, and they were allowed to vote for two candidates. If, therefore, through political avarice or accident, the county candidates should get more votes than the city one, the same inconvenience would arise that was complained of at present, and the city would be deprived of her rights, unless the House interfered in her behalf, which interference had as well be first as last. He was well aware of the case of John Wilkes, of the Parliament of England; but, although he revered the principles on which the last decision of that case was grounded, still he must think there was no similitude between the two cases. There was no express act of Parliament directing the freeholders of Middlesex how to proceed in their choice, and the county, by an unjust *ex post facto* act, was stripped of the privilege of suffrage. But was such the case with the county of Baltimore? Are not her rights admitted and respected? He thought they were, though in respecting them the House did not feel disposed to forget those of the city; and the case of Patton, from Delaware, read the other day, was precisely in point. Besides this, if the principle contained in the report of the Committee of Elections be admitted, Mr. Barney would still be entitled to a seat, for he had more votes than some of the members returned from Maryland, and as a residence or non-residence in a district was thought immaterial, he would certainly be entitled to precedence of those over whom he had that majority. But if any gentleman could reconcile the rights of the city of Baltimore with the abandonment of his claim to a seat here, he should not be tenacious of his opinion. Mr. S. did not think it necessary to take up any more of the time of the Committee on this subject; it had already been treated in so masterly a manner by the two gentlemen from Virginia, (Messrs. Randolph and Love,) that he should be satisfied both in saying and hearing no more upon it;—unless, indeed, gentlemen would treat the House with something new; unless they would give them something besides objections, which they had always admitted, or something besides unnatural suppositions, which could never be realized without the people's becoming (what they are now said to be) their worst enemies. But, before he concluded, he would just take notice of one species of argument, remarkable for its singularity, that was made use of yesterday by the gentleman from Georgia, (Mr. Bibb.) He had attempted to show that Mr. McCreery's going to Baltimore, six days previous to the election, rendered him a competent resident, under the law of Maryland! What was the general acceptation of the word "resident" in the eye of the law? If they recur to the law of Maryland of 1790, it was there declared to be a residence "of twelve calendar months immediately preceding the day of election." That of 1802, having reference to the same subject, was to be taken with the like meaning, for it was a rule universally applied to the construction of laws, that, where they were enacted on the same subject, and had the same object in view, they were to be construed as one and the same law. This being the case, the act of 1802 having reference to that of 1790, and co-operating in the same case, there could be no doubt but that the Legislature intended that residence which was defined by the preceding act, viz: a residence of twelve calendar months immediately preceding the election. The reason the distinction was not repeated in the last act, must have been from a supposition that their intention was sufficiently expressed and understood already. After removing into the country, and living three or four years there, could Mr. McCreery pretend to reinstate himself in his residency in the city by returning there a few days before the election? But, said the gentleman from Georgia, (Mr. Bibb,) he spent his winters here, in the country's service. Suppose he did, whither did he return at the end of each session? Where did he spend his springs and his summers, and his autumns? Why, forsooth, in the *country's* service also. But, notwithstanding all this, notwithstanding he might go off and stay away twenty years, and acquire a residence in twenty different places, yet if he could jump upon his horse, and gallop into the city a few minutes before the poll was open, he was to be considered as having a fair claim upon the support of the citizens on the score of residency. Were the laws of a free and respectable State to be evaded by such shameful expedients as these? This was adding insult to injury. He really felt his pity excited for that much injured State, when he saw the most solemn acts of her Legislature made in the House the mere sport of subterfuge. But, if she submitted in silence to this unprovoked insult and degradation, he could only say she deserved them. He thought, however, he understood her temper and spirit better than to suppose she would. He thought she would show a becoming spirit of resentment, a becoming sense of her dignity, by remonstrating against this unjust aggression upon her rights. And he also thought that her complaints would be heard and reciprocated by every State in the Union. The alarm would spread from State to State like an earthquake. He repeated that they were treading upon sacred ground. The House ought to be cautious how it proceeded. The States were composed of combustible materials, and if this report were agreed to, he feared it would be throwing a carbonic acid among them that would cause an effervescence to take place, and if not, an explosion, and much of the fixed air of discontent and dissatisfaction would escape. Talk not about foreign wars, when they were about to declare a most deadly war against their own States. The States had a thousand times more danger to apprehend from the House than from any foreign Power. But, let the worst come, said Mr. S., the States will have the consolation to think they have some rights left which some gentlemen will not find so easy to explain away, and it may be well for some gentlemen if they do not find it time, ere long, to give a small practical essay of them; it may be well for some gentlemen that, as they appear so difficult in seeing the rights of the States, at present in dispute, if they do not adopt another mode of making them comprehend other, though perhaps less agreeable rights, which are not of so disputable a nature.

Mr. Love said that, notwithstanding he had already greatly trespassed on the time of the Committee, as the grounds originally taken in favor of the report had been so totally changed, he hoped he should be pardoned if he again troubled them with a few observations on the subject as it was then presented to them.

It was originally contended, on behalf of the report, that it was correct, principally on two grounds: First, that it was necessary to show a reserve made to the State Legislatures, of the power which Maryland had, in this case, exercised, and that no such reserve could be shown; and secondly, that the sole power of constituting the qualifications of the Representative rested with Congress, under that clause of the Constitution which has made each House the judge of the qualifications of its own members. This, he said, was the language of the report, and such the reasons urged in support of it. But these grounds were now abandoned, and the gentlemen from Massachusetts and Maryland (Mr. Quincy and Mr. Key) seemed to contend for the single position, that neither the State sovereignties nor the National Legislature have the right to act on the subject embraced by the law of Maryland.

They contend that there nowhere exists in any one branch of the different systems of our Government the very simple, innoxious, and necessary power of confining the residence of the elected to the district he represents; that this power is still a sacred deposite, untouched, and sleeping in maiden innocence in the bosom of the people. If this strange and novel doctrine be, indeed, correct, how wonderfully have we all been deceived!

We who have been habitually chaunting the praises of our Government as the most perfect of all hitherto invented, after a twenty years' experience, are surprised with the discovery, that, in no part of this great and ingenious fabric of political institution, there exists the powers to give it the necessary impetus to a regular and proper motion.

For, said Mr. L., if there is no power either in the State or General Government to restrict the residence of the elected to the district which he represents, the objects for which he may be chosen, to some of the most valuable interests, will be totally frustrated, and the representation be an inefficient one. A member may be sent to represent a district, who is totally ignorant of its local concerns; and, from Norfolk, in Virginia, might be selected one who might be called the representative of a district bordering on the Ohio, or the reverse. In Virginia, and, perhaps, in some other of the States, an evil of this kind would be very like to occur; for although we have a representative for every thirty or forty thousand inhabitants, yet where the right of suffrage is in general confined to the freehold, there will be found, in some of the districts, a much larger portion of qualified voters than in others.

But, gentlemen have told us that we are not to discuss the questions of convenience and expediency. Sir, said Mr. L., such great evils as must flow from the adoption of the principles contended for by the friends of the report, will obtrude themselves on our attention, and must go far to show the fallacy or soundness of construction; for certainly there can be no more just view of the propriety of a principle than to inspect its consequences. The particular local interests of the different parts of the Union it is of great importance, even now should have an intimate and efficient representation; but, should we continue to enjoy the blessings of peace, the importance of local information will become more indispensably necessary, when the surplus of our treasuries shall meet their just appropriations toward national improvement and general convenience. Indeed, he found it difficult to lose sight of the argument of inconvenience, for, in every aspect of the subject, it seemed to form a prominent feature. If, as gentlemen are disposed to narrow down the power of the States, we agree to the construction that an act of the State Legislature restricting the elected to a residence among his constituents, be unconstitutional, and of course void, as having abridged the range of choice the Constitution had secured, he knew not precisely what might be the situation of other States, but from Virginia there was not at this time a duly qualified member on the floor of Congress, and the good people of that State are at this hour unrepresented in the national councils. So, too, had the Legislature of Virginia, in the opinions of gentlemen, transcended her Constitutional powers under this Government, in restricting the residence of the Electors of President and Vice President to their particular districts; and, drawing the same conclusion from similar principles, the election of those officers may also be contested, having their foundation in a law which had abridged the freedom of choice, and was, therefore, null and void; for the term "manner" is found alike in the delegation of power to the State Legislatures in both instances, and must have the same construction.

Mr. L. said, he would now beg leave to draw the attention of the Committee to the only point of argument, which seemed to be relied on, to sustain the report; a point which was broached first by the honorable chairman of the Committee of Elections, and which had since been urged with great force and ingenuity by the gentleman from Massachusetts, (Mr. Quincy,) and the gentleman from Maryland, (Mr. Key.)

The success of this argument must depend, said Mr. L., upon the construction given to the legislative powers of the several States, as derived to them, under their general delegation of power from the people. He contended, he said, that, by virtue of the power bestowed on the Legislatures of the States, they have a right to do anything not expressly prohibited to them by a bill, or declaration of rights, enumerating those which are supposed to be inalienably in the people. In this respect being precisely opposed to the nature of our federal institutions. That he was correct in this opinion, he felt great confidence from the manner in which the National Government was brought into existence. If, said he, it had not been admitted that, to act on the subject of National Government, was originally legitimate; if this was not the case, under what other delegation of power did the Legislatures of the States venture to call conventions to discuss the subject, or how were those conventions organized? It would not, he hoped, be said that our Government, great and omnipotent as it has been contended to be, is not well born, that it is of spurious origin. It appears, then, that this was a power exercised by the States anterior to the existence of rights under the Federal Constitution.

The distribution of powers made by the gentlemen who argue in support of the report, is certainly incorrect. The Legislatures of the States, speaking the language of the people, and representing them in all their interests, must be considered as a party to the federal compact. What is delegated to the General Government? The right of imposing taxes, of declaring war, and concluding peace, with many other important powers, before held by the States, now in some instances wholly, and in others concurrently vested in Congress. The Legislatures of the States, possessed as they are of all the powers of legislation, express only the voice of the people, and are, to all political intents, the people themselves; instead, then, of the distribution of powers, which has been ingeniously supposed to be made to the people as one party, to the States in their political capacities as another, and to the United States as a third, the States and the people of the States respectively, may more properly be considered as one party in conjunction, in the federal compact, and this Government as the other. On the supposition, then, that no power is vested in the General Government but that which is expressly delegated, the States and the people of the States, in their conjunct inseparable capacities, hold the whole reserve.

An objection was made to the exercise of any power by the States, except that expressly delegated to them, because it was said that the State governments, being in operation before the introduction of the Federal Government, could not originally be supposed to have any participation in the powers of it. That the co-operation of the State Legislatures, by virtue of the general powers they held from the people, was necessary, and did take place in order to bring this Government into being, is already proved; but to what absurd conclusions, Mr. L. begged pardon for the harshness of the expression, would such a doctrine lead? The inference would be that all the States which, since the adoption of the General Government had been, or hereafter might be admitted into the Union, would form a proper deposite for the powers contended about, but the original States, who were actually the parties in the manner mentioned to the compact, would be excluded from the exercise of this most essential power. Apply the same doctrines to the situation of a newly acquired territory, and, by a parity of reasoning, it may be said that the people of such territory, not being expressly contemplated, or included in the national compact, shall never be able to enjoy any rights under the Constitution, and the people of the United States must be called together to make this express extension of right.

Mr. L. said, that the arguments of gentlemen had led him to contemplate the subject in another point of view. The gentleman from Massachusetts, (Mr. Quincy,) had, in his argument on the second section of the first article of the Constitution, introduced a rule of construction, which in itself was an extremely correct one, and which he should take the liberty to use and enlarge on, where, he presumed, it would have a more feasible application. He has said that it is a rule of construction that "the exclusion of a part is the inclusion of the remnant." Apply it, then, said Mr. L., to the tenth section of the same article, and it would have its proper effect; by that section the restrictions on the State governments are enumerated: "they shall not enter into any treaty," &c.; the enumeration is very special, and extends to all the subjects in which the interference of the States would have been deemed inconvenient, or improper. There is no clause in the Constitution which declares that the States shall be further, in general terms, restricted; but there is a part of the Constitution which declares, that the Government of the United States shall have no powers but those granted; the enumeration of restrictions on the Government of the United States cannot, therefore, be assimilated to the enumeration respecting the States; to the tenth section, therefore, the gentleman's rule exclusively applies.

A similar maxim of construction is, that "Exception strengthens the force of law in cases not excepted, but enumeration weakens it, in cases not enumerated." Those rules strongly apply to show, what was the residuum of power left in the States, and that it was intended to be the whole, excepting only those specified to be exclusively delegated to the United States. The word State, is used in the distribution of powers, not Legislatures of States, from which it would seem, that the framers of our Constitution meant in the use of that term the aggregate and united powers of the Legislatures and the people, which indeed in the State Governments are inseparable, to all political purposes and intents.

Mr. L. expressed his surprise at the doctrines which were the other day advanced by a gentleman from Kentucky (Mr. Rowan,) who, if he understood him right, had said, "that the States were to this Government what the counties were to the State Legislatures." To gentlemen who hold these principles, who contended that this is a great consolidated Government, possessing all the powers of legislation, extended as its empire is over a territory of various climates, leading to various pursuits among its inhabitants, he could address no argument, but had the consolation to believe that the day was past when such doctrines could have their effect on the people of this country.

Mr. L. said he would conclude the remarks he had intended to make on this great Constitutional question, by further noticing some of the observations which had fallen from the gentleman from Maryland (Mr. Key.) That gentleman, after an elaborate argument to prove that the States do not possess the power to restrict the residence of the elected to the district which he is supposed to represent, inasmuch as that power is not expressly delegated to the States by the Constitution, has observed at some length on the positive grant of power to them, to regulate the time, place, and manner of holding elections; and has attempted progressively to prove, that it does not grow out of either of those incidents. If, said Mr. L., the advocates for the constitutionality of the law of Maryland doubted that the right of the States on this subject was fixed in the deepest foundations of our Government, still he humbly presumed, that on arguments of convenience, a construction would be given to the word *manner*, which would embrace the power of restricting the residence of the elected. If the manner of holding an election authorizes a restriction as it respects the elector, by confining his right of suffrage to the district in which his freehold or qualification, whatever it may be, is found, it is equally consistent with the manner of holding the election, that the elected should also be confined to such district. For it is no part of the qualifications of the electors of the most numerous branch of the State Legislatures, that they should vote in a county or precinct where their right of suffrage does not exist. From a review of the opinions which had been given by men of abilities, both among the opponents and advocates of the Federal Constitution, he thought that if there were any who had doubted that the Constitutional rights of the States did not extend, by implication or general reserve, to the subject embraced by the law of Maryland, that such had considered the

power as expressly bestowed. The appearance of contradiction to this opinion, he said, might be reconciled. The authority of *The Federalist* does not apply; as the authors of that work only offer their opinion, that no substantive disqualification could be imposed on the elected.

The opinion of Mr. Tucker has also been used for the same purpose. The authority, Mr. L said, he admitted to be entitled to the highest respect, but what was the opinion; it was merely the expression of a doubt whether the Legislature of Virginia had not transcended their power, by imposing a positive, substantive qualification on the elected. The opinion had reference only to the requisition of the Legislature that the elected should possess a freehold; it is on this part only of the qualification he could have intended to express a doubt, as appears clearly from his mode of reasoning, as to the sympathy of feeling and interest between the elector and the elected.

The gentleman has relied much in his argument on the opinion of Mr. Nicholas, expressed in the debates of the Virginia Convention. He has been pleased to compliment the assemblage of great men, which took place in Virginia on that occasion. It was indeed an illustrious body; many of them, it is true, no longer live to counsel the nation, but their memories are inhersed in the bosoms of their countrymen. The opinion of Mr. Nicholas has been applied to purposes which he could never have foreseen. The latter part of the same paragraph, which the gentleman has read, proves that he did not intend his observations to be applied as they have been; but in page eighty of the debates, he speaks a language that cannot be misconceived or misconstrued. Speaking of the Representatives, he says, "It is a natural 'supposition that every one of them will have the 'greatest interest with the people in that part of 'the district where he resides."

Mr. Mason, in pages 34–5, expresses the following opinion: "I know not," speaking of the Representatives,) "how they will be chosen, but whatever be the mode of choosing, our present number 'is but ten, and suppose our State is laid off in ten 'districts, those gentlemen who shall be sent from 'those districts, will lessen their own power," &c. We all know that gentleman was opposed to the adoption of the Constitution; his talents, his virtues, his lynx-eyed patriotism, can never be forgotten. Can we presume then, that if it had ever entered the head of so able an opponent of the Government and advocate for the State authorities, that this essential power of regulating elections was not reserved to the States, that he would not have laid hold of this defect, as affording the strongest objection to the general system? Again, in page 97, Mr. Randolph says, "the State will be laid off and divided into ten districts, from each of these a man is to be elected." The friends to the adoption of the General Government have expressed their opinions that a power was vested in the States to confine the residence of the elected to the district; and we no where find that the opponents to this adoption have complained that this right, so essential to representation, was not sufficiently secured.

But the gentleman has said, "that it could not be expected, that an election law could be introdnced into the Constitution." If indeed it is impossible to do so, and the position contended for that the power of making one is neither in the State or United States Government, we are left without remedy, and all the evils which have been pointed out must follow us to the termination of the Government. The gentleman has asked, if the people should be deprived of their choice? He will pardon me, said Mr. L., if I cannot see the application of this inquiry to the point under discussion; it may happen, that on another occasion, this appeal may be properly addressed to us, but at present it can have no bearing on the question.

It has been resounded, said Mr. L., from different parts of the House, that we must not shrink from the decision of the Constitutional question involved in this report. It often happens, said Mr. L., that more true courage and fortitude are displayed in a wise forbearance from controversy than is required to stimulate us to the impetuous, headlong attack. He was one of those, he confessed, who thought it would be better to avoid this conflict of powers. He had already offered his reasons why he thought so; but would take the liberty once more to remind that committee of the inequality of such a contest. That the States alone can wind up, and preserve the regular motion of the great machine of Government, and without the periodical application of their powers its springs must lose their elasticity, and its wheels cease to move; but he hoped he had already said enough on this subject, and would add nothing more, on the great Constitutional question, in the discussion of which they had been involved.

He had given no opinion, and he felt at a loss how to give one, on the facts stated in the report. To him there appeared to be a confusion and somewhat of uncertainty in the statement. He wished to know what kind of residence, the occasional residence spoken of by the committee in the fourth paragraph of the report was. If it was explained to be such a residence as was used by the returned member, (Mr. McCreery,) for the purpose of conducting the common occupations of his life, it would go far towards satisfying his mind. Such residence might, perhaps, be considered as sufficient at least to satisfy the intention and spirit of the law, which could only have required a residence, in order that the Representative might have the more intimate knowledge of his constituents; and it was strongly presumable, that where a man pursued his usual avocations he was there best acquainted with the local subjects of interest; but again he found the report contradicting the supposition of any residence for the legal period, where it states that "he resided himself in the city of Baltimore five or six days before the election," which seems to exclude the idea of a long residence of any kind in that city. If indeed the report is thus difficult of construction, or contradictory, it was aptly likened by a

gentleman, the other day, to the special verdict of a jury, and we should be entitled to a *venire de novo*. It would surely be desirable that an explanation on this subject should take place; perhaps it can be afforded by some member of the committee; if it is not, certainly a course might be taken which would give us the information required.

The amendment offered by Mr. Bibb was now negatived by a large majority.

Mr Rhea, wishing to make an amendment, said that he supposed that every report of every special committee was liable to amendment by the House.

The Chairman decided that a report could not be amended; if an appeal were made, however, he would take the sense of the House upon it.

Mr. Rhea appealed from the decision of the Chair.

The question on this decision being put there were, for it 73.

The question recurring on the report—

Mr. Randolph said that, in consequence of the repeated notice which had been taken of the crude observations which he had submitted a few days since to the House, he felt obliged to say a few words more on this question. He was not in any respect qualified to discuss it at large; and it was because he then feared the approach of his present incapacity that he was unwilling for the Committee to rise, the day before yesterday. But, notwithstanding that incapacity, he felt it to be his duty to endeavor, however feebly, to remove some of the difficulties which the gentleman from Maryland (Mr. Key) had attempted to raise. A memory at no time very tenacious, would not enable him to recollect one half of the points which that gentleman had made in his very ingenious argument. He had set out however with laying down this broad principle, that the choice of the people should be unfettered, and that to limit the range of their selection was to doubt their competency to self-government; indeed (according to the gentleman) it was an infraction of their natural rights. Why then had they formed a Constitution at all? Why had they established those fundamental laws, which the people themselves were as much bound to respect as their public functionaries—a rule of action for all, from which none could absolve themselves? It was because of the radical depravity and original sin of their nature, which called for wholesome restraints. In a lucid interval they had wisely determined to tie up the hands not only of their agents, but of themselves, that when the hour of passion should come, barriers might be opposed to their inconsiderate rashness. Every feature of our Governments, both State and Federal, proved that the people were sensible of the necessity of restraining as well the headlong impetuosity of the multitude, as the inordinate ambition of the few. Where such restraint was not imposed there was no genuine liberty.

Mr. R. expressed his surprise that the gentleman from Maryland, who had argued this question very much like a lawyer, should have taken no notice whatever of an important and conclusive precedent which had been adduced by him. He thought precedent, with the gentleman of the bar at least, outweighed all reasoning which was unsupported by it. The decision in the case of Mr. Patton, Mr. R. said had relieved his mind from some of the uneasiness which he had felt on this subject. In that case the right of the States is clearly recognised and would be again revered, he trusted at no far distant day, when the decision about to be made in the case of Mr. McCreery would be set aside, as a precedent taken from hard, unconstitutional times; for he could conceive no times more hard and unconstitutional than those, in which a single branch of the Legislature of the United States should undertake to declare void and of no effect the laws of States which had been unquestioned for near twenty years—from the very infancy of this Government.

The Committee had been amused with a distinction which some had pretended to find, for the comfort of tender consciences, between a legislative act and judicial decision of that House. What imports it, said Mr. R., whether as legislators you declare the law of Maryland to be unconstitutional, or pass sentence of death upon it in your judicial capacity? Was the law of Maryland less invalidated in the one case, than in the other?

Mr. R. considered the reading which the gentleman from Maryland had given of the Constitution as a poor evasion. He left it where he found it, a mere negative provision, nor could he make it positive unless it should be made to run somewhat in this way; "that every person, who has attained the age of 25 years, and shall be eligible to seat in the House of Representatives." The gentleman had undertaken to find a denial of the power of a State to superadd qualifications to a Representative, in a grant of power to the States "to regulate the time, place, and manner of holding elections," and had contended, with great propriety, that in every grant of the powers not enumerated, and not necessary to carry the enumerated powers into that effect, were denied. Mr. R. said that, at the first blush, the clause in question might appear to contain a grant of power to the States, but look at it for a moment with a steady eye and its complexion varied. It was in fact a grant of power to Congress, with a mere permission to the States to exercise that power until Congress should choose to take it out of their hands. The Government could not have been called into existence, without the intervention of this power, and as it must be lodged somewhere, the States were permitted to exercise it at the sufferance of Congress. This clause, then, being a grant of powers to Congress and not to the States, contained a denial to Congress, and not to the States, of the powers not enumerated in it.

Mr. R. said he had not examined any authorities upon this subject; but if the gentleman would favor him with the debates of the Virginia Convention, he thought he could show that there was nothing irreconcilable between the opinion of Mr. G. Nicholas and the doctrine which he endeavored to support. [Here he read an extract from

Mr. N.'s speech.] This, said he, is very correct and true. The Constitution creates no other disqualification than those enumerated; it leaves a wide field for the State governments in which to act; but Mr. Nicholas's opinion is upon the power of Congress to narrow the ground of eligibility, not upon the right of the State Governments to superadd qualifications. This power they possessed in virtue of their sovereignty. As free and sovereign States, they might do every act belonging to their character as such, which was not forbidden by the Constitution. But, said the gentleman, "the powers not delegated are reserved to the States, or to the people." It appeared to Mr. R. that the principal strength of the gentleman's argument lay in a dexterous use of the word "States." In geography, it implied a portion of country within certain limits. In politics, it might mean the Government of that portion of country, or the people inhabiting it, as socially and politically connected. The framers of the Constitution well knew that in some States, as in Connecticut, the power of the Government was commensurate with that of the people in their original sovereign capacity; that in others, as in Virginia, it was very limited. When therefore the Constitution makes a reservation of power "to the States, or to the people," it merely declares that the State Government shall possess the power where not forbidden by its own peculiar constitution; but where not allowed to exercise such a power by its own constitution, it shall remain with the people. It behooved the gentleman therefore to show that this power, not granted by the Constitution to Congress, nor denied by it to the States, is forbidden by the Constitution of Maryland to its Legislature, and therefore rests in the people of Maryland. And this is a question between the people of Maryland and their own Government, with which Congress had nothing to do.

The gentleman affirmed that in the Senate alone was to be found any feature of a confederated Government. Did he forget, that in one of its most important acts, the election of a President, the House of Representatives voted by States? That at every session they were called over and sworn in by States; and it would be more in the spirit of the Constitution, that the yeas and nays should be taken by States. To prove that they were not the Representatives of the people of the United States, but of the people of the several States, he cited the act, rejected by General Washington, for apportioning Representatives, because that act attempted to amalgamate the whole people into one mass, without respect to State distinctions, and which, when returned to the House of Representatives, was found to be unsupported by a majority, it having in the first instance been passed by finesse. Why were the people of the Territories deprived of Representatives, if that House represented the people of the United States, as united States, and not the people of the several States, as States? But it was asked, what prevented a State from adding to the qualifications of the President? He was the Representative of the people of every State, and therefore it was requisite, that some common agreement, unchangeable by any of them, should subsist between them. But what had the people of New Hampshire to do in the election of members from Georgia? The uniformity of qualification, about which so much was said, was no more necessary than uniformity of stature. The qualification of the voters was not uniform, nor thought necessary to be so. That is left exclusively to the several States, that is, the people and government of those States. The Constitution has deemed them capable of attending to their own interests, worthy of trust; and for the first time a new doctrine was broached. The most violent suppositions were pressed into the service to show that the States cannot be trusted. He might as well suppose that the States might require five millions of acres of land as a qualification necessary to entitle a man to vote; and then most of the States would be wholly unrepresented; indeed none but Yazoo men could vote. There would be an end of the Government. No quorum of that House would ever assemble. Such monstrous cases might amuse, but never could convince. The Constitution had confided to the States, *State interests*. If they were not safe there let them adopt this report, do away all State rights, and then we should have that consolidated Government which the gentleman from Kentucky so much admired, but which he from his very soul detested and abhorred.

The gentleman from Maryland had cited as authority, what Mr. R. had not expected would ever have been produced in that House as such—commentaries on the Constitution made anterior to its going into operation. He did not suppose that the uniform practice of the State Governments and the solemn decision of the House of Representatives in the case of John Patton would be combatted by prophecies upon the operation of the Constitution, when it was yet in embryo. These opinions had no weight with Mr. R. He had not been in the habit of paying great deference to the political opinions of the late General Hamilton, or to those of the negotiator of the Treaty of London, nor did he think the third member of the gentleman's political trinity entitled to more consideration than his worthy co-adjutors. There was in existence, as he was credibly informed, an edition of the letters of Publius, in which the productions of the several writers were designated by themselves. A friend of his had a copy thus marked, and some of the papers which carried many of the doctrines of the late Administration to the farthest lengths, were ascribed to the pen of that gentleman. Of the survivors of this famous triumvirate he could say no less than that they were *par nobile fratrum*.

Mr. Randolph understood Judge Tucker very differently from the gentleman from Maryland. At the time of composing his lectures on Blackstone, he had seen the Constitution trampled upon and set at naught; a sedition law passed in defiance of an express prohibition; and the doctrine of treason laid down by the court, in the case of John Fries, in direct contempt of the Constitu-

tional definition of the crime. Was it to be wondered at, that, when he had seen the most solemn provisions of the Constitution sported with, the judge should fear that the time might perhaps come, when a House of Representatives should disregard the wise and salutary regulations of the States?

In the course of discussion gentlemen had attempted to show, that in prescribing residence in his district to a Representative, the States abridged the rights of the people. There was hardly plausibility in this argument. The States knew that by such a regulation they consulted the interests of the people? What was the case in England. Residence was not required by their laws. A man was competent to represent the remotest borough or county of the empire. What was the consequence? Corruption seeking where she could invest her money to most advantage. The nabobs of the East Indies and of the West, the rich bankers, and overgrown merchants of London, and the great landed proprietary, all contending by intrigue and corruption for the representation of people whom perhaps they never saw. This, as well as the inequality of their representation, perpetuated abuse in their Government. What sort of connexion could subsist between a Representative and constituents whom he never saw, who could hardly find upon the map the place which entitled himself to a seat in the Legislature? Here, as in England, we should see wealthy merchants and great stockholders aspiring to represent every district, in hopes of succeeding in some one of the States. What a door would be opened to intrigue and to corruption too! The time might come when the President of the United States may issue his *congé d'élire* to the remotest district of Maryland or Virginia, and every Representative from those States might consist of courtiers of this place, who had temporary country boxes without the limits of the ten miles square. He stated this as a possible case; at least as probable as some which had been imagined on the other side. It was essential to representation that the elected should be acquainted with his constituents, and that they too should know him well—if it were possible every man, woman, and child of them. He must be one of them.

The gentleman from Maryland had given him credit for talents which Mr. R. entirely disclaimed. He had been pleased to say that he possessed abilities which would secure his election in any district. In drawing this picture the gentleman had sat to himself. It was he who possessed this talent and stood convicted of the actual exercise of it. Mr. R. disclaimed all pretensions to any such endowment. On the question of residence he thought a man's own words and acts might be trusted to for evidence of his intentions and belief—and the measures which Mr. McCreery had taken, a few days before the election, proved that he was conscious that he was not a resident. Of this, however, enough. The question turned solely on the constitutionality of the law of Maryland, for the committee had not pretended to decide the other, or to allow it any weight in their deliberations. Mr. R. concluded by setting the gentleman from Kentucky right as to a matter of fact, that there were States where men of color enjoyed all the rights of citizens—and by recommending to the consideration of the committee the decision of the case of John Patton. He did not think it could be fairly inferred that the Constitution intended, by a loose implication, to deny to the States the power of prescribing qualifications for Representatives, when it expressly vested them with a much more important power, more liable too to abuse, that of prescribing qualifications to the voters. He was completely tired of the subject, and supposed his hearers were equally so with him.

Mr. Key replied to Mr. Randolph, at considerable length.

Mr. J. Clay moved to amend the original resolution reported by the Committee of Elections, as follows:

Resolved, That the second section of the first article of the Constitution of the United States, having prescribed the qualifications of the persons who may be elected Representatives in the Congress of the United States, neither the Congress of the United States nor the Legislature of any of the States, can Constitutionally add to, or take from those qualifications.

Resolved, That the several sections of the two acts of the State of Maryland, passed November 1790, and in November 1802, so far as the said sections require that any person elected to serve as a Representative in Congress, from any particular district of the said State, shall at the time of the election be a resident of the district for which he is elected, and which require twelve months previous residence, do add to the qualifications required by the Constitution of the United States, and are therefore void.

Resolved, That William McCreery, returned as a Representative in Congress for the district composed of the city and county of Baltimore, in the State of Maryland, was at the time of his election an inhabitant of the said State, and possessed of all the other qualifications required by the Constititution of the United States, to entitle him to serve as a Representative in Congress.

Therefore, resolved, That William McCreery is entitled to his seat in this House.

Mr. J. Clay advocated; and Messrs. Thomas, Alston, Smilie, Masters, Pitkin, and Rhea, opposed the resolutions on the ground that they were not in order, or on the score of inexpediency.

Mr. Rhea of Tennessee moved to strike out the word *therefore*, which motion was declared by the Chair to be out of order.

At this time, a motion being made for the Committee to rise,

Mr. Smilie said, he had wished an immediate decision on the report, in order that the House might be at liberty to enter on national business of more immediate importance; but, from the situation in which he now saw the Committee, he wished they should rise.

Mr. J. Clay said that if the gentleman wished to consult his pillow or anything else, he might do it; but Mr. C. hoped the Committee would not rise without deciding on the resolutions.

The motion for rising was carried, 72 being in

favor of it; when the Committee rose, and obtained leave to sit again. 74 being in favor of it.

A motion was made that the amendment offered by Mr. Clay be printed, and negatived, 54 to 34; and the House adjourned.

Thursday, November 19.

Mr. Joseph Clay, from the committee appointed, reported a bill authorizing the purchase of certain copies of the Journals of Congress; which was read twice, and committed to a Committee of the Whole.

Mr. Winn, from the committee appointed, on the thirtieth ultimo, to prepare and report such standing rules and orders of proceedings as are proper to be observed in this House, made a report thereon; which was read, and referred to a Committee of the Whole on Tuesday next.

Mr. Dawson, from the committee appointed on so much of the Message of the President of the United States as relates to our Military and Naval Establishment, who were instructed by a resolution of this House of the eleventh instant, "to inquire into the expediency of selling to individual States or Territories, which may wish to purchase, any arms or ordnance owned by the United States, and which may be parted with without injury to the public," made a report, in part, thereupon; which was read, and referred to a Committee of the Whole on Wednesday next.

BRITISH ARMED VESSELS.

The following Message was received from the President of the United States:

To the House of Representatives of the United States:

According to the request expressed in your resolution of the eighteenth instant, I now transmit a copy of my proclamation interdicting our harbors and waters to British armed vessels, and forbidding intercourse with them, referred to in my message of the twenty-seventh of October last.

TH. JEFFERSON.

November 19, 1807.

By the President of the United States of America:

A PROCLAMATION.

During the wars which, for sometime, have unhappily prevailed among the Powers of Europe, the United States of America, firm in their principles of peace, have endeavored, by justice, by a regular discharge of all their national and social duties, and by every friendly office their situation has admitted, to maintain with all the belligerents their accustomed relations of friendship, hospitality, and commercial intercourse. Taking no part in the questions which animate these Powers against each other, nor permitting themselves to entertain a wish but for the restoration of general peace, they have observed with good faith the neutrality they assumed; and they believe that no instance of a departure from its duties can be justly imputed to them by any nation. A free use of their harbors and waters, the means of refitting and of refreshment, of succor to their sick and suffering, have, at all times, and on equal principles, been extended to all, and this, too, amidst a constant recurrence of acts of insubordination to the laws, of violence to the persons, and of trespasses on the property of our citizens, committed by officers of one of the belligerent parties received among us. In truth, these abuses of the laws of hospitality have, with few exceptions, become habitual to the commanders of the British armed vessels hovering on our coasts, and frequenting our harbors. They have been the subject of repeated representations to their Government. Assurances have been given that proper orders should restrain them within the limits of the rights and of the respect due to a friendly nation; but these orders and assurances have been without effect; no instance of punishment for past wrongs has taken place. At length a deed, transcending all we have hitherto seen or suffered, brings the public sensibility to a serious crisis, and our forbearance to a necessary pause. A frigate of the United States, trusting to a state of peace, and leaving her harbor on a distant service, has been surprised and attacked by a British vessel of a superior force, one of a squadron then lying in our waters and covering the transaction, and has been disabled from service, with the loss of a number of men killed and wounded. This enormity was not only without provocation or justifiable cause, but was committed with the avowed purpose of taking by force, from a ship of war of the United States, a part of her crew; and that no circumstance might be wanting to mark its character, it had been previously ascertained that the seamen demanded were native citizens of the United States. Having effected her purpose she returned to anchor with her squadron within our jurisdiction. Hospitality under such circumstances ceases to be a duty; and a continuance of it, with such uncontrolled abuses, would tend only, by multiplying injuries and irritations, to bring on a rupture between the two nations. This extreme resort is equally opposed to the interests of both, as it is to assurances of the most friendly dispositions on the part of the British Government, in the midst of which this outrage has been committed. In this light the subject cannot but present itself to that Government, and strengthen the motives to an honorable reparation of the wrong which has been done, and to that effectual control of its naval commanders, which alone can justify the Government of the United States in the exercise of those hospitalities it is now constrained to discontinue.

In consideration of these circumstances and of the right of every nation to regulate its own police, to provide for its peace and for the safety of its citizens, and consequently to refuse the admission of armed vessels into its harbors or waters, either in such numbers or of such descriptions, as are inconsistent with these, or with the maintenance of the authority of the laws, I have thought proper, in pursuance of the authorities specially given by law, to issue this my Proclamation, hereby requiring all armed vessels bearing commissions under the Government of Great Britain, now within the harbors or waters of the United States, immediately and without any delay to depart from the same, and interdicting the entrance of all the said harbors and waters to the said armed vessels, and to all others bearing commissions under the authority of the British Government.

And if the said vessels, or any of them, shall fail to depart as aforesaid, or if they or any others, so interdicted, shall hereafter enter the harbors or waters aforesaid, I do in that case forbid all intercourse with them, or any of them, their officers or crews, and do prohibit all supplies and aid from being furnished to them or any of them.

And I do declare, and make known, that if any person from or within the jurisdictional limits of the United States, shall afford any aid to any such vessel, contrary to the prohibition contained in this Proclamation, either in repairing any such vessel, or in furnishing her, her officers or crew, with supplies of any kind, or in any manner whatsoever, or if any pilot shall assist in navigating any of the said armed vessels, unless it be for the purpose of carrying them, in the first instance, beyond the limits and jurisdiction of the United States, or unless it be in the case of a vessel forced by distress, or charged with public despatches as hereinafter provided for, such person or persons shall, on conviction, suffer all the pains and penalties by the laws provided for such offences.

And I do hereby enjoin and require all persons bearing office, civil or military, within or under the authority of the United States, and all others, citizens or inhabitants thereof, or being within the same, with vigilance and promptitude to exert their respective authorities, and to be aiding and assisting to the carrying this Proclamation, and every part thereof, into full effect.

Provided, nevertheless, that if any such vessel shall be forced into the harbors or waters of the United States, by distress, by the dangers of the sea, or by the pursuit of an enemy, or shall enter them charged with despatches or business from their Government, or shall be a public packet for the conveyance of letters and despatches, the commanding officer immediately reporting his vessel to the collector of the district, stating the object or cause of entering the said harbors or waters, and conforming himself to the regulations in that case prescribed under the authority of the laws, shall be allowed the benefit of such regulations respecting repairs, supplies, stay, intercourse, and departure, as shall be permitted under the same authority.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same.

Given at the City of Washington the second day of July, in the year of our Lord one thousand eight hundred and seven, and of the sovereignty and independence of the United States the thirty-first.

TH. JEFFERSON.

By the President: JAMES MADISON,
Secretary of State.

The Message was read, and, together with the Proclamation, ordered to lie on the table.

MARYLAND CONTESTED ELECTION.

The order of the day being called on the report of the Committee of Elections on the contested election of Mr. McCreery,

Mr. Milnor moved that the Committee of the Whole be discharged from the further consideration of the report, with a view to its recommitment to the Committee of Elections. Messrs. Milnor, Smilie, Southard, Van Horne, Troup, Alexander, and J. Montgomery, expressed themselves in favor of a recommitment, and Messrs. Cook, Rhea, and Alston against it; when the question on discharging the Committee of the Whole from the further consideration of the report was taken, and carried, 77 members rising in its favor.

Mr. Milnor then moved a recommitment to the Committee of Elections, which was opposed by Mr. D. R. Williams; to whom Messrs. Milnor and Southard replied.

The question on recommitment was taken and carried, 70 being in favor of it.

POTOMAC BRIDGE.

Mr. Lewis moved for the order of the day on the bill for the erection of a bridge over the river Potomac.

The House went into a Committee of the Whole on the subject, 65 being in favor of it; and the motion to strike out the first section being still before the Committee, Messrs. Nelson, Sloan, and Key spoke in favor of the motion, and Mr. Lewis opposed it: when the question was taken on striking out the first section, and negatived, 78 to 41.

The bill was then nearly all read over by sections, and the blanks filled; when, the hour of adjournment being arrived, the Committee rose, reported progress, and obtained leave to sit again.

Friday, November 20.

On motion of Mr. Parke,

Resolved, That a committee be appointed to inquire into the expediency of amending the ordinance for the government of the Northwestern Territory, passed the thirteenth of July, one thousand seven hundred and eighty-seven, so far as relates to the duties of the supreme or superior Judges of the Indiana Territory; and that they have leave to report by bill, or otherwise.

Ordered, That Mr. Gray, Mr. Stedman, Mr. Marmaduke Williams, Mr. Parke, and Mr. Bard, be appointed a committee pursuant to the said resolution.

Mr. Eppes presented a memorial of sundry citizens of the first and second wards of the city of Washington, in the Territory of Columbia, stating that the manner of electing the City Council by a general ticket, as authorized by the act of incorporation, passed the twenty-eighth of February, one thousand eight hundred and four, is found by experience to be injurious to the interests of the memorialists, and praying that such alterations may be made in the said act of incorporation as may effectually secure the just rights of the citizens, and promote the general prosperity of the city.—Referred to Mr. Eppes, Mr. Pitkin, Mr. Van Rensselaer, Mr. Hoge, and Mr. Bibb, with leave to report thereon by bill, or otherwise.

The House again resolved itself into a Committee of the whole on the bill authorizing the erection of a bridge over the river Potomac, within the District of Columbia. The bill was reported with several amendments thereto; which were twice read and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories. The bill was reported with an amendment thereto; which was twice read and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time on Monday next.

ADJOURNMENT.

Mr. D. R. WILLIAMS moved that when the House adjourned it should adjourn till Monday.

Mr. BLACKLEDGE had only one objection to agreeing to the motion; and that was, that they were in momentary expectation of despatches, which possibly might require them to convene within one hour after they were received. He thought the House should meet to-morrow for the purpose of receiving communications, should there be any to make; if there were none, they might adjourn in ten minutes if the gentleman chose.

Mr. COOK hoped the House would adjourn till Monday, to give time to the committees to meet.

Mr. CROWNINSHIELD said he believed it was understood that despatches had arrived at New York from London; and he thought it of great importance, at this crisis, that the nation should be informed of the state of affairs, and how the negotiation had progressed. Mr. C. said he had just heard that the ship had arrived in which Mr. Monroe was to have taken his passage, and that she left England on the first of October. He thought the House should not adjourn for two days together at this time, when the nation was, he feared, on the eve of war. Besides, if the House did meet, and there were no despatches laid before them, they might adjourn immediately.

The motion for adjournment till Monday was lost, 66 to 43.

SATURDAY, November 21.

On motion of Mr. CROWNINSHIELD,

Resolved, That the Clerk of this House furnish the standing committees of this House, and also the Committee on Post Offices and Post Roads, with such maps as may be required by committees, respectively.

On motion of Mr. NEWTON,

Ordered, That each of the standing committees be furnished by the Clerk of the House with a copy of Graydon's Digest of the Laws of the United States.

Mr. CLOPTON, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine the Journal of the last session, and report therefrom such matters of business as were then depending and undetermined, made a further report, in part; which was read, and ordered to lie on the table.

SIR JAMES JAY.

Mr. JONES moved that the House should, according to the order of the day, go into Committee of the Whole on the report in favor of the petition of Sir James Jay. Agreed to, 18 to 29. The report being read with the letter from the Secretary of State accompanying it,

Mr. TAYLOR opposed and Mr. JONES supported it.

The question being taken on concurrence with the report, the votes were, in favor of it 45, against it 46; there appearing some doubt whether this decision was correct, a second count was about to be had, when a debate took place, in which Messrs. UPHAM, COOK, DANA, QUINCY, SLOAN, and BLACKLEDGE, supported, and Messrs. J. CLAY, GARDENIER, D. R. WILLIAMS, HOLLAND, TAYLOR, and BURWELL, opposed the report.

In support of the report it was urged that the secret mode of correspondence, for which the petioner prays a compensation, was very useful in the Revolutionary War, and no doubt might be again; that the testimony in favor of the invention was very satisfactory; that there was on file in the office of the Secretary of State, a letter written by General Washington in this invisible ink; that Mr. Jay had never received compensation; that although it had been used by various persons, none had ever yet known the composition of it but himself; that the report was only to authorize the President to purchase this secret if he thought fit, leaving him the judge of its utility.

Those who opposed the report, argued that it was absurd to vote away money for a thing they did not and could not understand; that there never yet was a secret ink made but a composition could be invented that would bring it out, and that possibly Sir James himself might know such a composition; that the House had no security before them that it was not or would not be disclosed to other Governments as well as this; that if secret correspondence was wanted, it had from late occurrences appeared that Entick's Dictionary and a key word would afford, by writing in cipher, sufficient secrecy.

In the course of this debate much wit was displayed in speaking on different modes of keeping secrets, and the futility of all; with allusions to the secret proceedings of Congress, particularly those which took place on the 19th instant, which were said to have been known before the House took them up. Some amusement also arose amongst the members from the difficulty of hearing each other, and the consequent mistakes that took place

The question on concurrence being taken was carried, 50 to 48.

The Committee rose and reported to the House their agreement to the resolution contained therein; which was read, as follows:

Resolved, That it shall be lawful for the President of the United States to obtain, by purchase, at a reasonable price, the exclusive right, on behalf of the public, of the system invented by Sir James Jay, as submitted by him to the Executive Department of Government: provided, in the opinion of the President, it will be of public utility and importance to possess the same.

The House proceeded to consider the said resolution; and, on the question that the House do concur with the Committee of the whole House in their agreement to the same, Messrs. J. CLAY and SOUTHARD opposed, and Messrs. SLOAN, QUINCY, NEWTON, BLACKLEDGE, and CROWNINSHIELD, supported it. The question was then taken, and decided in the affirmative—yeas 54, nays 53, as follows:

YEAS—Evan Alexander, Ezekiel Bacon, Joseph Barker, William Blackledge, John Blake, jr., Peter Carlton, Epaphroditus Champion, John Chandler, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, William Ely, James Fisk, Francis Gardner, Isaiah L. Green, John Harris, John Heister, Daniel Ilsley, Richard M. Johnson, Walter Jones, Wm. Kirkpatrick, Nehemiah Knight, Joseph Lewis, junior, Matthew Lyon, Josiah Masters, William McCreery, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, William Stedman, Samuel Taggart, Benjamin Tallmadge, David Thomas, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Willbour, and Richard Winn.

NAYS—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Joseph Clay, John Clopton, John Culpepper, Ezra Darby, Joseph Desha, James Elliot, Meshack Franklin, Barent Gardenier, Peterson Goodwyn, Edwin Gray, William Helms, William Hoge, James Holland, Benjamin Howard, Reuben Humphreys, Robert Jenkins Thomas Kenan, John Lambert, Robert Marion, William Milnor, Daniel Montgomery, junior, John Morrow, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, John Thompson, Abram Trigg, Archibald Van Horne, Jesse Wharton, Robert Whitehill, and David R. Williams.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Messrs. JONES, STANFORD, VAN ALLEN, UPHAM, and HEISTER, do prepare and bring in the same.

MONDAY, November 23.

Mr. ELLIOT, from the committee appointed on the sixteenth instant, presented a bill extending jurisdiction, in certain cases, to Territorial Courts, and for other purposes; which was read twice, and committed to a Committee of the Whole on Thursday next.

On motion of Mr. JEREMIAH MORROW,

Resolved, That the committee appointed, on the fifth instant, "to inquire what compensation 'should be allowed for issuing commissions giv-'ing authority to take testimony, or examina-'tions relative to claims or applications, under the 'act to provide for persons who were disabled by 'known wounds received in the Revolutionary 'war," be instructed to inquire whether provision ought not to be made by law for placing on the pension list of the United States, persons who have received wounds in the service subsequent to the Revolutionary war, and who were called into service under any of the several acts of Congress, providing for the protection of the frontiers; such persons having served in the militia, in a volunteer corps, or in the regular forces, or under a special engagement; and that they report by bill, or otherwise.

A Message was received from the President of the United States, transmitting a copy of the proceedings, and of the evidence exhibited on the arraignment of Aaron Burr, and others, before the Circuit Court of the United States, held in Virginia, in the course of the present year.—Referred to the committee appointed on so much of the Message of the President of the United States, of the twenty-seventh ultimo, as relates to enterprises against the public peace, and to the means of preventing the same, and punishing the authors.

POTOMAC BRIDGE.

The engrossed bill for the erection of a bridge over the river Potomac, was about to be read for the third time, when Mr. NELSON moved that it be recommitted to a select committee for the purpose of amendment.

On this motion a debate ensued. in which the motion was supported by Messrs. NELSON, SLOAN, SMILIE, KEY, CROWNINSHIELD, DESHA, BACON, and TALLMADGE, and opposed by Messrs. LEWIS and GARDENIER.

The reasons given in favor of recommitment, were, that the corporation was made perpetual; that there ought to be some provision allowing the United States to become purchasers if they chose, after a certain length of time, in order to make it a free bridge; that there was in the bill no provision making the shares of a stockholder amenable to process of law; that a man might consequently vest all his property in this stock, in order to defraud his creditors; and that there was in the bill no provision for clearing the channel of the river, in case it should be injured by the bridge being carried away by ice, storms, &c. or should be left unfinished.

Those who opposed the motion expressed their regret that these amendments had not been thought of when the bill was before the Committee of the Whole, and open for amendment; that this was done with a design to defeat the principle of the bill, and that the advocates of the motion might be compared to physicians who administered their nostrums to an infant till they strangled it; in answer to the first objection it was replied that the risk which the subscribers would run in the experiment entitled them to ample remuneration, and yet whenever the annual income exceeded fifteen per centum on their capital, Congress was authorized to lower the tolls; to the second objection it was answered that every moneyed institution was liable to the same objection; that creditors were authorized to seize upon tolls arising from the stock of individuals, and to sequestrate them till they received their dues; and to the third objection it was said that these events were within the bare compass of possibility, and might never happen.

The motion for recommitment to a select committee was carried—yeas 72; and the same committee appointed that brought in the bill.

Mr. THOMAS said, that by an act passed in 1798, the Secretary of War, the Secretary of the Trea-

sury, and the Comptroller of the Treasury, were appointed Commissioners to examine the claims of refugees from the British Provinces of Canada and Nova Scotia. These Commissioners had made two repotts on those claims, which had not yet been finally acted on. At the last session they were referred to a select committee, who reported a bill which passed this House, but was postponed in the Senate. He now moved that they be referred to a select committee. Agreed—yeas 55, nays 23, and the following gentlemen appointed the committee: Messrs. THOMAS, BIBB, and BACON.

On motion of Mr. POINDEXTER, the House went into a Committee of the Whole on the bill to extend the right of suffrage in the Mississippi Territory, and for other purposes.

Mr. TROUP moved to strike out the first section of the bill, extending the right of suffrage, as well on the ground of its being incompatible with the articles of cession and agreement between the United States and Georgia as on its inexpediency.

The motion was supported by Messrs. TROUP and BIBB, and opposed by Messrs. POINDEXTER, W. ALSTON, RHEA of Tennessee, and SLOAN, who contended that there was no doubt of the right of Congress to legislate on this subject or of its expediency.

The Committee rose, without coming to a decision, and obtained leave to sit again.

TUESDAY, November 24.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred, on the eleventh instant, the memorial of Jeremiah Hill, reported a bill to change the name of the District of Biddeford and Pepperelborough, in Massachusetts, to that of Saco and Biddeford; which was read twice, and committed to a Committee of the Whole on Thursday next.

The House resolved itself into a Committee of the Whole on the bill authorizing the purchase of certain copies of the Journals of Congress. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House again resolved itself into a Committee of the Whole on the bill to incorporate the Trustees of the Baptist Church in the City of Washington. The bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

BRITISH AGGRESSIONS.

Mr. BLOUNT, from the committee appointed on so much of the Message of the President of the United States as relates to aggressions committed within our ports and waters by foreign armed vessels; to violations of our jurisdiction; and to measures necessary for the protection of our ports and harbors; presented to the House a letter from the Secretary of the Navy, stating that, in a letter addressed by him, on the twelfth instant, to the chairman of the said committee, some erroneous information had been given, and an omission made, which he had since discovered, and thought it his duty now to correct. The said letter was read, and ordered to lie on the table.

Mr. BLOUNT, from the committee to whom was referred so much of the Message of the President of the United States as relates to aggressions, &c., reported further, in part,

"That the numerous aggressions and violations of our jurisdiction recently committed within our ports and waters by British ships of war, whether they are to be regarded as the effects of positive orders from the British Government, or as proceeding from that unrestrained insolence and rapacity in British naval commanders which previously produced the murder of our fellow-citizen, Pierce, and the perpetration of many other well remembered outrageous and irritating acts, are convincing proofs of the necessity of placing our ports and harbors, as speedily as possible, in a situation to protect from insult and injury the persons and property of our citizens living in our seaport towns, or sailing in our own waters, and to preserve therein the respect due to the constituted authorities of the nation.

"That the committee, having maturely considered the subject, are of opinion that the protection desired can be best and most expeditiously afforded by means of land batteries and gunboats, as they have been induced to believe that by a judicious combination and use of these two powers, effectual protection can be given, even to our most important seaport towns, against ships of any size unaccompanied by an army.

"That our most important ports and harbors, and those requiring the earliest attention and the most expensive fortifications, are, New Orleans, Savannah, Charleston, S. C., Wilmington, N. C., Norfolk, Baltimore, Philadelphia, New York, New London, Newport, R. I., Boston, Salem, Newburyport, Portsmouth, N. H., and Portland.

"And that the ports, harbors, and places of minor importance requiring protection, and which may be protected by less expensive works, are, St. Mary's, Ga., Beaufort and Georgetown, S. C., Ocracoke, Albemarle Sound, James river, York, and Rappahannock rivers, Potomac, Patuxent, Annapolis, and Eastern Shore, Md., Delaware Bay and river, Egg Harbor, N. J., Amboy, Long Island, Connecticut shore, Tiverton, R. I., New Bedford, Marblehead, and Cape Ann, York, Kennebunk, and Saco, Kennebeck, Sheepscut, Damarescotta, Broad Bay, and St. Georges, Penobscot, Frenchman's Bay, and Passamaquoddy Bay.

"Wherefore, your committee holding themselves bound, by the tenor of the resolution referred to them, to report hereafter their opinion of the expediency of interdicting the waters of the United States to foreign armed vessels, according as circumstances, now unknown, may, when known, seem to require, submit the following resolutions, viz:

"*Resolved*, That it is expedient to authorize the President of the United States to cause such fortifications to be erected as, in addition to those heretofore built, will, with the assistance of gunboats, afford effectual protection to our ports and harbors, and preserve therein the respect due to the constituted authorities of the nation; and that there be, and hereby is, appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated, the sum of —— dollars.

"*Resolved*, That it is expedient to authorize the President of the United States to cause to be built an additional number of gunboats not exceeding ——, and to arm, equip, man, fit, and employ the same for the protection of our ports and harbors; and that there be, and hereby is, appropriated for that purpose, out of any moneys in the Treasury, not otherwise appropriated, the sum of ——."

The report was referred to a Committee of the Whole on Thursday.

WEDNESDAY, November 25.

Mr. POINDEXTER presented a memorial of the Mayor, Aldermen, and Assistants, of the city of Natchez, in the Mississippi Territory, praying a grant, in fee simple, of two lots of lands, within the limits of the said city, for the purpose of erecting public buildings thereon.—Referred to the Committee on the Public Lands.

An engrossed bill authorizing the purchase of certain copies of the Journals of Congress was read the third time, and passed.

An engrossed bill to incorporate the Trustees of the Baptist Church, in the City of Washington, was read the third time, and passed—63 to 25.

ARMY OF THE UNITED STATES.

Mr. TALLMADGE offered the following resolutions, which were read:

Resolved, That the Secretary for the Department of War be directed to lay before this House a statement of the respective numbers of officers, non-commissioned officers, and soldiers, composing the Army of the United States, noting the numbers wanting to complete the present Establishment.

Resolved, That the Secretary for the Department of War be directed to lay before this House a statement of the respective numbers of volunteers, either of artillery, cavalry, or infantry, whose services have been offered and accepted, in pursuance of the act, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding 30,000 men."

Mr. TALLMADGE said that it would be remembered, when the President had transmitted his Message to Congress, at the opening of the session, one part of it related to what might be the probable situation of the country, and to the necessity that might exist for raising a regular Army. Mr. T. presumed that every gentleman on the floor felt the same sentiment with respect to the importance of the preservation of the honor of the country; and in order that they might be prepared to meet any possible event, it became essentially necessary to know what was our actual force. This was the object of the first resolution which he had proposed. He wished to know not only what that force was, but how far it was deficient. Another reason which operated strongly on his mind, was, that the House never failed, at each session, to vote money for the support of the Army and Navy of the United States. They certainly could not make the exact appropriations required, without knowing what the actual force of the Army was.

With respect to the second resolution, it would be remembered that an act was passed in February, 1807, authorizing the President to accept of the services of any number of volunteers, not exceeding 30,000, which act was to remain in force for two years. It became important to know how far volunteer companies had offered, and how far this force might be brought into the field in case of emergency. An act had also passed in April, 1806, authorizing the President to call out 100,000 militia, to continue in force two years from its date, and would of course expire next April. These were the different species of force on which the President could calculate on an emergency. That the House might know the exact force of the Union, and how far it might be relied on, were the reasons which induced him to move these resolutions at this time.

A desultory conversation took place as to the ability of the Executive to give the information called for in the second resolution, in which Messrs. TALLMADGE, THOMAS, DANA, QUINCY, CHANDLER, DURELL, ALSTON, UPHAM, and SMILIE, took part; when, the resolutions were agreed to, without a division.

MISSISSIPPI TERRITORY.

On motion of Mr. POINDEXTER, the House went into a Committee of the Whole on the bill to extend the right of suffrage in the Mississippi Territory, and for other purposes.

Mr. TROUP withdrew his motion for striking out the first section of the bill, with a view to give the gentleman from the Mississippi Territory an opportunity of making the bill less objectionable, and for that reason solely.

Mr. POINDEXTER, to accord with the wishes of the representation from Georgia, moved an amendment, which limited the right of suffrage to freeholders and holders of land by equitable titles; which was agreed to, without a division.

Mr. BIBB moved that the following provision be inserted in the bill:

"*Provided*, That this act shall not take effect till the assent of the State of Georgia shall have been signified thereto;"

Which motion was negatived—68 to 18.

The bill being gone through, the Committee rose and reported it, with the following amendment:

"SEC. 2. After the words, '*in Congress assembled*,' in the second line of the bill, strike out the words, 'That every free white male person in the Mississippi Territory, above the age of twenty-one years, having been a citizen of the United States, and resident in the said Territory one year next preceding an election of Representatives, and having paid a county or territorial tax, assessed at least six months previous to such election, shall be entitled to vote for Representatives to the General Assembly of said Territory;' and insert the following words, to wit: 'That every free white male person in the Mississippi Territory, above the age of twenty-one years, having been a citizen of one of the United States, and resident in the said Territory one year next preceding an election of Representatives, and who is possessed, in his own right, of a freehold estate, in fifty acres of land, or who is entitled to a right of pre-emp-

tion to a tract of land in said Territory, by virtue of any law of Congress, or who may become the purchaser from the United States of any tract of land of the quantity of fifty acres, shall be entitled to vote for a Representative to the General Assembly of said Territory.'"

Mr. Bibb wished the proviso he had moved, in Committee of the Whole, to be now added to the bill.

The Speaker said the House must decide upon the amendment made in Committee.

Mr. Poindexter said, that, as the gentleman from Georgia (Mr. Bibb) had declared an intention to oppose the bill *in toto*, if his proviso were not agreed to, he should now be opposed to the amendment which he himself had proposed, and which had been adopted in Committee, as it had been offered with a sole view to the accommodation of the gentleman from Georgia; and as, even after this compromise, they were still determined to oppose the bill. He therefore wished it now to be decided on in its original shape, which was most agreeable to his constituents.

The question being taken by yeas and nays, on concurrence with the amendment of the Committee of the Whole, it was decided in the negative—yeas 41, nays 79, as follows:

Yeas—David Bard, Burwell Bassett, Wm. W. Bibb, William Blackledge, John Blake, junior, Robert Brown, Joseph Calhoun, Joseph Clay, Matthew Clay, Howell Cobb, William Ely, John W. Eppes, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, David Holmes, Thomas Kenan, William Kirkpatrick, Joseph Lewis, junior, Robert Marion, Josiah Masters, Thomas Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, Samuel Riker, Dennis Smelt, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Abram Trigg, Jabez Upham, Robert Whitehill, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, junior, Ezekiel Bacon, Joseph Barker, Thomas Blount, John Boyle, William Butler, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, John Davenport, junior, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Findley, James Fisk, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, Benjamin Howard, Daniel Ilsley, Robert Jenkins, James Kelly, Philip B. Key, Nehemiah Knight, John Lambert, Edward Lloyd, Matthew Lyon, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Rowan, John Russell, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, Geo. M. Troup, James I. Van Allen, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Isaac Wilbour, David R. Williams, Marmaduke Williams, and James Witherall.

On each of the foregoing questions some debate arose, in which Messrs. Poindexter, Quincy, Bacon, Sloan, Smilie, Cook, Rhea of Tennessee, Lyon, and Holland, generally supported the right of Congress to legislate on the subject without the consent of Georgia, and advocated the political expediency of extending the right of suffrage as originally contemplated by the bill, so that every free white male inhabitant, who had paid taxes six months, and been a resident in the Territory twelve months previous to the election, should be entitled to vote for Representatives in the Legislature.

Messrs. Bibb, Troup, Gardenier, Gardner, and Rowan, generally denied the right of Congress to legislate on the subject in violation of the compact entered into with Georgia at the time of her cession to the territory; intimated that the Territory would soon become a State, when she could fix the qualifications of her own voters; and added, that, in the mean time, there was abundant evidence of her elections being properly conducted, from the talents and respectability of her Representatives.

The House adjourned without taking a question on Mr. Bibb's proviso.

Thursday, November 26.

Mr. Lewis, from the committee to whom was recommitted the bill for erecting a bridge over the river Potomac, reported the bill with amendments; the most material of which makes the shares of the stock personal instead of real property, and gives to the United States the right of becoming purchasers of the bridge after a certain time. The bill was referred to a Committee of the Whole to-morrow.

Mr. Lloyd presented a petition of David Porter, master commandant in the Navy of the United States, which was received and read, stating that the petitioner hath imported from Italy, in the frigate Constitution, lately arrived at Boston, on account of the officers of the Navy, a monument, to be erected in the City of Washington, in memory of the officers who fell during the different attacks made on the city of Tripoli, in the year one thousand eight hundred and four; and praying a remission of the duty accruing to the United States on the importation of the same.—Referred to the Committee of Ways and Means.

MISSISSIPPI TERRITORY.

On motion of Mr. Poindexter, the House resumed the consideration of the bill extending the right of suffrage in the Mississippi Territory, and for other purposes: Whereupon, a motion was made by Mr. Bibb, to amend the said bill by adding to the end thereof, a proviso in the words following, to wit: *Provided*, That this act shall not take effect until the assent of the Legislature of Georgia shall have been signified thereto.

Messrs. Bibb, Gardenier, Taylor, and J. Clay, supported the proviso; and Messrs. Poindexter, M. Williams, Sloan, Key, Smilie, Bacon, Lyon, Rhea, Culpepper, Milnor, and Johnson, opposed it.

The question was taken that the House do

agree to the same; and passed in the negative—yeas 35, nays 86, as follows:

Yeas—David Bard, Burwell Bassett, William W. Bibb, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Joseph Clay, Matthew Clay, Howell Cobb, James M. Garnett, Peterson Goodwyn, Edwin Gray, Walter Jones, Robert Marion, Josiah Masters, Daniel Montgomery, jr., Thomas Moore, Jeremiah Morrow, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rowan, Dennis Smelt, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, Philip Van Cortlandt, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, William Blackledge, John Boyle, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Edward Lloyd, Matthew Lyon, William Milnor, John Montgomery, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Allen, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Marmaduke Williams, James Witherell.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

Friday November 27.

Mr. Speaker laid before the House sundry papers and documents, transmitted by Duncan McFarland, of the State of North Carolina, relative to his claim to a seat in this House, as a Representative for the said State; which were read and referred to the Committee of Elections.

Mr. Randolph, from the committee appointed, on the eleventh instant, presented, a bill to explain the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight;" which was read twice and committed to a Committee of the Whole on Monday next.

PHILADELPHIA MEMORIAL.

Mr. Joseph Clay presented a memorial of sundry merchants and traders of the city of Philadelphia, in the State of Pennsylvania, praying a repeal of an act of Congress, passed on the eighteenth day of April, one thousand eight hundred and six, entitled "An act to prohibit the importation of goods, wares, and merchandise."

The memorial is as follows:

To the President, Senate, and House of Representatives of the United States of America:

The memorial of the merchants and traders of the city of Philadelphia respectfully represents: That a strong confidence in the neutral position and character of their country, and in the pacific policy of its Government, has encouraged and induced many of your memorialists to embark their property extensively in foreign commerce, and to adventure a large proportion of their wealth upon distant voyages—that recent and unexpected events so far affect the security of their enterprises as to impel them to make known their sentiments and wishes to Congress.

Your memorialists cannot but view with extreme solicitude the apparent state of the negotiation between their country and Great Britain, upon the event of which the safety of their property so materially depends. Their alarm and anxiety, increased by reports, perhaps unfounded, of the nature and extent of the demands made by the Government of the United States, cannot but be great, while they are wholly destitute of information, from official sources, calculated to direct their conduct. They mean not, however, to intimate a wish for disclosures incompatible with the due reserve of Government, but, candidly to present to its view their difficulties and embarrassments.

In common with their fellow-citizens, your memorialists entertain the strongest sense of the necessity of supporting the honor and independence of their country. They feel that the national interest is inseparably connected with such support, and, although in the event of war, as individuals they must be deeply affected, they have not a wish that considerations of private interest should induce a sacrifice of national honor and independence.

But, from the wisdom and patriotism of the National Legislature, they conceive the expectation well founded that the commercial interests of the United States, with which the common welfare is inseparably connected, will not be committed by an unyielding adherence to doubtful or unsettled principles. They, therefore, with confidence submit their hopes that while essential rights—to which, as an independent nation, we are indisputably entitled—will be maintained to the last extremity, matters of seeming interest, but of less importance, will be referred to a more propitious and less hazardous moment for adjustment.

Under these impressions, your memorialists deem it an indispensable duty to themselves, and to their fellow-citizens of the landed and other interests, most respectfully to suggest to Congress that the act, at present in suspension, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," passed the 18th day of April, 1806, should it go into operation, will not tend to promote the desirable results of national reparation, and amicable adjustment of our differences with Great Britain. In effect, that your memorialists consider the said act, in its application to this country, as extremely embarrassing, and, in its operation on the Government and people of Great Britain, as irritating and inefficient; that the repeal of the said act would be productive of beneficial effects, inasmuch as it would relieve our own citizens from embarrassment, demonstrate a disposition to treat on terms of liberality, and be considered as a pledge of candor and

magnanimity in the conduct of the negotiation; while, in the event of failure to produce a fair and honorable accommodation, the evils of war, which must severely and equally affect the farmer, merchant, and mechanic, would be borne with less regret, as being rendered inevitable.

In submitting their opinions to the National Legislature, your memorialists have not, they conceive, overlooked the delicacy of the subject to which they relate, and they have anxiously endeavored, in representing the objects of this memorial, to connect the national honor and interest with their individual claims and privileges.

Relying on the exercise of a wise, just, and dignified policy, your memorialists respectfully refer the matters herein stated to the consideration and decision of Congress.

The memorial having been read, Mr. J. Clay moved that it be referred to the Committee of Commerce and Manufactures.

Mr. Rowan did not feel himself competent to judge on this subject, but would barely suggest to the consideration of the House, whether, after the attack on the Chesapeake, a petition of this nature should be referred. He himself had disapproved of the act of which this petition prayed a repeal, but it had been passed, and since its passage, the memorable affair of the Chesapeake had taken place; and it had been said by the British Government that, if this act were suffered to go into operation, it would be considered as a declaration of war. Under these circumstances, he could not, as an American, vote for a reference of a memorial on this subject. Had he been entitled to a vote previous to the affair of the Chesapeake, he should have voted for a repeal of the law. But now, he was opposed to considering the subject at all. They were not now in a situation to parley. And he hoped, whatever might hereafter be done, that the House would not now enter into a consideration of this subject. In rising to express this opinion, he was actuated by the same sentiments that would guide him in common life. If he had committed an injury, on fair words, he would retract it; but, if a threat were used, he would not. This law had caused a sensation in the Cabinet of England, and, whatever might be the consequence, they must now make a proper stand. Even a reference of this memorial now, would be a degradation of their dignity.

Mr. J. Clay said that, whatever were his sentiments as to the propriety of the measure in question, yet, as the memorial was couched in moderate terms, and drawn up with ability, he thought it would not be inconsistent with the dignity of Congress to refer it. They did not grant the prayer of the memorial by referring it. It was proposed to be referred to the committee appointed to consider all subjects relating to commerce, and nothing could certainly be more important in relation to commerce than the existence of the act prohibiting the importation of certain goods, wares, and merchandise. He believed that every man in the community who had considered the act in question, had found it deficient in all its details, and perfectly nugatory in some of its provisions. He did not speak of the principle of the act, but of its deficiencies. There was a doubt, under that act, whether a man could import an inkstand or a lock; or, whether he might import a silver watch, though there was no doubt but he could import a gold one; and there were other defects in its provisions, of a like nature. There was such inconsistency, that it might be considered doubtful, even on the ground of expediency, whether it should not be repealed.

Mr. Rhea, of Tennessee, was not one of those who wished for war with any nation on earth, but he should vote against the reference of this petition, or any other that prayed for the same object. It had been said by the gentleman who introduced it, that they did not grant its prayer by referring it. That was true; but, the very reference of it would give color to the supposition that the House were now deliberating whether they should repeal the law or not. It would be reported across the Atlantic, and this very reference might have its effect on the differences subsisting between the two countries. If the United States had taken this ground, why should they now give it up? He would not consent to it. It had also been said that the act was defective and nugatory. If this meant anything, it was, that it needed amendment; and if it were wished to amend it, he was ready to do it by adding other prohibitions to those it already contained. If he recollected right, the memorial stated that the non-importation act bore hard on our own merchants. That might have been expected. They had notice of its going into operation. Why did they, after that, give their orders for those articles which were prohibited by it. If, as had been stated, not an inkstand, or lock, or silver watch, could be imported, the act could be improved or amended without being repealed, as the petitioners wished. It was stated in the memorial that the law was embarrassing to merchants and irritating to Great Britain, and would tend to prevent an arrangement of the existing difficulties. These were ideas which ought to have no weight in favor of their prayer. Let Great Britain be irritated. Did she not irritate other nations? Had she shown any forbearance towards us? It was not necessary for him to recapitulate the oppressions of that nation towards the United States. They were well known to every member of the House. The United States had done everything to secure peace that a nation impressed with a sense of its own dignity ought to do. Should these petitioners be indulged in their wish that the nation should depart from its dignity because they felt some inconvenience? Mr. R. believed, that, when the matter was fully considered, and everything taken into view, it would appear that the United States had offered, in order to an accommodation of these differences, everything which the most liberal policy warranted. If a similar disposition had existed on the part of Britain, they would have been long since settled. Mr. R. concluded by hoping the House would not refer the petition, or give the world an opportunity to say they were now deliberating about the repeal of such a law.

Mr. Crowninshield held it to be an incontestable right of the citizens of this country to petition Congress on any subject whatever; but he found, on looking over the memorial, these sentiments; they say that "their alarm and anxiety increased 'by reports, perhaps unfounded, of the nature and 'extent of the demands made by the Government of 'the United States cannot but be great, while they 'are destitute of information from official sources 'calculated to direct their conduct." Nor could Mr. C. himself tell specifically what the Government of the United States had demanded of Great Britain; the President of the United States had informed the House that he would, at a proper time, lay before them such information; they were in expectation of such information, and this memorial asked them, before they had received such information, to repeal the law prohibiting the importation of certain articles. Though there might be some doubt as to some provisions of that law, it should be no inducement for them now to repeal it. Under what circumstances was that act passed? The United States had made remonstrances to Great Britain, on her aggressions for several years, without effect; that act was passed to induce her to do us justice. Had she done it? No; the outrage on the Chesapeake had been since committed. This had been known to her several months, and the Admiral, under whose orders the act was committed, had not been punished. Our Government had done all that remained for it to do, by asking redress of Great Britain. To this no answer had been given. Should the petitioners ask the House, in this situation, to repeal the non-importation act, or even to suspend it for a longer time? Was it grateful to their feelings? He thought not. He would not have objected to the reference of the petition had it not been couched in such terms as those he had quoted; but, as it was, he thought it his duty to object to the reference. The most delicate way of disposing of it would be to let it lie on the table. The suspension of this act expired in the next month; and they would, of necessity, consider the propriety of permitting it to go into operation, or of a further suspension. Mr. C. said, he must confess, for his own part, that he could not flatter himself, from the rumors now afloat, and from what he thought he knew of the disposition of Great Britain, that she would do us justice so far as was required. He thought they were almost at war. From information which he had received, Great Britain was arming or at least intriguing with the Indians on our frontiers. Her vessels were arming on the Lakes; she had called out her militia in Canada and Nova Scotia; and this was done, he presumed, by express orders from the British Government. She had manifested, by her attack on Copenhagen, that she would violate neutral rights without a pretence; she had outraged Denmark, who never injured her, and had not attempted to justify it to the world, but on the mere ground of necessity. He thought Congress ought, at this moment, to arm the nation, and be prepared to meet the event. He could not sit still and hear such language as the petitioners had used; they were alarmed at the extent of our demands. What were they? It was not in the power of the House to say; but, from the known character and conduct of the Executive, they had no right to infer but that they were reasonable and just. He felt a confidence in the Executive, and had no wish prematurely to know what those demands were. These were the ideas which occurred to him at this moment; he could, therefore, see no good which could result from a reference of the petition.

Mr. Milnor said, that all the arguments of the gentleman from Massachusetts went to show that a reference of the memorial would involve an inquiry into the expediency of repealing the law. If he thought the reference of the petition rested on that question, he should entertain the same opinion as had been expressed by that gentleman; but he had yet heard nothing which could convince him of the impropriety of referring this memorial. It would be no more than a proper respect to the petitioners to give it a reference; as far as he had heard the names of the subscribers to the memorial read, he knew them to be men of consideration; he was not personally acquainted with them, but knew them by character. They had addressed the House in respectful language, and had requested them to consider the propriety of repealing a certain law. What impropriety was there in this? The gentleman from Massachusetts had admitted that it was a question which required consideration, whether the law should go into operation, or be repealed; and, from the observations he had uttered, it appeared to be his desire to enter into more violent measures than those contemplated by that law. Mr. M. had never thought that law judicious, or that a partial prohibition of importation would have a good effect on our foreign relations, but that it would merely tend to irritate; and he would rather have seen a law passed to prohibit all importation, than one of so futile a nature. If the situation of the country was such as to require strong measures, that law would not be such as ought to be adopted. He thought strong measures were required, that they had been sleeping at their posts; that, from the present aspect of our political differences with Great Britain, they should have taken measures for defence, and not have remained so long idle. The memorial had been caused by the uncertain language of the law, as his colleague had informed the House, by which some persons had suffered considerable losses; some had considered it as safe, and some as unsafe, to import certain articles. He hoped the memorial would be referred to a committee, who need not report till the probable issue of events were ascertained. If it were a question whether that law should be repealed or not, as had been admitted by the gentleman from Massachusetts, surely there would be no impropriety in the petition going to that committee whose duty it would be to consider of the propriety of the repeal.

Mr. W. Alston said, he thought it at this time

extremely improper to refer the petition, as was proposed. If any step were to be taken in regard to the prayer of the petition, it should be done in Committee of the whole House. If the expediency of repealing the law, alluded to in the petition, was to be considered, it was a plain question, which would present itself to every member of the House, and could be decided without any previous reference to any inferior committee. The petition said something about instructions given to our Ministers. If it were referred to the Committee of Commerce and Manufactures, they might think themselves authorized to call upon the Secretary of State for information; it had therefore better be at once brought before the House, and not go to a committee; for though he felt perfect confidence in that committee, he was not willing at this crisis to entrust them with the power of calling for information which it might not be proper to communicate. In the Committee of the Whole a resolution might be brought forward which would determine the principle at once. He, therefore, moved that it be referred to the Committee of the whole House.

The Speaker said the motion made by Mr. W. Alston would supersede the motion for reference to the Committee of Commerce and Manufactures.

Mr. Bassett amended the motion so as to refer it to a Committee of the Whole on the state of the Union.

Mr. Smilie was sorry this motion was made, for it was certainly giving the memorial more importance than was attached to it by the motion of his colleague, who had introduced it. He considered the matter in a serious point of view. That there was in this country a party in favor of the British Government, he had no doubt; nor did he doubt but that this memorial was intended to embarrass the operations of our Government and strengthen the British Government in their measures. This was his opinion; and if other gentlemen thought so, they would manifest it by their votes.

Mr. Bassett said it would be recollected by the House, that, urged by the same feelings which had actuated the gentleman from Kentucky, (Mr. Rowan,) he had arisen to offer his sentiments on the subject, but had been prevented by the preference given to another gentleman. He considered the subject in a different light from the gentleman last up, and did not view it merely as it affected the petitioners. Their proceedings on this memorial would go forward to the public, and show to the world their opinions on the subject. Should they not now rouse from the slumber into which the gentleman from Pennsylvania had said they had fallen? Should they not show that they would be roused when the occasion called for it? He wished it referred to a Committee of the Whole on the state of the Union, because the nation was particularly interested in it; not to give peculiar consequence to the petition, but because he wished the full sense of the House to be obtained on it. He had prepared a resolution before the gentleman from North Carolina made his motion, declaring that the law ought not to be repealed. He thought this would have been the proper course; but, as the affair now stood, it was his wish to go into a Committee of the Whole instanter; not out of respect to the petitioners, but to the community, who had been long waiting for an expression of their sentiments. What have we said? asked Mr. B. That we will support the Government and its measures? No; we have said nothing. He was for giving to the world their opinion, that, as far as those measures were correct and proper, they would support them in their full extent. This was his reason for wishing it referred to the Committee of the Whole on the state of the Union.

Mr. Chandler said, he could not say whether the subscribers to the petition were American citizens, or British subjects, residing in our cities. If he were to judge from the language and terms which it conveyed, he should strongly suspect that they were of the latter class of people. If he were certain of that, he should wish the petition not to be noticed at all; but, as he was not perfectly convinced of it, he wished it to lie on the table. If it were necessary to take up the subject, they could at any time go into a Committee of the Whole on the state of the Union without the assistance of the petition.

Mr. Southard said, that the language of the petitioners was decent, but their object, the time of their application, and the observations which they had made, he thought extremely improper. The petition contained insinuations that the Executive had taken too high ground, and demanded things that were improper. He, therefore, thought the memorial was not entitled to that countenance from the House, which it would appear to receive by a reference to the Committee of the Whole. He differed in opinion with the gentleman from Virginia, just sat down, who thought this memorial should rouse their feelings; he thought it should stand on its own merits. The subject was in the hands of a committee, who might soon make a report, and they might then display their feelings. When the law in question was passed, he thought some steps were necessary to be taken to convince the British Government that they would not calmly put up with all their injuries, but would resent them. He had believed this law would have that effect, and that Congress ought to pass it; and, having taken this ground, he would not retreat; this was no time for retreating. He would much rather advance. The petitioners had chosen a very unfortunate time for their prayer, when a negotiation was actually pending. What would be the effect of a reference of the memorial? It would strengthen the measures of the British Government; they would suppose that the House repented of its conduct. This would be the effect as respected Great Britain. What would be its effect as respected our own Government? It would, as a necessary consequence, weaken their hands, He was willing to treat the petitioners with respect, as he did not know whether they were British agents or American citizens; but he trusted the motion for reference to a Committee of the Whole would not prevail, as he could see no one reason for it.

Mr. J. Clay said, that the petition was signed generally by ship-holders, men of respectability; and, with respect to the insinuation that it was the offspring of a British party, there was signed to that memorial the name of a man, who could no more be supposed a British partisan, than could her greatest enemy; but, he would not now enter into an inquiry as to the character of these men. The gentleman from Massachusetts first up, (Mr. Crowninshield,) had made a long harangue on the state of the nation, and said that no difficulties arose under this law. The custom-house of Philadelphia, in answer to an inquiry by a deputation from a body of merchants, declined giving an opinion as to the operation of some of its provisions. Every person knew how the bill originated; when the gentleman from Maryland, who was not now on the floor, (Mr. Nicholson,) brought forward the resolution, it was general, as all resolutions were, and merely declared the principle; when it was agreed to and referred to a committee to bring in a bill, instead of going into the necessary details, they took the mere words of the resolution. As to some observations from the gentleman from Tennessee, (Mr. Rhea,) one of which was that the law did not embarrass the merchants, he should only observe that it appeared to be the privilege of a member of Congress to speak on every subject that occurred, whether he knew anything about it or not. He should say no more, but that his feelings had been excessively wounded by the observation of the gentleman from Pennsylvania, (Mr. Smilie,) when he knew that the memorialists, whose all was now at stake, were honest men, though of different politics from himself.

Mr. Nicholas said, it was urged by the memorialists, as one reason in favor of their prayer, that the law needed amendment; another was, their fear of irritating Great Britain. He wished to God the United States might remain at peace with every nation on earth; but hoped they would only accept of it upon honorable terms. He did believe, that while acts of hostility were committed, while the armed vessels of Great Britain still floated in the waters of the United States, in defiance of an interdictory proclamation, it would never be determined by the representatives of the great body of the American people, that it became them to take any measures to conciliate. The Executive had sent no supplication; he hoped it had made a demand, that must be complied with, or they must appeal to arms, or make a total sacrifice of the national character. He felt no disposition to reject the memorial, but he would not vote for its reference to any committee; and would submit it to his friend from Virginia, (Mr. Bassett,) whether it would not be acting more for the interest of their country, to spend their time in making preparations for events, than in discussing such a question as this memorial involved, and whether his purpose would not be equally answered by a discussion of what had for its object the defence of the country.

Mr. Elliot said, if it were true that there did exist in our country a British party, it was a subject which ought to excite no inconsiderable alarm; but he had seen no reasons for an apprehension of this kind. If there were in the country a British party, possessing talents, property, and influence, how unfortunate was our situation! If, said Mr. E., after the outrages which have been committed, by violations of our rights and jurisdiction, there be a party ready to advocate that cause, we are unfortunate. If there be a British party, I hope it is the only foreign party in the country. But how was the question of a British or any other party now before them? A petition had been presented to the House, and a motion made for its reference to a committee, to give it the only course which a petition ever took. Was there any reason why this petition should not be referred? It regarded an important subject, a national concern. Was it couched in insulting or disrespectful language? He was not in the House when it was read, but understood it was perfectly respectful. The Emperor Napoleon, when opposed by Alexander, heading a column of 500,000 men, if a petition were offered to him by the meanest of his subjects, would at least smile on the petitioner, and put the paper in his pocket. Whither were the House going? He was apprehensive that there were two cabalistic words, either of which were sufficient to silence a petitioner or a member. British party was one. Was a petition presented, and a motion made to refer it, some one rose and told them the petition ought not to be referred; it came from a British party. Was a motion, on the face of it unexceptionable, proposed, they were told the mover had no confidence in the Executive, and must be voted down. No confidence in the Executive! Vote him down! Were they to reject petitions because they expressed no confidence in the Executive? He understood some allusions to be made in the petition to demands made by our Government. In turning to the Message of the President, he found no mention of such demands. After noticing the interdiction of our waters, the President says, "an 'armed vessel of the United States was despatched with instructions to our Ministers at London 'to call on that Government for the satisfaction 'and security required by the outrage. A very 'short interval ought now to bring the answer," &c. No intimation was given of the demand which was here mentioned being connected with any other demand. But did the petitioners intimate anything which did not arise from the general understanding that this demand had been connected with other demands, regarding perhaps questions of still greater importance. Such was the general understanding of the country. He did not undertake to question the policy of such demands. He did not want confidence in the Executive himself, but would not reject a petition because it did not express the same sentiment.

Mr. Nelson could not tell how the gentleman from Vermont had got into the argument about a British party in the country, except it was because Mr. N. himself had called for the reading of the

names subscribed to the memorial. He had no idea in doing this of inquiring whether there were a British party in the country or not. He merely wished to know whether the memorial was signed by the community at large or by merchants only; because he knew that the interest of the great body and the mercantile interest were very different, and if the latter were to have its way the country would be plunged into a war for its commerce, at the expense of the resources of the whole community. But the gentleman had said that if the greatest monarch on earth were presented with a petition from his meanest subject, he would at least smile on the petitioner. Mr. N. hoped this would never be the case here; that this House would not, courtier like, smile, but boldly, and like a republican, frown in the face of a man whose petition they did not like, and not put it in their pockets, when they did not mean to attend to it. If the petitioners asked for what ought not to be done, the respectability of their characters should have no weight with the House in favor of it.—Circumstances had much changed since the adoption of the law. Did they not recollect that previous to its adoption it was proclaimed throughout the country, that it was more than the United States dared to do, to pass such a law? The law had been passed; they were now on the eve of a war, and the British nation had said to them, if you persist in this law, we will consider it a declaration of war. Ought we under these circumstances to refer applications made for the repeal of that law? Was it not time misspent even to consider whether they would refer the memorial or not? He confessed he did not much like the law when it passed, but he voted for it, because he thought something ought to be done. But should they now retreat? He hoped not. He hoped the petition would neither be referred to any committee, or lie on the table; he wished it to receive no consideration whatever.

Mr. Bassett withdrew his motion for referring the memorial to a Committee of the Whole on the state of the Union, not that he was perfectly convinced his proposition was incorrect; as it was made with a view to the subject and not to the petition; but he was not one of those who wished a question taken on a motion merely because he made it himself. Another reason was, that he understood that it was contemplated to take up a report of the Committee of Aggressions to-day, when the House could go into a general discussion.

Mr. W. Alston withdrew his motion for a reference to a Committee of the Whole, as he did not wish to show any particular complaisance to the petition.

The Speaker said the question now recurred on the reference to the Committee of Commerce and Manufactures.

Mr. Rhea, of Tennessee, should not have risen again but for the observations of the mover of the reference, (Mr. J. Clay,) who understood him to say that the law would not embarrass the merchants. The gentleman had misunderstood him; he did not think it would embarrass any merchants who considered the honor and dignity of the United States. Mr. R. admitted that he knew nothing of commerce, for he was no commercial man; but this he knew, that the act prohibited the importation of certain articles, and was passed to support the honor of the United States. He also knew that the subject-matter of the petition, so far as it went to the repeal of the act alluded to, went to lower the dignity of the United States, and in order to induce an amicable termination, wished them to depart from the ground they had taken. Mr. R. said he should never be one of those who would refuse to consider a petition of a private nature, which did not include a national subject; but this required them to do an act which would derogate from the national honor. If he might refer to British publications, was it not now said that there ought to be a total prohibition of neutral commerce. The petitioners had every reason to suppose that our Government was doing everything which it could to procure an amicable adjustment of existing differences. Why then bring these things forward to impede its operations? Mr. R. felt all possible confidence in the Executive. He believed the instructions which had been sent, though he did not precisely know what they were, were proper and dignified. But the policy of the British Government would not admit any principle that would impair her absolute sovereignty of the ocean; and so long as that disposition existed, so long our remonstrances would be unheard, as they were before the Revolution. If he mistook not, our remonstrances at that time were thrown under the table. And would gentlemen insist that this petition should be referred, when it might commit the honor of the United States? He knew nothing of the petitioners, not even their names, but the subject-matter of their petition he abhorred. He had no objection when the proper time came round, to assist in the repeal of the law. When all our differences were settled, then those provisions might be set aside. He hoped the House, in its present situation, would not only hold on the law, but go still farther.

Mr. Sloan rose to say, that his sentiments as to this memorial were exactly similar in one respect with those expressed by the gentleman from Virginia. He thought with him, that the purport of the petition was such as to arouse their feelings and inquiries too. He had no right to arraign the motives of the petitioners, but he had a right to express his opinion of the matter of that or any other petition presented to the House; and he would say he considered it as embracing the interests of Great Britain. Taking it in this point of view, he thought they should not notice it farther than to reject it.

Mr. D. R. Williams felt differently from most gentlemen on this subject. If he could consider its effects as the gentleman from Tennessee had done, he should vote with him—but he could not see how that effect could be produced. If he could conceive that it had originated from a British party in Philadelphia, he should feel differently, but not feeling thus, he hoped he should not be denounced as one of a British party, if he voted

in favor of its reference to the Committee of Commerce and Manufactures. Giving to this memorial all the importance with which every gentleman had clothed it, he would ask the House to recur to a correct principle guarantied to the people by the Constitution: the right peaceably to petition for a redress of grievances. If they suffered foreign relations to influence them in considering Constitutional questions, any corrupt Executive might hereafter turn the very means to their destruction which were guarantied to them to secure their safety. This was not the day when the right to petition was the most sacred under the Constitution; but, that day might arrive, and the tendency of such conduct as has been recommended, is directly calculated to produce it. Suppose the object of the petitioners was to produce in Great Britain the same opinion which the circular letter of the American Commercial Society of Liverpool had in this country; is a contemptuous silence best calculated to defeat the object? I say no. The petition is now in the power of every man interested in its circulation; it ought not to be suffered to go abroad without the antidote accompanying it; refer it then to the Committee of Commerce and Manufactures, and if there was not talents enough in that committee to send them a Roland for their Oliver, he trusted there was in this House.

Mr. Fisk considered the right of petitioning in all cases a Constitutional right; but he did not consider it necessary at the same time to act on all petitions. This petition had been presented, and he thought the question of considering the petition of more importance than the subject itself involved in it. He was so unfortunate as to conceive that, although the language was good, the sentiments it conveyed were improper and disrespectful. He considered them improper, as exciting alarm; the petitioners had said they were extremely alarmed from rumor at the extent of the demands made by our Executive on the British Government. Where did they get their information? What these demands were they had not stated; were rumors to authorize them to come forward in this manner? One object of their petition was the repeal of the non-importation act, because it was necessary for a further adjustment of our differences with Great Britain, and because it might irritate her! Whence this great respect for Great Britain? Was it due to her conduct? Was it due to the impressment of our seamen, whom she had retained for seven years? Was it due to the principle she had interpolated into the law of nations, to the destruction of neutral commerce? Was it due to the blood of Americans which she had split, and the outrages committed on our public and other vessels? Is she, said he, entitled to respect from us for these? And yet gentlemen tell us this memorial contains respectful language! They no doubt felt the effects which might result from war, and he also wished for peace for his country; but would never purchase it by stooping to Great Britain or any other Power. Had not Congress a right to regulate our commerce without consulting her? Had she been so complaisant to us? Was her justice so great as to call upon us to repeal this law? These questions needed no answer; he hoped the petition would be rejected.

Mr. G. W. Campbell said, he rose with much reluctance to submit to the House a very few remarks, on this subject. The real question now to be decided was, whether the subject of the petition under consideration was such as ought, at this time, to claim the serious deliberation of the House in order to decide on its merits. Was the prayer of it such as they should deliberate about granting? If it was doubtful what the decision on the merits of this petition ought to be, then it should be referred; but, if on the first glance of its prominent features, its object was evidently inconsistent with the honor and dignity of the nation; if there could be no doubt with regard to the final decision that ought to be made upon it; this House ought not to refer it to any committee whatever. It was in this point of view he considered this petition. It appeared to him as little less than an insult to the understanding of the House; and when all the facts relating to the subject were taken into consideration, he was convinced the House would be of opinion that this application was, if not a direct, at least an indirect insult on their dignity. It was said, the people had a Constitutional right to petition, and that this House ought to hear their petitions. This right, he said, was not denied; the petition had been received and read in this House; and the question now was, how it should be disposed of; which must be decided according to the subject-matter of the petition, and will in no manner interfere with the right of the people to petition. In this petition, said Mr. C., the petitioners state, they are alarmed in consequence of the high demands made by this Government on Great Britain, and that their alarms are increased by public rumor. How, asked Mr. C., do these petitioners know the nature of the demands which have been made? And with what propriety do they state to this House their alarms on account of demands made by Government for redress, at a time when the whole nation feel with indignation, the insult which had rendered those demands necessary? But, suppose the House should refer this petition; it would be essentially necessary, before they could act on it, or remove those alarms complained of, that they should know what those demands were that occasioned them. They could not decide on the subject without knowing them; and how were they to obtain the information. Negotiations on the subject were now pending; the petitioners could not therefore expect that an inquiry into the nature of those demands would be made by this House, and it would not be consistent with the interests or policy of the nation to make such inquiry, until the result of those negotiations was known. What benefit could therefore result to the petitioners in regard to the pretended ground of their alarms from referring their petition? None. But the object of the petitioners is to obtain a repeal of the non-importation act; and they state as the reasons for wishing this repeal, that the act is

calculated to embarrass the merchants of this country and irritate the people and Government of Great Britain.

If gentlemen would reflect a moment on this subject, they would be convinced, that if the petitioners had paid a proper respect to the interest of their country or the dignity of this House, they would not, at this time, have made this application. The passage of that act was the first step which had been taken by the American Government, declaratory to their determination to resist aggressions which had been long continued on their commerce and citizens. It was passed by a large majority of this House, after a full discussion of its merits. At a subsequent session its operation was suspended; and on what ground? On this express ground, which was officially made known to this House, that Great Britain had manifested a friendly disposition towards this country, and that our differences with that nation were in a fair train of amicable adjustment—and with this information before them, Mr. C. said, they had only suspended the operation of the act, but had not repealed it. This was done with a view to meet, in a proper manner, those friendly advances on the part of that nation. Had anything since taken place calculated to conciliate the affections of this country, or which ought to induce the Government to abandon the ground of resistance which they had taken, or shrink from a perseverance in those measures first determined on, and still deemed necessary for the attainment of justice; on the contrary, had not the conduct of Great Britain since, been a tissue of aggravated insults? Had not one aggression been committed after another, in regular succession, and with increasing atrocity, until the climax of aggravated injury was completed by the attack on the Chesapeake? Was it necessary to repeat the circumstances of this outrage, which, for cowardly arrogance and deliberate insult, exceeded anything of the kind ever known among civilized nations? The universal indignation which it excited throughout the Union, still remains unabated, and would continue to do so while the crime was unatoned for; and yet, under these circumstances, said Mr. C., we are called upon to retreat from the ground we had previously occupied; to relinquish the only measure of resistance we had taken. After the murder of Pierce, and the still more barbarous murder of his fellow-citizens in the Chesapeake, since the passage of that law, and its suspension, you are called upon to retrace your steps, to decline all resistance, to shrink from the contest; and virtually to say to Great Britain, we feel your chastisement, and we regret that we have taken any step which may irritate your people or Government. The people of America, said Mr. C., would frown with indignant contempt on a conduct of this kind; and even the people of Great Britain, if they possessed the spirit of freemen, would feel a contempt for a conduct so pusillanimous, so inconsistent with the dignity of a nation. They could not do otherwise, however they might seem to approve the measure, than despise the meanness of a people, who would make a show of resistance in defence of their injured rights, and after repeated insult, relinquish the contest, without reparation, and tamely submit to the most aggravated aggressions. If we were to deliberate on pursuing such a conduct; if we expressed a doubt on the propriety of rejecting with indignation such a proposition, we would justly merit and receive the universal execration of the people of America. Mr. C. concluded by declaring his determation to vote against the reference of the petition to any committee, and expressing his hope that such reference would not be agreed to by the House.

Mr. Epps said, that in voting against the reference of this petition, he should not consider himself as casting a censure on the presenting it, or as violating the right of petitioning, which every man possessed. One reason only would influence him in his vote. He did not consider Congress possessed of that information which would enable them to act on any subject relative to our relations with Great Britain. He thought the House should not depart from a rule which they had laid down; though they had been four weeks in session, and every gentleman felt a sense of the injury received, they were determined not to take any step till they had full information on which to ground their determination. And now, because a body of merchants came forward and petitioned for it, should they depart from that rule? It had been said that not referring it would be a disrespect to those who offered it; and the gentleman from South Carolina had said it would be a violation of the Constitution. With respect to the petitioners, a petition introduced by them would meet with the same respect from him as if it had been introduced by the most conspicuous member in the House. If a motion had been made by a member to inquire into the propriety of repealing this law, he would in the same manner have voted against referring it. As to the Constitutional right of petitioning, when a petition was received and read, the Constitution was fulfilled. Whether it should be referred, or how otherwise disposed, remained for members to determine, for which decision they were answerable to their consciences. This objection was fully answered by the precedent in the case of the Yazoo claim, the memorial on which was rejected without a reference. Under these views he should vote against the reference, and, in doing so, did not wish to wound the feelings of any member, or consider himself as violating the Constitution.

Mr. J. Clay conceived that the Constitution, in securing to every citizen of the United States the right of petitioning, meant that the nature of his petition should be inquired into; but he was neither advocating the petition, nor vindicating the intentions of every man whose name was subscribed to the petition. He only wished that a proper respect might be paid to it. There was no necessity for entering into Executive secrets, or to go into the office of the Secretary of State. He merely wished an inquiry into the petition.

Mr. Cook was sorry that so much time had been spent to so little purpose. He conceived that the Committee of Commerce and Manufactures had no further information on our political relations than any other part of the House.

Mr. Rhea, of Tennessee, said he should always consider sacred the Constitutional right of petitioning the Legislature on any point; but it was in the power of the Legislature to say whether they would give that petition a hearing or not after they had received it.

Mr. Lyon said it was immaterial as to the respectability of the petitioners. He understood what the nature of the petition was, and thought it right that they might make an inquiry. He wished them to have a direct answer, and as quick as possible, by a refusal to refer their petition.

The question was then agreed to be taken by yeas and nays.

Mr. Randolph very much regretted that the gentleman from Massachusetts should have attempted to make this a party question; but as the yeas and nays were called he was compelled very reluctantly to say a few words upon it.

[Mr. Crowninshield, in explanation, said, that he had no idea that anything had dropped from him which went to show that he considered it a party question, for he did not mean so to consider it himself; he did not know the political characters of the petitioners—whether in or out, whether called republicans, or of what other denomination. It ought not to be discussed as a party question, but the question ought to be this: whether in our present delicate situation it were proper to refer it at all? He would not interrupt the gentleman further.]

The explanation of the gentleman might have been very satisfactory to himself; but Mr. R. could not comprehend it as such. After what had passed—when his friend from Pennsylvania (Mr. Clay) had been denounced even for presenting the petition—a man whom he would not degrade by a comparison, in point of character, abilities, or patriotism, with his denunciators—it was easy to see the object which gentlemen had in view. The right of petition was an inherent right of the citizen, recognised by the Constitution; and during the time that he had held a seat in that House, he remembered but a single case in which the reference of a petition had been refused. It was the Yazoo petition which had been mentioned. What examples had been brought forward, on this occasion, to induce them to treat the petition of our indigenous citizens with contempt? The example of that Parliament whose inveterate corruption and stupidity had dismembered the British empire. Had he ever expected to hear the conduct of Parliament under Lord North's administration, towards these then colonies, cited to justify any procedure of that House in relation to its own citizens? The freemen of America had a right to petition, to recommend, and advise, not only with respect to the past, but to the future also. If they did not possess this right, how was the nation to be undeceived if once it should be plunged into error? Suppose a motion brought forward in that House for a declaration of war against Britain, would it not be competent to the people to present memorials and remonstrances for or against it? And could any man pretend to say that the national welfare and dignity would be less involved in such a case, than in a proposition to repeal that thing of shreds and patches, the non-importation law, which to this hour had never been put into operation? The consideration of a memorial is one thing, compliance is another. The suggestion of the gentleman from South Carolina (Mr. D. R. Williams) was unanswerable. If the petition is unreasonable, if it requires what it would be impolitic and undignified in them to grant, let its weakness be exposed in a well drawn, masterly report, which might receive the sanction of the House. Would not this be more dignified in reality, as well as more satisfactory to all parties, than to slap the doors in the petitioners' faces, affecting the airs of Asiatic monarchs, refusing to listen to the prayers of their subjects, for subjects he must be allowed to call them, if the House persisted to treat them as such?

On the eve of a foreign war, they were treading in the footsteps of the British ministry at the commencement of our Revolutionary struggle, and of the war with France, which was suspended by the truce of Amiens—turning a deaf ear to the prayers of their own people. The British Parliament would not listen to petitions against the war. The commanding eloquence of Mr. Fox himself could not obtain a hearing; he was obliged to quit the House of Commons. What followed? On the verge of the grave, he was called, by the unanimous voice of his country, to repair, if possible, those mischiefs against which he had vainly protested, and which he had fruitlessly labored to avert.

Mr. R. denied, as far as his understanding enabled him to comprehend its drift, that there was anything in the petition derogatory to the dignity of the House. "They mean not to intimate a 'wish for disclosures incompatible with the due 'reserve of Government, but candidly to present 'to its view their difficulties and embarrass-'ments." They also told the House, "that al-'though in the event of war, as individuals, they 'must be deeply affected, they have not a wish 'that considerations of private interest should in-'duce a sacrifice of national honor and independ-'ence." What more could they say? And what did the gentleman consider as the basis of the national dignity and honor? The non-importation act, a thing at this time so contemptible, that were a proposition made for its repeal he would hardly give himself the trouble to vote for or against it. Did the non-importation law constitute all their preparations for a war with Great Britain? It was idle to attach any importance to it. But make what they could of it, less than the Constitution, the citizens had a right to petition for its repeal or modification, and Congress, if they did their duty, would take their case into consideration. A gentleman had told them that if such a proposition were made by a member of that House he would not consider it. Would he not? Would he say, "we have such confidence

'in our numbers, and so little reliance on our understandings, that we will not discuss the point 'with you, but trust to our votes." It was a matter of course to consider any proposition; negative it, if the House chose, and then they were done with it. If they were, as he most solemnly believed, to have a war with Great Britain, it behooved them at the outset to conciliate those by whom it was to be carried on—the whole body of the American people—not to do the merchants (to adopt the language of his friend from Maryland, Mr. R. Nelson) more justice than the landholder or mechanic, but not less. Let us not, (said Mr. R.,) if we must have war, set out on the principles with which Mr. Pitt and his majority began their war with France—principles of proscription to all inquiry. Let not the example of their arrogance and its humiliation be lost upon us.

Mr. Epps said the gentleman last up had made one observation which he supposed referred to him, as to the consideration of a motion for repealing the non-importation act. Mr. E. said he had used the word *refer*, and not *consider*: it was true, if such a motion were offered to consider the non-importation act, he would have refused his assent to refer that motion.

The memorial was read a second time, by desire.

Mr. Crowninshield would not detain the Committee long. He felt unable to say at this moment what his wishes would dictate on so important a subject. The House would do him the justice to believe, that when he expressed his disapprobation of the petition, he had no wish to detract from the known character of his friend from Pennsylvania who offered it to the House; he had the highest esteem for that gentleman. He entertained that sentiment, and always should, and nothing had fallen from him in the language of denunciation towards that gentleman. He presumed the gentleman from Virginia had alluded to him. [Mr. R. said he had not.] Mr. C. asked pardon of the gentleman. It had not been proposed by any gentleman to reject this petition; he did not recollect any motion to that effect. He had said, when up before, that he did not think it was couched in such respectful terms as it might have been; but he did not wish to reject it. He spoke at large against its reference, because he thought that as they were on the eve of a war, it was possible a deliberation on this law would affect their situation. He did not consider the propriety of repealing it or not; for he conceived that would depend altogether on the nature of the despatches which might be received. But on hearing this memorial read a second time, he perceived a sentiment contained in it which further induced him to view it as not couched in respectful terms. "From the wisdom and patriotism of 'the National Legislature they conceive the ex-'pectation to be well founded, that the commer-'cial interest of the United States, with which 'the common welfare is inseparably connected, 'will not be committed by an unyielding ad-'herence to doubtful or unsettled principles." Was it a doubtful principle that national vessels should not be searched? He had always thought that it was not a doubtful principle; he thought such ships could not be touched; that a commander could not be interrogated as to his crew or the orders from his Government. Was this one of the doubtful principles to which the petition alluded? On this subject gentlemen could not differ. He did not mean to go into an inquiry into the propriety or impropriety of passing the non-importation law. He thought it a proper measure when it passed, though he wished to have gone farther; he was one of those who wished to pass a total non-importation law. It was well known why such a law did not pass; he would not enter into a consideration of that now; but many men, agreeing with him in political sentiments at that time, and he presumed they did so now, conceived that a partial non-importation law was more proper. He yielded and voted with them. He thought the House would treat the petitioners with that respect which was due to them, if they were to refuse a reference of their memorial to the Committee of Commerce and Manufactures, and suffer it to lie on the table.

Mr Randolph said, the gentleman from Massachusetts had greatly misconceived him in one respect. He had not alluded to that gentleman as one of the denunciators of his friend from Philadelphia, but as endeavoring to make this a party question, which he thought was both unfair and imprudent. He still thought so. With what propriety could gentlemen be represented as the friends of a proposition, merely because they were willing to consider and discuss it? The denunciation of his friend was in the recollection of the House. Was it prudent, for the mere gratification of personal or party spleen, to hold up those who should vote for the reference as disaffected to the cause of our national wrongs? When persons of a different political character held the reins of Government, petition after petition was poured into that House, complaining of its acts. During the time that Mr. R. held a seat in it, these petitions were always referred and discussed, although they were rejected. Although the sedition law, of unconstitutional memory, was enacted and re-enacted, and the Legislature had repeatedly expressed its opinion of its justice and expediency, and although it was scarcely possible to draught a memorial against that detestable act without uttering harsh things, at least by implication, against its authors, yet it was not held to be presumption in the petitioners, which derogated from the dignity of the House, to question its infallibility. The petitions were received, and produced elaborate replies by way of report, before they were rejected.

Mr. R. thought the gentleman from Massachusetts totally mistaken in supposing the petitioners to consider the claim to search public armed ships as a doubtful principle. On the contrary, they wished the national honor to be maintained. But they might believe doubtful principles to have been blended with an undoubted one; and

even this position is advanced with hesitation. If the gentleman himself would exchange a few of his certainties for doubts, he would not be a less useful politician. As to the non-importation law, he would in pity spare it—but, it could not be forgotten that wonders had been promised from it, and that, only at the last session, the gentleman himself had boasted that its potent spells and incantations had induced Great Britain, who had as obstinately refused to hear us, as the gentleman himself did this petition, to open her gracious ears and listen to all our demands, which were in a fair way of being complied with. Because gentlemen differed in opinion with the petitioners—he himself differed with them, he deemed the repeal of the law of no sort of consequence—was that a reason why they should not be heard? Were not petitions every day referred that had been a hundred times rejected—that were known to be barred by the act of limitation? Was it ever deemed an insult upon their dignity that Oliver Pollock, or Stephen Sayre, would take no refusal from them, but persisted in petitioning until they got their money? Most certainly not.

The question on reference to the Committee of Commerce and Manufactures, was then taken—yeas 50, nays 79, as follows:

Yeas—William W. Bibb, Epaphroditus Champion, Martin Chittenden, Joseph Clay, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, John Heister, William Hoge, Robert Jenkins, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jun., Edward Lloyd, William Milnor, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Russell, Dennis Smelt, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, Jabez Upham, Philip Van Cortlandt, Killian K. Van Rensselaer, and David R. Williams.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Matthew Clay, Orchard Cook, Jacob Crowninshield, Richard Cutts, Ezra Darby, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Nehemiah Knight, John Lambert, John Love, Matthew Lyon, Robert Marion, Josiah Masters, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, jun., Wilson C Nicholas, John Pugh, John Rhea of Tennessee, Samuel Riker, John Rowan, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, David Thomas, Abram Trigg, James I. Van Allen, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

So the question for reference was lost.

Mr. Newton, said that in voting against the reference to the Committee of Commerce and Manufactures, he did not wish to treat the petitioners with disrespect; but he thought that under present circumstances, it was not expedient to act upon the memorial. He wished it to lie on the table, whence it could be called up at any time, and made a motion to that effect.

The Speaker said, if no further order were taken on the memorial it would lie on the table of course.

No further order being taken, it was ordered to lie on the table.

BRITISH AGGRESSIONS.

Mr. Blount moved for the order of the day on the second report of the Committee of Aggressions; he wished the House to go into Committee of the Whole on the subject, and remain in Committee (as it was then late) no longer than to give the business priority over any other on the next day of meeting.

Mr. Randolph inquired why the second report should have preference over the first, and why both had not been referred to the same Committee of the Whole, as one depended on the other. Why were they shuffled about in this manner? Why was the cart to be put before the horse? Why was the second brought upon the tapis, and the first reserved?

Mr. Blount stated, that the first was merely declaratory of the nature of the act, and detailed that information which had been so loudly called for from some parts of the House; the second contained resolutions for preparing for defence, which he conceived should be first acted upon.

Mr. Randolph moved, that the Committee of the Whole, to whom the second report or second part of the report was referred, should be discharged from the consideration of it, that it might be referred to the same Committee to whom the first part had been referred.

Mr. Blount's motion being that under consideration, a considerable debate ensued, which branched widely into the subject; in the course of which,

Mr. Blount stated, that the gentleman from Virginia (Mr. Randolph) had desired Mr. B. to let him know when the report was to be called up. He had told the gentleman, this morning, that he intended to call it up to-day. If the gentleman had then expressed a desire that both reports should be referred to the same Committee of the Whole, he would have accommodated him by making a motion to that effect.

Mr. Randolph said he would take the gentleman from North Carolina at his word, and withdraw the motion he had offered, trusting to the gentleman to renew it.

Mr. Blount withdrew his motion, for immediately taking up the second report, and renewed Mr. Randolph's motion; on which the debate was continued. The gentlemen who took part

in the debate on this subject were Messrs. RANDOLPH, BLOUNT, CHANDLER, DANA, EPPES, THOMAS, ROWAN, NICHOLAS, W. ALSTON, LYON, QUINCY, G. W. CAMPBELL, BURWELL, TAYLOR, and SMILIE.

The question being on the motion as renewed by Mr. BLOUNT, was negatived, 67 to 40.

Mr. EPPES moved that the order of the day on the first report of the Committee of Aggressions be postponed till this day week—Carried, yeas 58, nays 42.

A motion was made that when the House adjourned, it should adjourn till Monday—Carried 61 to 43.

Mr. BLOUNT then renewed his original motion, that the House should now go into a Committee of the Whole on the second report of the Comittee of Aggressions.

Mr. D. R. WILLIAMS said that it wanted but five minutes of five o'clock, and he hoped the House would adjourn—Carried, 54 to 44.

MONDAY, November 30.

Mr. FINDLEY presented a petition of the Associate Reformed or Presbyterian Congregation, in the city of Washington, by Joseph Nourse and others therein named, trustees of the said congregation, praying that an act to incorporate their said church may be passed, containing such regulations and privileges as to the wisdom of Congress shall seem meet.—Referred to Mr. FINDLEY, Mr. NICHOLAS R. MOORE, and Mr. TAGGART; to examine and report their opinion thereupon to the House.

Mr. BLOUNT, from the committee appointed on so much of the Message of the President of the United States as relates to "aggressions committed within our ports and waters, by foreign armed vessels; to violations of our jurisdiction; and to measures necessary for the protection of our ports and harbors;" presented to the House two letters addressed to him as chairman of the said committee, from the Secretary of the Navy, accompanied with a statement, marked A, relative to the number and condition of the frigates and other vessels of war belonging to the United States, and to the additional number of gunboats necessary for the protection of our ports and harbors.

The said letters and statements were read, and ordered to lie on the table.

NAVY OF THE UNITED STATES.

Mr. COOK said, that the House had been long in session, and had yet done nothing towards the purpose for which they were called together. For the purpose of consideration of the subject, and for obtaining the proper information, he offered the following resolutions:

1st. *Resolved*, That the Secretary of the Navy be directed to lay before this House a statement of the frigates, and other armed vessels composing the Navy of the United States, distinguishing those in actual service from those in ordinary, and noting such as want repairs, with an estimate of the sums necessary to prepare them for immediate service, and the probable time necessary to make such repairs.

2d. *Resolved*, That the Secretary of the Navy be directed to lay before this House a statement of the number of officers and men respectively belonging to the Navy of the United States and the corps of marines.

3d. *Resolved*, That the Secretary of the Navy be directed to lay before this House an estimate of the number of officers and men which would be necessary to complete the manning the whole and entire Navy of the United States, including the gunboats, with an estimate of the expenditures respectively necessary for maintaining them, in actual service, during one year.

4th. *Resolved*, That the Secretary of the Navy be directed to lay before this House a statement of the quantity, quality, and present state of the timber and other materials belonging to the United States, now on hand, suitable for building ships of war, describing the force and size for which such timber and other materials are suitable.

Mr. BLOUNT objected to the passage of the first resolution as entirely unnecessary, as he held in his hand a letter from the Secretary of the Navy, giving part of the information asked for by that resolution, and as the Committee of Aggressions had actually requested of the Secretary of the Navy information which would embrace all that was contemplated by it.

Some conversation ensued on the particular information wished, and the propriety of calling for it, between Messrs. COOK, BLOUNT, SMILIE, MILNOR, MUMFORD, DANA, TALLMADGE, and GARDNER; during which a motion was made by Mr. SMILIE to postpone the consideration of the resolutions till this day week, on which Mr. MUMFORD offered the following remarks:

He said, that more than a month had expired since they were assembled here on an extraordinary occasion, and the nation had been constantly looking up to them in full expectation that they were occupied in measures of defence. It was true that a select committee had made a report authorizing the Secretary at War to sell a few muskets and establish a cannon foundry in this place; it was also true that the Committee of Aggressions had made a report. He did not mean to arraign the measures of their committees; it was far from his intention; he had the fullest confidence in them, he made no doubt they had discharged their duty with fidelity. But they had also duties to perform to themselves and to their country, and he did hope they would immediately proceed on measures of defence. Would they put it in the power of a foreign Minister to write to his Court that they might pursue their own measures, that they had nothing to apprehend from the American Congress, as they were occupied in their domestic concerns? Although they had no official information of late date before them relating to their affairs with Great Britain, he yet presumed every member of the House was convinced of the hostile disposition of that Government. Look to Nova Scotia, (said Mr. M.) you there find her militia in a state of requisition, fortifying the port and harbor of Halifax—numerous reinforcements daily arriving

there, and at Quebec, under the command of a vigilant enterprising officer; the whole of their naval force on the Lakes prepared for war; numerous tribes of savages assembled at their instigation in the neighborhood of Detroit; a secret expedition from Europe, consisting of two hundred thousand men, ostensibly given out for South America to re-conquer Buenos Ayres, when in fact they might attack some vulnerable part of our country; fourteen sail-of-the-line and eighteen frigates they had heard were bound to the West Indies, when in reality they might, together with what force they had at Halifax, blockade the whole of our ports and harbors, in order to overawe our Government, and enforce the demands very likely to be made by their Minister Extraordinary daily expected to arrive in this country. When they were thus threatened, there could be but one sentiment, and he hoped they would not delay a moment in taking such efficient measures as would at least defend the country.

Mr. COOK consented to withdraw the first resolution till the information asked for by the Committee of Aggressions was received, which might altogether supersede it, or induce him to modify it so as to obtain his object.

The three last resolutions were then agreed to, without division.

FORTIFICATIONS AND GUNBOATS.

On motion of Mr BLOUNT, the House went into a Committee of the Whole, on the second report of the Committee of Aggressions, which recommends the following resolutions:

Resolved, That it is expedient to authorize the President of the United States to cause such fortifications to be erected as, in addition to those heretofore built, will, with the assistance of gunboats, afford effectual protection to our ports and harbors, and preserve therein the respect due to the constituted authorities of the nation; and that there be, and hereby is, appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated, the sum of —— dollars.

Resolved, That it is expedient to authorize the President of the United to cause to be built an additional number of gunboats, not exceeding ——, and to arm, equip, man, fit, and employ the same, for the protection of our ports and harbors; and that there be, and hereby, is appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated, the sum of —— dollars.

The report being read, and the first resolution under consideration—

Mr. BLOUNT said, he would state, in as few words as he could, the views of the committee in presenting to their consideration the resolution now before them. It would be seen that the committee were of opinion that the fortifications contemplated were equally necessary in time of peace and in time of war. For the circumstance of our being at peace hitherto had not restrained the rapacity and insolence of British naval commanders, and similar conduct would be continued, unless there were created in our harbors a force sufficient to repel it. The contemplated sum to complete the fortifications already established and to erect others, was, in addition to what remained unexpended of former appropriations for that purpose, about $750,000, in case a war took place; in case of peace, or our former state, not properly of peace or war, $300,000 would be sufficient, that being as large a sum as could conveniently be expended in the course of the year. It was not necessary that the blank in the resolution should be filled at present, and it would accord better with his wishes, if it were left till a bill should be brought in conformably to the resolution.

The second resolution proposed an appropriation for building a certain number of gunboats. The reason of preference by the committee of this mode of defence, was, that it was the only defence that could be provided in a short time. However gentlemen might differ in opinion with respect to a naval force, all would agree that at this time they had not means or time to provide any other defence than that proposed by the committee. It was proposed to erect one hundred and eighty-eight additional gunboats, which, with the number already built, would amount to two hundred and sixty-seven, the number proposed as sufficient for the purpose of defence. The Secretary of War, who was not called upon in form to give information to the committee, was requested to call on the committee, and converse with them on the subject, and the substance of his answers was contained in a paper which Mr. B. held in his hand, but which the committee did not propose should be submitted to the House at present, as it might contain matter not proper for disclosure. He would put it into the hands of the Clerk, who might read such parts of it as would show what were the views of the Secretary of War on the subject—such as gave entire satisfaction to the committee, and such as they hoped would be satisfactory to the House. With these observations, and one other, that these fortifications were not contemplated to be of a fixed or expensive kind, but principally heavy artillery mounted on travelling carriages, that might be moved from place to place, he would submit the subject to the consideration of the Committee.

Mr. DANA inquired if there was any statement of the balance remaining unexpended of former appropriations.

Mr. BLOUNT said there was not a distinct statement, nor was it in the power of the Secretary to give it, but it was upwards of $100,000; which, in addition to $750,000, would make about $874,000.

Mr. QUINCY wished to know, of the chairman of the committee, whether this money was to be appropriated exclusively to erect new fortifications, or repair old ones, or for both.

Mr. BLOUNT said the sum of $850,000 was considered sufficient to complete such fortifications as have been erected on proper sites, and to erect such others as might be necessary in aid of gunboats. The Secretary of the Navy could not state the particular sum that each place would require. Past experience had shown that such express appropriations could not be made. It was the wish of the committee to afford to the Pres-

ident the power of applying these sums to such places as he should think best.

Mr. Quincy wished to know whether the terms of the resolution expressed the intention. He conceived that this sum of money should be placed in the hands of the President of the United States, not only to erect new fortifications, but to repair old ones where necessary. As he understood the resolution, the President was to apply the whole sum to new fortifications, and could not appropriate it, without misapplication, to repair old ones.

Mr. Blount said the object of the committee was to put so much money at the disposal of the President, as to answer both the purposes of repair and erection. If the words did not express that sense, he should cheerfully acquiesce in any amendment which might be made.

An amendment was offered by Mr. Dana, but afterwards withdrawn, to make way for one offered by Mr. Crowninshield to the same effect; by which the resolution was amended to read as follows:

Resolved, That it is expedient to authorize the President of the United States to cause such fortifications to be repaired and erected as will, with the assistance of gunboats, &c.

Mr. Thomas inquired as to filling the blank.

Mr. Blount said he had stated, while up before, that $300,000 in time of peace was as much as could be expended in the course of a year. But if they could not enjoy peace, more would be necessary; and from the uncertainty of this, the committee wished to decline filling the blank at the present time. When the bill should be laid before them, they might be better qualified to judge.

Mr. Gardenier was not so much opposed to the not filling up the blank in the resolution at this time, as to the reason which had been given for not doing it, or in other words, the reasons why the House should not now debate on that part of the resolution on which it was most important to deliberate—the sum to be allowed. It was hardly necessary, except in point of form, to have gone into Committee of the Whole for any other purpose than this. All agreed that the ports and harbors of the United States should be better fortified than they were at present; on that point he trusted there could be but one opinion: but unless a sum certain was named, the people in the seaports would remain in the same state of doubt and uncertainty which they had experienced ever since the commencement of the session. He wished to come to that point which it was most important to consider; he wished to know how much gentlemen would give towards the protection of our ports and harbors. If they were not so fully prepared to decide as they might perhaps hereafter be, he thought they might do much by entering into the discussion of the subject. For himself, he could not readily assent to what had fallen from the chairman of the committee; he could not comprehend the propriety of making a difference between the expense to be incurred in case the appearance of war should increase, and those estimated on a prospect of peace. He had heard nothing said that was calculated to change his uniform opinion on this subject, that a state of peace was the season for a nation which had so many vulnerable points to prepare for war, and place itself in a condition to repel attack. In a state of war, and it seemed to be seriously approaching, it would be impossible to lay out money to so much advantage as in a state of peace. It was in the time of peace peculiarly that they should, as much as they could, erect barriers against some of the most dreadful evils of war: he would here apply the maxim of Washington, quoted by a gentleman from Maryland some days since, "that to preserve peace we should be prepared for war." Supposing it should happen, improbable as it was, that the country should remain at peace, were they on that account to relax in the fortification of their ports and harbors? How could they, acting in this way, expect ever to be prepared for war, when it should actually arrive? A country whose coasts were so much exposed, and whose cities were so rich, so valuable, and therefore so tempting, should never be unprepared; but if, said he, we should be persuaded to postpone the defence of the country, while we are waiting for news and hoping for peace, the enemy may be at our doors; our cities may be sacked, and nothing left in them worth defending; it would be too late then, because it will be to no purpose to fortify, and the money we now talk of appropriating may be saved, while our cities are destroyed and desolated.

Gentlemen seemed to take great delight in flattering themselves that they might yet escape war; they wished, and from wishing, hoped for peace. Mr. G. had no hope that at a period when all the world was convulsed, kingdoms and thrones were overturned in such rapid succession, when all the free States of the world had perished as it were before our eyes, that we should be able to escape without enduring some part of the general calamity. He entertained now the same opinion which he had done ever since the attack on the Chesapeake was made, that the country would be compelled to go to war, or sacrifice its honor forever. They could not avoid it, unless they would accept of peace, on terms to which no independent nation could listen. An attack like that on the Chesapeake had never occurred before. The making of it was not alone an outrage of the very worst character, but also an assertion, of the most positive kind, that Great Britain was about to introduce a new principle into the law of nations. We have endeavored, said he, to soothe ourselves with a hope, that this attack was the mere unauthorized act of a British commander, which his Government might afterwards disavow or not, as they pleased. And while we went on hoping, we might as well hope, too, that they would disavow it. In this hope, said he, we have wrapped ourselves so securely up, that at the very moment I am speaking, the cannon of Britain may be carrying ruin and havoc into our defenceless seaports. Mr. G. could not persuade himself, that a British Admiral would voluntarily assume so awful a responsibility. He could not believe that the Admiral's own orders were less precise and positive than those which he gave to the captain of the Leopard. Yet, if he could even believe that, he could not believe that this outrage would have been followed up, and consummated by bringing to trial, condemning, and executing one of the unfortunate men, who owed his death to his confidence in the inviolability of the American flag; and that, too, after it was known, at Halifax, what poignant sensations the attack itself had excited here; after the President's proclamation itself was known there. He would have paused, said Mr. G. before he proceeded to this dreadful extremity. He would have waited for new, and more precise orders, if his instruction had not been already clear and explicit. Can we, said he, in events subsequent to this, find any cause to console each other with a hope of peace? No, sir. From the time the proclamation was issued, to this very moment, has a British squadron remained in our waters, persisting in the violation of our territory, with an air of scorn and defiance, which, while it ought to awaken all that is American in us, excludes almost every ray of hope. Could gentlemen indulge in hope, when they heard that the British vessels on the Lakes had been armed? That the British forces in Canada were increased and concentrated? That the fortifications at Quebec were repairing? That at Halifax, one hundred men were draughted from the militia, to assist in placing that post in a state of defence? That an additional number of ships and troops were expected? Did anything from our Ministers at St. James's encourage hope? Anything that could be collected from the political journals there? When we see the British Ministry, said he, preparing for war, taking those steps which this Government ought to have taken long ago, could they longer console each other with the hope of peace? There was nothing to induce them to delay for a moment, the most active preparation. It is true, they were in some degree excusable, for not having acted on this subject hitherto. The President's Message, though it had communicated to them information of the attack on the Chesapeake, did not state, whether it was in the opinion of the Executive most probable that we should have war, or that we should not have war; it merely stated, that peace might not continue. They were left, therefore, to deliberate as they could, uninfluenced and undirected by an expression of what was the opinion of the Executive. But as, from their own impulse, they had at last arrived at the subject, he hoped they would go fully into it. Our ports, he said, ought to be fortified, whether we are ultimately to have peace or war; but if only in case of war seeming inevitable, he entreated gentlemen to consider, whether the prospect was not as gloomy as it could be in any state of things short of actual war. But if, contrary to all sound calculation, our peace should continue, the determination to fortify ought in his opinion not to be given up; that, at another time, we may be better prepared than we are now. He hoped, therefore, some opinion would be expressed as to the sum to be appropriated for fortifications: he must profess his conviction that neither of the sums mentioned by the chairman of the committee were enough to satisfy that part of the people to whose safety effectual fortifications were so essential. The sum of $750,000 had been mentioned as a sufficient sum; if they once attempted to fortify, they must do it effectually; if they appropriated a sum for defence it must be sufficient, or the money they did expend, would be completely thrown away. He hoped the House would resolve effectually to protect our ports and harbors: when they did that, they did what their country demanded and had a right to demand of them. When they only half fortified, they made a show to induce the people to believe they would do something for them. He should as soon expect a farmer to fence but half his ground, and thus leave his crop exposed, as that they would go but half way in fortifying against an enemy. He hoped they would not squander away money to no purpose; for his part, he would not vote for less than a sufficient sum; for if he did, he should consider himself as violating those principles of economy which should always be attended to in Government. Mr. G. wished the House not only to make a sound, but act as though they meant to do something. Upon this subject his constituents were feelingly alive to everything which transpired from that House: they had petitioned formerly and had received petty appropriations, which might all have been expended on fifteen feet of ground. This would not do any longer; something must either be done for them, or they must be told that they must take care of themselves, and then they would know what to do.

At this time, when they saw approaching so nearly to them—when they saw almost realized that state of war which they had so often been told might happen, and for which the people had been so often warned to prepare, Mr. G. hoped they would give up some of that tenacious hardfistedness which had hitherto clinched their fingers so closely in the purse-strings of the national Treasury. It was their cities which now called for protection—it was better to expend money in protecting these deposites of individual wealth, these sources of national revenue, than in buying unproductive wildernesses, or speculating in hot-beds of sedition and treason; better protect what they had, than purchase that which might become a curse to them. They had better do something, for what a gentleman of that House once called "the good old thirteen United States," and not let all their tenderness travel westward. Do something for us, said Mr. G., but do not think of satisfying us by merely pretending to do it; let us know what you mean to do. I feel myself authorised to demand that what we have asked shall be granted to us, or that we shall be told in direct terms that you will do nothing for us. At least deal plainly with us. When you come with your $300,000 or $750,000, what does it amount to? Can any member in the House lay his hand upon his heart, and say, that either of these sums would answer the purpose of effectual defence for the whole seacoast of the United States? Mr. G. hoped the chairman of the Committee of Aggressions

would not misconceive him; he meant no reflection on the Committee or its Chairman. He avowed his belief that the committee meant to discharge their duty—but they must forgive me, said Mr. G., if I too feel the necessity of doing mine.

Mr. Thomas said, that the committee had declared in their resolution, that they would authorize the President to erect such fortifications as would preserve a due respect to the national authority; and he had no doubt, after having made this declaration, they would fill the blank with any sum that might be sufficient to effect the object. He did not mistrust the intentions of the committee; he believed they would make a liberal appropriation to this object, and was sorry that his colleague, (Mr. Gardenier) had raised to view so many visionary fabrics. Mr. T. did not think that either the Legislature or Executive had been dilatory, as that gentleman seemed to think. It was known that there had been last year an appropriation of $300,000 for the contemplated purpose; the Secretary of War had employed as many laborers as he had been able to procure, in the erection of forts at New York, and other places, during the past Summer; and a balance of this money yet remained unexpended. The committee had declared through their chairman that some part of the appropriation called for, in case of war, would be expended in so precipitate a manner, as not to form permanent fortifications. He did not believe that the position was correct, that they ought to make as large an appropriation for peace as for war; because, in case of war, it would be absolutely necessary to reinforce those fortifications already erected by considerable additions. He had no objection now to fill up the blank; but he thought the pledge contained in the resolution was sufficient, as it declared positively that they would effect the desired object.

Mr. Quincy merely rose to express his wish that the chairman of the committee would make some proposition as to the sum. He was of opinion with the gentleman from New York, that to ascertain the sum to be appropriated was the object of going into Committee of the Whole.

Mr. Alston hoped that in this stage of the business no sum would be applied; it was enough for the House now to say, whether they would or would not adopt the principle contained in the resolution. The question of how much money was not in his mind the great question; for if they passed a law, effectually to protect our ports and harbors, it followed, of course, that they would appropriate a sufficient sum to answer the purpose. The sum, however, had been spoken of, and the gentlemen from New York and Massachusetts seemed in favor of filling the blank immediately. From what had fallen from the gentleman from New York, (Mr. Gardenier,) he was induced to believe that no member of the House could propose a sum sufficient to satisfy him. That gentleman appeared to be full of invective and abuse against the Government. Was it to to be expected that the House would accommodate itself to the wishes of that gentleman, when conveyed in such language? He hoped the House would pursue its usual course, and decide first on the principle; when the bill was brought in, the blanks might be filled, the question being first taken on the largest sum, which would no doubt be proposed by the gentleman from New York. He hoped other gentlemen in the House were quite as well disposed to defend their country as the gentleman from New York; they might perhaps not talk so much, but would manifest their dispositions by their acts.

Mr. Blount said, the committee contemplated the effectual protection of our ports and harbors, and directed their attention particularly to that object. The information which had been given them did not contemplate a system of defence by fortifications alone, which would cost $874,000; but with the aid of gunboats, which would cost perhaps a much larger sum. He moved, to try the sense of the Committee, that the blank be filled with $750,000, which, with an unexpended sum of perhaps 123,000, would make the aggregate proposed.

Mr. Masters moved that it be filled with $1,500,000.

Mr. Bacon called for the reading of the report of the Secretary of War, which had been received by the committee.

Mr. Chandler said that paper did not contain the particular sum, which could not be precisely ascertained. He would answer in reply to the gentleman who inquired why no sum had been proposed, that the Secretary of War had informed the Committee of Aggressions, that the sum of 250 or $300,000 would be sufficient for the expenditure of one year, except in case of immediate war, when a larger sum would be necessary; and this reason had induced the committee to wish that the blank should not now be filled.

Mr. Quincy said, if he had understood the chairman of the committee correctly, there was some reason against publishing the paper just alluded to; if so, he did not wish to trouble the House; but if there were not, he hoped it would be read.

Mr. Blount said he had before stated that the Secretary of War had not been formally called upon for information, but had communicated it verbally. Having done so, the committee asked him to make a statement in general terms, as they did not wish the enemy to know what particular species of fortification might be contemplated. If it should be thought that the House should have information from the Department of War, Mr. B. hoped the Secretary would be called upon to furnish it, that he might give it more formally than was contained in this paper. The committee had adopted the course of verbal communication, because it had been pursued by a similar committee at a former session; the statement contained in this paper was very informal, and he hoped it would not be printed in that state.

Mr. Cook was opposed to filling the blank at this time, from want of information. He wished to see a statement of the sums that would be necessary to put every part of the United States in

such a state of defence as that embraced by the resolution. If gentlemen would give themselves the trouble to count their fingers, they would find that the sum of $750,000 was by no means sufficient. As he thought it probable they might receive more information before it was necessary to fill the blank in the bill, he hoped no sum would be agreed to at this time.

Mr. Masters.—I am happy that this subject is before the Committee of the whole House, which has been too often and too long neglected. Though I moved that the blank be filled with the sum of fifteen hundred thousand dollars, yet I think that sum too small to fortify, efficiently, our extended seacoast; but I suppose it is as much as can be economically and advantageously expended in one year.

I believe the policy this nation has pursued ought to be abandoned. I do not mean to criminate the Administration. I believe the Government, and those who have administered it, have dealt justly with all nations, expecting national justice in return. I am convinced that national justice and national friendship are idle as the wind that blows, and that there is no such thing as national justice to be expected in times like these. We must depend on our own strength, and not on national justice. Our Government have calculated on preserving peace by pursuing a fair and impartial neutrality, and that those difficulties which might arise between us and any of the European Powers, might be amicably settled and adjusted by friendly negotiation. If we turn our attention to the conduct of the European Powers, the stronger towards the weaker, it will prove incontestably that national justice is at an end. What has been the national justice of France towards Holland, Prussia, all the petty States of Germany, Italy, and in short all the Powers of the continent? It is conquest, dominion, and tearing up by the roots every vestige of civil liberty, and annihilating the national rights of those Powers.

The national justice of Great Britain in India has extirpated every prince and nation in that quarter; and what has been her national justice towards Denmark? History does not give an account of such base conduct as the attack on Copenhagen. America herself has not kept a more fair and impartial neutrality than Denmark. Such is the national justice between the nations of Europe. Notwithstanding the Government of this nation has, with honest sincerity, dealt justly towards all nations, who will seek in vain to find a single act of aggression on our part, let us see what kind of national justice we have received in return. Spain has violated her faith, refused indemnity for spoliations committed on our commerce, actually invaded our territory by an armed force, and her Minister countenanced in insulting our Government and country.

If we turn to France, we shall find she has, under the curtain, pricked up Spain to commit unwarrantable aggressions, and her privateersmen have now and then sung *Te Deum* on board of some of our most valuable merchant ships, and condemned them.

If we turn to Great Britain, we shall find her return of national justice and friendship is by attacking one of our armed vessels and shedding the blood of our countrymen. I will not dwell on this subject of the frigate Chesapeake, so well known. I cannot speak or reflect on the subject without indignation. She has almost ruined our commerce in the Mediterranean seas; she has captured our vessels bound to Antwerp, in French Flanders, and to the ports in Holland, France, and Spain. She has blockaded our harbors, pressed our seamen, violated our territory, added insult to injury and aggression, wounded the pride and feelings of the American people, and endeavored to degrade and injure, in the eyes of the world, our national honor and character.

The policy of trusting to national justice, at the outset, might be proper. It was of importance to have time to gain strength, which this nation just begins to feel; that policy ought now to be at an end; it proves theoretical and visionary. It has long since been necessary to pursue measures of general defence. Neither would I trust too much to gunboats; they are useful auxiliaries, and I will vote for an increase of their numbers. They are good in their place, and so are proclamations, when you have energy and force to compel an observance. I am for trusting no longer to proclamations; they are a conductor of disgrace to the nation. The answer of the commander of the sloop-of-war Driver, while lying in our harbor at Charleston, was insolent and contemptuous. The answer of the commander of the insignificant fleet, yet lying in Lynnhaven bay, was, that they would batter down the town of Norfolk. You always will and must expect to be insulted, unless you pursue the policy of general defence. I hope to see our coast lined with forts and batteries, at suitable and proper places, and our harbors filled with frigates and gunboats, and some block ships; and were it not esteemed heresy by some, I would say a few seventy-four gun ships. Such is my opinion of the necessity and utility of some heavier ships, that I feel it my duty, as a faithful Representative, to express it. Our situation is critical, and our foreign relations are gloomy. The affairs of the nation require serious and grave deliberation, and all our wisdom, but above all, unanimity. Away, therefore, with wretched party spirit and party violence. I do not mean to be understood as giving an opinion that war will be inevitable; I only wish to be prepared for it.

It is a correct maxim that nations will pursue that course which is most for their interest, and would the men now in power in Great Britain look forward for years to come, they would say their interest was peace with the United States of America; but it is to be recollected, that those men in power calculate on the termination of that power forever on the death of the King, which they believe from the infirmity of his age will soon happen; they, therefore, calculate for the moment.

To Congress the nation turn their eyes, justly expecting we will afford them protection—upon

which they place their hope for public security—which will give confidence and vigor to the nation. Our rank and station will be decided among the Powers of Europe by the vote we give this day. Let us behold this nation, at this alarming crisis, looking boldly the nations of the earth in the face, by appropriating liberal means for a spirited and permanent plan of defence. The propriety and necessity of adopting measures for fortifications appear to me to be universally allowed, not only among the European Powers, but is the sense of this nation, as far as I can judge. The Legislature of the State of New York, by their resolutions now on your table, signed by the President of their Senate and Speaker of the House of Representatives, have invited and requested the attention of Congress to this important subject, and immediate steps ought to be taken to make ample provision for that purpose. The community in general are alive to the subject; the people of this country are jealous of their rights, and are disposed to defend them. The system of permanent fortifications ought, from its nature, to be the greatest care of the Government. It is a system upon which rests the security of national defence. In case of war, the situation of the nation must be calamitous, indeed, for the want of fortifications. The history of all civilized nations will prove that fortifications were and still are part of their valuable system of defence; and that they have and do keep fortified their most important cities and towns. This system has been uniformly practised, and encouraged by the most brave, powerful, and experienced nations. Let us, therefore, resort to that experience and observation, and lay aside useless theory. At both of the sessions of the last Congress, the subject of fortifications was urged for consideration, and voted down. Are we willing to take upon ourselves the hazard of the calamitous consequences that may happen to the nation, and stand responsible to our constituents and posterity, by a repetition of the same vote? I am not. If we take a view of the relative situation of the European Powers, their strength, their resources, their objects, and prospects, we shall have but one feeling; we shall pay a due regard to self-defence, and shall be in a state of preparation for events.

Mr. SMILIE observed from what had been said by the gentleman from New York on this subject, he thought the House would not accommodate him with such a sum as would please him. When the gentleman contemplated such great preparations for fortifications, had he cast a single thought on the means now in our possession? Did he believe that all they could spare, if solely applied to fortifications, would be sufficient to effect the object he appeared to have in view? If he did, Mr. S. did not. It signified nothing to be talking about the injuries they had received. They were in a critical situation, and all sensible that they ought to exert themselves; they might differ with respect to the money necessary to be applied for fortifications, but he took it for granted that there was not a man in the House who was not willing to prepare for defence. He was willing to apply money for the purpose of fortification; but there were also other means of defence necessary. Had the gentleman thought at all on what appropriations might be necessary for the military? If they had war, they must have a large army, and a large sum of money must be applied for its support. Now would any gentleman pretend to say, that by taking $1,500,000, or a larger sum, for the purpose of fortification, that they would have sufficient means left for other purposes of defence? He thought not; because if they had war, although it would be a war in their own defence, they must act on the offensive in one quarter, and if they did, it must be seen how improper it would be to weaken themselves, so as not to leave the necessary sum for that purpose. A stranger hearing the gentleman from New York (Mr. GARDNIER) talk on this subject, might suppose that the House had no disposition to fortify, and the gentleman had said, that if they now refused to fill up the blank, he should doubt their sincerity. Would the gentleman say that he had more at stake than any other gentleman in the House? He presumed not; and if not, why should the gentleman doubt that the House would act when the proper time came. With respect to the city of New York, Mr. S. was well disposed to give her enough to put her in a state of defence; though he did not agree with the position of the gentleman, that our cities were the sources of wealth, and support of Government. Mr. S. thought the cultivators of the soil were the supporters of the Government. Between the two descriptions of men, he would say, and he hoped he was not going beyond the mark when he said it, that the cultivators of the soil were at least as necessary to the country as the merchants who exported their produce; who were but the hand, as it were, to the great body of the community. He did not mean, in what he had said and was about to say, to intimate anything against the merchants, whom he considered as a respectable class of citizens; but this they all knew, that if there were no such things as ships belonging to the United States, our produce would be exported, and our farmers could support themselves. He was sorry that the chairman had moved to fill up the blank. If the question were taken, he should vote in favor of the sum proposed by that gentleman; yet he thought it necessary to reserve some part of their treasure for carrying on war in other quarters than in their ports.

Mr. NEWTON would not now enter at large upon the subject, because it appeared to him that there was no hostility to the principle of the resolution from any part of the House; he thought it was improper at this time to fill up the blanks in the bill; he thought so because it was contrary to the course hitherto pursued, and they were now entering upon that subject which should properly be discussed in Committee of the Whole on the bill.

Mr. GARDENIER said that when a question of such deep interest, of such great importance, was agitated, it would be well, he entreated gentlemen, to repress their passion for personal altercation.

The subject was too interesting, too momentous, to permit him to go out of his way, to switch any body who might have taken it into his head to be impertinent to him. It might be, he said, that when he was first up, he had not couched his demands of fortification and protection in the courteous style of entreaty. Coming in to that House with all the feelings and all the earnestness of the people he represented, he could not beg from the charity of the Government, that which he had a right to demand from its justice; that which had been denied hitherto, and the necessity of granting which, the perilous state of the country now rendered evident, and indisputable. The gentleman from Pennsylvania (Mr. SMILIE) had inquired whether he (Mr. G.) was more interested than others. I am not acting here, said Mr. G., in my individual capacity. I am here a Representative of the State of New York, and as such, the interest I have in this matter is of the very first importance, of the very first magnitude. The gentleman from Pennsylvania (Mr. SMILIE) had represented him as expressing doubts of the patriotism of the House. Not so. He did not see, that because he pressed, and even with zeal, his demands for protection, that he was, therefore, to be considered to doubt the patriotism of those whom he addressed. Quite the reverse. He, who claims right, should descend neither to the attitude of humility, nor to the language of supplication. Again, the same gentleman had endeavored to make him say, that the cities were the source of wealth. He had said no such thing. He had said the cities were the sources from which all our revenue flowed directly into the national treasury, and that they ought for that, if no other reason, to be the first object of our care. They were of all parts of the Union the most vulnerable; they were the hens that laid the golden eggs, and ought to be, therefore, cherished and protected with peculiar solicitude. He hoped and trusted that no unnecessary delay would take place. The people of your cities, said he, are anxiously awaiting your decision. Their fortunes and their lives may at some period, and probably not a distant one, depend on the magnitude of the appropriation you are about to make. Whether the present negotiations eventuate in war, or in peace, their rights and your duty is the same. Suppose that by some miracle we should be snatched from the precipice at this time, can we flatter ourselves (he asked) with an eternal exemption from the calamities of war? Shall we flatter ourselves that that will be allowed to us, which never yet was allowed to the most favored people, an uninterrupted peace? If not, are we willing, can we answer it to our country if with our present experience we subject ourselves to be caught again in the same condition we are now, without fortifications, unprotected and defenceless? If we were to delay vigorous measures, we might continue to delay till the present temper of the nation was frittered away by negotiations and discussions running into endless details. Why should not that happen again which had happened already? Had not, he asked, the actual territory of the United States been invaded by Spain. And had it not been negotiated and treated upon year after year, till at last there remained perhaps not more than one in fifty of our countrymen, who remembered that we had at this very moment a just cause of war against Spain?

Sir, said he, now is the propitious moment. At this crisis, every one will join us, in advocating the necessity of fortifying our ports and harbors. The nation will now bear to have large appropriations made for this great and important purpose. The people will be pleased now, if you proceed with alacrity, and the popularity of the Administration will not be endangered by the measure. Every reason, therefore, every argument was decidedly in favor of celerity and fortunately no less so in favor of liberality.

The gentleman from Pennsylvania (Mr. SMILIE) had asked where are our means? Our means, sir? (said Mr. G.) Our means are in the wealth, in the resources of our country, and in the stout hearts of our countrymen. These are the means which established, these are the means on which we may safely rely to perpetuate the independ- of the American nation. Let us go on, then, to the work—for once let the national treasure be expended for the national defence. If we do not enter upon it now, we probably never shall. We shall continue to wait like the eagle in the fable, who did not build a house when the sun shone, because then he did not want it—nor when the storm raged, because then he could not do it.

He concluded with moving, in order to try the sense of the House, to fill up the blank with four millions.

Mr. QUINCY said, the gentleman from North Carolina (Mr. BLOUNT) had, with his usual candor, answered the inquiries which had been made as to the views of the committee. He did not rise now to make observations on the different sums proposed, but merely to know of the chairman of the committee the species of information which had induced the committee to fix on the sum of $750,000. He understood from the chairman and another gentleman, who was a member of that committee, that they had not the sums in detail as related to each particular port, but only the sum in gross. He observed, that in the report of the Secretary of War, there were two classes of ports or harbors mentioned as requiring fortification, those called more important, and those of minor importance. If the blank were filled with $750,000, it would only average about $17,000 to each port mentioned: now he conceived that every port which required fortification, would require more than that. He wished to know if information on the subject existed anywhere, so that it might be procured. Some observation had been made by the chairman as to what might be expended in a year, and he had said that no more than $300,000 could be conveniently expended in a year in case of peace. If they were to suppose that only the fifteen mentioned, as ports of the most importance, were to be fortified during this year, it would be but $50,000 for each. Was it possible that more could not be expended?

Mr. Blount said that gentlemen had predicated their arguments on a supposition that the sum of $750,000 was the whole sum intended to be applied, for the purposes of defence. This was not the case; many millions had been heretofore appropriated for fortifications. It was known that cannon and other implements necessary for fortifications had been paid for and conveyed to the places where fortifications were to be erected. The proposed sum was only intended to defray the expenses of the naked walls. The system of fortifications embraced gunboats also. The sum of four millions might be called for, but not for this species of fortifications alone. The gunboats intended to form a part of the system of defence would cost, to build and employ them, $2,500,000. The Secretary of War had given to the committee a general statement of what sums of money might be required for fortifications, within certain distances, to wit:

For New Orleans - - - -	60,000
Georgia, South and North Carolinas -	252,000
The Chesapeake and its waters - -	160,000
Delaware Bay and river, New Jersey and New York - - - -	211,000
Connecticut and Rhode Island - -	31,000
Old Massachusetts, New Hampshire and the district of Maine - -	135,000
	$849,000
Other places, not mentioned - -	25,000
Making altogether - - - -	$874,000

Mr. B. added, that when they considered that the appropriations of last year were applied, as the President had told them, to New York and New Orleans, the sum contemplated to erect the bare walls of fortifications was sufficient to satisfy the gentlemen themselves. He admitted that cannon had been already provided, and this was but a part of the system; the other part of the system, to wit, gunboats, would require a much larger sum to prepare them and support them in service for six months.

Mr. Alston trusted the Committee were now fully satisfied that they were not ready to fill the blank. He wished the House to proceed as they had heretofore done, and not fill the blank till the bill was reported, when they would have documents before them, and be much better able to judge of the proper sum. If gentlemen differed with the Secretary of War, with regard to the sum, they could then be better able to decide. Were they to fill the blank now they would only have to go over the same grounds again when the bill was brought in.

Mr. Thomas said, that during a former session, a committee reported a blank resolution for fortifications, as had been done in this case. The Committee of the Whole precipitately filled the blank with a certain sum, although afterwards, on more mature consideration, a much larger appropriation was made. They had heard much of the proper sum: if he were satisfied that the blank would be filled with an adequate sum, he would have no objection to do it at this time; but if otherwise, he should be opposed to it, because the appropriation for this object would show whether they were prepared to meet the event of war or not.

Mr. Cook hoped that the Committee would not agree to fill the blank at this time, or till they got further information. He wished to see a particular statement of the expense of each particular part of the system. Perhaps the amount that might be appropriated for putting our ports and harbors in a state of defence, might have a considerable influence on the people as to the question of peace or war; it would have that influence on his mind. A gentleman from New York had proposed $1,500,000, and acknowledged this was less than it ought to be. If they adopted the resolution as it now stood, they pledged themselves to the people to fill it with such a sum as might be commensurate with the object. The gentleman from Pennsylvania had said something with regard to the cultivators of the soil; it must be known to that gentleman that every part of the community was equally entitled to protection; the cultivators of the soil not more than any other. The mercantile class were, as the gentleman had said, the hand of the community, and equally necessary to the good of the whole. It had been said that if $750,000 were taken for the bare walls of fortifications, it would not leave enough for other parts of a system of defence or offence. Mr. C. said the only question now to be considered was, would they resist the insults and spoliations of foreign nations? Let us, said he, resolve upon resistance; and if we determine upon that, the sum in the Treasury should have no influence upon us as to the extent of our operations.

Mr. Witherell thought, from what he had heard, that the chairman of the committee had produced to the House every fact within his power. When the Secretary of War was invited to an interview with the committee, Mr. W. himself asked him, if he could say what specific sums were necessary for special points; he answered, that he thought it was impossible to state them. Although he had taken every possible means to inquire into the expenditure which might be necessary, yet, when the engineers came to work upon the fortifications, their view might vary from his, and it was impossible to say anything near the precise sum; but that whatever surplus remained from one part might supply the deficiency in another. This was all the information communicated to the committee. He therefore hoped the blank would not be filled up now, as there was no immediate necessity for it, and it could be done more properly in the bill.

Mr. Quincy said the reason given by the gentleman from Vermont was a very good one to show why the appropriation should be general. But the Committee would perceive and consider whether it was not absolutely necessary, in order to enable them to do justice in this vote, that there should be before them a calculation from official sources, such an one as might hereafter be referred to. If it were not in the power of the Secretary of War to give a full statement, such an one as was in his power, He made these observations that some gentleman might—if no other gentleman did, he would—move that the Committee should rise, in order to ask for information. He wished every port in the United States, large and small, to have its portion of the money expended; he wished all this money should be laid out well, and that every portion of our citizens might know what protection they were to receive, and what they might expect.

Mr. Tallmadge confessed that he was opposed to filling up the blank at present, as recommended by the committee, without further information. He therefore inquired whether it would be in order at this stage of the business to move the previous question, whether the blank should be filled or not.

From the general objection that appeared to filling the blank at present, Messrs. Gardenier, Masters, and Blount, withdrew the respective sums they had proposed; and the resolution was then agreed to without a division.

The second resolution being under consideration—

Mr. Blount said he would not now move to fill the blank in this resolution, because he foresaw there would be as much time spent in discussion of the number of gunboats to be built, as had taken place on the sum for fortifications; and he did not wish the progress of the business to be impeded. When a bill was brought in, a discussion might take place on the details.

The second resolution was then agreed to—yeas 93.

The Committee now rose, and the House agreed to the resolutions.

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. Blount, Mr. Chandler, Mr. Burwell, Mr. Goldsborough, Mr. Riker, Mr. Troup, and Mr. Witherall, do prepare and bring in the same.

Tuesday, December 1.

Mr. Quincy offered the following resolution:

Resolved, That the Secretary of the Department of War be directed to lay before this House an account of the state of the fortifications of the respective ports and harbors of the United States, with a statement of the moneys appropriated for fortifications remaining unexpended; and an estimate of the sums necessary for completing such fortifications as may be deemed requisite for their defence.

Which being under consideration,

Mr. Q. said, the House would perceive the object of this resolution was to obtain information; there was a document on their table which gave some information on the subject, but was not explicit. This resolution was exactly similar to one passed last session, by which the House obtained some important and interesting information; this being the case, he hoped no objection would be made to it.

The resolution was agreed to without a division.

On motion of Mr. Lewis, the House went into Committee of the Whole on the report of the committee to whom was recommitted the bill for erecting a bridge over the river Potomac. Having fixed sixty years as the term of the corporation previous to the right of the United States to purchase the bridge, the Committee rose, and the bill was ordered to a third reading to-morrow.

Mr. Blount, from the committee appointed on the thirtieth ultimo, presented a bill supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats," which was read twice and committed to a Committee of the Whole on Thursday next.

The House resolved itself into a Committee of the Whole on the bill to change the name of the District of Biddeford and Pepperelborough, in Massachusetts, to that of Saco and Biddeford. The bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the report of the select committee appointed to prepare and report such standing rules and orders as are proper to be observed in this House; and, after some time spent therein, the Committee rose and had leave to sit again.

SOLDIERS OF THE REVOLUTION, &c.

Mr. Randolph rose and said, that as long as the subject of national defence was in possession of a respectable committee of the House, and as long as their report was pending before it, he had deemed it, if not improper, at least unavailing in him, to offer anything upon that subject. But, that committee having reported, he saw, from the course which the debate had taken yesterday, a necessity, so pressing that he could no longer dispense with it, for offering some propositions on this most important subject. These propositions grew out of the almost universal impression which seemed to exist that there was but one peculiar mode of defence to which the nation could turn itself in this perilous juncture of their affairs. When so great an appropriation was demanded for this favorite expedient, he feared, that if other plans of defence, which had at least as high claims to the public attention, were not now brought forward, they might hereafter find an empty Treasury, and be compelled to resort to the system of loans, recommended by the head of that department, as the only means, however precarious, of providing for them.

It had always been his opinion, that whether in war or in peace, there was one system of national defence which ought sedulously to be cherished, and concerning which there could not exist a contrariety of opinion between any two men in that House, or out of it; and he had hoped that the attention of the committee, (for there were more than one) would have been directed towards it. Were they not told, and was it not self-evident, that if matters came to the last extremity we should not only have an extensive

frontier exposed to the inroads of the enemy's continental possessions, but that a vast line of country, from Detroit to Natchitoches, would have the native savages let loose upon their dispersed and almost defenceless population? Did there exist then no necessity for defence but of a few places on the coast, the depots of privileged wealth, when the whole line of back settlements were left at the mercy of the enemy and their savage adherents, without a force, even upon paper, to protect them? If it should be said that there existed no obligation on the Union gratuitously to bestow arms upon the individual States, which had failed to furnish themselves, the same reason would apply yet more forcibly to the fortification of States which had neglected to provide that species of self-defence. In the one case the arms issued were still the general property, at all times disposable for the good of the whole; in the other, the fortifications were so much real estate, vested in the country where erected; fixtures to the freehold. It appeared to him that, whether they considered themselves to be in a state of profound peace, or on the eve of war, or (as he feared would prove to be the case) in actual war, it behooved them to arm the natural defence of their country; to rely, as had been said by a gentleman from New York, not upon delusive theory but established practice; upon that which, heretofore, had carried them triumphant through danger, and upon which, when they could no longer depend, there was an end of our existence as a nation.

There was another subject, to which he hoped the Committee would also have turned their attention, one on which, as on the first, no two men could differ; not like gunboats, perishable in its nature, and susceptible of dispute as to its utility, which remained to be tested by experience; a train of formidable artillery, that might not only oppose the enemy in a particular harbor, but calculated to change its position, to bear upon his armed vessels wheresoever they might lie, to compel him to quit our waters, and even, if he should effect a landing, confront him under any possible change of circumstances. He was the more inclined to hope, that his opinion would prevail upon this subject, when he heard a gentleman whose influence was almost decisive in that House—he trusted that it was deserved—declare that terra firma was our natural element, that it was madness to dream of coping with the enemy, on his own vantage ground; and yet all the provision, which they had thought of making, was to fight him with his own weapons. He reminded the House with what striking effect his friend from Maryland, (Mr. R. NELSON,) whose military experience entitled him to peculiar weight in this matter, had on a former occasion cautioned them, that erect what fortifications they might, the enemy were not obliged to lie before them; that ships of war were a moveable force on the water, and to be resisted with effect must be opposed by a moveable force on the land.

These were the two leading measures which were impressed on his mind as proper to be adopted. Muskets in the hands of our citizens, and cannon in our arsenals, were so much national wealth, even exclusive of the idea of present national danger. The uses to which they were to be applied under any possible emergency, were not susceptible of dispute. No man could arraign this as a visionary plan of defence, as had been done with respect to gunboats and fortifications. Upon them however he should say nothing at present, except that he thought his the preferable mode of defence, and one entitled to be provided for, before the Treasury should be drained for less worthy purposes.

But there was another and more important measure, which ought to precede any step which the House might take for defence. It was a measure of justice; which would not only entitle them to success, but was eminently calculated to insure it; a measure which would unite all hearts, and nerve every hand in the cause of their country. It would do away the stigma of suffering those who had fought and bled in their service, to starve in the streets. With what face could the Government call upon the youth of the nation to turn out in the public defence, when their eyes were every where assailed by the spectacle of their countrymen and kindred, veterans of the Revolution, who had raised the proud fabric of our independence, begging from door to door a morsel of bread? It was impossible to contemplate the condition of these gallant men, who, after giving to their country everything, were consigned by it to beggary and want, without sensations of indignation and shame, as well as of commiseration. But it is a subject, said Mr. R., on which I will say no more; I cannot supply feelings to those who are destitute of them; and I should as soon undertake to raise the very dead as to excite those whom the subject itself is unable to move. He concluded by offering three resolutions, calculated to meet the objects he had in view, professing himself, at the same time willing to submit to any amendment, which did not alter their substance.

Before he handed these resolutions to the Chair, Mr. R. said, he would obviate an objection which might be made to the first; that they had already a law to provide for these persons. To the disgrace of the statute book, they had a pension law. What was the provision? That a man who had incurred disability by known wounds during the Revolutionary war, after being tied down to the most minute proofs, which in most cases, from the death or removal of his old companions in arms, he was unable to give, although the fact might be of general notoriety, was, if he could surmount all the difficulties thrown in his way, entitled to a miserable annuity, to take date, not from the time when the disability occurred, but from the time when his claim should be established. So that the man whose keen sensibility had restrained him from applying to the public for relief, who had struggled on, in the hope of better days, till the last gasp, was put off with a pension, which so far from discharging the petty debts which he might have contracted previous to his application, would hardly keep soul and body together; when,

if his pension were to take date from the time of the service being rendered, as in common justice it ought to do, he might be placed in comparatively easy circumstances.

Mr. R. then submitted to the House the following resolutions:

Resolved, That provision ought to be made, by law, for an adequate and comfortable support of such officers and soldiers of the late Revolutionary army, as are still existing in a state of indigence, disgraceful to the country which owes its liberties to their valor.

Resolved, That provision ought to be made, by law, for arming and equipping the whole body of the militia of the United States.

Resolved, That provision ought to be made, by law, for procuring a formidable train of field artillery for the service of the United States.

The resolutions were referred to a Committee of the whole House to-morrow.

WEDNESDAY, December 2.

Another member, to wit: from Delaware, NICHOLAS VAN DYKE, appeared, produced his credentials, was qualified, and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary of the Navy, communicating a statement, marked (A.) exhibiting the amount of the purchases and supplies made on behalf of the United States, by the Navy Agents in the different ports, for three years ending the thirtieth of September last, together with the emoluments, commissions, or salary, of the respective agents; also, the amount expended by them, respectively, in the same years, on other objects of expenditure, on account of the Navy; in pursuance of a resolution of this House of the sixteenth ultimo; which were read, and ordered to lie on the table.

On motion of Mr. PARKE,

Resolved, That the committee appointed on so much of the Message of the President of the United States as relates to our intercourse with the Indian tribes, be instructed to inquire whether any, and, if any, what, alterations ought to be made in the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and that they have leave to report by bill, or otherwise.

Mr. JOHNSON presented a petition of Daniel Boone, now an inhabitant of the Territory of Louisiana, praying that a title, in fee simple, to a certain tract of land on Missouri river, may be confirmed to the petitioner for the reasons therein specified.—Referred to the Committee on the Public Lands.

An engrossed bill to change the name of the district of Biddeford and Pepperelborough to that of Saco and Biddeford, was read the third time, and passed.

A message from the Senate informed the House that they have passed a bill, entitled "An act for the preservation of peace and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction."

Mr. MILNOR offered the following resolution:

Resolved, That three hundred and fifty copies be the number of all such papers as may be ordered by this House to be printed for the use of the House, unless otherwise ordered by the House.

After some conversation, on this resolution, between Messrs. MILNOR, DANA, D. R. WILLIAMS, and SOUTHARD, the motion was negatived—ayes 39.

Mr. DAWSON made the following report:

The committee to whom was referred that part of the President's Message which relates to our Military and Naval Establishments, &c., beg leave to make the following report, in part:

1. *Resolved*, That it is expedient to increase the Military Establishment of the United States by raising —— regiments of infantry, to consist of —— men each; —— regiments of artillerists of —— men each; —— regiments of riflemen of —— men each, and —— regiments of cavalry of —— men each.

2. *Resolved*, That it is expedient to increase the Marine Corps by raising —— additional number of men.

3. *Resolved*, That provision ought to be made by law for the speedy equipment of all the frigates and other vessels of war belonging to the United States. To render the Establishment more effectual that —— ships, of —— guns each, be built.

This report was referred to a Committee of the Whole on Monday next.

POTOMAC BRIDGE.

An engrossed bill authorizing the erection of a bridge over the river Potomac, within the District of Columbia, was read the third time. And, on the question that the same do pass, it was resolved in the affirmative—yeas 85, nays 43, as follows:

YEAS—Lemuel J. Alston, junior, Ezekiel Bacon, Joseph Barker, Burwell Bassett, Wm. W. Bibb, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, Josiah Deane, Joseph Desha, William Ely, James Fish, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Helms, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, John Love, Matthew Lyon, William McCreery, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Ebenezer Seaver, Dennis Smelt, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

NAYS—Willis Alston, David Bard, John Blake, jun., Thomas Blount, Robert Brown, George W. Campbell, John Campbell, John Chandler, Samuel W. Dana,

John Davenport, jun., John Dawson, James Elliot, John W. Eppes, William Findley, Isaiah L. Green, John Heister, William Hoge, James Holland, David Holmes, Benjamin Howard, Robert Jenkins, Philip B. Key, Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, John Morrow, Roger Nelson, Timothy Pitkin, junior, John Rhea of Tennessee, Matthias Richards, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Robert Whitehill, Isaac Wilbour, and David R. Williams.

MISSISSIPPI TERRITORY.

The House proceeded to the third reading and further consideration of an engrossed bill extending the right of suffrage in the Mississippi Territory, and for other purposes; and, on the question that the said bill do pass it was resolved in the affirmative—yeas 73, nays 55, as follows:

Yeas—Lemuel J. Alston, jun., Willis Alston, Ezekiel Bacon, Joseph Barker, John Blake, junior, John Boyle, William A. Burwell, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, Josiah Deane, Joseph Desha, James Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Thomas Kenan, Nehemiah Knight, John Lambert, Edward Lloyd, John Love, Matthew Lyon, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Peter Swart, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Archibald Van Horne, Jesse Wharton, Marmaduke Williams, and James Witherell.

Nays—David Bard, Burwell Bassett, William W. Bibb, Thomas Blount, Robert Brown, William Butler, Joseph Calhoun, John Campbell, John Clopton, Howell Cobb, Samuel W. Dana, John Davenport, junior, John Dawson, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Walter Jones, James Kelly, Philip B Key, William Kirkpatrick, Joseph Lewis, junior, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Randolph, John Rowan, John Russell, Dennis Smelt, Samuel Smith, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, George M. Troup, Philip Van Cortlandt, Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

PUNISHMENT OF CERTAIN CRIMES.

Mr. J. Montgomery offered the following resolution:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, amendments are necessary to the laws for the punishment of certain crimes against the United States, and to report by bill, or otherwise.

Mr. M. said, he was induced to bring forward this resolution from an occurrence which had taken place in the State of Maryland. The ship Othello, of the port of Baltimore, had been attacked and captured by a pirate, who afterwards thought proper to release her, after which she arrived in safety in port. The circumstance occasioned considerable irritation in the city of Baltimore, and a number of gentlemen went out from Baltimore, equipped for the purpose, and took the privateer. The case was examined before the district judge of Maryland, and Mr. M. had in his possession the opinion on the case, which had been transmitted to the Executive of Maryland, by the district judge, which stated that the courts of the United States had not cognizance of this crime. The judge informed the Executive of the State that they were remanded to Calvert county for trial, and the State of Maryland had gone so far as to inquire of a gentleman of the law of considerable eminence in the State of Maryland, as to the proper tribunal, who declared that neither the courts of the United States nor of Maryland had cognizance of the offence. In consequence, the court of Calvert county, when the case was brought before it, as it had no cognizance, discharged the prisoners, who were now at large. This was an offence which ought to be punished somewhere, and as no court had cognizance, jurisdiction ought to be extended for the purpose. This was the intention of the resolution. The House would perceive that this was a case of great importance to the commercial interests of the city of Baltimore; as the law at present stood, a man who committed a robbery on the high seas could be punished for the offence, but a man who committed piracy in a picaroon in Chesapeake Bay was not amenable to the law.

Mr. J. Randolph said he should certainly have no objection to any amendment of the penal laws within the cognizance of Congress; but, from what he could collect of the meaning of the gentleman, at such a distance, it was contemplated to legislate over the waters of the Chesapeake Bay, which were not within the jurisdiction of Congress. Suppose it were proved to the House that from some deficiency in the municipal law of a State, or the administration of the law, that a foreigner was going at large after having been arraigned, or was set at liberty for a want of jurisdiction, would that justify the House in legislating for a district within the body of a State? And surely the gentleman was sufficiently acquainted with the laws of the country to know that Virginia and Maryland had concurrent jurisdiction over the waters of Chesapeake Bay, and that no other power on earth, but those States, could legislate on that subject.

Mr. J. Montgomery certainly did not expect any objection would have been made to this resolution. He had not submitted a resolution to declare that there was a defect in the laws, but to inquire whether there was any. The gentleman misunderstood him, in supposing that he had invited Congress to legislate over Chesapeake Bay; his object was to obtain a revisal of the criminal code, and a remedy of its defects, if it should appear that there was no court which had cognizance of this offence.

Mr. Randolph was still of opinion that this motion had not been made in the proper place, which was the Legislature of Maryland and not the Legislature of the United States. The gentleman had prefaced his resolution by saying that the offence had been committed on the waters of the Chesapeake Bay, and that there existed no legal mode of redress. Suppose the gentleman had said that the offence had been committed in the town of Baltimore, would it not have been asked, what the United States had to do with the town of Baltimore? The United States had as much jurisdiction in the one as in the other, and none in either except in special cases.

Mr. Quincy hoped this resolution would be passed. The ideas of the gentleman from Virginia did not appear to him to be altogether correct. The extent of the powers of this House, as specified by the Constitution, was, "to define and punish piracies committed on the high seas, and offences against the laws of nations." Unquestionably the piracy committed in Chesapeake Bay, would not come under the first clause of this sentence; but if an offence would come within the second clause, being an offence against the law of nations, it was proper that the House should inquire into it. The House would readily see the propriety of this power being lodged in Congress;—because if any force of another nation were to come within the body of a State, it was in the power of that State, by neglecting to provide for their punishment, or expulsion, to commit the national safety. It appeared to him, therefore, that Congress had cognizance of any offence whatever against the law of nations within the United States.

Mr. Key hoped they might have an opportunity of going further into a discussion on this subject. He conceived, with the gentleman from Virginia, that it was unnecessary, and he now thought Congress incompetent to legislate on this subject. If Congress were competent, the Legislature of Maryland was also competent. A jurisdiction of this kind had existed in the State of Maryland; she had a General Court, whose jurisdiction had extended over the whole State, and included the waters of the Chesapeake. Four years ago that court, and the jurisdiction which had always been exercised by it, was destroyed; and it was conferred on the county courts, which previously possessed jurisdiction over those rivers which flowed through their respective counties; but the Bay of Chesapeake had been exclusively within the jurisdiction of the General Court. To ascertain what authority now possessed jurisdiction, the resolution had been introduced to the House. If gentlemen thought, as he trusted they would, that Congress had only concurrent jurisdiction, they would yield the right of legislation on this subject to the State of Maryland.

Mr. Montgomery read extracts from two opinions given on the case by the district judge, and the other person who had been consulted; from which, he presumed, gentlemen would be satisfied that this was a proper subject for the consideration of the House.

The resolution was agreed to without a division, and the following gentlemen appointed a committee accordingly: Messrs. J. Montgomery, Quincy, Nicholas, Macon, Dana, Van Allen, and Troup.

SOLDIERS OF THE REVOLUTION.

The House went into Committee of the Whole on the resolutions offered by Mr. Randolph yesterday; and the first resolution being under consideration as follows:

Resolved, That provision ought to be made by law for an adequate and comfortable support of such officers and soldiers of the Revolutionary army as are still existing in a state of indigence, disgraceful to the country which owes its liberties to their valor.

Mr. Randolph said he trusted that on this resolution there would exist in the House, as there did in the nation, but one sentiment. Whatever might have been the provision heretofore made for those who had spent the best part of their lives, wasted their fortunes, and destroyed their constitutions in their country's service, during the late war, every one would allow that it was neither adequate—

[There being at this time a considerable noise, Mr. R. sat down. The Chairman, having commanded order, requested Mr. R. to proceed.]

Mr. R. did not know that there was any propriety in his rising again. There surely could be no occasion to address a deliberative body which was not disposed to hear; indeed he scarcely felt himself entitled to speak. He had been more than once astonished at the indelicacy of gentlemen who would persist in obtruding their observations upon the House when it was unwilling to listen to them; he did not feel inclined to practise what he had condemned in others. He had little to say, nor should he have troubled them with that little, if he had not known that it was expected of the mover of a proposition to say something in support of it. The provision which had been made for the officers and soldiers of the Revolution was notoriously scanty and mean. Who, he asked, enjoyed the carrying trade for which, two years ago, we were near being plunged into a war? Emigrants since the peace of 1783. Men who ran no risk—who put nothing to hazard—whilst those who met the enemy in the field, with the gibbet staring them in the face at the same time, were left to pine in want and obscurity. Had the persons who achieved this right to trade with every quarter of the globe less claim to the benefits acquired by their blood than the man of yesterday. But they had no capital for such enterprises. They had sown that others might reap. The very lands which they had won with their swords had become the prey of rapacious adventurers. Should the fruits of the Revolution inure to the sole benefit of those who

never put their persons to hazard, or even spent one dollar for the acquisition of our independence? He reminded the House of the pathetic appeal which had been made on a former occasion by one of its oldest members, (Mr. VAN CORTLAND,) whom he hoped would long enjoy his seat there. "We shall not prove very chargeable to you—there are but few of us left, and they are daily dropping off—you will not be burdened with us long—most of us have broken our constitutions in the public service." Mr. R. hoped that provision would be made for these gallant veterans—living monuments of the ingratitude of their country; that every man who had a claim on the public for services rendered during the Revolution would be made comfortable for life, unless his own misconduct should forbid it.

Mr. QUINCY said he did not rise to make objections to the general object of the resolution; but there was one part which he did not think it decorous for the Committee to adopt; he meant the epithet *disgraceful*. He was not prepared to fix a disgrace upon the nation by his vote; if it were true that it was disgraced, he should wish more evidence of the fact than had been exhibited on that floor. Were he even to admit that it was a disgrace, he was not willing to turn the eyes of the world upon the shame of his country. In another point of view he objected to this declaration, as it would, by a strained or forced construction, limit the provision contemplated to be made. He should not offer an amendment to the resolution, because he trusted the gentleman himself would amend it. It would, however, meet his wishes either to strike out the last declaratory sentence, or to strike out the words "disgraceful to the" and insert "in a."

Mr. EPPES rose for the purpose of obtaining information. He wished to know whether the object of the first resolution was to provide for all officers and soldiers of the Revolutionary war who were now in a state of indigence, whether their claims had been paid or not, or whether it was intended to include only the officers and soldiers, whose claims had not heretofore been discharged? Hitherto, in the United States, provision had been made for two descriptions of persons only: those who have actual claims, and those who have a claim on the bounty of the nation from being disabled while in service. The resolution appeared to embrace a new principle, viz: a provision for persons who had no claim on the United States, but being in a state of indigence.

Mr. RANDOLPH said that he did not feel for his resolution that sort of parental affection which authors were supposed to bear towards their works. The language was perfectly immaterial to him, so as it embraced his object. He thought it needless, in a matter of this kind to attend to those verbal niceties with which the gentleman from Massachusetts had amused himself and the Committee. So far from disgracing the country, he thought the acknowledgment in question the first step towards wiping off the stigma—a sort of atonement; and if the nation was disgraced, it was their duty as faithful servants to tell her so, and not to flatter her with the success of her arms, and persuade her that she was the very mirror and pink of chivalry, when they knew to the contrary.

It was possible, Mr. R. said, that but for the interruption which the Chairman's duty obliged him to make, he might have gone into an explanation of the object of his resolution; but he must confess to his shame that it required nerves of a stronger texture than he possessed to meet undismayed an occurrence of that kind. He thought, however, the resolution spoke for itself. It was matter of notoriety, and as such it was proper for the House to act upon, that there existed a great number of citizens in this nation in a state of indigence, who, if their country had done its duty, might, and probably would, have been in far different circumstances. This failure on the part of Government had thrown the evidences of their claims into the hands of men, many, if not most of them, emigrants since the Revolution. He asked whether our public lands, our free commerce—every blessing of our country—should be participated by those who had sacrificed nothing to our independence, and the men who achieved it be suffered to live and die in wretchedness? This was the question which he had propounded to the House, and those who could not comprehend it in its present shape, would not be assisted by any explanations which it was in his power to give. He knew comparisons were odious, but he must be permitted to make one. He would compare the services of Captains Lewis and Clarke, in exploring the continent to the Pacific ocean, and their remuneration, with the hardships and dangers of the soldiers of the Revolution and their reward. He had no disposition to undervalue the services of those gentlemen and their companions; far from it. He thought them deserving of what they had obtained, and he had voted accordingly. But he should be guilty of gross injustice were he to aver that their labors had been as important to the United States as the services of those who had fought their battles, before they were United States. Yet, what a wide difference in their remuneration! On the one side, ample compensation; on the other, the statute of limitation, or perhaps a scanty pension. Mr. R. wished this subject to be taken up on the broadest ground—that where services could be shown, they should be recompensed—that the State should take the sufferer under her protection, and secure him from want.

Mr. THOMAS asked the gentleman who moved this resolution, whether he intended to confine his provisions to the officers and soldiers of the Revolutionary war, and not to extend relief to other sufferers? It was well known that there were many others in the service who suffered equally with those in the Army—some of whom had lost their limbs, and others who performed meritorious services—and were of as much benefit as soldiers. Were they excluded by the resolution? It was but lately that an officer, who commanded one of our armed ships in the Revolutionary war, was in

a state of almost starvation; and there were many more equal sufferers and equally meritorious with those who served in the Army.

Mr. RANDOLPH could only say, that his object was to provide for every man who had fought, whether in the militia, the regular Army, or the Navy.

Mr. QUINCY said, he really had not meant to amuse the House or the gentleman from Virginia by the observations which he had made. In certain cases words were things, and certainly this was one of those cases. Would the Committee declare their own disgrace by passing the resolution as it now stood? No; they would declare their country to be disgraced. He could not consent to this. He therefore moved, as he wished to make as little alteration in the resolution as possible, to strike out the words "disgraceful to the," and insert "in a."

Mr. RANDOLPH did not perceive the necessity of the amendment, neither was he very tenacious of the language of his resolution. The object of it alone was dear to him. Yet, there were occasions in which it behooved men, and nations too, to confess their sins. He thought the present one of them. Would the State of Georgia, for instance, have done herself more honor, if, instead of passing sentence of indelible disgrace on the Legislature which passed the famous law of the 5th of January 1795, commonly called the Yazoo act, and expunging it from her records, she had faintly censured its authors and their abettors by a dainty circumlocution? He feared he would not be pardoned for introducing the Yazoo act in this case, since he had seen a most respectable Representative from the State of Georgia, (Mr. TROUP,) attacked on all sides for daring to lisp the word Yazoo. They were told it was a worn out thing. That the House and the people were tired of it. That, like the cry of wolf in the fable, it had been repeated until no one would heed it. Mr. R. said that those who calculated in this way reckoned without their host. The people of the Union could never become familiarized and hardened to acts of corruption, by whomsoever they might be practised or patronised.—Whether the words were stricken out or not, was perfectly immaterial to him. Perhaps, in rendering the censure more delicate, it was only rendered more severe. He thought the situation of these gentlemen—for gentlemen they were, by the most honorable of all titles, the sword—disgraceful to the country. Whenever the country was disgraced, he was for confessing it, that the people might be roused to wipe it away. For this reason he had said that the Navy of the United States was a disgraced Navy, and he should continue to say so until its character was retrieved.

Mr. QUINCY said he was as willing as any gentleman to confess his own sins, but did not like to cast censure on other people, much less on his country. They would declare by passing the resolution as it now stood that their country was disgraced. He hoped they would not do it. He had no objection to the House confessing its own misdeeds. Let us, said he, work out our own reformation, but not pass a censure on our country. He declared his objection to the resolution to extend no further than to those words.

The amendment moved by Mr. QUINCY was then agreed to without a division; and the question recurring on the original resolution,

Mr. ELLIOT said that when a Republic had availed itself of the material services of any part of its subjects, it had been the opinion of the wise and good in every age, that it should amply remunerate them. He was prepared to have voted for this resolution in its original terms, but still, was not disposed to make any objection to the amendment which had taken place. The resolution appeared to him in the light of an inquiry, though it had been said that it might be considered as containing a principle. If there were any of those officers and soldiers who achieved our independence, existing in a state of indigence which reflected disgrace on the country that owed its liberties to their valor, the object of the resolution was to make some provision for their future support. He hoped the subject would at least be suffered to go to a committee. No harm could result from the adoption of the resolution. It would merely be saying that, if the unremunerated services of the officers and soldiers of any part of the community call upon their country for their adequate support, provision ought to be made for them. He should, therefore, vote for the resolution.

Mr. HOLLAND said he always had been of opinion that, if there were any description of citizens who were unremunerated for their services in the Revolutionary war, there should be no statute of limitations to bar their claims. This subject, however, was in the possession of a select committee. Although he admitted that no statute of limitations ought to pass, he was not prepared to vote for the adoption of this resolution as it now stood. It declared that every person who served in the Revolutionary war ought to be provided for. This was taking a very broad ground, indeed. If there were persons who had suffered in that war, and were now indigent from their own misconduct, he thought they ought not to be provided for, neither was he prepared to have said that his country was disgraced, from her conduct towards such persons. The services of these officers and men had, in many instances, been fully requited. It was true, that, in some instances, they had not been fully requited; and, if these could be singled out, the sufferers ought to be rewarded for their services. But, should they now adopt a new principle? The old principle was, that all persons who had incurred disability by known wounds, in the Revolutionary war, should be placed on the pension list; and the law passed for that purpose was still in operation. Some persons were, perhaps, unprovided for under that law, who ought to be remunerated. But, were they, on that account, to adopt this resolution on the broad ground on which it now stood? He thought not. It would be making these men a privileged order; and if it were adopted, to what consequence would it not necessarily lead? It would naturally be

inferred, from the passage of this resolution, that every man who hereafter enlisted in the armies of the United States, must be provided for in like manner. Would the House go to the extent to which this proposition would lead them? He, for one, was not prepared to do so, and should vote against the resolution as it now stood.

Mr. Nelson said he should say but few words on this question, as the subject was too plain to require illustration. The gentleman from North Carolina had not understood this question as well as he generally understood such subjects. The gentleman wished it only to extend to such claims for services as had not been barred by the statute of limitations. When an old soldier now came to this House, or to the public offices, to claim payment of a balance—while they admitted that the money was due to him, that his claim was just—they told him: "We cannot pay you this. Your claim is barred by the statute of limitations." It was a very easy matter to draw a natural and clear distinction between paying a man the very money they promised to pay him, and making him compensation for his services. What was the true state of the case? When these men served to the end of the war, they were to receive half-pay. When the war was concluded, a proposition was made to them, and accepted, to commute this half-pay for five years' full pay; and they all received this, whether wounded or not. But, when a man came before them, who, in addition to the services he had performed, had claims upon them from his disabled situation, what said the law? What were its provisions? So narrow that not one man in fifty, who was entitled to it, could receive a pension. This is not all, said he; go out of your own doors, and you may find men almost naked, to whom the country does not owe one cent, but who had spent the best part of their lives in its service, and are so injured by their exertions that they must now starve, except you provide for them. Mr. N. said if he understood the resolution, these were the people it went to provide for. Although a man had received no wound that would entitle him, after certain evidence, to be put on their pension list, yet, if it were proved that he had fallen into indigence in consequence of his services in the Revolutionary war, it behooved them to make provision for his support. It was truly observed last session, by a gentleman from New York, that there were but few of them left, and those few, in a few years would sink into their graves—and then, said Mr. N., the vast expense complained of will be entirely removed. Would the United States refuse to hold out their hands to relieve a poor fellow who had spent his life and wasted his constitution in achieving their present situation and standing among the nations of the world? Was there even a human being on earth who would not assist such a man? If they were suffered to depend on the charity of individuals for existence and support, it was disgraceful to the country. He hoped provision would be made for them, and that their old soldiers would no longer be suffered to beg through the streets for a few half-pence, to the disgrace of the country for which they had fought.

Mr. Smilie said that, as he understood the resolution, it comprehended the remains of the Revolutionary Army, now in a state of distress and indigence. It was certainly a plain principle—one which could not be denied—that, in all contests for the defence of the community, every member of that community ought to bear his proportional part, and that no one should contribute more than another, according to his circumstances; and yet, unfortunately, such was the state of society, that it was found strict justice could not be done to all. After our Revolutionary war, it was a melancholy fact, (and if they would look back to ancient times, they would find the same had happened to other nations,) that those who had least merit enjoyed most of the advantages of the war. They all knew, that during the Revolutionary war, there were thousands who sold their property far below its value, and were of course reduced to poverty. This was a circumstance so well known, that he need say no more on it. Unfortunately, when the Government made provision for paying their Army, the poor soldiers themselves were not benefited by the provision which the nation made. For instance, those States which paid the militia for services, paid them in land. The Government of the United States did the same. Yet, these men received little or no benefit from it. In the State of Pennsylvania, and he believed in other States, the soldiers disposed of their lands for a mere trifle, to those speculators who were looking about for bargains. Whatever the General Government might do from charity, they were not bound by law or justice to do more. The misfortune of indigence had fallen on these men, not so much from the acts of the Government, as from a set of speculators, who took advantage of their then necessitous situation. As far as any compacts had been entered into by Government, for payment or settlement of claims, he was willing to fulfil them. He would go further—he was willing to think of the resolution, and see what it was possible for them to do. At the same time that they felt for this class of persons, and wished to provide for every meritorious officer or soldier, if a law for the purpose were passed, it must be so guarded as to prevent others, not deserving, from being included. He wished to give these unfortunate people everything reasonable—he felt for them—but he must also have respect for other objects. He believed it would be right to adopt the resolution, and see what could be done; though, in voting for the resolution, he did not wish to commit himself to vote for the bill to be introduced in pursuance of it, except the provisions it contained should be such as met his ideas.

Mr. Eppes said he had never claimed any extraordinary degree of quickness of understanding. He professed however to possess, and did possess, firmness enough to discharge on all occasions his duty. In the discharge of that duty, he would offer an amendment to the resolution now before the Committee. He moved to strike out the whole resolution, from the word "for," and to insert "the

'payment of all claims not heretofore discharged 'for personal service, or for any matter or thing 'furnished during the Revolutionary war, and for 'placing on the pension list every officer or soldier disabled while in the service of the United 'States, whether such disability has been incurred 'in the actual line of his duty or not." Mr. E. thought that the United States ought to be just before they attempted to be generous—that many fair and *bona fide* claims for personal service existed which ought to be paid—that a provision of this kind would be beneficial to a very large portion of officers and soldiers who had never received their just claims for personal service. He was willing to take the broad principle of paying all just claims, and of providing for every officer and soldier disabled in the service of the United States. Under his present impressions, however, he could not vote a provision for persons who were not disabled in the service of the United States, and who have no claim on the public bounty, but being in a state of indigence. Public service rendered was the only just principle on which provision for an adequate support could be claimed. If any additional provision was now to be made for the officers and soldiers of the Revolutionary war, it ought to include all who had rendered personal service, whether in a state of indigence or not. The officer or soldier who has already been paid, has not as fair a claim on the public bounty, although in indigent circumstances, as the officer or soldier, however rich, who has never received what is justly due to him, and whose claim is now barred by the statute of limitation. Mr. E. said that the pension law—the only provision existing for persons disabled during the Revolutionary war—required amendment. A claim for a pension had been put into his hands by one of his constituents. The testimony exhibited was such as to leave no possible doubt that the claimant was disabled while in the service of his country—that he is now poor, and unable to make any exertions for his support. His application has not been granted, because he has been unable to produce satisfactory proof that his wound was received while in the actual line of his duty. He thought every officer and soldier who had been disabled in the service of his country ought to be provided for. He thought every person who had a claim which had not heretofore been discharged, ought to be paid. The amendment he had offered would include all officers and soldiers who had claims, or who had been disabled in the service of the United States. A provision to this extent would remove every just ground for complaining against the liberality or justice of the United States. He hoped the amendment would be adopted.

Mr. Randolph said, that under color of amendment, this appeared to him to be a complete substitute for the resolution he had the honor to propose—it went to provide for a different object. The House must perceive, if the amendment were adopted, that a man who had served in the Revolutionary war, and now existed in a state of indigence, disgraceful to the country which owed its liberties to his valor, was left unprovided for. And this was the description of persons, whether wounded or not, whom it was the object of his resolution to remunerate. He wished for the decision of the Chair, whether the amendment were in order.

The Chairman decided that the amendment was a substitute, and could not be received.

Mr. Smilie said it was now a late hour, and he wished the Committee to rise, and obtain leave to sit again.

Mr. Randolph did not wish to prevent the Committee from rising, but he very much feared this resolution was to be lost. Gentlemen had said that they would vote for it so far as to authorize a bill, but they plainly intimated what the fate of such a bill would be. One gentleman had said, that unless the details of the bill were exactly to his mind, he should vote against it. When a sacrifice was resolved upon, it was easy to find fuel to consume the victim. It had, indeed, been said that they were not bound by justice to make this provision. If the gentleman had said they were not bound by law, he would have been correct. But, Mr. R. said, they were bound by justice. It was not an act of liberality or benevolence which he had proposed to them, but of sheer justice. Another thing which made him fear, very contrary to his first expectations, that this measure was to be defeated, was the attempt to mingle it with other matter which did not speak so forcibly to the hearts and understandings of the Committee. There was a wide difference between supplies furnished and personal services rendered. Were you to meet a beggar, who should tell you that he was a cripple from the rheumatism—that he had furnished supplies during the war, and sold his certificates at a great loss—would you feel the same sensation as if you knew that he had been wounded at Eutaw or Camden? If gentlemen wished to repeal or modify the statute of limitation, let them do it in a separate bill; but let not, said he, my resolution, exclusively of its own weight, be saddled with the dead weight of the act of limitation, or with whatever else gentlemen may choose to load it, merely with the view of breaking its back!

Mr. Smilie would explain what he meant. He should vote for the resolution, because he wished to see what could be done under it. He did not know what difficulties might arise in the execution of the purpose of the resolution, at the same time that he had no objection to its going to a committee, but it was impossible for him to say how he should vote on the bill till he saw what form the committee should have given it. But he would promise the gentleman from Virginia that he should not vote equivocally on the subject. He was sincerely disposed, if it could be done with safety to the community, to make this provision.

A motion was then made for the Committee to rise, and carried—75 voting in favor of it.

Thursday, December 3.

The Speaker laid before the House a letter from the Secretary of War, enclosing a statement

of the respective number of officers, non-commissioned officers, and soldiers, composing the Army of the United States; noting the number wanting to complete the present establishment; transmitted in obedience to a resolution of this House; which were read, and ordered to lie on the table.

Mr. GEORGE W. CAMPBELL, from the Committee of Ways and Means, to whom was referred, on the twenty-sixth ultimo, the petition of David Porter, Master Commandant in the Navy of the United States, reported a bill remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States' Navy, who fell during the attack made on the city of Tripoli, in the year one thousand eight hundred and four, which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. CHITTENDEN,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the several acts regulating the holding of Circuit Courts in the United States; and that they have leave to report by bill or otherwise.

Ordered, That Mr. CHITTENDEN, Mr. BIBB, Mr. STANFORD, Mr. GOODWYN, Mr. T. MOORE, Mr. ROWAN, and Mr. GARDNER, be appointed a committee, pursuant to the said resolution.

The bill sent from the Senate, entitled "An act for the preservation of peace, and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction," was read twice and committed to a Committee of the Whole on Monday next.

Mr. JONES, from the committee appointed on the twenty-first ultimo, presented a bill to place in the hands of the President a sum of money for the purposes therein mentioned; which was twice read and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to appropriate money for the construction of an additional number of gunboats;" to which they desire the concurrence of this House.

ARMING THE MILITIA.

Mr. BLOUNT said, that for the purpose of entering on the subject of defence, he would move, that the unfinished business of yesterday (Mr. RANDOLPH'S resolutions) be postponed till Monday next.

Mr. RANDOLPH said, except the gentleman from North Carolina could demonstrate, that the fortifying our ports and harbors, and building gunboats, were measures of greater importance, and more deserving the attention of the House, than the arming of our militia, he could not consent to the postponement.

Mr. BLOUNT said he should not take up the time of the House in an inquiry whether it was of more or less importance. He considered it his duty to make the motion; and the decision of the House on the question would be satisfactory to him, be it what it might.

The motion was negatived—yeas 44, nays 60.

Mr. RANDOLPH then moved for the order of the day on the unfinished business of yesterday, being the consideration of the resolutions submitted by him.

Mr. M. WILLIAMS moved to discharge the Committee of the Whole from the further consideration of these resolutions, on the ground of the subject being already in possession of committees of the House; the first being in his opinion in the hands of the committee on claims barred, &c., the second, of the committee appointed to revise the militia laws, and the third, of the committee on that part of the President's Message relating to Military and Naval Establishments.

After some conversation on the subject, between Messrs. WILLIAMS, EPPES, and RANDOLPH, the question was taken separately on discharging the Committee of the Whole from the further consideration of each resolution, and each negatived. On the first, yeas 34; on the second, nays 22; on the third, no division.

The House then went into Committee of the Whole, when the question was taken on the first resolution, without further discussion, and carried—yeas 63, nays 51.

The second resolution being under consideration in the following words:

Resolved, That provision ought to be made, by law, for arming and equipping the whole body of the militia of the United States.

Mr. EPPES said he was in favor of arming the militia of the United States, but not to the extent contemplated by the resolution. He did not know that the interest of the United States required arming, at the present moment, "the whole body of the militia," which he considered to be the object of the resolution. He thought it would require an appropriation too large for this single object, however important it might be, and it certainly was one of the first importance. He was willing to arm at once that portion of the militia which the United States might have occasion to employ. He believed that an expense to this amount could be met without diverting from other important objects too large a portion of the resources of the nation. The whole body of the militia of the United States amounted to 640,000. To arm these would require, at a moderate estimate, $6,400,000. This would be a very large sum to appropriate to a single object. In order to try the sense of the Committee as to the principle of the resolution, he would move to strike out the words "whole body of the militia," and to insert 100,000 militia held in requisition under the act of Congress in 1806, and the 30,000 volunteers authorized by the act of Congress passed in 1807. The resolution would then provide for arming 130,000 militia, a number sufficient to meet even the exigencies of war.

Mr. RANDOLPH said he should consider an agreement to the amendment now offered as equivalent to a direct rejection of the resolution, because in order to arm these troops, the far greater part of whom had been already armed by the respective States, it would not be necessary to expend

one dollar in the purchase or manufacture of a single additional musket. He had framed his resolution in the broadest possible shape, in order to bring the question to a fair trial. He had no idea of drawing six millions of dollars out of the Treasury; that calculation assumed the fact that the States and the General Government were utterly destitute of arms; which not being true, all the deductions from it fell to the ground of course. The extent to which the House would go would be limited by the appropriation in the bill. His opinion was that an appropriation, and a very liberal one, too, should be made for this object; but at the same time that the House should pledge itself to the public to put arms into the hands of every man capable of bearing them, and liable to be called into service.

He had avoided, in the resolution, everything relating to the organization of the militia, because he was little acquainted with the subject, and because he was convinced that all attempts to train and discipline them, would prove futile, unless they had arms in their hands. No discipline could make soldiers of men who mustered with canes and cornstalks. He recollected on a former occasion with what force his excellent friend, (Mr. MACON) whom he had then in his eye, had demonstrated that an armed people must necessarily be a free people. All the parchment in their archives was of less force than a single musket in maintaining the liberties of the citizen. But, Mr. R. said, although he had abstained from touching on the organization of the militia, he was deeply impressed with the necessity for some alteration. He feared that under the present system the militia could never be brought to act. They had taken the model of their laws for the government of the militia, when in actual service, from the barbarous despotisms of Europe. They had addressed themselves solely to the basest passion of the human heart, which it should be the chief purpose of every military institution to eradicate or suppress. The lash, the picket, the cat, every vile instrument of torture, were held up to the freemen of America as the sole motives of action; as the only inducements to a faithful and zealous discharge of their duties to themselves, their families, and their country. Was there not reason to believe, that such a system, when brought into actual operation, would produce disaffection, if not revolt, in those who were subjected to it? Was there no difference between freemen, possessed of information and property, and wretches picked up in the streets, educated in ale-houses, such as composed their standing army? Would men, who felt as high a sense of their independence as any member of that House, submit tamely to the lash of the executioner at every nod of military caprice? He hoped to see them governed on worthier principles; that an address would be made to their better and nobler passions. This was not an opinion which had originated with Mr. R. It had been suggested to him by a gentleman from South Carolina, (General Sumter,) formerly of that House, but now a member of the other, a man than whom no one in the nation was better qualified to pronounce upon this delicate and interesting subject. His experience upon it perhaps was unequalled by that of any other person now living; his zeal and exertions in this branch of the service most certainly had never been surpassed.

Mr. EPPES said, that the gentleman from Virginia had not only misunderstood the operation of the amendment he had offered, but had totally mistaken his views in presenting it. He had no wish to defeat the resolution offered by the gentleman from Virginia, but to adapt its provisions to the resources and exigencies of the nation. He was not in the habit of meeting indirectly any measure to which he was opposed. He had stated before the resolution was taken up in the Committee, that he was in favor of arming the militia to the extent which he now proposed. It had been stated by the gentleman from Virginia, that if the amendment offered was adopted it would amount to a rejection of the resolution. That while the amendment held out the idea of arming 130,000 militia it would not put a single musket into their hands. That the laws holding the militia in requisition required the States to arm their respective portions of militia, and that arms for this purpose would not be necessary. It was true that the law required the States to arm their respective quotas of 100,000 militia. He believed, however, that few, if any, of the States had arms to spare for this object; and from the returns he had seen, Maryland had none. A compliance with this part of the law would leave most of the States totally destitute of the means of arming the portion of militia left within their respective limits. On the contrary, if provision is made by the National Government for arming this portion of the militia, the arms belonging to the respective States, which under the existing law must be applied to this object, would remain in the hands of that portion of our citizens not called into actual service. He considered the amendment therefore as a substantive provision for arming 130,000 militia, inasmuch as it would leave within the respective States the arms now held in requisition by the General Government for that purpose. Mr. E. said that it had also been stated by the gentleman from Virginia, that the objection made to his resolution was founded on the principle of there being no arms in the country. The resolution takes the broad principle of arming the whole body of the militia of the United States. He considered that to be the object of it. If, however, the gentleman means to provide only for the purchase of such additional arms as are necessary, with the arms possessed by the United States and the States, to accomplish this object, it would reduce the expense from six millions four hundred thousand dollars to three millions. From the returns made of the arms of the States, it appears that they possess something over 200,000 muskets; he did not recollect the odd numbers. That in the arsenals of the United States there were 130,000 muskets, making the whole number possessed by the States and the United States, 330,000. Taking 640,000 for the number of the militia it would be neces-

of the respective number of officers, non-commissioned officers, and soldiers, composing the Army of the United States; noting the number wanting to complete the present establishment; transmitted in obedience to a resolution of this House; which were read, and ordered to lie on the table.

Mr. GEORGE W. CAMPBELL, from the Committee of Ways and Means, to whom was referred, on the twenty-sixth ultimo, the petition of David Porter, Master Commandant in the Navy of the United States, reported a bill remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States' Navy, who fell during the attack made on the city of Tripoli, in the year one thousand eight hundred and four, which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. CHITTENDEN,

Resolved, That a committee be appointed to inquire whether any, and, if any, what, alterations ought to be made in the several acts regulating the holding of Circuit Courts in the United States; and that they have leave to report by bill or otherwise.

Ordered, That Mr. CHITTENDEN, Mr. BIBB, Mr. STANFORD, Mr. GOODWYN, Mr. T. MOORE, Mr. ROWAN, and Mr. GARDNER, be appointed a committee, pursuant to the said resolution.

The bill sent from the Senate, entitled "An act for the preservation of peace, and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction," was read twice and committed to a Committee of the Whole on Monday next.

Mr. JONES, from the committee appointed on the twenty-first ultimo, presented a bill to place in the hands of the President a sum of money for the purposes therein mentioned; which was twice read and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to appropriate money for the construction of an additional number of gunboats;" to which they desire the concurrence of this House.

ARMING THE MILITIA.

Mr. BLOUNT said, that for the purpose of entering on the subject of defence, he would move, that the unfinished business of yesterday (Mr. RANDOLPH's resolutions) be postponed till Monday next.

Mr. RANDOLPH said, except the gentleman from North Carolina could demonstrate, that the fortifying our ports and harbors, and building gunboats, were measures of greater importance, and more deserving the attention of the House, than the arming of our militia, he could not consent to the postponement.

Mr. BLOUNT said he should not take up the time of the House in an inquiry whether it was of more or less importance. He considered it his duty to make the motion; and the decision of the House on the question would be satisfactory to him, be it what it might.

The motion was negatived—yeas 44, nays 60.

Mr. RANDOLPH then moved for the order of the day on the unfinished business of yesterday, being the consideration of the resolutions submitted by him.

Mr. M. WILLIAMS moved to discharge the Committee of the Whole from the further consideration of these resolutions, on the ground of the subject being already in possession of committees of the House; the first being in his opinion in the hands of the committee on claims barred, &c., the second, of the committee appointed to revise the militia laws, and the third, of the committee on that part of the President's Message relating to Military and Naval Establishments.

After some conversation on the subject, between Messrs. WILLIAMS, EPPES, and RANDOLPH, the question was taken separately on discharging the Committee of the Whole from the further consideration of each resolution, and each negatived. On the first, yeas 34; on the second, nays 22; on the third, no division.

The House then went into Committee of the Whole, when the question was taken on the first resolution, without further discussion, and carried—yeas 63, nays 51.

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one dollar in the purchase or manufacture of a single additional musket. He had framed his resolution in the broadest possible shape, in order to bring the question to a fair trial. He had no idea of drawing six millions of dollars out of the Treasury; that calculation assumed the fact that the States and the General Government were utterly destitute of arms; which not being true, all the deductions from it fell to the ground of course. The extent to which the House would go would be limited by the appropriation in the bill. His opinion was that an appropriation, and a very liberal one, too, should be made for this object; but at the same time that the House should pledge itself to the public to put arms into the hands of every man capable of bearing them, and liable to be called into service.

He had avoided, in the resolution, everything relating to the organization of the militia, because he was little acquainted with the subject, and because he was convinced that all attempts to train and discipline them, would prove futile, unless they had arms in their hands. No discipline could make soldiers of men who mustered with canes and cornstalks. He recollected on a former occasion with what force his excellent friend, (Mr. MACON) whom he had then in his eye, had demonstrated that an armed people must necessarily be a free people. All the parchment in their archives was of less force than a single musket in maintaining the liberties of the citizen. But, Mr. R. said, although he had abstained from touching on the organization of the militia, he was deeply impressed with the necessity for some alteration. He feared that under the present system the militia could never be brought to act. They had taken the model of their laws for the government of the militia, when in actual service, from the barbarous despotisms of Europe. They had addressed themselves solely to the basest passion of the human heart, which it should be the chief purpose of every military institution to eradicate or suppress. The lash, the picket, the cat, every vile instrument of torture, were held up to the freemen of America as the sole motives of action; as the only inducements to a faithful and zealous discharge of their duties to themselves, their families, and their country. Was there not reason to believe, that such a system, when brought into actual operation, would produce disaffection, if not revolt, in those who were subjected to it? Was there no difference between freemen, possessed of information and property, and wretches picked up in the streets, educated in ale-houses, such as composed their standing army? Would men, who felt as high a sense of their independence as any member of that House, submit tamely to the lash of the executioner at every nod of military caprice? He hoped to see them governed on worthier principles; that an address would be made to their better and nobler passions. This was not an opinion which had originated with Mr. R. It had been suggested to him by a gentleman from South Carolina, (General Sumter,) formerly of that House, but now a member of the other, a man than whom no one in the nation was better qualified to pronounce upon this delicate and interesting subject. His experience upon it perhaps was unequalled by that of any other person now living; his zeal and exertions in this branch of the service most certainly had never been surpassed.

Mr. EPPES said, that the gentleman from Virginia had not only misunderstood the operation of the amendment he had offered, but had totally mistaken his views in presenting it. He had no wish to defeat the resolution offered by the gentleman from Virginia, but to adapt its provisions to the resources and exigencies of the nation. He was not in the habit of meeting indirectly any measure to which he was opposed. He had stated before the resolution was taken up in the Committee, that he was in favor of arming the militia to the extent which he now proposed. It had been stated by the gentleman from Virginia, that if the amendment offered was adopted it would amount to a rejection of the resolution. That while the amendment held out the idea of arming 130,000 militia it would not put a single musket into their hands. That the laws holding the militia in requisition required the States to arm their respective portions of militia, and that arms for this purpose would not be necessary. It was true that the law required the States to arm their respective quotas of 100,000 militia. He believed, however, that few, if any, of the States had arms to spare for this object; and from the returns he had seen, Maryland had none. A compliance with this part of the law would leave most of the States totally destitute of the means of arming the portion of militia left within their respective limits. On the contrary, if provision is made by the National Government for arming this portion of the militia, the arms belonging to the respective States, which under the existing law must be applied to this object, would remain in the hands of that portion of our citizens not called into actual service. He considered the amendment therefore as a substantive provision for arming 130,000 militia, inasmuch as it would leave within the respective States the arms now held in requisition by the General Government for that purpose. Mr. E. said that it had also been stated by the gentleman from Virginia, that the objection made to his resolution was founded on the principle of there being no arms in the country. The resolution takes the broad principle of arming the whole body of the militia of the United States. He considered that to be the object of it. If, however, the gentleman means to provide only for the purchase of such additional arms as are necessary, with the arms possessed by the United States and the States, to accomplish this object, it would reduce the expense from six millions four hundred thousand dollars to three millions. From the returns made of the arms of the States, it appears that they possess something over 200,000 muskets; he did not recollect the odd numbers. That in the arsenals of the United States there were 130,000 muskets, making the whole number possessed by the States and the United States, 330,000. Taking 640,000 for the number of the militia it would be neces-

sary to provide 310,000 muskets, which would cost more than $3,000,000. He did not believe that it was the interest of the United States at the present moment to appropriate so large a sum to this object. He thought that a view of all the measures necessary for defence ought to be taken, the sum adequate to each appropriated, and no more. The whole body of the militia could not be called into service, nor did he wish therefore at the present moment to provide for arming the whole. He thought that at the present interesting crisis of our affairs every species of expense ought to be avoided which was not necessary for the defence of the nation. That our resources ought to be managed with a rigid economy, which could alone insure our meeting without difficulty the various important demands which in the event of war must be made on the funds of the nation.

Mr. Lloyd said he would correct the gentleman last up in his supposition that the State of Maryland had no arms. He could assure that gentleman and the House that the State of Maryland had sufficient arms now in her possession to arm the greater part of the militia of the State, and that she would never be found wanting. Mr. L. had always supposed and had been taught to believe that the best and most effectual defence on which a country could rely for its protection, was its militia. To render these militia efficient they must be supplied with arms. Many States in the Union had neither arms nor sufficient money in the Treasury to purchase arms for their militia. Even admitting it would cost the United States three or four millions of dollars to put arms in the hands of the whole body of the militia of the United States, they could do it without injury. Could any man believe that the militia of any State could be properly qualified for service, by mustering with cornstalks? For his own State, although it possessed its full proportion of arms in the United States, yet the militia were but partially armed; and when drawn out to muster might be seen exercising with cornstalks or walking canes. He would ask gentlemen if they wished the militia of the United States to become adequate to the purposes of defence? If they did, they must first place the people in a situation to make them so. The gentleman from Virginia had informed them that the United States had at present about 340,000 stand of arms, and that the number of the militia amounted to about 640,000. It might be presumed that some of the States also had arms—[Mr. Eppes explained, that there were in possession of the States rather over 200,000, and in the arsenals of the United States about 140,000 stand of arms.] Then Mr. L. said, admitting that there were in the arsenals of the United States, 140,000 stand of arms, and from the returns made to the Executive that there were in the possession of the States 200,000, this number would certainly very much lessen the number to be purchased; and in all probability, as the gentleman had stated, and he had no doubt it was the case, there was an error in the return from the State of Maryland, there might be errors from other States, and it was impossible to say how many might be in possession of the States. The number however, being reduced to 440,000 wanting, it would require $4,400,000 to procure arms for supplying all the militia in the Union. An objection had been made to appropriating so much now to that purpose. Could there be an impropriety in setting out with the principle that the militia ought to be armed, and that they would arm them? What objection could be made to a resolution declaring this principle? Let us said Mr. L. tell, the people of the United States, "we think you deserve protection;" let us begin to place arms in their hands, and though we cannot well make the whole appropriation necessary to accomplish the object at this time, let us begin by making a partial appropriation. He concluded by saying that he thought the original resolution and the principle it established correct; he should therefore vote for the resolution and against the amendment.

Mr. Chandler wished the amendment to be amended, by adding to the end of it "when called into actual service." He thought it improbable that the whole number of 130,000 would ever be called into service at one time; and there were ways enough of spending the money of the United States without appropriating more than was necessary to this purpose. If the gentleman who proposed the amendment under consideration would amend his motion in this manner, or assent to its being amended, and these amendments should both be agreed to, he should be pleased with the resolution; as it now stood, he was opposed to it. It was a correct position that the whole body of the militia of the United States should be armed; it was also true, that the United States had made provision for this purpose. It had enjoined it as a duty on each State to see that its own militia were properly armed. Mr. C. presumed that none of the States had carried this injunction completely into effect; but they had gone so far with it, that if gentleman looked at the returns for the year 1806, they would find that 214,227 muskets were at that time in the hands of the militia, besides rifles and shot guns, making altogether 364,000 stands; probably at this time there was a much larger number. These would be used immediately to repel invasion or attack, till the regular army of the United States could be brought into service. There were, he said, in the arsenals of the United States at this time about 135,000 muskets and 5,000 rifles; these would be sufficient to arm any number of militia that might be called into service at any one time, and at the same time to supply the men composing the regular army. If the amendment which he had suggested were made, he should vote for the resolution; otherwise he should certainly vote against it.

Mr. Eppes said he would agree to the amendment proposed by the gentleman last up, but that it went to destroy the principle of the resolution, to which he did not object; but he thought the number limited by his amendment were as many as could be armed at the present time.

Mr. Nelson said it appeared to him very extraordinary that any member of the House could make objection to this resolution. What did it

contemplate? Not the purchasing at this time as many arms as would arm the whole body of the militia of the United States, but it declared that every man in the United States should have arms put into his hands as soon as it could be accomplished. If the resolution were permitted to go to a committee, a bill would be introduced predicated on the resolution; when they went into a discussion of that bill they would find that it would provide for annually appropriating a certain sum for purchasing arms and placing them in the hands of the militia. If gentlemen understood this in the same manner as he did, what reason could they produce why the amendment offered by the gentleman from Virginia should be adopted? The resolution contemplated making a provision by law which would enable them within a certain time to put arms into the hands of the whole body of militia in the Union. Whatever might be their opinion that every freeman who was bound to do duty ought to have arms in his hands, Mr. N. did not believe that the militia alone would be found a sufficient force on which to rely in a severe and active warfare; but that they must have some regular troops. Every man would, he supposed, allow that a war would have a termination at some time; what might be the consequences, if the militia were not armed? These regulars might not perhaps be the best men in the world; for the best would not enter among the regulars; they might be under the command of some influential and ambitious man, who would turn their arms against their country. He wished the people, therefore, to be prepared at all times to repel encroachments on their rights and liberties, whether internal or external. The gentleman from Virginia (Mr. Eppes) had told them that there had been no return made from the State of Maryland. He believed the gentleman had stated this correctly, as he was always correct; but he could tell the gentleman that that State had about ten thousand stand of as good arms as any on earth. He should vote for the resolution.

Mr. Eppes said he could perhaps gain the end he had in view by withdrawing his amendment, and by leaving the resolution on such a broad basis as would give the House full liberty to decide the question on the ground of principle. He was willing to modify the resolution in this manner, and, therefore, withdrew the amendment which he had offered, and moved to strike out of the resolution the words "the whole body of," so as to leave as broad a principle but more general provision.

Mr. Randolph said, that if indeed there was any substantial difference between the resolution in its original shape and as it would stand amended by this motion, he could not see it. Who were the militia of the United States? Suppose a motion made to provide for the payment of the public debt. What was the public debt? All the money which the public owed. Who are the militia? All the men subjected to do militia duty. If, however, there was a difference he was opposed to it: if there was none the motion was nugatory. The House were told that they ought to exercise a rigid economy in the present posture of affairs, but he trusted it would not be an economy of arms; economy of words, of times, of laws and proclamations, and of money, too, upon useless and fantastic projects, was highly desirable—economy of anything, if you will, but of arms in the hands of the people. It was obvious, from the nature of the resolution, that the number of new arms to be procured would be limited by the appropriation. Mr. R. likened it to the proposition to pay off the whole of the public debt, by vesting a certain sum in the Commissioners of the Sinking Fund. There was the pledge and the means provided of redeeming it. This was what he wanted in the case of the militia. The proposition was at all times true, but there was now an imperious necessity for carrying it into effect, with all possible despatch. They lived in an age of revolutions and changes. Among other things which were not impossible, might not Spain, with whom we had long been on a slippery footing, take advantage of the moment when they were engaged on the seaboard in an amphibious, half maritime war, to repossess herself of a valuable frontier province, on which she yet casts her gloating eyes? She never had been, and never would be, reconciled to its loss. The want of ability, not of inclination, had withheld her, hitherto, from seizing upon it. Did not this, to say nothing of attempts on their own liberties, which must at last be repelled, whether from foreign or domestic invaders, at the point of the bayonet, did not this show the necessity of an armed militia?

But it was said there were ways enough of getting money out of the Treasury without going to the expense of arming the militia. It was true, and it was because he saw every engine set in motion to draw money out of the Treasury, that he was peculiarly anxious that some part of it should be applied to purposes of real, undisputed utility. Suppose it should turn out that their gunboats dare not face the enemy's fleet. There was so much money sunk. Do not then, said he, suffer all our resources to be applied to this precarious defence; but if the Treasury is to be drained, suffer a part at least to flow into channels which may hereafter adorn and fructify the land.

Mr. Thomas said, that he presumed every gentleman in the House would wish to see the whole militia of the country armed; but in all subjects of this nature it was invariably the case, that the House referred them to a committee, for the purpose of ascertaining all information relative to the subject, and to obtain a report of facts. The House had received various information from different parts of the House, of the number of arms in different States, and of the number in the arsenals of the United States. It was true that there was a great deficiency of muskets in the militia of the United States, but it was also true that a great portion of them had now in their hands useful, serviceable, and efficient firelocks, and other implements of war. There were indeed a great number of persons, who would be as

efficient in the field as any others, unable to provide themselves with arms; to this class the aid of Government ought to be extended; but he did believe that all persons who were able should provide their own arms. In order that the subject might come before the House in such a shape that they could act upon it understandingly, and that they might be provided for war when it came, when the present amendment was disposed of, he should propose another amendment, referring the resolution to the committee appointed to inquire into the militia laws, who had the subject already before them. He thought this would be the proper course for the subject to take.

Mr. CHANDLER moved to amend the amendment by adding at the end of the resolution the words, "when called into actual service."

Mr. SMILIE said, that it was the wish of every member of the House that the whole of the militia should be armed, there could be no doubt; the only question was, whether under present circumstances it was proper to go to any great extent, when they knew they would have occasion for all the money they could command. It was undoubtedly a melancholy consideration, that a people enjoying the first privileges of freemen, had not yet availed themselves of one of their most important rights, that of arming themselves. If the nation was not on the eve of a war, as he believed it was, they ought to consider the state of the country, and when they thought of disposing of the public money, to take care that it should be done to the best advantage. The only question to be considered before they gave their votes on this resolution was, whether there were not already sufficient arms in possession of the United States, to arm any force which might be called into service. Was this a time to expend money for arms if they had sufficient for immediate exigence? Men were as necessary to carry on a war as arms, and more so, because arms could not be employed except they had men to use them. Now he did believe that there were arms sufficient in the United States to arm any force that might be necessarily called out for the service of the United States; if this was the case, they ought to employ their money on some other objects than those for which they had already provided. There could be no objection to passing the resolution as declaring a principle, that the people should be armed; when the bill was brought in, many difficulties would arise. It would then become a question, "shall the people be armed at the expense of the General Government?" He regretted exceedingly, that ever a freeman of the United States should consent to hold arms at the expense of the Government. As freemen, they should arm themselves; and he hoped, whenever they did arm the people, when they were obliged to put arms into their hands, those arms should become the property of the individuals to whom they were furnished. Another difficulty would arise: there were many States who already possessed arms; if a part had supplied themselves with arms at their own expense, would you, (said Mr. S.,) arm others at the expense of the public? Would you show one more favor than another? He foresaw great difficulties on this subject. He would observe that arming the militia ought to be done in a time of peace and not in a time of war, which appeared to be approaching, for in such an event they would have occasion for all their money; and he believed at the present time they could not make a large appropriation, if they meant to provide for the necessary expenses of war.

Mr. MACON said he would express his ideas on this subject in a few words. This was one of the most important questions that ever came before the House; it was one on which he had not reflected before he came to the House this morning, as he had not known of it before. He had been in hopes that those gentlemen who lived in more remote parts of the United States than he did, would have given their sentiments on this subject. As to the probability of war, he might stand alone in the opinion which he entertained; but he had considered that the nation was actually at war from the moment of the affair of the Chesapeake, if they felt a disposition to maintain the rights of their Navy. If they were at war, or were to have a war, they could not foresee how the enemy would prosecute it: they would never attempt an invasion, for they had enough of that in the Revolutionary war; they might land, but if the people in the the seaports from one end of the country to the other were protected, the country was in no danger. If the people thought they were properly armed, he did not think it proper to put arms into their hands: but they must prepare for the war that was coming. Let the resolution go to a committee; they were not now debating on the principle but on the details, which should be postponed till the bill was brought in. Objection was at first made to the resolution from the magnitude of the object which it embraced; but all the objections which had been offered were to the details, and the amendments which had been offered could more properly be proposed to the bill.

He did not expect that Britain would trouble them at the present time; but in the Spring she would commence her operations. The late attack on the Chesapeake was as much war as the attack on Copenhagen. And what, said he, are we now doing? Are we not disputing about detail? The amendments which had been offered could be made to the bill; he did not expect that a committee could be appointed on this subject, which could report a bill that would not need amendment. Let us see the bill, said he, and if it cannot be reduced to practice, let us throw it away. The only question now appeared to be whether they would immediately arm the whole body of militia, or whether they would commence a system of arming them? He had not looked at the returns which had been made, but from what had been said, and from his own knowledge, he believed it would be found that none of the States were completely armed. What did this prove? That in this time of danger they must do something; they must step forward to assist

them. If there were money in the Treasury, it should be applied towards the defence of the nation; could they do this better than by putting it in the power of the people to drive the enemy from any part it? The enemy would not land in our bays or inlets, but on our shores; and the people on these shores must be enabled to drive them away. Should the House be now contending about the detail of a resolution? He hoped not. He thought the public money should be applied to the best purposes; no doubt there would be a diversity of opinion as to what were the best. They might immediately purchase ten or twenty thousand stand or any other number, and put them into the hands of the States most exposed to attack from sea; which was particularly necessary at present, as the people on the seacoast were most in danger. But if gentlemen who lived on the seacoast, North and South, East and West, said that they were properly armed, he should be content to wait, because he should suppose their information better than his; if they were not, he wished the resolution to be adopted.

Mr. NEWTON said, he believed with the gentleman from North Carolina, that ever since the attack on the Chesapeake the nation had been in a state of war; and it behooved them, considering the country to be in that situation, to prepare for any event. He had not given the committee any trouble on this subject, because he had thought that when the bill was before the House, it would be the proper time to make remarks on it. Another reason for his silence was, that he wished to give celerity to the passage of the resolution through the Committee, that the bill for the defence of our ports and harbors might be taken up. As to the situation of the people on the seacoast, every gentleman in the House must know that it was perilous; that they were exposed, and that the first blow must fall upon them. On the seashore they wanted something more than small arms; they were not sufficient for their defence. They must have cannon, fortifications, gunboats, everything which the wisdom of the nation could devise, to protect them from the assault of an insidious foe, who never gave notice when he was about to strike a blow. Mr. N. would not detain the Committee longer, but merely observe, that he hoped they would dispose of this subject, and give the House an opportunity to take up the bill reported by the Committee of Aggressions, because it was time that something should be done for their shores. While gentlemen in the interior were perfectly safe, the towns on the seaboard might be battered or burnt to the ground.

Mr. ALSTON said, if making a noise was being at war, they certainly were at war; and the speeches they had heard were as much like war as anything he had seen. He would state a case to the House. Suppose what they had seen published in the newspapers as to the disposition of England should be absolutely denied. Did the attack on the Chesapeake then constitute war or not? Suppose the British cabinet should deny that they gave orders to this effect? Would not there be as fair an opening for adjustment of our differences with Great Britain as at any time heretofore? It had been said that they were at war. He hoped, contrary to the opinion of many gentlemen who had expressed their opinions on this and former occasions, that they should not have a war; but while he expressed the belief that they were not at war, he would go as far as any gentleman to prepare for it. He was willing to arm the militia of the United States whenever their services should be required, and not till then. Set about the work of arming the whole body of the militia as soon as they pleased, in the manner spoken of by his friend from Maryland, and he believed that, at the end of ten years, there would be very few more arms in the hands of the militia than at the time they began. Who would receive arms which they were required to return at stated periods; a great portion of the people of this country would not hold them on such terms, but would prefer a gun which they could purchase and call their own.

But if it were in the power of the United States, and there was a greater surplus of revenue in the public treasury than they now possessed, he should not be willing to furnish the whole body of the militia with arms at one time, and at the public expense; for there were better purposes to which money could be applied than placing arms in the hands of those who might never be called upon to use them. Whenever the services of the militia were called for, arms should be placed in the hands of those called into service, who did not already possess them; and if the United States furnished those who were called out with arms, they would do their duty. He was willing that this resolution should go to a committee, who might furnish the House with any scheme for arming the militia, however impracticable, which their fertile imaginations might suggest. He was in favor of authorizing an additional force, and arming it at the expense of the nation; and this he believed quite sufficient for Congress to do at this time.

Mr. RHEA, of Tennessee, said, he should vote for the resolution in any shape, because he believed it a correct principle that all the militia should be armed under a Republican Government. One of the objects of such a Government was, that the people should have arms in their hands; and those who legislate for them should take every possible means to effect that object. For the want of arms being in the hands of the people of the nations of Europe, their liberty was lost. Had they possessed these implements in their own hands, they would never have been overturned; because having arms in their hands, they would have found spirit and strength to use them. The Legislature of every country should adopt every provision consistent with their resources to provide for arming their militia. A great deal had been said of the advantages of gunboats and fortifications; but both were useless, except they were seconded at the same time by men embodied with arms in their hands; without these, fortifications or gunboats were a mere nothing. The great bulwark of a nation was this

armed force, and the more armed militia it possessed, the stronger was the nation. He hoped this resolution would be agreed to. In all the Western States arms were wanting, and they knew not how soon those States would be a frontier to war. When a bill for this purpose was brought in, it would be in the power of the House to say how far they would go at the present time in making appropriations for it; although the whole purpose might not be effected for several years, let it progress, and it will at last be completed. Under this view, he contemplated it as a proper measure to be taken by Government, to fix on suitable places to establish machinery for manufacturing and repairing arms.

Mr. FISK said, that the question now before the Committee was, whether or not they would adopt the amendment proposed by the gentleman from Massachusetts to the amendment offered by the gentleman from Virginia. If both these amendments were adopted, he should vote for the resolution; without them, he should vote against it. He conceived it necessary, that when the militia were called into actual service, they should be furnished with arms at the public expense, supposing a war should take place, and he thought it very probably would. He agreed that an armed nation would, of necessity, be free, but he also thought the arms they held should be their own. It had been well said by a gentleman in the course of debate, that the citizens of this country should not be placed in such a situation that their arms could be taken from them at any time. In European countries, which had been said to have lost their liberties because they had not arms, there had existed no want of arms, but those arms were at the will and disposal of a despot. Were Congress to adopt this measure in the manner proposed, they would soon hear exclamations against it from every part of the country. They would be obliged to appoint public depots under the care of public officers; and an influential and despotic character might have it in his power to corrupt these officers and get possession of the whole arms of the United States, in which case the country would be completely unprotected.

In the same proportion as the General Government furnished arms to the people, in the same proportion would their patriotic zeal to furnish themselves with arms be lessened. They could not therefore pursue the proposed plan without jeopardizing the liberties of the people. For these reasons he should vote against the bill on principle, and because he did not wish the time of the House to be occupied with any bill to be brought in by a committee appointed to deliberate on the subject.

A gentleman had said that they must alter their laws and regulations for the government of the troops of the United States, and of the militia when in service. Mr. F. heartily concurred with him in this, for he considered the military discipline under the present system such as no freeman could submit to. With regard to the necessity of having the militia armed, every man agreed; they must also have fortifications and gunboats. He believed the gentleman from Tennessee had observed that fortifications and gunboats were useless without an armed force. Mr. F. said he was in favor of an armed force, but without gunboats and fortifications an armed militia would make but a sorry defence against a fleet. He was for supplying that species of defence which the nation most wanted, and which was at this time most necessary. The nation had already three or four hundred thousand stand of arms, which were sufficient for internal protection, while their waters and shores were destitute of defence. It behooved them therefore to turn their attention to other modes of defence. Instead of wasting their time on a visionary object, as he conceived this to be, they should make preparation for the protection of their seacoast.

Mr. F. said, it would be found upon examination of the returns, that the three Northern States, with less population, had a much larger number of arms than the two middle States. If this proposition were to take effect, those States which had provided arms at their own expense, would receive only the few necessary to complete the number requisite for their whole militia, while those States which had not provided any, would receive the whole number necessary for their militia at the expense of the United States. Would this be consistent? Certainly not; it would be both unequal and unjust. On the other hand, if it were contended that the United States should purchase those arms which were now in the hands of the States, the Treasury would not be equal to it, if at the same time they made other necessary provisions. If the principle were adopted, one of these two systems must be pursued. He was also opposed to this motion at this time, because he wished to proceed to other modes of defence. He did not think, with the gentleman from Virginia, that they should direct the channel of their present expenditures in this course; for it was an object which could not be accomplished in a day or in a week. He was therefore in favor of the amendments, and opposed to the resolution.

Mr. LOVE said, there seemed to be but one opinion in the Committee, on the general question presented by the resolution; the propriety of providing for arming the militia of the United States was doubted by no one; but there appeared to be much difference in opinion as to the manner, in which this general measure should be carried into effect. If the resolution should be adopted in its present form, he feared that the committee who should be appointed to bring in a bill in pursuance of it, might consider themselves as restricted to the express and special instruction of providing for arming the whole body of the militia of the United States. He would rather not thus limit and direct the powers of the committee, but would be for giving the utmost extent and generality to their inquiries; he should therefore support the amendment for striking out these words: in doing so, he was influenced by a consideration of the present important crisis of our affairs. Great evils he conceived might arise at this moment from a declaration made by Congress that we would undertake to provide for arming the whole body of the militia of the Union. [Mr. RANDOLPH said, that several gentlemen in the committee appeared mistaken as to the object of this resolution. He wished Congress to make annual appropriations each year till the whole body of the militia were armed.] Mr. L. replied, he understood the argument of the gentleman before, as he had now further explained it; he understood him to argue, that although we should declare our intention to arm the whole body of the militia, and thus assume on ourselves the whole subject, yet that it was not contemplated to arm them immediately, and all at once; but to make appropriations from time to time for that purpose. The principle, and the effect flowing from it was the same; if Congress should announce to the States in any way, that they had assumed exclusively on themselves the conduct of this great and important particular, at this crisis of danger, it might be productive of the most injurious consequences. It would produce a relaxation in the exertions of the individual States, and a false reliance on the powers and ability of Congress; while, therefore, (said Mr. L.) we are attempting, as it is said, to make an impression on foreign nations, of the extent of our preparations, let us not lose sight of the more certain effect this measure in its present style may have on our domestic economy.

But, he would ask, what impression on foreign nations could it rationally be hoped, such a measure as this would make, if carried into effect in the manner the gentleman from Virginia (Mr. RANDOLPH) had proposed? Would it not be equally known by such nations, what were the means, and what the mode to be applied to enforce our system? And when they should hear that ten thousand or twenty thousand dollars this year, and one hundred thousand or two hundred thousand dollars next year, are to be given towards this great object, could they hope that these nations would longer be impressed with serious fears, from our braggadocio plans?—while the House, by adopting them, might fail to meet the threatening crisis, and their real substantial preparations for defence be entirely lost. It was known that the State Legislatures were now in session, from one end of the Union to the other; it would therefore be extremely impolitic, at this time, to do anything which might have a tendency to produce a relaxation in the States, in improving their means of defence. Under an act of the last session of Congress, the President had already called on the Executives of the States, to arm and equip their different quotas, of an hundred thousand men. The States were probably prepared to do so, but should they at this time assume the whole extent of power on the subject, those arms might be withheld or the preparation to obtain them slackened, under the idea that Congress was about to make every necessary provision.

Mr. L. said, he was also in favor of the amendment proposed to the resolution by the gentleman from Massachusetts, (Mr. CHANDLER.) So far he thought the committee who should be appointed to bring in a bill, might be properly restricted. The experience of Virginia had taught him the difficulty and loss attending a distribution of arms among the individual militia; he knew not what other States had done, either in procuring or distributing them, but the arms which had been there manufactured and distributed had been scattered, and most of them lost. He had understood that, by the returns of arms made by the officers of the different divisions, it appeared that but few of those distributed remained in the hands of the men. Indeed, it had been asserted that, from the neglect and inattention of those in whose hands they had been placed, many of them had found their way entirely out of the country, and the arms of the Virginia manufactory had, from their superior excellence, been recognised in foreign dominions.

This might be the case with the distribution made by the United States of their arms; in time of peace the same inattention and carelessness of those instruments of war would take place among the militia men. It might, indeed, be true, that the melancholy hour was at hand when the United States were to be involved in war, but it might, too, be yet distant; he hoped they might still avoid war, and have peace on honorable, and only on honorable terms; if peace did prevail, the arms they should have distributed would be lost.

Mr. L. concluded by observing, that the general subject of the resolution was certainly of the first importance, and ought to be acted on; but he hoped it would be in such a manner as would not, at this dangerous crisis, be calculated to produce relaxation every where toward necessary and substantial preparations.

Mr. MACON said his colleague from North Carolina had given it as his opinion that they were not at war. If Great Britain denied that she gave orders for the conduct which had been pursued, Mr. M. said, they were not at war. Until she did that, he would ask his colleague in what state they were? Another gentleman had said, he hoped they might yet avoid war; the same question would apply to him; if they were not now at war, in what state were they? Mr. M. said, he had not heard that there had been a declaration of war made, neither had he seen the attack on the Chesapeake, but he believed the fact. No man in the United States was more desirous of peace than he was; he had never voted for or supported any measure which would lead to war; he had endeavored to preserve peace to the nation, but it had not been in the nation's power to obtain it; and the United States were at war, till they knew that their Envoys had negotiated a peace. Was it peace with Copenhagen after the attack made upon her? The Danes would tell a different story; and, said Mr. M., they are as much at peace as we are. If we are not at war, in what state are we, I repeat? Was there a third state, of war and no war, peace and no peace, something between both? Whatever were their wishes for peace, they should not say there was peace when there was no peace. He wished, as sincerely as he hoped to return home from hence,

that they might not have war with any nation on earth, and that their Ministers might make peace, but the nation had been attacked, and they must prepare for the event. If they meant to prevent the enemy from landing and pillaging the country on our water courses, with small parties, they must put arms into the hands of the militia to repel them.

Mr. M. said, he knew the opinion of no person within these walls, except himself. It had been his opinion, in which he wished he might be mistaken, that from the moment of the attack on the Chesapeake, they had been at war, and were now negotiating a peace. One word more, and he had done. The nation had been smitten by one of the great Powers of the earth—its sovereignty had been attacked. Let gentlemen say, who talked of peace, if this was not as great an outrage as if Norfolk had been attacked? If Norfolk had been bombarded, would it not have been an act of war? Mr. M. concluded by saying, he should be happy to be convinced that their situation was not as he had described it.

Mr. Alston said, whenever he differed from his colleague, who had just sat down, it was with reluctance, for there was no man whose sentiments and opinions he more highly respected; but he thought he could satisfy the gentleman that he was correct. Was every outrage committed by an officer of a foreign Power an act of war? If it were, would they now be sitting with their arms folded? Would not retaliation be the order of the day? Would they not have laid their hands on everything British within the United States? Certainly they would. An attack had been made. Had anything like retaliation ensued? No. A negotiation was pending on this very point, the result of which was not known. When it was known, and restitution and satisfaction for injuries were not made, he should believe they were in a state of war, but not till then. There was one opinion in which his colleague and he would never differ, that it was the interest of this country to preserve peace with all nations, as long as peace could with honor be preserved.

Mr. Rhea of Tennessee said, although he could not exactly hear what the gentleman from Vermont had said, he supposed the gentleman must have misunderstood him. Mr. R. said, he meant to arm the militia, so that the arms they held should be their own; and when the arms which the United States furnished them were worn out, he would replace them by a new supply. He would not only vote for arming the militia, but he would go with that gentleman for gunboats and fortifications; neither for these only, but for every species of defence, in every sense of the word. He held this to be an armed nation, possessing and maintaining its sovereignty by the right of arms.

It had been said that if the arms were held by the people they would be by the tenure at will of their rulers. Who were the rulers of the United States, but the people themselves? Such was not the case in European countries, where arms had been in possession of the Governments. Give to an ambitious man the command of a large standing army, and let him have power to force the arms from the hands of the people, and Mr. R. admitted he might do as he pleased; but so long as the people would support the Government, and keep their arms in their hands, so long would this be an independent nation. He did not at present think proper to adopt the amendment offered by the gentleman from Massachusetts, because it went to destroy the principle of the resolution. The question now was, would they or would they not arm the militia of the United States? The amendment offered by the gentleman from Virginia did not affect the principle, while that offered by the gentleman from Massachusetts did.

Mr. Lyon said, he was one of those who thought they had been at war these two months; they all knew that reparation had been asked from the British Government, and had not yet been received; this was their situation. Here they were, looking about, trifling, doing nothing at all, and neglecting to make the necessary appropriations. He hoped they would arm the militia as fast as they could, and in the best way that it could be done. He should, therefore, vote for the resolution.

Mr. Cook was in favor of both the amendments, because he considered their means limited, and because there was no danger of invasion. If the Indian tribes on the frontiers were in a state of hostility, would they think of building gunboats to oppose them? He should suppose not. The nation with whom they were about to go to war, had, at a time when the strength of this nation was not so matured, tried their strength with us on land. He was, therefore, not apprehensive of an invasion. But if they had a fleet sufficient to cope with the British at sea, and an overflowing Treasury, he should be opposed to this resolution as much as he now was. He thought those points which were most vulnerable should be first protected; he should then have no objection to arming any body of men who should be called into actual service. He thought the arms of the United States were best where they were, and of more use than if distributed in the hands of unprincipled persons, some of whom there were in every country. Our enemy was a maritime Power, and would attack us from sea; the money in the Treasury should take that direction, and its channel be turned to oppose that enemy. He hoped, therefore, that gunboats, fortifications, and ships of war, would be the objects of the attention of the House. It had been said that they were at war. Every gentleman in the House knew their situation; but they were not at war, according to the common acceptation of the word, for they had not recalled their Minister, or done any acts which usually denote immediate war. He entertained the same sentiments this session as he expressed at the last; and he wished that the fortifications of our ports and harbors had been then attended to.

The question on the amendment moved by Mr. Epps, was taken and negatived—ayes 54, noes 56.

The question on the amendment moved by Mr. Chandler, was also taken, and negatived—ayes 43.

The question recurring on the original resolution,

Mr. Dawson said, he was much rejoiced at the almost unanimous expression of the opinion, that the militia of the United States should all be armed; the only question appeared to be, whether it should be done by the United States, or by the several States. He should vote for the resolution, whatever shape it might assume. Although aware of the difficulty in its way, he trusted a bill would be so formed as to avoid difficulties; he should vote for or against the bill, according to its form. If it were provided by the bill that the arms should be distributed among the people as their own, he should vote for it; if, on the contrary, they were to be kept in deposite, or held by the people at will of the United States, he should vote against it.

Mr. Thomas said, he should vote against the resolution; because, were he to vote for it, he should commit himself to do a thing which he was not prepared to say he would agree to. Added to this, the subject was already before a committee, of which the gentleman from Virginia (Mr. Dawson) was chairman. To act on a subject which was already before a committee, was contrary to any usage or practice. Before the question was taken, he would move to amend the resolution by striking out "ought to be made," and insert, after the words "resolved that," the words "the committee appointed to inquire whether 'any, and what, amendments are necessary to be 'made in the militia laws, be instructed to in-'quire into the expediency of making."

Mr. Randolph said, it was obvious that this amendment was a complete substitute for the resolution; which, in its present shape, could be referred to that committee to bring in a bill. What was there in the resolution expressive of a doubt of the ability of the committee just named? The resolution, as it stood, said that provision ought to be made for arming the whole body of the militia. The amendment called for an inquiry into the expediency of making provision, to be conducted by a committee, (appointed on a different subject,) very competent, no doubt, to revise the militia laws.

Mr. Fisk said he was in favor of the amendment. If they passed the resolution in its original shape, they declared that provision ought to be made. They ought not to pledge themselves to do a thing which might be impossible. He was in favor of an armed militia, and thought the arms which they held should be their own. In the same proportion that they increased the expectation to receive arms from the public Treasury, in the same proportion they relaxed their individual exertions, and the time would soon arrive when few people in the country would hold arms in their own right, but at the will of their rulers, who might be influenced by faction or party to make a bad use of them. He was against the resolution on another principle. While the United States held as many arms as she now did, she would have sufficient to arm all the force she would find it necessary to employ. He meant not to say, when he was up before, that the gentleman from Tennessee was averse to the protection of the country. He did not doubt his patriotism. Mr. F. was for speaking the language of truth, on which enemies and friends might rely. He was not for saying they would do this, when every man in the country knew that they could not do it.

The amendment offered by Mr. Thomas was negatived—ayes 34.

The question was then taken on the original resolution, and carried—ayes 66.

The third resolution was agreed to without a division.

The Committee then rose and reported the resolutions, amended, as follows:

1. *Resolved*, That provision ought to be made, by law, for an adequate and comfortable support of such officers and soldiers of the late Revolutionary war as are still existing in a state of indigence in a country which owes its liberties to their valor.

2. *Resolved*, That provision ought to be made, by law, for arming and equipping the whole body of the militia of the United States.

3. *Resolved*, That provision ought to be made, by law, for procuring a formidable train of field artillery, for the service of the United States.

The House immediately took up the resolutions. The first was agreed to without a division. The yeas and nays being called for by Mr. Randolph, and agreed to be taken on the second, the House adjourned without coming to a decision.

Friday, December 4.

The Speaker laid before the House a letter and report from the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year 1808; also, a statement of the receipts and expenditures at the Treasury of the United States for one year preceding the first day of October, 1807; and a statement of balances of appropriations unexpended on the thirtieth of September, 1807; which were read, and referred to the Committee of Ways and Means.

Mr. Clopton, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine the Journal of the last session, and report therefrom such matters of business as were then depending and undetermined, made a farther report thereupon; which was read, and ordered to lie on the table.

The bill sent from the Senate, entitled "An act to appropriate money for the construction of an additional number of gunboats," was read twice and committed to the Committee of the Whole to whom was committed, on the first instant, a bill supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats."

ARMING THE MILITIA.

The House then resumed the consideration of the resolutions reported from the Committee of the Whole which were depending yesterday at the time of adjournment: Whereupon, the second resolution being again read, in the words following, to wit:

"*Resolved*, That provision ought to be made by law, for arming and equipping the whole body of the militia of the United States."

Mr. EPPES said, notwithstanding the various amendments which had been proposed and negatived, he would offer another. No gentleman in the House was more favorable than himself to arming the militia, as far as their resources would allow; no gentleman would go farther towards that end than himself, though he was unwilling to say that the whole body of the militia should be armed when he knew that at this time it could not be done. If it were the intention of the House to arm a portion of the militia at the present time, and gradually to arm the remainder hereafter, in the name of common sense what objection could be made to expressing this intention in the resolution? To try the sense of the House, he then moved to strike out "the whole body of the militia of the United States" and insert "—— thousand of the militia of the United States, and for arming annually hereafter —— thousand, until the whole body of the militia of the United States shall be armed."

As the yeas and nays had been called on the original resolution, and as he wished his name to appear in opposition to the resolution in its present form, and in favor of it to a certain extent, he should call for the yeas and nays on this amendment.

Mr. CHANDLER said, unless he should hear something more in favor of this measure, he should vote against the amendment and against the resolution. He believed he should go as far as any gentleman in arming the militia; but the laws of the United States at this time provided that the militia should be equipped at their own expense. He was sensible that law did not operate fully. It had become the duty of the States to see this law carried into effect in the several States; some States had gone as far as to carry that law into operation: some citizens of some of the States had disposed of property which they could ill spare from their little all, or which should have been applied to the support of their families, for the purpose of arming themselves; and they were in a great degree armed. He did not know what details the bill might contain; but if he did not misunderstand gentlemen yesterday, it was said that as a part were now armed, the expense of arming would be lessened. He presumed the gentleman did not mean to say, because a part had armed at their own expense, sometimes at a great sacrifice, they should receive less advantage, if the whole were to be armed, than those who had taken no steps towards arming themselves. He wished to see how far the bill went before he committed himself, by voting for the resolution, to vote for arming the whole body at this time. He would observe that he was disposed to do as much as any other man in this measure; but he did not think this the proper shape in which it should have been taken up: so that, however anxious he might be to relieve that part of the community, from any part of the expense of arming, he could not vote for the resolution.

Mr. BACON said, that the amendment proposed by the gentleman from Virginia was evidently predicated on the same principles as the original resolution which had been introduced by his colleague from the same State; the only difference which it created, was in limiting the extent to which that principle was to be carried. As he was opposed to that resolution wholly, in the shape and with the views for which it was professedly introduced, he should in like manner be opposed to the amendment, which only went to limit and modify that which was in itself essentially exceptionable. The question upon which they were now required to give their affirmative or negative, as it was offered in the words of the resolution, presented itself in somewhat of a delicate and embarrassing shape. If the mere form of the proposition only was considered, it was simply whether they would take upon themselves the Constitutional duty which was assigned to them of providing for arming the militia of the United States? Though he was, as he trusted, as much in favor of a faithful performance of this Constitutional duty as any man in that House, were it brought before them in a proper shape, at a proper time, and upon proper and equitable principles, yet as the present resolution was not in his opinion introduced in a proper shape, at the present time, or proposed to be carried into execution upon principles which were either politic or equitable, he should be constrained to give it his decided negative in every stage of its progress. It was agreed on all hands that as the power of arming, organizing, and disciplining the militia was conferred by the Constitution upon Congress, so it was at all times their duty to see that this power was faithfully executed in the manner best calculated to insure the great objects, which were intended to be thereby accomplished; which were, that they might exhibit to the world the spectacle of an efficient body of armed freemen, who might be both ready and able on all necessary occasions, either to repel an invading foe from abroad, or to resist internal commotions or domestic usurpations at home. The mode in which these great objects might best be accomplished, was left to the wisdom of Congress to decide. Let us then see, said Mr. B., what in the execution of this power has already been done by the General Government? By a law passed some years since they have provided, that the militia of the United States shall be organized and disciplined, and that every person liable to do duty therein shall provide himself with a good and sufficient musket, with all other equipments necessary to furnish him as a soldier. Having done this, and pointed out clearly to the Legislatures of the several States one uniform mode in which this object should be carried into effect, the General

Government had so far performed their duty. Then the concurrent duties of the several State Governments began; and how had the latter been performed? Whenever the general law of the National Government had been aided by the vigorous and corresponding exertions of the several States, its provisions had been effectual, and the objects proposed by it in a great measure, though not completely answered; and if in many parts of the Union this was not the case, it is not to be attributed to the defects of the general system, but to the faulty execution of that system by some of the State Governments. They were told however, that, notwithstanding all that had been done, many and great deficiencies of arms still existed in many of the States, and indeed this fact amply appeared from the official returns which were laid before this House in the course of the last year. How was this deficiency proposed to be supplied? It was by providing so many arms, as, in addition to those which have already been provided in the several States, should be sufficient to arm the whole body of the militia. Though this mode of effecting the object was not necessarily implied in the words of the resolution before the House, yet it was avowed as that in which it was designed to be executed, by the mover and others who have advocated it. Whether the arms, when provided, were to be placed in the hands of the several State Governments, or in those of the individuals of the militia by way of loan or deposit, or whether by way of absolute and unqualified gift, was not precisely avowed: either mode must be liable to very great and insurmountable objections. The latter, however, would be so little calculated to attain the object intended, would be liable to so great abuse, and so totally destitute of responsibility for their safe-keeping and proper use, that it was presumed that could not be intended. If a musket should be put into the hands of a militia man, and subject altogether to his own control and disposal, he would be under no obligation to keep it in repair, or to keep it at all, he might alienate it to any one that he pleased, not belonging to the militia, or might even export it from the country, and then being found deficient, and not being compelled to provide and keep arms at his own expense, might call upon Government for another; and it would probably be found that after distributing sufficient to arm the whole body of the militia, and expending millions of dollars in that object, the militia itself would be as illy supplied as when they began. It must undoubtedly then be the former mode of depositing them by way of loan with the several States, to be held for the occasional use of their respective militia, in such way and upon such a tenure as Congress should prescribe, that the friends of the system proposed to be effected by the present resolution, would wish it to be carried into effect. This mode was likewise on a number of grounds deemed by Mr. B. to be highly exceptionable. It was so, in the first place, on general principles, as it went to defeat one of the very objects which it was the design of the Constitution to secure by an armed and disciplined militia, composed of the great body of the citizens. Those objects it was apprehended were twofold. They were not only that the great mass of the people should be prepared on any sudden emergency to oppose the sudden invasion of a foreign external foe, and to suppress internal commotions, but that they should at all times be both ready and able to resist domestic usurpation, and to defend themselves against those arbitrary exactions and unconstitutional oppressions, with which they might in process of time be loaded, even by the machinations of their own rulers: for this purpose it was essential that the arms which they might be called upon to wield should be exclusively their own, subject to their entire control, and which no power on earth had a right lawfully to wrest from their hands. But if, under the show of arming the militia, the Government undertook to provide for all the arms in the nation, to deposite them in such places as they may appoint, to be used at such times and in such manner as they should prescribe, and to be recalled when they should think fit, what became of the substantial independence of the citizens, and where were the effective means which they would in a little time possess for asserting it, should they ever be reduced to that necessity?

The absurdity of a nation's holding their arms subject to the disposition and control of any foreign Government, whose invasions they might be called upon to repel, would at once be seen; and yet it was but little less so that they should hold them upon the precarious tenure of the will of their own Government, who, should they ever become profligate enough to attempt the oppression of the citizens, would first be careful to withdraw from them these, their only efficient means of defence and resistance. It was therefore only by taking effectual measures that every citizen shall furnish and constantly keep at his own expense those arms which might be necessary for his defence against external force and internal oppression, that the two great objects of an armed and disciplined militia could be insured. The reverse of this it was conceived would be the effect of the project which was now proposed.

The same effects which the adoption of the proposed system would have upon the real independence of every citizen, as respected his relation to the Government generally, the same would it produce upon the substantial sovereignty and independence of the several States considered in reference to their relation with the General Government. He had heard on a late occasion in that House much eloquent declamation on the importance of our respecting the rights of the State Governments, and the danger of our encroaching in the least degree upon their Constitutional sovereignty. To the justice of these general propositions he readily assented. But in order that the States should be enabled effectually to assert those rights, or to resist those encroachments, it was necessary that they should have the physical means of doing it in their own hands and subject only to their own control. This, said he, they have already in a great measure acquired under the present system of arming their militia,

and will probably in a few years effectually accomplish, if we encourage and stimulate them to go on; but if they are hereafter to receive their arms from the General Government, and to hold them subject to its orders and disposal, their real and substantial independence would be no more, as they would not possess in their own right the only effectual means of defending it in the last resort. Let gentlemen then, who were so zealously attached to the rights of the States, take care that they did not, under the semblance of a favor conferred, completely sap the foundation on which the assertion of those rights rested.

But in addition to these general considerations of policy, growing out of the general system of our national defence, there were others, arising from a view of the different situations of the different States, in respect to the actual situation of their arms, and of the unequal exertions that they had already made for the purpose of arming and equipping their respective militias, which would demonstrate that the system now proposed could not be carried into effect, except upon principles clearly unequal and unjust. It was by no means with a view of creating invidious distinctions, or drawing disadvantageous comparisons between the different States, in respect to the different degrees of patriotism, energy, and attention to their internal defence, which they had heretofore exhibited, that he called the attention of the House to this view of the subject. Such comparisons and distinctions were always of a delicate and undesirable nature, and ought, if possible, to be studiously avoided. But, when the House was so pertinaciously pressed with a measure which was so extremely unequal in its operation, he should do injustice to his particular constituents, and betray the trust reposed in him as a Representative of Massachusetts, if he failed to urge such considerations upon the attention of the House. It would appear, by the returns laid before the House in the course of their last session, that the State of Massachusetts, with a population of somewhat more that 500,000, and a militia of 51,196, had already from her own resources provided for her militia, or rather, in obedience to the existing law, the individuals of that militia had provided themselves with 47,551 muskets; while the State of Virginia, with a population of more than 700,000, and a militia of 62,017, had but 12,341 muskets. He mentioned these two States particularly, because they furnished, in a striking point of view, an evidence of the great disparity which existed in the efforts which different States had heretofore severally made for the purpose of arming their militia.

The same relative situation would be found to exist between many others of the States; and it would appear that the Eastern States generally possessed a much greater number of arms in proportion to their population, or the number of their militia, than the Southern or Middle States. How had this superiority been acquired? By long, arduous, and persevering exertions; by enforcing rigidly the requisitions of our existing law, and that, at a great expense of labor and money; and it was for the want of having made corresponding exertions on their part, that many of the other States were now found so deficient. Could it, then, be expected that the State of Massachusetts would readily consent—after arming her own militia solely from her own resources—that the general resources of the nation, to which she contributed so large a share, should be applied to supply the great deficiencies existing in those States who had made little or no exertions to help themselves? Such a proposition was, on the face of it, partial, unequal, and unjust, and so far from operating as an encouragement to continue in their well-doing, was reversing every principle of justice heretofore known. It was taking from him who, by his fidelity and industry, had gained ten talents, a part of those which he had gained, and bestowing them upon him who by his negligence and sloth had gained but a single one. But, we were told yesterday by a gentleman from Kentucky, (Mr. LYON,) that his constituents were extremely deficient in arms, and that he did not know how they could possibly acquire them, unless by the aid of the General Government. If the gentleman intended to be understood that arms were not to be purchased at all in the country, for money, it would be as much out of the power of the nation to provide them as it was for the State of Kentucky. If the gentleman meant that the State had not the pecuniary means of obtaining them, he could not think his suggestion to be correct. For his part, Mr. B. had long formed a very high opinion of the increasing wealth and resources of that respectable State, and would now, by no means consider her as one of the paupers who were like to fall upon the nation for support. But, if the gentleman's constituents were really at a loss to know how they could possibly arm themselves, let that gentleman himself inform them how his former constituents in a Northern State had, in so great a degree, accomplished that object. It was by strenuous, and persevering exertions; by liberal sacrifices of money, and by laying their shoulders closely to the wheel, that they had already moved it so far. Let the delinquent States first do this, and it would then be time enough to call upon Hercules to help them. It ought well to be considered what effect a declaration on the part of the General Government that they would take upon themselves to arm the whole body of the militia, would, at this time, have upon the several States. It is well known, said Mr. B., that, in most of them, great exertions are now making to accomplish that object in their own way, and from their own means; but, when this declaration is once known to them, every further effort on their part will be completely paralyzed. Those who had already done something, would, if possible, retract what they had done, and those who had done nothing, would still continue to do nothing. Indeed, the very arms which were now in the hands of our militia would, probably, if the proposed system were to obtain, soon, in a great measure, disappear; for what motive could a man have to keep a musket which he had procured at his own expense, when Government had pledged itself to provide

one for him whenever he was found deficient? And Mr. B. presumed that, in this way, the forty-seven thousand muskets now returned by the State of Massachusetts, would very soon be reduced to a very inconsiderable number. In this management there would be nothing unfair, for, why should a citizen of that State continue to provide and maintain his own arms whilst the citizen of another was provided for at the expense of the nation?

But, whilst he maintained that the principles of good policy and equal justice both concurred in requiring that the several States should be left to arm their own citizens, in their own way, and at their own expense, Mr. B. said, if any great emergency nevertheless required that arms should, at all events, be put into the hands of all the citizens, and that a great national calamity could be averted in no other way, he would consent that it should be done at the general expense of the nation, however unequal might be its operation upon the interests of the respective States. To prove that such an emergency did now, in fact exist, they were told by some gentlemen, that they were now in an actual state of war with Great Britain, and by others, that they were at best on the very eve of a war. Which of these positions was the most correct was not very material to the present question, though he was inclined to think the latter. Whether the war was actual or expected, it was important for the House to consider what kind of a war it would probably be, and what description of force would be required on their part to carry it on; what were our weak points, and what were our strong ones. Did any man suppose it would be a war of invasion on the part of the enemy, or that the body of the people would be called upon to defend the interior territory of the nation? If it were to be so, was not that already our strong point of defence? For, said he, notwithstanding all the deficiencies which yet exist in the arms of our militia, it may, probably, be safely asserted that, in proportion to our numbers and resources, we are already the strongest nation on earth in an effective body of armed and disciplined citizens. But, there were other points, on which every one knew that they were comparatively weak, and those were their harbors, their cities, and their seacoast generally; and it was here, at the same time, that the enemy was best able to attack and molest them; it was here only, indeed, that she could. Did not policy, then, call upon them, as well as they were able, to secure the weaker and most assailable points first? This was certainly not to be done by the means of small arms, but by heavier weapons. But, what sort of policy was it which dictated the present measure? Was it not to fortify still further the strong point of their defence, upon which they could have no apprehension of being assailed, and to neglect those (for neglect them in some measure they must, if they first expended their resources upon other objects,) which were confessedly the most weak and vulnerable, and upon which only, they expected to be attacked? At this system of policy he was truly astonished, and not less so, to see that it was advocated by some gentlemen of high standing in that House, and of great celebrity in the nation.

He concluded by saying, that from the view which he had of the general impolicy of the proposed measure, when considered in reference to the general principles of liberty and the Constitution; from the inequality of its operation upon the different portions of the Union; from the effects which it would have upon the policy of the several State Governments; and from its not being a measure calculated in any degree to meet the exigency of the times, he should not perform his duty to the people, or the State which he had the honor in part to represent, should he have neglected to express his pointed dissent therefrom, both in the shape in which it was presented to the House by the amendment before them, or in the more extensive one of the original resolution.

Mr. WITHERELL had wished this resolution to have been adopted by a silent affirmative; but as it had not, he would make a few remarks on the subject. It had been observed by the gentleman last up that the Northern States already were armed in a great degree, and that it would be a partial measure. Mr. W. believed that it was intended as a measure of defence, and that every necessary mode of defence should be adopted—that the back as well as the front fences should be put up. Upon this view he could not avoid surveying those ports of the Union with whose situation he was acquainted. He had extended his eye along the coast, from New Orleans to the District of Maine. He beheld a long line of ports vulnerable to attack from sea. It was necessary, it was generally allowed, not only to resent the injury already received, but to provide against others. It was, therefore, necessary to arm the seaports. Was this to be effected with muskets or pistols? No; with gunboats, with ordnance, ships-of-the-line, and fortifications. Who was to pay for these? The Secretary of the Treasury. Who furnished him with the money? The people of Tennessee as well as other States. But the people of Tennessee wanted no gunboats, and, therefore, could not be obliged to pay any part of this, except they allowed that all the States belonged to one great family. Reasoning thus, it appeared to him that the principle laid down by the gentleman from Massachusetts was perfectly inapplicable. Mr. W. could not see the evil likely to arise from adopting this resolution. If the committee should report a bill containing incongruous provisions, it would be time enough then, for the House to reject it. Every gentleman must be satisfied that they could not come at facts on any subject, except they undertook to analyze it. He was not for taking out of one person's pocket and putting into another, but he was in favor of the object of this resolution—which was desirable to the people of the Union, and must be so to every gentleman of the House—that the whole of the militia of the United States should be armed. He believed that there was ingenuity enough in the House to accomplish a removal of those difficulties which now existed. Some States

which had money to apply to that purpose could not procure arms, for they had not established manufactories of them. He saw no difficulty in adopting this resolution, that it might be ascertained whether it were practicable to arm the whole body of the militia of the United States, or not.

Mr. Southard said, one object of the establishment of this Government was for the purpose of preparing a certain defence against foreign enemies, and he found the Constitution to contain in its preamble the following words: "We, the 'people of the United States, in order to form a 'more perfect union, establish justice, insure do-'mestic tranquillity, *provide for the common de-'fence*," &c. The question now before the House was, whether it was their duty to attend to the particular objects on which they were now required to decide, and whether this resolution was really necessary to carry that object into effect. He was of opinion that however deficient the States might have been in providing arms for the defence of the Union, this Government should never overlook that object. If there were a deficiency of arms on the part of the States, it became the bounden duty of Congress to supply it. As to the observations of the gentleman from Massachusetts, that it would bear unequally on those States which had already provided arms, he admitted there was some truth in it, and that the State of Massachusetts deserved great credit for her conduct. But though the State of Massachusetts might be well armed and prepared for defence, he was confident this was not the case in all the States of the Union. The deficiency of arms in the States had arisen from several causes: one of which was a neglect in the State Legislatures to erect manufactories, and it was too late for them now to commence that undertaking. The House were every day told that the country was on the eve of a war; ought they not now then to place arms in the hands of every man in the United States capable of bearing them? The House had been told that empires and kingdoms had been lost, and Mr. S. thought that too nice a calculation on this subject ought not to affect the general measure. He apprehended, that if the resolution were agreed to, ample security would be given to the General Government for an equal distribution of arms. If this were not the case, a little inequality ought not to influence their decision. Mr. S. believed that every man should hold arms in his own hands.

The gentleman from Massachusetts had said that the expected war might be such that no portion of the militia would be called into service; but if a war took place at all, it would consist not only of piracy by sea, but of robbery by land; the enemy would land for the purpose of plunder, and ought to be checked on the first onset. If ever there was a time which required that the whole strength of the country should be called out, this was that time.

There was another reason why Mr. S. thought the General Government should pay attention to the placing arms in the hands of the militia; many arms now in the hands of the militia were only fit for the purposes of musters; they were not fit for service, or for contending with an enemy; they were merely fit for the common use to which they are now applied.

Notwithstanding he thought the whole militia of the United States ought to be armed, he was in favor of the amendment under consideration. There were a number of arms now in the possession of the United States which might be given to the different States without injury to the United States; and he was in favor of a partial appropriation for the purpose of arming the militia at present. He thought that Congress should never lose sight of the object of general defence, should always keep it in view, and that although peace prevailed, they should not thereby be lulled into security. He hoped Congress would now make such a provision as would not disgrace the importance of the object, nor yet make too large an appropriation. He should always be willing to create such a defence for the country as would guard the United States against imposition, and be sufficient to repel invasion.

Mr. Randolph said he could not conceive what purpose the gentleman who moved this amendment had in view, unless indeed that a committee should be raised on a resolution totally different from that which Mr. R. had offered to the House. He had hoped that the advice yesterday given by his worthy friend from North Carolina (Mr. Macon) on this subject would not have been thrown away, and that gentlemen would not have continued to make objections to this resolution. If the amendment at present under consideration were agreed to, other gentlemen would make other amendments to details of the resolution, and the same objections which had been once made would be repeated again and again. Did the House recollect that the honorable member from North Carolina (Mr. Blount) was now anxious to call up an important bill for the defence of our seaports, and should they spend time in this discussion, which would more properly take place on the bill which would be brought in, in pursuance of the resolution?

In order to get over all this detail, he begged leave to move the previous question on the amendment offered by the gentleman from Virginia, (Mr. Eppes,) and upon every other which should be proposed to this resolution.

The Speaker decided that the previous question could not be taken on an amendment.

Mr. Eppes said he certainly should not take up the time of the House in discussing details; this was not a question of detail at all. The principle involved in it was this: Would they now arm the whole body of the militia, or that part of them which should be called into actual service? Mr. E. did not wish to arm the whole, and wished the House to decide whether they would at this time arm the whole. He was as little in the habit of consuming the time of the House as any gentleman on the floor; but he had considered this amendment as important, insomuch that with this amendment he should vote for the resolution; without it, he should vote against the resolution. He called for the yeas and nays on the amendment, to show on the journals that although he should vote against the resolution in its original form, yet he was willing to go as far at the present time in the object contemplated, as any gentleman in the House.

An appeal being made from the decision of the Chair which had just taken place, and the question being put, "Is the decision of the Speaker correct," it was decided in the affirmative—yeas 111, nays 16, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, Ezra Darby, John Davenport, jr., Josiah Deane, Joseph Desha, Daniel M. Durell, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., John Love, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, David Thomas, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn and James Witherell.

Nays—William W. Bibb, Howell Cobb, John Dawson James Elliot, James M. Garnett, Edwin Gray, John Harris, Edward Lloyd, Matthew, Lyon, Roger Nelson, John Randolph, John Rea of Pennsylvania, Lemuel Sawyer, Dennis Smelt, Richard Stanford, and David R. Williams.

Mr. Randolph now called for a division of the question on the amendment, so as to take it first on striking out the words proposed from the resolution; and the yeas and nays being called by Mr. Randolph on this question, to wit: on striking out of the resolution the words "whole body of the militia of the United States," were—yeas 48, nays 78, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, John Blake, jun., Robert Brown, Joseph Calhoun, Peter Carlton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, Josiah Deane, John W. Eppes, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Nehemiah Knight, John Lambert, John Love, Josiah Masters, William Milnor, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Wilson C. Nicholas, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, David Thomas, James I. Van Allen, Philip Van Cortlandt, Robert Whitehill, Isaac Wilbour, and Marmaduke Williams.

Nays—Lemuel J. Alston, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Samuel W. Dana, John Davenport, jr., John Dawson, Joseph Desha, James Elliot, William Ely, Meshack Franklin, Barent Gardenier, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Rowan, John Russell, Lemuel Sawyer, Dennis Smelt, Samuel Smith, John Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, George M. Troup, Jabez Upham, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, David R. Williams, Alexander Wilson, Richard Winn, and James Witherell.

Mr. Eppes said since his purpose had been defeated by a division of the question, and as he should vote against the original resolution, and wished to show by his vote to what extent he would go, he would submit an amendment, on which he wished no debate, and called for the yeas and nays upon it. He then moved to insert at the end of the resolution these words: "By 'providing at the present time for the purchase 'of —— thousand arms, and annually hereafter 'for the purchase or manufacture of —— thou-'sand, until the same shall be completed."

The yeas and nays being taken on this question, stood—yeas 41, nays 86, as follows:

Yeas—Willis Alston, junior, David Bard, John Blake, jun., Robert Brown, Joseph Calhoun, George W. Campbell, Peter Carlton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Francis Gardner, Isaiah L. Green, John Heister, James Holland, Robert Jenkins, Nehemiah Knight, John Lambert, John Love, William Milnor, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Wilson C. Nicholas, Matthias Richards, Samuel Riker, Ebenezer Seaver, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, David Thomas, Robert Whitehill, Isaac Wilbour, and Marmaduke Williams.

Nays—Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, Thomas

Blount, John Boyle, William A. Burwell, William Butler, John Campbell, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Samuel W. Dana, John Davenport, jun., Josiah Deane, James Elliot, William Ely, James Fisk, Meshack Franklin, Barent Gardenier, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jun., Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newton, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Randolph, John Ren of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Rowan, John Russell, Lemuel Sawyer, James Sloan, Dennis Smelt, Samuel Smith, John Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, David R. Williams, Alexander Wilson, Richard Winn, and James Witherell.

The question recurring on the original resolution—

Mr. QUINCY said, before the question was taken, he would very briefly give his opinion on the subject. It seemed to him that all the arguments against the adoption of this resolution rested upon the false basis, that in voting for this resolution they committed themselves to vote for the bill. A provision was spoken of as to the mode of accomplishing this object, and gentlemen who had argued against this motion had shown that a particular mode was unequal as it respected the particular situation of different States. As it respected the mode, whether by the States or by individuals, or in whatsoever mode should be provided by law, it was not implicated by passing this resolution; and he could not bring himself to reject a proposition of this kind, because it appeared to him that under a resolution of this nature some beneficial plan might be adopted. He would state one: they all knew that our public arsenals were at present supplied with a quantity of arms, perhaps sufficient for all national purposes, and that a part of the whole body of the militia were supplied. There being an annual surplus of revenue, was it not wise in the House to take into consideration the best mode in which to dispose of that surplus? Was it not wise to establish places of deposite for arms in every part of the Union? There might be national or State deposites, according to a certain ratio. A plan of this kind might be adopted, and would it not be wise to do it? It was known that there were arms now in the hands of the militia, but that there was no similarity in their size or caliber; if there were a general uniformity in this respect in each State, there was not in the several States. This being the case, although the arms might be in themselves perfectly good, and might resist immediate invasion, yet if at any time the militia of any two States should have occasion to act in conjunction, great difficulty might arise from their arms not being uniform, but of different qualities. Now it did seem to Mr. Q. very wise, if there were a surplus of revenue, to establish in each State a depot of arms. In voting for this resolution, he should not consider himself as pledging himself on the bill that might be introduced, unless its details should meet his approbation.

Mr. NICHOLAS said he had voted for the amendment which had been offered, because he did not think the whole body of the militia of the United States should be armed at once. He had long seriously considered this subject, and had been long impressed with the belief that the permanence of a Government depended upon the people being always in a situation to defend themselves not only from external but internal violence. This was not with him the opinion of this day or yesterday, not brought to his mind from the exigency under which they now acted, but it was of long standing and retained by him after mature reflection. One argument which had been used on this occasion had great weight with Mr. N. and ought to have with every member in the House, that they must have armies, which would be equally useful with the militia, who could not be relied on solely for defence, from various reasons; and because the employment of militia would be more expensive, and much more inconvenient to the people. An army would be more convenient, and, were the nation armed, there would be no difficulty in disbanding it. Were the nation not armed, instead of achieving good, they might turn Congress out of doors and become masters instead of servants.

On another ground he had doubted on the proposed resolution. One of these things must be done: the arms when purchased must be either put into the hands of the people as their own, or must be stored in arsenals. Let it be remembered, said he, when we speak of putting arms into the hands of the people, and contemplate the erection of deposites for those arms in the several States, that the strength of these arsenals will be more likely to be employed against the Government than for it.

Upon the score of the inequality of such a provision on the several States, there appeared to be a difference of opinion. Mr. N. hoped a liberal policy would prevail. The State of which he had the happiness to be in part a Representative, had made provision for this object. The inequality which would arise would be nothing in comparison with the magnitude of the object to be accomplished, to arm the nation not only from external enemies, but from enemies of every description.

The gentleman from Massachusetts seemed to think that the Constitution required the arming and disciplining the militia, and that Congress had required the States to pay attention to it. Had the States done it? Mr. N. said they had not; and if the gentleman would look at the returns from every State, they would find that the

people were not completely armed in any State. Had Congress, then, done their duty in this respect? They certainly had not.

Mr. N. did believe that the object embraced by the resolution was most important; that the interest of the nation required, and the Constitution itself imposed a duty upon them to place arms in the hands of the people. These reasons would govern his vote.

Mr. TALLMADGE said it was not surprising that upon an occasion like the present there should be different sentiments entertained by different gentlemen in the House. No gentlemen would go further than he would in putting the country in such a state of defence as its safety might require; but in doing this he should certainly differ with many gentlemen as to the mode.

Gentlemen had said they should vote in the affirmative on this resolution, because it was general. It was because it was so general that Mr. T. should vote against it: it went to say that they would pledge themselves to arm all the militia of the United States. This did not meet his idea of a resolution on this subject. If gentlemen wished to bring this subject before the House, let them bring forward a resolution to appoint a committee to inquire into the expediency of amending the laws respecting the militia, and he would give it his free and full assent; but he would not give his vote in support of a measure which would go to compromit the Government. It appeared to him that gentlemen advocated the adoption of this resolution in its present form, from an idea that the individual States were unable to arm themselves. Mr. T. said it was by no means proved to the satisfaction of his mind that the Legislatures of the several States had not made provision, or that they were unable to arm themselves. In making this remark he certainly judged from the part of the country from which he came. The Speaker (Mr. VARNUM) certainly knows, said he, what exertions have been used in the State in which he resides, as well as that which I have the honor to represent, to procure arms; perhaps some of the Southern and Western States had made the same provision.

The Government of the United States had acted under that part of the Constitution which required them to arm and discipline the militia of the United States. In 1792, Congress passed a law containing a great many provisions for organizing the whole militia of the United States. He would not now detain the House in stating particularly, but generally, the provisions of that law. Everything done by this Government to organize the militia of the several States was to be done under the direction of their Legislatures. Subsequent to this, a law had been passed, directing that the President of the United States should receive from the Executives of the several States a return of the different forces of each State; and these returns were now on their table. It appeared that these laws were not complied with; for, if they had been, these returns would have shown the full and effectual force of the Union. The first law contained a most emphatic injunction that the whole militia of the United States, from eighteen to forty-five, should be completely imbodied; not only so, but that every man was to be provided at his own expense with arms, and that these arms should be of a certain quality and size. If any gentleman here had ever known the inconvenience of cartridges of different sizes, he would see the necessity of the latter provision in the law. If the States had properly carried this law into execution, gentlemen would never have heard an argument in this House relative to arming the militia. If both these laws, by which the United States obliged themselves to make provision of certain arms, to be delivered to the several States, for the use of the militia, expressly—if these had been complied with, and those arms purchased had been delivered to the States—what more was necessary to be done? Had not Congress carried into effect the Constitutional provision?

If gentlemen meant to originate a bill to oblige the General Government to purchase arms and furnish them to the States, he presumed they would not vote against this resolution; but, for himself—considering it as too broad, and fully believing that the situation of the country did not require them to go into this expense, willing as he was to see the whole militia armed—he must give his negative to the resolution.

Mr. W. ALSTON said, when he yesterday addressed the House on this subject, he had felt a strong inclination to vote for the resolution, that it might go to a committee; but, from the course of proceeding this day, when he saw gentlemen, with all their professions of a contrary determination, vote against the modifications offered to the resolution declaratory of an intention gradually to arm the militia, he lost all hope of the bill being so brought in. He was not prepared to vote for a bill bottomed on a resolution like the present. The committee to whom it should be referred in its present state must not only provide for arming the whole body of the militia, but for equipping them. Was the House prepared to say that it would arm and equip all the militia of the Union? If the amendment offered by the gentleman from Virginia had been adopted, they would then have known the grounds on which they were voting; but gentlemen who had declared themselves opposed to arming the whole militia at one time had voted against the proposition for arming them gradually. Taking it in this point of view, he could not vote for the resolution; nor could he expect that the House would be seriously disposed to arm the whole militia, and afterwards equip them.

Mr. ELY said, the proposition now before the House was plausible, but there appeared to him to be a great objection to such a proceeding, from the circumstance that there was now in the arsenals of the United States a large quantity of arms—130,000 stand—a quantity in the hands of the militia, and a quantity in possession of the States. Exclusive of these, there were not 2,000 stands of arms in the United States. There were a few imported arms exposed to sale, and the United States annually manufactured about 10,000 stand

—last year, not so many. Where could more arms than these be obtained? They could not be obtained from private manufactories. And gentlemen were now talking of a broad proposition immediately to purchase four or five hundred thousand stand, when not any portion of that number could be obtained. The nations of Europe would not sell their arms, nor could arms anywhere be purchased. They might do one thing, which he should be very glad to see—they might increase their Armory Establishment, so as to manufacture twice as many arms annually as were manufactured at present. For his own part, he did not believe that there was half the quantity of arms in the arsenals of the United States which there ought to be; and it would be a very long time before they could accumulate a proper quantity. If gentlemen could inform him where these arms were to be had, he should think more about listening to the proposition.

When the United States began their Armory Establishment, they went on very slowly. It was several years before they could manufacture more than 1,200 a year. This he knew to be a fact. Gentlemen talked of private manufactories—they must, however, teach workmen before they could be brought into operation. An experiment made a few years ago in procuring arms from a private manufactory was unsatisfactory. The arms there manufactured were so incomplete and insufficient that they could not answer any profitable purpose. Skilful artists in this branch of mechanism were not then to be met with, nor were they now.

Under all these circumstances, Mr. E. saw great difficulties in this business. He was as much in favor of the people being armed as any man in the House, and wished that they were armed; but he was also decidedly of opinion that the arms they held should be their own. He should be sorry to say that independent farmers should be obliged to the United States for the arms they held, and yet he wished they all should be possessed of arms. He did not believe that it was practicable to carry the proposition into effect in any number of years that had been mentioned, with our present resources. If these arms were to be given into possession of the people, to be returned at stated periods, there would be an annual deficiency of perhaps 10,000 stand. Under all these circumstances, he felt very easy about this resolution.

The main question on the second resolution was decided by yeas and nays—yeas 72, nays 55, as follows:

YEAS—Lemuel J. Alston, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Samuel W. Dana, John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, Meshack Franklin, Barent Gardenier, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Hoge, David Holmes, Benjamin Howard, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, junior, Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Rowan, John Russell, Lemuel Sawyer, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Abram Trigg, George M. Troup, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, David R. Williams, Alexander Wilson and James Witherell.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, John Blake, jun., Robert Brown, Joseph Calhoun, Peter Carlton, Epaphroditus Champion, John Chandler, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, John Davenport, jun., Josiah Deane, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Heister, William Helms, James Holland, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Nehemiah Knight, John Lambert, Josiah Masters, William Milnor, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., John Pugh, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Robert Whitehill, Isaac Wilbour, and Marmaduke Williams.

The third resolution being under consideration as follows:

Resolved, That provision ought to be made by law, for procuring a formidable train of field artillery, for the service of the United States:

Was agreed to without a division.

On motion of Mr. RANDOLPH, the first resolution was referred to a select committee, which consists of Messrs. RANDOLPH, ELLIOT, COBB, MACON, and KELLY; and the second to a select committee, which consists of Messrs. RANDOLPH, ELY, TALLMADGE, LLOYD, STANFORD, MUMFORD, and SMILIE.

On motion of Mr. BLOUNT, the third was referred to the committee to whom was referred so much of the Message of the President of the United States as relates to our Military and Naval Establishments.

Mr. RANDOLPH said, that on this day a decision on a point of order had taken place, and been confirmed by the House. Upon looking back to the Journals of a former Congress he had found a precedent, where a previous question had been taken, not only on an amendment, but on an amendment to an amendment. His object in rising at this time was not to question the correctness of the decision of the Chair, much less the motives which induced that decision; but it appeared to him that if this precedent had been produced to the House previous to the confirmation of the decision of the Speaker, their vote would have been different. For this reason, and to obviate difficulties which daily occurred, he should move, that the Clerk of the House be directed to make a compilation from the Journals, for the use of the

House, of all decisions on points of order, which had taken place since the Government went into operation. Mr. R. introduced a resolution to that effect, which he wished to lie on the table.

The House then adjourned till Monday.

MONDAY, December 7.

Mr. BOYLE, from the Committee on the Public Lands, presented a bill supplemental to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States;" which was read twice and committed to a Committee of the Whole on Wednesday next.

The SPEAKER laid before the House sundry other papers and documents relative to the contested election of John Culpepper, one of the members returned to serve in the House, for the State of North Carolina; which were received, and, on motion of Mr. DAVID R. WILLIAMS, referred to the Committee of Elections.

Mr. GEORGE WASHINGTON CAMPBELL, from the Committee of Ways and Means, to whom was referred a resolution of the House of the ninth ultimo, reported a bill to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase; which was read twice, and committed to a Committee of the Whole on Friday next.

On motion of Mr. DAVID R. WILLIAMS,

Ordered, That the Message from the President of the United States, of the 3rd of February, 1806, together with a letter from the Governor of South Carolina, and an act of the Legislature of the said State, ceding to the United States various forts and fortifications, and sites for the erection of forts in that State, be referred to the Committee of the whole House to whom was committed the bill supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats;" also, a bill sent from the Senate, entitled "An act to appropriate money for the construction of an additional number of gunboats."

Mr. EPPES presented a memorial of the first and second Chambers of the City Council of Washington, stating certain inconveniences, to which the Corporation and a number of the inhabitants of the said city have been and are now subjected, relating to the taxes on vacant or unimproved city lots, or parts of lots; to the introduction of an undue proportion of idle and vicious free blacks, people of color, and vagrants; and to the manner of electing members of the City Council, as established by the act of incorporation; and praying relief in the premises by an extension of the powers granted, by law, to the City Council; also, that the capital of the United States, possessing the best harbor on the Potomac river, may be made a port of entry and delivery.

Ordered, That so much thereof as relates to a port of entry and delivery be referred to the Committee of Commerce and Manufactures.

Ordered, That all other parts of the said memorial be referred to the select committee, appointed, on the twentieth ultimo, on a memorial of the citizens of the first and second wards of the city of Washington.

Mr. LLOYD presented memorials of sundry citizens of Montgomery county, in the State of Maryland, whose names are thereunto subscribed, in opposition to the prayer of petitions from sundry qualified electors of the said county of Montgomery, and of a part of Frederick county, presented on the fourth ultimo, "that the election of Philip Barton Key may be vacated and annulled," and stating that Mr. Key was a resident of the county of Montgomery aforesaid, before, at, and after, the election held in the month of October, one thousand eight hundred and six, for Representatives in Congress for the said State.—Referred to the Committee of Elections.

Mr. FINDLEY, from the Committee of Elections, to whom were referred the certificates and other credentials of the members returned to serve in this House, made a farther report, in part, thereupon; which was read and laid on the table.

EXTENSION OF PATENT RIGHTS.

Mr. CROWNINSHIELD, from the committee to whom was referred the petition of Oliver Evans, of Philadelphia, in the State of Pennsylvania, reported:

Oliver Evans, the petitioner, has invented a very useful improvement in the art of manufacturing flour and meal, for which he received a patent under the act of Congress, passed the 10th of April, 1790, entitled "An act to promote the progress of useful arts." This patent was granted the 18th of December of the same year, and expired in 1804. It was drawn up in the usual form of patents issued under that act.

The petitioner states, that many persons, without his license, and contrary to the true intent and meaning of the said act, having constructed and used his improvement, he was induced to appeal to the laws of his country for redress, and accordingly, in April, 1804, did bring an action against one of the invaders of his rights, in the circuit court of the United States for the Pennsylvania district, where "the court expressed their unanimous opinion that the description of the machines, stated in the patent to have been invented by him, was imperfect and insufficient; and that, by reason thereof, the said patent, or so much as came in controversy on the trial, was void." This decision was made at their October term of the present year, and, the sum in dispute not amounting to two thousand dollars, he is precluded from entering an appeal to the Supreme Court of the United States.

Thus circumstanced, the petitioner has applied to Congress for relief, and he prays that the Secretary of State may be authorized to grant a good patent, or that such other assistance may be afforded to him, as the utility of his improvement merits, and the public good shall require.

Understanding that the patent was merely deficient in point of form, the committee applied to the Secretary of State for his opinion on the subject. The Secretary's letter, subjoined to this report, will show that he does not think himself justified in introducing a principle which would admit the invalidity of all the patents issued in the same form since the commencement of the Government, on the decision of the circuit court alone. The alteration in the form of patents took place on the 28th of February, 1793.

No other material facts have come to the knowledge of the committee in this case.

The petitioner alleges that considerable sums of money are still due to him by those who continue to use his improvement without his permission, and which he is prevented from recovering by the decision of the court.

If the petitioner had not complied with the patent law; if he had not alleged, in his petition, that he had made a new and useful discovery; if his petition had not described his invention to the Secretary of State; or, if he had not truly and fully specified his discovery; if, indeed, in any respect, he had failed to perform what had been enjoined by our laws, the committee would consider his claim as an improper one; but viewing it in a different manner; considering, too, that the defect in his patent was caused by those appointed to issue it, from a misapprehension of the provisions of the law merely, the committee are of opinion that relief ought to be afforded to the petitioner, in some way or other; and no better mode suggesting itself than that of granting him a good patent for a limited time, they have been induced to ask leave to report a bill for that purpose.

Mr. CROWNINSHIELD then reported a bill for the relief of Oliver Evans; which was read twice, and committed to the Committee of the Whole last appointed.

MARYLAND CONTESTED ELECTION.

Mr. FINDLEY, from the Committee on Elections, to whom was recommitted, on the nineteenth ult., the report on the memorial of Joshua Barney, complaining of an undue election and return of WILLIAM MCCREERY, as a member of this House, submitted an amendatory report, in which they recapitulated, nearly in the same words, the facts set forth in the first report, as far as the clause terminating with these words, "no question was taken on the legal residence of WILLIAM MCCREERY, in the city of Baltimore." The remainder of the report was left out, and the following inserted:

"When the report was recommitted, Joshua Barney alleged that William McCreery had declared himself not qualified to be elected, in terms that William McCreery refused to admit, and proposed to bring stronger proof against William McCreery's legal residence in the city of Baltimore. The parties went to that place to take testimony, which they have submitted to the committee; which is substantially as follows:

"Joseph H. Nicholson, in answer to interrogatories propounded by Mr. Barney, viz:

"*First.* Did any, and what, conversation pass between you and Mr. McCreery, as to his eligibility as a Representative to Congress, or between William McCreery, in your hearing, and what did he say?

Second. Did William McCreery at any time, and when, to you, or in your presence and hearing, acknowledge or say that he had not a residence in the city of Baltimore, and did not consider himself eligible as a Representative to Congress? &c.

"To the first, Mr. Nicholson answers, that, in the autumn of 1806, about six or eight days before the election for members of Congress, and he, Mr. Nicholson, hearing that doubts were entertained whether Mr. McCreery would consent to be a candidate, and inquiring on that point, induced a conversation relative to the election. Mr. McCreery said he had very reluctantly consented to serve, if elected, and regretted that some other person had not been fixed on, as he had understood that some objections were made to him on account of his residence in the country, and was apprehensive that this would induce many persons not to vote for him, whose support he would otherwise have had. On being asked by this deponent whether, at this period, his residence was not the same as at the antecedent election, and expressing some surprise that the circumstance of his residence now, more than then, should be an objection, as it had been overlooked before, Mr. McCreery, among other things, replied, that he had always taken care to hold a legal residence in the city of Baltimore, and went on to state how he had done so.

"In answer to the second interrogatory, Mr. Nicholson saith, that William McCreery did not at any time say to him, or in his hearing acknowledge, that he had not a residence in Baltimore city, or consider himself as not eligible.

"Edward Johnston, in answer to the same interrogatories, answers substantially as Mr. Nicholson had done, with this difference, that the conversation took place previous to Mr. McCreery's election to a former Congress; and further, Mr. Johnston says, it took place when himself, Mr. McElderry, and Mr. Dickson waited upon Mr. McCreery for the purpose of prevailing on him to become a candidate when Gen. Smith accepted a seat in the Senate; when he appeared anxious to decline, and observed to them, that, as he intended to remove to the country with his family, he was apprehensive that he would not be considered as a suitable Representative, and informed them, at the same time, that he intended to keep a counting-house for transacting business, furnished with a bed and other conveniences for his accommodation. This deponent and others assured Mr. McCreery that his contemplated residence would be no objection, and urged and prevailed on him to become a candidate; and that no other conversation ever passed between Mr. McCreery and himself, or in his hearing, on that subject.

"Samuel Walker testifies that, in 1803, William McCreery having contemplated residing a considerable part of his time in the country, and intending to rent his dwelling-house, he, the deponent, agreed to accommodate Mr. McCreery at his dwelling-house; and that Mr. McCreery's family has resided twice a year, since that period, either at the house of the deponent, or at the house of Hugh Neilson; and that the deponent still does reserve a chamber for his use.

"Being cross-examined, he cannot say at what time, or how long, Mr. McCreery and family resided in his house, &c. They resided as friends.

"Hugh Neilson testifies that Mr. McCreery, with his wife and niece, made his house their place of residence when they came to Baltimore, where Mrs. McCreery and niece frequently stayed two or three months before, and during the session of Congress; that Mr. McCreery frequently visited during that time, and Mrs. McCreery and niece commonly went to Washington in December or January; that Mr. McCreery made his house his residence when he came to Baltimore on business, but kept a bed, desk, &c., at the store occupied by James C. Neilson; and that the deponent is brother-in-law to Mr. McCreery.

"Alexander Nisbet testifies, that during the election, and some days before and after it, Mr. McCreery boarded at Mrs. Dysart's boarding-house, and slept there one night, and the other nights in the counting-room.

"James C. Neilson testifies that Mr. McCreery rented the store to him, but reserved to himself the right of putting up a bed in the counting-room, and of keeping a desk in it; that he put up a bed and slept in it about a week preceding the election, and two or three days after it; and that Mr. McCreery's desk, and a few other things, remained in it the whole time; but that, when Mr. McCreery left Baltimore, the deponent took down the bedstead, and put it in a room in that part of the house which was rented to Mrs. Dysart, and the mattress under the desk; that no other person slept there but Mr. McCreery; that he knows of no permanent residence Mr. McCreery had in Baltimore city.

"On the foregoing testimony the committee make no observation, but will lay the record of the testimony on the Speaker's table, and submit the following resolution:

"*Resolved*, That William McCreery, having the greatest number of votes, and being duly qualified, agreeably to the Constitution of the United States, is entitled to his seat in this House."

The report was referred to a Committee of the Whole on Thursday next.

REPRESENTATIVES' HALL.

Mr. BIBB said, it must have been long since perceived, by every gentleman in the House, that the splendid hall in which they were assembled was perfectly unfit for the purposes of legislation, and that it was impossible in its present state, either to hear or be heard; they were consequently under the necessity of voting on questions which they could not understand, much less the reasons offered for or against them; and the speeches reported by the stenographers must necessarily be, as they really were, very incorrect. These considerations induced him to offer the following resolution; which was agreed to, and Messrs. BIBB, N. R. MOORE, STEDMAN, MILNOR, and ROWAN, named a committee:

Resolved, That a committee be appointed to inquire whether the Representatives' Hall can be rendered suitable for the purposes of speaking and hearing.

FORTIFICATIONS AND GUNBOATS.

On motion of Mr. BLOUNT, the House resolved itself into a Committee of the Whole on the bill reported by the Committee of Aggressions on the subject of fortifications, and the bill from the Senate making an appropriation for the more effectual defence of the ports and harbors of the United States.

The bill from the Senate coming first under consideration, and the first section being read,

Mr. BLOUNT said it would be in his opinion very improper to make an appropriation to cover at once the expense of building, fitting out and manning; they should first appropriate as much as might be expended in building and equipping. To accomplish his object in this respect, and also an object which had been suggested by the Secretary of the Navy, that it might not be advantageous to confine the Executive to obtaining gunboats only by building them, he moved to insert after the word "build," the words "or purchased, armed, and equipped;" and to strike out after the word "boats" the words "and to equip, arm, man, fit out, and employ the same."

Both of these amendments were agreed to without a division.

The second section being under consideration,

Mr. BLOUNT said, the sum mentioned in this section being the precise sum reported by the Committee of Aggressions, he should not propose any amendment of this section; and he hoped the Committee of the Whole would agree to the bill as amended.

The question being on reporting the bill as amended—

Mr. MILNOR said it was not his wish to have acted on this bill at the present time; he wished the House to have had the whole system of defence before them, that they might have been enabled to judge of all its parts. From anything he had yet seen in the reports of the committees on the subject of defence, made to this House, and in the bill from the Senate, he was apprehensive that our modes of defence would not be as efficient as was necessary, or that they were of a nature to be made so. The object undoubtedly was to defend the ports and harbors from aggression and insult. The bill reported by the Committee of Aggressions had proposed to appropriate money for repairing such old fortifications and erecting such new ones, as, with the aid of gunboats, would afford sufficient protection to our ports and harbors. From this provision in the bill, it appeared that the committee had thought these were all the modes of defence it was necessary to keep in view for that object. He had formed a different opinion; he believed that no number of gunboats or fortifications alone would be sufficient for the contemplated purpose. He would acknowledge, that if a number of armed ships were to come in and make an attack on our ports or cities, fortifications might be of essential service, and gunboats in aid of fortifications. But was this all they meant to do? Would they do nothing more than protect themselves from actual attacks on their cities? If they were to recur to the first report of the Committee of Aggressions, they would find that the insults and indignities offered to our national character had not consisted in attacks made on our cities, but in attacks from ships of foreign nations committed in our rivers, in taking seamen from our vessels, in capturing our vessels and sending them to their own ports for adjudication; in one instance, a national ship of the United States had been attacked in the most outrageous manner, and part of her crew taken from her. To protect the nation from insults of this kind, he believed no force of gunboats or land batteries would be sufficient. If gentlemen meant to effect what they professed, the protection of the national honor, they should adopt other modes of defence. They ought to have some ships of war.

Here a Message was announced from the President of the United States, by Mr. COLES, his Secretary, and handed to the Chair.

It being suggested by Mr. NEWTON that the Message very probably contained information which might bear on the subject now before them,

the Committee immediately rose, reported progress, and obtained leave to sit again.

The SPEAKER declared the Message which had been received to be of a confidential nature; the galleries were accordingly cleared, and the House remained in session, with closed doors, from half past twelve o'clock till a quarter past five, when they adjourned.

TUESDAY, December 8.

The SPEAKER laid before the House a letter and report from the Secretary of War, accompanied with an account of the state of the fortifications of the respective ports and harbors of the United States, with a statement of the moneys appropriated for fortifications, and remaining unexpended; also, an estimate of the sums necessary for completing such fortifications as may be deemed requisite for their defence; prepared in pursuance of a resolution of this House, of the first instant; which were read, and ordered to lie on the table.

Mr. MCCREERY presented a representation and petition of Amos Stoddard and others, in behalf of themselves and of all the officers and soldiers composing the present Army of the United States, stating the losses and grievances to which a number of the officers stationed at posts on the Western frontiers of the United States, have been, and are now subjected, in consequence of the enhanced prices of the necessaries of life, and other causes therein enumerated, and praying that such addition may be made to the pay and other emoluments now allowed, by law, to the officers and soldiers of the Army, as to the wisdom of Congress shall be deemed reasonable and proper.—Referred to the Committee of the Whole House to whom was referred a report of a select committee appointed, on the twenty-ninth of October last on so much of the Message from the President of the United States as relates to the Military and Naval Establishments.

Mr. MILNOR said, it would be recollected by the House, that the Committee on Military and Naval Establishments had made a report which had been made the order of the day for yesterday; as it had not been taken up, and as he thought it proper that it should be before the same Committee of the Whole who had other modes of defence under consideration, he moved that the Committee of the Whole, to whom it had been referred, be discharged from its further consideration, and that it be referred to the same committee to whom was referred the bill from the Senate, and the bill reported by the Committee of Aggressions, on the subject of defence.

Mr. BLOUNT thought the bills for the erection of gunboats and fortifications should be distinct from any other mode of defence; as considerable progress might be made in building them before the other modes could be completely discussed. The whole system of defence could not be gone through in both Houses in less than two or three weeks; which in that case would produce a long delay in attending to what it was necessary immediately to commence. If the gentleman's object was not to clog the projected measures for defence, he must perceive that there were strong reasons against the adoption of his motion.

The motion was negatived—yeas 25.

NON-IMPORTATION ACT.

Mr. NEWTON said, the House would recollect that on Monday next the law prohibiting the importation of certain articles would go into operation; and it was also known that that law was extremely defective. In order to prevent a variety of suits and perplexities which would arise under it, and in consequence of a letter directed from the Treasury Department to the Committee of Commerce and Manufactures and submitted to them, exposing some of its defects, he moved a resolution directing the Committee of Commerce and Manufactures to inquire into what amendments were necessary to be made, with power to report by bill. It was not the wish of the Committee to suspend or repeal the law; it was their wish, and the wish of the Treasury Department, that it should not be clogged so as to produce law suits. It was a sound principle of all Governments, to prevent litigation; and if it was made to appear that any law which had passed gave rise to it, it ought to be amended. The letter stated a variety of cases which arose under that law. To remedy these defects, was the object of the present motion.

The motion was agreed to; and, before the House adjourned, a bill was introduced for the purpose; which was read, and committed to a Committee of the Whole on Thursday next.

MERCHANT VESSELS.

Mr. DANA submitted the following resolution:

Resolved, That it is expedient to provide for regulating the conduct of such merchant vessels as, by agreement of the respective owners, may sail in concert, for mutual asistance and defence, in any lawful commerce; and, also, for settling, according to the course of proceeding in Courts of Admiralty, the respective rates of contribution to be made between them, on account of any loss or damage which may be thereby incurred.

Mr. D. said the resolution contemplated a prospective measure, which might be beneficial to the country; and it might require much consideration. He wished it to be referred to a Committee of the whole House a week or a fortnight hence, when it might be freely discussed.

Mr. CROWNINSHIELD wished the gentleman from Connecticut would have been so good as to have stated the object he had in view in moving this resolution. It appeared to Mr. C. that it would be very improper at the present time to enter into a regulation of this kind. Should they at this time authorize merchant vessels to arm, or now refuse the right of searching merchant vessels? However that right had been violated, he did not feel prepared at this time totally to deny it. He had no objection to the resolution lying on the table; but, till a war actually commenced, he thought nothing should be done on this subject; he did not feel prepared at this moment to pass

this resolution. It was not, he observed, a proposition to authorize a committee to investigate the subject, but a direct proposition to the House to adopt an important measure. Notwithstanding the abuses of the right of search which had taken place, he did not think it proper for them at this juncture to refuse the right of searching merchant vessels, for contraband articles: for such he presumed was the object of the gentleman from Connecticut; the resolution appeared to him to bear that construction.

Mr. DANA said, that if the resolution was intended to have the effect supposed by the gentleman from Massachusetts at this time, he should also have deemed it improper. The resolution embraced two objects, to be provided for when at any time they should be expedient, but said nothing of the propriety of our merchant vessels being armed at this time. One object was, that when the Executive authority of the country gave consent to the arming of merchant vessels, they might sail in unison, so as to render their purpose of defence more effectual. The other object was, to remedy any difficulty which might occur, if merchants should disagree as to the rates of contribution to be paid by vessels; and it might be a question in the latter case whether relief could be had but by suits against the owners. In their system of general laws, they had one which regulated the distribution of prize money, and one for regulating salvage on captures. He wished something of this kind—a general law, in regard to the present subject under consideration. This was his real object. He had presented it to the House in the first instance, that the House, if they should be generally satisfied that the details were impracticable, might reject the resolution; if they did not, they would refer it to a committee to make the experiment.

Mr. CHANDLER could easily conceive that the time might come, perhaps it was not far distant, when the measures contemplated by this proposition might be necessary; but he could not precisely understand why it had not in the first instance been referred to a select committee, rather than a Committee of the Whole as was proposed.

Mr. DANA wished the subject to be discusssed in Committee of the Whole, that all difficulties might be at once presented and judged of. If they chose to send it to a select committee, it was proper first to give it a discussion.

Mr. SMILIE thought the course proposed by the mover of the resolution, was the most correct. In Committee of the whole House they might decide whether a law of this kind was necessary. Indeed he could see no objection to the adoption of the resolution; it merely went to discuss a subject which might be properly comprised in a standing law of the country.

The resolution was then referred to a Committee of the Whole, on Monday.

FORTIFICATIONS AND GUNBOATS.

On motion of Mr. BURWELL, the House went into a Committee of the Whole on the bill from the Senate for building gunboats, and the bill for fortifying our ports, as reported by the Committee of Aggressions.

The bill from the Senate being still under consideration,

Mr. MILNOR said, when he was on the floor yesterday, and interrupted by the Message from the President, it was his intention to have moved an amendment. The bill provided for building one hundred and eighty-eight gunboats; he moved to strike out the words "and eighty-eight," so as to reduce the number to one hundred. He thought an hundred gunboats in addition to those they already had, would be fully sufficient, if they also adopted other modes of defence. He had yesterday stated that he did not believe the building additional fortifications, and an additional number of gunboats, would effect the object which appeared to be contemplated by the committee. He confessed he did not place as much reliance in gunboats as some gentlemen did. While he thought they might be useful in aid of land batteries or frigates, it was also his opinion, that if gentlemen examined the statement respecting different aggressions by a certain Power, they would find that not one single act of aggression could have been prevented or punished by any batteries on land or gunboats in aid of them. They were not committed in the face of our batteries, or in that part of our ports and harbors where the gunboats could have acted with effect; they were committed within the mouths of our rivers, or just outside them. He thought the construction of a few frigates would be expedient, in addition to those now in our possession. They might act with gunboats; and might drive any foreign nation either to the necessity of bringing a large force on our coasts, and keeping it all together, by which the number of their aggressions would be lessened, or expose their fleets to a force which would be able to avenge the insults offered to us. He was not of opinion that they ought to have a large navy, nor was he a friend to one; but he thought a few ships would be of essential service. He was of opinion that one ship of this country acting on our coasts, would give them a power of repulsion equal to the force of three or four ships of a foreign nation; and would compel the enemy at all times to be on their guard, and to keep their fleet together. His object was, as he had expressed it, to reduce the number of gunboats, because the number proposed would draw more money from the Treasury than was necessary for this purpose, and because he wished to retain a little money for other modes of defence.

Mr. BURWELL said, he should vote against the amendment proposed, and in favor of the number reported by the Committee of Aggressions, as contained in the bill from the Senate now under discussion. It appeared to Mr. B. that the gentleman from Pennsylvania had taken a very incorrect view of the subject. That gentleman has objected to this law because it did not make provision for ships of war to serve as a defence to our commerce, and because he supposed the committee had taken up this mode of defence to the

exclusion of any other. Mr. B. said, it must be obvious to every gentleman that it was almost impossible to have crowded into one bill all the measures of defence which might become necessary; thus it contained no provision for arming the militia, for raising a standing army, building or repairing frigates, &c. The only question now was, on building a number of gunboats, for defence against the attack of a foreign nation. He thought a sufficient number should at once be authorized: for if the number were insufficient to answer the intended purpose, the money expended in their purchase would be so much thrown away; so much expended from which the public would derive no benefit. The opinions of those men best acquainted with the force which might be necessary, which had been communicated to the Committee of Aggressions, has stated this as the competent number.

With respect to the expense of building gunboats, it would be found that the cost of building a frigate would be much greater than a number of gunboats equal to the number of guns carried by a frigate. The Secretary of the Navy had estimated the annual expense of gunboats at $11,000. Mr. B. admitted that the sum appeared enormous, and it remained for the consideration of the House whether they would expend so large a sum for that purpose. The estimate of the Secretary of the Navy went upon the ground that during the whole of the year, forty men would be required to man each of these boats. Mr. B. thought that regulations might be adopted, that would render eight or ten men sufficient to be regularly employed on board these boats; a sufficient force fully to man and use them upon occasion might be organized from the different ports or seaport towns; and it would be found, by recurring to the President's Message, that the same idea had been entertained by the Executive. And he believed, that although the Secretary of the Navy had estimated $11,000 as the sum necessary for the annual expense, he had done it on the supposition that forty men would be employed during the whole year in each gunboat. At times when Europe and the United States were at peace, it would not be necessary that more than a small portion of those boats should be afloat; they might be kept in ordinary, relying on the seamen of the port for any sudden emergency.

With respect to the propriety of building gunboats, he would observe that they were not a mere experiment; they were sanctioned by the practice of Europe, and were very beneficial for the defence of ports against sudden attack. The French, Spanish, Dutch, and other nations, in the vicinage of the British Navy, had combined their boats with land batteries, for the purpose of defence against the assaults of that formidable Navy. These boats were also a part of a system heretofore practised in other countries, and proposed to be further pursued here.

It was at this time peculiarly important to make preparations. Whether they adverted to the preparations in the British provinces adjacent to this country, to the armament said to be preparing in England for a foreign expedition, or the principles which she had avowed in regard to neutral trade,—in any case they should be prepared for the attack she might think fit at any time to make upon the country.

If any gentleman in the House could suggest a mode of defence more efficient than that now proposed, no member in the House would be more willing to adopt it than himself. He felt no particular predilection for this mode. He should vote for the number of gunboats to be erected as it now stood, on the ground that it was not more than sufficient; and that if a less number than sufficient was erected, the money expended would be thrown away. He should, for this reason, vote against the amendment and in favor of the bill.

Mr. Milnor observed, the gentleman last up had said that he should be opposed to the striking out, because he thought the present number was absolutely necessary, and that a smaller number would be insufficient. Had Mr. M. thought this, he would not have moved the amendment; but it was well known to many gentlemen of the Committee that a number of our ports and harbors were so situated that gunboats could not act in them efficiently. Wherever the water was deep, wherever it was rough, these vessels were perfectly useless, and nowhere could be used to effect but in smooth and shallow water. If they were to construct a few large ships of large force, capable of acting in those ports where gunboats would be inefficient, it would give greater satisfaction to the neighborhood of those ports than gunboats, which could be of no use to them. In the Southern ports he believed gunboats would be effective; but Northward and Eastward they would be of no effect. In the port of New York they would not be an efficient force to go below the city and act in the bay; and in progressing eastward from New York, they would be found less and less efficient.

The gentleman from Virginia had admitted that, according to the statement made by the Secretary of the Navy, the expense was enormous, but he also felt disposed to believe that the statement was erroneous, and that so much would not be necessary. Past experience, Mr. M. said, had shown that estimates had generally fallen short of the object which they were intended to cover, and less than was estimated for this purpose need not be calculated upon. He was not opposed to the construction of a sufficient number of gunboats, but he was opposed to wasting the public treasure on constructing a greater number than would be useful; this was his motive. He had examined the statement of the Secretary of the Navy, and found that he had stated the number of gunboats which, in his opinion, would be necessary for each port and harbor in the United States. There were a number of places in which the number estimated would be wholly useless and unnecessary. For instance: the port of Alexandria. Of what avail would two or even four gunboats be for the defence of that port, were any hostile force to ascend the Potomac? These

gunboats were contemplated to be scattered along the coast in small numbers; in all these cases they would be totally useless. They were only efficient when gathered together in a large number; they should not only be sufficient in number to front an opposing force, but to surround it.

Mr. M. was as anxious as the gentleman from Virginia could possibly be, that they should make such preparation for defence as the emergency of the times should call for. It was because he believed that gunboats without frigates were not sufficient, but with them might be extremely useful; and because that if the House should direct the erection of the frigates, the number of gunboats might be lessened, that he had made the motion under consideration.

Mr. Crowninshield said that there was some inconsistency in the observations of the gentleman from Pennsylvania; he had said gunboats would be useful with the aid of large vessels, and at the same time said they were entirely useless in the mouths of rivers or deep waters. [Mr. Milnor explained that he had meant they would be useless when acting alone.] Mr. C. said he had formed a very different opinion, indeed, from that expressed by the gentleman from Pennsylvania with respect to gunboats. It was well known that no longer ago than the year before last, this Government had employed eight or ten gunboats to assist in the attack on Tripoli; they all crossed the Atlantic in safety, except one boat. Although they did not come into the attack on Tripoli, because a peace was prematurely concluded, yet he himself had heard the late Commodore Preble say that, without them the squadron would not have been competent to have made an effectual assault on the city. These boats then kept the sea in very tempestuous weather, a fact which the despatches from the commanding officer had announced. He believed that they could not at this time adopt a better mode of defence than that proposed by the bill. He should be sorry to see the proposed number reduced, because he believed they would render important services, if at any time our ports or harbors should be attacked. These gunboats were not boats that would sink the moment they got into rough water; they were boats of 60 or 70 tons burden, which might navigate the globe with safety. He spoke from experimental knowledge. The gentlemen surely did not mean to say they could not swim. In Mr. C.'s opinion, there could be no better system of defence in aid of fortifications than that proposed by the bill.

In regard to the expense, the sum necessary for gunboats, after striking out the number 88, would not be equal to the expense of one single frigate. He should not now discuss the subject of Naval Establishments, for it was not before the House; when it did come into consideration, he should take the liberty of saying something about it.

Mr. C. said he thought he had understood the gentleman to have said, that if they had been in possession of these gunboats at the time of the aggression, they would not have rendered any service to the country. Mr. C. differed from the gentleman totally; he thought if they had a few gunboats in the neighborhood of Norfolk, they would no longer see British armed vessels riding there with impunity; he conceived that gunboats could drive them out of our waters. He hoped the number would not be reduced; if the number were to be altered, it should be increased. If the gentleman had any proposition to make for building a large or small Navy, he could bring it forward any time hereafter.

Mr. Blount presumed the gentleman would admit, as a certainty, that it was the duty of the House to provide effectual protection. The select committee having determined, in their own mind, that the best system of defence would be composed by fortifications and gunboats, had inquired what number would be of use. The answer to this inquiry was already before the House; it was stated that the United States had already 69 gunboats—that 257 were the whole number which might be usefully employed; consequently that 188 were wanting. If it were the object of gentlemen to afford a certain protection to the country, he hoped they would not hesitate to pass this bill. If the gentleman from Pennsylvania should be able, when the subject was properly before them, to prove to Mr. B. that frigates or ships of war would add to the protection which might be afforded by fortifications and gunboats, he would vote with him for their construction. It would be time to discuss this when the subject was before them. He hoped the idea of the utility of a naval force would not induce gentlemen to withhold from the Executive that force which they had signified as necessary for the protection of our ports and harbors. If any doubt were entertained by gentlemen who were not members of the last Congress, there was a report, which he held in his hand, made at a former session, containing the opinions of naval officers on the expediency or utility of these boats. The report was lengthy, and he should not call for the reading of it, except gentlemen wished it. There was, however, no necessity to demonstrate their utility, as no gentleman had attempted to show that they were not eminently and essentially useful as one species of defence.

Mr. Milnor said, although he had a respect for the opinion of the gentleman from Massachusetts on the general topic of navigation, he must confess that in this respect he differed with him. Although he had not been engaged in naval affairs, yet living near navigable waters, and being somewhat acquainted with the capacities of vessels, he must retain his opinion, notwithstanding the assertion of the gentleman from Massachusetts. That gentleman had supposed, because our gunboats had crossed the sea, in doing which, by the by, one of them was lost, that they were fit for sea service.

Mr. M. said, although these boats would live, they could not act in deep waters. When the water was rough, one of our gunboats, rigged as they now were, could not act; she would toss to and fro, and her gun would point in every direction, when a large vessel would lie steady in the wind.

The gentleman had said that if they had a large number of gunboats at Norfolk the British vessels would not have remained so long in its vicinity with impunity. Mr. M. was seriously of opinion that the British squadron would have laughed at the idea of being attacked by 50 or 100 gunboats. If such a number were to attack these ships, great part of the boats would be totally destroyed; they were not calculated to accomplish an object of this kind. If they were to attack a single frigate, in calm water, they might injure her; but take several ships together, or even one in rough water, and they might send any number of gunboats, and they would not effect their destruction, or drive them from their position. In making this assertion, the gentleman had presumed that the proposed boats were to be of the same kind as those which crossed the ocean; but Mr. M. had understood they were not of the same kind, and perhaps less effective.

The gentleman from North Carolina had said that this being the number which the Executive had asked for, it was therefore proper to grant it. Mr. M. said it was proper to adopt this number if they thought it necessary to answer the purpose of defence; but he believed that they were not to take all the ideas of the Executive for granted. If they were, however, they had nothing to do but pass such laws as they chose to ask for and then adjourn. It was the opinion of Mr. M. that it was proper to take into consideration all the modes of defence, and to have the several parts of the proposed system before them, that they might act with efficiency.

The gentleman had said that if they would bring forward a proposition for erecting a Navy, he might vote for it. Mr. M. wished to save something for other modes of defence; if it were only the sum of four or five hundred thousand dollars, he would wish to save even that sum. Some hint had been given as to the cost of a frigate; it was not proper now to go into an inquiry on that; but he would observe, that the United States had now in hand timber for five or six 74-gun ships, well seasoned, and which would grow worse instead of better, from further keeping; they had also canvass, cannon, and other materials necessary to complete these ships; so that the cost would be considerably less than would be necessary if nothing was prepared for the purpose of building or equipping these frigates. He believed it would be pursuing a true economy to erect these vessels, because, if they should not be built, the timber would become useless and be completely lost to the United States. If, therefore, it were contemplated to build ships at all, this was the propitious moment to commence that purpose.

Mr. M. was not for delaying the defence of the nation; he wished it to have been commenced long ago; but since they had at length commenced it, he wished to have the whole system brought into view at once. They should have a well-digested plan before them; not one part to-day and one to-morrow, but the whole system at once, in which he wished to see included a few ships of war.

Mr. BLOUNT.—The gentleman last up has stated that I wished this mode of defence because it was the wish of the Executive. I stated expressly, and the gentleman must so have understood me, that the committee had selected this number of gunboats because they were informed that this number would be necessary. I referred to the document where this statement is expressed and where it may be found. I meant to express the opinion, that if we built a less number than necessary, it would be a waste of public money; and that protection would not be obtained by a less force than that which is proposed.

Mr. B. also said that the 88 gunboats would cost $440,000; that sum, when applied to the building of a large frigate would not complete her; and when built, she would carry but 44 guns, one-half the number of guns which would be carried by 88 gunboats; besides which, the expense of rigging and making her fit for service would be enormous. Thus, by building one frigate only at the same expense as would complete 88 gunboats, they lost 44 guns, besides the additional expense of fitting out and manning the frigate. He had, however, only risen at this time to explain that he had been misrepresented when it was stated that he had said he should vote for this number of gunboats because the Executive had recommended it.

Mr. CROWNINSHIELD said that he must answer the objection made by the gentleman from Pennsylvania, who had said that these boats could not live in rough water. Mr. C. said that gunboats could be used in rough water; that engagements had taken place between hostile fleets when the weather was so tempestuous that the lower tiers could not be used at all, or but partially; and certainly these boats could act with effect within the mouths of rivers, and even beyond them.

As he had said before, whether gunboats could or should be employed in the Chesapeake, was a point on which gentlemen might differ; but it was his opinion, that, with fifty gunboats, the fleet might be driven from the Chesapeake. There could be no ship, of whatever metal, but might be induced to cut her cable and retire at the approach of two gunboats. Her anchor would not enable her to place herself in such a situation as she might wish; and two gunboats placed under the bow of a ship, or in a protected situation, might oblige that ship to cut her cable and go off. It was clear also that gunboats could and did carry at least as heavy metal as ships-of-the-line.

These boats had been used to advantage by the European Powers. It was stated in the account of the late attack on Copenhagen, that the gunboats went out and attacked the gun brigs of the English fleet, and rendered very essential service. France had been for some years engaged in collecting three or four thousand gunboats for the invasion of England; and this was the plan of the first military character of the age. The English Government had dreaded more these three thousand gunboats, than they did all the combined fleets of Europe. These combined fleets, if now collected in one immense fleet, could possibly be destroyed by the navy of Great Britain at this

time; not so with regard to these boats; for, besides guns, they could transport an hundred thousand men. They all knew that the gunboats at Algeziras, near Gibraltar, had, in moderate weather, resisted the strength, and harassed the progress, of the British fleet whenever it was out. He believed that Algiers, too, depended more upon her forty gunboats, than upon her whole piratical squadron, for the defence of its city.

What was now proposed to the House? Not to employ these boats in the prosecution of an offensive war, for they were not at war; whatever might be said, they were yet in a state of peace. These were for defence; and for this purpose might render the most important services. What object would the gentleman obtain by striking out eighty-eight from the number of gunboats? He might deprive some ports of their defence; and with the money which these eighty-eight would cost, they might build a ship of forty-four guns, but could not send her to sea; this was a fact capable of demonstration. He hoped, therefore, the gentleman would not persist in the amendment he had offered. The sum of $400,000 would be a mere nothing towards obtaining even a small fleet; it would take five or six millions to bring such an one into service. If in favor of seventy-fours, or any other ships of war, this was not the way to get at his object, his proposition should be perfectly distinct from this. If he was in favor of a fleet, he ought also to be in favor of gunboats. Mr. C. would not, however, detain the Committee any longer; he hoped they would agree to this bill entire, and disencumbered by anything else than what it already contained. This, said he, is but a small part of a system of defence; but as far as it goes, let us complete it.

Mr. SMILIE said the question was, whether they would appropriate a certain sum of money for the defence of their ports and harbors. He had not heard it said, and he hoped it never would be said, that they ought to defend themselves beyond their own shores. He confessed that he was now called upon to give his vote on a question to the decision of which he was not competent; but it being his duty to decide, he should, on this as on other subjects with which he was not well acquainted, depend upon the opinions of those who were. He believed many gentlemen in the House were in the same situation with himself, not being acquainted with naval affairs. It was the duty of the Executive to communicate information in answer to any inquiries which it was necessary to make. They had performed that duty, and the answers were in favor of gunboats. Should he then pursue any opinion of his own in contradiction to this, when he had no evidence on which to ground that opinion? Certainly not; he should depend upon those who possessed better information on the subject than himself, except there was something so absurd in their opinions that he could not swallow it.

For his own part, Mr. S. conceived that building frigates was not the proper mode of defending our ports and harbors; and he could not see, if they were to build frigates, why an enemy's frigates, drawing the same depth of water, and being so much more numerous than ours could be, could not come into our rivers and capture them; whilst gunboats could retire into shallow water from the pursuit of so superior a force. He hoped they should never go beyond their coasts to contend with the nation with which they were now at variance, so as to have occasion for large ships of war. Gunboats lying in our waters would render services, and, if pressed by a superior force, could retreat.

He hoped the sea was not the theatre on which they meant to defend themselves. He would venture to prophesy, were that to be the scene of contest, that all their ships would soon swell the navy of the enemy; and he did believe that the system of defence proposed was at least as suitable to answer its intended purpose as any other.

Mr. CHANDLER said, when they had information from actual examination, that the contemplated number of gunboats would be necessary, he did believe that the proposed sum should be appropriated to that object. The gentleman from Pennsylvania, who had moved this amendment, professed himself as willing to protect our ports and harbors as any gentleman, but wished to strike out part of the number of gunboats, in order to adopt another mode of defence. Admitting that a frigate could be built for the sum which would complete eighty-eight gunboats; could he demonstrate that the force of forty-four guns would be equal to eighty-eight of heavier metal? Another thing he would mention; when the gunboats were constructed, a part of them might be removed, and they could increase or diminish the force at any particular place, as occasion might require; if they had one frigate in place of them, they could not divide her strength, and it could be retained at one point only.

Mr. NEWTON said it was not his intention to take up the time of the Committee in a disquisition on the subject of gunboats; though, were he to attempt it, he had no doubt but he might be equally qualified with some gentlemen who had displayed their eloquence on this occasion. He thought they should now take into consideration the situation of the country in relation to Great Britain. Why were they now talking of defence, of fortifications, and of gunboats? Because they had arrived at a perilous crisis; the nation had been attacked; the blood of its citizens had been spilled; and they must have war, if reparation were not made. They heard by the papers that a Minister was to be sent to negotiate on this subject; but when that Minister arrived here, would any gentleman say that they would receive that reparation which he was prepared to offer? He believed not. When our affairs were thus situated, and as the gentleman from North Carolina (Mr. MACON) said a few days ago, when they were actually in a state of war, ought they not to make a better use of their time and the public money, than in debating on the details of a bill? If a treaty with Great Britain were laid upon their table at this moment, should they for that reason desist from preparations for defence? No;

that nation had trampled on every moral principle; there was no faith in her; paper and parchment were no security for her good conduct. If they wished to be respected by that Power, they must place themselves in a situation to return injury for injury; to retaliate on her for the violations of their rights. When they did this, they might expect something like decency of conduct, or respect for their rights from that Power; until they put themselves in a situation to command her respect, they would in vain expect to receive it.

The gentleman from Pennsylvania who had made the motion for striking out the number eighty-eight, had assigned his reasons for it, and his principal reason was, that it was necessary to apply the money which would thus be saved to the building of ships of war. Mr. N. would agree with that gentleman to build ships of war, but did not wish to involve it with other objects; he did not wish to make this bill a hotch-potch; he wished to let each species of defence stand on its own ground. Were the House to adopt a law authorizing the erection of frigates, it would take years to complete them; if, however, they authorized the erection of gunboats, they could be built in the course of six or twelve months, and would afford immediate protection to all our ports, which was the object they now wished to accomplish. He knew a number of gentlemen who were formerly greatly opposed to this mode of defence; but no sooner was the outrage on the Chesapeake committed, than they embraced the opinion in favor of their utility, and were convinced that the country could not adopt a better mode. What were these gunboats contemplated by the bill? They were vessels that could carry heavy metal, thirty-two pounders; they were indeed moveable fortifications. If a vessel were to pass a fortification, and a number of gunboats were to pursue her, they would ultimately force that vessel to surrender. Suppose there were an enemy's fleet upon our coast, and they were to understand that we had a number of gunboats prepared for their reception, would they come within our waters? No. The reason was evident: they knew that our gunboats would make riddles of their vessels; because, in those situations, gunboats could act where large vessels could not turn round to defend themselves. Mr. N. had understood, from naval officers of very great skill, that if a number of well constructed gunboats were to be placed under their command, they would risk their reputation on preventing an enemy's squadron from entering our waters; and he doubted not, from the known character of the naval officer at Norfolk, as well as other officers in our service, but that they would prove the efficacy of that means of defence, whenever an opportunity offered.

When our naval force was employed at Tripoli, where the gentleman who was now no more so conspicuously distinguished himself, did he place entire reliance on his ships of war? No. Did he not procure gunboats, and with their assistance did he not make considerable impression upon that Power? He did so; and it was confessed by the Power itself on which the attack was made.

There was one object which should certainly be considered by the House; it was this: that if they did go to war with Great Britain, they could not carry on an intercourse from one part of the United States to the other by sea; because, the enemy being in undoubted possession of the ocean, our vessels could not venture out. This communication must be carried on by inland navigation; and if any gentleman would examine the map of the United States, he would find that a canal which would connect the waters of North Carolina with those of Chesapeake Bay, was almost completed, as well as other canals, which would suffice for the transportation of the produce of one part of the country to the other. Now if they did not keep the Chesapeake clear of privateers, they would totally deprive the people of even this mode of conveyance. This was certainly an object of considerable importance.

Mr. N. concluded by saying, that, convinced as he was that the mode of defence by gunboats would be of great benefit to the people on the seacoast, and might prevent their houses from being battered about their ears, he should be decidedly opposed to the amendment proposed by the gentleman from Pennsylvania.

Mr. Gardenier said that although he was not one of those who entertained a great passion for gunboats, yet he could see certain situations in which they would be useful in aid of fortifications; but they should be restricted to a certain number. The mode of fortification which was proposed, was by gunboats and batteries; and the proportionate expenditure for these two objects, how much for one, and how much for the other, was a subject which would engage the attention of the House when it came properly before them. He should feel no objection to vote for the whole number of gunboats, were he certain at the same time that enough would be appropriated for land-batteries and other objects.

Mr G. thought the first thing to be considered, was the end to be accomplished, and afterwards, the means to accomplish that end. Instead of this, he had perceived a disposition in certain gentlemen to inquire first what were our means, and to determine from their extent what might be done. The country from which he came, notwithstanding the favorite theory of gunboats, would be better satisfied with permanent substantial fortifications; other places might be better defended by gunboats, and he had no objection that they should be allotted to those places.

It seemed that a certain sum had been set apart for gunboats. and a certain sum for fortifications; the two making a sum total for defence and protection against foreign Powers. If a certain circumscribed sum only were to be appropriated; if the Treasury could spare but a limited sum, and part of that sum was to be appropriated to each part of the system; he should be in favor of reducing the number of gunboats, that more money might be applied to fortifications. On the whole, however, he thought they might go into a Committee of the Whole on the other bill, for fortifications; and they could then determine whether

both objects could be fully accomplished. If both could be accomplished, having no objection to a sufficient number of gunboats, he should be satisfied; if not, he should wish to take from gunboats and add to the fortifications. Under these impressions he should vote against the amendment at present.

The motion for striking out the words, "and eighty-eight," was then negatived—ayes 21.

The bill from the Senate being gone through, the Committee took up for consideration the bill supplementary to an act for erecting fortifications and building gunboats, reported by the Committee of Aggressions. The first section being read,

Mr. Blount said. that in order to give power to the President to authorize the erection of works other than such as might be denominated fortifications, in case the assent of the Legislature of the State of New York should be given for that purpose, it was necessary to make an alteration in the bill. He moved to amend it by striking out the word "others," and inserting the words, "other works."

Mr. Quincy would merely ask the chairman of the Committee of Aggressions to explain what species of works was intended to be embraced by this amendment.

Mr. Blount said the works contemplated were the placing obstructions in the channel of the river. It was understood by the committee that the people of New York very generally agreed that it might be necessary, for the more effectual protection of the city, that certain obstructions should be placed in their waters, such as sinking blocks in the river. The committee also understood that the President of the United States would not, without the consent of the Legislature of New York, agree to place any obstructions in their waters. The amendment proposed was intended to give him the power to do it, if the Legislature should think fit to give their consent; and when it was necessary to fill the blank in the bill, Mr. B. said he should add to the sum reported on a former occasion as much as would be sufficient to meet that object.

Mr. Masters said, if the amendment of the gentleman from North Carolina (Mr. Blount) had for its object to authorize the President to dam up the Hudson river by sinking blocks, he trusted the good sense of the Committee would reject such a preposterous proposition. The injurious consequences of such an experimental measure to the city of New York, and the State at large, would be beyond calculation. It would, in all human probability, inundate, in high freshes, a considerable part of the town; and in low water, in the summer season, so prevent the influx of water as to cause the tide to recede more than thirty miles, and ruin a number of most flourishing towns one hundred and seventy miles up the river. The effects would be ruinous to one of the finest rivers in the world. It was a well known fact that sinking the piers of Westminster bridge, in the river Thames, caused the tide to recede in that river upwards of seven miles; take the same data for calculation, and the tide in Hudson river would recede more than fifty miles. This, said Mr. M., is a visionary scheme to evade the real object of defence, and to introduce false notions of economy. Whenever we attempt to make appropriations for permanent forts and batteries, expense and economy are brought forward as an objection. The objects of necessary defence, and a prudent, well regulated economy, can be easily reconciled; but your plausible and popular sound of economy, which is always the sweeping argument when this and similar measures are under consideration, is like a fine net, which is intended to catch every thing, both great and small. It may serve for a fine fancy to fill up a speech with, but will not answer for fortifications. It will endanger the nation by keeping us defenceless and weak, tempt aggressions, and invite the destruction of our seaport towns. Where, then, will be your economy?

It will be more for the advantage of New York not to have any appropriation; even to have the city laid under contribution, rather than have their harbor destroyed. The disadvantages by natural obstruction, by sand bars, in many rivers and harbors both in Europe and America, are so obvious to the most common capacity, as to be conclusive against making artificial ones. What is called a good harbor? Is it not depth of water to admit the free passage of a ship of any size, with good anchoring ground, and land locked? New York has every natural advantage, which it is our duty to protect and not destroy. How often have the citizens of New York humbled themselves by petitions, and how often have they drooped and hung their heads with disappointment! Shall we now tell them that the General Government has concluded to defend them by making a dam across the channel? For God's sake, let us lay aside these doctrines and chimerical schemes, and adopt some rational system, and persevere in it. It is of the most essential concern to that city; it is a measure of the highest importance to the nation. Some gentlemen say, New York cannot be fortified, from its situation. I have been informed by those who are venerated for their age, men venerated for their talents, and military skill, men almost adored and venerated for their military and political services, that New York is capable of being defended against the attack of the most powerful force, by forts and batteries, aided by block ships and ships of war. Tell us then, candidly and plainly, will you protect and defend us, or will you not?

Mr. Blount said, that the gentleman from New York had worked himself into a considerable ferment on this occasion. If he had attended to what had been said just now, he would have understood that the President of the United States had determined to place no obstruction whatever in their waters. except the assent of the Legislature of New York should be previously given. It was thought proper that an appropriation should be made to meet this purpose if that assent should be given. The gentleman certainly knew that an opinion was prevalent in New York, that by placing obstructions which would not tend to destroy the navigation of the river, a better pro-

tection would be afforded than by any fortifications whatever; and that millions, tens of millions he might say, would not be sufficient for completing fortifications on land which would afford as effectual protection as that mode. He could assure that gentleman that he had now before him three different estimates of the expense of placing these obstructions in three different places in that river; as well as soundings which had been taken for that purpose by Captain Chauncey, of the United States Navy. The gentleman might also rest assured, that if the Legislature of New York should choose to authorize this measure it would not totally block up the channel, as he had supposed.

Mr. Quincy said he would only ask the gentleman from North Carolinia, as to his precise meaning in inserting the word "works." This word was, perhaps, in common life, confined to constructions other than fortifications; he believed however it might include fortifications also. When he had asked the question as to the species of works contemplated to be erected, he had no conception that it was possible, under an expression of this kind, to comprehend the sinking of blocks to choke up the harbor of New York; for he had thought the erection of works was putting up, whilst sinking blocks was putting down. He had, however, a different object in rising. He had understood it to be the intention of this bill not only to authorize the repair of old fortifications, but the erection of new ones; and the bill as it stood antecedent to the gentleman's amendment, might have been competent to that end. Now, as the gentleman had amended it, it would imply works different from fortifications as he understood. If indeed it were the real object of the gentleman to repair old fortifications only, and not to erect new ones, the bill would now answer his purpose fully. If it were otherwise, he conceived the language was not correct.

Mr. Blount said, he felt very little solicitude as to the fate of his motion. His intention was to give a greater latitude to the discretion of the President. He would not, however, undertake to dispute with the gentleman from Massachusetts on the precise meaning of words; for he had not spent his early life within the walls of a college, as that gentleman had, but in the field, fighting for the liberties of his country. Under the belief that the word *works* did include fortifications, he had made his motion for amendment. It was the intention of the committee both to erect new works and to repair old ones. If the gentlemen from New York and Massachusetts were determined to restrain the President from giving that protection to the port of New York which the people of that State should think proper, he was content. He did not wish to waste the time of the House unnecessarily, especially on a subject which required so much expedition.

Mr. Cook said, he lived in a port in which there was sufficient depth of water for any British man of war, and he thought he should feel as indignant at any proposition for destroying the harbor as the gentleman from New York. He hoped the feelings of other gentlemen in the House would be in unison with his. If they were arrived at such a point of degradation, that, in case of attack, they must retreat to or beyond the mountains, and if instead of defending they must abandon the coast to its fate, they had better adopt this measure, and block up their ports altogether. After such a proposition as this, he should not be surprised at any one which could be made; it appeared to him that the spirit of our forefathers was departing the country. He was alarmed when he heard such a proposition as this, and he hoped there would be sufficient magnanimity in the House to give the amendment a decided negative.

Mr. Chandler said this proposition had its origin in a memorial from the mayor, aldermen, and citizens of the city of New York; and that those works were not contemplated to be erected, except with the consent of the Legislature of the State.

Mr. Blount said the gentleman from Massachusetts had pretended to understand the proposition to have for its object the stopping up the harbor of New York; he said pretended, because it would be but a poor compliment to the gentleman's understanding to suppose that he really thought such a proposition would ever be made on this floor. The water at the mouth of the river Hudson was ninety feet in depth; it was contemplated to sink piers in the river, and to extend immense chains from pier to pier, which were to be connected by locks, so that they could be at times unlocked. This could not be a new project to the gentleman who appeared so much alarmed at it. He had a plan now before him, which he did not obtain from the President of the United States, in which a course was delineated for a chain of blocks, and which would not obstruct the tide, so as to produce shoals in the North river. There seemed to be many different opinions on the subject among the citizens of New York; in consequence of which the President had determined not to attempt any measure of this kind without the consent of the Legislature of New York, who it was expected would discuss the subject at an early day.

Mr. Thomas said, that he thought it very proper to make this amendment, so as to embrace the plan of sinking blocks in the harbors of New York. He considered that the Executive, or the Secretary of War, had acted correctly in recommending to the chairman of the committee to have this latitude given in the specification of the objects of this appropriation. It was a truth, Mr. T. said, that the corporation of the city of New York had recommended that mode of defence, and the persons composing that body ought certainly to be supposed to be more competent judges of the best mode of defending that city, or at least they were better able to judge whether this mode of shallowing the channel, so as not to admit large ships of war to approach the city, would materially injure the commerce of that place, than any other class of citizens; they were certainly more immediately interested than any

other. And since the corporation of that city had adopted the plan of sinking blocks in the channel, as part of the system of defence, and submitted that proposition to the President, it was undoubtedly proper in the House to allow that object to be embraced in the appropriation.

Mr. T. could not see that any alarm ought to be excited by this. The Secretary of War, he understood, had written to the Governor of that State on the subject. The determination would be submitted to the Legislature. If they withheld their assent, by refusing to make the cession, the thing was at an end, but, at this stage of the business, he conceived it was the duty of that House to give such a latitude to the objects of the appropriation, as to embrace that mode of defence, if it should be ultimately adopted. Mr. T. said it was a mode of which he did not know that he should himself approve; but he confessed he was not a competent judge, and therefore wished the subject to be so left that it could be adopted or not by the President and constituted authorities of the State of New York, as the consent of both would be necessary before it could be carried into effect.

The gentleman from Massachusetts (Mr. Quincy) appeared to ridicule the idea of choking up the harbor of New York, as he had called it; but, he would repeat to that gentleman, the corporation of that very city had recommended this plan of defence. A corporation, too, a majority of whom, at least, coincided with him (Mr. Q.) in political sentiment.

Mr. Upham observed, that although he was not disposed to quibble on words, he really thought by the amendment proposed to the bill, the idea of erecting new fortifications was totally excluded. He wished the language of the bill should be so expressed as to give the President power to erect new as well as to repair old fortifications.

Mr. Blount modified his amendment so as to read "other fortifications and works."

Mr. Sloan said he rose to give the Committee a little information on this subject, particularly the gentlemen from New York and Massachusetts, who were so much alarmed on this occasion. Mr. S. then stated that during the Revolutionary war, at the time the British army made an attack on Philadelphia, piers were sunk in the channel of the Delaware, in a direction suited to the position of the fort, and chains extended from one to the other. This fortified the port above completely, insomuch that it detained the British vessels of war from proceeding further. He barely mentioned this historical fact to take off from the surprise which had been manifested by some gentlemen at this proposition.

The amendment was then agreed to—ayes 86.

Mr. Blount moved to fill the blank for the sum to be appropriated for fortifications with "one million." His reason for naming this sum was, that there remained in the Treasury, unexpended of former appropriations, about $123,000; $750,000 were sufficient to complete the fortification of those places which were susceptible of defence by means of fortifications; and it was believed, and he was authorized to say, that the sum of $200,000 would be sufficient to erect the works in the harbor of New York, in case of the assent of the Legislature.

The sum of $1,500,000 was then named.

Mr. Masters said that fortifications were one part of our defence, and gunboats were another. The select committee had reported both these modes in one bill, as intimately connected together. The sum for each object should be proportionate, according to the extent of their utility. The 188 gunboats which the bill provided for would cost $940,000, and to keep them, with those already built, in actual service for one year, would cost the nation the additional sum of three millions of dollars. The sum of fifteen hundred thousand dollars, which he had moved for fortifications, bore no proportion to the other appropriation, according to the importance of the object. It was to be remembered that this sum was to be applied to more than thirty different places. He wished, therefore, the bill for building gunboats might not be hurried out of their hands until he could have time to prepare an amendment to reduce the number of gunboats and provide for building some ships of war, unless the House would agree to raise the sum intended for fortifications, to enable the President to erect a formidable fort on Flag Staff Hill, and a battery on the shoal opposite, at the Narrows, to prevent enemy's ships sailing into the harbor of New York. He had been informed by Captain Williams, who was a very skilful engineer, that a fort could be erected at the Narrows, which would discharge 180 heavy cannon in a minute. The fortifications on Governor's island and the contemplated works at the Battery and on Bedlow's island, were only intended to prevent ships of war lying against and firing upon the town. No man in his senses would contend that these works, with fifty gunboats to be assigned for New York, were a sufficient defence for that important city. Those gentlemen whose favorite system of defence was gunboats, he trusted would not object to a liberal appropriation for his system. He understood the honorable gentleman from Pennsylvania (Mr. Smilie) to say that he objected to any defence by frigates, because, where one frigate was another could come, and because gunboats could run out of the way. This argument amounts to this, (said Mr. M.,) that frigates will have to fight, and gunboats to run out of the way to avoid fighting; and for that very reason he should prefer frigates, which would make a great addition to our national strength.

It had been stated, if they have fortifications, they could not prevent an enemy from landing. The consideration for the House was, what places were most vulnerable to attack, and upon such places to erect fortifications. If an enemy could land near a city or town, it proved that forts and batteries were absolutely necessary for the defence of such cities and towns. He discarded half-way measures; if a narrow, selfish policy prevailed, the nation would feel the fatal effects of it. If the nation desponded, it would not be for the want of

men or small arms; it would be from their measures, and he feared their gunboat plans would paralyze the whole system of national defence.

Mr. Fisk said, the gentleman last up had told them the sum was too small; the chairman of the Committee of Aggressions had made the inquiry of the proper officer, whose duty it was to make up the estimates, and the result of that inquiry was reported to the House. That officer had told them what sum was necessary, and the House would not take the gentleman's declaration that there would be a deficiency; for he produced nothing but assertion in support of his declaration. Were the Committee, because a large sum made a respectable appearance, to appropriate more than was necessary to answer the purpose? He thought not; they had sufficient occasion for their money. The gentleman did not appear to recollect that Congress had, year after year, been granting money, millions, he might say, for fortifications. If this had occurred to the gentleman, it might have lessened the inequality which he thought to exist. He was of opinion with the gentleman that they should make such appropriation as might be efficient; and although it had been said that the contemplated appropriation was a mere nothing, Mr. F. said that it was not evidence to his mind that it was not enough.

Mr. Quincy wished the report of the Secretary of War to be referred to, in order to show the incorrectness of the gentleman from Vermont, who had stated that, in some years past, there had been millions appropriated for fortifications. Mr. Q. said, if his memory did not fail him, in —— years there had been appropriated for that purpose only $540,000.

Mr. Gardenier wished to have given his sentiments on this subject, but as he was at this time unwell, he hoped the Committee would rise, to give an opportunity for further discussion.

After some conversation on this motion, the Committee rose—yeas 86, nays 43, and the Chairman reported progress in the gunboat and fortification bills.

On a wish being expressed now to consider the bill, which passed through the Committee of the Whole, for building gunboats, it appeared that no agreement to the bill had been reported; when, on motion that the House immediately resolve itself into a Committee of the Whole on the bill, there were—yeas 55, nays 55. The Speaker decided in the affirmative.

The House being again in Committee, Mr. Burwell moved that the Committee now rise and report their agreement to the bill for building gunboats, and report progress on the bill for fortifications. A conversation of some length took place on the motion, when it was agreed to—yeas 65, nays 44.

The Committee accordingly rose, and reported an agreement to that bill.

Wednesday, December 9.

Another member, to wit: Edward St. Loe Livermore, from Massachusetts, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. Boyle, from the Committee on the Public Lands, presented a bill making farther provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Dawson, from the committee appointed on so much of the Message of the President of the United States as relates to the Military and Naval Establishments, presented to the House a letter addressed to him, as chairman of the said committee, from the Secretary of War, enclosing an estimate of the annual expense of an army of thirty-two thousand eight hundred men; also, an estimate of the expense of the Hospital, Quartermaster, and Ordnance Departments, for the first year.—Read and referred to the Committee of the Whole to whom was committed, on the second instant, a report from the committee last mentioned.

FORTIFICATIONS AND GUNBOATS.

The House proceeded to consider the amendments reported yesterday by the Committee of the Whole to the bill, sent from the Senate, entitled "An act to appropriate money for the construction of an additional number of gunboats."

Mr. Durell said, as there appeared to be a considerable diversity of opinion on this gunboat business, and as a number of gentlemen from the North did not readily fall into the scheme of the Southern gentlemen, and as he was from the North, he would state some reasons why this bill should not pass. He thought, as every gentleman appeared to think, that this was a crisis which called for union and great exertion; the great object was, to arm the nation to meet an event which they would be called to meet ere long. The question was now on one species of this arming, on which there were different opinions. He could have wished that the whole subject of defence could have been before the House at the same time, and that it could have been so considered. It appeared to be conceded, on all hands, that fortifications were necessary, and gunboats might be useful to a certain extent; but something more than gunboats were necessary, to wit: ships of war of some magnitude. This doctrine might be considered heresy in that body, for aught he knew, but he felt it his duty to express his opinion on the subject.

It appeared that, in addition to fortifications, the precise number of one hundred and eighty-eight gunboats was called for. A question had been asked, why that number was exactly calculated as being necessary; the chairman of the committee, who reported the bill, states that this number was thought necessary by the Executive department. It was not to the system of gunboats that he had an objection, for he believed that, to a certain extent, they might be useful; but he did not believe that gunboats, in connexion with fortifications, would attain the end for which they were acknowledged to be proposed. In casting

his eye over the documents before him, he perceived that gunboats were assigned to certain situations in the North, where he was confident they could never be of use. He was positive of this fact. Four gunboats were assigned to the port of Portsmouth, New Hampshire. He would appeal to gentlemen in the House, acquainted with the situation of that port, whether they seriously believed that four gunboats, or that twenty, would be of any service there? It was impossible that they should; the situation of the port, the strength and rapidity of the tide were such that they could not be used. The same observation would apply to a number of ports east of that; it was generally conceded that gunboats were not calculated for deep and turbulent waters; the Northern shores were not sand banks, and gentlemen seemed to think these were necessary to allow gunboats to defend even themselves.

He saw that for the ports of Norfolk and New York, there were assigned a large number of gunboats. He was inclined to believe that a number of frigates, to the amount of the expense of these gunboats, would be more consonant with the wishes of the people in the mouth of the Hudson, than so many gunboats.

It had been stated, in the course of debate on this subject, that these boats were a cheap defence, and easily attainable. Mr. D. said, he had taken the trouble to make a comparative calculation of their expense; it was not, to be sure, from official documents before him, but it was sufficient to convince him that they were at least equally expensive with ships of heavier metal. The House had before them a statement, in which the cost of gunboats was precisely stated, and it would be found that the expense of building and supporting at sea sixteen gunboats for one year would amount to more than $280,000. He found, by recurring to documents in his hand, the expense of British ships of war estimated at £1,000 sterling per gun. Taking that calculation for the expenditure here, he found that a forty-gun ship would amount to $249,000, and rather more, which was less than building and supporting at sea for one year sixteen gunboats. He would appeal to any gentleman, who had experience in naval affairs, (if any such were within the walls of the House,) whether a forty-four gun ship, notwithstanding it belonged to the Navy, and that this Navy, such as it was, had been denounced as a disgrace to the country—whether a forty-four gun-ship would not be of more effect and better calculated to protect that city, and its trade, than sixteen gunboats?

One hundred and twenty-eight gunboats to Norfolk and New York! The expense of sixty-four, one half of this number, would be fully equal to the expense of four forty-four gun frigates; and he was of opinion that these, at one half the expense, would be considered by the gentleman from Norfolk and New York, and by the House, as better calculated than gunboats to defend those ports. Mr. D. could see no reason why they should not have their choice in this respect. He, therefore, concluded with moving to strike out "one hundred and eighty-eight gunboats," and insert "one hundred and twenty-four gunboats and four forty-four gun frigates."

Mr. Blount called for a division of the question, wishing the first question taken on striking out.

Mr. B. said, however necessary such a measure as that proposed should be thought by the House, it was not necessary to interweave it in this bill. If this bill were passed to-day, contracts might be entered into to-morrow, and the building of the boats immediately commenced. It was not to be expected that a proposal to add to our Naval Establishment, which had uniformly produced so much discussion, would pass through even this House in two weeks, which would be too long a delay of defensive operations. If the gentleman could convince him, when the subject was before the House, that an increase of the Navy was a necessary measure, he would vote for it with him; but the bill should not now be hampered by a proposition of this kind.

Mr. Gardner felt very conscious of the importance of fortifying the various ports and harbors of the United States, and should give the bill his support on its passage; but he had been in hopes yesterday that the amendment proposed by the gentleman from Pennsylvania would have prevailed. He wished to see the system of gunboats put into operation, and to see the efficiency of that mode of defence properly tested. There appeared to be many different opinions on the subject; and he perceived the House would not be satisfied till the experiment was tried, and their utility known. He was willing that as many gunboats should be employed as was sufficient for defence in those waters where they might be useful; but he did not think they would be efficient in the Northern and Eastern ports of the United States. He should be obliged to gentlemen if they would strike out a part of this number of gunboats, and appropriate the sum applicable to them to another mode of defence. There appeared to be a large majority in favor of the bill, but if they would be so condescending as to fortify the Northern ports in a way most agreeable to the people interested in their defence, he should feel gratified at it. He was in favor of the amendment, though he would rather a larger number should be stricken out; and hoped the question on striking out would be carried, whether ships of war were inserted or not. It had been yesterday said, by a gentleman from Virginia, that if a less number were built than that proposed, they would be useless. This argument could have no weight with those who did not think they would afford defence at all; but, for his own part, he should vote for anything in the shape of defence, till it should be found insufficient by experiment.

Notwithstanding all that had been said on the subject of gunboats, he had not heard that they had ever been tried but by nations who possessed other naval force. He hoped the number would be stricken out, from a spirit of accommodation, and frigates substituted for the gunboats which

were assigned to the ports north and east of New York.

Mr. Blount said, that the House could do nothing on this subject, were they inclined, while it was under the consideration of the Committee of the Whole. The Committee on our Military and Naval Establishments had reported a blank resolution for building ships of war, which was referred to a Committee of the Whole. If gentlemen wished to have the whole subject before them, he would suggest to them the mode of doing it; throw all the reports from your tables, demolish the committees who made them, and erect one great committee of defence. He thought himself that this should have been done in the first instance; but, as another method had been pursued, gentlemen would better promote the interest of their country, and their own views, by permitting this bill to pass, and they might then call up the report on the subject of a navy.

Mr. Thomas had been of opinion that it was proper to reduce this number of gunboats, and that the number now proposed to be inserted was sufficient; but, since a majority seemed in favor of the original number, he should acquiesce in it. When the subject of fortifications and other objects of defence should be taken up, he had no doubt but a liberal disposition would be manifested by the House.

Mr. Bacon observed, that some gentlemen had undertaken to themselves to represent the whole Northern part of the Union, and had expressed their wishes that the House would condescend to listen to the united prayers of the representatives from those States. He only rose to say, that he, for one, protested against being considered as joining in that request. He was of opinion that the mode embraced by the bill would better accord with the sentiments of the people of the Northern States, than that which those gentlemen had proposed. He had no intention of making any calculation on the subject, because he did not consider himself qualified to do it; but would barely observe that, were the question fairly tried in the Northern interest, those gentlemen would be found in the negative.

Mr. Gardner said he did not pretend to represent a larger portion of the Northern country than fell to his lot; but, the reason why he urged the expediency of this amendment was, that he perceived that one mode of defence was brought forward to drain a large sum of money from the Treasury, which might exclude others; he also conceived that there was a propriety in uniting gunboats and frigates together. This mode had been brought forward by the chairman of the Committee of Aggressions, and was to be crammed down their throats, whether they would or not. Why should not the Northern States have a chance for their mode of defence, as well as the Southern States? He was willing those States should have them, but wished other States also to have their wish. They had been told that this mode was recommended by the heads of departments; he was only sorry that it was not recommended by higher authority.

Mr. Crowninshield said, he considered the present proposition as much the same with that which was yesterday offered in Committee of the Whole, and to which the Committee was decidedly opposed. He trusted the decision of the House to-day would be the same as that of the Committee yesterday. He thought his friend from New Hampshire was extremely mistaken in his calculations of the comparative expense of gunboats and frigates of forty-four guns. It would be seen by the report of the Secretary of the Navy, that the estimates for gunboats would amount to about $5,000; and he thought it would not go beyond it. Taking this for granted, the gentleman's calculations of expense must fall to the ground. Mr. C. then stated the expense of frigates which had been built, from which it appeared that the expense of building one frigate was fully as much as that of sixty-four gunboats. If they proposed to strike out this number of gunboats in order to build frigates, they must add a sum of one million of dollars to the appropriation.

Mr. C. was sorry this question had been presented to the House at this time and in this form; if gentleman wished ships to be erected, they could bring forward their propositions hereafter, and obtain their object. He was sorry to see this system embarrassed by any other; he thought it was unconnected with any other system, whether fortifications, navy, or whatever might be proposed. He thought it was very probable, if the United States were involved in a war, that they must increase their Naval Establishment. In saying this, he did not mean that they should wade into an ocean of expense: but he thought a few frigates would be necessary to protect prizes, and to convoy merchant vessels. It was well known that the British navy, large as it was, could not protect her whole commerce, many of her merchant ships sailed without convoy; they sailed armed, however; and such ought to be the case, in this country, if unfortunately it should be afflicted with war. We are not now at war, said Mr. C.; we have received a blow and claimed reparation, the decision on which is not yet made; when war does ensue, it will be time to arm our merchant vessels. It was nevertheless proper now to make preparation for defence. It was well known that although the Secretary of the Navy had estimated a certain number for each port, these gunboats could be removed from one part of the country to another when occasion required; and the port of Newport, or any other northern port which had not a due proportion, at a proper time could receive aid from New York. He could not conceive that the estimate being made up in this manner precluded a different arrangement.

One word with respect to the utility of these boats, in addition to what he had before said on the subject. The gentleman seemed to think that a forty-four gun frigate would be of more use than sixty-four gunboats. Did not the gentleman know that gunboats carried thirty-two pounders, while a forty-four gun frigate could only carry eighteen's; there was a vast difference between the power of eighteen and thirty-two pounders. Gunboats placed in convenient situations in our harbors might be extremely useful; and he must assert, that a dozen or fifteen gunboats could drive a fleet out of our harbors. Gentlemen in the country who were entitled to great credit, had decided in favor of their utility; it had indeed been fashionable to abuse gunboats, but that was no reason they should now be objected to. If gentlemen wished frigates, let them come forward fairly with a proposition at any other time than this moment and he would meet it fairly. The boats should be built now, as a preparation for events; perhaps war could not be avoided, perhaps it could. Let us, however, said he, put our ports in a state of defence that we may be prepared for all possible events.

Mr. Sawyer said, it was not his intention to trouble the House often with his observations; for, being but a young member, he sat there more for the purpose of acquiring information than of giving it; nor should he have risen at this time, had not his duty compelled him to reply to some remarks, and to oppose the amendment offered by the gentleman from New Hampshire (Mr. Durell.) The gentleman wished the United States to have a fleet; to have four forty-four gun frigates to assist in the defence of New York. For his own part, Mr. S. wished the United States were in such a situation as to enable them to usher into existence a fleet capable of annihilating at one blow the whole naval power of England, which had so long proved a scourge to all nations, and to this nation in particular. Such a consummation was devoutly to be wished; but the attainment of such an object by the United States was utterly impossible: they had not means wherewith to do it, and an attempt which should fall short of the end, would do the nation more injury than good, by tending to swell the already overgrown naval power of Great Britain. At present, he must say, he was entirely opposed to a Naval Establishment, and differed entirely with the gentleman from Massachusetts, upon the propriety of any such establishment in the present situation of affairs; he wished to have nothing to do with any establishment unconnected with a system of land defence. There was a time when a Naval Establishment might have been consistent with national policy; when a naval armament, such as could then have been constructed, might have been instrumental, by proper management, in maintaining the balance of naval power in Europe; that time was, when the combined fleets of France, Spain, and Holland, were nearly a match for the British naval force; but that time was now elapsed; that opportunity, which might have been so advantageously seized, was, through an unfortunate prejudice in favor of one nation and against another, suffered to escape unheeded. They now saw the effects of that policy; the fleets of France, Spain, and Holland, were swept from the ocean; the British navy retained the undisputed possession of every sea, and it would be an extravagant undertaking in the United States to attempt the creation of a naval force calculated to make a serious impression upon Great Britain; they would become the mere shipwrights of Great Britain, who would be ready to receive their ships as fast as they could be launched. Could they erect a navy equal to that which Denmark had possessed? Could they build and equip twenty-four sail-of-the line at once? If they could do this, experience had fatally shown, that so far from aiding in the defence of the nation, this force would soon be turned against it; England, with a superior force, would soon convert them into a means of offence against this nation. But it would not be in the power of the United States, encumbered as they were by a great national debt, and cramped in their resources by interruptions of their trade, to provide a navy as respectable as that of Denmark was; and surely any smaller force could not be contemplated. Let us then, said he, apply our limited means to a mode of defence on which more reliance may be placed; let us in the first place put our ports and harbors in such a state of defence as will, in a great degree, prevent our feeling the want of a navy. To effect this object, he said, they must have recourse to gunboats. He did not conceive this means of defence to be so trivial as the gentleman from New Hampshire (Mr. Durell) seemed to think them; not that they could be relied on as an efficient system of defence by themselves; not that they were to expel the British squadron from our shores (though it was thought they could effect that object;) but because, in conjunction with land batteries and fortifications, they would insure some safety of person and property in our seaport towns. By judicious management, by disposition in shoal waters, so as to aid the batteries on shore, they might be the means of preventing our cities from being plundered and burned, and our banks and stores from being rifled of their wealth. In this point of view, he considered them as part of a land defence, totally unconnected with a navy; they were not to go into deep water; the ocean was not their element; they were to remain in stations from which they might afford the greatest assistance to our forts and batteries, and when hard pressed or overpowered by force they could take shelter under them. This, said Mr. S., is the great advantage they have over heavy ships, there being no danger of their capture while we can maintain possession of our forts. He did not calculate upon their always escaping unhurt; he trusted they would not be too much given to running; they would no doubt be sometimes hit, and he trusted their brave seamen would sometimes expect to suffer and would not shrink from the danger. He trusted they had at present many mariners ready to emulate the glorious example of those brave fellows who devoted themselves for their country at Tripoli; but what would stimulate their courage and inspire them with confidence, was, that these boats presented but a small mark to their adversary, while he at the same time, owing to his superior bulk, would scarcely ever be missed, and one of their six and thirty pounders would make no small impression upon a large ship; the wound would be dangerous, and if, as he was told would be the case, they fired red hot shot, very often mortal. These boats, in co-operation

with forts, would secure the shores at least from the depredations of a few frigates. Without them, they might soon expect to see their cities wrapped in flames, their banks plundered, and individuals despoiled of millions: but with this powerful aid to fortifications, disposed in the manner directed in the bill, to effect an object of this kind would require a force from England which it would be very inconvenient if not impossible for her to spare. He had this morning received a piece of news which very much lessened the necessity of acceding to the gentleman's motion for the construction of four additional frigates for the defence of New York; he was told from good authority that the commandant of the gunboats stationed at that place confidently declared, that with fifty of those boats, in conjunction with the forts, he would be able to repel any force that could be sent against him—and Mr. S. said he had no reason to doubt the correctness of his calculation. Nearly all the effective impression which the arms of the United States made upon Tripoli was by gunboats, and that was the first experiment of the kind they ever made; and it might be supposed that great improvement in their construction and management had been since made. Besides, they were then put to an use for which they were not originally intended; they were meant to be employed as defensive weapons, not offensive. The next experiment was tried at Algeziras, and the last at Boulogne. From their efficacy there, as auxiliaries to the batteries, was to be ascribed the salvation of the French squadron and the escape of the town from plunder and conflagation.

The British have not dared to attack a single French port since, though they had full possession of the channel and every means of attack which their unopposed naval superiority could afford. Though they saw preparing in those ports materials for their destruction, though they saw rising up in them means of offence so much dreaded as to require the utmost vigor of national exertion to provide against them, still did they stand aloof. Had Copenhagen been defended by gunboats distributed so as to act with the batteries, she would not have fallen so easy a prey; in fact, the few gunboats they had, did all the execution that was done to the British shipping; for the fleet which remained in the port for its defence had no retreat from the superior force of the enemy, but where they could be pursued by vessels of equal size, while the gunboats ran under the forts and continued to annoy the British ships until those forts were taken by land. And if all the vessels which were captured had been gunboats, how much better would it have been for the Danes; how much less heavy would the loss of a few boats have been than that of so many large ships, so long building and accumulating, and at such an immense expense! But in order to show the inutility of gunboats, as well as fortifications, this House was told the British could succeed against our towns by landing a sufficient number of men below our forts and attacking them by land. This is exactly, Mr. S. said, what he wished to hear; for it was conceding at once that our gunboat and fortification defence would be too much for them to pass, that they would be compelled to give up the idea of carrying the place by water, and thus lose all the great advantages which their boasted irresistible naval power could afford them. If it proved anything else, it was an argument that equally applied against making any preparations for defence at all; for, as they could not pretend to put their whole line of seacoast in a state of defence, an enemy might always find some place at which to land, and it might as well be said that one place ought not to be put in a state of defence, because a landing might be effected at another. Mr. S. hoped they should be prepared to meet them at every vulnerable point; he hoped their care would be extended to all our large commercial cities, in such a manner as would, with the aid of their patriotic citizens and the militia, protect them from the predatory incursions of the enemy, for it was that species of warfare on which the enemy seemed mostly to rely. To her disgrace, be it spoken, that the chief hostility at present carried on by Britain was by buccaneering, robbery, and plunder; they watched opportunities to trespass upon the property of individuals by surprise, and insidiously carried off everything they could lay their hands upon. The British, he said, find their sources of wealth obstructed from being driven with their trash from the continent of Europe; and in order to support their expensive establishments, and the appearance of a nation, they made up the deficiencies by such crimes against neutrals as in individuals would send them to the gallows; they became highwaymen by sea and land; they were guilty of violations not only of the laws of nations, but of the municipal laws of almost every State, through every grade of criminality, from piracy even down to petty larceny; we are, therefore, to provide against them, not as an honorable, open enemy, but as a gang of robbers. If they went on and adopted the defensive measures recommended in the bill reported by the Committee of Aggressions, as well as this bill, they would be sufficiently prepared for their reception, without going to the expense of building more frigates. Should they attempt anything more serious against us, said he, I trust we shall be prepared to meet them on equal grounds, and that we shall not be outdone by the Spaniards in Buenos Ayres, or even by the Turks at Constantinople. Of this kind of assault, said he, we have little to dread; they have sufficient employment for their men without sending them abroad to fight. It is their despicable, free-booty mode of warfare against which we have the greatest occasion to provide: that they may not, with a few ships and men, seize upon New York for instance, and carry off the accumulated millions of her banks and merchants; and such provision is already amply contemplated in the two items of the bill reported by my colleague.

Mr. S. said, that in all their measures of a defensive nature, there was one thing the House ought most strictly to attend to, and that was economy, which the exigency of the times requires that they should practise; their plighted

faith for the redemption of the national debt required that they should practise it. No system of defence could be devised for the country, in his opinion, so efficient and so economical as that embraced by the bill as it now stood. Calculate the expense of building forty-four gunboats and a forty-four gun ship, and they would find very little difference; yet how great would be their relative difference in point of utility in case of attack. The frigate would soon add one more ship to the number of the enemy; but the gunboats would subtract a few from him, or at least disable them, so that they would be obliged to sheer off to refit. The cost of a forty-four gun frigate in this country fell little short of $257,000, that of forty-four gunboats at $6,200 each, amounted to $272,800. The frigate could not act against an enemy without wind, but the gunboats, by the use of their oars, might, in calm weather, when a hostile fleet could not form in order of battle, row up as near as they desired and give them point blank shot. Calculating every other shot only to take effect, and two shot to be fired every minute, a ship would receive sixty of our thirty-six pound balls in an hour, which, in his opinion, would pretty well do her business, particularly if any of them were red hot. But it might be asked, what is the hostile ship to do in all this time? Mr. S. said she might bring such guns to bear upon the boats as her situation would permit, and which, in order to reach her must be thirty-six pounders, a weight that no forty-four gun frigate carried, unless a few on her quarter deck; and while lying insensible to her helm, she would have to take aim at a little boat, with its bow towards her, a mere wedge not four feet above water. In such a situation one or two boats on each side of her would, he thought, be an overmatch for any frigate: if they were not, they could still retreat to a place of safety. Our channels were so narrow that if a whole fleet were to attempt to enter our waters, but one or two ships could pass abreast, particularly if the wind were ahead; and each ship of that fleet would have to expose itself in rotation to the point blank shot of our gunboats and batteries. If they escape both, then I confess, said he, we have no way of effectually defending ourselves by water, and I leave the enemy to be received on shore at the point of the bayonet by our brave militia, who I trust their old masters will find somewhat improved in their favorite art, since the few lessons they gave them last war.

Mr. BLOUNT said, that having the honor to be a member of the committee to whom had been committed by the House the subject of aggressions, he would ask the indulgence of the House to repel an aggression on that committee, especially as he meant to do it by means which would not interrupt the tranquillity of the House. A gentleman from New Hampshire had said or insinuated that that committee, regardless of their duty, had shown a particular partiality to the mode of defence by gunboats. It would be a sufficient answer to this imputation to read the resolutions constituting that committee and the committee on our Military and Naval Establishments. [Mr. B. read these resolutions.] He would ask the gentleman whether he could have expected from the Committee of Aggressions, a report proposing an augmentation of our naval force? The committee had an equal regard to the protection of all the States. As to the Southern States, Mr. B. said, particularly the State which he had the honor to represent, they required no protection beyond their proportion. Far from having such selfish views as seemed to be entertained by some gentlemen, they relied more on their own strength and spirit for protection, than on fortifications by the United States. A great deal had been said by gentlemen on the inefficiency of these boats. Mr. B. regretted that it was not known by the President of the United States, when he was last session called upon for information on their utility, that there were other gentlemen in the United States than those whose opinions he had transmitted, who had such accurate knowledge on this subject. The committee, however, had believed that the evidence in their favor was conclusive; Mr. B., therefore, called for the reading of the Message of the President of the United States, of the 10th February, 1807, with the accompanying papers.

The Message and papers were read.

Mr. COOK said, he could have wished that the different modes of defence should have been united, and decided upon together; but from the disposition of gentlemen who were in favor of the gunboat system, the House appeared to be compelled now to decide on this alone. It was well known that he was not averse to the proposition for constructing a number of gunboats; that he had last session given his vote in favor of them, and was now in favor of increasing the number, believing that in some situations they might be eminently useful; but when he found that so large a sum had been appropriated, almost to the exclusion of any other mode of defence, he deemed it his duty to give his vote in favor of a proposition tending more equally to apportion the modes of defence.

It had been moved to strike out of the bill a certain number of gunboats, and insert a certain number of ships of war. That a navy was necessary for the protection of our commerce was the opinion of President Washington, expressed at a time when our commerce was comparatively small. [Mr. C. here read an extract from an address to Congress from President Washington.] Mr. C. acknowledged that he had not experimental knowledge on this subject; but he appealed to the candor of those gentlemen who advocated this mode of defence, to accord to him that liberality which he would exercise towards them. He meant to impeach the motives of no man. He conceived that every gentleman would act according to the dictates of his conscience, and he claimed their indulgence to do the same.

He believed that gentlemen of the same political name throughout the Union differed more on this subject than on any other whatever. It was natural to suppose that gentlemen whose property was afloat on the ocean should wish to adopt those means of defence which should appear to be most useful, efficient, and necessary for that purpose.

Three-fourths, if not seven-eighths, of the mercantile interest, of whatever political opinions, from South and North, of the stockholders, commanders of ships, and officers on board of them, those persons whose property was at stake on the ocean, were in favor of the protection of commerce by ships of war, and did not feel that respect for gunboats which had been attributed to them. He felt confident that he now spoke the sentiments of the mercantile interest generally; and that part of it which he had the honor to represent, being in favor of the present Administration, were almost unanimously in favor of the protection of commerce by ships of war. Gunboats were merely an aid for repelling invasion; he contended that they were not calculated for deep waters, or for the protection of commerce in time of war, when the enterprise of our citizens should induce them to venture out. He had in his hands a late newspaper, which he begged permission to read, from which it appeared that twenty gunboats had been entirely defeated by one single frigate and another small vessel.

Mr. C. said he was in favor of gunboats generally, but wished them to be somewhat limited in their number. It had been said that some able naval commanders had been in favor of gunboats. He was as well acquainted with Commodore Preble (whose opinion had been stated in favor of them) as any gentleman in the House; that officer was of opinion they might be useful in some circumstances, as in the waters of Tripoli; but had any man proposed to Commodore Preble to take command of an armament of gunboats, he would have shrunk from the offer. When an offer was lately made to Commodore ——— to take command of the gunboats, he accepted it and said he would do anything for the service his country might require; but, addressing himself to the gentleman who made him the offer, he begged if any larger ships were to be constructed, that he might not be confined to boats. Mr. C. thought, however, that the opinion of a commander of a squadron should not go further than that of any other officer, neither was he disposed to receive the dicta of any of the heads of departments on the subject; he was sent here by his constituents to legislate, and not to rely upon their opinions in his vote on any subject. He felt astonished when he heard gentlemen say they must do this or that, because it was agreeable to the opinion of the Secretary of the Navy. When he asked these officers for information, he was willing to receive it; but he did not want their opinions. The House had the opinion of the Secretary of War at the last session; he reported an opinion that $20,000 was necessary for fortifications the ensuing year. Did the House concur in this opinion? No, they appropriated $120,000 for that object. Mr. C. did not conceive the opinion of any person to be entitled to consideration by the House; it was their duty to act as they conceived to be correct, and to be guided by calculations from whatever quarter, when supported by reason.

The United States had formerly had a navy; it grew up under the first Administration, increased under the second, and had not decreased under the third. What was the cause why a navy was unpopular? Was it because of its inutility? Was it because it was degraded on the ocean? Neither; nor was the prejudice against a navy warranted by experience; for navies had been found useful and adopted by every nation under heaven. The true reason was, that the navy was augmented to serve offensively against France, when a large majority of the people of the United States believed (and with whom he himself thought) that the war then waged against that Power was a war against reason. The high-toned measures adopted on that occasion caused the diversion of the public sentiment; the increase of the Navy, as an abstract measure, was never disapproved of by the Northern States. It was there generally conceived that a navy commensurate with our means was absolutely necessary for the protection of our commerce. What rendered it unpopular, was, that it was intended to be used against a Power that had been friendly to us; to whom we considered ourselves as owing a debt of gratitude, and to whom we had so conducted ourselves, by an alliance with Great Britain, that she was almost justifiable in the measures she then pursued. This was the reason why that and other measures were at that time so extremely unpopular. Were the Navy now to be increased to repel aggression from any foreign Power, it would be regarded as a proper measure. He was not in favor of a large increase of our Navy; but he conceived it necessary to have a few large ships to drive from their ports scattering ships of an enemy. He thought himself not out of order, since the opinion of the President of the United States on the subject of gunboats had been read, verbally to quote his opinion on this subject. The President was in favor of large ships; he thought it was improper that any single ship should be able to block up a port or harbor of the United States; and that a remedy should be provided. Mr. C. thought that no danger could arise to the liberties of the people from an increase of the Navy; he called upon gentlemen who supported that doctrine to quote a single instance where any nation had lost its liberties from a navy. He did not himself consider an increase of our Navy necessary at the present moment, but it might be necessary at a future time; it would not therefore, be improper now to provide materials, that they might have them in readiness when wanted. At present their attention should be directed solely to the defence of their cities on the seacoast; but at any future time, when it should be made satisfactorily to appear to this Government that the nations of Europe were disposed to coalesce for the purpose of asserting those rights which were dear to every maritime Power, he hoped the United States would be ready and willing to join them in maintaining the freedom of navigation. It has been said, by some people, observed Mr. C., that we ought to lie by on our arms and avert the event of the European contest; let them alone, say they, let Bonaparte fight it out with them. Now this was a doctrine to which Mr. C. could

not subscribe. If there was one great Power disposed to control and domineer over the ocean, and the United States had great property at stake, why not pay their proportion, their footing as it were? He considered an opposite conduct pusillanimous and unjust. They had more tons of shipping afloat, and were more largely concerned in the freedom of the seas, than any nation on earth, one only excepted; and should they say that they would lie by unconcerned, while the dearest rights of nations were destroyed by any one nation! It must be clear to every one that they should not, and yet, instead of increasing their defensive powers where they were assailable and most vulnerable, he was hurt to hear gentlemen propose means of defence for points perfectly unconnected with existing evils, which consisted in the harassing their navigation, and inflicting injuries on their floating commerce.

Mr. C. did not want ships for protection of our cities; he had no fear of their being burnt; he considered them as sufficiently protected by the proposed fortifications and gunboats, but all the money in the Treasury should not be applied to these subjects. The merchants of the United States were more concerned for the defence of their property which they had sent beyond seas than for the burning or sacking of our cities. Some cities, it was true, had been burnt during the Revolutionaiy War; but it should be recollected that the enemy then carried on a war of extermination, and even invited the savages to burn our towns. The war which was now feared was not a war of the same stamp; it would be merely a war for the right of trade, and not carried on in so sanguinary a manner.

Mr. C. did not believe that these gunboats would aid or increase the spirit of the officers and men employed in our marine service. It was not a little extraordinary that those gentlemen who had been in the habit of telling the House that they were opposed to all naval appropriations, opposed to fortifying our cities, opposed to commerce altogether, and wished the people of the United States were in the isolated situation of the Chinese, mere receivers of trade—it was indeed extraordinary that they should now force the Northern States to receive that protection which they did not want. Why not permit them to receive that species of protection which was most congenial to their wishes? In speaking thus, he certainly expressed the sense of the mercantile interest generally.

Many maritime nations had in different ages grown into existence; had risen and declined; but we read of none that ever refused to defend their commerce. This plan of defence was a new and untried thing; would it not be prudent to make the experiment on a smaller scale? Let me know by experiment, said Mr. C. that as many guns as a large frigate carried, distributed in gunboats, will conquer that frigate and I shall be convinced of their efficiency, but not till then. Mr. C. said he did not feel willing that so large a part of the resources of the country should be expended, for the purpose of trying new theories, to so great an extent as was proposed. He had at present very little opinion of the efficiency of blocks sunk in the channels of ports, for the purpose of impeding navigation, and preventing the approach of an enemy. If anything could manifest the people of the United States to be a pusillanimous people, it would be done by destroying their own harbors in preference to defending them; and the torpedo scheme was of the same stamp. Mr. C. predicted, that if these gunboats were built and there was no occasion for their service, they would not be competent to the transportation of tobacco, flour, or any productions of the country. A project had been hatched for deserting their cities, and running over the mountains, when attacked; it would be much the same with their gunboats—when an enemy approached, they would be obliged to abandon them. They would not answer; and in the event, this country would be compelled to adopt the same plan as other nations—and to erect a navy for the protection of their commerce. Last year when they were on this subject, fortifications were ridiculed, and it was almost as much as a man's head was worth to propose anything of the kind. Now, when dangers become more pressing, those very persons who were most opposed to them, considered money as well laid out in erecting fortifications.

He was happy to find, however, that one and all were determined to resist the enemy at the water's edge. He did hope the time was not far distant when every gentleman who felt interested in the common stock, to protect which was their common duty, would admit that the erection of a navy was an advisable, an indispensable measure of protection and defence. Was there any gentleman, however remote from the shore, who would not feel degraded and indignant at the knowledge that one single ship, of one hundred guns for instance, had laid under contribution the city of Charleston or Norfolk? Had the United States now any force to prevent such an occurrence? It was the opinion of gentlemen in this country, best acquainted with naval force, that the United States could muster no force sufficient to contend with a ship-of-the-line. Was it not time then to have such a force? He hoped this amendment might prevail, as a commencement to a naval force.

Mr. Holland said, it appeared to him that the gentleman who advocated the motion for striking out part of the gunboats, had mistaken the object of gunboats; they were not intended for the protection of our commerce at sea, but for the protection of our ports and harbors; neither was the protection of our commerce contemplated by this bill. If they wished measures of that kind to be adopted, why did they not bring forward a proposition for the protection of our commerce at sea? They would then have the subject before them, and might properly consider it; but to go into a discussion on the subject of the protection of their commerce at sea, when the bill under consideration only provided for the protection of our ports and harbors, was extremely absurd.

It had been stated, as the opinion of General

Washington and others, that a navy was absolutely necessary for the protection of the commerce of the United States, and such a navy, too, as the United States could not afford to build. Gentlemen seemed to hope that the time was not far distant when this protection might be given. Mr. H. could see no ground for this hope, at a time when one particular nation possessed such a decided superiority in this force.

The gentleman last up had said that there was a time when a navy was more popular. The original object for building frigates was the protection of commerce against the Barbary Powers; it was not then expected that they would be called upon to protect it against the assaults of a maritime Power who possessed a fleet to oppose our force. Six frigates were two years ago intended to be erected for that object, in addition to those which the United States before possessed; an accommodation took place between the Barbary Powers which rendered them unnecessary, and they were not built. It was then contended by naval gentlemen that, although the United States were at peace, these frigates should still be built.

The gentlemen had cited a number of instances of nations who had possessed fleets. Had the fleets of Denmark protected her commerce? Had the fleets of Sweden protected her commerce? Had the fleets of any other nation than that of Great Britain in any measure protected their commerce? Had Great Britain, even, with the greatest fleet in the world, been able fully to protect her commerce? Every gentleman must know she had not, and that her merchant ships were almost daily captured. If gentlemen, however, wished a navy to be erected, let them bring forward a proposition in a plain and direct manner, and not involve it with the question now under consideration. They had not attempted to show that a fleet would give protection to our ports and harbors; they could not show it. If we had a fleet, (said Mr. H.) there certainly would be sufficient depth of water for one fleet to follow where another has gone; and our fleet would certainly fall a sacrifice; and gentlemen know, if they contend for their efficiency, as a protection to our ports and harbors, that this consequence would indubitably follow. They had not attempted to show the utility of ships of war for this purpose; and if they could not show this, where was the necessity of making a proposition for building ships of war? The measure was impolitic, as it would not give protection either to the shores or commerce of the United States.

Had the former enlargement of our fleet been productive of any service to the United States? Instead of that it had been a disgrace; all the additional expense incurred in that object had gone to debase the Navy and lower the character of the nation. The Government of France, to affect our relations with whom it was professedly increased, paid no regard to it; whatever injury the Navy had done, the United States afterwards accounted for; and it did not operate upon the nation for whom it was intended.

Gentlemen seemed to admit that a certain number of gunboats might be necessary; and all the gentlemen in favor of the present motion took it for granted that the number now contained in the bill was too large. Had the gentleman last up, or any other gentleman, shown that there were too many estimated for any particular harbor? Mr. H. thought the present number too few. Were fifty too many for the defence of the port of New York? Gentlemen would not say that. They admitted that gunboats would have some effect; of course, in proportion to their number, they would be more effectual. Then why say there were too many?

Mr. H. concluded by hoping that gentlemen would confine their observations to the bill before them, which contemplated the protection of our ports and harbors, and not the protection of our commerce.

Mr. Chandler said that his colleague (Mr. Cook) was much mistaken when he supposed, in saying what he did, that he had spoken the opinion of the people of the North generally with respect to the mode of defence by gunboats; as far as Mr. C. knew their wishes, he believed they would be satisfied with such protection as the Representatives of the Union should think proper. The gentleman, said he, was in labor a considerable length of time, and I really thought at one moment that he would bring forth a mountain; but it proved a mouse at last. The gentleman had told them that it was the opinion of merchants that they must have protection for their commerce abroad, and that the sacking and burning of cities was nothing to them. What credit was to be given to the opinion of merchants of this description? None at all. The gentleman had said a great deal about flying to the mountains, and had himself ascended very high on the subject. Mr. C. begged him to descend into the plains, and be satisfied with that mode of protection which was most proper to be adopted. As to the amendment, he thought, with the gentleman from North Carolina, that this bill was intended for the protection of our ports and harbors, and that it would be improper to drag anything else into it.

Mr. Gardner said, the gentleman from North Carolina appeared to have alluded to him in his observations. If that was the case, the gentleman must certainly have misunderstood him; for he could assure the gentleman, whether the amendment under consideration prevailed or not, the bill would meet with his support; but he wished to vote for striking out sixty-four of these boats, because he thought it would be more agreeable to the people in the country in which he lived. Mr. G. did not mean to say that the gentleman was particularly partial to this mode of defence; all he meant to say was, that, in his zeal to support this measure, he lost sight of other modes of defence necessary to be adopted. He did not mean to accuse the gentleman of improper conduct as a member of the committee or of the House. Mr. G. had been in hopes that they might all have been gratified in their partialities. He had hoped to see some other modes of defence incorporated

with this, and that no preference should be given to any particular mode.

Mr. Smilie called for the reading of the report of the Committee on the Military and Naval Establishments; which being read,

Mr. S. said, if the gentleman from Massachusetts (Mr. Cook) had thought of this report, he would not have made so long a speech on this subject. The gentleman wished that all systems of defence should go hand in hand. He must know that they could not decide upon two bills at once; the different modes would come forward in time, and gentlemen might then propose as many ships as they thought proper. Whether the House would defend their commerce by a navy, would be decided when the report of the committee on that subject should be taken up. It was very extraordinary, when such a report was upon their table, that the House should wish to introduce the question of a navy here. The gentleman might be assured that the report would be taken up. At the same time that he should vote for considering that report, he did not wish to deceive the gentlemen; for they might also be assured that he should not then, or at any other time, vote for a single ship of war; because he believed that the United States could not effectually protect their commerce by any naval force they could raise. He did believe that by establishing a navy they would raise a foreign enemy. He did believe, that were they to station at New York a navy as large as the resources of the United States would warrant, they would soon see a second edition of the attack on Copenhagen. He hoped in God they would permit this bill to pass, that some step might be taken for the defence of their ports and harbors, for it was high time that object was commenced.

Mr. Cook said it was common for nations, in time of war, to permit privateering; in our former war a great many had sailed from our ports. The prizes of these privateers could not be protected except they had some large ships for the defence of their ports. Their use was so obvious to all men conversant with these things, that any argument on the subject was unnecessary.

It had been asked why they wished to introduce this subject at this time? It was, Mr. C. said, because if the Treasury was exhausted for one object, there would be no money left for other modes of defence. If a man almost destitute of clothing had money sufficient to buy a coat of fine cloth, and no other garment, should he lay out all his money on a fine coat, when he was otherwise ragged? Mr. C. wished the country to be decently clothed throughout.

Mr. C. would correct the gentleman who had understood him to say that the people in the North were all in favor of gunboats. Mr. C. said he had stated what he knew to be a fact, that gentlemen in the mercantile cities, those most concerned in the question of peace or war, whose property was at risk, did not agree in the opinion which appeared to be entertained of the utility of gunboats.

He would merely reply to the gentleman from Pennsylvania, who had been so candid as to say, that, whenever a question was taken on a Naval Establishment, he should give it his decided negative. He was sorry to hear that gentleman say that he would give a decided negative to any question. And questions had been decided in which that gentleman had given his vote in favor of a Navy. Mr. C. said they had a Navy already, and he wished gentlemen to recollect that it was not a new thing. It was now no question whether they would have one or not. The question was, whether they had just enough or too much? Not whether they would now establish a Navy, but, whether they would increase that which they already had? Let any gentleman ask, when they formerly built a Navy, if it was then called for by actual emergency? Let him ask whether it was now sufficient for defence? Mr. C. hoped they would meet the question now, and decide it upon the same principle on which a Navy was formerly commenced.

Mr. Fisk said, the gentleman from Massachusetts was opposed to this measure because it would take all the money out of the Treasury. He should show: *First*, That it was beyond their means; and *Second*, That it was not a measure of exigency. Would he be willing to leave our ports and harbors unprotected, and go abroad to protect our commerce? Mr. F. did not think that the merchants of the United States would support that doctrine. If they did, he wished they were out of the United States. The gentleman had told the House that his feelings had been wounded at the deference shown to the statements of the Secretary of War, and a few minutes after, read an extract from an English newspaper, giving an account of a transaction which had taken place between gunboats and English vessels. Mr. F. confessed he was not a little surprised at his preferring the authority of English newspapers to that of the Head of a Department in our own country. A gentleman who did this, might be allowed to indulge in the spirit of prophesy. He had said, if they adopted this measure, they would soon feel the effects of it. Mr. F. wished the gentleman would show how. The gentleman had said, because a few towns were burned last war, the House seemed to think that the war which was expected would be a war of extermination; but, that this was to be a harmless war, a mere war of trade. He would ask that gentleman what was the conduct of Great Britain towards Denmark? Had they spared the town of Copenhagen? He believed not. Would they spare the towns of New York or Norfolk, if it were in their power to destroy them? He thought not. Mr. F. thought the great question now was, What was the most efficient force—what would afford the most complete protection to our ports and harbors? The gentleman had said that they had now no force which could contend with an eighty, or ninety-gun ship. If that were the case, Mr. F. said his argument completely recoiled upon himself. They had now eight or ten frigates, and if these could not contend with one eighty or ninety-gun ship, they had better stop where they were;

and not erect more of such inefficient force. Let us consider the subject for a few moments, said Mr. F. This is not an untried force; it was tried before that gentlemen had existence. The instance mentioned by the gentleman from North Carolina, (Mr. Sawyer,) might have shown that this force would be sufficient. It was the opinion of a most experienced naval commander, and whose standing and information entitled him to more than ordinary credit, that he would rather have four gunboats than a forty-four-gun frigate. A frigate could not carry the same metal as a gunboat. If a frigate was dismasted, becalmed, or any accident whatever happened to her, she could not get out of the way. These reasons should have weight on the minds of any gentleman, particularly of one who did not pretend to experimental knowledge on this subject. If the Treasury was as low as it was said to be, they should surely pursue the cheapest means of defence. By adopting the mode of defence by gunboats, in preference to defence by frigates, they would have, at the same expense, a third more in number of guns, besides double the weight of metal. With gunboats there was no loss of time in putting about. Not so with a frigate. She must first discharge one side, and then go about, before she could fire the other. But, gentlemen who were steeled against conviction, and determined, at all events, to have a Navy, would not be influenced by argument or reason. Had not Denmark a Navy? What became of it? It fell into the hands of a superior naval Power, and that will be the fate of our Navy if we erect one.

Mr. Gardenier said, that though in favor of a Navy, yet he thought this topic would be better discussed at another time. As to gunboats, there seemed to be various opinions on their utility. He thought it better, upon the whole, that this bill should pass. For himself, he should vote for the highest number; not so much that he believed in the efficacy of these machines, being of a contrary opinion, but because it was an experimental measure. It was a matter of speculation whether these gunboats would answer the desired purpose, or not. If not, the nation would lose the money expended on them, but they would have made an experiment of their efficacy, and it would not be tried again. If, on the contrary, they did answer, and the number should be more than necessary, it would be an excellent surplus. Although he should vote in this manner, he did not wish it to be understood that he was at all friendly to gunboats. He had, with others, been guilty of laughing at these boats, which had been so much complained of. The nation had been accustomed to the operations of our infant Navy. So far as it had developed its powers, its success had done honor to the nation, and had also produced a sentiment in other nations, which was calculated to impress the people of this country in its favor. The Navy and gunboats never came in contact without producing comparisons unfavorable to the latter. Our commerce had been amply secured by the protection which this infant Navy had afforded it. It was not, therefore, to be wondered at that it had been popular. It was still popular, and the only objection was to the expense attendant on it. When, however, the Navy was suffered to go into decay, when that system, recommended by the author of the *Notes on Virginia* was abandoned, these gunboats were introduced. He agreed with the gentleman from North Carolina, that gunboats were no part of a Navy. Gunboats did not attach exclusively to the ocean or to the land, but belonged to both. The gentleman was, therefore, right, when discussing this subject, not to consider them as a naval armament, but as a land defence.

In a Government like this, it must be expected that a great many men would have their different speculations; if the House determined to adopt no system, but that which met with universal approbation, they would adopt none at all. In the operations of Government, a great many objects must prove unsuccessful. Everything which promised safety or protection should be tested by experiment. Thus those who could not convince themselves entirely of the utility of gunboats, might vote for them by way of trial. Mr. G. was in short for adopting every mode of defence which should be suggested, except its expense should be totally beyond our resources. He was for giving a fair trial to any mode that should be suggested by any respectable man; and he hoped that other gentlemen would grant them the same indulgence as related to fortifications. In New York, the people were of opinion, that substantial fortifications were better than gunboats. It was however better that an estimate of the expense should be gone into, than that, for want of a proper expenditure, some of the most important cities in the United States should be left unprotected. He thought this was a time in which gentlemen should not adhere too closely to their particular opinions. Money expended in the purchase of gunboats would be well thrown away if fortifications alone were sufficient for defence. They should not stand on calculations of expense at this time; one single question ought to be asked: What was necessary to be done for the national safety and honor? And that ought to be done, whatever might be the expense. If they went on a contrary principle they would suffer not only from depredations of the enemy, but from the loss of national character, because they did not choose to go to a sufficient degree of expense for their effectual protection.

Mr. G. hoped gentlemen would deliberate; he hoped they would reflect upon the awkward situation in which they were placed, and that all the means of the nation would be brought into operation.

Mr. Thomas said that the gentleman on his right, his colleague (Mr. Gardenier) had told the House that he should vote to build the whole number of gunboats, not because he thought them an efficient defence, but because he considered them feeble machines. This reasoning might be conclusive in the mind af that gentleman, and he did nor care what influenced him, since it appeared they should have his vote for the bill.

However, Mr. T. said, he merely rose to reply to one remark of that gentleman. He knew that it had been rung through the country, by electioneering gentry, for these number of years, that the formidable navy, so carefully raised by the former Administration, had been sold off by the present one, and the nation left without defence; and that gentlemen (Mr. G.) had repeated the same story, that the formidable navy which had been raised with so much care had been sold off, to the eternal disgrace of the nation. Hearing this assertion, Mr. T. thought it his duty, on that floor, to declare that not a single national ship had been ordered to be sold since the present Administration came into power; that not a single vessel had been sold except from orders issued previous to the time that the Administration of this Government was taken out of the hands of those coinciding with that gentleman in political sentiment.

Mr. Masters, observing the impatience of the Committee for the question, should not have arisen at this late hour, was it not, he perceived that the opponents to the building of frigates mistook the ground taken by the advocates of the amendment. They suppose, (said Mr. M.) that we are for a navy to such an extent as might be competent to meet the British fleets at sea. None of us have advocated such a doctrine. Mr. M. said the question was, would they reduce the number of gunboats from one hundred and eighty-eight to one hundred and twenty-four, and add four frigates. We contend, said he, that gunboats are of no use in deep water and boisterous weather; the advocates of gunboats have conceded that point. We have also conceded that gunboats are useful in calm and shoal water. The frigates were therefore a necessary defence in those harbors which had deep water, more especially in windy seasons, at which times gunboats were not even an auxiliary to forts and batteries; frigates would also serve as a partial protection to commerce. Many arguments had been used to attempt to show that gunboats were preferable to frigates. He understood the gentleman from Vermont, (Mr. Fisk) to say that gunboats were the cheapest mode of defence. He should heve no objection to take issue on that point, and go into a calculation, and should be able to prove, by the documents of the Secretary of the Navy, that the building and keeping in service for one year thirty-two gunboats, carrying one gun each, would cost seventy thousand dollars more than two frigates of thirty-two guns each, kept in service for the same term of time. Some gentlemen said gunboats ought to have the preference, because they excited emulation among the sailors. It was the first time he ever heard there was more rivalship and pride among sailors for the gunboat system than for ships of war. Gentlemen advocated the utility of gunboats in preference to frigates, because the Turks once gained a victory over the Russian ships of war; but they did not pretend to give the particulars of the engagement. They undertook to show the superior use of gunboats at Algeziras and Tripoli. As to the gunboats at Algeziras, (Mr. M. said) they never have gained a victory or taken a single ship of war at Gibraltar. These had in one or two instances, in calm weather, annoyed their enemy by a few shots, and skulked back into port. He was told by an officer, who was entitled to credit, and was in the engagement at Tripoli, that there was not one shot in six that ever reached the town, and that the bolts of many of the boats started at the beginning of the attack on the town, and were dismasted and towed from the harbor. Some gentlemen had said that increasing our Navy by building ships of war was unpopular, and that gunboats were popular. Mr. M. hoped the gentlemen did not mean that mushroom popularity which raised a man to-day without merit, and would execrate him to-morrow without demerit. He should always pay respect to the candid reports and unbiassed opinions of those who had enjoyed an opportunity of judging correctly. Let the measure be popular or unpopular, he should exercise the office of speaking the truth, as was the duty of every honest man; and if he was convinced that it was for the interest of this nation to build frigates, he should declare it publicly in his place, and boldly combat any difficulties which the measure might encounter, and abide by the consequences.

The amendment offered by Mr. Durell was then negatived—ayes 19.

The bill being about to be read a third time this day, its decision was, on motion of Mr. Elliot, postponed till to-morrow.

Thursday, December 10.

FORTIFICATIONS AND GUNBOATS.

The bill sent from the Senate, entitled "An act to appropriate money for the construction of an additional number of gunboats," together with the amendment agreed to yesterday, was read the third time.

Mr. Elliot.—When an humble and uninfluential individual, voluntarily isolating himself from the several great parties that divide, distract, and ruin our devoted and degraded country—our devoted and degraded country—(I repeat the expression, sir, for I know it to be as consonant to the rules of order as I shall prove it to be incontestably true;) when such an individual rises to deliver his sentiments upon an important subject of national concern, it would seem that the singularity of his situation might attract attention, however deficient he may be in the solid powers of argument, or the brilliant tones of eloquence. But these are inauspicious times. These are not the *mollia tempora fundi*—the soft reasons of persuasion—the calm hours of peace. They are times of alarm and denunciation. For myself, peculiar and almost irresistible reasons would impel me to continue silent, not only this day, but for the short remainder of my political existence. But there are periods when silence is almost equivalent to an abandonment of duty. Private afflictions, as inconceivable by others as they are indescribable by my myself, were I disposed to describe them, indispose me for political exertion. There are times, however, when even the most refined feel-

ings of the human heart should give place to the sublime energies of the human mind. When imperious duty calls, the latter should be exerted, even if it be only that the former, when the great effort is over, should resume their empire with more exquisite sensibility.

The present is one of those great crises that rarely occur in the annals of nations—it is, indeed, a crisis of most awful moment. Our political day of hope and joy and peace is suddenly overcast with thick and dark clouds. In the language of sacred oriental poetry, it is a day of darkness and gloominess—a day of clouds and thick darkness—as the morning spread upon the mountains.

I must be indulged in a few more preliminary remarks, before I proceed to that connected, but perhaps not systematic view which it is my intention to take of the subject under consideration. I have never risen upon this floor to recite by rote a written declamation; but every one who speaks here owes it to himself, to those who hear him, and to his country, to have deeply studied his subject. I have therefore availed myself of all the information which I could possibly obtain upon the subject of gunboats. In the course of my remarks, I may be led to describe certain classes and orders and genera and species and varieties of political characters, whose inauspicious influence, at the present moment, may entitle them to attention. I may describe them with fidelity, and my duty to my country would require that I should endeavor to deliver them, bound hand and foot, to the contempt and indignation of their country and posterity. Still, I can most cordially reciprocate the declaration made the other day, from a most respectable quarter, (Mr. Randolph,) that I am the personal enemy of no man; and would to God that no man was my personal enemy! But, though we may wish for peace with all men, there are certain sacred public duties which must be performed at all events.

In casting my eye over the various documents upon the table, my attention is for the moment attracted by one which has been placed upon it this morning—a report from the Committee on Revisal and Unfinished Business, upon matters undetermined at the last session. In this I find mention made of several propositions upon the subject of the defence of the nation, which I had the honor then to propose, and which it was not the pleasure of the House then to act upon. Propositions of a similar character, so far as respects the fortification of the ports and harbors, the organization and arming of the militia, and the equipment of the frigates, it is now hinted, will be carried into effect in the course of the present session. I am happy that my doctrines are becoming popular, and that there is some prospect of their adoption. But it is because I fear, and indeed believe, that the present bill is pressed upon us for the purpose of superseding every measure of national defence which would comport with the true interest and the honor of the nation, that I am so decidedly opposed to it, and that I consider the Republic degraded, by the substitution of a weak and miserable policy for measures of a manly and magnanimous character, at a crisis which peculiarly requires them.

The principal argument, although this does not seem to be openly avowed, in favor of the present measure, is the supposed predilection of the Executive for this system of defence. Indeed, this is but a new edition, or rather a new volume, of the celebrated proclamation and gunboat system, which, instead of elevating us in the scale of nations, has greatly sunk the national character. The objects in view are to protect the commerce of the Union to a certain extent, and to protect our coasts and seaports. Of course this measure is to constitute a material, if not the principal part of a general system of national defence and protection. The object is proper and patriotic, and it is a subject of deep regret that the means are inefficient. But history and human experience have settled the true character of these machines, and as we have nothing else to hope for, we can expect nothing like an energetic and effectual system.

Commerce is undoubtedly entitled to protection, from considerations as important as they are obvious. In itself it is friendly to civilization and rational freedom. There is a more intimate and more widely extended connexion between agriculture, the "art of all arts," and commerce, in the United States, than the world has ever witnessed in other ages and nations.

The protection of commerce was one great object which the people had in view in the formation of the present Constitution, and by that instrument, taking into view the peculiar circumstances which attended its formation and adoption, the agricultural portion of the community is pledged to the commercial, to support such measures as may give effect to that great object of the Union.

The organization of an efficient general system of national defence, is of great importance in various points of view. It will tend to the creation and establishment of a correct and commanding national character. It will command the respect and confidence of foreign nations, and thus prevent foreign machinations against our internal peace, and preserve the relations of amity with all nations. It will be auspicious to the preservation of the Union, and the true republican principles of the present Constitution.

It is natural to pass from the consideration of the character of the present crisis, and the circumstances which imperiously demand a system of efficiency and energy at the present period, to that sacred bond of our Union, in which are pointed out the duties of the Government—the Constitution of the United States. In the third section of the second article we read, "The Presi-'dent shall, from time to time, give to the Con-'gress information of the state of the Union, and 'recommend to their consideration such measures 'as he shall judge necessary and expedient."

The President *shall* recommend. The voice of the Constitution is imperative. It makes it the duty of the Chief Executive Magistrate to take upon himself the responsibility of explicitly recommending to the Legislature such measures as he deems the public welfare to require. In making the inquiry, in what manner has this great and solemn duty been performed at the present moment? the transition is easy to the Message of the President at the commencement of this session. These messages, as public documents, and addressed exclusively to the Legislature, are certainly fair subjects of criticism; and whoever shall be impelled by duty to speak unpleasantly of the present system of administration, will have an abundant source of rich consolation in the reflection, that, when gunboats are the subject of discussion, it is impossible to be out of order. The present system begins and ends with gunboats. In the Message to which allusion has been made, which should have been as a polar star to guide us at this dark season, not a single measure is explicitly and unequivocally recommended. I will read that part of it which relates to the Naval Establishment:

"The gunboats already provided have been chiefly assigned to New York, New Orleans, and the Chesapeake. Whether our moveable force on the water, so material in aid of the defensive works on the land, should be augmented in this or any other form, is left to the wisdom of the Legislature. For the purpose of manning these vessels, in sudden attacks on our harbors, it is a matter for consideration whether the seamen of the United States may not justly be formed into a special militia, to be called on for tours of duty, in defence of the harbors where they shall happen to be; the ordinary militia of the place furnishing that portion which may consist of landsmen."

Here the Executive submits certain matters for consideration, without assuming to himself the responsibility of expressly recommending them. In relation to the Naval Establishment, he only talks of a moveable force on the water; and if we should build our flotilla of two hundred and fifty-seven gun boats, at an expense which will be shown to be enormous, and, in the event of a war with Great Britain, two or three British ships-of-the-line, and as many frigates, should come upon our coast, and blow them all to atoms, as would infallibly be the case if they were to come in contact with them, we shall no doubt be told that a wise and prudent Executive never recommended such an ill-judged, degrading, and disastrous measure. But for what purpose are gunboats to be built? To protect commerce and the coast. Every one knows that we cannot protect our commerce in every clime and on every sea, against the naval power of Great Britain. It would be unwise, therefore, at present, to exhaust our resources by building a Navy of ships-of-the-line. It does not follow, however, that nothing can be done; that we cannot support our own jurisdiction. Nothing effectual, it is certain, can be done by gunboats. They have never been of use but as auxiliaries to more extensive and substantial establishments; and they have always been of so little comparative use, as to render it impossible to ascertain the amount of the service they have rendered. We may safely challenge their advocates to produce a single instance in which, alone and unconnected with works of more consequence, they have been of any essential use at all, for purposes either of offence or defence. In my researches into their history I have met with no instance of the kind. Here I shall advert to a document, the reading of which has been called for by the honorable chairman of the committee on that part of the President's Message relative to aggressions committed within our waters, and with which I should not otherwise have troubled the House. I do it at this time, because I find my voice failing so fast that I shall be unable to go so fully into the subject as I originally contemplated. This I shall not regret myself, and still less will the House regret it. In the Message of February 10, 1807, communicating the information requested by the House of Representatives in relation to the utility and efficacy of gunboats, we find, indeed, that gunboats apparently constitute but a subordinate species of defence, and yet they are spoken of as competent to almost all the purposes of national protection. A flotilla of no less than two hundred is contemplated. The President says: "Under present circumstances, and gov-'erned by the intentions of the Legislature, as 'manifested by their annual appropriations of 'money for the purposes of defence, it has been 'concluded to combine, 1st. Land batteries, fur-'nished with heavy cannon and mortars, and es-'tablished on one of the points around the place 'selected for preventing vessels from lying before 'it; 2d. Moveable artillery, which may be carried, 'as occasion may require, to points unprovided 'with fixed batteries; 3d. Floating batteries; and '4. Gunboats, which may oppose an enemy at 'his entrance, and co-operate with the batteries 'for his expulsion."

We have then the opinions of Generals Gates and Wilkinson in favor of gunboats; men of very dissimilar character, and, I trust, of unequal fame, but whose knowledge of this particular mode of defence may possibly have been perfectly upon a level. The Message proceeds: "The effect of 'gunboats for the defence of harbors, and other 'smooth and enclosed waters, may be estimated 'in part from that of galleys, formerly much 'used, but less powerful, more costly in construc-'tion and maintenance, and requiring more men." Here it is proper to remark, that as, by an unfortunate coincidence of circumstances, an adventurer, of the name of Americus, has robbed Columbus of the glory of giving his name to the New World, so, by a like unlucky concurrence of events, gunboats have usurped the honors due to galleys: "But the gunboat itself is believed to be 'in use with every modern maritime nation for 'the purpose of defence. Algiers," &c. That the gunboat is in use in the Mediterranean and elsewhere, there can be no doubt; but the question is, of what use is it? What effect does it produce? This we are yet to learn. "The effect 'of gunboats at present, in the neighborhood of 'Gibraltar, is well known, and how much they 'were used, both in the attack and defence of that 'place, during a former war. Every man, it is 'true, who seeks for military or naval informa-

'tion, has read the account of the siege of Gibral'tar, crude and inelegant as it is. I have read it 'repeatedly. But I do not there discover that 'gunboats, alone and unconnected with other 'means of 'attack and defence,' were ever found 'to produce any important effects." "By the 'northern Powers of Europe, whose seas are par'ticularly adapted to them, they are still more 'used." This is certainly correct information. A late writer informs us that the gunboat, properly so called, and which is a very different vessel from a galley, was first used with effect, in the naval wars between Russia and Sweden, in the Baltic, where no tides interfere with their maœuvres, and where few winds or currents obstruct their operations; and suggests that the use made of them in those wars, first led France to use them against England. We are next presented with the evidence, which is to prove conclusively that a flotilla of gunboats can defeat and destroy a navy of ships-of-the-line. "The remarkable 'action between the Russian flotilla of gunboats 'and galleys, and a Turkish fleet of ships-of-the-'line and frigates, in the Liman Sea, in 1788, will 'be readily recollected, the latter commanded by 'their most celebrated Admiral, were completely 'defeated, and several of their ships of the line 'destroyed."

This is the information which we have so long been in search of, and would be conclusive if it would bear examination, but unfortunately this is not the case. In the first place, we may inquire where is the Liman Sea? In what region of the globe is it situated? *Dic quibus in terris et eris mihi magnus Apollo.* A lake, or rather an expansion of the rivers Bog and Dnieper, above their junction with the Black Sea, is nicknamed the Liman Sea. Upon the subject of the action here alluded to, it is probable that sources of information are accessible to the Executive which are not open to others. But it is observed that the circumstances of the action will be readily recollected—by whom? Undoubtedly by common readers who have access only to common information. I have not only consulted the professed annals of the times, but have obtained some information from a writer who appears to have been personally acquainted with the scene of action. This and several other actions which took place between the Turks and Russians in that quarter are called by these writers amphibious engagements, scarcely to be considered as possessing a naval character. It appears that the Russian flotilla occupied the shoals near Kinburn or Kilburn, (for the place is called by different names by different writers,) and was covered by the cannon of that fortress; that it did not consist entirely, nor, indeed, to any great extent, of gunboats, but was composed of frigates, brigs, and galleys, with some boats; that the Turks, finding themselves unable to approach the Russians with their ships, so as to be able to cannonade them with effect, set themselves to work to form a light armament similar to that of the Russians, that that they might meet them upon equal ground; and that they did form such an armament, more numerous than the Russian, but far inferior in construction, equipment, and seamen. Yet the Turks are said to have lost the victory in consequence of their ignorance of a river which had been in the possession of their empire for ages. They did not attack with ships-of-the-line and frigates, but with frigates, galleys, and boats belonging to the ships of war. The Turkish vessels, before their fire could produce any effect, began to stick in the sand; the Grand Admiral's frigate, not "ship-of-the-line," stuck fast; in this situation five vessels were burnt and two taken, and the remainder of the scattered flotilla fled for shelter—and whither did they flee? To the ships-of-the-line! Instead of the ships being destroyed, they remained firm at their post, and when the remaining vessels of the flotilla reached them, they were out of danger!

Thus it appears that no such battle as that described in the Message of the 10th of February ever happened. We have yet to see, if indeed the world ever can see, a naval action between a flotilla of gunboats and galleys and a fleet of ships-of-the-line and frigates, in which victory shall declare for the former. For two flotillas, or fleets of similar structure and equipment to engage, and for one of them, assisted by the cannon of a powerful fortress, to defeat the other, and capture and destroy that portion of it which is actually stranded, is certainly a very different thing from what it would be for a flotilla of gunboats to defeat and destroy a fleet of ships-of-the-line.

The Message concludes with the following remarkable suggestions:

"At times when Europe as well as the United 'States shall be at peace, it would not be propos'ed that more than six or eight of these vessels '(gunboats) should be kept afloat. When Europe 'is in war, treble that number may be necessary 'to be distributed among those particular harbors 'which foreign vessels of war are in the habit of 'frequenting, for the purpose of preserving order 'therein. But they would be manned in ordina'ry, with only their complement for navigation, 'relying on the seamen and militia of the port, if 'called into action on any sudden emergency. It 'would be only when the United States should 'themselves be at war that the whole number 'would be brought into active service, and would 'be ready, in the first moments of the war, to co'operate with other means, for covering at once 'the line of our seaports. At all times those un'employed would be withdrawn into places not 'exposed to sudden enterprise, hauled up under 'sheds, covered from the sun and weather, and 'kept in preservation with little expense for re'pairing or maintenance."

It is next to impossible for a man of common sense not to consider himself under some strange delusion of the senses, when he hears the Chief Executive Magistrate of a great and powerful nation invite the Legislature to the adoption of such a system as is here described. Build neither more nor less than two hundred gunboats, comfortably house in dry sheds upwards of one hundred and ninety of them; in time of peace keep six or eight of them, unmanned, relying on militia to man them;

afloat, for the protection of several large commercial cities and two thousand miles of seacoast; when Europe is in war, and her navies come to our ports, launch eighteen or twenty-four gunboats to keep them in order while they stay upon our shores; and when they make war upon us, open your dry sheds, pour upon the ocean your two hundred gunboats, you are safe, your arms are triumphant!—If this be not a degrading and disgraceful substitute for an efficient and honorable system of national defence, it is difficult to imagine what could possibly degrade and disgrace the Republic.

Annexed to the Message are the opinions of several military and naval officers, some of them celebrated and some of them obscure. Gen. Gates, whose memory we all venerate, has been mentioned. He merely gives his opinion, and furnishes no particular information upon the subject. He is followed by Gen. Wilkinson, the hero of the Sabine and New Orleans, the man who violates your Constitution at the point of the bayonet in order to preserve it inviolate; the idol of popular delusion for the moment, but the object of a very different homage from the wise and good. Unfortunately, the letter of this great character conveys no information. The circumstance is explained by the following note: "This letter was 'only the cover of General Wilkinson's opinion, 'and therefore shows only in general terms what 'that opinion was. The opinion itself was, on a 'former occasion, communicated to a committee 'the House of Representatives, and was read to 'the House for its information. This paper can'not now be found; which is the more regretted, 'as it went much at large into the reasoning on 'the subject." That this paper has gone to oblivion is certainly a subject of great regret; and yet it may be doubted whether its destruction is so great a loss to the maritime and commercial world as that of the original record of the Rhodian laws. Commodore Barron says: "Ten or 'twelve of these boats will probably be sufficient 'to compel to remove from her position a frigate, 'and so on in proportion to the size and num'ber of the enemy's ships. To do more than 'annoy would be difficult. With those vessels a 'great number and a long time would be neces'sary to capture a ship of war; but few com'manders would feel secure while open to the at'tack of an enemy, which, however inferior, he 'could not destroy." This is all very candid and very strong reasoning against the cause it is produced to support. It is matter of regret, however, if it ever has been ascertained that gunboats have been able to remove a ship of war from her position, that we have not been put in possession of that information. The following remarks are taken from the communication of Captain Tingey: "The efficacy of gunboats in the defence of 'coasts, ports, and harbors, must be obvious to 'every person capable of reflection; when it is 'considered with what celerity they can generally 'change their position and mode of attack, ex'tending it widely to as many different directions 'as their number consists of, or concentrating 'nearly to one line of direction. Such, indeed, is 'believed to be the great utility of gunboats for 'defence, that, notwithstanding the gigantic power 'of the British Navy, in its present state, a judi'cious writer in the British Naval Chronicle, after 'advising a plan for raising a fleet of 150 or 200 'gunboats to assist in repelling the threatened in'vasion of that country, says, 'a gunboat has this 'advantage over a battery on shore, that it can be 'removed at pleasure from place to place, as occa'sion may require, and a few such vessels, carry'ing heavy guns, would make prodigious havoc 'among the enemy's flat-bottomed boats crowded 'with soldiers." Surely we do not expect the British will come to invade us in flat-bottomed boats. If they should do so, we may array this miserable machinery against them, and shall probably be victorious. It is the misfortune of all the advocates of gunboats that they are obliged to deal in general assertion, and can produce no clear and unequivocal instance of their usefulness. Instances of an opposite kind are numerous, one of which is particularly recollected at this moment. Soon after the commencement of the war preceding the present, between France and England, a French flotilla of fifty of those boats attacked the little island of St. Marcou, called a "Dot in the Channel," and were blown to atoms. Still we were required to have faith—a degree of faith greater than would remove mountains—in this species of naval armament. Our gunboat projectors imitate a celebrated eye-maker of Constantinople. He was so ingenious as to be able to counterfeit, almost to perfection, so far as appearances would go, the human eye. The Grand Vizier, or one of the great Muftis of the Court, having had the misfortune to lose an eye, applied to this manufacturer of that article to supply its place. He was accordingly furnished with one, which was well placed in his head, exactly resembling the one which he had lost. He could not, however, see with it, and when he complained of this defect, he was informed that it was not to be expected that he could discern objects with the new eye at once, but that in time it would be as useful to him as the old one. So it is with gunboats. They have never been of material service to any nation; but we are told to build and believe in them, and they will one day protect us against all the world.

The next great argument in favor of this establishment, is, that it is an economical one. Let us examine its economy. It is said, in Great Britain, that it is as expensive to maintain one man in the navy as four in the army. Each gunboat must be commanded by a commissioned officer; and it is understood that thirty men—some say forty—will be required for each boat.

If we estimate the whole expense of maintaining an officer at only $1,000, (the real expense will be $1,500 at least,) and 30 men at $500 each—pay, clothing, provisions, and miscellanies, included—the amount for 257 gunboats for one year will be	$4,112,000 00
But if we deduct 10 men, which is $5,000, from each boat - - - - -	1,285,000 00
The annual expense will be - -	$2,827,000 00

Which does not materially vary from the calculation of the Secretary of the Navy, who estimates the annual cost of each boat in actual service at $41,039 46—making, for 257 boats, the sum of $2,827,141 22

He estimates the expense of building them at $5,000 each - - - - - 1,285,000 00

The armament at $1,200 each - - 308,400 00

Exclusive of cannon, which Congress have this session provided for, at expense of 112,500 00

The expense of the flotilla of 257 boats, for the first year, is - - - $4,543,041 22

Can it be possible that this is an economical establishment? Are we prepared to expend, in one year, four millions and a half—in two years, eight millions of dollars—upon such an unpromising experiment? For one, I am not sent here to squander away the people's money in this manner, and upon such objects.

Before we incur an expense so enormous, we ought at least to examine the state of our finances, and to inquire, What will be the situation of our revenues and resources in time of war? The annual report of the Secretary of the Treasury, at the commencement of the present session, contains a new project of finance, and certainly a very extraordinary one. It is calculated for a period of war, and it is proper to examine it, and endeavor to discover, from whence our annual appropriation of three millions of dollars, for gunboats alone, is to come in that event. The Secretary says: "It appears necessary to provide a revenue 'at least equal to the annual expenses of a Peace 'Establishment, the interest of the existing debt, 'and the interest on the loans which may be raised. 'Those expenses, together with the interest of the 'debt, will, after the year 1808, amount to a sum 'less than seven millions of dollars; and therefore, if the present revenue of fourteen millions 'five hundred thousand dollars shall not be diminished more than one-half by a war, it will still be 'adequate to that object, leaving only the interest 'of war loans to be provided for." The project is, (calculating that seven millions of ordinary revenue will still be collected in time of war,) to raise by new taxes an annual sum equal to the interest of war loans—that is, the whole sum necessary to carry on the war; for we are to borrow every cent of it, and leave the people to pay the interest as it accrues and increases from year to year. The annual expenses of war, including the support of an army of forty thousand men—which number, at least, will be necessary to take and keep possession of Canada and Nova Scotia; and every one seems to believe that must be done if we go to war; and indeed it is all we can do, besides defending ourselves—will probably not be less than twenty-nine millions of dollars. It is unnecessary to trouble the House with all the minutiæ of calculation which have produced this result in my own mind, but I can confidently appeal to military men for a decision that it is not overrated. We are, then, by this new plan of financial operations, to pay the interest of twenty-nine millions for the first year, or double that sum for the next, and so on; for, as we are to pay nothing towards the principal, and to pay the interest as it becomes due, we must pay, at the end of the first year, one year's interest on the first loan; at the end of the second year, a year's interest on the second loan, and another year's interest on the first, and of course increase our taxes as the interest of the war loans augments. The system is peculiarly ingenious, as our taxes are to be increased in the inverse ratio to our ability to pay them. In proportion as we become impoverished by war, our burdens are to be increased at an enormous rate, as will appear by the following calculations, in which the interest is reckoned at six per cent. per annum:

	Principal borrowed.	Interest to be paid.
First year of war - -	$29,000,000	$1,740,000
Second do. - - -	29,000,000	3,480,000
Third do. - - -	29,000,000	5,220,000
Fourth do. - - -	29,000,000	6,960,000
Fifth do. - - -	29,000,000	8,700,000
Total - - -	$145,000,000	$26,100,000

The following table will show the sums necessary to be raised in each year. The first column shows the years of the war; the second, the ordinary revenue, agreeably to the calculation of the Secretary of the Treasury; the third, the new taxes to pay the interest of war loans; the fourth, the total.

First yr. of war,	$7,000,000	$1,740,000	$8,740,000
Second do.	7,000,000	3,480,000	10,480,000
Third do.	7,000,000	5,220,000	12,220,000
Fourth do.	7,000,000	6,960,000	13,960,000
Fifth do.	7,000,000	8,700,000	15,700,000
Total	$35,000,000	$26,100,000	$61,100,000

Thus, in five years of war, we are to pay twenty-five or twenty-six millions of new taxes as the interest of war loans, and incur a new debt of between one and two hundred millions of dollars. With such a prospect in view, can we afford to expend from three to four millions a year upon gunboats?

A still more striking view of the economy of this system may be taken. We have already a naval force, consisting of the frigates Constitution, United States, President, and Chesapeake, of 44 guns each—176 guns. Frigates Constellation, Congress, and New York, of 36 guns each—108 guns. Frigates, Essex, Adams, and John Adams, of 32 guns each—92 guns. Ship Wasp, and brigs Hornet, Argus, and Siren, of 16 guns each—64 guns. Brig Vixen, and schooners Nautilus and Enterprise of 14 guns each, and Revenge of 12 guns—54 guns. Ketches, Spitfire, Vengeance, Etna, and Vesuvius; the two former of 7, and the latter of 11 each—36. Total, 534 guns. A year or two ago, in consequence of a motion made by myself, the Secretary of the Navy laid before the House an estimate of the expense of supporting the whole of this armament in actual service. I think he calculated the amount at about a million and a half of dollars. I have not much confidence in such

estimates, but will venture to suppose that the Secretary was not more than a million of dollars out of the way. The real expense, then, would not exceed two millions and a half of dollars. Thus, we could keep in service a respectable and very efficient Navy of 534 guns for about half the sum that this weak and wretched flotilla of only 257 guns (less than half the number) will cost for the first year, and for less, by several hundred thousand dollars, than the expense of it in any subsequent year. Let us hear no more of the economy of the gunboat system.

But it is a popular system—the people are in favor of it—and this is an overwhelming answer to every argument that can be urged against it.

With whom is it popular? Certainly not with the people in the Northern States, for a very great majority of them are opposed to it. Within two or three years we have received addresses from the Legislature of New York and Rhode Island, passed, I believe unanimously in both States, in favor of an enlarged and more efficient system of naval defence. Those two States, of course, may be considered as opposed to this project. No one will set down Connecticut as friendly to gunboats. Is it popular in Massachusetts? One gentleman from that State (Mr. Bacon) protests against being considered as the Representative of a people hostile to this mode of defence. But that gentleman will not tell us that a very large majority of his constituents are attached to the system, or that, among those who are, one in fifty has any practical or even historical information upon the subject. Are your constituents, Mr. Speaker, in favor of this mode of defence? I presume not. When, two or three years ago, you opposed this establishment in its infancy, you undoubtedly represented their sentiments and feelings, as most certainly you supported their true interest. The Representatives from New Hampshire, and others from the Eastern States, ask you to excuse them from accepting their proportion of these boats, and to give them a few frigates in exchange. You refuse their request.—They ask for frigates, and you give them gunboats. As it respects my own constituents, I have not been able to find any gunboat men among them. It is probable, however, that there are some, as there may be men in that quarter, as in others, willing to believe whatever the Executive believes; but I trust there are fewer of these miserable minions in that district than in some others in the Union. Here I cannot help remarking upon a singular expression of a gentleman from North Carolina (Mr. Sawyer)—that most honorable quarter, the North—used ironically, as we may presume, from his manner, in allusion to an observation, perhaps inadvertent, perhaps deliberate, of a gentleman from New Hampshire (Mr. Durell) that he had the honor to come from the North. The people of the North, sir, are certainly an honest people, no more so than those of the South; but as honorable a people as God was ever pleased to make. They know, they feel, that they have not their due weight in this Union; that their interest is improperly neglected by the present Administration; but they are sincerely attached to the Government of their country. They are men, high-minded men, who know their rights, and knowing dare maintain them. To return to the subject. Suppose this despicable system of defence to be popular. Whence does its popularity originate? From what quarter came the original proposition? *Ex quo fonte?* From what foundation has descended this copious and overwhelming torrent of national delusion, degradation, and destruction? The answer is not difficult. Some years ago a strange passion for gunboats seized upon one of the great Departments of the Government. Who believes that even ten men in the United States would ever have raised their voices in favor of this plan of protection, had it not been understood to be a favorite Executive measure? But I shall be told, that this is inconsistent with the assertion that the President has not recommended it. I have proved, however, by his own documents, that it is his own measure. Every one knows the fact. It is true that he recommends nothing at present. He talks of a moveable force upon the water. This is very clear to some; but, in my view, never was Grecian oracle more inscrutable, more inexplicable, more irresponsible. But what course does the thing take? A committee is appointed to inquire what the Executive wishes. One of his Secretaries tells them that "it is believed, that, for the protection of our ports and harbors, there ought to be built 188 additional gunboats." Why does not the Secretary give us the grounds of this belief? Why not communicate some information upon the subject? Why not undertake to show the utility of a plan of defence, for which he asks us to appropriate millions? But by whom is it believed? Do we legislate, do we vote away five millions of the people's money, upon the belief of the Secretary of the Navy? Certainly not. It is but little less disgraceful, however, to do it upon the belief of the President. We all know that this business has long been cut and dried by the Executive; you have long had upon your tables even the Executive apportionment, to every port, bay, and inlet on your coast, of these weak, wretched, contemptible gunboats; and this before it had been intimated to you that an appropriation of money was wanted for the purpose. I do not understand, or rather I understand too well, this mode of legislation in a Republican Government. It is miserable management, despicable legislation! If we are sent here to carry into effect the will and the wishes of the President, let him express that will and those wishes in the Constitutional way, and not in a secret side-way manner, through the intervention of Secretaries and committees.

It may be proper again to remark, that this is but a new edition of the proclamation and gunboat system, which has reduced the Republic almost to the lowest point of degradation and disgrace. Every page of our recent annals affords some melancholy evidence of the fact. The President issues a proclamation, forbidding certain British armed vessels to come within the waters of the United States. Disregarding the procla-

mation, one of those vessels enters one of our harbors. One of our officers sends the commander notice of the proclamation, and an order to depart. The British officer answers, that the proclamation of the President would disgrace the most petty Power of Barbary, and is worthy only of the bloody reign of a Robespierre; and that he shall consult his own convenience in the case. What course is then pursued by the American commander? He sends an express seven hundred miles to inform the President that he has received a most extraordinary letter, which he knows not how to answer, and asks for further instructions from the Government. The interdicted vessel continues within your jurisdiction in defiance of the whole power of the nation. Is this the boasted energy and efficacy of the proclamation and gunboat system? If so, its annihilation ought to be most anxiously desired. I am astonished to behold so many gentlemen, who detest this system, support it with their votes. A gentleman from New York (Mr. GARDENIER) to whom I always listen with pleasure and often with improvement, assures us that he has no faith in the scheme, that he has often laughed at it, and yet he will vote for it! The Executive wishes it, and he is willing the experiment should be made. But is it right for us to vote away the people's money by millions upon experiments which we know to be vain and delusive? Can it be consistent with our duty, on the eve of war, when some gentlemen say we are actually in a state of war, to squander the treasure of a nation in such a manner and upon such objects, to gratify the unaccountable passion or whim of the Executive for a species of naval machinery, which, probably, has not a solitary advocate in the Union, who does not borrow his impressions upon the subject from that Executive? Shall we thus add the weight of our voices to that thunder which denounces every man of genius, talent, and independence, who refuses to subscribe to the Executive or popular dogmas of this disastrous moment? While the storm of war comes roaring over the Atlantic, the angry demon of denunciation howls within our own borders! The wretched system of the Government, however pure may be its motives, tends to cherish party spirit, when it should not be known in the land; and to persecute and proscribe genius and talent, when genius and talent alone can save both the Government and the nation from ruin. The time must come, it must and will come, when the talents and integrity of our country must be combined. Not to save the people from themselves, I am not an advocate for that doctrine, but to save the Republic from discord and destruction. It is one of the political dogmas of the present period that he that doubteth is damned; that he who does not believe in the absolute perfection of the present Administration is guilty of the worst of all political heresies. I have never been a subscriber to this confession of political faith. And I will soon give a pledge of the sincerity of my attachment to Republican principles, in which it is not probable that I shall find a single imitator in the Union. I will retire from this station, and I shall retire rich in the confidence of those who have so long confided in me; and from that moment I will never consent to receive the suffrages of any portion of the people for any office in their power to bestow. Malice, and I will never affect to be totally insensible to its cruel lacerations, will attempt to trace conduct of this kind to the source of disappointment. But the effort will be in vain. I entered into public life under circumstances which precluded the possibility of disappointment. I entered it with a determination never to wait for one moment in the ante-chambers of the Presidential palace; never to solicit or cause to be solicited for myself a single favor from the Executive Department of the Government. This is a determination which, in my opinion, every representative of the people ought to form; and, in my own case, it has rendered it impossible for me, so far as respects the Executive, to have been personally disappointed.

In an Administration, thus patronising weak men and measures, thus destitute of the energy and talent which the times require, it is impossible for me to repose great confidence; and as conscience will compel me to make this declaration to every one of my constituents, it may as well be made at once in the presence of my country and the world. When this miserable and futile scheme of gunboats is substituted for that great and glorious system of national defence which the crisis demands, who can believe the Government an able and a wise one? Hailing the day which first smiles upon me as a private citizen, free from the toils, the perplexities, and the calumnies of public life, as the happiest of my existence, and abandoning for ever the field of political ambition, my opinions will be of little consequence to the Government or my fellow-citizens. But to the Government of this nation the attachment of the Northern people will always be of immense importance. They are anxious to support the national honor, but they love and are anxious to preserve peace; and in their name I will venture to protest against any measures calculated to plunge them into the horrors of war upon mere points of etiquette. If we can obtain substantial satisfaction for the great outrage which the nation has sustained, we will not refuse it because other and older subjects of dispute remain unadjusted. If we can obtain the desired dish of reparation, we will not go to war because it is presented to us in a silver bowl instead of a golden one. If the conduct of the Government shall be just and wise, we shall continue to support it; if it shall improperly involve us in the miseries of war, it will inevitably lose our confidence. If, "in the full tide of successful experiment," it shall devote to persecution and proscription the patriotism and wisdom of the nation, it will no longer receive the support of an enlightened and virtuous people.

To have spoken thus long has required an effort far beyond my strength. One part of the remarks which I intended to make must be suspended. The description of certain politicians to whose disastrous influence upon our concerns I alluded

at the outset, would be a task as ungrateful as it is unnecessary. A sense of duty alone has till this time kept me from my seat. In resuming it, I again protest, in the name of the people whom I represent, against a worse than wanton waste of the public treasure, for a worse than useless object.

Mr. SLOAN said, he did not rise to illustrate this subject, after the long discourse of the gentleman who had just sat down, (Mr. ELLIOT,) nor should he presume to follow him through his almost superhuman flights. When the gentleman first began, Mr. S. listened with attention and a great degree of solemnity, to what appeared to be a political funeral sermon. He attempted to follow the gentleman's course, but, alas! said Mr. S., he ascended so far beyond the reach of my feeble optics, that I was under the necessity of dropping down into my humble seat. Whether he returned to his proper atmosphere, Mr. S. could not exactly say, for if he did, his voice had become so feeble, that it could not be heard. Mr. S. would not enlarge upon the subject, but barely say that, after waiting so long in suspense, from all he could discover of the gentleman's meaning, he was convinced that the difference of opinion between him and that gentleman must be as great as the difference between "the mole's dim curtain and the lynx's beam." In order to discover, said Mr. S., whether the gentleman's very eloquent and elaborate speech was as much beyond the comprehension of others as it transcended my understanding, I know no better way than to call for the yeas and nays on this important question.

Mr. FISK said, he did not rise to enter into the discussion at this time, but to answer an observation of his colleague, to the purport, that the confidence of the people of Vermont was withdrawn from the Executive. Mr. F. said, so far as he knew their opinion, they had perfect confidence in the Government, and would have as long as it should be continued to be administered in the same wise manner as had always been pursued by their present Chief Magistrate.

Mr. DANA observed that, from some things which had been said, he, perhaps, ought to be admonished, and relinquish his right of speaking; but, as he had not yet become so humble as tamely to give up a right which he possessed, he would take the liberty to make a few observations.

The question he understood to be a bill from the Senate, appropriating a sum of money for the construction of an additional number of gunboats. It had not been printed for that House, but, as he understood its intention, it was to give the President a certain limited discretionary power, to cause money to be expended. It was not an act by which the President could be obliged to make the expenditure, but an authority to make it, which he might or might not exercise, as he judged the public interest required. The question was not, should one hundred and eighty-eight gunboats be, at all events built, but should the President be armed with a discretion to build, if he was of opinion the public interest required it. If, then, members were not satisfied that the number of gunboats already built are adequate to that species of service required of them, they would be in favor of building others.

What was the situation of the Legislature at that time? In respect to foreign relations they had not the necessary information to enable them to judge so well as could be wished. That House had not in its possession any despatches relative to the affair between the Chesapeake and Leopard. There had not been laid before them any general system of defence, nor had they been told the probable issue of the negotiations with England. In all points they were in the dark. It was a well known provision in the Constitution, that the President should give to Congress information of the state of the Union, and recommend to them the adoption of such measures as he deemed expedient; and it must be well known to every member, that it was all in vain to think of attacking, when the chief did not direct the mode of attack. It would be perfectly in vain to provide means of defence which the Executive would not think proper to use. What had the President recommended? He was known to them as Commander-in-Chief, and to him belonged the right of directing the public force. What, then, did the Commander-in Chief require? What was that force for which he was willing to pledge his responsibility? No other than gunboats. At the last session, in a Message to the House on that subject, he had explicitly recommended them. They were also understood to have been recommended to the present session, though not in such explicit terms. As President, as Commander-in-Chief of the national force, he desires to be furnished with gunboats, as a means of defending the nation. He requires nothing more. Amid all the anxiety, agitation, and alarm into which the country had been thrown, gunboats were asked for as the principal means of defence. It was all, in point of force, which the President required for taking satisfaction for the wrongs committed against the country. In this situation, what was the duty of the House? Considering the President as highly responsible in regard to our foreign relations, would the House refuse to him the means of defence for which he applied? If, indeed, all that had been said about the public danger was illusory—mere tales, to sport with the public feeling, there would be no need for any mode of defence. But, when these things were represented in earnest, would the House refuse to the Executive such means of defence as he required for the public safety, or would they press on him other modes of defence, which he thought perfectly useless? It appeared to him the most correct course to vote for the bill, especially as it only gave a discretion as to the build, and was not a positive order to build.

He would readily acknowledge that gunboats would be of great use in defending certain portions of the territory. At the mouth of the Mississippi they might be peculiarly so; for there no troops could be landed, no batteries erected, nor could vessels of heavy burden pass up, there being no more than two-and-a-half fathoms water on

the bar at its mouth. They would also be useful in narrow rivers; at long shot, especially where the shot could have the whole range of the vessel's deck, on coasts abounding in shoals, and in narrow passages. He, therefore, felt it his duty to vote for as great an amount of this kind of armament as was judged necessary for the defence of that portion of the country where they promised to be efficacious. But when they passed north of the Hudson, did gentlemen then talk of gunboats for defence? They must have forgotten for what these things were intended. To be useful, they must be navigated by skilful officers and skilful seamen, but no skill was ever acquired on board of gunboats—men must go elsewhere to acquire skill. Their real use was as an auxiliary force, of subordinate character; and in this character, with the aid of other naval armaments, they would be useful.

When your officers and soldiers behaved so gallantly before Tripoli, did those men live in gunboats, or did they reside on board of vessels of larger force, and only act occasionally on board gunboats? Did gentlemen talk of that affair proving the utility of gunboats? Tripoli had gunboats, and why did they not defend the place? Ask the superior skill and bravery of your officers and seamen. Gunboats were useful in that affair merely as they served to bring brave men in close conflict with their enemy.

With respect to the use of gunboats, we have been reminded of the result of a contest between the Russians and Turks in the year 1788. In that case, the victory of the Russians over the Turks did not principally arise from the superiority of gunboats over ships-of-the-line and frigates. It was a victory of science and refinement over ignorance and barbarism. What has been styled the Liman sea is a marshy lake, near the mouth of the ancient Boristhenes, now called the Dnieper. As far as I have been able to ascertain the fact, that lake, in its greatest breadth, is not so broad as the narrowest part of the Chesapeake Bay between the Capes and the Potomac. Below the confluence, with the Dnieper, of the river Bog, anciently called the Hyperis, there is a considerable expanse of water, which is variously denominated. It is sometimes called the Liman, a Russian term, which denotes a marshy lake, sometimes the bay of Kinburn, sometimes the estuary of the Dnieper. The navigation is difficult at all times, and it is particularly dangerous to bad seamen, from the number of shoals, the narrowness of channels, and the variety of currents. The Turks, although long in possession of it, were ignorant as to that navigation. The Russian flotilla had a commander of distinguished gallantry and skill, with experienced seamen, veteran soldiers, and a tremendous artillery.

It was not from choice that the Russians used gunboats rather than large vessels against the Turks. The Russian fleet of large ships could not be sent round from the Baltic through the Straits of Gibraltar, and up the Mediterranean, as early as was desired for securing the Russian fortress of Kinburn. Galleys, gunboats, and various descriptions of light vessels were prepared on the Dnieper. The fortress of Kinburn stood on the left bank of the Dnieper, near its entrance into the Black Sea. And the Russian flotilla was stationed near the shore in an advantageous position where they were, in a great measure, covered by the cannon of the fortress.

The Turks had ships-of-the-line, frigates, and smaller vessels; and were commanded by the Captain Pacha or High Admiral, Hassan Ali, who had distinguished himself against some revolting Beys and Mamelukes in Egypt, where impetuous valor principally decided the contest. But the Turkish commander, although successful against the Egyptian revolters could not prevail against the Prince of Nassau, who commanded the Russians.

One great object of the Turkish fleet was the fortress of Kinburn, which was particularly important to the Russians for holding possession of the Crimea or Tauric Chersonesess, so much regarded by the Russian Government.

There were three engagements between the Turks and Russians in the bay of Kinburn. In the first instance the Turkish commander employed his smaller vessels, amounting to fifty-seven, in attacking the Prince of Nassau with twenty-seven sail. The Turkish assailants were repulsed.

Afterward, Hassan Ali, impatient of defeat, entered the Liman with his principal fleet, regardless of the shallowness of the navigation; but, in the meantime, the Prince of Nassau had received a reinforcement of twenty-two vessels with one gun each. A Turkish ship-of-the-line was soon aground, assailed on all sides, and blown up. A similar fate attended the Admiral's ship of the Captain Pacha. Ignorance of the navigation, inferiority in seamanship, want of skill in the management of artillery, exposed the Turks, with their impetuosity and ideas of fatalism, to be defeated by the superior skill and management on the part of the Russians.

The next morning several more of the Turkish ships were found stranded, and a battle ensued which continued for more than four hours. The Turks were defeated, and their commander, immediately after the action, abandoned the enterprise, and sailed from the Dneiper.

In voting for the bill on the table, he would not be understood to say that he thought other means of defence unnecessary. He disclaimed the idea. Gunboats would be found altogether useless in the northern waters, and he could not, for a moment, suppose the people solicitous for a mode of defence which must, upon experiment, prove altogether nugatory. As to their safety, he was not disposed to say much on the subject. It might, however, be recollected, that a number of these boats, not exceeding ten, had sailed for the Mediterranean in the most favorable season of the year, and that one of them was lost. This was not a very strong proof of their safety.

The opinion of naval gentlemen had been introduced to show the efficacy of gunboats. What was the opinion of Captain Decatur on this subject? In his letter to the Secretary of the Navy, he expresses his hope that, if any other kind of naval force was employed, he would not be kept on board a gunboat. This was as strong language as an officer of honor and sensibility could use to his Government, and was sufficient to show that he had but little confidence in the efficacy of gunboats.

He wished he could see some additional mode of defence proposed. Gentlemen had told them they would meet it fairly, when it was proposed. He preferred having a view of the whole system of defence at once, not, however, that he doubted the candor of gentlemen.

Mr. Nicholas said, this bill was objected to yesterday because the system which it was intended to embrace would not afford protection to commerce. It appeared, upon the very face of the bill, that it was not intended to accomplish the protection of commerce. To-day, the bill was objected to, because gunboats alone were not an adequate mode of defence. Had it ever been said that they were? For himself, Mr. N. said, that if this was all the preparation they intended to make, no man would scout the idea with more indignation than himself. Was there any man who believed that they were so lost to a sense of duty as to rest the defence of the nation on gunboasts alone? No man could believe it.

The gentleman from Connecticut, and other gentlemen who had spoken on the subject, had acknowledged that they considered gunboats in some situations as a valuable, peculiarly valuable, species of defensive force. An attempt had also been made to convert this into a local question. Was it so? If it was, when his residence was known, and the situation of the great bulk of the State of which he was a Representative, no man would believe that he should vote for it on local consideration.

There was one observation on the nature of this means of defence which Mr. N. had not heard made. He considered gunboats as a mode of defence, of which the United States could immediately possess themselves; ships of war might be years on the stocks: gunboats might be built immediately in every port of the United States; it was impossible to say how long it might take to procure ships of war and make them ready for service.

From what Mr. N. had heard, he believed that gunboats would be an effectual defence for the port of Boston. The gentlemen from New York, who were so much alive to the safety of their city, had not requested that they might not have gunboats for the defence of that city. No gentleman had disclaimed gunboats for their defence; but had said that they were not alone an effectual defence.

Complaints had been made that the President of the United States had not recommended to the House the adoption of particular measures. Had the President attempted to direct the Congress of the United States whither to turn their attention, it would have been rung through the Union that they were mere scriveners appointed to register his edicts. Mr. N. would not undertake to say what was most proper for the President to have done, but he would say, that it was more respectful to the nation and to the House that they should be left with a certain discretion and to act on a certain responsibility. In our present situation, the Constitution had placed the power of making provision for defence, not in the Executive but in the Representatives of the nation. Did it become the President of the United States to recommend to them to make war or to take war measures? When the President of the United States had given to Congress all the information which he possessed, he had done his duty; and they ought not to hesitate a moment in providing means of defence. He thought he had understood the gentleman from Connecticut to say, that no measures had been recommended by the President, except gunboats, and therefore he should vote for them. Mr. N. said, he had looked at the Message from the President of the United States, and could not see any express recommendation of that measure, more than of raising an army, or any other defensive preparation.

Mr. N. believed the gentleman from Connecticut had said that there were no despatches before the House relative to our differences with—[Mr. Dana explained that those were not his words: he had said, the House were not in possession of a copy of any despatches relative to the affair between the Chesapeake and the Leopard.] Mr. N. said, he presumed he had misunderstood the gentleman: on that subject, however, Mr. N. was about to have said, that from any publications which had been seen in this country, all the papers which were in possession of the Executive had been before them; because they had seen the documents relative to the negotiation throughout, to its conclusion.

Mr. Thomas said, the gentleman from Connecticut (Mr. Dana) had stated that the President had recommended gunboats, and that this was the only means of defence which he had recommended, and he referred to a Message of the President, sent to that House at the last session, to prove the truth of this position. Mr. T. said he wished the Clerk to read the first paragraph of that Message; it would completely contradict the assertion of that gentleman. Mr. T. said the gentleman from Vermont (Mr. Elliot) had also hung the most of his speech upon the same position.

The Clerk then read the following paragraph from the Message alluded to:

"Under present circumstances, and governed by the intention of the Legislature, as manifested by their annual appropriations of money for the purposes of defence—1st: land batteries furnished with heavy cannon and mortars, and established at all the points around the place favorable for preventing vessels lying before it; 2d, moveable artillery, which may be carried, as occasion may require, to points unprovided with fixed batteries; 3d floating batteries; and 4th gunboats, which may co-operate with the batteries for his expulsion

Mr. Dana said, that gentlemen seemed very

anxious to disprove the fact that the President had recommended gunboats. The reason why Mr. D. voted for them was, that the President of the United States had recommended them, and relied upon them chiefly for defence, and because it was the first defensive measure for which money had been called for. Mr. D. did not say that the President did not give them as much information as he ought, or that he did not give them as much direction or leave them as much discretion as was necessary. Mr. D. said he spoke merely of the limited information, and few recommendations, given to the House. He considered the President as Commander-in-Chief, and because he had recommended this measure, with such a broad view of the whole ground as he must have possessed of all the means of information, with the assistance of all the talents of the Heads of Departments, Mr. D. was called upon to vote for this bill. Mr. D. did not say whether the recommendation had been made at this session or any other; he only meant that the general course of proceeding implied an approbation of that mode. What was the tenor of the whole course of communication between the House and the Navy Department? Whether weakly or wisely, Mr. D. said was not the question, but, what was the fact as to official communication? With all the opportunities of knowledge and information which the Executive officers must possess, it was their opinion that gunboats formed an eligible part of a permanent system of defence: and this would influence Mr. D.'s vote on this occasion.

Mr. Wilbour said the gentleman from Vermont (Mr. Elliot) had told the House that the State of Rhode Island did not want such defence as gunboats would afford. Mr. W. said he would inform the gentleman, that he had the honor to represent that State in part, and that he should vote for this bill, because he believed gunboats were the only floating defence proper to be erected.

Mr. Cook said he was not opposed to the gunboats, he voted for an increase of their number at the last session; he was now in favor of increasing the number, and should vote for this bill, though he had rather a smaller number had been authorized, to allow a greater proportion of other modes of defence. He was only opposed to them when considered as of themselves forming an entire system of defence: when proposed only as a part of a system he was in favor of them. He would meet gentlemen who were in favor of the gunboat system, and vote for as many as should be necessary for the protection of the Southern waters, and would vote for the whole number proposed by the bill in that point of view, hoping they would be as well disposed to accommodate him when other modes of defence came under consideration.

Mr. Randolph hoped, before this question was decided, that they should understand something about it. He had been waiting with great impatience for some information on the subject; and after all the debate which had taken place, he was now as well informed as when he first arrived at the House. He hoped the gentleman who had introduced the bill, or some other gentleman, would inform them to what extent the appropriation in the bill would diminish the regular expense of our Naval Establishment? He merely wished for information.

Mr. Burwell said, he had not intended again to address the House upon this subject, but as his colleague had called on some member of the committee, before whom this bill had been discussed, for explanations, he would candidly state his own views as to the policy of naval armaments by the United States. If the United States should be involved, unfortunately, in a war with Great Britain, in defence of just rights and essential interests, he had never contemplated the creation of a naval force to protect our commerce on the ocean against that nation; he thought the fruitless efforts of France, Spain and the Northern Powers to resist the navy of England afforded an instructive lesson to this nation, and plainly pointed out what was its policy. We should, said he, confine our efforts to objects which we could accomplish; the first of which would be to give complete protection to our ports and harbors, to points most vulnerable by the enemy, and the property of our people most accessible to his naval expeditions, and most tempting by its value to his rapacity. They should be prepared to expel the enemy the moment he touched our ground. This policy would be consistent with our resources; for it should be recollected the instant the war commenced, our revenue, derived entirely from imposts and duties, would nearly cease, and could only be supplied by internal taxes, which existing circumstances would render almost impossible to collect; because the produce of the country, from which money must be raised, would be of little value. A naval war with Great Britain at a time when our revenue was ruined, would at its termination leave the nation encumbered with a debt which they should sedulously avoid contracting. Mr. B. said, he felt no desire to see this country in possession of a navy sufficient to combat with that Power; the whole United States, if sold at public auction, admitting that there were bidders able to purchase, would not defray the expense of erecting and maintaining the enormous establishment. He verily believed the possession of a navy would ere this have involved us in war with England, who would have treated us as she has Denmark, and taken possession of it in an "amicable way." It was by different means we should operate upon Great Britain and bring her to terms of justice; it would be by annoying her commerce with our privateers, expelling her from the continent, and seizing on her Canadian possessions, holding them as guarantees for indemnity, at a future pacification; by withholding provisions from her colonies in the West Indies, and raw materials from her manufacturers in Europe, and by forbidding the consumption of her manufactures in this country, their most profitable market. He was very much misinformed if this mode of attack would not prove more effectual than contending with a navy which had baffled the world, and swept from the sea the commerce and ships of every nation; if this system did not answer, he readily confessed, we were unable to cope with a nation whose naval resources were infinitely beyond those of our infant country. It would require all the patriotism of the people to sustain the privations of a war with England; he had no idea that the country would be invaded, or its safety endangered, and he therefore felt confident the nation would submit to inconveniences, though great, much less than the calamities of war waged in any other form.

Mr. B. said, gentlemen in discussing this subject had ridiculed gunboats, and relied upon large ships to protect our ports and harbors; let us suppose, said he, that there were four forty-four gun ships, or a larger number, lying in the port of New York, of what avail would they be in defending the towns of the United States? While they were pinioned in port, what would prevent the British from laying every town on the sea-coast under contribution? Any naval force the United States could build, would be useless so long as England could bring a greater force against it. It appeared to him that gunboats were preferable to ships-of-the-line, for the protection of our harbors, because they might be moved, and collected without danger, at a given point, to co-operate with one another. They can always pass between the shore and the anchorage ground of a squadron, and escape to the place of destination, secure on our shallow coast, so inaccessible to ships of force. Mr. B. said, all gentlemen who had spoken upon this subject seemed impressed with the propriety of using gunboats as auxiliary to land batteries in defence of our ports and harbors. The only question, then, was the number adequate to that object.

He was in favor of the number proposed by the bill, because some of our most skilful naval officers who had been consulted, and who had devoted much thought upon the subject, believed this number was requisite to preserve our seaport towns from conflagration, and enforce effectually the laws in our own ports. He offered this reason as an answer to the gentleman from New Hampshire, (Mr. Gardner) who had demanded why he adhered to the particular number in the bill.

As to the origin of gunboats, he could not speak with much confidence; but it was well known they had been used by all the nations in Europe. The French, Spanish, Dutch, Italians, and the Barbary Powers, had all found them excellent floating batteries, capable of opposing the most formidable resistance to an approaching squadron, England herself, with her present navy, has at least three hundred gunboats, employed for the protection of her ports and harbors. He said he was pleased with the gentleman from North Carolina (Mr. Sawyer) who spoke yesterday, and had then shown the particular advantages of gunboats; he would not again recapitulate them, as the House, he was convinced, had given them their just weight. Their introduction into the United States has been in consequence of the recommendation of Commodore Rodgers and the officers of our navy, who had served in the Mediterranean, and witnessed their efficacy as engines of defence.

It had been objected to gunboats that they cost too much in building. Mr. R. said the present price of each was $5,000, a sum considerably less than their cost when first contracted for. If the House judged from the frigates which had been built they might reasonably suppose the price would be more reduced as the workmen became more experienced, and the materials, for constructing, are brought in greater abundance to market. But it should be taken into view, that those gunboats already constructed were larger and more costly than necessary; they were good seaboats. It had been proper to build them fit for sea, because, having only a few, it was frequently necessary to concentrate them at a particular point. The number being now augmented, and enough assigned for each harbor, the necessity for constructing them at the present price ceased. Mr. B. said he had been informed, that the gunboats used by the Spaniards were much smaller and cheaper than those belonging to the United States.

Another objection had been made to the expense of maintaining them in service. The sum necessary for this purpose was estimated by the Secretary of the Navy at $11,000 annually, upon the supposition they should have their full complement of men on board during the whole year. Mr. B. said this sum would never be requisite, since it was well known not more than eight men would be employed except while in actual service; the expense therefore could not exceed one third of the annual estimate.

In the building and repairs of gunboats, they would be found upon calculation precisely equal to the same number of guns, in frigates and ships-of-the-line. The only inequality of expense was in their manning. Mr. B. said he was authorized to state that the committee were about devising a plan by which the gunboats could be manned in the different seaports by requisitions of the seamen and others in port, whenever their services may be required. This would obviate the necessity of their being constantly manned. If gentlemen would examine the places at which they are to be stationed, they would find their population respectively would be quite sufficient for this purpose; at Norfolk, for example, there are to be sixty; and certainly, from a population of twelve or fourteen thousand inhabitants, men could at all times be procured. In the same manner at New York and other places. Gentlemen dislike the manner in which they were stationed, and laughed at the idea of one or two boats defending a port. Mr. B. said they were not to be permanently fixed at any place, but to be removed as occasions might require; those on the Potomac for instance, though assigned to specific points, would be concentrated, to suit emergencies; and thus the whole could be used in defence of a place to which the smallest number had been assigned.

Some gentlemen who had spoken appeared to place great reliance on large ships of war, to defend our towns and harbors. Had the capture of

Copenhagen been forgotten? It had been yesterday remarked that the Danish fleet did not protect it, though there were in port at the time of the assault eighteen ships-of-the-line, besides frigates and smaller vessels. In the year 1762, Mr. B. said, the British attacked the Havana; it was taken, together with twelve sail-of-the line, although defended by the strongest fortress in the world. The fact was, so far from yielding protection, ships of war could only be themselves secured by the most impregnable fortifications. Yet the House was pressed to build ships-of-the-line, when it was evident they would fall into the hands of the British, increase the navy of our enemy, and serve as an inducement to commit aggressions on our country.

Mr. B. observed he had listened with astonishment to the gentleman from Connecticut, (Mr. Dana,) whose speech was partly in favor, and partly against the bill. He had told the House that this was the only measure of defence upon which the nation was to rely for protection. Did he not know that there were bills before the House to erect fortifications, to increase the Military Establishment, and to arm the militia? Did he not know that one hundred thousand men had been put in requisition by the Executive? Had the gentleman forgotten his own proposition laid on the table yesterday, which he then called a measure of defence, to enable the merchants to arm and convoy their vessels for mutual security?

Mr. B. said he would appeal to the House, if this mode of discussion was candid. But the gentleman had given them a long argument to prove that gunboats are useless and unnecessary, notwithstanding he intended to vote for them. So far from imitating that gentleman, if he thought them unfit for the purpose of defence, Mr. B. said he would not only oppose the present bill, but he would vote against any number which should be proposed. Mr. B. said he would conclude his remarks, after noticing one observation which had been repeatedly urged to the House. It was regarding the source from which gunboats had been recommended. It was the Constitutional duty of the Executive to call the attention of the Legislature to this or any other mode of defence deemed necessary; he readily agreed it would be highly improper to adopt it merely because it had been thus recommended, but it would be equally so to oppose it for the same reason, without regard to the intrinsic merit of the plan; which consideration should alone influence the House, who were bound to consult the public good.

Mr. Upham said, since so great a number was necessary for effectual defence he should vote for it; he would rather too large a number should be built, than a number that would prove too small. He was of opinion with the gentleman from Connecticut, that, as these had been recommended by the Executive, they should be authorized. He was also in favor of this bill on another ground; because he hoped that gentlemen who were in favor of gunboats would be liberal in their appropriations for fortifications and batteries, when they came under consideration; and because many gentlemen, while in favor of gunboats, had given the House to understand, and others had insinuated, that when the subject came properly before the House, they should vote for frigates. He hoped, at this perilous crisis, when the nation was on the eve of a war, that they should seriously prepare for it, and agree to combine a certain number of gunboats with sufficient fortifications for effectual protection. How much money was in the Treasury Mr. U. did not know, but he hoped they would now magnanimously prepare for war; there was money in the country and men too. He was not desirous of critically inquiring how many dollars could be spent at this time without too much exhausting the Treasury; and as gentlemen appeared to be disposed to make war-speeches, he hoped when they heard the small still voice of the question for a liberal sum of money for defensive operations, they would vote affirmatively on it, without hesitation.

Mr. U. thought, before this could become a great nation at home or abroad, that they should have a large Navy; there could be no such thing as taking a commanding ground without a navy. It might not be necessary while our vessels continued within our own shoal waters; but the moment they left our rivers a navy was necessary. What signified the safety of an individual within his own house, if, when he left it, he was at the mercy of any one who chose to assault him? The United States had as much right to travel over the globe as any other nation; but they were not independent till they had a navy to defend themselves wherever they choose to go. This nation must depend upon itself. An individual might as well in civil society depend upon the ties of moral law upon individuals, as one nation could depend upon the justice and forbearance of another; he believed "the original sin and depravity of our nature" required every nation to erect a defence of this kind. One nation would receive respect from another so long as she could command it, and no longer. Perhaps this was not the time suddenly to erect such a navy; but they might proceed gradually, from year to year, till a navy sufficiently large was erected.

However, as he proposed when he began not to take up much of their time, he would not trespass upon it farther. He should vote for this bill, not because he was in love with this particular species of defence, though it might be a necessary part of a system; but as they might have no other, and it was necessary to have some, upon the whole view of the subject, he should vote for the bill.

Mr. Van Dyke should not have risen on this occasion, had not the yeas and nays been called; but he felt it his duty to state the reasons on which he should give his vote. He had listened with much attention to acquire that correct information on the subject which would have enabled him to discharge the duty which he owed to his constituents; but he found that he should at last be compelled to give his vote without that information which he was solicitous to obtain. He had not been able to ascertain whether it was the wish of the Executive, decidedly expressed, that such a bill

as this should be passed: he had perused with much attention the Message of the President of the United States delivered to Congress, submitted to the House before he took his seat on the floor, and when he examined that part of it relative to gunboats, he could not find a decided opinion on this subject expressed.

It might not be improper for him here to remark that despatches from abroad had now been received; and he had hoped, before they should have been called upon to give their vote upon this bill, that they should have been able to ascertain what was the opinion of the Executive. It was probable that some gentlemen in the House, to whom the avenues of Executive information were more open than to him, might be able to say what that opinion was; but, searching as he did, he had not been able to discover it. Perhaps he should not be wrong in voting for this as an Executive measure, because he saw an honorable gentleman acting so strenuously on this occasion, to whom he had been told gentlemen might look up for information of the Executive wishes. His own opinion originally had been, and now was, that such a system of defence should be adopted as the state of the nation should require.

The House had been told by some gentlemen that the nation was actually in a state of war; by others, that if not in a state of war, in such a situation that war was inevitable. The single question therefore now before the House was what was to be done in such a situation? Should they sit still there till it pleased the Executive department to come forward and tell them what they should do, or should they do that which they believed to be right? He was inclined to the latter course, to the discharge of his duty to the best of his ability: he knew that some mode of defence must be resorted to. He observed that there were on the files of the House several propositions for various defensive measures. But it was the opinion of gentlemen who had more opportunities than himself for acquiring correct information, that this was the most expeditious mode of defence; he should therefore consider it as an auxiliary mode of defence, and which the Executive thought most proper now to be adopted.

If he erred in sanctioning this measure by his vote, he should err on the right side, because it was a measure intended to place his country in a state of defence. He was not convinced that this would ever alone be that efficient defence which the country would require; he therefore had thought fit to express the grounds on which he voted.

Mr. Randolph said that before this question was taken he begged to be indulged with stating as succinctly as he could the reasons which did not induce, but compelled him to vote against it. He was sorry that his colleague (Mr. Burwell) who had undertaken to answer the question propounded by him had totally mistaken its meaning and object. He thought an explicit answer to it of material importance to a correct decision of that before the House. He had asked to what extent the appropriation proposed to be made for these boats would diminish the expense of the regular Naval Establishment?

[Mr. Blount explained, that the Committee of Aggressions were appointed to consider on the means for the protection of our ports and harbors, and did not inquire into the propriety of an augmentation of the Naval force, or even the employment of that which the United States now possessed. They had considered gunboats and batteries as necessary for the defence of our ports and harbors, and had reported accordingly, without inquiring into the diminution or increase of the present naval expenses. That subject had been referred to another committee; and if gentlemen would turn to the report of the Committee of Aggressions, they would see that the measure at present contemplated was a part of a system. He could assure the gentleman from Virginia that the committee went into no inquiry to ascertain whether gunboats would diminish the ordinary expenses of the Navy Department or not; it was not their duty, neither were they at liberty to do it.]

Mr. R. regretted that he should be called upon to give his vote upon a measure concerning which in itself, and as affecting the establishment with which it was necessarily connected, of which it was an appendage, he was totally in the dark. This was not dumb legislation, but it was worse, it was blind legislation. Instead of having before them something like an exposition of the nature of this armament, some history or demonstration of its effects, some responsible person to take upon himself the consequences if it should fail, and fail he feared it would, they were called upon to vote in a state of profound ignorance by those whose information, upon this subject at least, was equally confined with their own. If the United States were in a situation different from that in which he deemed them to be, he might be induced to give up his opposition to this measure, and venture upon it merely by way of experiment, provided that he had something like a connected account of the machinery of this system. But this was no time to make ducks and drakes of their dollars, to waste them in mill-pond projects of childish amusement. It was a time when every spare shilling should be applied to objects of undisputed utility, and not to matters of mere speculation. And it was because he wished to see the sinews of war, arms and money, in possession of the United States, and to retain them there, that he was unwilling to join in the call to pipe all hands upon deck to start the whole Treasury of the United States into the holds of these frail and perishable barks. He did, upon his soul, believe that if the bill upon their table passed, they might whistle for the arming of the militia, and might give up all thought of seeing the country placed in a respectable posture of defence, within and without, from danger of whatsoever kind. It was for this, and he trusted in God there was in that House but one sentiment, to save the Republic, that he should vote against the measure. He should despise himself if he could vote against it from any other motive than a conviction of its public inutility. He wished to

see the nation armed, protected by a competent force—not so precarious and perishable in its nature—not a provision of sugar and salt, but of men and iron.

The chief argument of his colleague (Mr. BURWELL) who supported the bill was, that estimates of the expense of these boats were overcharged. He thought the experience of that gentleman in public life, though not so long as that of some others in the House, nor so long as Mr. R. hoped it would be, had yet been long enough to convince him that no reliance could be placed in the expectation of finding a naval estimate overcharged. If they were guided by past, and he might almost say uniform experience, they ought to calculate upon an excess of actual expense of fifty or sixty per cent. at least, beyond the estimate.

The same gentleman had said, if Mr. R. understood him correctly, if not he wished to be corrected, that gunboats had been tried in Europe and found a sufficient defence for ports and harbors there. But would any man compare the basins of Boulogne or Havre, scooped out by human hands not bigger than an egg-shell in comparison, with the capacious bays and broad estuaries of this great continent? Did the gentleman know that the boats of which he spoke were first chained to each other and then chained to the shore, and that but for these fastenings the enemy would long since have carried them all off? Was this the sort of protection now contemplated? Was it proposed to haul the gunboats up into the Albany slip at New York, or at the county wharf at Norfolk, and chain them to the land? Why not plant the cannon on the wharf at once, and save the expense of the boats?

Mr. R. said, there was a case which stared them in the face, and which, to his surprise, no gentleman appeared to notice in the manner it deserved. This was the precise case of Algeziras, about which they had heard so much. Would any man contend that the passage of the Gut of Gibraltar was more easy than that of the Capes of Virginia—that it was wider? Or that the Chesapeake itself was less fitted for the action of ships of war than the Straits? And yet had they ever heard of an attempt made by these gunboats to stop a single British ship of war passing in or out of those Straits? And why had they not? Because they were incompetent to the object. During this long and bloody war the gunboats of Algeziras had never dared to contest the passage of these Straits with the enemy's ships-of-the-line. He wished, therefore, to know whether this force was to protect the Chesapeake, the Hudson, and other great waters of the United States, or whether they were to be drawn up above Craney island. Gentlemen had said that they wished to put the Government in possession of a force which would enable it to expel from our waters the ships of a foreign nation, which might contumaciously refuse obedience to our proclamations and laws. Have we not now, said Mr. R., a case precisely in point, demonstrating the insufficiency of gunboats to accomplish such an object. We had now seventy of these boats. A small British squadron had anchored within our waters; a proclamation had been issued commanding them to retire. In defiance of its authority they persisted in remaining within our jurisdiction. And yet these seventy gunboats, together with the whole naval force of the Union, even with *Decatur* at their head, were deemed insufficient to enforce the proclamation, and these ships yet rode triumphant. It was found that with all the Navy of the United States and all their gunboats into the bargain they could not maintain their authority within their own jurisdiction, and yet they were called upon to build more—something in the style of the physician in the comedy, who prescribes bleeding, and although at every operation the patient is visibly worse, has no resource but in a repetition of it. Sir, if seventy gunboats are insufficient to expel the squadron now lying in Lynnhaven bay, it is not seven hundred that will afford a shadow of defence for the long line of your seacoast. Mr. R. said that if, as appeared to be the case, the old Navy of the United States was to be abandoned (he did not mention this as an objection) why not convert them into gunboats, or block ships, mentioned by a gentleman from New York. But in answer to this he supposed his colleague (Mr. BURWELL) would tell him (and he would listen to him with pleasure) of the famous attack upon the Havana, in which the strongest fortress perhaps in the world, and twelve ships-of-the-line, was unable to cope with the forces under Lord Albemarle. If the gentleman's case proved anything, it proved that all systems of defence were good for nothing. If a narrow passage, such as that leading into the Havana, protected by the tremendous batteries of the Moro castle and a powerful fleet, could not be defended against the British navy, how could they expect to shut up a great bay, twenty-one miles across, with a few gunboats, or even to guard the Narrows at New York. At the Havana and at Carthagena, the Bocca Chica, as it was emphatically called, permitted but a single ship to pass at a time, and yet the entrance into both places had been forced and the first captured. His friend from Virginia would find it not less idle to attempt to contest the Chesapeake with these boats against ships-of-the-line, than to extend naval protection to our commerce in the Indian Ocean, which he had justly derided as a chimera.

Mr. R. recollected, not verbatim, but substantially, an expression of that Minister, whose character as a man and as a politician he held in higher reverence than any other upon record—the first, the great William Pitt. In the memorable war which he had directed against the whole House of Bourbon, with a glory that never has been equalled and never can be surpassed, that wonderful man, with a modesty peculiar to real greatness, ascribed the success of his enterprises, not to his own merit, but to the circumstance, that France, instead of confining herself to the continent of Europe, where her strength lay, had attempted the attack or defence of distant possessions, thus giving her enemy a prise upon her, of

which otherwise she could not have availed herself. In meeting Great Britain upon the ocean France laid bare her only vulnerable point, and was vanquished not more by the sagacity and prowess of her enemy, than by her own want of foresight. She had since seen her error, and what was the consequence? Abandoning her old system, and maintaining herself on her own element, the natural theatre of her power, she had become mistress of continental Europe, and perhaps whilst he was then speaking she was mistress of the world. Her former policy had led to the peace of 1763, which, humiliating as it was, far exceeded any that she had then a right to expect. The same course was now recommended to America, that she should launch into the water, and fight her enemy on her own terms. If able to contend on that element it would be time enough to prepare for it, when they had provided for the land; but in the name of Heaven, said Mr. R., let us take care of *terra firma* first.

When he rose to speak he had not intended to say half so much as he had done. Although he should give his solitary and inefficient vote against the measure, he should feel extremely happy if the experiment should prove that his objections to it were groundless, and that it should surpass the most sanguine expectations of its utility; as he should rejoice to find himself mistaken in any case in which the result should redound to the welfare of his country.

Mr. QUINCY said, that he had not intended to have taken any part in the debate on the bill. But, as he considered it as his duty to put his negative upon it; and, as an honorable colleague of his (Mr. CROWNINSHIELD) had stated it as his opinion, that a majority of the people of the Northern States were in favor of such a number of gunboats, he felt compelled to make a few observations upon the measure. He would not presume to assert what was the sentiment of the great body of the people of the Northern section of the Union, upon this subject. He knew of no mode by which their sentiments could be collected; he never knew they had been expressed, and certainly he could not pretend to vouch for them. But, as far as he had any knowledge upon the subject, he deemed it his duty, after the broad assertion of his colleague, to state it to the House.

As this had been a subject frequently under the contemplation of Congress, he had felt it his duty to seek such information as he could obtain, and from those sources which were most likely to yield it correct and satisfactory. He had, accordingly, taken frequent occasion to inquire of intelligent merchants, men who had the greatest stake in the defence of our cities; practical seamen, men who were skilled in naval tactics, and of maritime knowledge. And, although his inquiries had been general, in many places, in the Northern and Middle States—particularly in Boston, New York, and Philadelphia—he did not recollect ever to have heard an individual give his opinion that gunboats were a species of harbor defence, upon which much reliance ought to be placed; and certainly never any one who deemed that it could ever be expedient to make them the principal part of our force, such as is proposed by the present bill. That they were a power which sometimes might be useful, and, therefore, not wholly to be omitted, was agreed on all hands; but when they were proposed in such numbers as to absorb appropriations, which were wanted for a higher species of defence, they became a serious cause of apprehension to the friends of an effectual protection to our harbors.

Gunboats might often be of no inconsiderable use in rivers, in shallows, and in landlocked bays. But, in deep water harbors, where the shores were bold, and where the sea had full access, they were of very limited efficacy; and, comparatively, they might be said to be of none at all. Because the time which an enemy would select to attack such harbors, was the very time in which they were useless. An enemy, knowing the nature of your defensive force, would always choose a brisk and leading wind, with a high sea. At such times, gunboats, it was not denied, were of no efficacy, lying almost level with the water, the force of the ball was lost, or turned from its direction by the waves.

But another and most important objection to them was, that they were abhorred by seamen, who regarded them with utter contempt. Men, accustomed to sufficient ship room, could not brook being cooped up like poultry for a sacrifice, with scarcely room enough to turn or stretch themselves. A very respectable and eminent merchant in New York had assured him, that it was impossible to get seamen to supply the present number of gunboats in that harbor; that they were disgusted with the little accommodation they afforded; that, in case of storm or exposure, they were the most comfortless places imaginable, giving their seamen no place of retreat but a wretched hold, into which they must creep, where they could not straighten themselves, but must get, like dogs, upon their haunches.

On water the chief reliance must always be on those accustomed to that element. If these are dissatisfied, they soon communicate their discontent to the landsmen and militia serving on board. Indeed, how is it possible that these will not detest a service at which the hardy sons of the sea repine? Besides so many men, as must be employed, stowed together in such a small space as the decks of the gunboats offer, are sure marks for musketry, and, whenever they can be got within the reach of small arms, their danger and exposure is extreme. I know there is an answer to this; "it is a part of the skill of these boats, it is said, to keep at a distance, and out of the reach of the enemy's fire, by retiring as he advances." This brave scheme forms one capital objection to the whole system, considered as a general and principal portion of our defence. Its tendency is to make men cowards. It teaches them to look for safety, not in meeting the enemy, but in running away. The principle of every other military system, of which I have ever heard, is, to make men fearless of danger—ardent to meet the enemy—to lose the sense of personal hazard in

the zeal of conflict; if I may use the expression, to close in with death, and, by dauntlessness, frown him out of his terrors. In no other way can the natural fears of man be surmounted. But this scheme of seeking safety in flight is of all others the most direct means to encourage cowardice. It was not, therefore, without some regret that he heard his honorable colleague (Mr. Crowninshield) dwell, with such an apparent satisfaction, on the great advantage which these boats gave of getting out of harm's way, and annoying the enemy from shallows, and concealed behind points of land, retreating as the enemy advanced. He began to fear lest it might be thought that this was their way of fighting in the Northern States, and that such were the calculations which their warriors would make when the enemy should come. But, sir, the soil in which Prebles spring, yields not men who will seek safety in flight, or who will hide themselves when danger approaches. No, sir. They will meet the enemy at the harbor's mouth. Their bodies will be their country's bulwarks. They will engage at close quarters, and if you will not give them decks of your own to fight upon, they will find means to fight on those of the enemy.

The effect produced by gunboats is said to be at long-shot, with ships of war, beyond the reach of whose metal they are to be placed, and to whom their small size presents no object. But, in making these calculations, gentlemen forget there was such a thing as boarding and attacking with boats, and that unless these gunboats were in their nature strong enough to cope with the boats of ships of war, they must retire from the reach of the boats, or fall a sacrifice. A gentleman, formerly an officer in the American Navy, who had very lately returned from the West Indies, had assured him that every thirty-gun frigate upon the Jamaica station, carried four boats, capable of carrying forty men, with an eighteen pound carronade in the bow of each. His colleague talked of fifteen men to a gunboat! Why, if they should have forty, they would each have to cope with two or three times their number, with musketry, and at close quarters; and in a situation, which all agree, is most inauspicious for such a contest. Gentlemen say, Great Britain is so powerful on the ocean, that we cannot cope with her in frigates and heavy ships, and so must have nothing but gunboats. But will gentlemen please to recollect that, if with the greater naval instruments in our hands we cannot cope with her, certainly we cannot with the less. If she is to contend with a gunboat power, will she not bring into action a power competent to contend with gunboats? The omnipotence of the British navy, on which so many gentlemen rest their arguments against naval preparation, if it prove anything, is conclusive against gunboats as well as against frigates and line-of-battle ships.

It was not his intention to have made any observations on the importance and necessity of a navy, in a war with any European nation with which we might be engaged, but, as other gentlemen had referred to that subject, he would make some brief suggestions on that head. He considered that war, once declared, and a navy was inevitable. Did gentlemen seriously believe that the talents, and skill, and enterprise, of our seamen could be confined to gunboats and privateers? When the thousands of brave mariners, whom war will have deprived of subsistence, and condemned to our harbors, shall hear that the enemy is off their coast capturing whatever small force falls in their way, will they be content with anything less than a power capable to cope with them? A power which our seamen are as competent to wield as theirs; and which, although it may not equal in point of number of vessels the force of the enemy, yet may be such as essentially to foil particular efforts. Sir, our seamen will claim the right of being able to look the enemy in the face; and, in three years' of war, a navy would be forced upon you by a sense of duty, which circumstances would make imperative. It is true, it would be a navy of hasty erection, constituted of ill-seasoned timber, and less perfect workmanship. All which disadvantages, by a foresight of the real situation and wants of the country, you might now, by using a time of peace, wholly obviate. I know that, to gentlemen from the South and the West, the very name of a navy is odious. It is a sea power. It is a power which, from their local position, they can never wield. Of such a power it is natural for men to be jealous. And if State influences or local prejudices are to guide the policy of this nation, I will not deny that it is as wise as it is natural. But if we are really one nation, and one people, can there be anything more unwise and impolitic? Sir, if gentlemen from the Southern States would rid themselves of their local prejudices, they would see that a navy was a most desirable power for the purposes of their own safety. In case of a war it would be the only instrument of communication between the different ports of our widely extended coasts. In our harbors it forms the best and most certain species of defence, and it serves also as convoys to our troops, which the exigency of war might require to be passed from one extreme of the continent to the other. It would enable the strength of the North to be brought, in the shortest time possible, to the aid of the South. Instead of being an object of jealousy, it ought to be valued as a bond of national union. I ask gentlemen from the Western States, how, in case of war, they expect to preserve their communication with the sea and the Atlantic market, but by means of a naval force? With such a force the Mississippi may be kept open. Without such an one, it would be inevitably closed.

But, it is said, that we cannot protect our commerce all over the world. This objection is to the use of the power, and not to its nature. Cannot we trust ourselves? Shall we refuse to get in preparation an instrument for our defence because it is possible we may abuse it to our own injury?

But, it is urged that the navy of Great Britain is stronger than any we can possibly bring against it. And is that a reason that we should be wholly

defenceless? Because the armor of our enemy is impenetrable, is that a reason that we should engage him quite naked? But there are circumstances which would give any navy we may possess, great advantages, even in a contest with that nation, so long as it was reserved for harbor and coast defence. Their ships would be at a distance from friendly ports, ours at home. Our men would engage not weakened by long voyages, and fighting in sight of their own shores. In case of an attack upon our cities, had we a naval force, we could always, by contiguity to the shore, outnumber our enemy. We could put as great a force on board as we pleased, and, by coming to close quarters, make victory almost certain. The time would not allow him to enter as fully into this subject as he wished, and hereafter intended. He had spoken, upon the spur of the occasion, and had limited himself to counteract some prepossessions that he had seen attempted to be excited.

Mr. Crowninshield said he regretted that the present had been represented as a local question, applicable to the South; and it had been stated that the defence of the North was not at all in the question. Mr. C. viewed it in a very different light. He considered the whole seaboard of the United States, that every inhabitant on the coast, was deeply interested in the bill now about to pass. Gunboats would as well assist to protect the passage leading into Boston harbor, as the mouth of the Chesapeake. They were certainly fit to aid in the protection of any of the Northern ports. He was astonished when he heard a doubt expressed upon the subject. He was glad to hear a gentleman from Connecticut (Mr. Dana) say he should vote for the bill. He would rather have his vote than his speech on the subject, as well also the vote of one of his colleagues (Mr. Upham) who followed him in debate, and took the same course. Both these gentlemen said they should vote for the bill on the table, and yet they observed they could not approve of this mode of defence. It would thus appear that their votes were vastly more reasonable than their arguments. He trusted that on this bill the House would give an unanimous vote. What was the proposition? To put our ports and harbors in some state of defence. Was the measure embraced by this bill all the defence proposed? No; but it was all proposed to be decided on at present, because it could be almost immediately accomplished. And who knew when this force might be wanted? He did not say it would be wanted to-day, to-morrow, or the next day; but possibly the return of Spring might bring an occasion for its service to repel an invader; and, where the risk was deemed even probable, procrastination in preparing for the worst would be the height of imprudence.

In regard to the utility of gunboats, gentlemen differed; and well and honestly they might, because their use had not in this country been sufficiently confirmed by experience. Mr. C. would, however, quote an instance or two in which they had been eminently useful, even in our own country. He had learnt, from a very correct source that in the war between Great Britain and France, in 1760, when the American colonies took a part, there was an instance on record which proved that these gunboats were employed with success in the river St. Lawrence—that four gunboats, carrying one 18-pound cannon and 20 men each, did attack and capture a brig of 16 guns and 180 men, killing 60 or 70 men in the brig, while the gunboats lost but a single man, and received little or no other injury. If any gentleman doubted, Mr. C. would give the respectable authority of the Vice President of the United States for the fact. Mr. C. had understood he was an officer actually employed by the Colonial Government in that service. Another instance had been given to him by a naval gentleman of eminence, who was not now in the service of the United States, but who, he believed, if called upon, would do himself great honor. Mr. C. then read the statement made by that gentleman, to this effect: "In 1776, the Roe-
'buck and Liverpool, two British frigates—one of
'them mounting 44 guns on two decks—lay in the
'river Delaware, below Philadelphia. A flotilla
'of American gunboats attacked them with spirit.
'The engagement was severe, and victory termi-
'nated in favor of the gunboats. One of the fri-
'gates (the Roebuck) was crippled and driven on
'shore, and would have been taken possession of,
'if the ammunition in the boats had held out. As
'it was, after the Roebuck floated off into deeper
'water, both frigates abandoned their station, and
'left the gunboats masters of the river." It was probable that there might be some gentleman of the Revolution near him who might have known of the fact; if so, would it have no impression on the House? He presumed it would have a favorable impression, as it deservedly ought. He could cite other instances—he could say, that in the neighborhood of Gibraltar, at Algeziras, the Spanish gunboats had in many cases attacked British frigates, and sometimes 74-gun ships, and very much annoyed them. He knew of no instance of their capture, because it often happened, that a new wind springing up, carried the vessels out of the reach of their fire. It was also believed to be a fact, that the British naval commanders in the mouth of the Straits of Gibraltar had always been alarmed in moderate and calm weather when they saw the gunboats of Algeziras coming out to attack their ships of war. Engagements with them were not uncommon, and the boats frequently had the advantage, and captured merchant vessels under their convoy, and carried them off, in spite of all the efforts to save them which could be made by the men-of-war.

Gentlemen also differed in regard to the expense of this measure, and had gone into various calculations to prove their positions. Mr. C. had made some, too; and gentlemen were not correct when they stated their annual expense at four or five millions of dollars. How many men were necessary to man a gunboat he could not say, but he thought fifteen were as many as could be usefully employed in a boat carrying but one gun. Estimate the pay of the men at $12 per month, the expense of one man for a year would be $144—

say $150; $100 each for maintenance, would make it $250 for one man. Fifteen men, at $250 each, was $3,750 for each boat. And the total annual expense of the whole 257 gunboats would be somewhat short of a million of dollars. He did not assert that the expense would not exceed this, but he did not believe it would much exceed it. And if these boats were employed but half the year, it would be but half this expense. And would not this be a cheap defence? He thought it would.

A great deal had been said of the peculiar efficacy of batteries as a defence. Would batteries protect the port of New York? Would even a range of batteries, from the Hook to the city of New York completely protect a passage of a mile and a half wide? If it were but half a mile wide line-of-battle ships could pass up to the city, notwithstanding batteries on the shore. Did gentlemen know that ships of war could fight almost in contact with one another for a whole day? The battle of Trafalgar and the battle of Aboukir, off the coast of Egypt, had proved that. Give a ship of war a favorable wind and tide at the same time, and fire from a battery as many shot as they pleased, if there was a passage left open for her hull, however narrow it might be, and they could not expect to stop that ship, except by accident a mast should be carried away. We must, said he, build gunboats, bomb ships, and floating batteries, and combine their force together, if we mean to prepare effectual protection for our ports in case of war. But, as the question was now on gunboats only, he should confine himself to that point, and not follow the example of some gentlemen who had occupied the time of the House in discussing subjects irrelevant to the present question.

From the report of the Secretary of the Treasury, it appeared that there remained in our Treasury, exclusive of the sums necessary for current expenditure and the periodical discharge of the public debt, a balance of eight millions of dollars, upon which they could operate, and which, he trusted, they would use in part. But this was a measure only preparatory to measures which might follow. If the United States were forced into a war, should they not raise an army, and call out the militia for the invasion of Canada and Nova Scotia? Undoubtedly they would. Would gentlemen say, if they employed an army, that they could limit the expense of its commander to a certain sum? He believed not. So with gunboats, or other measures. Even if the estimates were to fall short of their actual expense, it should not prevent them from taking the proper means of defence. All the resources of the nation should be commanded; they were not to censure the Administration for approving this or that measure; not to denounce that Administration which possessed the full confidence of the people, and would do so as long as it was conducted in the same correct manner and on the same principles as had been pursued by the present Executive. The side-way strokes which gentlemen aimed at the Administration, had no effect on Mr. C., they might follow their own course, but he would support the Administration in all proper measures which it should recommend to their consideration.

He would add a word in relation to the attack on Tripoli, where gunboats had been successfully employed. Without gunboats no impression could have been made on that Power. He was told so by the gallant officer (Commodore Preble) who commanded in the several attacks, and who was now sleeping in the dust. That officer had informed him that, without the assistance of gunboats, he could not have completed an assault. It was well known that, after Commodore Preble returned to the United States, ten gunboats were sent from this country to Tripoli, to support the other naval force then before that place. Mr. C. expressed regret that an opportunity had not been afforded them to ascertain their utility in that quarter. Our negotiator made a premature peace, and thus prevented the gunboats, despatched from America, from operating in the new bombardment of Tripoli, which certainly was contemplated by the commander who succeeded Commodore Preble. It was not a sound argument, against these boats, that one of them had miscarried in crossing the Atlantic on the outward passage, for merchant vessels were often lost at sea; but it was clear that all the remaining boats returned safe to the United States.

Mr. C. would finish his cursory remarks by observing, that he was decidedly in favor of passing the bill. He wished gentlemen generally to agree to it. The boats were a valuable mode of defence; he felt sure they would be found so, and he hoped every member would give support to the measure, trusting to the patriotism of the House that the bill for the further protection of our ports and harbors by land batteries would also be agreed to, when it should be properly brought before them.

Mr. SOUTHARD was in hopes this bill would have met with very little opposition, especially, when it was considered that it was but a part of a system of defence, of which, the other parts would be decided in progression. Various objections had been made to the bill. Some gentlemen supposed that gunboats were altogether insufficient for defence, and that the scheme was merely ideal and visionary; and some had attempted to prove that gunboats had never been used. A gentleman from Massachusetts had just disproved this by circumstantial accounts of two engagements; one on the river St. Lawrence, and one in the river Delaware. In the last instance, about twelve gunboats engaged two British ships of war. Mr. S. would state, from good authority, that the reason why these vessels were not made a prize, was, that the gunboats were not supplied with a sufficient quantity of powder and ammunition. This statement and fact would go far to do away the impressions of those gentlemen who suppose that gunboats are of no efficiency as a defence, or that their utility was ideal. In the progress towards the passage of this bill, every day new difficulties had been discovered, and new objections raised to its passage. Some gentlemen told them if they passed this bill, and appropriated a sum of money sufficient for the object proposed by it, that they would not leave money in the Treasury adequate to the expense of building land batteries, &c. Another objection was, that if they appropriated money for building gunboats, fortifications, and batteries for the seaports, there would be no money left wherewith to provide arms for the militia. If these remarks were even correct, they possessed no weight, because gunboats, fortifications, and land batteries, and arming the militia, were but three several parts of one great system.

After these remarks, he would only state his own idea of what ought to be done. He thought they should first provide gunboats; secondly erect fortifications and land batteries; thirdly, pass a law providing for arming the militia—for, unless men were armed, they could not prevent an enemy from landing, destroying, and laying waste the country. Mr. S. hoped everything would be done which was requisite for protection. Gentlemen had said that our resources were not sufficient to meet these objects. Mr. S. would observe that there was, in the Treasury, money sufficient to answer all these purposes; if not, the country had resources within itself, fully adequate to every measure of protection and defence. He would not go, as some gentlemen had, into calculations of dollars and cents. If the nation was embroiled in war, its expense would be incalculable. It was impossible to form even an idea of the enormous expense that would accrue from war. But, Mr. S. would withdraw all the money out of the Treasury; he would not leave a cent; he would even drain the blood from his own veins, if it were necessary, for the defence of his country. If the nation was involved in war, life, liberty, and property, everything, was at stake; and all their energies should be exerted to repel the invader.

A number of gentlemen appeared desirous of building ships of war for the protection of our commerce. Mr. S. was of opinion that, whatever might have been proper heretofore, such a measure would be inexpedient hereafter. Of what effect would be any naval force which the United States could erect? It would form an object of derision for the enemy, and afford a pretext for war. It would increase the expense of the country, and add to the strength of our adversary. Would gentlemen take a view of Denmark, and other European Powers? See them all swept from the ocean, and their vessels where the Navy of the United States would soon be, were any to be erected. As to the ships of war which the United States now had, he should have no objection that those which were fit for service should be distributed as an aid to batteries and other works, wherever it might be deemed most proper to make such distribution. He was clearly of opinion, whether war or peace might be the result of our present uncertainty, that preparation for defence ought immediately to be commenced. If preparation would not prevent a war, it would tend to shorten the term of its duration.

Some gentlemen had gone into calculations, on principal and interest, of expenses for six or seven years. Away with such trifling! Let us, said he, act the part of Americans. Let us go boldly into defensive operations, and let us not be saddled with a long and tedious war. If war should be our lot we shall experience a temporary privation—not of the necessaries, but of the luxuries of life. For every thousand we expend for opposition to the enemy, we shall save a million in our own resources. Our citizens would turn their attention to domestic manufactures, and, although no man more than himself deprecated war, he thought advantages might result from it to the nation. He hoped the House would pass the law, and take such further steps as might be necessary to prepare fully for defence; that they would discharge with care the responsibility attached to their situation, and support, throughout, the justice of their cause, and the rights of the people.

Mr. KEY said, he conceived he possessed the right to give his sentiments on this subject; and he felt it a duty to assign those reasons which would induce him to vote for the bill under consideration.

He greatly regretted that the House had no general system of defence laid before them, for the protection of the country, and more especially of its vulnerable points. Such a plan would have been attended with good consequences; it would have enabled them to progress gradually from one point to another, feeling, as they went along, so that, whether the event were peace or war, the honor of the nation might have been preserved. He took up this subject, as presented to him by the committee who were appointed, not to devise a defence for our shores, but for our ports and harbors; and in this point of view the bill did not strike him as comprising a general system of defence, but as a particular measure for aiding in the protection of the most prominent parts of our country. He did not like that different parts of a great national subject, should come before the House from different committees, because they should properly form a connected series; but, as the measure had come under consideration in this form, he would endeavor to show that the principles of the bill, as far as they did go, were correct and proper.

Mr. K. had no doubt but, in forming a general system of defence, some few frigates would be found necessary; but he strongly feared they could neither construct line-of-battle ships or frigates before it would be necessary to use them. Some gentlemen had asserted that the nation was at war; he would not combat this position, though it was not tenable. Some gentlemen said we were on the eve of war, with whom he thought. If they were engaged in war, it would not be upon any other part of the frontier than that accessible by water. Of course the most vulnerable points of the country were upon the seashore. He therefore thought that every species of defence competent to the protection of these points should be adopted, and of this description were fortifications

and batteries, aided by gunboats; not that they composed the best possible means of defence, but the best that could be constructed within a given time.

It had been said that gunboats could not act efficiently alone; but he believed that, as auxiliary to fortifications, they could be applied in such manner, and under such circumstances as to prevent ships of war from acting to effect. It was known that a ship of war in making an attack on any particular point, always placed herself in such a manner as would enable her to act with the greatest effect; she anchored with her broadside to the battery; and, under such circumstances, gunboats were competent to make her change her station.

There were, as far as Mr. K. knew, in modern times, but two instances, and but one that was remarkable, of the efficacy of gunboats as a part of a system. One case was the defence of Cadiz, when Nelson, with his whole fleet, anchored in the bay of Cadiz, and was repulsed, principally, he believed, by the instrumentality, but certainly by the assistance, of gunboats. In case of attack, made on our ports, gunboats being locomotive, would, in such circumstances, be advantageous. Another case of the success of gunboats occurs in the bay of Gibraltar; they are there secured from attack, until, like spiders darting upon flies, they spring out in calm weather, and always capture their prey.

These gunboats took their origin in an early part of this century, when Gibraltar was surprised by the enemy. Gunboats were then introduced into the Gut of Gibraltar, and from the time that Britain captured Gibraltar to the present day, such has been the effect of these boats, that the British were always obliged to send supplies and provisions to Gibraltar under convoy. He had mentioned this circumstance to show that gunboats had acted offensively as well as defensively. If gentlemen, however, considered them as alone a sufficient defence for this country, they were most miserably mistaken; they were merely eligible as a means of defence in aid of fortifications. Mr. K. agreed with the gentleman who had yesterday said that these boats would be no protection against ships of war, with wind and tide in their favor, in Chesapeake Bay; but, as offensive weapons, they might be placed at points where they might lie in readiness till a proper time should arrive, in which they could act with advantage. A number of frigates had been, for some time, lying in the Chesapeake. Mr. K. did religiously believe, if the nation had been in a state of war, (and a contrary situation alone had prevented the experiment being made,) that twelve gunboats stationed at Norfolk, could have driven them away from their anchorage. And why did he believe so? Because they could have chosen their time, when the weather was calm, and large ships could not be worked. It was in this way that gunboats could greatly injure ships of war, and, if not destroy them, could injure them so much as to render them unmanageable. He did not conceive that gunboats should be considered as incapable of rendering essential services, because they had not hitherto driven the British squadron out of the Chesapeake, for the measures taken by the Executive had not warranted such a step. We are not at war, said he; when, by the shameless impressment of our seamen and other injuries, and when consummating her folly and wickedness by the attack on the Chesapeake, the English nation gave cause for war, we did not go to war. In his judgment, and he was reluctant to withhold praise where it was due, a much wiser course was taken; he meant the call upon that Government for reparation before a resort was had to war. Had they gone to war, on the spur of the occasion, they would have committed to the mercy of the British navy twenty millions of American property, afloat on the ocean; it would have fallen a sacrifice to the superior naval force of our opponents. If honorable reparation be made, the course which had been pursued would have been wise; at all events, whether reparation be made or not, time had been given to our citizens to save a great portion of their property. A measure of immediate war would have brought bankruptcy on our cities, and ruin on our citizens. It was well, for this reason, to put the event off as long as possible—the longer it was put off, the better we should be prepared for it when it did arrive. There was no necessity for immediate precipitation, and measures had been wisely taken; and they now daily expected a Minister from England for the purpose of offering the cup of peace; whether it would be such as the nation could drink of, he could not say. No measure had yet been taken by this Government usually taken by nations in a state of war. He hoped the country would never again be caught in a state so perfectly defenceless, and at the mercy of the enemy, nor be caught napping at its post. Even contemplating a present peace, he considered every protective measure to be imperiously demanded by the situation of the country. The building of ships of war or frigates could not be accomplished in the necessary time in case of immediate war, but he thought they would be driven, by necessity, to this means of defence whenever the exigency of the times required a strenuous defence.

An honorable gentleman had yesterday observed, as one reason against this measure, that it would, if carried into operation to the proposed extent, prevent the adoption of another measure, on which the gentleman placed much reliance—arming the militia. Mr. K. was greatly in favor of this principle, and voted for it; he also wished it to be carried into effect as early as possible; he thought it would be wise and prudent to arm the militia; but, when the question now presented itself, should our funds be exhausted by a general arming of our militia, neglecting to afford that protection so necessary to our ports and harbors, he should be strongly opposed to it, because the whole body of the militia would not be called into service at one time, and because, by arming them now, at the public expense, they would draw those sums of money from the Treasury which could, under present circumstances, be much more advantageously employed.

When he reflected on our expectation of an immediate rupture with a foreign Power, on the situation of our most vulnerable points, and the danger to which they were now exposed, all conspired to influence him in his belief that the measure under consideration ought to be adopted. One other reason: gentlemen, ardent for the protection and safety of the country, who expressed the greatest dislike to this mode of defence, had not pointed out any other—had offered no more eligible mode as a substitute. Because this did not meet entire approbation, were they to have no defence? If he could hear gentlemen of talents demonstrating how the same money could be expended with the same effect, in the same time and to the same object, he should listen with pleasure. He had, however, assigned his reasons for the vote he should give; during the discussion which had taken place on the bill, he had listened with great attention to arguments on both sides of the question; and, looking with a single eye to the expediency of the measure, without considering from what quarter it emanated, he did think the bill ought to pass.

The Committee rose, and the House adjourned.

Friday, December 11.

The Speaker laid before the House a letter from the Secretary of the Navy, accompanied with two statements marked (A and B,) in relation to the numbers of officers and men, respectively, belonging to the Navy of the United States, and the Corps of Marines; to estimates of the number of officers and men which would be necessary to complete the manning the whole and entire Navy of the United States, including the gunboats; and to the expenditures necessary for maintaining them in actual service during one year; also, to the timber and other materials belonging to the United States now on hand, suitable for building ships of war; prepared in obedience to resolutions of this House of the thirtieth ultimo; which were read, and ordered to lie on the table.

Mr. Findley, from the Committee of Elections, to whom were referred, on the fourth ultimo, and seventh instant, petitions from sundry qualified electors of Montgomery county and part of Frederick county, in the State of Maryland, and from sundry other citizens of the said county of Montgomery, relative to the election of Philip Barton Key, the member returned to serve in this House for the third Congressional district in the said State, made a report thereon; which was read, and committed to a Committee of the Whole on Tuesday next.

Mr. Dawson, from the committee appointed on so much of the Message from the President of the United States as relates to the Military and Naval Establishments, to whom was referred, on the eighth instant, the representation and petition of Amos Stoddard, and all the officers and soldiers composing the present Army of the United States, made a report thereupon; which was read, and committed to a Committee of the Whole on Monday next.

THE GUNBOAT BILL.

The House resumed the consideration of the bill for appropriating a sum of money for providing gunboats.

Mr. Rhea said, before the question was taken on the passage of this bill, he wished to make a few observations. Had the bill been positive in its provisions, he should have doubted whether to have given it the additional weight of his vote; but the bill being only an authority given to the Executive to erect a particular means of defence, and having full confidence, that any money appropriated in this manner, would be employed for the advantage of the nation in general, he felt inclined to give his vote in favor of it. The first question which presented itself was, whether protection was necessary or not; and if this question had been properly considered, it would have remedied a great many objections, which had been made to the bill. It seemed to be the general opinion, that something should be done; one gentleman said they were at war, one represented them as on the eve of a war; another, that they were neither at peace or war; but every one contemplated our situation as somewhat dangerous. If then they assumed the position, that protection was necessary, it was easy to discover who were to be protected—the people of the United States, and their possessions; and under this general head could be brought into view all that need be considered on the present occasion. A question now arose, by what means this protection was to be afforded? The answer to this would embrace every principle of defence, which had been proposed to the House by bill, resolution, or in any other way; and in answer to the objection, that every particular part of defence, was not brought into view at once, it might be answered that it would require considerable time, and long discussion to digest the whole great system of defence, as parts of which one gentleman wished a large army, one fortifications, one a navy, and one gunboats; but the measure proposed by the bill should be now determined, as it was proper immediately to commence the work of defence. A reason had been urged against this bill, that in contemplating any particular mode of defence, they should adapt it to a general system, and to such an extent as would be proportionable to the resources of the nation. Mr. R. conceived that the resources of the country would be sufficient to carry into effect not only the measure proposed by this bill, but every other part of a system, which it might be necessary to adopt.

Mr. R. would not trespass on the time of the House, as he only wished to connect the reasons, from which he should give his vote in favor of the bill.

Mr. Milnor said, after the subject had received such a lengthy and labored discussion, it was not his intention further to detain the House; but the yeas and nays having been called, he wished

merely to assign a few reasons which induced him to vote in favor of the bill. It was not because he had heard arguments which tended to convince him of their very great utility, or that he himself placed great reliance on them, though he was willing to admit that they might in certain places, and in certain cases, be useful. The reason for the affirmative vote he should give on this measure was, that he found a great majority of the House in favor of it. It was a system which the friends of the Administration brought forward, and which he supposed must accord with the wishes of the Administration. Therefore, as he could not obtain that system which he believed more efficacious and more proper for the nation, rather than risk the having no defence at all in case of war, he was willing that this system should be tested. When he had offered an amendment the other day, he had stated his ideas generally on the subject. He had then endeavored to show that other means of defence were more efficacious; but, that this system should be fully tried. Although he thought the number too large, he should vote for the bill, not wishing at the same time, by such a vote, to be considered as expressing a belief that they would answer their intended purpose.

Mr. JOHNSON said, although he should not pretend to propose measures of great national defence, he considered it a prudent exercise of his right as a member, to express his sentiments upon subjects proposed by others, upon which it became his duty to vote. He was in favor of the passage of the bill. He believed that they had arrived at a crisis; a crisis which had marked the maritime annals of Great Britain with the blood of American citizens; the period had arrived when this nation must receive a satisfaction for injuries inflicted, and a security from future wrong; or the sword must again be drawn to defend that liberty which was the boast of all, and which had cost so much. They had before them evidence sufficient to demonstrate the probability of war, an event which could not be long protracted but by an honorable accommodation. While America mourned the loss of her sons, she had wisely forborne to strike a blow which her wrongs had justified. New instructions had been despatched to our Minister at the Court of St. James since the outrage upon the Chesapeake, and a last appeal made to the reason and justice of that Government, by whom they had been so much injured. The negotiation had terminated in England, and even now a special Minister was expected from Great Britain to attempt a settlement here. The door to reconciliation had not been closed, and he hoped it would not be barred so long as a real desire could be traced in Great Britain to make an honorable settlement of all important differences. But everything they could hear or see proved the propriety of making preparations for the worst event. Our Government had been the injured party, and must have redress.

The conduct of the Administration had been arraigned. Mr. J. did not hesitate to approve the conduct of the Executive, and particularly in this late and important transaction, it had acted with prudence, wisdom, and firmness. If feeling had not been governed by prudence, the nation might have been in a state of actual war. Perhaps our wrongs might have justified it; but while there remained a hope for honorable peace, negotiation was the proper course. We fear no nation, but let the time for shedding human blood be protracted, when consistent with our safety. If our claims upon the justice of England should be disregarded, there would be time enough for human butchery. He looked around him, and saw many who had witnessed the calamities and miseries of the American Revolution. But if war could not be avoided, accumulated horrors would not induce the American people to endanger their independence. They would say, like the immortal WASHINGTON, the former victorious leader of their armies, "I will conquer or die with my countrymen." Unanimity, in times of public exigence, was all important; any other course than that which had been pursued by the Administration, might and would have created division; but if they should now be driven into war by the injustice of Great Britain, where was the man who would not be with them, who would not approve the conduct of the Administration, pronounce our cause just, and appeal to Heaven for victory.

It had been said that the gunboat system was a substitute for every other defence. Mr. J. said that this must be an error. Gunboats, land batteries, and fortifications, are designed to defend our cities and seaports, from the destruction of a maritime force, and to expel hostile fleets from our waters, which end he believed they were adequate to effect.

It had been said that the present Administration was in a state of total incapacity to defend the nation, and that the measures pursued would subvert our liberties, and lead directly to ruin. This is not the fact. The treasonable batteries of internal enemies had not been able to shake the strength of the Administration in the slightest degree, and with the greatest ease the traitors have been put down; nor had the measures of the Administration been ruinous. Our Government and the people had been prosperous and happy, so far as they have depended upon the Administration. And when our troubles and misfortunes were traced to their source, it would be found in the unprincipled conduct of the British Government. Their injustice had been coeval with the settlement of this country. Civil and religious intolerance had driven our ancestors from their native soil to this country. And British injustice this nation would experience, until it made a manly stand against their pretensions. Other nations had injured us, but not as vitally as Great Britain. Other nations have not impressed our seamen; they have not murdered our citizens; they have not violated the honor of our flag. But Great Britain has injured us in every possible relation; our commercial, political, and personal rights, had all been violated.

The same gentleman (Mr. ELLIOT) had introduced the subject of an impertinent letter, written by Captain Love, a British naval officer, reflecting upon the proclamation of the Executive, and much sensibility was expressed, that our naval officer sent this letter, and waited for further orders from the President; and the gentleman exclaimed this was the gunboat and proclamation system. Mr. J. said the conduct of the American officer and the President was correct. What other conduct did the gentleman wish? Did he wish that the nation should be involved in war for a disgraceful, scandalous, and impertinent letter, written by a petty naval officer of His Britannic Majesty. That letter excited contempt and indignation; but it was a small item in the general account against that nation. If war could be justified for this impertinent letter, certainly that gentleman would not be wanting in a conflict between a foreign Court and this Government upon acts of real injury, as he seemed to insinuate. Mr. J. said they had better look to the protection of their commerce, which was swept from the ocean, the capture of their vessels, the condemnation of lawful cargoes, the impressment and slavery of American seamen, and the blood of this people; the citizens of the United States were attacked in a national ship carrying the symbol of the sovereignty of this nation, and in sight of the sacred soil of America, by the hands of piratical assassination.

Another gentleman (Mr. DANA) stated emphatically, that we had not in our possession any documents containing the late correspondence in England, between Mr. Monroe and the British Government, upon this late outrage. He said he could not see the object of the gentleman in thus expressing himself; but he would state that the President had laid the whole correspondence upon that subject before the House in a confidential communication; that the House had the papers in their power, and the President had requested that they might be returned when the House was satisfied with the perusal of their contents, which had been done.

As to the system of gunboats, which had involved such a wide range of discussion, and almost every national topic, he had no practical knowledge of their utility; but he could state the evidence he had of their utility to the full extent contended for. First, it was a system which had been recommended by the President, supported by the opinions of General Gates, Commodore Barron, and Captain Tingey. He perceived that a very large majority of the Representatives of the seacoast, from Georgia to Maine, was in their favor. They are used by most of the Powers of Europe, and particularly in the Mediterranean, for defence, and often for offence. They were considered particularly useful in the North of Europe and the Baltic, on account of moderate tides, shallow water, and narrow seas. He had also many examples of their practical utility. In the war between France and England and her colonies, a case had been cited of an attack and conflict in the river St. Lawrence in the year 1763, between four American gunboats and a French vessel of war, carrying 16 guns and 180 men. The battle was obstinate; the French lost 60 or 70 men, the hull and rigging of the vessel were cut to pieces, while only one man was killed on board the gunboats. A battle had been mentioned by the same member, which happened in the Delaware during the Revolution, where two English frigates were attacked by gunboats, one of the frigates driven from our waters, and the other stranded, and would have been captured, but for the want of powder. Again: the celebrated battle between the English navy and the French flotilla of gunboats off the port of Boulogne, in the British channel. Lord Nelson was charged with the destruction of these gunboats, and made the attack for that express purpose. The first attack was made with thirty vessels of war of all sizes; he failed in the enterprise, and was obliged to retire. This great naval commander, not having satisfied himself or his nation by this attempt, ten days after returned to the assault, with more ships-of-the-line, a larger number of frigates and brigs, and renewed the fight; after a very bloody battle and great loss, he was again repulsed. In fact, nothing did the English so much fear as these gunboats, properly managed. A few years ago, it would be recollected, Napoleon collected above one hundred thousand soldiers for the purpose of invading England. This created alarm and agitation in Great Britain, and this project the British Cabinet knew could not be effected without the aid of the French flotilla of gunboats at the port of Boulogne. The late Minister, Mr. Pitt, to divert the attention of Napoleon from this design, by British gold and British influence, created a new coalition upon the continent of Europe against France. For the moment, this coalition had its desired effect, and it is known to all how it had terminated. It had resulted in the conquest of the North, cost the lives of thousands, and inundated Europe with human blood.

Much has been said by gentlemen of the naval engagements in the Liman Sea, referred to in the President's Message at a former session. These were two bloody and obstinate conflicts between Russian gunboats and Turkish vessels of war, in which each fought with desperate courage; and the victory had been assigned, by the gentleman from Connecticut, to two causes: First, the superior science and information of the Russians, and the debased brutality of the Turks, at the time this battle was fought. Mr. J. said he had never understood that the mass of the people of Russia were more enlightened, except about Petersburg and a few other populous towns, than the Turks; nor did he ever understand that philosophers and men of science made braver soldiers than plain men of common sense. This brutality spoken of could not certainly apply to the Turkish commander; at least he must have had information enough to find the channel and shallows of the Liman Sea, as science and philosophy were not essential qualifications for a good pilot. The second reason assigned for the victory of the Russians is the narrowness of the Liman Sea and its shoals, and the difficulty of moving to advantage

the large vessels. This was one of the advantages that the advocates of this system contemplated from its adoption.

Another gentleman had observed that the Turks were not conquered until their vessels were stranded. In that very way, said Mr. J., will the United States conquer them if they come into our harbors and shallows, where no superiority of science will operate against the Americans. Gunboats were not designed to leave the water and mount upon dry land. An invading foe would be met in a different way, and with a different force, the militia; with that spirit of volunteering which had manifested itself on a very late occasion; every part of the Union would be in motion; and then they would see also the spirit of that State which gave birth to a Preble and other heroes, as a member from Massachusetts (Mr. QUINCY) had said. Mr. J. said he lived in a State far removed from the ocean, and could not apprehend immediate danger from a naval force; but the people of Kentucky were willing to make this a common cause; they wish every part of the Union to be defended. In case of war, they would call upon Congress, through their Representatives, for the means of protecting their Western frontiers from the inroads of savage hostility. A large frontier will be exposed to savage incursions. English influence will excite the savages to hostility. They had even now before their eyes monuments of British influence and savage ferocity; they had at this time before their eyes widows and orphans, who had lost their dearest companions by this influence and hostility. Let not a foreign enemy, then, imagine that he could divide the American councils or the people by arts of diplomacy. Our President, in his conduct, had been actuated by a love of peace; and should this nation be compelled to take up arms, the people were unanimous; they were pledged by their resolutions to support measures of the Government consistent with the nation's honor and the nation's rights. They were not only bound by resolutions, but the more sacred principles of patriotism. The ten counties Mr. J. represented had expressed their sentiments; they would defend their independence at the hazard of life and property; and he believed other parts of the State were not less patriotic. He said he was one who would rally round and support the Executive in every measure which it might pursue in a conflict with a foreign Power in vindication of the honor and rights of the people. The same sentiment had been expressed at the same time in Georgia and Maine; the collected voice of the nation had met at this place, the centre of the Union, and had resounded across the Atlantic; the result would soon be known.

The gentleman from Vermont (Mr. ELLIOT) had asserted that the nation was disgraced. Mr. J. said he could not admit that the United States had disgraced herself. America had acted with dignity and justice; but Britain was disgraced by her injustice, and the time had arrived when the United States would prove whether she had disgraced herself or not. If the claims of this Government upon the justice of Great Britain should be spurned at this moment, and America tamely submitted to the injury and insult, then would it be said with propriety that America was disgraced, and not till then. For, while they asked redress for injury and insult, they acted rationally; but if they tamely submitted to this humiliation, either before or after a demand and refusal of satisfaction, then, and not till then, were they a disgraced people!

Mr. MACON said, it appeared to him that the only question at present discussed was, whether the number of boats authorized by this bill was the proper number. Some cases had been stated in which gunboats had been efficacious, and some in which they had not. Mr. M. did not mean to dispute their efficacy, but as gentlemen on the seacoast were divided on the subject, until gentlemen could better agree as to number and utility, so large a number ought not to be built.

There was another thing he should have been glad to have seen before he voted on this bill; he should have wished to have seen how these boats were to be manned. They might be told that people would volunteer their services on board of these boats. There must be some way in which they must be manned; unmanned, they would be perfectly useless. He did not like legislating in this detached way; it had been tried in former days; first passing one law, they must pass another to render it effectual. He wished to see some efficient method in which these boats should be manned; he could have wished that the whole system should go hand in hand. The President was authorized to man these boats. Was any authority given to draught sailors for the purpose, or how were they to be supplied? It was essential that this should be known. He should wish, and if he thought he could succeed he would make a motion to recommit the bill to a select committee for the purpose of making this provision. Suppose twenty boats were stationed at Norfolk, did they know that these boats could be manned? In his opinion, the bill should contain a regulation for manning them; every law should stand upon its own merits, and he should always protest against passing one law which would oblige them to pass another to carry it into effect. Let us, said he, see the whole system, and then let us vote upon it.

Mr. BLOUNT informed his colleague, who had just sat down, that the committee to whom that subject was committed had it in contemplation to provide the means of arming these boats, by establishing a marine militia. The gentleman would readily conceive that a bill to carry this into effect must require a great deal of detail. The detaining of this bill till that subject was ready, would have occasioned great delay; time sufficient had already been consumed in which one-third of these boats might have been built. The gentleman had expressed a wish that every law should stand upon its own merits. Mr. B. concurred with him in this principle, and had contended for it on this very subject. He had not wished this bill to be connected with or encumbered by any other subject, but to stand on its own bottom, and for this reason the marine militia had been kept distinct from the subject of gunboats.

Mr. G. W. CAMPBELL said, it had not been his intention to speak on this subject. There was sufficient cause to induce him still to decline entering into the debate. His indisposition would certainly prevent him from examining the subject in that manner which its importance required; and he would therefore have persevered in his original intention of remaining silent, had not an attempt been made to make an impression on the public mind, that the friends of this measure were about to drain the Treasury of the United States for a system of defence that would prove inefficient—for a mere useless experiment. This might therefore require some explanation, that the motives of gentlemen who were about to vote for this system of defence should be known, as well as their objects. In the discussion of this subject, gentlemen had also gone into an examination of the utility of our Naval Establishment, and the expediency of increasing it at this time, which was in his opinion a distinct subject, that had little or no connexion with the proposed measure. It would be time sufficient to examine that question when it came properly before the House. There had also been a very novel mode of argument introduced on this occasion, and it was the second time it had been used during the present session—that of gentlemen arguing against the expediency of a measure, while they declared their intention to vote for it. This was indeed a new method of legislating, and may be intended to answer a double purpose: it may perhaps enable gentlemen to say to those of their constituents opposed to this measure, (if such there are,) We were inimical to it; we exposed its weakness in the House, and showed its inefficiency—you cannot therefore blame us for its adoption. While, on the other hand, they might say to the friends of the measure, We have supported it by our votes, and are therefore entitled to your confidence on that ground. Mr. C. did not say that this was the object of gentlemen; but if it was not, it appeared to him difficult to ascertain what it could be. It would have appeared much more consistent for those gentlemen who seriously believed the system to be useless, to vote as well as speak against it; and it were to be wished that those who intended to vote for the bill before the House, had permitted it to pass without opposing it; but, as this course of argument had been pursued, he deemed it a duty he owed to his country, to those he had the honor to represent, and to himself, to express to the House (though in a very brief manner) some of the reasons which would induce him to vote for the bill. He did not pretend to possess much information on the subject of gunboats—he had therefore hitherto declined entering into the discussion, and waited to hear what might be advanced on the subject by those who had greater opportunities than himself of knowing their efficiency or inefficiency—but he had found those who had spoken on this subject were obliged, like himself, to depend on the information of others, and did not pretend to furnish the House with any practical knowledge on this subject. They must, therefore, form their opinions from the reasoning on the case, and such evidence as they were possessed of.

The first important inquiry would seem to be, whether the present state of our relations with foreign Powers was such as required the adoption of effective measures for national defence. It appeared to be agreed by all that it was. No one denied the importance of the present crisis. It could not be denied by any gentleman who would reflect a moment on the repeated aggressions that have been committed on our commerce, the violated rights of our seamen, the insult offered to our national flag, and the murder of our fellow-citizens. These all go to prove, incontestably, the necessity of our putting the nation in a state of defence. The next inquiry was, of what nature ought our defensive preparations to be? It is clear, they ought to be calculated to meet and repel the attacks that we have a right to expect from those who are likely to become our enemies. Those attacks are to be expected on our coast and seaport towns, which are most exposed, and most vulnerable to a marauding enemy. The species of defence, therefore, that we ought to adopt, should certainly be such as was calculated to protect, as far as in our power, our coast, our harbors, and our seaport towns, from insult and ruin; unless, indeed, these are to be abandoned to the enemy on his first approach. We are then to determine whether we shall defend these or not.

Will the nation consent to expose to an enemy, without an effort to repel him until he has landed, the whole extent of your seacoast, all your seaport towns on the margin of the ocean? This would be a dangerous experiment, and he had supposed too wild a scheme to be advocated by any reflecting politician: though it seemed to be the favorite doctrine of some gentlemen in this House, who were opposed to every species of defence, except placing arms in the hands of the militia. It is true the foe might be repelled by your militia, and no doubt would be; but, what would the citizens of those towns and on your seacoast say? Would they not justly complain that you had neglected their interest, had deserted them in the day of danger, and left them to be pillaged and destroyed by an enemy, without one effort to protect them? They certainly would, and their complaints would be well founded. There were, however, he presumed, but very few willing to subscribe to this doctrine—though it had been advocated by some gentlemen in this House, who appeared opposed not only to ships of war and gunboats, but also to fortifications.

Taking it then as admitted, that the coast and seaport towns are to be defended against naval attacks, what were the means in their power best calculated to effect that object? On this point there was, as might be expected, some difference of opinion. Mr. C. believed it would not be contended by any gentleman that our coast and seaport towns could be effectually defended by fortifications alone. No man was so wild in his

plans as to say so. The whole coast, from Maine to the Gulf of Mexico, cannot be fortified—some other mode of defence must therefore be resorted to. He apprehended also, it would not be contended that the naval force now in our possession, in addition to fortifications, was sufficient to afford effectual protection to our seaports. This had not been pretended; its inefficiency was too well known for a single individual to rely upon it. There was then no question on the point that they must acquire an additional floating force in aid of fortifications. What kind of addition was it in their power to make? There was but one alternative left them—either to build an additional number of ships of war sufficient for that object, or to resort to the system of gunboats. They had been very earnestly called upon by some gentlemen to make an addition to the Navy, and unite this with gunboats. This would probably be found impracticable at the present crisis. Mr. C. had expected that those gentlemen who wished to have reduced the number of gunboats proposed, and substitute a few frigates in their place, would have shown the practicability of building their frigates in sufficient time to answer the present exigency. If this could not be effected, the proposition was useless. Mr. C. said the building of a large navy was not consistent with the policy or interest of this country. If it were in their power to do so, it would be at war with the genius of their Government, the interests of the people, and the security of their liberties. But, Mr. C. observed, their means were not adequate to raise a navy sufficient to cope with that of Great Britain. This could not be pretended. Besides, if such a navy was ever presented to them free of expense, and ready for service, it would be their duty, and the interest of the nation, to sink or destroy it, rather than incur the enormous expense necessary to support it, and the danger into which it might bring the rights and liberties of the people. But, said Mr. C., suppose it should be determined according to the wishes of gentlemen to build a few ships of war in aid of gunboats, let us inquire whether such a measure would answer the purpose, or whether any advantage could be expected from the ships so to be built. It is stated on the floor of this House, particularly by some gentlemen who are in favor of building ships for defence, that the nation is either now at war, or on the eve of war. The means of defence must therefore be such as can speedily be prepared for, and brought into actual service. Suppose a law was passed authorizing the building of ships of war, how long before they would be ready for defence? The Secretary of the Navy, in a report made to this House two years ago, (in 1805,) expressly stated, "that from the time 'Congress would authorize the building of seventy-four gunships, it would require three years 'to prepare one for being launched." It is true he states that six might be prepared in the same time. This was the official report of the Secretary, and whose duty it was to be acquainted with this subject, and have these vessels built if authorized, and there is, therefore, no reason to believe a less time would be sufficient. It would be in vain for gentlemen to say, the frigates could be built in a much shorter time than 74's; the difference of time necessary for the erection of each of these kinds of vessels must be inconsiderable. They could not expect to build frigates in less than two years; and suppose you had six or ten of them in that time, ready for sea, what is to defend you in the mean time? Has any gentleman, who can, and will reflect on the subject, such confidence in the friendly politeness of those who are likely to become our enemies, as to suppose that, if we are to have war, they would wait and refrain from hostility until those ships of war were prepared to defend the nation? And if not, what benefit can be derived towards defence from begining to build them at this time? None that can be perceived. You cannot, said Mr. C., have them in time to defend you against the impending storm—it must blow over before they are ready. Will you then lay out your resources in time of danger for means that cannot protect you against that danger, in order to have them ready at or after the return of peace? If this were considered good policy, he confessed himself heretofore a stranger to it. Mr. C. asked, if it were not essentially necessary, that they should employ their resources in a system of defence that could be prepared in time to meet the threatening danger? It appeared to him, that no doubt could exist on this subject. If the system proposed by gentlemen as a substitute to that under discussion, could not be prepared in due time, there was no alternative left; they must adopt that of gunboats, the only one which could be expediously brought into service, or they must remain without defence in times of the most imminent danger. These can be procured in a few months, they can be ready to meet the exigency, and may be used as occasion shall require. Mr. C. said, he might here remark with respect to some gentlemen who opposed this bill, as well as those who had expressed a wish that part of the number of gunboats proposed should be struck out of the bill, that it would be well for them to consider how they would account to their constituents for their conduct in voting against, or diminishing the only mode of defence which was practicable; it amounted to saying, "We are determined our 'seacoast shall not be defended at the present 'time; it shall continue exposed to the attack of 'the enemy." Mr. C. said, if no efficient means of defence were adopted, it would be in the power of an enemy to lay our towns under contribution; to carry ruin and devastation along the whole extent of our seacoast, wherever he came, and strike a general terror in the people near the margin of the ocean. This might compel the Government to accept such terms of accommodation as the enemy should prescribe. He did not say that this was the object of gentlemen, nor that it would certainly be the case, but he would say, that it might and probably would be the consequence of such a course of proceeding as had been advocated on this floor.

If, then, it appeared sufficiently clear that the

mode of defence proposed in the bill was the only one that could be resorted to with safety, it would seem that no question could exist, except as to the extent to which it was necessary to adopt it. Much, indeed, had been said respecting the expense of these gunboats. Mr. C. was not at this time disposed to enter into a minute inquiry on that subject—the expense, he believed, had been highly exaggerated on the one side, and probably diminished on the other. The estimates made by the Secretary of the Navy in 1805, in his report on this subject, do not precisely agree with those made by him during the present session. Perhaps this difference may arise from the kind of gunboats contemplated in the respective estimates, being different. In his report of 1805, he estimates the expense of building a 74-gun ship at $328,888, and that of building a gunboat, at $4,625. He also stated, the annual expense of a 74 in service at $192,500, and that of a gunboat in service at $7,000. According to this estimate, the building of one 74-gun ship would cost more than the building of seventy-one gunboats; and the annual expense of a 74 in service would be equal to that of twenty-eight gunboats. It may be observed here that the expense of building a 74, in this estimate, is believed to be much underrated. It is stated upon good authority, that one could not be built for less than $500,000, which would be sufficient to build one hundred gunboats at least. It is true the Secretary, during the present session, has estimated the expense of building a gunboat, he believed, at about $5,000, and the annual expense of one in service at $11,000. The difference in these estimates must, as has been stated, be supposed to arise from a difference in the kind and size of the boats, as some carry two guns and others only one—and in the manner of manning them, some being made much larger than others, and requiring a much greater number of men to man them. But suppose you could only keep in service twenty-eight or thirty gunboats, with the same expense necessary for one 74-gun ship, would it be contended that thirty gunboats would not contribute more to the defence of the country, than one 74? he presumed it would not. According to the opinion of the best informed on the subject, ten gunboats would force any ship of war from her moorings. But he did not deem it necessary to enter into a minute inquiry respecting the expense of gunboats; for, if they were really necessary for the defence of the country, the expense ought not to prevent them from building them; their object ought to be to afford to the nation the most efficient protection in their power, and whatever might be the necessary expense of the measures, adopted for that purpose, they would be cheerfully submitted to by the country.

Mr. C. said he could never agree to barter away the blood and liberty of American citizens for dollars and cents, and he hoped that such cold-blooded calculations would not be made at this time; they would not be prepared to account to their country for such conduct; they would be told by that country that they were ready to give "millions for defence, but not a cent for tribute." No, nor one cent towards humiliating concessions; nor would the American people shrink from any contest that might be rendered necessary in obtaining a just reparation for the injured, insulted rights and murder of their fellow-citizens. Some had objected to the number of gunboats proposed to be built. Mr. C. observed that if the authority was given to the President to build the number stated in the bill, that authority would not, he presumed, be exercised to the full extent, unless circumstances should render it necessary; or, if the number proposed should be built, they would not be called into actual service, except as occasion might require. Such part only would be manned as the exigency might render necessary; and the seamen of the United States ought to be organized into a marine militia, in all the seaport towns, for the purpose of manning those gunboats when called into actual service. By passing this law they put it in the power of the Executive to provide and call into service so many of those gunboats as he should think proper; not all at any one time, unless, indeed, the attack should be so general, or the danger so imminent as to render it necessary. The measure appeared to him to rest nearly on the same footing with that by which a power had been given to the Executive to call out the militia. They had by law authorized the President to call into actual service one hundred thousand militia, as occasion might require, and appropriated money to meet the expense that might be occasioned thereby. This expense, if the whole number were called into service, would be very great; but would gentlemen say, that because the expense would be very considerable, they would not direct them to be called into service when the safety and interest of the country required it? Certainly no man would venture to say so who was a friend to his country—for the whole power of the nation should be exerted to the utmost, when necessary, to repel any attack that might be made on any portion of its citizens. If, therefore, it can be shown that gunboats are the best means of defence in our power to procure, the expense ought not, and could not be a sufficient objection to building them. So much had already been said, for and against the efficiency of gunboats as a means of defence, that he did not propose to enter into a particular investigation of that part of the subject. He would however remark, that although he had attentively listened to those opposed to this system, in order to ascertain the grounds upon which they judged it inefficient, he had not heard any evidence advanced, either from the experimental knowledge of gentlemen themselves, from the experience of others, or from any other source, which in his opinion supported the doctrine they advocated. On the contrary, much evidence had been adduced to prove the efficacy of gunboats. This evidence had been derived from men of distinguished skill and information on this subject, from the experience of nations, and from the success of gunboats in many important actions against ships of war. It could hardly be necessary to remind the House

of the affair at Boulogne in 1801, when Lord Nelson, with thirty vessels of war, attacked the advanced guard of the French flotilla and was compelled to retire with great loss; and in a second attack made by him some days afterwards, he was equally unsuccessful, and sustained much greater loss. The successful attacks of the gunboats at Algeziras on the British fleet, which was greatly superior to them in force, and how galling and distressing these attacks were considered by the British, will be recollected by all who have attended to the history of those times. The affair between the Turks and Russians, noticed in the President's Message, furnishes the strongest proof that could be required of the efficacy of gunboats. This case was a point—it was a trial of the power and success of gunboats opposed to vessels of war. It will not be supposed that the weight of this evidence is diminished by the little criticisms of the gentleman from Vermont (Mr. Elliot;) no man who has heard them will think so. They do not merit, nor will they, I presume, receive any notice on this floor; they will sink into obscurity, as the mere ephemeral effusions of embittered invective, unsupported by facts or reasoning. To these instances of the successful operations of gunboats, may be added, in support of their efficacy, the fact of their being brought into very general use, for defence, by all the northern Powers of Europe, as well as by the two great Powers, France and Great Britain. Mr. C. asked what stronger proof could be expected or required on this subject? They had the opinions of the higher officers of the Navy—men of experience and mature years—the opinions of General Gates, of Commodore S. Barron, and others, stated in the documents on their table. Were these not entitled to respect? Were not the successful operations of gunboats in the instances stated, and the general use of them by European nations, entitled to respect? Would gentlemen wish the Government to go to war, before the system was completely adopted, for the sole purpose of making experiments, to satisfy them of the efficacy of this mode of defence? Should this be done, those gentlemen might not choose to approach near enough to be spectators of the scene of action; and should the experiment prove successful, they would still have to rely on the information of others, or remain as faithless and incredulous in the efficacy of this mode of defence as they now were. But what has been advanced on the other side in opposition to this volume of evidence, to prove the inefficacy of this system of defence? Were these the opinions of men of experience? No. Was there a single instance adduced to the House in which a solitary individual of naval experience had given an opinion that gunboats were not calculated to answer the purposes for which they were intended, that of defending your coast and seaport towns, in aid of fortifications? He had heard none. These were only the mere speculative opinions of some gentlemen of this House, most of whom, probably, had never seen a gunboat, or if they had, like himself, never had been on board of one. No gentleman in the House had pretended to possess experimental knowledge on this subject. This was, then, the kind of evidence brought before the House to refute that arising from the experience and opinions of the first characters in your own country, as well as that of European nations. This was the true state of the question, and Mr. C. would submit it to the House and the nation, which scale in such a case ought to preponderate.

Mr. C. said he could not help noticing, before he sat down, some extraordinary and contradictory objections that had been made to this measure; some gentlemen complained that it was likely to be adopted in consequence of the influence which the opinion of the Executive in its favor had upon the members; others complained because the Executive had not laid before the House and recommended any particular system of defence. The House had been told by one gentleman (Mr. Elliot) that this measure, which had failed during the last session, was now about to be adopted, because it was recommended by the Executive, and was his favorite measure. If, however, the gentleman meant that this measure failed in this House during the last session, he must be mistaken. A bill passed this House last session for building gunboats and erecting fortifications, and so much of it as authorized the building of gunboats was struck out in the Senate. Another gentleman from Delaware (Mr. Van Dyke) complained bitterly that the President had not recommended the measure; he seemed to rest his objections to the bill upon the ground that the Executive had not openly and expressly recommended this or any other particular system of defence. Mr. C. said he would leave it to the candor of gentlemen to decide how consistent those objections were; and he would ask how those opposite grounds of objection to the conduct of the Executive could be reconciled? In such a case how is the President to act? Could there be a more conclusive proof of the correctness of his conduct than the different grounds upon which gentlemen complain of it. These prove incontestably that the Executive did not impose his opinions upon the House in a dictatorial style, but pursued such a course as furnished the House with all the information he possessed, as well as his own impressions on the subject, and left it with them to adopt such measures as in their judgment the situation of the country required.

The gentleman on his right (Mr. Dana) had observed on yesterday, when speaking on this subject, that this House had not in their possession the copies of any despatches received from our Ministers abroad, relative to our relations with foreign Powers.

No gentleman had yet stated that the House had received either original despatches or copies of despatches; the gentleman complained, however, that the House were not possessed of copies of despatches—and with what color of propriety was this complaint made? Mr. C. said, if they had the originals, copies were not necessary; and if there were no originals, they could not have copies. Had the gentleman shown or stated, that there were (in the power of the House) original

despatches, the copies of which he wished? If not, how could he demand, or complain for the want of copies? Can there be copies without the existence of originals? If the gentleman had no right to speak of or demand original despatches at this time, he could have no right to speak of copies. The gentleman had forcibly dragged his observations respecting copies of despatches into this discussion; it had no connexion whatever with the subject before the House. The gentleman would not pretend to say or insinuate, that there was the least reason to believe, the Executive possessed any important information in regard to our foreign relations, which had not been made known to the House. He felt satisfied this would not be alleged, because it could not be said with truth.

But, said Mr. C., I do not stand up in this House to vindicate the conduct of the Executive on this occasion. That is altogether unnecessary. His conduct will speak for itself, and defy the attempts of his enemies to impeach its correctness. Nor am I to be considered, in the remarks I have made on this occasion, as defending the Executive: he stands in need of no defence. His well known faithful and unremitted exertions, for more than thirty years, in support of the rights and liberties of the American people, will be his sure, his best defence, and will vindicate his character against the malevolent shafts of vindictive malice. So long as virtue, wisdom, and patriotism, continue to be revered in the world, so long will his character remain a distinguished monument of the triumph of liberty and the rights of man over despotism and aristocracy, around which the sons of freedom will rejoice to rally; when the memory of those who attempt to defame him, will have been forgotten, having vanished and become obscured by the superior lustre of his well-earned fame, like the feeble gleam of the glow-worm before the splendid glory of the noon-day sun.

Mr. C. said, he had reluctantly been led thus far by his feelings; for he must confess he could not hear repeated attempts made, unjustly and without cause, to defame the character of that great and good man, who had for many years conducted the nation by his sound and wholesome counsels in the walks of peace, and in whom the people of America had justly reposed the highest and still undiminished confidence, without feeling and expressing, in common with his fellow-citizens, that degree of indignant resentment which such conduct so justly merited.

Mr. Dana said, he had one favor to request of gentlemen of this House, that his own views on this subject might not be estimated by conjecture or want of knowledge. What availed it to him if any gentleman in the House could not discover his particular views? What availed it if gentlemen could not discern a good motive for his conduct? Would gentlemen claim the right of penetrating his heart and searching his motives? Was he obliged to explain his views to gentlemen who could not understand them? Mr. D. did not stand there to defend himself against assertions. But what were the gentleman's assertions more than his arguments? Where were the talents or honor that exalted that gentleman above others? Mr. D. descended not to vindication; he had never decried the freedom of deliberation; and, while he conformed himself to the rules of the House, he hoped to be allowed the privilege of expressing ideas, and his course of thinking; if his mind did not follow, obsequiously, those paths which gentlemen might point out, he hoped the House would, nevertheless, allow him to exercise his right.

If gentlemen wished to know why he spoke of despatches, he could repeat, that there was not in the possession of the House a copy of any despatches relative to the affair of the Chesapeake; if they had not in possession any document which could give them precise information on the subject, it was not to be expected that they could deliberate upon it; if this information was out of their possession, and in possession of the Executive, the whole course of proceeding rested with the Executive. Gentlemen need not say whether he had or had not censured Executive proceedings; for he had said nothing on that point, one way or the other. He did contend that, on that particular subject, they had no despatches before them; that the management rested entirely with the Executive. The question was not presented to the House, whether they would recede from the demands which had been made, or insist upon them further; it had not been sent to them for consideration, and therefore rested with the Executive. As the Executive magistrate had charge of foreign relations and the command of the whole public force, as this was a time of uncertainty and anxiety, and as the House had not the control of public affairs, Mr. D. was disposed to give to the Executive that kind of force which he understood him as strongly recommending, though not that which he himself preferred. Was it strange that, upon complex questions, some gentlemen should think fit to examine? Were they, indeed, required to vote without examination? When the subject of foreign relations was before them, could they not say, "I do not like this, I do not altogether approve of it, but, upon the whole, I will vote thus." Gentlemen might undertake to assign motives for his conduct, which, indeed, he scorned to answer. There was one broad ground on which he acted; he always weighed the reasons on one side of the question, against those on the other; and, on the side which preponderated, he never failed to vote. He was in that House discharging a public duty; and he endeavored, whatever were his prejudices, to act consistently with the nature of his trust. The present was a great question between his own country and a foreign Power; in a controversy of this kind, although he might not fully approve the conduct of Administration, he could not endure that any prejudice whatever should separate him from the cause of his country. In a case of this kind, where the Executive was the only organ of communication, he would vigorously guard himself from being seduced by any predilection whatever.

One other idea on this subject: while the aspect of the political horizon was serious, and called upon them, not merely to express an opinion, but to protect the permanent interest of the country, he deemed it of some moment to consider that, however divided on other points, on this they should be animated with one soul; that, said he, when we do strike, we may strike with one arm. Perhaps, a conviction of this might have led him to be more ready to vote for the bill on their table than it deserved. He did not think gunboats, of themselves, composed a proper defence; but, as this bill contemplated a subordinate part of a general system, he should vote for it.

Mr. CAMPBELL said, he could assure the gentleman from Connecticut, that he had not established a court of inquisition for consciences. He had not impeached the motives of gentlemen, but had stated objects which they *might* have in view. I will, said he, assure the gentleman, and so will the House, that he has been incorrect in stating anything about despatches; and I can also assure him that I shall never use an equivocal expression to disclose more than is proper.

Mr. QUINCY said he would not have risen now, but for an observation of the gentleman from Tennessee, as to speculative opinions. Mr. Q. had before not expressed his own opinion merely, but the opinion of men deeply interested and much experienced in this question. He could not boast of personal experience on the subject, but he had conversed with merchants and persons in naval employ, and he had found but one sentiment existed, that they might be useful, but not so much as to supersede the necessity of other modes. He recollected an observation made by a merchant deeply interested in the defence of our ports. When his opinion was asked, of the efficiency of gunboats, he said "you may have gunboats; but attempt to use them on our coasts, and you would soon not have a gun left on your boats." Much better would it be that these guns should be rested on carriages, and those distributed along the sea coasts. He had no objection to gunboats when contemplated to be used in shoal and narrow waters; but he must express an opinion against their efficiency in deep and rough waters, not from his own experience, but because it appeared to be the opinion of men skilled in naval affairs; and because the great mass of men interested in the defence of the ports were averse to this mode of defence. He should not vote for the bill, because he should, by so doing, abandon the best interests of the country; and because, when so large a sum was appropriated, it would seem that land batteries were to be proportionably neglected.

Mr. RANDOLPH said, that so long as the details of the bill were under consideration, he had forborne to trouble the House with his sentiments, but now, on its final passage, he conceived himself entitled to express freely and fully his objections to it. His object was not to make proselytes, but to present to the House and to his country the grounds of his refusal to sanction the measure. When perhaps seventy or eighty speakers had repeatedly risen in its favor, it was surely reasonable that the few individuals opposed to it should be heard in their own behalf. He complained of the manner in which business had been conducted. Instead of a comprehensive system, the whole extent of which might be embraced by the House, measures had been laid before them piecemeal, and discussions of the most vague and unprofitable nature had grown out of them. So far from that general diffusion of information which was so desirable, they were totally destitute of and concerning the disjointed members which had been laid upon their table, and which he despaired ever seeing connected in one perfect whole. The deliberations which had arisen upon them defied analysis. It was a sort of Parthian warfare in which the difficulty lay not in vanquishing the enemy, but in coming up with him. He had not proceeded (as was alleged) upon his own speculative opinion. Experiment had proved the inadequacy of this species of armament. When the President of the United States issued his proclamation, commanding the British ships of war to retire from our waters, the want of adequate force alone could justify a failure to carry that proclamation into effect. A consciousness of his incapacity to enforce obedience to it, was notoriously one of the causes why Congress had been convened. Whosoever denied this must have the hardihood to charge the President with being deficient in his duty, which he presumed gentlemen were not prepared to do; and surely it was his bounden duty to enforce respect for the authority of the nation on those by whom it had been treated with derision and contempt. The British force remaining within our jurisdiction, in defiance of the laws, were as much an invading foe as if they had taken possession of the Capitol. The miseries of war had been feelingly depicted.

Mr. R. was as strong an advocate for peace as any gentleman on that floor; provided it were a safe and honorable peace. To his apprehension the arguments which had been urged would justify submission to any extent. He would ask if it was the duty of the Chesapeake to submit for the sake of peace, or to have resisted to the utmost of her strength? She was no more called upon by her duty to resist that attack, than the nation was now called upon to repel the attack which had been made upon her sovereignty. The obligation to resist was in both cases the same. Was any person disposed to applaud as a preserver of peace the unfortunate man of whom he should say no more than that he was not more bound to return the broadside of the enemy than Government were to expel their ships from our harbors after commanding them to depart. Much as he cherished peace, Mr. R. would be sorry to see it preserved by such forbearance; and it was only the inability to execute that could reconcile it for a moment to the feelings of the nation. The proclamation ought not to have been issued, or it should have been enforced. Let it not be supposed that he was an advocate for defence by forty-four gun frigates. Since the existence of their Navy the United States had lost two of their

stoutest ships to an enemy, and in both instances, without even a show of resistance. It was true that in one of these instances, the victor, as if in contempt, had thrown the worthless thing back upon our hands, instead of sending it where he wished it had gone, to Halifax, or to the bottom. An attempt to build a navy at this time would bring not relief but suffering. Mr. R. put little confidence in the regular navy, as it was called, which just sufficed to bait the war trap, or in the gunboats. Like the contemptible insects to which they had been compared by their advocates, it was hoped that they would find shelter in their insignificance, but if they should prove instruments of annoyance, eventually they would be turned against ourselves. He wished to see the public treasure employed in putting arms into the hands of all who were capable of bearing them, and in providing heavy artillery, not in the erection of a naval force, which, whether great or small, unless it too could retreat beyond the mountains, must fall into the hands of the enemy. If they wanted a force that should combine strength with simplicity, ready at all times for the public protection, they had such a force amply in their power.

If in the first instance he had no objection to this bill, a remark of his worthy friend from North Carolina, who had introduced it, would have determined Mr. R. to set his face against it. It was, that when the boats were built they were to rely upon a marine militia to man them; to cap the climax, a *marine militia!* But perhaps on this subject too they might be told that they were inexperienced and ought not to decide, for that men the most conversant with *marine militias* (but in what school he did not pretend to tell) pronounced them to be the best possible accompaniment to gunboats. There were two sorts of experience; that of an enlarged liberal, reflecting mind, possessing powers of high discrimination, capable of comparing objects in all their various relations to each other; and a little, petty, personal experience extending to a few matters of insignificant detail. Because a man had served on board a merchant vessel, whether in the forecastle or the cabin, did that entitle him to talk magisterially on systems of naval defence? Or, because he could box the compass, was he better calculated for the head of an admiralty than John Lord Spencer, who was probably destitute of that elegant accomplishment; but who, because he was a statesman, and not because he was an able-bodied seamen, had conducted the naval affairs of his country with a success and glory that might be equalled but never could be surpassed! What personal experience, so much relied upon, could our own Executive officers be supposed to have upon this subject?

Mr. R. hoped that those who were in favor of the bill, and whom he believed to be a large majority of the House, would excuse him if he could not vote for it on a principle on which he had ever refused to act, and would refuse as long as he should remain in public life. It was perfectly consistent and proper that gentlemen, who had always been the champions of Executive doctrines, and voted for measures because they emanated from a source which was the God of their idolatry, should support systems because they were ushered into the House in a particular way. These courtly doctrines had always been too refined for him—his deliberate approbation must accompany his vote. A strong objection to the bill in question, was the delusive views held out to the House, on the subject of its expense. It had been said that two hundred and fifty dollars per man would cover the whole cost, (he was informed that it would amount perhaps to four times that sum,) and not one third of the number of men necessary to navigate and fight the boats had been taken into the account; and it had been further urged that, as the boats would be in service not more than six months in the year, one half of the whole annual expense would be saved. Mr. R. asked if it was possible for such a statement to pass upon the most credulous and uninformed man in society. If they were laid up at the end of every six months, and the men discharged, was it not evident that new premiums, bounties, and additional clothing would be necessary at every new term of service? How absurd then to talk of a saving of one half, by employing them only during one half of the year. Besides, what was to become of our defence during the remainder of it? Surely if the boats were necessary in January, they would be so in June, and if wanting in June, they were equally so in January.

But it was whispered, out of doors, that these boats were not to be built. This, although at first sight it might seem to remove all his objections to the bill, would, if true, enhance his opposition to it, because it would lock up a vast sum of money from the necessities of the public, and tended to hang out lights of false security to the people.

If however negotiation was to precede measures of actual defence, and we possessed the power (as had been asserted) of driving the British squadron from our waters, but had magnanimously refused to exercise it, for the sake of preserving peace, he trusted that the departure of that squadron would be insisted on, as a preliminary to all further negotiation. A gentleman, whose opinions seemed to be almost oracular in that House, had dropt an expression, which threw great light upon the present state of our affairs. It was to this effect: that if the House were not in possession of any copies of despatches from our Ministers at London, they had seen all that the Executive had received on the subject of our negotiation there, from its commencement to its final close. [Mr. NICHOLAS here explained; he had said that all that had taken place, they had seen.] Mr. R. said, that the gentleman could have no reason to suppose that he was in any wise disposed to misunderstand him, but that he sat at the time almost in contact with the gentleman, and could distinctly hear him: his closing observation was (of which I believe I reminded him, when he resumed his seat) from its commencement to its final close. [Mr. N. said those were his words.]

If such then, said Mr. R. was the state of affairs, did it call for forbearance on our part of our indisputable rights, within our jurisdiction?

In the course of the observations, which he had thrown out, very much at random, on this subject, he had not conceived himself authorized, when speaking of the late outrage committed by Great Britain, to indulge in a strain of invective against the aggressor, as if that could wipe away the stigma attached to his own country. He knew that so far from vindicating the national honor by such conduct, he should but wound it more deeply. If we have war, said he, let us not deceive ourselves. We shall meet an enemy worthy of our arms—men of the same race, sprung from the same Anglo-Saxon stock; and let us not now tarnish our glory, if the God of battles should crown our efforts with success, or embitter our defeat, should the event be adverse, by stigmatizing with every epithet of contumely and contempt, the people against whom we shall have to contend.

The question was put on the passage of the bill, and decided in the affirmative—yeas 111, nays 19, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, John Chandler, Martin Chittenden, John Clopton, Howell Cobb, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gordon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, David Thomas, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Whitehill.

Nays—Ephraditus Champion, Matthew Clay, John Davenport, jun., James Elliot, William Ely, James M. Garnett, Edwin Gray, William Hoge, Nathaniel Macon, Josiah Masters, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy John Randolph, John Russell, Richard Stanford, William Stedman, Benjamin Tallmadge, and Abram Trigg.

Resolved, That the title be, "An act to appropriate money for providing an additional number of gunboats."

Monday, December 14.

Daniel Clark, the Delegate from the Territory of Orleans, appeared, produced his credentials, was qualified, and took his seat in the House.

The Speaker laid before the House a report from the Secretary of State, on a Message from the President of the United States, of the sixth of February, in the present year, transmitting a memorial of the French Minister, relative to the claim of Amelie Eugenie de Beaumarchais, legal representative of the late Caron de Beaumarchais; which was read, and, together with sundry documents accompanying the same, referred to the Committee of Claims.

Mr. Blount moved that the House go into a Committee of the Whole on the bill for fortifying our ports and harbors. At the request of Mr. Quincy, Mr. B. withdrew his motion for a few minutes

BOSTON MEMORIALS.

Mr. Quincy presented twenty-two memorials, signed by nine hundred merchants, &c. of the town of Boston, praying for the modification, suspension, or repeal of a law commonly called the non-importation law; which he moved to be referred to the Committee of the Whole to whom was referred the bill to amend the non-importation law.

On this motion the yeas and nays being called, a debate of four hours length took place, in which Messrs. Ely, Upham, Taylor, Sloan, Gardenier, Gardner, Crowninshield, Bacon, Quincy, Elliot, Cook, Macon, W. Alston, and Holland, advocated the motion; and Messrs. Desha, Rhea, G. W. Campbell and Mumford opposed it. [This debate was rather desultory, and nearly retraced the same ground that was taken on the motion for reference of a petition on the same subject from the merchants of Philadelphia. We merely give a brief sketch of a few speeches which may serve to give a general view of the arguments of gentlemen on each side of the question.]

Mr. Rhea did not know anything of the subscribers to the petition, nor should he say anything derogatory to their characters. He admitted the right of petitioning in its full extent, but at the same time thought the House might exercise the right of judging of the propriety of referring petitions after they were considered. As for this petition, Mr. R. considered it a counterpart of the Philadelphia memorial, though in rather a different shape; the first memorial on the subject prayed for a total repeal, this for a modification, suspension, or repeal. These two points of modifying or suspending might make it go down better; but would gentlemen say that it did not contain the same principles? Or that the same consequences would not ensue from a reference of one as from a reference of the other? Whilst this or any other

petition (it was immaterial to him what or who were the signers) conveyed a prayer for the repeal of the non-importation law at this time, he should vote against its reference. He considered one memorial as much invading the dignity of the nation as the other: it still contained the odious word repeal, although it talked of modification; he hoped the House would express their opinion in as strong a manner on this as they had on the other. These merchants stated that they would receive injury from this law's going into operation; that they had expected it would be further suspended, and in consequence of that opinion had ventured their property. This was as much as to say, what had once been done, they must of course do again; and if they had done wrong yesterday, it should be a reason for doing so to-day; if the non-importation law had been once suspended, it must of course be further suspended. These merchants knew the day when this law would go into operation; and they might have considered themselves bound by the laws of the United States, and not by our relations with England. The mere opinion of any body of men was of no weight when balanced against the interests of the whole country; and if the opinion of any particular section of the Union would hold good as a reason why a law should be repealed, the country would soon be without law. It gave Mr. R. pain to make any observations on the subject; but he hoped the House, acting with the same firmness as on a former occasion, would make the same decision. For he did pronounce, that if they did refer this petition, it would be reiterated from ten thousand mouths, from one end of the Union to the other, and thence across the Atlantic, that the Congress of the United States were deliberating whether they would now repeal the non-importation law. It might even have an influence on our existing negotiations, which appeared—he did not know how, at the present time. He hoped that the reference would not be agreed to, but the memorial would be suffered to lie on the table.

Mr. Bacon said that though he had voted against the reference of the memorial from the merchants of Philadelphia, he thought he could consistently vote in favor of the reference of this; and he would briefly state why he should do it. 1st. As to the manner: there was a material difference in the terms and language of the two petitions; their general aspect would at the first blush appear to every gentleman to be extremely different. 2nd. As to the object: the sole and exclusive object of the Philadelphia memorial was an absolute repeal of the law; under the present circumstances of the country that was a proposition to which the House should not for a moment lend their ear; this did not apply to the present memorial, which prayed for a modification, suspension, or repeal. 3d. As to time: when the former memorial was presented, the House had not the subject under consideration; they had now taken it up, and a bill was actually reported and referred to a Committee of the Whole to modify the law so as to make its provisions more equal. For these reasons he thought the present memorials should be referred, and that gentlemen who voted against referring the former memorial could with consistency vote in favor of a reference of this.

Mr. Quincy said he was not astonished at the opposition which was made to a reference of this memorial; for after what had taken place on a former occasion, he did expect some difficulty would be experienced in the reference of this; he had however hoped that every gentleman in the House, after he had taken into consideration the effects of this law, after he had considered the real interests and rights of the citizens of this country, after he got rid of first impressions of resentment proceeding from an opposition to a favorite measure, would have consented to refer not only this, but also the Philadelphia memorial. He conceived that the decision on that memorial was dishonorable to the House; and that it was a treatment of those petitioners such as men and as citizens they had no right to expect. The right of the citizens of this country to petition was undoubted; and the right to have their petition heard, and referred to some organ of the House, was essentially connected with the Constitutional right to petition. A gentleman had said that it was a sufficient consideration of a petition to lay it on the table; it might lie there. Mr. Q. said, among other papers, but it would be paying no attention to it; it would not be absolutely shutting the door in the petitioners' face, but it would be a permission only to throw their petition on the threshold, where it could not come before the House. He conceived that the people only exercised their Constitutional privilege, when they told the House that it would be wise to repeal this law; and he did not hold the opinion that, in a country like this, the citizens were bound to restrain their petitions against the operation of any law. The several branches of the Government should receive wisdom from all sources; and always accept it when offered in language respectful and decorous.

There were marked differences between this memorial and that from Philadelphia; one was, that this prayed not only for a repeal, but for modification, and that the subject of modification was now specially before a committee of the House; not that he admitted, if these merchants had chosen to confine their prayer to a repeal only, that the House would have had a right to throw it on the table, and pay no further attention to it. They might listen to the prayer of a petition or not, but it was their duty to place it before some organ of the House. The true reason for an opposition to the reference of this petition was that offered by the gentleman from Tennessee, (Mr. Rhea,) that it contained the odious word repeal. The repeal of the law was a measure on which they would not even hear their own citizens; the gentleman would not contemplate it for a moment; it was his wish that they should not refer a memorial which had that word in it. Mr. Q. asked, was it not every day's practice for a man upon whom laws operated, and whom they particularly affected, to come by petition to the House, and state objections to particular measures? All laws were experimental originally; they sometimes wholly

failed, and sometimes partially only: unexpected results would happen, and those affected had a Constitutional right to be heard upon their grievance. But it appeared that this non-importation law was a choice weapon, intended to operate on a foreign Government, and everything which had a tendency to show that it was injurious to our own citizens had a tendency to render it unpalatable to the people at large. This was the real and great evil: they had imposed an offensive measure on a particular class of citizens, the merchants; they tell you, said Mr. Q., that it galls them, and will injure and oppress them. Had they then asked for anything improper? They had asked for a modification, suspension, or repeal of the act: and if they referred this memorial to a committee they would thus place before it the consideration of each part of the prayer.

But it might be said, and was said the other day, that it was not patriotic to complain; and it seemed as if suffering under this act was to be the standard of patriotism in this country. If it were true that this act pressed hard on any class of citizens, should their patriotism prevent them from complaining of it? If any felt that, from the nature of the instrument, it was such as would inevitably injure our own citizens, should they not state it? Much ado had been made and a great deal had been said about the repeal of what his colleague had called a wise act, and in which he had said there need be no difficulties; gentlemen had now on their desks a letter from the Secretary of the Treasury, stating difficulties which rendered its operation extremely embarrassing, and which it was necessary to modify. By the tenor of that law, they had shown a mistrust of the integrity of a class of people on whom depended a great portion of the revenues of the United States. No nation in the world possessed a body of merchants so pure as these of this country, as to frauds on the revenue; look at the last statement of the small number of fines incurred; look at the small number of frauds committed: there was not, to the honor of our merchants, an instance in all history exhibited of so small a number. Let these merchants see that their prayers were not heard; let the ideas of the gentleman from Tennessee prevail; let a number of merchants under those calculations of probabilities which merchants ought to make, be ruined, and a general disgust would ensue.

An observation had been made on a former occasion by a gentleman from Maryland, which it seemed to Mr. Q. proper to notice. The idea was, that it had been said that this law would not be carried into operation; and that it should be enforced to contradict these predictions. Was this a ground on which to legislate? It was well known that all men would differ on great questions; that gentlemen on this floor from the seacoast might differ on some points with those from the westward; but if people had chosen to express opinions through the medium of newspapers, was that to influence them as reasons for not repealing this law? If upon inquiry the law should be found injurious to our own citizens only, would not the House repeal it? He did not say this was the case, but merely stated the case to show the impolicy of not referring this because it contained the odious word repeal.

It was a principal objection to the non-importation law, that it had been adopted for a political object, and not as a commercial regulation. It was a sound objection to it, that it was a piece of artillery which would certainly do injury by recoiling, though it might not hit the object to which it was directed; recoiling always first; the oppression of the law being first felt in our own country, and evil always attending its operation. Was there then anything contrary to patriotism, was it in any way improper for merchants who saw these effects and felt these evils, to say, "do what you please with your enemies, but do not sacrifice us; in destroying your enemies do not let us perish with them." Was there any impropriety in their praying a repeal of the law? These effects were such as wise men had anticipated, and what no honorable or good man need be ashamed to avow. Gentlemen might say to these merchants, "if we injure you it is unintentionally; the blow was not intended for you." Gentlemen from Kentucky and Tennessee tell them "be resigned; the blow does not affect us, although it may limit your operations or destroy your business, therefore you must not open your lips." Merchants would petition Mr. Q. said; and if the law had that operation which was anticipated, they would apply till their prayers were effectual; but if they could get through these difficulties, they would be satisfied; they were a class of men who wished no sacrifices of the public interests.

Gentlemen had said on various occasions "let us have union;" nothing was more desirable. Let gentlemen show that they were willing to be united by yielding their prejudices; hear what the merchant said of the operation of this law, and examine how it bore upon them. How was it expected that individuals could be united to the Government which would not hear their petitions, but threw them on the table?

The gentleman from Tennessee had intimated that the language of this petition was such, the terms so adapted, that the petitioners "presumed it would go down," to use his own words; as if that petition was intended to gain something from the House which had been refused to others, by an artful concealment of terms. Mr. Q. could say, from his own knowledge, that when this memorial was draughted, there had been no knowledge in the town of Boston that the memorial from the city of Philadelphia had been refused a reference. The object of the memorial was not to obtain from the House what they had refused to others, but to receive from the National Legislature what it was their duty to give. He should trouble the House no farther on this occasion; but hoped that the refusal of the Philadelphia memorial would have no influence upon the reference of this, as there was a committee now appointed who had the very subject of the petition under consideration.

The yeas and nays being taken on the motion for reference stood—yeas 79, nays 38, as follows:

Yeas—Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, William W. Bibb, John Boyle, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, John Clopton, Howell Cobb, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jun., Josiah Deane, James Elliot, William Ely, William Findley, Barent Gardenier, Francis Gardner, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, James Kelly, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, junior, Nicholas R. Moore Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Thomas Newton, Wilson C Nicholas, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Russell, James Sloan, Dennis Smelt, John Smilie, John Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Killian K. Van Rensselaer, Isaac Wilbour, and Alexander Wilson.

Nays—Evan Alexander, Burwell Bassett, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, John Chandler, Matthew Clay, Joseph Desha, John W. Eppes, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, Benjamin Howard, Richard M. Johnson, Walter Jones, Philip B. Key, John Love, Josiah Masters, John Montgomery, John Morrow, Gurdon S. Mumford, John Rhea of Tennessee, John Rowan, Lemuel Sawyer, Ebenezer Seaver, Jedediah K. Smith, Samuel Smith, David Thomas, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Richard Winn, and James Witherell.

This memorial being disposed of, it being near four o'clock.

Mr. Blount moved, that the House now resolve itself into a Committee of the Whole on the bill for erecting fortifications, &c. He made this motion with a confident expectation, that the House, having spent so much time on a subject of no importance, would now go into Committee, and sit till they went through this bill, which was of so much importance.

This motion was negatived—55 to 46.

Tuesday, December 15.

A member in his place, to wit: Mr. Bacon, of Massachusetts, suggested an error in the Journal of this House, of the fourth day of the present month, by an omission to state in page one hundred and thirty-four, that a division of the question on an amendment proposed by Mr. Eppes, had been called for and taken; and thereupon moved that after the words "as before recited," in the page before mentioned, an entry be made to read as follows:

"A division of the question on the said motion to amend, was called for, and thereupon, the question being taken that the House do agree to the first member of the said amendment, to wit: for striking out the words "*the whole body of the militia of the United States*;"

"It passed in the negative—yeas 48, nays 78.

"The yeas and nays being demanded by one-fifth of the members present,

"Those who voted in the affirmative, are,

"Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, John Blake, jun., Robert Brown, Joseph Calhoun, Peter Carlton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Ezra Darby, Josiah Deane, John W. Eppes, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Nehemiah Knight, John Lambert, John Love, Josiah Masters, William Milnor, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Wilson C. Nicholas, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, David Thomas, James I. Van Allen, Philip Van Cortlandt, Robert Whitehill, Isaac Wilbour, and Marmaduke Williams.

"Those who voted in the negative, are,

"Lemuel J. Alston, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, William A. Burwell, William Butler, George W. Campbell, John Campbell, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Samuel W. Dana, John Davenport jun., John Dawson, Joseph Desha, James Elliot, William Ely, Meshack Franklin, Barent Gardenier, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis jun., Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Rowan, John Russel, Lemuel Sawyer, Dennis Smelt, Samuel Smith, John Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, George M. Troup, Jabez Upham, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, David R. Williams, Alexander, Wilson, Richard Winn, and James Witherell.

"And on the question recurring, that the House do agree to the last member of the said amenement, to wit: for inserting the words '—— thousand of the militia of the United States, and for arming annually hereafter —— thousand, until the whole body of the militia of the United States shall be armed;' it was declared by the Chair, and so decided, that this part of the amendment failed of course, and that it was not in order to put the same."

And on the question that the said Journal of the fourth instant be so amended, it was resolved in the affirmative.

PHILADELPHIA MEMORIAL.

Mr. Milnor moved that the memorial of the merchants and traders of Philadelphia, praying for a repeal of the non-importation act, be referred to the Committee of the Whole to whom was referred the bill, reported by the Committee of

Commerce and Manufactures, supplementary to the non-importation act, and to whom the Boston memorial was also referred.

The memorial being read by the Clerk.

Mr. Upham said that in the course of the debate yesterday, on the motion of his colleague to refer the petition of the merchants of Boston to the Committee of the Whole, who had under consideration the bill amendatory of the non-importation law, he observed that the House, consistently with their vote the other day as to the disposition of the petition of the Philadelphia merchants, might then, on motion, refer it to the Committee. He observed that he was yet of the same opinion. If gentlemen would consider what the vote was as to the Philadelphia petition, he presumed they would agree with him.

The decision of the House was not to reject the petition, but that it should lie on the table. And some gentlemen then urged as a reason why it should be ordered to lie on the table, that the non-importation law was not under consideration, and probably soon would be, as the time when it would go into operation was very nigh; and if permitted to take effect would require amendment.

Since the debate upon the motion as to the Philadelphia memorial, and the vote that took place upon it, the chairman of the Committee of Commerce and Manufactures had introduced a resolution, resolving that said committee should be instructed to take into consideration the propriety of amending the aforesaid law, and report by bill. That a bill had been reported and committed to the Committee of the Whole. Since the subject was now under consideration, he observed there could be no inconsistency in those gentlemen who voted the other day that the petition should lie on the table, now voting that it should be referred to this committee. But as to any difference between the memorial of the merchants of Philadelphia, and that from those of Boston, in substance, there was none, either as it respects the language in which it was clothed, or the object in view. It certainly did not appear to him consistent with common sense to attempt to make any. It must be evident that the motive and purpose in both were the same. The former was manly, dignified, and at the same time respectful language—sufficiently so as to satisfy him. He had no idea of citizens under a Government like ours humiliating themselves. He did not wish them even to cringe. It was sufficient if they expressed themselves in decent language. As to the object, as he had before said, it was the same. But the merchants of Philadelphia had as good a right to petition for the repeal of a law, as the merchants of Boston had for the repeal, suspension, or modification of a law.—Nothing could be more ridiculous than to endeavor to make a distinction as to this. It would, as was said by the gentleman from North Carolina, in the debate of yesterday, be a strange decision of this House, should it determine that a petition, couched in decent terms, should not be committed, because it asked for the repeal of a law. Is the House prepared to establish such a precedent? Petitions praying for repealing laws were daily prefered, and as often referred. How often are memorials from soldiers in the Revolutionary war presented, praying that the statutes of limitation, so far as they interfere with their claims, may be repealed. Did the House ever refuse to commit such a petition?

Again, the Constitution, it is allowed, gives the people a right to petition Congress. This right gentlemen hesitate not to concede. But they say they are not obliged to examine their petitions. They are not obliged to commit them! They do hear them when they are read!

It certainly is a contradiction to allow them the right to pray, and to deny them the right to have their prayers heard and considered. The right is as unimportant and vain as was the boasted power of Owen Glendower in the play. He would call spirits from the vasty deep. The spirits to be sure would not come. We republicans have a right to petition Congress for the redress of our grievances, and we boast of this right. But it seems we have no right to be heard.

As, sir, the non-importation law is now before the Committee of the Whole, the repeal of which is requested by this petition, as this petition is in decent language, and as in substance and common sense it cannot in motive or purpose be distinguished from that of the merchants of Boston, which was yesterday committed to this Committee, I hope the motion of the gentleman from Pennsylvania will prevail, and this petition will also be committed. The Committee will then have the whole subject, with all the memorials touching it, before it, and will dispose of it in such manner as after proper investigation it shall deem fit.

I am confident the House is not afraid to trust itself in committee to deliberate upon the question of repealing this law, with all the arguments in favor of this repeal, suggested by these memorials.

Mr. Chittenden.—I am very much at a loss to discover the reason why gentlemen should be opposed to the reference of the memorial of the merchants and traders of Philadelphia, praying for a repeal of the non-importation act, unless it arises from a want of confidence in their own firmness. Agreeing to the reference, is only saying, what I think we ought always to say, that we will hear the petitions of our citizens when they are decently expressed. It pledges no member of this House to grant the prayer of the memorialists, unless he should be convinced of the propriety of the measure. After the reference of the Boston memorial to the Committee of the Whole to whom was referred the act entitled an act supplementary to an act entitled an act to prohibit the importation of certain goods, wares, and merchandise, I could not have supposed a single objection would arise in the mind of any honorable gentleman against the reference of the Philadelphia memorial to the same Committee of the Whole.

Several honorable gentlemen have endeavored

to make a distinction between the two petitions, which would justify the different treatment which they appear desirous those petitioners should receive. How well they have succeeded in this attempt the House will judge.

But, sir, it is impossible for me to discover such difference. It could not be expected that exactly the same words and expressions should be contained in each of those memorials; but it is evident that the real object of both is precisely the same, which is the repeal of the non-importation act. This is a subject on which the people have an undoubted, a Constitutional right to petition, and of course to be heard—a right which I will never refuse to any class of citizens whose petitions shall be expressed in decorous language. We have been told that those petitioners have been treated with respect—that their memorial having been read is suffered to lie on the table. Is this the amount of our boasted privilege of petitioning the Government for the redress of grievances? I hope not, sir; and I would call the attention of the House to this subject by a reference to the indignant feelings excited in this country previous to the Revolution by a similar treatment of their petitions preferred to the British Government. We are likewise told that the Boston memorial mentions a modification as well as a repeal of the non-importation act, and the subject of modification being now before a Committee of the Whole, renders it proper that the Boston memorial should be referred; but the Philadelphia memorial praying for a repeal of the act, and no proposition being before the House for the total repeal, that this memorial ought to receive no attention from this honorable House. But, sir, if Congress are to point out the proper subject, the mode, and the precise time, when it shall be proper for citizens to petition, and that every petition, the prayer of which does not accord with their feelings, is to be instantly rejected, our boasted right of petitioning is hardly worth enjoying.

I have always considered that every citizen in a free Government had a right to address the National Legislature, provided their addresses were expressed in decent terms, and that it was the duty of the Legislature to give them a due consideration, and then decide as to the propriety or impropriety of granting the prayer of such petition. This memorial being prefered by a very large and respectable portion of the citizens of Philadelphia, presenting to this House a subject proper for their consideration, and expressed in the respectful, decorous, and manly language of freemen, induces me to believe that it will be treated with the same respect as the memorial of the citizens of Boston. Therefore, as I respect the honor of my country, the honor and consistency of this House, and particularly the honor of the Government under which we now act, I am strongly induced to hope it will be referred to the same Committee.

Mr. Chandler said a few words against the motion. The memorial was already in possession of the House, and if they rejected the present motion, he did not conceive it amounted to a rejection of the petition, as the House might dispose of it otherwise, and they had a right to do what they pleased with it.

Mr. Ely was rising to speak, when

Mr. Gardenier called for the previous question, viz: Shall the main question be now put? As no debate is allowed on this motion, the question was immediately taken by yeas and nays, and resolved in the affirmative—yeas 64, nays 52, as follows:

Yeas—Evan Alexander, Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, John Blake, jr., George W. Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, William Ely, William Findley, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, David Holmes, Robert Jenkins, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Robert Marion, William Milnor, Daniel Montgomery, jr., Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Wilson C. Nicholas, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Rowan, John Smilie, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Killian K. Van Rensselaer, and Robert Whitehill.

Nays—Ezekiel Bacon, Joseph Barker, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Peter Carlton, John Chandler, Jacob Crowninshield, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, James Fisk, Meshack Franklin, Barent Gardenier, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Walter Jones, Nehemiah Knight, John Lambert, Matthew, Lyon, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newton, John Rhea of Tennessee, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Jedediah K. Smith, Samuel Smith, Henry Southard, Clement Storer, Peter Swart, David Thomas, George M. Troup, James I. Van Allen, Isaac Wilbour, Alexander Wilson, and James Witherell.

Mr. Ely inquired of the Speaker what was the effect of the vote which had been just taken; whether by deciding the previous question affirmatively, to wit, that the main question be now put, all further debate on the main question was precluded?

The Speaker replied that, in his opinion, no debate could be allowed on the main question, but a decision must be immediately made.

Mr. Randolph observed, that it was with reluctance he questioned the opinion of the Chair, but he felt himself compelled to appeal from that decision to the House, and made a motion to that effect.

On this motion ensued a debate, which continued above three hours. It turned on the ques-

tion, whether the Speaker had correctly interpreted the rule of the House relative to the effect of the previous question. The decision of the Speaker was supported by Messrs. Thomas, G. W. Campbell, and Alston; and opposed by Messrs. Randolph, Alexander, Quincy, Smilie, Dana, and Dawson.

The Speaker said he should be happy to hear the observations of any gentleman on the import of the word *now*, as it occurs in the form of the previous question, viz: Shall the main question be *now* put?

Mr. Randolph said, he rose to assist the Speaker, according to his request, relative to the meaning of the word *now*. Nothing could be plainer. It meant *at this time*. It implies that the main question shall be immediately put, but though the question is to be immediately put, yet it is competent for any member, as in other cases, to rise and debate the subject. The question before the House was on the meaning of words; it was a question of language; and if any gentleman was sensible of his incapacity to decide it, let him, if he pleases, send to the library after Horne Tooke, &c., where he may find an explanation of all such words as if, and, until, now, &c.

Mr. Pitkin, after sundry observations, moved a postponement till to-morrow, that members might have time to examine the subject, as it was new, and of considerable importance. The speakers on this motion were Messrs. Thomas, Rhea, Masters, Alston, Quincy, Gardner, Alexander, and Randolph.

Mr. Alexander inquired if the motion to postpone was in order; to which the Speaker replied that it was.

Mr. Randolph then demanded the yeas and nays on the question of postponement. If the subject was postponed till to-morrow, there would, he said, be on record a solemn affirmation of the House that *now* might mean *to-morrow*.

The motion to postpone the question on the correctness of the Speaker's decision till to-morrow was lost—yeas 48, nays 69, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, John Blake, jun., George W. Campbell, Peter Carlton, Matthew Clay, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, Josiah Deane, William Findley, James Fisk, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, Nehemiah Knight, John Lambert, John Love, Robert Marion, Josiah Masters, John Montgomery, Nicholas R. Moore, John Morrow, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, Matthias Richards, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, David Thomas, John Thompson, Robert Whitehill, Isaac Wilbour, and James Witherell.

Nays—William W. Bibb, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, John Clopton, Howell Cobb, Orchard Cook, John Davenport, jr., John Dawson, Jos. Desha, Daniel M. Durell, James Elliot, William Ely, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, William McCreery, William Milnor, Daniel Montgomery, jr., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Dennis Smelt, Samuel Smith, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horne, Killian K. Van Rensselaer, Alexander Wilson, and Richard Winn.

The question then recurred, Is the decision of the Chair in order? The speakers on this motion were Messrs. Taylor, Bibb, and Blount. After more than three hours' debate, the question was decided against the Speaker—yeas 14, nays 103, as follows:

Yeas—Willis Alston, junior, David Bard, Burwell Bassett, William Blackledge, George W. Campbell, Orchard Cook, Daniel Ilsley, Josiah Masters, John Rhea of Tennessee, Lemuel Sawyer, John Smith, Clement Storer, David Thomas, and Robert Whitehill.

Nays—Evan Alexander, Ezekiel Bacon, Joseph Barker, William W. Bibb, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, junior, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Rowan, John Russell, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horne, Killian K. Van Rensselaer, Isaac Wilbour, Alexander Wilson, and James Witherell.

So it was determined that the main question was open to debate.

Mr. Ely observed, that he regretted that the few observations which he intended to have made on the main question, should have given rise to so much debate, and detained the House so long. That he did consider the merchants of Philadelphia as exercising a Constitutional right, a right which the House are not warranted to deny them; that he could not see any material difference between that petition and the one from Boston; they were, in his opinion, both couched in decent language, they both related to a subject interesting to the petitioners—a subject about which they had most clearly a right to petition Congress; that the least that could be done with the petitions, was to commit them; that gentlemen had said that the House had not refused their petitions while they suffered them to lie on the table. For his part, he did consider it tantamount to a rejection of a petition when the House, after a motion to commit, and a debate, refused to give them the direction which was usual. That it was consonant with the principles of our General Government, and with all our State Governments, and has been from the first settlement of our country, that every portion of the citizens should have a right to petition the Government on any subject which concerned them. The abridgment of this right, by the rejection of our petitions was one of the causes of complaint of the Colonies against Great Britain, it was a just cause of complaint, and was one of the causes of our separation; and the House could not, he conceived, refuse to give the petition the usual direction.

Mr. Blount moved that the further consideration of this subject be postponed till next Monday week, in order that the House might proceed to take up the more important subject of national defence. He conceived the time of the House ought not to be wasted in such fruitless discussions, when objects of such great national importance required all their attention. Mr. B. would say nothing on the memorial, but addressed a number of observations to the House on the duty of talking less and despatching more business.

Mr. Milnor opposed the postponement. He could see no substantial difference between the memorials from Boston and Philadelphia. The House had referred the former. Why, then, should they refuse to treat the latter with the like respect, and give it the like direction? Mr. M. was acquainted with the characters of nearly all the signers of the Philadelphia memorial. The wealthy and respectable merchants of the city had, with scarcely an exception, subscribed their names. They had about eight millions of property afloat in the India trade. A large portion of it is implicated in the law which they solicit you to repeal. If the House is determined against the repeal of the law, it is no reason against referring the memorial.

Mr. Gardner offered a few observations, but he was not distinctly heard. He appeared to be in favor of the reference.

Mr. Fisk opposed the reference of the memorial. The petitioners had used the most censurable language. They expressed their alarm at the extent of the demands of our Government upon Britain; they impeached the motives of the Administration; and charged the Government with uncandid and insidious conduct. He perceived a wide difference between the petition from Boston and that from Philadelphia. The former does not arraign the conduct of the Government, but the latter could not have been couched in more disrespectful terms.

With respect to the India trade, it would be remembered that only one or two articles of import from that country were prohibited by the non-importation act. Silk was almost the only one. Mr. F. concluded by citing two cases in which petitions had been rejected; 1st, that of the Yazoo claimants; and 2dly, that of Smith and Ogden. To reject a petition was, therefore, no new thing in the House. He hoped the seal of disgrace affixed to the Philadelphia memorial would not be broken.

Mr. Sawyer was in favor of the postponement, for the reasons suggested by his colleague (Mr. Blount.) He thought there were too many orators in the House for the public good. There was too much talking and too little action.

Mr. Dana.—It requires no ordinary hardihood to stand forth in this House and accuse the petitioners as unworthy to be regarded. If a petition can be entitled to respectful treatment on account of the characters of those who have signed it, this should be so treated. It is from a number of respectable inhabitants of one of the first commercial places in the Union. In public virtue and private worth—in the qualities which entitle to esteem and confidence—there are among them gentlemen of whom it is speaking in moderate language, to say, they are not inferior to members of this House. They would spurn to be the tools of any foreign Power. Will those who accuse them agree to be themselves subjected to such a reproach, if they cannot establish the charge?

The memorial has been censured as if it were indecorous. By what principles are we to estimate the powers of language and the character of a composition, if the expressions used by the petitioners are to be deemed a violation of decorum? The language is not rude; it is manly; it is honorable to the petitioners. I would hope the time is not yet come when the attention of Congress is to be gained only by addressing them in the style of the sycophant.

The memorial states certain reasons against permitting the non-importation act to go into operation, and contains a request for its repeal, is this an offence against the respect due to Congress? If no petition is to be regarded unless it coincides with the opinion of a majority of the Legislature, of what use is the right of petitioning? How are errors in legislation to be corrected, or grievances to be redressed, if they may not be mentioned by those whose interests are affected?

Supreme—perfect—immortal!—are attributes, which courtly adulation has assigned to monarchial prerogative. It has been pretended, the King can do no wrong—the King can intend no wrong—the King can think no wrong. Is such a doctrine to be adopted in our elective Government? Shall it be pronounced an offence against the dignity of

this House, to speak as if it were possible for us to err? Will it be said, that the petitioners are not qualified to judge on the subject of their petition, that commercial men are not qualified to judge of a commercial question? Does any member of this House consider himself as having more commercial information than the Chamber of Commerce, or the collective body of merchants in Philadelphia? When such a body of men submits to our consideration the result of their experience and reflections, on a question intimately connected with their own profession and constant employment, who will say that they all have less knowledge on the subject than any individual member of this House, than any one of the Heads of Department, or than the President himself? As the language of the memorial is decorous, as it does not charge the Government with any corrupt motive, I hope the House will agree to the proposed reference.

Mr. Kelly said, he had not intended to take any part in the debate, but as he had the honor to be acquainted with most of the signers of the memorial, he felt himself bound to rise and rescue them from the reproach which had been attempted to be cast upon them. Many of their names are to be venerated. Their services had been rendered to their native State in their own Legislature, and to the nation on the floor of Congress. The memorial is drawn in a plain and manly style, and reflected honor on those who had signed it. Many of the petitioners would suffer in no respect by a comparison with the members of this House. In all the attributes which constitute worth or greatness, which gain our affections, or command our esteem, they are inferior to none. They are arraigned because they have presumed to question the expediency of the non-importation act. Are any men more competent than merchants, to judge of a commercial law? The object of the memorial from Boston and that from Philadelphia was the same, and if the former was expressed in a courteous and the latter in a manly style, it was no reason for a different treatment.

The question on postponement till Monday was taken and lost—yeas 44, nays 60, as follows:

Yeas—Evan Alexander, David Bard, Burwell Bassett, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, Joseph Calhoun, Peter Carlton, Matthew Clay, John Clopton, Jacob Crowninshield, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, Barent Gardenier, Isaiah L. Green, William Helms, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Walter Jones, Philip B. Key, John Lambert, John Love, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Lemuel Sawyer, Ebenezer Seaver, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, George M. Troup, Robert Whitehill, Alexander Wilson, and James Witherell.

Nays—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, William Blackledge, William Butler, Epaphroditus Champion, John Chandler, Martin Chittenden, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jun., Joseph Desha, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, William Hoge, James Holland, David Holmes, Robert Jenkins, Richard M. Johnson, James Kelly, William Kirkpatrick, Robert Marion, William Milnor, Thomas Moore, John Morrow, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Rowan, John Russell, James Sloan, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, and Killian K. Van Rensselaer.

And then the main question being taken, that the said memorial be referred to the Committee of the whole House to whom is committed the bill supplementary to the act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise," as originally proposed; it passed in the negative,—yeas 46, nays 55, as follows:

Yeas—Burwell Bassett, William W. Bibb, Epaphroditus Champion, Martin Chittenden, John Clopton, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, William Findley, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, Robert Jenkins, James Kelly, William Kirkpatrick, Robert Marion, William Milnor, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Russell, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, and Killian K. Van Rensselaer.

Nays—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Peter Carlton, John Chandler, Matthew Clay, Jacob Crowninshield, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, James Fisk, Meshack Franklin, Barent Gardenier, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, John Lambert, John Love, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Rhea of Tennessee, John Rowan, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Robert Whitehill, Alexander Wilson, and James Witherell.

It being now near five o'clock, Mr. Blount moved that the House go into Committee of the Whole, on the subject of fortifications. The House, he said, would be sensible that it was his wish at this late hour to go into Committee of the Whole, only in order to give the business priority to any other to-morrow.

On taking the question, there were but 68 members present; not being a quorum, the House of course adjourned.

Wednesday, December 16.

DEFENCE OF PORTS AND HARBORS.

The House again resolved itself into a Committee of the Whole on the bill supplementary to an act, entitled "An act for fortifying the ports and harbors, and for building gunboats."

The first section of the bill being yet under consideration, and the sums of $1,500,000, and $1,000,000, having been moved on a former day to be appropriated for this object, a considerable debate took place on the proper sum to be inserted in the blank for that purpose, in the course of which Mr. Gardenier moved to fill the blank with $2,500,000. In this debate Messrs. Blount, Chandler, Smilie, Holland, Nelson, Kelly, and Witherell, generally advocated the sum reported by the Committee of Aggressions, (one million;) and Messrs. Mumford, Cook, Sturges, Mosely, Rowan, and Taylor, expressed themselves in favor of a large sum.

Mr. Gardenier said, that for himself, he could have been well contented if the gentleman from North Carolina, (Mr. Blount,) who seemed so anxious to hurry the passage of the bill, had checked somewhat his ardor for expedition, and had discovered a little more for liberality. He hoped, however, the Committee would bear in mind, that, as well by the original resolution as by the language of this bill, they were were pledged effectually to fortify the ports and harbors of the United States. Comparatively, it was of little moment whether the bill was passed to-day or a week hence; but it was all-important that a sum should be voted sufficient to fortify effectually. He had remarked, before, that a nation could best preserve peace by being prepared for war. This maxim was not only incontrovertible as a general position, but it should be peculiarly impressive at the present moment. It was their duty to put the nation in as perfect a state of preparation for meeting the approaching storm as their resources would possibly permit. In proportion as a nation was prepared for war, would the inducements to commence hostilities be lessened. And you not only lessen the inducement, but you place the nation in a condition to meet the evils of war, if ultimately it cannot be avoided. The war with which the United States are at present threatened, is in every view to be deprecated, because in every view it promises nothing but calamity. It must be waged with a Power which of all others he should, under existing circumstances, encounter with the greatest reluctance. However she had trampled on our rights; however necessary for preserving the national honor it might be to stretch forth the national arm against her; however determined in such a contest to hazard everything, still, the necessity of a war with Britain ought to be deeply regretted. It would be a war in which even success would be calamitous—in which we should have cause to mourn, even in the hour of victory. When we have humbled Britain, she will be no longer able to resist France. Already, every Power in Europe has been crushed by the almost universal conqueror. Great Britain alone, encircled by the arms of Neptune, is unsubdued, and perhaps her strength alone has preserved us, and with us the universe, from bondage. It would be matter, therefore, of the deepest regret if she should force us into a war. But aggression, said he, must be repelled, even when committed by a nation whose interests are so closely interwoven with our own—even if her existence should seem to be the strongest bulwark of our own independence. It is our duty—we must protect the honor, because that is essential to the prosperity, to the very existence of the nation. Whoever first assails us, is first our enemy. Her let us first resist—effectually, if we can—and trust in Providence and the valor of our nation for success in our efforts to repel every future foe.

We can derive no benefit even from a successful war. We may take Canada indeed, and perhaps Nova Scotia, but we are better without them. We may send out privateers, and harass, and to some extent intercept the British commerce, but the measure by which we can injure her most deeply—most vitally—is the suspension of all intercourse with her. But this is a two-edged sword. Though it would wound her deeply, we too must suffer much from it. Though it may be ruin to her, it will require all our efforts to maintain our ground, even in this combat. When it was recollected that our widely-extended commerce was at the mercy of the British cruisers, who could close his mind against the conviction that the effects of the first shock of war would be to us calamitous in the extreme? And this commerce could not be protected. We have no adequate force on the water—our infant Navy has dwindled into impotence. Commerce has been left, unfortunately, to protect itself, and hence a vast portion of the national wealth will be worse than lost—it will give the enemy new means of assailing us. He could not but think it unfortunate, to apply no harder epithet, that a force had not at the proper time been provided for the protection of so much property. But there is, said he, no alternative. If war must be resorted to, commerce must be sacrificed. And it would be well if this were all. But our cities are unfortified, unprotected, as completely at the mercy of an enemy as our commerce itself. It will not be a mere wanton spirit of devastation which will spoil and desolate your cities; but the wealth which they contain, will, in the event of a war with Great Britain, be a temptation which a more honest nation in her circumstances could not resist. Her situation will disable her from resisting it, even if she wished to do it. Of necessity, a war on her part must be a predatory one. Her commerce has been rooted out from the continent of Europe—it will be destroyed here. Her manufacturers, unable to find employment—of course bread, on shore, by honest labor—must starve in the streets, or seek for sustenance on the ocean. Yes, sir, they must plunder or starve. Great Britain will never again attempt to conquer your country. But she must, in the event of a war, make it a buccaneering war.

What, then, are we to do? To us it will not be a war in which we can promise ourselves laurels

or trophies. It must be, on our side, an effort to show England how long we can do without her manufactures. If we take her provinces, we take a burden from her shoulders, which perhaps only her pride has induced her to bear hitherto—we snatch from her, with a naked hand, a burning iron. The war, therefore, on our part, must be defensive. The enemy is at no point exposed to attack. To suspend intercourse, and thus to destroy her commerce and manufactures, is to make war the most injurious, the most fatal, of any we can devise.

Apprehending such a war, said Mr. G., the whole object of your deliberations should be to save all you can at the first outset. Your commerce, quietly resigned to the enemy, your cities alone can be saved; and if they are to be saved, they must be fortified completely and effectually. It became, of course, necessary to inquire what sum was adequate to the object. He here remarked, that if we were to have war at all, it would not probably be delayed beyond a twelvemonth. If the cities were not protected in that time, it would perhaps be hardly necessary to undertake it at all. Equally unnecessary would it be to do it at all, unless it were done effectually. The sum moved by the chairman of the Committee of Aggressions, he deemed totally inadequate to the purpose of effectual protection. It might be enough in time of profound peace, as the basis of future grants. It might have been enough five or six years since, if the same sum had been added every year after. But it was not sufficient now: it was absurd to talk of its being sufficient for the approaching contest. Gentlemen, indeed, had very gravely asked for calculations to prove the sum sufficient. Without pretending to be deeply skilled in the subject of fortifications, or the expense of erecting them, he knew that the plan laid before the House by the Secretary of War, so far as respected New York, was, he would not say intended, but certainly calculated to mislead. If the Secretary of War had been as unfortunate in his plans and calculations in regard to other cities, Mr. G. would be compelled to pay very little respect to his opinions. [Mr. G. here read the following part of the Secretary's report, "In addition to Fort Columbus, (on Governor's 'island,) which is in great forwardness, and will 'be a strong, regular work, of the best materials, 'it has been considered necessary to erect a strong 'circular battery for two tiers of cannon, one above 'the other, at the extreme westerly point of Gov-'ernor's island; a battery of a circular kind on 'Ellis' island, enclosed in rear; a strong circular 'adjoining the front of the bastion of the old bat-'tery, in front of the city; and a circular battery 'for one tier of cannon on a large block wharf, to 'be established on the North river, at the north-'erly part of the city; and a strong redoubt on 'Bedloe's island," &c.]

These, then, were the works which were effectually to fortify the port of New York—effectually to protect the city! It is absurd, said he. All the money you could ever expend on the points proposed would be insufficient to defend the city. To defend the city, you must keep the enemy out of the bay. The strongest possible fortifications on Governor's island could never defend the city. It would be necessary, indeed, that fortifications should be placed there, and also at other points, that if an enemy should force a passage into the bay, he might be obliged to fight inch by inch, and might thus perhaps be disabled at the last. Your great work, said he, must be at the Narrows. If you can cripple the enemy there, he may, even should he be able to pass, be in no condition to sustain the annoyance he might meet within the bay. If you are sincere in professing an intention to defend New York, begin here, and give money enough for the purpose.

It had, indeed, at one time, he said, been proposed to fortify by obstruction, by building a sort of dam across the channel, and placing batteries on it. However that notion had been at first countenanced, it was now scouted, and he knew no judicious man who was at this time of day an advocate for it. It had its origin in the apprehensions of the people of New York, who expected immediate war in consequence of the attack on the Chesapeake. They were glad to seize on any plan of defence which held out the least hope of security. And they had but too much sad experience to teach them that the plan must require but very little money, to stand any chance of being adopted by the Government. And indeed we were overwhelmed with plans—and cheap plans too—almost all on the same principle, each vieing with the other in making his plan the cheapest, because that would (if anything could) insure it the patronage of the Administration. But, when the first alarm had subsided, the notion was abandoned, even by the City Corporation, who had not been able to resist the general error, but who were ultimately wise enough to give it up. The effect, said Mr. G., which these obstructions would have, cannot be exactly foreseen; but it is not improbable that the river at the city of Albany might not be longer navigable, and thus that city, with the flourishing villages of Troy and Lansingburg, totally ruined; and that New York, in the time of a freshet, might be, to a considerable extent, inundated. If these destructive consequences followed, there would be no remedy. The hazard was of course, therefore, too great to be ever encountered. It would be better for the people of New York to be plundered once in twenty years, than to be inundated every Spring, to say nothing of the injustice of ruining the up-river towns, for the sake of New York below.

In the general estimate of the Secretary, only $840,000 were asked for the effectual defence of all the seaports from New Orleans to the District of Maine. A million, however, was now proposed. Did it (he asked) require either argument or calculations to convince them that this sum was insufficient? Did gentlemen require figures to satisfy them, that if it was distributed with anything like "equal and exact justice," it could not be sufficient. It amounted to no more than about $25,000 to each port; and would any gentleman take upon himself to say, that any one port could be effectually fortified with that sum? Or did they

mean that the cities should be only half fortified—and of course not fortified at all. If they did, they would act consistently in voting for no more than one million.

If, said Mr. G., instead of a federative republican form of Government (and he prayed to God it might long continue to be our blessing and our boast) we had a monarch who would feel an equal regard for every portion of his dominions, would he leave unprotected the most exposed and the most valuable points? Would Congress be less watchful of the security of every part of the empire? He hoped for the honor of our Government they would not.

When the Federal Government, he said, was originally proposed for adoption, in New York, the most powerful argument urged against that State entering into the Union, was, that it thereby yielded to the General Government the impost duties. But they did yield them, in the hope that the General Government would act in a manner worthy of the confidence which New York had reposed in it. That State now paid nearly four millions a year? With this annual income she might years ago have fortified herself against not only the other States, but the world. But instead of dictating (which she might have done) she is your humble suppliant. And as such you have treated her. You have left her defenceless.

But I will, said he, call upon your gratitude, upon your justice, no longer. Certainly you will not be deaf to your own interests. When your foreign trade is destroyed, your coasting trade will be of great importance. It is in this view, that the possession by us of the port of New York cannot be deemed of too much moment. It is the turnpike gate between the Eastern States and the people who are supplied from the banks of the Hudson. He hoped that, at least, Eastern gentlemen would not be insensible to this argument; their constituents were deeply interested in the safety of New York. And though the enemy may not be able to keep possession for any great length of time of the city, yet, once in possession of the harbor, no force in our power could oblige her to quit it.

There was, he said, much use made of reviling language towards Great Britain—even in that House. He would rather see less of this, and more of a disposition to prepare sincerely for defence—less disposition to talk, and more to act.

At a time when the nation should be exerting its utmost energies in preparing for hostilities, to a stranger it would appear wonderful, that the party most attached to the Administration should be the least disposed to grant money for the national defence. In Great Britain it was usual for the opposition to oppose large appropriations, for the purpose of embarrassing the Government. But he and those with whom he acted wished the Government to be strengthened as much as possible. He had not only voted to give them everything they asked for—but more. If, after all this, the best use should not be made of the means which were offered to the Administration; if, by their imbecility, incapacity, or irresoluteness, the nation should suffer; to the nation, must the Administration answer it.

If gentlemen were convinced that the sum proposed was sufficient for the great work it was destined to accomplish, there could be no use in dwelling longer upon the subject. He was himself willing to acknowledge that the sum was liberal enough to commence this work, but it was insufficient, totally insufficient, for the effectual defence of so extensive a seacoast. He would, therefore, move a larger sum than had yet been proposed, though not so large as he had moved on a former occasion. He found the temper of the House to be so averse to granting a sufficient sum, that he could not have the confidence again to propose that sum. He should move for two million five hundred thousand dollars.

It had been said, that more than a million could not be expended in one year. He considered this a most extraordinary remark—a most unfounded, a most absurd one. When the cities are to be fortified from New Orleans to Maine, with a population of six millions, could no more than one million of dollars be expended? Workmen and materials enough could be obtained in half the time, to expend ten times the sum. It was an insult to the information and good sense of the House to advance such a proposition in it. He hoped that the language of the bill "to afford effectual protection," would be come up to, by the appropriation which should now be made. At least he hoped the House would be true to the engagement it had made. That it would not, like the weird sisters, "keep the word of promise to the ear and break it to the sense."

They could not calculate on a state of war, without calculating also on draining the Treasury, as some gentlemen had in their alarm expressed it. However unpleasant it may be to have the strong box emptied—however it might change the appearance of the reports of the Secretary; however it might mortify the Administration to be obliged to check their exultation when they were deprived of the pleasure of telling the nation what vast piles of dollars had been hoarded up, he hoped, nevertheless, always to see it emptied when the national defence required it. For that purpose it had been amassed, and it was worth nothing unless it was expended for that purpose when the exigency of the times demanded it. And there was great consolation, he said, on reflecting that although, for the purpose of fortifying our cities, it might be taken from the Treasury, it still remained in the nation—it was not lost—it was still in the family, though not immediately in the posssession of the head of the family. To the health of the natural body, it was not necessary, indeed it would be destructive, to have all the blood in the heart—neither could it be any benefit to the political body to have all its wealth in the Treasury.

With these remarks, he would submit to the decision of the House. He hoped they would protect effectually. When that was done, almost all that would be necessary on our part in the event of war, was accomplished; for on the sea-

board only were we exposed. If the nation can with honor avoid war, these expenditures will have been a very small sum paid as the price of peace. If war must ensue, no money will have been laid out to better purpose than this.

Mr. Quincy.—Mr. Chairman, in filling this blank, you put the heart into this bill. If, in doing it, you inquire, not what are the exigencies of the commercial cities, but what is the least sum possible, which will stay popular clamor, you may as well not pass the act. It will be useless: it will be lifeless; it will be worse than useless and lifeless; it will mislead and deceive the people. Thinking themselves under your guardianship, they will neglect to resort to their own resources. The amount of this appropriation is the vital principle; it is the spirit of the bill. All the rest is wind, and water, and earth. Reduce this to less than is sufficient for effectual defence, or make it wholly inadequate, and you may call the bill on the table an active being if you please, but it is no more like an efficient agent than a corpse is like a living man. It has, indeed, the form and appearance of power; but it enlivens no hope. It will be followed only by distress and despair. Here, then, the advocates of the commercial cities must make a stand. Here they must be victorious, or their cause is lost.

It is impossible rightly to appreciate our duties to this nation on the subject now before the Committee, without making some reference to the general situation and prospects of this country. Whether any defence for our seacoast be necessary, depends upon our perception of present, or our anticipation of future danger. The nature and degree of that defence, whether the scale of appropriation shall be liberal or limited, depends upon our view of the nature of the evils which surround us, and has a strict and necessary connexion with their number, their species, and extent. And although the gentleman from Connecticut (Mr. Sturges) has been interruped and called to order, for taking an enlarged survey of our national relations upon this question, I shall not be deterred from pursuing a similar course. I shall not ask the leave of the gentleman from Virginia, (Mr. Nicholas,) nor shall I apologize to this Committee, for tracing national obligations to their natural though distant sources. The features of our times, the characters of the nations which interfere with our interests, our relative strength and weakness, have all an inevitable influence in deciding the nature of the preparation to be made, and, of consequence, the amount of the sum to be appropriated.

I shall also adopt this course, the rather, because the principles from which gentlemen have generally drawn the duty, and the extent of seacoast and frontier defence, have seemed altogether too contracted for the magnitude of the object. I am not satisfied that the great interests of the nation should be placed on so narrow a basis. I cannot consent to deduce permanent duties from temporary pressure. Let us not appear to be stung by insult into the fulfilment of the highest and the most perpetual obligations.

The views I shall present for the consideration of the Committee will be neither local nor sectional. Nor shall they have a party texture. It shall not be my fault if, in the present crisis of our country, the spirit of party be not crushed upon this floor. We all stand upon the brink of a precipice. It is no time to jostle one another. The fates of our country are suspended over a gulf so dark, that no human eye can penetrate to its bottom; nor has any spirit come up from its depths to tell us if there be anything there which will break our fall.

It is very obvious, from the whole course of debate, that our duties are deduced from the hazards immediately impending. British aggressions make men alive to the dangers which surround our commercial cities. British insults inspire whatever will this House evinces to open the Treasury to their necessities. The power and inclination of that nation to injure us, are the themes of every argument. Thence spring our propositions for defence, and they all have a single reference to the evils seeming to spread from that quarter. I blame not this temper. It is the nature of our species. It is the daily practice of man in his individual character; thoughtless of the past, careless of the future, deeply impressed only by what is present, never wise from the experience of others, always half taught by his own, starting with a wild and over-hasty speed at the first touch of the spur of necessity, dull and callous to the urgency of general obligations. But will national wisdom be caught in this common snare? Will men acting in high stations, rich in the confidence of their countrymen—will statesmen stumble on, blind and deaf to the aspects and warnings of nature, and take no step which is not forced by some incumbent pressure? Such weakness and folly far exceed any failings individuals can exhibit. These are often saved from the effects of their conduct by friends, by the influence or laws of society; even death itself sometimes intervenes and rescues them from the experience of all the consequences of their errors. But it is not so with nations. Compared with the life of an individual, their existence is an immortality. They have neither associates to watch over them, nor any superintending sovereignty to preserve them from the results of their measures. They never fail to gather, in full harvest, the fruit of the wisdom or folly of their rulers.

While, therefore, I honor the patriotism which keenly feels the insults offered our country, I cannot follow the common example, and suffer passion to evaporate in vain expressions of indignation. The use I would make of recent injuries, is not limited to mere utterance of anger. "From this toad, ugly and venomous, I would extract a precious jewel." There is a general truth, which, although it be the lesson of all history, men seem not to realize; truth, which the events of our time are adapted deeply to impress. Without reference to names, or nations, uncontrolled power will always be insolent; when the strong and the weak meet together on the same plain, without other restraints than natural law, the one must suffer

and the other will oppress. If weakness be the allotment of Providence, or the condition of our nature, we have only to take resignation to our bosom, and to bend to the Supreme will. But if our imbecility be artificial; if it result from our want of sense, or want of spirit, however inclined we may be to cast the odium of unprovoked injury upon the oppressor, we are in truth half-workers in our own destruction; we are the panders to our own shame. Have we not sense? Have we not intelligence? Have we not numbers? Have we not riches? Have we not a people to whom their Constitution and liberties are dear? Why, then, should we be content with anything less than a full protection to our rights and most important interests? Why should not the wealthy, the populous, and the exposed parts of our nation, be covered by the national shield, not according to the niggardly scale of existing surpluses in your Treasury, but upon the liberal principle of giving certain security and rational content? The morality of nations ever was and ever will be like the morality of John Falstaff: "If the young dace be the known bait of the old pike, there is no law in nature to prevent his snapping at him." We have the wisdom of former times; we have the experience of our own, in concurrence, testifying to the great truth of which I am speaking. If we listen not in time to their precepts, we are sealed for destruction. But we are wild; under the influence of a vain illusion; we are seized with an idiot fancy. This is a new world, we are told, and new principles are to prevail in it. We are to be safe, without exertion; secure, without foresight; powerful, without concentration; justice to others will necessarily induce justice to ourselves. I look with terror at that vengeance which shall awaken us from these false and delusive dreams.

Was it ever read in history, was it ever told in story, that a maritime nation could be safe without a marine defence? Commercial depositos without efficient protection? Gold left to sparkle on every sea-cliff, the lure and the reward of every spoiler? Who are we, that more than others, we can hope to be rich and not tempt the robber?—defenceless, and not fall his prey? Who are we that we can cast our wealth upon the wave, and scatter it on the sand, without guardian and without shelter, and expect to return every succeeding day and find it undiminished, as though it were consecrate? Is there any characteristic in our own times which makes less than efficient protection more wise than in former? Let gentlemen retrace the scenes which have been exhibited among our neighbor nations for these sixteen or seventeen years past. I ask, What principle is sacred? What have the weak possessed which the strong wanted, that the one has not seized and the other has not lost? On the continent of Europe, all the weak Powers have been annihilated. Holland, Switzerland, the Italian States, Denmark, and, at this moment, Portugal—how and where are they? Absorbed or desolated by some gigantic nation. Has our distance or our innocence preserved us from the effects of that piratical humor which never fails to follow power and opportunity? From the withholding the right of deposite on the Mississippi, in 1794, to the affair of the Chesapeake, in every year, and on every sea, we have been the objects of insult and plunder. Here is no question concerning nations. France, Spain, and Great Britain, each in proportion to its means and its interests, have made us feel its strength and our comparative weakness. Let it never be out of our memories, that wealth unprotected is the inevitable prey of power uncontrolled.

When we consider our relative situation to the Powers at war, the injuries we have received ought indeed to teach us wisdom, but can excite no surprise, and demand from us certainly a qualified indignation. For sixteen or seventeen years, we, alone, of all the nations of the earth, have enjoyed an uninterrupted season of peace. We have grown rich by the follies and misfortunes of other nations. Aiding, in turn, every belligerent, and carrying on all the commerce of some and a portion of the commerce of all of them, is it strange that we should excite, successively, the jealousy and the envy of each; particularly of that one with whose power and policy the exercise of our rights most interfered? Like innocent, defenceless sheep, without prudence, and almost without a shepherd, we have been cropping the rich harvest of neutrality on the very field where the wild beasts were at combat. We have pressed our unprotected fatness between the lion and the tiger in the midst of their rage. Is it wonderful that on the one side and on the other our rights should be laid prostrate? Rather, is it not more wonderful that we have witnessed so few victims?

The truth is, that we owe our present safety and most enviable condition, not to our distance from the scene of war, much less to our wisdom, but to the full employment the European Powers have found for one another. But let us not be wilfully deaf to the warnings of events. The day of mutual occupation among those Powers draws fast to a close. Everything tends to a continental amalgamation. There is but one check to universal dominion. The sea-power as yet controls the land-power. Let these unite by either treaty or conquest, and if we long enjoy independence, it will alone be because we are prepared to fight for it. We are too rich not to excite avarice; our weight in the scale of nations grows too important not to invite ambition. If we are safe from the attempts of either, it will only be by showing the world that we have armor invulnerable and spirits invincible. But it is asked, "What have we to do with Europe?" "Three thousand miles of ocean intervenes. How are we interested in the events of her struggles?" Heaven forbid that this nation should ever entertain so childish an error, so fatal a delusion!

The ocean is not now what it once was to the savage, an insurmountable obstacle, an impassable barrier. To be sea-girt, is not at the present day, as it was in the times of fable, to be encircled by a magical girdle, which rendered its possessor sometimes invisible, and always invulnerable.

Art, science, enterprise, industry, have made an entire revolution in the state of things on that element. Instead of being the terror, it is the joy, the home of thousands. It is the common theatre of nations. There men meet; there they traffic; there struggle. It is a smooth and beaten path. It is a military road, reaching from each nation to every other; on which you can oppose no obstacle, except floating bulwarks or batteries, where it terminates at your great deposites of wealth and population. Instead of being separated by the ocean, it approximates us. It is an instrument of facility. Away, then, with such vain imaginations. The fates of neighbor nations are ours, if we are not wise in time. The character of the age is military. Would you be safe? Put on your armor. Unprotected, you invite aggression. What is sacred which power can violate?

But it is said, "We are strong. Two or three millions of people are invincible." Very true. A foreign foe can never march to the interior of such a nation. Liberty is safe. There is no danger of subjugation. But does this satisfy the obligations of the social compact? Do we unite in society merely to attain a certainty for its existence? Does not a rational security for life, liberty, and property, compose one of its essential duties? And how are these fulfilled when they are all at the mercy of every sea-robber? Our cities, at this moment, hold their tenure at the will of the naval Powers. It is not from your protection, but from their forbearance, that our cities have a name and a being. It is true they are suffered to exist for the present; because opportunity and interest have not yet concurred to invite a destruction of them. But concur they will, and in all human probability, at no very distant period; and then if our cities are not in ruins, it will be because they have bought off invasion.

The cities were settled under the faith of the social compact. Its obligation to protect, results from its very nature. This is the first law; the very end on account of which it was formed. Its duty has reference to the numbers, the wealth, and exposure of the ports, which claim its care, and has nothing at all to do with the surpluses in your Treasury. Yet we hear men every day exclaiming, "It is impossible. We cannot give 'effectual protection. It would exhaust the Treas-'ury. It is better for the inhabitants to retire 'when the enemy approaches than to incur the 'necessary expense of batteries and marine bul-'warks." I ask this question: Are the men who reason in this way those who realize the danger? Are they those who have a deep stake in the cities? It is not, perhaps, in the power of human nature to attain a very lively sense of evils to which we are not ourselves exposed.

Among those ancient Republics which existed many centuries before the Christian era, the very names of which have been lost, in the lapse of time, we are told of one which adopted the two following principles, as a part of its fundamental Constitution: First, "In all questions of war, the inhabitants of the frontier shall have no voice." Lest in the vivid apprehension of their particular exposure, they should be less alive than was fit to the honor of the Republic. Second, "In all questions concerning the defence of the frontier and cities, the inhabitants of the mountains shall have no voice." Both principles were drawn from a deep knowledge of human nature, and a profound observation of the secret workings of the human heart. How can those who live ten days' march from the seacoast realize its hazards? Their sympathies can alone be general. They pretend to no more. Hence we see daily resort had to every species of apology which can be imagined to excuse the appropriation of the least sum possible consistent with not giving ground to the belief of an intention wholly to abandon. Hence we hear the jealousies which naturally spring up between commerce and agriculture excited and propagated. I will not stop to answer such strange insinuations. I will not undertake to prove, that if you throw a dam across the mouth of a river, that the upper country will be overflowed. Ask the inhabitants of the hills whose waters feed the Ohio, if the blockade of the Mississippi would not affect their prosperity? At this very moment Vermont feels the pressure occasioned by the contraction of our commerce. I have concluded what I would urge upon this point. Our obligation to protect is imperious. The necessities of the cities are pressing. Our ability is unquestionable. The general state of society urges this duty with no ordinary warnings. It remains, then, only to consider what is the nature of that protection which we are bound to extend; what is the principle by which it is to be limited? The answer is obvious. It must be adequate to its end. It must have reference to the nature and exigency of the exposure to which the society is subject. The shield must cover the man. A rational strength should exist in all its parts. But about the principal seats of life, where the great arteries spring, its thick bosses should be, if possible, impenetrable. In distributing protection, equality depends upon proportion; and this has reference to the wealth, numbers, situation, and exposure, of the different ports for which protection is required. Savannah, and Charleston, and Norfolk, and Portland, and every other place of even less importance, are the objects of the care and affection of the national councils, as much as New York or Newport. Yet these last claim a greater proportion of the national revenues than either of the former, and possibly than all of them together. In this there is no inequality, as gentlemen seem to insinuate; because in most or all the particulars which are the measures of proportion, these places far exceed either, perhaps all, the former, and probably much beyond the amount of the share they will attain of any appropriation. But it is asked, "What is that sum which is adequate to protection?" And there is great exultation because the advocates of an augmented appropriation cannot stipulate that the sum they propose is sufficient. If adequate protection be admitted to be our duty, it is not necessary for us to show that the sum we propose is adequate. It is enough if we prove the sum the

War Department proposes is inadequate. If it be plain that this is wholly insufficient, then by augmenting the sum the nearer we approach to that adequacy of protection in which, it is admitted, consists our duty. And if, in the amount which we advocate, we do not exceed what is certainly sufficient, the greater the amount the more do we fulfil our obligations. Now, although it is not in our power to show what would be a sufficient protection for every port and harbor of the United States, it is easy to bring the scheme of defence proposed by the Secretary of War to the standard of general principles, and to show, to the meanest capacity, its insufficiency.

The grand scheme, which includes all the patronage of the Administration, consists in two hundred and fifty-seven gunboats and one million of dollars' worth of fortifications. I lay a Navy out of the question. So far from any additions to that species of defence, it is well understood that all those ships we have already are not intended to be put into commission. Now can it want any argument to convince a reflecting mind that these gunboats and such fortifications are wholly inadequate to the proposed object—national security for all our ports and harbors? In the ordinary state of the world, when the Powers of Europe balanced and weakened one another, and their fears at home checked their enterprises abroad, such a system of defence would have scarcely deserved the name. Much less at a period of society like the present, when political revolutions fast tend to put all power into one hand. This once effected, and no man can doubt but that if Americans are safe, it is only because we have strong ramparts and stout hearts.

There is one objection to this system, in truth very strong; yet which its advocates in argument consider as very slight. It is, that so great a proportion of it consists in gunboats; a species of warlike instrument, the least valued in the places where defence is most wanted. It is undeniable that they are exceedingly unpopular in cities. The inhabitants do not willingly trust their lives and fortunes in such bottoms. Of all military principles, perhaps, this is the most sound, that the instruments to be put into the hands of those who are to fight, should always be of that nature and structure, to which not only they are accustomed, but in which also they have confidence. Now it is a fact undisputed, that our seamen and city militia have an instinctive contempt for gunboats. All agree that these are the less power, and yet they are, in appropriation, out of all proportion to the greater power, fortifications. Within these two years we have appropriated more than a million of dollars for gunboats, and now only a like sum is proposed for all the contemplated land fortifications, to which these gunboats are admitted only to be as an aid. The gentleman from Vermont (Mr. FISK) told us the other day, that we had heretofore expended "many millions in fortifications." The assertion shows how little gentlemen trouble themselves with detail. By the report of the Secretary at War, in 1805, from the establishment of the Federal Constitution to that date, there had been expended in fortifying all the ports and harbors of the United States only nine hundred and forty-three thousand dollars. Since that period we have appropriated three hundred thousand dollars; of which less than two hundred thousand have been expended. So that these "many millions," dwindle, on examination, to a trifle more than one million one hundred thousand dollars. The manner in which these appropriations were expended, and the time which has intervened between the application of the different sums, have made former expenditures but of little weight in estimating what is necessary in the present exigency.

But I cannot have confidence in the system of defence proposed, for another reason. The exposition made by the Secretary of War is not calculated to excite implicit faith in his intelligence on the subject. We have two reports, on the system of defence, made at this session, from that Department; and there is a palpable disagreement between them, as to the amount necessary for fortifications. The one stating that amount to be seven hundred and fifty thousand, and the other nine hundred thousand dollars—a difference of one hundred and fifty thousand!

[Here Mr. Q. was interrupted by Mr. BLOUNT, who said this difference arose from one of the estimates including, and the other not including the balance of unexpended appropriations.]

This may account for a considerable part of the difference but not for the whole. Still there remains a diversity of twenty or thirty thousand dollars between these two estimates, for which even this explanation does not account, and no other reason is offered for its existence. But there is another circumstance, which takes away altogether any grounds of confidence in the calculations of the Secretary in these reports, and which is common to both. And this is, the entire want of any specification of particulars, from which the gross amount of the appropriation recommended results. We have, it is true, a long account of batteries, and towers, and magazines, and barracks, and mud walls, and gunboats, but, when we arrive at the specification of the amount of the cost of the fortification of each particular place, it stands in all the intellectual majesty and satisfactory precision of—*blanks*. How can this Committee put any confidence in such an estimate as this; which, although it comes to us in the dignity of an official folio, is nothing more than what we Yankees call—*a guess?* In what consists the evidence of arithmetical skill? In the utterance of a round sum, or in the ascertainment and the just addition of the constituent units? What is the criterion of mathematical ability? Is it in the mere describing a whole figure, or in the exhibition of accuracy and proportion in the parts? It is the duty of a statesman to have at his command the details of office. And, although when called upon for general estimates relative to complex operations, he has a right to require great indulgence for unforeseen circumstances, which may cause, in his ultimate expenditure, excess beyond his calculation; yet he has

no right that men, who act as well as he, under great official responsibilities, should place a blind confidence in an estimate, supported by no particular, and of which not a single item of that kind, so far as I have ever heard pretended, does, in fact, exist.

But, in truth, there is not only no intrinsic reason for giving credit to the accuracy of this blunt estimate of the Secretary of War; but there is, in the nature of things, a perfect evidence that it cannot be accurate. There are, he tells us, forty-five ports and harbors in the United States, great and little, to be effectually protected. And for all these, he estimates the cost of fortifications to be nine hundred thousand dollars—twenty thousand dollars to each city, fort and harbor! Is there one port in the United States which will not require a greater expenditure? A sum less than very many men of fortune expend upon a single mansion-house! But when we take into consideration, that there are, among these, fifteen great cities and ports, which require a most liberal defence, to call such an estimate "effectual protection," is little other than an insult. The city of New York is entitled to an amount equal to the sum proposed for all.

Many gentlemen view this subject very lightly. I view it very seriously. Masses of men, who have strength, and are united by common interest, and combined in a political body, will have protection! If they cannot gain it by supplication, they will get it by force. I utter this, not as a threat, but only state it as the inevitable result, from the passions and the interests of men. The first shell that bursts in New York will deprive this Union, to say the least, of the revenues of that city. If you take the fruits of its commercial industry, you must yield protection, in some degree proportionate to the importance of its wealth and commerce. So long as the danger seems at a distance, the people will remain insensible to it. But let it come, let it be felt, and the ties of your Constitution are *paper*.

"But the expense of adequate protection is enormous." Ah! there's the rub. The Secretary of War tells us, that "the aggregate of his estimate is such as circumstances permitted." And almost every gentleman has had reference to the surpluses of our revenue. There are eight millions of dollars in the Treasury. And we are all on the scramble to have our proportion of that sum, in that species of warlike apparatus which is our particular predilection. One wants gunboats, another fortifications, another frigates, another arms for the militia; and each has a steady eye, so to limit the wishes of his neighbor, as that enough of the eight millions may be left to gratify his own. I have looked into the Constitution very carefully, and I find not a word there, concerning "surpluses in the Treasury." The object of union is expressed with great precision and simplicity. "To provide for the common defence." The language, which the people speak to us, is, "Cover us with your shield." They make no stipulations as to the cost. They want protection. Take what is adequate. Less than this is a failure in duty; it is a failure in economy. Estimate the effectual protection of the ports and harbors of the United States at the most extravagant rate ever proposed, and the sum is less than any one of our capitals would willingly pay, rather than suffer an invasion. The sack of one city would transcend, in destruction, the amount of such an adequate appropriation. For these reasons, I am in favor of the greatest sum proposed to be applied to this object; not because this is certainly sufficient, but because it approximates nearer to sufficiency than anything offered. The sum recommended by the Secretary of War is obviously wholly inadequate. Call it by what name you will, the inhabitants of the cities will not deem it protection.

When Mr. QUINCY had concluded his speech, about four o'clock—a motion being made for the Committee to rise and report progress, was negatived, 51 to 50.

The question being of course first taken on the highest sum proposed, $2,500,000, was negatived—ayes 15.

The question then being taken on the sum of one million and a half, was negatived—ayes 44.

On motion of Mr. COOK, a question was taken on the sum of $1,250,000 and lost—ayes 41.

The question was then taken on the sum of one million dollars, and carried—ayes 106.

The second section, containing the same provisions as the bill from the Senate already passed for erecting gunboats, was then, on motion of Mr. BLOUNT, stricken out.

When, the bill being gone through, the Committee rose and reported it; and the House immediately adjourned.

THURSDAY, December 17.

Mr. NICHOLAS R. MOORE, from the Committee of Accounts, to whom was referred, on the third instant, the memorial of Thomas Claxton, Doorkeeper to this House, made a report thereon; which was read and considered: Whereupon,

Resolved, That Thomas Claxton be, and he is hereby, authorized to employ, under his immediate direction, one additional assistant, five servants, and two horses; for the purposes of performing such services and duties as are usually required by the House of Representatives, during the present and next session of Congress, and for four days after the termination of each; and that he be allowed therefor nine dollars per day, and be paid out of the fund appropriated for the contingent expenses of the House.

CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was referred, on the third ultimo, a letter and memorial from Duncan McFarland, stating his claim to a seat in this House, in the room of John Culpepper, who hath been returned as the member for the seventh elective district in the State of North Carolina; and to whom were also referred, during the present session, sundry other documents in relation to the contested election of the said John Culpepper; made a report thereon; which was read, as follows:

"That the claim of the petitioner is not grounded on Constitutional qualifications, but on the law of North Carolina, prescribing the time, place, and manner, of holding elections for Representatives to Congress. By a law of that State, passed 1802, it is enacted that elections for Representatives to Congress shall be held on the same days and at the same places as were before that time prescribed by law for holding elections for members to represent the several counties in the General Assembly of that State; that the same is to be conducted by the sheriffs of the several counties within the State, and the deputies of said sheriffs, in like manner as the annual elections of the members of the General Assembly are, except that the inspectors of the elections and clerks of the polls shall be sworn to act with justice and impartiality; which oath shall be administered by any justice of the peace then present. That no person shall vote at any election except in the county where he resides: that no person shall vote more than once in any election for members of the General Assembly, or for a Representative in Congress: that elections for members of Congress shall be conducted by the returning officer in the same manner as the elections for members of the General Assembly heretofore had been.

"In the act passed 1784, for directing the method of electing members of the General Assembly, &c., it is enacted that the returning officer shall keep the election open two days and no longer; and the returning officer shall, at sunset of the first day, in presence of the inspectors, put his seal on the place to be made for the reception of the tickets, which, when he shall continue the election, shall be removed the succeeding day.

"By another act, passed 17th December, 1805, it is directed that the elections which shall be held in the counties of Onslow and Richmond shall be on the second Thursday in August in every captain's company, at the places fixed on by them for holding the petit musters. And it is enacted, section seven, that the elections for members of Congress and for Electors to vote for the President and Vice President of the United States shall be held in the said counties at the aforementioned places, and in the same manner, subject to the same rules and restrictions as other elections within this State.

"Duncan McFarland states, in his petition, that the certificate of John Culpepper's election was fraudulently and illegally obtained, in direct violation of the laws and constitution of the State of North Carolina, which he proposes to prove by statements and depositions accompanying his petition.

"The committee having examined Duncan McFarland's statements and depositions, find numerous irregularities and abuses alleged, and supported by numerous depositions; but as no law of Congress now exists directing the manner of taking testimony in cases of contested elections, or for compelling witnesses and parties to attend when called upon, many of the depositions transmitted by the petitioner in support of his statements, being taken *ex parte*, could not be admitted by the committee.

[Such as they did admit go to prove the following facts, to wit:* that in some of the election districts, the inspectors and clerks were not sworn at all; that in others they were sworn after the election, though before the return; while in others it appeared doubtful, from the testimony, whether they were sworn or not.]

"No full official lists of the polls, or number of votes given to the parties contesting, were laid before the committee; but both parties agree that the sitting member had 2,750, and that Duncan McFarland had 2,701; that consequently John Culpepper had a majority of 49 votes.

"From the above recited testimony, admitted by the committee, it appears that the inspectors and clerks officially employed in conducting the elections in Richmond, Anson, and Montgomery counties, do not appear to have been sworn as the law of North Carolina expressly directs, and that the votes given in some of these counties, and at some elections in other counties, not being received by officers legally qualified, ought to be rejected. On rejecting the returns of Richmond, Anson, and Montgomery counties, in which it appears, by the list of voters and testimony admitted, that John Culpepper had a majority of 1,578 votes, gives to Duncan McFarland a large majority of votes in these counties. Some depositions were laid before the committee respecting the elections in Moore county, taken at the instance of a friend of John Culpepper, in his absence; but though they go to prove that the elections in Moore county were not conducted agreeably to law, yet, being taken *ex parte*, they were [not] admitted.

"From the testimony admitted, it appears that John Culpepper is not entitled to a seat in the House, he not having a majority of votes legally taken; but though Duncan McFarland appears to have a large majority of votes taken agreeably to law, yet the committee are of opinion that the truth of this is doubtful; they are the more confirmed in this opinion, from the sitting member having expressed his opinion that if he had time allowed him to make a scrutiny, he would prove the elections held in the other counties were also conducted contrary to law.

"The committee, however, believing that the great object for which the power of judging of the election of members was vested in Congress, was to secure to the people a representation of the majority of the citizens, the elections of Richmond, Anson, and Montgomery being rejected, give a majority of the votes taken in Moore and Cumberland counties to Duncan McFarland, viz: a majority of two counties out of five, which compose the Congressional district, and the votes of three counties are lost.

"The committee are of opinion that, even presuming the votes in Moore and Cumberland to have been legally taken, it would be improper to deprive the other three counties of a representation for the fault of their election officers, &c., therefore think it most proper to give the citizens of that district an opportunity to have another election, and for this purpose submit the following resolution:

"*Resolved*, That, from the testimony laid before and admitted by the committee, it appears that John Culpepper is not entitled to a seat in this House."

The report was referred to a Committee of the Whole on Tuesday next.

* The evidence, in extenso, is here omitted, and the general result abridged from the report.

UNIVERSITY OF VINCENNES.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred, on the twentieth ultimo, the petition of the Board of Trustees of the University of Vincennes, in the Indiana Territory of the United States, made a report thereon; which was read and considered. The report is as follows:

The petitioners state that the Legislature of the Indiana Territory, in the year 1806, passed an act incorporating a University in the district of Vincennes, styled the University of Vincennes; and that the same act authorized the petitioners to dispose of a small part of the land appropriated by an act of Congress, for the purpose of erecting the necessary buildings for said institution. The petitioners state that, as the land belonging to the institution cannot be leased at present to advantage, they pray that Congress will pass a law laying a small tax on salt made at the public works in that Territory, and also on Indian traders, for the support of the said institution, until the other institutions in the Territory are organized, and can be benefited by the fund accruing therefrom.

The committee have given to the petition of the trustees of the University of Vincennes that deliberate attention which its importance demands. They are sensible of every disposition that can be friendly to institutions, the objects of which are to inculcate and disseminate knowledge of every kind. The people of no nation can be so deeply interested in promoting and encouraging the sciences as the citizens of a Republic. They are frequently called upon personally to perform public duties of high concern, on the right discharge of which the happiness of individuals and the prosperity of the community depend. Information in the mass of the citizens is one of the best securities that can be devised against the abuses of power; and it operates no less forcibly in checking and restraining the aspiring ambition and subtle arts of those to whose care is confided the public welfare.

As public and private virtues spring from and are fostered and matured by true knowledge, it becomes one of the first obligations of this Government, if it can constitutionally exercise the power, to take under its patronage institutions that are calculated to insure its diffusion.

The committee will inquire what considerations have been given to a subject of so much moment by the National Government! The Territories of the United States are under the superintending authority of the General Government.

In the acts of Congress we are, therefore, to look for the care and solicitude they had a right to expect from their common guardian. As the district of Vincennes, in the Indiana Territory, is brought into view by the petition of the trustees of the Vincennes University, it becomes the duty of the committee to ascertain whether the bounty of the General Government to that Territory has been sufficiently large. By an act of the 26th of March, 1804, making provision for the disposal of the public lands in the Indiana Territory, and for other purposes, a section of land, equal to 640 acres, in each township, is reserved for the support of public schools; and one entire township is set apart in each of the three districts into which that Territory is divided for the use of seminaries of learning. To the district of Vincennes is allotted one entire township, which contains 23,040 acres of land. The price of an acre is estimated at two dollars; and the value of the donation amounts fully to forty-six thousand and eighty dollars. On this statement the committee are willing to rest the claim of Congress to the gratitude of the citizens of that Territory and their posterity, for the munificent allotments of land which have been made for the promotion of the sciences. The committee are constrained to notice the prayer of the petitioners. It is, that a law may be passed "laying a small tax on salt made at public works in that Territory, and also a tax on Indiana traders, for the support of the Vincennes University, until the other seminaries are organized, and are in a situation to participate in the revenue raised and collected from those taxes." The committee will here take the liberty of observing that, whenever the population of that Territory shall be so advanced and increased as to require seminaries of learning on the extensive scale of universities, the liberal donations of the General Government will be found to be commensurate with the views of the petitioners and with the just and laudable intentions of the donor. The reservation of the salt springs for future disposal in that Territory evidently points out the design of Congress, which was to furnish a necessary of life at a moderate price, by keeping and preserving the source of it from the monopoly of speculators. The committee are not a little surprised that the enlightened policy of Congress should escape the notice and penetration of so intelligent and so respectable a body of men as the trustees of the University of Vincennes.

The committee flatter themselves that the withholding of their assent from the prayer of the petition will be justified by that liberal mode of thinking which is inspired by the sciences, and by that true spirit of justice which equally and impartially regards the rights of all.

With deference to the House, they submit the following resolution:

Resolved, That, ample provision having already been made for the support of public schools and for seminaries of learning in the district of Vincennes, the prayer of the trustees of the University of Vincennes is unreasonable, and ought not to be granted.

The report was agreed to.

DUTIES ON SALT.

Mr. G. W. Campbell said, that by a law passed at a former session, a part of the duty on salt had ceased, and the remaining part of the duty being 12½ cents per bushel, and the duties constituting what was generally called the Mediterranean fund, would expire on the first of January next. In the report made by the Secretary of the Treasury, this was mentioned as one of the first measures which might be resorted to in case our situation required additional taxation. In order to bring that subject before the House, that they might determine whether at the present crisis it was necessary to continue the Mediterranean fund and the duty on salt, he moved the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of *continuing for a limited time the duties now payable by law on imported salt; and of* continuing in force for a limited time the law imposing the duties called the Mediterranean fund; and that they report thereon by bill or otherwise.

This resolution being under consideration,

Mr. M. Clay moved to strike out the clause of the resolution which is in italics.

Mr. G. W. Campbell said, the resolution proposed only an inquiry. Large sums had been voted this session, and the non-importation act had gone into operation. While so much was done to empty the Treasury, he thought it time to do something toward filling it.

Mr. Dana conceived that no harm could result from a mere inquiry into the subject.

Mr. Lloyd could perceive no need of any inquiry if the House were predetermined against the continuance of the salt duty. The voice of the nation had been fully expressed on the subject, and, for his part, he would not agree to any tax on salt, if there was not a cent in the Treasury, nor if war was already declared and the city of New York in the hands of the enemy. He had no objection to the continuance of the Mediterranean duties, if it were necessary, though they were not confined to articles of luxury.

Mr. Crowninshield was in favor of the resolution as it stood. The House would not be committed by agreeing to the reference. The salt duty was oppressive, because that article was taxed proportionably higher than others, and he had rather double the Mediterranean duties than continue those on salt. But he had not made up his mind on the subject. If money is wanted, he would agree to a salt tax, to a land tax, to a tax on anything. The people will bear any burden requisite to repel an enemy; they will pay any money in defence of their rights.

Mr. Upham stated his impressions to be against the continuance of the tax; but, as any resolution, from a respectable quarter, was entitled to decent treatment, he was willing to refer it, as by a reference the House would not pledge themselves to vote finally in favor of it.

It was the peculiar province of the Committee of Ways and Means to devise certain ways and means for supplying the Treasury with the necessary revenue to support the Government and defend the country. This resolution had been introduced by the chairman of that committee, and Mr. U. was disposed to treat it with respect, by giving it the usual direction. As to the evils of an inquiry, the same objection would apply to every inquiry in that House; and, if they were deterred from doing their duty, lest it should give rise to erroneous impressions among the people, they might as well adjourn at once and go home.

Mr. Macon agreed that, by referring the resolution, the House did not commit themselves to vote in favor of it; but, if the House were already determined against the tax, it would be needless to refer the resolution to a committee. In an extreme case, he would go as far as any man; but he had rather have a poll tax than a salt tax. It was harder on the poor than any other tax. He hoped it would never be renewed; he would rather tax anything else.

Mr. Desha was against the motion to strike out what related to the duty on salt. He conceived a duty on salt the most equitable that could be imposed. It operates equally on all classes of the community. Large appropriations have been made this session, and, as money was wanted, he was in favor of continuing the duty.

Mr. Chittenden was, generally, in favor of referring the resolutions, even if he disliked them; but he did not perceive that any good purpose could be answered by the proposed inquiry, as he trusted the House would be decidedly against continuing the tax. It operates unequally. He was willing to impose new taxes if they were wanted, but he could never be persuaded to vote for any tax on salt.

Mr. W. Alston said, if other revenues were struck off, the House must agree to this. He was in favor of the reference.

Mr. M. Clay observed that, if you would go through the country, from one end to the other, you would find a clamor against the salt tax. He had known that article so dear that it took the profit of the yearly labor of one prime hand to purchase only a bushel.

Mr. Thomas was in favor of the reference. It was proposed not to lay a new tax, but only to continue an old one a little longer.

Mr. Sloan was against the inquiry. I do not, said he, admire all the observations of the gentleman from Kentucky, (Mr. Desha.) If I rightly understand the opinion of my constituents, they consider the salt tax the most unjust, unequal, and oppressive that can be laid. Salt is necessary for our food and for stock, and the tax bears hard on the poor in particular. Even an inquiry would have a bad tendency, for it would blast the hopes of the people, who had been looking for a repeal of the whole duty.

Mr. Southard thought that it would be more advisable, in the event of a war, to grant a bounty than lay a tax on the importation of salt.

Mr. Blount observed that, in his opinion, members had better record their votes than waste time in debating the subject. He, therefore, moved that the yeas and nays be taken, and expressed a hope that there would be no further discussion.

The yeas and nays were agreed to be taken.

Mr. Milnor deemed the subject before the House to be of the last importance. There had been, indeed, a clamor raised, in the public prints, against the tax on salt, but he believed there had been little elsewhere. If the poor could avoid the payment of all other duties, it was with him a reason why they should be charged with that on salt, for all who enjoy the benefit of Government ought to contribute something toward its support. When the duty of eight cents was taken off, he did not believe that a retailer of ten thousand ever lowered their price. Of all articles, which pay a duty, there is not one which is more conveniently taxed. It is imported in such quantities as precludes all attempts at smuggling. It was, to Mr. M., a novel idea that stock could not be raised without salt. The best cattle were raised in his country without licking a dust of salt.

Mr. M. Clay, with the leave of the House, spoke a third time. He said he had thought every man in the country understood the subject better than some of the members of the House appeared to do. The gentleman from Pennsylvania must live near a salt marsh. There stock do not need any salt. Mr. C. traced the progress of salt from the importer, through the hands of the wholesale dealer and retailer, to the consumer, with a view to show how the price of the article is affected by the duty. He had known it sold at four dollars per bushel.

Mr. Quincy thought it very extraordinary in the gentleman from North Carolina (Mr. Blount) to demand the yeas and nays, with a view to arrest the discussion. He surely ought to have known that the demand was calculated to protract the debate. As their votes would be recorded on the Journal, he, Mr. Q., conceived it his duty to assign the reasons which would influence his decision.

It appeared, from the documents in possession of the House, that the quantity of salt imported annually is about three millions. Supposing, then, our population to be six millions, it will leave half a bushel of salt for each person, so that at the rate of twelve cents a bushel, it will be equivalent to a poll tax of six cents upon each person. So small a burden as this cannot be a subject of serious complaint. So far, however, as salt is consumed by stock and slaves, this is a tax on property. Large salt manufactories had been stopped by a repeal of the duty on salt; but, if it is continued, they may go into operation again, and become, especially in periods of war, of great advantage.

Mr. Stedman had the last year voted for the repeal of the duty on salt, because the Administration had told us they could dispense with that duty, and because the people would thereby be relieved of a burden; he was now against its continuance. Should a war take place and money be wanted, other sources of revenue might be resorted to, less objectionable. As to the home manufactories of salt, a war would operate as a sufficient encouragement without the duty on imported salt.

If the reference should be agreed to as presented to the House, and the inquiry take place, that very circumstance alone would, in Mr. S.'s opinion, encourage speculations among the dealers in that article. It would impress the public with the belief that a tax would be laid, and the price of salt would be immediately enhanced beyond the amount of duty contemplated to be continued; under these impressions, he hoped the amendment would prevail.

Mr. Lloyd spoke at some length against the salt tax. He considered it unequal and oppressive; luxuries were the proper objects of taxation; six cents was a trifle, and so was a hundred dollars with some men; but to a poor man six cents was a great sum.

Mr. Rowan professed himself not sufficiently informed with respect to the propriety of further continuing the duty on salt. It had been said that there had been a great clamor against this tax throughout the Union. He had never heard any complaint in Kentucky; he had not yet formed any decisive opinion, and wished the subject might be investigated. Why the yeas and nays had been called for, he could not conceive; for no member is pledged by voting in favor of referring the resolution.

Mr. G. W. Campbell thought it singular that the merits of the salt duty should be considered in this motion. When twelve cents was continued till the first of January, it was understood to be done so as to enable Congress, if necessary, to continue it for a longer time. The continuance of this tax is recommended by the Secretary of the Treasury, in case of war, and the Committee of Ways and Means, in conversation, thought an inquiry into the subject would be proper.

The gentleman from Virginia (Mr. Clay) says there is no use in an inquiry. Perhaps he is already thoroughly acquainted with the subject; perhaps he ie competent to decide at once on every question of finance. If so, this great stock of financial knowledge has been hitherto concealed from the House.

Mr. J. Montgomery said that, as the yeas and nays were to be taken, he would assign a few reasons for the vote he should give. He had understood that the tax had been continued to the first of January, in order that Congress might further continue it, if necessary; and, in case of war, he was not prepared to say he would not continue it. He thought it would be prepared, at least, to refer the subject, and let the Committee of Ways and Means inquire and report. The House would not be pledged by a reference.

At the request of Mr. Randolph, the report of the Secretary of the Treasury was read.

Mr. M. Clay had leave a second time to speak. He hoped this was the last time he should ever be compelled to answer any personal observations. He had intended nothing severe on the gentleman from Tennessee, (Mr. G. W. Campbell,) but he hoped that gentleman, or the Committee of Ways and Means, did not claim all the financial knowledge in the House. You know, and every one knows, how we are pestered with men who think nothing can pass the House, unless they speak upon it; and the evil seems to be catching. You (the Speaker) know, and every member knows, that your Chair is not filled with the best talents in the House. You know that the best talents are not selected as the heads of the committees. There are men, who are not so vociferous, who are better qualified than those who speak so much. Mr. C. said, this was the most windy place he ever knew, there was more wind out of the House, and in the House, than any place he had ever seen.

Mr. G. W. Campbell insisted that he had said nothing concerning the talents of the gentleman last up. He did not rise to compare his own talents with those of that gentleman. The House knew them both, and could decide between them. Mr. C. appealed to the House, whether he was in the habit of boring them with long speeches. He said, he seldom spoke at length, and took up very little time in debate.

Mr. Lyon observed, that his constituents were not affected by the salt tax, but he had a regard for his own character, and for that of the Administration, whom he had helped to bring into power. His character was involved in theirs, and he hoped they would never be disgraced by continuing this tax.

The question being taken by yeas and nays, on striking out of the resolution that part which respected the salt tax, it was resolved in the affirmative—yeas 78, nays 45, as follows:

Yeas—Lemuel J. Alston, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, John Culpepper, John Dawson, James Elliot, William Ely, William Findley, Meshack Franklin, Barent Gardenier, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, James Kelly, Philip B. Key, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Roger Nelson, Timothy Pitkin, jun., John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Riker, John Rowan, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Peter Swart, John Thompson, Abram Trigg, James I. Van Allen, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, jun., Ezekiel Bacon, George W. Campbell, John Chandler, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, junior, Josiah Deane, Joseph Desha, Daniel M. Durell, Francis Gardner, Isaiah L. Green, John Harris, John Heister, William Helms, Reuben Humphreys, Robert Jenkins, Edward St. Loe Livermore, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Josiah Quincy, Jacob Richards, Matthias Richards, John Russell, Lemuel Sawyer, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, David Thomas, George M. Troup, Jabez Upham, Killian K. Van Rensselaer, Marmaduke Williams, and James Witherell.

The question then recurred on the resolution as amended. It now proposed only an inquiry into the expediency of continuing the Mediterranean duties.

Mr. Randolph was against the resolution. From the report of the Secretary of the Treasury it did not appear to be necessary. The Secretary states that a recurrence to additional taxes will be necessary only in case of war loans, or when the revenue shall fall short of the expenditures. Mr. R. said, he had before called for the reading of the Secretary's report, as that report evinced without comment that any additional taxes were not requisite. But, on account of the confusion in the House, the report was not heard. He hoped the Clerk would read it again, and distinctly too.

The report being read, Mr. R. observed, that it would be seen that that was precisely as much a recommendation to double all the existing taxes as to continue the Mediterranean fund.

Mr. George W. Campbell contended that he had not mistaken the report of the Secretary of the Treasury. Whether the revenue will fall short or not, is yet problematical. The non-importation act has gone into operation, and it is proper to inquire how far the revenues of the country may be reduced by that measure? It is the private opinion of the Secretary, and he conceived himself in order while stating it to the House, that it was proper to make this inquiry at the present time.

Mr. Randolph.—The Secretary of the Treasury states 15,800,000 dollars for the revenue of the ensuing year, and we are now told that it is proper to inquire, what will be the deficiency? There is no deficiency; there can be none the ensuing year. Mr. R. regarded only the official, responsible communications from the Executive officers.

Mr. W. Alston was in favor of the resolution. If we have war, there will be eventually a deficiency of revenue, and now is the proper time to examine the subject.

Mr. Randolph said, if any tax were wanted, he would vote it cheerfully; and the one proposed is as good as any; but it is clear, from the Secretary's report, that none is wanted.

Mr. J. Montgomery said that, if there should be no war, he would agree to give up the Mediterranean duties. The gentleman from Virginia (Mr. R.) had himself introduced three resolutions, and what would be the expense of carrying them into execution no man could tell. Large sums had been voted for gunboats and fortifications, and was this a proper time to abandon our revenues?

Mr. Rhea of Tennessee, Mr. Smilie, and Mr. Findley, said a few words in favor of the resolution.

The question being taken on the resolution, as amended, it was resolved in the affirmative by yeas and nays—yeas 107, nays 14, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, Samuel Taggart, John

Taylor, David Thomas, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and James Witherell.

Nays—John Campbell, Epaphroditus Champion, Barent Gardenier, James M. Garnett, Charles Goldsborough, William Hoge, Joseph Lewis, junior, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, William Stedman, Lewis B. Sturges, and Benjamin Tallmadge.

Friday, December 18.

Mr. Holland, from the committee to whom was referred on the fourteenth instant, a petition of Anthony Boucherie, of the city of Philadelphia, sugar refiner, reported a bill to extend certain privileges as therein mentioned, to Anthony Boucherie; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. Bassett,

Resolved, That the petition of the Vestry of the Protestant Episcopal Church, in the town of Alexandria, and District of Columbia, presented on the twelfth of January last, and praying that an act of incorporation may be passed, vesting in the said church such powers, privileges, and benefits, as may be deemed proper, be referred to Mr. Bassett, Mr. Bard, and Mr. Taggart; to examine and report their opinion thereupon to the House.

Mr. Thomas, from the committee to whom was referred, on the third ultimo, a letter and representation of William Eaton, and a communication from Hamet Bashaw Caramalli, Ex-Bashaw of Tripoli, made a report thereon; which was read, and referred to a Committee of the Whole on Tuesday.

Mr. Findley, from the committee to whom was referred, on the thirtieth ultimo, a petition of the Associate Reformed or Presbyterian Congregation in the City of Washington, reported a bill for incorporating the Associate Reformed Church, in the City of Washington; which was read twice and committed to a Committee of the Whole on Monday next.

The House proceeded to consider the amendments reported yesterday from the Committee of the Whole to the bill supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats."

The first amendment, relative to works other than fortifications, being agreed to, and the second relative to the sum yesterday agreed to, being under consideration,

Mr. Masters inquired of the Speaker, whether it would then be in order to amend that sum?

Some discussion took place on this subject; when a Message was announced from the President of the United States. The business then under consideration was postponed.

The Speaker declaring the Message confidential, the galleries were closed, and the House went into secret session.

EMBARGO.

The following is the Message from the President of the United States:

To the Senate and House of Representatives of the United States:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened, on the high seas and elsewhere, from the belligerent Powers of Europe; and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantage which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

I ask a return of the letters of Messrs. Armstrong and Champagny, which it would be improper to make public. TH. JEFFERSON.

Extract of a letter from the Grand Judge, Minister of Justice, to the Imperial Attorney General for the Council of Prizes.

Paris, *September* 18, 1807.

Sir: I have submitted to his Majesty, the Emperor and King, the doubts raised by his Excellency, the Minister of Marine and Colonies, on the extent of certain dispositions of the imperial decree of the 21st of November, 1806, which has declared the British Isles in a state of blockade.

The following are his Majesty's intentions on the points in question:

1. May vessels of war, by virtue of the imperial decree of the 21st of November last, seize on board neutral vessels, either English property, or even all merchandise proceeding from the English manufactures or territory?

Answer.—His Majesty has intimated that, as he did not think proper to express any exception in his decree, there is no ground for making any in its execution in relation to any whomsoever, (*à l'égard de qui que ce peut être.*) His Majesty has postponed a decision on the question, whether armed French vessels ought to capture neutral vessels bound to or from England, even when they have no English merchandise on board. REGNIER.

The Message, and documents accompanying it, were severally read.

Ordered, That the letters referred to in said Message be returned to the President of the United States, agreeably to his request.

On motion of Mr. Randolph, that the House do come to the following resolution:

Resolved, That an embargo be laid on all shipping, the property of citizens of the United States, now in port, or which shall hereafter arrive:

And the question being put, that the House do agree to the said resolution, and, upon the question thereupon, the yeas and nays being demanded by one-fifth of the members present, and debate arising, a motion was made by Mr. Macon, that the resolution do lie on the table; and it was resolved in the affirmative.

A message from the Senate, by Mr. Otis, their Secretary:

Mr. Speaker: The Senate have, in confidence, directed me to inform this honorable House that they have passed a bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," in which bill they desire the concurrence of this House."

The said bill was received, read the third time, and committed to a Committee of the Whole on the state of the Union on this day.

On motion of Mr. Crowninshield,

Resolved, That this House will immediately resolve itself into a Committee of the Whole on the said bill.

The House accordingly resolved itself into the said Committee; and, after some time spent therein, the Speaker resumed the Chair, and Mr. Masters reported that the Committee had had the said bill under consideration, but not having time to go through the same, had directed him to ask for leave to sit again.

Resolved, That this House will, to-morrow, again resolve itself into a Committee of the Whole on the bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States."

And then the House adjourned.

Saturday, December 19.

No legislative business was transacted in the House to-day.

In secret session, on motion of Mr. Stanford, that the Committee of the Whole to whom was referred the bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," be discharged from the consideration thereof:

And, after debate on the said motion, the question was taken thereupon, and passed in the negative.

The House then resolved itself into a Committee of the Whole on the said bill; and, after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

Monday, December 21.

The House met but transacted no Legislative business.

THE EMBARGO ACT.

In secret session, the House again resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" and, after some time spent therein, rose, and reported the bill, with several amendments; which were twice read, and, on the question severally put thereupon, agreed to by the House.

A motion being made, by Mr. Crowninshield, to amend the amendment reported by the Committee of the Whole, by striking out the words 'letters of marque excepted," and the word "retained," in the tenth line of the amendment, and insert the word "re-landed;" and the word "retained," in the twelfth line, and insert the word "re-landed:" Whereupon, it was resolved in the affirmative.

Ordered, That the said bill, with the amendments, be read a third time this day: Whereupon, the question was stated, that the bill sent from the Senate, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," together with the amendments agreed to, do pass.

A motion being made by Mr. Quincy, to amend the said bill, by adding a new section thereto, in the words following:

"*And be it further enacted*, That nothing in this act shall be construed to prohibit the sailing of any ship or vessel duly enrolled or licensed for carrying on the fisheries, with the usual tackle, apparel, and supplies, customary on a fishing voyage: *Provided*, That bond, with sufficient security, be previously given, that such ship or vessel shall not directly or indirectly carry on any commerce whatsoever, during the voyage, and shall return with her fishing fare to some port or place within the United States;"

And, on the question thereupon, it passed in the negative—yeas 45, nays 82, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, Isaiah L. Green, Wm. Hoge, Reuben Humphreys, Daniel Ilsley, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Ed. St. Loe Livermore, Matthew Lyon, Robert Marion, Jeremiah Morrow, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Russell, Ebenezer Seaver, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, and Isaac Wilbour.

Nays—Lemuel J. Alston, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Matthew Clay, John Clopton, Howell Cobb, John Dawson, Joseph Desha, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, John Love, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, Lemuel Sawyer, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

On motion of Mr. GARDENIER, that the doors be now opened, that the injunction of secrecy imposed on the members of this House respecting the bill now before them be taken off, and that all further proceedings relative to the said bill be had with open doors: and the question being put thereupon, it passed in the negative—yeas 36, nays 92, as follows:

YEAS—Lemuel J. Alston, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpepper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, James M. Garnett, Charles Goldsborough, Edwin Gray, William Hoge, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Dennis Smelt, Samuel Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horne, and Killian K. Van Rensselaer.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, Jacob Crowninshield, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, John Love, Robert Marion, Josiah Masters, Wm. McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor David Thomas, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

On motion of Mr. MUMFORD to amend the said bill, in the second line, after the word "laid," by inserting the following words, "for and during the term of sixty days:" and the question being put thereupon, it passed in the negative—yeas 46, nays 82, as follows:

YEAS—William W. Bibb, William Blackledge, Jno. Blake, jr., John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, Barent Gardenier, James M. Garnett, Charles Goldsborough, William Hoge, Reuben Humphreys, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horne, and Killian K. Van Rensselaer.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Chandler, Matthew Clay, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, Nehemiah Knight, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, Abram Trigg, George M. Troup, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

On motion of Mr. QUINCY to amend the said bill, by adding a new section thereto, in the following words:

"*And be it further enacted*, That nothing in this act shall be construed to contravene any rights or privileges arising out of any treaty or treaties between any foreign nation and the United States:"

The question being taken thereupon, it passed in the negative—yeas 52, nays 75, as follows:

YEAS—Ezekiel Bacon, Burwell Bassett, William W. Bibb, Wm. Blackledge, John Boyle, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Jacob Crowninshield, John Culpepper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, James M. Garnett, Charles Goldsborough, Edwin Gray, William Hoge, James Holland, Benjamin Howard, Reuben Humphreys, Robert Jenkins, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Randolph, John Rowan, John Russell, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Archibald Van Horne, and Killian K. Van Rensselaer

NAYS—Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Chandler, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, John Love, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Clement Storer, Peter Swart, John Taylor, David Thomas, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

On motion of Mr. GARDENIER, that the House now adjourn; the question being taken thereupon, it passed in the negative—yeas 40, nays 81, as follows:

YEAS—Lemuel J. Alston, William W. Bibb, John Campbell, Epaphroditus Champion, Martin Chittenden, Howell Cobb, Orchard Cook, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, James M. Garnett, Charles Goldsborough, Edwin Gray, Wm. Hoge, James Holland, Robert Jenkins, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, Wm. Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Lewis B Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Archibald Van Horne, and Killian K. Van Rensselaer.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Matthew Clay, John Clopton, Jacob Crowninshield, John Culpepper, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, Nehemiah Knight, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Randolph, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, David Thomas, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

The question again recurring on the bill with the amendments: Whereupon, the question was stated that the said bill, with the amendments, do pass: it was resolved in the affirmative—yeas 82, nays 44, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Matthew Clay, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, David Thomas, Abram Trigg, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

NAYS—Evan Alexander, William W. Bibb, William Blackledge, John Campbell, Epaphroditus Champion, Martin Chittenden, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, William Hoge, James Holland, Robert Jenkins, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Dennis Smelt, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, and Killian K. Van Rensselaer.

Ordered, That the Clerk of this House do carry the said bill, as amended, to the Senate, and desire their concurrence.

The bill is as follows:

An Act laying an embargo on all ships and vessels in the ports and harbors of the United States.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That an embargo be and hereby is laid on all ships and vessels in the ports and places within the limits or jurisdiction of the United States, cleared or not cleared, bound to any foreign port or place; and that no clearance be furnished to any ship or vessel bound to such foreign port or place, except vessels under the immediate direction of the President of the United States; and that the President be authorized to give such instructions to the officers of the revenue, and of the navy and revenue cutters of the United States, as shall appear best adapted for carrying the same into full effect: *Provided*, That nothing herein contained shall be construed to prevent the departure of any foreign ship or vessel, either in ballast, or with the goods, wares, and merchandise, on board of such foreign ship or vessel, when notified of this act.

SEC. 2. *And be it further enacted*, That during the continuance of this act, no registered or sea-letter vessel, having on board goods, wares, and merchandise,

shall be allowed to depart from one port of the United States to another within the same, unless the master, owner, consignee, or factor of such vessel shall first give bond with one or more sureties to the collector of the district from which she is bound to depart, in a sum of double the value of the vessel and cargo; that the said goods, wares, and merchandise, shall be relanded in some port of the United States, dangers of the seas excepted; which bond, and also a certificate from the collector where the same may be relanded, shall, by the collectors respectively, be transmitted to the Secretary of the Treasury. All armed vessels possessing public commissions from any foreign Power are not to be considered as liable to the embargo laid by this act.

TUESDAY, December 22.

Mr. COOK, from the committee appointed on the twelfth ultimo, presented a bill making provision for extinguishing the debts due from the United States; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. THOMAS, from the committee appointed on the twenty-third ultimo, to whom were referred the letters and reports from the Commissioners under the act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, which were laid before this House on the 13th of February, 1806, made a report thereon; which was read, and referred to a Committee of the Whole to-morrow.

Mr. THOMAS, from the same committee, also reported a bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia; which was read twice and committed to a Committee of the Whole last appointed.

Mr. ALSTON said the Committee of Revisal and Unfinished Business had some days ago made a report of bills the term of duration which would expire in a certain time. Amongst others, Mr. A. said the House would perceive that the law passed in 1804, for establishing the salaries of the officers of the United States, would expire on the first day of January. The Secretary of the Treasury, it would be found, in making up his estimates for the ensuing year, had predicated that part relating to salaries on the supposition that the salaries would be fixed at the same rates as they were formerly. It was proper that this subject should be now considered; and with that view Mr. A. submitted an order directing the Committee of Ways and Means to inquire into the subject and report by bill; which was agreed to.

TELEGRAPHS.

Mr. CROWNINSHIELD said it would be acknowledged by all that the prompt communication of information along the coast, to different parts of the country, would be extremely advantageous at any time; perhaps it was more proper to be considered at this moment than at any time since the conclusion of the Treaty of Peace which established our Independence. It was true that the United States had a mail running from each extreme of the continent to the other; but information could not, through the medium of the mail, be conveyed with the expedition which a telegraph would afford to important intelligence. This had been acknowledged by almost all Governments; and in France, Spain, and England, they had been found of great utility. There had been a telegraph in this country, from the Vineyard to Boston, a distance of about seventy miles; and communications could be made by it between those places in one hour. Calculating from this fact, information might be communicated from Norfolk to the Seat of Government in two hours, and from Washington to New York or Boston in three or four hours. To bring this subject before the House he should offer the following resolution:

Resolved, That it is expedient to authorize the President of the United States to establish such telegraphs, along the coasts and in other situations in the United States as he may deem proper.

Mr. C. said as this was a subject which might require some discussion, being so little known, he should not now press its decision, but moved that the resolution be referred to a Committee of the Whole to-morrow.

After some conversation on the propriety of a reference to a Committee of the Whole in preference to a select committee, the reference proposed by the mover of the resolution was agreed to—yeas 53, nays 34.

DEFENCE OF PORTS AND HARBORS.

On motion of Mr. BLOUNT, the House took up for consideration the report of the Committee of the Whole on the bill for erecting fortifications. The amendment inserting the sum of one million of dollars in the bill as the sum to be allotted for that object, being yet under consideration,

Mr. MASTERS said he would barely state a few facts introductory to a motion which he proposed to make before he sat down, although they might clash with the opinion of the Secretary of War. When measures similar to this were under consideration, during the last session, the Secretary of War reported a sum of $20,000 for the purpose of repairing fortifications, for which purpose, however, $150,000 was finally appropriated. Gentlemen who at that time opposed the increase in the bill, in the course of their reasoning relied on the opinion of the Secretary of War, contended that it was all he asked for, and that he must be the best judge of what was necessary. The Secretary had this year proposed a larger sum; and against an increase of that sum the same arguments were now used as were last year, that it was the opinion of the Secretary of War. Mr. M. had no wish to detract from the merits of that gentleman; he believed he was a good old man and a good patriot, but he could wish that he was twenty years younger.

The sum of one million of dollars taken abstractedly was a respectable sum; but when it was considered that it was to be applied to so many places, it was a frivolous and trifling appropriation.

Mr. M. said it would be admitted that the cities of New York and New Orleans were two of the

most important places in the Union, and the most vulnerable points. New Orleans was the only market for the produce of the whole western country, and the security of that place constituted the security of millions of acres of uncultivated land, which would be millions of wealth to the nation. It was a well known fact, ever since the acquisition of that country by the United States, that the pride of the Spaniards had been touched, and where their pride was concerned, the Spaniards were a tenacious and persevering people. Our citizens in that part of the country, said Mr. M., have smelt war for two years; if he might be allowed that expression. His idea was, that that place ought to be fortified, with formidable forts and batteries, and well garrisoned with troops, in order to be able to repel an attack from the Spaniards or any other Power. The sum assigned by the Secretary at War, for that place, was $60,000. With that sum it was contemplated to erect a fort about twenty miles below New Orleans, a battery on the margin of Lake Pontchartrain, and repair forts St. Lewis and St. Charles, with other works, barracks, magazines, and other improvements, at or about New Orleans. Was it not most reasonable to suppose that four times that sum would be little enough for those purposes? Yet gentlemen say they rely solely on the opinion of the Secretary at War. Mr. M. said he relied on the conviction of his own senses.

Forts Greene, Moultrie, Pinckney, Johnson, and other works in South Carolina and Georgia, were almost entirely demolished, and required large appropriations. The Secretary at War reports, that it is necessary to erect a battery and block house in Delaware Bay, a battery and block house at Egg Harbor, a battery and two block houses at Amboy, three batteries and block houses on Long Island. For all these works, and including the port and harbor of New York, there is assigned only the sum of two hundred and eleven thousand dollars. He asked if there was a member on that floor who could suppose that sum adequate for the city of New York and those other places. The gentlemen who oppose the increase of appropriations, must go on the principle of sinking blocks in the channel of the harbor of New York. He admitted that to be the cheapest mode of defence, but said it depended on the concurrence of the Legislature of that State. He presumed they would not concur; if they did they sealed eternal destruction to that State. He said the truth was, they wanted eight hundred thousand at least for New York. He adverted to several other ports of the United States to show the inadequacy to the object, of the sum destined for fortifications.

Mr. M. said, the object, as related to Great Britain, was to obtain complete satisfaction for the injuries and insults done this nation, and unless peace took place between the contending Powers of Europe, they would in the end have war. It was apparent those Powers were determined to trample under foot the law of nations, and annihilate every vestige of neutrality. The necessity, therefore, of strong measures and large appropriations arose out of the situation of things in Europe. For several successive years our property had been plundered; no redress obtained, no defensive measures adopted. The desire for peace and neutrality had satisfied the Government with complaining and negotiating. He was rejoiced to see a disposition in the House no longer to sit still, helpless and inactive; since the secret, dark, solemn, and midnight vote, his hopes for peace with Great Britain were very much diminished. [Mr. M. was here called to order.] Should they, he said, obtain reparation from that nation, and the adjustment of all their differences, and be able to patch up an accommodation for the present, they would have to look for war with France and Spain on the back of it. He said he was for peace, but for an honorable peace. Their defenceless and unprepared situation required large means. He hoped the House would not deceive themselves in the present unsettled state of affairs. It would be treachery to the nation not to appropriate a liberal sum for defence. Let us, said he, stand forth boldly and do our duty to the nation in this calamitous crisis. Our preparation during the profoundest peace should be respectable; when there was danger of war, it should be formidable. Our attention to the great and acknowledged objects of national defence in a time of peace is the best preventive, and often averts the calamities of war; in times of danger it is necessary to the defence of the country and to the maintenance of independence. We have not sufficiently directed the resources of the nation to these great and essential objects. The question is no less than the defence of our common country. It is not the security of foreign commerce or foreign aggrandizement. We are contending for the safety and existence of the nation. If we are attacked, the honor and being of the nation require us to defend, and, in order to defend with effect, we must be prepared. If we do not attend to this point of policy, we mistake our real interest and duty. The difficulty of the crisis demands more than common vigor and a larger appropriation than is contained in the bill. Mr. M. concluded by moving that the bill be recommitted to the Committee of the whole House, for the purpose of striking out the sum of one million of dollars, and inserting the sum of fifteen hundred thousand dollars.

Mr. WITHERELL said he was not opposed to this motion, if any gentlemen could show that since the last debate on the subject, any new reason had arisen to justify an increase of the sum.

Mr. MACON said he should vote for recommitment on general principles, but not for the purpose of inserting any specific sum, as was directly expressed by the motion.

Mr. BLOUNT hoped the motion would not prevail. It gave him, however, some satisfaction to find that this subject was not totally abandoned; for the language which had lately been used on that floor would have led him to suppose that there was no necessity for fortification at all. [Mr. B. was here called to order by the SPEAKER, for making allusion to what had taken place with

closed doors.] Mr. B. said he had not mentioned any particular time on which this had been said, and therefore had not transgressed the rules of order. The gentleman who made this motion must be convinced he could not get a larger sum than one million of dollars; a recommitment therefore would only produce an useless delay.

After some conversation, at the request of the SPEAKER, Mr. MASTERS reduced his motion to writing to this effect:

"*Ordered*, That the bill for fortification, &c. be recommitted to a Committee of the Whole, for the purpose of striking out the sum of one million, and inserting $1,500,000."

Mr. STANFORD moved to amend the motion by striking out "$1,500,000" and inserting "$500,000."

The SPEAKER declared the amendment to be a substitute for the original motion, and that it could not be received.

The question was then taken on the motion of Mr. MASTERS, by yeas and nays; yeas 35, nays 79, as follows:

YEAS—John Blake, jr., John Campbell, Martin Chittenden, Orchard Cook, Samuel W. Dana, Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, John Harris, William Helms, Benjamin Howard, Reuben Humphreys, William Kirkpatrick, Josiah Masters, William Milnor, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Rowan, John Russel, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, Jabez Upham, James J. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, and Isaac Wilbour.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Matthew Clay, John Clopton, Howell Cobb, Jacob Crowninshield, John Culpepper, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Hoge, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, Nehemiah Knight, John Lambert, John Love, Nathanial Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, George M. Troup, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, James Witherell.

The question then being on concurrence with the sum of one million, reported by the Committee of the Whole—

Mr. COOK spoke generally on the subject of fortifications, at considerable length, in which he protested against receiving the dicta of any officers of Government as to what sums they were to appropriate, or what measures to adopt, at the same time that he professed the highest personal respect for those officers, as well as for the Committee of Aggressions who reported the bill under consideration; the members composing which, though very respectable gentlemen and some of them military characters, were generally from the interior of the country, and could not be supposed capable of judging of measures proper to be adopted for the defence of the seacoast. He protested against the report of the committee, and general course of procedure, because the House were not told how many bastions, &c. or what description of fortifications were to be erected at the respective places; that the harbor near which he lived had sufficient depth of water to admit the largest ship in the English navy, and had not been estimated as requiring a defence, anything near equal to what would be necessary; and lastly he protested in his own name and that of his constituents against the sum reported by the Committee of the Whole, as totally inadequate to answer its professed object.

Mr. SLOAN replied to Mr. COOK, in a humorous strain, showing that although he agreed with the gentleman in almost everything he had said, taken abstractly, he differed with him totally as to the conclusion he had drawn from his positions.

The bill was then ordered to a third reading.

To-morrow was named as the day for its third reading, but negatived—ayes 29.

To-day being named, was agreed to without a division.

EMBARGO BILL.

In secret session—on motion of Mr. ROWAN, that the House do come to the following resolution:

Resolved, That the injunction of secrecy attached to the passage of a bill imposing or laying an embargo on the vessels within our ports and harbors, be taken off, and that the secret journal relative to that subject be published:

A division of the question on the said motion was called for by Mr. BIBB; and, on the question that the House do agree to the first member of the said resolution, contained in the words following, to wit:

Resolved, That the injunction of secrecy attached to the passage of a bill imposing or laying an embargo on the vessels within our ports and harbors, be taken off:

It was resolved in the affirmative.

The question was then taken that the House do agree to the second member of the said resolution, contained in the words following, to wit: "And that the secret journal relative to that subject be published:"

And resolved in the affirmative.

WEDNESDAY, December 23.

Mr. BASSETT, from the committee to whom was referred on the eighteenth instant, the petition of the Vestry of the Protestant Episcopal Church, in the town of Alexandria, in the District of Columbia, reported a bill to incorporate the Protestant Episcopal Church of the town of Alexandria;

which was read twice and committed to a Committee of the Whole on Monday next.

Mr. G. W. CAMPBELL, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government, during the year one thousand eight hundred and eight; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. GRAY, from the committee appointed on the twentieth ultimo, presented a bill for amending the ordinance for the Government of the Northwestern Territory, passed the thirtieth of July, one thousand seven hundred and eighty-seven; which was read twice and committed to a Committee of the Whole on Monday next.

RELIEF OF DEBTORS.

Mr. PORTER said, that, as the act for the relief of debtors now stood, a debtor must at all events submit to imprisonment at least thirty days before he could be relieved, and then the discharge was only against the particular debt for which he was confined, although there might be other actions against him, for each of which he was liable to the same length of confinement as in the first instance. It appeared to Mr. P., that this law bore hard on the honest but unfortunate debtor. He had long been of opinion that it was unjust and impolitic to confine a debtor in jail who had evinced the strongest desire to comply with the obligations of justice, by surrendering up the whole of his property. If some provision could be devised which would guard the rights of creditor, and at the same time save a debtor, who acted with integrity towards his creditors, from a confinement in the common jail, where his energies might be paralyzed, his morals perhaps injured, his character depreciated, and which might prevent him from hereafter becoming useful to himself, family, or country; it would indisputably be worthy an enlightened Legislature. He then moved the following resolution, which was agreed to:

Resolved, That a committee be appointed to inquire whether any, and if any, what alterations are necessary in the act for the relief of persons imprisoned for debt, passed the 6th day of January, 1800; with leave to report by bill or otherwise.

Ordered, That Mr. PORTER, Mr. MUMFORD, Mr. CROWNINSHIELD, Mr. MOSELY, and Mr. SLOAN, be appointed a committee, pursuant to the said resolution.

PETER LANDAIS.

Mr. HOLMES, from the committee to whom was referred the memorial of Peter Landais, made the following report:

The memorialist commanded, in the Revolutionary war, the Alliance, a frigate belonging to the United States. In the year 1779, whilst cruising in the North seas, he captured three British vessels, and sent them into Bergen, in Norway. On their arrival at that port they were seized by order of the Danish Government, and delivered to the British Consul, at his request, on the ground that the Government of Denmark had not acknowledged the independence of the United States, and therefore deemed the capture illegal. The memorialist asks to be indemnified by the United States for his share of said prizes. Previous to the sailing of the Alliance on the cruise aforesaid, it appears that the memorialist entered into a joint agreement with John Paul Jones and other commanders of American and French armed vessels, to cruise in concert against the British, which agreement regulates the distribution of prize money, and declares that the squadron is to obey the orders given by the Minister of the French Marine and the Minister Plenipotentiary of the United States at the Court of France; (a copy of the same is herewith presented.) Upon a representation of the conduct of the Danish Government in this affair to Dr. Franklin, he applied to that Government for redress. His letter to Count Bomstorf, and the answer thereto, will be found among the annexed documents. At a subsequent period, the claim was renewed on the part of the United States, and the Chevalier J. Paul Jones appointed their agent, in subordination to our Minister at Paris, Mr. Jefferson. The agent repaired, conformably to instructions, to Copenhagen. Nothing, however, appears to have been finally done in the business. The memorialist claims his share of the three prizes, in exclusion of the commanders mentioned in the agreement above alluded to. Though your committee differ with him in this construction of the instrument, they do not consider the decision of the point material at present, as it can only relate to the amount of the claim, and not to any principle involved in the consideration of it. From the circumstance of the crew of the Alliance having mutinied on their return to the United States, and thereby forfeited any claim to prize money, it is evident that the Government of the United States are materially interested in obtaining from Denmark an ample indemnity for the restoration of the prizes. The claim, therefore, of the memorialist is identified with that of the Government, and forms a proper subject for negotiation. If, by any arrangement between the two Governments, the United States should receive any compensation for the injury sustained, then the claim of the memorialist to his legal proportion of the prizes must be considered valid. But until then he certainly cannot of right demand that the Government shall remunerate him for a misfortune which it was no way instrumental in bringing about, but, on the other hand, its wish and interest to avert. The Government of the United States never have recognised the principle of insuring the property of their citizens, in any situation, or under any circumstances against misfortune, accident, or the conduct of foreign nations. In the latter case, it is their duty to use all means in their power consistent with the general good and sound policy, to procure justice to the injured citizen; but nothing more can be expected. In this particular instance, there is less reason to compensate the individual sufferers than there would be in many others that might present themselves to our consideration; for it will be observed that the prizes could not have been sold in any port of Denmark, and their safe arrival at a port where they could have been disposed of was at that time very problematical, as may be seen from the communication of Dr. Franklin to the President of Congress on the subject. Upon a view of the whole of the circumstances of the case, your committee concur in opinion with the several committees who have reported upon this claim, and whose reports have been heretofore agreed to by the House. They, therefore, submit the following resolution:

Resolved, That Peter Landais have leave to with-

draw his memorial, and the papers accompanying the same.

The report was laid on the table.

MARYLAND CONTESTED ELECTION.

On motion of Mr. Findley, the House went into a Committee of the Whole on the report of the Committee of Elections, to whom was re-committed the report on the petition of Joshua Barney; and the resolution, including the report, being under consideration as follows:

Resolved, That William McCreery having the greatest number of votes and being duly qualified, agreeably to the Constitution of the United States, is entitled to his seat in this House.

Messrs. Findley and Sturges supported the report, and confirmed the statement, of facts and procedure before the committee, as detailed in the former debate on the subject.

Mr. Love moved to strike out of the resolution the words "agreeably to the Constitution of the United States."

Mr. Goldsborough suggested the propriety of Mr. Love's withdrawing his motion, and renewing it in the whole House, when the votes on the question could be recorded.

Mr. Love declined withdrawing his amendment.

Mr. Key objected to the motion, because the House would, by agreeing to such an amendment, express an opinion that a member could be entitled to his seat, without being duly qualified; which was absurd.

Mr. Love defended his motion, and declared his wish to be, to avoid a decision on the rights of States.

Messrs. Alston, G. W. Campbell, and Upham, opposed the motion.

Mr. Smilie said there was no member in the House but believed that Mr. McCreery was qualified by the law of the United States; and he could not conceive the object of the motion.

Mr. Macon should prefer voting on the resolution in the original general form in which the committee had placed it in their first report.

Mr. Nelson declared his firm belief that William McCreery was not entitled to his seat; that the resolution as reported, was insidious, though he believed it was not intended or perceived by the committee, as it went to prostrate the law of Maryland; he believed the State had a right to fix qualifications for its Representatives, and would contend for that right as long as he lived. If the law of Maryland was Constitutional, William McCreery was not entitled to his seat; if it was unconstitutional, he was duly elected. Gentlemen might evade the question in any way, but it should be taken in such a manner as fairly and honestly to show the grounds on which they voted; he always wished to register his vote in such a way that his constituents might understand clearly the reasons which actuated him.

Mr. Marion moved to amend the amendment proposed to the resolution, by striking out other words, so that the resolution should read thus: "*Resolved*, That William McCreery is entitled to his seat in the House"—and thereby avoid a decision on the constitutionality of a State law.

Mr. Rhea advocated the amendment last proposed, from a wish to avoid a decision on State laws.

Mr. Clopton advocated the amendment and discussed the general principles of the Constitutional question, in a highly argumentative speech of considerable length. He very strongly supported the right of the States to annex qualifications, and pointed out the evils to be feared from a contrary decision, which would be implicated by the resolution as reported.

He was followed by Mr. Sloan, on the same side of the question.

Messrs. Findley and Sturges opposed; and Messrs. Goldsborough, G. W. Campbell, and Upham, supported the amendment last offered.

The question being taken on the amendment, was carried—yeas 73.

The question was then taken on the resolution as amended, and carried—yeas 83.

The Committee then rose and reported the resolution as amended.

On the question of concurrence with the amendment reported by the Committee of the Whole, Messrs. Kelly and Smilie opposed, and Messrs. Marion and Taylor supported it.

The question was then taken on the amendment, and it was agreed to by the House—yeas 70, nays 37, as follows.

Yeas—Lemuel J. Alston, Burwell Bassett, William W. Bibb, William Blackledge, John Blake jr., John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Clopton, Orchard Cook, John Culpepper, Samuel W. Dana, John Davenport, jr., John Dawson, James Elliot, William Ely, Meshack Franklin, Barent Gardenier, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Thos. Kenan, William Kirkpatrick, John Love, Nathaniel Macon, Robert Marion, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Russell, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, Samuel Smith, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Archibald Van Horne, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Winn, and James Witherell.

Nays—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Thomas Blount, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, Howell Cobb, Jacob Crowninshield, Josiah Deane, Daniel M. Durell, William Findley, Francis Gardner, James M. Garnett, Edwin Gray, Daniel Ilsley, James Kelly, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Smilie, Jedediah K. Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, and Killian K. Van Rensselaer.

Mr. Randolph moved to amend the resolution, so as to read,

"*Resolved*, That William McCreery, not being qualified according to the law of Maryland, is not entitled to his seat in this House."

The Speaker declared the amendment to be a substitute to the resolution and therefore not in order.

Mr. Randolph said he wished to bring the question of the constitutionality of the law of Maryland before the House, and therefore was constrained to move an amendment against which he should vote himself: he then moved to insert "being duly qualified by the law of Maryland, is entitled, &c."

The Speaker conceived that the House had already determined that the word qualified should not be contained in the resolution.

Mr. Randolph then moved it in another form: "having the qualifications prescribed by the law of Maryland is entitled, &c."

The motion being admitted in this form,

Messrs. Key and Rhea opposed the amendment.

Mr. Montgomery warmly opposed the amendment; said he should never give his consent to any proposition by which the House should be compelled to give a decision on the constitutionality of a State law—should never consent that the House should be erected into a tribunal for that purpose.

The House adjourned without coming to any decision on the amendment.

Thursday, December 24.

Mr. Randolph presented a memorial of Joseph Ward, a holder of certain bills of credit, emitted by the State of Rhode Island, pursuant to a resolution of Congress, under the former Government, dated the eighteenth of March, one thousand seven hundred and eighty, praying that he may receive the interest, together with the amount of the principal, due on the said bills, agreeably to the contract entered into on the part of the United States.—Referred to the Secretary of the Treasury, with instruction to examine the same, and report his opinion thereupon to the House.

Mr. G. W. Campbell, from the Committee of Ways and Means, reported a bill to continue in force, for a limited time, an act, entitled "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned;" which was read twice and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States;" to which they desire the concurrence of this House.

The said bill was read twice and committed to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill to extend certain privileges, as therein mentioned, to Anthony Boucherie; and, after some time spent therein, the Committee rose and had leave to sit again.

MARYLAND CONTESTED ELECTION.

On motion of Mr. Findley the House took up for consideration the report of the Committee of Elections on the contested election of Joshua Barney.

Mr. Randolph's motion of yesterday to insert "having the qualifications prescribed by the law of Maryland" being yet under consideration.

Mr. M. Clay observed that, being a member of the committee who made the report, and that committee having been attacked both within and without the walls of the House, he was called upon by the committee, who had a meeting on the subject, to rise and state the truth as respected the proceedings of that committee. About the 9th of November, the committee had made a report on this subject, "that William McCreery is entitled to his seat in this House." Not satisfied with this report, the House had sent it back for a more particular statement, on the suggestion of a gentleman from North Carolina, that the committee had not done justice to the petitioner; that they had not made a fair statement of facts as presented to them. On this subject a great discussion had taken place; it had received more consideration and more deliberation than any subject of the kind that ever came before the House. About the time that this report was recommitted, it was attacked, not only in the House, but also in a newspaper printed at Baltimore, under the title of "The Whig." After having stated the report of the committee, that paper concluded by saying that a particular fact was not admitted by Mr. Barney. Now, with respect to that report of the committee, the truth was, that the facts were taken down by the chairman of the committee, the parties being present. When it was stated to them, they could not directly agree; but after some time, several days, the report was made out and read to them. They seemed to agree, except in one point. Mr. McCreery contended that he had been in town ten days previous to the election, and Mr. Barney would admit but five or six days. They at last, however, agreed that it should be stated at five or six. The report was, at this time, read over to them several different times, and the parties did consent to the statement of facts. Five or six members of the committee were then present, who bear testimony to this statement. At the time the member from North Carolina attacked the report, a member from South Carolina (Mr. D. R. Williams) rose, and stated the facts as Mr. C. had now stated them. The House, however, not contented with this statement, and wishing a more perfect report, sent it back to the same committee, who gave the parties time to procure further proof in the case. When they returned from Baltimore, they brought with them such evidence as they could collect, which was reported by the committee, and is now before the House. He should not now have risen, had not the report been attacked by that newspaper, and had not an honorable gentleman, whom

he respected and esteemed as much as he did any member in the House, (Mr. Nelson,) declared yesterday that the last report was insidious. This was a heavy charge on the committee. Had that gentleman, or any other, stated wherein that report did not comport with the evidence? He had not, he could not. Members did not voluntarily form committees. They were compelled to do it by order of the House. It was the duty of the Committee of Elections to collate evidence, and to state to the House such facts as might come before them, with their opinion thereupon. This was already done; and it must hurt the feelings of that committee to be "insidiously" attacked without and openly within. That paper, which derived some eminence from assuming the title of "The Whig," had also attacked the last report as "insidious." Mr. C. thought it very unfair that the House or committee should be attacked while deliberating on a particular subject. After the subject was decided, it was fair game. That paper, or any other, had a right to discuss public characters or public measures. It was also very unfair, Mr. C. said, that gentlemen could not step out of doors without being jostled on the way, and having opinions obtruded on them by persons certainly not more entitled to respect than members of the House. The editor of that paper was possibly not to blame. He might be an honest man. Possibly these indecorous paragraphs may have been written by some member of the association, which, it seemed, supported the paper. Mr. C. did not charge any gentleman within or without, but possibly there might be some sly, skulking member of this society lurking about these walls, and sending these defamatory paragraphs to the editor. By his observations, Mr. C. did not mean to attack the liberty of the press. He thought that and a liberal education the two main pillars of the great republican fabric. When speaking of the liberty of the press, he meant the fair reporter of facts, which spread from one end of the continent to the other, to inform the people of the measures adopted by their representatives, and the reasons and motives on which they were grounded.

Mr. C. said he had taken a view of the proceedings, and what was the result? That the report of the Committee of the Whole of yesterday produced the resolution in the same form precisely as that reported by the Committee of Elections. The evidence last before the committee established the same facts that were originally admitted by the parties themselves. After the gentlemen had the subject more than a month before them, twisted and turned it, altered and amended it, sent it out of the House and brought it back, they had now reduced the decision to precisely the same words as at first.

Mr. C. concluded by explaining his reasons for the vote he should give. He respected the State sovereignties as much as any man; thought them the great sheet anchor of republican Government; but if they clashed with the Federal Government, he should err on the safe side of his oath, and support the Constitution of the United States.

Mr. Nelson justified the observations he made, but totally disclaimed any intention of reflecting on the members of the committee, either in their aggregate or individual capacity. If any difference had occurred between the committee and "The Whig," let them settle it. He had nothing to say. But if Mr. N. was disposed to rise in his place, and repel every improper attack made upon him in the newspapers, he would have enough to do.

Mr. Blount said it was true he had made a motion to recommit a former report of the Committee of Elections; but, in doing that, he had not the slightest idea of impeaching the motives of that committee. He had then stated that he had heard Commodore Barney that morning complaining to other members of the House that the committee had stated certain facts which he had not admitted. But when the gentleman from South Carolina explained, he had been content, and had not said another word.

Mr. Goldsborough said this amendment was a legislative manœuvre to embarrass the decision; at the same time he did not impeach the motives of the gentleman who made it.

Mr. Randolph defended the introduction of the amendment. He thought the only principle on which the decision of the case could turn, should not be taken out to satisfy the scruples of gentlemen who found themselves in a dilemma. He did believe that William McCreery was not qualified, by the laws of Maryland, and, therefore, not entitled to his seat; and so he should vote.

Mr. Rowan moved to amend the amendment by striking out the words "the laws of Maryland," and inserting "law." He thought the Constitution the supreme law of the land.

This amendment was declared to be a substitute, and therefore not in order.

Mr. Rowan then moved for a division of the question, taking it first on the first clause of the amendment.

The Speaker declared it could not be divided without changing its object.

Mr. Ely declared that he should not consider himself as being committed on the principle of voting against the amendment, but should vote against it, because he was perfectly satisfied with the present form of the resolution.

Mr. Rowan moved to recommit the report or resolution to a Committee of the Whole House, to ascertain the principle on which the decision should be founded.

Mr. Love opposed the motion for recommitment, as it would be a great waste of time.

Mr. Key was opposed to the amendment and its introduction at this time, because a returned member was entitled to the sense of the House in the broadest manner, and without circumlocution. He also opposed the motion for recommitment.

The motion for recommitment was negatived, and the question on the amendment recurring—

Mr. Blackledge said the Constitution of the United States being adopted by the State of Maryland, had as much become a law of the State as any State law. If the amendment were so amended as to confine it to any particular State law, he should certainly vote against it; otherwise, he should vote in favor of it.

Mr. Gardner found himself considerably perplexed. In voting for this amendment, they would vote Mr. McCreery elected on a different principle from that on which he should vote in his favor. In voting against it, they might vote him out of his seat.

The question was then taken on the amendment to add the words "having the qualifications required by the law of Maryland," and decided in the negative—yeas 8, nays 92, as follows:

Yeas—Joseph Barker, William W. Bibb, William Blackledge, William A. Burwell, William Butler, Joseph Calhoun, Lemuel Sawyer, and James Sloan.

Nays—Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, John Blake jr., Thomas Blount, John Boyle, John Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jun., Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Barent Gardenier, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Rowan, John Russell, Ebenezer Seaver, John Smilie, Jedediah K. Smith, Samuel Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Mr. Barker advocated the right of States to superadd qualifications, of which he had not, till this discussion took place, conceived that there could be a doubt.

The final question was then taken, in the following words: "*Resolved*, That William Mc Creery is entitled to his seat in this House;" and it passed in the affirmative—yeas 89, nays 18, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, William W. Bibb, William Blackledge, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jun., Joseph Desha, James Elliot, William Ely, John W. Eppes, William Findley, Barent Gardenier, Francis Gardner, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Reuben Humphreys, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Edward St. Loe Livermore, John Love, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Rowan, John Russell, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Marmaduke Williams, and James Witherell.

Nays—David Bard, Joseph Barker, John Blake, jun., Thomas Blount, John Chandler, John Clopton, Daniel M. Durell, Edwin Gray, William Hoge, James Holland, Daniel Ilsley, Robert Marion, Jeremiah Morrow, Roger Nelson, Thomas Newbold, John Randolph, Alexander Wilson, and Richard Winn.

Monday, December 28.

On motion of Mr. Clopton,

Resolved, That a committee be appointed to consider what provisions ought to be made, by law, for taking evidence in cases of contested elections of members of the House of Representatives of the United States; and that they have leave to report by bill, or otherwise.

Ordered, That Mr. Clopton, Mr. Quincy, Mr. Thomas, Mr. Marion, and Mr. G. W. Campbell, be appointed a committee, pursuant to the said resolution.

The House resolved itself into a Committee of the Whole on the bill to extend certain privileges, as therein mentioned, to Anthony Boucherie. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill supplemental to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the report of the committee of the nineteenth ultimo, to whom was referred the petition of Andre Joseph Villard; and, after some time spent therein, the Committee rose and reported to the House their agreement to the same, with an amendment; which was twice read, and, on the question put thereupon, agreed to by the House.

The resolution, as amended, was again read in the words following, to wit:

Resolved, That the sum of one thousand dollars be

paid to André Joseph Villard, out of any money in the Treasury, not otherwise appropriated, for his invention and improvement in the mode of mounting heavy cannon for batteries.

And, on the question that the House do agree to the same, it was resolved in the affirmative.

Ordered, That a bill, or bills, be brought, in pursuant to the said resolution; and that Mr. Jacob Richards, Mr. Wilson, and Mr. Newbold, do prepare and bring in the same.

AMENDMENTS TO THE JOURNAL.

Mr. Randolph said, he perceived that the supplemental (secret) Journal laid upon their table this morning, was in one particular incorrect, and, for aught he knew, might be so in others. The Journal stated the resolution moved by Mr. R. respecting an embargo as having being postponed previous to the receipt of a message from the Senate, accompanying the law passed by that body on this subject. Now it must be recollected by every member of the House, and particularly by his worthy friend from North Carolina who made the motion for its postponement, that while the resolution offered by him, (Mr. R.,) was under discussion, a message was received from the Senate, informing the House that they had passed a bill to a certain effect; and upon taking up the message, his friend from North Carolina made a motion for postponement of the resolution under consideration; to which motion there was no opposition. From the Journal it would appear that the message from the Senate was not received till after the postponement of the resolution. Mr. R. now moved such an amendment as the case required, and which would make the Journal in this case what it ought always to be, a correct transcript of proceedings as they actually happened; for he had observed that the proceedings of the House were often forced from their natural course, the Clerks supposing themselves required to pursue a certain established form, rather than a detail of facts as they actually occurred.

Mr. Randolph then moved to amend certain entries in the Supplemental Journal of proceedings of the House at the present session, respecting which an injunction of secrecy was moved, on the twenty-second instant, in page second, to read as follows:

"On motion of Mr. Randolph and seconded, that the House do come to the following resolution:

"*Resolved*, That an embargo be laid on shipping, the property of citizens of the United States, now in port, or which shall hereafter arrive.

"And debate arising thereon,

"A message, pending the same debate, was received from the Senate, by Mr. Otis, their Secretary, as follows:

"Mr. Speaker: The Senate have, in confidence, directed me to inform this honorable House, that they have passed a bill, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" to which they desire the concurrence of this House. And then he withdrew: Whereupon,

"It was moved by Mr. Macon, and ordered by the House, that the said motion of Mr. Randolph do lie on the table.

"The bill sent from the Senate, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' was read the first time.

"On motion,

"The said bill was read the second time, and ordered to be committed to a Committee of the whole House on the state of the Union."

And, on the question that the Supplemental Journal of the eighteenth of the present month be so amended, it was resolved in the affirmative.

On motion of Mr. Gardenier, to amend the aforesaid Supplemental Journal, in the fourth page, by inserting the following amendment, immediately after the words "Monday, December twenty-one, one thousand eight hundred and seven," to read as follows:

"A motion was made by Mr. Gardenier, and seconded, that the House do come to the following resolution:

"*Resolved*, That the President of the United States be requested to lay before the House copies of all such communications, letters, and papers, as may have been received from the American Minister at Paris, in relation to the Imperial decree of the twenty-first of November, one thousand eight hundred and six: and particularly, such communications as he may have received from our said Minister at the time of receiving the papers which were laid before this House on Friday last: Whereupon,

"The question being stated from the Chair, that the House do now proceed to take the said motion into consideration,

"It passed in the negative."

And, on the question that the Supplemental Journal of the twenty-first be so amended, it was resolved in the affirmative.

DRAWBACK AND EMBARGO.

Mr. Crowninshield said, he rose to offer two resolutions, which he considered of importance to be considered at this time:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of allowing further time to obtain the benefit of drawback upon goods, wares, and merchandise, exported to foreign countries, than is at present allowed by law, with leave to report by bill, or otherwise.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of amending the act laying an embargo on vessels in the ports of the United States, so as to impose more effectual restraint on the departure of ships and vessels, and on the exportation of goods, wares, and merchandise, to any foreign port or place; with leave to report by bill, or otherwise.

Mr. Crowninshield said, the first resolution proposed an extension of the time now allowed for obtaining a drawback on goods, re-exported from the United States. It would be recollected by the House that twelve months was the time now allowed; while the embargo continued, which locked up the exportation of all foreign goods, it would bear extremely hard upon merchants generally, if the time for obtaining drawback was not extended beyond twelve months. Such an extension would not take from the Treasury a single dollar, while it would accommodate the mercantile interest. He would mention a case: suppose that a merchant now had a large quantity of sugar, coffee, or pepper, which might have been in the United States eight or ten months; suppose the embargo should continue, as was possible, for six or even twelve months; the time limited for obtaining drawbacks would have elapsed before the termination of the embargo, and the owner of sugar, coffee, or pepper, would have paid into the custom-house a large sum of money on their importation, and when he should be permitted by law to export these articles, he could not obtain a drawback. Mr. C. repeated, that this measure would afford a facility to merchants, at the same time that it would not affect the Treasury.

By the law lately passed laying an embargo, he did not perceive that any penalty was imposed on vessels other than registered or sea-letter vessels, clearing out for a port in the United States and not relanding their cargo according to clearance. The second resolution went to authorize a committee to report a bill to impose a further restraint. As the law now stood, vessels, other than registered or sea-letter vessels, might clear out to Boston or New Orleans, and slip off to any port in Europe or elsewhere. He believed the penalty in such case did not exceed five hundred dollars, the forfeiture of which would prove a very ineffectual restraint. Mr. C. wished the embargo to be general in its operation, and not to affect one portion of the mercantile interest more than another.

Mr. Dana said, however gentlemen might differ in relation to the policy of imposing an embargo at this time, since the measure had been adopted, it would certainly be the wish of all that it might be attended with the best effects; and it would be well that it should not operate with too great a pressure on particular individuals. It was very certain that an embargo could not be continued for a year, or even for six months, without materially injuring that class of merchants which had traded much without an extensive capital, and whose stock consisted in talents, enterprise, and integrity. Of one hundred millions annually exported from this country, about sixty were of foreign, and forty of domestic growth, or manufacture. To obtain the benefit of drawback on importations, merchants must re-export within one year: if the embargo continued one year, it must leave on hand a great quantity of foreign goods, which would not be wanted for our own consumption, and of course produce numerous bankruptcies. If Mr. D. understood the first resolution it went to provide for relief of persons holding these goods.

The second resolution appeared to have for its object the giving a complete and equal operation to the act laying an embargo; Mr. D. therefore conceived it ought also to be adopted.

These resolutions were then agreed to, without a division.

And, on motion, the House adjourned until eleven o'clock to-morrow.

Tuesday December 29.

The House resolved itself into a Committee of the Whole on the bill to continue in force, for a limited time, an act, entitled "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned;" The bill was reported with an amendment; and the consideration of the bill and amendment postponed until day after to morrow.

Mr. Willis Alston, from the Committee of Ways and Means, presented a bill continuing in force, for a farther time, the first section of the act, entitled "An act farther to protect the commerce and seamen of the United States against the Barbary Powers;" which was read twice and committed to a Committee of the Whole tomorrow.

On motion of Mr. Bassett, that the House do come to the following resolutions:

Whereas the Constitution of the United States provides that no officer of the Government shall be eligible to a seat in either House of Congress, thereby establishing the genuine Republican principle, that the members of the Representative body should be exempt from every improper bias; and, as it is the bounden duty of the Representatives of the people to give the fullest effect to Constitutional principles—

Resolved, That provisions ought to be made by law, to prohibit the officers of Government from making any contract, on behalf of the United States, with any person being a member of either House of Congress, or with any other person for his or their use.

Resolved, That every contract hereafter to be made on the part of the Government of the United States, shall contain a clause or condition to render the contract absolutely void, if the contractor should be elected a member of either House of Congress.

Resolved, That any officer infringing the foregoing provisions, ought to be punished by removal from office, and incapacity of ever after holding any office whatever.

Ordered, That the said motion be referred to a Committee of the Whole House on Monday next.

Mr. Macon said he wished to introduce to the notice of the House a subject which was last session before them, but which was not then finally acted on. He meant the subject of the pensioners of the several States, who had received known wounds during the Revolutionary war. It would be recollected that, two years ago, the House of Representatives had directed the Secretary of War to call upon the several States for a list of all the invalids who were placed on the pension list of each State. To bring this subject again before the House, and to put all the States on equal footing with regard to the pension list, he moved a resolution to this effect, which was adopted;

Resolved, That the Committee of Claims be instructed to inquire into the expediency of placing on the pension list of the United States the persons on each State pension list, in consequence of wounds received in the Revolutionary war.

Mr. Macon said that he had understood the return from North Carolina had been lost or mislaid; he therefore presented an authenticated copy

of that return; which was referred to the same committee.

Mr. Bibb, from the committee appointed to inquire whether the Representative Hall could be made fit for the purposes of speaking and hearing, reported the following resolution, which was agreed to:

Resolved, That the Committee of Accounts be instructed to direct the hanging of baize curtains between the columns, and that they defray the expenses thereof out of the contingent fund.

An engrossed bill extending certain privileges therein mentioned to Anthony Boucherie, was read the third time, and passed.

An engrossed bill supplementary to an act, entitled "An act regulating grants of land, and providing for the disposal of lands south of Tennessee," was read the third time, and passed.

IMPORTATION OF SLAVES.

Mr. Marion presented the petition of sundry merchants and others, in Charleston, South Carolina, stating that many vessels had cleared out from thence for the purpose of importing slaves, before the law was passed by Congress prohibiting the importation of slaves, and some had cleared out immediately after the passing of the law, and had been detained by accidents beyond the time limited by law; and praying that a law may be passed affording them relief.

The question being put on a motion made by Mr. Marion for a reference of this petition to the Committee of Commerce and Manufactures—

Mr. Masters said, if there was any subject in favor of which a petition should not be referred, it was the slave trade. These petitioners knew when the prohibitory law would go into operation, and they were not entitled to relief by the laws of God or man.

The motion for reference was negatived—yeas 37, nays 39.

FOREIGN ARMED VESSELS.

The House went into Committee of the Whole on the bill from the Senate, for the maintenance of peace and for preserving the authority of the United States in the ports, harbors, and waters within their jurisdiction.

The bill having been read through by paragraphs as far as the seventh section without opposition—

Mr. Burwell said that he should move that the Committee rise and report progress. He had not expected that this bill would have been called up at this time, and was not prepared to give a vote on it. The House was now extremely thin, and upon the discussion of a bill of this importance, every member of the House should be present. He was perfectly unprepared to act on this subject, and the more he reflected the more he thought they should deliberate before they gave the President of the United States the power of interdicting our ports and harbors to foreign armed vessels; it was a power exclusively reserved to Congress. This bill would, besides, place the Executive of the country in a very awkward situation, requiring from him services which the existing state of the country would not authorize him to perform. It was well known that it had been doubted whether the United States possessed a force competent to expel foreign armed vessels from our waters. If it was necessary to adopt such a measure, the power should certainly be left with Congress, and no authority given to the Executive to do an act which might involve the country in war.

The Committee then rose, reported progress, and obtained leave to sit again.

THE EMBARGO ACT.

Mr. Newton, from the Committee of Commerce and Manufactures, reported, in conformity with the resolutions moved by Mr. Crowninshield yesterday, a bill supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States."—Read twice, and referred to a Committee of the Whole.

Mr. N. said, as the bill was very important, and it was necessary that it should pass through with as much expedition as possible, the law laying the embargo being very defective, he moved that it be made the order of the day for this day.

Mr. Quincy objected to its consideration to-day, as the amendment was proposed to an important law; and if the supplementary law were passed in too much haste, it might be necessary in a few days to pass a law to amend the amendatory law. He wished it to be laid on the table for this day, that they might come to-morrow prepared with all their intelligence on the subject.

Mr. Crowninshield was in favor of an immediate discussion. Gentlemen would recollect, that by the law laying an embargo, no penalties had been laid on vessels departing contrary to its provisions. It was true that registered vessels going from port to port were obliged to give bond that they would not land their cargoes at any foreign port; but no restriction was placed on licensed or coasting vessels. He had in his hand a letter which stated that certain vessels of the latter description were now changing their registers, and making out coasting licenses, as there was no restraint imposed on these by the act, and they might slip off to a foreign port with their cargoes. Another provision of the act contemplated the extension of the time for obtaining drawbacks. He hoped gentlemen were all ready to say that the defects in the law should be remedied; and he therefore hoped the bill would be this day considered.

Mr. Lyon said he should not agree to consider the bill till he had taken it home with him, read it, considered, and slept upon it.

Mr. Nicholas pressed the necessity of an immediate discussion.

To-morrow being named as the day, the question was, of course, first taken on that day, and negatived—yeas 21. To-day was then agreed to without a division.

The House then went into Committee of the Whole, on the bill this day reported, for amending the embargo law.

The first section having been read—

Mr. Quincy said, when the law imposing the embargo was before the House, he had the honor to submit a motion with respect to fishermen. This was rejected on the ground that it was important to keep our men within the United States. This amendatory law, he presumed, was intended to give fishing vessels a limited privilege of going out to fish. Mr. Q. doubted whether the law would be effectual, because it prohibited vessels from carrying goods foreign or domestic, salt excepted; it might by a strict construction exclude their apparatus or stores. That it might be clearly understood that this class of citizens were not to be deprived of their usual privilege, he moved that the following provision be added to the end of the section:

And provided, That nothing in the act to which this is a supplement shall be construed to prohibit the sailing of any ship or vessel duly registered, enrolled, or licensed for carrying on the whale and other fisheries, with the usual tackle, apparel, and supplies customary on a fishing voyage.

Mr. Crowninshield objected to the amendment as supererogatory; because he considered it implied in the law imposing the embargo that fishing vessels were excepted; and this he conceived to be the reason why the amendment then proposed by the gentleman last up had not prevailed.

Mr. Quincy supported this amendment, conceiving his colleague's construction of the law incorrect; and believing that the amendment offered by him to the original law had been rejected for very different reasons than those just stated, and which were then urged.

Mr. W. Alston proposed to the gentleman to withdraw his amendment, in order to move the insertion of the words "apparatus and stores" after the word "salt."

Mr. Macon would rather the question should have been first tried on the principle, by striking out the clause excepting fishing vessels. In the decision on the amendment moved by the gentleman from Massachusetts to the embargo law, gentlemen had voted against it from different reasons. Mr. M.'s reason for voting against it was to keep within the limits of the United States everything which would sustain life. His reason for voting in favor of the bill (he knew it would bear hard on fishermen, but equally so on every part of the community) was, to try whether they could not produce an effect on the Powers of Europe; he therefore wished to prevent provisions or supplies of any kind from going out of the United States, until a settlement of our differences was had. If the bill were to remain in its present situation, and fishing vessels were to give no security for their return, he could not conceive why whale fishermen should not be as well included as fishermen on our banks. Was there not a motion now before the House, Mr. M. would move to strike out the exception in favor of fishing vessels, to try the question at once.

Mr. Taylor called the attention of the House to the section proposed to the embargo bill by the gentleman from Massachusetts, and which included every idea which was suggested by the present amendment. Mr. T. had understood that the bill now under consideration was intended to narrow down and clear the imperfections visible in the original bill. It appeared to him that it went to widen instead of narrowing the bill; it contained the very proposition which had in the discussion on the former bill been negatived 82 to 48. The same principle was precisely embraced; and he need say no more after stating the division on the former question.

Mr. Quincy said that it was now intended to extend the provisions of the bill to whale and bank fisheries equally, and he thought this could be so restricted as to prevent infractions of the embargo on goods, wares, or merchandise. They had no more right to prevent fishermen from exercising their usual avocation, than to prevent a man from taking his produce from his own farm. This business could not be included under the general head of commerce; it was distinct from commerce altogether. He wished to have the sense of the House on this question specifically understood and clearly designated. It was therefore his duty to insist on his amendment.

Mr. J. Montgomery said, that when this subject was before acted on, it was conceded that there were defects in the bill, and that a supplementary law might be brought forward to prevent evasions of the original law. This course was now pursued; the Committee of Commerce and Manufactures had reported a bill for preventing evasions that might be practised under the law imposing the embargo. Since that law had passed, information had been received that evasions were already practised under it; information had been received, that, as coast-wise commerce was permitted by the embargo, merchants were giving up their registers and taking out licenses; this was the practice of this day in several ports of the United States. It became their duty to provide a remedy for this elusion of the law, to close the door on evasion. What was the effect of the proviso under consideration? While the first section closed one door, the proviso, moved as an amendment to it, opened two doors. Was it not known that merchants sometimes did evade the provisions of laws, and that they were now exercising all their ingenuity to evade the law passed the other day? That law prohibited registered or sea-letter vessels from sailing, but permitted vessels to sail coast-wise; the merchants were therefore turning all their vessels into coasters; and if this law passed with the proviso they might call merchant vessels fishing vessels or whalers. Mr. M. hoped the good sense of the House would not open more doors to fraud or evasion than already were open under the embargo law. He considered this proposition a mere tub to the whale; and hoped it would catch no person in the House.

Mr. Lyon considered with the gentleman from South Carolina (Mr. Taylor) that it was not intended that the fishermen should go out while other classes of citizens could not receive benefit from their lumber or tar. He was in favor of

telling these men explicitly that they should or should not go out.

Mr. Bacon said, it appeared that these fisheries were a great and permanent source of wealth to the nation, and he believed the exercise of that occupation could be so regulated as not to let in any invasion of the general policy of the law: if this could be effected, there could be no objection to the object. The only question then was, whether such a provision could be made in favor of fishing vessels, as should prevent them from carrying on an illegal commerce, and shut the door on evasion? An amendment to this effect had been negatived the other day, not he believed because the House was opposed to the principle it contained, but because they did not wish the bill to be encumbered at that time by any other provisions than those it already contained. Neither this nor any other law could be so constructed that an evasion could not be made; but he believed that it might include the right of fishing without affecting the general provisions of the embargo. There was proposed, by the second section of the bill under consideration, a forfeiture and personal penalty on all persons infringing the general provision of the embargo law; a person might undertake a voyage contrary to law; but, if he did, he incurred this penalty. The small inconvenience (if any) which would arise from permitting fishing vessels to sail, would by no means counterbalance the ill-effects of a restriction to fishermen from pursuing their usual avocation. If this permission was not already implied he should be in favor of expressing it.

Mr. Newton explained the law in regard to licensing fishing vessels. Although vessels of more than 50 tons, were not usually employed in this trade yet, if not otherwise engaged, vessels of 100 or 200 tons, might take out licenses for fishing. What had induced the committee to insert this clause in the bill was, that the people in the Northern States were accustomed to supply themselves with fish. As the law now stood, they were excluded from fishing even for their own use.

Mr. Livermore said the amendment offered by the gentleman from Massachusetts, seemed to be opposed by different gentlemen on different grounds; and he must say that he was surprised to hear one of his colleagues object to it. The provision contemplated nothing more than rendering more explicit the first section of the bill. If the first section was essentially wrong, the proviso was unnecessary; if it was the intention of Congress to allow fishing vessels to go out, why not make the section more explicit. He had no idea of stealing a march upon the Legislature. If it was their intention, and he prayed that it might be, to let fishing vessels proceed on their business, let it be explicitly expressed. He did not know but the law imposing an embargo, which he opposed as much as he could, and the passage of which he should ever regret, might have afforded that privilege by implication; but as it had now become a question before the Legislature, he wished the intention to be explicitly expressed. Thus much in favor of the proviso: if that were rejected, he should still vote for the first section. He did not precisely know whether it was necessary now to go into a discussion of the propriety of allowing the full exercise of the business of fishing. He felt for the people who would by this act be forced to obtain a precarious subsistence by begging. To throw six thousand citizens out of employ, to cast them on the world, to force them to go to foreign countries for employ and livelihood, was to him a serious evil. He hoped that it would be decided that this class of citizens should not be altogether deprived of the means of subsistence; he could see no occasion for it. He conceived that a general embargo could not be intended to deprive them of what was their necessary avocation; the drawing something from the depth of the sea, the making something out of nothing. These men brought property into the United States to a large amount—a statement of the annual income of the fisheries, had fixed it at three milions of dollars—three millions out of nothing. To prevent them from following an avocation so beneficial to themselves and to the community, was in his opinion a serious evil. By suffering them to pursue their avocation on the ocean, did it permit these men to violate any existing law? There was in such a permission no other risk than the mere chance of their being captured or pressed into British service. He begged gentlemen who came from parts of the Union different from himself to exercise candor. He requested them to consider the effect of this embargo upon a large portion of his constituents; to weigh the question, whether they would do any essential service to the country by inhibiting this particular trade. He wished gentlemen to place themselves in the situation of these men, if they could, and consider for a moment that they were deprived of the means of obtaining a livelihood, which they could not obtain in any other way, and would be driven into service of foreign Governments, to obtain from them the protection refused by the United States. He did not pretend to more expanded views than others, but it was certainly astonishing to him, where gentlemen could discover a necessity for preventing fishermen from going on the ocean to obtain their accustomed livelihood. Whence could a benefit result to the United States, from such a denial? Was it considered an injury in the year 1794, that fishermen should exercise their calling, during the existence of an embargo? No. The only apprehension then was, according to documents which were read the other evening, that possibly the embargo might be evaded by fishing vessels exporting goods; it was then never imagined that going on the fishing grounds, and taking fish, could have an injurious tendency. As the law now stood he should put the same construction on it as the gentleman from Massachusetts; but as it might create difficulties among the collectors, he wished it to be more explicit, except, and he hoped not, it was their intention to prevent fishing vessels from going out of the United States.

Mr. Crowninshield explained his reasons for opposing the amendment. He said that the same provision was already expressed in the first section of the bill, and implied in the embargo law; he was decidedly in favor of it, and that fishermen should be allowed to go on the banks, and bring their fish into the United States. He would not admit, even if the provision were stricken out of the first section, that their citizens would be obliged to starve in the streets, or seek employ in foreign countries. It was not the intention of the House to deprive these worthy men of the means of sustenance; and he did not wish such an idea to be impressed on the public. If they were deprived of their subsistence, they might think Congress had acted unjustly, but they would submit; they would not seek the service of foreign countries, more especially of Great Britain. He should not have risen, had not an attempt been made to convey an idea that he was opposed to the principle of the proviso; he was not opposed to it; he believed they ought to be allowed to fish; and he believed if the bill was allowed to pass as it now stood, that the Secretary of the Treasury would conceive himself authorized to permit them to go abroad on their fishing voyage; the Secretary himself, had told Mr. C. that he should so consider the intention of the law.

Mr. Quincy expressed himself opposed to hastening the decision of a measure of so important and complicated a nature as this, without one moment's consideration. It seemed, from the conversation which had taken place, that an addition to this proviso would make it more palatable; he therefore moved to amend his motion by adding as follows:

And provided, also, That bond with sufficient security be previously given that such ship or vessel shall not, directly or indirectly, carry on any commerce whatsoever, during the voyage, and shall return with her fishing fare to some port or place within the United States.

Mr. Macon doubted whether the amendment as it now stood would be attended with its contemplated effect; for the first part of the first section excepted these vessels from giving bond, while the proviso proposed declared that they should give bond. While up, he would make a few remarks. The gentleman from Massachusetts (Mr. Livermore) seemed to suppose that gentlemen who opposed the amendment wanted candor. Mr. M. supposed he must mean him, because he was the only person who had opposed it; he would not say whether this severe charge attached with justice to him, but the House would judge, who had so long known him. The same gentleman had said, if this exemption were not made in favor of fishermen, they would go to foreign countries. If this position was sound, the whole law was wrong. Where was the difference between fishermen out of employ and sailors out of service? Would not one, as soon as the other, seek foreign service? If they had so little patriotism, one description would go as soon as the other. The embargo was intended totally to stop our exports. But the gentleman said, fishing was a regular business. So was navigating vessels a regular business of seamen. It was the means by which they lived. Another gentleman from Massachusetts was not correct as to the construction given by the Secretary of the Treasury to the law; which operated no farther than the opinions of those concerned were in concurrence with this opinion. All the Secretary could do, was to give his instructions; and those who thought them not correct could appeal from his construction of the law.

Mr. Livermore said, if any observation had fallen from him, impeaching the candor of the gentleman from North Carolina, he would retract it, for he had seen as much candor in the conduct of that gentleman as of any other within these walls. It was true he had called for candor on this subject, in which he was so nearly interested. He conceived that the feelings of some gentlemen might be different from the feelings of his constituents, and he called upon gentlemen, candidly, to consider the subject. He agreed with the gentleman as to the construction of the law; for every person concerned should put such a construction on a law as the words implied. Mr. L. thought they were now going too hastily on this subject; he had been of the same opinion when the embargo law was under consideration, and in every stage of it.

He thought they should not hastily have passed the law; and he had contended that there was no necessity for that precipitation which had prevailed, for taking a leap in the dark, when every consideration should have induced them to pause and proceed with deliberation. And the House were now proceeding with this bill without having had time to consider it; the Committee of Commerce and Manufactures had reported, and the House was called upon implicitly to follow them, without further light on the subject. The gentleman had said that the same argument would apply to sailors as to fishermen; that they might also throw off their allegiance to the United States. This was the very thing Mr. L. had contended in conclave, and would have contended for it longer, had not his voice been drowned by the noise which was made, and the determination which was manifested to prevent debate. The colossal power of a majority had put down the still small voice of reason, and had declared that strength alone should reign. While he had a right to give his voice, Mr. L. said, he would argue against measures brought forward and pressed on so precipitately, when founded on false or fallacious grounds. It seemed as if it had been determined to run headlong into them, without giving reason time to operate. If the present law were to be passed in this manner, in a few days, perhaps, gentlemen would come forward with a proposition to amend this, as this was a proposition to amend the former. From the short time which he had to consider the measure in its present form (though he had revolved the general measure and its ill effects repeatedly in his mind) he had not sufficient to consider the different provisions of the bill.

He therefore moved that the Committee rise, and obtain leave to sit again.

Mr. LOVE pressed the decision of the question on the amendment, and opposed the motion for the rising of the Committee. There was now no question of policy or impolicy of an embargo to be considered; the only question was, to secure that part of the citizens of the United States, who obtained a livelihood by fishing, from infractions of the general provisions of the law. Why should they deprive the fishermen of their wonted occupation, if they gave proper security that they should not touch at a foreign port? This was a plain question, on which every one could decide.

Mr. J. MONTGOMERY observed that the gentleman from Massachusetts (Mr. LIVERMORE) had done well in allowing the gentleman from North Carolina a claim to candor, for his conduct ever did evidence his liberality. But were not other gentlemen entitled to the same allowance? Mr. M. was not much acquainted with the gentleman from Massachusetts, but he should conceive, from the language he had used, that the anathema which he had pronounced against others, recoiled upon himself. What did the gentleman mean by the colossal power of the majority? Where did this exist to the exclusion of the still small voice of reason? Mr. M. had seen no evidence of it in this House, during the discussion of the law, which the gentleman had alluded to. If that gentleman had a particle of candor in his composition, he would appeal to it, whether liberality and forbearance were not the order of the day? What was the conduct of the majority on that evening when language was used unworthy of a Representative or a citizen? They manifested a forbearance at which he had been astonished. While he was up, Mr. M. said, he would take occasion to notice a letter, which appeared in the New York and other papers, purporting to be a letter from a member of Congress, bearing date the 19th of December.* Mr. M. could not believe that any gentleman on the floor could use such language as was contained in that letter. What member would rise in his place, and tell the House that they were under French influence, knowing, as he must, that no such influence existed? What man would tell the House that French influence guided them, and that they, in consequence of it, were acting in conclave? What man would express his abhorrence of their proceedings, and tell them that their conduct was infamous? Mr. M. could not conceive that any man who could use this unprincipled language, would be entitled to a seat on this floor. No; he would not believe that this letter could be written by a member of Congress; he must pronounce it a foul, base, and unprincipled calumny.

The law of embargo was now passed; it was the duty of every man to rally around the measure, and of Congress to make such amendments as would render it complete. It was now a late hour, but he thought the principle under consideration should be decided before they adjourned.

The motion for the Committee to rise was negatived—ayes 32.

Mr. MILNOR said the House was now very thin, and it was desirable that, on measures of so much importance, they should have a full expression of the opinion of the House. When the original embargo law was passed, a large number of members were present; it was then wished to postpone the bill, and in vain urged that there had not been sufficient time maturely to digest it. The present bill contemplated an amendment to that act; and as it had been but a very short time before the House, he hoped they would have further time to consider it. He was not prepared to vote for this amendment; for although he might be in favor of fishermen pursuing their usual employment, the license for that purpose should be so restricted as to render evasion impossible. True, he did not vote for the law laying an embargo; but, since it did exist, he wished that it should be carried into full effect—that there should be no evasion; and he sincerely wished it might answer the purposes contemplated by the gentleman who first proposed it. He understood that one of the principal objects of the embargo was to preserve our seamen. Now, if a free and unrestrained license were granted to fishermen, it would be the means of drawing out a large proportion of our seamen, and thus expose them to impressment by the British. This was one great reason which should induce him to vote against the amendment. He was not, however, prepared to decide, and wished further time to digest it; he considered it a matter of more importance than most gentlemen seemed to be aware of. If every vessel in the United States was at liberty to take out a fishing license, it was necessary to guard the privilege by strong restrictions and large security. As the bill under consideration now stood, it expressed that bond with sufficient security should be given; this loose and undefined expression would put it in the power of the officers of the revenue to connive at evasions. He was opposed to the amendment under consideration, and even to the section as it now stood.

Mr. SMILIE hoped the Committee would decide on the amendment, when it might be proper to rise and resume the subject to-morrow morning; at the same time, he thought the bill should pass as soon as possible. When gentlemen were talking on this subject, he wished them to consider whether other classes of citizens were not equally affected by this measure, as fishermen. He wished the House to recollect that the measure which it had been obliged to adopt, subjected the whole agricultural interest to great inconvenience, and did not affect commerce only? Would they have ever had a contest with Great Britain or France, but for the carrying trade? They would not. Had not their tables been loaded with petitions from these men for years past, calling upon Congress forcibly to take some measure for the protection of their men and vessels? Had not this been the class of men who had called most loudly for energetic measures, and should they now enjoy an exemption while all other classes suffered deprivation? He hoped not. With respect to seamen, he entertained an opinion different from that which had been expressed by some gentlemen; he thought they had too much patriotism to go into foreign service; they had been tried and found worthy of trust, and would be found so now. The House had been told that these men, thrown out of employ, would be obliged to beg in the streets for subsistence. Mr. S. said, such would not be the case; the man who in this country wanted bread, must be a man who did not deserve it. If men could not find subsistence on the water, their country was blessed with an abundant soil. What did gentlemen mean by opposition to measures now adopted? Did they intend to give up all claim to our rights as an independent nation, or did they mean to make a stand against oppression? If they meant to contend that the power of making money was more valuable than our national rights, let them openly express it. What measure would they propose as a substitute to that which had been adopted? They had not submitted any other when this was under consideration. He hoped he should be clearly understood as conveying the idea that, while he was willing to do justice to the mercantile interest of the country, and grant them any protection which was consistent with the honor and interest of the country, they must not look for exclusive privileges; they must partake of the general stock, and suffer the same privations as other parts of the community.

Mr. QUINCY said that fishermen and merchants, whom the gentleman last up had confounded together, were totally distinct classes of people. The object of the embargo was expressed in the Message of the President of the United States, and it had no other object than that. The allowing fishermen to go about on the coast and banks to obtain a livelihood (the only way in which they could support themselves) was not at all within the object for which the President had recommended an embargo. Gentlemen had said that they could obtain a livelihood on land. Mr. Q. said they could not; they were accustomed only to water. Would the House then doom this industrious class of people to distress and want, by a deprivation of their only means of subsistence?

Mr. HOLLAND moved that the Committee should rise. He believed that no gentleman wished to deprive any particular class of citizens of their occupation, but merely to secure the general embargo from infraction; and this they would do more effectually after further consideration.

The Committee then rose, and obtained leave to sit again.

WEDNESDAY, December 30.

A Message was received from the President of the United States, communicating to Congress letters from Governor Hull, respecting the Indians in the vicinity of Detroit, residing within our lines. The Message and letters were read, and referred to the committee appointed, on the twenty-ninth of October last, on so much of the Message of the President of the United States, of the twenty-seventh of the same month, as relates to the Military and Naval Establishments.

THE EMBARGO ACT.

The House resolved itself into Committee of the Whole on the bill supplementary to the act laying an embargo.

Mr. QUINCY's motion for amending being yet under consideration,

Mr. NEWTON said, that as considerable difficulty had yesterday arisen on the consideration of the bill, from the clause respecting fishermen not being sufficiently explicit, if the gentleman from Massachusetts would withdraw his motion, he would propose a new section as a substitute to the first.

Mr. QUINCY said he had no particular preference for any form, if he obtained his object; and withdrew his motion for adding a proviso, when,

Mr. NEWTON moved to strike out the first section of the bill; which being agreed to,

Mr. NEWTON moved the insertion of a new section, to the same effect as the other, but in somewhat different terms.

Mr. MACON, to settle the principle at once, moved to strike out that part making an exception in favor of fishing vessels.

This motion was negatived—ayes 23.

The new section, moved by Mr. NEWTON, was then agreed to without a division.

The bill then progressed by paragraphs. In the course of its consideration, many verbal amendments were made, not materially affecting the principle of the bill, on which a desultory conversation took place. The two most material amendments proposed are hereafter noticed.

The fourth section, imposing a penalty and for-

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* The following is the letter alluded to. It originally appeared in the New York Evening Post, and is pronounced by the republican prints of New York, the production of Mr. Gardenier. It will be remarked, from its date, that it was written while the injunction of secrecy still remained in force:

"WASHINGTON, *Dec*, 19, 1807.

"DEAR SIR: Yesterday we received a Message from the President of a confidential nature. We immediately closed our doors, and they are still closed. Of course, I am not permitted to inform you either what the President has communicated to us, or what we have done in consequence of it. But I may be permitted to tell you we are doing no good. I fear we are about to plunge the nation into the most dreadful calamities—unnecessarily and wantonly. I am now more than ever persuaded that there is but too much French influence. And it is well that those who succumb to it, should act in secret. This is the reason, and I pledge myself to you, almost the only reason why we sit with closed doors. Our deliberations no more require secrecy at this moment, than they did when we were debating the subject of fortifications. Nay, sir, we are, in my opinion, violating the great rights of the people, by sitting at this moment with closed doors. I cannot express to you, in terms sufficiently strong, my abhorrence of what we are doing, and the manner in which we are doing it."

feiture on all foreign vessels which shall during the embargo "take on board any *specie or* goods" other than provisions, &c., being under consideration—

Mr. Macon did not wish to encumber this law for explaining the former law with provisions in themselves impracticable; he therefore moved to amend the section by striking out the words in italic, relative to specie; as he believed it would be utterly impracticable to enforce that prohibition.

This motion was supported by Messrs. Marion, Pitkin, Dana, Macon, and Quincy, and opposed by Messrs. Crowninshield, Newton, and Taylor.

The advocates of the motion generally contended for it on the ground of expediency; that if the exportation were not permitted, citizens indebted in foreign countries could not pay their debts when they became due, as they were already prohibited from sending produce; that the denial of the right to export specie, would operate very severely on those merchants, as they must either lose their credit, or pay an enormous premium for bills of exchange, which would be above par, which loss some merchants, supposing that the present state of things would not continue for any length of time, would suffer rather than risk the destruction of their credit abroad, and of course of their business; that money was useful only when in circulation, and accumulated millions in the country would be a loss to the community; that such a prohibition would afford an opportunity for speculation, so much money being locked up in the country, dollars would become much below par in value, whereas a premium of three and four per cent. had been heretofore given for silver to send to the East Indies or China; that the general restriction on specie supposed to be implied in the former law, would affect only the master, commander, or owner, while every other person concerned, as sailors, &c., could not be prevented from carrying it on board; that an idea had been thrown out that this permission to export would indulge the merchant, and affect the planter injuriously, which was not correct, for it would be impossible to prevent this money going out of the country in some way; if it was possible to prevent its exportation from ports of the United States, it would exude through the channel of the neighboring provinces. It was also contended, that it was totally impracticable to prevent the exportation of specie; that the most powerful monarchies in the world had in vain attempted that object; that the small bulk in which specie could be conveyed, would render it impossible to prevent its exportation; that such prohibitory laws generally had an effect contrary to that intended; and the experience of other Governments had proved, that from the moment such a law was enacted, specie became more and more scarce, till it could scarcely be procured at all.

Those who opposed the motion, and of course advocated the restriction of exportation of specie, contended that it was highly expedient to prohibit the exportation, because, if it were allowed, foreigners alone would be benefited by it, as they could bring goods from the West Indies or elsewhere, and carry specie in return. In reply to the hardship on merchants, which was complained of, it was said, that while planters and farmers were suffering by their produce having become of little or no value, it would be absurd to allow merchants to export specie merely because they would otherwise have to pay interest on money due by them in foreign countries. [Mr. Newton denied that bills of exchange would increase in value from the effects of embargo.] The effect of a permission to foreigners to export specie would be, that they could bring their produce or manufactures into this country and take away specie in return, while, by the general embargo, our produce was rotting in stores, and could not be exported; that the prohibition of the exportation was no doubt implied by the law laying the embargo, though it would be well it should be here expressed, as this law was intended to give the other a more effectual operation. In reply to the assertion of the impracticability of enforcing a law prohibiting the exportation of specie, it was contended, that, although foreign Powers had prohibited the exportation, it had been under a penalty merely of perhaps 10 or 15 per cent. on the amount, while the present law contemplated, not only the forfeiture of vessel and cargo concerned in the infraction of the law, but besides imposed a personal penalty for every offence of the kind; that the case of other nations, therefore, did not apply to this; that the prohibition could as easily be carried into effect on specie as on goods, the revenue officers being faithful, and seeing the laws strictly enforced; that it would be the duty of the Secretary of the Treasury to put an inspector on board every foreign vessel in port, and to retain him on board till such vessel sailed, to prevent the law from being infringed; that the small space occupied by specie would not afford so great an opportunity as was imagined of conveying it clandestinely away; for, although there was, by the general laws of the United States, a heavy duty on the importation of watches and jewellery, (which occupied as little compass at least as specie,) there were very few, if any instances, of their being smuggled into the country.

The question being taken on Mr. Macon's motion for striking out the prohibition on exporting specie, it was negatived—ayes 24.

Mr. Mumford offered the following proviso, to be added to the sixth and last section, which extends the time for obtaining drawbacks:

"And that the term now allowed by law for the payment of all bonds on goods, wares, and merchandise, imported into the United States, shall be, and the same is hereby, extended for and during the term of six months beyond the time specified on said bonds."

Considerable objection being made to this by several gentlemen on the ground of its being too extensive, and the difficulty of fixing a precise period for the extension of the time when these bonds should become due, and also from the great injury which the revenue would sustain from such a measure, the above amendment was so modified as to extend the payment of the bonds beyond and during the continuance of the act laying an embargo. This motion was negatived—ayes 13.

The bill having been gone through, the Committee rose, and reported it to the House.

Thursday, December 31.

The House proceeded to consider the amendments reported yesterday, from the Committee of the whole House, to the bill supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" and the amendments to the second and subsequent section of the said bill being twice read, were, on the question severally put thereupon, agreed to by the House.

The amendments to the first section being then under consideration, a motion was made by Mr. Nelson, to amend the said report by striking out the words, *or fisheries:* Whereupon, a debate ensued:

A motion was then made by Mr. Randolph, that the said bill, with the amendments, do lie on the table, and was resolved in the affirmative.

GENERAL WILKINSON.

Mr. Randolph then rose for the purpose of making a motion, and giving information to the House which he had just received. This was a duty which he owed, not only to himself, but to the enlightened and independent freeholders who gave him a seat on this floor, and to the country at large. Within a few days, information had been put into his possession, of a nature and on a subject which he deemed it proper for the constituted authority to inquire into. Had this information come earlier into his possession, he should not till now have delayed giving it publicity. He would first state certain facts, and those facts would be the ground of his motion, on which he should offer no argument. Mr. R. then read the following documents:

[translation.]

New Orleans, *January* 20, 1796.

In the galley the Victoria, Bernardo Molina, Patron, there have been sent to Don Vincent Folch nine thousand six hundred and forty dollars; which sum, without making the least use of it, you will hold at my disposal, to deliver it at the moment that an order may be presented to you by the American General, Don James Wilkinson. God preserve you many years.

The BARON DE CARONDELET.

To Senor Don Tomas Portell.

I certify that the foregoing is a copy of its original to which I refer. TOMAS PORTELL.

New Madrid, *June* 27, 1796.

Fort Washington, *Sept.* 22, 1796.

Ill health and many pressing engagements must be my apology for a short letter. I must refer you to my letter to the Baron for several particulars, and for a detail of my perils and abuses. I must beg leave to refer you to our friend Power, whom I find of youthful enterprise and fidelity. He certainly deserves well of the Court, and I don't doubt but he will be rewarded.

What political crisis is the present! and how deeply interesting in its probable results, in all its tendencies!

****and thereby must hope it may not be carried into execution. If it is, an entire reform in the police and military establishments of Louisiana will be found immediately indispensable to the security of the Mexican provinces. I beg you to write me fully on this question in cipher by Power, whose presence in Philadelphia is necessary, as well to clear his own character, attacked by Wayne, as to support the fact of the outrage recently offered to the Spanish Crown in his person, and to bring me either the person or the deposition of a man, now under your command, who had been suborned by Wayne to bear false witness against me, and afterwards, for fear he should recant, bribed him to leave Kentucky. Power will give you the perfect of this infamous transaction, and I conjure you by all the ties of friendship and of policy to assist him on this occasion. If Spain does not resent the outrage offered to Power in the face of all Kentucky**** My letter to the Baron will explain the motives which carry me to Philadelphia: from thence I will write again to you. Power will explain to you circumstances which justify the belief of the *great treachery that has been practised with respect to the money lately sent me.* For the love of God and friendship, enjoin great secrecy and caution in all our concerns. *Never suffer my name to be written or spoken. The* suspicion of Washington is wide awake. Beware of Bradford, the Fort Pitt refugee—he seeks to make peace—there are spies everywhere. We have a report here that you are appointed Governor of Louisiana. God grant it, as I presume the Baron will be promoted. I am your affectionate friend.

W.

Copy of a letter in cipher received from General Wilkinson. Natchez, February 6, 1797.

MANUEL GAYOSO DE LEMOS.

In a separate paper, he says what follows:

This will be delivered to you by Noland, whom you know is a child of my own raising—true to his profession, and firm in his attachments to Spain. I consider him a powerful instrument in your hands, should occasion offer—I will answer for his conduct. I am deeply interested in whatsoever concerns him, and I confidently recommend him to your warmest protection. I am, evidently, your affectionate WILKINSON.

A copy. MAN. GAYOSO DE LEMOS.

N. B.—Don Gayoso was then Governor of Natchez, and the same year was made Governor of Louisiana.

Mr. Randolph stated the following to be an extract of a letter signed "T. Power," whose handwriting, he said, could be identified:

"On the 27th of the same month [October last] appeared in the Richmond Enquirer a certificate given by myself to General Wilkinson in New Orleans on the 16th of May preceding. Immediately on my getting sight of this piece, which was the same or the next day, I addressed a note to his Excellency General Wilkinson, [No. 3.] Of this I did not keep a copy, and therefore dare not vouch that it is an exact literal transcript of the original; but I will be bold to say that it is nearly (or, to make use of the General's own language, *substantially*) the same.

"Between my repeated declarations to many of my friends and acquaintances (I must say it with a blush) and this certificate, there is a manifest contradiction. And between this same certificate and the deductions to be drawn from my declaration before the Richmond court there is an apparent inconsistency, which it is now my task to clear up and reconcile.

"During General Wilkinson's residence in New Orleans, last Winter, I used occasionally to visit him. A few days before he left New Orleans, I waited upon him one morning, and after some conversation on certain transactions that had taken place at a former period in the Western country, and on the delicate situation in which his conduct during the Winter was likely to place him, he asked me if I had any objection to give him a certificate that might help him to silence that foul-mouthed Bradford, and refute the assertions of the editor of the Western World. I replied without hesitation that I had none, and would give him one with pleasure, provided he promised me it should not be published. On this he assured me that the only use he proposed to make of it was to lay it before the President, with the view to prove the falsehood of the charges circulated against him, vindicate his character, and secure the confidence of the Executive. This, if not exactly, is *substantially* what the General said. He then desired me to sit down and write the certificate. I observed that I might not make it out entirely to his satisfaction; and that, as he best knew the points he wished should be embraced in it, he had better make it out himself, and I would copy it. To this he agreed. Next morning, I waited on his Excellency, and he presented me the certificate, which I copied, as it has been published, with a few alterations. One—a very material one—is that, after these words: 'Do most solemnly declare that I have at no time carried or delivered to General James Wilkinson'—I erased the words, 'either directly or indirectly,' and declared to the General that I could not insert those words. He did not insist, and contented himself with saying that he wished me to insert them if my conscience would allow it, but not otherwise. This is ingenuously exactly what passed between the General and myself at that time.

"Now let me, with the same frankness and ingenuousness, without referring to any preceding or subsequent event, narrate the transaction of 1796, alluded to in my certificate, and concerning which I offered to give testimony in the federal circuit court in Richmond. It is the same that is the subject of the affidavits of Messrs. Derbigney and Mercier. That of the former gentleman is correct as to substance, for I actually did receive from Captain Don Thomas Portell, commandant of New Madrid, the sum of $9,640 for General Wilkinson, towards the latter end of June or beginning of July, 1796, which was packed up in the manner described by Mr. Derbigney, and when I was stopped and my boat searched on the Ohio by Lieutenant Steele, under the orders of General Anthony Wayne; I had other sums on board, but this was the only one I had received from General Wilkinson. On my arrival at Louisville, determined not to expose myself a second time to military insult, and fearful of being overtaken by Steele on his return, and of again being overhauled, I landed my cargo, purchased a horse, and proceeded by land to Cincinnati. As I passed through Lexington, I published in Stewart's Kentucky Herald my affidavit concerning this outrage, supported by those of the spectators of the transaction, Welsh, White, and Sansom; preceded by a few strictures on this military piracy, signed Impartial. And I now take this opportunity of clearing General Wilkinson of the charge of being the author of it, as is asserted by Bradford, of New Orleans, and declare it was written by myself, and that, excepting Captain Campbell Smith, no person ever saw it before it was put into the hands of the printer.

"At Cincinnati I acquainted General W. with the circumstances that had occurred, and he gave me orders to deliver the money to Mr. Philip Nolan. These orders I punctually executed. Mr. Nolan conveyed the barrels of sugar and coffee that contained the dollars to Frankfort in a wagon. I there saw them opened in Mr. Montgomery Brown's store. The sugar and coffee I afterwards sold to Mr. Abijah Hunt, of Cincinnati.

"I shall take no notice of Mr. McDonough's affidavit. It does not refer to anything alluded to in my certificate. That part of mine that has reference to my mission to Kentucky and Detroit in 1797, I shall also pass over in silence, as it has no connexion with the present subject.

"I will now endeavor, in a few words, to reconcile what may appear contradictory and inconsistent in my certificate, and the declaration I have just laid before you.

"Was I base and dishonorable enough to descend to tergiversation, captious logic, and sophistical evasion, I could maintain that this contradiction does not exist, and that I never did carry or deliver to General Wilkinson any cash, bills, or property of any species. It is true, I delivered a certain sum of money, by his order, to Mr. Nolan; but Philip Nolan is not James Wilkinson; *ergo*, I may with a safe conscience swear that I never delivered James Wilkinson any money, &c., but I scorn to make use of any such pitiful, contemptible, and degrading mode of defence, and will allow for a moment that I did deliver to General Wilkinson the money in question. It is generally admitted that in politics morality is not to be measured by the same narrow scale as that which ought to regulate the moral conduct of men in their private concerns. The rigid stoic would, on a long run, make but a bungling politician; and the most austere moralist, if he has his country's interest at heart, and is acting in a public capacity, would not hesitate to do that which, as a private man, and in private concerns, he would shrink and recede from with horror and trembling precipitation.

"Let us now for a while suppose that I was a secret agent of the Spanish Government, and that General Wilkinson was a pensioner of said Government, or had received certain sums for co-operation with and promoting its views, and that those views and projects were inimical to that of the United States, should I be worthy of the trust reposed in me by my Government, were I to refuse to give General W. any document that might contribute to raise him in the good opinion of the Administration of his country, blazon his integrity and patriotism, and fortify him in their confidence, and by their means enlarge his power of injuring them and serving us? Surely not; or if I did, I should deserve to be hooted at as an idiot."

Mr. RANDOLPH then said it would be waste of time to comment on what he had read, but he conceived it his duty to tell the House that he had good cause to believe that there was a member of this body who had it in his power, if the authority of the House were exercised upon him, if he were coerced, to give the House much more full, important, and damning evidence than that which had already appeared. He alluded to the gentleman from the Territory of Orleans, (Mr. CLARK.) whom he had now the pleasure to see in his seat. If the United States were in the critical situation

which had been so often represented, and in which all considered them to be placed, in what position was the military force of the United States at this moment? Was it not proper that this business should be inquired into? He had been given to understand, long ago, that an inquiry on this subject was to be courted; it had not taken place. He had no more to say, but moved the following resolution:

Resolved, That the President of the United States be requested to cause an inquiry to be instituted into the conduct of Brigadier General James Wilkinson, Commander-in-chief of the Armies of the United States, in relation to his having, at any time, while in the service of the United States, corruptly received money from the Government of Spain or its agents.

Mr. CLARK said he unexpectedly heard himself named, and he would observe that it had been long supposed, from his residence in Louisiana, his acquaintance with military officers, and the various means of information which he might have possessed while Consul at New Orleans, that he was acquainted with certain transactions which had taken place in that country. The knowledge which he had possessed he had endeavored to impart to the Administration at different times, both verbally and by a written correspondence, to which a deaf ear had been turned. As this information had not been attended to, he had refused to gratify curiosity on the subject. And, notwithstanding the gentleman's calling upon him, he felt himself bound to say that he would not be influenced by fear, favor, or affection, to give any information on the subject, except compelled by a resolution of the House.

Mr. THOMAS moved that the resolution offered by Mr. RANDOLPH should lie on the table; but a motion made to consider was agreed to.

Mr. RANDOLPH said, as it appeared by the declaration of the gentleman from New Orleans, that he did possess information, and as the House had a right to it, he wished the Speaker or some other gentleman to inform him of the manner in which it might be obtained.

[No order was taken on this point.]

Mr. TAYLOR moved that the resolution be committed to a Committee of the Whole, not on to-day or to-morrow, but at a distant day, that time might be afforded for consideration.

After debate, Mr. TAYLOR withdrew his motion.

Mr. GARDENIER moved that it be referred to a select committee, with power to send for persons, papers, &c.

Mr. MARION moved to strike out that part of this motion giving power to a select committee to send for persons, papers, &c.

On the foregoing motions a very lengthy and somewhat desultory debate ensued of about five hours. The debate turned on many incidental questions, among which, whether Congress had a Constitutional right to request the President to cause the proposed inquiry to be made? To this it was answered that Congress had as much right to make this request as to request the President to lay before them public papers—either of which requests he might refuse. It was also said, that in making this request, the House could not command more attention than was due to a respectable individual.

It was doubted whether a member could be called upon to give information in his seat, or at the bar of the House? In answer, precedents were produced of cases in which members of the House had been interrogated at the bar.

It was also contended, that if delivered in his place, the communication would be liable to commentary or reply, by any gentleman who might think proper to discuss it, in the same manner as any other speech.

It was made a question whether this information could be more properly received by a Committee of the Whole, or a select committee, or by the House? It was said on this, that it had heretofore been the course of procedure to empower chairmen of committees in such cases to administer oaths; that in the House a member could be compelled to give information if the House thought fit, but in Committee of the Whole he could not be compelled; that if information or evidence were to be received in the House, it would perplex their proceedings by loading the table and journals with interrogatories, &c.

It was questioned whether it were proper to decide it now, to refer it, or to postpone it? On these points there appeared to be a great diversity of opinion—some thinking that the evidence which they had received was sufficient to induce them to pass the resolution without further consideration, being a mere request to the President to inquire; others wished farther time and more evidence previous to giving their vote on the subject, considering it of great importance; others were in favor of a reference to a committee, to consider all the foregoing points as well as the propriety of the main resolution; some wished this committee to have power to send for persons and papers, to report to the House their opinions on this subject, together with evidence, believing that positive and satisfactory evidence should be produced before they adopted this resolution, and as it was impossible to understand precisely the evidence now produced from the mere reading of it; other gentlemen wished it referred to a committee without power to send for persons, papers, &c., as they conceived the House did not possess power to enforce their orders in such cases, General Wilkinson being a military and not a civil officer, whom the President alone had power to remove.

None of these points were decided either directly or by implication.

In the course of this devious discussion, the succeeding observations on the main subject were made by different gentlemen.

Mr. W. ALSTON had heard nothing in the documents read to-day impeaching the character of General Wilkinson more than what the newspapers throughout the Union had teemed with for two years, except, indeed, a letter from Mr. Power; and who was Mr. Power, or what credibility could be attached to anything emanating from him? Every person in the United States who

could read knew his character. He was opposed to coercing evidence on considering a resolution proposing an inquiry, even if he were in favor of the inquiry.

Mr. SMILIE thought the debate which had already taken place on a reference totally improper. He had heard sufficient evidence on this subject to convince him that such an inquiry was necessary; he did not think that there could be any further doubt on the subject. The House could not try General Wilkinson; he must be tried by another tribunal. They owed it to the country and to General Wilkinson himself to request an inquiry, and he hoped there would not be a dissenting voice on the question of agreement to the resolution. He could not give an opinion as to the guilt or innocence of General Wilkinson, but he thought it absolutely necessary that an inquiry should be had.

Mr. GARDENIER was satisfied of the impropriety of proceeding on the consideration of any question of importance too hastily, more especially in a case so materially affecting an officer of high rank in the United States. He wished to have time to consider fully before he could vote on a subject of as much magnitude as this; they should not act from first impressions. If the subject were referred to a committee with power to send for persons, papers, &c., the testimony on the subject would come before them in a proper shape, and not with the inaccuracy which must always attend information given in this manner, but in a condensed form, in which its force might be fully felt. He did not wish to be precipitated into an inquiry too soon; neither did he wish an inquiry to be made because it was due to General Wilkinson. If this inquiry was courted by, and this motion intended as a favor to General Wilkinson, he was astonished that it had not been brought forward before. There certainly had been before ground enough shown for an inquiry into his conduct; but if General Wilkinson's conduct had so far evinced his purity as not to excite in the Administration even a suspicion against his character, if no inquiry had been made on the charges which had resounded from every part of the Union, Mr. G. did not wish now, merely for the sake of doing justice to that officer, to press an inquiry which the Executive had not thought proper to make. Neither did he wish rashly to decide on this question, because in doing this they would add the weight of their accusation to the cries of the whole nation; the united force of which no individual could repel.

Mr. CHANDLER said this was a subject which had been long before the nation, and with which they were all acquainted; if that officer was innocent, it was due to himself and his friends that an inquiry should be made; if he were guilty, it was due to the United States. The evidence produced was sufficient on which to ground an inquiry, and he was ready to decide without further time.

Mr. NICHOLAS had no doubt but an inquiry ought to be made; after what had been heard, if General Wilkinson were the lowest officer in the United States, he should be of opinion that an inquiry ought to be made, but he doubted whether this was a question on which they were now prepared to decide. For this reason he had seconded the motion for referring the resolution to a select committee, who could consider whether this subject came under cognizance of the House; he considered the House as a mere Legislative body, except in the single case of impeachment. He was not prepared to say what was proper to be done with this resolution, but his first impression was against acting on it. It would open doors for receiving complaints of the misconduct of any officer; he did not think this power was lodged in the House, and he had no wish to assume powers which did not pertain to them. As to the question whether there should be an inquiry or not, no man could doubt. An inquiry must be made. Would it be said that an office of this importance should be suffered to be retained by a man who had received a pension from a foreign Government? He thought it could not; and, therefore, he wished an inquiry to be made into the truth of this charge.

Mr. BURWELL was decidedly opposed to reference to any committee whatever. It seemed to be the universal opinion that an inquiry ought to be had on the conduct of the Commander-in-chief of the Army of the United States; and it was highly important that the subject should be acted on speedily. If the nation was (as appeared probable) to be involved in war, it was necessary that the Commander-in-chief should possess the confidence of the Army, the People and the Government.

Mr. JOHNSON said the good people of Kentucky were interested in this subject. Many reports to the prejudice of General Wilkinson existed there; nothing certain had appeared against him, but the people entertained doubts on the subject; there were circumstances which they wished to be investigated; if nothing could be found against him, the sooner his innocence was known the better. Knowing this, he should not hesitate to give his vote in such a manner as to dispose of the subject most speedily. The investigation was due to the people, and to the man himself.

Mr. MACON said if ever there had been a time since the year 1783, in which it was particularly necessary that those persons in office should have the confidence of the Government and of the people, that time had arrived. Could it be expected after hearing the information which had been produced that the people would have confidence in General Wilkinson? It was as important that the Commander-in-chief should be free from suspicion as that the President or the House of Representatives should be unsuspected. The Commander-in-chief during the American Revolution was irreproachable; calumny never assailed him, and he of course enjoyed the full confidence of the people. The evidence which had been this day read, they were told had neither been before the grand jury nor the court at Richmond, and there was certainly sufficient on which to ground an inquiry.

Mr. TAYLOR observed, that he accorded with those gentlemen who had asserted, that in this important crisis it was of the highest importance that the character of the Commander-in-chief of the Army should stand fair and unimpeached; that on the first and hasty view he had taken of the subject it had appeared a sufficient motive for making the request to the President, as expressed in the resolution; but, from the ideas expressed from different parts of the House, he had been led to consider the proposed measure in a new and different point of view. The gentleman from Virginia had given the House certain information, and on that information had founded his resolution. It was true that this resolution contained nothing which would impeach any other person than the General; but gentlemen had called on the delegate from Orleans for information corroborating the statement of facts he had given; and the delegate had stated that he had at divers times given information to the Executive, and at other times endeavored to give it to the Executive, but that department had turned a deaf ear to his communications on the subject. The resolution then after this assertion, that the Executive had turned a deaf ear to the subject, assumed a new character—it amounted to this; that as you have not heretofore done your duty, we, the Representatives of the people, now request you to do it. Was the House prepared thus to publish to the nation their want of confidence in the Executive, upon the *ex parte* testimony which is now before them? Were they prepared now to interfere thus with a department of the Government, which in this instance they had not constitutionally a right to control—and to say, as that department had not done its duty, they would assume to themselves the important charge of taking care that the Republic shall suffer no injury? He hoped that neither the important crisis alluded to by gentlemen, nor the necessity of the case itself, or their sense of justice towards the gentleman accused, could draw them into such a commitment of themselves, in opposition, too, to the declared sentiments of a great majority of the nation, who had recently declared that this Executive had deserved well of its country.

General Wilkinson might be guilty or he might be innocent. Mr. T. had his own opinions, perhaps prejudices, on this subject. When the Constitution, or the mandate of a tribunal which had competent authority to compel him, should demand of him a publication of those opinions, he should give them; but, like the delegate from Orleans, he would not volunteer the affirmative vote of this House, for if such vote should be taken, it would be volunteering; he should not vote with them; he believed that the Department of State was by the Constitution free of their control, in respect to the proposed measure. They might, and he hoped would send the papers or documents in the hands of the mover, to the Executive, without any resolution on the subject. When they had given the information, they had fulfilled their duty. But, as respected the General himself, would he stand the same chance of acquittal by a court of inquiry or court martial, or by Executive scrutiny, when the prise and weight of an accusation from this House was set against him? He was for giving this officer fair play and the advantages of a fair and impartial trial.

Mr. RANDOLPH said the gentleman last up was mistaken in supposing that the evidence which he had laid before the House had been offered to the President of the United States and rejected. Nor was this at all a question of confidence or otherwise in the Executive, and he was astonished that any gentleman should attempt to convert it into a question of that sort; it was no such question. A member in his place had offered to the House a copy of an order of a Spanish Governor (or rather a translation of which the original could be produced) to pay $9,640 to General James Wilkinson; he had also offered a copy of a letter, certified by the Governor of Natchez, and immediately after Governor of Louisiana, which, unless possibly forged, established beyond a doubt the fact of the guilt of this commandant, not under the articles of war, for it had been this day suggested to Mr. R. that an officer was not amenable to military law for an offence committed so long ago—nor did he say under the common law or statute law—but that sort of offence which incapacitated that officer from the situation which he now held, and from which the President of the United States alone was competent to remove him. What did they ask the President of the United States to do by passing this resolution? To inquire: they left the mode of conducting that inquiry to his discretion. It was to inquire merely, and surely it was a strange doctrine to say that asking the President to inquire respecting the conduct of persons in high office under him, was an expression of diffidence in the Executive. Far from it: if anything it would show a confidence in the Executive, expressing a conviction that he would institute an inquiry, and upon the result of that inquiry do what was proper to be done. And what had this to do with diffidence in the Executive? They would make a question of adjournment before long a question of confidence; or on every question which came before the House would sound this tocsin, this whoop of want of confidence. The gentleman from New Orleans did not say that he had given evidence to the President of the United States and that the President had rejected it, if he understood him aright; he thought the gentleman said, that filling as he did an office of trust under the Government of the United States he had given that Department of Government with which he corresponded to understand that he possessed information of an important kind touching this character, and that he had received no intimation from that Department of a wish to receive it, and had therefore been discouraged from communicating the information which he possessed. The knowledge which that gentleman possessed related to information which the House had not yet heard, and not to that which Mr. R. now held in his hand; to the information which he hoped the House would use its authority (but respectfully) to compel that gentleman to

give. If the House acted on this subject at this time, could it be said that they acted from information of the gentleman from New Orleans, who had given none? If overtures to give information had been neglected, what had that to do with the information which Mr. R. had in his place laid before the House? The question was extremely simple. Had they power (to which he was astonished to hear an objection) to make this request? If they had, had they seen sufficient ground on which the prayer of the request should be granted? If they had the right to make the request, and he had laid before the House substantial ground for an inquiry, there was an end to all other questions on the subject. In the prosecution of the present business it would perhaps be found peculiarly difficult to adduce proof—and why? Because in taking possession of New Orleans, the commissioners—(and who were they? he wished the House to reflect upon that)—suffered the archives of the country to be ransacked; even papers relating to land titles were taken away; and it must be believed, and could not be doubted, that if one of those commissioners found in the archives of the former Government, in the Spanish bureau, evidences of his own guilt, he would not be so far lost to a sense of his own safety, as not to destroy such evidences as far as in his power. Fortunately, enough had been preserved to establish that point beyond all possibility of doubt; and it remained for the House to say whether it constituted a sufficient ground for inquiry or not. Whatever might be the decision of the House, said Mr. R., I shall respectfully submit; but be the decision what it may, I shall conceive a great object which I had in view in bringing this subject forward, to be completely answered.

Mr. Clark said that the information which he had heretofore attempted to convey, did not particularly relate to the subject now before the House. He then knew that various attempts had been made by the Spanish Government to detach the Western country from the Union; he had thought it incumbent on him, holding a commission under the United States, to state these facts to the Executive. When first he had the honor of being presented to the Executive, he had twice attempted to state these facts to him, who either did not or would not understand him, and changed the subject; at this he naturally felt hurt, and had not renewed personal communication on the subject. Some time subsequent to this, when the French were preparing to take possession of Louisiana, believing that they would discover those who were before attached to foreign government and secure them in their interests, he had thought it a duty incumbent on him to write to the Secretary of State, as the Constitutional organ of communication, and had stated his grounds of suspicion. He had twice attempted to make this known, and had officially written to learn whether he was understood. Of these letters no notice had been taken. He had then stated that the proofs in his possession might not be sufficient for conviction, but if time were allowed proof sufficient might be procured.

Mr. Thomas asked at what time these communications had been made?

Mr. Clark.—To the President of the United States in 1802; to the Secretary of State in 1803.

Mr. Sloan said, that although he could not consistently with the rules of order impeach the motive of the member who brought forward this resolution, he could question the propriety of passing it; the papers now adduced in evidence in his opinion amounted to no more than what had long before appeared in newspapers. He said that General Wilkinson had been formerly charged with malconduct before this House; Mr. S. said at that time he had declared that from what appeared, he considered General Wilkinson as deserving well of his country; that he had not discovered any cause to change his opinion; but, contrary wise, considered the various charges and insinuations as arising from malice or envy against him for having acted as the saviour of his country. From what the gentleman from Virginia had last said, it appeared that this resolution was to rest on the question whether there were sufficient evidence of guilt in that officer before the House to require an inquiry to be made. Would not the House by passing this resolution say that this was the case, and would it not be throwing the whole weight of the House of Representatives of the United States against him? It undoubtedly would. As yet nothing had appeared to induce Mr. S. to change his opinion, and till there was, he should oppose every proposition of this kind.

Mr. Nelson made a motion to adjourn, which was negatived.

Mr. Smilie moved to postpone further proceedings on this subject till Monday; on which motion, the yeas and nays being called by Mr. Randolph, were—yeas 68, nays 48, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, John Clopton, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Isaiah L. Green, John Heister, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, William Kirkpatrick, Nehemiah Knight, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery William Milnor, John Montgomery, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, Matthias Richards, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, John Taylor, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Isaac Wilbour, Marmaduke Williams, and James Witherell.

Nays—William W. Bibb, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jr., John Dawson, James Elliot, William Ely, Meshack Franklin, Edwin Gray, John Harris, William Helms, William Hoge, Benjamin Howard, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Timothy Pitkin jr., John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Russell, Dennis Smelt, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Abram Trigg, George M. Troup, Killian K. Van Rensselaer, Jesse Wharton, Alexander Wilson, and Richard Winn.

An adjournment was then called for: Whereupon, the House adjourned.

Friday, January 1, 1808.

EMBARGO ACT.

The House resumed the consideration of the amendments, yesterday ordered to lie on the table to the bill supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" and the question being taken on the amendment proposed to the amendment reported by the Committee of the Whole House, to strike out in the second line of the first section of the said bill, the words, *or fisheries:*

After some debate in which Messrs. Lyon, Rhea (of Tennessee,) Macon, and Blackledge, supported the motion, and Messrs. Crowninshild, Southard, Newton, Sloan, Dana, and Holland, opposed it, the question on the motion was taken, and decided in the negative—yeas 29, nays 68, as follows:

Yeas—David Bard, William W. Bibb, William Blackledge, Thomas Blount, Robert Brown, William A. Burwell, William Butler, John Clopton, Howell, Cobb, Meshack Franklin, Edwin Gray, John Harris, David Holmes, Edward Lloyd, Matthew Lyon, Nathaniel Macon, William McCreery, John Montgomery, Thomas Moore, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Willis Alston jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, Joseph Calhoun, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Jacob Crowninshield, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Heister, William Helms, William Hoge, James Holland, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, Nehemiah Knight, John Lambert, Edward St. Loe Livermore, Robert Marion, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and James Witherell.

The question was then stated that the House do agree to the amendment of the Committee of the Whole House, to the first section of the said bill, amended to read as follows:

Section 1. *Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled,* That, during the continuance of the act to which this act is a supplement, no vessel licensed for the coasting trade or fisheries shall be allowed to depart from any port of the United States, or shall receive a clearance, until the owner, consignee, agent, or factor, shall with the master give bond, with one or more sureties to the United States, in a sum double the value of the vessel and cargo, that the vessel and cargo shall not proceed to any foreign port or place; and that the cargo shall be re-landed in some port of the United States: *Provided,* That it shall be sufficient in relation to vessels licensed for the fisheries, or bound on a whaling voyage, and having no other cargo than sea stores, salt, and the usual fishing tackle and apparel, to give a general bond in four times the value of the vessel and cargo, that they shall not, during the continuance of the abovementioned act, proceed to any foreign port or place, and shall return with their fishing fare to some port or place within the United States.

A division of the question was called for by Mr. Lloyd, and, on the question to agree to so much of the said section, as is contained in the same, down to the word "Provided:" it was resolved in the affirmative.

The question was then taken that the House do agree to the residue of the said section, and resolved in the affirmative.

Saturday, January 2.

A motion was made, by Mr. Randolph, to amend the Journal of the twenty-third and twenty-fourth ultimo, by striking out the word "*by,*" immediately preceding the words "having the qualifications prescribed by the laws of Maryland," in pages one hundred and ninety and one hundred and ninety-three, of the printed copies thereof. And on the question that the Journal be so amended, it was resolved in the affirmative.

Mr. M. Clay, from the committee appointed on the sixteenth of November last, presented a bill to amend the several acts more effectually to provide for the national defence by the militia of the United States; which was read twice and committed to a Committee of the Whole on Wednesday next.

The House resumed the consideration of the bill supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States:" Whereupon, the bill was ordered to be engrossed, and read the third time to-day.

On motion of Mr. Findley the House went into Committee of the Whole, on the report of the Committee of Elections on the contested election of John Culpepper, which declares his seat to be vacated on the sole ground that some of the inspectors of election were not sworn as required by the State law. After some debate, (in the course of which a motion to postpone was negatived, 50 to 27) the Committee of the Whole concurred in the report without a division, and reported it to the House.

The House immediately concurred in the report without a division.

On motion of Mr. BLOUNT, a resolution, was passed, 65 to 14, directing the Speaker to inform the Governor of North Carolina of this decision, in order that he may issue a writ for a new election. The minority in this vote wished to inquire whether the person contesting (Duncan Mc Farland) was entitled to the vacated seat of Mr. Culpepper.

EMBARGO ACT.

An engrossed bill supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," was read the third time; and on the question that the same do pass, it was resolved in the affirmative—yeas 73, nays 22, as follows:

YEAS—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, Francis Gardner, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Walter Jones, Thomas Kenan, John Lambert, Edward St. Loe Livermore, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, David Thomas, John Thompson, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and James Witherell.

NAYS—Ephraditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jr., John Dawson, James Elliot, William Ely, Meshack Franklin, Barent Gardenier, Edwin Gray, John Harris, Nathaniel Macon, Jonathan O. Mosely, Timothy Pitkin, jr., Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Jabez Upham, and Archibald Van Horne.

MONDAY, January 4.

Mr. CROWNINSHIELD presented to the House a memorial and petition of Jonathan Grout, of the State of Massachusetts, stating that he is the inventor of the art of communicating intelligence by *telegraphs*, to a much greater extent, than has heretofore been known or practised in any part of the world; and praying that some person may be authorized on behalf of the United States to contract with him for the establishment of such line or lines of *telegraphs*, for the purpose of conveying intelligence of public or Governmental concern; or that such other contract on behalf of the public may be made with your petitioner, relative to the premises, as may seem meet and proper.—Referred to Mr. CROWNINSHIELD, Mr. NICHOLAS, Mr. FINDLEY, Mr. THOMAS, and Mr. TROUP, with instruction to examine and report their opinion thereupon to the House.

EMBARGO MEMORIAL.

Mr. PORTER presented a memorial from sundry merchants of the city of Philadelphia, stating that several vessels in that port had already received their cargoes and taken out clearances at the time of the passage of the law laying an embargo, and praying that such vessels, some of which had already departed the port of Philadelphia, and were detained in the river, be excepted from the general embargo; which was read, and a motion having been made to refer it to the Committee of Commerce and Manufactures—

Mr. NEWTON said he was not one who would ever object to the right of petitioning in decent and respectful terms; and should always be in favor of the reference of any petition when the House were not in possession of such information immediately relating to the subject as would enable them to decide without a reference. But where was the necessity for referring this petition? The House had passed a law laying an embargo; the ink in which it was traced was scarcely cold, when a petition was presented from a portion of merchants to allow these vessels to depart. Had the House passed the law with deliberation, or not? If they had, it became their duty to support it. If they referred this petition, what might be the consequence? An opinion might go abroad that they wavered in opinion on the propriety of carrying into effect their own law; and if they granted the prayer of the petitioners, the same indulgence must be extended to all in the same situation. There was no port in the United States where vessels had not been loaded at the time of the passage of the embargo law, and yet had been stopped in consequence of that law. And what did the petitioners state? That their vessels were loaded, and from the operation of the embargo law were prevented from going. What was the object contemplated by the passage of that act? To keep the vessels and property of the citizens of the United States within their own jurisdiction. If this petition were to be referred, it would seem as if the House deliberated on the repeal of that law, and would encourage other petitions of the same nature. He hoped a reference would be refused, and that the petition should lie on the table.

Mr. PORTER hoped the petition would be referred. What injury could arise from allowing the petition to take the usual course? The House was not pledged to anything by consenting to the reference. They could reject or adopt the report, or modify it. If they turned a deaf ear to applications that were made to them by the people; if the practice obtained of rejecting petitions without deigning to consider their subject matter, what, he asked, became of the right secured to every citizen by the Constitution, of petitioning the Government? Was it not rendering the right a mere nullity? The gentleman from Virginia

had said that it would be proper not to refer this petition, as, by so doing, it would discourage others from petitioning the Legislature on the same subject. If the House were not disposed to grant relief to these petitioners, he thought, even in that case, it would be better to have a report stating the reasons of their refusal. This would be more satisfactory to the people than the mode pointed out by the gentleman. The case of the petitioners was peculiarly hard. They had obtained regular clearances from the custom-house before they received notice of the embargo, and had incurred considerable expenses in preparing for the voyage. He was also informed that a great part of the property would be almost a total loss to the shippers if it did not reach a market early in the Spring.

Mr. MILNOR said, it would be observed that the petitioners stated that they had actually cleared out their vessels before the embargo was notified. In clearing out their vessels, previous to the interdiction of embargo, they had complied with every provision of the laws of the United States so far as respected things under their control. They had not contravened any law of the United States, and had done no act which should subject them to penalty or to loss. Now it seemed to Mr. M. to be a question, whether vessels could of right be detained when cleared out previous to an embargo? He did not mean to say that they could not; but he thought it might be a subject of inquiry, whether a law having that operation was not *ex post facto*. This petition, couched in decent language, related to a subject in which the interests of these people were deeply involved; they were in a situation peculiarly severe, having not only shipped property of a perishable nature on board their vessels, but engaged the captains and crews for voyages. They must, also, be at a great and unavoidable expense in addition, because, he understood that they could not get clear of the maintenance and pay of these seamen during the whole continuance of the embargo; those vessels, which, though loaded, had not cleared out, were not subject to the same inconveniences, because they were not burdened with the great expense of supporting their seamen. Mr. M. was not now prepared to say that he should be in favor of an exemption in favor of those vessels which had thus cleared out, but thought it a subject which ought to be inquired into. The gentleman from Virginia had told the House, if they passed a law, it should be carried into effect. True it was, that they should enforce it as far as it was equitable; but if, as was stated, this was a peculiar case, and the petitioners endured much more than their portion of inconvenience, it was worthy of inquiry whether no method could be taken to avoid inflicting on them that distress which must overtake them if the law is rigidly enforced. He hoped the petition would be considered in the usual way, by reference. As to the impression going abroad that they were deliberating on the repeal of that law, there could be no weight in that idea. The committee to whom this should be referred might give solid and sufficient reason for continuing that provision of the law, or for granting the particular prayer of the petition.

Mr. COOK always was and always should be in favor of referring petitions from respectable persons clothed in decent language. The embargo law, of a provision in which these merchants complain, was well known to have been passed with great despatch, if not in a hurry; and that part which provides that vessels already cleared out should be subject to it, was a part which had escaped his particular attention on its passage. It appeared to him, in this particular, to be of the nature of an *ex post facto* law. He hoped that the petitioners might have a hearing, and that the facts would be submitted to a committee for investigation.

Mr. NEWTON, to exclude debate, withdrew his opposition to the reference.

Mr. BURWELL moved to refer this petition to a select committee, that it might be inquired into, and that the merchants of the United States might be given to understand that the House would pursue that course which would enforce the continuance of the embargo. He thought that by a reference to a select committee, such a report might be obtained as would evince to the nation the propriety of adopting the measure, and the reasons in its favor.

Mr. TAYLOR said he had not, on any occasion, allowed himself the liberty of treating with disrespect petitions from any portion of the people; and, in this case, he should adhere to the line which he had marked out for his conduct. And lest it might be conceived, from his voting in favor of a reference of this petition, that he participated in the sentiments of the petitioners, he deemed it proper to say that it was from principle alone that he should vote for considering it; and he must be permitted to declare that the petitioners themselves might be charged with as base motives as those from the same city who had been refused a reference of a petition on a former occasion during this session. He thought they might be charged with being induced by foreign influence to endeavor to paralyze every measure for the good of their country, or might be supposed to be among the acquaintances of Mr. Cobbet in America, so taken up with their idol, Mammon, with their zeal after profit, that they cared not what became of the country if their coffers were filled. He would compare the conduct of the merchants of the city of Charleston, whose petition was scouted the other day, with that of these men, who might either be called the votaries of Mammon, or by a worse name.

Mr. SMILIE saw no objection to the reference of this petition. He supposed that the hardships under which those persons labored, whose vessels were already loaded at the passage of the law, were very great. Under these considerations, he thought it would be proper to commit the petition, because it would require a particular report to be made upon it. When he said this, he was well convinced that general policy would not warrant the granting the prayer of the petitioners.

He thought, however, that the memorial should be referred.

Mr. DANA thought, if gentlemen so much respected the right to petition, they ought not to deprecate the insertion of all principles which did not exactly concur with their own opinion. If they made it a rule to reject all petitions not conformable to their own decisions, they rendered null and destroyed one of the great ends of petitioning, for it was when they were aggrieved only, that the people wished to petition; such conduct would in effect be saying, "We will not regard any petition whatever." He thought, therefore, the petition ought to be referred on general principles. Could gentlemen fear the answer which a reference of the petition might produce from the committee? Could they dread a comparison between the reasoning contained in the petition, and that which a report unfavorable to it might contain? The general rule of reference ought to be regarded, more especially of petitions on great public questions. Independently of this general principle, he thought there were special reasons for a reference of this petition: the case of vessels which were cleared out, and had on board all their cargo, as well as papers, when the law passed, and which had been detained in bays or rivers by adverse winds, was peculiarly rigorous. Vessels had been cleared out of Philadelphia, having on board foreign merchandise about to be exported; these vessels had proceeded on their voyage, but had been arrested in their progress, and brought back, by the operation of the embargo law. What was their situation? They would have to reland their goods at a loss of three and a half per cent. of drawback; and if they wished to export them six months hence, they must pay another three and a half per cent. upon them, because they had gone down the Bay of Delaware previous to the passage of the law, and had been brought back. Whether the Secretary of the Treasury possessed the power to remedy this defect, he did not know, but he believed he did. He wished the petition, however, to be referred to a select committee, to examine whether or not, in particular cases, the law laying an embargo operated more rigorously than was required by the general policy of the measure.

Mr. PORTER merely rose to say that he held in his hand a certificate of the Collector of Philadelphia, verifying the facts stated in the petition; which was read.

The yeas and nays being required on the question of reference,

Mr. CROWNINSHIELD said, that he understood the petitioners to pray that vessels cleared out previous to the passage of the law laying an embargo, should be permitted to proceed to sea. It appeared to him that they asked what could not well be granted. This case did not apply to Philadelphia or Delaware alone, but to Baltimore and the Chesapeake, and to every port in the country. He had no doubt that there were several hundred vessels cleared out to foreign ports previous to the laying an embargo, and which were by it prevented from sailing. Should they be permitted, from that circumstance merely, to be exempt from the general embargo? He thought not. However his own interest or wishes might dispose him to this permission, he could not consistently grant their prayer. But was he therefore opposed to a reference of the petition? By no means. He believed the petitioners had always a right to petition, and he should uniformly vote for a reference of their petitions, when couched in decent and respectful language. But at the same time, he should vote for a reference of the petition, he must say that he did not see any reason why these vessels should be permitted to depart. The House had said that they would prohibit vessels from departing, whether cleared out or not. The law would operate severely on these persons; he knew it would, but it would also operate severely on others. Those vessels would suffer great inconvenience which had goods on board, although they had not cleared out. He was in favor of a reference, in order to obtain any additional light that might be thrown on the subject, not as some gentlemen were, with a view to favor the prayer of the memorial. If gentlemen thought the embargo was wrong, let them submit a proposition to repeal it. He was prepared to meet it on fair grounds.

Mr. SMILIE said the question now was, whether the petition should be referred to the Committee of Commerce and Manufactures. A proposition had been made to refer it to another committee. He hoped the House would not deviate from the common rule; for, if any subject was proper to be referred to the Committee of Commerce and Manufactures, it was this.

The question of reference was then taken, and decided in the affirmative—yeas 91, nays 16, as follows:

YEAS—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, Joseph Calhoun, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Daniel M. Durell, William Ely, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., Jno. Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Jno. Russell, Ebenezer Seaver, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, John Taylor, David Thomas, Jno. Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Alexander Wilson, and James Witherell.

NAYS—William A. Burwell, William Butler, Matthew Clay, Joseph Desha, Benjamin Howard, Edward Lloyd, John Love, Roger Nelson, Lemuel Sawyer, Jas. Sloan, Jedediah K. Smith, Abram Trigg, George M. Troup, Archibald Van Horne, Marmaduke Williams, and Richard Winn.

YAZOO LAND CLAIMS.

Mr. BACON presented to the House a memorial signed, by order and at the unanimous request of the Legislature of the State of Massachusetts, by James Sullivan, in his official capacity as Governor of the said State, praying the attention of the National Government to the claim and rights of sundry citizens of the said State of Massachusetts, in and to certain lands purchased under grants of the State of Georgia, in the year one thousand seven hundred and ninety five, and that all obstructions to an impartial investigation of their rights may be removed, and that their claims may be adjusted by an equitable compromise, or that such other relief may be afforded by Congress as shall seem just and proper.

Mr. BACON having moved that the memorial be referred to the Committee of Claims,

Mr. BIBB moved that it be rejected. He said there were very few cases in which he should oppose the reference of a petition; but this was a case in which he should be in favor of rejection. He would never object to a petition for a lawful object; but when a petition was laid before the House evidently founded in fraud and corruption, he should reject it. So much had been said on this subject heretofore, the fraud and villany of the transaction on which the claim was founded had been so ably exposed, that he deemed it unnecessary to say anything more on the subject.

Mr. TROUP did not know whether the memorial should be thrown under the table, or whether, as had been moved by his colleague, it should be rejected. The memorial, on a subject on which the House had before decided, and that on the most mature deliberation, was treating the House with disrespect; it was an attempt (it could be considered in no other light) to tease the House; to torture it into a compliance with the prayer of the petition. The House was to be provoked into a surrender of important rights to get rid of the memorialists. They were bound to listen to a memorial couched in decent, proper and respectful terms, but not to the language of insult—and this was an insult upon this body, calling upon it to sanction corruption so vile and infamous. With this impression he should second the motion of his colleague.

The SPEAKER declared a motion for a reference to take preference of a motion to reject.

Mr. BIBB called for the yeas and nays on the motion for reference.

Mr. SMILIE said, as he should vote for the commitment of the petition, he should mention one reason that induced him to vote thus. His sentiments on this subject were well known; he was no Yazoo man. He never had, nor did he now, mean to vote in favor of the claim; but when a petition came before the House, through the medium of the Executive of a high and respectable State, he felt a delicacy in saying that such a petition should not be referred. The House had this session heard a great deal with respect to the rights of States; he hoped they would take no step which might infringe those rights. Though not in favor of this claim, yet, in the form in which it now came before the House, he hoped it would be referred.

Mr. LIVERMORE did not know whether he could well sit still and consent to give a silent vote on a question of this nature. If no objection had been made to this motion there would have been no occasion; but considering the question as it ought to be considered, it was astonishing to him that any objection should be made to a commitment. Here was a representation from the Legislature through the Executive of a State, to the Legislature of the United States. Now, whether the claim was well founded or not, he did conceive that there was more deference to be shown to a State, than instantly to throw its memorial under the table, or to reject it without debate. He did not conceive that this was the regular mode of doing business; he apprehended, notwithstanding what had been said by the gentleman from Georgia, that this question might and ought to be brought before the Legislature. Whatever views might have been taken by a former Legislature on the subject, had nothing to do with the present. He conceived that the present Legislature were not as well informed on the subject as might be supposed, for although there were present many members of a former Congress, there were also many new members. He by no means admitted the idea that the Legislature ought to grant the claim; but at the same time he did not contend, nor did it follow, that every subsequent Legislature should pursue the same course as the one preceding it, or never listen to a claim because it had been before rejected. He would not now undertake to enter into the merits of the claim—would not say he should vote for or against it: he was determined to hear every argument that should be adduced against granting relief to the memorialists; but it was at the same time his bounden duty to consider the petition of any portion of our citizens who considered themselves deprived of any rights. Without troubling the House with any further observations, he hoped they would refer this memorial, from a respect to the Legislature of the State by whom it was preferred.

Mr. W. ALSTON did not care what course was taken with this petition; whether it was rejected or not; but it seemed to him it would be as well to act somewhat consistently on this occasion. A great clamor had been raised a few days ago because the House neglected the petition of a parcel of merchants. Even their petition, such as it was, was not rejected; the right of petitioning was revered, and it was laid on the table. What was now before the House? A petition from one of the most respectable States in the Union, which after the most mature reflection had re-

quested the House to do—what? To grant the Yazoo country to speculators? No. It asked for its citizens a hearing. And yet they were told that this petition should not be committed, that no respect should be paid to the respectable source from which the memorial had proceeded, because the original ground of the claim was fraud. This might be true. That the Yazoo act was as corrupt a one as ever the statute book was disgraced with, he had no doubt; and he also believed that no man was more opposed to fraud and corruption than he had always been. It was from his great opposition and aversion to land jobbers and speculators, that he had been heretofore in favor of examining into this subject, and getting totally clear of it in the best manner they could.

The story of Yazoo had been so often resounded within these walls, that it had become, like the cry of wolf in the fable, repeated so often that it was no longer regarded. It should seem from the language in the House, that a part of it really designed to countenance fraud. This was not the case; there had been no question as yet proposed to the House to grant a single acre of land; such a proposition had never entered these walls. The only question was and has been, whether this claim should be settled on any principle, if narrowed down to the terms of the Convention of the State of Georgia.

He might be permitted while up to make a few observations on this convention. The subject of this grant of land was introduced into the convention, with the express view that Congress should do something with the grant; that they should take it into their hands, and rid the State of Georgia of it forever. Under this view it was that he had been led to vote for the convention, which he did, not entirely like; but the subject had taken such a turn in Georgia, that the Representatives from that State wished to get clear of it, for it would always hang over them, until the United States should do something with it. Under these impressions had that convention been adopted. What is now our situation, said he? The Government of our country had passed a law appropriating a small portion of country for settling claims, among which this was recognised. Whether it was good policy or not to give these petitioners anything, was not a question now before the House. He thought the Government were not now bound in the same manner as they were immediately after the transaction took place.

Whatever mode were adopted to get rid of the claim, he should be satisfied. If a reference were to be made he would vote for a rejection. He had not about him those nice feelings which some gentlemen professed; for if a petition were not referred, he cared not what became of it. He should vote for a reference of this petition, as he did in other cases, to dispose of it finally in the shortest time. Gentlemen who were so liberal of professions of respect for the rights of petition at all times, might be able to account to their consciences for the rejection of this.

Mr. Nelson said, as he had the honor of seconding the motion for rejection, it might be expected that he should assign his reasons for so doing. It appeared to him that this question was so perfectly well understood in this House and throughout the United States, that, if there were no impropriety in rejecting a petition at this stage of the business, there could be no reason for a reference of this. The subject was perfectly understood; every gentleman had made up his mind on it, and he therefore saw no reason why the petition should be referred and go through the whole routine of business, when they meant finally to reject it. If there was a determination to reject it, could it not be done now as well as at any time? But the gentleman said, a petition coming from so respectable a State as Massachusetts, should be treated with attention. Mr. N. would listen to a petition coming from any State Legislature, but not sooner than to a petition coming from a number individuals. If the members composing the Legislature had petitioned in their individual capacity, he should conceive himself bound to pay the same respect to them. A majority of the people composing the Legislature of the State of Massachusetts, had thought that this claim was correct and ought to be granted. These persons imbibed their opinions from their constituents, who were perhaps very much interested in the claim. These men (the claimants) had tried the question here in various shapes. What further form could it assume? They thought if they could come forward under the sanction of a Legislature, they should be treated with more attention than if they had come forward in their individual capacity. If the House were prepared to reject their memorial, it would be no indignity offered to Massachusetts to reject it. Every State in the Union had a right to make such applications as she pleased; which might be referred or not. If Congress were not acquainted with the subject and facts stated in the memorial, it might be referred. But if they were already fully acquainted with it, where, in the name of common sense, was the necessity of referring it? If he should engage in any business to which he was not competent, but in which some man perfectly acquainted with it should give him the necessary information, he need not employ his time in receiving the same information from another source. In this case, then, there could be no more disrespect in rejecting this memorial, in this stage of the business, than at any time hereafter. It was said there were many new members in the House. In answer to this, he might say, that there was not a child of ten years old in the country who had not heard of this business—not a member in the House who had not understood the subject as well as ever he could; it had made a noise throughout the country, and every one had heard it, and must be prepared to vote on it. Gentlemen who were in favor of the claim would of course vote against its rejection; but they wanted no time to reflect on the subject. Their minds were fully made up, and they were ready to give their yea or nay on the subject.

The gentleman from North Carolina had endeavored to put this subject in a different point of view from that in which it generally appeared. The law of the country was open to these claimants, and because they and other men might think the forms of law too tedious, they had petitioned Congress to erect a more summary tribunal, that they might obtain a more speedy decision; that Congress should pass a resolution to authorize A, B, and C, to pass a law respecting land titles. We had better discharge all our judges, said Mr. N., and say we will have no courts, and whenever a question is to come on, application may be made to the National Legislature for the erection of a tribunal for its decision. This memorial prayed that Congress would pass a law for the purpose of giving the Yazoo people an opportunity of trying this question against the United States. If they wished the validity of their claim to be decided, let them bring an action of ejectment against any person settling on their land; if no person would settle on it, let them erect a house for the purpose. It was a new idea and an abominable principle that Congress should pass a special law for the purpose of trying a particular case. If the laws of the United States were deficient, let the general system be amended, but not legislate on any particular case.

For these reasons he should vote against the reference of this petition; because, in the first place, the House were as well prepared now as they could be at any time; because, in the second place, voting against it would be no sort of disrespect to the State of Massachusetts; because, in the third place, he believed it would be improper to pass a particular act, as the memorial prayed, for a particular case; and fourthly, because, he thought the particular transaction on which the claim was founded was abominable throughout. For these reasons he was prepared to vote against a reference.

Mr. Holland rose to express his opinion that the petition should be referred to the Committee of Claims, or to some other; it was certainly one of those cases entitled to consideration, and he did not believe that the ears of the House would be insulted by listening to it. Perhaps the Legislature of Georgia in granting this land had acted as corruptly as the gentleman from that State had said it had. Had not this subsequently been a matter before the Commissioners of the United States, and had they not in some degree recognised this claim? Let the gentleman from Georgia examine and see whether the settlement of this claim had not been recognised by these Commissioners. Mr. H. did not recollect that this claim had ever been rejected at any time; and, let it be recollected, a bill had once passed the Senate of the United States authorizing a compromise of this claim.

After this had actually taken place, were the ears of gentlemen in the House so extremely delicate that they felt themselves insulted when such a memorial came before them?

The gentleman from Maryland had said, that school-boys knew the circumstances of the case, and that all must be ready to decide. Mr. H. said, this was not the case; this was a complex business, and would require more time to decide on it than that gentleman had devoted to it. The gentleman might ask another question, why was a particular law passed declaring that a particular class of citizens should not settle? It was certainly proper that their claim should be taken notice of, and particularly when the Legislature of a State had interfered on the subject. But the gentleman had said, that the State had given an easy ear to the claim of its citizens. Perhaps this was just. Mr. H. was one of those who thought the claim should have been long ago settled, and that no clamor should have been made about it; for he begged leave to say that nothing but clamor had been opposed to the claim; and gentlemen so much opposed to it had not examined into its justice. He believed policy as well as justice required its settlement; that its not being determined would prevent the Mississippi Territory from being peopled, and its citizens from settling. For who would settle it in its present situation? He hoped, therefore, that it would be referred and undergo a serious examination; and that gentlemen would not feel their ears insulted by a memorial couched in such respectful terms as this.

Mr. Bacon said he felt himself incompetent to decide on this claim, and feeling so he had supposed that other gentlemen were in the same situation, especially as there was in this Congress so large a proportion of new members; but were he even competent, fully competent, to enter into an examination of it, he should feel it by no means his duty to enter into an investigation of it in the present stage of the business. When he presented this memorial, he did not apprehend that he should be under the necessity of making any observation; but, from the objections made to giving it the ordinary course, it might be expected that he should say something in favor of it. It was not necessary that he should at this time enter into a long dissertation on the right of petitioning. A few minutes ago, when, as a gentleman had said, the ink was scarcely cold with which the embargo law was written, they were called upon virtually to repeal it. What did they do with that petition? Though it contemplated a case which must have been within the view of the House when the law was passed, although it had an important bearing on foreign relations as well as domestic, the House had treated it with that respect which they were now required to deny to the State of Massachusetts. He should not enlarge upon this; perhaps his feelings might not permit him to do it. He hoped the House would consider the petition as coming from, (he would not say a respectable, it was unnecessary to say it,) but from a decent source, and that they would treat it with ordinary respect. If this memorial was to be treated out of the ordinary course, the burden of proof in favor of its rejection rested with its opponents, who had, indeed, given some reasons why it should be excepted

from the usual course, which it might be proper to notice.

The gentleman from Georgia (Mr. Bibb) had said, that the claims of these citizen memorialists were founded in fraud. Mr. B. would only say, that whatever fraud had been committed, the Legislature of Massachusetts had not been contaminated by it. Neither could it be laid at the door of the State of Massachusetts; she had no participation in it. It had been said that this memorial was an attempt to tease the House into an appropriation. He would ask, whether every member of the House was at this moment convinced, whether they had sufficient evidence to convince them, that it was founded in fraud? He himself had not this evidence, and thought the House had not, on which to say that this claim was so palpably unjust. They were told it was teasing the House. Mr. B. said, they had lately been told that the frequency of former applications was no reason against referring the same petition now. It had been asked, he recollected, a few days ago by a gentleman from Virginia, (Mr. Randolph,) whether Oliver Pollock's petition should be turned out of the House because it had been so repeatedly referred? And this question would be well applied to the present case.

It had been said by the gentleman from Maryland, that the Legislature of Massachusetts had asked a new principle to be adopted; had asked them to give a different destination to the petition. Mr. B. would say this ought to be done. Was it not the introduction of new principles which gave rise to the present claim? The whole course of proceeding in this case had been novel; and new and extraordinary cases required extraordinary consideration. This was a sufficient answer to that charge.

Mr. B. protested against being driven into a consideration of the merits of the claim at this time; he was not, nor was the House now competent to discuss it. If the unanimous voice of the three branches of the Legislature of Massachusetts (concerning whose respectability he would say nothing) was to be rejected, if the door was to be slapped in their faces, it would be presumptuous in him to imagine that anything which he could advance should receive attention.

Mr. Elliot, Mr. Troup, and Mr. Smilie, rose at the same time. Mr. Smilie gave way, and the Speaker declared Mr. Elliot entitled to the floor, as he had not been up on the question.

Mr. Elliot.—I knew that I was entitled to the floor, and that the Speaker would decide that I was so entitled, in preference to the gentleman from Georgia. The occurrences of every day, nay, of almost every moment of the present session, have evinced that it is the indispensable duty of this House to adopt some practicable construction of that provision of the Constitution of the United States which respects the right of petition. In the first amendatory article—and it ought to be deeply impressed upon the mind of every one that it was the expectation, the prospect of being able to obtain these amendments that induced a majority of the people to adopt the original Constitution—we read, "Congress shall make 'no law respecting an establishment of religion, or 'prohibiting the free exercise thereof, or abridging 'the freedom of speech or of the press; or the 'right of the people peaceably to assemble and to 'petition the Government for a redress of grievances." And the tenth amendatory article is in these words: "The powers not delegated to the 'United States by the Constitution, nor prohibited 'by it to the States, are reserved to the States respectively or to the people." I know that men with whose information and talents I have no right to place my own in competition, are opposed to the Yazoo claim, as it is called; but in this number I am far, very far, from including the gentleman from Georgia. [Mr. Troup called to order, and Mr. Elliot, on Mr. Troup's taking the floor, retorted the call. The Speaker desired them both to sit down, and remarked that no observations of a personal nature could be in order.] Mr. Elliot again rose and proceeded. I had no idea, sir, of transgressing the rules of the House. Although I did not designate the particular member from Georgia to whom I alluded, every member of the House must have understood the allusion and the reason of it. When we were in conclave, not many days since, the gentleman from Georgia assailed me with the same remark, and it was not then pronounced out of order. [The Speaker said he was not then in the Chair.] I know it, sir. We were then in Committee of the Whole. The gentleman made an unprovoked attack upon me, and was not called to order by myself or any other member, still less did he call himself to order for the same remark which he now considers disorderly on my part, merely because I have retorted it upon himself. This statement of proceeding in conclave was necessary by way of explanation. The public eye was not then upon us, and the public could see no natural connexion between the debate of that day and this. But it is not my object, *in vulgum ambiguas spargere voces*, on this or any other occasion. I do not speak *ad captandum vulgus*, not to the crowd, unusually numerous and respectable as it is by which we are this day surrounded, but to the sober and solid sense of the wise and honorable Representatives of this great nation. And in closing this digression I beg leave to assure the other members from Georgia that I have a high respect for them and for the State. To return to the subject. The Constitution has secured to the people the right of petitioning the National Government; but of what consequence is this right, if, according to the new-fangled notions which have been broached the present session, in relation to this Constitutional privilege, you are under no obligation to receive and hear their petition. No, sir, it is unquestionably the true construction of the Constitution, that the people have a right to petition, and that it is our duty to hear and consider their petitions. And the powers not delegated to the United States are reserved to the States respectively, or to the people. The State of Massachusetts, to all intents and purposes, so far as it respects powers not

Constitutionally delegated to the General Government, remains a sovereign and independent State. Among the rights which it has not surrendered is that, indubitably, of memorializing the Government of the United States; and this they have now exercised—for the application before us, if not in form, is in substance a memorial from the constituted authorities of Massachusetts to those of the United States. Yet gentlemen talk of throwing it under the table! Why, sir, in the famous case of the memorial from Philadelphia, they did not seem disposed to go so far; those who opposed the reference were willing the petition should lie upon the table for consideration. Let me call the attention of gentlemen for one moment to the celebrated claim of Amelie de Beaumarchais, which the Government of this nation has so long declared to be unjust, but which the imperial power of the French empire declares to be just, and elevates its voice with a demand that we should pay it at all events. This remark is made, because I will venture to predict that in a very few days gentlemen will tell us that as France vouches for the justice of this claim, and has called upon us to pay it, pay it we must. Indeed, if the claim be in fact just, and we pertinaciously refuse to do justice, even to a solitary subject of France, that Power may, in time, be warranted in considering our denial cause of war. Upon the principles of the law of nations, Massachusetts, as a sovereign and independent State, within the sphere of those powers which are reserved to her by the Constitution, has the same right to demand of us to do justice to her citizens. From the nature of our Federal Union, that State cannot make war upon us to enforce the claim: but let me warn this Government against making war upon Massachusetts. To attempt to throw the constituted authorities of Massachusetts under your table, would be taking the bull by the horns with a vengeance. Grasp that State, with a view to trample it under your feet, and you will find that Hercules has a club, and can use it too; that the modern as well as the ancient Hercules is a hero. On this subject, I may be warm. I ought to be so. I am so. Whenever the idea is suggested of humbling my native State in dust and ashes, I will never restrain the ardent expression of the most ardent indignation.

But the old cry of "Yazoo" is raised against this memorial and its supporters. All are Yazoo speculators, of course. Will any one say that I am a Yazoo man? The farthest from it of any person in the world. Just as much interested in the land speculations that may be going on in the moon. Nor do I know one of my constituents who has the most remote interest in the question. But, will any one venture to charge the Legislative and Executive departments of the government of Massachusetts—the vote in the Legislature is stated by the Governor to have been unanimous—with being the patrons, still less the efficient agents of fraud and corruption? No; not for the world; but these wicked speculators have imposed on the easy sincerity and zeal for the rights of its citizens, of that respectable government. Gentlemen may rest assured that this subject is perfectly understood in the Eastern country. Those in that quarter who interested themselves in the Yazoo purchase had no reason to presume there was fraud in the case at all. Had they any *prima facie* evidence of fraud and corruption? Exactly the reverse: *Prima facie* evidence of an equitable and just title. A title sanctioned by all the solemnities with which the Government of an independent nation solemnizes all its grants. And, in looking over the names of the memorialists of the government of Massachusetts, I notice the names of men, against whom, in their own country, at least, no one would have dared to make an insinuation questioning the respectability of their characters—men, whose characters would not suffer by a comparison with the members of this House. But what has the great bugbear, "Yazoo," to do with the question? Nothing at all. Will you reject this application from the government of Massachusetts? No, sir, you will not reject it. It is a subject upon which high ground ought to be taken. I will take that high ground, and say, that this House dare not reject it without consideration. It dare not throw it under the table. It dare not, and it will not.

Mr. Troup said, he did sincerely believe that the gentleman from Vermont (Mr. Elliot) was really, with all his pretensions to honesty, what he knew a majority of the Yazoo Legislature to be; and, with this observation, he would pass over——[Mr. T. was here called to order by the Speaker.] Mr. T. said he was extremely sorry that on this subject he should trouble the House—he felt at this time particularly disqualified. Was this business never to be finally disposed of? Did the claimants calculate their chances of success on the confidence, or rather on the audacity, with which they urged their claims? Was the justice of their claims to be estimated by the indefatigable assiduity with which they renewed their pretensions? and pretensions too which were audacious, unfounded, and insolent—originating in fraud and corruption—embellished with murder, perjury, and every species of enormity! He trusted there was virtue sufficient in this Assembly to treat the claimants with contempt. He flattered himself that the Legislature would not degrade itself by a compromise with speculation and corruption: he presumed the Capitol was not the place where speculators were to seek indemnity. If it were, they had better appropriate five or six millions of acres to these injured persons—to these miscalculators of profit and loss, or rather to these men ruined by the unsuccessful exercise of the arts of bribery and corruption. What did the memorialists demand? That this House should indemnify them for losses sustained by the act of Georgia. Would they do it on the broad principle of relieving all speculators in distress, or from the cession to the United States, by the State of Georgia, of the land in question? On the last principle, they would not presume to attempt it; for they knew that they had not the power. On this

account, he wished the memorial to be rejected. He was as much disposed as any gentleman on the floor to treat the State of Massachusetts with respect, as an integral part of the Union; but, he would ask, what right had the State of Massachusetts to interfere with an individual claim? None.

Mr. ELLIOT said, that he had done all that could be required of him, as a son of Massachusetts, to vindicate the character of her citizens; and if the members from that State could sit silent under the new attack that had been made upon them, he had no objection. But, as the gentleman from Georgia did not even yet appear to know him, he would talk to those that did know him. He never had—he never could have had—the thing was impossible—it was abhorrent to his nature—any interest whatever in the Yazoo speculation. And he repeated the declaration that he did not know one of his constituents, numerous as they were, who had any interest in it. There might be one, there might be two, there might be six, among sixty or seventy thousand people, but he did not know that there was a single one.

Mr. SMILIE said it was unfortunate, that upon this subject and some others, they could not debate with that calmness always necessary for deliberation. He would suggest to the House the propriety of referring the petition before them. Let us, said Mr. S., consider the source from whence it comes; and I will be bold to say that there never was an instance in which the Congress of the United States has refused to pay attention to, and treat with delicacy, any communication from the government of a State; and it certainly is good policy always to treat them with respect. He recollected a circumstance which caused much discontent, and where, in his own opinion, the Legislature of Virginia was not treated by the Legislature of Massachusetts with that respect which was due to her; but the conduct of that Legislature was not, however, such as was now proposed to be adopted towards the State of Massachusetts. He alluded to a proposition from Virginia to Massachusetts to join in a petition for the repeal of the alien and sedition laws. In the Senate of Massachusetts it was committed, and a report made on it, that it was not such as comported with the dignity of that State or as was due to the State of Virginia. If the State of Virginia had been discontented then, what would the State of Massachusetts be, if treated in the manner which was proposed? Was this the day for scattering the brands of discord in this House and in the nation? Did they not know that times were pending in which it might be necessary for the General Government to call for aid from every State in the Union? If events should arrive, which were but too much expected, the State of Massachusetts was no inconsiderable part of the Union. Then, said he, in the name of God, let us treat that State with respect! Those members who have been in a former Congress may have their minds made up on the subject, but there are a great many members here who have never heard the subject agitated or debated on the floor of Congress, and ought to be allowed an opportunity of judging for themselves. I wish to preserve harmony. For Heaven's sake let *us* take no step to infringe it!

Mr. RANDOLPH did not intend to have said anything upon this subject—indeed, he was in no condition to say much—but an observation of the gentleman from Pennsylvania, who had just sat down, called upon him for some explanation of the reasons which would govern his vote. Mr. R. thought that this question had been very improperly connected with State rights—rights which he would forever uphold. He could consider the representation of the Legislature of Massachusetts, through the Executive, in no other light than as the act of the individuals who had made it. What rights of the State of Massachusetts were involved in the subject? Was the matter in controversy between that State and the United States?—between Massachusetts and Georgia?—between Massachusetts and any foreign Power?—or between individuals, where the rights of Massachusetts as a State were drawn into question? Certainly not. Did this State come forward to show that the franchises of her citizens, secured to them by the Constitution, had been invaded? No man could pretend it. The Legislature of Massachusetts had then, he must say, unwisely thrown the great weight of her respectability into the scale of a private claim, and of the most odious nature too. If therefore the consideration, otherwise due to her, was impaired, it was by her own act. He could recognise in this act none of the rights and nothing of the dignity of a sovereign State, and should vote with as little hesitation against the petition, as if it were supported only by the same number of private individuals. And was this a denial of the sacred right of petition? Had not those claimants been repeatedly heard before that House?—their petitions received and discussed? Was not the House in possession of every fact, material to a correct decision? And did it not become them to affirm the deliberate sentence passed at a former session?

The House had been warned against making this question a subject of division at this time. It had been the origin of the first, and he might almost say the last, schism in the Republican party. Nor was it matter of surprise that it should have been so. The opinions of men, never until then called into question—of the leading characters in the Administration—were for the first time thwarted and exposed. Swarms of expectant nabobs had been awakened from their golden dreams, and the patrimony of the people wrenched from their very grasp. Nor was it possible for the opponents of this measure to do justice to their cause without holding the mirror up to corruption, and compelling her to view her hideous and disgusting features. Heats and animosities the most virulent could not fail to grow out of such a discussion. The seeds of disunion were then for the first time sown amongst them. He defied any man to trace their divisions to a higher source; and he asked if it would not be better to bury the cause of them, by giving the petition the most decisive and instantaneous rejection?

Mr. BIBB said, from some observations which had been made, he deemed it his duty to say a few words more on this subject. When the memorial was read, he had thought it was not worthy of a place on their table, and he should have moved to have thrown it under the table, had he not understood that such a motion would not be in order. He would freely declare that it was his intention to treat the memorial with contempt, because he conceived that it deserved it. When a claim was brought before the House, founded in fraud and corruption unequalled in any age, it ought to be rejected. The gentleman from Massachusetts admitted that the State of Massachusetts knew nothing about the claim—never examined it at all—and yet the House were told, that in rejecting it, they would do violence to the feelings of a State. [Mr. BACON explained that he had not said anything to the purport of what had been just attributed to him.] Mr. B. said he had certainly understood the gentleman to say something like this.

The observation which Mr. B. had intended to make when he rose, was this: that if they permitted this petition to be committed, they indirectly acknowledged that this House had a right to legislate upon the subject. Now, he contended that Congress had no right to grant the prayer of the petition, and therefore had no right to refer it. The origin of the claim was well known. In the year 1795, the Legislature of Georgia, under the influence of bribery and corruption, passed a law giving a great number of acres of land, and which was repealed at the subsequent session of that Legislature. He believed he might say that this claim originated with the constituents of the gentleman who presented this memorial; if not, however, it was certainly known in the town of Boston, before it had been proposed to the Legislature of the State of Georgia. But the act of cession to the United States by the State of Georgia particularly stated what claims should be considered valid—amongst which claims, this could not be found. Now, as the State of Georgia had enumerated claims which should be granted, and this was not one of those, Congress had no right to grant the land in question. And it was the opinion of the State of Georgia, expressed by a late resolution of her Legislature, and which every gentleman might have seen in the National Intelligencer, within a few days, that Congress should not compromise the claim.

Mr. CHANDLER remarked, that he had understood the gentleman from Georgia, just sat down, to say that it was his object to treat the petition with contempt, and, if he understood him rightly, the petitioners also. The petitioners were no other than the Legislature of Massachusetts. Would the gentleman, indeed, treat them with contempt? For what? He had said that there was corruption in the way—that there was a claim of corruption. Did he mean to say the Legislature was corrupt? [Mr. BIBB declared that he did not impute corrupt motives to the Legislature.] Mr. C. continued: If the gentleman did not attribute to them corruption, why would he treat them with contempt? Why not suffer the memorial to take the common course? Why not permit it to be referred? Mr. C. said, he knew nothing about the justice of the claim. How far the Legislature of Georgia, who made the grant, might have been corrupt, or how far it deserved censure, let the gentleman from Georgia determine, for he would not undertake it; he hoped, however, that gentlemen would not attribute corruption to the Legislature of Massachusetts. As to these claimants having a share in corrupting the Legislature of Georgia, he knew nothing about it; but the memorial coming from at least a respectable source, he hoped it would receive the same attention as was given to every private petition couched in decent terms.

Mr. MARION said, he was one of those opposed to making any compromise with any claimants of lands; he should consider it a compromise of principle, not of policy; but, at the same time, he was disposed to treat any memorial, from a State Legislature, with respect. As the memorial stated, all the documents on the subject being already in possession of the House, he should suppose the House would be as competent to decide on it, in Committee of the Whole, as if it were previously sent to a select committee. Therefore, not wishing to treat the memorial with disrespect, he made a motion to refer it to a Committee of the Whole.

This motion, taking preference of the motion for commitment to a select committee; and the yeas and nays being called on it—

Mr. QUINCY lamented the passion which was displayed on this occasion, for, in truth, there were at present sufficient sources of irritation without this. He would not have risen at this time, as he was very little interested in the business, more than that he wished to perform what was his duty to his own State, but to defend a class of people, some of whom were his constituents. He wished the House to divest itself of prejudice, and take a clear view of the subject. He considered the memorial on the table, from the Legislature of Massachusetts, not as adopting the principle of the Yazoo claim, not as attempting to foreclose this House, in the exercise of its rights, but he considered it as presenting to this House the temper of the State; a temper and feeling, not excited by any fondness for individual speculation or aggrandizement, much less from any inclination to favor fraud or corruption; but from a perception of the ruin brought upon many individuals by this thing. Yes, ruin—fallen, not as gentlemen had asserted, upon great speculators; but, in many instances, upon humble individuals, who were induced to take part in this speculation, because they believed it honorable, and because they had confidence in the opinions of those who conducted it. The memorial on the table was not an expression of the sense of the Legislature of Massachusetts on the claim, but a wish from that Legislature, that the House would again recur to the subject, and see whether, on some principle of law or equity, indemnification might not be made. It had been very little in the intention of the Legislature of Massachusetts, or the citizens of Massachusetts, to deny that there had been

corruption in the original transaction; but it was a thing of which the Legislature of that State knew nothing. It happened at a distance of many hundred miles from them. All he could say was, that they were not participators in the fraud; and, notwithstanding the assertion of the gentleman from Georgia, that it originated in the town of Boston, Mr. Q. said he would place it on a different ground; that, if they had known it to be fraudulent, they would have abandoned and rejected it; this he could say, from his personal knowledge of the manner in which this transaction had originally been extended to the State of Massachusetts.

The gentleman from Virginia had observed, that the Legislature of Massachusetts had not shown that her citizens were deprived of any Constitutional right. Perhaps it would not have been proper for the State of Massachusetts to have alleged to this House that her citizens were aggrieved. It had been said that the title to this land might be tried; but, he said, a law, passed last session, had taken away all right which an individual could have to enter upon the land, and try his title to it; this was known to the Legislature at the time, and was the reason why they had referred the subject to this body, that the House might consider whether this law was Constitutional or not. So that, although the Legislature of Massachusetts had not specifically stated in their memorial, that any Constitutional right had been denied, every one knew that a law of this kind had been passed infringing the rights of some of her citizens.

With respect to the allegations of fraud and corruption, and the hints thrown out, that the Legislature of Massachusetts were at this time patronising fraud, he felt for the gentlemen who made it rather compassion than anything else. The House very well knew that the gentlemen were placed in a situation very unfortunate for a clear conception of this subject; because they were under the influence of passion prevailing in that State on a subject on which honest and wise men might well doubt. If it were true that there was original corruption, the Legislature of Massachusetts knew not of it; if there was not corruption, the assertion fell, of course.

It was peculiarly important that this subject should be treated with some degree of attention. It was unquestionably the prevalent opinion in Massachusetts, on this subject, which had excited so much attention, and in which the people felt an unusual interest, that some mode of law or equity could be devised, by which justice, in some shape, could be awarded to the claimants. This sentiment was universal, as far as he knew; and it was well known that those gentlemen who originally brought this land for sale into the Northern States were gentlemen from the Southward; and the petitioners rested their claim upon the foundation that, at the time they purchased these lands, they were ignorant of any corruption or fraud with which the claim was connected.

It had not been his intention to have spoken on this subject, but that it had appeared to him, after what had fallen from the gentleman from Georgia, it became his duty to urge to the House the propriety of paying such attention to the memorial of the State of Massachusetts, by a reference, as was due to every petition; after which, the memorial might be considered, on such principles as justice and policy might dictate.

Mr. MACON, himself, had no objection to the reference of the petition. The feelings of the people of Massachusetts and Georgia ought alike to be considered. He had no objection to hear the claim discussed again and again, although he never should consent, so long as he possessed his common faculties, to compromise the claim, or give one cent to the claimants. The law was as much open to these people as any other in the United States; whenever the United States sold any part of it, they had a right to try their title to it by law. Notwithstanding this, he had no objection to commit the memorial to a Committee of the Whole; there needed no statement of facts on this question; they had been stated over and over again. He wished a commitment, not because he was favorable to the claim, but because he wished it to be investigated again and again. If he could be convinced that they had a just claim, he should vote in their favor.

With the gentleman from Pennsylvania, he regretted that anything should be thrown in to divide the House at this time. Unquestionably, this lay at the door of those who brought it forward, whom he did not mean to blame, for they had a right, and it might be their duty so to do. As to sending it to a select committee, he could not see any purpose to be answered by it. Committees had reported, and facts had been stated, almost every year, since 1796. What more was wanting? There was no dispute about the facts; he never heard anybody deny that the Legislature of Georgia, which passed the law, was corrupt; no person had denied it; and on this, the whole claim turned. That the Legislature of Georgia had been corrupted, and that the corruption had spread into some of the large towns, he did believe. He should vote, as he stated before, for a commitment to a Committee of the Whole; although he should certainly have voted against its reference to any committee to report.

Mr. CROWNINSHIELD said he rose with reluctance at this time, and should not have risen at all, had not the debate taken the course which it had. The respectable State of Massachusetts, inferior to none in the Union, had asked of this body, respectfully, too, to hear and decide upon claims of her citizens; she had asked them to hear the petition of her citizens by a memorial which was unanimously agreed to by both branches of the Legislature, and this had been proposed to be rejected by two gentlemen from Georgia. Would any member from the State of Massachusetts have proposed this course with regard to a memorial from the State of Georgia? Surely not. He regretted that this business had been brought before the House at this crisis. Without giving an opinion in favor of or against the claim or prayer, he would rather have referred it to a standing committee, because, if referred to a Committee of

the Whole, it might be brought up to-day or to-morrow, and would agitate the public mind at this time. On the Philadelphia memorial, he had voted that it should lie on the table, and not for its rejection. He never would vote to reject a petition coming from a respectable portion of citizens at any time, when couched in decent and respectful language. Some gentlemen had gone into the merits of the question, which was improper at this time; but as it had been touched, he would observe, that the Legislature of Georgia, in the year 1795, agreed to sell a portion of her territory to a portion of her citizens—corruptly it was said. In 1797, a succeeding Legislature declared the act of their predecessors null and void. Mr. C. did not object to this; in doing it they had exercised a sovereign authority and their right. Another Legislature authorized Commissioners to compromise the claim; before which could take place the land was ceded to the United States. If a compromise had been contemplated by Georgia, would it be dishonorable in the United States to allow these claims? He did not wish to say a single word on the merits of this claim, whether it was just or unjust; but the fraud was not in Massachusetts. If fraud had existed in the transaction, it was elsewhere. The speculation did not originate in Boston, or in any part of Massachusetts, but at a greater distance. The agents of the Georgia Association came into Massachusetts with their deed of cession in their hands. The citizens of Massachusetts believed the title to be good—they purchased, and were deceived. They lost a million of dollars, and those who could not pay were sent to jail. Such was the case in Massachusetts. The purchasers were, he believed, all ignorant of the fraud; possibly some might have known it, and therefore he would be perfectly willing to say by a compromise that no person directly or indirectly concerned in the original fraud should share any portion of these five millions of acres.

Mr. C. asked pardon of the House for deviating from the course which he had proposed to himself when he rose. He did not mean to enter into a discussion; it was an unpleasant theme, and had ever produced great irritation. One expression, however, had been dropped, which he could not agree to—that this subject had been the cause of a schism in the Republican party. Mr. C. said he knew of no such schism. He had been a member of this House for four years, and had never heard that this subject was a cause of division in the Republican party; it never had been so considered, and he hoped it would not now. Are we not here, said he, legislating on a subject which cannot affect the politics of the nation? We stand on equal grounds as members of the Union of these States; let us act honorably towards each other, and not attribute to one another improper bias. I pledge myself that I never will willingly, and hope if I do I shall be ready to retract, descend to personality within these walls. For God's sake let us unite. Let no consideration divide us on the great subject which brought us together. Let the Yazoo speculation sleep. Let it lie on the table, or take it up and instantly decide it. The House will never hear a murmur of discontent from me if the petition be rejected. Let us do nothing which shall wound the feelings of any gentleman present. Let us do all we can for the good of our country. The crisis is perilous. We are threatened with war, and I fear we shall have it unless we rally round our rights, and let no consideration sever us!

Mr. LIVERMORE did not conceive that this was a question which ought to excite any animosity; neither did he understand what was said about a schism among the Republicans. All he knew was, that these memorialists were many of them of different politics from himself, and that the Legislature differed with him in political sentiments; but why that should be any reason for opposing this claim, or for treating it with disrespect, was to him inexplicable. As to the real merits of the question now before the House, whether this should go to a Committee of the Whole House or to some other committee, it was very evident that a respect was due to the memorialists and to the sovereignty of a State. There was another suggestion which merited some reply—that this was a claim founded in fraud. He apprehended that the gentleman from Georgia had not an idea that the present petitioners had any connexion with fraud. Mr. L. said he had heard a great deal of fraudulent transactions in the Legislature of Georgia in relation to a certain act, which participation of fraud was receded from by a repeal of that act. He knew nothing of it from his own knowledge, merely having heard so; but that these gentlemen claimants were implicated in the fraud he did not know nor did he believe. Whether the claimants were Republicans, or called by a different name, he did not know; this was a plain matter of right, and the justice or injustice of the claim was the only consideration which should influence gentlemen in voting on this question. If he understood the motion now under consideration, it was for reference to a Committee of the Whole, to enter into a dispassionate investigation; and a most violent objection was made to this. Was there indeed so great an objection to the truth? Was it so terrific that they were afraid of it? For all that was required was, to hear arguments to show on which side the truth lay.

One word more. It had been said by a gentleman for whom he had a high respect, but who was perhaps not always right, that the Legislature had no right to send this memorial, though at the same time he allowed that it should be treated with respect. It had been said, also, that they were entitled to no more respect than if they had sent it as individuals. Mr. L. conceived that, whenever the Legislature of any State thought that any portion of their citizens were oppressed by any particular act of Congress, they had a right to express that sentiment. It was not now proposed to the House to grant the claim; all that was requested was, that the House should receive the petition and enter into a consideration of it. This was not the time to discuss the merits of the

claim. Had he conceived that a discussion was to have taken place, he should have come forward prepared for it.

Mr. Smilie said it was immaterial to him how this petition was committed; but he rose to give his opinion on a remark made by the gentleman from Virginia (Mr. Randolph) as to a schism in the Republican party. Mr. S. said he had known no schism in that party till the first session of the ninth Congress, and every gentleman who was then in Congress would testify to the truth of what he was about to say. This schism then arose in a discussion of the measures proper to be pursued by this nation in relation to Spain and in relation to Great Britain. This was its source; and in this case, said Mr. S., the party in Congress which is called Federal, thought differently from me, and some Republicans chose to think with them. This was the schism, and the only cause of it; and the Yazoo claim has never influenced a single vote for a member of any State Legislature or of Congress, that I have heard of.

Mr. Taylor said he was as decidedly opposed to the Yazoo claim as the gentleman from Georgia or any other gentleman could be; but he had laid it down as a general rule to vote for the reference of every petition, and he should abide by it.

Mr. Coon said that the impression on his mind was directly opposite to that expressed by the gentleman from S. Carolina, who had just sat down. He should vote for a reference because he was not acquainted with the merits of the question. He had been in favor of a reference at former sessions from the same cause, and he presumed that one-half of the members present were in the same situation with himself.

Mr. Alexander said he should give his decided negative to the reference, in any shape. This memorial from the Legislature requested the General Government to consider a claim from a particular set of men, which claim had been often before the House discussed over and over again. Therefore, in voting against a reference to any committee, he should not conceive himself as showing disrespect to the sovereignty of any State whatever. He would wish it to lie on the table; for, however disagreeable a petition might be, he had never heard of its being thrown under the table. He conceived that the claim derived no additional solemnity from the manner in which it was introduced, although he had as high a respect for the State of Massachusetts as for any State in the Union.

The question having been put on the reference of the memorial to a Committee of the Whole, was decided in the affirmative—yeas 71, nays 37, as follows:

Yeas—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Boyle, Peter Carlton, Ephaproditus Champion, John Chandler, Martin Chittenden, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, William Findley, Francis Gardner, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert, Jenkins, Richard M. Johnson, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Rea of Pennsylvania, Matthias Richards, John Russell, Ebenezer, Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and James Witherell.

Nays—Evan Alexander, Burwell Bassett, William W. Bibb, Thomas Blount, Robert Brown, William A. Burwell William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, John Dawson, Joseph Desha, Meshack Franklin, Barent Gardenier, Edwin Gray, David Holmes, Walter Jones, Thomas Kenan, Edward Lloyd, John Love, Josiah Masters, Nicholas R. Moore, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Randolph, Jacob Richards, Samuel Riker, Dennis Smelt, Samuel Smith, Richard Stanford, Abram Trigg, George M. Troup, Archibald Van Horne, Jesse Wharton, Alexander Wilson, and Richard Winn.

A motion was made by Mr. Newton, that it be the order of the day for the first of June next; and, on the question being put thereon, it passed in the negative.

Another motion was then made by Mr. Trigg, that it be the order of the day for the first of May next; and, the question being put thereupon, it passed in the negative—yeas 41, nays 66.

Another motion was then made by Mr. Milnor, and the question being put, that it be the order of the day for the second Monday in February next, it was resolved in the affirmative.

Tuesday, January 5.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gun-boats,'" with two amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act extending the right of suffrage in the Mississippi Territory, and for other purposes, with several amendments; to which they desire the concurrence of this House.

GENERAL WILKINSON.

Mr. Randolph said he was afraid that the motion which he made a few days ago, and which he wished yesterday to have considered, was not intended to be decided upon. When he had first made the motion, a very prevalent opinion seemed to exist, and it was expressed by one gentleman particularly, that he hoped it would be forthwith and unanimously agreed to; the same gentleman on the same day had moved to postpone its further consideration till yesterday; and yesterday its consideration was evaded. Mr. R. asked whether this could be considered as candid treatment?

He knew that it had been said, upon this floor that the right of the House to make such inquiry and enter upon such matters at all was extremely questionable. But, did not the Constitution of the United States enjoin upon its citizens that they should not accept of any title of nobility from any foreign Prince or Power? And did not the same Constitution enjoin that the persons holding authority under this Government should not accept of any present, even of a complimentary nature, from any foreign Prince or Power without the consent of Congress? And if persons holding high authority under this Government were found to be, or if there were reasonable ground on which to believe they were in the habit of receiving money unconstitutionally from foreign States, he would ask the House where this matter was to be taken up?

[The Speaker here interrupted Mr. R., declaring that he was out of order, as the subject was not yet before the House.]

The House now agreeing to take up the resolution for consideration, the Speaker stated that, when the subject was last considered, a motion had been made by Mr. Gardenier to refer it to a select committee, "with power to send for persons, papers," &c.; that a motion had also been made by Mr. Marion, and was now under consideration, to strike out the clause of the preceding motion, which is quoted, on which the yeas and nays had been required.

Mr. Lyon said, he was among the first who thought it proper to send the information presented to this House by the gentleman from Virginia, (Mr. Randolph) on this subject, to the President of the United States. He felt at that time neither delicacy nor repugnance in calling on the Executive to investigate the conduct of General Wilkinson; he then considered that a certain duty attached to him, which duty he was anxious to perform promptly, and without delay. It had been said, that the gentleman from Virginia ought to have sent the information he had given to the House to the President as soon as it came to his knowledge; but he had chosen to give this House the information, and to send it through that channel to the President, with the opinion of this House, of the necessity of an investigation. I felt, said Mr. L., that the same duty attached to me and to every member of this House, immediately on receiving this information, which some gentlemen seemed to consider to be the duty of the gentleman from Virginia, to send the information to the President. I was not at that time so anxious as to the manner of doing the thing as to act promptly. This business had been protracted by what he had considered unnecessary debate. He had yesterday received authentic information that General Wilkinson applied to the Executive for an inquiry into his official conduct in general terms, when he first arrived at the seat of Government; that he had repeated that application within a few days, and a court of inquiry was appointed to sit in a few days, who were empowered to examine and inquire into the conduct of the Commander-in-Chief of the Army, on as general principles as could be wished for. He was confident that, in directing and appointing this court, the Executive of this country had done its duty. He had confidence in the officers appointed. The information and the papers which had been read by the gentleman from Virginia, if he condescended to lay them on the Clerk's table, could be sent to that court; no doubt the court would call for this and every information and testimony in the power of that House, as well as from every other quarter.

All that he wished at the outset of this business was like to be effected without the original resolution, or any of the subsequent motions. He should, therefore, vote against the whole. He could not answer it to himself to call on the President of the United States to do a duty which he knew he had done. He wished, therefore, to get rid of this resolution altogether. The Executive were proceeding in the course of their duties. The House had business of the highest importance to the nation to attend to—legislative business. Let us, said he, proceed with our duties while the Executive are proceeding in theirs; in this way we will be best able to answer for our own conduct to our constituents.

Mr. Thomas hoped the gentleman who made the motion now under consideration, would withdraw it, in order to save time. The House could then disagree to the original motion for reference, and to the resolution.

Mr. George W. Campbell said, for his part, he considered the question now before them one of very considerable delicacy. He did conceive, when the House took up the examination of a new question, that they ought to examine whether or not they were going out of their province. He did not know that this House could act in any other capacity than legislative, except in the single instance of prosecuting in cases of impeachment, which power the House possessed; and when such a subject came before them, they could take such measures as they chose to procure evidence to support the charge which they might make; but he was not satisfied that, in any other case, the House could erect itself into a tribunal to collect evidence. He believed it was admitted that the present case was not cognizable by the House, as civil officers were alone impeachable by this body. Should they then appoint a committee to collect testimony relative to the conduct of any military officer? He would ask what use could be made of the testimony, when collected? He would ask what had the House to do with the commission of the crimes of murder or treason, or other crimes of which they had not cognizance? The House would go out of its province to collect evidence on any case in which it could not act. In collecting this evidence they would not act in a legislative capacity. If not acting in a legislative capacity, or on an impeachment, (the only other case in which they could act,) in what character did they act in appointing a committee to collect testimony? He did hope that the House would not erect a new principle; at the same time, he wished it to be distinctly understood, that he

was in favor of an inquiry, as much as any man in the House. Gentlemen had taken the liberty to express their impressions on this subject; he did not feel himself at liberty to express his opinion. It would not be said that he had any particular partiality to that officer; but, at the same time, would not do anything to exclude a fair and impartial investigation of his character.

If evidence on this subject were laid before the House, they might, in his view, with propriety, order that evidence to be transmitted to the Executive department. In doing this they would do their duty; and, by doing it, would sufficiently express an opinion not only that an inquiry was necessary, but that the proper department would make it. He could not conceive that it was proper for them to give, in this manner, a specific direction to the President; because it would be saying that they thought it was necessary to stimulate him to do his duty. It was understood that the evidence which had been adduced in this case had not been laid before the court or grand jury at Richmond, and that the Executive had not possessed it; there was no reason, therefore, to believe that the Executive had neglected its duty; and it would be going too far to tell the President that he should do his duty, when he had not neglected it. Had it appeared that he had neglected his duty, it might have become a question whether the House should express an opinion as to the propriety or necessity of an inquiry. If the House should, even after discovering that the proper department had been negligent of its duty, express an opinion as to the necessity of an inquiry, they would, in his view, go full as far as (if not farther than) they could be constitutionally warranted in going. He would not say whether such an opinion should or should not be expressed; but till some reason were shown to justify an opinion that the proper department had been deficient in its duty, he could not see the propriety of the House taking any step to stimulate it to an inquiry.

It had already been said that a court of inquiry had been appointed. Were that the case, and he did not doubt the fact, it would seem to him altogether improper for the House to act on this subject at present, if they had the power. He did think it important that the House should keep strictly within the pale of its jurisdiction, and act within its Constitutional province; for the Constitution had provided limits to this House as well as to other departments of Government. He conceived they had no more right to infringe on the province of the Executive in its executive capacity, than the Executive had to interfere with the Legislature; each should keep within its proper sphere; and, from all the consideration he had given this motion, he could not perceive any authority in the possession of the House to give a direction to the Executive on the subject.

The only ground on which they could even send papers to the Executive on this occasion was, that the Constitution did prohibit any officer of the United States from receiving a sum of money from any foreign Prince or Power. Now, as the evidence which had been read to them did appear calculated to prove that a sum of money had been received by the officer who was the subject of this resolution, he thought it would be perfectly proper to send the evidence. He would again state, and wished it to be distinctly understood, that he was one of the last who would prevent a full investigation on this subject; he wished it was in his power to hasten it, but it was not. He had always conceived that an examination of this kind was essential to establish the character of the officer involved, and to say that he was or was not worthy of his trust; and he had supposed and did still believe, that it had been hitherto withheld only from the effects which it might have upon other trials now pending. Being of this opinion, if the gentleman from Virginia would put the House in possession of the papers, he would move the following order:

"*Ordered*, That the documents laid before this House relative to the conduct of General James Wilkinson be transmitted to the Executive of the United States."

With respect to the motion at present under consideration, he was certainly opposed to giving the power of collecting testimony to the committee, and to the reference to the committee proposed to be appointed; because such testimony could be of no more purpose than if three, five, or seven men out of doors had performed that duty; and because it would be going a step further than propriety would warrant, to give authority to a committee to collect testimony of which the House could make no use whatever. Under these impressions, he should vote for striking out these words, and trusted the modification which he had suggested would take place. The transmission of the papers would give to the public and to the Executive the opinion of the House as fully as if expressed in any other way, and might furnish the Executive with information which it did not now possess.

Mr. STANFORD said, this doctrine that mere resolutions of request to the Executive were unconstitutional was new, and one, indeed, to which he could not subscribe. He well recollected that, in the fifth Congress, perhaps the last session of it, a resolution was introduced, which gave rise to a famous debate, requesting the President to institute a new mission to France, the first having failed of success; and that then it was not opposed on the ground of Constitutional difficulty. A mere resolution of request was no exercise of authority. It had till now, he believed, been the practice of every session, and, to his recollection, had not before been scrupled as to its propriety. In the Constitution it was expressly provided that no person holding an office of profit or trust under the United States, should, without the consent of the Congress, accept of any emolument, or present from any King, Prince, or foreign State; and notwithstanding this provision, they were told that the commander of our army being a military and not a civil officer, it belonged solely to the Executive to take his own course with that class of officers. He thought otherwise, and that this clause of the Constitution fully warranted the inquiry contemplated on the part of this House, and that if it should be found that the officer in question had been in the receipt of large sums of money, as alleged, from a foreign State, and that without the consent of Congress, it was time the House felt some jealousy on the score of their own privileges, and that some step should be taken to check such encroachments. The alarm made, that they might seem to encroach by this inquiry upon the Executive functions, had once before, he recollected, been carried in a like extreme, and gave occasion to pass the noted law, called the Logan law, in order to guard those functions. He could see no reason why they should not be equally concerned for legislative prerogative, and take some step to guard them as well as Executive prerogative.

Mr. S. concluded by asking, if it would be in order to move a preamble by way of amendment, to the present motion?

The SPEAKER replied, that it would not, as the motion now under consideration was for reference.

Mr. MILNOR felt great doubts as to the propriety of proceeding on the resolution itself, and still greater of referring it, as was proposed, with power to send for persons and papers. If they were about to try General Wilkinson, if he was to be brought to the bar of the House, and his guilt or innocence was to be there determined, Mr. M. should be willing to appoint a committee to send for persons, papers, &c., to act as a grand jury, and inquire whether there were a sufficient degree of guilt to warrant a trial. But, as he believed the House had no right to call General Wilkinson before them, he had no idea of proceeding in this way to collect evidence when they had no authority to act upon it. It had been said that a court of inquiry had been called. Mr. M. had heard himself, and had reason to believe the information was correct, that an inquiry had been asked for, and ordered. If so, was it proper that the House should go into the subject? Was it right, when a court of inquiry was called, when every evidence would be sought for on this and every other charge brought before the court, that the House should endeavor, in an *ex parte* manner, to ascertain the guilt or innocence of any person about to be tried by the proper tribunal? It was extremely improper to go into any inquiry on the subject. If, when the gentleman from Virginia brought his resolution forward, he had laid the papers he had read on the table, he should have had no hesitation in voting that they should be transmitted to the Executive, and should have voted for a motion to that effect, because he believed that when any information came before the House with respect to the conduct of any officer, it should be laid before the proper authority. But a positive declaration of the House that inquest ought to be held on the conduct of any officer would convey to the public mind and to the court a strong impression of his guilt; and this would be giving an undue influence in an inquiry.

Believing that it would be improper in the House to investigate the subject, or to influence an inquiry by virtually saying that he believed General Wilkinson to be guilty, he hoped the present motion would be agreed to, and afterward that they would decide against the reference. He had no hesitation in saying, it would be improper to constitute any committee or court of inquiry on this subject, and under this impression should vote.

Mr. GARDENIER was somewhat surprised at the opposition which the motion he had made had met with, and was also surprised that the propriety of pursuing the course which he had recommended (to appoint a committee of investigation) had not struck gentlemen more forcibly than it had. He was therefore reduced to the necessity of stating the reasons which induced him to make the motion, and which now compelled him to persist in it. The charge brought against General Wilkinson was calculated not only to occupy the attention of the House, but of the whole American people. Whether they considered that he was an officer no less than Commander-in-Chief of the Army of the United States; whether they considered that department of Government by which he had hitherto been protected and cherished, no less than the Executive; whether they considered that this charge was no less than against a General or Commander-in-Chief for bargaining and selling himself, his army, and his country to a foreign or a hostile Power; whether they considered the time when this accusation was brought forward, a time when the destiny of the nation, its slavery on one hand and its liberty on the other, depended not on the capacity alone, but, dreadful to say, on the fidelity of the Commander-in-Chief; when they considered to whom this charge was submitted—to the grand inquest of the nation—that body whose duty it was to watch with unceasing vigilance the safety of the Commonwealth, to use the language of an ancient writer—*ne quid Respublica detrimenti capiat*—in whatever way they considered it, its decision required assuredly all the wisdom, all the patriotism, and, he would add, all the independence of this body.

The original resolution of the gentleman from Virginia had been met at its threshold by an objection, the more surprising as it proceeded from those who had hitherto affected an exclusive and almost hysteric jealousy of Executive power—to his mind an objection more to be execrated, as it struck at the very root of Republican Government; as it went to deprive those of the right of instituting an inquiry into the conduct of an officer, who possessed the right of impeaching the President himself, who appointed that officer. The lesser power was included in the greater. If they had power over the master of General Wilkinson; if they were master over the superior, they were master of the servant also. He could never reprobate in terms of sufficient abhorrence, the position assumed, that this House was the only body which could not lay a request before the President. When he had seen the President of the United States benignly receiving addresses

from the Legislatures of different States (he could not say with smiles) requesting him to extend his paternal and affectionate care over the country for another Constitutional period, from bodies who had no Constitutional power to make this request, he could not believe that the President would show less attention to a request from this body than he had shown a disposition to do to requests from the Legislatures of particular States.

On a question of this kind, he could not condescend to reason. It was too plain, palpable almost to the sense, that this inquiry was within the limits of their Constitutional power. There could be no question that the House possessed a right to lay a request before the President; a right which was possessed by the meanest individual in society. It only then remained for the House to determine whether they would act upon this subject, so important in every point of view—after a deaf ear had been turned to this accusation in the Palace, it remained for them to say whether they would suffer venality and corruption to run through this body unhurt. He hoped never to see that day when the House would so much disgrace itself as to refuse to do what became a duty. If documents submitted to the House by the gentleman from Virginia were authentic, if these documents spoke the truth, there could be no hesitation in saying that a continuance of General Wilkinson at the head of the American Army, was not only disgraceful to the nation, but inconsistent with its security. If it were true that the gentleman from Orleans Territory had it in his power to give evidence still more convincing than any that could be found in the documents which had been submitted by the gentleman from Virginia and Mr. G. had much reason to believe, and, indeed, had no doubt that the gentleman had it in his power, it would be proper to obtain that evidence; and if the course had been pursued as stated (and he did not question the fact) to institute a committee before the proceedings of the House had terminated on the subject, an inquiry to be carried on by persons possessing no such power as that now proposed to be delegated to a committee, (to send for persons, papers, &c.,) and if the gentleman from Orleans persisted in his word, as he always did, this inquiry would appear, if not intended, at least calculated to mislead. For, as he understood it, this committee, this board of officers, this trio of the President's, had not the power, if authorized to pursue the inquiry to the utmost extent that the nature of the case demanded, to enforce their process; they were a substitute for the reality, a mere make-believe. It was, therefore, that he was not to be taken in by this; it was, therefore, that he was bound to do his duty to his country by persisting in an investigation; that, at least, if he could not satisfy the Executive, he might satisfy the American people; for when its nature was known, the calamity would not be so great.

This disposition for inquiry seemed to be manifested on all sides of the House. They wished to ascertain, with unerring certainty, whether this charge was true or not. If the mode which they were now told, on what authority he did not know, was pursued by the Government; if that mode would not reach the object which was now aimed at, why refuse to delegate this power to a committee? This measure of appointing a court of inquiry was not communicated to the House officially, as it ought to be, in order to stop their proceedings, nor in such a way that they could place confidence in it; not meaning, at the same time, any disrespect to the gentleman from Kentucky, who stated the circumstance. It was sufficient for Mr. G., that such a court was not competent; and here he pledged himself, as upon a rock from which he would not be removed, that it was not in the power, if it was in the disposition, of the President, from his own authority, to go on with an inquiry of this sort, except the House gave him the authority on which to support it. He did not know whether the President had the power to compel the attendance of witnesses, except in cases of military matters and military men. How, then, was the evidence of the gentleman from Orleans to be got at? How, but by the intervention of the great Constitutional power of this House—the only way? If, then, those gentlemen were sincere, who wished to give General Wilkinson an opportunity of showing his innocence, or those who doubted it, and wished to have an opportunity of giving evidence of his guilt, the mode which he proposed was the only one; if not the only, assuredly the most proper way.

What was the accusation? Not for an overt act or crime; not for an offence committed in the face of day, or which was capable of open proof. The crime was secret, if committed at all. The very nature of the act, being done in secret, carefully avoiding public attention, acting with such precaution as not to permit his name to be written or spoken, required a particular mode of proceeding. There was no other mode which would give satisfaction to the people of this country than a candid, fair, impartial, and unprejudiced investigation. If General Wilkinson could walk, unhurt, through the flames of such an ordeal, he deserved the confidence of the people; if not, it became the duty of the House to inquire further.

It had been said by some, that the papers read by the gentleman from Virginia, should be sent to the Executive; but nothing had been said about the gentleman from Orleans. He would ask the gentleman from Tennessee, why would he send these papers to the Executive? As what? He should suppose, as evidence which the President was to communicate to the board of inquiry which had been instituted. If the gentleman considered it proper, that any evidence should be sent, why not send the whole of the evidence, which it was in the power of this House to acquire? If they sent any, why not send all? And if they would send all, why not take measures, without which they could not procure it? It did strike him, that the thing admitted of no other course; that, if they sent any, they should send the whole. He would, in this case particularly, if there were the most distant prospect of being

able to accomplish the object sought for, place before the President such evidence as could not be resisted.

The gentleman from Tennessee was pleased to remark, that the House had no more business with this inquiry, than the President of the United States had to recommend any act which exclusively pertained to the House of Representatives of the United States. He did not know what he might call the peculiar province of the President; but he knew that it was the peculiar province of the House of Representatives to originate impeachments, and yet, he had seen in the Message from the President to the House, an implied recommendation to them on that subject. He did not object to this; he thought the different branches of Government did well to sustain each other in all events. The President, said he, has given us an evidence that he thinks himself competent to advise us; and I really wish to be equally civil, and return him the compliment; to show him that we can advise him, and give him the means of acting efficiently. It was in this way that the House would effectually perform its duty. He wanted no half measures; they had appropriated money for half-fortification this session; he wanted no half-way inquiry into the conduct of the Commander-in-Chief, for this half-way business would not answer.

The power of the House to do this was unquestioned; it had exercised that power in a variety of cases. The only question was, whether this was one of those cases in which the House should exercise that power? Was this the only mode in which they could convict General Wilkinson, if he was guilty, or satisfy the community of his innocence, if he were not guilty? If this were the case, he thought friends and enemies should take this plain course; this was the object, and the only object, they ought to pursue. Mr. G. was not influenced by any personal dislike to General Wilkinson, for he had no acquaintance with, or knowledge of him. General Wilkinson had never injured him, or any of his connexions or friends; and he felt himself, therefore, free to decide; but he should illy discharge his duty to his country, if, on an occasion like the present, he did not advocate the most effectual means for an inquiry. He should express, on all occasions, what was his opinion, and he would say that the present case was a test of the impartiality of the House. If, notwithstanding party attachments, and deference to the Executive, the House should exercise that impartiality which should, of right, attach to them, he should have hopes of the salvation of his country. It was here, within these walls, that the fate of the country was to be decided; it was here, that corruption was to be arrested and exposed; if not here, he was afraid, no where.

He was more desirous of seeing this inquiry take the proper course, from events which had recently taken place, in which this officer had been charged with violating the Constitution of the country. The bleeding charter of our rights, and the oppression of our citizens, had, long ago, called upon the House for interference. If the Constitution was for no purpose, were paper-works, which a military officer could, with impunity, trample under foot, it was time the people should know it, that they might submit. But when he found in the Declaration of Independence, that, among the causes of our separation from the mother country, were these: "He has affected to render the military independent of, and superior to, the civil power;" he has given his assent "for transporting beyond the seas, to be tried for pretended offences;" that these, among others, were assigned as reasons for destroying the political bonds of society, as sufficient reasons for throwing off our allegiance; when he had seen, not a great and powerful Government committing these enormities, but a mere military commander committing them with impunity; when the spirit of the nation was so base as not to cry out with unceasing sensibility at these violations of its rights; when he saw this, he was disposed to think that the officer would not be too much injured by an inquiry into this particular charge, which was, to say the least of it, important. On consulting the Constitution, he found that the people of the United States were not sufficiently contented with the original articles of the Constitution, but other articles had been added, in which it was declared that no person should be deprived of life, liberty, or property, without due process of law; a right which one would think did not require the sanction of a Constitution to secure it. This right, which the people had so sedulously guarded as to include it in an additional article, had been violated, wantonly and without occasion. He wanted no evidence of this; it had been done at noonday, before the whole American people. He must himself express his astonishment that, after conduct of this sort, the person who had dared to commit these acts, had been suffered to exist as a military commander; and he conceived that he who had suffered him to do these things in a country of civil law, was scarcely less culpable than the offender. He expressed his surprise that, at this day, it was necessary to institute the inquiry now proposed. When was the cup of guilt to be full? When was the wounded Constitution of the country to receive its balm? He would not have it, in this case, understood that he believed the Executive had gone through with the whole business; he believed it would have been content if the effect alone of certain measures had been produced, without the means which were employed.

Would ever a case exist, in which a military commander would not render himself independent if he could? Would a case exist in which he could not find a pretence? They had seen the Emperor of France go forward, step by step, and had he ever been at a loss for plausible pretences? No, nor ever would be. A nation which submitted to the first violation was ruined forever. Let us, said he, once become familiar with the violation of our national honor, and we are familiar with it forever—if we ever suffered the Constitution to be invaded, more particularly by a mili-

tary power. Those military gentlemen who acted in their proper sphere, protecting and fighting for their country, should have his zealous support as long as their conduct was proper. He wished they might gather laurels in profusion; he wished they might be well provided for; and at the present crisis he would go so far as to say, that better provision ought to be made for their support than they receive at present. But, whenever they went out of the line of their duty; whenever they violated the Constitution of the country, which it was their duty to defend, they would become the foe of every honest man. He was persuaded that but few of our officers were entitled to this appellation.

Upon the whole, he thought that every gentleman on the floor was satisfied that the nation demanded that an effectual inquiry should be instituted; that even they who apologized for the conduct of this officer could not rest satisfied, unless an opportunity was given to inquire. As a member of the Grand Inquest of the nation, he could say that he had seen enough to induce him to enter his vote in favor of the propriety of effectually inquiring. The people were now arrived at that point where they could neither turn to the right nor the left. If an inquiry were had, the Commander-in-Chief of the Army of the United States on one hand might have the confidence of the people, or, on the other, the Army would be governed by a man of more fidelity and integrity.

Mr. HOLLAND wished to be indulged with a very few remarks on this subject. It appeared to be completely admitted by gentlemen who had spoken on the subject, that this House had not the power to try the offence charged. But, although this point was given up, they were asked to enable the Executive to try General Wilkinson—to procure testimony for the President, to enable him to convict that officer, and asked to send for persons and papers for that purpose. The gentleman last up had told them that this was the only way in which they could convict General Wilkinson; that he knew of no other way, and was solicitous at all events to convict him. Mr. H. said it was honest in him to state his designs so candidly. It appeared that the gentleman wished an inquiry into the conduct of General Wilkinson; that he thought it was high time to make an inquiry, lest he should overwhelm the country and drive everything before him; and the greatest fault he found with his conduct, was in taking into custody Swartwout and Bollman, Colonel Burr and others, and not paying due regard to the constituted authorities of the country. If the gentleman's feelings were so exceedingly excited by this, Mr. H. did not participate in them.—General Wilkinson had acknowledged that he had been, and still was, responsible to the civil authority. Let those gentlemen whose individual rights had been injured apply to courts of justice, to the civil authority, and if General Wilkinson could not answer for his conduct, damages would be awarded against him. The law of the country was competent to punish every offence wherever the laws had been violated. Under this belief he thought it was not now necessary to take up this inquiry for his civil conduct. If he had acted improperly as a military officer, he was answerable to military courts, or to the Executive. And was it necessary to take this measure to enable a military court to examine into the conduct of General Wilkinson on this occasion? Why inquire into the business? Because the laws were not competent? Were there no laws which would operate on the case? It was not pretended to say that the testimony to be procured was to be a ground on which to fix a law. If it were, he should not object to it. Let us examine our laws, said he, and if they are not competent to punish offences, such as that charged, let us amend them.

Gentlemen talked much of the strong evidence adduced to the House. Mr. H. had examined the evidence, and it was not of that kind entitled to credit—certainly not stronger evidence than that produced to the court at Richmond against the conspirators. And what had resulted from that testimony? Those persons charged with conspiracy had been discharged from the court, who had paid no respect to the evidence, and set at liberty the persons accused. If what had been read could be called evidence, it was, to say the best of it, very vague. A paper had been produced (he could not say what it contained, for it was not in his possession,) said to be a translation of a Spanish letter. Had the translation been sworn to? Had the person who certified it been sworn? He believed not; if not, the evidence it contained, if any, was neither valid nor legal. How did it come into the House? How was it brought here? They knew not how it was procured or how it was brought forward.

With respect to the evidence of Power, it was not entitled to credit. He had certified one way, and he had certified the other; it was Power *versus* Power; by one certificate he had done away another. The House were surely not prepared upon this testimony to enter into a measure of this kind—to ask the President of the United States, if, indeed, it were in their power to do it, to make an inquiry. It would not be said that this testimony was of any force. True it was that a clamor had been raised throughout the Union on the subject; and there was a time when Mr. H. himself thought that officer and the whole army were corrupted—that the conspiracy had proceeded farther than it had--but, thank God! he had been convinced of his error. It was to be supposed that those concerned in the conspiracy would endeavor to prosecute Wilkinson, and that those connected would endeavor to throw an odium upon him. Be that as it might, the House should not inquire, except they possessed authority to do it. Certainly this case was not similar to that quoted of an inquiry into the conduct of General St. Clair; for that was not grounded on any specific charge.

It certainly was a general principle, that where a power did not exist to consummate a trial, to prosecute it to a final end, the power of prosecution did not exist at all; it therefore followed that the power of inquiring into this subject did not

exist in this House. Was it then proper that they should neglect former cases to form a precedent which would not be correct? Each department of the Government should exercise its own functions; and the moment the House commenced an inquiry of this kind they travelled out of their course, and showed that they had not that confidence which they ought to have in that department of Government competent to try the case. Why, then, proceed in this business? Certainly whatever the intention might be, it would have an improper effect on the trial of that officer. The House sending a resolution to the proper department requesting it to try a certain officer, operated as the opinion of the Legislature on his guilt. Could it be possible that a person thus treated could have a fair trial? He should doubt the justice of a trial conducted by persons thus directed; the proper authority should remain unbiassed and unprejudiced by such an influence as the passage of this resolution would operate. He was in hopes that the honorable gentleman who brought forward this motion would have withdrawn it when he had cooled, and as the gentleman had stated that he had gained his object. [Mr. RANDOLPH explained that his expression had been that one object was gained.] The gentleman then had obtained one object, probably the only object he intended—certainly the most valuable purpose he had in view.

Gentlemen who advocated this motion ought to show to the House that they had power to proceed in this way; that the existing authority of this country was not competent to try this officer. But they had not shown it; and they had certainly shown a disposition to do it if they could. He considered such a measure as this calculated to injure the officer, and in whatever point he viewed it as an improper measure. Had the gentleman from Virginia laid the evidence on the table, he would certainly have agreed to transmit these papers to the proper tribunal; which would have been sufficient notice of them—more perhaps than they deserved.

Mr. SLOAN said, he rose with an intention, and for the purpose of making some observations on what had fallen from the gentleman from New York (Mr. GARDENIER) whom he did not now see in his place, but if he was within the walls he should be glad to know. He had intended in the first place to have acknowledged and expressed, in his plain way, his gratitude to the gentleman for his endeavors to enlighten the House, and this he should have endeavored to do in a very few words. This member had expresssed his extreme surprise that the motion which he had offered on a former day had not been more adverted to by the members of the House; he should have recollected that every member of the House was not endued with the same sagacity and penetrating genius which he so abundantly possessed. But permit me to say, said Mr. S., that I was not less surprised than the gentleman could be, that the first move made this morning was not (under existing circumstances) to withdraw the resolution. It was a fact known and believed by every member on the floor, that the proper authority had undertaken to investigate the object of the resolution. Under a consideration and from a full conviction that this House was not the proper tribunal to try this case, his surprise and disappointment had surpassed that expressed by the member from New York, that the subject had not been taken up yesterday morning. Mr. S. said he was then prepared to have made a pretty lengthy speech, the notes for which he now held in his hand; but the House had been taken up the whole day in discussing what course they should give to a certain (Yazoo) memorial. In the course of that debate he had been much instructed by the member from Vermont, (Mr. ELLIOT,) being warned of the taking the bull by the horns, and also something about a club and Hercules; although these expressions were somewhat obscure, they had raised some sensation in his mind, and induced him to think he had better be cautious how he made speeches on that floor; he had therefore concluded not to make this long speech which he had digested and prepared.

But, before he sat down, he would say, that being privy to certain circumstances, although he had no right to speak of them, he had certainly a right to think; and he should state what thoughts this resolution produced in his mind. Knowing, as no doubt every member of the House did, of what had lately turned up between certain great men, it brought to his mind a circumstance which might be thought simple, but he hoped he might be permitted to introduce a simile. When he went to school in his youthful days he had seen little affrays turn up between the boys; and he had known those who were likely to get the worst of the bargain, cry out, "I'll tell daddy or mammy; I'll tell my master." This struck Mr. S. very forcibly as applicable to the present case.

He would not detain the House much longer, but barely observe, that he hoped the amendment would be rejected; and after that, that the resolution itself would be rejected with all the contempt which it deserved.

Mr. ELLIOT.—I am opposed to the amendment proposed to the motion of the gentleman from New York, and to the motion itself; and shall probably be opposed to any amendment that may be offered to the original resolution. All this for the best of all possible reasons, because I am in favor of the original proposition in its original form.

Had I not long since resolved to adopt, as a political man, the motto, *nil admirari*, I should regard with some degree of admiration, if not of astonishment, the extreme squeamishness which is manifested by some gentlemen respecting an invasion of Executive functions, which they apprehend will be involved in the adoption of the resolution, and the very curious arguments which are advanced to support the position. But admiration and astonishment ought not to be excited by any political events or opinions of the present day.

It is to be regretted, that the gentleman from

New York (Mr. GARDENIER) has suffered himself to wander into so wide a field of eloquent declamation, respecting the celebrated campaign of the officer who is the object of the present resolution, against what have been called the Burrites at New Orleans. I regret it, sir, because I wished argument, and argument alone, to be used upon the present occasion. Still, whenever an opportunity is fairly offered for the expression of an opinion upon that subject, I shall not hesitate for a moment to express that which it has been my lot to form. It was a horrible, though bloodless campaign! And I believe, the continuance in the command of the army of the United States, in the chief command, subordinate to the President, who is the constitutional Commander-in-chief of our armies, of that officer, since that period, has placed a disgraceful stain upon the early annals of our new Western world, which the annual inundations of the Mississippi, were they increased to the magnitude and duration of those of the Nile, could not efface in a century.

Few members, perhaps none, have expressed any doubts of the propriety of the measure, if we possess the Constitutional power to adopt it. But as many serious doubts are entertained of its constitutionality, it may be proper to go into an argument with a view to dissipate those doubts.

It is triumphantly asked, from what Constitutional source do you derive this power? Here it is but fair to meet gentlemen on their own ground, and admit that if we cannot find in the Constitution authority for the measure, they may very properly inquire, *quo warranto?* By what warrant do you attempt its exercise? To answer the inquiry, as it is certain that the Constitution has not, in express terms, given us authority to adopt this particular measure, let us take a cool review of the whole of our Constitutional powers.

To me it appears that three classes of powers are bestowed upon us by the Constitution. Two of them by express terms of investiture, and the third by inevitable implication.

The first is the great and comprehensive class of legislative powers, properly so called; powers given to us as one of the branches of the National Legislature, and in that character alone.

Our warrant for the exericse of these all important and all comprehensive powers, while we confine ourselves within the proper orbit of legislation, exists in the first section of the first article of the Constitution. "All legislative powers here-'in granted, shall be vested in a Congress of the 'United States, which shall consist of a Senate 'and House of Representatatives." These are the initial words of the Constitution. They describe no specific powers. They merely invest the general power of legislation. They refer us to other parts of the Constitution for the delineation of the particular attributes of the legislative character. They attach these attributes to us in common with the Senate. They give us no distinct and independent powers. Nor does any other clause of the Constitution, in distinct terms, vest in us the power for which we now contend.

The second class of powers is given to us, rather as a distinct and independent assemblage of individuals, than as a component branch of the National Legislature.

These are not powers, strictly speaking of a Legislative character, but powers with which we are invested for the purposes of our own organization, government, and discipline, as an independent political body. Such as the power to choose our Speaker and other officers; to judge of the elections and qualifications of our own members; to adjourn; to compel the attendance of absent members; to expel a member; to establish rules of proceeding; and to keep and publish journals.

Before I proceed to the third class of our Constitutional attributes I will just notice two eccentric or anomalous authorities with which the House of Representatives is invested by the Constitution, and which complete the circle of our political functions. We have the sole power of impeachment. As it respects the exercise of that power, we are divested of our Legislative character, and transformed into the great inquest of the nation. In certain cases we become the electors of the President. We then again lose our Legislative character, and are changed into an electoral body.

The third class of our Constitutional powers, and it is by no means an unimportant one, although it is not given to us in express terms, is essential to our political existence. I speak of those which, by an irresistible and incontestable implication, are bestowed as incidental to those which are specifically vested by the Constitution.

This incidental authority must of course be extensive and important. While it is our duty to cherish and sustain this great and plenteous source of power, we ought cautiously to govern ourselves by the true spirit and genius of the Constitution. Here great discretion is required, because here arises that danger of usurpation with which gentlemen are alarmed on the present occasion. Yet the existence of incidental power is questioned by none. By this alone are we authorized to pass resolutions calling upon the Executive for information; a practice coeval with the Government itself. Gentlemen will say that we then act in our legislative capacity. But they are mistaken. The Legislative power is the power of making laws. We only act as legislators, when we discuss among ourselves the project of a law, or act upon one received from the Senate. The information which we ask may or may not be given by the Executive. It is true that it is his Constitutional duty to give us information from time to time; but at what time and in what manner is left to his own discretion. Where we have no coercive we have no legislative authority. The information, if it be obtained, may or may not be such as to require or even to induce us to act legislatively. If then we possess this power of calling upon the Executive for information and it has long been settled, by a practical construction of the Constitution, that we do possess it, it is in our possession as incident not only to the actual but to the potential exercise of the general functions of legislation.

But an important distinction is taken, and one which would be conclusive, if it would bear examination. It is, however, a nominal rather than a real distinction. It is admitted that we may call upon the Executive for information, but it is said that we now propose to call upon him to perform his duty, in a case exclusively within his own Constitutional jurisdiction. It is just so in every case of a call for information. It is his duty to give us information, but in his own time and his own way. Calling upon him to communicate to us information, upon any subject whatever, we call upon him to perform a duty which the Constitution authorizes him to perform when and how he pleases. In every instance we may or may not legislate in consequence of what we obtain, and we do not legislate in the act of asking for it. We cannot coerce the communication, we cannot even demand it, we can only request it. We ask the President to do his duty in the one case as well as in the other. But it is said that as we cannot impeach a military officer, as the President alone can remove him, we can neither ask for his removal, or for an inquiry into his conduct. It seems to me to be considering rather too curiously to consider so. The fact is, that we propose to request an inquiry, for the very purpose of obtaining information, and for that purpose alone; and, as in every other case, the information, when obtained, may induce us to act in our Legislative capacity. Here it is proper to call the attention of the House to the clause of the Constitution which was read this morning by the honorable mover of the resolution. "No title of nobility shall be 'granted by the United States: and no person holding any office of profit or trust under them, shall, 'without the consent of the Congress, accept of any 'present, emolument, office, or title of any kind 'whatever, from any King, Prince, or foreign 'State." Can any one doubt our power to pass a law for the purpose of giving effect to this great and prominent provision of the Constitution? We cannot legislate upon the subject *ex post facto;* we cannot provide for the punishment of an infraction of this article which has already taken place, but we can guard against such an infraction in future. It is said that your Commander-in-chief has long been the pensioner of a foreign Power. We only wish that his innocence may be established or his guilt developed. If the development of his guilt should be the result of the proposed inquiry, if he should be proved to have been the great infractor of the Constitution, what more powerful argument could be urged to the members of the National Legislature, to induce them to pass a law to prevent or punish such treacherous conduct in future?

Some gentlemen who appear to doubt our power to pass the resolution, declare that the information which we possess upon the subject ought to be transmitted to the President, and that they will vote for its transmission. How is this to be done? Will the Speaker or the Clerk transmit it without the order of the House? It may be presumed not. The House, then, must act upon the subject. And surely it will be more proper and dignified to request the President to do a certain act, than to hint to him that we expect him to do it. And our right is the same in one case as in the other.

To this point then the coast is clear. We only ask for information, and we have a right so to ask. But we shall be told that we are begging the question, and that the great difficulty which exists in the case still recurs upon us. "You propose to call upon the President to do his duty. One branch of the Government has no right to make such a call upon another." Upon this point alone I should be willing to rest the decision. Has not one branch of the Government a right to make a request to another? What forbids it? The right is certainly not expressly given. But if it be not forbidden by any part of the Constitution; if it be not reserved to the States, the people, or any power on earth; if it be naturally incident to the intelligent and proper exercise of the great powers actually vested; and if it has long been declared to exist by a practical construction of the Constitution; the exercise of such a right is at least harmless, and of course neither unconstitutional nor extra-constitutional. From the course which I have thought it my duty to pursue, not only in the present session, but on former occasions, I shall not be suspected of possessing an overweening confidence in the Executive; but I will venture to say that the Executive will feel none of that squeamishness upon this subject, which is manifested here. Whatever may be my opinion as to particular measures of the Executive, I have too much confidence in his good sense and patriotism, to believe that he will object to a compliance with our request. If, indeed, he shall be of opinion that we are invading or usurping the proper province of Executive prerogative, it will be his duty to tell us so. But this, I presume is not apprehended by any one.

I have confined myself closely to the question. The view which I have taken of the subject occurred to me after the debate commenced this morning. I feel a real, not an affected diffidence, in my powers of argument upon this or any other subject. I cannot hope to convince—I will not say the members of this House, for the remark would imply that they are inattentive to my observations—any assembly of intelligent men whatever. But when doubts arise upon a great Constitutional question it is proper for every one to throw in his mite with a view to dispel those doubts. This has been done. If any good effect has been produced, it is very well; if not, I have done my duty.

Mr. DANA said it was not strange, that upon a subject that was as greatly interesting to the people of the United States as this—upon a subject that went seriously to affect the character of the commanding officer of the Army, that gentlemen should entertain a difference of sentiment as to the best course proper to be pursued. There seemed to be but one opinion as respected the general charge, that it merited serious attention in some way and in some form. It concerned the character of the officer himself, if innocent,

that an inquiry should be had, as well as it concerned the people and the nation if he were guilty. In the situation in which he was now placed, and feeling as he did, how much the reputation of a military officer was his best estate, Mr. D. thought it necessary to exercise peculiar discretion, and not (though other gentlemen appeared to think differently) to express any opinion on the innocence or guilt of this officer. If there were information before the House which might give a full knowledge of the facts he would wish it should be so disposed of as to meet a fair inquiry; and could wish also that the Delegate from Orleans should be called upon to declare what he knew of the acceptance by this officer of any money, or of the project or agreement of any persons to dismember the Union, or to render it dependent on any foreign Power; and for this reason, that this gentleman, received as a member of this House, though not having the privilege of voting, enjoyed every other privilege of members of the House, being entrusted with the discharge of high public functions and amenable to the authority of the House; and that the privilege of this House must be deemed precedent and paramount to the authority of any court martial or court of inquiry. Although this was his general opinion on the subject, he doubted very much the propriety of adopting the motion of the gentleman from New York for the appointment of an authorized committee. If the House had resolved to appoint a committee of inquiry which should directly investigate the conduct of any officer, it would be proper to arm such committee with the power of sending for persons, papers, &c. As he now understood the object of the present resolution, it was merely to appoint a committee to inquire whether the House should adopt a particular resolution requesting an inquiry, and was, therefore, different from a motion for inquiry. In the case of St. Clair, which had been quoted, the committee was appointed to inquire, and not to consider the propriety of inquiring; so that the case did not apply. It was very immaterial whether the amendment were agreed to or not; but as a motion had been made to amend it by striking out this part of it, he should give his vote in favor of the motion.

Mr. Fisk was opposed to the amendment and to the resolution; and was surprised at being so long detained on the subject this day, after being told that a court was already authorized to make the inquiry. This being the case, if no other end was to be attained than merely to throw light on the guilt or innocence of General Wilkinson, there was now no necessity for adopting the resolution. If no court were ordered, it would be proper to inquire whether it would be necessary to adopt the resolution. If there was no sufficient evidence before the House on which to ground the resolution, why should it be adopted? Was it to throw the additional weight of the House of Representatives into the scale? He presumed no gentleman in the House would acknowledge this object.

Mr. F. did not believe the House possessed the power to institute an inquiry. It did not follow that they possessed this power merely because the Constitution had not prohibited it to them; and the Constitution had certainly not given it to them. The gentleman from New York (Mr. Gardenier) had told them that if they could control the master, they had power over the servant. Mr. F. said this did not follow as a correct conclusion. The House could impeach the judges of the Supreme Court, but could not remove a clerk of the same court; they could delegate the power, but could not exercise it themselves. For what purpose should the inquiry be made? When made, could they effect any object by it? No. And why? Because the Constitution had reserved to this House a power to remove the superior officer, who alone could remove the inferior. If gentlemen thought fit to bring forward a resolution to inquire into the propriety of impeaching the superior officer, and showed cause for it, no objection could be made.

While gentlemen were so extremely careful to guard the Constitution from violation, he begged they would not trespass on it themselves; while they complained of a supposed breach of trust by a public officer, he hoped not to see it realized in this House. The Constitution had confined the power of the House within a certain limit; and when they exceeded that limit, they violated the Constitution.

The gentleman from New York had told the House he hoped what had been denied in the palace would not be refused here. Mr. F. asked what had been denied in the "palace." The gentleman from New Orleans had told them that the evidence did not relate to the subject, and that it was not sufficient for conviction of any person. The gentleman from New York had also stated that if the House transmitted this evidence to the President without referring it to a committee, they would be left in the same situation as they were now, because the gentleman from New Orleans would keep his word, as he always did. The gentleman from New Orleans might consider this as a compliment; Mr. F. was willing all the honor intended should attach to him, but he did not believe that gentleman was possessed of such principles; he did not believe any gentleman was so lost to the honor of his country as to suffer private pique to seal his lips when called upon to give evidence by any authority whose duty it was to inquire. Would the gentleman, indeed, decline in such a case? It was impossible that he could. Mr. F. could not have so contemptible an opinion of any gentleman whatsoever as to suppose that his love of country would not triumph over private animosity.

The same gentleman from New York had very emphatically asked, when would the cup of guilt be full? Mr. F. said, when gentlemen came forward to justify treason—when they attempted to paralyze all the exertions made to arrest such nefarious plans as those of the late conspiracy—then would the cup be full; then would the distraction of the country be complete.

But, the House were told, this officer had violated the Constitution. How had he violated the Constitution? In arresting traitors? And should traitors alone enjoy all the Constitutional rights? Mr. F. said this man also had rights. Let him have a fair inquiry. Why influence the public mind and blazon his guilt (if guilty) from this source? Why had not the prosecution been pursued in the courts of justice? Why had not this information been given to the President? Why was it brought to this House? Let it be brought forward properly. He believed when the evidence adduced was examined, it would not bear the light.

Mr. F. had no doubt that Burr and all his friends would rejoice that all the evidence against them should be arrested in any way; and whatever were the guilt or innocence of General Wilkinson, it would be proper that the thing should pursue the usual course. He could not see why this had been brought into the House, or why it was pursued and insisted on while an inquiry was progressing in the proper way. Believing this inquiry not to be within their Constitutional power, and no necessity to exist for it, if it were, he should give his vote against it in every stage of the business.

Mr. W. Alston said it was not his intention to detain the House one moment; he rose but with a view to state to the House that facts had been strangely misrepresented. When the gentleman from New Orleans had risen a few days ago, he had told the House that the information which he had meant to communicate, and which had been disregarded year after year, did not relate to this subject. And what was the language which had this day been held forth on the subject? "A deaf ear had been turned to the subject in the palace!" In order that he might be assured that this was an egregious error, Mr. A. said he had asked the gentleman from Orleans if he did not understand him correctly? I did understand him to say, said Mr. A., that his information did not particularly relate to this subject, and I understood him correctly: I wish it to be explicitly so stated to the House and to the nation.

Gentlemen who heard the observations this day made, would attribute to them that credit which they deserved. When was it that General Wilkinson became so obnoxious to a particular part of the community? Not till his exertions had saved the country from ruin—not till he had raised his hands against Burr and his associates. Look to his appointment to office some time ago, and to those who supported him; revert to the language they used at that day, and listen to their denunciation now—"Wilkinson had violated the Constitution—the Executive held him by the hand—his conduct was not inquired into—the Representatives of the nation were, therefore, called upon to do that duty which the Executive had neglected;" this was now the language of those who once cherished him. What could cause this wonderful change of sentiment?

The present question presented itself at every moment in a very different shape. If the object of it were merely to give to the Executive information which it did not now possess, no one would object to it. The gentleman from Connecticut (Mr. Dana) had told the House that the evidence of the gentleman from New Orleans ought to be commanded, and it could not be done but by the House—that the gentleman possessed all the privileges of a member of this House, and he doubted much whether his evidence could be procured in any other way. Would the evidence of the gentleman be taken down and delivered through the medium of newspapers as evidence for a committee of inquiry? This must be what the gentleman meant, although he cared very little whether the committee had power to inquire into it or not. Was the House in possession of any evidence whatever on this subject? Mr. A. said not. No evidence whatever had been laid on their table on this subject. There was before them a resolution on which they were called upon to decide. In making this decision had they before them any evidence on which to found their agreement to it? Let us get possession of the evidence, said he, and then the House may make a proper disposition of the resolution, and of the papers bearing on the subject, in their possession. If a court of inquiry had been ordered, was not that sufficient? Was not the purpose of the resolution thus answered? What other object was to be attained? He could see no other, except it were to give gentlemen an opportunity to arraign the conduct of the Executive, and exhaust their imagination in sheer invective. He could not for his soul see, after they were informed that an inquiry was ordered, why they should inquire further.

Mr. G. W. Campbell rose to answer a question of the gentleman from New York, for what purpose he would send these papers to the Executive? There were very few gentlemen in the House to whom an answer to such a question could be necessary. Was it as evidence that they were to be sent? Mr. C. had stated before, and he repeated it now, that it should not be sent as evidence, but as information which would enable the President to procure evidence. The papers read were not evidence. It must be well known to that gentleman, who Mr. C. believed was a legal character, that no extracts of letters, memorandums, &c., were evidence; they might however serve as an aid to procure evidence. Gentlemen inquired if he would send a part, why not the whole? Mr. C. would transmit to the proper authority all the information which might be in possession of the House, but would not take any steps for procuring more. It was perfectly within the power of any person to inform any tribunal that certain information was in possession of any member of this House, if it were wished to procure it.

Mr. C. did not agree that a court of inquiry did not possess the power of collecting evidence. He was of opinion that it was competent to call upon any person for information. The only doubt was, what might be the effect of its summons upon a member of this House? The practice in these cases had been for the House to give leave of ab-

sence to any member to give evidence, when it became necessary on any trial, and the House would not hesitate in this case to give it to the gentleman from Orleans; and leave being given, Mr. C. was convinced that the gentleman would not hesitate to attend and give his evidence. It was not consistent with the principles of justice that a court martial should not possess power to bring before them persons who possessed information on the subject under their consideration. If a doubt existed whether they could call on any other than military characters, the principle ought to be fixed one way or the other.

The case cited by the gentleman from New York of a Senator, had no relation whatever to the present subject, and was meant merely to show that the House had the right to clothe a committee with power to send for persons, papers, &c. The distinction which had been before taken, and which still applied, was this: that where the House had a right to examine and act on a subject, they might clothe a committee with this power. If the House possessed the right to use the evidence when they got it, he did not doubt their power to send for persons, papers, &c. But if the right to use it were not possessed by the House, the power to obtain it ceased.

It had been stated also by the gentleman that he could not sufficiently express his reprobation of the position taken by some gentlemen, that this House had not authority to direct the President to institute an inquiry. For himself, Mr. C. could not account for the opinions the gentleman entertained, or on what ground he could support them; for the gentleman had not deigned to examine into minutiæ, had told them he could not condescend to reason. Mr. C. conceived the gentleman had evinced, by his conduct, that the arguments in favor of a doctrine contrary to his own could not be met by fair argument.

The gentleman from Vermont (Mr. Elliot) had told them, because this power was not expressly denied, that the House possessed it. Now Mr. C. conceived that the House had no powers except such as were given to it by the Constitution, and that, when about to act on any case, they should look to that instrument as to a power of attorney from which they derived their authority, and unless they found it there, that they ought to stop and proceed no further in the object under their consideration. It was not pretended that this House could impeach a military officer, or that the Executive was bound by the instructions of the House on this subject; it was not a legislative act, nor intended to produce a law. It was in this view, that in his opinion, the House ought not to step out of its way to give directions to any part of the Government not immediately under its control.

He could assure that gentleman and all who heard him, that no man was more unwilling to obstruct an inquiry into the conduct of the Commander-in-Chief of the Army, or would go further than himself to promote it. It was wished for strongly in the country which he represented; but he was induced to believe the object was about to be accomplished by the only proper authority; indeed, that it was already in its progress. It seemed as if the gentleman on his right (Mr. Gardenier) depended entirely on the resolution for an inquiry. Mr. C. almost doubted his hearing of the gentleman's language, that since a deaf ear had been lent to information in the palace, they, the Representatives of the nation, ought not to be silent. It was important that facts should be correctly stated and correctly understood. There had not been heard in this House even an insinuation that this transaction had come to the knowledge of the Executive, or that the evidence adduced was known to that department. The contrary was stated; for it had been expressly stated that this evidence had neither been before the grand jury, or the court at Richmond. So far, then, from the Executive having had it in his power to avail himself of this evidence to inquire, it had never been in his possession or before him. Mr. C. had thus stated the manner in which he understood the matter, that false impressions might not go abroad.

Mr. Gardenier said that he never would, for his part, consent to the making such a request as that contemplated to the President, except he was well convinced that such an inquiry was necessary. Before, therefore, he would consent to adopt the main resolution, he would wish to put himself in possession of all evidence that was within his reach, to satisfy his own mind that the inquiry was necessary. If it were contended, however, that this resolution should not be adopted, on the ground that it was not necessary to make such a request, it followed that they must take some course or other to ascertain what was the real ground. How should they proceed in any other way than in that which he had proposed? The gentleman from New Orleans might be called upon to give evidence on this floor; but Mr. G. apprehended that this was not such a body as could properly receive oral evidence. It should be sent to a committee for that purpose; they might receive that evidence in form; it would then answer the best purpose, and would be obtained in the shortest way. It was for this reason that he had added to his motion the power to send for persons, papers, &c.

The gentleman from North Carolina (Mr. Alston) seemed to apprehend that Mr. G. had mistaken what had fallen from the gentleman from New Orleans on a former day. Mr. G. had stated that the Executive had turned a deaf ear. What did the gentleman from Orleans say? That he had it in his power to give testimony which would implicate General W., he did not deny, and what was the reason that he had not given this information to the House? Because he had before made application to the Executive to give information, not only with regard to this officer, but to others, and the President had turned a deaf ear to all; not only to this particular point, but to the whole. The gentleman's expression, "particularly," did not convey a meaning that this was not among the subjects, but that it was not exclusively the subject of his communication, being

included in the rest. Mr. G. so understood him, and the gentleman would correct him if he misunderstood him.

The gentleman from Tennessee (Mr. Campbell) had taken a distinction between evidence and information; the gentleman would send these papers not as evidence, but as information. Mr. G. would not enter into a grammatical contest as to the exact definition of the word information. If he would send these papers for informing the Executive (to use his own word) why not send other testimony, which was not upon paper? His argument or reasoning, if it amounted to anything, was equally applicable to one as to the other. As Mr. G. knew that they had means of acquiring more information than they possessed, and that that proposed to be acquired would be more to the point than what they had, he wished to send that also. He was not, however, tenacious of the particular form of his motion. If gentlemen thought the House should appoint a committee of inquiry in the first instance, he was agreed, so that the great object was attained by securing the American nation from the danger of having its forces commanded by officers not worthy of confidence, on the one hand, or of wiping off the stain which had attached to the character of the Commander-in-Chief on the other. God knows, said he, that I would rejoice as much as any gentleman on the floor, after a proper inquiry, to find that this officer did not merit the accusation, and would be the first to retract my opinion on conviction of my error.

The gentleman from Vermont (Mr. Fisk) had asked at what time the character of General Wilkinson had been first impeached? Mr. G. was no advocate of Burrism; nor was he one of those opposed to General Wilkinson for putting down Burrism; for he never had confidence in Burr at any period of his life. Therefore, if the gentleman meant to insinuate that he had symptoms of partiality for any other than the good old school, he was greatly deceived. Mr. G. said he was a friend to this Government, and thought it should not run to democracy on the one side, or aristocracy on the other; and also thought, when a military commander violated the Constitution, it became a duty for the people to raise their voices against it. He had dared to express his opinion, because he conceived it to be his duty; and he hoped no member of this House would be deterred from doing his duty by having his name written on every house in the city. He had a confidence in every Representative of the people. He looked at the events spoken of by the gentleman from New Jersey as doing honor to the nation, and was happy that a member of this House had not descended so low as to disgrace himself by such a competition; and when the time should arrive that a Representative should be deterred from his duty by insult, he should feel the character of the House degraded. Upon the whole, if a serious, fair, and candid inquiry, was intended to be made, he should be content with any mode which might be pointed out.

Mr. Clark said the gentleman from North Carolina (Mr. Alston) had mistaken him, representing him as having used the word "meant," instead of "attempted." Mr. C. said he had not, in attempting to make these communications, mentioned General Wilkinson's name; nor did he know whose name he had then mentioned. His intention at that time might be known by application to the Secretary of State for the letter which Mr. C. had written to him. His information had related to efforts made by the Spanish Government to detach the Western country from the Union. He had various proofs of it, and among others, a letter which he now held in his hand, written in Spanish, a translated extract of which he read. He had thought it his duty to give this information; he had not been attended to. He presumed not, however, to call the Executive to account for its conduct. As Consul, he (Mr. C.) had attempted to make it known, and that attempt was made known further by an application to know if he was understood. [A member asked the date of the letter from which an extract had just been read.] Mr. C. said the letter was dated the 27th April, 1796. The other part of the letter related to matters not relevant to business. It would show that there had been a delegate sent by certain persons in Kentucky to treat, and this he wished to have made known. [Mr. Chandler asked at what time Mr. C. became possessed of this letter.] Mr. C. had a knowledge of the circumstances to which the letter alluded before he came to this part of the country, but he had not the letter in his possession at that time. [Mr. Chandler asked, if by "coming to this part of the country," the gentleman meant to the present Congress.] "No," said Mr. C., "it was the first time I came here, in the year 1802."

The yeas and nays being taken on the motion for striking out that part of the motion for commitment of the resolution to a select committee, which gave power to send for persons and papers, it was decided in the affirmative—yeas 72, nays 38, as follows:

Yeas—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, John Clopton, Orchard Cook, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, Jno. Dawson, Josiah Deane, William Findley, Meshack Franklin, Francis Gardner, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Wilson C. Nicholas, Timothy Pitkin, jr., John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, David Thomas, John Thompson, Jabez Upham, James I. Van Allen, Robert Whitehill, Isaac

Wilbour, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, William Blackledge, John Boyle, John Campbell, Martin Chittenden, Matthew Clay, Howell Cobb, John Davenport, jr., Joseph Desha, Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Edwin Gray, John Harris, William Helms, William Hoge, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Quincy, John Randolph, John Russell, Dennis Smelt, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Abram Trigg, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, and James Witherell.

The motion for reference was then lost without a division.

The original resolution now recurring for consideration.

Mr. Dana said the course which appeared most proper to him would be to transmit the information to the President of the United States, that he might proceed in such a manner as to him might appear correct, and most for the public service. Without undertaking to express what was the amount of evidence, without saying whether innocent or guilty, it would be expressing an opinion that this information came from such a source, and was of such a nature that it should be attended to: and as they found that there was a gentleman in the House possessed of information, Mr. D. had prepared a form of a resolution for procuring his evidence, which the Speaker could determine to be correct or not.

Mr. Blackledge said, as there was now no information before the House on which they could act, he should oppose the resolution. He had been in favor of a reference in order to obtain that evidence which was necessary for proceeding on the subject. Being now without any evidence which would authorize a resolution, he felt compelled to vote against it.

Mr. G. W. Campbell rose to inquire whether the House were in possession of any documents or not relating to this subject?

The Speaker said it was not.

Mr. Campbell then said that he should vote against the resolution. If they were in possession of the House, (and this was sufficient reason for his present vote,) he would vote to transmit them to the Executive of the United States.

Mr. Gardner said it had been stated that an inquiry had been instituted; he was willing to believe it; if such was the case, they might obtain the inquiry without the proposed resolution, but the proceedings of the House would have a bearing on the public mind. Mr. G. was sorry that evidence had been brought forward in this way, and had reduced the House to such a situation, that adopting or rejecting the resolution must convey an expression of their opinion. He was unwilling to vote for a resolution carrying with it such a weight as this resolution must. If the resolution were rejected after evidence had been produced from two different sources, what impression would it convey? If he were to vote for its rejection, he should not give full credit to the evidence, which had made such an impression on his mind that he felt it his duty to give this information to the suitable authority to make the inquiry; but he was sorry that the question should have been proposed to the House in this manner. He could wish the resolution might be disposed of in some way, and that the measure recommended by the gentleman from Connecticut should be adopted.

Mr. Burwell said, before the question was taken upon the resolution he must be permitted to explain his vote. It would be recollected by the House, that he had a few days since declared that he considered it proper that an inquiry should take place into the conduct of the officer implicated; that it was due to General Wilkinson himself, the Government, the people, and the army under his command. It was peculiarly important at this time, to understand thoroughly the character and disposition of an officer holding so high a command in the service of the United States; there were then some doubts expressed, as to the form in which the subject was presented, but a vast majority seemed to be favorable to its adoption, for the same reasons which influenced his mind, and which were expressed to the House. He could not tell what had produced a change, and introduced such a diversity, if not a complete revolution, in the opinions of gentlemen; he had paid the closest attention to the discussion, and still thought the House might adopt the resolution, without offering disrespect to the Executive branch of the Government, without transcending their Constitutional powers, or doing injustice to the person whose conduct was involved. They were now told a court of inquiry had been ordered, and that it was unnecessary to proceed. This Mr. B. said might or might not be the fact; he had no doubt the member who made the declaration had been so informed. But rumor had never been considered sufficient authority to arrest the proceedings of Congress on any subject before them. The deliberations of that body could only be influenced by information laid before them in a manner less susceptible of doubt.

Mr. B. said, he wished the House to recollect that they were not sitting in their conclave, with closed doors; everything which passed upon the floor was reported; not an expression or idea but was known to the people, who would be able to separate that part of the discussion irrevelant to the subject, and appreciate properly that part relative to it. What then was the inference? With this copious stream of light, the true motives of every member would be readily discerned. He felt the fullest confidence in the Executive, and was certain the conscientious discharge of his duty would never be construed into the contrary. Mr. B. said the President would never impute to men who had here and elsewhere uniformly evinced the warmest attachment to their country, and the most liberal support of the Administration, dishonorable motives, when others could so readily explain their conduct; for he had too much good sense, and was too well acquainted

with the Constitutional duties of members of this branch of the Government, to imagine any disrespect was intended to him. But said Mr. B., the facts stated by the gentleman himself, who originated this motion, preclude the possibility of this imputation; they expressly tell you the information upon which they act has never been in the possession of the Executive department; how then could he act on evidence, the existence of which was utterly unknown to him? The gentleman a few days since declared he had only been himself in the possession of it two or three days.

[Here Mr. Randolph interrupted Mr. B., and observed some of it had been put into his hands the very morning preceding the motion.]

Mr. B. said, it was still more impossible to attach the blame. The Delegate from Orleans had equally exculpated the President. The intelligence he intended to have imparted, we have been told. did not relate to the subject of the resolution. It was worthy of remark, that at the same time they were informed that a deaf ear had been turned to what was attempted to be communicated, the papers containing it were left with the Secretary of State, and lodged in his office; and the presumption is they were properly attended to. Mr. B. called upon gentlemen to bear these things in mind, and not suffer themselves to be driven from the true course by the observations which had fallen from any side. This was his determination, since he neither approbated the language or participated in the feeling which had been expressed by some members during the debate. Mr. B. said the very act of transmitting the evidence, instead of insinuating any charge, would clearly be an expression of confidence, and certainly a respectful communication of information to the Executive, to be properly used for the public good.

Gentlemen had indulged themselves in fulminations against the Commander-in-chief. Mr. B. would not imitate them. During his remarks he had sedulously avoided expressing any opinion of the merits or demerits of that officer; he would neither prejudge him, or forestall public opinion, by giving utterance to his impressions. He wished to bring every offender to justice, but not to deprive him of the privilege of the accused, an impartial trial. Mr. B. said, within a few years past, the United States had been menaced by the most serious conspiracy. The nation had been convulsed by a plot, whose machinations were extended and ramified into the remotest corner of the country. The despicable wretches who had reared this detestable fabric, who deserved, and he hoped had received the detestation and execration of every honest man, attached to his country, and capable of estimating the value of those liberties which were threatened with destruction, had notwithstanding received a fair trial; they had passed through all the process of an investigation, in the slow pace of the common law. He thought it certainly not less just and incumbent to give a fair opportunity to the Commander of our Army to meet the charges exhibited against him, and dispel the supicions which clouded his reputation, by an investigation, if he was really innocent. Mr. B. said he had no hesitation in saying, that the officer in question should invite, himself, the most thorough examination; this was the only expedient to remove the obloquy under which he labored; and this course ought to be equally desirable to gentlemen, whether friendly or inimical. But, said Mr. B., there is a consideration superior to those of a personal nature, the delicate state of our affairs; the possibility of a contest with foreign nations, and the indispensable necessity to give efficacy to our army, and quiet to the nation; whose jealousy was admitted on all sides to be great and could only be quieted in this manner. A gentleman from New York (Mr. Gardenier) had spoken of the events at New Orleans, and the violation of the Constitution by the Commander-in-chief. Mr. B. said, he certainly condemned, and would readily punish every infraction of that instrument by the military; but he would ask gentlemen if they really possessed correct knowledge upon that subject? and suggest the impropriety of pronouncing upon the guilt of a man from rumor, of the most contradictory kind. He advised gentlemen to be thoroughly and minutely acquainted with the occurrences in the Western country, before they pronounced that General Wilkinson had not contributed essentially to the preservation of tranquillity in that quarter of the United States. Mr. B. said, he thought whenever a member of the House in his place gave information relative to the conduct of a public officer, the House could do nothing less than make a proper disposition of it; and whenever he demanded an inquiry to be made, that request ought to be granted. It was due to the members who believed inquiry necessary. They became themselves responsible for the correctness of their information, and became pledged for the propriety of acting upon it. The House must certainly recollect, a few years since, an inquiry was demanded into the official conduct of the Postmaster General, and it was in his opinion very properly granted.

Mr. B. said, he should protest against being implicated in all the sentiments which might be expressed by those who intended to vote in the same way he should himself; nor should a fear of that sort ever induce him to abandon the course his judgment approved, and his conscience sanctioned. He thought, however, that the mover of the resolution ought to have laid on the table all the papers which he had read in his place; they might have been examined, and estimated with more correctnesss by the different members.

Mr. Troup would make one observation in addition to what had been said by the gentleman last up. Whether the evidence before the House was material or not, whether the character of General Wilkinson was above suspicion or not, or whether it was unimportant that the Commander-in-chief of the Army of the United States should sustain a good character, it was not necessary for him to say; but before it was determined to increase the regular force of the country the House should be

prepared to say that James Wilkinson, who was to command it, was qualified to direct that force for the defence of the nation against its enemies, and that it was impossible for him to direct it otherwise. The Army, to enable them to do their duty, must have confidence in their General, and the people of the country must be satisfied that the ambition of General Wilkinson was limited, and that his integrity and patriotism would forbid the abuse of his power. For this reason, and this alone, should he vote for an inquiry. The sooner the conduct of this man was justified if he were innocent, or condemned if he were guilty, the better for the country; and if his conduct stood in the eyes of Mr. T. as white as the driven snow, he should vote for an inquiry after the evidence and charges which had been exhibited.

Mr. Quincy did not consider himself on this occasion as passing on the conduct of General Wilkinson, nor did he consider it necessary on this occasion to canvass the conduct of the Executive or of any officer of the Government. Their only object now was to understand their own situation and form a correct opinion. He should make to the House a very short statement of what he thought, and the reasons which would determine his vote. They were called upon to do what? To vote for an inquiry? No—to make a request for an inquiry. Some gentlemen had doubted whether they would exercise a Constitutional power in requesting an inquiry. Mr. Q. considered that they had a right to express a feeling or a wish; and that they had a right to express their sentiments and opinions on any subject, if the evidence produced to them or if their own knowledge would warrant such opinion. A gentleman in his place had stated to the House that he had evidence in his possession relative to this public character; not only that he had this evidence, but also referred to another who could give information on the subject. And what had the House done, on the occasion? It had neither asked the gentleman to produce the documents which he had, nor had called upon the delegate to give information on the subject. Mr. Q. could not reconcile this to his sense of consistency. It appeared to him there had been evidence sufficient produced to the House to induce them to express a wish to know more.

There had been but one objection of weight made to the present resolution—that it would bear hard upon General Wilkinson. The House were placed in such a situation that they must do something. Whether should they adopt the resolution or not? In the one case they did all they could to farther an inquiry by laying evidence before the Executive and requesting him to cause an inquiry thereupon; in the other, they did all they could to smother an inquiry. Without alluding to evidence and information which had been adduced on this floor, it appeared to him that it was perfectly within the right, perhaps the duty of the House, under general reports, whether correct or not he would not say, and from some circumstances, to request an inquiry; and that, under existing circumstances, they had a right, without the evidence produced, to express their opinion on the subject, and to request an inquiry, even in justice to General Wilkinson, that he might have an opportunity to relieve his character from the clouds with which it was overcast. Under this view, it appeared to Mr. Q. that the House would not exercise the rights with which they were vested for the public good, or do their duty to the people, if they did not adopt the resolution.

Mr. Chandler said gentlemen appeared to urge the adoption of the resolution, to furnish the Executive with information which the House had in its power. A gentleman had risen in his place and read to them a letter which he had stated to be from Mr. Power, and other papers, some of which were said to be translations.

Mr. C. knew of no way in which to get this evidence to the President of the United States except the papers were laid upon the table. If gentlemen possessed evidence which would be sufficient to convict General Wilkinson of a crime of a civil nature, let them inform the Attorney General of the United States, that he might institute a suit against that officer. If the evidence impeached his conduct as a military officer, send the evidence to the court which would sit on Monday next to inquire into his conduct as a military man. If the House were to act on this subject in any manner, it must be to procure evidence to be sent to a court. He did think it necessary, for his part, that an inquiry should be made. An inquiry was in progress; and he should therefore vote against the resolution.

On the question that the House do agree to the first part of the motion for a reference of the proposed resolution to a select committee, it passed in the negative.

The said resolution being then again read at the Clerk's table, the question was stated from the Chair, that the House do agree to the same; and debate arising thereon, an adjournment was called for: On which, the House adjourned.

Wednesday, January 6.

Mr. Jacob Richards, from the committee appointed on the twenty-eighth ultimo, presented a bill granting to André Joseph Villard a sum of money for his invention and improvement in the mode of mounting heavy cannon for batteries; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. George W. Campbell,

Ordered, That the unfinished business depending yesterday at the time of adjournment, on the question that the House do agree to a resolution proposed by Mr. Randolph, on the thirty-first ultimo, for an inquiry into the conduct of Brigadier General James Wilkinson, do lie on the table.

MEDITERRANEAN FUND.

The House resolved itself into a Committee of the Whole on the bill continuing in force, for a further time, the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Mr. G. W. Campbell moved to insert the words "revived and" in the bill. The reason for this was, that the act which this bill went to continue, had expired since the present bill was reported; it was therefore necessary that it should read "is hereby revived and continued in force."

Mr. Dana said the United States were not now in a state of hostility with any Barbary Power, and the naval force employed by the United States in the Mediterranean had been recalled. The duties proposed by this bill were not intended to protect the commerce of the United States against the Barbary Powers. He therefore submitted it to the sense of the Committee, whether the law on the face of it should not speak the purpose it had in view; whether it was proper to revive a law, which had expired by the same title, when a different purpose was contemplated by it. Instead of Mediterranean fund, it might be called the defensive, or protective fund; for it did not really meet his idea of consistency that it should be called the Mediterranean fund, when there was no occasion for such a fund. He wished the bill to be so amended as to express the purpose for which it was intended; it might read for the purpose of providing means of defence. It might seem, if the bill passed in this way, that there was a wish to conceal its real object; not that he believed himself that this was the case.

Mr. G. W. Campbell was not particularly attached to the words, in reviving and continuing these duties. The question now proposed to the House, had twice at former sessions been before it. This section was continued in 1806, by a law in nearly the same words as that now before the House. At that time it had been objected, that the objects of the original law being answered, it was unnecessary to continue it in the same form. The House then did, and perhaps now would think proper to continue the same phraseology in the law. Having been twice before continued in this manner, he saw no reason why it should not now be continued in the same form.

After some desultory debate on this motion, in which Messrs. Dana, Quincy, Upham, and Lyon, supported the motion, and Messrs. W. Alston, Crowninshield, and G. W. Campbell, opposed it,

Mr. Smilie observed that this was a long debate on a very immaterial point; it reminded him of a passage in Tristram Shandy. When the child was born, a long debate was held, whether it should be called Tristram, or Trismegistus.

The amendment offered by Mr. Dana was negatived.

The amendment offered by Mr. Campbell was agreed to.

Mr. Clark moved to amend the bill by inserting, after the words "continued in force," the words "from and after the first day of February next." The reason why he made this motion was, that the news of the passage of this bill could not arrive at New Orleans before that day. Cargoes might have been received and sold, and bonds given for the amount of duties, and after having sold the cargoes the importers would be called upon for two and a half per cent. duty. It would be unjust that the law should affect one portion of the people more than another; he therefore hoped a day would be fixed on which the law should go into operation in every part of the United States.

Mr. Quincy thought as the law at present stood it had an *ex post facto* operation in those ports at a distance from the seat of Government. For, from the expiration of the duty, a consequent reduction in price would be made by the importing merchant; and if he were afterwards called upon to pay the two and a half per cent. it would be a great loss to him.

Mr. G. W. Campbell said the gentleman appeared to have misunderstood the law; for goods would not be liable to duty imported between the expiration of the law and the time of reviving it.

After some observations from Mr. Dana in favor of the amendment, and Mr. W. Alston against it, it was negatived 49 to 25.

Mr. Quincy moved to insert, in place of the amendment just negatived, "from the time of notice of this act being given at the respective custom-houses throughout the United States."

Mr. Crowninshield advocated this amendment; and Messrs. Blackledge, Durell, Van Horne, and Pitkin, opposed it.

Mr. Quincy withdrew his amendment, and substituted "from the last day of January instant."

Messrs. Dana, Quincy, and Crowninshield, advocated this motion, and Messrs. Thomas, McCreery, and G. W. Campbell, opposed it; and it was negatived 51 to 24.

The Committee then rose and reported the bill with the amendment, which was concurred in by the House.

A motion made that the bill be read a third time to-morrow, was negatived—ayes 20.

The same motion for to-day was agreed to without a division: and the bill was subsequently read the third time and passed.

SALARIES OF OFFICERS.

The House took up for consideration the report of the Committee of the Whole on the bill for continuing in force for a limited time the act fixing the salaries of certain officers of the United States.

Mr. Stanford moved that the bill should be recommitted to a committee, with instructions to report a general bill on the subject of salaries.

Mr. Randolph asked if a motion for postponement would now be in order.

The Speaker said it would, when the motion now under consideration was disposed of.

Mr. Stanford withdrew his motion, and Mr. Randolph moved to postpone the consideration of the bill indefinitely.

A debate arose on this motion, in which Messrs. Randolph, Livermore, and Lyon, advocated the motion, and Messrs. G. W. Campbell, Fisk, W. Alston, Sloan, Love, and Masters, opposed the motion.

Mr. Randolph varied his motion, so as to postpone it till the first Monday in March, instead of indefinitely.

Mr. Bibb amended the motion (Mr. Randolph agreeing) to the first Monday in February.

This motion was supported by Messrs. Quincy, and Gardner, and opposed by Messrs. W. Alston, Southard, Holland, and Chandler, and negatived—yeas 40, nays 63.

Mr. Randolph moved that the bill be recommitted to the committee by whom it was reported.

This motion was supported by Messrs. Stanford, and Van Horne, and opposed by Messrs. Holland, W. Alston, G. W. Campbell, and Rhea, and was negatived without a division.

The bill was then ordered to a third reading to-morrow, without a division.

Thursday, January 7.

Mr. Southard presented to the House two resolutions of the Legislature of the State of New Jersey, relative to a uniform standard of weights and measures for the United States. The resolutions were read: Whereupon, a motion was made by Mr. Southard, that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the propriety of establishing, by law, a standard whereby all weights and measures in common use within the United States may be fixed with uniformity and precision; and that they have leave to report by bill, or otherwise.

And on the question being taken thereupon, it was resolved in the affirmative.

Ordered, That Mr. Southard, Mr. Burwell, Mr. Dana, Mr. Bacon, and Mr. Smelt, be appointed a committee, pursuant to the said resolution.

Mr. Jeremiah Morrow presented a petition of sundry purchasers of public lands within the State of Ohio, praying such a modification of the laws relating to the sale of lands, the property of the United States, as may enable the petitioners and other settlers within the said State to make payments without the inconveniences and losses to which they will otherwise be subjected.—Referred to the Committee on the Public Lands.

Mr. Jeremiah Morrow presented a petition of sundry inhabitants of the county of Dearborn, in the Indiana Territory of the United States, stating their disapprobation of a law passed by the Legislature of the said Territory, "for the regulation of negroes," by which slavery is, in the opinion of the petitioners, much more established than what is consistent with the ordinance of Congress, of the thirteenth of July, one thousand seven hundred and eighty-seven: and praying that the boundaries of the State of Ohio may be so extended as to include the county of Dearborn, aforesaid.—Referred to Mr. Jeremiah Morrow, Mr. Goldsborough, Mr. Milnor, Mr John Smith, and Mr. Seaver; to examine and report their opinion thereupon to the House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act supplementary to an act, entitled 'An act for fortifying the ports and harbors of the United States, and for building gunboats:" Whereupon,

Resolved, That this House do agree to the said amendments.

CREDIT FOR DUTIES.

Mr. Dana proposed for consideration the following resolution.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of allowing an extension of credit during the continuance of the existing embargo, for duties secured on imported goods or merchandise which might otherwise be exported for the benefit of drawback according to law, in case such goods or merchandise shall be deposited with the collectors of the customs respectively in pledge, for satisfying such duties, with charges of safe-keeping.

Mr. D. said it would be seen at once that this resolution proposed to leave the regular collection of the ordinary revenue untouched, and only affect goods not intended to remain in the country. If merchants deposited their goods with the collectors in pledge for the duties, it was certain that they could not be sold; if they meant to sell them, they must be taken out of possession of the collectors, and therefore their deposite would be full security that they were not to be sold. The duties liable to drawback in one year amounted to nine or ten millions of dollars; and if the merchants were compelled to pay these duties to the Government without the privilege of exporting the goods on which these duties were paid, they were in fact compelled to advance so much money without receiving any interest.

Mr. Van Horne said, if he understood the tendency of the proposition now before the House, it would have the effect to look up in the warehouses of our collectors a quantity of produce that would otherwise be brought into market. He would ask whether at this time, when the produce of the planters and farmers of this country could not be sold, it was proper to do any act which could have the effect to raise the price of imported articles? Was it proper to suspend the payment of any sums of money which might become due to the United States from our merchants, when the planters and farmers would be compelled by process from our courts to discharge the debts due by them? He did not wish to overrate the pressure of the present crisis, but he could say, and believed that it was generally admitted, that the measures adopted called upon the patriotism of our citizens for their support. He did hope that the merchants of this country would cheerfully bear their due proportion of the difficulty of the present crisis. He did not pretend to understand much of mercantile transactions, but if the measure now proposed would have a tendency to induce our merchants to hold up for exportation (when the embargo should be taken off) foreign produce which would otherwise be brought into market, and the price of such articles thereby be lessened, he was opposed to the measure.

Mr. Marion said, it would be recollected that when the bill supplementary to the act laying an embargo was before this House, a proposition somewhat similar to this had been submitted, but

on a broader ground. It was then objected to because it might embarrass our financial affairs, and it was also said that it might be acted on hereafter. The proposition now submitted was on a subject worthy of inquiry and of being granted, and would operate no embarrassment on our finances. The merchant who imported goods into this country for re-exportation, depended upon the debentures for paying the duties upon the articles entitled to drawback. If gentleman recollected that in most cases the duties amounted to one fifth or more of the whole cost and charges, they would perceive the great loss which would accrue to the merchant if the time allowed for paying duties as well as the time for exportation were not extended. The merchants would suffer themselves to be sued for their bonds given for those articles which they meant to export, in hopes the embargo would expire before the money could be recovered; in that case, by paying their bonds and immediately exporting, they would receive debentures payable in fifteen days after date. If the indulgence in this case were not granted, and the bonds were paid as they became due, the only advantage to the Government that could possibly accrue would be that the Treasury would have the use of that money for a short time, to be repaid soon after the embargo was taken off, and as that money was not calculated in the estimate of our financial resources it was not probable that it would be used. When the embargo was laid in the year '94, a similar indulgence was granted in regard to the three great articles, indigo, sugar, and coffee, which then constituted the principal articles of foreign growth exported for drawback. The United States had not then long enjoyed a free trade to the West Indies, and our warehouses were full of the rich productions of that part of the world. At that time, although the embargo was continued but two months, yet he believed the merchants were allowed an extension of four months on the time for the payment of their bonds given on the importation of the three articles abovementioned, viz: indigo, sugar, and coffee. He spoke from memory, not having an opportunity of recurring to the law.

After some observations in favor of the motion by Messrs. Quincy and Livermore, the resolution was adopted without a division.

GENERAL WILKINSON.

Mr. Randolph having moved the consideration of his resolution—

Mr. Burwell offered the following resolution, which he thought ought to be adopted before the original resolution was again considered:

Resolved, That Mr. John Randolph, a Representative in Congress, from the State of Virginia, and Mr. Daniel Clark, Delegate from the Territory of Orleans, be requested to lay upon the Clerk's table, all papers or other information in their possession "in relation to the conduct of Brigadier General James Wilkinson, while in the service of the United States, in corruptly receiving money from the Government or agents of Spain."

Mr. Randolph withdrew his motion to make way for the consideration of this resolution; and Mr. Burwell moved the adoption of the above resolution. He was not conversant with the form which might be proper in such a resolution; if there was any error in it, he should be obliged to gentlemen to correct it. He had incorporated in this resolution the terms of the original resolution, offered by the gentleman from Virginia. The object proposed by this resolution was, that the evidence in the power of these gentlemen should be laid upon the table for the inspection of other gentlemen. Another object was, that as it had been said that they were unwilling to hear what the gentleman from Orleans had to state, he for one wished to show that he was anxious that the testimony of that gentleman might be laid upon the table, that the House might know what it was. If it was injurious to the character of the officer implicated, let it be known to the nation; if not, let the fact be known. The information not being disclosed, it might operate, from supposition, much more injuriously to the character of this officer than if it were in their possession. He thought it was the duty of the House to give the Delegate from Orleans an opportunity of stating all he knew.

Mr. B. said, it would be found, by the resolution which he had offered, that he had called for papers exclusively. If anything given to the House were to be used as testimony, it ought to be reduced to form, so as to be incapable of misinterpretation. If the gentleman from Orleans were in possession of any facts or personal knowledge, Mr. B. supposed it to be perfectly within the meaning of the resolution, that he should lay them upon the Clerk's table as deposition, or in any form that he should think proper.

Mr. B. had not changed his opinion since he spoke last. While he thought that it was due to the nation and to the character implicated that an inquiry should be made, he draughted this resolution that the nation might see fully and fairly the grounds on which the House should request an inquiry. He had before expressed his hostility to delaying the business by a reference to a committee. He had understood the original resolution to be grounded on evidence from the gentlemen from Virginia and New Orleans; his object was merely to procure for the use of the House those papers which were in their possession. He had no idea of putting this business into such a train that it would take years to collect the testimony. They were not to try this person, but he wished to have evidence on which to adopt the original resolution, or some other expression of their opinion. If the resolution which he now offered should produce all the testimony in the possession of these gentlemen, the House would then be able to take some definitive step, and there would be an end of the resolution. His only wish on this subject was for a fair, candid, and impartial investigation.

Mr. Randolph had no doubt that this motion of his friend from Virginia was intended to produce a very different result from that which must ensue from its adoption. The very manner in

which the gentleman had met his resolution would dispose Mr. R. to agree to this proposition; but it might happen, and probably would be the case, as the gentleman from Orleans had laid upon the table a letter relating to the subject, that it might be the only paper in his possession which related to the subject, at the same time that the gentleman might be possessed of personal information. He might, perhaps, personally know, and might give to the House, as also could another gentleman in the House, if called upon, a list of those who were intimately acquainted with these transactions; and it would be found that this same nine thousand dollars was but a single subsidy. For himself, Mr. R. said, he had no personal information to give—it could only be expected from the gentleman from New Orleans. He would suggest an amendment to the resolution, including information, as well as papers, in the general request.

Before he sat down, he begged leave to state, that it had been his intention from the beginning, so soon as the House should have sanctioned the resolution which he had laid upon the table, and about which he had not conceived that there could be a difference of opinion, and had thought, as did the gentleman from Pennsylvania, (Mr. Smilie,) but who had changed his opinion as to the mode at least—Mr. R. hoped not as to the substance—that it should be unanimously adopted; he said, it had been his intention so soon as this had been agreed to by the House to have put every paper in his possession upon the table, that they might receive that direction which the House should choose to give them. He had no intention of withholding them. He had conceived that, being read by him in his place, being, as he pledged himself, to the best of his knowledge, and as appeared from the face of them, authentic, they were abundant ground for the adoption of the resolution, that an inquiry into this matter ought to be instituted. The resolution did not pronounce on the guilt or innocence of this person; it only declared that an inquiry ought to be had. But they were told an inquiry was now instituted; this might or might not be true; they had no official information of it. Granting it to be as stated, how did they know that the inquiry went to this object? How did they know that it might not be for some other unmilitary conduct? But, allow that it was for this very object, would any gentleman say how a court of inquiry was to coerce evidence? Could such a court commit or fine a person for contempt of summons? Many of the evidences to these facts might be military people. Mr. R. wished to know whether the mandate of a court of inquiry could bring even a sentinel from his post without an order from his superior officer? It could not; much less could it affect a member of this House, or a person from Kentucky, who, though they knew much, might be reluctant, extremely reluctant, to disclose what they knew. This court of inquiry, therefore, to all beneficial purposes, would be a mere semblance of an inquiry. Supposing the utmost zeal in the parties to probe the matter to the bottom, it was utterly impossible, from the nature of things, that they could execute that purpose.

Mr. R. confessed he had wandered from the purpose for which he rose, and asked pardon of the House for it. He then moved to amend the resolution by inserting after papers, "or other information."

Mr. Burwell acquiesced in this amendment, which is incorporated in the resolution as stated above.

Mr. Holland wished to know if the information contemplated was expected to be on oath or affidavit?

Mr. Burwell said that it was his object that it should be given on oath.

Mr. Holland said that if the object of the gentleman from Virginia was to obtain information on oath, he contended that the letters of Power or Gayoso could not be received, as they were not on oath. And if it were on oath, what was the information of Power? It had been before observed that Power had discredited himself. Would they contaminate the Clerk's table by receiving such information, or their officers by recording it? If they did they should not have his assent for it.

Mr. Love expressed himself in favor of the resolution in its present form, but was opposed to the proposition, that the statements which should be made in conformity to it, should be on oath, as he understood the gentleman from North Carolina (Mr. Holland) to wish. Mr. L. said that the first impression the original resolution had made on his mind, and which he had stated on a former day was, that the House had no right to act on the subject of it: that it contemplated an inquiry which was exclusively of Executive cognizance; he could not, therefore, consent to give the inquiry in the Legislative body, a form and mode of procedure, which would amount to a recognition of their right to act on it. That if gentlemen who stated they had information relative to a certain military character, which it was important should be known, chose to comply with the request made them by the resolution under consideration, he was willing to receive it, and transmit it at once to the proper department authorized to judge of the propriety of instituting an inquiry; but he did not want it on oath—that if on oath, it would have no greater effect with him, than on the honor of any gentleman of the House, who in any case uttered an assertion; neither mode would offer any testimony, which could in his opinion be noticed in that House; and that in either way it would alike afford the necessary clue to the proper tribunal to come at the evidence if any existed. To that tribunal, which alone was competent to act, he would offer the means of acting, if indeed they had such means; where both parties could be heard, and the question could be brought to an ultimate and efficient termination; where the prosecuted would enjoy the right secured to every man, of being confronted with his accusers, of cross-examining the witnesses introduced against him, of producing testimony in his favor, and of an impartial trial.

Let gentlemen then make a statement of any knowledge they may have on the subject of the resolution, and let that be conveyed to the proper department, and if those gentlemen who say they possess this information do not attend, where they shall be called on to give it, and where, if anywhere, it can have effect, let the consequence be on themselves. This House he hoped would throw no impediment in the way of an investigation, which shall have a fair result, but he deprecated the mode which was attempted to be pursued of an *ex parte* hearing and decision.

Gentlemen who have advocated the original resolution, had called the legislative body of the nation, a *grand inquest;* for his part, he said, he knew but one kind of grand inquest, it was that which was summoned and empanneled to aid in the administration of the laws; which was attendant on the courts properly constituted for the trial of offences; but the legislative body could not be supposed to be a grand inquest of that sort; it more resembled, in the powers the mover of the original resolution would have it exercise, a court which once had an existence, in a country said to have enjoyed a considerable share of freedom, but even there, that court had long been abolished. The court of Star Chamber, in England, Mr. L. said he alluded to, which, while it had an existence, was said to possess a kind of equitable criminal jurisdiction, deciding on the guilt or innocence of parties, according to its own conscience. It has been said, and with truth, that this was but a request, to be made to the President of the United States; but where, said Mr. L. is the right given to the House of Representatives to make this request, and so far to undertake to judge of the proper concerns of another department of the Government? The right of requesting the impeachment of a civil officer, was expressly given this body, by the Constitution, but the military officers are not within this description, and can only be brought to trial for a military offence before such a tribunal, or for a civil offence before a court of justice, and by due process of law. Mr. L. said, he would be for receiving any statements gentlemen had to make; and for transmitting them, by a simple order, without a request of any kind, to the authority which properly had jurisdiction of the subject.

Mr. Smilie was thankful that this motion had been brought before the House; indeed it was the motion which should in his opinion have preceded everything else which had taken place; and he must confess that it was to his mind an instance of higher confidence than he had ever known in a legislative body, to proceed for two days on information read to them by one of its members. It was certainly the step proper to be first taken, to demand that those papers should be deposited on the table, and put into possession of the House; and after two days spent on the subject, they had at last got into the correct track. He would agree to this motion, and would have agreed to the motion made on the first day on which the House considered this subject, not that he conceived the House had power to act on it, but to avoid consequences which he saw would result, and which had resulted. Happy would it have been, had the resolution passed then, because they would have avoided what had fallen in the course of debate. The gentleman from Virginia had told the House that he had at least gained one part of this object; it was to prevent his gaining his object that Mr. S. wished to have decided on the resolution immediately. [Mr. Randolph said he had gained one object, but it was impossible for the House or the gentleman to know what that object was; if the gentleman had any curiosity to know, he would inform him.] Mr. S. said he meant not to meddle with the private affairs of gentlemen; he meant public affairs, and would state two objects which had been attained. In the first place, this object was gained: the gentleman from Virginia, from the whole tenor of his conduct, and from his speeches, had conveyed an idea that he was fully convinced of the guilt of the officer implicated; gentlemen possessing the same sentiments with the gentleman from Virginia had profited by the opportunity to make inflammatory speeches, and to say everything they could against this character, and these speeches were taken by the stenographers and transmitted to the most remote parts of the Union as their verdict on his guilt. Was it possible, under these circumstances, that this officer should enjoy the right of a fair trial? He knew nothing of the conduct of this officer, nothing of his innocence or his guilt, but he knew him to be a citizen of the United States; and as such entitled to an impartial trial; and from that he would now be precluded by being prejudged. How tender was the law in civil and criminal prosecution! It was well known that if a man undertook to write and publish on a pending trial, he was liable to be punished for contempt of court. So careful was the law to prevent prejudgment.

Mr. S. had listened with all his power of attention to the discussion on this subject; he had heard strange doctrines delivered on this occasion, but particularly by the gentleman from New York (Mr. Gardenier,) who seemed to have forgotten what was the nature of our Government; he had talked of it as a Government possessing supreme power, and had supposed that there was no limit to the omnipotence of the House of Representatives. This was the amount of the gentleman's ideas. The gentleman should have recollected that this was a limited Government, and in talking on this subject, he should consider the House of Representatives as moving only in the bounds prescribed by the Constitution, and possessing no other power than they are invested with by that instrument. For what purposes were free governments instituted? For two great objects; to secure the rights of the community, and to secure the rights of the individual. It appeared to Mr. S. that in the course of the discussion of this business, one of these objects had been entirely overlooked. Gentlemen seemed to have totally forgotten the right of the individual whilst asserting the right of the community. Would gentlemen look into the Constitution, they would there

see how tender the Convention had been on this point—that personal rights were held no less sacred in that instrument than those of the community. Permit me, said he, to read this part of the Constitution, because I believe that in this case the personal rights of General Wilkinson are violated by the course now taken.

[Mr. Smilie then read those articles of the Constitution securing the life, liberty, and property of the citizen, and guaranteeing an impartial trial to every person accused.]

Mr. S. said he read these to show that by the Constitution the rights of the individual were as well secured, and considered as important as those of the community. Now this being the case, said he, is it fair, before the person is put upon his trial, that he should go through the scorching ordeal of a discussion on his conduct in this House? Can he under such circumstances be said to enjoy the undoubted right of every citizen to a fair trial? It may be said that he is a military man; for his conduct as a military man he is answerable to a military tribunal; but as a citizen, he is subject to a trial before a court of justice; and if he is guilty of that wherewith he is now charged, there is not a doubt on my mind but he is amenable to a court of justice for his conduct.

But another object had been gained besides depreciating the man. The gentleman from New Orleans had, by a strong insinuation, impeached the conduct of the President of the United States in this business, by telling the House that he had given him the necessary warning, and that a deaf ear had been turned to the information. Thus another end had been gained. These two ends were what Mr. S. had been inclined to prevent, by an earlier decision on the subject.

With respect to the right of the House to interfere in the matter at all, he begged to be allowed a few words. He believed this information and business altogether had been improperly laid before the House. This House was not the tribunal to hear and decide on a case of this kind. It was therefore his opinion that it was the duty of the gentleman from Virginia (Mr. Randolph,) instead of bringing the matter before the House, to have laid it in the first instance before the President of the United States, to whom alone General Wilkinson was answerable for his conduct as an officer of the United States. But if this course had been taken, these ends would not have been answered as they had. Whether this was the object of the gentleman, or the reason why this course had been taken, he would not say.

Mr. S. asked any gentleman in the House to point out that part of the Constitution which would authorize or even warrant the power of acting on this subject. No such power could be shown. If then there was no such power granted by the Constitution, how could gentlemen come forward and support this doctrine? Some gentlemen had endeavored to show this power was impliedly vested in them; and one gentleman had risen to tell them that they had never doubted the right to call for papers. Mr. S. said they never had, and he hoped they never would. They had no right to papers, however, except in a case in which they had cognizance or the power of acting. If then they no power to act on any particular case, whence could flow the incidental power of acting in matters incidental to that case? From what source did they derive it? No power being given, no incidental power could exist. Thus he reasoned on this subject.

He found this authority of the House was one which had been very much discussed; and he begged leave to state a case which in some measure applied. In the fourth Congress, when the House of Representatives were upon the subject of the British Treaty, they called upon the President of the United States to lay certain papers before them—exercising a right which they undoubtedly possessed as an incidental power. A resolution thus calling for specific papers was sent to President Washington, who in a few days returned for answer, that it did not occur that these papers related to any subject under cognizance of the House. This was a clear expression of the opinion of Washington on this subject. Whether it was or was not correct he should not say; but of this Mr. S. was sure, that except where the House had cognizance, they had no right to take such a step as that now contemplated—to throw the whole weight of this House against any officer, civil or military. And let me tell you, said Mr. S., that the effects of this proceeding will, and cannot otherwise than produce a serious evil.

However, as the matter had progressed so far, although the conduct of the House had been altogether incorrect, he would now agree that these papers should be called for as proposed, and transmitted to the Executive; and he hoped the House would go no further.

Mr. Macon said, hoarse as he was, he would state to the House that the course proposed by the gentleman from Virginia, was the same which he found by the Journal had been proposed in the case of St. Clair, and that he then gave the same vote which he should give on this occasion. He was then of opinion that the House had a right to make the request. This proposition was then negatived, and a resolution adopted to appoint a committee of inquiry. Gentlemen who voted with him at that time were of the same opinion as himself. With respect to General Washington's opinion, it was well known that the House replied to his message, and stated that they were not bound to assign reasons for the call. Nor will I, said Mr. M. ever give any reason for a call upon the Executive. This is no new opinion with me, but formed so long ago as this case of St. Clair; it is not an opinion made up on the occasion, but upon conviction.

Mr. Clark rose to correct an expression of the gentleman from Pennsylvania, who had talked of insinuations. I am unaccustomed, said Mr. C., to insinuate; what I have said, I thought I had satisfactorily explained; that the subject on which I spoke to the President did not particularly relate to the case before the House, but to certain transactions between certain people in Kentucky and the Spanish Government. I, at that time, offered

certain information and certain papers. These being refused to be received, I thought it needless to offer any name when the whole subject was not listened to.

In the present case, Mr. C. wished the House to attend to the peculiar delicacy of his situation. He was supposed to be possessed of evidence, and would be called upon to give it. He was here a solitary individual, sixteen hundred miles from his own country; it could not be expected that he had vouchers with which to support what he might testify. How could he give evidence if called upon, before a court of inquiry who had not the power to send for persons and papers? He hoped gentlemen would think of it; and if an inquiry must be had, and he must be forced to say what he knew, he hoped the House would allow him the means of substantiating what he said; would let it be before a tribunal which had power to send for persons and papers. The subject which he had laid before the President related to general cases; if particular persons were therein implicated, he could not help it. He hoped the House would consider the delicacy of his situation before they decided.

Mr. Rhea (T.) said he had attended with as much attention as he could do to the discussion on this subject, but was at a loss to know what this resolution would operate, and how the House was to act on evidence which it might produce. If a volume of testimony was the result, what could be done with it? He should suppose that every court of law or court martial would admit that testimony, however voluminous or to whatever extent. If so, why should the time of the House be taken up in canvassing a point which could answer no purpose? If he recollected aright the provisions of the Constitution, it gave this House the power of collecting evidence in cases of impeachment, and respecting its own members, and in no other cases. If there were any other cases in which the House could institute inquiry, he wished them to be shown; for until it were, he should act according to the Constitution, because he was bound to protect it, and not to depart therefrom. Holding this opinion, therefore, he did not feel disposed to give this measure his vote. The House had been told that the rights of individuals had been violated; if so, there was not a single one of those individuals but might commence suit in a court of justice, for this violation.

A recurrence to the date of the letters submitted in evidence would lead the mind to contemplate a chain of events which appeared to be connected with this matter; for it would be recollected by the House who was then President of the United States, and who had since filled that high office. If Mr. R. understood the date of those letters, they were written in February 1796. It would be recollected that under the Presidency of Washington, General Wilkinson was appointed a Brigadier General; under Mr. Adams, he became Commander-in-Chief of the troops of the United States, and he had been continued in that office under the Administration of Mr. Jefferson. It was known that on the third of March, 1796, General Washington ceased to be President, and Mr. Adams succeeded him. It appeared to Mr. R. to be wonderful that these transactions should have taken place, and General Wilkinson should have retained the confidence of these three great men. Under the venerated Washington he had been made Brigadier General, and under Mr. Adams appointed, and till this time continued Commander-in-Chief. If these charges which had been made were true, how could they remain in doubt to the present day? He had seen no evidence brought forward which could balance the confidence he felt in this man from the weight of character he possessed. Of what avail were a letter or two from Spanish Governors, when put in competition with the general character of this officer? If General Wilkinson has injured an individual, let him apply to a court of justice for a remedy of his wrongs. In the manner proposed, Mr. R. could not proceed.

The President of the United States being Commander-in-Chief, had a right to institute an inquiry. If the House therefore adopted the course proposed, and went on to institute an inquiry into the conduct of any officer of the Army, they went to prevent the proper department from investigating the subject, as it had a right to do. By the Constitution he understood the Executive of the United States to be as complete a part of the Government as the Congress, and to that department was assigned the performance of particular acts; and if it had not neglected its duty, why was this business here taken up? For no beneficial purpose that he could see. Inasmuch as General Wilkinson had not been committed by the evidence exhibited, and as what he is now he was when the present Administration came into office, Mr. R. thought the House should go no farther in the business if they even had the right, which he contended they had not; and he should therefore vote against the resolution. The question being called for, he would say no more at this time.

Mr. Randolph conceived that some weight was due to the representation which had been made to the House by the gentleman from New Orleans; and if that gentleman was called upon to state what was within his knowledge on the subject, that means should be afforded him to substantiate what he might testify. It was due to the gentleman's character that means should be afforded to him of supporting his oath by corroborative testimony. The situation of that gentleman was, indeed, as he had expressed it, extremely delicate; and when they considered the weight of evidence which might be brought, and which had, indeed, in part, been produced, it must be allowed that the gentleman's representation was entitled to the candid consideration of this House. Mr. R. said, he scarcely felt himself justified, friendly as he was to the motion, in voting for it under these circumstances. He did not say that he should vote against it; but, if he voted for it, it would be with a reluctance which he had not believed it was possible for him to have felt on this

occasion. It was evident to his mind, that the course which was pursued in the year 1791, on the subject of General St. Clair's defeat, was the course which ought to have been taken in this instance. He should be told, perhaps, by the gentleman from Pennsylvania, (Mr. Smilie,) who, at the same time, contradicted his argument by the vote which he was about to give, of the incompetency of this House to make the inquiry, of their usurping the powers of the Executive, and of their interfering with matters which did not concern them, to the extreme prejudice of the citizen. Was this an ordinary case, and to be measured by the ordinary rules of common practice? Certainly not. It had been likened to cases of murder or treason. There was no similarity. In cases of murder, the relatives of the deceased would always be ready to urge a prosecution. In cases of treason, there were officers appointed as public accusers, and grand juries, whose province and duty it was to inquire into infractions of the civil law. The offence charged upon this person was not merely a military offence, but was of a peculiar nature, not merely as it regarded the act itself, but as regarded the person by whom the act was committed. He would ask gentlemen if they had ever heard, in the course of their lives, of a court martial held upon the conduct of a Commander-in-Chief? Was it held in the case of St. Clair? Such a court must be held of subaltern officers, who might be induced to put the Commander out of the way, that they might mount the ladder of promotion, or might be influenced by his former military authority over them. They must be ruled by every breath, whether real or imaginary, with every suspicion they might entertain of the disposition of the supreme power toward the individual over whom they sate in judgment. Mr. R. believed it was for this reason that no man had ever heard—at least he had not—of a court martial upon a Commander-in-Chief. Now, when he had the honor of laying before the House the resolution which brought forward this discussion, his object had not extended to a military inquiry, he had not contemplated such a thing as a military inquiry, neither would a military inquiry attain his object, which was, that the President of the United States, to whom the Commander-in-Chief was responsible, should institute an inquiry into the conduct of that officer, and that he should, after having obtained all the evidence (and, he might say, all the information) which was attainable, act as justice to the individual and to the country, but more especially as a regard to the public safety might require; and Mr. R. would go further and say, as a regard to public opinion might require. His excellent friend from North Carolina (Mr. Macon) had, a few days ago, told them that it was impossible that the people of the United States could repose confidence in the Commander-in-Chief under present circumstances; the consequence would be that the militia might not turn out under such a Commander.

In the irregular manner in which he was sensible he was addressing the House, though it was certainly not his purpose to say anything which had not a direct bearing on the question, Mr. R. said, he would make a few more observations.

They were asked for authority on which to adopt the proposed measure. Was it fair (although, in his opinion, the case of St. Clair was a case in point) in a Government like ours, scarcely twenty years of age, yet in its infancy, to ask for precedents in every case? Must there not occur, almost daily, cases novel in their nature, cases unforeseen and unprecedented? As curators of the Constitution, as persons vested with the trust of seeing the Constitution faithfully executed, they had a right to act in this and every other matter in such a manner as would, in their judgment, promote the public safety and the public good, so that they did not trench on the exclusive provinces of other departments of the Government, or on the authority of the States, or transgress the restrictions imposed upon them by the Constitution. The gentleman from Pennsylvania had quoted the Constitutional provisions touching the life and liberty of the citizen in common criminal cases. Let the gentleman, said Mr. R., take the Constitution in one hand and the rules and articles of war in the other, and see how they would agree in this sense. But, did not the gentleman himself, in quoting the Constitution, read an exception of all cases arising in the land and naval service? And, therefore, to talk of an invasion of the rights of the citizen, while the House was taking measures for the detection and exposure, and removal from office, (if guilty,) of a dangerous military character, was entirely idle. There was one motive that might be assigned for making this inquiry, which Mr. R. considered sound; which was, that, after this House should have taken such measures as they deemed the public good to require, if those departments of the Government whose business it was also to supervise the public concerns, were remiss in their duty, such conduct would be one of the strongest reasons for the proper punishment of such departments; and the power to apply this punishment rested, at least in part, with this House.

Mr. R. would suppose that the House were in possession of information, instead of Aaron Burr, the late Vice President of the United States, having conspired against our national existence, that the Commander-in-Chief was this conspirator? Suppose this case, said Mr. R., and that we were to have been put out of this House, not by Aaron Burr, but by James Wilkinson? Suppose such information were in possession of the House; should we do our duty, if instead of wasting our time in idle debate, we did not request the President instantly to cause an inquiry?

But, it seemed that the party in question had enjoyed the confidence of a long line of Presidents, and that this was one reason for supposing him innocent? Suppose him innocent, said Mr. R., that is one of the best reasons for assenting to an inquiry which is to establish that innocence. But how long had it become a principle in our Government that confidence, not only in Presidents, but in any in whom they might have confided at

any time, was to become the sole rule of action to the Legislature of the country? If they had acted on the principle of confidence, they would have said that it was equally impossible that Aaron Burr, a man who had been a Senator of the United States from the great and respectable State of New York, and who had enjoyed the important office of Vice President of the United States by an equal vote with the present President, should be guilty of the crimes laid to his charge. But this sort of reasoning did not accord with fact. Ours is not a Government of confidence, said Mr. R. It is a Government of diffidence and of suspicion, and it is only by being suspicious that it can remain a free Government. He observed that it was a wonderful revolution in human affairs that could give sanctity to, and bleach into unsullied whiteness, characters that had remained under suspicion, and strong suspicion, too, for years. When the present President of the United States first came into power, it was a question with the leading, and, he might say, ruling party, whether the Army of the United States could not be reduced, so that the highest commander should be excluded. There was a most decided majority (as the gentlemen then in Congress knew) in favor of that reduction; but, by a finesse unparalleled, perhaps, in legislative history, the disposition of that majority was eluded and evaded, and matters were suffered to stand as they now are. But, at that very session, he believed, so little was confidence the order of the day, that in order to prevent (this was not said on the floor of the House, but publicly spoken of out of doors) the embezzlement not merely of Spanish dollars but of our own, to cut off all possibility of peculation, a fixed salary was given to the Commander-in-Chief. Mr. R. said, he had then his opinions on the subject—they were not new. He was informed from a respectable source of the Government—he would not name it, but he believed it was from the same channel, that a dozen members of the House received the information—that such a step was absolutely necessary. And, at this day, after these facts were made known, should a character remain unspotted which had so long lain under odium? He knew that it had been a very general opinion with many members of the House, that, at the moment the President of the United States had put his name to that act, he would think it a matter of course to remove the officer who had compelled them, in self defence, to pass that law. Upon this subject, Mr. S. said, he felt no delicacy. In discussing the conduct of a person whom he believed, upon the very best evidence, to have been, six or eight years ago, guilty of peculation—a person against whom he had been compelled on oath to say that he believed him to be guilty of misprision of treason—he felt no hesitation. It would be mere affectation to pretend to feel any; it was out of the question. The gentleman from Pennsylvania, or any other, might say what he pleased about this person's being prejudged; but the case had been prejudged long ago; and it was impossible to proceed on it without prejudging on one side or the other. While up, as it might save trouble, and as he found some little contradiction in the public prints respecting the papers which he had submitted to the House, he would take the liberty of telling the House at what time and in what way they came into his hands. On Thursday, the day preceding Christmas day, said Mr. R., a gentleman, an utter stranger to me, gave me some information which he had conceived might be interesting to me as a private man; and, at the same time, informed me that evidence of this kind was within my reach. The purport of it was stated to me at several different times; and the day preceding that on which I submitted the matter to the consideration of the House, Power's letter was put into my hands. I immediately called upon the Secretary of the Treasury, and asked him if he knew, or if Government were apprized that there existed information of this nature? who replied, that they were not. I then requested him, inasmuch as it would be brought forward in a public way, to say nothing about it. And, on the next day, although I had seen them before, the certified copy of the ciphered letter to Gayoso, and the copy of the original of the Baron de Carondelet's letter to Captain Portell, were put into my hands, the very day on which their contents were disclosed to this House. I have nothing more to say.

Mr. Macon said, he had not intended, when he first spoke on this subject, though he might have expressed himself inaccurately, to express an opinion on the guilt of General Wilkinson. His object was to give no opinion on the subject. He had then stated as a reason why the House ought to adopt this resolution, that the observations which had fallen from the gentleman from Kentucky (Mr. Johnson) would have been sufficient ground for it. He wished to express no opinion on the merits or demerits of this affair.

Mr. Love said, his principal object in rising a second time, was to know whether he had understood the precedent, read from the Journals of a former session by the gentleman from North Carolina (Mr. Macon,) and relied on by the gentleman from Virginia, (Mr. Randolph.) For if he had understood the Journals right, without intending any disrespect to either of those gentlemen, he must acknowledge that they did not in this instance, seem to have exercised the powers of discrimination, which he had supposed their minds to be endowed with. If he had heard distinctly the reading of the Journal, it stated, that a resolution had been introduced requesting the President to inquire into the causes of the defeat the American arms had sustained under General St. Clair; which was negatived by a large majority; but that, on a motion to refer that inquiry to a committee of their own body, it was agreed to. The resolution which was adopted, and is said to form the precedent for this, was nothing more than that a committee should inquire into the causes of this defeat. This, said Mr. L., was surely proper; it related to a subject which Congress might properly feel it its duty, and, for its own exculpation, to inquire into; it did not con-

template, as the original resolution in this case does, an inquiry into the conduct of any military officer, but such an inquiry as would enable Congress itself to show that the terrible defeat our armies had suffered was not attributable to any improper conduct on their part, in withholding the necessary means of victory, or the proper supplies for our army. Really, said Mr. L., the selection of this precedent seems to be an unfortunate one for those who rely on it, one which he should gladly have adduced for the very opposite purpose for which it had been adduced.

But a contradictory conduct, he said, had been attributed to those who professed a willingness to adopt the present resolution, and, at the same time, contended against the power of acting on the subject. If there was such semblance of contradiction, surely a moment's reflection would satisfy any gentleman it was not in reality so. This subject had been obtruded on the House, how properly would be hereafter judged of; they had so far entertained and acted on it, he was now willing to take such steps as would enable them to get rid of it; but the resolution he advocated the adoption of, was of a nature totally different from the one originally proposed, and contained in it no infraction of the Constitutional right of another department of the Government. The most that can be said of this is, that it may produce an unprofitable waste of our time, and that we ought only to act on it, in order to get clear of a greater evil; the other is of a dangerous kind. He said he was astonished at the manner in which this subject had been treated; instead of an attempt to reply to the objections urged against the original resolution, the House had been occupied in listening to personal invective, and general, undefined, vague charges against a military character, who had not here the power of reply; it would certainly have been more proper, and in every respect more correct, to address the understanding on the subject introduced to the consideration of Congress, and to have endeavored, at least, to answer the argument objected to the right of entertaining it.

Mr. ROWAN was opposed to this resolution, not because of the extent of power which it assumed, but because it was short of the power which ought to be exercised on this occasion; nor was he opposed to inquiry, because its effect would be to place a solitary individual against a host, when, in fact, the host was in his favor. If information was necessary at all, why confine it? If necessary, why not procure all within their power? By admitting that Daniel Clark should lay on the table the information in his possession, they admitted that it was proper to have information; then why not admit all the information requisite to a clear understanding and fair decision of this question?

I have another objection, said Mr. R., to this course of proceeding: this House will have gone into a discussion on the subject of inquiry; the testimony adduced may not be relevant, and the character of the man will shine the brighter after the discussion; and why? Because testimony will have been collected? No. Because a discussion, under color of an inquiry, will have taken place without effect. It will serve only as an additional buoy to his character. Make the resolution ample; go into a full inquiry. You have power; exercise it, and you shall have my feeble support. But it was said, that there was no precedent for this case. How were precedents formed in the first instance? There must be a case on which to create them. The present case is unprecedented; and I shall not flinch from acting on it, because there is not a similar case on record.

Mr. R. contended, that it was an incidental power of this House to make an inquiry. Who makes war? This House. Who conducts it by appropriations of blood and treasure? This House. Shall it be said that we have power to make war and to support it, and not to inquire into the loyalty of our commander? It was said that the President only had a right to inquire, and that the President had confidence in him. Mr. R. said, there might be a case (he did not mean to say that it now existed) in which a President would conspire with the Commander-in-Chief against the Government; and, as the latter officer was accountable to the President only, whatever confidence they might possess in the President would be unavailing. Suppose a General treasonable; suppose a war was now to break forth, of what avail would be the responsibility of the President in this case, when contrasted with the general evil which might result? Suppose a battle was impending, by which the fate of the nation was to be decided, and the House had a suspicion that the commanding officer was disaffected, or had a disposition to injure the interest of the country, would they not inquire into the case? Certainly they would; and thus he contended that this power of inquiry was inseparably incident to the great power of making war.

But besides its residing thus in this House it resulted from the general construction of the Constitution. This officer was responsible to the President. The President's responsibility only affected his reputation; while a breach of duty in him might destroy the nation. It might be said that no such imminent danger was now to be apprehended; but General W. was Commander-in Chief, the charges were heavy, no less than for receiving money from a foreign nation with whom the United States were at war, for aught Mr. R. knew—for no person could say what their actual relation with that Power was; a negotiation had been so long pending, that its object was almost forgotten. The charge against him is of being a Spanish pensioner. The world knows (though it is a subject worthy of further inquiry) that that Power did propose to the people of the Western country a dismemberment from the Union; that she did offer to furnish $100,000 for arms, and another $100,000 for corrupting the public papers, and distributing among the people; and that all who lost commissions from their attachment to her should be indemnified for the loss. It was known that there was a Spanish Consul in the

little town of Frankfort—Argote. It was also known that sums of money were coming up the river under the care of a person who had been murdered and the money made away with. This money must have been for somebody; whether for Wilkinson or not was uncertain.

When they considered the present critical state of the Union, and that this man was Commander-in-Chief of the Army; when it was known that money had been corruptly received in the Western country, and that Wilkinson himself had received money, for what purpose it was not known, but was worthy of being inquired into; when all this was known, suppose the President were to refuse an inquiry, should this matter therefore not be inquired into? Would they after what had been said in the public prints, and in the House, trust him with the command of our army against Spain? There was to be an inquiry, it was said; but they were not told of what nature it was. If you pass this resolution, said Mr. R., the information before the House will be laid before that tribunal; they will have a color of evidence, and the result may be easily foretold. I will not express an opinion on the conduct of General Wilkinson, but I have long been under an impression of his guilt. I do not know the man; I never even saw him; but I live in a part of the country where much doubt prevails of his integrity. I have been present at an inquiry before a branch of the Legislature of Kentucky, in which much information came forth. There is no doubt, if this inquiry is entered into, it will be found that there are other men enjoying the public confidence, and triumphing in their security, who would be exposed to their country. I am, therefore, opposed to the passage of this resolution, because it would be adding another shade of doubt to the present obscurity. Something like evidence which might be produced, of no effect, would pass upon many for a solemn investigation. Either make the inquiry, or leave it with the Executive. I have no idea of stepping between in this manner, relieving the Executive, taking no responsibility upon ourselves, and leaving the friends of this man to turn it to the best use to themselves.

The observations of the gentleman from Pennsylvania were inapplicable. The rights of the man would be respected, and the gentleman's quotation of the right of the *habeas corpus* would have no other effect than to remind the House that this sacred provision of the Constitution had been infringed, and no inquiry made into it. Every one regretted its prostration, and Mr. R. said he regretted that no inquiry had been made into the cause of it. He had no personal motive for wishing the conduct of Wilkinson to be investigated; he did not know him, and he hoped he might come out well; but his love to his country urged him to declare that he wanted an inquiry; the interest of the country required it. It was time that those only should enjoy confidence who really deserved it. The public papers had long resounded these charges from one end of the continent to the other, and no inquiry had been made. A court of inquiry, indeed, was said to be called; but we all know what will be the result of an inquiry, except we conduct it so as to reach the great point.

He should, therefore, vote against the resolution; not that he doubted the power of the House, but because it was not such an exercise of that power as they ought to make, and would only operate as a further illusion cast over circumstances into which they ought thoroughly to inquire.

Mr. ALSTON said he had at first felt some doubts on this subject; but, the resolution had been so modified as to relieve the gentleman from New Orleans from any delicacy which he might feel upon the matter; for although he was to be requested, it was discretionary with him whether he would communicate or not; and, therefore, although he was a solitary individual, 1,600 miles from home, if he placed himself in a critical situation, he could not blame the House for it. When the resolution was first submitted to the House, Mr. A. doubted the propriety of making the request. What had been since said of the subject? Why, that if they refused to inquire, they refused to criminate an higher department, of whom the House alone had cognizance. If there are more than two members in the House who possess information, let them bring it forward, and let the House apply the corrective. We have the power and let us use it. [Mr. ROWAN said he had not alluded to any of the departments of Government particularly. He had meant Judge Innes.] Mr. A. said that it was said by withholding an inquiry, they might seek an investigation into the conduct of a higher department. No particular department had been mentioned, but such was the expression, and every gentleman was left to draw his inference.

Mr. A. had no objection to information. Let it come, and let us have our eyes upon it; but the world will know, that when it comes upon our table, it is not evidence. However strong it might be, persons would not be convicted till they went through a trial.

With the character of Wilkinson, in examining this evidence, they had certainly nothing to do; the discussion on it was totally irrelevant to the question before the House. Mr. A. had nothing to do with the General's character; he did not know him in a legislative capacity, and scarcely as a private gentleman. He did not believe there were any gentlemen on the floor who wished to prevent an inquiry; but it was an old maxim, and not a bad one: "Give the devil his due." Were they trying him, they might make inflammatory speeches on his character; but when they were merely calling for evidence, was it right or liberal to prostrate his character at their feet? When they got possession of the information which the resolution on the table contemplated, the House would be competent to decide what direction should be given to the testimony. He had no doubt they would do their duty. They would have it in their power to transmit the testimony to any proper authority. Let them do so. Whether General Wilkinson had ever been a Spanish

pensioner, or engaged in commercial transactions or not, or whether he had or had not violated the Constitution, were not questions now before the House, except they wished by their speeches to crush the man before his trial. This might be a purpose in view, for aught he knew, in the present discussion. Whether it was, or was not, he would not attempt to decide. But, as the honor of the nation is concerned, let the characters implicated stand or fall on their own bottom. Let them neither be crushed nor bolstered up by the manner in which this House shall act.

Mr. Bacon said, as he should vote on this question in the same way as the gentleman from Kentucky on his left, but from very different reasons from those assigned by that gentleman, he should state his reasons for the vote which he was about to give. It did not appear strange to him that gentlemen should be embarrassed in giving a vote on this question, for he declared that he did not know that any subject had been agitated since he had a seat in this House upon which he felt so much doubt; but upon a consideration of the whole ground, he was induced to vote against the resolution; and it was because that an inquiry into which this might lead, and which the original resolution proposed, was going into a thing out of their own jurisdiction, and with which they had no right to interfere. Why had they more right to interfere in this than to call upon the Judges of the Supreme Court to institute an inquiry into the conduct of their chief clerk? Or why any more right than the President had to call upon this House to inquire into the conduct of its clerk? And as to the arguments of the gentleman from Kentucky with respect to the abuse of the power which the Executive Department of the Government might commit, it had no bearing on the question—it was no argument in this case. The President might, in case of war, retain a treasonable man as Commander-in-chief; so might a majority of this House be possibly corrupted. But because an abuse of power might take place on either side, was it any argument that they should interfere with the power of the Executive, or he with theirs? It might be, that, to save the Republic, the people themselves might interfere; this would be a case in which all Constitutional power must give way. As, therefore, he was of opinion that this body had no jurisdiction upon the subject-matter, and as it seemed to be thought that if they had no jurisdiction on the main question, they possessed no incidental power, and as he believed they had not a right themselves to inquire, he might believe that they had not a right to take any step to procure evidence.

Though these reasons had great weight with him, he would state one or two which somewhat influenced him the other way. The course which he had adopted was calculated to excite suspicions in the public mind; and though this was no question of confidence or diffidence in the Executive, yet, when they were called upon to vote on *ex parte* evidence, and the gentlemen who had been called upon declined stating (except partially) what they knew from the policy of the case, the House might go so far beyond the Constitutional limits as to let their evidence go for the whole it was worth; for, by taking a part, it had become necessary to take the whole.

Though these reasons had, as he had said before, some weight on his mind, it seemed to him to be the safest way, in the present state of their proceedings, to stop where they were. It was said, and indeed it must be so, that if they called upon one they might call upon every person in the House who possessed information. What shall we do, said he? Erect ourselves into a special court to collect evidence over which we have no jurisdiction? Assuredly the House cannot! These were the reasons, then, which would influence him to vote against the resolution; in doing which, however, he should not be influenced by any question of delicacy towards the gentleman from New Orleans, and must say that he was a little surprised at the gentleman from Virginia (Mr. Randolph) feeling such extreme delicacy towards him. Were not the House requested to place their power over the gentleman from New Orleans, by doing which they would obtain important information? The gentleman from New Orleans had been introduced by the gentleman from Virginia as possessing great information on this subject. After the gentleman from Virginia had given this information to the House, the gentleman from New Orleans had not been compelled to come forward; but he had voluntarily come forward and given his evidence in part. And, after this, was there any indelicacy in requesting him to give the whole? Mr. B. thought not. He thought there was delicacy due to others in this case, and which would operate as an inducement to Mr. B. to call forth all the evidence, as they had already got part of it. But he could not think that they could enter into this business without going beyond the limits of the Constitution. He should stop here, for he knew where he was; but if he went further he should transgress the Constitutional metes, and should not be able to tell on what footing he stood.

Mr. Marion was one of those who thought the House had no power to compel testimony, though he had no doubt that they had a right to request the President to cause an inquiry into the conduct of any officer; that they had a right to do it upon rumor alone, if it had acquired such weight as to lessen the confidence of the public in the person involved. The representation made by a gentleman from Kentucky (Mr. Johnson) a few days ago, and by another gentleman from the same State (Mr. Rowan) on this day, would have been sufficient to convince Mr. M. that an inquiry ought to be made. Did the resolution go no farther than to request the gentleman from Virginia to lay on the table those papers which he had read, he should have no objection to it, because they had been voluntarily offered to the House, and were the basis on which the main resolution had been founded; but he would not go farther, and call upon the Delegate from New Orleans for his information upon the subject. If a man had already been called upon to give testimony, and had refused to give all that might have been necessary, Mr. M. might have voted that he should be called upon to give the remainder; but for the House in the first place to set about collecting testimony to send to a court, appeared to him incorrect. He should be afraid that other cases—extraordinary cases—might hereafter arise, in which this might be drawn into precedent, if adopted. If no person paid more respect to precedent than he did, he should not fear; but precedents had this day been read in the case of St. Clair, and hereafter this case might be quoted. Therefore, as the subject was susceptible of division, he should wish the resolution to be divided. That the part which respected the Delegate from Orleans might be stricken out, so as only to request the gentleman from Virginia to lay upon the table the papers which he read the other day.

Mr. Gardenier confessed that, however he admired the feelings of delicacy which had been displayed, they did not strike him as having force in this case. The House might adopt the resolution now under consideration, and as the information might be given, they might afterwards take such steps as it might warrant. The gentleman from Kentucky had objected to this resolution, and given an argument against it, in itself very forcible, but not applicable to the resolution under consideration. The House was now about to possess itself of such information as might be immediately wanted. It did not follow, that by making themselves acquainted with facts they prevented themselves from taking such other and stronger steps as they might hereafter think proper. There was no ground for the opposition made by the gentleman from Kentucky; for, certainly, after hearing strong and additional testimony, the House would not be less disposed to adopt strong measures than they were now. The hearing, therefore, was essential. The more information they had, and the more it went to criminate General Wilkinson, the more the House would feel it. He thought the resolution was, therefore, proper altogether; it was getting at the same object which he himself had proposed to accomplish by his former motion for a reference; and, thinking this to be the proper course to be pursued, he should vote for it.

Mr. Smilie said that it was a little strange, after all that had been heard in the House, that gentlemen would persist in treating this subject as though there were persons in the House averse to an inquiry. He had not heard from any man in the House a sentiment of that kind; and he was sure that no one was more anxious for such an inquiry than he was himself; for he was certain, from the present situation of affairs, that an inquiry must be had. He had heard doctrines to-day from other gentlemen, which he had heard at other times from a gentleman from New York (Mr. Gardenier); and he was not a little surprised at the opinion advanced by the gentleman from Kentucky, (Mr. Rowan,) that there were no limits to the power of the House but the public good. We are asked, said Mr. S., are we to suffer our country to be ruined, because *we* will not step forward and relieve it? Great God! is it possible that we have forgot that we act under a limited Government.

The gentleman had contended that they did possess such power. Mr. S. was in hopes, while the gentleman was up, that he would have laid his finger on some part of the Constitution by which he could support his assertion. The gentleman supposed that a power existed in this House to take the matters belonging to the superintendence of other departments into its own hands. Where did these powers exist? The gentleman had shown no authority to prove it. It was impossible that any Government could exist in such a situation. Was the gentleman aware how far his own doctrine would go? Was he not aware that if corruption was probable, it might exist in the Legislative branch of Government as well as any other? Had it not been the case in other Governments? Had they not seen the Senate of an European nation (Sweden) the sport of British and of French gold? Had they not seen a Legislature of one of these States so corrupt that but one man was found of integrity sufficient to resist bribery? And might it not be the case in this as well as in any other Legislature? Every branch of this Government was responsible to the people, and the Constitution had provided the regular mode in which their conduct was to be called in question, judged and punished; and in that mode, and in that alone, could they act. Adopt, said he, the principle that any one part of the Government can take a range not warranted by the Constitution, and I can see no safety for any man. When I mentioned the habeas corpus, it was to show how tender the Convention had been of the rights of individuals, and not for the purpose which the gentleman had supposed; the friends of Mr. Burr might feel this great sensibility, but no others could. In saying so, he did not mean to allude to any gentleman within those walls. Those officers of the Government who departed from the line of the Constitution, were responsible to the Government, and subject to prosecution; and if they could not show that the step which they took was absolutely and imposingly required for the safety of the country, let them suffer.

As the gentleman had gone into suppositions, Mr. S. would also mention a case. Suppose this House was so corrupt that a majority of them were pensioned by foreign nations, and were to refuse supplies in time of need. Where was the remedy? Could any other Department, as a Department, interfere to correct the House of Representatives? The gentleman would not say this, he presumed. If, then, no other Department had a right to interfere with the House, they certainly had no right to interfere with the functions of the Executive or any other Department of the Government.

Why should they take this blind step? Had any gentleman pretended to say that the President, whose province it was to take cognizance of the conduct of the officers whom he had appointed,

had neglected his duty? Kentucky, said he, has indeed insinuated that the court of inquiry will not do its duty, and therefore we ought to appoint a court. I cannot understand the gentleman's observations in any other way. I never heard such a doctrine before advanced; I believe the longer the subject is considered, and the farther we go into, it the more we shall see the danger of this doctrine: if the House has a power to throw its weight into a prosecution against an individual, there is no safety for any man in the country. I cannot see what may be my own fate, for I have been accused on this floor of holding the same language as a French agent. Well, let any man bring forward a few letters and papers, call them important information, and institute an inquiry—what will become of me? I might be expelled, have the whole nation prejudiced against me by the inflammatory speeches against my character, and then turned over to a prosecution in a court of justice to be punished. This would be my situation; and, although perfectly innocent, I might suffer from the prejudice against me in consequence of the proceedings of the House. When I mention this possibility, it is necessary for me, though it has certainly nothing to do with the question at present under discussion, yet in justice to my own character, to state what I had said to elicit this aspersion. The observation was—that, as Great Britain was distressing us beyond measure, claiming rights contrary to the law of nations, the absolute dominion of the sea, the effects of which we all knew; and that, as France was contending for the freedom of the seas, these two nations were at least entitled to equal justice from us. This was the expression, and the House will judge whether anything which I said would warrant such an observation.

There is nothing I more earnestly wish, than that the gentleman will give me an opportunity, in the presence of this House, to compare my public character with his; and I will ask but two years of his political life upon which to make my observations; and I will lay open to him the whole of my political conduct, and subject it to his scrutiny, and it will then be seen which of us has evinced the strongest attachment to any foreign nation.

Mr. ROWAN said, as to the charge of Burrism, the measures which he had taken in the Western country to suppress it were well known; and it was also known that he had refused the offer of a large sum to defend Burr on his trial there; he could not therefore be charged with being under the influence of Burrism. Neither had he argued that this House had an unlimited or unbounded power; he had urged the power of inquiry as incidental to that provision of the Constitution which gave this House the exclusive control as to raising armies and making war. He was as great an enemy as any gentleman to dragging in the departments, and was not unapprized of the deference due from one department to the other; but should be extremely sorry if a department in which he was concerned should neglect such an important inquiry.

For one Power to pension the Commander-in-chief of another, was known to be cause for war. It was stated that Spain had pensioned the Commander-in-chief of the American Army. It remained, therefore, for this House to say whether Spain had done an act which was cause for war; and from the general Constitutional provisions, therefore, proper to inquire, and on that ground they had power to make the inquiry.

It seemed to him important that an inquiry should be made at this time. It was generally supposed, that we were on the eve of war with France and Spain, or with Great Britain, in case of which it would be necessary to increase the army. The Commander-in-chief was said to be corrupt. Would the House vote money to support an army to serve under a commander under this imputation? Should the best blood of the nation be hazarded by such a circumstance as this? All their preparations of defence were unnecessary except they ascertained his fidelity or defection. Mr. R. did not mean to say that this man was guilty; he might be innocent: but notorious facts spoke strongly against him. It seemed astonishing that an inquiry had not heretofore been made. A court of inquiry was indeed now ordered: he did not know what might be the power of this tribunal, or how it might be disposed; but the suggestion of the gentleman from Virginia, as to its being composed of subaltern officers, had great weight on his mind. He was, therefore, not for confining the power of making inquiry to any particular department, but he was for deducing from the fitness of things a power in this House to make the inquiry.

Mr. WITHERELL had not heard any reluctance expressed on any side of the House to an inquiry into the character of the person implicated in the resolution, and he would not suffer himself to doubt of it. The only difficulty seemed to be as to what course was proper to be pursued. The different constructions of the Constitution seemed to have distracted the House as to what course ought to be pursued on the one hand or on the other. In a debate on a former day the House were informed that a court had been instituted for the purpose contemplated by the resolution. If they all believe that an inquiry ought to be made, the question was narrowed down to a single point, whether the President, in ordering this inquiry, had gone out of his course? Perhaps this House had better pursue this business and send notice to the President that he had stepped out of his course, and that they would take it up. After a recurrence to the experience of every man who had ever snapped a pistol, or bitten the end of a cartridge, he would submit to their good sense to whose province this inquiry most properly belonged; whether to the Executive or to this branch of the Government. If it belonged of right to the Executive, all that they had to was, to say that they had been mistaken, and were happy to find themselves superseded by the proper branch. He did not believe, after the long and spirited debate which had taken place, that any other decision could be given. He should

be satisfied, however, if they could here stop the subject, of which he did not believe they ever had cognizance. He should, therefore, vote against the resolution and against every other proposition on the subject, believing that every Department of the Government should act within its own jurisdiction.

Mr. RHEA, of Tennessee, said if he understood the gentleman from Kentucky correctly, he had said that it was cause for war, for one Power to corrupt the Commander in-chief of another. Mr. R. observed that when he was up before, on this subject, he had stated what he knew to be correct—that Wilkinson was created a Brigadier General under General Washington, and appointed Commander-in-chief under President Adams. This pension was charged to have been received during the Administration of Washington: of course General Wilkinson was not Commander-in-chief, but General Wayne was. As the whole argument of the gentleman from Kentucky in favor of the power of this House was bottomed upon the pension's having been given to the Commander-in-chief, Mr. R. just suggested this fact as a complete answer.

The question having been put on the resolution calling upon Messrs. RANDOLPH and CLARK for information, was then decided by yeas and nays—yeas 90, nays 19, as follows:

YEAS—Willis Alston, junior, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, William A. Burwell, William Butler, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Jacob Crowninshield, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, Isaiah L. Green, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, John Russell, Ebenezer Seaver, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, David Thomas, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, Joseph Barker, Robert Brown, Joseph Calhoun, William Findley, John Heister, James Holland, Daniel Ilsley, John Lambert, Robert Marion, Roger Nelson, John Pugh, John Rhea of Tennessee, Matthias Richards, John Rowan, James Sloan, Jedediah K. Smith, Robert Whitehill, and James Witherell.

On motion, the House adjourned.

FRIDAY, January 8.

The SPEAKER laid before the House a letter from Thomas Glen, stating himself to be a native citizen of Wilmington, in North Carolina, and requesting the aid and patronage of Congress to release him from on board one of the ships belonging to the King of Great Britain, now lying in Hampton Roads, near the entrance of the Bay of Chesapeake.

The said letter was read: Whereupon, a motion was made by Mr. CROWNINSHIELD, that the House do come to the following resolution:

Resolved, That the letter addressed to the Speaker of the House of Representatives by Thomas Glen, who alleges himself to be an American citizen, now serving against his inclination in the British frigate Statira, lying in Hampton Roads, be referred to the Secretary of State, that inquiry may be made as to the facts stated therein, with a view to his liberation:

And the question being taken thereupon, it was resolved in the affirmative.

An engrossed bill to continue in force, for a limited time, an act, entitled "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned," was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to the act entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' with several amendments; to which they desire the concurrence of this House.

On motion of Mr. CROWNINSHIELD,

Ordered, That the Committee of the Whole House to whom was referred the resolution authorizing the establishment of telegraphs, be discharged from the consideration thereof, and that the said resolution be referred to the committee to whom was referred the petition of Jonathan Grout.

A Message was received from the President of the United States enclosing the annual report of the Director of the Mint; which was referred to a select committee, composed of Messrs. W. ALSTON, UPHAM, MARION, J. RICHARDS, and G. W. CAMPBELL, with instruction to report thereon by bill or bills.

A Message was received from the President enclosing an account of the expenditures from the contingent fund for 1807; by which it appears that of the sum of $18,012 50, which remained unexpended at the close of the year 1806, $8,731 11 have been placed in the hands of the Attorney General of the United States, to enable him to defray sundry expenses incident to the prosecution of Aaron Burr and his accomplices for treasons alleged to have been committed by them, and the unexpended balance, of $9.275 39, is now carried to the credit of the surplus fund. The Message was read and ordered to lie on the table.

The House took up for consideration the amendments by the Senate to the bill to extend the right of suffrage in the Mississippi Territory.

One amendment to this bill requires an equitable freehold qualification for a voter. On this amendment some discussion took place; but it was agreed to. Messrs. ALSTON and RHEA opposed it, on the ground that the House should pass no law permitting the contraction of the principle of universal suffrage. Messrs. POINDEXTER, HOLLAND, SLOAN, and SMILIE, urged an agreement to it, as without it the bill would not probably be passed by the other branch of the Legislature. Mr. BIBB opposed the amendment, as he should oppose every amendment made to the bill, lest he might be thought to sanction it.

Mr. THOUP said it was perfectly immaterial what qualifications were enacted, and he should not oppose this, as the compact between the United States and Georgia was violated by legislating on this subject in any shape; they need not strain at gnats when they had swallowed the camel.

The amendments were agreed to.

EMBARGO.

Mr. MASTERS moved, that the House take up the amendments this day received from the Senate, to the bill supplementary to the act laying an embargo.

Mr. QUINCY moved, that the consideration of this subject be postponed till Monday next. Negatived—ayes 20.

Mr. QUINCY then moved a postponement till tomorrow. As he did insist, that the people should know who were in the habit of hurrying through business without consideration, he called for the yeas and nays upon the motion.

Mr. NEWTON said, that he too wished for the yeas and nays, that the people might know who were in the habit of delaying business. That gentleman had taken up at least as great a portion of time in the discussion of the bill as any gentleman in the House. He hoped the House would not be trifled with in this way.

The motion for postponement was advocated by Messrs. QUINCY, LIVERMORE, UPHAM, BARKER, DANA, LYON, and ELY, on the ground that no time had been allowed to consider the amendments; and opposed by Messrs. TAYLOR, NEWTON, BASSETT, and MASTERS, for the reason that it was necessary to pass on this bill with all despatch to secure more firmly the provisions of the former law—and negatived by yeas and nays—58, to 29, as follows:

YEAS—Evan Alexander, Joseph Barker, William Blackledge, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., William Ely, Francis Gardner, Charles Goldsborough, Edwin Gray, William Hoge, Reuben Humphreys, Robert Jenkins, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Rowan, John Russell, Dennis Smelt, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Jabez Upham, Nicholas Van Dyke, Archibald Van Horne, and Killian K. Van Rensselaer—29.

NAYS—Willis Alston, jun., Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, John Chandler, Matthew Clay, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Findley, James Fisk, Meshack Franklin, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, John Love, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Peter Swart, John Taylor, David Thomas, John Thompson, James I. Van Allen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and James Witherell.—59.

The amendments of the Senate were then taken up and, on the question severally put thereupon, agreed to by the House.

GENERAL WILKINSON.

Mr. RANDOLPH laid on the table the documents which he had read on the thirty-first.

On motion of Mr. RANDOLPH that the House take up for consideration the resolution submitted by him, relative to the conduct of Brigadier General James Wilkinson,

Mr. TAYLOR said, before deciding on taking up this resolution now, he should be glad to know, and rose to ask for information, whether the gentleman from New Orleans had complied or intended to comply with the request of the House yesterday expressed.

The SPEAKER said he had not.

The House agreed to consider the resolution—54 to 36.

Mr. GARDNER said that an order had yesterday passed the House requesting two members to lay papers and information before them on this subject. He would ask whether any information had been furnished by either of these gentlemen? If there had, he should wish it to be printed for consideration.

The SPEAKER said the gentleman from Virginia had laid papers on the table, but the Delegate from Orleans had not made any communication.

Mr. CLARK laid on the table a letter in Spanish from the Baron de Carondelet to Manuel Gayoso, with a translation of the following extract:

Translation of an extract of a letter fron the Baron de Carondelet, Governor of Louisiana, to Don Manuel Gayoso de Lemos, Governor of Natches, dated New Orleans, 27th April, 1796.

"Argote's letter cannot in my opinion have foundation, since the Prince of Peace tells me that in consequence of the treaty, it is now useless to treat separately with Kentucky."

N. B. Argote was then Spanish Consul in Kentucky.

Mr. CHANDLER wished to know if these papers contained all the information which could be expected from the gentleman from New Orleans in consequence of the resolution?

Mr. RANDOLPH said the gentleman from New

Orleans did not appear to be in his seat at present; but Mr. R. presumed this was by no means all the information which was to be expected. It might be the only *paper* which the gentleman possessed on this subject; but, if the gentleman's knowledge was so extensive as it was believed to be, the House would perceive that he could not have had time since the adjournment of yesterday to have reduced it to such a statement as might be necessary. Indeed the House met so early and sat so late, that if other gentlemen in the House had the same feelings with him, they must be utterly incapacitated for business the remaining part of the twenty-four hours. Mr. R. wished however to understand whether that was all the information in the gentleman's possession, and he had no doubt the gentleman would inform them.

Mr. CLARK said it was pretty well understood that was not the whole information he possessed; but if he were to give it otherwise than on paper, what he said would be liable to criticism or misquotation. Mr. C. said it would be proper for him to know whether he could adduce evidence in support of the information he might give, for he might otherwise be called a calumniator. It could not be supposed that he had with him proofs in writing on this subject. When he left home he had not expected to be called upon for evidence. He could state where evidence might be had, and the persons who knew more than himself on the subject. If the House insisted, however, he would give what information he possessed.

Mr. FINDLEY said, that a few days ago when the inquiry into the causes of the failure of General St. Clair's expedition, in 1791, was introduced as a precedent for this case, he being one of the committee of inquiry on that case and alluded to, he had stated that it had no bearing on it as a precedent; that the resolution by which that committee was raised did not charge blame on the General, nor any other person concerned; that it was a measure of policy. The complete failure of that expedition had occasioned general discontent, and numerous paper publications, complaining of the failure of contractors, to do their duty, of the want of provisions, of the delay and insufficiency of the military apparatus, badness of gunpowder, undue delay of sending money, &c. The committee sat till near the end of the session, and reported various causes that contributed to the failure of the expedition, but no specific charge against any person, but the statement of facts went to exculpate the General from blame. The House took no order on that report.

During the next session, at the request of the Secretary of War, and Commissary of Military Stores, who thought the statement of the former report bore hard on that department, the subject was referred again to a select committee, consisting chiefly of the same members, who made a report of facts nearly similar to the former, with some additions, accompanied by a great amount of testimony, and a statement at large by the parties, which yet remains sealed up in a large box, which it is believed has never been opened; nor was any order taken on it, nor use made of it, except for information to satisfy the public mind, and to determine Congress to change the plan of Indian warfare, which it is well known they did do, by raising a more numerous and permanent army, and providing more effectually for its supply. So far was stated on a former day, but not published.

Mr. F. said that the above had been stated from recollection, but that since that time he had examined the Journals, by which it not only appeared that it was not only no precedent in favor of the question before the House, but decidedly against it. He said, however, that he would not have brought this into view if it had not been again yesterday introduced by the mover of the resolution, (Mr. RANDOLPH,) as a precedent, and the only one in favor of the extraordinary attempt.

Mr. F. said that from a review of the Journals, it appears that a resolution was offered for requesting the President to institute an inquiry into the causes of the late defeat of the army under the command of Major General St. Clair, and also into the causes of detentions or delays which were suggested to have attended the money, clothing, provisions, and military stores, for the use of the said army, and into such other causes as may in any manner have been productive of the said defeat. Though this resolution made no charge on any officer, yet, as it seemed to imply a censure on the President, as if he had neglected to inquire, or do his duty, the question was divided; that part which referred to the President was rejected by a great majority, and the resolution thus altered referred to a committee, not accompanied with a charge against any man's character, but merely to obtain such information as might be of use to Congress in organizing a new army and plan of operations, and satisfying the public mind, by a candid and open statement of facts, and it had this salutary effect; but an attempt to call on the President, as has been stated, was rejected. Therefore, every circumstance in this transaction bears forcibly against this irregular attempt.

Mr. F. said that a request from the Legislature to the Executive was always understood to be a command, the only command that could be given by any branch of the Legislature. It is true that this House has no power or means of compelling the President to obey. It is, however, a sufficient means of inducing the citizens to believe that the President has neglected to do his duty, and thus of impairing public confidence in the Executive Department. It is known that the President has instituted the inquiry desired. Is it then necessary to request, that is to say, to command the President to do what he is actually employed in doing?

Mr. F. said he was at first astonished at the diversity of opinion that appeared among the members on this subject, that they did not at once discern that the subject did not, nor could not, constitutionally come before the House; that they did not consider that, if the most numerous branch of the Legislature assumed, not to say, usurped, the power of denouncing the character of individuals, whether officers or others, and of holding an

inquisition on them, and usurping the Constitutional discretion of the Executive, for which that branch alone, and not this House, was responsible, it would at all times put it in the power of a revengeful and popular leader, by the influence of solemn grimace, and alarms of danger, and eloquent expressions of zeal for the public good, to degrade even this honorable House, by making it the instrument of gratifying his private enmities, of spreading terror around him, and depressing whom he pleased to a station of infamy, to be entailed on his family without the hope of relief. What hope can that man have of an impartial trial by a jury or a court martial, who has been condemned, or whose character has been even implicated by the vote of so respectable a body as the House of Representatives of the United States? Shall this honorable House throw its weight into the scale of prepossessions against an individual whom they know, at his own request, is arraigned to stand his trial before the proper, the Constitutional, tribunal? No, this is not possible; they cannot do it by vote; they have no such power; but they can do it by declamation; of this opportunity some of them have taken sufficient but malevolent advantage.

Mr. F. said, that on reflection, his first astonishment had abated, when he considered that the constitutions of the seventeen States, though all of them republican, had shades of difference; that some of them had vested large portions of executive power in the legislative branch. He could easily conceive that they had brought to Congress the impressions made on their minds by their own State governments; he had long found that to be the case in committees. He would not now attempt to explain or argue from the Constitutional principles, this having been so fully explained by those who had spoken before from different States, by his colleague (Mr. SMILIE) and others; but he would conclude his observations by assuring the House, that what he had advanced was not an ideal theory; that such things had often taken place in different States, but that he would confine himself to the State he had the honor to represent in part.

In that State, while it was a colony, like most other colonies, a foreign Governor, himself under foreign control, had a negative over all the acts of the Legislature; this, of course, rendered all the encroachments of the Legislature on the Executive popular. When the independent constitution of Pennsylvania was framed, it gave the Legislature no such power; but it did not sufficiently restrain it, because it did not sufficiently anticipate the deviations it might make. These deviations, after the conclusion of the Revolutionary war, when other men came into place, became numerous; but of numerous examples, he would detain the House with mentioning only one. The Secretary of the Commonwealth, the first Secretary under the independent government, a member of Congress under the Confederation, &c., was, unheard, and as General Wilkinson is now, declared a public defaulter, unworthy of public confidence, &c., and, as a matter of course, dismissed from office. He sunk under the weight of a vote of the House of Representatives. He neither enjoyed public nor private confidence, and without trial by jury, or the hope of relief, this early patriot was consigned to penury and infamy by such a vote as is now urged by the mover.

The Council of Censors, a political body appointed by the constitution of that State to examine and censure the deviations from the constitution made by the different branches of the Government, that body, along with many other cases, passed a just censure on this. The oppressed took courage, had his action brought on before a court and jury, and it was found that, so far from being a defaulter, he was found a creditor for a considerable sum from the State, which was awarded him by the court; but what was still more remarkable, he was unanimously elected Secretary of the Senate on the same floor on which he had been unjustly degraded, by members many of whom differed from him in political sentiments. He still enjoys public confidence and office. That Legislature, under the influence of popular leaders, to gratify personal or party enmities, assuming in various instances the powers of the other departments, was a principal cause of the constitution in that State being revised.

The same conduct will produce the same effects in all very numerous bodies. They were well calculated for legislation, but badly calculated for judicial decision, or holding inquisitions on the characters and conduct of individuals, and happily they are vested with no such power by the Constitution. Whatever the guilt or innocence of General Wilkinson was, had nothing to do with the question, the House were not judges of it. It is a good, and generally approved maxim, that persons are to be presumed innocent till they are legally convicted; but if the House countenanced this proceeding they would be giving their weight, and a mighty weight it was, to pronounce the person guilty before trial; doing this, as had been expressed yesterday by his colleague, would subject an individual to punishment by the State judiciaries, because exciting prejudices against the person had a tendency to prevent a fair trial. Courts of justice were provided for deciding and awarding punishments to every crime; why distrust the Constitutional authorities, and attempt to assume the powers vested in them? Where such irregular and unauthorized attempts are made, there is good ground to suspect the motives for which they are made. Indeed, the mover of the resolution, the other day, on the question of postponement, informed the House that he had in part accomplished his object, but left us to guess what that was; this, however, was not difficult to do. When the usual course of proceeding is deserted, and irregular and extraordinary methods are resorted to, to destroy an official character who has long merited and enjoyed public confidence, it ought to be presumed that such character cannot be convicted of a crime either in the civil or military courts; but though this is the natural and reasonable presumption, yet the reverse of this is the general opinion, because there is with reason

a general bias in the minds of man to suspicion and distrust, and when this bias is aided by the mighty weight of a vote of the House of Representatives of the United States, supposed to contain the collected wisdom of the nation, this being out of the usual course, induces people to believe the person implicated to be a monster of uncommon magnitude, and dangerous in the extreme. When some popular and revengeful leader has succeeded so far, what can the accused do but sit down and mourn over his misfortunes, and his having been deceived? That, in reading the Constitution and the law, when he accepted of an office of trust, he calculated on being dealt with according to these rules, but did not calculate on having his character, more valuable to him than property, or even life, arraigned, disposed of, and destroyed by a body of men who had no authority vested in them for such purposes, and who were so privileged as to be protected from actions of damage for slander? Mr. F. said that every man so oppressed could not calculate on rising with honor from under the depressing load of calumny, and seeing his oppressors sink to infamy, and the Constitution, to prevent such degrading outrages for the future, revised, as the now master of the Rolls, formerly Secretary of the State of Pennsylvania, had seen.

Mr. F. concluded by saying, that not for favor or lenity to General Wilkinson more than to any other citizen, he was opposed to this proceeding; that for the honor and usefulness of the Government he was opposed to it; that he thought himself, and taught his children and friends to think, that the House of Representatives was the sheet-anchor of our liberties. To preserve that character to the Legislature, particularly to that branch, from being the terror and scourge of the citizens at the nod of a popular leader, and to preserve the character which the Constitution, the only bond of Union between the States, entitled it to enjoy, he would vote against this unconstitutional and disorderly resolution in the form it was now presented, and in every possible form, except to refer it to the President as information which only belonged to the Executive.

Mr. TAYLOR moved to postpone the consideration of the resolution.

Mr. CROWNINSHIELD had not intended to say anything on this subject; but after four or five days spent on the subject, he felt disposed to say a few words. What, after so long a discussion, had the House done? They had spent the whole of yesterday in debating whether they should request information. What had been the result of their determination? The gentleman from Virginia had simply laid on the table the papers which he had read in his place. The gentleman from Orleans had offered a letter to the House from the Spanish Consul, proving that the Spanish Government had projected a scheme to separate Kentucky from the Union. Whether General Wilkinson was concerned in it or not they did not know; the letter therefore had no bearing on the subject before the House.

What were they now called upon to do? To request the President to institute an inquiry into the conduct of Brigadier General Wilkinson. Was this proper or right? Was it just to the officer or to the character of the House? The House had no right to act on the subject at all. It was understood that an inquiry had been ordered with regard to the conduct of this officer generally; then why proceed a step further in this? Why request the President to do what he had actually done? Mr. C. saw no necessity for it. He did not wish to give an opinion as to the character of this officer: he knew nothing about it; but they surely would not attempt to ruin the character of a meritorious officer upon mere hearsay. They owed it to their own character not to make the inquiry at this time: he was surprised at the time which had been occupied by this already, and the more he reflected, the more he thought the resolution should be immediately decided. Were they to wait till the gentleman from New Orleans should receive this evidence from the Western country? Let us dispose of it at once, said he. As to General Wilkinson's rank in the Army, about which so much had been said, Mr. C. did not conceive that this officer was Commander-in-Chief of the Army of the United States. He understood the President to be Commander-in-Chief. If the militia were called out, Wilkinson would not command. Any Major General of militia would take precedence of him.

Mr. LLOYD said the gentleman from Massachusetts seemed to be in great haste to decide upon this resolution, because the information was not yet before them. Mr. L. said as the House had thought proper to adopt the resolution, they must have had some object in view. Did the gentleman expect that the House would call upon gentlemen to lay information on the table touching a man's character without intending to act upon it? Mr. L. thought this could not be. If gentlemen who yesterday voted for the resolution calling for information, now wished to decide the main question, what object could they have in view? It was true that as yet no information had been laid on the table; the gentleman had not had time to prepare it.

The gentleman from Massachusetts had expressed his surprise that so much time had been taken up in the discussion. Mr. L. said although he would not be considered as giving his opinion as to the guilt or innocence of General Wilkinson, he thought the subject was important, as respected the officer himself and the interests of his country. If there were advocates or friends of this person in the House, they ought not to hesitate a moment in voting for an inquiry. How was the character of General Wilkinson to be relieved from the suspicion under which it now labored, except his conduct were inquired into? On the other hand, how otherwise were the people to be convinced of his innocence, and feel that confidence in him which was necessary for the Commander-in-Chief? An inquiry ought to be had as respected him, on the one hand, and his country on the other.

The gentleman seemed to chuckle at the idea

that this was all the evidence that would be produced: Mr. L. would ask if this was not sufficient ground for a request to the President to cause an inquiry which might produce more? It certainly was. Call upon the President, said Mr. L. to make an inquiry; and when that inquiry is had other documents may be procured. But the House were told that an inquiry was ordered. Were they to arrest a legislative act on information in this manner—for they had no official information of it? Surely not.

Mr. L. would not say more at this time; he would not give an opinion on the guilt or innocence of the person accused. He hoped that the papers laid on the table by the gentlemen from New Orleans and Virginia would be recorded; and when further information was received, that they would act on it.

Mr. Milnor observed, that what had been said by the gentleman last up was a sufficient reason why this should not now be decided on—that there was other information to be laid before the House. Now, was it necessary or right for the House to act with so much precipitancy on this subject as was urged? He thought, for his own part, that they were entirely premature in taking this resolution into consideration at this time. The resolution went merely to request the President of the United States to institute an inquiry. It ought to go further; it ought to order these papers to be transmitted to the President. If they passed the resolution as it now stood, might not the President with propriety return it, and ask on what grounds they had passed it? The whole information in their possession should be laid before the President, that he might judge of the propriety of causing an inquiry. Mr. M. had been, throughout, opposed to making this request; he had before said that if gentlemen would lay information upon the table, he would be willing to transmit such information to the President of the United States. This would be doing all that their duty required; and if they did more, they would interfere with the duty of the Executive. It has been stated that an inquiry was instituted. He recollected that a gentleman had yesterday stated that a military trial would be a mere nullity. Admitting this fact, the resolution asked nothing more than that an inquiry should be made. Why, then, should they precipitate themselves into this measure, when they understood, although not "officially" communicated, that an inquiry was instituted; and it had never been customary for the President of the United States to inform the House of the institution of a court of inquiry for any particular purpose? He hoped the resolution would lie on the table, that they might have all the light on the subject which they had reason to expect.

Mr. W. Alston thought that if gentlemen were satisfied that an inquiry would be made in a full, fair, and open manner, they need not discuss the subject at this time, in this place; neither would he shut the door against any information which the gentleman from Orleans, after brushing up his recollection, might have to communicate. He should be willing to receive it, but not at the time the subject was pending, to be subject to the animadversions of gentlemen in debate. It was proper now to decide on the resolution, and if his opinion prevailed, it would be rejected: he should be willing to transfer these papers to the place where they might and ought to be made use of; and if the gentleman from New Orleans should at any time hereafter communicate any information, it might be sent to the same place. Without exciting the public mind by inflammatory speeches, justice ought to be done. The information of the gentleman from New Orleans was stated to be verbal. Now, he would leave it to the good sense of the House, whether it would be proper to receive such information as the gentleman was going to communicate in such a manner as might subject it to animadversion. Would it not be better to get rid of this subject; to make use of the evidence in the only way which it could be properly disposed of? If any gentleman could conceive that this resolution would serve any beneficial purpose, let it be adopted; but if gentlemen were of opinion that a full inquiry would be had, he saw no reason why they should refuse to be influenced by that opinion because official information of its establishment had never been communicated. In giving his vote he should act agreeably to the impression made on his mind by the knowledge of an inquiry having been instituted in the same manner as if it had been officially made known to him. He could see no good that would result from postponement day after day, and spinning out discussion as they had done. He, therefore, hoped the resolution would be rejected, and that a motion would be agreed to for transmitting them to the President of the United States, or to the Secretary of War.

Mr. Gardenier said it did appear to him, if there had been a sincere disposition to promote a fair inquiry, there would not have been so much complaint of the time of the House being taken up in discussion. It was not to be supposed that the most proper way would at once have been fallen on by the House; and he thought he perceived in a majority of the House a sincere desire to perform the duty they owed to the people. Mr. G. did not think, when the House voted to take up the resolution this morning, that they were in a situation to decide upon it. If the testimony of the gentleman from New Orleans were as full as he had much reason to believe it was, Mr. G. said he should be inclined to vote against the resolution of the gentleman from Virginia, or for its postponement, for the purpose of appointing a committee of inquiry into the whole transaction. It had been yesterday said that the Government of Spain had set aside a large sum for the purpose of corrupting our citizens. To what extent the project had succeeded, the House had not yet learned; but this they knew, that it was their duty not to shut their eyes against transactions so enormous.

Whether the appointment of such a general committee of investigation would be proper or not, depended very much on the information which

should be communicated by the gentleman from New Orleans.

As to the particular subject of the inquiry which had been instituted by the President, Mr. G. was willing to hope it had been done with the best views, but could not help supposing that this inquiry must be inefficient, because all the powers with which the President could clothe that tribunal were not competent to the end in view. It could not be true that a military tribunal could be clothed with authority to attach or commit to prison those who refused to obey its process. It would be the establishment of military law, to a certain extent. It would be granting to the military a power belonging exclusively to a civil magistrate. Such a court might make inquiry of those willing to attend and give evidence, but could not compel the attendance of witnesses who were disposed to decline their invitation. The want of these powers was so evidently proved by the distinction between civil and military institutions, that he should suppose it required no argument to prove it. Military courts only possessed power in cases of military conduct, and then but over military characters. He had it from the authority of a military gentleman, in whom he could confide, that such a tribunal as had been established could not compel the attendance of witnesses.

Mr. G. said he could be well content to let this inquiry proceed, if he could be satisfied that the tribunal had power sufficient to embrace the subject; but if not, it was evident that the whole must terminate in an unsatisfactory manner—that the committee or tribunal would report that they had not been able to find anything to criminate General Wilkinson, which would but establish his innocence. The House knew that these charges had been resounded against General W. They knew that a gentleman in the Western country of high standing (he meant Mr. Davies) had invited General W. to prosecute him for writing and publishing that he was a pensioner of Spain. That gentleman had asserted that it was in his power to prove these charges. Mr. G. thought, that in a case of this kind, that gentleman should be examined, but he could not be by this tribunal. If this person could not be compelled to give evidence, much less could the gentleman from New Orleans. Knowing this, the House had requested the gentleman from New Orleans to communicate to the House the information in his possession.

If a court of inquiry had been instituted, said Mr. G., it ought not to arrest the proceedings of this House. It is in our power, and ours only, to appoint a committee who shall have power to send for persons and papers—it is to this House only that the power can be confided. Was it ever before known, that in a country in which the gold of a foreign country had been distributed for years—the circumstances concerning which being so little known—that so much listlessness had been exhibited about a matter of so much importance, so eminently demanding the attention of the Grand Inquest of the nation? Gentlemen had contended they had not power to act in this case; that corruption should stalk abroad, and treason be engendered in the very vitals of the nation, and that this House had no right to make an inquiry, or take such steps as the public safety might require! He had before said he could not reason on this subject—indeed, he could not. He therefore hoped the resolution would lie on the table, because they were not arrived at that stage of the business in which they could be enabled to decide.

Mr. Rowan said he had yesterday mentioned certain facts; he did not then know that it was in his power to prove those facts. He had found a certified copy of the deposition made by Judge Innes to the patriots of Kentucky. He would read extracts from it:

Extracts from a letter from Thomas Power to Judge Sebastian, containing proposals from the Spanish Court, communicated in testimony before the Kentucky Legislature by Judge Innes.

"His excellency the Baron of Carondelet, Commander-in-Chief and Governor of His Catholic Majesty's provinces of West Florida and Louisiana, having communications of importance, embracing the interests of said provinces, and at the same time deeply affecting those of Kentucky and the Western country in general, to make to its inhabitants, through the medium of the influential characters in this country, and judging, in the present uncertain and critical attitude of politics, it highly imprudent and dangerous to lay them on paper, has expressly commissioned and authorized me to submit the following proposals to the consideration of Messrs. S. N. I. and M., and also of such other gentlemen as may be pointed out by them, and to receive from them their sentiments and determination on the subject.

"1st. The above mentioned gentlemen are immediately to exert all their influence in impressing on the minds of the inhabitants of the Western country a conviction of the necessity of their withdrawing and separating themselves from the Federal Union, and forming an independent government wholly unconnected with that of the Atlantic States. To prepare and dispose the people for such an event, it will be necessary that the most popular and eloquent writers in this State should, in well-timed publications, expose in the most striking point of view the inconveniences and disadvantages that a longer connexion with, and dependence on, the Atlantic States must inevitably draw upon them, and the great and innumerable difficulties in which they will probably be entangled if they do not speedily recede from the Union; the benefits they will certainly reap from a secession, ought to be pointed out in the most forcible and powerful manner; and the danger of permitting the Federal troops to take possession of the posts on the Mississippi, and thus forming a cordon of fortified places round them, must be particularly expatiated upon. In consideration of gentlemen devoting their time and talents to this subject, his excellency, the Baron of Carondelet, will appropriate the sum of one hundred thousand dollars to their use, which shall be paid in draughts on the royal treasury at New Orleans; or, if more convenient, shall be conveyed at the expense of His Catholic Majesty into this country, and held at their disposal. Moreover, should such persons as shall be instrumental in promoting the views of His Catholic Majesty hold any public employment, and in consequence of taking an active part in endeavoring to effect a secession, shall lose their employments, a compensation equal at least to the emolu-

ments of their office shall be made to them by His Catholic Majesty, let their efforts be crowned with success, or terminate in disappointment.

"Immediately after the Declaration of Independence Fort Massac should be taken possession of by the troops of the new Government.

"His Catholic Majesty will further supply the sum of one hundred thousand dollars for the raising and maintaining the said troops, which sum shall also be conveyed to, and delivered at, Fort Massac."

In 1795 some characters in Kentucky were addressed by a short letter from the Spanish agent, and he deemed it his duty to inform the House that when Judge Innes, who delivered this testimony, was asked how he came to be known and singled out, he replied that he had never been there, had never heard of the correspondence, and could not account for it otherwise than by an acquaintance with General Wilkinson; that he had given Wilkinson Sterne's Sentimental Journey, with his name witten in it; and from the book's being given to the Spanish commander, he supposed his name had become known to the Spaniards. Wilkinson presented a book with Innes's name in it to the Spaniards, and they immediately concluded that Innes was a corrupt man. This was a little circumstance, but fraught with meaning, and ought to have influence with the House in making this inquiry. They saw that corruption and intrigue had been practised in that country; that Wilkinson was supposed to be connected with it, not to a certainty, but so much so as to render it worth inquiring into; it was due to the man himself, and to the nation, that inquiry should be made. He was, therefore, opposed to the resolution lying on the table; they could gain nothing by it; the information which the gentleman from New Orleans could give was but a part of the whole. I have it in my power, said Mr. R., to name persons to a proper tribunal who can give important information. The evidence of the gentleman from New Orleans, he said, was unimportant compared with what remained behind the screen. There was much information which might be given to a tribunal vested with the power of issuing compulsory process. Why not then immediately themselves go into an inquiry?

It was said that the House had not the power; he hoped the present question would be so stated as to leave a precedent on record by which future Legislatures might be governed. If they were prepared to surrender this right, it was not fit that they should continue much longer a nation. they were only deluding themselves with an idea of national existence if this doctrine prevailed. It did belong to them; it grew out of the general construction of the Constitution, and from a comparison of the particular powers of the several departments of Government.

We are told, however, said Mr. R., that the President is making an inquiry; let him proceed, but let us do our duty. The people will not expect us to surrender the national rights and abandon the inquiry. The people were jealous of their rights, and however confident in the Executive would not abandon it to his direction. The permission of this power to the Executive exclusively might not now be dangerous; but the time to form good precedents was when they had a President in whom they could confide. The President's having instituted an inquiry was no argument with him at all. This House had first originated the inquiry; and should they tamely abandon it because the President had appointed three subaltern officers to carry on an inquiry—an inquiry which must be ineffectual? And it was known, too, that the province of a court martial was confined to the military conduct of that officer—confined to acts which related to him as an officer, but not as a man. He was a military officer at the time in which he was charged with having been corrupted by the Spanish Government, but had not received it under color of a military act. An inquisition into his conduct therefore did not attach to a military court, but to the grand inquest of the nation. This man was charged with corruption, and had forfeited the confidence of the people. Would the House, under these circumstances, disclaim an inquiry? If they did, they disclaimed one of the great powers with which they were indubitably clothed.

It had been said that this inquiry would affect private character. Mr. R. respected private character; but when placed in competition with the great interests of the nation, he would not be so squeamishly delicate about it. Cases had heretofore occurred in which a civil officer had been charged with having acted improperly, and evidence collected from every part of the nation and published a year before his trial. The interest of the nation and their duty to their constituents required it, and he hoped it would be made; not that the House should interrupt the inquiry of the President, but suffer it also to go on.

This inquiry would involve more men than Wilkinson. They would find that the Court of Spain addressed itself to high characters; humble characters would not suit their purposes. This inquiry would lead to an implication of others whom it might be important for the nation to understand, in order to be relieved from a possibility of danger at home, in case of a foreign war, from the circumstance of those having great power and control possessing a disposition to ruin the country. If the House were disposed to make effectual inquiry, they would oppose the postponement and adopt an amendment which he had proposed to offer for appointing a special committee for inquiry, with power to compel attendance of witnesses, &c.

The American Government was not very old, and they had already discovered three treasonable projects—a late one, which had excited much alarm, and into which inquiry had been made, and delicacy toward character had not been very much regarded. The President of the United States had thought it his duty to charge one of the great departments of the nation with the corrupt administration of the law: and, in so doing, had given an illustrious example that delicacy should yield to duty.

The Spanish conspiracy and the two thousand Kentuckians, officered under French colors afterward, did not excite the same sensation on every mind that it did on his. If, said Mr. R., you are disposed to turn a deaf ear to this, you will soon learn, with all your vigor, unwelcome intelligence from the Louisiana country. You should determine that in no part of the United States should treason lurk concealed—that it is vain for any man, whatever be his elevation, to cover improper conduct from the nation. Surely, our existence is important; our Government is assailed, corruption rankles in an important part. I hope such a display of energy will now be made as will paralyze treason and corruption yet in embryo.

Mr. Taylor said, when he made the motion for postponement, he did it not to give gentlemen an opportunity to blacken this man's character; he had hoped that the usual course of confining the debate to the motion in hand would have been adhered to. But, as gentlemen had travelled out of their course, and expressed so great a desire to discuss the main question, he was not disposed to indulge them. From a sense of justice to the person involved, he would not afford an instrument of protracting slaughter to his character. We have been travelling, from step to step, said Mr. T., and every proposition, however wide and abstracted, has but afforded another means of torture. I would not be considered as one of those who would propose an instrument to sear the feelings of any man, be he whom he may; and as gentlemen are so extremely anxious for discussion, my motion shall not afford a pretext for it. Mr. T. then withdrew the motion for postponement.

Mr. Milnor immediately renewed the motion.

Mr. Smilie wished the gentleman from Kentucky would tell the House what were the proceedings of the Legislature on this evidence, and who was the person who delivered it?

Mr. Rowan said, the person who stated this was Judge Innes, not in the character of a culprit, but as a witness. Mr. R. had allusion to the following resolution of the Legislature of that State, which he then read:

"Whereupon your committee does not hesitate to declare as their opinion that the information given to the House of Representatives is substantially true, and correctly detailed; and that the said Judge Sebastian is guilty of having for several years received from the Spanish Government a pension, paid in cash annually, to the amount of two thousand dollars. Your committee further report, as their opinion, that while Judge Sebastian was in the exercise of his office in this State, and drawing his annual salary therefrom, he was employed in carrying on with the agents of the Spanish Government, an illicit, unjustifiable, and highly criminal intercourse, subversive of every duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky."

This, said Mr. R., I am proud to say is the language of Kentuckians.

Mr. Smilie said, this was the proceeding of that Legislature in the case of Sebastian. He believed the Legislature had proceeded correctly, and the gentleman had told them this was a specimen of patriotism of Kentucky. Mr. S. thought so too, and that Kentucky was entitled to that character; but it was strange that this same patriotic Legislature had never communicated this information to the Secretary of State.

Mr. Rowan.—I will inform the gentleman that I myself, as Secretary of State, did enclose it to the President.

Mr. Smilie did not think the evidence of such a character as Power could have any weight. The man who had told them that morality in public and morality in private life were different things, and that a stoic would make a bungling politician—a man void of principle was not entitled to credit.

The gentleman had said he wished to see the man who would deny the power of this House. He may see one, said Mr. S., it is myself; and I hope there are many others in the House prepared to deny the power of the House. It is unnecessary to go into an argument again to show what are the powers of the House, prescribed by the Constitution. The gentleman had not attempted to show that the House had the power, nor can it be shown. But the gentleman supposes that, except this House can assume power to act for the public safety, there is no safety for the Republic. Surely, the patriots who framed the Constitution supposed that the distribution of power and the frame of Government it contained were sufficient to preserve the safety of the nation. But the gentleman says we must appoint a committee. Will the gentleman show whence we derive the authority to appoint a committee of inquiry? for I perceive he doubts that other departments will not do their duty. I will ask the gentleman, supposing that his doctrine, absurd as it is, was to obtain, and a committee to be appointed, what can be done? Are we to proceed to judgment on this officer, or what is to be done? If, according to his idea, this House is left by the Constitution to roam at large without limit or restriction, and exercise its powers as the passions would lead us, independently of the Constitution, I see nothing but ruin to result; and I am not afraid in the most express language to deny that power, nor am I afraid that the Constitution will not bear us through. Mr. S. said, the Constitution was well understood by the body of the people; and they would not blame their Representatives who were desirous to preserve the proper distinction between the different departments of Government. He cared not what was the question. He should vote against the resolution, and against any postponement or commitment of it; that the business might be left with the proper authority.

Mr. Findley.—Before the question is taken on this extraordinary resolution lying on the table, or that it be finally disposed of in any other manner, I will address you, sir, in a manner that I know to be out of order, but believing as I do the admission of this resolution, and every question arising thereon, to have been out of order, I will take the liberty to proceed, hoping that I will not be interrupted by the House, the members having

patiently submitted to the desultory discussions which have occupied their attention for several days, on a subject which could not Constitutionally come before them. Though this House is not a court of record nor of judiciary decision, yet they received a few days ago, a charge against a citizen, that was a responsible military officer, who in that character had rendered important services to the United States for at least thirty years, and most essential services at a very recent period, is well known; yet it is not to advocate his official character or conduct that I address you, sir, and through you this House. It is to advocate the liberties of the citizens of the United States, the cause of my sons, and of sons yet unborn; in this cause I feel myself under a necessity of acting in some degree contrary to my professions.

The House, sir, has not only received the charge and information of the mover, without any documents having been laid on the table, but on his demand has received information from the Delegate of the Territory of New Orleans. That gentleman, taken by surprise, stated that he was discouraged in attempting to give information to the President; that he gave information in writing to the Secretary of State, to which no attention, that he knew of, was paid. Finding that this information was, by some members, made use of to implicate the Administration; that gentleman, voluntarily, with that candor which he is known to possess, explained to the House that the information which he had designed to give to the President, and did give to the Secretary of State, did not relate to the question then before the House; that he could give further information if he was officially called on, but would not otherwise. This observation does honor to his understanding. I wish, sir, the hint had been taken; that gentleman knew that this House was authorized to originate or concur in enacting laws, but had no power to decide on, or execute those laws. This gentleman was not called upon nor obliged, probably not able, to give information of transactions prior to that period of which he was Consul for the United States. I have always understood that he was a useful and faithful Consul for the United States at New Orleans, while it remained under the Spanish Government.

The gentleman from Kentucky (Mr. Rowan) who addressed you, sir, last but one, has, without being called upon, volunteered information against General Wilkinson, not however supported by such testimony as could be admitted in any court of law or equity, but such as the mover has offered and also volunteered; however I disapprove of this practice, it has, by being indulged, become necessary that I should also give information with relation to this subject.

From the commencement of the Federal Government, and even before it commenced, there were complaints and murmurs in the Ohio country, which gave occasion to Spanish intrigues. To remove these complaints and counteract these intrigues, President Washington was very attentive, and for that purpose employed one or more agents to go into the country. In short, he kept a watchful eye on the people of that country. This circumstance was generally known at the time, and is recorded in Ramsay's Life of Washington, and, if I recollect well, in Marshall's.

In 1795, a treaty was concluded with Spain favorable to the Western country, but the execution of it, from various causes, was so much delayed as to render its success doubtful. During this suspense these intrigues between the Spanish Government at New Orleans and characters on the Ohio were revived and carried to the greatest height; money, enclosed in sugar barrels, was sent to Kentucky, to be distributed to different persons supposed to be influential; and, if I am not mistaken, overtures were made to the Baron de Carondelet, the Governor, to be King of Louisiana, Kentucky, &c., which he refused; but, information of all these circumstances were duly put in possession of the Government. Probably all the characters to whom the money and letters were sent, were not known, but the transaction was well known to the Administration, and no doubt the most prudent means used to counteract or prevent its effects. I had this information principally from the respectable gentleman who was, during that period, Commissioner in behalf of the United States for carrying the treaty with Spain into effect, and for running the boundary line, the execution of which these intrigues delayed, and went near to defeat. I had this information from that respectable gentleman in the Fall of 1799, therefore, before the present Administration commenced, and three years before the gentleman from Orleans gave, or attempted to give his information respecting these intrigues, which, however, he candidly says, did not relate to the case before the House, viz: the corruption of General Wilkinson. No doubt the information given of these intrigues during former Administrations, is lodged in the office of State, and consequently early known to the present Administration. The gentleman from whom I had the information, conversed with me at the same time about General Wilkinson, who, as Commander of the Army, had to assist in the execution of the treaty, but did not give the smallest hint of his being implicated in these intrigues, except giving assistance in counteracting them. It is well known that he stood high in the confidence of that Administration, as he had done in the former, and has done during the present, and enjoyed, as far as I have known, the public confidence, till in favor of a recent and dreadful intrigue, which the General has since contributed so greatly to defeat, it was found necessary to denounce his character. I had not, sir, intended to have mentioned this information to the House until I could have had it from under the hand of the gentleman himself, but the information now given by the gentlemun from Kentucky, and the manner in which the Administration has been implicated for declining to receive information in a particular instance, seems to render it improper to delay this information longer. It was not given to me in confidence.

I did not rise, sir, with a view to enter into the argument. The gentleman from Kentucky's claim of such unconstitutional and dangerous powers to this House, has been sufficiently noticed by my colleague, who has just sat down, (Mr. Smilie) It is such a doctrine as the gentleman himself, on due reflection, will retract. He concluded, with very earnestly and repeatedly persuading the members not to suffer themselves to be influenced by delicacy for the feelings of General Wilkinson, &c. Mr. Speaker, even delicacy for the feelings of the General, or any other citizen, should so far have effect as to prevent their character from being traduced where they cannot be permitted to be heard in their own vindication, and where there is no legal authority to investigate their case, or to decide upon their character. The members of this House, sir, are privileged from being called to account, or punished elsewhere, for what they say on this floor; but, to prevent the abuse of this necessary privilege to the purposes of private enmity, caprice, passion, or indiscretion, under the hypocritical disguise of zeal for the public good, the House is not only authorized to prescribe its own rules of decorum, but also to punish or even expel a member for the breach of these rules. Sir, even mentioning or implicating the name or character of an officer or citizen on this floor, so as to impute blame to his character, is a breach of decorum, and ought to be punished; and though it has, in some few instances, passed with impunity in public bodies, it has never failed to degrade the character of him who takes that indecent and ungentlemanly liberty, in the public opinion, and to sink the character of the public body that permits it. No such conduct ought to be permitted, unless in order to impeachment of a public officer, or in order to the punishment of a contempt.

On this occasion, sir, I am not, however, influenced by delicacy for the feelings of General Wilkinson; I am influenced by delicacy of a superior kind: I am influenced very seriously, sir, by a delicacy for the character of this House. I am jealous lest, instead of being the Constitutional protectors of the citizens, we should give ground to suspect that we would submit to become instruments of persecution or private revenge at the instigation of any of our own members. We have courts of justice, with trial by jury, for the application of our laws to the punishment of crimes and the protection of innocence; but those citizens who choose to accept of offices, civil or military, are obliged to surrender the right of trial by jury for official crimes, as security for their official trust. Civil officers subject themselves to impeachment, which may result in disqualification and infamy, and military officers to a decision of courts martial, which may result in forfeiture of life.

Mr. Speaker, we can only prescribe to the Executive, or the courts of justice, civil or military, by a law of Congress; if the laws are insufficient for the detection of crimes, let Congress revise them, or make new laws. If there are not a sufficient number of courts established, Congress has authority to organize other courts; but one branch of Congress alone has no right officially to inquire into, or sit in judgment on the character of Executive officers, except with a view to impeachment, which, it is admitted, does not apply to this case. It is admitted, even by the advocates of the resolution, that the House can pass no sentence in this case. Why, then, begin what we cannot finish? Happily, the resolution for raising a committee, with authority to call for persons, papers, records, &c., has been rejected by such a majority as does honor to the House; but the propriety of doing so has been again advocated, and may, probably, be again renewed; but I am confident, Mr. Speaker, that this House will never institute a court of slander out of its own body, or degrade itself into a Court of Star Chamber. If General Wilkinson is guilty, which he may be, for aught I know, let his guilt be detected and punished by the proper tribunal, which is at his own request already appointed. Permit me, sir, to conclude by saying that, on a review of the whole subject, as it has been conducted, General Wilkinson is not the sole, nor the principal object. Whatever danger there might have been, in 1796, during General Washington's Presidency, or in the four following years of Mr. Adams's Presidency, there is no such danger now as to justify a member of this House in stopping and delaying, by solemn grimace, a bill which has for its object the necessary enforcement of the embargo, every hour's delay of which, in so far, defeated its salutary effects in favor of the peace of the country; yet we know that, by this stratagem, I cannot call it less, that important bill was delayed in its passage several days, though the member who moved the resolution before the House, had voted against the embargo, after having been the original mover and advocate of it: yet this will not account for his novel interruption of the passage of the supplementary law through the House; reasons for this must be sought for elsewhere, and time and circumstances will sufficiently suggest these reasons to every member and citizen acquainted with them.

Mr. Bibb understood the motion for postponement was made for the purpose of giving the gentleman from Orleans time to lay before the House such information as he possessed. To vote on this, it became necessary for him to inquire when the gentleman from Orleans would give his information—if he could do it in one or two days? If he could, Mr. B. said, he should vote for the postponement; but, if not, he should vote against it, because he was unwilling to hold up the character of any man to suspicion.

Mr. Clark had no other wish than to obtain time to draw up his information; he could probably prepare it by Monday.

The motion for postponement was carried—70 to 32.

Saturday, January 9.

Mr. Marmaduke Williams, from the committee appointed on the first ultimo, presented a bill making additional compensation to the mar-

shals for the districts of North Carolina and New Jersey; which was read twice and committed to the Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on the bill to incorporate the Protestant Episcopal Church in the town of Alexandria; and, after some time spent therein the Committee rose and had leave to sit again.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, of the twenty-third of November last, to whom were referred the petitions of Samuel Beebee and Edward Weld; and, after some time spent therein, the Committee rose and reported their agreement to the resolution contained therein; which was twice read, and agreed to by the House, as follows:

Resolved, That the accounting officers of the Treasury Department be authorized to settle the accounts of Edward Weld and Samuel Beebee, and pay the former the sum of one hundred dollars, and the latter the sum of fifty dollars, with interest on those respective sums, at the rate of eight per cent. per annum, agreeable to the terms of the aforesaid loan.

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee of Ways and Means do prepare and bring in the same.

The House resolved itself into a Committee of the Whole on the bill to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase. The bill was reported without amendment and ordered to be engrossed, and read the third time on Tuesday next.

On motion of Mr. Van Horne,

Ordered, That the Secretary of the Treasury be requested to lay before this House a statement showing the amount of tonnage employed in the exportation of articles the produce or manufacture of the United States.

Mr. Blackledge, one of the members from North Carolina, presented to the House a resolution of the Legislature of the said State, relative to the erection of a fort for the command of the bar of Old Topsail Inlet, and the defence of Beaufort harbor.

The said resolution was read: Whereupon, a motion was made by Mr. Blackledge, that the House do come to the following resolution:

Resolved, That the Speaker transmit to the President of the United States the resolution of North Carolina, instructing the Senators, and requesting the Representatives, of that State in Congress, to use their endeavors to cause a sufficient fort to be built for the command of the bar of Old Topsail Inlet, and the defence of Beaufort harbor.

The House resolved itself into a Committee of the Whole on the bill remitting the duties payable on the importion of a monument to be erected in memory of the officers of the United States' Navy, who fell during the attack made on the city of Tripoli, in the year 1804.

Mr. Milnor moved to add a new section to the bill, to appropriate a sum of money for railing in, and covering the monument. After some debate on this, in which Messrs. Milnor, Lyon, and Witherell supported, and Messrs. Stanford, Macon, and Smilie, opposed it, the Committee rose without deciding on it, and obtained leave to sit again.

AMERICAN SEAMEN.

Mr. Dana.—I request permission, sir, to submit to the attention of the House a proposition which has for its object the encouragement and security of seamen of the United States.

By seamen of the United States, I mean all who belong to the national family by birth or by regular adoption. The proposition has in view a principle of permanent policy, to which the United States may adhere in either alternative of peace or war. It is of such a nature, that, according to my apprehension, it will not contravene the stipulations of any imaginable treaty between the United States and any European Power. It is not intended to interrupt the progress of any negotiation which may be expected or depending. It proposes no national degradation; no acknowledgment of inferiority; no act of submission to any foreign Power. Yet, according to the estimate which I have been led to form of probable consequences, its adoption by national authority may operate materially to diminish the range of controversy with respect to seamen; and perhaps the principle might be carried to such extent as to remove the controversy altogether.

In saying this, I speak with reference to seamen who belong to the United States, in fact and in truth. The proposition supposes the propriety of making a strongly marked discrimination between true American seamen, and the aliens to our country and laws, foreign deserters, renegades, and fugitives from justice, impostors by whom the character of American seamen is falsely assumed and abused. It is proposed, that for our own service a preference should be given to our own seamen, over all others—that, as far as our policy secures privileges to persons engaged in the merchants service, the seamen who are our countrymen should have more and better employment, that they should be known with certainty, and protected with firmness.

If it should be asked what principle can be so free from objection, and yet adopted to produce such consequences, a general answer may readily be given, which will point to its character. The principle is plain, and practical. It has nothing of the splendor of theoretic system, nothing of the magnificence of learned, abstruse disquisition. It proceeds directly towards its object; and, for assuring the execution, it appeals to the interest of the American merchants, and to the hearts of the American seamen.

That this subject may be more distinctly understood, permit me, sir, to remind the House of the nature of our laws with respect to the revenue and navigation. It is well known that the revenue system is favorable to such ships or vessels as are legally denominated ships or vessels of the United States. The denomination is technical, and is given by statute to ships or vessels of

certain descriptions, which are entitled to peculiar benefits and privileges. These relate principally to the payment of imposts and tonnage.

All vessels entered in the United States are subjected to tonnage duties. But the difference in favor of vessels of the United States, as compared with other vessels, amounts in some cases to nearly a dollar per ton.

Although this privilege is valuable, the discrimination with respect to impost is of more importance. In cases of importation in foreign vessels, a discriminating duty of ten per cent. is added to the rates of impost, which would be chargeable on the same articles if imported in vessels of the United States; and, in this respect, all vessels which have not the qualifications required by the navigation law, are considered as foreign vessels, although they may be owned by American merchants. This difference of ten per cent. in the rates of impost might sometimes nearly amount to the value of the freights, or perhaps equal or exceed it, with respect to cargoes consisting of the finer and most precious fabrics.

These discriminations have been established for the encouragement of American shipping. Their operation has been free from violence; but it has been efficacious. The effect has been that of a power constantly applied, and regularly tending to produce a desired result. A recurrence to statements made by the Treasury Department, in different years, since the commencement of proceedings under the Constitution, will decisively prove the great increase of the proportion of American shipping employed in the trade between the United States and foreign countries.

As this principle of discrimination has been applied so effectually for the encouragement of American shipping, it is now proposed to apply the same principle for the encouragement and security of American seamen.

Gentlemen may judge with what effect it can be applied to this purpose, if they will now turn their attention to our navigation law. The "act concerning the registering and recording of ships or vessels" makes provision for the registering of ships or vessels which may be "denominated and deemed ships or vessels of the United States." To complete a title to all the privileges of such vessels, three general qualifications are required: American construction—American ownership—American command. The vessels must have been built within the United States, except in certain cases of vessels owned by American citizens in the year 1789, or vessels condemned as prize or adjudged forfeited for breach of law. They must be owned wholly by American citizens having their usual residence in the United States, except in cases of American owners being abroad in a consular capacity, or acting as agents or partners of commercial houses consisting of American citizens actually carrying on trade within the United States. They must also be commanded by citizens of the United States; as it is expressly provided that the registered ships or vessels shall not continue to enjoy the benefits and privileges appertaining to ships or vessels of the United States, longer than "they shall continue to be wholly owned and to be commanded by a citizen or citizens of the United States."

In addition to these, it is now proposed to prescribe a further qualification, which has not as yet been required by our law, although the principle is perfectly plain, and corresponds to practical regulations well known to be adopted by some of the greatest civilized Powers, especially in Europe. It is to require, that registered ships or vessels, to be completely privileged as American, shall be navigated by a proportion of American mariners.

As soon as the proposition is stated, its efficacy may be instantly perceived. In case of its being adopted, American seamen would of course be employed in preference; and might, therefore, be enabled to obtain better employment, higher wages, and more comfortable means of subsistence. The interest of the regular American merchant, concerned in shipping, would require him to employ them; and his vessels could not otherwise enjoy the privileges of American vessels, and the additional wages for American seamen would be more than compensated by the exemption from discriminating duties in consequence of their being employed. At the same time it would be the interest of the true American seamen, and it would agree with sentiments of fair dealing and of duty towards brother-seamen, to expose foreign impostors who might attempt, by means of false swearing, to keep out of employment some of the honest seamen who are our own countrymen.

In adopting this principle into our navigation law, I could choose to renounce the whole system, now practised in our custom-houses, of issuing to individual seamen such certificates of citizenship as are commonly called protections. I am not for obliging the American seamen to carry such protections about their persons while on board American merchant vessels. The documentary proofs of the national character of the vessel, the complete evidence of the national flag, should constitute a sufficient protection for every American seaman on board who shall have been shipped for the voyage according to law. If such peaceable means of protection from impressment should not be respected, let us be prepared to adopt other measures of more decisive character.

It is obvious, in giving to the American seaman the protection of the documentary proofs of the national character of the vessel on board of which he is shipped, in thus giving him the complete protection of the American flag, the public would give him a protection which he could enjoy only while faithful to his duty in continuing with the vessel. By deserting from the service, he would instantly lose the benefit of this protection. And such a protection could not be fraudulently sold to an alien by the seaman for whom it was originally intended. These advantages might be expected from the nature of the regulations which would be proper for carrying the principle into effect.

That a vessel might be entitled in our own ports to all the privileges of the American flag, it ought to appear from the documents appertaining

to the vessel, it ought to appear from the regular ship's papers, that the vessel has on board the requisite proportion of American seamen. This would be a plain regulation, completely within our power, and acknowledging no national inferiority.

There is a reason for taking this subject into consideration at the present time. The operation of the existing embargo must undoubtedly throw out of employment a great number of seamen, among whom there may be some hundreds, or perhaps thousands of foreigners. Those foreign seamen being thrown out of American employment by the embargo, and being recalled to their own country by proclamation of its Government, it is not improbable that they may be disposed to leave the United States, with a view to employment in the foreign service. Under these circumstances, I am for holding out to the American seamen, to our countrymen, the encouragement of future privileges and employment in preference to others. This might operate as an inducement for them to continue in the United States; and they might be cheered by hopes of brighter prospects and better times, notwithstanding the sufferings to which they may be subjected by the pressure of the embargo.

With these views, I submit the following resolution for the consideration of the House:

Resolved, That, for the encouragement and security of seamen of the United States, it is expedient to make provision, that registered ships or vessels, after a time limited by law, shall not continue to enjoy the benefits and privileges appertaining to ships or vessels of the United States, unless some proportion of the mariners on board the same shall be citizens of the United States.

The resolution having been read at the Clerk's table, Mr. Dana moved to have it referred to a Committee of the whole House, that the principle might be fully discussed.—Agreed, and ordered for the next Wednesday.

Mr. Dana.—It may be recollected, that the Secretary of the Treasury, during the present session, has reported a statement of the tons of shipping owned in the United States. This is an interesting document, which may have an important bearing on the subject which has just been referred to a Committee of the Whole. Gentlemen may also deem it of importance to know how many seamen have been registered as American, and now belong to the several districts of the customs in the United States. The law respecting the relief and protection of American seamen contains a provision requiring the collectors of the customs to make returns, to the Department of State, of the numbers of seamen who have received certificates of citizenship, and been registered as American seamen in the respective districts. I am not certain, however, that the Secretary of State has it in his power to give all the information which is desired on this subject. But, as far the documents in his office may enable him to give the information, I could wish it to be in possession of the House. For this purpose, I propose the following resolution:

Resolved, That the Secretary of State be directed to lay before this House, a statement of the respective numbers of citizens of the United States registered as American seamen, and now belonging to the several districts of the customs, according to the returns made by the collectors, in pursuance of the law relative to the relief and protection of American seamen.

The resolution was adopted.

Monday, January 11.

Mr. Boyle, from the Committee on Public Lands, who were directed to inquire into the expediency of allowing an additional compensation to the commissioners for examining titles to lands west of Pearl river, made a report recommending the adoption of a resolution declaring that it is inexpedient to grant an additional compensation to these commissioners; which was ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill for the relief of Oliver Evans (allowing him to renew a patent which was of no effect from an informality in the original patent:) and, after some time spent in discussion of it, the Committee rose and reported the bill, which was ordered to a third reading tomorrow.

REPORT ON EMBARGO MEMORIAL.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was referred the memorial of the merchants of Philadelphia, praying the modification of the embargo law, so as to permit vessels cleared out at the time of the passage of that law, to go to sea, notwithstanding the embargo, made the following report:

The committee entertain no doubts that the facts are justly and correctly stated in the memorial. The object the memorialists have in view, is to obtain permission for their vessels to proceed on their respective voyages.

The cargoes consist principally of flaxseed, an article depending on a speedy exportations to insure its value. The memorialists place great reliance, to obtain the permission sought, on the hardship of their cases, and also on the ground of having procured clearances for their vessels, from the custom-house, to proceed on their voyages, previous to the passage of the act laying an embargo.

While the committee view, with becoming sensibility, the distressing situation in which the memorialists are placed—while with them they deplore and deprecate the events which have brought to a pause the commercial intercourse of the United States with foreign nations—they cannot give their assent to the opinion, that the cases of the memorialists are entitled to exemption from the inconveniences and hardships, if not the losses, which result from a general embargo. The committee cannot see any reason, why the cases, now under consideration, ought to be discriminated from those of other citizens. They cannot perceive how the mere compliance with the usual form of taking out clearances, for vessels to proceed on their voyages, can invest the memorialists with any distinguished privileges. From the distressing condition of the American commerce, liable, in its peaceful and inoffensive pursuits, to aggressions and outrages from the belligerent nations of Europe, it became the indispensable duty of Congress to inhibit, by an embargo, the departure, on foreign voyages, of our seamen, our vessels, and merchandise. The Republic feels vitally those injuries which arise from the impoverishment of its citizens, and from the deprivation, by illegal impressments and detentions, of its mariners. The strength of a Republic resides in the citizens it can number, and in their patriotism and valor. Impotent and inefficient would that Government be, without an investiture of powers in extraordinary crises, to control and restrain the persons or pursuits of the citizens. Such a Government, destitute of that natural and irresistible impetus and energy indispensable to its preservation, would crouch to, and sink under the first blow that should be aimed at it. The enlightened and virtuous patriots who framed the Constitution, foreseeing the trials and conflicts the United States would have, in their political progress, to encounter, infused into that instrument all the vigor essential to the accomplishment of the end for which it was designed—the happiness and salvation of the nation. That the extraordinary powers here spoken of, and contended for, are given to Congress by the Constitution, cannot be denied. The acts of Congress, recorded in the statute book, long acquiesced in by every description of citizens, afford a conclusive argument in support of the right to exercise those powers. The acts alluded to, are the embargo laid in 1794, and the several laws passed the 28th of February, 1806, and 1807, to suspend the commercial intercourse between the United States and certain parts of the Island of St. Domingo.

The embargo laid in 1794, operated alike on all vessels, whether they were or were not cleared out prior to the time it was enforced; nor has such a distinction ever received the sanction of any nation, the peculiarity of whose situation imposed an embargo, as an act of imperious necessity.

With equal grace, and the same justice, could the farmer and planter, the mechanic and manufacturer, put in their claim to exemption from the sacrifices which they are offering on the altar of patriotism: assigning as a reason for the exemption, that the products and articles of their respective vocations were the acquisitions of their skill and industry, previous to the existence of the act laying an embargo, and that they have the right, if they should think proper to exercise it, to export those products and articles to foreign markets. If the position of the memorialists be sound, it would be absurd in the extreme ever to lay an embargo, as it never could be brought into action at the time when all the energies of such a measure were required for the public safety and welfare.

Were vessels permitted to proceed on foreign voyages, Congress would deservedly merit censure for inconsistency, and for wanting dignified stability and firmness in the day of trial. The committee can never be induced to recommend a policy, nerveless, and without a character, while they maintain a due regard and devotion to national honor and to national interest.

The attention of the committee having been directed to the memorial of the merchants and traders of Philadelphia, by an order of the House of Representatives, they feel themselves constrained, in deciding on the embargo cases before them, to take a transient view of the causes which led to that measure, and to express their opinion of the necessity imposed on the United States of adhering to it, until proper assurances are given, that their neutral rights shall be respected.

Those who have bestowed any thought on the state of affairs in Europe, must have contemplated as probable a measure of this kind on the pressure of inauspicious events.

The love of domination and the cupidity of commercial monopoly have regularly and undeviatingly been producing and maturing this extraordinary crisis, in which, without their accord, the United States are unhappily involved. If a wise and prudent policy, tolerating and countenancing no measures or practices that could compromit the peace or interrupt the harmony of the United States with any of the belligerent nations of Europe, could have preserved to them the advantages of an honest and impartial neutrality, our citizens and merchants would not now be lamenting that languor and inactivity produced by a suspension of commerce. Congress had it in its option either to permit the continuance of commerce, or to resort to the secure and precautionary measure of an embargo. If the continuance of commerce had been preferred, Congress, from the existing state of things, would have been compelled, with an inadequate marine force, to afford some sort of protection to it, or to allow private ships to arm for their defence. If such a step had been taken, war must have ensued; if resistance to the execution of the decree of France, bearing date the 21st November, 1806, or of such orders as should be issued by the British Cabinet, in conformity to the retaliating power contended for in the note of Lord Howick to Mr. Monroe, of 10th January, 1807, and of the proclamation of the 16th October, 1807, could produce it. In this state of affairs between the United States and the nations of Europe, a permission to arm private ships would be tantamount to a declaration of war. Individuals who had been injured by either of the nations, or who might be influenced by narrow prejudices, or short-sighted views, would have it in their power to plunge the United States, without their consent, into a war with one of the belligerent nations, and to pave the way to an alliance with the other. From these considerations a preference was given to the embargo. On the 18th December, 1807, the President of the United States addressed a confidential Message, since published, to the Senate and House of Representatives, as follows: "The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and our merchandise, are threatened, on the high seas and elsewhere, from the belligerent Powers of Europe; and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States."

This Message from the Executive Magistrate, whose province it is to preside over our foreign relations, received from Congress that immediate and prompt attention which was due to its importance.

The evidences of dispositions manifested, and of measures adopted, and in execution, by the belligerent nations, left no doubt on the mind of the certain prostration of neutral commerce. The embargo was laid, as being the safest course. It was considered as the best means that could be resorted to for the protection of our citizens, and for the preservation of our vessels and merchandise. It was a measure that resulted from much deliberation. That it is the best which Congress could devise or adopt, is the solemn and profound con-

viction of the committee, on a review of the whole ground. No charge of partiality can be brought against it, as all nations are placed on an equal footing, their vessels being at liberty to enter our ports, and to depart at pleasure. The embargoes laid in Europe, since the year 1793, never excepted from detention American vessels. The belligerent nations cannot raise the voice of complaint, as their injustice has made this precautionary measure an act of necessity. Should the embargo be rigidly persevered in, the advantages to be derived from its adoption will amply repay all the sacrifices made to obtain them. New and important treasures, heretofore neglected, will be brought to light, and, what is more important, into use. The United States, regenerated by their own energies, will acquire a confidence in, and a reliance on, their own resources, without which it is in vain to endeavor to give effectual and commanding protection to the rights of the citizens and those of the Republic. The embargo, by teaching foreign nations the value of American commerce and productions, will inspire them with dispositions to practice justice. They depend on this country for articles of the first necessity, and for raw materials to supply their manufactories. The embargo will have so inconsiderable influence in breaking those municipal fetters which circumscribe the motions and liberty of commerce.

The committee are persuaded that the National Legislature has endeavored sedulously to perform the duties assigned to it by the Constitution in a manner to comport with the honor and welfare of a great and free people. The stand which a deliberate and dispassionate judgment recommended and approved, has been taken. The issue is in the hands of that God, who has never ceased pre-eminently to manifest his love to these United States; and whatever may be that destiny which His all-wise and superintending Providence has allotted for them; whether it is to be their happy lot to arrive at that destiny under the guidance and auspices of peace; or whether it is decreed that they shall pierce through war to reach it, to acquiesce with dignity and firmness becomes a duty. Despair can never dwell in the bosom of liberty. That God who led the United States victorious to independence, has given strength to, and inspired them with courage to maintain and to perpetuate it.

The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the memorialists, merchants and traders of the city of Philadelphia, is unreasonable and ought not to be granted.

After some observations against immediately deciding on this report by Messrs. MILNOR and LYON, and by Mr. NEWTON in answer, on the suggestion of Mr. SMILIE, the report was referred to a Committee of the Whole on Wednesday next.

GENERAL WILKINSON.

On motion of Mr. RANDOLPH, the House took up for consideration the resolution submitted by him a few days since, relative to the conduct of Brigadier General James Wilkinson.

Mr. CLARK laid upon the table the statement which he had been requested to make by a resolution of the House on Thursday last. The statement is as follows:

In obedience to the direction of the House of Representatives, expressed in their resolution of Friday last, I submit the following statement:

I arrived from Europe at New Orleans in December, 1786, having been invited to the country by an uncle of considerable wealth and influence, who had been long resident in that city. Shortly after my arrival, I was employed in the office of the Secretary of the Government—this office was the depository of all State papers. In 1787, General Wilkinson made his first visit to New Orleans, and was introduced by my uncle to the Governor and other officers of the Spanish Government.

In 1788, much sensation was excited by the report of his having entered into some arrangements with the Government of Louisiana to separate the Western country from the United States, and this report acquired great credit upon his second visit to New Orleans in 1789. About this time I saw a letter from the General to a person in New Orleans, giving an account of Colonel Connolly's mission to him from the British Government in Canada, and of proposals made to him on the part of that Government, and mentioning his determination of adhering to his connexion with the Spaniards.

My intimacy with the officers of the Spanish Government and my access to official information disclosed to me shortly afterwards some of the plans the General had proposed to the Government for effecting the contemplated separation. The general project was, the severance of the Western country from the United States, and the establishment of a separate Government in the alliance and under the protection of Spain. In effecting this, Spain was to furnish money and arms, and the minds of the Western people were to be seduced and brought over to the project by liberal advantages resulting from it, to be held out by Spain. The trade of the Mississippi was to be rendered free, the port of New Orleans to be opened to them, and a free commerce allowed in the productions of the new Government with Spain and her West India islands.

I remember about the same time to have seen a list of names of citizens of the Western country which was in the handwriting of the General, who were recommended for pensions, and the sums were stated proper to be paid to each; and I then distinctly understood that he and others were actually pensioners of the Spanish Government.

I had no personal knowledge of money being paid to General Wilkinson or to any agent for him, on account of his pension, previously to the year 1793 or 1794. In one of these years, and in which I cannot be certain until I can consult my books, a Mr. La Cassagne, who I understood was Postmaster at the Falls of Ohio, came to New Orleans, and, as one of the association with General Wilkinson in the project of dismemberment, received a sum of money, four thousand dollars of which, or thereabout, were embarked by a special permission, free of duty, on board a vessel which had been consigned to me, and which sailed for Philadelphia, in which vessel Mr. La Cassagne went passenger. At and prior to this period I had various opportunities of seeing the projects submitted to the Spanish Government, and of learning many of the details from the agents employed to carry them into execution.

In 1794, two gentlemen of the names of Owens and Collins, friends and agents of General Wilkinson, came to New Orleans. To the first was entrusted, as I was particularly informed by the officers of the Spanish Government, the sum of six thousand dollars, to be delivered to General Wilkinson on account of his own pension, and that of others. On his way, in returning

to Kentucky, Owens was murdered by his boat's crew, and the money it was understood was made away with by them. This occurrence occasioned a considerable noise in Kentucky, and contributed, with Mr. Power's visits at a subsequent period, to awaken the suspicion of General Wayne, who took measures to intercept the correspondence of General Wilkinson with the Spanish Government, which were not attended with success.

Collins, the co-agent with Owens, first attempted to fit out a small vessel in the port of New Orleans, in order to proceed to some port in the Atlantic States; but she was destroyed by the hurricane of the month of August of 1794. He then fitted out a small vessel in the Bayou St. John, and shipped in her at least eleven thousand dollars, which he took round to Charleston.

This shipment was made under such peculiar circumstances that it became known to many, and the destination of it was afterwards fully disclosed to me by the officers of the Spanish Government, by Collins, and by General Wilkinson himself, who complained that Collins instead of sending him the money on his arrival had employed it in some wild speculations to the West Indies, by which he had lost a considerable sum, and that in consequence of the mismanagement of his agents he had derived but little advantage from the money paid on his account by the Government.

Mr. Power was a Spanish subject, resident in Louisiana, till the object of his visits to the Western country became known to me in 1796, when he embarked on board the brig Gayoso, at New Orleans for Philadelphia, in company with Judge Sebastian, in which vessel, as she had been consigned to myself, I saw embarked under a special permission four thousand dollars or thereabout, which, I was informed, were for Sebastian's own account, as one of those concerned in the scheme of dismemberment of the Western country.

Mr. Power, as he afterwards informed me, on his tour through the Western country, saw General Wilkinson at Greenville, and was the bearer of a letter to him for the Secretary of the Government of Louisiana, dated the 7th or 8th March, 1796, advising that a sum of money had been sent to Don Thomas Portell, commandant of New Madrid, to be delivered to his order. This money Mr. Power delivered to Mr. Nolan, by Wilkinson's directions. What concerned Mr. Nolan's agency in this business I learned from himself, when he afterwards visited New Orleans.

In 1797, Power was entrusted with another mission to Kentucky, and had directions to propose certain plans to effect the separation of the Western country from the United States. These plans were proposed and rejected, as often solemnly assured me, through the means of a Mr. George Nicholas, to whom among others they were communicated, who spurned the idea of receiving foreign money. Power then proceeded to Detroit to see General Wilkinson, and was sent back by him under guard to New Madrid, from whence he returned to New Orleans. Power's secret instructions were known to me afterwards, and I am enabled to state that the plan contemplated entirely failed.

At the periods spoken of, and for some time afterwards, I was resident in the Spanish territory, subject to the Spanish laws, without an expectation of becoming a citizen of the United States. My obligations were then to conceal, and not to communicate to the Government of the United States the projects and enterprises which I have mentioned of General Wilkinson and the Spanish Government.

In the month of October, of 1798, I visited General Wilkinson by his particular request at his camp at Loftus' heights, where he had shortly before arrived. The General had heard of remarks made by me on the subject of his pension, which had rendered him uneasy, and he was desirous of making some arrangements with me on the subject. I passed three days and nights in the General's tent. The chief subjects of our conversation were, the views and enterprises of the Spanish Government in relation to the United States, and speculations as to the result of political affairs. In the course of our conversation, he stated that there was still a balance of ten thousand dollars due him by the Spanish Government, for which he would gladly take in exchange Governor Gayoso's plantation near the Natchez, who might reimburse himself from the treasury at New Orleans. I asked the General whether this sum was due on the old business of the pension. He replied that it was, and intimated a wish that I should propose to Governor Gayoso a transfer of his plantation for the money due him from the Spanish treasury. The whole affair had always been odious to me, and I declined any agency in it. I acknowledged to him that I had often spoken freely and publicly of his Spanish pension, but told him I had communicated nothing to his Government on the subject. I advised him to drop his Spanish connexion. He justified it heretofore from the peculiar situation of Kentucky; the disadvantages the country labored under at the period when he formed his connexion with the Spaniards; the doubtful and distracted state of the Union at that time, which he represented as bound together by nothing better than a rope of sand. And he assured me solemnly that he had terminated his connexions with the Spanish Government, and that they never should be renewed. I gave the General to understand that as the affair stood, I should not in future say anything about it. From that period until the present I have heard one report only of the former connexion being renewed, and that was in 1804, shortly after the General's departure from New Orleans. I had been absent for two or three months, and returned to the city not long after General Wilkinson sailed from it. I was informed by the late Mayor, that reports had reached the ears of the Governor, of a sum of ten thousand dollars having been received by the General, of the Spanish Government, while he was one of the Commissioners for taking possession of Louisiana. He wished me to inquire into the truth of them, which I agreed to do, on condition that I might be permitted to communicate the suspicion to the General, if the fact alleged against him could not be better verified. This was assented to. I made this inquiry, and satisfied myself by an inspection of the treasury-book for 1804, that the ten thousand dollars had not been paid. I then communicated the circumstance to a friend of the General, (Mr. Evan Jones,) with a request that he would inform him of it. The report was revived at the last session of Congress, by a letter from Colonel Ferdinand Claiborne, of Natchez, to the Delegate of the Mississippi Territory. A member of the House informed me that the money in question was acknowledged by General Smith to have been received at the time mentioned, but that it was in payment for tobacco. I knew that no tobacco had been delivered, and waited on General Smith for information as to the receipt of the money, who disavowed all knowledge of it; and I took the opportunity of assuring him, and as many others as mentioned the subject, that I believed it to be false, and gave them my reasons for the opinion.

This summary necessarily omits many details tending to corroborate and illustrate the facts and opinions

I have stated. No allusion has been had to the public explanations of the transaction referred to, made by General Wilkinson and his friends. So far as they are resolved into commercial enterprises and speculations, I had the best opportunity of being acquainted with them, as I was, during the time referred to, the agent of the house who were consignees of the General at New Orleans, and who had an interest in his shipments, and whose books are in my possession.

DANIEL CLARK.

Washington City, *Jan.* 11, 1808.

District of Columbia, *to wit:*
January 11, 1808.

Personally appeared before me, William Cranch, chief judge of the circuit court of the District of Columbia, Daniel Clark, Esq., who being solemnly sworn on the Holy Evangelists of Almighty God, doth depose and say, that the foregoing statement made by him, under the order of the House of Representatives, so far as regards matters of his own knowledge, is true, and so far as regards the matters whereof he was informed by others, he believes to be true. W. CRANCH.

Mr. Rowan moved to amend the resolution under consideration by striking out all that part after the word "Resolved," and inserting the following:

Resolved, That a special committee be appointed to inquire into the conduct of Brigadier General James Wilkinson, in relation to his having, at any time whilst in the service of the United States, corruptly received money from the Government of Spain or its agents, and that the said committee have the power to send for persons and papers, and compel their attendance and production—and that they report the result of their inquiry to this House.

The Speaker declared the amendment to be a substitute, and of course not in order.

Mr. Randolph said he was decidedly of opinion, that the gentleman from Kentucky ought to have an opportunity of taking the sense of the House on his motion; he therefore withdrew the resolution under consideration: when

Mr. Rowan moved the resolution as above stated.

Mr. Bacon said, notwithstanding the evidence which had just been read, he would give the reasons why he could not yet vote for this House to act in any manner on this subject, more especially as proposed by this resolution. It was not to be concealed that the impressions made upon his mind by the statement of the gentleman from New Orleans were very considerable; but the impressions which that or any other statement were calculated to make, were very different from the question of what it was their duty to do in relation to it. He hoped that they would not be so much impressed by it (for it contained a great deal he must confess) as to suffer it to impel them into a path wide of their Constitutional limits. He did not mean to express a definite sentiment as to the guilt or innocence of the officer involved.

He would not, under the privilege of his seat, on the one hand blazon the merits of General Wilkinson to the world, nor on the other, declare that he had sufficient evidence of his guilt. He would leave it to the unbiassed decision of the proper tribunal.

Mr. B. observed the other day, and would now repeat it, that it was not within their power to adopt the resolution then under consideration, or that now offered by the gentleman from Kentucky. He then and now conceived that the offence with which General Wilkinson was charged, might be cognizable by more than one department—certainly by the Executive, from his being a military officer. He could say nothing about the inquiry now instituted one way or the other; for if the Constitution did not authorize them to complete an inquiry they had no right to interfere with it, being the exclusive province of the Executive. It struck him further, that if the facts in this statement should be proven on a full examination to be true (and he did not call its correctness in question for he had heard the same things from other people.) he could not see why it was not a case cognizable by a judicial tribunal. The Constitution expressly forbade any person holding an office under the United States to take a pension or donation from a foreign Power. The act of receiving money from a foreign Power, therefore—the charge made against General Wilkinson—was a crime against the supreme law of the land, and cognizable by the judicial authority. If, therefore, we could, as proposed, instruct, request, or in any manner interfere with the Executive with respect to that portion of the inquiry which appertains peculiarly to the Executive, as the only power competent to remove this officer, why may we not in the same manner interfere with the jurisdiction or cognizance of the Supreme Court? He could see no difference; with equal justice they could interfere with one as with the other.

Gentlemen who were in favor of an inquiry in this form, could not have considered the subject so maturely as they ought. This was a Government of distributive powers. One class had been delegated to the Representative body, one to the Executive, and another to the Judiciary. If they once began each to invade the other's jurisdiction, the distributive system was destroyed. It has been said, that we are the Representatives of the people; that it is our duty to see that the Republic take no harm. This expression was calculated perhaps to captivate the public ear, and acquire popularity, as well as to captivate the House. But whatever they might think of what ought to have been provided, they ought to consider what was. I do not think, because we may on this, or any other occasion, suppose that we could do a great deal of good, we ought to take any steps towards effecting an object until we contemplate our particular powers in relation to that object. It has been said that this House is the grand inquest of the nation. I do not know what is meant by this expression; but, if I understand the meaning of the term, it conveys the same meaning as grand jury. Now, Mr. B. said, he could not agree to any position that this House was legitimately, on general subjects, the grand inquest of the nation. With respect to impeachments, and in that case alone, were they the grand jury, for then the two Houses acted in a judicial capacity—this

House being the grand inquest to inquire, and the Senate being the petit jury to judge of their presentment. Now, if this House were the grand inquest to inquire into this, or a similar case, in which an inquiry might seem to be conducive to the interest of the nation, and were to present a result, where was the jury to judge of the truth of their verdict? Was it to be tried by the Senate? That was not pretended to be the course.

On all these accounts, therefore, whatever was the impression which the paper this morning laid on the table might be calculated to produce on their minds, he thought they ought sedulously to attend to the Constitutional limits of their duty, and not conclude, merely because they might in any case act beneficially, that they had the power to act in such case.

He had before observed, that he would not express an opinion; but he would say that an inquiry ought to be had; it will, it must be had, and it should be a full and impartial inquiry. If the inquiry which had been instituted were but the semblance of an inquiry, for one it would not satisfy him, or the people, or the nation; it ought not to satisfy them. Gentlemen had said that a military court of inquiry would not be competent. Mr. B. did not know what might be their particular power as to sending for persons; but if that court had not sufficient power, it was in the power of the House to clothe them with it. He thought they might, though he would not say that they ought to do this. As a court of inquiry might have been, or could be, clothed with this power; and, adverting to what he had before said, that it was a case cognizable by a judicial tribunal; and if so, that a judicial tribunal had all the power that this House could exercise in any criminal case, and more than they had in this, he should vote against every resolution going to express a conviction that this House had any power or right whatever to act on a subject solely within the Constitutional right of the Executive or judiciary.

Mr. Randolph said, if the gentleman who had just sat down had not given his hasty impressions, but left his good understanding free to operate, his objections to the resolution would have vanished. The great mistake made by every gentleman who opposed this measure on Constitutional grounds, was this: that they looked upon an inquiry made by this House through the organ of one of its committees, as leading to the punishment of the individual implicated, and that where this House was not competent to inflict punishment, it was incompetent to make inquiry; this was the great stumbling-block which had impeded their apprehension. But he would ask the gentleman from Massachusetts whether this House was not competent to make an inquiry for its own legislative guidance? Was it not competent, as well in its capacity of supervisor of the public peace, as to obtain a guide for its own actions, to inquire into this matter? Was not the House clothed with the power of disbanding the Army? Now, suppose a committee of the House, upon inquiry, were to report, perhaps, that not only the Commander-in-Chief, but the whole mass of the Army, were tainted with foreign corruption, or were abettors of domestic treason, could any man assign to himself a stronger reason than this for breaking an Army on the spot? Did not the gentleman know, or rather did he not feel, that this House had the right of refusing the supplies necessary for the Army? And could a stronger reason be given for a refusal to pass the military appropriation bill than that they were nourishing an institution which threatened our existence as a free and happy people? Let me, if it is in order, ask the gentleman from Massachusetts to turn his attention to the proceeding of which we have official notice in another branch of the National Legislature, an inquiry into the conduct of one of its own members. Did they not all know that that man's offence was punishable by a civil tribunal? But the inquiry was not there made with a view to a trial, not to usurp the powers of the judiciary, but to direct that body in the exercise of its acknowledged legislative functions. Inasmuch as they possessed the power to expel one of their own members, to amputate the diseased limb, they possessed the power, and exercised it, to make an inquiry. Now, the gentleman from Kentucky had just as much right to institute an inquiry which might lead to the exercise of the legislative powers of this House, which might cause the disbanding of the present Army, the erection of another, or the refusal of supplies, as to institute an inquiry into the conduct of a member with a view to his expulsion, or of an Executive officer, with a view to impeach him before the Senate.

Mr. R. therefore presumed that any inquiry which this House might choose to make into the conduct of any officer, civil or military, was not an interference with the powers of any of the coordinate branches of Government; they were left free to move in their own orbits. If a crime had been committed against the statute law of the United States by such officer, the judiciary were as free to punish it as it was free to punish a member of this House, into whose conduct, upon suspicion of treason or misdemeanor, inquiry had been made with a view to his expulsion. The Executive likewise was left free to exercise his discretion; he was left free to dismiss this officer, to inquire into his conduct himself, either with his own eyes or ears, or by a military court; to applaud or censure.

Did they take possession of the body of this officer by an inquiry into his conduct? Did they interfere with the court of inquiry now on foot, but totally incompetent to the object? Gentlemen, indeed, had said, that if that court did not possess the power of compelling the attendance of witnesses, we might clothe it with that power. In expressing this opinion, the gentleman from Massachusetts had not been more considerate than in expressing his first opinion. Could any one conceive a more dreadful or terrible instrument of persecution than a military court clothed with the power to coerce the evidence and the production of papers of private citizens? Clothe them

with this power, and there is not a man in the United States who may not be compelled to go, at whatsoever season, to the remotest garrison, on whatsoever trifling occasion, at the will of a court martial, or a court of inquiry, leading to the establishment of a court martial.

In the course of the present year, Mr. R. said it had been his lot to receive, from no dubious or suspicious source, information touching—not to be sure the immediate subject on which an inquiry had been moved by the gentleman from Kentucky, but one intimately and closely connected with it. He meant the project, through the instrumentality of the Army of the United States, to dismember the Union; and he had no hesitation in saying—and it had been the opinion of a large majority, if not of every one of those of whom he had been a colleague—that the Army of the United States was tainted with that disease; and that, so far from the Army of the United States having the credit of suppressing that project, the moment it was found that the courage of that Army had failed, the project was abandoned by those who had undertaken it, because the agency of the Army was the whole pivot on which that plot had turned! This was in evidence before the grand jury, who had the subject in cognizance last Spring. He said that these conspirators were caressed at the different posts of the United States, in their way down the river, and by officers of no small rank, that they received arms from them, and the principal part of the arms these men had with them was taken from the public stores; and under a knowledge of these circumstances, was he not justified in the belief that the whole Army of the United States was connected in the project? He did not mean every individual; for there were some who could not be trusted, and some who were at posts too far distant to be reached. That those who were confidants of the Commander-in-Chief were interested in the conspiracy, no man who knew anything of the circumstances could doubt. He, therefore, thought that the resolution moved by the gentleman from Kentucky was every way reasonable. Indeed, he did not know whether the resolution should not be so varied as to embrace not only a charge of that nature, but all whatsoever.

Before he sat down, he should have it in his power to give to the House something certainly very much resembling evidence in support of the justice of his suspicions on this subject. On the 26th of January last, the House would perceive by the Journals, a Message was received from the President of the United States, "transmitting further information touching an illegal combination," &c., printed by order of the House, and which he now held in his hand. In this Message is contained the following affidavit:

"I, James Wilkinson, Brigadier General and Commander-in-Chief of the Army of the United States, to warrant the arrest of Samuel Swartwout, James Alexander, Esq., and Peter V. Ogden, on a charge of treason, misprision of treason, or such other offence against the Government and laws of the United States, as the following facts may legally charge them with, on the honor of a soldier, and on the Holy Evangelists of Almighty God, do declare and swear, that, in the beginning of the month of October last, when in command at Natchitoches, a stranger was introduced to me by Colonel Cushing, by the name of Swartwout, who, a few minutes after the Colonel retired from the room, slipped into my hand a letter of formal introduction from Colonel Burr, of which the following is a correct copy:

"PHILADELPHIA, 25*th July*, 1806.

"DEAR SIR: Mr. Swartwout, the brother of Colonel S., of New York, being on his way down the Mississippi, and presuming that he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure, as he is a most amiable young man, and highly respectable from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

"With entire respect, your friend and obedient servant, "A. BURR.

"His Exc'y GEN. WILKINSON."

"Together with a packet, which he informed me he was charged by the same person to deliver me in private. This packet contained a letter in cipher from Colonel Burr, of which the following is, substantially, as fair an interpretation as I have heretofore been able to make, the original of which I hold in my possession."

Mr. RANDOLPH said he should certainly have abstained from noticing the circumstance he was about to mention, and which he had believed to be of general notoriety, had it not been, that, within a very few days past, a gentleman, (with whom Mr. R. was in habits of intimacy, and whose means of information were as good as those of any member of the House,) to his utter surprise, informed Mr. R. that he was totally ignorant of the fact.

Mr. R. said he held in his hand an actual interpretation of this ciphered letter, which was made in the grand-jury room at Richmond, by three members of that body, for their use, and in their presence; and it was necessary here to state, that so extremely delicate was General Wilkinson, that he refused to leave the papers in possession of the grand jury: whenever the jury met, they were put into their hands, and whenever they rose, the witness was called up, and received them back again. Here was a copy—rather a different one from that which, "On the honor of a soldier, and on the Holy Evangelists of Almighty God," was as fair an interpretation as General Wilkinson was able to make. A comparison of the two would throw a little light on the subject. In the printed copy of the last session might be read "I (Aaron Burr) have actually commenced the enterprise—detachments from different points," &c. In the original the words had been scratched out with a knife so as to cut the paper—"I have actually commenced"—not the enterprise, but "the Eastern detachments." Now mark; by changing the word *Eastern* into *enterprise*, and moving the full stop so as to separate *Eastern* from its substantive *detachments*, the important fact was lost, that, as there were Eastern detachments under Colonel Burr, there must have been *Western* detachments under somebody else! Now, with a dictionary in his hand, could any man change "Eastern" into "enterprise," and

move the full stop, under an exertion of the best of his ability? Again: the printed copy says, "everything internal and external favors views;" the original has it "favors *our* views." The word "our" perhaps could not be found in any English dictionary! The printed version says again, "The project [this is the best interpretation upon his oath which a party who had never suffered the papers to go out of his hand could make] is brought to the point so long desired." The real interpretation is "the project, my *dear friend*, is brought to the point so long desired."

Mr. R. said, exclusive of other and direct evidence, tending to show the dependence which these conspirators put on the Army of the United States and that it was eventually their sole hope and support, and that the moment they found they were to be deprived of it they changed their purpose—exclusive of this, and that the conspirators were received at Massac and the other forts below, and of their there getting arms and stores, there was something in this suppression of words in the letter that spoke to his mind more forcibly than volumes of evidence, the implication of a man, who, had he been innocent, would have given all the evidence in any letter he professed to interpret. This suppression did certainly convey to the mind of Mr. R. an impression, which he had never attempted to conceal, of the guilt not only of the principal but of many of the inferior officers of the Army. But guilt is always short-sighted and infatuated. Not content with that dubious sort of faith which it might sometimes acquire when not brought to the trial, it had attempted not only to occupy the middle ground of doubt and suspicion, but to clothe itself with the reputation of the fairest character in the country, and in so doing, had torn the last shred of concealment from its own deformity. It stood now exposed to the whole people of the United States; and he left the House to say whether they would shut their eyes and ears, as they had been almost invited to do, against conviction.

Mr. SMILIE wished to know of the gentleman from Virginia whether there was not a motion before the grand jury to find a bill against General Wilkinson?

Mr. RANDOLPH said he had introduced this subject in order to suggest to the gentleman from Kentucky the propriety of modifying or amending his resolution. He would now give the information required by the gentleman from Pennsylvania, and hoped he should not be considered as intruding on the time of the House in so doing.

There was before the grand jury a motion to present General Wilkinson, for misprision of treason. This motion was overruled upon this ground: that the treasonable (overt) act having been alleged to be committed in the State of Ohio, and General Wilkinson's letter to the President of the United States having been dated, although but a short time, prior to that act, this person had the benefit of what lawyers would call a legal exception, or a fraud. But, said Mr. R., I will inform the gentleman, that I did not hear a single member of the grand jury express any other opinion than that which I myself expressed of the moral (not of the legal) guilt of the party.

Mr. SMILIE said he would not detain the House on this subject; he had the other day taken an opportunity to state his sentiments on the subject, that in his opinion there was no power in the House to proceed in the business. The same sentiments he yet entertained; and when gentlemen told him that it was necessary for the public safety that this House should exercise such powers, and at the same time they could not point out a single expression in the Constitution vesting the House with this power, he could not consent to vote with them: nor had a single gentleman who had spoken, attempted to show that they did possess these powers. The gentleman from Virginia had spoken of their power to disband the Army; if the gentleman chose to bring forward a resolution for that purpose, Mr. S. said he would meet him. He had also told them that they had a power to refuse supplies: Mr. S. said he agreed with the gentleman in this: but when they stepped out of the road, and assumed a power not vested in them, he could not go along with the gentleman. Was it not the duty of the President alone to inquire, who possessed full power to act on the information which might be the result of an inquiry? Certainly it was. The officer interested in this discussion was undoubtedly subject to trial by a court martial, and no doubt also by a court of justice; for if he was guilty of the crimes laid to his charge, they were of a high nature, and would subject him to the cognizance of the civil law.

But he would ask gentlemen, if they succeeded in passing the resolution upon the table, what was next to be done? Did the House believe that they could remove or punish a military officer for misconduct? If they could not do this, and he presumed no gentleman would contend for this, Mr. S. could see no reason for an inquiry. Were they to become mere juries for a court of justice—mere collectors of evidence—for it was admitted that they could not act upon it after it was collected? He believed the courts of justice were possessed of sufficient authority without this House volunteering their assistance.

Mr. S. remarked what would be the effect of this motion, which was substantially the same as that proposed by the gentleman from New York, and rejected by a large majority. It would answer the purpose of holding up this man to suspicion for years to come, for aught he knew, without producing any other effect. He was willing to inquire; he had seen from the beginning of the business that an inquiry must take place. There had been a number of papers laid upon the table relative to this; he was willing to transmit them to the proper department, there to be made use of, and he hoped the House would go no further. For in regard to the proceedings which had taken place they had exercised a right which did not appertain to them in proceeding in the business at all; they had no right to beset the character of the man; and he rested his objections on this point, that no man could show him an author-

ity for it. He was very sorry, because he thought it would produce effects of a serious nature, to hear a gentleman this day denounce the Army as corrupted throughout. He must tell that gentleman that he could not credit the assertion. They had tried (without meaning to express any opinion as to the officer now involved) their officers and found them trusty. And to hold them up as unworthy of trust at this time, in a crisis like the present, was impolitic and unjust. If gentlemen knew of any particular officers who were corrupt, why could and did they not lodge information against them, not by clamor here, but by proof before the proper authority?

Mr. S. in conclusion declared that he should not vote for this resolution; for, in any way, a procedure by this House on the subject would be incorrect.

Mr. RHEA, of Tennessee, called for the reading of the letter of —— Duncan, contained in the evidence laid before the House this session relative to the late trial at Richmond; it might be satisfactory in explaining the differences between the version of the ciphered letter by the grand jury and the translation made by General Wilkinson.

Mr. LOWE said, that although the form of the question had been varied, by the resolution of the gentleman from Kentucky, (Mr. ROWAN,) yet the principles of decision remained nearly the same as on the original resolution; the same objections applied, as to the subject embraced by the present form, and, so long as it thus remained, those objections would continue to influence his determination.

These grounds of difficulty had been attempted to be removed by the gentleman from Virginia, (Mr. RANDOLPH,) by arguing, that the investigation of the subject might lead to measures, which no one would doubt, it was competent to the House to act on. By pursuing the inquiry, it was said, it might be found that it would be expedient to disband the Army, or withhold its necessary supplies: this, said Mr. L., is begging the question. The terms of the resolution, in their present shape, cannot possibly conduct a committee to any such inquiry: it is confined to a single object; it is, whether the present commander of the Army has been guilty of corruptly receiving money from Spain. The charge alluded to is understood to be of an ancient date; it is not suggested by any one that the Army is tainted with this crime, specially set forth in the resolution: the charge, if proven, could not then be a cause for disbanding the Army, or withholding the necessary supplies. If an object of this kind is contemplated let it be so stated, and an inquiry into the grounds of such proposition, however strange in idea, would only be the exercise of a Constitutional right.

The resolution, Mr. L. repeated, called the attention of the House to a single fact, it exhibited a charge already made penal, both by the military and civil code; it respects a character over whom we have no Constitutional control, by impeachment or otherwise. If an improper character is commissioned to the command of our armies, and continues so, let the responsibility fall where the Constitution has placed it, on the Executive; the attention of the Legislature must be called to other things than judging of the merits or crimes of the soldiery. But it is objected that the military tribunal appointed to make an inquiry on the demand of the person accused, and which the House understood was now engaged in the performance of that duty, has no power to compel the attendance of witnesses, or the production of papers. He would not for a moment so far impeach the patriotism of those gentlemen, who have declared themselves possessed of knowledge on the subject of the charge, as to suppose they would not attend the respectful summons of a tribunal erected by our own laws, for the investigation of crimes which they admit are of importance to their country. Those gentlemen surely too well understand the rights of others to object to a cross-examination; but if a military court is not possessed of a power sufficient to compel, if it should be necessary, the attendance of witnesses, the common judicial tribunals are so; the civil, as well as the martial code, has cognizance of such offences as are suggested; the same effect as it respects a military officer, would follow the establishment of guilt before either tribunal. If gentlemen object to a military court, which the law has instituted, let them resort to a civil one; it is there they may without apprehension or difficulty make those disclosures, which the good of their country requires: it is not here that a power is found, either to prosecute or punish the offences of military men. He hoped the time of this Legislature would be better employed than in the usurpation of the powers of the Judiciary or Executive, in the investigation of criminal charges, against military men, whom they could neither hear the defence of, nor punish their crime, if proved.

Mr. L. said, that as to the truth and weight of the charges made against the military character in question, he felt no disposition to decide; to determine a man guilty of crimes of great enormity, without a hearing, without examination or testimony, and without a possibility of defence, was so hostile to every principle of justice, and common humanity even, that he had not permitted his mind to enter into any investigation of fact, or his feelings to enlist in the prosecution; much detail of circumstance had been used, which ought to put the House extremely on its guard against the influence of feeling in deciding the present question. A gentleman had the other day said, that he felt no delicacy towards a man, whom he had on his oath been obliged to say was guilty of misprision of treason; it was thus intimated that the grand jury of Virginia district, who investigated the subject of Burr's conspiracy, had agitated the question of General Wilkinson's criminality; (setting aside the observation which might well be made that Burr's conspiracy was no part of the present inquiry) it appeared to Mr. L., that the question having been agitated, and no presentment being made of the officer now charged, a considerable portion of the grand jury, must have said in like manner, on their oaths,

that that officer was not guilty of misprision of treason; but to-day the same gentleman has informed us, that the reason why no presentment was preferred against Wilkinson was, that he escaped by a legal exception in his favor: that although the immorality of his act was complete, (as well as he could understand the gentleman at the distance he was from him,) the offence could not be located, or some other legal defect. Mr. L. said he confessed he was not well informed of the proceedings of the grand jury, he had heard some noise which he had scarcely listened to about them: he had never before heard, that the principal officers of the Army were leagued in Burr's conspiracy: he would say, however, that the grand jury assembled on that occasion, was as able and respectable a one as ever sat on any former occasion of the kind, and he confessed, he was surprised to hear they had omitted to exercise a general power, which, when it appeared to them, the officers of our army were actually conspirators against the Government, as we are now informed, it became imperiously their duty to exercise, by making a presentment of the dangers of the country: any general evil a grand jury may present, if they believe it to exist only in intention. The acts of a legislative body, and some he believed of Congress itself, had been presented by grand juries as of evil tendency; and one instance at least has occurred of a grand jury having presented the very court which presided over it. Certainly such an evil as a general conspiracy of the officers of our Army required some public exhibition of the offence; even if it was such in them as well as the commander, as not to be brought, in the opinion of the jury, within the form of an efficient prosecution. Mr. L. said, he was sorry that he too had been led into the notice of facts by the surprising things he had heard. He hoped unnecessary delay would be avoided. The time occupied in the discussion of this dispute had already, he would presume, prevented some of the committees from reporting on subjects of the first consideration. The present eventful and threatening aspect of foreign affairs demanded attention; he particularly apprehended it might have prevented the report of the bill for arming the militia, as well as other subjects of national interest, from being taken up. Let us then, said Mr. L., meet this question, decide upon it, and send to the proper departments the information which will enable them to act in the manner we are told they have attempted, under the laws in existence. The question which they solely ought now to consider was their right to act. He believed there was no man in that House who did not, after what had been said, wish a thorough investigation, but certainly the mode to be pursued was obvious and easy. He conceived it would be entirely sufficient if the papers and information were transmitted to the proper department, and should, if the resolution was negatived, beg leave, if he could get the floor, to offer a resolution, with a preamble, detailing the reasons which governed him in his vote, by which it might appear, that although he felt as much anxiety as any man that the proper tribunals should act on the subject, yet his objection to the present mode proposed, arose from a source above mere matters of expediency or temporary feeling.

Mr. L. then said, as it was not in order in the then stage of the debate, to propose his resolution, he would read it, in order that the House might be apprized of his views. He then concluded by reading the following resolution:

Whereas, It is a primary duty, enjoined on the House of Representatives of the United States, cautiously to avoid any encroachment on the Constitutional rights and authorities of the other departments of the Government: And according to the letter of the federal compact and the acknowledged spirit and meaning of that instrument, the several departments thereof should forever be kept separate and distinct, so that neither interfere with the powers and duties of the other: And this House being aware, that it is only by the practical observance of fundamental principles, that it can secure to itself and the people of the United States the beneficial effects resulting from a written and well defined form of Government; that to fail in such observance, would be to yield all the blessings, and advantages, which such written and well ascertained form of political institution is calculated to insure:

And whereas the Constitution of the United States has in no instance vested in this House the power of instituting or requesting the institution of an inquiry into the conduct of any military officer; but, while it has invested those powers in another tribunal, has confined the inquiries of this body to the conduct of civil officers holding authority under the United States, and has restricted the mode of such inquiry to the process by impeachment; and as the powers of a military tribunal over a military officer, are as competent to all the purposes which ought to be the objects of prosecution under martial law, as the powers of a court of impeachment are to the purposes which ought to be the objects of such court, and either the civil or military officer is alike amenable for the commission of crimes, to the regular process of law, before the judicial civil tribunals of the country, where all offences of every nature are punishable: and inasmuch as it is the opinion of this body, that, regulated by the proper sphere of their duty, they have as little right or power to request of the President of the United States the institution of an inquiry into the conduct of a person supposed to have committed an offence in the army, as they would have to request the Head of the Judiciary Department to cause an indictment to be preferred against any individual in civil society, or to see to the performance of any judicial duty whatever:

Resolved, therefore, That the papers and information laid on the Clerk's table of this House, relative to General James Wilkinson, be referred to the Secretary of the War Department of the United States.

Mr. LYON said, notwithstanding the impression made upon his mind by the statement read this day, he should vote in the same way as he should have done before he heard it, if the power of the House to make an inquiry were not called in question. He would as soon cut off his right hand as to say that this House had not the power to call in question the conduct of the Commander-in-Chief. Was this House prepared to say that they had not the power to inquire whether or

not the Commander-in-Chief has sufficiently the confidence of the people and of the Army? He would not commit himself in this way; and, after what had been urged as reasons for voting against the resolution, he could not promise how he should vote. The question was altogether varied by the motion now under consideration; the former and original question was, whether they would request the President to perform certain duties; it was now moved that they should perform these duties themselves; and he should certainly vote in favor of it, if it were contended that this House had not the power to pass it.

As to the creed of the gentleman behind him, (Mr. Love,) he could not subscribe to it; it was too long for his comprehension; but if it were intelligible, he would tell the gentleman behind him that he could not agree with him.

He should be satisfied to see what the court of inquiry would do in this business; and if they did not do what would satisfy the nation, he should be perfectly willing to proceed in the inquiry. He thought that then, feeling as his colleague (Mr. Rowan) must feel, it would come properly before the House. Mr. L. had long had a suspicion of this man, and his mind was much at variance on this subject. None of his feelings would induce him to surrender the right of the House to inquire, and if this were made a general ground of opposition to the motion, he should assuredly vote for it.

Mr. Taylor confessed that the importance of the subject was sufficient to claim his ardent attention, and from the consideration he had given it, he was opposed to the resolution, and felt it a duty not to give a silent vote on a measure, which by the terms of the resolution offered was not to inquire on a general subject, (which even on this subject unconnected with any individual, but as he might be incidentally concerned, might be excusable) but to inquire about the conduct of a single individual; or in short and plain terms to denounce the man; a man, too, holding an office out of the immediate control of this House, amenable to other tribunals, and liable, if guilty of all that has been asserted against him, to the sentence of death, both by our civil and military courts.

This measure of denouncing an individual whom this House cannot impeach, said Mr. T., is then a new case, and one which, if adopted, will establish a precedent dangerous to this Government, dangerous to the life and liberty, the honor and reputation of the citizen, and calculated in its effects to put at hazard every institution and sacred provision in the Constitution under which we profess to act.

We shall in the first place interfere with the Executive Department—with which department the Constitution has expressly entrusted the care, the responsibility of watching over the Army; and in respect to the inquiry proposed to be made by a committee of this House, when we have made it, we can pass no sentence, we can ground no impeachment against the denounced; we should then have to come back and acknowledge our imbecility, by asking, or requesting the President to do that which we found ourselves unable to perform.

We assume to ourselves the responsibility which properly attaches to that department. I rejoice that here the maxim is monstrous and exploded, that the Executive can do no wrong; that here the ministers are not liable for the acts of the superior, but the superior accountable for the acts of his ministers and agents. If General Wilkinson is the monster in iniquity his enemies state him to be, if the President has continued him in employment after he had evidence positive of his guilt, or if, as has been charged, he has turned a deaf ear to the proof about to be offered by an ardent, a disinterested friend to his country, why has not this blazing patriotism burst out in a direct and not an indirect impeachment of the Executive? But the sense of the nation is too well known to venture at this thing. No, say the advocates of the resolution, this has nothing to do with confidence in the Executive—and yet if the Executive has a spark of that patriotism which he ought to possess, if he is not the protector and upholder of a known traitor, would he dare to disregard the information, if legally substantiated, which the gentleman from Virginia and the delegate from Orleans had laid on your table? If confidence has nothing to do with this, why did not these gentlemen hand in to that department of the Government which had the Constitutional cognizance and final control of this business, all the information they had on this subject? Why make this House the great gun from which to thunder their denunciations and fulminations against an individual, when there was a shorter and more easy way of getting at their object? A corrupt Executive would desire the very measure proposed. Interfere with his functions, assume his responsibility—what would be the result? You denounce the agent, the tool of such an Executive, (the Colonel Vernon of Cromwell, for example.) You order, or you request, that his conduct should be inquired into. Well, in obedience to your order, this corrupt Executive appoints a corrupt board of officers. The conduct is inquired into, and the accused comes out glossed over with an honorable acquittal from this court, and ready and more fitly prepared to execute the ambitious designs of his protector. Ask of the Executive why is this so? He answers, I have obeyed your orders, the responsibility is yours and not mine. This will be the effect of our travelling out of our defined orbit and taking upon ourselves what never was intrusted to us by the Constitution under which we act—already, when gentlemen say, that we are not to know that a court of inquiry is ordered in this case, but which every one does know, is now sitting—I say, already do they anticipate the result, and in a fore-handed way make it a theme of abuse against that Executive, with which they tell us confidence or diffidence has nothing to do in this question.

But to be done with these words, so offensive to the chaste ears of the supporters of this measure. Mr. T. said he would ask these gentlemen if they would allow their own judgment, views, and conduct to be judged of by those who by duty were compelled to decide upon the measures they proposed? They surely did not claim that infallibility which they denied to others. Well then, said he, place them in one scale, with all their acts or with any particular act, and place the Executive in the other, with all or with any of his acts. Nay, sir, take the present subject only as a criterion. Let the nation hold the balance. I have no hesitation in saying their scale would kick the beam. This I am compelled to say; I have more confidence in the present Administration than I have in those who brought forward and now support the presentation. I seek for nothing but truth—I would not kiss my hand for anything that the Executive could do for me or mine. I am not one of those politicians who expect pay for doing nothing.

I come now, said Mr. T., to my second grand objection to this measure—that it will interfere also with the judiciary department of our Government. Treason and perjury have been alleged against this individual; by what tribunal are these crimes cognizable? Certainly by the courts of law. The Constitution has guarantied to every citizen the right of a fair and impartial trial by his peers, a jury unbiassed of his countrymen—will this right be preserved to General Wilkinson after the denunciatory speeches which have been uttered on this floor are published? Will this right be preserved to him, when the whole continent has been searched not only for all that Burr could collect, but for a new enlistment, a host of witnesses against this man? Your committee of denunciation collects the testimony, the committee makes report of the whole to this House, and it is published. I say, will not this be prejudging the man, and condemning him, before he has been brought before your judicial tribunal, to which he is amenable if guilty of all that has been urged against him on this floor? After such a procedure would there be a possibility of this man's obtaining a fair trial, of his enjoying that right which is secured to him by the sacred provisions of the Constitution, and which even in a country far less jealous of the liberties of the citizens than ours ought to be, he would have secured to him?

I come now, said Mr. T., to my third objection to this measure—and which is nearly allied to the last—and that is, that in our military courts too you deprive this man of a fair trial. Every observation I have made in respect to the right of a fair trial by jury, I contend applies equally strong to the trials in our military courts. But this man is a soldier, he is Commander-in-Chief of your standing Army, therefore he is fair game—therefore we must hunt him down. Let us see what power the Constitution gives us in this respect—we have the power of disbanding the Army at any time by denying the vote of supplies—we are forbid to part with that power for a longer term than for two years, we can then disband the Army, in its climax of misconduct and disaffection, in spite of the Executive. Mr. T. asked was this the object at present? If it was, why did the gentlemen make the terms of their resolution wide enough to embrace the whole Army? But he gave them the credit due to their candor—they drove openly and above board at the man.

There was another power given to the Legislature of the United States by our Constitution—to pass laws for the regulation and government of the Army. Had this power been exercised? It had. Had the Legislature been restricted in the severity of the laws enacted for this body of men? They would see by looking over them. Mr. T. said he had looked over them. One hundred and one articles were contained in the statute book, every one of which (except about half a dozen) were distinct definitions of crimes. Of the statute book he wished to speak respectfully; the severity of this code might be necessary; but duty compelled him to speak of as he found it. It would seem as if the Legislature in penning this law had borrowed the pen of Draco, dipped in blood. Every step they took, from article to article, was marked with blood, with scourges, and with death. No less than sixteen definitions were there contained of crimes capital and punishable with loss of life. After having armed the courts, which, said Mr. T., are appointed to sit in judgment on these soldiers, (and remember that not only the standing Army, but the militia also are at times subject to these rules,) with the power of life and death, placed in their hands the scourge, the halter, and the musket, for lacerating and destroying the infractors of these articles, the Legislature, with all this severity, tempered the whole, with one divine, one beneficial principle. This box of Pandora contains hope—the hope of a fair, impartial, and unbiassed trial, by their comrades, by their peers. But this hope, by your present resolution, is proposed to be destroyed—as if the gloom around the arrested soldier was not sufficiently dark, you now are about to establish a precedent, which whenever used will shut out every gleam of light. Would it be surprising that men thus proscribed, marked out as the fit objects on which to pour out your vials of wrath, should in time become disaffected, should turn their arms against their country? Yes, by the course proposed you prejudge a citizen—you mark your victim. What despotism can be worse than this? The pious Parliament of England who brought Cromwell into power did this very thing. They were not content with the uncertainty of the proceedings of the criminal courts of that day—they appointed a committee, (as is proposed now, sir,) a court of high commissions, to take care that the courts of law and the military courts should let none go whom they had marked for destruction. How did this business end? The very pious and country-loving Parliament, who were so intent upon the public good as to break down and trample on every opposing impediment either of law, religion, or morality, and all for the public safety (the very motive we hear now urged,) were kicked out by Cromwell and that very army they had supported at one time and proscribed at another; and were sent, according to the language of that day, to seek the Lord elsewhere. And their degradation produced gratulations from every part of the

Commonwealth to the Protector, and confirmed him in as absolute power as the Emperor of the French by similar means has at this day acquired.

Why should I go back, said he, to the days of Cromwell. The effects of the mistake in this respect of a gallant and infatuated nation now exist. History need not record it for our instruction; the fatal error happened in our time. It would be too painful to travel from step to step, and detail the whole of the misfortunes of this gallant people. I will take, I think, the most interesting incident in the French Revolution. The point of time which decided that France was not to be a Republic. The Girondists who were the most enlightened, the most virtuous, perhaps the only real Republicans in France—denounced Marat. Marat and his friends made head against their opponents and in turn denounced them. Marat was destroyed by an enthusiast, but his party prevailed. Yes, from the rostrum in the conventional hall proceeded the poison, from the National Convention was administered the dose which annihilated all true Republicanism in that country—the system of prejudging the criminal before his trial. How was this denouncing system improved upon? At first indeed, there was kept up the show of a trial in the courts below, but the victim was nevertheless as certainly marked, or certainly doomed to destruction. But the orators in the Convention, having a long session, and finding nothing better to employ themselves in, multiplied the victims so fast, that to be possessed of an handsome house or estate, a beautiful wife, sister, or daughter, was crime sufficient to incur denunciation—the courts became so crowded with victims, that to expedite the business, instead of formal trials, the courts condemned *en masse:* ten twenty, or fifty, were delivered over to the public executioner, with only the ceremony of passing in review before the judge; a motion of his hand, or the waving of his *bonnet rouge*, was a sufficient signal for the executioners to lead the denounced to the guillotine.

We have a Constitution (said he,) we have laws enacted for the prevention and punishment of crimes. The rights of our citizens are, I hope, sacredly guarded by the provisions contained in them. Shall we then adopt this revolutionary measure?

All history shows—the experience of all ages ought to have impressed this important truth on our minds—that in religion anathemas, in politics denunciations, in popular assemblies, have led to the same slaughter-house—fell intolerance and bloody persecution. Shall we now throw aside our chart and compass, and venture in this wide, boisterous, and dangerous sea of expediency?

Look at the Constitution—search for this denunciatory power vested in this House. What is it? We have a right to impeach a civil officer for misconduct. What punishment can we demand for him when convicted? Dismissal from office, and disqualification from holding any future office of trust and profit. In nothing does the wisdom, the inspiration of the framers of this instrument more appear than in this restriction. They well knew the danger of introducing personal feelings and resentments, of party rage and fury in this body; of gathering here armed with the power of destroying one another.

I have said, on a former occasion, that this House had no power itself; its committee cannot have the power of sending for persons, papers, and records; it is no where directly given; it cannot be derived incidentally, in a case, the cognizance of which is not given to us by the Constitution. I then stated the cases where this incidental power is, *ex necessitate rei*, derived, viz: 1st. For collecting testimony whereon to form articles of impeachment. 2dly. Testimony may be thus collected in deciding on the expulsion of a member. 3d. Where an election is contested.

The gentlemen who support the resolution have been desired to show the power of the House for this purpose in this Constitution or in any law. They have not done so. They are obliged to resort to expediency, and that expediency, I have contended, will not hold them out. But, say they, the courts of inquiry and courts martial have no power of collecting testimony, and we must do it for them. Will the depositions taken before this House, or before your committee, be evidence in your courts? They will not. To sum up the whole, although I must acknowledge that the motives which actuated the mover and myself are, and must be the same; I declare I think he means as well as I, the good of his country; yet I would defy him to instance a more oppressive, a more unfair mode of procedure in the Spanish inquisition than the preliminary trial, for it is a trial of General Wilkinson, now carrying on, on this floor, and about to be prolonged by hanging it upon tenterhooks before a committee. Gracious God! what innocence can withstand this mode? He is charged with being a Spanish pensioner in 1796—again, on the river Sabine—a conspirator with Burr—a perjured man—a conspirator against the liberties of the citizens whom he arrested as traitors and coadjutors with Burr. These denunciations are enforced with eloquence, mixed and commixed, compounded and animadverted upon by as great talents as any in the nation. No notice is given to him to attend and make defence. Thus, with accumulated denunciations, but with but one document before us which can look like evidence, and that *ex parte*, this House is to be pressed into a vote which is to fix the stamp upon the character of the man, is to mark him as the victim of the courts below. If he were a demon I would not use him thus unfairly.

A motion to adjourn was negatived, 52 to 51.

Mr. GARDNER moved that the subject be postponed till to-morrow, in order that the evidence of Mr. CLARK might be printed for information. Negatived, ayes 42.

A motion to adjourn was now carried, ayes 66.

TUESDAY, January 12.

Mr. KIRKPATRICK presented a representation of the inhabitants of the county of Jefferson, in the State of New York, by a committee appointed at a meeting of the said inhabitants, stating the dangers to which the petitioners will be exposed in case of incursions by hostile Indians, or troops from the British provinces of Canada; and praying that a military station may be established at some convenient place on the river St. Lawrence, and such other measures adopted for their protection and safety, as, in the wisdom of Congress, the urgency of the case may require.—Referred to the Secretary of War.

An engrossed bill to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase was read the third time, and passed.

An engrossed bill for the relief of Oliver Evans was read the third time: Whereupon a motion was made to recommitt the bill to a Committee of the whole House; which was negatived. A motion was then made by Mr. STANFORD to commit to a select committee; which passed in the negative.

Resolved, That the said bill do pass, and that the title be, "An act for the relief of Oliver Evans."

Mr. EPPES, from the committee to whom were referred, on the twentieth of November, and seventh of December last, a memorial of sundry citizens of the first and second wards of the City of Washington, in the Territory of Columbia, and certain parts of a memorial of the first and second Chambers of the City Council of Washington, presented a bill to amend the act, entitled "An act to incorporate the inhabitants of Washington, in the District of Columbia;" which was read twice, and committed to a Committee of the Whole on Friday next.

GENERAL WILKINSON.

The House resumed the consideration of a resolution moved by Mr. ROWAN, for the appointment of a special committee to inquire into the conduct of Brigadier General Wilkinson, with power to send for persons and papers, and to compel their attendance and production, which was depending yesterday at the time of adjournment: Whereupon, Mr. ROWAN moved to amend the resolution, to read as follows:

Resolved, That a special committee be appointed to inquire into the conduct of Brigadier General Wilkinson, in relation to his having, at any time, while in the service of the United States, corruptly received money from the Government of Spain, or its agents; or in relation to his having, during the time aforesaid, been an accomplice, or in any way concerned with the agents of any Foreign Power, or with Aaron Burr, in a project to dismember these United States; and that the said committee have power to send for persons and papers, and to compel their attendance and production; and that they report the result of their inquiry to this House.

Mr. LOVE acknowledged that by the modification made by the gentleman of his resolution, he believed the House might have incidental jurisdiction of the subject; it was now possible the terms of the resolution might lead them to the exercise of some legitimate right under the Constitution. If foreign nations have been tampering with our officers, as the resolution suggests, and promoting a conspiracy against the Government, the inquiry on that subject might lead to some legislative regulation as to our foreign intercourse. Thus the House might incidentally have cognizance; and he conceived that the arguments of the gentleman from Virginia yesterday, relative to incidental jurisdiction, would leave in the modified shape of the resolution some ground of support. He admitted that the inquiry had progressed to that point which required of the House to go further with it, if they could, for the sake of justice to both parties. But, Mr. L. said, the resolution must still undergo considerable amendments, before it ought to receive the sanction of the House. He would propose one, which he hoped there would be no objection to; the object of it was to transmit immediately to the President of the United States, a transcript of the papers and information laid on the table. The propriety of doing so, said Mr. L., was obvious on two grounds; first it would enable the Government to lay before the tribunal now in session, which was engaged in the inquiry solicited by the Commander of the Army, the means of conducting that inquiry, with all the success which the proofs, if made in conformity to the information, and the papers might merit; and secondly, it will be the means of enabling the accused to defend himself against the charges which have been here publicly made against him, without any power on his part to assert their falsehood. It would seem, said Mr. L. that not only our laws, but the common rights of humanity, would enjoin on us the necessity of giving to the accused some power of reply.

Mr. L. then read the amendment, as follows:

"And that a fair copy of the information and papers laid on the Clerk's table, relative to the conduct of the said General James Wilkinson, in the matters in question, be immediately transmitted to the President of the United States."

Mr. ROWAN said that the papers now before the House might be disposed of in any manner that they should think fit; but he saw no necessity for connecting that disposal with the resolution now under consideration, which embraced the simple question, would the House appoint a committee of inquiry into the matter? Whatever information the House had before them they would know how to use. But, said Mr. R., gentlemen seem to think that the President has no information on this subject. Information such as that on the table, has been and is in possession of the Cabinet; and if the House adopt my resolution, they will call upon the Secretary of State for the information in his department, which it will be his duty to lay before the House. If this subject were about to burst forth for the first time to the view of the Executive, it would be proper to give him the information as it comes into our possession. But this is not the case; there is no necessity for sending it. Let the court of inquiry exercise their legitimate power of inquiry. This inquiry has been instituted by the President; let him superintend and manage it; but let us con-

duct our inquiry in our own way. Mr. R. said he could not see the propriety of the amendment of the gentleman from Virginia, or agree to it; and at all events, were it adopted, would call for a division of the question, taking it first on the amendment, as he wished to have a distinct and unencumbered vote on his own proposition.

Mr. Lowe said he knew not whether, as had been asserted, the same information was already before the Government, if it was he had no doubt also that there was enough of testimony to rebut it, from the circumstance of its not having been acted on; but of this he knew nothing, although he had understood that the purport of the charges on the Clerk's table, against General Wilkinson, had been laid before both the former Administrations. That the accused had been informed of them, and had requested from General Washington and Mr. Adams, successively, an inquiry into his conduct; that this inquiry was not assented to, because the charges were not credited or were refuted. This he learned from a document in possession of every member in the House, (the evidence in Burr's trial;) it was, as asserted by that document, said by the counsel on the part of the prosecution, that these requests were made by General Wilkinson, and refused; and to this proposition Mr. Martin, of counsel for Burr, assented, and said that a court-martial had been required by General Wilkinson.

Mr. W. Alston.—Can it be true that gentlemen who had made so much noise about an inquiry should want it to be stifled? Could it be true that they wished this evidence to be kept back? I did not believe it could be possible that any one would be found to object to the transmission of these papers to the Executive. What may be the effect of refusing to communicate them? An inquiry has been instituted into the conduct of this gentleman, and his conduct may be submitted to a court martial. This officer may be found capable of defending himself completely. The court martial of course will acquit him. Then what say gentlemen who have clamored in this manner? Why, that that this evidence was never communicated to the court. Would they not have a pretence on which to reiterate charges against this officer, although this evidence might have been before the court, but not from this source? I do not say this will, but it might be the case. Whether this proposition be included in this resolution, or made separate, is certainly very immaterial. Can gentlemen wish that a committee alone shall inquire? Do they wish the court not to possess such information as we possess? I must confess I cannot for my soul see any objection to the amendment.

Mr. Rowan.—The gentleman has mistaken me excessively. I am as willing as any one to give information to the President, if it were necessary. These papers are not embraced by my resolution at all. I am not opposed to the transmission of these papers to the Executive; but I do not believe that there is any anxiety there for this information, from what I have heard. The Cabinet has long been in possession of this information, and this officer has been officially named to the Executive as being concerned in the project. The truth of this assertion may be ascertained by searching the office of the Secretary of State. All I wish is that my proposition may not be encumbered by any other. As to the mode in which the committee shall proceed or the disposition which shall be made of the evidence when collected, or whether we shall then transmit it to the Executive or elsewhere, the House can then determine.

The amendment proposed is totally unconnected with the resolution under consideration. I am not very old in legislation, but I have seen that there is some art in it. There is such a thing as hugging a proposition to death, smothering it with kindness. I do not say that this is now the intention. I hope it is not. I should be willing, that it should be somewhat obscured by this amendment, but that the object of it can be as well attained by its introduction into a separate resolution. Whenever the proposition to transmit these papers shall come before us in its proper shape, I shall vote for it. I am willing that the Executive shall have every information relating to this important subject as early as possible; but I cannot see the necessity of connecting them. The House has not yet said that it will appoint a committee. First, try whether a committee will be appointed; and, when appointed, we may dispose of the papers before the House.

Mr. Eppes said it was not material to him whether the amendment was adopted or not. He thought that whatever difference of opinion might exist as to the form, there could be none as to the propriety of an inquiry into the conduct of General Wilkinson. The evidence exhibited to the House of Representatives had assumed a new and serious aspect. It was no longer the statement of a foreigner unknown to us on which we were called to act. A member of the House of Representatives has charged directly, on oath, the Commander-in-Chief of your Army with being a Spanish pensioner. A charge so specific, made by a credible witness, must be met by inquiry—by an inquiry which, whatever may be its result, will unite the public confidence. He thought that on every occasion where an inquiry was called for it ought to assume the form best calculated to do justice to the character of the individual accused and to the feelings of the nation. Will the report of a court of inquiry produce either of these desirable ends? Can the opinion of any three officers of your Army, however respectable, restore to General Wilkinson the confidence which it is essential for an officer of his rank to possess—more particularly essential at this interesting crisis in the affairs of the nation? Indeed, Mr. E. thought, after the observations which had been made on the floor of this House, a more general inquiry ought to be made; that the charge of corruption in the Army ought to be probed, and suspicion, if unfounded, removed by a fair and full investigation; that it was a piece of justice due to the officers of the Army—all of whom at present, whether meritorious or not, were implicated in

the charge made, as no names had been given. Mr. E. said it was certainly true that no power could be exercised by Congress not delegated by the Constitution. It was equally true that the power to punish a military officer could not be exercised by the House of Representatives. He considered the right of inquiring into charges, such as had been exhibited, as totally distinct from the right to punish. Punishment can only be inflicted in the form prescribed by the Constitution or laws. The object of the present inquiry was not to inflict punishment, but to obtain information subject to the future disposal of the Legislature. It was not in his opinion at present necessary to declare what would be the course pursued after the information was obtained; that must depend on the result of the inquiry. The information obtained may form the basis of any legislative provision within the delegated powers of Congress; or it may be transmitted to the department competent to try and punish. For punishing an offence against the military laws, a military tribunal was certainly the only one which could be resorted to. It ought however to be recollected that the charge against the Commander-in-Chief is for a species of corruption not punishable by any existing law.

Mr. E. said he did not however rise for the purpose of examining a subject fully discussed while he was absent from the House; he only rose for the purpose of correcting a statement made by the gentleman from Kentucky. That gentleman had objected to forwarding to the Executive the evidence exhibited against General Wilkinson, on the ground that it was already possessed by the Executive. He believed the gentleman in this to be totally misinformed. He had always understood that during the Administration of General Washington, a memorial had been forwarded to him by Mr. Marshall, of Kentucky, containing a detailed account of the old Spanish combination; that, under the Administration of Mr. Adams, additional information was forwarded to the Executive Department by Mr. Ellicott. He did not know how far the information transmitted to either of the preceding Administrations might criminate General Wilkinson; he was certain however, that no information had ever been received by the present Administration which went to charge General Wilkinson with being a pensioner of Spain.

Mr. Fisk conceived, before they adopted this measure, that they ought carefully to inquire whether the power were given to them by the Constitution. It was proper that this House, however anxious for the public good which they might think could be otherwise promoted, should travel in the path laid out by the Constitution for their procedure. The Executive and other departments had certain powers delegated to them; it was not in the power of the House to say that it should or should not be so; the people had placed it there, and it was not for the House to say that it was or was not a judicious delegation of power. We, said he, are the ministers of the Constitution, and must be guided by it.

The resolution now under consideration did not originally present to his mind a subject of inquiry within the power of this House. It proposed an inquiry into the conduct of General Wilkinson in receiving a pension from the Spanish Government. It was now so modified as to go further, and inquire how he was concerned in the transaction of Aaron Burr. Whether he was or was not concerned, was not a subject of inquiry for the House. If General Wilkinson were concerned in it, the question arose whether he was within the power of the House; whether he was properly amenable to this House for his conduct, or to some other tribunal. The Constitution had expressly declared that the President, Vice President, and all other civil officer of the United States, should be removable from office on impeachment—all civil officers. Was General Wilkinson, a military commander, included in this description? Certainly not.

This House, with the other branch of the Legislature, was empowered by the Constitution to raise and support armies and to make all rules for their government and regulation. The Constitution then clearly contemplated specific powers as given to different branches of the Government, and it became Congress to make all laws necessary to carry into effect these powers, but no more. Congress then had power to make laws defining punishments, of all crimes committed against the United States, but the execution of those laws was intrusted to another power. They had erected a judicial tribunal, and to this tribunal had confided the execution of those laws. Every person charged with any offence was to be tried by a jury, excepting particular offenders against martial law. For all crimes other than military, the citizen was amenable to presentment by a grand jury. Unless he were a civil officer, this House had no power to act in this case; they had power to impeach civil officers, but no cognizance over military officers.

It might be well here to notice that the tenth article of the amendments to the Constitution expressly says, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." A preceding article expressly guarantied to the citizen a trial on presentment or indictment by a grand jury, for any capital or otherwise infamous crime. If General Wilkinson had then been guilty of any capital or otherwise infamous crime, he was indictable by a grand jury, and amenable only to that or a military tribunal; and when this House assumed, as proposed, a course different from that prescribed by the Constitution, they no less violated that Constitution than General Wilkinson would in arresting a subaltern under military law and sending him to this House for trial.

Suppose a power given to a committee of this House to send for persons and papers, Mr. F. asked, was any person bound to obey the mandate of that committee? Would not their authority be treated with contempt? Would not a judge, if applied to for a writ of habeas corpus, be bound

to inquire whether this House had authority, and would he not be bound to release the person in custody of its officers? He certainly would.

In considering the power of the House, the passage of this resolution appeared to him to be absurd in another point of view. When the evidence was collected, what use could they make of it? Could a court receive evidence collected in this manner, where one party had no power to inquire, defend himself, or cross-examine witnesses? In no court could such evidence be admissable. For what purpose then did gentlemen wish to take this evidence? For no beneficial purpose that he could devise. If the House had cognizance over military officers, it would then indeed be proper that they should send for persons and papers, to enable them to inquire into the propriety of his impeachment.

But a gentleman from Virginia had yesterday called the attention of the House to the proceeding now pending in the other branch of the Legislature, being an inquiry into the conduct of one of its members; and had also told the House that the gentleman from Kentucky had as good a right to institute an inquiry into the conduct of General Wilkinson, with a view to his removal, as into the conduct of a member of this House with a view to his expulsion. Mr. F. said each House had the power to expel their own members for misconduct, or to punish them for disorderly behaviour; it would therefore be acting within their proper Constitutional power in making an inquiry into the conduct of one of their own members. Very different was their power as respected a military officer, into whose conduct they had no more right to institute an inquisition, than to arraign a grand jury for not having made proper presentments, or a petit jury for not having done its duty. The Constitution gave them not the power. The appointment and removal of all officers was vested in the President of the United States, by and with the advice and consent of the Senate. With the removal of this officer, then, this House could not interfere. Congress had by law instituted a tribunal for the trial of all persons charged with offences in the land and naval service, and a Supreme Court to try all treasons not committed in the Army or Navy. Our Constitution said that no person shall be tried twice for the same offence, or put into jeopardy of life or limb. If this House had, and exercised in this respect, a co-extensive power with the judiciary or military courts, would not a man be in danger of being twice jeopardized of his life? If the Supreme Court, said Mr. F. possess the power Constitutionally, and we at the same time exercise it, will he not be twice tried?

A gentleman from Virginia had yesterday told them that he had acquired knowledge not only of the guilt of General Wilkinson, but of the inferior officers of the Army, from no dubious source, and had felt himself bound to vote against this man as guilty of treason. Now, asked Mr. F., if these facts be true and these circumstances were brought forward before the grand jury or inquest at Richmond, why was not this man charged of the offence before the proper tribunal? Why was it brought into this House, when the judicial courts were open to receive it? It would be easily seen how the man was jeopardized by this. Had he been presented by a grand jury, he would have had an opportunity of being confronted with his witnesses; but for representations on this floor a public accuser is not accountable elsewhere. If the House permit such an inquiry as this, said Mr. F., to the destruction of the character of an individual and a citizen, they will not only compromit their own dignity, but violate the Constitution. If the gentleman will point his inquiry directly at the President, and show plausible ground for it, I will vote for the inquiry, because in that case I conceive the Constitution gives us power. But while the resolution is pointed at a military officer, while it embraces subjects exclusively cognizable by a different tribunal, I think the adoption of the resolution would be a violation of that Constitution which I have sworn to support.

Mr. Elliot said that the remarks of his colleague were conclusive as to that part of the resolution which had been introduced by way of modification. Was it possible that this House was to erect itself into a grand inquest of the nation in cases of treason? It could not be. He was in favor of the most material part of the original inquiry, to wit, into the fact of General Wilkinson's having or not having received a pension from the Spanish Government. Certainly, if General Wilkinson had been guilty of receiving a Spanish pension, it was an act not cognizable by a military tribunal, or by any court of law in the United States; the House would therefore usurp no power delegated to another branch of the Government, by an inquiry into this subject. He only now rose to explain the reason why he should move for a division of the question on the proposition, so as to exclude that part this day added by the gentleman from Kentucky, relative to offences other than that of receiving a pension from Spain or her agents.

The Speaker said the motion could not be received, as a question was now pending on the amendment offered by the gentleman from Virginia (Mr. Love.)

Mr. Holland rose to express his approbation of the amendment last made, and his disapprobation of the original proposition of the gentleman from Kentucky. It would be recollected that a proposition substantially the same as this (alluding to the motion by Mr. Gardenier, for reference to a select committee, with power to send for persons and papers) had been rejected by a large majority a few days ago. The House was then governed by the opinion that they had not in this case a Constitutional power to send for persons and papers. What had since that time occurred which had changed the opinion of the House? It was true that they had received an affidavit from the Representative of Orleans Territory; but did that give them a Constitutional power which was not before believed to be possessed by the House? He feared the members of the House had become inflamed, and suffered their passions to supersede their reason; for nothing had certainly occurred

to change the Constitutional question. The Constitution of the United States expressly said that no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment by a grand jury, &c., nor be deprived of life, liberty, or property, without due process of law. Could it be contended by gentlemen who advocated this proposition, that persons should be sent for and compelled to attend, and that this procedure would be authorized by due process of law? Had it ever been contended that resolutions of one Department of this Government were the law of the land? Persons were to be sent for and compelled to attend. Suppose they resisted—they must be taken into custody. Were they not deprived of liberty the moment they were thus arrested? And was the authority under which an officer of the House would in such case act, the law of the land? Certainly not. Then the person compelled to come before this committee was not compelled by due process of law.

You might, said Mr. H., give the committee unlimited jurisdiction. Laws become compulsory in consequence of fines and penalties for disobedience or infraction; a law without a penalty is nugatory. The proposition now before you gives power to the committee to be appointed to send for persons. Will it not be necessary also to give them a discretionary power to lay fines and compel the attendance of persons for whom they may think proper to send? It may be necessary to go farther—to vest them with an additional power, thus: "Resolved, that they shall have full power to carry this into effect, &c." This proposition smells so strongly of the edict of an arbitrary Government, that it has absolutely astonished me. By adopting this resolution you give this committee power not only to inquire, but to execute your laws; at one single sweep you revolutionize our whole Constitutional power; all the principles of our Government are to be superseded by it. It is in vain to say that this is not so. Can any gentleman say that a compulsory process to bring persons from one part of the continent to another, operating on an individual, does not restrain his liberty without due process of law?

Where was the necessity for vesting in a committee of this House, if it were Constitutional, such extraordinary powers? Had the House been shown by any one gentleman who had advocated the proposition, that the present authority of the country was not competent to the ends professed to be intended? A gentleman had stated that in case this officer was a Spanish pensioner, he could not be tried by a court martial. Was it possible that this was not the case? Had not a court martial power to try such a crime as this? Mr. H. thought they had. Courts martial had power in certain cases to inflict, on conviction, a capital punishment. And with so extensive power was it possible that they had not cognizance of a case of this nature? Certainly they had. If an officer of the Army was found to be a pensioner of the enemy, would not a court martial decide that he was unworthy of his office? Did not the Constitution say that no person receiving a pension from any foreign Prince or Power shall hold any office under the United States? Mr. H. was willing to say that every citizen, officer or not, was liable to be tried by jury; and the powers of the judicial courts were ample; where then was the necessity for giving these powers, if it could be done agreeably to the Constitution, to a committee of this House? Nothing but revolutionary principles could justify it—nothing but a firm persuasion that the constituted authorities of the country were not competent.

If you adopt this resolution, said Mr. H., you acknowledge the doctrine that the Republic wants energy; that the greatest offenders cannot be tried; and further, this House takes upon itself the burden of the trial. Gentlemen say that this is not a trial; it is only an inquiry by the grand inquest of the nation. Inquiry is the first step to bring a criminal to justice. Where have gentlemen shown that this House has any power to prosecute a criminal? They have no such power? This is in fact to be a trial. It is worse; it is the trial of a person in his absence—a trial without an opportunity of confronting his accusers, or hearing his witnesses and knowing his accusers. This is the kind of trial which this committee is to be authorized to institute.

When this committee send for persons, and they refuse to attend, (and Mr. H. supposed every man who wished to adhere to the legitimate authority will refuse to obey the process,) what will be the consequence? You must protect your officer, said he; must give him force. You cannot have the force of the judiciary department, nor of the Army or militia, for they can only be called upon to execute Constitutional laws. Suppose your officer was insulted, as I take it he would be, where is his remedy? Suppose he were to be sued for false imprisonment, for no freeman would suffer himself to be taken into custody contrary to the laws of the land, and not advert to his Constitutional remedy? Will it be said that your officer is not guilty of false imprisonment because he acted under the laws of the land? Would a judge say that this resolution is a law of the land? Suppose persons refuse to give testimony, have you the power to punish or fine them? Whence do you derive such a power?

Designing men, said he, will rally round this committee as round a standard of corruption and intrigue; for there they may swear without fear of a prosecution for perjury. This inquisitorial procedure will be a mockery of all trial; it will be a farce; the very focus of injustice and intrigue. And who are the persons who are to constitute the committee to conduct this trial? Persons who have already declared their conviction of the guilt of the accused, having committed themselves by an expression of their opinion on the case. So extremely cautious are the laws that in civil cases, where the parties are called before a court, that persons interested are not permitted to give evidence or to try them. But here the very persons who have condemned the person implicated, are to be authorized to take down the testimony—of whom? Persons enemies to law and regardless

of Government. It would form a singular spectacle, if while this tribunal is examining and taking down testimony, trying a person in his absence, the Senate (by committee doing the same thing) could examine the case as another inquest, being another court having at least the same cognizance as this House; at the same time this person may be under trial before a judicial or military court. All this may happen, and were the principle now contended for to succeed, will happen; there will be nothing to prevent it. Such a doctrine as this is surely not consistent with the principles of the Constitution. Every person must have the right of knowing and confronting his accusers, and ought to take his trial before unbiassed judges. Very different is this tribunal intended to be, and on very different principles. Hunt down an officer in this way, and who will be an officer? Because *ex parte* testimony exists, I hope we shall not permit ourselves to be so much agitated by it as to take the power of trying this person out of the hands of the constituted authority of the nation.

Mr. SLOAN introduced his remarks by observing, that if he could reconcile it with his duty as a member of this House, and as one who considered himself as a watchman to guard, as far as his weak abilities would permit, the rights and liberties of his constituents, with only giving a silent negative to what he considered the most dangerous and most alarming innovation that had ever been attempted, he should not have detained the House one moment to express what he was about to say. But he felt alarmed, and he considered it his duty to express that alarm in the manner in which the God of nature had enabled him to do it. What did he see and hear? Propositions to throw into confusion, and break down the barriers of our rights and liberties. He had been taught, from his infancy, from the time in which he was susceptible of instruction, to consider that the excellency of Government consisted in the various branches of that Government acting each within its proper sphere—that the Legislative department should confine itself completely to making laws for the good government of the United States; that, on the other hand, the Executive department should confine itself within its sphere, and faithfully execute those laws committed to its trust. How dangerous and alarming, then, must it be to him, brought up in these principles, to hear and see the highest Legislature of the Union—the House of Representatives of the United States—to see, in that august body, a resolution brought forward, the tendency whereof was absolutely to invade the rights of the Executive department! Had they not laws already severe enough? If not, said he, let us make them more strict. If the judges have not done their duty, let them be impeached. This would be the proper course.

But, it was strange, passing strange, to see this matter now brought up, when there is a tribunal now sitting with power of inquiry to pave the way to another court, vested with the power of using the musket or halter to take away the life of the accused, if found guilty. If he were not amenable to a military tribunal, was not the civil department open? Permit me, said Mr. S., to call the attention of the House to what passed at the last session. How loud were the exclamations against this very officer for what was then called a breach of civil law, in arresting certain traitors! What was the cry then raised against this officer? That we were not safe. Recollect the language of a member, addressing the Speaker: "Your honor is not safe in your Chair." Let us contrast this with present circumstances. What were the reasons for this officer's conduct? That he considered his country in danger; that he saw a host of traitors ready to deluge his country in blood. He, then, did indeed usurp the civil authority, but he did it like an honest man—like the saviour of his country. Does any such exigency as that was, now exist? Is the country so much in danger as to justify the Legislature of the Union in invading the Executive department? I cannot conceive it.

Before he sat down, Mr. S. said, as there had been a great deal (to make use of a metaphor) of dirt cast, he would ask, whether it attached to any one? He would not be understood as giving his opinion whether Wilkinson were innocent or guilty. It was not his province so to do; but it was his province to give his opinion on what appeared. It was a sound maxim in law, that what does not appear, is of no weight. Whatever had appeared against this officer, did him honor. What he was charged with could have no weight, for General W. had no opportunity of being confronted with his witnesses, of cross-examining them, or of disproving the charges. I have no objection, said Mr. S., that this evidence shall be handed to the Executive department. What has been made to appear against him? That he arrested traitors. And who doubts that, if he had not done so, he would not have acted as the saviour of his country? Is it because this man assisted in the capture of Burgoyne, which was the first step toward securing our existence as a nation, and because he has now arrested an infernal band—a host of traitors—is it for these things that he is now charged? I do not say that it is. But, if it is, I hope to God that the malignant darts hurled at him, may recoil upon those who cast them. If he is innocent, I hope his sun will set in glory, like the great luminary, after a tempestuous day.

The member who introduced this resolution, observed it would answer one purpose. It has answered two. God forbid that it should answer a third, that of committing the Legislature of the Union, by doing a thing entirely unconstitutional and out of its province. I am willing to give my vote against anything farther than to hand the evidence to the proper tribunal.

Mr. M. WILLIAMS said, he would state a few reasons why he should vote for the resolution now before the House. It will be recollected, he said, that, some days ago, when a motion was made to refer the resolution to a select committee, with power to collect testimony and summon witnesses, it was rejected by a large majority. I

was one who voted against a reference; and it has been mentioned by gentlemen, in the course of argument, that those who voted in the majority then, should now vote against the present motion, or they would act inconsistently. But I think very differently from those gentlemen, and shall vote for the resolution. At that time the House was not in possession of any papers nor the deposition given by the Delegate from the Territory of Orleans; but, as the House is now possessed of the evidence, the question is very different, and I think ought to be adopted.

We have been repeatedly told that this House has no right to make the inquiry; that the Constitution has not given any such power. The Constitutional objection, I think, is not a good one. If this House was about to assume the right to try General Wilkinson, the objection would be a solid one. But, what is the object of this inquiry? Not to try General Wilkinson; it is to procure testimony, and to give information to the proper authority. It has been admitted by all the gentlemen who have opposed the inquiry, that it will be proper for this House to transmit to the President all the information they possess relative to the conduct of General Wilkinson. If, therefore, that is proper, and not a violation of the Constitution, most undoubtedly this House has the right to procure further testimony. Why have they received the deposition of the gentleman from Orleans Territory? Can there be any difference in the principle? I think not. What will be the power of the committee? Only to collect testimony and to report to the House; and what can be a greater security to the preservation of our present form of Government, than the members of this body, convened from every part of the Union, that they should watch with a vigilant eye over the conduct of persons high in office?

It has been often repeated, by gentlemen who are opposed to the resolution, that, by passing it, we shall cast a censure on the conduct of the Executive. Surely not. What are the circumstances? Did not the gentleman from Virginia inform us that the papers were put in his possession the morning that he brought forward the resolution? Can any censure, then, be attributed to the President? No. I have the utmost confidence in the President; the people of the United States have the greatest confidence in him. Another reason, stated by some gentlemen, why the House should not act, is, that it is the President's duty to make the inquiry, and that he has full power to do so. The only power the President has is derived by the act of Congress establishing rules and articles for the government of the Army of the United States. But I think the provisions of that act are inefficient. The President, who is Commander-in-Chief of the Army, can order a court of inquiry, which shall have the same power to summon witnesses as a court martial, and there is no provision by which that court can compel the attendance of witnesses out of the Army. In addition to this, there is another reason why I think this court is insufficient: The officers who are under the commanding officer are to compose the court, and may be influenced to acquit him; or, on the other hand, may convict the person charged, and by that means be themselves promoted. We have been told that, if the resolution be adopted, you will destroy the inquiry. Will the diligence of this House to collect testimony have anything to do with the court of inquiry? It, perhaps, may have a good effect and make them more strict.

Another objection to this resolution is, that the person charged may be prosecuted in a court of justice. Admitting he can, is that any solid objection why the resolution should not pass? In a case like this, who will undertake the prosecution? Is it not well known that the proceedings in our courts are very tedious and expensive, and that the juries of our country require strong and pointed evidence before they will convict any person? Besides, would any man contend that the same evidence is necessary to a charge like this as would be required to convict a person charged with treason or felony? I presume not.

By the Constitution, Congress have the right to raise and support armies, and to make rules for the government of the same. Suppose it was necessary now, and we know not how soon it may be, to increase our military force; and suppose we had some proof that our commander was a traitor to his country, or intended to subvert the Government, and this House knew where they could procure the testimony to show this corruption. Would any person, under those circumstances, contend we had no right to use the means to collect the evidence; and would this House pass a law to raise an army before they made the inquiry? Certainly not. Can it be supposed they ought to be silent? Truth never ought to be stifled. This inquiry is due to the individual and to the nation. In a Government like this the conduct of every person holding a high office should always be subject to investigation. And the conduct of none in the Government is more interesting to the people than the Commander of the Army, whose character should be unsuspected as much as the President himself; and I am sure that this House will not violate the Constitution, nor infringe on the power of any other department of our Government, by exercising the right of making this inquiry. I therefore hope the resolution will be adopted.

Mr. UPHAM said, he had attended to the debate on the resolution on the table, with attention, to discover whether he could Constitutionally agree to pass the resolution. His feelings would impel him to vote for the resolution, but his judgment would restrain him. He was desirous that General W., or any other man, charged with whatever crime, should be tried for it—but constitutionally. He would here observe, that when they were told of persons high in office being pensioned by a foreign Power, and concerned in conspiracies to dismember the Union, they were liable to be carried away by their zeal for ascertaining the fact. They should, therefore, proceed with caution and deliberation. He considered this

question, as it respected the power of the House in the same light as if General W. were a subaltern officer instead of Commander-in-Chief. If the House had not power to investigate the conduct of a subaltern, he could not see whence they derived their power over a Brigadier General. He was himself fully impressed with the testimony which had been produced, and was in favor of an investigation into the conduct of this person, that, if guilty, he might be removed. But, he could not, for this reason alone, agree to this resolution. He went upon the ground that the Legislature had no more power, by implication, than the Executive, or any other department of the Government; and, when gentlemen talked about the House of Representatives being the guardians of the public weal, he could not understand distinctly what was meant. If the authority for doing this act were not shown in the Constitution, and it could not be, he did not know whence they derived their authority. Whatever authority was not expressly granted by the Constitution, remained with the people; and no more authority was granted by implication to the Legislature than to the Executive or Judiciary. He believed it was not contended that the power to pass this resolution was given expressly by the Constitution. Was it, then, given by implication? The power of removal for misconduct, or without alleged guilt, was given to the Executive alone. Had the House the power to try an officer for treason, or other crimes? An authority to do this was expressly given to the Judiciary department. What was the object of the resolution? It must go either to removal from office, or trial for treason or misdemeanor. The power to accomplish both these objects is expressly vested in two other departments of the Government, and certainly not in the House of Representatives. It would not be contended, he presumed, that the House, by implication, possessed the power to do that which was expressly reposed in another department of the Government.

While up he would state what he did believe—that, if it were stated to the House that General Wilkinson had received a pension from Spain, and that the President, under a knowledge of this fact, had refused to remove General W. from office, for the purpose of examining whether it would be proper to impeach the Executive, a committee must be appointed to call for persons and papers; because there the end proposed was within the power of the House, and they were clothed with authority to do all that was necessary to accomplish the duties imposed upon or delegated to them by the Constitution. So if a gentleman proposed the impeachment of a judge, and moved the appointment of a committee to send for persons and papers, it could be done, because it also was within their Constitutional power. So, also, the House had power to disband the Army. If the question proposed by the resolution was the collection of proof of corruption in the Army, with a view to disbanding it, it would be in the power of the House, by implication, to erect a committee of inquiry. The object of this resolution, however, must be to collect facts, by which to inquire into the individual guilt or innocence of General Wilkinson, and with this the House of Representatives had nothing to do. Suppose they collected evidence, what was to be done with it? They might send it to the proper department; but could it be received as evidence before a judicial court? Upon the same principle as this now contended for, the House might, on being informed of a murder committed in the neighborhood, appoint a committee with compulsory power to inquire into the transaction. Suppose a committee appointed agreeably to the resolution, and a witness summoned by that committee were to refuse to attend and testify, were to treat their process with contempt, and the committee were to commit this person. If application were made for a writ of habeas corpus, would not a court dismiss him by such writ, because the Legislature had assumed the power to act on a subject not within their province?

He had always considered that the very existence of our Government depended on keeping the several departments separate, and taking care that one should not encroach upon another. Gentlemen had said that this was an extreme case, and that, as guardians of the public weal, they ought to pursue this course. Mr. U. thought this principle was a dangerous one. It was as important that this House should not encroach on the judiciary, as that the judiciary should not encroach upon other departments. One thing he observed, that when gentlemen of the first abilities in the House had been called upon to show authority for this resolution, they had failed to show any. He had stated thus much, because the yeas and nays had been called, and because he could not reconcile the giving his affirmative to this resolution with his oath to support the Constitution.

Mr. Rowan said, to avoid a delay of time, he would accept the amendment as part of his resolution, though he should move for a division of the question, that they might be decided on separately. Gentlemen who opposed his resolution had gone upon the principle, that, by passing it, this House would transcend its power, and upon that had predicated all their objections. It was upon this ground that he advocated this resolution. He contended that this House had the power; the very first clause of the powers delegated seemed to vest this in Congress. It must be allowed, that to have a Commander-in-Chief friendly to our enemies, was against the common weal: "Congress shall have power (says the Constitution) to lay and collect taxes, &c., and provide for the common welfare and defence of the United States," &c. Would it not be providing for the general welfare to remove an officer thus situated? Suppose a Commander-in-Chief, said Mr. R., leagued secretly with our enemies, could we, under these circumstances, think of carrying on war? We certainly should not. What could we do in such a case? Disband the Army we could not when menaced by our adversary, for that would be throwing ourselves directly into

the enemy's hands. Would you withdraw the supplies? The same consequence would result. What, then, could be done? Request the President to remove him? It will then be said, as it is now, that the House is encroaching on Executive prerogative. The House certainly possessed power to request the removal of the Commander-in-Chief under the general provision of the Constitution, and, consequently, possessed the power to collect evidence for ascertaining the guilt or innocence of that officer.

Gentlemen wondered what could be the object of an inquiry. Mr. R. said he would tell them. He was unwilling to make a request without strong grounds on which to make it. The power to make the request seemed to be conceded; the power of collecting evidence on which to found it followed of course. He would then receive such information as would justify the House in impeaching—not Wilkinson, but the President, if he should refuse to remove that officer.

He contended for the power of the House, because he could not see how the common defence could be maintained, and the general welfare promoted without it. In vain had the Convention given to Congress the power of raising and supporting armies and providing for the common weal, except it had also given the power to inquire into the conduct of the Commander-in-Chief—not, as had been said by the gentleman who had just sat down, to inquire into the conduct of a subaltern officer, because his misconduct would not so imminently endanger the public weal. It was under this provision of the Constitution that the Commander-in-Chief became subject to inquiry as to his conduct and disposition. The President was Commander-in-Chief in time of war. Would it be said that any conduct of his in that character which would justly expose him to the animadversion of the nation, could not be inquired into? And although his misconduct in the character of a military chief could not be the subject of impeachment, yet this House, the two characters of President and Commander-in-Chief being combined, would and ought, in promotion of the common weal, to impeach and remove the President, to get clear of the commander; a destitution of this power might be fatal to the nation. Its exercise was not only deducible from the genius and texture of our Government, but resulted from necessity.

My mind, Mr. R. said, revolts at the idea of our not having power to inquire into the conduct of the Commander-in-Chief who conducts our armies. It seems to me, that on the principle of self-preservation, we possess this power; the Government is in fact annihilated if we do not possess it. Suppose it was declared to you that a person, the Commander-in-Chief, or Colonel Burr, for instance, was to turn Congress out of doors; suppose that the President had a secret understanding and was leagued with him, and that for the better covering of their designs, Colonel Burr had threatened to tie him neck and heels and throw him into the Potomac; suppose at this time it should be necessary to raise an army of fifty thousand men, and we made a request to the President, in consequence of this information, to remove this commander. He may not choose to obey the request; he may refuse to remove him. What power have we to compel him? Should we prosecute him for the refusal? No. You ought to lay before him such evidence as would compel him to remove this officer; and if he then refuses, you ought to remove him. The very opposition to this power on Constitutional grounds furnishes arguments in its favor. It was lodged in this House by reasoning, by implication, and by expression.

Mr. R. did not wish to try General Wilkinson; he had no desire to try him; far other were his purposes. He viewed the critical situation of the country at present—a man at the head of our army, against whom, to say the least of it, there was a very strong suspicion. What was to be done? Look at the proceedings of the session before this, when the President had pronounced General Wilkinson a patriot, and a man of honor. Look at the papers now on your table; by these he is pronounced an enemy, as being concerned in a project for dismembering the Government, and as a foreign pensioner. It was not to be expected that the President would remove General Wilkinson except good grounds were shown for that removal. How could they come at them? It was contended by the opponents of this measure that they could not come at them. It followed, that if they had no power to collect them, and the President retained his good opinion of this officer, that the armies of the United States must continue to be commanded by General Wilkinson. The President, no doubt, would remove him whenever they laid before him testimony to authorize this removal. It was to obtain this testimony, and not to punish General Wilkinson, that Mr. R. wished this inquiry. When this was had, if military or civil courts chose to prosecute this person, it was very well; but his views went beyond this, he would not otherwise trouble the House with so unimportant a subject. He wished the nation either to be satisfied of the innocence of this man, or the nation and the President to be convinced of his guilt, and that the nation might have a commander in whom they could confide. How then would an inquiry infringe on any Constitutional provision? It was not a trial that was now asked. It had been said by some gentlemen that this was a trial, that this person would be tried again by a court, and the House had been told that the Constitution declared no person should be twice jeopardized for the same offence. If this were actually a trial that was proposed, the argument would hold. But, unfortunately, the argument admitted that a prosecution might be instituted for a crime of this kind against a civil officer, who after impeachment and removal falls into the hands of a court of justice; and any man would be laughed at who would say in a court of justice that a prosecution should not be instituted because Congress had inquired into the subject. These arguments only went to prove that what a man wishes he can easily find a reason for: those

who were opposed to an inquiry into the conduct of this man, could find reasons against it.

As to the charge against those who advocated the resolution, that they slandered or calumnated, it was unjust and unfair. Mr. R. said he knew not General Wilkinson; he should rejoice that he should come out clear of even suspicion; but he had no idea that delicacy should stand as a barrier between the nation and its true interests, or that delicacy should screen this man from a timely inquiry in a time of danger. If they were to consult delicacy, or if the object of this committee was to shut out light, as had been said, then indeed a majority of the House would reject the proposition. He could not, however, but admire the sapience of the position that the appointment of a committee to inquire was the exclusion of an inquiry. A tribunal of three officers was said to be competent, and delicacy was called upon to prevent the expression of a doubt of their power or competence; while the same gentleman told them that an inquiry by a Committee of the House appointed by the Speaker was to be in the dark! He was not surprised that gentlemen who were so greatly in the habit of confidence, should wish that a military inquiry should have preference to an inquiry of this kind; the delicacy of courts, thank God, had not so much influence over him as to induce him to resign the rusticity of the republican to motives of delicacy towards a military tribunal. If gentlemen could reconcile with that doctrine their cry against encroachment, let them do it—he should be pleased to hear them.

But, he contended that the Executive Department was not possessed of all power, and that this power rested with this House. If it were not in this House, where did it rest? Point out the clause of the Constitution which gave the President this power. If not there to be found, whence did he derive it? From this House? From a Constitutional delegation of it to the Executive? Had the House so far divested itself of power as to leave itself incompetent to this inquiry? Their portion of power was indeed scant, if they had not left themselves a remnant for national purposes, and that remnant he hoped they would not from false delicacy transfer to the Executive, or to a military tribunal, if indeed an inquiry was intended to be made.

As he had been asked for authority, he would in turn ask gentlemen to show or point out the power vested in this triune court; the law of Congress or the clause of the Constitution which gave to this tribunal exclusively the power, and took it from Congress? It was not arguing fairly, when they called upon him to show an express power vested by the Constitution in this House, without showing on their part the authority of the Executive to exercise it exclusively. They were told that General Wilkinson was a military man, and ought to be tried according to the etiquette of military courts, and not upon the plain ground that members of Congress could pursue. If this was the authority which gentlemen would produce, and they were willing thus to surrender their own rights, let them do so; but he was not prepared to go with them.

Mr. R. thought it essential to the common weal that they should request the President to remove General Wilkinson; and, if after this request, he should still continue in command, that they should try, not General Wilkinson, but the President of the United States. He did not, nor would he say that it would be necessary to do it in this case: No President could withstand the voice of the nation so supported. He did not mean to say by this that the President would require any great exertion of their authority to induce him to do his duty, though he was not so fond of expressing confidence in the Executive as some gentlemen were. He had confidence in the Executive, but his confidence was seasoned with vigilance—a vigilance predicated upon the fraility, the fallibility, and the corruption of human nature. It was in perfect consonance with his confidence not to rely implicitly upon a single individual; and, therefore, when the common weal required an inquiry, he should not be deterred from it by the professions of confidence in the Executive, or by that delicacy and abhorrence of slander displayed by a gentleman who talked of a clamor against those who were honestly endeavoring to discharge their duty to the best of their ability. He, as one, did not mean in this or any other case, to effect any purpose by "clamor;" he hoped always to be able to show cause for any proposition which he should make, with a due regard to the feelings of those who might entertain a different opinion.

If Congress could not make this inquiry, and no power could be shown in the Executive to make it exclusively, what resulted? That no inquiry could be had? Suppose the Executive did not choose to make an inquiry (though in this case it seemed he had ordered one, after this House had taken it up) what was to be done? Was there to be no inquiry? After testimony had been produced, and that supported by circumstances almost as strong as proofs from holy writ, that the Commander-in-chief was a pensioner of Spain and had plotted the dismemberment of the Union, nothing could be done. This would be a dissolution of national power. All the arguments opposed to this power in the House, went to the very vitals of the Union; they went to vest an individual with a power extremely dangerous and against which the people were more jealous than upon any other subject. And he confessed he was surprised that gentlemen who wished to be thought exclusively the advocates of the people's rights, should argue that the Executive in preference to Congress should possess a power so important to the public weal, and this doctrine supported by no better arguments than charges of slander, want of confidence, and indelicacy, against their opponents in opinion.

But it was urged by one gentleman that if it were stated in this resolution that the object was to impeach the Executive, he would vote for it, because it would then be within the power of the House. By fair implication this object was expressed as strongly as if specifically stated. If

the resolution would have the support of the gentleman on that ground, why not give it his support when it was intended to effect that object which must be resorted to if the Executive refused to remove this officer? For if a refusal was made, it followed that all this was preparatory to an impeachment. Instead of making a request to inquire, the House had wisely prepared to collect information, in order to call the Executive to account on a refusal to remove this officer, if the information, when collected, made his removal necessary. As he conceived that gentlemen would impeach the President, if it should become necessary, they should vote for this resolution, as it was the first step to impeach him, if the national weal were not consulted short of such a resort. Mr. R. beseeched gentlemen of the House to consider the danger which might result from a decision contrary to that which he supported. He might be mistaken in his ideas; and, if he was so, he hoped he should be voted down. For himself, he voted with no man or set of men; he felt gratified when his opinion met the sanction of the majority, but should never abandon a subject because there was a prospect of his being in the minority.

It had been opposed, as a great argument to this measure, that they were assailing a character without giving him an opportunity to defend himself. Into the conduct of what officer had they ever inquired without doing it in this manner? If they involved the character of a man it was done with a view to the public good, and must be submitted to; they could not inquire into the conduct of a man without implicating his character. Would any gentleman say that the door should be barred to inquiry for the public good, because it might implicate or even sacrifice an individual character? It was better to sacrifice an individual than that the nation should fall. If General Wilkinson was innocent, and he sincerely hoped he might be so found, though, acquainted as he was with the character of the deponent, he could not but have his fears; if General Wilkinson should be innocent, his character would shine with additional lustre; no sacrifice of character would have taken place, and the nation would go on to perform its usual functions. If, on the contrary, the statement of the gentleman from Orleans should be correct, what would be their situation? They would go on in this way, out of delicacy, with a traitor at the head of our Army. He was shocked at the arguments which had been used, which had led to this conclusion. As to a person being put twice in jeopardy, contrary to the Constitution, it was in vain to tell the nation that a court of justice could make this inquiry. A trial might be carried on in court; a jury might be packed, or wrought upon by means of the press. Every one had seen books written, and the presses teeming in vindication of this man, and the public papers made the vehicle of his defence. When energies of this kind were employed, who could say what might be the result? If a jury should find him guilty, fine and imprisonment. And, even in this case, it remained a question whether the Executive would choose to remove him or not: the crime might not carry with it such a conviction as to compel him to remove him, and what would be the consequence? The nation would remain in this situation, said Mr. R., because we have not the power to collect evidence on which to make a request, which the President could not disobey, to remove that officer.

The arguments which had been used, much as Mr. R. might be charged with having particular views, tended to show that there were other gentlemen in the House yet more acquainted with the business than he was. The gentleman from North Carolina had alluded to papers which General Wilkinson had, and which he could not show. Mr. R. did not know what papers the gentleman alluded to, but he did not distrust the nation or the House; if the House instituted an inquiry, this officer would have justice. The gentleman seemed to know that he had papers which would avail him much; they would not be lost; the nation would read them, and the committee of the House would read them, so as to do him complete justice. He could only say, before he quitted that gentleman, that he was infinitely beyond him, when he gave the House to understand that he was prepared to prefer military to civil institutions—when he thought it safer that this power should rest with three military officers than with the grand inquest of the nation, for he must yet use this word, which had been so much carped at. He said, there was more safety, as much justice, and more propriety, in an inquiry by this inquest, than by three subaltern officers of the Commander-in-Chief.

The gentleman from North Carolina was followed by the gentleman from Pennsylvania, (Mr. SMILIE,) whose arguments were almost similar to these, except that he had not charged the advocates of the inquiry with an intention to slander, but equally inculcated the necessity of extreme delicacy toward General Wilkinson. Mr. R. execrated the delicacy which preferred the feelings of individuals to the national concern; he did not understand such delicacy, and hoped he never should.

The gentleman from South Carolina (Mr. TAYLOR) had expressed his fears that they were about to take away the trial by jury. Mr. R. was surprised at the confusion of ideas by which the gentleman's understanding (generally clear and luminous) was bewildered; at one time speaking of the refusal of trial by his peers, and again, that the life and liberty of the officer were in jeopardy. In the first place, this was not a trial; it was an inquiry for the general good, of which General W. happened to be an object, but of no more importance than any other thing. No man should stand in the way of an inquiry by the people, when it was legitimate; and General W. was but a subordinate thing when compared with the great object of inquiry. If ever, after this inquiry shall have been made by the House, or, if before, a court shall choose to take cognizance of General Wilkinson, then his trial by his

peers would be attended to, and he would not be deprived, as had been depicted in such glowing colors, of the Constitutional right of every citizen. He was not less surprised at another reason which had been opposed to this inquiry—that the Executive was going on with an inquiry. If General W. was going on with a process which would terminate in the prostration of our civil liberty, said Mr. R., we should be told we must not interfere, because the Executive was to see it—he was managing it. If the Executive has instituted an inquiry, let him conduct it; we do not wish to interfere with him; we are carrying on an inquiry for a certain object—he for the same, or some other—it might be for some particular act, as it related to subalterns, or for unmilitary conduct. To subject him to such an inquiry as that ordered by the President, he must have done a thing which the rules and regulations of the Army did not admit. General W. had requested an inquiry, and he might direct it to what object he pleased. Mr. R. was for making a sweeping inquiry as to the whole of this person's conduct since he had been an officer of the United States. He felt the more inclined to this, because in drawing the net, they might catch smaller fish. He had good grounds to believe that, in this disclosure, matters would come out of importance to the nation. If another argument, by the gentleman from South Carolina, was to have influence, they might stop at the threshold, and all the argument might cease; that they should not do good, because the extreme of good was evil! France went into an inquiry. She went too far, and brought her guillotine into play; ergo, said the gentlemen, it is improper to inquire! Well, then, said Mr. R., let us stop. Let Power and Burr carry on their dismembering plan, because, if we go into an inquiry, we might think of the guillotine; we might, possibly, think of taking off the head of the man who would be daring enough to plot the dismemberment of the Union. I am for conducting the inquiry freely and temperately. I have no idea of throwing the weight of the House of Representatives against General Wilkinson; and I lament that there is cause, or that there seems to be cause for suspicion on the part of so high an officer.

As to the guillotine, and the horrors of the French Revolution, the way to avoid them was to rally round the Constitution, and not to break or bruise it, or render caprice the sole rule of action. Instead of boasting of confidence, said Mr. R., let this House, the Judiciary, the Executive, and every other department, rest within its own sphere, do its duty, and look to the legitimate source of approbation, and let us not poison the minds of the people by exhausting the whole stores of eulogium on any man or men when there was no occasion for it. If they were to speak less of confidence, and endeavor more to deserve it, by pursuing a correct and independent course each, according not to Executive, but his own views, and leave the people (the only legitimate tribunal upon such subjects) to withhold or express their approbation as well of the Executive as the Legislative functionaries, then there would be nothing to fear from a guillotine. If the Executive had done his duty, he would have in his favor the verdict of the people in his re-election—a sanction worth more than a thousand fulsome and factious addresses—he would neither need nor be gratified with that ascription of confidence of which so many are now so profuse.

But, said Mr. R., his astonishment continued through the whole investigation on this subject. The gentleman from New Jersey, (Mr. SLOAN,) while he contended that the prostration of the Constitution at Orleans was grateful and meritorious, was extremely curious in thus taking so much care of the Constitution now. The gentleman had told them that the Constitution had not said that this House should inquire into the conduct of the Commander-in-Chief, and because it had not, they should take care of it; thus particularly expressing an approbation of conduct in General W., which the nation could not have empowered him to pursue; carefully guarding the Constitution now, and yet profuse in his approbation of this man for violating the Constitution unnecessarily, and sending persons from place to place without the process expressly required by the Constitution. This was the way that prejudice worked in favor of or against the matter in discussion.

Mr. R. begged that gentlemen would consider; that they would pause, and think, before they went too great a length in denying their own power.

A great many minor objections had been made to the operations of this committee, when instituted—all valid, if the House had not the power to appoint a committee. If they could not appoint a committee, they could not compel attendance on that committee. But, if the appointing a committee of inquiry was within their Constitutional power, (and he hoped it would be so decided,) they would find ways and means to compel attendance. Who would dare to prevent it? When the nation moved upon deliberation, and within the circle of Constitutional powers, he should like to see the man who would dare to counteract its motions! Let the nation thus move, said he, and show me the man who would dare to counteract it! The nation would not be wanting to do itself justice in such a case. Mr. R. had no doubt that there were witnesses, whom he had in his eye, who would refuse to give testimony; he hoped that the committee would imprison them, and coerce their evidence; and that the judge who would oppose it should also be made to feel their power. He had no notion of the action of the nation being impeded by these little obstacles.

One gentleman was afraid that if they adopted this resolution, they would support the slander that the Government wanted energy. If the Government wanted energy, said Mr. R., it was time that it should be asserted; if it had energy, they should redeem the nation from disgrace by displaying, by their conduct on this occasion, that the slander was unfounded. So that, take it either

way, this was no argument against the resolution. He had no idea of acting in this way; he hoped there was not a member of the House who was not satisfied of the propriety of the vote he would give, on better grounds than these; he hoped no member would be induced to vote against, or restrained from voting for the resolution by such observations as these.

Mr. R. did not know whether, according to the doctrine laid down by the same gentleman, (Mr. HOLLAND,) corruption would rally round this committee if appointed; or whether perjury was to resort to it for an asylum. He hoped, for the honor of the House and of the nation, for the honor of the Speaker, (for the committee were appointed by him on his responsibility, and as he was an old member, he hoped he could distinguish between those who were slanderers, and those who were not,) for the honor of the nation he hoped the gentleman's assertions were groundless; he hoped the body would be exculpated from such charges; but, if not, Mr. R. had no doubt that the Speaker, by a judicious choice, would secure the nation against those evils.

Mr. R. therefore hoped that the Congress of the United States would not declare that they had not the power to execute a purpose of this kind, in such a case as this; he hoped they would consider it as belonging to them by the Constitution, as a body possessed of the power to declare war and resist foreign corruption. The evidence before them related to an attempt of this kind. What, said Mr. R., would be the language of a foreign Court on hearing of a refusal by this House to inquire? "You dare not to inquire," would be their expression: "Spain is in your neighborhood, and you dare not to inquire." The result of the inquiry might be cause for war, if not for the rupture of treaties now pending. It would belong to this House to say whether it would make appropriations for fulfilling those treaties or not. This inquiry had already produced important evidence; he would not accept a treaty now, which he might have done before this evidence came out. In this point of view, then, this House had the power to make the inquiry. Upon principles of general reasoning, said Mr. R., every effort of a corporate body to preserve itself is legitimate; and, upon every view of the subject, with my feeble understanding, there is no doubt on my mind, but we possess the power of passing the resolution now upon our table.

The House now adjourned, without taking any question.

WEDNESDAY, January 13.

Mr. LEWIS, from the committee to whom was referred, on the second of November last, a memorial of Robert Peters and others, reported a bill authorizing the proprietors of squares and lots in the City of Washington, to have the same subdivided and admitted to record; which was read twice and committed to a Committee of the whole House on Friday next.

Mr. WILLIS ALSTON, from the committee to whom were referred, on the eighth instant, a written Message from the President of the United States, communicating a report of the Director of the Mint, with sundry accompanying documents, presented a bill to prolong the continuance of the Mint at Philadelphia; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. JEREMIAH MORROW presented petitions of sundry purchasers of public lands within the State of Ohio, praying that such modification and amendment of the acts for the sale of lands belonging to the United States, may be made, as Congress, in their wisdom, shall deem reasonable and proper, to enable the petitioners and other settlers to make their payments without the losses to which they will otherwise be subjected.—Referred to the Committee on the Public Lands.

On motion of Mr. PARKE,

Resolved, That a committee be appointed to inquire into the expediency of extending the right of suffrage in the Indiana Territory, and that they have leave to report by bill, or otherwise.

Ordered, That Mr. PARKE, Mr. BARD, Mr. TAGGART, Mr. GARDNER, and Mr. SAWYER, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplemental to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," with an amendment; to which they desire the concurrence of this House. The Senate have also passed the bill entitled "An act continuing in force, for a further time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," with an amendment; to which they desire the concurrence of this House.

Mr. RHEA moved that the deposition laid on the table by Mr. Clark be printed. Agreed to.

GENERAL WILKINSON.

The House resumed the consideration of the resolution moved by Mr. ROWAN, as modified by an amendment proposed thereto by Mr. LOVE, which was depending yesterday at the time of adjournment.

Mr. W. ALSTON said, that the different parts of this resolution were now all combined in one, and stood upon that ground. He was of opinion that there was but one part of the resolution which ought to be adopted; and before he sat down he should move to strike out, after the word, "*Resolved*," the whole of the resolution, except that part relating to the transmission of these papers to the Executive, which had been introduced by the gentleman from Virginia, (Mr. LOVE;) the propriety of adopting which must be apparent to every one solicitous that a fair inquiry should take place into the conduct and character of General Wilkinson.

He had said, when up before, that if the object of raising this committee was to procure papers

or evidence, to be transmitted to the Executive, that this purpose would not be answered by it, but that it was better calculated to smother an inquiry than to promote it. He had heard nothing since (notwithstanding the long and laborious argument which he heard yesterday, and which would have been better delivered at the bar of a court than in this assembly) to change his opinion that it was better calculated to stifle an inquiry than to promote it. Have we not been told, said Mr. A., that if we raise a committee, and give them power to send for persons and papers, additional testimony may be adduced? What is the plain inference from this? That we must first denounce the character, then appoint a committee to examine into his conduct, and report "the result." When this committee shall have gone through an investigation, and may be about to report, if any individual should suggest that there were yet important evidence at Orleans or elsewhere, and should take upon himself to write for it, would the committee report while they had reason to expect additional testimony? While any man should be found to state that he knew of other testimony, would they report? They would not. Then, what becomes of this inquiry, which gentlemen consider so immediately important to the interests of the nation? The course pointed out by the resolution is the very course which gentlemen would pursue who wish the inquiry buried for a while, to leave the character of the man suspended.

The member from Kentucky has talked of the extreme delicacy of the gentleman from North Carolina. How did he mean to apply this observation? Is it extreme delicacy to say that every man should have a fair trial? This is the utmost extent of any observation which fell from me; and it is a sort of delicacy which I hope I shall always profess. A delicacy different from this the gentleman from Kentucky may, for me, exclusively possess. The gentleman from Kentucky has admired my ingenuity. Have I attempted to act the part of a cunning, subtle lawyer, here or anywhere else? His observation is applicable to lawyers only, and not to a plain farmer, possessing only language sufficient to convey his own ideas.

The gentleman seemed to feel another observation which fell from me. If he feels it, he may take it to himself, but I did not mean to apply it to him; for I was several days ago tired of this discussion, and should not now have said anything, had not the gentleman particularly directed his observations to the gentleman from North Carolina—meaning me, I suppose. The gentleman was particularly galled by the general charge of slandering individuals and clamoring against Government. I might have made use of the expression, but did not apply it particularly to any one, though all knew that such language had been held during the whole session. If the gentleman chooses to take it up, he is welcome to it; and though not meant for him, yet, from the sensibility which he has displayed on the occasion, it may perhaps attach to him.

The same honorable gentleman dwelt a considerable time on the subject of confidence—of blind confidence in the Executive. I am sure the gentleman did not then mean to apply his observation to me, although he said "The gentleman from North Carolina;" for I believe the whole course of my political life would have shown him that I hold confidence in none. I act from the dictates of my own judgment, independently of any man or set of men; but, if the course which I pursue is the course with which the nation is satisfied, it gives me pleasure. If the Administration of the country are pursuing a course which satisfies the nation, the members of that Administration, and those who support them, care little for the denunciations of any man or set of men.

The gentleman said that I preferred a military over a civil tribunal. Ought not things which are civil to belong to a civil tribunal, and military to a military—each within its own sphere? Can it be questioned? Now, take up the resolution on one ground on which the gentleman has placed it, and it may be adopted without violating the Constitution; but there could be no question as to the expediency of passing it on that ground, for not a man in the House believed it had been proposed for that object. The gentleman tells us that he believes that most of the evidence produced to the House has been long in possession of the Executive, and that, if we pass a resolution for inquiry, it may be found there. Taking it upon this ground, that it had been long in possession, no doubt the resolution for inquiry might be proper, in order to an impeachment. Although this has been stated, does any gentleman here believe that this is the object of the inquiry? If then the House be, as it must be, thoroughly convinced that an inquiry will produce no effect of this kind, wherefore adopt it? I can see no reason.

If this resolution were to be adopted on the ground which has been taken in the course of this discussion, it will lead to unavoidable and repeated difficulties. A proper constituted authority, having complete control over a certain subject, is about making an inquiry—the House institutes a committee, and sets it about the same inquiry. What individual under heaven can stand the shock of such an union of implied convictions of his guilt! Collect *ex parte* testimony, on which to denounce a man, and however innocent that man may be, he must fall. I will illustrate my idea by a case almost before our eyes, and within the knowledge of all. John Smith, a Senator of the United States from the State of Ohio, is perhaps at this moment on his trial before the Senate of the United States. Had not a court of inquiry as full a right to investigate the conduct of General Wilkinson, a military commander, as the Senate has to investigate that of John Smith, one of their own members? It certainly has. Suppose a member of this House were to move a resolution for inquiry into the conduct of that Senator, for the same purpose for which an inquiry has actually been instituted by the Senate; should we not, in agreeing to such a resolution, as much assume a jurisdiction not belonging to us, precisely as we should by passing this resolution for inquiry by this House, while another at least equally competent authority has

actually taken cognisance of it? We certainly should. It is in consequence of these reflections and considerations that I think it fair and proper, when a character is held up to the nation, that he should have a fair, unbiassed trial before a competent tribunal, before this House undertakes, by instituting an inquiry, to stamp infamy on his character.

The gentleman from Kentucky tells us he is of no party. Why, this is rather strange, that an honorable gentleman of his ability and great talents should have lived so long in this country, where political parties are marshalled against each other, and that he alone has stood erect and firm. This may be a fact, and the gentleman's conduct may have proved it; but, for my part, I never yet saw two parties contending together, that I did not decide in my mind for one or the other. This straight course—neither inclining to one side nor the other—is a very honorable, but difficult path. The gentleman may get through it, but I very much question whether he does not evince, before he goes hence, that he is as strong a partisan as any gentleman on the floor.

The gentleman has told us that he is not a friend to Burrism, and refused to appear as counsel for him. This is honorable to him, but there was no occasion to tell the House of it. An honest man never wishes to cry out innocent, before he is charged with a crime. The course pursued on this occasion is not calculated to injure Col. Burr or his project. The self same course has been here pursued as at Richmond; and the present proceedings and discussion all have the same tendency. Was Aaron Burr tried there? No. A spectator of the proceeding would have believed General Wilkinson was on his trial, and that an inquiry was instituted into the conduct of the Chief Magistrate of the United States. The same argument and declamation are now used that were used there. Sink the Administration, sink Wilkinson, and Aaron Burr comes into power, and rises of course. Burr and Blannerhasset are gone to the Western country. Let gentlemen reflect upon the consequences to which their arguments will lead; that there is a desire at all events to crush the man. God forbid that I should charge any member on the floor. But such will be the effect on the public mind, and therefore I am opposed to the measures which are proposed; upon that ground, if upon no other, I would vote against them. Let the court of inquiry sit. Let us see the result of it, and then we may call for evidence if ample justice be not done. If any high character in the country is implicated let us apply the corrective. But, until then, let us sit here as the "grand inquest of the nation." Let us permit things to travel in their usual course.

Impressed with the propriety of negativing the main object of the resolution, Mr. A. moved to strike out all that part of it, except the part directing the transmission of papers to the Executive.

Mr. TAYLOR said, that when he had before spoken on this subject, (and the measure was not in the least altered by the amendments since made,) he had declared the measure to be an innovation, that they were about to establish a precedent which might in future times be productive of mischievous consequences. He knew that some gentlemen had instanced the case of St. Clair as a case in point; but, he believed, when considered, it would be found that the resolution on the table was directed to the man and not the subject generally: and if they compared the case cited as paramount or precedent to that now under consideration, it would be found totally inapplicable.

[He then read an extract from the Journals of a resolution by the House in which General St. Clair's name was used as descriptive of the action into which the resolution went to request an inquiry.]

The House would observe that in this case it was necessary that the name of Major General St. Clair should be used as descriptive of the subject-matter; but that there was nothing personal in the error or matter of the resolution. On this motion there was yeas and nays: so that the resolution upon the subject itself was lost.

[He then quoted the Journal, stating another motion to appoint a committee to inquire into the cause of the defeat of the late army under General St. Clair, which was adopted.]

Observe also the tenor of this resolution. The words Major General St. Clair were merely descriptive. The causes of the failure of the late expedition was the subject-matter of the resolution. So that this committee was not constituted for the purpose of trying or making inquiry into the conduct of Major General St. Clair, only as incidentally concerned, and he understood from those who were then members of Congress that the General was a witness on the subject. What had become of the result of this inquiry, Mr. T. could not say, for he had not been able to find it on the Journals—it was not yet ended. So that the position which he had before laid down, that this resolution authorizing an inquiry into the conduct of General Wilkinson was a new case, was correct, and it would therefore become a precedent.

He confessed that those who were opposed to him in opinion on this subject, had vastly the vantage-ground over him. The high sounding words "Commander-in-Chief of the Army of the United States," and the republican jealousy against standing armies, were weapons which these gentlemen had managed with great adroitness and dexterity; but he would ask, what was this mighty Army, about which the alarms and fears of the nation were attempted to be excited? About three thousand men, scattered over a frontier of one thousand eight hundred miles, commanded by a "Commander-in-Chief." If he might be allowed to make a comparison, he would instance a commander-in-chief in the State of South Carolina, who had command of a standing army consisting of fourteen men; this standing army and its commander had the charge of the arsenal near Charleston. *Cur rides? Mutato nomine fabula narratur de te.* The standing army which had been made use of as a bugbear to get at a particular character, could be tied hand and foot by the citizen soldiers of a single district in the State in

which Mr. T. resided. But it was a standing army; and gentleman had said, "Let the nation move"—for what? For three thousand men and a Brigadier General—to be sure the highest officer now in command—a sort of captain of the magazine guard. But if we should be called upon to have a standing army, which should act in a case of emergency, if the complexion of national affairs should demand it, was there any man so mad as to suppose that Brigadier General Wilkinson would be appointed Commander-in-Chief, unless perfectly cleared from the charges against him? Would not the Executive adopt the same principles in regard to the Commander-in-Chief which Cæsar did as to his wife, that she should not only be pure but unsuspected? Would he not examine whether Wilkinson was the sworn traitor as which he was denounced? Certainly he would; he could not avoid it.

Mr. T. said he had heard a speech on this subject from a very honorable, and he would swear, a very honest man, (Mr. ROWAN,) which at first thought appeared to be entitled to great weight; but which, when the whole was taken together, appeared to have been a battle at random. The gentleman had seized upon the sword of public expediency, and wielded it with a vengeance. "Let the nation move" was the language of the French Revolution. The gentleman has told us that the instances which I adduced did not apply; that these precedents were abuses, not uses, of the power. I wish they did not. But if there are no limits to our power, no landmarks to define our power, where shall we stop? I should fear to follow the sanguine, the hasty, the honest judgment of the gentleman himself? I suppose that the National Convention of France, when they denounced Marat, supposed that they had seized on a villain; he was denounced as General Wilkinson has been here, and what was the result of it? He slipped through their fingers. True it was, a female assassin put him out of the way, but the friends of that man rose up and denounced his very denunciators. Committees were appointed, as is now proposed, to inquire; their sittings were protracted, that popular fury might be excited, and newspaper fulminations might deprive the individual of a fair trial; they spun out the inquiry till the communes of Paris came to the door of the Convention, and demanded that the persons implicated in the inquiry should be punished. I have this morning heard of a transaction, which, at this day, has taken place, and placed the present procedure on all-fours with the errors of that day. I have learnt, that not satisfied with the supposed force and weight of the denunciations here, another respectable political body has taken up this subject, and I suppose are about to proceed to judge the man, to torture his name extrajudicially in the same Capitol where, not long ago, it was done *secundum artem*. I ask if this case be not parallel to that of the communes of Paris; if it be not putting into practice the very principle I so much deprecate? It is alarming. What citizen shall be safe when the nation and the nation's strongest child shall move against him? Who shall obtain a fair trial with such weights as these against him?

[Mr. BURWELL interrupted Mr. T. to explain. It appeared from the point of the gentleman's observations that he alluded to the Legislature of Virginia. He rather supposed the gentleman was mistaken in the course of measures which had there taken place. It was well known that a member could introduce what measure he pleases into a legislative body; but it did not follow that it would be adopted. He made this observation in justice to the Legislature of the State of which he was in part a Representative; and he must say that he thought the comparison of that body with the communes of Paris, or any other such body, was not justifiable.]

I have said, continued Mr. T., that the gentleman who has given us most information on the other side of the question, was acting honorably; that I believed he felt everything which he said, and that it was his duty to urge it, and so I will say likewise of the Legislature of the State of Virginia; but I will say that they are mistaken, and so will this House be if it adopts this resolution. I hope there is good sense enough in that Legislature and this House to stop at the threshold, before they do an act of which they will assuredly repent. I hope that if denunciations of public characters do take place here and elsewhere, through the mistaken zeal of individuals, yet that neither the Legislature of the United States nor of the State of Virginia will immolate the Constitution of their country.

The gentleman from Kentucky had gone on to show the expediency of using this two-edged sword—always used by despots to trample upon the rights of nations and individuals—this incidental power of self-preservation, and had proceeded till he got into a difficulty; had met with an impediment in his rapid course. What was it, and how did he overcome it? After having armed the committee, and supposed them to have taken out summons for persons and papers, when this committee would be about to encounter our Constitutional objections, the gentleman had exclaimed that he wished to see what individual would dare to resist their mandate. This was the very language used by Sandwich, Bute, and Halifax, in the case of the general warrant issued against John Wilkes, ordering his papers to be seized; and yet there was found a man in that nation as inferior as it is in the notions of liberty, there was found a man who dared to resist; and there was also found an enlightened jury and upright court, who applauded his resistance, and the nation itself went with them. The gentleman had denounced General Wilkinson for having seized upon persons and deprived them of their liberty; and yet, when this power was here objected to and suspected, what was his language? The gentleman wishes to see what man would dare to oppose it, and says, if a judge would dare to issue his writ of habeas corpus, he would march up to the Senate with him, and lay him by the heels. Gracious God! Talk of General Wilkinson's having violated the Constitution, and in the

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

TENTH CONGRESS.—FIRST SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

ORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

TENTH CONGRESS—FIRST SESSION.

COMPRISING THE PERIOD FROM OCTOBER 26, 1807, TO APRIL 25, 1808, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

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1852.

same breath strike at the independence and threaten the prostration of that power in our Constitution which alone is capable of wresting the oppressed from the fangs of the lawless spoiler. The doctrine which has been here supported comes with a very ill grace from the person who has denounced General Wilkinson for apprehending a few traitors. In our anxiety to get at the man, we have forgot our own power, and also have forgot that we have already acted on one part of this subject this session, by which proceedings a part at least of this resolution is rendered a mere surplusage. [Mr. T. then read an extract from the Message of the President of the present session, and an extract from the Journal, showing that so much of that Message as related to enterprises against the public peace had been already referred to a committee.] This committee, if any could possess it, certainly had the power to inquire and report the result. Was it an evidence of their want of that power, that the subject had been in this manner again introduced? The truth is, that proceeding did not contain a declaration of war against General Wilkinson; it only touched the subject generally; it was no denunciation, and therefore it was not strong enough.

Mr. ELLIOT said he should be in favor of one part of the motion of the gentleman from North Carolina, but not of the whole, and therefore should call for a division of the question. It had not originally been his intention to take any part in this debate, and he should not now do so, were it not for the extraordinary exposition of the Constitution, which had been presented to them by the gentleman from Kentucky, in support of an extraordinary proposition indeed, take it all in all. It would be a miserable affectation in me, said Mr. E., to pretend to conceal the impression which has been long since made upon my mind in relation to the officer who is the object of the resolution under consideration; but, whatever may be my impressions, I wish nothing to be made use of against him which is not perfectly Constitutional. The gentleman from Kentucky has told the House, and I hope he has told us true, that he stands here upon independent ground, and as an independent man. I approve and admire such conduct; but the gentleman's sentiments, yesterday expressed, proved that independent ground is not always Constitutional ground. The ideas expressed by that gentleman, I will venture to say, will not be sanctioned by the majority of this body, or by himself upon mature reflection. He advanced some very broad and bold positions, and I will preface the remarks which I shall make by advancing one equally broad and bold, but much less liable to objection than that which the gentleman has offered. It is this: that the House of Representatives can institute no inquiry into the public or private character or conduct of any officer or citizen of the United States, in a case in which they can neither impeach, nor punish such officer or citizen; except it be for the purpose of acquiring information to enable them to exercise their legislative functions. This is a general Constitutional proposition.

But the gentleman from Kentucky has told us that there are certain general powers vested in Congress by the Constitution of the United States, which would justify us in an act of this kind, and particularly cited the general power of providing for the public defence and general welfare. Independent as that gentleman may be, he unquestionably means to be considered as a republican; and I have always understood it to be the republican doctrine that it is dangerous, improper, and anti-republican to contend that these general provisions would authorize Congress to assume any powers not specially vested or necessarily incidental. Certainly the words are not without meaning. Congress has power to provide for the general defence and common welfare of the United States. How? By the exercise of certain powers *specially* vested in them. The gentleman might have found another general provision which would have answered his purpose better: "Congress shall have power to 'make all laws which shall be necessary and 'proper for carrying into execution the foregoing 'powers, and all other powers vested by this Con-'stitution," &c. After a particular enumeration of the special powers vested in Congress, by the Constitution, a general power is vested to pass all laws necessary to carry into effect these preceding delegations of power. If there be a deficiency in the powers of the Executive department to institute an inquiry into the conduct of a military officer, we are competent to vest it with the necessary authority. But until we do exercise that power, the power is with the President, to possess and exercise it, at his discretion, conformably to the existing laws.

But, not contented with telling us that this general power authorizes us to do anything we please, the gentleman says, that if we do think proper to act or institute an inquiry on any subject; that the moment we, by a majority of perhaps a single vote, have so determined, the nation is in motion, and who shall dare to resist the nation! I do contend that we cannot put the sovereignty of this nation in motion beyond the orbit in which the Constitution has directed that we ourselves shall move; and this House can of itself do no act, except in cases particularly described by the Constitution or as incidental to them. We can set the national will in motion in cases of impeachment. The moment a majority of this House determines on the impeachment of a civil officer of the United States, that moment the national will is that such officer shall be impeached, because the Constitution has vested in this House the sole power, and we are the sole movers of the nation on this subject; but the moment we wander without the sphere of these powers specially vested—for I disclaim any general delegation of power by the Constitution farther than is necessary to carry into effect special powers and incidental powers growing out of them—the moment we wander out of it, so far from our setting the national will in motion, that will is against us, and must and will overpower us. We array ourselves against the will of the nation and its sovereignty, the moment we exercise a

power which the Constitution does not permit. Who, it has been asked, will resist this motion? The moment our exercise of what is called the national will becomes unconstitutional, that moment it will be resisted. It is not only in the power but it is the duty of every American citizen to resist our exercise of power upon subjects over which we have no jurisdiction.

But it is contended, if we have not this power by those clauses of the Constitution vesting general powers, or in consequence of our right to exercise the national will, that still we have power to impeach the President of the United States, and therefore to inquire whether he has done his duty as to this or that particular officer.

This doctrine may be more specious and more tenable than any other points which the gentleman proposed. We have the power, it is true, to impeach the President of the United States; for what? For the exercise of the discretion reposed in him? No. We have the right and power to impeach him for high crimes and misdemeanors. Well, suppose a mass of evidence offered to the House, which, in the opinion of a majority, destroys the character of a great military officer, and that the same evidence offered to the Executive did not produce upon his mind the same effect. We have no power to impeach this officer; the President has the power to remove him, and is most naturally the judge of the weight of evidence. But, even admitting the gentleman's construction of the Constitution as a co-ordinate branch of the Government, he has the same right as this House to form a judgment. Can it be pretended that we can impeach the President because he does not weigh evidence in the same scale as we do? I presume not. We believe this officer to be guilty; the President does not. Can we impeach him for his belief? If we can, it is in vain to talk about our Constitutional powers and the proper exercise of them. The present may be a *casus omissus* in the Constitution and our laws. We cannot insert this omitted case in the Constitution, though we may provide against similar occurrences, in future, within the sphere of our legal powers.

I conclude, therefore, that neither upon the ground of our general power, nor upon that that we have the right to set the national will in motion, or that when in motion it is irresistible; nor upon the ground that we possess the power to impeach, or we possess the power to institute an inquiry of this description. Still do I believe that we possess the power, and that in certain cases and in a certain manner we can exercise it, so far as relates to the subject of a foreign pension; and as in this late period of the discussion, I wish to compress my observations as much as possible, I will state my conception of the power of the House, and how it can act, in the form of a resolution which I now offer as a concluding argument, and which I shall probably move when the whole of the present proposition shall be, as I hope it will be rejected:

Resolved, That a Committee be appointed to inquire into the expediency of passing a law for the punishment of any officer of the United States, who shall hereafter receive a pension from the Government of any foreign Power; and of any person holding an office of profit or trust under the United States, who shall, without the consent of Congress, accept of any present, emolument, office, or any title of any kind whatever, from any King, Prince, or foreign State, contrary to the ninth section of the first article of the Constitution of the United States; and that the said committee, for the purpose of obtaining information to guide the House of Representatives in exercising the powers of legislation upon those subjects, be instructed and empowered to inquire whether any officer of the United States has heretofore received such a pension, or any present or other reward from a foreign Power, contrary to the said provision of the Constitution, and that the said committee report a statement of facts, with their opinion thereon, to the House.

Mr. ROWAN said, he would notice some of the observations made by the gentlemen from South Carolina and Vermont in answer to his observations of yesterday; the observations of the gentleman from North Carolina he should pass over, because they did not occupy the level of gentlemanly discussion; besides there are individuals publicly known to be surrounded by an atmosphere which secures them from the personal notice of a gentleman.

It had not been noticed in the course of debate, that General Wilkinson had at any time been a civil officer. It was known however that he had been Governor of Upper Louisiana, and commissioner at the delivery and receipt of New Orleans; and from the evidence before them it was as probable that he had received a pension while a civil, as a military officer; if while a civil, upon the ground that an impeachment could be preferred, an inquiry ought to be made. If while a military, he relied upon the grounds taken yesterday, and the reasons drawn from the general terms of the Constitution to support the position, that an inquiry ought to be made. These provisions of the Constitution must mean something; he considered them as delegating a power to provide for the common weal. If it were not so, if an inquiry could not be made, he should think it a lamentable thing. He could not bring himself to conceive, that the Army of the United States (to be sure it was small at present, but it might soon be enlarged) should be corrupt, or the officer at the head of that army, and that the Constitution instead of affording, precluded a remedy—that when the Commander-in-Chief was said to be alien from his country, a Spanish pensioner, and to have attempted a dismemberment of the Union, an inquiry could not be made.

Let it be understood, said Mr. R. that all my arguments are predicated upon the ground that in appointing this committee the House will exercise a Constitutional power; upon that ground I contended (and not upon the ground of Parliamentary omnipotence) that the committee could fine and imprison one who stood out in contempt; that they could coerce their attendance, and in short, use every means adapted to the end—an effectual inquiry. If the House have not the power to appoint a committee of inquiry on this subject, then the committee have not the power to fine, imprison, &c. I think the House have the power; I wish it to be determined; if I am not mistaken, I must be satisfied with the decision of this House. But that the decision might be fairly had upon the power of the House to institute this inquiry, Mr. R. said, he would ask the Speaker if he had not a right to withdraw his resolution; if he had, he would do so, and present it again without the amendment by the gentleman from Virginia, and thus avoid the motion of the gentleman from North Carolina.

Mr. R. then withdrew his resolution; and, before it could be offered again,

Mr. RANDOLPH renewed his motion, in the following words:

Resolved, That the President of the United States be requested to cause an inquiry to be instituted into the conduct of Brigadier General Wilkinson, Commander-in-Chief of the Armies of the United States, in relation to his having, at any time, while in the service of the United States, corruptly received money from the Government of Spain, or its agents.

He said he had withdrawn it only to give the gentleman from Kentucky an opportunity of taking the sense of the House on his proposition; to do which, in his opinion, every gentleman had a right. He perceived that the gentleman from Kentucky was about to be deprived of taking the sense of the House by an evasion of the question, and now renewed his own motion, which he had only withdrawn with an intention to renew it if that of the gentleman from Kentucky should not be adopted. He would here say, that though he did not agree with all the doctrines of the gentleman, that he thought all his arguments which bore upon this case were unanswerable.

The House agreed to consider Mr. RANDOLPH's resolution—51 to 36.

Mr. ALSTON said it would be recollected by the House, that he had for some time taken no kind of notice of what had fallen from the gentleman from Kentucky (Mr. ROWAN,) considering everything which had fallen from him as the echo of others. He should not now have condescended to notice him but for his personal attack upon him last evening, which Mr. A. said he had attempted to repel in the way it merited. He had no objection to join issue with the gentleman, and never regard what he might hereafter say.

Mr. LOVE.—Being led back to the consideration of the original resolution of the gentleman from Virginia, the Constitutional objection to the measure fully recurs. He had yielded, Mr. L. said, to the opinion that the modification given to the resolution of the gentleman from Kentucky (Mr. ROWAN) had exempted it from the Constitutional objection, by making it possible that the matter of it might, in some of its parts, lead to subjects within the cognizance of the House. Perhaps he had the more easily given way to this opinion, from the great anxiety he felt to satisfy the public mind, by giving the utmost range to inquiry; at least the reference of it to a committee, would be attended with the single and less dangerous objection, the exercise of a power which did not belong to them, but which they had already assumed, by agreeing that the House should receive information; if this was wrong, it respected themselves only, and he, for the reasons he had stated, was reconciled to it, in the form it had been moulded into; in that form it did not invade the province of any other department of Government, and embracing as it did objects of legislative investigation, it could at worst be only an unnecessary and inexpedient step. But however satisfied he might have been on the Constitutional ground, of the right of Congress to entertain the question of commitment to members of their own body, as it respected the resolution just withdrawn, he confessed he was opposed to it as inexpedient, and prepared to vote in favor of the motion to strike out that part of the resolution which contemplated the commitment to a special committee; because he was perfectly well satisfied from what he saw, that the reference would be extremely impolitic, perhaps of very dangerous consequence. This conviction had been wrought and confirmed in his mind by the speech of the gentleman from Kentucky, in support of his proposition of reference. With the powers contended for, and the character which has been attributed to the spirit of such a committee, it would certainly be the most odious, and perhaps the most really terrific tribunal ever erected in the world. But to the resolution, to which their attention was now recalled, the objections appeared in a two-fold view. It was inexpedient in forming a precedent, which, on some future occasion, might be used to disgrace the nation, by converting its House of Representatives into a vehicle of slander, and the Hall of the National Councils into a scene of intrigue, and a theatre of faction and cabal; unconstitutional, because it required of another department of our Government to do an act on a subject exclusively confided to it, which a law of our own making has already recognised to be delegated solely to it, and thus in direct violation of the principles acknowledged by the ablest civilians who have written on the subject, authorizing the encroachment of one branch of the Government on the proper powers of another. On this subject, Mr. L. said, other gentleman and himself, on a former day, had said enough. He would add but one or two observations. It seemed to him that the provisions of the Constitution could not be mistaken; strong arguments were derived in support of his opinion, even from the expressions of the Federal instrument; it gave in express terms to the House of Representatives, the right of instituting the trial by impeachment of the civil officers of Government, without including those of a military description. The omission could but have been a purposed one; the framers of the Constitution having been intended to a consideration of the whole subject. The tenure by which military officers held their commissions, proves the futility of the supposition that this House could ever have been intended to interfere with their conduct, and that a responsibility as to them must necessarily rest on another depart-

ment. The power of the President over military officers is as full at least, and much more efficient, and prompt in execution, than the power of the Legislature over civil officers by the mode of impeachment. This is a construction too obvious to be gotten over by any acknowledged rules or principles. It was true, said Mr. L., a gentleman from Vermont (Mr. Elliot,) a few days ago, in discussing this subject, assumed a position of the following description: "That although the power 'to act on this subject is not delegated by the 'Constitution, yet, if it is not denied to the Gov-'ernment or expressly reserved to the States, we 'have it," and in conformity to this doctrine, of which, indeed, much had been said in former times, the construction by implication, and incidental power, was strongly insisted on. But what was, indeed, more calculated to excite his surprise, he afterwards found the author of the resolution himself arguing in support of the same positions; an argument which, Mr. L. said, seemed so directly contradictory, and in so obvious hostility to that so ably and eloquently urged by the gentleman but a few weeks since, in defence of the reserved powers of the people and the States, that indeed it had excited his astonishment. Such is the state of hostility in which the different positions are arrayed, that even the superior ingenuity of the gentleman from Virginia, he would defy to reconcile them.

But, said Mr. L., if the expressions and acknowledged principles of construction, which he supposed to be perfectly settled at this day, were not decisive, let us look back to the experience of the world, with respect to all the Governments which have ever existed, and see what must have been the intention of the wise framers of the Federal Constitution, in the very special delineation they have made of the different powers of the three great branches of our Government. It would not be too much to say, that the destruction of every system or plan of Government, which ever had a pretension to the security of the liberty of the people, as one of its ingredients, had been lost, or its termination hastened by a union of all the great powers in the hands of one body. It was to the retrospect of this prominent historical illustration, that the framers of our Constitution could not but have had their attention most forcibly drawn. They knew well the tumults and continued scenes of disorder which Rome in her best days had been subjected to, from the entire want of anything like an organization of the distinct powers of a State in different and distinct branches. By the undistinguished use of all the great powers of the State, at different times, the consular power, the power of the tribunes, the power of the Senate, and the other favorite great depositories of the strength of the people, exercised each in their turn, and sometimes several at the same period, all the Legislative, Executive and Judicial functions of Government. They were each, the makers, the judges, and the executioners of the law; the life of every citizen and every soldier, was in the hands of each of those bodies, and the one which happened to be most strongly supported, exercised its power to the annihilation of the others, and the utter destruction of the peace and safety of the State. To England, too, the framers of our Constitution might have turned their eyes, for many of the examples of the dreadful evils which arise from the assumption of all the powers of Government, by one branch of it. It was to avoid these evils, and insure a permanency to our institutions which nothing should impair, that the distributions of power were made, and it is with a view to these dreadful examples that we are now called on to preserve the sacred spirit of our institutions, and to discountenance this most direct attack made on the principles which are to sustain us. Let not this House be betrayed into error, which hereafter may be found irremediable, by the apparent innocence of the simple language of request, and by the author of the resolution. The power to request, is an assumption of a right of interference which may at a future time be used, to support a demand; it will form a precedent we may at a future time wish to get clear off, when we have it not in our power. If we have cognizance of the subject, and really think we are called on by our duty to exercise it, why use the humble language of request; why not in the manly tone of the Representatives of the nation, demand that a certain thing be done, which is said to be necessary?

But, said Mr. L., for what purpose is this resolution still pressed on us? It cannot be for the direct purpose of having the terms of it complied with, that is already done; there is no man on this floor who doubts, or pretends to doubt it. But, indeed, some have said that we are not officially informed of it. Can this make a difference, when the fact is as well ascertained as if indeed the President had gone so far out of the line of his duty as to tell us of his having ordered a court of inquiry on an officer of the Army at his own request? We cannot then expect an official communication. Would our request or demand give more effect to the inquiries of such a court? No, this cannot be pretended, it sits under a law already in existence, and its powers are as clearly marked out as those of any other tribunal Congress has erected for the administration of justice. Had the President given us information that this court of inquiry was now sitting, what should we have said? He could have had no official information of what we are doing, and it certainly would have been considered as a very improper intrusion into the public councils, and it would have been at once declared that it was an undue attempt to govern our decisions.

Well, as we know that this court is now sitting, if indeed our wishes are to ease the public mind, wherefore object to the immediate transmission of the papers we have, in order to enable that court to pursue its inquiries? There could be no direct object left for the resolution; if a sinister one, it was certainly not the duty of the House to promote it. It was but too obvious there could be but a single object now for pressing the resolution: if it is adopted it will be a means in the hands of the enemies of the Administration to prove that the

Executive had neglected to do a duty until the interference of the Legislature compelled it. How gratifying this might be to some gentlemen, it was not for him to say; they had already declared it. But is this doing justice to the public? If the President has neglected a duty, we can act upon him, we cannot compel him to act on others, we ought not to attempt even to influence him to do so—it would be assuming on ourselves the responsibility due from him; if he does wrong impeach him. Let not gentlemen, if they really believe their country injured by the conduct of the Executive, be ashamed or afraid to speak in the language of the Constitution: to request him to do a thing which pertains to him as a part of his duty, is in express terms a charge of having neglected his duty: if such is really the case, let him account for it. But the question is at present a different one. The course for us to pursue in the discharge of our duty is a clear one, which cannot be mistaken; let us give all the effect in our power to the inquiry, by making an immediate transmission of the papers and information we have to the President, in order that it may be laid before the proper court. This would be the way to satisfy the public mind, and not employ ourselves here in making an empty sound of charges, which we have neither the power to prosecute nor punish. Whether he was of opinion with the gentleman from Kentucky (Mr. Rowan) that the accused is guilty, or whether he was of a contrary opinion, was to the public of but little moment; our opinions are on this subject but the opinions of individuals, they can never be more. His accusation has afforded an opportunity for the display of the powers of a warm fancy; how far it has operated on the judgment, or produced a conviction on the mind, justice to the public and the accused both seem to forbid a declaration. Mr. L. repeated that he only wished such measures should be pursued, as would most effectually promote a proper inquiry and satisfy the public mind; and would therefore, when a proper opportunity offered, move a resolution which he thought would best answer the purpose.

Mr. Bibb.—After the very tedious discussion you have heard, I should be unmindful of the feelings of the House were I to detain them long. But, having listened patiently to the arguments of others, I feel my right to claim their attention for a few moments while I express the reasons which will induce me to give an affirmative vote, and shall endeavor to remove the Constitutional objections which have been urged against the resolution. I regret extremely that the opposition should have come from the quarter it has, because it will have a tendency to confirm the suspicions entertained against General Wilkinson, and to countenance the insinuation that the Administration are disposed to prevent a fair and impartial investigation, fearful his guilt might be exposed. If I were so uncharitable as to suspect the purity of the motives of those who differ in opinion with me upon this occasion, I should rejoice at the decision it is feared they are about to make. But confiding as I do in the integrity and patriotism of those who now administer the Government of my country, and of the opponents to the present motion, I shall lament a decision which will afford a pretext for invective—for attributing to them motives the most unworthy and detestable.

What is the proposition before the House? Is it to punish an innocent man without a trial? Or to hold up unnecessarily and improperly to public suspicion the character of an individual, to gratify private resentments? Or is it to assume powers which are withheld from us by the Constitution of the United States? No such objects are contemplated. A gentleman from Virginia having received information that the Commander of your Army had been guilty of treachery to his country in becoming a pensioner of Spain, deemed it his duty to communicate it to this House, whose province it is to raise and support armies and to provide for the common defence and general welfare of the nation. Having done so, he has offered a resolution, couched in respectful language, requesting the President to institute an inquiry for the purpose of ascertaining the innocence or guilt of the accused. Is there anything unfair or unjust in this proceeding? Surely not. It is in my opinion the very course which our duty as guardians of the national security and justice to General Wilkinson, commands us to pursue. If the gentleman from Virginia, after communicating the information, had evinced an inclination to stop further investigation, he might with some propriety have been charged with cruel injustice; but under the existing circumstances I cannot perceive the grounds for such a charge.

The very course is pointed out which innocence would desire and by which guilt may be exposed. Now, reject the motion, and what impression will be made upon the public mind? Will it be favorable to the accused, honorable to this House, or satisfactory to the nation? I fear it will not.

We are told that if the resolution is adopted we determine the guilt of General Wilkinson. How such an inference can be drawn it is difficult to perceive. Every gentleman who has spoken upon the subject, admitted that there were grounds for suspicion, and that further inquiry was indispensable. What does the motion propose? Simply to petition the proper authority to *inquire*; and cannot possibly imply a conviction of guilt. It is objected, however, that this House does not possess the Constitutional power which they are called upon to exercise.

I understand the resolution to be nothing more than a petition to the Executive. I ask, then, whether by the Constitution of the United States, every citizen is not invested with the right to petition any department of this Government? Sir, every man in the nation, however mean his rank, or abject his condition, and every lawful assemblage of men, hold this Constitutional privilege, of which they cannot be deprived. And are we, the Representatives of the people, to be excluded from those important rights with which, as citizens and freemen, we are invested by the Constitution of our country? No. If holding a seat in this House divests me of the most value-

ble privileges I am ready to resign it, and will again occupy the honorable station of a citizen. But an additional right to pass the resolution is given us by another provision of the Constitution. It is made the duty of the President to communicate to Congress from time to time such information on the state of the Union as may be deemed necessary and proper. Why was this duty assigned to the President? Certainly that Congress might know where to resort for information to direct their legislative proceedings, and because from the nature of his other duties he must be better informed generally upon the affairs of the nation than they could be. At the commencement of every session the President, in compliance with his duty, communicates such information as he thinks necessary; but it cannot be expected that he can foresee the various subjects which may occupy the attention of the Legislature, and upon which they may want information: and shall it not be asked for when it is wanted? If it be his duty to communicate it from time to time, we must have the right to ask for it, whenever we cannot act without it. Such is our present situation; we are called upon to add to our Military Establishment, for which purpose a bill is already introduced. I should probably vote for it, if I were certain that the suspicions entertained against a portion of the Army were groundless. But this is a matter of doubt and uncertainty. It is now proposed to request the President to institute an inquiry, that we may be informed whether an addition to the Army can be safely made or not. Until such inquiry is made, and such information is received, I cannot act in a way satisfactory to myself.

Thus I derive the authority to adopt the resolution before you, from the undoubted right to petition, and from the indispensable power of this House to ask for information with a view to the direction of their Legislative conduct.

In times of danger and alarm like the present, it cannot be expected that the Representatives of the people will consent to commit the interests and safety of their country to those, in whose fidelity and patriotism they have not the most perfect confidence. And until my doubts are removed I shall withhold my assent from adding a single man to our Army. However critical our situation, whatever dangers may surround us, I will trust the defence of the nation to the militia alone.

Mr. SLOAN.—So much time has been spent on this subject, that I should not now have risen had it not been to notice the ingenious turn my friend from Georgia has given to this, on the ground of its being a petition to the President of the United States. I shall just observe that I do not remember that upon any subject there had been so many attempts to give such different turns and dress to the matter under consideration; for what purpose I do not say. All I do say, is, that I hope no ingenuity, or change of dress, will induce a large majority of the House to swerve from their duty; I hope we shall do nothing further than transmit the papers without other weight or observation to the Executive. From the present state of my feelings, I shall give my vote so far, but not one tittle farther.

Mr. HOLLAND.—The gentleman last up but one, has told us that good grounds are pointed out, on which the guilt or innocence of General Wilkinson could be established, and from this has deduced an argument that we ought to instruct the President in his duty. Immediately after, he adduced the right of petition in favor of adopting the resolution. Is this House reduced to the humble situation of being mere petitioners to the Executive to do his duty or grant us our right? That consideration alone would induce me to oppose the measure. This House has rights and should demand, not petition for them; the Constitution never contemplated that this body should petition. I feel myself placed in a dignified situation, and never will consent to such an abasement.

We have, however, arrived at the point when it is acknowledged that this principle is not recognised by the Constitution of the country. This proposition is the same in effect, though not in the same plain language as that offered by the gentleman from Kentucky, and which has been withdrawn to make way for this, in return for which the gentleman from Virginia (Mr. RANDOLPH) has declared the arguments of the gentleman from Kentucky (Mr. ROWAN) to be unanswerable. This resolution is the same in substance, asking the President to do a thing which we have not a right to demand. This is the substance of the argument just delivered in favor of it. I am informed that the Senate is trying one of its members: suppose we enter into a resolution to inquire into the conduct of the same person. Would it not in us be an act of supererogation? We are informed from good authority that this work is going on, that General Wilkinson is on his trial, that the proper department is going on with this business. How, then, can we take it up?

This proposition means something that cannot be acknowledged, that will not bear the light of day: and, therefore, I am opposed to this resolution and all such.

Mr. LIVERMORE said the resolution in its present form was considerably varied from what it was yesterday; he should briefly make a few observations on the subject.

There had been information given to the House of something which looked like a conspiracy against the Government; and also of something which looked like bribery. Without entering into an investigation or analysis of the evidence, it was such as to induce the House to say that any person guilty of the crimes alleged by it to have been committed, was unfit for an officer of the United States. The proposition now under consideration was simply to inquire, or, in other words, that the President of the United States be requested to inquire, into the conduct of this officer. This at first view did not strike his mind as being worthy of so much consideration whether or not it should be adopted; he could not have conceived it possible that there should be any discussion on it.

It had been said by some gentlemen opposed to it, that the evidence ought to be transmitted to the President of the United States; they could see no objection to that. But what could be understood by transmitting it? Why send it to the President of the United States? If it were improper to make the request, why trouble the Executive with information on the subject? If it were proper to transmit the evidence, why scruple to make the request?

Gentlemen had objected to it on Constitutional grounds; for his own part, he should be one of the last to wish to pass any resolution or do any act contrary to the Constitution; and should also be one of the last to do anything which looked like an assumption of powers not delegated to the House. But in every shape in which he could view the matter, there was not the least cause for an apprehension of this kind, and he should endeavor to consider the matter as briefly as possible.

It had been said that the Constitution did not delegate the power to do this thing. This is very true, said he; the Constitution does not expressly delegate any such power, if we adhere to the letter of this instrument. But it must be considered that there are powers vested in this House which are not expressly given. I would not wish to extend the powers of this House by implication, to do a material injury to the person or property of any one, to destroy the trial by jury, or to infringe the province of any branch of the Legislature, or the powers of the Executive. Indeed it would in my opinion be too absurd to be attempted in any case. This is not, however, contemplated by the present proposition. If it were a proposition to do an injury, my mind would revolt at the idea; but if it be nothing more than what is necessary and proper, where can be the objection to it, or where does the Constitution, deny the exercise of the right? Gentlemen ask, where does the Constitution give the power? I will answer that it grows out of our Constitution, which was founded in the wisdom of our statesmen. This House is the branch of the Legislature considered as more particularly composed of the Representatives of the people; it is our bounden duty to watch over the interests of the United States; when an injury is done to the nation and not checked by the proper authority, it is our duty to inquire and give information. To say, therefore, that because this power is not expressly given we shall not exercise it, does not appear to me to be a very potent argument. Perhaps if this request went to injure an individual, or to deprive him of his rights, there might be some justice in the observation. But after the evidence which has been given to this House for several days past, an inquiry ought to be made by the President; and if General Wilkinson is not a man of integrity, he ought to be removed.

It was said that an inquiry is instituted. This inquiry does not go to the extent which is contemplated by this resolution. It is a fact that this court has not the power of compelling the attendance of the witnesses or the production of papers from a distance, which another court might do. It is not such a court as this that the President is requested to institute. If the President were to find from satisfactory evidence, such as has been given, that General Wilkinson is guilty he will remove him from office; he may go further, and order a prosecution against him in the proper district. Whether he should do one or both is not now necessary to decide. All I understand the resolution to ask, is, that he will make proper inquiry into the conduct of General Wilkinson—whether by a particular court, particular officers, or particular committee, whether he may see cause to call this officer before him, and give him an opportunity to defend himself, it is not necessary now to determine or inquire. But in all this I cannot see any offence given to the President, or any declaration that there is any matter which he ought to have inquired into, but which he has not. I have not seen any cause for the alarm or declamation visible and audible for several days past. The proposition appears to be reasonable, and supported by the Constitution, as nothing contained in that instrument forbids it, and to contemplate no injurious exercise of power against the person or property of any individual whatever. Can any gentleman say how this can injure any particular citizen? If he be guilty it will be ascertained, if innocent, his innocence will be confirmed—his character may be cleared up and all stains wiped away. For my part I cannot see why all this zeal against an inquiry of this nature, or why the Constitution should be held up to discussion, when the simple question is merely whether the President shall be requested to inquire into this business. There is something in it which I cannot fathom. I have revolved it in my mind in every possible shape, and cannot see any ground for the excitement of these feelings or apprehensions; or that the Constitution will be destroyed by a simple request by the House of Representatives to the President of the United States to inquire into certain evidence which has come within our knowledge.

Mr. BACON said, he believed he had expressed his sentiments on this motion, now before the House, when it was offered for their consideration at a former day; believed, for it would be recollected that the general subject had danced before their eyes in such various forms, that it was impossible to say with certainty whether he had expressed his opinion on this particular point or not, but he believed he had. It was not a little amusing, and, perhaps, worthy of attention, to look back and see the regular gradation in which this business had progressed from its first presentation. How had it gone on? First, said Mr. B., it appeared in the form of a modest and simple request, addressed to the Executive, to the language of which it was thought there could not be any objection, although there certainly was to the substance. Then, after the House had considered it a while, it was moved to go further; that it should be committed to a committee, with power to send for persons and papers. This motion was discussed a day or two, when the sense of the House was taken on it, and it was thrown out by

a large majority of votes. What was the next step? A motion that two gentlemen on the floor might be so far indulged as to permit them to lay their evidence on the table. This presented the subject in a more confined and limited shape. It was not giving a committee power over persons and papers; it was represented as a very circumscribed and harmless thing. Without pretending to a great degree of prescience, I then thought I saw the extent to which we should be drawn, and did lift up my feeble voice against it, even in that shape, and suggested my ideas to the House. But I was found to be in a very small minority. I really thought the next step would have been a decision on the resolution, as first moved by the gentleman from Virginia, or on transmitting the papers, which had been laid on our table, to the Executive; but, from the large majority on that question, courage seemed to have been taken to go further. What was next? A resolution proposed by the gentleman from Kentucky. The first resolution, offered by the gentleman from Virginia, simply requested the President to do a certain act, transcending our own powers, in a modest manner; but the gentleman from Kentucky seems to have thought the House then was in a temper to go further, and therefore moved a resolution not that we should direct the President to do his duty, but to take the power ourselves and appoint a committee to inquire into a crime of the highest magnitude. I did not regret that the subject was brought in this shape before the House. I thought it would produce a good effect; that the House would see how far the "entering wedge" was finally to be driven. But this resolution, and the doctrines urged in support of it, evidently went too far; the temper of the House did not seem to relish it; many gentlemen, who seemed inclined to adopt the first resolution, could not bring themselves up to this. What then was done? The gentleman from Kentucky withdrew it, and then——

Mr. RANDOLPH asked leave to set the gentleman right in what he was about to state. He was certain the gentleman from Massachusetts would wish to state nothing but what was correct. The truth was, that the resolution now before them would not have been the subject of debate at present, had it not been for the circumstance of his having misconceived the gentleman from Kentucky. I understood the gentleman, said Mr. R., as meaning to withdraw his to make way for the resolution which I had the honor to submit; when, in fact, had I heard him distinctly, I should have understood that his intention was to withdraw his own to modify it and present it in a new shape, disencumbered of additions unconnected with it. This is the plain state of the fact; and the change of question now originates solely from my having misunderstood the gentleman from Kentucky, and having got possession of the floor before him.

Mr. BACON said, he did not know how it occurred, and could only see things as they presented themselves. He understood the gentleman from Kentucky to withdraw his motion altogether, on account of the motion of the gentleman from North Carolina to strike out a portion of it. [The SPEAKER said, such was the case.] Then, said Mr. B., I believe the House was in the same unfortunate situation as the gentleman from Virginia, and could not hear the true state of the case; and, really, if I did misunderstand him, I am not so happy as I imagined I should be, for I did hope I should be right in supposing that the comments made upon the resolution had induced him wholly to withdraw it, and am sorry that this does not appear to be the case.

I beg the House now to consider through what stages we have been led in the consideration of this subject. It seems we are now to meet this question in its original form. I will not now again enter into a discussion of it. It will, however, be a useful lesson to me, and, I trust, to the House, to observe through what mazes we have travelled. First, the discussion commenced on a civil request to the Executive that he would do his duty, and exercise his power; but, feeling the ground pretty firm under them, gentlemen thought they might assume more; and the question was at last presented as we yesterday heard it supported by the gentleman from Kentucky.

I shall not occupy the attention of the House with any further remarks. I will only observe, that there is nothing at the bottom of the opposition to this resolution, no improper motive for the zeal displayed on the occasion. I profess no great zeal; I am neither the partisan of General Wilkinson, nor his foe; shall not join in the eulogium on his character by the gentleman from New Jersey, nor in the aspersions on it by the gentleman from Kentucky. I equally disclaim any participation in both. The character of this officer may be bandied about as gentlemen please, but I will not, for the purpose of showing my zeal for what may be supposed a popular inquiry, be driven from my Constitutional ground; standing on which, and on which alone, I feel myself safe. I thought, the other day, when the House called for information, that they had better have stopped where they were; I endeavored to show the consequences of it then. I now repeat, that here is the ground to halt. If we have already gone too far, we cannot retrace our steps; but we may say we will go no further. If the House go further, I will not go with them; but I hope they will consider the precedents and principles which will flow from the course which they seem now about to adopt.

Mr. RHEA, of Tennessee, said he should vote against this resolution for several reasons; it was inexpedient, unnecessary, and exceeded the power of the House. It was inexpedient and unnecessary at the present time, because the very object of the resolution was already taken into consideration by the President, and a court of inquiry had been ordered in pursuance of it. He should vote against it as inexpedient, because the President of the United States was fully adequate to do everything which he was, by the Constitution or law, required to do; and with him alone rested all the power to have this business brought before the

proper tribunal. There is, said he, a military court to which all these officers are amenable, and by whom they are punishable for any offences which they may commit; and I am willing to submit to their decision not only this case but every other which may arise, without further interference. I, for my part, shall never descend to the situation of a petitioner to the President of the United States, or to any other department of Government. If, then, the resolution be considered as a petition, the House can do nothing more impolitic than to become petitioners. This Legislature stands precedent to any department of the Government; and if any gentleman thinks fit to come forward as a petitioner, let him do it; and if he chooses to resign his seat, as he has threatened to do, if we do not agree to "petition," let him do so.

It has been asked by a gentleman from Connecticut, why should the President be troubled with this evidence, if not with the resolution? This evidence, although upon the table, is unconnected with anything else whatever.

When I was up, a few days ago, I had the honor to mention that the Government consisted of three great departments, and that it was the intention of the framers of the Constitution that these departments should not interfere with each other. I observed, that the Constitution says that the President shall recommend to this House, from time to time, such measures as he shall think proper. Gentlemen had been called upon to show why this House had any right to request him; it is given up that it is not expressly delegated, and if it is by implication. I should be glad to see it. I have examined the Constitution, and found that every power not delegated to the United States is reserved to the people or the States. I deny that the Constitution ever authorized this House to recommend to the President any measure which it is within his province to do. If any such authority can be shown, it will be some reason why this resolution should be adopted. I must act according to the Constitution, which I have sworn to support, and I do not see that any power is therein given to do such an act as this, and therefore I shall vote against this resolution and all such. If this doctrine be once established, what will be the consequence? It will be in the power of gentlemen to bring forward a resolution to affect any officer of the Army or Navy, and they might send the whole Army before the President on suspicion. I hope this doctrine will never be adopted; I am content to let these officers remain amenable to the department which has power over them by the Constitution. I deem that department fully competent; and when the power was confided to the Executive department, it was expected that he would do his duty as well as this department; if this is not the case, let this House at once assume the duties of the President, and come before the sovereign people in that capacity; one act under that assumption will blast the unconstitutional doctrine.

As well might this Legislature assume the power to request a jury to do anything as to request the President; and, being a measure not warranted by the Constitution, I cannot agree to it.

Mr. LYON said, while he should cheerfully have voted for an inquiry by this House, as it was contended that they had not this right to inquire, he should not vote for this, because it requested the President to institute an inquiry, which was already done, and the proceedings of the court were published. But when, he said, he should vote against the resolution, he felt a sort of repugnance to so voting, from the expression of a belief by many of its opponents, that they had no right to pass it. He contended that they had a right to make inquiry themselves as well as to call upon the President to do it; he was as strongly attached to the Constitution as any one, and could not consent to give up his rights. He should vote against the resolution merely because it called upon the President to do a thing already done. He was inclined to think some further inquiry was necessary, because of the clamor, and because charges had been made of a disposition to stifle inquiry, which assertions should be met broadly. It ought to be said by every side of the House that they would not hesitate to go into any inquiry. It was a matter of vast importance; and the House should not be influenced by delicacy toward the President, the Commander-in-Chief, or any other man, but boldly take up the case, and show to the world that they were not ashamed to go on with an inquiry, which every part of the nation called for. General Wilkinson's character, after what had been sworn to by Mr. CLARK, did not stand with the nation so that they could have confidence in him; on the contrary, their confidence in that commander must be shaken. The House ought to pursue such a course as would restore confidence to this officer, or he ought to be dismissed from the service. I hope, said Mr. L., that gentlemen who oppose this on Constitutional grounds, do not consider if the inquiry now commenced goes on in such a way as is not completely satisfactory to the whole nation, that the purpose intended will be answered; that if the Commander-in-Chief is exculpated, and that merely because this or that form is wanting, that confidence will be restored. If he is kept in office, and confidence is not restored to him, a great evil will take place, without a remedy, except this House have the power. Gentlemen talk about the time which has been spent. I do not care how much time has been spent, or how much said on this subject; it is better so much time has been spent than that the nation should be kept in suspense. I shall vote against this resolution, though I might vote for the resolution of my colleague, (Mr. ROWAN,) if under consideration now.

The question on Mr. RANDOLPH'S resolution, was then taken by yeas and nays—yeas 72, nays 49, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, John

Davenport, jr., Joseph Desha, James Elliot, William Ely, John W. Eppes, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jun., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, John Rowan, John Russell, Dennis Smelt, Samuel Smith, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Robert Brown, Joseph Calhoun, George W. Campbell, Peter Carlton, John Chandler, Richard Cutts, Josiah Deane, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Isaiah L. Green, John Heister, James Holland, Daniel Ilsley, Robert Jenkins, William Kirkpatrick, Nehemiah Knight, John Lambert, John Love, Matthew Lyon, William McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Matthias Richards, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, Archibald Van Horn, Robert Whitehill, Isaac Wilbour, and James Witherell.

Mr. Eppes said he had stated on a former day, in his place, that no information had at any time been received by the present Administration which went to charge Brigadier General Wilkinson with being a Spanish pensioner. This statement was made in reply to a gentleman from Kentucky, who thought it unnecessary to forward to the Executive the evidence exhibited against General Wilkinson, on the ground that this evidence was already in possession of the Executive department. A fact so important to the public ought not to rest on the assertion of any individual. If corruption has at any period of our political existence fixed its fangs on this Government, if men known to be Spanish pensioners have at any period been honored with confidence by any administration, it is proper the people should understand at what period this confidence commenced, and by whom it was reposed. So far back as the year 1789 or 1790, information was forwarded to the Executive department of this Government, that a combination between citizens of the United States and the Spanish Government had been formed, for the purpose of dismembering the United States. The information (together with the names of most of the persons concerned in the combination) was forwarded to the first Administration formed under this Government, at the head of which General Washington was placed. It was known to the second Administration under Mr. Adams, and additional information forwarded to him by Mr. Ellicott. If General Wilkinson was originally concerned in this combination, he must have been appointed to office by the first administration under this Government, and continued by the second, with a full and complete knowledge of this fact. The present Republican party found General Wilkinson in office, and abundant proof can be produced that he possessed the confidence of the two preceding Administrations. If he was originally a member of the old Spanish combination, or has, at any period prior to the year 1801, been guilty of any act calculated to destroy the public confidence, let the responsibility rest on those who appointed and continued him in office. We have seen in one State of the Union a member of this combination removed from the important office of judge, on the ground of being a Spanish pensioner. A charge of the same kind is now made on oath by a member of this House, against an officer of the United States. It is time that all the information possessed by the Government of the United States on the subject of this combination, should be brought fairly before the public. With a view to obtain this information, he offered the following resolution:

Resolved, That the President of the United States be requested to lay before the House of Representatives all the information which may at any time from the establishment of the present Federal Government to the present time, have been forwarded to any department of the Government, touching a combination between the agents of any foreign Government and citizens of the United States, for dismembering the Union, or going to show that any officer of the United States has at any time corruptly received money from any foreign Government or its agents; distinguishing as far as possible the period at which such information has been forwarded, and by whom.

Mr. Randolph seconded this motion.

After a few objections to this resolution from Mr. Quincy, on account of its being too comprehensive, not giving the President power to withhold confidential correspondence, the question was, on motion of Mr. Rhea, taken by yeas and nays, and carried unanimously, every member present, to the number of one hundred and twenty, voting in the affirmative—as follows:

Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, Howell Cobb, Richard Cutts, John Dawson, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert,

Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Mr. Rowan said that although a decision on his resolution had been eluded, out of respect for the opinions of gentlemen who objected to particular parts of it, he had modified it, and offered it as follows:

Resolved, That a special committee be appointed to inquire into the conduct of Brigadier General Wilkinson, in relation to his having at any time whilst in the service of the United States, either as a civil or military officer, been a pensioner of the Government of Spain, or corruptly received money from that Government, or its agents; and that the said committee have power to send for such persons and papers as may be necessary to assist their inquiries; and that they report the result to this House, to enable this House the better to legislate on subjects of the common weal, and our foreign relations, and particularly our relation with Spain, as well as on the subject of the increase of the Army of the United States and its regulations.

A motion to consider this resolution was negatived—60 to 46.

Mr. Holland moved that a committee be appointed to wait upon the President with the resolutions this day adopted.

Mr. Love moved that the evidence or information laid before the House relative to the conduct of General Wilkinson be transmitted to the Executive

Mr. Randolph moved an adjournment.—negatived—ayes 47, nays 57.

The House agreeing to consider Mr. Love's motion, ayes 67.

On motion of Mr. Rowan, seconded by Mr. Randolph, the words "copies of" papers, &c. were inserted; and the resolution for transmitting copies of the papers was agreed to without a division.

The motion for appointing a committee to wait on the President with these resolutions and copies, was agreed to without a division. Messrs. Randolph and Eppes were appointed the committee.

Thursday, January 14.

Mr. Van Horn, to whom was referred, on the tenth of November last, a petition of sundry inhabitants of the city of Washington, in the District of Columbia, reported a bill for incorporating a company for opening the canal in the City of Washington; which was read twice and referred to a Committee of the Whole on Monday next.

The House proceeded to consider the amendments proposed by the Senate to the bill supplemental to an act entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act continuing in force, for a further time, the first section of an act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers:" Whereupon,

Resolved, That this House doth agree to the said amendments.

Mr. Poindexter, from the committee to whom was referred, on the sixth instant, a petition of Alexander Bailie, late Collector of the Customs for the District of Natchez, in the Mississippi Territory, presented a bill for the relief of Alexander Bailie; which was read twice and committed to a Committee of the Whole on Wednesday next.

A message from the Senate informed the House that the Senate have passed the bill, sent from this House, entitled "An act to continue in force, for a limited time, an act, entitled 'An act continuing, for a limited time, the salaries of the officers of Government therein mentioned," with an amendment; to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill making appropriations for the support of Government, during the year one thousand eight hundred and eight. The bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

On motion of Mr. Stanford,

Resolved, That the Committee of Ways and Means be instructed to prepare and report a bill to this House fixing and allowing to each clerk in the several Departments, and in the General Post Office, adequate and suitable salaries, according to their services respectively.

On motion of Mr. Dawson,

"That the House do now resolve itself into a Committee of the Whole on the report, in part, made the second ultimo, by the committee appointed on so much of the Message of the President of the United States, of the twenty-seventh of October last, as relates to the Military and Naval Establishments:"

And the question being taken thereupon, it passed in the negative.

Mr. Morrow said he had been instructed by

the Legislature of the State of Ohio to make application to the General Government for the objects included in the following resolutions; as he meant to move for their reference to a Committee of the Whole, it was unnecessary to offer any argument on them:

Resolved, That the President of the United States be authorized to loan to the State of Ohio, for the term of seven years, seven thousand stand of arms, for the purpose of arming in part the militia of the said State; under such restrictions and regulations as to safe keeping and re-delivery as the President may prescribe.

Resolved, That the President of the United States be authorized to loan to the State of Ohio, for the term of seven years, twenty pieces of field artillery, with carriages complete, for the use of the artillery companies of militia in the said State; under such regulations and restrictions as to safe keeping and re-delivery as the President may prescribe.

The resolutions were referred to a Committee of the Whole on Monday next.

THE MINT.

The House went into Committee of the Whole, on the bill for continuing the Mint at Philadelphia; and

Mr. ALSTON said, having been the chairman who reported the bill, although hostile to the Mint Establishment altogether, he moved to fill the blank for its continuance with five years.

Mr. DAWSON suggested that the present law continued the Mint till 4th March, 1809, and wished the Committee to rise, that they might be refused leave to sit again.

After some conversation on the construction of the former law, and a motion being made to fill up the blank with a specific time from which the continuance for five years should take date.

After considerable and desultory conversation on a motion for the Committee to rise, and ask leave to sit again, it was carried—46 to 40.

FRIDAY, January 15.

Mr. PARKE, from the committee appointed on the thirteenth instant, presented a bill extending the right of suffrage in the Indiana Territory; which was read twice and committed to a Committee of the Whole on Tuesday next.

Mr. PORTER from the committee appointed on the twenty-third of December last, presented a bill supplementary to an act, entitled "An act for the relief of persons imprisoned for debt;" which was read twice and committed to a Committee of the whole House on Monday next.

Mr. G. W. CAMPBELL, from the Committee of Ways and Means, presented a bill for the relief of Edward Weld and Samuel Beebee; which was read twice and referred to a Committee of the Whole on Monday next.

Mr. RANDOLPH, from the committee appointed to wait on the President of the United States with two resolutions passed on Wednesday last, together with certain documents laid on the table of this House, reported that they had obeyed the order of the House, and had received for answer from the President that, in relation to the first resolution, he would send an answer to the House in writing; and, in relation to the second, that he would give to the House such information not improper to be disclosed, as comes within the scope of that resolution, and which might be in possession of the Executive department.

Mr. DAWSON, from the committee to whom was referred a resolution on the subject, reported a bill for procuring a formidable train of field artillery for the service of the United States; which was read twice and referred to a Committee of the Whole on Monday next.

SALARIES OF OFFICERS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to continue in force, for a limited time, an act, entitled 'An act continuing, for a limited time, the salaries of the officers of Government therein mentioned:"

The amendments were to strike out in the fourth and fifth lines of the engrossed bill, the words, "continue in force for the term of three years, and to the end of the next session of Congress thereafter, and no longer," and to insert, in lieu thereof, the words "hereby is made perpetual;" also, to strike out the words "for a limited time," in the first line of the title of the said bill:

On concurring with this amendment some debate arose.

Mr. GARDNER thought the salaries too high; but he was willing to make them permanent, in order to prevent them from being raised still higher.

Mr. DANA thought it would be well to render the salaries permanent, but he conceived they were not at present duly proportioned. The subject required more attention than had been bestowed upon it. He was, therefore, opposed to rendering the present act permanent, without further consideration.

Mr. W. ALSTON replied, that when the act was passed in 1804, it received all the attention and investigation that was wished by any gentleman.

Mr. LYON was against rendering the act perpetual. He wished always to keep the subject in the power of the House. He hoped the Republican majority would not do that which the party exclaimed against when there was a Federal majority in the House. For himself, he had always been consistent in his sentiments on the subject of salaries; and he hoped the Republicans would all be consistent in their conduct. When a majority, he hoped they would not do that which, when in a minority, they reprobated.

Mr. DESHA also opposed the amendment. The House ought to keep the power in their hands. From his legislative experience, he had found it much easier to raise than to diminish salaries.

Mr. SLOAN said the House ought always to keep in their reach all grants of salaries. He would not for himself depart from what he conceived to be the true ground-work of Republican principles.

Mr. TAYLOR advocated the amendment. From the repeated continuance of these salaries, an argument might be drawn in favor of rendering them permanent. It was aristocracy to give low salaries; for in that case you drive from office all men of talents who are not possessed of ample fortunes.

Mr. SMILIE supported the amendment. He did not wish the subject discussed every three years, for neither party gained much credit by it. The party in the minority had always opposed raising or continuing the salaries, because their friends were not to have them. This was the true secret of the business, and it reflected no credit upon either party.

Mr. CHITTENDEN opposed the amendment. He believed the former salaries were sufficient to command the requisite talents. There seemed to be no difficulty in finding men to accept public offices.

Mr. LYON spoke once more against the amendment. It is said that we can lower the salaries, if necessary; meaning by we, the Senate and President also. Mr. L. did not wish to extend the copartnership. He wanted to say we, the House of Representatives. He feared the time would come when they must lower the salaries, because they would not be able to pay them. Now the Republicans were a majority, he hoped the House would not give up the purse-strings of the nation to the other branches.

Mr. TAYLOR thought the salaries of 1799, passed in the time of Mr. Adams's Administration, was not the mill-stone which hung round their necks, for as soon as we came into power we took up the same cross, and have borne it upon our shoulders. We continued the act, and, as Mr. T. thought, ought to make it perpetual.

Mr. HOLLAND had always conceived the salaries ought to be permanent. It would save much unnecessary time spent in debate upon what might be called splitting of hairs. It made but the difference of three or four thousand dollars. No man had complained since the removal of the Government to Washington City that the salaries were too high.

Mr. BIBB moved to strike out the words "made perpetual," and insert "is continued in force until repealed."

Mr. GARDNER wished to know the difference between the words to be stricken out and those to be inserted.

Mr. BIBB's motion was lost without a division.

The question was then taken on concurring in the amendment of the Senate, and lost—yeas 26, nays 82, as follows:

YEAS—Willis Alston, jr., David Bard, William W. Bibb, George W. Campbell, Epaphroditus Champion, Howell Cobb, Richard Cutts, James Elliot, William Findley, Francis Gardner, Isaiah L. Green, William Helms, James Holland, Walter Jones, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Porter, Dennis Smelt, John Smilie, Jedediah K. Smith, John Taylor, Daniel C. Verplanck, and Jesse Wharton.

NAYS—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, Burwell Bassett, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, Peter Carlton, John Chandler, Martin Chittenden, Matthew Clay, Samuel W. Dana, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Ely, Meshack Franklin, Barent Gardenier, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, Benjamin Howard, Daniel Ilsley, Robert Jenkins, James Kelly, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, junior, Edward St. Loe Livermore, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jun., John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, James Sloan, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Wynn, and James Witherell.

GOVERNMENT CONTRACTS.

On motion of Mr. BASSETT, the House went into Committee of the Whole on the resolutions submitted by him some days ago relative to the contractors.

The first resolution being under consideration, as follows:

Resolved, That provision ought to be made by law to prohibit the officers of Government from making any contract, on behalf of the United States, with any person being a member of either House of Congress, or with any other person for his or their use.

Mr. BASSETT said, he presumed that this proposition possessed sufficient intrinsic merit not to require the aid of extensive talents or laborious exertions of any gentleman to advocate it. He assumed it as an axiom, that fundamental principles must rest for their security on the purity of the Representative body. He should however, trust the support of this measure to its own importance.

The resolution was carried—59 to 15.

The second resolution being under consideration, as follows:

Resolved, That every contract hereafter to be made on the part of the Government of the United States, shall contain a clause or condition to render the contract absolutely void, if the contractor should be elected a member of either House of Congress.

Mr. ROWAN objected to its passage, inasmuch as it was adding a qualification to Representatives, which Congress had no right to do, and as it might operate as an *ex post facto* law, vacating contracts already made.

Mr. CHANDLER objected to it, as it might have a tendency to prevent the fulfilment of contracts. A man might have made a contract, received a sum of money on account of it, and, by being elected a member of Congress, could evade the fulfilment of his contract; or might be deprived

of an advantageous contract by being elected a member without his consent.

Mr. G. W. Campbell wished to see no gentlemen contractors on this floor. This resolution only went to affect contracts hereafter to be made. Although no member of this or any future Congress might be affected by existed contracts, he wished to do away every inducement whatever, either to increase salaries or remunerate officers. As to the Constitutional power of adopting this measure, a moment's reflection would show that it was not intended to add a qualification to a member of Congress. If a man holding a contract became a member of Congress, it was intended that his contract should thereafter cease.

Mr. Key.—Suppose a contract made with a person not a member; if this person becomes a member, his contract is absolutely void. It would operate as an encouragement for violating contracts. Every person holding a contract on which he had received advance or which he did not like, might, by being elected a member, vacate his contract; which could not be intended by the honorable mover of the resolution.

Mr. Bassett said, he was more sensible now than heretofore of an embarrassment, in speaking on a subject of so much importance, proceeding from his having been so little in the habit of addressing a public body, which prevented him from expressing with ease those sentiments which occurred to him. He did feel, however, that there was not a principle contained in these resolutions which was not perfectly consonant with the Constitution—not a position which did not bear properly on the subject. Mr. B. referred to this clause in the Constitution: "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office." He feared that even in reading this clause, he could not be heard by every gentleman; but, it surely was not necessary to tell gentlemen that it was a fundamental principle that no man should have a vote in creating any *office* in which he would be interested. What was the case in making contracts? Did they not vote almost daily large sums for contracts, and might they not become participators in their profits? And if this had not been the case heretofore, how had they been restrained? by the disposition of the officers of Government not to make contracts with members, and by the conviction of the members themselves, that it would be contrary to the spirit of the Constitution. If this conviction did not exist, the largest contractors in the nation would be found in this House. If it were only to guard against this principle of favoritism, he should perhaps have supported the proposed measure; but there was a Constitutional ground on which he wished to act. The Constitution had declared that the Representatives of the people should be pure. Was there not a door open here for undue influence by permitting a person to come here and vote for a contract, and go to the public offices, and immediately become parties to the same contract? He thought there was, and this he wished to guard against. He was not surprised at objections made to any general proposition; human nature was so prone to differ on general topics, that he supposed gentlemen might differ with him in opinion. But for this he should have been much surprised at the objection made by the gentleman from Maryland; for he, being a professional man, must know that money advanced on a contract could be recovered by law on a breach of that covenant; and surely it was in the power of the Legislature to annex any condition to contracts. The objection taken by the gentleman from Massachusetts would have weight if it were correct on principle; it could be remedied by making it necessary for a contractor to accept the office before his contract would be void. Mr. B. had no idea of a man's having an office forced upon him, to his prejudice or injury. He thought it better to let the propositions stand upon the broadest possible basis; and when the bill was brought forward, if objectionable, it could be amended. He was willing to admit any modification; but hoped gentlemen would be content to take the sense of the House on the general principle, and see whether the Constitution would bear them out in running this parallel. for parallel he might be permitted to call it; as the same principle which prevented a man from voting for the establishment of an office which he might obtain, would prevent a man from voting for contracts in which he participated; and if the Constitution prohibited public officers from having a seat on this floor, the same principle would apply to contractors. Had not a contractor the same liens on his mind, as if he received money as a public officer? He believed when they saw the practice of the country so strongly enforcing this principle; when they saw the public officers refraining from making contracts with members of Congress, and members refusing to accept of them from a conviction of its impropriety, it would not need argument or eloquence to show that they should provide by law against the possibility of a contrary practice taking place.

Messrs. Southard and W. Alston suggested the propriety of altering the phraseology of the resolution; for as it stood at present, if a person were employed to build a ship, and he should be elected a member of this House without his knowledge, the contract was void, and the public business would be arrested, and the man might be ruined. The same might be said of contracts for carrying the mail of the United States. Suppose a person contracting to carry the mail from the City of Washington to New Orleans, were to be elected a member of this House, the contract would be void, and the mail totally arrested.—When a man entered into a contract with the United States, he gave security for his compliance with the conditions of the contract; he is elected a member of Congress, he has committed a breach of contract, and he and his securities must suffer

a very heavy loss. On the other hand, if a man had received money in advance, he might avail himself of his election to a seat in Congress to vacate his contract.

Mr. Smilie suggested to the mover the propriety of the Committee's now rising, reporting assent to the first resolution, and asking leave that it might be refused to sit again on the others; as the first resolution embraced the principle, and the others went to detail, which could be as well accomplished in the bill.

Mr. Macon said the introduction of this prinple was only intended to guard against the evils which might arise. Whilst they were pure was the time to guard against corruption. The exceptions which had been made were merely verbal. The only question in deciding on general resolutions of this kind was, whether the subject was worthy the attention of the House. Would any one say after hearing the provisions of the Constitution which had just been read, that it was not according to the spirit of the Constitution, or that it was not important that this body should be as pure as purity itself, and therefore that its members should have no concern with the public money? It was to be supposed that those officers who made contracts on the part of the United States, would sufficiently guard them from evasion; but even granting all that had been contended for, whether was it better that the United States should lose the benefit of a good contract, or continue a contractor on this floor? There could be no hesitation in deciding upon general principles that they should in preference give up the contract. He thought, however, that this resolution need not be adopted, as the first contained the principle, and this would be merely an instruction to the committee to whom the other was referred.

Mr. Bassett moved that the Committee should rise and report assent to the first, with a view of moving that they be discharged from the consideration of the remaining resolutions.

After some objections to the detail of the proposition, from Messrs. Holland and Quincy, the Committee rose and reported the first resolution, which was agreed to by the House, and referred to a committee of five members to bring in a bill.

Mr. Newton moved for the order of the day on the report of the Committee of Commerce and Manufactures on the memorial of merchants of Philadelphia, praying a modification of the embargo law.

But before it was taken up, a motion to that effect being made, the House adjourned.

Monday, January 18.

An engrossed bill making making appropriations for the support of Government, during the year one thousand eight hundred and eight, was read the third time and passed.

The House resolved itself into a Committee of the Whole on the report of the select committee appointed to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House; and after some time spent therein, the Committee rose and reported their agreement to the same, with several amendments. The House proceeded to consider the amendments, and ordered that the farther consideration of the report and amendments be postponed until Friday next.

Tuesday, January 19.

Mr. Boyle presented a petition, in the French language, and a translation of the same, from sundry inhabitants of the Territory of Michigan, whose names are thereunto subscribed, praying that further time may be allowed for making entries of claims to lands in the said Territory; and that such provision may be made as Congress in their wisdom may deem proper, to grant to all persons within the said Territory, titles in fee simple to lands justly claimed by them, whether consisting of one or more parcels; and, also, that an extension may be made of the lands in the old settlement, on the river Detroit, for the reasons therein specified.—Referred to the Committee on the Public Lands.

On motion of Mr. Parke,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of annexing to the Vincennes district the tract of country purchased of the Piankeshaw tribe of Indians, on the thirtieth of December, one thousand eight hundred and five; and that they have leave to report by bill, or otherwise.

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of annexing the lands that lie on the eastern part of the district of Vincennes to the Jeffersonville district; and that they have leave to report by bill, or otherwise.

Mr. Chittenden, from the committee appointed on the third ultimo, presented a bill, in further addition to an act, entitled "An act to amend the Judicial system of the United States;" which was read twice and committed to a Committee of the Whole on Friday next.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a report prepared in pursuance of the "Act regulating the currency of the foreign coins in the United States;" also, the copy of a letter to him from the Director of the Mint; which were read, and referred to the Committee of the Whole, on the bill further to prolong the continuance of the Mint at Philadelphia.

Mr. Newton, from the Committee of Commerce and Manufactures, presented a bill to erect a light-house on Point Judith, in the State of Rhode Island; which was read twice and committed.

NATURALIZATION LAWS.

Mr. Burwell begged leave to offer a resolution to the consideration of the House, on the subject of which it was not his intention now to make any observations; it was upon the subject of the naturalization laws of the United States. Upon examination of the Constitution, it would be found that Congress had now, since the 1st of January,

1808, full power to act on the subject, and dispose of it in such manner as the public good might require. It was now in their power to exclude foreigners from the country altogether, or admit them under such restrictions as might be deemed consistent with the public interest. He therefore hoped the resolution would be agreed to, and give him an opportunity of introducing such a bill as he contemplated, and on which the House might then decide. The resolution is as follows:

Resolved, That a committee be appointed to inquire into the expediency of amending the act of Congress, passed the 14th of April, 1802, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

The resolution was agreed to, and Messrs. BURWELL, QUINCY, MACON, G. W. CAMPBELL, SMILIE, FISK, and J. MONTGOMERY, were appointed the committee, with leave to report by bill, or otherwise.

ARMY AND NAVY.

On motion of Mr. DAWSON, the House went into Committee of the Whole, on the report of the committee on our Military and Naval Establishments.

The first resolution contained in the report, which provides for increasing the Army of the United States, being under consideration,

Mr. DAWSON said it was not at this time intended to fill the blanks in the resolution, which would be the subject of the bill; but, as the details of such a bill would require considerable time, he hoped the Committee would immediately agree to pass the resolution.

The second resolution, which provides for the increase of the Marine Corps, being under consideration,

Mr. DAWSON said, the same observation would apply to this, to which, if the House would agree, he should not call up the third, (for increasing the Navy of the United States,) but he would offer a fourth resolution. A law had been passed for the erection of a large number of gunboats, thirty of which he was informed were ready for service, and no provision made for a single sailor to man them. It was known that the seamen in some of the Northern ports were much discontented from being out of employ. In this state of things, he hoped no objection would be made to employ such a number of men as should be necessary for the public service. He therefore moved the following resolution:

Resolved, That it is expedient to authorize the President of the United States to employ on board the gunboats such additional number of seamen, not exceeding ——, as in his opinion the public service may require.

These resolutions being agreed to without debate, the Committee rose and reported them to the House, when the first was agreed to—ayes 66; the second, without a division; the third, ayes 64; and referred to the same committee who reported them, to bring in a bill or bills.

Leave was obtained for the Committee to sit again on the resolution relative to an increase of the Navy—ayes 61.

THE MILITIA.

On motion of Mr. M. CLAY, the House went into a Committee of the Whole, on the bill more effectually to provide for the national defence by the militia of the United States.

The first section being read, as follows:

"That all the militia of the United States, liable to do duty, over twenty-one and under —— years of age, shall be deemed and held in requisition, and called the junior class of militia. And the President of the United States shall be, and he hereby is, authorized, on the appearance of national danger, to order out the same, or any part thereof, to any part of the United States or their territories, for not more than one whole year at any one time. And whensoever a part of the said junior class shall, by the President of the United States, be called into actual service, such call shall commence with those that are lowest in number, as to age first, and so in rotation: the same shall not be compelled to do duty a second time until the whole of the said junior class shall have served one tour; and when called into the actual service of the United States, they shall be armed and equipped by the United States. For this purpose two hundred thousand stand of arms complete, shall be deposited in such places as the President of the United States shall direct, and whensoever the whole, or any part of the said junior class of militia, shall be called into actual service by the United States, and shall be armed and equipped by the same, it shall be lawful, and they, and each of them, are hereby permitted to retain the said arms and accoutrements, as their own property, any law to the contrary notwithstanding."

Mr. M. CLAY said it was necessary to fill the blank in the first section, before they proceeded any further, and it was incumbent on those who were friends to this project, to show, that there were defects in the militia law as it now stood; and, if they could prove to the House that the system offered was better than the old one, he presumed there could be no objection to the bill under consideration. At all events he wished gentlemen to take a serious view of the subject; it was a great national question, on which the salvation of the country depended. He would endeavor to bring forward the best testimony that could be had to prove that the present system was defective, and he hoped he should be able to do it. I will commence with the adoption of the Constitution under which we are now acting. We find that President WASHINGTON always kept this subject in the view of the National Legislature. This shows that there was something in his opinion to do; it was not his business to tell us what it was, but ours to find out. If gentlemen will take up the Presidential communications from the commencement of the Government, they will find that the subject has been uniformly recommended by each successive President of the United States to the present time. I state this as a strong evidence that, in their opinion, a change was wanting somewhere. Next to this I will call your attention to the communications made from the State Executives to their Legislatures. We find also, that the State Legislatures, almost every year, and in every session, have had the subject

under their consideration, and turned it over in one way or the other. This proves that there is in their opinion some defect. We must now remedy that defect if we can; it behooves us to do so; and if I shall be fortunate enough to point out the propriety and mode of making this alteration, I shall have done my duty. We will go further back than the adoption of the Constitution; we do not recollect the whole body of the militia ever to have been brought into action to such effect as our strength of numbers would have warranted, if the militia had been properly organized; there was a defect somewhere, which should be remedied without going either to one extreme or another. If gentlemen will turn their eyes to the bill on the table, they will find that our project is to steer between the two, not to harass the militia, but to render them fit for efficient service, by taking only those that can be best spared from home, and, when in actual service, can be most relied on. History itself furnishes no instance, let the mode of warfare be what it might, where the whole body of the militia were ever called into actual service, and kept there for any length of time to advantage. If there was much marching and fighting, the old men with families would soon find the way home; they could not be relied on for a length of time. I remember often to have heard this complaint made before the Revolutionary war; when we were at war with the Indians. Nay, further, if we go among the savages, we find that they do not all turn out to battle, and leave their women and children only behind; they take neither old nor young men, I mean their lads, to battle, but such only as may be useful in the field.

When we recur to the times of the Revolution, which every old gentleman recollects, and every young one has heard of, every one then in service will attest the fact, that wherever the body of the militia were called on to march, old and young together, the old men soon found their way into the hospital; they would complain of old rheumatisms, &c.; they would often fatigue and break down the young men by imposing on them the additional burden of their knapsacks.

My object is to leave at home the senior and minor classes as much as possible; nothing but imperious necessity and imminent danger should call them to the field, and that within their own State, or in the neighboring State. I wish not to derange the state of society, which must be the case if the whole body of the militia are called out at once. During the last war, we saw not only fields and neighborhoods, but whole States, laid waste from being deprived of their cultivators. I wish to avoid this evil; I wish to leave men enough at home to cultivate the earth and take care of the crop. It is well known to gentlemen of the Revolution, that while we lay at Valley Forge, in Pennsylvania, at Middlebrook, in New Jersey, and at other places, we were almost in a state of starvation, because all hands, meaning the whole body of the militia, had been called out, and cultivation and manufactures neglected. I have seen (and an awful sight it was) not less than five thousand men on parade at a time, in the midst of winter, almost naked, without shirts or shoes; ofttimes have I seen them march on the frozen ground barefoot, marking their footsteps with blood as they marched. At the times here spoken of, the Army was reduced to the awful necessity of going into the adjacent country and threshing out the grain from the straw, and, while thus engaged, the poor and almost naked women, with their helpless babes crying round them, would ask, with tears running down their withered cheeks, for God's sake not to take all, telling the soldiers that that was their all, and when that was gone they must starve; that they had no money, nor wherewith to get money. Now, my object is to avoid such another scene—not only on this account, but in some of the Southern States we have an internal enemy, an enemy within our own families. There should always be a sufficient force left at home to awe and keep that enemy down. By taking out the junior class only, we shall always have a sufficient number left to quell and keep down insurrection at home. We shall presently show that we have a sufficient number of young men under the age of twenty-six and over twenty-one, to meet the enemy whenever they are called on. We have three great points of assault, New York, Charleston, and New Orleans, and I shall I trust be able to show that we have a sufficient number of young men of the junior class to keep up a continual force, if necessary, to meet all attacks. It behooves me now to show what disposition I intend to make of the minor class—young men under twenty-one years of age. It is not my intention that they shall be called into service, except in case of the utmost necessity, and then only within their own State. We find, from report, that to be the rock on which the Emperor of France has split. He takes his men when in their infancy, from the age of eighteen. They ought to be left until they are twenty-one, to lay in a sufficient stock of information to carry them into life. Let them learn trades or attend to their studies; for we consider the trade or profession which a man learns in his youth, whether mechanical or mental, as a fortune; and therefore we do not wish to interrupt them until they have completed their studies or trades, except imperious necessity should require it. It is necessary that every man should have somewhat from which he may receive subsistence during his passage through life. During his minority he lays up by learning a trade or profession, a principal, the interest of which supports him after he attains the age of twenty-one. We also well know that young men under twenty-one cannot stand hardship; they may do some service; they may march about a little, but their system is not matured; they cannot undergo fatigue. We also know that it will almost take two men of eighteen years of age, each, to cope with one of twenty-five in bodily strength.

We shall now proceed to show the numbers of each class, as nearly as they can be ascertained from the census of 1800. We have taken the

authority of the best statistical writers for the progressive numbers.

The census of 1800 gave of males from twenty-six to forty-five, 432,193. I am not very particular as to fractions, they being of little consequence. The annual increase from 1790 to 1800 was about three and one-half per cent., which we will assume for the increase since the last census, being seven years. This will give us an increase since 1800 of 105,882, which, added to the number by the last census, makes 538,075. From these deduct, unfit for service, as nearly as we can ascertain, 35 or 40,000. We have taken, for the sake of equal numbers, 38,075; which leaves 500,000 men, who may be relied on if the danger should be so great as to call for all men over twenty-six and under forty-five.

By the census of 1800, those over twenty-one and under twenty-six, were between 190 and 200,000 men. To this add, for the increase since, by the rule just laid down, 49,400; which will make 249,000, under twenty-six and over twenty-one. Deduct from this number eight or 9,000, for those unfit for service. For the sake of round numbers deduct 9,000; which will leave 240,000 able men. We will suppose wanting at any one time, 30 or 40,000 at each of the three great points I have mentioned, which would still leave enough at home to supply the succession and deficiencies. Out of this class of men, then, between twenty-one and twenty-six, could be called out sufficient for service, at any one time, from 90 to 100,000, and leave double that number still in requisition. If, however, it should be thought that 240,000 would not be a sufficient number, we have only to take all under twenty-seven instead of twenty-six. Those between twenty-six and twenty-seven, added to the others, would form a body of 280,000 men, without taking any under twenty-one or over twenty-seven. It is about this time of life, twenty-six or twenty-seven, when a man begins to know mankind; they have then sown their wild oats, as we generally say; they then wish to settle and see a family rising up before them; they feel vigorous, and wish to show their activity and strength, in running, tumbling, and wrestling; they think themselves great men; they wish to travel and see the world; they have a roving disposition. This is the moment to lay hold of them and make them good soldiers. I know well that it will be said by some that it is an invidious distinction to stop at twenty-six or twenty-seven. Why may not the same be said of stopping at forty-five or beginning at eighteen? It is said that this classification will tear up the old militia system. I do not care how soon it is plucked by the roots; we have had enough of it. Why persist in a system which we cannot get along with? What is the consequence? To show what that is, it is only necessary to read the report of the Secretary of War. Under an exertion of all the energies of the commanding officers, after the insult of the 22d of June last, on the Chesapeake; after the Executive officers had exerted themselves to procure the best information upon the subject of the militia held in requisition, what is the result? The report just mentioned will show that you cannot rely with confidence on the militia in its present state; nor can you on volunteers. The last will do for a moment at the commencement of a war. In case of invasion they will do very well for the moment. They do not go out with a view of brushing their own coats, washing their shirts, and to cook their victuals; they expect to call for the best of everything at every house. Some gentlemen volunteers went down lately to Norfolk from Petersburg and Richmond. They conceived themselves on a level with the officers; it would not do; they came home disgusted, and you will not get them to go again. What was the case during the last war? When a large troop of volunteers was raised (I know the fact, I had a brother among them, and can therefore speak of it) they came prancing to General Washington. The old General asked them what they could do? "Fight for our country," said they. "Will you go into camp with the Army and do regular duty?" They answered "No." "You have my thanks, then, gentlemen," said the veteran, "go home again." This was only to make a show, they intended nothing else; they may do for a moment; but there must be method and regularity in our Army. It will not do to have a large body of men collected for any purpose without it. And therefore it is, that as the great mass of our militia now stand, no reliance can be placed upon them. It will not answer to rely on regular troops. It is easy enough to raise a standing army, but it is difficult to disband them. We had at the close of the last war an awful testimony of the truth of this. Nothing but the vast weight of character of General Washington, who, descending from his high office of Commander-in-Chief, mixed with them as a brother soldier, could have prevented them from revolting. See what a clamor is now raised, and rumors afloat through the country, about your standing army of 3,000 men. Get a man sufficiently popular for Commander-in-Chief of a large standing army, and what sort of government should we soon have? We may shudder even to think of what might be the result. Look at the contrary side, as now proposed to regulate the militia. You take them from the bosom of their families for one year. At the end of that term they will be anxious to return home. Mutiny will not arrest them. With avidity they will return; a tear of joy will bid them welcome.

Gentlemen say the bill does not give us detail sufficient. We can fix all this when we have once passed upon the principle. This I repeat; nearly one year has elapsed since the outrage committed on the Chesapeake, and yet no return of volunteers or militia. This goes to show that volunteers are not to be relied on, and also that the militia laws are defective.

I hope we have shown that we have strong reasons to suspect that the present militia system is not the best that can be devised. We have shown this from the best testimony in our power from the adoption of the Constitution to this day. From the communications of the President of the United States to Congress, and from State Governors to the State Legislatures, it may be seen that the subject has almost always been introduced and recommended to the consideration of the Legislatures. If this is not the best system that can be adopted, I am willing that any gentleman should propose a better. Let us see any other system, we will examine it thoroughly and act with our best judgment on it. This is a time when the whole United States are in danger, and some modification of our present system must be made.

Towards the close of the last war the militia began to fight very well. In Kentucky the fighting men were numerous. After the attempt of the Army, at the close of the war, to turn their arms against their country, Government placed their soldiers when out of service on the frontier, with the natives on their borders, with whom we were then at war. Virginia gave lands to her soldiers which were in the back-ground. Why? Because it would not do to fix these men of seven or eight years standing among the body of the people. We will give them this land, said the officers of Government, and let them go and fight the Indians. The reason was, that they had served seven or eight years in the regular army. This fungus, a standing army, was applied on our frontiers as a breastwork and safeguard, to keep off the savages; we wanted to keep them out of the way. We could have burnt up the Indian towns and put an end to the whole race immediately; but we did not wish to do it; we wished to keep our old soldiers fighting till they cooled off from the habit of inactivity acquired by service in the war.

We have endeavored to show that volunteers will do but for a moment, and that when there is nothing to do, and they can have both male and female waiting upon them. They cannot be relied on in war. They are not the kind of troops for service when invaded by a powerful enemy.—Volunteers may do for sailors or marines, if they choose to go to sea. We have endeavored to show that classification is the only mode by which they can be relied on for the real service of their country; that old men are not the best for service; that young men under twenty-one ought to be kept at home till they get enough of experience to serve them through life; and that young men, over twenty-one and under twenty-six, have a propensity to be in action, to serve their country and to acquire fame.

Some gentlemen make objections to the mode of officering. I have no doubts upon that subject; the thing will work well—this the Constitution has reserved to the States themselves. When officers are wanting, young men can always be found peculiarly qualified to conduct their companions to the fight—young men of high standing and weight of character. The soldiers, having themselves choice of their commander, will choose one out of many candidates, as there always will be, in whom they can confide. I presume, young men of first talents and enterprise will have preference. Let them have a man to command them of their own age. They will say one to the other, I know this man; I have known him from my youth, and can confide in him.

As a reward for the services of these young men, after a campaign is ended, let them keep as their own property the arms with which they fought, which will be handed down from father to son: "This is the piece I fought with." Let it be engraven on the barrel, this belongs to such a one, he earned it by serving his country at such a time. After men have served one year, sufficient numbers will be found to replace them, who will be anxious to see the country, and travel over the Union, emulous of fame; and when they have served a tour will long to return to their kindred, loaded with an honorable pledge of the service done their country.

It is certainly a desirable thing that the physical strength of the country should be applied in the most advantageous manner to the protection of the country. We admit that some men marry early. In this case let them hire men as substitutes from their own class. This substitute may serve out his time and return. By that time another young man may have married, and his substitute, being accustomed to service, may go out a second term. By the adoption of this principle of classification you get the best blood of the country, that which you can rely upon. You will not see your hospitals filled with old men disabled by the rheumatism and gout; nor will you see children in the ranks, trembling at every leaf that falls around them, not sufficiently hardened to lie out upon the ground covered with ice and snow. If we go on in the same bungling manner as heretofore, we shall never have an efficient militia; you will annually receive the President's Message recommending the subject to your consideration.

I hope gentlemen will think with me, and not impute impure motives—the fact is, I have two sons that will soon be twenty-one, and I love them as much as any man can, and perhaps can say what few can. The first property I gave each of them was a gun; and I have enjoined it on them in my will, that it was given them to defend that country which their father had assisted in delivering from bondage. My son's gun will impress on his mind that he must fight when his country calls for his services; it is his fortune.

I hope gentlemen will take a serious view of the subject—that every man will lay his shoulder to the wheel, and rise up to the East and West, South and North, to prepare for the protection of his domicil. Gentlemen have said that this is a new project, that it will create confusion now, when the service of our militia is most wanting. It is because of the crisis that I have at this moment brought the matter forward. The present system is acknowledged to be defective; we wish to make it as efficient as possible—that our countrymen may know who must march at a moment's warning.

In Virginia, during the last war, young men, merchants, lawyers, and doctors, went out to battle, staid two or three weeks, took sick and went home. As long as every door was open, the hand of every man giving them friendship, and caressed

by every woman, they stood their ground; but when dependence was placed on them for service, they were off. I recollect a circumstance of some new militia just come into camp on the eve of a battle. The time of battle soon came; these men were placed in front; but no sooner did the red-coats, as they called the English, come within one hundred yards, than they threw down their arms and ran as though their lives depended altogether on their heels for preservation. When they were asked, where are you going, boys? Did you ever see the like said they, we cannot stand them. When the red-coats come now, it will be just the same. Substitutes towards the close of a war become good soldiers. I know that substitutes are objected to by some gentlemen, they wish every man to stand in his own place, all to stand on the same footing. In my humble opinion this would be bad policy, because all men have not the same gifts. Some cannot fight from religious principles—others cannot fight for the want of nerve. The bill has made provision for such, if they cannot fight, let them furnish a substitute. We know all men are not gifted alike: the strength of some lies in one way, and in others another; Samson's lay in his hair. Now on this floor, some gentlemen of strong minds, who think a great deal, never talk; while some who talk incessantly, appear never to think at all. It certainly would be a great economising of public time and money, for some to think more and talk less. I am not in the habit of public speaking, not being mechanically bred to it; I nevertheless offer my mite in support of the proposed system. It is a great project; and although not fluent of speech, yet I am willing to be tested by my votes and actions, from the year 1776, the time I commenced my political career, to the present day; and I defy any man to say that I ever gave other than a republican vote, or did any other than a republican act, while acting as a public man. I know the word republican is with some a hackneyed word; but I mean the true elective principles of Republican Government. I went young into the Army myself; I was never out of it, after I entered it, until the conclusion of the war. I have been thirty-two years in public life. I mention this to show that I am entitled to claim a knowledge of mankind.

You may exercise your militia from the age of eighteen, till they arrive at forty-five, and after the whole twenty-seven years mustering they will not know the manual. My object is not to call out any man till he he is wanted; and when they are wanted, to call them out, and in one fortnight they will be ready for service, and in a month may take the field, already soldiers—comparatively speaking. There will attend this system no expense in time of peace. I have seen a number of projects for taking legions into camp for six months at a time. The project will not do. When you take your men to the field, let them think of nothing else but fighting—not even of women. These half-way soldiers, half regulars, and half militia; would be of no account. They would be a heterogeneous mass, fit for neither the one thing nor the other. What do we hear of the sailors at Boston, who cannot go to sea, on account of the embargo? The finger of Heaven pointed to an embargo. [Here Mr. Clay pointed to the Potomac river, which was frozen over.] It is mere pretence. They are now, we understand, assembling about the town demanding what they are to do; we know they are set on by artful and designing men. If these sailors are so riotous, what would a standing army be when disbanded on account of peace, if set on by artful men? They would, if able to do it, overturn the Government.

I hope the representations which I have made may be taken notice of by every gentleman in the House. It does not seem accordant with military regulations to place the father and son in the ranks together; the son feels an awe of his father; is under restraint while he is with him; old men and young do not agree well together; their habits are not congenial. I have a great desire that young men should be as much at liberty as possible. Let them learn trades and pursue their studies while young men; let the young man alone till he is perfectly instructed, otherwise you will make him jack at all trades, and good at none. At about twenty-six or twenty-seven years of age it is too late in the day to set about learning a trade; and although we have few or no tradesmen in the part of the country where I live, yet I wish to encourage our domestic manufactures. The time is near at hand when it will be our policy to foster and cherish them.

In the last war, when men were indiscriminately called out, on their leaving their families, you might see a man of forty or fifty years of age, with his wife and a train of children and grandchildren crying after him; at the same time one of his sons or grandsons, a lad of not more than sixteen or seventeen years old, marching by his side; and at the time the army was in a state of starvation, because men of all ages were taken to the field and none left to till the earth. This, in my opinion, was bad policy, none ought to be taken but such only as might have been useful in the field; the remainder ought to have been left to have cultivated the earth and to have assisted in domestic manufactures, and then your armies, instead of being naked and hungry, might have been well fed and well clad. And here the proposed system is certainly preferable to the old. I have given to the House the best estimate I have been able to procure. If we fill the blank with "over twenty-one and under twenty-six" we shall have 240,000 men. If gentlemen think that is not enough, insert twenty-seven instead of twenty-six, and it will give us 280,000 militia, after deducting a sufficient allowance for the number unfit for service. I should suppose that 280,000 efficient militia, dispersed through the United States, are at least as many if not more than will be necessary to hold in requisition. I know that some gentlemen wish the limitation of time to be extended further; but I wish to leave society in as undisturbed a state as possible. We find that other countries wage war, and carry on agriculture and

manufactures at the same time. I wish to do so here—to establish an efficient militia to go to any part of the United States. We may call out the middle class of 280,000 men to any part of the United States, and still leave the body of the citizens in a situation to carry on agriculture, commerce, and manufactures, and the minor class learning their trades and pursuing their studies. Young men cannot think hard of it. Whenever their country calls for their service they ought to go, or leave the country. Let every man stand in the station to which he is called by God and society. Let him attend to the duty his country requires of him, and then return to the bosom of his family adorned with the honors of a republican, the arms he fought with—not with stars and garters, the baubles of a court.

The true plan of Cincinnatus was to fight when his country called for his services. I wish the same example to be followed now. Washington exhibited it as a pattern to his country; it is the example I wish to follow—it is the one I wish my sons and countrymen to follow.

I will state merely for the satisfaction of gentlemen, that, agreeably to the census of 1800, there were under the age of twenty-one, and over eighteen years old, 120,598 males, add to this for increase since, 29,540, makes - - - 150,138
Over sixteen and under eighteen, little upwards of - - - - - - 80,000
Add for increase since, about 20,000, it makes - - - - - - 100,000
Add all between sixteen and twenty-one, makes - - - - - - 250,138
Then say fit for service, only about - 240,000
Of those over twenty-one and under twenty six, about - - - - - 240,000
Between twenty-six and forty-five, about 500,000

1,560,266

It is not intended the minor and senior classes shall be called upon but in case of urgent and imperious necessity.

I hope I have said enough to bring this subject fairly before the House—my object is the liberty and salvation of the United States. I consider it the best and safest mode of defence. My sons will share with their neighbors, they will soon be in the junior class; let them serve with their fellowmen, I wish them to do so. I could not touch upon this subject without entering fully into the principle of classification. This system will furnish a sufficient number for service, and leave enough at home to awe and keep down insurrection, and to cultivate the land. Those who go out to service may receive arms from the national magazines; but these when received I wish them to retain as their own. I have reserved some observations which I wish to make hereafter, when we come to those parts of the bill where they apply. I move to fill the blank with twenty-six; it will then read, over twenty-one and under twenty-six years of age.

The Committee now rose, and obtained leave to sit again.

Wednesday, January 20.

A report was received from the Secretary of the Treasury, in pursuance of the resolution moved by Mr. Van Horn, on the 9th instant, stating that there are no documents in the Treasury showing the amount of tonnage exclusively employed in the exportation of articles the produce or manufacture of the United States; and that the tonnage used at present for the exportation of articles of domestic growth, produce, or manufacture, might, supposing each vessel to make but one voyage, be estimated at about 780,000 tons.

This communication was referred to the Committee of the Whole, to whom was referred Mr. Dana's resolution relative to seamen.

On motion of Mr. Clay, the House went into a Committee of the Whole on the bill respecting the Militia, but a Message in writing being received from the President of the United States, before any progress was made, the Committee rose and obtained leave to sit again.

The Message from the President of the United States was then read, as follows:

To the House of Representatives of the United States:

Some days previous to your resolutions of the thirteenth instant, a Court of Inquiry had been instituted at the request of General Wilkinson, charged to make the inquiry into his conduct which the first resolution desires, and had commenced their proceedings. To the Judge Advocate of that court, the papers and information on that subject, transmitted to me by the House of Representatives, have been delivered, to be used according to the rules and powers of that court.

The request of a communication of any information which may have been received at any time since the establishment of the present Government, touching combinations with foreign agents for dismembering the Union, or the corrupt receipt of money by any officer of the United States from the agents of Foreign Governments, can be complied with but in a partial degree.

It is well understood that, in the first or second year of the Presidency of General Washington, information was given to him relating to certain combinations with the agents of a foreign Government for the dismemberment of the Union; which combinations had taken place before the establishment of the present Federal Government. This information, however, is believed never to have been deposited in any public office, or left in that of the President's Secretary; these having been duly examined; but to have been considered as personally confidential, and therefore retained among his private papers. A communication from the Governor of Virginia to President Washington, is found in the office of the President's Secretary, which, although not strictly within the terms of the request of the House of Representatives, is communicated, inasmuch as it may throw some light on the subjects of the correspondence of that time, between certain foreign agents and citizens of the United States.

In the first or second year of the Administration of President Adams, Andrew Ellicott, then employed in designating, in conjunction with the Spanish authorities, the boundaries between the Territories of the United States and Spain, under the treaty with that nation, communicated to the Executive of the United States papers and information respecting the subjects of the present injuiry, which were deposited in the

Office of State. Copies of these are now transmitted to the House of Representatives, except of a single letter and a reference from the said Andrew Ellicott, which, being expressly desired to be kept secret, is therefore not communicated; but its contents can be obtained from himself in a more legal form; and directions have been given to summon him to appear as a witness before the Court of Inquiry.

A paper "on the commerce of Louisiana," bearing date the eighteenth of April, one thousand seven hundred and ninety-eight, is found in the Office of State, supposed to have been communicated by Mr. Daniel Clark, of New Orleans, then a subject of Spain, and now of the House of Representatives of the United States, stating certain commercial transactions of General Wilkinson, in New Orleans; an extract from this is now communicated, because it contains facts which may have some bearing on the questions relating to him.

The destruction of the War Office by fire, in the close of one thousand eight hundred, involved all information it contained at that date.

The papers already described, therefore, constitute the whole of the information on these subjects, deposited in the public offices, during the preceding Administrations, as far as has yet been found; but it cannot be affirmed that there may be no other, because the papers of the office being filed, for the most part, alphabetically, unless aided by the suggestion of any particular name which may have given such information, nothing short of a careful examination of the papers in the offices generally, could authorize such an affirmation.

About a twelvemonth after I came to the administration of the Government, Mr. Clark gave some verbal information to myself, as well as to the Secretary of State, relating to the same combinations for the dismemberment of the Union. He was listened to freely; and he then delivered the letter of Governor Gayoso, addressed to himself, of which a copy is now communicated. After his return to New Orleans, he forwarded to the Secretary of State other papers, with a request that, after perusal, they should be burnt. This however was not done; and he was so informed by the Secretary of State, and that they would be held subject to his orders. These papers have not yet been found in the office. A letter therefore has been addressed to the former Chief Clerk, who may, perhaps, give information respecting them. As far as our memories enable us to say, they related only to the combinations before spoken of, and not at all to the corrupt receipt of money by any officer of the United States; consequently they respected what was considered as a dead matter, known to the preceding Administrations, and offering nothing new to call for investigations, which those nearest the dates of the transactions had not thought proper to institute.

In the course of the communications made to me on the subject of the conspiracy of Aaron Burr, I sometimes received letters, some of them anonymous, some under names true or false, expressing suspicions and insinuations against General Wilkinson. But only one of them, and that anonymous, specified any particuler fact, and that fact was one of those which had been already communicated to a former Administration.

No other information within the purview of the request of the House, is known to have been received by any Department of the Government, from the establishment of the present Federal Government. That which has been recently communicated to the House of Representatives, and by them to me, is the first direct testimony, ever made known to me, charging General Wilkinson with the corrupt receipt of money; and the House of Representatives may be assured that the duties which this information devolves on me, shall be exercised with rigorous impartiality. Should any want of power in the court to compel the rendering of testimony obstruct that full and impartial inquiry, which alone can establish guilt or innocence and satisfy justice, the Legislative authority only will be competent t the remedy.

TH. JEFFERSON.

January 20, 1808.

The said Message, together with sundry documents accompanying the same, were read, and referred to Mr. John Montgomery, Mr. Nicholas, Mr. Upham, Mr. Smilie, Mr. Taylor, Mr. G. W. Campbell, and Mr. Jedediah K. Smith, with instructions to report thereon by bill, or otherwise.

THE MILITIA.

The House again went into Committee of the Whole on the Militia bill, and the amendment moved by Mr. Clay being under consideration,

Mr. Chandler made some observations tending to show that this was a bill of much importance, and expressed a wish that the term during which the militia should be liable to service were further extended. As he had not had time to consider the bill maturely, he moved that the Committee rise.

Mr. Macon hoped the motion would not be agreed to. No principle had yet been settled, and it was useless to give time to prepare amendments till the opinion of a majority on the principle was obtained.

Mr. Varnum (Speaker) hoped the Committee would rise and be refused leave to sit again on this bill. He believed that the situation of the United States at present, would by no means admit of the classing of the militia; this was not the proper time, if it was ever necessary. It had been said that the classing of the militia had been recommended by the several Presidents of the United States. This might be true; if it were however, he had not observed that to be the case. He could see no kind of advantage to be derived from the proposed modification of the militia system. Were not the militia equal to every service that could be required of them, under the existing laws? Certainly they were. If particular States had failed to carry into effect the part assigned to them by the Constitution of the United States—if there were any States which had neglected that duty, would any other plan induce them to attend to it? He should suppose not. It was a fact that where the State Governments had taken up the subject of the organization and discipline of the militia, and carried it into effect as far as in their power, those States had a respectable militia, who considered themselves a band of brothers, from the age of eighteen to forty-five, and from their habits of discipline under the present system and officers, would consider it an invidious distinction to take men at particular ages from the mass—so much

so, that they would not have such an efficient militia, to which they looked as the best part of the physical strength of the nation, as if the system were suffered to remain as it now stands. He knew that it was said, that the militia were inefficient in some parts of the United States. What was there wanting? That subordination which existed in other parts, and nothing more.

It has been said, that in the course of the Revolutionary war, the militia in some instances abandoned their posts. This might have been the case in some instances; but he was well assured that the credit due to the militia of that part of the country had not been given to them. We know, said Mr. V., of some of the hardest battles of the Revolutionary war, in which the militia were the principal actors. But were this not the case, how can we select any particular part of the militia and exempt from service the remainder? Is it expected that young men will be better able to perform military duty than those who have been in the service, who have experienced the advantages of liberty, and who have families and property to defend? I should suppose such men likely to render more service than young men who have not formed their minds.

But there is a radical difficulty in this system. The bill provides that none shall be called into general service, except from the age of twenty-one to twenty-six. The constitutions of some of the States provide that the captains and subaltern officers, in each company, shall be chosen by the whole company, from the age of twenty-one to forty-five. Is it to be supposed that they would be voluntarily so scrupulous as to choose men between the ages of twenty-one and twenty-six? The officers would generally be over the age of twenty-six. In that case how can we get along?

Gentlemen may suppose that it is a very easy thing for the State Governments to alter their systems in compliance with the requisition of the General Government. It is a thing which some of the States will not undertake to do. The militia at the present time in some parts of the United States, are well organized and disciplined, and display a spirit of emulation which does them honor. In the State which I have the honor to represent, there are seventy thousand militia. These men are all armed; no man is suffered to go into the field without arms; they are subject to a fine of eight dollars for every time they appear without arms; and, if not always provided, are subject to a fine of ten dollars per annum. This severe regulation produces universal arming; very few troops, take them from what part of the world you will, are better disciplined than our companies of artillery, every man of which is completely uniformed at his own expense, and every company of artillery is supplied with brass field pieces by the State. The militia have one hundred and fifty brass field pieces ready to take the field whenever called for, which could be on the march to any point of attack in twelve hours notice. They are also supplied with a competent portion of cannon, and are all provided with uniform at their own expense. Under officers of their own choice, they would go into service with alacrity, and would consider it a hardship to see their younger brethren called into a State which did not happen to join their own, while they could not march to assist; for this bill provides that men between twenty-six and forty-five shall go no further than in their own or an adjoining State. If an enemy were to land in Connecticut, the brave militia of New Hampshire and Vermont are not to assist in repelling them because they do not join on it. You are to call on your young men to be cut up, while, if all the militia were to march, the enemy could be repelled at once. You had better compel every man who is able to bears arms to take part in the defence of his country when invaded in his neighborhood.

I know it was felt as a hardship in the course of the Revolutionary war, that every man capable of bearing arms, was obliged to take part, scarcely a man being left to till the ground; but it was all-essential to the safety of the country. Have you increased to such a degree of population that you can now leave at home three-fourths of your actual force? Surely this would be ruinous in the attempt. This is a system which has been many times before the House of Representatives, and has always been found by the wisdom of the nation to be an improper one to adopt. I do hope in this critical juncture, because there are some persons who do not choose to submit to subordination, that we shall not go into a disorganization of the militia altogether. I am ready to say, that if this system does take place, that our militia will be disorganized, since the States have acts now in existence for the organization of the militia agreeably to the act of 1792, and the militia are now ready to take the field; we should soon acquire subordination; and when that is riveted in our breasts we shall do well. For these reasons I hope the Committee will rise and lay this subject to sleep for the present.

Messrs. Clay, Lyon, Nelson, Witherell, and Taylor, supported the principle of classification of the militia. When the Committee rose and obtained leave to sit again—59 to 24.

Thursday, January 21.

Mr. Key offered the following resolution:

Resolved, That a standing committee be appointed to be called a Committee of the District of Columbia, to consist of —— members. It shall be the duty of this committee to take into consideration all petitions and memorials relating to the affairs of the District of Columbia, and to report from time to time, by bill or otherwise.

Mr. K. said, he would take the liberty of suggesting the reasons of this motion. The District of Columbia was governed by the laws of Maryland on the east, and by the laws of Virginia on the west of the Potomac, which existed at the time of cession to the United States. The various modifications made in the State laws since that period, had no operation in the territory which they had ceded. It was desired that the laws should be rendered uniform and equal in their

operation throughout the territory. The object of the resolution was to simplify the business relating to the District. It would be recollected that Congress alone could legislate on this subject; the great measures of national concern had prior claim on the attention of the House; for this reason he had moved the appointment of a general committee.

The resolution was ordered to lie on the table for one day.

GENERAL WILKINSON.

On a motion made by Mr. ROWAN, that the House do come to the following resolution:

Resolved, That a special committee be appointed to inquire into the conduct of Brigadier General Wilkinson, in relation to his having, at any time, whilst in the service of the United States, either as a civil or military officer, been a pensioner of the Government of Spain, or relative to his having been an accomplice, or in any way concerned, during the time aforesaid, in a foreign or domestic project to dismember these United States; and that the said committee have power to send for such persons and papers as may be necessary to assist their inquiries; and that they report the result to this House, that the Congress may be thereby better enabled to legislate upon the subjects of our foreign relations; the increase and maintenance of the Army of the United States, and other subjects promotive of the common weal:

The question was stated from the Chair, that the House do now proceed to take the said proposed resolution into consideration, and passed in the negative—yeas 46, nays 59, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., William W. Bibb, John Campbell, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., Joseph Desha, William Ely, Francis Gardner, Jas. M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, William Hoge, Benjamin Howard, Richard M. Johnson, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Nathaniel Macon, Josiah Masters, Daniel Montgomery, jr., Thomas Moore, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Marmaduke Williams, Alexander Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, Robert Brown, William Butler, Joseph Calhoun, Peter Carlton, John Chandler, Matthew Clay, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, James Fisk, Meshack Franklin, Isaiah L. Green, John Heister, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, Jesse Wharton, Robert Whitehill, Isaac Wilbour, and James Witherell.

ENCOURAGEMENT TO MANUFACTURES.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred the petition of Paul and Joseph W. Revere, of Boston, in the State of Massachusetts, made the following report:

The petitioners state that they have, by great application, acquired the knowledge of melting and refining copper ores, and of manufacturing copper into sheets, bolts, nails, &c., for fastening ships; and that they have, at a great expense, erected furnaces, mills, and other works, for manufacturing the above articles. To encourage them, they solicit that a duty of 17½ per centum ad valorem may be imposed on copper in sheets, as they have no doubt that they can supply the whole quantity at present imported into the United States. They likewise solicit that old copper may, in future, be imported free from duty.

The committee, with a view to possess themselves of information on the subject submitted to their consideration, have delayed to make a report thereon to the present time.

While they are directed by inclination and a sense of duty to foster and encourage such manufactures as promise utility to the public, they are conscious of the difficulty of affording to each a just portion of encouragement.

The petitioners have two objects in view. The first is, to procure the imposition of an ad valorem duty of 17½ per centum on the importation of copper in sheets, which is now free from duty; the second is, that old copper, which ought to be considered a raw material, should not be subject to the payment of a duty on importation. To induce the National Legislature to impose the aforementioned duty on copper in sheets, the petitioners state that they have, at considerable expense, erected works which will enable them to supply copper in sheets, commensurate to the demand of the United States. Should this assertion on the part of the petitioners influence Congress to accede to their proposition, and the quantity of copper in sheets furnished by them prove to be insufficient for the demand, the coppersmiths and braziers (a respectable class of manufacturers) would sustain injuries that would require time and a correct course of procedure to repair. The coppersmiths and braziers are satisfied with the encouragement given to them, by the protecting duties on foreign manufactures of copper, and with the privilege they possess by law of importing copper in sheets, &c., free from duty, which enables them not only to supply all copper utensils necessary for the use and consumption of the United States, but likewise to export to foreign markets a considerable quantity of their manufactures. The salutary operation of the laws in support of those manufacturers is evident. A competition is established among them, and their manufactures, at a moderate price, are to be had on demand.

This state of prosperity may receive a check by an incautious modification of the laws which have produced it. Subjects of this kind should never be approached with a rash and innovating hand, lest the ease and comforts of the citizens should be diminished, to prove the efficacy of experiments as yet of doubtful issue. The coppersmiths and braziers of New York and Philadelphia, in their memorials presented to the House of Representatives, and referred to the committee, assert with

confidence that a supply of copper in sheets, equal to the demands they have for that article, cannot be furnished by the petitioners.

An assertion made with so much confidence, by men whose constant occupations afford the certain means of forming a correct judgment, is deserving of serious attention; and were it not supported by information drawn from other sources, should prevent the doing of any act that might put to hazard the flourishing state of manufactures which have supplanted foreign articles of the same kind. The committee have had no satisfactory evidence offered to them that copper in sheets, in quantity sufficient for the use and consumption of the United States, can be supplied by the petitioners, or that the quality of the same is equal to that which is imported. It becomes the duty of the committee, in order to ascertain whether Legislative interference can at this time be justified by existing circumstances, not only to weigh the facts furnished them, but also to guard sedulously against mischiefs that have too often their origin in hasty Legislative acts, which, not unfrequently, in attempting to give encouragement to manufacturing establishments, fasten on the community oppressive monopolies. The committee being aware that a manufactory, single and without competition, is apt, by having the command of the market, to make an improper use of it, are solicitous to keep the sources of supply as open and as free as possible. In refusing to recommend the imposition of a duty on copper manufactured into sheets, equal to that which is imposed on copper manufactures, the committee are gratified in recollecting that the petitioners receive no inconsiderable encouragement in making copper bolts, spikes, and nails, from the protecting duties payable on those articles when imported. The committee are of opinion that advantages will accrue, not only to the petitioners, but likewise to the community, by permitting the importation of old copper free from duty.

They therefore recommend the adoption of the following resolutions:

Resolved, That so much of the petition as prays for the imposition of 17½ per centum ad valorem as a duty on copper manufactured into sheets is unreasonable, and ought not to be granted.

Resolved, That so much of the petition as prays that old copper may be considered as a raw material, and that the importation thereof into the United States may be free from duty, is reasonable, and ought to be granted.

The report was adopted; and it was ordered that a bill or bills be brought in, pursuant to the second resolution, and that the Committee of Manufactures do prepare and bring in the same.

MARYLAND CONTESTED ELECTION.

The House resolved itself into a Committee of the Whole on the report of the Committee of Elections, of the eleventh ultimo, to whom were referred petitions of sundry qualified electors of Montgomery and Frederick counties, in the State of Maryland, relative to the election of Philip B. Key, the member returned to serve in this House for the third Congressional District in the said State. The report is as follows:

"The following statement, agreed upon by the counsel of the petitioners, who pray that the seat of Philip B. Key may be vacated, and by Mr. Key himself, was amicably submitted to the Committee of Elections, and the committee submit the same to the House as part of their report.

"The committee observe that, by an act of the State of Maryland, passed the 25th of January, 1806, residence is not prescribed as a qualification of candidates for Congress, except for the *fifth* district: and that by the said act to reduce into one the several acts of Assembly respecting elections, and to regulate said elections, it is enacted that all laws, clauses, and sections of laws, repugnant to, or inconsistent with the provisions of this act, be, and the same are hereby, repealed. From which it appears that the law of Maryland, relied on by the petitioners against the seat of Mr. Key, is not now in force.

"From the above statement of facts, the committee are induced to submit the following resolution, and lay the memorial on the table:

"*Resolved*, That Philip B. Key, having the greatest number of votes, and being qualified agreeably to the Constitution of the United States, is entitled to his seat in this House."

The following facts were relied on by the petitioners, and agreed to by Mr. Key:

"1st. That, in the year 1801, Mr. Key became an inhabitant of the District of Columbia, at a country seat belonging to him about two miles from Georgetown, in an airy, healthy situation, commanding an extensive prospect.

"2d. That the country seat abovementioned is expensively built upon and improved, and in every respect furnished with accommodations for the permanent residence of a gentleman, in a style of great convenience.

"3d. That some time in the month of November, 1805, Mr. Key purchased about 1,000 acres of land in Montgomery county, about fourteen miles from Georgetown, and about twelve from his seat in the District of Columbia. At the time of purchasing that land there was no dwelling-house nor enclosure upon it, except a few tenements occupied by tenants, the greater part of the land being waste old fields.

"4th. That some time in the Summer of 1806 Mr. Key did cause a dwelling-house to be erected on his Montgomery lands, into which he removed with his family on the 18th of September 1806, from his seat in the District of Columbia, where till then he had all along resided from the time of his first settling in said district, in the year 1801.

"5th. That, on the 20th of October, 1806, Mr. Key returned with his family to his seat in the District of Columbia, where he remained till about the the 28th of July, 1807, when they again removed to his estate in Montgomery, where they remained until the 22d of October last, when they again returned to his seat in the District of Columbia, where they still remain.

"6th. That the dwelling-house on the Montgomery estate is not completed to afford a comfortable habitation to Mr. Key and family in Winter, but is esteemed fit only for a Summer residence; and that it is, in respect to buildings, improvements, and accommodations, much inferior to his seat in the District of Columbia.

"7th. That, on both occasions abovementioned, when Mr. Key removed with his family from his seat in the District of Columbia to his estate in Montgomery, he left the former ready furnished, in its usual style, carrying but few articles, such as beds, linen, plate, &c. from one place to another, having supplied his house in Montgomery with other furniture purchased for that purpose.

"8th. That the election, at which Mr. Key was chosen, and returned, was held on the 6th day of October, 1806.

"Admitted: PHILIP B. KEY."

The facts thus *found* by the committee, and admitted by Mr. Key, were still further explained by the latter, in a written statement furnished by him, and made a part of the record.

Facts on the part of Mr. Key, to show that he was a bona fide resident of Maryland, and of the district for which he was chosen, which facts are admitted by the counsel for the petitioners, and are as follows:

1st. That Mr. Key is a native of Maryland; that he was a citizen and resident of that State at the adoption of the present Constitution of the United States, and never was a citizen or resident of any other of the United States; that, since that time, he has served several years as a Delegate to the General Assembly of Maryland; that, in 1787, he qualified as counsel in the superior courts of Maryland, and ever since hath, and still doth continue to practise law in said courts; that, in 1801, he removed from Maryland to his house near Georgetown, (about two miles from said town, and about two miles from Montgomery county,) where he has continued to reside till 1806.

2d. That Montgomery county and part of Frederick compose the third Congressional district, for which Mr. Key is elected; that the ancestors of Mr. and Mrs. Key held considerable real estates in said district, and some of the nearest relations of Mr. and Mrs. Key reside in, and hold large landed estates in said district, in each of the counties composing the same; that Mr. Key has, for several years last past, practised, and still does practise, law in the only court held in said district, and, from that circumstance, his serving in the Legislature, his living at Annapolis, the seat of Government, and an extensive practice for twenty years in the Supreme Court of Maryland, he has been for many years personally known to and by a great proportion of the voters of the district.

3d. That, in November, 1805, Mr. Key bought, and soon after had conveyed to him, one thousand acres of land in Montgomery county, part of his district, which land was part of an estate that had, for many years, been leased out by Mrs. Key's ancestors, and was much wasted, and out of repair.

4th. That, some time before this purchase, Mr. Key had declined the practice of the law in the Territory of Columbia, but still continued his practice in Montgomery; that, in January, 1806, he declared his intention to be a resident; that, in March, 1806, at Montgomery county court, he declared his intention to be a resident; that, in March, 1806, at Montgomery county court, Mr. Key often and publicly declared, and also to the people, when he often addressed them, that he had bought said land, with intention to become a resident of the county; that he intended to build a dwelling-house on said land; that he would move his family there as soon as it was built, and that he would make it his Summer residence; and at the same time, that is, at March court, 1806, in Montgomery, he refused to stand as a candidate for Congress when solicited by his warm and influential friends.

5th. That, Mr. Key has made considerable and expensive improvements on said land; that he has, in 1806, built thereon for his Summer residence, a dwelling-house, by no means such a one as could be intended for a tenant, or overseer, but every way comfortable for a Summer residence; that said house has all necessary offices and accommodations for household servants, and is kept ready furnished with necessary plain household furniture, tea and table service, and kitchen utensils, &c.

6th. That before the said house was completely furnished, to wit: on the 18th September, 1806, Mr. Key removed, with his wife, children, and domestics, to said house, and did actually live in and inhabit the said house from said 18th of September, 1806, to the 20th of October, 1806, including the 6th day of October, on which the election was held; that, on the 20th of October, Mr. Key, with his family, removed back to his house in the Territory of Columbia. In July last, Mr. Key removed himself, family, and domestics, to his house in Montgomery, which he lived in, and inhabited until, on the 23d of October last, he returned to his house in the Territory of Columbia, to attend his duties in Congress.

7th. That no political rights are acquired or attached to a residence in the county of Washington, in the Territory of Columbia. A person so situated has no right of suffrage, can neither elect, nor be elected.

Explanations of Mr. Key on certain points requested by counsel for the petitioners, which are also admitted as facts.

1st. Mr. Key, in explanation, says he has declined practice in Washington county, District of Columbia, entirely. He does not suffer his name to appear to new business. In two or three important cases he has engaged to appear as counsel, and argue the cases when prepared for trial.

2d. Mr. Key has not practised in any county court of Maryland for many years, except in Montgomery, where he continues his full practice. On the destruction of the General Court, he has followed some interesting cases, in which he had been there employed, to the counties where they had been sent.

3d. Mr. Key's house in Montgomery was not plastered or painted when he first moved into it. The workmen did not finish it by six weeks so soon as they contracted to do, or he would have been in it six weeks sooner; the plastering would have been too damp, and fresh paint too unwholesome for his family and children; therefore, he removed into it unplastered and unpainted, from necessity, and the delay of the workmen. It is now plastered and painted.

P. B. KEY.

The committee further report that petitions signed by more than four hundred voters of Montgomery county, represent that Mr. Key had bought real estate in said county, had made considerable improvements thereon, built a commodious dwelling-house, and lived therein with his family and servants, before, at, and after said election; and that he was an inhabitant of the State of Maryland when elected a Representative to Congress, and had often uniformly and publicly declared before that time his intention of becoming an inhabitant and resident of said county and State.

Mr. Rhea moved to strike out of the resolution contained in the report, the following words: "having the greatest number of votes, and being qualified agreeably to the Constitution of the United States;" which was agreed to.

A motion was then made to concur in the resolution as amended; whereupon, the following debate ensued:

Mr. Witherell said he had heard it reported from a source which was entitled to credit, that Mr. Key, the sitting member, either now was, or had been, a British pensioner: this knowledge would bias his vote on the present question. He

conceived that an inquiry ought to be had in this matter, as, were it true, it would certainly be a disqualification; he therefore moved that the Committee should rise, for the purpose of recommitting the report.

Mr. Key rose to second the motion of the gentleman from Vermont: it was his wish that a charge insinuated privately should be examined publicly. He himself had never concealed the foibles or follies of his early life; but he had, ever since he came into the councils of his country, relinquished all claim to any imaginary rank, and to any profit which he had derived from a foreign Government. He was convinced that the mode which had been adopted, of attacking him by insinuations, was peculiarly fatal; like the wound of the poisoned dart, which, though it heals to appearance, in time inflicts a certain death.

Messrs. Dana and Smilie supported the motion, for the purpose of investigating the allegation.

Mr. Gardenier opposed it.

Mr. Key said, as these assertions had been made, it was surely incumbent on the House to examine into the facts, for, were the allegations true, it would be good ground on which to vacate his seat. It was true that, when a person was once declared entitled to a seat, it required two-thirds of the House to expel him, but he would never take shelter under this provision. If a majority of the House thought he was not entitled to his seat, he would not hold it for a moment; but he wished that the matter should be investigated immediately, that the House might decide whether or not he was entitled to his seat; for, the impressions against him being removed, they could, without bias, decide whether or not he was, according to the report of the committee, duly elected. He was, therefore, in favor of the Committee rising, to give an opportunity for investigation; he cared not for the mode of inquiry which should be afterward adopted. He understood that this matter had been hinted at in the Committee of Elections, but had been there abandoned for the want of foundation for the report. He had heard it asserted that, when Mr. Monroe arrived, documents were expected to be received to prove the existence of such a fact. He knew that Mr. Monroe had been written to, and during the contest preceding Mr. K.'s election it had been industriously circulated and reiterated at every meeting against him. Mr. M. had returned from England, and had passed some time in this city, yet nothing had fallen from him to contradict the denial of these assertions which Mr. K. had made. His constituents knew the very circumstances of the follies of his early life, and his enemies had represented to them that having been once, twenty years ago, in the British army, he was not a proper person to represent them. The people scouted the idea, said Mr. K.; they knew me from my infancy, and knew my follies; but I had returned to my country, like the prodigal son to his father, had felt as an American should feel, was received, forgiven, and restored to the confidence of the people, of which the most convincing proof that could be adduced is my election to a seat in this honorable body.

Mr. Macon did not think this the proper way of getting at the proposed inquiry. He was opposed to blending the two cases together in deciding on the title of the gentleman from Maryland to his seat in the House. There was one question now before the House; by uniting the other with it, it might produce an improper bias on the mind of the House. A report was now made, and could be decided on, but if recommitted, the two distinct questions would be perplexed by being joined together. It was a rule, in justice to a sitting member, that decisions should be distinctly had on the specific facts stated by the persons contesting his election.

Mr. Bacon said that the gentleman from North Carolina (Mr. Macon) had probably stated, with correctness, the general principles on which the House usually hold themselves bound in cases of this sort. That the reason why they usually confine themselves to the case stated by the Committee of Elections on the specific grounds of objection which had been laid before them by those who came forward to contest the election of a sitting member, was from a principle of justice to the member whose seat was in question, in order that he might not be surprised by objections which he could have had no fair opportunity to meet; but as this rule was adopted only from a regard to the rights of the sitting member, it could not surely be improper for the House to depart from it, when they had the consent of that member to do so. What was the state of the case now before the House? The gentleman from Vermont states, in his place, that he had been informed from a source which, in his mind, entitled it to credit, that a fact existed in relation to the gentleman from Maryland who claimed a seat, which was not stated in the report of the Committee of Elections, but which would have a governing influence in determining the right of the member to retain his seat. This fact was denied by the latter, and an inquiry into the truth of it was solicited by him. Certainly, then, the House could not do justice either to themselves or the sitting member, without giving an opportunity for such inquiry; and if there was, as had been suggested, any departure from the customary course of proceeding in the mode proposed by the gentleman from Vermont, it was with the consent and desire of all the parties concerned, and it was a well known and correct maxim that consent took away error; he was, therefore, in favor of the motion now before the Committee.

After some observations from Messrs. Quincy and Lyon in favor of the rising of the Committee, in the course of which Mr. Lyon observed that sixteen months had elapsed, in which time, had there been truth in the report, the opponents of the sitting member would have collected evidence in proof of it, and would have come forward on that ground to contest his election—

Mr. Dawson said, that the name of Mr. Monroe being mentioned on this floor by the gentleman from Maryland, (Mr. Key,) in order, he pre-

sumed, to have some bearing on this question, or to make some impression on this House, he deemed it proper in him to state a fact. When Mr. Monroe was in this city, said Mr. D., I had a conversation with him on this subject, in which he stated that, while in London, he received one or more letters requesting him to make an inquiry at the proper office relative to Mr. KEY's situation with the British Government; but considering it not within his official duties, and for reasons conclusive in his judgment, he declined so to do: that he never did make the inquiry, and was totally uninformed on the subject. Mr. D. said, he had thought it due to Mr. Monroe and to justice to make this statement, lest an erroneous impression should be made on the House.

Messrs. DESHA, SLOAN, GARDENIER, RHEA, and HOLLAND, supported the motion for the rising of the Committee, that an investigation might be had to do away unfavorable impressions from the existing report to the prejudice of Mr. KEY.

Mr. GARDENIER contended that every person was eligible to a seat in this House, except expressly disqualified by the Constitution. Now, there was nothing in the Constitution which disqualified a person from being elected a member on account of his receiving a pension from a foreign Government: so that, even were the report correct, it was not connected with the matter under consideration by the Committee of the Whole, which simply was, whether Mr. KEY was duly elected. With regard, however, to the feelings and prejudices of gentlemen, he should vote for the rising of the Committee, because, though theoretically right, he might be wrong, and perhaps he ought not always to adhere too closely to correct principles.

At this point the Committee rose, and had leave to sit again.

FRIDAY January 22.

On motion of Mr. MARMADUKE WILLIAMS,

Resolved, That a committee be appointed to inquire into the expediency of passing a law to punish any person holding an office of profit or trust, either civil or military, under the Government of the United States, who shall receive money, or accept of any present, emolument, office, or title, from any King, Prince, or foreign State, without the consent of Congress; and that they have leave to report by bill or otherwise.

Ordered, That Mr. MARMADUKE WILLIAMS, Mr. LIVERMORE, Mr. TROUP, Mr. JOHN MORROW, Mr. DANIEL MONTGOMERY, Mr. DURELL, and Mr. VAN HORN, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," with several amendments; to which they desire the concurrence of this House.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Elections, relative to the election of Philip B. Key. After some time spent therein the Committee rose, and were refused leave to sit again.

Ordered, That the Committee of the Whole be discharged from farther consideration, and that the said report be recommitted to the Committee of Elections, farther to consider and report thereon to the House.

THE MILITIA.

On motion of Mr. CLAY, the House went into a Committee of the Whole on the bill for classing the militia. Mr. CLAY's motion for filling the blank with "twenty-six" being yet under consideration.

Mr. CHANDLER moved to fill it with "twenty-nine" years. Negatived—yeas 5.

The question was then taken on Mr. CLAY's motion and carried, 41 to 36.

Mr. SOUTHARD moved to strike out the first section, (virtually to reject the bill,) in order to try the sense of the House on the principle of classification.

Messrs. HOLLAND, NICHOLAS, MACON, CLAY, and CHANDLER, supported the general principle of classification; Messrs. SOUTHARD, KELLY, TALLMADGE, and QUINCY, opposed it.

When the Committee rose without taking the question, and the House adjourned till Monday.

MONDAY, January 25.

Mr. GEORGE W. CAMPBELL, from the Committee of Ways and Means, presented a bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and eight; which was read twice and committed to a Committee of the Whole on Wednesday next.

On a motion made by Mr. LEWIS, that the House do now proceed to the consideration of the amendments proposed by the Senate to the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" and the question being taken thereupon, it passed in the negative.

Ordered, That the said bill and amendments do lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, made a report unfavorable to the memorial of the first and second chambers of the Council of the City of Washington, stating that the fees of the collector of the port of Georgetown, at present including Washington, do not sufficiently compensate him, inasmuch as he now receives $200 annually in addition from the public Treasury; for which reason they have thought the prayer for the establishment of a port of entry at Washington, unreasonable.—Ordered to lie on the table, 46 to 36.

Mr. CHANDLER said, he wished to propose a resolution relating to the pay and emoluments of the militia of the United States when called into actual service. The law at present existing on this subject provided that the pay and clothing of the militia when called into actual service should be the same as that of the regular army.

In the laws relative to the regular army, the United States having in their pay no officer higher in rank than a Brigadier General, there was no provision for compensation of a Major General when called into service, or for a Brigade Inspector or Quartermaster General. He, therefore, moved the following resolution, which was adopted, and Messrs. CHANDLER, TALLMADGE, J. SMITH, BLOUNT, and DESHA, appointed the committee:

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary to be made in the law providing for the pay and clothing of the militia of the United States when called into actual service, and that they have leave to report by bill or otherwise.

NAVAL ESTABLISHMENT.

Mr. DAWSON, from the Committee to whom the resolution on the subject had been referred, reported a bill authorizing the President to employ an additional number of seamen in the service of the United States.—Read twice and referred to a Committee of the Whole.

Mr. DAWSON said, he need not impress upon the House the necessity of a speedy passage of this bill, as there were many seamen now out of employ, and several gunboats as yet unmanned; he, therefore, moved that it be made the order of the day for this day. The motion was seconded by Mr. NEWTON. Agreed to, *nem. con.*

On motion of Mr. DAWSON, the further consideration of the bill for classing of the militia was postponed; and the House went into a Committee of the Whole, yeas 72, on the bill this day reported authorizing the employment of an additional number of seamen.

A letter was offered from the Secretary of the Navy, and read, stating that the whole number of seamen authorized by the law amounts to 1,425; that 1,272 are required in addition to the present establishment.

The blank in the bill for the number to be employed was then filled with 1,272, without a division.

The bill was gone through, and the question put that the Committee rise and report it.

Mr. MACON.—It may be necessary to raise these men; but there is a principle contained in this bill to which I can never consent. It gives the President a discretionary power; he may or may not raise these seamen as he pleases. I object to it on another ground; it is a partial bill. I always consider the President as required to put such a law as this into operation when he is authorized to do it; and I wish the law to be expressive of the intention.

Mr. CHANDLER.—I have no objection to leave the President to raise these men according to the exigency of the times; but I object to their being continued in service for a longer time than until the next session of Congress. They should be continued in service as long as the exigency of the case may require, or till the end of the next session of Congress.

Mr. NEWTON differed with the gentleman from North Carolina on this subject; as the same phraseology had been established in the laws heretofore passed on this subject.

Mr. DAWSON.—I am not scrupulous as to the particular form; nor is it material; my object is to procure seamen at this particular moment. The committee did not consider the employment of these men as an addition to the peace establishment of the United States, as the gentleman from North Carolina seemed to consider it. If the gentleman wishes to add them to the Naval Establishment of the United States, his motion might be necessary; but the opinion of the committee was different, they considered it as a war measure.

Mr. MACON.—There is not the least fear that I shall ever wish to increase our Naval Establishment. Everybody knows that I am opposed to the navy; I am not afraid of being called a navy man. I am aware that this phraseology has been used in former laws; it originated with the twelve regiments. I was then opposed to it, and have been ever since, and ever shall be. I am for giving to each department its proper share of responsibility. To prevent this from being considered as a part of the Peace Establishment, if my amendment takes place, it will be easy to say at the end of the bill that it is a war measure. My objection is to the putting that responsibility on the President which belongs to another department of the Government. Every President may raise this number of men under the law; I cannot tell what may happen. I do not want a Naval Establishment; but I am opposed to giving to the President the power of raising an army of marines, or of any description whatever, with a discretionary power to raise them or not. I wish to say absolutely that they shall or shall not be raised; and that Congress may say whether or not the public exigency requires their service. This discretion is what I have always thought wrong; and no argument has ever convinced my mind to the contrary.

Mr. DANA.—The argument of the gentleman from North Carolina might have answered several years back much better than at the present time; such arguments were then used. For several years past, however, such arguments have not been urged according to former practice, when it was very strenuously urged that a discretionary power should not be vested in the President of the United States. The gentleman was pretty correct about the origin of the practice; but really it has been confirmed so often since, that it has now received the strongest sanctions. I think I have heard the gentleman himself lay it down as a correct principle, that two decisions form a precedent in any case. Since 1801, there have been more than two decisions on this point: so that the gentleman must consider it correct in practice if not in theory. When we come to examine the subject, we shall find it to be correct on principle. If it be decided by the Legislature that certain troops shall be raised, it is either decided that under present circumstances they may be raised, or that under a certain contingency they may be raised. The execution of such a law is necessarily

committed to the Executive authority. It is a fair exercise of our powers to say that such a thing shall be done under such circumstances, and whenever an authority is given it is in this discretionary manner. We give the President a full power to carry the law into effect or abstain from it, if he chooses. In many cases it may not be proper to say that the President should or should not abstain from the execution of the law. Every species of military or naval force is but an instrument for executing the laws. The authority given to the President in this case is not a general delegation of power, but merely entrusting him with an instrument for the execution of our general system of laws; for by the Constitution he is authorized to take care that the laws be executed by peaceable means if they can; but if not, by forcible means. The whole force of the nation is sometimes necessary for the execution of the laws; we, therefore, place at the disposal of the President the whole force of the country, at the same time saying that, if he does not want the whole, he may abstain from using it, or take but a part. It is well known that we have given the President authority even to suspend laws. For instance, the non-importation law, over which we have stumbled so often—even this law the President of the United States was authorized to suspend the moment we passed it.

Mr. MACON.—One word in reply. I think it very likely that I may have stated what the gentleman has ascribed to me—that I consider two decisions as forming a precedent. That is true as to ordinary matters, but never on a Constitutional question. The passage of twenty sedition laws would not convince me that it was a Constitutional exercise of power to pass such laws; nor, I suppose, if we were to repeal twenty judiciary laws, would the gentleman from Connecticut allow that we acted Constitutionally in so doing. Precedent cannot affect the construction of the Constitution. I have no expectation that this force is intended to affect the execution of the laws; such a arrangement would be as well applied to a standing army of 100,000 men, or to a navy of fifty ships-of-the-line, as to these twelve hundred sailors. This is a subject on which I have often stated my opinion, and I may also tell gentlemen that I never have found a majority of the same opinion with myself on this point; but as often as a measure of this kind comes before us, so often shall I make a similar motion, till I succeed.

Mr. DANA.—I am very glad that I referred to the opinion of the gentleman from North Carolina, for the sake of the nice though just distinction he has made, though I do not recollect that the gentleman's definition of precedent occurred on a Constitutional question, but on the subject of claims; for on that subject the gentleman is peculiarly orthodox. It is competent for any gentleman to call in question the constitutionality of a measure; though I rather think the gentleman must now have the misfortune of being in the minority. Of late he has generally been in the majority, and I in the minority; but now the practice is coming round to its former standard, and I shall be in the majority, and he in the minority.

Mr. SMILIE.—This is a subject which has heretofore been warmly agitated. Taking the subject as it presents itself, I think one reason why discretionary powers should be vested, in some instances, in Executive officers, is, that Legislatures cannot see what events may arise during the time of their recess. Would it be better for the people and the country to pass this law absolutely, that these seamen shall be raised, when we do not know the circumstances which may arise, or that the situation of our country may be such as to render such a force necessary? On the other hand, may it not be necessary for them to be raised while the Legislature is not in session? I should be sorry, if there were no necessity, that they should be raised; if there were a necessity, I should regret that they were not raised. The Constitution does not restrict us on this point, or contain any provision one way or the other; but, in point of economy and safety, the measure should be placed at the discretion of the President.

Mr. LYON said, he expected to be in the minority on this question, as he had all along been, on the subject of complimenting the President with the powers vested in Congress. The Constitution had placed the power in Congress, of declaring war, raising and supporting armies, and providing for the maintaining a navy. He had, under the former Administration, opposed the relinquishment of those powers to the President, on Constitutional ground. The Republicans universally opposed the relinquishment; he saw, and lamented to see, a strong disposition in the Republican majority of the present House, to yield those powers particularly delegated to Congress, and to compliment the Executive department of the Government, as he ever did in the Federal majority, under the former Administration. This he considered as another proof, among the many he had seen, that power makes men Tories. Majorities will have an idol, to whom they will pay their adulation. But, why do gentlemen contend for paying this compliment of their Constitutional powers at this time, when there was the most evident necessity for employing the seamen contemplated by the bill? If there was no other reason, he should be disposed to employ them during the time of the embargo, to keep them from going to Nova Scotia, to get into the British service.

Mr. L. did not blame the Federalists for adhering to their old principles. The gentleman from Connecticut had felicitated himself in having a majority under the former Administration on these questions, and exulted in being now in the majority. This was not to be wondered at. But, said Mr. L., it does not sit very well on my mind to see gentlemen, with whom I formerly voted on this great Constitutional principle, turning their back upon their old arguments and principles. I want to see gentlemen stick to their text, in fair weather as in foul.

Mr. COOK said that, in many cases, a limited discretion must devolve upon the Executive. In many cases, he had voted for vesting discretionary powers, and in no case had they been exceeded. The reason why he seconded the motion of the gentleman from North Carolina was, that there was an immediate necessity for raising these men, not only to guard and protect the country, but to employ so many men out of service. It was not necessary that he should here say anything of the state of the minds of those men, which was such as to make it necessary that they should be employed.

Mr. HOLLAND.—The present question is to raise men for manning the gunboats, as I understand it. We have, this very session, passed a law giving the President a discretionary power to build gunboats; if the erection of the gunboats is at his discretion, certainly the raising of men to man them should also be discretionary.

The amendment proposed by Mr. MACON was now negatived by a considerable majority.

Mr. CHANDLER moved to strike out the words at the end of the bill, and insert "and may be continued in service till the end of the next session of Congress, if the public exigency may require the same."

Mr. RHEA, of Tennessee, called for a division of the question, taking it first on striking out.

The question being so taken, was negatived.

Mr. TAYLOR asked the chairman of the Committee whether there were not in the statute book regulations for the employment of these seamen? He thought the Government should be authorized to employ these men, not only on board gunboats or other vessels, but to aid in the erection of fortifications, or in other business. He believed, unless some rule were now adopted, that they could only be employed in the line of duty as seamen. In some of the seaport towns, the public authorities had employed seamen in other business than the mere service of the sea.

Mr. DAWSON said, these seamen were intended to be placed in the same situation as other seamen of the United States. If the gentleman wished to render them liable to duty other than on board of ships, he might bring in a bill for the purpose of amending the present naval system.

The Committee then rose, and reported the bill as amended.

The question being put on concurring with the report of the Committee of the Whole for filling the blank with 1,272—

Mr. BURWELL hoped the House would disagree to the number reported by the Committee. He had heard nothing from the chairman of the Committee, or the gentlemen who had spoken on the subject, to prove to his mind that this number was necessary. The gentlemen had talked about giving them employment and subsistence, as they suffered materially from the embargo. Mr. B. said it was the same with every class of citizens, and as the necessity of the case had required the adoption of the measure, it ought to affect all equally. They should not employ these men merely for the sake of employing them, because they could find occupation in various other modes. The gentleman from South Carolina had mentioned that these men should be employed in throwing up fortifications. Mr. B. said, whoever knew the life of a seaman, must know at once that this was not the class of men to be employed in this way, if it were necessary; one million of dollars had been already appropriated, and Government would employ such men in the accomplishment of the end as would be the most proper. He could not subscribe to the doctrine that they were to relieve this particular class of men, because they might suffer by the embargo. All must suffer, but they not more than others. If the gentleman who had introduced the bill would show that this number of seamen were necessary, in addition to the present number, he would vote for the bill, but, until the gunboats were built, he saw no reason for employing such an additional number. With respect to the employment of seamen, all the corporations in the different seaport towns had shown a disposition to provide for them, and to ameliorate their condition. He did not believe that, in the five or six weeks, since the imposition of the embargo, that so much distress could prevail among this class of people. He knew, from the nature of their habits, that they were not generally prudent men; but he thought it hardly possible that they could already suffer so much inconvenience. If they were in this situation, why could they not apply to the various dock-yards for employment? Was it possible that the public agents would not give employment in preference to this class of men? If they did not, they would deserve public reprobation. For these reasons, he hoped the House would not agree to the number reported by the Committee of the Whole.

Mr. DAWSON said, if his colleague had attended to the report from the Secretary of the Navy, which had been read, he would have spared his observations. The Secretary of the Navy had stated that thirty gunboats were prepared for service, except that they were not manned, and one thousand two hundred and seventy-two was the precise number of seamen wanting for service. They were wanted for the vessels now prepared for the defence of our ports and harbors. If they were wanted, why should they not be employed? They were told, by the proper authority, that there were so many deficient; let them, then, be procured.

Mr. MASTERS said, he would much rather, instead of diminishing the number, increase it to three or four thousand. These men were a valuable class of people; when in employ, exposed to the greatest hardships, forever tossing to and fro, and, when out of employ, from the peculiarity of their habits, prevented from acquiring a livelihood any other way. His opinion was, that their situation at this time required that they should be employed. They were a distinct class of citizens, and, more than any other, subject to the pressure of want during the continuance of the embargo. He could have wished the number to have been larger, though, as the question now presented

itself, he should vote for concurrence with the number reported by the Committee.

Mr. DANA said, if he understood the report of the Secretary of the Navy, the estimate for one thousand two hundred and seventy-two men, was the number supposed to be required for two frigates and the gunboats already built. Considering the number of gunboats authorized, he should really doubt whether two frigates, with these men and officers, were competent to take care of the gunboats. Whether it were intended to employ the gunboats, or not, if the object now were to save from perishing such a number of seamen, he was much disposed to pass the bill. The case of these men was different from that of any other in the United States. The qualities which fitted them for service unfitted them for taking care of themselves; of all men on the earth they were the first that would divide their purses with those in distress. To be provident and saving was not their character; when called to public service they exposed their lives as if of no worth; always ready to give away what little they had earned. It was for these men, said Mr. D., that you professed to have laid the embargo, to secure to them protection. The protection you have secured is the utter deprivation of employment. Those who understood the character of a seaman, need not be told how peculiarly difficult it was for him to employ himself in any other branch of labor. It was true, that many of the men employed in merchant vessels could cultivate land; but, as it respected the great body of the seamen, it was more difficult for them to procure employment, except on board of a vessel, than any other men. Their very habits at sea were not favorable to habits of industry on shore; he therefore thought their case peculiarly entitled to attention. If the corporations of our cities had manifested a generous attention to the distresses of these men, he was not disposed, for that reason, to withdraw from them any means of support which it might be in the power of the House to afford. He thought, with an overflowing Treasury, and so much solicitude as had been displayed for the interests of these men, by laying the embargo, that it was but right that the House should provide them employment, on the principle of humanity.

Mr. TAYLOR said, the scope of the argument of the gentleman who introduced the bill, and of the gentleman who was last up, was, that these men were in distress, and therefore should be employed. If they were to be employed, Mr. T. wished it to be for some service. As to their being confined, forty or fifty in a boat, and eating up the money of the planters, who suffered equally with them, he could not agree to it. Taking it up, however, as a matter of charity, it was contemplated to employ one thousand two hundred seamen. The seamen of the United States amounted to between fifty and sixty thousand. Suppose one-half of these to be employed in the coasting trade, twenty-five thousand remained; and he wished to know whether they ought to select twelve hundred of them, and leave the other twenty-three or twenty-four thousand to that distress which had been depicted. If it were a matter of necessity to support these virtuous people, let gentlemen come forward and drain the Treasury to support them. But others suffered as well as sailors; and if they were to support all who were out of employ, they would not leave a cent in the Treasury. He would now call the attention of the House to the famous gunboat bill; this was said, by its advocates, to contemplate a great superiority of the new establishment over the old; that it would require but very few regulars, the rest being supplied by a naval militia. We blow hot and cold, said Mr. T. We depart from the very principle laid down, on the passage of that bill, and are now going to raise a naval standing army, for, whether by sea or land, it is a standing army. I say it is not expedient. If the gunboats were now all ready for service, under the state of things which now exists, I should not be in favor of employing more men than would be sufficient to trim the boats and keep them in order. So that, take this measure on principle, it appears to be departing from the principle on which we set out; and, if it is meant to be done in charity, it is doing nothing. Therefore, unless gentlemen can show me that such a number of men is necessary for taking care of the boats, having, at the same time, an eye to a naval militia, I shall vote against the bill on the table.

Mr. CHANDLER asked for what purpose the bill contemplated these seamen to be raised?

The SPEAKER said, for the service of the United States.

Mr. CHANDLER said, he had understood that to be the case, and wished things to be called by their proper names. He thought, as this was the case, that these men were to be raised for the service of the United States, and not merely for the sake of supporting them, as gentlemen seemed to fancy. This number was declared to be necessary, and was only contemplated to be called into service if the public exigency required, and not otherwise.

Mr. DAWSON said he was extremely sorry that he could not express himself to the comprehension of gentlemen. He had indeed mentioned that there were a number of seamen unemployed. He had given it as a reason why that number should now be raised, as when unemployed they could be got without difficulty. He had not considered the bill as contemplated to afford charity to seamen; but if gentlemen would bring forward a motion of that kind, he would go as far as anybody. But the present bill contemplated no such thing; the fact was, that the vessels now built were not manned. The simple question was, would they, or would they not, give the Government men sufficient to man these vessels for actual service?

Mr. QUINCY was glad that the motives on which the bill was founded had been explained, for really he had not been able before distinctly to ascertain them. As he now understood the object of it was, that the vessels now lying in our harbors without men should be immediately manned. Would this

be produced by the bill on the table? He thought not. He could not correctly understand the operation of the bill, for it had been read but once or twice, and then the hearing of it was almost precluded by the noise and inattention which prevailed; but it did appear to him that the President had not any right given to him to employ these men, except in case of an exigency yet to arise. The bill did not contemplate the immediate manning of all the vessels; these men were not to be raised unless an exigency should arise. If that exigency did exist, the bill should take away the discretion, and express affirmatively that this number should be raised.

Mr. NICHOLAS said, that upon this subject he owed it to himself to say, that he had entertained but one opinion. He had believed that arming the nation, and being prepared for war, had been the duty of this House and of the other branch of the Legislature, ever since they had been convened. Not that I want war, but that if it comes upon us we may be prepared to meet it. If we want peace, the only way to obtain it is to show that we are ready for war. Upon this ground I have been anxious to see the nation put in a state of defence. If all the gunboats were in readiness to receive men, my vote should be given without hesitation to raise a sufficient number of men to man the whole. We are told that the present number is wanted; I will, therefore, vote for it with the greatest cheerfulness. I wish more could be employed. Whenever the question occurs of relieving those seamen out of employ and in distress, I will meet it with as much liberality as any gentleman. The only question now is, do the circumstances of the country require that we should raise this number? I believe that the circumstances of the country require that we should not only raise seamen but landsmen. Therefore, at present, I shall vote for the number asked, and as soon as more boats are ready my vote shall be given for manning them as fast as they can be erected.

After a further desultory debate (in which the SPEAKER repeatedly reminded gentlemen of the question under consideration) in which Messrs. LYON, GARDENIER, LIVERMORE, FISK, DANA, REA of Pennsylvania, SMILIE, and TALLMADGE, took a part, and none of whom opposed the bill:

Mr. TALLMADGE moved that the further consideration of the bill be postponed till to-morrow, that gentlemen might have an opportunity of filling it with a smaller or greater number.

This motion was opposed by Messrs. DAWSON, NELSON, and TAYLOR, and supported by Messrs. DESHA, QUINCY, BLACKLEDGE, COOK, and DANA; in the course of which,

Mr. NELSON wished to see who were desirous of consuming time in this way, who were in favor of arming the nation, and who against it. If the documents before the House were voluminous, if the bill were long, or if there were any difficulty in understanding either, he should be willing to postpone in order to have them printed. But the plain question was, whether would they or would they not, employ 1,272 seamen? Every hour was of consequence; they could now get men for five or seven dollars per month; but if they waited till these men could get employ on board merchant ships at fifteen dollars a month, it would be difficult to procure them for national service. As he said before, he was desirous to see who were willing to arm the nation and who were not, and therefore he called for the yeas and nays on the motion for postponement.

Mr. DANA.—Have we an enemy at our doors? Are we now to be called into battle? Is there anything new which calls upon us particularly at this moment? Shall it be said, those who wish to postpone this bill till to-morrow are not ready to provide for the defence of the country? Mr. D. said one day could make no difference. Hearing this bill read as well as he could from the peculiar difficulty of distinguishing exactly what was said in this splendid structure, he understood it as providing for means of defence, or as providing for the employment of such a number of seamen now out of employ. In either case it was not an improper exercise of legislative power, and need not be so hastily pushed through the House, there being nothing contained in the bill which forbade the usual course of proceeding.

Mr. HOLLAND moved to adjourn. Negatived, 53 to 43.

Mr. QUINCY supported the motion for postponement, contending that they were now legislating in the dark.

The yeas and nays being taken on the motion for postponement, it was decided in the negative, yeas 51, nays 64, as follows:

YEAS—Evan Alexander, William Blackledge, John Boyle, Robert Brown, William A. Burwell, William Butler, Epaphroditus Champion, Martin Chittenden, Howell Cobb, Orchard Cook, Samuel W. Dana, John Davenport, jr., Joseph Desha, Daniel M. Durell, Jas. Elliot, William Ely, Meshack Franklin, Barent Gardenier, Chas. Goldsborough, Peterson Goodwyn, Edwin Gray, William Hoge, James Holland, Reuben Humphreys, Robert Jenkins, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Daniel Montgomery, jun., Thos. Moore, Jonathan O. Mosely, Timothy Pitkin jr., Josiah Quincy, John Rea of Pennsylvania, John Rowan, John Russell, Samuel Smith, John Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Robert Whitehill, Marmaduke Williams, and Richard Winn.

NAYS—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, Thomas Blount, Joseph Calhoun, John Chandler, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, John W. Eppes, William Findley, James Fisk, James M. Garnett, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, Thomas Kenan, Nehemiah Knight, John Lambert, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver,

Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Isaac Wilbour, Alexander Wilson, and James Witherell.

Mr. STANFORD moved that the House adjourn. Negatived, 65 to 49.

The question was then taken on concurrence with the number, "twelve hundred and seventy-two," reported by the Committee of the Whole, and decided in the affirmative—yeas 108, nays 10, as follows:

YEAS—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, Thos. Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Jas. Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edw. St. Loe Livermore, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horne, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

NAYS—James M. Garnett, Edwin Gray, William Hoge, Nathaniel Macon, Daniel Montgomery, John Randolph, Samuel Smith, Richard Stanford, John Taylor, and Abram Trigg.

Mr. TAYLOR moved to amend the bill by inserting a clause restricting the continuance of the law for a longer time than till the first day of July next, and no longer.

Mr. T. said, as in the course of discussion the naval militia had been considered as an object likely to be accomplished, and as he considered the bill as it now stood as compromitting this principle, which had been avowed by many gentlemen in a discussion of a former subject, and as he conceived it necessary to give to the people some pledge that the boats would be manned as expected, he had proposed this limitation. It might be said that the limitation should not be so restricted; that it should extend until the next meeting of Congress; but he would not compromit his principle for a year. Till the 1st of June would be time sufficient in which to organize the marine militia. Although there appeared to be a great majority in favor of this bill, it would, as it now stood, compromit the principle on which they had lately acted. If he were but permitted to read the speeches of gentlemen on the gunboat system, he could satisfactorily prove this. He was desirous, not for himself, for he should vote consistently, but that the body should hold out to the nation the ground on which they acted.

Mr. NELSON wished, upon the subject of consistency, that the sins of every man should lie upon his own head. If he gave an inconsistent vote, he should never ask his friend from South Carolina to come forward and account for it; he had no doubt but those who elected him, the superior power, would punish him if he deserved it. A majority of the House had thought proper to vote for the number of 1,272; they had thought it necessary as the country was in a dangerous situation, perhaps on the eve of war; they did not know how soon these seamen might be wanted to defend the nation. Did any gentleman suppose that, if we are to have war, its force will be spent before the first day of July next, at that time we may be in the same situation in which we now find ourselves. I trust no gentleman who is a friend to the measure, will vote for the gentleman's motion. I would rather negative the bill altogether than say that a defensive measure shall exist but four or five months. If the gentleman will amend his motion so as to extend the duration of the bill to the end of the next session of Congress, or till the first of January, instead of July, I will vote for the amendment with all my heart and soul. I have as little disposition to erect a standing army of large naval force as any gentleman; but as this is a measure of relief to seamen out of employ on the one hand, and of defence on the other, I shall vote for it.

A motion to adjourn was then carried.

TUESDAY, January 26.

Mr. MUMFORD presented a memorial of sundry merchants and shippers in the City and State of New York, which was received and read, stating the losses and inconveniences to which the memorialists will be subjected, in consequence of the operation of an act passed during the present session of Congress, "laying an embargo on all ships and vessels in the ports and harbors of the United States;" and praying that an extension of time may be granted to them for the payment of their bonds for duties on merchandise imported by them; and that such measures may be adopted as Congress, in their wisdom, may deem proper, to prevent the memorialists from being deprived of the benefit of drawback on the exportation of the same.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. JEREMIAH MORROW, the Committee on the Public Lands were instruted to inquire into the expediency of extending the time

for the issuing and locating of military land warrants; and that they report by bill, or otherwise.

On motion of Mr. FINDLEY,

Resolved, That an Assistant Clerk be appointed by this House, who, during the necessary absence, or in case of the death of the Clerk of the House, shall perform the duties of the said Clerk; and for the faithful performance of such duties, shall be accountable to the House.

On motion of Mr. GARDNER,

Resolved, That the Secretary of State be directed to lay before this House a list of the names and places of abode of persons who have invented any new or useful art, machine, manufacture, or composition of matter, or any improvement thereon, and to whom patents have issued for the same from that office, with the dates and general objects of such patents, from the first day of January 1805, to the last day of December, 1807, inclusive.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to allow the importation of old copper free of duty; which was twice read and committed to a Committee of the Whole to-morrow.

On motion of Mr. DAWSON, the farther consideration of the bill authorizing the raising of an additional number of seamen for the service of the United States, as amended by the House, together with the amendment proposed thereto by Mr. TAYLOR, which was depending yesterday at the time of adjournment, was postponed until to-morrow.

Mr. BASSETT, from the committee appointed on the fifteenth instant, presented a bill concerning public contracts; which was read and committed to a Committee of the Whole on Friday next.

THE MILITIA.

The House went into Committee on the bill to classify the militia of the United States; Mr. SOUTHARD's motion, to strike out the first section of the bill, being still under consideration.

Mr. M. CLAY rose to vindicate the bill from the objections which had been made against it. He took no notes, and he should therefore speak from memory. If he misstated any gentleman's observations, he should be glad to be set right. He had himself been egregiously misrepresented, but he did not attribute it to any intention to deceive, but to the difficulty of hearing in this spacious hall, where the sound of the voice is lost in echo.

In reply to Mr. VARNUM, Mr. C. said, he would suppose that officer had never read the Constitution; he had never read the militia laws, or, like himself, he was old and forgetful; and did not recollect what was contained in them. That gentleman was forty-five, nay, over fifty-five years old.

In reply to Mr. SOUTHARD, Mr. C. said that, gentleman told us that Alexander and his troops were old men. Mr. C. wondered where he got his knowledge. He suspected that gentleman, like himself, had not read the books. [Mr. SOUTHARD denied that he had mentioned Alexander.] Mr. C. appealed to the House for his correctness. He then said that gentlemen spoke of Cæsar and Pompey, and perhaps he had not got the names right, as all lived near the same time, and in the same neighborhood. Mr. C. then mentioned Alexander, Hannibal, and other ancients, as examples, to show that young men make the best soldiers. Mr. C. however, said his memory was not very correct; he had not read these histories for thirty years, and a man must have a good memory, and read often, who quotes history.

In reply to Mr. KELLY, Mr. C. was surprised that any objection on the score of morality should proceed from a gentleman so far South. If it had come from a quarter further East, it would not be strange. But are not old men given to the abominations of sin, as well as young men? They even go ahead in talking, if they cannot keep up in practice. As to ministers of the gospel, Mr. C. asked, if it did not look better to see a young man praying with young men, than an old man with them? Will not what they say, go more from the soul to the soul?

Mr. C. next replied to Mr. TALLMADGE. That gentlemen spoke of the danger of corrupting young men in a camp. Mr. C. was not surprised at such an objection from such a quarter, though he was when it came from Pennsylvania (Mr. KELLY,) which was too near his own State (Virginia) for such an objection. Mr. C. then replied to some objections on the score of officering the militia.

Mr. C. next replied to the gentleman from Boston, (Mr. QUINCY;) when he rose, Mr. C. was very much afraid; he felt like a parent who is like to lose an only child, and began to think about a retreat. He felt the effect of his eloquence before it was produced, but when at last that gentleman came to his point, it was point no point.

Mr. C. invited gentlemen to the field of argument. He wished to discuss the subject fairly. If when the gentleman from New Jersey (Mr. SOUTHARD) went to Rome he had stopped on the road at France, he would have done better. There we may see what fine soldiers young men can become. General Washington also performed wonders when a young man, at Fort Duquesne, now Pittsburg. Mr. C. spoke nearly an hour.

Mr. VARNUM opposed the principle of the bill with considerable spirit and force. He considered the bill as introducing a new system, as trying a new experiment, attended with great difficulties, promising nothing useful in the result.

Mr. NELSON spoke of the inefficacy of the present militia system. Men with wives and children could not be dragged from their homes to a distance, and compelled to fight with that courage and ardour which constitute good soldiers and insures victory. Mr. N. knew from experience the inefficiency of the present militia.

Mr. N. did not understand the bill, as it had been said, to disorganize the present militia of the Eastern States. In case a detachment is wanted, this bill directs that those of a certain age should be designated for service, instead of resorting to a draught, as had been practised hitherto.

Mr. N. conceived the argument that a camp

was a school of immorality, to be unfounded. The large cities of New York and Philadelphia were more dangerous to the morals of young men. As to the idea of putting a parson into camp to preserve their morals, he wished to be delivered from them. They often turn their hands to a very different kind of business. As to their preaching with any benefit, it was actually out of the question. The camp was the best school for a young man. There he would learn much of human nature and of the world; he would learn how to take care of himself, and how to treat his fellows; he will acquire the character and adopt the conduct of a gentleman.

Mr. Van Dyke spoke against the principle of the bill on the Constitutional ground, as well as that of expediency. By the Constitution, the militia may be called out to "repel invasion, to suppress insurrection, and execute the laws." For no other cause, in Mr. V. D.'s opinion could the militia be called into service. But, by the provisions of the bill, the President may order the junior class to any part of the United States on the appearance of national danger. If then there is, to borrow a phrase from high authority, "a speck of war" in the horizon, the whole body of the younger class of militia may be marched and countermarched from one end of the country to the other; a power not only unconstitutional, but dangerous to the rights and liberties of the people.

From the arguments of gentlemen who advocated the bill, Mr. V. D. perceived it was the object to employ the militia for every operation of actual war, to the exclusion of all other military force. He conceived they could not be relied on for the operation of actual war. For their Constitutional purposes, they were an adequate force; for a short enterprise or a sudden exploit, they might be relied on; but could not be regarded as the great and exclusive bulwark of the nation in war.

Mr. V. D. conceived that men of the age of thirty-five were as competent as those of twenty-five, to endure fatigue and to perform every kind of military service. The experience of the very gentlemen who advocate the bill, will show that this is the case. Nay, men at a more advanced age than is proposed, are generally better fitted for military life. By this bill a great part of our most efficient strength, is entirely excluded from the defence of the country.

Mr. V. D. considered the camp as furnishing temptations to young men which would lead many to destruction. From twenty-one to twenty five years of age is a most important and critical period of life. It is then that habits are established, that a character is formed, and the mind matured. If he wished to do the greatest possibly injury to a young man of that age, he would place him in a camp. If he was disposed to corrupt his habits, blast his character, and ruin his prospects forever, he would send him to a camp.

On motion of Mr. Southard, the Committee rose without coming to any decision, and obtained leave to sit again.

Wednesday, January 27.

On motion of Mr. Newton, the House proceeded to consider the report of the Committee of Commerce and Manufactures, on so much of the memorial of the first and second Chambers of the City Council of Washington, as prays that the Capital of the United States may be made a port of entry and delivery, which lay on the table: Whereupon,

Resolved, That the prayer of the memorial of the first and second Chambers of the City Council of Washington ought not to be granted.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia:" Whereupon, the House agreed to the said amendments.

Mr. Dawson, from the committee appointed on so much of the President's Message, of the twenty-seventh of October last, as relates to the Military and Naval Establishments, presented a bill authorizing the raising an additional army; which was twice read and committed to a Committee of the Whole on Monday next.

Mr. Dawson, from the same committee, presented a bill authorizing the President of the United States to raise a provisional army; which was read twice and committed to a Committee of the Whole on Monday next.

The House again resolved itself into a Committee of the Whole on the bill to amend the several acts to provide more effectually for the national defence by the militia of the United States; and, after some time spent therein the Committee rose and had leave to sit again.

DISTRICT OF COLUMBIA.

The House took up for consideration the resolution lately offered by Mr. Key, for the erection of a standing committee of the House to inquire and report on all concerns relative to the District of Columbia.

Mr. Findley observed, that he had long been in favor of appointing a committee of this kind. The citizens of the District of Columbia were not and could not be represented on this floor. He wished to see the business consolidated, so that they might be justly heard.

Mr. Key said his object in this motion had merely been to render more simple to the House the legislating for the District. It would save many committees from being raised, and promote consistency and uniformity in the laws relating to the District.

The resolution was then agreed to without a division, and Messrs. Key, Van Dyke, Love, Holland, Brown, Livermore, and Taylor, appointed the committee.

MILITARY ESTABLISHMENT.

Mr. G. W. Campbell moved for the order of the day on the bill from the Senate for increasing the Military Peace Establishment of the United States.

[This bill contemplates the raising one battalion of riflemen, one battalion of cavalry, one regiment of infantry, and the increasing the number of men in each company now in service to the number of one hundred and twenty.]

Mr. Nelson moved that the further consideration be postponed till the 1st March.

Mr. Chandler wished the gentleman to alter his motion so as to let it lie on the table.

Mr. Nelson.—I cannot consent, for this reason: I expect to be absent for some time, and whenever the bill is called up, I wish to make some few observations upon it.

Mr. Chandler.—I am opposed to taking up the bill at this time, because it will depend upon circumstances whether we ought to act upon it or not. If we have peace with the Powers possessing territory adjoining to us, it is unnecessary to add to our Peace Establishment, it being a subject on which we should be extremely cautious. Circumstances might arise which would render it necessary to add to our Peace Establishment before the 1st of March.

Mr. W. Alston.—The views of both gentlemen would be answered by the bill's being referred to a select committee to examine into the propriety of passing it, which would be precluded by a postponement or by its lying on the table.

The Speaker.—The bill has been already referred to a Committee of the Whole House, and, therefore, cannot at present be referred to any other committee.

Mr. Nelson.—This bill, sent down from the Senate, contemplates adding a very small number of men to the Peace Establishment of the United States. It is a little trifling bill which does not deserve countenance. On this great continent, where there are now so few troops, it is contemplated to make to them an addition of two battalions, and increase the number of men in each company to one hundred and twenty. Such an addition will be but a drop of water in the ocean; the country will not feel the effects of it; it will be doing nothing. It is doing business by halves—a petty, miserable measure, of which the United States will never feel the benefit. I have another objection. The committee to whom was referred the other day a resolution for increasing our War Establishment, are prepared to report a bill to the House for that purpose. If the bill so to be reported shall pass, it will be unnecessary to pass this bill; because we shall be in war, and have no occasion for a Peace Establishment. It will be better to let this miserable thing lie on the table, or postpone it till we see whether or not we shall pass the war bill. If that does not pass, little as this thing is, and much as I despise the principle of it, gentlemen may take their own way with it; but if the war bill does pass, certainly this should not.

Mr. Desha.—The gentleman is mistaken as to the contents of the bill, for there are two regiments instead of two battalions. Although I am opposed to anything that looks like a standing army, some troops are necessary to be kept up; but to what extent I am not prepared to say; at least the battalion of cavalry is unnecessary. Take into view the city of New Orleans; threatened without, and we know it is said to be disaffected within, it is an object of the greatest consequence to the United States to retain it in safety; and there ought to be troops in its neighborhood, whether in peace or war. I am opposed to postponement, though I should have no objection to its lying on the table.

Mr. Nelson.—I should be very sorry if it be indeed necessary to keep a standing army to take care of New Orleans. If the citizens of that city are so depraved as not to be kept in order without a military force among them, I wish I had never heard of them.

Mr. Desha.—The gentleman has misunderstood me. I mean that they are so divided that they may not be united to defend the place sufficiently against a foreign enemy, and advantage will be taken of this circumstance. New Orleans is a very vulnerable point, and of as much consequence, perhaps, as any port in the United States, and I believe it is necessary that there should be a strong garrison kept there at all times.

Mr. Dawson.—A few days ago the House unanimously passed a resolution for increasing the Military Establishment of the United States, having reference, as I had supposed, to a War Establishment; in pursuance of which I am now prepared to report a bill, which, if passed, will render unnecessary the bill for an increase of the Peace Establishment. I therefore wish this business to lie on the table.

Mr. G. W. Campbell.—I believe that we can act upon this subject as well at this time as at any other. The arguments of the gentleman from Maryland prove, if anything, that this bill may be immediately decided. He tells us, if we have war, this is nothing; if we have no war, it is not necessary to increase the Peace Establishment, and, therefore, we can decide upon it now. I am not prepared to say that this addition ought to be made, but do not know why gentlemen should call this so little a thing. From the general features of the bill, it is evidently intended to produce an addition to our Peace Establishment. My idea of it is, that it is intended to provide, as well against the hostility of the Indians on our frontier as against the marauding parties of any foreign Power. I think it a questionable point whether our extended frontier does not require an additional force. You have been frequently told in the House that the Indians have of late threatened much; that the population of the territory of the United States in their vicinity is small and much scattered. This subject should be brought before the House, when also I should wish to hear what information gentlemen may offer on the subject.

Mr. Macon.—I do not believe it necessary to make so large an addition to our present Peace Establishment, and am unwilling to postpone the bill. The gentleman from Kentucky has told us of the divisions in Orleans, and that it is necessary for that reason to keep troops there. The transfer of Louisiana was made without the assistance of arms. The difference of opinion there is the

same as every where else exists between Federalists and Republicans; and his observation would apply fully as well to any other place as to New Orleans. For what are these regiments contemplated to be raised? Not for war, but in addition to our Peace Establishment. There is no necessity for increasing it. I fear that gentlemen, from the very best of motives, will go on to increase our Peace Establishment, till we have as large a standing army as any other nation. Great objects often arise from small beginnings. If we raise troops, let it be for war; let the Peace Establishment rest as it is. I shall vote for the motion under consideration, but had rather vote for an indefinite postponement.

Mr. Desha.—Although opposed to postponement, I do not know that I am entirely in favor of the bill. The gentleman from North Carolina has told us that he is opposed to increasing the Establishment for the purpose of protecting New Orleans, because the people in that country are divided only as we are into Republicans and Federalists. It is said a part of the inhabitants of that country, on the contrary, are attached to monarchial government; and many of them being yet subjects of Spain, they are attached to that Government. They are monarchists, not Federalists or Republicans; and, by a very natural inference, will attach themselves to foreign governments.

Mr. Gardner.—I hope the motion for postponement will prevail. I am sorry that the honorable Senate should have chosen at this time to add to our Peace Establishment, after adopting a war measure by laying an embargo. If we are to have war, on which we cannot yet decide, we shall undoubtedly continue the strong measures which we have this session commenced; but until that momentous question is decided, I am clearly in favor of postponing the consideration of our Peace Establishment.

Mr. Dana.—Perhaps it might be as well to refer this bill to a select committee, and therefore to vote against the present motion. Although the title of the bill be, "A bill supplementary to an act entitled 'An act fixing the Military Peace Establishment of the United States,'" and although the first section provides for the erection of some forts in addition to our present Peace Establishment, I really never have imagined, when troops were raised for peace, that it would be contrary to law for them to fight in case of war. I did conceive that when on our Peace Establishment, they could fight as well as if raised expressly for war. If, therefore, there should be danger on our frontier, and if it is supposed that the regular forces there as a security against annoyance are not sufficient, and that more are necessary to preserve peace, I do not see any impropriety in raising an additional number; and as gentlemen from that part of the Union, possessed of better means of information than myself, seem to imagine it to be at least worthy of consideration, I am not anxious for postponing it. The honorable gentleman from North Carolina, (Mr. Macon,) seems to suppose that there is not more difference of opinion there than there is in other parts of the United States between Federalists and Republicans. I fancy the gentleman must take these terms in a sense very different from that which is derived from a most authentic source; for, from very high authority the nation has been told that "we are all Federalists; we are all Republicans." If we are all of one character, we are certainly not contending one against the other; the gentleman's words must therefore convey a meaning different from this highly authentic definition. Could any one imagine that if one character is here applicable to all, though possibly there may be some slight shade of difference, that there is no more difference of opinion in the territories? As respects the inhabitants of some of those territores, biassed by strong monarchical attachments, their habits of life have rendered them liable to foreign influence in a much greater degree than the people within the old United States. It is therefore peculiarly necessary that this part of the country should have the assistance of regular troops to repel invasion.

Mr. Witherell.—This postponement of business looks too much like getting rid of it altogether. I think we shall not be in a better situation to decide on the necessity for adopting this bill on the first day of March than we are now. If it should lie on the table or be left within our reach, I am not afraid that we shall lay violent hands on it. We are not generally in such a hurry to get through business that we tear it to pieces in getting hold of it. As this is the first time the subject has come under notice, I am as perfectly incapable of deciding on the bill as when it first came from the Senate. I should wish it to lie on the table, or that it may be referred to a select committee.

Mr. Rhea.—I am as much opposed to a standing army as any gentleman in the House; but I shall act as I think right at this time, leaving other gentlemen to do the same. There may be times at which a larger military force is necessary than others; and the present may be one of those times. An objection has been made to the bill because the number is too small. I do not know whether I shall give my vote for raising all the men proposed by the bill; but part of them are necessary. An objection has been made to the bill because it contemplates an addition to our Peace Establishment. As I consider that we are now approaching to a state of war, I do not see how the number proposed in addition to our present establishment can be objected to. If this number be raised, or even a further additional number, the number to be raised on a war establishment would be by so many diminished. It is well known that a bill has been passed this session, appropriating a sum of money for erecting and repairing fortifications. If erected they must be garrisoned; and although the number proposed may be considered as now too large, yet, when we advert to those places necessary to be garrisoned, they will not appear to be too many; and when we consider our extended frontier, more may be necessary, if only to guard against incursions of the Indians. I shall vote against the

postponement of the bill, and hope it will be now considered. The committee now said to be about to report on a war establishment, may acommodate the number of men to be employed to the number of men to be raised by this bill for the peace establishment. For another reason I shall vote against postponement: I shall take into consideration everything which comes before us on the principle of national defence, and make the best of it I can; and I shall consider this measure in that light. What may be the fate of the bill for a war establishment, to be reported by the committee, I do not know; and therefore intending to vote for everything, however small, towards the great project of national defence, I shall vote against a postponement of this.

Mr. J. K. Smith.—I am opposed to the postponement of the bill, and think it ought to be acted on immediately. We know the situation of the Western country, and very lately a rebellion has been attempted under Aaron Burr. If he had not been arrested as he was in his career, his project might certainly have led to the establishment of a separate government at New Orleans. I apprehend as much danger from Aaron Burr at this time as at any time since he first determined on the attempt. Gentlemen say, that this provision is too small; if they think so, let them enlarge it, and double it if they apprehend danger. They say also, that our present peace establishment is large enough; and that if we have not war, that it ought to be reduced. I am not of that opinion. I shall not be lulled into security; for I think that prudence dictates to us an apprehension of danger; I think we may expect it too, and that we ought to make provision for a stand at first. Even this little force would be of some service; although but one thousand five hundred, or two thousand five hundred men, they may be of service. I am desirous to give assurance to the friends of the Government at New Orleans, and in the territories adjacent, that they shall be protected, and induce them to have confidence in the General Government.

Mr. Holland.—If I viewed the matter in the same light as my friends from Tennessee and New Hampshire, I would vote to take up the bill and pass it immediately. They go upon the grounnd that it is necessary to augment the peace establishment of the nation; but I see no reason why it should be augmented now or at any time past. The gentleman last up has talked about rebellion, and wishes a peace establishment to put down rebellion. Certainly the militia of any portion of this country are competent to put down all rebellion. The militia or any single district of any State would not want assistance to suppress any insurrection or conspiracy in the United States. Shall it be said that we must augment our military force to put down rebellion? There are very few in the United States who would rebel; none but a few harmless malcontents capable of no more harm than making a noise in newspapers. As to the conspiracy of Aaron Burr, what had been the amount of it? Was the aid of the regular force necessary to quell that? No. The militia were vastly more than competent for that purpose. Burr is become harmless; his sting is drawn. Is it necessary to raise our peace establishment under the expectation of being beset by a foreign Power? If it is now, it always has been; we have always been liable to foreign attack. Either our present peace establishment is competent, or it is necessary immediately to go into a war establishment. With respect to the Indians, they are inoffensive; there has not been a time since the expedition against them under General Wayne, that they have not considered themselves a conquered nation, and looked up to the United States as their masters. If the Indians were considered as dangerous, nothing would be more agreeable to the militia than to go against them; it would be but too agreeable to a portion of the militia to go against them, and demolish the whole nation of Indians. So that in every point of view I consider it improper to adopt the bill, and would have voted for an indefinite postponement.

Mr. Rowan.—The whole northern boundary of Orleans, the Indiana and Michigan Territories, and the St. Louis country, are all exposed; and although the Indians may, in the prevailing language of the day, look up to their Great Father, much alarm has been excited in that country; special missionaries have been sent to inquire into the cause of their tumultuous aggregation, and it is not now known for what purpose they are convened. While that country is in its present unsettled state, until its population is such as to repel the attacks of the Indians, it is prudent to have a small force to co-operate with the militia. It is important that there should be a force established at New Orleans for a while; it is the key to the whole Western country. Men may talk of patriotism; but it must be known, that any Power which possesses the mouth of the Mississippi river, will possess the whole Western country. The *amor patriæ* will do very well in theory; but in practice it often yields to private interest. The people in that country are much disaffected; their habits are not American or Republican, but lead them to favor monarchical Governments. In addition to this they have various causes of discontent. It is necessary to have a military force there, not to keep the people in order, but to prevent a foreign Power from taking advantage of the dispositions of the people, and using them to its own advantage. It certainly would be a desirable object for any foreign Power to possess New Orleans. It will be known by an enemy that if they can once take footing in it, they can keep possession a sufficient length of time to allow them to receive reinforcements before it could be wrested from them by a force from the United States. It would be well that the people should be assured that the country will be maintained in our possession. The time is not remote, I hope, when a chain of population will extend from the United States to New Orleans; but till that time, and more especially from the ease with which possession of the place once had can be maintained, it would be good policy to have there some regular troops, and to control

any disposition which exists against the interests of that country and of the United States. Gentlemen ought not to be so much alarmed about raising an army. We seem unwilling to have them because they have ministered to the prostration of the liberties of the people and served as an instrument to tyrants. But such an effect is only produced by an abuse of a great good; it is necessary to maintain our Government and it may give a tyrant predominance and render him despotic. Let us take care not to abuse a thing which is useful; but not decline to use a weapon because its use may be perverted. We can disband an army when it becomes necessary. We have shown our power in this by an actual exercise of it; but, no doubt, had the same circumstances existed then that exist now, the army would not have been disbanded; we had not then this Western country, this New World, if I may so express it. I beg gentlemen to consider the projects which have been attempted to the Westward; they are worthy of the most serious attention. It has been said that the militia were competent to defeat that of Aaron Burr. I wish to God it had been the case, and that it had not been necessary to violate the Constitution to defeat that project. I would rather have maintained any given military force than sanction the violation of the Constitution and of individual right. As to savages—gentlemen who do not live in the neighborhood of savage tribes cannot conceive the feelings of those who do, and who have still fresh in their recollection the ravages and depredations committed by these savages. It is of importance to keep up such an establishment as shall give tranquillity to the feelings of the people there. The force contemplated by the bill, small as it is, may form many rallying points round which the population could collect themselves for immediate defence. At all events I think it is imprudent to postpone this bill to so late a period in the session. It may happen that in a very short time some forces may be required in the neighborhood of the Lakes, to secure them from the savage tribes. We are in their neighborhood; we have no security that their attachment to America is permanent; they are capable of being excited by any person who will take the trouble, and who has influence. I am myself opposed, in general, to a standing army. I believe the citizen militia of America are competent to the preservation of good government and quelling insurrection; but are not properly calculated or used for protection against savages or for the defence of New Orleans. This place is near the Havana, and our relations with that Government are not very stable. My object is to prevent that place from coming into the possession of an enemy; and therefore wish to keep this bill at least within the power of the House.

Mr. Chandler.—I wish the bill could be postponed indefinitely. Though I at first objected to postponement for so long a time, the reasons urged by some gentlemen against postponement have convinced me that it ought to be postponed. If there be need of any more force in consequence of the disposition of the Indian tribes, I shall be as willing to raise them as any other man; but I wish the war establishment to be kept distinct and separate from our peace establishment. At Fort Adams and other places there are now bodies of men, which, in case of peace, will be sufficient for all purposes. A gentlemen from Kentucky (Mr. Desha) has observed that it is necessary there should be a force kept at New Orleans; that they are not divided into Republicans and Federalists, but are Republicans and Monarchists. I must confess that the distinction is rather nice; if for that reason we ought to keep a force there, we ought, for seven years back, to have kept a force in every seaport town in the United States. But, thank God, the judgment of the people has rendered it unnecessary. Therefore, as in time of peace, I shall never vote for increasing our military force, so, in time of war, I shall not vote against it.

Mr. Nicholas.—I hope the bill will not be postponed. I am one of those who believe that the present peace establishment is not competent to its intended purpose. In saying this, I hope I shall not subject myself to the imputation of wishing to erect such a standing army as may, in any event, be used for purposes hostile to our liberties. For what purpose do we need a peace establishment? Not only to garrison fortifications, but for the protection of our ports and harbors; we must have a force of some kind to preserve our towns from insult by a single vessel. This is the reason why a peace establishment is necessary in our seaport towns. What is the vast extent of our territory? To the Westward and to the North and South more than two thousand miles. On various parts of this frontier we keep a chain of garrisons. What is the situation of New Orleans and the country around it, lately acquired to the United States, for aught we know, against the wishes of those who inhabit it? Its situation is dangerous, and it ought to be protected, as it is extremely important to the United States—perhaps of greater importance than any point in the Union. The Representatives on this floor, from the great Western waters, are more numerous than from any Eastern State. What was lately the situation of that country, at a time when there was an expectation of an attempt to wrest it from us? The greatest regular force that could then be collected, was four, five, or six hundred men. Shall we, for a trifle, risk the possession of that country, so essential to the safety and interests of so large a portion of the Union? I am not anxious to act on this bill, but, before we depart hence, I hope that something will be done. If we erect a war establishment, this will not be necessary; but, if we do not, this bill or something similar will be absolutely necessary.

Mr. Troup.—No gentleman in the House feels more anxiety on this subject than myself, or is more sincerely desirous of an increase of our military establishment, because no State in the Union is more exposed than the State of Georgia. On the Western frontier, she has to defend herself against a tribe of savages more numerous than any other; on the Southern she is open and exposed to the invasion of a foreign Power; on the sea she has to defend a coast of a hundred and sixty miles, lined with a chain of islands and filled with a negro population, liable to become a point of resort and attack to privateers and freebooters, besides many other exposed points. But, until the Commander-in-Chief of the Army of the United States is acquitted of the charge against him and restored to the confidence of the people, I will not give my assent to any increase of our military establishment.

Mr. Clark.—Much has been said to-day on the subject of the disposition of the people of the Territory of Orleans to the United States. I should hope that the gentlemen from Kentucky and Virginia have spoken more from report than from their own knowledge, and that they hold a better opinion of the disposition of the inhabitants of the Territory. I should have wished to hear those gentlemen state in what instance the people of that Territory have shown a disposition unfavorable to the United States. When the possession of the Territory was transferred to the United States, the people knew and prized the benefits which they would enjoy by an exchange. Since that time, what evidence have you of their objection to it? Did not the militia of that Territory volunteer their services against the Spanish forces some time ago in motion near them? Then, why are they accused of disaffection? It is much better to hope than fear, and certainly not correct to reason from those fears. Although I am of opinion that no district in the Union is more attached than that to the general interests of the country, still I am of opinion, considering the peculiar situation of that country, exposed on all sides, that an additional force is necessary there. In 1806, a force of two thousand men was brought to our very doors, before we knew it was on the way, or even of its being in existence. On the other side of us, in the Province of West Florida, where there are about one thousand eight hundred men. When the troops moved from Orleans to repel expected invasion to the Westward, we were left, as well as I recollect, with but a single company. I wish the country to be so protected as to guard as well against the incursions of Indians as against any other hostile attempt; at the same time, I will boldly state, that no part of the Union is more attached to the General Government, and that nothing to the contrary can be alleged against them.

Mr. Findley.—If gentlemen will turn their attention seriously to the situation of our very exposed frontier, and consider how thinly settled it is, not only in the new States and Territories, but, to a great extent, in some of the old States, they will probably think with me, that an increase of the peace establishment is necessary, both to give security and confidence, especially in this time of alarm. That the alarm is considerable, and danger apparent, I am confident. I last night received information that the Assembly of Pennsylvania, now sitting, have a bill before them for raising a force for the defence of their frontier, and wish to be informed if Congress would propose an adequate force for the purpose before their bill passes into a law. This is a proof that that State is alarmed. The northwest counties of that State, on account of the great amount of military and company land unsettled, is thinly settled, and those settlements at a distance from each other; consequently their militia are not sufficient for their defence. The Indians west of the Lakes have, in the former Indian wars, usually crossed Lake Erie in their canoes, and spread a hasty destruction; and, before the alarm was spread, retreated to their canoes, and escaped from pursuit. The settlements are now much more extensively exposed.

The State of Pennsylvania is not the only one so exposed, part of the adjoining States are in the same situation. When once the Indians make a successful stroke, they triumph in their success, and the neighboring tribes catch the flame and join in the destructive depredations. It would be much cheaper to prevent than to repel such outrages. If the States and Territories are obliged to provide for their own defence, they will call on Congress to pay it. The Government did so in the late Indian war; Congress appropriated a gross sum, out of which the President paid the militia, called out by the county lieutenants and the rangers ordered by the State, the same pay as to the regular troops. The State, however, in order to obtain good men, gave additional pay. It is for the House to consider, if the protection would not be more cheap and effectual by an increase of the permanent establishment, than for each State and Territory providing for their own protection, in their own way, without concert. A comparative small force and expense will prevent the Indians from going to war, and inspire the settlers with confidence, to what it would require to carry on an Indian war, and restore lost confidence. Certainly the present movements and excitements among the numerous Northwestern tribes give just cause of apprehension, and call on us to be prepared without delay. Therefore, I shall vote against the postponement of the bill and every other unnecessary delay.

After some further debate, in which Messrs. Lyon, Holland, and Nelson took part, (and in which Mr. Lyon stated his belief that our situation is perilous, and that he should vote for everything that looked like defence,) the question on postponement was decided in the negative—yeas 41, nays 78, as follows:

Yeas—Burwell Bassett, William W. Bibb, Thomas Blount, Robert Brown, William Butler, John Chandler, Matthew Clay, John Dawson, John W. Eppes, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, James Holland, David Holmes, Joseph Lewis, jr., Edward Lloyd, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr., Thomas Moore, John Morrow, Roger Nelson, Thomas Newbold, Timothy Pitkin, jr., John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Ebenezer Seaver, Richard Stanford, William Stedman, Abram Trigg, George M. Troup, Archibald Van Horne, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, and Alexander Wilson.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Boyle, William A. Burwell, Joseph Calhoun, George W. Campbell, John Campbell, Peter Carlton, Epaphroditus Champion, Martin Chittenden, John Clopton, Howell Cobb, Richard Cutts, Samuel W. Dana, John Davenport, junior, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Charles Goldsborough, Isaiah L. Green, William Helms, William Hoge, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, John Lambert, Edward St. Lo Livermore, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, John Montgomery, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Dennis Smelt, Jedediah K. Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Jesse Wharton, Marmaduke Williams, Richard Winn, and James Witherell.

On motion of Mr. DANA the Committee of the Whole was discharged from the further consideration of the bill, and it was referred to a select committee.

THURSDAY, January 28.

Mr. SOUTHARD, one of the members for the State of New Jersey, informed the House of the death of his colleague, Mr. EZRA DARBY, late one of the members of this House: Whereupon, the House came to the following resolutions:

Resolved, That a committee be appointed to take order for superintending the funeral of EZRA DARBY, Esq., late a Representative from the State of New Jersey.

Resolved, unanimously, That the members of this House will testify their respect for the memory of EZRA DARBY, Esq., late one of their body, by wearing crape on the left arm for one month.

Resolved, unanimously, That the members of this House will attend the funeral of EZRA DARBY, Esq., on to-morrow at twelve o'clock.

Resolved, unanimously, That a message be sent to the Senate, to notify them of the death of EZRA DARBY, late a member of this House, and that his funeral will take place on to-morrow, at twelve o'clock; and that the Clerk of this House do go with the said message.

Ordered, That Mr. SOUTHARD, Mr. MASTERS, Mr. PORTER, Mr. HELMS, Mr. NEWBOLD, and Mr. LAMBERT, be appointed a committee, pursuant to the first resolution.

FRIDAY, January 29.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to revive and continue in force the nineteenth section of an act, entitled 'An act to ascertain and fix the Military Establishment of the United States,' and to extend the provisions thereof;" to which they desire the concurrence of this House.

The Senate have also passed the bill, entitled "An act making appropriations for the support of Government during the year one thousand eight hundred and eight," with an amendment; to which they desire the concurrence of this House.

A motion being made by Mr. G. W. CAMPBELL, that the House do now proceed to the consideration of the amendment proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government during the year one thousand eight hundred and eight; an adjournment was called for, on which the House adjourned.

SATURDAY, January 30.

On motion of Mr. HELMS,

Resolved, That the SPEAKER give information to the Executive of the State of New Jersey, of the vacancy in this House, occasioned by the death of EZRA DARBY, late one of the Representatives from that State.

Mr. MARMADUKE WILLIAMS, from the committee appointed on the twenty-second instant, presented a bill for the punishment of certain crimes therein mentioned which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. JOHN MONTGOMERY, from the committee to whom was referred, on the twentieth instant, a Message from the President of the United States, accompanied with sundry documents, presented a bill concerning courts martial and courts of inquiry; which was read twice, and committed to a Committee of the Whole on Tuesday next.

The bill sent from the Senate, entitled "An act to revive and continue in force the nineteenth section of an act, entitled 'An act to ascertain and fix the Military Establishment of the United States,' and to extend the provisions thereof," was read twice, and committed to a Committee of the Whole on Monday next.

The House took up for consideration the amendment by the Senate to the bill making appropriation for the support of Government.

An amendment allowing the Attorney General of the United States five hundred dollars for contingent expenses being under consideration, after a desultory conversation, was referred to a Committee of the Whole immediately, and disagreed to by the Committee—yeas 3.

The Committee rose and reported their disagreement. The question being taken on concurrence with the Committee of the Whole by yeas and nays, they were—yeas 101, nays 11.

The House went into a Committee of the Whole, on the bill to erect a light-house on Point Judith in the State of Rhode Island. The blank in the bill for the appropriation being filled with five thousand dollars, the Committee rose and reported the bill, which was ordered to a third reading on Monday.

The House went into a Committee of the Whole on the bill making appropriations for the support of the Navy of the United States during the year 1808. The bill being gone through and

the blanks severally filled, the Committee rose and reported the bill, which was ordered to a third reading on Monday.

AMENDMENT TO THE CONSTITUTION.

Mr. G. W. CAMPBELL.—It has always been my opinion that in a free Government like ours, every department ought to be responsible for its conduct. The Constitution of the United States was evidently framed on this principle, and the preservation and security of the rights and liberties of the citizens and the due execution of the laws will be found to rest, in a great degree, on rendering public agents sufficiently and practicably responsible for their conduct to the nation. That this is not the case with the Judiciary of the United States has been proved by experience. Your judges once appointed are independent of the Executive, the Legislature, and the people, and may be said to hold their offices for life. They are removable only on conviction by impeachment of high crimes and misdemeanors, and this mode of proceeding has been found in practice totally inefficient, and not to answer the purpose for which it was intended—that of rendering your judges duly responsible for their conduct. They may therefore be considered as independent of the rest of the nation, (and they seem to think so themselves,) as if this provision in the Constitution, relative to impeachment, did not exist. No matter how erroneous their opinions—how dangerous to the public weal—how subversive of the interest of the people—how directly opposed to the laws of your country; yet, as it is neither a high crime or misdemeanor to hold erroneous opinions, which they seem conscientiously to believe, they cannot be removed by impeachment—they are independent of the rest of the nation.

This subject has attracted the attention of the people in most of the States. The Legislatures of several States have passed resolutions declaring the necessity of amending the Federal Constitution, so as to render the judges, in practice as well as in theory, responsible for their conduct. The most numerous branch of the Legislature of the State which I have the honor to represent in part, have declared their opinion in favor of such amendment. In order therefore, to bring this subject before the House, that the sense of the National Legislature may be ascertained thereon, I submit the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the said States, shall be valid to all intents and purposes, as part of the said Constitution: The Judges of both the Supreme and Superior Courts of the United States shall, after the —— day of ——, be removed from office by the President of the United States, on the joint address of both Houses of Congress requesting the same, three-fifths of each House concurring in such address.

This resolution was referred to a Committee of the Whole on the state of the Union.

TREATIES WITH THE INDIANS.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

The Choctaws being indebted to their merchants beyond what could be discharged by the ordinary proceeds of their huntings, and pressed for payment, proposed to the United States to cede lands to the amount of their debts, and designated them in two different portions of their country. These designations, not at all suiting us, were declined. Still urged by their creditors, as well as by their own desire to be liberated from debt, they at length proposed to make a cession which should be to our convenience. By a treaty signed at Pooshapukanuk, on the sixteenth of November, one thousand eight hundred and five, they accordingly ceded all their lands south of a line to be run from their and our boundary at the Omochita, eastwardly to their boundary with the Creeks, on the ridge between the Tombigbee and Alabama, as is more particularly described in the treaty, containing about five millions of acres, as is supposed, and uniting our possessions there from Adams to Washington county.

The location contemplated in the instructions to the Commissioners was on the Mississippi. That in the treaty being entirely different, I was, at that time, disinclined to its ratification, and have suffered it to lie unacted on. But progressive difficulties in our foreign relations have brought into view considerations other than those which then prevailed. It is now, perhaps, as interesting to obtain footing for a strong settlement of militia along our Southern frontier, eastward of the Mississippi, as on the west of that river, and more so than higher up the river itself. The consolidation of the Mississippi Territory, and the establishment of a barrier or separation between the Indians and our Southern neighbors, are also important objects; and, the Choctaws and their creditors being still anxious that the sale should be made, I submitted the treaty to the Senate, who have advised and consented to its ratification. I therefore now lay it before both Houses of Congress for the exercise of their Constitutional powers as to the means of fulfilling it.

TH. JEFFERSON.

JANUARY 30, 1808.

To the House of Representatives of the United States:

The posts of Detroit and Mackinac having been originally intended by the Governments which established and held them, as mere depots for commerce with the Indians, very small cessions of land around them were obtained or asked from the native proprietors, and these posts depended for protection on the strength of their garrisons. The principles of our Government leading us to the employment of such moderate garrisons in time of peace, as may merely take care of the post, and to a reliance on the neighboring militia for its support in the first moments of war, I have thought it would be important to obtain from the Indians such a cession in the neighborhood of these posts as might maintain a militia proportioned to this object; and I have particularly contemplated, with this view, the acquisition of the Eastern moiety of the peninsula between the Lakes Michigan, Huron, and Erie, extending it to the Connecticut Reserve, as soon as it could be effected with the perfect good will of the natives.

By a treaty concluded at Detroit on the seventeenth of November last, with the Ottoways, Chippeways, Wyandots, and Pattawatimas, so much of the country

has been obtained as extends from about Saguina bay, southwardly, to the Miami of the lakes, supposed to contain upwards of five millions of acres, with a prospect of obtaining, for the present, a breadth of two miles for a communication from the Miami to the Connecticut Reserve.

The Senate having advised and consented to the ratification of this treaty, I now lay it before both Houses of Congress for the exercise of their Constitutional powers as to the means of fulfilling it.

TH. JEFFERSON.

January 30, 1808.

The said Messages, together with sundry documents accompanying the same, were read, and referred to the Committee of Ways and Means, with instructions to report thereon by bill or bills, or otherwise.

THOMAS BARCLAY.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims of the eighth instant, to whom was referred, on the twentieth of November last, the petition of Mary Barclay, widow of Thomas Barclay, deceased; and, after some time spent therein, the Committee rose, and reported to the House their agreement to the resolution contained therein, without amendment; which was twice read, and agreed to, as follows:

Resolved, That the proper accounting officers of the Treasury be, and they are hereby, authorized to audit the account of Thomas Barclay, deceased, and that they allow him, while he acted as Vice Consul in France, a salary of one thousand dollars per annum; and that, while he acted as Consul, Commercial Agent, Commissioner of Public Accounts in Europe, and was engaged in negotiating the treaty concluded with the Emperor of Morocco, in the year one thousand seven hundred and eighty-seven, he be allowed a salary at the rate of three thousand three hundred and thirty-three and one-third dollars per annum, exclusive of his expenses; and that, in the adjustment of his accounts with the public, which originated in consequence of his second mission, he be credited with the amount of goods purchased to take with him to Morocco, according to the letters of Mr. Humphreys to the Secretary of State, and the invoices and memorandums transmitted by that gentleman to the Government; and that they pay the balance to the legal representatives of the said Thomas Barclay, deceased, out of any moneys in the Treasury, not otherwise appropriated.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

Monday, February 1.

Another member, to wit: George Clinton, junior, from New York, appeared produced his credentials, was qualified, and took his seat in the House.

Mr. Lewis presented a petition of sundry inhabitants of the town and county of Alexandria, in the District of Columbia, praying that an act may be passed to incorporate a company, to be denominated "The Washington and Alexandria Turnpike Company," for the purpose of making a turnpike road between the town of Alexandria and the City of Washington, and erecting a bridge over Four mile Creek; and that such powers and privileges may be granted to the said company as Congress in their wisdom may deem proper.—Referred to the Committee of the District of Columbia.

Mr. Boyle, from the Committee on the Public Lands, presented a bill extending the time for issuing and locating military land warrants; which was read twice and committed to a Committee of the Whole on Thursday next.

Mr. Rhea, from the Committee on Post Offices and Post Roads, presented a bill to alter and establish certain post roads; which was read twice and committed to a Committee of the whole House on Monday next.

Mr. Holmes, from the Committee of Claims, presented a bill for the relief of the legal representatives of Thomas Barclay, deceased; which was twice read and committed to a Committee of the Whole to-morrow.

An engrossed bill making appropriation for the support of the Navy of the United States, during the year one thousand eight hundred and eight, was read the third time and passed.

An engrossed bill to erect a light house on Point Judith, in the State of Rhode Island, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for the payment of certain expenses incurred in the inquiry into the conduct of John Smith, a Senator from the State of Ohio;" to which they desire the concurrence of this House.

STANDING RULES AND ORDERS.

On motion of Mr. Bassett the House proceeded to consider the report of the Committee of the Whole on "The standing rules and orders of the House."

Mr. Gardenier proposed an amendment to admit within the colonade gentlemen who may have formerly been members of this House. This was opposed by Mr. Macon and others.

Mr. Macon would admit no persons but Senators. Foreign Ministers and Heads of Departments had no business within the House. If they have curiosity to attend here, they may go into the galleries like other citizens. If these are admitted, you must also admit the Judiciary, Governors of States, &c. If you admit any, there is no stopping; you must allow every respectable man to enter.

Mr. Gardenier conceived it would be a proper act of civility and of courtesy to allow gentlemen, who have been members, to take a seat within the colonade. The number would be so small as never to create any inconvenience.

After some further debate the motion was lost.

On the question of admitting the Heads of Departments and foreign Ministers, some debate arose, in course of which,

Mr. Dana observed, that the present galleries were, as to the purpose of hearing, no galleries at all. The proceedings of the House were public

only in form, for, in this magnificently inconvenient edifice, little or nothing could be heard at any distance.

Mr. Eppes was for excluding Heads of Departments, and he wished never to be heard by the agents of a foreign country. He, therefore, should be pleased to have them referred to the gallery. He thought, that in a free country, only two classes should receive any peculiar distinction, old men, and females. He had rather have the company of the ladies, than all the foreign Ministers that ever came to this country.

Mr. G. W. Campbell was for admitting foreign Ministers, Heads of Departments, and ladies also. As the debates of the House could not be heard in the galleries, he would admit foreign Ministers within the colonade. Our Ministers in foreign countries are admitted to hear the debates of Legislative bodies, and we ought to reciprocate the civility. Mr. C. was also for admitting as much beauty as the House could accommodate.

Mr. Livermore advocated the propriety of admitting Heads of Departments, foreign Ministers, and the Judiciary. He had no objection to admit the ladies also. He could well account for the sympathies of certain gentlemen on the subject of admitting the ladies. His situation was different from theirs.

Mr. Sloan thought it a very improper time to exclude foreign Ministers when an Envoy Extraordinary had just arrived, and an important negotiation was going on.

Mr. Smilie and Mr. Rhea said a few words, but they were not sufficiently heard.

Mr. Nicholas called for a division, and it was accordingly divided.

Mr. Eppes, in allusion to Mr. Livermore, said if that gentleman had arrived at a period of life in which he ceased to feel a sympathy and regard for the fair sex, his condition was really to be commiserated. Mr. E., for his own part, was happy to say it was otherwise with himself, and he hoped he should never cease to feel a respect and tenderness for the sex.

Mr. Livermore explained. He had only observed that the situation of certain gentlemen was far different from his, and as they might be in the road to preferment, they would be more peculiarly solicitous to accommodate the ladies. For himself he had always experienced the truth of the poet's observation: *Omnia vincit amor, et nos ceda mus amori.*

Mr. Masters thought if the ladies were admitted, the numbers should be limited, as their united force might be too powerful for the gentleman from Virginia.

After some further conversation, it was resolved that Heads of Departments might be admitted—yeas 54, nays 40.

On the question of admitting foreign Ministers, Mr. Eppes demanded the yeas and nays. The Speaker decided the call out of order. Several gentlemen thought the practice had been otherwise, some doubted, and others supported the Speaker's decision.

Mr. Rowan suggested the propriety of suspending a decision. If foreign Ministers are now excluded, it may have such influence upon their feelings as to affect the pending negotiation. They have been accustomed to come with their suites, to attend the debates from the beginning of the session, and if now suddenly excluded they may not understand the reason. Besides, the Judiciary, which is a co-ordinate branch of the Government, have in committee been excluded from a seat. The Message of the President in relation to them is now on the table, and if this exclusion is sanctioned by the House, it will look like irritation on our part against that branch of the Government. He concluded by moving that the subject lie on the table.

Mr. Rhea opposed the motion. Among other things, he said that he should be willing to be heard by the whole human race if it were possible.

Mr. Sloan supported the motion. He observed that the Supreme Court commenced their session to-day. If we now adopt rules to exclude those who heretofore have been admitted, it will have an ill appearance and excite many hard thoughts and sayings. The dignity of the House was concerned in this case.

The motion was opposed by Messrs. Stanford, Bassett, and Macon. The debate on this point was at length arrested by a motion from Mr. Chandler to postpone the whole subject indefinitely He conceived the House could get along with their former rules, which will be in force till they are superseded by others.

Mr. Gardner said the lobby had become a kind of exchange for the citizens of Washington to meet and transact business, very much to the disturbance of the House. Some regulation was necessary.

Mr. Holland advocated the postponement.

Mr. Taylor moved an amendment, which was carried—yeas 43, nays 38.

The Speaker said he would take the liberty of observing, before members retired, that it was twelve o'clock to-day, before a quorum appeared.

Tuesday, February 2.

Mr. Newton, from the Committee of Commerce and Manufactures, reported a bill authorizing the issuing debentures in certain cases.—Read twice and referred to a Committee of the Whole.

[This bill contemplates the placing a discretionary power in the hands of the Comptroller of the Treasury, to issue debentures in those cases in which the yellow fever prevailing in the port, omission or negligence of custom-house officers, or sickness in the parties, have caused an omission of the formalities necessary by law to be observed for obtaining drawbacks.]

On motion of Mr. Durell,

Resolved, That a committee be appointed to inquire into the manner in which the Representatives' Hall is heated by furnaces beneath the flooring of the same; what probable influence such subjacent fires have upon the health of the members exposed to their exhalations; and how, or by what means, the injurious effects of the same may,

in future, be avoided; and that they report to this House the result of such inquiries.

Ordered, That Mr. Durell, Mr. John Morrow, Mr. Lyon, Mr. Smelt, and Mr. Kirkpatrick, be appointed a committee, pursuant to the said resolution.

A Message was received from the President of the United States, by Mr. Coles his Secretary, which he delivered in at the Clerk's table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to revive and continue certain causes and proceedings in the District Court of the District of Columbia;" to which they desire the concurrence of this House.

REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. Sloan rose to offer to the House a resolution, embracing a matter of considerable importance. The purport of the resolution was brought before the House some days ago* by those whose fears gave them an alarm, which was further excited by common report. At that time he knew of no foundation, but common report, on which they could ground their apprehensions. It will be recollected, said Mr. S., that I was charged with riding about on hobby-horses, one of which was the removal of the seat of Government; I then considered myself called upon to make reply, and I avowed my sentiments, of which I have never been ashamed. And I now rise, impelled by the love of that country which gave me birth, and further impelled by the duty intrusted to me by a portion of the people of these United States, as one of the guardians of their rights and liberties. As I have been charged with a design of effecting a removal, I now rise to lay a resolution on the table going to effect that purpose, considering the situation of the seat of Government at this place as one of the greatest evils under which the people of the United States do now suffer. As it is a subject of great national importance, I have no desire, in offering it at this time, to press a discussion of it; but, as it has become the topic of general conversation, we have considered it a duty to bring the matter from a state of suspense to a state of certainty—to let the people know that there are a number who are disposed to endeavor to effect that removal. Our view is to lay a resolution on the table, that it may be committed to a Committee of the whole House, to give time for consideration, and to allow those opposed to it to convince us by reason, if they can, that it is improper; but in order to give a fair chance to those who shall oppose it, and afford a knowledge of the grounds on which we shall support the resolution, I shall briefly state them.

In the first place, there is nothing in the Constitution giving Congress power to fix a permanent seat of Government at any place whatever. Here then I draw a conclusion that it is radically wrong to fix a permanent seat of Government; and, for my own part, I ever considered it unconstitutional and contrary to the principles of our Republican form of Government, as much so as it would be for Congress to fix a permanent representation. It is my opinion that the power of one Congress goes no further than the time for which they are elected; and as we return to the mass of the people, at the end of every two years, we have no power to pass a law compelling our successors to sit in the same place that we do. If permitted to speak on this resolution, I shall state that that Congress which passed the law or contract by which it is asserted we are bound to sit here permanently, in departing from their Constitutional powers, brought into existence a nondescript being—a being which has not its likeness on the earth, in the heavens above, nor in the waters underneath the earth. Although but fifteen years of age, it is already evident, to every observing mind, that it is a being of the most voracious kind, and what is worse it is supported on the vitals of liberty; and from its meager and wretched appearance, it must be evident that even in this country, blessed with the love of liberty and freedom, it must perish; and that it is our duty to cause it to perish, is a belief in which I am as much fixed as in any other moral duty.

But, if I should even be wrong in this, permit me seriously to call the attention of the House to one other objection I have. If I am wrong in my premises, and a permanent seat of Government be thought Constitutional, I still conceive that I have another ground for removal, so strong that it cannot be shaken—that this is the wrong place; and this I believe from a variety of evident reasons, which I hope some day to be allowed to state to this House, and for as many reasons, I believe, that Philadelphia is the right place. On this point I beg leave to state a plain and uncontrovertible fact, which none will attempt to contradict—that in a great and flourishing Republic the seat of Government ought to be fixed where provisions are the best in quality and quantity. That this place is Philadelphia is too well known to need proof.

But as I intend to say very little at this time, I shall barely say that I have been compelled to bring forward this by those who advocate it. Believe me, that the safety, peace, and happiness of the United States, at this eventful period, demand us to stop the growing evil, and to remove to a place of safety, where we can unite as a band of brothers—and, a consideration of no small importance to us individually, where we can enjoy society—and, what is more, where there will be a chance for the preservation of health and life. Under these impressions, and from that sense of duty which always has, and always will govern me, regardless of the frowns of the children of men, I offer the following resolution:

Resolved, That it is expedient, and the public good requires, that the seat of Government be removed to the city of Philadelphia for —— years, and that a committee be appointed to bring in a bill for that purpose.

* Alluding to some words exchanged on the subject between Messrs. Sloan and Lewis, in the discussion of the bill for prolonging the continuance of the Mint at Philadelphia.

On the motion to consider this resolution, being a question of course previous to disposing in any manner of any motion, and on which, by the rules of the House, there can be no debate, the question was decided by yeas and nays—yeas 68, nays 47, as follows:

Yeas—Ezekiel Bacon, Wm. W. Bibb, John Blake, jun., John Boyle, Peter Carlton, Epaphroditus Champion, Martin Chittenden, Matthew Clay, George Clinton, junr., Howell Cobb, Orchard Cook, Samuel W. Dana, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Edwin Gray, John Heister, William Helms, William Hoge, Benjamin Howard, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, James Kelly, Edward St. Loo Livermore, Nathaniel Macon, Josiah Masters, William Milnor, John Montgomery, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, Robert Whitehill, Alexander Wilson, and James Witherell.

Nays—Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, William A. Burwell, William Butler, George W. Campbell, John Chandler, Richard Cutts, John Dawson, John W. Eppes, Meshack Franklin, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Daniel Ilsley, Walter Jones, Thomas Kenan, P. B. Key, Wm. Kirkpatrick, J. Lambert, Jos. Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Robert Marion, Wm. McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Ebenezer Seaver, John Smith, Henry Southard, John Taylor, Abram Trigg, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, and Richard Winn.

Mr. Love feared the House had sacrificed too much to politeness in agreeing to consider the resolution before them; for he would attribute to no other cause the motion just agreed to, than the usual disposition discovered by the House, to hear with patience the proposition of any of its members, be that proposition ever so wild and extravagant.

So many, indeed, were the objections to the resolution under consideration, that he found it more difficult to know where to begin with them, than how to make them. The time was certainly the most inauspicious, which could be conceived by any gentleman to offer such a subject for consideration. While the nation might be expected daily to be called on to defend itself against foreign invasion, and to combat for its independence itself, the gentleman has thought proper to introduce a question which of all others is best calculated to divide and distract its councils. It was a subject on which he felt himself unprepared to act, and was taken by surprise; but in any situation he should be ready to offer some of the reasons which must so obviously influence the mind on the subject.

The objection first in magnitude appeared to him to be of a Constitutional nature. The Constitution having provided for the establishment of a seat of Government of the United States, certainly intended it to be permanent; it was one of those provisions which was to act in the prospective, and being once acted on by law, the provision so made was carried into effect, and became a part of the Constitution itself. Such was the provision of the Constitution for taking the census of the people of the United States, it was to be acted on prospectively; but would the gentleman from New Jersey, or any other, say that when the census was taken, and the ratio of representation once fixed for ten years, that it would be competent for Congress to alter it by law?

In another point of view, Mr. L. considered the measure unconstitutional; it would have the effect of impairing the obligation of contracts. It was true this was a restriction expressly only on the States, but was any gentleman ready to say, we had the power to do an act of iniquity, which had not been expressly authorized by the Constitution, and which it had inhibited by a positive declaration. The more correct course, Mr. L. said, would certainly be to modify the resolution so as to propose it as an amendment to the Constitution. When that should be done, it would be time enough to enter into this kind of discussion, which must have the most baneful effects; it would then be time enough to determine whether we should sanction the violation of obligations solemnly entered into, and destroy the contracts made with individuals under the faith of the seat of Government being permanently fixed at this place; who have under this view made conveyances of their property, and that same property has in innumerable instances been again conveyed in fee simple to other persons.

It will under such a motion be considered whether it is proper to sanction the objection which has been so often opposed to popular Governments of the instability of their councils, and whether all these important considerations are to give way to the arguments of the author of the resolution, of convenience and cheap living to ourselves, and that it is better we should *eat our beef in Philadelphia* than in this place.

For these reasons (some of the many he could offer,) Mr. L. said, he should move that the resolution be now rejected.

The Speaker declared that such a motion was not now in order, and could not be received.

Mr. Lewis then moved that it be postponed indefinitely, and called the yeas and nays on the motion.

Mr. Sloan rose with a view of moving that the resolution be referred to a Committee of the whole House, and be made the order of the day for this day, and promised that they would not then call it up to interfere with public business. I trust, said he, we have as much regard for the important business of the nation as the gentleman from Virginia, (Mr. Love,) or any other gentleman.

To that gentleman I shall make some reply, though I shall be very brief. He has undertaken to suppose that the large majority of this House in favor of consideration of the motion, was not from a belief of the propriety of passing it; I hope he will be convinced that the decision proceeded from a sense of duty and a firm conviction of the propriety of the measure. I shall never call anything extravagant which the interest of my country calls for—a removal of the seat of Government from a place which has everything against it and nothing in its favor—which is exposed to sickness and to death.

The gentleman from Virginia has mentioned the danger of division. I am as much in favor of unity as that gentleman or any other on the floor, and shall always aim at it. Members of this House who are at least of equal standing with him and myself, consider it essentially necessary that this should not interfere; it is not our desire to call it up or interfere; we wish to progress with harmony—to give our aid to every measure.

The gentleman supposes I have not read the Constitution. I may not possess the ability or nice discernment of that gentleman; but plain common sense will show to every observer, as that gentleman and some others want to stifle discussion on the subject and to prevent us from showing it by fair reasoning, that the contract is unconstitutional. This is what we wish to show at a future day, and what we shall show if we are not prevented. I will submit it to the good sense of this House, of the citizens in the galleries, and to the impartial determination of all the people of the United States, whether those who feel themselves labouring under a great national grievance, and have brought it before the National Legislature, and declared that they do not mean to urge it, but will give a full and fair opportunity for discussion and every opportunity for argument—whether these, the friends of the resolution, act fairly and impartially, or those the opponents of it, who wish to smother the investigation of it.

I will now barely observe that that gentleman may think as he pleases, and on a future day I will enlarge upon the subject, and show that it is the duty of this House, and I hope to God we shall fulfil it, to remove the seat of Government.

Mr. Lyon said the gentleman from New Jersey had endeavored to have it understood that this was a subject of great importance. Mr. L. believed it was all-important to that gentleman; he appeared to think of nothing else. The matter was growing too serious now to talk of hobby-horses. It seemed that gentlemen who had helped him on his hobby-horse found it necessary to adhere to him too closely. He was in hopes they would have left him and his hobby-horse together. The gentleman, said Mr. L. has talked about eating and drinking; everybody knows what is his profession—but I will drop all this sort of talking. It looks serious—twenty-one in a majority, by yeas and nays to consider this resolution. I will say that I am one of those who was dragged here against my will by a Federal majority. I then thought it was not time to come this far South; but having been brought here, I looked about me, like a farmer about a new farm; I endeavored to dress it up, to build improvements on it, and make it better, and I have acted in that way ever since. What has happened since then? We have acquired a new world to the Southward and Westward of this place. If it was then proper to fix the seat of Government here, what is it now? I cannot see how Federal gentleman can look or talk of the subject without blushing. What can they think of their predecessors for bringing us here when we had not that country! Kentucky too, which now sends six and which at the next census may send ten members to this House, then only sent two.

While I am up I will tell gentlemen a story. A question similar to this is now pending in Kentucky. The seat of Government is now at Frankfort. The people in the Southern and Western part of the State have joined to move it Eastward; and why, do you suppose? In order that they may hereafter carry it Westward. It is now immoveable except by a majority of two-thirds; and in order to carry the seat of Government Westward by and by, they agree to carry it Eastward now. The Kentucky policy prevails here; no kind of doubt of it. Gentlemen from the Southward and Westward intend to humor those Eastward, that they may move it Westward hereafter. Carry it to Philadelphia—how long will it stay there? The next census will give us ten or fifteen additional members from the Westward. Will they be willing to retain it at Philadelphia, or will they carry it to Pittsburg or farther West? It is mere trifling to suppose it will be fixed at Philadelphia. The only object is to destroy this place, on which so much money has been expended. Now I have been obliged to come here, very reluctantly I must say; but when I got here, the more I looked at it, the more I thought this was the proper site. It is one hundred miles nearer to the Western country than Philadelphia, with a water communication upon which improvements are daily making. It has been said that the merchants from the Western country can manage their business much better at Philadelphia. I know that, if I were sent to Congress for myself alone, I should wish to go to Philadelphia; but I have constituents, friends, children; and it is much better for the country that we should be here, and aid the improvement of the place. Bring here the Bank of the United States; we shall soon have a large city; no doubt of it. The reason why you have not now a large population or great improvements, is, that you are always talking about moving. I wish it to stand at least sixty or one hundred years as it is; I am convinced that this of all places in the Union is the best. It is said we ought to be near the seashore, near the water. Here is water. Some say we should go to New York. Here is a good place. Some sneer at the navy yard, and why? Because they refuse to do what they ought towards clothing it, and then laugh at its nakedness.

We have heard it said that if we move to Philadelphia we shall have a commanding lobby; we shall learn the sentiments of the population! The only inducement which influenced me to be a little satisfied at moving from Philadelphia, was, because Congress were almost overawed by the population of that city; measures were dictated by that city. I had rather move into a wilderness; I do not want to go among these people; I have seen too much of them, I have seen the time when members of this House could not walk the streets in safety. I have seen the time when men with cockades in their hats would say "there goes one of the d——d minority." I can never forget the insults I received in Philadelphia whilst in the minority.

Here too is a Constitutional provision with regard to the seat of Government, whether held in this or any other place—a feature in the Constitution, and on that feature a contract is built; on which subject the gentleman from Virginia (Mr. Love) has dwelt very ably. I will not answer the observation of the gentleman from New Jersey (Mr. Sloan) about contracts; he knows how to make a contract about a cow or an ox; but as to any other contract he knows nothing. [Mr. Lyon was here called to order.] I do not mean to be disorderly, I assure you. One word more as to the health of this place. The gentleman from New Jersey has unfortunately compared it with Philadelphia. Have we not been compelled to suspend business and leave Philadelphia on account of the yellow fever? I have been a little sick here; and so I should perhaps any where else. Has any member of Congress lost his life here in consequence of the unhealthiness of the place? They have died of consumption or other diseases brought with them from home. I have seen or heard nothing of the unhealthiness of this place. It is really unfortunate to compare the two places together. In Philadelphia Congress sat one year till July, and would not then have adjourned but for the yellow fever; and it is a ridiculous story to talk of changing the seat of Government from this place to Philadelphia, on account of its superiority in healthiness. I have gone through the observations I mean to make.

Mr. Gardenier said he should not indulge himself at this time in following gentlemen in any remarks they had made. He could easily conceive that there were members in the House to whom the proposition of the gentleman from New Jersey must be disagreeable, and who were impelled to oppose it more by their feelings than their reason. A very considerable and respectable portion of the House had manifested a disposition to hold the question open to discussion—not that they were determined on removal, but that it was a case in which discussion might enlighten and could not do harm. The present motion was designed to stifle discussion; he would submit it to his friend from Virginia (Mr. Lewis) whether he could calculate upon any permanent good to result from this procedure. Would they not prosper their cause infinitely more by reasoning with those gentlemen who were doubtful, than by telling them that they would give no opportunity to satisfy their minds on the subject? Could gentlemen expect that a treatment of this kind will be submitted to hereafter, or that any session of Congress would pass by without agitating this question? He submitted to the opponents of the motion whether it would not be better to enter fairly into the discussion—to govern gentlemen who wished for removal by argument and not by force of numbers. He trusted there were very few gentlemen on the floor who were not open to conviction, even against their own wishes. It struck him that, if they were forced into silence, it would only be making discontent worse; if put down by fair argument, they would have nothing to complain of. The proper and regular course of debate would then be pursued. This question once fairly agitated and negatived, if that should be the result, would have the effect of putting the question more permanently at rest, and more substantially answer the purpose of the gentleman from Virginia (Mr. Lewis) than the mode now pursued by that gentleman, who he had no doubt was actuated by honest motives, and Mr. G. honored him for it. He again repeated, would it not be better to promote discussion than thus to force them to silence—to smother the matter? He did not say this was the intention, for he believed the gentleman was influenced by better motives.

He had avoided making any observations on the main question, because he did not consider this the time for them. If the House were so perfectly satisfied on this subject, and thought so little was due to those who wished a discussion, he must submit; but this procedure would not satisfy the minority or the public. Without committing himself on the question one way or the other, because the vote which had already been taken did not commit any one, he wished to have the matter discussed, that those for it and those against it might have an opportunity to offer arguments. In his own mind, he felt a difficulty in declaring how he should vote, and therefore wished a discussion.

Mr. Lewis assured his friend from New York that he had no intention to stifle investigation. The subject was now before the House, and as perfectly open to discussion as if before a Committee of the Whole House. My object, said Mr. L., in making this motion, was to invite discussion, but to invite it at this moment; because every moment that the subject is pending is death to the interest of the District. I wish it to be ascertained at once whether a majority is in favor of removal or not. I wish this investigation, and was in hopes that the gentleman from New York, or some other, would offer some reasons for bringing forward this measure, so fraught with mischief and distraction to the District. It is no reason with me to remove to Philadelphia because I and others can be better accommodated there than at this place; it is no reason that beef or any other article sells cheaper than at this place, or that we can get information from the lobby at Philadelphia which we cannot get here. If members of this House should ever become so dependent that they must be indebted to persons out

of doors for information as to the course of conduct they should pursue, it will be time for the people to call us home, or to alter the Constitution, and elect the whole representation of the Union from the city of Philadelphia, because Philadelphians alone are capable of directing legislation for the public good. Is the gentleman, so full of economy, ready to answer to the nation for the sacrifices which he will make by a removal? Does he not know that the nation has expended here twelve or fifteen millions of dollars?

If gentlemen will bring forward any reasons in favor of a removal, or show why this sacrifice should be made, I shall be prepared to meet them. If there be necessity for removal, why is it to Philadelphia, from which place we were a few years ago obliged to remove on account of our lives being endangered by the unhealthiness of the place, independent of other and not minor considerations. I do not believe that in the whole United States there is a more healthy place than this. My object, however, is not now to enter into a discussion, for I am totally at a loss to know what grounds gentlemen can take to support this motion.

Mr. MASON said the present motion brought the resolution regularly before the House, and it was now in order for the friends of the resolution to justify it. It was not proposed to postpone it indefinitely, with a view to stifle discussion. If gentlemen recollected that the friends of the measure were prepared, (as he had no doubt they had had it under consideration long enough to be prepared,) there was no occasion for further time. As the question was now regularly before the House, he would state his objections to the resolution, and to a removal.

A greater question than this, said Mr. M., has not, in my opinion, been agitated since the adoption of the Constitution. If I understand it, the Constitution requires that this shall be the permanent seat of Government. Though the word *permanent* is not contained in the clause of the Constitution relative to this subject, it is clearly implied. The Congress shall have power "to exercise exclusive legislation, in all cases whatsoever, 'over such district (not exceeding ten miles square) 'as may, by cession of particular States, and the 'acceptance of Congress, become the seat of the 'Government of the United States," &c. Can language be more explicit? Would gentlemen say that the addition of the word *permanent* would make it more so? It only requires reading to be convinced that the Constitution contemplates a permanent seat of Government.

A great many objections had been offered to this place, instead of a demonstration of the right of Congress to remove from it. The sickness of the place has been much relied on. I am not sure that this place is more or less sickly than any other: this is a mere matter of opinion, on which men will differ. In examining this question, my mind has been forcibly turned to the situation of the people in Washington and its neighborhood, who gave up their landed property to the Government—On what terms? That this was to be the permanent seat of Government. Could the people calculate on its being but a temporary seat of Government? Those things called *public contract* and *public faith* do not seem, in the present question, to come into consideration. If public faith is violated in small things, it will soon be violated in great ones. Violate it as respects the City of Washington, and we shall soon violate it in other and greater matters. I consider the faith of the Government as much pledged that the seat of Government shall be permanently fixed here, as it can be to any contract under the sun.

As to *living*, Mr. M. said, it is possible they might live better in Philadelphia than here, but not cheaper. Gentlemen board here for precisely the same as formerly in Philadelphia. He himself boarded for the same sum here as he paid there.

If we were to remove, said Mr. M., I should be opposed to going to any large city. True, I have more acquaintance with Philadelphia than any other, but they are all much alike, I believe. There is scarcely a place in the United States to which I had not rather go than to Philadelphia—I had rather go to Fredericktown, Hagerstown, or Winchester. We may talk about our independence, but every man in Congress, when at Philadelphia, knew that city had more than its proportionate weight in the representation of the Union. Go to any city, and the same influence will be experienced. Do gentlemen recollect what was the state of the public mind there during the years 1797 and 1798—the time (as before said by the gentleman from Kentucky) when the name of Republican and Democrat was accounted a disgrace? There are gentlemen in my hearing who were then associated with me in legislation, and who know and will attest the truth of what I say, that we were shunned as a pestilence—the yellow fever could not be more carefully avoided. I do not mention this as any reflection on the then Administration, but as an evidence of what may be expected in large cities. We may do very well in peaceable times, but come to the times which try men's souls, and we should have to desert them for Princeton or some other convenient village.

There is another evil which I dread, and which may have influence as an objection to the resolution. I have lived in a State where for some years the government was always on the wing—where the Assembly, at each session, determined where they would sit the next. What I saw there fully satisfied me of the propriety of a permanent seat of Government. This question, should the House determine on moving, will undoubtedly work itself into your elections for President and Vice President. Give us this seat of Government for so many years, it will be said, and we will give you a President. It will go to corrupting your Legislature by making this a contracting Government; and I believe, as much as I believe in anything, that it will have this effect.

I have another reason, why I think Philadelphia the wrong place, and this the wrong time for removal. The charter of the Bank of the United States expires in 1811. In 1809, it is proposed that we shall be in Philadelphia. We shall then

have two years before us to talk and be talked to about this bank. Let us be as far from them as possible. If we must remove, let us go over the Alleghany. Remember that these large cities are the places where every advantage will be taken of our proceedings. Recollect the speculations, at the conclusion of the war, on the claims of our brave soldiers and officers. These large cities have always had too much influence in this body: go among them, and it will be increased an hundred fold.

The gentleman from New York seems to think that those opposed to the resolution are influenced in their opposition more by their situation than by their judgment. This is one of those arguments which works both ways—which applies as well to the supporters as to the opponents of the resolution. If it is a good argument because I live in Carolina that I have a local prejudice against a removal, is it not equally good because he lives in New York that he is for it? I should not have noticed this, had not the novelty of the idea drawn my attention to it.

I do not agree with the gentleman from New York, that by a decision in any way, this question can be put finally to rest. The subject has been always spoken of more or less, and for my part I am ready to meet it here, or go to a committee on the subject; but I can always say in twice speaking all I wish to say on any subject.

I am so satisfied that this proposition contemplates a breach of public faith, (which in free governments ought to be as sacredly adhered to as anything among men,) that I should not hesitate to give my vote against it. But, in addition to this, when gentlemen consider the effect it will have upon the election of President, if we shall be set at liberty to go East or West, North or South, it must appear best to stop it here; for, unquestionably, talk as much as we may of independence and integrity, when the thing is once afloat—when the Government is once started—it will be said by each, since it is to be removed, we have as much right to the benefit of it as any one else; and thus may it be made a matter of bargain or compromise.

Mr. JOHNSON rose to notice an observation of his colleague (Mr. LYON) relative to intrigues in Kentucky concerning the removal of the seat of government of that State. If he who has so lately come into the State knows of this intrigue, said Mr. J., I who drew my first breath in that country am ignorant of it. I can say that I believe the citizens of Kentucky do not manœuvre in that way.

I voted for the consideration of this resolution because I wished a discussion; but if the interests of the people of this District are to be sacrificed, and no remuneration made, I certainly shall not agree to the resolution; and I would rather spend my time while here in a dungeon than violate the public faith. But I wish an investigation of the subject. I go out of this Hall, and what do I hear? That Government can carry on its operations in Philadelphia at a saving of $250,000, annually, less than at this place. If I am fully satisfied of this, I shall vote for a removal. If the crisis will not justify a removal, or I shall be convinced that these inducements for removal do not exist, or that it will be a breach of the faith of the nation, I shall vote for staying here: whatever my private inconveniences may be, I care not for them. If, in the course of discussion, I shall be convinced either way, so shall I vote. If I am convinced that it is expedient and for the public good, and that it is consistent with the Constitution and good faith to remove, I shall vote for the resolution in spite of all that can be done to prevent me. If, on the contrary, I shall be otherwise convinced, I pledge myself to myself and to my country to vote against removal and every breach of public faith.

Mr. LYON restated the circumstance of the removal of the seat of Government of Kentucky. He did not mean to charge his colleague or any others with these designs; he had merely stated facts and reasoned from those facts. But he did say, that it was no more than natural that when the Eastern interest was joined by the Western, when the latter was increased by ten or fifteen additional Representatives, they would have the whole of this interest to carry the seat of Government hereafter Westward.

Mr. KEY rose to offer some observations on the all-important question now before the House. He was most decidedly in favor of an indefinite postponement of this question, because he himself was opposed to it in every shape, and as those whom he had the honor to represent on this floor were unanimous in their opposition to the measure. He should therefore violate his own principles if he did not in every stage of the business give this his utmost opposition. He had not, when he casually came into the House this morning, the smallest expectation that this subject was to be agitated; but as he considered that the first view of the matter furnished ample reason to defeat the measure, he should without preparation endeavor to give his sentiments upon it.

I believe, said he, that we are now about to give all that the friends of the measure can ask—not a stifled, but an ample discussion. I understand the resolution now to be fairly before the House, as if in Committee of the Whole, or in any other state. If I am correct in the opinion that it is the proper time to make observations on the merits of the question, I must be permitted to express my surprise that gentlemen in favor of the measure should require farther time to make up their minds. Had we, the opponents to it, asked for time, it might have been reasonable; but that others who had been so long in preparation should wish to procrastinate, has really astonished me. I believe that the sooner a question of this sort receives the decision of the House the better, because on it depends the fortunes of thousands. To us it is of very little moment whether it is disposed of on this day or on some weeks hence; to those over whom the dagger is suspended by a hair, it is of moment. Let them immediately know the worst.

I do not know what may have been said before I arrived here; but no reason has been offered since to justify the resolution on the table. The

resolution itself is couched in captivating phraseology, begins with expediency and the public good, high sounding words, but which should be well weighed before they are acted on. We are all desirous to do what the public good requires, although we may differ as to what constitutes the public good. I had hoped to hear some advocate for this removal give some reasons for it; but in this I have been disappointed. Whenever a great and imperious public duty calls for the destruction of a portion of a free country, that call and that duty must be manifestly imperious, or not carried into effect to the ruin of individuals. What is the necessity which makes this a duty? An honorable member from Kentucky, who has not made up his mind, says he has heard that so much will be saved. Why, in the name of sense, are not calculations produced? Gentlemen, advocates of the measure, must have thought on the subject and made calculations. I cannot for my part see how such a saving can exist, I will reserve myself to that moment when a statement is exhibited, to prove to the House that it is on false ground; that there will result in time advantages which will more than meet any present expenditures—that it is the statement of a person taking a narrow view of the subject, looking at the present population of the city, instead of taking a liberal view, and considering what its consequence will be to our great and growing nation.

An honorable member from New Jersey, whose motives, no doubt are correct, (and here permit me to say what I trust will always be found correct, that I consider the motives of every gentleman to be correct, and will always suppose them so, and endeavor to show that they are mistaken in practice;) has said this is a sickly place. I pray you where is the authority for the assertion? Have gentlemen that information which every one ought to have before he pronounces on its sickness or health? There is no place possessing a population so thin in which more instances of longevity can be produced. Those who come from different parts of the Union with the seeds of disease in their frames cannot exist longer here than in their native clime. It is, I know, ridiculous to make comparisons, but I undertake to say that this city has been as remarkable for health as any spot in the United States. I will go farther and say, from my own knowledge of the fact, that, there is not in the United States an instance of greater longevity or more health of natural born subjects or citizens than within this District. Did the gentleman's observations flow from the case of his late colleague? The gentleman must have been thus alarmed and had his fears thus excited by his regret for his friend. But I will venture to say, that in a congregation of any given number of gentlemen in the same stage of life as those here convened, that there is no portion of country where an equal number of deaths may not be expected as have taken place from this body in preceding years. The gentleman convened here are not in the flower of youth; they are gentlemen sent here from their experience, and whose regularity at home is changed by their occupation here, being deprived of their regular habits and prevented from taking that exercise to which they have been accustomed. And take the population of the city, and I will undertake to say and prove that there never has happened a proportionate number of deaths to those which usually occur in other situations. But granting the assertion made, should we better our situation by removal? Look at the times, at the crisis at which it is thought proper to propose a removal—a possibility of impending war, in which case may occur a Summer session of Congress; and will any gentleman say that the disorder prevalent in that city in the Summer months (whether native or not, is not necessary to inquire—it is sufficient to know that it exists,) does not leave a greater chance for ill health than the general salubrity of this place? No man can say that the prospect of sickness would be diminished by a removal to Philadelphia; by comparison it would be increased.

This measure ought to be shown to be politic. After seven years' stay in this place, what at this moment calls for a removal? Is it the crisis of our political affairs? Is there not as much safety here as at Philadelphia? Doubtless. If no imperious necessity calls for a removal, I hold a better opinion of the heads and hearts of the gentlemen composing this honorable body, than to suppose they will hesitate when they look at the subject. I am convinced that they would not sacrifice to personal inconvenience the welfare of ten times their number, that they might be fed on more dainty food, see more company, or enjoy somewhat more of personal gratification. They would not by a removal consult mere personal accommodation at the expense of those so greatly to suffer.

But are we at liberty to remove ourselves? Can we remove the seat of Government? Is there no doubt on the constitutionality of a removal? Does not this proposition contemplate a violation of the public faith, which imperiously calls upon us to respect the honor of the country! The faith of our Government, like Cæsar's wife, must be preserved not only inviolate, but unsuspected. How came we here? By the wisdom of the Convention which framed the Constitution. The framers of our Constitution selected a district of ten miles square, to be under the immediate and exclusive jurisdiction of Congress; they ingrafted it into the Constitution and authorized the acceptance of a cession of this territory from one or more States; for what? For a temporary seat of Government? However it may be the fashion of the present day to cherish this changing disposition, those patriots who framed this instrument never did suppose that this was not to be the seat of Government. This District of ten miles square was intended when selected to be the permanent seat of Government, the depository of the nation's archives. This spot was selected. By whom was the whole projected? By him who was inferior to no man living; by him whose judgment will be venerated till the foundations of liberty are sapped and gone. In the maturity of his judgment, experience, and attachment to his native land, he called the Constitution into effect by placing the seat of Government on this spot; from its central situation, its health, its convenience to the Atlantic, and its easy access to the Western waters—for all these causes combined together, I hold the most profound respect and place the most implicit confidence in his judgment. And, appealing from his judgment, we are called upon to move from here before we are scarcely warm in our seats, from no better consideration than a little personal inconvenience, without considering the merits of the question on public policy.

The resolution on your table contemplates a limited fixture at Philadelphia. It is well known and calculated upon that the population of Philadelphia may do things which this poor place cannot. They calculate upon the superior talents and overbearing wealth and influence of Philadelphia, to retain the seat of Government there not for a few years, but as long as Government exists. Expediency and the public good!—a man must be hoodwinked who cannot look under the curtain and see what these words mean.

I am for retaining the Government here, where it was originally fixed by the sage whose name it bears, and the establishment of which may almost be considered as an act of the Constitution, because the act was done by a law emanating from and carrying into effect a provision of the Constitution. The erection of a permanent seat of Government was the only mode on earth by which the Constitutional provision could have been fulfilled. Did our predecessors consider this as a temporary seat of Government? Every word of the law which they enacted, and which was considered as an interpretation of the Constitution, expresses the reverse. Refer to chapter 28, vol. 1. of the Laws of the United States. Let us see the contemporary construction given to the Constitution by the members of that Congress, some of whom were members of the Convention who framed it, men distinguished for their vigilance in guarding the Constitution. "That a district 'of territory, not exceeding ten miles square, to 'be located as hereafter directed on the river Po-'tomac, at some place between the mouths of the 'Eastern Branch and Connogocheague, be and is 'hereby accepted"—for what? "for a permanent seat of the Government of the United States," &c. And in succeeding laws on this subject the same language is repeated. No man living ever construed that instrument to give exclusive jurisdiction over a certain territory for a temporary seat of Goverment. We all know the disadvantages attendant on a temporary situation; there are gentlemen within the hearing of my voice who know the contests which arose whether it should be held at Philadelphia, New York, or elsewhere, previous to its being made stationary. Neither the framers of the Constitution, or the Legislature who carried it into effect, ever did dream that this was to be any other than the permanent seat of Government. The expenses incurred here also incontestably demonstrate that to have been the intention of the Legislature.

Suppose, for the sake of argument, that I am mistaken in the Constitutional requisition; and that the fixing the seat of Government was a simple legislative act as all other acts, and predicated not upon the Constitution but upon expediency. Reflect, and say, whether in consequence of that act you would not by removal violate the public faith. I mean not by this to say that any gentlemen on this floor has less respect for it than me, or that any one would wantonly concur in violation of it; but it is fair argument. When the cession of the territory was accepted, and the City of Washington designated as it was to become the permanent seat of Government, I ask the honorable members of this House, being then a wilderness, whether on the faith of its being permanently the seat of Government, individuals did not come forward and invest vast property in lots and improvements on it? Did you not by law solemnly say that this should be the permanent seat of Government, and invite numbers of persons to come here, to build houses and make improvements which necessarily grew out of that law? Was not the investment of their property a legitimate act, in pursuance of a public law? Unquestionably it was. If you remove hence, what will be the consequence? Are the people who have reposed their confidence in the faith of a public law to be sacrificed? Have they no right to complain of a violation of the national faith by a removal, if agreed to? I ask if this law did not hold out to them a permanency? And if after a lapse of seven years the seat of Government is removed, if that act has not been a decoy to all those people who, confiding in a public act, have settled in the city? Say that we are capable of repealing that law; if we do it, is not the repeal an infraction of good faith and contract with those who advanced their money? Is it less a breach of contract to induce a man to come here in hopes and confidence in the permanency of the Government here, than it would be to borrow money on the faith of the nation, and by a simple act of legislation to wipe away the obligation to repay that money? Foreigners were by law competent to hold real estate. Large sums were by these men vested in the property of this city, relying on the faith of the United States. How so? Here is the law, I hold it in my hand, fixing a permanent seat of Government. If persons embark their property in this stock, on what do they do it? On the faith of this law. Repeal this law, remove the seat of Government, and our faith is gone in Europe; for those nations who hold stock in our funds will as soon expect that the obligation to pay that shall be cancelled, as that we should violate our faith by repealing a law in which it is pledged. Take the question in this view, and it is all-important.

An honorable gentleman, whose liberality I approve, has no idea that ample compensation for these losses should not be made. If this measure should carry, he would not find many seconders of that motion; more especially at this time. Do gentlemen believe that compensation is seriously intended? No such belief can be cherished. Gen-

tlemen will not feel themselves bound to attend to the dictates of conscience when they disregard the obligations of a law: they will not leave the people as they found them; they will leave them ruined, by coming forward with their property to furnish those accommodations which we now enjoy. I trust, however inconvenient or dispersed the situation of our places of residence, however indifferent our accommodations, that these minor and petty considerations will be thrown out of view, when gentlemen consider the situation of those who have a right to be remembered when this measure is considered.

I do most ardently hope, that this question, when once agitated, may forever be laid to rest, so that a confidence in the permanency of the Government may inspire persons with a disposition to settle here and better our accommodations; for, so long as this question is agitated, so long proportionably will confidence be diminished and hope extinguished. Accommodations will grow worse from year to year, and at length be made a pretence for removal. From year to year you will prevent others from making improvements, and then easily make it a pretext for complaint against accommodations. The House, I feel convinced, will not do this; they will act differently; they will encourage and promote this place from its peculiar situation; for nothing has yet been said to justify an act pregnant with such mischievous consequences to the people and the nation.

But, says an honorable gentleman, you wish to stifle inquiry. I ask for discussion, for information, for calculations; and if any honorable member will convince me that it is Constitutional and proper, and that it is demanded of us by the public good, I myself, for public good must be preferred to private feelings, will vote for it. But the case is so plain that he who runs may read. If the affairs of Government be not better transacted here than at Philadelphia, they will not be worse. Shall we gain by going to Philadelphia, in preference to staying here? Shall we gain by removal to a large commercial town, whose capital and interests are much in the hands of foreigners domiciliated among them, a motley crew, a heterogeneous mixture, coming from every portion of the globe? Are we likely to increase in our attachment to republican habits, by such a change? Certainly not.

On another account I should object to a removal to Philadelphia, if no other objection existed. Honorable and independent men may be influenced and biassed by external objects without themselves knowing it; and this would be greatly promoted by going to a large commercial town. Shall we acquire more local information there? No. Can a member from Georgia there procure better information in relation to his duty to his constituents, than he can here? No. Information, then, he can give you none, except it be to prejudice you in favor of commerce, for which reason it is the worst place you can go to, as it may insensibly induce you to sacrifice agriculture at the shrine of that commerce now jeopardizing the best interest of the country, and leading us to war. These are evils likely to grow out of a removal; I do not say they will, but it is right to consider what may possibly exist in the one place, and which cannot exist in the other. I do verily believe from my soul that was it not for the single circumstance of obtaining information from Europe with greater ease, that the National Legislature should sit in the heart of the agricultural interest instead of running into cities. A removal into a large commercial city, where all the inhabitants would give us good dinners and handsome entertainments, operating on our prejudices and taking advantage of unguarded moments, would insensibly bias our better judgment. The agricultural and commercial interests are not the same. Agriculture can never amalgamate with commerce, but commerce may involve agriculture in the expense of a war. There is nothing under Heaven to induce me to remove to Philadelphia. If the seat of Government must be moved, take it to any considerable inland town, where honorable gentlemen may long enjoy great health. If you wish for good health and living, go to Lancaster. But as in my heart and soul I believe that almost all the benefits are enjoyed here that could be enjoyed in any other place, and as this is fixed as the permanent seat of Government by the law and the Constitution, I think it most unwise on any consideration to attempt a removal, supposing no individual injury to result from removal.

An honorable gentleman from New York (Mr. Gardenier) supposes that the motion of the gentleman from Virginia (Mr. Lewis) was intended to stifle discussion. I would not for a moment jeopardize the property of the citizen, or give rise to a supposition that we had an idea of violating the Constitution or the laws. Does the gentleman suppose the minority could be convinced by reason or argument? I never yet saw a minority which could. The gentleman says if we now strike it down, it will be brought forward next year. If there be a minority they will no doubt bring it forward next year, if they have the whole session now allowed for discussion. It is neither improper nor impolitic at this time to decide it.

The gentleman from New Jersey has mentioned society. If we remove to a place where there are abundance of ladies and good cheer, it is likely we shall now and then be remiss in our duty. That might be a reason why this of all others is the place to sit in. If ever you want men to do their duty, I have found it a good thing to place them where they have nothing to take off their attention; and rely upon it, wherever you increase temptation, you encourage neglect of duty.

I have no doubt that the honorable member who made this motion has given the sense of his constituents; but something of local interest is to be given up to a Government of compromise like ours; much was given up to its origin and much must be surrendered now. If I am not mistaken Philadelphia herself is now tremblingly alive, watching the direction of a great western road which is contemplated to lead to Baltimore, and

by which she will feel herself injured. The honorable gentlemen who feel it their true interest to have communication with the Western country by any road which shall terminate at Fort Cumberland, are, in the true spirit of commerce, looking for pecuniary advantage over each other. I see the honorable gentleman smile. Let Philadelphia yield her rights to where they are better placed for the national security. This road is the great connecting link between the Western country and the Atlantic waters; and the struggle is to remove it so as to go nearer to Philadelphia. The same objection which applies to Philadelphia applies to Baltimore. No great commercial town is suited for the seat of Government. The honorable members of the House, duly weighing this question, will certainly find it their duty to give faith to a law which they themselves have enacted.

Mr. Milnor said this was a subject of great importance, as was evinced by the anxiety of those who had spoken against removal. He should have hoped that the importance of the subject would have induced gentlemen to wish for time to consider it maturely, that every gentleman might have an opportunity fairly to deliberate, weigh well, and decide wisely upon it. It appears, however, that gentlemen are determined to bring the principle to immediate discussion and decision. This looked to him as if gentlemen were afraid that the House should have an opportunity of deliberating upon this subject. He recollected that the subject was introduced in discussion of another question a few days ago, and treated with lightness by a gentleman who has this day moved an indefinite postponement; another gentleman, to-day, could scarcely believe it serious. Thus some who were opposed to it told them that they cannot believe it is seriously meant, while others on the same side deem it very serious indeed, and therefore wished to strangle it in its birth without further discussion. He hoped the good sense of the House would induce them to pause and consider before they decided on the present question. He did not propose now to enter fully into a discussion of its merits, but just reply to a few observations of the gentlemen who had spoken against the resolution.

A gentleman from Virginia (Mr. Lewis) has asked, if we can think of giving up the place after so much money has been expended? I will in turn ask him a question; where have these ten or fifteen millions been expended? Let us look around and see what we have for them. It is true that here we are convened in a splendid mausoleum, in which we are buried alive for four or five hours a day, and which, notwithstanding all the efforts of gentlemen in speaking, is so ill constructed for understanding, that we might almost as well be immured in the silence of the tomb. We have a very splendid house also for the President of the United States; but where is it? A mile and a half hence, in another village; for as to city, it is a burlesque upon the term to call this a city. We have also public offices, so distant that members who have the slightest business to transact cannot do it without neglecting their duty. This city, as it is called, is about sixteen years old, and is yet apparently in its very infancy. We are told that about from ten to fifteen millions have been expended in bringing it to its present state. I ask how long it will be before we can possibly be accommodated with any convenience? Is there to be no end to the expenditure? We have not only expended these large sums for the erection of buildings, but after that we must appropriate more for watching them and keeping them in repair. This very House has caused an increase of the contingent expense of not less than $5,000 at this time, which must be continued and perhaps increased every session.

It is acknowledged by members and citizens, that the city is laid out on an impracticable plan, and that in its present form it never will assume the shape of a city. Is it possible to produce an instance of any city laid out on this plan arriving to perfection? All the inhabitants, if gathered together in one spot, would not be able to pay the expense of paving, lighting, and watching, the avenues and streets, on account of their great width. It is said that the city must be concentrated, and it is allowed that it would be absurd to expect it to grow into importance unless it is concentrated. If, then, we consider the policy of the measure, it will be considered as impolitic in the extreme to go on expending millions from year to year in endeavoring to effect objects which cannot be finally effected after all that is lavished. A comparison has been made between the healthiness of this city and Philadelphia. I am not prepared with documents now to make the comparison; but one fact I will state which can be proven; that during the long sitting at Philadelphia the deaths among the members of Congress were but three, perhaps only two, and I need only recur to the last session to show that as many deaths have occurred here in one session as in Philadelphia during the whole time Congress sat there.

Having no documents, I cannot go into minutiæ upon the comparative healthiness of the two places; but having been born and brought up in the city of Philadelphia, and having also resided several years in the neighborhood of this place, I am seriously of the opinion that Philadelphia is by far the more healthy place.

It has been said by the gentleman from Maryland that he should be at all times opposed to the seat of Government being fixed in any large city, and he has alluded to the influence which it might possess over members of Congress. I will ask the honorable member whether he feels that he should be influenced by considerations of that nature? I have put this question home to individual members who have made this suggestion, but have never yet found the man who thought that he himself should be influenced in that way. He has no suspicion of himself, but mistrusts his weaker friends. I cannot suppose that the Representatives of the nation can possibly be so weak or wicked as to suffer considerations of this kind to influence their better judgment. But I will

admit it for a moment, for argument's sake. Is it not contemplated by the friends of this place that it will become a large city? And do they not bring forward as an argument that we will not give this city a fair chance; that if we cease to agitate this question, the city will grow and flourish? Whenever that time arrives, agreeably to the gentleman's argument, it will be necessary to remove, because a large city is not the place where Congress ought to sit.

I have been always of opinion that the interests of agriculture and commerce are intimately blended with each other; that the interests of the one cannot be greatly promoted without essentially aiding those of the other. This being the second commercial nation in the world, it is necessary that the Legislature of the Union should meet in a place where they can obtain the best commercial information. From the very nature of our Government there is no danger, nor can any be apprehended, but that the agricultural interest of the nation will be fully represented on this floor. The growing interest of the Western country, and their rapidly increasing population, will assuredly give a full representation to the agricultural interest of the country; but I cannot believe, at the same time not wishing to derogate from their merits, that gentlemen born and educated in the interior can be as capable of legislating here on commercial subjects, or that they can so clearly discern the connexion between agriculture and commerce as in a large commercial city. I am sorry that upon various occasions, I have discerned a degree of prejudice on the minds of some gentlemen against the commercial interest of this country. It never can be dangerous to the agricultural interest while the representation of the latter on this floor so greatly overbalances the former, which must always be the case.

It has been objected to this proposition by some gentlemen, that the Constitution has fixed this as the permanent seat of Government, and that without a violation of the Constitution we cannot change it. The gentleman from Maryland (Mr. Key) did not seem to insist so strongly upon this as some others, while however he was inclined to this idea. What says the Constitution on this subject? "Congress shall exercise exclusive legis-'lation in all cases whatsoever over such district '(not exceeding ten miles square) as may, by ces-'sion of particular States, and the acceptance of 'Congress, become the seat of the Government of 'the United States." The same section also goes on and says, "And to exercise like authority over 'all places purchased by the consent of the Legis-'lature of the State in which the same shall be, 'for the erection of forts, magazines, arsenals, 'dock-yards, and other needful buildings."

Thus the two subjects are blended in the same section. The same contract appears to be made in relation to the one as in relation to the other. I will ask gentlemen do they believe that Congress has not a right to discontinue a navy yard or a dock yard? Not a gentleman in the House will say that Congress has not full power to do this. I can see nothing to restrain them in the one case which would not restrain them in the other. Suppose that the seat of Government should be fixed in a place so extremely unhealthy that members would not go to the spot designated, feeling such a degree of terror for its character (this I state merely as a possible case) as to induce them rather to decline the honor of an election than come to the seat of Government; or suppose it should be found that the city or place was in danger of immediate invasion, so that there was a probability that the Congress might be seized and carried off. Even this is a possible case. Would there in these cases be no remedy? A great many other reasons might be brought forward to show that the place for the seat of Government was not a proper one, and yet it is contended that we must submit, and no alteration could be made. Nothing more is meant by this provision of the Constitution than that during the time in which the seat of Government shall be fixed in any place, we should have exclusive jurisdiction of that place; it never could be understood to tie us down to that district.

It has been said that this would be a violation of private contract, and that if we remove we must make all losses good? I do not believe that an implied contract of this nature is strictly binding on the Government. But I believe that those individuals who have made purchases and improvements on the faith of the Government ought to be remunerated, and I hope they will be, if it should be thought the interest of the United States that the seat of Government should be removed.

This subject was not contemplated by myself as being likely at this moment to occupy the attention of the House. I certainly expected the opponents of the measure would be willing to postpone a discussion that every gentleman might inform himself, and that it might be fairly and deliberately decided. We have heard many things asserted which ought to be inquired into. I have been informed that a high and responsible officer of Government has said that the Government does sustain a loss by continuing here. I wish this to be ascertained. Why are we to be forced into a discussion? Why are gentlemen so averse to inquiry? It appears to me that their fears are alarmed; that they are convinced that a mature consideration will operate against them. I must, therefore, conclude that those gentlemen so desirous of immediate discussion must be of opinion that further time will operate against them and in favor of the measure. I hope the House will see the propriety of postponing the subject at least for a few days.

An adjournment was now called for, and carried.

Wednesday February 3.

A Message was received from the President of the United States transmitting certain orders of the British Government against the maritime rights of neutrals, bearing date the eleventh of November, 1807. The Message, and documents accompanying the same, were read, and referred

to the Committee of the Whole on the state of the Union.

Mr. Van Rensselaer, from the committee appointed on the ninth ultimo, presented a bill for the relief of Samuel Whiting; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Love submitted the following resolution:

Resolved, That two other members be added to the committee, called "The Committee of the District of Columbia."

The said resolution was read, and ordered to lie on the table.

On motion of Mr. Poindexter,

Resolved, That the Committee of Ways and Means be directed to inquire whether any, and if any, what, amendments are necessary in the act, entitled "An act for laying and collecting duties on imports and tonnage, within the territories of the United States, by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes."

REMOVAL OF THE SEAT OF GOVERNMENT.

The House resumed the consideration of the resolution proposed by Mr. Sloan, for the removal of the seat of Government of the United States to the city of Philadelphia—Mr. Lewis's motion for indefinite postponement being under consideration.

Mr. Gardenier said he was compelled, by the course which had been taken by those opposed to the resolution, to give his opinion on it without that information and those lights which he could have wished. He felt how unpleasant, how painful it was to debate this question in this place. But, how much soever he might regard the feelings of those who heard him, his duty would compel him to say things which might wound them, in spite of all his wishes to the contrary. Indeed, there is nothing to cheer me on the way which I must take—the course which I have prescribed to myself.

That this place was not fit to be the seat of the Government of a great and powerful empire, and never could become so, he had long been convinced. There was nothing in its local situation to recommend it, nothing in what had been done toward its improvement, and certainly nothing in the increasing expenses with which they were threatened. The situation of the members was extremely inconvenient to them, both personally and as it regarded the discharge of their official duties, for it was impossible to attend their duty in the House and to do any business at any of the offices. Their duty at one place or the other must be sacrificed. The scattered situation of the buildings rendered this inevitable. You have scarcely been able to form a village capable of accommodating the members of Congress. Yet gentlemen talked of this city! of checking the growth of this city! Yes, sir, a city which, for eight years, has baffled all the liberality, all the profuseness of Government. How long, he asked, are we to go on through dirt and mire before we are able to perceive that it never can be a city, if the result of an eight years' experiment brings no conviction? If hope be still able to struggle against evidence so irresistible, argument would be vain. But he begged gentlemen to consider that there was a point at which even hope should stop—they had arrived at that point. A gentleman from Virginia (Mr. Lewis) had said that fifteen millions of dollars had been expended on this spot, and therefore Congress should not remove; therefore they should stay to expend probably fifteen millions more. For where could its effects be seen? Had it produced a city? Had it so much as produced accommodations for the members of Congress? But it had been said that they ought to submit to personal inconveniences. True. No personal inconvenience should be irksome by which the public good was to be promoted; but it could not be justly demanded of them to do perpetual penance, to sentence themselves to voluntary martyrdom, for the mere purpose of tapping, of draining, year after year, the public Treasury, that those who live upon the vitals of the Government may not perish for want of the sustenance they derived from it, and which, if gentlemen on the other side could be believed, was all they depended or could depend upon.

Even in this splendid edifice, on which so much had been lavished, but which, after all, was totally unfit for the purpose of debate—in which if members wished even to hear what was said, they were obliged to exercise their earnest, their utmost attention—the miser did not bend more earnestly over his darling gold than they were obliged to do to catch, amid the ever contending echoes of the Hall, the indistinct sounds of the speaker. Unless apprized previously of what was to be the subject of debate, nine-tenths of what was said would never be heard by nine-tenths of the members. So far, the labors of the architect, and the liberality of Congress, have been exercised to no purpose.

In one word, said Mr. G., is there anything in this city which invites us to stay? Or, in other words, and to place the question in a proper point of light, if we were in another place, is there anything here, a view of which would induce us to come here? Is there a member on this floor so bold as to assert that he would come here, with the knowledge he possessed of this city? If there is none, and he would almost venture to say none could be found, the arguments to induce us to remain should be very convincing, very conclusive indeed. The considerations to remain in a place to which we ought (as experience had incontestably proved) never to have come, should be irresistible. But, were there reasons so strong, so imperious as to tie them down to this spot without the permission even to make a struggle to remove from it? No, sir. We are not tied down here by any wizard spell—there is no enchanted castle here, from which, like some of the heroes of knight-errantry, we cannot escape. The charm is easily broken.

Specious as the pretences are, they are but specious. Two objections are made to the removal.

In the first place, it is contended to be unconstitutional. In the second place, it would be a breach of the public faith. If either of these positions be tenable, there is an end of the question. These objections had been urged with an appearance of seriousness, and therefore he should answer them seriously.

As to the constitutionality, was there one word in the Constitution which required Congress to fix a seat of Government, which enabled them to fix it? Or, to put the question more broadly and more strongly, which required, which enabled them to fix the seat of Government permanently? He would venture to say not a word in it, could, by the torture of the most rigid interpretation, be brought to amount to it. The words "seat of Government," were, indeed, mentioned in it. But for what purpose? To fix the Government permanently, eternally, to the spot which should be selected? Nothing like it: for the purpose and the sole purpose of giving to Congress power to exercise "exclusive legislation" over that spot. Here Mr. G. read that part of the Constitution which relates to this subject:

"Congress shall have power to exercise exclusive legislation, in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States."

Was there, in this phraseology, anything to lead the mind to fix on it the idea of permanency? Where the officers of the Government are, there is the seat of Government. Thus the seat of Government was formerly at New York, afterward at Philadelphia, and subsequently it has been at this place, and from this place it may remove again with the same Constitutional facility with which it came here.

The same powers Congress now had to legislate for this District, they might exercise over any other district which might hereafter be ceded and accepted. It could not be the intention, because it was no the language of the Constitution, to establish permanently the seat of Government, but merely to give Congress power to legislate in this particular case. It is one of the seventeen detailed cases, in which the powers of Congress to legislate are specially delegated. If gentlemen would read it attentively, they would find it to be very different from what it had been contended to be. To prove this incontestably, it was, in the first place, in the power of Congress to come, or not, as they pleased. After coming, it was in their option to receive the cession, or not, as they pleased. If they did not accept that cession, then they could not have legislated exclusively. It is allowed, on all sides, that if they had not accepted the cession, they might have removed from this with the same Constitutional propriety with which they had removed before, from two other places. But they accepted the cession; in consequence of which they became entitled to legislate; and, because they may legislate, because they have accepted that which enabled them to legislate in all cases, they cannot, it is contended, remove. As if the acceptance of the power to do one thing disabled them from doing another; as if the power to legislate in all cases whatsoever disabled them from passing an act to remove themselves. But this power is expressly given us. We can legislate in all cases whatsoever. If it belong exclusively to Congress, can they not give it up? Had they only power to take the burden on them—incapacitated ever to lay it aside, even when the national interest demanded it? No. We have perfect, absolute power over this District. It is our own, we can do with it what we please. So much so that this city is not represented in any legislative body. In short, it has no political rights. And it is for this, among other reasons, that I wish to leave it. Not merely to restore the citizens to their franchises, for they seem willing enough to yield them, in consideration of the pecuniary advantages they derive from being near the Government. They have shown us, what it grieves me to see, American citizens yielding to the love of money the privileges of freemen. But, sir, I do not wish the Representatives of the people to see—I am unwilling to trust myself to become familiar with such an exhibition of American debasement. I do not wish foreigners to remark on the paradox of the seat of Government of a free people, which should be the abode of liberty, being the seat of despotism. I would not, in one word, plant a despotism in the vitals of liberty. I would not have, in my country, one spot which should not be consecrated to freedom.

But if Constitutional, it has been said, and this formed the second objection to the removal, that it would be a breach of the public faith. With the arguments in support of this position was interwoven, somewhat naturally, but more artfully, the distress and ruin of those who owned real property here. While the judgment was attempted to be addressed, the heart was assailed too, and on its weakest side. Its compassion was implored, to save this devoted city from destruction. And from what cause was this destruction to follow? From the removal of the Government! Is it, then, indeed so? Is this, indeed true? Will the city perish if Congress remove? Is, then, all its sustenance derived from the political body? Has it no energies of its own? Has it no power to preserve, none to protect its existence? If all this be indeed true, and its friends were entitled to belief, with all our liberality, it must continue to drag out its present sickly, miserable existence. And, therefore, the gentleman from Maryland, (Mr. Key.) had at least reasoned consistently when he assumed it as a position, that Congress should never be convened in a city. Nay, he reasons with a sort of prophetic consistency against a removal. For, if they were to remain here, they might calculate with certainty that they would never be in a city for a century to come.

But in what, he asked, does the value of the lots here consist? Is it in the price which may be asked for them, or in that which can be obtained for them? When they saw around them all the symptoms of premature decay—so many houses already built not inhabited, but tumbling into ruin, who would be so foolish as to purchase lots? who would think of building new houses on vacant lots, when those already built remain untenanted? The value which has been put upon town lots by the owners must be fictitious. If this place is to be a city, then we ought to remove, taking the argument of the gentleman from Maryland, (Mr. Key.) If cities be so dreadful, we ought not to give our aid to build up another of these public nuisances. He was not, however, governed by arguments of this sort. He would go for a different reason, because he was satisfied it could never become what it ought to be. A great personage had, indeed, said, that great cities were great sores. This was an evil never to be apprehended here. At present it is neither city nor country. Let us, said he, restore it to its original purpose—cultivation. Then the land might be of some service to the United States.

He could not conceive that holders of property could be injured—at least to the extent which some seemed to fear. The population is completely full, and the principal business is the keeping boarding-houses. To those, however, who had productive property, houses which brought in a yearly revenue, he was disposed to allow an indemnity. But those who were rich merely in city lots that could be of no value till the third or fourth generation, possibly, he could not consent to give anything. And he would give to the others, not because he considered Congress bound to do so, but because he was, and he wished the friends of the resolution were disposed to be, charitable to those whom they should leave under such circumstances.

But, to return. It was said that the national faith had been pledged that Congress should forever remain here. The gentleman from Maryland (Mr. Key) had gone so far as to say, that it was as perfectly pledged to that as it could be supposed to be for the payment of the national debt. This was too extravagant a position to be one moment indulged. To the redemption of the national debt the public faith is pledged, and the obligation to discharge it is perhaps perfect without it. The nation is bound to pay for what it has actually received. But, in the case before them, Congress has removed to this place. They had made it the seat of Government; speculators had flocked around it; foreigners had pressed into the busy scene—for what, sir? to enrich or even to serve the nation—for the very pure, and laudable, and disinterested purpose of accommodating Congress? Who will believe it? Who so blind as not to see a different motive? Wealth was the object. They speculated; Congress has hitherto remained here; and what has become of these disinterested, benevolent speculators? Ruined; ruined long ago. We cannot save them if we would, and what is the compassion worth which would provide for the safety of those already lost? Grant it, say our adversaries; but the public faith is pledged. Do gentlemen mean to be understood that we must remain here in despite of all the disadvantages and losses to which we may thereby expose the nation; that we are forever to consider the people about this spot as the children of the nation; and that, like a good mother, we must suckle them forever? Is the public faith pledged because some men, who hoped to accumulate unmeasurable wealth, have been and must be forever disappointed? Has the Constitution empowered Congress to pass a law, depriving their successors of the right possessed by the poorest peasant, the right of locomotion? No Congress had the power to do it. That the seat of Government should be permanent is not to be found in that instrument. But, it is introduced in the law of Congress. What did that prove? That as the Constitutional phraseology of this subject would not render the Government permanent here, they would by law do as much as they could to make it so. If the language of the Constitution had been strong enough, that language would have been used in the law too. Hence the appearance in the law of the word "permanent." But, he contended that no Congress had a right to legislate for its successors. They could not pledge the national faith in this matter, because no power to do so was given in the Constitution. With whatever views it was done, it was an act of usurpation. They had no power to give the pledge, and no one, of course, had power to receive it. A little plain sense on this subject, a correct consideration of the Constitutional provision, were worth all the high wrought theatrical appeals which could be made to the House.

This brought him back to the gentleman from Maryland, who had expressed great alarm, lest the agricultural interest should suffer by their removing to a city! A very great proportion of the House represented the agricultural interest—and of those a great proportion were agricultural men. But there was something in the fascination, the magic of a city, which was to render the Representative of the farmer, himself a farmer, perhaps, insensible not only to the interests of his constituents, but even his own! Then, sir, that must happen which has never happened yet. The age of miracles must return. It had become somewhat fashionable to abuse cities. He felt no peculiar inducements to resent this treatment. But he would say, that if the agricultural interest had led us through the war of the Revolution to glory and liberty, he should not be apprehensive of offending them by asserting that that Revolution originated in a city, and those measures which had brought the nation, with unexampled rapidity, to its present prosperity, were contrived in cities, and, in no inconsiderable degree, by the inhabitants of cities. Boston, though not called a city, was one to all practical intents. Boston was the cradle of the Revolution. There liberty was born. There was first displayed the spirit which led us afterwards to independence. In Philadelphia the declaration of independence was made. In Philadelphia the Constitution of the United States, which distinguishes us from all the nations of the globe, was formed—not, indeed, by persons from the cities exclusively—but there you find that the agricultural members did not forget the interests of agriculture, nor of the country. The first Congress, under the present Constitu-

tion, convened in New York. Did they there forget, were they there ever tempted to abandon the interests of the country? In Philadelphia, subsequently, has the public welfare been impaired by the interference or conversation of commercial men there? A great deal of eloquent declamation has been thrown out. But let us have facts. The inhabitants of cities, exactly like those of the country, are bound by the same ties of interest and inclination to promote the common welfare. Your merchants are there; without cities you would have no merchants, and without merchants the produce of the farmer would bring him no profit. The merchant and the farmer are but different parts of the same machinery; if one part, and it is no matter which, is injured, the whole is stopped. To be satisfied that, if the merchant is injured, the farmer must suffer too, view the operation of the embargo. Its first effects were felt by the merchant, but ultimately the farmer also has been distressed by it. If the merchant cannot send out his vessels, the farmer cannot sell his produce. If, on the other hand, you oppress the farmer, so that he cannot have anything to sell, the merchant suffers with him. Why, then, did the gentleman from Maryland speak of the radical hostility between agriculture and commerce?—those handmaids to each other—those two sisters, whose existence is so united that the one cannot live without the other. He was surprised, he lamented to hear such doctrines from any one, and particularly from that gentleman. He contended that the farmer would gather new, and what might prove to himself valuable information concerning the commerce of his country. He might acquire in a city knowledge beneficial to himself, and the diffusion of which might be advantageous to his constituents. It was in the cities, that, together with commerce, the arts and sciences were cultivated and flourished. It was in the intercourse of men, either of a commercial or literary character, that men's minds became liberal and enlarged. But, in this place, nothing could be learned but what was taught in this House; and the country members usually returned as wise or as ignorant, except upon mere State affairs, as they came.

What, then, is the result? If, as we are all willing to acknowledge out of doors, we were not here, we ought not to come, why should we stay? He thought he had shown, that neither the Constitution nor the public faith could be urged to prevent a removal. For the public good we came here. The public good cannot be answered by staying. We have continued here so long, lest we should be accused of instability. The experiment is at length made. It has failed. And, merely because we came, however our calculations have been disappointed, we must stay! Because we came, the public faith is pledged to remain! Surely such propositions needed but to be stated, to prove them ridiculous.

He was willing the removal should be delayed until those who really suffered any loss by the measure, were indemnified. He alluded to the proprietors of houses.

For these reasons, and others, he should vote against the motion to postpone. He could not permit himself to stop the measure at this time. If he was even doubtful, he would vote against the motion. However intended, the mode of proceeding proposed by the motion, was, to say the least of it, extremely harsh. It was taking this subject out of the ordinary course of legislation. It was an attempt to fix a stigma on the measure by slapping it in the face on its first appearance. Surely there was no necessity of provoking unpleasant feelings, while the House was engaged on a subject of this sort. And this motion was evidently calculated rather to offend the friends of the measure, than to prevent the adoption of the measure itself. The latter could be done at any time. But the gentleman from North Carolina (Mr. MACON) said, that this course of proceeding was as proper as any other. He would desire that gentleman to read the rules of the House. They gave a different course of proceeding; and he was more disposed to trust in the wisdom of those who formed them than in that of any gentleman whatever.

A gentleman from Kentucky yesterday said that he had been informed that $250,000 could be saved to the Treasury annually. This, if true, was an important fact, and its truth ought to be ascertained. This saving, of a single year, would, in that case, pay all the damages of the sufferers.

He wished also to know what accommodations could be obtained at Philadelphia, and at what expense? If they could not remove there without plunging into the same style of ruinous expense, which had prevailed here, he would not vote to go. But he had understood that suitable buildings could be obtained there, and at little or no expense. He wished this inquired into. He wished, also, to know how much this sink of the nation had swallowed up: how much more it required, and hence how much of the public treasure could be saved. If the fact should turn out as stated, he would certainly have no further difficulty. The House itself would feel the mandate of imperative duty, and could not resist it.

But, to avoid the necessity of a removal, arising from the very great inconvenience of transacting the business of the nation, an inconvenience felt and acknowledged by all, they were threatened with a proposition to concentrate the public buildings. He did not like this patching, there would be no end to it. If fifteen millions have done so little, what could they expect from thirty millions more? He had heard of the omnipotence of Parliament. An Emperor of Russia had been able to build a city in a marsh, but the omnipotence of an American Congress is not equal to the task.

In fine, he hoped the opponents of the resolution would so far trust themselves as to hear discussion, and particularly to hear facts. And those, they well knew, could not be obtained without the intervention of the House. He hoped, therefore, that the resolution would not be postponed indefinitely; that an opportunity would be given to collect such facts as were important to a correct decision of the question.

Mr. EPPES, of Virginia, conceived that the example of the gentleman from New York (Mr. GARDENIER) had shown that there was on the present motion ample room for a full discussion. Was it, said he, reserved for the year 1808 to discover that this is not the best place for the seat of Government? Until 1800 the Government was on wheels; it came here by barter.

Who, inquired Mr. E., gave a hundred guineas for a plan of the Capitol? who arranged the public buildings, and determined their respective sites? The gentleman from New York (Mr. GARDENIER) ought to have been better versed in the secrets of his party before he undertook to condemn this arrangement. It was the object of General WASHINGTON to accommodate all the proprietors of public lots, by giving to some the Capitol, to others the President's house and offices, and to others the navy yard.

Complaints are made of the distance of the public offices. But what have to do with the offices? When in Philadelphia they were, he understood, lounging places for idle members. Mr. E. had never had occasion but once to go to any of the Treasury offices, and then it was in behalf of a man who had attended Chase's trial as a witness.

Mr. E. went into the Constitutional argument, and contended that a removal of the Government was prohibited by that instrument. Would Virginia and Maryland have consented to disfranchise, for ever, a number of their citizens, unless the seat of Government had been supposed to be fixed here permanently? Would those States have treated their citizens as a capricious woman treats her lover? This city was a favorite scheme of Federalism, and intended to perpetuate the name of a favorite idol. It was accepted by an act of Congress as the permanent seat of Government. From their journals, it appears that a motion was made to strike out the word permanent, and negatived. He defied the advocates of the resolution to show any difference between this act and that for establishing the funding system. If one might be repealed, the other might also with equal justice.

The gentleman from New York (Mr. GARDENIER) said something about the little value of property in this city. This language must have been in the spirit of prophecy. Look at the crowd in the gallery, and observe their anxiety. It depends on your vote whether they go out of this House rich men or poor. It is said Washington does not flourish. The reason is found in the fact that, every session, the people are pelted with some measure of removal.

It is said that everything is cheaper at Philadelphia, from a spike to a mast. In reply to this language, he stated that repairs of vessels had been made here as cheap, or cheaper, than at Philadelphia.

Much had been said on the subject of health. How long has it been discovered that Philadelphia is the Montpelier of America? Let her bills of mortality, since 1793, be compared with those of Constantinople, and you will find in Philadelphia a greater destruction of human life.

What measure of the Government to assert the rights of the nation, has not been opposed by the great commercial cities? In 1783, Congress, when at Philadelphia, were surrounded by armed troops, and the Executive of the State refused, on application made, to remove those troops. In 1797 or 1798, the rogues-march was played by McPherson's Blues at the doors of gentlemen in the minority, some of whom are now members of this House.

Boston was, indeed, the cradle of liberty, and Mr. E. regretted that the same blood did not flow in the veins of the inhabitants of that place as in the beginning of the Revolution. He concluded, with expressing a hope that the House would not agree to put the Government on wheels, and travel about the country like pedlers.

Mr. BACON, of Massachusetts, spoke half an hour in favor of removing the Government. The gentleman from Virginia (Mr. EPPES) admits that our coming here was a matter of bargain and sale. It is now sixteen years since this place was selected for the seat of Government, and the location made. So far, it has been unprofitable to the nation; it has been a constant drain on the Treasury. He had but few observations to submit on this subject, and most of them had been anticipated in a much better manner by the gentleman from New York, (Mr. GARDENIER.)

The gentleman from Maryland (Mr. KEY) agrees that there is no such thing in the Constitution as a permanent seat of Government. But, having once established a seat of Government, he contends that it necessarily follows, it must be permanent. He here went at some length into the Constitutional argument, and insisted that the Constitution, neither by express provision, nor by implication, precluded a removal. The right to establish a post road, and to fix the seat of Government, rested on the same basis; and the one might be changed on the same Constitutional principles as the other. They were as much bound to continue the one as the other, and no more.

If the object is to place the Government in the centre of population and wealth, as these circumstances vary, successive Legislatures must possess the right of transferring the Government. It was at first limited to Philadelphia for a number of years, and, after the expiration of that term, it was established in this place permanently; or, in other words, it was established here without limitation. All laws which are not limited in express words, or by the nature of their provisions, are as permanent as this law. They are obligatory until they are repealed. There is no charm in this word permanent. If it was the intention of Congress to fix the Government here permanently, and preclude the right of a future Legislature to make a change, the act was beyond their authority, and consequently void.

The gentleman from Maryland (Mr. KEY) had said, that the Government ought not to be in a great city. That argument had been noticed with

peculiar felicity by the gentleman from New York, (Mr. GARDENIER.) They were, indeed, very safe from the evils of a populous city, so long as they remained at Washington.

It had been said that the Legislature, if in a commercial city, might be unduly influenced by commercial men. Mr. B. would invert the argument. He imagined that the inhabitants of the city would be beneficially influenced by the Legislature. Erroneous sentiments might be more easily corrected, and true statements of facts more generally presented to the public. For proof of this, he would adduce a late important occurrence in the town of Boston. A petition had been presented to the Selectmen, purporting to be signed by a large number of seamen, complaining that they were out of employment, and in a state of extreme penury and distress. The Legislature of Massachusetts, who then happened to be in session, directed an inquiry to be made into the case, and it appeared, on inquiry, that few of the seamen could be found, and the petition was a base imposition on the public.

It had been contended that this was a very improper time for removal. He, in reply, conceived that this crisis of our national affairs called for a removal. In the city of Philadelphia, the operations of war could be more effectually directed, and our fiscal concerns better managed. He therefore thought this the very period for removing the Government.

Mr. LOVE, of Virginia, had hoped that the question would be taken without debate; for the more it is discussed, the more unfit is the House for the discussion of any other subject. But he conceived himself called upon to support, in reply to what had been said on the other side, the impropriety of removing the Government. He then went at length into a discussion of the subject, and supported the objections which he had urged on a former day.

The House adjourned, without taking the question.

THURSDAY, February 4.

Mr. POINDEXTER presented a representation of the Legislative Council and House of Representatives of the Mississippi Territory of the United States, stating various matters for the consideration of Congress, relating to the acts for the sale of lands belonging to the United States in the said Territory; to the right of suffrage within the same; to the appointment of commissioners to lease, for a limited time, the section of land granted for the use of Jefferson College, in the said Territory; to a free navigation of the Mobile and Tombigbee rivers; and to an extinguishment of the Indian title to the lands in the Yazoo country; and praying that such measures may be adopted by the Legislature of the United States as will tend to promote the general interest of the people of the Territory aforesaid—Referred to the Committee on the Public Lands.

On motion of Mr. LOVE, the House proceeded to consider a resolution proposed by him yesterday, which was ordered to lie on the table, in the words following, to wit:

Resolved, That two other members be added to the committee called "the Committee of the District of Columbia."

And the same being twice read, was on the question put thereupon, disagreed to by the House.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In my Message of January twentieth, I stated that some papers forwarded by Mr. Daniel Clark of New Orleans, to the Secretary of State, in one thousand eight hundred and three, had not then been found in the office of State; and that a letter had been addressed to the former Chief Clerk, in the hope that he might advise where they should be sought for. By indications received from him they are now found. Among them are two letters from the Baron de Carondelet, to a officer serving under him at a separate post; in which his views of a dismemberment of our Union are expressed. Extracts of so much of these letters as are within the scope of the resolution of the House, are now communicated. With these were found the letters written by Mr. Clark, to the Secretary of State, in one thousand eight hundred and three. A part of one only of these relates to this subject, and is extracted and enclosed for the information of the House. In no part of the papers communicated by Mr. Clark, which are voluminous, and in different languages, nor in his letters, have we found any intimation of the corrupt receipt of money by any officer of the United States, from any foreign agent. As to the combinations with foreign agents for dismembering the Union, these papers and letters offer nothing which was not probably known to my predecessors, or which could call anew for inquiries, which they had not thought necessary to institute, when the facts were recent, and could be better proved. They probably believed it best to let pass into oblivion transactions, which, however culpable, had commenced before this Government existed, and had been finally extinguished by the treaty of one thousand seven hundred and ninety-five.

TH. JEFFERSON.

FEBRUARY 4, 1808.

The said Message, and the papers accompanying the same, were read, and ordered to lie on the table.

On motion of Mr. NEWTON,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the necessity of making a proper disposition of the charts of the coast of North Carolina, published in conformity with a resolution which passed the second of March, one thousand eight hundred and seven.

Mr. CLINTON presented a representation of Thomas Paine, stating various services performed by him for the United States, during the Revolutionary war with Great Britain; and praying that Congress will take the same into consideration, and grant him such compensation therefor, as to their wisdom and justice shall seem meet.—Referred to the Committee of Claims.

The bill sent from the Senate, entitled "An act to revive and continue certain causes and proceedings in the District of Columbia," was

read twice and ordered to be read the third time to-morrow.

The bill sent from the Senate, entitled "An act to provide for the payment of certain expenses incurred in the inquiry into the conduct of John Smith, a Senator from the State of Ohio," was read twice and committed to a Committee of the Whole on Monday next.

REMOVAL OF THE SEAT OF GOVERNMENT.

The House resumed the consideration of the resolution offered by Mr. SLOAN, for the removal of the seat of Government to Philadelphia.

Mr. LEWIS, of Virginia, said, his object in moving an indefinite postponement, was to obtain an immediate decision, but not, as had been said, to preclude discussion. But, as some gentlemen who concurred with him thought it best, he would withdraw that motion, with a hope that the question would now be taken on the resolution itself.

Mr. SLOAN, of New Jersey, immediately rose to move that the resolution take the usual course, and be referred, like all other important subjects, to a Committee of the Whole. There had, he said, been attempts made to harass, to intimidate those who had brought forward this resolution, and whose views were as pure as the crystal stream. It had been said that he was actuated by base motives. I trust, said he, that the number of those is small who expect to terrify us. It is not the first time in which my life has been threatened for doing what I conceive to be my duty. As I was coming to the House this morning, I was insulted by a parcel of boys, who cried out: "There goes the damned old Quaker rascal, who ought to be hung." This was by boys, who were old enough to know better. He concluded, with moving that the resolution be referred to a Committee of the Whole, and made the order of the day for next Monday two weeks, when he pledged himself to show the reasons that induced him to bring forward the subject.

Mr. LYON, of Kentucky, thought the insult offered to Mr. SLOAN, ought to occupy the first attention of the Government. He was unwilling to sit here a single moment without taking some notice of it.

Mr. MASTERS, of New York, was in favor of the commitment. He had heard it said that the Government could be supported much cheaper at some other place, and wished a due inquiry might be made. The Government has been here seven years. What is the commerce and the tonnage of this place? It is said this place ought to have the preference to Philadelphia. Look at the commerce of that city, its manufactures, and its wealth. When Congress were insulted at that place, it was at the close of the Revolutionary war, and before its police was formed. Will any man say its police is not now good? Besides, at this place, the gentleman from New Jersey (Mr. SLOAN) has been insulted for only bringing this resolution before the House. This fact furnishes the strongest reason for our going away.

We have been told that the citizens of this place have been disfranchised; that they have no rights. Can the place flourish in such circumstances? It is impossible. The people here hang on the Government; they expect to live on the Government. Our time is taken up in legislating for them; we must even repair their roads and bridges. Let the subject be committed, and receive a fair discussion, in the usual way.

Mr. VAN HORNE, of Maryland, said, he would not now enter into the discussion; but he would briefly reply to the gentleman from New York. He says that this District has no rights; he would, also, by his conduct, say that they should have no property. If this city is abandoned, the State of Maryland is not bound to receive it, and, I trust, would not receive it. Every disposition of the human heart ought to excite the members of the House to make a speedy decision. It is said some great and responsible officer of the Government has stated that $150,000, or $200,000, a year may be saved by a removal. I should be glad to have him named to the House; I should be glad to know who among the officers of Government is intriguing for a removal to Philadelphia. He conjured the House to decide speedily whether they were for or against the resolution; for a delay of the subject would almost have the effect of a removal.

Mr. MASTERS said, the city had been declining ever since Congress came here, and even before that time. He knew a gentleman from the State of New York, who had laid out $40,000 in this city, and the property was now not worth five hundred dollars.

Mr. VAN HORNE, in reply, stated that there were six thousand souls in this city. All the houses which have been finished, are inhabited. Property has fallen in some places, and risen in others. But one great reason why the city does not flourish, is, that a man cannot find a lot here to purchase; for the lots have been so often sold and mortgaged, and been so long in the law, that the real owner cannot be discovered.

Mr. TAYLOR, of South Carolina, opposed the motion of commitment. It has been said that, by a removal we can economise. I deny it. But are we to go a begging, and, like old King Lear, to live with one of our daughters, who can, at any time, kick us out of doors. You have heard no complaints; no petitions for a removal have been laid on the table.

Is this the time, when you are buffeted by the nations, when you may be compelled by the exigencies of the country to borrow millions, is this the time to violate the national faith? is this the time to agitate a question of this sort? I wish no tale of your faith's being violated. If your hands are to be untied in respect to the fourteen or fifteen millions here, let us not go to work by halves, let us get rid of the fifty millions of our national debt. There is the same material principle in both cases.

As to the place, Philadelphia, I will say nothing about its being unhealthy. I will only say that the advocates of this measure do not tell us where we are to go, when we get there; whether we shall meet in the streets or on the house-tops. I

hope we shall not decide to go, without knowing where to go.

The gentleman from New York (Mr. GARDENIER) speaks of his martyrdom in staying here. He looks well. It must be a suffering of the mind. But what will he think, when he has laid the ploughshave to the city, fixed by his great WASHINGTON, whom those of his way of thinking claim exclusively as their own. When he also considers those ladies in the galleries, whom he is leaving, his martyrdom will be doubled and trebled. He hoped that those who, for some years, had prophecied instability in the National Councils, would not, by their conduct, assist in verifying their own prophecies, and afterwards urge it as a complaint against the Government.

There is, said Mr. T., another subject of delicate consideration, but which deserves to be mentioned. I believe that there is, in Philadelphia, less sympathy than in either New York or Boston, for a certain subject, in which the Southern States are deeply interested. When formerly there, one Warner Mifflin, and his associates, continually kept Congress in hot water, by teasing and pestering them with something about slavery. They had no regard to our feelings.

Mr. BLOUNT, of North Carolina, was astonished that the friends of the resolution should want more time. They had been three months preparing this subject. He had himself heard, a month ago, the mover of the resolution say that he thought of bringing it forward, and he understood some doubts were entertained, whether the President would sign a bill for this purpose. The friends of the measure had been long deliberating how to bring forward the subject, and they had thought of waiting until the close of the session, when some members, hostile to the measure, might be gone. If this resolution is adopted, I shall, when I go home, think it my duty to tell my constituents they can have no further confidence in the Government. I will agree to sit here night and day, until the question is determined, and shall vote against every adjournment.

Mr. SLOAN called on the gentleman last up to prove, by one respectable witness, that he had ever said he doubted whether the President would sign a bill for removing the Government. He had always said, he believed the President would not counteract the wishes of the people.

Mr. BLOUNT replied that, when the gentleman from New Jersey obtained his information from a great officer of the Government, he pledged himself to prove by that officer the truth of what he had said.

Mr. KELLY, of Pennsylvania, supported the propriety of committing the resolution, and giving it a fair discussion, in the usual way. He conceived it necessary that more information relative to the subject should be obtained, before the House proceeded to give a final decision.

It had been said that the question might be compared to daggers, suspended by a hair, over the heads of the people in this District; that property would fall in value, and every improvement be paralyzed. He did not believe that such would be the result of continuing the question until a fair discussion could be obtained. He was in possession of a fact which proved that no possible proceeding, on the part of the House, could prevent improvements here.

A neighbor of mine, said Mr. K., bought a lot in this city, for which he gave about four hundred dollars. A tax, of which he was ignorant, of ninety cents, was due at the time of the purchase. On account of this tax the lot was sold, and produced but sixty-five cents, and the further improvement of this place was, then, at an end.

The motion to commit the resolution to a Committee of the Whole, was further supported by Messrs. BACON, FISK, LIVERMORE, ALEXANDER, and BIBB; and opposed by Messrs. J. RHEA, of Tennessee, HOLLAND, and MACON. The question was finally taken by yeas and nays, and resolved in the negative—yeas 61, nays 63, as follows:

YEAS—Evan Alexander, Ezekiel Bacon, William W. Bibb, John Blake, jr., Robert Brown, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Edwin Gray, John Harris, John Heister, William Hoge, Reuben Humphreys, Robert Jenkins, James Kelly, Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Daniel Montgomery, jr., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and James Witherell.

NAYS—Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, Wm. Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, John Chandler, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thos. Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Wm. McCreery, John Montgomery, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Rhea of Tennessee, Ebenezer Seaver, Dennis Smelt, John Smith, Henry Southard, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, James I. Van Allen, Archibald Van Horne, Daniel C. Verplanck, Jesse Wharton, Marmaduke Williams, and Richard Winn.

On motion, the Committee rose, and the House then adjourned.

FRIDAY, February 5.

Mr. HOLMES, from the Committee of Claims, to whom were referred, on the twenty-sixth ultimo, two petitions, one of Matthew Smith and Darius Gates of East Haddam, in the State of Connecticut, the other of the said Darius Gates, presented a bill for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates, separately; which was twice read and committed to a Committee of the Whole on Monday, the fifteenth instant.

Mr. LYON, submitted the following resolution:

Resolved, That a Committee of Privileges be appointed, with power to inquire what measures, if any, are necessary to secure to the members of the National Legislature the privileges appertaining to them by the Constitution; which committee shall have power to report by bill, or otherwise.

The resolution was read, and ordered to lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a resolution in the form of a concurrent resolution of the two Houses, to authorize the disposition of certain charts of the coast of North Carolina; which was read, and, on motion of Mr. MILNOR, referred to a Committee of the Whole on Monday next.

REMOVAL OF THE SEAT OF GOVERNMENT.

On motion of Mr. NICHOLAS, the House resumed the consideration of a resolution proposed by Mr. SLOAN, on the second instant, for a removal of the seat of Government of the United States to the city of Philadelphia; and the said resolution being again read in the words following, to wit:

Resolved, That it is expedient, and the public good requires, that the seat of Government be removed to the city of Philadelphia for —— years; and that a committee be appointed to bring in a bill for that purpose.

Mr. MASTERS offered the following resolution, which the House agreed to consider—56 to 49:

Resolved, That a committee be appointed to inquire into the loss or gain to the Treasury of the United States, provided the seat of Government should be removed from the City of Washington.

Mr. LOVE opposed the motion, on account of the delay which the passage of it would occasion to the progress of the main question of removal.

Mr. LYON supported it, from a desire for the inquiry; the result of which, he had no doubt, would do away with many false estimates on the subject.

Mr. DAWSON had no objection, if he thought the resolution would produce information; but, independently of its being out of the power of the Departments to make the estimate, there was now on the files of the House, and in the printed reports, an exact account of the expenses of removal from the city of Philadelphia, from which an estimate might be formed of the expense of moving back.

Mr. MASTERS said the gentleman had mistaken the object of the resolution; it went not to inquire into the expense of the removal, but into the comparative expense of Government at each place.

Mr. NICHOLAS said, the expense at Philadelphia would not be greater than here, except in particular points, into which he trusted an inquiry would not be made. They had already been four days deliberating on the main question, and the mind of every gentleman must be made up on the subject.

Mr. RHEA, of Tennessee, moved to postpone this resolution till to-morrow.

Mr. TAYLOR said, if any information for the instruction of the House in deciding the main question could be acquired by this resolution, he should most willingly agree to adopt it; but, even if this resolution were to produce information of a saving of $120,000 or $150,000, (which gentlemen had positively asserted, and which he as positively denied,) he should not be influenced by it. We are now, said he, in the situation of Athens, when Themistocles proposed to the Assembly that he had a project most beneficial to the community, but on which it was improper to address them publicly; but, if they would appoint a committee or name a person, he would tell his project to that committee or that person, and upon this report the Athenians might decide. They chose Aristides. The two great men conferred together—and what was the project? To seize the Grecian fleet, then in the harbor of Athens, by which the Athenians might secure the predominance over the Grecian States. Aristides, in making his report to his countrymen, observed that indeed the project might be beneficial to his country, but that it was most unjust. For this very decision of this great man he obtained the surname of "The Just." Although this title were given to the individual, the honor and credit was greater to the Assembly which he addressed. That same inconsistent, wavering, democratic society, which we hear so often denounced, at once gave a decided negative to the proposition. From the observations made yesterday; from the observations addressed to the feelings of members on the floor; from the anxious countenances by which we have been and now are surrounded; we have at last come to the single proposition, Will it be just?—will it be consistent with good faith? If it will not be just, why make the inquiry?—why ask if the various statements which have been made are true? I hope the present proposition will not be adopted—that the subject will have an end, with that deliberation and prompt decision on it which this House owes to the community, to itself, to the individuals awaiting our decision, and to the major part of the people of the United States, whose feelings are sensibly alive to our proceedings.

Mr. MASTERS withdrew his resolution, as he had not expected to cause a discussion by moving it.

The House having taken up for consideration Mr. SLOAN'S resolution for the removal of the seat of Government to Philadelphia,

Mr. SLOAN withdrew his resolution, and

Mr. BLOUNT renewed the motion. He did not renew it because he intended to vote for it, but because it was important, since it had been agitated, that it should be decided; and because, since yesterday, another meeting (caucus) had been held

by the friends of the measure, to determine on the course proper to be pursued. He had said yesterday, and he would repeat it to-day, that the adoption of this resolution would be a most flagrant violation of the faith of the nation. If it should now be adopted, he would immediately lay upon the table a resolution to repeal the Funding system—not to vote for it himself, but to quiet the fears of the people, which would be excited by such a measure. He was yesterday, and now, deprived of saying much that he very much wished to say on this subject, by a severe pain in the head.

Mr. Dana wished, if it were designed to repeal the Funding system, that a resolution should be laid on the table for that purpose, and that both the resolutions should be referred to a committee for discussion. I confess, for my own part, said Mr. D., that I am not perfectly satisfied of the propriety of removing the seat of Government; and when the question comes I shall vote against it, because I would not vote for any positive measure without being satisfied of its propriety. But, as to all this noise—this talking of the breach of faith, of the public debt, and these menaces to individuals—they do not influence me. We are not sent here by our constituents several hundred miles to be controlled or influenced to deviate from the ordinary course by the feelings or displeasure of those interested in this District. If this operated in any way, it would induce me to vote for removing the seat of Government, because the attempt to control the freedom of deliberation is not to be tolerated. The correct course for every individual, is, not to suffer his mature or better judgment to be influenced by such considerations. Not being perfectly satisfied on the subject, I wished to give it a fair discussion. This was my opinion. I should vote for the reference of any motion on general principle, and give any subject a fair discussion in the usual course, except it were so palpably wrong that no man of sense or information could support it. I was not at liberty to refuse a reference to this on this ground, from a knowledge of its advocates. As gentlemen wish a decision on this question, my own vote will be against removal, because I have not been convinced of its propriety. As to the breach of public faith, this argument does not influence me. I do not consider that there is a Constitutional injunction against removal. I consider it as an honorary pledge of the public faith, which constitutes not a perfect obligation, as in case of debt, but an imperfect obligation—a case of estimation and uncertainty. I would rather cherish a caution as respects deviation from the course of public faith—would rather err from excessive scrupulousness than from too much laxity. This is my view of the subject. The real question is one on which gentlemen of information, ability, and unsullied integrity, may well differ; it takes in so many questions—geographical, political, and moral—that we may well differ; and its being an imperfect obligation renders it a peculiarly difficult question. The arguments in favor of the removal not having been sufficient to satisfy my mind, I shall vote against it, from my present impressions.

Mr. W. Alston could readily conceive that gentlemen possessing the same sentiments as the gentleman from Connecticut could vote, as that gentleman had done, for a reference; but gentlemen who could not be induced to vote for a removal under any circumstances would vote as Mr. A. did—against it. This, said Mr. A., is my situation. No arguments could have influenced me in voting for a removal, and therefore I should give my vote against it in any shape. This question has been discussed in various ways, but the refusal to refer yesterday decided the principle that there was a majority of the House against removal on any principle whatever. The vote for commitment having been negatived by a small majority, might induce a belief that but a few were against removal. For this reason, it is proper to show the sense of the House by an immediate decision of the resolution, as well as to settle the question—to put the matter to rest—and prevent agitation of the public mind; for no question could be discussed which could agitate the public mind equally with this. He therefore hoped it would be decided.

Mr. Gardenier rose to inquire whether the motion was in order. In introducing the resolution, the gentleman had said he should vote against it himself; it was therefore introduced, not for the purpose of being carried, but for the purpose of taking up the time of the House uselessly; and he submitted it to the Speaker, whether a motion was in order, when the mover of it declared he should himself vote against it—whether it was not inconsistent with the honor and dignity of the House. In this Hall, no proposition should be submitted which the mover does not mean to persist in; nor should any member be permitted to introduce a motion calculated uselessly to consume the time of the House. Was it in order?

Mr. Macon asked whether the House had agreed to consider the motion? Mr. M. objected to the waste of time which would be occasioned by this motion, if the House agreed to consider it—not that he was one of those who thought they wasted time when they did nothing: as he thought, the less they legislated the better. If the House had not agreed to consider, he hoped they would not.

The Speaker first decided the question of the gentleman from New York, stating there had occurred in this session an instance in which a gentleman from Virginia (Mr. Randolph) made a motion, against which he had declared at the time of making it that he himself should vote. This motion was, therefore, in order. He then said the House had not yet agreed to consider the motion.

Several gentlemen rising to speak,

The Speaker declared that debate on this motion was inadmissible.

The question on considering Mr. Sloan's resolution, as renewed by Mr. Blount, was then negatived—yeas 51, nays 68, as follows:

Yeas—David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, Joseph Calhoun, George W. Campbell, John Campbell, John Chandler, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Robert Marion, William McCreery, John Montgomery, Thomas Moore, Jeremiah Morrow, John Morrow, Wilson C. Nicholas, John Rhea of Tennessee, Ebenezer Seaver, John Smith, Abram Trigg, George M. Troup, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, William W. Bibb, John Blake jr., Robert Brown, William Butler, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Barent Gardenier, Francis Gardner, John Harris, John Heister, William Hoge, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, James Kelly, Nehemiah Knight, John Lambert, Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jr., Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Whitehill, and James Witherell.

Mr. Lewis said, as the House had refused to consider this motion, he would endeavor to accommodate them by offering one more unexceptionable, as follows:

Resolved, That it is inexpedient to remove the seat of Government from the City of Washington, and not warranted by public policy.

Mr. Bacon asked if this was in order, being to the same effect as the motion just decided?

Mr. Eppes said the proposition was decidedly distinct from that just decided. In suffering the original resolution of Mr. Sloan to lie on the table, they would be guilty of an act of flagrant injustice. The question ought, must be decided, and no longer delayed. What had been the course pursued by the gentleman who first proposed the resolution? He had acted like a mischievous boy, throwing a stone at a glass window, and then concealing himself—[Order!] Some positive decision ought to be had after what had been laid on the table.

The Speaker decided that the motion was in order.

Several gentlemen rising to speak,

The Speaker observed that on a motion to consider there could be no debate.

Mr. Alexander wished to move a postponement of the motion.

The Speaker said the motion was not in order.

The motion to consider the resolution offered by Mr. Lewis was then agreed to—yeas 69, nays 53, as follows:

Yeas—Lemuel J. Alston, Willis Alston, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, John Chandler, John Clopton, Howell Cobb, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, James Elliot, John W. Eppes, Meshack Franklin, Barent Gardenier, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Robert Marion, William McCreery, John Montgomery, Jeremiah Morrow, John Morrow, Wilson C. Nicholas, Josiah Quincy, John Rhea of Tennessee, John Rowan, John Russell, Ebenezer Seaver, Dennis Smelt, John Smith, William Stedman, John Taylor, Abram Trigg, George M. Troup, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Ezekiel Bacon, William W. Bibb, John Blake, jr., Robert Brown, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Davenport, jun., Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner, John Heister, William Hoge, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, James Kelly, Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jun., Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Robert Whitehill, and James Witherell.

Mr. Gardenier said, since the House had agreed to consider the resolution, he wished to move to add to the motion, for the purpose of making it complete, a string of amendments. I never expected, said Mr. G., to be called upon to pass laws which would have no operation; but it seems we are to go on here for amusement, legislating about nothing. If the House thinks it worth while to go on in this way I have a string of amendments, which I think are equally entitled to the attention of the House with that now under consideration. I shall confine myself to the subject, and move resolutions which have no meaning, to show the perfection of American legislation, and the dignity of the American Congress. [The Speaker informed Mr. G. that all reflections on the body were out of order.] I shall not reflect on it; I am desirous to place it in such a situation, that none shall have it in their power to reflect on it. Though I shall not vote for the resolution which I have now the honor to offer, I propose it for consideration as a proper amendment to the resolution now under consideration:

"That it is inexpedient at this time to call upon the Secretary of the Treasury or any other Department for

information tending to show whether the removal of the seat of Government from this place will produce a saving of $250,000 annually.

"That it is inexpedient to give those who are favorable to a removal an opportunity to lay such documents and other information before this House as will have a tendency to convince the people of these United States that the continuing of the seat of Government at this place is injurious to the nation."

Mr. EPPES inquired whether the amendment were in order, willing at the same time to allow to the gentleman from New York, who moved it, all the additional dignity he could wish from its introduction. As to the gentleman's observations also, about the nothingness of the present subject, he would give the gentleman all the credit he could derive from calling that nothing which involved the ruin of thousands.

The SPEAKER said the motion for amendment was in order.

Mr. SMILIE would just observe, that whatever his opinion on this subject might be, he wished at all times to see the House act in such a way as would do credit to themselves. This was certainly a game that would never prosper; the original resolution for a removal of the seat of Government was certainly an ill judged thing, and left the subject in the same situation as before. He thought it best at all times, when it was evident that the sense of the House was in favor of getting rid of a subject, to do it in the shortest way possible. It was now evident that it was not the disposition of the House to remove from this place; every gentleman must be satisfied of it. For his part, whenever the sense of the House had been expressed, he should never wish to embarrass their proceedings. He wished the gentleman from New York would withdraw his amendment. The main resolution under consideration was an useless thing.

Mr. MILNOR moved to postpone the further consideration of the subject till the first of March.

Mr. DAWSON called for a division of the question, taking it first on postponing the amendment.

After some observations from Mr. W. ALSTON, on the point whether the amendment were in order, and from Mr. LYON, in favor of inquiring into the subject at the proper departments, by which he believed the verbal statements made in the House of the comparative expenses of Government at Philadelphia would be fully contradicted,

Mr. GARDENIER withdrew his motion; when Messrs. G. W. CAMPBELL and KEY supported the resolution, and opposed the postponement at considerable length.

A motion to adjourn was then made, and negatived—66 to 43.

Mr. DANA opposed and Mr. GARDENIER supported the motion for postponement; when the question on postponement of Mr. LEWIS's motion till the 1st of March, was negatived by yeas and nays—yeas 33, nays 86, as follows:

YEAS—Ezekiel Bacon, William W. Bibb, John Blake, jun., Martin Chittenden, Matthew Clay, George Clinton, jr., John Davenport jun., William Ely, Barent Gardenier, Francis Gardner, John Harris, John Heister, William Hoge, Reuben Humphreys, Robert Jenkins, Thomas Kelly, Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jun., Gurdon S. Mumford, Timothy Pitkin, jun., John Porter, John Rhea of Pensylvania, Jacob Richards, Matthias Richards, James Sloan, Samuel Smith, Clement Storer, Lewis B. Sturges, and Jabez Upham.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Epaphroditus Champion, John Chandler, John Clopton, Howell Cobb, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, Meshack Franklin, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jun., Edward Lloyd, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Mamaduke Williams, Alexander Wilson, Richard Winn and James Witherell.

Mr. MACON said, when he had before spoken on this subject, he had stated his opinion that a removal from this place would be a violation of the Constitution and a breach of the public faith; he had since heard nothing to convince him that this was not the case. He thought the faith of the Government was as strongly pledged for its continuance here as it could be for anything. He then moved to strike out the whole of the resolution after the word "Resolved," and insert "that, 'to remove the seat of Government from the City 'of Washington, in the District of Columbia, is a 'breach of public faith, and contrary to the Con-'stitution of the United States."

Mr. STANFORD could not believe that the motion was in order. If it were, and even if he agreed with the gentleman, his colleague, he could not vote for a resolution declaring what was or was not a breach of public faith.

The SPEAKER conceived that this motion went to the same object, although embracing a wider ground than the original resolution, and was, therefore, in order.

Mr. SMILIE said he had just one observation to make. If this resolution was adopted, it would be the first instance he had ever known of the Legislature undertaking to declare what was the Constitution.

Mr. LIVERMORE moved to adjourn. Carried—56 to 50.

SATURDAY, February 6.

The bill sent from the Senate, entitled "An act to revive and continue certain causes and proceedings in the District Court of the District of Columbia," was read the third time and passed.

REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. J. MONTGOMERY moved that the unfinished business of yesterday lie on the table, to give an opportunity for the renewal of the motion originally made by Mr. SLOAN, and afterwards renewed by Mr. BLOUNT, for the removal of the seat of Government; which was agreed to—52 to 51.

Mr. LEWIS then moved the consideration of the resolution renewed by Mr. BLOUNT yesterday.

The House agreed to take up the consideration of the resolution by yeas and nays—yeas 56, nays 51.

The main question then recurring, that the House do agree to the said resolution, in the words following, to wit:

Resolved, That it is expedient, and the public good requires, that the seat of Government be removed to the city of Philadelphia, for —— years, and that a committee be appointed to bring in a bill for that purpose.

Mr. SLOAN began his observations with remarking that it was not customary for the stenographers to take down what was said in the latter part of a debate, but he requested them to take down what he was about to say; for he had been much abused for his conduct in relation to this subject, and he was anxious that the good people of the United States should have a proper view of his sentiments.

Mr. S. said he had been cautioned to take care of himself. It had been intimated to him that his life was in danger, and that it had been declared he ought to be thrown into one of these wilderness holes. [Mr. DANA here observed that this was a very serious affair, and requested the gentleman from New Jersey to state specifically whether he had been really threatened, and in what manner.] Mr. S. proceeded. He knew not that these circumstances could be proved so as to convict any one; but his friends had informed him that it would be unsafe to expose himself. He had heard that some people of this place had said he ought to be put one side. He had been threatened in the evening by some unknown persons who assailed him.

Why, asked Mr. S., is this clamor raised against me? Have I done anything contrary to the laws or Constitution of my country? Have I done anything which is not proper for any member of this House? Are any so ignorant as to suppose that threats will answer the purpose?

Have I brought forward this matter of my own head, to take up the time of the House? No; I act conjunctively with many; and if the subject had been treated fairly, I should have had a majority. Was ever such a thing done before in these walls as to deny all investigation? I do not recollect any case before like this, when all inquiry was refused. Subjects discussed session after session have been indeed refused to be taken up again; but a new subject has never before been thus attempted to be scouted out of the House. Let this fact be noted down. Let it go out to the good people of these United States. This evil, if persisted in, will work its own cure.

The seed is sown. Sooner or later the Government will be removed. The very measures now taken will have the effect to produce a removal. If the city stand on safe grounds, why fear an investigation? Deeds of darkness fear the light; but truth and justice need not fear it. A removal must, shall, and will take place. It can't be prevented.

I said on a former day that there is nothing like this city in the heavens above, in the earth beneath, or in the waters under the earth. This language has been reprehended by some. There are gentlemen who are greater historians than I am. Can they point out anything like it in ancient or modern times? I cannot.

Is there even in Great Britain any place without the shadow of representation? It was one great complaint at the time of the Revolution that we were taxed without our consent. But here, in the heart of our Government, is a District without any representation at all.

Mr. S. had always believed that this city could never grow into opulence without some modern Nebuchadnezzar, or some Czar of Russia, who had all the people at his despotic nod.

Alexandria and Georgetown always have jarring interests. The law to erect a bridge over the Potomac, which will benefit some, is so much disliked by others, that they had rather you would remove the Government than build the bridge.

Mr. S. thought no Congress had a right to attach permanency to the seat of Government at this place or to any other. There is no such power in the Constitution. It is unconstitutional to accept a District without the right of representation. I reject, said he, the idea of this being a federal city in particular. Every city in the United States is a federal city, and every man ought to be a federal man; that is to say, attached to the Federal Constitution, and bound to support it.

We have spent much money here, and yet are not accommodated. Let the spectators in the gallery bear witness that when a member wants to hear a speaker, he must generally move from his seat to hear him. It is said this defect can be remedied. True; there is room enough in this place for a thousand splendid palaces.

I have another objection, which is the navy yard. Is there on the face of the earth another navy yard 300 miles from the sea up in the woods, where it costs as much to bring the timber from the place of its growth as it is there worth? It often takes a vessel two weeks to go down the river to Hampton. The workmen must all be brought from other places. Mr. S. thought that if an inquiry were permitted, it would turn out that two hundred and fifty thousand or three hundred thousand dollars a year might be saved in the navy yard.

A gentleman from Virginia (Mr. EPPES) has hinted at a concentration of the public buildings.

We can, indeed, take money out of the Treasury and do it. I recollect, some sessions ago, a member from Virginia said the Capitol must be carried to the offices, or the offices brought to the Capitol.

Mr. S. had heard several members say they had rather sit at Philadelphia for three dollars a day than here for six. He had also heard several clerks say they would be willing to serve in Philadelphia for $200 a year less than what they now receive. Had I leisure, had I the proper chances for information, I would carry the sum heretofore stated to be saved by a removal to double the amount. It is not a chimera of my own brain. It is the calculation of good judges that half a million may be annually saved. If I am permitted, I am ready to show the fact.

We can have at Philadelphia all the necessary public accommodations for nothing. Let gentlemen calculate the difference for themselves. If we are to concentrate the public buildings here, a new source of boundless expense is opened.

What is there here? Two stately edifices on this hill. Yonder we see a few scattered houses. It is said that when it is all built upon it will be warm and pleasant. But can that low ground ever be built upon? It is impossible. On this hill we are exposed to the most violent winds from every point. Last year we were driven out of our hall by the breaking of our windows. It seems that heaven and earth are against our continuing here.

Mr. S. proceeded to speak of the health of Washington. We have the most sudden changes and the most piercing winds. One day we are choked with the dust, next day we are wallowing in the mire. To accommodate all constitutions, we ought to be in a city where those of a delicate constitution may have a dry pavement to walk on. I have, thank God, a good constitution, and have stood it so long; but how much longer I may stand it I cannot tell, even if my life should escape the snares of wicked men. How often do we see many members confined with colds; some supposed to be sick with mortal diseases. We are asked if better health can be enjoyed in Philadelphia. Facts will prove the sad difference.

Mr. S. observed that this city always brought to his remembrance the story of the confusion at Babel.

Mr. S. said he understood that Washington's plan was to place the Government at Alexandria or Georgetown. Had this plan been adopted, we might have had comfortable accommodations.

In bringing forward this subject, Mr. S. had only endeavored to do his duty. The friends of the measure would never cease their efforts till they had obtained a fair discussion.

I have but one more observation to make. Has this question anything to do with party? No; it is supported by Democrats, by Federalists, by Whigs—by men who have all the good of their country at heart. Has not a respectable number of Federalists come forward in its support? Is there not also a number of Federalists in this city who are opposed to the measure?

Mr. S. concluded with committing himself, soul and body, to the Great Preserver of all things, who knew the inmost thoughts of his heart, and would do him justice. Mr. S. spoke an hour.

The resolution was further supported by Messrs. Bacon, Smilie, Milnor, and Upham; and opposed by Messrs. Dawson, J. Montgomery, Blount Van Horn, and G. W. Campbell.

On motion, the Committee then rose, and the House adjourned.

Monday, February 8.

Mr. Mumford presented a memorial of sundry citizens of the State of New York, stating their claims to large tracts of land within the limits of the Territory ceded to the United States by the State of Georgia; and praying that such compensation may be granted to satisfy the said claims of the memoralists, as to the wisdom and justice of Congress shall seem meet.—Referred to the Committee of the Whole to whom was referred a memorial of the Legislature of Massachusetts.

Mr. Samuel Smith presented a petition of sundry inhabitants of the borough and county of Erie, in the State of Pennsylvania, praying that further provisions may be adopted by Congress to prevent illegal combinations of persons within the United States, and to punish such individuals as may be convicted of treason or misdemeanors against the peace and safety of the same.—Referred to the committee appointed on the twenty-ninth of October last, on so much of the Message from the President of the United States, of the twenty-seventh of the same month, as relates to enterprises against the public peace, and to the means of preventing the same, and punishing the authors.

Mr. G. W. Campbell, from the Committee of Ways and Means, reported a bill for carrying into effect certain Indian treaties.—Read twice and referred to a Committee of the Whole.

PURCHASE OF ARMS.

Mr. Burwell moved the following resolution:

Resolved, That the Committee on the Military and Naval Establishments be instructed to inquire into the expediency of authorizing the President of the United States to procure, as soon as practicable, —— stand of arms, to be deposited in safe and suitable places, for the service of the United States.

Mr. Burwell hoped the House would agree to the resolution, that it might go to the Committee, that they might report a bill. It would be recollected that a colleague of his had, a few weeks ago, submitted to the House some resolutions for the purpose of arming the whole militia in the United States. This gentleman, he said, is at this time so much indisposed as to be unable to attend, and possibly the nation may not, at this session, receive the benefit of any such plan. If, however, the resolution which I offer shall become the foundation of a law, and the House appropriate a sufficient sum to purchase fifty or an hundred thousand stand of arms, it will not interfere with that object, if it can be accomplished; but, if procured, they might be so disposed as to arm the militia or regular force, according to the future determination of the House. It is scarcely necessary to call the attention of the House to the situation of the United States; every man must be impressed with it; our commerce attacked in every part of the globe, our peace menaced by the most powerful nations in the world. Although there may be in the United States an indisposition to protect commerce at all hazards, yet whenever it is necessary (no man can tell what is to happen in the present state of things, we should therefore prepare for the worst) to prepare for defence against attack on land, but one opinion can prevail. I have offered this resolution, because the procuring arms will be indispensably necessary to enable us to defend the country. I am one who believes that, if this country is possessed of a sufficient number of arms, we are perfectly safe against the world. I, for one, feel no sort of alarm; I feel indifferent to any combination however extensive or formidable. It is impossible to conquer this country; it would require a corporal and a guard for every man. Let us have arms and I fear not any mischief from combinations of any kind against the country. I hope the resolution will be agreed to, and referred to the committee I have mentioned.

Mr. Bacon thought this a resolution of considerable importance, which need not be adopted at a moment's warning. He wished further time to consider the subject, and moved that it be referred to a Committee of the Whole.

Mr. Dawson said, that the Committee on our Military and Naval Establishments had made the inquiry contemplated by the resolution. They found that the United States were now in possession of 130,000 stand of arms, and annually manufactured —— thousand in addition. Upon this inquiry, they had thought it unnecessary to inquire into the means of procuring an additional supply.

Mr. Marion said, it was indifferent to him what course this resolution should take, though he was anxious that the House should come to some determination on the subject. Early in the session a committee had reported a resolution for loaning or selling arms to the several States, which resolution had lain on the table. Several Legislatures had since been in session and appropriated money for procuring arms. But, as long as these motions were pending in this House, and Congress had the subject under consideration, they knew not how to act. If Congress will purchase arms, said Mr. M., it is unnecessary for the States to do it; if Congress will sell them, the States will purchase them. I myself have been applied to by a State authority, to know what success they would meet, in an attempt to procure arms in the United States. It is impossible to purchase them in the United States; the armories and manufactories are in contract with the United States or with the States for all that can be manufactured, and it is impossible to procure them, except from foreign nations. If this resolution were adopted, the details from the committee might furnish some mode of procuring them. It is desirable that something on this subject may be done, and this course may produce the most speedy decision.

Mr. Ely thought it a truly desirable object that the United States should possess more arms than they do at present. One hundred and thirty thousand were not half the number that the United States ought to possess. He should be willing to adopt the resolution if the gentleman from Virginia, or any other, would show the means to carry the object into effect, that arms could be procured. But, until it could be shown that there were arms in the United States, which could be purchased, it was unnecessary to trouble the House with a discussion on the subject, as it would have a tendency to prevent the States from arming. Now, if the gentleman who proposed the resolution could show where fifty thousand stand of arms were to be had, he would adopt any measure for procuring them. He did not think one hundred thousand stand would be one musket more than the United States ought to have in addition to their present supply; but he would not be willing to adopt the resolution except it were shown where they could be purchased. The political world was now in such a state that arms could not be procured from foreign nations. He should be glad that some way could be demonstrated. He wished to know, before they committed the subject, that the resolution embraced an object within their reach.

Mr. Bacon withdrew his motion for commitment, and moved that it lie on the table.

Mr. Burwell assured the gentleman who had just sat down, that he had introduced the resolution not to promote useless discussion.

Mr. Ely explained that he had not meant to express an idea that he had.

Mr. Burwell said, it was no part of his object. It appears to me that nothing can be more evident than that every country which anticipates attack should possess more arms than necessary to arm any particular number of men that are likely to be called out at one time. Let us suppose that, by whatever event, a part of our arms should be destroyed. Is it not necessary that there should be a deposite whence they can be immediately supplied? I presume that there should. As to any particular place where any quantity of arms can now be procured, I cannot designate any. The resolution contemplates vesting a power in the Government to purchase them, if they can be had. There are, no doubt, some few in the seaports. Government may purchase them. Although we cannot import them at this day, we may in a few weeks or months, in which time the state of things may be so far changed as to put it in the power of the President to procure them. With respect to the number of arms already belonging to the United States, it will be considered that we have an exposed frontier, liable to the attack of nations on our borders, and it is indispensably necessary that the inhabitants on our frontiers should be armed. The petition that day presented by the gentleman from Pennsylvania, (Mr.

Smith,) sufficiently evinces that the United States are not amply provided with arms.

Mr. S. Smith, deemed it his duty to state that the fears of the petitioners, just alluded to, were not chimerical; he personally knew their situation, and was anxious that something should be done for their relief.

Mr. Burwell having expressed a consent that it might lie on the table, the resolution was so disposed of—42 to 34.

REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. W. Alston moved that the unfinished business [Mr. Blount's renewal of Mr. Sloan's motion for the removal of the seat of Government] be postponed indefinitely. He presumed every gentleman must be convinced that sufficient time had been occupied by it.

Mr. Sawyer opposed a postponement, because he was in favor of the resolution. Mr. S. conceived that the sober habits and patriotism of the inhabitants of Philadelphia, offered an ample security against our being disturbed by riots and tumults. Philadelphia though containing twenty thousand inhabitants more than New York, has not so many deaths annually by two hundred. There is not a more changeable climate in the world than this of Washington. There is scarcely a day without a storm. There is also something intolerable in the atmosphere of this Hall; and if we choose to continue in this place, we must agree to quit this elegant building. If not the cause, said Mr. S., of his late severe sickness, it was certainly the means of preventing his recovery.

It was probable that Mr. Crowninshield would owe his death to this place. If such should be the fact, not all the money lavished here could compensate for the loss: the place ought to be destroyed and annihilated; and, if it were as opulent as Babylon, he would have the ploughshare run over it.

At Philadelphia was the best medical faculty on the globe. If a man in ill health could be possibly cured, they would do it. But here was no medical assistance. If a member should only faint, you must send all the way to the navy yard for a physician.

Mr. S. remarked on the extravagant prices of everything at Washington. A common turkey is sold here for a dollar and a half, butter for fifty cents a pound, and everything else in proportion. The saving in hack-hire, by going to Philadelphia, would amount to one hundred and seventy dollars a day.

In reply to Mr. Eppes, who said that the advocates of removal treated this city as a capricious woman treats her lover, Mr. S. said, he hoped that gentleman did not speak feelingly on the subject. He was the last man to deserve such treatment, and probably spoke from the ardor of imagination rather than from experience.

Mr. S. then went into a consideration of the Constitutional objections to a removal, and contended that they amounted to nothing. Mr. S. was persuaded that, whatever might now be the result of the question, a removal would undoubtedly be effected at some future period. Mr. S. spoke above an hour.

Mr. Tallmadge said it was with extreme reluctance that he rose to address the Chair on the present occasion, as he had from the beginning determined to take no part in the debate. But the subject having taken so extraordinary a turn, and the opposers of the resolution now under consideration, seemingly confident of their strength, having determined to drive the House to a decision on the main question, a sense of duty as well as propriety forbade him to be silent.

Since I have had the honor to be a member of the National Legislature, I can recollect no subject that has taken so strange a course as the resolution now under discussion. It was introduced into the House by a gentleman from New Jersey, (Mr. Sloan,) on Tuesday last, stating that it was expedient, and the public good required the removal of the seat of Government from Washington to Philadelphia. After a few remarks were made by the mover of the resolution, a motion was made to consider the same. This occasioned considerable debate, after which a gentleman from Virginia (Mr. Lewis) made a motion to postpone it indefinitely, which he afterwards withdrew. A motion was then made by the original mover to commit the resolution to a Committee of the Whole, as well for the purpose of discussion, as to obtain by the order of this House full information on this subject. This was negatived by a majority of two. The gentleman from New Jersey then withdrew his resolution. Encouraged by this decision, the opposers of the measure determined to try the question on its merits, and a gentleman from North Carolina (Mr. Blount) renewed the original motion. On the question to consider, it was negatived, 68 to 51. A new motion was then made by a gentleman from Virgia, (Mr. Lewis,) of a negative principle, viz: that it was inexpedient, and the public good did not require a removal. This motion was debated, and amended, and finally permitted to lie on the table. The original resolution was again called up by one of its opposers, until, having devoted nearly a week in its discussion, and not being permitted to retire from the field partially vanquished, its friends determined to give battle. Until this time, Mr. Speaker, I had been on neutral ground, although I had no doubt of the Constitutional rectitude of the measure. In fact I should have been willing to have left the subject at rest where it was; but when gentlemen show a disposition not only to defeat, but to triumph and prostrate their opposers, I feel somewhat indignant at such conduct, and will briefly state to the House some of the principal reasons which will govern my vote on this resolution.

All that can be urged on either side of this question may fairly be comprised under the two following heads, viz:

1st. Does the Constitution interfere to prevent us from legislating on this subject? and, if not,

2dly. Is such a measure expedient and proper?

I beg the patient attention of this honorable

House while I endeavor to place this momentous question before them in a plain and familiar manner. If it shall be found that the Constitution is imperative in this case, then must the measure be abandoned. This *magna charta* of our liberties, this palladium of our rights, must be considered as paramount to all law, and wherever its provisions can be brought explicitly to bear, every legislative provision that may contravene, must be, *ipso facto*, null and void. In the eighth section of this memorable instrument will be found all that is said upon this subject in the following words: "To exercise exclusive legislation in all cases 'whatsoever over such district (not exceeding ten 'miles square) as may, by cession of particular 'States and the acceptance of Congress, become 'the seat of the Government of the United States, 'and to exercise like authority over all places pur-'chased by the consent of the Legislature of the 'State in which the same may be, for the erection 'of forts, magazines, arsenals, dock-yards, and 'other needful buildings." I deem it all important to the present question to have it distinctly noticed that the aforesaid provision comes in under the power granted to Congress. "The Con-'gress shall have power to lay and collect taxes;

'To borrow money;

'To regulate commerce;

'To coin money;

'To declare war;

'To provide for organizing, arming, and disciplining the militia;

'To exercise exclusive legislation in all cases," &c.

This instrument was undoubtedly intended to be as perfect as the nature of the case would admit, and provided not only for the election and appointment of the several constituent branches of the Government, but also defined the duties and powers of each. The Government thus organized, and its political machinery put in motion, this great national compact became obligatory in all its parts, and needed no subsequent act of the Legislature to give it a binding force. Here give me leave to inquire what would have been the consequence, as to the Constitution, if the cession of this District had never been made? Will any gentleman say that the Constitution would have been violated, or even incomplete, by such an omission? I trust not. If, then, the non-execution of this particular power would have left no breach in the Constitution, I infer most clearly that the removal of the session of Congress to any other place in the United States cannot be made a Constitutional question.

An honorable gentleman from Maryland, (Mr. Key,) to refute this doctrine, quotes the act of Congress accepting of the cession from the States of Maryland and Virginia, (see chapter 28th, 2d session of Congress,) and remarks that, although the Constitution is silent upon the subject of permanency, yet the act declares that it shall be the permanent seat of the Government. The answer to this objection must be obvious to every one. If the Constitution provides not for the permanency of the seat of Government, no declaratory law of the Legislature could confer that power. With equal force might it be urged that the law to collect taxes, or to organize the militia, were in its nature permanent, because provision is made for them in the Constitution; and, especially, if Congress had pleased to annex that enchanting word "permanent" to the title of the law, as the honorable gentleman so ingeniously urges to establish this as the permanent seat of Government. Indeed, Mr. Speaker, there seems to be an insuperable objection to such a Constitutional provision as the gentleman contends for. I would inquire of him as a lawyer and a civilian, if the doctrine he contends for be correct, whether a law enacted in any other place in the United States would be Constitutional? If his answer should be in the negative, and I presume it would be, what would be the condition of our country in case of invasion, an epidemic, or any other public calamity, by which the Legislature would be prevented from visiting the permanent seat of Government?

I hope by this time that some gentlemen who hear me, and who have hitherto entertained doubts, will be satisfied that Congress have a Constitutional right to legislate on the subject of the present resolution. For my own part I have not the shadow of a doubt resting on my mind.

The next point which claims consideration is, the expediency and propriety of the measure. I confess that difficultiss present themselves here which deserve the most mature consideration, and unless the provisions of the bill which may grow out of this resolution (if one is brought into the House) should fully accord with my judgment on the subject, although I purpose to vote for the resolution, yet I shall feel at liberty to oppose and reject the bill.

It is said that this city was founded by Washington, whose name it bears; a name which I can never hear pronounced but with veneration and respect. When I reflect on the illustrious acts of this greatest and best of men; when I view him, in the character either of the soldier or the statesman, and recollect that I have been honored with any share of his notice during the hardships and dangers of the Revolutionary war, I should be cautious how I tread on hallowed ground. Every public act of his life is calculated to fill the mind with reverence and esteem, and every recommendation seems to have been bottomed on his country's good. But that illustrious hero, who now sleeps in his own humble tomb at Mount Vernon, by submitting to the stroke of death, has proved that he was but a man, and all must acknowledge that no mortal man is perfect. Perhaps his predilection for this place as the seat of Government for the United States, was permitted as a solitary blot on his escutcheon, which was adorned with such a bright constellation of virtues. Could he have foreseen the extravagance and waste which have since ensued, and the prodigal expenditure of treasure which has been lavished upon this favorite seat of republican empire, he would have lamented that he had ever fostered it, and that his name had been used to sanction

the measure. Before he or the Government gave any sanction to this establishment, assurances were given, that, from the sale of city lots, every public accommodation would be provided for the Government. The original proprietors gave up one-half of these to the Government to bring about this measure, and Virginia and Maryland made donations for the use of the city amounting to $192,000. But what did all this effect? When the Government assembled here in the year 1800 nothing was completed; everything remained to be done. An advance of $10,000 was made from the Treasury to prepare gravel walks and footways, that the members of Congress might assemble at the Capitol without sticking in the mire. The sales of the city lots proving insufficient, and the city funds being expended, a loan of $300,000 was negotiated with the State of Maryland, provided the Government would guaranty the repayment. The city lots were mortgaged, and the Government of the United States finally acceded to the proposal. The consequence was, the whole sum was refunded to the State of Maryland from the Treasury of the United States. One fact is here deserving of particular notice: the City Commissioners consented to take the stock of the State of Maryland to the nominal amount of the sum thus loaned, and afterwards sold the same stock to Maryland, without removing it from their treasury, for $230,000, allowing the State a net premium of $70,000 for this negotiation. In December, 1799, another loan was obtained from the State of Maryland to the nominal amount of $50,000, for negotiating and paying which she retained the moderate premium of $9,512. Here are two negotiations, on which this infant establishment was obliged to sacrifice $79,512 to enrich a parent State in her abundant benignity towards this new seat of empire. The Government of the United States, like many an honest endorser before it, was obliged to pay up the nominal amount of its endorsement. [Here Mr. MONTGOMERY, from Maryland, begged leave to explain by remarking, that the General and State Government had passed laws authorizing the loan, &c.] Mr. T. did not dispute this fact, but still questioned the correctness of the measure before stated.

The Treasury once having been opened in aid of this city, annual calls and appropriations have been made, so that they have become as familiar as the supply of the civil list. The question then comes home to every member of this House, What has the Government got for this immense expenditure? The reply is short:—We have got the Presidential palace, the two public offices, the two wings of the Capitol, and the navy yard, including the marine barracks. With respect to the President's house and the public offices, for aught I know, they are now in a tolerable state of repair, and the north wing of the Capitol already needs great repairs, and it requires something more to finish it. Of the navy yard I scarcely know what to say. Situated at the head of tide-water, at the confluence of the Eastern Branch with the Potomac, it is at the distance of about two hundred and eighty miles from the sea. The navigation of this river is very difficult, and, on an average, would probably need twenty days to take one of our frigates into Hampton roads. In doing this she cannot be prepared for sea, and most probably must be lightened even of her guns and stores. I am informed from pretty correct authority that the pilotage alone of the frigate Adams, when she returned from the Mediterranean, from the mouth of the Potomac to the navy yard, cost $600; and that the expense of wages and provisions to the officers and crew of one of the frigates, while passing from this navy yard, until she reached the Chesapeake Bay, cost the United States $4,000. This, Mr. Speaker, is no trifling consideration, and if the frigates should be needed on any emergency, how preposterous is the idea that all this expense and parade must attend their passage into the Chesapeake! I inquire further, from whence are you to be supplied with sailors to navigate your ships? From Baltimore, Philadelphia, New York, and the Eastern ports; and frequently this is attended with no trifling expense to the Government. From what quarter is the timber procured which is used at this navyy yard? Is it borne down on the streams of this noble river from the Alleghany mountains, or the country above us bordering on its waters? Never have I heard that a single spar or stick of timber has been brought here from that quarter. These materials are all to be brought up this river with a prodigious expense of freight. Even the tree-nails which are now piled up in the navy yard, I am informed, were brought from New York. From whence do we obtain our naval supplies, such as cordage, duck, or sail-cloth, iron, &c.? From the great maritime ports on the Atlantic; and when labor is bestowed upon any of those articles here, from the best information I have been able to obtain, it costs the Government an advance of at least fifty per cent. In addition to all this, the basin or cove in which our frigates are laid up in ordinary, is almost a stagnant water, and from the nature of the case, during the hot season of the year, must be putrescent. To what other cause can be imputed the unusual decay of our ships? Who that notices the heavy advances which are made by Government merely to repair the few ships we have in this water, to prevent them from going to the bottom, (if, indeed, they did not rest upon it a part of the time,) but must be forcibly struck with the truth of this remark?

It has been urged that this is a safe place for a navy. So, indeed, would Marietta, at the confluence of the Muskingum with the Ohio, or Pittsburg, where the Monongahela and the Alleghany rivers unite, and vastly to be preferred for the convenience of purchasing all the materials for shipbuilding. But this I do not consider to be the question.

The inquiry now before the House is, whether this navy yard combines most effectually the great principles of usefulness and convenience with economy and the public good. I am far from wishing to depreciate those institutions, for I believe them essential to our prosperity and existence as a commercial people. But when I reflect that this is made the great emporium of our naval supplies, the place of anchorage for our frigates, and the residence of officers, clerks, and dependants, who might be usefully employed in a better place, I am constrained thus publicly to bear testimony against it. As I consider it the grave which swallows up a considerable portion of our treasure, and an excrescence which ought to be cut off; and as I fear this will not be effected so long as the Government continues here, it furnishes a strong reason for the expediency of a removal.

Again, sir: does any gentleman know, and will he inform this House, what sums are annually expended by the Government to support the civil administration of this District, its courts, juries, officers, and city commissioners? What will be the probable estimates for the year 1808, to complete the expensive stone wall at the President's square; to repair the north wing of the Capitol, and to carry on the works at the navy yard? We are told that $100,000 will be wanted to repair the Capitol alone; a sum large enough to accommodate both Houses of Congress in any city in the United States north of the Potomac.

Thus I have stated some of the reasons which plead strongly in favor of the expediency of the measure which I have been compelled to submit to this House, from the zeal and intemperance with which this resolution has been opposed. I will now endeavor to notice a few of the most prominent objections which have been made to the measure, and dismiss the subject.

1. The first objection urged against this measure, is, that the Government will sacrifice an immense sum by such a step. To prove this, a gentleman from Maryland (Mr. VAN HORN) has gone into a calculation, the prominent points of which I will state, as far as I could note them at my distance from his seat. He stated the amount of lots sold by the city commissioners to be $644,000
Donations from Maryland and Virginia 192,000
Advanced from the Treasury - - 732,000

$1,568,000

Whether this last item includes the $350,000 loaned by Maryland to the Commissioners, I do not know. Perhaps he will condescend to inform this House. If so, for the honor of the State, we will suppose that on a restitution of her original donation she would deduct the premium which she retained on the loan, amounting to nearly $80,000. I am willing, for argument's sake, to admit that the public expenditures have amounted even to $2,000,000 (and this I believe to be much below the truth,) and then I ask the question whether the Government ought to sacrifice this property for the sake of a removal? My answer is, that the immense sums already advanced being but the incipient steps towards prodigious expenditures which must necessarily be made to keep these buildings, &c., in repair, the sooner they are totally abandoned the better.

2. Another objection arises from the expenditures made by citizens and others, who have purchased or built here on the faith of Government. I am for making ample remuneration wherever it shall be deemed equitable and just. Nothing short of this will satisfy me. But it may not be amiss to inquire how far the faith of Government is considered plighted to every man who may have speculated for his own interest, or who may have removed within the influence of its genial beams, and sat down under its fostering influence. Is not the case familiar to most gentlemen who hear me, that when a State erects a new county, builds a court-house, &c., that people immediately settle in its vicinity? If the Government should find it necessary to remove the county business to another place, are the inhabitants entitled to indemnification for their buildings and other improvements? The same may be said of roads and other public institutions.

3. Another objection against this measure is, that it will argue a sort of instability in the Government, which may prove injurious. That a Government should not be continually changing its principles or location, is certainly important; but after the Government of the United States have made an experiment of nearly eight years continuance at this place, is it not reasonable to suppose that they have had time to form some opinion whether the plan can succeed? I think I shall be safe in declaring that there were more habitable buildings erected on private account when the Government removed here than at this day. Turn your eyes to Greenleaf's Point, to Morris's Village, and to various other parts of this magnificent city, and what do you find but buildings tumbling to the earth. The two first mentioned places are but too apt a resemblance of the ruins of Palmyra.

4. The opposers of this measure have attempted to make this a party measure, and, as usual, the cry of mad dog has been attached to it, and it has been called a Federal measure. I am sorry, Mr. Speaker, that I have occasion to notice anything of this sort; but a sense of duty obliges me to reply to it. Give me leave, then, to inquire, who is the mover of the resolution? Its legitimate parent, (Mr. SLOAN,) I presume would feel greatly injured if he might not class himself among the most zealous Republicans of the modern stamp. By whom has it been opposed? I hope the delicacy of republicanism will not be wounded when I remark, that among its most able opposers are to be found two gentlemen (Messrs. KEY and LEWIS,) who lie under the imputation of being Federalists. I say, then, that party politics have nothing to do with the subject; for I have rarely noticed a question agitated in this House, when party distinctions have been more thoroughly lost in the subject.

5. An appeal has also been made to the passions, sufferings, and feelings, of the people, thereby exciting the popular odium. This, I am sorry to say, has been but too successful, for a member of this House (Mr. SLOAN) has publicly informed us that he has been grossly insulted in his person and threatened with the loss of his life. While I

declare my opinion that the House ought not lightly to pass over such an outrage upon the privileges of its members, I cannot refrain from warning gentlemen against such dangerous appeals. This conduct, countenanced and pursued, would render a removal indispensably necessary.

6. A gentleman from North Carolina (Mr. Blount) has told us, in his place, that if the advocates for this resolution should succeed, he will lay a resolution on the table to repeal the law establishing the funding system. This is threatening with a vengeance. It is hardly to be supported by weak, frail men. However well this may accord with the correct principles of modern legislation, in morals I am sure it would be condemned. It reads to me somewhat like this: if you do a base action, I will immediately do a worse one to pay you for it. Does the gentleman think that men are to be driven from their purposes of public duty by threats of this sort? Can he discover no distinction between a legislative provision to locate the seat of Government, and a solemn covenant entered into by the Government with individuals to pay them for value received! Has he carefully examined the sixth article of the Constitution, which says: "That all debts con-'tracted and engagements entered into before the 'adoption of this Constitution, shall be as valid 'against the United States under this Constitu-'tion as under the Confederation?"

I have too high an opinion of the integrity and good sense of this House, to believe that they would sustain such a resolution for a moment. Having a little native obstinacy in my make, if my mind hesitated on this subject, I think I could bring myself to vote for the resolution, to give the gentleman an opportunity to try his favorite measure.

The accommodation of the members, the unhealthiness of this place, and various inconveniences, have been stated as reasons for a removal. The uniform civility which I have received from the people in general, and the polite attention from my particular friends, demand and receive my acknowledgment. But it ought not to pass unnoticed, that during the autumnal season, the principal executive officers of our Government deem it not prudent or safe to tarry at this place.

Another circumstance worthy of notice, is the wretched state of the roads over which you must pass to the seat of Government from any quarter. If the neighboring States had ever contemplated to repair them, time enough has been afforded for that purpose; and if the Government of the United States have this task to accomplish, it furnishes a strong argument in favor of a removal to a country where these expenditures will not be called for.

How gentlemen have dragged in the revolt of the Army during the war, or the relative abilities of merchants and lawyers to administer the Government, as bearing on the question, I cannot conceive. Since the gentleman from Tennessee (Mr. G. W. Campbell) has been pleased to declare that merchants are the last men in the community to whose management he would confide our national affairs, I cannot pass over unnoticed so general and so unmerited a censure. Surely that gentleman must have been unfortunate in his society, or he could not have made such a declaration. Give me leave to assure him that the mercantile gentlemen of the Atlantic States with whom I have been acquainted are to be classed among the most useful and respectable citizens of our country. Many of them, in point of talents and literary acquirements, are to be found in the first grade, and would not suffer by a comparison with any honorable member on this floor. As they are the medium through whose agency the surplus products of the planter are sent to a foreign market, so may they be said to be mutual aids to each other. To whose exertions, if not to those of commercial men, are we indebted for foreign supplies, which contribute so essentially to the comfort and convenience of the citizens at large? And, above all, through whose hands does the revenue of the United States first pass into the chests of your collectors? The honorable gentleman (Mr. C.) was pleased to remark, that the speech of a very worthy member from Pennsylvania, (Mr. Milnor,) would convince the House that he was not a lawyer. In return, I would observe, that I believe no mortal could suppose *he* was a merchant.

Having occupied more time than I was aware of in submitting my sentiments to this honorable House, I must necessarily omit enlarging on the peculiar benefits which would result from a removal to Philadelphia. If the accommodation of the members of the Government, as well as of strangers and visiters, who may have business to transact, be of any importance; if domestic endearments and society are of any avail; if speedy access to every useful source of information, whether commercial or political, foreign or domestic, may be brought into the account; if, in fact, it is not absolutely necessary for the preservation of republican liberty to pursue a new course, unwarranted by any precedent, to legislate in retirement and solitude, rather than in some pleasant city or town, then, sir, are we most imperiously called on to weigh the subject maturely before we act, and not hastily and passionately to pass a negative upon the resolution now under consideration. I cannot but consider the subject as vastly important to the honor, the welfare, and the prosperity of the country. Whether, at the present crisis, we are imperiously called on to decide this question, I will not pretend to determine; but if gentlemen should persist in urging this House to a decision without further information, my vote shall be given in favor of the resolution.

Mr. W. Alston withdrew his motion, as he had not intended to cause a discussion by it; he had moved it for the purpose of getting rid of the subject altogether.

Mr. Quincy rising to speak under a belief that the question on the passage of the resolution had recurred—

The Speaker declared that the House had not yet agreed to consider the subject; and no debate being admissible on a motion to consider, the question on considering the resolution was taken by yeas and nays, and carried—yeas 60, nays 58, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, David Bard, Burwell Bassett, William Blackledge, Thomas Blount, Joseph Calhoun, George W. Campbell, John Clopton, Howell Cobb, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, James Elliot, John W. Eppes, Meshack Franklin, Barent Gardenier, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, Joseph Lewis, junior, Edward Lloyd, John Love, Matthew Lyon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, John Morrow, Thomas Newton, Wilson C. Nicholas, John Rhea of Tennessee, Jacob Richards, John Rowan, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Benjamin Tallmadge, John Taylor, Abram Trigg, Geo. M. Troup, Archibald Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Marmaduke Williams, and Richard Winn.

Nays—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, John Blake junior, Robert Brown, William A. Burwell, William Butler, Epaphroditus Champion, John Chandler, Martin Chittenden, Matthew Clay, George Clinton, junior, Samuel W. Dana, Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner, Edwin Gray, John Harris, John Heister, William Hoge, Daniel Ilsley, Robert Jenkins, James Kelly, Nehemiah Knight, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, junior, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, Matthias Richards, Samuel Riker, John Russell, Ebenezer Seaver, James Sloan, Samuel Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Isaac Wilbour, and James Witherell.

Mr. Gardenier said, as a determination was pressed, and as in deciding they ought to be possessed of all the information in the power of the House to procure, he should move that the resolution be referred to a select committee, with instructions to inquire into and report how much money has been expended in the City of Washington, and how much may be saved by a removal, and that the Heads of Departments be instructed to afford such information as the committee may call for.

Mr. Montgomery wished to know if the motion were in order?

The Speaker conceived that it was in order to move a commitment, but not in order particularly to instruct the committee to whom it was committed.

Mr. Gardenier said, there might be an error in the motion, but he was led into it from the indulgence of the House, in a similar motion, which he had made, some time ago, in consideration of the resolution for inquiry into the conduct of General Wilkinson, and on which motion a question was taken by yeas and nays. If he had been wrong then, he was not right now; if he had been right then, he was not wrong now. He submitted to the decision of the Speaker, however, and withdrew that part of his motion which went to instruct the committee, with a design to renew it hereafter.

Mr. Goldsborough, although he was decidedly opposed to a removal, was willing to commit the resolution, in order that it might undergo a thorough investigation, and receive a full decision. He hoped that gentlemen, thinking as he did, would agree to refer it; at the same time, he assured the House that he had not an idea that the Secretary of the Treasury, or other department, could give them any information necessary to decide this question. If a motion were not now before the House, he would move to refer it to a Committee of the Whole.

Mr. Gardenier, as he had no preference for any particular committee, withdrew his motion, and moved to commit the resolution to a Committee of the Whole.

Mr. Rhea, of Tennessee, opposed the commitment; in the course of his remarks observing, that it appeared to him as if gentlemen made motions for others to make speeches upon, and withdrew them, as soon, before a question could be taken on them, as though they wished to prolong a tedious discussion.

Mr. Nicholas opposed a commitment, as it could have no other effect than to produce further delay on a subject which had already occupied the attention of the House too long.

Mr. Smilie observed that it was not good policy in any majority to push their advantage too far. Gentlemen must see, by this time, that they had better have stopped when they had forced the minority to retreat; but, not satisfied with that, they determined to go further and triumph over them. Every minority could always perplex a majority, and something in proof of that they now saw. The gentleman who renewed this motion had it yet in his power to withdraw it; if he did not, he could not expect any accommodation on the part of the minority.

Mr. Burwell, in a speech of some length, opposed a commitment. He regretted that so much warmth had been displayed, that public measures had been suspended, and the body tied down to this subject, without producing any good effect. He went over the ground of removal, of which he did not believe there was any Constitutional prohibition, but there were circumstances attendant on the erection of the place into a seat of Government, which operated as strongly in his mind against a removal, as if the Constitution itself had prohibited it.

Mr. Van Dyke, in a speech of considerable length, advocated the removal and commitment. When a motion for adjournment was carried.

Tuesday, February 9.

On motion of Mr. Matthew Clay, that the House do now again resolve itself into a Commit-

tee of the Whole on the bill more effectually to provide for the national defence by the militia of the United States; and the question being taken thereupon, it passed in the negative.

Mr. Newton, from the Committee of Commerce and Manufactures, presented a bill for extending the term of credit on revenue bonds in certain cases, and for other purposes; which was read twice and committed to a Committee of the Whole on Friday next.

A Message was received from the President of the United States communicating information that there is reason to believe, on the affidavit of a Captain Sheffield, of the American schooner Mary Ann, that the Dey of Algiers has commenced war against the United States.—The Message and papers transmitted therewith, were read, and referred to Mr. Quincy, Mr. Findley, Mr. Nicholas, Mr. Taylor, Mr. Troup, Mr. Johnson, and Mr. Mumford.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act, entitled "An act to prohibit the importation of certain goods, wares, and merchandise." The bill was reported with amendments thereto; which being twice read, the first, second, and third, of the said amendments were agreed to, and the fourth and fifth amendments disagreed to by the House. The said bill was then farther amended; and, together with the amendments agreed to, ordered to be engrossed, and read the third time to-morrow.

The House went into a Committee of the Whole, on the bill making additional compensation to the Marshals of the districts of North Carolina and New Jersey.

After some discussion on the bill, in which Mr. Blackledge and others forcibly represented the peculiar situation of the Marshal in the State of North Carolina, a question was taken on filling the blank for the addition to the salary of that officer, with five hundred dollars, and negatived—yeas 29; four hundred was agreed to—yeas 57.

After some observations from Mr. Southard, relative to the situation of the Marshal of New Jersey, the blank for the addition to his salary was filled with two hundred dollars; when the Committee rose and reported the bill, which, after some objections by Mr. Witherell, and reply by Messrs. M. Williams, Macon, Newton, and Blackledge, was ordered to a third reading.

REMOVAL OF THE SEAT OF GOVERNMENT.

On a motion of Mr. Blount, that the House do now proceed to a farther consideration of the proposed resolution for a removal of the seat of Government of the United States to the city of Philadelphia, which was depending yesterday, at the time of adjournment; and the question being, taken thereupon, it passed in the negative—yeas 35, nays 91, as follows:

Yeas—David Bard, Burwell Bassett, William Blackledge, Thomas Blount, Joseph Calhoun, George W. Campbell, John Clopton, Joseph Desha, J. W. Eppes, Meshack Franklin, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Walter Jones, William Kirkpatrick, John Lambert, Joseph Lewis, jr., John Love, John Montgomery, John Morrow, Thomas Newbold, Wilson C. Nicholas, John Rhea of Tennessee, John Rowan, Ebenezer Seaver, John Smith, Henry Southard, Abram Trigg, George M. Troup, Archibald Van Horn, Jesse Wharton, and Alexander Wilson.

Nays—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, William W. Bibb, John Blake, jr., John Boyle, Robert. Brown, William A. Burwell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Davenport, jr., Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner, Edwin Gray, John Harris, John Heister, William Hoge, Reuben Humphreys, Daniel Ilsley, Thomas Kenan, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jr., Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Russell, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, John Thompson, James I. Van Allen, Nicholas Van Dyke, Killian K. Van Rensselaer, Isaac Wilbour, and Marmaduke Williams.

Wednesday, February 10.

An engrossed bill supplementary to an act for prohibiting the importation of certain goods, wares, and merchandise, was read the third time, and passed.

Mr. Dawson said, it would be remembered that some days ago there was before the House a bill for raising an additional number of seamen. He had since received a letter on the subject from the Secretary of the Navy, which, as he intended to call up the bill to-morrow, he submitted to the House, as follows:

Navy Department, *Jan.* 27, 1808.

Sir: Your letter of yesterday in relation to the number of seamen at present wanted by Government for the service of the United States, has been referred to the President, and I am charged by him to inform you that he does not wish to be empowered to employ more seamen than the number at present authorized by law, viz. 1,425, of which 925 were authorized by the act of Congress, of 21st April, 1806, and 500 by the act of 3d March, 1807. I have the honor to be, &c.,

R. SMITH.

Hon. Mr. Dawson.

DEBTS DUE FROM THE UNITED STATES.

The House resolved itself into a Committee of the Whole, 51 to 27, on the bill for extinguishing the debts due from the United States.

[The first section of this bill provides, that all persons, or the legal representatives of persons, to whom loan office or final settlement certificates, or indents of interest, have been issued, and all persons in whose favor settlements have been made at the Treasury, or who stand credited on the books of the Treasury, which said certificates, credits, and settlements, were issued or made for services or supplies, done or furnished prior to the fourth day of March, in the year one thousand seven hundred and eighty-nine, and have not since been funded or paid; and all persons who served in the Armies of the United States, during

the late Revolutionary war with Great Britain, and to whom arrearages of pay, clearly appearing on the muster and pay rolls, or other authentic documents now existing in the War office, or in any other Department of Government, may be due, shall be allowed to present their respective claims at the Treasury, and shall receive the amount thereof, without any interest, upon proving by the oath or affirmation of at least one disinterested witness, to the satisfaction of the accounting officers of the Treasury, that he or she so claiming, is the person or legal representative of the person to whom the same was originally due. The second section provides, that claimants for services of any kind rendered, and for supplies of any kind furnished to the United States, prior to the fourth day of March, 1797, which have heretofore been barred, or supposed to have been barred, by any resolutions or any laws of Congress, shall be allowed to present their respective claims to the accounting officers of the Treasury, who are thereby authorized to liquidate and settle the same without interest thereon, provided such claims are duly supported by sufficient vouchers, &c., the claimant making oath, that the said claim, nor any part thereof, has been before paid to any person in any manner whatever. The other five sections contain details.]

The first section of the bill being read—

Mr. Goldsborough conceiving that persons who had loaned money to the Government, as well as those who had furnished supplies, should be indemnified, moved to insert after the word "furnished" the words "or money loaned."

Mr. Taylor, to try the principle of the bill, made a motion to strike out the first section, which he presumed would supersede the motion of the gentleman from Maryland.

Mr. Milnor, in a speech of fifteen minutes, supported the principle of the bill, contending that it would be unjust and dishonorable for the United States to withhold the payment of those debts which can be well authenticated.

Mr. Taylor replied, in a speech of twenty-five minutes, and opposed the bill, chiefly on the groud that, as they could not do complete justice to all who had equitable claims against the Government, it would be improper to do anything. He mentioned the case of those who had sold their indents at 2*s.* 6*d.* a pound, and the negroes carried off by the British in contravention of the Treaty of 1873. As Mr. Jay's Treaty had relinquished this claim, our Government had incurred an equitable obligation to pay the value of 25,000 negroes, which was £250,000 sterling. If you undertake anything, why do you not satisfy every just claim?

Mr. Rowan thought it extraordinary that the Legislature should refuse to satisfy the claims of those by whom our liberty and independence were achieved; that they should refuse to pay debts which were acknowledged to be just. Mr. R. would rather submit to a direct tax than leave the just claims against the Government unsatisfied. It was as well a dictate of policy as of justice. He had been astonished at the conduct of the Representatives of the nation. Accounts are sent forth among the people of millions in the Treasury; much is said of the justice of the nation, and yet fair, just, and acknowledged claims against the Government are disregarded. Who will step forward in future for the defence of the country, while those who fought the battles of the Revolution are unpaid, and in consequent poverty and distress? Mr. R. spoke about half an hour in support of the bill.

Mr. Sloan did not rise to enter at length into the discussion. He did not pretend to that eloquence which had been displayed by some who had gone before him. This, of all subjects, was most favorable for popular speeches; but a pressing sense of duty compelled him to oppose, decidedly, every bill of this kind. He conjured the new members to examine this subject as fully as he had done. It would show that the passing of such a bill would be the most flagrant act of injustice that was ever perpetrated by any Legislature. A member, in coming on to Congress last year, had an armful of certificates put into his hands, with a promise of one-third of their value, if he would get the statute of limitation opened. Most of the certificates and vouchers are in the hands of speculators, the bane and pest of society. He was satisfied that ninety-nine one-hundredths were in the hands of such men, who were entitled to no remuneration.

The motion to strike out the first section of the bill was further supported by Messrs. Rhea of Tennessee, W. Alston, and Macon, and opposed by Messrs. Cooke, Holland, and Love.

When, on motion of Mr. Upham, the Committee rose, reported progress and asked leave to sit again.

Thursday, February 11.

The House proceeded to consider a resolution proposed by Mr. Burwell, on the eighth instant, which lay on the table; and the same being twice read, was agreed to by the House, as follows:

Resolved, That the Committee on the Military and Naval Establishment be instructed to inquire into the expediency of authorizing the President of the United States to procure, as soon as practicable, —— stand of arms, to be deposited in safe and suitable places for the service of the United States.

On motion of Mr. Montgomery,

Ordered, That the Committee of the Whole to whom was committed, on the thirtieth ultimo, the bill concerning courts martial and courts of inquiry, be discharged from the consideration thereof; and that the said bill be recommitted to Mr. John Montgomery, Mr. Nicholas, Mr. Upham, Mr. Smilie, Mr. Taylor, Mr. George W. Campbell and Mr. Jedediah K. Smith.

On motion of Mr. Poindexter,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of offering for sale the lands lately ceded to the United States by the Choctaw nation of Indians, in the manner in which the other lands of the United States south of the State of Tennessee are directed

to be sold; and that they report thereon by bill or otherwise.

THE EMBARGO.

Mr. Newton said it had become necessary to call the attention of the House to the act laying the embargo, the restrictions of which were not yet sufficiently strong; and it was necessary, in order to have effectual laws, that all cases arising under them should be provided for. Those States in the neighborhood of foreign States had taken advantage of the provision excepting vessels of five tons burden from the general restriction. To provide against cases of that description, and some others, he moved the following resolution, in order that the operations of the law should be equalized:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what, further restrictions in addition to those already imposed by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and by the act supplementary to the last mentioned act, are necessary to prevent the exportation of goods, wares, and merchandise, of foreign or domestic growth or manufacture, to any foreign port or place, and that they have leave to report by bill or otherwise.

On this resolution a desultory conversation took place between Messrs. Witherell, Newton, Dana, and Fisk, in which, however, no objection was made to the resolution. It was stated that foreign vessels were not by law inhibited from going from port to port in the United States with the products of our country, and may go to Passamaquoddy from any Southern port in the United States, and thence transport their cargoes across the bay by means of boats under five tons burden; and thus foreigners may enjoy the benefit of that traffic from which citizens of the United States are precluded; that the citizens of Vermont and other Northern States also enjoy the benefits of trade by means of these boats across Lake Champlain, Erie, &c., and that the embargo thus operates as a mean of fourfold profit to some, while it denies the common intercourse of commerce to others.

The resolution was adopted without objection, and Mr. Newton, from the Committee of Commerce and Manufactures, reported the bill to amend an act, entitled "An act supplementary to an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States;" which was twice read, and referred to a Committee of the Whole on Saturday.

DEBTS DUE FROM THE UNITED STATES.

The House again went into a Committee of the Whole on the bill to extinguish the debts due from the United States. The motion to strike out the first section being yet under consideration, Messrs. Cook, Upham, Johnson, Dana, Rowan, and Milnor, opposed the motion, and Messrs. Rhea, of Tennessee, and Taylor supported it. When

Mr. Fisk moved that the Committee rise, and ask leave to sit again.

Mr. Dawson said, that early in the session the President had invited their attention to the great subject of national defence. Have we, said he, attended to that invitation? No; we have met here day after day, week after week, discussing subjects which relate to our internal affairs. I hope a great majority of the House are prepared to say that we shall get rid of this subject, which has been discussed over and over again, and on which each speech that is made is a repetition of what has gone before, and prepare for events which may arise. I hope the Committee will not rise.

Mr. Newton held the same opinion as the gentleman who had just sat down, but should vote for the rising of the Committee, that the subject might be postponed for a few weeks.

Mr. Lyon hoped that the subject would not be postponed, as proposed by the gentleman last up; for, after the discussion which had taken place during these two days, every gentleman was now prepared to vote on the principle.

The Committee then rose—46 to 39; and obtained leave to sit again—yeas 65.

Mr. Newton was far from averse to satisfying all just claims on the nation; but, when they viewed the situation of the country, the alarming crisis which now prevailed, gentlemen would think with him, that all the energies of the nation should be exerted to place it in the best possible situation to meet events. Conceiving that it was his duty to attend to this object, he moved to postpone the further consideration of the bill till the first Monday in March.

Mr. Cook said, when he had called up this, he had believed that there was a temporary suspension of urgent public business, and he had never been inclined to push this on to the exclusion of other matter of more importance, nor ever would. He hoped the gentleman would withdraw his motion.

A motion to adjourn was now made and carried—47 to 44.

Friday, February 12.

The House went into a Committee of the Whole, 56 to 33, on the bill making appropriations for carrying into effect certain Indian treaties. The bill being gone through, the Committee rose and reported it, and it was ordered to a third reading on Monday.

On motion of Mr. Parke,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of allowing farther time to the Board of Commissioners of the Kaskaskia district, in the Indiana Territory, to complete the investigation of claims to land in the said district; and that they have leave to report by bill, or otherwise.

On motion of Mr. Parke,

Ordered, That the petition of sundry inhabitants of the Illinois and village of Peoria, in the Indiana Territory, presented and ordered to lie on the table, on the twenty-sixth of February last, praying that the respective claims of the petitioners to land within the said Territory may be examined and decided upon by the Board of Commissioners established at Kaskaskia, be referred to the Committee on the Public Lands.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Joseph Chase, Jared Gardner, and others;" to which they desire the concurrence of this House.

The said bill was read twice and committed to a Committee of the Whole on Monday next.

Mr. Boyle, from the Committee on the Public Lands, presented a bill authorizing the sale of the lands of the United States, and for other purposes; which was read twice, and committed to a Committee of the Whole on Tuesday next.

YAZOO CLAIMS.

Mr. Bacon presented the following memorial:

To the honorable the House of Representatives of the United States of America:

Respectfully represents the undersigned, a citizen of the State of Massachusetts, that he has been duly appointed the agent of the New England Mississippi Company for the purpose of supporting their claims before the Congress of the United States and finally liquidating and adjusting the same, and he most respectfully prays that he may be admitted to a hearing at the bar of the House of Representatives in behalf of said Company, to state their rights and explain their claims—and as in duty bound will ever pray, &c.

JOSEPH STORY.

February 10, 1808.

Which being read, Mr. Bacon offered the following resolution:

Resolved, That the prayer of the petition of Joseph Story, as agent of the New England Mississippi Company, praying that he may be admitted to a hearing at the bar of this House in behalf of the said Company, to state their rights and explain their claims which are now pending before Congress, be granted; and that the House will proceed to hear said agent, accordingly, at this bar, on Monday 22d February instant.

The House agreed to consider the resolution, 45 to 43.

Mr. Bacon said, this was not a case which required any abstruse reasoning or deep research for facts. He had taken this resolution from a precedent, which he found recorded, of a similar indulgence granted to the South Carolina Company, who were heard at the bar of the House in support of their claim, by Mr. Moultrie, their agent, in a nearly similar case.

Mr. Troup hoped the resolution would not be adopted. The precedent adduced was not in point: that was in the case of an application to be heard on the subject of the old Virginia and South Carolina claims. It will be recollected by the House, that the case adduced in precedent was an old, a dormant claim, which had slept long, and the principles of which were almost forgotten by members of the House, and when application was made for hearing, they determined to hear all that could be said, that they might act understandingly on the subject. They did hear, and were satisfied; from that time to this the House has had no further trouble with it. The claims of these persons, however, have been turned over from session to session, canvassed over and over again; and the House are as well conversant with the merits of the claim as with its advocates. I do not know whether it is customary to admit within its bar the advocates of claims. For my part, I do not know, if such persons were admitted within the bar, that I would keep my seat and listen. It is impossible that this House could be so lost to a sense of its own dignity as to enter into a controversy on its own floor with speculators or their agents. In discussion of this subject among ourselves, our utmost coolness and care will be required to keep us in temper with each other; and the admission of a stranger within this bar, for the purpose of irritating, and, perhaps, insulting us, and I beg gentlemen to recollect that the theme is extremely delicate, will not increase the calmness which ought to be observed. What is the object of the present motion? Is it proposed, by admitting a practising attorney on this floor, to enlighten us on a subject of which we are profoundly ignorant? No; with the principle of this claim we are all acquainted. Its object is to give some strength to a claim which has not the smallest foundation in justice, and they know it. They have no more claim on the United States than on you or me. Why, then, do they call upon us? Because the United States has an overflowing Treasury. If I had it they would make the same claim upon me. They are the cormorants which perch upon the treasuries of all nations; and as long as you have gold and silver, and manifest a disposition to give, they will stick to you. I thought, for my part, that one discussion would have sufficed for them; on the presentation of the original memorial, you listened to it, and submitted it to a Committee of the whole House. I was anxious that all discussion on this subject should have been waived; it might have been, and I had hoped it would. I myself would have submitted my individual feelings to the harmony of the nation, and am sorry that I am now compelled to speak.

Mr. Lyon made some remarks to show that the precedent adduced was in point. The object of the claim in precedent and of the present claim was to obtain a share of the land appropriated for extinguishing claims on the United States for lands. Why then, refuse that prayer at this time, which they had granted on a former occasion?

Mr. Bibb remarked that there had been, in the year ——, a general invitation to all claimants for land, and to these among the others, to attend and support their claim. At that time these claimants refused to attend. If the claimants, then, had not been heard, it was their own fault.

Mr. Love hoped the resolution would not be adopted. He had voted for the reference of the original memorial, as coming from a respectable State; but the claim was perfectly understood by the House without the demonstration of an agent.

Mr. Marion quoted passages from record to show that the case cited in precedent was not ex-

actly similar to the present. Commissioners were appointed to receive terms of compromise from the agents of the land claimants, and report an opinion thereon to the House. The committee reported in favor of the 1795 (Yazoo) claimants to the exclusion of the 1789 (Virginia and South Carolina) claimants. The latter conceived themselves equally entitled, and requested to be heard at the bar of the House, to show that they should be placed on the same footing with the other claimants. They were heard; and, in consequence of the hearing, an amendment was made to the law then under consideration. Mr. M. then read a part of the address delivered on this occasion by Alexander Moultrie, Esq., their agent.

Mr. Cook had yet heard nothing which convinced him of the impropriety of hearing the claimants at the bar of the House. He had never heard the subject illustrated before the House, although it had been decided on since he had been a member. It was now brought forward again, supported by the unanimous voice of a large and respectable State. The claimants complained of many hardships, amongst which, that they were not heard. He expressed his surprise that gentlemen who thought the Yazoo claim so iniquitous, should be unwilling that it should be heard. If it were a bad cause, there would be no fear of its overcoming their judgment. If it were detestable on a full hearing of it, they would detest it the more. He hoped the resolution would prevail, as he wished to hear the real merits of the case.

Mr. Holland rose to express a wish that the motion would prevail. He thought differently with the gentleman from Georgia, who thought such an admission and discussion would irritate the House. He hoped no member would individually advocate or oppose the claim; that every one would be ready to hear it fairly explained and decided on. He hoped, if prepossessions existed on the minds of any members, they would do all they could to erase such prepossessions; at least that they would sit silently and hear what was said in favor of the claim. When persons had been heard in behalf of the Virginia and South Carolina claimants, they had conducted themselves with so much propriety that the whole House had been satisfied. He supposed that the person admitted in behalf of the present claimants would probe the matter so easily as not even to discompose the gentleman from Georgia. A gentleman had said that this was so well known that all knew it ought to be condemned. In saying this, the gentleman was not correct; for Commissioners appointed by the United States to investigate the subject had said that equity and sound policy required a settlement. Not only this authority, but more than this: this House had at one time taken up the subject, and, on the main question, there was a large majority in favor of the principle. Further authority still: The Senate had at one time passed a bill for the settlement of the claim. Therefore, if the gentleman from Virginia had said it ought not to be heard, Mr. H. did not agree with him. I believe that it ought to be heard, I have always thought so, and I believe it must be heard. Sound policy and justice accord in requiring that it should be heard. We have by a very late acquisition from the Choctaw Indians acquired a large tract of land—part of the claim. Our public lands will not be purchased till the claim is settled. I hope the consideration will expedite the business. I conceive these claimants to have the same right to be heard as others, and more perhaps, because their claim had been acknowledged by Commissioners appointed by the United States.

Mr. Dawson expressed regret that this matter should be so pertinaciously pressed upon the House. It may be remembered by many gentlemen in the House that, at a former session of Congress, when the subject of claims in general was under consideration, by verbal information these claimants declined being heard at the bar of the House. They then had the power and right to support their claim, and declined. I am now opposed to hearing counsel in their behalf. I remember the case of a venerable old man, who fought your battles, who headed your armies, whose head was covered with grey hairs, and bowed down by the infirmities of age, and who made application to be heard at your bar in support of his claim. The House determined that he should not be heard. And shall preference be given over him to persons of this class? I am convinced that it would only agitate the public mind, and therefore hope it will not be granted.

Mr. Bibb had entertained a hope, for the sake of the harmony so desirable at the present crisis, that their attention would not have been called to this detestable subject. He had hoped, from the past agitation, that their angry passions might have been calmed, and that they might be allowed the quiet discharge of the duty which they owed to the nation at this time. But he had been disappointed. Gentlemen seemed to think this a propitious time to press a subject calculated to create animosities and discord. No possible good could result from a discussion of the claim. Gentlemen must be convinced that they would injure the American character by stooping to examine a claim founded in bribery, perjury, and corruption. I am sorry to say, observed Mr. B., that the Governor of a respectable State has taken advantage of his elevated situation, to press upon the House a private claim. In that station I am sorry to say that he has become the advocate of fraud and corruption. But I did not rise to go into a discussion. I rose to say that if discussion does continue upon this motion, with a view to force upon us the merits of the claim, I shall move an indefinite postponement of the motion.

Mr. Gardner was in favor of adopting the motion. After having spoken twice on the subject—as often as he could speak without special leave—it was not surprising that the gentleman should wish to postpone the debate. The gentlemen from Georgia seemed to be very warm on this motion. With great warmth, also, had they opposed the reference of the memorial on the subject. He had heard these gentlemen accuse their own State government of bribery and corruption.

They must have some foundation for this, or they would not do it. But, of this bribery and corruption, Mr. G. knew not; he wished the matter to be investigated, and was in favor of the mode now proposed. It was a pretty important subject; it might have been investigated by some gentlemen; but of Yazoo he knew nothing but what he had learned since he arrived here. According to the usage of deliberative bodies, to admit counsel to investigate matters before the House, he could trust himself to admit this agent, and so should vote.

Mr. Chandler observed that he should vote in favor of the motion, as a precedent was shown in which similar indulgence had been granted to other claimants. Much had been said about the subject's being thoroughly investigated. It might have been, but it had not been since he had held a seat in this House. Whenever it had appeared here it had been put down by hard words, and the cry of "Yazoo!" He wished to know, in some way, the reasons, *pro* and *con*—to hear both sides of the question. As to the Governor of Massachusetts advocating an individual claim, the gentleman from Georgia was misinformed. Mr. C. had understood that the Governor did not possess a cent of property in the claim, nor was he capable of taking advantage of his official capacity to advocate fraud and corruption.

Mr. Bibb said he would only observe that he had been informed by a colleague of the gentleman who was last up, that Governor Sullivan was one of the claimants.

Mr. Upham observed that, although he was a Representative from Massachusetts, he was not acquainted with the subject; he knew not its merits or demerits. At all events, the claim was intricate. If it was founded in corruption and fraud and perjury, and supported by falsehood, he should like to know. But he was not willing, because of these observations, made by gentlemen, to say that it was founded in corruption and fraud and perjury, or that it was supported by falsehood. He wished to examine this, as he would all other claims. There seemed to be something very awful even in the name of Yazoo; if that was the case, he should like to know the whole of it; and if he found it so corrupt, he should give his vote against it, and feel as much indignation at it as any gentleman. But what reason, under Heaven, could there be, why this should not take the usual course, or why should there be so much cause for irritation? As far as he understood it, he could not see why. Although many seemed to understand the whole matter, it should be recollected that there were forty-eight or fifty new members, who, perhaps, did not understand the merits of the question. He hoped the resolution would prevail, and that they should hear the prayer of the claimants.

Mr. Love remarked that it was indeed true that there were many new members, but such had been the discussion which had taken place already on the subject, with the repetition by its publication in the newspapers, that he felt perfectly prepared to vote on the subject. He did not think it necessary, on this occasion, to travel out of the usual course; and no arguments had been used in support of the admission of counsel in this case, that would not apply with equal force to any claim against the United States.

Mr. Durell said that there was something in this claim which required that it should be heard at the bar of the House, in contradistinction from common claims. He conceived the Yazoo claim to be of the first importance; he did not believe there was any individual claim of a citizen against the United States of equal magnitude. If gentlemen, in discussing this and like subjects, would use argument and reason, instead of rambling at large, and endeavoring to excite the passions, it would not be difficult to decide on the propriety of granting or rejecting the prayer of the petition. There were two points in this case proper for consideration; 1. Was the principle correct, that this House should, in any case, admit an advocate at the bar of this House to urge or demonstrate the right of a petitioner? 2. Was this a case of that description? He had no doubt that the principle was correct that advocates should be admitted, in support of which precedents had been quoted. Had there been no precedent, however, he should not have doubted. By the Constitution the good people of the United States had certainly a right of presenting their petitions. In his mind, it followed conclusively that they had a right of being heard by themselves or counsel. It was the universal practice in all the State governments with which he was acquainted. He supposed it to follow, of course. It was not presumable that gentlemen of this or of any deliberative body should intuitively know the merits of any case. It was certainly necessary, in order to pass understandingly in every case, that its merits should be known. How get at them? Not by reading the petition merely. It was not presumable that an agent of the claimant should be found in a member of the Legislature. He knew no course, then, but to let in the petitioner, or, which was the same thing, his agent. If, then, it was right in principle, was the case before them such a one as to make it necessary that this privilege should be allowed? Several considerations occurred in favor of it. It was a case of magnitude, of great importance in point of property, none more so that he knew. Why were gentlemen agitated about it? Why were the Representatives from the State of Georgia agitated about it? They wanted the business to be kept back to prevent the House from being agitated. Surely the single consideration that there was fifty new members, would call for a discussion and fair examination of the subject. He was a new member; he had no interest in the claim to which the petition referred, nor did he know that there was a drop of his blood in any one who was connected in the claim to the amount of one cent; but he was unacquainted with the merits of the case, and wished to know how to get at them. He wished, in all cases, but more particularly in important cases, to decide understandingly. How could he now so decide? By the information which the gen-

tlemen from Georgia should give him? That might possibly be all on one side; for these gentlemen wished it not to be disturbed, not to be agitated either in this House or with the public at large. As he could not obtain information on the subject in any other way, he should vote for the resolution.

Mr. Masters could not see the necessity of hearing counsel at the bar. If it were to get at the merits of the case, the facts were generally known. If a statement of facts was wanted, let a committee report them; they could not be got at by hearing counsel on one side of the question. It would form a dangerous precedent; and he hoped, therefore, that this subject would take the same course as others of a like nature.

Mr. Witherell said, it had been shown, by a precedent, that the House had once deviated from the common track to pursue a course from which he should ever revolt; and he certainly felt it his duty to state that, in no possible case which he had ever heard of, would he vote for the admission of counsel. If there be any case of claim, said he, which demands a course similar to that contemplated by the resolution before us, it is in favor of the houseless foreigner, who comes to you with a just claim, but who wants friends to support it. Has this course been taken in regard to such? No; a poor old Frenchman who, thirty years ago, fought the battles of this country—when he offered his petition for remuneration of honest services, did he ask for admission of counsel in his favor? No; he knew it would not be granted. He was, indeed, friendless, in comparison with those who now ask the privilege. I have no hesitation in saying, that the claimants have friends enough on this floor—more than you are aware of—and the ultimate vote will convince you of it. But when great questions are pending, as now, this, of all claims which could be pointed out, is the most improper for discussion. If gentlemen wish an elucidation of facts, can they have them better from the mouth of an orator than from a paper laid on the table. I say nothing of the merits or justice of the case; but though a new member, I am not altogether unacquainted with it; nor are there many in the House ignorant of it, who have lived a fourth part of a century. Let it take the natural course, that the plain facts, unadorned or embellished, may present themselves to the understanding of the House. That I never may, while these walls stand around me, have occasion to rise again on the subject, I now enter my eternal protest against it.

Mr. Troup said, they were not permitted to avoid a discussion on this subject. With every disposition to express ourselves with coolness, said he, gentlemen have not permitted us to do it; they have gone into the merits of the question, and censured us for expressing an opinion. I oppose the admission of these persons, not on account of myself; I speak for the dignity of the House. It would be a matter of indifference to me, individually, how many practising attorneys were admitted within the bar of the House to advocate the claim; but, if such a person were admitted, if he did not confine himself to the most indubitable facts, and these established by the most unquestionable testimony, I would arrest him in every step of his progress; a situation most unfavorable to rational and satisfactory investigation. Why are we so anxiously opposed to this claim, we are asked? Is it not obvious, if you compensate the claim, you determine that Georgia had no right to pass her rescinding act; and if you determine Georgia had no right to pass her rescinding act, you declare, in fact, that she fraudulently sold you the property of the claimants? For another reason, too, which comes home to the feelings of every man. When an infant State, as Georgia was in the year 1795, rising to consequence by her own resources, with a character to form and credit to establish, its people well disposed and ambitious of an honest fame; when such a State is blasted in its first budding by the pestiferous breath of this foul monster, Yazoo, it is enough to stir up, in any man of sensibility for his country, the most angry passions; and if we are intemperate, we seek our justification and apology in the integrity of the House. We do not enter into the merits of the claim, when we are, in this way, driven into a desultory discussion against our will. The subject is not before the House; we shall speak in another manner when we come to the merits of the main question. We are told here, over and over again, that the preservation of harmony is all-important; that the crisis demands union; that the state of our national affairs demands it; and yet we cannot proceed one step in the public business, but a Yazoo memorial, or some such thing, is ushered in, to awaken all the dormant and turbulent emotions, by the very gentlemen who are the first to cry peace, when it seems they are determined there shall be no peace. Let gentlemen give us credit for our moderation and forbearance; let those be esteemed the real friends of this most admirable system of Administration, who set their faces against corruption in every shape; who strive to purge the country of the lawless banditti which infests every corner of it—of Yazooism, which is the mother of corruption. It has been stated by my colleague, that the interference of the Legislature of Massachusetts has been unbecoming, improper, and unworthy of her. I say so too. If Massachusetts—I do not mean the people of that State; for I believe them to be generally virtuous and well-disposed; but, if the government of Massachusetts will array herself against Georgia, and on the side of Yazoo corruption; if she will prostitute her power and sovereignty to the basest and vilest of all purposes, let her stand to the consequence. And if her Governor, as my colleague has told you, will descend from the dignity of his station to patronise Yazoo; if he will prostitute the dignity of his high office to the most ignoble purposes, he ought to be tumbled from his seat; and I trust there is virtue enough in Massachusetts to put him down. Has the gentleman from Massachusetts read the Yazoo memorial? I did read it, and was thunderstruck. What does this Governor say? That the violation of claim,

in a free country, is a violation of fundamental axioms, and may lead to a violation of the social compact? This Governor Sullivan threatens you with a violation of the social compact; this man of Yazoo fame, and of speculating morals, threatens you with a dissolution of the social compact; he purposes to march his thirty thousand men into the Mississippi Territory; and this agent, whom it is proposed to introduce, is his pioneer. Is not what I have stated a fact? It is in black and white, and now on record, that the Governor of Massachusetts has thus threatened you; and yet gentlemen can express their wonder and astonishment that we have feelings, and express them. He hoped the motion would be rejected.

Mr. Chandler said, that the very decent and modest manner in which the gentleman from Georgia had treated the Governor and Legislature of Massachusetts, would need but little reply. Gentlemen would judge whether that decency, which is always requisite, had been observed. The Governor, in that case, had acted in obedience to an order of the Legislature; it, then, became his duty; and he had no more than complied with it.

As to the claim, said Mr. C., I know nothing, as I have said before. I have repeatedly heard it said here, that the Legislature of Georgia, which originated it, was corrupt, and I do not doubt the fact; or that they were corrupted by people out of Georgia. But it seems to me that it is very extraordinary that there should be such an objection to have light thrown on the subject; and all the petitioners ask is, that they may be heard, that the thing may be fairly investigated; and it would not be a great injury to gentlemen once more to turn their attention to this subject.

Mr. Eppes said, he had not been present when the original memorial was presented to the House this session; but he supposed that the unusual respect shown to this subject, on the present occasion, was owing to the respectful form in which it had been produced to the House. It has become fashionable to say, observed Mr. E., that these Yazoo claimants have never had a fair chance of bringing their claim before the public. What is the fact? The first year in which I had the honor of a seat in this House, the subject was fully and amply discussed; in the second, also, as well as various other periods; and every man living in a country where newspapers circulated, is well acquainted with it. It seems that the claim is now brought forward in a new form, like a scoundrel introduced into decent company in a new garb, who wishes to become the head of the company into which he was introduced. Last session, the claim was rejected here; it has been renewed, under a respectable authority. But, because we have treated the memorial of a State with respect, are we to admit one of the gang interested in the original fraud within our walls? I hope not. Let the same course be pursued with this claim as with every other; at least, let not an odious distinction be made in their favor. Have you not been told of a venerable patriot, now hobbling in your lobby, whose claim you refused to hear by counsel? And will you grant to Yazoo speculators the privilege which you refused to him? This very company, who now pray for a hearing, might have been heretofore heard, and why were they not? They were, then, perfectly indifferent about a compromise; they would, indeed, have accepted a compromise, if offered, but they were not anxious about it; they wished to frighten the nation into an act of injustice. But now the tables are turned; the laws of last session, or the session before, have put down Yazooism forever; have taught them to come forward now, and claim a right which, five years ago, they spurned. Whenever this subject is brought up, I shall meet it in every form, and, so long as I am able, oppose it with my voice.

Mr. Quincy said, it seemed to him in general practice, that argument on this floor, for the illustration of any general point, was expedient; and, in this case, the main argument urged by the gentleman from Georgia, and others, was a reason why the course of which a precedent had been produced should be pursued; that they ought to keep themselves in good humor with one another, and that, therefore, a subject of this kind should not be discussed between them. Mr. Q. acquiesced with gentlemen, in the opinion that this was not a time when those passions should be introduced, which this subject was calculated to excite; but it was a subject from which they could not shrink, which they must meet, because it was a subject connected with their official duty, and expose them as it would to the censure or personalities of other gentlemen, they must see that the subject was fairly presented to the members of this House, particularly to those who were new members, and had never yet had an opportunity of hearing discussion on this subject. Now, much time would be saved, much irritating argument avoided, and the public good promoted, if an individual were admitted on the floor to state the general principles of the claim of the petitioners, who would refrain from making any observations which would have a tendency to excite irritation, and press his observations no further than the House should please to attend to them. The prayer was therefore reasonable. Discussion on the subject could not be restrained; it had become actually necessary. It was impossible for a Representative from Massachusetts to stand on this floor and not represent the opinions which there prevailed. But, were an opportunity given by the admission of an advocate to relieve themselves from that necessity, much time of the House would be saved, and passion prevented.

With respect to the precedent which had been adduced, and the attempts to make a discrimination between that case and the present, Mr. Q. observed that the circumstances of each were similar. The former was an old claim—this was, also. The former was a claim in which the public were deeply interested, from the nature of the claim—so was this. There was also another circumstance which had not been noticed, and which ought to have weight. The former was a claim from the Virginia and South Carolina company—this was

a claim from a Massachusetts company. In the one case, an advocate of the claim was heard at the bar—in this case, it was insisted that it should be denied. This was a question which was growing into a local question, more than gentlemen would allow or believe. He would not justify the claim, or enter into its merits at this time. In Massachusetts, a sentiment, feeling, and interest, existed on this subject, very different from what was generally understood by the members on this floor. With respect to the observation of the gentleman from Georgia, on the memorial of Governor Sullivan, Mr. Q. observed that the passage alluded to was by no means an expression of threat to the House, but of a reflection presented to the House for its consideration, whether or not such principles as these did tend to the dissolution of the social compact. The gentleman from Virginia (Mr. Eppes) had told them that the law of last session had put this question down. In doing this, had they not put down the Judiciary power of the United States? It was indeed true, that they could put down any claim by putting down law. There was also another consideration which he would put to the gentlemen from Georgia, merely for their reflection, as it respected the effect which their warmth might have upon men's minds in other parts of the Union. It was true, a considerable zeal existed against this claim in some of the Southern States, but men interested themselves would remember one fact, that, from the tenor of the compact, as he understood it, the very land which these men claimed did revert to the State of Georgia, after a certain term, if not granted to claimants. That State, therefore, and its Representatives, had a strong individual interest to put down every claim of this kind; for, in the result of no grant being made, they would——

Mr. Eppes begged leave here to interrupt the gentleman, to tell him that he was totally mistaken. The compact said that it should revert to the United States, and become a common fund.

Mr. Quincy said he was then misinformed. He wished his own mind, and that of every other gentleman, to be kept clear and unobscured by local prejudice or individual passions; and he believed it would tend to create harmony that the subject should undergo an illustration, and that they should coolly decide on the prayer of the claimants.

Mr. Dana said, in ordinary cases it was not perhaps proper to admit counsel; for, if counsel were admitted to support all claims, it would occupy so much of their time that they would not be able to proceed with public business. It must be in extraordinary cases only that counsel should be admitted—in cases of such magnitude and importance that the admission of counsel could not interfere with the general course of business. Was this, then, a claim of sufficient importance? It amounted to several millions of acres of land, the value of which was estimated at several millions of dollars—perhaps a sum nearly equal to the whole annual revenue of the United States. It affected a vast territory, which the United States had sold, the value of which would be materially affected by the right of it being cleared from all doubt. This claim was therefore connected with the great question of public policy as to its settlement by compromise on general principle, as all great territorial questions had been settled by compromise. This mode of settlement had also been recommended by commissioners of the United States. This was, therefore, a claim of a peculiar character. He could not see why the gentlemen from Georgia should not express peculiar feelings. Their feelings as men, and as gentlemen, were operated upon by the feelings of the State of Georgia, which appeared to be precisely against the claim. And no doubt the gentlemen from Georgia thought this a perfectly iniquitous and base business; they felt intensely in this case, from their peculiar situation. Other gentlemen, however, perhaps looked at the subject through a different medium. He was not disposed, particularly at this time, to enter into an examination of facts; but, one reason why he did not consider it entirely unworthy of consideration, was, that Commissioners appointed by the United States to examine had reported in favor of a compromise. Had any new fact or demonstration of turpitude or corruption occurred since the Commissioners made their report?—any new evidence of profligacy? Had not the Commissioners who were appointed to examine claims to Western territory full evidence before them on this subject?

Mr. Troup begged that the gentleman would not proceed further into the merits of the claim, as, by so doing, he would compel Mr. T. to go at this time into a full examination of it, contrary to his wish.

Mr. Dana said he would not, then, proceed further on that point; but there was one bearing of the present question which he would notice—whether the Commissioners were not persons whose opinions gentlemen themselves ought to respect. If, said Mr. D., we are by a vote now to reject this application, we shall mark the claim with peculiar reprobation. What will be the event of that vote, as it respects its ultimate bearing? What will be said of the persons who have, in their official capacity as Commissioners, spoken favorably of the claims? What must the nation think of this House, or the other branch of the Legislature, when they pass a vote of reprobation on those to whom they have given evidence of preference, and seemed to approve as qualified to fill high offices? It is a subject of common report, that during the last month a very considerable proportion of members of this House assembled in the Senate Chamber, and there considered the question who should succeed the present Chief Magistrate of the Union; and that a majority of gentlemen there present did designate as a proper person for the office of Chief Magistrate a gentleman who was one of the Commissioners appointed on this Yazoo claim. It is true, I and some of my friends did not receive an invitation to it, though we have made no secret of our republicanism, even in these days of secrecy; but I know this from report. If you reject this claim, you imply that the character of this person is not sufficiently stern in considerations of this kind. I therefore submit to the consideration of the House, whether this is not a proper consideration in favor of the admission of this agent to explain the claim.

The question on the resolution was taken by yeas and nays, and negatived—28 to 76, as follows:

Yeas—Ezekiel Bacon, Joseph Barker, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, Francis Gardner, John Harris, James Holland, Daniel Ilsley, William Kirkpatrick, Matthew Lyon, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and Killian K. Van Rensselaer.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, George Clinton, jr., John Clopton, Howell Cobb, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, James M. Garnett, Edwin Gray, Isaiah L. Green, William Helms, William Hoge, David Holmes, Benjamin Howard, Robert Jenkins, Walter Jones, James Kelly, Thos. Kenan, Nehemiah Knight, John Lambert, Joseph Lewis, jr., John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Pugh, John Rea of Pennsylvania, Matthias Richards, Samuel Riker, John Rowan, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Peter Swart, John Taylor, Abram Trigg, George M. Troup, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

So the motion to admit Mr. Story was rejected.

Monday, February 15.

An engrossed bill making additional compensation to the marshals of the Districts of North Carolina and New Jersey was read the third time, and passed.

An engrossed bill making appropriations for carrying into effect certain Indian treaties was read the third time, and passed.

The House went into Committee of the Whole, 47 to 23, on the bill concerning public contracts. The bill was gone through without debate, and, on motion of Mr. Bassett, the Committee rose and reported the bill; which was, without debate, ordered to a third reading to-morrow, 46 to 27.

Mr. Dawson, from the committee appointed on so much of the Message of the President, of the twenty-seventh of October last, as relates to the Military and Naval Establishments, and who were instructed by a resolution of the House, of the eleventh instant, "to inquire into the expediency of authorizing the President of the United States to procure, as soon as practicable, —— stand of arms, to be deposited in safe and suitable places for the service of the United States," made a report, in part, thereon; which was read and considered: Whereupon,

Resolved, That the sum of —— dollars be appropriated to enable the President of the United States to procure by purchase, or by causing the same to be manufactured, —— stand of arms for the use of the United States, to be deposited in safe and suitable places.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. Dawson, Mr. Helms, Mr. Rea, of Pennsylvania, Mr. Butler, Mr. Nelson, Mr. Champion, and Mr. Storer, do prepare and bring in the same.

Mr. Dawson, from the committee, to whom was committed, on the twenty-seventh ultimo, the bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States,'" reported the same to the House, without amendment.

Ordered, That the said bill be committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, of the fifth instant, in the form of a concurrent resolution of the two Houses, to authorize the disposition of certain charts of the coast of North Carolina; and, after some time spent therein, the Committee rose and reported their agreement to the resolution contained therein; which was twice read, and agreed to by the House, as follows:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to cause to be sold as many of the charts of the coast of North Carolina, published in conformity to the resolution which passed the second of March, as shall remain on hand, after reserving the number requisite for the use of the Government of the United States.

Ordered, That the said resolution be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to allow the importation of old copper free of duty, and made an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment be engrossed, and read the third time to-morrow.

Mr. Dawson submitted the following resolution:

Resolved, That a committee be appointed on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, to consider and report what further business is necessary to be done during the present session; and at what time it will be proper for Congress to adjourn.

The resolution was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill for the relief of Edward Weld and Samuel Beebee. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to provide for the payment of certain expenses incurred in the inquiry into the conduct of JOHN SMITH, a Senator from the State of Ohio." The bill was reported without amendment, and ordered to be read the third time to-morrow.

The House went into a Committee of the Whole, on the bill for extinguishing the debts due from the United States.

Messrs. COOK and HOLLAND supported the bill, and Messrs. RHEA and ALSTON opposed it; when, a Message having been received from the President, the Commitee rose and obtained leave to sit again.

A Message was received from the President of the United States, communicating a letter from the Consul of the United States at Malaga, to the Secretary of State, covering one from Mr. Lear, our Consul, at Algiers, which gives information, that the rupture threatened on the part of the Dey of Algiers, has been amicably settled, and the vessels seized by him liberated. The Message, and the papers transmitted therewith, were read, and referred to the committee appointed on the Message from the President, relative to the commencement of war by the Dey of Algiers, received on the ninth instant.

The House went into Committee of the Whole, on the bill in addition to an act entitled "An act further to amend the judicial system of the United States:" Mr. TROUP having introduced an amendment including an alteration in the times of session of the courts of the United States for the districts of South Carolina, Georgia and North Carolina. Some objection being made to this, from want of immediate information, as to the effects of the alterations, by Messrs. MARION, BLACKLEDGE, and TAYLOR, the Committee rose, ayes 55, and obtained leave to sit again. In the course of observations on the motion for rising, as a reason against it, Mr. PITKIN stated that for two or three terms last past of the courts of the districts of Connecticut and Vermont there had no judge attended to hold them, from a defect in the present arrangement.

The House went into Committee of the Whole, on the bill making provision for the disposal of such lands as have been heretofore reserved for the disposition of Congress. The bill being gone though without debate, the Committee rose and reported it; and it was ordered to a third reading to-morrow.

Mr. G. W. CAMPBELL, from the Committee of Ways and Means reported a bill making appropriations for the support of the Military Establishment of the United States for the year 1808; and a bill to amend an act entitled "An act for laying and collecting duties on imports and tonnage within the Territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes;" which were twice read and referred to a Committee of the Whole.

On motion of Mr. PARKE the House went into a Committee of the Whole on the bill extending the right of suffrage within the Indiana Territory; which having been gone through, was reported to the House.

Mr. RHEA proposed an amendment further extending the suffrage; which was negatived, yeas 14. The bill was ordered to a third reading to-morrow.

STANDING RULES AND ORDERS.

Mr. BASSETT called for the order of the day on the subject of the standing rules and orders of the House. The difficulty of getting up business on this day was an argument in favor of their being decided on.

Many orders of the day being called for, Mr. NEWTON moved that the subject of the rules and orders be postponed, as the session was so far advanced.

Mr. BASSETT objected to the motion. They need only revert to the scenes of the morning, in which several gentlemen had been on the floor at once, and several decisions had been had on the preference of business in the orders of the day; they must see the necessity of adopting some order for the regular routine of business.

Mr. NEWTON and Mr. HOLLAND supported the motion for postponement, which was carried, 46 to 37.

Mr. STANFORD was so fully impressed with the necessity of some rule for the routine of business, that he wished to originate a motion for the regulation of it—the same which was made by the gentleman from Virginia (Mr. BASSETT) in Committee of the Whole on the subject

The SPEAKER said that the motion was not in order.

UNITED STATES' DEBTS.

Mr. NEWTON moved for the order of the day on the bill extending the terms of credit on revenue bonds.

Mr. COOK supposed the bill for extinguishing the debts due from the United States had preference as unfinished business; if not, he hoped the gentleman from Virginia had too high a sense of decorum to insist on his motion.

Mr. NEWTON'S motion was negatived, and Mr. COOK'S agreed to by the House.

Messrs. HOLLAND, STURGES, and QUINCY, advocated the bill, and Messrs. ALSTON and RHEA opposed it.

The question was then taken on striking out the first section, (the principle of the bill,) and negatived, 58 to 24; when, on motion of Mr. COOK the Committee rose, and obtained leave to sit again.

The House resolved itself into a Committee of the Whole on the bill for the relief of Samuel Whiting. The bill was reported without amendment; which the House proceeded to consider: when an adjournment was called for, and carried.

TUESDAY, February 16.

Mr. DAWSON, from the committee appointed yesterday for that purpose, presented a bill for

procuring an additional number of arms; which was read twice, and committed to a Committee of the Whole House to-morrow.

On motion of Mr. BLACKLEDGE,

Resolved, That the Committee of Ways and Means be directed to inquire whether any, and, if any, what, alterations are necessary to be made in the several acts fixing the salaries and emoluments of collectors of duties on imports and tonnage, and that the committee be authorized to report by bill or otherwise.

The bill sent from the Senate, entitled "An act to provide for the payment of certain expenses incurred in the inquiry into the conduct of John Smith, a Senator from the State of Ohio," was read the third time, and passed.

An engrossed bill making farther provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress was read the third time, and passed.

An engrossed bill extending the right of suffrage in the Indiana Territory was read the third time, and passed.

An engrossed bill for the relief of Edward Weld and Samuel Beebee was read the third time, and passed.

An engrossed bill to allow the importation of old copper free of duty was read the third time, and passed.

An engrossed resolution, in the form of a concurrent resolution of the two Houses, to authorize the disposition of certain charts of the coast of North Carolina was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for erecting a light-house, and placing buoys at the places therein mentioned;" to which they desire the concurrence of the House.

The said bill was read twice, and committed to the Committee of Commerce and Manufactures.

The House proceeded to a farther consideration of the bill for the relief of Samuel Whiting: whereupon, the amendment reported thereto from the Committee of the Whole being twice read, was, on the question put thereupon, disagreed to by the House. The said bill was then amended, and, together with the amendment, ordered to be engrossed, and read the third time to-morrow.

RULES AND ORDERS.

On motion of Mr. STANFORD, that the House do come to the following resolution:

Resolved, That the following be added to the standing rules and orders of the House:

Order of business of the day.

As soon as the Journal is read, the Speaker shall call for petitions from the members of each State, and delegates from each Territory; beginning with New Hampshire.

After the petitions have been presented and disposed of, the reports of the standing committees of the House shall be called for, in the order of their appointment at the beginning of the session.

Reports from select committees shall then be received.

The above business shall be done at no other part of the day. The House shall then consider the other business, in the following order:

Executive Messages.

Reports from Departments.

Reports from the Postmaster General.

Bills on the first, and by special order on the second reading.

Bills on the third reading.

Committees of the Whole House in the following order:

On bills from the Senate in the order committed.

On bills originating in the House of Representatives in the order committed.

On joint resolutions in the order committed.

On reports of the standing committees in the order committed.

On reports of select committees in the same order.

On Executive Messages in the same order.

On reports of Departments and of the Postmaster General in the same order.

Reports of Committees of the Whole House shall be considered as soon as made, unless otherwise directed by the House.

The Speaker shall read over the several orders of the day until one be called for, on which the question shall be put, unless a privileged question be moved on it.

No order of the day shall be postponed, on motion, unless indefinitely.

Joint rule of the two Houses.

No petition or bill which originated from a petition which may be rejected by either House, shall be again taken into consideration, unless in the House which rejected the petition or bill.

Ordered, That the proposed resolution do lie on the table.

GOVERNMENT CONTRACTS.

The engrossed bill concerning public contracts was read a third time.

Mr. TROUP called for the ayes and noes, which were agreed to be taken.

Mr. W. ALSTON opposed the bill on Constitutional principles. Let gentlemen who patronise the bill, point us to that article which authorizes Congress to remove public officers. They are commissioned to hold their offices during the discretion of the Executive, and are as far removed from the power of this House as the judges themselves.

Mr. TROUP vindicated the principle of the bill. If some proposition of this kind is not adopted, the time is not far distant when this House will become, what the British House of Commons are, a corrupt, servile, dependent, and contemptible body. We had better have no Legislature, than one composed of contractors, placemen, and pensioners. He thought this bill reflected much credit on the head and heart of its author, [Mr. BASSETT.]

Mr. HOLLAND spoke at length against the bill, saying it disfranchised members of Congress of the right of making public contracts, and enjoying the benefit of them, in common with other citizens. It would operate to the scandal and infamy of the members.

Mr. SOUTHARD approved the principle of the

bill, but was not satisfied with the detail. He therefore moved to recommit the bill to a Committee of the whole House.

Mr. Van Horn expressed his approbation of the object of the bill, but he doubted whether they were warranted by the Constitution to pass a law of this kind.

The debate was continued by Messrs. G. W. Campbell, Bassett, and Key, in favor of the principle, and by Messrs. W. Alston, Pitkin, Quincy, and Smilie, against important details of the bill. Mr. Rhea also spoke at length, and was against the principle.

The question on committing the bill was taken, and carried—55 to 25, and made the order for to-morrow.

Wednesday, February 17.

The Speaker laid before the House a letter from David Thomas, one of the members for the State of New York, containing his resignation of a seat in the House.

The said letter was read: whereupon, on motion of Mr. Van Allen, that the House do come to the following resolution:

Resolved, That the Speaker address a letter to the Executive of the State of New York, communicating information of the resignation of David Thomas, one of the members returned from that State to serve in this House, that measures may be taken to supply the vacancy occasioned thereby in the representation from that State:

And the question being put thereupon, it was resolved in the affirmative.

Mr. Gardner presented a memorial of the inhabitants of the city of Detroit, in the Territory of Michigan, praying that the title to a certain parcel of land, amounting to about two thousand acres, adjoining the said city of Detroit, may be granted, in fee simple, to the Corporation thereof, for the free use in common of all the memorialists, under such reservations as to the wisdom of Congress shall seem meet.—Referred to the Committee on the Public Lands.

Mr. Poindexter offered the following resolution, which was agreed to. He deemed it unecessary to say anything in favor of the object till reported on, this being a mere resolution to inquire:

Resolved, That a committee be appointed to inquire into the expediency of repealing so much of the ordinance for the government of the several Territories of the United States, as empowers the Governors of said Territories to prorogue and dissolve the House of Representatives elected by the people, and that they have leave to report by bill or otherwise.

Ordered, That Mr. Poindexter, Mr. Ilsley, Mr. Rowan, Mr. Gardenier, and Mr. Cobb, be appointed a committee, pursuant to said resolution.

Mr. John Montgomery, from the committee to whom was recommitted, on the eleventh instant, the bill concerning Courts Martial and Courts of Inquiry, reported an amendatory bill; which was read the first time.

The bill for the relief of Samuel Whiting was read the third time, and passed by yeas and nays—56 to 41, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, Joseph Barker, Burwell Bassett, John Blake, junior, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jun., William Ely, William Findley, James Fisk, Barent Gardenier, William Hoge, James Holland, Reuben Humphreys, Robert Jenkins, James Kelly, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, William McCreery, William Milnor, John Montgomery, Jeremiah Morrow Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Rhea of Tennessee, John Rowan, John Russell, Lemuel Sawyer, James Sloan, Dennis Smelt, Jedediah K. Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Lemuel J. Alston, William W. Bibb, William Blackledge, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Chandler, Richard Cutts, Joseph Desha, Daniel M. Durell, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, John Harris John Heister, William Helms, Benjamin Howard, Thomas Kenan, Philip B. Key, Nehemiah Knight, John Love, Robert Marion, Josiah Masters, Daniel Montgomery, jun., John Morrow, Thomas Newbold, Thomas Newton, John Pugh, John Rea of Pennsylvania, Samuel Riker, Ebenezer Seaver, John Smilie, John Smith, Richard Stanford, John Taylor, Abram Trigg, Robert Whitehill, Isaac Wilbour, and James Witherell.

[This bill provides for allowing Mr. Whiting a certain sum for services rendered and expenses incurred in prosecuting a deputy postmaster for embezzling certain letters containing bank notes belonging to Whiting. The objection to the bill proceeded from its being supposed to sanction the principle that the Post Office Department is liable for notes sent though the medium of the post office.]

MILITARY ESTABLISHMENT.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States."

[The first section of this bill provides that the President of the United States shall be authorized, in addition to the present Peace Establishment, to raise one regiment of infantry, one battalion of cavalry, and one battalion of riflemen.

The second section provides that the President be authorized, in all cases of imminent danger, when, in his opinion, the defence or safety of the United States shall require it, to increase the number of men in each company of infantry on the Peace Establishment of the United States to one hundred.

The third section provides for the clothing the cavalry and riflemen.

The fourth and last section provides, that the troops shall receive the same pay as allowed those now in service.]

Mr. Chandler said, he would call the attention of the House to one single circumstance. If they passed this bill, besides raising these regiments, they authorized the President, at his discretion, to raise an additional number of two thousand and eighty-eight men, by increasing the number of men in each company, now in service to one hundred men. He did not wish to leave this discretion with the President. He was himself opposed to adding any men to the Peace Establishment. If the emergency required an additional number of men, he would raise them, but not on the permanent establishment. He therefore moved to strike out the second section, to take the sense of the House on giving the President a discretionary power to add to the Peace Establishment.

Mr. Fisk said, that they had been in session a long time, and done but little towards the purpose for which they were called together. The season was now approaching when the ships of war of a nation with whom we were but one remove from war, could ride with safety in our waters, get possession of our harbors, and seize our ships, and here they sat quiet, as though no danger existed. In addition to this, he was very far from believing that the enterprise which, but a few months ago, had agitated the Western country, was quiet; there was, he believed, as much to apprehend from those conspirators now, as before they were detected. Gentlemen tell us, said Mr. F., that they are willing to take measures, if it should be necessary, but still oppose them when presented. Let us not remain inactive, quiet spectators, but take such measures as are proposed. My constituents form a part of the inhabitants of our frontier; we do not fear to meet an enemy, but suffer us to be prepared and ready to meet them. The gentleman says that the bill is objectionable, because it authorizes the President to increase the Military Peace Establishment. There is certainly no more danger in this than in authorizing one hundred thousand militia; and I believe the gentleman was an advocate for that law, who is now afraid of one or two thousand men. There is no difference whatever in the case; and it is necessary to give discretionary power in cases of emergency which are within the scope of probability. I hope, therefore, the section will not be stricken out. In time of peace, it would be questionable whether our present force is sufficient, or that proposed too large; and, at least in case of emergency, it will add to our present force two or three thousand men, so as better to guard our most exposed posts. It will be unpardonable, not to say criminal, in the House to remain quiet under the present appearances; for we have neither assurance of peace, nor evidence which would authorize us to arrest our preparations. I had rather the bill on the table for raising a provisional army had been called up; but, as it is under the management of a committee who have not called it up, I hope this will be acted acted on.

Mr. Chandler said, he was willing to take up the bill for the War Establishment, if necessary, and pass it; and would rather do this than add to the Military Peace Establishment.

Mr. Varnum said, they had been called together to provide for defence, and what had they done towards it? They had ordered a number of gunboats, and appropriated money for erecting a few fortifications. Thus far, said he, we have gone, but no farther. Are prospects any better now than they were when we were called together? Any information that the nation with whom we are at variance is more friendly than she was at the time Congress assembled? I believe not. Whether we have war or not, I believe it expedient to add a small number of men to the Peace Establishment. Look at the situation of your Western country. It is a fact, that your posts have been surrounded by savages who have been urged on by civilized nations in the North, and can, at any moment, attack and scalp your whole garrisons, before we can afford any assistance. Is it not prudent to strengthen our garrisons? I think we ought; and the number proposed in the bill will not be too many. I believe it is also necessary to have a larger force, than we now have, at the mouth of the Mississippi river. It is well known how we have been menaced in that quarter from within and without. Is the aspect there now more promising? Its situation forbids us to draw that conclusion. What would be the situation of our country, if New Orleans were to be seized by an enemy? It would cost vast blood and treasure to gain it. These circumstances, even were there not now particular threatenings, would call for an increase of our Peace Establishment; but, while all the nations of Europe are in contest, and we may expect aggression from them in one quarter or other, it is doubly necessary. It may become necessary for you to raise a considerable army. If these troops are now ordered to be raised, it will produce a good effect when we are called upon to raise a larger number. Look at our situation—here we are, week after week, without taking effectual measures. It has been said that one hundred thousand militia have been detached and organized, ready for service. True, they have been detached to render you six months service, if called upon before the 18th day of April, when the term of service expires; and it would be impossible to get a bill through both Houses and make a new detachment, before that time expires. This is a suitable measure to the times, and I hope the motion of my colleague will not prevail. I hope this bill will pass, and that Congress will set about making another detachment from the militia, if necessary, the President not being authorized to do it, and the term of the present detachment expiring on the 18th of April next. If we are to do nothing for the defence of the country, or towards putting it in a posture of defence, it would be better for us to adjourn, and go home.

Mr. Taylor wished that this bill had found its way to consideration sooner than it had. The argument, well urged by the gentleman last up, of the extent of our territory, and on the tender point of our Louisiana possessions, had immense weight. But there was another consideration of

infinitely more importance even than the situation of Louisiana, of that country suspected to have been disaffected, not yet to have tasted sufficiently of the sweets of liberty to appreciate its benefits. What, said he, has the House done this very session? Appropriated a million of dollars for the erection of fortifications. Will the present establishment, employed for the purpose of manning the forts heretofore built, be sufficient to occupy the additional fortifications? No. Suppose that the economy and calculations of former Legislatures declared the present force to be sufficient—I at once declare that it is not now competent. Reckon up your fortifications, and you will find that on the present Peace Establishment there are not men enough to sweep the gangway, and keep the cannon clean. Erect fortifications without garrisons, and you erect strongholds for the enemy; you lay an embargo with a vengeance. Let them get possession of your strong posts, and they will let us sail when they please, and keep us at home when they please. I had rather that the fortifications of our inlets and harbors should be swept from the face of the earth, than that we should have thus begun a system and made mere patchwork of it. If you have erected fortifications, by which, from want of garrisons, you cannot repel a single frigate, or even a few boats from a frigate, instead of doing good, you entail disgrace on yourselves and mischief to your posterity. It is said, indeed, that we have militia. Do not gentlemen know that the exercises for the fortifications are very different from those of ordinary troops; and militia, who might be able handsomely to display a column, or go through the manual, would do as well in fortifications, as men taken from the backwoods and put on board a man of war, would do for sea service? The number of men contemplated in the bill is not sufficiently large I grant. It is a fault. Yet there are sufficient to keep the enemy in check—to keep them out of the fortifications already erected, and if you do not man them you have erected so many strongholds for the enemy. The number is reasonable; it is too little, but such as it is I shall vote for it.

Mr. DAWSON moved that the Committee now rise. He was opposed to the bill altogether at this time. After the measures which had this session been taken, all looking to war, this was not the time to discuss the Peace Establishment. If we have war, I ask gentlemen, what advantage is to be expected from these few men? If we have war, of which we may better judge before we part hence, what necessity for an addition to our Peace Establishment? We must in that event raise a much larger number of men. A bill already reported goes to raising an army of fifteen or twenty thousand men. It was my intention not to have called up this bill until we had disposed of the bill for a War Establishment. If it shall appear probable that we shall not have war, it may be necessary to add to our Peace Establishment. In my judgment it would not only be wrong, but extremely impolitic to decide on this bill now.

The question on Mr. DAWSON's motion, for the rising of the Committee having been put,

Mr. RHEA opposed the motion for the rising of the Committee. He did not approve this going into committee day after day, and rising without doing what the nation expected of them. He expressed himself strongly in favor of the bill. He alluded to the situation of the Western country, and particularly mentioned the case of a party of the United States military, conveying home an Indian chief, who were arrested in their progress. The present force should be moveable by the four winds of Heaven, to any one point, to make it in any degree efficient. New Orleans, he said, might be taken now; the re-taking of it would cost forty times as much as its preservation for many years.

Mr. KELLY wished for information as to the particular destination of this force, for what specific purpose it was intended, on what information it had been grounded, whether for garrison or field service, or for what service. If he could receive information of the necessity of this, and be convinced of its propriety, he should vote for it; otherwise he must vote for the rising of the Committee.

Mr. TAYLOR was not in the habit of acquiring, nor had the facility of giving information. If, however, the gentleman was anxious for information why the Peace Establishment should be increased, let him look at the history of the world for twelve months past; let him recollect that, nowadays, a formal declaration of war is dispensed with, and a *coup de main* is the order of the day. Recollect the smart which we feel for the attack on one of our own vessels in our own waters. When we are, then, told that it is necessary to man our fortifications, what further information does the gentleman want? I contemplate this bill as having in view peace, but also the unsettled state of things in the world, and I beg the House to keep in view the cases of Egypt and Lisbon. These are sources of information; and this House is in possession of information if they know their own acts. They have appropriated immense sums of money for fortifications, without authorizing the employment of a man to garrison them.

Mr. W. ALSTON could not conceive what information the gentleman could want? Did he wish the Executive to send a message to this House, and tell them that, for a certain purpose, he wanted a certain number of men? It is the business of the President to show to us the force of the nation and the state of our affairs; and it is ours to say what shall thereupon be done. Did not the gentleman hold an opinion as to what force was necessary? Did he not know as well as the President of the United States did, and could he not act as understandingly as if the President had told them what was wanting? On this ground it was not necessary to postpone. He was opposed to delay, though he did not express a definite opinion on the propriety of increasing the Peace Establishment.

Mr. CHANDLER hoped that the Committee would rise, and his reason was that he was willing to discuss war measures. Surely this could not be called a war measure. He himself saw nothing to induce him to believe that a War Establish-

ment would not be necessary, and now believed it would be correct to enter into it. But it was very uncertain what might be the situation of this country when a general peace took place, or how large a Peace Establishment might be wanting.

Mr. JOHNSON declared the Western country to be peculiarly interested in this bill. From the moment he had taken his seat in the House he had contributed his mite in everything which had for its object the defence of the nation; and whenever peculiar means became necessary for any part of the country, he should consider it a common cause, and was happy to say that there appeared to be a spirit of unanimity on this subject. It had been asked, what reason now existed for an increase. It will be recollected, that when our Army was reduced to the smallest possible number, we had not then Louisiana, and thirty or forty thousand Indian warriors, at the same time, around us. For repelling foreign invasion and neighboring hostility, this force is necessary. If the British, or any other nation, can excite the hostility of the Indians by furnishing them liberally with supplies, they will also engross the whole peltry trade. Not only so, but the influence of traders with the natives is almost incredible; and at any time those who trade with them think proper, our Western territory is open to devastation and ruin. The Indians will rush in upon Indiana and Orleans also. Have you any rallying point in the St. Louis country? You have not. Have you any forces up the Missouri and Mississippi? Will you not protect your people in that country? I want not a standing army; but I think that a small addition to our standing force would be both rational and politic. When the establishment was fixed we had not the Western country; we had a large and increasing public debt and an exhausted Treasury. Is that the case now? Is your Treasury exhausted? Is not the preservation of Orleans important in a political as well as commercial view? One-third of your exports, perhaps more, must hereafter find its way through Orleans. And are we not one great family, cemented in union by political as well as commercial ties? Assuredly. I have more confidence in the people of the Territories than many people. Although they may be discontented, I believe they will stand forth as the defenders of American independence against the attempts of any foreign Power. But can they do it in their present situation? No. They must call upon Kentucky and her citizens, and though these would risk their lives and fortunes for their beloved country, yet they dread the climate of Orleans more than a foreign foe. I consider it necessary that there should be an augmentation of the Army, and more fortified places on the frontier, for protecting it from savages and foreign invasion, and that circumstances at this time fully justify the increase.

Mr. DANA said, as respected any regular, official information, on the subject, either from the Heads of Departments, or from any committee, if it existed, he knew not of it. He thought it perfectly proper upon subjects of this nature, relating to a general system of defence and security, that there should be information given frankly and freely when gentlemen desired it. He thought it would be a decent respect to their own understanding, and to the decorum of public business, that every subject should be explained. It should be deemed a matter of course to explain; and although, for myself, I am very ready to declare that I consider the present Peace Establishment inadequate to the protection of territory so exposed, yet I think it proper to have more full and satisfactory information on this subject. The bill proposes the raising of infantry, riflemen, and cavalry. I do not conceive that these are exactly the best species of troops for artillerists. In raising any body of troops, if we undertake to specificate, it would seem proper that we should have some general information of what species of troops are wanting, whether infantry, cavalry, or artillerists. Are we told by a committee why these species are selected in preference to others? If it is artillerists that are required, we want not cavalry or infantry. We are not, then, informed why these troops are of these species. How many fortified posts are we to garrison, or are we to fortify places with troops where there are not fortifications? What is our present force? The real amount cannot be easily ascertained. I know what is the amount of our paper establishment; but there is an essential difference between that and an effectual force. Perhaps we may make a deduction of some hundreds from the paper force when we wish to estimate the actual force. The deduction must be here greater than in Europe; in proportion as their station is at a much greater distance from the recruiting ground. We cannot recruit beyond the force authorized by law; there must therefore always be a deficiency when we recruit several hundred miles from the camp. My reason for rising was to ask for some information either from a committee of the House or some officer of Government, so that the principle on which we act may distinctly appear; some principle or other, some statement of facts or estimate of the force requisite for public service. This is the regular mode. As it respects noise and parade on paper, this session we have had much; but as for anything efficient that we have done, I am glad that it is so distinctly understood that it amounts to nothing. All this noise gives a sort of clangor of preparation. I should hope that by and by we shall adopt some systematic method of provision for the exigency of the country, and to protect us against invasion.

Mr. TALLMADGE professed himself friendly to the rising of the Committee, and at the same time observed that whatever measure was proposed for consideration that should go to raise some efficient force, should receive his full support. He did not object to the bill in its present shape because it proposed to add an additional force to the present Military Establishment, but because there were material defects in the very structure of the bill. As reasons had been given why it should not be passed in its present state, he would state one additional reason. In the bill there was no provision for the term for which these troops should be

enlisted, whether for one year, for five years, or for life. This was a material defect. Another objection: that there was no provision in the bill that a person wounded in battle should receive the provision made in such cases by the act to which this is a supplement; the other provisions were detailed and this omitted. He had other objections to the bill, but was content that the Committee now rise.

Mr. Lyon observed that the gentleman had objected to the detail of the bill. In the very time that he was doing this, the amendments might have been made. Objections had been made to the number, and a proposition made to strike out a part. Mr. L. expressed himself friendly to the principle; he would not have objected had the number been twice as large. He wished the Committee not to rise. Mr. L. then took a view of the situation of the Western country, and asked if it could be expected that the nation should add to its territorial possessions, extend its arms on all sides as it were, and not require greater force on a Peace Establishment than if kept within itself?

Mr. Eppes said no man would be more ready than he to provide for the defence of the nation, or to pass this bill, if he considered it as part of that system which, in the present situation of affairs, they ought to adopt. But he would be very glad if any member of the House could say why this was more important at the present time than in the year 1803, when we acquired the Louisiana Territory. This bill is not new; it is not a new principle on which we are called on to act. It has been the favorite bantling of one branch of the Legislature since the year 1803. A similar proposition has been yearly made, and as often as one branch of the Legislature has thought proper to increase the standing force of the nation, and the other not. I defy any gentleman to show a reason since that period for increasing it. Shall we now depart from the principle we have pursued? For what? Of what use will this force be in the defence of the country? It is calculated in time of war that a regular soldier costs three hundred dollars. Thus, one thousand of these men will cost $300,000 annually, and for what purpose? If we have war, this increase of the Army will be useless; if peace, I am opposed to it. I am in favor of putting arms into the hands of our citizens, and then let them defend themselves. We have been told that men are wanted to garrison fortifications. The gentleman from South Carolina surely has not fully weighed the matter. Undertake to garrison New York, Boston, &c., with a force sufficient, and see what an army you will raise. It was calculated at a time when the fortifications of New York were fixed upon that it would require thirteen thousand men to garrison them. And this is a great objection to the fortification system. I am willing to erect fortifications and place cannon on their walls, and leave them to use the cannon for themselves. As to the Western country and the city of New Orleans particularly, they will find that city in a better state of defence than any city in the United States, and the people better able to defend it. Take into view the almost boundless frontier of the United States, and what avail would be a thousand men as a defence to the people. Had they not rather have muskets?

In the present state of the world, when power is adopted by most nations as their code of law, it is not in such a system as this that we are to find our safeguard. I had rather see the young men of our country prepared for service, the militia classed, and put into the hands of every man his musket. That kind of defence I wish, and that alone is proper in a country like ours, where the only danger of attack is on our soil. If we depend on regular troops alone, the liberty of the country must finally be destroyed by that army which is raised to defend it. Is there an instance in which a nation has lost its liberty by its own citizens in time of peace? It is by standing armies, and very often by men raised on an emergency, and professing virtuous feelings, but who eventually turned their arms against their country. If you mean to rely upon a standing army for protection, this may be a part of it; but if you would erect such a force as shall secure the nation, trust not in standing troops, render your militia effectual. And it is because I am in favor of this mode that I am in favor of the Committee's rising; for, if we have peace, this force is unnecessary; if war, it is doing worse than nothing. It would produce a bad effect to see the National Legislature adding a thousand men when the whole energies of the nation should be brought into action. We know not how soon we may have war; to-morrow, the next day, or two months hence. It is not for me to state what preparations have been made; but whenever it is necessary to try, it will be found that the nation is ready to strike a blow. We are now in a situation to use the militia, and the large seaport towns, though not perhaps able to resist the force of a great maritime Power, are in such a situation that they will harass any force that may come against them.

Mr. Taylor said that he would set the gentleman right as respected himself. When he was up before, he had stated that there were not men enough to sweep the gangway of the fortifications, and turn the guns round. I do say now, that an increase is absolutely necessary, except you say that, when you mount guns, they shall lie there and be destroyed. I have a fact which I can state, that there is a fortification in the United States tumbling down for the want of half a dozen men just to take ordinary care of it, now inhabited by goats, which might, in case of war, command one of the most important towns in the United States. I mean Newport in Rhode Island. Gentlemen who go from the southward to that town, inform me that this is actually the case. If gentlemen suppose, that by advocating the bill, I advocate the raising of thirteen thousand men for New York, he is certainly wrong. Something, however, is required for our fortifications. If nothing else is required, I would have a bell to sound the tocsin of alarm, and rouse the militia. I have

seen instances of a necessity for this small addition to our force in my own State. The public cannon sent from Charleston to be deposited in a fort there, were lodged on the wharves, and when the hurricane came, these wharves among others were destroyed, the cannon slipped down into the foundation, and the owners of the wharves rebuilt them upon these very cannon; they now lie buried in the bowels of the earth. If, then, we do deposite public arms within these fortifications, there must be somebody to take care of them. Is there any principle on which we could put the militia in draught to take care of fortifications? As to the observations of the gentleman from Connecticut, (Mr. Dana,) I may have travelled out of the record; infantry are not cannoniers, artillerists, or engineers; but if a man can handle a musket, he can a cannon. Another thing: gentlemen who sometimes differ in opinion with me, held out to our Western brethren, when we were expending millions on the seacoast, while the posts on our Western frontier are some hundred miles asunder, that we should also provide for them when requisite. Are we to yield the point? Is it handsome? Would they not have held back their assent to fortifications if they had supposed we should have refused them this little when they asked it? I know that the militia are the most competent defence for a free country; but I also know, from those acquainted with the mode of warfare on the frontiers, that rallying points are of immense importance, and a few men might save the lives of thousands.

Mr. Eppes certainly had not an intention to cast the slightest reflection on the views or intentions of the gentleman from South Carolina, as for both he had the highest respect. What I meant was, that it is time to decide whether we will adhere to our national defence, or whether we should depend upon regular troops. This addition, although trifling, brings into view that principle. If you mean not to depend on this system, you will not raise troops, and the case which I stated as to the fortifications of New York, was merely to show that the gentleman from South Carolina was not aware what his argument would lead to, and not to insinuate that the gentleman had any disposition to raise a standing army.

Mr. Southard advocated an addition to the military force, but wished the Committee to rise and take up the War Establishment. In speaking of the frontier he stated that common report said that the Governor and Council of Canada had determined, in case of war, immediately to seize on our out-posts, as they were weak, and could be easily and immediately seized; the present situation of our Western posts was a temptation to aggression. Where was Aaron Burr? Rumor said that he was pursuing his original plan more daringly than ever; and, to save a few dollars, should they object to increasing the Peace Establishment? Surely not. Mr. S. went into an argument to show that the militia were not calculated to serve in garrison. He was opposed to a standing army; but this increase did not tend towards the erection of a standing army. The observations of the gentleman from South Carolina brought to his recollection some lines he had lately seen in a newspaper:

"John Bull caught them fast asleep," &c.

And look back, for several years, and you will find that, in all military expeditions, Great Britain had ever taken advantage of the unprotected situation of its opponents.

Mr. Masters said he understood the honorable gentleman from Virginia (Mr. Eppes) to say, that this nation was in a state of defence, and ready to strike a blow; and he gravely asked if there were any members in this House who dare risk their reputation by saying that they were not. He would ask that gentleman if he was willing to risk his reputation on the assertion that we were in a proper state of defence? I admit that we have appropriated one million of dollars for fortifications, and authorized the building of one hundred and eighty-eight gunboats. Does the honorable gentleman suppose by this that the nation is ready to strike a blow? How is this nation defended? Almost all our fortifications on our extended seacoast are in ruins, and a single ship-of-the-line can enter any of your harbors, and lay any of your towns under contribution. The Spanish possessions are adjoining on the one side, the British on the other, who are reinforcing and strengthening their posts; we have an immense frontier bordering on savage Indians, and the few troops stationed at Detroit and Michilimackinac are liable to be massacred by a small band of Indians; yet we are told that we are ready to strike a blow. I consider the defenceless situation of those and other places a disgrace to the nation. I have been surprised, the whole of this session, to hear members daily on this floor declare that we were on the eve of a war; at the same time no measures are taken to raise a single soldier, and there is scarce a fort or battery in good repair. The fort on Governor's Island, in your most important harbor, has one cannon well-mounted, and fifteen or twenty more mounted on rotten carriages. Is this a state of defence? I believe we stand at the brink of a precipice, and the nation are trembling and awaiting the result of our foreign relations; and we are next to defenceless; we have about sixty gunboats built, and those partially manned.

The Secretary of the Navy has recommended the employment of one thousand two hundred and seventy-two sailors, in addition to our present establishment of fourteen hundred. The House went into Committee of the Whole on the bill, which met with opposition, and the Committee rose; the Secretary of the Navy made an additional report, stating that the President did not wish any more sailors, and there the business rests.

The question on the merits of this bill is, whether it is necessary to increase the number of our troops on the peace establishment. I applaud the augmentation of our little Army, though it scarcely deserves the name of an Army; it is not a suf-

ficient skeleton, at all times so necessary to build upon. I am convinced an increase is necessary for the safety of the nation; we have not regular troops sufficient for the necessary service in time of peace. The country will always be in some degree liable to the approach of danger, when our affairs are not alarming. I am among those who are willing to reduce to political practice as near as possible our political principles.

I have never understood that it was contrary to those principles to have as many standing troops as were necessary to defend our frontiers and garrison our towns. I contend that our present peace establishment is not sufficient for that purpose; an increase is for the common security of all, and sound policy and common justice require it. I have no objection to the Committee reporting progress, if it is for information and not for delay.

Mr. Eppes said, if the gentleman from New York was as little acquainted with other parts of the United States as with his own State, he was but ill qualified to legislate on measures of defence. Does he, asked Mr. E., mean to stake his reputation upon this? Let him apply to the Secretary of War and see how ignorant he is of the situation of the chief town of his own State. I said, that this was a proper time to decide on the system. Did I then say, that the Western people should not be protected? I am willing to give the people of that country the same protection which is given to every part of the United States. The question is, in what way will you do it? Do you talk of protecting that country by two or three thousand men picked up in the streets of your cities, possessed of no patriotism? When the whole extent of the frontier is threatened, do you send these few men? The same expense which would send them into the country would put into the hands of the people thirty thousand muskets—that is, a defence greater than that proposed, as thirty is to one. Good God! Does any man doubt that it would be better to put these arms into the hands of the people, particularly of the Indiana Territory, who now petition for them, than to send regular troops amongst them? Could not thirty thousand arms be better employed for defence than one thousand regulars, and would this not be a better system? The gentleman from New York says, we have nothing for defence. Let me ask the gentleman, if we pass a law for raising one hundred thousand men, how soon should we get them into service? In this country, where industry is the order of the day, it is difficult to get recruits. It never was contemplated in this country, except indeed by men who vibrate from one extreme of principle to the other, to rely on a standing army, because if we raise them in war they must be kept up even in peace. I never yet have voted for a regular army or soldier in time of peace. Whenever an opportunity has offered, I have voted them down, and, so help me God, I will as long as I live. And so long too I am disposed to arm our own citizens. Lay aside this bill and appropriate half a million for arms, and I will vote with you. Look at the regular armies which went against the Indians. Look at their defeats, and the money which they cost. The State of Kentucky ridiculed the United States and our regulars, and with a few militia went out and completely defeated the Indians—and yet we talk of regular troops. These cannot be supported in sufficient number to repel attack without endangering liberty.

If you are disposed to support liberty by regular troops, I for one despair of it. However disposed for peace, the time must arrive when we cannot avoid war; and the moment which consigns the sword of defence to mercenary troops destroys the main bulwark of freedom. I have been led further on the subject than I intended to go, as I rose only to reply to the gentleman from New York; and before he stakes his reputation on the subject, I would advise him to apply to the Secretary of War to know how many cannon there are on good carriages in the city of New York. Any traveller who may have walked in the port and seen one cannon, cannot pretend to say what is the real force there.

Mr. Masters said, he had not said there was but one cannon: he had said there were but a few, and that would be found to be the fact. But it seemed the gentleman wanted no information as to our real situation. He had told the House that he had voted down every soldier, and, so help him God, he would. I admit, said Mr. M., that the gentleman had here shown his superior skill as a statesman. I will not detract from the militia; I believe them a brave set of men, and wish they were armed; but we want some regulars. I do say that the nation is not in a state of defence in that point. No assertion can convince the nation to the contrary; for from fact we know that we are not in a state of defence. These are facts which cannot be contradicted, notwithstanding the gentleman's declaration.

Mr. D. R. Williams observed, that after what had been said by the gentleman from Virginia as to the principle of the bill he need say nothing more than bravo! to it, and that he should like to hear it over again. The gentleman from Virginia had told them true; this measure had often been before the House, and as often been attempted to be made the entering wedge to a standing army. My honorable colleague, said Mr. W., has given some reasons in favor of the bill. The same reasons would operate for raising three thousand men, only three thousand—and my colleague, if his reasons were to prevail, might see, before he retired from Congress in which I hope he will long continue, a standing army of sixty or seventy thousand men. I should not have risen at this time, but to prevent an idea which may arise from what fell from my colleague, who stated the fact in relation to some cannon; but as the blame may fall upon the Secretary of War, I will observe that the cannon were under the charge of the Navy agent at Charleston; and that agent, into whose wharf they sunk, did not take care of them, and the fault rests with him. I understood the gentleman from New Jersey (Mr. Southard) to urge the propriety of raising an additional force to defend us against traitors. We stand no more in need of it now than we did before for that purpose. The probability is, that the late conspiracy has totally subsided. I understood the gentleman from Kentucky to call upon us to defend our frontier against the Indians. Is it not a fact that the first force we employed was to prevent transgressions of our people on the Indians, and not to repel their transgressions on us? I think it was so.

Mr. G. W. Campbell thought this debate had taken rather a curious course, for they were discussing a war instead of a peace measure. The bill under consideration proposed a Military Peace Establishment, and every gentleman who had spoken had gone into a discussion of a war establishment. Nothing could more forcibly show the propriety of setting aside the peace establishment until the war establishment was decided on. For myself, said he, I really cannot think it important for gentlemen to come here and abuse our state of defence on the one side or eulogise it on the other. Their assertions have no effect; and it is of much more importance to attend to the subject now before the House. If war be apprehended, it is more important to authorize the raising of such a number of men as may be necessary in case of rupture, before we determine what shall be done in peace. I do not agree with the gentleman from Virginia, (Mr. Eppes.) I think if we have war that we we must have an addition to our military force; and that we ought to authorize the raising an army at this time. Gentlemen tell us of arming the militia; it is little more than a phantom at this time; and with respect to the idea of giving the people protection by giving them arms, it is still more futile. There are very few effective men in the Western country who have not arms. They have arms, and which they can manage much better than any arms the United States can give them. When it it possible to get arms, I shall have no objection to place them in the hands of the militia. But to talk of arming the militia when we are talking of raising a military force is irrelevant. I think the Committee should rise, as this appears to be intended as an increase of the peace establishment, and take up a measure calculated to prepare for war; and therefore I wish the peace establishment to lie on the table, and immediately to take up the bill to raise a provisional army. If we have war, the troops proposed by that bill can be raised; if we have peace it will be time enough then to determine for or against an addition to the peace establishment. Let us examine the subject as it presents itself: when at peace, we may adopt peace measures. These are my impressions; and I hope, therefore, the Committee will rise, and for this a great reason is the very turn which this discussion has taken.

Mr. Gardenier hoped the Committee would not rise. Reasons had been given by one side of the question in favor of the rising of the Committee that the bill might not be put to sleep in that way by a refusal again to consider it. Instead of putting it to sleep side-way, as was now rather the fashion, he hoped it would be decided on principle; that they would go on with it and decide on its merits. As to the principle of the bill he could on one side easily perceive the necessity for the additional force contemplated to be raised, and on the other could not see any possible danger to arise from it. In the Atlantic States, said he, we do not, to be sure, want an augmentation of the Peace Establishment. The country being pretty fully inhabited possesses in itself a power to repel assault. But would any gentleman suppose that on our frontiers, so defenceless and exposed, the militia would be competent for defence? Assuredly not. They ought to have a force adequate, if not to prevent, at least to repel invasion when it comes. The situation of the country demands it—our duty demands it. The people on the frontier have in themselves the means of protection from the savages; and though we may regain the country after it is overrun, in doing so you will have to march over the bodies of your citizens whom you have left defenceless, who have approached you with supplications, but in vain. I will not take upon myself responsibility of this kind. This Government owes protection to every individual, however mean or abject his condition; and wherever every individual is protected, the whole community is secured. I wish particularly, from the alarms in the Western country, not only to establish a force which shall be sufficient to repel internal as well as external violation, but to remove from that country all cause of national discontent—to show them that we are as much alive and sensible to their interests as to our own—that we consider the United States as one great political body, every part of which it is our duty to protect. This is the true policy of the Government, and will leave to conspirators little hope of succeeding in attempts to corrupt your citizens. If you act otherwise you open a door to the wiles of conspirators. In every point of view, therefore, an augmentation of the standing military force of the country is necessary. I am as hostile to a standing army as any gentleman; but I do not call every little augmentation the erection of a standing army. There would be but little fear of our being overcome by even ten thousand men; there is no evil to apprehend from augmentation. Independent of these considerations of immediate danger, we ought not to adhere too closely at this time to the policy of not augmenting our Military Peace Establishment. This is not an age of the world in which pacific measures are to be indulged. If in other ages it happened that liberty has been overset by corrupting the military force, we do know that in the age in which we live power and might sway the nations of the universe. We know that no nation is secure except it be strong, nor strong except it be in a situation to exercise its power. However pleasing it be to indulge in pacific maxims, the truth is, we must be powerful and in a situation to exercise our power, or we are not secure. No-

thing else can secure us. In every measure, therefore, which has for its object this security I shall readily concur. I am not conversant in detail—that I will leave to others. It is necessary at this time to throw off our pacific, inoffensive, and philosophic character, and assume one more commanding, which if not by justice, yet by the fears which it inspires may be preserved. On the one hand I think gentlemen wrong who oppose standing force in every shape, and on the other I think those wrong who oppose the militia. Both may be employed and both to good purpose, but we should always have in view the peculiar circumstances of the country. It is not enough to be talking about the insult on the Chesapeake or to be dealing out anathemas against the British nation. This may produce a rage throughout the nation, though not that feeling which is necessary for the protection of the country. It is idle policy to listen to the trifling injury which we might receive from a standing force when the public good requires it. We should therefore not only talk but act, that, before the moment arrives in which we must meet the calamities of war, we may be prepared for it as much as in our power. If we raise this force the expense will be but little for tranquillity, and which we can easily pay if exempt from the burdens attendant on a state of war; if we do not increase our present force, the lives of our citizens which may be lost in consequence of the omission cannot be regained. The maxim will not do that justice may rely on the justice of others. We are just to others, but others are not so to us. Power only can insure justice. On the same principle that I advocated fortifications on our seashore, I would go all lengths for raising force for protection of the Western country. My only objection to the bill is, that the amount of force to be raised is not double what the bill provides.

Mr. Dana said, perhaps it might be an expedient course for gentlemen always to vote against measures which were sometimes unpopular. He thought he had heard of a person who always voted against the levying of taxes and against the grants of money. It is a safe course of proceeding, said Mr. D., because, if a tax is popular, he will be exempt from reproach; if unpopular, nobody can find fault with him for it. I cannot boast, as the gentleman from Virginia, that I have always voted against regular troops—that I have always voted them down—and certainly I have not so much confidence in my own wisdom and foresight as to pledge myself, with a solemn invocation, that I never will vote for them. When the gentleman tells us that every country which has lost its liberty has lost it by a standing army, did he mean that it was by a standing army of its own, or by the standing army of a foreign Power, to which it had not a regular force to oppose? Mr. D. cited several instances from history of liberty lost by nations from other causes than standing armies. What is there, said he, in all this noise about standing armies and war? If we have war, those who best understand it must have preference: the ripest in experience in everything is superior to the novice. Does the gentleman mean to say that the militia will answer for garrison duty? I would apply to any man of them who ever shouldered a musket or wielded a sword, and he would tell me that for garrison duty they are peculiarly unfit, because they peculiarly abhor service on the frontiers, taking care of stores, &c., which requires an exercise of constant, regular, and persevering patience, and incessant attention. It is, of all modes of garrisoning posts, the most wasteful, prejudicial to the community, and dissatisfactory to the people—at least, such is the opinion I have been led to form. As respects arms at fixed stations, you certainly want some person to be responsible for them; and certainly as respects important points, which are the keys of the country, you want some men there. Need the House be informed of the importance of those positions which command great portions of the country, whether maritime or territorial? Need any one be informed of the importance of such a post as Michillimackinac? Need any one be told of the importance of New Orleans, so exposed to the attack of any foreign Power? Need any gentleman be told, that whoever seizes the key, will not have much difficulty in opening the trunk? There, a constant vigilance is required. I feel therefore willing, because I deem it perfectly proper as it respects garrison duty in time of peace, to raise a sufficient number of men for the purpose of keeping guard of magazines, &c. I am perfectly willing to vote for them, because I believe them cheaper, better, safer. But I am not able to ascertain, with convenience, what should be the number. And as it respects the present bill, I have not information to enable me to say whether this bill ought to pass, and no discussion which can take place in this House will enable me to decide. I find that by the bill provision is made for a battalion of cavalry. The annual expense for each private would be about four or five hundred dollars, making for the whole battalion an additional annual expense of from one hundred and twenty to one hundred and fifty thousand dollars. According to my present view, if merely for the purposes of peace, I cannot see the necessity for cavalry, though it may be necessary. The question is not now whether this number of men shall be raised, but whether of this specific description. As I do not perceive the necessity for these, I should wish for some information as respects the service which may be expected of them. I am, therefore, in favor of the Committee's rising; for, whatever may be our zeal as respects the providing means of defence, zeal alone will not do. There must be something like conduct, capacity, and intelligence, as well as zeal, patriotism, and imagination.

Mr. Southard remarked, that, from the arguments used by gentlemen, it might be supposed that the question was, whether they should raise a standing army or make a requisition of the militia. This was not the question. The question was, whether they would pass this bill to raise a small addition to their present military force. No man placed more implicit confidence in the militia than himself, but he wished a small addition to the regular force. He thanked God that the

force which we have had been efficient to meet and face an enemy on the Sabine, and to crush one of the most nefarious plots that ever existed in the country, and that we had so far an honest man to command it as to do this effectually. He wished the country always to be prepared to crush an internal foe or an external enemy.

Mr. Rhea urged the passage of the bill. He did not know what information the gentleman from Connecticut could want. All his observations had gone to the detail and not to the merits of the bill. The gentleman from Virginia (Mr. Eppes) seemed to think they ought now to decide what method of defence they would adopt. There were several bills before the House for classing the militia, raising a provisional and a standing army, and the question could as well be determined on this bill as on any other. The House, said he, goes into a Committee on the militia bill, spend three or four days on that without doing anything; after that, takes up the bill for the provisional army with the same success; then the war establishment; after four or five days spent on it, the Committee will rise, and obtain leave to sit again, and perhaps we never may get it up afterwards. I am not in favor of a standing army, but wish an addition to the present force. Gentlemen have told us of the militia performing that which the regulars could not. The regulars under General Wayne achieved what the militia could not, and finished that war, which had cost so much. Mr. R. then alluded to the situation of Michigan, Detroit, and Louisiana; their unprotected situation weighed with him to insist that the Committee should not rise. The gentleman from Virginia had told them that he would rather give them 30,000 stand of arms than 1,000 regulars. I wish for both, said Mr. R., and if the gentleman would give us arms with such liberal munificence, he will give us men also—not for our defence, but for the service of the United States. We do not wish defence for ourselves, but for our extended frontier. We do not know the month, day, or hour, in which we may hear that thousands have been massacred. What security have we that the country is not already attacked? While we are disputing about the expense of a few regular troops, our neighbors may do us a mischief to the amount of ten times the expense of these troops. I do not like this contracted policy; I wish to save money as much as any man, but not in this way. We have gone on long enough in this routine of reading first one bill and then another, without doing anything. Gentlemen say they will arm our own citizens, and not employ regular troops. If these regular troops are not our own citizens, where will you get them from? I have as much confidence in the militia as any one; at the same time I agree with the gentleman from New York, that from 10,000 regular troops there would be no danger to the United States—nor from 20,000. The only danger from a standing army is, when it is so large as to overcome the others. There would be no danger from this number with even an Alexander or a Cæsar at their head.

Mr. M. Clay hoped the Committee would rise, for it was past three o'clock.

Mr. Eppes agreed with gentlemen who said that there could be no danger from these few men; but it was the commencement of a system which had destroyed the liberties of all countries. The gentleman represents me, observed Mr. E., as saying that I never would, on any account, vote for regular troops. In the warmth of debate, I might have said so, but my meaning was, that I would never rely altogether on regular troops. If I understood the gentleman from Connecticut, he agrees with me in wishing the Committee to rise and in objecting to the bill, but he is apprehensive lest it should be supposed that he is opposed to a standing army, and has quoted history in favor of that species of force. On some other occasion I will take an opportunity for a more ample discussion with the gentleman on this subject. The gentleman says some men always vote against taxes. I might retort upon the gentleman, and say that some gentlemen always vote for them. I understood him to say that some gentlemen do it to reconcile it with their constituents. My constituents were always opposed to high taxes and standing armies; in 1798 and 1799 they learned to dislike them, when the gentleman's constituents learned to like them. Mine have ever since been against them, and his in favor of them. He speaks the sentiments of those whom he represents, and I likewise. What I advocate now were my sentiments in 1798 and 1799, and the reverse was professed and practised by the gentleman from Connecticut. We are both consistent; he has not quit his course, and I trust I shall not quit mine. But we are told that this measure is absolutely necessary, to give the nation that dignified attitude which is required in the present convulsed state of the world. It really would be curious to publish the observations of the gentleman from New York in one column and the law under consideration in another. He calls upon us to raise a thousand troops to show that we mean to protect our citizens and insure justice. I hope in God, whenever the United States are disposed to show their attachment to my district of country, that it will not be by sending us regular troops. We want them not. For what purpose are they to be sent to the Western country? To overawe sedition? There was never yet a country in which they have not produced it. Oppression and tyranny will drive the people to rebellion, and standing armies produce both. What is the case in the Territories? Do we not see that you can scarcely put an officer there who can withstand the prevalent faction and party? And such will always be the case where there is a superior tribunal to look up to. If there be anything which will harass and disgust the people, it will be the sending an army amongst them. I do not want to keep them quiet in that way. If they rebel, I would rather take the system of punishing them for it. I have always been opposed to standing armies in time of peace; and I always shall be opposed to resting the defence of the nation on standing troops. I

did not mean to say that I should always vote against them, but that I would not rest the defence of the nation on them alone.

Mr. Lyon made some observations in favor of the bill. He hoped this was the auspicious time to increase the regular force of the United States. Mr. L. compared the discussion which had taken place in relation to garrisons to a dispute which might arise in a city whether it should be watched by men hired for the purpose or by alternate watches of the citizens themselves. He took a view of the exposed situation of the Western country, and advocated, generally, the support of a moderate standing force. He expected the Committee would rise, as it was late; but he hoped the subject would be resumed and the bill passed, if it were only that they might approach one step nearer to putting the nation in a state of defence.

The Committee then rose—yeas 70, and obtained leave to sit again.

Thursday, February 18.

The amendatory bill concerning Courts Martial and Courts of Inquiry, yesterday presented to the House by Mr. John Montgomery, was read the second time, and committed to a Committee of the whole House to-morrow.

Mr. Desha presented to the House a resolution of the State of Kentucky, relative to the opening of a wagon road from the Ohio river, opposite Port William, to intersect the road leading from Cincinnati to Fort Wayne, near or at Fort Recovery. The said resolution was read; Whereupon, a motion was made by Mr. Desha, that the House do come to the following resolution:

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of opening a wagon road from the Ohio river, oposite Port William, at the mouth of Kentucky, to intersect the road leading from Cincinnati to Fort Wayne, near or at Fort Recovery; and that they be authorized to report by bill, or otherwise.

On motion of Mr. Dana,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of causing such buoys to be provided and placed, as may be requisite for the security of navigation, at and near the entrance of Connecticut river; and to report by bill, or otherwise.

On motion of Mr. Chandler,

Resolved, That a committee be appointed to take into consideration the expediency of raising by enlistment, and organizing a number of volunteer troops, not exceeding twenty-four thousand men, for the service of the United States; and that they have leave to report by bill, or otherwise.

Ordered, That Mr. Chandler, Mr. Tallmadge, Mr. Trigg, Mr. Findley, Mr. Calhoun, Mr. Van Allen, and Mr. Johnson, be appointed a committee, pursuant to the said resolution.

The House went into a Committee of the Whole on the bill authorizing the raising an additional army. The blanks in the bill were so filled as to provide as follows:

That there be raised nine regiments of infantry of 1,000 men each, one regiment of artillerists of 1,200 men, two regiments of cavalry of 600 men each, and two regiments of riflemen of 600 each, for three years, unless sooner discharged; to be commanded by two Major Generals, four Brigadier Generals, one Inspector General, and two Assistant Inspectors.

After the bill was gone through, the Committee rose, 47 to 46, reported progress, and asked leave to sit again.

FOREIGN RELATIONS.

Mr. Van Dyke submitted the following resolution, which the House agreed to consider.

Resolved, That the President of the United States be requested to communicate to this House such information touching our foreign relations as he may deem consistent with the public interest, the better to enable this House to judge how far the Military Establishment of the United States ought to be increased.

Mr. Van Dyke said it would be recollected that the President, in his Message to Congress, had given reason to believe that he would in the course of the session lay before them information relating to this very subject. A negotiation was now going on; in what situation it is impossible to say. We know nothing of it as legislators, said he, for certainly we as legislators cannot act on the rumors which are afloat. There ought to be a communication between the Chief Magistrate and the Representatives of the Union when employed in public business. The Chief Magistrate cannot find himself embarrassed by this resolution; it is couched in terms which leave him at liberty to communicate that information, or withhold it. It is not my wish to extract from the Cabinet a single syllable which would affect the negotiations, but, when bills of this kind are brought before us, it must be desirable to every man anxious to discharge his duty to know what can be known on this important subject. I therefore hope the House, who are now acting blindfold as to the subject of foreign relations, will request the Executive to give us such information as can be communicated, to enable us to judge of the expediency of increasing our Military Establishment.

Mr. Dawson hoped the resolution would not be agreed to. Under the Constitution, which it is the duty of the President to obey, he is directed to give to this House, whenever he shall think proper, information relative to the matters within our cognizance. Had the gentleman from Delaware read the last Message from the President on the subject of foreign affairs, he would have there found "nothing shall be wanting on my part 'which may give information or despatch to the 'proceedings of the Legislature in the exercise of 'their high duties at a moment so interesting to the 'public welfare." This assurance was made when we first convened, and in this I place entire confidence. Whenever the public good requires, a disclosure will be made. I have no doubt at all times and in every point which it is his duty to

inform the House that he will make communication. In my judgment it would at this time be improper to make the communication which the gentleman calls for. If there be any subject which requires Executive secrecy, it is the negotiation now pending. Does the gentleman desire that the President should say, I wish to raise fifty or one hundred thousand men? Would not this show the state of the negotiation, and would it not have an ill effect? At any time when anything shall occur which shall require a decisive act, no doubt communication will be made.

Mr. Elliot said he differed radically with the gentleman from Virginia. He thought this the most proper time that could have been selected for calling upon the President of the United States for information respecting our foreign relations. Was there ever a time, said Mr. E., when a crisis of such moment, amid circumstances so inauspicious and ominous as those which now encircle us, could render information more desirable? Can there ever be such a time, when this House shall have less information than at this time on the subject of our relations with foreign Powers? Are we never to be permitted to pierce this impenetrable veil which has so long covered our political prospect with thick and dark clouds? Shall not a solitary ray of light wander through the gloom? I hope we are not much longer to remain in darkness. I hope the Representatives of the American people, and the people themselves are, at no very distant date, to know how our foreign relations not only now stand, but how they have been conducted for several years past. Over our relations with Spain and France, notwithstanding their extremely delicate character, a cloud as dark as ever covered the political atmosphere of any Republic has long been suspended. All we know is, that dreadful is the prospect, and that "shadows, clouds and darkness rest upon it."

But the reason why it is said this is so inauspicious a time is, because a negotiation is going on between the Government of the United States and an Envoy Extraordinary from the Government of Great Britain; because a negotiation is going on at the seat of Government, with one of the three great Powers of Europe with whom our relations are so interesting, we are not to call for information on the subject of our foreign relations generally. If I understand the resolution now under consideration it is a call for a general view of our situation; it calls for such information respecting our foreign relations as the President shall deem it consistent with the public interest to communicate. Is it possible that at any moment whatever a request of that kind can be objected to? Can there be a time when it could be liable to the least objection? Every gentleman knows that we have not the power to coerce information; our power is limited to the request. As the President's Message has been alluded to, I will observe that we are told in his Message that important information will soon be communicated—and none of any consequence has yet been communicated. When I say that no information of consequence has been communicated, I would be understood to say none of consequence, when compared with the immense mass which the Executive must possess—compared with those volumes of documents which every man within these walls knows that the Executive does possess, nothing has been stated to us. Do gentleman who object to this resolution recollect that this House, as a branch of the National Legislature, is intrusted with the most important, most awful power that can be confided to any department of any government, the power to declare war?

At the commencement of this session members on this floor, highly respected for their political talents, venerable for their political experience, members, at least one of them, second to none in political service, told us that they considered that we were already actually in a state of war. I differed from them. I did not believe we were in a state of war—nor do I believe that we are now; but every one knows that there is a prospect, nay, a great probability of war, and Congress alone can prepare for the event. The measure now under consideration (the bill for raising an additional army) and which appears to have led to this resolution calling for information, is certainly a measure of a warlike aspect. Do we want an additional army, if we have no prospect of war? We have distinct bills for an addition to the Peace Establishment and for a provisional army. It appears to me then that we ought to know, as far as we can with propriety, what is the prospect, in the most extensive view of it.

In the Message of the President of the United States at the commencement of the present session, of our differences with Spain he says, they "remain still unsettled; no measure having been taken 'on her part, since my last communications, to 'bring them to a close. But under a state of things 'which may favor reconsideration, they have been 'recently pressed, and an expectation is entertained 'that they may soon be brought to an issue of some 'sort."

We have no information on this subject; but, if we may judge from what has heretofore taken place, we must expect war with Spain. She has once invaded our territory; in consequence of an agreement with our Commander-in-Chief the invaders retired; and we are now told no measures have since that time been taken to bring our differences with her to a close. Spain felt herself authorized to take possession of a portion of our territory, and since that time no concession has been made which can give us the least assurance that she has abandoned the claim or that she may not soon reassert it.

As it respects the same Power, we are told:

"To our former grounds of complaint has been added a very serious one, as you will see by the decree, a copy of which is now communicated. Whether this decree, which professes to be conformable to that of the French Government of November 21, 1806, heretofore communicated to Congress, will also be conformed to that in its construction and application in relation to the United States, had not been ascertained at the date of our last communications. These, however, gave reason to expect such a conformity."

It was intimated that there was reason to expect that that decree would be conformed to the French decree; and I believe it was a very reasonable expectation that there should be a perfect conformity in the decrees of the French and Spanish Governments. We now know what is the real construction of the French decree, and we know it to be tantamount to a declaration of war, but we choose not to consider it in that point of light.

France has declared war against America, and America does not choose to declare that a state of war exists between the two Powers. The treaty between this country and France stipulates that we shall enjoy free commerce; the decree says we shall have no commerce. France, therefore, has broken the treaty, and we may with propriety consider ourselves at war with France, if it should be thought prudent to do so. The same remark does not apply to the late decrees of Great Britain, because there exists no commercial treaty between the United States and Great Britain.

"Whether a regular army is to be raised, and to what extent, depends on the information so shortly expected." Here is an explicit declaration by the President that the raising of an army, and the extent of it, must depend on information to be received. We have received information that the decree of the French Government is to be literally executed; but we have not supposed it necessary to raise an army in consequence of the determination of that Government to execute it. Further information, then, is contemplated as a contingency on which depends the consideration of the question, whether we shall have a regular army or not. So extremely interesting is the state of our foreign relations in general; so perfectly convinced am I, and so must be all the members of this House, that the Executive is in possession of information of the state of our foreign relations with France and Spain, and that a portion of it ought to be exhibited to that branch of the Government which must prepare for and declare war, if we have war; and so far convinced am I of our incompetency to pass that judgment upon the state of our foreign relations which our duty requires, that I do most cordially approve of the motion made by the gentleman from Delaware. If no other objection can be pointed out, it ought to be adopted. The existing negotiation cannot operate as an objection, because the President is not bound to communicate anything which he may think proper to conceal. If this does not constitute an objection, there can be none.

We are told, because the President has said that nothing shall be wanting on his part, that it is not proper to call for information. This is, to me, a very strange argument; and nothing can be more hostile to the principles of a free Government than the deliberate assumption of such a position. Is our Government, indeed, a Government of confidence? It may not, indeed, be as it has been called, a Government of suspicion, but it is certainly not a Government of unlimited confidence. The Constitution has said, that the President shall, from time to time, communicate such information as he deems proper; and has thus made him the judge of what is proper for communication; but practice has long established the principle, that the House of Representatives have a right to request information whenever they choose to ask it. If, therefore, there is nothing in the present state of things which forbid this resolution, I cannot see why it should be objected to. I disclaim the unbounded confidence professed by the gentleman from Virginia; I disclaim it as a friend to the rights of the American people; and, as one of those intrusted by them, in a crisis of great danger, to take care of their great political interests, the real state of which they are not themselves permitted to know. In disclaiming unbounded confidence, I make no personal discrimination. Were Washington at the head of the Government, I would disclaim it as I now do. The days of Washington, indeed, are past, but principles remain the same. Whoever is placed at the head of the Government, on him I shall not hesitate to call, to communicate such information as he may think proper. When I say, however, that, in disclaiming this unbounded confidence, I make no personal application, I wish it to be distinctly understood that I have no extraordinary degree of confidence in the present Administration—extraordinary! I repeat; I have a confidence that it is pursuing what it deems the interest of the nation—but I am not so confident that its conduct is consonant to the dictates of a sound judgment. It is impossible, however, to form a correct opinion on the subject. All is conjecture. Information is wanted. It may appear that the Administration is pursuing the most wise course; and, if so, it is certainly desirable to remove all suspicion from the public mind.

Mr. Lyon made some observations in favor of the resolution; in the course of his observations remarking that many stories had been circulated of French influence respecting the embargo, so that, if for no other reason, this resolution ought to be adopted, because it would operate an economy of lies.

Mr. M. Clay moved that the resolution lie on the table. It was not improper, but premature. He was of the same opinion as to the bill under consideration to-day, (additional army,) rather premature.

Mr. Cook said, he wanted information. Was there anything indicative of war? Did they fear immediate war? No; they did not. And, after all that had taken place, he wished to know whether they were to have peace or war.

Mr. Van Horn was opposed to the resolution at this time, and was also determined not to vote for the bill this day under consideration (additional army) till he had information. This was an improper time, however, to ask it. It must be known, said he, that we are waiting information, and that the state of events has prevented its being communicated. What are we now to do? We are told that the advocates of the resolution do not want improper information. The information called for is with a view directly expressed, to enable us to act on a war measure. What must the President say? If he recommends the raising of troops, or to the contrary, it shows his opinion with respect to the pending negotiation, and such an opinion the President may not wish to advance. It is the duty of the President to communicate such information at such times as the public good may require it. He knows that we want information. He has expressly told us nothing shall be wanting on his part to give despatch to our proceedings at a moment so interesting to the public welfare. What more could he have said? Does any man doubt that he will give us information, when it is necessary to act? Then, if it be necessary, in his opinion, that an army shall be raised, that will be a moment in which it will be proper for him to communicate information; and, till that time, I shall not vote either for increasing the Peace Establishment, or for raising an army. I will not act without information; and I would not be understood as willing to raise twelve or fifteen thousand men without being satisfied that they are necessary. And I hope the bill will not be called up till we have information on which we can be satisfied whether or not it is necessary to raise an army.

Mr. Bacon said that, as the proposition now before the House did not seem to him to be one which necessarily involved in it any question of political or personal confidence in the Chief Magistrate of the nation, he could not think that it was requisite for him to seize upon the occasion for the purpose of declaring whether he entertained that confidence or not, especially when he considered that, however important it might be, that the opinions of some other gentlemen in the House should, in this respect, be known, and they had on that account undoubtedly supposed that they were discharging a high and solemn duty, in explicitly declaring them; yet, with regard to himself, it was a matter of little consideration, either with the House or the nation, to justify him in stepping aside from his duty, for the purpose of proclaiming his individual confidence, or expressing his distrust of the Executive Magistrate. Whatever his personal partialities or aversions, in that respect, might be, he could not perceive the necessity of calling them into action for the purpose of enabling him to decide the question now before the House; and, in giving his vote in the negative, he felt that he should stand justified in it merely by that Constitutional confidence which, as a member of one branch of the Government, he might be supposed to entertain toward another branch, and that was all which, on this occasion, he thought it necessary to express. It is provided in the second article and third section of the Constitution "that the President shall, from time to 'time, give to the Congress information of the 'state of the Union, and recommend to their con-'sideration such measures as he shall judge ne-'cessary and expedient." In the performance of this duty, he is undoubtedly intrusted with a discretionary power, for the due and proper exercise of which he is fully responsible. If he is possessed of any information which might have an important bearing on our measures and deliberations, and which the public interest does not, for the present, require him to keep secret, and he notwithstanding fails to communicate it, and the public service thereby sustains injury, he is undoubtedly as much responsible for that neglect of duty, as he would be for recommending to our consideration measures which were improper and detrimental to the country; and if, for want of that information which we ought to have had, we fail to adopt those measures which the public safety requires, this House are in no wise responsible for it, it rests altogether with him. Mr. B. remarked, that this general view of his Constitutional powers and duties was particularly applicable to that sort of information which he might be supposed to possess in relation to our relations with foreign Powers, and to any existing negotiations which might be pending between us and them; that as the Executive alone could be supposed to know what the peculiar state of those relations were, so he alone could correctly judge how far, and when, it was proper to give them publicity. The President having, in substance, told us, at the commencement of the session, that our future measures must depend upon the events which might turn up thereafter, and which would in proper time be made known to us, we had a right to suppose that no further information on those subjects, which it was proper at this time to make known, was in his possession, beyond what had already been communicated, in the course of the session. Whether what we were already possessed of was sufficient to justify any particular measure which might, from any quarter, be submitted to the House, every member would judge for himself, being responsible for his conduct, and his vote, no further than the information which was laid before him justified. It certainly is not our duty to remind the Executive that it is at all times, and more particularly in the present critical state of affairs, incumbent on him to furnish us with every light that he possibly can, consistent with the public convenience, and a regard to pending negotiations with foreign Powers; and, I repeat it, that, for the proper, faithful, and fair discharge of this duty, the Executive alone is responsible to the nation, and it is not for either of the other branches of the Government to assume a responsibility which does not Constitutionally belong to them. Mr. B. said, he was not, therefore, for doing it, although he probably felt as much curiosity as other gentlemen to know exactly how we were situated in our foreign relations, and although he professed to know as little about them as any other member on that floor.

As to the argument used by a gentleman from Kentucky, (Mr. Lyon,) that it was politic and expedient to pass the resolution before us, in order to prevent misrepresentations of our conduct and our views; and that it would, therefore, be, as he expressed it "an economy of lies;" Mr. B. would only remark, that the crops of that commodity which were every day springing up around them and in every quarter of the country, were so vast-

ly beyond what was necessary for their ordinary consumption, that it would be a desirable object to discourage them if they could do it effectually; but that they sprang from such a great variety of sources, and branched out into such innumerable ramifications, that the attempt was fruitless and in vain; and, to cut off one root of the evil, even if it was in our power to do it, would be of very little consequence, while a thousand others remained, and would be daily springing up, so long as a disposition for misrepresentation and calumny prevailed in the country. He therefore hoped that if that gentleman had no better reasons than that for voting in favor of the resolution before the House, that he would, upon more serious consideration, relinquish it.

Mr. QUINCY said that the gentleman from Virginia (Mr. DAWSON) and his colleague (Mr. BACON) called for confidence not only in what the President does, but in what he thinks. The latter gentleman, observed Mr. Q., says, that if we neglect the doing of an act, because we were not informed of the necessity for it, the omission rests with the President of the United States. But we ourselves are now called upon to act. Great duties are required of us. What are they? To raise an army of twelve thousand or fifteen thousand men. We ask for information to know what number are necessary, and where our exposed points are. I have no objection to give all the force which may be requisite for the public good; but I wish to know what particular points require force, and whether this force is to the extent which it becomes our duty to give?

On motion, the House now adjourned

FRIDAY, February 19.

A Message was received from the President of the United States, transmitting the report of the Commissioners for laying out the route of the Cumberland road.—Referred to Mr. JOHN MONTGOMERY, Mr. JEREMIAH MORROW, Mr. LEWIS, Mr. SAMUEL SMITH, and Mr. STANFORD.

On motion of Mr. VAN DYKE,

Ordered, That the petition of the officers and soldiers who served in America, during the war between France and Great Britain, which commenced in the year one thousand seven hundred and fifty-five, presented the twentieth of February, one thousand eight hundred and seven, praying to be confirmed in their respective titles to certain lands granted by the King of Great Britain, in consideration of military services rendered the American Colonies, during the said war, be referred to the Committee on Public Lands.

Mr. LEWIS presented a petition of the stockholders of the "Marine Insurance Company of Alexandria," and others, in the District of Columbia, praying that a law may be passed by Congress to alter the style of the said company to that of "The Marine and Fire Insurance Company of Alexandria;" and to authorize the company under its new designation to make insurances against fire on houses, warehouses, household furniture, and on goods, wares, and merchandise, within the United States.—Referred to the Committee on the District of Columbia.

The resolution submitted to the consideration of the House yesterday, by Mr. VAN DYKE, requesting the President of the United States to communicate information touching our foreign relations, being again read at the Clerk's table the question was taken that the House do now proceed to the farther consideration of the same; and passed in the negative.

Mr. POINDEXTER, from the committee to whom the subject was referred, reported a bill concerning the power of the Territorial governments, (to take from Governors of Territories the powers of prorogation,) which he moved to be engrossed for a third reading, as it could not be amended, and must stand or fall on the principle.

Mr. TROUP objected, and moved that it be referred to a Committee of the Whole, that being the usual course and this a bill of importance.—Carried, yeas 58.

Mr. MORROW moved that the Committee of the Whole on the bill to amend the nineteenth section of the act fixing the Military Peace Establishment, be discharged from further consideration of it, and that it be referred to the committee heretofore appointed to inquire what compensation ought to be made to persons who have received wounds in the service of the United States since the Revolutionary war. The bill went to the same object, but was not as broad as the resolution which had been by this House referred to a committee.—Agreed to.

DEATH OF JOHN DICKINSON.

Mr. EPPES.—It has just been announced to me by a friend that JOHN DICKINSON, a venerable patriot of our Revolution, is no more. His attachment to liberty and his exertions in our struggle for independence are recorded on the page of history. His talents, his private virtues, and above all, his public services, entitle him to those marks of respect which have heretofore been extended to other patriots of the Revolution who no longer exist but in the remembrance of a grateful country.

Mr. E. then moved the following resolution, which was adopted:

Resolved unanimously, That this House is penetrated with a full sense of the eminent services rendered to his country in the most arduous times by the late John Dickinson, deceased; and that the members thereof wear crape on the left arm for one month, in testimony of the national gratitude and reverence towards the memory of that illustrious patriot.

GOVERNMENT CONTRACTS.

The order of the day for the House to resolve itself into a Committee of the Whole on the engrossed bill, entitled "An act concerning public contracts," recommitted on the sixteenth instant, was called for; and the question being put that the House do now resolve itself into a Committee of the Whole on the said bill, it passed in the negative—yeas 50, nays 61, as follows:

YEAS—David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, John Campbell, Matthew Clay, John Clopton, Howell Cobb, John Dawson, Joseph Desha, John W. Eppes, Edwin Gray, William Helms, William Hoge, David Holmes, Benjamin Howard, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, Joseph Lewis, jr., Matthew Lyon, Robert Marion, William McCreery, Daniel Montgomery, jr., Nicholas R. Moore, Jeremiah Morrow, John Morrow, John Porter, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, John Russell, Lemuel Sawyer, John Smilie, Samuel Smith, Richard Stanford, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, and David R. Williams.

NAYS—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, John Blake, jr., Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, John Chandler, Martin Chittenden, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, Charles Goldsborough, Isaiah L. Green, John Harris, John Heister, James Holland, Daniel Ilsley, James Kelly, Nehemiah Knight, John Lambert, Edward St. Loe Livermore, Josiah Masters, William Milnor, John Montgomery, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., John Pugh, John Rhea of Tennessee, Matthias Richards, John Rowan, James Sloan, Jedediah K. Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

THE EMBARGO.

On motion of Mr. NEWTON, the House went into a Committee of the Whole, by a large majority, on the bill supplementary to the embargo act.

[The first section of this bill provides that no ship, vessel, or boat, of any description whatever, of the United States, which is neither registered, licensed, or possessed of a sea-letter, nor any foreign vessel, shall be allowed to depart any port of the United States with a cargo to another port in the United States, until bond shall be given, in double the value of vessel and cargo, that the vessel shall not proceed to any foreign port or place, and that the cargo shall be relanded in some port of the United States: *Provided*, that vessels whose employment has been uniformly confined to rivers, bays, and sounds, within the jurisdiction of the United States, shall be excepted, by giving bond to the amount of three hundred dollars for each ton of said vessel, with conditions that such vessel shall not be employed in any foreign trade during the time limited in the bond.

The second section provides that boats not masted, or if masted, not decked, whose employment has been and shall be confined to rivers, bays, and sounds, within the United States, and lying within districts not adjacent to territories, colonies, or provinces of a foreign nation, may be exempted, whether licensed or not, by giving bond in thirty dollars for each ton of said boat, with condition that it shall not be employed in foreign trade during the embargo.

The third section provides that in all cases where bonds have been given under the embargo laws, the party or parties to such bond shall, within four months from its date, produce to the collectors of the port from which the vessel had been cleared, &c., a certificate of the relanding of the same, from the collector of the proper port, on failure whereof the bond shall be put in suit, &c.

The fourth section provides against exportation in any manner whatever of goods the exportation of which by sea is prohibited by the embargo laws; and if any such be exported from the United States, either by land or water, the vessel, boat, raft, cart, wagon, sleigh, or other carriage in which the same shall have been exported, together with the tackle, apparel, and horses, be forfeited, and the owners of such vessel, boat, &c. as well as the owner of such goods, &c. knowingly concerned in such prohibited exportation, shall each forfeit and pay a sum not exceeding —— nor less than —— dollars for every such offence.

The fifth section provides that on the return of any fishing vessel which shall have sailed subsequent to the embargo law, it shall be the duty of the master and mate to take oath that the whole of the fishing fare has been brought into the United States, and that no part thereof has been sold on the voyage.

The sixth and last section provides that penalties incurred by this act shall be sued for, recovered, distributed, and accounted for, mitigated or remitted, as penalties incurred by the embargo law.]

A motion was made by Mr. GOLDSBOROUGH, to strike out the second section, intended to exempt market vessels, &c., from the restriction imposed on boats in the bays, &c., adjacent to foreign territories, and which have heretofore evaded the law by crossing the bay, &c.

This motion was supported on the ground that there is a Constitutional prohibition to passing such a provision, as the Constitution says that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

The motion was opposed on the ground of expediency; and that the Constitution in contemplating this did expressly warrant the provision, moved to be struck out, inasmuch as the inhabitants of the States adjacent to foreign States now do enjoy an advantage over those which are otherwise situated, by trading with a foreign Power, in these boats, with impunity; and it was to equalise commercial regulations that this section was to be passed.

Motion negatived by a large majority.

Some discussion arising on the sums with which the blanks in the fourth section of the bill should be filled, on motion of Mr. J. MONTGOMERY that part fixing the minimum was struck out, and "not less than ten thousand dollars, at the discretion of the court," inserted—yeas 56.

A motion was made by Mr. ROWAN, that the fine should be at the discretion of the jury instead of the court, and negatived—51 to 36.

Mr. Van Horn moved to strike out of the first section, the words "no ship, vessel, or boat of any description whatever, and insert "no ship or vessel," with a view thereafter to strike out the second section.—Agreed to.

The Committee then rose, reported progress, and obtained leave to sit again.

Saturday February 20.

Mr. J. Montgomery presented a memorial of the officers of the Navy of the United States, praying that the value of rations may be fixed at the former price, of twenty-eight cents; that officers, when unemployed, may receive their rations in addition to half pay; that a provision may be made for widows and orphans, similar to that now made for those of the officers of the Army; that compensation to masters commandant and midshipmen be increased.—Referred to a select committee.

THE EMBARGO.

The House took up for consideration the report of the Committee of the Whole on the bill supplementary to the embargo law.

The question having been put on an amendment to the second section as follows: "*but nothing contained in this section shall compel the Secretary of the Treasury to require a bond* for boats under five tons, if in his opinion there exists no urgent necessity for taking the same;"

It was amended, on motion of Mr. Bacon, by striking out the words in italic, and inserting the following; "*Provided, however*, That the Secretary of the Treasury be and he is hereby authorized to dispense with the requirement of any such bond."

A motion made by Mr. Goldsborough to strike out the words five in the amendment, and insert ten, was negatived, ayes 23.

Mr. D. R. Williams, in some observations to show the hardship of the obligation negatively required by this amendment, that all boats under five tons should give bond or not, at discretion of the Secretary of the Treasury, remarked, that although he was not here when the embargo law passed, if he had been, he should have voted against it, conceiving it a premature measure; but now it was imposed, now the nation had lifted its hand, he thought it proper to support it. He said this much, lest it should be supposed that he had a disposition to loosen the gripe of the embargo; he would hold on it till death, or till it should be ascertained whether or not it would answer the intended purpose. There could not be a man in the House but who was determined to hold on to the embargo as a national measure, but it could not be expected that the nation would submit to it, if they imposed such extreme and harassing regulations as to prevent any boat from sailing from a plantation to market, &c. without giving bond. Mr. W. then made some forcible remarks to show the peculiar situation of the South Carolina planters, some of whose boats carried six hundred bales of cotton, and could not sail to Charlston with produce, though only a few miles, without giving bond.

Mr. Taylor replied to his colleague, who had just sat down. In the course of his observations he remarked that in South Carolina, in a single hour, he could, by making a contract with planters, deliver to a vessel in waters deep enough to receive a vessel of five hundred tons of burden, a complete freight. Their canal or bay boats might be manned and loaded altogether by black people, and conveyed down the bay to a vessel lying far out of the reach of custom-house officers, without the knowledge of any person who could be introduced as evidence in a court of justice; thus, in a very short time could ten or fifteen thousand bags of cotton be exported. As to the provision itself, Mr. T. believed that their constituents would not murmur at the provisions intended to render the embargo more effectual; they would not strain at the gnat when they had swallowed the camel.

Mr. J. Clay read an amendment which would be found to do away all objection, and answer the ideas of all gentlemen, which he would propose if the present amendment were rejected.

Mr. D. R. Williams avowed his concurrence with the amendment which the gentleman had read, as it would remove his objections.

Mr. Troup, in some remarks in favor of a restriction, observed that he had always thought the measure of the embargo was the best for our situation that could have been devised, and had no doubt that if that measure had been followed up by a pertinent system of defence, it would have produced an honorable peace even by this time. For the same reason he wished the embargo to be rendered effectual. If the bill were passed without some restriction of the kind, Savannah would be made the depot of the Eastern and Middle States, and thence produce would be conveyed in boats to St. Augustine.

Mr. Newton, in the course of some observations on the amendment, observed as to the general measure of embargo, he had always considered that it would be of advantage to the United States, in which opinion he had been further confirmed by the late British and French decrees. Mr. N. also acquiesced in the amendment read by Mr. J. Clay.

The amendment was negatived by a considerable majority; and Mr. Clay's agreed to without a division.

Several other amendments of minor importance were then made.

A motion was made by Mr. Cook to recommit the bill to a Committee of the Whole, and negatived—ayes 32.

A motion made by Mr. Durell to adjourn was negatived, 52 to 27.

Mr. Milnor, as he said he was unable, after the various and contradictory amendments which had taken place, to say what the bill was, moved to postpone the farther consideration of the bill till Tuesday next, that it might be printed as amended—negatived, ayes 19.

Several amendments were offered to the fifth

section, for the purpose of lessening the burden of the oath required of the fishermen, and negatived by large majorities.

Mr. Bacon moved that the bill be recommitted to the Committee of Commerce and Manufactures.

Mr. Alston said, when the bill was on its third reading, it might be recommitted, if good reason could then be shown.

Mr. Quincy protested against this mode of legislation without intelligence; he had listened with attention, and could not precisely comprehend the whole extent of the operations of the bill.

Mr. Alston, in reply, observed that the gentleman had so often protested against this mode of legislation, and he had seen it had so little effect on the nation or the House, that he was surprised he should persist in it.

Mr. Gardenier.—I shall vote in favor of the motion to commit; but not for precisely the same reasons which have been urged; but, as I apprehend, for reasons more powerful. It has struck me, sir, that the more we legislate on this subject, the worse we legislate—the more we legislate, the more we legislate to the destruction of the country. Why we passed the embargo law itself, I have been always unable to tell. Why we have passed the subsequent laws for the purpose of rendering the original evil more perfect and more universal, God only knows. It does appear to me, sir, that we are led on, step by step, but by an unseen hand. We are urged forward by a sort of spell, to the ruin of our country. Under the name of an embargo we are in truth and in fact passing non-intercourse laws. Under the beguiling form of a bill supplemental to the embargo law, a law which prohibited the departure of vessels from your ports and harbors, you are about to prohibit all intercourse by land with any of the circumjacent territories of foreign nations. Between the original measure and this, there is no connexion: the principle of the one is totally different from the other. Nay, sir, this bill is totally at variance with the President's embargo Message. [Mr. Gardenier here read from the President's Message of December 21, 1807:]

"The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas, and elsewhere, from the belligerent Powers of Europe; and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantage which may be expected from an inhibition of the departure of our vessels from the ports of the United States."

To prevent our ships and vessels from leaving their ports, for the purpose of preserving them as resources to meet a state of war, if that should ultimately come, was all that the President professed to have in view, all that he wished us to do, at least, at that time. And I state it to the everlasting honor of the minority on that occasion—as long as I live I shall be proud of the share I had in that honor—that to resist even that law we sat day after day and night after night. I cannot, therefore, possessing now the same opinions which governed me then, opposed as I still am to the existence of the embargo act, I cannot consent to go on, for the purpose of extending the operation of the evil more widely, for the purpose of making that worse which is already too bad. But this is different from our embargo law. It is a non-intercourse bill. The more the original measure developes itself, the more I am satisfied that my first view of it was correct; that it was a sly, cunning measure. That its real object was not merely to prevent our vessels from going out, but to effect a non-intercourse. Are the nation prepared for this? If you wish to try whether they are, tell them at once what is your object—tell them what you mean—tell them you mean to take part with the Grand Pacificator; or else stop your present course. Do not go on forging chains to fasten us to the car of the Imperial Conqueror. [Here Mr. Smilie, Mr. G. W. Campbell, and Mr. Montgomery, and several others, rose together, some calling to order, and others hoping the gentleman might proceed.]

The Speaker hoped the gentleman would keep within the rules of propriety.

Mr. Gardenier hoped the Speaker would keep order in the House, (three gentlemen were still standing) for, said Mr. G., it is impossible for me, sir, to speak and keep order in the House at the same time. [The confusion having ceased, Mr. Gardenier proceeded.] If the gentlemen have composed themselves, and are in a condition to hear, I will proceed. I wish first, however, to put them at ease on one point. They are not of sufficient importance to have been the objects at whom I would level anything. I assure the gentlemen I did not mean them.]

This, sir, whatever name or complexion it may bear, is in fact a non-intercourse bill. The measure it proposes can be of no possible benefit to us. It has nothing in it to render palatable the distress it must bring on a very considerable portion of our citizens. I object particularly against the fourth section. It forbids the exportation of our produce by land, in which mode there is no danger of capture. When we passed the embargo act, it was not done with a view to stop trade, but was professed to be done with a view to keep safe our resources. The stopping of trade by water was not the object, however it may have been the inevitable consequence of the embargo. It was an evil necessarily resulting from it. The majority were willing to endure this evil, in consideration of the eventual good which would result from keeping (as the President expresses it) in safety our essential resources. But as one mad measure usually begets more, so, in the present instance, it has happened, that the original object of the embargo, ruinous as it was, is abandoned, and gentlemen seemed to vie with each other in their endeavors to render our situation in every respect intolerable. I ask the intelligent and candid men of this House, whether to prevent the farmers of Vermont from selling their pigs in Canada is calculated to increase or diminish our

essential resources? Whether the object which the President professed to have in view is counteracted by a traffic of this kind. No, sir. It is not only in direct hostility to the interests of the country, but what some gentlemen will probably regard quite as much, to the wishes of the President. I repeat it; the objects of the bill, particularly of the fourth section, and of the embargo, are totally distinct.

Instead of measures of this description; instead of fettering commerce; instead of putting their ingenuity to the rack, in devising means to paralyze completely all the commercial activity of the country, I should have been happy to have perceived in the gentlemen who manage matters in this House, I should have been glad to have perceived in the Administration, a disposition to encourage as much commercial activity as could be possibly consistent with the professed object of the President—the safe keeping of our resources. I should have been happy to have found them content with the ruin and distress their darling project had already produced, without aiming at the utter, the total stagnation of all the commercial powers of the political body. But, unhappily, instead of ameliorating, we go on to make worse and worse the condition of our devoted country. Suppose Vermont should send some of her produce to Canada; or Georgia to the Floridas; in what are the interests of the rest of the Union to suffer by it? Or are we to go on passing these laws, zealous in our exertions to make bad worse, upon the principle, which some gentlemen in this House have very gravely advanced, that we ought to make the public suffering as equal (in other words) as universal as possible—to extend it to every nook and corner of the Union; that no portion, no section however remote, however secluded, should escape from taking its due proportion of the bitter draught; none, which the fatal gangrene should not reach? If we are running mad, sir, we have at least this consolation; we have "method in our madness."

It is strange, it astonishes me, that by an embargo, we should be led to the measures contemplated in this bill. Because you wish to preserve your vessels and seamen, those essential resources, in your seaports, you are, therefore, to prohibit all trafficking across your territorial lines; though it is evident that by permitting it, your citizens, of course your country, will be benefited. Sir, I cannot express my amazement at the dreadful infatuation which pervades the public councils. I conjure the members of this assembly to cease for a moment their exertions—I conjure them to sheath the destroying sword; in the name of our suffering country I entreat them to save it from these new and accumulating evils. The great object of your President is secured. Leave a little to your distressed people. Do not, I implore you, permit yourself to be persuaded that the public interest cannot be subserved unless everybody is destroyed.

I doubt whether experience has proved that the original law was for the public interest. Hitherto our ships might have navigated the ocean in safety. But, at any rate, is it wise to hazard everything upon the experiment? for at best it is but an experiment. If it shall be proved ultimately to have been a good measure, it will also prove to have been strong enough to produce good enough to satisfy every rational theorist. If a bad one, it will have produced calamity enough, full as much as our poor country can stagger under.

I have in view no object but my country's good, and when I see it threatened on every side, it is my duty to speak out, boldly and earnestly, to this House and to this nation. And I will again entreat gentlemen to reflect whether the continual extension of the non-intercourse system, is calculated to make us better prepared to engage in a war either with France or Great Britain. For, upon that ground, was the original measure of the embargo demanded by the President; upon that ground only could it be even plausibly defended. Sir, it is high time to stop. We have done enough.

If it is wise to contrive that every part of the country should suffer, if this strange notion be indeed good policy, I could wish gentlemen would, instead of bolting at me in the fulness of their rage, endeavor to satisfy my poor understanding by cool reasoning that they are right. That they would show me how this measure will prepare us for war—how the weakening, by distressing every part of the country, is to increase its strength and its vigor. No. I cannot be deceived in the view I have taken of this measure, and I will not cease to protest against it with all the energies of which I am possessed.

I am grieved to see that we are perpetually engaged in making additions and supplements to the embargo law. Wherever we can espy a hole, if it be no bigger than a wheat straw, at which the industry and enterprise of our country can find vent, all our powers are called into requisition to stop it up. The people of this country shall sell nothing but what they sell to each other. All our surplus produce shall rot on our hands. God knows what all this means! I, sir, I cannot understand it. I am astonished—indeed I am astonished and dismayed. I see effects; but I can trace them to no cause. Yes, sir, I do fear that there is an unseen hand, which is guiding us to the most dreadful destinies—unseen, because it cannot endure the light. Darkness and mystery overshadow this House and this whole nation. We know nothing, we are permitted to know nothing. We sit here as mere automata; we legislate without knowing, nay, sir, without wishing to know, why or wherefore. We are told what we are to do, and the Council of Five Hundred do it. We move, but why or wherefore, no man knows; we are put in motion, but how, I for one cannot tell.

Sir, the gentlemen of this House with whom I have the honor to act, and a distinguished honor I consider it, are disposed to do all that men can do for their country. But we wish to know what we are doing—the tendency of the measures we are called upon to adopt. If the motives and the principles of the Administration are honest and

patriotic, we would support them with a fervor which none could surpass. But, sir, we are kept in total darkness. We are treated as the enemies of our country. We are permitted to know nothing, and execrated because we do not approve of measures the origin and tendency of which are carefully concealed from us! We are denounced because we have no confidence in the Executive, at the moment the Executive refuses to discover to us—even this House, nay, sir, this nation, its actual condition. Like the Israelites in Egypt, we are to make brick and find our own straw. We are to have faith, and find out our own reasons for it. This course will do in this country no longer. [The Speaker called Mr. G. to order. Mr. Alston wished the gentleman might be permitted to proceed.] Mr. Gardenier.—I do not desire permission of that gentleman. I shall permit myself to proceed. I have wandered, sir, through a wide field I confess. I return to this bill. I wish to soften its asperities—to make its operation more mild. Particularly to have the fourth section expunged. I will, therefore, vote for its commitment.

Mr. Bacon.—I hope the House will do me the justice to believe that there was no concurrence of views or unity of design in the simple motion which I had the honor to submit to the House for the commitment of the present bill, and the most extraordinary rhapsody of "melancholy madness," (for I can call it by no other name,) which we have just heard from the gentleman from New York. In order, however, to prevent any more of those undue advantages being taken, to insult the House, by the means of that motion, and, in order that I may not be deemed accessory to any more of those effusions of the pride which the gentleman says he cherishes, in relation to his public character and his conduct on this occasion (and for which, if he does in reality entertain them, I most sincerely pity him,) I rise to withdraw the motion, which I had submitted for a very different purpose than that for which it has been improved. If that gentleman or his friends are ambitious that he should have any further opportunity for displaying himself in that way before the public, either he or they are welcome to renew it. I wash my hands of any further participation in it.

Mr. D. R. Williams.—I do renew the motion; and I hope there is yet sobriety enough in the House, not to suffer themselves to be driven into an improper measure by any intemperance which any member may have displayed. Mr. W. then gave some reasons why the bill should be recommitted; it had been so repeatedly and variously amended that it could not be understood. As a further reason for commitment, he said, that the chairman of the committee himself had offered a proviso, and, upon a reconsideration of it, had found it had not the operation he intended.

Mr. Dana said, although not partial to the measure of laying an embargo, he should endeavor to legislate effectually, to propose amendments or to object to them to any bill whatever which should be necessary to carry into effect the general object. Since an embargo had been laid, he was willing to render it effectual, and equalize its operation. He then gave some reasons why the bill should be recommitted.

Mr. Rhea, of Tennessee, moved to adjourn; negatived—55 to 25.

Mr. Livermore said he had seconded the motion for recommitment, because he thought the bill required revision. There had been exceptions taken to several parts of it; were gentlemen ready to go into a discussion of them at this late hour, and this late day in the week? He thought not; and, for this reason, wished them to be examined by the committee.

Mr. J. Montgomery.—Now, at this late hour, charges of a very serious nature against the House have been made on this floor by a gentleman from New York. Not on this day are they made for the first time; they have been sent abroad in the public prints. It is important to know how those charges originated. At this late hour they cannot be repelled. Let us pursue this course on this awful business; let the question be carried over; let the House now adjourn. At our next meeting let us take up, and, if those charges can be proven, if we are indeed so abandoned, so profligate, so destitute of patriotism, so dead to everything which concerns the interest of our country, let us be stamped with infamy, and sent home to our constituents. The crisis is serious, and calls for the attentive deliberation of the House. Let the gentleman from New York establish his charges; if he does so, I, for one, will say, those persons, under this secret influence, must be immediately expelled the House. If he does not, some other course may be taken with relation to that gentleman.

On motion, the House then adjourned.

Monday, February 22.

Mr. Boyle, from the Committee on Public Lands, reported a bill to direct the mode of surveying land in the Orleans Territory, and for granting rights of pre-emption in certain cases; which was twice read, and referred to a Committee of the Whole.

On motion of Mr. M. Clay, the House went into a Committee of the Whole on the bill for classing the militia of the United States. The motion for striking out the first section being yet under consideration, Messrs. Rowan and Livermore supported, and Mr. Nicholas opposed the motion for striking out the first section; when the Committee rose, reported progress, and obtained leave to sit again.

CAPTAIN PIKE.

Mr. J. Montgomery observed, that to Captains Lewis and Clarke, who had explored the Western country, a compensation had been made; he held in his hand a similar resolution for remunerating Captain Pike for the important services he had rendered on an almost similar expedition, which he proposed, as follows:

Resolved, That a committee be appointed to inquire what compensation ought to be made to Captain Pike

and his companions for their services in exploring the Mississippi river, and in their late expedition to the sources of the Osage, Arkansas, and La Platte rivers, together with their tour through New Spain; and that they have leave to report by bill or otherwise.

Mr. Marion objected to the phraseology of the resolution, as sanctioning a general principle, to which he was not prepared to assent. The resolution did not go to inquire if any compensation, but what compensation, should be given; thus taking for granted that some remuneration should be made. Mr. M. wished it to be so modified as to inquire "if any, and, if any, what," compensation should be granted.

Mr. Montgomery acceding to this alteration, the resolution was adopted.

Messrs. J. Montgomery, D. Montgomery, Rowan, J. J. Alston, and Humphries, form the committee.

Mr. Rowan said he had been absent when a resolution was this morning adopted for inquiring if any, and what, compensation should be rendered to Captain Pike for his services on an expedition into the Western country. It was in his power to give some information on the subject. He had some time ago received a letter from Orleans that a Mr. Joseph Ballenger, a friend of Burr, had returned from an expedition with Captain Pike, and was incensed at Wilkinson for blowing up the expedition, as he had engaged two or three nations of Indians to join Colonel Burr. I have, said Mr. R., since that spoken to Colonel Ballenger, a brother of this person, who informed me that his brother had been sent by Wilkinson for the purpose of promoting the project. Colonel Ballenger is a man of truth, and entitled to credit. The Mr. Ballenger, the brother of the gentleman just mentioned, is in Kentucky, and his evidence could be had. If this is the case, and Mr. Pike is privy to this confederacy, he ought not to receive compensation. In obedience to my duty, and from no other motive, I have given this information to the House, which the Speaker may communicate to the committee, or take such further order as he pleases.

The Speaker said the gentleman might communicate it to the committee appointed if he thought proper; or it could be reduced to writing and referred to the committee.

Mr. J. Montgomery said that, from his own knowledge, he could state that Captain Pike's expedition was for a very different purpose. It was commenced, continued, and concluded, under the orders of the Government, and the report of the expedition was made to the Secretary of War.

Mr. Rowan begged to be understood that he knew Captain Pike, respected him, and would not wish unnecessarily to wound his feelings. He was willing to discard any idea he might have formed, upon proper information to refute it. He had no desire to appear before a committee as an informer or prosecutor.

Mr. W. Alston said it would be recollected that he was chairman of the committee appointed to inquire what compensation should be made to Captains Lewis and Clarke. On the investigation of this subject, he was told it might be necessary to make a certain appropriation to explore certain waters, and was told that Captain Pike was then engaged in it under the orders of the Government.

THE EMBARGO.

The House resumed the consideration of the bill amendatory of the embargo law; and the motion for recommitment being yet before the House—

Mr. Johnson observed that it had been late in the day on Saturday when a gentleman from New York, in giving some of his reasons why this bill should be committed, had made use of observations which he had at that time wished to repel; that he hoped he should be excused a few moments this morning, in expressing to the House his sentiments of the course of that discussion, and what should always be his conduct so long as he held a seat in the councils of his country.

I presume, said he, that the rules which govern this House are reciprocal; and, though I cannot feel myself justified in making an attack on any member, without reasons by which to substantiate charges which I may make against them, yet I will abandon my seat at that moment in which I am not permitted to repel any attacks made on the House, in which I am, in common with the rest, included. I represent a portion of the citizens of the United States. Before they sent me here they knew my sentiments; I had not concealed them. I have, since I have been here, on all occasions voted from a sense of duty, and upon evidence derived from sources accessible to all. I am a friend to liberal discussion and freedom of debate; but I am an enemy to insinuations unfounded and attacks unprovoked. I know that, in the ardor of debate, expressions may have escaped the lips of myself or any gentleman; I may have been betrayed into a hurried expression, in which, perhaps, upon retrospection, I might not feel myself justified, but from the ardor of debate. But a direct charge, against any members on this floor, tending to put them in a degraded and infamous view, is contrary to honorable conduct, and cannot be excused, much less can it be justified. I have differed in opinion with gentlemen on this floor; and, notwithstanding this difference, I respect them individually, so far as I am acquainted with them, and so far as they have treated me with that politeness due from one gentleman to another. I should consider myself as derogating from the dignity of a Representative, were I to level a reflection against any member, because he differed from me in political sentiment. But what expressions have we heard, on a subject on which they were not applicable, when every one of all parties seemed to join to render the embargo effectual, as a national measure should be! To this House, and to those who vote for the measure, have been applied the observations, that an invisible hand guided us; that we were told what was wanting, and that the Council of Five Hundred voted it; that we are governed by foreign influence; that our steps are marked by folly

and madness; that we are forging chains to bind us to the triumphal car of the French Emperor; that we are mere automatons; that we wait for the word of command, and we obey. Expressions of this kind, I never expected to hear on this floor. Such expressions, I never expected to hear from the Representative of a free people; and I pronounce them derogatory to the Republican character, and highly reprehensible. If by such expressions the gentleman means to charge me, or if any man shall say that I am governed by any other impulse than duty, or influenced by any other motives than my own, I say that I consider it a base and unprincipled calumny. And what I have said, I am glad I did not say until this morning, because it is now deliberately done. A member may say what he pleases with respect to himself; that he is governed by such or such influence. But, when a charge is made that I am governed by any other impulse than that of an American, and that I am a tool to others, I pronounce it a slander. Under this impression, I make this reply. And I would be understood that, if any one considers himself injured, or the resentment of any gentleman is awakened by anything which I have said, that I do not consider myself as shielded by the splendid walls which surround me, nor by the privileges of a member. What I have said, I shall not retract.

Mr. Rhea said he should not vote for reference; for if the bill should be committed to the Committee of Commerce and Manufactures, and afterwards be referred to a Committee of the Whole, it would unnecessarily occupy time, when it could as well be understood by being printed. It was with no pleasure to himself that he sat out to take any notice of a most extraordinary address from a gentleman from New York on Saturday last; and it gave him pain that any gentleman should so far depart from the politeness which should characterize every one, as to have used such language as was then heard. The gentlemen could not have intended to enlighten the House; for his whole speech was unconnected—consisted of no chain of reasoning, but of assertions of a most extraordinary nature, and those not bottomed upon fact. In the course of that extraordinary speech, we were told that we were legislating against the interest of the nation—applying the observation particularly to the laws respecting the embargo. The gentleman had made many observations on the embargo, and among others, as Mr. R. understood him, that the minority on that question, to their eternal honor, had opposed the system. There were many gentleman in the minority on that occasion, who supported this bill, and would far from accord in their views with that gentleman

In expressing his opposition to the embargo, did the gentleman for a moment take into view the present state of things in Europe; the decrees of blockade adopted by those mighty Powers in their attempts to destroy each other? If the gentleman's mind had for a moment expanded, he would not have permitted such expressions to escape his lips. For if the embargo law had not passed, what would have been the consequence? Our commerce would have been swept from the ocean, and scarce a vessel left; and therefore a system was adopted to retain the property of the United States at home, and preserve it from capture on the ocean. Did the gentleman contemplate that there were already about three thousand of our own seafaring men on board vessels of foreign Powers? Did he reflect on the frequent seizures by the belligerent Powers, and that they dealt wide destruction to the commerce spread over the ocean? Had he contemplated these things the House would surely not have been so assailed. To the assertion that they had been legislating against the interest of the nation, what did the people themselves say? The embargo was generally approved throughout the United States, except by a few persons, probably holding the same political opinions with the gentleman from New York. From the East to the Southwest, and from the Atlantic to the Ohio, the measure had been approved. With what confidence and assurance then could the gentleman say that they were legislating against the interest of the nation, or how could a gentleman permit himself to depart so far from facts as to make these assertions?

The gentleman had said they were guided by an unseen hand. In saying this, according to my interpretation of it, said Mr. R., he said more than he intended. I refer to that mighty Being who raises and depresses nations when he pleases. This is the only hand that I acknowledge, and if it is the same which the gentleman meant, I will agree with him. But if he means that we are under any other influence than such as is dictated by the honor of our country, I do positively and unequivocally deny the truth of his assertion. When a nation does an act at which no other nation on earth can justly take offence, and that act is approved by the people, it appears strange that it should be said by any one that it was favoring the designs of any nation in Europe. This nation fears not the designs of any nation in Europe; neither has it a partiality for any one. This being the case, how can it be said that the carrying this act into effect is aiding or abetting the designs of any foreign Power? I shall always agree to assert the honor and dignity of my own country. I shall never make assertions that it is under the influence of a foreign Power; and before any gentleman makes such assertions he ought to have facts to confirm us in the belief. Unless strong reasoning or proof can be adduced in support of his assertions, he has descended to a gulf from which it will be difficult to extricate himself.

It has been said that this embargo is a sly and cunning deception, or a non-intercourse law. It has the same operation which every similar act has heretofore had. So long as we can support a neutrality, so long will I do any act which conduces to it; and if anything can support it, it is the embargo, by preventing those conflicts which would take place on the ocean between the armed merchant vessels of the United States and the armed vessels of the maritime Powers.

But it appears the gentleman has taken great

offence at this bill, because it has left no place to get out. Does he want to get out? Does he want his constituents to get out? Does he want the people of Vermont to get out? He brought down his observations from the Gallic Emperor to the pigs of Vermont. There is more honor, dignity, and magnanimity in the people of Vermont, even if a hole should be left, than to send their produce to the British Provinces. And if any intercourse be carried on between the people of Vermont and the people of Canada, it must be by those who heve forsworn those principles, the observance of which they owe to their country. Does the gentleman wish an opening through which the whole produce of the United States may float down the river St. Lawrence, and then across the Atlantic?

I have never contemplated this embargo as a war system; it is a system of peace, and holds forth to the nations of Europe this language: "We are willing to send you our produce, but you have refused to let us travel quietly, and, as this is the case, we will keep our vessels and produce at home, nor expose one or the other to your friendship or depredation." This is the language of the embargo; it is, therefore, no war measure. I hope the House will not arrest its effect until the purpose for which it was imposed is completed; before that time arrives, the more perfect it is the better. Let us show that we are determined to preserve and support our neutrality.

The gentleman told us that the nation must be saved by the Representatives of the people. This observation I could not understand; I always thought that the sovereign people represented themselves. I have indeed heard it said that the people were themselves their worst enemies; but I always thought that they could save themselves, and still think so; and the moment we step aside from our duty, they will do it. If they think we act against their interest, they will call us back with language of reprobation, and put others in our stead to pursue a different policy. It is on the principle of anxiety for the public good that I act; and to the people I look for approbation; and for these reasons I shall vote for the bill.

Mr. NEWTON.—I consent to the recommitment from a conviction that the friends of the bill are desirous of giving it that direction. Their wishes have been expressed, and I acquiesce. To have avoided a debate on the embargo—a subject which has been discussed—would have afforded me great satisfaction, particularly as it must have been foreseen that much warmth would be excited by it. It is no small gratification to me that those with whom I am politically associated, did not provoke it. We are again called upon for our reasons in favor of this measure. We have thought, and still think, that it was one which was dictated by enlightened policy and imperious necessity.

Assembled here for the sole purpose of promoting the public welfare, it becomes a duty to act with propriety and temper; and in no instance to suffer our passions to lead us into the adoption of measures inconsistent with that object. Maturity of consideration should always precede decision; a contrary course would be a dereliction of the public interest. The embargo is in operation; it is a subject before the public tribunal, a tribunal every way competent to decide; there the merits or demerits of the measure will be dispassionately weighed and numbered. I am not a little gratified to find that unequivocal expressions of approbation have been made by most of the State Legislatures, and that not a day passes away without increasing the number of its advocates. Epithets of abuse have, with no sparing hand, been spread abroad in every direction. It has been represented as the offspring of foreign influence; but declamation and accusation can avail nothing with the enlightened public; proof of foreign influence must be adduced, if the propagators of it expect any advantage from it. Let the situation of the United States, prior and subsequent to the passage of the act laying an embargo, in their relations with foreign nations, be candidly and impartially viewed.

If the justification of the measure is not to be found in those relations, we disdain to resort to other means for it; we are willing that all the responsibility of the measure should attach to us. When our attention was first attracted to this subject, the decree of the Emperor of France, of November 21, 1806, was in operation; and that blockading decree it was intimated would be rigorously enforced. Previous to its operation, our commerce had been, and continued to be, greatly restricted by the orders of the British Cabinet; and our Minister at the Court of London, so early as the 10th of January, 1807, was informed that, if the French decree were enforced, the British Ministry had resolved to pursue retaliating measures. We saw in such acts, having the sanction of public authority, the ruin and prostration of our commerce. As the guardians of the national interest, as the depositary of the national power, Congress was invoked to rescue commerce from inevitable destruction. In the performance of this duty the embargo was laid, as the best means of security. The subsequent acts and conduct of the belligerent Powers have confirmed me in opinion that the measure was the result of imperious necessity. Those whose prejudices have shut their minds against the influence of such manifestations on the part of the belligerent nations, cannot be appealed to as impartial judges.

It has been said that we should not prevent the exportation of produce in foreign vessels, while our own are detained in port by the embargo; that the reason for such a course was not evident, nor strong. To me, sir, the necessity and policy of the restriction is evident. If Congress had not prohibited the exportation of American produce, a *carte blanche* would have been given to Great Britain. By such an act she would have secured the object of all her wishes with our approbation; an object which, since 1793, all the numerous and iniquitous orders of her Cabinet have been issued to obtain. If, in retiring from the ocean, in consequence of the illiberal and execrable policy of the belligerent nations, we had thrown our ports open to them for the exportation of produce, Great Britain would have been reaping the whole harvest; she would have enjoyed a monopoly of commerce. By such an act she would have been rewarded for her injustice and insults; and one million two hundred thousand tons of shipping would have been sacrificed to her inordinate lust for maritime domination and commercial monopoly. Let it not be forgotten that the other belligerent nations are driven from the ocean. In the permission contended for, we saw the prostration of the various and judicious acts of the National Government, framed with a view to foster our navigation and trade. If, sir, we had pursued the policy advocated, we never could have repelled the charge of having signed, sealed, and delivered a general conveyance to Great Britain of all our commercial rights.

The embargo will produce a happy effect, inasmuch as it will determine in the estimation of European nations the importance of American commerce, and the value of her friendship.

In the enjoyment of advantages they have indolently rested content. The great mass of the people have never extended their views to the source of those comforts. The period has arrived when the privations they are forced to suffer will exhibit to view the fountain from which a thousand blessings flow. Europe is afflicted with scarcity; and America is the only granary to which resort can be had to avert the horrors of pestilence and famine. The finger of Providence appears to have prepared a crisis for the operation of a measure the best calculated of all others to re-establish the relations of reciprocal justice, and to admonish despots that there is a just and controlling power that assigns to iniquity and oppression their limits.

Adhere, sir, to this measure with firmness, and the accommodation of our differences will be certain and advantageous. If we yield the ground we have taken, our character for stability and firmness will be lost forever; and it will be in vain to look for respect and justice from those who do not apprehend a vigorous and spirited retaliation for withholding that justice and respect which we have a right to demand. The United States of America are involved in a crisis similar to that which gave existence to their independence.

Proclamations and decrees restrict, limit, narrow, or suspend trade, in the same manner and style as if the United States were colonial dependencies. In 1776, the Genius of America inspired her sons with courage to resist oppression. In their Declaration of Independence they enumerated among the causes of their resistance, that "of cutting off our trade with all parts of the world." When our forefathers were few in number, they confronted dangers of every description for their liberties and commerce. The contest eventuated in the freedom and independence of the nation. A tame and submissive surrender of the acquisitions of their valor, would fix on the national name an indelible stain. Their recollected patriotism should inspire us to make whatever sacrifices the crisis requires. In the choice of war or an embargo, we have chosen the last as the least of evils. If commerce had not been arrested and confined to an intercourse among ourselves, nothing within the scope of power could have prevented war. The United States, in defence of their maritime rights, must have taken sides. They would have been arrayed in battle order, either on the side of France against Great Britain, or on that of Great Britain against France; an event, taken either way, more deplorable, than an embargo without limitation. War, sir, is less to be dreaded as it relates to the shocks and impressions which contending armies receive from, or make on each other, than as to consequences of another description; a disregard for—I was on the eve of saying, an oblivion of—those principles which are the pillars of the Republic. Military power seldom renders homage to justice; and rarely mounts the car of war for any other purpose than to inflict injuries and spread desolation. War is Pandora's box, from which issue all the evils and calamities that can afflict and scourge mankind. Rather than encounter such consequences, and be entangled in the labyrinth of European artifice and diplomacy, I would cheerfully render my assent to a non-intercourse with the belligerent Powers. Let them render justice to a fair and honest neutrality, and I will be among the first in reciprocating it. But, sir, until reparation is made to my much injured, outraged, and insulted country, I cannot press to my bosom with the cordiality of friendship, the violators of her rights.

I cannot, sir, omit here noticing some inconsistencies into which our political opponents have fallen. The Republicans have been charged with wanting vigor, since to them has been entrusted the management of the national concerns. When strong measures were deemed unnecessary, we were told that pusillanimity deterred us from taking them. When the embargo was recommended by our opponents, it was represented as the only effectual measure to which we could resort: as soon as the crisis justified its adoption, gloomy and desponding reflections were felt and uttered, as to its probable effects: the Executive and Congress were represented as precipitating the nation into ruin. This language cannot be mistaken; the traits of inconsistency are strongly marked; the struggle for power is evident; but the efforts to regain paradise are by no means calculated to insure success. Secret influence is the cabalistic word. If I am by it to understand Executive influence, I cannot either discern its application, or find out the manner in which it is to operate. I cannot entertain an opinion so unworthy of myself, as for a moment to believe, that the respect I entertain for the Executive Magistrate of the United States, renowned for his patriotism and virtues, can ever degenerate into servility. No, sir, it cannot; I am not by nature of a temperament to become the humble minion of power.

Foreign influence is likewise pressed into service—the efficacy of its magic is tried—it ranks among the political panaceas of the day. But from whence, sir, does the accusation flow? Is this serious and weighty charge brought against us by those worthies who achieved the indepen-

dence of their country? No; the greater number of those worthies are with us. Is that class of citizens who have raised themselves into notice and importance by years of devotion to public services, numbered among our accusers? No; the greatest number of that class is also on the same side of the question with us. I have no skill in finding out motives; the science is too mysterious and occult for the dimness of my intellectual vision. The abortive attempts which I have so often witnessed, have disqualified me from putting in my pretensions for distinction and promotion. I trust, sir, that such language must proceed either from the intemperance of discussion, or from a misconception of the American character, which can never descend from the elevated station of independence to become the pander or the puppet of despots.

Persevering firmness in the present course will have the tendency of adjusting our differences, and of giving to such adjustment the character of permanency. When all hopes of producing a relaxation in our principles are abandoned, the present crisis will no longer present a threatening aspect. On our firmness at this time depends the future prosperity of the nation. To us is now consigned, Mr. Speaker, the arduous task, amidst the convulsions and tempests which agitate the world, of keeping in the haven of peace the vessel of State. Perform this important service, and you will enjoy a reward, of all others the most grateful to a patriot, the smiles of his country.

The Speaker said he was under the necessity of reminding gentlemen that the question before the House was on the recommitment of the bill.

Mr. Livermore said he had apprehended that was the motion, and that they were not now considering the propriety of laying the embargo. For his own part, he thought the bill ought to be committed; and he hoped the gentleman from Virginia would not say that he was one of those mushroom politicians or political wiseacres he had alluded to, because he concurred with him in agreeing that the bill should be recommitted, to be amended, or thrown into some kind of order. He should forbear making any comments on the speech of the honorable gentleman last up, on the propriety of laying an embargo; but, at some time when the subject was properly before the House, he would go into a discussion.

Mr. G. W. Campbell said it was with more than usual reluctance that he rose to address the House on this occasion, and nothing but a sense of duty would impel him to enter into a discussion in which it might be necessary to notice charges made against the majority of this House, of the Senate, and against the Government in general, which, if true, ought to be proved and made known to the public, so as to produce a total renovation in the national councils; and, if false, ought to consign their authors to that disgraceful infamy which such conduct was calculated to draw upon them—an infamy that should mark them out as common calumniators, and hold them forth as fit objects for national contempt. The petty scribblers in the party newspapers have been for some time engaged in circulating reports of French influence over the councils of the nation. These charges were in themselves so destitute of even the semblance of truth—so totally unfounded and unsupported by any facts to give them the color of probability—that they made little or no impression on the public mind, and were rejected as slanderous falsehoods, the mere offspring of malignity, as generally as they were known. The more respectable public prints of the same party refuted these charges, and treated them with that contempt which they deserved. They therefore received no serious notice from those against whom they were made, and there appeared to be a general disposition to suffer them to sink into that silent oblivion to which the good sense of the nation would most certainly have consigned them. But, when these charges are borrowed from those petty scribblers, and echoed and repeated on this floor by a person having the honor of a seat in the House, it is high time they should be noticed—to be longer silent would be criminal. Issue is now joined, and the guilty, whoever they may be—whether the accused or the accusers—must stand forth before the nation, stripped of their mask of concealment, to receive the sentence of public indignation, that will frown them with contempt into obscurity. For there is no medium in this case: the accusers or the accused must be guilty—must be enemies to their country—and it is high time the nation—the people of America—should know their friends from their foes. The crisis calls for it, and the honor and dignity of this House demand that the guilty should be exposed. If the charges can be supported, that any portion of the members of this House are acting under foreign influence, let the people know it; let them change their representation; let them send men of integrity, who are superior to the secret influence of a foreign Power. But if, on the contrary, those allegations are found to be false and unfounded, then let the nation know this, and let the finger of scorn point at those who have published such groundless falsehoods, and render them the objects of public contempt and detestation. This subject is now fairly before the public, and he who had made such serious charges on this floor—charges that the majority of this House is acting under the impulse of French or Gallic influence—will, it is presumed, produce to this House and the nation—and he is now called upon to do so—the proofs, the evidence, or facts, that support those charges; and if these are not produced, it must be considered by this House and by the nation that there are no such proofs of facts, and that therefore these charges are groundless calumnies, circulated abroad at this important crisis by the enemies of this country to distract the public mind and destroy the confidence of the people in their Government, which would palsy the energies of the nation, and render her more vulnerable to the attacks of a foreign enemy.

On the subject of the embargo, Mr. C. said he had been hitherto silent in this House—he thought it more important to act than to speak. The reasons for passing the law laying an embargo, said

Mr. C., appeared to me (as they did, I presume, to a majority of the House) so strong, so self-evident, that they must produce conviction without argument; and to discuss a measure under such circumstances appeared like a useless waste of time, and, as it were, admitting a doubt where none existed. And since the passage of that law, events have succeeded each other so rapidly, which prove to every American friendly to his country, whose mind is not warped by prejudice, not only the propriety and policy of the law, but the great importance and absolute necessity of it at this time, for the security of our merchandise and seamen, the preservation of peace, and to prepare the country for war, that even those who opposed the measure at first seemed to be convinced of its utility, and appeared disposed to support it as the only means in our power calculated to preserve the honor and promote the general welfare of the nation. The public sentiment throughout this Union, so far as it has been in the power of the people to express it, in their Legislative as well as individual capacity, has not only sanctioned this law, but warmly approved the policy of it, and pledged the energies of the nation to support the measure. Thus, it would seem that the reasons for passing it appeared as self-evident to, and made as strong an impression on the minds of the people at large, as they did on the minds of the majority of the National Legislature. It was, therefore, deemed unnecessary to enter into an investigation of those reasons on this floor.

But, when charges of the most serious nature are made on this floor against the majority of the House—charges that they are acting under and governed by French influence, (for this is in substance the allegation)—charges which I believe to be unfounded with respect to every member of the House of the majority, and which so far as regards myself I know to be, and now so declare them, infamous, groundless falsehoods—it may be proper, and I deem it my duty, to state some of the reasons that governed my conduct in voting for the law laying an embargo, and the subsequent supplemental act, for carrying into more complete effect the same object, and which will also induce me to vote for the bill now under discussion. These reasons arise from the situation in which this nation was at that time placed in relation to the great belligerent Powers of Europe. We were then officially informed that Bonaparte had determined to execute, in the most rigorous manner, his decree of the 21st of November, 1806, declaring the British isles in a state of blockade. By this measure, our commerce with Great Britain and her dependencies was interdicted. At the same time was made known to us a proclamation issued by the British Government relative to seamen, asserting her right, and declaring her determination to pursue a certain line of conduct on the ocean incompatible with the hitherto acknowledged laws of nations—a conduct which has been the subject of dispute between that Government and ours for several years past, and to which, she was well assured by the representations of our Government, we would not assent, and could not submit, without sacrificing at the foot of British power our national honor and independence. In addition to these, it was known that the British Ministry had informed our Ambassadors at London that they would adopt orders to countervail the French blockading decree, and a note to this effect was annexed to the treaty which had been agreed upon by the Commissioners of the two countries, and afterwards rejected by our Government. This note appeared in the public prints previous to the passage of the embargo law, and was sufficient to convince every man that Britain would act according to this declaration. About the same time, it was stated in the Government prints of that country which had reached us, that orders, on the part of Great Britain, countervailing the French decree, and declaring France and all her dependencies (being almost the whole continent of Europe) in a state of siege, had been prepared, and were about to be published. That this measure, therefore, either was adopted by Great Britain, or certainly would be in a short time, was fairly calculated upon, and generally believed. The event has justified the expectation. The countervailing orders have since been issued by Great Britain, interdicting all commerce with France and her dependencies, and these have been followed by Orders after Orders almost innumerable. In what situation, then, were we placed by those decrees and orders? Prohibited from all commerce with England and her territories, by France; and, on the other hand, interdicted from all commerce with France and the rest of the continent by the Orders of Great Britain. Where, then, could our vessels go, without being exposed to capture? Not to a single port in Europe or her dependencies. In this situation, what were we to do? We had but one alternative—either to go to war with all the Powers of Europe at once, or suspend for a time all intercourse with them, and keep at home our merchandise, vessels, and seamen. We were not prepared for the former, either with men or resources; nor could it possibly be our interest to enter into such a contest, if it could be avoided. We chose to adopt the latter; it was certainly the least evil of the two; it was the only measure that left us the chance of preserving peace, and at the same time enabled us to be prepared for war. There were no other means by which war could be avoided. Our vessels were liable to seizure on the ocean, if bound to any port in Europe or her dependencies. Seizures, under such circumstances, would have been just cause of war. Had our vessels gone out and been captured, we should have been forced into a war, from which we could expect to derive no benefit, and which it was our interest to avoid, if possible. Placed, as we appeared to be, in the midst of danger—as it were between Scylla and Charybdis—we endeavored to steer a middle course, at equal distances from the violence of the waves and the dangers of the rocks on either shore. We have hitherto succeeded in that object. We have pursued such a course as has not put it in the power of either of the belligerents to charge us with partiality in our conduct—they have not attempted it. This charge

has been confined to the minions of disaffection within our own country. There is scarcely a reflecting man who denies, at this day, the policy and correctness of the law laying the embargo. It has hitherto saved us from the dangers and calamities of war; and it would seem as if the finger of Providence had pointed out this measure, as the most fortunate that could under existing circumstances have been adopted. It will no doubt press hard on ourselves in some respects, and it must be expected that any measure that we could have adopted, which would produce any effect on others, would press hard on ourselves; but it will bear much harder on those Powers who occasioned it, and make them feel the necessity of our commerce. It will bear, in a great degree, equally hard on the great belligerent Powers of Europe—England and France. Their West India colonies will suffer equally for want of provisions. France will lose more of the colonial trade, hitherto carried on by neutrals, in consequence of the embargo, than Great Britain; and indeed the loss of trade in general by France on this account will be greater than that of Great Britain, as the former for some time past received a great proportion of her trade by the American shipping. But on the other hand Great Britain may suffer more for want of the raw materials furnished for her manufactures heretofore by this country, than France, but both will sensibly feel the loss of our trade. And the measure, so far as regards us, is calculated to operate equally in both, and no possible difference can be discovered to exist.

Under these circumstances, what pretence, what foundation is there for saying that in adopting this measure there was any partiality manifested for France? There is none that can be perceived. There is another circumstance attending the case which at once seems to baffle any attempt to show partiality in the operation of the law before the House. It is said this law is to operate as a non-intercourse law—that you are going to cut off all intercourse with the colonies of one of the belligerent Powers, (Great Britain,) bordering on our northeast frontier, and partiality has been charged on this ground. But gentlemen seem to have forgotten that Spain possesses territories on our south and southwestern frontier, on which this law will operate as severely as it will on the territory on our northeastern frontier—and that Spain is the ally of France, and that of course what operates on Spain, operates on France. This law will therefore operate equally on those Powers, even in this respect. There is not, therefore, the least foundation for the assertion that the embargo is calculated to favor France. If there were no other data to judge from but the effects it must have on that Power and her allies, who derived the greatest advantage from our neutral trade, the thing is unfeasible and absolutely absurd.

No man of sense can suppose that France would wish or dictate a measure that would produce as great, if not greater injury to herself than to her enemy. Such a supposition would be next to madness. From these considerations, it would be supposed that no man, who had made himself in any degree acquainted with the situation of this country in regard to the belligerent Powers, and had considered the effects that this measure would have on them, could for a moment entertain the opinion, or even hazard a conjecture that it was adopted under the influence of any foreign Power, much less under that of France. The allegation is so wild, so inconsistent in itself—so destitute of the least semblance of probability, and altogether unsupported by the least shadow of proof, that nothing but the basest malignity of heart could engender and publish so shameless, foul, and infamous a falsehood; and yet, sir, said Mr. CAMPBELL it has been echoed on this floor—sounded in your ears in the frantic strains of a raving maniac, and in the discussion of a subject no ways calculated to excite such extraordinary passions. Hence it may be supposed it was a premeditated scheme to seize on that occasion in order to give vent to those vindictive passions against the Government and the Republicans of this nation, which seem entirely to occupy and engross the minds of certain persons. In noticing what was said by the member from New York, I beg to be understood, as not considering these statements as deriving any sort of consequence or importance from him who made them here. It is not on that account that they merit or receive the least notice. That person can only be considered as the mere conduit used by those behind the screen to convey these groundless slanders to the public—the common trumpeter, who gives no importance to what he makes public, except what is derived merely from the place he occupies, or the duties assigned him to perform. It is not therefore apprehended that what has been said on this occasion by that member will make any other or stronger impression on the public mind, than was made by the same tale, when handed to the public through the medium of party or hireling newspapers.

With regard to the objections made to the subject before you they seem to be founded in error, and in not attending to or understanding the object of the embargo. It is objected that this bill is intended to operate as a non-intercourse bill. The embargo was certainly intended to operate as a non-exportation law; no man ever denied this; otherwise we could not keep our merchandise at home; and it is as important to prevent its being exported by land as it is by water. The object of this law is to do equal justice to all parts of the Union, and not permit those in one part to have a market, of which those in another part are deprived; and that operating to defeat the very object of the embargo. No honest man can wish to do injustice; he could not wish to favor one part of the country at the expense of all the rest.

Mr. C. said he had not particularly attended to the details of the bill; the principle he considered correct, which was to make the embargo bear equally on all parts of the Union. The member from New York said we were riveting chains on the people. No, sir, said Mr. C., we are not riveting chains on them; we are using our best endeavors to vindicate their rights; but those who oppose the true interests of their country on every

occasion in their power, are riveting on themselves chains of infamy that they never can shake off.

Mr. ALEXANDER said he was not among those luminous gentlemen, who, upon any subject, could take up the time of the House in discussion. The bill seems to have been variously amended, and not to be very distinctly understood; and, therefore, I think it highly proper to let it go to a committee. The gentleman from New York objects to the bill because it is radically distinct from the original bill called the embargo act; and in confirmation of this, introduces the Message of the President, recommending an inhibition, which the gentleman supposes only to have included our vessels. If there be anything in the terms of the Message which limits the communication by water exclusively, it will be found just policy also to extend it to prohibit exportation by land. But the gentleman says the bills are different; that this is a non-intercourse bill. Indeed, I cannot see the difference; the embargo is a total restriction of trade, not upon one part of the community, but upon the whole. It is a misfortune, in a debate of this sort, that gentlemen will not confine themselves to the question, but range wide from it. If the gentleman from New York is of this opinion, he has a right to retain it, and support it with all the argument he can. This is an homogeneous part of the original measure, and the question is, whether it shall or shall not be committed. I have not formed a distinct opinion for or against it, but when I see gentlemen for whom I have a respect, and to whom no suspicion can attach of being disposed to delay the bill, think it would be just and proper policy to commit it, I shall vote with them.

To the embargo, I was opposed; and I do not regret the opposition now, though I admit that certain subsequent events do tend to show the utility, if not the wisdom of the measure. My principal objection then was and now is in point of time; but, since it is adopted, it is my wish that it should operate equally. I do not wish to hear gentlemen expatiate in debate on the relative pressure of the measure on foreign Powers. It is immaterial to me whether it operates more on one or on the other. It is necessary that it should be a just measure. So as to our own citizens, by the same rule, the embargo should be just. The Southern citizen cannot export his cotton and tobacco; the same is the situation of the citizens of the Middle States with respect to their produce, while those States on the confines of some adjacent territories will have an immense advantage over those who are otherwise situated. On the confines of Canada, and on our Southern extremity, we find this to be the case. It is entirely unjust that the citizen of one district of the country should be permitted to trade, while another is obliged to endure these privations. Therefore, I think this bill is not objectionable on the ground taken by the gentleman from New York.

I will here observe, that any man entering into debate is at liberty to make use of such language as he pleases, if it be not personal. I heard nothing from the gentleman from New York giving me any kind of offence, except that we were under foreign influence. So far as relates to myself, the observation has no application. I shall always pursue what I believe to be true policy, with regard to any man or set of men. I wish the bill to be recommitted, to have such amendments made to it as are necessary.

Mr. BIBB wished to make one or two observations. It will be recollected (said he) that the embargo law did not pass with my assent; but since the majority thought proper to pass it, I determined that nothing should be wanting on my part to render it as effectual as it can be made. My conduct has gone to this effect. I have done everything I could, consistently with my own opinion, to reconcile my constituents to the measure. But in the course of that discussion it has been urged on the one hand that the House were governed by French influence, and on the other that there were no substantial reasons for opposing the embargo. In the first place I disclaim the operation on my mind of such an opinion as that expressed by the gentleman from New York, (Mr. GARDENIER,) for I did not then or now believe that any other than proper influence induced the passage of the law. On the other hand I will observe that, notwithstanding the reasons given by the gentleman from New York had no operation on my mind, there were reasons which had. I believed it premature and unnecessary, and I still believe the same.

Mr. MONTGOMERY said, that before the adjournment of the House on Saturday a base and infamous charge had been made by a member from New York (Mr. GARDENIER) against the honor and dignity of the Executive and Congress, relative to the adopting the measure of the embargo; that the indecorous language then used had excited the honest indignation of the whole House; a motion was made for an adjournment, for the avowed purpose of affording an opportunity to the member from New York of adducing proof and satisfying the nation of the validity of the unprincipled charge; that he had designedly kept his seat, and impatiently waited for the member to rise and exhibit his testimony; he had waited in vain. Can the member (Mr. M. asked) produce to this House a single individual who has ever seen a solitary document in possession of the Executive relating to and having a bearing on our relations with France, and which it is important, for the information of Congress or the nation, the Executive should have communicated, and which they have wilfully concealed? Can he show a particle of evidence to excite the slightest belief that the proceedings of the Government have flowed from a mandate of a Napoleon, or from the influence of any foreign potentate on earth, or that they have been actuated by any influence other than a sacred, solemn, and honorable sense of duty, and with a view solely directed to promote the best interests, protect the inestimable rights, and provide for the common defence of our common country? If he has such testimony, why does he not exhibit it? His total inability to do so, and

his failing to do so, must be conclusive to the minds of the spectators who surround us, to this House and to the nation, that the charge is insolent, false and unfounded. If true, merited odium, and national distrust ought to attach upon us; if untrue, and I again pronounce it so, public detestation will be levelled at him for the indecency and wantonness of his attack. But the strong and indignant language of reprobation which has this morning been so forcibly applied to this most unworthy imputation, renders it unnecessary to say much more on this occasion. At the moment, on Saturday, when the honest feelings of strong indignation were excited in the House by the malignant and unprovoked and slanderous assertions, another and a more serious mode of proceeding* had suggested itself, but on reflection, when the futility and idleness of the charge was considered, and more especially the source from whence it originated and proceeded, it is judged the most eligible course for this House to pursue, to treat it with disdain, and consign it to national execration and contempt.

The bill was then committed to the Committee of Commerce and Manufactures without a division; and the House adjourned.

TUESDAY, February 23.

Another member, to wit: JOHN CULPEPPER, returned to serve as a member for the State of North Carolinia, by virtue of a new election held in the counties of Richmond, Montgomery, Anson, Moore, Cumberland, and Robeson, composing the Seventh Congressional District of the said State, and whose seat had been declared vacant by a resolution of this House, of the second day of January last, appeared, was qualified, and took his seat in the House.

On motion of Mr. VAN RENSSELAER,

Resolved, That a committee be appointed for the purpose of inquiring into the expediency of continuing the act, entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," and that the committee have leave to report by bill or otherwise.

Ordered, That Mr. VAN RENSSELAER, Mr. ILSLEY, and Mr. LYON, be appointed a committee pursuant to the said resolution.

The SPEAKER laid before the House a certificate from the Governor of North Carolinia, under the great seal of the said State, and bearing date the thirteenth of the present month, stating that John Culpepper hath been duly elected as a Representative in this House for the Seventh Congressional District of the said State; which was ordered to be referred to the Committee of Elections.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making farther provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress." with amendments, to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making farther provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress:" Whereupon,

Resolved, That this House doth agree to the said amendments.

The bill amendatory of the non-importation law was returned from the Senate with two or three verbal amendments; which were concurred in.

A motion made by Mr. COOK, to take up the bill for extinguishing debts due to the United States, was negatived—44 to 40.

The House resolved itself into a Committee of the Whole on the bill for the extension of credit on revenue bonds.

Mr. NEWTON having explained the object of the bill, and the bill being gone through without further debate, the Committee rose and reported it; and it was ordered to a third reading to-morrow.

The House went into Committee of the Whole on the bill making appropriation for the support of the Military Establishment of the United States for the year 1808; which being gone through, the Committee rose and reported the bill, which was ordered to a third reading to-morrow.

THE MILITIA.

On motion of Mr. M. CLAY, the House went into a Committee of the Whole on the bill for the classification of the militia; and the motion for striking out the first section (virtually to negative the bill) being yet under consideration, Mr. QUINCY supported the motion, and Messrs EPPES and LYON opposed it; when the question was at length taken on the motion to strike out the first section of the bill, and carried, 55 to 49.

The Committee immediately rose and reported the bill as amended.

A motion being made to consider the report,

Mr. M. CLAY was desirous, if gentlemen would permit it, that the report should lie on the table for consideration; as thirty or forty members were absent, and he wished to have the question decided in a full house.

The question being taken on now considering the report, was negatived, 54 to 51.

ORDER OF BUSINESS.

Mr. DAWSON called up the resolution which he submitted a few days ago for the appointment of a joint committee to inquire into what business is necessary to be done previous to adjournment.

Mr. ROWAN wished for some information on this subject; without which he thought the resolution at present improper. The great business for which they had been called together, had not yet engaged their attention in the way which was expected. He presumed that gentlemen expected that there would be some disclosures, which must occupy the attention of the nation, and he debated whether it would be proper,

* A resolution of expulsion had been mentioned.

before these were made, to intimate a design shortly to adjourn. He was unwilling that an impression should be made on our enemies, or the foreigners in this country, that the House even thought of an adjournment before these measures were discussed. The gentlemen who proposed the resolution, however, might be possessed of information which would remove his scruples.

Mr. LIVERMORE understood the object of the resolution to be to ascertain precisely what the gentleman from Kentucky was desirous to know; information on the state of affairs.

Mr. SMILIE would only ask before the question was taken on the appointment of a committee, what that committee could do? Is any man within this House, said he, possessed of the necessary information to enable him to say when we should adjourn? Our adjournment depends on contingent circumstances; for my own part I wish to know how things are; and till I do. I never shall consent that the resolution shall be adopted. If we do adjourn in the situation in which we now are, we cannot account to our constituents for our conduct. If a committee be appointed, except they procure information, they can do nothing; and I think gentlemen concerned in diplomatic business will not disclose its progress till something with certainty be known.

Mr. ROWAN wished it to be understood that he was anxious to adjourn and depart hence, but he did not wish that the idea should go abroad, that they thought of adjournment till measures assumed one shape or other. Business belonging to our interior regulations they were all acquainted with, and could act upon without further information. They had met here for a specific purpose, and till the negotiation should terminate one way or the other he did not wish to adjourn.

Mr. DAWSON was sorry that his object in offering the resolution was so little understood. Far, very far was it from him to wish Congress to adjourn till they had done that business which the public interest demanded and their duty required. This was not his intention. It was in order to bring these matters before the House that he now offered the resolution. It was painful to him to repeat that Congress had been in session between four and five months, during which time they had been discussing mere projects, removals of the seat of Government, and matters of a local and personal nature. It was now time that they should proceed to the adoption of those measures which the protection of the country required. He begged the House to cast their eyes for a moment to the occurrences on the other side of the water. Look at Copenhagen; examine the decrees of the British Government, and the more recent one of the French Government; and look at the hostile measures in the territories adjoining. It is time that the public attention should be called to public measures. There were several bills for that purpose before the House. It was his wish to bring these matters forward, and not to waste the time of the House for days, weeks, and months, on local and personal matters. It was in order to attend to the state of the nation and to inquire what was necessary to be done that this resolution was proposed, and not from a wish to adjourn before the House had accomplished the purpose for which they had met.

After some further discussion, a motion having been made by Mr. RHEA of Tennessee, without effect, that it lie on the table, the question was taken on the resolution and negatived, 55 to 50.

After refusing to go into Committee of the Whole on the bill concerning contracts, the House adjourned—yeas 64.

WEDNESDAY, February 24.

A message from the Senate informed the House that the Senate have passed a resolution appointing a committee, jointly, with a committee to be appointed on the part of the House of Representatives, to have the direction of the money appropriated to purchase books for the use of Congress, pursuant to the "Act making a further appropriation for the support of a Library," passed on the twenty-first of February, one thousand eight hundred and six.

On a motion made by Mr. LEWIS, that the House do come to the following resolution:

Resolved, That the Postmaster General be requested to state to this House whether or not, in his opinion, the public good and general convenience will be promoted by changing the present post route, so as to pass through the town of Occoquan, instead of Colchester, and that he detail his reasons for such opinion:

The House proceeded to consider the said resolution: Whereupon, a motion was made by Mr. DAWSON, and seconded, to amend the same to read as follows:

Resolved, That the Postmaster General be requested to state to this House whether or not, in his opinion, the public good and general convenience will be promoted by changing the present post route, so as to pass through the town of Occoquan instead of Colchester, and that he detail his reasons for such opinion; and whether the mails, during the last year, have been carried from Alexandria to Fredericksburg, according to the existing laws and contract.

And on the question that the House do agree to the proposed resolution, as so amended, it was resolved in the affirmative.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to permit John and Samuel Gardner Derby, and John Prince junior, to despatch a vessel to Sierra Leone, on the coast of Africa; which was read twice and committed to a Committee of the whole House to-morrow.

An engrossed bill extending the terms of credit on revenue bonds, in certain cases, and for other purposes, was read the third time and passed.

An engrossed bill making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and eight, was read the third time, and passed.

Mr. FINDLEY, from the Committee of Elections,

to whom was referred, on the twenty-third instant, a certificate from the Governor of North Caroline, of the election and return of John Culpepper, to serve in this House as one of the members for the said State, made a report thereupon, as follows:

"Your committee having examined the credentials of John Culpepper, returned as a Representative from the seventh district of the State of North Carolina, to supply the vacancy occasioned by the former election of that district having been rejected, report:

"That the said John Culpepper is entitled to his seat in this House."

Ordered, That the said report do lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported the bill supplementary to the embargo law, which had been, on Monday, recommitted to them, with some amendments.—Read, and ordered to be printed.

Mr. SMILIE said, he had observed, with pain, that several times the order of the House had been violated. To prevent this in future, he proposed a resolution to amend the rules and orders of the House, which he wished might lie on the table until to morrow. The substance of the resolution is, that if any member speaking shall violate order and decorum, he may be called to order by the SPEAKER, or by a member; the objectionable words shall be repeated by the person calling to order, and taken down by the Clerk. The member who has spoken may apologize, explain, or retract; if he declines, he may, if requisite, be subjected to the censure of the House. Ordered to lie on the table.

MARYLAND CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was recommitted, on the twenty-second ultimo, their report in the case of the election and return of Philip B. Key, to serve in this House, as one of the Representatives for the State of Maryland, made an amendatory report thereupon; which was read, and referred to a Committee of the whole House on Monday next. The report is as follows:

"The report of the committee, made at a subseqent day, to the accuracy of which Mr. Key assented, was to this effect: That, subsequent to the Declaration of Independence, the said Philip B. Key joined the British army, and, in the year 1778, held a commission in a provincial regiment thereof; and that, at the surrender of Pensacola to the Spaniards, he was made prisoner, and sent to the Havana, whence he went to England on parole, and was never exchanged until the peace of 1783. When the peace took place, his corps was disbanded without rank, and the officers placed on half pay. In 1785, he returned to Maryland, being entitled to draw his half pay. In 1790, he settled in Annapolis; and, in 1794, he was elected to the General Assembly of Maryland, in which he served for that, and several succeeding years; that, previous to his first election in 1794, he sold his half pay to General Forrest, his brother-in-law, who drew the same till the period of his bankruptcy in 1802, when, being greatly indebted to Mr. Key, he retransferred this half pay in satisfaction *pro tanto* of the debt. Feelings of friendship, however, to General Forrest and his family, who were in a destitute condition, induced Mr. Key to permit him to draw the half pay to the time of his death, which happened in July, 1805. The six months' half pay, ending in December, 1805, was received by Mr. Key, being the last that he has received.

"In January, 1806, Mr. Key wrote to his agent in London, directing him to call at the proper office, and, in his name, to resign all his pretensions to half pay, and to rank in the British army, if any were supposed to remain to him; and, in October, 1807, he made a similar and formal resignation, by a letter addressed to his Majesty's Minister at Washington. It did not appear that Mr. Key had ever taken the oath of allegiance to the King of Great Britain, but that he had taken the oaths required by the laws of Maryland of persons in the public service of that State.

"In the conclusion of their report, the committee declare themselves to be of the 'opinion that nothing in the evidence laid before them, so far as respects the suggestion of Mr. Key being a pensioner, or half pay officer of the King of Great Britain, authorizes them to alter the opinion, or the resolution submitted with their former report.'"

AMENDMENT TO THE CONSTITUTION.

Mr. WHITEHILL presented the resolutions of the Legislature of Pennsylvania, requesting their members in Congress to use their endeavors to procure an amendment to the Constitution of the United States, so that the Judges of the United States should hold their offices for a term of years, and be liable to removal by the President, on the joint address of a majority of both Houses of Congress; and that, on trials by impeachment, a majority of the Senate should be competent to conviction.

Mr. BARD moved to refer the resolutions to the Committee of the Whole on the state of the Union.

Mr. DANA opposed the motion. The resolutions were only instructions to the Pennsylvania delegation. This House had nothing to do with them.

Mr. W. ALSTON conceived it highly improper for the House to take any order relative to the resolutions. They are intended only for the members from Pennsylvania.

Mr. MILNOR did not consider the resolutions as even instructions to the members from that State. They had not been passed in legal form. The Constitution of Pennsylvania requires the signature of the Governor to every joint resolution of the two branches of the Legislature. That had not been obtained. He protested against these resolutions; they cannot be considered as the act of the Pennsylvania Legislature.

Mr. SMILIE said the resolutions, if not passed in legal form, were, in substance, the same. The true reason why they were not presented to the Governor was, that it was well known by both Houses that he would never sign them.

Mr. WHITEHILL withdrew his motion.

Mr. J. CLAY immediately renewed it. The resolutions expressed the sense of Pennsylvania, and were entitled to the attention of this House. He thought the objection of his colleague (Mr. MILNOR) very absurd. These are not joint resolutions, but are intended to express the sense of the two Houses of the Assembly.

At the instance of Mr. KELLY, the resolutions were again read.

Mr. KELLY supported the objections taken by Mr. MILNOR. He thought, from the wording of the resolutions, that they were intended as a joint act, and required the signature of the Governor. There was no propriety in committing them, or in even laying them on the table.

Mr. MARION thought the only difference in the signature of the Governor, would be the influence of his opinion. That circumstance would have no great weight with him.

Mr. BARKER thought a little reflection would show that the House had nothing to do with these resolutions. They might as well commit a letter, which a member should receive from a friend, in relation to the same subject.

At the instance of Mr. GOLDSBOROUGH, of Maryland, the ayes and noes were agreed to be taken.

Mr. MILNOR, in reply, enforced, at some length, and with considerable spirit, the objections to a commitment of the resolutions.

Mr. HOLLAND said the resolutions had substance, and the House ought not to stand and cavil about forms.

Mr. MACON would refer the resolutions, if they had come from one branch of the Legislature only. He would be willing to refer them, if they had come even from a town meeting.

Mr. KELLY said, if the resolutions had been addressed to Congress, he would treat them with as much respect as any gentleman. They are now only an expression of the sense of a number of individuals addressed to certain other individuals.

Mr. GOLDSBOROUGH repelled the idea, that the Legislature of any State had a right to control or influence the deliberations of Congress; but he did not regard these resolutions as a legislative act. Besides, if the whole truth were known, it would appear that one branch of the Legislature had, on a former day and in a fuller House, negatived exactly the like resolutions. Mr. G. gave a short history of the subject.

Mr. QUINCY read an extract from the Journal of the Pennsylvania Legislature, to show that these resolutions were specifically addressed to the Congress of the United States.

Messrs. UPHAM and GOLDSBOROUGH understood the Journal differently from Mr. QUINCY.

Mr. LYON said, the Pennsylvania members might put these resolutions in their pockets, and read them when they pleased. The House had nothing to do with them. If a copy was sent to the SPEAKER, it was, that we might watch the Pennsylvania members, and see if they obeyed their instructions. Besides, these resolutions were adopted by an accidental majority, and would have no great weight.

Mr. TALLMADGE inquired, if the SPEAKER had received any copy of these resolutions, according to the Journal of the Pennsylvania Legislature. The SPEAKER replied in the negative. Mr. T. then said, he presumed there must be some error in the Journal, through the mistake of the Clerk.

Mr. J. CLAY referred to the memorial of Massachusetts on the Yazoo claim. It was presented by a member, and committed. He also referred to resolutions of the Legislatures of North Carolina and Kentucky, which had been presented by members of the House, and committed. Has Pennsylvania done anything, that she should not be treated with as much respect as other States; that she should be put to the ban of the Empire?

The commitment of the resolutions was further supported by Messrs. SMILIE, SOUTHARD, and FINDLEY; and opposed by Messrs. DURELL, KELLY, GOLDSBOROUGH, MILNOR, COOK, and WILLIS ALSTON.

After a debate of about two hours, the question was taken and carried—yeas 82, nays 27, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, David Bard, Burwell Bassett, Wm. W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Joseph Clay, Matthew Clay, George Clinton, junr., John Clopton, Howell Cobb, John Culpepper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Daniel M. Durell, James Elliot, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, William Hoge, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Wm. Kirkpatrick, Nehemiah Knight, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Samuel Riker, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

NAYS—Willis Alston, jun., Joseph Barker, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Davenport, jr., William Ely, Barent Gardenier, Charles Goldsborough, John Harris, John Heister, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, William Milnor, Timothy Pitkin, jun., Matthias Richards, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, and Killian K. Van Rensselaer.

NAVAL MONUMENT.

The House then went into Committee on the bill to remit the duties on the monument imported from Italy, and intended to commemorate the officers and men who fell in the attack on Tripoli, in the year 1804; Mr. MILNOR's motion to amend the bill, by appropriating a sum to defray the expenses of erecting the monument, and guarding it by suitable railing, being still under consideration.

A long debate arose. The amendment was supported by Messrs. MILNOR, ROWAN, NICHOLAS, VAN DYKE, COOK, LYON, and FINDLEY; and opposed by Messrs. MACON, SMILIE, STANFORD, and D. R. WILLIAMS. The amendment was at length negatived—ayes 42, noes 50; when the Committee rose, and reported the bill without amendment.

Mr. MILNOR said he should renew his amendment, and call for the yeas and nays.

It being nearly five o'clock, the House immediately adjourned.

THURSDAY, February 25.

Another member, to wit: from Virginia, JOHN G. JACKSON, appeared, produced his credentials, was qualified, and took his seat in the House.

The House proceeded to consider the resolution of the Senate, of the twenty-fourth instant, for the appointment of a joint committee of the two Houses, to have the application of the money appropriated by the "Act making a further appropriation for the support of a Library," passed the twenty-first of February, one thousand eight hundred and six. Whereupon,

Resolved, That this House do agree to the said resolution of the Senate; and that Messrs. DANA, JOSEPH CLAY, and W. C. NICHOLAS, be appointed of the said committee on the part of this House.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Edward Weld and Samuel Beebee," with several amendments; to which they desire the concurrence of this House.

The House took up for consideration the bill for remitting the duties payable on the monument, &c.; and Mr. MILNOR having withdrawn the amendment which he yesterday offered, Mr. GARDNER moved that the bill be recommitted.—Negatived.

The bill was then ordered to a third reading.

PURCHASE OF ARMS.

The House went into Committee of the Whole on the bill for procuring an additional number of arms. The bill provides as follows:

"That a sum of money, not exceeding —— thousand dollars, be, and the same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of procuring, by purchase, or causing to be manufactured within the United States, and under the direction of the President of the United States, an additional number of stands of arms, to be deposited in safe and suitable places."

Mr. DAWSON moved that the blanks be filled with "$120,000."

Mr. BURWELL announced his intention to move another section appropriating "$200,000" for the purchase of arms from Europe, if opportunity should offer.

Mr. DAWSON then moved to insert "$300,000" in this blank; and it was so filled—ayes 61.

Mr. QUINCY moved to amend the bill by striking out "causing to be manufactured within the United States," and insert, "contracting for their manufacture within the United States, or causing to be manufactured at the present manufactories for the United States."

[The reasons urged for this motion were, that this bill now authorized the purchase, by the United States, of private manufactories, which was not expedient, as the extension of the present manufactories of the United States would be both cheaper and produce better arms. The reasons urged against it were, that it was proper to leave a discretion in this respect with the Executive, and that it was essentially necessary to allow the establishment of a manufactory on the other side of the mountains, which might be precluded by the amendment.]

The amendment was carried—46 to 44. The Committee then rose and reported the bill as amended.

The sum with which the blank was filled was agreed to without a division.

The amendment offered by Mr. QUINCY, and agreed to in Committee of the Whole, was negatived—21 to 49.

Mr. QUINCY, as the objection of Western gentlemen to this amendment seemed to proceed from the supposed prohibition by it of the establishment of a manufactory beyond the mountains, proposed the following proviso:

Provided, That nothing in this act shall be construed to authorize the President of the United States to purchase any existing manufactories of arms within the United States.

Negatived—49 to 42; when the bill was ordered to a third reading to-morrow.

PUBLIC CONTRACTS.

The House went into Committee of the Whole on the bill concerning public contracts.

Mr. BASSETT said he did not rise to make objections to the recommitment of the bill. Being, as he professed himself, a real advocate of the principle, he wished it to be so presented to their consideration as to attach to it as many friends as possible, and that it might go forth as perfect as they could make it. He, therefore, unequivocally consented to the recommitment. But, that gentlemen might know the grounds on which the bill was founded, he took this opportunity to give an explanation of them.

It is not to be wondered at, said he, that a subject which has gone through the House without debate, as this has, should need explanation. I did believe, and do still believe, that there is so much intrinsic merit in the bill itself as to carry conviction to the minds of the majority, and then weigh down all opposition. It would certainly have been better if some of the objections which are now made had been made while the bill was before open to amendment. But such as have been made, I will now endeavor to answer. It certainly was never supposed by the friends of the bill, that, by passing it, we should violate the Constitution. What says the Constitution as to the principle? "No Senator or Representative 'shall, during the time for which he was elected, 'be appointed to any civil office under the authority of the United States, which shall have been 'created, or the emoluments whereof shall have 'been increased during the time for which he was 'elected; and no person holding any office under 'the United States, shall be a member of either 'House during his continuance in office." This short provision of the Constitution seems to me to speak in answer to many objections to this bill; certainly it is a sufficient answer to those who would assume for granted that we are always trustworthy. Our constituents, in this rule of conduct, (the Constitution,) have told us that suspicion is a virtue; they have laid it down as a fundamental principle, that the purity of the Representative body is most desirable; they have intended to put out of view everything which could affect our selfish feelings; they have said that any man who might be liable to be operated on by private motives, should not have a vote in the representation of the nation; that social motives only shall be known; that the Representatives shall be actuated only by those feelings common to the whole community. This is the most lively feature in our whole Government; that the Representative and the represented shall feel one common sentiment; that each shall feel the acts of the actor. Why does the Constitution prohibit a public officer from holding a seat? Because a public officer has an individual interest in public measures not connected with the common good. For instance, the public good requires of the public officers the most zealous attention to the execution of the laws. What says a person making omission in his duty? Indulgence and gratification. Is not here a dissimilarity of feelings? The interest of the individual would prevail, and the rights of the community would suffer, and therefore they should not be put in competition. Has not a contractor the very same bias as a public officer? Is it not the interest of the public that contracts should be made as cheaply as possible, and of the contractor, that they should be as dear? Is not here a distinction of interest, and is it not correct that a person who receives the public money in a contract ought not to have a vote in authorizing that contract? Is it not one of the great advantages secured to the people by our Government that their Representatives shall appropriate their money to the people's good? Is it the interest of the contractor to apply this scale of justice and impartiality? Certainly not. He therefore stands in a different relation to the people than other citizens, and comes within the rule of the Constitution.

With the exception of one gentleman, (Mr. HOLLAND,) all who have spoken on this subject have admitted the principle to be correct. The Constitution has declared it so; the officers of our Government have evinced their conviction of it by a refusal to make contracts with members. Where is the necessity for this law, a gentleman asks us, and, at the same time, answers that we have no contractors here. This is evidence of the propriety of passing this bill. Our officers have felt it improper, and have declined making contracts with members. We, in common with them, have felt its impropriety, and thus no contracts have been made. What argument on earth can confirm us more in the principle than looking each way, and seeing that everything wise and virtuous recommends its adoption? This argument, that we are as yet pure, is the strongest recommendation of this preventive measure that can be conceived, instead of an objection.

The bill would appear to me to be equally correct and effectual, if some words which have been objected to were omitted, and which go to a removal from office, and disqualification to office, for making a contract with a member of Congress. But these words are not subject to exception, and the provision they contain is not without the Constitutional power of this House. The Constitution, speaking of impeachment, says: "The Senate shall 'have the sole power to try all impeachments," &c. "Judgment in cases of impeachment shall 'not extend farther than to removal from office 'and disqualification to hold and enjoy any office 'of honor, trust, or profit under the United States," &c. Is not here the principle recorded. Who is to ascertain the effect of a judgment? Is it not one of the general powers incident to Congress? The Constitution has enacted that disqualification shall follow impeachment? Who shall attach it? The Executive? No. Shall the Judiciary? At this moment I need not make a protest against increasing judicial power. It is pretty well understood in this House, and in the nation, that the judiciary officers are disposed to take sufficient power upon themselves. Therefore I would not agree that the judiciary department shall have authority to say to what extent judgment in cases of impeachment shall go. If we profess to maintain a Government of laws, it is one essential part of law to fix the extent of punishment, and gentlemen must see that it is one of the strongest and most certainly incidental powers in legislation to say what punishment shall be, and to what extent it shall go.

The bill says, that "an officer making a con-'tract with a member of Congress shall be deemed 'guilty of a high crime and misdemeanor; shall 'be removed from office and disqualified." If I were to stop short of this, what would induce me? The belief that having declared it was wrong, the officers of Government would carefully avoid it. A bare declaration might, for several years to come, produce the desired effect; but I wish to legislate for times to come, on the principle of the unfortunate disposition of human nature to deterioration. It is to provide against future casualty that we are called upon by this bill; and to meet that object, I am willing to say, and I hope the House will also, that if any officer shall violate that plain rule which you will lay down, that he shall be removed from office, and incapable of again holding office under the United States.

In answer to the case put by the gentleman from North Carolina, of the President of the United States, I can satisfy the gentleman at once. If the President makes a contract, the gentleman asks shall he be removed from office? It may be doubted whether the President or Vice President

are considered as "officers," in that point of view. "The President, Vice President, and all civil officers of the United States," says the Constitution, "shall be removed from office on impeachment for, or conviction of treason, bribery, or other high crimes and misdemeanors." If the President of the United States choose to infringe one of the standing laws of the country, ought he not to be punished? Has not the Constitution provided, that, if guilty, he shall be punished? Shall we make it a question that, if the President do wrong, he ought to be punished? This is an hypothetical case, and may be answered by saying, that we would punish everybody guilty of the offence. We have no right to remove them from office by law; the law does not remove, but recites that it shall be a high crime and misdemeanor. To whom is given the power of declaring what shall be a high crime and misdemeanor? Unquestionably to the Legislature. Look over the powers of the Legislature, and you will find that their's is the power to make all laws to secure the nation against the failings incidental to human nature. Need I repeat again to gentlemen who possess any political thought at all, that it is in the legislative department that is vested the power of defining high crimes and misdemeanors? Was there ever a Government in which any other department than the legislative has prescribed these rules? If we want illustration of this power in the Legislature, we need but look into the code of laws. We find one instance affording a double illustration. The Secretary of the Treasury is proscribed from carrying on commerce. Is not this a case in point? Does it not show that the Legislature has practised upon the principle of prescribing what shall be the duty of an officer of Government, and that, if he does not abide by it, he shall be removed? I have been told of another instance: in case a captain of a ship shall make a false return, he shall be deemed ever after incompetent to hold any office under the United States. I will recite, because examples are forcible, the practice of the United States in another instance: in case of persons having undertaken enterprises against a foreign Government, the act of Congress has declared it to be a high crime. Would not a man say, on reading this, that the person guilty should be removed from it, if holding an office under the United States? Would any man doubt if one of your officers were tried in a court and found guilty of this crime, that he could not also be impeached and removed, because the Constitution has expressly said that, for the crimes of treason and bribery, they shall be removable?

Being anxious for the passage of this bill, I and others, coadjutors with me, were anxious to take from it all objection; and our very caution in this respect is brought up against us. It is made an objection, that we have excepted contracts immediately executed. I am one who would go the full length. But when I act in concert with others, I do not wish my own opinion to be the guide, but feel disposed to yield to the wishes of the majority. With this view the proviso was inserted to free the bill from an apparent objection. It might have been objected without this, that if an officer of Government were to go into market and buy a load of flour or wood, upon the pressure of the occasion, not knowing to whom it belonged, he might be guilty of a crime by contracting with a member of Congress. So soon as the bargain is made it is carried into effect, and all kind of influence prevented. He is not subject to be acted on, as by a person with whom he has made a contract; and thus, though the objection of the gentleman from Massachusetts (Mr. Quincy) was ingenious, I cannot admit its force. I shall be much obliged to that gentleman, or any other, who will aid us with such phraseology as shall make our meaning more clear.

An objection has been made to the clause excepting contracts for public land. There also was a submission of my opinion to that of others. The public lands are regulated in such a way that there need not be that objection to this proviso which exists in the minds of some gentlemen. All public lands when put up to public sale, or if sold privately, are at a limited price. Hitherto, under the General Government, there has been no such thing as land speculation to any considerable amount; all speculations have arisen under the State governments, whose land systems are different from that of the United States. I should have no objection, if gentlemen prefer it, even to include land; and I should presume that, however tender of individual rights, there could not be any man who would not forego the probable advantage which he might have in purchasing a few acres of land, or any little advantage which he might derive from other contracts of any sort, to secure even a probable good to his country.

It has been stated by a member, that the fears of gentlemen who advocate this bill are merely visionary. If he had extended his eyes across the water, and taken into consideration the observations of the gentleman from Georgia, (Mr. Troup,) in allusion to the British House of Commons, he would not have suffered the observation to escape him. What, sir, shall we not profit by example? What is the state of the only Government in Europe now exhibiting a representative body, and what has brought it to this state? It has been caused by their participation in the loaves and fishes of the Government. Annuities, sinecures, and the endless variety of peculations of that kind, have destroyed its independence. I would refer gentlemen to the celebrated speech made by Mr. Fox on the subject of Parliamentary reform, and leave it as an answer to those who suppose that our fears on this subject are visionary.

Mr. Troup supported the bill generally, and Messrs. Holland, Sloan, and Kelly, opposed it. In the course of the discussion, Mr. Cook made a motion to strike out the first section of the bill; which was negatived—67 to 41.

Mr. Quincy moved to strike out the proviso at the end of the first section, excepting from the general restriction contracts, in which immediate delivery is had and immediate payment made, &c.

A wide debate took place on this motion, in which Messrs. Rowan and Quincy opposed the bill generally, and Messrs. J. Clay, Fisk, and Bassett, supported it.

On motion of Mr. Blackledge, the Committee rose, obtained leave to sit again, and the House adjourned.

Friday, February 26.

The Speaker laid before the House a letter from the Assistant Postmaster General, enclosing a report prepared by him, in the absence of the Postmaster General, pursuant to a resolution of this House of the twenty-fourth instant; which were read, and referred to the Committee of the Whole on the bill to alter and establish certain post roads.

An engrossed bill for procuring an additional number of arms was read the third time, and passed without a division.

Mr. Bassett having called for the order of the day on the bill concerning public contracts,

Mr. Nicholas moved that the business be postponed to make way for the bill amendatory of the embargo law.

After some observations from Mr. Bassett, declaring that if the gentleman persisted in his motion he should call for the yeas and nays on the motion,

Mr. Nicholas withdrew his motion, and the House refused to take up the contract bill, ayes 28.

Mr. Dana presented the petition of a number of the inhabitants of the borough of Stonington, (Connecticut,) stating the unprotected situation of the port, and praying that its defence may be provided for. This memorial, as the subject of fortification has been already considered, was ordered to be transmitted to the President of the United States.

Mr. Newton said, he was instructed by the Committee of Commerce and Manufactures to ask to be discharged from the consideration of the several petitions of journeymen hatters, praying the prohibition of, or impost on importation of hats, because the non-importation act being now in force, the object of their prayer is fully accomplished.—Agreed to.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the relief of Edward Weld and Samuel Beebee;" and the same being twice read at the Clerk's table, were, upon the question severally put thereupon, agreed to by the House.

The amendatory bill in addition to the act, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" was read the second time, and, on motion of Mr. David R. Williams, the bill was ordered to lie on the table.

YAZOO CLAIMS.

Mr. Garnett moved a resolution for printing the rescinding act of the State of Georgia, on the Yazoo grant. His reason for this was, this act contained a condensed view of material facts relative to that subject, and after looking among the documents in the House he could not find it.

Mr. Rhea moved to amend the resolution by adding "also a copy of the act rescinded."

Mr. Stanford thought if this was printed, a document which had been before the House, stating the share which each member of the Legislature who passed it received, with their names, should be added to it.

Mr. Bacon announced his intention of moving the printing of the report of the Commissioners.

Some desultory conversation took place on the resolution, in the course of which,

Mr. Troup, in remarking upon the act rescinded, said that no such act existed; it had been honorably consigned to oblivion. The House had it not in their power to draw it from the grave. The gentleman might produce a paper which he might call an act of Georgia, but this House could not order it to be printed as an act of the State of Georgia.

Mr. Stanford moved to insert the word "authenticated" before the word "copy."

Mr. Rhea, at the suggestion of some gentlemen, having withdrawn his amendment,

Mr. Bacon moved an amendment for the purpose of introducing into this resolution the articles of cession to the United States, and the report of the Commissioners of the United States on the Yazoo claim.

After some conversation, Mr. Bacon's amendment having been agreed to, 49 to 42,

Mr. Goldsborough moved to amend the resolution, by adding "and all other documents in the possession of this House relative to the Yazoo claim."

After some observations on the subject, Mr. Goldsborough withdrew his amendment.

Mr. D. R. Williams, as there appeared to be some difference of opinion on the subject, and to give time to prepare a resolution to meet the wishes of all, moved a postponement of the resolution.

After some further observations, Mr. D. R. Williams, as by making the motion time had been gained to prepare a resolution that would obviate all objection, withdrew his motion; and, Mr. Garnett wishing to withdraw the resolution to replace it by another, the Speaker declared that a motion after amendment could not be withdrawn.

Mr. Masters renewed this motion for postponement.—Carried, 58 to 39.

Mr. Stedman moved that when the House adjourned, it adjourn till Monday—negatived, 49 to 46.

INCREASE OF THE ARMY.

The following Message was received from the President of the United States:

To the Senate and House of Representatives of the United States:

The dangers to our country, arising from the contests of other nations, and the urgency of making preparation for whatever events might affect our relations with them, have been intimated in preceding Messages

to Congress. To secure ourselves by due precautions, an augmentation of our military force, as well regular as of volunteer militia, seems to be expedient. The precise extent of that augmentation cannot as yet be satisfactorily suggested; but, that no time may be lost, and especially at a season deemed favorable to the object, I submit to the wisdom of the Legislature whether they will authorize a commencement of this precautionary work, by a present provision for raising and organizing some additional force, reserving to themselves to decide its ultimate extent on such views of our situation as I may be enabled to present at a future day of the session.

If an increase of force be now approved, I submit to their consideration the outlines of a plan, proposed in the enclosed letter from the Secretary at War.

I recommend, also, to the attention of Congress, the term at which the act of April 18, 1806, concerning the militia, will expire, and the effect of that expiration.

TH. JEFFERSON.

FEBRUARY 25, 1808.

WAR DEPARTMENT, *Feb.* 24, 1808.

To the President of the United States:

SIR: I take the liberty of suggesting whether, under existing circumstances, it would not be advisable to propose to Congress an augmentation of our regular troops, as soon as practicable; and also the engaging and organizing of twenty-four thousand volunteers, on the principles I have had the honor of proposing for your consideration, the general outlines of which are contained in the paper, marked No. 1.

The number of regular troops I would propose being raised immediately is six thousand, to be composed of suitable proportions of infantry, artillery, cavalry, and riflemen, and organized as stated in the enclosed paper, marked No. 2.

It may be presumed that, previous to the close of the present session, Congress will be possessed of such further information in regard to our foreign relations as will be necessary for forming an ultimate opinion on the expediency or inexpediency of a greater augmentation of our Army than is now proposed; and, in the meantime, measures may be taken for the recruiting service, in different parts of the United States.

In the event of war, it will, I presume, be considered necessary to arrange our military force into separate departments, and to have a commander to each department, and, of course, to have no such officer as Commander-in-Chief; and, until a larger army shall be raised than is now proposed, it may not be advisable to have any officers above the rank of Brigadier Generals; of that grade it may be proper to have four or five, as soon as a suitable proportion of the troops is raised.

With sentiments of the highest respect, I am, sir, your humble servant,

H. DEARBORN.

No. 1.

It is proposed to have engaged, in the several States and Territories, twenty-four thousand volunteers, to be enlisted to serve twelve months, in any twenty-four months, within the term of five years, at such times and places as the President of the United States shall direct, to be armed and equipped by the United States, and to be encamped in their respective States and Territories, from two to three months in each year; and be exercised under the direction of Inspectors to be appointed by the President of the United States, to receive pay and rations, and be furnished with camp equipage and one suit of uniform clothing once in three or four years, the officers, except the Inspectors and Paymasters, to be appointed by the respective States, the pay annually to commence the day they march for the respective encampments, and to continue until their return home, allowing one day for each twenty miles march to and from the encampments; no corporal punishments to be inflicted, but all offences to be punished by close confinement and short allowance, or fines, or both; the commissioned officers to be governed by the rules and articles of war, established for the regular army; the twenty-four thousand to be apportioned on the States and Territories in such proportion as circumstances may require, and in such proportions of infantry, artillery, cavalry, and riflemen, as the President of the United States shall direct, and organized into companies, battalions, regiments, and brigades, or other corps, as shall be found expedient, according to the numbers in each State respectively, and to be encamped in the respective States and Territories, at such times and place, or places, as the President of the United States shall, from time to time, direct.

No. 2.

The six thousand regular troops may consist of five regiments of infantry, one regiment of riflemen, one regiment of light artillery, and one regiment of light cavalry. The regiments of infantry, riflemen, and artillery to consist of ten companies each, and the regiment of cavalry of eight companies. The field and staff of each regiment to consist of one Colonel, one Lieutenant Colonel, one Major, one Adjutant, one Quartermaster, one Paymaster, one Surgeon, one Surgeon's Mate, one Sergeant Major, one Quartermaster Sergeant, and two principal Musicians, and the regiment of cavalry one Ridingmaster.

Each company of infantry and riflemen to consist of one Captain, one first Lieutenant, one Second Lieutenant, one Ensign, four Sergeants, four Corporals, four Musicians, and sixty-eight privates.

Each company of artillery to consist of one Captain, one first Lieutenant, one Second Lieutenant, two Cadets, four Sergeants, four Corporals, four Musicians, eight Artificers, and fifty-eight privates.

Each company of cavalry to consist of one Captain, one First Lieutenant, one Second Lieutenant, one Cornet, four Sergeants, four Corporals, two Musicians, one saddler, one farrier, and thirty-eight privates,

The Message and documents were read: Whereupon,

Mr. DAWSON moved that the Committee of the Whole be discharged from the further consideration of the bill for raising an additional Army.—Agreed to,

Mr. DAWSON then moved that the bill with the document respecting the regular Army, be referred to the Committee on our Military and Navy Establishment.—Agreed to.

Mr. DAWSON then moved that the documents and so much of the Message of the President as relates to a volunteer corps and the authorizing a new detachment of the militia, should be referred to the committee appointed on the eighteenth instant, to inquire into the propriety of organizing a volunteer corps of twenty-four thousand men.—Agreed to.

FOREIGN RELATIONS.

The House being cleared of all persons, except the members and the Clerk, a confidential Message, in writing, was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I enclose, for the information of Congress, letters recently received from our Ministers at Paris and London, communicating their representations against the late decrees and orders of France and Great Britain, heretofore transmitted to Congress. These documents will contribute to the information of Congress, as to the dispositions of those Powers, and the probable course of their proceedings towards neutrals; and will doubtless have their due influence in adapting the measures of the Legislature to the actual crisis.

Although nothing forbids the general matter of these letters from being spoken of without reserve, yet as the publication of papers of this description would restrain injuriously the freedom of our foreign correspondence, they are communicated so far confidentially, and with a request that, after being read to the satisfaction of both Houses, they may be returned.

TH. JEFFERSON.

FEBRUARY 26, 1808.

The said Message, and the papers accompanying the same, being read, a motion was made by Mr. QUINCY, that the House do come to the following resolution:

Resolved, That previous to a return of the papers accompanying the Message of the President of the United States, this day communicated, the Clerk of this House take and retain copies thereof.

And on the question that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative.

Another motion was made by Mr. QUINCY, that the House do come to the following resolution:

Resolved, That the President of the United States be requested to lay before this House such letters recently received from the American Minister at Paris, as accompanied the said Minister's representations against the late decrees and orders of France, communicated to Congress in his Message of this day, under such restrictions as, in his opinion, the public interest may require.

And, on the question that the House do now proceed to take the said motion into consideration, it passed in the negative—yeas 60, nays 62, as follows:

YEAS—Ezekiel Bacon, John Boyle, William A. Burwell, John Campbell, Epaphroditus Champion, Martin Chittenden, Joseph Clay, George Clinton, jun., Orchard Cook, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, Charles Goldsborough, Edwin Gray, John Harris, William Helms, William Hoge, Benjamin Howard, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jun., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin jr., Josiah Quincy, John Rea of Pennsylvania, John Rowan, John Russell, Samuel Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, John W. Eppes, William Findley, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Daniel Ilsley, John G. Jackson, Walter Jones, John Lambert, William McCreery, John Montgomery, Nicholas R. Moore, John Morrow, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, John Taylor, Geo. M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Another motion was then made by Mr. QUINCY, that the injunction of secrecy, so far as relates to the foregoing Message of the President of the United States, and the proceedings of the House thereon, be removed, and that the same be published: And, debate arising thereon, an adjournment was called for, when the House adjourned.

SATURDAY, February 27.

The House, being cleared of all persons except the members and the Clerk, resumed the consideration of a motion made by Mr. QUINCY, and depending yesterday at the time of adjournment, that the injunction of secrecy imposed on the members of this House, so far as relates to a *confidential* Message, in writing, from the President of the United States, and the proceedings of the House thereupon, be removed, and that the same be published. And the question being taken thereon, it was resolved in the affirmative.

On motion of Mr. ALEXANDER,

Resolved, That the order of the day for the House again to resolve itself into a Committee of the Whole on the bill making provision for extinguishing the debts due from the United States, be postponed until Monday, the seventh of March next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to allow the importation of old copper free of duty," with an amendment; to which they desire the concurrence of this House. The Senate have also passed a bill, entitled "An act granting William Wells the right of pre-emption;" to which they desire the concurrence of this House.

THE EMBARGO.

The House then took up for consideration the law amendatory of the embargo law, as reported by the Committee of Commerce and Manufactures.

Mr. COOK complained that the operation of the law upon fisheries was intolerably oppressive. They were compelled to travel fifty, eighty or a hundred miles every week, to make oath before the Collector that, during their voyage, they have not sold any of their fishing fare. Mr. C. made several motions to amend this part of the bill, (5th section,) which were successively negatived.

Mr. C. then moved to add a proviso to the 5th section of the bill, which should authorize the master and mate of fishing vessels, and others, under ten tons, to make the oath required before any justice of the peace.

This motion was debated at some length. It was supported by Messrs. QUINCY, DURELL, COOK, and DANA; and opposed by Messrs. D. R. WILLIAMS, NEWTON, and J. CLAY, and finally lost—ayes 28, noes 53.

Mr. LYON did not like this string of oaths, required by the embargo laws. There was too much swearing. He also felt ashamed of the House, that they could not adapt a plaster to a sore. They were stretching the plaster over on to the sound flesh, and he feared it would end in a gangrene. Mr. L. spoke with some severity against the embargo generally.

On motion of Mr. NEWTON, a new section was added to the bill, authorizing the President, on oath being made by any citizen, that he has property in any foreign port or place, to permit such citizen to despatch a vessel, in ballast, after such property; bond being given, under the direction of the Secretary of the Treasury, that such vessel shall not be employed in any kind of trade.

Mr. J. CLAY offered some observations in support of this section, and observed, that several houses in Philadelphia had property to a great amount in foreign countries, which would be lost, unless they were permitted to despatch vessels after it.

After the adoption of this section, the bill was ordered to be engrossed, and read a third time on Monday.

MONDAY, February 29.

On motion of Mr. LIVERMORE, that the House do come to the following resolution:

Resolved, That a post road be established from Boston, in the State of Massachusetts, to Newburyport, by the Newburyport turnpike:

The said proposed resolution was read, and referred to the Committee of the Whole on the bill to alter and establish certain post roads.

The bill sent from the Senate, entitled "An act granting William Wells the right of pre-emption," was read twice and committed to the Committee on Public Lands.

Mr. CLOPTON, one of the members for Virginia, presented to the House an attested copy of a concurrent resolution of the Senate and the House of Delegates of the State of Virginia, proposing an amendment to the Constitution of the United States, relative to a removal of the Senators in Congress by the vote of a majority of the whole number of the members of the respective State Legislatures by which the said Senators have been, or may be appointed; which was received and read: Whereupon, a motion was made by Mr. CLOPTON, that the House do come to the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following be proposed as an amendment to the Constitution of the United States, which, when ratified by the Legislatures of three-fourths of the several States, shall be valid to all intents and purposes, as part of the said Constitution, to wit:

"The Senators in the Congress of the United States may be removed from office by the vote of a majority of the whole number of the members of the respective State Legislatures by which the said Senators have been, or may be appointed."

And the said proposed resolution being twice read, was, on motion of Mr. CLOPTON, referred to the Committee of the Whole on the state of the Union.

Mr. CLOPTON, from the committee appointed on the twenty-eighth of December last, presented a bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same; which was read twice and committed to a Committee of the Whole on Thursday next.

Mr. DAWSON presented a letter from the Governor of the State of Virginia, covering an act of the Legislature of that State, to which the assent of Congress is required before it can become a law. It was well known, Mr. D. observed, that no State can, without the consent of Congress, raise any troops. The Legislature of Virginia had passed such a law for the defence of her frontier, and solicited the consent of Congress to it.—Referred to Mr. DAWSON, Mr. GOLDSBOROUGH, Mr. HEISTER, Mr. J. K. SMITH, and Mr. FISK, with instructions to report thereon by bill or otherwise.

Mr. DAWSON reported a bill authorizing the raising an additional army; which was twice read, and referred to a Committee of the Whole.

[This is the bill which went through a Committee of the Whole a few days ago, and has since been committed, in consequence of the President's Message on the subject. It is now reported according to the letter from the Secretary of War.]

The bill to admit the importation of old copper free of duty was returned from the Senate, with an amendment including saltpetre and sulphur in the remission from duty on the importation. The amendment was immediately agreed to.

SALE OF ARMS.

The House went into Committee of the Whole on the resolution, some weeks ago reported by a committee, for authorizing the Secretary of War to sell such arms of the United States as may be disposed of without injury to the United States.

Mr. DAWSON hoped the Committee would agree to the resolution. By the report of the Secretary of War, there were now 140,000 stand of arms in the public armory, and perhaps by the next month, as a bill had been passed for procuring more, there might be an addition to the number of 30,000 or 40,000 stand. Several States in the Union were not well provided with arms, and were anxious to purchase from the United States. The applications for that purpose arose from the great difficulty of getting them from beyond the seas.

Mr. BIBB said he would only state that the Legislature of Georgia had, at the last session, passed an act authorizing the Governor of that State to obtain arms for the State by purchase. The Governor had sent an agent here to ascertain whether a purchase could be made from the United States or not. I have, said he, a letter from the Secretary of War saying that 30,000 or 40,000 stand may be spared.

The resolution being agreed to, the Committee rose and reported the resolution.

On concurrence with the report of the Committee of the Whole a considerable conversation arose, in which Messrs. GOLDSBOROUGH, M. CLAY, and MACON, opposed the resolution, and Messrs. DAWSON, BACON, BIBB, SMILIE, KEY, TROUP, TAYLOR, NICHOLAS, and FINDLEY, supported it.

Mr. ROWAN moved to amend the resolution by striking out the word "sell" and insert "loan."—Negatived—yeas 12.

The resolution was then agreed to—yeas 72, and referred to a committee to bring in a bill.

The opponents of this resolution generally contended that a resolution had already been passed this session, after a very lengthy discussion, to arm the whole body of the militia at the expense of the United States; that being the case, it was not seemly to sell to one part of the Union that which they were about to bestow gratuitously on the remainder. That, but a few days ago, the House had appropriated a large sum of money for the purchase of arms, and now to sell arms would betray inconsistency. That, by passing this resolution, the States who had appropriated their funds to the purchase of arms would get all the worst arms belonging to the United States, while the latter would replace them by new and better arms. That the number of 140,000 stand was not too much, or even enough, for the United States to keep at their own disposal. That it had been truly said by the advocates of the resolution that it would be selling in fact to themselves, nevertheless, if too many were sold, (and none ought now to be sold,) the States to whom they were sold might prohibit them from being carried out of their respective States, or might fix them at any one spot in those States; in which case they would be lost to the United States for general service. That the political horizon blackened every day, and clouds lowered around them. This was not the time, then, in which the United States should divest themselves of that defence which they had.

The advocates of the resolution replied, that although a resolution for arming the whole militia of the United States had been passed, it was to be supposed, from no report having been made on the subject, that either the present time was deemed improper for its introduction, or the committee could not construct a bill for the purpose; or, in any event, that the project appeared to be relinquished for the present. That it was true they had but a few days ago agreed to purchase arms, yet those arms were purchased for the benefit of the whole Union, and to render them beneficial, they must be distributed. If any State, then, wished to purchase, the sale would be a distribution to a part of the Union without a loss to the whole. That the States of South Carolina and Georgia, who now particularly wished to purchase, were peculiarly situated, having at the same time internal and external enemies, and were not able to procure arms; farther, that those States had made appropriations for this purpose, the former to the amount of $60,000, when they knew that a proposition was actually pending in this House for gratuitously arming the whole militia, but they had wished to pay for their arms, and not receive them as a donation from the General Government. That if the supernumerary arms of the United States were not of a good quality the States were not bound to purchase; this, then, could be no objection. That if the present number of arms in the arsenals was not too great, the resolution expressly said that they should not be disposed of; so that the question whether the United States had too many or too few came not into consideration on the passage of this resolution. That it would be an act not only of humanity and duty, but of interest, to place arms in the frontier States in some way or other; for if the country should be occupied by an enemy while they were hesitating on the subject, it would cost them more trouble and treasure to repossess themselves of it—to do which would be their undoubted duty—than to prevent themselves from being dispossessed of it. If, then, these States were disposed to purchase arms, there could be no objection to permit them so to do, for they could not be had otherwise than from the United States.

Mr. M. CLAY, in the course of discussion, observed that gentlemen seemed, in the course of their observations, to consider the bill for the classification of the militia as rejected. On a vote taken to-day, there had been present 120 members. This being a tolerably full House, he rose for the purpose of giving notice that he should call for the consideration of the report of the Committee of the Whole on the bill, at 12 o'clock to-morrow.

THE EMBARGO.

An engrossed bill in addition to the act, entitled "An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,'" was read the third time.

Mr. LIVERMORE said it would be recollected that he had not in the course of the various dis-

cussions on this bill troubled the House with many observations, though he had avowed his intention to oppose the bill, and offer reasons why it ought not to pass. I shall not now, said he, go fully into a discussion of what has been conceived the policy of the original embargo law, because a refusal to pass this bill will not do away the ill effects of that law; but as I conceive this to be a tissue of the same evil, it is my bounden duty to offer my objections to its passage.

This act is not, I conceive, founded on the Message of the President of the United States or the reasons therein given for passing the embargo law. If I understood the reasons, they were different from what must be carried into effect by the passage of this law. It was therein said that such was our situation that if our vessels were suffered to depart from our harbors they would be liable to capture and our citizens would lose their property. This I understood to be the reason for passing the embargo law, although I did not conceive it well founded, and endeavored with all my powers to combat it. Although those reasons should have been well founded, the same reasons do not exist for carrying into effect the present law, which contemplates nothing more than to prevent the citizens of the United States from carrying on the small remnant of commerce which is saved from the fangs of the embargo. It is not rescuing our ships from capture, but preventing our citizens who live in situations from which they might carry on their commerce with success, from selling to their neighbors their produce and receiving from them those articles which they need. The operations of this law will be confined to the frontier States; to Georgia and Vermont and the eastern part of Massachusetts. The utmost therefore in which the law is to operate in these States, is, to prevent the people living on the borders from carrying their produce into Canada, Nova Scotia, or Florida—from carrying on commerce for what they conceive to be for their benefit. There certainly can be nothing in the reason assigned for the imposition of an embargo in the first instance which can operate in favor of the passage of this law. There is no danger that this produce would be liable to capture. What then is the motive for this bill? To bring some foreign nation to terms, we are told. Now let us consider whether preventing this trade can possibly have this effect—whether preventing the people of Vermont or Georgia from carrying their produce to Canada or Florida are means of bringing nations to a disposition to "do us justice."

Take the case of Great Britain for instance. If the King of Great Britain has seen cause to issue a proclamation to prevent trade to France and her dependencies, is it possible that the prohibition contained in this law can have any effect to induce him to repeal it? The very supposition is absurd. There is nothing in it. If we can, by inhibiting this small trade, do ourselves an essential injury, we do not affect any other Power. Can it operate on France? Certainly not. Upon what nation then can it operate? There really appears to be nothing in the supposed operation of this law on any foreign nation, and this act is supported by a kind of enthusiasm not founded on reason. Reason has no agency in it; it is pushed on with a kind of fervor which may be creditable to those possessing it. There seems to be a kind of magic in the business. Our country is in a critical state; we are almost at war with all the nations of the earth; and therefore it seems that gentlemen are willing to prevent this small trade from being beneficial to the people who will be affected, and which can do no injury whatever to the United States.

I conceive that there has prevailed in this House a false sentiment with respect to commerce. I have observed with pain the sentiment expressed in the House; indeed I have heard gentlemen whose reputations stand as high as any in this body declare that commerce is inimical to agriculture; that agriculture is beneficial, and commerce injurious; as if there actually existed a warfare between the two. The fact is the reverse; and I will lay down this broad position, and endeavor to prove it, that agriculture is of little or no service to mankind without commerce; that they go hand in hand, and without the existence of both, that neither would be of much service. I wish gentlemen candidly to examine, and see whether there be not truth in the position—that commerce is of so much service to agriculture that agriculture is of little service without it.

What is commerce? The exchange of one article for another; the exchange of a superfluous article for one which we stand in need of. It is absolutely necessary for our very existence, not as relates to mere animal life, but to our existence with conveniency. Society is founded on it.

It is supposed by some that agriculture can exist without commerce. Take a case by way of illustration, and I believe it would run with the same propriety through every situation in life. Take the case of a planter, a Virginian if you choose, possessed of immense wealth, of the means of cultivating his lands, which produce abundantly. Take a journal of the gentleman's life for a single day, and see what is his situation. In the morning he rises from his couch, and clothes himself in the manufactures of Britain, or perhaps of other countries. The instant he rises, then he avails himself of the conveniences of commerce. Sitting down to his breakfast he makes use of the productions of the East or West Indies; he walks upon the fabric of Turkey or Persia; the very wood of which his furniture is constructed is brought from the shores of the Carribean sea, and the mirror in which he adjusts his cravat of East India manufacture, is the production of the European artist; the very handles of his knives are procured from a sea-monster found on the banks of the St. Lawrence and coast of Labrador, and the very blades are the manufacture of England, from the mines of Russia or Sweden. He seems to ransack the whole world, both earth and sea, for his conveniencies. His food would be insipid if not seasoned with the spices of India; his drink is from the plains of Champagne, Burgundy, or the African islands: in the evening his very candlesticks

are from the mines of Mexico or Peru, and the candles with which he lights his room, are taken from the head of a sea-monster, an inhabitant of the Arctic circles. If he be sick, he derives medicine from Turkey, Asia, or the interior of South America. What will he do for all these, if commerce be obstructed? He cannot procure them from the product of his land; he is more than mortal if he can do this. Whence, then? From commerce alone, on which he depends not only for his luxuries and conveniences, but also his necessaries. Take the same gentleman and strip him of the benefits of commerce, and see what is his character. In the first place it is true that his oxen cover the hills, and the sheep bleat in his pastures; he may eat the flesh, but cannot preserve it from day to day. Let him take their fleece, if he can, and convert it into clothing. An inhabitant of Kamschatka, or an Osage Indian would look more like a civilized being than would this man, clothed in a dress of his own manufacture. Those gentlemen who talk of retiring within their own shell, are egregiously mistaken in their calculations; nature has not given them like a tortoise a shell to retire into. Take commerce away from them, and let them raise their hundreds or thousands of hogsheads of tobacco; let their cotton fill their stores, what is it to them? Nothing. It is all of no benefit whatever, except we have commerce. It is astonishing to hear gentlemen advance the sentiment that by agriculture we have all the conveniences of life, without the aid of commerce.

I have heard, said Mr. L., a gentleman in this House rise and say that he would never trust commercial men with power. That gentleman knows nothing of commercial men. I can aver, that having some knowledge of them, I view them as the most honorable, the most benevolent, and in every respect the most important class of men in society. There is no character which can be exhibited in a more honorable and serviceable point of view than the real merchant. I might go farther than I have gone in considering commerce as necessary for the support of agriculture. Why the very tools necessary to work the materials into a convenient dwelling or habitation must be brought by commerce! Could the gentleman live in a mere hut thrown up of logs, or perhaps burrow in the ground like a Kamschatkadale? I wish the gentleman seriously to consider this, and when he does he will see the bearing of this argument against the embargo, which is an axe laid to the very root of commerce. How long it will continue or what shape it will assume I know not. But, not intending to discuss the original measure, I will confine myself to the question before the House. Notwithstanding the embargo, those citizens who live on the borders of foreign territories have carried on a trade with their neighbors, selling their superfluous produce to them. It is to prevent traffic of this kind that the bill now on its passage is intended. If the bill does not pass, although commerce will not exist in a flourishing state, it will not be entirely shackled as respects these people. I therefore contend against it, and not only declare the act unnecessary, but cruel and oppressive.

I would wish to draw the attention of gentlemen who come from the tobacco and cotton country, or where these articles are cultivated for exportation, and bring such immense riches to their constituents. It is said that merchants are becoming more reconciled to this measure, and that some who are called Federal merchants have approved the embargo. I can easily believe it to be the case in some degree; and I must make an observation on this point. It is a fact that the embargo fell most heavily on merchants, operated on their business, threw them out of the means of gaining a subsistence, and perhaps of supporting their credit. I have heard it observed that it was no matter how soon these gentlemen were driven to a settlement of their accounts. Commerce is carried on altogether by credit; it is similar in its operations to a bank. It is known that banks issue bills, or make loans to double the amount of their capital, or money in their vaults, otherwise they would derive no profit from the institution; they have the means of paying these bills when presented, and derive a profit from their loans. So it is with the merchant; if immediately called upon to pay all his debts he may not be able to do it; but if permitted to carry on his commerce he has the means of paying his debts, and deriving profit from his credit. Why then should the Legislature drive him to a settlement of his accounts in this way? It is a most cruel proceeding.

What I wished to call the attention of Southern gentlemen to, is this; that there is a speculation going forward in the United States, I believe greater than ever was known in the country since its settlement, even greater than the noted speculation in the purchase of loan office and final settlement certificates. What is it? The buying up of these articles at half their value by moneyed men, from those who will be under the necessity of selling. The honest planter or independent gentleman will be compelled to sell them for one half, or less than one half their value, and the description of persons I have mentioned will derive profit from the embargo. Although the passage of the present law will not create the speculation altogether, it goes to accelerate it.

Now, unless gentlemen can point out the necessity of this law, I cannot agree to it. If it be to bring Great Britain to terms, or to induce her to offer terms, it is the most childish thing that ever entered into a man's head. If, as it is said, she refuses us justice, it is not to be supposed that driving the nation into this situation can alter a decree or measure which she has deemed necessary to support herself. To suppose such an operation is childish; and I advance this assertion freely, because it proceeds from the best consideration I can give the subject.

Another argument advanced by gentlemen in favor of this bill is very fallacious. If the embargo be an evil, they say, why should one description of persons be more privileged than another? If the contest be merely to do the people as much injury as possible, the inquiry might be reason-

able, whether one portion should be exempt, while another portion of our citizens are subject to the injury. As we cannot mean to injure them by the embargo, when its only object was to preserve their property, gentlemen when they seriously consider the subject, will say that this is not a just argument in favor of the passage of the law.

I will again request gentlemen to point out what benefit can result to the United States by the passage of this law. If it is to compel foreign nations to do what we conceive to be justice, there can be nothing in it. It is idle to suppose that the preventing a few citizens in Vermont from trading with the Canadians, will prevent Great Britain from doing what she otherwise would. The very issuing of the proclamation of England, shows that the Ministry of that nation considered it essential to the preservation of themselves, and to combat France. Now so far from this bill having the proposed effect, the British had rather give up Canada altogether than to give up a tittle of what they consider so necessary to support their true interest. If the proclamation be considered or found not necessary, they will revoke it; but if it be considered necessary, what this country can do will have no effect whatever. I may say the same as to Georgia—that the prohibition of the trade of the citizens of that State will have no effect on any political operation between this and the old world. Being convinced that this is the case, and that the bill will only go to injure a portion of our own citizens, without doing the least possible good, I cannot vote for it.

But, above all, the fishermen are to make oath that they have sold no fish or part of their fare, while out on their voyage. The fishermen might as well throw their fish overboard as go to the British territories to sell them. There have been instances in which they have gone to France; but now, when the French shores are lined with cruisers, there is no danger of their attempting it. Gentlemen ask what injury can it do them, to come forward and make this oath? Being a troublesome thing, for which there exists not the least necessity, it is injurious to their liberty, if to nothing else. A fisherman might sell some part of his cargo to vessels in absolute distress. Now if this act is carried into effect, the poor man is prohibited from doing this, or exchanging any part of his fare for those small articles of which he stands in need. If he does it, he is liable to a heavy penalty; if not, he is liable to suffer for the want.

But I need not single out a particular part of the bill, for I object to the whole. If any good can result from it, let gentlemen come forward and show it.

Mr. Dana said, he rose, as he had some agency in perfecting the provisions of this bill, to say that whenever a general principle had been adopted, although he might have been opposed to that bill, he would render his assistance to construct the provisions of a bill amendatory of the original bill, so as to connect it perfectly with the original principle. But as he did not wish to pledge himself to support the embargo, and as it might be supposed by some that if he voted for this bill his opinion of the original measure had changed, he should vote against it.

Mr. Gardenier said, before the bill passed, he would beg the attention of the House while he stated as briefly as he could, the objections which he had to the bill, and which satisfied his mind of the impropriety of passing it. This bill appeared on the face of it to be a bill supplementary to an act supplementary to the law laying an embargo. The first thing, said he, which strikes the mind on this subject, or at least strikes my mind, is the improper name which has been given to the bill. This bill is in my conception not one which is intended to render more perfect or more certain the operation of the original embargo act; it does not proceed upon the principle, nor is it bottomed upon the ground of the original embargo. It is totally a new measure, in its principles and tendency totally different from the one to which it is said to be supplementary. It is different as to the causes in which it originated, and as to the operation it will have.

I have observed on a former occasion that the object professed by the President when the embargo was recommended to the House, the end which he intended to secure, the only object which he intended to attain on that occasion, if the Message on the subject is a document from which we can infer his meaning or object, was to secure within our ports and harbors the ships and vessels of the United States—not to cut off the trade of the country, because that trade every one knew to be beneficial. The cessation of commerce is an inevitable and unfortunate consequence of the measure, which it was thought necessary to adopt, but could not be its object or intention. It is an evil which we should have avoided if we could, consistently with the principal measure. I ask gentlemen to advert to the principle and not to take what was unfortunately the effect for the object of laying an embargo. If this question were at this time put to the House, supposing a way by which we could secure in our ports and harbors our ships and vessels, by which we could secure the continuance of our seamen in the country, and at the same time give to commerce as much liberty as possible, should we not all be extremely happy to agree to it; to have on the one hand all the advantages of the embargo, upon supposition that advantage will result, and all the advantages of trade on the other? There could have been no difference of opinion on the subject. We have gone on, however, from the time of the adoption of the original embargo, and acting apparently on the idea that the effect of this measure was its object. We have, by the first embargo law and the addition to it, rendered secure our ships and vessels in the ports of the United States. The measure of embargo then is in complete operation since the passage of the second law on the subject, and therefore this bill is not necessary, in my conception, to the operation of the embargo act. What then is the leading feature of this bill? That the citizens of the United States shall have no trade, no commerce, no intercourse of any

description with the subjects of any Power whatever. I would ask every candid gentleman whether this was the object of the embargo act, or whether it is not a new object? Assuredly it is. It is a non-intercourse law, and ought to be called by the name. The question ought to have been fairly and plainly prepounded to the people of the United States, whether they are prepared for a law which will prevent them from trafficking out of their own territorial line. We ought to have all matters of this sort fairly proposed to us, that we may exercise a sound judgment of their propriety.

I complain for other reasons of this mode of legislation. The subject is not presented to us as it ought to be. This bill is calculated to lead farther on those who have given a reluctant assent to the former measure; when in fact and truth it is the introduction of a new principle. I cannot be mistaken in saying that the first bill contemplated one measure and this present bill another. Trusting, therefore, that there can be no difficulty upon the point that this is in truth a non-intercourse bill, giving to the original embargo act the perfect character of a non-intercourse law, converting its operation from what was its original intent to a new object, and having heard no argument in the House to show the policy or necessity of the measure, as I consider it a new step, assumed by the United States, and as it will affect us in a new way, I cannot yield my assent to it. I can find no reasons for it. I will ask this plain question: Will the citizens of foreign Powers on our frontiers, who are in the habit of trafficking across the line, gain or lose more than our own by this measure? Will it be felt more by our own citizens or by the subjects of those territories nearest to ours? Our own, I answer. It may not be levelled at them, but I have had representations from the frontier settlements of New York on the subject, stating that it is calculated to operate on them most deplorably. A great portion of those settlements are at a distance of from one hundred to one hundred and fifty miles from any settlement in the United States, from which they can obtain the necessary articles of which they stand in need. In these countries there is little money. The articles they use are of necessity the result of exchange. Now this bill is a positive hardship, which will bring distress on all the settlers on the vast line of our frontier; it operates directly on them, and in what respect can it benefit the country? Allowing that private interest must be sacrificed to public good, it must first be shown how the public good will be promoted by the sacrifice. We ought not say, because it is a sacrifice, that good must result; that because we oppress a part of the country we do the rest a service.

Inconvenience and distress must be the result of the operation of the fourth section of this bill, prohibiting exportation by land. Laying out of view all objection to the original measure, in what point of view are we benefited by this bill? Place it in the best light in which you can view it, you will distress our citizens in the same portion as the subjects of any foreign Power. This will be a mutual suffering, and one way of trying which can go farthest in deprivation. But, while making this experiment, what do we gain? We receive no benefit; we distress a part our citizens without doing any public good. It is therefore, because I cannot consent to render more distressed those frontier settlers who are already distressed enough, and whose situation in the best of times is uneasy, that I object to it.

It will be seen that these remarks have no relation to any partiality to the King of Spain on the South, or the King of Great Britain on the North. Our citizens in both situations will probably suffer, and it cannot, therefore, be from partiality to either nation that I object to the fourth section of this bill. It is because none are safe from the universal suffering that I object to the passage of this bill.

How far, during a negotiation with a foreign Power, it is proper as a matter of policy to take measures with a view as it is said to bring them to terms, I shall not at the present moment discuss. This is not important to the passage of the bill. I rest my objection to this bill solely on the ground that it is useless even with a view to carry into effect the general purpose of the embargo law.

Mr. Key declared that he should vote in favor of the bill; and as he had voted against the original bill, he believed it incumbent on him to assign his reasons for voting for this. It appears to me proper, said he, upon correct principles, although I opposed a measure which nevertheless was adopted, to give every aid to carry into effect that measure which a majority has thought proper to adopt. Failing in my efforts to prevent the embargo, I shall still give my aid to carry it completely into effect. From other motives I shall vote for this bill; I understand it as calculated to give efficiency to the measure in every part of the Union. While my constituents are deprived of a market for their produce, from the prohibition of its exportation, if this bill does not pass, a large portion of our citizens in immediate proximity to settlements of foreign nations enjoy the benefit of traffic. Our laws should be uniform; at present large portions of our country have an outlet for commerce, and the embargo law operates as a bounty to that part of the community at the expense of the remainder. On the score of uniformity, then, I deem it proper to pass the law. On another ground also: at present vessels of a particular description may carry off produce to vessels lying at sea, and thus evade the general measure.

Although I was opposed to the original bill, believing that the principle once adopted ought to be carried into effect, I assign this reason for voting for the present bill.

Mr. J. Clay said, the bill before them in its first provisions went merely to secure the general and uniform operation of the embargo law. It is, said he, a fact well known to a number of gentlemen on this floor, that the provisions of that law have been evaded by boats and small craft, and

these are the subjects of the first sections of the bill. These boats have gone off to vessels of Great Britain with the produce of the United States. Whether, as the gentleman from New York says, this be a non-intercourse or an embargo it is immaterial; the effect of every embargo must be a non-exportation. With the gentleman from Maryland I believe, whatever may have been my opinion of the original embargo, that as the principle is once adopted, it is the duty of honest men and good citizens to prevent evasions of the general measure from being practised. I say the same in respect to the revenue system, to the excise system when in operation, and of the embargo now, that it is the duty of every honest citizen, whatever his opinion of its operation, to guard it from violation as a national regulation.

Another reason in favor of this bill is, that unless its provisions be adopted, there is no possibility of an opportunity for citizens of the United States to bring back an immense portion of property belonging to them and now in the hands of those Powers with whom we are at variance. I mentioned on a former occasion that there is in the island of Santa Cruz, the property of a single house in Philadelphia, a sum of eighty thousand dollars. I have in my possession a petition to the President of the United States, addressed to him under the idea that he had a discretionary power to permit vessels to go out, the prayer of which is that the petitioner may be allowed to despatch a vessel in ballast to Santa Cruz, to bring home property to the amount of eighty thousand dollars. The situation of that island is peculiar. In December last it was taken by a British force, the commander of which became provisional governor. On the 28th of December, this person issued a proclamation allowing the exportation of produce for debts due to citizens of this country, with a limitation of the permission to the term of six months.

I have understood that the construction of the original embargo law does not authorize the President to permit any vessel to sail except on public service. The seventh section of this act empowers the President of the United States to permit the departure of vessels in ballast. Now, if gentlemen would consider the seventh section, they would find that so far from imposing great hardships, for I suppose that the gentleman from Massachusetts (Mr. Livermore) who went so largely into the subject of commerce in general, or the gentleman from New York, (Mr. Gardenier,) who dwelt on the traffic on the Lakes, will not say that this is an injury, and so far from being a restriction, it is a great advantage to the country. For these reasons, also, I hope the gentleman from Connecticut, (Mr. Dana,) who says he will vote against the bill, though he has used his endeavors to perfect it, will agree to give his assent to it.

Mr. G. W. Campbell said it was not his purpose to take up much time of the House on a subject so often discussed; but it seemed as if gentlemen were determined to pursue the same argument, so often urged and so often repelled, for no earthly purpose but to mislead the public mind. Their observations, said he, go to the effect that this bill contemplates a measure distinct from the original embargo. Are gentlemen disposed to tell us that we do not understand the language? The embargo law is a non-exportation law, and this was proven to be the sense of the House at the time of its passage. Why then should gentlemen now rise and declare that this bill involves a new principle, when it was declared to be a non-exportation law by the rejection of an amendment to allow exportation of American produce in foreign bottoms? I can see no laudable object gentleman can have in telling us that this bill embraces a distinct object. It is to carry into effect the precise object of the embargo.

What do gentlemen mean by a difference between the object and effect? When a measure is adopted it is to produce effect; and if the effect be produced before the object is answered, that effect is as necessary to the object as the measure itself. What was the object of the embargo? Not merely to keep our *citizens* at home; it was to keep our citizens, commerce, and *merchandise*, at home; in the first instance to prevent their being taken at sea, and thus becoming the cause of immediate rupture, and in the next to keep within ourselves the necessary articles for our consumption in the case of war. It was essential to preserve our produce for our own use, and keep it from being of use to our enemies. Does the gentleman from Massachusetts mean to say, that we ought to be careful not to make an unfavorable impression on Great Britain, and that the embargo was not intended to operate on foreign Powers but on ourselves? Now I conceive that though the principal object of the embargo was to preserve our citizens and vessels from spoliations and capture, that it was intended to have an effect on other nations, to make them feel, in the only way in which we could, the necessity for our commerce; to bring them to terms of justice by the only way we could, if they ever can be brought to terms. This was the object of the embargo.

But let it be recollected that during the discussion of the original law, the proposition of the gentleman from North Carolina. (Mr. Blackledge,) to permit the exportation in foreign vessels, proved that the sense of the House then was that no produce should be permitted to go out of the United States. Does this not prove the propriety of passing the bill before you, to make perfect the intended operation of the original law? Gentlemen may now take all the goods or produce they wish to send to foreign countries by means of sleds through Vermont or in boats across the Lakes into the British provinces. Where then will be the operation of the embargo law, and where the distinction which the gentleman from Massachusetts has taken between a non-exportation and a partial embargo in one part of the Union, while another part is free from it? I can see no consistency in such reasoning and cannot see how gentlemen are serious in making these representations in this House, telling us that money is scarce on the frontier; if it is scarce on one side of the line, is it not on the other? There is no foundation whatever for these

arguments. The truth is, that whatever measure is adopted by the Government should press equally hard on all. I have before stated my sentiments on the subject, and now rise that it may be distinctly understood and not go abroad otherwise, that this is a part of the original measure of non-exportation. It does not yet operate as a non-intercourse. Merchandise may be landed, but they who bring it can take none away. Hence it is not a non-intercourse, but is and ought to be a non-exportation measure.

Mr. Livermore said, that in the observations which he made, he had alluded to the motives for the original embargo as expressed by the President of the United States, to save our citizens and property within the United States. He knew not the motives which actuated gentlemen in voting for it, nor did he call them in question; by the same rule he could not conceive it proper that they should call in question the motives of its opponents. In answer to the gentleman from Pennsylvania, Mr. L. observed, that it was true there was a principle in the bill which he should like to see carried into effect; but, he could not swallow the nostrum merely because there was honey in the cup, but should endeavor to separate the sweet from the bitter. If this act did not pass, it by no means followed that an act might not be produced to answer this object. He would join with the gentleman in anything to qualify or to destroy the embargo. Undoubtedly, in various parts of Europe, there was a great deal of property of citizens of the United States; there was within the grasp of a certain Power, which he would not name, a vast amount of property; and he should be willing to contribute his vote to authorize our citizens to bring it home.

It is said, he observed, because the embargo is laid, that it is necessary to cause this additional oppression. As to the equality of the law, if the question was in what way we could do the most injury to all, the argument might have weight. There is no justice in the observation that the law should be carried into effect in the same manner as the excise law. That was for drawing a revenue into the Treasury of the United States; it was then a moral duty to make the law equally binding on all. This is a totally different case. First show that it is necessary for the safety of the United States that this should be passed. I have called upon gentlemen to do this. They have not done it; I believe I may say they cannot do it. The prevention of our citizens from trading to Canada, is certainly an injury. Will it bring about this political revolution which seems to be expected? It is but a fly on the axle. It is an egregious mistake to suppose that preventing a few men in New York, Massachusetts, or Vermont, from trading, should force the mighty Powers of the earth to give up what they conceive to be a right. My arguments have not been answered.

Mr. Smilie said, he had expected this morning that this bill would have passed without their going back again to consider the principles and policy of the embargo law. He was sorry to find that this was not the case. Such discontent at the original act existed with some gentlemen, that if they could but prevent its being effectual, they would be well pleased. It appears to me, said Mr. S., from the course of the argument this morning, that we have altogether forgotten the situation of this nation at the time the embargo law passed. The gentlemen from New York and Massachusetts, complain loudly of the hardships of the people of the United States in consequence of the law, and in doing so have gone upon the ground that the United States was in a perfect state of quiet, and had no cause of complaint against any nation. If this had been the case, I should certainly never have voted for the law. What was the situation of the country at that time? In order to do justice to the measure, we must consider the state of our foreign relations at the time of its adoption. Will gentlemen pretend to tell us that our ships were in a state of safety after the French decree was promulgated, and we knew of the existence of the British decrees? Certainly they will not say this. Was it not then necessary to pass that law for the purpose of calling home our property and placing it in safety? So far gentlemen seem to admit we ought to have gone. I will ask gentlemen, whether if our vessels now go abroad, they will be more safe than they were at that time? I cannot see how it is possible that a ship now going out could escape. Gentlemen totally overlook the operation which we believe this act will have upon the nations with whom we have cause of complaint.

At the time of the passage of the embargo law, this Government had but three choices; either to submit to all the injuries received, go to war, or lay an embargo. Now will gentlemen come forward in this House and declare that they are willing to submit to all injuries? If they will do that we shall understand them. If they will not, I ask them, what would they do? Would they go to war? I suppose they had rather not. Would they lay an embargo? No, they tell us. They must then wish to submit, to bow their neck, and let the enemy trample on it. Have they forgot our situation—the capture of our seamen—the outrage on our sovereignty in the attack on the Chesapeake—our vessels carried into foreign ports for condemnation—and would they indeed have crouched with submission? If they would not, I wish them to come forward and tell us what they would have done. We have laid an embargo; we thought it a lighter evil than war, and we hope it will produce its effect. If gentlemen think, however, that we are mistaken, and can propose a measure less oppressive and equally effectual, I will give up this. But if they will take no measures, but tamely bend the neck, I have done with them.

Mr. Livermore said it would be recollected that he had endeavored to avoid discussion of the embargo measure; and for gentlemen to call upon its opponents to show reasons without a full discussion, was not proper. He was ready now to go into a discussion; and he avowed his intention to bring forward a resolution for a repeal of the embargo law, in order to produce a discussion,

and would then meet the gentleman from Pennsylvania (Mr. Smilie) on the general principle.

Mr. Sloan said, although he should no doubt vote on the same side with his friend from Pennsylvania, he rose to express a different sentiment from his. He calls upon the opponents of the bill, said Mr. S., to come forward and give reasons for their opposition. I cannot conceive what the gentleman would wish, or how many reasons would satisfy him. The opponents of the bill have expressed their objections to it in gross, over and over again, and I have been tired of it. For were they to give their opinions from this day till June, or we repel them, it would not alter our sentiments one way or the other. We understand each other well; they say they do not approve the embargo, while we think it a benefit. What reason can the gentleman have for wishing their reasons? I have but one wish, and that is to have the question.

Mr. Lyon conceived the original embargo to have been one of the most destructive measures ever adopted, for which no good reason could be shown. Can you, said he, ever convince the nation of the propriety of adopting it? You have been ten or twelve weeks about this embargo, and has not every step you have taken in regard to it been convincing to the people that you did not know what you were about? It shows that you did not understand it, that you are so long in making it perfect. The people are looking at you—they inquire what you are about.

One of the grounds on which this measure was supported, was, that it was a measure adopted under the Administration of Washington. Gentlemen have had all the time since the passage of the bill to find a better reason. Have they found it while patching up what I call an abominable measure? The embargo is not a measure to be approved by the nation. It is one of those anti-republican measures which stops the operations of agriculture and arrests the common course of business—

[The Speaker declared the gentleman to be out of order. He was clearly of opinion, after a bill had passed both branches of the Legislature and received the signature of the President, and become a law, that it could not be made a subject of discussion.]

Mr. L. conceived this to be an arbitrary decision—[Mr. L. was here called to order by several gentlemen.] Although he was cut down by a decision that he could not discuss the embargo, on reading the title of the present bill, he found it was supplementary, &c.; but, said he, you come to the embargo at the end of the title, so that notwithstanding the Speaker's decision, it is in order to speak of the embargo.

What is this bill to effect? It appears as though it was determined to keep the embargo on next year. Before this bill can reach the northeastern frontier, ice and snow will have taken leave; so that if this provision against sleds means anything, it contemplates the existence of the embargo during the next winter—to prevent sleds from running next year.

The gentleman from Tennessee asks why money is scarce on one side of the line and not on the other? It is owing to the embargo, sir; the people on one side of the line are embargoed, and on the other not. I perceive that some gentlemen who voted against the embargo intend to vote for this. If I wanted to obtain popularity I would vote that all should be embargoed because my district is; but I vote against gentlemen for their own sake, and for the sake of the nation. I wish to stop where we are; I will not vote for this as I think it a thing unnatural and improper. Every addition you make to it renders it more abominable—worse and worse. I cannot vote for it. I think this is a proper time to discuss the embargo; the doors are open now; but it is a subject that will not bear discussion. I will risk my reputation as a politician against any of those who supported the measure. The nation is not in a state of quiet, nor ever has been since the commerce of the nation was attacked in the face of the nation by Republican France; she commenced what has led to all this. I avow, and can prove it, that she commenced the injury, and we bore it patiently. An experiment is now made by her antagonist to see what we will bear. All the nations of the earth are trying what we can bear. I would take a course of argument to prove this; but I shall get on the embargo again, which it seems it is not in order to discuss. We are told of our seamen, our poor seamen! A few days ago we had before us a bill to employ a part of them; after all our tears and weeping over these seamen, what has become of this bill? Forgotten. This is the most inconsistent conduct I ever met with; and here I declare I am tired and ashamed of it.

Mr. Quincy made observations, calling into question the decision of the Speaker on the point of order. He did not rise to enter into a discussion of the bill. [Mr. Q. was repeatedly called to order by several members.] The object of his observations was to deny *in toto* the correctness of the Speaker's decision.

Mr. Dana did not rise to enter into the discussion, for though he considered it perfectly in order now to discuss the subject of the original embargo, he deemed it more proper, on the whole, to reserve the discussion till the subject was brought before them on its own merits exclusively. If, therefore, he did not make any reply to the observations of gentlemen in favor of the measure, he begged it might be distinctly understood, that he was not restrained from so doing by the idea that it was not perfectly in order to discuss the object of the bill to which this was amendatory.

The question on the passage of the bill was then taken, and resolved in the affirmative—yeas 97, nays 22, as follows:

Yeas—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Joseph Clay, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, J. W. Eppes, William Findley, James Fisk, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, jr., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, Jas. Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, Rich. Winn, and James Witherell.

Nays—Epaphroditus Champion, Martin Chittenden, John Culpepper, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, Barent Gardenier, Charles Goldsborough, John Harris, Edward St. Loe Livermore, Matthew Lyon, Timothy Pitkin, jr., Josiah Quincy, John Rowan, William Stedman, Lewis B. Sturges, Samuel Taggart, Jabez Upham, Nicholas Van Dyke and Killian K. Van Rensselaer.

Tuesday, March 1.

Mr. Van Rensselaer, from the committee appointed on the twenty-third ultimo, presented a bill to continue in force "An act to extend jurisdiction, in certain cases, to State Judges and State Courts;" which was read twice and committed to a Committee of the whole House to-morrow.

Mr. Dawson, from the committee appointed on so much of the Message from the President of the United States, of the twenty-seventh of October last, as relates to the Military and Naval Establishments, presented a bill authorizing the sale of public arms; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Tallmadge, from the committee appointed on the twenty-fifth of January last, presented a bill authorizing a detachment from the militia of the United States; which was read twice and committed to a Committee of the whole House to-morrow.

The Speaker laid before the House a letter from the Secretary of State, transmitting an abstract of the number of seamen registered in the several collection districts of the United States, for the years one thousand eight hundred and six, and one thousand eight hundred and seven, in pursuance of a resolution of this House of the ninth of January last; which was read, and referred to the Committee of the Whole on a resolution proposed by Mr. Dana, on the said ninth of January, for the encouragement and security of seamen of the United States.

Mr. Bassett moved for the order of the day, on the bill concerning public contracts; which motion was negatived—47 to 39.

Mr. Van Horn laid upon the table the following resolution, which had been rendered necessary, in his view, from the debate which had taken place on the contract bill:

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States; which, when ratified by the Legislatures of three-fourths of the said States, shall be valid to all intents and purposes as part of the said Constitution:

No person shall be eligible as Senator or Representative in Congress who shall hold any office under, or be bound by any contract entered into with, the Government of the United States, or any department or officer or agent thereof, at the time the election shall take place. Nor shall any Senator or Representative in Congress, if he shall qualify as such, hold any civil office or appointment under the Government of the United States, or make any contract with any department or officer thereof, during the time for which he shall be elected.

The resolution was ordered to lie on the table.

ADDITIONAL ARMY.

The House resolved itself into a Committee of the Whole, on the bill authorizing the President of the United States to raise an additional military force.—[The bill is reported in conformity to the letter of the Secretary of War on this subject, with a few variations in detail. The bill contemplates the appointment of two major generals, contrary to the recommendation of the Secretary of War.]

On motion of Mr. Tallmadge, all that part relating to major generals was stricken out—ayes 74.

Several amendments were made to the details of the various sections, not affecting the general object of the bill.

Mr. Blount wished every person entering into the service of the United States to know on what conditions they entered. To save a repetition of the trouble occasioned by former applications, on the same subject, he moved to add the following amendment to the end of the seventh section:

No commissioned officer, non-commissioned officer, musician, or private, shall, after being discharged, be allowed to set up any claim for half-pay, commutation, or pension, except he shall have been disabled by known wounds received in actual service.

This amendment was supported by Mr. Blount, and opposed by Messrs. Dawson, Gardner, Rhea of Tennessee, Tallmadge, Durell, Smilie, and Taylor. The principal objection to this, was, that the eighth section of the bill goes to the same object. It was negatived by a large majority.

Mr. Helms offered an additional section, fixing the price of undrawn rations at twenty-five cents each.

After a representation from Mr. Dawson, that this object was already before a committee, and that, though favorable to the object, he must vote against it here, Mr. Helms withdrew his amendment.

Mr. Blount said, if there should be war, it would

be necessary to draw out so many militia as that a major general of militia might be included in the militia who would take command of the regular forces in preference to regular brigadier generals. To avert this evil, he moved a new section, authorizing the President, when actual war with any nation shall exist, to appoint two major generals.—Negatived, ayes 22.

Mr. Rhea, of Tennessee, moved to strike out the limitation to pay of the Army for any longer time than while in actual service.—Negatived, ayes 4.

On motion of Mr. Dawson, the Committee rose, and reported the bill as amended. Mr. D. stated that he did not intend at this time to call up the report, and it lies on the table of course.

EXPORTS.

The Speaker laid before the House a communication from the Secretary of the Treasury, enclosing the following report:

Treasury Department, *Feb.* 27, 1808.

Sir: I have the honor to transmit herewith a statement of goods, wares, and merchandise, exported from the United States during one year prior to the first day of October, 1807, and amounting to $108,343,150.

The goods, wares, and merchandise, of domestic growth or manufacture, included in this statement, are estimated at - - - - - - -	$48,699,592
And those of foreign growth or manufacture, at - - - - - - -	59,643,558
Total - - - - - -	$108,343,150

The foreign goods may be divided into three classes, viz:

1. Articles on the importation of which no duty had been collected, they being free of duty by law,	$2,080,114
2. Articles liable to duty, and which were, on re-exportation thereof, entitled to drawback - - - - - - -	48,205,943
3. Articles liable to duty, but which were not, on re-exportation thereof, entitled to drawback - - - - - -	9,357,501
Total - - - - - -	$59,643,558

The duties collected on the importation of the articles of the third class, and which, not being paid by consumers within the United States, are derived directly from the carrying trade, amount to $1,393,877, exclusive of the additional duties designated by the name of "Mediterranean fund."

The articles of domestic growth or manufacture, exported during the period aforesaid, may be arranged under the following heads, viz:

Produce of the sea - - - - -	$2,804,000
Produce of the forest - - - - -	5,476,000
Produce of agriculture - - - - -	37,832,000
Produce of manufactures - - - -	2,409,000
Uncertain - - - - - -	179,000
Total - - - - - -	$48,700,000

I have the honor to be, sir, with great respect, your obedient servant, ALBERT GALLATIN.

The Hon. the Speaker
of the House of Representatives.

The report and documents were ordered to be printed.

GOVERNMENT CONTRACTS.

The House went into Committee, 48 to 37, on the bill concerning public contracts; Mr. Quincy's motion to strike out the proviso to the first section being still under consideration. This proviso permits members of Congress to make a contract where an immediate delivery of the article contracted for is made.

After some observations from Mr. Quincy, the motion was adopted—ayes 40, noes 37.

Mr. Kelly moved to amend the bill, so as to preclude members of Congress from making a contract, which shall be directed by the Congress of which he is himself a member. He conceived it might be proper to extend the provisions of the bill so far; but he was opposed to a farther extension of the principle.

The motion was opposed by Messrs. Bassett and Key, and supported by Mr. Kelly.

Mr. Rowan spoke at length, and with superior ability, against the principle of the bill. He thought it imposed an unconstitutional, needless, and ineffectual restraint on the liberty of the citizen.

Mr. Troup replied. He observed that in the event of war, a majority of this House might be composed of contractors under Executive influence, whose interest it might be to perpetuate the war, and the evils of whose conduct might not be corrected without a resort to first principles. The people of Georgia once thought their Legislature could never be corrupted, but they found they were mistaken; their representatives were corrupted by a land speculation.

Mr. J. Rhea did not intend to have spoken again, as he had heretofore said much on this bill; but as new arguments or something like arguments had since been offered, he was under a necessity of replying. Because the Legislature of Georgia had been corrupted it did not follow that Congress were liable to corruption. He denied the conclusion. Mr. R. spoke at length against the bill, and insisted that the word "office" in the Constitution did not include the case of contract.

Mr. W. Alston thought if gentlemen so solicitous on this subject, and who say so much about fraud and corruption, would only lay aside passion and carefully examine the provisions of the first section, they could not swallow their own bill. If the bill passes, a member of Congress has only to get a contract in the name of a third person, and the law is nugatory. If gentlemen will lay aside their phrenzy in purifying the House as they call it, they must see that the bill can answer no purpose. He wished gentlemen would give up this parade about purifying the House—this noise about fraud and corruption. The House had never been before so plagued and harassed as with this bill. Everybody is tired of the discussion, and yet day after day the subject is pressed upon us. He thought the bill a horrible thing, and had not words to express his detestation of it.

Mr. Sloan said it was late in the evening. The powers of language were scarcely sufficient to express his sentiments. He hoped the Committee would rise, and in the morning he would attempt to give his sentiments on the bill. Mr. S. moved that the Committee rise.

Mr. M. Clay said the House had yet an hour to spare. He hoped the gentleman from New Jersey (Mr. Sloan) would go on. He would hear him with a great deal of pleasure.

Mr. Sloan's motion was lost—ayes 45, noes 51.

Mr. J. Clay conceived that a contractor was an officer under the Constitution of the United States, and therefore excluded from a seat in Congress. But as this exposition had not been recognised he would purge the House of Executive influence by positive law, otherwise, they might see the time when contracts would be offered to members to destroy their independence and engage them in the indiscriminate support of a corrupt Administration.

The bill was further supported by Mr. Smilie and Mr. Key, and opposed by Mr. Rowan, when the Committee rose, reported progress, and obtained leave to sit again.

Wednesday, March 2.

Mr. Fisk presented to the House a memorial of James Jay, of the State of New York, praying the liquidation and settlement of a claim against the United States, for moneys advanced, and services rendered, of an important and secret nature, during the Revolutionary war with Great Britain.

Ordered, That the said memorial, together with a former petition presented to this House on the same subject, and the reports of the Secretary of State and of a select committee thereon, be referred to Mr. Fisk, Mr. Kelly, Mr. Swart, Mr. Howard, and Mr. Lemuel J. Alston, to examine and report the same, with their opinion thereupon, to the House.

The House resolved itself into a Committee of the Whole on the bill in farther addition to an act, entitled "An act to amend the Judicial system of the United States; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

TREASON AND OTHER CRIMES.

Mr. Randolph, from the committee to whom was referred so much of the Message from the President of the United States, of the twenty-seventh of October last, as relates to enterprises against the public peace, and the means of preventing the same, and punishing the authors, presented a bill to punish conspiracies to commit treason against the United States; which was read twice and committed to a Committee of the whole on Monday next.

The bill is as follows:

A Bill to punish conspiracies to commit treason against the United States.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the passage of this act, if any persons shall combine, confederate, or conspire to levy war against the United States, or to adhere to their enemies, and to give them aid and comfort, he or they shall be deemed guilty of a conspiracy to commit treason against the United States; and, on conviction of such crime before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding —— dollars, nor less than —— dollars, and by imprisonment not exceeding —— years, nor less than ——, at the discretion of the court.

Sec. 2. *And be it further enacted*, That the person or persons so convicted as aforesaid, shall enter into recognisance, with one or more sufficient sureties, for his or their good behaviour, in such sum, and for such time, as the court, before whom he or they may be tried, shall order and direct.

Document accompanying the bill to punish conspiracies, to commit treason against the United States.

December 2, 1807.

Sir: The questions proposed in your letter of the 24th ultimo, embrace an important and delicate subject. I have given them that consideration they justly merit, and respectfully submit the result of my reflections.

The sentiment expressed by an able and enlightened writer, that every punishment, which is not absolutely necessary for the peace or safety of society, is unjust, I believe to be perfectly correct. When revising any part of the penal code, for the purpose of discovering its defects, and of enlarging the sphere of criminality, we should proceed with caution and prudence; and we should not add to the catalogue of offences unless on sufficient grounds.

Feeling the just influence of these remarks, and reluctant as I am to increase the list of crimes, I think experience has evinced the necessity of some further provisions, to preserve the peace of the United States against the enterprises of designing and ambitious men.

The next question imposes a task more difficult; the mode in which the deficiency may be effectually remedied. This subject opens a wide field for discussion, and admits of great diversity of opinion.

It is with no personal satisfaction that I propose to the consideration of the committee, the propriety of punishing combinations and conspiracies for the purpose of committing treason against the United States. The Constitution has wisely defined the crime of treason; but it must be obvious that, before this crime is consummated by an overt act of levying war, the public peace may be disturbed and the public safety endangered, by the previous preparations for such an event. Though, in various parts of the Union conspirators who intend the destruction of our Government are preparing the means to accomplish their object, by providing arms, ammunition, and warlike stores, they are subject to no punishment by the existing laws, unless war has been actually levied by them against the United States. It would seem, therefore, essential to the preservation of the public peace, that a conspiracy to commit treason against the United States should be punished in such manner as will be most likely to reform the criminal, and to deter others from the commission of the same offence. Perhaps a proper part of the judgment would be, to render offenders incapable of holding any office of honor, profit, or trust, under that Government which they conspired to destroy.

The law relative to enterprises, began or set on foot within the bosom of our own country, against a nation with whom we are at peace, merits revision, and will

require some amendments. The object of this law is a salutary one; but its language, not defining, with sufficient accuracy and certainty the offences, has given birth to much dispute as to its legal and proper construction. Enterprises against nations at peace with us, have been too frequently projected, not to call the serious attention of the Legislature to this interesting subject.

Let me also recommend "the employment of means for the benevolent purpose of preventing crimes," to use the language of Judge Wilson.

The only law of the United States on this subject, will be found in the fourth volume of the Acts of Congress, page 231. This is conceived in very general terms, and authorizes security of the peace, or for good behaviour, to be taken in cases arising under the Constitution and laws of the United States, in the same manner as under the laws of the several States. In some respects the provision may, in practice, be incompatible with the Constitution of the United States. By one of the amendments, which now form a part of that instrument, no person can be arrested or committed, unless upon oath. In some of the States, whose Constitutions have not a similar provision, and where the common law is in force, an oath may not be considered as absolutely necessary.

An act of Congress specifically providing in all cases where it should be made appear on oath, that there were just grounds and probable cause to believe, that any person was about to commit a crime against the United States, he should be compelled to give security of the peace, or for his good behaviour, would be a prudent measure, calculated to secure the public tranquillity. The law might be so guarded as to prevent its being used to the oppression of individuals.

I have the honor to be, yours, very respectfully,

C. A. RODNEY.

Hon. John Randolph.

PUBLIC CONTRACTS.

The House then resolved itself into a Committee of the Whole, on the bill concerning public contracts, 51 to 24.

A motion made to strike out of the bill that part which excepts contracts for lands, was negatived, 50 to 36.

Mr. Blackledge moved a section to direct the Secretaries of the Treasury, War, and Navy, and the Postmaster General, to make annual reports of every contract made by them the year preceding, and every particular respecting them.

This amendment was supported by Messrs. Blackledge, Taylor, and Stanford, on the ground that this would furnish the House with evidence, without the pain of calling for information from the Departments respecting any particular member; that it would besides exhibit particulars which ought to appear; it would be a means of information to the people of the price of contracts, and might produce a reduction in the price of articles purchased for the United States; that many articles which now cost the United States twenty dollars a barrel, may, if it were known to the people, be had for twelve or fifteen; that this had been evinced by the publication respecting contracts for carrying the mail, by which the service had been done at a much lower rate.

The amendment was opposed by Messrs. Burwell and Holland, on the ground that it would be an useless expense to provide for the publication of the annual account of these officers, forming a volume of documents of no importance or interest to the nation; that there would be no difficulty on application in obtaining information in relation to any particular member suspected of being a contractor.

The amendment was adopted, ayes 55.

The Committee then rose and reported the bill.

The House proceeded to consider the said amendments: Whereupon, the first amendment being twice read, to strike out the proviso in the first section of the bill, containing the words following, to wit:

"*Provided*, That this restriction shall not be construed to extend to the purchase, where immediate delivery is had, and immediate payment is made of any property, which, at the time of such purchase, was *bona fide* the property of, and belonging to, any such member, or members, in his or their right, or as assignee in law, or fact, not purchased or procured in consequence of any previous arrangement with, or promise from, any public officer, or any agent of such public officer.

And on the question that the House do concur with the Committee of the Whole in their agreement to the said amendment, it passed in the negative—yeas 19, nays 73, as follows:

Yeas—Lemuel J. Alston, Joseph Barker, John Blake, jr., Joseph Calhoun, Richard Cutts, William Ely, Francis Gardner, Isaiah L. Green, William Helms, James Holland, James Kelly, John Lambert, Edward St. Loe Livermore, John Montgomery, John Rhea of Tennessee, Clement Storer, Peter Swart, Samuel Taggart, and Isaac Wibour.

Nays—Ezekiel Bacon, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, George W. Campbell, John Campbell, Epaphroditus Champion, Martin Chittenden, Joseph Clay, Matthew Clay, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, Peterson Goodwyn, John Harris, John Heister, William Hoge, David Holmes, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Thomas Kenan, Philip B. Key, Nehemiah Knight, Joseph Lewis, jr., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr., Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., Jacob Richards, Matthias Richards, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Benj. Tallmadge, John Taylor, John Thompson, Abram Trigg, Daniel C. Verplanck, Jesse Wharton, David R. Williams, Alexander Wilson, Richard Winn, and James Witherell.

The other amendments reported from the Committee of the Whole being twice read, were, on the question severally put thereupon, agreed to by the House.

A motion was then made by Mr. Blackledge, farther to amend the said bill by striking out the

following words in the first section, to wit: "and every such contract, bargain, or agreement, shall be deemed and taken to be absolutely void, and of no effect, whether such contract, bargain, or agreement be openly or covertly, in the whole, or in part, for the use of any such member, as aforesaid:" and the question being taken thereupon, it passed in the negative.

Ordered, That the said bill, with the amendments agreed to, be engrossed, and read the third time to-morrow.

SALE OF ARMS.

The House resolved itself into a Committee of the Whole, on the bill authorizing the sale of certain arms. The Committee having gone through the bill reported it to the House.

Mr. Bacon moved to add a new section to the bill, requiring the purchase money for arms to be paid into the Treasury of the United States, before delivery.—Carried, 42 to 35.

Mr. Bibb said as there was a thin House, he hoped gentlemen would not take advantage of the circumstance, and push the bill on to a third reading in its present shape. Had there been a full House, he was convinced the amendment would not have passed. He therefore moved that the bill lie on the table.—Agreed to, 39 to 35.

There being considerable difficulty in transacting business, and in retaining a quorum within the bar, the House adjourned at two o'clock.

Thursday, March 3.

The Speaker laid before the House a letter from the Secretary of War, accompanying his report on the petition of Gassaway Watkins, of the State of Maryland, referred to him by order of the House, of the twenty-fourth ultimo; which were read, and laid on the table.

On motion of Mr. Jeremiah Morrow,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of extending to the revenue districts on Lake Erie, and within the State of Ohio, the provisions of an act entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts:" and that they report by bill, or otherwise.

On motion of Mr. Jeremiah Morrow,

Ordered, That the Committee of the whole House to whom was committed, on the first instant, the bill to continue in force "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," be discharged from the consideration thereof; and that the said bill be committed to the Committee of Commerce and Manufactures.

Mr. Cook, from the committee appointed, the twenty-ninth of October last, on so much of the Message of the President of the United States, of the twenty-seventh of the same month, as relates to our intercourse with the Indian tribes, presented a bill for establishing trading houses with the Indian tribes; which was read twice and committed to a Committee of the Whole on Tuesday next.

An engrossed bill in farther addition to an act, entitled "An act to amend the Judicial System of the United States," was read the third time, and passed.

A message from the Senate communicated to the House certain resolutions of the General Assembly of the State of Kentucky, expressive of their confidence in the present Administration of the Government of the United States, and of their determination to support such measures as may be adopted to vindicate the national honor and safety against the belligerent Powers of Europe."

The said resolutions were ordered to lie on the table.

GOVERNMENT CONTRACTS.

The engrossed bill concerning contracts being read for the third time; and after a debate in which Messrs. Holland, Sloan, and Cook, opposed the bill, it was passed by yeas and nays—65 to 44, as follows:

Yeas—Lemuel J. Alston, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake jr., Thos. Blount, John Boyle, George W. Campbell, John Campbell, Joseph Clay, Matthew Clay, John Clopton, Howell Cobb, John Dawson, Joseph Desha, John W. Eppes, William Findley, Peterson Goodwyn, Edwin Gray, John Harris, William Hoge, David Holmes, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, Nehemiah Knight, Joseph Lewis, jr., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Randolph, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, Ebenezer Seaver, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Richard Stanford, Abram Trigg, George M. Troup, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, and Marmaduke Williams.

Nays—Willis Alston, jr., Joseph Barker, William Butler, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpepper, Richard Cutts, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, Francis Gardner, Isaiah L. Green, John Heister, William Helms, James Holland, Daniel Ilsley, Robert Jenkins, James Kelly, John Lambert, Edward St. Loe Livermore, William Milnor, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jr., John Pugh, John Rhea of Tennessee, Matthias Richards, John Rowan, James Sloan, Jedediah K. Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Alexander Wilson, Richard Winn, and James Witherell.

MILITARY COURTS.

The House resolved itself into a Committee of the Whole, 50 to 43, on the bill concerning Courts Martial and Courts of Inquiry.

The first section of the bill having been read, as follows:

"That in every case where the attendance of any person not in the military or naval service of the United States, shall be necessary as a witness before a military or naval court martial, a summons may be issued

out of any court of the United States, and the clerk of any such court shall be, and he is hereby, authorized and required, upon due application in writing, by the judge advocate, or party officiating as such, or by the party accused, to issue such summons, requiring such witness to appear, and give evidence before such court martial or court of inquiry, and upon good and sufficient cause shown, verified by affidavit before any judge of any court of the United States, and the same being certified by such judge, and produced to the clerk to whom application as aforesaid shall be made for any summons, the said witness in such summons may be farther directed and required to exhibit in evidence before such court martial or court of inquiry, any paper, document, or record in his possession, power, or control; and in every summons to be issued in virtue of this act, some certain day shall be appointed for the same to be returned to the proper court martial or court of inquiry, and for the appearance of the witness. And every summons as aforesaid shall be directed to the marshal of the district in which such witness may reside or may happen to be; and for every default in not duly serving and returning any summons as aforesaid, the marshal shall be liable to the same penalties, and to be proceeded against in like manner as if he had made such default in not serving or returning any summons or citation in causes depending in the district court of the United States holden in the district or Territory whereof he may be marshal."

Mr. J. Montgomery moved a verbal amendment to the section.

Mr. J. Clay could not see what necessity there could be for investing military courts with such extraordinary powers. In order to produce a discussion which might throw some light on the subject, he moved to strike out the first section of the bill.

Mr. J. Montgomery said he could only state the reasons which influenced him to give his assent to the introduction of the bill. A letter from the President of the United States on the subject of the powers given to courts of inquiry had been referred to a committee of which he was a member. When the subject was before the committee, said Mr. M., they examined the present existing laws with respect to the manner of obtaining evidence in courts of this description. It was found, upon examination of the existing laws for the regulation of the Army and Navy, that in all instances which do not affect life or limb, depositions may be taken before a civil magistrate; but there are no regulations by which, in a case affecting life or limb, to permit the person accused to obtain testimony of persons who are not in the military or naval service. It was discovered that an officer or soldier, who certainly does not cease to be a citizen by entering into the Army, cannot obtain the benefit of evidence other than of persons in the military or naval service. For that reason, and from the representations of officers on the subject, it was found necessary to report this bill for the regulation of all courts martial and courts of inquiry. Every person charged with any offence before any court is entitled to a trial and to a proper defence; but under the present laws there is no power to compel testimony, so that a military man is liable to lose his life, although perfectly innocent, because he cannot obtain evidence. In civil cases, the laws have provided compulsory process. In suits for property between A and B, where the amount is not perhaps more than £10, or from the value of one shilling to millions of money, the parties have the benefit of compulsory process to obtain evidence, and while in cases affecting the life of a soldier or officer there is no power to compel testimony. It was, therefore, thought proper not only that the case alluded to in the President's Message should be provided for, but that a bill should be introduced making a general provision in like cases.

Mr. Rowan was opposed to this bill, and hoped that the time would never come when it should be necessary to keep a standing army organized for the internal defence of the United States; till that time did arrive, there was no necessity to pass a law of this kind. By turning to the history of that Government from which we borrow our laws, said he, we find that it existed some centuries before the mutiny act, from which the present law is in a great measure extracted, was passed. In a monarchical Government, which existed so long before it became necessary to pass it, this law was passed to secure the citizens against the disorders of the soldiery, and to preserve order amongst them. Our Government has existed but thirty years—a Government, too, in which a standing army is not contemplated as necessary; a small army has been submitted to as the least of two evils, and is contemplated but as temporary. To incorporate, then, in our system a law which was not found necessary in Great Britain till after so long a time, seems premature; it is going upon the principle of adopting into our Government the principles of a Government different from ours—of a Government not in its early and simple state, but in its aged and corrupt state. If gentlemen examine this bill they will find that it goes to make the military communicate too intimately with the civil authority of the country; it gives the military an importance from which we should endeavor to preserve them, authorizing them to call upon the judges to punish witnesses, &c. This is no inconsiderable blending. The military is, I hope, incidental in this Government; the force we have is small, and I hope it is temporary. I hope it is not contemplated that the military are to form a permanent establishment in this Government.

I wish gentlemen to look at this bill, and see if the evil is not greater than that which it is intended to guard against. Persons summoned as evidence by a military court refuse to attend; the summons cannot be enforced. This is somewhat of an evil, but what is it compared with that which would accrue from mixing the civil and military institutions? There is in the very nature and complexion of our Government an abhorrence to military institutions; they are but permitted to exist as an evil. Let us not, then, incorporate them into our general system; let us not even suppose the present Military Establishment to be a lasting or permanent institution.

What peculiar case calls for this law? The

case of a soldier cannot present itself as making it necessary; for if a private commits an offence, it must be in the ranks. If he steps out of the ranks, the civil law takes hold of him for any offence he commits. Wherever he commits an offence out of the ranks, it is cognizable by the civil jurisprudence. He is punishable by military law for the violation of military rules. For instance: if a soldier goes to sleep at his post, you cannot expect a civil witness of the offence. A case, then, cannot occur in which a civil evidence can be necessary on a trial of a private for a military offence. If he makes an inroad on society, he is immediately taken hold of by the civil jurisprudence. So in the case of offences triable only by a military court, in ninety-nine cases out of an hundred, testimony must be confined to military evidence, if the charge be confined exclusively to military conduct. A file of men is sent for the witness; the testimony of the soldier or officer is compelled, so that there is no deficiency of process in exclusively civil or military offences. The very law from which the present bill is substantially borrowed, if I understand it right, was not enacted for the benefit of the officer or soldier, but for the security of society. The mutiny act of England was intended to protect the citizen; the only provisions in that country on this subject are contained in that act. Even in that country the Parliament never chose to lend to the military that sanction which is contemplated by this bill; their law on the subject is to protect the citizen from the soldier or officer, while the bill under consideration grants a privilege to the military; this principle, therefore, has not been recognised in England.

I should consider it extremely unfortunate if, at this early period of our Government, with our small standing force, and great abhorrence of a standing army, this bill should pass. It will be found to be a truth that men *en masse* are worked upon by their feelings. Whenever then these two institutions, civil and military, become familiar by their connexion with each other, in the same proportion our abhorrence of military, and respect for civil institutions will diminish. It is therefore contrary to the policy of our Government to render the military institution familiar with the civil.

The particular circumstance which has given rise to the present bill we all know. It does not seem to me that this case will justify the passage of a law, which in its consequences may be so mischievous. So far as society is interested, there is a mode in which it can be tried; so far as respects the citizen there is a mode; for I deplore the day in which an American military officer cannot confide his conduct or character to the scrutiny of the great body of the people. There is no occasion then for this bill in relation to any officer of ours. Our officers must have a reverence for our civil institutions, and confide in their competence to do them justice in any case.

We have had this Army for many years. Is it not extraordinary that this deficiency has never been discovered before? Has any soldier lost his life, or officer received an injury in consequence of the omission? None, I believe. It is dangerous in my opinion to legislate generally on special cases. I believe that our military rules are competent to the purpose of justice, as relates to the soldier or officer. I hope we shall not long have a standing army, as it is only on our frontiers that we require a regular force; in ordinary cases the militia being competent. As no evil then can arise in so short a time, and in so small a force, from the want of such a law as this, I hope the section will be stricken out, and thus destroy the bill.

Mr. Taylor said if they had indeed been so many years without having found a rule of action, and a law for the government of the Army, the arguments which had been adduced by the gentleman from Kentucky, would be at least sufficient to induce him to inquire; but when he found that the Legislature of his country had already established rules and regulations for the government of the Army, and that, from the tenor of the law, those regulations are binding as well upon the militia when in service as upon the standing army, he felt it necessary to legislate not on any particular case occurring now, or heretofore, but generally, for the safety of the individual. The power of obtaining testimony, so essential, so indispensable to every tribunal for the attainment of justice, was the object to be attained by this bill. On a former occasion, said he, I have expressed my ideas on the subject of the articles of war. If they were not in existence, the gentleman and I would, upon comparing notes, be nearer on principle than we are on the present amendatory law. What are these articles of war? Sixteeen articles out of an hundred create capital offences; and is your army walled around, pent up so that no man can see them but he who wears an epaulet or regimental livery? No. The actions of these men, alike with those of other men, come under the eyes of every bystander. For establishing the innocence of a person accused it is necessary that he should have the power to call upon these bystanders, whether in civil or military life, for evidence in his favor.

I hope gentlemen will look at the articles of war, and see how far they go to abridge the privileges of a military man, and assist me in an endeavor to draw a parallel between a civil tribunal and a court martial. In the first place, decisions of a court martial do not require unanimity of judgment of those who sit as inquisitors. Nine out of thirteen are sufficient for a decision, *pro* or *con*; whilst in a civil case before a jury of twelve good and lawful men, an unanimity of the whole is required. The party in a court martial or court of inquiry has not the privilege of counsel for the purpose of annotating, and making observations upon testimony. True, it is, that by special favor a person is sometimes allowed to come into court to assist the accused in asking questions necessary for his defence, and in cross-examining the testimony; but as to the privilege of counsel to explain or argue the case, to collate and digest the testimony, no such thing is allowed. The delibe-

rations of military courts are private. The judge advocate, who is like the State attorney, may urge home the points against the prisoner, and there is no one to urge the points in his favor—in courts of law, although the jury retire to make up the verdict, the discussion before them is public. A more important inconvenience to the accused is, that crimes against military law are not specially defined. I will read an article or two out of the many, which struck my mind as going fully to establish this point: the sixth article makes it a crime to behave with contempt or disrespect towards his commanding officer (without defining what constitutes disrespect or contempt.) In another article, ungentlemanlike conduct, and such as is unbecoming an officer, is made a crime—the specification of his crime must be diversified with the relaxed or nice notions of honor of the judges, or members of the court. In a great majority of the articles, the extent of the punishment is left discretionary with the court. In proportion then to the immense extent of the powers of these courts, in condemning and punishing, so should the facilities of obtaining defensive testimony be amplified to the accused.

It is necessary that this body of the community, when collected together, should be governed by rules more rigorous than those imposed on men in other situations of society; it has been found in all ages and nations that these rules are necessary for the government of men with arms in their hands, and that nothing but rigid discipline can make them useful, or indeed prevent them from being dangerous to the country—yet, had these rules been less severe, the Legislature might have found their ample apology in the freedom to which the citizens of the United States are accustomed. For in proportion to the freedom of the citizens of the State, in that proportion must be the rigor in order to keep them in subordination.

I trust I have explained that military crimes are not specially defined, as crimes are defined in courts of law. I might have noticed another peculiarity of these courts, that punishments are more rigorous.

When it is fully understood in the House with how much severity this class of the community are ruled, and I call upon gentlemen to remember that the militia too are subject to these rules when called into actual service, when it is found that a person charged with a crime may have a witness competent to prove his innocence, but who is not in military service at the time, shall we shut the door upon truth, and say that a man when innocent shall be punished as guilty because the witness in his favor does not wear a cockade? If we did, we should merit more reproaches than some of us are disposed to heap on those who passed and enacted the sanguinary system I have been speaking of, excusable only from the necessity of the case—they have enacted the punishment, and we should be chargeable in refusing the culprit the power of defending himself from it. I do aver that this law does not alter the system at all, barely affording a relief to the soldier in an evil for which unless this bill pass he has no remedy. As to the allegation that a civil witness can never be necessary in a military trial, you must either shut your eyes to the light or suppose that all mankind instinctively shut theirs when the soldiery are in their presence; neither of these cases can be supposed. I hope it is and will be the habit of this nation to look the more astutely where the Army or its soldiers are near, that the citizens may never be excused from testifying to the guilt or innocence of a soldier, however low or however high.

There is a clause of the Constitution, which indeed applies to courts of law, which guaranties to the accused the right of compulsory process for obtaining witnesses in his favor. Surely the spirit of the Constitution, even rigid justice herself, would not exclude men, merely from their change of clothes, from that right considered so sacred as to be guarantied to the people by the Constitution.

Let us consider this law as respects the witness. Is there a mighty inconvenience to a witness summoned and paid for his attendance in court to substantiate the innocence (I have not yet touched upon the guilt) of a person accused? He is paid for his attendance, liable only to the same impositions as he would be subject to if summoned by a neighbor in a civil cause. He is not under as much disadvantage; for it is the law of the land, in the State which I have the honor in part to represent, that when a person is committed to jail or bound over, the witness against him, unless he can give sufficient security for his appearance to prosecute on behalf of the State, is sent to jail, there to lie until the course of time comes round in which the trial is to be had. Here then the innocent witness on the part of the accuser is carried to jail; I have known them incarcerated thus because they were unknown to the justice and to the neighbors, and had not friends who would sign their recognisance. I acknowledge this seldom happens, perhaps never but where there are suspicions of the witness; but it always rests with the magistrate, to require it if he chooses. The witness by this law is only put on the same footing as if summoned to a court of common pleas, he is not recognised, he only incurs the same penalties he would do if he made default as a witness in a cause of twenty-one dollars dispute between individuals—so that the objection as to the hardship on the witness cannot be valid.

The gentleman from Kentucky has objected to the jumbling of military and civil institutions. Let the gentleman decide at once that if a man shall be accused of a crime, a conviction of which subjects him to a punishment of five hundred lashes, or to be shot or hung, he shall be deprived of the privilege of summoning witnesses to attend. Can he decide it? He cannot. Well, then, if we take it for granted that it is absolutely necessary that we should not in that way immolate justice, but allow a defence, how is that defence to be got at? If this bill proposed to authorize courts martial to send musketeers among the husbandmen in the country, is there a mind in

the House that would not revolt at it? I think there is not. It is necessary that these courts should have the power to ask the question of the witness. All other power is vested with the courts at law. Are you afraid of them? Can courts martial interfere with courts of law in their punishment for defaults of witnesses? No; they are kept separate.

The honorable Chairman (Mr. Montgomery) has explained that the provisions of this bill are similar with those of Great Britain; and however much we may abuse that Government for its corruption, I believe that the most enlightened men who have had an opportunity to examine her civil polity, have gone so far as to say, that this is the only thing excellent in their institutions—the very salvation of the Government itself; that this good thing, like a few good men in a city, have saved the Government from that destruction which some of her other institutions might have brought upon it. For my part, I do not hesitate to say that the courts of England have conducted this power with impartiality; that there has not been an instance in which the privilege of a judicial court has been invaded in consequence of this provision, either by a court martial or by the Crown. Where, then, is this jumbling, this collision of jurisdiction, which alarms us? My mind's eye can see in that bill as perfect a severance between the two jurisdictions as is possible to be described.

After having confined myself as much as I could as respected the rights of the accused, of the citizen, and of the civil court, I come now to that part of the subject, which cannot be new to the House, on which I have heard the most eloquent harangues. What do we hear, whenever the subject of the military is called up? Where is the jealousy of military force directed? On whom does it fall? Upon our standing army. It is a standing army which the Republic fears—that of all others which is most sedulously guarded and restricted. If this jealousy accords with the sentiment of the nation, how should it be guarded? How are the wicked and infamous officers in that standing army to be marked and punished? The soldier under their command may, from the influence of his superior officers, be intimidated from bearing that testimony against a commander, which a civil witness, safe from their power, might do. Will you deprive the Republic of the benefit of this testimony? If it be necessary for the individual, much more is it necessary for the Government, and for the people of the United States. What is the case of those good fellows who took Major Andre? Suppose, instead of Andre, they had taken Arnold? Suppose that these men, who were above the bribes of the enemy, whose testimony was necessary, and conclusive of the guilt of the party—suppose this squeamishness to call upon the citizen out of the Army to prevail, how could the fact of his going to the enemy, of his being found out of the course and at a distance from the place of his duty be proved? Do the articles of war give any power to the court trying this man to go into the field and summon them? None. Or can they be taken before a military tribunal? No such thing is known to our laws. I defy any gentleman to show a power in a military court to derive testimony but from military men. Well, if this case might have occurred, and it surely might, is it not possible that other similar cases may occur? This jealousy of standing armies is a good one; I wish to foster it, and will, therefore, take the testimony of any man, whether he bears an epaulet, or whether he be found in the military uniform, or the more lowly garb of the husbandman, when necessary to guard against the power of an evil disposed officer or soldier.

Mr. Rowan said, this was a subject to which, indeed, he had not devoted much attention; but the more he thought of it, the more abhorrent it appeared to him. It is very strange, said he, that America has gone through one war already, and not found out the evil which this bill proposes to guard against. If this regulation were so indispensably necessary, is it believed that, during the Revolution, no instance would have occurred, which required its exercise? I believe none did occur. If, then, in a Government like ours, there has been shown no necessity for such a law, would it not be premature to pass it? The doings of a military court, the gentleman tells us, are entirely secret—all mankind shut out. It is true, as he says, that there is very little more inconvenience in attending a military than a civil court; the same quantum of locomotion will convey a man to one as the other, but, shut up in that court, without his friends, it may happen that his reputation may be sacrificed. This law does not provide that any but the parties may have power to compel the attendance of witnesses. A single witness may be brought before men who are so connected by their common profession as to feel a sort of sympathy for each other, which men in the common walks of society have not. Suppose a witness brought before such a court to give testimony against a man who has been always accustomed to command, while they have been trained to subservience and respect. What is his situation? The doors are shut, no person admitted to see him, he comes out of a military court with his reputation sacrificed. A confliction is made in his testimony which he has not wit to detect, without counsel, or a friend to compassionate him. I am unwilling that men should be brought from the field to a military court in the dark.

One of the articles of war, read by the gentleman from South Carolina, requires that an officer or soldier shall not speak disrespectfully of his superior officer—and for what reason? Because, were disrespectful language permitted in the ranks, it would tend to diminish that subordination so necessary in an army. It is not disrespect, as meant by the articles of war, for a soldier to speak disrespectfully of his superior officer to the laborers in the field, but it is meant that he shall not be spoken to with disrespect before those whom he commands, before whom respect to him is necessary. The disrespectful language must

be attested by soldiers, or it is harmless—mere *verba volentia*, and never reaches the officer, or, if it does, no harm results. Nor can anything which an officer can do, which is punishable by a military tribunal, require any other evidence than of military men.

A military court grows out of the Military Establishment—a thing of necessity, growing not out of the social order, but out of the military, and is confined to it. The very idea is abhorrent that republicans should be dragged from their homes, to attend a military inquisition—and what then? If we may judge from late specimens, his feelings may be injured and himself slandered. We find that, though secret, a military court can, now and then, emit a little gall. If there were no other reason, this would be sufficient to induce me to say that citizens should not be dragged before a court, to be sacrificed to military etiquette. Ought not strong necessity to be shown before we take an individual out of the walks of private life, before a tribunal of which he may be entirely ignorant, and of which he is presumed to know nothing? It is a vast inroad upon his rights, in my mind, that he should be compelled to attend before a secret tribunal. The honest man, disposed to act uprightly, has nothing to fear from mankind in civil life. But, when taken before a military court, he is out of his element, taken off social ground; and this should not be done, except upon necessity the most imperious, and that does not now exist.

I wonder gentlemen have not found some instances from England, in which men have been called from the civil rank. The act provides that, if necessary, a judge shall issue a subpœna. Has any one ever heard of a case in which this was necessary? None has occurred, that I know of. It strikes me as peculiarly varying our institution, and the distinction set up by the Constitution, which says, that the military shall be subservient to the civil institutions. I have heard of no case which would require it. If a soldier shows disrespect to his superior, it is before those in whose presence it flowed, that it is necessary to punish him, as well to make him, as others, by his example, conform to correct conduct. I hope society never will submit life to the discretion of a military court, except under the most absolute and imperious necessity, in which a civil court cannot interfere, particularly during war. In the case to which this bill particularly alludes, we know that some of those who have been summoned have refused to attend. Before they are compelled to attend, as this bill contemplates, we know that one of them has been published as perjured. In my mind, it is no unimportant right that the credit or degree of credibility of a witness should depend upon men in the same level of life with himself, in social, and not in military life. I am unwilling to place it in the power of any military court to call a man from the walks of social life. Men in civil life must be willing to trust their characters, and everything, to the sound sense of the community, to civil and not to military institutions. This is a radical provision and never ought to be violated, yet it will be by this bill, in my opinion.

We know, as the gentleman has said, that punishments are generally more rigorous in the military than in the civil code. Wherever courts martial try offenders, despatch is required; and their whole proceedings are conducted in a summary manner, which, to us, is unknown, and I hope will long continue so. Until, then, some strong necessity be shown, I am averse to the familiarity which this bill goes to establish between military and civil institutions.

The details of this bill, if we go into a discussion of them, will not work; for I observe, among other things, that the bill provides that the certificate of a military officer shall be sufficient to warrant a punishment of a citizen for non-attendance on a summons.

Mr. Rhea, of Tennessee, said the gentleman's chief objection to this bill appeared to be that the honor of a citizen might not be safe with a military court, because his testimony may be made perfectly different from what he actually did testify. When I observe the insinuations which this is intended to convey, I cannot express my feeling of it. When I hear an intention to derogate from the character of our military officers, and an insinuation that our officers of rank and capacity are so destitute of any principle of honor and integrity as to transubstantiate the evidence of any witness, I shudder at the idea; and, if I thought this character could be justly applied to any court martial to be summoned out of our Army, I would, before to-morrow night, move a resolution to dissolve that Army. I deny the principle which the gentleman has assumed, because I believe that, with those men within our camp, there is integrity, honor, and virtue. At such observations as these, I cannot help expressing my astonishment and surprise.

It has been objected to this bill, that, in a military court, examinations are made in a private manner, and that military courts may pervert testimony. If that be apprehended, this bill can be so amended as to provide that all testimony shall be taken publicly; and if gentlemen, whose fears are so much alarmed, will bring forward an amendment to this effect, no doubt it will be agreed to. The mere name of a soldier does not take away from them the patriotism and honor which they owe to themselves, and the integrity which they owe to society. If this were the case, I should pray that there was not one in the United States. But, I do not hold this doctrine, nor ever shall, till it be made to appear to me that our Army is composed of persons who are not our own citizens. They are bound to a care of their reputation and honor by the ties of kindred and society, as other men; and, when their term of service ceases, they return to the bosom of their country. In my opinion, the honor of the witness is safe with these men, and there is nothing to fear from them on that score.

It has been said that, if this bill passes, we shall make the civil subservient to the military institution. The very object of the bill is to add power

to the civil authority—for what? For the establishment of truth. Power is given to Congress, by the Constitution, to raise and support armies and navies, to make regulations for the government of the land and naval forces; power is also given to them to establish superior courts, &c. For what were these powers given? For the establishment of right and the punishment of wrong. How is this object to be accomplished? By correct evidence of facts—and, to procure this evidence, the present bill has become necessary.

It is said that a military court is incidental, growing out of a military institution. Granted. Out of what does the military institution grow? The Constitution. And, if it becomes necessary that we should act on this principle, why are these suspicions of those who compose our Army to be poured forth? If the Constitution has given us power to provide rules and regulations for the government of the Army, it has given us power to institute courts for the trial of offences—to use means commensurate with the object. If we establish military courts, such testimony as becomes necessary to establish facts in cases triable by those courts ought to be procured. Decisions of all courts rest upon the facts brought before them. The grand object of this bill being to do what is necessary, to procure testimony to establish facts before a court martial or court of inquiry, I must say that I am not a little surprised that any gentleman can object to it.

It is said, that this bill will blend the civil and military institutions. The Constitution has authorized us to superintend civil and military affairs; you may as well say that the Constitution has blended them together. If there be any blending of institutions, it is in the Constitution, and cannot be affected by this bill, which goes merely to provide for procuring that mass of evidence necessary for conviction.

Mr. Lloyd said he would state the reasons that would induce him to vote in favor of the motion for striking out the first section, and also his reasons for voting against the bill. That the principles and details of this bill were so abhorrent to his mind, so little according with the political principles which had always actuated his conduct, that he could not reconcile it with his duty to his constituents, or to his own feelings, to give a silent vote. He wished also to be understood, that in any observations he should make, he meant not to impeach the principles or motives of those gentlemen who advocated the bill, nor in anything he might say in regard to courts of inquiry, or courts martial, did he mean to reflect on any officer of our Army.

He said he should consider the nature of the court to whom we were about to give the power by law, of dragging our citizens from their families and their homes, how far the details of this bill accorded with the principles of justice or the spirit of the Constitution, and what necessity did there exist for the increasing of the jurisdiction of military courts to this alarming extent. The reason which has been urged by my colleague (Mr. Montgomery) and on which he declares this bill to be founded, is, that at present a soldier or officer of the United States may be tried and deprived of his life, when deprived of the power of summoning witnesses that may be necessary for his defence. This might be an argument of some weight, if an officer or soldier was amenable only to a military court; but the fact is, that military courts are clearly intended, by the articles of war, for the punishment of offences committed in quarters, garrisons, or on march, or acts most generally committed in the view of the Army, and which are made offences by military law. Those offences, then, sir, being committed before military men, courts martial, or courts of inquiry, have already the power of summoning those witnesses that may be material either to criminate or acquit the accused. But what, sir, is the situation of the officer or soldier who commits an offence against the person or property of a citizen, such as is punishable by the known laws of the land? If the gentleman will turn to the 33d article of war, he will find that they are to be delivered over to a civil magistrate, that he may bring them to trial. Mr. L. then read the following clause:

"When any commissioned officer or soldier shall be accused of a capital crime, or of having used violence, or committed any offence against the persons or property of any citizen of any of the United States, such as is punishable by the known laws of the land, the commanding officer, and officers, &c., are required, upon application, &c., to use their utmost endeavors to deliver over the person or persons so accused, &c., in order to bring them to trial," &c.

In what situation then, I will ask, is it probable that an officer or soldier should commit an offence, on the trial for which he would not have it in his power to summon evidence? If an offence is committed for which he is amenable to a court martial, it results from his situation, and the effects of military discipline, that it must take place in the presence of those who may be summoned by a military court. I mean, sir, his brother officers or soldiers. If, on the other hand, an offence is committed, not known in the articles of war, and for which he is amenable to the civil authorities of your country, a military court has nothing to do with it, and the civil court has already the power of summoning any witness, either military or civil.

This then, sir, being a correct position, I shall contend that there is not the most distant probability that any offence should be committed, when it will be impossible to procure or compel the attendance of evidence, if any evidence should exist, and it must be admitted that if none should exist, no law we can pass can conjure it up, either for the purpose of condemnation or acquittal; and what must give force to this opinion, that no necessity does exist for this law, is, that not a case has occurred in which testimony could not be had before a proper tribunal. I would, sir, then ask if no such case has existed, if your laws heretofore have been effective, why anticipate an improbable evil, for the purpose of applying the remedy of this law, the effects of which, in my opinion, would be mischievous and oppressive?

Sir, I trust the House will not do it. The gentleman from South Carolina has, to be sure, expressed great sympathy for those persons who are subject to military rule. Sir, I feel as much as that gentleman for the sufferings of those who are subject to military and arbitrary power. But we find from the experience of every country that policy has dictated the subordination imposed by the articles of war, and from habit and custom it is now thought necessary and proper. But however pleasing and soothing the gentleman's representation of the situation of the soldier may be to the feelings of humanity, it certainly as an argument can have no bearing on the present question. If you mean to grant privileges to the military, which heretofore have been granted only to citizens, you destroy that subordination and distinction which from experience and necessity has existed between the two orders, and which distinction has been recognised in the Constitution, and, therefore, until it is found necessary from experience to make this regulation, the House will not surely agree to it. The gentleman from South Carolina tells us that trials before military courts are not public. I profess myself to be very little acquainted with the modes of proceeding in these courts, and will, therefore, take the gentleman on his own showing, and ask this House if they will sanction a law by which their fellow-citizens shall be dragged into an inquisition—that, in defiance of those principles which have heretofore actuated the Republican party, in violation of the people's rights, that you will drag them before a court of inquiry, or court martial, as the case may be, there to be shut up and questioned, on the most delicate subjects to themselves, and perhaps irrelevant to the cause, at the caprice and discretion of the commanding officer? Can this be justified? Can this be reconciled to their own feelings or to the people? If it can, gentlemen must differ very widely from me; indeed, viewing it as I do, they never could support it.

The gentleman from South Carolina has also observed, that whenever anything was said in the House with respect to the liberty of the country, standing armies were introduced, and that the House were favored by an eloquent strain of declamation. Is this strange? Sir, the very articles of war which we are about to amend, or rather to make worse, is a strong argument why men subject to them ought not to be depended on in times of peace. Can any man suppose that a soldier, who can be tied up and flogged at the discretion of a petty court martial, can feel that ardor for liberty with one who is living in the unrestrained enjoyment of all its blessings? Can they be expected to step forward in defence of rights they do not enjoy? Can they feel much attachment to the principles of a Constitution, when they are deprived of sacred rights which are extended to others, and which rights would alone attach your citizens to your Government? No, sir, no such zeal can be expected from them. You might as well expect from the slave of an Eastern nabob, that attachment to your Constitution which you find in your own citizens. The gentleman from Tennessee has observed that courts martial or courts of inquiry cannot pervert the truth of evidence. They certainly have a right to determine as they please on evidence; and by whom, I would ask, are these courts appointed? Generally, it may be said, by the officers of high rank, but sometimes by officers of inferior rank, sometimes for one purpose, sometimes for another. But no one will contend, sir, who knows anything of human nature, that inasmuch as men holding commissions and filling high offices in the Government have the appointment of courts martial, that the time may not arrive when those courts may be created for the worst of purposes; that they may be created for the purpose of advancing the views and interest of the person who creates them. Will the gentleman contend that a court appointed in this way, can or will decide properly on the evidence that comes before them? Certainly not, sir; and I would ask to whom are these courts responsible? Responsible only to the person who appoints them. Sir, permit me to say that I consider these military courts as little calculated, from the very nature of their creation, to decide the fate of an American citizen as the inquisition itself. But, sir, another consideration has great weight with me. Before I would compel a citizen to appear as an evidence in any court I must have some pledge that he would be protected, and that the persons composing the court were competent to decide on the rules of evidence, and that he might not be called on to answer questions tending to criminate himself.

I will readily and willingly admit that the persons composing a court martial, or court of inquiry, may possess all the honor and valor characteristic of the soldier, but it does not follow that they are acquainted with our common and statute laws. A man may possess all the qualifications that may entitle him to mount the cockade in his hat; he may be bold, ardent, and adventurous, but not a profound lawyer. In fact, sir, without saying anything to the disparagement of our officers—and which, I assure you, I have no disposition to do—I may say that, from the nature of their education, they are not qualified to compose a court, such as American citizens are accustomed to. I will ask, what may be the result of this law, if passed? A soldier or officer is on his trial at Michilimackinac, and for the purpose of delay, he subpœnas a witness from a distant part of the Union; you must, by the provisions of this law, leave your home and give your attendance, when, in fact, you know nothing relative to the cause. This, sir, is giving a privilege unknown. I believe, in our civil courts, for, when a witness does not attend, you must file an affidavit, or your cause goes on; but this regulation, for aught I know, may vary in the different States.

Let us now examine the provisions of the first section, and see how far it comports with the dignity which ought to be preserved in the Judiciary of our country, and how far it respects the private and delicate communications which frequently take place among your citizens, and with which the public interest and welfare have no connexion.

Let us refer to the bill: "That in every case 'where the attendance of any person, not in the 'military or naval service of the United States, 'shall be necessary as a witness before a military 'or naval court martial, a summons may be issued out of any court of the United States, and 'the clerk of any such court shall be, and he is 'hereby authorized and required, upon due application in writing by the judge advocate, or party officiating as such, or by the party accused, to 'issue such summons, requiring such witness to 'appear, and give evidence before such court martial or court of inquiry, and upon good and sufficient cause shown." What is meant by the words good and sufficient cause shown? I ask the framers of the bill, if they mean, by good and sufficient cause shown, that a military court shall determine when it is necessary; and that a judge of a civil court shall, in compliance with their command, issue a summons? Is this, sir, to be the power given to a court of inquiry by this bill? If it is, you make the civil institutions of your country instruments in the hands of a military court, for you call upon a judge to do a judicial act, without knowing whether it is correct or not. This, sir, is a principle which I never can sanction with my vote. But, perhaps, this is not the intention, but it is intended that the judge shall determine the necessity and propriety of summoning the witness. Then, I will ask, how is it possible that a judge can decide, when the case is not judicially before him? How can the judge of this District, for instance, decide upon the case depending in the court of inquiry, to which he has not attended in the character of a judge? If they have not all the circumstances before them, it is impossible they can decide any question with propriety, in the capacity of a judge. But, sir, it seems that they are to have power, by this law, to compel a witness to produce any paper, document, or record in his possession, power, or control. [Mr. L. then read the following:] "The 'said witness, in such summons, may be further 'directed and required to exhibit in evidence be-'fore such court martial or court of inquiry, any 'paper, document, or record in his possession, 'power, or control." Is there, I will ask, a judge presiding in any civil court in the United States who would suffer a party to examine a witness to this alarming, unjust, and indelicate extent? Was there ever such a thing heard of in a country possessed of civil liberty, that a summons should issue, compelling a citizen to produce every document or paper in their possession or control? It is true, when any paper is decided by a judge, in a court of common law, to be relevant, and important in a case, the party may be compelled to produce it; but to say that every paper and document, even of the most delicate and irrelevant nature, is to be produced; that the communications which have been made in the generous glow of friendship; that letters wich have been intrusted to the care and honor of a friend, involving the secret and private transactions of a man's life, and having no bearing on the cause at issue, are to be indiscriminaiely revealed to a military court, is a measure, sir, that I am sure this House never will sanction. What, sir, will be the consequence of this law if it pass? You prostrate the rules of evidence which have heretofore existed, and in your great zeal to convict the accused, you compel an American citizen, in violation of justice and the principles of liberty, to become his own accuser. It may be said, sir, that a court of inquiry, or court martial, would not suffer a disclosure of facts irrelevant to the cause, to be made. In the first place, sir, I may answer, that they may be, without reflecting on them as men of honor or courage, ignorant of statute and common law, and ignorant of the rules of evidence; and, in the second place, I never would trust to the discretion of any court, much less to a court having as little responsibility to the nation as a military court.

From the proviso, at the end of the second section, it appears that sickness, or some other inevitable impediment, is the only plea that can be made in justification of a default, and if a paper is not produced: "That in case such witness shall 'satisfy the court before whom such proceeding 'against such witness shall be had as aforesaid, 'that the default imputed to him was produced 'by sickness or other inevitable impediment, and 'was not an act of contempt or wilful disobedi-'ence, such witness shall be forthwith discharged 'from any farther proceedings thereupon in said 'court." I will ask this House, if summoned to produce a letter, I could satisfy the judge that it had no relation to the cause depending, ought it not to be, on the principles of justice and common sense, a sufficient cause for withholding it; ought I to be compelled to gratify the whim and caprice of the accuser or the accused, to produce a letter of a delicate and private nature having no bearing on the subject, or to produce one that might criminate myself? Sir, this doctrine cannot be supported. As something has been said, sir, with respect to the court of inquiry now sitting in this city, perhaps it may be said that this law should pass, to enable the court to progress in their inquiry; against this it may be urged, that the offence into which they are inquiring, is not an offence known to the articles of war; but, in my opinion, it would be better that ten thousand offenders, covered with suspicion and guilt, should escape unpunished, than to violate the principles of your Constitution, on the inviolate observance of which depends the liberty and happiness of yourselves and your children. Better would it be that General Wilkinson should remain (what he has proved by his own declaration) the victim of suspicion for thirteen years longer, without establishing his innocence, and let the responsibility for his future good conduct rest with those who hereafter may retain him in office. Sir, as this individual case may be introduced as a reason for the adoption of this law, permit me to digress, and call the attention of the House and the nation to one fact; that in this country, which possesses every institution calculated to protect the property, to defend the liberty, and to preserve from malignity and slander the character of the

citizen; that an individual should be found professing all the punctilious honor and courage of the soldier, who, for thirteen years, has been the victim of suspicion. This is an enigma I will not pretend to unravel, but will leave it to those more skilled in necromancy than myself.

It has been said, sir, that the President of the United States intimated a necessity for this law. He certainly, in his Message, noticed that military courts had not the power of compelling the attendance of witnesses; but I cannot, from this, suppose that he meant to recommend a thing like this, fraught with mischief incalculable. But, for the sake of argument, I will admit that the President has recommended this extraordinary bill, does it follow that this circumstance is to induce me to sacrifice the pledge I have given to my constituents to protect their rights, as far as I am able, or to violate the oath I have taken in the face of this House and in the face of the nation, to support the Constitution of the United States. But this argument of confidence, so often introduced into this House, is one I do not understand or approve. We are responsible to the people for our conduct—so is the Executive. And to say that we must advocate this or that measure, because the Executive recommends it, is, in my opinion, degrading to the dignity of the Representatives of the people. To the new-born political creed of unsuspecting confidence, of implicit obedience to Executive will, I never can, I never will, subscribe. If I cannot retain my popularity by a strict adherence to the principles of the Constitution, by supporting all measures calculated to advance the happiness of the people and the good of my country, and by a decided opposition to all those measures calculated to have a contrary effect, no matter by whom recommended, I am ready and willing to retire into private life, there to lament the political fanaticism of my countrymen. It is, sir, from the people themselves I wish to hold my popularity, and on the ground that, by my political conduct, I show myself attached to their rights and independence. I have trespassed a considerable time on the patience of the Committee, and am conscious of their indulgence.

Mr. Rhea, of Tennessee, rose to explain, that he had not used the expression, that military courts could not pervert testimony.

Mr. Taylor rose to observe that he had, when up before, expressed himself inaccurately; and the gentlemen who had replied to him had taken ample advantage of it. Military courts, he said, took testimony in public, but deliberated on it in private. He had, before, stated that the trial was private, which was an error, proceeding from his considering the practice in this country to be the same as in England.

Friday, March 4.

The House met this morning at the usual hour; but information being given that the Speaker was indisposed, and could not attend, the House, after some discussion, adjourned till to-morrow.

Messrs. Smilie, Blount, Quincy, and Davenport, supported the motion for adjournment, and Messrs. Dawson, M. Clay, Sloan, Campbell and Stanford opposed it and wished to choose a Speaker *pro tem.*

The observations of gentlemen on each side of the motion, were directed almost entirely to precedents. It was generally considered as a mark of respect to the Speaker to adjourn for one day, in order to ascertain whether it might be necessary on the next day to appoint a Speaker *pro tem.* The gentlemen opposed to adjournment wished to appoint a Speaker *pro tem.* in order to proceed with business; but precedents were produced in which the House had adjourned one day or more in like cases.

Saturday, March 5.

At the usual hour on this day the House met; but it being understood that the Speaker was not at present able to attend, and that he would probably attend on Monday, the House immediately adjourned.

Monday, March 7.

Mr. Porter presented a petition of sundry inhabitants of the city of Philadelphia, in the State of Pennsylvania, praying that the petitioners, their heirs and assigns, may have the privilege of renewing the patents granted to them, respectively, as discoverers or improvers of useful arts within the United States, for such farther term as to the wisdom of Congress shall seem meet.—Ordered to lie on the table.

Mr. Boyle, from the Committee on the Public Lands, to whom were referred, on the twenty-ninth of December, and the nineteenth and thirtieth of January last, the several memorials and petitions of the Wyandot nation of Indians, and of the inhabitants of the Territory of Michigan, presented a bill supplemental to "An act regulating the grants of land in the Territory of Michigan;" which was read twice and committed to a Committee of the Whole on Thursday next.

The Speaker laid before the House a letter from the Secretary of War, accompanying his report on the petition of George Hunter, of the city of Philadelphia, referred to him by order of the House, on the second instant; which were read, and referred to the Committee of Ways and Means.

Mr. G. W. Campbell, from the Committee of Ways and Means, presented a bill to amend the act, entitled "An act to regulate and fix the compensation of Clerks, and to authorize the laying out certain public roads, and for other purposes," passed the twenty-first day of April, in the year one thousand eight hundred and six; which was read twice and committed to a Committee of the Whole on Thursday next.

A Message was received from the President of the United States in relation to public ground and other property in the city of New Orleans. The Message was read, and, together with the papers accompanying the same, referred to the Committee on the Public Lands.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was committed, on the fifteenth ultimo, the bill sent from the Senate, entitled "An act for erecting a light-house, and placing buoys at the places therein mentioned," reported several amendments thereto; which were read, and, together with the said bill, committed to a Committee of the Whole House.

Mr. J. Clay, from the committee appointed on the seventeenth of November last, presented a bill for the encouragement of learning, and for the promotion of the useful arts; which was read twice and committed to a Committee of the Whole on Friday next.

On motion of Mr. Clopton,

Resolved, That a committee be appointed to inquire into the expediency of continuing in force, for a farther time, "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction;" and that they have leave to report by bill, or otherwise.

Ordered, That Mr. Clopton, Mr. Van Rensselaer, and Mr. Durell, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington;" and the bill, entitled "An act for procuring an additional number of arms," with amendments, to which they desire the concurrence of this House.

The Senate have passed a bill, entitled "An act to amend the act, entitled 'An act establishing Circuit Courts; and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio;" to which they desire the concurrence of this House.

The Speaker laid before the House a letter from the Secretary of War, transmitting an additional report in relation to the invalid pensioners of the United States; which were read, and, together with the documents accompanying the same, referred to the Committee of Claims.

MILITARY COURTS.

The House resolved itself into a Committee of the Whole on the bill concerning Courts Martial and Courts of Inquiry.

Mr. J. Clay's motion for striking out the first section being yet under consideration—

Mr. Findley said he did not know that argument was necessary to subvert the objections which had been made to the bill. The gentleman from Kentucky (Mr. Rowan) had given the best reason in the world for his objections—that he knew nothing about the subject. Every one hearing his arguments would have discovered that without his telling them. Those officers who compose courts martial, said Mr. F., are selected from their country for their integrity and honor, and are responsible for their conduct. I wish the gentleman from Kentucky, and all who do not know it, to understand that courts martial are always held as publicly as civil courts, but deliberate and make up their opinions in private.

Mr. F. then made some observations in favor of the principle of the bill; he thought the measure which it embraced was necessary for the justification of character and to prevent slander. He said he had been in courts martial; and whenever the judge advocate had summoned citizens, they had attended without compulsion. If persons who were summoned were inclined to do justice, they would still do so; but as a case of refusal had occurred, it was requisite to provide that they should not have it in their power to refuse.

The question on striking out the first section was then taken, and the motion negatived—52 to 36.

Mr. Taylor observed that he had been struck with the force of the observations of the gentleman from Maryland a few days ago, on that part of the law which requires, upon a certain cause shown, the production of every paper, document, &c. The judicial courts did not possess the power of wresting from an individual private papers. The general terms of the laws which authorized the sending for persons, papers, and records, in certain cases, were construed to include merely public papers. He wished to leave these courts precisely in the same situation as courts of law, and therefore moved to insert in the first section the word "public" before the words "paper, document," &c.—Agreed to.

Several amendments having been made not affecting the principle of the bill, the Committee rose and reported it.

The amendments having been agreed to, and the question having been put that the bill be engrossed for a third reading,

Mr. D. R. Williams moved to strike out all the first section, except the amendment which had been made.

The Speaker decided that the motion was not in order.

The question on the bill's passing to a third reading was then taken by yeas and nays, on motion of Mr. Stanford, and decided in the affirmative—yeas 65, nays 43, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, David Bard, John Blake, jun., John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, William Kirkpatrick, Nehemiah Knight, John Lambert, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherell.

Nays—Lemuel J. Alston, Burwell Bassett, William

W. Bibb, Epaphroditus Champion, Martin Chittenden, Joseph Clay, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport jun., Daniel M. Durell, James Elliot, William Ely, Francis Gardner, Edwin Gray, John Harris, William Hoge, Robert Jenkins, James Kelly, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jun., Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, Samuel Smith, Richard Stanford, Lewis B. Sturges, Benjamin Tallmadge, Abram Trigg, Jabez Upham, James I. Van Allen, Archibald Van Horn, David R. Williams, and Marmaduke Williams.

Ordered, That the said bill be read the third time to-morrow.

SALE OF ARMS.

The House took up for consideration the report of the Committee of the Whole on the bill authorizing the sale of certain arms.

Mr. Bibb introduced an amendment to the bill, to except from the requisition of paying money into the Treasury before delivery the States to which the United States may be indebted in a sum equal to the amount of purchase.

This clause was objected to by Mr. Quincy, inasmuch as it would permit the creditor States to realize the debts due from the United States which may be payable ten or twenty years hence; all the States thus coming forward must be equally entitled to receive arms; there not being arms sufficient for all, it would give rise to an exercise of favoritism to particular States.

It was supported by Messrs. Dawson, Bibb, and Nelson, who replied, that if these States choose thus to realize the debts due to them, for which they now receive interest, the United States would have no objection. But the States would not do this, for it was known when funded debt was to be extinguished, that individuals would not subscribe stock; that even if States did come forward and apply for more arms than could be conveniently disposed of, the Secretary of War would give to those States in preference which really had occasion for them.

Mr. Bacon proposed an amendment to the proviso of Mr. Bibb, to limit the debts mentioned in the proviso to debts actually payable to the State applying, at the time of purchase.

This amendment was agreed to; but, a few minutes afterwards,

Mr. Taylor, who had voted in the majority from a misapprehension of the bearing of the amendment, moved a reconsideration of Mr. Bacon's amendment.—Agreed to, 37 to 35.

Mr. Bibb called for a division of Mr. Bacon's motion, taking it first on striking out of the proviso the words intended to be substituted by the amendment.

The question, thus divided, was negatived—51 to 14.

A quorum not having voted, Mr. Ely moved to adjourn.—Negatived, yeas 13.

The question on Mr. Bacon's amendment to the proviso as divided, was negatived—61 to 10.

The question was then taken on Mr. Bibb's proviso, and carried—53 to 26.

[The ground of the various amendments to this bill and discussion upon them is this: The State of Georgia wishes to purchase arms to the number of 10,000 stand, but has not in her Treasury specie wherewith to make payment. There is due to the State of Georgia out of the proceeds of the first sales of the Yazoo lands, in payment of which the money is due, a sum of money. Georgia wishes to receive from the United States those arms, of which she stands in need, as a compensation in advance of part of the first payment which the United States is bound to make to her at a certain time. Georgia is one of the applicants for arms, and the State whose necessity for them is most pressing.]

Those who opposed the object of the bill by motions and observations, were, Messrs. Bacon, Ely, Quincy, and Rhea, of Tennessee.

Those who supported it, were Messrs. Alston, Bibb, Dawson, Nelson, Nicholas, Troup, Taylor, and Van Horn.

The bill, as amended, was ordered to a third reading to-morrow—62 to 14.

Tuesday, March 8.

Another member, to wit: from Virginia John Claiborne, appeared, produced his credentials, was qualified, and took his seat in the House.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected to the officers of the United States' Navy, who fell during the attack made on the city of Tripoli, in the year one thousand eight hundred and four," with an amendment; to which they desire the concurrence of this House; also, the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States:" Whereupon,

Resolved, That this House doth agree to the first, second, third, fourth, fifth, sixth, and eighth, of the said amendments, and doth also agree to the seventh of the said amendments, with amendments.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act procuring an additional number of arms:" Whereupon,

Resolved, That this House doth agree to the said amendment.

The bill sent from the Senate, entitled "An act to amend the act, entitled 'An act establishing

Circuit Courts, and abridging the jurisdiction of the District Courts of the Districts of Kentucky, Tennessee, and Ohio, was read twice, and referred to Messrs. George W. Campbell, John G. Jackson, and Holland.

The House proceeded to consider the amendment of the Senate to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington:" Whereupon, the said bill, together with the amendment of the Senate, was submitted to Messrs. Southard, Bard, Bassett, Barker, and Culpepper.

Mr. Montgomery, from the committee to whom was referred the President's Message on the subject, reported a bill additional to the bills heretofore passed respecting the Ohio road. [This bill appropriates the sum of —— dollars in addition to former appropriations on the subject.] Which was twice read, and referred to a Committee of the Whole.

On motion of Mr. Van Horn, the resolution which he laid on the table a few days ago, for amending the Constitution in relation to contracts, was taken up and referred to a Committee of the Whole on the state of the Union.

On a motion made to resume the consideration of a resolution on the table for printing certain papers relative to the Yazoo claim, the House refused to consider it.

SALE OF ARMS.

An engrossed bill authorizing the sale of public arms was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 86, nays 21, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake junior, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Joseph Clay, George Clinton, jun., John Clopton, Howell Cobb, John Culpepper, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, William Helms, William Hoge, James Holland, David Holmes, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, Nehemiah Knight, John Lambert, Joseph Lewis, junior, Edward Lloyd, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Russell, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, Abram Trigg, George M. Troup, James I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and James Witherell.

Nays—Ezekiel Bacon, Martin Chittenden, Matthew Clay, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, James Fisk, Francis Gardner, John Heister, Nathaniel Macon, Timothy Pitkin, jun., Josiah Quincy, James Sloan, William Stedman, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and David R. Williams.

NAVAL MONUMENT.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States' Navy, who fell during the attack made on the city of Tripoli, in the year one thousand eight hundred and four." [The amendment appropriates $1,000 for railing and covering the same.]

A motion was made by Mr. Nicholas, that the said bill and amendment do lie on the table; and the question being taken thereupon, it passed in the negative. The question was then taken that the House do agree with the Senate in their amendment to the said bill, and passed in the negative—yeas 48, nays 59, as follows:

Yeas—Lemuel J. Alston, Burwell Bassett, Epaphroditus Champion, Martin Chittenden, Howell Cobb, Orchard Cook, John Culpepper, S. W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Jas. Elliot, William Ely, Francis Gardner, John Harris, William Helms, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, Joseph Lewis, jun., Edward St. Loe Livermore, John Love, Matthew Lyon, William Milnor, Jonathan O. Mosely, G. S. Mumford, Roger Nelson, Thos. Newton, W. C. Nicholas, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Russell, Dennis Smelt, John Smith, William Stedman, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, Daniel C. Verplanck, and Marmaduke Williams.

Nays—Willis Alston, jr., Ezekiel Bacon, David Bard, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Richard Cutts, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Hoge, James Holland, David Holmes, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, James I. Van Allen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Richard Winn, and James Witherell.

MILITARY COURTS.

The Speaker having commenced reading the engrossed bill concerning Courts Martial and Courts of Inquiry—

Mr. Bassett said he could not sit still while the bill was reading without mentioning a proposition which he wished to make in relation to it. He believed that there was no position more sound than that wherever a tribunal was instituted, it

should be made as perfect as possible. To effect this, it was necessary that it should be endued with the most extensive power to collect facts. He was, therefore, clearly of opinion, that the power of military courts to obtain testimony should be extended; but there was one principle in this bill to which he could not consent. He meant that part which put it in the power of a court martial to bring our citizens from either extreme of the continent to the other. A view of the continent would show the hardship of it. He would not restrain this power from a belief that our courts martial were so far biassed as to make an ill use of it, but he would not give it, because there was a possibility of their becoming so. He was not prepared to say that the difference between parole and written evidence was so great as to require oral testimony in all cases. He had always thought that civil courts had carried this principle too far, and certainly did not wish to admit it here. As the bill at present stood, a citizen might be called by a military court from the province of Maine to New Orleans. Mr. B. suggested one difference in this respect between courts of law and courts martial. Civil courts were numerous and held at stated places, offenders being tried in the district where the offence was committed, so that a witness might not, in civil cases, have so great a distance to travel; while a military court is held perhaps in a remote corner of the country from the peculiarity of its organization. Mr. B. concluded by moving that the bill be recommitted for the purpose of amending the detail.

Mr. Montgomery stated to the gentleman last up, that the operation of this bill went to provide that, in cases in which the definitive sentence might go to loss of life or to infamy, subpœnas should issue. But where the punishment did not extend to loss of life or infamy, depositions might be taken. He would submit it to the consideration of the House whether a person should be at the risk of life, limb, or reputation, before a court, and not have the benefit of that testimony which would prove his innocence. There was no civil criminal jurisdiction throughout the United States, the Constitution having forbade it, in which the person accused was not confronted with his witnesses; depositions were not allowed to be produced as evidence in such cases. This bill provides that, in cases going to life and infamous punishment, oral testimony shall be had; in other cases depositions may be taken upon application to a judge of the United States by the judge advocate or party accused. My own opinion on this subject is, that, in no case whatever, ought a sentence affecting life to be adjudged, unless the party be confronted by his witnesses; this, too, is the practice in our civil courts under the Constitution. The principle contained in the bill does not vary from the practice of the courts of the United States, or of the several States. Inasmuch as but in few cases can it be necessary to summon witnesses from remote parts of the Union, and as in those cases they ought to attend, I wish the bill not to be recommitted.

Mr. M. Williams wished the bill to be recommitted, and then stated his reasons for so doing—among others, that parole evidence, taken before a court of inquiry, when collected, could not be received by a court martial in cases affecting life or limb. When gentlemen come to examine the principles of the bill, they will be found erroneous. I am certainly of opinion that there ought to be provision by law to give a person accused of a crime a fair opportunity to meet all charges against him; but I cannot see any good grounds why a citizen should be dragged before a court martial, or compelled to come forward when their testimony could not be received. Whenever an officer in the Army is charged with a crime against military law, he is tried by a military court; but whenever he commits an offence of a civil nature, it is tried by a civil court. It is well known that the case which has formed the ground of this bill is triable by a civil court; and suppose a charge is made against an officer for murder, or for bribery, or corruption, is it proper that these, being civil offences, should be tried by a military court? I think the bill very exceptionable; I wish every person accused to have a fair trial, but I would never give power to a military court to drag our citizens from every part of the Union. Another section gives power to compel the production of all public papers. Would you compel a clerk of a court to bring forth all his records? Is there in the United States any court which has that power? In some cases copies of particular records are permitted to be taken; but this bill not only requires the records, but all in the possession of any officer, upon the summons of a military court. Another part says that "the witness shall be tried for non-attendance by the military court, and fined by a civil court." The second section says, "the witness shall not be discharged until he has gone through an examination, and the court think proper to discharge him." Gentlemen have told us that a military court will not pretend to abuse their authority. I would not give an authority to them which they possibly could abuse. A witness might be led to give testimony to convict himself by a court composed of military men, who, though actuated by good motives, may not be acquainted with the correct rules of procedure in such cases. I can never consent to vote for this bill; if it be recommitted, and such a bill reported as might be formed, I might vote for it, as I am willing to make some provision in the case. Such a bill as this, taking power from the civil and vesting it with the military authority, never ought to be adopted in our Government. We should be careful not to legislate for the particular case, but consider the general effects of the bill.

Mr. Fisk was opposed to recommitment. The necessity and justice of confronting persons accused with the witnesses against them had been acknowledged in all free Governments. Depositions were the most fallacious evidence that could be conceived; much more of fact could be gathered from oral testimony, cross-examinations being essentially necessary for obtaining the whole truth. In depositions, when taken, the deponent

may be made to speak a language and convey a meaning which he did not intend, and facts may be concealed, which, when drawn out by question, would totally change the complexion of the evidence. So long, therefore, as we have a disposition to secure the liberty of man, so long certainly should we preserve the testimony by parole. The life of a citizen soldier or officer is as dear to him as it is to a man in civil life. I believe it would be good policy in all Governments to reduce the military law to as close a conformity with the civil as possible. In the same proportion as we do this, I believe we shall lessen the danger to be apprehended from a standing army; because, while they remember the feelings of a citizen freeman, they will respect the citizens' rights. The present bill is a step towards that object; it provides that courts martial or inquiry, whenever life or reputation is involved, shall have a power of summoning witnesses. This law is as well guarded as it was possible to make it; it does not put it in the power of a court martial arbitrarily to call a witness. Gentlemen will recollect that the accused is obliged to apply to a court of civil law, and show probable cause. Now let me ask whether this is not a complete security? The right is not arbitrary, nor the power at the will or discretion of the accused, but it is guarded with discretion. If the power be safe with courts of law in civil cases, why not in military? If gentlemen examine this bill again, they will find that notwithstanding the necessity for this testimony, and the disposition of a court martial, it cannot inflict fines or forfeitures until a court of law have said that the testimony is necessary. The bill therefore makes the military subservient to the civil authority.

It has been suggested as a reason for commitment, that, at present, a citizen can be summoned from one extreme of the country to the other. The bill provides, that in cases affecting life or reputation, as dear as life, (recollect that a soldier is nevertheless a brother citizen,) that a witness shall be liable to be summoned. Much better is it that these inconveniences should be suffered than that an innocent man should fall a sacrifice. When life or reputation are at stake, nothing can be brought in competition with them. The more you lessen the means of procuring testimony, in the same degree the Government grows despotic, and the liberty of the citizen is endangered. In taking depositions, the persons employed for that service may be interested in the destruction of the party accused; they may be taken by ignorant persons so as to be foreign to truth, and sometimes by artful ones, so as to be foreign to the meaning of the deponent, thus causing a sacrifice of life and perversion of all principles of justice. Instead of increasing, we should endeavor to ameliorate the evils attendant on a military life.

We have been told that all offences committed on society are punishable by a civil court. We shall find the case to be different on examining the articles of war, of which I will mention one or two. When the Army is on its march, if any injury be done to citizens, it is made the duty of the commander to see justice done; and, in case he refuses, he is subject to infamous punishments, and these to be inflicted by a court martial, and not by a civil court. We have given courts martial this power, whether properly or not, it is not necessary to inquire. Unless you make a provision of the kind contemplated by this bill, you deprive the accused of the right of obtaining testimony in his favor, which must of necessity, perhaps, be drawn from the civil rank. You have placed the officer in this situation, and ought to give him a chance for a fair trial. A variety of other instances might be mentioned. Speaking disrespectfully of his superior officer is made a crime, and the law is unlimited, does not confine it to the Army, but extends it to all parts of the United States. Here, then, is evidence required from civil life. In case of desertion also: when a soldier overstays the time specified in his furlough, he must be tried; sickness may be plead in excuse. If it be out of his power to procure testimony of this he is tried for his life. A number of instances might be produced where persons, from their peculiar situation, must be under the necessity of procuring evidence from civil life. In the same proportion that we lessen the opportunity of obtaining testimony, we deprive the citizen of his privilege as an American. I wish to see the time when soldiers shall have their privileges secured and rights defined as citizens in civil life. I hope, therefore, that the bill will be permitted to pass. Gentlemen who wish a recommitment seem to think the principles of the bill exceptionable, which I consider as essential and of as much importance as ever were contained in any one bill proposed to the consideration of the House. I have considered our articles of war as the very image of despotism. Death seems to stare us in the face through the whole of them. But they were enacted in the wisdom of the House, and probably my inability to discern the good features they contain, so much distorts them in my eyes; but I wish to secure every privilege that can be permitted.

Since no summons, no attachment, no process can issue or inconvenience can ensue till proper cause be shown, and till the judge has exercised his discretion, I trust and hope that gentlemen will find this sufficient to alleviate their fears for the citizens.

Mr. Livermore said he had no objection to the recommitment of the bill, or to whatever course should be pursued in relation to it. In its present form he thought it the greatest monster ever exhibited before the Legislature, and destructive of the very principles it went to support. If the gentleman last up was right in what he thought should be the spirit of the bill, he was wrong in the construction which he gave to the letter of it. From what he says, observed Mr. L., I collect that he thinks there ought to be a discretion with a judge to issue subpœnas to compel testimony. There is not, however, such a provision in the bill; for although in common parlance the word "may" leaves a discretion, in legal construction it is imperative. The gentleman has an idea that

the bill leaves a discretion with the judge; if it is intended, it should have been so expressed. If it is wished to give a discretion, the bill should be recommitted for the purpose; but even then I should be opposed to it altogether. I would ask gentlemen whether they are willing to give power to a military court to send to any part of the Union, and compel the production of all the records—to send from a court in the province of Maine to the *custos rotulorum* or whatever he may be in Georgia, and compel him to produce all their acts? I do not conceive that the Convention delegated this power to Congress; if however it be derived by a forced construction, there is here no necessity for its exercise, and it would produce a real injury. I should consider it unfortunate that we should legislate with a view to a particular case; it is not my opinion that the Legislature can properly make a law with a view to a particular case, especially when popular opinion on the subject has been much agitated; it is said that this bill has reference to such a particular case, although in fact it is made a general law. I cannot find that it will remedy the evils which exist even in that case. An affidavit of a member of this House has been taken, and sent to the President of the United States, relative to a certain person; now, if I recollect, the charges contained in that affidavit did not arise from the articles of war, nor were they punishable by a military court. For what purpose then are we pursuing this subject at this particular time? The gentleman involved has called upon the Secretary of War to make an inquiry into his military conduct? What may be the result? It may give him an opportunity ostensibly to clear up his conduct. I have no ill will against General Wilkinson; I am wholly unacquainted with him; but as a legislator I must take things as they come before me. I know of no necessity for this thing. If General Wilkinson be accused by the papers transmitted, it is in his power to meet them; if evidence be produced sufficient to invalidate the testimony against him, it will have all its effect.

Mr. L. then took a view of the necessity for this law. The act of Congress of the last session had established certain articles and regulations for the discipline of the Army; he did not agree with gentlemen in their great objection to these, for there could be no body of disciplined troops without similar rules. He had heard of no necessity for this law. If the United States had proceeded from 1776 to this time without it, he conceived it unnecessary to introduce it at this time. In speaking of depositions, he said he could see no material objections to them. The only difference between a deposition taken by a civil officer and oral testimony before a court martial, was, that one was taken down by a civil judge and the other by the judge advocate, and in this form deliberated upon by the court. He was not anxious for the recommitment of the bill, because he was opposed to the principle *in toto*; though he thought some addition to the articles of war of last session, relative to evidence of witnesses in particular cases, might be introduced.

Mr. Marion hoped the bill would be recommitted. He was opposed to the passage of the bill in its present shape, not from enmity to military courts nor to the principle of the bill, but to the extent to which it was carried. I allow, said he, that it is important that the accused should be confronted with his witnesses, but when I recollect that in ninety-nine cases out of an hundred where the citizen is tried for his life, viz. in all prosecutions in State courts, he cannot obtain compulsory process to obtain evidence of a witness without the limits of a State, while this bill gives a court martial power to call a witness from any part of the United States, I must object to it. The inconvenience to result to the citizen from this bill will be much greater than he suffers at present from his liability to be compelled to attend in the Federal courts. The Constitution of the United States provides that all criminal offences shall be tried in the districts where the crimes are committed, and it is probable that persons who can prove the offence reside in the neighborhood. Not so in courts martial or courts of inquiry. Had the inquiry now pending been held in the district where the offence is charged to have been committed, it would have been in the district of Kentucky, where probably witnesses who could testify to the person's innocence or guilt could have been easily obtained. But when the offence is triable by a court martial, the offence may be alleged to have been committed in New Orleans, and the witnesses residing in that district may be compelled to attend the court martial in the district of Maine. Therefore the power given by this bill to courts martial is much greater in that respect than the power of the courts of the United States.

With respect to the powers being confined to those cases which extend to the cashiering or dismission of a commissioned officer, when we consider how indefinitely offences are described in the military code, and how much is left to the discretion of the courts to determine, we cannot say in many cases whether the punishment would be trivial or whether it would extend to loss of life or reputation. A judge when applied to for a summons will look into the articles of war, and if the punishment of the crime amount to cashiering, the witness must attend; a deposition cannot be taken. If an officer murders a citizen he cannot by any process I am acquainted with compel the attendance of a witness residing beyond the precinct of the State in which the crime was committed; while by this law, if he refuses to cut his hair or neglects any other requisite of military law, a citizen may be dragged from the place where the offence is committed, to any place however remote from his residence, where the court martial may be held. When I consent that a court martial in a district shall have the same power of compulsion as a civil court in that district, it is as far as I can go. If the bill be recommitted and amended, thus far I will go.

Mr. Bacon wished the bill to be recommitted, that it might pass with as general a consent as possible. He went into an examination of the principle; he cited the laws of Pennsylvania and

New York giving the State courts martial the most unlimited power to issue compulsory process; similar laws he believed existed in Massachusetts and Maryland; in how many other States in the Union he could not say. He thought upon the whole that there was nothing objectionable in the principle of the bill, but as he thought it needed a little amendment in detail, he was willing it should be recommitted.

Mr. J. Montgomery said that the gentleman who had just sat down had very properly stated that this was a novel subject, presented for the first time in this form, and therefore it was no matter of surprise that the bill had been at first reported defective; it could not have been expected that it should be entirely complete at once. When the bill was first reported, said he, defects were found; it was recommitted and reported in its present form. The gentleman from Massachusetts (Mr. Livermore) has denounced this bill as a monster. We may conceive his idea of a monster by what he considers as perfection itself. He has told us that the rules and articles of war are not deficient, that they are unexceptionable. What are they? They present to the mind the very monster which the gentleman has represented this bill to be. If he examines them he will find, that besides the liability to punishment for all civil offences in common with other citizens, the officer or soldier is liable to loss of life for crimes defined in sixteen articles of the rules and regulations for the Army, and nine in those for the Navy Establishment. There are besides a number of articles affecting reputation, for crimes exclusively confined to military conduct; and yet the gentleman says these are unexceptionable, and has denounced a bill for ameliorating these rules by giving the accused an opportunity of defending themselves. The House will decide on which side the deformity lies.

Mr. M. made some observations defending the details of the bill; but as some gentlemen who were friendly to the principle had taken exception to some of its provisions, holding himself always open to conviction, and not meaning in this case to depart from that principle, he was willing that the bill should be recommitted; and therefore withdrew his opposition to the motion.

The bill was then recommitted to a Committee of the Whole without opposition.

Wednesday, March 9.

Mr. Newton, from the Committee on Commerce and Manufactures, to whom was referred the petition of Samuel Miller, of Wiscasset, in the District of Maine, in the State of Massachusetts, in behalf of himself and others, made the following report:

The petitioners state that they imported from Liverpool, in the ship Golden Rule, 9,464¼ bushels of salt. They also state, that the ship arrived at the quarantine ground, near the harbor of Boston, on the 29th day of June, 1807; on the 2d of July following, she entered the harbor of Boston, and on the next day entry was made of her cargo at the custom-house. The petitioners complain, that the collector compelled them to bond the duties on the salt, at twenty cents per bushel, when the law, at the time the entry was made, authorized the exaction of not more than twelve cents per bushel. The petitioners pray that Congress will interpose their powers, and direct a remission of eight cents per bushel, which has been illegally demanded by the collector.

The committee are of opinion that the case which the petitioner presents comes properly under the cognizance of the judiciary. The bonds given to secure the duties on the salt are not, as yet, due. The petitioners have it in their power to raise a question for legal decision, by making a tender of the sum which they think is legally due, and by withholding the payment of that which appears to them to be illegally demanded. The committee are, therefore, of opinion that the case of the petitioners is not entitled to the interposition of the extraordinary powers of Congress.

The committee recommend the adoption of the following resolution:

Resolved, That the petitioners have leave to withdraw their petition.

The report was adopted.

Mr. Boyle, from the Committee on the Public Lands, to whom was committed on the twenty-ninth ultimo, the bill sent from the Senate, entitled "An act granting William Wells the right of pre-emption," reported several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be read the third time to-morrow.

Mr. Durell, from the committee appointed, on the second ultimo, "to inquire into the manner in which the Representatives' Hall is heated by furnaces beneath the flooring of the same; what probable influence such subjacent fires have upon the health of the members exposed to their exhalations, and how, or by what means the injurious effects of the same may, in future, be avoided," made a report thereon; which was read, and laid on the table.

MILITARY COURTS.

The House went into a Committee of the Whole, 55 to 35, on the bill concerning Courts Martial and Courts of Inquiry.

Mr. J. Montgomery said, that to meet the objections offered by gentlemen to the bill on yesterday, he had prepared amendments which he hoped would remove every objection. He then proposed an amendment restricting the power of a military court to call witnesses to the distance of one hundred miles from the place where it shall be held, thus ingrafting on these courts the principle of civil courts of the United States.—Agreed to without a division.

Mr. Livermore had no objection to give military courts the power to compel testimony if it were so secured as not to be injurious to the citizen. He thought it should never be done but for a specified crime coming within the articles of war. Why compel a citizen to go one hundred miles from his home, if no end was to be answered by it? These charges should be supported by affidavit as cases submitted to a grand jury; when that was the case, witnesses might attend. To meet his

own idea on this subject he moved the following proviso:

Provided always, That no summons shall issue unless some specific charge shall be made in writing, supported by affidavit, of an offence, of which if the accused should be afterwards convicted on trial before a court martial, such person would be liable to punishment, pain, or penalty, by virtue of the act entitled "An act for the establishing rules and articles for the government of the armies of the United States," made and passed the 10th day of April 1806, and of which the trial and punishment is not barred by the 88th article of said act, or of any offence committed in the Navy of the United States cognizable by a court martial."

Mr. BACON objected to this amendment as going totally to exclude courts of inquiry from the operation of the bill. If they were considered as anything he could not see why they should not have the same power to issue compulsory process as courts martial. This amendment was draughted in such a manner as completely and exactly to exclude the court of inquiry now pending, from exercising the general power delegated by the bill; whether this was the gentleman's intention or not, he could not pretend to say.

Mr. LIVERMORE explained his intention to be, that citizens should not attend courts in cases where their evidence could be of no avail, or in cases of crimes which the court could not punish, as in the case of those specified in the 88th article of the rules and regulations for the government of the Army.

Mr. VARNUM presumed his colleague was not aware of the construction which might be given to his amendment; for it would totally exclude all military offences of which a soldier could be charged. The 88th article barred after a term of two years all offences against the United States; and the construction of the amendment which ostensibly went to require specification, would exclude from the court the power of collecting testimony on offences barred by that act, to wit: on all offences established by the articles of war.

Mr. LIVERMORE replied that his intention was merely to specify the offence on which a citizen could be called upon to give testimony before a military court. Mr. L. made some further observations in support of his amendment, remarking that if an officer did not choose to take advantage of the limitation in the 88th article to screen himself from responsibility, he should not conceive himself bound then to afford him the means of defence.

Mr. TAYLOR observed that the 88th article had no relation to courts of inquiry. It was the business of those courts to say whether an offence of any soldier came within the meaning of the articles of war. Courts of inquiry might be held on any matter, and their report would decide whether or not affairs submitted to them were barred by the 88th article, or whether they came within the cognizance of a court martial. With regard to the particular case so often alluded to, Mr. T. did not believe it would be included by this amendment, though he believed it totally unnecessary.

Mr. FISK observed that the House had been often told of the necessity of inquiry into a particular case, in relation to crimes not of modern but of ancient date. In the case of General Wilkinson, that officer had been accused of crimes of thirteen years standing; the House had asked the institution of an inquiry into his conduct; the President informed them that he had already done it; the character of this person hung on this inquiry. Now, in order to show whether these charges were true or false, it had become necessary that persons in civil life should be summoned to give testimony. For the purpose of justice it had become necessary to put it in the power of each party to obtain means of crimination or defence; and now gentlemen came forward and wished to limit the inquiry to transactions of two years standing.

Mr. ROWAN, in some observations in reply to the gentleman last up, observed that General Wilkinson had the means of meeting the charges. Joseph Hamilton Davies, a gentleman in the Western country, second to few in talents and reputation, had long since made these charges, pledged himself to the nation to prove them, and challenged Wilkinson to prosecute him for making them. Was not here a fair object for prosecution, a man of reputation, talents, and fortune? General Wilkinson having it in his power to meet these charges there was no necessity for legislating on this subject in delicacy to him; but if they did pass such a law as this to clothe the military with the rights of civil life, they should do it guardedly. He was certainly opposed to the principle, but if it must pass, he would endeavor to make it as unobjectionable as he could. For this reason he was in favor of the proviso.

Mr. TAYLOR said, if some time ago there had been as little anxiety for the development of the charges against the person whose case had been so often cited as there appeared to be now, this bill would not have found its way into the House. But the national feelings had been excited, said he, and the only question now is, whether we will leave the development of these things to the District Court of Kentucky, or have it made before a court which you command, whose proceedings must be reported to the Executive of the Union, and for the decision given on them, he will be held responsible to the nation. Gentlemen have said that this court of inquiry is a thing which is to be conducted in secret. Do we forget the court of inquiry lately held at Norfolk, the evidence and proceedings before which are among the printed documents in the House? From these, notice the mode of proceeding in a court of inquiry; and even if they be ever so corrupt, still the nation has a fair chance of knowing the whole truth. This mode is not in secret; nor is the citizen or soldier carried into a dark hole to have his testimony contorted or twisted—it is taken down in writing, and then read over to him for correction. Is there any very great possibility that men of the same respectability as those men alluded to as witnesses in this particular case, would suffer their testimony to be so taken as to convey a different meaning from that which they intended? The

nation has a strong call upon us to give to that court of inquiry power to collect all testimony. As I have said before, I have not taken sides in this business: I want the whole truth in a Constitutional way. Whether the offence charged shall have been committed ten years ago or not, when the whole testimony is brought before the Executive, he will possess not only the opinion of the court of inquiry with their statement, but also the written result of the examination of every witness. He will then be held responsible for continuance of this officer in command. For this reason I desire to know the whole truth; and for another reason—because the court of inquiry, although asked for by this House, had been previously instituted at the desire of the individual. If General Wilkinson were that cunning and intriguing character he has been represented to be, he would wish to go before that tribunal which does not possess the power to collect testimony, believing the court of inquiry to be that tribunal. It is to give fair play to both sides of the question that I think this bill ought to pass, and that the provision to defeat its operation should be rejected.

Mr. SMILIE said, since it had been thought proper to glance at a certain transaction, he would make a few observations on it. It is well known to the House, said he, how earnest a set of gentlemen were to have this inquiry instituted. It did not originate with us. We objected to it, because we believed the method taken was not correct. The subject was, however, pressed upon the House by those who now express their dissatisfaction at this bill, and upon reference to the Journals we shall find that the following resolution was adopted:

"*Resolved*, That the President of the United States be requested to cause an inquiry to be instituted into the conduct of Brigadier General James Wilkinson, Commander-in-Chief of the Armies of the United States, in relation to his having, at any time, while in the service of the United States, corruptly received money from the Government of Spain, or its agents."

This resolution was adopted, and transmitted to the President of the United States. I thought it incorrect, and voted against it; at the same time, I declared, that I wished that a fair investigation might take place into the transaction; I saw that it was necessary for the community and for the person implicated. The President takes up the subject as recommended, institutes a court of inquiry, and afterwards informs the House that the laws are not sufficient to compel the attendance of witnesses, so as to have the case examined. This is the whole state of the case. What is then the duty of the House? If there is to be a trial, will any gentlemen say that justice first to the community, next to the individual charged, does not require that process shall issue to bring before the court the necessary testimony? This is the object of the bill. We have heard on this floor the character of this gentleman represented in the worst point of view, one story after another, of what has been said by this or that man. Have we not gone so far as to permit a witness to be examined? We have done it. Shall we recede? After hearing accusations, shall we refuse this man the necessary means of defending himself? Shall we on the other hand withhold from the community the means necessary to ascertain whether this man be guilty or not? If we reject this bill, we declare that we will. Observe that I do not say that the bill may not undergo amendment; but that the bill ought to pass I do say. I have been surprised on this occasion to hear suppositions expressed that this bill would infringe the liberty of the citizen. Why, sir, if we look into the Constitution, and reason from analogy, comparing the situation of the citizen in the civil and military capacity, we shall see that this bill ought to pass. What was the object of the framers of the Constitution? They have never mentioned the rights of a witness. The rights of a citizen accused of a crime have been sacredly guarded, while the witness has not been thought of. From the arguments we have lately heard it would appear that the rights of the witness are more sacred than those of the accused. I confess, I would never subject the witness to more inconvenience than is necessary, for the purposes of justice; but, if we mean to do justice, whether in civil or criminal cases, witnesses must be subject to inconvenience. Justice demands it, and the Constitution has sanctioned it. In speaking of civil cases, the Constitution says:

ART. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Now, if the rights of the citizen are thus guarded in civil cases, does not the reason of the thing show the necessity that our citizen soldiers should have the same right, as far as the nature of our military institutions will admit? Surely no man can deny this; and it is astonishing to me that the inconvenience of the witness should be set up against justice to the accused.

I beg gentlemen to reflect upon this subject in one view—its great importance. It does not merely affect a particular officer; every man in the United States from eighteen to forty-five, may be subject to it, because the militia when in service are subjected to military law. This makes the matter very important. This being the case, will you not grant compulsory process to compel witnesses to attend, in order to do justice to the community, and to protect the innocent? This is all that is intended by the bill, and I am surprised to see an opposition to it. If gentlemen mean to say that all our citizens shall be liable to be tried without the privilege of calling witnesses in their defence, let them come forward and tell us so.

Mr. LIVERMORE said, indeed he had no idea of trying any man without giving him an opportunity to exculpate himself; but every step they took showed him the impropriety of thus legis-

lating on a particular case. Gentlemen have really mistaken this business, said he; I applaud their zeal, humanity, and love of justice and affection for those who are innocent; it is all very laudable and praiseworthy; but I beg gentlemen to attend to the main object, and not let their zeal, love, affection, or any particular cause, operate upon their judgment, but lay aside all bias. In discussing this question, gentlemen have turned their eyes to a particular case—a court of inquiry which has been called relative to conduct coming within the cognizance of the articles of war; they then, however, lose sight of my idea of the purpose for which the court of inquiry has been convened. What is this court to inquire? Most certainly into the conduct of this person as a military officer? The charges brought against General Wilkinson do not go to his conduct as a military officer, but as a citizen—he is not charged with an offence which I can find specified in the articles of war. Now the gentleman from Pennsylvania has exceedingly mistaken the idea of the majority on this resolution if he supposes they wished General Wilkinson to be arraigned before a court martial. A court martial has nothing to do with the subject; it was not a transaction to be inquired into in a military point of view. Now let me change the name of James Wilkinson, for that of James Monroe—and here I must beg pardon of the latter gentleman for using his name, for I cannot conceive a possibility of his being placed in this situation, believing him a man of unblemished character. Suppose it were James Monroe, I repeat, and, for the sake of argument, that he had received money of a foreign Power—would gentlemen say that a military tribunal was the proper authority to inquire into that transaction? Certainly not; neither is it in the case so often alluded to. Military men might be as proper for the purpose as any others, for aught I know, but the idea of a military court to try such an offence, is an absurdity which no gentleman can for a moment admit. The difficulty is this; a military officer of high rank is accused of having done an improper thing, not mentioned in the articles of war. Shall it not be inquired into? Certainly. How shall the inquiry be made? The President in this will use his own discretion as to the mode of ascertaining facts. But, say gentlemen, Shall the accused not have an opportunity to exculpate himself? Certainly. What is this opportunity? The same as would be given to James Monroe in the case stated, or any to other citizen. In making a law, therefore, to regulate courts martial, I consider it an absurdity to have an eye to a particular case.

I think it improper here to speak of General Wilkinson; I feel no animosity towards him, but a charge has been brought against him which if true renders him unfit in my opinion to command the Army of the United States. I am willing that he shall have every opportunity of exculpation which a citizen of the United States could have. An officer who has been heretofore accused has written a book in his defence; General Wilkinson or any other officer may adopt this mode. James Monroe might as well be arraigned before a military tribunal for the commission of such an offence as General Wilkinson; for the offence is not designated or comprised within the articles of war. But it is an improper thing, which ought to be inquired into in some way. Suppose a charge were brought against General Wilkinson that, whilst in the command of the Army, he had been guilty of a violation of the law of his country; for instance, of violently arresting citizens and sending them from New Orleans. How would this be tried? Certainly not by a court martial, but by a jury sworn to try whether General Wilkinson were guilty or not. This is a possible case. If he were accused of murder, being also a civil crime, he would certainly be tried for it before a civil tribunal. Such a law as this cannot certainly be passed with an eye to such cases as these. Surely if gentlemen would confine their view to the amendment under consideration, they would certainly be at a loss to find an argument against it. If our citizens are to be harassed and sent to a military court, let it be for something beneficial, and not on jack-o'-lantern adventures, to inquire whether a man has acted in a gentlemanly manner or like "a man of honor," but let a substantial charge be specified. This is all I contend for.

A gentleman has said that charges under military law cannot be specified, because the crimes are not defined. If the articles of war are even subject to this aspersion they are not a ground for this act. But suppose it were alleged against a man that he had been guilty of unsoldierlike or unmilitary conduct, and this were considered good ground for coercing testimony; could not the charge be specified that on a certain day in a certain year he was guilty of unmilitary conduct, &c.? It would be so far a specific charge that under this amendment witnesses could be summoned to support them. This is but reasonable. Those who oppose this bill should not suffer themselves to be wrought upon by an insinuation that in so doing they would oppress the citizen.

I say that it is necessary, in some cases, that courts martial should have the power to procure witnesses. But witnesses may be put to hardships; their examination may be public or private, according to the discretion of a court martial. They know not what may be produced against them; no opportunity is given them to support their character. But, still, I do not contend against the principle that, under certain situations, it may be necessary to have compulsory process to bring forward witnesses. I wish to guard it as much as possible.

Mr. Lloyd said, as the gentleman from Pennsylvania (Mr. Smilie) had made a charge of inconsistency against those who voted for the inquiry into the conduct of General Wilkinson, inasmuch as they were opposing the bill on the table, with a view to exclude testimony, he would make a few observations in reply to him. The gentleman, said Mr. L., must excuse me if I correct him in an error which he has fallen into in point of fact; and if I say that the court of inquiry, now pending, was not convened in consequence of any resolution which passed this House. This is a fact which the gentleman will not deny; for, before the resolution passed this House, a court of inquiry had been instituted. We passed a resolution requesting the President to make an inquiry. The inquiry by a military court had commenced, and the court was in session when the resolution was passed. If this court of inquiry does not possess the power to prosecute the object, it is not a fault to be imputed to those who requested the President to institute an inquiry. But admit, for the sake of argument, that the inquiry took place in consequence of our resolution, and that it is now necessary to give further power to courts of inquiry to take testimony, will gentlemen contend that the law now on the table will have that effect? Let me call your attention to an amendment which has taken place this day, and ask whether it is possible that the amendment could have the desired effect. You have said that no evidence shall be summoned who resides at a greater distance than one hundred miles from the place where the court is held. Admit that power ought to be given to the court of inquiry now pending to carry the inquiry fully into effect, the object will not be answered by the passage of this law; because, in all probability, all the important witnesses in this transaction live at a greater distance than one hundred miles from this place. The law, then, will not have the effect desired by its advocates. As to the power of taking depositions, it is one already given in all cases where punishment does not extend to loss of life or reputation, by the seventy-fourth article in the Regulations for the Army. Why is it necessary to give the power here, if it be already given in the Articles of War? I will ask if the offence with which General Wilkinson is charged is one for which he is amenable to a court martial or court of inquiry? If so, any power here given can have no effect. He is charged with an offence which, if a military court have cognizance, (which I believe they have not; for, if a court of inquiry find him guilty to-morrow, he cannot be tried for it,) a deposition can have no bearing, as it will not apply in a case affecting life or reputation. If the bill be intended to give power to the court now sitting in this city, it falls far short of its intent, and cannot have effect; and gentlemen will be convinced, the more they investigate the subject, that it is impossible to give power without infringing the rights of the citizen, and encroaching on the civil institutions of the country.

The gentleman from Pennsylvania has read us an article from the Constitution, and, in so doing, was a little more prudent than when he read the same article once before. I recollect, when the resolution requesting an inquiry into the conduct of General Wilkinson was before the House, some time ago, the gentleman from Pennsylvania was so unfortunate as to stumble on another article: "No person shall be held to answer for a capital 'or otherwise infamous crime, unless on a pre-'sentment or indictment of a grand jury, except 'in cases arising in the land or naval forces, or in 'the militia when in actual service," &c. Here it will be found that in the Constitution itself, to which we look as the safeguard of our rights and privileges, this very provision is not to be extended to persons in the military or naval service. If therefore there be any inconsistency, it grows out of the Constitution itself. It has been thought wise and proper—experience, custom, and habit have induced us, who so often show our zeal for the rights of the citizen—to believe that the liberty which is allowed to the citizen, cannot be extended to cases in the military service. This principle is recognised in the Constitution, and we have acted under it.

The gentleman says, nothing is said in the Constitution with respect to the witness. True, the word *witness* is not used; but let us examine the rights of the citizen as guarded by the Constitution, and look at the first clause as it stood before it was amended, and see how far it comports with the letter and spirit of the Constitution, which says, that "The right of the people to be secure 'in their persons, houses, papers, and effects, against 'unreasonable searches and seizures, shall not be 'violated; and no warrants shall issue, but upon 'probable cause, supported by oath or affirmation, 'and particularly describing the place to be search-'ed, and the persons or things to be seized." The bill, as it was, required that every paper, document, or record, in the power or control of any person, should be produced, at the requisition of a military court. If this, then, did not violate the spirit of this clause of the Constitution, I can put no construction upon it.

I should not have said anything on this subject, but to rebut the impression that we who voted for the resolution for inquiry are unwilling to give the power necessary to carry the inquiry into effect. I profess myself to be perfectly impartial on this subject—I feel no favor to the accused or the accuser. I wish no one guilty of any offence to remain unpunished; but I respect the rights of the people too much to pass a law to drag them before a military court unnecessarily.

Mr. Bacon read a section which he should move if the present proviso should be negatived, allowing depositions to be read in certain cases.

While up, he said he would again express his surprise at the amendment, and at the operation which it would have. It is certainly this, said he: by passing it, we say, that if a person on trial for an offence will not take advantage of the statute of limitation, (the 88th article)—if he will not take advantage of what is generally esteemed a dishonorable exception—we will afford him no remedy whatever. This will be its unquestionable operation. Gentlemen say, as we have permitted this limitation, it ought to have effect; and that if it is wrong, we should have thought of it before. Sir, was there any limitation in the case spoken of this day? The resolution of inquiry says, "Relative to his having at any time, whilst in the service of the United States, corruptly received money," &c. Suppose it had been objected, at the time this was under consideration, that General Wilkinson was not guilty, (for the offence was barred

by the Articles of War,) would gentlemen have allowed this to have been a sufficient reason against an inquiry? But when we have gone over this *bar*, and instituted this inquiry; "after"—to use the words of the gentleman from Kentucky, (Mr. Rowan)—"the nation has moved"—and I find, sir, that he has moved with it—shall we say that this individual shall be driven to a dishonorable defence, or he shall have none at all?

The gentleman from Massachusetts (Mr. Livermore) thinks it improper to afford any opportunity to compel testimony on *jack o'lantern* charges. We know the case to which he alludes; and will he call that a *jack-o'lantern* charge which the House danced after for a fortnight or three weeks? It does appear to me that we ought not to adopt the amendment, and I hope we shall not.

Mr. Livermore thought gentlemen were much mistaken in taking General Wilkinson's case into consideration on this question. It is true, said he, that this affair was before the House some time, and true that it was inquired into. Everything I aver is this: that a military court was not the authority which I expected would have inquired into the transaction, because the offence charged was not of a nature cognizable by a court martial. So that to make a law in allusion to this case is perfectly improper. General Wilkinson, until he disproves the assertions by plain proof—make what noise you will in this House—will not be cleared, before the people, of the charge against him. All exertions here can be of no benefit to him.

Mr. Nicholas was as little disposed as the gentleman from Massachusetts to legislate for any individual, but would not be deterred from his duty by any insinuations of that sort. The gentleman from Massachusetts should recollect, said he, that his proviso, exactly fitting the case brought into question, subjects him as much to the imputation of having that particular case in view as any gentleman who supports the bill. If General Wilkinson had never existed—if a case had never occurred—I would have voted for the bill on the table. And here permit me to say, that I never was more surprised than when I ascertained that there was no provision in the laws on the subject by which the Government or a person charged with military offence could avail himself of the testimony of the citizen. Upon every principle, it appears to me that there ought to be such a provision; it is necessary for the security of the Government, and essential to the protection of the citizen. I will not again go over the observations which have been made on this subject, but I will mention one objection to the proviso which I have not heard urged. If the proviso pass, the public interest will be taken care of—but how? Is the individual meant to be sacrificed—to be made a victim? No summons under that proviso shall issue, unless a charge be made in writing, and upon affidavit. This is in the power of the Government alone. Government, without making a charge or affidavit, may prosecute a person in military service, but by no act of his can he have the charge reduced to writing or supported by affidavit; and therefore he cannot procure evidence in his favor from the civil ranks, though the Government may, if they think fit, procure it against him. Government may conduct him before a military court, where, although he could establish his innocence by civil testimony, it is not in his power to do it, because he cannot compel the production of a written charge, supported by affidavit.

Mr. Livermore's amendment was negatived—yeas 22.

Mr. Bacon proposed a new section providing that depositions should be taken in all cases where the witnesses reside at a greater distance than 100 miles.

Mr. Durell opposed the amendment, observing that every amendment rendered the bill more iniquitous, without insuring its object. He declared the whole bill to be so heterodox, preposterous, and variant, that he could make nothing of it.

Mr. Bacon said it was intended to secure the liberties of the citizen, and to meet the suggestions of the gentlemen opposed to the bill.

The amendment was agreed to without a division.

The Committee then rose, and reported the bill with amendments.

Mr. Livermore renewed the motion which he had made in Committee of the Whole.

Mr. Taylor having called for the yeas and nays on it, it was negatived by yeas and nays—89 to 22, as follows:

Yeas—John Culpepper, Daniel M. Durell, James Elliot, William Ely, Francis Gardner, John Harris, William Hoge, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward St. Loe Livermore, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., John Rowan, John Russell, William Stedman, Benjamin Tallmadge, Abram Trigg, Jabez Upham, and Killian K. Van Rensselaer—22.

Nays—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Martin Chittenden, Joseph Clay, Matthew Clay, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, David Holmes, Benjamin Howard, Reuben Humphrey, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton Robert Whitehill, Isaac Wilbour, David R. Williams Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell—89.

Mr. Durell moved that the bill lie on the table.—Negatived.

The bill was then ordered to a third reading—yeas 67.

To-morrow being mentioned as the day on which it should be read the third time—

Mr. D. R. Williams hoped Friday would be the day on which it should be read, that time might be allowed for printing it. It had been avowed, by the characteristic honesty of the gentleman from Pennsylvania, that this bill was calculated for the particular case of General Wilkinson.

Mr. Smilie interrupted the gentleman to observe that he had not said that General Wilkinson was the principal object; he had said that case had given rise to the bill. It was a bill of a general nature, but would comprehend the particular case which had given rise to it.

Mr. D. R. Williams said he would not suppose otherwise than that he had misunderstood the gentleman. Be the object what it might, he hoped a little time would be afforded to those opposed to the bill to digest their thoughts on it.

It was accordingly made the order of the day for Friday next.

REVOLUTIONARY PENSIONERS.

Mr. Nelson said, by looking over the acts of Congress, it would be found that an act was passed on the 10th of April, 1806, to provide for persons disabled by known wounds during the Revolutionary war. One of the sections of that act requires that every claimant should give satisfactory reason why he did not apply for the provision before, and also that he should make affidavit that he had not received a pension from any State. In his opinion, this provision operated very unjustly and harshly upon many. A number of persons who had fought the battles of the nation were now in a state of dependence and want; and although some of them received a small pittance as a gratuity from the States, he thought they should not thereby be prevented from coming forward and receiving justice from the United States. He thought the law should be amended, and for that reason proposed the following:

Resolved, That a committee be appointed to inquire into the propriety of repealing so much of the second section of the above act as requires that the claimant shall make affidavit that he is not on the pension list of any State; and that they have leave to report by bill or otherwise.

Mr. Randolph rose to second the motion of the gentleman from Maryland. It was in the recollection of that gentleman, and of many others, what extreme disgust—he hoped to be pardoned for the harshness of the expression—the provision which the gentleman now wished to strike out from the statute book, to which it was a disgrace, had given when that law passed, and what strong endeavors had been made by several gentlemen, and particularly by a respectable member from the State of North Carolina, to have it amended. He was happy to find the subject now proposed for their consideration.

The resolution was agreed to without a division, and Messrs. Nelson, Randolph, and Livermore, appointed a committee accordingly.

Mr. Dawson moved for the order of the day on the bill authorizing the President to raise an additional number of troops.

Before the question could be taken on considering this subject, on motion of Mr. Gardner, the House adjourned—yeas 67.

Thursday, March 10.

The bill from the Senate, entitled "An act granting William Wells the right of pre-emption," together with the amendments agreed to yesterday, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for raising an additional military force;" also, a bill, entitled "An act for the relief of Philip Turner;" to which bills, respectively, they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act for raising an additional military force," was read twice and committed to the committee appointed, on the twenty-ninth of October last, on so much of the Message from the President of the United States as relates to the Military and Naval Establishments.

The bill sent from the Senate, entitled "An act for the relief of Philip Turner," was read twice and committed to a Committee of the Whole to-morrow.

The Speaker laid before the House a letter from the Secretary of War, accompanied with a supplementary report and documents in relation to invalid pensioners of the United States; which were read, and referred to the Committee of Claims.

Mr. G. W. Campbell, from the Committee of Ways and Means, presented a bill for the relief of George Hunter; which was read twice, and, with sundry accompanying documents, committed to a Committee of the Whole to-morrow.

On motion of Mr. Joseph Clay,

Resolved, That the committee to whom was referred a resolution to inquire into the expediency of repealing a part of the second section of the act to provide for persons who were disabled by known wounds received in the Revolutionary war, passed the tenth day of April, one thousand eight hundred and six, be directed to inquire into the propriety of amending the several laws respecting military pensions; and that they be authorized to report by bill, or otherwise.

The House went into a Committee of the Whole on the bill to extend the time for issuing and locating military land warrants. The bill having been gone through and reported to the House, was ordered to a third reading to-morrow.

The House went into a Committee of the Whole on the bill authorizing the sale of lands of the United States and for other purposes; which hav-

ing been gone through, was reported to the House, and ordered to a third reading to-morrow.

On motion of Mr. RHEA, of Tennessee, the petitions on the subject of the Post Office and Post Roads presented since the general bill on this subject was reported, were referred to a select committee of seventeen.

The House went into Committee of the Whole on the bill for erecting certain light-houses and buoys. The bill having been gone through, and variously amended, was ordered to a third reading to-morrow.

CAPTAIN PIKE.

Mr. JOHN MONTGOMERY, from the committee appointed on the twenty-second ultimo, presented a bill making compensation to Captain Zebulon M. Pike, and his companions; which was read twice and committed to a Committee of the Whole on Wednesday next.—The bill was accompanied by the following report:

That they examined Colonel John Ballenger, who stated that, in a conversation which passed between his brother Joseph and himself, the said Joseph informed him that he was in company with Captain Pike in his last exploring tour; that, having left Captain Pike somewhere on the head waters of the Arkansas, he returned to Louisiana; that very shortly after his return, he went into the Spanish provinces; that, during all this time, he was employed in furtherance of a Spanish project, but did not intimate that Captain Pike had any knowledge, or was at all privy to the said project, or to *his* being engaged therein, and spoke in high terms of Captain Pike. The nature of the project in which the said Joseph was employed, or by whom he was employed, is foreign, as your committee believe, from the subject consigned to them, and, of course, its detail is omitted in this report. Your committee further report: That in what manner these exploring expeditions were undertaken at the instance of the War Department, and the conduct of Captain Pike approved by the President of the United States, and the information which was obtained and communicated to the Executive, and to what extent, and how far the same has been considered highly interesting in a political, geographical, and historical view, appear by a letter from the Secretary of War, accompanying this report; and that nothing has appeared before the committee derogatory to the merits of Captain Pike, as detailed in the above-mentioned letter from the Secretary of War.

WAR DEPARTMENT, *Feb.* 24, 1808.

SIR: In answer to your letter of the 22d instant, I can with pleasure observe that, although the two exploring expeditions you have performed were not previously ordered by the President of the United States, there were frequent communications on the subject of each between General Wilkinson and this Department, of which the President of the United States was, from time to time, acquainted, and it will be no more than what justice requires to say, that your conduct in each of those expeditions met the approbation of the President, and that the information you obtained and communicated to the Executive, in relation to the source of the Mississippi, and the natives in that quarter, and the country generally, as well on the Upper Mississippi as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source, and the country adjacent, has been considered highly interesting in a political, geographical and historical view, and you may rest assured that your services are held in high estimation by the President of the United States; and if any opinion of my own can afford you any satisfaction, I very frankly declare that I consider the public much indebted to you for the enterprising, persevering, and judicious manner in which you have performed them.

I am, very respectfully, sir, your obedient servant,
H. DEARBORN.

Captain ZEBULON M. PIKE.

TRAIN OF ARTILLERY.

The House went in Committee of the Whole on the bill for procuring a train of artillery for the United States.

The statement of the Secretary of War, and Mr. Foxall's letter on the subject having been read,

Mr. DAWSON said, by the statement from the Secretary of War, it would be found that the United States are now possessed of about one thousand seven hundred cannon. I am happy also to state, said he, that, by the returns since made to the Department of War, the number is found to be about one thousand nine hundred. I will also state that the United States are possessed at this time of means of every kind, arms, cannon, powder, &c., for carrying on three years close war. The bill on the table authorizes the purchase of more cannon. This, I am told, it is impossible to do at this time; they are not to be bought, and if bought, are not as good as of the manufacture of the United States. By the latter, I mean iron cannon, of not more than one-half the weight of ordinary cannon; a 6lb. cannon generally weighs 1,200 lbs.; those made here generally 600 lbs., the same weight as a brass cannon. One brass cannon costs, perhaps, five times as much as an iron cannon of the same weight, which may be equal or superior to it for service. After giving this information, I will move to amend the bill, so as to establish a national foundry, for the purpose of manufacturing cannon for the use of the United States.

Mr. STANFORD was totally against this principle, and, to supersede the motion of the gentleman from Virginia, moved to strike out the first section.

The CHAIRMAN observed, that the bill contained but one section; of course the bill could not be amended by striking out the first section.

Mr. QUINCY said he would make but one observation, and that was on the incorrectness of this proceeding: a resolution for establishing a national foundry had been referred to another committee. This bill was for procuring field artillery; the object to be accomplished by the amendment made, was to convert the bill into a bill for establishing a national foundry; thus, in fact, to defeat the present object.

Mr. STANFORD moved that the Committee rise and report progress, that the subject might come regularly before them.—Negatived.

Mr. DAWSON observed, that this bill went to procure artillery by purchase; the only question proposed by the amendment was, whether they would procure artillery by purchase or manufacture it themselves. His opinion was, that it should be of the manufacture of his own country.

Mr. RHEA, of Tennessee, moved that the Committee rise, that this bill, and the resolution on the subject of a national foundry, should be referred to the gentleman from Virginia and his committee, to report a bill for erecting a national foundry.

The question being taken on this motion, there were for it 48, against it 48. The Chairman decided in the negative.

Mr. TAYLOR objected to the blending these two subjects together. He saw a wide distinction betwixt procuring a formidable train of field artillery and erecting a national foundry. He wished first to procure a train of artillery, and then to take up the subject of a national foundry distinct from the other. He was unwilling to defeat this bill, by inserting a provision which might, perhaps, enable them to manufacture in sufficient quantity some years hence.

Mr. LYON supported the amendment, as he conceived that the nation should possess, within itself, the means of manufacturing cannon.

Mr. D. R. WILLIAMS could not bring himself immediately to vote for a national foundry in the City of Washington, the more especially as he thought that cannon sufficient could even now be procured of the manufacture of the United States. He knew an individual company owning two different foundries, who alone could supply the United States with cannon. He appealed to the gentleman from Rhode Island to bear testimony to the fact, that there was a foundry there unemployed for want of business, and the owners of which would be glad to contract to furnish cannon.

Mr. DAWSON, in reply to the gentleman last up, said he had not spoken of the City of Washington as the place for the foundry; this he should wish to leave with the discretion of the Executive. The sum of money proposed to be appropriated for the purpose of erecting a foundry was small, and the advantages resulting from it would be great.

Mr. DAWSON's motion for amendment was negatived by a large majority.

The CHAIRMAN inquired, if the blank in the bill was to be filled.

Mr. DAWSON said, as the bill now stood he was opposed to it himself; nor had he thought of the sum with which it would be necessary to fill the blank in such case. To try the sense of the Committee once more, he moved to insert after purchase, "or cause to be manufactured."

Mr. BACON opposed this motion, as being substantially the same as that which had been negatived a few minutes ago, as this expression, by a forced construction, would warrant the erecting of the national foundry. He cited an instance in support of this, that, under the late Administration, a law having passed for building a few ships of war, the Executive had thought itself authorized to establish navy yards, and, in consequence, had done so.

The amendment was negatived by a large majority.

On motion of Mr. D. R. WILLIAMS, the Committee rose, and reported progress—ayes 71; and obtained leave to sit again—ayes 52, noes 34.

THE MILITIA.

The House went into a Committee of the Whole, on the bill authorizing a detachment of the militia.

The blank in the bill for the sum to be appropriated for the immediate expense of the militia, if called out, was filled with one million of dollars.

Mr. KELLY observed, that the bill authorized the retaining each class of the militia in service for six months. He had always been of opinion that this term was much too long; he thought four months as long a term as each detachment ought to be kept in service. He therefore moved to strike out "four," and insert "six."

Messrs. TALLMADGE, GARDNER, and WITHERELL, contended against the amendment, that the authority given to the President by the bill, was to call them into service for a term *not exceeding* six months; that it was well known that, during the Revolutionary war, the Army was continually confused, disorganized, and sometimes defeated, in consequence of the term of service of a part of the troops expiring on the eve of an engagement; and that six months was as short a time as it was politic to fix for their continuance under arms, if it should be necessary that the militia should be employed.

Mr. KELLY's amendment was negatived by a large majority.

The Committee rose and reported the bill, which was ordered to a third reading to-morrow, *nem. con.*

LOAN OF ARMS TO OHIO.

The House resolved itself into a Committee of the Whole, on the resolutions authorizing the President of the United States to loan a certain number of arms and artillery to the State of Ohio.

The resolutions are as follows:

Resolved, That the President of the United States be authorized to loan to the State of Ohio, for the term of seven years, seven thousand stand of arms, for the purpose of arming, in part, the militia of the said State, under such restrictions and regulations, as to safe-keeping and re-delivery, as the President may prescribe.

Resolved, That the President of the United States be authorized to loan to the State of Ohio, for the term of seven years, twenty pieces of field artillery, with carriages complete, for the use of the artillery companies of militia in the said State, under such regulations and restrictions, as to safe-keeping and re-delivery, as the President may prescribe.

The question having been put on the first resolution for loaning arms—

Mr. MORROW stated to the Committee that this resolution had been introduced in consequence of instructions from the Legislature of the State of Ohio. He represented the situation of that State

bordered on its frontier by the colony of a foreign Power and by the savages, with both of whom they would undoubtedly have to contend in case of a rupture. The number of arms in the State was probably very small, and the State was totally unable to purchase more. The Legislature had designed, in case of obtaining the arms, to deposite them at stated places on the frontier, so that the militia could make use of them in case of assault.

The first resolution was agreed to—ayes 65.

The second (artillery) was negatived.

The Committee rose and reported the first, which was referred to a select committee to bring in a bill.

FRIDAY, March 11.

Mr. LEWIS, from the committee appointed on the twelfth ultimo, presented a bill for the relief of Richard Bland Lee; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. SOUTHARD, from the committee to whom were referred, on the eighth instant, the amendments proposed by the Senate to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," made a report thereon; which was read, and, together with the said bill and amendments, committed to a Committee of the Whole to-morrow.

Mr. CLOPTON, from the committee appointed on the seventh instant, presented a bill to continue in force, for a farther time, an act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction;" which was read twice and committed to a Committee of the Whole on Monday next.

Mr. DAWSON, from the committee appointed on so much of the Message from the President of the United States, of the twenty-seventh of October last, as relates to the Military and Naval Establishments, to whom was yesterday committed the bill sent from the Senate, entitled "An act authorizing the raising an additional military force," reported an amendment thereto; which was read, and, together with the said bill, ordered to lie on the table.

An engrossed bill authorizing a detachment from the militia of the United States was read the third time, and passed.

An engrossed bill extending the time for issuing and locating military land warrants was read the third time, and passed.

The bill sent from the Senate, entitled "An act for erecting a light-house, and placing buoys at the places therein mentioned," together with the amendments agreed to yesterday, was read the third time, and passed.

Resolved, That the title be, "An act for erecting a light-house on the south point of the Island of Sapelo, and for placing buoys and beacons in the shoals of the inlet leading to the town of Darien, and near the entrance of Ipswich harbor, near Plymouth harbor, before the harbor of Nantucket, and on the Island of Tuckanuck, at or near the entrance of Connecticut river, and near the entrance of Great Egg Harbor river."

An engrossed bill authorizing the sale of the lands of the United States was read the third time, and passed.

MILITARY COURTS.

An engrossed bill concerning Courts Martial and Courts of Inquiry was read the third time.

The question having been put, "Shall this bill pass?" Mr. MASTERS called for the yeas and nays on its passage.

Mr. ELLIOT said it was to have been hoped that the bill, after having gone through the purifying process of successive recommitments, would have been presented, for the final question upon its passage, in a shape rather less questionable than that which it had assumed upon its original introduction to the House. In this hope, at once a natural and a pleasing one, said he, the opponents of the bill have, unfortunately, been disappointed. In one of the pleasant hours of the past gloomy season, this new twig of the great tree of our jurisprudence, put forth its slender form, with all its blushing honors thick upon it; the next day came a frost: it has since experienced the vicissitudes of various weather; it is again in bloom; but its blossoms are frail and feeble, and even the beams of a vernal sun cannot save it from decay and death. Quitting, however, a metaphor, which is no sooner hunted up than it is hunted down, he said he would proceed to state, with as much plainness and conciseness as possible, those objections to the bill, which he deemed as unanswerable as he was convinced they were insuperable. If they were capable of being answered, he hoped the supporters of the measure would deign to answer them. My objections to the bill, said Mr. E., are, that it is erroneous in principle, that it is defective in detail, that it will be inoperative in practice, as it respects the great majority of cases which it professes to comprehend, and that, as to the remaining cases, it will operate to the delay of military justice, and the injury and oppression of the peaceful citizen.

First, that it is erroneous in principle.

It has been a constant theme of declamation with the enemies of the equal rights of man, that, in the science of politics, which they say is falsely so called, unlike all other sciences, there are no fixed, incontestable principles, upon which the mind can repose with confidence, and in which all enlightened men will unite. The friends of freedom, at least since the time when Locke began to question the divine right of Kings, have protested against this dogma. They contend that these fixed principles, these self-evident postulata, do exist in political as well as moral science—one of them forms the basis of all our institutions. "All men are by nature equal, and possess certain natural and unalienable rights." There is another, which every true republican will cherish with all the ardor of affection, with all the energy of zeal, with all the inflexibility of patriotism: In a free Government, the military should always be kept

in a state of subordination to the civil power. If you admit that the military can become, even for a moment, co-ordinate with the civil power, you lay the axe to the root of the tree of public liberty. To make the military superior to the civil power, constitutes the very essence of despotism. This effect will be produced, to a certain extent, by the passage of the present bill. Indeed, a more appropriate title than it bears, that of "A bill concerning courts martial and courts of inquiry," would be "A bill to subject the civil to the military power, in certain cases therein mentioned." But we are gravely told that such will not be the effect of the bill. There may be a spice of arrogance in the assertion, but I shall venture to make it, that the authors and supporters of the bill do not appear to understand the nature and operation of the measure. To test the view which they have taken of it, let the first provision of the first section be critically considered. It is this which involves the pernicious principle against which we contend. The object is to coerce the attendance of civil witnesses before military tribunals; and how is this to be effected? The provision is in these words:

"That, in every case, where the attendance of any person, not in the military or naval service of the United States, shall be necessary as a witness before a military or naval court martial, or court of inquiry, and who shall not reside at a greater distance than one hundred miles from the place where the court martial or court of inquiry shall be holden, a summons may be issued out of any court of the United States, and the clerk of any such court shall be, and he is hereby, authorized and required, upon due application in writing by the Judge Advocate, or person officiating as such, or by the party accused, to issue such summons, requiring such witness to appear, and give evidence before such court martial or court of inquiry."

Gentlemen, I presume, will persist in telling us that a discretion is reserved to the judiciary by the expression "a summons may be issued out of any court of the United States." But, who is so blind as not to see that these are mere words of form? That the court, instead of possessing a discretion, does not even possess an agency in the case? That the Judge Advocate is the efficient agent, and the clerk of the civil court the passive one? That the former may command, and the latter must obey? The clerk is authorized and required to issue the summons—by whose direction? That of the court, or one of the judges? Not at all. "He is required, upon due application, 'in writing, by the Judge Advocate, or party officiating as such, or by the party accused (before 'the martial tribunal) to issue such summons," &c. Surely this will render the civil subservient to the military power, *quo ad hoc*. In the case contemplated in the next provision of this section, which may be called the military subpœna *duces tecum*, a sound and proper discretion is vested in the judge:

"And, upon good and sufficient cause shown, verified by affidavit before any judge of any court of the United States, and the same being certified by such judge, and produced to the clerk, to whom application as aforesaid shall be made for any summons, the said witness in such summons may be further directed and required to exhibit in evidence before such court martial or court of inquiry, any public paper, document, or record, in his possession, power, or control," &c.

The same discretion ought to have been given to the judge in the former case. It might have been placed in his breast with perfect safety. And thus the very advantage which it is contemplated to attain by the provisions of the present bill might have been attained without the sacrifice of principles which ought to be considered as sacred. If our military tribunals wish for the aid of the civil ones in the furtherance of public justice, they should not command it, but request it. The military should accost the civil power not in the imperious tone of mandate, but in the lowly voice of supplication.

The bill is still defective in its details, and in some of them involves new principles of a most dangerous and destructive character.

The provision, which embraces what I call the military subpœna *duces tecum*, has been well amended by the gentleman from Massachusetts, (Mr. BACON.) But it is, even now, not sufficiently definite and well guarded:

"Any public paper, document, or record, in his possession, power, or control; which said paper, document, or record, shall be specified in such affidavit and certificate, and described in such summons, and, in the opinion of the judge, shall contain evidence pertinent to the issue or subject-matter which may be on trial before such court, and which such witness might be compelled to produce in the ordinary rules of proceeding in a court of civil jurisdiction."

The latter part of this clause, embracing the gentleman's amendment, has removed, in a degree, the original objections to this provision in the bill. But a person may have papers, documents, or records, in his "power or control," for specific purposes, which are not regularly in his possession, and which, of course, he cannot carry into court. The words "power or control," therefore, ought to have been omitted. That civil officers should, in any case, be required to carry civil records into military courts, is a very questionable principle. It would be going far enough to prescribe some method of authenticating copies of such records, which should be received as evidence in courts martial. But, if the principle is to be established, its exercise ought to be guarded with all possible care.

Passing over many objectionable matters of detail in the second and third sections, I proceed to the fourth section, which is also introduced as an amendment by the gentleman from Massachusetts:

"SEC. 4. *And be it further enacted*, That, in all cases where the witness, whose testimony is required, shall reside at a greater distance than one hundred miles from the place where such court martial or court of inquiry may be holden, the deposition of such witness, taken in the manner prescribed, and agreeable to the directions contained in the third section of this act, may be read in evidence before said court martial or court of inquiry."

The supporters of the bill, obliged to yield to

the unconquerable objection to the bill as it originally stood, that the peaceable citizen might be dragged from Passamaquoddy to Natchitoches, from one extreme to the other of our vast territory, to attend the military courts, have endeavored to remove the difficulty by the introduction of this most extraordinary section. I have heard the rules and regulations for the government of the Army, called, upon this floor, the code of Draco—a bloody code. The volume of martial law must always be stained with blood. It cannot be avoided. For one, I think our own military code too severe and sanguinary, and was a member of a very small minority, which voted in opposition to the system. But how greatly is the gloom of the scene increased by enacting that the lives of your soldiers shall be sacrificed by depositions—by written evidence! Fifteen or twenty crimes are punishable by death, and in all cases, where the witness shall reside at a greater distance than one hundred miles, depositions may be read against the accused. In civilized countries, and in enlightened times, this monstrous principle has never been adopted—not even in military courts. The soldier, who is accused of a crime, is, of course, placed in a place of close confinement; he is not to be confronted with the witnesses against him, nor can he attend at the times and places where depositions are taken, which are to affect his life. In this free country, gentlemen ought to start at a law of this kind with instinctive horror!

The other objections to this system are, that it will be inoperative in practice as to the great mass of cases which it comprehends, and that in others *it will operate to the delay of military justice, and* the injury and oppression of the peaceable citizen.

Gentlemen say that the soldier, by becoming such, does not cease to be a citizen, and ought to possess the rights of the citizen even in the camp. Why, then, do they not propose to give to military men the right of trial by jury, the privilege of being confronted with the witnesses against them, the right of compulsory process for witnesses, on their own part, and the privilege of being heard by counsel? All this is delightful in theory, but can never be realized in practice. Men cannot carry all the rights of the citizen from their native fields to the tented plains, from rural scenes to the camp of Mars. The idea is a pleasing but a delusive one. But this new law, while it will subject the soldier to the loss of life, in consequence of the depositions of men whom he never saw, nor ever can see, will give him no new privilege. To illustrate this position, let us recur to the first part of the first section: "That in every 'case where the attendance of any person, not in 'the military or naval service of the United 'States, shall be necessary as a witness," &c. Who is to judge of the necessity? Will the court take a soldier's word for it? Will they allow him to file an affidavit, stating the absence of a material witness? If they will, who shall form his affidavit? Your military code denies him counsel, except that the Judge Advocate is so far to act as counsel for the prisoner as not to suffer leading questions to be put to the witnesses against him, or to suffer him to be compelled to criminate himself. The officer, and the non-commissioned officer or private soldier, occupy very different ground upon a military trial. In most cases, the officer is only deprived of his sword, and goes at large upon his parole of honor; the soldier is always placed in close confinement. To the officer is secured the most essential characteristic of a trial by jury; not so the soldier. The officer is tried by his peers, by his equals and associates; the soldier by his masters, by men with whom he is never permitted to associate, and who are in the constant habit of exercising an iron despotism over him. To the officer, all those sympathies and sentiments which result from the common intercourse of gentlemen, upon terms of equality, but, above all those which connect themselves with the spirit of the corps, will secure not only every legal advantage, but every reasonable indulgence. In favor of the soldier nothing of this kind can operate. As it respects him the law will be unavailable, except that his life may be sacrificed by depositions! The officer can avail himself of its provisions, to send for depositions from every quarter of the Union, and thus impede the march of military justice as long as he pleases. To the industrious and peaceful citizen, your law will be a constant source of injury. There are two principles upon which the citizen is called into courts of justice as a witness, unremunerated, for his legal fees are contemplated only as a bare compensation for his actual expenses, and he receives nothing for the derangement of his business, or even for his time. One of them, that private inconvenience should always yield to the public good, will apply to military as well as civil tribunals. The other, which is a very obvious one, applies to civil courts alone. In attending the court as a witness, the citizen performs a service for some other citizen, which, in the course of the common concerns of life, he is under the necessity of asking others to perform for himself. In relation to courts martial, this reciprocity does not exist. The citizen can neither sue or prosecute others, nor be sued or prosecuted himself, before military courts. He commits no military crime, he wishes for no military witnesses.

Upon the whole, although the policy of passing such a law at all, is extremely questionable, yet the advantages which it is contemplated to obtain by it, might be obtained, without subjecting the civil to the military power. Let the martial approach the civil court, not with all "the pomp, pride, and circumstance of glorious war," but in the humble attitude of a supplicant. Every judge, in every case, should possess a sound discretion. This power would not be abused. If it were by one magistrate, application might be made to another. Mr. E. concluded by remarking, that he would not pledge himself to vote even for such a law. But if a law upon the subject be to pass, it ought to pass upon that principle, and upon that alone.

Mr. Johnson said, that he meant to make a few,

but very few observations, why he thought this bill should pass. The objections which some gentlemen had made to the detail of the bill when first introduced, had struck him with considerable force, although from the first moment he had thought that something ought to be done. On the passage of this bill, said he, although its details may not exactly meet my mind, as gentlemen on neither side could make it more perfect, and I will not entertain a doubt that they would have done it if they could, I must give my vote in its favor.

It would seem that gentlemen who oppose this bill feel the same sentiment as myself. If I could believe that the construction of the bill would cause military predominance and civil subservience, unquestionably I should give my negative to the passage of this bill. But, if I understand the clause alluded to, an application is first to be made to clerks of civil tribunals. I cannot be induced to believe, when we make application to a civil tribunal for process, that the military preponderates. Did the bill provide that the civil magistrate should make application to the military, and be dependent on it, I should certainly think the objection forcible. But can I say, when discretion does rest with the civil authority, that the civil authority subserves the military? Which power is subservient? That which has the power of controlling process, or that which makes application for it? I have always thought that the power which can control another is superior, and the power controlled subservient.

It is said likewise, and if that were the construction I would certainly oppose the passage of the bill, that we are about to give power to the military to create offences, the punishment of which is vested with the civil authority, and to create a jurisdiction in military tribunals to inflict a punishment on the citizen. Does this bill contemplate the giving any jurisdiction not heretofore given? If so, I am mistaken. If I understand the object of the bill it is to give power to the Government to prosecute, and the individual to defend himself by coercion. I have not understood that any jurisdiction is given to military courts; I have taken up an idea that the grand object of the bill is to coerce the evidence of witnesses in cases of crimes already designated, and of which the punishment is also pointed out.

The gentleman last up has made an objection to the issuing a subpœna without showing cause to the civil authority for it. Do you not in civil cases always obtain subpœnas on application to the clerk, without showing cause, except in cases of *subpœna duces tecum?* Do you ever make application to the judge in the first instance for civil process? Do you for a *capias ad satisfaciendum?* You direct the clerk to issue it, and endorse on it no bail to be taken; the person against whom it is issued is thrown into jail, and cause is not required to be shown. But if we make application for papers to a civil tribunal, reason must be shown; if to a military court, this bill provides the same. If I were mistaken in this, in this also I should be also opposed to the provisions of the bill.

It is also said by some who are opposed to the bill, that military despotism will be extended by it. I have no doubt that gentlemen do conscientiously believe it, and I do as much believe that it will abridge military despotism, if despotism indeed exists. The only objection to this bill is, that despotism may be exercised by the military over the citizen. If one of your soldiers should be marked out for the vengeance of a superior officer, does this bill deprive him of his means of defence, or of the power of coercing witnesses? Does it abridge or extend military despotism to say that a man with a budget on his back and a firelock on his shoulder has an equal right with his superior officer to compulsory process? Surely not. Does this bill apply exclusively to the Commander-in-Chief? I would spurn the idea of giving this privilege to the Commander-in-Chief were we to leave the poor soldier in the ranks without the power of coercing evidence. I would say, here is the same law to apply to all; and if exculpatory evidence can be procured, the law has said that citizens shall be confronted with their accusers, and have the benefit of compulsory process. We say, as far as we can go, we will grant coercion, and where this cannot be done, we will give you an opportunity to procure testimony in writing.

It has been said that a particular case which is known to us all, has given rise to this law. I disclaim the idea of that case operating upon myself. I agree with gentlemen, that it is improper to legislate upon particular cases; but if a particular case should occur, which shows a defect in our laws, although the particular case suggests the propriety of the law, I consider it important to make a provision which shall not only include that, but a thousand possible cases which might happen in the course of human events.

The gentleman from Vermont (Mr. Elliot) has also stated that this is a subject recommended by the President of the United States, and that it is made a question of confidence. It is not a subject of confidence, or of distrust, which is its opposite. If we look at the Message of the President, we shall find that no particular course is pointed out. Our attention is called to the particular situation of our laws on this subject. We are not requested to do this or that. I was one who voted for the inquiry; the only Constitutional tribunal which could make that inquiry has not efficient powers to compel the attendance of witnesses. We have, in consequence of the defect in our laws, which this case has discovered, thought proper to attempt an amendment of them. What, then, has this to do with confidence or distrust? So long, sir, as I have a rational confidence in what comes from the President, or from any member of this House, so long, also, I will act in such a way as shall manifest to the world that I do not possess a blind confidence, which would induce me to do an act injurious to my country or contrary to my own sentiments.

We are told that this law will harass the citizen, and as a reason for this belief, we are told that it is inconvenient to attend courts mar-

tial or courts of inquiry. Granted; it results from human institutions. So long as controversy exists, so long will witnesses suffer inconvenience. Will you, because it is inconvenient, withhold compulsory process? Would not this prostrate every institution in your country? Do we require more by this law than is already in the power of our civil institutions? No; in cases of life or death, and affecting reputation, we award compulsory process. It is all-important that this power should be vested somewhere, and where better than in the civil authority, to coerce attendance in cases of this kind?

It has been said that we cannot extend all the privileges of the citizen, in civil life, to the soldier. I regret that we cannot extend them as far as I could wish, and as far as those gentlemen who opposed the bill must certainly wish. But shall that induce us to withhold the hand from ministering to their rights as far as in us lies? Have gentlemen taken into consideration, that the militia also are subject to military law in time of war, and should their fellow-citizens, or shall Government, be deprived of testimony against them? This bill is not particularly calculated for the man accused, but, upon the reciprocal principle, that Government also should have the power of coercion.

I confess that I can see no occasion, nor any reason, for this alarm on the subject. If I could see the same evils resulting from the passage of this bill as are mentioned by some gentlemen in opposition to the bill, I should be one of the last to vote for it, and this House would immediately reject it.

I have endeavored to show that the jurisdiction of courts martial and courts of inquiry is not to be extended by this bill; that the only grand object is to give power of prosecution and defence to the Government and individuals; and that it is not a subject of confidence or distrust, but a subject on which every one should be guided by his own judgment; and so, I have no doubt, every gentleman in this House will do.

Mr. Randolph said, that an observation of the gentleman who had just taken his seat, not, indeed, an original one, for it had been repeatedly pressed upon the House, induced him now to rise; not that he could have reconciled it with his feelings or principles to give a silent vote on such a bill as that now before them; but the remark of the gentleman from Kentucky had caused him to throw himself upon the patience and mercy of the House earlier than he had intended. It was a remark calculated, he would not say *ad captandum vulgus*, but to catch every class of citizens in the community, and particularly that most meritorious class the middle class, who must unquestionably be relied upon for the ultimate safety of the country, whether from internal danger or foreign assault; it had accordingly been reiterated again and again by the advocates of the bill, who seemed to regard it as their favorite and most unanswerable argument. The position was this: "That the bill on your table is calculated to favor the militia, inasmuch as men serving in the militia are liable to be tried by courts martial, as well as soldiers in the regular army." But if the bill be examined with only one half of the attention which it behooved every member to bestow upon it, the advantage ascribed to it would be found altogether illusory. As the bill had grown out of a case arising in the standing army, so it was calculated for the benefit of that army, if not of a single officer of that army. Its application to the militia had been gladly seized upon to give an air of popularity to the measure, and make it go down. The militia might have existed until doomsday, and such a provision be never dreamed of on their account. In fact, they could derive no advantage from it, and had merely been pressed into the service to furnish some plausibility to the bill.

It is, said Mr. R., of the very essence of courts martial, in time of war more especially, when alone the militia can be called into actual service, that their proceedings should be summary, prompt, and energetic. What sort of discipline will that be in an army, in time of actual war, perhaps in sight of the enemy, in which is permitted this slow process of sending men to Georgia, New Hampshire, or Detroit, to take depositions? This bill is equivalent to a repeal of all military law; for, in time of war, if it have any operation at all, it must operate a dissolution of your army. I repeat it, that if, in time of war, a soldier cannot be punished, until the dilatory process pointed out by this bill is complied with, your army is virtually dissolved. It will be seen, then, on examination, that the bill is calculated not for time of war, and consequently not for the benefit of the militia. On the contrary, it goes to violate the rights of those very men, in their civil capacities, whom, in their military garb, it professes to protect. I lay it down as an immutable principle, which cannot be controverted, which no man will pretend to deny, and much less the gentleman who has just sat down, that the citizen is constitutionally exempt from all military service whatever, except he subject himself to that military service by voluntary enlistment. I speak of service in connexion with the standing army, and not of the duty which, as a militiaman, he is bound to perform. He stands severed from this class of men by the great, broad landmarks of the Constitution. He owes them no service—there is none, which, in their military capacity, they can demand at his hands. They are to him a distinct class, whom he looks upon with suspicion, at least; whose movements it behooves him at all times to watch; whose troops it is his duty to keep within the smallest possible number, capable of garrisoning the posts on the frontier; in other words, within the pale of the public good. A jealousy of that force and of Executive influence, and they are one and the same thing, for every augmentation of the Army is but an increase of Executive power, has ever been deemed the great criterion, the infallible touchstone of every Republican's, of every Whig's political principles.

It is an objection to this bill, not only (as has been very forcibly and ably demonstrated to this

House) that it tends to exalt the military at the expense of the civil authority, but that, under the garb and color of civil jurisdiction, the person of the citizen is laid at the mercy of a military tribunal; for, as has been said, over and over again, the party suing out the writ applies to the clerk of the court, who, on application, is bound to issue it. Why, then, this parade of calling in the civil authority, when no discretion is lodged with that authority to give or withhold its aid? The process is, in fact, as much military as if issued by the court martial in the first instance, with this additional and fatal objection, that, to mask the deformity of naked military despotism, the civil power is surrendered a passive victim into its hands. It is this hideous feature which, most of all, excites my antipathy to the bill. The power which it confers is odious, but the manner of conferring it worse.

I have said that every freeman of the United States stands constitutionally exempt from being called upon to perform any service in relation to, or connexion with, a standing army, unless he subject himself to that obligation by his own voluntary act. Yet this bill does subject the citizen not merely to perform expensive and arduous service, but to have everything that man can hold dear, placed in a situation, the very idea of which it is impossible to contemplate without abhorrence. The personal liberty of the citizen is, in principle, as much violated by compelling him to go one hundred miles as five thousand. This provision must be regarded as a mere entering wedge. It prostrates the rights of every freeman in the first instance, leaving the details to future commentators on the new military code, who will, of course, accommodate them to their own purposes. But this is nothing in comparison. What would any man among you say, at seeing his sister, his daughter, or his wife, summoned to give evidence in a fortified town, on the eve of a siege, or brought to headquarters through the tumultuous, profligate, and flagitious scenes of a camp—perhaps hourly expecting the enemy's attack? Where is the screen to protect female delicacy—I might almost say female virtue? None. This case is not merely supposable, but, in time of war, when courts martial are most frequent, must happen—unless, indeed, gentlemen are ready to allow the utter impossibility of executing the bill, and to confess that, as it has been brought forward to suit a particular purpose, so when that purpose shall have been answered, it will be laid aside. Allow it efficacy, and there is not a man or woman in the United States, who may not, by its express provisions, at the bare instigation of a Judge Advocate, or any party accused, be dragged into the tumultuous scenes of military licentiousness.

In the earlier stages of my political life, a salutary jealousy—as it was then deemed, and as I still deem it to be—was inculcated by the fathers of our political church, against the ambition of the Federal Government, generally disposed, as it was believed to be, to encroach on the government of the States—of the distribution of power between the several departments of Government, where the Executive was equally disposed to encroach on the other departments—and chiefly of systems calculated to favor permanent military institutions in this country. What, then, shall we say to a bill calculated to extend the power of the Federal Government? Not, indeed, at the direct expense of the States, but of the citizen; and particularly of that branch of the Federal Government of which it behooves us to be especially jealous; which exalts the military at the expense of the civil institutions of our country, and gives to the President, by whom every court martial is virtually ordered, power of the most alarming and undefined nature. In whichsoever way this bill be viewed, the impropriety of legislating for a particular case, becomes the more manifest and glaring. A proposition was brought forward by the gentleman from Kentucky (Mr. Rowan) to inquire for ourselves by a known, practicable, Constitutional organ, into the conduct of a certain officer. That motion was overruled. The House preferred a request to the President of the United States, that he would cause an inquiry to be instituted, with which he does not comply. I mean no disrespect to the President of the United States, but merely to state a fact. A military court of inquiry into the conduct of this person had been instituted, some time previous to the application of the House of Representatives, of which the President officially notifies them in his answer, and hints a deficiency in its power. For this particular case, and on this recommendation, you legislate; and every section and line in that bill is a lame attempt to justify the House in refusing the inquiry proposed by the gentleman from Kentucky, which was calculated to probe the matter to the bottom, and required the aid of no new law, Constitutional or otherwise, to carry it into effect. I will not consent to make amends for having refused that inquiry, at the expense of the Constitutional rights of our citizens. I will never give this proof of my zeal for investigation, much less of my deference to military power. But this bill, objectionable as it is in principle, is manifestly incompetent to the object which it professes to attain. Because, in the case in question, if you are desirous to get at the whole truth, you must obtain possession of other than "public" papers, and other evidence than *ex parte* depositions. The bill, unquestionably, is not calculated to reach its avowed object—further comment on such a production is unnecessary—a bill which deserves much more the name of a contrivance (I do not say an intentional one) to gloss over guilt, than a shield for the protection of innocence. Such an inquiry as this bill is likely to produce, take my word for it, will never satisfy the people of this country.

But, with all this tenderness for the rights of the soldier, and particularly of the militiaman—who never can be benefited by the bill—because it must be inoperative in the face of an enemy, when your discipline will cease, if you have to send the marshal a hundred miles for witnesses to give it efficiency—what becomes of your tender-

ness to the citizen witness, for whom, in his capacity of soldier, so much regard is felt? In case of his refusal to attend, or to testify when he has attended, he is proceeded against—how? In the same manner as if he had refused to attend, or give evidence in a civil court; and the civil court is called on to inflict the penalties. In case of contempt to a civil court, the court possesses within itself the highest possible evidence of the fact, and proceeds to punish the offender accordingly. This has been thought, and I believe properly, a necessary sanction to the authority of our courts of law. But here, the citizen may be punished by order of court—for a contempt of the civil authority? Not at all: the civil court is made the mere executioner, the drum-major of the military court, to inflict a punishment on the citizen for a military offence, which, in his capacity of citizen, he cannot commit, and the evidence of his guilt shall be the record—of what? Of a court martial! This record is to be evidence, conclusive evidence, (for how are you to traverse it?) upon which the citizen is to be amerced and incarcerated; and yet he is told that this is a provision for the protection of his liberty! The only case in which our free and manly jurisprudence permits the citizen to be punished in his person, or property, without the intervention of a jury of his peers, is that of a contempt of court, an offence coming within its personal knowledge, and against which it is necessary to proceed in a summary way, to uphold Justice herself upon the judgment seat; and yet, even this power has been viewed with great jealousy, and must be exercised with cautious forbearance. But to give validity, in the courts of law, to the records of courts martial, to make them evidence, upon which the citizen may be restrained in his liberty, and dispossessed of his property, without any security which the trial by jury affords, is a monstrous innovation upon every maxim heretofore held sacred among us.

But after having declared that the citizen shall become, without voluntary enlistment, subject to a species of military duty, pertaining to, and connected with, the regular army, and that the courts of justice and of law are to become instruments of punishment, in the hands of courts martial, for any failure in that duty—why stop here? Why not extend to courts martial of the Army of the United States, power in all cases to command the services of the citizen, where his assistance shall seem to them "necessary" to enable them to do military justice? You may as well turn over the convicted soldier to the sheriff, or marshal, and make him executioner: call the citizen from private life, put the instruments of torture or of death, into his hands, and compel him to assist, where his aid may be deemed "necessary," in executing the sentence of a court, abhorrent to his feelings and his principles; to give the finishing hand to a process which ought to be summary, but which unites all the delay of a judicial court with the terrors of a military tribunal. But this is necessary to enable innocence to protect itself. Why, then, is this the only relief extended to the accused? Why not give him all the privileges of a citizen? Why not allow him an impartial jury, and counsel for his defence? You do not this; you leave him at the mercy, at the discretion of an arbitrary commission, appointed for the express purpose of trying him—but you extend privileges to him at the expense of the private citizen, who has no concern or connexion, and almost feels himself contaminated at being coupled with him. You take from the citizen his common right, and make the record of a court martial the evidence upon which he shall be punished—and this to advance the purposes of justice; when, at the same time, the court by whom the accused is to be tried is constituted upon principles the most abhorrent to justice, and, from the very nature of things, must be presumed to have a bias for or against the culprit. Have gentlemen taken into consideration one great, plain distinction between courts martial and courts of law, (which I have not yet heard mentioned—perhaps it may have been, and has escaped me,) when they are about to compel the equal attendance of the citizen upon both, by the same penalties? That courts of law are regular—held at stated periods and places, which have been selected by law for public convenience—the creatures of an enlightened and benevolent policy; that courts martial are irregular, that they may, and most frequently must, be held in places the most difficult and even dangerous of access—the most destitute of accommodation, and in seasons the most inclement—the mere creatures of military power, perhaps of military caprice. And will gentlemen contend that the same attendance is due to the one as the other, by the citizen, in his private capacity? Indisputably and assuredly not. Besides, as has been well observed, in giving his attendance as a witness in a court of law, every man performs a duty which is reciprocal in its nature—which his neighbor is equally bound to perform for him. Not so here.

Supposing this bill to pass, I can hardly conceive a more effectual engine of oppression, than it might become in the hands of an Executive disposed to use it as such. It is true, there is a proviso that a witness shall not be compelled to attend at a greater distance than one hundred miles; but, not to mention that a supplementary bill may amend this defect—nothing more easy after the principle shall have been firmly established—there is not a hundred miles square in the Union in which a court martial might not be sitting at the same time. The centre may be located at will, it is a moveable point, at the pleasure of the Executive, and there is not one man or woman in the country, who may not be drawn within its vortex. If this bill pass, it will be the first attempt under this Constitution, to raise the military power to a co ordinate authority with the civil. I wish it may not be the first of a series of laws, tending, insensibly, "whenever deemed necessary," to extend martial law throughout the country. Indeed, such is its present operation, as far as it goes. The citizen is punished by a military court and for a military offence: the court of law, indeed, pronounces sentence; but, in so doing, it

is the mere mouth-piece of the offended court martial. The court cannot even grant a trial. The award of the military commission is more binding upon it than the verdict of a jury. The court of law must inflict the sentence of the law, on the victim of the military tribunal. Had a jury found him guilty, the court might have granted him a new trial. You may begin with this bill, and go on until the inhabitants of this country are placed in the same deplorable condition with the wretched natives of Ireland—Treasons, insurrections, conspiracies, real or fictitious, and, in our Southern country, materials for insurrection, are, unhappily, always at hand—may be made the pretexts of further encroachment, until the liberties of the people will exist only in history.

Among the curious inducements held out in favor of the bill, one gentleman has gravely said that, in proportion as a nation was free, so ought the military code of that nation to be severe, and the proceedings under it summary; from which he draws this very logical inference, that in all cases where it is practicable, you should extend to the soldier every provision for his security, to which the citizen is entitled in criminal courts at law.

When this bill was originally introduced, the first idea that struck me was the reception it would have met with, ten years ago, from a certain description of politicians in the nation. At that day, "standing armies, great navies, implicit confidence in the Executive" were the leading traits, the watchwords (I might say) of Federalism, and it was a subject of curious speculation by what strange metamorphosis a great deal of what then was deemed good Federalism, has now, by gradations almost imperceptible, become very good Republicanism. Are the same principles now to be brought into operation and silently acquiesced in, which, ten years ago, would have set the continent in an uproar? Are we to go beyond former Administrations in zeal, to cherish the Military Establishments at the expense of the civil? Much as I abhor and detest the alien and sedition laws, neither of them, in my estimation, surpasses the bill before you, as instruments of oppression. As calculated for a particular case, it is highly objectionable—and yet more so as being general in its operation.

I have done, sir—I have endeavored to express in as few words, and in as plain a way as I could, some of my objections to this bill; but if it should pass, I hope you will do away this military masquerade, this miserable mockery of calling in the civil authority, when the civil authority has no discretionary power, except in the case of what has been aptly called the "military subpœna *duces tecum*," and even there its power is inadequate—when it has no discretion in withholding the punishment (but merely over its quantum) awarded by a court martial on a citizen, for refusing to obey what is called a civil process, but what is as substantially a military process, as if enforced by a file of grenadiers, at the point of the bayonet.

Mr. Rowan rose to oppose the passage of the bill. His colleague (Mr. Johnson) seemed to think that this bill proposed no encroachment on those rights to which the people had been long habituated. He set out by telling the House that he was opposed to giving an ascendency to the military power. I did hope that he would have gone further, and said he was opposed to making it co-ordinate with the civil. The gentlemen who have supported the bill have endeavored to sanction its provisions by arguments drawn from similar authority given to our civil tribunals; but they did not seem to recollect that they are not the same. The military cannot be equal to the civil. Two equal powers cannot exist; for if a conflict occur between two equal powers, and neither yield, a paralysis takes place. But this bill is far, very far, from leaving the military on a level with the civil authority; it has far transcended it. In the very first section I will show that a decided, clear, pre-eminent, and prominent advantage is given to the military over the civil authority.

This bill provides that when an officer is accused of a crime touching his life, depositions shall not be read in evidence. Indeed, so tender is it of the officer, that if conviction might subject the officer to dismissal or cashiering, depositions shall not be read; and if witnesses cannot be produced residing within one hundred miles of the place where the court martial shall be held, their evidence shall not be admitted. What is the result? An officer shall have committed the most flagrant crime; if you can prove his guilt by witnesses within one hundred miles, he may be convicted; if not, he may be exempt. He shall commit a crime, which shall subject him, on conviction, to cashierment; he is secure, except a witness can be found within one hundred miles; for, out of this circle, even depositions cannot be read—thus putting the officer infinitely above the citizen, for the nation forms the limit to civil jurisdiction. In case of an offence committed by an officer, if you can find a witness within one hundred miles, his head may pay the forfeit; if not, he is totally exempt from punishment.

Contrast this with the provision for the meritorious class of militiamen. Let us examine the case. You may take depositions in cases of these men, and convict them on depositions taken anywhere on the continent; thus a species of testimony which shall not in the least affect an officer, may take away the life of a militiaman. Every citizen, when called into service in the militia, may have his life taken upon that species of testimony, which shall not subject an officer to cashierment or dismissal.

Take another side of the picture. By this bill it is the privilege of the officer that he is not subject to examination before a court of inquiry even, without the benefit of *viva voce* testimony, if to be had within one hundred miles, while the militiaman has the poor privilege of having testimony, if it is to be had within twenty-five miles. One hundred miles are marked for the officer, and twenty-five for that description of men, who, we are told, are to be so much favored by this bill.

With what eyes do gentlemen view this bill?

How can they expect to look their fellow-citizens in the face whom they have subjected in this way? We may tell our constituents, that if a charge be made against a citizen, when in actual service, we have passed a law which will enable you to go out of the lines to procure evidence—how far? If you can find a witness within twenty-five miles, you may compel him to attend; beyond that distance, if you can get out of camp, (and a militiaman's influence in an army to be sure is vast!) you may in time of war go out and collect depositions; in the meanwhile your life may be taken from you by depositions made where you had not an opportunity to cross-examine. The bill, indeed, provides that notice of the time and place of taking depositions shall be given by the party taking them to the adverse party. Can anything be more farcical than to suppose that a militiaman would be suffered to go out of the ranks in time of war, and cross-examine witnesses when depositions are to be taken? Are these the privileges you allow to the "militia"? The thing is impracticable, sir; it can exist but in theory. It may be talked about, but never can be practised. If you will pass this bill, go upon practicable principles; state the grounds on which it may be practised and understood, and give it a shape in which it may effectuate the purpose for which it is intended.

A little preference by this bill given to the military over the civil authority did not strike my colleague in the parallel which he drew. In the civil courts, there are such things as pleadings, and the cause of action is in a visible shape. Not so in military courts. In civil cases, if a man summon more than three witnesses in some States, and, in others, more than a reasonable number, it subjects him to costs for harassing his enemy. There is no such restriction in this bill; a military officer goes to the civil court and summons witnesses in every direction within the limits of one hundred miles from the centre, without restriction to number. This gives the military an advantage, instead of bringing them up to the level.

But something more as to this equality, and bare equality—for certainly it cannot be a pre-eminence of the military that is contended for. When, in civil cases, a deposition is to be taken, the judge is not subject to the trouble of taking them, but a commission is issued, while this bill, as if desirous to subject all the constituted authorities, commands all courts and judges, of whatever description, to attend upon the requisition of this military man. Where is the man in civil life who can command such honorable servants? Where is the man who can reckon so honorable a suite? They are all subject to be called upon by a military man—to save his life? No. To save him from cashierment? No. They are all to be called upon to take depositions without limitation to number, to save him from a reprimand! All the judges of States, inferior and superior; all are to be put in requisition to save this person from a reprimand. Where is the man in civil life who enjoys these privileges? Does the militiaman enjoy them? He does not, sir, whether in actual service or as a citizen; they attach to the officer only.

There is another provision in the bill which is extremely objectionable, both as to its manner of construction and its effectuation; I allude to the power given to compel the production of papers. "The said witness, in such summons, may be fur-'ther directed and required to exhibit in evidence 'before such court martial or court of inquiry, any 'public paper, document, or record in his posses-'sion, power, or control." What is meant by "public paper?" If it is meant to signify a part of a record, a copy is sufficient; if private papers, they cannot be surrendered. If it be a record within his control, shall a person, because he is summoned as a witness, be compelled to go and get it? The records of the Union are at my control to copy. I cannot take the originals, for they are testimonials *in perpetuam rei memoriam;* good policy will not permit them to be removed. Here, then, is an advantage given to the military. A copy will do for the citizen, while the military man by this law is authorized to take the original. We all revolt instinctively at the idea of making a man produce his private papers. What public papers are in the hands of the citizen? If a paper be in the possession of an individual, it is his paper; and it is a violation of the Constitution, and of the first principles of right, to force him to surrender it.

But that the pill may not taste bitter, it is sugared, glossed over, by a provision ostensibly going to show that we have a very high regard for private papers and rights. I feel, as well as all gentlemen must, that we tread on sacred ground; but I contend that gentlemen are deceived in believing that these checks operate as a restraint, while, in fact, they serve only to obscure the danger. "Which said papers, document, or record, shall be specified in such affidavit and certificate." How specified? In *hæc verba.* "And described in such summons." I am really at a loss to know how it is to be described: "and in the opinion of 'the judge shall contain evidence pertinent to the 'issue, or subject-matter which may be on trial 'before such court, and which said witness might 'be compelled to produce, by the ordinary rules 'of proceeding in a court of civil jurisdiction." This clause, I confess, I am not able to construe. The judge to whom application is made in the first place, is to examine whether the paper be pertinent to the issue. To do this, the subject must be before him. But it is not; it is before a military tribunal. He must first judge of the matter, then, to enable that court to have the means of judging it. There ought to have been a provision for a transcript of papers on the subject, that he might have the subject before him; but there is no such thing; he is to determine whether a paper is pertinent to the subject-matter without having the subject before him, and also to determine whether the paper called for could be legally required in a civil tribunal, by which public papers cannot be called for. I have never known a witness, in a civil action, constrained to

produce a paper, except it had been placed in his safe-keeping, and he would not surrender it till required by the civil authority. I know of no law authorizing a party in a suit to call upon a witness for private papers, and he is not presumed to have public papers in his possession. This provision, then, is either inefficient, or it proposes a violation of private right. It does not require even that, upon inspection of the paper, the judge may determine whether it be pertinent to the issue. I cannot suppose it to be in contemplation that private papers shall be thus produced, and yet this I am assured will be the effect of the provision. How is a military court to determine whether a paper ought to be produced in evidence? You go upon the supposition that officers composing a military court are acquainted with civil process. The paper, when produced, must be read, or this military court must decide upon laws not military, but upon the laws which regulate the actions of mankind, and upon the practice of the country. To this, military men cannot be competent; they are not presumed to be so. This provision may work mischief; private papers are secured from exposure by the Constitution; they are not exempted by this bill. This section, I fear, might be made use of to violate the sacredness of private transactions and private confidence, to expose to public gaze papers totally improper for it, and constitutionally exempt. It might tend to render our Government perhaps less stable and permanent than it might otherwise continue.

The next provision is objectionable and radically defective: "And for every default in not duly 'serving and returning any summons as aforesaid, 'the marshal, or officer acting as such, shall be 'liable to the same penalties, and to be proceeded 'against in like manner, as if he had made such 'default in not serving or returning any summons 'or citation in causes depending in the district 'court of the United States, holden in the district 'or territory whereof he may be marshal, or act-'ing as such."

I ask how punishment on this officer is to be inflicted? The civil courts punish their officers for offences, of which the record is their own personal knowledge; but if the officer has neglected his duty out of doors, a jury must intervene to ascertain the fact, and the officer is punishable by suit at the instance of the party injured. The marshal, then, cannot be punished in the way contemplated by the bill. The summons is not returnable to the civil court, but to the military court. Whether it be executed or not, the civil court can never see. The officer is not bound to make return; if he fail to execute a summons, it will not appear on the face of it because he does not endorse it. How, then, can he be punished? In nowise by suit.

I am thus stating objections to the details to show, that if it passes it will be ineffectual, and incompetent even to its intended purpose, which I unequivocally disapprove.

"If any person, duly summoned as a witness 'in pursuance of this act, shall fail to appear and 'give evidence before such court martial or court 'of inquiry, according to the tenor of the sum-'mons, or shall, in any respect, wilfully disobey 'any summons duly issued and served, in pursu-'ance of this act, or having appeared, in obedi-'ence to any summons, shall depart without leave 'of the court before his examination shall have 'been definitively taken down in writing, sub-'scribed and concluded, every such person shall 'be liable to the same penalties, and to be pro-'ceeded against in like manner before any court 'of the United States holden for the district or 'territory where he resided, or may have been 'found at the time of being summoned, as is pro-'vided by law in cases of default by any witness 'summoned in civil causes," &c. How long may the court sit? How long is he to be detained? The court may sit for months; and when the witness is once before them, he is at their discretion. Our civil courts have defined sessions; the attendance of the witness is defined, and his rights are not violated. This bill is to carry him before a strange tribunal; strips him of his rights, except at their caprice. He is not to go away, unless regularly dismissed, and how long they are to sit is left to their discretion. If a witness is guilty of contempt, he may be fined and imprisoned. When they have a man before them, they will keep him till they get his testimony; whether they imprison him or not till he has given his testimony, or, if guilty of contempt, whether they will imprison him till he atone for it, will depend upon them. It is putting the civil in the power of the military in a way at which my feelings revolt.

Here is a hardship then. An amendment was offered by a gentleman from Massachusetts, and negatived, that the witness should be tendered his wages. I lay it down as a rule of law that you cannot compel a witness to attend except his pay be tendered him; and whenever it has been attempted to punish a witness for contempt, it has been always asked was his pay tendered to him? If not, he has not been punished. Here then is a decided preference to the military over the civil authority; as no provision is made that his expenses shall be tendered.

The most exceptionable part of all, is that mentioned by the gentleman from Virginia (Mr. Randolph.) "And the certificate on oath of the 'President of any such court martial, or advocate 'or person officiating as such, stating in what re-'spect such summons may have been neglected 'or disobeyed, which certificate shall have been 'entered and recorded in the proceedings of such 'court martial at the time of such neglect or dis-'obedience, shall be admitted as evidence of such 'default in such witness as aforesaid." In the first place you lay all the civil authorities under contribution to this military man; all our courts and judges shall dance attendance upon him. No depositions can then be taken within one hundred miles; the witness must personally attend, and the oath of this honorable judge of this very honorable court is competent to subject him to punishment for default. Is not this a mon-

strous disparity? Contrast the civil and military for a moment. In a civil court you cannot make the court take depositions; the utmost you can do is to have commissioners appointed to take them. Not so by this law in relation to the military. We there require testimony before conviction of a citizen; there, in criminal prosecutions, there is a Constitutional guarantee that the accused shall be confronted with his accusers and have the benefit of cross-examination. Here you prostrate that, and say that the certificate of a military officer shall be proof competent to the conviction of one of these militiamen who we are told are intended to be favored by this bill. Does not the Constitution say, that in all criminal prosecutions the accused shall have testimony in his favor? And can any man or can the nation be persuaded that the certificate of a court martial shall be a sufficient substitute for the Constitutional provision? I cannot help repeating that it seems to me monstrous. There is something worse than this; the naked certificate of this court may subject you to prosecution, the oath of one of these military men may subject you to the process of a civil court and to great expense and loss of time—and, you are also made to pay the costs. True, the militiaman may be abundantly consoled by the reflection that he is reduced to this trouble and expense by the certificate of a court martial, or by the oath of a military officer.

"*Provided nevertheless*, That in case such witness shall satisfy the court before whom such proceeding against such witness shall be had as aforesaid, that the default imputed to him was produced by sickness or other inevitable impediment, and was not an act of contempt or wilful disobedience, such witness shall be forthwith discharged from any farther proceedings thereupon in said court."

A vast privilege, considering by whom he is summoned and on what authority!

I shall make no comment on the next part, but beg leave to read it, for its very sound will have influence against it: "That depositions taken 'before a judge of any court of the United States, 'or before a judge of any circuit or district court, 'court of chancery, common pleas, errors or appeals, or any superior or supreme court of a State 'or Territory"—Nothing short of supreme and superior, and superior and supreme again, must minister to their case—"where the deponent or 'deponents shall reside, or may happen to be, or 'before any three or more of five commissioners, 'to be appointed and commissioned by a judge of 'any court of the United States, or Territories 'thereof, may be read in evidence before any such 'court martial or court of inquiry, in relation to 'any charges." One would think after all this that some desperate punishment must be awarded to the accused if convicted. Not at all. After all these have ministered to their convenience, depositions may be read—"where the punishment, upon 'a definitive sentence of conviction, may not extend to life nor to the cashiering or dismission of 'a commissioned officer."

To the latter end of the same section also, I will state an objection. Papers, documents, and records, are not only to be produced by the witness personally before a court martial; but he is constrained by a subsequent provision to produce these papers before five commissioners; to do what with them? They are are compelled to surrender these papers to the commissioners, and no provision is made as to what shall then be done with them. While the witness is before the court martial, his papers are with him, but here they are taken from him, and what is to be done with them depends upon the pleasure of the commissioners before whom they are produced, unless perhaps otherwise directed by the military court.

After all this, depositions are not to be read unless "reasonable notice" be given by the parties. Who is to judge what is reasonable? Every gentleman of the bar knows that in civil courts every question of reason is decided on settled principles of law, as incontrovertible as the statute law; no discretion is exercised, and so happy is the Constitution of the country that the civil authorities are not trusted with the play of discretion upon us. Reason is fixed on sound maxims of law. What is reason to a military man, who knows nothing but despatch, and whose habits are hostile to it? And yet he is to judge what is reasonable notice! Although the militiaman, about whom we are so solicitous, may take depositions from persons in civil life, it is made to hang upon the discretion of a court martial whether he shall be allowed five, ten, or twenty days to do it. Thus they may prevent depositions from being read if they are so disposed. I am averse to placing discretion anywhere, but particularly so as to giving discretion to a court martial in relation to a man Constitutionally exempt from military service.

"Every person attending as a witness in obe-'dience to any summons issued under this act, 'shall be entitled to the same compensation, and 'be privileged from arrest, in like manner as 'witnesses duly summoned before a circuit court 'of the United States." Who is to pay them, I ask? How is it to be recovered? You tell them they shall be entitled to compensation—from whom? How are they to get it? After they have been there and rendered their service, they are to be told that they are entitled to the same compensation as in civil cases; but no way provided for them to get it.

I have now gone through my objections to the detail. When the bill was first introduced, I opposed the principle. I did confess then, and I do now, that I am very little acquainted with the things belonging to the military department; but the impression was early made on me that military institutions should be watched with the utmost jealousy; that they exist, but as an evil, in a febrile state of society; that they should be tolerated in certain situations, but not permitted to draw after them evils which might be prevented. If it were necessary to pass a bill of this kind at all, I was unwilling that it should be so constructed as to familiarize or blend the civil and military institutions. I wish it to be more explicit; not

to take so wide a ground as this. If all the civil authorities be liable to be called upon to act by a military court, the military becomes less odious, and thus we may slip out of civil liberty to passive obedience.

A case may not occur in a century, in which the provision intended by this bill would be necessary. It is known that till a little before the reign of Elizabeth, the law did not permit a witness in a civil case, and here they cannot be summoned out of a State, and yet no man suffers for want of testimony, it is rendered cheerfully; and when any of our militiamen shall be thus jeopardized, their fellow militiamen will step forward in the same way as a witness comes forward in civil cases without process.

In England, in the dawn of jurisprudence, jurors were witnesses; being drawn from the vicinage, in which the offence was committed, it was thought that their knowledge of the fact was sufficient; their testimony determined the fate of the man. Now, if that mode has been considered competent in civil life, do you suppose that in military life a man can do a thing for which he is subject to conviction by military law, without sufficient testimony in the ranks, and which may be coerced by a file of men? A case has never yet happened, though we have passed through one war, in which the provisions of this bill were necessary. It is acknowledged on all hands that a cause now within our knowledge is the object of this bill. I for one am inclined to think that a case will not occur in future, and I will not hesitate to say, and indeed the House have said it, that the present case is not cognizable by the articles of war. Recollect the amendment of the honorable gentleman from Massachusetts (Mr. Livermore.) The rejection of that amendment was a tacit acknowledgment that the case so often alluded to was not considered strictly cognizable by the articles of war. Of this I have myself no doubt, and I take that vote as expressive of the sense of the House on the subject.

I shall now content myself with voting against the bill, and with expressing a strong wish and a great hope that the good sense of this House will refuse their assent to its passage.

Mr. Love commenced by observing, that if one hundreth part of the objections urged against the passage of the bill were correctly founded, he thought it would afford sufficient reason for its unanimous rejection in the House; but certainly gentlemen had calculated, in making them, on an exceeding defect both of legal understanding on the floor of Congress, and of general information among the people of this country, if they hoped that their arguments could have the effect desired. Objections to the passage of the bill had been made, as well to the general principle it introduced into our code, as to its detail. The general principle he conceived was a plain and obvious one, which could admit of no doubt; indeed it might be said to exist already in the laws which had established and revised the military court system; for if the laws which authorized the different species of court martials were correct in principle, it must follow that provisions which were calculated to give the best effect to those laws, must also be correct. If there be an evil which is calculated to excite our fears, said Mr. L., we must trace its source to the former acts of Congress: but he apprehended that the institution of those courts, although now a peculiar object of jealousy, had been recognised as necessary in our Government, from its commencement. The bill before us has been objected to because it is said to be similar to the laws of England on the same subject. It is perhaps going too far to say, that the circumstance of its being derived from the British system affords of course an objection to it; it must be acknowledged that from that nation we have borrowed many of our regulations in jurisprudence. The introduction of courts of inquiry, and courts martial, perhaps may have followed the martial system of jurisprudence, as civil courts did the civil system introduced from England; if that be the case the experience of that country as to the mere practice, may afford useful information and cannot be objected to: and although there is no gentleman in the House, said Mr. L., more averse to the introduction of the principles of Government incident to the British constitution into this country, than myself, yet so far as respects the present subject, they having been before introduced, he should have no objection to acting on them in the same way, unless indeed gentlemen who opposed the bill would point out some other mode better calculated to attain justice. Whether the bill under discussion therefore be a copy of the mutiny act of England, as has been suggested, or not, appeared to him to be entirely unimportant, as it respected the principle.

It has been argued, and great alarms have been attempted to be excited from an assertion, that this bill if passed into a law would have the effect of erecting the military over the civil authority. A favorite topic, certainly, said Mr. L., for the ears of those who are supposed to be so uninformed; but where are the proofs of these assertions? Let gentlemen who use this clamor, point to that part of the bill which is calculated to produce this effect. On the other hand, when we view the details of every section, we find but the repetition of the Constitutional maxim, that the civil shall control the conduct of the military. Can gentleman rationally believe, that the public mind can be affected in the manner they seem to desire, by assertions so palpably erroneous to the understanding of every man who is able to read the different sections of the law? Can such arguments be relied on, to produce any effect here? Where is the coercion to which the civil authority is subjected from the military? No one has been able to point it out. It is said, indeed, that no discretion in vested is the civil court, in issuing the summons, but it is to be done when required by the judge advocate of the party. True, sir, but what is a summons? is it a compulsory process? No, it is no more than a bare request, which indeed the military courts now exercise the right of, and when we inspect the provisions of the bill, we find that the further process, or a fine for dis-

obedience is entirely discretionary with the court of civil jurisdiction. Suppose, sir, the court were to order this summons not to issue. Is there anything in the bill which enables the military court to coerce the civil? I presume not; that indeed would be a degradation of the civil authority, against which I would declaim too as loud as any one here. This assertion of gentlemen has been made and repeated; it is calculated they suppose to rouse the honest prejudices of the friends of civil liberty; but before the charge can be accredited, the temper and wisdom of this House, as well as the nation it here represents, will at least require the semblance of argument in support of it.

Many indeed have been the objections said Mr. L., to the details of this bill, some of them no less extraordinary in themselves than in the manner of expressing them. A gentleman from Virginia (Mr. Randolph) has depicted to us the horrors, which may be conceived, from compelling female delicacy to an attendance on a court martial, where he presumes neither virtue or decency can be respected, and where female modesty must encounter the rudest shocks; what farther might have suggested itself, on this subject, to the imagination of the gentleman, it is unnecessary for me to conjecture. To a female of delicacy the introduction as a witness even into a civil court, cannot be attended with very pleasurable sensations to herself; in the crowded room of a court, consisting generally of a mixed collection, she would find herself surrounded by a multitude, not very congenial to her habits; but neither there or in a military court, can we presume she would be unprotected; the human character ought not to be dishonored by such a supposition; there is nothing in the history of military courts which warrant the charge of so much depravity; if indeed such might be contemplated to be the character of those courts, it certainly reflects no honor on those who by a law only of the last Congress have revised and re-enacted the military court system. I cannot consent to waste the time of this body by a reply to objections like this.

An allusion has been frequently made to the circumstances which have given rise to the measure now contemplated to be adopted. Whether the total inability of the court of inquiry which has been ordered, and sanctioned by the voice of this House, to compel the attendance of witnesses who are possessed, as has been asserted, of evidence to do justice to the public in a prosecution (which has from many laudable motives excited the utmost anxiety in the community) is the immediate cause of the proposition before us or not, is certainly not important in the decision of the questions involved in it; and whether those occurrences, so recent in our minds, have disclosed the necessity of such a law as this will be, or not, is to me perfectly immaterial. The history, however, of the jurisprudence of this and every other country, may prove in a thousand instances, that circumstances the most trivial in themselves have given rise to laws of the utmost importance to the welfare of the State, or the safety of individuals, and which at subsequent periods have had the most general operation. In the case alluded to the inquiry has been instituted, but it is discovered that it must be inefficient, and fail of its effect in satisfying public justice, if the accused is guilty, or of protecting his character, if innocent, unless by the aid of the civil authority the necessary testimony can be brought forward. The defect having so obviously existed, and having occurred in the transactions of the Executive Department of the Government, the President has intimated in his reply to our message on the subject, the difficulty which presents itself to the discharge of the duties we had thought proper to enjoin on him. And what is now said by the gentleman from Virginia? Why, sir, the members of this House who have introduced and supported this bill, by which alone the object of the motion for the inquiry depending can ever be rendered effectual, as well as the President of the United States, who is said to have hinted at the measure, are charged with the dishonorable motive of having intended it as a cover to infamy, and to gloss over guilt.

But, sir, the citizen is to be subjected, it is said, to military tyranny, because the evidence of his failure to attend the military court, to which he shall be summoned, is the record of that court, which is to be exhibited to the civil tribunal levying the penalty. It seems difficult to suppose how the terms of this bill could have been so much misapprehended; the witness summoned to attend shall be liable to the same penalties, to be inflicted in the same manner, as if he had been summoned in a suit depending before a civil court; and what, let me ask of learned gentlemen, is the manner of proceeding in civil cases? Is it, indeed, that the evidence adduced against the defaulter, is in its own nature conclusive and incontrovertible, not to be rebutted, as has been said? So far from it, we all know that according to the manner of those civil courts, which are still to inflict *ad libitum* the penalty for disobedience, they never refuse, what justice to the accused always requires, to give him an opportunity of defending himself. He is regularly called on for evidence to mitigate his offence, or clear his contempt, and after a full hearing his fine is levied according to the degree of the offence, in the discretion of the court. Does the certificate of the record of the court of inquiry amount to more than the certificate of the service of process by an officer? and that is always read in evidence on such occasions. It seems to me, said Mr. L., that it can only be used for a similar purpose; they may both be considered as competent, but not conclusive evidence in establishing a fact.

What, I repeat, said Mr. L., are we to think of objections like these? are they intended to inform those to whom they are here addressed, or are they intended to mislead the public mind? They certainly offer no very honorable compliment to the understanding of this House, or the information possessed by the community.

The gentleman from Kentucky (Mr. Rowan) has been extremely minute in his objections to the details of the bill. He has also not omitted to remark in a general way on the injurious qualities he attributes to it. He says dangers are to be apprehended from the junction of the civil and military authorities, which is contemplated by the bill. That this ought not to be the case unless we had a standing army, and that it is a measure adapted to the introduction of it. When gentlemen make these assertions, which can only be intended to enlist our prejudices against the measure, we ask them to point to that section of the bill which is to produce these effects. Let them show the argument to be correct, and I promise them that the bill shall have my most hearty negative; for while I have a voice in this body I will always oppose the introduction of a standing army; but if our situation compels us to keep in active service a regular military, for a period ever so short, necessity compels us to make rules for its government; if those rules are only to be enforced by a recourse to the civil authority, the common principles of reasoning would induce us to believe, that it would operate as a restraint on the excesses of the military. When we have it in our power to disband our army, there is nothing left for the military code to operate on. But the bill before us cannot certainly be charged with a tendency to establish a standing army merely because it provides certain regulations, which are incident to all armies alike; it may as well be said in any case, that the subordinate regulations necessary to carry a general institution into effect, are the original grounds on which the measure itself rests.

Great oppression, it is said, will be introduced, by compelling the production of public papers and records, as provided for by the first section of the bill; and much fault is found with it that copies are not made to answer the purpose. I confess I am astonished, said Mr. L., when I hear a gentleman who speaks in so high terms of the rights and liberties of the people of this country, express opinions so hostile to them; certainly he could not mean to tell the public, when he mentioned the introduction of copies of papers, that it could be proper to read such copy in evidence on a criminal trial. Such principles of jurisprudence are new to us, and it is to be presumed the gentleman has not well considered them, or he could not certainly entertain the opinion, that a copy signed by the keeper of a record, or his clerk, of any paper which might be deposited as a public one, although a forged original (which could not be detected in the copy) ought to have the weight of testimony when a man's life or reputation was at stake. If ever a doctrine of this kind is introduced among us, we shall soon find that the rankest forgeries can easily be employed to convict the innocent, or screen the guilty from the punishment his crime deserves; inconveniences which may attend the execution of compulsory process to produce the originals, may, it is true, bear hard on the clerks of those offices, or the keeper of such records; but these are evils incident to justice, and what practice has already rendered familiar. The gentleman has argued on this section of the bill, as if it was really so unguarded, as to put it in the power of a military court to compel the attendance of persons with their papers, at any time or place they might appoint; but when we look at the provisions of it, it will be found that before the *subpœna duces tecum* can issue, the affidavit of the party must be filed, showing good cause before a civil judge, who is to decide as to the validity of such cause, in his discretion, and to certify, only if he thinks proper, in order that the process may issue. This provision is further guarded still, by requiring that the civil judge shall, when he orders such subpœna, certify his opinion that the paper required does contain evidence proper and pertinent to the cause.

An apprehension is said to be entertained that the witness who produces his papers in obedience to the subpœna, will not be able to obtain a restoration of them; how is this done, said Mr. L., in other courts? Is there any positive law, any legislative act specially providing for the restoration of original papers introduced into court? If there is, I have never heard of it; under the practice of all courts, it has been established as a common rule of justice, that the witness introducing a paper, or a record, should have a return of it; it would be hard indeed if a court thus arbitrarily deprives another of his property, especially as the only object of introducing a paper is answered by the inspection of it.

The gentleman from Kentucky (Mr. Rowan) has again attempted to excite our apprehensions for the safety of the civil officer who shall be charged with the service of the process. He has told us that if in civil cases he makes default, before he is made to suffer he is entitled to the right of trial by jury; if indeed this be the case, where is the clause of this bill which deprives him of that right? Does it confer on a military court the right of fining or imprisonment? If it does not, the officer is still left to the power of the civil court, and in express terms the civil court is required to proceed in the usual manner to levy the fine for his misconduct in office. The position taken by the gentleman, that the officers of courts are entitled to a trial by jury before a fine can be inflicted on them, it is not now necessary to observe on. It has, however, so far as my experience has enabled me to inform myself, been considered as a proper and necessary incident to the honor of a civil court to fine its own officers for misconduct in the performance of military duties; it is only when the party suffering by the neglect of the officer has sought redress, that the officer is entitled to the trial by jury, who are to assess the damages the injury demands.

The hardship of compelling a witness to attend a military court, where it is said he is to receive no compensation, has been elaborately dwelt on. Mr. L. said, he would ask the gentleman what provision is made for payments of that sort in civil courts? Is there any law which authorizes by summary process a recovery? He had always considered it as a matter of practice only, which would equally apply in the cases contemplated by the bill; there is no process of the court by which a witness would be enabled immediately to levy his money. But why is it said that a witness is

obliged to attend in pursuance of a summons to a military court more than to a civil court? There is no positive law, it is true, which declares that a party shall be obliged to tender a witness his wages before he sets out to court; but the practice of courts, as in the other instance, has adopted rules which are equally calculated to insure justice, and which are, under the operation of this bill, secured to the civil courts; for, should a witness fail to obey the summons, the practice already established would secure him against any evil consequence. If he had demanded from the party summoning his wages, and they had not been tendered him. If, on the other hand, the witness does attend, and is not paid, he can only have recourse to the common process of law in a civil court, which still remains superior, and I trust always will, to the military, in order to recover and levy by execution, his money.

It is objected by the same gentleman, that the bill operates unequally on the officer and soldier; that the life of a soldier may be taken by the introduction of evidence which would not be sufficient to affect an officer. But this construction, like many others of the gentleman, is not warranted by the terms of the bill. The third section, which had been alluded to, when we have recourse to it, we find in no case authorizing the reading of testimony by depositions, unless in cases where the punishment may extend to cashiering an officer or flogging a soldier; but if that section had been obscure in its terms, the general provision, which is of unlimited operation, in the fourth section, and declares that in no case where the punishment is capital a deposition shall be read in evidence, unless when the witness resides at more than one hundred miles from the court, completely refutes the distinction made by the gentleman's argument.

A general objection has been made against summoning a witness before a military court, because, it is said, that kind of court is not regular in the times or places of its sittings; and the gentleman from Kentucky has intimated that in this respect the civil courts are differently organized. These, if objections at all, are objections to the constitution of the military court itself, and not to the provisions of the act, which are intended to enable it to effect the purposes for which it was intended; from the very nature of a military court it was impossible such court could by law be fixed as to the time and practice of its sessions.

The gentleman is mistaken, too, when he supposes that the civil courts are limited in the duration of their sessions, and in this respect different from the military court. The Supreme Court of the United States is unlimited in this respect, and the inferior courts all have the power to adjourn as may suit their convenience, and to sit as long as the business before them may require. The dangers, then, which have been apprehended to exist in a greater degree in a military court, from their power to continue longer in session than a civil one, and thus harass a witness unnecessarily, are also found to be but ideal.

Mr. L. said he was willing to admit, that if an objection did exist to any part of the bill, it was to the fourth section; it is certainly jeopardizing in a very dangerous degree the life of a fellow-being, to permit testimony taken by deposition to be read in evidence on his trial; it is not objectionable in this law, however, on Constitutional grounds, as a gentleman from Vermont (Mr. Elliot) has supposed, because, by the letter of the Constitution, the right of being confronted with the accuser and witness at the time of trial is, in express terms, confined to civil cases, in exclusion of military trials. This civil right is as expressly excluded from the military as the right of trial by jury; and it is easy to see the necessity which exists for this distinction which our Constitution has made. That necessity was, no doubt, lamented by the humane and wise framers of our Constitution. The section in question, however, although it ought to be acted on with great caution, affords perhaps the best mode which can be adopted, considering the convenience and rights of the citizen, to obtain testimony so situated. To make no provision for obtaining testimony, which might happen to be at the distance of an hundred and one, or a thousand miles from the seat of the courts, might, particularly in courts of inquiry, be productive of evils in the investigation of charges which the public interests required to be supported, if true, or which the accused, if false, might thus disprove.

Too much of the time of the House has already been taken up in replying to objections to the bill, which have been urged in many instances without even the shadow of plausibility, and could only have been intended to mislead the public mind.

Mr. L. said he would only beg leave to remark, before he concluded, that the bill, in his opinion, had been unfairly opposed. A military court, although admitted to be a necessary institution for the trial of offences, has been mentioned as if it was now intended to form an usurpation over the civil authorities, although the bill itself has in the closest manner pursued, from the beginning to the end, the principle of subordination which is acknowledged to be due from the military to the civil. The courts themselves have been represented as formed of men already determined on the most violent abuses of the rights of society, and as wholly uninfluenced by the usual restraints of prudence and discretion which actuate judicial tribunals. If, indeed, this be the case, abolish these courts as useless and dangerous; but who, in the candor of his mind, and when the effervescence of the occasion shall have subsided, will say so? Has any part of the conduct of those courts heretofore published warranted the stigma? The late instances have been honorable ones to the character of its members. The judge advocate has been selected from the civil orders of society; gentlemen have been appointed who stand first in the line of their professional pursuits, distinguished no less for legal ability than moral integrity—men whom no one dare to suspect of a disposition to harass the citizen or trample on his rights. It is most probable that examples so satisfactory might in future be followed, but if the law as it at present stands does not give that assurance, let it be altered, and make it necessary uniformly hereafter to select from civil life the judge advocate of the court, whose details of the testimony reliance may be placed on.

In all the objections which have been made, Mr. L. said he could see nothing, unless, indeed, it was such clamor as ingenuity may at all times give birth to, against the most unexceptionable laws, and which the time and circumstances under which this bill has been necessarily introduced, are particularly calculated to bring forth. For his own part, he was willing to risk its passage, for he could see nothing like danger in any of its parts to the civil liberties of the people of the United States.

At four o'clock the House adjourned without having decided the question.

Saturday, March 12.

Mr. Jeremiah Morrow, from the committee appointed on the tenth instant, presented a bill authorizing a loan of arms to the State of Ohio; which was read twice and committed to a Committee of the Whole on Tuesday next.

MILITARY COURTS.

The bill concerning Courts Martial and Courts of Inquiry was again taken up. The question being on the passage of the bill.

Mr. J. Montgomery observed, that having been Chairman of the committee who reported the bill, it might be considerered proper for him to assign the reasons which influenced the committee to report the bill, to state its principles, explain its provisions, and to meet objections yesterday urged by gentlemen on the floor against it. Ingenuity has been exercised, said he, talents have been displayed, and the power of imagination put to the stretch to invent objections to the principle and provisions of the bill—some of such a nature as to affright us, to excite a horror against its adoption. The bill has been denounced as erroneous in principle, defective in detail, inoperative in practice, causing delay in military justice, and as oppressive to the citizen. It has been said that this bill, instead of being entitled a bill concerning courts martial and courts of inquiry, should have been denominated a bill making the civil subservient to the military authority. It has been said, that if you pass this bill one of the greatest misfortunes at this all-important crisis of the nation, one of the most serious calamities, will certainly happen. It will cause, it is said with confidence, a dissolution of your Army. It has been said, too, that pass this law, and one of its prominent features is, that you cause military law to be established in your land; that you subject the citizens of the United States to military despotism, a state of things the most abhorrent to our feelings, a state of things the most to be deprecated. It has been said, too, that this bill is worse than the alien or sedition laws, that if you pass this bill you drag before your courts martial your wife, sister, or daughter, to be mal-treated, and compel them to follow a moveable camp; that this bill was originally designed for a special case, and that there is such a defect of detail in it, that there is not a solitary provision which will meet the case.

Are all those objections real or visionary?

How easy it is for the human mind to raise objections against any system on earth! What system was ever adopted, which would not be equally objectionable as this, going in the same manner upon the supposition of abuses which might occur under that system? When measures are held up for adoption to the National Councils, how easy it is to reprobate them! Prior to the elevation of a Jefferson to the Chief Magistracy of the nation, we heard various objections urged against him; he was denounced as an infidel; it was said that by establishing him in the Presidential chair, you would establish infidelity throughout the land; that the Government would be perfectly nerveless. He has been elevated, and where is the citizen hardy enough to say that one of those consequences which was predicted, have resulted? On the contrary, all his measures, the selection of his men, all the acts of Government, have been approved. Shall I call the consideration of the House to the embargo law? How many objections, how many clamors were raised against it—how many evils predicted! That our citizens would be ruined, our country prostrated, and everything hazarded by its adoption. The measure has been adopted, and what is the result? It meets with popular approbation throughout the Union. In those places where it was at first unpopular, the moment it was understood, and the censures against it met and obviated, the law became popular, and is now considered one of the sheet-anchors of the nation. When that measure was first introduced to the House, will any gentleman say that the bill for imposing it was correct in its provisions? Was it not defective, and have not two bills been passed to amend it? Assuredly; and one of the grounds of objection to this bill, and it has been repeated two or three times, is, that the bill is defective. It was not correctly reported at first I admit, and it requires time and deliberate discussion to understand and correct its principles.

How many gentlemen argued upon this bill? They blow hot and cold. Sometimes it is too strong: sometimes powerless. When it was originally reported, it was censured by some of its friends and all its enemies as being too extensive in its operation; inasmuch as that when a man was put on trial for his life, a summons might issue to any person within the United States. Here then it was too strong. What was done? The bill, to meet the ideas of gentlemen, to ameliorate it, was recommitted, and the committee have reported it thus: as it now stands no summons shall issue to a person at a greater distance than one hundred miles; and in all cases beyond that, depositions shall be taken. But, says a gentleman now, will you put a man's life at stake upon a deposition? The bill was too strong when it authorized the calling witnesses; but the moment we have made a provision to meet the ideas of gen-

tlemen, then we endanger life upon *ex parte* depositions.

If the bill contained the mischievous principles and provisions which on this floor have been ascribed to it, I am one of the last in the nation who would give their assent to it. The exceptions taken to it consist entirely in declamation. Strip them of that, meet the bill on its merits, and they vanish.

Of what description is the bill now before the House? It is a remediant bill. The only questions to be asked are, is there a defect in the laws on this subject? If so, is it so important as to require a remedy? This is the real and genuine principle. Apply it to practice: is there a defect in the rules and articles for the regulation of the Army? If so, is it of so serious a nature as to require a remedy? Does this bill afford such remedy? If I can show to the House, and I have no hesitation in saying that I can satisfy any reasonable mind, that there is a defect, and of such a serious kind as to call for a remedy, and that this bill affords that remedy, I cannot but expect that the House will adopt the measure now under consideration.

The rules and regulations in all cases of offences established by those rules, whether capital or not, are not defective in the power of compelling witnesses to attend where proof must be confined to the ranks. If those articles contained no offences but such as must necessarily be confined in proof to persons in the Army or Navy, there would be no necessity for the interference of Congress. Is there one provision in all the articles to meet a case either capital or otherwise, where the witness is not in service? Yes, there is one; in a case not capital, in a case not going to life or dismissal from office, depositions may be taken—how? Before a magistrate. Even in that case there is no benefit of summons. The party accused, let the offence be clothed with whatever infamy, or going even to deprivation of life, has not the power of obtaining process for witnesses. The only opportunity he has is, in cases not capital, to obtain the testimony of a witness by a deposition taken before a magistrate, provided both parties shall be present at the time of taking. Here then is a defect in the existing regulations; with respect to minor crimes, depositions may be taken, but as to capital crimes there is no provision whatever. Will any gentleman here say that a man charged with offences going to infamy shall only have the benefit of depositions taken before a single magistrate, subject to the pleasure of the prosecutor to attend even in that case? That the party accused shall be left to this mere skeleton of a relief to get the benefit of testimony? Was the bill under consideration to go no further than this, I am confident that the good sense of this body would say that Congress ought to pass a bill to meet such cases as that—not only to make more perfect provision for taking depositions, but to give the benefit of process to compel attendance of witnesses. What is the existing regulation? I will read it, as I wish not to state anything in which I am not borne out by the laws of the land. One of the articles of war says, "in the trial of all cases 'not capital, before courts martial, the depositions 'of witnesses not in the line and staff of the Army 'may be taken before some justice of the peace, and 'read in evidence: *Provided*, That the prosecutor 'and the persons accused are present at the time of 'taking the same, or are duly notified thereof." With respect to courts of inquiry, an article says courts of inquiry shall have the same powers to collect evidence as courts martial. This description of courts, then, have all the powers of courts martial, and all the privileges extended to the soldier or officer in cases less than capital in the one court which he possessed in the other. Will any gentleman say that a party accused of a capital offence, to a conviction of which infamy would be attached by the sentence, has one particle of relief from the existing laws? There is but one solitary provision, and that in cases less than capital. A person who is in the regular service may be brought up before a court martial, his life upon the hazard; and when he comes before them what will it avail him to say, that he has witnesses, but cannot compel them to attend? If we examine the articles of war we shall there find at least thirty offences punishable with death or infamy. Is it then wise, politic, or humane, to suffer such offences to exist, and prevent the accused from enjoying the opportunity of acquitting himself from the charges against him? I believe there is upon the present Military Establishment from two to three thousand men; it is contemplated by a bill on the table to increase the Military Establishment by adding thereto six thousand men. A bill yesterday passed authorizing a detachment of one hundred thousand militia. In what situation are they placed, the militia as well as the Army? By the articles of war, the militia when in service are subject to the same discipline as regular troops. Then those men who are to be draughted from the militia, those six thousand who are contemplated to be raised, and those now in service, are subject to the vilest punishments which can be inflicted on men; and ought we deprive them of the benefit of testimony to prove their innocence? If a militiaman be charged with one of the offences contained in the various articles of war, and the only witness be a citizen not in service, no testimony could be had. No person acquainted with the transaction is in the military service. In what situation do you place him? Do you not forfeit his life by not applying a relief and remedy? Surely you do; if you refuse him the benefit of process, you certainly place that man in a situation to forfeit his life without relief. Am I or is any gentleman prepared to go home and tell our constituents that we have given our consent to a law for calling into service one hundred thousand militia, while death may stare them in the face in thirty different shapes, without having passed any law to establish their innocence? The moment malignity shall conjure up a charge going to life or reputation, that moment these men may be sacrificed. I am not prepared to tell my constituents that I have done this—that I have left them suspended in this dangerous situation.

This being the fact, that an evil does exist, is it such an evil as requires a remedy? I presume that no gentleman in this House is prepared to say that, if such an evil does exist, there ought not to be a remedy provided.

Is this the proper remedy? In all cases under the provisions of the bill, where the witness is a citizen, neither courts martial nor military officers are authorized to issue process. It is to issue out of courts of justice. Whence do subpœnas issue in all cases? Out of courts of justice. The bill then provides in all cases pending in military courts martial to give the same opportunity for obtaining witnesses that is provided in suits at common law.

It has been objected to the bill that by it the military institution is blended with the civil. It is so from the necessity of the thing. Whence should summons issue if not from the civil courts? Would gentlemen say that it should issue from courts martial? If not from them, where could the power be better intrusted than with courts of justice? Has not the military and civil already been blended in the laws now in existence? Look at the only article which provides for the obtaining testimony in civil cases, and how is it there provided? Do you there go to a court martial or a military authority to take depositions? No; to the civil authority—to a magistrate. There is already in certain cases a provision that the party accused may have the benefit of the civil authority. Does this bill go further? It does—because we did not wish to go to an inferior authority for a summons; we would go to the same source from which all summons do flow—to the courts of justice.

But it is objected that by this bill a person is compelled to submit documents to the inspection of a military court martial. Good cause is first to be shown to a civil court; it is not to be issued upon a mere application; good cause must be shown, verified by affidavit, and the paper must be described. But gentlemen tell us that this is making the judges of the superior courts bend to the military. This provision was introduced for the purpose of guarding the right of the citizen to have his papers sacred. A magistrate, therefore, is not trusted with this power; the authority is given to the judge of a superior court. Can it be placed in safer hands than theirs?

The bill provides that in cases not going to loss of life or cashierment of a commissioned officer, where the witness shall reside within twenty-five miles, the party shall have the benefit of attendance; where the witness shall reside at a greater distance than twenty-five miles, his deposition shall be taken. This regulation was incorporated in the bill for the convenience of the witness. As the bill stood originally the party accused or the judge advocate might take a summons over the whole United States, but gentlemen in favor of the principle considered the latitude given to this provision to be too great, and it was accordingly abridged.

As the bill is amended it gives the military court the same privilege of testimony which is given to the circuit courts. A party having suit in the district and circuit courts of the United States can have a subpœna to compel the attendance of a witness if he lives within one hundred miles. Here it is provided that a party being charged in a military court, his life on the hazard, should have the benefit of oral testimony, if to be had within one hundred miles; if beyond that limit he may take depositions.

In every instance where a person is put to inconvenience, he ought to be paid for his trouble, and provision is made in the bill for that purpose. It has been objected that in this bill there is no provision for payment. It was conceived that the common law would act in this as in every other case; that the witness had a right to have his expenses tendered him, and if not paid that he might refuse to attend.

This bill has been said to be modelled after the mutiny act of England. I have examined that act with the bill and can see no similarity in their features. The mutiny act is annually passed for continuing the army, and one of the provisions of it is that the rules and articles of war shall be framed at the pleasure of the King! There is surely nothing like that in this bill.

Is it true that the civil authority is subjected to the military by this bill? What are the authorities given by this bill to the civil authority? They are to issue a summons and *subpœna duces tecum*; the manner in which process shall be served and punishment inflicted are specified in the bill. What authority does it vest in courts martial or of inquiry to exercise one solitary power? All the power that a court martial can exercise under this bill is the mere simple power, when the witness does appear, to receive his testimony. A court of justice issues the summons, it is served by a civil officer, returned to a civil court; if the witness or officer to whom the process be directed be guilty of disobedience, they are punishable by the court which issued the summons; and courts in civil cases possess the same power precisely, in all cases of summons from the courts of the United States and disobedience, as the bill authorizes them to exercise on a matter over which, before, they had no jurisdiction. The power given by the bill to military courts extends to the mere examination of witnesses, and no further.

The whole of this bill may be included in a nutshell. The principle is to provide a remedy for an existing defect in the rules and regulations for the discipline of the Army, to which every citizen of the United States, from eighteen to forty-five, may by the laws of the land be subjected—it is merely a remedy to protect innocence and punish guilt. If we refuse to provide a remedy for the defect which exists, what will be our consequent duty? To repeal all those rules and regulations, or give the party under their operation some relief.

A gentleman from Massachusetts (Mr. Bacon) has already told us that the laws and regulations relative to the laws of the several States, go a great deal further than this bill; and he has said correctly. In the State of Maryland the rule for obtaining testimony before courts martial is broad,

and gives the court martial full power. It is in these words: [Here Mr. Montgomery read an article in the militia law of Maryland, passed the last session, by which courts martial have a power of issuing summons for witnesses, to run to any place within the limits of the State.]

Here then we find a provision in one of the articles for the regulation of the militia of a sovereign and independent State, vesting the power of issuing summons in the courts martial themselves—within twenty-five or one hundred miles, or confined to the militia alone? No; a broad power to call for persons residing where they may. A court martial in Worcester may send for persons of whatever age or sex (the power being as broad as that of courts of law) even to Alleghany, a distance of three or four hundred miles. But the law does not stop here; it gives power to a court martial to issue attachment against a witness for non-attendance, and to impose a fine. Contrast this regulation, and I believe it is a good one, with the regulation on your table, which vests in a court martial no further power than to examine a witness when before them. All the powers granted by the bill are to be exercised by the civil courts under the laws of the United States.

I think, therefore, the principles of the bill are correct, and the power vested in an authority by which it is not likely to be abused.

Mr. Sloan said, that during the discussion on this subject he had remained silent; and if the bill in its operations had been confined to the military, he should have remained content to give a silent vote. Had he considered it merely harmless, he should have been silent; but considering it a dangerous innovation, striking a blow at the most sacred rights and privileges, he could not, consistently with his conscience, sit still and barely give his negative vote. Shall I, said he, be branded with joining in opposition, with having departed from principle? I came not here to see with any man's eyes, to hear with any man's ears, or judge with any man's understanding. I came here to use that discretion which God and nature have given me, and to protect in every case the liberties of my country. However high I may value, and my former conduct has fully evinced this, that part of the House who are supporting this bill, however near and dear has been my connexion with them, it would ill comport with the dictates of my conscience, and the rights and liberties of my country, should I look to the source whence this or any other bill has been produced. Whenever I am intrusted as a watchman to guard the treasure of our rights, it behooves me to look at the production and not at the source from which it flows.

I have considered this bill as aiming a death-blow at the rights and liberties of the people of the United States, and if gentlemen are anxious that their speeches should go forward and their votes be recorded, I do not wish to disguise my sentiments or conceal my vote. Although much has been said on the cause and operation of this bill, I beg the attention of the House to some brief observations on what gave rise to it. A resolution was introduced to raise a committee of inquiry into the conduct of a certain high officer; I opposed this measure, and it is certainly within the recollection of every member that I not only opposed it, but zealously opposed it. Is there a member on the floor who was more decidedly opposed to it, or one who expressed himself in more pointed language, believing that it was unconstitutional, and not within the line of our duty? While, however, I expressed my dislike to that measure, I considered it of trivial consequence, compared with this bill. It was a temporary and singular affair; if unconstitutional and improper, it was confined to a single object, and when that had been obtained, would have ceased to operate. But what is this bill? Not temporary; for unless a future Congress repeal it, it will continue *in perpetuo*. And what a blending of two powers together! Shall I be accused of presumption or ignorance in offering my sentiments in opposition to those expressed by a number of members of legal abilities, who no doubt suppose they have explained this matter in so clear a point of view that there can be no doubt on it? However I may respect them, and however superior may be their knowledge, I must act according to the dictates of my conscience. Permit me to say, that I cannot understand the language of some gentlemen. A gentleman from Kentucky, of legal knowledge (Mr. Johnson) says, that if this bill extended military powers, he would oppose it; this he declared, and I cannot understand it. If I understand the subject right, the power of military courts is at present confined within the line of the Army; on the other hand, if I understand it aright, this bill extends their power to six millions of people, to every inhabitant of these States. I must go to school again before I can understand this; it is an extension to a dangerous degree, and such as I hope will never be sanctioned by a law of the United States. It is giving to a tribunal, before limited in its powers, a power which is unlimited as to the extent of its operation, and depending entirely upon the Commander-in-Chief. I have no opinion of mixing the two powers together. I cannot conceive any case in which the provision could be of service except the one to which he had alluded, and that can have no weight; I cannot see that it can have any bearing on that case, or be of any advantage to the accused. What is his situation? Certain witnesses have been summoned; their refusal to attend is sufficiently significant, and answers every purpose of exculpation; therefore, this case does not apply. This bill mixes together the two powers, military and civil, which have heretofore remained entirely separate, and God grant that they may ever so remain. I hope to speak with proper deference and respect to my brethren in legislation, but I must speak plainly and in the language of which I am capable. Under this impression I must ask whether they would have given their sanction to this bill ten years ago? At that time, although I did not possess a seat on this floor, my attention was turned to the liberty

and true interest of the country, nor can I now agree to this principle; I would not when John Adams was President, nor will I now when Thomas Jefferson is President.

A member from Maryland, who spoke this morning, observed, that it was scarcely possible to introduce a bill in such a shape but ingenuity will find objections to it; permit me to retort by saying that no bill, however improper, can be brought into this House but the ingenuity of members will find some plausible pretext for it. The gentleman has told us that if the bill contained those evils, he would oppose it; I will say that if his eyes are open he must see them. He has endeavored to wipe them away; but he has labored in vain, for he has not touched the principle. It is not the detail but the principle to which I object. Cases have been supposed as possible, in order to find a ground for the bill; it has been said that a poor man's life might be taken away for want of evidence. We might sit here year after year to suppose cases which might occur, on which we might pass laws; but we cannot legislate upon suppositions. I call upon gentlemen to say whether in twenty years, in so perilous times, one single man has become the victim of a tyrant; whether in one single instance a man has been put to death unjustly? Did ever a military man suffer, crying out when the rope was about his neck, "I die for want of a witness?" I believe not.

It seems to attract the attention and sympathy of the members of this House to vote in favor of this bill, because there is a prospect of calling out the militia. The argument is poor. I understand by what I have heard read that the militia called out are to be tried by courts martial consisting of their own officers. Will the calling these men into service immediately transform them into tyrants? I cannot suppose that a court martial consisting of militia officers would deny to the party accused the opportunity of obtaining witnesses; on the other hand, I will not suppose that any witness would be so unjust as to refuse to attend to screen an innocent man accused. This has been the case for thirty years, and such I trust will always be the case. It is contended by the supporters of this bill that the law respecting courts martial is too vague. I am not a military man; but if I had known nothing of the subject before this discussion, dull indeed must have been my old brain, if I did not know something about them by this time. If I understand the nature of a court martial, it was intended to exist but as an evil, to punish crime which it would be dangerous even to the safety of the United States to try in civil courts. Does this bill go to destroy entirely this plan? Dull of apprehension must any person be, who cannot see that it may prove of ill consequence. If there should be a traitor taken before a court martial who shall declare that he has a witness in civil life, may he not evade a trial, till he may escape prosecution? Is it not better that the law as it now stands should take its course, and that traitors should be brought to immediate justice? I conceive it is.

I shall not much longer take up the time of the House. I have endeavored to discharge my duty. I believe that the military officers in our standing army will perform their duty with propriety, humanity, and justice, and that we should never take from them the necessary power, that is, the power to punish traitors in a summary way, and I will not entertain a thought so derogatory to their honor, as to suppose that this power will be abused. I will suppose that the officers of both our regular force and militia, if we should unfortunately be involved in a war, will continue to act with humanity, justice, and propriety. I wish to keep the civil and military powers distinct; the blending them would lay a foundation for military despotism. It is of no avail to tell me that we have a worthy President; I acknowledge it; but that is no reason to tell me that the power given by this bill will not be abused. I am not certain how long that will be the case; and I will give no power to a virtuous man which a vicious man might abuse.

Mr. S. concluded with a solemn hope that the bill would not pass this House; if it passed this House, that it would not receive the sanction of a law.

Mr. Holland certainly expected that the gentleman last up would vote for this bill after declaring that he entertained so high an opinion of courts martial. In this respect, said Mr. H., there is no difference in sentiment between the gentleman from New Jersey and myself. I believe that no danger will arise from giving the power contemplated by this bill to courts martial to examine witnesses, because I believe that the officers composing courts martial are gentlemen, and know how to treat witnesses with that respect to which they are entitled. I believe that witnesses will be under less embarassment when giving their testimony before a court martial than before a court of civil jurisdiction; and my reason for that belief is this: I admit that military courts may not be possessed of much legal information, but the witness is not liable to be interrupted by the examination of an attorney; courts martial will not suffer this; they are men of honor. The witness then is relieved from this, and this is the most disagreeable to a witness, who dreads cross-examination, and rightly too, as he is often made to contradict himself. This does not occur to a witness before a court martial.

A gentleman from Kentucky, (Mr. Rowan,) while on this subject, mentioned that one great inconvenience by this bill is, that the witness has not the power to bring in other witnesses to corroborate his testimony. This is not the general practice in civil courts; it has not been the practice so far as I know in civil cases. It is true that when a witness is brought before a court and there are circumstances which may discredit his testimony, either party has the right to bring in corroborative testimony. The principle, therefore, in that respect is the same in courts martial, if this bill pass, as in civil courts. It will always be in the power of the parties before a court martial to bring in testimony to strengthen or to invalidate testimony.

This bill has been objected to because it augments the power of military courts. Is this correct? Does this bill give any new jurisdiction? Certainly not, for it does not give them power over a single subject of which they had not power before. What is it that the bill contemplates? Nothing more than to enable courts martial to have a full view of the subject before them. As the law stands they have not this in their power. Courts martial now can only partially procure witnesses; the bill before us is intended to remedy that evil—not to give new powers to courts martial, but to allow them testimony which under the existing law cannot be brought before courts martial. For this purpose, and this alone, is the bill brought before you. Is it not proper, laudable, and right? Why shall the citizen whose integrity cannot be doubted, be excluded from giving testimony before courts martial? There is no reason why persons accused before a court martial may not have the benefit of testimony, nor why Government may not have the same to support the guilt of persons accused. It is certainly clear that courts martial ought to have before them everything relating to the subject, and ample power should be given to obtain it; to effect this object the bill on your table has been produced. Then why this great clamor against the bill? It seems a little strange that gentlemen should take the ground they do, when we consider the manner in which the subject was introduced, and the circumstance which induced the House to consider this bill. A cry was raised in this House against a certain officer; a resolution was passed requesting the President to inquire into his conduct. This was opposed by myself and others. A majority of the House, however, resolved that an inquiry should be made into his conduct. The President of the United States informed the House that an inquiry had already been granted; and it would seem to me, independently of the suggestions of the President, that gentlemen who wished an inquiry would have agreed to examine the law, and see whether it afforded the remedy which they themselves had suggested. Have they done so? No. When the law is examined and found to be defective, and that witnesses cannot be brought forward to support the prosecution, or to exonerate the officer if innocent, they are off; they want no more of it; they will not touch it. I should suppose those very gentlemen would vote for a law to make this inquiry ample and just; that they would supply the defect, more especially if they believe the officer to be guilty. I should think gentlemen would, *en masse*, come forward, and empower the courts to prosecute an inquiry. When this subject was under discussion it was suggested that no doubt the President would do his duty. Consistently with that language, gentlemen ought now to come forward and enable the Executive to do justice. Will they do so? No; they wish the law to stand as it is—that the great mass of our citizens should be excluded except they voluntarily tender their services. Is it possible that under circumstances of this kind, an officer on trial can show his innocence? Certainly not; it has become necessary to pass this law to effect the object gentlemen had so much at heart at an early period in the session, that a certain high officer might be either condemned or acquitted. I trust considerations of this kind will incite every gentlemen who voted for that inquiry to support this bill.

Mr. Pitkin.—It was not my wish, Mr. Speaker, nor indeed was it my intention, to have troubled the House with any observations on the bill before you. I should have contented myself with giving a silent vote upon it, did it not contain such principles and such provisions for the purpose of carrying those principles into effect, as I never can consent to sanction.

I should not, however, have trespassed upon the already exhausted patience of the House, in this late stage of the discussion, did I not view the subject in a light somewhat different, even from those who have expressed their sentiments in opposition to the bill. It has been stated by most of the advocates for the measure, and this statement has not, to my recollection, been contradicted, but it seems to be admitted by its opponents, that the principles and provisions of this bill are similar to those which have been adopted in Great Britain in relation to courts martial and courts of inquiry. I do not, sir, understand this to be the case. The principles contained in this bill, if my understanding of the law of Great Britain is correct, go much further on this subject, and give much more extensive and extraordinary powers to military courts than has ever been given them in that country. It is well known that in England as well as in this country, regular armies are governed by what is called the law martial, and that this law is enforced by means of military courts, which are of two descriptions, viz: courts martial and courts of inquiry. It is equally well known that the crimes, as well as the punishments under the martial law, and all the proceedings in these military courts, are very different from those under the civil or municipal law. And no principle is better established in England than this—that these military courts have no power or authority whatever over any persons but those who belong to the army, and that they cannot compel any person, in civil life, to appear before them to give testimony, or for any other purpose whatever. As, however, it may happen, and undoubtedly has happened in that country, that those not belonging to the army may be wanted as witnesses in courts martial, the civil courts there have lent their aid, in order to enable them to have the benefit of such testimony. The mode of proceeding in such cases I understand to be this: The judge advocate presents a petition to the civil court, showing the necessity and importance of the attendance of a person not belonging to the army; and if the court are satisfied that his attendance is necessary, they will direct a summons to issue for that purpose. That I am not incorrect on this point, I will beg the indulgence of the House while I read a short passage from "An Essay on Military Law," a work of some celebrity, lately written by Tytler, an able judge advocate in Great Britain. Speaking "of the authority of courts martial," he says: The civil 'power will likewise lend its aid to supply any 'deficiencies in the powers of courts martial, 'where the end is the proper enforcement of mil-'itary discipline and jurisdiction. Thus, for ex-'ample, as military jurisdiction does not extend 'to enforce the appearance of witnesses who are 'in a civil line of life, or to compel them to give 'their attendance in a court martial, they will, in 'case of refusal to obey the summons of the judge 'advocate, be cited or subpœnaed for that purpose 'by the civil magistrate, on application by peti-'tion from the judge advocate, setting forth the 'necessity of the case, and the importance of their 'testimony to elucidate the matter to be tried."

Whether this mode of proceeding is established by an act of Parliament, or is founded on a sort of comity between the civil and military courts, does not appear from this writer, nor is it, indeed, necessary to determine. It shows, however, incontestably, that in England, from whom we have derived many, if not most, of our ideas of jurisprudence, the military power is completely subordinate to the civil. That even in that country, whose Government is monarchical, and where, for centuries, there have been regular armies, the rights of citizens are so completely shielded from the control of the military that no one, except he belong to the army, can be called before a court martial even for the purpose of giving testimony, but by the consent of the civil court, and that upon the humble supplication and address of one of its officers; and this consent is granted not as a matter of right but of favor.

Permit me, sir, to ask gentlemen whether this is the case, according to the principles of the bill upon your table? The first section says: "That 'in every case when the attendance of any per-'son, not in the military or naval service of the 'United States, shall be necessary as a witness 'before a military or naval court martial or court 'of inquiry, and who shall reside at a greater dis-'tance than one hundred miles from the place 'where the court martial or court of inquiry shall 'be holden, a summons may be issued out of any 'court of the United States, and the clerk of any 'such court shall be, and he is hereby, authorized 'and required, upon due application, in writing, 'by the judge advocate, or party officiating as 'such, or by the party accused, to issue such sum-'mons, requiring such witness to appear and give 'evidence before such court martial or court of 'inquiry," &c. Who is to judge of the necessity of the attendance of a witness? The judge advocate, an officer of the court martial, or the party accused. To whom is the application to be made? Not to the court or any one of the judges, but to the clerk. On such application there is no discretion left with him—he is not only authorized, but required, to issue a summons. I might be willing to go as far as they have gone in England on this subject, and in a country where civil liberty is regarded with a much more jealous eye than there. This, I think, will be going far enough; but I never can or will consent that an officer of a military court shall have it in his power to enter the sacred walls of our civil courts, and there order one of its clerks to issue a summons for witnesses to appear before a military tribunal. This is rendering the civil power subordinate to the military—it is making your civil courts the humble tools and instruments, as the case may be, of military despotism. Sir, it will be recollected that, by the provision of the second section of this bill, in case one of your citizens refuses to obey the summons thus ordered by the judge advocate, or, when he has appeared before the court martial, shall depart "without 'leave of the court, before his examination shall 'have been taken down in writing, subscribed, 'and concluded," he is liable to fine and imprisonment.

If these observations have any force, so far as they relate to courts martial, they have much more as applicable to courts of inquiry.

And here, sir, I cannot but observe, that by the laws of England, courts of this description, so far from having the extraordinary powers given them by this bill, (if the author I have quoted is to be credited,) have not in fact any power whatever to procure the attendance of witnesses, or even to examine them on oath. I beg leave to ask, in what manner courts of inquiry are instituted, and for what purpose? In Great Britain, they are instituted solely by some superior officer; by the Rules and Articles of War, in this country, they are instituted either by the President of the United States, or, when demanded, by the party accused. The object of these courts is merely to enable the superior officer to form a more correct judgment as to the propriety of calling a court martial. Their judgment or opinion is not binding or conclusive for any purpose whatever, and the facts which they may find are in no case conclusive on the court martial.

Can it be necessary, sir, that courts of this description should be vested with such extensive powers as are given to them by this bill? Every officer accused has a right, by the Articles of War, to have a court instituted for the purpose of inquiring into his conduct; and, when thus instituted, the party himself has power, by the bill before us, to send for persons, and also for all public papers which may have relation to the subject, and to have them produced before this court. I can never agree to this principle. When I say this, I trust no gentleman will believe that any observation of mine can have any reference to the particular case which has given rise to this bill, and which, in the course of the debate, has been so often alluded to. With the present Commander-in-Chief of our Army, I have no personal acquaintance. I can have no wish that he should not be able to exculpate himself from the charges which have been made against his character; but I cannot conceive that the passage of this bill can be necessary for that purpose. And I have no hesitation in saying that no particular case can be stated which would induce me to vest military courts of inquiry with such extensive powers.

But, sir, if the bill is defective in its principles, it is equally so in some of its provisions for carrying those principles into effect.

By the fourth section, in all cases before such courts, even when the punishment of the offender extends to life, the depositions of witnesses may be read in evidence, when they live more than one hundred miles from the place of trial.

No rule—thought perhaps to say no principle—in our criminal code is better known and established than this: that in all trials of a criminal nature the accused has a right to be confronted with the witnesses brought against him. The same rule, I understand, has hitherto been held sacred in military courts. Depositions have never been permitted to be read in courts of a criminal jurisdiction. I can see no good reason why this principle, hitherto deemed so important to the due administration of criminal justice, should be departed from.

Permit me to call the attention of the House to the third section of the bill. It contains a provision, to my mind, particularly objectionable. It will be recollected, that the first section provides, that, upon good and "sufficient cause shown, ver-'ified by affidavit, before any judge of any court of 'the United States, a *subpœna duces tecum* may 'be issued by the clerk of such court, for public 'papers, documents, or records;" and that, by the third section, when the witness lives more than twenty-five miles from the court, his deposition may be taken before certain State judges, or before a judge of any court of the United States, or three or more of five commissioners, to be appointed by a judge; and then follows the objectionable clause: "And summons shall issue for witnesses, 'before every such judge or such commissioners, 'for the purpose of giving their depositions, and 'producing papers, documents, and records, in like 'manner as is hereinbefore prescribed for sum-'moning witnesses before courts martial and courts 'of inquiry."

Let me ask any gentleman in this House, who is acquainted with judicial proceedings, whether he ever before heard of commissioners, appointed to take depositions, being vested with power to send for public papers and documents to be brought before them? To me, the idea is truly novel. But let us suppose these public papers and documents are produced before these commissioners, or before the judge who is requested to take the depositions—what is to be done with them? Are they to be delivered up into the hands of the commissioners? and, if so, in what manner are they to be sent forward to these military courts? Are they to be sealed up, with the deposition of the keeper of the records and papers, and put into the hands of the person applying for them; or must the commissioners themselves deliver them to the court, or send them by the mail? And if they should ever reach the court, in what manner are they to be returned to the person who by law has been intrusted with the safe-keeping of them? These are questions, sir, which I should wish to have satisfactorily answered, before I can agree to this section of the bill.

On this subject I will hazard an opinion, without fear of contradiction. It is not in the power of any civil court to take any public papers, documents, or records, from the possession of the person who is, by law, intrusted with them. The subpœna *duces tecum* never has, it never can go further than to direct the witness summoned to bring with him certain public papers in his possession. When the papers are produced before the court, the court then decides as to their relevancy to the matter in issue, and may direct that they be read in evidence; they are never taken from the possession of the witness. For what purpose are these public papers to be produced before these Commissioners? Not certainly to be read for their benefit; but that, through them, they may be had on the trial before the court martial. If, then, this bill passes, all the public papers of your country are placed in the power and under the control of your military tribunals. It is only for one of the officers of the Army, and who may perhaps be disaffected with your Government, to institute a court of inquiry at one of your garrisons, say at Detroit, Michilimackinac, or New Orleans. Commissioners may be appointed to take depositions at the seat of Government. What is the consequence? All the papers of this House in the possession of our Clerk; all the papers in the office of the Secretary of State; the most important State papers, such as the official correspondence between the Executive and the various officers of the Government, may be produced before these Commissioners, and, by them, in some way, conveyed to your distant garrisons.

On the other hand, suppose a court of inquiry, as is now in fact the case, is called at the seat of Government; Commissioners may be appointed at New Orleans, and all the public papers, not only of the present, but of the ancient Government of that Territory, are liable to be taken from the places of their deposit, and placed in the power of the party calling the court, or in the power of the court itself; and if this may be done in one case, it may be done in all.

The mode of enforcing the attendance of witnesses, is also liable to many objections, and will be attended with many, if not insuperable difficulties. By the second section, if any witness thus ordered before the court fails to appear, or having appeared, departs without leave of the court, he is liable to the same penalties, and to be proceeded with in the same manner as is provided by law in cases of similar defaults, when summoned in civil causes, in the State where he resides.

In what manner do courts proceed against witnesses in civil causes? In most, if not in all the States, the usual mode is, in case of the non-appearance of witnesses, to issue a *capias ad testificandum*, as it is called, by which he is taken and brought into court by an officer. The capias always issues from the court before whom the cause is pending, and who have complete control not only over the subject in dispute, but also over the witness. They may, also, in certain cases, fine and imprison the witness. But let us examine what must be the proceedings under the second section of this bill. Suppose a citizen of Virginia is, by direction of the judge advocate, summoned to appear before a military court sitting in the District of Columbia, as a witness, and he fails to appear. Application must be made to a court of the United States in Virginia for a capias to apprehend him and bring him before the United States Court; and, on the certificate of the president of such military court, and of the judge advocate, such a writ will issue of course. What is to be done with this citizen by the court in Virginia? It would seem that the bill contemplates he should either be fined, imprisoned, or sent to the military court, where his testimony is wanted. It is very questionable, indeed, whether the court would have any power to fine and imprison a person under these circumstances. For what is he to be fined and imprisoned? For a contempt of the court in Virginia? No, for he has been guilty of none. It must be for contempt towards the military court; and where is the State, let me ask, by whose laws a person can be fined and imprisoned by one court for any contempt committed towards another court? Can the court order him to be transported out of the State of Virginia by their marshal, and brought before the military court in this city? Certainly not; they have no power to do this. If, then, the law is to have the effect of compelling the attendance of the citizen before this military tribunal, he is to be delivered into the hands of the officers appointed to execute the orders of this military court, and be by them transported to the place of trial. And who are the sheriffs and deputy sheriffs of a court martial? They are a sergeant and a file of men, armed, not with staves, the emblems of civil power, but guns and bayonets, the ensigns of military despotism. I had hoped that the time would never come when the citizens of the United States might be thus subjected to military power. But if the principles and provisions of this bill are to be adopted, and carried into execution, I much fear that time may soon arrive. For these reasons I shall give the bill my decided negative.

Mr. Nicholas said, that the gentleman from Connecticut, (Mr. Pitkin,) whom he had heard with great pleasure, admitted that the power to compel the attendance of witnesses before courts martial should exist under the limitation he proposed; but asserted that there should not be compulsory process to compel the attendance of witnesses before a court of inquiry. I cannot see a reason for the distinction. The only argument the gentleman made use of was, that there is not compulsory process in England in cases of courts of inquiry. I have before me the book to which the gentleman referred; it is therein stated, that "the members of a court of inquiry are not sworn 'as those of a court martial; nor do the witnesses 'examined give their evidence upon oath." Because that is the practice in England I presume the gentleman would not wish to introduce it here. There is as much reason why the judges and witnesses should be sworn in one court as in the other. In this opinion *Tytler* concurs. In page 358 he says: "It is, however, a subject wor-'thy of consideration, whether it were not better 'that this tribunal, in order that it might possess 'all the power, and furnish all the benefits of a 'grand jury, should be constituted under the like 'bond of a solemn oath, and have power of com-'pelling the attendance of witnesses, and receiv-'ing their testimony likewise upon oath."

A court of inquiry is in in military jurisprudence what a grand jury is in civil. Why, then, there should not be the same compulsory process in one case as in the other, I cannot conceive. The decision of a court of inquiry may have considerable influence upon the final trial; it will certainly make an impression upon the nation that will not easily be removed. Upon the report of a court of inquiry, the President, in many cases, may dismiss officers who may be obnoxious to him; but whom he could not dismiss in any other way without incurring considerable censure. In this way any man may be sacrificed, unless there is a power to compel the attendance of witnesses. So much has been said in support of the bill that very little remains for me to say. The necessity for a law of this kind must be obvious to all who believe it is not only possible, but probable, that military men may be accused of crimes where the witnesses, to exculpate or to convict, are not persons in the military service of the United States. The mind of every gentleman can suggest so many cases where this may occur, that I will not attempt to enumerate them, I will only say that charges of conspiracy and of corruption by a foreign Power, will most frequently rest upon evidence of this sort. If you deprive your military men of the means of defence, you increase their dependence upon the Commander-in-Chief; you give him the power to deprive those men of their lives and their honor whom he cannot bend to his purposes. If the bill upon your table was meant to extend the jurisdiction of courts martial, I would oppose it; but I repeat, what has been said by others over and over again, that under the operation of this law, military courts will have jurisdiction over precisely the same offences that they now have, and no others. It does not make one man amenable to this tribunal who is not so at present. By this bill the Government will be enabled to use such evidence as they can command, whether possessed by a citizen or a soldier, to bring military men to punishment; and, by it, military and naval men may avail themselves of the testimony of citizens to show their innocence. What is the cause for alarm? What is the ground of the clamor that this bill has excited? How extraordinary is it that gentlemen should, without scruple, confide to these courts a power to decide upon the lives and honor of all your military and naval men, and refuse to trust a citizen in the presence of this court to be examined as a witness! Can it be possible you will suffer your articles of war to remain in force one moment after deciding that these courts are so lost to every principle of honor and integrity, that you cannot trust them to examine a citizen who may be called

upon as a witness? I cannot and will not suspect any men of such a wanton abuse of power. The members of these courts will not act upon the responsibility that judges do in other courts. If they misbehave, they will be subject to punishment and disgrace.

How do the arguments used by different gentlemen in opposition to the bill agree with one another? At one time we are told we are creating a military despotism; at another, that we are relaxing discipline so much that all subordination will be destroyed. Can both these be true? At one time we are told we must not summon witnesses, and alarming representations are made of the inconveniences to which they would be subject by such a law; and, at the next moment, that depositions should never be read in such cases, but that witnesses ought to be examined in open court. An objection has been urged and pressed with great earnestness, that this bill blends military and civil powers, and destroys the subservience of the military to the civil power. Is that the fact? On the contrary, this bill, in my judgment, asserts and maintains the supremacy of the civil power, in the strongest possible manner, inasmuch as the military are neither trusted with the power to summon witnesses, nor to punish them for disobedience. To do either, they must apply to the civil power. The civil power, we are told, is made the mere executioner of the sentence of the military court. This is not the case; so far from it, that a perfect discretion is vested in the civil authority; the same as it would have if the witness had been summoned to attend such civil court. By the bill you say the certificate of the marshal shall be sufficient evidence that the process was executed; and that the certificate on oath of the president and judge advocate—shall do what? Subject the citizen to punishment? No. It shall establish the single fact that the person summoned disobeyed the summons. You take the certificate of the marshal that the summons was issued, and will you give less credit to the certificate on oath of a president and judge advocate to the fact of the witness having disobeyed the summons? In case of default, the civil court and not the military will judge, and punish, or acquit at its discretion. Hear the words of the law:

"The return of the marshal certifying the service of such summons, and the certificate on oath of the president of any such court martial or court of inquiry, and of the judge advocate or person officiating as such, stating in what respect such summons may have been disobeyed, which certificate shall have been entered of record in the proceedings of such court martial, at the time of such neglect or disobedience, shall be admitted as evidence of such default in such witness as aforesaid: *Provided, nevertheless,* That in case such witness shall satisfy the court before whom such proceedings against such witness shall be had as aforesaid, that the default imputed to him was produced by sickness or other inevitable impediments, and was not an act of contempt or wilful disobedience, such witness shall be forthwith discharged from any farther proceedings thereupon in said court."

The case that has been so often referred to in the course of this debate, proves, in the strongest manner, the necessity for such a law. A gentleman in the service of the United States is accused of being concerned in a conspiracy for a severance of the Union, and of having corruptly received money from a foreign Government. The public good requires that such charges should be inquired into; if they are well founded, the person guilty should be punished as he merits, and consigned to infamy. If he is innocent, he should have an opportunity of clearing his reputation. It appears from everything that we have seen or heard, that a resort to persons not in the military service, for evidence in this case, is necessary both for the prosecution and defence. If it be necessary in this case, others may occur in which it will be equally so; and I will venture to predict, that such provisions as this will be found necessary in every case of conspiracy or corruption by a foreign Power. I have attended to this bill throughout all its stages; so far from believing that under it oppression can be practised, I am convinced it is essential to the public weal, and to the security of the individual, that it should pass.

Mr. Randolph said, that after the very able and learned argument of the gentleman from Connecticut, (Mr. Pitkin,) who certainly had proven to his entire satisfaction that he was the only person of those who had spoken upon this subject, that possessed anything like a correct knowledge of that law, which had been said to be the model of the one which it appeared they were now about to enact—he almost felt ashamed at again obtruding himself upon the attention of the House; and he did feel most thoroughly ashamed for the framers of the bill in question. I do blush, said he, for the gentlemen who have brought a bill into this House, modelled, as they say, upon the British law, who have been proven, to my unlearned judgment, (for really, sir, I stand as a juror betwixt them and the gentleman from Connecticut,) not only ignorant of the law of England—surely a very pardonable fault, if they had not pretended to understand it—but equally uninformed with respect to the law of their own country, and with respect to the operation of this instrument, which, after successive recommitments, they have presented to the House. If I were friendly to the principle of the bill, I should have arisen immediately after the gentleman from Connecticut had resumed his seat, and moved its recommitment, in the hope that the Committee would not fail to avail themselves of the extensive knowledge which, with so much credit to himself, he has displayed upon this occasion. For myself, I have not the same cause to blush at the scantiness of my information on the subject. In the first place, I am not a professional man; neither was it a matter committed by the House to my especial care, and on which it was my peculiar and bounden duty to make myself acquainted; and for another reason; because, finding in the first section a principle so totally abhorrent to my mind that no inducement whatever could have

brought me to sanction it, I passed over the remainder of the bill in rather a hurried way; for it will be remembered that the printed copy, as amended, was not laid on our tables until yesterday morning, when we were called to vote on the final passage of the bill. I therefore did not scrutinize its details.

I have thought these prefatory remarks proper, because, as a member of this House, I feel obliged to the gentleman from Connecticut for having made himself master of this subject, and for the light which he has diffused upon it; and if, instead of attending to other affairs, gentlemen had attended to his argument, we should have had the benefit of that, for which this body was instituted, but which is seldom experienced within our walls—the benefit of deliberation and discussion. For when the members of the House are busily engaged in counting money, signing receipts, reading newspapers, writing letters, and folding pamphlets, (I pretend to no personal and exclusive exemption,) it is impossible that they can enjoy the benefit of discussion: in fact, persons so employed constitute anything rather than a deliberative assembly. But if time had permitted an attentive examination of the bill, ignorant as I profess myself, till now, to have been of the law on this subject, both at home and abroad, even my purblind eyes would have discovered defects which I am astonished should have escaped any man. I may be mistaken—the defect may be in my own dulness of apprehension—but there are sentences in this bill, which, to my mind, convey no more idea, no proposition more definite, than so many words tumbled by chance out of a dice box—sentences which one would suppose must have been written by the celebrated Mr. Allscrip, a special attorney, who, himself, tells us that he could read three skins of parchment without once drawing breath. It may be from defect of comprehension; but I will read one proviso, as distinctly as I can, and appeal to the minds of those who use words, *attaching signification to them*, whether any precise meaning can be extracted from it.

"*And provided, also,* That no such deposition shall be read in evidence, unless reasonable notice of the time and place of taking the same be given to the adverse party, by the party at whose instance the same may be taken, nor unless the witness shall reside, as well at the time of taking the deposition as of offering the same in evidence, at a greater distance than —— miles from the place of holding such court martial or court of inquiry, or the same shall have been taken by consent of parties as aforesaid; nor if the same be taken before Commissioners as aforesaid, unless the party at whose instance such commission may be issued, shall have given reasonable notice to the adverse party, of the time and place of applying for such commission, and of the name and residence of the judge to whom such application may be made; nor unless such commission be duly issued under the hand and seal of such judge, and attested and countersigned by the clerk of the court to which such judge may belong, with the seal of the court annexed. And the probate or certificate annexed to all such depositions by the Territorial or State judge, before whom the same may be taken, may be authenticated as to its being verily the act of such judge, and as to the authority of such, by the certificate of the clerk, under the seal of the court to which such judge may belong."

Surely the words composing this clause convey no specific meaning to the mind—it is heathen Greek—and as a rule of action (which every law purports to be) for me, it might as well be inscribed in Chaldean characters.

I forgot to state, as I intended when I rose, that the circumstance, which induced me to overcome the sense of inferiority inspired by the arguments of the gentleman from Connecticut, was my having omitted some points which ought to have been pressed, when I, yesterday, claimed the indulgence of the House, and which would have been touched upon, if the difficulty of speaking in this room, the elegant curtains to the contrary notwithstanding, had not exhausted my strength; and further, that I thought some of the observations of the gentleman last up entitled to notice; entitled, I am compelled to say, not from their intrinsic weight, but from the weight of influence, in this House, of the person from whom they fell.

By a most unfortunate analogy, the gentleman has likened courts of inquiry to grand juries, and therefore, he says, it irresistibly follows that the powers proposed to be conferred on them are indispensably necessary to the proper discharge of their functions. Have grand juries the power contained in this bill—to compel the attendance of distant witnesses, to issue commissions throughout the United States, to take depositions, upon which their presentments may be founded? How long since they acquired it? But to pursue this analogy: the only party heard, through his witnesses, before a grand jury, is the prosecutor. The party accused is completely precluded from having a single witness examined in his behalf, although the finding of a grand jury may have an effect on the reputation and life of the accused, as prejudicial as the decision of a military court of inquiry can prove to the party arraigned before it. The proceedings before the grand jury being, then, altogether *ex parte*, by the gentleman's own principle, that part of the bill which relates to courts of inquiry is totally inadmissible; except, indeed, he would assimilate our civil institutions to this famous bill—except he wishes our free system of jurisprudence to be ripped up from its very foundations, and reduced to the standard of this inimitable model; unless that be contended for, the gentleman must give up one of the most important provisions, I may say, the vital principle of this bill—the provision which enables the indicted party to compel the attendance of witnesses in his behalf, before this new military grand jury—without which all his solicitude for the bill would soon be at an end. So much for this unlucky analogy.

You are told, sir, with a most imposing solemnity of voice and countenance, that this bill does not enlarge the powers of courts martial. Do you want proof? *Ipse dixit*—that gentleman says so; and surely you will not be so unreasonable as to doubt his word. I am more sensible of the weight

of the mere *say so* of the person who uttered this, and equally sensible of the little weight that my opinion would have in this House, opposed to his naked assertion, for the gentleman did not condescend to tell us *how* the bill does not enlarge the powers of military courts. Yet, I aver that it *does*. And as I feel myself under the necessity (from which that gentleman is happily exempt) of supporting my opinions in this House by *reason*, (or perhaps as the gentleman would choose rather to style it, by "*clamor*,") I will proceed to state why. I am extremely happy, if the epithet was intended for me, that I am able to *clamor* loud enough to be heard in this spacious Hall, when I say that this bill *does* increase the power of the military court, inasmuch as it subjects to its commands the person of the citizen, heretofore exempt from them, by giving the military authority not merely the aid of the civil, but committing the civil authority, as it were, into its custody. The civil authority is the mere puppet of the military court in bringing the witness before it; and this was one of my principal objections to the bill yesterday—one which has since been illustrated and enforced much more ably than I could pretend to do it. This bill was brought in for the express purpose of providing for an existing defect of power in military courts; and shall we be told, by those too who have presented it as a remedy for that defect, that it contains no such remedy—that it does not enlarge their power! But this clamor that we are "clamoring" against public measures, and against this bill as one of them, is totally lost upon me. It is not the first time that I have heard the charge—not within these walls, but within the walls of Congress. I recollect the time—perhaps the gentleman himself recollects it; we then sat in Philadelphia—when, on an occasion not unlike the present, a learned gentleman, who now presides upstairs, in the other House, (Mr. Marshall,) accused me of "clamoring" against a bill that went to enlarge the privileges of the military at the expense of those of the citizen. It has always been the fashion with those "who feel power and forget right," to speak of all opposition to their unlawful measures as a mere popular catch; and if the gentleman should ever get out of the majority, (a case, indeed, hardly supposable,) he will find this artillery turned against himself; as in a fortress it is always turned, by those who have gained possession, against those excluded from it. It is a coarse instrument, which the most clumsy may wield. But it seems that these "clamors" are at war with each other, since some oppose the bill on this ground, some on that. And the gentleman (Mr. Nicholas) asks, how are these contradictory arguments to be reconciled? I thought that, although not a very great while, he had still been long enough in opposition to know that it is the chief benefit of that unhappy and proscribed state, that measures may be opposed on different grounds, whilst those who support them must do it consistently. I have often heard it said by my worthy friend, (Mr. Macon,) in former times, when caucusses were upon the tapis, and enforced by the necessity of concert, "There is no occason for it—let each man act upon his own ground." And yet, this alleged inconsistency in opposition is a reason for inferring that no opposition ought to be made. It is expected, it seems, that those who with so little success have attempted to make proselytes from the majority, should at least convert each other. Suppose it done, the result is still the same. For if one gentleman oppose the bill for one reason and I for another, whether he embraces my opinion or I his, we are both still in opposition; unless indeed the arguments are so balanced as by a sort of political equation to annihilate each other, or, like bodies of equal momentum, meeting in opposite directions, both fall to the ground—thus leaving each party without any opinion whatever. It is urged that an objection on the score of accommodation to witnesses being removed, by reducing the sphere of personal attendance to one hundred miles, opposition should cease. But, from what quarter did that objection come? From a gentleman who, now that he has obtained his amendment, may, and probably will, support the bill. Certainly that gentleman has not been so unreasonable as to cavil against his own proposition. But does it follow that this very amendment, so desirable to him, may not be a cause of exception to another?

Depositions, it is said, may be the means of saving the life of an innocent man—and as they may save, so also they may take it away, and, therefore, we object to them. The tone of voice and the expression of countenance of a witness is oftentimes more important than the naked words which he utters. It is for this that the law requires the witness to be confronted with the accused, and subjects him to cross-examination. But moreover, an artful and intriguing man, if depositions be admitted, has an opportunity to screen his guilt, or certainly may protract his trial to any indefinite period of time.

But it is said, that you do not propose to give the military, authority over the person of the citizen to bring him before them, in the first instance, nor to punish him for disobedience in the second; that the process is civil, and the punishment to be inflicted by the civil court. Upon this reasoning the most terrible and infernal court that ever existed, a religious court martial, may be justified—the Inquisition! The holy fathers never imbrue their hands in the blood of their victims; not they. Their monkish garments are never stained with such heretical dye. They only hand over the wretch to the civil authority, and the secular arm is raised to inflict their merciful sentence. Now, in like manner, suppose an obstinate witness handed over by the military to the civil power, in this case the mere pandar, the cat's-paw (to use a coarse but strong illustration) of the court martial. He has stood mute, for instance, in their dread presence. Shall the poor wretch suffer the punishment said to have been inflicted in times of yore upon those who stood mute before a civil tribunal? Shall he undergo the *peine forte et dure*, with a weight upon his breast, giving him to drink of the ditchwater nearest the jail, or rather nearest to the halberts, and there left till he expires? This is said to have been the old common law practice, (although for the honor of humanity I hope it never was,) and yet the old punishment is hardly more monstrous than the new crime. I do trust, however, that the courts of the United States will be found not to possess a mere discretion upon this subject, but to be under the obligation of a solemn duty to refuse their aid in carrying this unconstitutional and tyrannous law into effect; and I venture to say that, should it pass, spirits would not be wanting sufficiently independent to give them an opportunity of resisting the encroachment. It is impossible (whatever argument it may be supposed to afford for his impeachment, or removal) that any judge of the United States can so far prostitute his function and his oath, as to punish a man for contempt—not of him nor of his court whence the process nominally issues, but of an arbitrary tribunal, to which the person of the citizen cannot be lawfully subjected, but by his voluntary consent.

Among the various objections to the details of this bill (and I am almost ashamed to mention mine, after what we have heard) it is not the least with me, that when a freeman is summoned—a freeman, not a slave who has sold himself to be shot at for sixpence a day—when a freeman is summoned before a court of law, by a *subpœna duces tecum*, and gets into that court, he has not merely the aid of counsel, but is under the protection of the court itself. He may object to producing the paper in question, and state his reasons therefor, upon which the court must decide; not according to its arbitrary will, but by fixed, known principles of law, and upon that decision, accurately reported by professional men, the reputation of the judge is staked, not only as a man of learning but of integrity. If it be not evidence, or if it tend to criminate the possessor, the court will not compel him to produce it. But by this bill a man goes (*ex parte*) to a judge, and satisfies him that you have some paper in your possession relative to the point in dispute; and upon his statement the judge issues his *subpœna duces tecum*—to bring the paper before his court? Not at all. It is not *ducere* but *ferre*. You are not to bring but to carry—and fetch and carry at the beck of military despotism. You are to be carried with your papers into a court martial, where, without the benefit of counsel, or law, your pockets may be rummaged—rifled of their contents, whether evidence or not. This is a distinction which I meant to have taken yesterday between the military subpœna and the civil one; that when you get into the court martial you are ruled by no principles of law, for they are not bound to know them. A military man does not implicate his character by not having the qualifications necessary for a judge—and accordingly, the civil court becomes the blind instrument, whereby papers may be forcibly extorted by the military tribunal, which, if the parties were in the presence of the civil court, it would not suffer to be produced in evidence. This is not only a supposable case, but must and will happen, if there be any efficiency in this bill. If, on the contrary, it should turn out to be totally inefficient, the chief objection to it will be the precedent—the principle which it establishes. But I had rather see it stifled in its birth, than dying a lingering death from inherent natural defect; a burden on our statute book.

But we are told, over and over again, that this bill is for the benefit of the militia. And I think one gentleman (to whom I really did not pay very strict attention—as I could not conceive what relation the reports previous to the Presidential election, seven years ago, or even the embargo itself, although a more recent occurrence, could have to this subject,) mentioned some provisions in his native State giving power to courts martial. How long is it since the State of Maryland had a regular army? What are State courts martial? Almost civil tribunals, really for the benefit of the militia. But if it were proved that there exists an extremely oppressive regulation in a particular State, even although worse (which I do not admit the one cited to be) than that contained in this bill, it is no more to the purpose than that, because by the law of South Carolina a witness may, as we are told, be committed to close jail if he cannot give security for his appearance, therefore, this bill ought to pass; nor can I any more comprehend the argument, that because the military code ought to be intensely severe in proportion as the people are free, therefore, we should extend to the soldier the privileges of the citizen. I can neither agree with the premises, nor with the conclusion. Of one thing I am certain, that few men (I was about to have said no man) can agree to both.

But when our militia are in actual service, how are courts martial to affect them? How are they to be tried? By their friends—by their kinsmen—by their neighbors—by their own officers; I might say, and I do say, your articles of war to the contrary notwithstanding—by their equals. For I believe that when the militia are in actual service it would be more than any man's life is worth, whatever be his rank, to attempt to govern them by these articles of war—by the bloody scourge, which may with impunity be whirled over the heads of hapless slaves, of beings who have sold their blood for halfpence—and sold it well too—base as the metal given in exchange for it. The regular army consists not of men like the militia, but of the scouring of jails and lazarettos, not your own merely, but of Europe. On this subject I never had but one opinion, and I will express it as long as it is agitated. This bill concerns the militia! I am myself a militiaman and ought not to be blind to my own benefit. The militia have nothing to do with it; it was not intended for them—it is for men of different, totally different character—men more susceptible of discipline; and that perhaps is the reason why, with some, the militia is not a favorite instrument of defence. Our substantial farmers and planters, and their sturdy sons, cannot be managed like brute beasts, cannot be driven by this favorite discipline—discipline indeed with a vengeance—and I trust in God they never will.

It is a matter of very great surprise to me that

the first President of the United States—it is impossible to pass over the name of that man without some expression of respect, and yet it is impossible to express not merely what we ought, but even what we feel—I say it is a matter of surprise to me that this great and good man, who so long presided at the helm of this Government, and in its infancy, the most arduous period of it, too; who waged a bloody war on the frontier, both with militia and regulars—for then our situation was different from what it is now—we were weak and the enemy was strong—with all his honest prejudices in favor of military life (for no man more highly respects the real soldier than I do, whatever I may think of those who sell their birthright of freedom for a mess of pottage—a bare subsistence) with all his well-founded military partialities, and no man had stronger, should have conducted this Government for eight years, and that then it should have fallen into the hands of a successor, of whom I will say no more than that he had a very strong *penchant* for military force; (as the books of our Treasury unfortunately will show) whether he was calculated to figure at the head of an army, it is not necessary to say: that during all this time and under such circumstances, it should never have been discovered until to-day that this power was necessary to courts martial. How happens it that this great truth has slept so long? We waged a seven years' active war against Great Britain, and yet this important truth never started into light under a Washington or Montgomery. It was destined to be ushered in under far different auspices. I wish to be understood as having no reference to any of the co-ordinate authorities about us. If I were disposed to take a range in that direction, which I certainly am not, ample opportunity has been afforded me by one of the friends of the bill, who has declared to you that the reputation of the Executive, as well as of the Commander-in-Chief, is staked upon the trial, to which this bill is intended to be auxiliary. A declaration of this sort, coming from a different quarter, would have met with a very different reception from this, then, almost slumbering assembly. Made by certain gentlemen it would have roused a spirit of general asperity. I, however, deny it—I do not believe it; I will not believe that the character of the President of the United States depends upon the trial, so often bandied about this House. I should be sorry that it did: or rather I ought to rejoice; for certainly no man's reputation could be in safer custody than the reputation of the President in such a case would be. It would be in the hands of those who are the breath of his nostrils, who live and breathe and have their very existence and being in the sunshine of his favor, and over whose decisions he must finally exercise complete and efficient control.

Mr. Fisk supported the bill and Mr. J. Clay opposed it, when the question was taken and the bill passed—yeas 61, nays 42, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, William Kirkpatrick, Nehemiah Knight, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Matthias Richards, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and James Witherell.

Nays—Lemuel J. Alston, William Blackledge, Thomas Blount, Epaphroditus Champion, Martin Chittenden, Joseph Clay, Matthew Clay, George Clinton, jr., John Clopton, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, junior, Daniel M Durell, James Elliot, William Ely, Francis Gardner, Edwin Gray, John Harris, William Hoge, Robert Jenkins, James Kelly, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jun., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Samuel Riker, John Rowan, James Sloan, Samuel Smith, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, David R. Williams, and Marmaduke Williams.

Resolved, That the title be, "An act concerning Courts Martial and Courts of Inquiry."

Monday, March 14.

Mr. Van Horn presented a petition of sundry inhabitants of Washington county, in the District of Columbia, praying that so much of an act of Congress, passed the third of May, one thousand eight hundred and two, as directs that no writ of *capias ad satisfaciendum* shall issue within the said District, in any case where the sum does not exceed twenty dollars, may be repealed, for the reasons therein specified.—The said petition was read, and ordered to be referred to the standing Committee for the District of Columbia, appointed on the twenty-seventh of January last.

Mr. Macon said, he held in his hand a resolution on a subject which he wished to present to the consideration of the House. It was, to direct a committee of the House to inquire into the propriety of allowing a larger discount for prompt payment of the purchase money for public lands. The present discount was eight per cent., not so great as the profit which was derived from some stock of the United States; and thus an inducement was offered to withhold payment. It seemed to him that it would be good policy at this time to allow a greater discount for payment of ready money. Influenced by these reasons he offered the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of allowing a greater discount to purchasers of public lands, for prompt payment, and that they have leave to report by bill or otherwise.

The resolution was then agreed to, without a division.

THE MINT.

On motion of Mr. Gardner, the House went into a Committee of the Whole, 52 to 35, on the bill to prolong the continuance of the Mint at Philadelphia.

Mr. Love moved that the Committee rise, report progress, and ask leave to sit again.

The motion was supported by Messrs. Love, Lewis, Key, and Nelson, and opposed by Messrs. Alston, Milnor, Livermore, J. Clay, Smilie, Kelly, and Southard.

The supporters of this motion wished the House to rise in order to give time for procuring calculations, &c., to show the policy and expediency of removing the Mint from Philadelphia to Washington. The arguments in favor of this motion were nearly the same as those in favor of the continuance of the seat of Government at Washington; in addition to that, the advantage of water for carrying on the works was stated, and which could not be had in Philadelphia. An objection to the passage of this bill also was, that a law is now in existence for prolonging the Mint at Philadelphia till the 4th of March next; and by now continuing that law it would appear that gentlemen were afraid to trust the merits of its continuance at Philadelphia to an inquiry which might be had in the meanwhile.

The opponents of the motion contended that a removal from Philadelphia would be impolitic in the extreme, inasmuch as bullion could not be had at Washington; that the banks there were too limited in their operations; that the United States now possessed property in Philadelphia, houses, vaults, &c., which could not be disposed of to advantage; that the superintendents and workmen were residents at Philadelphia, probably would not remove, and others certainly could not be had at the seat of Government; that the expense of removal, also, of materials, machinery, &c., and the erection of others here, would create a very great expenditure of money by the United States. It was also contended that the law for the continuance of the Mint at Philadelphia expired on the 4th of March last.

The motion for rising of the Committee was negatived by a large majority.

A motion was made by Mr. J. Clay to strike out of the bill 1809, the time at which the bill provides that the further prolongation shall commence, and insert 1808, as the law was supposed to have expired on the 4th of March last.—Carried.

The Committee rose and reported the bill as amended; when the House agreed to consider the report, 64 to 23.

Mr. Love moved that the further consideration of the report of the Committee of the Whole be postponed till to-morrow.—Negatived, yeas 29.

The House concurred with the term of five years for its further continuance at Philadelphia, after some observations of Mr. Lewis against it, 58 to 28. And the bill was ordered to a third reading to-morrow.

FOREIGN RELATIONS.

Mr. Quincy.—It is my intention to offer a resolution to be considered and adopted by this House. Its object is information concerning important public relations. And when it is recollected, that three times during the present session, motions, having a similar object, have been refused even consideration by the House, I shall not need an apology, if, availing myself of the common privilege, I make a preliminary elucidation of the principles which ought to induce the adoption of such a resolution.

At a period like the present, when the least experienced eye can discern the clouds on our horizon, and when every individual feels in his own embarrassments, and sees in those of others, ruin spreading over the country; if any principle be clear—if there be any, to which every man, of whatever party, must be compelled to assent, it is, that the official information, existing within the country, touching any of our legislative duties, should be in the possession of this House. We ought to rest content with the concealment of nothing which can throw light on our path, and aid us under the burden of a great legislative responsibility. This is no time for the refinements of Constitutional delicacy. If we have reason to think that we are suffered to remain in ignorance of important facts, there ought to be no further delay in asking for the communication of them. This is the twentieth week of our session. If it be ever to have a close, its period cannot be far distant, certainly it will not be considered untimely to ask ourselves these questions—what is the state of our information concerning our foreign relations, derived from official sources? In what respect is it complete; and in what is it deficient? In replying to these questions, I shall elucidate the principles of the resolution I mean to offer.

When we take a view of those two great nations, both of which so deeply interfere with our interests, and so cruelly affect our rights, it is impossible not to perceive a remarkable difference in the state of our information concerning our relations with each. Respecting Great Britain almost every thing, respecting France almost nothing, has been officially divulged. As to the former, there is scarcely any information we can ask, which we do not already possess. As to the latter, there is scarcely any, of which we are not in want. So far as it respects this House, (for on the degree of knowledge, which it is permitted the nation on this subject to obtain, I say nothing.) all the great points of controversy with Great Britain, except what relates to the rejected treaty, have been communicated. Portions of the instructions of our Government to the American Minister; their development of the negotiations and their view of the motives and principles of conduct of the Bri-

tish Ministers; even the official replies of these Ministers as to the affair of the Chesapeake, to the remonstrances of ours, have not been withholden. But altogether different is the state of things, in relation to France. Here all our information is the most scanty and meager. We have only very unsatisfactory and partial explanations of her policy or her decrees. And we have not had communicated to us any of the correspondence of our Minister at Paris, with the American Government, touching either the one or the other, or illustrative of any of his sentiments, concerning the projects of France. In stating this distinction between the state of our official knowledge respecting these nations, I would not be understood, as at this time uttering a complaint, or as impeaching the motives of the Executive in developing on the one side, and withholding on the other. Grant the ignorance, in which we have been kept, as to our French relations, has thus far been wise, ought we to be content to remain in it any longer? If it can be made probable, much more if it can be made certain, that important information is in the possession of our Government, which, from its nature, must have a material influence on our deliberations, can we fulfil our duty, if we fail, in a Constitutional way, to make an exertion to obtain it?

With Great Britain we have now a specific negotiation depending, and there may be reasons of State at such a moment for refraining to give immediate publicity to our relations with her. But, with France, no such negotiation exists. The decrees of the French Government are public acts. Official explanations of those decrees ought to have been demanded, and doubtless have been given. Mr. Armstrong's views of the disposition and intentions of that Government, must have been transmitted to ours. It is impossible that there should be, in the nature of things, any good reason why this information should be concealed from this House; even supposing that it might be wise to withhold it from the public.

I fear the House do not realize the utter deficiency of our official knowledge, in this direction; we are in the habit of collecting facts and statements from letters and newspapers, and other general sources. We confound the result of these, with that which flows to us through official channels; from which we ought to draw the great certainties, on which should rest our public conduct. To enable the House to possess a general view of our official knowledge on this side, I shall recur to the first session of the Ninth Congress, and notice the Executive communications from that period. Our foreign relations began about that time materially to alter, from a peace to a war aspect. At the opening of that session, in December, 1805, the President of the United States, by annual Message, told us, that private armed ships, like pirates, were plundering our property, and committing on our citizens acts of atrocious barbarity; that public armed ships were hovering upon our coast and annoying our commerce; that new principles had been interpolated into the law of nations; that Spain, refusing compensation for past, and guilty of new injuries to us, obstructed the Mobile, threatened the Mississippi, and with her regular troops invaded the old territories of the United States, carrying away our citizens and their property. In all this annual development of our public relations, I observe but one omission. *There is no mention of France.* Yet then, as now, she was the chief arbiter among the nations of Europe; the open ally of Spain; and in various particulars, both her conduct and her claims materially affected our rights. I should not notice this omission were it not characteristic. The same occurs, in every other annual Message of the President, from that time to the present. In none of them is there any direct allusion, much less statement of our relations with France. Yet Tunis and Tripoli, the Barbary Powers, and our Indian neighbors, occupy a wide space, and make a distinguished figure in all these communications.

I would not be thought to notice this omission for the purpose of asserting it was wise, or the contrary, nor yet to excite any suspicion of improper motives; but I state it merely as a fact materially evincing our want of official light on the subject to which the resolution I offer refers. Happy would it be if the subsequent discoveries of the same session allowed us to believe that France even then was wholly inattentive to our national course, and neither interfered with our interests, nor attempted to exert any influence over them. But we are not permitted to indulge such a delusion. In the succeeding month, by a call from the Senate for documents concerning the complaints of France against the trade of St. Domingo, it was discovered that, previous to that Message, difficulties did exist between that Government and ours relative to the exercise of our commercial rights. The character of the French Minister's language to our Government, communicated in the Message of the 10th of January, 1806, I shall not pretend to describe, but I will cite some passages from his letters to our Secretary of State contained in that Message. Concerning our trade with St. Domingo, Mr. Turreau says: "The only way open for the redress of these 'complaints, is to put an end to the tolerance 'which produces them." And again: "Your si-'lence towards me, and that of your Government 'towards Congress, imposes upon me the duty of 'recalling to your recollection the said official 'note, and of renewing to you my complaints upon 'an abuse as shocking as contrary to the law of 'nations." It is very remarkable that Mr. Turreau himself makes "the silence of our Government to Congress" on the relations of his nation a subject of official complaint. Even the French Minister is not satisfied that his great nation should make no figure in this Annual Message.

He proceeds: "France ought to expect from 'the amity of the United States, and His Majesty 'charges me, sir, to request, in his name, that they 'interdict every private adventure which, under 'any pretext whatever, may be destined to St. 'Domingo." And, last of all, Mr. Turreau, that a firm determination of his master's mind might not be mistaken by our Secretary of State, tells

him plainly, "This system of impunity and tole-'rance can no longer continue, and His Majesty 'is convinced that your Government will think it 'due, from its frankness, promptly to put an end 'to it." These letters are evidence incontrovertible, that, notwithstanding the total silence of the Executive relative to France, there may exist important particulars of information which, although he may not choose voluntarily to publish, yet which, if called for, he will not hesitate to disclose. I make no comment on the mandatory style of these letters. In all languages the mode of supplication and the mode of command have a general resemblance. Sometimes they are precisely similar. When such forms of expression are addressed to an equal, whether the intention be to express the former or to intimate the latter, is to be collected from the general temper, character, and relative situation of those who utter and of those to whom they are addressed. Although I am far from suggesting that this House was influenced to the prohibition of the trade with St. Domingo by the language of these letters, yet I can never cease to regret that the measure then adopted was preceded by a publication of that correspondence. I could have wished that a majority of Congress had, previous to the issuing of that summons, awakened to that moral sense of the atrocious nature of this commerce, which afterwards was manifested by them. The only remaining information derived from official sources during the session, under consideration, was obtained in consequence also of a request from the Senate for an illustration of those "new prin-'ciples, which had been interpolated into the law 'of nations." The Executive Message of the 27th of January, 1806, states, among the new principles interpolated, the following, by the French: That privateers, two-thirds of whose crews were not native subjects of England, should be considered as pirates; that foreigners found on board vessels of the enemy should be considered as prisoners of war, and not entitled to the protection of the agents of their country. Yet we had no information then, nor have we since, whether any explanation had been demanded or given of those decrees. If a silent acquiescence in them was not adopted on the part of our Government, it is unknown to this House.

The next period of Executive development of the state of our foreign relations commences with the last session. In his Annual Message, in December, 1806, the President hopes a favorable issue of our difficulties with Great Britain, and tells us those with Spain are not settled, but the some characteristic omission I have noticed in the former exists also in this. There is no France in the exhibition. Yet the Mediterranean Powers and our Indian neighbors have a prominent station in this great history-piece of our foreign relations. I mean not to say that it was not wise and masterly thus to leave that great nation wholly out of the annual representation. I judge not the Executive, but merely state the fact as an additional reason for my resolution.

At the end of this session, however, light was thrown on the long-continued darkness of this quarter of our horizon. On the 19th of February, 1807, we have at last some official development of our relations with France. It is a great era in our information; and as my resolution will have reference to it, and as there is to be drawn from the facts it contains a strong argument for this measure, the House must indulge me in some remarks on the information then communicated. The extraordinary decree of the French Government of the 21st of November, 1806, was, as we all know, of a most dubious character. Its language admitted very different constructions. It might be a mere municipal regulation. It might be a general rule for the conduct of French cruisers; in which case it deeply affected our neutral rights, and directly infringed our treaty with France. The uncertainty concerning its construction filled this country with apprehension, and our Minister at Paris, with sufficient promptitude, demanded an explanation from Decres, the French Minister of Marine, of the official interpretation intended to be given to it. Decres, in his reply to the American Minister of the 24th December, 1806, after having stated what "he considered," and what "he thinks," the imperial decree means, adds this pointed and remarkable caution: "It will be proper that 'your Excellency should communicate with the 'Minister of External Relations as to what con-'cerns the correspondence of the United States 'of America with England." And to the end that General Armstrong might not mistake as to the nature and necessity of his recurrence to another department for the satisfaction he sought, the Minister of Marine subjoins this most impressive postscript: "It will not escape General Arm-'strong that my answers cannot have the devel-'opment which they would receive from the 'Minister of Exterior Relations, and that it is 'naturally to him to whom he ought to address 'himself for those explanations which I am very 'happy to give him, because he wishes them, but 'upon which I have much less positive informa-'tion than the Prince of Benevento."

To this part of Decres's letter I shall recur hereafter. At present, I shall proceed to bring into one view all the remaining knowledge concerning our French relations which has been permitted to come to us through official sources.

The next period of Legislative intelligence on this subject is that which commenced with the present session. In his official Message, at its opening, the Executive tells us of a treaty with Great Britain rejected; of the outrage on the Chesapeake; of our unsettled difficulties with Spain. But as to France, whether we have any relations with her at all, or whether, as to us, there be any such nation on the globe, for anything in this Message, neither the House nor the nation are the wiser. It is true that there is a general, sweeping sentence, which includes everything: "With the other nations of Europe, our 'harmony has been uninterrupted, and commerce 'and friendly intercourse have been maintained 'on their usual footing." But whether this be a

development of our relations with France, such as this people ought then to have been satisfied with; whether the aspect of that nation upon the prospects of this, and almost every other country, for three years past, has been such as perfectly to authorize the Executive of the United States, during all that time, to maintain, in each of his annual official Messages, a total silence on our connexions with her, I leave this House to consider. To my mind, it is an ominous silence, full of meaning.

All the residue of our official information relative to France has been of a confidential nature. Yet, with the exception of a part of the communication at the time of laying the embargo, it all has been so intrusted to us that we have a right to speak openly, and say what it was; and with respect to that portion, on which our lips are closed, I have a right to state, generally, what it was not.

First, then, as to what we possess. In the order of time is the letter of Mr. Champagny of the 21st of August last, in reply to a letter of Mr. Armstrong of the 8th of August. This letter of Armstrong has not been communicated. It appears, however, from Champagny's answer, that it was not any claim of exposition of the decree of 21st of November, 1806, nor of the general views of the French Government towards us, or our commerce, but merely had relation to a particular complaint, concerning American vessels, carried into Spanish ports. Such it is expressly stated by Champagny to be, in his reply. The next information is the letter of Regnier, the grand judge, which accompanied the recommendation of the embargo. This letter was dated the 18th September, 1807. By this it is discovered that it is the intention of the decree of the 21st of November, 1806, to subject English merchandise and manufactures on board neutral vessels to capture. But why, or how, this exposition of the decree was at this late hour obtained, whether it was accidental, or whether it was the consequence of the application of our Minister, we are ignorant; for the letters of Mr. Armstrong to our Government, which accompanied Regnier's letter, have never been communicated to us.

Our next information, of which we may speak, is that contained in the late confidential communication of the Executive; being a letter to the French Minister of Exterior Relations, dated the 12th of November last. This letter also was not any official demand of explanation, relative to the decree of the 21st of November, 1806, but merely a remonstrance against a decision of the Council of Prizes, which had condemned the cargo of an American vessel, wrecked on the French coast, solely for being English manufactures, and his exposition of the cruelty and unprincipled nature of that sentence. But what the answer of the French Minister of Exterior Relations was, or what were the communications of Mr. Armstrong to our Government, which accompanied his transmittal of his letter of the 12th of November, we know not. They have never been submitted to our inspection.

There is, however, one fact discovered in the letter of the 12th of November which ought not to be passed over without notice. Mr. Armstrong in this refers to a letter of Mr. Champagny to him of the 7th October preceding, in which, says Mr. Armstrong, "you," (Champagny) "thought that the 'decree of the 21st of November might be recon-'ciled to the treaty between the United States and 'France." From this unlucky quotation it is manifest, that on the seventh of October last, Mr. Champagny did address a letter to Mr. Armstrong, relative to the decree of the 21st of November, 1806. What was that letter? Was it an answer to any letter addressed by Mr. Armstrong to him? If so, what was Mr. Armstrong's letter? Can there be a good reason why the import of these letters relative to the official construction intended to be given to the operation of a most dubiously expressed decree, deeply affecting most important rights, should, for one hour, be concealed from the public?

I have now recapitulated all the information on the relations, of which it is permitted us freely to speak. As to that which may be deemed confidential, I abstain from saying what we have. I have a right, however, to say what we have not. We have not any of the correspondence between Mr. Armstrong, and our Government, since his letter of the 24th December, 1806, communicated in the President's public Message of the 19th of February, 1807.

The question recurs, have we any reason to believe, that any such information, not communicated, is in the possession of our Government? The evidence that such information does exist, and that the Executive has it, is to my mind more than probable; it amounts in degree, next to absolute certainty. In the first place, as to a demand made by Mr. Armstrong, of the French Minister of Exterior Relations, for an explanation of that decree, is it possible for any man to doubt, for a moment, that he did make such a demand, and that the knowledge of that demand, and probably the answer, with Mr. Armstrong's explanation of his own conduct, must be in the hands of the Executive?

Observe the facts. On the 10th of December, 1806, scarcely twenty days after the issuing of the November decree, Mr. Armstrong, with an honorable promptitude, demands of the French Minister of Marine, an explanation of its construction. The Minister replies, substantially, "this 'is my opinion upon that subject, but mine is not 'the proper department for constructions of this 'kind; go to the Minister of Exterior Relations. 'He knows the Emperor's will; he can give you 'every satisfaction." Mr. Armstrong transmitted this information, with a letter, to our Government, of the 24th of December, 1806.

Now, what was the obvious duty of the American Minister? Was it not to turn round at once to the Minister of Exterior Relations, and request the explanations so much desired, from the source to which he was thus not merely officially referred, but absolutely urged to resort, by the Minister of Marine? If he did, would he fail to communicate

the result of that application to our Government, accompanied by his own observations? But suppose he has neglected any such application, and has omitted to apprize this Government of his proceedings, is this a reason for refusing to adopt the resolution which I propose? On the contrary, is it not a strong reason for the measure? If Mr. Armstrong has been guilty of such a culpable neglect, at such a crisis as this, relative to so all-important a subject, ought not this House to know it? Ought we not to impeach him before the Senate of high crimes and misdemeanors; and ought he not at once to be recalled to answer to the just complaints of his country? Precisely the same is it, if it be true, as seems to be circulated in whispers, that Mr. Armstrong has transmitted no letters to our Government, which have not been communicated to us. Shall confidence be continued in a Minister resident at the Court of a Power, whose arms and whose policy affect the interests of the globe, if he have omitted, for one whole year, to keep our Government informed of his observations and opinions? Take which conclusion you will, a resolution similar to the one I propose, ought to be adopted. Either Mr. Armstrong has done his duty, the information is in the country, and it ought to be communicated; or, Mr. Armstrong has failed in his duty, and it becomes ours at once, to call him, in a Constitutional way, to answer for his fault.

But is it to be credited that no other communications than the meager ones we possess, have been sent by Mr. Armstrong, in all the ships, public and private, which for this year past have afforded him opportunities, for that purpose? If more information on these relations be not in the country, the fact ought to be known. If it be in the country, why ought we not to ask for it? Must not it be important to enable us, intelligently, to perform our duty? We are called upon to raise an army; but against whom it is to operate, seems to be a question, which none of us can solve. Is it against France, or Spain, or Great Britain? Against either, or all of them? Must not a material difference be made in the numbers, the appointment, and the nature of the levies, whether an invasion by France be apprehended, or a desolation of our seacoast by Great Britain, or of our frontiers by Spain?

Let not gentlemen say the adoption of such a resolution will throw a censure upon the Executive. The information in his possession may be of that critical nature, that he may hesitate to make it public on his single responsibility. It has been frequently urged, on similar occasions, that we ought to have a confidence that the Executive has done his duty. But the argument proves too much. It supposes that the Chief Magistrate cannot err in judgment. And if it be conclusive, it forever debars this House of the exercise of its Constitutional privilege of asking for information. The present is no period for motives of extreme delicacy to have influence in this House. Let us have a perfect knowledge of all our foreign relations, that we may neither entertain any attachments, nor any antipathies, respecting other nations, except such as the real conduct and views of each will justify.

The reports in circulation, which have found their way into our newspapers, in the form of letters from France, that the French Emperor has said "there shall no longer be any neutrals," and the confiscation of several hundred thousand dollars of American property, in territories under the control of France, are circumstances which loudly call for the adoption of the resolution I have now the honor to offer, which has for its object, to obtain a full development of all the known intentions of that Government relative to neutral commerce. The resolution is in these words:

Resolved, That the President of the United States be requested to communicate to this House the despatches, addressed to this Government, by the American Minister at Paris, touching the proceedings of the French Government in relation to neutral commerce, which have been received since the despatches of that Minister, communicated to Congress, by Message, on the 19th of February 1807.

Mr. Quincy having required the yeas and nays on the consideration of this resolution, and the question having been put "will the House now consider the resolution?" It was negatived—yeas 44, nays 66, as follows:

Yeas—John Boyle, Epaphroditus Champion, Martin Chittenden, John Claiborne, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, James Elliot, Francis Gardner, Edwin Gray, John Harris, William Hoge, Benjamin Howard, James Kelly, Thomas Kenan, Joseph Lewis, jr., Edward St. Loe Livermore, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., Josiah Quincy, John Rea of Pennsylvania, Samuel Riker, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

Nays—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, Walter Jones, William Kirkpatrick, Nehemiah Knight, John Lambert, Daniel Montgomery, jun., Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Matthias Richards, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and James Witherell.

And so the House refused to consider the said resolution.

ADDITIONAL ARMY.

The House took up for consideration the bill from the Senate for raising an additional force, with the report of the select committee upon it.

Mr. GARDNER moved to adjourn.—Negatived, 47 to 44.

Mr. ROWAN moved to commit the bill to a Committee of the Whole. Such a bill as this should not be lightly passed over. What occasion calls for this bill now? If we are to have war, said he, we must immediately raise a larger force. Whenever the occasion for force is manifest, none will be more ready to raise it than I; but till that time I am opposed to raising a regular force. I will not do it merely because it is deemed necessary by an individual; it belongs to the people to raise an army and declare war; we must know the state of affairs before we can be justified in doing it. When any event occurs which shall render this force necessary, we will raise it. If we have war, we must raise a much larger force. A few days or a few weeks sooner will not be an object; at all events do not pass through the bill without its being committed. Is it possible that the Congress of the United States can already raise an army without even committing the bill? I hope not. I have no object in wishing for delay, but to know whether the force be necessary. If it be necessary, the bill shall have my support; and on the same principle it shall not till I know whether it be necessary or not. We have not as yet I hope forgot the sentiment of the nation on the subject of standing armies expressed a few years ago; and surely we shall see cause for it now before we agree to pass the bill.

Mr. DAWSON said he was not apprehensive that anything which he ever did or said should be called anti-republican. He said he should certainly, according to the usual custom of the House, have moved a reference of this bill to a Committee of the Whole, had not a bill in every material point similar, already passed in Committee of the Whole, and been fully discussed.

If the gentleman from Kentucky examined the bill, Mr. D. said, he would have found that there was no idea of raising an army without full investigation.

Mr. TALLMADGE said he was certainly disposed to commit the bill. Such a bill as this, so important in its principles and consequences, it must appear to the House, ought to be discussed, and that very fully. The gentleman from Virginia, said Mr. T., has told us that this bill is similar to the other in its general principles. It will very well be remembered that when the House came out of Committee of the Whole on that bill, a motion was made that the bill lie on the table; it did lie on the table, and from the best of all reasons. The bill was so defective in its details that it could not be carried into operation. This bill should be committed, not only for the reasons offered by the gentleman from Kentucky, but because it is the most defective in detail that ever came before the House. I have a number of amendments prepared which I wish to offer, but cannot well do it except the bill be committed.

The question having been put on reference to a Committee of the Whole it was carried—yeas 72.

Mr. ROWAN wished it to be made the order of the day for Wednesday.

Mr. DAWSON named to-morrow.

Mr. W. ALSTON named to-day.

The question being of course first taken on Wednesday, was negatived, 43 to 42.

Mr. DAWSON's motion was then carried without a division.

TUESDAY, March 15.

Mr. CLARK presented a petition, in the French language, from a committee appointed by, and on behalf of, sundry proprietors of lands in the Territory of Louisiana, praying that Congress would modify the law respecting claims to land in that Territory, so that the agent for the United States shall be obliged to produce proof of fraudulent and antedated titles before the Board of Commissioners, instead of the inhabitants being obliged to prove their authority.—Referred to the Committee on the Public Lands.

On motion of Mr. BASSETT,

Ordered, That the Committee of the Whole to whom was committed, on the twenty-third of December last, the bill to incorporate the Protestant Episcopal Church in the town of Alexandria, be discharged from the consideration of the same.

The House resolved itself into a Committee of the Whole on the bill to alter and establish certain post roads; and, after some time spent therein, the Committee rose and reported progress. The question was then stated from the Chair, that the Committee of the Whole have leave to sit again on the said bill, and debate arising thereon, an adjournment was called for, and carried.

WEDNESDAY, March 16.

Mr. KEY presented a petition of sundry inhabitants of the District of Columbia, praying that such acts or parts of acts heretofore passed by Congress, as prohibit the removal of slaves from one of the counties composing the said District to the other, may be repealed.—Referred to the Committee for the District of Columbia.

Mr. JEREMIAH MORROW presented a petition of sundry inhabitants of Montgomery county, in the State of Ohio, praying that such modification or amendments to the laws authorizing the sale of public lands may be adopted, as to enable the petitioners to make payments for the purchase of their several tracts of land, without the inconveniences to which they will otherwise be subjected.—Referred to the Committee on the Public Lands.

On motion of Mr. NEWTON,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether the sums in which the collectors of the customs are severally bound to the United States ought not to be increased.

The House resumed the consideration of the question depending yesterday at the time of adjournment, that the Committee of the Whole to whom was committed the bill to alter and establish certain post roads, have leave to sit again on the same: Whereupon,

Resolved, That the House will, to-morrow, again resolve itself into a Committee of the Whole on the said bill.

Mr. D. R. WILLIAMS held in his hand a resolution by which he wished to call the attention of the Committee of Commerce and Manufactures to the discussion of a subject which he had long considered as of the last importance to our commercial interests directly, and perhaps not indirectly to the domestic interest of the country. The object of the following resolution being merely to direct the Committee of Commerce and Manufactures to inquire, he should not offer any observations on its expediency:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the entry of any vessel into the United States from any port or place to which a vessel of the United States is not permitted, by a permanent regulation of the country owning such place, or by treaty.

The resolution was agreed to without a division.

ADDITIONAL ARMY.

The House then resolved itself into a Committee of the Whole, on the bill for raising an additional military force.

The bill was taken up by sections, and various amendments made to the detail.

Mr. TALLMADGE proposed an amendment, going altogether to reverse the provision of the bill in respect to cavalry. The bill at present provides that one regiment of cavalry shall be raised, to consist of eight companies, of thirty-eight men each, with a discretion to be given to the President to increase each company to sixty-four.

Mr. T. proposed to substitute the provision, by inserting four troops of cavalry of sixty four men each, and four companies of dismounted dragoons.

This motion was supported by Mr. TALLMADGE by arguments drawn from transactions during the Revolutionary war, and opposed by Mr. NELSON on the same ground.

It was agreed to—ayes 65.

Further amendment having been made to the detail of the bill—without having gone through it, the Committee rose, reported progress, and obtained leave to sit again.

THE MINT.

An engrossed bill farther to prolong the continuance of the Mint at Philadelphia, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 83, nays 19, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., John Boyle, Robert Brown, William A. Burwell, William Butler, George W. Campbell, Epaphroditus Champion, Martin Chittenden, John Claiborne, Joseph Clay, George Clinton, jun., Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, Daniel M. Durell, James Elliot, William Ely, James Fisk, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, Daniel Ilsley, Rbt. Jenkins, Thomas Kenan, Nehemiah Knight, John Lambert, Edward St. Loe Livermore, Robert Marion, William Milnor, Daniel Montgomery, jun., Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and James Witherell.

NAYS—Thomas Blount, Joseph Calhoun, John Clopton, John Dawson, Joseph Desha, James Holland, David Holmes, Richard M. Johnson, Joseph Lewis, jr., John Love, Matthew Lyon, Nathaniel Macon, John Morrow, Roger Nelson, John Rowan, Dennis Smelt, Abram Trigg, Archibald Van Horn, and Jesse Wharton.

THURSDAY, March 17.

On motion of Mr. MCCREERY,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of reviving an act, passed on the seventeeth of March, one thousand eight hundred, which expired on the third instant, declaring the assent of Congress to certain acts of the States of Maryland and Georgia.

Mr. G. W. CAMPBELL, from the committee to whom was committed, on the eighteenth instant, the bill sent from the Senate, entitled "An act to amend the act entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio,'" reported several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be read the third time to-morrow.

Mr. LEWIS presented a petition of sundry inhabitants of the county of Alexandria, in the Territory of Columbia, praying a revision and amendment of such acts or parts of acts, passed by Congress, for the government of the said Territory, as relate to promissory notes, given as securities for the payment of money, and to insolvent debtors, within the same, for the reasons therein specified.—Referred to the Committee for the District of Columbia.

A Message was received from the President of the United States, transmitting a decree of the

Emperor of France, of December seventeenth, one thousand eight hundred and seven, and a similar decree of the third of January last, by His Catholic Majesty. The Message, and the papers transmitted therewith, were read, and referred to the Committee of the Whole on the state of the Union.

On motion of Mr. Matthew Clay, that the House do come to the following resolution:

Resolved, That on each day, for the remainder of the session, precisely at twelve o'clock, there be a call of the House.

The said proposed resolution was read, and ordered to lie on the table.

The order of the day for the House to resolve itself into a Committee of the Whole, on the bill sent from the Senate, entitled "An act for raising an additional military force," being called for, on motion of Mr. Helms, the Committee of the Whole were discharged from the farther consideration thereof, and the bill was recommitted to the committee appointed on the the twenty-ninth of October last, on so much of the Message from the President of the United States, of the twenty-seventh of the same month, as relates to the Military and Naval Establishments.

Mr. Holmes, from the Committee of Claims, presented a bill concerning invalid pensioners; which was ordered to lie on the table.

COMMITTEE ON ADJOURNMENT.

Mr. Dawson proposd the following resolution:

Resolved, That a committee be appointed on the part of this House, to act with such committee as may be appointed on the part of the Senate, to consider and report "what further business is necessary to be done during the present session, and" at what time it shall be proper to adjourn.

The House agreed to consider the resolution—ayes 73.

Mr. Dawson said, it would be observed by the House, that members daily obtained leave of absence; it was undoubtedly the wish of every one to adjourn as soon as possible; and, as this only went to inquire, he presumed there would be no objection.

The words quoted, on motion of Mr. Van Horn, were stricken out.

Mr. D. R. Williams thought, perhaps, on this subject, as no other gentleman did, for he thought it very ill-timed; and this was an inauspicious moment for such a resolution. In what was the situation of the country different from what it was when they met here, and which every person considered a perilous situation? I ask gentlemen, said he, will they adjourn, and leave the country in the situation in which we stood when we met? Is it possible that this is the case? I wish to take off of my shoulders the weight of responsibility which might rest upon me from its passing by a silent vote. I therefore call for the yeas and nays upon the resolution. I wish to tell my constituents that I am willing to sit here till there is some change in the awful appearance of American affairs. I cannot vote for this resolution without some documents are shown, or some reasons given, to indicate a change.

Mr. Dawson said, it was certainly not his wish that Congress should rise, without taking measures necessary for the national defence. All my acts, said he, will show to the contrary. I have been one among those who have advocated every measure of defence of the country; I wish that some others had done the same. Is it not a fact, that those who now wish to prolong the session, were opposed to all the defensive measures which have been adopted? It is because I wish to hasten the necessary laws, that I have proposed this resolution.

Mr. D. R. Williams said that he had no other motive for asking for the yeas and nays, than to show that, in the present situation of our affairs, he had voted against the resolution. I am sorry, said he, that the gentleman from Virginia should have charged me with being uniformly opposed to defending the nation. Is this a fact? Can he substantiate the assertion? What mighty measures has he proposed for the defence of the nation? Ay, sir, what are they? Let the gentleman, who has boasted his zeal, tell us what they are. One day, a bill for employing one thousand two hundred and fifty seamen, is pressed through the House with so much speed as not even to allow time to have it printed; the next day, the gentleman himself moved that the bill lie on the table, and there it continues. In came a proposition for an army of twelve or fifteen thousand men! What was the course with that? I am mistaken, or the gentleman did induce the Committee of the Whole to go through that bill by declaring that he did not mean to move the consideration of the report, when it was made to the House. How now? An army of twelve thousand men is frittered down to six thousand. Is this like being a friend to defence? And yet the gentleman has stigmatized me in this manner, because I shall vote against his motion, and perhaps he anticipates that I shall vote against his six thousand men. I wish the gentleman to show that I have voted against any measure for the defence of the nation. I know of no strong measure but the embargo act; and the gentleman cannot have forgot that I did, with all the zeal I was master of, endeavor to support the bill amendatory of the embargo law. I had not an opportunity of voting on the original law; and I have before candidly said, that I should not have voted for it had I been here; but, because the nation had lifted its arm, I was willing to support it with all my strength. I am accused wrongly; I will defend the nation; and when the gentleman from Virginia, or any other, shall show that my country calls for it, it would but be doing justice to my feelings to say that my blood is at its service.

Mr. Dawson said, that certainly the gentleman from South Carolina could not suppose that he had been alluded to, for Mr. D. now declared that he did not know how the gentlemen had voted on questions of defence.

After some further observations—Mr. Kelly moved that the resolution lie on the table. Carried.

MARYLAND CONTESTED ELECTION.

The report of the Committee of Elections on the contested election of Mr. P. B. Key was called up.

[The Committee of Elections, to whom, it will be recollected, a former report was recommitted, reported an opinion that nothing in the evidence before them, so far as respects the suggestion of Mr. Key being a pensioner or half-pay officer to the King of Great Britain, authorizes them to alter the opinion of the resolution submitted with their former report.]

Mr. Rowan moved an indefinite postponement of the subject, and supported his motion on the ground that the decision of a question of fact on the point of residence, rested properly and exclusively with the people, who were the best judges of it, as to the alleged pension; on which point, however, he had no doubt, if it were even true, neither the Constitution nor any law of the United States make it a disqualification from a seat, although it might be cause for discussion what course should be pursued with a member if actually in the receipt of a pension after he became a member. Mr. R. observed that an election would take place in the ensuing Autumn, in which the people would have an opportunity to declare their opinion by a re-election, or otherwise.

Mr. Key observed that he should be content with any course that the House should take; were he to consult his personal feelings, he should wish it immediately decided.

Messrs. Eppes, Marion, and Alston, opposed the motion, on the ground that a postponement of this subject would be a breach of their duty; the Constitution had made it their duty to inquire into an election of one of their own body whenever contested, and they could not shrink from it; that this provision was essential for the preservation of the purity of the House; that this subject should have been long ago decided on; and that the "people" could not perform what the Constitution had made the positive duty of the House.

Mr. Eppes considered the decision on the motion more important than even the election itself, as establishing the precedent by which they might hereafter be tempted to throw the responsibility from their shoulders on the people; he therefore called for the yeas and nays on it.

Mr. Rowan withdrew his motion.

The House then resolved itself into Committee of the Whole on the subject.

The report of the Committee of Elections concludes with the following resolution:

Resolved, That Philip Barton Key is entitled to his seat in this House.

A considerable discussion arose on the resolution, not interesting, nor yet confined to one particular point—there being two in this question—first of residence, second of his being a pensioner. Some gentlemen wished the question to be divided, so as to take a question on each of these two principles, that the resolution might carry on the face of it evidence of the ground on which his seat was confirmed or vacated.

At half past three, a motion was made that the Committee rise, and negatived—57 to 42.

At four, the Committee rose, without coming to a decision on any point—57 to 36, and obtained leave to sit again.

On motion, the House adjourned.

Friday, March 18.

Mr. Dawson, from the committee appointed on the twenty-ninth of October last, on so much of the Message from the President of the United States as relates to the Military and Naval Establishments, to whom was, yesterday, recommitted the bill sent from the Senate, entitled "An act for raising an additional military force," reported several amendments thereto; which were read, and, together with the said bill, committed to a Committee of the Whole to-morrow.

Mr. Boyle, from the Committee on the Public Lands, presented a bill to change the boundaries of the land districts in the Territory of Indiana; and to continue, for a farther time, the authority of the Commissioners of Kaskaskia; which was read twice, and committed to a Committee of the Whole on Monday next.

A bill concerning invalid pensioners, which was received yesterday, and ordered to lie on the table, was read twice, and committed to a Committee of the Whole on Monday next.

A Message was received from the President of the United States, in relation to the Military Academy at West Point—Referred to Messrs. Nicholas, Troup, Desha, Upham, and Milnor.

On motion of Mr. Dana,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of admitting ships or vessels, not registered as vessels of the United States, to unlade within the district of Middletown, in the State of Connecticut; and, also, of admitting ships or vessels arriving from the Cape of Good Hope, or any place beyond the same, to make entry at the port of Middletown; and to report by bill or otherwise.

Mr. Newton, from the Committee of Commerce and Manufactures, presented a bill to discharge Francis Baretto from his imprisonment; which was read twice. Whereupon, a motion was made by Mr. D. R. Williams, that the said bill be committed to the consideration of a Committee of the Whole. And the question being taken thereupon, it passed in the negative. A motion was made by Mr. Stanford, that the House do reconsider their vote on the question to commit the bill to a Committee of the Whole. And, on the question for reconsideration, it passed in the negative. On motion of Mr. Smilie, the bill was then recommitted to the Committee of Commerce and Manufactures.

Mr. Holmes, from the Committee of Claims, presented a bill for the relief of Isaac Briggs; which was read twice, and committed to a Committee of the Whole on Monday next.

The bill sent from the Senate, entitled "An act to amend an act, entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," together with the amendments agreed thereto yesterday, was read the third time and passed.

INVALID CORPS.

Mr. Nelson begged leave to offer a resolution relative to the officers and soldiers of the Army. It is a well known fact, said he, that from the particularity of the service, men who enter into the Army become so debilitated before their time expires, that they are afterwards incapacitated from getting a livelihood by labor. It would certainly prove a very burdensome expense to the United States to take all such under their care, and provide them with pensions; and as certainly this is not my object. Now those men might yet be useful soldiers in garrisons. At present, when discharged, they become common pests to society; and we find them travelling about the country in the capacity of beggars. I consider it a disgrace to the country and to humanity, that men, who have spent the best part of their lives in the service, should be turned out as beggars, and wanderers on the face of the earth. My object is, that they shall be provided for in a way that shall not be expensive to the United States, and in which they may still be serviceable to the country, to form an invalid corps. Those men may perform good garrison duty who have become incapable of doing duty in the field. Another circumstance induces me to offer this resolution: Officers cannot be dismissed from service, except it be for some crime, or at the pleasure of the President of the United States. I trust we shall never have a President in these United States so devoid of humanity as to discharge an officer because he is worn out in service. Those officers might be placed in the same grade in the corps of invalid pensioners which they have held in the Army, and live out the remainder of their days with comfort to themselves and advantage to society. Mr. N. cited the case of two officers whom he had knowledge of, who had become superannuated and unfit for service, and yet continued in the camp, preventing younger, meritorious, and active officers from taking the situation which they had become incompetent to fill. For the purpose of doing away this inconvenience, said he, all I ask is that a committee be appointed to inquire into the subject. If a report can be made on such a plan as will meet the approbation of the House, I trust it will be adopted; if not, it may easily be rejected.

Mr. N. then offered the following resolution, which was agreed to without a division:

Resolved, That a committee be appointed to inquire into the expediency of making provision by law for the relief of the infirm, disabled, and superannuated officers and soldiers of the Army of the United States; and that the committee have leave to report by bill or otherwise.

Messrs. Nelson, Howard, Tallmadge, Trigg, and Deane, were appointed the committee.

MARYLAND CONTESTED ELECTION.

The House again went into Committee of the Whole on the contested election of Philip B. Key.

After several propositions for amendment to the report of the Committee of Elections had been made and withdrawn, the question was at length taken on the report, and carried 53 to 44.

The Committee immediately rose and reported the resolution in the following words:

Resolved, That Philip B. Key, Esquire, is entitled to his seat in this House.

[The words, "*having the greatest number of votes*, and being qualified agreeably to the Constitution," were struck out of the resolution in Committee of the Whole.]

The question being put on concurring with the Committee of the Whole in striking out these words, Mr. Randolph called for a division of the question, taking it first on the words in italic.

And the question having been put on a concurrence in striking out the first part of the clause as divided, was carried without a division.

The question on concurrence in striking out the remainder of the clause, was carried—yeas 79, nays 28, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, William W. Bibb, John Boyle, William Butler, George W. Campbell, John Campbell, Epaphroditus Champion, Martin Chittenden, John Clopton, John Culpepper, Richard Cutts, John Davenport, junior, John Dawson, Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner, James M. Garnett, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Hoge, James Holland, David Holmes, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, N. R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newton, W. C. Nicholas, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, Dennis Smelt, Samuel Smith, John Smith, Henry Southard, William Stedman, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Jabez Upham, Jas. I. Van Allen, Archibald Van Horn, Robert Whitehill, Isaac Wilbour, D. R. Williams, Marmaduke Williams, Alexander Wilson, and James Witherell.

Nays—David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, Joseph Calhoun, Howell Cobb, Josiah Deane, Jos. Desha, James Elliot, John W. Eppes, Peterson Goodwyn, William Helms, Benjamin Howard, Thomas Kenan, John Lambert, Roger Nelson, John Randolph, Jacob Richards, John Smilie, Jedediah K. Smith, Richard Stanford, Geo. M. Troup, Killian K. Van Rensselaer, and Jesse Wharton.

The yeas and nays having been called on the resolution as reported, Mr. Stanford moved to adjourn.—Negatived, ayes 8.

Messrs. Stanford, Randolph, Nicholas, and Smilie then opposed the report, and Messrs. Livermore, Sloan, and Key, supported it.

The question on the final consideration of this

report appeared to be reduced to the plain fact of residence. The opponents of the report contended that Mr. Key, having resided but two weeks in Maryland immediately antecedent to the election, an affirmative decision of this resolution would fix a precedent to the future definition of the Constitutional term of residence; that hereafter, when the capital of the United States was, as it must be, a populous city, the influence and wealth of that city and of the Government, as had been the case in Great Britain, might secure the election of any person whom they should choose to send for a few days residence into any State in the Union.

On the other hand, it was contended by Mr. Key himself and others, that he had fixed a residence, purchased land, and built a house in Montgomery county, Maryland, previous to a removal there; that it was his intention to have a fixed residence there, though he meant to reside in the District of Columbia for the purpose of having his children educated, and for the convenience of business. This was said to be very different from a transient residence; and even were a transient residence sufficient qualification, the integrity of 30,000 freemen would always prove a sufficient barrier against corruption.

The question was now taken on agreeing to the resolution as reported by the Committee of the Whole, and decided in the affirmative—yeas 57, nays 52, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, Burwell Bassett, William W. Bibb, John Boyle, William Butler, John Campbell, Epaphroditus Champion, Joseph Clay, Orchard Cook, John Culpepper, John Davenport, jr., Joseph Desha, James Elliot, William Ely, William Findley, Francis Gardner, James M. Garnett, John Harris, John Heister, William Helms, Ben. Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, James Kelly, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, William Milnor, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., John Pugh, Josiah Quincy, J. Rhea of Tennessee, Matthias Richards, John Rowan, John Russell, James Sloan, Dennis Smelt, William Stedman, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton, and Marmaduke Williams.

Nays—Willis Alston, jr., David Bard, Joseph Barker, Wm. Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, Joseph Calhoun, Geo. W. Campbell, John Clopton, Howell Cobb, John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, Jas. Fisk, Peterson Goodwyn, Isaiah L. Green, William Hoge, James Holland, David Holmes, Thomas Kenan, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Randolph, John Rea of Pennsylvania, Jacob Richards, Samuel Riker, Ebenezer Seaver, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and James Witherell.

THE EMBARGO.

Mr. Livermore said, that some days ago he had given notice of his intention of introducing a resolution for the purpose of discussing the expediency of taking off the embargo; he now rose, impelled by a sense of duty to his constituents, to make the motion.

It was not, said he, from a sudden thought, but from the maturest consideration I am capable of bestowing upon any subject, and a full conviction of the proper line of my duty, that I formed the determination to make the motion; and I confess I have seen no cause to alter my opinion since I declared my intention. I shall briefly assign the reasons in support of the resolution I am about to offer, hoping, by the indulgence of the House, hereafter to have an opportunity of discussing at large this important question. It must be acknowledged we are pretty much in the dark with respect to our foreign relations; but as to Great Britain, I think we ought not to have a rational apprehension of war. There must be an egregious fault in the Government of that nation, or ours, to have produced such a state of things. I think the world will say, and our constituents have a right to conclude, that the whole tenor of our conduct the present session (except as to words) has evinced that war with that nation is the furthest from our thoughts. I highly approve of this peaceable disposition, and hope that neither Government will be so distracted as by its conduct to occasion hostilities between us. As to France and Spain, it appears by the communication from the President, yesterday, we are in a state of war with both. For the tyrannical decree of Milan, as it is called, and the servile Spanish proclamation in pursuance, are in my opinion tantamount to a declaration of war against all neutral commerce, and ought to be considered and resented as such, if any spirit remains in the nation; but an embargo is a most impotent way of resenting the injury.

As a Representative of a very important part of the Union, I feel it my duty to speak my mind freely upon this occasion; and I trust in God I shall never hesitate when an object of such importance to the honor and happiness of my constituents is before me, and I confess, I do not perceive any difficulty in choosing the course we ought to pursue.

When the subject of the embargo shall be fairly examined, I apprehend the loss of property to the people of the United States will greatly astonish gentlemen. It appears that the exports of one year prior to the 1st of October, 1807, amounted to $48,700,000 of the produce and manufactures of the United States, and we have reason to believe that the increase would have made the whole amount for the present year at least five millions. The profit upon the sales at foreign markets, including freights, and which is the earnings of our vessels and labor of seamen, may be estimated at fifty per cent. The amount of exports of foreign articles the last year was fifty-nine millions six hundred thousand dollars. The profit arising to our citizens upon importation and exportation may

be estimated at fifty per cent., or about thirty millions; which is a moderate estimation, including freight. It would be a very moderate calculation to estimate the whole benefit to the citizens of the United States, arising from imports and exports of articles of foreign or domestic growth and manufacture, at one hundred millions, exclusive of the revenue, which is upwards of sixteen millions more. But suppose, in consequence of losses by capture and failure of markets, resulting from the present embarrassments upon our commerce, the sum should be reduced one-third, or even one-half; yet still the sum is great, and although a man would be overwhelmed with the loss of his whole property, he might exist under the privation of one-half. It may be demonstated, that should the embargo continue one year, the loss to the United States would amount to $50,000,000 at the most moderate calculation; and I am strongly inclined to think I should be justified should I estimate it at one hundred millions. About thirty-eight millions are the products of agriculture; the residue consists of products of the sea, of the forest, of manufactures, and the earnings of ships, &c., and of laborers and seamen, &c. Most of the articles exported are of a perishable nature; such as are not, are superfluous, or not wanted in the United States, or for home consumption; or such as would not be manufactured if there was no market for them. And supposing the embargo to be taken off at the end of the year, a double quantity to carry to market would, by overcharging it, reduce the price, so that the whole would not be of more value than the produce of one season. But what may be infinitely worse, and in its consequences prove calamitous indeed, is, that people being driven by necessity would seek other sources of commerce to supply their wants, and perhaps our citizens be forever deprived of their customary trade. This subject requires the most serious attention of Congress.

The loss of property to the people of the United States is of itself very great; but the evils consequent upon it are infinitely greater. The people who are to be wholly deprived of the means of support, and who already feel the bad effects of the embargo, will be found not to fall short of two hundred thousand; and how they are to gain a subsistence, requires more intelligence than falls to the lot of any mortal to devise. The distress of these and a variety of other persons, will be such as admits not of human calculation, or conception. Human laws may be obeyed until a large proportion of the people find them too grievous to be borne. But what must the situation of that country be, when so large a proportion of the people become frantic from suffering? The thing may, in a faint degree, be imagined, but description would fail; and my intention is to give this subject the most calm, temperate, and logical consideration; not heightened by rhetorical or fanciful description of distresses, of which it is so abundently capable. Never, however, did a subject offer greater temptation to the indulgence of fancy, and which the kindness of the House may hereafter allow.

There have been at various periods, embargoes in particular ports, for certain purposes, and for a short duration of time; but never, until an American Legislature conceived the bold idea, did a Government lay a perpetual embargo upon a commerce of $100,000,000 annual exportation. Nations at war embargo each other as much as they can, as is now practised in Europe, but to destroy our own commerce in order to injure our neighbor, is certainly a novel invention. It is too much like a man's binding up his limbs to prevent a circulation of his blood, the better to promote the health of the natural body. But as certain death would be the inevitable consequence of a want of circulation and proper nourishment, so the certain death of the body politic will be the consequence of the continuance of the embargo.

I am aware of the objects of some gentlemen who are supporters of the embargo system, who suppose that it is to operate as a coercive measure upon foreign nations; but I apprehend this opinion is in a great degree erroneous. It will probably affect France and Spain; but, if I am right in my conjecture, the necessary, proper, and justifiable course towards those nations is a suspension of commercial intercourse, and suffering our vessels to arm against their cruisers. This, with a similar spirit to that which broke forth in 1798—a spark struck from the fire of '76—would insure us tolerable safety on the ocean; and, undoubtedly, peace on good terms with the only nation capable essentially to injure our commerce.

But the embargo cannot injure Great Britain; indeed how the giving up to that nation the indisputed commerce of the ocean, and cutting off all supplies from her enemies, can affect her otherwise than beneficially, is past my powers of comprehension. Our provisions she can live without; the raw materials she can get elsewhere; and her manufactures will find their way into every country on the globe, so long as they retain their excellence. The ingenuity of man cannot prevent it. As to compelling Great Britain to give up the right of searching for seamen in merchant vessels, it is the most ridiculous expedient ever hit upon. Let the embargo be continued one year, and we shall not have a tenth part of our seamen remaining in our country. This circumstance I noticed at the time of passing the first act, and every day gives accounts verifying the prediction.

This question has been frequently asked—"Should the embargo be taken off, where can our vessels go?" It ought to be a sufficient answer to this inquiry to say, leave the ship owners to find a market for the goods they choose to export; and it can be no objection on the part of the farmer or planter, that the exporter may make a bad bargain; it is for him alone to find his market, and he is perfectly willing to take the risk upon himself, or can find insurers to assist him, and the enhanced price must ultimately fall upon the consumer. But this is not the only answer, and it can be clearly shown that there is a greater and more beneficial trade now open to us, than we ever enjoyed previous to the war in Europe; and probably greater than we have any rational

expectation of enjoying, should peace take place. We have a greater trade with the whole continent of America than we ever had. The trade to Brazil, which it will be our own fault if we do not participate in, will be an immense acquisition. The trade to the West India islands, including that to Hispaniola, which out of great respect to the French Government we have relinquished, is much more valuable, and would be more beneficial than ever it was at any former period. The trade to the East Indies is of very great importance; and the whole of Asia and Africa are still open to the enterprise of our countrymen. Part of the Mediterranean and part of the Baltic are in the same situation.

To the British European islands, and most of the continent of Europe, it is true, we are differently circumstanced. In going to the former there is some risk, on account of French cruisers, and so it may be in the West India islands; but in my opinion the remedy is easy and we ought not to hesitate. The latter ought to be prohibited until justice is the only rule among nations, and the law of nations is something more than a dead letter. But at all events it would be infinitely better for our country to let our merchants have the common privilege of our fellow-citizens, of disposing of their own property—to determine for themselves the amount of the risk, and take their chance of capture, rather than to continue the embargo, which must be inevitable destruction to all. They ought not to be denied the privilege of free citizens. An opportunity of discussing this important subject is what I most earnestly wish. Those who favor or support the embargo system may then adduce their arguments in its support—which I trust will be fairly, candidly, and I hope satisfactorily answered, and a just conclusion drawn, which may rescue our once happy country from the destruction which awaits it. The destruction of one hundred millions of property is of very serious consequence, and we may add to this value one million forty-four thousand tons of shipping, which, if destroyed, could not be replaced much short of fifty millions of dollars: but great as the losses are, they are trifling in themselves when considered in relation to the consequences. The individual distress, and a national bankruptcy, for want of revenue—a universal poverty for want of circulating medium, which will vanish in a very little time under the present stagnation of business—a hatred towards the Government—a dissolution of the Constitution, and a second age of Vandalism—appear to me the inevitable consequences of the embargo system.

Though I can perceive no necessity for what has been termed an "entangling alliance" with any nation, yet I am compelled upon this occasion to say, that from necessity, our only course of safety is peace with Great Britain and opposition to the boundless ambition of the Emperor of the French. And I go further and declare my opinion (which as a freeman and a representative of freemen, I have a right to utter) that should Britain fall beneath the meditated yoke, Americans would be, like *Noman*, the last to be devoured. Why then, should we not lay aside unnatural prejudices, and hasten to do ourselves justice? I believe I speak the sentiments of a majority of the nation; and I believe it is the opinion of a majority of this House.

That Bonaparte has declared there shall be no neutrals, we have as good information as we have of the facts communicated yesterday, and it is difficult for me to believe that Mr. Armstrong has not communicated the information to our Government. If he has neglected his duty, he is very unfit for the important station he holds.

But we have enough communicated to justify our proceeding in the way I have mentioned, and therefore I offer this resolution:

Resolved, That the public good requires that the several laws laying an embargo on all ships and vessels of the United States, should be repealed, and that a committee be appointed to bring in a bill for that purpose; and that said committee be instructed to inquire into the expediency of permitting the merchant vessels of the United States to arm for their defence against certain cruisers, and of associating for the purpose of convoy; and to inquire into the expediency of suspending commercial intercourse with France, and the nations under the control of the Emperor of the French, and to report by bill or otherwise.

The question was taken that the House do now proceed to take the said proposed resolution into consideration, and passed in the negative—yeas 24, nays 84, as follows:

Yeas—Evan Alexander, Ezekiel Bacon, John Campbell, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Francis Gardner, William Hoge, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Josiah Masters, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., John Russell, William Stedman, Benjamin Tallmadge, and Jabez Upham.

Nays—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thos. Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Claiborne, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, William Findley, James Fisk, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Nehemiah Knight, John Lambert, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jas. I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Saturday, March 19.

ADDITIONAL ARMY.

On motion of Mr. Dawson, the House resolved itself into a Committee of the Whole on the bill for raising an additional military force.

Various amendments reported by the committee on the military establishments were agreed to.

One section of the bill fixes the price of all undrawn rations at twenty-five cents.

Mr. Blackledge, conceiving this a higher price than had ever been paid for rations, moved to strike out the word "five."

Some discussion took place on this motion, in which it was declared in support of the motion, by Mr. Blackledge and others, that the greatest general price paid by contract for rations was eighteen cents, in some places only fourteen; and that a provision of this kind would favor the officer and not the soldier.

On the other hand, it was urged by Mr. Nelson and others, that the compensation was too small, and varied in price according to the facility or difficulty of making contracts in different places; that a captain, who like all soldiers must undergo hardship, even if this provision passed, would receive but at the rate of $753 per annum, out of which his subsistence, clothing, and equipment must be furnished; while a member of Congress, who undergwent no labor, and slept comfortably one moiety of the twenty-four hours, received at the rate of $2,196, besides his allowance of stationery, &c.

Mr. D. R. Williams, to try the principle of equalizing the price of rations, moved to strike out the section. He conceived that it might produce a negligence of the officers in regard to the equality of rations, and thus have an ill effect on the fare of privates.

Mr. Nelson, among other observations against the motion, observed that it was the duty of the officer, and his first duty too, to take care that contractors do justice to the men in regard to rations, and would deserve execration if they did not always attend to it.

Mr. D. R. Williams, in reply, observed that he conceived the gentleman's remarks inapplicable, at the same time that he felt all deference to his opinion on military subjects; as he could not for his soul divest himself of the recollection that the gentleman's body was scarred with two and twenty wounds received in the service of his country.

The motion for striking out the section was, after some further discussion, negatived, 46 to 36.

Mr. Blackledge's motion was then negatived.

Mr. Taylor proposed a new section to the bill, requiring that all the force to be raised by the act should be composed of citizens of the United States.—Carried.

Mr. Tallmadge proposed an amendment to authorize the President, when he shall deem proper, to mount the dismounted dragoons.—The amendment was agreed to.

The Committee then rose and reported the bill as amended. The amendments were all gone through without discussion, except that which requires the Army to be composed of citizens of the United States.

On the suggestion of Mr. Rowan, agreed to by Mr. Taylor, and supported by Messrs. Marion and Smilie, the section agreed to in Committee of the Whole was negatived, *nem. con.*; and, on motion of Mr. Nelson, a provision that all commissioned officers in the force to be raised shall be citizens of the United States, was substituted in place of it.

Mr. Ely renewed the motion made by Mr. Williams in Committee of the Whole, to strike out the section fixing the price of rations, and called for the yeas and nays on it; which being taken, resulted yeas 47, nays 62, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, Joseph Clay, John Davenport, jr., Josiah Deane, Joseph Desha, William Ely, James Fisk, Francis Gardner, Peterson Goodwyn, Edwin Gray, John Heister, William Hoge, James Holland, Reuben Humphreys, Dan. Ilsley, Richard M. Johnson, Walter Jones, Thos. Kenan, Nehemiah Knight, John Lambert, Nathaniel Macon, Daniel Montgomery, jun., Nicholas R. Moore, Jeremiah Morrow, Josiah Quincy, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Jabez Upham, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, and James Witherell.

Nays—Lemuel J. Alston, David Bard, John Blake, junior, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Geo. Clinton, jun., John Clopton, Howell Cobb, Orchard Cook, Richard Cutts, John Dawson, Daniel M. Durell, J. W. Eppes, William Findley, Isaiah L. Green, John Harris, William Helms, David Holmes, Benjamin Howard, James Kelly, Philip B. Key, Wm. Kirkpatrick, Jos. Lewis, jr., John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Thomas Moore, John Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newbold, Thomas Newton, W. C. Nicholas, Timothy Pitkin, jr., John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, John Rowan, John Russell, Dennis Smelt, Jedediah K. Smith, John Smith, Clement Storer, Peter Swart, Ben. Tallmadge, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, and Richard Winn.

Mr. Blount moved to amend the same section by striking out the word "five," so as to reduce the price fixed upon to twenty cents. The motion was supported by Messrs. Blount, Upham, Smilie Witherell, and Blackledge. The latter gentleman stated that the difference between the present average price and the price contemplated by the bill, would be, for this force, $66,990 annually. It was opposed by Mr. Lyon and Mr. Rowan. The question was taken by yeas and nays, and carried—yeas 59, nays 45, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, George W. Campbell, John Clopton, Orchard Cook, Richard Cutts, Josiah Deane, Joseph Desha, James Elliot, William Ely, James Fisk, Francis Gardner, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, Wm. Hoge, Jas. Holland, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Thomas Kenan, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jun., Nicholas R. Moore, Jeremiah Morrow, John Morrow, John Pugh, Matthias Richards, Samuel Riker, Ebenezer Seaver, Jas. Sloan, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Peter Swart, John Taylor, Jabez Upham, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, and James Witherell.

Nays—Evan Alexander, Lemuel J. Alston, William Butler, Jos. Calhoun, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, John Davenport, jr., John Dawson, Daniel M. Durell, John W. Eppes, Wm. Findley, Isaiah L. Green, Wm. Helms, David Holmes, Benjamin Howard, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., John Love, Matthew Lyon, William McCreery, T. Moore. Jonathan O. Mosely, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, John Rowan, John Russel, Lemuel Sawyer, Dennis Smelt, Clement Storer, Benjamin Tallmadge, John Thompson, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, and Richard Winn.

Mr. Van Horn moved to strike out that part of the bill which authorizes the President of the United States to increase the number of each company of infantry and riflemen to one hundred men. Mr. V. said he had as much confidence in the present President of the United States as he ever could have in any man, but he was averse to giving this power to any one person; and he believed the spirit of the Constitution prohibited it.

Mr. D. R. Williams moved to adjourn. Negatived, 47 to 44.

Messrs. Lyon, Rowan, and Stanford, supported the motion for striking out, on the ground that the bill was in contradiction to that clause of the Constitution which declares that Congress shall raise armies, &c., inasmuch as it gave power to the President to increase the army establishment. It was also said by the latter gentleman to be contradictory to the old Republican opposition to such a construction of the Constitution some years previous.

Mr. Stanford moved to adjourn.—Carried.

Monday, March 21.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was recommitted, on the eighteenth instant, a bill to discharge Francis Barretto from his imprisonment, presented an amendatory bill; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. Key presented a memorial of sundry inhabitants of Washington county, in the Territory of Columbia, praying that so much of an act of Congress, passed on the twenty fourth of February, 1804, entitled "An act supplementary to an act entitled 'An act to incorporate the inhabitants of the City of Washington in the District of Columbia,'" as exempts from county tax the inhabitants of the City of Washington, may be repealed for the reasons therein specified.—Referred to the Committee for the District of Columbia.

Mr. Newton, from the Committee of Commerce and Manufactures, presented a bill to continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia;" which was read twice and committed to a Committee of the Whole to-morrow.

Mr. M. Clay moved for the consideration of the report of the Committee of the Whole on the bill for classing the militia.—Negatived, 57 to 37.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning the sale of the lands of the United States, and for other purposes," with several amendments; to which they desire the concurrence of this House.

JUDGE INNES.

Mr. Rowan held in his hand a resolution for an inquiry into the conduct of Harry Innes. He observed in preface, that it was of the utmost importance in our Government, which depends upon will, to animadvert with the utmost severity upon a deviation from a correct course of any one of its functionaries. Whatever excuse might be found in the weakness of human nature for any errors in judgment, yet for a deviation from the allegiance which he owes to his Government, as a child to its father, no excuse could be found in the weakness of his frame or the incompetency of judgment. If then it were found that any judge had violated his duty in that respect, the good of the Union, the perpetuity of the Government, and sound policy, required that he should experience the utmost severity of animadversion. He therefore offered the following resolution:

Resolved, That a committee be appointed to inquire into the conduct of Harry Innes, district judge of the United States for the district of Kentucky, relative to his having whilst in the tenure of his office aforesaid been party or privy to a project on the part of Spain or her subjects to dismember these United States, or to the seduction of the State of Kentucky from this Union; or relative to his having been party or privy during the time aforsaid to a project of France or her citizens, to embroil these United States in a war with Spain; or relative to his having illictly corresponded with both or either of the Governments aforesaid or their subjects or citizens upon one or both the projects aforesaid; or relative to his having known and concealed from this Government one or both the said projects; and that the said committee have power to send for persons, papers, and records, and that they report whether in their opinion the said Harry Innes hath so acted relative to all or either of the subjects aforesaid as to require the interposition of the Constitutional powers of this House.

Mr. R. said he would observe that the State of Kentucky had felt impressed with the importance of the subject, and the Legislature of the State had adopted this resolve. [Mr. R. then read

the Kentucky resolution directing its Representatives to request the inquiry.] There had also been transmitted a certified copy of the report of the inquiry into the conduct of Judge Sebastian, with certain exhibits on which this resolution of the Legislature of Kentucky is predicated, all of which he submitted to the House.

Mr. Stanford observed that the subject of the Western conspiracy was one of the most interesting which had ever been presented to the General Government. If the public prints could be credited, this comprehended but one of at least three attempts to seduce the Western country from its allegiance. The present proposition, coming from a Western State, in an imposing manner, to the House, was one of the best pledges that the State itself did not participate in the disaffection. The subject was so generally important, that he thought the people should have general information on it; for his own part he thought this resolution rather limited, and that it should be so modified as to authorize an inquiry into the general extent of these intrigues. To promote a deliberate course on this subject, he moved that the resolution lie on the table.

Mr. Bidwell seconded the motion of the gentleman from North Carolina, but with different views than he had expressed. He had no objection to carrying on an inquiry against a district judge of Kentucky; but as he presumed the gentleman who introduced it contemplated a removal, it would be improper to blend with it an inquiry into all the transactions in the Western country, which might involve every one who had or might be supposed to have been engaged in them. If the Legislature of Kentucky or any of her Representatives thought proper to institute an inquiry into the conduct of a judge, he was disposed to favor their object; but he wished the resolution to lie on the table to afford an opportunity to do justice to the character of the person implicated, and not, by instituting an inquiry without due proof that it was really necessary, to prejudice the public mind against his character. It was for this reason that he had seconded the motion for its lying on the table, and not with any intention to a modification of the inquiry so as to include an inquiry into the conduct of any other person than the person to whom it expressly applied.

Mr. Rowan observed that he was satisfied that there ought to be an inquiry, and believed in his own mind that it ought to terminate in impeachment and removal. His opinion perhaps was tinged with prejudice; he would not claim an exception from the general liability; he had heard much of his mal-conduct, and he felt a general prejudice against any officer who permitted himself even to be tampered with; he had as little patience with a man who would receive proposals for a deviation from the line of propriety, as he would for a virtuous woman who would listen to proposals to induce her to become otherwise; the one was as little entitled to respect as the other to the ascription of virtue. This was his opinion, but the House might think otherwise. To allow time for consideration, he consented that it should lie on the table.

Mr. Pitkin thought that on the request of a State there could be no hesitation to make an inquiry; he thought it should be immediately referred to a committee.

The resolution was, however, ordered to lie on the table without a division.

ADDITIONAL ARMY.

On motion of Mr. Dawson the House took up the unfinished business, on the bill for raising an additional military force.

Mr. Stanford wished to know if he could withdraw his motion made on Saturday, and move that each company should consist of one hundred men each, taking away the discretionary power to increase the number.

The Speaker said the motion was not in order.

Mr. Dawson announced his intention to make such a motion, if the amendment should be agreed to. Whatever might be his opinion of vesting a discretionary power in the Executive, this was no time for discussion. The situation of the country might immediately require not only these men but a much larger number.

Mr. W. Alston thought it would be much better to leave a discretion to increase the number from six thousand to ten thousand, in the event of any contingency, than to erect an army of ten thousand men at once.

The question was then taken on the motion made on Saturday to strike out the discretionary power to increase the number, and carried, 63 to 45, as follows:

Yeas—William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, James Elliot, William Ely, John W. Eppes, Peterson Goodwyn, Edwin Gray, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, Joseph Lewis, jr., Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, John Rowan, John Russell, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Richard Stanford, William Stedman, Peter Swart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Marmaduke Williams, and Alexander Wilson.

Nays—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, John Blake, junior., Robert Brown, William Butler, Joseph Calhoun, George Clinton, jr., Howell Cobb, Orchard Cook, Richard Cutts, Daniel M. Durell, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Harris, John Heister, William Helms, Daniel Ilsley, Robert Jenkins, Nehemiah Knight, John Lambert, John Love, William McCreery, William Milnor, John Morrow, Roger Nelson, Thomas Newton, jr., Matthias Richards, Samuel Riker, Ebenezer Seaver, Jedediah K. Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, George M. Troup, Philip Van Cortlandt, Daniel C. Verplanck, Isaac Wilbour, Richard Winn, and James Witherell,

The words "sixty-eight," the number of each company, were then struck out, and "ninety-six" inserted—65 to 17.

The bill was ordered to a third reading on this day, 54 to 38.

DEBTS DUE TO INDIVIDUALS.

Mr. Nelson called for the order of the day on the bill for extinguishing the debts due from the United States to individuals.

Mr. Stanford moved that it be indefinitely postponed. Negatived, by yeas and nays on the call of Mr. Rowan, 73 to 36, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., David Bard, William W. Bibb, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Josiah Deane, Meshack Franklin, John Heister, Thomas Kenan, Nathaniel Macon, Robert Marion, Daniel Montgomery, jun., Thomas Newbold, John Porter, John Pugh, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Jedediah K. Smith, John Smith, Richard Stanford, John Taylor, Abram Trigg, Jesse Wharton, Robert Whitehill, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Ezekiel Bacon, Joseph Barker, William Blackledge, John Blake, jun., John Boyle, Epaphroditus Champion, Martin Chittenden, John Clopton, Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, John Davenport, jun., John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Josiah L. Greene, John Harris, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Nehemiah Knight, Joseph Lewis, jun., John Love, Josiah Masters, William McCreery, William Milnor, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newton, Timothy Pitkin, jun., John Rhea of Tennessee, John Rowan, John Russell, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Peter Swart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, Marmaduke Williams, and James Witherell.

The House then resolved itself into a Committee of the Whole on the said bill; and after some time spent therein the bill was reported with several amendments thereto.

Ordered, That the said bill, with the amendments, do lie on the table.

ADDITIONAL ARMY.

The engrossed bill from the Senate for raising an additional military force was read the third time; and the yeas and nays being asked on its passage by Mr. Stanford,

Mr. Upham addressed the House as follows—

Mr. Speaker: I hope the bill on your table will not pass. I have no objection to the details. So far as I understand them, they are well enough. My objection is to the principle of the bill, and this objection is founded in the want of information on the subject. So far as I can conjecture, and it is, to be sure, mere conjecture, this bill is intended as an entering wedge to a standing army. If this be not the object, I know not what it is. I have, sir, no evidence of the necessity of such an army at this time. Indeed, our concerns with foreign nations are so completely wrapped in darkness and in mystery that I know not how to act in my capacity of legislator. The presumption is, under a Government like ours, against an army. The genius and spirit of a Republic are inconsistent with a standing regular force in time of peace. It is, therefore, incumbent on the advocates of this bill to show us the necessity of its passage—to show us that we are really on the eve of a war. This has not been done in a manner satisfactory to my mind. I am tired of this affrighting story, without evidence of being on the eve of a war. I have, sir, no hesitation in acknowledging that it will not do to rely upon a militia in actual war. This unquestionably is a Peace Establishment. The true and correct purposes and objects of a militia, are, in the language of our Constitution, "to execute the laws of the Union, to suppress insurrections, and to repel invasions." The idea, I know full well, of carrying on war by a militia is chimerical. It is perfectly utopian; it will do very well on paper; it sounds well in war speeches on this floor. To talk about every soldier being a citizen, and every citizen a soldier, and to declaim that the militia of our country is the bulwark of our liberty, is very captivating. All this will figure to advantage in history. But it will not do at all in practice. With your militia, sir, you may possibly get along tolerably well for the first three months of a war. Patriotism, love of country, a sort of laudable enthusiasm, will carry men for awhile great lengths. They will pawn "their sacred honors, and pledge their lives and their fortunes," to defend the liberties of their country. But this zeal and patriotism will be soon cooled down. With your militia you may repel a sudden invasion. You may keep an enemy in check till you can enlist and organize a regular, permanent force. Beyond this, sir, it is all mere idle theory. In war you must have an enlisted force. There is no such thing as disguising this. You must have a standing army, so called; that is, an army to stand, or continue, as long as your war. This has been found necessary in all countries and under all Governments. But until I am convinced that we are to have war, or until I have probable ground of belief, that we are to have a national conflict, I cannot give my voice for the bill. In short, I will not further blindly rely upon the opinions of others.

I am not unduly prejudiced on the one hand against standing armies; on the other, I desire them not, unless necessary to the security of our country. I would neither court popularity by declaiming against standing armies in time of

peace, nor by sounding the tocsin of war, and making blustering harangues in favor of preparations for national combat. No, sir, I will never descend to this. I would not fall into either of these extremes, so much in fashion in this climate and in this House. My constituents do not expect of me such a course. I will go as far as any gentleman to maintain the American character. I will not be behind any one in supporting, as far as is within my power, the national point of honor. And there is a point of honor among nations as well as among individuals. No matter by what nation insulted, whether France, Spain, or England, I profess to be an American, and would equally resist, to the last, the encroachments or insults of either: and, in this, I am sure I should be borne out by those who sent me here. But I am unwilling to act longer without knowledge. I have long enough gone in the dark. I am determined to stay my hand. As a Representative, I think I have a right to know why I vote for raising an army. I have heretofore voted for every measure introduced into this House which seemed, in any degree, calculated to place the country in a state of defence. I had a sort of general knowledge of our foreign relations. I knew the whole world was more or less in confusion and turmoil; that this nation had controversies of long standing with Spain, and, of course, with France; and also England; that all these nations were encroaching upon our neutral rights. The affair of the Chesapeake had made a deep impression on my mind. Of all these things I had a general understanding, and I every day expected official and more precise information. I placed much confidence in the President; in the Heads of the Departments of War and of the Navy, and in the committee appointed by this House on so much of the President's Message as relates to our Military and Naval Establishments; and in that appointed on so much of that Message as relates to aggressions in our ports and harbors by foreign armed vessels, and to measures necessary for the protection of the same ports and harbors. Those who "saw the whole ground" I concluded would present propositions to the Legislature uniform, consistent, and wise. Being thus impressed, I have therefore given my voice for all propositions in form of preparation for war. I had conceived our country in a perilous situation. I gave my vote for the highest sum proposed for fortifications. This, indeed, I would do now. I have always had information sufficient to induce me to do everything in my power to protect our seacoast. Our great cities and seaboard towns ought, forever, to be kept in a state of defence. To erect fortifications to answer this purpose is a work of time. Therefore, in peace is the proper season to do this. I do not, sir, believe in the doctrine of some gentlemen of abandoning, in case of invasion by a foreign foe, our cities and towns on the margin of the ocean, and flying to, and hiding ourselves in the mountains. This, indeed, is a doctrine too monstrous and shocking ever to find many proselytes.

I even voted for gunboats, and no gentleman, I am confident, came here more prejudiced against this kind of utensil of war than myself. But all seemed to agree that a certain number of gunboats, combined with fortifications and frigates, might be used to advantage. I preferred erring on the extreme of having too many to that of not having enough. Besides, I was influenced by a disposition to accommodate, by a spirit of conciliation. There were gentlemen on this floor who had, perhaps, as great an aversion to frigates as I had to gunboats, who proposed a compromise; who gave a sort of pledge, that if the enemies of gunboats would lend their aid in support of them, when the resolution as to building frigates should come before the House, it should receive their support. It will be recollected that, at this time, there was a resolution on your table for the speedy equipment of all the frigates and other vessels of war, and for building —— number of ships.

But I have now wholly lost my confidence in those who direct or recommend our war measures. There has been exhibited such a want of system, of stability, and consistency; such a miserable fickleness of resolution, that I can no longer rely upon those who mark out our work for us. I must be guided by the lights of my own understanding, such as they are.

On the fourth of December a bill came from the Senate for adding to the Military Peace Establishment above two thousand men. This, after undergoing much discussion in Committee of the Whole and in the House, was permitted to lie upon your table.

On the twenty-seventh of January, the committee relating to the Military and Naval Establishments, reported to this House a bill to authorize the raising an additional army of about twelve thousand men. This, also, after going through the usual course, in committee and in the House, after being debated, and amended in its details, was permitted quietly to rest upon the table.

On the twenty-ninth of February, the committee respecting the Military and Naval Establishments, introduced to us a bill intended to authorize the raising a force of about six thousand men. This, in its turn, received much attention and engrossed much time before this House, as well in form of a Committee of the Whole as otherwise. We were, indeed, occupied with it when the present bill came from the other branch of the Legislature, where it originated about the same time that the last mentioned bill was reported in this branch. The bill from the Senate, which is the one now under consideration, was committed to the committee on the Military and Naval Establishments, and by that committee reported to the House.

On the twenty-fifth of January, the chairman of this same military committee reported to us a bill demanding forthwith about twelve hundred seamen. The usual course of legislative proceeding was departed from; all the rules and orders of the House seemed to be dispensed with to get along with this bill. It was hurried from the House into the Committee of the Whole, and from the Committee of the Whole back to the

House, and passed through all the stages to a third reading in the course of one day. This unusual course was remonstrated against and opposed by the minority, but all in vain. Every motion for time to examine and consider was voted down. There seemed to be an imperious necessity for this body of seamen instantly.

The next day the chairman himself moved that the bill might lie on the table. On the third day (the 27th of January) he read in his place a letter from the Secretary of the Navy, in which the Secretary says that he is charged from the President to give information that he does not wish to be empowered to employ more seamen than the number at present authorized by law. I am sure, sir, nobody will be astonished that I am puzzled and confounded by these ever-changing and shifting schemes and proceedings of those who direct or recommend our measures. One day 2,000 men are demanded of us as a military force; the next, 12,000; the third, 6,000. To-day, 1,200 seamen are called for, and such is the immediate occasion for them, that the usual course of deliberate and cautious legislation cannot be submitted to; to-morrow the reporter and advocate of the bill himself requests a postponement, and the day after, we are told from high authority that no seamen are wanted.

I do not know really, sir, for what purpose this force is to be raised. I do not know the object in view; I do not know whether it be intended to be used against France, or Spain, or England, or to be distributed on our frontiers with our Peace Establishment; or whether it be calculated to quell an apprehended insurrection in our own country. In fact, sir, I am destitute of the information necessary to enable me to act intelligently on the subject before us. Surely we ought to be informed. The Constitution contemplates that we should. This instrument says: "The President shall from time to time give to Congress information of the state of the Union." In common sense it is certainly fit and proper, called upon to act as we are, that we should have a correct knowledge of our foreign relations. To call on a deliberative body to act discretionarily, and, at the same time, to refuse to give that body information on the subject-matter on which it is to act, is a contradiction. It is, indeed, an imposition. Were we acting ministerially, the case would be different. We should, then, have only to do the specific thing directed. But the House is answerable for the substance of their doings as well as the manner. It is responsible to the nation, not only that it does the act, but for the act itself.

Finding myself, sir, in this state of ignorance and responsibility the other day, while the bill which originated in this House to raise a military force of about 6,000, to which I have before alluded, was under discussion, I was pleased at perceiving the gentleman from Delaware move a resolution for information on the subject. I cheerfully voted to consider it, and I was sorry to see a majority of the House vote otherwise. It surely was a very discreet, guarded, and respectful resolution. I will, with permission, sir, read this resolution. It is in these words: "*Resolved*, That 'the President be requested to communicate to 'this House such information touching our foreign relations as he may deem consistent with 'the public interest, the better to enable this House 'to judge how far the Military Establishment 'of the United States ought to be increased."

But it has been said by honorable gentlemen that it was indecorous to call on the President for information. That it was a kind of reprimand. It was dictating to him his duty. Gentlemen seemed to have forgotten the authority that they themselves have given for a procedure of this kind. We have this very session a much stronger case of calling on the President for information. They have given us a precedent that would warrant us in going much further than this resolution goes. I request the attention of the House to their unanimous resolution of the thirteenth day of January last. With leave, sir, I will read it from your Journal: "On motion of Mr. Epps, 'and seconded, that the House do come to the 'following resolution: '*Resolved*, That the President of the United States be requested to lay 'before the House of Representatives all the information which may, at any time from the 'establishment of the present Government to the 'present time, have been forwarded to any department of the Government touching a combination between the agents of any foreign Government and citizens of the United States for dismembering the Union, or going to show that 'any officer of the United States has, at any time, 'corruptly received money from any foreign Government or its agents; distinguishing, as far as 'possible, the period at which such information 'has been forwarded and by whom.' And the 'question being taken thereupon, it was unanimously resolved in the affirmative."

The House, in this case, refused to soften, or in any degree modify the resolution. A suggestion was made by my honorable colleague who sits before me, and who is not now in his place, that it would be proper to qualify the resolution; that the President should only be requested to communicate such information as he should deem consistent with the public interest. This suggestion was disregarded, and the resolution passed unanimously.

But I contend, sir, that although generally the President is, of his own mere motion, to give information from time to time to Congress; yet he is not supposed to know, in every instance, as to what subject and at what time the Legislature wants information. There may be, and frequently are, cases in the course of legislation, where, so far from being improper or indecorous, it becomes the duty of the House to solicit information. In the case now alluded to, the gentleman from Delaware, in his resolution, desired the information "the better to enable this House to judge how far the Military Establishment of the United States ought to be increased." However, the House unquestionably has a right to refuse even to consider whether it will call for information. I call no man or body of men's intentions in question. I

mean only to explain my own votes. I, also, as one of the minority, have my rights. I have a right to refuse to grope further in the dark.

The President has a right, too, to exercise his discretion as to giving or refusing information to Congress relating to our foreign relations; or, at any rate, he can neglect, and indeed refuse to instruct us as to the "state of the Union." And the Representatives of the people, on their part, have also a right to say that they will not proceed; that they will not act without information. They are responsible to the American people for their conduct as well as the President. These rights are mutual. The President may refuse to give information, and the Representatives may refuse to legislate without information.

But it is said by gentlemen that there are negotiations pending, and therefore it is improper to divulge the state of our foreign concerns. In reply, sir, I have to say, in the first place, that we have no negotiation pending with France; and as to the state of things with this nation, we are infinitely the most enveloped in darkness. But suppose negotiations were going on with France, and, on this account, it would be imprudent and impolitic to promulgate to the people the state of things. This furnishes no argument against confidential communications to Congress.

The order of the day—the *countersign*—seems to be Executive confidence! Why not Representative confidence? Why not place some confidence in the Representatives of the people? Our Constitution contemplated the latter confidence as well as the former. I really do not feel very proud of my place as Representative of the great American empire; the only remaining Republic on earth; the last and best hope of the whole world. I cannot feel elated with this station, if I am not to be trusted with information upon those subjects upon which I am called to act.

It is within the power and province of Congress to declare war as well as to raise and support armies. I will, sir, read this part of the Constitution. Article first, section eighth: "Congress shall have power to declare war," &c. "To raise and support armies," &c.

Suppose the President should recommend to Congress to declare war against England, or France, or Spain? Declare war—for what? In such a case should we not require information? Is there an honorable gentleman in this House who would give his voice for a declaration of war against any nation, without knowing why or wherefore? Shall we thus give our votes for a standing force? Shall we raise an army without knowing the motive or object? Do we not want information in the one case as well as in the other? I confess I can see no difference. To whom will the country look for the reasons of this measure? Not to the President. When we return home we ought to be able to tell our constituents on what ground and for what purpose we raised this army. Indeed I cannot express my surprise that this House will not even consider whether they will ask for information.

Very recently one of my colleagues offered a resolution requesting the House to ask of the President information to enable us, as legislators, intelligently to do our duty. This resolution I may be permitted to read; it is as follows: "*Resolved*, 'That the President of the United States be requested to communicate to this House the despatches addressed to this Government by the American Minister at Paris, touching the proceedings of the French Government relative to neutral commerce, which have been received since the despatches of our Minister, which were communicated to Congress, by Message, on the nineteenth of February, one thousand eight hundred and seven."

Here again the House refused even to take into consideration whether they would desire of the Executive information. All this I do not at all understand. As I have before said, I impeach no one's motives. I will not say that the majority pin their faith implicitly upon those who direct or recommend public measures. But I will say that I myself will not longer proceed blindly, "without bell, book, or candle." I will not say that our Administration is unduly controlled, either through love or fear, by any power on earth: But I do say that I am astonished that the President of the United States does not communicate to us the correspondence between our Minister at Paris, Mr. Armstrong, and this Government, respecting the proceedings of France relating to our neutral rights. Although I do not positively know that there has been any communication from that Minister to our Government since the 19th of February, 1807, yet I am perfectly convinced, from the nature of the thing, that there must have been communications. It is, indeed, impossible that it should be otherwise. To compare minor things with very important ones, if an individual had an agent in a foreign country to negotiate a private concern of any magnitude, and should neglect for more than a year to advertise the principal of his proceedings, his authority would surely be revoked, and he dismissed from his agency. If, indeed, Mr. Armstrong, as was observed the other day by my colleague, has not communicated with this Government as to the important concerns between the nation at whose Court he is Minister and this, he ought to be immediately recalled and impeached. But, Mr. Speaker, I will not enlarge. I have already taken much more of the time of the House than I had intended. I agree to the necessity of a regular army in actual war. I have hitherto, relying upon those who have directed or recommended our measures, given my voice for everything in the shape of preparation for war.

I have perceived great want of system and consistency, as I have stated. I have myself been legislating without knowledge. I have acted in the dark. The House has refused to ask for information. The President has not given it to us. I am determined not to go further without it. I shall, therefore, vote against the passage of the bill.

When Mr. U. concluded, the House adjourned.

TUESDAY, March 22.

Immediately on the meeting of the House a Message in writing was received from the President of the United States, apparently comprehending a voluminous mass of documents.

The SPEAKER declared the Message to be of a confidential nature.

Mr. BURWELL conceived that a part only of the Message was confidential; he wished that part which was not confidential should be first read.

Mr. EPPES observed that the confidential part might be so blended with the other, that they could not be understood if read distinctly.

Mr. CAMPBELL could not see the propriety of any discussion on this subject in public; he wished the galleries now to be cleared. They were cleared accordingly. When the doors were opened, the Message was read, as follows:

To the Senate and House of Representatives of the United States:

At the opening of the present session, I informed the Legislature that the measures which had been taken with the Government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part: that instructions had been consequently sent to our Ministers there to resume the negotiations, and to endeavor to obtain certain alterations; and that this was interrupted by the transaction which took place between the frigates Leopard and Chesapeake. The call on that Government for reparation of this wrong, produced, as Congress has been already informed, the mission of a special Minister to this country; and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you. I therefore now communicate the instructions given to our Minister resident at London, and his communications with that Government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special Minister charged with the adjustment of that difference; the instructions to our Ministers for the formation of a treaty; their correspondence with the British Commissioners and with their own Government on that subject; the treaty itself, and written declaration of the British Commissioners accompanying it; and the instructions given by us for resuming the negotiation, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State, from one of our late Ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty and of its several articles, may be fairly presented and understood. Although I have heretofore, and from time to time, made such communications to Congress, as to keep them possessed of a general and just view of the proceedings and dispositions of the Government of France towards this country, yet, in our present critical situation, when we find that no conduct on our part, however impartial and friendly, has been sufficient to insure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers, which for these reasons I now lay before you, embrace all the communications, official or verbal, from the French Government, respecting the general relations between the two countries, which have been transmitted through our Minister there, or through any other accredited channel since the last session of Congress, to which time all information of the same kind had, from time to time, been given them. Some of these papers have already been submitted to Congress; but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the twenty-sixth of February, I communicated to both Houses the letter of General Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence. But perceiving that this caution, proceeding purely from a regard to the public good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow-citizens, will more than countervail the ordinary objection to such publications. It is my wish, therefore, that it may be now published.

TH. JEFFERSON.

March 22, 1808.

The House then proceeded in the reading of the documents accompanying the foregoing Message, and made some progress therein; when an adjournment was called for, and carried.

WEDNESDAY, March 23.

The House resumed the reading of the documents which accompanied the Message from the President of the United States, received on the twenty-second instant, and made a farther progress therein.

THURSDAY, March 24.

The several orders of the day were postponed until to-morrow, and the House adjourned.

FRIDAY, March 25.

A Message was received from the President of the United States, transmitting information in relation to sites for fortifications of ports and harbors. The Message was read, and referred to Messrs. BLOUNT, TALLMADGE, BURWELL, COOK, RIKER, TROUP, and WITHERELL.

A Message was received from the President of the United States, transmitting a report from the Surveyor of the Public Buildings of the progress made on them during the last session; of their present state, and of that of the funds appropriated to them. The Message and report were read, and referred to Messrs. STANFORD, LEWIS, LLOYD, SOUTHARD, and CUTTS.

Another Message was received from the President of the United States, transmitting a statement of the militia of the United States, according to the latest returns received from the Department of War. The Message was read, and, together with the statement transmitted therewith, laid on the table.

The House being cleared of all persons, except the members and Clerk, resumed the reading of such papers, accompanying the Message from the President of the United States, of the twenty-second instant, as, in his judgment, require secrecy, and were communicated in confidence to the House; and made a farther progress therein.

A motion was made by Mr. RANDOLPH, that the farther reading of the said papers, except the treaty negotiated on the twenty-first day of December last between the United States and the King of Great Britain, be dispensed with; and that the same be now read; and the question being taken thereupon, it was resolved in the affirmative. The said treaty was then read: Whereupon, a motion was made by Mr. JOSEPH CLAY that the doors of the Representatives' Chamber be now opened; and the question being put thereupon, it was resolved in the affirmative.

An adjournment was then called for, and carried.

SATURDAY, March 26.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing a detachment from the militia of the United States," with several amendments; to which they desire the concurrence of the House.

Ordered, That Mr. TALLMADGE be excused from serving on the committee to whom was yesterday referred a Message from the President of the United States, relative to sites for fortifications and arsenals; and that Mr. QUINCY be appointed of the said committee, in his stead.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act authorizing a detachment from the militia of the United States;" and agreed to the same.

Mr. BURWELL reported a bill supplementary to the act fixing an uniform rule of naturalization, and repealing all other acts on that subject. [The bill recognises the same rule of naturalization as the above recited law; also declaring that all citizens shall be considered such no longer than while they actually reside within the United States; and also that if any citizen shall expatriate himself, he shall, *ipso facto*, be deemed an alien, and, ever after, be incapable of becoming a citizen.]

The bill was twice read and committed.

Mr. J. CLAY presented the petition of the stockholders of the Bank of the United States, praying an extension of its charter. Mr. C. said, he did not mean to press the consideration of the subject during the present session, and moved its reference to the Secretary of the Treasury.

Some conversation ensued on this motion, the great objection being, that it would be incorrect to refer a subject for the purpose of obtaining a report on its expediency, until its constitutionality (which has been so much questioned) were decided on.

To obtain a decision of the House on its constitutionality, previous to a reference to consider its expediency, Mr. D. R. WILLIAMS moved its reference to a Committee of the Whole, which latter motion having preference, was carried—55 to 45.

The House then resumed the reading of the documents accompanying the Message from the President, on Tuesday last.

A motion was made by Mr. D. R. WILLIAMS to meet to-morrow, (Sunday;) negatived—ayes 19.

About four o'clock, the House adjourned.

MONDAY, March 28.

Mr. DANA, from the committee appointed on the fifth of November last, to whom were referred the petitions of Gideon Edwards and Samuel Doak, together with a bill from the Senate, entitled "An act to revive and continue in force the nineteenth section of an act, entitled 'An act to ascertain and fix the Military Establishment of the United States, and to extend the provisions thereof,'" reported several amendments to the said bill; which were read, and, together with the said bill and petitions, referred to a Committee of the Whole on Wednesday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act concerning the sale of lands of the United States, and for other purposes:" Whereupon, the House agreed to the said amendments.

Mr. MILNOR moved the following resolution:

Resolved, That the order of this House made on the twenty-third instant, which requires five thousand copies of the Message and documents presented to this House on the twenty-second instant, be rescinded; and that fifteen hundred copies of the said Message and documents be printed.

The resolution was laid on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing the sale of public arms," with several amendments, to which they desire the concurrence of this House.

The House resumed the reading of such papers accompanying the Message from the President of the United States of the twenty-second instant, as, in his judgment, do not require secrecy, and were not communicated in confidence to this House; and made a farther progress therein: when the House adjourned.

TUESDAY, March 29.

Mr. BOYLE, from the Committee on the Public Lands, to whom was referred, on the seventh instant, a Message from the President of the United States, presented a bill relinquishing to the Corporation of the city of New Orleans the right of the United States to the Batture, in front of the suburb of St. Mary's, and for other purposes; which was read twice, and committed to a Committee of the Whole on Thursday next.

The House considered and agreed to the amendments proposed by the Senate to the bill, entitled "An act authorizing the sale of public arms."

Mr. TALLMADGE, from the committee appointed on the eighteenth instant, presented a bill for the relief of the infirm, disabled, and superannuated officers and soldiers of the Army of the United States; which was read twice, and committed to a Committee of the Whole on Monday next.

The House again resolved itself into a Committee of the Whole on the bill to alter and establish certain post roads; and, after some time spent therein, the Committee rose, and reported progress.

The House then resumed the reading of the documents accompanying the Message from the President of the United States. The reading of these papers having been concluded, they were referred to the Committee of the Whole on the state of the Union.

Mr. ROWAN called for the consideration of the resolution for inquiry relative to Harry Innes; but upon the representation of Mr. Taylor, that it could not well be decided until the papers which formed its basis had been printed, Mr. R. withdrew his motion.

ADDITIONAL ARMY.

Mr. MILNOR called up the consideration of a resolution, which he yesterday laid on the table, to rescind the order of the House for printing five thousand copies of all the papers accompanying the President's communication, and, instead of this number, to print fifteen hundred copies, except so far as this number is already executed.

After some observations in support of the motion by Messrs. MILNOR and SMILIE, and objections by Messrs. MACON, STANFORD, RANDOLPH, LYON, and SOUTHARD, Mr. MILNOR withdrew the motion.

Mr. DAWSON said it would be remembered that, when the late Message was received from the President, a bill was under consideration for raising an additional military force. He moved that it be now taken up.

The House having resumed the consideration of the bill—

Mr. MACON observed, that this bill was predicated on a Message from the President, enclosing a report from the Secretary of War. The House was now possessed of all the information which might have led to this Message. When this bill was last under discussion the number of men had been increased from six thousand men to nine thousand. Mr. M. said, he was averse to going beyond the force which had been deemed necessary by the Executive, and which, as he understood, was but intended for garrison service. Under this consideration, he moved to recommit the bill to the Committee on our Military and Naval Establishments. Those who were desirous of giving such force as was thought necessary by the officers of Government, would vote for a recommitment, and those who wished to exceed that number would vote against it.

Mr. DAWSON thought this question had been already decided; for, on a question to increase the number, formally put, a few days ago, it had passed by an almost unanimous vote.

Mr. MACON remarked, in reply, that the gentleman had correctly stated the fact; but that decision had taken place prior to the reading of the papers communicated with the President's Message. If the information given had operated neither one way nor the other, the decision would undoubtedly be the same.

Mr. MACON's motion was carried—53 to 46.

Mr. DAWSON, from the committee to whom the bill was this day recommitted, reported the bill for raising an additional military force, with one amendment, to wit: To strike out ninety-six (the number of each company of infantry) and insert sixty-eight.—Committed to a Committee of the Whole.

On motion, the House adjourned.

WEDNESDAY, March 30.

On motion of Mr. D. R. WILLIAMS, a resolution was adopted to instruct the Committee on the Post Office and Post Roads to inquire into the propriety of providing by law for the transportation, by mail, of the late Message of the President of the United States, and documents accompanying the same.

The committee to whom was referred the memorial of Jonathan Grout, relative to telegraphs, was discharged from the further consideration of the subject, and it was referred to the Secretary of the Treasury, to report thereon to the next session of Congress.

ADDITIONAL ARMY.

The House went into a Committee on the report of the select committee, to whom was recommitted the bill for raising an additional military force. The amendment reported by the select committee, was, after a few objections by Mr. RHEA, agreed to—ayes 66. The bill being now open to amendment—

Mr. ROWAN observed, that it seemed to him that if this addition to the military force was considered as an addition to the Peace Establishment, the regiment of horse contemplated by the bill was unnecessary; if war was contemplated, the force was too small. The report of the Secretary of War, on which this bill was predicated, said he, stated that, under existing circumstances, this particular force was necessary. What are these existing circumstances? If I thought we were to have war, I would vote, with all my heart, for this number, and a much larger number, if it should be thought necessary. If we have not war, and it appears to be the general opinion that it will not be commenced on our part, certainly the dragoons are not necessary. I do not think it the opinion of the House that any warlike measure should be now adopted; and, if not, by striking out these eight troops of horse, a sufficient force will yet be left for the Peace Establishment. Horse are much more expensive than foot; and I cannot see any occasion for horse on a Peace Establishment. I could have wished that the bill might have laid over until we have received further information, which it is under-

stood we shall shortly receive, because I hold it to be the duty of the House to know what our circumstances are, and not to take the *dictum* of any department of the Government, from the highest to the lowest. We have had information, copious and voluminous, laid before us; but from that it does not seem to result that measures of war are to be taken. If not, where is the necessity for troops of horse? I can see no use for them, or service which they can render. We all know the extent of our frontier, and have some idea of the situation of the places on it. As I cannot see the necessity for horse, and more especially for this quantity, I move to strike out all that part of the bill relative to the dragoons.

Mr. Tallmadge said that had the gentleman from Kentucky been present, or if present, had he not forgotten, he would recollect that a provision was introduced to avoid incurring the expense which the gentleman had objected to. There was a distinct section which provided that the regiment of dragoons were to serve, either in whole or in part, until the President of the United States shall judge it necessary to mount them; so that, in fact, the regiment of dragoons was to be a regiment of infantry. In case of war, the gentleman would fully appreciate the advantage of cavalry, in which case the President is authorized to mount the whole or a part. So that were any force to be raised, this was a necessary part of it.

Mr. Rowan observed that his object was to diminish the force; and he had chosen the horse because he thought it that part which could most properly be detached. He wished to know whether this force was considered by the House as calculated for peace or war? It was known that we had already a Peace Establishment to line our frontiers; this bill contemplated an addition of 7,000, or perhaps more, which would certainly be too many. Against external assault, wherever the population was tolerably replete, the militia were competent; a regular force was necessary only where the population did not furnish the advantages of military defence which the interior possessed. A sufficient number of men for garrison duty seemed to him to be as many as were necessary; and a standing army of 10,000 men was certainly beyond the number necessary for that. The existing circumstances, said he, at the time when the report of the Secretary of War was made were different from what they are at present. It seems now to be the general opinion that we shall not have war. If that be not the general opinion, lay this bill on your table, and apportion the number to the object. If we have peace, the quantity is at least one-half too large. I therefore made the motion to strike out the cavalry not so much to get clear of them as to diminish the force.

Mr. Smilie said he did not consider this as a part of the Peace Establishment; he considered war as a matter of uncertainty. If the gentleman from Kentucky could have confidence in the generosity of the nation with whom we are contending, he was right to lessen the number. For my own part, said he, I have reliance neither in the justice or generosity of that nation, but consider it our duty to put ourselves in a situation to await the event. Will any gentleman say that a blow may not even now be aimed at us? I have not that assurance of their forbearance that I will leave my country in this situation. We have granted money for fortifications; we know that the fortified posts must be occupied. Is it to be taken for granted that those posts shall be filled by militia—that the militia shall do garrison duty? I believe not; there must be a certain number of regular troops. Would the gentleman consent that the militia of Kentucky should be drawn to New Orleans to form a stationary force there? I think not; and yet I believe that such a force must be maintained there. The truth is, that we ought to consider our situation—that we may have war or we may not. I wish to put the country into such a situation that we may be competent to meet events; and I consider that the number proposed will answer that purpose. If it be the wish of the House, however, to insert a less number, I should still vote for the bill.

Mr. Rowan said, that as to reliance on national justice or generosity, history smiles with contempt if not with derision at an idea of that kind. Justice between nations is ideal, and never has existed in reality. I ask whether these troops have not been as necessary in that view ever since the year 1800 as at this time? for we are told that the *sine qua non* on our part is a subject on which that Power had rather fight than yield. We know that the impressment of seamen would not be surrendered without a war. There has been, then, the same occasion for this force since the year 1800 as at this time. The question, then, is simply this: Will we keep up an armed force to prevent invasion? If we do this, we reject the old doctrine, and assume one which was some time ago considered as too bold to advance, but we have slipped up to it gradually. It seems to be the general sentiment that war should not be commenced on our part. I had judged myself, that unless reparation was made, war steps would be taken; but, instead of that, we seem disposed to solace ourselves with a hope that we shall not be troubled in future, and with that to rest content What measure shall be pursued I have not myself formed a decisive opinion. No view of what measures are proper to be taken has been presented by any department or by any member. The case of Orleans has been mentioned. The militia of Kentucky would not like to go there at any time; and it is not more necessary that they should now go than it has been at any time past. I grant that there should be an established force at New Orleans; but to what amount? The militia of the Territory of Orleans form a considerable body; a garrison of 1,000 regulars at the most, aided by the militia, would be competent to every purpose. As to fortifications, I hope it is not contemplated that they shall be manned in time of peace by such a regular force as might be necessary in war. All that will be necessary is a file of men at each post, with a sergeant or subaltern

to keep them in order, who may serve as a rallying point to the militia. If we are to have a standing army for war, I wish it to be declared at once, for this number is incompetent. Our present Peace Establishment is, indeed, too small, but with this addition it will be much too large.

Mr. Durell said it seemed to be the fatality of some gentlemen never to be able to discern the motives by which others were actuated; and, as they could not see their motives, they could not consent to plans which others advocated. I am very sorry, said Mr. D., that this has so generally been the case during the present session. The gentleman from Kentucky has objected to this bill, introduced for the purpose of increasing our military force; he says for a Peace Establishment the proposed force will be too large; for war, it does not come up to the mark. It seems that the objection which the gentleman first made to the bill was in consequence of the number of cavalry; he could not see in any event that a regiment of cavalry could be necessary, and gave as reasons, that they were expensive, and that he saw no service in which they could be used. Those objections have been totally answered by the gentleman from Connecticut; because, by the provisions of the bill, these cavalry may serve as infantry. The gentleman's objections then return to the amount of the force, being too great for peace, and vastly too little for war. The gentleman says he presumes that this House is not at all governed by a belief that we are in a state of war; that this is not considered as a war measure; that we have had no evidence to induce a belief that a state of war is likely to ensue. It has been frequently mentioned on this floor, and by that gentleman too more than once, that if not at actual hostilities, we were very near it. We are not now in a state of profound peace or actual war, but in a half-way state. We are in a sort of galloping situation, sometimes war and sometimes peace; and the conduct of many gentlemen seems to show, and I am sorry to see it, that their opinions are not founded on what is before us, but every breath which wafts a scintilla of information across the Atlantic gives new vigor to their action, or damps their ardor. Are we to be influenced by causes so trivial? Let me call the attention of the House to the time when we were called together by the President of the United States. What was the occasion which gave rise to our extra session? An assault on our sovereignty by an armed ship of Britain, by an outrage of the most flagrant nature ever recorded in history. Congress was convened under the idea that notwithstanding our peaceable relations with that nation, she might refuse to make ample satisfaction for that attack. What is the event? Has she made this satisfaction? Is the lapse of eight months, without a repetition of the injury, to be considered as a satisfaction? I know not how other gentlemen may feel, but it is none to me. What would have been the conduct of this House had she immediately refused satisfaction? For what were we called together? Was it not to meet such a possible event? If Great Britain had refused instanter, we should have made a declaration of war upon her. I do not hesitate to say that I would have held up my hand in favor of it. What is now our situation? No reparation has been made, and we are under the same obligations now as we were then to prepare for defence. No one will say that we are defended, or that we are in no danger of attack even from Great Britain. Are we then to sit here, week after week and month after month, and do nothing? I hope not. It appears to me that the number of men proposed to be raised is proper. I am not squeamish as to figures. If the number called for had been twenty thousand, I would have voted for it; if but three thousand I would also have voted for them; because in the event of war the latter could be increased, and in the event of peace the former could have been disbanded.

We were told by a gentleman (Mr. Upham,) when this bill was before the House on a former occasion, that no system was followed, that there is a want of energy, and that he had no confidence in the Executive. If the thing be fairly considered and understood, all these objections fall, in my opinion. The attempts which have been heretofore made to get up the Army bill have been experimental; it was not presumable that we should agree to the number or detail of the bill in the first instance. The very nature of the negotiation then pending was, I presume, a sufficient motive for delaying the business. The same gentlemen who now object to the bill would possibly have objected to it pending the negotiation, and its decision might have irritated the British ministry; that was my opinion, and therefore I did not press it at all, but thought it better that it should lie on the table. Would it either have been proper to lay information on the subject before the House during the negotiation? No one can say that it would have been proper. I should not have expected at this time of day that objections would have been made to the bill on the score of confidence in our security. What is the situation of the relations between foreign Powers, and of our own country with those Powers? Is the prospect of our foreign relations more cheering than it was immediately after the attack on the Chesapeake? I say not, and no one will gainsay it. That insult is yet unatoned for; no reparation whatever has been made for it. I feel myself under the same obligation to seek redress by such means as God and nature have placed in our power, as if that Government had absolutely and immediately refused to make reparation; for they have made none. Instead of our relations being better, they have grown from bad to worse, and in consequence of no fault of ours. Let gentlemen contemplate the late decrees, and their bearing on our commerce. Will they say that our situation is better? Foreign Powers are already at war with our commerce, and as likely as not, when they have gathered up the fragments of that, they will make an attack upon our soil.

What is the situation of our exposed points, of which we have so many, and of our seacoast of two thousand miles? Are not our cities de-

fenceless? Assuredly they are. A million of dollars have been expended for fortifications, and this money could not have been more economically expended. We want these forts garrisoned by these very troops; we do not want them left defenceless for English, French or Spaniards to possess and turn the guns against us. No, sir, the situation of the world will by no means admit of our sitting still with our fingers in our mouths, and taking no steps of defence. It has been said that the present session is drawing to a close. I for one shall not rest satisfied with departing and leaving the country in its present defenceless situation. I hope, for these reasons, that the gentleman's amendment will be negatived.

Mr. Rowan did not see why this artillery of Executive confidence should be levelled at him. I have, said he, before said, that confidence or diffidence in the Executive was unimportant to the decision of any question in my mind, and therefore I have not expressed my sentiments on the subject; why then it should be lugged in and levelled at me I do not understand. [Mr. Durell did not intend to level at the gentleman any expression other than what he had used in direct reply to his observations on another point.] Upon that subject then, said Mr. R., I have confidence in what comes from the Executive, so far as to give it that weight to which all information coming from an Executive is entitled. I hope this House will always understand their situation, the rights of the people, and the Executive rights; that they will understand and make a proper discrimination between confidence and diffidence. I believe confidence to be unfriendly to civil liberty, and vigilance and diffidence to be friendly to it. When a recommendation is made by any department of the Government, it is entitled to confidence in proportion to the information which accompanies it, and no further. I deprecate the day when any department shall only have to say that "under existing circumstances" so many troops are necessary. Will not the Representatives of the nation inquire what are the circumstances, and deliberate what they are, and whether they will authorize the erection of such force? Surely they will. What are our circumstances then at this time? Are they such as lead to a belief that we shall have immediate war? This nation is liable at all times to attack; and if gentlemen will raise an army upon that predication, there ought to have been one since the commencement of the Government. It is agreed on all hands that a certain force for our peace establishment is necessary; our naked frontier requires it. It then becomes a matter of consideration what should be the nature of that peace establishment, and how far it should be increased. It is my opinion that the addition proposed by this bill is too large, and therefore, as a peace establishment, I am opposed to it, but am willing that it should pass with the amendment which I have proposed. I have not questioned, nor ever do arraign the motives of those who oppose this bill, or any measure; but, if it be a war measure, let us so understand it, and those who view it in that light will be willing to provide more troops. It is either for war or peace. If peace, the language of all republicans excludes the idea of maintaining a standing army during peace; they are only necessary with an eye to war. If the latter is to be our course, let it be known and I am ready to concur in preparatory measures.

But as I am averse to questioning the motives of the advocates of any measure, and therefore avoid it, so also, I wish my motives not to be questioned; neither do I understand another argument, which is common, "How can any gentleman have the hardihood to say, this or that?" I trust I shall always have the hardihood to pursue what I deem my duty. As little do I understand the mode of inquiring whether a person will hazard his reputation on this or any measure. That man who is afraid to hazard his reputation or considers his reputation as hazarded on any measure which he supports, is unfit for his station. So much for motives, hardihood, and hazard of reputation. I challenge any member of this House, to name an instance in which I have ever questioned the motives of any member; I consider that the decency of legislative deliberation excludes it. I trust I shall always have the hardihood to advocate any measure which reason tells me is right, and oppose those which reason declares incorrect. And, therefore, am I under the necessity of opposing this bill, because it is suited neither for war nor peace. But the gentleman from Pennsylvania, (Mr. Smilie) tells us our situation is doubtful; so it always has been. He says we may be assailed; we have always been liable to assault. The question still returns to this single point: Is it necessary to have a standing army to insure perpetuity to our Government? If we have war, we must have a regular army; that is my opinion: perhaps it is rather heterodox, but I believe that is the opinion of a majority of the House. If we are neither at war or peace, we are then reduced to a doubtful situation, for which if the militia are not competent the wise framers of our Constitution have fundamentally erred, and we must come into the old destructive doctrine of a standing army, with its whole concomitant train of corruption. It is the fear of the prostration of our civil liberty which makes me feel averse to the bill if considered as a dubious measure.

We get nothing from abroad; we have demanded atonement for an injury, and it has been refused. If we choose to take it, then we go to war; if not, and it is intended to rest for justice on future prospects, say so, and we remain at peace. The quantity of force proposed by the bill is either too large or too small. For the maintenance of our Government a standing army is not necessary; it would be a reproach to a Representative Government, and to our boasted republican institutions, that a standing army was necessary to support it. If we are to go to war, it is not avowed; if peace, that is not admitted; it must then be that doubtful state which has always existed. And therefore, I hope my amendment will prevail.

Mr. Findley.—It has always been considered as prudent conduct in neutral nations, when they had only even a remote probability of war, to make precautionary preparations to prevent being taken by surprise; the fate of Copenhagen and numerous other cases justify the measure and strongly condemn the neglect of it. If this is at all times necessary, how much more now, when the spirit of war so extensively and with such an uncommon degree of violence prevails among all the nations with whom we have relations. But the gentleman from Kentucky (Mr. Rowan) gave us assurances, near fifty times repeated, that there is no danger of war, that whatever ground there might have been to apprehend war early in the session, there is no danger of it now; there is no disposition with us to go to war; that there was as much danger any time since 1804, as at present, &c.

Mr. F. said, the gentleman had pledged his responsibility with sufficient confidence, but without assigning any solid reasons on which our confidence can rest. We are indeed at a distance from Europe, but some of these nations bring themselves near to us; they have committed aggressions and hostilities on our coasts and in our harbors; these proceedings were attempted to be prevented or mitigated, and reparation to be procured by negotiation. Negotiation seemed to be encouraged with friendly professions and flattering hopes, but treated with evasion and delay, till finally all hopes from that quarter are vanished, without having obtained either reparation for the past or assurances for the future; not only so, but negotiation declared to be at an end, by an highly accredited agent; add to this, that the traders of that nation are employed in influencing the Indians within our own territory, and not only traders but accredited agents are openly employed in that business; that the force in the provinces adjoining our defenceless frontiers is greatly increased, their militia organized, and their fleets hovering on our coasts, highly irritated at being interdicted from our harbors, and secret expeditions consisting of powerful fleets and armies equipped for destinations unknown, and we with a very extensive coast on the ocean where our commercial cities are exposed to destruction and our coasts to every species of depredation. And all this is a subject of public notoriety, to inform us of which official information is not necessary, and yet the gentleman from Kentucky pledges his high responsibility that there is no danger of war. He has however been kind enough to warn us not to have confidence in the opinion or recommendation of the Executive. He has told us that Republican Government was a Government of jealousy and suspicion, and not of confidence; we for the present admit this principle, and then ask, what ground he has so repeatedly to claim our implicit confidence in his own responsibilty, totally unsupported by reason or evidence? If his declared principles of Republican Government are correct, we can have no confidence in him, nor ought we to have any confidence in ourselves, nor our constituents in us, nor we in each other; then it would be to his mind a Government of suspicion and jealousy all over: but the people are not yet prepared for such a Government. They do not know how it will work.

He has asserted, more frequently than I can recollect, that the addition proposed to our little army is too great for the Peace Establishment, and too small for war; and as repeatedly has he inquired, what is its object? Mr. F. said he would tell the gentleman what its object was; it was intended for the very situation the United States were in at present; for an intermediate state between peace and war, at a time after we had long been, with what other nations have usually considered as justifiable causes of war, and when these causes are daily increasing, and probably before we are aware, or in any good measure prepared, they may become insupportable. When actual war is forced upon us, it is a bad time to have to make the first beginnings to prepare to meet it. The gentleman talks boldly about the efficiency of the militia for every purpose till after war is fairly commenced. He talks, however, to many who know more about the militia and the advantages of even a small regular army for the militia to rally round than he does himself. Suppose our seacoasts to be attacked and overrun in situations where from peculiar causes the militia are few and dispersed, and, at the same time, our very extensive and very thinly settled frontier to be attacked, and the inhabitants indiscriminately massacred. Could the militia of Kentucky or Pennsylvania give them prompt and permanent protection? No, they certainly could not; and the protection they could afford, suppose them ever so willing and alert, would be attended with incalculable loss to themselves, and more than double the expense to the United States, that the same number of regular troops would be.

Mr. F. added, that he sympathized sincerely with the gentleman on the account of his feeling so much sensibility at the very name or idea of a standing army. This, indeed, seemed to give him as much alarm as if it was to be an army of hobgoblins or cannibals, that would not only kill, but eat us. But, to quiet the gentleman's fears, he would assure him the name standing army was not in the law, nor the thing. It was not a standing army, in the sense in which it was understood in Europe. It was to be enlisted for a short term, and might be reduced or dissolved at the pleasure of the Government, and the funds could be appropriated but for a short period, so that it was in the power of one branch of Government to prevent an appropriation for the support of the Army. But still further to abate the gentleman's fears, he would assure him that the militia were not such poltroons as he seemed to think. They would not permit an army double the number of what was proposed to be raised to endanger their liberties, even if they were so disposed. But, why suspect them so dreadfully? The officers must all be citizens, and would generally be the sons and brothers of citizens; the soldiers will generally be citizens, or the near relations of citizens, and will naturally look forward to the en-

joyment of the privileges they are employed to protect. Surely the gentleman can draw nothing from past experience in this country to justify this alarm, to the degree of affright, at the idea of a standing army, a name given only by himself. He would, from past observation, however, assure him that half this army would not be enlisted before the next session of Congress. Gen. Wayne's army was seldom much more than half filled during five years.

Mr. F. said he most sincerely hoped and wished, not only for our own interest but for the interest of the European nations, that we might avoid war, but his hopes and wishes could give no security against it, and he considered being in some measure prepared for it was the best way either to prevent it or to conduct it. The gentleman has repeatedly assured us that we have no right to calculate on national justice, that there is no such thing, &c. In this he agreed with the gentleman with respect to the present character of the nations of Europe, with whom their own opinion of a necessity of their own creation, was made the plea for committing the most flagitious wrongs, but he considered that this opinion applied forcibly against the object of the gentleman's own argument. Mr. F. said that he had no confidence in the justice of either of the belligerent nations, he knew that their own interest or the want of the means of subjugating us, was our only security on their part, and a short review of the past would demonstrate that some of them have often overleaped the bounds of their own interest, therefore we ought not to depend on our own views of their interest or object. He gave the gentleman from Kentucky credit for his candor, but, upon a review of his own argument, he would surely himself discover that it was strongly marked with inconsistency.

A Message was, at this moment, received from the President of the United States.

Mr. Gardner said that, possibly, the Message might throw some light on the subject now before the Committee. He therefore moved that the Committee rise. The Committee rose, reported progress, and obtained leave to sit again.

The Speaker having opened the President's Message, declared it to be of a confidential nature. The galleries were cleared, and the doors remained closed till a few minutes past four o'clock.

In secret session: On motion of Mr. Randolph, that the House do come to the following resolution:

Resolved, That the President of the United States be, and he hereby is, requested to cause to be laid before the House of Representatives, information of the dates of the extract and copy of two letters respectively, from the French Ministry to our Minister at Paris, referred to in his letter to the Secretary of State, of the twenty-second of January, one thousand eight hundred and eight; and, also, of the date of the receipt of the said communications and of the letter of M. Champagny, of the fifteenth of January, one thousand eight hundred and eight, by our said Minister at Paris.

The House proceeded to consider the said proposed resolution at the Clerk's table; and, on the question that the House do agree to the same, it was resolved in the affirmative—yeas 98, nays 24, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, John Claiborne, Matthew Clay, George Clinton, junior, John Clopton, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, junior, John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Randolph, Jacob Richards, Samuel Riker, John Rowan, John Russell, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Richard Stanford, William Stedman, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, David R. Williams, Marmaduke Williams, and Alexander Wilson.

Nays—Willis Alston, jr., David Bard, Josiah Deane, William Findley, James Fisk, Isaiah L. Green, John Heister, Daniel Ilsley, John Lambert, William McCreery, John Montgomery, Thomas Newbold, Wilson C. Nicholas, John Pugh, John Rhea of Tennessee, Matthias Richards, Ebenezer Seaver, James Sloan, Jedediah K. Smith, Henry Southard, Robert Whitehill, Isaac Wilbour, Richard Winn, and James Witherell.

Mr. John Randolph and Mr. Geo. W. Campbell were appointed a committee to wait on the President of the United States, pursuant to the aforesaid resolution.

Thursday, March 31.

Mr. Rhea, of Tennessee, from the Committee on Post Offices and Post Roads, to whom was yesterday referred a resolution directing the said committee "to inquire into the expediency of pro-'viding by law for the transportation of the Mes-'sage of the President of the United States, of the 'twenty-second instant, and the documents ac-'companying the same, by mail, free of postage," made a report thereon; which was read, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the bill for raising an additional military force.

The amendment yesterday proposed by Mr. Rowan was negatived, without debate—ayes 20.

The Committee then rose and reported the bill, which was immediately ordered to a third reading.

JUDGE INNES.

Mr. Rowan having called up his resolution for an inquiry into the conduct of Harry Innes, the House agreed to consider it, 42 to 38. The resolution is as follows:

Resolved, That a committee be appointed to inquire into the conduct of Harry Innes, District Judge of the United States for the District of Kentucky, relative to his having, whilst in the tenure of his office aforesaid, been party or privy to a project, on the part of Spain, or her subjects, to dismember these United States, or to the seduction of the State of Kentucky from this Union; or relative to his having been party or privy, during the time aforesaid, to a project of France, or her citizens, to embroil these United States in a war with Spain; or relative to his having illicitly corresponded with both or either of the Governments aforesaid, or their subjects or citizens, upon one or both projects aforesaid; or relative to his having known and concealed from this Government one or both the said projects; and that the said committee have power to send for persons, papers, and records; and that they report whether, in their opinion, the said Harry Innes hath so acted, relative to all or either of the subjects aforesaid, as to require the interposition of the Constitutional power of this House.

Mr. Howard rose merely to express a wish that the resolution should be adopted, not only from that respect which he owed to the Legislature of the State of Kentucky, but from a belief that the inquiry was necessary. Ever since the trial of Judge Sebastian, said Mr. H., an impression has been made on the public mind unfavorable to the standing of Judge Innes as a citizen and as an officer of the General Government. From the delicate and important nature of the trust reposed in a judge, it is indisputably necessary not only that he should possess integrity, and possess purity of mind, but that he should be free from all suspicion to the contrary. That his reputation has sustained a diminution is certain, whether on proper or improper ground, it is not necessary for me to determine. I trust the House will permit the inquiry to progress, that if innocent, this gentleman may be permitted to sustain that reputation which he has long enjoyed; and if guilty, the public may put out of their service a man who has so ill conducted. I conceive that the House cannot hesitate on this subject. What evidence other gentlemen may require to justify them in adopting this resolution I cannot for them say; but for my single self, if nothing more were presented to my view than the resolution of the Legislature of Kentucky, to my mind it would be sufficient. While up I think it my duty to mention that Judge Innes, by the mail which brought his accusation, wrote to a number of the Representatives of the State of Kentucky, among whom was myself, expressing not only his willingness but his anxiety that an inquiry should take place.

Mr. Smilie said he had voted against now considering the resolution, because he wished to take up the Army bill; but as to the resolution, coming into the House as it did, under such respectable authority, he could see no objection to adopting it.

Mr. Stanford observed that if his recollection served him, it had been usual in cases of this kind to attach a preamble to the resolution; he wished everything to have a why or wherefore to it. He therefore offered a preamble stating the request of the Legislature of Kentucky as the ground on which the resolution is predicated.

Mr. Bacon, in some observations against affixing the preamble, observed that the practice of prefacing every law and resolution with a preamble was an awkward and procrastinating mode of legislation, and had therefore become obsolete.

Mr. Troup observed that he had voted against considering the resolution, though friendly to its object. He did believe that the Western conspiracy should be developed in its utmost extent. It was high time that a line should be drawn between the friends and enemies of this Government; that those of the latter who are in office may be put out, and those who are not in office may be exposed and kept out. He believed this object would be fully attained by the resolution, as well by an exposition of the nature of the conspiracy, as of the number and character of the conspirators; he was therefore in favor of it.

Mr. Dawson hoped and believed that there was not a gentleman in the House who was opposed to the resolution. He observed that the gentleman from Massachusetts (Mr. Bacon) had well stated the disadvantages of preambles, a discussion on which had frequently occupied more time than the act to which they were prefixed. He hoped the gentleman from North Carolina (Mr. Stanford) would conform to the established practice.

Mr. Johnson observed that he was decidedly in favor of an inquiry, and was happy that there appeared to be so unanimous a disposition in its favor; he regretted that any gentleman should propose an addition to the resolution which might occupy the House in a discussion which might be unpleasant.

Mr. Stanford observed that his only desire was to conform to the established practice, which he had believed to be as he had stated it; but as it seemed to be thought otherwise, he withdrew the preamble.

The resolution was then adopted, *nem. con.*

Mr. Stanford said he would now make a motion which he knew to have been usual; and he did this without intending any disrespect to the Speaker. He moved that the committee be appointed by ballot. If an appointment of a committee in this manner was proper in any case, it was in this.

After a short conversation between several gentlemen as to what had been the former practice, the motion was negatived, ayes 8.

Ordered, That Mr. Rowan, Mr. Fisk, Mr. Bassett, Mr. J. Montgomery, Mr. Smilie, Mr. Jedediah K. Smith, and Mr. J. Taylor, be appointed a committee, pursuant to the said resolution.

EXECUTIVE BUSINESS.

Mr. Randolph said that according to the rules of the House, though the business was not to be

sure very important, yet he had a report to make, which required that the galleries be cleared.

The House being cleared of all persons, except the members and the Clerk,

Mr. RANDOLPH, from the committee appointed to wait on the President of the United States, pursuant to a resolution of the thirteenth instant, reported that the committee had performed the service assigned to them, and received an intimation that the President was indisposed, and could not give them a personal interview; and that, at his request, they had left the extract intrusted to them with his private Secretary.

On motion of Mr. RANDOLPH,

The House resumed the reading of such documents accompanying the Message from the President of the United States, of the twenty-second instant, as, in his judgment, require secrecy, and were communicated by him in confidence; and went through the same.

A motion was made by Mr. RANDOLPH that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the Message of the President of the United States, of the thirtieth instant, be taken off, so far as respects the documents accompanying the same, with the exception of the letter from our Minister at Paris, to the Secretary of State, of the twenty-seventh of December, one thousand eight hundred and seven.

On the question that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative—yeas 42, nays 77, as follows:

YEAS—William W. Bibb, Epaphroditus Champion, Martin Chittenden, George Clinton, junior, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Jacob Richards, John Rowan, John Russell, Richard Stanford, William Stedman, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Clement Storer, Samuel Taggart, John Taylor, John Thompson, George M. Troup, Jas. I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

A motion was made by Mr. RANDOLPH, that the said Message and documents be referred to the Committee of the whole House on the state of the Union; and the question being taken thereupon, it was resolved in the affirmative.

A motion was then made by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the Message of the President of the United States, of the thirtieth instant, and the documents accompanying the same, be taken off, so far as relates to the copy of a letter from M. Champagny to General Armstrong, of the fifteenth of January, one thousand eight hundred and eight.

And on the question that the said House do now proceed to consider the same, it passed in the negative—yeas 45, nays 71, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, William W. Bibb, Epaphroditus Champion, Martin Chittenden, George Clinton, jr., Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, Wm. Hoge, Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, John Morrow, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

FRIDAY, April 1.

A message from the Senate informed the House that the Senate have passed a resolution appointing e committee, jointly, with such committee as

the House of Representatives may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same.

A report yesterday made by the Committee on the Post Office and Post Roads, relative to the transportation by mail of the documents accompanying the President's Message, and declaring it inexpedient, was taken up and negatived; and on motion of Mr. D. R. WILLIAMS, a committee was instructed to report a bill to provide for their transmission.

RULES OF THE HOUSE, &c.

Mr. DAWSON having called for the reading of the engrossed bill for raising an additional military force,

Mr. RANDOLPH said that previous to taking up the engrossed bills it was the general practice to transact other business. It will be recollected by the House, said he, that during our proceedings yesterday, two motions which I did then believe, and which I do still believe to have been of extreme consequence to the public, were crushed in embryo by a refusal to consider them. I then understood the Speaker, who is the fountain of order in this House, that the rule stands thus: that when a member makes a motion, it is the right of any member to require him to reduce it to writing, and being so reduced to writing a previous question becomes necessary—that a question, which admits of no debate, must be taken, whether the House will consider that motion or not. It is perhaps because of the very late introduction of this practice into the House, or of this novel construction of the old rule, that no attempt has been hitherto made to amend it. That rule, according to my humble apprehension, is at war with the Constitution itself; it is the engine by which a majority of this House may be enabled at any time to prevent any question from being deliberated within these walls, unless it shall have received their previous sanction. It does enable the majority to impose their *indisputatur* on any question introduced, in like manner as in despotic governments the Prince puts his *imprimatur* on the press. This rule is inconsistent with the principles of our Government. The majority being once fixed, it is utterly impossible for any member, not of that majority, to have any question he may choose to raise, discussed. I know very well that gentlemen did assign reasons, and sometimes do assign reasons for not considering a motion, but in private, for they cannot do it in debate—reasons, very good perhaps, but certainly applicable only to the passage of the motion, and not operating against the consideration and discussion of it. It is very true that there are a multiplicity of speeches made in this House, and that they are to a certain degree an evil; but if it be our object to prevent that evil, let us do it by preventing a member from speaking more than twice in Committee of the Whole, or once in the House to the same question: whatever method we take to cure it, for Heaven's sake let us not be excluding one part of the Assembly from having their motions deliberated upon and discussed at all. But after all, for what was our Government instituted, and we placed here, but to discuss and deliberate the great concerns of the Government? It is not, from the very nature of our Government, possible that it can act with the celerity of one wielded by despotism; but let it be recollected that this is one of the few sacrifices for the enjoyment of the inestimable blessings which we possess. I say that the practice under this rule is an innovation upon the old practice; and to the best of my recollection and belief it has commenced this session of Congress. In the worst of times, when the rules of this House were changed to prevent particular views of the minority, and especially to prevent the gentleman who at present is at the head of the Treasury from (as it was then called) clogging the wheels of Government, this was certainly never tried, and I believe never thought of; if it had been adopted, however, it would not have been submitted to by the people of the United States. This is an invention which gentlemen may think works very handsomely in their hands, but let it be recollected that like that pretty invention the guillotine, the instrument may be worked upon themselves hereafter which is worked by them now. Considering the decision of the Speaker to have been final, I offer the following resolution:

Resolved, That when any motion is made and seconded it shall be considered as in possession of the House, and the question for considering such motion shall not exclude debate upon it.

Mr. STANFORD said he was well acquainted with the history of this padlock upon debate; it was in fact an innovation.

The SPEAKER declared that no motion had been made to consider the resolution; no question being before the House, the gentleman was out of order.

Mr. STANFORD said if he was out of order in this, if his friend from Virginia (Mr. RANDOLPH) would give him an opportunity by withdrawing his motion, while he was up, he would make another motion.

Mr. RANDOLPH said that his resolution was simply laid on the table; the gentleman was of course at liberty to make any motion which he pleased.

Mr. STANFORD said he would then make a motion which he had felt to be an interesting one to the nation, and in doing which, so far as respected his own feelings, he should discharge his duty. It is, said he, a motion respecting the City of Washington. I have perceived different documents and motions, which have for their object the removal of the Mint, the War School, &c. to Washington; and really, if they are to exist any where, I can see no objection to their coming here. I wish, therefore, inasmuch as a motion was some time ago made for the removal of the seat of Government, to which I was opposed, that something should be done to further the prosperity of the place, by an inquiry whether any arrangement can be made in the public buildings to accommodate those different establishments. I have drawn up the motion

so as to refer the subject to the Committee on the District of Columbia, because I believe them friendly to the city and district; I wish not to provoke debate, but that the committee may have the subject under their consideration, that at a future session they may make such a report as may show whether any alteration can be made in the plan of the public buildings or the city which will go to accommodate such institutions as may give prosperity to the seat of the General Government, such as the Bank of the United States, if its charter is to be renewed, and it will operate with advantage, the War School or Military Acadamy, the Mint, &c.—any institution which may go to give something to the city. I assure the House that I have no other object in view than to befriend the city.

Mr. S. offered the following—

Resolved, That the committee on the District of Columbia be instructed to inquire and report to this House how far the present plan of the City of Washington, and the arrangement of the public buildings belonging to the United States, can be so modified or altered, or other measure taken, as shall go both to promote the convenience of the Government, and at the same time the future growth and prosperity of the city.

The yeas and nays being agreed to be taken on the question for considering the resolution,

Mr. Stanford wished now to put to the Speaker a question on the point of order, whether debate is admissible on a question to consider a motion? For himself he believed the gentleman from Virginia had no occasion to make the motion, as it was but an innovation.

The Speaker said that the honorable gentleman who had preceded him in the Chair had uniformly put this construction on the rule; and it being also his opinion, he must decide that debate on such a question was contrary to order.

Mr. Stanford appealed from the decision of the Speaker. Mr. S. made some observations against the Speaker's decision, declaring it to be laying down a principle subversive of all the rights of a minority, completely excluding them from originating a motion.

Mr. Randolph made some observations going to show that the rule of the House which excludes debate on priority of business is applicable to that which is already before the House, and not to a motion when originated. He professed himself extremely obliged to the gentleman from North Carolina for having made a motion which enabled him to bring this question of order to a decision. When the gentleman made the motion, said Mr. R., I was entirely at a loss to know what his object could be; but as I have discovered his object, I am extremely happy, for if the rule is to have this interpretation, I wish it to be confirmed by the full sense of the House. It is a rule which the British Ministry, from the time of Cecil to that of the elder or younger Pitt, would never have dared to introduce into their Parliament; yet here it is introduced by construction, without due deliberation, I do not say with a view to any certain purpose—God forbid that such a disposition as that should exist, or that I should suspect any one of a wish to silence debate, not by argument, but by a rule of order. There would be very little chance, more especially in conclave, that the liberty of debate would be more abused in that case than in others. Sir, when we are shut up in *quatuor murus*, within the four walls of this House, what object can any one have in wishing for debate, but to reason? He can have none; more especially if he invite discussion on a certain proposition, and declare himself willing to abandon it upon conviction of its expediency. It is really extremely surprising that when gentlemen are invited to a discussion of a certain point, and none has come under consideration of greater importance during the present session, that they will preserve a sullen or rather perhaps dignified silence, and that reasons which might perhaps show that they were right even in refusing to come over to our proposition, should be urged not in debate but in private from one to another as reasons for absolutely refusing to take a matter into consideration—a matter which if it be not taken into consideration, and on which if the people, who are now in the depths of utter darkness, be not speedily informed, no man can say what the consequences will be. Upon that subject I will say no more at present. I have certainly no disposition to divulge that which the rules of the House require to be kept secret. I will just observe that it is absolutely necessary that the good old practice should be reinstated, either by a reversion of the decision of the Chair, or by an alteration of the standing rules and orders of the House.

Mr. Smilie made some observations in reply to the gentlemen from North Carolina and Virginia (Messrs. Stanford and Randolph.) As to the British Parliament, if there were no such rules, he said the gentlemen very well knew that the previous question answered every purpose the ministry desired. At present a gentleman in making a motion, is at perfect liberty to speak for an hour; he may argue for the whole session and the House has no control over him. Is not the House, said Mr. S., capable of judging for themselves, after so long a preface, whether the motion is of such a nature that it will be proper to consider it? Some gentlemen seem to have an idea that others are not possessed of understanding, and therefore they will instruct them. I would observe that there are many among us who never speak at all, and yet are not inferior in understanding to those who do. However, be that as it may, the gentleman from Virginia has no reason to complain of multiplicity of speeches, as he is allowed his full share. I believe that if we are now seriously determined to do public business, we shall not withdraw this rule; for I foresee that even without it we shall have much more discussion than is necessary. I wish to God that the business of putting the country in a state of defence were the object of all, instead of occupying time with business which can only impede it.

Messrs. Masters and Quincy now opposed the decision of the Speaker, and Mr. Marion supported it.

A Message in writing was at this moment received from the President of the United States.

Mr. Gardner wished the Message to be read, and, therefore, moved that this business lie on the table.—Negatived, yeas 20.

Mr. G. W. Campbell, after some observations on the point of order, said he should not now take the liberty of recapitulating what had yesterday been done in conclave; but as the business had been stated as important he would say this: that to his mind no question had been proposed, in their secret sitting, which affected either the interests or the liberties of the people of this country, which had not been considered; and in his view no object could be answered by considering the questions alluded to, or consequences proceed from them which could produce any good to the nation. The gentleman asks, what reasons there can be for preventing debate when the doors are closed. I in turn ask, what motive can be attributed to a refusal of debate when the doors are closed except to save time? Eloquent as those gentlemen who wish debate may be, and great as may be their power of reasoning, they will hardly tell the people of the Union that it is so great that they could by it carry us a way which we do not wish to go. Except this be their belief, what motive can there be for wasting our time and the public money? There is not, nor can be, any other motive for refusing consideration to a motion, than that which springs from a wish to transact the public business and to avoid wasting time in attempting to do what cannot benefit but may injure the public interest. I can see no advantage from the alteration of the rule at present. The advantage now, if on any side, is certainly to the mover; he may state all his reasons previous to presenting a motion, by suggesting that he intends to make one. The public then have all the reasons in support of the motion, and have to trust to the good sense of those who oppose its consideration; and of course it must be a clear case before we vote against the consideration of a motion. This is the case in public; but in private there can be no earthly reason but to save time, unless it can be supposed that members trusted with the confidence of the public are afraid that the eloquence and arguments of others will carry them beyond their own good sense; and such a reason as this will scarcely be assigned for their conduct. I wish not to be understood as supposing that gentlemen who make these motions have any other object in view than the good of their country; it is not my wish to impeach their motives, for whenever I do that I do it directly, and they cannot mistake me. But as no good in my mind could have arisen from the consideration of the motion yesterday, I may be permitted to repel the assertion that any possible good can arise from considering, or in consequence of success in obtaining a decision if the motion had been considered.

Mr. Stanford said he perceived a Message from the President of the United States had been received; as he did not wish a hasty decision on this motion, he would recall the appeal, that gentlemen might have time to consider it.

The question now recurring on the consideration of the resolution of Mr. Stanford,

Mr. Randolph observed that notwithstanding the observation of the gentleman from Pennsylvania (Mr. Smilie) that he took up more of the time of the House than he was entitled to—which by the by, Mr. R. said, he did not think precisely correct, for he believed that he trespassed not as frequently or uselessly as some others—yet he must now continue to be, perhaps with the gentleman from Pennsylvania, of the number of those who did not give evidence of good sense by holding their peace. It had been said, that no motion had been made yesterday involving deep and great public interest; so different was his view——

[Mr. Wilbour wished to know what question was before the House?

The Speaker said it was on a motion for consideration, on which there could be no debate; consequently, the gentleman from Virginia was not in order.

Mr. Randolph wished Mr. Stanford to withdraw his resolution, as he wished to make a motion.

Mr. Stanford having withdrawn the resolution,

Mr. Randolph proceeded.]

So different, said he, was my understanding of the subject, from that of the gentleman from Tennessee, that I shall continue to reiterate those motions until I can prevail upon the House to consider them; and when I am convinced that they are improper to be adopted by the discussion which ensues upon them, I am as willing to give them up as any member on the floor. It has been asked, is it presumable that members of this House are afraid to trust themselves to the force of eloquence and arguments of other gentlemen? This is one of those presumptions which do not require an answer. It was, however, added that it is a clear case—one of those clear cases in which gentlemen confiding in the good sense of the public and the understandings of the people are willing to leave it to themselves. That is precisely my object; I wish the people themselves to decide according to the dictates of their plain, honest common sense; but I would trust their understandings and that good sense after they are put in possession of the whole truth. Gentlemen may very willingly refer a decision upon a naked vote to the public when the motives, when the facts, I will say, on which that decision is to turn are concealed. I certainly did not yesterday (and I am not conscious of having done it to-day) impeach in any wise the decision of the House, or the motives which induced it; very far from it. On the contrary, I always wish to pay every possible deference to the sentiments of the House; and I bore my defeat, if not with pleasant looks, at least with heart-felt good humor, and showed every possible respect to the members of this House, and to yourself, Mr. Speaker; and this I shall continue to do, as far as is consistent with my respect for my own character, and my duty to my country, from which I shall never depart, now or in future. I say that I will reiterate these

motions until I can prevail upon the House to discuss them. I recollect a case not dissimilar to this——

[The SPEAKER interrupted the gentleman to observe that he had discovered that the Message just received from the President was of a confidential nature; the rule of the House declaring that in such cases the galleries should immediately be cleared, the SPEAKER doubted whether any motion could be received till that was done.]

Mr. RANDOLPH.—I meant to wind up my observations with a motion to clear the galleries; so that in any case my object will be gained.

EXECUTIVE BUSINESS.

The House being cleared of all persons except the members and the Clerk, the Message received from the PRESIDENT OF THE UNITED STATES, with the accompanying report from the Secretary of State, were read, as follows:

To the House of Representatives of the United States:

In answer to the inquiries of the resolution of the House of Representatives of the thirtieth of March, relative to certain dates, I transmit a report of the Secretary of State to me on that subject.

TH. JEFFERSON.

APRIL 1, 1808.

DEPARTMENT OF STATE, *April* 1, 1808.

The Secretary of State has the honor to report to the President, in conformity to the resolution of the House of Representatives, of the thirtieth of March, that the only information which has been received respecting the letter from which the extract inserted in General Armstrong's letter to the Secretary of State, of January the twenty-second, one thousand eight hundred and eight, was taken, is in the extract itself, to which no date is given; and that no copy of any letter from the French Ministry to him is subjoined to, or known to be referred to, in his said letter of January twenty-second, except that a copy of which was communicated to Congress by the President on the twenty-ninth of March, and which bears date the fifteenth January, one thousand eight hundred and eight. It does not appear from any information received by the Department of State at what date either this letter of January fifteenth, or the letter from which the inserted extract was taken, were received by the Minister of the United States at Paris. Respectfully submitted,

JAMES MADISON.

A motion was made, by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the Message of the President of the United States, of the thirtieth of March, be taken off, so far as respects the documents accompanying the same, with the exception of the letter from our Minister at Paris to the Secretary of State, of the twenty-seventh of December, one thousand eight hundred and seven, and the words contained in the parenthesis in the last sentence of the extract from Mr. Pinckney's letter, of January twenty-sixth, one thousand eight hundred and eight.

And, on the question that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative—yeas 45, nays 71, as follows:

YEAS—Evan Alexander, William W. Bibb, Epaphroditus Champion, Martin Chittenden, John Claiborne, George Clinton, jr., Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, Wm. Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, John Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Jas. Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

A motion was then made by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the Message of the President of the United States, and the documents accompanying the same, be taken off, so far as relates to the copy of an official note from M. Champagny to General Armstrong, of the fifteenth of January, one thousand eight hundred and eight, and of an official letter from Mr. Erskine (His Britannic Majesty's Envoy) to the Secretary of State, of the twenty-third of February, one thousand eight hundred and eight.

And, on the question that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative—yeas 45, nays 73, as follows:

YEAS—Evan Alexander, William W. Bibb, Epaphroditus Champion, Martin Chittenden, George Clinton, jr., Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, Robert Jenkins, Philip B. Key, Joseph Jewis, jr., Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Claiborne, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, Nehemiah Knight, John Lambert, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, George M. Troup, James I. Van Allen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

A motion was then made by Mr. J. MONTGOMERY, that the doors be now opened; and debate arising thereon, an adjournment was called for, and carried.

SATURDAY, April 2.

Mr. RHEA, of Tennessee, from the Committee on the Post Office and Post Roads, presented a bill to authorize the transportation of a certain Message of the President of the United States, and documents accompanying the same; which was read twice, and committed to a Committee of the Whole on Monday next.

The House proceeded to consider the resolution of the Senate appointing a committee on their part, jointly, with such committee as may be appointed on the part of this House, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same. Whereupon,

Resolved, That this House doth agree to the said resolution, and that Mr. FINDLEY, Mr. WHARTON, Mr. TROUP, Mr. SOUTHARD, and Mr. BACON, be appointed a committee, pursuant thereto, on the part of this House.

EXECUTIVE BUSINESS.

The House being cleared of all persons, except the members and the Clerk, a Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the Senate and House of Representatives of the United States:

Believing that the confidence and union of our fellow-citizens at the present crisis will be still further confirmed by the publication of the letter from M. Champagny to General Armstrong, and that of Mr. Erskine to the Secretary of State, communicated with my Message of the thirtieth ultimo; and, therefore, that it may be useful to except them from the confidential character of the other documents accompanying that Message, I leave to the consideration of Congress the expediency of making them public. TH. JEFFERSON.

APRIL 2, 1808.

On motion of Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the Message of the President of the United States, of the thirtieth of March, and the documents accompanying the same, be taken off, so far as relates to the copy of an official note from M. Champagny to General Armstrong, of the fifteenth of January, one thousand eight hundred and eight; and of an official letter from Mr. Erskine (His Britannic Majesty's Envoy) to the Secretary of State, of the twenty-second of February, one thousand eight hundred and eight, and that five thousand copies thereof be printed:

The question was taken, that the House do now proceed to take the said proposed resolution into consideration, and resolved in the affirmative—yeas 106, nays 1, as follows:

YEAS—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thos. Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, John Claiborne, Matthew Clay, John Clopton, Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, John Lambert, Joseph Lewis, jr., Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, James Sloan, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, and James Witherell.

NAY—Jedediah K. Smith.

The said resolution being then twice read, was, on the question being put thereupon, unanimously agreed to by the House, by yeas and nays, as follows:

Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, John Claiborne, Matthew Clay, George Clinton, jr., John Clopton,

Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Randolph, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, Richard Winn, James Witherell.

A motion was made by Mr. Randolph that the House do agree to the following order:

Ordered, That the Secret Journal of this House from the thirtieth of March to this day, inclusive, be published:

And the same being under consideration, a motion was made by Mr. Blackledge, to amend the said proposed order, by inserting after the word "published," the words following, to wit: "excepting the Message of the President of the United States of that date:" and the question being put thereupon, it was resolved in the affirmative—yeas 85, nays 22, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Martin Chittenden, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Joseph Desha, James Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Matthew Lyon, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jr., John Pugh, Josiah Quincy, Matthias Richards, Samuel Riker, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Alexander Wilson, Richard Winn, and James Witherell.

Nays—Willis Alston, jr., Epaphroditus Champion, Samuel W. Dana, John Davenport, jr., Josiah Deane, William Ely, Barent Gardenier, John Lambert, Joseph Lewis, jr., Nathaniel Macon, Jeremiah Morrow, Jonathan O. Mosely, Wilson C. Nicholas, John Rhea of Tennessee, John Rowan, John Russell, Jedediah K. Smith, William Stedman, Clement Storer, Isaac Wilbour, David R. Williams, and Marmaduke Williams.

And on the question that the House do agree to the said order, as so amended it was resolved in the affirmative—yeas 70, nays 40 as follows:

Yeas—Lemuel J. Alston, Joseph Barker, William W. Bibb, William Blackledge, John Boyle, William A. Burwell, Epaphroditus Champion, Martin Chittenden, George Clinton, jun., Howell Cobb, Samuel W. Dana, John Davenport, jr., John Dawson, Joseph Desha, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, David Holmes, Benjamin Howard, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Richard Stanford, William Stedman, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, George M. Troup, Jabez Upham, Jas. I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton Isaac Wilbour, David R. Williams, and Alexander Wilson.

Nays—Willis Alston, jr., Ezekiel Bacon, David Bard, John Blake, jr., Thomas Blount, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, John Lambert, Jeremiah Morrow, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Matthias Richards, Ebenezer Seaver, Jedediah K. Smith, Henry Southard, Clement Storer, John Thompson, Daniel C. Verplanck, Robert Whitehill, Marmaduke Williams, Richard Winn, and James Witherell.

A motion was then made by Mr. Willis Alston, that the report of the Secretary of State which accompanied the Message from the President of the United States, of the first instant, be printed for the use of the members: and the question being taken thereupon, it was resolved in the affirmative.

Monday, April 4.

A new member, to wit: Adam Boyd, returned to serve in this House as a Representative for the State of New Jersey, in the room of Ezra Darby, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion of Mr. Randolph,

Resolved, That the Clerk of this House be authorized, under the direction of the Speaker, to make such arrangement with the Public Printer as shall be deemed expedient for expediting the printing of the documents, whereof five thousand copies have been ordered to be published.

Mr. Key, from the Committee for the District of Columbia, to whom was referred, on the first, third, and nineteenth of February, and the eighth and sixteenth of March last, the petitions of sundry inhabitants of the town and county of Alexandria; of sundry inhabitants of the counties of Alexandria and Washington; and of the stockholders of the Marine Insurance Company, and other inhabitants of the town of Alexandria; of sundry inhabitants of the District of Columbia; also, a petition of Jacob Baugh, of the State of Virginia; made reports thereon; which were severally read, and ordered to lie on the table.

Mr. Randolph, from the committee appointed on the fourth of December last, presented a bill making provision for arming and equipping the whole body of the militia of the United States; which was read twice and committed to a Committee of the Whole on Wednesday next.

ADDITIONAL ARMY.

The bill for raising an additional military force having been read the third time, and the question having been stated, "Shall this bill pass?"

Mr. Clopton said, that he deemed it in a manner incumbent on him to address the House before he passed a vote upon this bill. It was well known that in the course of the long and remarkable session of Congress held in the year 1798—a session distinguished for many extraordinary Legislative transactions—amongst others a bill was passed for raising twelve additional regiments of infantry. That bill was passed by a very large majority, eleven members only voting in the opposition; that of the Virginia Delegation, then composed of nineteen members, three only were of that minority, of whom he was one—that another of those three was not now a member of this House. Being thus particularly situated, said Mr. C., I owe it to myself to state to the House the grounds of the vote which I am about to give, as it will be different from that which I then gave; lest there should seem to be a degree of inconsistency, or something like a dereliction of former principle. No such dereliction, said he, could be rightfully ascribed to him.

His vote upon that occasion, said Mr. C., was founded on the then existing state of things, as it appeared to him. He did not believe that at that time there was any ground to apprehend that this country would be involved in a war. Some aggressions had been committed by French cruisers, which indeed excited, and very deservedly excited, the public indignation. But had the Government of France, said he, then assumed principles going to a destruction of almost all our neutral maritime rights, and manifested a settled determination to establish systems of outrage, and violations like those now in operation? No. A phantom of war was indeed conjured up, and that became the ground for raising the additional troops proposed by that bill. But he considered the present state of our foreign relations to be very different. Had there appeared as great a prospect of war at that time as there does now, he should have voted for that bill. If there appeared no greater prospect of war at this time than there did then, he should not vote for this bill. The difference between his vote at that time and his vote at this time did not result, therefore, from any change in his opinion or principles, as to the policy of regular armies; but from the difference between the state of things at that time and the state of things at this time.

This, said Mr. C., is a momentous, an awful crisis. Sir, it is not a time for halting between two opinions. The Rubicon is now passed. Our Government has taken a ground with respect to our foreign relations, which ought to be maintained with firmness, with vigor, and with energy. After a long series of wrongs, endured with a patience and a forbearance, perhaps, unparalleled in the annals of any free country, new and more atrocious species of aggressions are superadded to the former ones, and outrages pushed to an extent no longer to be endured. Sir, said he, what would it be tamely to acquiesce in all these outrages? Would it not be to drink deeply of the cup of humiliation? And shall this nation perpetually drink of that cup? Of the cup of humiliation, did I say? The cup of degradation, I should have said. What, sir, shall we not only deeply drink of that detestable cup, but shall we drink up the contents of it to the dregs? Shall we then exhaust these dregs to the very bottom? And not content with all that, must we at last swallow the cup itself? This, sir, would not be too strong or too harsh a metaphor, were there to be a descent to so great a degree of national degeneracy, as it would be, if the outrages committed on our national rights were to be acquiesced in.

Sir, said Mr. C., what is the real situation of the United States at this time? What ground is there to apprehend that a state of actual, formal, avowed hostility will not soon commence? More than a speck of war now appears in our horizon. I fear that the storms of war are gathering thick around us! I fear that the calm, the delightful scenes of peace, ever grateful to the American eye, will ere long vanish from our sight. The wily, the deceitful, the insidious prime aggressor, by every artifice of procrastination, has long been preparing, and still is preparing himself, to be enabled with more effect to strike the meditated blow. To amuse, to deceive, and to gain time, in order the better to determine how to shape his future course, has been and still is the systematic practice. In this state of things, then, shall we remain unconcerned, inactive, and unprepared to meet the shock and to defend our country? I trust not; and I feel a strong assurance that the efforts of the Government will be zealously seconded by the great body of the people throughout the United States; that, if there be a spot on the American land where patriotism has heretofore

slumbered—if there be a single spot on which the demon of servility itself had laid its leaden, stupifying wand, even on that spot a spirit must now arise, which, shaking off its lethargy and supineness, must rouse itself, indignantly rouse itself into action, at a crisis so peculiarly important and interesting, as the present one is, to the honor and independence of this country.

That at such a crisis, said Mr. C., provision ought to be made preparatory for the worst state of things, though so sincerely deprecated—so long and so earnestly sought to be avoided by every means compatible with the honor of our country, there can be no doubt. Deep solicitude and anxiety respecting our external relations pervade the American people. Their eyes are all turned upon this body; and the general expectation, no doubt, is that such provision will be made. The public mind, consenting to that idea, manifests its will that the members of the National Legislature should not separate until after such measures shall have been adopted as the critical and alarming situation of the country demands; that when the cloud, now impending over our heads, shall burst upon us—when actual hostilities shall commence, we may not be found unprepared, but ready to meet the conflict with ample means of sustaining it. No matter whether he who domineers on the ocean, or he who sways the sceptre over the European world—no matter whether the British or the Gallic tyrant shall choose to make war upon us, and thus to force us out of our much-loved state of repose, let us, said he, be preparing ourselves to meet him. Let the United States at the same time scrupulously adhere to the principles of neutrality, and, disdaining everything like partiality or attachment to either party, resist all overtures, all artifices, every species of diplomatical trick, all attempts whatsoever to draw us over to either side.

The great question then is, said Mr. C., what kind of preparation ought we to make in addition to what has been done? I am now brought to a situation, Mr. Speaker, truly distressing to my soul. My aversion to vote for raising regular troops always has been, and always will be, very great; and yet the peculiarity of the crisis, the necessity of the case, the situation of my country, calls upon me, imperiously calls upon me, to give my support to such a measure. But in supporting this measure I beg to be understood, not as sanctioning the idea that regular troops alone should be relied on for the general and permanent defence of the country, even in case of a confirmed state of war; but that the militia ought always to constitute that great bulwark of defence; that in no situation whatsoever ought regulars to be embodied to such amount as to form a force superior or nearly equal to that of the body of the militia. This should ever hold the paramount force of the nation. This forms the only safe depository of the liberties of the nation; and that nation (whatsoever nation it may be) which does not adhere to the maxim of retaining that paramount force in the hands of the militia, places its liberties every hour at hazard.

From the geographical position of the United States more than any other cause, said Mr. C., results the expediency of raising some regular troops. A long line of seaports and an extensive range of frontier posts require a considerable number of troops, as stationary forces, in case of sudden invasions or attacks from sea, or sudden inroads by savages, who may be stimulated to resume the tomahawk and the scalping-knife against our fellow-citizens in the western or other frontier settlements. To these purposes regular troops, to a certain amount, appear to be best adapted; for which reason principally he was in favor of the bill. In the event of a state of actual war, if the force contemplated by this bill should be insufficient, Congress will unquestionably be again in session before the proposed number can be raised; and then such further augmentation may be made as shall be found requisite. But notwithstanding this remark, he would take occasion to declare that under his present impressions he could scarcely imagine that even in such event he could be induced to admit the expediency of increasing the regular forces to a number much greater than they will be when those proposed to be raised by the present bill are added to the present military force. That in all situations and circumstances whatever, he considered the militia as the natural and best defence of the nation. That in every possible emergency, he believed the militia ought principally to be relied on. That an effective, well-organized, and disciplined militia not only formed the safeguard of liberty, but were competent to the chief purposes of defensive war. That were this country to be surrounded with foes, such a militia would be its safest and surest defence. He considered it as unwise in any nation, particularly such a one as the United States, holding civil liberty in such high veneration as they do, under any circumstances to relinquish their reliance on such a militia, and resort to regular military forces as their principal means of defence.

Mr. Randolph had calculated on being in a very small minority on the vote which he should probably give on this question; but he was sorry to perceive that even that minority was likely to prove smaller than he had at first supposed; for, without any disposition to invade the consistency of any gentleman on that floor, he had humbly conceived that those who, in the year 1798, had voted against armies and navies, would have voted against the bill. His object, however, was not to make proselytes, but, like his colleague, who had preceded him, to give to the House and to the world, and particularly that portion of his own country which he represented, the reasons for the vote which his most deliberate judgment compelled him to give on this occasion.

With his colleague, he had ever been of opinion, and, if he mistook not, had maintained this doctrine in 1798, that, in times of danger, reliance should be had on the militia. Amongst those gentlemen who were unfriendly to military establishments, some, indeed, seem to think that, after the first onset, regulars might be necessary; but all

had agreed that, in the first instance, dependence should be placed in the militia alone. *Now*, it seems that this doctrine is to be reversed, for although we are to rely on the militia as a *dernier resort*, they must be preceded by this advanced guard of regular troops, which the bill proposed to raise. And on what grounds? That this is a great and momentous crisis. It certainly is; but, sir, is it possible that these six thousand men—(I have not attended to the details of the bill, the unexampled length of our sittings has prevented me, and my little, I might almost say *no* knowledge of military affairs, rendered it scarcely necessary)—is it possible that these six thousand men, whom you are told it will take until next year to raise, are competent to the defence of our long line of seacoast, to say nothing of our still more extensive frontier? It is obvious that sixty thousand would hardly suffice, supposing the circumstances on which gentlemen reason, and from which their conclusions are drawn to be correct. What, therefore, *now*, any more than in the year 1798, calls for this increase of our Military Establishment? In 1798, we were at actual, open war. We captured the ships of France, and they captured ours. And yet it was not then deemed expedient by gentlemen, who professed the tenets which I then did, and now hold, to raise an army. It appeared from very high authority, when our doors were lately closed, that we are not only not at war, but that the circumstances of the world are such as imperiously to require that we should not go to war, if it can possibly be avoided; although, under a different state of things, gentlemen would have felt themselves authorized, nay, obliged to lay a declaration of war on your table, against one or both of the two great belligerents.

Mr. R. said he was extremely happy to observe, whilst in conclave, what a good understanding prevailed amongst the various and hitherto discordant parts of the House; with what good humor points were discussed and settled between them, and how totally devoid of asperity all their deliberations had been. He hoped that nothing would fall from him to change the temper of mind which then, and, he trusted, still existed. It was to justify his vote that he trespassed on the attention of the House; although he humbly conceived, if gentlemen would lend a patient ear, that he might convince them of the impolicy and inexpediency of the bill. He accorded with his worthy colleague (Mr. Burwell) respecting the opinions lately delivered by his respectable friend from North Carolina, (Mr. Macon;) and if in politics, as in mathematics, things which agree with the same thing, agree with one another, there could be no variance of opinion between his colleague and himself. He subscribed to every sentiment uttered by that excellent member, on the occasion to which he alluded. He regretted that they were delivered under circumstances which precluded the public from hearing them; he thought it a great public loss. He accorded also with the opinions expressed by the same gentleman ten years ago on a question like the present, and by the gentleman who now presides with so much ability and so much honor to himself over the Treasury Department, on the proposition to raise a provisional army. They would never be forgotten. He wished he had the speeches, he would read them to the House; they would be heard with much more effect than anything that he could say.

I wish it to be demonstrated, said Mr. R., that we are more at war now than we were in 1798. Sir, we are not; nor are we in the slightest danger, as I apprehend, of anything like invasion. The foe (I speak of both, for each is equally disposed) waits, as my colleague tells you, to strike the meditated blow. But will they strike that blow on your territory, where alone this force may aid to ward it off? Does any man dream of invasion? No; the blow is aimed at your commerce, your ships, and, in regard to them, you have taken effectual precaution. They are both abandoned. The seamen, indeed, could not be embargoed; they have disappeared. England will now have no difficulty in manning her navy. Notwithstanding the eloquent speech of the gentleman from Boston, (Mr. Quincy,) on Saturday, and his copious extracts from a French General's pamphlet, I do not dread invasion.

Is it possible that Great Britain, with the recollection of Saratoga and Yorktown fresh in her memory, can be so frantic as to think of invading the United States? She cannot, and she has given the best proof of it. Instead of dreaming of invading you, she trembles lest you should invade her, for she knows the consequences, and for that reason she has repaired the fortifications of Quebec, and thrown reinforcements into Canada. What stronger proof could she give of her fears? I speak not of her inclination; for I believe that if she could reduce us to the condition in which we were in 1765, she would do it to-morrow. I speak of her ability, and suppose her to possess only common sense. Although, in some cases of late, she has evinced such a want of discretion, that too much reliance ought not, perhaps, to be placed upon that. But so far from entertaining a thought of invading us, she is taking precautions against invasion from us. And there is not a shadow of doubt that she would gladly enter into a covenant with you, and exchange hostages to abstain from violating your territory, if you will abstain from attacking her provinces on your Eastern and Northern frontier. But if she were to invade us, any military force which she could detach for such a purpose, would be as incompetent even to the reduction of the State of Delaware, as to the conquest of Europe.

Let us see, then, on the other side, what danger there is, of invasion from France. On all hands it it is agreed that, during the present preponderance of the British naval power, France cannot send an army into the United States sufficient to make an impression upon us. It is true, the British naval power may not retain its present pitch. France may, she probably will, crush Great Britain, and it is against that event, and such a colossal strength as France will then possess, bestriding both Continents and every sea,

that you are raising a force to be commanded by two Brigadier Generals! Sir, when gentlemen talk of attack from the two greatest Powers on earth, and at the same time provide such means of defence, they invite, they provoke that which they would guard against. They hold us up to the derision of the world; we may, indeed, find security in the contempt of the enemy for this force, not in his fears of it. But, notwithstanding the power which France even then would possess, I do trust that there is spirit and virtue enough in the United States to maintain our independence. I do trust that the enemy would find it impossible, at such a distance, for I hope he would be unable to do here, what he has done elsewhere, with such signal success—make use of one-half of the people to subjugate the other—I trust that he would find it impossible to maintain a force sufficient to keep possession even of our great maritime ports, much less to reduce the surrounding territory. I believe that in case of invasion by a foreign enemy—and until that event happens you need not expect to raise a military force—our people being too happy and too wise to subject themselves to the slavery of military life until its necessity is not to be avoided; and hence the odium, in 1798, against the then rulers, and the difficulty, nay, the impossibility, of obtaining men. In case of the actual invasion of our territory, I hope we shall make war in a very different style from that in which it was waged during the Revolution; and this I say without disparagement to the heroes who achieved it. We were then, in the phraseology of kings and despots, in rebellion against our lawful Sovereign—an awful situation—fighting with halters about our necks, dubious of our untried strength, and consequently afraid to risk everything upon a single action. But if invasion were now to be attempted, no sooner would the enemy set his foot upon our shores than we should push him back into the sea. The people would rise with one accord, the continent would move like one man, and he would be met by a force, however inferior in skill, in military tactics, equal at least in courage, and so superior in numbers as at once to overwhelm him, with all his factitious, artificial advantages. Such, believe me, would be the event. We should deserve to be conquered if, through timidity and irresolution, we suffered the war to be protracted for years, and every quarter of our country to become in turn the theatre of it. France, in better days, set us the example how to meet an invading enemy, it will not be lost upon us.

But your towns may be laid under contribution, and so they might have been in 1798; and what is worse, this force of six thousand men could not prevent it, even if it were now embodied, instead of requiring until next year to enlist the troops. They could not prevent the destruction of a single town, even if they were all collected together on the spot. It is obvious that a strong squadron, in defiance of such a force, could destroy New York—I take this city as a favorite example—could lay it in ashes, or batter it to the ground. Sir, if every man of them were thrown into that rich and flourishing city, whose defence is of primary importance, they could not prevent an enemy's fleet from offering to its inhabitants the hard alternative of submitting to contribution or seeing their habitations burnt over their heads. What resistance, then, are we to expect from them, when they shall have been divided and subdivided amongst our various seaports and Western garrisons? I therefore fear that, instead of working the good effects ascribed to it by some gentlemen, and by my worthy colleague amongst them, it will be attended with no other than to drain the Treasury, (we are now drawing upon our capital, rather than our income,) to increase the thirst of office, that disgraceful spirit of living by any means rather than honest industry or our own property; and tend in an equal degree to diminish the disgust and abhorrence which the people feel against standing armies; and be it remembered that a standing army is the death of which all Republics have died. I have another objection to the bill. If this force be raised, although for purposes of defence it is contemptible, in another point of view it is truly formidable—it will almost insure war; and why? Certainly these persons will not wish to be disbanded; they will shrink from the idea of returning back upon their own resources; they will keep the fever up to the war pitch, and precipitate the country into war with some Power, they care not who; for what will public considerations weigh against their own private advantage? And this was in 1798, and ought now to be, one great objection to raising troops before you have actual war. If you raise these troops to provide against war, you may be certain it will not be their fault if the war does not ensue which they were raised to avert. If you leave the country to its natural defence, and bestow your pains and treasure in strengthening that defence, instead of taking money out of the pockets of the people, of the militia, to throw it away on a few useless hirelings, you will not only insure the requisite number of men when they shall be actually wanted, but avoid the dreadful effect of a standing military force, without active employment, upon the public and private morals; and I am one of those who do not think lightly of the expense of this establishment. Remember that the present state of our Treasury is unexampled—many outgoings, no incomings—living, in the language of the counting-house, upon our principal, instead of our interest. I am therefore unwilling to diminish the sum which we have in hand, and which it is our duty carefully to husband, (for where are we to look for a supply when it is gone?) by feeding, and clothing, and paying a parcel of men merely to look at one another; who, in my sincere belief, so far from doing any public service, will be a public detriment. For the very moment that this bill is passed; nay, they have begun already; every man, without some fixed, determinate mode of life, will be pressing to get a subsistence out of the public purse; and this is not the description of men to whom, in my opinion, the defence of any country ought to be intrusted. I see, indeed, a striking instance

to the contrary in this morning's paper. The annual expense of our present establishment is about a million; by the bill that expense will probably be trebled; however, let us say that it will only be doubled, will the House throw away an annual million? On what? Mere parade; on a force inadequate to the crisis which it is meant to meet, when no man can think there is any serious danger of invasion from France or England.

With my colleague and other gentlemen, whom I highly respect, on this floor, I agree that the violations of France on our neutral commerce and rights in 1798 were less flagrant than now: certainly the former outrages of Great Britain have been far surpassed by that on the Chesapeake. But it is not necessary for our purpose to ask what were the violations of former times, or to measure them with the present, since, great or small, they produced war. When a nation is at war it is idle to inquire what produced it. It is enough that she is at war, and measures must be taken accordingly. In 1798, with a less degree of aggression (if gentlemen will have it so) we were at war: in 1808, with a greater degree, we are at peace, and I am glad of it. But does it follow that because our provocations are greater now than in 1798, being now at peace, we should take measures which a state of war would not justify in 1798?

But one gentleman told us the other day—I am sorry to be so diffuse; I cannot methodize my thoughts, being too unprepared, and I may truly say too unwell—that, by the death of the French Emperor, Great Britain might re-acquire her old ascendency on the continent; her naval power would then remain undiminished, and we should lie at her mercy. How improbable a conjecture! How much more likely that the French Emperor will outlive the naval power of England. Did the death of Cæsar liberate Gaul? or did Augustus, one of the most contemptible and worthless of men, both in a military and moral capacity, even after a civil war (which may perhaps also take place in France to decide who shall be head of the Empire) succeed to the undivided dominion and power of his adopted father? There is not in my mind the smallest probability that the death of the present French Emperor will liberate Germany, Spain, or Italy, no more than the death of Cæsar should have liberated Gaul, Macedon, and the other provinces. But suppose that it would, and that the power of France should be limited within the Pyrennees, the Alps, and the Rhine. What ascendency can England even then have on the Continent? Is it possible that the veteran troops of France can rest unemployed, or that they will ever tamely relinquish their present acquisitions? The days are past when the Marlboroughs and the Peterboroughs figured at the head of armies on the Continent. Whatever revolutions may take place there, a preponderance must always be found to the naval power of England. And shall we guard against this power by raising two brigades of regulars? There is an inconsistency in the thing—the means are so little adapted to the proposed end. It will only have the effect of drawing money out of the Treasury, without adding one iota to the national defence. It holds out a premium to idleness at the expense of the honest yeomanry, who are laboring upon their farms and plantations, contributing to the national support, and adding to the national wealth, who, when the storm shall really burst upon us, must defend their country, who will be just as ready to meet the foe as these idlers who have been living at their expense. Against the inroads of the savages, it is upon the militia of Kentucky, Tennessee, and Ohio, that you must rely, and not upon men picked up in the streets, recruited in ale-houses, and disciplined on the next common. On the same class of men in the other States, you must depend for defence against Atlantic invasion, for the protection of their homes and firesides.

Before I sit down, permit me to recall the attention of the House to some circumstances which passed, I think, on Saturday, and which made on others as well as myself a great impression. I allude to a discussion of the topic of French and English partiality—in the course of which I was happy to see the disposition which was generally manifested. But, as was then observed by my most respectable friend from North Carolina (Mr. Macon,) so long as the public prints, which influence and direct public opinion, espouse either the one nation or the other, it is impossible that the mass of the people can acquire correct information respecting them; when those who act as their instructers endeavor to mislead. It is impossible, for another reason, that they can feel equally indifferent to these two Powers. We cannot wash from our memory the Revolutionary war, and its accumulated horrors. We cannot forget that France was our ally—perhaps our salvation. There is yet another cause which induces us to feel, if not to display, a great degree of partiality towards her. It grows out of the French Revolution. That Revolution was a struggle of liberty against despotism. It was, in its commencement at least, a war of principle. The Government and people of France contended, or professed to contend for principles justly dear to us, (for they were those of our own Constitution,) and we saw in the confederation of despots a systematic attack on the liberties of man; a combination, which when it had succeeded in crushing France, in all human probability would have been turned against ourselves. The honest prejudices, for honest prejudices may exist, have always given a bias in a certain degree to the public mind, in all collisions and contests where Great Britain and France have been involved, sensibly in favor of the latter—as it was natural they should. But I do trust that when France has done that which confederated kings in vain attempted—when she has committed *felo de se* on her own freedom, when she has assumed the shape of a military despotism, more formidable to the liberties of the world from its physical force, and, if possible, even from its temper and disposition, than any combination of despots that the world has ever

seen; when from recent occurrences our people shall see her designs upon us unmasked, the public mind will be brought to view these nations on the same level, to feel a perfect indifference for both, and a degree of resentment against each in proportion to their aggressions on us, neither modified nor aggravated by past recollections. The papers, which at the intimation of the President of the United States have been made public—and I am happy to find that they were made public for one, at least, of the very reasons which induced me repeatedly, but unsuccessfully, to propose the measure; I am happy too to find that my presage, that the President would give such a direction, that it was impossible they should be kept concealed, has proved correct—these papers ought to work the effect so highly desirable on the minds of the people, and I trust they will. They ought to teach us to view each of the two great belligerents as standing upon the same ground, and that our conduct towards them must be governed (as I was glad to hear the other day) by circumstances; that they must govern us, since we cannot govern them.

As it has become fashionable of late, to anticipate charges of inconsistency, and plead to them before they are made, (and a very convenient fashion it is,) I must avail myself of the same privilege. It will be recollected that about two years ago I proposed an addition to our regular force, to repel Spanish inroads, and chastise the same. I then thought, and still believe that measure to have been proper—because the territory of the United States, even that not in dispute, had been invaded, and their sovereignty violated—because although no formal declaration of war had passed, yet our troops were absolutely in hostile array, confronting those of the enemy—and because the theatre of war was an outpost, where it was impossible to collect militia to repress invasion. The population, the natural strength of the country, lay at such an immense distance, that it could not be brought to act; and therefore I deemed it necessary that there should be an addition to our military force, in order to enable our army to face the enemy on equal terms, for it was represented to have been extremely overmatched in numbers; and moreover we were instructed, by the proper authority, that the crisis was such as to render the interposition of force indispensable. Is there now danger of invasion on that frontier, or of an attempt on the part of Spain to take possession of New Orleans? If there be danger of invasion any where, it is upon our northern and eastern frontier, from Canada and Nova Scotia, where (thank God for it) they must take the bull by the horns. Does any gentleman, from New England or New York, believe that six thousand men are necessary for their defence, or if necessary that they are adequate to prevent the British from Montreal and Quebec from making inroads into the United States, the result of which must insure the subjugation of the invaders? Great Britain cannot be mad enough to throw away her colonies in such a wild attempt. There are then no dangers against which we have to guard, at this moment, except the British naval power, which this force surely is not calculated to resist—for such a purpose it is totally inefficient. If indeed these six thousand men are to be raised as an offensive force to make an irruption into her provinces, the question is totally altered, except that the quantum of force is not sufficient. It should be more than double that number. But I understand that no such thing is in contemplation—that the United States are determined to adhere to their present neutral position, and I am glad of it. I hope we shall not make war on the one, or the other.

These six thousand troops, then, are to give protection against a naval force, by garrisoning our seaports. It is perfectly evident that the militia of New York, Philadelphia, Boston, and other great towns, are out of all proportion superior in numbers, and even in discipline, to the quota of these raw levies that will fall to their respective shares. They will be nothing when divided even amongst a few important places. The idea of defending the seacoast, from Maine to New Orleans, with such a force, is visionary in the extreme. Their aid will not be felt. They are as a drop in the ocean. What then remains for us, but to husband our resources, to buy arms, to put the whole nation in a state of defence, to prepare at all points for attack, and enable ourselves to oppose if necessary not with six but sixty or even six hundred thousand men—for that I believe is the number capable of bearing arms; and I trust not one would remain at home when his service was required, but that there would be one general resolution that not one of the enemy should escape. But the people will not enlist when they see no prospect of actual service, of real fighting. I remember, indeed when the twelve regiments were raised, or rather raising—for except in procuring officers, Government had little success; *they* are always to be had in sufficient numbers, at least—an eloquent member, who no longer holds a seat in this House, told us, among other uses, that they would serve to keep down a French faction, who, in case of invasion, would be ready to join the enemy; but I trust this army is not raised upon a plea which is a libel upon the country. I mean no improper insinuations—no man can insinuate what he does not feel. With the success of the former project we are all acquainted; and it is certainly not impossible or improbable that a similar effect will result from a similar cause. I, however, shall have nothing to charge myself with, should it so happen. I shall give the same vote now that I did then, and will never consent to increase our standing military force by one man, until I see the enemy against whom we are to contend. This used to be the old Republican maxim, and may it ever remain so.

Mr. Howard said, in a moment menacing as the present, and upon a measure for national defence, unanimity was important; that the question before the House involved the exercise of the highest powers confided to the General Government by the Constitution of the country—to provide for national defence. With regard to regular troops he never would, either as a citizen or a

public man, assent to the maintenance of more than the necessity of the times imperiously called for.

Those gentlemen opposed to the bill called upon its advocates to say which this is intended for, a War or Peace Establishment, declaring at the same time it is too large for a state of peace and too small for a state of war. Before he would give it the name of either, he must be able to pronounce with certainty whether we can preserve peace honorably, or be constrained to resort to hostilities. He could only say for himself that he did not vote for it as a permanent addition to what we call our Peace Establishment; but an augmentation of military force demanded by our present circumstances and prospects of danger. Mr. H. said it was not necessary to justify his support of this measure to give it any particular name, but to state his object only; were he certain of war, he agreed with gentlemen that the number proposed was too small, and if assured of peace, that it was too large; the very circumstance of doubt as to war or peace is the very reason why he wanted an increase of military force. What do gentlemen understand by a peace military establishment? Do they view it as predicated upon an expectation of unchangeable peace? Or does it not look at least to a possible state of war? And is it not that which it is intended to guard against? Undoubtedly it is; and as war becomes probable, or the continuance of peace doubtful, we ought to augment our military force; then it is equally unnecessary and impossible, before we prepare, to speak with certainty as to peace or war. To require this first is to say that all precautionary measures with a view to a probable state of war are impolitic, and that we are to wait until the event happens, and while grappling with it to look about in confusion for the means of defence and resistance. To justify opposition to this bill gentlemen ought to be able to say with certainty that we shall have peace, while those who advocate it are only bound to show that its duration is doubtful. At an early period of the session he heard it from more than one quarter of the House that we were in a state of war. If acts of hostility on one side without resistance on the other, constitute war, gentlemen were correct; but if it requires not only attack but violent resistance to constitute it, we are not at war. It is this state of things (whatever may be its appropriate name or character) which constrains me to support the bill upon your table, as a measure preparatory to meet that event which present circumstances but too fairly promise, and he would say that if our present situation does not demand measures for defence, nothing short of actual hostilities will justify them.

Mr. H. asked what was the nature of the war waged between France and Great Britain; was it a war of blood? No. Do you find the armies of the belligerents coming in conflict? No. It is then merely a war of commercial interdiction, and while France feels the effects of British orders of council, and England those of French decrees, we occupy the ground which subjects us to the pressure of both; while they experience the loss of commercial advantages, by their commerce being forced from its old channels, we are subject to the same inconvenience, besides the positive loss of property, ship and cargo; he could not see a single avenue through which neutral trade could pass with safety, for if you are touched or taken into port by a British cruiser and afterwards released, it only makes your case complete for a French court to decree confiscation and *e converso;* and yet both these Powers affect great regard for neutral rights. Mr. H. said the object of the belligerents in adopting their present iniquitous system, is too glaring to escape the notice even of the most undiscerning, that of torturing us, under professions of regard, into an alliance with one against the other. A strict neutrality we had always observed, and to it he hoped we would undeviatingly adhere; he wished us to rely upon our own energies and resources. He would never consent to place the destinies of this country within the shadow or reach of that great collossal power of France, which never raises its arm without overturning a throne, and whose vestiges through Republics are marked with the destruction of their liberties; nor would he associate in arms the only surviving Republic in the world with Great Britain, from whom our forefathers thought it right to make an eternal separation, and sanctioned that opinion by a revolution which cost the best blood of our country. When we withdraw our commerce completely from the ocean, and leave nothing but waves for French decrees and British orders of council to prey upon, and evince by this procedure our determination not to participate in the contest, is it improbable that one of those great and enraged belligerents, will be provoked by disappointment or prompted by the love of spoil to make war upon us? But the gentleman from Virginia, (Mr. Randolph) says that neither France nor Great Britain can threaten us with a dangerous invasion. Mr. H. said, if neither of those Powers can, none ever will be able to alarm us by invasion; the one possessing considerable armies, and an unexampled maritime force, the other possessing if not the most numerous, the most efficient land force the world ever knew, managed by a man of irresistible effort and boundless ambition. Although he differed very widely from the gentleman on this point, yet he would, when convinced of his error, yield his opinion with cheerfulness; for it was much more agreeable to him to believe the nation inaccessible to dangerous attack, than liable to invasion, but of this he was still to be convinced. The situation of the country in this moment of danger and apprehension demands that we should place it in a posture of defence; we were called here for that purpose, the nation look for it, and will be surprised, if not irritated, should we rise without doing something to prepare them to meet that event, which is generally believed may probably spring out of the present state of things. He hoped we would not put at hazard the safety of the country, to avoid the expenditure of money which you have heaped in your Treasury. The injury which might be done to New York alone, in one week,

would be more than the expense of this force as long as you may probably want it; at this time a few ships-of-the-line could lay that city, the boast of our country, in ashes, or under contribution; Norfolk, Charleston, and many other commercial places, not much less vulnerable, require your attention.

If gentlemen will look to our Western frontier they would see the necessity of fixing some garrisons to aid the militia in the event of an Indian war, and to keep possession of some points so important to the defence of the country. Mr. H. said, he believed that if Detroit had been given up to us in 1783, when the definitive treaty between us and Great Britain was concluded, it would have saved the lives of thousands, and the western settlements and population would have had other limits than those which they now have. You find that the Treaty of Grenville, concluded between us and the Indians, in 1794, has been inviolably observed on their part, owing to British influence being withdrawn or counteracted by our possession of Detroit. What is the situation now of this important point? Almost without troops, and in the vicinity of a British garrison, into which they have lately, as we hear, thrown a considerable reinforcement of men. But the same gentleman from Virginia says, that the circumstance of troops being thrown into the British possessions in America, is a proof that they do not intend to go to war with us; but for his part, he regarded it as evidence of very different views; he said it was certainly necessary to send troops enough to this place to defend it against sudden attack, and to hold it at all events. When he spoke of sending regular troops to the Western country, he meant not to rely upon them for active service in repelling the attacks which might be made by the savages upon the frontier generally, but to hold those important points we now have, which, if once lost, would give to Great Britain the means of exciting the Indians to war, which otherwise she might not have. If gentlemen will look lower down the Western waters, they will find the Territories of Indiana and upper Louisiana presenting an extended and defenceless frontier, exposed to inroads from Indian nations, some of whom, to be sure, we have never been at war with, but might be excited to war by those means which never fail to enlist the savage, and which Great Britain so well knows how to employ. If we adjourn without doing something for the safety and protection of those defenceless, citizens, they will, and justly too, complain of your neglect. But, sir, turn your attention to New Orleans for a moment, and when I conduct you to that point, I carry with me the anxiety and first interest of every citizen who resides upon the waters of the Mississippi. The possession of this place is not only important, but indispensable to the welfare and prosperity of the Western people, and ought not to be at hazard one moment. What is its situation? In the neighborhood of the Havana, where a large force is always kept, and not far distant from other Spanish settlements, whose force could be brought to act upon it without difficulty or much delay, and almost one thousand miles from those parts of the Western country from which any considerable force could be taken; this place ought not only to be strongly fortified, but ought to have a force which at all times would be able to maintain possession, which, if once lost, would cost the lives of thousands, besides your millions, perhaps, to regain. Whether we look to war with Great Britain or France, it is equally in danger; if with the latter, we know that the resources of Spain are at her command. But gentlemen say, that the militia would be raised, and possession, if lost, soon recovered; but Mr. H. asked, if it was reasonable to require of the Western militia to leave their families and farms, to go a thousand miles into a sickly climate, to defend or regain possession of a place which it was equally the duty of the whole United States to protect? That they would cheerfully contribute their proportion of men and money is not to be doubted; but that they would submit to the whole burden, it was unreasonable to expect. Mr. H. observed, that when he urged the adoption of this measure, he was not to be understood as wanting confidence in the militia, it was upon them he principally relied; but in the event of war we must have some fortified places, and they ought to be maintained by regular troops. Garrison duty was what the militia would perform with reluctance; if they are employed, it ought to be in active enterprising service, and not in sweeping or defending garrisons. Mr. H. said, he should certainly vote for the bill, and he believed that the opposition offered to it did not proceed from a reluctance to defend the country, but a belief that such a measure as this bill contemplates was not called for by existing circumstances.

Mr. Troup said, that after the very eloquent and patriotic speech of his friend from Virginia, (Mr. Randolph,) he felt it doubly incumbent on him to justify the vote he should give by a few observations. I really cannot, said he, for my part perceive, with the gentleman from Virginia, that a bright prospect of peace has suddenly opened upon this country. My views of things at this moment are very different; it really seems to me that the clouds are gathering about us darker and thicker every day. It must be, from the nature of things, extremely difficult to determine whether we shall have peace or war, because that event, I trust, depends on powers not to be controlled by us. But, however difficult it be to determine it, what security have we that we shall not be attacked? Are we certain that an act of hostility against this country will ever be preceded by a solemn and formal declaration of war? No, sir, all experience is against it. The Spanish frigates were attacked, and there was no declaration of war—nay, they were attacked in the midst of negotiation for peace, or rather in the midst of friendly negotiation; Copenhagen was attacked and in flames, and there was no declaration of war. Recollect when your measure of embargo begins to press hard upon the British colonies; when from that salutary measure the colonies

are reduced to the last extreme of wretchedness and want, the tigress will attack you for food for her young; it is not unlikely that she may steal upon you in the dead of night, and treat you as at Paoli. And pray, sir, what security have you against that Power which a gentleman from South Carolina (Mr. D. R. Williams,) so appropriately called the tiger? What security have you against France? Do you expect to sleep in profound tranquillity because Britain interposes between you and France her thousand ships? It would be idle and irrational to expect it. You have an instance the other day of the Rochefort squadron making its way in the face of the whole British navy, and it is said with five thousand troops on board, who might, for aught you could have done, be drawn up on your frontier.

But what is to be done in the present crisis of affairs? Is the nation to remain undefended merely because gentlemen entertain prejudices against a particular species of defence? On what physical force will you rely for defence? You can only choose between the militia and a standing army; and when, the other day, it was proposed by an honorable gentleman from Virginia to class and new-organize the militia, you refused to do so. And it is well known that the present defective system of militia, in our quarter of the country at least, is good for nothing. No man has more confidence in the militia than myself; I consider them the great and cheap defence of the nation; but you must class, arm, and equip them; and, when it is so armed, classed, and equipped, purge this country of that refuse of humanity, a British faction and a French faction—if, indeed, there be any such—and your militia will defend you against the world.

The jealousy of standing armies is characteristic of our people; it results essentially from their habits and political institutions; but this jealousy existing only in times of peace, is, in a season of public danger, always succeeded by that policy which reposes the safety of the nation in discipline, in habits of obedience, and in concert of operation. No man ever complained of a standing army when his country was invaded. No man complained of a standing army during the Revolution, though many complained, and causelessly complained, of the militia. The truth is, that the evil of standing armies is always effectually guarded when the regular force bears a very small proportion to the armed militia. By adopting such policy, by so proportioning your regular force to your militia, you will have nothing to do but to command it to lay down its arms, and it is done.

Circumstances render it necessary, at this moment, to create a War Establishment, not so much for the purpose of defence against invasion, an event, perhaps, not so seriously to be apprehended, as was well observed by my friend from Virginia, but to preserve peace by preparing for war. It is at this time, and under such circumstances as the present, the maxim applies, to preserve peace or avert war, you must prepare for war.

As to confidence in men, under whom this force is to be wielded, and of which so much has been said, I will only observe, that I either have very great confidence or no confidence at all, and a sufficiency of it, on the present occasion, to believe that it will be neither misdirected nor abused; and I repose this confidence the more readily, as I am aware the Army will be disbanded with the same facility it has been created, when the occasion for it ceases.

Mr. Smilie said, with respect to standing armies, he agreed with the gentleman from Virginia; he believed them dangerous to every free country, and that they should not exist but when the safety of the country required it. We do not differ in sentiment on this, said Mr. S., but we differ materially on another point. The gentleman thinks there is no necessity for them at present, and I think there is a stronger necessity than ever has existed since the Peace of 1783. It is evident, from what the gentleman himself has told you, that he has no objection to a standing force whenever that force becomes necessary. That the gentleman once entertained such sentiments, he has told you himself; he has alluded to the circumstance; we all recollect it. We find that, the session before the last, when we had some little differences with Spain, when our territories were, as the gentleman has said, invaded, though in truth it was a little affair, the gentleman from Virginia offered this resolution:

"*Resolved*, That such number of troops, not exceeding ——, as the President of the United States shall deem sufficient to protect the Southern frontiers of the United States, from Spanish inroad and insult, and to chastise the same, be immediately raised."

Here, then, the gentleman himself was willing to raise a regular force, for the purpose of chastising the Spaniards—in a time of peace with others, and while negotiations were pending with Spain. I disapproved of it, and so did a majority of this House, and it was not adopted. This shows that the only difference of opinion between the gentleman and myself, is, whether at that time and this we were in such a state as would justify the raising a regular force. Will any gentleman pretend to compare the situation of our country at this day, and at that? A mere lawyer only, and no one else, would say that what happened at that time was so serious as it is pretended. The gentleman tells you that he was in favor of a regular force at that time, because it was inconvenient for the militia to march? Was it more inconvenient at that time than it is now? Not at all. The truth is, the only difference of opinion which can rationally exist is as to the number now to be raised.

With respect to the number proposed, which the gentleman supposes altogether inadequate, he should bear it in mind that this will not constitute our whole force. In case of invasion, it is upon the militia that we must depend chiefly; but certainly there are points where it will be necessary to have a small regular force. The gentleman has exclaimed, how easy it would be, if all this force was placed in the city of New York,

for the British to lay waste that city! Does the gentleman mean, in case of an attack upon New York, to give it up without a struggle? If not, for God's sake, let us take some necessary course to enable us to make that struggle. I consider that the situation in which we are placed requires this force. But when the gentleman talks of invasion, and tells us, if we apprehend such an event, we should prepare to meet it in a very different manner, I answer, that we wish to put ourselves in a situation to meet events, if they should occur. The gentleman from Virginia agrees that we are in no great danger of attack from France. Are we secure with respect to the other? That Great Britain may not make an attack on our seaports, I do not believe; and, when we are likely to get into conflict, it is always necessary to consider the character with whom we contend. It has already been said that the Spanish frigates were attacked without a declaration of war; it is the common practice of modern times. In 1755, Britain destroyed almost the whole of the French trade, without a declaration of war. Constantinople was at peace, and she had sent a Minister there, to induce them to join her in the war against France; while her Minister was negotiating there she sends her fleet up the Hellespont. It is very fortunate that the same has not happened to us; and, that it will not yet happen, I am very doubtful, as it is her usual practice. This being the common usage, then, have we any security that we shall not share the common fate? Besides, we have information that a certain class of the people of Great Britain—the Navy department—thirst for war. I mention this, to show that we have not security against their will to do it.

With respect to the gentleman's observations in regard to different parties, or rather to the friends of the two belligerent nations, I regret that they have any friends; for it is the greatest curse that could befal us, that any foreign nation should have influence among us. The influence of France or of England is equally injurious. But I differ with the gentleman that it is in favor of France. I confess that I have no apprehension that France, since its Republican form of Government has been destroyed, could have maintained any influence in this country; she has nobody here to promote it but the American people themselves, from a recollection of her past services, and from the original cause of her Revolution, and consequent Republican institutions. The first of these causes is long since worn out; and can any Republican of this country feel an attachment to the present Government of France? Surely not. Where, then, in the name of God, can any influence exist in favor of France? It cannot exist. We know, and all America knows, that the present Administration, and particularly the highly respectable character at the head of it, have been accused of a prejudice in favor of that nation. Look at the volume of documents lately laid on our table; they are a sufficient answer to the charge; the American people will now see the truth. No man can attempt to say that, in any one case, there has been any partiality to or influence by France. What is our situation with regard to the other Power? I am afraid of her influence, sincerely afraid of it; because there never was a nation on earth in a situation to maintain an influence favorable to that country among us as is Great Britain. From the commercial relations of her citizens with people here, from our speaking the same language, and the influence they possess from the number of agents in this country, they have the means of influence more than any nation I ever knew; and, unfortunately, they do possess it. When I say this, I cannot believe that any member of the Executive, Judiciary, or any branch of the Government, would sacrifice our rights to that nation or any other, but that they have a powerful interest, I have no doubt. Yet, I still believe that there is American virtue sufficient to preserve the interests of this nation; and I hope that when any occasion calls for an exertion of the energy of the American people, we shall display it unanimously.

Mr. Randolph begged leave to state a fact. I did not choose, said he, to interrupt the gentleman from Pennsylvania in his observations, but he is totally mistaken in regard to a most material fact. At the time the report was presented, recommending the raising of troops to chastise the Spanish insult, so far from a negotiation then pending between the two Governments, the very Message of the President of the United States, if referred to, will show that a complete rupture of the negotiation with Spain had occurred, and of the most humiliating character to us. I have thought proper to state this, lest other gentlemen, trusting to the known influence of the gentleman from Pennsylvania, might be led into a mistake.

Mr. Smilie said, that there was a suspension of the negotiation no doubt; it had not been broken off, for it was yet continued.

Mr. Rhea, of Tennessee, said he would vote for the passage of the bill. He observed that, to form an opinion of the subject under consideration, he did not think it necessary to revert to the history of Cæsar or Pompey, or any commander of antiquity. That he felt as great antipathy against any nation or nations who interrupted our prosperity as any gentleman, but would not descend to designate them by the name of tiger, or any other beast; he considered all such epithets undignified and improper to be used, even if we were actually at war with any of those nations.

The very excellent friend of the gentleman from Virginia has said, that we are in a state of war. If the authority of that gentleman is to be taken as implicit evidence of the fact, I will agree we are in a state of war. But I, said Mr. R., do not call that war where one beats, and the other receives it unresistingly. A man receiving a blow, and not returning it, suffers, indeed, but it is no fight. In the same manner we have been beaten, and have not retaliated. If we do no act of hostility we are not at war. When I contemplate the necessity even for the support of our neutrality to show that, on occasion, we can assume a fighting posture, it is a reason with me to be in favor of the bill. Mr. R. observed that, since the

beginning of the session, he constantly had been in favor of defensive measures, because he wished the nation to be in that state of defence by which any hostile attack might be the more easily repelled. The best security against attack from foreign Powers is to give them sufficient reason to believe we are amply prepared to receive them. But, Mr. Speaker, it has been intimated that we are about to spend two millions of dollars by raising and supporting the troops intended. Admit it to be so. If we be in a state of war, as some gentlemen intimate, or in danger of being in a state of war, according to the opinion of others, it certainly is more prudent to be prepared for any event, than to forbear and do nothing, until an invading enemy takes possession of some strong post within our limits. In that event, it may cost the lives of some thousands of our fellow-citizens, and several millions of dollars, to dislodge and expel him. Not to raise the troops intended, may operate against the economy gentlemen appear so friendly to at the hazard of safety. Not to raise the troops intended may cause a profusion of expense ten times greater than that which will be expended on the object of this bill. Twenty millions of dollars are of little consideration when compared with the preservation of the rights of the nation and the lives of our fellow-citizens. It certainly is better to be at the expense of money, in providing precautionary measures, than, for want of them, to be at the expense of blood. If, contrary to expectation, the troops shall not be required, they may soon be discharged, and the expense will not be great. It has been said that, if we let Great Britain alone, she will not trouble us. That expression, said Mr. R., conveys to my mind ample and disagreeable meaning. It appears to intimate that, if we patiently let Great Britain go on as usual to impress our seamen, to capture our merchant vessels, to attack and fire on private vessels, and the armed vessels of the nation, and deprive our citizens of their lives; if we will quietly submit to every indignity and outrage Great Britain may, exclusively of an actual invasion, perpetrate on us; if we will forbear to demand indemnity for past injuries and reparation for past wrongs; and if we will not pursue the mode of redress in our power, then, indeed, it may be presumed that Great Britain will not actually invade us or trouble us on land. But, why has not Great Britain let us be quiet in times past? What have we done to warrant her in attacking our territory? Our national ship was our territory, according to her own decisions. Arguments of that kind have no weight. Great Britain will not make any such bargain. If she had been disposed to have done it, our impressed seamen would have been restored to their country; satisfaction for past injuries would have been made, or at least stipulated to be made; and reparation, in the spirit of amity, would actually have been made, without evasion, for the unjustifiable attack on the Chesapeake frigate. It is greatly to be desired that all these just causes of complaint were amicably removed. The United States have always manifested, unequivocally, a disposition friendly to that effect, and many of the greatest and best men of Great Britain have been desirous of an accommodation.

Mr. R. said, he had unbounded confidence in the militia, but he would refer to the militia themselves, whether there are not places, important places within the United States and territories thereof, which it would be unreasonable to require a division of them to march to, and continue at, for any considerable period of time? From all parts there appears to be one voice, declaring a firm determination to maintain the rights of the nation, at the risk of life and fortune. The energies of the nation are sufficient. It is time that a system of defence required by the existing state of things was completed, and the object of the bill is considered by me a part of that system. If, happily, it should be found, hereafter, that it may not be necessary to continue these defensive measures, there will then be sufficient cause to rejoice that the United States have escaped being actually involved in a war which afflicts the world, and there will be no great reason to regret what expenses may have accrued.

Mr. D. R. Williams was sorry that the vote he was about to give, as it appeared that he should be in a small minority, rendered it necessary that he should offer his reasons for so doing; and he was the more sorry, because he perceived that the minds of gentlemen appeared to be made up, not that anything which he could say could have influence in making up their votes. As there appears to be a general spirit of liberality prevailing on all sides of the House, I hope I shall not be considered as not having the same object in view in voting against it as those have who voted for it. Before I offer my reasons for voting against the bill, I will make an observation or two on what dropped from the gentleman from Tennessee in relation to epithets. Yes, sir, I did make use of the expressions alluded to, and do believe them correct. I am willing to tell this nation, and all the world, that I denominated Great Britain a shark, and France a tiger; and men who can read the paper this morning, and not feel their blood boil, can have no American feeling in them. Talk about war! and you need not go back to the attack on the Chesapeake—Mr. Erskine's note contains enough; the gentleman was obliged by his Government to address our Government, and plainly tell us that we are considered either as fools or knaves. I speak the feelings of the American people, and I speak them from no other inducement than love of my country, and I speak them on this floor in preference to speaking them anywhere else. The British Proclamation and Orders of Council are explained, commented on, and in a manner which considers us as reduced to a state of vassalage, and shall I, in the heat of debate, be considered incorrect in indulging in anything like intemperance of expression? What is the effect of the British Orders of Council? Will gentlemen point out in what they differ from placing us in a colonial state? The monstrous woven wings of Great Britain are spread over the whole ocean to carry the commerce of the world

to her own ports. What commerce have we with any part of the world exempt from their Orders of Council but the ports of the Baltic? None. And why that exception in our favor? Great Britain is cut off from her naval supplies, and cannot get them anywhere but from Russia and America, and no where at the present day but through American vessels. Is not this sufficient cause to excite our passions? It is astonishing to me that the gentleman from Tennessee, who is usually so warm, should now be so cool.

I will vote against this bill, and for this reason among others: I believe it is incompetent to a certain object, if that object is in view; and not necessary if that object is not in view. I do believe that the state of peace or war in which this country is to continue, depends upon herself; and my object is to adopt a system of policy that shall be uniform and consistent with itself. I never knew a half-way measure which did any good, and it strikes me that your 6,000 men will have the same effect as your non importation law. It is not proper for peace, or competent to war, because, as the gentleman from Virginia has said, it is incompetent to the defence of any one point on which the enemy could act. Will gentlemen recollect the astonishing difference between a Power acting on Naval Establishments and the defence necessary on land? Will gentlemen talk about 6,000 men, when Copenhagen was laid in ashes with a defence of a much greater number? Will they talk about it when fourteen sail-of-the-line sailed up the Dardanelles in triumph? I am for pursuing steadily one course or another. I have no hesitation to say, that before all the documents were laid before us, I was for war with Great Britain; for expiating blood with blood, and I would have gone any length to do it. I would, at least, have done that to which we are competent; I would have rooted the British name from the continent; but now I am more satisfied that a neutral position ought strictly, justly, and rigidly, to be maintained. You want no troops to do that. It is impossible to believe that Great Britain will lop off her best limb to injure you. It is impossible to believe that she will attack you further than she has done already by compelling you to submit to her commercial regulations. She will keep off; she will not come upon your soil if you will keep off from her's. Commercial regulations are not to be met by 6,000 men; you have, since the 22d of December, a measure going home to her; a greater evil to her in her West India Islands than 50,000 men. Her commercial restrictions will be removed; they must, or they will sacrifice the West Indies. She must do more; she must risk a commotion of her own people. You have taken away her whole trade, carried on by your vessels and by artificial means. Keep on the embargo and she will lose them; they will be gone; she cannot subsist without you. Will Great Britain sacrifice a trade which yields her one-third of her whole customs; a market which in ordinary times consumes fifteen millions, and increasing in a degree unexampled? What, then, will you do with 6,000 troops? If the House determine, however, not to maintain this course, let us take up the other. If it is expedient and proper, let us go to war; let us do it in earnest; not talk of six thousand troops, but of fifty thousand. None of your defensive measures; they are worse than nothing; let us make them oppressive by making them offensive. This half-way measure never will do, never has done, any good, nor can any gentleman show where a half-way measure ever did.

Gentlemen say, we have taken a position, and shall we not maintain it? A great many such positions have been taken. If we are struck, the blow cannot be repelled by 6,000 men. If you were to mount them on the wings of the wind, and arm them with the artillery of Heaven, they would not be competent to their intended purpose.

Mr. W. Alston believed the ideas of the gentleman from South Carolina on the subject of our foreign relations to be pretty correct; but it was impossible to reconcile the gentleman's vote with the noble sentiments which he had expressed. The gentleman asks, "what we will do with these 6,000 troops?" If he had listened to the observations of the gentleman from Kentucky, he would not have had occasion to ask the question. That gentleman's reasons were so conclusive that I shall not add to them. I can tell the gentleman from South Carolina another purpose for which they may be of use. Let him look at the great seaport town in his own State, and he will see occasion sufficient for a few of them; and I hope a portion of them will be destined to that place. Look at the large sums of money already appropriated for arms and ammunition, a considerable part of which will no doubt be deposited at Charleston. Look, also, to other points at which they may be deposited, and then look at the regular force of the country, and see whether they are sufficient to resist the crew of a single frigate. They are not, sir; they are destined to particular spots, and hardly capable of keeping together. I never did believe, ingenious as I know that gentleman to be, that he could have proved, from any documents on your table, that the non-importation law was a half-way or weak measure. The very contrary will be found to be the opinion of foreign Governments, and of our Ministers abroad. Although the honorable gentleman was opposed to that measure, I rather suppose he cannot produce a single document to show that it was a half-way measure, or so considered by foreign nations, for the contrary is the fact. When gentlemen possessed of the noble sentiments of that gentleman take upon themselves to find fault with the measures taken for the defence of the Government, I should have expected that they would, in the course of the four or five months that we have been in session, have laid on the table some plan, some system of defence, which they would have wished to be pursued; but none such has been proposed, except that of arming the militia, which is in itself so futile, that it would be laughed at if attempted to be carried immediately into effect.

The gentleman's blood boils at the outrage which was committed on our sovereignty, in consequence

of the attack upon the Chesapeake, and he was ready and willing when we appeared here, to have sacrificed his blood in defence of the nation. Has anything turned up since to lessen his ardor? Has a single document been read to you to show a disposition in that Government to do you justice? Is it worth while to bring to his mind the attempt at, or pretence of, negotiation, in the City of Washington? Is there a man in the nation who has one drop of American blood in him who will say that our Government should have withdrawn the proclamation? That we, the injured party, should, in the first instance, ask pardon of the aggressor for the insult he has offered us as preliminary to negotiation for atonement? Assuredly not; and in this point alone can I view it. Wherefore, then, this change in the gentleman's sentiments? In mine there is none.

Mr. Taylor said, it was strange that the reasons which actuated gentlemen on both sides of this question, appeared to be the same, and yet the result so different. He could not but believe that the good of our country was the main, the sole object of all. In the means to be adopted for this great object we differ; this difference, therefore, does not, cannot imply, that either the one or the other of us are less actuated by laudable motives. I confess that I accorded with the feelings of my colleague (Mr. D. R. Williams) when first I came here; what created the change on his mind had its operation on mine also. I now say, that, although in my opinion it would then have been magnanimous in our Government, and although there was ample cause to justify us to the nation, (for we could look no way, we could point to no subject of complaint against Great Britain in which there was not sufficient grounds for war,) I say that, although under all the circumstances which imposed themselves on our consideration, it would have been magnanimous and dignified in us to have declared war against this Power; yet, now I am free to declare, that such a course would not be proper. This change of opinion has been produced on my mind by the letter of the Minister of Exterior Relations in France, Champagny, to our Minister at Paris. That act which would have been spontaneous in us then, would now be construed, and would, in fact, be justly considered as a succumbing and passive obedience to that Power, by which our opponents have so often and so erroneously charged us with being led and impelled. It is not necessary for our vindication that I should say that the threats of no nation on earth can, or ought to, drive the Americans into any measure, which, in their honest judgment, they condemn. Thus the orders of the King and Council of Great Britain for grasping at the monopoly of the trade of the whole world; thus the deliberate legislation of the British Parliament for the taxation of neutral, independent nations—of our own nation, which, when in embryo, they had failed in their attempts to tax; thus these orders, which never can be submitted to by us while we claim to be an independent nation, and which I would pledge myself to resist at the expense of the last drop of American blood, are not now sufficient motives (although justifiable causes) for our declaring war against that nation: Because it is plainly inferrible that the French Emperor has ordered us to go to war with this nation. I hold your vessels and cargoes in sequestration, (another word for condemnation,) to be released, (that is, *redeemed*,) on the condition of your being at war with Great Britain. Sir, such a redemption as this would be worse than an expiation on the rack. It would be mean and degrading. On the other hand, not to go back to the long-unsettled account of injuries done to our nation by Great Britain, her Minister, Mr. Erskine, has in a very polite and friendly manner, told us that his Government has laid the scourge on us; that we may scourge our next neighbor, or, more properly, as a punishment for our not having done so before she asked it. Can it be thought strange that, in this dilemma, we choose to disobey both these mandates, and trust to operations defensive against both; to await the effect of our embargo, which my colleague has said is operating so powerfully upon both nations? But I am not for waiting, with folded-up arms, for this effect; and, although I cannot answer the opposers of this bill, whether the troops are to be raised as an addition to our Peace Establishment, (if the present state of things might authorize us to call any establishment by that name,) or whether it is a War Establishment; yet, convinced of the necessity of such a measure, I shall vote for the bill. It will be for the oppressors of our nation to give the answer the gentlemen ask for.

In the vote I shall give I shall be governed by the circumstances of the case, as well as they who have said that they will vote differently. What are the circumstances? It has been conceded that the nation who can most easily annoy us, has the inclination to do it, if she dare so to do. Great Britain knows, the world knows, that this nation is the only one on earth which rivals her in commerce. That our commerce has been growing with astonishing rapidity. That this commerce for the most part is stable, dependent upon no changes in Europe or Asia; unlike that which the Venetians lost by the discovery of the passage to the East by the Cape of Good Hope, unlike that for which there has of late been so jealous a contest at the head of the Mediterranean and the head of the Red Sea, the objects of which are hunted after in the four quarters of the earth. Ours is not factitious, and dependent upon others; it depends upon ourselves and grows out of the soil. The variety of the climate, the richness of the soil in the ample bosom of our continent pours forth productions the most valuable, the most necessary for the consumption of every nation on the globe. These productions increase with our population, our population doubles for every twenty-three or twenty-four years, and our commerce grows still more rapidly by the enterprise and industry of our citizens. These considerations keep alive the rancor of former times, these stir up the fell envy of the present day. From hence have proceeded the spoliations of the last twelve

years! Hence the impressment and enslaving of our seamen—hence the cry of maritime rights which has been kept up in that nation, and the declarations of their politicians that they would go down with the last plank sooner than yield these pretended rights—that their national existence depended upon the power of manning their fleets, and yet while they were actually robbing our merchantman of our citizens, they were discharging the supernumeraries of their own seamen from their fleet. From hence proceeded the restrictions on the colonial carrying trade, and the objections they have made against it, as being likely to enrich their enemies by keeping up a market for their locked-up productions; and yet, both in this and in all former wars for fifty years past, this nation has connived at the illicit trade carried on by its merchants with the Spanish Main, thereby affording to the enemy the very accommodation which they are so fearful we should also afford them.

From this source too have the late blockading decrees or orders of council proceeded. Was it to distress her enemies, that our direct intercourse to them was prohibited? Was it to prevent supplies to them? No, sir, they have not even attempted to cover this with the thinnest veil of artifice. It is not to prevent the trade to France, but to rob us of a moiety of the value in most of the colonial articles, and most certainly a moiety of the value of the greatest article of export from our own country; I mean the duty of 9*d.* per lb. on cotton permitted to be reshipped from England to France. To say nothing of the licenses which the miserable American is compelled to pay for, for the privilege of pursuing his voyage after the loss sustained by the plunder levied on him by way of duty and the loss in a circuitous voyage made under compulsion, and the detentions, delays, and expenses incurred against his will in a British port.

It was not granting much for the opponents of the bill to say this nation had the inclination to injure us; and now that we have for a time withdrawn our commerce from the ocean, and thereby withdrawn the supplies to her and to her West India colonies which she absolutely stands in need of, is it probable, that under the increased irritation, under the inconveniences and deprivations brought upon her by this measure of self-defence and self-preservation, that her malice will sleep? She has recently had a fleet on our coast; she has lately reinforced her army in Canada and Nova Scotia. The intrigues of her agents with the Indians on our frontier, alluded to by the gentleman from Kentucky, have a squinting at something more than mere defensive operations.

Does the view brighten when we look at another point in our political horizon? France is not commercial, but she is nevertheless resentful. The existence of this Government in its present form is the severest satire against the present order of things. She has not of late years been accustomed to be disobeyed in the mandates she has issued to other nations. We have in our embargo shown a spirit of resistance, which has been felt by her and her dependencies. The high price of our produce and the other articles in this country heretofore afforded her by our neutral commerce; the actual scarcity, almost approaching to famine, which now exists in her newly conquered country, Portugal, cannot have a very soothing effect on the mind of the man who rules her destiny; nor can his good nature have been increased by the manly and republican-like remonstrance, which our Minister has made to that Government on the subject of some of her condemnations of our property. Our growing importance in the scale of nations, the manner of our increase, cannot be a pleasant subject of contemplation to her; we grow in strength and wealth by peopling the uninhabited desert, she by desolating the inhabited countries she conquers.

There is another subject to which the sensations of that whole nation are alive—Louisiana has infatuated every people who have ever had the possession of it. France has possessed it more than once. The American Government, in a lucky hour for us, found her in want of the means of carrying on her wars. For our fifteen millions, for a mere mess of pottage, she had parted with her birth-right, she has given up the outlet, the key to the most fertile country in the world. It has been reserved for our happy country to realize the conceptions heretofore formed on this subject by the most enthusiastic, the most vivid imagination. These realities were created and are now creating by the settlements made in our Upper Egypt, on the Monongahela, the Ohio, the Kentucky and Cumberland rivers. Not many years have rolled over our heads, it is but a tale of our own times; it excited wonder in the listening hearer, that Colonel Boon had penetrated the wilderness of the West—that he had found a land of fatness. I believe he still lives to see the wonders that have been wrought in that land. That country which was then inhabited by the beasts of the forest and men more wild, now contains nearly a million and a half of civilized population. Yes, sir, the country west of the Alleghany ridge, and watered by the streams of the Mississippi, now contains half as many people as our whole Union contained at the commencement of our Revolution. What a fulcrum has Bonaparte given up, in the little island of New Orleans! there to rest his prise, to move, to agitate, to distract, and (as some wretches have supposed) to divide our nation. If he has the insatiable thirst for conquest which the very opposers of this bill have often told us he has, think you that this delightful spot has lost all its charms to him? The protraction of the settlement of our differences with Spain, attributed to his influence on that Power, but too plainly shows that it has not. His blockading decrees, his utter disregard to the treaties now subsisting between the French nation and ourselves, the condemnation and sequestration of our property under these decrees, show too plainly that friendship, that fair dealing and justice, is not to be expected from that quarter. These words are now exploded from the laws of nations, from the vocabulary of national intercourse.

Thus have I taken a cursory view of the conduct, of the motives and springs of action of these two nations, not for the purpose of heaping unmerited censure upon them, (I wish to God they would suffer us to praise them,) but of fairly stating how the case stands with us, what the circumstances are on which we are now to judge of the propriety of the present proposed measure. But, under all these circumstances, and with all these motives, say the opposers of the bill, neither the one nor the other of these nations dare attack us; neither of them can spare the force, can afford the means of doing it; that they have enough to do to contend against one another. With respect to Great Britain, such might have been the reasoning of the Danes, when the confederation against France on the Continent was in its last gasp, and when the land in the ocean might with certainty calculate to be left to contend with her antagonist and all her dependencies, embracing almost all Europe, alone, single-handed; such a time, it might reasonably be supposed, was not a time for making a new enemy, and yet that was the very crisis when Copenhagen was sacked and plundered. New York holds out allurements for plunder as strong as those of that ill-fated city; other of our seaport towns would afford a prize to a marauding foe. Her fleets are always ready for the purpose of attack; her 10,000 men in Nova Scotia can be transported in a week or ten days to any part of our coast, and yet there is no danger! I have intentionally omitted to say anything of the attack on the Chesapeake, it was an unauthorized attack, the Government has disavowed it—allowing this to be the case, yet the same licentious and diobolical spirit which induced unauthorized individuals to attack our frigate, might induce them to attack our cities, and if they had to fear the same punishment which is likely to be inflicted on them for their flagitious act, they might safely make a coasting voyage for the purpose of plunder from port to port from one end of the continent to the other. Of the invasion of any of the Atlantic States with a view to conquest, I have no apprehension. In this I concur with the opponents of the bill—it is against authorized or unauthorized freebooters, that I wish the troops to be raised. We have in this session of Congress appropriated one million of dollars for the erection of fortifications; the expenditures of former years amount to very large sums; these fortifications in almost every instance are erected and erecting on detached commanding points at the entrence of the harbors they are designed to protect; cannon and military stores are there deposited. Do the opposers to this bill propose to man these forts with the militia? No—it is acknowledged on all hands that the militia are unsuited for garrison duty; or are they to be left unprotected, as strong-holds erected and well filled with warlike stores, to be taken possession of by the first comer, and to be turned against the cities and towns they were meant to protect? We who voted the appropriation for fortifications, if we consult consistently, if we consult what was then deemed the good of the nation, dare not refuse to man them in the way proposed by this bill. The important point of New Orleans can be defended in no way but by a regular force. It is here only that I apprehend an attack from France—the Spanish provinces on the East, touching, intersecting our possessions on the great river, are not so far, but that a hostile force has already been drawn from them and appeared in hostile array against us; those to the South may also be called our neighbors. The man who saith to one nation, go and he goeth, to another come, and he cometh, could at a word stir up an attack from this quarter, not to be resisted by the present military force of both regulars and militia we have in that territory; nor has the island of New Orleans less charms to the monopolising nation on the opposite side of the channel than it has to France. It is here the onset will be made, if made at all, for conquest. Shall we leave it defenceless and unprotected, because gentlemen tell us, and tell us truly, of the invincible militia of Kentucky, removed a thousand miles from the scene of action? Shall we wait to have this territory wrested from us, that we may have the glory of reconquering it? But it is well known that the climate is such that the Kentuckians would not require a foe to thin their camp, the fevers of that country would but too soon do it. The grand depots for the produce and for the commerce of South Carolina and Georgia, Charleston and Savannah, are similarly situated with New Orleans; the thick white population of these two States lie more than one hundred miles back; in the autumnal season it would be more dangerous than a forlorn hope to our backwoodsmen to be ordered down for the defence of these places. Both these places military men say are defensible with a moderate force. I want that force to be there stationed, seasoned to the climate, and kept in readiness while these perilous times last. But it is urged against the bill that these 6,000 are not enough, that when divided among the different ports and harbors on our coast, they will present no effective force at any point of attack; and because we are moderate in our requests, because we ask for little, they would give us none; but this force proposed to be raised with the addition of the Peace Establishment will amount to 10,000 men. The gentleman from Virginia, (Mr. R.) has said that the proportion to each city or town would not be equal to the effective militia of such places respectively. The gentleman commenced his observations by giving us one of the axioms of Euclid. I will not go so deep in mathematics. I will take the first rule in arithmetic. When two numbers are added together, the aggregate will be greater than the one or the other of the two numbers first given; or, not to be too learned, that two and two makes four. Thus if the regular force applied to the defence of any city be equal to the force of militia in that place, the effective power of resistance will of course be doubled. This is our system; we do not, no more than the opposers of this bill, give up the defence of our country by militia, we claim to be as much the advocates of the militia system as they are. We only wish to reinforce the exposed points of

attack, to make these 10,000, appointed and properly divided, the advance picked guard to the 800,000 freemen, citizen-soldiers in the great camp of the nation, to make these positions the rallying points; places of rendevous for our militia, as has been well observed by my worthy friend from North Carolina.

A great deal has been said of the danger of standing armies; if I could believe that there was the least danger to the liberties of 800,000 or one million of freemen by the force now to be raised, I should think very little of my country, I should think it deserved not the liberty it enjoyed. But, sir, the whole nation would laugh at such fears as these, they well know how groundless these fears are; they are as absurd as would be the man, who because by a spark lighting on his hand, it was demonstated that fire would burn, and therefore he would fly to the frigid zone and cover himself in ice and snow—or that because his great grandfather was drowned, he should be affected with an eternal hydroprobia. With respect to economy I have but one word to say and I have done—I cheerfully leave the nation to judge whether it will not be cheaper to defend your cities and towns, the depots of the greatest part of our wealth, from plunder, rapine, and conquest, than to reconquer them after they have been sacked and destroyed, after wealth sufficient to maintain ten such armies as the one proposed has been wrested from us and transported across the Atlantic.

Mr. Quincy.—It is not my intention to emulate the zeal of those gentlemen, who advocate this bill upon the principle that it is an augmentation of military force called for by the national crisis and worthy of it. But as in the vote I am about to give I shall coincide with many from whom it is usually my lot to differ, and be in opposition to some with whom it is often my pride and pleasure to unite, I shall very concisely assign the reasons which influence my mind.

I am astonished that to the raising of only six thousand men so much popular machinery should be thought requisite by the friends of this bill. The insults and injuries of Great Britain, the menacing aspect of France, our national honor, our safety, our independence, have all been made pleas and apologies for the proposed additional military force—these six thousand men! We have witnessed no ordinary expenditure of patriotic declamation, and no inconsiderable exertion of resolute zeal, to screw the courage of the majority up to the "sticking place," in a vote for six thousand men! The labor has no conformity with the object. The means are wholly disproportionate to the end. The arguments and warmth of gentlemen compared with their immediate purpose is a resemblance of nothing so much as that representation of the poet, of "Ocean into tempest wrought, to waft a feather, or to drown a fly." Do gentlemen really deem it necessary on the question of such augmentation of our force, as that now contemplated, to utter studied invectives against one or both of those belligerents who so cruelly interfere with our rights? Is this a force for their punishment, or for our protection against them? Is it wise that these nations should consider themselves the objects of such a levy? For myself I should deeply lament if either of these great Powers could, for one moment, deem that this was the preparation we were about to make for such a contest; that this was, at such a crisis, the scale and estimate of the national defence; that in contemplation of war, with one, or with both of those empires, which almost divide the globe, this was the bulwark of independence we were about to raise. I should blush for my country if with such a preparation as this, it could expect seriously an attack from either of those nations, or to assail either of them. I should tremble for its hopes, if such as these were its exertions in real anticipation of a struggle, for whatever is valuable or dear to man. Though I join in vote with the advocates of this bill, I am not coincident with them in my reason for it. As a defence against France or Great Britain, I place very little reliance on a force of six thousand men. The general state of the country, the extent of our seacoast and frontier lines, the number of our military posts and of our fortifications, are my inducements to support this bill, and not the particular national exigency, to which it has, if any, only a remote reference.

But it is objected that this is an augmentation of our Military Peace Establishment; and that this is a standing army in time of peace; and that a standing army has been in all times the bane of liberty. This has opened a wide field, which has been occupied with great powers of argument and eloquence. If any gentleman call it an augmentation of our Military Peace Establishment, he is at liberty to do it. The name affects not the substance. But the designation expressed in the bill seems to me much more appropriate. It is an "addition to our military force." It has nothing permanent in its nature; the enlistment is but for five years; subject at any time to the repeal of Congress—and every two years, under the limitation of army appropriations prescribed by the Constitution, must pass the ordeal of this House. The terrors so vividly expressed of a standing army seem to be not justified by the number of the augmented force, nor by the provisions of the bill. An army is an instrument. It is necessary to be used. It is liable to be abused. What is the dictate of wisdom in relation to it? Not to forego the advantage of the use of the instrument out of fear of danger from its abuse; but so to limit its nature at the time of its formation, as far as human foresight extends, as never to exceed its legitimate purpose. This security exists in the utter incompetency of the number to effect any project hostile to the liberties of such a nation as this, and also in the general provisions of the law and the Constitution, which puts it in the power of Congress to disband the force when it pleases, and every two years into the power of this House, by refusing appropriations, to compel its dissolution.

But it is said this is a precedent; it is but the beginning; an entering wedge; its augmentation will be progressive; we shall never be able to

diminish it. I confess I cannot realize the force of these suggestions. They seem to me to be founded on an opinion not just to ourselves or to this people. If the experience shall show that this force is more than the state of the country requires, what motive Congress can have not to repeal, and if the other branches should think otherwise, what motive this House can have not to exercise its power of refusing appropriations, and reducing it at the end of two years, I cannot imagine. Nor can I see the difficulty of such a measure. We shall not have, I trust, hereafter, less virtue than we have now, nor will those who succeed us have probably less than we. And should any undue influence operate, we are in the hands of the people of the United States; if we abuse their confidence, they can and will transfer it to men more worthy. This is a rational ground of security against the influence of precedents; it is also a Constitutional security.

I cannot agree with the gentleman from Virginia (Mr. Randolph) that the labors of this army will be wholly useless to the United States in case peace should continue. We have military posts which it is necessary to guard; every one of them it is important to strengthen; many of them to enlarge. We have fortifications to erect. In working on these fortifications the best and most economical labor is that performed by soldiers. They are universally so employed in the garrisons in Europe. In the intervals between military exercise they labor on the forts; they lay down their muskets to assume the spade. Distributed along our coasts, they would not be idle; their industry would not only be applied to learning the discipline of the camp, but might also be employed to the best advantage on work permanently beneficial, and such as other laborers at higher wages must be paid for erecting.

The course my mind has pursued in attaining to the determination of voting for this bill is very simple and obvious. The question I ask is, whether the present military force of the United States, (the Peace Establishment as it is called,) is sufficient for the exigencies and state of the country? This force now consists of about three thousand men. It is impossible for me not to answer that it is insufficient to our general exigencies in the present state of America and of the world. With fifteen hundred miles of seacoast, with frontier lines of still greater length, with forty or fifty ports, fortifications, and military posts to put in preparation of defence and to guard, I can have no hesitation that it is wise to increase our military force. Considering the unexampled state of Europe, and that the sword is now the sole arbiter of right, I should not fulfil my sense of duty to the country did I oppose such an augmentation. As to the degree of increase I have had also some difficulties. Three or four thousand men in addition to the present establishment, so as to make the whole number six or seven thousand, my own judgment would prefer. The increase by this bill will raise the whole force to something less than ten thousand men; I do not believe that previous to the next session, unless dangers more immediately urgent should impend, that this force can be organized. And I should prefer to authorize a smaller force, and have it complete in a course of discipline and labor, than a larger to remain imperfect and unorganized. My opinion also inclines to the belief that cavalry in our present situation is not an eligible part of the establishment. But in these opinions I am obliged to yield to those of men of military experience, in whom I have justly great confidence. Indeed, when my mind is once convinced that an augmentation is necessary, the opinion of the public responsible officers has, as I think it correct it should, great weight with me in deciding the number and species of the force to be raised. If the augmentation proposed be not excessive; if it be such that there is no rational ground to fear that it can become dangerous to our liberties and independence, it is an honest and wise error to lean towards the side of preparation rather than towards its opposite. Believing an augmentation of our military force necessary, I will not oppose the bill because it does not precisely agree with my speculative opinions on a subject, with which I cannot pretend to be conversant, and on which I have only very general information.

Mr. Lyon gave his reasons for voting for the bill. He wished it distinctly to be understood that he did not vote for this bill because he approved of other measures of the Administration; for he retained the same opinion of them as he had ever done. He then made some observations in relation to the embargo. Some gentlemen seemed to think that if no embargo existed, the decrees and orders of the belligerents would destroy all commerce; but he said that upon examination he found that out of one hundred and eight millions of our commerce, thirty were not interdicted. He thought it was a curious mode of retaliation for injury to *thrash* ourselves, and expressed an opinion that in the course of the late negotiation the President ought to have withdrawn the proclamation interdicting British vessels from our waters.

Mr. Macon observed that he had not intended to have said a word on the present question, and that he should have persevered in that intention, had not allusions been made by a gentleman from Virginia (Mr. Randolph) to what had been done in the year 1798—a gentleman whom he much respected, and he believed the sentiment of respect was perfectly reciprocated. A sincere desire to retain it, (which he well knew could only be done by pursuing his own judgment, and a conscientious discharge of his duty.) had induced him to state the reasons, in as few words as possible, which would govern his vote; and the vote would be precisely contrary to that which had been given in 1798; and it was clear that this was not produced by a departure from principle on his part, but by an entire change in the state of our foreign affairs now and then. There is, said he, no analogy between the present crisis and that of 1798. I regret to be obliged to make the observation. I mean no reflection on any one or any party by it. But then we seemed to try to provoke a war—in fact we were the attacking party; now, we have

been attacked. The attack on the Chesapeake is not disputed. Notwithstanding this, I do not believe that we shall have any serious invasion; yet it is certainly probable, after what has taken place, that attempts may be made to attack some of our towns, for the purpose of laying contributions on them. Under this impression I shall act.

It has often been stated to the House that it had been said we were at war. If this was meant to apply to me, it must have proceeded from misunderstanding what I said. I did not say we were at war; but I did say, in an early part of the session, that the attack on the Chesapeake was as much war on the part of Great Britain as the attack on Copenhagen, and I now repeat it. If it was not, I will thank any gentleman to show the difference—nay, I will thank any one to tell the House what is now the actual state of things between us and Great Britain, or even between us and France. The difficulties are unquestionably much greater now than when we came to this place. What is the state of things? I again ask. Is it war, or is it peace? or is it neither peace nor war? or will gentlemen say that it is a sort of *quid* war? I mean no reflection on any political party in the nation by this term; but I am uncommonly anxious to know what is the real state of things between us and the two great belligerent Powers of Europe. Every document which has been published by the House evidently shows their unfriendly dispositions towards us, and they may be said to include at this time all the civilized world. One of them cannot easily approach us; the other may, and she may come as unexpectedly as she went to Copenhagen or Constantinople. It will not be saying too much, to say that we are not on quite so good terms with the English now, as the Danes and Turks were when their cities were attacked. In the present state of the civilized world, and our relation with the two great Powers before mentioned, what may we not expect, from what has been done to other unoffending nations? I know perfectly well that the British Government has disclaimed the attack on the frigate Chesapeake, but has reparation been made for the attack by that Government, or has a single officer concerned in it been punished? No, sir; neither has been done, and I doubt whether either ever will be done. I believed when I came here that no reparation would be made, and I believe it now, unless circumstances should compel it.

With respect to the six thousand men who are proposed to be raised by this bill, I feel no hesitation in declaring that I agree with the gentleman from Virginia, (Mr. Randolph,) that they are not enough for offensive war. They are not, I presume, intended for that purpose; but they are enough to render great service about the cities, if they should be attacked. It is for this I apprehend they are wanted, and they are enough to make a rallying point in every place where an attack may be made. They will afford a place, let the danger be ever so sudden, where every man may go to defend his home. It is of much importance to have such a place; without it, there must be great difficulty and perplexity. In fact, the having the spot fixed, where a few men are known to be, and they prepared for action, will encourage all to join them. There can be no doubt but that it is possible the raising these men may turn out to be useless, and that the money which will be expended might as well be thrown away. As to the mere putting them in fortifications, for the sake of having them there when no danger was expected, that would be worse than useless. But is it probable that they will be useless? This, each member must determine for himself. Is it not more likely now, under existing circumstances, that we shall be attacked, than it was last Summer that the Chesapeake would be attacked? or have we less reason to expect it than Copenhagen or Constantinople had? I wish we had.

As to the idea of defending any one place with its portion of the troops to be raised, it cannot be entertained by any man, though they will be very valuable in the view that has been taken of them as a rallying point.

In the present state of the civilized world, and the great political changes which have been lately made in it, especially within the last twelve months, what may not be expected from the two great belligerent Powers? I regret, sir, that I cannot speak of them with the same complacency as the gentleman from Tennessee, (Mr. Rhea.) Look at the documents made public last Saturday! One says you shall go through her country with your produce—in fact, that she will tax you—and the other that she considers you an associate Power in the war which she is now carrying on, and holds your property until she knows your determination. I am opposed to these acts of theirs, and also opposed to becoming either tributary to England or an associate with France, and have no prrtiality to either of them. As to the expectation of obtaining justice from them by treaty, nothing can be more futile. You have tried it—and you have tried it with the best talents of the nation—and what have you got by the attempt? Nothing. Your Ministers are only beggars, and they have not got anything by begging; and if you had the best negotiators that ever lived, while one possessed the sea and the other the land, your negotiations would be of no avail. It is true, that on paper they show beyond contradiction the justice of your claim, and the injustice of their pretensions; but force, and not reason, is their rule to decide questions between nations—both have levied contributions on every place which their power could reach. Can we believe, after what we have seen and heard, that they will spare us, or that we shall be so highly favored that they will permit us to escape after they shall have us within their grasp? I wish I could believe they would, but I cannot; and I very much question whether, at any time, either would feel an inclination to prevent the other from attacking us, much as they hate each other. Judging from their actions, it is not unfair to presume that they do not regard us more than they do each other.

It cannot be denied that the troops if raised will cost about two million of dollars a year; this is a

serious consideration, but it ought not to be the only consideration. Is not the danger to be apprehended to some part of the nation equally serious? Is there not cause to apprehend danger to the towns, where large quantities of money are collected in the banks, and where immense quantities of country produce are collected for exportation? It seems to me to be impossible that any one can be serious when he talks about repelling an actual invasion by a strong force, with the men proposed to be raised. I consider them as intended, as has been stated, only as rallying points, to which every man who possesses true patriotism, or what I call whiggery, may repair, whenever an enemy shall appear. But for the main defence the nation must be armed, and the militia classed according to age. It is the young men of France that have made her armies invincible; class the militia and select the young men for active service, and if you should ever want them, they too will be invincible. I repeat it, do not tell us about any supposed disorganization to be produced in the militia by separating the young from the old. We have appropriated money to erect fortifications, which may take fifty years to finish, and to build gunboats, which, to say the least of them, are an experiment. But the whole world knows that a free nation completely armed would be a terrible foe, and it may well be questioned, whether the money laid out in arms, would not have been more beneficial to the nation, than in fortifications and gunboats at this time. Gunboats can be had whenever wanted, because every well-built sloop or schooner would do for one, and every port where an attack might be expected has enough of them.

I do not consider the troops to be raised intended for a Peace Establishment. If I did, I should not vote for the bill. I verily believe that I never shall consent to add to the Peace Establishment, in times of real peace; the establishment is useless, and is a dead weight to the industry of the people. It has been said there would be great difficulty in getting the men. This will in some measure depend on the proper selection of officers; but be this as it may, notwithstanding I am in favor of the bill, I feel no reluctance in saying, that I believe it is almost as difficult to get clear of a Military Peace Establishment, as it is to enlist the privates for that establishment.

In this great crisis of our affairs, it is our duty to speak freely, and the nation ought to know what we say. By comparing opinions and stating the facts on which they are founded, we shall most likely do that which we ought to do. Perhaps my sentiments concerning our foreign affairs are different from those of any other member of the House, and if they are erroneous, they have been uniform and are honest. If I could discover in all the documents which have been printed, one spark of a friendly disposition in the Governments of the two nations which have been before mentioned, it would give me more pleasure than any political event which has lately taken place. War seems to be their delight—peace is ours, and peace is of more consequence to us that to any nation on the globe; because we have more to lose by war: if war should come, we have not sought it; we love peace, and have honestly endeavored to preserve it. In the present situation of our affairs, we must prepare to defend the country and to make every sacrifice which may insure it.

I have heard to-day, and at former times, a maxim boldly advanced, which to me never appeared correct or true; that to preserve peace you must be prepared for war. In all countries, especially those which are free, the thirst for military fame is greater than that for civil, and if it gets a complete ascendency, is extremely difficult to allay. It may be observed, that our country is not exempt from this passion which has done so much injury to the human race. We seem to admire the heroic actions of our young men, more than we do the civil virtues of Franklin, Hancock, Adams, and Dickinson; though it would be no easy question to decide whether Washington was greater as a civil or military character, yet his military is that which I believe gives the nation the most delight.

Our situation is a critical one, about which I firmly believe we honestly differ, and differ as to the proper measures which ought to be adopted. It is agreed by all, that it is our interest to settle our disputes with every nation as soon as possible; but this does not depend on us alone. Let England and France make peace, and it may be more difficult for us to adjust our affairs with them; but until they settle the disputes with us, we must endeavor to prevent any farther injury being done to us.

When Mr. Quincy had concluded, an adjournment was called for and carried.

Tuesday, April 5.

The Speaker presented to the House a memorial of sundry inhabitants of the town of Newburyport, in the State of Massachusetts, stating the losses and inconveniences to which the memorialists have been and are now subjected, by the operation of the acts "laying an embargo on all ships and vessels in the ports and harbors of the United States," and praying that they may be allowed to export their fish without the limits of the United States.

Mr. Barker presented two memorials of sundry inhabitants of the county of Plymouth, in the State of Massachusetts, to the like effect.

The memorials were read, and referred to the Committee of the Whole to whom was committed, on the eleventh of January last, a report of the Committee of Commerce and Manufactures on a memorial of William Haslet and others, merchants and traders of the city of Philadelphia.

Mr. Gardner moved the following:

Resolved, That a committee be appointed to consider the expediency of providing, by law, for the adjournment of this Congress to some earlier period than

the first Monday of December next, with leave to report by bill, or otherwise.

The resolution was ordered to lie on the table.

Mr. HOLMES, from the Committee of Claims, to whom was referred, on the ninth ultimo, a petition of Timothy Wellman, Benjamin Stoddert, and John Mason, trustees of Francis Lewis Taney, reported a bill to authorize the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States; which was read twice and committed to a Committee of the Whole on Thursday next.

On motion of Mr. ILSLEY,

Resolved, That a committee be appointed to inquire into the expediency of authorizing the President of the United States to exchange the site of the fortification near Portland harbor, for other land more suitable for a fortification for the protection of said harbor, and that they have leave to report by bill, or otherwise.

Ordered, That Mr. ILSLEY, Mr. STORER, Mr. JACKSON, Mr. SMELT, and Mr. JOHN CAMPBELL, be appointed a committee, pursuant to the said resolution.

On motion of Mr. EPPES,

Ordered, That the Committee of the Whole House to whom was committed, on the twelfth of January last, a bill to amend the act, entitled "An act to incorporate the inhabitants of Washington, in the District of Columbia," be discharged from the consideration thereof; and that the said bill be recommitted to the Committee for the District of Columbia.

ADDITIONAL ARMY.

The House resumed the consideration of the bill sent from the Senate, entitled "An act for raising an additional military force," with the amendment agreed thereto, which was depending yesterday, at the time of adjournment.

Mr. STANFORD had not expected to have said a single word on the passage of this bill, because he had as usual anticipated that a very large proportion of that company with whom he had thought and acted for more than ten years past, would on this occasion also have been of the same opinion with himself; but with painful surprise finding himself mistaken, and that he should be in a minority unusually small, and that to consist of but few of his old friends and first political associates, he could not think of giving a silent vote as, on common occasions, he was used to do. He felt no difficulty, no great solicitude of mind in a difference of opinion with his friends on questions of minor importance. But on a question like the present, involving in it an important principle, he could not feel the same indifference. He could assure them it was much otherwise, and that he regretted the event sincerely. In so far, indeed, as his long established political opinions upon the subject would permit, he had even suspected himself, and the views he had taken of the times, out of real deference to them. Yet after all, under the influence of the honest convictions of his own mind, he felt it his duty to give his decided negative to the bill.

Mr. S. then said, in the course of the observations he was about to make, he should not impeach the motives of gentlemen, and if he should appear to do so through the hurry of expression it would not be intentional, and he must hope for the forgiveness of his friends. He had no reason to doubt the motives of gentlemen who advocated the bill, and hoped his claim was well founded to a like liberal consideration on their part. His object would be to draw a contrast in a general way, between first principles and the bill before the House.

This question of a standing army, said he, is among the number which involves first principles, and goes to mark, as it should do, the two great opposite political systems in our country of which we have heard so much—a question which did not distinguish the one from the other political party during the late Administration. I have, said he, always thought and still do think—am indeed from long experience obliged to think—that as politicians, having formed deliberate opinions, we should be slow to change, even where circumstances themselves seem to change. The more unchanging, uniform, and consistent our political course, the more intelligible are we to those who have to approve or disapprove our measures. This I am persuaded should be the case, not merely for our own sake, but for the sake of the nation—I mean the people, who so long as we remain free must form the main-spring of all political motion in this country, and who, when they approach the hustings to put in the ballot of approbation or disapprobation, should know for whom, and for what they vote, the man and his principles. If they are not to know, distinction avails nothing; right and wrong is a mere jumble, only a nominal thing, and it were better in such a case there never had been a distinction. I am therefore convinced that all, especially those who have had to do with our political affairs long enough to have formed opinions and adopted a system, should be as true to such system as the needle to the pole. I am for none of this variation in the political compass, but would desire to be, what my conscience tells me I should be, steady, firm and persevering in the good old way of first principles, and first professions.

I am, Mr. Speaker, among those who believe we shall never have another patriot army in this country, because I can foresee no occasion which could produce one, such as we once had. I mean no reflection on our present army, nor that which this bill proposes to raise, nor to deny them love of country—I have no reason to doubt that; but at so great a distance from the belligerent Powers of Europe are we thrown, and in every point of view so superior to anything that presents itself either from our Northeast or Southwest frontier, we have nothing formidable to dread or to fear. In times of peace standing armies are as little suited to the genius as to the interest of this nation, and to the planter's ear there is nothing

more odious than the beating of the recruiting drum. For, as to myself, I must confess standing army and direct tax bring to my mind the old association of ideas. I cannot separate the one from the other. I combine them involuntarily, from a recollection of the past. On a former occasion they followed in train, and it is but fair to expect the like again. If we look back on former times we shall see the natural result, a large majority reduced into a minority, scarcely now to be estimated at all.

So varying are the views of gentlemen on this subject, some viewing it as a peace, some as a war army; some a limited, and some an unlimited bill, and so reasonable is it that we should begin to anticipate a favorable turn of affairs abroad, I will venture to predict if the bill were postponed to the last days of the session it would not pass. First principles and first professions would come into my aid, and the bill would, as it should, get the go-by—would share the same fate as your marine army bill, your peace army bill, and the volunteer system. All these projects seem now to sleep, and I now doubt if expediency will again awaken them. When the President's late Message was received on this subject, instead of the volunteer system as recommended, this bill was reported in the Senate, and passed. I then began to anticipate something wrong, and not till then did I suppose we were to have a standing army in lieu of everything else. Times are little different, if not precisely the same that they were in 1798, except that this bill is predicated on a British, and not on a French war; for indeed the greater insult has been received from the former, and I am not one of those who look for occasions to soften it down. If gentlemen advocated absolute war, and would make the declaration, I will not say that I should go with them—I certainly should not—but I will say that the question would present itself to me in a very different point of view, and most indubitably I would not withhold the necessary means to make it effectual. But when without contemplating such a course, or knowing why or wherefore we have need of these men, we go upon a supposition that there is probability of an occasion for them, I am left in the dark, and cannot give my consent to the measure.

Let me now advert, said Mr. S., to our late Spanish crisis, and see what was then the disposition of this House. It was only the session before the last, and if the decision then made upon this subject was correct, can we, ought we to reverse that decision to-day? Honorable consistency forbids it, in any and every way that I can view the question. The Journal is before me, and if it were necessary, I could turn to the recorded vote where a large majority determined not to add a man to our present numbers. What was then our situation? We had received an insult such as we have not been accustomed to since the Revolution. As a gentleman from Virginia then happily expressed it, "The sacred soil of the good old United States had been trodden by the foe." With impunity was this inroad made upon our territory—and at the same time a menacing attitude assumed on a more distant frontier, and soon after with insolence not more daring, but equally so, did a number of troops of the same nation take a position within limits before recognised to the United States. Spanish troops! And do we not know—are we not obliged to confess, that Spanish soldiers are French means? If you add but French officers, you have a French army. We were not without information in these respects; I do not know if I might not say, and that official too; but if I am out of order, I beg pardon, for such has been the mixture of the confidential and unconfidential for some time past, it has become difficult for the mind to discriminate. [The SPEAKER said, he had no recollection of anything official on the subject.]—But I have, sir, said Mr. S., and lest it should be improper, will forbear. Added to all this, then, I wish further to draw the attention of the House to the period of these outrages—this Spanish and French crisis. It should not be forgotten about this time was in its germ one of the most daring projects of conspiracy that has ever been conceived in the country, and that too known to the Government, in a sufficient degree at least to awaken its vigilance. I allude to the late Ouchita conspiracy, which has since become the more horrible in its form and features, because in its ramifications it has been traced within the walls of this Capitol, as we could now witness, if we were in the other wing, [J. Smith then on trial.] Great as was the alarm of war during this period, and I confess I thought it more than probable war would happen, what did Congress do? They refused to raise a single man. This House rejected the proposition made for that purpose by a most decided majority. We were told, I believe justly, that the riflemen of Kentucky and Tennessee were competent to the correction of any disorder in that quarter, and with pleasure too it was heard they stood ready to obey the orders of the Government. A gentleman from Tennessee (Mr. RHEA) who spoke yesterday, and advocated the standing force now contemplated, then defended the militia as competent for any probable emergency. Another gentleman from Tennessee also, (Mr. CAMPBELL,) if my recollection serves me right, was eloquent on the competency of the militia without any addition to the regular force. I fully confided in their arguments, and had then the pleasure of voting with those gentlemen.

I now beg leave to show, so far as recorded opinion can go to show, that, however small the minority in which I am now to vote, I do not stand alone. That I am, indeed, contending only for the correctness of first principles. For this purpose I claim the attention of the House while I quote the highest authority in the nation—an authority which, politically, I have most assuredly thought was not only the highest but most orthodox in this world. When the people in their majesty had said it, and power was given to the present majority, it was given us, as a first principle, shall I say, as a new star to be placed in the bright constellation which was to illumine our way, that "a well-disciplined militia" was "our best reli-

ance in peace and for the first moments of war, till regulars may relieve them." It did, to my thinking, illumine our way, as from what followed will appear. The President's Message at the opening of the seventh Congress contains this paragraph:

"A statement has been formed by the Secretary of War, on mature consideration, of all the posts and stations where garrisons will be expedient, and of the number of men requisite for each garrison. The whole amount is considerably short of the present Military Establishment. For the surplus no particular use can be pointed out. For defence against invasion their number is as nothing; nor is it considered needful or safe, that a standing army should be kept up, in time of peace, for the purpose."

This then, sir, was the doctrine, and a kind of touch-stone of the political correctness of the times; and the Army which our mistaken predecessors had left us, consisting only of about five thousand men were not deemed "needful," nay not "safe," and was reduced to three thousand—I believe I ought to say repealed, for it was done at our celebrated *repealing session*, when all misrule was to have been repealed, and literally and truly speaking, much was! But, sir, let us come at once to the times near to the present, and we shall find the same unshaken firmness of political principle maintained in this respect through every crisis, and there were many intervening periods of just alarm. We find, from the same high, admirable, and correct source, the Message of the President of the United States at the commencement of our last session, the same doctrine was again inculcated and expressed in a style still more excellent, if that were possible. It reads thus, "Were armies to be raised whenever a speck 'of war is visible in our horizon, we never should 'have been without them. Our resources would 'have been exhausted on dangers which have 'never happened, instead of being reserved for 'what is really to take place." It should be remembered that this Message was sent to Congress at the most alarming period of the conspiracy in the West. And can it be forgotten, at this particular juncture of all others, that armies, navies, and taxes, were our constant themes for declaiming and denouncing political heresy? That war must first come before we would either admit or countenance their necessity.

But, Mr. Speaker, I have now gone through those times nearest to the present, and, with permission, will recur to times more distinguished, and said to be more trying to political principle than any we have since witnessed—times which more decisively marked political character—so that no one could mistake or be mistaken. It will be perceived that I allude to 1798, and the crisis which then existed; since when great changes have intervened, and taken from among us many of those characters whom I could have wished ever to have remained with us. Believe me, sir, the retrospect is not a little painful to me, when I perceive myself standing alone (as to my old companions of that day) and advocating a principle which then, under like circumstances, would have united us as a band of brothers. For, indeed, I am not aware if I have a single friend of that standing on the floor, who intends to vote with me. The gentleman from Virginia, whom I have in my eye, (Mr. Randolph,) is a younger son of those times. I beg his pardon for the remark, although born out of due time, certainly not out of good time. For he knew when he did come in; he took the text, and has maintained it with talents and firmness rare to be met with, and not surpassed by any of us. At that time, and without wishing to excite the sensibility of gentlemen on the other side of the House, for I have never felt otherwise than disposed to exercise a liberal indulgence toward our political opponents, a system of alarm was raised, and I hope no one will pretend to say without a cause. I verily believe the state of things was as alarming then as now; and the indignities offered the nation, if not so great, the difference was not considerable. What were they at that time? The *arrêtés* of the then Directory of France; if not as sweeping in language, they had become more outrageous in practice than either the decrees of Napoleon now, or the Orders of the British Council, so far as we have yet heard. The French privateers—one at least—came within your own harbors, to maraud and plunder, and was captured within the inner channel, near the mouth of the Delaware, as it were, under the limbs of the pine which border on the margin of your ocean. The Government sent Ministers to treat, and two out of three were refused to be received, and sent off with indignity, such as it is not for the honor of an independent nation to brook. More than all this, I think about this time was laid an embargo on your merchant vessels as now, and acts of hostility were commenced on our own side as well as theirs. Then, too, was France flushed with victory, and the completest success against her enemies at home, forgetful of right, ruling by power alone, and, under the auspices of the same matchless character, emphatically called the Conqueror of Europe, had transported one of the finest armies which was ever believed to have been seen in Europe, and, after invading and conquering part of Africa, extended his conquests and carried invasion into Asia, also, as was understood to be the ultimate plan of the enterprise. What followed among us here? The then majority founded upon this alarming and menacing state of things, what appeared to be their favorite system of measures, armies, navies, taxes, loans, and, in the end, what might be called their protecting laws; for the nation, in which we who were then the minority acted our full part, became restless under burdens of which they could not see the use. The fightings and invasions and conquerings in the Old World could not inspire us with fear, serious fear, of invasion. "Nature and Nature's God" forbad such a fear, and kept us, I believe, as distant from the fear as we were geographically from the country with whom we had the difference. For myself, I know I did not then feel the alarm which was attempted to be excited, nor do I now feel it; and to follow the dictates of an honest conscience

I cannot act as if I did. Gentlemen should recollect when the people at that time came to see and understand the business, in the majesty of their pleasure, to say nothing worse, they dispensed with both men and measures, and brought us into power, as I understood it, to hush the alarm, and, literally speaking, to correct the procedure. If I feel any alarm, it is in hearing almost the identical language and arguments of that day, called up and used now to effect the same object, the raising of a standing army. What does my worthy and beloved colleague tell us? That we were in a state of things, which, I think, he calls quid war, and that he considers these troops necessary. Why, sir, this was precisely the same argument formerly used, as I shall presently show; not, to be sure, that it was doubtful, but downright war, and, of course, that an army in those days was introduced on grounds more plausible than now, for hostilities were commenced on both sides.

It would seem to me, Mr. Speaker, as my esteemed colleague is used to say, "when a ship claim comes into the House the next thing is an appropriation bill, as, of course, money must be paid;" so, in this case, whenever a ship attacks you on the ocean, we may now look for a standing army as a thing of course, also, and with it a standing tax becomes a still more necessary consequence. All this, to me, is the more surprising, as when menace is held up and insult offered the country on shore, and even inroads made into your territory—when conspiracy withal spreading around in every direction is known to exist—when all this appears, and almost at the same time, and at no distant time either, the utmost confidence is reposed in your militia, no greater force is wanted. It is but as a speck in the horizon.

One other view of this subject, I must be permitted to take, and it is one which I verily consider worthy of the consideration of the friends of this measure—the majority I mean. I speak from some experience on this head, and if anything I have said is thought worthy of an answer, I hope this point will not go without notice. In 1798 it was one of the most boasted of our political maxims, that patronage and systems begetting patronage, to which so much resort seemed then to be had, were not only unworthy of the then Administration but of our free form of Government; that any Executive disposed to make the most of his appointments to office, had it in his power to foster and produce a servile spirit of sycophancy and dependence upon his own will and favor, and ultimately extend the vile contagion, till it shall corrupt the whole mass and render all that was valuable in our Constitution mere name—the substance would be gone. How, then, shall we get over this commonplace argument in 1798? I well remember we pressed this argument upon the then majority without ceasing, when any new project was before us calculated to create place and office, to be filled by favorites, of course. Under principles like these we came into popular favor and power. I must say we, although my title to use such phraseology may be questionable in these times. But I am speaking of times, when I had as fair a title as any other; and if my political sentiments have undergone any change I do not know it. In the honest confidence of my heart, I think I am the same. If I have had my exceptions to the general course of late, they have been confined to measures like the one before us, exhibiting to my view what I can but consider as relaxation from first principles. The contrast I draw is between former and present times, and between former and present measures. I know this argument about patronage was lost on the former majority, and have no reason to expect it will have a better effect now; but gentlemen cannot have forgotten the ramified extent of this business. There was scarce any quarter of the Union where that influence did not extend itself and raise a kind of atmosphere of its own kind about it. Almost every one must have experienced a share of its incouvenience; and I may ask again, are we come to times which require us to revive this exploded system? If we have, gentlemen should look to the consequences. It is not to be doubted, if war should not happen, the popular odium cannot fail to be again excited upon this occasion, and I do in my conscience believe, in that event, it ought.

Convinced, however, that gentlemen see for themselves the danger of the times, and the necessity of the measure, I desire not to impute motives, which, I am sure, would be unworthy of them; but, for myself, I see differently; I see no danger nor necessity which the militia, with arms in their hands, would not be more competent to meet in the onset, till, at least, a regular force could be raised and brought to their relief. But, in truth, I feel more disconcerted in my hopes for the future than alarmed with my fears for the present. Let me ask how it will be possible, in a few years, for any political observer or historian to draw a line of distinction between parties, or show the correctness of this or the incorrectness of that Administration? Will it not be such a mixed business that no plain understanding will be able to comprehend a difference? You exploded the patronage system and all the measures that fostered it. But what are you about to do? To raise a standing army. You condemned navies, too, most decidedly, but have created one in miniature, or of the quid kind; and I believe you have either laid or revived a small tax the present session. For my own part, I feel no hesitation in saying, if I lacked confidence in the militia, I would summon up enough at least to save appearances in this case; for the measure before us cannot give us safety; and all must acknowledge it wears an aspect against our first professions.

Mr. Speaker, served somewhat by my memory, and still better by records on file, with respect to our doctrines and principles under the crisis of 1798, I have laid my hand on a number of resolutions and remonstrances from various counties in the good old State of Virginia—a State which I have always held in the highest estimation—not more for her singular felicity and aptness in

expressing political opinion, than for the genuine correctness of the opinion itself. In the worst of times, she appeared to be a standard among the sister States, and seemed to be always fanning the coal of first principles, and keeping us awake to their due influence. To speak as I felt, I loved Virginia, politically, too well—but have, at length, begun to repress a little. These old documents, (for documents they are,) to which I allude, are from different counties in that State—Orange, Spottsylvania, Greenville, Hanover, Prince Edward, and others. But I select one only as coming more immediately to my point, with the reading of which I must beg leave to trouble the House. It comes in the form of resolutions from the county of Henrico, and what will give it peculiar force and application on the present occasion, is, that it comes from the militia of that county, remonstrating to Congress against raising a provisional army. Now, I think, Henrico is one of the principal counties in what is commonly called "Old Virginia," and, if I am not mistaken, is the county in which stands Richmond the capital of the State. If so, then I am the more happy in laying my hand upon this paper, as we may well presume (if we did not know) that the politics of Henrico were those of the State generally.

After speaking highly of the privilege of remonstrance as possessed by the people of the United States, they proceed:

"While the measures adopted by Congress for national defence must merit the approbation of every friend of his country, this meeting cannot but consider the raising a provisional army as unwarranted by the present situation of American affairs and destructive to the liberties of the United States. A militia, taken from the body of the people, actuated by the same interests, and never losing the character of citizens by assuming that of soldiers, are the only natural and safe guardians of the rights of individuals and the independence of their country.

"That standing armies are the engines by which most of the despotisms of the world have been created, by throwing an immense patronage into the hands of an Administration, by separating one portion of the people from the rest, by creating a dependence on the favor of the Executive, and, of course, a subserviency to his will; by establishing a body with different interests from the people at large, who forget the purposes for which they were created, and turn those very arms against the peaceable citizens, which were intended for their defence.

"That standing armies ought never to be resorted to, except in cases of the greatest national danger, and when foreign invasion makes it indispensable. It is recommended to our Representative in Congress to give his support to such measures as are calculated for national defence within our own limits; but to oppose any measure which may put it in the power of the Executive to involve this country in offensive warfare.

"Among the measures calculated to commit the peace of the United States, this meeting cannot but consider the arming merchant vessels, and the convoying such vessels sailing to foreign ports, as having a tendency to produce that effect."

This appears to be signed by Major R. Allen and Mr. J. Seldon, in behalf of the meeting, and addressed, as it purports, to their Representative, and although that gentleman (Mr. Clopton) now avows a different view of the times, and will give a different vote from what he did then, I have no doubt it will proceed from the honest conviction of his own mind. He is one of those friends with whom I have had the pleasure to act in unison too long, and know his uniform course and correctness too well to do him intentional injustice.

I am really sorry to be troublesome to my friends, but I must be permitted to allude to another from the same State; he sits behind me, (Mr. Eppes,) and although we have not had the pleasure of acting so long together, for the time it has not been the less cordial or pleasing to myself. Some days since, when perhaps the bill for an augmentation of the Peace Establishment was before us, that gentleman rose, and notwithstanding I had supposed he and I had begun to divide a little in our political thinking, and diverge as it were from the former point of our coincidence, he spoke so much in the old style, that I concluded I was mistaken, and privately assured him of the pleasure I felt upon the occasion. Speaking in reply, I think, to a gentleman from New York, what were his sentiments? "We are prepared," said he, "let the enemy come; we have 'men and arms in readiness to defend the soil 'against any force they can bring, and these are 'the fortifications upon which I would choose to 'rely." So thought the majority of the House at that time, and that bill has slept ever since.

Again, another gentleman from Virginia, whom I see in his place (Mr. Nicholas,) for whose opinions I feel a high respect also, on the very important question of the embargo, declared that we had no need of any other weapon to bring the enemy to our feet; that it was a measure by which we could starve them into terms of justice towards us; that, as a system of policy, it was every thing in our hands, and that it was now become time to use it in order to compel that respect which was due to our rights as a nation. I felt the full force, I confess, of this reasoning, and but for the single circumstance that I thought it too bold an experiment without some limitation of time, I should have had the pleasure of according with that gentleman in the vote, and more especially, indeed, as it was to save us the occasion of raising a standing army.

[Mr. Nicholas here asked the gentleman from North Carolina if he referred to him. Mr. S. answered that he did. Mr. N. then observed, that from the day on which we had met till this, he had believed that somewhat of a regular force was necessary. He had always said it. He allowed then and now, that circumstances would justify it, and was willing to defend the opinion he then gave. He felt sure the gentleman from North Carolina would not be disposed to ascribe opinions to him which he did not entertain.]

Mr. S. said, notwithstanding his impressions, he must have been mistaken in supposing the gentleman opposed to this measure, and would by no means ascribe to him opinions not now avowed

He had, however, so understood the scope of the gentleman's arguments.

I have said, Mr. Speaker, that the arguments used on this occasion were precisely the same they were formerly, for raising regular troops, and the alarm then, if not greater, was at least equal. To satisfy gentlemen of this fact, I will just read a paragraph or two from the speech of a principal member of the majority of 1798. Mr. Otis said: "He never heard that a standing army was dan-'gerous to the liberties of a country, except in 'time of peace, and that when an army is made 'up, not of citizens, but of the banditti of the community. But we are not now in a state of peace, 'but of actual war. It is true the country is not 'invaded, but he believed a long period would not 'elapse before an invasion takes place, when it 'might be too late to raise a body of men for our 'defence." Again—Mr. O. remarked, "that when 'he said we were in actual war, he did not speak 'figuratively, but literally. War is not declared, 'but it is made upon us, and it is our duty to de-'fend ourselves against it." Thus, then, we see both the arguments used, and the alarms excited are the same, and we are brought to the same result, a standing army. This is what I regret. If it were not, Mr. Speaker, something like a breach of decorum to quote a sentence or two from your reply to your colleague (Mr. O.) on this subject, I would venture to do it. But, sir, with making you the assurance that no disrespect is meant, I am persuaded that you will indulge me with the liberty. I read from the debates on the provisional army bill of 1798. Mr. Varnum said: "It 'was not strange that gentlemen should differ in 'opinion as to the best mode of defence, but they 'ought not, on this account, to be charged with a 'wish of selling the country to a foreign nation, 'or of making no defence of it. He believed the 'militia sufficient to repel any invading enemy 'until an army could be raised. When the peo-'ple know the country is really in danger, they 'will not stop at trifles, but until that time they 'will not wish to engage themselves as soldiers. 'What was the case in 1775? The militia then 'went into camp, and continued there until the 'standing army was raised, and they made as 'good a defence as any standing army could have 'done." I fully accorded with these observations, sir, when you delivered them, and appropriate them to myself now as unanswerable on the present occasion. They accord, too, in almost the precise language, as well as sense, with the Messages of the President subsequently delivered, and which I have just quoted.

From the same debates, I will take the liberty also of reading an observation or two from the speech of a character, who, at that time, held a seat in this House, than whom, if a superior ever did hold one in it, I have not the pleasure to know or believe it. My allusion is to the present Secretary of the Treasury. "Is there," said Mr. Gallatin, "any person on this floor seriously afraid of an invasion? He was sure he was not." And again, speaking of our security against invasion, he says: "The immense sea which divides us is 'a security against it, but the greatest security is 'our own power and resources, and the convic-'tion that an attack upon this country can be no 'object with that. Their object will be plunder, 'and that will be carried on by attacking our ves-'sels. There was, therefore, no real danger of an 'army to invade us." Were not these arguments, I would ask, approved as orthodox then? Are they not now as appropriate, as applicable to the times, the crisis, and the question before us, as then? I believe more so, in fact, for we have more men and double the resources otherwise; and if I were to ask the same emphatic question now—"Is there any person on this floor seriously afraid of invasion?"—the answer must be in the negative. Such fear has not been avowed. At that time, too, I perceive, among these old debates, my colleague (Mr. Macon) took an objection to the bill then under discussion, which I think, with more force, would apply to the present. It was, that so many field officers as were contemplated could not be wanted for garrison duty. Little as I know of military matters, I have understanding enough to know, that field officers of the higher grades cannot be wanted in a garrison or fort. In that respect, then, this bill must have some surplussage about it, as two additional brigadier generals, and other high officers, are intended to be created, and should no war be created to employ them, we shall have them to look at; that is all! But there seems to be another species of ingenuity about this bill which it is somewhat difficult to comprehend. It was once a fashion with us to object to that of giving the President discretion to raise, or not to raise, an army. That was urged to be the duty of Congress alone, and was a power not to be transferred. This bill withholds that discretion in appearance, at least, but, it seems, gives the power of disbanding. There may be some difference in this thing, but the distinction must be at any rate a nice one; not very palpable, at any rate.

One other character there is, said Mr. S., to whom allusion has not been made, and who, if he were gone, daylight would close in upon some of the most brilliant actions of the militia of the Carolinas during the Revolution. This character (General Sumter) remains among us, and is a living monument of first principles, and of unvarying political system through every crisis. On the passage of the provisional army bill in 1798, he appears the friend and defender of the militia and their worth. He knew their services best, for, under his particular command, they acquired a great share of the glory and honor to which they were entitled. He defended their character and performances in the South, leaving it to gentlemen from the North, among whom was yourself, Mr. Speaker, to do them justice in that quarter of the Union. Among the instances of those performances, he enumerates some that would do honor to the best disciplined corps in the world. He mentions an action fought at Fishing Creek, South Carolina, as doing the militia immortal honor; another at Rocky Mount, which lasted ten hours—and this by the patriotic militia, fight-

ing, as they would do again, we may confidently say, for their own firesides. Another instance is given at the Hanging Rock, which lasted nearly all day; another at Waynesboro'; but the speech itself is on file, and to it I refer gentlemen. It is an answer to all I have ever heard on this floor in favor of standing armies.

Before I take my seat I will notice the view which my usually correct and worthy colleague (Mr. Macon) has taken of the existing state of things, and will add my own also. Formerly our difficulties were with France; her cruisers were let loose upon us; our negotiation was broken off with more indignity than now with Great Britain, and we were informed by the President that he would never send another embassy to France until assurances were made that our Ministers should be received and respected as coming from a great, free, and powerful nation; and but for a mission, of which I know nothing, except that I believe it was the offspring of real patriotism, and the explanations made in France through that medium, we must have gotten into open, formal war; for if these files are authority sufficient to show it, (they are now before me,) that France had at that time laid an embargo on all our merchant vessels as preliminary to it; and this with the knowledge that France was then flushed with victory, and extending invasion into every quarter of the world, and in every direction around her, formed a base to raise a standing army upon as plausible, at least, if not more so, than anything that appears in the present state of things. But my colleague contends (and so it was then contended) that we have received the blow, and are already in a kind of quid war; that our negotiation is broken off, and so it was formerly; and that it is time now to apprehend war in a more open form, and to begin to prepare. I ask if it was not more than apprehension in 1798? I for one am prepared to say, that I am willing to confide in the militia for the first onset, if war shall happen, that I will never consent to raise an army on a War Establishment upon mere apprehension; and, at any rate, if war we are to have, I do not want a quid army, nor one of a quid size, such as the President himself tells us, "as a defence against invasion would be as nothing." But, in fact, I doubt if we are to have war. We don't know that all negotiation is at an end; but, if so, let gentlemen come out and bottom their measures upon determined war. Let the friends of this bill so declare, and much as I desire to think and to act on all great questions with my colleague, and another behind me, (Mr. Blount,) whose opinions I have always respected, because they deserve respect, (for I know he has seen service and knows much from experience,) I promise them, and the more experienced portion of this House, that I will not withhold all due means to insure the object of any enterprise that may be contemplated. If it be determined, and it becomes an object to invade the Canadas, we have nothing to conceal in that event. If we say so, I have no doubt we can do it with success. It cannot be doubted if policy, interest, or just reparation for the outrages lately committed suggest it, we can both say it and do it—exclude the proud name of British America from the continent at least. I speak not of what I myself am prepared at present to do, but the friends of the bill are a majority, and can say and do as they please in that respect.

Mr. S. further said he had been guilty of one error in his life on the subject of standing troops, and as he anticipated being told of it, he was disposed to ward off the blow by open and previous confession. He had voted with a number of his friends in 1798 for the twelve regiments, but he would say that it was the result of a caucus, unpleasant as it may be to own it. He was now opposed to the pledging system of business, though not prepared to say that consultations might not be held with propriety upon some occasions. He was led into it from motives, as he thought, of just policy. A leading member of the then majority had laid a motion on the table for raising fifty thousand men. Such a monstrous army as that in a free country, and the taxes that I knew must follow, alarmed myself and others into a quid system then, as a set-off against the greater evil; and let me declare, without meaning offence to any side of the House, that it was the only Federal vote I ever gave in my life upon any great question which went to mark the political principles of the day. He hoped his candor upon this occasion would have its weight with the House in obtaining their forgiveness under the circumstances in which he was placed; and he promised his friends he would not be soon caught in the same way again; for quid armies, never!

Mr. Macon said, that as he had been charged with inconsistency by his colleague, his situation compelled him to make some reply. His life, he said, had been spent in the public service without ever having before incurred such a charge.

Mr. Stanford begged leave to declare that he had not the slightest intention to accuse his colleague of inconsistency, as he had expressly said, that if the gentleman's position, that we are at war, was correct, his vote would be so. He hoped his colleague would believe him when he declared that he had no intention to make any charge.

Mr. Macon said he was willing to take the explanation. If the state of things, said he, now be as it was in 1798, I admit the charge of inconsistency; but, as I yesterday endeavored to show, they are materially dissimilar. With respect to hunting up the journals, the gentleman may be satisfied that I shall never do it. I never did, nor ever shall, search the journals to prove inconsistency; if the gentlemen had not stated his vote, I should never have taken the pains to do it. I allow my friends to differ with me in opinion, and I shall take the liberty of differing with them whenever my reason points out a course of conduct different from that which they pursue. This is the first time I have ever been willing to vote for a single man, and that for reasons given yesterday. To some with whom I am intimate, it was known before I rose yesterday what my vote on this occasion would be; it was not known to all, for to none am I responsible but to those whose

Representative I am. My constituents will have an opportunity to express their sentiments of my conduct at our next election. If they deem me consistent, and approve my conduct, they will evince it—for to them, and them alone, am I responsible. I did not yesterday, when I came to the House, intend to have spoken; nor should I have spoken but for the reasons then mentioned. We have lately had a voluminous communication from the President, comprising much important information. Before we received that, if this bill had been called up, I should have voted against it. Let any man read them and say, if what I yesterday stated as possible, is not more than likely to happen.

If I have departed from the principles which I have formerly pursued, it is from the imperfection of human nature. No man is infallible. My colleague has been remarkably happy if the vote for the twelve regiments was the only incorrect vote he ever gave in his life. For my own part, I dare say, I have given many more than one incorrect vote.

With respect to the crisis of 1805 and 1806, that made a very different impression on my mind from that which it made on the minds of some gentlemen; for I believe the Spaniards hired Americans to bring the men in question over the line. It is useless to go into detail on that point; though I was under no apprehension at that time of serious consequences.

With respect to what my colleague has said about the Message of the President, I must leave my actions to speak. If I have had a blind confidence in any Executive, it is unknown to me; and I believe that any gentleman as conversant with the journals as my colleague is, would find to the contrary. With respect to patronage I hold the same sentiments as ever. I will go further than my colleague; I believe that at all times the Executive Department of the Government has too much power.

The question now is, what are we to do under the present state of things? In voting for this bill, I vote as I always have acted, and will continue to act, upon my responsibility; and I am ready to meet that account which my constituents have a right to expect from me. I will state the reason why I now vote for two brigadier generals, having formerly opposed them. It is this: every one knows in what situation the present Commander-in-Chief stands; and on this account would I vote for two brigadier generals; one for the Mississippi and one for the Atlantic. This is the answer I give my colleague.

I have done. Nothing is more painful to me than to be obliged to talk of myself; but there are times when not to reply, would be to submit to imputations which cannot apply to me. I repeat that I never did, nor ever shall, hunt up the journals against any one; nor do I hold myself accountable to any one but my constituents for my conduct.

Mr. Blount said he had so little confidence in his powers to convince gentlemen of this House, who should not be convinced by the arguments of others, and so much confidence in his ability to convince his constituents, and, besides, having no desire to see his name in the papers as a speaker, that he never was in the habit of speaking in the House; nor should he now have risen, had not his colleague (Mr. Stanford) pursued such a course as gave evidence to him of a desire to charge with an improper motive those who should vote for the bill. It is known, said Mr. B., to as many members of the House as have long known me, that I am as little friendly to standing armies as any member who ever had a seat in it. Upon that subject, and I might say upon others, I can prove as much consistency as the gentleman who seemed to make a charge against the advocates of the bill. The gentleman himself at last allowed a fact, which it was my intention to bring to his view, as I understood him when he rose to charge all with inconsistency, and to say that it had been his uniform course to vote against a regular force. In casting my eye over the journals, I found the particular circumstance to which the gentleman afterwards alluded.

[Mr. B. then read an extract from the Journal, stating that, on the passage of the bill increasing the military force in 1798, there were—yeas 60, nays 11. Among the yeas, said he, was my colleague; and among the latter, was myself. Mr. B. then read the names of the minority, among which were the names of Messrs. Blount and Sumter.]

This Thomas Sumter is the General Sumter, who was mentioned by my colleague as so worthy a citizen, so able a General, and so well qualified to form a correct vote. The vote which he gave at that time proved that he did entertain a proper confidence in the militia, and considered them as competent to defence. The circumstances are now different from what they then were, and therefore I have concurred with that worthy citizen and consummate General. I shall vote differently from what I then did; and that gentleman, if I may judge from his conversation, will vote the same. I shall not assign my reasons for my vote; they have been already assigned by others, and are so obvious as not to require repetition. I merely rose to justify myself from a charge of inconsistency. The gentleman apologizes for his vote in 1798, by saying that he yielded his opinion to a caucus. There might have been such a thing; but the Journal bears testimony that, if there was a caucus, I did not yield my opinion to it. I did then, and always will do, what appears to me to be right; and more especially standing as the Representative of others, I will do what their good appears to require.

Mr. Burwell said he would state to the House his reasons for supporting the bill on the table; like the gentlemen who preceded him, he would do justice to the motives, and treat respectfully the arguments of those in opposition to it. It has been admitted by all who have spoken, after the example of the gentleman from Kentucky, (Mr. Rowan,) who commenced the discussion, that some additional troops were necessary in existing circumstances; but that the proposed number

was too large for a Peace, and too small for a War Establishment. This is an admission which leaves every person to judge of the number requisite from the view he takes of the danger to which the country is exposed. Mr. B. thought a just description had been given of our situation, enjoying neither the security of peace, nor apprehending with certainty the danger of actual war; but in a state which will probably terminate in the latter. He said, the manner in which Mr. Rose's mission had terminated, and the grounds assumed by that Minister, created strong presumption of an attack from Great Britain, against which he was anxious to guard. In his answer to the Secretary of State, he says, "whether any denial or "such protraction of redress have occurred on her "part, (Great Britain,) as to render necessary or "justifiable the perseverance in an edict, which, "when not necessary or justifiable, assumes a char-"acter of aggression, and whether on the result of "those considerations the negotiation *can be re-"sumed* with a due regard to his honor," &c. When we couple with this declaration the language of examination and complaint against the proclamation; the assertion of its hostile nature and injurious effect on the naval service of his Government, and the disposition known to exist toward us, it will not be unreasonable to anticipate danger. That Minister tells us the proclamation has driven from this station the English ships of war, and affords protection to the vessels of their enemies; under this aspect of affairs, it appeared indispensable to strengthen the accessible and vulnerable points of the Union; to reinforce the troops stationed in our distant Territories and frontier posts. But it is said, by a gentleman from North Carolina, it will be a dereliction of principle to raise troops, because it was condemned in 1798. Mr. B. contended that, if he could show the state of the world, and the object for raising them was dissimilar, the objection would of course fail, and he thought that could be demonstrated satisfactorily to every mind. In 1798, we were engaged in a contest with France, which it was thought might be easily adjusted, and few feared an invasion which would seriously threaten our country. At that time the limits of the United States had not been enlarged, and the whole extent of them was peopled with numbers sufficient for their defence. France herself was then engaged in a doubtful war; pressed by a formidable combination which gave full employment to her armies and resources: she had not then extended her empire beyond Switzerland, the Netherlands, and Holland; and if her armies had crossed the Rhine, they had been repelled. It was different now, she has overrun Italy, crushed the power of Austria, conquered Prussia and Poland, and has settled the North of Europe to her own satisfaction—everything is secure on that side of her—coalitions can never again divert her from favorite views. Another very important event has occurred; she has taken possession of Portugal, and will soon occupy Spain; with the last she acquires all the Spanish Provinces bordering on our Southern limits, the Floridas, Mexico, and Cuba; what assurance have you she will not attack your distant territories? And does any one believe, remote as they are from the populous parts of the Union, they will not fall, unless you have a force to defend them? We all agree we cannot rely on the friendly disposition of that Government; the documents before us must so convince the most incredulous. Mr. B. said it was strange, indeed, if gentlemen could not perceive a very wide difference in the situation of France and our own at the two periods. The object for which men were raised in 1798, and the one proposed now, was clearly different, and the objections equally inapplicable. It was then intended to defend the nation by regular troops, and substitute them for the militia, to supersede that species of national force entirely; a force, when properly organized and well armed, deemed sufficient to meet an enemy in the incipient stages of a war. The arguments in favor of the militia, the efficacy of which he fully admitted, would apply against the bill, if that was the present plan. But the troops to be raised are to be stationed where the country is sparsely settled, destitute of militia, the inhabitants of which are not sufficiently numerous to defend themselves against the incursions of a foreign enemy, or the depredations of a savage foe; they are intended to protect a part of the Union, and not the whole, and that part which is really defenceless, because without militia. Mr. B. said, if he judged of the conduct of France from what appeared to him to be her interest, he should not suppose her views would be turned towards the United States; there were other objects of infinitely more importance to her in other parts of the globe, and, even on this continent, there were acquisitions much more easy and tempting. But the operations of that Government depended so much upon the individual feelings and passions of the Emperor, its policy may become subservient to them; personal resentment, to a man of his irritable and despotic character, may mark us for his vengeance and the weight of his power. Mr. B. said he thought it was particularly necessary to call the attention of the House to the situation of this country in relation to Great Britain, and the defenceless condition of our frontiers and Territories, in case of attack; we had abundant evidences of her hostility, and knew with what facility she would make an impression upon points essential to the security of the Western country, and the existence of the Western people. Do gentlemen recollect the extent of our limits, stretching from the lakes to the Mississippi, and with that river to its mouth; that the inhabitants of this immense country are exposed to the fury of the savages in their vicinity, who are under the control of the British, and easily excited by them to hostility? He said he felt considerable apprehension from the movements of the British in Canada, and augured much danger from indications of the Indians; the great preparations making there; the reinforcements which arrived last Fall, those now arriving, and the expedition announced in England for North America, convinced him something was meditated against the

United States. How easy was it to occupy Detroit and ravage the adjacent country, since it was utterly destitute of a defensive force! The consequences had been sufficiently detailed by a gentleman from Kentucky, who had stated the possession of that place by a foreign enemy, had and would retard the population and progress of all those settlements. The western part of Ohio, the Indiana, and Upper Louisiana Territories, are equally exposed; they cannot be defended against the powerful and numerous savage tribes on their borders; and if we are determined the inhabitants shall remain secure, we must give them troops. The town of New Orleans deserved particular notice, its importance to the Western country, and its openness to a predatory attack from England.

Mr. B. said our seaport towns, generally, were exposed to naval enterprises, and their wealth would invite them; it was highly important to man the fortifications now erecting with regulars, who would be trained to the management of cannon; the House certainly never appropriated money for this purpose without intending to use them. Nothing could be more absurd than to leave the guns and ammunition, and works of the forts, without men to preserve them from destruction. It was out of the question to think of imposing garrison duty upon militia; this they would never undergo; it was irksome and disgusting in the extreme, to be confined in garrison towns, for which the militia are unfit, by their discipline, prejudices and habits.

Mr. B. could not state precisely the number of troops requisite for this service, but he thought, from the number of our towns and the report of the Secretary of War, the augmentation in the bill was not too great; he declared no man felt less fear than himself of a serious invasion, or more confidence in our capacity to repel it; the scope of his reasoning was intended to show that this force was wanting to resist those predatory expeditions which would be directed against the weak and vulnerable parts of the Union, so thinly settled as not to afford militia for their defence, and too remote from the populated parts of the United States to receive timely aid.

For the defence of the States, he relied entirely upon the militia, who were competent, from their numbers and courage, to secure them effectually. The gentleman from North Carolina (Mr. Macon) had mentioned a circumstance which had great weight on his mind, it was the establishment on our frontiers of some strong posts, to which the people could resort for shelter when assaulted by the Indians, to which the wounded might be conveyed, and taken care of; without such places of retreat for the people, whole settlements would be swept off. The gentleman from North Carolina has told us of the opposition in Virginia and other States to the Army raised in 1798, and has read their memorials. Mr. B. said the gentleman was rather unfortunate if he inferred the same sentiments existed now upon the augmentation of the Military Establishment. The Legislature of Virginia, at their last session, instructed their Senators and requested their Representatives in Congress to procure for the defence of the eastern frontiers of the State, one regiment, a fifth part of the proposed number. An alarm existed, and he thought it well founded. It was impossible to feel secure when they saw the Chesapeake blockaded by a British squadron in defiance of the national authority; their commerce harassed, and their most important seaport town menaced with destruction. The States of Pennsylvania and New York have manifested the same inquietude; petitions have been presented during the present session from the inhabitants near the Lakes calling on the General Government for protection. Mr B. could not concur with his colleague (Mr. Randolph,) who contended the preparations in Canada were purely defensive, who believed the British Government would readily compound with us mutually to abstain from hostilities; he thought the military preparations savored strongly of offensive war, they were unusually large and formidable; and, when added to the requisitions of militia and the Indians collected on the frontier, impressed this idea forcibly on his mind. There was another circumstance which deserved consideration—the British Government knows the question of war depends upon itself; we have given every pledge of our desire to remain at peace; it is impossible to doubt this fact after reading the documents before the public; why then prepare for an event which that Government can avert, unless its views were hostile? We have been told the patronage of the Executive will be increased by the passage of the bill. He admitted the position; but the safety of the nation was a paramount consideration, nor will any man contend that the influence created by it will control public opinion, intimidate the public councils, or endanger the political institutions of the nation. There are two considerations which disprove the suggestion; first, the service for which the troops are destined, and second, their relative force to that of our population; they are intended for the protection of the frontiers and territories, remote from the body of the community, with whose sentiments they cannot interfere, and over whose morals they have no influence; they can neither contaminate them with their vices, nor improve them by their virtues; the one and the other will operate exclusively on themselves, within their own particular circle; the liberties of the nation are not less safe, since they in fact do not amount to one in ten thousand of our able-bodied men. It has been said the expense incurred may prove useless. No member, said Mr. B., wishes more sincerely that may prove the fact, for certainly no one will more readily disband them the moment the aspect of our affairs becomes less threatening; this has been stated by a gentleman from North Carolina (Mr. Macon) who advocates the bill, and who very properly thinks the danger to which we are exposed, warrants the expenditure.

Mr. B. said the opinion he had advanced while in secret session, of the relative danger to be apprehended from France and England by this country, had been noticed by his colleague (Mr. Ran-

DOLPH) with great ingenuity, though not satisfactorily. It appeared doubtful to him from which nation we had most to fear; if France succeeds in the contest with England, (an event not very probable) she would be enabled, with fewer difficulties, to extend her dominions, and not because she will acquire more power, but because she can bring it to bear on places now inaccessible; on the other hand, the death of Bonaparte would be followed by the dismemberment of the French Empire, the division of its power, and the re-ascendency of England on the continent of Europe. Her commercial connexions would be renewed; her intrigues revived; she would feel in the jealousies of European nations, and the total destruction of their navies, her perfect security, and the maritime despotism she even under present emergencies maintains, would be entailed on the world with increased rigor. Without calculating on the dismemberment of the French conquests by the ambition of her Generals, the constitution of France insures it; the Kingdoms of Italy, Holland &c. were separated from France, and he contended the division of Europe would be more substantially equal than previous to the Revolution. Mr. B. said he made these observations to show the impropriety of regulating our present policy by a supposed result in the affairs of Europe. We have been told of our determination to remain neutral, and from hence it has been urged we shall not require any additional force. Gentlemen should recollect this did not depend upon ourselves; is there any presage that the same hostile spirit which has waged war upon our commerce will not extend its ravages to the land? He was sincerely rejoiced to find all parties averse to war; it was most consonant to his feelings and views of the national interest. Indeed there is no other course; we cannot fight both of the belligerents, or unite with either of them, notwithstanding their ardent affection and zealous solicitude for our interests. France has sequestered our ships to prevent them from falling into the hands of England, and England is willing to tax us, and monopolize all our trade, for similar reasons. This state of things is novel and unprecedented; plundered and robbed by both, under the most insulting pretexts, we have the alternative of continuing in our present situation, or of becoming parties in the most relentless, destructive war ever known. Mr. B. said he wished it distinctly understood; he did not consider this measure as a defence for the whole United States, but of a part; not as a substitute for the militia, but for the protection of our frontiers, where there were no militia, and to which they could not be carried without great inconvenience to garrison fortifications, for which the militia are fitted neither by their discipline nor habits.

Mr. RANDOLPH moved a postponement until this day week, and proceeded to state reasons why this course should be pursued. He was fully convinced that if the bill could be postponed for a short time, in order to enable the House to view the subject, the vote would be very different from what it would be, were the question taken to-day or to-morrow. He regretted extremely the introduction of the bill into the House—because, said he, I am about to vote against it and shrink from that vote? Nothing farther from my thoughts. I never met a vote with greater pleasure in my life than I shall meet this; but I wish the House and the nation to pause, to reflect calmly and coolly, not only on the circumstances which have given rise to this bill, but upon later events, which if viewed in a proper light, instead of being considered as enforcing the measure, ought to be deemed as a strong dissuasive from it. He alluded expressly to the late communications from the British Envoy here, and the French Minister of Exterior Relations (or whatever be his title; for their style was so often changed, from christian to pagan, and from pagan to christian, that it was not easy to know when you have it right;) they were to him a reason for arresting the present disposition to arm (not the nation) but to raise anything like a standing military force, or a standing naval force, if the expression might be used; and it was correct, since we had a naval force, not standing at this time. As had been justly observed on another occasion by his friend from North Carolina (Mr. MACON,) we had built a navy and fostered it at an immense expense. What was the effect of it? To protect commerce, the avowed purpose for which it was raised? Not at all. We had just navy enough to bait the war-trap, to bring us into difficulties, not to carry us through them; just enough to give rise to the dignified style of "the Navy Department," which had dwindled down to a department of gunboats; since, instead of protecting our commerce, or even our ports and harbors with our ships of war, we were building gunboats to protect them, and forts to protect the gunboats. We had formerly raised a vast military force, as far at least as officers went to form one, for we had a swarm of them—*Cui bono?* For what use? As had been forcibly expressed by a gentleman from North Carolina, to spend money upon—as a cause for laying taxes, which ruined those in public opinion who imposed them. For these reasons, he wished the majority of the House to suspend acting upon the bill, if it were only for a few days. The time might come (he hoped it would come) when gentlemen might be thankful and look back with pleasure at having given themselves time to deliberate.

Mr. R. said he did not dread this force of six thousand, as sufficient to overturn the Constitution; but objected to it on principle. It was moreover incompetent to its alleged object. The bill and the arguments in support of it did not hang together. Except one gentleman, who had taken it upon the ground of a Peace Establishment, not one consistent reason had been assigned in its favor. The gentleman from Boston (Mr. QUINCY) was an orthodox disciple of the old school, and although his doctrine was no doubt perfectly satisfactory to himself, Mr. R., as a dissenter from that school, hoped to be pardoned for not concurring with him. It is enough for that gentleman that this establishment is asked for—he is one of those political believers who say, ask and it shall be given, knock and it shall be opened unto you.

Mr. R. was not of that sect in politics; he would give sparingly, and doubtingly open; he would not open the door of the Treasury, the public purse, to every demand, not even from the highest authority co-ordinate with that House.

In assigning causes why the bill should be postponed it was difficult, if not impossible, to refrain from argument on the merits of the bill itself; and for this reason. The bill was predicated (to use a fashionable legislative phrase) on an urgent public necessity, which is incompatible with procrastination and delay; he hoped therefore to be indulged, if, in attempting to show that the question ought to be postponed, he should go into an examination of the fallacy of the arguments in favor of the bill. His eloquent friend from Georgia (Mr. TROUP) to whose good opinion he should feel himself yet more indebted if he were not conscious that his compliment ought in justice to be transferred to another quarter; for in point of argument it belonged more properly to his friend from North Carolina (Mr. STANFORD,) whose speech that day for weight of metal, for solid bullion, stood unrivalled; and the palm of eloquence might more justly be challenged by his friend from South Carolinia (Mr. D. R. WILLIAMS.) or the gentleman from Georgia himself; his worthy friend from Georgia, who had given him this gratuitous compliment, which, although not conscious of deserving it, Mr. R. highly prized, because he was sure it flowed from a sincere heart, had assuredly misunderstood, because he had misstated some of his positions; for that gentleman was incapable of misrepresenting from any other cause than having misconceived him. The mistake perhaps arose from Mr. R.'s own inaccuracy of expression, but he was inclined to think not. He did not (as his worthy friend understood him) speak of bright prospects of peace and plenty breaking in upon our gloomy situation. Nothing like it. But he did not conceive that in proportion as we were pressed by the two great belligerents was the remoteness of our danger from either. Danger from both united, no man could apprehend in the present juncture. As for the events which his friend and colleague (Mr. BURWELL) described in the womb of time, as possible, when that gentleman's grandchildren might come of age, they could not enter into the present calculation. In proportion to the equal pressure of the two great belligerents on us, are we equally removed from danger of attack or invasion by either. The sole difference between them now is, that Great Britain is endeavoring to seduce you by very coarse caresses and clumsy address indeed, and France to intimidate you in the war; each is anxious to bend you to her purposes, and differ only in the means, (and but little in them,) by which to accomplish the object. Now in proportion as either perceives that you are on a hostile footing with the other, will she, if they possess one single grain of common sense, recede from her pressure. He would rather stand in the predicament to both in which we now are, than stand in the same predicament to either, being on terms of amity with the other; because he feared the influence of human passions on the wisdom of that assembly. He feared that under the outrages of Great Britain, if we had no cause of complaint against France we might be mad enough to throw ourselves into the arms of France; and that if we had nothing to complain of on the part of England, especially at a time when her great navy would stand between us and immediate danger, we might be equally mad and depart from our neutrality in favor of England, which when we do neutrality is at an end in the world and liberty along with it. He therefore drew comfort from the two representations of Messrs. Champagny and Erskine, however great an evil each might be by itself. The pressure of either of the belligerents was separately of sufficient weight perhaps to crush our neutrality; but pressing upon us like the surrounding atmosphere in every direction with an equal force, we should not be able to perceive its specific gravity, but move with perfect freedom in our neutral element. Such was his impression; it might be false, but it had appeared to him that such was the impression on almost every member of the House; and as charges of inconsistency had been urged and repelled he would show that he had acted upon this very principle in the session of 1805 and 6. He was sorry that allusions to former conduct had been made; that the question of consistency had been stirred, because in an assembly constituted like the present it must have an ill effect, if any, on the cause which he wished to support. He might have traced many of our present difficulties to their original source, but he had abstained, from a wish not to prejudice his cause. They had been brought into view by others, and it behooved him to vindicate his own consistency. In 1805 and 1806 he was of opinion that we should show a determined front to both the Powers with whom we had come into collision—that Spain being in fact identified with France, in proportion as England saw that we were not disposed to recede from her adversary, by so much would she be convinced that we meant to maintain our neutrality, as it respected her, or yield to embroil us with her enemy. In proportion also as France and Spain saw we would not relax from our just claims upon Great Britain, if they did not yield to embroil us with England, they would be convinced that we meant to hold the scales of neutrality not only with a steady and impartial, but with a high hand. When however he had proposed to raise troops for the defence of Natchitoches and New Orleans, for the Sabine, and Natchez too, no treaty was pending between the United States and Spain; the negotiation had been broken off, and the President had told us that the crisis required the interposition of force. The negotiation was broken off in a manner offensive and disgraceful to us, and was never renewed until the vote of two millions for the purpose of recommencing it passed that House. The view which Mr. R. took now was the same which he took then; but unfortunately we had pressed but one party—and that, against whom we adopted a measure of coercion

(the non-importation act,) was the very party with whom we had a negotiation actually pending. Towards the other no step was taken but the vote of money.

If, said Mr. R., the state of things be such as my friend from Georgia represents it—if there be danger of offensive war waged by either of the belligerents upon us, or by us upon them, then are all our measures fundamentally wrong. You have been warned that the tigress may spring upon you in the night—we have been alarmed by the fate of Copenhagen, and the seizure of the Spanish frigates—even old Braddock's war has been rummaged up to find precedents of insidious attack. I have ever been of opinion, and am now, that arguments founded on justice, reason, or the laws of nations, (which are the dictates of reason,) never have had and never will have much weight in the transactions of nations. They have served to swell the ponderous volumes of jurists, and to stuff the portfolios of diplomatists—nations have never been ruled by them, and never will, so long as a superior tribunal is wanting to enforce obedience to them. The Romans indeed put on the semblance of that virtue which they had not, although they kept up the character and preserved the costume with great address—but even they paid no regard to any principle of faith or justice in their conduct to the neighboring States; for they attacked and devoured them one by one—keeping up their professions until they had digested and incorporated into their body politic the immediate enemy, when they instantly turned their arms against their former friend, perhaps the very ally who had assisted them in their last conquest. It is therefore that I do not trust at all to those maxims of equity and good faith so much relied upon by diplomatists, since I see them every where disregarded. I see the same system pursued on land on one side, and on water on the other; and that they have no respect for any obligation, however sacred, the violation of which may aggrandize the power of either. I shall never be the apologist of either Power; neither shall I dwell with peculiar emphasis on the aggressions of the one, passing over at the same time those of the other. If the state of things be such as my friend from Georgia represents them to be, our measures are radically defective. If war be expected, you must raise the embargo, arm your merchantmen, and scuffle for commerce and revenue as well as you can. When the great American tortoise draws in his head, as this nation laying an embargo has been compared to this animal, you do not see him trotting along; he lies motionless on the ground; it is when the fire is put on his back, that he makes the best of his way, and not till then. The system of embargo is one system, withdrawing from every conquest, quitting the arena, flying the pit; the system of raising troops and fleets of whatever sort, is another and opposite to that dormant state. As long as the embargo exists, we consider ourselves in a state of peace; and it was laid, I undertake to say, with that view, at least such were the arguments adduced in its favor—that it would save all the expense of armies; that the annual millions otherwise to be thrown away upon armies would be saved; that we should keep close house and there would be no danger. This system of expensive Military Establishment—this is no time to exaggerate, no time for tropes and figures of rhetoric, for common sense, and common sense alone ought to have influence—this system, I say, does not comport with your system of no commerce. They are at war with each other, and cannot go on together; and in less than one year, even with these 6,000 men, you must do one of three things—borrow money at extravagant interest; lay direct taxes, and try to extort it from your harassed citizens, who cannot comply with their engagements to one another, whom the sheriff is even now hunting with his writs—or, open your ports and scuffle for commerce as you did during the American Revolution—catch it as you can. The two courses are incompatible; the Treasury was full to be sure, but is in the wane, and the expense of this army alone will soon completely empty it.

My worthy friend from Georgia has said that the tigress, prowling for food for her young, may steal upon you in the night. I would as soon attempt to fence a tiger out of my plantation with a four-railed fence, as to fence out the British navy with this force. It is because she may come in the night and choose her point of attack, that this force is incompetent; for that very reason, sir, you ought to be prepared; not with 6,000 men, but with every man, at every point. The gentleman indeed says that the militia system is so defective that we must resort to this force. This is a reason for classing them, for arming them, and not for raising a standing military force; for if it be, I undertake to say, that we never shall have an efficient militia. I know, with my colleague (Mr. Burwell,) that this is no more a standing army than the one we have; but if two and two makes four, (a truth sometimes pressed upon us by gentlemen,) this is an addition to it. A standing army, after all, will be liable to the same objections urged with so much force against the militia—it will be composed of men of different ages and strength—the young and active must wait the motions of the old and slow, and that which happened with Prussia will happen to you; you will find that old men cannot cope with young men.

Whilst the Prussians marched three miles, the French conscripts, by their superior activity, marched four, interposed between Berlin and the Prussian army, and the battle of Jena terminated the campaign. It was decided by celerity of movement, as well as superiority of numbers. I do trust if the Rochefort squadron should land 5,000 men, or a British squadron either, that no one man of them would ever live to return home with news of their destruction. I hope that on the subject of foreign invasion the American nation will become as proverbial as the lion's den in the fable, that no retracing steps from our den will ever be found; for in case of actual war, the country would act as one man, would bring a force into the field against which no European army could

stand, whatever superiority it might possess in the artificial modes of warfare.

It has indeed been said that nothing would be more easy than when you have done with this army, to command it to lay down its arms. My worthy friend from North Carolina (Mr. Macon) of whose sentiments I was apprized before I rose yesterday, and whose dissent from my opinion would have caused me to distrust it if I had not conceived that his own speech in favor of the army was one of the most masterly arguments against it, and I assure him I was not singular in that opinion—tells us that it is easier to raise troops than to get rid of them. Recollect the patriot army of our Revolution—was there no reluctance, no aversion there expressed at being disbanded? There was; for, from their intimate connexion with each other, they felt it as a separation of body and soul; they cannot bear it; it is as taking men from their wives and children, to take them from those with whom they have shared victory and defeat and all the toils and sufferings of war. Was there no expression of a sentiment in that army to disband those who were disposed to disband them? There was; and it was especially honorable to their Commander-in-chief, if indeed any peculiar circumstance could confer honor on that man, that they did not step forth against their country. It is not from the physical force of this army that I apprehend anything; it is from that connexion, that ramification of interests which it extends to every class of society—your son or nephew holds a commission in the army—my neighbor is a contractor—your uncle supplies this thing, my father-in-law that; the evil extends itself through all society, and is so wrought that it requires not only the strongest but the most resolute hand to tear it asunder. I never again expect to see a disposition for reform so radical as that which prevailed in the first session of the seventh Congress, when the army was reduced. I do not, because I have seen a gradual relaxation, a general backsliding from principles which were then considered axioms in politics.

But, let me ask, where is the crying necessity of immediately passing this bill? Is the occasion for raising these troops so urgent, and have we been sitting here for six months, with folded arms, and never thought of it till now? Or is it that we feel impatient to get back to our homes, and by way of saving the expense of keeping Congress in session for a few months—to save the expense of two or three hundred thousand dollars, throw away two millions on the first thing which presents itself as a pretext for adjournment? I will not believe that the urgency is so great as it is represented, and that gentlemen would have permitted the measure to sleep till now. And I repeat that I am not one of those who think we can, without a dereliction of principle, consent to raise these troops for a possible emergency; it is our duty to stay here and watch the coming storm, to provide for the event, be it what it may. I am not among those who will take these six thousand men as a safeguard from now till next Christmas, supposing that they could be raised *instanter*, though I would underwrite all the loss to which the United States are exposed from this time to that, which could be averted by such a force. I would guarantee the nation from any danger which may accrue from this time until our next meeting, which might be suppressed or repelled by the force now proposed, at the same time that I should not be willing to trust to them against such danger as may rise.

But it seems we have, as we had in '98—when the gentleman from Virginia tells us there was no probability of a war with France—I am afraid he is rather too young to recollect accurately, for we were then at open war—*flagrante bello*—we have wealthy cities and rich banks to defend from plunder, and we want these troops as a rallying point to the militia. These six thousand men are to form rallying points against every attack, fall where it may. If every man of them were placed separate and apart from his fellows there would not be points enough. Are the militia afraid of ghosts? Are they afraid to assemble together in their own defence unless protected by the talisman, the charm of a red coat for a blue one. When the gentleman from Kentucky dwelt so much on the importance of Detroit, I was glad to find that the protection of the Bank of Detroit, amongst the rest, was not a motive for raising this additional force; although I understand, our positive law to the contrary notwithstanding, that this bank is still in operation and that the troops of the United States are paid in its paper by one who might not improperly be styled president of the bank. But Great Britain, who is fortifying Quebec against attack from you, is to take Detroit. It must be immediately retaken. It is impossible she can retain it a day—we have too strong a population in the western parts of New York and Pennsylvania, and in the State of Ohio. It can produce no Indian war unless she can hold it, and would only justify us in rooting her out of the continent. It is on British America, a name so justly offensive to my friend from South Carolina, (Mr. D. R. Williams,) that she relies for sustenance and support of her rich possessions in this quarter of the globe, upon which her West India islands must depend for food, if they were not already fed by us, the embargo to the contrary notwithstanding, on cheaper terms than supplies can be furnished from Canada and Nova Scotia: for such is the unfortunate propensity of our coasting vessels to be blown off, make leeway, spring their masts, or stave their water-casks, that American flour was but a short time ago almost a drug in the Havana. In no other way can we account for its bearing the price in the market of Baltimore which it even now does. One of my colleagues not long since obtained leave of absence to visit his family; on his return through Fredericksburg a vessel had just arrived from Antigua which left sixteen sail of American vessels at St. John's, who had all fallen to leeward since the embargo. The current of the Gulf Stream is changed, sir—it sets from Newfoundland to Cape Florida and sweeps our flour along with it.

My colleague has said that Great Britain's

throwing troops into Canada and Nova Scotia is to him an evidence of her intention to attack us in that quarter. Infatuated as her ministers sometimes have been, such a Quixotic project never entered their heads. No, sir, I am more apprehensive of her involving us in war, not as an enemy but as an ally. The race between her and France now will be which shall soonest concede our just claims in the hope of producing a rupture with the adverse party. The only thing which now can lead to war is the giving to the one cause to believe that we incline to the side of the other. If, for instance, the French Emperor, whose opinions have been so emphatically pronounced, should consider our late measures as a compliance with his demand for the exclusion of British commerce from our ports, as an expression of those dispositions in security for which American property is held sequestered, and should release this property accordingly, it may lead to war with Great Britain, in case she should take up the subject in the same point of view. But if, on the contrary, she shall view the measure as equally directed against both the rival Powers, there is no probability that we shall have war, but that when she shall see the tenor and complexion of the French Minister's communication to us it will produce a relaxation of her late illegal, offensive, and enormous doctrines, even without supposing (what is probable) a change of ministry.

My excellent friend (Mr. Macon) says that no reparation has been made for the attack on the Chesapeake; and, with him, I am inclined to think, none will be made. But let it be recollected, that this Government, (and by this Government, I do not mean the President alone,) has not deemed the failure to make reparation to be a just cause for war; or, rather, that it has determined (and I do not say that it is not correct) not to make war upon the aggressor. We are, therefore, not in a state of actual war at this time with Great Britain; and whatever may be the opinion of my friend as to the disposition in our Government in 1798, to provoke a war with France, he must agree—his good sense, candor, manliness, and ingenuousness of character must compel him to agree—that actual war between two nations, whoever was in fault in the beginning, is a state more imperiously requiring military preparations than a state not of war, however great provocation may have been received. In 1798, even conceding that we were the offending party, (a point not easy to make out,) we were at war. In 1808, though it is agreed on all hands that we are the deeply, justly offended party, it must be conceded that we are not at war. I believe if we had taken measures of immediate reprisal, we should have been at war; or when Mr. Rose required that the Proclamation should be withdrawn, which he had not a right to do any more than the French Government had to expect that we should renew the negotiation in 1798; if we had then taken such measures, we might have been at war. We have not taken such, and we are not at war, although, it may be alleged, on the very brink of it. It is in vain, therefore, to urge a state of quasi or quid war, as a justification of measures which, in 1798, were not conceived to be justified by actual war. But, really, I was of opinion that a quid war was one of the last in which my friend would be a party, in any manner whatsoever.

It has been said that our understanding with Great Britain is not quite as good at present as hers was with Turkey and Denmark at the time of her attempt on the Dardanelles, or Hellespont, and of her attack on Copenhagen. Admitting that fact, what does it prove? It is well known to you—you have proof in your pocket, I was going to say—that the motives for the attack on Copenhagen, which I am the last man on the earth to defend, was a belief, not totally without foundation, that a movement was about to be made by France at the same time against Denmark and Portugal (with the connivance of the former) to put these countries in the possession of France; the Portuguese not manifesting a disposition to play into the hand of France, apprized Great Britain of what was going on, and we know what has happened; if they had manifested such a disposition, the same measures would have been taken against Portugal as against Denmark. I am not palliating the attack on Copenhagen; but we know that Denmark was not disposed to resist the intentions of the French Emperor—in fact she possessed not the ability—she had no Brazils to fly to. Are gentlemen, when they bid us beware of the fate of Copenhagen, prepared to tell us that Great Britain has any right to believe that we are disposed to connive at the designs of France, or become a passive instrument in her hands? I hope not. I do not conceive that Great Britain, if she possesses common sense, will ever dream of attempting here anything like the attack upon Copenhagen, which alone could justify an increase in our military force, and which would demand an effort very disproportionate to this.

It has been admitted on all hands, *nemine dissentiente*, that we are to be governed by circumstances which are not within our control. The difference in this House on this question has been as to the state of those circumstances alone. Two years ago, it was said, *fiat justitia*, these are our rights, and we will not attend to circumstances; we will know nothing, and care nothing about the balance of Europe; we will not be guided by it. I am glad to find now, however, that circumstances have their due weight in our deliberations; that we are disposed to have an eye upon them, and that they, and they alone, prevent us from laying a declaration of war on the table against either or both the two belligerents.

But it has been said, that New Orleans is in the vicinity of the Havana, and that we are exposed to attack. From whom? Does the gentleman from Kentucky (Mr. Howard) believe that Spain or France (for they are one and the same) are capable of throwing a force at this time from the Havana into New Orleans that can maintain it a day against the force from the upper country, which will be brought down against them—for as to this business of having a force in every

town sufficient to ward off an attack *à la* Copenhagen, I am against it, and so is this bill. Norfolk and New York need such a force as much as New Orleans; and so do Wilmington, Charleston, and other ports as much as they. This bill does not propose to raise such a force; it is not proposed to give a defence against a *coup de main* from a well-appointed fleet and army. When the gentleman mentioned the Havana, I could not help thinking, (for Republics, too, have ambition,) that it was a much stronger argument for taking possession of Havana than fortifying New Orleans, or rather for garrisoning it—for it was fortified, we all know, against the conspirators. I have no doubt, so far from New Orleans being attacked from the Havana, such is the tide of human events, such the cupidity and ambition of man, under whatever form of Government, that the time will come when the Havana will be reduced by an army from New Orleans, or some place along that coast; and, after we have got the mouth of the Mississippi, to secure the navigation of the river, we shall want some other place to secure Havana; and we shall go on as all other nations have done, trying to keep what we have got, and get what we can.

With regard to the importance of these six thousand men, for rallying points, I think, without pretending to know what disposition the wisdom of the Executive may make of them, whether South, West, North, or East—no doubt my worthy friend beside me. (Mr. Mumford,) would be glad to have them all at New York—that out of these six thousand there would scarcely be a corporal's guard for each point; and I want to know what claim any one point has more than another to be made a rallying point?

An argument of mine, with regard to the efficiency of military force, has been much misrepresented. I did not say these troops would be equivalent to the militia of the cities. They are not equivalent; I would not give a pinch of snuff for them. If this army be so necessary, if the occasion for it be so urgent that we are to be precipitated at once into the measure, what are we doing with the force around us? (the Marine Corps.) I might have been well justified if I had supposed these to be the piping times of peace; for, with a trifling exception, I never heard of any service which those troops we have, have ever performed. Where are they? Why are they not sent to intercept the tigress? It is evident to me, if you cannot find employment for those troops which you have, except to play on the pipe and tamborine, and I know not what, on Sunday, it is a plain demonstration that you have already more than you can put to any beneficial use; and that gentlemen should, at the same time declare that they deem fortifications unnecessary, and as money thrown away, and yet should wish more regular troops, when the main reason given, in favor of the bill, (God forbid that I should accuse any gentleman of inconsistency, much less the gentleman who made that observation,) that we want these men to take care of these fortifications, and keep them in repair, is, to me, astonishing. What are six thousand men to man a line of coast of two thousand miles in extent? The arguments in favor of the bill will not hang together. The reasoning of its advocates, if true, would show that the bill ought not to pass. Dangers have been held up to your imagination, and if there were ground to believe their existence, you ought to bestow two millions of dollars on implements of war, to be put into the hands of every one capable of using them, instead of throwing out of your Treasury millions on these mercenaries, and dealing out, with a niggardly hand, a scanty pittance to purchase arms; and it is because I believe the balance in your Treasury will be too much diminished by the enormous and useless appropriation which must follow this bill, that I wish it to be postponed that we may make a liberal appropriation to the former object. I am more astonished and surprised, and, permit me to say, concerned, for I feel the deepest concern whenever I differ with the gentleman in question, (Mr. Macon,) and nothing but the impulse of honest duty, knowing as I did of the difference which existed between us, on this subject, could have prevailed upon me to rise yesterday: I say, it is a matter of surprise and regret to me that he should support this bill; that he should declare the present Establishment useless, and, at the same time, declare his willingness to increase it three-fold. I hope the gentleman will pardon me for taking this notice of his arguments, as well as the gentlemen from Georgia and Kentucky, for it is the strongest evidence of my respect for them.

We are told that military science ought to be fostered. I agree that this is a military age. The century before the last was an age of religious fanaticism—the world was ruled by priestcraft; the next was the century of political intrigue and negotiation—the taking of a single town was the work of a campaign; this is the military age, a great portion of the world being overrun and subjugated by military despotism; and if you wish to quench forever the military ardor in the great mass of your own citizens, who alone are to rescue you from the general chaos, take it from the whole, kindle it in a portion, and make them exclusively military men—confine the profession of arms to a particular class, speak tauntingly of the militia, or at least damn them with faint praise. "The militia are the only defence of a free nation, but they are defective in organization and not armed." Yes, sir, and as long as you waste all your pains and treasure in organizing and arming regulars, defective and unarmed they will remain to the end of the chapter; and by a perpetual recurrence to this standing army, your children will read in your history that of every nation who has preceded you.

It is said, too, that, to preserve peace, you must prepare for war. To this observation I agree, in one sense, but not in that in which it is applied; for it admits of very different constructions. If it is meant, by the observation, that every man in the community should be armed and trained, it is true; because whenever it is the interest of the

community to go to war, they will rise with one accord. You may safely trust questions of peace or war, to the unbiassed minds of the great body of the people; though, sometimes, in moments of ebullition and effervescence, their good sense may be carried away, their interest will soon recall them to reason. To attempt to preserve peace by raising an army, which for the purposes of war is a mere nothing, though for the purpose of producing a state of war it is most cogent, is to me a strange way of avoiding war. My principal objection to the bill is, that by passing it you raise a force which for the purposes of war is totally futile; but for bringing you into a state of war it is one of the most powerful engines you could erect; for this bevy of colonels, majors, captains, and corporals, to say nothing of the poor privates, and with these take the contractors for their supply, with all their whole tribe of relations, uncles, aunts, and grandmothers, will leave nothing undone to counteract the true interest of the nation, and inoculate every neighborhood with the fever of war. The people who are receiving two million a year from the public purse, will never let go; they will even set up newspapers to support the cause—and why? Because you put this great question of peace or war in the hands of a sort of privileged class, whose peculiar interest it is to go to war for commissions, contracts, bonusses, and douceurs—while the interest of the great mass of society may call aloud for peace.

But my friend and worthy colleague (Mr. Burwell) tells us, that the State of Virginia, so much opposed to armies, has now got to the war pitch, so far as to want one regiment for the defence of half a million of souls and seventy thousand square miles. What is the consequence? That this business of six thousand men, instead of being sufficient for offensive or defensive war, either to take Quebec or defend New York, will be dispersed in companies—a mere maggot of the day, a political hobby-horse, which even the great and respectable State of Virginia has descended from its dignity to bestride. Yes, sir, the Legislature of Virginia, my parent State, of whom I cannot speak with disrespect, nor will I suffer any man worth my resentment to speak of her with disrespect in my hearing, has been carried away by the military mania, and they want one regiment! What will fall to the share of Delaware, Rhode Island, and those inchoate anomalous things, our Territories, when one whole regiment is to go to Virginia? I respect and love the Legislature and State of Virginia, and would feel myself bound at all times to give great weight to the opinion of that State expressed to its Representatives; but I never will consent that one regiment of these troops shall be quartered amongst them. I do not know to what use these six thousand men are to be applied; but if that is one of the uses, if for that only, I should be against them; for I know what the effect will be. I have known the recruiting service of the United States stopped by the indignation of the people. The people of Virginia were, with a few exceptions, in constant hot water with the federal troops; and those who agreed with them upon better terms, derived no other advantage than a dissipation of their time, the ruin of their estates, and the corruption of their morals. And this is the effect which I am not willing to see again produced in the State of Virginia.

My friend from North Carolina (Mr. Macon) has well said, that the time is not now as it was of yore, when the Franklins and Jeffersons were our representatives in Europe. It was then the interest of France to give you consequence, for the purpose of lowering Great Britain. Indeed it is now her interest, if she had sense enough to perceive it; but at the time when you were colonies, it was the interest of France to bolster you up—to give you douceurs in return for the favors you bestowed on her by weakening the power of Britain. The times are altered since the Treaty of 1778, but since the destruction of that treaty, (I thank God for it—that act alone was almost sufficient to redeem a life of political sin) we have continued to regard her with the same eye.

But I think that something has been said of the quarter whence we received this bill. I hope not to depart from order, not to be guilty of a want of that decorum which should always subsist between this body and the co-ordinate branches of Government, if I say that the quarter from whence the bill comes, the auspices under which it is here introduced, and the name given it at the baptismal font in the other House, are with me cogent reasons for voting against the bill. It is in fact the Senate's old Peace Establishment bill; we give it a new name—the House of Representatives' War Establishment bill; but, after it is passed, it depends on the other branch of the Legislature whether it be a war or peace establishment; and there have been so many reasons to doubt the firmness of this House when coming into conflict with the other—it has so often given way when I have thought every mind in it was made up—I need not mention the salt tax—I am unwilling to give them this Military Peace Establishment, even with the flimsy covering, the ill-contrived swaddling clothes of "an additional military force;" because hereafter they may alter the title, and because it is not possible that one hundred and forty men elected for two years, will ever resist the influence of thirty-four elected for six years—and why? Because we are the militia and they are the standing army. Gentlemen smile. It is a fact; they have a permanent character: they do not cast their slough as often as the serpent himself—and perhaps that may now happen in that House which has often happened, a single restive member must be gratified. But I have other reasons besides that for not being pleased with the quarter whence this bill comes. I think we once received from the same source a bill for suspending the privilege of the writ of habeas corpus; we indignantly rejected it, and yet I think standing armies and suspension of the habeas corpus should always go hand in hand; for the exercise of the privilege of habeas corpus as well as of other great and dear privileges are absolutely inconsistent in their very nature with the existence of a standing army.

I am afraid, sir, that you and the House are of the opinion that the address I am making to them is as permanent in its nature as the other body or the standing army itself. I had taken notes, sir, scraps of observations made by different gentlemen; I have endeavored to answer them all, with a pure sense of honest duty. If I were acting with a view to political triumph, and had a political enemy in this House, I would not ask of him a greater favor than that he should stand forward as the supporter, and I as the opponent of this bill; because my ground is impregnable, one from which no man can be driven until a total change takes place in the dispositions of our people, and Liberty, whilst she dwells on their tongues, is rooted from the hearts and affections of the people. I have stood as long as I myself could bear, and until your patience, sir, polite as it has been, must be exhausted. I beg the House to consider if the necessity for this bill be so pressing that it may not be postponed for a short time. I expect to be indulged in my motion, because, although I will honestly say that I do not think any man can convert me from what I deem the true faith, and I have very little hope of others, yet it is possible that some of us may convince ourselves of the inexpediency of the proposed measure.

Mr. Randolph's motion to postpone the subject for one week was negatived.

PUBLIC BUILDINGS.

Mr Stanford, from a select committee, to whom the President's Message, on the state of the public buildings in the City of Washington, was referred, asked leave to report a bill. This was opposed by Mr. D. R. Williams, but it was agreed to, forty-nine to thirty-five. Mr. S. then reported a bill making an appropriation to cover an unauthorized expenditure of fifty-one thousand dollars upon the south wing of the Capitol, and appropriating a further sum to complete the same. The bill was read the first time, and a motion made that it pass to a second reading.

Mr. Randolph hoped not; and for reasons which he trusted would be satisfactory to all. When the revenue of the United States was suspended, when credit was extended on custom-house bonds, it was no time for a wanton waste of the public money. Fifty thousand dollars have been expended on this Capitol beyond the appropriation for that purpose. If you make good this deficit, you may also for five hundred thousand or five million dollars. The officer has gone into an immense expenditure, which is in every point of view illegal and unjustifiable. It is enough for us to make good the expenditures which the Executive chooses to incur for the public good on his own responsibility; but to make good what a private agent has expended, I will never consent. If this is done, there is an end to appropriation laws. This expense has been incurred, not by the Executive, not by the Head of a Department, but by a somebody whom we do not know. The gentleman from North Carolina (Mr. Stanford) has presented a naked bill, where we ought to have had an elaborate report. Whosoever has done this thing must be responsible to the United States. Take a plain case. You employ a workman to build a house for one thousand pounds. He chooses for some reason to lay out more without consulting you. He alone is responsible to those whom he engages; you have nothing to do with the extra expense.

If this bill was agreed to, Mr. R. said, he must consider all control over the expenditure of public money as absolutely abandoned.

The sum in question is not a great thing for this great nation; but, as Hotspur says, "in a matter of account I would cavil at the ninth part of a hair." Fifty thousand dollars is a smart item in an account. It is more than the whole expense of some State governments. Our chief resources are cut off, and it behooves us to husband our means as carefully as possible. Though the sum is not so great, yet the precedent is of infinitely greater consequence than five millions of dollars. Mr. R. concluded, by moving to reject the bill.

Mr. Stanford lamented that so much business had lately been thrown into the hands of the public printers that the report of the Superintendent of Public Buildings, which would present a proper view of this subject, had not been yet printed for the use of the House. He, Mr. S., had been himself in favor of a detailed report; but a majority of the committee thought otherwise, and instructed him to present a bill, as the shortest and best way of getting rid of a bad business. The workmen, said Mr. S., had, after a fair warning by the Superintendent, proceeded at their own risk. He would himself go no further than to make good the deficit; but objectionable as that was in principle, he would agree to it; there was a sore which wanted a plaster.

Mr. Lewis had been a member of the committee who reported this bill. He did not understand it to be the opinion of the committee that a naked bill should be reported, because it was the best way to get rid of a bad business. He conceived the faith of the Government pledged to make good this deficit, inasmuch as it was pledged to complete this room. Congress were convened at an early period, and they wanted a room to meet in. The sum appropriated was found insufficient to complete the Representative Hall, and the surveyor and workmen thought it best to proceed on their own responsibility, and throw themselves on Congress. Mr. L. hoped the bill would not, contrary to all usage and custom, be prematurely rejected in this stage.

Mr. Dana conceived it proper to reject a bill only when it was so exceptionable, and contained such a palpable absurdity that it ought not to be deliberated upon. Is this such a bill? [Here Mr. D. read an extract from Mr. Jefferson's Message at the first session of the seventh Congress, in which he insisted on the necessity of "appropriating specific sums for every specific purpose, and disallowing all applications of money varying

'from the appropriation in object, or transcending 'it in amount."]

The doctrine here advanced, Mr. D. said, had always appeared to him erroneous and not economical. It has been renounced in practice; it has been completely renounced this very session. There may be instances in which a public officer may do right in expending money, and throw himself out the Government; he may deserve commendation for this conduct. Mr. D. concluded with saying that he did not give any intimation of his final opinion on examining the subject further; but he was clearly for having the bill go to a second reading.

Mr. Epps agreed that the Superintendent had grossly abused his trust, and was at first disposed to reject the bill; but as many dependent and innocent tradesmen and mechanics would be ruined by it, he hoped the bill would be suffered for the present to lie on the table, and a further inquiry made into the circumstances of the case before a decision.

Mr. Randolph consented to this course, though he should renew his motion to reject the bill whenever the subject was called up. He was willing to indemnify individuals who might suffer, by referring their petitions to the Committee of Claims, and pay their just demands out of the Treasury. Mr. R. remarked that artists were not very nice calculators in money matters. He was not, therefore, surprised at the conduct of the Surveyor of Public Buildings. Mr. R. spoke very highly of him as an architect, and thought the Pennsylvania Bank displayed an excellent taste, and the Representative Hall did great honor to his abilities.

Mr. Epps varied his motion, and moved to recommit the bill to the committee who reported it, with instructions to report a statement of circumstances, and to inquire into the expediency of abolishing the office of Surveyor of the Public Buildings.

Mr. D. R. Williams, in a speech of some length, severely condemned the conduct of the Surveyor of Public Buildings in making the expenditure in question, and spoke of his "outrageous audacity" in lately altering the arrangement of the Representative Hall in respect to the entrance to the galleries.

Mr. Stedman hoped the bill would be recommitted. He regretted that the committee had not presented to the House, with the bill, a detailed report on the subject, that it might now have proceeded in the ordinary course. Much has been said on the subject of specific appropriations, and of the impropriety of exceeding them on any objects of expenditure. Mr. S. respected the doctrine laid down on that subject, as referred to by the gentleman from Connecticut (Mr. Dana,) but, though it proceeded from high authority, it has been since found to be impracticable, and he believed it would appear to have been given up by the same authority. That Mr. S. might present to the House the old and the new doctrines distinctly, so that the contrast may the more strikingly appear, he begged leave to read the same passage from the President's first Message to the seventh Congress, which was read by his friend from Connecticut, (Mr. Dana:)

"In our care of the public contributions intrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money, where the examination may be prompt, efficacious and uniform."

The new doctrine, said Mr. S., is to be found in a letter from the President of the United States to Isaac Briggs, Surveyor of the lands of the United States south of the State of Tennessee, who had been authorized to explore the best route for a road from Washington to New Orleans, and whose expenditures had exceeded the appropriation to that object. The letter is dated May 25, 1807, and forms a part of the printed documents which accompanied a bill for the relief of Briggs, reported lately by the Committee of Claims, and laid on our table. It is at the close of the letter, and as follows: "Gentlemen who say they will never 'sanction an expenditure made without a previous law, will leave their country exposed to 'incalculable injury in those unforeseen occurrences where the voluntary sacrifices of virtuous 'citizens might save the public interest, if the 'prospect of indemnification were not shut out." Mr. S. hoped that the committee in their report, and the House in considering it, would be governed by the doctrine last laid down, and in mercy to those the value of whose labors on the public buildings had exceeded the sum appropriated to those objects, would provide for their payment.

The question was then taken on Mr. Epps's motion to recommit the bill, and carried. The committee were instructed to report a statement of facts, and also to inquire into the expediency of abolishing the office of Surveyor of the Public Buildings. And the House adjourned.

Wednesday, April 6.

Mr. Lyon presented two petitions of sundry inhabitants of the counties of Randolph and St. Clair, in the Indiana Territory, and a petition of sundry inhabitants of the Illinois country, respectfully praying, for the reasons therein set forth, that a division of the said Territory of Indiana may take place, and that a separate Territorial Government may be established over the country in which the petitioners reside.—Referred to Mr. Lyon, Mr. Parke, Mr. Boyd, Mr. Gardner, Mr. Hoge, Mr. Van Rensselaer, and Mr. Deane, with instruction to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was committed, on the third ultimo, the bill to continue in force "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," presented an amendatory bill to continue in force an act, entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," and for other purposes; which was read twice and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the punishment of certain crimes and offences against the United States;" to which they desire the concurrence of this House.

ADDITIONAL ARMY.

The House took up the unfinished business, the bill for raising an additional military force.

Mr. Mosely said, in giving his vote against the present bill, he should not be governed by the same motives precisely which appeared to influence some gentlemen who had spoken in opposition to it. I do not feel, said he, all that alarm and abhorrence at the idea of standing armies which certain gentlemen have expressed, particularly the honorable gentleman from North Carolina, (Mr. Stanford,) whom I now see in his place. That gentleman, it seems, however, is constrained to acknowledge that in one instance he was induced to unite with Federalists in voting for a standing army. But he felicitates himself extremely that it is the only Federal vote he ever did give in the whole course of his political life. Sir, I am happy, since that gentleman considers this as so great a sin, that so fair an opportunity is afforded him to absolve himself as far as possible from the guilt of it, by this public and penitential confession of his error. And I could almost wish that the tears of contrition, which I presume must have started into his eyes at the bare mention of the deed, could have been transferred to the record, and that his vote, like the oath of *Uncle Toby*, might have been blotted out for ever.

But, Mr. Speaker, from present circumstances, I think it somewhat problematical whether a majority of those who will vote against this bill will not be Federalists; and, if so, the vote in which that gentleman will be included must be called a Federal vote. It would really be unfortunate if that gentleman should be subjected to the stigma of joining in a Federal vote, both for and against standing armies.

I am against this bill, Mr. Speaker, because no evidence has been presented sufficient to satisfy my mind that there is at present that danger to be apprehended from any quarter which renders it requisite to raise this force. And at a time like the present, when our resources are so rapidly diminishing, and when so great a portion of our citizens are suffering so severely under the pressure of those precautionary measures which we see already adopted, I cannot reconcile it to my duty to subject them to the expense of raising armies, which I do not consider as essentially necessary for their safety and protection. It is true, we were told by the President in his Message recommending this measure, that, "From the danger arising 'to our country, from the contests of other na-'tions, it seemed to him expedient that we should 'have an augmentation of our military force." And the Secretary of War has given it as his opinion that it would be proper to raise the number of six thousand men, as is proposed by the present bill. But the opinion of the President and Secretary of War do not appear to be predicated upon any particular occurrence, which at this time renders the state of our affairs more alarming than they had been for a long time prior to that period; nor does any part of the information contained in the voluminous documents which have been recently transmitted to us by the President, in my opinion, justify the belief that we are in any immediate danger of hostility with any nation; or, rather, that we have reason to expect such an invasion of any part of our territory, as to require the raising an army at this time, for the purposes of national defence. Great Britain (if we are to credit her declarations) has no disposition to go to war with us—it certainly cannot be for her interest. And it is not pretended, I believe, that our Government has any intention of declaring war against Great Britain, or of going to war with her, because France has thought proper to make the declaration in our behalf. We have yet, I hope, a sufficient share of independence left to let even the mighty Emperor know that in concerns of this consequence we shall take the liberty of managing our own affairs in our own way. From France we can have little to fear, so long as Great Britain maintains her present naval superiority, and her fleets ride everywhere triumphantly upon the ocean. Should this great barrier be removed, me might indeed have occasion for serious alarm. At present, the only hostility which we have reason to apprehend from either of those Powers, is that upon our commerce, of which we have already had so much cause to complain. But we are told that the embargo was to be the grand specific in this case; that this would not only save us from war, and secure to us the blessings of peace, but, by producing famine and distress, compel speedy and ample justice from all those nations which might be disposed to infringe upon our commercial rights. This, it has repeatedly been urged upon the floor of this House, must be the unavoidable effect of the embargo. I do not refer to the precise time when the law was passed, for then gentlemen in favor of it were rather sparing of their remarks. Their only solicitude appeared to be to have the law passed, and they were willing to let the arguments in support of it remain for subsequent consideration. I could wish therefore that gentlemen, before they have recourse to standing armies, would consent to wait a little longer, until a more full experiment shall be made of the efficacy or inefficacy of their favorite measure.

It is mentioned in the President's Message, as a further reason for raising these troops at this time, that the *season* is deemed favorable to that object. I am not certain that I understand correctly what is meant by this remark; but if we are to understand by it that the season is deemed favorable, because, by the operation of the embargo, vast numbers of our citizens are thrown out of employment, and have no means of acquiring a subsist-

ence, and that therefore it will be in the power of our recruiting officers to present them with the alternative of enlisting upon such terms as they may offer, or of starving; this would indeed be bringing the thing to an "issue of some sort," and perhaps to an issue favorable to the object. But really I would ask, whether to calculate upon taking advantage of the distresses of our fellow-citizens, produced by our own measures, is perfectly compatible with that liberal and magnanimous policy which honorable gentlemen would wish to characterize the measures of Government?

I would not, however, be uncharitable. Perhaps the suggestion in the Message proceeded, at least partly, from motives of humanity—from a disposition—I cannot exactly say to "*ease the mouth of labor*"—but to prevent it from discontinuing those operations, which, in the present imperfect state of our nature, are found so convenient for a comfortable subsistence. But, from whatever motive the suggestion may have originated, the reasons, if rightly understood, will not only continue, but be constantly growing stronger during the existence of the embargo. And if these troops are ever raised for the pay proposed to be given them by this bill, (five dollars a month,) I apprehend it must be because *the season is favorable.*

I beg it may not be understood, Mr. Speaker, from any remarks which have fallen from me in opposition to the present bill, that I should not on all occasions be disposed to raise any force which I might consider requisite for the safety and defence of the country; but, before I vote to raise that force, I wish if possible to be informed what the danger is which is apprehended, that I may be enabled to form an opinion whether it is adequate or appropriate to the object.

I have already observed, sir, that I see no reason at present to expect an invasion of any part of our territory from any Power. And I believe that the two millions annually, which would be necessary to support this army, might in other ways be more advantageously expended, even for the purposes of national defence.

But, sir, at this particular period—at a crisis so unfavorable—when our revenue is so materially reduced; when business is at a stand, and individuals so much deprived of the ordinary means of meeting pecuniary demands, it is our duty not to make the public burdens heavier than is absolutely requisite for the public safety. Whatever may be necessary for this object, the people will at all times, I have no doubt, be prepared cheerfully to do and suffer. For, although the position may not be conceded by all to be strictly correct, that "we are all *Federalists* and all *Republicans*," yet, sir, I flatter myself, that in a day of real danger, it will be found that we are all *Americans*—that we shall be ready, as one man, to rally around the standard of our Union, and to make every exertion and every sacrifice for the defence and protection of those liberties and that independence for which our fathers so bravely fought and bled.

Mr. Tallmadge said, that after the lengthy and able discussion which this bill had undergone, as well in Committee of the Whole as in the House, he could hardly flatter himself with the hope that he should be able to throw much light upon the subject. But so long as there were any gentlemen on that floor whose minds were yet balancing on the question, and he had reason to believe there were some in that condition, he felt it to be a duty which he owed that honorable House and the nation, to offer his sentiments on the important question now before them.

The gentleman from North Carolina, (Mr. Stanford,) who spoke yesterday at some length in opposition to the passage of this bill, seemed to felicitate himself that he had never given but one *federal vote*, and, from his remarks, he wished to be understood as having never committed but one *political sin* in his life. For this, indeed, he seemed to be so penitent that, from my heart, I can forgive him, and trust no honorable gentleman who heard him, and witnessed the deep contrition which seemed to flow from his heart, will be unwilling to pardon an offence which he deemed so atrocious. The heinous nature of the crime seems to consist in this, that, in 1798, he voted for the army which the Government then determined to raise, and now, in 1808, his political faith has veered about, and he finds himself constrained to vote against the bill on your table, which proposes to raise an inferior force on a more urgent and pressing occasion. To this sort of *political sinless perfection* I lay no claim; for, although a much younger legislator than the gentleman from North Carolina, I have doubtless committed many mistakes; but never have intentionally erred. Indeed, Mr. Speaker, there seems to be an astonishing propensity in some gentlemen of this honorable body to take up the time of this House in giving their reasons at length why they find it necessary to change their vote on the present from a former similar occasion. Having no compunctions of this sort I have no confession to make; and give me leave to add, I hope never to see the chair of the Speaker turned into that of *St. Peter*. Taking the Constitution for my guide, and the public good for my object, I shall never search the journals to find how I voted on a former occasion. Because I voted to raise troops when the Spanish army violated our territory on the Sabine, does it follow of course that I must vote for this bill? Or because I opposed the bill authorizing the building of gunboats, am I compelled to vote against the bill on your table, that I may appear to be consistent? In the case of the Spanish aggression I did vote for the raising of troops, and greatly lament that they had not been brought into the field to vindicate our insulted honor. The gunboat system, beyond a given number for our rivers and shoal waters, I did oppose with all my heart; most conscientiously believing them to be a most miserable sort of maritime defence for our seaports, coasts, and harbors. From the best light I have been able to obtain, this additional force may be necessary for our defence, and I purpose to advocate the passage of the bill accordingly.

Before I proceed to offer the reasons which will govern me in the vote I am about to give, I think it proper to state the precise force which the bill on your table provides. The five regiments of infantry and one of riflemen, will consist of two hundred and seventy commissioned and staff officers, and four thousand eight hundred and twenty-four cadets, non-commissioned officers, and privates. The regiment of light artillery will have thirty-five officers and seven hundred and eighty-four cadets, non-commissioned officers, and privates; and the regiment of light dragoons will consist of thirty-eight officers, and six hundred and twenty-eight cadets, non-commissioned officers, and privates—making a total, when completed, to the establishment, of three hundred and forty-three officers, and six thousand two hundred and thirty-six cadets, non-commissioned officers, and privates. So that the whole complement of men, officers included, will be six thousand five hundred and seventy-nine. The present Peace Establishment amounts to three thousand two hundred and thirty-one, officers included, which, with the corps of engineers, and certain necessary attendants about a camp, will make our military force about ten thousand men. This may serve to correct the opinions of some gentlemen who have estimated the troops contemplated by this bill to be from five thousand even to nine or ten thousand men. I shall now proceed to give my reasons, as briefly as I can, why I advocate the passage of this bill.

1. In the first place, the measure comes recommended to us by the President of the United States.

In making this remark, I trust I shall not be accused of courting the favor of the Executive, by a blind devotedness to his measures. Having never been charged with this political sin, I shall take no time to exculpate myself from it; but proceed to remark that, being placed by the Constitution as our great political sentinel, it is his duty, on the approach of danger, to make it known to the Legislature.

In his Message of February the 25th, after exhibiting the dangers which threaten us, and proposing an augmentation of our military force, he remarks: "I submit to the wisdom of the Legis-'lature whether they will authorize a commence-'ment of this precautionary work,' by a present 'provision for raising and organizing some addi-'tional force." I can hardly conceive of language more appropriate for the purpose, and coming from such high and responsible authority, I am disposed to give the subject a fair and candid consideration.

2. My second reason in favor of this measure is drawn from the present state of the world.

Will gentlemen take the trouble to examine the wretched state of Europe at this day? Will they permit themselves to reflect on the great events which have followed each other in such quick succession within a few years past, that they can scarcely credit what they have heard? How many kingdoms have changed their masters, or have been entirely swallowed up by the conqueror of the European world? What other country on earth, except our own, can this day deservedly boast of a free Republican Government? Since war has become a sort of trade, shall we not be warned by the example of the world, and make some preparation to meet it?

3. But a more forcible argument may be drawn from our particular relation to the two great belligerent Powers of Europe. These two mighty Powers, in fact, sway the destinies of all Europe; and the one having control by land, and the other by sea, have been not unaptly compared to the tiger and the shark. Can any gentleman who hears me remember the insults and injuries which were heaped upon us by the Spanish troops in Louisiana, and not blush for his degraded country? If we turn from our Western frontier what do we find on the South? The Floridas extend along our Southern line, and afford an easy approach to a French or Spanish foe. On the North and East we are circumscribed by British territories, from which irruptions, in case of war, might be made into New England. What is the present state of our fortifications on the seacoast from St. Croix to St. Mary's? And are we well secured on the West against savage incursions? What is the present state of our relations either with France or Great Britain? Is it not a fact that each of the rival Powers is endeavoring to draw us into the present war? And although our best policy must lead us to pursue an honest neutrality, yet I cannot feel satisfied with an aspect of profound peace, when the world seems to be in arms. In addition to this, I know how repugnant it is to the feelings of the militia to perform garrison duty, and to man your fortifications. This duty must be done by disciplined troops, or I fear it will be but inefficiently performed. It might be further urged, that the service of a portion of these troops might be well employed in erecting and repairing fortifications.

4. Another benefit to be derived from such an establishment is, that it might serve to form a military school, to teach the science of war, and to prepare them for actual and useful service in the hour of danger and trial. Some gentlemen suppose that discipline and military service may be learned in a day; but since war has become so much a trade, its principles and art must be studied. A great portion of the skill and science of mankind is directed to the most effectual mode of destroying the human race; and perhaps three-fourths of the revenues of the world are expended for the same object. It must be folly and madness, therefore, in any nation not to take warning, or to refuse useful instruction from the example and conduct of others. War is a great calamity, and the surest way to avoid it, is to be prepared for it.

But this measure is objected to, because the militia ought to be resorted to in the first instance, and are competent to this duty. That our ultimate resort must be to the militia, for the defence of our country, I do not deny; but that they are fully competent to all the duties of the field and the fort, I do not admit. No man has greater confidence in the yeomanry of our country, when properly organized and equipped, to defend our

country against an invading foe, than myself. I have witnessed their services in the late Revolutionary war, and the faithful page of history will hand down the record of their deeds to posterity, with honor and applause. But then it ought to be remembered, that some of their proudest exploits have been performed when acting in concert with a regular force. When I cast my eyes around this Hall, I am glad to see gentlemen who took an active part in the struggles of our country under its severest pressure. To them would I with confidence appeal, when I assert, that a single company or battalion of disciplined troops has been like a phalanx to which the militia might resort, as to a common centre. Equally useful in attack, in defence, or to cover a retreat, I shall not hazard much by saying that, when opposed to a regular and well-appointed force, the militia are inefficient without them. In proof of this remark, need I state the progress which the British army made in the Southern States, in the late Revolutionary war? The destruction of the flourishing towns of New London, Fairfield, Norwalk, Danbury, &c., in the midst of a populous, thickly settled country, and with but little loss, is strong proof of the justice of my remark. I would further observe, that in point of economy, either of money, of labor, or of health and life, undisciplined militia ought not to be our only military defence.

2. Another objection made to this bill is, because standing armies are dangerous to civil liberty. That they may be used by profligate and wicked rulers for this purpose, I do not deny; but can any gentleman be seriously alarmed for such an event, even if we had ten times this force, when he reflects that we have from 600,000 to 1,000,000 of able-bodied militia ready to defend their country? In favor of this objection, gentlemen have cited the case of the Army, at Newburg, in 1783. An artful incendiary had spread his anonymous publications through the Army, calculated to excite their resentments against their country, because from her impoverished condition their services had not been fully remunerated. I hope no unfavorable inference will be drawn from this event, when I assert, that after our illustrious leader had explained to the officers the situation of our country, and his confident belief that every possible exertion would be made by the Government to justice to their Army, not one advocate could be found to support the hostile attempt. A more urgent occasion than this I trust never will occur.

3. An objection has been urged by my colleague (Mr. MOSELY) who preceded me, that because we are not in a state of war, therefore these troops are not wanted. I fully accord with him in the declaration that we are not in a state of open declared war; but I am not satisfied that our defenceless situation should court an invasion. By a timely preparation, I would convince the world that we mean to be prepared for the worst; and if the expenditure of a few millions in preparation and defence shall prevent a war, it will be economy in the end. If Great Britain was so disposed, and not otherwise engaged, with her immense fleet she could transport troops to any of our ports on the Atlantic; and in the event of a general peace in Europe, where can the victorious Napoleon send his myrmidons but to the West Indies, or America? I hope neither of these events may ever be realized; but I greatly prefer being ready for such a trial, to that of being found sleeping on our post. Separated from Europe by an immense ocean, and unwilling to take any part in their civil or military operations, no nation on earth should be permitted to land any troops on our shores. If the madness or ambition of any proud conqueror should attempt such a measure, the deadly conflict should commence at the water's edge. As the veterans of Europe would probably be the invaders, the disciplined troops of America only would be able to decide the contest at the point of the bayonet. Should such a crisis ever arrive, I shall hazard nothing by declaring that the militia will be found unequal to the conflict.

4. It is also said that Military Establishments are expensive, and therefore ought to be avoided. This is undoubtedly true, and grows out of the necessity of the case. The question at issue is not whether an army is an expensive institution; but whether in the present state of the world it is prudent and proper for this Government to increase its military force. The gentleman from North Carolina tells us that he is so unhappy as always, from an early impression, to associate the idea of taxes with the very name of an army. This, I doubt not, must be unpleasant to him; but when he reflects that the laborer is worthy of his hire, it may be useful for him to lay aside his prejudices; for, if fighting must be done, the man who defends us by his arms is as worthy of his reward as he that works on the soil. Permit me here to express my regret that any gentleman in debate should speak contemptuously of those who are willing to jeopardize their lives in our defence. The gentleman from Virginia (Mr. RANDOLPH) has frequently attempted to expose the regular soldier to ridicule and contempt, who (to use the gentleman's favorite expression) hires himself to be shot at for sixpence a day. Why do we hear language like this on the floor of this House? The profession of arms has always been honorable, as well in the savage as the civilized state of the world, and probably always will be; and surely, sir, it cannot be wise to render any class of men odious or contemptible, whose services we may speedily need. Although I deprecate the necessity which calls for such service, yet from habit I cannot but love and venerate the soldier who is brave, and, standing in my place as a Representative of the people, I feel constrained thus publicly to bear testimony against all such ungenerous reflections.

5. It is further objected that the force now proposed to be raised is too great for peace, and too small for war. How is the precise standard to be determined? Some gentlemen say we are now in a state of war, others think our situation vastly critical, and many suppose it is neither peace nor war. From this dissimilarity of opinion the fair

conclusion is that the present additional force must be about right. It has also been termed a quid army by some and a quid war by others. Here again the force is adapted precisely to the emergency—inasmuch as it is an incipient step I feel constrained to approve of it.

6. The last objection I shall notice is that the bill is not sufficiently precise as to the period for which these troops are to be engaged. Although enlistments are limited to five years, yet by a continuation of recruits this force may be kept alive for any period whatever. This provision I think must be a good one, for if the situation of our country should require the continuance of this force, surely the experience of the officers, &c., must be valuable to the United States. I have no wish to increase Executive patronage, having long believed this to be a dangerous weapon in the hands of the Chief Magistrate. But if the time should come (which God forbid!) when this country shall be cursed with an ambitious, unprincipled Executive, so long as we are faithful to the Constitution, I think no danger is to be apprehended. The Senate must always have a check upon the nominations made by the President, and if both President and Senate should combine, still this House can always withhold the supplies, which are emphatically the sinews of war. Even should the three co-ordinate branches of the Government combine to support a great Military Establishment, as by the Constitution no appropriation can be made for more than two years, the sovereign people, who are the legitimate source of all power, can always remedy the evil by electing rulers to correct the procedure.

Much has been said during this debate, about a patriot army and a mercenary army. Our Revolutionary Army was undoubtedly a patriot army, but did they serve for nothing? Does the amount demanded for service constitute the patriotism and value of the deed? If so, how low must we estimate the service of our illustrious Commander-in-Chief, who through his military career accepted no compensation for his service, and through a long and arduous civil life maintained the same undeviating course. He was shot at for less than sixpence a day when a soldier; and when a statesman the shafts of his enemies flew thick around him—for his country's honor I wish these impotent efforts had ended even with his life.

I have now gone through with the remarks which I have thought proper to offer to the consideration of this honorable body. Perhaps, from early habits and attachments, I have less apprehension from regular troops than some other gentlemen. I do not advocate such establishments in time of peace; but considering the present hostile state of the world as very alarming, and fully believing that the crisis is very solemn, and may prove extremely eventful to these United States, I shall very cheerfully give my vote for the final passage of the bill now under consideration.

Mr. SOUTHARD said, that the importance of the subject would be a sufficient apology for his detaining the House a few minutes. The gentleman from Connecticut, said he, has anticipated me in a great part of what I meant to have said, and has spoken correctly according to my knowledge and experience. I regret that our country is placed in such a situation as to render the passage of the bill upon your table in anywise necessary. The question whether or not our country is in danger from a foreign foe, is a question not now to be decided. Members in various parts of the House, differing materially on other subjects, agree in this—that the country is in danger, and that it would be good policy to prepare in some manner for our protection.

I shall not take up the time of the House to show that members have acted inconsistently with themselves or with their own professions; it is of little consequence to the present question how they voted in 1798, when this subject was before Congress. The only question now is, whether the situation of our country at this time is such as requires an addition of force to our Military Establishment? Various positions have been taken and the bill objected to on various grounds. Yesterday gentlemen from Virginia and North Carolina (Messrs. RANDOLPH and STANFORD) made speeches against the bill calculated to catch the popular ear. Economy of public money is a fascinating argument; but before we decide, we must test this principle, by placing gold in the one scale, and the character, honor, and liberties of the country in the other, and see which kicks the beam. I take this to be the question now to be decided. I may be mistaken; but under this impression I shall give my vote. In order to give my opinion of our present situation as warranting the raising these men, I must take a summary view of our relations with the European Powers, and our consequent situation.

I am of opinion that Europe will not long remain in the situation in which it now is. One or the other Power must gain the ascendency, and as soon as that event occurs, a despotic eye will be turned to the United States, for perhaps there is nothing which more invites war from one nation than the possession of equal rights and liberties by another. Should then peace take place, and the people of the European nations have time to compare their situation with that of the United States they will make their empires tremble to the centre, and let their rulers know that it is the policy of despotic Governments to keep their subjects always at war. Where could they better employ their troops than in the United States? I must say, that I believe that rather than see that spark of liberty burn, which was kindled in the United States in 1776, and since fanned into a flame, they would quench it in the blood of our people.

After these observations of a general nature, I will make some which bear more particularly upon what is now before the House. No man has perhaps a more undeviating confidence in the militia than myself. I have seen their service, and my country has experienced their utility, but while I make these declarations I must also declare my sentiments with regard to a regular force. The gentleman from Connecticut has spoken

feelingly and experimentally on this point. I never held a commission, either in the regulars or militia, during the Revolution, but I was often called out from home. When the militia were alone, without a rallying point and without experienced officers, they did not feel themselves as competent as when aided by a few regular troops. I have been in a situation in which the very information of the coming of a few regular troops has animated every man; the militia also animated the regulars, and thus united together, conquest and victory crowned their efforts. I believe then, that under existing circumstances, the sound policy and interest of the country demand that we should augment our regular force, and that the troops should be stationed at the most vulnerable points, to meet any invading foe that sets his foot upon our soil.

As to our present situation, I have felt indignant at the repeated insults offered to this country by the conduct of one of the belligerent Powers to whom, it is well known to every gentleman on this floor, we held out the hand of reconciliation; and what I look upon to be an aggravation exceeding others is, that every captain of the British Navy is appointed an absolute judge, where liberty property, and everything dear to man is involved in the decision. In the case of the Chesapeake, it is true, they have disavowed the act of the officer. But have they made reparation? No. What have they done? Look at the communications lately laid before you. Look at the note of Mr. Canning; look at the note of Mr. Rose. If this be not adding insult to injury, I know not what it is. But this is not all. By the late Orders in Council, our national character and independence are assailed. What is their language to our Government? Pay tribute; ask our leave and you may navigate the ocean; without it you shall not. What is the language of Bonaparte, the Emperor I had almost said of the whole world? Why, if you have the trace of English footsteps on your decks, your vessels are forfeit. Could it be possible that any orders could be issued so destructive and more degrading to the nation than these? What shall we do in this situation? I think it is time for this nation to rouse. I cannot sleep upon my course, so far as my own State is jeopardized in this manner. England rules by sea; Napoleon governs the continent of Europe; he has but to speak the word and his decrees are carried into effect. The sovereigns of the sea and the land have declared by their orders of council, edicts, and decrees, that no nation shall be free.

With regard to the unfriendliness manifested in the Governments of Nova Scotia or Canada, whether with a view to protect themselves or to assail the United States, it is certain they are fortifying themselves. But this is not all. They are not only throwing troops into Canada and Nova Scotia, but emissaries from them have gone among the savage tribes to influence them to be ready to sacrifice the defenceless people. Can anything be worse than this? You recollect that since the Government has been here, a great number of Indians have always paid their respects to the great father of the country. Where are they now? Has there been a single individual here this winter? None; and therefore I am induced to fear that the efforts of our enemies have been but too successful.

There are two or three points to which I will call the attention of the Committee, in which there is danger of our being attacked, which has been intimated in some degree by gentlemen who have preceded me. It is very well known that our seaport towns are in a situation to be assailed; that they are in a very unprotected state; and that it is in the power of a British squadron to lay any one of our seaports under contribution. Yes, sir, they may if they please, lay it in ashes. The embargo will operate upon them severely; and when hungry and athirst they will come and take what they can find, and rob your banks and treasuries. And to show that I am not alone in this opinion, I cite the late acts of the Legislature of New York, who have appropriated money for fortifying the city, and passed a law for the removal of the bank on any emergency. Other ports might be mentioned in the same situation as New York.

The situation of the Michigan Territory has been so often brought into view, and so much expressed upon it, that it is needless for me to say more. It is surrounded by hordes of Indians, now in some commotion, and certainly this is a very exposed point. But the city of New Orleans is in a more exposed situation by far. I believe that no enemy will land in any of our seaport towns but this, with an intention of remaining there. I call the attention of the people of the United States to this place, and to view its situation, and consider its importance to the United States as well as to an enemy. It is the most valuable point of our all-valuable acquisition. Without it, what is all the rich country of Kentucky, Ohio, and Tennessee worth? Nothing in comparison. Recollect the Washita conspiracy to seize it. Where is Burr now? No doubt lurking in some of his hiding-places in its neighborhood, meditating fresh enterprises. I am informed, from a source on the credibility of which I can rely, that he has now an agent in Great Britain, one who was deeply concerned in the original project. I do not believe that he will ever attempt the enterprise again, because the people of the United States would crush it instantly. But let a foreign nation by his assistance once get possession, and it will cost much blood and treasure to regain them.

These considerations induce me to vote for the bill. I think these troops may be disposed of to great advantage; they will form rallying points to the militia in time of danger; and rallying points I know are of vast utility. As to the sum to be appropriated in consequence of this bill, it is little worth comparison with the object. Will it weigh anything in the scale with the honor, interests, and liberties of this country? However valuable the coin, its expenditure for this object is no objection to the bill.

On the other hand, as to danger to the United States from this force, I can scarcely believe gentlemen are serious. I know that gentlemen of ingenuity will bring forward the argument; but is it possible that a force of this kind disposed through the United States can ever jeopardize the liberties of the people? No; it cannot. They are liable to be disbanded at any moment; and should any ill disposition be manifested among them, you have but to lift up your hand and paralyze it in a moment. Upon that score there cannot be the least objection to the bill.

I have thought it the policy of this Government to take strong ground. I have viewed the disposition of the European Powers, and I have believed, if ever we meant to maintain our liberties, we must take strong ground. I never wish to see my country's character sacrificed; rather let us sacrifice our blood, our lives. I think we are now pursuing a course of measures calculated to secure our national honor and independence. I cannot believe there is any danger, except in such vulnerable points as New Orleans, of serious invasion; or a design to invade our country with a serious idea of subjugating us. Peace is desirable; but if we mean to maintain it, we must be prepared for war. What would have been our situation in 1776, if the patriots of that day had cried out for peace? We might have purchased peace at that day, but at the expense of liberty forever; and the blessings which we have long enjoyed during a period of peace and prosperity almost unparalleled, are but owing to an exertion in the day of danger. Had we submitted, what would have been the consequence? We would have been the subjects and sufferers of eternal European wars. I bless God that the Americans of that day united in resistance to imposition; I hope they will do the same on this day, and that gentlemen, throwing aside distinction of Democrats, Republicans, and Federalists, will bury the political hatchet. I hope to see a vote on this question which will show the world that we are united.

We have passed a law for building gunboats and erecting fortifications, and a law for putting in requisition an hundred thousand militia. In order to complete the system, we now want a few regular troops. It is acknowledged by every gentleman on the floor, that a part of these at least are wanted for garrison duty. The militia are not calculated for that service; and to employ them in it would be a most inconvenient and destructive economy, creating a much greater expense than even the same number of regular troops. On the score of economy, therefore, I believe it will be good policy to raise these troops.

I have given the reasons which will induce me to vote for the present bill. In so doing I may go counter to the voice of my constituents, for aught I know. The questions of uniformity and national policy the gentleman from North Carolina (Mr. Stanford) seemed to view in the same light; he seemed to shrink from the measure, however proper, from a fear of jeopardizing his political character; he seemed more afraid of departing from professions than of seeing the national character sacrificed. Of this I hope I shall never stand convicted. The gentleman has taken a great deal of pains to turn over records in order to inform you that some members of this House have voted in contradiction to votes which in former times and under vastly different circumstances they have given. I will call in question the motives of no man. Every one will judge the present question according to its own intrinsic merits. Upon this point permit me to say that I act according to my own sentiments; and the very same sentiments as animated me in '76 and '98 actuate me now, and those alone. I believe that we ought to have a full and free discussion of this question. The importance of the question, the situation of the country, and my own feelings on the occasion, have induced me to express my sentiments; I shall further express them by my vote, and cheerfully leave the result to my constituents, trusting in having done my duty to the best of my judgment. If I shall have been wrong, and the country shall not stand in need of this force, I shall consider it as a blessing; on the other hand, should I vote against the bill, and my country be injured or its liberties jeopardized, I should forever regret it. Under these ideas and the responsibility which I as a legislator have assumed, I shall give my vote in favor of the bill.

Mr. Sloan said this was the third time that he had attempted to rise to say a few words; and he felt much discouraged from doing it, more especially when he observed that the superior learning or eloquence of the gentleman who had preceded him, had vacated most of the seats. He had some doubts whether there were a quorum present; this however was not his business, and he should certainly speak but very few words, for fear that the few remaining members should go away.

I have, said he, attended patiently and strictly to all that has been said on this important subject, and should have been happy if those who have gone before me could have convinced my judgment that it is correct to vote for the bill. The House will recollect that this is the first time I have ever opened my mouth on a subject of this nature; and I should not now have done it, but that I am compelled to vote against the bill; and lest it might be thought that in giving my vote I am induced by religious scruples, I think it necessary to say that I did not accept of a seat in this House under any restrictions which would prevent me from voting for any measure which I conceive the necessity of the case to require. From what has been said this morning, it seems possible that the vote which I shall give may be called a political error. If a majority of Federalists vote against this bill, I shall certainly have fallen into that error from which my friend from North Carolinia (Mr. Stanford) took so much pains to purify himself. I should not under the present discouraging circumstances give my reasons for my vote, were it not that some who have gone before me have declared that they knew very little of military affairs, and some that they knew nothing at all; and in the course of their observations they fully convinced me that

they were correct. Although many members have spoken, I find that they have not been able to settle one point, which until this session I thought very plain, that is, whether the nation is in a state of peace or war. Some say war, some say peace, and some say quid war. I will not say that I know the meaning of these terms properly; but I remember perfectly that in the Revolutionary war, though I did not take an active part, the fighting came so near me that I saw them shooting at one another, and some of the hirelings of Britain were killed; this I thought war. But to come to the point; when the provisional army was about to be raised in '98, the objection to it in the part of the country where I live, and I joined in it, was, that those in power knew that we were perfectly safe. At that time England and France were engaged in war; and it was a common observation, that France has men but not ships, and England ships and no men; so that they could not injure us. I still believe the same; and am not willing to take a number of citizens from their proper labor and make them in fact nuisances to society. It may be from my bad understanding, and if so, I hope my brethren will bear with me, but I do conceive that there is less occasion for an army at this time than there was at that, and that the reasons against it operate at this time more forcibly than then. The British are more completely masters of the ocean, and less in the power of France, whose Emperor may be disposed to invade us; on the other hand, it seems impossible for England, who is struggling for her existence, to invade us. I therefore consider it my duty not only to vote against this bill, but also to give my free opinion. I consider that there is no possibility of either belligerent invading us. I fully approve of what I consider the wise and prudent measures of the Administration; through the blessing of God we have hitherto passed on enjoying the comforts of peace, and I have no doubt we shall continue to do so, if we continue to act to all nations with that justice which has marked the conduct of the Administration. But I wish it to be understood that my objection is not to raising troops but to the number. A proposition was before us two years ago to raise troops to meet the Spaniards; I approved of it and meant to give it my sanction. My worthy friend from Connecticut (Mr. Tallmadge) who has spoken, and on whose judgment in such a case as this I would rely as soon as upon that of any member on the floor, brought in support of his observations the recommendation of the President of the United States. I pay attention to it; but permit me to observe that the recommendation is not specific. I believe it necessary to raise some additional troops, but think this number too great. I differ with gentlemen only as to the number, and believing that the passing of a law authorizing this number will be injurious to the interests of this country, I am under the necessity of giving this bill my decided negative.

Mr. Dana.—The gentleman from North Carolina in opposition to the present bill (Mr. Stanford) appears to have been peculiarly fortunate or unfortunate in attracting the notice of every gentleman who has since spoken on the subject. I was not inattentive to his observations; and understood him as saying that he voted for the twelve regiments in 1798 on a principle of compromise, to avoid the apprehended evil of a much larger army. When he regretted this as the only Federal vote which he ever gave in his whole public life, he appeared to speak so much in the frankness and integrity of his soul, that I could not feel myself disobliged. Ought it to be deemed strange that he should now regret such a vote as a political sin? The hall of Congress had resounded with declamation and denunciation. Even in canvassing for the Presidency, it has been imputed as a sin of no ordinary dye, that a candidate has manifested too much complaisance towards persons called Federalists, or that he would not turn them all out of office. I have witnessed so much of this language that it has ceased to excite much of surprise or attention. It is attributable to the force of passions or prejudices called into action by party spirit. From well-informed men, of liberal minds, it might be hoped that they would be superior to the ordinary clamor and slang of party. But the evil of political denunciation and proscription has been carried to such extent under popular professions, that, as public men, even persons of liberal and enlightened minds have been in some degree borne along by the general current. This is an evil which perhaps time only will cure. It may perhaps continue to exist until the favorite popular doctrines, which the present possessors of power have formerly preached up, shall be all practised down. The gentleman from North Carolina has but presented in a distinct and honorable form a political diversity of sentiment which has been frequently thrown out in a different mode.

After these observations, which I have made as justly due to the unoffending disposition and well known integrity of the gentleman from North Carolina, I proceed to consider the bill now before us. What is it? Is it a bill particularly adapted to the existing state of the world, and to continue in force so long as this state shall continue, and no longer? The bill purports to authorize an addition to our present Military Establishment. And it is well known that we have no Military Establishment except what is legally denominated the Peace Establishment. An addition to the Peace Establishment, therefore, is the real scope of the bill.

An addition of about six thousand five hundred troops is proposed. For what time? I discover no definitive limitation in the bill. The language of the first section admits of a permanent addition of eight regiments to the Peace Establishment. The enlistments, it is true, are to be for five years; and it is also true, that all enlistments in this country for the established army are limited to a term of years, with respect to the individual persons who are enlisted. At the end of one, two, or three years, the recruiting officers, under this bill, may go on to enlist men for five years. The same term is established by law, as to enlistments for the regiments on the Peace Establishment.

This limitation of five years for each enlistment is applicable to the particular cases of men who may be enlisted, but not to the continuance in service of officers who are to be commissioned.

As to any limitation applicable to the whole subject the bill differs from the act authorizing the twelve regiments in 1798, and from the resolution, proposed during the session of 1805-6, for raising troops against the Spaniards. In 1798, the regiments were to be raised during the continuance of the differences with France, and no longer. Under the act for raising them, they could not be continued for any further time. In the session of 1805-6, it was proposed to raise troops to repel Spanish incursions or aggressions, and to chastise the same. They were to be raised for a special purpose, expressly designated, and were to be limited to that particular service. The troops to be raised within the fair scope of the specific resolution, might have been temporary levies or volunteers engaged for that service, and for that only.

But the additional army now proposed, is to be raised avowedly against no particular Power; it is directed to no declared object; it is limited to no time. The question, therefore, is, whether such an addition is requisite for the Peace Establishment? If it is intended against the British, let it be so said in the bill. If against the French, let it be said. But if it is for the Peace Establishment, the framers of the bill have used the right language.

I proceed, therefore, to make some observations on the bill as providing for an addition to the army on the Peace Establishment. With the number already authorized by law, the proposed addition will complete an establishment of about ten thousand troops, according to the statement of my colleague (Mr. Tallmadge.) On this question, I disclaim all the vague noise about standing armies. I think the doctrine has been properly stated by some of the gentlemen in favor of this bill. A standing force, a regular army, is not to be considered dangerous so long as the country can unquestionably crush them without difficulty. At a regular establishment of ten or fifteen thousand troops for the general service of the Union, the militia cannot feel any serious awe. We have an armed population competent to crush such a force, if the public safety should so require. At the same time, I do not consider a standing army as of course a positive good in itself; especially as it is attended with the evil of expense for employing persons whose labor is unproductive. Yet for service in fortifications, for ordinary duty in garrison or at military stations, regular troops are especially proper. Such service would be peculiarly burdensome, vexatious, and expensive, for militia detachments. So far, therefore, as regular troops are necessary for ordinary garrison duty, and for maintaining constant guard at any of the fortified places or military stations of the United States, I am ready to agree, that troops be raised in addition to the Peace Establishment. I have listened attentively to the observations of gentlemen from the Western country with respect to this subject. And so far as relates to this object, I think the argumentation of a gentleman from Kentucky (Mr. Howard) was irresistibly conclusive. I, in this respect concurring with him, acknowledge the importance of various posts near our inland frontier—posts in the northern or northwestern quarter, and pre-eminently the post of New Orleans.

With these sentiments, I had no question as to making some addition to the Peace Establishment; when the bill from the Senate, expressly for that purpose, was under discussion. That bill is now on our table; it is not as yet definitively acted upon. If troops are wanted for the general service on the frontier, let us act upon that bill. A person who votes to reject the bill now under debate, does not, in so voting, declare, that he would reject the other bill. That bill is precisely the one on which we ought to act, so far as regards the general security of the inland frontiers.

Why, then, should we have this bill, which is now in debate? It is said to be something of an intermediate character; not for war, nor for peace; but for our own peculiar situation, as compared with the present state of the world. In support of the bill, however, an opinion has been expressed, that the state of war exists between Great Britain and this country. If such be the case, the state of things must involve the rights of war, such as the taking of persons and of property, according to the usages acknowledged to be legitimate between hostile Powers. Has any one of our countrymen been taken as prisoner of war by public authority? Has any property been taken as prize, solely because American? Have letters of reprisal, either general or special, been granted on either side? Has any act of war been authorized by the Government of either country towards the other? I am not speaking, sir, of any private violence or hostility; but of a public force employed by a public power for public or national purposes. According to well known principles, nothing short of the public authority can give the character of public war to acts of force. In whom is vested the prerogative of war, as it respects England? Can any one of the British admirals, without authority from his Government, place that country in a state of war, with all its rights and all its responsibilities and all its calamities? Can a commander of one of our frigates place us in such a state? Can a subordinate officer invade one of the highest prerogatives of Government, so as thereby to change the public relations of his country from peace to war? The Constitution of the United States has expressly confided the high power of making war to the Legislative body. And would we recognise the legitimacy of the usurpation, if any officer in the navy should attempt to usurp this power by committing an act of force which could only be justified in virtue of the acknowledged rights of war? It is, sir, of the essence of public war, that it be made by public authority and public order. This is the clear doctrine of British jurisprudence and of the American Constitution. The British are obliged by

their own principles of Government to condemn the firing into a public armed ship without public authority.

With a reference to the case of the frigate Chesapeake, I will endeavor concisely to state my understanding of this subject. When an officer, especially if bearing high rank, has been found to commit an act of force so essentially hostile as to admit no justification except in case of public war, the consideration of his official rank may render it dubious whether the act so committed was an unauthorized act of the officer or an authorized act of the Government. If the Government disavows the act, it must be deemed an act of lawless violence. I must, therefore, acknowledge, that when the British Minister (Mr. Canning) officially disavowed the pretension of a right to search a public armed ship on the main sea, when the disavowal was repeated on the part of the British Government, when the outrage committed upon the Chesapeake was pronounced an unauthorized act of force in a communication made in solemn form to the British Parliament, the state of the case was essentially varied. There was then no question remaining as to the general principle to be observed in future. As to any pretended right of making such a search, there was an end of the subject. The principle of immunity asserted on the part of the American Government was recognised and officially admitted and established as a rule of public conduct. The disavowal of the pretension to search our public armed ships at sea constituted a part of the reparation demanded by our Government; and I approve the conduct of Government in demanding this disavowal. Additional importance is given to the case by the special mission from the British Government to this country. It is not a principle of small moment which can require a public ship of war to be equipped for the sole purpose of conveying across the Atlantic a Minister Extraordinary from a great Power, to offer reparation for the unauthorized act of a subordinate officer. Nor is the solemnity of such a mission, in the view of the whole civilized world, to be deemed a trivial consideration in the estimate of honorable reparation for a public indignity.

What is now the state of this case? The act of the British officer is disavowed. The principle on which he acted is disavowed. And such disavowal is part of the reparation demanded by our Government. The mission of a Minister Extraordinary, also, constitutes another part of the demanded reparation. If, therefore, this Government should now engage in war with the British, it will not be to prevent and resist apprehended outrage such as was committed in the case of the Chesapeake; it will not be for the recognition of a great public principle; but it must be for the purpose of punishing past offence; to inflict chastisement. The war would, in its character, be vindictive, not defensive—a war of vengeance, not of necessity. Will gentlemen declare this to be their object?

It is not to be admitted, that a renunciation of the claim of impressment as to merchant vessels is essential in the case of disavowing to search public ships of war. The cases are so distinct in their nature, as to render it palpably improper to blend and confound them. Public ships of war, on the main sea, being governed by officers appointed and removable by public authority, being employed solely in the public service, and being constantly under the public jurisdiction in fact, by means of officers armed with public power for maintaining order and for inflicting punishment in cases of crime or offence, these public ships have the immunities of territorial sovereignty, to the exclusion of every foreign authority. Private vessels in the merchant service have not such exclusive immunity. They may unquestionably be searched for articles contraband of war, and for persons in the military service of an enemy. But to search public ships of war at sea, for any cause whatever, is incompatible with the nature of their service; it is incompatible with the government and actual jurisdiction consistently to be maintained in such ships. The case is clearly otherwise as to private vessels, for which the nation is not responsible.

With respect to the claim to impress British seamen on board merchant vessels, permit me to call upon gentlemen, who oppose the doctrine of impressment most zealously in theory, to prove, if they can, that a renunciation of the claim would be in fact for the interest of the American seamen. The claim, as I understand it, is a claim to impress British seamen. If abuses were not committed by impressing such as are not British seamen, how could the renunciation be advantageous to seamen of the United States? When I speak of seamen of the United States, I mean not foreign renegadoes—but my own countrymen by birth or adoption, true men, who will stay by us in difficulty and fight in defence of our common country. How will it benefit these men, the real American seamen, if aliens are protected by the American flag and allowed to compete with them for employment and wages?

The dictator of continental Europe may speak of it as monstrous, that the flag of a merchant vessel should not protect all on board. It is well known to be a favorite theme with the French Government and its agents, that the flag should cover the cargo; or that free ships should make free goods. In saying the many things which are said with so much ostentation about the freedom of the seas, reference undoubtedly is had to the idea of claiming for the flag of a merchant vessel the general privilege of protecting the persons and property on board. As to protecting the cargo, the present President of the United States, when Secretary of State, discarded the doctrine as unsupported by the law of nations. What is meant by the flag, when speaking of its protective privileges? You cannot mean only the piece of bunting at mast head. Undoubtedly the term is used figuratively to denote the evidence of the national character of a vessel. What, then, will you call an American vessel? What shall be deemed complete evidence of its American character?

Will you insist that these vessels shall be privileged as American on the seas and in foreign countries, which you will not recognise as such in your own ports? Is it incumbent on a foreign Power to allow every privilege claimed for the American flag, to vessels which are treated as foreign by the fiscal regulations of the United States? Is a vessel to be denied American privileges within our own jurisdiction, where our Treasury is interested, and yet to be regarded as completely American when abroad? In making these observations, I refer to a distinction well known in our laws, the distinction between registered vessels and those which are unregistered.

Further: On what principle of general law are all the privileges of the national flag to be claimed for merchant vessels which have not such evidence of national character as is required by the general usage of the maritime world? With respect to the greater portion, if not the whole, of the maritime Powers in Europe, the privileges of the national flag are not allowed to merchant vessels, unless some of the crew belong to the nation. This principle prevails in the laws of France and of Spain. I learn, from a source entitled to credit, that in each of those countries, the merchant vessels, to be recognised as having the national character, must have not less than three-fourths of their crews of the same country. In Denmark, some of the crews of Danish merchant vessels must be Danes. The respectable gentleman to whom I am indebted for this information, was not perfectly confident as to the proportion required, but believed it to be two-thirds. Unquestionably a majority of the crew for a Danish vessel must be Danish subjects. From another gentleman of respectable character, I understand that, in Sweden, a like principle is adopted as to vessels of that country. In relation to Holland, I have not the authentic information which I wished to obtain. British merchant vessels, it is well known, are required to have British subjects for at least three-fourths of their crews. Russia has adopted the general principle of requiring some proportion of the crew to belong to the nation whose flag is borne by a merchant vessel, otherwise the vessel is not considered as entitled to the privilege of the national flag. This appears from the British Convention with Russia, signed at St. Petersburg in the month of June, 1801. The seventh article contains a formal declaration of the contracting Powers, to this effect:

"In order to obviate all the inconveniences likely to result from the want of good faith in those who sail under the flag of a nation to which they do not belong, it is settled definitively, that a vessel, in order to be considered of the nation, under the flag of which she sails, must have the captain and half her crew of that country, and all her passports and papers in due form; and that all vessels not acting agreeably to the above regulations, shall be exempted from the rights and protection of the said flag."

France, Spain, Denmark, Sweden, Britain, Russia, all recognise the broad principle, that the privileges of national character are not to be claimed for a merchant vessel, unless navigated principally by persons belonging to the nation. To talk of a merchant vessel being a territorial when all the people on board are aliens, is an absurdity. What territory is that which has none but aliens within its limits? According to European usage, it may be considered as the common law of the merchant service, that a vessel is not entitled to the privileges belonging to the national flag, unless it is under the control of persons belonging to the nation. The commanding proportion of officers and men must be of the nation under the flag of which a vessel is navigated, or the vessel has not the national character. Yet in the United States we do not require even one of the mariners on board our merchant vessels to be a citizen of the United States. What other country is known to offer so great a premium, such a rich temptation to foreign mariners? However well intended originally, it is but too true that our own laws are found, on experience, to leave opportunities for the frauds and impositions of aliens, who assume and abuse the American character. To this cause may be attributed much of the dissatisfaction which has been manifested as to the employment of persons who have quitted foreign service. It is this, which, to my great mortification, has afforded so much occasion to implicate the good faith of my country.

If we had regulated our maritime system according to the usage of other maritime Powers, if we had provided adequate securities against abuses of our national flag and character, we should have much better cause for complaint on account of maritime injuries. That our rights of navigation have been violated, that numbers of our seamen have been grossly wronged by lawless force, is too notorious to be controverted, especially in this place, where so much is known and felt as to our foreign concerns. But, in attempting to trace our national controversies to the source, we also find cause to regret that the defects of our own legislation have allowed too much opportunity for abuses, tending to excite foreign suspicions and jealousies. That we may have no foreign contest, it is of practical importance, on our part, to guard against the causes of foreign irritation.

While the proceedings in this country leave room for so much complaint with respect to the employment of foreign mariners, will you make public war, because of the British claim to impress their seamen on board merchant vessels? If proceedings on our part have tended to results manifestly prejudicial to the seamen of the United States, if our own seamen have been unfortunately confounded with those of a foreign country, ought we not to discriminate the case of our countrymen from that of foreigners, before we go to war on the question of impressment?

This country, Mr. Speaker, will never consent to a war for securing British seamen in merchant vessels from the British service. As men of honorable principle, we shall never go to war for compelling others to manifest a confidence and respect which we do not feel ourselves, in relation to what are called protections for American seamen. During this very session, I have heard

mentioned the case of a merchant vessel which was in a British port, I think Bristol, and intended to sail under the American flag, but wanted a complement of mariners for a voyage across the Atlantic. Fourteen mariners of that country, some of them said to be deserters from the public service, were found ashore and engaged for the intended voyage; but they wanted what are called American protections. Application was made to a dealer in such articles, and he furnished the American protections for the fourteen British mariners, taking care to have them such as described the seamen with sufficient accuracy as to the particulars of age, height, and complexion. Those fourteen protections were selected out of a stock of more than a hundred, which he had on hand for sale. The price given for each of the protections, I think, was two guineas.

From the abuses, which have at length become notorious, and which, under the existing regulations, can so easily be practised with respect to obtaining such certificates of American citizenship, as are commonly called protections, doubts have been excited in cases of seamen truly American, and these have suffered in consequence of indulgences toward foreign impostors. What benefit is it to the American seaman, that a British seaman should not be taken from an American merchant vessel? To give to the British mariner, as to our service, every advantage claimed for the American mariner, is to make the citizenship of no value. It is not my wish to annihilate the distinctive privileges, the birthright of my countrymen. The great object to be desired for our seamen is security against being taken for British seamen. If this security were adequate to prevent the recurrence of such abuses as have been suffered in cases of our own seamen, could the removal of British seamen from American service be injurious to the seamen of the United States? Or the contrary, is it not palpably evident that it would be for the interest of those seamen who are fairly and honestly entitled to the character of American?

On this topic, as it appears to my view, there has been manifested much of ardent and honorable zeal; but the zeal is raised to a height prejudicial to the cause of our own seamen, when it precludes the calmness and temperance of examination which should prevail in deciding on a subject so complicated and important.

A privilege as to freedom of merchandise has been claimed for the flag of a vessel in the merchant service. It has been said that the flag should cover the cargo; that it should protect the property as well as the persons on board the vessel. This general doctrine has been advanced, with the exception of contraband of war and military men in hostile service. But, whatever may be said as to the abstract principle, I could wish any gentleman, if it be in his power, to exhibit either proof or probability that its adoption in practice would be for the interest of the American merchants.

Mr. Findley inquired what was the question?

The Speaker said it was on the Army bill.

Mr. Dana.—The reverence I bear to the age of the gentleman will induce me to state the reason of my course. Our attention has been called to a view of our relations with the two great belligerent Powers. And to myself it has appeared proper to examine for what we should go to war. Gentlemen have taken a wide range in debate. I had noticed observations relative to the topic on which I was speaking, when the gentleman from Pennsylvania rose to inquire what was the question. If he had fully attended to the scope of what had been urged in support of the present bill, if he had considered that the additional army is proposed to be raised with a view to the state of our foreign relations, and if his reflecting mind had been permitted to embrace the subject in its whole extent, I persuade myself he would not have thought my remarks altogether foreign to the question under debate; and, of course, he would not have indulged himself in such a departure from his usual decorum as to interrupt me by making an inquiry about the question—an inquiry which is well understood in its sarcastic implication. Considering the avowed cause for the present bill, I have supposed it, in debate, unquestionably proper to examine some of the main points of controversy relative to our foreign concerns.

When interrupted by the gentleman from Pennsylvania, I was about to observe that, if our merchants have a sufficiency of capital or solid credit, to enable them to own the cargoes on board American vessels, they would as neutrals be more benefited, in this case, than they would be if belligerents, under cover of the American flag, were allowed to divide the business and thus share the profits generally arising on charges of merchandise. Under the operation of the belligerent claim to make prize of hostile property on board neutral vessels, the neutral merchants may enjoy a manifest advantage over belligerent competitors in the exemption from war charges and war risks. The difference in the rates of insurance is altogether in favor of the neutral merchant. And it need not be mentioned at how high a rate the war rate is usually estimated in comparison with the ordinary perils of the sea. Let it once be generally admitted in practice, that the neutral flag is to cover the merchandise of belligerents, and the neutrals may, indeed, expect the benefit of freight, but the belligerents will share the profits on merchandise. But while the property of belligerents, although on board neutral vessels, continues liable to capture, the benefits of neutrality belong exclusively to neutrals; and the neutral ship owners and merchants may share between them both the freight and the profit, if they have sufficient capital or credit for the whole concern. However, sir, I am not anxious at present to discuss this topic in detail, if, in the opinion of the gentleman from Pennsylvania, such a discussion might be irrelevant. Indeed, Mr. Speaker, from a respect to him, since he has seemed to think it a deviation from the question, I am now willing to dismiss the point.

Questions have existed, as to participation in

the colonial trade, and in relation to the subjects of blockade, and contraband.

Mr. D. R. Williams rose and said, he should be gratified to hear the gentleman further on the question of the flag's covering the cargo, and believed the House would be, generally.

Mr. Findley explained, and said the principle was given up in the Treaty of 1794.

Mr. Dana.—As to the rights of blockade, I do not know that we now make any serious question on the general principle. And as to participation in the colonial trade, I do not know that gentlemen are for asserting the claim to a direct trade between the parent country and the colony of a belligerent. The list of articles denominated contraband of war has been various. But the extension of the list is not understood at present to be an affair of serious controversy on our part.

On a general view of the controversies between this country and the two great belligerents, one broad remark is obvious. The controversies are of a maritime nature; they relate to rights claimed to be exercised on the ocean. And how do you propose to maintain them? Is it by light dragoons? The controversies relate to neutral commerce in time of war; but, the moment you engage in war, the claims of neutrality are abandoned. You claim the enjoyment of maritime rights; and you practically renounce the whole.

According to what has been said by gentlemen, we must either surrender our maritime claims, or engage in war for their support, or withdraw from the ocean. Submission, forcible resistance, or retreat, are, then, the alternatives. The embargo retires from the scene of controversy—it surrenders the field. You assert your right in words, and renounce it in practice. What more would your opponents require? You do not presume to exercise the right where they deny it.

Will a view of the British interest and military means lead us to expect an invasion from that Power? The British, with a population of fifteen millions, have to withstand the force of a far greater number of millions, the population of various States and nations, wielded by one of the most tremendous of conquerors, whose means are extensive like his ambition of aggrandizement, and whose resentment yields to no regret, and acknowledges no limitation. The relative powers of France and Britain have been compared to those of Rome and Carthage, although, perhaps, on full examination, the analogy might be found to fail as to several considerations of primary importance. But, whatever may be thought of the comparison, it is understood to be the language of the Court of Napoleon, that Carthage must fall. If this may be deemed characteristic of the French hostility against the British, what must be the pressure of the contest, and what force could the British Government think of sending to invade the United States?

There are, perhaps, about forty millions of people who are subject to British control in India; and, if retained in subjection, they must be holden by military power. It is no easy task to maintain the Asiatic dominion of the British; yet this is one of the most interesting objects embraced by the British policy.

It is known, also, to be the British policy, as a maritime Power, to have command of positions which are favorable to purposes of maritime control. These positions as relative to naval operations bear analogy to military posts, which may command the more important passes with reference to operations on land.

Such a position the British have in Asia. It is near the southern point of the hither India, from which the attention may be directed toward the seas on either side of that country.

At the southern extremity of Africa, the British occupy another position, well known for its importance to the navigators between Asia and Europe. As a place for the convenience of their Asiatic trade, as a port of relief or refreshment, and as a position for maritime command, the importance attached to the Cape of Good Hope, especially in the present state of the world, is abundantly proved by transactions of general notoriety. It may be considered as the great pass of the Eastern and Western oceans, while the view is extended along the coasts of Africa toward the Asiatic and European regions.

The southern point of Europe presents another British position, one of the pillars of Hercules, which is to be maintained by no trivial portion of the British power; a position celebrated as a theatre of heroic achievement, and eminently interesting to the military, and naval, and commercial character of the British Empire. In saying this, it is needless to name the famous rock. The facilities for affording assistance or relief to merchant vessels and ships of war are not the only considerations which give importance to the establishment. From their military and naval station at Gibraltar, the British may look to the Atlantic ocean and to the Mediterranean sea. With the command of the rock and bay, and the control of the Straits so as to divide the naval armaments of the ocean and the Mediterranean, they may be able to counteract or place in check different armaments of their enemy by one of their own, and with vigilance of observation may give to their own naval force an extensive efficiency, decidedly superior to that of the opposite forces.

With these, may be recollected other positions of a similar nature, but none of them equally important with Gibraltar. The rock of Malta, so distinguished in European controversy, owes its value to its relative situation as a position of importance with respect to the inland seas of the Mediterranean and the Levant.

It is the British policy to maintain such commanding positions as are essentially instrumental to maritime prosperity.

In addition to these interesting claims upon the military means of the British, let it be remembered that the British possessions in India are not the only provinces or colonial establishments which require military support from Great Britain. There are British possessions of this description in North America, in the West Indies, and other parts of the globe.

To the numbers of men, which all these objects require the British to send abroad for service on land, let gentlemen add the numbers which are required, by the British policy, to serve at sea. Reflect on the exertions necessary for keeping the British navy manned so as to be competent for decisive action!

Add to all these the numbers required for the service in Great Britain and Ireland!

After this review, let it be asked, What part of the British population can be spared, and sent across a thousand leagues of ocean, to attack the United States? Why should any British force come into our country to reap defeat and disgrace? What motive of interest is there for the British to invade our territory? What are the British means for the invasion? The population of their United Kingdom, liable as it is to various existing requisitions, is unequal to the service. To say nothing of any regard to justice, the British Government must be unwise in the extreme to meditate the invasion of this country. The idea has too much of the maniac character to be admitted for a moment.

Can any supposed commercial jealousy be so operative as to make that country go to war with this? If the British are jealous of our prosperity, and indulge the wish that our commerce and navigation may be checked or swept from the ocean, can this constitute a motive for their being at open war with us? If war were declared between this and any European country, our navigation, it is to be presumed, would at least be allowed to appear on the ocean, under the impulse of enterprise and courage, provided with means for defence; and a hope might be cherished that the acquisitions resulting from such active commerce as should be successful, on the average of all the adventures, would be sufficient to counterbalance the losses by capture, and leave a benefit to the concerned. But, however stimulated by jealousy of our maritime growth, would any foreign Government, unless grossly uninformed and foolish, be capable of proclaiming war against us with a view merely to reduce our share in the trade of the world, while our own Government is taking measures so efficacious to destroy the navigating interests of the country? Whoever may have been jealous of our success in maritime pursuits, might well be content at the present time to abstain from attempting anything further against us. Exertions on their part are needless, while such efficacious means are practised in this country. The embargo is operating to accomplish more against our navigating interest than any foreign jealousy could otherwise hope to have realized. Ships rotting; merchants failing; seamen quitting the country; the domestic trade checked; industry discouraged; business stagnated: if a policy so prostrating is to be continued, what more can be necessary to satiate the most vindictive excess of commercial jealousy? To destroy our navigating interest, the addition of war is needless.

Permit me, Mr. Speaker, to observe, that there seems to be some inconsistency in continuing to insist on the policy of the embargo, and yet contending for the additional army proposed by this bill. Advocates of the embargo have asserted the policy of adopting it, as tending not only to secure the vessels and seamen and merchandise of the country, but also by operating against other countries to constrain them to recognise and respect our maritime rights. According to declarations of its advocates, the policy of the embargo was to be commended for its efficacy to conserve and to coerce. For protecting ourselves, this was to be the impenetrable shield—for annoying others, the irresistible spear. As to a navy on the ocean for securing maritime rights, we have none. For this service do we want an army?

In viewing our foreign concerns with a reference to the present bill, the next question is, whether the proposed army is wanted against France? The President of the United States has not so told us, although the measure is brought forward on his recommendation; nor are we so informed by gentlemen on this floor, who are among the warmest supporters of the President and the bill. Although there is no territorial contest with the British Government, it is well known that questions of a serious nature respecting territory have existed for a considerable time between the United States and Spain, the vassal of France. With regard to those territorial disputes, it is clearly true that an army might be properly employed to maintain the exercise of rights claimed on land. And the uncertainty as to the result of the territorial controversies with a vassal of France, has almost induced me to decide on giving my voice for this bill. But there has remained one objection to making this decision. I am not informed that the Executive intends to maintain the territorial claim on our part by arms. I have no official information that this army is wanted with a view to that point. And this want of information is no cause for acting, although, in my estimation, it may justify the abstaining from a positive act of legislation. The want of satisfactory information is no reason for not acting.

The proposed army may cost about two millions of dollars annually. Cannot the sum be more beneficially expended? I agree to the principle of employing regular forces for stations on the frontier. But is this bill the proper mode of giving effect to that principle? It is not pretended by gentlemen that the whole of this additional force is wanted for the service of the different garrisons. As to all that portion of the force not wanted for what may be considered as garrison duty, I would rather apply the expenditure in a mode which appears to be more beneficial and necessary. Let it be applied to preparing durable fortifications, which are so much wanted and earnestly requested. Or let it be applied for some other preparatory purpose, corresponding to the exigencies of our own situation and the general state of the world. As to maintaining regular forces constantly in service for the fortifications on the Atlantic frontier, it might be more correct to have artillerists, perhaps, than infantry, certainly, than dragoons.

The national utility of a military school has been mentioned by my colleague, (Mr. TALLMADGE,) as an argument in favor of the bill. Let it not be supposed, Mr. Speaker, that I would question his superiority in the knowledge of military affairs and tactical principles. I cannot, as he could, appeal to the recorded evidence of acknowledged military merit. I will not say of him only, that he has the soldier's sense of honor, and that his gallantry has been repeatedly proved in the hour of serious trial, for this would be no more than might be said of those whom he has led to danger and victory—higher praise, that which honors the capacity of the officer, united with the qualities of the soldier, has been publicly awarded to him. In a Journal of the proceedings of Congress, during the war of the Revolution, I find his meritorious services acknowledged in the following terms:

"WEDNESDAY, December 6, 1780.

"The committee to whom was referred the letter of November 18th, from General Washington, brought in a report: Whereupon Congress came to the following resolution:

"While Congress are sensible of the patriotism, courage, and perseverance of the officers and privates of their regular forces, as well as of the military throughout these United States, and of the military conduct of the principal commanders in both, it gives them pleasure to be so frequently called upon to confer marks of distinction and applause for enterprises which do honor to the profession of arms, and claim a high rank in military achievements: In this light they view the enterprise against Fort St. George on Long Island, planned and conducted with wisdom and great gallantry by Major Tallmadge, of the light dragoons, and executed with intrepidity and complete success by the officers and soldiers of his detachment:

"*Ordered, therefore,* That Major Tallmadge's report to the Commander-in-Chief be published, with the preceding minute, as a tribute to distinguished merit, and in testimony of the sense Congress entertain of this brilliant service."

The use of a military school is to qualify persons for military command, by instruction in the theory and application of principles relative to the art of war. The great object is to provide officers of skill, who may be competent to the various duties of the field in case of actual service. I would refer, therefore, to my colleague as an officer, whether the adoption of this bill is the best mode to form a military school? Are officers to become accomplished in the art of war? Are they to be formed for ornaments of the profession of arms, by being distributed over the country for enlisting recruits? In this employment, they might, indeed, acquire some knowledge relative to military affairs, although not that knowledge which should most distinguish the officer. They might acquire, in the recruiting service, a knowledge corresponding to that employment, a practical acquaintance with such qualities as distinguished Sergeant Kite. But qualities far other than those are required to form the accomplished officer, according to the modern system of warfare.

I admit that the art of war, in modern times, is one of the most extensive and complex of arts. The discoveries of genius, the attainments of science, the labors of industry, the wisdom of experience, the improved capacities of civilized society, all have been rendered contributory to the art of destruction. So fully do I accede to the importance of having skilful officers to conduct brave men, and such is the opinion entertained of my colleague, that I can have no hesitation in declaring my readiness to agree to any system for a military school, which, after mature consideration, he might propose as best adapted to the specific purpose.

Shall the provisions of this bill be regarded as our system of preparation for meeting a war? If presented in this view to either Britain or France, will the force be of any value? Is it not rather an implied admission of weakness, than a respectable display of strength?

Gentlemen have spoken of the state of the world and the aspect of our foreign affairs as requiring measures of preparation—measures not necessary in confirmed peace, nor yet fully adequate to the exigencies of determined war. What, then, is the preparation which would be the least expensive, and the most useful for this country, in relation to military force?

Strength, activity, courage, we have in readiness. Unless the spirit of the country should be prostrated by a fatal policy, we may rely on finding them in the general mass of population which a serious war might require, to fill the ranks of our battalions. Arms, discipline, and tactical skill we principally want; these, especially discipline and tactical skill, it is the most important to prepare. With an ample preparation of these, in the event of serious war, a numerous army might soon be arrayed.

So much of the force mentioned in this bill, as may be requisite for the general service of our garrisons and military posts, let us provide. This may be done by acting upon the bill expressly relating to the Peace Establishment, as I have already mentioned. If the sum which may be saved to the Treasury in this manner should not be applied for durable fortifications or further supplies of arms, it may still be applied in another mode so as to be of essential service. It may be applied to providing a fund of military science, of discipline, and tactical skill, that we may have in readiness a sufficient number of our own officers, well qualified to direct the valor of our countrymen, that we may have in readiness an ample proportion of our countrymen worthy to command some of the bravest of men.

Mr. G. W. CAMPBELL said, that notwithstanding the long time that had been spent in the discussion of this bill, he felt it his duty to state to the House the reasons that would influence him to vote in favor of it; and he deemed it the more necessary that he should do so, because attempts had been made to impress the public mind with an opinion, that those who were disposed to raise this army, had abandoned the principles they maintained in former times, when they had insisted that standing armies were dangerous to lib-

erty and the rights of man, and that the chief reliance for security and defence ought to be placed on the militia. I am, and always have been, one of those who think we ought to rely on the militia as the main support and defence of our country in the day of danger. I consider them as the great bulwark of our liberties, and believe we may repose the highest confidence in their patriotism and courage. I am, also, as I always have been, opposed to standing armies. I have considered them, and still consider them, as the bane of freedom, and the instrument in the hands of a despot with which to scourge the people, reduce them to submission, and deprive them of their liberties. In this view I consider large standing armies in times of peace. But at the same time that I entertain this opinion, I believe that a regular force may, in certain cases and under certain circumstances, be necessary. I consider it as a kind of necessary evil, which we cannot in these cases do without, and which may be essentially useful in repelling invasions of our rights and territory, and rendering more secure, while kept within proper limits, our liberty and independence. I wish it therefore to be distinctly understood, that though I shall vote for the bill on your table, I have not changed my opinion with regard to the confidence we ought to repose in the militia, nor as to their efficiency in ordinary cases for the defence of their country. I have not, sir, altered my opinion on these points, and the only difference which exists between myself and many others on this subject, appears to be, that I consider the present crisis to be such as requires us to prepare for a state of war, while they seem to think that there is no necessity for making such preparations. I also believe (what I presume few, if any, deny,) that in a state of war a regular force is necessary to aid and support the militia. This seems to be admitted on all hands, and indeed little or no argument can be necessary to prove that there are certain services to which the militia are not competent, and which ought not to be required of them. It has been said that, in ordinary times, they may be relied upon for every purpose. Though this position may, in the general, be true, yet there are some exceptions to it in the present situation of our country, and I may be permitted to state some services which are important, and which ought not to be imposed upon the militia. Among these may be mentioned the protection of the most exposed points on our extensive frontier—I will instance New Orleans. Should an attempt be made to invade your territory, no place is more exposed, or seems to promise a greater prospect of success to the invader than New Orleans. When danger threatens, what is there to protect that city from a sudden attack by either of the belligerent Powers? You have no effective militia there sufficiently numerous to defend it, and it is seven or eight hundred miles from the body of the militia of the Western country. Exhausted by so long a march, is it to be expected that the militia would be willing to remain for months, and perhaps years, as a permanent protection to that place? Suppose they would submit to any burdens which you should impose upon them, and I am confident they will never shrink from any duty which may be assigned them by their country, is it consistent with propriety, is it honorable to the nation to impose this task exclusively on the militia of the Western country? Are your militia to be called out, and to remain out, to protect the many exposed points from Detroit to New Orleans, to repel the savages, or a neighboring enemy, should he meditate an attack on that quarter? These duties would be too arduous to impose upon them. Their vast distance from the scene of action, and the sickliness of the climate to which they might be called, would expose them to diseases and fatigue, which their constitutions would be incompetent to sustain, and even bear down the strongest constitutions, and damp the most ardent disposition to serve their country. I say, therefore, that whether we are actually at war or threatened by it, it is important to have an active, disposable force, to be stationed at those places, to repel the first attacks, until your militia can be called out to support them.

But it is said by gentlemen, who admit that in time of war a regular force may be necessary, that they will not raise a single man till they see the enemy. I would not have believed that any gentleman would make such an assertion if I had not heard it on this floor—if I had not heard gentlemen say that, though you are surrounded by dangers, they will not vote to raise a single regiment, no, not a single man, to defend their country. Can gentlemen justify this conduct to the nation? Are they willing to remain inactive and unprepared, with their arms folded up, until you are actually attacked, until the enemy is at your door, and when it will be too late to prepare to resist him? Will this be doing justice to the nation? Will this be acting like men ought to do who are appointed the guardians of the American people, and to whom are confided the protection of their best rights, their liberty, and independence? It will not, sir, the nation will never sanction such conduct. But, sir, if the militia are sufficient under all circumstances to repel an enemy, however formidable, in the first instance, will there be any occasion to raise a regular force to support them, after they have withstood the first impulse, and acquired more experience? I should presume not. I have always understood that one great object of regular troops was to give discipline and energy to the militia when first called into service, and that after they had served some time, say one or two years, they in fact became regular troops for all useful purposes—although, in the first instance, considerable inconvenience and difficulty were experienced with regard to them, for want of system, for want of the habit of acting in concert, for want of discipline. A regular force also answers an important purpose, by being distributable at those places where danger is most to be apprehended, and serving as firm bands, around which the militia would rally at the call of their country. The regularity and discipline of the former would give confidence

and energy to the latter, while, in turn, the latter, (the militia) being their fellow-citizens, and fighting by their side in defence of their country, would add courage with enthusiasm to the skill and discipline of the regular troops. A regular army is made acquainted with and preserves the knowledge of military tactics, and is prepared to infuse it among the militia when called into service. But that we should remain inactive, and wait until our enemy shall come to our doors before we begin to prepare, when it is admitted on all hands that we are threatened with danger, appears to me extraordinary, and is a line of conduct that I could not reconcile to myself, to my constituents, or to my country. I do not feel disposed, like the gentleman from South Carolina, (Mr. Williams,) to express my resentment in terms so highly aggravated against Great Britain and France as he has done. I can see no real benefit likely to result from calling them by hard names; yet I do not mean to reprehend his conduct in this respect. I have no doubt that he expressed his real feelings, and I believe I view the conduct of those nations with as much abhorrence as any man in this House. But how the gentleman can represent them both as so hostile to this country, and their measures towards it so unjust, so contrary to all the known laws of society, and even of humanity, as to induce him to call one the tiger, and the other the shark, and yet, in the same breath, refuse to make any preparation to raise any force to defend the nation against the ravages of these wild and voracious animals, is to me beyond all comprehension. Can gentlemen be serious when they aggravate, and paint in the highest colors, the atrocity of the conduct of those nations, and yet tell you there is no necessity to prepare for war? Surely, sir, when this nation is threatened with dangers from abroad, from more quarters than one, as has been stated on this floor, it is high time to prepare for defence, to prepare to resist those dangers, and our preparations ought certainly to bear some proportion to the dangers that threaten us, and be in a great degree regulated by the disposition those Powers have manifested, in their acts, to harass and destroy our commerce, violate our rights, and murder our fellow-citizens.

Much has been said on this floor, particularly by a gentleman from North Carolina, (Mr. Stanford,) with respect to the danger of a standing army, and he stated the horror the people felt at the beat of the drum in time of recruiting soldiers, and I suppose they must have felt the same horror at the sound of the fife, as it generally accompanies the drum on those occasions. I regret that the gentleman has represented his constituents so timid as to be alarmed even at the sounds that usually accompany war. I must, however, believe, that this timidity, this horror, at the sound of the drum, are confined to the grave matrons, the fond mothers, and tender-hearted sisters, of those in the gentleman's district, who may be about to risk their lives in defence of their country, and do not affect the people generally in that quarter. I entertain a much more favorable opinion of their patriotism and bravery. But such arguments can have no weight in regard to the present question; whatever plausibility they might claim in relation to a standing army in time of peace, they are entirely misapplied in the present instance. In time of war, or when threatened by war, a military spirit, a martial enthusiasm, ought to be cherished and excited among the whole people of this country; in time of peace this is unnecessary. There is little or no analogy between the force proposed to be raised by this bill and a standing army in time of peace, such as the gentleman from North Carolina seems to have had in view, and which is so terrific to his people. Almost every man in the House is opposed to a large standing army in time of peace, such as could intimidate the civil authority, or endanger liberty. Objections that are valid against such an army, do not apply to the force intended to be raised by the bill, which is a temporary force, raised on the emergency of the present state of our affairs, and to be disbanded whenever that emergency ceases.

Gentlemen have, indeed, brought to view our situation in 1798, when they say an army was unnecessarily raised; and, also, that in 1805 and 1806, when we refused to raise one; and on these two points have insisted that there is no more, nay, some have gone so far as to say, that there is not as much occasion for this force now as there was at those respective times for raising an army. It appears that the principal difference between us arises from two positions which have been assumed by the opponents to the bill, in both of which I conceive they are mistaken. The one is, that the force to be raised by the bill is a standing army of the kind hitherto so much opposed; and the other, that the present crisis is not such as to require us to prepare for a state of war. With regard to the first position, notwithstanding what has been said by the gentleman from Connecticut, (Mr. Dana,) and his acute knowledge of the grammatical institutes and construction of language, I must deny that the force to be raised by this bill is intended as an addition to the Peace Establishment, or that the bill justifies such an inference. The gentleman admitted the words of the bill would not support this construction, but he insisted that, according to the spirit of the law, it must be sound. The bill proposes to raise an additional military force. Now, said the gentleman, a military force and the Peace Establishment, must be the same, because we have at present no military force but the Peace Establishment. The Peace Establishment is certainly a Military Establishment; but an addition made to the Peace Establishment would be so expressed, and would be different and distinct from troops raised towards a War Establishment as these are. This force, if raised, will be, as stated in the bill, an addition, while in service, to the present Military Peace Establishment, but will not form a part of it. So the understanding of nine-tenths of this House is, that this is a specific force to meet a crisis which may probably occur in our public affairs—a state of war; and it is distinctly

understood, that they are to be disbanded when that crisis is over, or the probability of war ceases. But, says a gentleman, it may continue forever. I do not think it necessary to enter into an inquiry how long it may be requisite to keep these troops in service; it is a sufficient answer to the gentleman from Connecticut, that this establishment is in the power of the Government and of this House; and, so soon as the exigency ceases, it cannot be supposed that this branch of the Government would be disposed to continue them any longer in service. So long as continuing this army remains exclusively in this House, there can be no danger of its being retained any longer than the crisis may require. This House has the power to refuse making appropriations to support such army, and when that is refused, it must be disbanded. This is supposing an extreme case—that the other House will not agree with you to discontinue it by repealing the law, which can hardly be expected to occur.

With regard, therefore, to the position that this is a standing army in the sense in which it has been stated, it is not supported by the bill, or by any fair inference from it, and the moment it is examined it will appear unfounded, and the pretexts on which opposition is made to this bill by the gentleman from North Carolina and others, will thereupon entirely vanish. In the same manner the argument, that it will affect the morals of the people and endanger civil liberty, is futile—for the moment that the idea of its being a standing army, such as is to continue in time of peace, ceases, that moment all possible force which those arguments could give to the opposition also ceases, and leaves this without being affected by them. We may, therefore, lay them entirely out of the question.

The second position taken, viz: that the present crisis does not require preparation for a state of war, may require somewhat more particular notice. We are called upon to review the scenes of 1798, when our vessels were captured, and which was said to be a time of greater danger than the present. At that time I did not pay much attention to politics, but, according to the best information I have been enabled to obtain, our situation then was extremely different from what it is now. The Government of France was at that time struggling for existence against a powerful coalition, in which were united the great Powers on the continent as well as Great Britain. Her Government was not firmly established, and it was not known how long she could oppose the powerful torrent of that coalition. For this reason it was, that those who opposed the regular force at that time said there was no occasion for raising an army. It was contended that France had no land forces to spare, nor had she a maritime force sufficient to transport them to this country, if even she had them to spare at home. It was, therefore, contended that war was not to be expected.

I understand it was then insisted upon by those who opposed the raising an army, that the Government of this country, at that time, appeared to act as if they wished to court a war with France, and indeed it has been so stated on this floor during the present session by the gentleman from North Carolina, (Mr. Macon;) and because the then minority, (who are considered as having become the present majority in a political sense,) considered it impolitic and unjust to aggravate or provoke a war, and that the country was not in danger of either invasion or attack from any quarter, they therefore opposed the raising of an army.

I take it for granted that these were their reasons, and, were this a similar crisis, would oppose the bill upon your table; and, in doing so, should act on the very same principles as those on which I shall now act in voting for it. With regard to our situation in 1805 and 1806, I can speak with somewhat more precision, being here at that time, and having a much better opportunity of being acquainted with the circumstances of our public affairs, and the causes that led to the then differences between us and Spain.

There was indeed some appearance of war on our southwestern frontier, but what were the causes of it? Not such as to promise any serious consequences. I will not take up the time of the House in detailing the differences which then took place between some Americans and certain disorderly persons in the Spanish territory; they are already known to the House, and when fairly examined, they will clearly prove that Spain had no intention whatever of going to war with us at that time. We have had all the evidence on this subject before us, and there is no proof of any serious hostile disposition towards us on the part of the Spanish Government. One circumstance goes far to prove that the Spanish officers did not intend to commit any act of hostility, or to violate our territory in this transaction, which is, that the Spanish troops remained on their own side of the line until those persons (the Kempers) whom they had procured to be taken, were delivered to them, on their own territory, by some American citizens. This was the clearest proof that they were determined to avoid committing any act of hostility, or even entering on the American territory; and though they may have used fraudulent means to obtain their object, it is clear that they had no authority from their Government to disturb the peace subsisting between the two nations. With regard to the dispute respecting our boundary west of the Mississippi, it related to a small tract of country uninhabited, bordering on the Sabine river, and extending from that river towards Natchitoches. Whatever our claims were, and still are, and however founded they may be to territory far west of the Sabine, the dispute at that time was confined to the small tract above described. The Spanish commanders informed you that they were ordered to maintain the most friendly relations with the American Government and people, were expressly ordered not to act on the offensive, but only on the defensive; but that they were directed and thought it their duty to occupy the territory in question, because they believed it belonged to their Government. On the other hand, our Government claimed it under the treaty and convention with France for Louisiana, and considering it as our property, we deemed it our duty to take possession of it, and not suffer it to be occupied by a foreign Power. The dispute was therefore only coextensive with that small tract of territory, (on which there were no inhabitants,) for neither party evinced any disposition to extend its claim forcibly at that time beyond its limits. It was merely a dispute about the real right to the territory in question, to which each party might honestly consider his claim valid. This was the ground of difference, when, at the same time, negotiations on this subject were pending at the Court of Spain. It was at that time also generally understood that France was favorably disposed towards the United States in regard to this dispute. There were no apprehensions entertained that she would support Spain in her claim to the territory in question; on the contrary, there was reason to believe she would not. Whatever might be the opinion of France in regard to our claim to the Floridas under our treaty with her, there was no reason to believe, from the documents laid before us, and the best information that was possessed, that she would countenance or support the claim of Spain to the territory in question, on the Sabine, claimed by us under the Louisiana Treaty, or her claim to any part of the country west of the Mississippi, which we claimed by virtue of that treaty. There was not any reasonable ground to expect a coalition between France and Spain on this subject. Spain stood alone to support her claim. She had only a handful of troops, not exceeding six or eight hundred, who declared their intention to act on the defensive only, and who in fact always retreated when our troops advanced towards them. She had no other troops within an immense distance of the place, and could not reinforce them in any short time. There could not, therefore, be much danger to be apprehended from that quarter. These were the circumstances under which it was proposed to raise an army in 1805 and 1806. I was then of opinion, and the event has proved the correctness of that opinion, that the circumstances did not require or justify such a measure. The situation of our country at those periods which have been spoken of, was not therefore such as it is at this time. But, in order to show this the more clearly, it may be proper to inquire what our present situation is in regard to some foreign Powers.

On this subject, it will not be in my power to say much that has not already been said, and I do not wish to repeat what others have advanced. In regard to Great Britain, it is said we have no reason to apprehend any attack or invasion from her. Is it necessary for me to state that she has been, for years, committing aggressions on your commerce, and impressing your seamen? Has she not murdered your citizens in your merchant vessels as well as in your ships of war? And has not the scene of aggressions been completed by the unexampled, outrageous attack on the Chesapeake? Have there not been negotiations, from time to time, attempted on our part, and long pending between the two nations? Has not the late extraordinary mission been considered more important than any other—and what has been the result? A total failure, sir—a total denial on her part of reparation for an offence, which she acknowledged she had committed. Instead of making reparation, it would seem as if the object of that nation was to mock negotiation—to send a Minister here, under pretence of negotiation, whose very first act was to call upon you, the injured party, to make a concession for feeling the injury which she has done you, and for expressing those feelings, and demanding reparation for the same. This was, in substance, the requisition, and the demand itself was, in fact, adding insult to injury. If we had public officers who would submit to such demands, and degrade the nation, by making such concessions as these, they would deserve to be immediately removed from office—they would be reprobated by the nation. I do not wish to be understood, by saying so, as having any desire to go to war—no, I do not—but I trust the people of America are determined never to surrender or barter their honor, their rights, or independence for a shameful peace; and should we ever concede one point, they would make further demands, and no one can say when or where they would stop. Let me ask then, where is there a single circumstance which ought to quiet our feelings and calm our apprehensions? There is none. Some months ago, it was expressed on this floor by certain gentlemen, that we were either actually at war, or that we acted wrong in not going to war. And here, I cannot help remarking, as a singular fact, that the same gentlemen now tell us, that there is no danger, not even sufficiently so to induce us to make any preparations; who told us, in the commencement of the session, that we ought to have gone to war the moment the affair of the Chesapeake took place; that we ought to have seized upon Canada, and made a descent upon Jamaica. They were in favor then of such decisive steps as these, and yet, at this time, they think it unnecessary to adopt any measures calculated to resist aggressions and put the nation in a state of defence. Surely, sir, the failure of the negotiation is a strong reason to induce us to prepare for any event that may happen. It is the strongest proof that Great Britain is not favorably disposed toward us.

You are told, however, that Great Britain and France press each other so severely and yet so equally, at the same time, that there is no danger of our having occasion to go to war with either. What evidence have we, supposing the reasoning to be correct, (which is not admitted,) that this equal pressure will continue for a day, or a week, or a month; must not one Power eventually prevail, and the other give way; and will it not be in the power of that nation which prevails, to strike a decisive blow, if disposed to do so, which even now may be preparing for us? But if these Powers, at this moment, do press each other so severely that they cannot turn their attention to-

ward us. I ask how it is that one of them has refused to do you that justice which she seems to confess she owes you? I wish gentlemen to attend to this circumstance, and they will see that this conduct is no evidence of a friendly disposition toward us, but directly the contrary. If, when all the continent of Europe is in arms against her, she refuses to make reparation for an act which she acknowledges hostile, I ask what have you to expect when this pressure upon her is removed? Have you anything to hope from her justice? And if it is not her interest now to make reparation, will it be more so when this pressure upon her ceases? And, if that is the only reason why we are not in danger, viz: that those Powers press equally upon each other, this would seem to be the inevitable result: if they are prevented from attacking us, because they are opposed to each other, that moment in which they accommodate matters, they may, and probably will, wreak their vengeance on us. Let us, then, prepare, as well against the one as against the other of those Powers. Here it may be proper further to observe, that Great Britain, not satisfied with these extraordinary aggressions on your vessels and seamen, has gone on by her Orders of Council to interdict your commerce from the whole continent of Europe. I am not disposed to go into a particular detail of the effects of these measures. They are known to all. It is sufficient to state they are clearly understood in this country, as well as in that from which they originate, to have this effect: that every ship belonging to you that sails the ocean is either made liable to confiscation by Great Britain, or subjected to such conditions as to make it liable to certain confiscation by her enemies. I state this, without hazarding a doubt of its correctness, or a belief that it will be contradicted. Not a vessel can sail from your ports, but is liable to be confiscated or subject to such conditions as will expose them to confiscation by another nation. This is understood here as well as there; and though we do not choose to go to war, yet it proves her disposition to injure and cripple us as far as it is in her power.

Gentlemen do not believe her disposition hostile, or that she will make war, because she professes to be friendly to us. If we rely upon such professions, we may be lulled into security, and remain quiet, until it is her good pleasure to remove her restrictions from our commerce, or until she attack our towns and march her armies into our country; and then gentlemen will consent to commence the work of preparation. But, when her armies are in the bosom of your country, it will be too late to raise your force to resist them—this must be evident to every man. I hope, therefore, we shall not adopt such short-sighted, dangerous policy. It is an insult to the understanding of any country to be told that it shall not prepare till war is actually commenced against it. War threatens and we should make preparations to provide against it—not to raise large armies, and pour our whole energy into the field "whenever a speck of war appears in the horizon"—but to make such preparation as will meet the first attacks, resist encroachments and sustain the contest until the energies of the nation could be called into actual service. But let us inquire, what is our situation in regard to France? I wish not to be misunderstood; I declare that I have no other enmity to Great Britain than what results from her acts of hostility towards us; and, perhaps I might say, that I have, with others, very strong reasons to feel the contrary. I am disposed to prepare to meet any attack from whatever quarter it may come. But, let us inquire what is our situation in regard to France? It is true, France has not impressed our seamen; she has not harassed our commerce, until very lately, as much as Great Britain, nor has she murdered your citizens, nor attacked your ships of war, but she has joined Great Britain in her commercial restrictions, and in her interdictions of your trade. Her blockading decrees operate on our commerce in the most injurious manner, and contribute very much to cut off our trade from Europe. They subject to confiscation every ship that is bound to a British port, that has British goods on board, or that submits to examination by a British ship of war—this is certainly no evidence of a friendly disposition on her part—no proof that we have nothing to fear from her, if it was her interest to attack us. We know that both those nations are disposed to bring us into the contest. We know it now officially; we knew it from newspapers long since; and I cannot believe it proper that we should lull ourselves into security with respect to France, any more than in respect to Great Britain. You are told, that France and Spain were identified in 1805-'6; if they were so then, they are much more so now, when Spain is indeed but the vassal of France, and there is much more probability of her being supported by her in any attack she might make upon our country. On that ground, then, we are not safe, and should not repose in security with regard to either. I need not, on this occasion, bring to the minds of this House, the consequences which have resulted from such security as that in which we are called upon to rest. I need not bring to your recollection the case of Copenhagen, so often noticed on this floor. From the best information obtained on this subject, from the statements made in the British Parliament, it is manifest that the Danish Government apprehended no danger, that they were lulled into a state of security, that their troops were on the continent, in Holstein, maintaining inviolate their neutrality; that they had given no just ground of offence to Great Britain, and were reposing in security on the good understanding that appeared to subsist between the two nations, when she was suddenly attacked by a British fleet and army, and spoiled of her richest treasure. The so much famed British lion, stretched forth his merciless paw, fastened its fangs upon her capital, murdered her people, and robbed her of her navy, the most valuable possession, on which was placed her chief reliance for defence. This great national robbery may, by some, be considered excusable, which, if committed in private life, would be a criminal offence, liable to capital punishment. But if Denmark, when innocent, was treated in this manner, what sufficient reason have we to rest assured that a similar line of conduct is not meditated, and will not be adopted with regard to us? What evidence have we that we are safe from the effects of the overgrown power and ambition of either Great Britain or France? For I do not mean to say that France would not pursue the same line of conduct, if it was her interest so to do. When threatened with danger from each of those Powers, ought we not to prepare to meet a treatment similar to that other nations have experienced? I presume no one will deny that we ought; and the only difference of opinion must be as to the means to be employed. I cannot see the force of the arguments urged against the bill—to me they are incomprehensible—and gentlemen seem to speak as if they viewed the present state of our public affairs through the medium of jaundiced eyes, and not through clear optics.

There is another circumstance which deserves notice—the disposition which the British Government has manifested in her colonies bordering on our territory towards the Northeast. Have not her officers, from the best information which we possess, incited the savages on those frontiers to make war on our citizens? and has she not fortified her towns, and thrown a considerable number of troops into that quarter? For what purpose are those measures adopted? Are they not proof of her disposition to act offensively? We are told, indeed, that she does all this for her own defence, and that it is evidence of her pacific disposition, as she is apprehensive of an attack from you. In my mind, it wears a very different appearance—I consider it as a proof of her hostility to this country, and such as ought to induce us to put the nation in a state of defence. She may not, indeed, intend to attack us by a force from Canada, but to prepare for an attack by us on Canada, in consequence of an assault by her on some quarter of our territory. She may mean to make an attack on New York or New Orleans, and may thus prepare herself to repel retaliation on our part.

Your attention is called to our finances, and you are told that the expense ought to prevent you from raising these troops. It is true, that the present state of our commerce will affect the revenue, but surely that is no argument in the present case, for if the measure be necessary, the expense ought not to prevent its adoption. Will gentlemen tell you that they are willing to risk the lives, the property, and the liberty of their fellow-citizens, rather than incur such expense as may be necessary to preserve them. I presume they will not. The expense can be no objection, if the measure be necessary. If it be not necessary, it ought not to be adopted, even suppose it cost you nothing.

You are also told, by some gentlemen, that the embargo will effect all your purposes; that you have nothing to do but to continue that measure, and you will bring those nations to terms. I am extremely happy that gentlemen, who formerly thought otherwise, have now come into opinions which a great majority of this House entertained, in substance, and expressed when the measure of the embargo was discussed in this House; they certainly are at liberty to change misconceived opinions, and are correct in so doing. I have myself considerable reliance on the embargo, and believe it has had, and will have, a good effect; but I would not rely on it alone. It is not a measure to protect us in case of war; it is not a measure to keep off an invading foe. And if, in fact, there be danger of war, we cannot rely on the embargo to repel it. It was intended to preserve our resources, and prepare us for war, and it is calculated to have that effect.

But another objection is made to this bill, which seems to be a kind of forlorn hope; that it is a half-way measure, neither calculated for war nor peace. One gentleman tells you, he would vote for troops to take Canada, and drive the English out of the continent, and yet that he will not vote for this bill. I cannot understand the correctness of this doctrine. If the crisis be such as to justify us in raising such a force as would be competent to make war, and conquer and take possession of Canada, it certainly is sufficient to justify the raising a few troops to defend our country in the first instance; and, if it should be necessary, to assist in carrying into effect that great design.

Mr. Stanford said, that he had said if gentlemen in the majority would come forward and say that the invasion of Canada was the object, he would vote for that number of men which experienced gentlemen should say was proper. If it were judged proper to root out the British name from the continent, he would vote for such a force as was sufficient.

Mr. Campbell.—The gentleman's meaning, then, is, that if gentlemen declare that to be the object, he will call for raising a sufficient force to effect it; of course, I must understand him as saying that this is such a crisis as would induce him to give his vote for a force sufficient to conquer Canada, if other gentlemen thought it expedient; that is, this is such a crisis as would induce him to give his vote to drive the subjects of Great Britain out of this continent and destroy her power therein; and yet, it would not justify the raising six thousand men to meet any emergency that may happen. I cannot comprehend this sort of reasoning. It is saying that you must remain in perfect tranquillity, and submit to every insult and injury, or you must make war, in the first instance, before you prepare for it. But, sir, war or peace does not depend upon us. We do not wish to go to war, if we could preserve peace; this, however, may not be in our power. But it is our duty to prepare to defend ourselves from impending danger, from which we ought not to shrink. But this has been reverberated in your ears as a half-way measure; and you are asked what this force can effect. It might as well be asked, what sixty thousand men can do, as to ask what six thousand are good for. It is only pushing the argument a little further, in order to show

its absurdity. One thousand men even, at New York, would be of considerable advantage to assist the people against an attack there. Regular troops, well trained, give spirit to the militia. Why, then, ask the use of six thousand men? They will be of proportionate use with a body of a hundred thousand. With respect to this half-way measure, I believe it is the first time it was ever argued that we must not raise a force, except it be sufficient for conquest. It has been considered proper, when you raise a force, to make the number proportionate to the emergency of the times. But, that we should calculate the precise number that may eventually be required is impossible.

I am sorry to detain the House so long, but will make one or two remarks on what fell from the gentleman from Connecticut (Mr. Dana.)

I am not much acquainted with commercial transactions, or the hardships experienced by our seamen, but, really, there can be no great difficulty in answering the question asked by the gentleman, what injury the impressment of her own seamen by Great Britain from our vessels can do our own seamen? It has exposed and still does expose our seamen to impressment by her; they have been impressed from our ships, and forced to serve in British vessels, and treated in a manner which need not be repeated here. The gentleman meant, no doubt, that this principle of impressing her own seamen would not do injury to ours if it were not abused; but it has been abused, and will still be abused in practice; and when the expediency of permitting the principles to be acted upon is inquired into, the result must depend on the effect of the practice. Abuse is the necessary consequence of the practice, and there are more American seamen taken out of our ships under it, than there are British subjects; as the principle is, therefore, radically wrong, and also highly injurious in its practice, it ought not to be submitted to.

The same gentleman, in showing that the British were so much engaged in other parts of the world that they could not attack us, told us that they held in subjection forty million of souls in Asia. This I believe to be correct; and it is the strongest proof on earth of their tyrannical disposition, and the determination, on their part, if in their power, to add the American people to those millions. If, then, these Powers have no principle but that which results from power and interest, what confidence can the American people have either in British humanity or French friendship? I presume very, very little.

I need not state to this House that the six thousand men proposed to be raised by this bill, are not the only force, nor, indeed, the chief force we rely upon for the defence of the nation. We have authorized the erection of fortifications and the building of gunboats. These are intended for the protection of your towns and seacoasts; and it would seem equally important that a sufficient force should be provided for the defence of our extensive and exposed frontiers. If the country was not in danger, why erect fortifications and build gunboats? If it was and still is in danger, why refuse to raise this force to aid in defending it against such danger? We, who are more immediately interested in the security of the Western country, joined you in those measures calculated to protect your seacoast, because we considered it our duty to promote the general welfare of the nation; and we trust that you will join us in raising this force, which may be highly necessary for the defence of our frontiers. Every part of the Union ought to be protected; and experience has sufficiently shown, that we ought not to place too much reliance on the justice or forbearance of those Powers, when their interest comes in question. In addition to those measures, the President is authorized to call out one hundred thousand militia, should the exigency require it. Should the bill on your table pass, we shall then have, including the present Peace Establishment, a regular force of about ten thousand men, which, together with the one hundred thousand militia, would be sufficient to repel any foe that dare attack us. I would, however, be willing myself to go still further, and organize an additional body of volunteer militia, of twenty or twenty-four thousand men, as proposed by a Message to this House. This would, in my view, provide, in a very great degree, for the national security. It would furnish, in case of danger, a disposable force of about one hundred and thirty thousand men, which would be sufficient to meet any emergency we have a right to calculate upon. These, I presume, ought not to be called half-way measures.

Gentlemen insist that these six thousand men are not adequate for defence in case of war. If they were alone relied upon, this might be true; but that is not a fair way to judge of their efficiency or usefulness. It might as well be said that one gunboat is not sufficient to defend your coast, and, therefore, you ought not to build it, or, indeed, that one hundred are not sufficient, and then you ought to build none, unless you can build as many at once as will defend you against the whole world; or, that a single fortification will not defend all your harbors, and, therefore, though it would defend one important point, it must not be erected. Such logic as this, I do not pretend to understand; such reasoning will not go down with the American people, their good sense will detect its fallacy and discover its weakness. This force, taken in connexion with the other forces and means of defence provided by law, will, we trust, be found competent to answer all our present purposes, and, in case of hostility, will be the commencement of a War Establishment; but, in case of peace, will be immediately disbanded.

I sincerely wish that these troops may not be called into actual service. I hope there may be no occasion for them. Should this be the case, I shall rejoice at the event; but I shall still think I have discharged an important duty to my country, in providing the means of defence against the apparent impending dangers; and I shall consider that duty as honestly and faithfully performed, as if this force should actually have repelled an invading foe.

The House adjourned without taking a question.

Thursday, April 7.

Mr. Findley, from the committee appointed to confer with the committee of the Senate on the subject of adjournment, made a report, concluding with a resolution to adjourn on the 25th instant, which was ordered to lie on the table.

ADDITIONAL ARMY.

The House resumed the consideration of the bill sent from the Senate, entitled "An act for raising an additional military force," together with the amendments agreed thereto, which was depending yesterday at the time of adjournment.

Mr. Randolph moved to recommit the bill.

The Speaker having stated the question—

Mr. Randolph said he thought it perfectly fair and in order to give, as a reason for the recommitment of the bill, those objections to it which went to show that it was incapable of answering the purposes which gentlemen had told them it was intended to meet; and he also thought, that on this question, he should be correct in replying to those arguments which went to show that it was calculated to answer those purposes. The arguments of those who had opposed the bill had been grossly (God forbid that he should say wilfully!) perverted and misstated. His object was really to recommit the bill, because, in its present shape, it was but an increase of the present Peace Establishment. In showing this, he should consider himself perfectly at liberty to explain the arguments hitherto urged against it, and to reinstate them in the position in which they ought rightfully to stand.

A gentleman, (Mr. Tallmadge—I believe one of the first who took part in the debate yesterday,) said Mr. R., told us, that if we require the service of men, we must calculate on paying the price of that service; that if we wish men to fight for us and protect us while we are staying at home in peace and safety, we must make our account with compensating that service. Undoubtedly we must. But, it is the paying a part of the community at the expense of the remainder; it is the making the Military a distinct profession; placing ourselves in the situation of the sheep, and them in that of the dogs, who, while they protect us from the wolf, may at any time worry or devour us at pleasure. It is this very thing which constitutes in our minds a principal objection to the bill. It is not the encouragement of the military spirit to which we object, but the fostering it in a small portion of the community, to the destruction of it in the mass of the community. It is that to which we object. If, indeed, (as I am not at present disposed to question,) we are in want of artillerists and engineers; if we want men of science and skill in that most difficult and all-important branch of the military art, let us raise artillerists and engineers, and employ professors to teach them the profession. But, it is not by recruiting a few infantry or raising a few dragoons that this most important deficit in our military knowledge can be supplied. If the arguments of the gentleman be correct, all the troops proposed to be raised should be artillerists and engineers, and persons ought immediately to be employed to instruct them. The arguments, as far as they have any weight, go to this point; and if not to this point, to none at all. I declare upon mine honor that I deprecate this bill from motives, some of which perhaps gentlemen are not aware of. If I wished to destroy the Administration of this country—if I wished it to be blown up from its very foundation, root and branch—I should really consider this bill as one of the most effectual engines for producing that result—one of the most auspicious events that could have occurred—both on account of the expense and the principle involved in the bill; from which I foresee, that by an eternal and perpetual recurrence to a standing military force in every emergency, the militia will be laid aside, and neither armed, organized, nor disciplined.

But, we are told that it is necessary to have a pre-existing regular force for disciplining and training the militia. Is it possible, sir, that gentlemen are serious in urging an argument like this in favor of the bill? Who are the regular troops to be raised? Where have they learned the art of war? In what camps have they been bred? In what actions—in the face of what enemy—have they been engaged? Or what can they teach the militia, which they wish to learn, or which can be of any real use to them in time of danger? When they and the militia go together into action, in point of courage, practice in the art of war, and familiarity with danger and with blood, they will stand on the same footing with the militia. In what constitutes the real soldier, they differ nothing from the militia. The sole difference is, that while the militia are at home, working hard to pay them, the regulars will have lived in camps and huts at the expense of meritorious industry—at the expense of the honest labor of the land; and I will venture to say that the habits which in such a life they will have contracted, will render them inferior to the honest laborers of the country. For, in all other respects, they are precisely on the same level.

But, it is said that British footsteps—unhallowed footsteps—have trod upon our decks, and, when their trace is found upon them, that France confiscates your property. And do you raise two brigades of nondescript troops to prevent the British from treading on your decks, or the French from finding their traces afterwards? How is this to cure the evil? What relation is there between the evil complained of and the remedy provided? None, that the most intuitive mind can discover. When a part of the southeastern angle of Great Britain (the Goodwin Sands) was overwhelmed by the sea, an old inhabitant was asked the reason; and he was of opinion that it was caused by the steeple of the neighboring village church; because, before the erection of that steeple, the land in question was never overflowed. There is as much reason in raising these troops to erase the

footsteps of an enemy from our decks as there would have been in destroying that steeple, in Kent, to prevent the water from overflowing the country—more especially as these decks are now laid up in *wet dock*. But, one thing at least we must allow in justice to this army, whatever other exceptions may be taken to it: it is just as well calculated to meet the French army as the British navy, and as well calculated to meet the British navy as the French army. It is equally well adapted to the British as to the French crisis, because it is adapted to neither.

But, we are told that garrison duty in time of peace is vexatious and oppressive to the militia. No doubt of it, sir. I believe they ought not to be called upon to perform it. It is not perfectly clear to me that there should be any such duty, but I am decidedly of opinion that the militia should not be called upon to perform it. But, what can be more idle than to pretend to fortify and garrison with a few thousand troops the whole extent of this vast country? It is said also that the militia of the Western country (some of the best in the United States, or in the world) are at so remote a distance that they would be half dead with fatigue after travelling across the wilderness, and incompetent to the defence of New Orleans, or unable to attack it, if already taken. This argument (their remoteness from the scene of danger) was urged, without effect, when it was proposed to raise troops in 1805-'6, when an attack might rationally have been expected in that quarter; but now that no attack is expected it is allowed great weight.

But, after all, if we do attempt to defend these important points with this force, let gentlemen come home to themselves and ask, What will be the consequence if it should fail? For, be it remembered, that if this force be raised, it is avowedly for the defence of important positions on the seaboard and Western frontier. Every man, I should suppose, would be of opinion that the force is incompetent to defence. But, let it be raised on the ground that the Executive asks it, and pledges his responsibility to defend the country with it, what will be the consequence if it fails? And can any man believe, that, separated at so great a distance from New Orleans as the ports of France and Spain (for they are one and the same) and of Great Britain are, that either Power will make an attack upon that point with a force which that which is proposed to be raised would be capable of resisting? It cannot be believed. It is therefore our true interest not to lull our people into false security—not to give them a pledge of defence, when we know that that defence is not capable of being made by such a force as that which is contemplated. Let New York be bombarded or laid under contribution, or New Orleans taken possession of, whether by a maritime or land force, and the persons who pass this bill are politically defunct from that day. They can never survive such an event; it is not possible that they should. And if Great Britain should despatch a strong squadron from Halifax or Jamaica, or France should order the Rochefort squadron to pay us a visit, each of these towns might be destroyed, if even the whole six thousand men were there, and much more easily if they had only their proportion of that number.

This army, this increase of our regular force, is stated to be a necessary evil; nay, more, it has appeared that all this clamor about standing armies, is mere whim; that, indeed, this is not a standing army; that to call it so is not to give it its appropriate name. There is not much novelty or ingenuity in this position; its whole merit consists in the boldness of the assertion. It is precisely (I mean no offence to any one) the old Federal argument; in those times it was said, as it was yesterday, that the clamoring about a standing army was merely for the purpose of opposition; we opposed the standing army, and carried our point with the people. Here is an army still more objectionable, if possible; for this is neither raised for a specific purpose, nor for a definite time expressed in the law itself; the advocates of the bill have absolutely taken up the old Federal cry, that it is not a standing army, and gentlemen on the other side say it is a standing army; and yet, with past experience, have they the temerity to join with them on that question? In 1798, everything went on merrily—no dissentients, except one or two States, the Old Dominion and her eldest daughter, and the first of these divided by a very formidable minority—and what was the consequence in three short years? A complete revolution of the political wheel, and, as long as similar causes produce similar effects, you must calculate upon the same issue, if you will persist in bringing the same causes into action.

Without noticing, as I intended to have done, that any militia or even regular force despatched for the relief of New Orleans must be transported by water, and of course not exhausted by a long march as gentlemen contend—permit me to observe that the gentleman from Tennessee (Mr. G. W. Campbell) has totally mistaken, because he has certainly misstated all the arguments which he condescended to notice. In the first place, we are charged with the disposition to sit here with folded arms and make no preparation. And then it is asked, is not the crisis such as to call for preparation? We say it is; but we differ as to the sort of preparation. Some gentlemen thought gunboats a proper preparation; I did not. Some thought fortifications good; I was one who entertained strong doubts on this subject, though I agree perfectly that they are better than gunboats. In both these points, my worthy friend from North Carolina (Mr. Macon) thought with me. Some gentlemen think an army is requisite. I would not give fifty thousand stand of arms, which will not cost by a fourth as much as this army, for six thousand men, as an actual preparation for defence. I would not exchange fifty thousand stand of arms, for six or even twelve thousand men, as an effective defence.

But we are asked, what danger can a great continent, with a population of five or six millions, apprehend from six thousand men? Why, sir, six thousand men added to four thousand, our present number, make ten thousand men, and every

body must agree that it is a very decent beginning—a very pretty nest-egg of a regular military force. The first Monarch who invented this engine in modern Europe, and resorted to the business of setting aside a distinct class as the bloodhounds of the Throne to keep the rest of his subjects in awe, although master of a kingdom far more populous than the United States, had not anything like such a capital to go upon; and that little capital has ended in a standing military force of six hundred thousand men, the scourge of Europe and their own country. And it must end so here. What are we? who are we? Certainly, flesh and blood. Will not the same causes produce the same effects among us as among other nations? Is it necessary to recall to mind the guards of Pisistratus? An army acts upon society by its influence as well as by its physical force; and, while upon this part of the subject, permit me to say that it will act upon this House in that shape. A gentleman (Mr. Tallmadge) has expressed his confidence that the President of the United States, in his selection of officers, will choose the most proper persons. I hope he may; I hope they will not be taken out of this or the other House. Heaven forbid that I should suspect that they would be taken from either branch of the Legislature! But, unfortunately, the Constitution is silent on this head, for even old Homer himself, we are told, sometimes nods. The framers of the Constitution have omitted, in this instance, a necessary precaution against an evil which, in another, they have guarded against, after a fashion, to say the least of it, in the case of a civil office. By the Constitution, "no Senator or Representative shall, during the time for which he was elected, be appointed to any *civil* office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time." On the subject of *military* office the Constitution is silent, thereby holding out a sort of premium to the Legislature to create military offices; and an improper bias it may in future have upon them. The same provision which the Constitution has made in the case of civil office, would have been a less inadequate one in the case of a military office, and for this reason: You create a civil office and you cannot yourself fill it; but you have nothing to do, provided you have strength or favor at court, but to put the old officer in the new office, and get into the old one yourself. Some precedents might be adduced of this even in these pure days of our young Republic. In military offices I am not so clear that this could be done, for the old colonel could not accept the new colonelcy, since he would not only belong to a younger regiment, but when the people, no longer able to endure their expense, should come to reduce the army, his regiment might be disbanded, when, perhaps, the old one would be retained. Not being conversant with the punctilios of military life, I throw this out as a hint merely. Now, this is an influence against which, in my opinion, it behooves us to guard ourselves. No man, certainly, ought to vote for this bill who has the slightest idea of accepting an appointment under it, or, indeed, any other appointment; not that I say such appointment will be offered to him—I hope not—but if he feels a disposition to accept it, in case it should be offered to him, he is not a good juror, he is not fit to pass between this bill and the people of the United States. He is disqualified *in foro conscientiæ*—I wish to God he were in the forum of the Constitution too.

I have said there is no limitation to the continuance of this force, and I am giving it as a reason why the bill should be recommitted. Perhaps gentlemen have been told that the enlistments are for five years. That is no limitation. The enlistment on the Peace Establishment is for the same term, *only* five years. The two establishments (they are in fact but one) are precisely on the same footing, the one is as much a Peace Establishment as the other; the commissions in both are without limitation as to time. But it is said that this House has control over the public purse, and may refuse appropriations. And do gentlemen believe, in case of indisposition in the two other branches, that this army will be disbanded by a measure so strong as that? No, sir; let them look at the history of Great Britain; let them see the House of Commons in possession of a double check over the military—and I wish we had it too, for it is an important one, and we are too much in the habit of giving power out of our own hands, which it does not depend upon our votes to recall—the House of Commons have the same check over the supplies that we have, and also the power of refusing the mutiny bill or articles of war, an annual bill. But, unfortunately for that country, a pretext has been never wanting to her corrupt and ambitious ministry to keep in service a standing military force. The warning voice of her Barnards, and Shippens, and Savilles, have been drowned in the din of ministerial corruption. They began with a little force, until a standing army has become a part of the Government, I might say of the Constitution, and until the power of refusing supplies has sunk into a mere form; and this is maintained, not by writers hostile to their Constitution, not by jacobins and levellers, but by the veteran and chosen political troops who surround the Throne this modern doctrine of the English Constitution is avowed. And whence has it proceeded? It has arisen, because the people, seduced to resort to this expedient of a standing army upon every frivolous pretext, have been induced to give money to a particular class in the community to stand between them and danger, while they have been enervated by a life of sedentary habits, or by pursuits which, while they did not deprive the subject of the pleasures of active life, equally disqualified him from performing his part in the society of which he was a member. The standing army has become a part of the Constitution in theory as well as in practice. It is allowed, no one pretends to deny it, that the House of Commons have virtually relinquished the power to refuse the supplies or the mutiny bill. It would be attended with no other consequence, were they to refuse them, than to place

the French Emperor for one of his Lieutenants, upon the English throne. It would work a dissolution of society. But, deplorable as these consequences are to the British Government, they are attended with infinitely less of evil in that country than they would be in ours. There is but a *shade of difference*, to use a favorite expression of late, between that Government and those Governments where a standing army is their whole machinery and support. That Government is professedly regal; it has a hereditary King and nobility, and I had like to have said a hereditary hierarchy; aristocratical associations and corporations fostering every species of monopoly; everything which can create a distinction between man and man. A standing army is not calculated to operate the same mischief on that Government as on a people whose habits and mode of life are similar to our own. The power of refusing supplies, and of rejecting the mutiny bill, are as merely a nominal appendage to the House of Commons, as much the faded shadow of their ancient greatness, as the title of King of France is to their Sovereign. And it will soon become so here, if you pass laws which place us in a situation not to put our high prerogative into execution, but at the risk of the existence of the State, and leave us no alternative but of shrinking from that severe duty, or destroying our Government; for, when the Government depends upon regular troops, the refusal to pay them is a political *felo de se*; and I am not sure that this may not be the case when the destruction of our natural defence may have been accomplished.

It, then, will appear that it is not true that we are willing to consider this as a time of peace and safety, and consequently unwilling to make any provision for defence. It is not true; I repeat, it is not true. We are willing to make preparation, and the sort of preparation which we wish to make, is to arm the whole body of the militia, to arm every man capable of bearing arms, but more particularly to class the militia, and arm *instanter* that portion of our youth first to be called out; and let any man put the two sorts of preparation into the scales of expediency and sound policy, and see which will kick the beam. Ours is a preparation for the *nation*. This is for two or three spots on the coasts, which, taken all together, are a mere nothing to the whole; and even they would be much better protected by our mode of defence than by this. It is inadequate and frivolous. It is frivolous to pretend that the seaports in the United States, to say nothing of Detroit and the Western posts, can be defended by ten thousand men distributed among them. An enemy disposed to set seriously about attacking you, would never appear off Charleston, New York, or Wilmington, with such a force as you have provided to oppose him; they could hardly get one of their generals to assume the command of such a petty expedition. Either the Emperor of France or his Britannic Majesty would consider himself degraded by sending out such a paltry equipment. But it is said that this sort of reasoning would apply as well to sixty thousand men as to six thousand. Without being quite sure of that, let us ask whether the other sort of reasoning, that this is but a part, would not apply equally to six men as to six thousand? Would it not equally apply to an additional corporal's guard as to two brigades? Assuredly it would.

By those gentlemen who have recurred to the scenes of 1798, we are told that, at that day, France was struggling for her existence against a formidable combination of Kings, and that it was not our interest to prepare for defence against her. Really, when gentlemen holding prominent situations on this floor, are so totally mistaken as to an affair of yesterday, I can feel no kind of surprise that they should mistake arguments to which perhaps they did not pay as much attention as they ought to have paid to the political history of the past century. France, in 1798, struggling against despots! France, who, in 1798, had subjugated Holland, all Belgium, Italy, all that part of Germany on this side of the Rhine, and had Spain under her thumb; when Bonaparte had finished Europe, and gone to Africa, soon to return to be made First Consul! Have gentlemen forgotten? Do they mistake 1798 for 1792 or 1793? The power of France was such in 1798, that Europe would have greedily snapped at a peace which would have left France in possession of millions of additional subjects, and thousands of square miles of territory, that would have left her in fact the arbitress of the Continent. There was not an enemy within her territories in 1797 or 1798. Old France was not trodden by the footsteps of an enemy, except in the capacity of prisoners of war, or perhaps by some of her own subjects in rebellion. She was then, and has been since, in arms in the territories of subjugated States; she was not struggling for her existence, and none of those circumstances which gentlemen have conjured up did exist. On the contrary, as far as insult and violation of neutral rights went, and as far as the five-headed King of France went in his insults to us, as well as all the rest of the world, we had ample cause of war. But whether or not we had cause—for I speak in the language of writers on the laws of nations, not of expediency, when I say that we had ample cause for war—we had war, and in 1793 refused to take those measures in actual war, *flagrante bello*, which gentlemen are willing to take in 1808, at the same time that they admit that we are not in actual war. When I say *we* refused, I was not then in public life; I came in the next year, and I recollect with pleasure that I was one of those who assisted in disbanding that army, at once the ridicule and abhorrence of a united people. I am now about to touch a subject, upon which I enter in self-defence, and self-defence only. I touch it with reluctance, not because I shrink, or am at all disposed to shrink from the discussion which it may excite, for I would not require a better theme or a stronger position than that which I occupy on this ground; but I touch it with reluctance, because it may tend to call up feelings not friendly to the object which I have in view; in fact, it may prejudice my cause; the cause which, as

an advocate of the people, and myself as one of them, I am trying to plead before you. But when the alternative is either of prejudicing, or risking the prejudice of, my cause, or of risking the prejudice of my reputation, I trust I shall never hesitate. I am sorry that these old occurrences have been hunted up, not because they do not very strongly make in favor of my present case in point of argument, but that they make very much against it in point of feeling; and may tend to excite unpleasant sensations, which it was my heartfelt wish to have allayed. My colleague, who sits before me, (Mr. Clopton,) began a plea of consistency, a comparison of conduct in 1798 and now. Without questioning the validity of the plea, without a desire to do it, I naturally threw back my memory upon past times. The proposition to raise troops in 1805 and 1806 naturally obtruded itself on my mind; I saw that it might lay a foundation for a plausible charge of inconsistency against me, and I exercised the right of exculpating myself from any such charge. With that view, and that only was it, that I took up the question. But a gentleman who spoke yesterday (Mr. Campbell) brought it before the House in a posture so twisted, so deformed, and distorted, that I considered it not merely my right, but my bounden duty to present it to the House in my view of it, willing to believe that the view which the gentleman took may have arisen from the prejudiced medium through which he and perhaps each of us has beheld the transaction; I say it *may* arise from that cause, because I cannot believe any gentleman disposed to misstate facts on this floor.

In 1805, it is said that the Territories of the United States were not violated by Spanish officers or troops; it is asserted that the Spaniards only came to the edge of the line, and employed means for getting our citizens over to their side of it. If the observation be restricted to the territory of the old United States, I am willing to admit, for aught I know to the contrary, and as the gentleman says so, that the Spaniards did not cross our lines; that they did employ Americans base enough to accept their bribes to bring our people into the territory over which they exercised jurisdiction. This makes the offence much greater. To seduce your citizens, to bribe your own citizens to take persons from within your limits, and carry them within those of a foreign Power, is a greater insult than to come with armed troops, and take them openly. And I am astonished that a gentleman who so very properly asserted the value of the privilege of the flag, which had been underrated, could not also see that the flag of the Republic should cover the territory of the Republic? Shall gentlemen urge that the flag of the merchantman should cover the crew with infinite advantage to the ship, and be blind enough not to see that the flag of the country ought to cover the crew on the great deck of the nation? How is this to be reconciled? The President of the United States told us, in his Message, that our territory was invaded; and be it remembered that it was the territory of the good old United States—God bless them! But granting that it were not invaded, I was, and am, astonished that gentlemen who can detect a lurking sophistry in a very able and argumentative speech—a very learned speech—and I hope it is not going too far to say that it contained a single lurking sophistry—for who could not detect it in the assertion that freedom from impressment is not an advantage to the seaman?—the advantage is obvious; I do not speak of the right, for it would take me a year to get through it. The advantages resulting from the principle that the character of the ship shall protect its crew, are the same as that the soil should protect the inhabitants; it gives security to the citizen, and that is the advantage. As long as the subjects of Bonaparte or the King of Great Britain are free, they are under the protection of our laws; and were we to permit them to come here and take off whomsoever they choose to call their subjects, would not the same abuse take place as in impressment? And would the spirit of the people brook the indignity to see the minions of Fouché, or of a Bow street officer, come and take off our citizens? They would not, sir; and I wish to God he had the same power of protecting them on the deck as we have on the soil. The advantage consists in this: that although the British seamen may come into market and compete with the American for wages, if the flag protect the British seamen, *a fortiori*, it protects your own citizens from being mistaken for them; and such a claim—(for freedom of the flag) I do not speak of the law of nations—no more abrogates the distinction between the citizen and the foreigner, no more cheapens the inestimable privilege of American citizenship, than the assertion that the same man in our country is under the protection of our law. Suppose the officers of a foreign nation were to come here and seize their subjects by force? By the same argument that you would repel them, that the soil protects all, you do away all distinction between the citizen and the foreigner, and what advantage, it is triumphantly asked, is this to the American citizen? It is this advantage: that in establishing that principle you give security to the citizen; and the same argument will hold good on the sea, in my own apprehension, as on the land. At the same time I am very far from being one of those who wish to do away all distinction; I am willing to admit that our laws are radically defective on this subject; I wish they were amended; I do not wish to see a plea for filling our country with the refuse of Europe. Having done away the *black* slave trade, I wish to do away the *white*.

I have been hurried by this interesting topic from my point. It is said that in the years 1805,-6, there existed no dispute between us and Spain as to limits. If I mistake not, except as to the Western frontier—that we had no reasons to believe that France countenanced Spain in any claim to limits, except on the Eastern frontier. [Mr. Campbell said that what he had said was in substance that at that time there was no reason to believe that France countenanced any

claim of Spain to those lands west of the Mississippi which we claimed under the Treaty with France.] Then, said Mr. R., the gentleman and myself are completely at issue. On Friday the 6th of December, 1805, a letter and communication from the President of the United States were received and referred to a select committee. That Message constituted a part of the secret journal, and was ordered to be printed. The Clerk omitted it. A motion was made to amend the secret journal by inserting it. It was overruled. That communication, I am proud to say, warranted a very different opinion. I remember it well; I have not forgotten the language of Mr. Talleyrand; it will ring in my ears with that of Mr. Champagny, and with the thunder of the guns of the Leopard, as long as I live. It contained the most peremptory decision against us as to the Eastern limits; on the subject of the Western limits it was totally silent—from whence the gentleman from Tennessee may have drawn the inference, as others have before him, that as she was against us as to the Eastern limits of the land which she had sold us, and silent on the subject of the Western, in the Western she was in our favor. That inference may have been drawn. But in my opinion the fact itself, exclusive of strong circumstances by which it was accompanied, exclusive of the despatches of our Ministers at the Court of Madrid, which threw strong light on the subject, would have justified the opposite inference: indeed rendered it almost impossible not to draw that inference. No other can be drawn.—[Mr. R. was here called to order by Mr. Fisk, who said that the subject was of a confidential nature.]—I have done, sir. I certainly did not still the subject, and were I governed by that necessary thing called policy, I should not have noticed it; but really it is impossible for a man who has much respect to principle, to adhere invariably to policy. I will now proceed to state reasons not contained in that Message or the despatches which accompanied it, why that inference should be drawn; and in this respect I find myself treading on ground yet more delicate, but I tread it with a firm step at least. I shall touch upon it because I am told that a sort of informal denial of a fact and an important fact too, stated by me at that session of Congress, has gone forth. I have never seen or heard it denied, and my eyes and ears have been open to it; but it has never come, nor do I believe that authority was ever given for making the denial; but as the responsibility has been assumed in an unauthorized manner by some unknown person, I will now restate the fact; and I believe it will not be openly and explicitly denied. The party who alone can give a denial, has too much regard to truth, to his own character and feelings, and to that peace of mind which the teller of a deliberate falsehood can never feel in this world or the next, to deny it. I will now state the fact, and ask a denial, not upon private responsibility, but upon authority. You will recollect, sir, that I was chairman of the committee to whom that Message was referred. I called at the office of the Department of State, which I had occasion to do to obtain a passport for a young relation and his servant whom I was sending to Europe, where only an education could be given him; it was not unnatural from the terms which then existed between the gentleman at the head of that Department and myself—(for till that moment they were perfectly amicable, and even intimate, as much so at least as could well exist between persons so unequal in point of age and standing in society,) that I should ask him about our foreign affairs, and what was to be done. The reply was to this effect: that foreign nations treated us as suited their own convenience, without any regard to honor or justice. On the subject of our then pending differences with Spain, I was told—it has not been nor can it ever be denied; I will support it in any and every way—that France will not permit Spain to come to any accommodation of our territorial differences that did not involve a stipulation for the payment of money on our part, because, the money was to go to France; that whatever money we might stipulate to pay to Spain, she would get it; that she wanted money, and that we must give it or risk a French and Spanish war. We did give it—I have no doubt (as some of us believed) with a very crafty policy. We shut our eyes to the designs of France, and said it is not our affair: if we get from Spain what we want, it is not our business to know into whose pocket our money is to go, and moreover we are not officially apprized that France does prevent Spain from coming to an accommodation with us, or bound to know it; although we had that sort of knowledge which is full as much to be relied on as official information. I state this fact without a wish to excite any unpleasant sensation in any human breast; I state it from a motive of justice to myself; it proves that I was not wrong in drawing from the silence of France with respect to the Western boundary an inference that she was not in our favor in that quarter, but that one boundary was enough for her to settle at a time, when upon every settlement she was to be well paid. This was my inference, and it was a just one. Why do I restate the fact here? Because I did immediately on my return from Baltimore state in the House the same fact, which was not then denied, and a denial of which I never heard whispered until within a few weeks past. Another fact I stated at the same time, not as coming within my own knowledge, which was denied; it was, that the pulse of the Secretary of the Treasury had been felt on the subject of advancing the money on account of the Floridas before the bill to appropriate it had passed through all the forms of a law. I then said that if the Secretary denied it I would disbelieve it, though it would require an exertion of all my faith. This produced the letter of the Secretary on the subject. This was a fact which I stated not as coming within my own knowledge; for if after the Secretary of the Treasury had told me these things, he had denied them, it would not have caused me to disbelieve them, it would only have proved him not to be a man of truth. I stated this at the time, and said, that if it were denied by the Secretary of the Treasury, I would disbelieve that of

which I was not an ear witness. But it was greedily caught at, the cases were attempted to be jumbled together—although in themselves entirely separate and distinct. It was insinuated that a gentleman who was misinformed (which by the way did not at all appear from the Secretary's letter) as to a fact related to him, might be mistaken as to a fact of which he was an ear witness, and yet not a man in the House authorized to deny it. This wretched attempt at a denial by implication, when the party might at once have been appealed to, was conclusive proof that none could be directly made. From that day and date, my ideas of policy and politicians too underwent a sudden revolution. I saw persons in whom I had placed considerable confidence reconciling themselves as politicians to that which as men I believed they would disdain to practise. A new light broke in upon my understanding; it did affect my ideas not only of politics but of politicians. I stated the circumstance immediately in the House; it was the immediate cause of what has been over and over again styled a schism in this House, but which has been attempted to be placed to a very different account—I shall make no further allusions; but if any other man does I am prepared with evidence within these walls to rebut it—this schism has been attempted to be traced to causes which even in your own records, and the testimony of some of the first men in the country, one of them now in this House, will prove to have been posterior by weeks and months to the circumstance just mentioned, which occurred in December, and to the divisions which grew out of it. I dare any man to support the assertion—I dare him in the spirit of conscious rectitude and truth—for I have listened *arrectus auribus* in the hope that some responsible person would venture to repeat the anonymous slanders which fill the columns of the public prints; I can prove the negative.

I am sorry to give any offence. Though I do not wish the bill to pass, I am taking measures perhaps to insure its passage; but I am compelled in self-defence—for be it remembered that those who are called the minority are, *se defendendus*, the attacked party now; whatever they have been heretofore they now act on the defensive, and in self-defence I have made these observations, and brought into view old times, which it were to be wished had not been brought up.

I have been as unfortunate in making myself understood by the gentleman from Tennessee (Mr. Campbell) as he has been unfortunate in understanding the modern history of Europe and drawing inferences from the Message to which he first made allusion. It is asked what has become of the war spirit of those gentlemen, who were at the commencement of the session for marching to Canada and reducing Quebec? The gentleman might not mean to include me in this apostrophe, but I consider it as addressed to me among others. I call the attention of the House to our situation now, and then, and to the circumstances under the existence of which I spoke. The Chesapeake was attacked. What was it then I said? That I would demand reparation, and if it were not made I would take it. Did any gentleman speak of making any sort of war before reparation were demanded? No; it would have been inconsistent with the dignity of manhood and of this nation so to have done. We spoke of war if reparation were denied—and I do trust in God that Quebec would have been in ashes if Great Britain had avowed the attack. But the President had issued a proclamation. I believe that in the then state of the public mind, this proclamation (for it was condemned by some of his greatest admirers as too lukewarm a measure) was absolutely necessary to prevent the country from rising man by man, and inflicting some mad act of vengeance on the persons and property of the enemy's subjects, and as such I think it was a wise measure, because it has led to happier results, which but for it would not have been attained. But I for one, then and since, although the proclamation under those circumstances was approved, could not help regretting that the President found himself obliged to issue that proclamation; for really instead of serving as a vindication of the national honor, it appeared to me to compromit it—to compromit it, because it merely existed in your gazettes, in your statutes at large, where such proclamations are or ought to be recorded—and yet it could not be executed. It was like an order to a ruffian or intruder—for hard words answer no purpose—to quit your house, without the ability to turn him out. It was then compromitting the nation, inasmuch as we had not physical force to execute it, and it served as a pretext at least to the making of difficulty in repairing the insult done to the honor of the nation. That proclamation, especially when taken in connexion with the peremptory injunction not to separate the affair of the Chesapeake from other points in negotiation, operated in a degree as a pretext (not a just one certainly) to refuse to repair the injury done to our national honor. In so far I regret the proclamation; I think of it as gentlemen say they do of this standing army, that it was a necessary evil, which could not have been avoided. Something must have been done, and nothing less calculated to precipitate us into a war could have been devised. But are gentlemen prepared to say that our situation is what it was on the 26th of October? On that day, when the words so much carped at were uttered, we were still in doubt whether Great Britain would or would not justify the attack on the Chesapeake; and we had greater reason to believe that she would than that she would not. The scale inclined that way, because we could hardly bring ourselves to believe that any officer would undertake such an act without authority. It was scarcely to be credited that an officer would have performed such an act without responsible authority—I do not mean winks and nods, but written orders. Since that time Great Britain has disavowed the act, and has said that she is willing to make reparation. Does this make no change in our relative positions? It does. I do not say that it ought to satisfy our demand. Far from it; but it works a change. Even if it

does not, we have wrought a change with our relative situation. In the first place we have conceded the point that the subjects might be discussed separately, and properly too, because it was rather unlucky to have blended them; we have done more, we have agreed to meet our adversary half-way, to withdraw the proclamation at the same instant that she should make concession. It is evident that the conduct of Great Britain in disavowing this act of her commander, and in expressing her willingness to make reparation, has been such as to induce our Government to ease off on its side and to change the relative position of the two countries. There can be no doubt of this; for surely if our position had been such as it was when we met here, our Government would never have thought of it. There must have been something to produce this change in their conduct—and what was it? A formal renunciation of the act, and an avowal of readiness to make compensation. But exclusive of these considerations, there was one more powerful—the subsisting relations between us and France. It is not possible that any man who loves his country can consent to make war upon France at the instance of Great Britain, who has the same interest to embroil us with France, that France has to embroil us with Great Britain. It is impossible for any man who loves his country to consent to make war upon Great Britain at the mandate of France; and this their equal pressure upon us (and not upon each other) will, in my opinion, keep us in the steady orbit, however elliptical, of neutrality and peace. The situation in which we now stand and in which we stood at the commencement of the session are different. Gentlemen have not stated our language fully, and therefore not fairly. It was the language of more than one, that if the act was not disavowed we had nothing to do but to proceed immediately to Canada and Nova Scotia; and then we should not have found Quebec fortified so strongly or such a force in Canada as at present.

But the gentleman says that this force grows out of the state of affairs in Europe, and has drawn our attention to the state of things in case of peace in Europe, when that pressure of the two great Powers upon each other of which he speaks shall be relaxed, and when he says our situation will be much worse than it is now. Are gentlemen aware of the extent of this argument? If our situation will be worse in peace than it is in war, if these 6,000 men grow out of the crisis of the European war, a still greater number will be requisite when Europe is at peace; and our arguments that this is a standing force are as clear as day. We want 6,000 men during the war; when there is peace we shall want a still greater number. Of course we must make addition upon addition, and this force is a permanent Peace Establishment. Your establishment when Europe is in war is increased; and when in peace it must be still further increased.

But the gentleman has not confined his mistakes to those already noticed; he has fallen into another error. He supposes that the embargo is now acknowledged, by those formerly opposed to it, to be a masterpiece of human ingenuity. It is not my business to recall its operation to the recollection of gentlemen, if the state of their pockets does not remind them of it. It is not my interest to call their attention to the embargo, for the same reason that it was not my interest to recall transactions of 1805–6; but when I must choose between evils, and pass for one who would fall at the footstool of your chair and make confession of his political sins, I cannot hesitate. I never was one of your recantators; nor ever will, for I hope to maintain no opinions which truth and honor would compel me to acknowledge to be incorrect. If they do, however, I trust I shall have magnanimity to acknowledge it, however painful. [Mr. G. W. Campbell explained that he never had supposed that the gentleman had recanted; and certainly there were some gentlemen who had expressed a belief in the policy of the embargo who had not originally voted for it; to those he had allusion.] The gentleman explains his observation not to have beeen general, said Mr. R., I accept the explanation with pleasure. The gentleman's observations then apply to my friends if not to myself; and as I hope those gentlemen will assist me in taking a little of the burden off my shoulders, I wish to assist them in taking some of it off theirs Well, this embargo, which was to have been both the shield and the sword, has turned out but a sorry defence, and must be bolstered and buckramed up by six thousand bayonets. It would not be too much to say that the embargo grew out of the measures of 1805–6; which tended to embroil us with Europe, and we have been struggling deeper and deeper in difficulty ever since. It was then believed by many (God forbid that I should say all!) considerate and reflecting men, that what was called conciliation to Spain while in hostile array, with whom a negotiation had been broken off in a disgraceful manner, her Minister insulting you and our Minister asked for the two millions—it was said that this *conciliation* would infallibly lead, as one day follows another, to war. The non-importation law might be called the edge of the wedge, the embargo the centre, and the standing army the but; and it is all about to be driven to the hilt. What did we quarrel about in 1805–6? About the carriage of our own bulky produce to Europe or elsewnere and bringing home the returns? No; it was about what was called the carrying trade; the colonial trade. This was the point on which we quarelled; the circuitous trade, not the direct trade which carries our own produce, and brings its value back in theirs; but the circuitous trade. There never was one of us who maintained that this carrying trade was not a lawful and lucrative employment; it was a lawful trade, and one which we ought to maintain if we could. But we insisted that the only sort of trade which the people of the United States would go to war for, was the direct commerce; and it is even questionable whether we ought to go to war for that—not that the circuitous trade is not valuable and productive; but it is one which is not worth the going to war for, at least by a

people circumstanced as we are. Nothing is more certain than that the nation would never support a war for such an object as the carrying trade. I mention this because I believe my sentiments upon this subject have been widely mistaken by those whose good opinion it is the interest of every man who values his character to cherish. We quarrelled about impressed American seamen, and commenced a system which produced consequences the remedy for which is an embargo; and we give up all our seamen, for they are not to be embargoed; they will slip out. Great Britain has now not only all her own seamen but a great many of ours. She can have no difficulty in manning her fleet—and I am not surprised to learn that in England the embargo is a most popular measure; that they are glad to see the patriotism with which we bear it, and hope it will not fail us. We differ about some seamen, and we give them all up. We differ about a particular branch of trade, and we give up all trade. We surrender to Great Britain all the commerce of the world, and what more can she ask? Can any man believe that if this embargo is continued it will not produce a most important reduction of seamen's wages? Whilst she carries cheaper than she ever did, she has at the same time the monopoly of the supply, for as to the Continent's doing without tea, coffee, and sugar, they will have them; they *have* them, and that is a proof that they find means of getting them. The British West Indies, so long verging to ruin, are at last relieved. Year after year they have petitioned Parliament, complaining that they are undersold by the enemies' colonies, whose produce is carried in neutral bottoms (chiefly American) free of war risks and charges. We have done more for them than their own Government could do. We have given them the monopoly of the supply of Europe; and to the mother country the monopoly of the carrying trade also.

I therefore am not one of those who approve the embargo; and so far permit me to differ with my friend from South Carolina (Mr. D. R. Williams) in considering the embargo a half way measure. Not so. It is up to the hilt; commerce and agriculture are lingering and must die under its operation. [Mr. D. R. Williams said he did not say that he considered the embargo a half way measure. Far from it.] I understood, said Mr. R., that it was among the number of those which my friend considered as half way measures. A half way measure indeed! It gives up to Great Britain all the seamen and all the commerce; their feet are not now upon your decks, for your vessels are all riding safely moored along your slips and wharves; and this measure absolutely gives agriculture a blow which she cannot recover till the embargo is removed What has become of your fisheries? Some gentleman has introduced a proposition for buying their fish to relieve the fishermen. Indeed I would much sooner assent to *buying* their fish than to raising these troops, except indeed we are raising the troops to eat the fish. I beg pardon of the House. I could not restrain a smile at the idea. After paying out this money to the soldiers, I think if any more money is to be expended upon them, we had better put them upon lent diet, and then buy these good people's fish and feed your soldiers with them. This would be an admirable contrivance, but for this: that in time of national distress, money should not be taken from the pockets of the industrious laborer to feed dissolute idleness. I recollect a celebrated author, and at the commencement of the Revolution a very good whig, who spoke of a project to keep down all murmurs by posts and pensions. A very bad recipe, which inflames the disease which it is intended to cure; for unfortunately these posts and pensions, like military officers, do not come out of the pockets of the sovereign, but are wrung from the toil and sweat of the great body of our citizens, and must therefore, whatever effect they may produce on those gratuitously provided for, excite that discontent which for the moment they attempt to allay.

I have one more reason with which I shall close my observations in favor of committing this bill. Not only that the bill in principle and detail is wrong—the principle is not however new, since it is an addition to the Military Peace Establishment—but for another reason: that when this bill is recommitted, the House will be able to act on a subject of much greater importance. I mean the organizing and arming the militia; and when that subject shall have been taken up, gentlemen will not have to urge the appropriation necessary for this force as a pre-existing reason to curtail the appropriation necessary for arming the militia. It is indeed said that if the expense be necessary, we ought to meet it. It is idle to talk of expense, if the object of it were necessary; I agree with them there. But there are in politics, whatever there is in logic, degrees of necessity. I do not believe the force is necessary; but granting it to be so, gentleman themselves contend that it is not so indispensably necessary as arming the militia; and on their own principles they ought to take up that subject, and postpone the present bill.

Mr Eppes said that if the observations made on the present occasion had been confined to the merits of the bill before the House, he would have rested the justification of his vote on the documents recently communicated. The foreign relations of this country, however, have been brought into the discussion. The United States, injured and insulted as they have been at every period of their political existence, have never heretofore been placed in a situation which so imperiously demands energy and talent on the part of its Government, and patriotism on the part of its citizens. Unequal as I am to the task, I will attempt to place before the people of this country our real situation with foreign nations. As a citizen of a country whose rights have been violated, whose independence and honor have been assailed, I feel indignation against each, proportioned to the wrongs committed. As a Representative, I shall endeavor to place before those to whom I am responsible our present situation with England,

France, and Spain. I can have no motive in exaggerating or softening the acts of either. The naked facts such as they exist will present to the American people a gloomy picture, marked only by stronger lines of injustice and violence, and induce them to feel as I do, that we have nothing to hope from the justice of Europe; that the safety of our country depends on the virtue and union of our citizens, and giving to its resources and energy the proper direction. I commence with Great Britain. The injuries received from Great Britain may be classed under three general heads:

1. The impressment of American seamen;
2. Commercial injuries;
3. Violations of our national sovereignty.

1st. The impressment of our seamen. This injury has been continued from the Treaty of 1783 to the present period—under circumstances calculated to inflict the deepest wounds on the sensibility of the nation. The right has been recently asserted by proclamation, and the King in a speech to Parliament declares it to be one of the maritime rights of Great Britain which can never be relinquished. The gentleman from Connecticut (Mr. DANA) yesterday told us, that Great Britain claimed only to take her own subjects from neutrals on the high seas, and that she had a right. In what code of maritime law does he find this? The right is solemnly denied. It cannot be supported by the law of nations, nor is it sanctioned by the practice of any Power but Great Britain. In the letter from the Secretary of State to Colonel Monroe of January 5th, 1804, it is declared:

"That although Great Britain has not yet adopted, in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it by the law of nations. She must produce then such an exception in the law of nations in favor of the right she contends for. But in what written and received authority will she find it? In what usage, except her own, will it be found? She will find in both that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in war, nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemies' property of any kind. But nowhere will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person not an enemy, in military service, found on board a neutral vessel.

"If British treaties, as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign to enforce his claims to the allegiance of his subjects on board neutral vessels on the high seas. On the contrary, whenever a belligerent claim against persons on board neutral vessels is referred to in the treaties, enemies in military service alone are excepted from the general immunity of persons in that situation. And this exception confirms the immunity of those who are not included in it.

"Even, however, if the right of Great Britain to take her own seamen from neutral vessels on the high seas was admitted, can any nation without surrendering its pretensions to independence submit to the form in which that right is exercised? A neutral vessel is brought to. A certain number of the crew claimed. A foreign officer at once decides, and his decision without appeal consigns to bondage an American citizen. Whenever property in a neutral vessel is supposed to be liable on any grounds to capture and condemnation, the rule in all cases is that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable then or just that a belligerent commander who is thus restricted, and thus responsible in a case of mere property, of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into instant execution by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline and his life itself to the greatest dangers? Reason, justice, and humanity, unite in protesting against so extravagant a proceeding."

For this extract I refer gentlemen to the same letter, page fifth. We have established a Government for the avowed purpose of protecting human rights. And what is our practice? The personal rights of an American citizen are less regarded than the most trifling article of property. To appropriate a yard of riband taken from a neutral vessel without condemnation by a judicial tribunal would be an act of piracy. But the native-born citizen of our country is liable to be seized in the prosecution of his lawful avocation; a father torn from his children, a husband from his wife, the most endearing ties of society broken at the will of a foreign officer. Man on land and man on water is still the same. The feelings of patriotism, but above all the attachments of the heart which bind man to society, are the same. Let gentlemen bring the subject home to themselves—the seizure of a single individual on land while pursuing his lawful avocations, and depriving him without trial of liberty, happiness, and country, would rouse the indignation of a whole community. The seizure of the Kempers, in 1806, by the agents of Spain, although they were rescued and preserved to their country and friends, has been considered as just cause of war—but the groans of upwards of two thousand of our seamen now writhing in bondage must be viewed with indifference. I cannot conclude this part of the subject better than in the words of our late Minister at London—speaking on the subject of impressment to the British Minister he declares:

"That the rights of the United States have been so long trampled under foot, and the feelings of humanity in respect to the sufferers and the honor of their Government so often outraged, even in their own ports, that the astonished world may begin to doubt whether the patience with which these injuries have been borne ought to be attributed to generous or unworthy motives—whether the United States merit the rank, to which, in other respects, they are justly entitled among

independent Powers, or have already, in the very morn of their political career, lost their independence and become degenerate."

Degenerate indeed and degraded must that nation be that can tamely submit to have its citizens, like the wretched Africans, kidnapped and carried into bondage! This practice, too, so disgraceful to our national character, although justified under the pretext of securing to the British Government its own citizens, falls almost exclusively on American seamen. It appears, from the letter to which I have already referred, that, between the month of June, 1797, and September, 1801, of two thousand and fifty-nine cases of impressment from American vessels, one hundred and two seamen only were detained as British subjects—being less than one-twentieth of the whole number impressed. That one thousand and forty-two were discharged as not being British subjects, and eight hundred and five detained for further proof, the greater part of whom were probably Americans or other aliens. And, from the same paper, it appears that, for every British seaman gained by the practice of impressment, at least ten persons, citizens of other countries, become the victims of this odious and unexampled species of tyranny. That the greater portion, and very commonly, the whole of those whose rights are thus wantonly sacrificed are real American citizens.

These are the injuries inflicted on us by the British system of impressment. The practice is justified by the British Government on the ground that it has a right to the services of its own subjects for its defence, and that this right cannot be abandoned during a struggle for existence.

The United States have no wish to employ or protect British subjects. Liberal arrangements have been offered to the British Government to secure the services of its own subjects. To pledge the faith of the United States to exclude British subjects from our vessels; to employ on board those vessels only native-born American citizens, and such persons as are naturalized under the laws of the United States. The arrangements have been refused—the conclusion is irresistible. Either no reliance is placed in the good faith of the United States, or, in a struggle for existence, it suits the convenience of the British Government to join the American seamen to its own, and to take them by force.

I pass on now to the second class of injuries—violations of our commercial rights. In order to give a connected view of these, it will be necessary to go back to the year 1793, when Great Britain commenced her system of illegal blockade, and to trace her step by step to the period when she attempted to ingraft into the law of nations a usurpation of her own, commonly known as the Rule of 1756. In the month of May, 1793 Great Britain entered into a treaty with Russia for the purpose of narrowing the intercourse of neutrals with France. In pursuance of this treaty, on the 8th of June, 1793, the first British Orders were issued, interdicting all neutral supplies of provisions to France, with a view to produce submission by famine. In the course of the same year Great Britain formed treaties with Spain, Austria, and Prussia, similar to the one concluded with Russia, and all these Powers became united for the holy purpose of starving France by destroying the rights of neutrals. On the 6th of November 1793, instructions were issued by the British Cabinet which struck generally at the neutral commerce of the French West Indies. This instruction was addressed to the commanders of privateers and ships of war, in the following terms:

"That they shall stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies, for the use of any such colony, and shall bring the same with their cargoes to legal adjudication in our courts of admiralty."

These orders were secretly issued—were put into execution without notice, and the American flag swept from the ocean. The general sentiment of indignation excited by these orders among our citizens and the proceedings of the American Government on that occasion are well known.

The next British orders were issued in January, 1794. These were considered as varying the instructions of 1793, and intended to take the direct trade from the French West Indies to the United States out of the operation of the orders of 1793. On the 19th of November, 1794, the treaty between the United States and Great Britain was concluded, and before it was ratified in this country, orders were issued for carrying in our provision vessels. These orders were issued in May, 1795. They suspended the ratification of the treaty for some time, and upwards of one hundred and twenty-two American vessels were carried in, in twenty-two months. On the 25th of January, 1798, the instructions of 1794 were revoked. These last instructions authorized the bringing in for adjudication all vessels with their cargoes, that are laden with goods the produce of any island or settlement belonging to France, Spain, or the United Provinces, and coming directly from any port of the said islands or settlements, to any port in Europe (not being a port of the kingdom of Great Britain) nor a port of that country to which such ships, being neutral ships, shall belong. The operation of this new change in the instructions was peculiarly injurious to the United States, because it excluded them from a commerce allowed to the neutrals of Europe, and compelled them to bring through the United States the same articles which other nations standing in the same relation to Great Britain might carry direct.

In the year 1803 orders were issued for the seizure of neutrals with return cargoes, who were suspected of having supplied the enemy on the outward voyage with articles contraband of war. Under these instructions the outward and return voyage were considered as one. This was the preparatory step for throwing the United States altogether out of the colonial trade. The next step was to declare that the landing of colonial produce, and securing the duty according to the local regulations, did not break the continuity of the voyage. Thus, West India produce brought first to the United States and landed, was considered by their courts as going direct to Europe.

These decisions, gradually formed on the decree of 1803, were not known in the United States until 1805. The decree was issued without notice, and its application to our commerce made known to the United States by the capture and condemnation of our vessels. The immense capital embarked in this commerce, its unexpected and unexampled destruction covered your table with memorials from every part of the continent. The injury in 1805, like that in 1793, was produced by secret orders. The destruction of American commerce was decreed, and capture and condemnation were the couriers by which it was announced. In both cases public indignation was justly excited against Great Britain, because lawless power was rendered more intolerable by being combined with treachery.

Under the operation of the feeling excited by the various injuries done to our commerce, by the impressment of our seamen, and by the insults offered within our waters, and even within our ports, the non-importation law was passed. It is not my intention now to discuss the policy of that measure. If it has caused Great Britain to commit towards us additional acts of injustice (which I do not believe) it proves only that the exercise of a positive right on our part can subject us to insult and injury from a nation whose code of national law is her interest. The regulation of commerce within the territorial limits of a country is an act of sovereignty of which no other nation has a right to complain. Every nation has a right to say what intercourse it will hold with another nation and on what terms. Great Britain is the last nation in the world that ought to complain of the exercise of this right by the United States. All America's manufactures are permanently excluded from that country. All our salt provisions except bacon, and even wheat and flour, except in times of scarcity.

The last commercial regulations of Great Britain are the orders of January, 1807, and of November the 11th. These orders interdict to neutral nations or rather to the United States, now the only commercial nation in a state of neutrality, all commerce with the enemies of Great Britain, now the whole commercial world, with certain exceptions only, and under certain restrictions.

I am almost at a loss to say which is most calculated to excite the indignation of an American, the orders, or the exposition which His Majesty has been graciously pleased to give of them. Several of the exceptions being considered as favors conferred on the United States, I will notice them.

1st. As a proof of the amicable and indulgent disposition of the British Government towards the United States, commercial intercourse is allowed with the dependencies of the enemies of Great Britain. This is considered as a departure from the ancient and established principle of maritime law, prohibiting altogether such intercourse in time of peace. This ancient principle as asserted by the British Government was for the first time introduced in the year 1756. It is invariably cited in all judicial decisions as the Rule of 1756. Instead of being an ancient principle, Great Britain is the only nation that has acted upon or otherwise given countenance to it. It is not even an established principle in the practice of Great Britain herself. When first applied in the year 1756, the legality of a neutral trade with enemies' colonies was not contested by it. In certain cases only the allegation was that the presumptive evidence, arising from circumstances against the *bona fide* neutrality of the ownership, justified the condemnation of enemies' property. During the war of 1778 it is admitted by every British authority that the principle was never brought into operation. It may be regarded in fact as having been silently abandoned. And within the period of war since the commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British Orders of Council and the British Courts of Admiralty. With the exception, therefore, of a period the last in modern times from which authentic precedents of maritime law will be drawn, and throughout which the United States, more interested in the question than any other nation, have uniformly combatted the innovation, the principle has not been in op ration in the British tribunals for a longer period than three, four, or five years, while in no other has it ever made its appearance but to receive a decision against it. Such is the antiquity and such the authority of a principle the deviations from which are held out as so many favors conferred on the United States. For a detailed and luminous view of this question, I refer gentlemen to the "Examination of the British Doctrine," page 20—what I have said as to the Rule of 1756, is little more than an extract from that work.

But the United States, in the opinion of His Majesty, ought to be grateful for other favors also. They are permitted to carry on trade with the whole Continent of Europe, subject only to the very reasonable conditions of going first to a British port, accepting a British license, and paying tribute to the British exchequer. Under these orders every article of American produce exported to Europe, although not destined for England, must pass through British ports. But this is not all—the article must remain there. The ceremony of passing through a British port can have no effect but prohibiting the admission of the trade into the port of destination. We know that all intercourse between the ports of Great Britain and those of the continent, Sweden alone excepted, is at an end. To offer us trade with the Continent of Europe through British ports in the present situation of the world is adding mockery to insult. As the last, and I suppose the greatest proof of the friendship of His Britannic Majesty, he has graciously determined to lay a tax upon our cotton, and has even condescended to assign his reason for this singular favor, viz: the encouragement of British manufactures. I forbear to express the indignation I feel on this occasion.

This infant country in the colonial state refused to bend to lawless power. Shall we in the vigor of manhood relinquish our rank among the independent nations of the earth, by tamely abandoning our rights?

These are the commercial injuries received from Great Britain. They are justified, the late orders particularly of January and November, 1807, as measures of retaliation. How far they can be supported on this ground will appear from a statement of facts. The first instance in which the French decree of November sixth, was put in force against the neutral rights of the United States, was the case of the Horizon, an American ship, bound from Great Britain to Lima, wrecked on the coast of France. This decision took place in October, 1807; and was not known to the American Minister at Paris until some time in November. So that when the British order of January, 1807, was issued no case had occurred of an application of the French decree to the American commerce. At the date of the late orders of November 11th, the only aggression which had occurred was unknown to the British Government. It could therefore have no share in producing this alleged retaliation. On the contrary it had been expressly communicated to the British Government, by the American Minister at London, that explanations, uncontradicted by any overt act, had been given to our Minister at Paris, which justified a reliance that the French decree would not be put in force against the United States. Seizures have lately been made and our vessels sequestered—these we know to have taken place under the French decree of December 17th, professing to be a retaliation on the British orders of November 11th.

I pass on now to the last class of injuries—violations of our national sovereignty by Great Britain. These are stated in the letter from the Secretary of State of March 5th, 1808, to Mr. Rose, in a style so far superior to my own, that for this part of the subject I will avail myself of the letter. Here Mr. E. read the following extract:

"In the Summer of the year 1804, the British frigate the Cambrian, with other cruisers in company, entered the harbor of New York. The commander, Captain Bradley, in violation of the port laws relating both to health and revenue, caused a merchant vessel just arrived and confessedly within the limits and under the authority of the United States to be boarded by persons under his command, who after resisting the officers of the port in the legal exercise of their functions, actually impressed and carried off a number of seamen and passengers into the service of the ships of war. On an appeal to his voluntary respect for the laws, he first failed to give up the offender to justice, and finally repelled the officer charged with the regular process for the purpose.

"This procedure was not only a flagrant insult to the sovereignty of the nation, but an infraction of its neutrality also, which did not permit a belligerent ship thus to augment its force within the neutral territory.

"To finish the scene the commander went so far as to declare, in an official letter to the Minister Plenipotentiary of his Britannic Majesty, and by him communicated to this Government, that he considered his ship, whilst lying within the harbor of New York, as having dominion around her within the distance of her buoys.

"All these circumstances were duly made known to the British Government in just expectation of honorable reparation. None has ever been offered. Captain Bradley was advanced from his frigate to the command of a ship-of-the-line.

"At a subsequent period several British frigates under the command of Captain Whitby, of the Leander, pursuing the practice of vexing the inward and outward trade of our ports, and hovering for that purpose about the entrance of New York, closed a series of irregularities, with an attempt to arrest a coasting vessel, on board of which an American citizen was killed, by a cannon ball which entered the vessel whilst within less than a mile from the shore.

"The blood of a citizen thus murdered in a trade from one to another port of his own country, and within the sanctuary of its territorial jurisdiction, could not fail to arouse the sensibility of the public, and to make a solemn appeal to the justice of the British Government. The case was presented moreover to that Government by this, in the account which it required; and with due confidence that the offender would receive the exemplary punishment which he deserved. That there might be no failure of legal proof of a fact sufficiently notorious of itself, unexceptionable witnesses to establish it were sent to Great Britain at the expense of the United States.

"Captain Whitby was notwithstanding honorably acquitted. No animadversion took place on any other officer belonging to the squadron; nor has any apology or explanation been made since the trial was over as a conciliatory offering to the disappointment of this country at such a result.

"A case of another character occurred in the month of September 1806—the Impetueux French ship of 74 guns, when aground within a few hundred yards of the shore of North Carolina, and therefore visibly within the territorial jurisdiction and hospitable protection of the United States, was fired upon, boarded and burnt, from three British ships of war under the command of Captain Douglass. Having completed this outrage on the sovereignty and neutrality of the United States, the British commander felt no scruple in proceeding into the waters near Norfolk, nor in the midst of the hospitalities enjoyed by him, to add to what had passed a refusal to discharge from his ships impressed citizens of the United States, not denied to be such, on the plea that the Government of the United States had refused to surrender to the demand of Admiral Berkley certain seamen alleged to be British deserters—a demand which it is well understood your Government disclaims any right to make.

"It would be very superfluous to dwell on the features which mark this aggravated insult. But I must be permitted to remind you that in so serious a light was a similar violation of neutral territory, by the destruction of certain French ships on the coast of Portugal, by a British squadron under the command of Admiral Boscawen, regarded by the Court of Great Britain, that a Minister Extraordinary was despatched for the express purpose of expiating the aggression on the sovereignty of a friendly Power.

"Next presents itself, the attack by the British ship of war Leopard, on the American frigate Chesapeake—a case too familiar in all its circumstances to need a recital of any part of them.

"And lastly, the subsequent conduct of Captain

Douglass—this officer, neither admonished on the crisis produced by the attack on the Chesapeake, nor controlled by respect for the law of nations, or the laws of the land, did not cease within our waters, to bring to, by firing at vessels pursuing their regular course of trade; and, in the same spirit which had displayed itself in the recent outrage committed on the American frigate, he not only indulged himself in hostile threats, and indications of a hostile approach to Norfolk, but actually obstructed our citizens in the ordinary communication, between that and neighboring places. His proceedings constituted in fact a blockade of the port, and as real an invasion of the country according to the extent of his force as if troops had been debarked, and the town besieged on the land side."

It is unnecessary for me to add anything on this subject. It is sufficient to say that for these injuries, wantonly inflicted, without the slightest provocation on our part, no reparation has been tendered.

I proceed, now to state the injuries received from France. As it was necessary in giving a connected view of the commercial injuries received from Great Britain to go back to the year 1793, I will commence at the same period with France. In the year 1793 the cruisers of that country committed enormous depredations on our commerce—our merchants were robbed of just compensation for provisions supplied to her in the hour of distress—the treaty and consular convention were violated—the French Government refused to receive our ambassador and ignominiously ordered him out of France; a second embassy more solemn, and composed of three persons, experienced the same fate, and were obliged to leave France without experiencing the common forms of civility. These differences were shortly afterwards adjusted by treaty. In the year 1805, the decree of General Ferrand was issued; in the month of November, 1806, a decree was issued declaring all Great Britain and its dependencies in a state of blockade; assurances were given that this decree would not be extended to the United States. In violation however of this assurance, and of our treaty with France, the decree has been extended to us. In the month of December, 1807, a new decree was issued; under this decree our vessels have been seized and sequestered. Our Minister in answer to his remonstrance has been informed, in a style calculated to wound the feelings of an independent people, that they will be held sequestered until the dispositions of our Government towards Great Britain are known. Some gentlemen have construed Mr. Champagny's letter into a threat—I do not think the words of the letter warrant such an inference. It is however before the public, and the public must decide. It appears to me to be about on par with the British declaration attached to the rejected treaty.

I proceed lastly to state the injuries received from Spain. In the year 1793, Spain in pursuance of its treaty with Great Britain commenced warfare on our commerce—spoliations were commited to a considerable amount. In 1795 a treaty was concluded for the adjustment of boundaries, providing for the spoliations on our commerce, and the free navigation of the Mississippi river; the treaty remained in a state of inexecution until 1799. During that period the stipulated provision for spoliations on our commerce was refused, and our citizens subjected to serious interruptions and vexations in navigating the Mississippi river. In 1802 the right of deposite at Orleans was refused, without assigning any other place, as stipulated by treaty. The territory of Louisiana was shortly afterwards conveyed to France, and by France to the United States. The limits still remain unadjusted, and the Spanish Government has refused every arrangement on this subject. In the year 1805, the territory of the United States was violated, and two persons of the name of Kemper seized within our territory, and forcibly torn from the bosom of their families, by persons known to be agents of the Spanish Government. In 1806 the armies of the United States and Spain were drawn up in hostile array on the Sabine. The dispute still remains unsettled.

This is the situation of our country. We have nothing to expect from the justice of either of these Powers. From one we have received injuries which must be resented unless ample reparation be made. Shall we prepare for this crisis in the affairs of our country, and in what form? The principal reliance of this country must always be on militia—one hundred thousand militia are already held in requisition, and can be ready to march at short notice. Appropriations for fortifications, for the purchase of artillery and arms, have already been made. The only question now is, will you rely wholly on militia—or will you raise, as an auxiliary to the militia, a small number of regular troops. The gentleman from Virginia has told us he would not put militia into garrisons. His system then would be to depend on the militia except for garrison duty. This is precisely the system adopted by Congress. The number of regulars authorized by this bill in addition to what we now have, will not be more than adequate to this object. I regret that on the present occasion any difference of opinion should exist as to the form, when every gentleman admits the necessity of preparing for defence. I regret still more that, in the present crisis of our affairs, the gentleman from Virginia can see no use for an army, but "to eat the fish now rotting in consequence of the embargo."

Mr. Randolph asked leave to explain. It was true he said, that he had been guilty of smiling; but he had hoped that the offence had been extenuated in the opinion of the House and of that gentleman by the apology which accompanied it. He pleaded guilty; he had caught the infection of laughter from all—nay more, had been guilty of aiding in it himself. He was glad that his colleague had given him an opportunity to explain and apologize for this very heinous offence. He wished that what he had said at the time had prevented its being again noticed—had prevented it from appearing, as it were, on their Journals. The gentleman had taken care that it should go upon the record somewhere at least. Mr. R. said, he was willing to bear through life all the imputation which it cast upon him. Miserable indeed would be the condition of oppressed humanity, if the sweet pliability of man's spirit could not now and then turn its gaze from the sombre events of life and relax into a smile. To those who had known him from his childhood, there was no danger that he should pass through life for an empty giggler, a man who did not possess an atom of gravity. He had to expiate the crime through life of one misapplied laugh; and he hoped that his colleague would have to answer for no more. But if, instead of throwing himself upon the mercy of the House, he were to claim their justice, he might surely contend with the poet that there are things (and this bill perhaps was one of them) which are more easily cut and dissolved by the sharp sword of ridicule, than by serious argument, of which they are unworthy. Mr. R. said, he viewed the situation of our affairs as momentously as that gentleman; he coincided with him perfectly; he subscribed to his opinion, having himself uttered it before, that we have nothing to expect from the justice of foreign nations; and it was on that authority that he had deemed the law inexpedient. Before I sit down, said he, permit me to ask my colleague one question, which I forgot when up before. To say nothing on the subject of the expediency of the embargo, and trusting foreign nations with the power of annihilating, if they please, our commerce, and with it our agriculture—I ask any gentleman to point out that clause of the Constitution by which this House possesses the power of laying an embargo. This once struck me before; but with less force, because there is a precedent on record. I ask for information. The power is not to be found in the Constitution. It may be an implied power, from the power to regulate commerce; but regulation is one thing and annihilation is another. As the Constitution prohibits us from laying a duty on exportation, *a fortiori*, we ought to be prohibited from restraining it altogether.

Mr. Epps said, that he could have wished the gentleman from Virginia had continued his explanation in the same spirit in which he commenced. The manner in which I mentioned the observation of the gentleman from Virginia ought to have exonerated me from the charge of wishing to mark him to his constituents. I am for giving every man fair play—I have never here or elsewhere said anything of a friend or foe to which I would not put my name and support it with my life. To suppose me in the discharge of a public duty influenced by personal feeling is attributing to me a motive I scorn.

But, said Mr. E., to resume the subject before the House. This army is objected to, because it is too large for a peace establishment and too small for war. As to the first objection it is sufficient to say it is not intended for a peace establishment—I do not vote for it as such—I consider it as a part of the system designed to meet the present crisis in our affairs. Taken singly and alone it would be useless. I agree with the gentleman from Virginia that you might as well attempt to keep out a tiger with a four railfence as to defend this nation with six thousand regular troops. These troops constitute but a small part of our defence, and added to what we already have, would probably be half the number that would be raised after the actual commencement of hostilities. I am not disposed to authorize more at the present moment, because more could not be raised before the next meeting of Congress. The number may at that time be increased, or those at present raised disbanded, if the situation of our country permits, of which I confess I have no hope. But we are told that to raise troops is a departure from the embargo system. The embargo was never designed as a measure of hostility against either France or England. It was resorted to, to prevent immediate war, for which we were not prepared, and which must have been produced by the capture of property under the decrees of France and England. The period must arrive when the embargo will be a greater evil than war. When that period shall arrive it will be taken off. Whenever it is taken off, you have an alternative left, between a declaration of war, authorizing your merchants to arm, which must produce war, or national disgrace. When we assembled here but one sentiment pervaded the nation and its representatives—honorable reparation or war. We are now told that the situation of our country has materially changed. It has indeed changed—it has become infinitely worse. When we assembled, the affair of the Chesapeake closed the catalogue of our injuries. We had reason, too, to expect at that time honorable reparation. No reparation has been made. The act has not even been disavowed. The unqualfied right to search a national vessel has been disclaimed, and we are assured that if the British officers should prove to have been culpable, the most prompt and effectual reparation shall be made. I have always doubted whether the attack on the Chesapeake was an unauthorized act—whether an officer could thus risk his reputation and his life. And I am the more confirmed in this opinion by the declaration of the British Minister on the floor of Parliament, "that taking all the circumstances together he could scarcely condemn the conduct of the gallant officer." The conduct of the British Government tends still more to strengthen this opinion. A discussion with our Minister at London is waived on the ground that other subjects were blended with the affair of the Chesapeake. A Minister is sent to this country. His first demand is a separation of the subjects—this is agreed to. A new demand is made, and I have no doubt, that if this had been acceded to, other demands would have been made. I do not believe that Mr. Rose was sent here for any purpose but delay. The conduct of his Government affords the best ground for this opinion. After his appointment a proclamation is issued which closes negotiation on an important part of our dispute. Next follows the decree of November 11th, which, taken with the exposition by the Minister of Great Britain, and considering the period at which it was issued, is a more serious outrage on the feelings and sovereignty of the nation than even the affair of the Chesapeake.

Added to all these circumstances the French decree of November has been extended to us, and under the decree of December 17th our vessels are at this moment held in sequestration.

With this view of the situation of my country I consider myself authorized to vote regular troops, not for peace, but for war, which, notwithstanding our efforts to retain a rigid and impartial neutrality, will be forced on us—not by invasion, but by an obstinate refusal to do us justice in a case where our rights have been violated, our sovereignty assailed, and where submission would be a base sacrifice of the honor and independence of the nation.

Mr. Key said he always had been, and still was, friendly to raising the force proposed by the bill. It was not necessary to enter into a general argument or assign reasons why he was so disposed; certainly he should not enter into any view of the merits or demerits of the belligerents, because it was conceded by every gentleman in the House that each had given abundant cause for war. But war was not the subject now before the House; if it were, a very different course would be pursued. However, then, he might reprobate the conduct of both nations in burning and capturing our ships, (injuries sufficiently flagrant to call for war, if our Government had not resolved to pursue another course,) high feelings and sonorous words were not consonant with the course which we had adopted; and it was not necessary more to inflame the public mind. Disregarding what had past, but meaning to provide for what should hereafter happen, was the policy pursued. In that view of our policy and of this subject, he reconciled to himself the vote he should give on this bill for raising a number of regiments. If he erred at all, it was in not having it in his power to vote for more; for he was satisfied, that whether we look to our exterior relations, our extensive frontier line, its consequent weakness and great importance—to whatever point we cast our eyes and view the situation of our country—no harm could ensue or wrong be done in providing a force to the extent which this bill contemplated. He would not, after they had been so much more handsomely detailed than he could do it, repeat the acts of injustice of foreign nations: it was enough for him to say, whether he looked abroad or on our frontier, that in his mind he could find an adequate reason for voting for the bill. He hoped, because he was about to vote for this bill, that it would not be conceived that he did not place confidence in the militia. Far from it, said he. In the hands of the militia alone can our country be safe; and so far as they can be armed and organized, I am ready and willing to go; because, on these men must repose our security and happiness. Although, however, the militia are fully competent to all the purposes of defence, the number of men proposed by the bill may well be raised, and well employed in useful purposes.

Mr. K. said he wished that those who coincided with him in this opinion, would do so in another—that they would vote for the recommitment of the bill, not to defeat it, but to strengthen it by amendment. There were two objections to the bill, which in his mind were well worthy of amendment, and it would occupy but little time to consult a Committee of the Whole upon them; and, for his life, he could not see the necessity for the passage of the bill in 24 or 36 hours. Could any man show him the immediate pressing necessity that this bill should pass on this day, in preference to one more distant? He was friendly to the bill, and differed from the honorable member from Tennessee in his construction of the first section of this bill. He thought that this bill, from its construction, contemplated a permanent army, and wished that part of the first section to be amended by a term of limitation to the duration of the force; as the limitation of the term of enlistment to five years was couched precisely in the words of the law fixing the present Peace Establishment. Of course, this was in addition to it. He had an objection also to that clause of this bill which gives the President power to appoint officers during the recess, which he thought was an evasion of the true spirit of the Constitution. If gentlemen felt as he did, they would see that it was arming the Executive with a vast patronage. He hoped these objections would have weight, and that he should not be forced to give a vote upon the bill in this situation, when it could be so easily remedied.

Mr. Dana said, for his part, he felt so much for the character of his country, that he would not complain to the world that insult after insult had been committed on us, and that we had borne it patiently. What did gentlemen intend to do now—to bear it still? Did they mean to chastise the authors of these insults? Did they mean to go to war? No. Why then proclaim to the world, if they mean to bear it patiently? He thought all this passion served but to cloud the understanding.

In regard to the opinion which he had before expressed, that the renunciation of the principle of impressment was not for the interest of American seamen, to test its force, the consideration of the principle should be confined to the principle rigorously and completely carried into effect, without any deviation from it—that is, that *British*, not *American* seamen, may be impressed from neutrals. He was examining the principle as strictly adhered to. If there never were any variation in that practice, it never would be for the interest of the American seamen that the principle should be renounced. In considering the principle, they should proceed upon the supposition that abuses are excepted. When gentlemen, then, said that this principle was liable to abuse, Mr. D. said he certainly did not deny that fact; nor was he so stupid, or so little a friend to seamen, as to suppose that they could not suffer—that they had not the feelings or the sympathies of other men, or that humanity could not be outraged in their persons. This was not the question. He admitted that there should be some distinction to serve as a security against the abuse of the principle; and the question still remained whether or not they could provide an adequate security against the impressment of American seamen, without a total renunciation of the claim on the part of Great Britain to impress her own seamen. At present, said he, the British seaman is confounded with the American seaman, and the American with the British; and from the difficulties occasioned by this confusion results the necessity of making a discrimination. If once we could be assured that the American seamen would not be impressed, clearly it would not be a disadvantage to our seamen that the British seamen should be impressed. Therefore, I am not disposed to question the patriotism of our Minister at London or of the Secretary of State, but I have been led to inquire what can be done for our seamen that would be most for their interest. It is the effect of extravagant pretensions to destroy the whole. If gentlemen are disposed to say that we should seize reparation for the injuries which have been done us, I wish this language had been asserted at an earlier period. There was a time you might have vindicated your honor—when the British squadron lay in the Chesapeake. Recollect, on the subject of the report of the committee on the attack on the Chesapeake, gentlemen maintained the principle that the report should be taken up, because their armed vessels then actually violated our jurisdiction; and I have not forgotten the zeal with which a gentleman from Kentucky urged that they should be expelled from our waters. I believe that the frigates which we might have sent out would have compelled the British to retire; and that it would have gone to show, that if we would not suffer an insurrection of our own countrymen against the imposition of a tax on whiskey, neither could we suffer an insurrection of aliens in our own waters against our sovereignty. I really cannot see the advantage of detailing these evils; for the time has passed when the British flag might have been struck to an American seaman.

The motion for recommitment was then lost—ayes 29.

A motion was made to adjourn, and negatived—ayes 24.

Mr. Clopton said, that, from an allusion made to him by a gentleman from North Carolina, (Mr. Stanford,) it had become incumbent on him to say a few words in reply. The gentleman, said Mr. C., has labored extremely hard to fix on me the stamp of inconsistency, on account of my vote now and in 1798. How has the gentleman proved it? What is inconsistency? When a member is charged with an inconsistent vote, it must be, when, having given a vote on one occasion, he votes differently on another, when the ground of both votes is precisely the same. Was that the case in the vote which I gave in 1798, and that which I mean to give now? No; I avow the contrary. I did hope that it would have been satisfactory to gentlemen that I considered myself as acting consistently with the principle on which I went in 1798; for I did explicitly declare, when up before on this subject, that had the state of things appeared to me in 1798 as they do now, my vote would then have been, as it will be now, affirmative. And were the circumstances now as they were then, my vote would now be as it was then. I did hope that I should be permitted to be the judge of my own views at that period and at this.

The gentleman, in the course of his observations, took occasion to observe that I had presented in 1798 a memorial against the measures of the then Administration. He did not surely mean to adduce that as any proof of inconsistency. If I had presented a thousand similar and opposite things, would it be a ground on which to charge me with inconsistency? No, sir. But, even that remonstrance, which the gentleman has so industriously sought up, though it recommended to its Representative not to aid measures which had a hostile tendency, yet did strictly enjoin upon him to support such measures as had for their object the defence of the country alone. Their Representative voted against measures which he deemed not necessary—the situation of the country not requiring them. The authors of the remonstrance spoke the language of his constituents, and he obeyed it. And I have the consolation to say that the particular Representative alluded to does *now* intend to act in conformity to their wishes.

Upon the whole, I cannot see that the gentleman from North Carolina could have have proceeded a single step to affix upon me the charge of inconsistency or deviation from principle. My principle in 1798 was to support all measures which the situation of my country appeared to render necessary for defence. The measure alluded to did not appear to me to be required, and therefore I did not vote for it. My principle is now the same; and, under the impression that the situation of the country calls for this measure, I shall vote for it. In this case, then, (if I am capable of knowing my own intentions—of knowing my own opinion; if I am capable of judging between two things dissimilar,) I declare, in the most positive manner, that I am not sensible of any deviation from principle in my conduct formerly and at this time.

I do not mean to enter into an argument now on the situation of this country—I did not when I spoke before. I stated, in general terms, that the situation of the country was alarming. I considered the facts of the monstrous outrages and repeated violation of every right as so well known to every member of the House, that it was unnecessary for me to recapitulate them. I believe, then, that the gentleman from North Carolina need not to look to my inconsistency, but perhaps to his own.

But it has been observed, so far from the present situation of our country being more alarming than at that period, that there was greater prospect of war then than now; and one gentleman has said that we were really then at war. I acknowledge that there were naval attacks on both sides, and that the American merchant vessels were authorized to arm; yet at the same time I did not conceive, nor do I believe, that the American people had any conception that there existed in the French Government any disposition to go to war with this country. If those attacks constituted war, what do you account the attack on the Chesapeake, superadded to all those monstrous out-

rages by which it was preceded? These added together create much greater cause of war than formerly, but neither is in my opinion actual war. On the prospect of it being greater at this time than then I founded my vote. I did express also when I was up before, in positive terms, that I should vote for this bill, not as a force on which to rest the general defence, but as a body necessary to be employed for purposes which are unsuited to the militia, which have since been more minutely recited—in fact for garrison duty—at the same time that I believe the general defence should in every situation be rested on the militia. Besides this, I would take other measures; for it surely never was understood that it was intended that this body of troops should constitute the sole defence of this country.

I believe it has, in the course of argument on this subject, been suggested that probably this bill for raising these troops, instead of operating to ward off war, might give rise to it. The idea seemed to be founded on an apprehension that Britain would consider this as a warlike measure, aimed particularly at her, and therefore would be more disposed to commit aggression than without it. If I am mistaken in my understanding of this, I wish to be corrected. If I do not forget, this was a labored argument against the embargo; that it would be considered as pressing more heavily upon Britain than upon France, and therefore would be thought good cause for war; that the embargo was an offensive measure—a provocation which their forbearance would not brook. Has experience fulfilled the prediction? On the contrary, we find it is considered as a measure totally neutral, and inoffensive in its nature. If the prediction when applied to the embargo has failed, it is fair to conclude that it will fail in this case also. For myself, I can truly state the intention of this bill was not contemplated by me for Great Britain, nor did I predict that we should be in a war with Great Britain; but such was the situation of the two great belligerent Powers, that it behooved us to be in a state of preparation, that if attacked by one or the other, we might resist.

Mr. Stanford said, he felt it a duty which he owed to himself to make some reply to some of those gentlemen who had honored him with their notice. He had no reason to believe any of them had done him intentional injustice. He was well persuaded otherwise; but they had certainly misconceived his meaning. The gentleman from Virginia, (Mr. Clopton,) who had just sat down, considered himself as rather improperly attacked on the score of inconsistency. He would assure the gentleman as a friend, for so he had always esteemed him, that he had not intended to make any personal charge upon him, nor to say anything which could be construed as disrespectful or personal in the slightest degree. All he had meant to say was of a general nature, and the only use he had intended to make of that gentleman's instructions from the militia of Henrico in 1798, was to show that we then felt the influence of the principles they contained. He considered that remonstrance as happily illustrating the doctrine of the then minority, and if his view of past times was correct, stood in direct opposition to the measure before us. But he hoped the general contrast he had attempted to draw between that crisis in our affairs and the present one, would not be construed by his friend from Virginia, or any other gentleman of the House, as meant to convey an individual charge of inconsistency. Most assuredly it was not so intended. If gentlemen viewed the existing state of things such as to warrant the raising of an additional standing force, their votes would be as they should be, in favor of the bill. As for himself, he could not take the same view nor give the same vote. As to the allusion that gentleman has made to my inconsistency, he may be assured the remark is not felt. Although I had not the pleasure of voting upon one occasion, important too, as it respected principle, with the then representation of Henrico, I had the pleasure of voting with his celebrated colleague, who at that time so well represented the counties of Stafford and Culpeper, and with also the Representative of Green county, Pennsylvania, than whom no other stood higher in those times for what might be called *standard political correctness*. Supported by opinions like these, and by those of a large majority of my other friends, I may be well satisfied with the vote I then gave, since it was given with the sole view of avoiding a much larger army.

It seems to have been considered, sir, that on my part great research had been made in the journals to hunt up the votes of gentlemen to show their inconsistency. Mr. S. said, he hoped the House would believe him when he declared that he had not done so in one single instance. He had spoken from memory, and not from research of that kind, and the Journal which had appeared before him was laid before him by a friend, and although alluded to by him, was not opened. He had, indeed, opened two journals to read a paragraph or two from different messages of the President, to show the good old militia doctrine, but not to show votes.

One of the gentlemen from Connecticut, (Mr. Mosely,) although he seemed generally disposed to do my observations justice, could not withhold his supplications for my forgiveness for the bad vote which I had so frankly confessed once to have given. If the intercessary ejaculations of that gentleman have the virtue to avail a friend, I must hope he will direct them to the affair of the caucus, and not to the vote. He had expressed his regret at the circumstance under which the vote was given, and not the vote itself; that, he presumed, could be still defended; he had to choose between evils, and had taken the lesser.

Another gentleman from Connecticut (Mr. Tallmadge) has not been less liberal towards me to be sure; but expresses the hope he may never see the chair of this House converted into the chair of St. Peter, for purposes of confession. Such, indeed, we may all hope without much fear of realizing it. On subjects like the present, that gentleman possesses an experience and judgment, it must be acknowledged, which justly entitle

him to more than common respect in this House. We know there are few on this floor, or perhaps in the nation at this time, whose opportunity and experience, on the subject of armies, have been equal to his. That gentleman saw the want, he tells us, of a regular and well disciplined force in this country, and believes the present additional force now proposed to be raised proper, under the present prospect of our affairs, as a precautionary measure. Now, all the difference between the gentleman and myself is, that we think differently of the times. War once admitted as certain, and his arguments must be admitted as sound; but that we should apprehend a war of invasion, and give into the gentleman's doctrine of expediency in the present instance, is what, Mr. S. said, he, for one, was not prepared to do. He viewed, indeed, that gentleman's doctrine about the utility of a well disciplined force in the event of absolute war, as sound as the gospel truths of St. Peter, and whenever he should trespass upon it, hostilities once commenced, he should then perhaps stand in need of a confession chair; but no war existing, he wanted no precautionary army. The militia, he thought, would do to begin with.

Mr. S. said, a third gentleman, from the same State, (Mr. Dana,) had spoken upon this question, and he felt it a duty to say, that he had not only done his motives and observations justice, but the subject itself. He could at least say, that the view that gentleman had taken of the present situation of our affairs, had been more interesting to him than that of any other who had gone before him. The gentleman from Tennessee (Mr. Campbell) had said that he could not comprehend the logic of some of those gentlemen opposed to the bill. Supposing the allusion, Mr. S. said, intended for him, he could return the compliment. [Mr. C. asked leave to explain, and said he had not meant to say anything about the gentleman's logic.] Then Mr. S. said the allusion must have been to some other; but he might nevertheless say, that the gentleman had used arguments which he could not comprehend in any way. The argument was that the proposed troops were not an additional standing army, and that all arguments against it as such must therefore cease. Now we know that the gentleman from Connecticut, who as well understands subjects of this kind as any other in the House, probably better, admits it to be a standing force, and as such means to give it his vote. If not a standing army, what is it? That it is not a militia army all must admit. That gentleman also has told us that our arguments are urged against these troops as inconsistent with republicanism; that such was the scope of my observations cannot be denied. They were certainly so intended, but it was as certain that he had dealt in none of these *isms*, or the subdivision of *isms*. He had done all he could, he would confess, to inculcate the good old doctrine of *militiaism*, but he had not even used that term when he was before up.

A gentleman from Virginia (Mr. Eppes) had, in a manner as handsome as correct, accumulated and exhibited to our view the aggravated insults we have suffered from both the belligerents, and to what conclusion does he bring us? Not to war, as a kind of inevitable result; but to this bill, this additional standing force, as necessary for our defence. Now, if defence is all, I cannot see the least use in this army. We are safer without it, if war is not intended to employ it when raised. That war seems not to be the intention, I perceive with pleasure, though we have ample cause for war if we choose so to consider it.

I alluded to General Sumter, the venerable defender of the militia, as having voted for the bill under the momentary pressure of the times, the negotiation having just broken off; but that he was not at this particular juncture willing to see the bill pass. Something of a calm having ensued, the prospect from Europe not being unpromising as to a change in their policy with respect to the United States, I think it would be time enough to pass it in some one of the last days of the session.

A motion to adjourn was then made and negatived—Ayes 34.

Mr. D. R. Williams said it was extremely unpleasant to him to have to address the House at this time; but he had been so much misunderstood, that he must make a few observations, and he wished he could get the House into a disposition to hear him; though he was much obliged to a gentleman before him who had just observed that he should hear him with pleasure.

I have also a motive for rising now different from that of defending myself. It is to join against a denunciation of doctrines on this floor which I have considered as the acme of political correctness. I have seen a Message of the President of the United States containing the true doctrines of democracy; and it is a matter of surprise to me that gentlemen should hear such doctrines so often slurred at and remain silent. I rise to enter my vote that I have not, as one of the majority, renounced them. So much for the observations of the gentlemen from Connecticut and Massachusetts.

I have been misunderstood in my observations as to the general policy of this measure. My objection to the bill is, that you can maintain neither system, if you maintain both together. Can you maintain armies and embargoes at the same time? It appears evident that the House is disposed for peace. I applaud the disposition in consequence of the change of circumstances. I am for pursuing this course of neutrality; but if gentlemen will have armies, let us have armies of some service, not 5,000 troops, who cannot defend one single vulnerable point if seriously attacked. If this be your policy, away with the embargo; you cannot support it. I think a great deal due to unanimity in this case, and perhaps I might go over to gentlemen, if they will only let us know what these men are to do? Are they for war or peace? None of your half-way measures. Gentlemen are pleased to use witticisms; which is always the forlorn hope when they are hard run for argument. I am opposed to half-way measures; I am no "quid." Whatever system I pur-

ue, I wish to go up to the hub with it. If it be peace, let us have it; if war, let us go directly to the object.

A gentleman from North Carolina (Mr. W. Alston) was so kind as to go out of his way to show that my sentiments and my vote are at variance. I am thankful to my colleague before me (Mr. Taylor) for his reply to him; on the other hand, I will thank the gentleman to take the letter of Champagny home with him, and consult it at his leisure. The gentleman was kind enough to take care of the State of which I am a Representative, and to tell me that Charleston is in danger in time of peace. She wants none of these creatures, sir; they will be of no service to her. They have been the conductors of foul dishonor to our Government. Have you forgot the Driver sloop of war? There was no navy concerned in that business; it arose from your Peace Establishment. We want no troops at Charleston in times of peace; if you are going to drive us to war, do not tell us of your 6,000 men. The same gentleman told me if I had attended to the arguments of the gentleman from Kentucky, I should have perceived the occasion for these troops. I did attend to that gentleman, and his arguments went to prove that the gentleman himself varied from the gentleman from North Carolina; for one wanted the troops for the Western country, and the other for the seacoasts. If both gentlemen are right, it proves my position, that we want more than 6,000 men; for if we want 6,000 for each, we want twice 6,000 for both. If one of the gentlemen be correct, the other is; if neither is correct, we want no troops at all.

A gentleman (Mr. Macon) from whom I differ with more pain than from any other, a steady, uniform, and undeviating patriot, has made some observations which prove the same as those of his colleague: that for rallying points he should certainly vote for more. Look at those sites which we have appropriated a million to fortify, to say nothing of the Western country; when you distribute these 6,000 men among them and other points, good Lord deliver us from such a protection as they will afford! The gentleman from North Carolina said I was wrong in not laying my *projet* on the table. He was wrong in part. The course which I wish to pursue is on the table. I would class the militia, arm them, and keep on the embargo. I would do more; I would pass laws on the principles on which the British marine has flourished. With the embargo law and the latter I would treat, and then your Ministers would not act the part of beggars; and with the other I would fight. That is my system.

I heard a gentleman with seriousness say, in conclave, that the times were critical and perilous; that the whole world was in arms against us. Is this made public, and then do you talk of a national defence by 6,000 men? Can it be believed that there is anything serious in this? I do not, cannot believe it. The bill is very properly framed. It is a Peace Establishment bill; there is no national defence about it; it is a standing army.

The gentleman from Virginia (Mr. Randolph) does not like this embargo quite as well as I do. But, as able as he is, he will find it very difficult to tell how it is to operate on France without operating on England; nor will it operate on England alone; for, if your merchants had been as honest as your planters, the West Indies would have been already starved. Only hold on to the embargo; it must produce something. The British may throw some few supplies into the islands; the French cannot, and they have no means of subsistence but by America.

I did not say that the embargo would answer all purposes. It will answer no purpose if you raise armies. You must lift it when your resources are cut off. When the springs of your cash are dried up, you must find resources. I would be glad that the Chairman of the Committee of Ways and Means would tell us what are our ways and means when our resources are cut off and cash gone. There is a bit of a sedition law—the bill to punish conspiracy to commit treason—on your table; I thought the thing was rickety and could not live; you will soon have food enough for it; you will have an alien law; nay, it is on the table already—the bill to amend the naturalization laws. What comes next? A stamp act and direct taxes, I suppose. If peace, let us know it; if war, do not conceal it. I would drain the Treasury for the sake of holding on the embargo; or, raise an army, and like a vast billow sweep our enemies from our land.

The Speaker having put the question on the title, to wit: "A bill to raise an additional Military force;"

Mr. Blount said that he had voted in the minority on the vote for recommitment, as he had some doubt whether the bill contained a positive limitation as to the duration of the force. He had voted for the bill under the idea that it was a temporary force, and that it could be so expressed in the title. He, therefore, moved to amend the title so as to read "An act to raise troops for the present defence of the United States."

Mr. Randolph said he should be reluctant to oppose this motion if made by a gentleman opposed to recommitment; still more so when made by a gentleman who was sufficiently accommodating to have consented to enable them to remedy the defect in the bill; but he submitted it to the gentleman, when the bill was not in substance that which he wished it to be, whether it would be proper, by a sort of misnomer, to give the bill a new title, purporting to be that which in fact it was not. This would be sailing under false legislative colors. He hoped, and sincerely trusted, that his friend from North Carolina would not suppose that he meant to impute anything improper to him; but the title now expressed what the bill was; and the only way to get at the object, after they were satisfied that the fathers of the political church were against them, was to move to recommit it, and then send it back to the Senate; for he hoped to God that this bill would not pass, as he had known bills passed, relying upon the Senate to amend it. He hoped this

House would not do wrong that others might put right that which they had done wrong. He could have no interest in diminishing the very small minority on the passage of this bill, and yet the course he had pointed out (recommitment) would cause such a diminution, because, except the gentlemen from North and South Carolina, (Messrs. Stanford and D. R. Williams,) and himself, not a single man had objected to the bill on principle. It is very late in the day, and I am tired; yet, if this motion be pressed, I must call for the yeas and nays on it, though I do not wish to detain the House; for I am as anxious to get out of it, now and forever I was going to say, as any one. The gentleman from North Carolina has seen the defect in the bill, and wishes to remedy it by an amendment of the title. You are going to do by this bill what you have done in the case of the embargo; to put a great power in the hands of the President, that you may ask him to give it back if he will. If he does not please, you must get the consent of two-thirds of each House to lift the embargo. I believe such powers as these never were trusted to one man by any free people. It is bad enough to lay taxes without limit; but to raise armies without limits is really a much more serious thing than that; and no man can doubt that this is an army without limitation to time. Do not tell us about the term of enlistment: the English army is always enlisted for a term of years, but it is continued in *perpetuum* by gradual enlistments. If there be a radical defect in the bill, I hope it will be recommitted, as it ought to have been before. I must ask for the yeas and nays upon the motion, to have it distinctly shown that I was not one of those who christened the babe over again, by a name which does not comport with its parentage or birth.

Mr. Dana suggested the propriety of amending the amendment so as to read "for the *future* defence" instead of "the *present* defence of the United States." He thought it would be more conformable to the character of the bill.

Mr. Blount said his object was to express the view with which he had voted for the bill. The title was not drawn by himself, but handed to him by a gentleman, who, in all legislative matters, was correct. He regretted that the bill had not been recommitted; but there was now no alternative. If he did not move a new title to it, he could not express the views with which he voted for it. It was not sailing under false colors, as the gentleman had chosen to term it; for the intention of himself and his friends was to provide a force which would enable us to punish the next insult or act of hostility, whether from England or France. He joined the gentleman in the call for the yeas and nays; and though the gentleman had voted in so small a minority, he hoped a sufficient number of gentlemen would be found in the House willing to indulge him in that call.

Mr. Lyon said he had voted for this motion as a standing regular force, and he was perfectly satisfied with the bill. He had no idea of fighting under false colors.

The yeas and nays were now taken on the passage of the bill, and stood—yeas 95, nays 16, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, George Clinton, jr., John Clopton, Howell Cobb, Orchard Cook, John Culpepper, Richard Cutts, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, Jas. Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, Joseph Lewis, jr., John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Henry Southard, William Stedman, Clement Storer, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Killian K. Van Rensselaer, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Nays—Epaphroditus Champion, Martin Chittenden, Matthew Clay, Samuel W. Dana, William Ely, James M. Garnett, Edwin Gray, William Hoge, Jonathan O. Mosely, Timothy Pitkin, jun., John Randolph, James Sloan, Richard Stanford, Samuel Taggart, Daniel C. Verplanck, and David R. Williams.

A motion was then made by Mr. Blount, that the title be, "An act to raise troops for the defence of the United States against the impending danger:" Whereupon, a motion was made by Mr. Stanford, to amend the proposed title of the bill, by striking out the word "*troops*," and inserting, in lieu thereof, the words "a standing army:" And the question being put thereupon, it passed in the negative.

A motion was made by Mr. Randolph, to amend the said title, by inserting after the words "to raise," the following words, "for an unlimited time:" on the question to agree to the said amendment, it passed in the negative. The question was then taken that the House do agree to the title as originally proposed by Mr. Blount, and passed in the negative—yeas 38, nays 53, as follows:

Yeas—Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, William A. Burwell, Geo. W. Campbell, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Richard M. Johnson, Nathaniel Macon, Robert Marion, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, Jacob Richards, John Smilie,

Samuel Smith, Jesse Wharton, Isaac Wilbour, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Wm. W. Bibb, Adam Boyd, William Butler, Joseph Calhoun, Martin Chittenden, George Clinton, jr., John Culpepper, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, William Ely, William Findley, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, John Heister, William Helms, Benjamin Howard, Daniel Ilsley, John G. Jackson Robert Jenkins, William Kirkpatrick, John Lambert, Matthew Lyon, Josiah Masters, William Milnor, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rhea of Tennessee, John Russell, James Sloan, Dennis Smelt, Jedediah K. Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Benjamin Tallmadge, John Taylor, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Daniel C. Verplanck, David R. Williams, Marmaduke Williams, and James Witherell.

A motion was then made by Mr. Blount, that the title of the said bill be "An act to raise, for a limited time, an additional military force:" and on the question to agree to the same, it was resolved in the affirmative—yeas 58, nays 29, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, William A. Burwell, Joseph Calhoun, George W. Campbell, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Jacob Richards, John Smilie, Jedediah K. Smith, Henry Southard, John Taylor, Jas. I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Alexander Wilson, and James Witherell.

Nays—William W. Bibb, William Butler, Martin Chittenden, John Culpepper, Samuel W. Dana, John Davenport, jr., William Ely, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Helms, William Hoge, Matthew Lyon, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, James Sloan, Richard Stanford, William Stedman, Clement Storer, Benjamin Tallmadge, Jabez Upham, David R. Williams, Marmaduke Williams, and Richard Winn.

A motion was made by Mr. Bibb, that the House do reconsider their vote on the passage of the said bill, as amended; and on the question for reconsideration, it passed in the negative—yeas 25, nays 60, as follows:

Yeas—Evan Alexander, William W. Bibb, Martin Chittenden, Matthew Clay, John Clopton, John Culpepper, Samuel W. Dana, William Ely, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, Walter Jones, Robert Marion, Daniel Montgomery, jr., Thomas Moore, Timothy Pitkin, jr., John Randolph, John Rowan, James Sloan, Samuel Smith, Richard Stanford, Daniel C. Verplanck, and David R. Williams.

Nays—Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Orchard Cook, Richard Cutts, John Davenport, jr., John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, John Lambert, Nathaniel Macon, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Jacob Richards, Samuel Riker, John Smilie, Jedediah K. Smith, Henry Southard, William Stedman, Clement Storer, Benjamin Tallmadge, John Taylor, George M. Troup, James I. Van Allen, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Richard Winn, and James Witherell.

Friday April 8.

On a motion made by Mr. Stanford, that the House do come to the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire and report to this House how far the present plan of the City of Washington, and the arrangement of the public buildings belonging to the United States, can be so modified or altered, or other measures taken, as shall tend both to promote the convenience of the Government, and, at the same time, the future growth and prosperity of the City:

And on the question that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative.

Mr. Wilbour presented a memorial of the freemen of the town of Newport, in the State of Rhode Island, praying that such measures may be adopted for the defence of the port and harbor of Newport, as Congress, in their wisdom, shall deem proper.—Referred to Mr. Wilbour, Mr. Quincy, Mr. McCreery, Mr. Newton, and Mr. Marion; to examine and report their opinion thereupon to the House.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom were referred the several memorials and petitions of sundry merchants, traders, and farmers, on the Roanoke and Cashie rivers, in the State of North Carolina, of sundry merchants, pilots, and other inhabitants of the counties of Charles and St. Mary's in the State of Maryland, and of the pilots of Chesapeake bay, and Potomac river, reported a bill to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's; which was read twice and committed to a Committee of the Whole to-morrow.

The House again resolved itself into a Committee of the whole on the bill to alter and establish certain post roads; and, after some time spent therein, the Committee rose and reported progress.

Mr Rhea said he had heard much these few days past respecting the commercial orders and decrees of the European Powers; these had no doubt been all published in the newspapers, but he questioned whether they were distinctly known or had ever been considered collectively. He therefore offered the following resolution:

Resolved, That the Secretary of State do transmit to this House authentic copies of the several accredited documents which may be in his office, and which do contain articles of treaties, commercial orders and regulations, and orders and decrees of blockade, affecting the commerce of the United States, which may have been respectively made, or issued by the Governments of Great Britain and France, at any time since the year one thousand seven hundred and ninety, exclusively of treaties to which the United States are a party.

The resolution was ordered to lie on the table.

The bill for transportation by mail of the documents accompanying the Message of the President of the United States went through the Committee of the Whole, and was ordered to be engrossed for a third reading. It was afterwards passed without a division.

Mr Randolph moved that the House go into a Committee of the whole on the bill making an appropriation for arming the whole body of the militia.—Negatived, 39 to 38.

THE EMBARGO.

Mr. G. W. Campbell said it appeared to be understood that the session was drawing to a close; and during the recess it was at least possible that such a change might take place in the conduct of the belligerent Powers as might justify the suspension of the law laying an embargo, and thereby remove from the citizens of this country the pressure under which they now labor in consequence of that law. As he conceived it very important to the nation that the moment it could be done with propriety such pressure should be removed, he considered it proper that Congress before they adjourned should determine the events or contingencies upon which that law should be suspended, and also that they should vest in the Executive, under certain restrictions, a power to suspend the operation of that law upon such events having taken place as Congress should conceive would authorize such suspension till the next session. This might prevent the call of Congress at an improper time of the year, or a time when it would be very inconvenient to meet. In order to bring the subject before the House, he begged leave to submit to their consideration the following resolution:

Resolved, That in the event of such peace or suspension of hostilities between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in the judgment of the President of the United States, he ought to be authorized by law to suspend the act "laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, under such exceptions and restrictions as the public interest and circumstances of the case may require: *Provided*, That such suspension shall not extend beyond —— days after the commencement of the next session of Congress.

Mr. Rhea moved that it lie on the table; negatived, ayes 12.

On motion of Mr. G. W. Campbell, it was referred to a Committee of the Whole House, without a division, and made the order of the day for to-morrow.

Saturday, April 9.

Mr. Ilsley, from the committee appointed, on the fifth instant, presented a bill to authorize and empower the President of the United States to exchange the lands whereon the fort and battery now stand in the town of Portland, for lands more suitable for fortification and the protection of said harbor and town of Portland, in the District of Maine; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Jeremiah Morrow presented two petitions of sundry inhabitants of the State of Ohio, praying, for reasons therein set forth, that farther and reasonable time may be allowed them to make payment for the lands by them respectively purchased from the United States.—Referred to the Committee on the Public Lands.

The House resolved itself into a Committee of the Whole on the bill concerning the post office and post roads. The bill having been gone through, was reported to the House.

ARMING THE MILITIA.

Mr. Randolph observed that he knew it was customary of late to do certain species of small business in the early part of the day; but the session was now drawing to a close, and it was little more than a mere matter of form for gentlemen now to present petitions, as it was scarcely possible to obtain reports on them. He therefore asked for the consideration of the bill, for arming the whole body of the militia; and also asked for the yeas and nays on the motion, that it might appear on the Journals that it was from no neglect of his that the bill had not been taken up. Such was his extreme indisposition on this day as well as yesterday, that nothing but a wish to get up the bill could have induced him to come to the House these two days.

The question on taking this bill into consideration was then decided by yeas and nays—yeas 41, nays 50, as follows:

Yeas—William A. Burwell, William Butler, Matthew Clay, John Clopton, John Culpepper, John Dawson, Joseph Desha, James Elliot, James M. Garnett, Edwin Gray, John Harris, William Hoge, David Holmes, Benjamin Howard, Richard M. Johnson, Thomas Kenan, Philip B. Key, Joseph Lewis, jr., John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, jr., Thomas Moore, John Morrow, John Randolph, John Rhea of Tennessee, Jacob Richards, John Rowan, Samuel Smith, John Smith, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, Daniel C. Verplanck, Jesse Wharton, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, Joseph Calhoun, Orchard Cook, Richard Cutts, John Davenport, jr., Josiah Deane, William Ely, William Findley, James Fisk, Joshua Franklin, Francis Gardner, Isaiah L. Green, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, William Kirkpatrick, John Lambert, William McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Timothy Pitkin, jr., John Pugh, Josiah Quincy, Matthias Richards, Samuel Riker, Jas. Sloan, John Smilie, Jedediah K. Smith, William Stedman, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thomson James I. Van Allen, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, and James Witherell.

The House then took up the report of the Committee of the Whole, just made, on the bill for altering and establishing certain post roads.

There being great difficulty in retaining a quorum within the bar, and the report not having been gone through; after repeated motions for adjournment, one of which was taken by yeas and nays, the House at length adjourned, 35 to 30.

MONDAY, April 11.

A message from the Senate informed the House that the Senate have passed a resolution authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on Monday, the twenty-fifth day of April instant; to which they desire the concurrence of the House.

The House proceeded to consider the foregoing resolution of the Senate; and the same being read was agreed to by the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making provision for registering certain claims to land lying in the State of Tennessee;" to which they desire the concurrence of this House.

The bill mentioned in the message was twice read and committed to a Committee of the Whole to-morrow.

The House resumed the consideration of the bill to alter and establish certain post roads; and the same being again read at the Clerk's table, was further amended, and, together with the said amendments, ordered to be engrossed and read the third time to-morrow.

DIVISION OF THE INDIANA TERRITORY.

Mr. LYON, from the committee to whom were referred the petitions of the people of the counties of Randolph and St. Clair, in the Indiana Territory, made the following report:

That the petitioners state many hardships, inconveniences, and privations, as well as the discouragement of emigration into their country, under which they labor in consequence of a connexion, which they call unnatural, between the two very distant settlements, whose country, by the compact between the United States and the State of Virginia, is ordained to constitute two separate and distinct States.

Among the disadvantages, they state that the inhabitants of their two large and populous counties are subject to be called from one hundred and thirty to one hundred and fifty miles through a wilderness, (which, for want of wood and living water, must long remain dreary and difficult to pass through,) to attend as suitors, witnesses, &c., as the general court, which is held at Vincennes, has cognizance of every matter in controversy, exceeding the value of fifty dollars.

They state, also, that the country which is to constitute the Eastern State, having three-fifths of the representation in the Territorial Legislature, with all the officers for the administration of the Territorial Government, appointed by the President of the United States, they who live in the country which is to constitute the Western State, are oppressed with taxes, the avails thereof are expended in the country which is to form the Eastern State, and at the discretion of those over whom they can have no control. They pray for a dissolution of this connexion, and the establishment of a new Territorial Government, consisting of the country which, by the compact, is designated for the Western State, as it is marked out on the map of the United States.

The committee, however, considering the press of important business which must occupy the attention of the National Legislature during the short time proposed for the continuance of the session, the unpromising aspect of our fiscal concerns, and particularly the impolicy of increasing the number of Territorial Governments without its being manifestly necessary, are of opinion that it is inexpedient, at this time, to grant the prayer of the petitioners.

The report was agreed to.

JUDGE BRUIN.

The SPEAKER presented to the House sundry resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, instructing GEORGE POINDEXTER, the Delegate in Congress from the said Territory, to impeach Peter B. Bruin, presiding Judge of that Territory, on the charges of neglect of duty, and drunkenness on the bench; which were read: Whereupon, a motion was made by Mr. POINDEXTER that the House to come do the following resolution:

Resolved, That a committee be appointed to *prepare and report* articles of impeachment against Peter B. Bruin, one of the Judges of the Superior Court of the Mississippi Territory; and that the said committee have power to send for persons, papers, and records.

Mr. POINDEXTER hoped the resolution would be adopted; he did not expect that a committee could act on the subject during this session; but it might be put in a state of progress.

Mr. RANDOLPH said he hoped the resolution would lie on the table. He had heard, and he was extremely sorry for it, that the House had concurred, *sub silentio*, with the Senate in their agreement to the report on the subject of adjournment. If the House, then, were bound by their own resolution to adjourn on the 25th, nothing could be done on the subject during the present session. He hoped not to be considered as opposed to the resolution; for he trusted it would at some future time be acted on, and was sorry that the Constitution of the United States had not provided a more adequate remedy for these acts of offence. It would be remarked that it was not

proposed that the committee should act during the recess; he hoped, therefore, that it would lie on the table, and the House would take up such business as it was deemed essential to act on during the present session—such as the bill for arming the whole body of militia of the United States.

Mr. SMILIE wished to know what grounds there were for this proposition, before he consented to pass a resolution declaring an opinion.

Mr. W. ALSTON said that that the paper which had been laid before the House, was the result of an inquiry held by the Legislature of the Territory. They had said the man was disqualified, and Mr. A. thought it was the best and shortest way to appoint a committee to report articles of impeachment.

Mr. PITKIN hoped the House would never depart from the dignified course which the Legislature of the Union ought to pursue. A resolution of the Legislature of a State or Territory was not of itself sufficient ground for a resolution for impeachment. A committee should first be appointed to inquire into the propriety of impeaching. Great respect no doubt was due to resolutions of State or Territorial Legislatures; but he did not consider them as conclusive.

Mr. RHEA said he would vote for the resolution on the table. He drew a distinction between the Legislatures of States and of Territories; because, were they to be considered as equal, it might produce mischievous consequences. In saying this he did not mean to derogate from the purity of the Legislature, but he did not like this mode of doing business. He would ask whether the report of a Legislature would be considered conclusive evidence of fact? Certainly not; for the House would undoubtedly call for the evidence on which that report was founded. He remarked that he knew of no authority by which a Territorial Legislature could act as a grand jury for this House, who would certainly call for evidence before they appointed a committee to prepare articles of impeachment.

Mr. POINDEXTER said, that at the suggestion of experienced gentlemen, he had modified his resolution by striking out the words in italic, and inserting "inquire into the expediency of preferring." He took occasion while up to remark, that he had a very high respect for the past services of this venerable old man, (Judge Bruin). He had been a patriot of the Revolution, in the times that tried men's souls. For this Mr. P. said he venerated him; but his faculties were impaired by habitual intoxication; he had seen him awakened on the bench to attend to business, and in five minutes afterward he would relapse into sleep. Very important cases frequently occurred in these courts; and it was certainly necessary, to judge correctly, that a person's faculties should be unimpaired. I will not go further into explanation, said Mr. P., but request that the resolution may pass for inquiry; for if it pass now, the committee may take measures to procure evidence from the Mississippi Territory in time for the next session. If postponed till next session, it cannot be acted on during that session, and the result will be that this officer will be quartered upon us for another year.

On the suggestion of Mr. DANA, the resolution was ordered to lie on the table till to-morrow.

OPERATION OF THE EMBARGO.

Mr. QUINCY presented petitions from five towns in Massachusetts, respecting fish, stating the peculiar distress under which they labor from the operation of the embargo; that it falls unequally upon that class of citizens to which they belong; that they are the class least able to bear it; that their soil is miserable and sandy, and that they depend wholly upon the fishing business for support, having no other employment than fishing; that to carry it on with any success, they should have the right of exportation, as great part of the product of their labor is consumed in foreign countries; that the common home consumption is much reduced by the present low price of other articles for the support of life; that the whole of their product now on hand is of a perishable nature, and great danger will arise in consequence of its putrefaction in summer; that in their opinion it would be better to lose part by capture than to lose the whole from the denial of the privilege of exportation. They pray, therefore, that they may be allowed to export in foreign ships; they consider that the principle admitted by the permission granted to vessels in ballast to bring home property from abroad, applies here, as that principle was the only mode of saving property, and the proposed mode is the only one which may be devised for saving a valuable property in fish; if this be denied, they pray that the Secretary of the Treasury may be allowed to buy their fish.

In connexion with these petitions, Mr. Q. said, he would offer the following resolution, and would preface it but by one observation; that these petitions came from a great number of the laboring class of citizens, stating that their very subsistence was at stake; and that some mode must be devised by which they may escape from perishing:

Resolved, That a committee be appointed to take into consideration the peculiar hardships and sufferings to which the citizens of the United States immediately interested in the fisheries are subjected by the various acts laying an embargo, and that the committee be instructed to inquire, whether any, and if any, what relief ought to be extended to them, and that it have leave to report by bill or otherwise.

The House agreed to consider the resolution—ayes 72.

Mr. NEWTON moved that the resolution be referred to the Committee of the Whole, to whom was referred the report on the petition of certain merchants of Philadelphia, praying for liberty to export flaxseed. He saw no reason why a different direction should be given to these petitions.

Mr. D. R. WILLIAMS hoped, if the gentleman from Massachusetts persisted in his motion, that it would not be agreed to; if for no other reason, because it contained a misstatement. It authorized the appointment of a committee to inquire into the *peculiar* hardship and sufferings of the fishermen in consequence of the embargo; when,

if their condition varied from the common lot at all, it was that they were peculiarly favored. The gentleman from Massachusetts surely did not wish the House to commit itself by a declaration precisely the reverse of the fact; for he was well convinced that they were the peculiarly favored people.

Mr. Quincy said, that even supposing the position taken by the gentleman from South Carolina to be (which he denied) correct, there was no affirmative declaration contained in the resolution. It went merely to appoint a committee to consider, under certain suggestions of certain petitions, whether there were any peculiar hardships on that class of citizens. As this is a subject so very important, said Mr. Q., I must beg the indulgence of the House for a few moments. I maintain that there is something peculiar in the situation of the fishermen; and I believe I can so convince the gentleman from South Carolina, with all his prejudices and preconceived opinions on this point. The nature of this kind of business is in itself peculiar, in this single fact; that it is not profitable to those who carry it on, but of immense importance to the nation. It is not to the individual a profitable mode of employing his industry. The reward of the fisherman is the least, and his hazard the greatest. His recompense is never above mediocrity. He lives upon the seacoast in a shed which scarcely protects him from the storm; his trade is on the bosom of the deep. And what is his reward? A scanty pittance from his daily labor. The receipts from the fish are merely an income which he spends with the year; and if that perishes he has no capital with which to carry on business and support his family. In order to show that I am correct, I beg leave to read extracts from a report from the present President of the United States, while Secretary of State, on the subject of the fishing trade. He says, "the cod 'and whale fisheries, carried on by different persons, from different ports, in different vessels, in 'different seas, and seeking different markets, 'agree in one circumstance, in being as *unprofitable* to the adventurer as *important* to the public." In another part of the same report he says, "the 'profits of the sales in 1787–8, were too small to 'afford a living to the fisherman, and on those of '1789 there was such a loss as to withdraw thirty-'three vessels, of the town of Marblehead, alone, 'from the further pursuit of this business; and 'the apprehension is, that, without some public 'aid, those still remaining will continue to with-'draw, and this whole commerce be engrossed by 'a single nation. This rapid view of the codfish-'ery, enables us to discern under what policy it 'has flourished or declined in other nations; and 'to mark the *fact*, that it is *too poor* a business to 'be left to itself, even with a nation the most ad-'vantageously situated.' Thus, though highly advantageous to the public, it is productive of little or no profit to the individual. Gentlemen will say, then why follow this business? Why pursue this unprofitable avocation? Why not enter into some other business? The nature of their soil compels them to pursue it, sir; it will not yield them support. There is another reason for it; it is their habit; the mode of life which they receive from their fathers. They seek their subsistence from the ocean, as much as the seabirds by plunging among the waves. I ask gentlemen to observe how the embargo acts on these people, and see whether the gentleman from South Carolina be correct; and whether this class of men are not at least entitled to have their petitions considered, and have some way devised for their relief, that they may not have their whole property left to perish on their hands. The reason is so simple as to strike every gentleman. Much of the product of the fisheries is destined for foreign and but little for internal consumption, and that little now lessened from the depreciation in the price of flour, beef, and pork, in consequence of the embargo. The external consumption is destroyed by the direct operation of this law; and the internal diminished by the inevitable effect of the law upon other parts of the community.

I ask the House what is the value of these fisheries in a national point of view. By the statement of the Secretary of the Treasury made in March last, the whole amount of exportation of fish is 2,804,000 dollars; and the amount of tonnage employed is nearly 70,000 tons. By calculation we find that the persons employed in the fisheries will average about one man to every ten tons. Thus seven thousand men are now employed in this business, who derive from it their whole livelihood, the happiness and support of their families. If we divide the sum we shall find that there is to each individual an annual income of four hundred dollars; not only his whole income, but the whole hope and reliance of his family. This is all destroyed; and this is the effect of the embargo. If it were tobacco, cotton, or any article that could be stored, it would not be lost; even flaxseed would not suffer so much; for although flaxseed may be destroyed, the farmer has still his capital and stock, which the embargo cannot touch; while our fishermen have their whole substance taken away.

There is one other reason which I will suggest to the House, why some peculiar consideration is due to this subject; that these men will be lost to their country, if some relief be not afforded. Mr. Jefferson, in the report before referred to speaking of the measures of the English and French Governments, and how they operated, says: "At that 'period, our fisheries being suspended, the English 'seized the opportunity of pushing theirs. They 'had some little time before turned their attention 'to the southern fishery, had given very great 'bounties in it, and had invited the fishermen of 'the United States to conduct their enterprises. 'In 1788, they increased their bounties, and the 'temptations to our fishermen, under the general 'description of foreigners who had been employed 'in the whale fishery, to pass over with their 'families and vessels to the British dominions 'either in America or Europe, but preferably to 'the latter. The fishermen of the United States, 'left without resource by the loss of their market, 'began to think of accepting the British invitation

'and of removing, some to Nova Scotia, prefer-'ring smaller advantages in the neighborhood of 'their ancient country and friends, and others to 'Great Britain, postponing country and friends 'to high premiums." If Mr. Jefferson was then afraid in consequence of not granting the ordinary encouragements to lose our fishermen by competition, how much more is it to be apprehended, when you not only do not give them an equal chance, but take away their market altogether; when you not only destroy their future market but past product? In a national point of view then it is highly proper that the House should consider the situation of this class of the people, and not suppose that they do not now suffer more than rich individuals who suffer nothing but the suspension of their annual sale.

Mr. Burwell said, from the tenor of the observations of the gentleman from Massachusetts, he understood him as wishing to convey an impression that the distress of our citizens was caused entirely by the embargo. Now, Mr. B. said, the distress of that class of citizens was not produced by the embargo, but by the state of things in Europe, by the actual prohibition of every branch of our trade by the Powers of Europe previous to the imposition of the embargo. I think it important, said he, in every point of view, that this question should be kept strongly before our eyes, not only for our own particular information, but for that of our constituents; that they may be enabled to judge of the stagnation of business produced, not by the embargo, to which alone it is erroneously imputed, but by the arbitrary measures of foreign Governments. I ask the gentleman from Boston this question: What proportion of these fish is consumed in Europe, in ports prohibited by the British Orders of Council? For really I had been impressed with the idea that a great portion of this fish was consumed in the Mediterranean, in Spain, Portugal, and other Catholic countries. Does the gentleman suppose that the consequence of our relaxing would be that the British would relax? He cannot believe it. It is therefore very important that the people should understand that the evils recited by the gentleman from Boston, as far as they are true, are not produced by our own voluntary acts, but by the injustice of other nations, whose hopes of plunder by our measures we have counteracted. It is then absurd to talk about the stagnation of trade by the embargo.

Where would fishermen send their fish, if it were not embargoed? The British have prohibited it all. I perceive they have lately imposed a new regulation on our commerce in relation to the article of cotton. The exportation of it to France was permitted on payment of a considerable duty; but now, from excessive tenderness to the United States, they are inclined to prohibit the exportation altogether. One reason for this measure is, that the French manufactures will be more effectually checked by a prohibition than by a duty; and another is, that they will give less offence to America by prohibiting exportation to France altogether, than by laying a duty on it. They seem to wish to remember America a little in this; I wish to God they would in all things.

No one will be more disposed to take off the embargo than myself, if the state of our foreign relations would permit it; but if we were instantly relieved from the embargo, what would be the effect on our commerce? I see no part of the world where our produce could get but to England; every article of our produce is confined to a market where perhaps not one-fifth of it can be consumed; and practising upon the principles they have adopted in relation to cotton, we shall be prohibited from trading anywhere but to Great Britain; where but twenty-one or twenty-two millions of dollars are consumed, of the one hundred and eight millions which you export. Nothing is more evident to me than that by removing the embargo, we should hold out to foreign nations the greatest encouragement to perpetuate that system which would produce the ruin and utter annihilation of the commerce of the United States. What would be the effect on our seamen and shipping by a removal of the embargo? Will gentlemen say that more than one-fourth of them would be employed in our direct commerce with Great Britain? I presume not; because in proportion to our exportation to any part of the world, is the shipping employed in that trade. If one-fifth of our exports are consumed in Great Britain, one-fifth of our seamen and shipping will be employed in carrying on the trade. How then would relief be afforded by a removal of the embargo, when no employment would be afforded to our shipping or seamen; when they would only fall a prey to the cruisers of the belligerents? I do contend that if the merchants of this country were true to themselves, instead of raising clamors against the Government, they would confirm the people in a confidence in their own resources, and demonstrate to them, as they must well know it, the policy of the measures we have adopted; and in so doing they would display much more patriotism, and eventually render much more service to the permanent interest of the country, than by pursuing the line of conduct which has produced these petitions.

Gentlemen say that they are disposed to remain neutral; the gentleman himself has said this was the course to be pursued. How are we to remain neutral if we take off the embargo? Does he believe, with all the patriotism of the merchants, that they would remain patient while their ships were captured in every sea? Does the gentleman recollect the effervescence which took place among them two years ago? Will they be more patient when their whole property is destroyed? You would hear as much patriotism from them as you did once before, and it will desert them in as short a time. If we mean to continue neutral, it appears to me that we must continue in our present situation. When the time arrives that the effects of the embargo shall be more injurious than war, I well know what shall be my course; but I am willing to give foreign Powers time to accept or propose liberal arrangements against all difficulty—and if they are disposed to recede, I am

willing to relax. Let me ask the gentleman from Massachusetts, if we extend benefits to the fishermen, why not to others of our citizens? Does not the gentleman know that the citizens of every part of the United States feel precisely the same impression as the fishermen do? Does not every merchant concerned in exportation feel quite as much? If he had listened to the discussion on the bill for raising a military force, he would have heard it said, that every man is paralyzed. If you extend relief to one, do it to all.

I will improve the opportunity while up on this subject, to make some remarks on the course which has been taken in the United States in relation to it. The manner in which this measure was opposed when first introduced, and the predictions which were then made, must be familiar to all. How have those predictions been fulfilled? When the embargo was first laid it was objected to, as a measure peculiarly to operate on Great Britain, and which would produce immediate war between the two countries. What is the consequence of it? So far from Great Britain having considered it as a measure aimed at herself, she considers it expressly levelled against France; and if I am not misinformed the ministry have justified their Orders of Council on the ground of their being issued before the embargo was laid; for if the embargo had been laid before the Orders of Council, they would have considered the measure as a resistance to the decree of France of November, 1806; and it would have taken from them every pretext for issuing the countervailing orders.

Mr. Quincy said, the gentleman was anxious to take a distinction, and that it should be marked, that the evils resulting from a stagnation of business were not the result of the embargo, but of the conduct of the belligerents towards the United States. To answer this fully, said Mr. Q., would oblige me to enter into a discussion of the wisdom of the measure, which I am not disposed to do on an abstract resolution. I will make one observation, however, which if this House will not admit, the nation will; that so far as respects the oppression of industry in its first sources, the active farmer and mechanic, the whole oppression is imputable to the embargo, and not to foreign nations. Suppose the embargo had not been in existence, and all the products of the country had been swept from the ocean by the belligerents—upon whom would the loss have fallen? Upon the merchants, the insurers—the rich class of the community; upon those classes who are able and willing to bear it. But its operation is such that it stops the profits of industry. Its first weight falls upon the poor; and this is the cruelty, the misfortune, I had almost said the madness of it. The gentleman asks if the embargo were removed, to what ports we could carry our products? It seems to me that the fishermen are better judges than the gentleman from Virginia or myself. They do not say, but I do for them, better would it be that they should be permitted to sell to the merchant, and let the loss fall upon him, than upon the fishermen—the active laborers of the community. This is the misfortune of the policy of the embargo; that you undertake by your laws to do what laws never did do—what they never can do. You undertake to protect better the property of the individual than his own sense of personal interest would enable him to protect it. The interests which society has in the property of the merchant, are much better secured by his own prudence and understanding of his business, than by any general law. This is the great mistake; and it is an error which will be understood, because felt by the people. The true course of policy in such a case would have been to say to the merchant, We will not defend you; here are facts; these are the orders of one nation, these the decrees of the other; you see your danger; we have given you all the information in our power; now do what you please. What would have been the consequence of this? The merchant has his eyes open; he buys up the produce of the country, and sends out adventures. The article is captured; it is lost. It gets to a foreign market; which being under-stocked, he receives a better price for it. If it be lost, who loses it? The insurer, sir; not the planter, farmer, grower, or fisherman; not industry in its first sources. I could branch out this idea further into a wide field; but I do not wish upon a particular resolution to enter into it. A gentleman from Virginia (Mr. Randolph) the other day touched a point in relation to the Constitution, which is worthy the consideration of this House and the nation; whether in the Constitution itself the power of laying an embargo be given. If such a power exists, it is idle to say this is the last time it shall be exercised; the commercial States will not rest until they shall bring forward amendments by which the power shall be limited. There is not an instance in all history of a perpetual embargo; it is a new experiment. It was impossible that the framers of the Constitution should presume that a power would be exercised which should exceed any exercised by the most despotic Governments in the world. No such thing ever had been heard of as a perpetual embargo.

I have not a particular detail of all the ports to which fish are sent. I presume that a great proportion go to ports under the dominion of France; but this is a risk which the merchant and fisherman are willing to take; and it would be better that it should be still under the guardianship of the individual, and not that society should protect that which belongs to the individual. This is the general answer; and from what I have said, as to the particular case, I hope the House will consider the subject; for the fish must either be destroyed or sent out of the country before the summer.

Mr. D. R. Williams said, that when he had risen before, it had been to caution the House against what appeared to him a design to entrap them into an expression of a sentiment which they had not felt. I merely observed, said W., that if the gentlemen did not confine the resolution to a statement of facts, that I hoped it would not be adopted in any shape. Here a position is assumed that the embargo is made to operate peculiarly hard upon the fishermen. I do not believe that the gentleman from Massachusetts, out of his seat,

would seriously have acknowledged this as his opinion. It is not a fact, sir; for if there be anything "peculiar" in their situation they are peculiarly exempt. But the gentleman was presumptuous enough to presume that I am opposed to the consideration of his motion. I am not sir: I never was opposed to the consideration of but two motions in my life; and I have been sorry for having opposed these. I was opposed to the consideration of a motion by a gentleman from Massachusetts (Mr. Livermore) for repealing the embargo; which was made for the purpose of giving him an opportunity to read a speech ready cut and dried for the stenographer. I once voted against the consideration of a Yazoo petition, which the gentleman himself (Mr. Quincy) presented; perhaps he has not forgotten it. I perceive the folly of it; for that petition is now lying on the table, which would not have been suffered to have lain there three hours during the last session. The resolution of the gentleman does not state facts.—[Mr. Quincy said the gentleman need not take that ground, for he had not an intention to express an opinion, and would modify his resolution so as to put it out of doubt that he had no such intention.]—Mr. W. said, he did not question the gentleman's motives; he only thought the form of the proposition might induce a supposition that the gentleman had such an object in view.

The gentleman has undertaken to tell you, said Mr. W., that I have prejudices on the subject. He said he would convince me "with all my prejudices." If I so conduct myself in this House that I can be charged justly with entertaining unfair prejudices, I wish to understand it, that I may meet the charge; but before I will be subjected to such a charge unanswered, I will say that the expression was irrelative to the subject, indecorous to the House, and ungentlemanly to myself; and if the gentleman entertained such sensations as a gentleman would feel on such an occasion, he would not till now have persisted in it. [Mr. Quincy insisted on explaining.] Mr. W. called him to order. Mr. W. said, he never had nor ever would unprovoked make use of an expression to wrong the feelings of any gentleman. I never refused any gentleman a right to explain, said he; and if the gentleman had desired to explain when I first touched the subject, I should not have called him to order. But the gentleman persisted; and I do humbly conceive, sir, that the charge of strong prejudices against any portion of citizens of this country when applied to me, was at least as indecorous as a declaration of ungentlemanly conduct applied to the gentleman from Massachusetts. I never will sit still and hear such charges; because no act of my life would authorize any man in making such an assertion. The gentleman is opposed to the embargo; I believe that he misrepresents the voice of the commercial States He says, he will take the opinion of the fishermen in preference to that of the gentleman from Virginia (Mr. Burwell)—and so will I take the expression of the opinion of a large proportion of the citizens of a commercial city, (I mean the democrats of New York) in preference to that of the gentleman from Massachusetts. I hope the resolution will be amended by striking out "peculiar hardships and sufferings" and inserting "inconvenience."

Mr. Quincy said, when he used the word "prejudices," he certainly had no wish to wound the feelings of the gentleman from South Carolina, or of any other in the House. The word prejudice in this case applied only to his prejudices resulting from the very argument which the gentleman had used—that these fishermen were peculiarly favored instead of suffering under peculiar hardship. With reference to this opinion alone had he used the word prejudice. He owed this explanation not to the gentleman from South Carolina, but to himself; because he never was in the habit of using language to wound the feelings of any member.

Mr. Taylor said, he felt it a duty to express the feelings which really forced themselves upon him on hearing the expressions of the gentleman from Massachusetts, which could as well have been applied to any other quarter of the House as to his colleague. The word "prejudice" would not have had the same effect upon him in other circumstances; but the *Repertory*, from Boston, which came to hand on Saturday night, contained a sort of introduction to the word prejudice, in a letter from a gentleman in this city; in which the writer had taken upon himself to speak of the Southern planters as being inimical to, and determined to ruin the commercial interest. Having read this, said Mr. T., and heard the expressions applied to my colleague, I could not but feel the observation. If indeed the gentleman has no prejudices against us, it would be as well to bury the hatchet; for I can assure the gentleman it is not correct to suppose that we entertain prejudices against our Northern brethren. In order to explain the sensations I felt at hearing this word prejudices, I will refer gentleman who have any curiosity on the subject to the "Repertory."

Mr. McCreery said, there must be some mistake in this business. The gentleman from Boston (Mr. Quincy) could not have been the author of that letter; for he had just declared that he cared not what the merchants suffered, if the fishermen could but sell their fish.

Mr. Cook said, it seemed that the observations on the reference of a few petitions respecting fish, had extended so far as to embrace the merits of the embargo. The gentleman on my right, said he, conceives the operation of the embargo to be particularly injurious to fishermen; it may operate severely upon them, but not more so than upon other citizens. As respects the mechanic, I cannot see how it can operate against him. We have accounts from every part of the country and the most respectable of our merchants conceive the embargo a beneficial measure. I know there is a difference of opinion; but the most correct commercial men in my district say, that they should consider themselves embargoed if there was no embargo law. I ask how the embargo can operate such great distress as is ascribed to it? If the embargo were taken off, to what part of the world

could the merchants send their ships with safety? Let the voyage be to whatever quarter, they would be subject, either to the shark or the tiger. It is said that the merchants could protect themselves. They know their interests better than to attempt it. Gentlemen might as well say, let us disband the Government altogether. Government was instituted for wise purposes; and one express provision of our Constitution is, that we shall make all laws for governing commerce. The argument seems to be relied on against the embargo, because it is considered as a permanent measure. I never heard the embargo advocated on that ground, nor has any gentleman ever so supported it. We have on our table a resolution authorizing the President under certain conditions to suspend the embargo. This certainly does not look like an intended continuance of the embargo longer than a safe policy dictates.

Some gentlemen have gone so far as to advocate a repeal of the embargo, because we cannot protect our native seamen, having passed such laws in relation to them as the usage of other nations has rendered expedient. It seems that Great Britain requires three-fourths of the seamen on board her merchant vessels to be native citizens; and therefore, we are told, we ought to do the same. The gentleman from Connecticut (Mr. Dana) did not tell all the facts relative to that subject; for if he had, he would have said that this law is always repealed in time of war, and of course has no operation whatever. If the gentleman means to advocate the doctrine that we ought to mark every seamen of ours, that he may not be mistaken, he wishes to degrade us indeed. Under what principle of justice or right are we to distinguish our seamen in any manner? Have we not at least an equal right to expect that Great Britain may slit her men in the ear, that she may avoid the unfortunate *mistakes* she often makes in taking *ours* instead of her own?

It is asked what benefit can it be to the American seamen that the British seamen under our flag should be exempt from impressment? That has already been completely answered; it is a benefit that all should be exempt, sir; because, when they have the privilege to take the goats, they will take the sheep with them. And I hope we never will submit to that species of summary process, in virtue of which a boatswain of a man-of-war may come on board our merchant vessels, and by pointing his finger, cause our seamen to be *mistaken* for their own.

It has been said that the measures we have taken go to prostrate the mercantile interest. I have the interests of the merchants as much at heart, and they are dear to me as any one. I live with them and know them; and it would be unnatural in me to give my vote in favor of any measure which I conceived injurious to this respectable class of men. I conceive that all classes of the country, farmers as well as merchants, feel the embargo; and it is but justice to them to say that they bear it with magnanimity. I have no confidence in permanent embargoes, or non-importation laws; but the embargo, with the discretionary power which I hope we shall give the President before we part hence, appears to me wise and expedient, and the best measure which could have been adopted for the safety of the country.

Mr. Dana wished to vindicate himself from the idea of "marking" our seamen; for really he had not entertained the idea that "slitting ears" and citizenship were synonymous terms.

Mr. Sloan made some observations on the length of time occupied on this subject. He must needs say that had he been in the gallery, he should have supposed that the negotiation was the subject of discussion; for the House had occupied half the day with what ought not to have employed ten minutes.

Mr. Quincy's resolution, together with the petitions, were then referred to a Committee of the Whole, 56 to 26.

[The subject was not farther acted on during the session.]

Tuesday, April 12.

The House proceeded to consider a resolution proposed by Mr. Gardner, which was read and ordered to lie on the table on the fifth instant; and the same being again read, was agreed to by the House, as follows:

Resolved, That a committee be appointed to consider the expediency of providing by law for the adjournment of this Congress to some earlier period than the first Monday of December next, with leave to report by bill, or otherwise.

Ordered, That Mr. Gardner, Mr. Smilie, Mr. Bacon, Mr. Nicholas, and Mr. Johnson, be appointed a committee, pursuant to the said resolution.

Mr. Poindexter presented to the House certain resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, stating that the power given to the Governor of the said Territory, by the ordinance establishing the Government of the same, is incompatible with the rights of the citizens, and praying that a form of Government approximating to that enjoyed by the States of the Union, in a limitation of the authority given to the Executive, and the extension of that of the Council and House of Representatives of the said Territory, may be adopted by Congress for the convenience and benefit of the inhabitants thereof.—Referred to the Committee of the Whole to whom was committed, on the nineteenth of February last, the bill concerning the powers of Territorial Governors.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning public contracts," with several amendments; to which they desire the concurrence of this House.

FRAUDS IN LAND WARRANTS.

Mr. Randolph rose to give notice that he meant to bring forward a motion on a subject of considerable public interest, and in which in his opinion the honor of the Government of the United States was materially implicated. He held in his hand

an application from a veteran soldier on the subject of his bounty land, and who had sent him a power of attorney to act for him—a man of unimpeachable character, and who had not been at the seat of Government since it was established—his name William Bryan. I found, said Mr. R., that his warrant, No. 9—, has been drawn and fraudulently located; I say fraudulently, because I am well assured that the party has not received any advantage from the warrant, and there is the strongest evidence of fraud. His warrant has been drawn and located, by whom I cannot discover; my researches were completely baffled by the memorable fire, which it is presumable owed its origin to a desire to cover frauds of this nature. I was referred from the War Office to the Treasury Office; for the only chance of finding out who had acted as attorney in fact for this old man, was, that the warrant ought to have been returned and on file there. On going there I found that the space on the record which the warrant ought to have occupied, was blank; and that no such warrant exists on the Treasury files. I believe this is far from being a solitary case, but that the cases are numerous, and many of those who have honestly earned a title to public land have been in this way defrauded, and the land sold to speculators who have reaped the benefit of it. I therefore give notice that I shall at a future day move for an inquiry into this subject.

POST ROAD BILL.

The bill for altering and establishing certain post roads having been read, and the question put "Shall this bill pass?"

Messrs. Taylor, Smilie, Alston, D. R. Williams, Bacon, and Tallmadge opposed the bill; and Messrs. Randolph, Bibb, Blackledge, Stanford, Troup, and Lloyd, supported it.

The opponents of the bill objected to it, because the number of new roads created being so much greater than of old ones put down, would create an expense to the United States, over and above the net revenue of the Post Office establishment, of from $30,000 to $50,000; because that so great a ramification as this bill proposed, might render the institution too cumbersome; that the nation did not expect, nor was it originally contemplated that the Post Office establishment should be supported by any other revenue than that which it created; that the too great expense of the establishment would disgust the nation with that which, properly fostered, would be of so great utility to the people; that gentlemen, by drawing the rich blood from other institutions, and giving it a passage into this institution, would destroy the very object which they only aimed to nourish; in any event that more harm would result from extending it to too great a latitude, than from fostering it with economy. In addition to this it was said that if this bill passed, an additional appropriation must be made, or the Postmaster General must be prevented from carrying the law into effect, or he must anticipate appropriations, pursuing a practice which had of late been so much objected to; that the establishment of forty-four new roads, a year or two ago, had diminished the net proceeds of the Post Office Establishment from $50,000 to $2,300, while the present bill, proposing ninety new roads, would in the same proportion cause a deficit of perhaps $40,000 or $50,000 beyond the net revenue of the Establishment; that there was already, taking into view the salaries of the officers of the General Post Office, an annual expenditure over and above the annual receipts, of $14,000; which, when increased by the additional expense caused by the erection of the new roads proposed, would be a serious expense to the United States for that establishment, which ought properly to yield a profit.

The advocates of the bill replied that the only objection which could be fairly made to the bill, was on account of the old roads supposed to be unproductive which it put down, and not on account of the new ones which it erected; that supposing the conjectural estimate of a surplus expense over and above the revenue arising from the establishment, of $30,000 or even $50,000, was correct, which was by no means admitted, it would be at least problematical whether the benefit to be received from a diffusion of information would not far exceed the additional expense; that the benefit to be derived from the two millions voted for the new army of six thousand men, would shrink from the comparison with the benefits to be derived from the expenditure of $50,000 for this purpose; that the bill provided roads for a vast tract of newly settled country in the State of Georgia, to which the Indian title had been extinguished, which would be left totally destitute of information except the bill passed; and in a Government like ours, the conduct of which was founded upon the will of the people, it was of absolute importance that the people should be informed; that if the principle admitted by the opponents of the bill was correct, that the establishment should consume its own revenue, even in case of the expense now exceeding the revenue, the establishment might justly claim credit from the General Government for the many thousand dollars which it had annually netted to the Treasury; and that it was extremely doubtful whether the cost of these roads would exceed the proceeds to be derived from them. It was also said, that if the express mail to New Orleans were put down, it would cause a great diminution of expense, perhaps equal to the whole expense caused by the new roads established by this bill; and this mail being kept up for the service of Government altogether, the Post Office Department ought correctly to have credit for its whole expense.

The bill was passed by yeas and nays, 70 to 31, as follows:

Yeas—Lemuel J. Alston, Joseph Barker, William W. Bibb, William Blackledge, Thomas Blount, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, Peter Carlton, Martin Chittenden, Matthew Clay, George Clinton, jun., John Clopton, Howell Cobb, John Culpepper, John Dawson, Josiah Deane, Joseph Desha, James Elliot, William Ely, J. W. Eppes, James Fisk, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John

Harris, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, William Kirkpatrick, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Thomas Newton, John Randolph, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Dennis Smelt, Jedediah K. Smith, Samuel Smith, John Smith, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, John Thompson, George M. Troup, James I. Van Allen, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherell.

Nays—Willis Alston, jr., Ezekiel Bacon, Burwell Bassett, John Blake, junior, Adam Boyd, Robert Brown, Epaphroditus Champion, John Claiborne, Richard Cutts, John Davenport, jr., Charles Goldsborough, John Heister, William Hoge, Daniel Ilsley, John Lambert, Josiah Masters, William McCreery, William Milnor, Jeremiah Morrow, Thomas Newbold, Timothy Pitkin, jr., John Pugh, Josiah Quincy, Matthias Richards, James Sloan, John Smilie, Henry Southard, Benjamin Tallmadge, John Taylor, Robert Whitehill, and David R. Williams.

SUSPENSION OF THE EMBARGO.

The House then resolved itself into a Committee of the Whole, 55 to 20, on the resolution offered by Mr. G. W. Campbell, declaring that the President of the United States ought, in the event of certain contingencies occurring during the recess of Congress, to be authorized to suspend the operation of the embargo.

Mr. G. W. Campbell said he would state to the House, in a very brief manner, some of the reasons which induced him to bring forward this resolution.

It will be recollected, said he, that the causes which induced the passage of the law, imposing an embargo, were the orders of council by Great Britain, and the decrees by France, which went in a great degree to cut off and destroy the whole commerce of the United States. In case those causes should be removed, I presume it will be thought necessary that there should be a power vested somewhere to withdraw the embargo occasioned by those orders and decrees. As therefore it is believed that we shall not be much longer in session, and it is at least possible that these orders and decrees may be removed, that Great Britain may revoke her orders of council or change them so as not to affect our commerce, and that France may revoke her decrees or change them so as to render our commerce secure, it is all important that a power should be vested somewhere to give the people such relief as would be justified by this state of things. Suppose it were the case that any alteration should take place when Congress were not in session, some weeks, nay, some months must pass before Congress could be in session and a law pass for removing the embargo; the consequence of which would be that the country would suffer the pressure of the embargo for weeks or months longer than would be necessary; and I presume no member of the House will say that it would be proper to continue longer than necessary the pressure which the embargo must make upon them. There is I presume at least some reason to believe that the belligerent Powers themselves are beginning to see their own interests injured. We see, by the latest accounts from Great Britain, that propositions are made in Parliament for revoking her orders. Should this take place, it is presumable that we also should revoke our regulations. This measure would also have a good effect in turning the attention of the people to the real source whence their present inconveniencies flow; they will be taught to look to those circumstances which produced the embargo, a change of which would justify its removal. This would be a consideration of some importance. The mind of the public would be kept alive by the expectation that every day may bring the news which would induce Government to revoke the embargo, which no doubt bears hard upon the agricultural as well as commercial interests of the country.

For myself, I cannot see what objections can be made to this measure. It is not vesting a power in the President to oppress or embarrass the commercial interest; it only vests in him a power under certain restrictions to remove the pressure which our fellow-citizens feel from the measure we have been compelled to adopt. I know no objection which can be made to giving a power to remove, though with great reluctance I should empower the Executive to impose, a burden. I do not intend at this time to enter largely into the subject, not knowing what objections may be made to the proposition; but will observe that similar measures have frequently been adopted. It is no new case. The Executive has been on a former occasion not only authorized to remove an embargo, but to impose one; and that gentlemen may see the course which was pursued, I will turn to the laws which have vested in the President powers not only equal but greater than that which this resolution proposes to give. The first law to which I shall have reference passed in 1794, to authorize the President to lay and revoke an embargo. Another act passed in 1799, which authorized the President to suspend the law for prohibiting intercourse with the French nation. The sixth section of an act "further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," says, "That at any time 'after the passing of this act, it shall be lawful for 'the President of the United States, if he shall 'deem it expedient and consistent with the interest 'of the United States, by his order, to remit and 'discontinue, for the time being, the restraints and 'prohibitions aforesaid, either with respect to the 'French Republic, or to any island, port or place 'belonging to the said Republic, with which a 'commercial intercourse may safely be renewed; 'and also to revoke such order, whenever, in his 'opinion, the interests of the United States shall 'require; and he shall be, and hereby is authorized 'to make proclamation thereof accordingly." An authority similar to this was again given in the year 1800, in a bill of the same title, in the 6th

section. "That at any time after the passing of 'this act, it shall be lawful for the President of 'the United States by his order to remit and discontinue for the time being, whenever he shall 'deem it expedient, and for the interest of the 'United States, all or any of the restraints and 'prohibitions imposed by this act, in respect to 'the territories of the French Republic, or to any 'island, port or place belonging to the said Republic, with which in his opinion a commercial 'intercourse may be safely renewed; and also it 'shall be lawful for the President of the United 'States, whenever he shall afterwards deem it 'expedient, to revoke such order, and hereby 'to re-establish such restraints and prohibitions. 'And the President of the United States shall be 'and he is hereby authorized to make proclamation thereof accordingly." These three several acts were passed then; and, whatever objections may have been made to the laws in general, no objection was made to that part authorizing the President to suspend those laws; and it is difficult to point out any reasonable objection to such a power. An objection cannot be fairly inferred from the Constitution, which vests in Congress the power of regulating commerce, but does not prevent them from vesting in the President a power to suspend any regulations which they make; and it would seem strange that it should be thought an infringement of the Constitution to direct the President to suspend the operation of a particular measure on the happening of certain events pointed out in the law, when, in the laws which I have read, a general power and discretion unlimited have been given to the Executive "to 'lay, regulate, and revoke embargoes;" "to re'voke such order (non-intercourse) whenever in 'his opinion the interests of the United States 'shall require it;" and, "whenever he shall after'wards deem it expedient, to revoke (such orders,) 'and hereby to re-establish such restraints and 'prohibition of intercourse." Certainly this resolution does not propose to vest a power so unlimited as this. It is only intended to vest in the President a power under certain events to suspend the embargo, till such a number of days after the commencement of the next session as will enable Congress to act on the subject.

I will mention another instance, and I believe no man objected to it, in which a power was given in substance precisely the same—the power to suspend the non-importation act. This was a law similar in its nature to the embargo law; it prohibited the importation of certain articles; and the President was authorized by law to suspend the operation of that law, if he should suppose the interest of the country to require it. The law passed almost unanimously, I believe.

The resolution as it now stands seems to me to embrace the principal grounds upon which we ought to authorize the Executive to suspend the operation of the law in question. If a general peace or suspension of hostilities take place in Europe, it would seem that there would be no danger from a suspension of the interdiction of our own vessels from sailing; but if no such event takes place, in the event of such alterations as shall exclude American commerce from the operation of the orders and decrees of the belligerents, it will be proper that the embargo should be suspended, they being the grounds on which the measure was adopted. You must vest a power somewhere to ascertain whether such change take place or not. You cannot precisely determine the fact which shall authorize suspension; for were you to say that in case of a revocation of the decrees of France or England the embargo shall cease, you give a vast advantage to those nations—for they may revoke them to-day and reinstate them to-morrow, as their interests may dictate. It is therefore necessary to vest a power somewhere to ascertain not only the revocation, but a reasonable assurance that they will not be renewed. For this purpose it is essentially necessary that the President should be authorized to determine the changes which shall render our commerce safe, by the assurances which may be given that they will not again resort to similar measures. This I mention only as my general object; as to the expressions in the resolution I am not tenacious of them; and in any modification of them which shall promote the public good I shall certainly acquiesce. I have no object but one; that the public may see that we have not left our posts till we had done everything in our power to relieve them from the distress of measures adopted by us and rendered necessary by the conduct of other nations.

I conceive this to be more important to the people on the seacoasts than to the people in the Western country. To the Western country a few weeks or months protraction of the interdiction, in the fall of the year, could not be of much importance; yet it would seem to me that in the commercial cities and towns, in the Atlantic States, a few days or weeks, much more so a few months, which might occur before Congress could convene, would be very important; and they would feel much uneasiness, if, knowing such changes had taken place as would warrant the removal of the embargo, they were compelled to lie under its pressure until Congress could meet to revoke it. It cannot be expected, after the President shall determine to call Congress, that they can be convened here in less than three months. Such a resolution as this therefore would be beneficial to the commercial interest.

I will mention another circumstance, and that is this: that if no such measure as that proposed should be adopted, and such a change take place in our foreign relations as would authorize the removal of the embargo, Congress might be called here at a season of the year when it would be extremely inconvenient if not dangerous to them to leave their homes. I presume no gentleman would wish to come here in August or even September. It is for these reasons, therefore, added to the expense attendant on an extra session, that I wish such a measure as this to be adopted. I see many advantages which may result from it; and do not see any serious inconvenience which it can be supposed to produce.

Mr. Randolph opposed the resolution at considerable length.

Mr. Johnson said he had not expected that, upon a proposition of this kind, the subject of the treaty which was rejected by the Executive would be introduced. I did attend to that treaty when it was read in the House, said he, and I have perused it with some attention since; and though not a practical politician, and perhaps not sufficiently so in theory to speak or decide upon every point embraced or omitted in that treaty, I think it requires but little discernment indeed to see that this treaty was such an one as this nation would not have been justified in acceding to. I may differ with gentlemen on different points in this treaty; likewise upon the circumstances which would have induced the acceptance on the part of the United States of that treaty, which in more perilous times would have been rejected. But, let me ask, were we in a worse situation when this treaty was formed and rejected, than when the treaty was formed in 1794? Had we any motive to induce us to make a sacrifice? In 1794, if the distress of an Indian war, if the accumulation of the public debt which was continually increasing, if violations of neutral commerce and the depredations of the Power of Algiers, with the then reduced and indigent situation of our country, would have justified Jay's Treaty, the sacrifice made by it was justifiable. Did circumstances similar to these exist in relation to the rejected treaty to form an apology for the concessions which are made and the principles which are abandoned? Let me ask what was our situation in 1806-7? Quite different from that of 1793,-'94, when Jay's Treaty was received; and we had not in my opinion a single motive to induce a sacrifice in the formation of a treaty with any foreign Power. Our citizens were happy, rich, and in flourishing circumstances, the nation partook of those advantages, and that prosperity which invigorated the people also strengthened the nation. We existed as an independent nation; and having a character to form, it was necessary that we should resist foreign invasion on our political and commercial rights; it was no time for receding the privileges we had already enjoyed, but rather for acquiring others. We had not then a motive, except a wish to live in peace, to make a sacrifice when the treaty was formed and at the time it was rejected. What should we have obtained by this treaty? It surely is not necessary for me to enumerate the different points of collision with Great Britain, and say that none were fixed on a better footing than before that treaty was formed, and many on a much worse.

Upon the subject of impressment, however, I conceive that the informal note placed it in a worse situation than that in which it stood before. Why? The principle never had been denied, that our seamen should not be impressed; but under the exercise of the right of taking British deserters, this arrangement permitted it. It never had been contended that Great Britain had a right to take American seamen. They had said they would take their own men; but they never had said that they would exercise this right to the abuse of American citizens; and whenever these men have fallen a sacrifice to press-gangs and petty naval commanders, it never has been contended that Great Britain would sanction the acts of her officers. In this arrangement they do not give up the right of search or impressment; but they will endeavor not to abuse it. Did not the rights and I may add the sensibility of this nation require that Britain should not exercise the right of impressment except it were ascertained that it was impossible that she should abuse it? Was it not one of the primary objects of the mission from the American Government to have the subject of impressment fixed upon an honorable footing? We did not wish the British Government to relinquish the possibility of getting her deserters; we made every reasonable proposition to meet her justice, and, as far as was compatible with our rights, to accommodate her interests. I believe propositions were offered which would have resulted to the advantage of Great Britain; she, however, was the judge of that, and would not accept of them. We said that Great Britain had a right to reclaim her own citizens, but that ours should not be subject to her press-gangs. What is our situation now? Can we ever give up the principle that our flag shall protect our own seamen? Can we ever submit that our own citizens shall be subject to the discretion or pleasure of a British naval commander? If Great Britain had not amused us with a syren song, the American people would be more indignant than they are on this occasion. But I hope there still exists a due sensibility on this subject; though every movement of the American nation shows that we do not wish to go to war. Have these men not rights? How eloquently did the gentleman from Virginia the other day express his indignation that our territorial line had been crossed, and our citizens taken from the bosom of our country: and will he consent that our citizen shall be torn from his country, family and friends, and doomed to serve a long and useful life on board a British man-of-war, to drag out the remainder of his existence in the service of a foreign Power, subject to corporal punishment at the will of a British officer, from an admiral down to a midshipman? This informal arrangement says that they will abstain from the exercise of the right of impressing our citizens, and if impressed, they will make reparation for it. Why should we have accepted a solemn act, much less an informal note, declaring they will abstain from the practice of a right which they cannot claim, and derogatory to our rights? Under the subject of impressment then should we have gained anything by the treaty? We may all differ in sentiments, but my opinion is, that so far from gaining anything, it acknowledges informally the right, although Great Britain promises not to exercise it. It is said that the subject was left open for discussion. Had we not been petitioning long enough? Had not our Ministers acted in the capacity of beggars long enough?

I consider the rejection of that treaty as constituting an important era in the history of this country; and I believe however we may suffer, the people of this country will not retract. We will take our stand; and if we must fall, let us at least have the merit of resistance.

Upon the subject of the colonial trade I shall say but little. I believe nothing was gained on that subject; if nothing was done why make a temporary provision in relation to it. Is it a concession on our part to Great Britain, or on the part of Great Britain to us? If it be a concession on the part of the United States to allow their colonial trade to be guarded in this way, the shorter the time the better; if it be an advantage to us, the regulation should be permanent. If neither, why make any agreement in relation to it? We had heretofore enjoyed that trade. What now? The goods must be relanded, and two per cent. paid. Conditions and fees are required on our part upon that commerce. On this subject then nothing advantageous to us is done.

Upon the subject of the East India trade, it is admitted that it is fixed on a worse footing than might have been expected. Our Ministers say that they could not withstand the influence of the East-India Company. Far be it from me to question the integrity of our Ministers; it would ill become me, a child of the day, to detract from their merits or well earned reputation. But it does not follow because they have with difficulty obtained this treaty that it should not have been rejected; or, that it would not have been as replete with evils as Pandora's box.

Upon the subject of blockade there is a small deviation perhaps, and that in the particular instance of evidence. I recollect a particular circumstance attending the negotiation on the subject of blockade, and of searching our merchant vessels. It is pressed upon the British Government to give us the same advantages as they gave to the Northern Powers in a treaty with Russia; and although there is an informal arrangement which looks something like this treaty, still they have been so cautious as not to give us anything; or to give us everything but that for which we contend.

The subject of spoliations on our commerce is held for further negotiation. Nothing done.

These are a few prominent objections with me to the treaty. I cannot say that they are all; for the subject has been introduced into discussion before we could have an opportunity of investigating the papers.

On the subjects of impressment, the East and West India trades, searching our merchant vessels, blockade, and spoliation, nothing material was done.

How, then, can the embargo be ascribed to the rejection of this treaty? Recollect, that after they had agreed to these formal and informal arrangements, her practice differed from her professions. Are we to put ourselves upon her national justice forever, and she to make professions which she as often violates? At the time of the attack upon the Chesapeake, when we were slumbering in the midst of a negotiation for peace, (and let it be recollected that the rejection of the treaty could not even have been officially known at the Court of London on that day—the 22d of June,) might it not have been expected that her strong professions of friendship and her formal and informal arrangements would have confined her to a peaceable, if not friendly demeanor towards us? She sprung upon one of our national ships, knowing it to be such, and made a prey of our citizens in sight of the American shore. The knowledge that it was a national ship, did not restrain the licentiousness of a British officer. She disavows the act; but makes no reparation for it. After having entered into the arrangements then under consideration by our Government, and stipulating by the informal arrangement to exercise the right of impressment with moderation, we might have supposed that she would have shown more respect to our rights, and exercised her pretended right with more "moderation" than she has displayed.

But there is one point of view in which I have considered our foreign relations, and I deem it important. We have a disposition to be friendly to Great Britain (and I hope we always shall feel that disposition towards her and all others) on honorable terms; but we find that the measure of non-importation, the exercise of our national sovereignty, was a cause of great irritation in Great Britain; and, therefore, we were to purchase peace by a treaty which we see on the face of it has not settled the important subjects of irritation in this nation. We have always been the complaining party; the acts of injury have been disavowed, or justified—not by justice, but on the principle of retaliation. If we recede again we are lost. In 1785 did she not reject our Minister? Was he not rejected in '93? Was not the treaty of Jay hatched up to allow us a little time to follow the common pursuits of industry? I say nothing with a design to produce irritation in relation to the conduct of that nation; I hope we are sufficiently alive to it. I speak of the treaty. Shall we recede from our ground in 1808? Where is the inducement to accept a treaty by which we gain nothing, as the purchase of a peace? Have we done any acts of hostility? Have we invaded her national ships, her territory? Have we captured her merchant vessels or impressed her seamen? What have we done that we must make a sacrifice? Are we weak, defenceless? Let the hour of danger come, and we shall wax strong. I wish no alliance with either Great Britain or France. Gentlemen wish to say to our merchant vessels "you may go out if you can." Agreed. Those who stay at home will be satisfied with their wisdom, and those who go out will suffer for their temerity. Let us not hold out the idea that we are an independent nation, if we will not maintain our rights. When the rights of other nations come in contact with our own, we will each yield—give and take. But on fundamental principles no yielding!

Upon the subject of the embargo, the worthy gentleman from Virginia has made objections to it on a Constitutional ground, and held out a distinction between a permanent and a temporary

embargo. If we have power to lay an embargo for one day, have we not the power to renew it at the end of that day? If for sixty days, have we not the power to lay it again? Would it not amount to the same thing? If we pass a law to expire within a limited term, we may renew it at the end of that term; and there is no difference between a power to do this and a power to pass laws without specified limit.

It is to be presumed that the public good requires that the embargo should be removed as soon as possible, and as soon as the causes vanish which produced it, it may be removed. I have been pleased with the observations of the gentleman from Virginia in regard to the elective franchise; but where can this be prostrated by the delegation of an authority to the President to suspend the embargo? Are not the people as competent now to detect a lurking monarchy as they have been at any other period? Do you not find the people bearing with patriotism the inconveniences which result from the measures we are compelled to adopt? I can speak with certainty as to the part of the country which I represent, that they do. What could we have done? Had we taken no measures whatever, the property of our merchants would have enriched our enemies; had we suffered our merchant vessels to arm, we should have been in active war in a month. Had we not better remain as we are, prepared to strike a blow or relax upon a change for worse or better of those circumstances which had well nigh annihilated our commerce?

The gentleman has told us that the embargo is well received in Great Britain. Do we not know the warm discussions which have taken place in the British Parliament? Have we not seen the petitions of the people of England, and from our Minister himself do we not know that if we are plunged into a war the whole world will say that the cause of America is just? If we are upon wrong ground, let us retract; if not, let us have bare justice, and I for one will be satisfied.

It would give me extreme pain that I should give a sanction to any measure which should look like a dependence on a foreign Government; but, if we see our course clear, are we to be diverted from it, because it may be beneficial or otherwise to them? I would not obey the impulse of any foreign Power; but I would not be driven from my course because it might operate this or that way on a foreign Government; nor, I am convinced, would other gentlemen consult the interest of a foreign Government, when adopting measures for the security of our own. Having said this much, I resume my seat. It has not been my design to attack the motives or conduct of our Ministers at London. I believe they obtained the best treaty that was in their power; but I believe that it ought to have been rejected, for it was pregnant with mischief.

Mr. Randolph said he would just remind his friend from Kentucky, that he had never conceded the right of Congress to lay a temporary embargo.

The Committee rose at about four o'clock, and obtained leave to sit again.—Adjourned.

Wednesday, April 13.

Mr. Randolph called for the order of the day on the bill for arming the whole body of the militia of the United States.

The Speaker declared that the unfinished business (resolution respecting the embargo) had preference in the orders of the day.

Mr. Randolph moved to postpone that subject, although he had no wish to delay it, till the bill for arming the militia should be taken up.

On the suggestion of Mr. Rhea, Mr. Randolph modified his motion so that the resolution relative to the embargo should be referred to a Committee of the Whole on the state of the Union.—Negatived, 49 to 29.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to revive and continue in force an act declaring the assent of Congress to certain acts of the States of Maryland and Georgia;" to which they desire the concurrence of this House.

The House then went into a Committee of the Whole on the bill for the relief of the legal representatives of Thomas Barclay, deceased, which being gone through, was immediately ordered to a third reading to-morrow.

Mr. G. W. Campbell, from the Committee of Ways and Means, presented a bill making an appropriation to supply a deficiency in an appropriation for the support of Government during the present year, and making an appropriation for defraying the expenses incident to the valuation of the houses and lands, and the enumeration of slaves within the United States; which was read twice and committed to a Committee of the Whole to-morrow.

SUSPENSION OF THE EMBARGO.

A motion was made by Mr. Holmes, that the resolution proposed by Mr. G. W. Campbell, on the eighth instant, relative to a suspension of the embargo on all ships and vessels in the ports and harbors of the United States, do lie on the table. And the question being put thereupon, it passed in the negative.

The House then went into a Committee of the Whole on the resolution.

Mr Love said, to a proposition having for its object the removal of the embargo, at the first moment the public interests would permit, he had presumed there would have been no objection made either on that floor or by any man in the nation. In this presumption, said Mr. L., I am extremely sorry to be disappointed, and more especially so, as the mode of opposition calls for a reply from those who have been the advocates of the system of policy pursued by the Government, during the embarrassing crisis it has been compelled to encounter.

The proposition before the Committee is so familiar to those who have been long in the habits of legislation, from the frequent exercise of the general principle on which it rests, that nothing not already obvious to the minds of the greater part of this honorable body, I am sure, can be said in support of it. In the observations therefore, sir, which I shall trouble the Committee with, it will not be necessary to say more than shall be proper in answer, only, to the objections which have been made at this time, to the exercise of the power contemplated by the resolution.

I have heard no argument yet urged against the right of delegating in any situation, or under any circumstances, the exercise of special powers which are acknowledged to be vested in a more general view essentially in the Legislature. The argument if urged to such an extent would evidently defeat itself, and go to destroy the operations of this or any other Government deriving the source of its authority from a Legislature. Our Constitution has enjoined many duties on Congress, which without a delegation of the powers thus vested in it, could never be effected. An objection to the resolution under discussion on so broad a ground, would have been too obviously untenable. The question has not been thus directly met; but in opposition to the constitutionality of the delegation of power contemplated, a distinction has been taken between the authority which should be given to suspend a law, already in operation, and one which has not yet commenced its operation.

I listened, sir, with every possible attention to the argument made on this distinction. I am obliged to say there was no reason intelligible to my mind, offered in support of it. I will content myself therefore with expressing the opinion that the circumstance of a postponed or present operation, cannot make a difference in the principle. In both cases the authority which delegates the agency is the same, it is the act of every branch of the Legislature, and there can be no distinction which would not apply to one equally with the other. It may in the manner of its exercise be assimilated to the powers of a Legislature to repeal a law already in existence, in contradistinction to the power of repealing one, the operation of which had been suspended. If such a position could be sustained (as a proper inference from our Constitution) it would be vain; for if the Legislature have the right of repealing a law, they might in the same breath that they would repeal this, enact another which should provide in a manner so far in conformity with the practice acknowledged to be correct, as to be entirely exempt from the objection urged on the ground of this distinction.

When I compare the limited nature of the power now proposed to be delegated, with those almost unbounded trusts, which it has been the constant practice of the Legislature to confide in the Executive Department, I cannot help feeling at a loss to account for the present opposition on any grounds of consistency. Those delegations of authority have not been confined in practice to either of the political parties which have at different times given a tone to the Government. The gentleman from Tennessee, who has introduced the resolution, has mentioned several instances in which this has been done; permit me to add others, in which it appears to me the principle has been carried further than in the present case.

By the Constitution, the power of borrowing money is in express terms *exclusively* vested in Congress. Yet this has been only exercised by a delegation of it, from the commencement of the Government till the time has ceased when it was necessary to exercise it. I hope, sir, it may never be necessary to do it again, but if it should, I ask gentlemen how it will be effected but by the intervention of an agency, although the words of the Constitution permit *Congress only* "to borrow money on the credit of the United States."

Other powers of great importance, solely confided to Congress, have been delegated, and not as now contemplated, in a restricted and limited degree, but in terms of the broadest and most absolute discretion; many instances have occurred of this in constant succession ever since the revolution, in political opinion, which has taken place in the Legislature of the Union; for scarcely were the Republicans warm in their seats before they made a delegation of the power to the President, more unlimited in principle and more dangerous in practice than that now advocated, for suspending the operation of the embargo law. In 1802 he was authorized to organize a military corps. In February, 1803, he was authorized to cause to be built several vessels of war, if the exigencies of the service should require it. In 1804 the same powers were repeated, and many others, equally dangerous and equally necessary, were delegated both these years. In March, 1805, he was authorized to permit or interdict at pleasure foreign vessels from coming into our ports. Compare the discretion either in extent or importance vested by those laws, with that now contemplated, and on the ground of precedent we are more than justified; even in the present session we have delegated the power of suspending or continuing a law, now certainly in operation, by authorizing the President to build and equip, or not, at his discretion, a number of gunboats, or he may, under the influence of the like discretion, forever desist from the execution of it.

If this body is supposed to act under the regular impulse of any political principles, it appears to me, sir, that the numerous precedents to be found in our statutory code ought to have an effect. In those which I have mentioned, and many others which have been enumerated by the gentleman from Tennessee, the President was vested with the right, *ad libitum*, to continue, suspend, or terminate the operation of a law. In the present one the discretion is limited to the contingencies of peace in Europe, a suspension of hostilities, or such conduct and assurances on the part of the belligerents who have invaded our commercial rights, as will enable our vessels to pass with our produce in safety to a foreign market.

Let us now examine, sir, the other Constitutional objection made by the gentleman from Virginia, (Mr. Randolph,) that Congress have not the power to lay an embargo. If indeed this novel position be correct, the question is at an end, and the people of the United States would be justified in the resistance the argument invites. I had indeed understood the gentleman, as others

near me did, to found his idea of the unconstitutionality of this embargo, on the circumstance of the laws imposing it being unlimited as to time. He defined an embargo to mean an inhibition for a limited time, and the unlimited nature of the present embargo was dwelt on by him with peculiar emphasis; but when a gentleman from Kentucky, (Mr. Johnson,) who followed him, had ably exposed the fallacy of this distinction, and completely sent the argument home to its author, the distinction was abandoned by explanation. I understand the explanation of the gentleman; but as the object in pressing the unlimited quality of this embargo on the sensibility of the nation, cannot be mistaken, I have too, sir, for reasons alike obvious, thought it proper to mention it.

But, sir, as to the power to lay an embargo. The first motives for an union of the States, imply this as indispensable. It would be enough to show it to be a measure of general defence, and protection, to give Congress a right to act on the subject; as such, sir, it expressly ranks among the provisions assigned as the great causes for the adoption of the Federal Constitution; for in the preamble to this instrument, the people say, they have adopted it, in order "to provide for the common defence and general welfare."

In the first paragraph of the eighth section of the first article, the same words are repeated; common defence and common protection, to the external interest of the United States, are then the peculiar objects of its Government. An embargo under some circumstances is not only a proper but a necessary and indispensable means of common defence and protection; I might say that the present crisis is a strong illustration of such necessity. But if the right to lay an embargo is controverted, I would ask by what means is the Government in time of war, or expected war, under the authority of law to secure the property of its citizens, which it is the business of all Governments to do, towards all who claim under it the protection of their rights? Where is the power lodged, if not in the National Legislature, which shall prohibit your own, or even your enemies' vessels from leaving your ports, after a declaration of war? Are the States vested with, or do they generally retain the right to lay an embargo? No, sir, they cannot so far enter into the collisions of interests which would follow among each other by preventing the vessels from sailing from the ports of any of them. The effect of doing so would be too obviously an invasion of the general powers of commercial regulation solely intrusted to Congress. Can any man of rational mind suppose, then, that the Government of this country is really so defective in what is not only to common sense an obvious reason but one of the express objects of its institution?

But to lay an embargo is unconstitutional, because Congress cannot lay an export duty! And it is argued by the same gentleman that the lesser power being thus provided against, the exercise of the greater must of course be included in the prohibition; the minor forming an objection, the major is, *a fortiori*, inadmissible. How easily sir, is this argument of inference retorted on the gentleman; for, according to a familiar and certainly plain course of reasoning, it would seem, that if the subjects are the same as is said, when the framers of our Constitution made an exception of the lesser power, if they had intended also to except the greater, they would not have forgotten it.

The reasons which influenced the framers of that instrument to provide against the power of laying an export duty, were obvious; the provision was adopted in that spirit of mutual accommodation, which was so necessary to the harmony of the whole. It would be difficult, it was easily foreseen, to devise an export duty, which would not bear harder on some of the States than others; it was better therefore not to resort at all to a mode of taxation which would afford so fruitless a source of contention. The policy too of taxing exports was perhaps radically inadmissible; yet I cannot, for my life, discern how an export duty has been drawn into analogy with an embargo.

That the embargo was a curse, sir, and continues to be a most calamitous one to us all, I have heard no one deny; but until now, I have not heard the assertion advanced that our Government, by its conduct, was the author of that cause. Yes, sir, many evils which the injustice of other nations have inflicted on the peace and honor of the United States are acknowledged to be curses of the most irritating and affecting nature; but the gentleman has said more for England and France, than either of them have before said for themselves, when he attributes to his own Government the misconduct which has produced those evils. It was scarcely to be expected that any state of internal division or any views of whatever description would have produced on this floor an assertion which has thus put a new argument in the hands of our enemies in justification of their aggressions on us; it is more than our enemies have asserted. We have heard indeed from France and England that their decrees and orders, which makes the present voluntary retirement from the seas necessary on our part, were the effect of an unjustifiable attack, which each has attributed in the first instance to the other. Each criminates the other, and not America, with being the author of the peculiar mode of warfare which has proved so destructive to the rights of neutrals. The very language of their orders and decrees assume this position, and they are all prefaced with the declaration, that their orders are enacted in the spirit of retaliation on each other, and not, sir, for any offence which our Government has been the author, of as the gentleman now tells the American people; for what purpose let the nation judge.

I may surely be permitted to express my surprise and astonishment at this assertion, sir, as it has never before been insinuated, on this floor at least; and as it forms so strong a contrast with the declarations which have been before made by the same gentleman, permit me to recall the gentleman's attention to his arguments in conclave, and to notice, if it will not be out of order, (which I presume it will not, as all which then took place

has since been directed to be published,) the grounds of his opposition to the embargo at that time.

It is recollected by us all that the honor of presenting a resolution in conformity to the policy recommended by the President, in his Message of the 18th of December last, was an object of emulation between the gentleman from Virginia and one from Massachusetts, (Mr. Crowninshield,) whose absence from the House the nation has so much cause to deplore, and we all so sensibly feel. I thought it then, and still think it an honorable emulation, arising from a patriotic sense of duty. The gentleman from Virginia finally succeeded, and became the author of the resolution in this House for laying the embargo; scarcely had he, however, presented the resolution, the necessity of which he at the same time took occasion to observe he had long foreseen, and, for two years at least, before the period when it was recommended, (and, of course, sir, prior to the rejection of this noted London Treaty of December, 1806, now so much eulogized,) scarcely had he thus expressed his approbation of the embargo, till he again doubted its policy, and soon after denounced its justice, not yet, indeed, for any of the reasons we now hear, respecting the rejection of the treaty, but because it was a measure said, or insinuated, to be dictated by France; and that it was to have an injurious operation solely on England. It was in vain that the friends of the embargo urged the probable existence of the very grounds that measure now more strongly rests on; that the hostile determination of France to enforce her decree of November 21, 1806, would probably be followed by orders as harsh on the part of Great Britain; that this was the course of policy the adoption of which England had already announced, and its execution might, therefore, be fairly anticipated; that the King's proclamation of the 16th of October, 1807, a copy of which accompanied the President's Message, was an evidence of the determination of that Government to offer no satisfactory accommodation of our differences, and of its determined usurpation of our maritime rights; to these arguments nothing was replied, but the repetitions in lengthened speeches of the same charges. The opinions then avowed, sir, by the advocates of the embargo, have met with support from the events which have since been developed, while the unjustifiable grounds of opposition are abandoned, even by their authors. But, sir, if there is any gentleman, who, with his eyes open to the situation of the commerce of the world, will say that the embargo ought to be removed, and that the policy is unsound, let me ask him to tell us what, in the embarrassing state in which we are placed by the efforts of France and England to involve us in their conflicts, we are to do? The gentleman from Virginia has hinted at arming our merchantmen! War, then, is the substitute; it is, indeed, the only one, I agree. To arm our merchantmen, leads to war—nay, sir, it is war, according to the interpretation nations have a right to put on such an act of a Government; it will be opposed by open war and undisguised hostility. If we are to have war, let it be in the direct tone and unequivocal language of a nation indignant at the insults it has received, not in the indirect manner of arming a few trading vessels, the masters of whom would choose for the nation its enemy, or involve us with both the belligerents at once, as their particular animosities might dictate; if we are to go to war, it might be well to fight one at a time at least. But, sir, I cannot but hope if our strong, but pacific policy is adhered to, cursed as it is said to be, it may yet preserve us from the conflicts of Europe. It is a curse, indeed, sir, under which we are compelled to labor, but what is the alternative? I have thought much, sir, on the subject; it has been my duty as well as that of every other gentleman to weigh it well. We hear its effects are severely felt, and we hear, too, what are the exertions of our opponents to seize the favorite opportunity which it is so well calculated to produce, to excite the sensibility of the people through the medium of their immediate interests. But remove the embargo, and we must arm our vessels, and war is at once declared. I have heard no one deny that this must be the alternative. Compare the evils, both of great extent. I admit, by the embargo, we lose half the value of the products of our country, or the receipt of it is suspended; by war, to admit the effect in this particular, no worse, at least it could be no better; but have we counted the costs of the armies we are to raise, and to pay, of the supplies we are to furnish, of the loss of our blood, and the diminution of our strength, of the seduction of the profits of agriculture itself, by calling men from their domestic occupations, and lessening the number of hands for tillage—have we calculated the thousand other evils, which follow in the train of war? To plunge into war, sir, to escape the curse of the embargo, would be truly fulfilling the adage of old—"out of the frying-pan into the fire." I do not hesitate to say that, if we have patriotism enough to pursue our own interests, better would it be for this country to remain under the truly calamitous curse of the embargo for years, than at once to launch itself into war. But if we must at length, after all our efforts to prevent it, have war, let it be a war dependent on national sentiment, and arising from no doubtful necessity, which must be produced by the conflicts of our vessels at sea. We all know, and have felt that it has required the exertion of an unparalleled fortitude, to resist the emotions which have impelled us to acts of vengeance and redress, for our injuries; let us not, then, seek for new causes, of doubtful necessity, to place us at once at war, as would be the case by arming our vessels. No, sir, let it be a cause which, in spite of our divisions, so earnestly of late fomented, must unite us, in one spirit of opposition, in one sentiment of indignation against the enemy who shall attack us, with the spirit of unanimity with which a sense of injury will inspire us. I do not too highly estimate our strength, or, I trust, our patriotism, when I say, that no army which Europe combined could transport across the Atlantic, could long

withstand the American arms. That we have had ample cause of war, wanton, unprovoked cause, I had not, till now, supposed had been doubted; we are now, indeed, informed that our Government is to blame, and that the insults and injuries to which we have been subjected, are, in a great measure, attributable to its misconduct. What the object is, in making these assertions, let the nation judge; believing them groundless, I do not fear to be able to prove them so. The non-importation law has been mentioned as one of the subjects of just umbrage to England, and as having had an embarrassing effect on the state of our negotiations there. The gentleman has certainly but little attended to the documents which have lately been read in this House; if he had, he would there have found, under the sanction of authority which he is not presumed to doubt, that it was a measure one of our Ministers in London has given his most unequivocal approbation to.

It was said that our Ministers were suppliants at a foreign Court—our Government must place an efficient instrument in their hands; and a coercive system of policy is recommended, with a direct allusion to the enaction of the non-importation law before the rising of the Congress then in session.

We are told, too, that a principal cause of our embarrassments is the rejection of the treaty concluded by our Ministers in London on the 31st of December, 1806. This assertion has been made here, sir, with such earnestness that it requires examination. The treaty which has been rejected by our Government has been eulogized, and a month's discussion of it has been challenged; not, it is true, wholly on its intrinsic worth, or positive merits, but because the circumstances, also, under which it was concluded, made its provisions proper, and its adoption necessary. The Treaty of 1794, commonly called Jay's Treaty. I understood the gentleman also to say, would, under the existing circumstances of December, 1806, have been proper for our adoption. This was, indeed, sir, a necessary preface to his defence of the rejected treaty, for it is certainly susceptible of easy demonstration, that it is, in its features and provisions, far more objectionable and defective than the Treaty of 1794; and, whether we take it on the ground of peculiarity in the circumstances of the contracting parties, or on its intrinsic merits, it has less claim to our assent.

In the first place, let us examine the circumstances under which those two treaties were made, and then compare their respective provisions. From the retrospect I am at this time able to take of our situations at those different periods, I cannot hesitate to believe that the circumstances under which the Treaty of 1794 was made, were more unfavorable for negotiation on the part of the United States at that time, both as they respected England and America, than they were in December, 1806. As they respected England, her situation was at the former period infinitely more commanding. By her combinations with the great Powers of Europe, as early as 1792, or perhaps antecedent to that year, she was perfectly secure against any annoyance from France, her only enemy in 1794. The Treaties of Pavia and Pilnitz, to which, it is believed, England early in 1792 acceded, and which certainly laid the groundwork of the conventions and coalitions of the Spring of 1793, had produced the effect of uniting in concert with her against France, the Powers of Russia, Germany, Prussia, Spain, Portugal, and many of the minor States of Europe. England, then, felt no apprehensions for her own safety, none for the abridgment of her commerce, and seemed to be but little sensible to her interests in cultivating a good understanding with America: her single enemy was confined to his own territories, and threatened even with famine. The United States, in 1794, had not long commenced their existence as a nation, and their new Government might be said to be scarcely more than in a state of experiment. The debts which had been created by the Revolutionary war, we had undertaken the honorable discharge of, and we were then laboring under the immense load; our resources were comparatively small, our embarrassments great, our burdens by no means in a course of alleviation, and our situation totally defenceless; the savages who bordered on our frontiers were numerous, strong, and fierce, and our armies had but recently suffered a dreadful carnage and terrible defeat; we were destitute of manufactories which could supply us with arms, or the means of filling our arsenals; a civilized nation of Europe, then great and powerful, bordered her colonies on our Southern frontier, and disputed with us the navigation of our rivers. Sir, if circumstances could ever sanction a dereliction of right, and a compromitment of interest, those circumstances, then, might be said to exist. Then, indeed, there might have been a semblance of apology, in our infant and crippled state, for leaning, in some measure, on the strength of a nation which was supposed to stand firm. I confess, sir, I would rather, even at that time, have had no treaty, than such a one as was then made; it has set a bad example. But, what was our situation in December, 1806—adverting again to circumstances, which are made the test in this case, when the treaty, since rejected, was signed in London? Our strength and population increased to a most envious and flattering degree; our foreign debts discharged, and our domestic one, which we had honorably assumed the payment of, reduced—our credit established abroad, our Treasury overflowing, and our resources flourishing; manufactories of arms were everywhere reared, and had furnished the nation with the best means of defence; the savages on our frontiers were subdued, or civilized; our Southern frontier was extended and had grown strong: England, instead of her prosperity and powerful combinations of 1793, was left almost single handed; the subordinate Powers of Europe had become a part of France, the great nations were either under her control, or struggling in the last efforts of disastrous conflict: France, instead of being confined to the defence of her own dominion, was carrying on offensive war, and England had been

made to tremble for her own existence. What then are the circumstances alleged, to palliate the evils of such a treaty as was offered us? Was England about to be suddenly relieved in an instant from her embarrassments and burdens? How? We are told indeed, that France had pushed her conquests too far, that her Emperor had so far stretched his arm of conquest, as to leave himself exposed to the most imminent danger at home; was it, therefore, that England elevated her hopes, and carried her demands? Stuff, sir, fit only for the cook-shops and coffee-houses of London; I should never have expected it to find its way into the semi official letter which has been read to us, from a character who has deservedly stood high in the rank of politicians. But our own internal situation, threatened with conspiracy, the extent and magnitude of which was unknown, was another reason it has been suggested for hastening the execution of this treaty. How, in December 1806, accounts so alarming could have reached England of the extent of Burr's conspiracy, I cannot but be at a loss to conjecture. The alarm at that time here, was not I believe very serious; not such, at least, as would have been a reason with any man in this country to have thrown ourselves into the lap of a foreign nation, or to have made a treaty which compromitted our rights, and left our interests unprovided for. I must say I think too much alarm was felt on this subject, and that it would at least have been as honorable a sentiment towards the people and Government of America, to have entertained an entire confidence in them, that without any great or dangerous effort they were capable of quelling the conspiracies which might be engendered against their peace. I assert that independent of circumstances which I have endeavored to show were more unfavorable as they regarded the United States, and far more favorable as they regarded England in 1794, than in December 1806, the treaty of the latter date is worse than that of the former. The former did provide redress in some sort for previous injuries. That of the latter date contains no provisions for any kind of redress or compensation, which was due to us, for the very many spoliations which had been committed on our commerce—it offers no alleviation to the evils of the former—is silent as to the injuries and insults which we had sustained in our waters; totally, sir, although these were subjects of special instruction from our Government, and although we were told by our embassy that a treaty was concluded on the different points of commercial interest. Was it forgotten, sir, to what an immense amount America had suffered under the different orders of the King in council, even from the very date of the former agreement for reparation? Were not our losses under the orders particularly of 1798, which gave rise to so much of the havoc our neutral commerce had groaned under, and which placed the nations of Europe in a better situation than the United States in the conveyance of colonial produce, known to our Ministers? It must have been recollected, for it was enforced in their instructions, how our vessels had been incessantly sent into the ports of Britain and her colonies for adjudication, and the unjust condemnations which had taken place, under the construction of those orders. It must have been recollected how far in the first instance the orders themselves had gone towards the subversion of the laws of nations. The time was indeed, when a great jurist, Lord Mansfield, had declared, that neither the orders of the King in council nor even an act of Parliament which contravened the law of nations was binding on any one; this was said in the case of the Silesia loan, but those days were past. Sir William Scott has since told us, that the text of the instructions are his guide, and King George the Third is thus, by his single voice, to make and expound the law, which is adjudged to be paramount in modern times to the laws of nations. The adjudications, it is a well known fact, have been in conformity to the royal will, stimulated alone by the shipping interests of England; principles of adjudication have been established in the British Courts of Admiralty, which had on the most unjust pretensions wrested from our citizens many millions of their property. Why by this treaty give up our claims to reparation, as they were most emphatically, by signing a treaty which yielded no redress for them while the claims were still unsatisfied; by making a compact which wholly pretermitted them? It is said, sir, that the disputes respecting the colonial trade are adjusted by this treaty. How—by agreeing to a duty on exports? Where was our Constitution, now so strongly pressed in discussion, when this stipulation was made; when it was solemnly covenated, that we should directly invade one of its provisions by laying an export duty? And that, in addition to the deduction on drawbacks allowed by law an export duty for one, two, or three per cent. should be imposed on colonial articles? Why make the extraordinary and vain stipulation too, contained in the fifth article, that we should have a right to lay the same export duty which England should have a right to impose, if we could lay none by our Constitution?

The subject of blockades also, sir, was one on which some stipulation was made absolutely necessary, by the novel doctrines lately asserted, and insisted on by the nations of Europe; it was important that their extent should in some way have been defined, their nature described, when a blockade should be said to exist, and that it should not be a question left entirely to the discretion or interest of a belligerent, or the caprice of her officers. This single question had already led us at different times to the very brink of war with England. In June 1793, she asserted all France to be in a state of blockade, and ordered our vessels to be captured which should attempt to enter any of her ports with our produce. France had in May of the same year issued an inhibitory order against our trade, of a nature but little less hostile, in consequence as it was said, of the Russian convention made in London, I think in March of the same year. In the Fall of 1793, the British had issued secret orders on the same principle of blockade,

which entrapped our West India commerce, to an immense amount, before they were known by us to be in existence; this it was said was a principal reason for the proposition contained in a bill for prohibiting all intercourse with England, which had in the early part of 1794 received the sanction of the House of Representatives, and was rejected in the Senate but by the majority of one vote, and which was superceded by Mr. Jay's mission. To the same class, too, may be assigned the British orders of May 1795, against our vessels laden with provisions, which brought President WASHINGTON to a stand on the British Treaty, and caused him, it is said, to demand a previous explanation, which was at that time I presume satisfactorily made, but which has been since in innumerable instances violated, and the same vague and undefined principles of blockade enforced; at one time by declaring a blockade to exist, from Brest to the river Elbe, at others by proclamations of blockade equally extravagant, and more than once by the declaration of the British naval commanders, that a whole kingdom should be cut off, at a stroke of the pen, from all the trade of neutral nations. But, sir, if the general and extensive evils which the new doctrine of blockades had superinduced, were not of sufficient importance to claim a stipulation against their exercise in future, there was one species of injury which seemed really to merit, and to claim indispensably, some notice either by redress or stipulation against its future practice. I know not how to class it; it may be assimilated to a modern blockade, inasmuch, as it assumes a jurisdiction wholly ideal; I mean that which was a particular subject of complaint, from the assumption made of a right by a British naval officer in the port of New York, in claiming jurisdiction and the exercise of the right of impressment, and of course every one less inimical to natural right, within the distance of the buoys from his ship. To this assertion of authority I see no disclaimer in this applauded treaty, or any hint at redress for the injury inflicted by the particular occasion on which it was exercised. If this new claim of naval sovereignty is insisted on, or thus tacitly permitted, it is time it should be so understood; for with the same propriety which the British commander in New York claimed jurisdiction within his buoys, another might claim British jurisdiction from Boston to Charleston, if he could so far stretch a cable.

I come now, sir, to say something on the question of impressment, wholly omitted in the treaty, and which the gentleman from Virginia has said was informally and satisfactorily arranged by the note of the British Commissioners on that subject. He has said that their note contained a stipulation, "that they would order their naval commanders 'to abstain from the practice of impressments on 'board American vessels." I confess I was astonished at the declaration. It is true the printed document has not been furnished till just now. I presume the note of the 8th of November, 1806, to have been alluded to, because something like the same defence on this subject has been used by one of the American Commissioners in his late letter to the Secretary of State, (although indeed until I heard that defence read, I had not understood that any improper dereliction of the American interests had been imputed to our Ministers; I had always understood, and except in the letter alluded to, and the arguments of the gentleman, I have yet understood from every source of information open to me, that it was not expected by our Ministers that the treaty could be ratified by the American Government, but that it was the best they could obtain;) I could not think the quotation of the gentleman correct as to the language of that note. I mentioned then, sir, to those who sat near me, that I had understood it to convey no promise to abstain from the practice of impressment, but a vague and unsatisfactory declaration that the British naval commanders should be instructed to use caution in the impressments they made; as it was said they had been always before instructed; by that means, sir, placing ourselves, if we chose to recognise this informal stipulation, in a worse situation than before, inasmuch as it was an unequivocal acknowledgment of the right of impressment, when exercised under the caution of a British officer. And what, sir, is the language of this same note of November 8th—we have it now before us: 'His Majesty's Ministers give to 'Mr. Monroe and Mr. Pinckney the most positive 'assurances, that instructions have been given and 'shall be repeated and enforced for the observance 'of the greatest caution in the impressing of 'British seamen, and that the strictest care shall 'be taken to preserve the citizens of the United 'States from any molestation or injury; and that 'immediate and prompt redress shall be afforded 'upon any representation of injury sustained by 'them." How, sir, let me ask, have those officers conducted themselves under these repeated instructions? To say nothing of the continued violations committed on our merchant vessels, we have indeed had a most notable example of the extreme caution which her naval officers had no doubt been instructed, and were determined to observe, in the mode of impressments, in that excessively cautious plan adopted by Admiral Berkeley, to effect his honorable and loyal purposes, in the memorable attack upon the Chesapeake. Then, sir, I must admit, that in pursuance of what I now believe were his orders, the most cool and deliberate caution was used. Our frigate, on an outward voyage, on the very day she left her port, in the usual unprepared state in which I am told vessels of war sail in time of peace, is with the utmost caution pursued by the British ship of superior force, in sight of several others. The American frigate is overtaken; her men, proved to be American citizens, are demanded of her, as of right being the subjects of the King. They are refused, and indeed, sir, I must acknowledge, with peculiar caution, before it was possible for our frigate to prepare for action and the defence of the honor of her flag, the British commander fires three broadsides into her, and commits the murder of fifteen or twenty other American citizens, and no doubt most cautiously compels the United States frigate to strike her colors, goes on board, and takes off

three of the native citizens of our country, none of whom have to this day been returned!

But, sir, if this treaty, with its appendages, had contained in it provisions and stipulations which were responsive to our injuries, and which comported with our rights, is there a man in this nation, who consults the dignity and honor of his country, who could have wished its assent to it, subject to the condition dictated by the King of England, and transmitted by a note of the British commissioners annexed to it? The gentleman from Virginia has spoken of the insult conveyed by the letter of Champagny of the 15th of January, 1808, to our Minister in Paris; its terms have been grammatically scanned. Sir, there was no need for this; we are at no loss for subjects of humiliation and insult, whether we look to France or to England. As early as 1793, attempts of the most unjustifiable nature were made to involve us in war by both these Powers. Lord Grenville, so early as that time, expressly told our Minister, without disguise, that the British orders of November in that year were intended to have an internal effect upon the affairs of this country. Such has ever since been the conduct of the belligerents, constantly and undeviatingly pursued in the most disrespectful manner, towards us; such was certainly the object of the British Cabinet, in annexing the note of the 31st of December, 1806, to the treaty of that date; and certainly, sir, if a direct attempt to force us into war, is considered an insult to our independence, and an encroachment upon our rights of self-government, such was the language of that note, which, in open and unreserved terms, made it an indispensable condition to the ratification of the treaty, "that the Gov- 'ernment of the United States, by its conduct or 'assurances, will have given security to his Ma- 'jesty, that it will not submit to such innovations 'in the established system of maritime law,"—as the French decree therein alluded to contained. His Majesty thus most graciously taking upon himself the right of determining for us what course of conduct we should pursue towards his enemy! I do not say, sir, that the letter of Champagny, which has been repeatedly mentioned with such asperity by the gentleman, is such an one as consists with the respect due to us; by some gentlemen its language has been construed to mean a proposition originating in a disposition of friendship, and to convey nothing more than an offer, founded on a supposition of the actual existence of war between Great Britain and the United States, and in that event, to take care of such of our property as should be exposed to capture, until there should be an opportunity of restoration; but to me, sir, I confess the language is not satisfactory. We have a right to expect from all nations something more, or something less than equivocal language. Our Government speaks in terms of friendship, and in the plain language which neither conveys a doubt as to its hostility or friendship; we have a right to expect the same frankness in others. But why, sir, should gentlemen who profess to feel, and I hope do feel only as Americans, suffer their sensibilities to transport them to battle with the Gallic Cock, while under heavier insults they seem disposed to succumb to the British Lion? Why is the letter of the British Minister of the 23d of February wholly forgotten, when we are undergoing the humiliating revival of insults and threats? Is it less awakening to our national sensibility, and to the alarms of honor or interest, to be told, as we are by that letter, that his Majesty the King of England is disappointed in his just expectation that we should have gone to war with France, than to be told through our Minister at the Court of France that the Emperor of that nation expected we were at war with England? If insult was intended by either, it seems to have been measured by the same equal standard with which they have by their hostile orders measured their injuries to our commerce; perfectly in the spirit of retaliation, sir.

My astonishment, sir, has indeed been excited more than on any former occasion, when I have heard a gentleman condemn our Government for the rejection of a treaty, which provided no redress for former injuries, no security against future ones, and which, by the conditions annexed to it, would have infallibly, by stipulating resistance against a belligerent, directly have involved us in war; and that not a war of self-defence, but a war of alliance with one of the Powers, for the purpose of resistance and offence against the other. War, sir, I hope will be avoided, notwithstanding the bold attempts made to involve us in it, and which have been so steadily pursued by the contending nations. It will I hope be avoided, unless our self-defence shall render it indispensably necessary. Attack or invasion from France cannot be rationally contemplated. War with England, we must all agree, rests on more uncertain grounds; if anything will prevent it, I believe it to be the course pursued by our Government. The resolution under discussion explicitly avows the terms on which we will consent again to renew our intercourse with Europe. If Great Britain is induced to relax, France must and will pursue the same policy. I think, sir, we have a right to believe, from the best information from England, that this relaxation will take place. I am aware of that disposition in the ruling party in England to go to war with us. I have no right to doubt the truth of the declaration of Mr. Monroe, that there is a party in that country strong and active indeed, as he has described it to be, who are disposed to hostility with us, and who are at all hazards determined to support the maritime supremacy of Great Britain; they are described to be the navy interest, the East India chartered companies, the West India traders, and the shipping interest—strong and active indeed, sir; they sit at the elbow of Majesty, and influence his ready will; but their temptations to war are removed by the embargo, and I hope will continue to be so, until they rescind those orders which have cut us off from the commerce of the world.

But the power contemplated by the resolution, of meeting any friendly disposition on the part of the European Powers, is to be withheld, because it would add too much to the already overgrown

popularity of the President, who, like Julius Cæsar, has been offered the honor of a Crown! It is true, sir, the demonstrations of confidence in the present Chief Magistrate are general and sincere in many parts of the Union. At the time the only address of this kind was proposed, which I have ever understood originated in Virginia, I had the honor of a seat in her Legislature. It was introduced and supported by the description of politicians there denominated the *Republican minority*; in what spirit of sincerity I leave others to judge at this day. But, thank God, it was not permitted to progress; and thus the person to whom it was intended to be presented was saved the suffusion of a blush, which the evidence of such adulation from his own State would for its sake have infallibly produced.

On this occasion, an attempt is made to alarm us, by the assertions that the administration of the Government is assimilating itself to that of a monarchy; and it is said that the power of the President is more dangerous than that of a British King. Has the gentleman weighed the extent of this assertion, or contemplated the powers of a British King? In power, unrestrained as he is by their constitution, (if constitution that can be called, which consists of unsettled and undefined practices, most of them originating, no one knows where, and founded on principles which cannot be traced to any rational ground—a constitution which, notwithstanding their declarations of rights, is perfectly incapable of restraint upon the Executive arm; which subjects the Parliament to the King; which makes it completely *his* Parliament, and deludes the people with the show of liberty, while they are governed by the single voice of a monarch—yes, sir, it is *his* Parliament,) has he committed any great act of outrage on the nations of the earth? He feels the pulse of *his* Parliament before he permits them to convene. *His* Parliament, I may again emphatically call it; for it is he who orders it into existence, and he who suspends its functions or dissolves it at will. If its pulse does not beat responsively to his wishes, he either dissolves it or postpones its meeting from time to time, as has been the policy with the present Parliament, which, if it had met at the time first appointed, scarcely less than a revolution might have been apprehended, from the general ferment the execrable conduct of England towards Denmark had excited, and the head of our old master might have atoned for that unprecedented act of criminality; for, as such, it had been contemplated with abhorrence by a magnanimous people—a people who felt for the character of Englishmen in the commission of it. There are men there, sir, I acknowledge, who do honor to human nature. When we read the speeches of Erskine, and other great men in the present opposition, we may yet hope that there may be found enough of integrity in the nation to redeem its character from the stains of murder and robbery, which the conduct of its monarch has marked it with. Yet this is the King to whose power that of a President of the United States is said to be assimilating itself. By what instance, let me ask, does it appear that we are verging to the practice of a corrupt monarchy? Is it in the proposition involved in this resolution? No, certainly; for I have before proved that the same powers, and much more extensive and unqualified, have been delegated at every period of our Government, from its commencement to the present session. Is it from any other general assumption of power? No; for it is acknowledged by all that the present Administration has acted in perfect consonance with the powers of the Constitution, and I will add, (what its enemies have before allowed,) with the most strict and unceasing regard to the interests and happiness of the people.

Why are we warned, sir, on this floor, against authorizing the President to do an act which may enhance his popularity so much as the removal of the embargo, and that it is another mode of adding to that influence already so overbearing? If, indeed, the embargo operates most distressingly, (as we all know it does, on every part of the community,) it is he who in the first instance, from the strong sense of duty, assumed on himself the responsibility (the *odium*, the gentleman would call it,) of the measure. It is but fair, then, however ludicrous the charge in itself, that he should be left to regain the popular favor he is supposed to have lost. It will only leave him where he was.

But, sir, seriously, let me ask gentlemen to tell the nation, before we separate, what they will do. Is there any one so desperate, inconsiderate, or so wild in his opinion, as to say the embargo ought at the present time to be removed, while the hostile Orders of France and England are both enforced with the utmost rigor against us, and when they have multiplied, and been extended in their effects since the expediency of the embargo was fully decided on? What is the obvious alternative? Either authorize its removal, when our safety will permit, or continue in session to wait that event. But why, sir, sit here, at the daily expense of many hundred dollars to the community, when we shall have transacted the business of the nation, merely because some gentlemen are now doubtful of the right or the policy of delegating to the President a power which has, in much stronger and more general terms, been before intrusted to him, and all who have preceded him? But, if anything better than this can be devised, let it be submitted. For my own part, I promise to give it the attention its importance may merit. But, at the least, let us unite in the adoption of some measures for the safety and interest of our country, at this time so imminently jeoparized by the Powers of Europe.

Mr. Masters.—Mr. Chairman, I shall not undertake to say that the rejected treaty is so advantageous as we had a right to expect. I do not hesitate to declare that, or even Jay's treaty, is preferable to the present state of our affairs. If we take into our view all the relative circumstances of the British nation with France, Russia, and the other belligerent Powers, and pay proper attention to the unprotected and defenceless situation of our country and our commerce, in forming our ideas of what we ought to expect from

that nation, whose navy commands the seas, can we then expect she will sacrifice that navy, or any part of her power, by conceding the point of search for her seamen on board of neutral vessels? It is inconsistent with their interest, and it is inconsistent with their superiority. This right of search for her own subjects, Mr. M. considered as the main block in the way of negotiation, which sound policy and interest require we should clear away. The British and American Commissioners had informally put this point on as good footing as he expected. Although the resolution under consideration is not properly limited and defined, he should not vote against it. His wish was to raise the embargo and arm our vessels. The nation could not bear the pressure. The embargo virtually inhibits all intercourse with foreign nations; the effects are and will be pernicious to the agricultural productions of this country, and produce will fall to the lowest ebb, and enforce the most unparalleled distress on the community. Commerce ought always to be left to the merchant, unshackled and unembarrassed, as much as possible. Our commercial intercourse is the principal resource, both of revenue and commercial opulence. The embargo will tear up by the roots and annihilate the commerce of this country. And the effects will be heavy taxes, an exhausted Treasury, a diminished and ruined revenue. It weakens your own power, fetters your operations, and deludes your citizens; it devours not only the fruits but the seeds of industry. It will sink down and depress the nation to an absence of hope and a want of resources; it will be felt by the nation as a calamity, without deciding the general question of dispute. Prove to me the embargo is consistent with common sense, and will be the means of adjusting our differences with the belligerent Powers, and I will then be an advocate for it. Though we have the Constitutional right to lay an embargo, it is a matter which requires great consideration, whether the measure will have the effect to which it was seemingly intended. It may be good in theory; he esteemed it chimerical in practice, a mere speculative proposition. Wisdom is to be gained in politics, not by one rigid principle, but by looking attentively at causes and the effects they have or will produce; not by adopting that false philosophy, which seeks perfection out of that which, in its nature, is imperfect; which refers everything to theory, and nothing to practice; which substitutes visionary schemes for solid tests of experiment, and bewilders the human mind in a chaos of opinions. Search all the histories of the world, and you will not find eleven hundred thousand tons of shipping, of one of the greatest commercial nations, embargoed for an unlimited time.

Mr. Chairman, the season of our severe trial is not at an end, nor are we yet relieved from the dejection and gloom which hangs over our heads; doubts and uncertainty mingle with the hopes and expectations of the people. If you bring our commerce into the situation of the Chinese, you will end in the wild state of nature, that mocks the name of liberty, and the human character will be degraded, instead of being free.

If you entertain a sense of the many blessings which you have enjoyed; if you value a continuance of that commerce which is the source of so much opulence; if you wish to preserve that high state of prosperity by which the country has, for some years past, been so eminently blessed, you lose all these advantages by continuing the embargo and neglecting to arm your vessels. Restore, then, confidence and vigor to commerce. You are at war with your own interest and every idea of policy; instead of protecting commerce you destroy it.

In whatever view the embargo presents itself, it appears to me to be fraught with impolicy; it was laid at midnight; that miserable scene was closed under the darkness which suits with it, and under the secret shelter of our own walls. If we are to go to war, you have, instead of warlike preparations and exerting every sinew of national ability, laid an embargo, and obtained just nothing.

The policy of France, as regards Great Britain, is to make a warlike non-intercourse, and we have, by a side-wind, fallen into the measure, adopted and sanctified it; we have abandoned the great highway of nations: our dispute with Great Britain is about commercial rights; we have given them up.

Is this country at that crisis, when we shall surrender all those rights her citizens hold most dear? God forbid! I have contemplated upon the embargo, which is hazardous and impolitic, with great pain and anxiety, and I turn my face from it with horror. If there are any who improperly foster and countenance the threatening storm, and whatever consequences may follow, they are answerable to their country and their God.

All the advocates of the embargo on this floor have admitted that it was oppressive and a curse. Take away this *curse*, and arm your vessels. It does not follow, as the gentleman from Virginia (Mr. Love) supposes, that arming will involve us in a war. When Great Britain finds we resist the French decrees, she will revoke her orders of council. When France sees she cannot bring us into her views, she will revoke her decrees.

Mr. Fisk wished to say a few words on this subject. I am very much surprised, said he, at the expressions of the gentleman last up, and the gentleman from Virginia, (Mr. Randolph,) yesterday. They expressed sentiments which, if they once take root in this nation, will prostrate your liberties and rights at the feet of foreign Governments. The gentleman who just took his seat has observed, that the subject of impressment was the main block in the way of negotiation. Very true, it was, sir; it goes to the personal liberty and security of your citizens; and if you surrender that right, what do you expect those citizens will say to you? Do you expect they will greet you with, "well done thou good and faithful servant?" What can the gentleman think when he recollects the sensation displayed at New York

on the death of Pierce, in consequence of the exercise by Britain of the right of impressment? Were those tears and lamentations feigned, or were they the sincere effusions of citizens feeling the injury done them, and burning with indignation at seeing their fellow-citizens murdered almost before their face? If we could believe what the gentleman now suggests, we should suppose that the liberties and lives of our citizens were of no value compared with commerce. Why do gentlemen tell us these things? Are they sincere? They cannot weigh life or liberty in the scales with sordid pelf; it is impossible.

It has been observed by the gentleman from Virginia, and it seems to have been intimated by the gentleman from New York to-day, that the question of impressment was by the rejected treaty placed on better ground than ever was expected; that something like security was afforded to the United States; something on which we could rely: and this assertion is brought in with no other view than as a defence of British measures and a criminnation of our own. Let us see the language of the British Minister, in order to ascertain the fact. In the letter from Mr. Canning, dated October 22, he says, in answer to our Minister's pressing this same question for some security, "no engagements were entered into on the 'part of his Majesty, as connected with the treaty, 'except such as appear upon the face of it. What-'ever encouragement may have been given by 'His Majesty's Commissioners to the hope ex-'pressed by the Commissioners of the United 'States, that discussions might hereafter be enter-'tained, with respect to the impressment of Brit-'ish seamen from merchant vessels, must be un-'derstood to have had in view the renewal of such 'discussions, not as forming any part of the treaty 'then signed, (as the American Commissioners 'appear to have been instructed to assume,) but 'separately, and at some subsequent period more 'favorable to their successful termination." It would seem, however, from what was observed yesterday, that this was left, though informal, on such a settled basis, that it might have been satisfactory.

If my memory serves me, the Secretary of State says these vexations are greater than ever. The British Government was never serious in making any settlement against this practice. We find, in the first place, that the British Ministers never yielded that right. We find that Mr. Canning, in answer to our Ministers, tells them they were not to consider the late proclamation respecting impressments as any new regulation on the subject; that the proclamation was not considered in that light, but merely as conveying instructions to the British commanders who might be at a loss how to act; that the proclamation had been framed for nearly three months, but never issued until that time. If it had been in existence for three months, it must have been framed at the very time that the attack on the Chesapeake was in view; that was to try the sentiments of this country, and they meant to steer their course by them. Therefore, it is not an instruction given to naval commanders, lest they should mistake their duty from the late incidents, because it was framed before the attack on the Chesapeake took place. It unfortunately happens that the British Government has not, in this case, covered its object.

I am a little surprised to hear gentlemen telling us that arming our merchant vessels would not produce war. Why arm, if they are not to defend themselves? If the belligerents defend their proceedings, will they not resist our vessels arming against their orders? Could it be done without being met by a declaration of war? But the gentleman from New York has told us that if we suffer our merchants to arm, the British would consider it a sufficient token of our resistance to the French decrees, and remove their orders of council. You have seen all the decrees and orders which make innovations on the law of nations, and subject our commerce to plunder. Are those of France the most hostile? Is the aspect of that nation the most hostile? Compare the letter of Champagny, which declares that our vessels shall be held in sequestration depending the measures of this Government, with the note of Canning, as well as the communications from Mr. Erskine, and what was the result? Look at the treaty which our Government is on this floor condemned for not signing, with the note annexed, declaring that if we submit to the decrees of France, His Britannic Majesty would consider himself bound not to observe the treaty. This note contained a threat; but it was nothing to what Mr. Canning, in observing to our Ministers on this subject, says: "His Majesty cannot profess himself to be satis-'fied that the American Government has taken 'any such effectual steps with respect to the decree 'of France, by which the whole of His Majesty's 'dominions are declared in a state of blockade, as 'to do away the ground of that reservation which 'was contained in the note delivered His Majes-'ty's Commissioners at the time of the signature 'of the treaty; but that, reserving to himself the 'right of taking, in consequence of that decree 'and of the omission on the part of neutral na-'tions to obtain its revocation, such measures of 'retaliation as His Majesty might judge expedi-'ent, it was, nevertheless, the desire and determi-'nation of His Majesty, if the treaty had been 'sanctioned by the ratification of the President of 'the United States, to have ratified it on His Ma-'jesty's part, and to have given the fullest extent 'to all its stipulations."

With regard to this treaty, I have no idea of entering into its merits. The gentleman from Virginia, yesterday, seemed to be extremely anxious to justify the treaty. He might have postponed its defence until it was before us, or at least until it was assailed. I will observe that, whatever might have been the intention of our Ministers, they placed the United States in a very disagreeable situation, obliging them to declare that they had no right to negotiate such a treaty. It has given occasion to Mr. Canning to say, "some of 'the considerations upon which the refusal of the 'President of the United States to ratify the treaty is

'founded, are such as can be matter of discussion 'only between the American Government and its 'Commissioners; since it is not for His Majesty to 'inquire whether, in the conduct of this negotia-'tion, the Commissioners of the United States 'have failed to conform themselves in any respect 'to the instructions of their Government." He then goes on to animadvert on the conduct of the American Ministers. Had they kept within the real limits of their own instructions, they never would have given occasion for this reflection on them.

On the score of informal negotiation, it will be recollected that from the earliest days of the Government to the present time, the subject of impressment has been pressed upon the British Government, not only in times of war, but in times of peace. If there were in reality any foundation for the charge on our Government, of having sacrificed the interest of, or lost a security to, our seamen, by a rejection of this informal article, it will be only necessary to recur to the correspondence between our Ministers and the British Commissioners, and it will be found that not only formal, but informal, articles were such as we ought not to have accepted; that reasonable concessions on our part were offered for the sake of accommodation and refused; that the Treaty of 1794 was, in some measure, proposed as the basis, but was not accepted by the British Ministry. Let me ask the gentleman for a single moment what were the terms offered in this treaty, which he regrets that the Government did not accept? Independent of its exceptionable provisions, it was accompanied by a note which contains a reservation to the British Government to regulate its own proceedings, and leaves us but two alternatives—either to declare war against France, or suffer the British Ministers to rule us. What do they offer us now? If we will trade as they please, and pay them a duty on all our exports, we may carry on our commerce. Is it possible that any man who professes himself an American could accede to this? The spirit of 1776, refusing to pay a duty of two per cent. on tea, would certainly not now yield that for which they then contended, and become again tributary to the British Government. This is not all. Even this admired treaty, which the gentleman from Virginia so much regrets, allows us to trade to the colonies if we will pay tribute. Was it not easily discoverable that two, three, four, or five per cent., would be laid upon the trade, and virtually prohibit us from carrying on this commerce altogether? It was better than prohibition: but if we would not tax it, they would prohibit it altogether. What right had they to demand this? Certainly none, and yet gentlemen wish us to raise the embargo, to embrace these regulations, open all our ports to this fettered commerce, and will not place it in the power of the Executive to suspend the embargo. I am a little astonished that gentlemen who consider the embargo as the heaviest curse which could befall this nation should be against any measure for removing its pressure. But so it is. Here permit me to say that I admire the flexibility of the gentleman's sentiments. It must be well known to every gentleman in the House, that a gentleman from Virginia, in combating measures which were then carried into effect, as the non-importation law, said, that if we take measures at all, they should be strong measures; none of your milk-and-water measures, but an *embargo;* which would be an efficient measure. This same gentleman, at the present session, exclaims against the Executive influence which produced the embargo. At this very session we cannot forget the scramble between him and another gentleman in this House, (Mr. Crowninshield,) as to who should have the honor first to propose the measure; he even urged expedition in the measure, as he had a bill ready prepared. In the course of deliberation on the subject, he urged it as the only thing which could promote the national interests; and persisted in this, till one of his colleagues informed us of the effect which it would have upon Britain. He then rose and told us that he had done with the measure; that the measure was partial—not unconstitutional—that it was a new invention; that it was expressly aimed at Great Britain, and this was the great objection. But *now* we are told that the British Government will ask nothing better of us than giving up the carrying trade. But, unless the gentleman can prove that they are the carriers for their enemy and for us, he will find it difficult to prove that it favors England. Really I am at a loss to see the difference between the proposed measure and that which the gentleman so long since supported for authorizing the President of the United States to suspend the non-importation law. But the gentleman disclaims the influence of precedents. The gentleman has another objection—that it proceeds from a recommendation from the Executive. The gentleman took the liberty to pay a compliment to the President of the United States for declining a re-election; but he expressed great resentment against those States which solicited him to retain his station. I consider this as the highest mark of respect for the course pursued by the present Administration. But it seems, although totally irrelevant to the subject under discussion, the gentleman from Virginia has undertaken to question the motives of all who have joined in the request. The man who has the vanity and arrogance to suppose that he is superior to all mankind, may boast of his republicanism, but he possesses none. I envy him not his sensations. It will be recollected that the Constitution has not denied the right of a President, for two successive terms, again to be elected. The Legislatures, then, did not travel out of their Constitutional course, and it would have been as modest in the gentleman from Virginia—to say no more of it—to have let the subject alone.

In regard to the constitutionality of this measure, which has been questioned, the bill supported by the gentleman from Virginia two years ago, was to enable the President to do a thing at a distant day, if he should think it expedient. What is the object of the present resolution? To put the whole commercial interest at the discretion of

the President? Certainly not. If certain events take place, the President is to be authorized to suspend the operation of the embargo law. We command; he obeys. He is the agent, we the principal. The law, giving power to suspend the non-importation law, was more vague than this resolution. In that he had a perfect discretion, there was no land-mark laid down in the law. Here there is. The distinction taken by the gentleman from Virginia is a distinction without a difference. The principles of both are the same. The powers given, and the consequences of the exercise of those powers, are the same.

But it seems that the gentleman from Virginia has undertaken to arraign all the measures of Government taken for some time past. A few days ago he was violently opposed to the raising a military force. At the present moment he draws consolation from the circumstance that both Great Britain and France are hostile to us. If he really feels a satisfaction in the hostile attitude of both Powers, he ought certainly not to complain of the acts which he says have placed us in that situation. I cannot conceive how a man can with propriety arraign the conduct of an Administration, when he says their measures have produced the very effect for which he is so gratified. We learned from his observations the other day, and it was insinuated again yesterday, that the raising of an army was against the interest of the country. In 1805 and 1806, he was in favor of strong measures against Spain, for he said in the same proportion as we took measures against Spain, Great Britain would respect our rights; because France and Spain being one and the same, measures taken against one were also against the other. But the effects of strong measures seem now to be viewed in a different light. If it was just then to raise an army against France or Spain to make them respect our rights, it is certainly proper now to take strong measures against both France and England, except the gentleman show that the dispositions of nations as well as of men have changed since that time. At the present time the military spirit is a horrid thing; at that time, it was a very pleasant thing.

For a single moment let us consider the embargo. The gentleman says it is unconstitutional. That the Constitution having prohibited the power of laying a duty on exports, denies the power to prohibit exportation altogether. There is no difference in this respect between the non-importation law and the embargo. If the argument be true, you must allow trade at all times, whether it furnish a means of annoyance against yourselves or not. Is it not a well-known fact, that Great Britain is in the utmost want of supplies for that navy which murders your citizens and blocks up your ports; and, therefore, you partially disarm them. However gentlemen please themselves and amuse the people—for that will be its only effect—with the idea that the embargo is a pleasant thing to Great Britain, we find that, even by the debates in their Parliament, their orders are considered as measures so hostile, that they expect a declaration of war. How happens it that we become their apologists? That their conduct strikes gentlemen on this floor in a more favorable light than it does the Britons themselves? They consider them as too strong. These members of Parliament must be much mistaken if some gentlemen in this House are correct.

To return to the embargo. I believe most religiously, that had it not been for sentiments expressed in this country so favorable to Great Britain; had it not been for insinuations that it was impossible for us to maintain this measure, before this time we should have been treated with respect by Great Britain. I cannot, while up, but notice what must be obvious to all—that not only in this House, but abroad, every attempt has been made to show that this measure is improper, unjust, and injurious. The table of this House has been loaded with petitions against the embargo; it is known from what source. Another circumstance attends them, that, though they come from different quarters, they owe their existence to one parent, and come from one land. It is very easy to sow the seeds of discord and discontent, if persons industriously and insidiously apply themselves to that object. Whenever a measure has been attempted against Great Britain, we have found what rancorous opposition it has met with. We are now asked to raise the embargo. What encouragement have we to do it? The Treaty of 1794 sacrificed our most important rights. Did it conciliate that Government? Did she even then respect your rights? From that moment to the present, your flag and citizens have been constantly violated. More than three, four, or five, thousand seamen, have been impressed into their service. Is it possible that gentlemen can criminate the Government of the United States for not accepting a treaty which gave no security against this? Certainly not. The gentleman told us yesterday that we were contending with a great commercial nation, and had very little to offer in exchange for what we ask. Was it necessary to make this apology for Great Britain? I have thought very differently. Was our commerce of so many millions "nothing?"

Let us now consider the other point which is taken, that the circumstances attending the treaty alter the aspect of it—for this treaty is, to say the best of it, no better than Jay's, which the gentleman says he so much abhorred. When Jay negotiated his treaty, almost all Europe was in arms against France; Spain, and Italy, then independent nations. When this new treaty was formed, Italy, Spain, Holland, Switzerland, &c., were at the feet of France; and that war which was engendered at the Court of St. James between Prussia and France was decided. Prussia was overwhelmed, and the knowledge of it reached our Ministers before signing this treaty. Germany was at peace. In this situation, was the attitude of Great Britain so imposing as to justify greater sacrifices than were made in 1794? It was not. It was believed and said in this country, that the arms of Bonaparte would conquer the world. Why, then, make this sacrifice? Had we any assurances, if that treaty was ratified, it would be

held sacred? On the contrary, doubts were expressed and conditions annexed to it. Has not her conduct since justified a refusal of more than informal stipulations? At the moment when she attacked Copenhagen she had a treaty with Denmark. She first attacked the town, and then offered terms of accommodation, which were of course refused. What can be said in justification of that outrage? There was, as we were told the other day, some supposition that the fleet was about to be delivered up to France. It was no such thing, sir; it was justified on the supposition that the Treaty of Tilsit contained some secret articles, and the British Government did not know what they were. When she had taken the Danish fleet and burnt the city, she asked the mediation of Russia to secure a peace between them. Can we believe her sincere in these things? If she really believed there were such secret articles, is it natural to believe that she would ask this mediation to restore friendship between her and the injured nation? If we could not see a treachery through this mist, we must be blind. But I would not have noticed the subject, except that a disposition has been manifested to criminate our Government, and prejudice the minds of the nation, instead of looking to the real cause.

I should have supposed, after what has been communicated to us, no one would have accused this Government of a want of justice in its negotiations with foreign Powers. Whoever has read the instructions of the Secretary of State to our Ministers, must be convinced to the contrary. Even on the subject of impressments, they were instructed to press it in such a manner as not even to irritate the feelings of Great Britain. A peculiar solicitude has been displayed in all our proceedings to maintain friendship. It has been all in vain. We have been driven to the last alternative, either to shut up our ports for a while or to fight. What do gentlemen now ask? That we should open our ports to Great Britain alone; for that would be the effect of raising the embargo. Has it been in the power of our Government to make a settlement? No. Are gentlemen willing to put up with what has happened? The terms which Great Britain has offered, it would have disgraced any people to accept. After she has attacked your national ship, shed the blood of your citizens, and obliged you to exclude ships of war from your ports, she requires that you rescind your proclamation before she will even tell you what satisfaction she is willing to make. She says, I have abused you; humble yourself, succumb to me, and I will make such satisfaction as I think fit. This is the nation for whom you are to lift the embargo, and these the favors you are to receive in return. I had rather see this nation again tributary to them than sacrifice so great a proportion of their independence; than acknowledge that all we have done is wrong, and all they have done is right. I consider that whenever this nation is reduced to such a state of apathy as to endure these things, our independence is not worth a straw. You have certain rights—first principles. Recede from them, and you open yourself to perpetual violation; if persisted in, they will prostrate your independence. With these sentiments I cannot consent to repeal the embargo, and the opposition to this resolution seems to be founded in a wish to do that.

Mr. Key.—I rise on this occasion with great embarrassment, because in no instance of my political life, has any measure called on me to act, in which the interests of my country were more deeply involved. In common with my fellow-citizens of Maryland, I feel a total aversion to the continuance of the embargo, and I am confident I speak the almost unanimous sense of my constituents in calling for its repeal. However proper some of them might have considered it in the first instance, as an experiment from which good might result, yet all now are satisfied that nothing short of its immediate repeal will save them from great distress, and that a long continuance of it will induce bankruptcy and ruin. I am willing, sir, to admit, that those who advocated the embargo were actuated by the purest motives, and had the best interests of their country at heart—that they adopted it as a measure from which great permanent good would result; but time, which tests the correctness of political measures, has sufficiently elapsed to convince them of their error—at least it has impressed on my mind a conviction, that we deeply suffer, whilst those it was intended to operate on, lightly feel its effects. I was originally opposed to the measure—I still am opposed to it; although I anxiously wish its immediate repeal, yet I am compelled to vote against the present resolution, because in my heart and judgment I believe it is so worded as to violate, if adopted, the Constitution of the United States—and that I am unwilling to let the repeal of this law depend on contingencies, not known or designated, and which are to grow out of the acts of foreign Governments.

An honorable gentleman from Virginia, (Mr. Love,) who originally voted for the measure, has this day admitted it to be a curse. I concur with him, as I hope he will now with me, in a vote and prayer for its speedy removal. I believe the embargo to be partial in its operation, oppressive, and if persisted in ruinous to the country. These are strong terms, but if gentlemen will lend a patient ear, I will endeavor to convince them of their truth, and I will use as much brevity as is consistent with perspicuity. The view I take of this subject is extensive, but I hope not diffusive.

The resolution proposes to vest the President with power, on the happening of certain European events, to suspend the embargo law. I am against it, because I want an immediate repeal, because it is unconstitutional to vest the President with power to suspend a law, and because it is partial in its operation, oppressive, and ruinous.

It is partial in its operation in two respects—first, as it regards the persons on whom it operates, and secondly, as it respects the product operated on.

The district I have the honor to represent is not bounded on navigable water. So far then as it respects my constituents (and many other dis-

tricts of different States are in the same situation,) the law executes itself with rigor. From their geographical position, they are excluded the means of selling their surplus produce, while this very law operates as a bounty in effect to the citizens of other parts of the United States. I call the attention of the Committee to the northern parts of the State of New York. That State binds on Lake Erie to Niagara, on the whole extent of Lake Ontario, on a great part of the river St. Lawrence, and the lakes Champlain and George, and has an immediate, direct, easy communication with the British, in Upper and Lower Canada. The whole Genessee country, and the counties lower down, have a steady, constant market, the prices tempting, the access easy, and few or no officers to interrupt the daily supplies given to their British neighbors. We cannot shut our eyes to the fact of this commerce being steadily carried on.

The embargo, so far as it restrains places from exporting their surplus produce, goes to enhance the price of such produce in foreign markets—the enhanced price affords the temptation, and the easy access gives the means to that country to export it, and in fact, by excluding others, gives them a monopoly of supply. Near four hundred miles of northern coast, in proximity to the British settlements, gives to New York upon the lakes a steady market. Vermont binds on lakes which communicate with Canada. Passamaquoddy openly and publicly furnishes supplies to New Brunswick. In this state of things, and in the mode the law is executed, it is partial and oppressive, and my constituents and others in similar locations so feel and experience it.

But, sir, there is another portion of our fellow-citizens, on whom this law executes itself with peculiar severity. I mean the frugal, hardy, laborious and valuable fishermen of the Eastern States. I see gentlemen smile at a member of the Middle States supporting the interests of the fishermen; but, sir, I should think myself illy entitled to a seat in this House, if I did not know the value of that class of men to society and the Union. I wish, sir, their numbers, character, and usefulness, were better known and understood than I fear they are. And as on this subject my opinions may not be orthodox, I will refer to the head of the church.

Mr. Chairman, in the year 1791, the now President of the United States, then Secretary of State, made an able and luminous report on our fisheries. These are his words: first, as to the annual value of a fisherman's labor, secondly, as to the situation and value of the whale fishery as carried on from a sand bar—

"About 100 natives on board 17 ships (for there were 150 Americans engaged by the voyage) came to 2,255 livres, or about $416 66 a man."

"The American whale fishery is principally followed by the inhabitants of the island of Nantucket—a sand-bar of about fifteen miles long and three broad—capable of maintaining by its agriculture about twenty families; but it employed on the fisheries, before the war, between five and six thousand men and boys; and in the only harbor it possesses it had one hundred and forty vessels—one hundred and thirty-two of which were of the large kind—as being employed in the Southern fishery. In agriculture, then, they have no resources; and if that of their fishery cannot be pursued from their own habitations, it is natural they should seek others from which it can be followed, and prefer those where they will find a sameness of language, religion, laws, habits, and kindred. A foreign emissary has lately been among them, for the purpose of renewing the invitations to a change of situation; but, attached to their native country, they prefer continuing in it, if their continuance there can be made supportable."—*Mr. Jefferson's report, January* 10, 1791, *on the subject of the fisheries.*

I call the attention of the Committee to every letter of this report, and then let each member ask himself the situation of the fishermen under the embargo law.

Sir, by the Treasury report laid on our desks it appears that the exportation of dried fish alone, in the last year, amounted to 473,924 quintals; and the whole product of the fisheries amounted to $2,300,000—a sum equal to the one-eighteenth part of the whole agricultural produce of the United States: thus in effect, in point of product, adding another State to the Union. Is this class of men, whose farm is the ocean and whose crop is its fish, to have their whole or nearly their whole interests sacrificed by the unequal operation of the embargo? I hope not, sir. I trust gentlemen will see the oppression of the law, and its partial operation, and remove it.

Again, sir, as to the product, how does this law operate? The cotton planter and the tobacco planter have their articles little deteriorated by time. The embargo, to them, suspends the use of their capital only; but to those who have flour or fish, the embargo, if continued for a few months, destroys their capital—the thing itself. In this respect the embargo works partially; and in reference to its operation on particular portions of our country, on particular classes of people, or on the product, it ought to be repealed at once, and without delay.

Sir, it is a very remarkable fact, and not more remarkable than true, that if you compare the number of fishermen with the product of their labor, and the number employed in agriculture with the product of agriculture, that the value of the former to the latter is as ten to one—a people whose habits and manners are in consonance with republican institutions, and who are as valuable as the agriculturists. God has given them a noble estate in the ocean, most bountifully stocked, and diligently do they work it, with profit to themselves and advantage to their country.

Mr. Chairman, I have said the embargo is oppressive, and, if long continued, will ruin us. I will not use declamation as to its oppressiveness—I will endeavor to prove it by documents. Let us take the article of dried fish alone:

	Q'ntals.	*Q'ntals.*
In last year the exports of this article amounted to		473,924
Of this, was exported to French European ports on the Atlantic	65,097	
Ditto on the Mediterranean	22,557	
Ditto to Spanish ports (European) on the Atlantic	43,649	
Ditto on the Mediterranean	35,460	
Ditto to Italy	13,600	
		185,363
The above ports, by the British Orders in Council, cannot be exported to, which, being deducted, leaves		288,561

But there remains the quantity of 288,561 quintals, of the value of $1,264,000, free to be exported to other places, not interdicted by the British Orders of Council, nor within the physical power of the French to affect, and only operated on by the embargo. Such is the fact as it respects that one article; but I will now proceed to a general statement, to which I call the attention of the Committee, and invite investigation.

By the Treasurer's statement, laid on our desks, it appears that the aggregate of domestic produce, exported last year, was $48,699,592. By domestic produce is meant the product of the sea and our soil, from our own labor, except about two millions of our manufactures. I will not interfere with foreign articles exported by us—I mean exclusively our own inherent, indigenous, absolute produce, growing out of our own labor. Of that amount—to wit, the sum of $48,699,592—there was exported in the last year to the continent of Europe, &c., and now interdicted by the British Orders of Council, as follows:

The amount of exports in 1807, of domestic produce, was		$48,699,592
To Russia	$78,850	
To Sweden	56,157	
To Norway and Denmark	572,150	
To Holland	3,098,234	
To Hamburg, Bremen, and the Hanse Towns	912,225	
To French European ports on the Atlantic	2,507,707	
To ditto on the Mediterranean	208,434	
To Spanish European ports on the Atlantic	797,017	
To ditto on the Mediterranean	384,214	
To Portugal	829,313	
To Italy	250,257	
To Trieste and Adriatic ports	23,263	
To Turkey, Levant, and Egypt	4,520	
To Morocco and the Barbary States	8,358	
To Europe, generally—no designation	31,505	
		9,762,204
Which, being deducted, leaves the amount of domestic produce free to be exported		$38,937,388

This surplus of $38,937,388, of our own produce, is not interdicted by the British Orders of Council, nor within the physical power of France to obstruct, and is only prohibited from exportation by the operation of the embargo—for I shall not notice the French decree, it is *brutum fulmen.* The excessive folly of the Emperor's decree can only be equalled by his weakness and incapacity to execute it.

If I am incorrect in my statement, and I again solicit investigation and detection of error, ought not the benefit of an embargo to be clear, certain, irresistible, all-powerful, before it should lock up such a mass of product from exportation and sale? Can uncertain, contingent, probable advantages justify an experiment, which hazards so many millions of dollars? Will not the nation demand at our hands, that, as good and faithful stewards, we shall account for the property placed under our control? And how have we done it? I fear to ask—by an embargo.

Sir, it has been said and repeated, that the embargo does very little harm; that we have no places to export our produce to. If such be the fact, Mr. Chairman, then the law ought to be repealed as useless and idle. But, sir, it is very well known that we have abundance of ports and countries to export to, and that is the reason why there is an embargo by law. Sir, that honorable, useful, and well informed body of men, the merchants of this continent, so much superior to us in their knowledge of foreign trade and risks, will put a voluntary embargo on, if trade cannot be carried on to advantage. Men of their understanding, with their extensive foreign correspondence, backed too by the principle of self-interest, may be safely trusted on this subject; they well know to what ports produce may safely go, without the intervention of this honorable body; and, if sir, the merchants should not be sufficiently on their guard, the pulse of sea risk, of detention, and of capture, will be safely felt; through the medium of our insurance companies, they will regulate the risk with judgment and precision. I would, therefore, confide to them the commerce of our country in the exportation of our produce, unshackled by an embargo law.

But, Mr. Chairman, let us review this law and its effects. In a commercial point of view, it has annihilated our trade. In an agricultural point of view, it has paralyzed industry. I have heard that the touch of Midas converted everything into gold; but the embargo law, like the head of Medusa, turns everything into stone. Our most fertile lands are reduced to sterility, so far as it respects our surplus product. As a measure of political economics, it will drive (if continued) our seamen into foreign employ, and our fishermen to foreign sandbanks. In a financial point of view, it has dried up our revenue, and if continued will close the sales of western lands, and the payment of instalments of past sales; for unless produce can be sold payments cannot be made. As a war measure, the embargo has not been advocated.

It remains then to consider its effects as a peace measure—a measure inducing peace. I grant, sir, that if the friends of the embargo, had rightly calculated its effects; if it had brought the belligerents of Europe to a sense of justice and respect for our rights, through the weakness and dependence of their West India possessions, it would have been infinitely wise and desirable, and that they voted for it with such noble views, I have no

doubt. But, sir, the experience of near four months has not produced that effect; and I have endeavored to show that from the situation of our country, the manner in which the law is executed, the demand for subsistence, the consequent rise in price, and the facility of supply, that the West Indies (British) will be supplied.

If that be the case, if such should be the result, then will the embargo of all measures be the most acceptable to Britain; by occluding our ports, you give to her ships the exclusive use of the ocean; and you give to her despairing West India planter the monopoly of sugar and rum and coffee to the European world. It is in vain to say, sir, that their produce will not find its way into Europe; sugar and coffee, become necessaries from habit, will find their way to every portion of the continent, in spite of human regulations: Nay, some neutral point will be connived at to obtain them. But, sir, who are we? What are we? A peaceable agricultural people, of simple and I trust virtuous habits, of stout hearts and willing minds, and a brave, powerful, but badly disciplined militia, unarmed, and without troops; and whom are we to come in conflict with? The master of continental Europe in the full career of universal domination, and the mistress of the ocean contending for self-preservation; nations who feel power and forget right. What man can be weak enough to suppose that a sense of justice can repress or regulate the conduct of Bonaparte? We need not resort to other nations for examples. Has he not, in a manner as flagrant as flagitious, directly, openly, publicly violated and broken a solemn treaty entered into with us? Did he not stipulate that our property should pass free even to enemy ports, and has he not burnt our ships at sea under the most causeless pretexts? Look to England; see her conduct to us; do we want any further evidence of what she will do in the hour of impending peril, than the attack on Copenhagen? That she prostrates all rights that come in collision with her self-preservation? Strangely infatuated would she be, to make our repealing the embargo to depend on the acts of Governments, which will be annulled whenever their interest or their danger prompt them. No, sir; let us pursue the steady line of rigid impartiality; let us hold the scales of impartial neutrality with a high and steady hand, and export our products to, and bring back supplies from all who will trade with us. Much of the world is yet open to us, and let us profit of the occasion.

At present we exercise no neutral rights; we have quit the ocean; we have abandoned our rights; we have retired to our shell. Sooner than thus continue, our merchantmen should arm to protect legitimate trade. Sir, I believe war itself, as we could carry it on, would produce more benefit and less cost than the millions lost by the continuance of the embargo. Such are my impressions; I differ with gentlemen who have their country's good equally at heart, but it is from a collision of opinions that a correct view of our situation will be elicited. I have taken up the subject with a view to convince others; I sincerely declare I am open to conviction myself, and will hear with pleasure any satisfactory answer that can be given to my statements and my reasoning.

But supposing I am mistaken; suppose a suspension of the embargo wise and proper; even if it depends on European contingencies, can it be constitutionally suspended in the mode contemplated by this resolution?

I am sorry to fatigue the Committee, but I beg their indulgence, while I examine if it is Constitutional to grant to the President the power of suspending a law.

A law of the United States to have effect must have the assent of the three branches of Government, the President, the Senate, and the House of Representatives. These three bodies emanate from different sources, represent distinct and different interests, and must all concur.

1. The people of each State give their assent by their Representatives.

2. The several States in their sovereign political capacities, assent by the Senators who represent those sovereignties; and,

Lastly, the people of the United States by the President their representative.

Each of these distinct interests, before a bill can legitimately pass into a law, must express their assent; this once done, it becomes a law, and it is a conceded position that the power to repeal a law, must be the same or co-extensive with the power to make it. It is said that this resolution only grants the power on certain specified contingencies. But is it so, Mr. Chairman? Can we misunderstand the language of the resolution? On the happening of certain events the President is solely to judge if it is safe and proper to suspend the law. Now it is this power proposed to be given him, of solely judging of the propriety of suspending a law, that I condemn; because we transfer to him the right of judging whether a law shall remain in force or not, when it is our duty to judge if the same ought to be repealed or suspended. How can we judge of events yet to happen, the terms of which are unknown to us, whether they will afford proper grounds for suspending a law? It is impossible. If we are to act in this way, let us say that when such events (designating them) happen, the law shall be suspended, and let the President give them publicity by proclamation. In this mode the suspension takes place through the Constitutional Legislative organ.

I cannot believe that the President in this pressing eventful crisis wishes such an increased responsibility thrown on him. I think we ought not to shrink from it; but if we do, I strenuously contend that we cannot give him the power; that to suspend a law is obviously to repeal it, *pro tempore*, at least. If we possess, under the Constitution, the power of enabling the President to suspend one law, we have equal power to enable him to suspend all laws. It is only a matter of discretion whether we will give it to him or not. Now I ask gentlemen, in what part of the Constitution is the power granted, by which we can

enable the President to suspend all laws? for if we have not that power granted, we cannot enable him to suspend one. Again, if we have power to enable him to suspend a law for a time, for one month; we have equal power to enable him to suspend it for twelve months, forever; it is a matter of discretion, and where has that discretion been confided to us? It is the most anti-republican doctrine ever advocated on the floor of this House.

Yet further, to suspend or repeal a law is a Legislative act, and we cannot transfer the power of legislating from ourselves to the President; it is not a transferable power. Such an act is a flagrant violation of the Constitution in its letter, object, and spirit; it is tearing up the limits of the Constitution, and converting its prescribed bounds into legislative discretion. If to suspend or repeal a law, be a legislative act, as it manifestly is, then, if we are competent to transfer one act of Legislation, we are equally so to transfer all, and it undeniably follows that we have as much right to grant the President a power to make laws, as to repeal laws. Let it not be said, it is too great an absurdity to suppose such a case. I resist the doctrine *in limine*. I say the Constitution never left such a discretion to be used by us. If it has, no distant day determines our liberties, and Legislatures will be found hereafter courtly and servile enough to devolve the power on the President, and ease themselves of the burden of legislation.

Every school-boy knows that Rome, on extraordinary occasions, when assailed from without or within, took refuge in the arbitrary, though temporary power of a Dictator. Habituating themselves to the government of one man, and no longer confiding in themselves, the transition was easy to a dictatorship for life. The result need not be pointed out, nor how dearly they paid for their first folly in the reigns of Nero and Domitian. I lay this down as a political truism, that whenever a Republic loses its reverence for self-government, and trusts the power of legislation to an individual, even for one act, it is undone; the example once set, leads to certain and rapid destruction. I cannot, therefore, consent that the destinies of my country, that its laws shall be suspended on the will of any individual, however pre-eminent in virtue, dignified in station, or covered with the mantle of public opinion. The more his merit, the greater the danger. I must, therefore, Mr. Chairman, give my decided negative to the present resolution.

Mr. Sloan said he had been sorry that yesterday morning a debate had commenced on this subject; but he rose to acknowledge his mistake, for no debate which he recollected had progressed so much to his satisfaction as this. It has given an opportunity for the enemies of the measure of embargo to bring up all their artillery against it. I flatter myself that my friend from Maryland was reserved for the forlorn hope, with the heaviest artillery? What has he done? He may consider it paradoxical in me when I say that he has convinced me of the wisdom and propriety of it; and all his artillery has had no more effect than a child's popgun would have. He has fully convinced me that it is an impenetrable fortress, so cemented together that it cannot be shaken; and I flatter myself now that it is in vain to attack it. I hope the friends of the measure are convinced that there is no occasion to defend it; I hope they will consider themselves perfectly at ease about it, and let its enemies play all their artillery upon it. The nation are united more and more in favor of it, considering bloodless arms more powerful than the sword. I consider the United States to be supremely blest; that they are so situated that they can live within themselves; and that, by the bounty of Providence, the country abounds with everything to make us happy. Is it possible that any persons are so lost to the feelings of humanity as not to rejoice at it? Very numerous, indeed, are the advocates of the measure; and it gives me pleasure to be surrounded by so many who prefer peace and prosperity to war and carnage. We have nothing to do but to adhere to this measure until the unjust orders and decrees of our enemies are revoked. I shall not detain the House on this subject, because it is one which does not require much to be said upon it. An attempt to illuminate it would be as futile as an attempt to add light to the glorious luminary of Heaven. I had almost trembled when my friend from Maryland rose, lest he should work some effect, and I heard him with great attention; but, stripping his address of the flowers of eloquence, having ransacked the universe, travelled from one end of the United States to the other, and given us a geographical and historical account of them, I discovered only this solid argument in all he said; that the constituents of some gentlemen have power to evade the embargo law, while his have not. I hope the friends of this wise and prudent measure will consider that it is secure, and does not want further defence.

Mr. Randolph opposed the resolution at considerable length.

About five o'clock a motion was made that the Committee rise, Mr. Randolph having ceased speaking for that purpose, and carried.

Thursday, April 14.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanying a statement of the public debt from the first day of January, one thousand seven hundred and ninety-one, to the first day of January, one thousand eight hundred and seven, inclusively; also, the estimated amount of the said debt on the first of January, one thousand eight hundred and eight, together with the progress and decrease of the same during certain periods therein enumerated, prepared in pursuance of a resolution of this House of the eighth of January, one thousand eight hundred and seven; which were read, and ordered to lie on the table.

An engrossed bill for the relief of the legal representatives of Thomas Barclay, deceased, was read the third time, and passed.

On motion of Mr Dana, the Committees of the Whole House to whom were referred, on the eighteenth of December, and the ninth of January last, two resolutions proposed by him, relative to a provision for "regulating the conduct of such merchant vessels as, by agreement of the respective owners, may sail in concert for mutual assistance and defence in any lawful commerce;" also, "that registered ships or vessels shall not continue to enjoy the benefits and privileges of ships or vessels of the United States, unless a proportion of the mariners on board the same shall be citizens of the United States;" were discharged from the consideration thereof: and the said resolutions were severally referred to Mr. Dana, Mr. Quincy, Mr. McCreery, Mr. Marion, and Mr. Troup, with instruction to report thereon by way of bill, or bills.

Mr. Clinton presented a memorial of Margaret De Labigarre, of the City and State of New York, stating a claim to a proportion of the lots or parcels of land called the Batture, in the vicinity of the city of New Orleans, in consequence of a purchase made of the same by her husband some time in the year one thousand eight hundred and three; and praying that Congress will take the premises into consideration, and grant such relief therein, as to their wisdom and justice shall seem meet.—Referred to the Committee of the Whole to whom was committed, on the twenty-ninth ultimo, the bill relinquishing the right of the United States to the Batture, in front of the suburb of St. Mary's, and for other purposes.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the relief of Philip Turner;" and, after some time spent therein, the bill was reported without amendment.

A motion was then made by Mr. Stanford, that the bill be recommitted to the Committee of Claims; and the question being put thereupon, it passed in the negative. The bill was then laid on the table.

On motion of Mr. Rhea of Tennessee, that the House do come to the following resolution:

Resolved, That the following order be inserted among the standing rules and orders of the House:

Ordered, That a standing committee to consist of seventeen members, (one from each State,) and to be styled "the Committee of the Post Office and Post Roads," shall be appointed, whose duty it shall be to take into consideration all such matters and things touching the Post Office and Post Roads of the United States as shall be presented, or shall or may come in question, and be referred to them by the House, and to report therein; and, also, to report such alterations and amendments to the laws concerning the Post Office and Post Roads as may become necessary.

The resolution was read, and ordered to lie on the table.

The bill sent from the Senate, entitled "An act to revive and continue in force an act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," was read three times and passed.

Mr. Clark, the Delegate from the Territory of Orleans, presented to the House two resolutions of the Legislative Council and House of Representatives of the said Territory; the first requesting that a port of entry on the Bayou Teche, at or near the Church of Attakapas, may be established; the second proposing an amendment to the ordinance for the government of the said Territory, relative to the manner of filling vacancies in the Legislative Council thereof.

The said resolutions were read: Whereupon,

Ordered, That the first, which relates to the establishment of a port of entry, be referred to the Committee of Commerce and Manufactures.

Ordered, That the second of the said resolutions be referred to Mr. Clark, Mr. Bibb, and Mr. Van Allen, with leave to report thereon by bill, or otherwise.

Mr. Van Cortlandt presented to the House a concurrent resolution of the Legislature of the State of New York, representing the exposed situation of the port of New York, and the urgent necessity of such appropriations of money to be made by Congress, as may be fully adequate to the protection of the said port; also, the destitute condition of our seamen, and the danger of their migration to foreign countries for employment, in consequence of the present menacing state of the exterior relations of the United States.—Referred to the Committee of the Whole on the state of the Union.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning Courts Martial and Courts of Inquiry," with several amendments.

SUSPENSION OF THE EMBARGO.

The House again resolved itself into a Committee of the Whole on the resolution proposed by Mr. G. W. Campbell, on the eighth instant, relative to a suspension of the embargo on all ships and vessels in the ports and harbors of the United States.

Mr. Randolph contiued his remarks in opposition to the resolution.

Mr. D. R. Williams felt that the question which was about to be decided was one of so much importance, every member of the House must be specially responsible for his vote on it; and, laboring under that responsibility, he felt it a duty to state some of the reasons for the vote he should give. I shall vote against the resolution, said Mr. W., and in so doing shall not be influenced by the reasons assigned by my friend from Virginia, (Mr. Randolph,) nor by those of the gentleman from Maryland. When this resolution was first presented to us, I felt very much inclined to vote for it; but upon considering it more maturely I cannot. This I regret exceedingly, because I shall perhaps differ from a large majority of the friends to the embargo. Gentlemen themselves who advocate it, if all the consequences which certainly attach to it are deliberately considered, will I hope give it up. What is the object of the resolution, or rather of the embargo itself, for I presume it is intended either

to fix the day or the circumstances on which it shall be suspended? [Mr. Randolph observed that while up he had forgot to propose an amendment to the resolution so as to declare it expedient to repeal the embargo.] No, sir, said Mr. W. it is not expedient. This amendment however has cut in upon me unexpectedly; but as the debate has heretofore been a kind of general battle, partaking of war, army, embargo, treaty, resolution, and amendment,—I shall be in order on any point, it has taken so wide a range.

The resolution, is pernicious, and for this reason; the embargo is not designed to affect our own citizens, though I confess it operates hard on them; but to make an impression on Europe; and beyond all question, the firmer you stand, the more likely is your measure to have effect. What is the opinion inferable from the adoption of such a resolution? Does it not tell the belligerent Powers of Europe with whom you are contending, that you are tired of the embargo; that you are sick of it, and will accept any modification of their general principles (I would rather say practice, for they have no principle) so hostile to your neutral rights, rather than submit to it any longer? I hope this consideration will have weight with gentlemen, who, like myself, are friendly to the embargo, for assuredly it is entitled to it. Besides, are gentlemen aware of the embarrassment they will not be able to avoid in framing a law on such a subject? It will be scarcely possible to define the circumstances on which you will permit the suspension to take place, without incurring one of two risks; either too precise to admit the President's acting, for being a law its letter must be fulfilled, or so general as to invest him with a discretionary power altogether inexpedient. I cannot conceive a situation more disagreeable than would be the President's with such a power. Though I subscribe to what I consider the sound part of the declarations of the gentleman from Virginia (Mr. Randolph,) the other day, as to the tendency this resolution will have to throw a monstrous and unusual power into the hands of the President, yet I do not believe it unconstitutional; nor can I subscribe to the arguments of my friend with respect to the constitutionality of the laws laying an embargo; for, sir, if they prove anything they prove quite too much; and did I possess but a moiety of the eloquence and ability of that gentleman, I could certainly confute them. I contend that the power to lay an embargo is granted in the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." If you cannot prohibit commerce with a particular port or nation, of what avail is the power to regulate it? The law prohibiting all trade with St. Domingo is authorized by the same clause of the Constitution, and yet it never was supposed to be unconstitutional. Will it be questioned that you can prohibit exportation from the United States in the vessels of any particular nation? Will it be questioned that you have a right to exclude foreigners from trading with the Indian tribes within your jurisdictional limits? Most assuredly you have these rights, and all derived from the same general power, to regulate commerce. The embargo is not an annihilation, but a suspension of commerce, to regain the advantages of which it has been robbed; it follows that it is a Constitutional regulation of commerce. The gentleman read my name among others in the negative on the passage of the section in the bill to authorize the President to suspend the non-importation law. I will not undertake to say what were the reasons of the gentleman for voting against that section, but I know that my reason was, it vested the President of the United States with power to suspend the law at the time when we ourselves should be in session. I thought then as I do now, that it is inexpedient, under any circumstances, to give the President power to suspend the operation of a law during the session of Congress.

I am determined for one to adhere to the embargo, and will give my reasons for it in as few words as possible. It appears to me that the operation of this measure upon Great Britain is demonstrable, and its pressure must be irresistible. In ordinary times an embargo in this country could not fail to produce distress in that island and its western dependencies; but how much more fearful and alarming must those distresses be in the present state of the world! The ruinous commercial relations of Europe generally, have almost completely dried up the source of British revenue from that quarter; the other channels through which the wealth of the world flowed into her coffers are now either diverted or destroyed. The confused relations of the whole commercial world, pressing more seriously on her than any other nation, because the existence of no other so much depends on commerce, all conspire to produce a crisis, peculiarly favorable to our policy. The nature of her imports, too, enters justly into the calculation. What are they? Cotton, tobacco, lumber generally, wheat, flour, rice, pot and pearl ashes, tar, pitch, flaxseed, hemp, and hides; all of these articles (tobacco alone excepted) are necessary for their food or manufactures, and for which no substitute can be found. We find from the statements of her imports and exports for 1805, that she imported (exclusive of inland) from Europe, £13,383,275; from Asia, £6,072,160; from America, £9,615,161; and from the rest of the world, her Western Colonies excepted, £106,996. That she exported to Europe £21,784,345, to Asia £1,638,600, to America £12,164,000, and to the rest of the world, exclusive of her Western Colonies, £1,022,092—of her exports to this country so large a proportion as £11,207,986 are of her own manufactures. The aggregate amount of her exports to countries from which the power of France has excluded her, is £17,310,000, add to this her exports to the United States, and then say, what must be the inevitable deduction resulting from it. Occluded from Europe, and shut out from America, she must lose the profits resulting from so many millions in trade, which support the monstrous machinery of her Government; she nor any other nation, with

such a load of debt as she now staggers under, can resist such a pressure growing out of so many important deprivations. The drawing from Great Britain the commerce of cotton alone cannot fail to produce an effect which I hope the Ministry are not mad enough to meet. The Newfoundland fisheries are nearly at an end for want of market; the Baltic and Turkey trades are almost extinct; the Italian, a large portion of the Mediterranean, the whole of the Spanish, French, Dutch, German and Russian commerce is annihilated; her West India planters almost ruined, and her manufacturers at home discharging their workmen. Such is the dislocated state of Europe and the relation of Great Britain with the Continent, that she is totally cut off. Where are the stores of the Baltic to come from? Where is she to find the grains of Dantzic? Above all how is she to procure hemp of Russia? No where and in no manner but in American bottoms. Thus insulated, thus pressed, she will not long resist. So much for the operation of the embargo upon the island of Great Britain. Now as to the West Indies. The system of her policy at the commencement of the Revolutionary war was monopolization, and that which characterized the wisdom of that system was this: she confined the consumption of the national family to the products of the family. Now it so happened that the same system which was then wise and politic, became ruinous to the British West Indies; because the United States being separated from the British Empire, and the restrictions remaining the same, the products of the Empire were no longer adequate to their supply. The politicians of the Sheffield school were notwithstanding determined to adhere to the same system, and the world never can forget, that in attempting to enforce that system, fifteen thousand persons died of famine in Jamaica alone. In 1788, the Ministry, satisfied of the necessity, determined to open an intercourse with the United States through British and colonial built vessels duly navigated, and by statute excluded American vessels from participating in that intercourse. This has been the policy of that Government ever since, down to the passage of the "American intercourse bill," during the administration of Mr. Fox. Has this policy ever been maintained for one entire year? No, sir. Notwithstanding the law of the realm, prohibiting importations in foreign vessels, it has been annually, I had almost said regularly, violated: and what, sir, were the circumstances under which these violations were made? Indisputably the most perilous to Ministers. The awful responsibility of suspending the law by their own act, to say nothing of the whole navigation interest at home, which they were sure to provoke, were circumstances of fearful import. It was a stern, stubborn, uncontrollable necessity in the West Indies, which coerced the infraction of the statute, and Parliament has never refused to Ministers a bill of indemnity. And what does this teach us? If they were unable to maintain this policy when our ports were open to them, how is it possible to supply the West Indies when they are occluded? I hazard nothing in telling gentlemen our lumber is as necessary for the profitable existence of the West Indies, as our Indian corn, flour, rice, and provisions generally, are to their actual being; and yet lumber is higher in Great Britain than in her colonies. Where are these articles to come from? Not from the mother country, for the average annual importation of flour into Liverpool alone, is 90,000 barrels. The fact is, sir, these are no longer staples in the British Empire, and hence it is that her colonial system is so repeatedly relaxed. Instead of supplying the West Indies, Great Britain has more than once been obliged to resort to a policy directly the reverse. She has opened her ports and paid you a bounty upon the very articles necessary to the existence of the West Indies. From whence then are the West Indies to be supplied? Not from her North American colonies; that expectation has been long since proven to be fallacious. In truth, sir, from no where but the United States. And when she is thus cut off from all her resources, thus unable to feed her own subjects, what must be the inevitable result? She must yield that which her own honor and interest calls for, justice and reparation to our moderate claims upon her.

I am a friend to the embargo for another reason: its operation is impartial. Impartial, because all my observations as to the British West Indies apply with tenfold force to the French and Spanish West Indies. Her marine is annihilated; not a French merchantman can be found on the ocean. Without even a coasting trade, she cannot enjoy the commerce of her own colonies. How then can she supply her West Indies with subsistence? How can France be supplied with the product of her West Indies, coffee and sugar, or with the product of the East? No where but through American bottoms: they must starve if you have resolution enough to hold on to the embargo.

But a gentleman from Maryland, (Mr. Key) yesterday, for whose talents I have respect—I mean no incivility—proved that which he can most indubitably prove at any time, that he is a better lawyer than a politician. I cannot subscribe to the opinion of my friend from Virginia (Mr. Randolph,) that the details of the gentleman from Maryland on the subject were correct; and I have endeavored to discover the *data* of his calculations, and I cannot for my soul. The gentleman observed, speaking from a report of high authority before him, that previous to the Revolution the sandbank of Nantucket alone maintained five thousand men and boys, whose habitations were temporary; and that these amphibious animals produced from the sea four hundred dollars each. The gentleman says the product of the sea for the year 1807 is two millions, and five thousand men are employed on this bank—*ergo*, they average four hundred dollars each. Sir, the gentleman must have forgotten that there are many fishermen other than those at Nantucket. I will undertake to say that there is no description of people in the whole world that live by labor

that average such a profit. Besides, the gentleman forgot to mention how large a quantity of fish taken by the British, is exported as American fish by the Boston and other merchants. The cultivation of cotton never yielded such profits, and that has been more productive than anything I ever heard of. But I am willing to allow that the gentleman is correct, that the profit of each fisherman is four hundred dollars. What does it prove? That you have been imposed upon in granting them a bounty. But gentlemen on the same side of the question are at war with one another; for a gentleman who understands this business (Mr. Quincy) proved to us that these fishermen were employed in a very unproductive business—so valuable, and yet so unproductive! I am willing to grant all the importance which gentlemen ask for to the fishing trade; but as the gentleman has intimated, I am not afraid of the fishermen moving off. In so doing, to use a trite proverb, they would jump out of the frying-pan into the fire. Yes, sir, into the fire; for the Newfoundland fisheries are not in so good a situation as your own, the embargo to the contrary notwithstanding. Their fishery is swept from the ocean; all the ports of Europe are shut against them. But there are other consequences attached to this sandbank besides the privilege of fishing; something like the blessings of freedom. If it be possible that the fishermen could be tampered with to leave their country, I say in God's name let them go.

[Mr Key, by way of explanation, here repeated his statement respecting the fisheries, which may be found in his speech, heretofore given.]

Mr. W. said he was glad the gentleman had explained, and sorry he had not done it sooner, as he had been invited so to do; for if he knew his own heart it would be the last thing he would willingly do, to misunderstand or misrepresent. One thing I do not understand, said he, the gentleman told us that the embargo was partial, and gave us the instance of its operation upon the fisherman to prove it. He says the ocean is his farm, and the fish his crop. The land is my farm, sir, and cotton is my crop; and I stand as to cotton as the fisherman to his fish. We are all blockaded, sir, and fishermen no worse off than others. We are admitted to cultivate our farms, to bring our produce to the national market, but not to suffer our enemies to eat of it. But the gentleman took this distinction, and really it is remarkably strange to me, that the embargo is peculiarly hard upon the fishermen, because, forsooth, their fish will not keep. I much doubt whether it has been a week since the gentleman himself eat codfish; it is not three days since I did. It is kept and can be kept, sir. How could they get it in Europe if it was not kept? All the Catholics at this particular time (Lent) are living on it. It cannot but be preserved if they will take care of it. It is really strange that gentleman who see fish every day—in Massachusetts it is the standing dish of Saturday the whole year round—will yet say that it will not keep.

If the law is partial, amend it: and I will here do the gentleman from Maryland the justice to say, that upon another occasion he made use of this argument as a reason for cutting off the exportation by land. If the law be partial, it will not operate as a reason for repealing, whatever it may do for amending it. The gentleman was peculiarly unfortunate in supposing that the West Indies may be supplied by the British northern Provinces, because, as he says the line between the United States and the British Provinces on land is artificial. Granted—and was there ever any more obstruction to the exportation of your products through that quarter when Jamaica was starved than there is now? No, sir. Unfortunately for the gentleman's argument, he hit upon naval stores, tar, and turpentine, as the products she is to get by land transportation. Certainly these are not the staple commodities of Vermont. No naval stores can Great Britain get, but from us and from the Baltic; she never did get any anywhere else, and if you keep on the embargo, she will neither get them here nor there.

The gentleman has objected to the measure of the embargo, because it operates upon the belligerents, who are dishonorable and faithless in their proceedings, and may recede but to involve us the deeper. This cuts up the treaty-making power by the roots. If you are not to depend upon promises, why talk about them? Why form a treaty, or why publish this correspondence between our Ministers through the world, if no faith is to be placed in them? Whether you have war or embargo you must ultimately resort to promises and parchment obligations.

I understand the gentleman from Maryland (Mr. Key) also to say that thirty-eight millions of our produce are as free of exportation as they ever have been at any time for the last ten years. If I did not understand the gentleman correctly, I hope he will correct me. It does really astonish me that a gentleman of his understanding, for I allow it to be infinitely superior to my own, should hazard a declaration of this sort. If this is a fact you have been in an error from the time of your coming here. We raise for exportation forty-eight millions, and of these the gentleman says that thirty-eight are free as they have been for the last ten years. The embargo is wrong, and we are in the dark if this be the fact. But I undertake to say that not a single dollar of American produce is free from the operation of European prohibitions. We differ on this subject, and it is not extraordinary; for it is recorded that "with difficulty 'do we procure the things that are upon the earth, 'and with much labor do we find out those that are 'before us." I hold in my hand, that which is said to be the observations which dropped from the Chancellor of the Exchequer in the British Parliament. This was to prove that the Ministry were willing to accept of a commutation of duty, which should operate as a total prohibition, and in lieu of a duty on exportation; that the Ministry were willing to modify the British Orders of Council, so that cotton should not be exported from the country, instead of permitting it to be exported by paying a duty. The Chancellor of the Exchequer said

this, or it is said for him. Yet it is cause of no complaint to you, that she puts you in the same situation as when these States were her colonies; gentlemen have no objection to this argument, and your produce is as free from the embarrassment as it has been for ten years past! It is one of the blindest pieces of folly that ever any nation attempted; and the effect will be directly opposite to what the British Ministry aim at. The entrepôt for cotton will not now be London but Hamburg, or some other port where no export duty is paid. Why? Because the moment there is one pound more of cotton in England than is necessary for home consumption, the price will fall, and Great Britain will have diverted the commerce of this country to another channel. What says Mr. Erskine? That all your commerce must go through the ports of Britain. Is it possible that any gentleman can consider this as no restriction? The amount of your exports to Great Britain alone has been twenty-eight millions; and now not only that, but all products which you send to other Governments, completely independent as you are of her, must all centre there—and why? That they may contribute to the support of the British war; and yet we are to be told that this is no restriction on us.—[Mr. Key explained that neither Mr. Erskine's note nor the British Orders of Council had influence on our commerce, except to such States as are under the control of Napoleon; and do not relate to our commerce either with the East or West Indies.]—Mr. W. continued: I did state, sir, when I began to comment on this part of the gentleman's argument, and he assented to my statement, that he had said that thirty-eight millions were as free of exportation as they had been for ten years past. The gentleman has now again risen to explain, and what does he tell you? That they are free from British orders. Does the embargo act only on British orders, or do British orders affect only what is sent to French ports? Is there a single port exempt from the French decrees, sir? What became of them in the gentleman's arithmetical calculations of profit and loss? What induced you to lay the embargo? The gentleman from Virginia has told you that you had no official information relative to the British Orders in Council; but they were laid in consequence of the French decrees, and every one was open to the operation of those decrees. I will admit to the gentleman, that in kind indulgence to us, Great Britain has allowed us to go to the French West Indies. What comes next, sir; we must carry the goods we take from thence to British ports, there to pay the export duties, there to swell the coffers of Great Britain.

[Mr. Randolph asked his friend to give him leave to explain, for he was almost the only one whom he would take the liberty to interrupt. His idea in raising the embargo, and he wished it to be clearly so understood, was not with any idea of submitting to the Orders of Council or the French decrees. He would sooner see every article of produce at the bottom of the sea. He had no idea of submitting to these new regulations. But he did not think that the embargo was calculated to remove the evil. We both wish to resist, said Mr. R., he by the embargo, and I by another method. He wishes (pardon me the vulgar expression) to cure the corns by cutting off the toes.]

Mr. Williams.—I will cut off the toes, feet, and head too, and perish with the whole nation rather than succumb.

[Mr. Randolph.—I too would resist to the last man and shilling in the country, these Orders of Council.]

Mr. W. said he had not the remotest possible allusion to his friend (Mr. Randolph;) he had been commenting on the arguments of the gentleman from Maryland (Mr. Key,) which went further than was correct, even to succumbing to the British, and this was what he was driving at. Is there a gentleman in the House, said Mr. W., willing to tell the nation that they would even accept of the gentleman's thirty-eight millions and the Orders of Council, and trade with them together? The times are critical; they are perilous; and I would do everything which shall tend to promote unanimity. I say nothing against the gentleman from Maryland—I mean his arguments and not the man. I believe he has as much patriotism as any man; but I believe his arguments not only are disgraceful to the national councils, but that they are not American. What, sir! Succumb to Great Britain, kiss the hem of her garment, and let her direct your trade where she pleases, under penalty of being liable to seizure if her vessels come across it! Heaven forbid it! And yet you have documents on your table to prove that it is liable to seizure if contravening her orders. It has been properly observed that the whole European world is merged in two great Powers, and each desires to incorporate us with them—and where can we go in safety? The gentleman from Maryland says, to the East Indies. They are as nothing, sir; they cannot be taken into the scale. I do not speak as influenced by the motives which would actuate a cotton planter, although I am one. I never would consent to plant another seed, so help me God, under so vile a system. The nation will have no character—it will be degraded if we submit to this. France tells you that the Treaty of Pilnitz warrants the seizing of the Duke d'Enghein in one forest, and executing him in the next; and Britain says that the Treaty of Tilsit warrants her in setting Copenhagen in flames. The principle they have pursued in the course of their differences with you is thus excused. You have no principle to rely upon but the law of nations, and that it is which restrains the armed vessels of a friend from assailing those of an enemy within your own waters; and these they have wantonly violated. It is time to make a stand.

This embargo we are told is oppressive. Indeed! Is the nation so overloaded with misery that we have not one ray of hope, as the gentleman from New York (Mr. Masters) has told you? Not one gleam of hope of success? It is oppressive, sir; it is hard I will admit it. But I will say that our merchants must either submit

to the practice of taking out a British license, which to the eternal disgrace of those who practise it has been done, or stay at home without an embargo. Is the oppression so great that the whole nation rises up against it? Have you a petition on the subject (and the people of the United States are not backward to petition against grievances) but from fishermen? Have you any one to repeal the embargo? These petitions from the fishermen are well understood to be the result of a deliberate electioneering plan. When there are no cries elsewhere, not much misery has yet been felt. I cannot believe that the people of the United States are so destitute of attachment to the liberties of their country as not to acknowledge the justice of the measure. In the election at Marblehead, in Massachusetts, lately, notwithstanding the poor fish won't keep, there was a Republican majority of fourteen to one, or thereabouts—a monstrous majority—I do not precisely know how great. If the people in Masachussetts do not cry out under this thing, they will do it no where; for no pains have been taken anywhere so much as in Massachusetts to cause mischief—a curse upon the consciences of those who have done it, and be unto them to answer for it. It has failed, sir. The people of the United States have too much patriotism to murmur, and wisdom enough to see the interests of the nation in adopting this measure rather than war. I am desirous to maintain our situation; I will not succumb; I will resist if but one man be left to support me; and if reduced to the last extremity, we can dig our own graves and die together.

Mr. G. W. Campbell said, it was with considerable diffidence he offered himself to the House on any occasion at any time, and his reluctance to do so had been much increased by indisposition, with which he had been affected and much debilitated during the whole of the present session. But upon this question, which he himself considered highly important, and which had been so considered by others, and respecting which, in his opinion, many misrepresentations had been made, he felt it a duty he owed to his country and to himself, to lay before the House some of those reasons that induced him to introduce the measure and which still convinced him that it ought to be adopted. With regard to the remarks of the gentleman from Virginia (Mr. Randolph) respecting a profession in this country which it has become very fashionable with certain characters to asperse, said Mr. C., I shall say very little. I shall not deign to enter into a vindication of those who compose it, against general and vague aspersions, which scarcely seemed to have any object but to give a loose to a vein of invective, and can have no other effect than to produce irritation, and evince the temper and disposition of those who utter them. I do not suppose the gentleman meant any of them to apply to me, not having spoken on the subject since he did; if he had so intended them, he would, I presume, have expressly said so, as every candid man ought to do. If, however, he did, I wish him now to avow it. If not then applied to me, I am willing to leave it to the House and the nation to determine the liberality of such an attack on a whole profession, and to judge whether such conduct be consistent with the exalted character of a Representative, or the decorum that ought to prevail on this floor. If I had supposed that any allusion was intended to be made to me in those remarks, I would have said that they were so far unauthorized and totally unfounded in fact. Further, sir, if any insinuation was intended, that I, as one of that profession, am in the habit of acting in this House under the expectation of any other reward than the approbation of my own conscience and the good of my country, or otherwise than as my judgment induces me to believe is correct, I pronounce it a groundless and slanderous assertion. I have no interest in coming here but the good of my country, and no inducement but a desire to perform those duties in society, which have been assigned me by my fellow-citizens, whom I have the honor to represent. I have, therefore, thought proper to resist any illiberal insinuations that may have been made, so far as they can be construed to apply to me.

I will now, said Mr. C., return to the subject before the House. The gentleman last up, (Mr. D. R. Williams,) has rendered it unnecessary for me to enter into a discussion of a part of this subject, which might otherwise have claimed more particular notice. With that gentleman I agree, in almost everything he has said, except as to the effect which this resolution would have upon foreign nations. If I had supposed that this measure held out to foreign Powers the slightest pretext for believing that we are so tired of the embargo as to be induced to repeal it, under any circumstances whatever, except such as are consistent with the honor and dignity of the nation, I would be the last man to propose it to this House. But under a conviction that this resolution can have no such effect, that it holds to foreign Powers a language directly opposite to this, and that they will see in it the only object which its supporters can be fairly supposed to have, to put it in the power of the Executive to remove a pressure, as soon as circumstances will render it proper, which is acknowledged to bear hard on the American people, and must continue so to do, so long as the causes that produce it remain unchanged, I have brought it before the House, and under this impression alone am I disposed to support it. So far, sir, from thinking that it will induce foreign nations to believe we are disposed to remove the embargo, before the causes that produced it are first withdrawn, I am clearly of opinion that this resolution will convince them that we are determined the embargo laws never shall be repealed, until they revoke their orders and decrees, or until we shall have determined to appeal to war, the last resort of an injured nation. They will see, in this measure, what is believed to be the true principle that ought to direct our conduct—a firm determination to persevere in the embargo until they are brought to a sense of justice, or until that crisis in our affairs has arrived, that will make it our interest and our

duty to resort to arms in vindication of those rights which have been so grossly violated—and then the embargo may not be necessary. War and an embargo at the same time are seldom supposed to be necessary; an embargo frequently precedes war, but scarcely ever accompanies it. These remarks are made, because so many misrepresentations have gone abroad with respect to the objects, the effects, and probable duration of the embargo, and the views of those who imposed it. Some considered its operations directed against one nation alone, to wit, Great Britain; while others of the same party declared it could do that Power no injury. The first of these positions is not founded on any facts to support it, the laws imposing the embargo being general in their operation; and the result, as far as we can judge from the best information that has yet reached us from that nation, proves the latter to be totally incorrect. Some pretended to state it as a measure that was to be permanent, and forever unalterable, and on that ground opposed it; while others on the same side pronounced it a temporary expedient, a mere chimerical experiment, that was not designed to be persevered in for any time, and therefore declared it useless, and likely to produce no good. In answer to such contradictory objections, it would seem almost unnecessary to say anything. The one would appear to destroy the other. Those who made them have been equally incorrect in stating the views of those who imposed the embargo, as they have been unfortunate and inconsistent in the grounds upon which they have opposed it. No one could reasonably suppose the embargo was intended to remain forever, to be a permanent, unalterable measure, or to continue longer than the existence of the causes that produced it. Neither ought it to be supposed that it would be removed during the existence of those causes, unless some alternative was resorted to in its place. These representations, or rather misrepresentations, are therefore futile, not founded in fact, and calculated only to deceive and mislead the public mind.

The objects of the embargo have already been stated to you. These were, among others, to take a stand previous to an expected war, to prepare the nation to meet it; to collect and preserve at home our resources and our seamen, from being captured by foreign Powers; to produce a pressure on those foreign Powers, that might make them sensible of the advantages they derived from our trade, and, by making them feel the want of it, bring them to a just estimate of their own interests, and a sense of justice toward us; and also to pause for a short time in order to determine what system we ought to pursue. These were, it is believed, the principal objects of the embargo. The time has not yet arrived that puts it in the power of this nation decisively to determine with which of the belligerent Powers we must go to war, if, indeed, it be necessary to go to war with either. The conduct of those Powers has not been such as to induce us to consider either the one or the other friendly disposed toward us—and it might be hazarding too much to go to war with both at the same time. It is not, therefore, the proper time, either on the ground of peace or on that of war, to remove the embargo, as has been insisted upon by those who have been opposed to the measure. But it has been contended by some who are friendly to the embargo, that the resolution before you holds out to the belligerent Powers a ground for believing that we will repeal the embargo laws, without any change being first made in their measures relative to our commerce. I am unable to see anything in the resolution that justifies such an opinion, or that presents to those Powers any prospect of their removing the embargo, until they revoke their orders and decrees, or change them in such a manner as to render our commerce safe. What does the resolution say to the belligerent Powers? Is not its language clear and explicit? It says to them you must act first, before the embargo shall be removed. The Council of the Nation have solemnly so determined; your orders and decrees have produced the embargo, and it shall continue until you withdraw them. It is announcing to those nations in the strongest language in our power that we are determined not to shrink from the ground we have taken; that we will not relinquish the measures we have adopted, until they first withdraw their measures so destructive to our commerce, and then the embargo shall be removed—then the commercial world will be unshackled, and trade restored to its usual channels, to its full liberty. This resolution will turn the eyes of the American people to the real source of their present difficulties—the conduct of the belligerent Powers, in passing their orders and decrees, by which they have bound in chains or rather annihilated the commerce of the civilized world; in these they will see the true cause of the embargo, the reasons that render it essentially necessary to save our trade from certain ruin; and to these they must look to unbind the chains and permit trade to return to its usual channels, and pursue its natural course. On these grounds, and with this view, this measure was brought forward, and is now supported by me.

I will now, said Mr. C., notice some objections made to this resolution by different gentlemen, on the ground of its unconstitutionality, in vesting in the President legislative powers. I beg leave here to state, what I believe my conduct has often evinced on this floor, that I am as unwilling as any member in the House, to vest unqualified powers in any one man, or in any officer of Government. I consider it, in general, impolitic and dangerous to do so. The powers appropriated to one department of Government ought not to be vested in or exercised by another department. This principle ought to be respected and preserved as sacred as possible; but the resolution before you, when fairly understood, will not contravene or affect this principle. Let us examine it, stripped of the misconstructions which have been given it. You are told by the gentleman from Virginia, (Mr. Randolph,) that it goes to vest in the President a power to revoke, repeal, and

even make laws! I understood the gentleman to say so; if he did not, he will correct the statement. Taking this, then, as in substance the language and meaning of the gentleman, it is to be inquired how far the resolution itself justifies such a statement, or where he finds the premises to support such argument. Look at the resolution, and you will find in it no such power transferred to the Executive. By passing it we do not empower the President to make, revoke, or repeal laws; we only authorize him to suspend, for a limited time, their operation on the occurrence of certain events therein specified and described. Perhaps some gentlemen may call this legal refinement, or nice technical distinction, too minute for those expanded minds that wish to range at large in the boundless fields of fancy, to attend to; but so long as those distinctions have a tendency to promote a correct understanding of the subject, they will be regarded and fairly examined by every man of sense in the nation, who is seriously desirous of seeing measures as they really are, and not of viewing them in that distorted and disfigured form in which they are often presented to the public.

The incoherent and loose-constructed mind, (if the phrase may be pardoned,) unaccustomed to, and often incapable of, a close, correct, and analytical investigation of a subject, is alone averse to, because it either fears to meet or cannot comprehend the result of such investigation. But the opinions of such men are generally as light and unsubstantial as their show of reasoning, and the former have as little weight with men of real judgment as the latter. To proceed with the subject before you, sir; there is a material and substantial difference between a power to make, revoke, or repeal a law, and a power, on the occurrence of certain specified events, to suspend, for a limited time, the operation of such law. The events which are to happen previous to such suspension, are stated and described in the resolution, and are to be so described in the law giving the power in question—until those events occur, the power transferred cannot be executed. When they do occur, the President is to execute this law, as he does other laws. This distinction cannot well be mistaken; it is clear and perceivable to every man who will examine it for himself. But, to pursue the investigation of this resolution somewhat further, let us inquire what events are to take place before the President can execute the power proposed to be given him, of suspending the embargo laws. There must be "such a peace or suspension of 'hostilities between the belligerent Powers, or 'such a change in their measures respecting neu-'tral commerce, as will render that of the United 'States safe, in the opinion of the President." Some of these events must occur before the President can act—he is only made the judge that such events do occur as are described in the law, and of this he judges on his responsibility; and when such events do occur, what is he authorized to do? Not to revoke, or repeal, but to suspend, the operation of the embargo laws, until after the commencement of the next session of Congress. Every man must see the manifest differences between such a power as this, and an unqualified power to make, revoke, or repeal, a law. The distinction is evident, and perceivable by every discerning mind. It may be proper here to notice a position taken by the gentleman from Maryland, (Mr. Key,) which, at first view, possesses some plausibility; but it vanishes upon a close examination, and will be found not to justify the conclusions he draws from it, as applicable to the subject before you—and what will be said here on this subject, will apply as well to his arguments as to those of the gentleman from Virginia (Mr. Randolph) on the same point. He tells you that a law once made cannot be repealed, revoked, or suspended, by any power inferior to that which enacted it; and that the act of repealing or revoking a law is a legislative act, and the power exercised in doing so a legislative power. This statement may be admitted, in general, to be correct, as far as it applies to the case in question; but what conclusion does the gentleman draw from it? He says, if the President suspends a law by virtue of the power proposed to be given him, in the resolution before you, he exercises a legislative power, and acts in a legislative, instead of an executive capacity. This conclusion is not justified by the premises. The legislative power necessary to be exercised in order to suspend a law, is, in this case, to be carried into effect by Congress. They are to make the legislative provisions; the law you are about to pass is the legislative act, which is to operate on the embargo laws according to the provisions therein contained; that law, grounded on this resolution, will carry into effect the legislative power, and the President is only authorized to execute that law, according to the restrictions therein contained; there is, therefore, vested in the President no legislative power, but only a power to ascertain and determine when the events described in this law shall have taken place and when he decides they have, he is to execute the provisions of the law, and thereby suspend the embargo laws, during the time to be specified therein. From this it is clear the President is not to exercise a legislative power, or perform a legislative function, only an executive. We ourselves perform the legislative by enacting the law; the carrying of which into effect is left with the President of the United States. If further argument were necessary to suspend the laws in question, it would be necessary to inquire what effect the law we are about to pass is to have? The object of it is to produce, on the occurrence of certain events, a suspension of the embargo laws; if it be executed it will have this effect; it can have no other; without it such effect could not be produced by any act of the President. It must, therefore, be considered as the efficient act that produces such suspension; if it has not this effect, it is a mere nullity; for it can answer no other purpose; in passing it we certainly exercise a legislative power, perform a legislative act, and only authorize the President to decide when the same shall be carried into effect. Hence, it is clear that we, in this instance, perform the legislative

function necessary to suspend the laws in question, and do not vest in the President any legislative power whatever. The argument, therefore, that the exercise of a legislative power is necessary to suspend or repeal a law, is no sound objection to the resolution before you, for, in acting upon that resolution, we ourselves exercise such legislative power, and therefore completely perform what this argument seems to require.

After what has been said, it will not be necessary to examine the objections made to the President's exercising legislative powers, and the arguments used to show that, by the Constitution, all legislative powers were vested in Congress; because it has, I presume, been satisfactorily shown that, by the resolution before you, no such powers are intended to be vested in, or exercised by, the President; that he is to exercise executive powers only, and therefore those arguments cannot affect the question before the House; they might have much weight in showing that Congress could not constitutionally authorize the President to exercise unqualified legislative powers, or to perform the functions which the Legislature of the Union alone are competent to perform—but the measure before you, does not propose giving the Executive any such authority. It was not intended, and the resolution itself will not justify such a conclusion. In order to enforce the objections made to this measure, you have been told that, if you can authorize the President to suspend one law, you may give him the power to suspend all the laws of the Union. This argument furnishes no substantial proof against the correctness of the general principle in question. The mere circumstance that a principle may be abused, is no proof that it does not exist, or that a power given may be abused is no proof that such power cannot be constitutionally transferred; it only shows that you ought to be cautious in making such transfer. Every power that can be exercised either by individuals or public bodies may be abused, and so may every principle that is acknowledged to exist in ethics or politics. This, however, is no proof that the former is not to be used, or that the existence of the latter is to be denied. Congress might, by one single act, repeal all the laws of the Union, which would be a very extraordinary proceeding, and, as far as can be perceived, a very great abuse of power; but that is no proof they do not possess such power to repeal laws, or that they ought not to possess and exercise it on a proper occasion. To say, therefore, that the Executive may abuse a power, is no proof that it may not be constitutionally vested in him. To authorize the President to suspend, on the occurrence of certain events, all the laws of the Union, would be an abuse of power on the part of Congress, which might possibly take place, (and it is barely possible;) but which, it is presumed, and may fairly be calculated, never will take place. But, is this possible abuse of the principle in question, or of the Constitutional power we possess, any proof against their existence, or any substantial reason why we should not exercise such power on a proper occasion, and authorize the President, under proper restrictions, to suspend certain laws, when the public good and the interest of the nation evidently required it? Certainly it is not, and cannot be so considered. The practice and precedents of former Legislatures, under former Administrations, as well as under the present, justify this measure, as has been already stated to the House, when I was first up on this subject. You have by a law, passed in 1804, authorized the President to organize, in the recess of Congress, a government in the Territory of Orleans. Then you made the law; he carried it into effect. The power given was more important than that proposed to be transferred in the present instance. The cases before cited and read, may again be brought to the notice of the House. In the year 1794, a law passed, empowering the President to lay, revoke, and reinstate at pleasure, during the recess of Congress, an embargo, without any limitation or restrictions whatever. In 1799, the President was authorized by law to suspend, during the recess, the law interdicting all intercourse with France, at his pleasure, without any qualifications of his power whatever; and in 1800, his powers were renewed in the same words. To all these (except, perhaps, the first) no serious objections were made on the ground of principle, according to the best information we have been able to obtain. But, all at once, it is discovered by some gentlemen, who are in the habit of acting with those who passed the said laws, that though at those respective periods it was perfectly correct and unexceptionable to vest in the Executive the power in question, in the most extensive latitude; yet at this time to give him the like power, though qualified and greatly restricted, would be dangerous, contrary to principle, and a violation of the Constitution. I will not pretend to account for these extraordinary changes in the opinions of gentlemen, but leave it to themselves to account for them. But, to notice a more modern instance of an act passed by this House, similar to that now proposed. In the year 1806, a law was passed, authorizing the President to suspend, during the recess of Congress, at pleasure, without any restrictions, the non-importation act. So many instances of the same power being vested in the President without any limitation whatever, which is now proposed to be given him under very specific restrictions, would seem to require the most serious consideration, before the right to give it should be denied this House, and would seem to require of those who oppose the measure, to adduce very strong and cogent reasons indeed, before they would expect to convince either the House or the nation that, in all those cases that have been cited, Congress had acted in manifest violation of the Constitution. It has been attempted by the gentleman from Virginia, (Mr. R.,) to make a distinction between empowering the President to suspend an act which has not commenced its operation, and empowering him to suspend one which has gone into operation. This is manifestly a distinction without a difference; a resort to a kind of reasoning which was hardly to

be expected from that gentleman, with whom, it seems, nice legal distinctions are in great disrepute, and considered inconsistent with the enlarged views of a great mind. Let us, for a moment, however, examine the difference between stopping the operation of a law, and preventing a law from commencing its operation. I should suppose it required the same power to do the one as it did to do the other. These laws were enacted by the same power, and must require equal power to stop or suspend their operation. In sound reason there can be no difference between suspending the operation of a law that went into effect yesterday, and preventing a law going into effect which was to have commenced its operation to-day. When the moment arrives at which a law is to take effect, it requires the same power to arrest it from going into operation, that it would to stop its operation if it had actually commenced. There can be no difference. If, therefore, it was Constitutional to empower the President to suspend the non-importation law, which had not commenced its operation, it is equally so to empower him to suspend the embargo laws which have gone into effect. There is certainly no legislative power necessary to be exercised in the one case that is not equally so in the other. I shall not pursue the examination of this extraordinary distinction further, as it was abandoned by the gentleman who advocated it, by saying that he was opposed to giving the President a power to suspend a law in any possible case, whether it had commenced its operation or not. Another discovery of an extraordinary nature has been made during this discussion—that Congress have no power, by the Constitution, to lay an embargo. Although this question can have no relation to the case before you, or in any manner affect the decision thereon, (for whether we have the power to lay an embargo, or not, it has been laid, and surely those who deny us the power to lay it, will not contend that, when it is laid, we cannot remove it;) yet as it has been made and insisted on, we will briefly examine it. If this construction of the Constitution be correct, our powers of legislation will be found to be confined within very narrow limits indeed, and, so far as regards commerce with foreign nations, would be little better than a mere mockery. The only means we have to coerce foreign nations is through the medium of our commerce—particularly by withholding from them our productions, which consist of articles that are the necessaries of life and all-important to them, without which some of them could not well subsist, and most of their West India colonies would certainly be reduced to a state of famine. But if, in this respect, our hands are tied up, and we have no power, by the Constitution, to deprive them of the benefit of our produce—to keep them from those articles so necessary for their subsistence—they may impose what restrictions they please on our commerce, and laugh at our resentment, as we would be left without a remedy, without the means of retaliating the injury, or compelling them, by making it their interest, to do us justice. If this construction of the Constitution were correct, it would prove at once that those who framed that instrument did not know the true interests of their country; if they did, that they totally abandoned them. A fair exposition of the Constitution, however, will authorize no such construction—there is no clause in it that would sanction it. In article one, section eight, of the Constitution, it is declared that Congress shall have power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." This is a general delegation of power, and gives to Congress the right of passing all laws on the subject, which they may deem necessary for the public good, unless in the cases expressly excepted out of this general power, in the Constitution. It may be material here to remark that, in the Constitution, when general powers are delegated, if any exceptions thereto are intended, they are expressly made in that instrument. Without such exceptions the general powers delegated are considered unrestricted. Whence do you derive the right to prohibit the migration or importation of slaves from Africa? From the power to regulate commerce with foreign nations. Let us see if there be any exception from this general power to regulate commerce, that would support the objections made to laying the embargo. The first exception is in the ninth section of the same article, and prevents Congress from prohibiting the migration or importation of such persons as any of the then existing States should think fit to admit prior to the year 1808. This exception was made because, when the Constitution was framed, it was not intended that Congress should have power to prohibit the importation of such persons as are stated therein until the time therein stated should arrive; and to take this out of the general power delegated, an exception became necessary. I state this case to show that, where any exceptions to the general power were intended, they were expressly made; therefore, in the case before you, if there be no exceptions made to the general power affecting the point in question, it is a fair construction that the Constitution never intended to restrict Congress from prohibiting the exportation or importation of any articles whatever, or the adoption of any other measures calculated to regulate and control commerce.

Another exception in the same section is, that "no tax or duty shall be laid on articles exported 'from any State, and no preference shall be given 'by any regulation of commerce or revenue, to 'the ports of one State over those of another," &c. These are the only exceptions made in the Constitution of the power given to regulate commerce—and none of them in the least degree supports the position that Congress have not power to lay an embargo. On the contrary, they prove that such a power was intended to be left with Congress, otherwise it would have been excepted. In particular the exception that prohibits the imposition of a tax or duty on articles exported, clearly proves that it was not intended to prevent Congress from prohibiting the exportation of those articles, but only from imposing on them a duty;

otherwise it would have been so expressed. And although this exception was used as an argument against the power of Congress to lay an embargo, it certainly is, when properly understood, the strongest proof in favor of their possessing such power. This general power then, given to Congress to regulate commerce, must include the power to determine to what nation our trade shall go, and on what terms, and to what extent we will permit it to be carried on—without this power, the power to regulate commerce would be altogether nugatory. If you cannot prohibit the exportation of your produce, in whole or in part, how can you regulate commerce? If you have the power to restrict your trade in any degree, you have the like power to restrain it to the full extent of an entire prohibition, both of exports and imports. If gentlemen attempt to fix a point beyond which you are not to go, they will find it impossible. They would hardly venture to say that you could not by law prevent the exportation of a single article; and if you can prohibit the exportation of one article, you can of every article—there is no exception made in the Constitution—the power is, as it ought to be, coextensive with the exigencies of the country. There is another clause in the Constitution, article one, section 8, which might be deemed sufficient, if it were necessary to resort to it, to warrant the laying an embargo: "Congress shall have power to make 'all laws which shall be necessary and proper for 'carrying into execution the foregoing powers, 'and all other powers vested by this Constitution 'in the Government of the United States, or in 'any department or officer thereof." If therefore Congress consider an embargo necessary to carry into effect the power given to regulate commerce, they are by this clause empowered to pass a law laying such embargo. But it is not necessary to resort to this provision in the Constitution, the general power given to regulate commerce, necessarily confers the power to lay an embargo; and no reasonable doubt, I trust, can exist on this subject.

A distinction has been attempted to be taken on this subject, also, between a limited and unlimited embargo. There will be nothing substantial found in this distinction. It is, indeed, an exertion to show a distinction when there is no real difference. A limited embargo can only mean an embargo that is to terminate at some given time; and the length of time, if a hundred years, will not change the character of the embargo; it is still limited. If it be Constitutional to lay it for one day, it must be equally so to lay it for ten days, or a hundred days, or as many years; it would still be a limited embargo; and no one will, I presume, deny that an embargo laid for such a length of time, and one laid without limitation, would, in reality and to all practical purposes, be the same. This, then, clearly shows there is not the slightest foundation for the distinction taken between a limited and an unlimited embargo. If we have power to impose it, we have the power to continue it until it shall be considered the interest of the nation to remove it.

We have been told by the gentleman from Virginia (Mr. Randolph) that he is very much alarmed at the rapid strides this Government is making, in assimilating itself to a monarchical form. The Government is represented, in the chimerical fancy only, I presume, of that gentleman, as being already a kind of monarchy; and the President as the sun around which the officers of Government, and others, revolve as satellites. It might be sufficient to inquire from whence proceed all these alarms, and to wait for the gentleman to give an answer, for he has not stated even a plausible pretext for them. I know of no foundation for such alarms; and I firmly believe there is none. It has not been proposed during the present session to vest in the President powers which had not heretofore been possessed and exercised by other Presidents, as well as by him, to a much greater extent than is now proposed. Why, then, such alarms should be attempted to be raised with respect to the powers vested in the President, is indeed extraordinary. There appears not the slightest ground to justify them. I know not who the gentleman supposes revolve round the Executive as satellites; he did not choose to name them; so far as regards myself, there certainly never has been an act of mine which would justify such an insinuation. I have acted from motives which no man can, with truth, impeach, and which no gentleman shall impeach with impunity; and, I trust, those with whom I have had the honor generally to act, have done the same. Why, then, attempt to make an impression on the public mind, without a single fact to justify it, that the Executive is the sole mover of all the proceedings of the Legislature? There may be some secret design in all this, which is not expressed or perceivable; but I feel very confident no real good to the nation can arise from such a course of proceeding. But further, you are told your Government is a masked monarchy. What the gentleman meant by this expression is equally mysterious with his other allusions. Are there any acts of the Executive which prove that he is acting the monarch under disguise, or that he has any disposition to promote in this country the principles or practices of monarchy? If there are, let them be made known to the public. I do not believe they exist. With what propriety or correctness, then, can this Government be called a masked monarchy? There does not appear to be any foundation for the assertion; and I am therefore authorized to conclude there is none. I consider it proper in this place to correct some misrepresentations of what I said on a former occasion, made by the gentleman from Virginia, (Mr. R.,) which I suppose were occasioned by his misunderstanding me. That gentleman informed you when he was up, on this subject, that a gentleman (alluding, I suppose to me) who, a few days before, considered that a peace in Europe would produce difficulty to this country, now conceived that a general peace or the removal of the orders and decrees of the belligerent Powers would authorize the removal of the embargo. To understand this correctly, it will

be necessary to advert to what produced the remarks made by me. The gentleman from Virginia had said, as I was informed, for I happened to be out of my seat at that moment, that we were in a state of security, which arose from the pressure of the two great belligerent Powers made upon each other, and which prevented them from making war upon us. I did not hear the gentleman say this, but was told he had said so. In answer to this argument I stated that, if that was the case at this moment, and afforded us temporary security, which however was not admitted, it was uncertain how long this equal pressure would continue; that one or the other must prevail, unless an accommodation took place, and that when either was relieved from this supposed pressure, it would then be at full liberty, if disposed, to attack us; and that, therefore, we would not rely on such a state of things, even supposing it to exist at this time, as affording us sufficient security. I certainly did not say that peace in Europe would be dangerous to us, or would increase our difficulties; but that, under existing circumstances, and supposing the gentleman's argument to be correct, it ought not to be relied upon so as to render preparations for defence unnecessary. For, if those Powers were only prevented from attacking us by the pressure with which they bore upon each other, the moment that pressure was removed they would be at liberty to act as their inclinations should direct them, and might, therefore, then wreak their vengeance on us. The gentleman, however, corrected the misstatement made to me of what he had said. He informed the House that he did not say that those Powers pressed so hard upon each other as to render us safe, but that they pressed so severely, and yet equally upon us, as to produce such a security on our part against being attacked by either, that it was unnecessary to make preparations for defence against either. I confess I could not well understand the force of this reasoning, unless it was intended to show that those Powers pressed so equally upon us, that we could not determine which to resist, and that it was entirely out of the question to resist both. If this was not what the gentleman meant to establish, I cannot comprehend very clearly what he had in view. It is not easy to see how those Powers, pressing with equal yet great severity upon us, should render it unnecessary to prepare the nation for defence. If it be necessary to make preparations, to a certain extent, for defence when threatened by one Power, it will certainly be necessary to increase those preparations when threatened by another Power, of perhaps equal force, and with equal appearance of hostility. There can be no mistake in this argument. If the gentleman, therefore took this position, it cannot certainly be correct.

[Mr. Randolph said, that had happened in this case which frequently happened, that the report of what was said could not be relied on as correct. He frequently observed it to be the case with printed reports, and it was much more likely to be so with hearsay. The gentleman from Tennessee not having heard me state what I did say, observed Mr. R., I will repeat it, not by way of explanation, but that the gentleman may have my argument before him, and exercise the whole power of his talents upon it; and I shall give it up to his mercy. I stated that, if we had cause of difference with one of the belligerents only, the probability was, that we might be involved in war with that one, and in amity with the other. But having differences of such vast and equal magnitude with both, their equal pressure upon us not only would but had kept us in a position of neutrality towards both, being equally repelled by both from either. That, accordingly, our Government had taken that position, and determined to adhere to it; that therefore the probability was, that each of those Powers, seeing that we were driven into the arms of neither, would begin to relax, in order to induce us to associate with that which relaxed most in our favor; and such being our situation, that invasion was not to be apprehended, because either party invading would see that she would throw us into the arms of the other; therefore, that there was no necessity for a standing force against invasion; but it was no reason why we should not take measures of general defence against all. That was my argument.]

Mr. Campbell said, he was perfectly satisfied to understand the argument of the gentleman in his own way, who had explained before, but not to the same extent. The difference between us, said Mr. C., is the same which has existed during the whole discussion on the army bill, and will result at last in this: that the gentleman admitting that both those Powers press severely upon us, yet is of opinion that, as both press equally, each is afraid to increase the pressure so as to force us into war; and that, therefore, preparations for defence are unnecessary: while I am of opinion that such pressure, on the part of both those Powers, so far from being a cause for us to relax in making preparations for defence, ought to stimulate us to redouble our preparations to defend ourselves against both or either. This is the true state of the arguments, and the House will judge which is the most correct. The gentleman's argument has some plausibility at first view, but it does not, in my opinion, present such ground as will satisfy the nation that no preparations for defence are necessary. For, if the conduct of each would justify us in going to war, it certainly ought to induce us to prepare to meet it, in case it should be forced upon us; and it cannot be sound policy to repose in security on the relative situation alone of those nations with regard to each other and to us, having strong evidence that their disposition towards us is not friendly, and no assurance that such situation will remain unchanged a month, a week, a year, or even a day. I do not, therefore, believe that this argument as explained, though more plausible than as before understood, will support the ground taken. But it was not my intention to enter into the discussion of this point, and I only mentioned it to correct the error of the representation made by the gentleman of my argument.

The same gentleman inquired whether this reso-

lution was intended as a means to get rid of the embargo, as being a measure of which we are tired, and perhaps ashamed to acknowledge it. Now, sir, said Mr. C., I can inform that gentleman that it is not my object to get clear of the embargo on any terms short of those stated in the resolution before you, and that, so far as regards my conduct respecting the embargo, I never have been tired of it, having done only what I considered my duty on that subject; nor am I now, nor have I ever been, ashamed of it. If I had opposed every measure that had been proposed, calculated to defend my country from foreign insult, and to vindicate its violated rights, I might indeed feel the *blush* of *shame* and the *sting* of conscience; but, having to the utmost of my power endeavored to put my country in a state of defence against impending danger, I am harassed by no such feelings; I have an approving conscience that rests in quiet. If I had entertained doubts on the subject of the embargo, they would have been removed by the united voice of the people of America, which would have been sufficient to convince me that, in this respect, my conduct was correct. From every quarter of the Union you are informed that, at the same moment the people feel the effects of the embargo, they approve the propriety and wisdom of the measure, and declare their willingness to submit to the privations it may occasion, until those Powers, whose conduct produced it, and on whom it was intended to operate, shall be induced to do us justice. And they do not wish that the embargo should be removed until such event takes place, unless it be for the purpose of taking a stronger ground, and then it might be unnecessary. But they would in such case, with their lives and fortunes, vindicate the violated rights and honor of their country, and wrest from those nations, by their courage, that justice which they have refused to grant them by any other means. This is the sense of the nation; nineteen out of twenty, nay, ninety-nine out of a hundred, I might say, are of this opinion. They say to us, in strong terms, "you are not to retract, we will go with you and support your measures, as far as may be necessary to repel encroachments on our rights, resist the injuries we have received, and secure us against further aggressions." We have therefore, sir, no cause to be ashamed of the embargo, and no man, it is believed, who voted for it, has since regretted giving such vote; on the contrary, many who honestly opposed it in the first instance, and did not think it essentially necessary, are now convinced that it was the salvation of your seamen, and of a vast proportion of your property; that it was the only measure that could and did preserve from capture an immense proportion of your commerce that was afloat upon the ocean, that is now secure in your country, and would otherwise have fallen a sacrifice to the orders and decrees of the belligerent Powers. We are now in a state that enables us to take any ground that circumstances may require, and a few months may put it in our power to decide whether or not we must exchange the pursuits of peace for the bloody scenes of war, and this we ought to do with great reluctance. The idea that the embargo was to be a permanent measure, has not been held out by any one friendly to the measure; but that it should continue until circumstances would authorize its removal, has been insisted on, and ought to be supported by every friend to his country.

You are told that the embargo ought to be removed, and that you ought to authorize your merchant vessels to arm in their own defence. I am not disposed to examine at large what might be the consequences of this measure. I do not say that the time may not arrive when it may be necessary; but at this time it would, in my opinion, be extremely impolitic and dangerous in its consequences. By abandoning the embargo, you would show a want of perseverance in the measures you adopt, whilst that which you would substitute in its place would, if alone relied on, prove feeble and inefficient, and also put it in the power of interested merchants to choose who should be your friends and who your enemies. Arm your merchant vessels, send them to sea, and with them it will rest to say with which of the belligerent Powers they will involve you in war. Nothing would be more easy than for them to embroil you with which they pleased of those Powers, and fan the already kindling sparks of discontent into the flames of open war. I am not willing to lay open so wide a field for the effusion of human blood. The people of America would be justly alarmed, if they were told that a few interested, and perhaps many of them foreign, merchants had it in their power to provoke a war, that might hazard the fate of the nation and involve the blood of thousands. I will not authorize the merchant vessels to arm until you determine what Power we are to resist by force, and can tell them that they shall arm against that Power, and that alone. We ought to distinguish our friends from our foes, and not put it in the power of any small portion of individuals to put the whole civilized world in arms against us; and it is evident this might be the consequence of such a measure.

But you are told by the gentleman from Maryland, (Mr. KEY.) that you ought to repeal the embargo laws, and the reason he gives for it is, that you have already tried the experiment for five months, and that it has failed. Let us examine the correctness of this statement as to facts, and also with regard to the conclusions drawn from them. The embargo was laid on the 22d of December last, and four months have not yet since elapsed. It was not known in Great Britain, one of those nations on which it was intended chiefly to operate, until about the 11th of February, and the last accounts we have seen from that country come down only to the 25th of the same month. The only experiment, therefore, that can be alleged to have been made, is only for the space of about twelve days; and the information we possess with regard to the manner in which the embargo was received in England is not very particular, and may not be very correct. However, as far as it goes, it certainly does not support, but contradicts the gentleman's assertion, that the experiment has failed. But will gentlemen pretend to say that it could have a fair experiment, or be expected to produce the desired effect in the space of twelve days? this cannot be insisted on by any candid man of reflection. But, sir, it is somewhat extraordinary, that gentlemen on this floor should assert that the embargo presses so severely on your own citizens that you must withdraw it, and that, after the experiment has been made, it has failed in the object intended to be attained by it, when almost the whole nation, as far as we can ascertain the general opinion, contradicts the statement, and, in a voice that cannot be mistaken, assures you that they approve the measure, and will support you in it, until a fair experiment be made, until the intended object shall be obtained. This does not prove its failure.

It has been stated on this floor, that you have abandoned your commerce to Great Britain, and done the very thing and all she wished you to do. Gentlemen change their positions with respect to this subject, and the grounds of their opposition to it, as often as the chameleon changes its color, so that it is extremely difficult to fix them to any point or principle on which they rely, or to ascertain any precise object they have in view. At one time the embargo is to Great Britain a just cause of war; at another, it is the very measure she desired. I leave it with gentlemen to prove to the nation the consistency of these *seemingly very inconsistent* objections; it will probably require the exertion of all their talents. It is true, sir, we have abandoned our commerce *with* Great Britain, but not *to her;* we have retired from the ocean, and in retiring, have carried with us almost the whole commerce of the European world. The belligerent Powers cannot carry on commerce with each other, and there are no neutrals in Europe with which they can trade—what commerce, then, is abandoned by us to Great Britain? There is scarcely a merchant vessel that sails the ocean—she can hardly find a solitary ship to pursue—we had carried on almost the whole of the neutral trade—we were forced to abandon it—we did so—we retired, and left the great Leviathan of the ocean to roam about without a solitary object upon which to prey. Let gentlemen, then, inform us what commerce Great Britain has acquired by this measure; they can point out none; they cannot designate a single branch of trade of any importance which Great Britain has got by our retiring. But let us notice what the first statesmen in that country say on this subject—and they seem to have furnished the full to what was said on this floor, as has frequently been the case, with only this difference, that they stated the whole case, whereas a part only was stated here. They say that, in consequence of *their* orders of council, you have abandoned your commerce, as you ought to have done; and yet they inquire, what is the commerce thus abandoned? They admit they have all that is left, but they inquire what that is; they cannot ascertain it; they say there is none, and in this they are correct. With regard to the effect of the embargo, they state what has been before, in substance, stated on this floor, what was always considered, and so stated, would be the effect of this measure. They say the French West India islands will starve; but supposing this to be the case, they inquire what will become of their own islands, whose sole dependance for subsistence is on the commerce and productions of America? They say *they* must also starve; they inquire if a famine must be produced in England, in order to supply their Islands with provisions, which they could not even then effect. They pursue the picture, which every one must have seen; they describe the distresses that must be produced in Great Britain itself, as well as in the Islands; and ascribe the whole of these misfortunes to the orders of council of their own Government. This does not go to prove that the embargo was the very measure which Great Britain wanted; nor does it show that she acquired any real or valuable acquisition of commerce by our retiring from the ocean; it contradicts the assertion that the embargo has failed in its object, and proves, in a very decided manner, that it is in full operation, and in a fair way towards effecting the object for which it was laid; and that its pressure is severely felt by both the great belligerent Powers. Yes, sir; it bears upon the one as well as upon the other; at the same time that it reduces almost to a state of famine the Islands of France, it presses with great severity on those of Great Britain; for though she can supply the Islands, so far as she has the means to do it with, she cannot supply them when she has no means. When she has no granary from which to draw supplies, her power to convey them is useless. Those Powers are, therefore, at this moment groaning under the pressure of this measure, while our own people, comparatively speaking, feel it but very lightly. The embargo, then, is not as has been stated, a measure which, in addition to the orders of council of Great Britain, and the decrees of France, has imposed on our own citizens the most grievous and ruinous oppressions. No, sir; it is a measure which has snatched our commerce from the grasp of those Powers. They had taken measures for seizing all the neutral property that floated on the ocean; but a wise and fortunate precaution, the embargo, dashed from their lips the cup with which they were about to quench their thirst for plunder. We secured from capture our ships, our commerce, and our seamen, and preserved our produce at home. It has, sir, been stated on this floor, that the orders and decrees of the belligerents were not the causes that produced the embargo. It is an unpleasant task to argue against barefaced assertions, without facts or reasoning to support them. It must, however, sometimes be done. It would, I presume, in this case, be deemed sufficient to deny those assertions, and state the fact that those orders and decrees were the real causes which produced the embargo. If they were not, let me ask what was? Will not gentlemen permit those who voted for the embargo to be the best judges of the reasons that induced them to do so? I should suppose they could best determine that question; they have done so, and announced to the public the reasons that in-

fluenced their conduct. The causes that produced this measure are manifest to every man who is willing to see them. The official documents laid on your table, previous to its adoption, show them in part. In addition to these, the official note of the Commissioners of Great Britain annexed to the rejected treaty had been published, and was was well known to this House. It declared, in strong terms, the intention of that Government to adopt measures of retaliation, if France should execute her decree of November, 1816, according to the construction lately given that instrument. You were also informed, if not officially, yet through the medium of those public prints which are considered, in a great degree, the official organ of that Government, that orders to the same extent with those which have been since issued, were agreed upon, prepared for signature, and would, in a few days, be published. This had considerable weight on my mind in forming an opinion on this subject; I considered it highly important to guard against a measure which appeared to me next to certain; and the event has justified the grounds upon which we have acted. That these orders and decrees, therefore, produced the embargo, cannot be doubted by any rational mind; they are known to the nation as the real sources from which it proceeded; and I am therefore willing to say, that so soon as they are withdrawn, with proper assurances that they shall not be renewed, it shall be removed.

I shall not enter into a particular inquiry with regard to the extraordinary pressure, stated on this floor to be produced on our citizens by the embargo. That it would be severely felt by almost every portion of society was to be expected, was never denied; but that it has produced the distresses that have been represented, is not founded in fact, from the best information we possess; and the public voice contradicts the statement. The people anticipated their Government in expressing their indignation, in the strongest terms, at the manifest violation of their rights, and the meditated destruction of their trade by the belligerents. They saw a decisive measure was necessary, and would be taken; they knew the only means in our power of reacting on those Powers, were, by withholding from them our trade and our productions; they were highly pleased to see that we had taken a manly and firm ground to resist aggressions, and received the measure with evident marks of approbation, pledging their lives and fortunes to support their Government in it.

There were some remarks made by the gentleman from Virginia (Mr. Randolph) with respect to an expression in the letter of Champagny to Mr. Armstrong, our Minister at Paris, which I think proper to notice in this place. I am not certain that I understand the application of those remarks, or the object the gentleman had in view in making them. If not, I shall willingly be corrected in this respect. He seemed to infer that the letter contained a threat or menace against the United States; and some of his remarks were calculated to make an impression that there was some very mysterious understanding between the French Government and that of this country, in regard to the measures that have been adopted by the latter. I cannot concur with him on either of those points. In regard to the first, I do not understand the letter in the same light which that gentleman seems to do; as if intended to awe or menace the Union. And, with respect to the second, I feel confident in asserting that there is not the slightest ground for such an insinuation; nor is it countenanced by anything contained in that letter when it is fairly understood. In saying this much, I would not be understood as in the least degree palliating the harshness of the expressions used in that letter. I have no such intention; they breathe a spirit which I do not now, and never shall, approve in that or any other Government; but I am still willing to do it justice. The expressions particularly alluded to are these: "He (the Emperor) has ordered that they '(the vessels which had been brought into French 'ports) should remain sequestered until a decision 'may be had thereon, according to the disposi-'tions which shall have been expressed by the 'Government of the United States." The gentleman seemed to place particular stress on the words "shall have," and gave us to understand he considered them as relating to such measures as our Government had adopted previous to the time of writing the letter in question. He further stated, that the letter alluded to was written on the 15th of January, and that the embargo was laid in this country on the 22d of December before; and he hoped the embargo was not the measure which it was wished, according to that letter, should have taken place. Here is, sir, an attempt to give plausibility to an erroneous suggestion, founded on mere conjecture, by placing a forced and ungrammatical construction on the expression above cited, from the letter in question. According to the known rules of the English language, and the best authors on the subject with which we are acquainted, the words "shall have" are used to designate an event or transaction, which is to take place before some other event, which is also to take place in future, and are never used to express an event which had actually occurred at the time of speaking them. In the letter in question, Mr. Champagny is speaking of American vessels which had been taken and brought into French ports under their decrees, upon which no decision had taken place, and respecting the release of which he had been addressed by Mr. Armstrong. He says the Emperor had ordered that they should remain sequestered (instead of being condemned according to the decrees) until a decision may be had thereon according to the dispositions which shall have been expressed by our Government. That is, evidently, the dispositions that shall have been expressed previous to such decision; not those that had been expressed previous to the time of writing that letter. If such had been his meaning, he would have used words calculated to express it, as it is not to be presumed that he was unacquainted with the use of language. What pretence, then, was there for insinuating—as the gentleman was understood to do—that the embargo, which was laid nearly a month before, and was not known there until nearly two months after, was the measure alluded to in that letter, and that there must have been some secret understanding between the two Governments, by which the measure was adopted to accommodate France? If this was the meaning of what was said and intended to be conveyed to the public, it is an additional proof of the extreme inconsistency of gentlemen's arguments and objections to measures; who, at one moment, tell you the embargo was laid to accommodate France, and, in the next, insist it was the very measure that Great Britain wished you to adopt. But the idea that this House, or any branch of the Government, acted under the influence of the French Emperor, or in pursuance of any known wishes on his part, is too absurd to require refutation, and too ridiculous and improbable to gain belief among men possessing any tolerable portion of information. There is not a solitary fact which can be adduced to support the assertion, nor will any fair construction of the letter in question give it the least plausible countenance.

With regard to the style of the letter in question, I feel no disposition to justify it. I disapprove its tone and harshness as much as any man ought to do; but I cannot see in it that threatening or commanding language which some have pretended to discover. The object of the letter appears evidently to be to induce this nation to join France in the war rather than Great Britain; and, in order to effect this purpose, the writer attempts, by strong representations of the conduct of Great Britain towards us, to convince our Minister that we ought to go to war with her, and says that Bonaparte, believing this to be the case, concluding that we are already at war with that nation, is willing to consider us associated with France and the other Powers of the European continent who have to defend themselves against England. This does not appear to me to contain a mandate, a threat, or menace, but only an endeavor to persuade this nation that it was her interest, and consistent with her duty, to join in the contest against Great Britain, and as an inducement for her to do so, it was stated that the French Emperor has ordered the vessels and property taken not to be condemned, but only to be retained sequestered, until it is known what the disposition of this country may be on the subject. What did Great Britain say two years ago? That unless you resisted the decrees of France, she would, notwithstanding the treaty then proposed, reserve the right to act as circumstances might require towards you—as well as other neutrals—and to adopt measures of retaliation. Is not this the same in substance, only in different language, with what is contained in the above letter? Has not Mr. Canning repeated the same thing to your Ministers at London? That His Majesty had not discovered in the conduct of the American Government such a disposition to resist the decrees of France as would induce him to withdraw the note containing the above sentiments, which had been annexed to the rejected treaty; and although he stated that, if the treaty had been ratified by us, he would have carried it into effect, yet he would still reserve the right to retaliate by imposing restrictions on neutral commerce, because our Government had not resisted, in the manner he expected, the French decrees. To me, therefore, the conduct of those two Powers appears precisely in the same point of view in this respect; with no other difference except as relates to the commencement of their system of restrictions on our commerce—and this point I shall not examine at this time; but after that system was once commenced, each Power appeared to use every means it possessed to get us involved in the war against the other. This was the principal object they seem to have had in view, and in this they have hitherto failed.

It has been stated on this floor, upon what authority, or for what purpose, is not very obvious, that the embargo has been better received in England than in France. This may or may not be the case, for we have no correct information of how it was received in France, and very little respecting the manner in which it has been received in Great Britain; nor can it be very material to this nation which of those Powers thinks most favorably of the measure. The best information from England states that it does and will press very severely on her manufacturing interest, and that thousands will be thrown out of employment and reduced to a state of famine for want of the ordinary means of support. That our importations from that country, which are estimated there at nearly sixty millions of dollars annually, have been almost entirely stopped in consequence of the embargo; no orders having been sent for them by our merchants. This immense sum will therefore no longer flow into that country, in supplies or specie; their goods will remain in the hands of the manufacturers, and not in their warehouses, there being no other part of the world to which they can send them for consumption. This will carry the effects of the embargo home to every class of society in that country; the people will sensibly feel them, will see the causes that produced them, and speak to their Government in a tone of language that will command their attention. In addition to this that country will be deprived of about fifteen millions of pounds of cotton, which she annually received from us, being about one-half the amount of the article required to supply her manufactories. This cannot be furnished her from any other part of the world, and of course her trade will be palsied; her manufactories must stop; a great portion of those engaged in this business will be thrown out of employ, and increase the general scenes of ruin and distress in the nation. These circumstances have already alarmed the people of that country, made very serious impressions on the best informed men there, and produced numerous applications to their Government for peace with America. A distinguished member of their Parliament has given notice that he would move to repeal the Orders in Council. If we wanted

evidence of the effects of the embargo, we have here the strongest proofs that could be expected on the subject. And further, with respect to the causes that produced this measure, the ablest statesmen in England have stated on the floor of Parliament, in direct contradiction of what has been stated here, that the Orders in Council were to this country just cause of war. They were therefore certainly sufficient to authorize the embargo.

But, you have been told that the present state of our public affairs is not to be attributed to the proceedings of the belligerent Powers, but to the conduct of own Government in rejecting the proposed Treaty with Great Britain. That treaty has been examined in this House already, in a manner which renders it unnecessary for me to go at large into the subject; but it may be proper to notice some circumstances attending that instrument, and draw the attention of the House to some of the provisions it contained. In the first place, that treaty was presented to our Government, for their acceptance, accompanied by a mandatory note annexed thereto, containing a threat, that if you did not resist the French decree of November, 1806, in a manner agreeable to the views of Great Britain, she would, at your expense, adopt measures of retaliation, and expressly reserving the right to do so, notwithstanding you should ratify the treaty; while on your part you would have been bound by the terms of the treaty, without any condition or reservation whatever. Thus, she would have had the power to adopt such measures of retaliation as she might choose to consider your condition required—might let loose all her engines of destruction against your commerce, while you were bound by the treaty not to adopt a single measure that would really affect her trade or interest. To accept a treaty under such circumstances would disgrace the government of any independent nation. The American people would spurn with indignation those who should succumb in such a manner to any foreign Power, and agree to ratify a treaty accompanied by conditions so humiliating to this nation, even supposing there had been no other objections to the instrument itself. But, upon examining that instrument, (as shall be more particularly noticed hereafter,) it will be found that this Government is there bound not to prohibit importations from or exportations to Great Britain—being thereby deprived of the only means we possessed of coercing that nation, while she is not bound in a single instance in which you are materially interested. To place your Government in this situation, therefore, by ratifying that treaty, would be to sacrifice the best interests—the honor and dignity of the nation.

The gentleman from Virginia (Mr. Randolph) further stated, that the want of a provision respecting the impressment of our seamen was alleged by our Government as the principal objection to ratifying the treaty; and he observed that the informal arrangement agreed upon by the Commissioners of the two Powers, contained in an unofficial note, written by those of Great Britain to our Ministers, was such as ought to have satisfied our Government on this point. Upon examining this part of the subject, we shall find that this informal note, so much relied upon, if it was calculated to have any effect, left the principle of impressment in a situation more unfavorable on our part than it was before, and did not in any respect go to correct the practice. The American Government never did admit that Great Britain had a right to impress her own seamen from on board our merchant vessels. She insisted she had such right, and the question rested thus undecided—it being insisted on by the one side strenuously, and (it is believed correctly) denied by the other, that such principle or practice was sanctioned by the laws of nations. In this celebrated unofficial or informal note, so satisfactory on this subject to the gentleman, Great Britain insists on the right, and also on the practice; and only says that constructions have been given and shall be repeated to exercise that right with caution, &c.—still retaining the right to impress those she may call her own seamen from on board your ships. Great Britain has made similar professions for years past. These are no new professions, but a repetition of the former ones; and under these she has incessantly impressed your seamen; and thereby, as well as by other means, embarrassed and harassed your commerce. It was stated that this informal note corresponded with the project proposed by our Ministers on this subject, in conformity with the instructions they had received from their own Government; and it was also stated that the only objection to this arrangement was, that this note was not formal or official.

This statement will be found, upon examination, not to be correct. There were two projects under discussion, the one proposed by our Ministers, under the directions of our Government, and the other a counter project proposed by the commissioners of Great Britain, and entirely disagreed to by our Ministers. The former of these, after some unimportant amendments proposed by the said commissioners and agreed to by our Ministers, was laid before the British Government, and by them rejected. This is the only project that had the assent of our Ministers or the approbation of our Government. By this project, the pretended right set up by Great Britain to impress her seamen when found on board our vessels is entirely abandoned, the principle is laid out of the question; and it is stipulated that the contracting parties shall respectively enact laws, whereby it shall be made penal for the commanders of vessels of either of the said parties to receive deserters from the vessels of the other; and it also provides for delivering up such deserters, when the vessel having them on board shall arrive at any port of the party to which they belong. This project provides completely against the British practice of impressing seamen; relinquishes the right to impress claimed by her, and provides against abuses on either side. The unofficial note alluded to, so far from containing stipulations corresponding with those in this project, has not a single provision of a similar nature, or any one calculated to afford our seamen the

like security; on the contrary, it expressly recognises the principle and reserves the right to impress their seamen on board our vessels; and only gives assurances that instructions shall be given and enforced for the observance of the greatest caution in exercising that right, &c. It may be proper here to read this note so highly approved of by the gentleman; it will merit the attention of the House, and show what kind of provision he is willing to accept for the security of American citizens. [Here Mr. Campbell read the note and the project and counter project.] The House must now see, said Mr. C., that this note contains no stipulations in any manner corresponding with those in the project in question. It provides no remedy against the evil complained of, it promises no additional security to our seamen. Great Britain always pretended she was willing to give up our impressed seamen when their citizenship was proved, and that she only claimed the right to impress her own seamen and not ours; this note does no more; it makes no new provision; but merely repeats the same professions and promises that had been made and disregarded in practice, for years before. It does not therefore in my view place the subject of impressments on any ground more favorable to us than it was on before. It would not then be considered as any substantial inducement to agree to the rejected treaty; and the merits of that instrument rested on precisely the same grounds they would do, if no arrangement whatever had been made on this subject; and I apprehend no American will venture to assert that our Government ought to have ratified a treaty, which made no provision to guard our citizens against impressment, which left unadjusted by far the most important matter of difference that was in discussion, and the principal object at least, if not the only one for which an extraordinary mission was sent to that country.

There is another provision in this treaty that has been already alluded to, which deserves more particular attention. It is that by which this Government is prevented from prohibiting the exportation or importation of any articles to or from Great Britain. It is contained in the 5th article and is in the following words. "Nor shall 'any prohibitions be imposed on the exportation or 'importation of any articles to or from the territo-'ries of the two parties respectively, which shall 'not equally extend to all other nations," &c. This provision at first view might seem to be reciprocal, but upon examination it will be found, that in practice it would have no reciprocity in it. The articles we receive from Great Britain are chiefly luxuries, that we could without much serious inconvenience dispense with, and which might be obtained from other countries, with nearly the same advantages and equal facility that they are from her; whereas those articles which she receives from us are of the first necessity to her, without which her territories could not well subsist, and such as she could not be supplied with from any other quarter of the world; neither could she find customers for those articles of manufacture which we receive from her, to the amount of about sixty millions of dollars; while on the other hand the whole continent of Europe, and other parts of the world, would furnish markets, nearly if not altogether equal to those of Great Britain for our productions. In this view of the subject there is no reciprocity in this provision; its advantages are entirely on the part of Great Britain. It never can be her interest to prohibit the exportation of her manufactures to this country, or the importation of most of our productions into her territories, for which there is always a great demand; she never could produce any serious impression on us by such a measure; she would herself feel it much more severely than we would, and it would prove much more destructive to her interests. But it might be vastly important for us to prohibit importations from that country, as well as exportations to it; we could supply ourselves from other countries, and find other markets for our produce, while at the same time we would by such a measure produce the most serious impression upon that nation, and affect her interests in the most vital part. Nothing can prove this more clearly than the present state of our public affairs, the necessity we have been under of resorting to the embargo, and the effect it is likely to produce. If circumstances had rendered it proper to confine its operation to one nation only, its pressure would have been equally severe on that nation, while its effects would have been much less severely felt by us. By the provision in this treaty you would not adopt such a measure unless it were general; you cannot prohibit the importation of goods from Great Britain, or the exportation of your own productions to that country—you are in fact deprived of the control of the produce of your own soil, your hands are as it were tied up; you are called upon to relinquish the strong hold you have upon that nation, the only effectual means to coerce her to do you justice, and thereby to sacrifice the best interests of your own country.

You are told your Government ought to have ratified this treaty, which secures to Great Britain everything of any consequence that she could demand, and leaves unadjusted the most important object to this country that was in discussion. All the matters in which her interest was particularly concerned have been finally settled; the affair of primary interest to this country, which has been the subject of dispute between the two nations for years, and more than any other seemed to require a speedy adjustment, is reserved for further negotiation; that part of the contract which is peculiarly favorable to her views, is completely settled and binding on us; that which is all-important to the personal security of our citizens, and in which the interest of the nation is deeply concerned, is to be discussed hereafter; and she is in the mean time unfettered with any binding arrangments on the subject, while your hands are bound up, your powers of legislation restricted with regard to the disposition of your own productions, and deprived of the very means you possess by nature to compel her to honorable terms. This is the view I

entertain of this subject, and there is no other light in which I apprehend it can be fairly seen. Suppose the treaty had been ratified, and you had afterwards called on Great Britain to adjust the dispute in regard to impressments; what would she say? She would have nothing to gain by such adjustment; to effect it she must surrender the exercise of a right she had long, though very unjustly claimed, and there was nothing left on our part important to her that would make it her interest to do so. She must therefore feel disposed to decline such adjustment; she would no doubt do so; and might regard your resentment so long as this treaty existed; you could adopt no measure that would injure her commerce or in any manner affect her interest. Under such circumstances, therefore, a disposition on her part to settle this important matter of difference, respecting which she has been so tenacious, could not be expected.

It is natural here to inquire what could have induced our Ministers to agree to any treaty that left unadjusted the most important, and I may say the principal object of their mission, and that in direct contradiction to, and in the very teeth of their instructions? It is well known that the impressment of our seamen has excited more sensibility in this country than any other matter of difference between the two nations; it was the principal ground, as has been understood, for the last extraordinary mission to Great Britain. It is well understood, that a resolution passed in the Senate, declaring the expediency of adopting effectual measures for protecting our seamen and trade, &c. had considerable weight in producing that mission. The instructions to our Ministers were positive on this subject; they understood them so, and state (document 3, page 115) that they were aware that their instructions imposed on them the necessity of providing satisfactorily for this great interest, (speaking of impressments, &c.) as one of the conditions on which a treaty shall be formed; and the words of the instructions are (documents, part 3, page 5:) "The importance of 'an effectual remedy for this practice, derives ur-'gency from the licentiousness with which it is still 'pursued, and from the growing impatience of this 'country under it. So indispensable is some ad-'equate provision for the case, that the President 'makes it a necessary preliminary to any stipula-'tion requiring a repeal of the act shutting the 'market of the United States against certain Bri-'tish manufactures." Yet with these instructions before them, our Ministers concluded a treaty, that contained no adequate remedy for this practice, "which had so excited the national sensibility," no satisfactory provision for this great interest, "which they acknowledge was to be one of the conditions upon which a treaty should be formed," nor in fact any binding provision whatever on the subject; and yet containing a stipulation that our markets should not be shut against any British manufactures, thereby providing for the repeal of the non-importation law referred to in the instructions. They have therefore acted in direct opposition to their instructions, and to the understanding of those instructions by themselves. They have omitted the principal and most important stipulation required by our Government, and have agreed to one that they were expressly forbidden to agree to, without the other being adopted as a preliminary. The informal note has been already shown to contain no adequate provision on this subject. If it has any effect, it in fact leaves it in a worse situation than it was before, as it would argue a tacit acknowledgment of the right to impress, &c. as claimed by Great Britain. No such right ought ever to be sanctioned by us. They have no more right to come on board our merchant vessels to search for seamen, than they have to come into our houses on shore for the same purpose. It is well known I am no advocate for extending foreign commerce, or involving the nation in unnecessary difficulties in support of it; but if we have a national flag, those ships that carry it ought to be protected against insult, ought to be preserved inviolate; rather than they should be subjected to be visited and searched for seamen under foreign authority, and deprived of their crews at the pleasure of every piratical commander of a British ship of war, I would agree to sink every American vessel that sails on the ocean; declare that the American flag should never again float in the breeze; confine our trade within our own limits, and do without foreign commerce. I have been unwillingly forced to notice this part of the subject, by the course which gentlemen have pursued in this discussion. I have no wish in the least degree to detract from the merit of those Ministers who concluded the treaty in question. I entertain no doubt of the purity of their motives and the sincerity of their desires to promote the interests of their country; and on this ground I was willing to let this part of the subject rest undisturbed, if the gentleman from Virginia (Mr. R.) had not entered into and pressed the discussion of it. I am still willing to think favorably of and excuse their conduct in agreeing to this treaty; but there is no view which I have been able to take of the subject, nor anything that has been advanced in the discussion, that can in my opinion justify that conduct, or reconcile it either with principle or with the fundamental laws of their Government, or with the practice and usages of nations on such occasions. It would be a dangerous principle to establish that a Minister at a foreign court, could act in direct opposition to the wishes and express instructions of his own Government; should set up his own opinion against that of the legally constituted authority of his country; and act regardless of the powers and directions he might receive from the very source from which he derived his existence as a Minister, and to which he was accountable for his conduct. No, sir, this can never be justified, it never can be sanctioned; a disposition in the Government more than usually conciliatory and friendly to the Minister, may induce them to pass over such conduct without public censure, but they never can approve it. They never can acknowledge it as correct. The next provision in this treaty which was stated by the gentleman as advantageous to this country, and such as ought to have procured

it a favorable reception with our Government, is that respecting the colonial trade—we will see what advantages it was calculated to afford. The provision is contained in the 11th article and is limited to the duration of the present hostilities. It provides that during that time, the produce and manufactures of Europe may be freely carried from the United States, having first been landed there and certain duties being paid thereon, to the colonies of the enemies of Great Britain—and further it is also provided that articles the growth and produce of the enemies' colonies may be brought to the United States, and, after having paid certain duties there, may be carried from thence to any port of Europe, &c. By this provision you are restricted in your trade with those colonies to the produce and manufactures of Europe alone, except so far as regards those of the United States; you cannot carry an article the produce or manufacture of any part of the world, of Africa, of the East Indies, or any other part of Asia, to those colonies. On the other hand, you cannot carry such articles as are the growth or produce of those colonies to any other part of the world except Europe or the United States; you cannot carry them to any part of Africa, to the East Indies or any other part of Asia; thus your trade with those colonies is entirely confined to Europe and the United States—and must be carried on through the ports of the United States, where it is subject to the payment of certain duties; the produce of Europe to one per cent. and that of the colonies to two per cent. ad valorem, in addition to what has been hitherto usual in such cases. These are the terms proposed by that treaty, which are called advantageous, and they certainly place that trade in a much worse situation than it has been in for many years past (setting the late Orders of Council of Great Britain and the decrees of France out of the question.) We were, and still are at liberty to carry to those colonies, through the ports of the United States, the produce and manufactures of every part of the world, without exception; and have an equal right to carry the produce of those colonies in like manner through the ports of the United States to any part of the world, without restriction as to place. This has never been denied us in principle by Great Britain. The ground upon which she insisted upon restricting this trade, was, that we had no right as a neutral, to carry on in time of war a trade with her enemies' colonies which we did not possess or enjoy in time of peace; a principle which is not founded in justice or reason, nor sanctioned by the laws of nations; but she does not pretend to restrict the extent of that trade in regard to the different parts of the world—she can have no right to do so—you may carry the produce of these colonies through the ports of the United States to Africa—to the East Indies and to any part of Asia as well as to Europe—except so far as the last mentioned British doctrine may affect it; and so you may carry, in like manner, the produce of those neutral countries to the said colonies. By the provision in question, you would therefore, in regard to the colonial trade, be entirely cut off from two quarters of the globe—and yet you have been told on this floor that the colonial trade was by this treaty placed on grounds highly advantageous to the United States. I am however unable to perceive in what respect those advantages would be enjoyed by this country. There is another feature in this treaty which merits notice; it regards our commerce with the British possessions in the East Indies. The 3d article limits our privilege of trading with those possessions, to a direct trade from the United States, as well as to them. This narrows down the privilege we enjoyed under the treaty of 1794, by which we were not restricted to a direct trade from the United States, but might proceed to any intermediate market that circumstances should require. This I understand is considered an objection of a very serious and important nature.

But you are told that it was difficult for our Ministers to obtain better terms, and one reason, perhaps the principal one given, is, that Great Britain was soured by the rejection of a former treaty, (that respecting our Northern limits.) No one pretends that this treaty (respecting limits) ought not to have been rejected, and yet its rejection is stated as an excuse for agreeing to another treaty, equally or perhaps more exceptionable. Can the gentleman wish us to understand, that because Great Britain feels herself soured by the rejection of a treaty, which it is admitted ought not to be adopted, because she pouts like a fretted child, that we must on that account ratify another treaty, which surrenders to her our best rights and interests, merely to put her in a good humor? Surely, sir, this could not be the gentleman's meaning. How then can this circumstance affect the question before you? For whether Great Britain was soured or not, can in no manner affect the merits of the treaty in question, or justify our Ministers in agreeing to an instrument, that in any one point abandoned the true interests of their country. If the gentleman's object was to excuse Mr. Monroe for agreeing to this treaty, (which seemed to be the case,) by expressing the reasons why he could not obtain a better one, I am willing those reasons should have all the effect for that purpose, which they are calculated to produce; but they never can justify his conduct in disregarding his instructions and acting beyond the authority given him by his Government. Nothing but a case of imperious necessity could do this—the occurrence of some extraordinary event unknown to his Government, which if known would in all human probability induce them to give the authority which the occasion might require him to exercise, and on the exercise of which the salvation or security of his country might in a great degree depend, when it might become necessary to act on his own responsibility, to risk his character and depend on his Government to sanction his conduct. Such a case as this alone would justify a total deviation from his instructions. But in the present instance no such case is pretended to have existed—no extraordinary change took place in the relative situation of the parties; and there is no circumstance at-

tending the transaction that can be considered a sufficient justification for his conduct, in departing so entirely, and on so important and interesting a point, from his instructions.

The gentleman closed his objections to the conduct of your Government by observing that after Great Britain had been soured by the rejection of a former treaty, this was also rejected; and that these were the causes that produced the embargo. I have already stated my impressions with respect to the rejection of that treaty, and also in regard to the causes that produced the embargo. It is not necessary to repeat them here, or indeed to add to them; they are too self-evident to require much elucidation; they not only justify the Government in rejecting the treaty, but they prove that the adoption of it in the form it was presented, would have fixed a stain on the American character which the blood of thousands would not wash away. It would have shown that we were governed in all our actions by mercenary views alone, calculating the profit and loss of the contract, and that we were ready to barter away the personal security of our citizens, and even surrender our independence, rather than forego the profits of a temporary commercial arrangement. I hope such a course will never be taken. I had rather never send a ship on the ocean under the American flag, than surrender that spirit of independence necessary to preserve the national honor. When it is in question, you must not hesitate, you must preserve it sacred and inviolate, regardless of the consequences. It must not be encroached upon for the sake of avoiding a temporary inconvenience; take one retrograde step, and it will be followed by another; submit to one demand, and another will most assuredly be made upon you. Suffer the national spirit to yield to the suggestions of mercenary views, and your liberties are gone forever.

But, one other ground was taken respecting the conduct of our Government in rejecting the treaty, which seems to merit some notice. You are told that a principal cause for rejecting the treaty was, that the arangement in regard to the impressment of seamen was informal, and yet that our Government were willing to agree to an informal arrangement on the whole subject, and it was asked if they were willing that the whole should be informal, why object to the treaty because a part was informal? This statement is not admitted to be correct to the extent insisted on. The objection was to the terms of the arrangement, as not containing an adequate provision against impressments, as well as to its being unofficial and informal; and our Ministers were only authorized to agree to an informal arrangement on the whole subject, in the event that they could not succeed in finally adjusting the important matters in difference between the two nations. But supposing the statement to be correct as made, though at first view it seems to possess some plausibility, it will upon examination be found not to support the ground taken. A treaty between two nations generally consists of certain concessions made by both parties for the purpose of agreeing upon some general arrangement that shall regulate the conduct of each, and which may promote the mutual interests of both. Each party has certain points of interest in view, for obtaining which it is willing to yield certain advantages or make certain concessions to the other. Suppose in such case one of the parties should propose to settle those points only which were favorable to its own interest, and to leave unadjusted and for future discussion those matters which were of most importance to the interest of the other party; if the latter should agree to such a proposition, it would abandon its own interests and surrender its just rights, by agreeing to a permanent adjustment of those matters that are advantageous to the former party, and binding itself to observance of such adjustment, and leaving unsettled for further discussion those matters most advantageous to itself, and the settlement of which was the only inducement it had to agree to the terms required by such former party. In such a case as this it would be much more for the interest of the latter party that the whole subject should remain open, and leave it in the free enjoyment of those advantages it possessed by nature, and which would command from the other party equal and honorable terms. It ought not to bind itself in fetters and leave the other free and unencumbered with the onerous part of the contract. Such is the case between the United States and Great Britain. We were willing to make certain concessions, in order to adjust amicably all the matters in dispute, and in particular to a satisfactory and adequate provision against impressments. But, says Great Britain, "We are willing to accept your concessions and 'agree to terms binding on both parties in re-'gard to all those matters advantageous to our 'interest, but with respect to the impressment of 'seamen, the affair of most serious importance to 'our interest, which was the primary object of the 'negotiation, that must remain for future discus-'sion and adjustment, and at most subject only to 'an informal arrangement;" and that not adequate in itself, and in no way binding on the Government. To this our Government would not agree. They said, we wish all the important matters in dispute adjusted at the same time, as well on the one part as on the other. Those points in difference which are of primary interest to the United States must be settled or we will not surrender the advantages we possess. We will not agree to be bound, while you are free. If no general and formal arrangement can be made of existing differences, they must remain under the best informal arrangement that can be agreed upon. This will leave each party in the possession of all its rights and enable it to treat on an equal footing some future day. Was not this wise, politic, and just? Was it not better that the whole should remain unadjusted than that we should agree to a partial settlement, which left entirely out of view or at least did not embrace matters of the very first interest to the nation? If we have no treaty, we are placed by nature on at least an equal footing with Great Britain; and she must for her own interest encourage

our trade; and further, if Great Britain would not agree to settle the great point of difference, the impressment of seamen, when the whole subject was under discussion, and this might be made the condition of certain advantages yielded to her, could it be expected that she would settle it in a manner favorable to us, when we had retained nothing to offer her as an equivalent, and had deprived ourselves of the only means we possessed of making it her interest to do us justice? This could not be expected, and ought not to be relied upon. To ratify the treaty, therefore, without an adequate provision on this point, would be to surrender the principle in dispute in regard to impressments, and abandon your seamen to the mercy of British cruisers.

I cannot sit down without noticing some remarks made by the gentleman from Maryland, when he was up on this subject; not indeed relating to the question before you, but tending to show that the embargo ought to be repealed. He told you the embargo was extremely oppressive, and partial in its operation—that the people on your Northeast frontiers, bordering on Canada, &c., would supply their British neighbors with provisions, (which must be by violating the laws;) while the people of his district, it being an interior part of the country, have no opportunity to dispose of their produce in a similar manner, that is, by evading the laws of their country. Can the gentleman be serious in making this objection? This is certainly the last argument that could have been expected from a gentleman possessing the talents for which he is so conspicuous. The embargo is partial it seems, because the people in his district have it not in their power fraudulently to evade the operation of it, as they can in some other places. The laws on this subject do not, cannot sanction such evasion. Those guilty of it are liable to punishment. This is well known—and I feel confident the gentleman does not wish to be understood as saying that he would sanction or countenance the evasion of the embargo laws, if it were in the power of his constituents to do so. Every correct principle would bind him to detect and punish such conduct. There is no doubt there are evasions of these laws in some parts of the Union; but this is no proof that the laws are in themselves partial—it only shows that there are, in those parts where those laws are evaded, some persons devoid of all principle, who are enemies to their country, and ought to be made public examples of, to deter others from such conduct. I could see no reason for the charge of partiality in regard to these laws, and was really astonished, when the grounds upon which it was made, were assigned. [Mr. Key explained that he had said that a law to be fair must operate equally on all.] I do not perceive, said Mr. Campbell, that the gentleman's explanation places his argument in a light materially different from that in which it has been considered. It amounts substantially to this, that because these laws are not perfectly executed in every part of the Union, without any evasion whatever, they must be considered as operating partially, and ought, therefore, to be repealed. He does not pretend to say that the laws are in themselves partial, but that they may possibly be evaded by men without principle, and destitute of patriotism, and that on this ground alone your officers may not be able to carry them into as complete effect in some parts of the Union as in others, and that for this reason they may not operate equally. This objection would apply with equal force to every law in the Union. They may be and are daily evaded, but this is no reason they should be all considered partial and, therefore, repealed. The gentleman stated as another serious ground of objection to the embargo, the injurious effects it had upon the fisheries, by depriving those concerned in them of a market for their fish. The objection was hardly to be expected from that gentleman, who I presume has been very little conversant with this branch of commerce, and whose constituents (whose interest he appears to have so much at heart) cannot be particularly affected by it. The details on this part of the subject have been sufficiently explained by the gentleman from South Carolina, (Mr. D. R. Williams.) But there is one view of it which seems to merit further notice. The House will recollect, that when the embargo laws passed, it was with much difficulty the fishermen were permitted to go out to carry on this business. It was warmly contended that no such privilege should be extended to them—and now the very ground of complaint arises from this very privilege. If you had in your embargo laws deprived them of this privilege, which is greater than any other portion of citizens enjoys, there would be no ground for the present complaint. If they had not been permitted to take fish, they would not complain for want of a market for them. It was then said they were much favored—it is now said they are very much oppressed; and the great ground of oppression is that they have taken more fish than they can get a good market for. This may occasion them some inconvenience, but certainly it is not greater than other citizens experience, if it be so great, and can form no just cause for repealing the embargo laws.

No doubt, said Mr. C., the Committee are fatigued with this long sitting, as I also am exhausted with speaking to them. I feel sensible of the obligation I am under for their patient attention, upon which I will trespass no longer; but will close the remarks I have to make on this subject by expressing my surprise and extreme concern at the systematic opposition given by certain gentlemen, from the commencement of the session to the present moment (almost at the close of it) to every measure, either recommended by the Government or attempted to be adopted for the security or defence of the nation. Every measure calculated to obtain redress for past injuries—to repair the insulted feelings of the nation—to resist aggressions, and guard her against impending danger, has been systematically and uniformly opposed. The adoption of the very same measures heretofore on similar occasions, furnishes no ground to believe that they are now proper. There are some laws enrolled among our records

similar to that now proposed to be enacted; when these instances are produced, gentlemen who supported them, say they were mistaken in passing them, or they were misled, or the grounds on which they passed were not then understood; they have just discovered they were all wrong—at all events the measure before you must be wrong. When the session commenced, it was admitted by all parties that the nation was in danger, it was, therefore, proposed to fortify our ports and harbors; this was declared to be wrong, and warmly opposed by gentlemen. It was then thought necessary to build gunboats in aid of fortifications for defence. This was also wrong; they would be of no service; the experience of skilful men, and of other nations on the subject, was all mistaken, was not to be regarded—the measure was altogether wrong and gentlemen opposed it. Again circumstances presented themselves which induced the Government to recommend an embargo. This measure was at first (I supposed) by mistake, conceived by gentlemen to be right, and as such vigorously supported, but after one night's reflection, most unfortunately, it too was discovered to be wrong and to endanger the peace of the nation. It was proposed by the Government, and, therefore, you must adopt it, notwithstanding the same gentlemen told you early in the session that such a measure would be perfectly correct, and ought to have been adopted long since; but now they had discovered it was manifestly wrong. The apparent dangers of our country continued to increase, and it was considered necessary and proper to raise a small temporary regular force for the purpose of national defence, to repel incursions on our frontiers and guard against surprise. This was also declared to be totally wrong. You are told the two great belligerents press upon you so severely and yet so equally; that you are repelled equally from both, and in no danger of going to war with either, and, therefore, you need not raise a man; no, they would not agree to enlist a single soldier until they saw the enemy at your very doors. This is the language of gentlemen. Even those who heretofore were distinguished as friends to a regular army, who were anxious to increase the Military Peace Establishment; as well as others who not long since proposed to raise an additional force for a similar purpose; all at once became enlightened on this subject, and by some happy coincidence of sentiment, united on this as well as on other subjects; all the dangers of their country vanished from their view; they lost their partiality for a standing army, and their reliance for defence on a regular force of any kind; they discovered how dangerous they were to civil liberty; and insisted the measure was unnecessary and ought not to be adopted. The embargo was radically wrong when it was laid, and ruinous to the country. We now propose a measure by which it may probably be removed; but most unfortunately this is also wrong; it is not the offspring of certain gentlemen, it did not spring from a certain source, therefore, it cannot be right; besides it would make the President too popular, if circumstances should authorize him under the proposed law to remove the embargo. It must not be done; nothing can justify it. You were wrong in imposing the embargo, and you are not right in providing the means by which it may be taken off. The people of America will judge for themselves how well calculated such a course of proceedings was to vindicate their violated rights, to secure their most important interests, and prepare the nation for defence against impending dangers.

At five o'clock the Committee rose, 49 to 49, the Chairman deciding in the affirmative, and obtained leave to sit again.

Friday, April 15.

DEATH OF MR. CROWNINSHIELD.

As soon as the Journal was read—

Mr. Bacon said: I rise with feelings of the deepest sensibility to perform a solemn and painful duty. It is to announce to the House the death of my friend and colleague, Mr. Crowninshield, who expired this morning at six o'clock.

Whereupon, on motion of Mr. Fisk,

Resolved, unanimously, That a committee be appointed to take order for superintending the funeral of Jacob Crowninshield, late a Representative from the State of Massachusetts.

Ordered, That Mr. Cutts, Mr. Taggart, Mr. Quincy, Mr. Cook, Mr. Green, Mr. Ely, and Mr. Bacon, be appointed a committee, pursuant to the said resolution.

On motion of Mr. D. R. Williams,

Resolved, unanimously, That the members of this House will testify their respect for the memory of Jacob Crowninshield, late one of their body, by wearing crape on the left arm for one month.

On motion of Mr. Newton,

Resolved, unanimously, That the members of this House will attend the funeral of the late Jacob Crowninshield, to-morrow morning at ten o'clock.

On motion of Mr. Smilie,

Resolved unanimously, That a message be sent to the Senate to notify them of the death of Jacob Crowninshield, late a member of this House and that his funeral will take place to-morrow morning at ten o'clock.

Saturday, April 16.

The House met at nine o'clock, and after reading the Journal, adjourned till twelve o'clock, in order to attend the funeral of Mr. Crowninshield.

The House met accordingly at twelve o'clock.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States;" also, a bill, entitled "An act to continue in force, for a further time, an act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction."

Mr. Quincy presented petitions respecting the operation of the embargo in relation to fish.—Referred to the Committee of the Whole to whom the subject had been referred.

The bill sent from the Senate, entitled "An act authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States," was read twice and committed to a Committee of the Whole on Monday next.

The bill sent from the Senate, entitled "An act to continue in force, for a further time, an act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction," was read three times and passed.

The House resolved itself into a Committee of the Whole on the bill for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates, separately. The bill was reported without amendment, and ordered to be engrossed and read the third time on Monday next.

The House resolved itself into a Committee of the Whole on the bill to continue in force an act, entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts," and for other purposes. The bill was reported without amendment, and ordered to be engrossed and read the third time on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the establishment of a Turnpike Company in the county of Alexandria, in the District of Columbia."

PUBLIC CONTRACTS.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act concerning public contracts."

Mr. Bassett congratulated the friends of the bill that another sanction had been given to the principle established by the bill. The Executive Department had long since sanctioned it; the House of Representatives had given it their sanction by a large majority, and the consent of the Senate was manifested. The only material amendment made to the bill by the Senate was, that offenders were to be punished by fine instead of impeachment. All the branches of Government having declared that the connexion in contracts of members of Congress was a political immorality; and being so, no one could object to punishing it. He therefore hoped the amendments, though material, would be agreed to, as it was infinitely more important to establish the principle than to fix the mode of punishment.

A motion was made by Mr. Quincy, that the said bill and amendments do lie on the table: and the question being taken thereupon, it passed in the negative.

A motion was then made by Mr. Holland, to strike out the second section of the said amendments: and the question being put thereupon, it was resolved in the affirmative.

A motion was made by Mr. Bibb, to amend the said amendments, by striking out of the fourth section of the same, the words, "*other than such as are herein excepted:* and the question being taken thereupon, it was resolved in the affirmative.

A motion was then made by Mr. John Montgomery, further to amend the said amendments, by inserting, after the word "agreement," and before the word "made," in the fourth line of the first section, the words, "hereafter to be:" and the question being taken thereupon, it was resolved in the affirmative.

A motion was made by Mr. Kelly, to strike out the third section of the said amendments. And on the question thereupon, it passed in the negative.

A motion was then made by Mr. Garnett, that the House do reconsider their vote to strike out the second section of the amendments of the Senate: and on the question for reconsideration, it was resolved in the affirmative.

The question was then taken that the House do agree to strike out the said second section; and passed in the negative.

Another motion was then made by Mr. Bibb, to reconsider the vote to strike out from the fourth section, the words, "*other than such as are herein excepted:*" and on the question for reconsideration, it was resolved in the affirmative.

The question was then taken that the House do agree to strike out the words before recited, and passed in the negative.

A motion was then made by Mr. Nicholas to reconsider the vote to insert in the first section the words, "hereafter to be:" and on the question for reconsideration, it was resolved in the affirmative.

The question was then taken that the House do agree to insert the said words, "hereafter to be;" and resolved in the affirmative.

And then the main question being taken that the House do agree to the said amendments, as amended, it was resolved in the affirmative—yeas 59, nays 27 as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Clopton, Howell Cobb, John Dawson, Joseph Desha, William Findley, James Fisk, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Edwin Gray, John Harris, William Hoge, David Holmes Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, Edward Lloyd, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Randolph, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Dennis Smelt, Jedediah K. Smith, Samuel Smith, John Smith, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, and Alexander Wilson.

Nays—Ezekiel Bacon, Joseph Barker, Adam Boyd, Epaphroditus Champion, Martin Chittenden, John

Culpepper, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, James Elliot, William Ely, Isaiah L. Green, James Holland, Daniel Ilsley, James Kelly, John Lambert, Josiah Masters, William Milnor, Thomas Newbold, John Pugh, James Sloan, Clement Storer, Lewis B. Sturges, Samuel Taggart, Killian K. Van Rensselaer, and James Witherell.

ARMING THE MILITIA.

The House resolved itself into Committee of the Whole on the bill making provisions for arming the whole body of the militia of the United States.

The first section of the bill provides:

"That the annual sum of —— dollars be and the same hereby is appropriated for the purpose of providing arms and military equipments for the whole body of the militia of the United States, either by purchase or manufacture by and on account of the United States."

The second section provides:

"That the President of the United States be and he hereby is authorized to purchase sites for and erect such additional arsenals and manufactories of arms as he may deem expedient, under limitations and restrictions now provided by law: *Provided, also,* That so much of the law as restricts the number of workmen in the armories of the United States to one hundred men, be, and the same hereby is repealed."

Mr. Randolph moved to fill the blank in the first section with one million of dollars. It would be perceived, he said, that in consequence of the change in the relations of the United States to foreign Governments, a general sentiment seemed to be excited of the propriety of our beginning to extend manufactures at home, so as to enable us to provide for ourselves those articles of the first necessity which we are in the habit of procuring from foreign nations. This being the case, what manufacture should be more properly promoted than that which would insure the protection of our lives and property? What manufacture were the United States more interested in cherishing and extending, than the manufacture of arms for the public defence—for arming the whole body of the militia? For when this object was accomplished, provided the militia were not suffered to rust in inactivity, and a regular force called out on all occasions, we should not only be prepared against foreign invasion, but it would be, *ipso facto*, one of the most perfect guarantees to our present free Government that the art of man could possibly devise. Supposing a people free, by this measure permanency would be given to their freedom; for it was not possible that a nation free and armed could have their liberties taken from them, until they were reduced to that state that it is impossible to keep them free—for Mr. R. observed, that in this respect nations were like men; if once they became dissolute it was impossible to compel them to attend to their true interests; but at the same time every encouragement in their power should be given to men and nations, by a good education and good habits, to induce them to remain free and independent. And he did most heartily wish, instead of disputing about abstract points in polities, as the old Greeks and Romans did on nice questions in metaphysics, that the Legislatures of the several States and of the United States were more frequently employed in acting strictly legislatively; for in their great zeal—and it was laudable, but it ought to be regulated—they often forgot business in politics—were disputing frequently on abstract points in politics, instead of passing laws; and nothing was more common than to hear men say that a particular law might be good, but it involved such and such thing, which had no rational connexion with the subject. But to the point: one million of dollars he said would arm but about one hundred thousand men; in which ratio it would require five or six years to arm the whole, excluding from consideration the intermediate increase of population.

Mr. Smilie was in favor of the bill, but objected to the appropriation of so large a sum as a million of dollars; for it would be totally impracticable so procure that amount, were they to grant it.

Mr. Rhea wished to know what was the specific object of the bill, or how the arms were to be disposed of when procured, for there was no provision in the bill to designate that. He thought the bill was in a very imperfect state, and suggested the propriety of recommitting it to the select committee for the purpose of arranging the necessary detail.

Mr. Randolph said that while every one professed to be in favor of arming the militia, great difficulties were thrown in the way of accomplishing that object. A recommitment to the committee would produce no effect; for the truth was, that the committee was composed of such discordant though not jarring materials, that it had been with great difficulty that they could concur as far as the bill went. However, the marrow and pith of the bill was, the providing of arms for the militia; and when gentlemen objected to the amount of appropriation proposed, from the difficulty of procuring arms, they should not at the same time object to the difficulty of distributing them. Mr. R. said, he would give the Committee his view on this subject; he could wish to see certain Executive officers of the Government commissioners for arming the militia, as they are now Commissioners of the Sinking Fund, and to have an annual and liberal permanent appropriation vested in their hands, to be expended under the control of the President of the United States in the purchase and manufacture of arms. So much for getting them together; now for distributing them. It had been said, by some that in their particular States it would be proper to distribute these arms to the militiamen individually; others had said, they could not consent to make them the private property of individuals. This difficulty, Mr. R. said, might be gotten over when the arms were procured; the arms might be distributed among the several States, in proportion to the number of their militia respectively, and those States might distribute or dispose of those arms in such manner as the governments of the several States should by law direct. This mode would

accommodate not only the prejudices but the interests of the whole Union. In the State of Massachusetts, said Mr. R., we are told that the militia are armed; it would be useless to give arms to those who already have them; it is presumable then that the Legislature of that State would not make such a disposition, but distribute them in arsenals. A similar mode need not be pursued in States where there is an imperious necessity for immediately arming the militia. If gentlemen will bring forward any feasible project for the purpose, I shall have no objection to reimburse those citizens who have, under the laws of the respective States, provided their own arms. But, Mr. R. said, it was a very extraordinary thing, while manufactures of every sort were encouraged with a view to supply the wants of the people by their own labor, that it should be confessed that they were unable to manufacture arms even with the aid of Government. Did not the House believe, after this bill should pass and the restriction to the number of armories should be removed, that the United States, would open a wide field of emigration, particularly of artificers from Germany? He had been told, he observed, that in one part of Germany men were anxious to establish manufactures of this article in our country, and sounded Government on the subject. The moment these persons found such a demand created, no doubt they would consult their own interest by transporting themselves hither. Mr. R. said, he was not one among those who were extremely anxious to invite emigration to the United States; but while inviting, it was as well to invite those who would contribute to its wealth, and to give security and stability to the Government.

Mr. Smilie said if the Government were to be the holders of these arms and have it in its power to disarm the people at pleasure, this would be an armed Government still, but not an armed people. He was willing that the United States should, either by manufacture or purchase, make the necessary provision for arms for arming the militia, but he had no idea that this object should be accomplished at the expense of the United States. The people should arm to protect themselves and their property. At the same time he would make an appropriation at this time, he would not vote for a million of dollars. Did gentlemen consider the expense already gone into, and could any gentleman then say that they could at this time spare a million of dollars for this purpose? He was willing to appropriate a smaller sum; and, as the revenue progressed, from year to year it might be increased.

Mr. Holland could not understand the object of the bill at all, and it could not be expected that they should vote for the bill until its object was known; for assuredly the bill did not proclaim its own purpose as expressed by the gentleman from Virginia. If the arms are to be distributed among the people were they to be considered the property of the United States he would not vote a single dollar for them; for when the people should be placed in this situation, their liberties would be nearly gone. He wished the bill to be arranged in some sort; that it should declare how the arms were to be distributed, and whether they were to be considered the property of the United States; for till that were done he could not vote understandingly on the subject. He therefore moved that the Committee rise for the purpose of recommitting the bill.

Mr. Ely objected to the sum with which it was proposed to fill the blank, and to the bill itself. He said that in the present state of Europe arms could not be procured thence; that the sum of $300,000 already appropriated this session was as much as could be expended for the manufacture of arms in the United States; and that the manufactories in the United States could not be so extended during the present year as to manufacture a larger quantity. He also represented the tendency of a bill of this nature, if adopted, to contravene their own laws requiring the several States to superintend their militia, some of whom had already armed the militia at their own cost, and others compelled the militia to arm themselves; and some, who had it in contemplation so to do, would undoubtedly remit their exertions on the passage of this bill.

Mr. Lloyd hoped the Committee would not rise. The purpose for which it was proposed that the Committee should rise, had been agitated in the select committee, and he believed it impossible in that committee, to fix on any mode or plan for the distribution of these arms. If then the bill was recommitted, it could answer no purpose but to consume time. He was astonished that gentlemen should rise and express an anxiety in favor of the principle, and yet start so many objections to he bill, all which when examined would have not influence on the House and would not be satisfactory to the nation.

The gentleman from Pennsylvania (Mr. Smilie) objects to the expense, and says if these arms are to be the property of the United States he could not vote for them; he then says he wishes them to be sold out to the people. If this course were to be adopted, what force could be attached to the objection to the expense? Upon the score of economy the argument would have no weight; for the United States would be placed precisely in the same situation as they were before the appropriation.

The gentleman objects to the bill if it is contemplated to place it in the power of the United States to call upon the people to give up the arms after they are distributed. I will ask the gentleman if he supposes the people would be so unmindful of their own liberties that they would give up their arms at the discretion of the United States? I believe if the people of the United States are once armed they will not be so pusillanimous as to give up these arms, if they are to be converted to their own destruction. This then is an evil which would not result, even admitting that we enact that they shall hold these arms at the pleasure of the United States.

Gentlemen have spoken of the money already appropriated this session for the purchase of arms.

The arms thus to be purchased are not for the purpose contemplated by this bill; they are purchased for the use of the United States and to be placed in their arsenals. Then why oppose the sum already appropriated for arms as a set-off against that proposed to be appropriated, when they are for distinct objects; and the appropriation already made will certainly not promote the object of the bill—to arm the people?

The gentleman from Massachusetts (Mr. Ely) says that he cannot see how arms are to be procured, if the money may be appropriated; he believes more cannot be had than are already authorized to be procured. This is no doubt the gentleman's own opinion, and I have heard it advanced from another quarter; but some time since I conversed with one of the best gunsmiths in the country, who says that our manufacture may be increased and that many artificers may be found in the United States; and that in the State of Maryland alone, an additional number of from five to ten thousand may be manufactured. If so many may be had in that State, no doubt other States could furnish a sufficient number to meet the proposed appropriation.

The gentleman from North Carolina (Mr. Holland) objects to the bill because no mode of distribution is pointed out. If the gentleman, who professes to be anxious to attain the object, will vote for the bill, ways and means may be found to distribute them.

It is said that this system would prevent the States from arming. No such thing as arming the whole body of the militia was ever proposed before this session, and yet the States have not complied with the law, nor ever would have complied with it. Hardly a Legislature in the Union can agree upon the mode of arming; nor will I ever agree to vote for a bill requiring that every man should provide his own musket. It is said indeed that ten or twelve dollars is a trifling sum; but to some it is serious, for a man may pay a cent towards the same object for which another man pays a hundred dollars, and yet the former feels the expenditure more than the latter; and a law of that kind for compelling every man to pay for his musket may be considered as an oppressive poll tax. For my part I shall cheerfully vote one million for this purpose, and shall as cheerfully vote for the distribution of the arms when they are procured.

Mr. Macon said he considered this as the most important question which the House had had before them this session; and if the bill were to be recommitted, it would put the question to rest, as it would not be got up again during the session. The gentleman from Massachusetts, said Mr. M., wishes the Committee to rise to get rid of the bill, because it will prevent State and individual exertion. This is the strongest reason why the question should be immediately decided; and I hope it will be decided, aye or no. The objection made to the bill on account of the sum proposed has no weight, because, as is customary, we begin with the highest sum proposed, and vote downwards till we fix upon a sum which shall appear to meet the ideas of a majority of the House. I have long been of opinion that it is the duty of the nation to arm the militia. I have always thought it wrong to make the poor man contribute the same mite towards the general protection as the rich man. Some are not fit for service in the militia, and some are prevented from serving by religious scruples. It is and always has been my opinion that these should pay their part. The gentleman from Virginia, (Mr. Clay,) some time ago pointed out a mode by which these arms could be distributed as equally as possible; for it is impossible to bring perfect equality to every man's door; and this bill contemplates the making the whole property of the whole nation pay its proportion towards arming the militia for the general defence. We cannot depend upon Europe to procure arms. Nothing would be more absurd, for all Europe is against us. We must look to ourselves, for who can tell when the contest will cease? We must prepare earnestly and seriously for our defence. How many of our militia are now armed it would be difficult to say; but certainly a very great proportion of them are not armed. You are told that you cannot increase the expenditure for arms to a greater amount than 10,000 or 15,000 stands a year. If so, we had better apply to some of the great Powers of Europe to take us under their protection. But we have no occasion to do this; for if we but give the same encouragement to armorers as to hatters and other artists, we should soon have enough of them. People who work in iron, (and we have many of them in the nation,) will serve as gunsmiths, with little instruction.

It is said that no arms can be got. For God's sake, let us make the experiment! I know it is not good policy to make appropriations for objects to which the money cannot be applied; but let us make the attempt to arm ourselves, when we see that the whole world is in arms against us. It seems that the resolution for giving authority to the President to suspend the embargo, which is of minor importance, is considered more important than this bill. I hope gentlemen will take this subject previously into consideration, and decide upon it according to its merits.

The $300,000 already appropriated have nothing to do with this system. This is the commencement of a system for arming the nation; and as to inequality in distribution of the arms, that matter might be so arranged as to give the arms to the young men as they arrive at age. A gentleman from Virginia, (Mr. Clay,) who certainly took the best view of the militia systems which I ever heard, told us that 40,000 or 50,000 men were annually placed on the militia list—five times the number of the arms now annually manufactured for the use of the United States.

I agree perfectly with the gentleman from Pennsylvania, (Mr. Smilie,) that these arms should not be placed in the hands of the militia, to be considered as public property; neither would I sell them to the people. I would give them to be their own property, exclusively; so that, whether a man moves from Maine to Georgia, or whether he shall always remain in the same place, the arms

once given to him shall be his absolute property. And on this subject I agree with the gentleman from Kentucky, (Mr. Rowan,) who told us the other day, that so far as relates to defence, this is a Consolidated Government, and I hope it ever will be so.

It has been objected that no provision is made by the bill for the distribution of the arms. If that could not hereafter be done, the objection would lay to the bill itself. The same objection would lay to an act for taking the census. Get the arms, and your successors will find some way to distribute them, as we do to apportion the representation in conformity to a census after it has been taken.

When I reflect on the situation of Europe, and our relations with them, as manifested by the despatches on our table, and see the indifference on the subject of procuring arms, I am alarmed. I have now the same sentiments as I entertained when first I came here, or rather more unfavorable to peace than they then were. Day after day, affairs have grown progressively worse, until at length one Power tells us that she considers us associated with her in the war; and the other says, Out of our friendship we will tax you. I agree that we have taken a measure (the embargo) which I believe will try them; but if they find you perfectly defenceless, your measure will not have much effect. I rely much on that measure, but you must convince Europe that you mean to resist any invasion of your rights. I love peace as much as any man, but I will vote for an appropriation of the largest sum which we can agree upon. I will vote for an appropriation of $20,000, if I can get no more, but would rather vote for a million.

This bill is intended as the commencement of a permanent system: the bill for procuring arms, already passed this session, was but a temporary measure. I believe it proper for the United States to manufacture what arms they want; and, if nothing else, our situation would convince me of it. Look at the two great Powers of Europe! Can you get a gun from either of them? No, sir, not even a flint. Would any man, twenty years ago, have expected to have found Europe against us? I will venture to say not, sir; and yet that is the case; and no stronger reason could be given for a large appropriation for this purpose.

Mr. Findley said he was willing the Committee should rise and not have leave to sit again, because he did not understand either the object or the necessity of the bill. It was said to be for arming the whole body of the militia. Did it mean the arming of the body of the militia that were called into actual service? If so, this had always been done, and Congress had made ample provisions for doing so again as far as was practicable. In some States the whole body of the militia were armed, and in others partially so, and Congress possessed already more arms than it was probable would be necessary to put in the hands of militia for actual service at any one time. The Government had not yet been able to manufacture more than equal to the annual appropriation; he believed not so much, and an additional appropriation of 300,000, had been already made this session. Certainly this was more than Government could apply to that purpose before the next session of Congress. If it was intended to establish new manufactories the bill ought to say so, which it does not; and if it did they could not be in operation so as to increase the numbers of arms before next session of Congress, and it was admitted by all that arms could not be procured in Europe.

Some gentlemen, in arguing in favor of the bill, propose bestowing them on the whole body of the militia, and others providing for arming young men on their first entrance into militia service, to be their own for life. These were pleasing theories, but the bill before the Committee provided for neither of these applications of the arms. It could bear no other construction than providing for arming the whole body to be called into actual service. If it is for any other purpose, why does not the bill say so? If it is to arm the whole militia of the United States fit to bear arms, it could not be done by such an appropriation in ten years, including their natural increase. Is it proposed to arm the militia of those States that are well armed already? They will not accept of them; their arms are their own; they know how they came by them; they keep them in order, they leave them to their children, they become the pride of their families.

The bill however only provides for arming the whole body of the militia with public arms, for which they must be responsible, unless lost in actual service, and must return them when called upon. Mr. F. said no man was more solicitous to have the militia armed than he was himself. He had frequently urged it in his own State. He had always considered that the militia having their own arms, and being accustomed to the use of them, was of tenfold more importance than all the improvement they could possibly receive without arms. Many thousands of arms had been distributed to the militia of Pennsylvania, especially throughout the very extensive frontier counties during the Revolutionary war. But where are they now? When the Indians broke out afterwards, the country was found unarmed, more arms were given; but when officers since that time were appointed to collect the public arms very few were found but such as were unfit for public service. They had been carried out of the country by such as penetrated further to make new settlements, or suffered to get out of repair, those who had them in possession having no interest in taking care of them when their tour of duty was over; and this would always be the case with public arms disposed of in this manner, the only way in which by the present bill they can be disposed of; for though gentlemen in arguing in favor of the bill had proposed other methods, yet they knew that the bill provided for no such methods as they had suggested.

Mr. F. said that this was the most singular bill that ever he had observed to be presented to the House. It proposed indeed to appropriate a million of dollars to provide for arming the whole

body of the militia; but supposing it possible to procure them, which it was not before next session, how were they to be disposed of? On this the bill was silent and left every man at liberty to urge their application, agreeable to his own fancy. If they were procured they probably would not supply more than one-tenth part of the militia. How then shall the President distribute? He cannot do it, for the law provides neither rule nor authority for that purpose. In that the bill in its present form is perhaps the most imperfect that ever was offered to the House; but supposing the bill so amended as to provide for putting arms in the hands of young men when they entered on militia service, agreeably to the wish of one honorable member, that would not be arming the whole body of the militia. It would not be arming a twentieth part, and the whole body of the militia would be twenty-seven years in arming.

Mr. F. said that a few years since the Government of Pennsylvania procured 20,000 stand of arms to be manufactured, and required that militiamen should appear armed on the parade, but this law is a dead letter; they could not procure arms. Those who manufactured the arms on public contract, proposed having the machinery in order to continue the manufacture at a much lower price. Mr. F. said he had advised to embrace the offer, so that arms might be convenient for the substantial resident militia to purchase at a reasonable price. They would purchase, they would have a pride in taking care of them, and their posterity would consider the arms of their fathers as a precious deposite. He concluded by saying, that if the appropriations already made were not sufficient for all the arms that could probably or even possibly be manufactured before next session of Congress, he was willing to vote for more, but never would vote for a million of dollars for so impracticable an object, nor for a bill so exceedingly imperfect.

Mr. Randolph said, after the very able observations of the gentleman from North Carolina, he should not have again risen; but being a member of the committee who reported the bill he conceived it his duty to support it. As to the rising of the Committee he should probably vote for it, as he was worn out with the fatigue of so long sittings as they had had for almost every day this week. The gentleman from Massachusetts had said he was not in favor of arming the militia; if he could tell where arms were to be found however he would appropriate money for them; but as the arms are not in market, they could not be bought. Mr. R. said that he had always understood that the way to obtain a supply was to create a demand. So long as there was no demand, an article might not be brought to market; but create a demand, and it would soon be plentiful. A few years since there was scarcely a pound of American cotton in the market; but we now export perhaps twenty millions of pounds. The gentleman had said that they might arrest the exertions of the States or individuals which now were arming themselves; that, understanding that the United States were about to arm the whole body of the militia, they would cease from this very laudable exertion, and they go unarmed. Now Mr. R. said, if these arms were not to be had at all, how were these patriotic individuals to be prevented from buying them: for if they could purchase them, so could the Government; which the gentleman had denied.

A gentleman from Pennsylvania (Mr. Findley, whose voice was such that it was extremely difficult to understand him) said, that if arms were put into the hands of the militia, when called for they would be out of order. Mr. R. said that would be a very good reason for supplying them with new arms. But, how do they get out of order, said he? In teaching your citizens to make use of that instrument, which they should understand. A man wears out his gun in learning to take aim at an enemy; for, if he learn to shoot at smaller marks, he will not miss his enemy when he has occasion to shoot at one. I have heard the same argument used against a boy using his book, because, by so doing, he might soil it—to avoid which, it was covered up so nicely that it could not be opened; as is the case in some libraries arranged for show, and the arms in our arsenals. If you look at them, you will find them very nice—not soiled in the least—because no one uses them. But I do not choose to have arms to look at, like a library, so finely bound and gilt that it is not calculated for use. I would have them so that they can be used, for the child to learn as well as the father; and by the time he comes of age he will understand their use, as well as the father himself. Put arms into the hands of your militia, and if worn out by use they may be replaced. The militiaman will have acquired experience at the expense of a musket, which I would not give for the tuition of all the drill-sergeants in Europe, and (permit me to add) in America too, sir. After all, it appears that what I apprehended has been the fact. We have laid out so much money in this and that project, and two millions upon what gentlemen persist in calling a *temporary* military force, and that is given as a reason why we cannot now afford to arm the militia. The reason is, you have raised, or rather authorized the raising, of six thousand men, to be clad, fed, and paid, for *rusting* in idleness, and incapacitated yourself from arming the militia. You have laid out your money in gold-laced hats for the one, and you will not give the other bread. You have expended your treasure in gewgaws and military parade, and cannot buy arms for the militia.

Mr. Rhea said he was much disappointed to find such a bill as this providing for purchasing arms, without any provision to make disposition of them after they were procured. He would never agree that the militia should hold their arms but as their own property and independent of the United States; and he would never give a vote which should put it in the power of the United States to recall the arms once bestowed. Would the gentleman agree that the great State of Virginia or any other great State should receive arms from the United States to arm the militia, subject to the recall of the United States?

He thought not. Mr. R. observed, that the House had been told that the whole world was against us. The United States had Ministers at the Courts of the two great Powers of Europe. Certainly those two Powers did not possess the most favorable disposition towards us; but he would never agree, while we had Ministers with both, and they had Ministers with us, that we were at war with them. Mr. R. said he should cheerfully vote for the bill if it were so arranged as to be prepared to go into operation; and for this purpose it was that he wished it recommitted.

Mr. Nicholas said he had this subject much at heart. He thought one of the most important services they could render the nation would be to provide arms for every one in it. He lamented that they could not do it at once; for it was but too true that they could not—not for the want of money; for so anxious was he to accomplish the object, that he would vote for a tax to raise the whole immediately, or raise it by any other mode, if gentlemen would only show him how by voting money they could procure arms. If arms could be had, he pledged himself to vote money to arm the whole nation. If the people were armed, said he, we might bid defiance to the whole world. It is true that other nations have more men; but no one nation has better or braver men, or men who would go greater lengths in defending what we have—and why? Because there are no people on earth who have so much to defend. Name to me a country where a man has that at stake which we have. I lament that there are none; that there are not upon this globe, men who have as much at stake as we have; and I trust that as long as the American nation exists its spirit will not forsake it, and that when called into action we shall always show it. But it does seem to me that the appropriation made at this time should be rational—such a sum as can be employed. It is agreed on all hands that we can get no arms by importation, and few additional by manufacture within the ensuing year. A gentleman from Massachusetts, (Mr. Ely,) who certainly has a right to know, believes that the armories cannot be extended. In that I believe he is mistaken; no doubt that within twelve months any number of armorers could be obtained. I believe that the $300,000 already appropriated this session, together with the ordinary annual appropriation of $150,000, will be as much as can be applied within this year. I believe that another appropriation might be made authorizing the President of the United States to establish other armories, as I believe the public interest would be promoted by scattering armories. Instead then of appropriating a million, I would propose to strike out the clause making the appropriation annual, and to insert $200,000; and I do believe that this is all that we can do. I do not believe we should promote the public good by locking up in the Treasury a larger sum than can be employed in the succeeding year. I had rather that the Committee should go through the bill, for I very much fear, if we recommit it, we shall never see it again the present session.

The Committee then rose, 56 to 29, and reported progress.

The Speaker having put the question that the Committee have leave to sit again,

Mr. Randolph hoped they would have leave to sit again. He adverted to the preceding remarks of Mr. Nicholas. He was astonished, after the gentleman's exordium, to hear him mention the sum of $200,000—a sum as one to ten of that which the gentleman had the other day voted for a regular force, while the militia were in proportionate value to that army as one hundred to one. This was a very good criterion by which to judge of the preference of some gentlemen to one species of force over another.

Mr. Nicholas said that by the sum which he proposed to appropriate, as much would be expended for the object of the bill and as much attachment be shown to the militia as was manifested by the gentleman from Virginia. I did say, said Mr. N., that if any gentleman would show me how it could be expended. I would vote for it. Let it be shown, and I will vote for it; but until it be shown to be a real efficient measure, I will not vote so large a sum; and my vote will be understood by any gentleman as he pleases.

Mr. Randolph.—It certainly will be understood by one gentleman as he pleases, whether another gentleman pleases or not. This bill does show how the money is to be laid out, said Mr. R. By establishing additional manufactories, and authorizing additional workmen. This is the *quo modo*. How could it be plainer? It is to be presumed too, that although European nations will not permit the exportation of arms, they will not find it possible to embargo all the armorers. It is to be presumed that when the United States have made an appropriation of one million of dollars to be applied to this object, that European artisans will find their object in coming to this country, and receiving that money in wages. It is to be laid out in giving encouragement to armorers, of whom my friend from Maryland (Mr. Lloyd) has spoken. This is the way in which they may be had. Suppose any gentleman were to say, when an appropriation is proposed for the Army, "This army is a mere make-believe; if gentlemen 'will show me how the money can be laid out, I 'am willing to vote it; but I do not believe it can, 'and therefore shall vote against it." Now I really do not believe that the money for the army will be laid out upon the soldiers; I believe it will as far as the pay and emoluments of the officers go, but not on soldiers. It is indeed very extraordinary, that with such a body of militia as we have, we can consider ourselves authorized to lay out millions on a few additional regular troops, and restrict ourselves to a couple of hundred thousand dollars in arming the militia. It has not a good aspect. I question no man's motives; I have not a right to do so; but I will throughout life judge men by their acts in contradistinction to their professions. I am willing to submit myself to that kind of scrutiny. If I hear men declaiming against standing armies and voting for them; professing a wish to prevent contractors from multiplying,

and doing everything to promote their increase; professing themselves to be in favor of arming the militia, and after every species of evasion, throwing cold water on that subject—I must certainly draw my own conclusions. I remember very well the time when the gentlemen who enacted and re-enacted the sedition law, declared that they were the true friends of the press, and only enemies of its abuse; they were inimical to licentiousness, but friendly to liberty. I chose to judge them by their conduct and not by their professions. That gentlemen have a right to refuse appropriations I do not question; but I cannot persuade myself that a man who is unwilling to lay out the necessary sum, has the object of the expenditure as much at heart as those who are willing to give it. Would it not be very fair, if I would vote only one fifth part of the money called for, for the additional army, to say that I have it not as much at heart as those who are willing to go through with it? Undoubtedly. The bill in question may be defective, but as far as it goes it is complete. It provides the mode in which the money shall be laid out; it empowers the President to establish additional armories, and to employ additional workmen, and how otherwise are arms to be had? In no way. The bill therefore provides for the expenditure of the money; and if all the money appropriated cannot be expended, what will be the consequence? Like all other sums of money appropriated and not expended, it will, after a certain time, be carried to the credit of the surplus fund, or, in other words, carried back into the Treasury.

Mr. Nicholas said if it were intended by the bill to lay out one million of dollars in armories, he would not vote for it, for he did believe that $200,000 were as much as could be expended in that way. For he said that $450,000 already appropriated was as much as could be expended for arms this year, and $200,000 was as much as could or ought to be expended in armories. The erection of an armory was not a thing of a day. Were ten millions now to be appropriated for this purpose they would not get one musket from them in twelve months. The object then, said he, will be accomplished as soon by my proposition as by the gentleman's. Does the gentleman believe that passing this bill will make workmen, or bring them from Europe in one or three months? These things will do to talk of, but are of no advantage to the nation. And I say again that my proposition will produce as much effect as that of the gentleman himself. Is there a gentleman who will tell us that more than $200,000 can be expended in armories before Congress re-assembles? The appropriation of $200,000 will further the object I have in view as much as an appropriation now of ten millions.

Mr. Lyon thought a larger sum should be appropriated, for the President learnt the object of Congress from the amount of their appropriations. He would of course cut the coat according to the cloth if only $200,000 were appropriated; although in propriety and expediency he should cut the cloth according to the coat. He was therefore for giving a larger sum.

Whilst Mr. Lyon was speaking, a quorum not appearing within the bar, on motion, the House adjourned.

Monday, April 18.

Mr. Dana, from the committee appointed on the fourteenth instant, presented a bill concerning associations for the security of navigation; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. Dana, from the same committee, presented a bill for the encouragement and security of seamen of the United States; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. Ely presented petitions from sundry inhabitants of the county of Hampshire, in the State of Massachusetts, respectively stating the inconveniences and losses to which the petitioners and other citizens of the said State are subjected, in consequence of the embargo laid on all ships and vessels in the ports and harbors of the United States; and pledging themselves to support such measures as Congress in their wisdom shall adopt for the security and happiness of the American people.—Referred to the Committee of the Whole on the state of the Union.

On motion of Mr. Bacon,

Resolved, That the Speaker address a letter to the Executive of the State of Massachusetts, communicating information of the death of Jacob Crowninshield, late a member of this House, in order that measures may be taken to supply the vacancy occasioned thereby in the representation from that State.

An engrossed bill for the relief of Matthew Smith and Darius Gates, jointly, and Darius Gates, separately, was read the third time and passed.

An engrossed bill to continue in force an act, entitled "An act to extend jurisdiction, in certain cases, to State Judges and State Courts, and for other purposes," was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act concerning Courts Martial and Courts of Inquiry," were read, and, together with the said bill, ordered to lie on the table.

The bill sent from the Senate, entitled "An act for the establishment of a turnpike company, in the county of Alexandria, in the District of Columbia, was read the first and second time. On the question that a third reading of the said bill be dispensed with, it was resolved in the affirmative. The said bill was then, on a motion made by Mr. Witherell, amended at the Clerk's table; and on the question that the same do pass, as amended, it was thereupon resolved in the affirmative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act, laying an embargo on all ships and

vessels in the ports and harbors of the United States, and the several supplementary acts thereto;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to authorize the President of the United States, under certain, conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several supplementary acts thereto," was read twice and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason;" to which they desire the concurrence of this House.

The House proceeded to consider a resolution proposed by Mr. Poindexter, which was read and ordered to lie on the table, on the eleventh instant; and the same being again read and amended at the Clerk's table, was agreed to by the House, as follows:

Resolved, That a committee be appointed to inquire into the conduct of Peter B. Bruin, a Judge of the Superior Court of the Mississippi Territory, and report whether, in their opinion, he hath so acted, in his official capacity, as to require the interposition of the Constitutional powers of this House; and that the said committee have power to send for persons, papers, and records.

Ordered, That Mr. Poindexter, Mr. Dana, Mr. Wharton, Mr. Howard, Mr. Jeremiah Morrow, Mr. Calhoun, and Mr. John Campbell, be appointed a committee, pursuant to the said resolution.

Mr. G. W. Campbell, from the Committee of Ways and Means, presented a bill making appropriations for the support of an additional military force, for the year one thousand eight hundred and eight; which was read twice and committed to a Committee of the whole House to morrow.

The bill sent from the Senate, entitled "An act for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason," was read twice and committed to a Committee of the whole House on Monday next.

ARMING THE MILITIA

The House then took up the unfinished business of Saturday, on the bill for arming the whole body of the militia.

The question having been put that the Committee have leave to sit again—

Mr. Holland opposed the motion. He said the Constitution had never contemplated such a system as this. It was contemplated by the Constitution that the militia should be armed by the United States when called into their service, but not that they should be supplied with arms, equipments, &c., to perform duty at musters, &c., for the several States. He objected to it on another principle—that it imposed an artificial obligation on the citizens of the respective States, which might be incompatible with their character as citizens of those States. Suppose a man called out to service by his own State, and a call were at the same time made upon him to serve the United States, would not his duty to the State be paramount to all others? The principle of self-preservation would dictate that duty; and this bill goes to establish an obligation on him, under force of which he may be compelled to leave his own State, when she most needs his services. A contract is impliedly made by his receiving arms from the General Government, that he is to serve them whenever called upon—why? Because he has received a bounty for enlistment. He is under a natural obligation to serve his own State, but he stands embarrassed when at the same time the General Government demands his services as a matter of right; and the State not having treated him with the same kindness as the General Government, his natural obligation to the State, of course, relaxes. Are gentlemen prepared to place the citizen in this situation? Would the gentleman from Virginia, who patronizes the bill, suffer the State of Virginia, that proud and honorable State, to come to the United States for its defence? Would he consent to wear the habiliments of the General Government to serve his own State? But, perhaps, it is not intended to apply to him or gentlemen of his standing—but to the poor. I hope the poor are as independent as the rich, and would contemn a bribe as much, but I would not put them in a situation to be contaminated.

Mr. H. objected to the bill, because imposing an obligation on the citizen should the United States at any time hereafter choose to employ them in unworthy purposes, the demand might be irresistible, from the implied obligation, and the militia might be constrained to perform service, which, otherwise, they would revolt at.

There were, he said, already in the arsenals of the United States more arms than would ever be wanted for all the militia who would be called into service at one time. This number was annually increased by eight or ten thousand stand; and this session they had made an additional appropriation of three hundred thousand dollars. As far as respected arms, then, there would be no occasion for appropriation, or difficulty in case of war. It would be recollected that, even during our Revolutionary war, when our arms were so few in number, there was much more difficulty in getting men than arms. If, then, there were surplus millions in the Treasury, they ought to be reserved to pay the militia for their services when called into action, and not expended on arms, when no occasion for them could be demonstrated.

The Committee then obtained leave to sit again; and the House immediately resolved itself into Committee on the bill.

Mr. Dawson.—Since the commencement of the present session, I have voted for every measure, either of defence, preparation, or precaution, which has been brought forward, except an increase of the Military Peace Establishment, and

the equipment of our frigates. I mean to pursue this policy—the embargo, the gunboats, fortifications, the sale of arms to individual States, and the purchase of arms and artillery by the United States, all received my approbation, as did the bill for raising an additional military force, as a War Establishment. Yes, sir, I voted for that bill in all the forms which it assumed, during the three or four months it was before this House. I would have voted for thirty-two thousand men; and I hesitate not to declare that I would now vote for that number, or a larger one, if requisite.

In making this declaration, I am not apprehensive of a charge of being friendly to standing armies, or unfriendliness to Republican institutions. These things affect me not. I make no declaration of my political principles, except to those who have a right to demand them. I mean those I represent. Nor am I subject to a charge of inconsistency. In 1798 I voted against an increase of our military force, because, in my judgment, the circumstances of our country did not require it; in 1806 I voted for the increase because circumstances did require it; and, for that reason, I am now in favor of a larger increase.

Sir, there are times and circumstances when it behooves a nation to call forth all its resources to meet impending danger, and to guard the threatened rights and liberties of the country. Such, I believe, to be our present situation, and such ought to be our conduct.

I was well pleased, some time ago, at the coincidence of sentiment which appeared in this House relative to our foreign relations; but I cannot please myself, as some gentlemen do, with the prospects of peace. For some months, I have been persuaded that we shall have war, and that belief is confirmed by every information which we receive. It is under this belief that I am in favor of that bill, and for filling the blank with the largest sum proposed. I am in favor of that for considerations of a more permanent nature. I consider it as a subject of the first magnitude, and ought to be adopted, whether we have peace or war. The arming of our militia has always been among my first wishes: I consider it as the surest guarantee of our rights and liberties, and I would have relinquished the bill for an additional number of troops, which I advocated, sooner than this bill. I also wish to see another plan, which one of my colleagues brought forward, carried into effect. I mean the classification of the militia—thereby rendering that body of men efficient.

I hope the blank will be filled with the largest sum.

The question having been put on filling the blank with the sum of one million of dollars, was negatived—ayes 27.

Mr. Randolph hoped some gentleman would propose a sum with which it should be thought proper to fill the blank.

Mr. Bassett named five hundred thousand dollars.

Mr. Smilie said that, if the militia were to be armed at the expense of the United States, and the arms to remain the property of the United States, it would place the States in a very disagreeable situation; but he thought that the United States should be enabled to commence the manufacture of arms. He wished either that the people might purchase the arms from the United States, or that the State governments might purchase the arms and sell them to the people; for he believed they never would get any man to take proper care of arms which he did not himself purchase. It was not so extremely hard that every man should lay out ten dollars to enable him to defend his country. Gentlemen should reflect. Mr. S. said, that however necessary it is, that the people should be armed, it is equally proper that the arms should be their own property. The history of the world, he said, would show that the danger of Republics was from within and not from without. The primary advantage resulting from the people's possessing their own arms, was, that they might take care to guard against ambitious characters who might arise in opposition to the liberties of the people. Their situation, then, when they held arms at the tenure of the United States, would be more dangerous than if they were not armed at all; for in the one case, relying on the arms in their possession, if deprived of them by the Government, at the moment they had occasion to use them against usurpers, they would fall an easy sacrifice; while, on the other hand, if arms were not in their hands, they would take care to guard themselves, and at least preserve their independence. It had, indeed, been said, that if the militia were once armed, they would never surrender their arms. Would any gentleman, anxious for his country's existence as a nation, wish to see the contest which must ensue from such an insubordination to the General Government? His idea was that the Government should manufacture them, and they might then be sold to the State governments. He thought they should be manufactured by the General Government, in order to produce the uniformity of arms so desirable throughout the Union. He believed two hundred thousand dollars was as much as could be used before the next session; and no gentleman would say that the House would be less capable of judging of the proper amount of the appropriation then, than at this time. He would mention one other objection to a large appropriation: whatever the state of the Treasury was now, every man must know that it would not be overflowing at the end of the year.

The question was then taken on filling the blank with five hundred thousand dollars, and negatived—45 to 36.

The sum of four hundred and fifty thousand dollars having been mentioned—

Mr. Varnum said, as the bill now stood, he thought it violated a correct principle; that the people should hold the arms in such a manner that neither the General nor State Governments should take them from them. He was perfectly disposed to go as far as any gentleman to extend the manufacture of arms in our own country, provided those arms should be placed in such a

situation that every individual citizen might purchase them at his own expense. The principle itself being objectionable, he could vote for no appropriation; for the sum originally proposed was not sufficient to produce any susceptible effect, while it would, nevertheless, prevent States and individuals, who now have it in contemplation or have commenced the good work, from arming themselves.

Mr. Rowan was in favor of the principle of the bill, and did not apprehend the dangers from it which some gentlemen did. When the people were disposed to be free, they would not surrender their liberty, because arms were given them by the General Government; when they were disposed to be slaves, they would not retain it, although the arms they held were their own. While the people were vigilant, and took the trouble to think, they would never suffer from their own Government. When any man failed to use arms, because they were given to him when his liberty was at stake, he would not have used them had he purchased them. The idea is too finely spun, said he; it is not to be expected that the nation should be completely armed but by the General Government. I differ with gentlemen on another ground. So far as relates to the operation of internal regulations, the people ought to know their State rights; but, in questions of general defence State limits ought to be forgotten, and the question of arming the people should be considered in a national point of view. The Constitution has guarantied to the States the maintenance of a Republican form of Government by the United States. The General Government should direct and control the use of arms; and their efficiency will not be less when derived from the General Government, than if they were purchased individually by the people. These dangers, so alarmingly depicted, are a substitute for argument, instead of the argument itself. I would have voted such a sum as should at once have armed the whole body, if the Treasury had been in a situation to admit it. While the people are conscious of their rights, you cannot injure them; when they are less than conscious the people cannot keep them free. I therefore think that arming the whole body of the militia would be the best preservative against danger.

Mr. Varnum said that although the gentleman last up conceived his ideas on this subject to be too finely spun, yet they were correct. Did the gentleman suppose that when an individual was called upon to give up the arms loaned to him by the United States, that he would rebel? If gentlemen were disposed to sanction this idea, there was an end to all law. No, said Mr. V., your laws when made should be executed—for they ought to be such as the good sense of the people of the United States will accord in.

Mr. Rowan's idea was, that the individual was either to receive these arms as his own exclusive property, or that they were to be dispersed, in arsenals, throughout the United States.

Mr. Holland was perfectly willing to procure arms, if more were necessary in our arsenals; but no gentleman had shown that they were wanting. But giving arms to the people was an absurdity for it was inconsistent with the principles of freemen to receive gifts. If given to be restored when the Government called for them, when that call was made, no honest man could refuse to surrender them, because they were not his own property; and this would place the people in a situation to become slaves. Mr. H. said that the people of this nation had too high a sense of freedom to be bought by these indirect means.

Mr. Lloyd rebutted the objections made to the bill on the score of its making no provision for the distribution of the arms. The principle was the main object, and the detail could be settled after the arms were procured. But gentlemen had complained that the friends of the bill had not shown the necessity for arms. He asked gentlemen if they would acknowledge that there was a necessity for a militia? If so, for what purpose? Not to stand in the ranks once a month, equipped with cornstalks or crab sticks, but to fight when their country stood in need. Gentlemen must admit that militia were not necessary, or they must admit that it was necessary that they should be armed. Suppose a sufficient number of men were now to be called out to use all the arms in the possession of the United States, what would become of those points where there were no arms? It must be acknowledged, from a view of the country, that arms were necessary at every point.

Gentlemen have said, observed Mr. L., a freeman will not esteem a musket given to him as much as if he had bought it himself. By that argument, because we do not owe our liberty to our own exertions, but received it from our ancestors, we must therefore esteem it the less. This argument, by the way, he said was rather in contradiction to one used by the same gentleman, (Mr. Holland,) that the persons to whom arms are given would feel so extremely grateful for them, that they would be induced to act as they otherwise would not.

Mr. Masters went at some length into an examination of the conduct of France, who had desolated all the countries to which she had turned her attention. It was, therefore, time to arm the whole body of the militia against the designs of France—for, if we do not resist, this is an undone and ruined country.

Mr. Findley made objections to the structure of the bill, and the whole conduct of the business; for the bill was accompanied by no history or report, as was generally expected by a committee. He could not vote for the bill declaring in its title an intention to arm the whole body of the militia, which could never be accomplished, being but a visionary scheme.

Mr. Blackledge said he was certainly in favor of the principle of the bill. He would have voted for the whole sum proposed but for the present situation of our finances. View the appropriations already, and with great propriety, made this session; if we run into war we are not even now in a situation to bear it without heavy loans. In voting for this bill, I do it to recognise the prin-

ciple that the General Government is to arm the militia. We have sufficient now in our possession to repel and conquer any enemy, while yet enough may be left to repel any predatory attack. Therefore I do not wish to make a heavy appropriation. We have already appropriated $450,000 for the purpose of procuring arms this year, which will necessarily diminish the sum now to be appropriated. I will here just observe, that I do not believe that we are doing a favor to the people of the United States by arming them—for I know not how their own money could be applied to a better purpose than by enabling them to defend themselves against any nation whatever.

Mr. Bibb expressed himself in favor of the sum of $500,000; not that it could be all expended during the present year, but because, by appropriating so large a sum, it would be in their power to expend a larger sum the ensuing year, because the inducement to artisans to embark in such an undertaking would be greater.

Mr. Rhea said he was willing to appropriate the money if he could see a provision introduced for distributing the arms. They ought to pass from the United States to each State respectively, according to the number of their effective militia, and be disposed of under such rules and regulations as the respective States should direct.—He moved that the Committee rise, for the purpose of introducing such an amendment into the bill.

Mr. Randolph said this was certainly the first time he had ever heard of a motion for a Committee to rise in order to amend a bill. He had heard of going into, but never out of, a Committee of the Whole to amend a bill. This is an unfortunate bill. When the subject was before the select committee, gentlemen would not permit us to report any provision on the subject of distribution. Had I been gratified in my own course, I should have introduced a different bill from the present; but now I am unwilling to have the bill modified, even in the way in which I should have originally preferred it, because, in this late period of the session, the discussion which such amendments would assuredly lead to would defeat the bill; and in this, as in the case of the contract bill, I am content rather to have a bill which I do not like so well, but which establishes a valuable principle beyond contradiction, than a bill which acknowledges no principle, and that perhaps postponed till the 30th of December next. An amendment of this kind, such is the contrariety of opinion on this subject, might give rise to a discussion which would last out the whole session. Some gentlemen are of opinion that the arms should be given gratuitously, if indeed that can be said to be gratuitously given which was purchased with their own money; some are for selling them; some for keeping them in arsenals; some (of whom I am one) are for giving them to the governments of the respective States in trust for the militia. But the mode of arrangement need not be decided before the arms are procured. I hope we shall go on and pass the bill. I hope we shall pledge the faith of this Government for arming the militia as much as it is now pledged for the payment of the public debt.

The question being taken on the Committee's rising, was negatived—Ayes 12.

Mr. Blount was in favor of the object of the bill. Gentlemen, in opposing it, had given as a reason for voting against it, the arms now in possession of the militia. To show the fallacy of the reliance on that, he took up the return, in which there is stated, as being in the hands of the militia of North Carolina, twenty-three thousand muskets. His knowledge of the State enabled him to say with boldness, that there were not a fourth of that number; and the return itself showed it, for there was not a single bayonet returned to all these muskets. There were not now enough in the State, he was convinced, to arm the State's quota of 7,003 men—their proportion of the 100,000 to be raised.

The question was then taken on the sum of $450,000 and negatived—39 to 46.

The sum of $400,000 was then negatived—46 to 37.

The sum of $300,000 was also negatived—47 to 41.

The sum of $200,000 was agreed to—46 to 36.

Mr. Rhea proposed an amendment to the bill for transmitting the arms to the State governments respectively, in proportion to their effective numbers of militia, and by them to be distributed among the militia.

Mr. Burwell suggested the propriety of distributing the arms according to the representation from each State, instead of the number of militia; the returns being so defective, it would be difficult to ascertain the proportion.

Mr. Randolph said that this amendment, taken in connexion with the bill as it now stood, reminded him of the clause in the will of the pious licentiate, who, as a recompense for his patient attendance on him, left Gil Blas *all* his library and *all* his manuscripts. *All* the arms which the sum of $200,000 could purchase; *all* this mighty quantity were to be distributed among *all* the States and *all* the Territories. He considered the bill efficiently destroyed by the vote to fill the blank with $200,000. It was proposed to arm the whole body of the militia of the United States with a sum incompetent to keep pace with the annual increase of the militia; and the militia would be just as far from being armed in twenty years after the passage of the bill as they were now. Twenty thousand stand of arms a year would hardly make up for the wear and tear. But supposing the necessity of an amendment similar to that proposed, he thought the condition an improper one. He thought the arms should first be distributed among those States, the militia of which were most disarmed. He hoped the gentleman from Tennessee would not press his amendment, for he considered the bill really defunct; and he knew not but the best way would be to put the bill to sleep, and revive it at a future period.

Mr. Lyon said, if the arms were to be got, he could see no necessity for distributing them in this way; he thought they should be distributed first to those who stood in need of them. If the amendment were adopted in any shape, he should have for his district, comprising somewhat less than one hundred thousand souls, seventy guns!

Mr. Rhea said that all the objections which had been urged went to the amount appropriated, and not to the amendment.

Mr. Holland said that the desires of the gentlemen from Virginia and Kentucky were like some other principles which sounded well, and were calculated to catch the ear, but could have no stability. Would it be justice to give arms to those States who had been too negligent to procure arms, in preference to those which had rigidly performed their duty? He thought not.

The amendment was adopted—43 to 37. The Committee then rose and reported the bill.

On the question that the said bill, with the amendments, be engrossed for a third reading, it was resolved in the affirmative—yeas 54, nays 33, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Burwell Bassett, William Blackledge, Thomas Blount, Adam Boyd, William Butler, Joseph Calhoun, John Campbell, John Clopton, John Culpepper, John Dawson, Joseph Desha, John W. Eppes, Charles Goldsborough, Peterson Goodwyn, John Heister, William Hoge, David Holmes, John G. Jackson, Richard M. Johnson, Philip B. Key, John Lambert, Joseph Lewis, jr., John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Rowan, John Russell, Dennis Smelt, John Smilie, Samuel Smith, John Smith, Henry Southard, Richard Stanford, John Taylor, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, David R. Williams, Alexander Wilson, and James Witherell.

Nays—Ezekiel Bacon, David Bard, John Blake, jr., Robert Brown, Richard Cutts, Samuel W. Dana, John Davenport, jr., Josiah Deane, William Ely, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, John Harris, James Holland, Reuben Humphreys, Daniel Ilsley, William Milnor, Nicholas R. Moore, Thos. Newbold, Timothy Pitkin, jun., John Pugh, Josiah Quincy, James Sloan, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jno. Thompson, Killian K. Van Rensselaer, Robert Whitehill, and Isaac Wilbour.

Ordered, That the said bill be read the third time to-morrow.

Tuesday, April 19.

Mr. Clark, from the committee appointed on the fourteenth instant, presented a bill authorizing the Governor of the Territory of Orleans to supply vacancies in the Legislative Council of that Territory; which was read twice and committed to a Committee of the Whole on Thursday next.

Mr. Rowan, from the committee to whom was referred a resolution to inquire into the conduct of Harry Innes, District Judge of the United States for the district of Kentucky relative to his having been privy to certain projects for dismembering the Union, &c., reported, that they have considered the same and the accompanying documents, which documents are the only evidence which they are informed can be obtained material to the inquiry, and are of opinion that Harry Innes has not so acted as to require the interposition of the Constitutional power of this House.—The report was ordered to lie on the table.

The House resolved itself into a Committee of the Whole, on the bill from the Senate concerning invalid pensioners.

An amendment was made to the bill, on motion of Mr. Holmes, to admit on the pension list persons disabled &c., although they may already be placed on the pension list of any State.

The Committee reported the bill to the House as amended, and it was ordered to a third reading to-morrow.

An engrossed bill for arming and equipping the whole body of the militia of the United States was read the third time, and passed.

SUSPENSION OF THE EMBARGO.

The bill to authorize the President of the United States, under certain conditions, to suspend the embargo, having been received from the Senate, and referred to a Committee of the Whole, the further consideration of Mr. Campbell's resolution was dispensed with; and the House resolved itself into a Committee of the Whole, on the bill from the Senate.

Mr. Randolph said that they had lately gotten into a strange habit of calling things by their wrong names. The other day, said he, we received a bill from the Senate for making an addition to the Peace Establishment, without limitation; we christened the bill by the style and title of a bill to raise for a limited time an additional military force. Here is a bill authorizing the President of the United States, under certain conditions, to suspend the operation of the embargo; and for certain conditions certainly none ever were nearer uncertainty than these are. What are the conditions? They are not positive, and of these, such as they are, the President at last is to determine. The President, under certain conditions, is to suspend the embargo, and when you inquire what those conditions are, you find them uncertainties—contingencies of which, when they happen, he is the sole and exclusive judge. Now if we do authorize the President to suspend the embargo under certain conditions, let us ascertain them. Let them not be uncertain. Let him not have a discretion whether he will suspend the embargo or not.

It is not my purpose now to recapitulate my former argument on this subject; but I do say that if the President of the United States is to have a discretion at all, it ought to be absolute and unqualified, not only substantially so but nominally so; and the objection to this bill is, that under the pretence of qualification to discretion, under the mask (not by this intending any disrespect to the other branch of the Legislature) of restricting the power, you do in fact give him an unqualified power; and no gentleman who reads

the bill can for a moment hesitate to acknowledge the correctness and soundness of the doctrine. I rise not so much to enter into discussion (for I feel myself unable) as to offer an amendment, which, if it be lost in Committee of the Whole, I will reiterate in the House, to ascertain its sense. I move therefore to strike out from the enacting clause in the first section to the end of it and insert:

"That the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be repealed, so far as they prohibit trade with France and her dependencies, and States associated in common cause with her, as soon as the United States shall be exempted from the operation of her decrees of the 21st November 1806, and December 1807, and the President of the United States shall have officially been notified thereof, and shall have received assurances that the existing stipulations between the United States and France will be respected by her.

And be it further enacted, That the said acts shall be repealed so far as they prohibit trade with Great Britain, her dependencies and States associated in common cause with her, as soon as her Orders of Council of November last shall be revoked, so far as they affect the commerce of the United States, and the President of the United States shall have received official assurances thereof, and that the neutral rights of the United States shall be respected by them. And the President of the United States shall be and he is hereby authorized and required, on the receipt of such assurances from either of the two belligerents, to notify the same forthwith by proclamation; whereupon the embargo shall be removed in regard to such belligerents. And if such assurances be received from both belligerents, proclamations shall in like manner be forthwith issued; whereupon the acts aforesaid and the several acts supplementary thereto shall cease and determine."

I will state in a few words why I have not inserted in that amendment any condition respecting reparation for the affair of the Chesapeake. It was not because the bill from the Senate contains no such principle; but because the embargo has never been considered, that I recollect, certainly it was not so considered by the gentleman who moved the resolution, as a re-action on our part in consequence of that outrage; because the step was not taken till some time after that outrage; and because it was taken before we knew whether reparation would be made for the outrage or not. In fact it was never said by any gentleman who advocated it to have any connexion with that transgression, which stood on its own demerits. The embargo grew out of the French decrees and British proclamations, and if justified by the British proclamation, was assuredly yet more justified by the Orders of Council which followed it. It was then a measure intended to meet the aggressions on our commerce by the two belligerents; and not a measure of resentment in consequence of the aggression on the Chesapeake. It is therefore that I have thought proper not to mingle subjects which at all times ought to have been and I understand now are kept separate and distinct.

Mr. QUINCY.—Mr. Chairman, the amendment proposed to this bill by the gentleman from Virginia (Mr. RANDOLPH) has for its object to limit the Executive discretion in suspending the embargo to certain specified events—the removal of the French decrees; the revocation of the British Orders. It differs from the bill, as it restricts the range of the President's power to relieve the people from this oppressive measure. In this point of view, it appears to me, even more objectionable than the bill itself. To neither can I yield my sanction. And as the view which I shall offer will be different from any which has been taken of this subject, I solicit the indulgence of the Committee.

A few days since, when the principle of this bill was under discussion, in the form of a resolution, a wide field was opened. Almost every subject had the honors of debate except that which was the real object of it. Our British and French relations, the merits and demerits of the expired and rejected treaty, as well as those of the late negotiators and of the present Administration; all were canvassed. I enter not upon these topics. They are of a high and most interesting nature. But their connexion with the principle of this bill is, to say the least, remote. There are considerations intimately connected with it, enough to interest our zeal and to awaken our anxiety.

The question referred to our consideration is, shall the President be authorized to suspend the embargo on the occurrence of certain specified contingencies? The same question is included in the proposed amendment and the bill. Both limit the exercise of the power of suspension of the embargo to the occurrence of certain events. The only difference is, that the discretion given by the former is more limited; that given by the latter is more liberal.

In the course of the former discussion a Constitutional objection was raised which, if well founded, puts an end to both bill and amendment. It is impossible, therefore, not to give it a short examination. It was contended that the Constitution had not given this House the power to authorize the President at his discretion to suspend a law. The gentleman from Maryland (Mr. KEY) and the gentleman from Virginia (Mr. RANDOLPH,) both of great authority and influence in this House, maintained this doctrine with no less zeal than eloquence. I place my opinion, with great diffidence, in the scale, opposite to theirs. But as my conviction is different, I must give the reasons for it—why I adhere to the old canons; those which have been received as the rule both of faith and practice, by every political sect, which has had power, ever since the adoption of the Constitution, rather than to these new dogmas.

The Constitution of the United States, as I understand it, has in every part reference to the nature of the things and the necessities of society. No portion of it was intended as a mere ground for the trial of technical skill or verbal ingenuity. The direct, express powers, with which it invests Congress, are always to be so construed as to enable the people to attain the end, for which they were given. This is to be gathered from the nature

of those powers, compared with the known exigencies of society and the other provisions of the Constitution. If a question arise, as in this case, concerning the extent of the incidental and implied powers vested in us by the Constitution, the instrument itself contains the criterion, by which it is to be decided. We have authority to make "laws necessary and proper for carrying into execution" powers, unquestionably vested. Reference must be had to the nature of these powers to know what is "necessary and proper" for their wise execution. When this necessity and propriety appear, the Constitution has enabled us to make the correspondent provisions. To the execution of many of the powers vested in us, by the Constitution, a discretion is necessarily and properly incident. And when this appears from the nature of any particular power, it is certainly competent for us to provide by law that such a discretion shall be exercised. Thus for instance, the power to borrow money must in its exercise be regulated, from its very nature, by circumstances, not always to be anticipated by the Legislature at the time of passing a law authorizing a loan. Will any man contend that the Legislature is necessitated to direct either absolutely that a certain sum shall be borrowed, or to limit the event on which the loan is to take place? Cannot it vest a general discretion, to borrow or not to borrow, according to the view which the Executive may possess of the state of the Treasury, and of the general exigencies of the country, particularly in cases where the loan is contemplated at some future day, when perhaps Congress is not in session, and when the state of the Treasury, or of the country, cannot be foreseen? In the case of the two millions appropriated for the purchase of the Floridas, such a discretion was invested in the Executive. He was authorized, "if necessary, to borrow the sum, or any part thereof." This authority he never exercised, and thus, according to the argument of gentlemen on the other side, he has made null a legislative act. For so far as it depended upon his discretion, this not being exercised, it is a nullity. The power "to pay the debts of the United States" will present a case in which, from the nature of the power, a discretion to suspend the operation of a law may be necessary and proper to its execution. Congress by one law direct the Executive to pay off the eight per cent. stock. Will gentlemen seriously contend that by another it may not invest him with a general discretion to stop the payment; that is, to suspend the operation of the former law, if the state of the Treasury, or even more generally, if the public good should in his opinion require? An epidemic prevails in one of our commercial cities; intercourse is prohibited with it; Congress is about to terminate its session and the distemper still rages. Can it be questioned, that it is within our Constitutional power to authorize the President to suspend the operation of the law, whenever the public safety will permit? Whenever, in his opinion, it is expedient? The meanest individual in society, in the most humble transactions of business, can avail himself of the discretion of his confidential agent, in cases where his own cannot be applied. Is it possible that the combined wisdom of the nation is debarred from investing a similar discretion, whenever, from the nature of the particular power, it is necessary and proper to its execution?

The power of suspending laws, against which we have so many warnings in history, was a power exercised, contrary to the law, or in denial of its authority, and not under the law and by virtue of its express investment. Without entering more minutely into the argument, I cannot doubt but that Congress does possess the power to authorize the President by law to exercise a discretionary suspension of a law. A contrary doctrine would lead to multiplied inconveniences; and would be wholly inconsistent with the proper execution of some of the powers of the Constitution. It is true that this, like every other power, is liable to abuse. But we are not to forego a healthy action, because, in its excess, it may be injurious.

The expediency of investing the Executive with such an authority, is always a critical question. In this case, from the magnitude of the subject, and the manner in which the embargo oppresses all our interests, the inquiry into our duty in relation to it, is most solemn and weighty. It is certain some provision must be made touching the embargo, previous to our adjournment. A whole people is laboring under a most grievous compression. All the business of the nation is deranged. All its active hopes are frustrated. All its industry stagnant. Its numerous products hastening to their market, are stopped in their course. A dam is thrown across the current, and every hour the strength and the tendency towards resistance is accumulating. The scene we are now witnessing is altogether unparalleled in history. The tales of fiction have no parallel for it. A new writ is executed upon a whole people. Not, indeed, the old monarchical writ, *ne exeat regum*, but a new republican writ, *ne exeat rempublicam*. Freemen, in the pride of their liberty, have restraints imposed on them, which despotism never exercised. They are fastened down to the soil by the enchantment of law; and their property vanishes in the very process of preservation. It is impossible for us to separate and leave such a people, at such a moment as this, without administering some opiate to their distress. Some hope, however distant, of alleviation must be proffered; some prospect of relief opened. Otherwise, justly might we fear for the result of such an unexampled pressure. Who can say what counsels despair might suggest, or what weapons it might furnish?

Some provision then, in relation to the embargo, is unavoidable. The nature of it, is the inquiry. Three courses have been proposed—to repeal it; to stay here and watch it; to leave with the Executive the power to suspend it. Concerning repeal I will say nothing. I respect the known and immutable determination of the majority of this House. However convinced I may

be, that repeal is the only wise and probably the only safe course, I cannot persuade myself to urge arguments which have been often repeated, and to which, so far from granting them any weight, very few seem willing to listen. The end to which I aim will not counteract the settled plan of policy. I consider the embargo as a measure from which we are not to recede, at least not during the present session. And my object of research is, in what hands, and under what auspices it shall be left, so as best to effect its avowed purpose and least to injure the community. Repeal, then, is out of the question. Shall we stay by and watch? This has been recommended. Watch! What? "Why, the crisis!" And do gentlemen seriously believe that any crisis which events in Europe are likely to produce will be either prevented or meliorated, by such a body as this, remaining, during the whole summer, perched upon this hill?

To the tempest which is abroad we can give no direction; over it we have no control. It may spend its force on the ocean, now desolate by our laws, or it may lay waste our shores. We have abandoned the former, and for the latter, though we have been six months in session, we have prepared no adequate shield. Besides, in my apprehension, it is the first duty of this House to expedite the return of its members to their constituents. We have been six months in continued session. We begin, I fear, to lose our sympathies for those whom we represent. What can we know, in this wilderness, of the effects of our measures, upon civilized and commercial life? We see nothing, we feel nothing, but through the intervention of newspapers, or of letters. The one obscured by the filth of party; the other often distorted by personal feeling or by private interest. It is our immediate, our indispensable duty, to mingle with the mass of our brethren and by direct intercourse to learn their will; to realize the temperature of their minds; to ascertain their sentiments concerning our measures. The only course that remains is to leave with the Executive the power to suspend the embargo. But the degree of power with which he ought to be vested, is made a question. Shall he be limited only by his sense of the public good, to be collected from all the unforeseen circumstances which may occur during the recess; or shall it be exercised only on the occurrence of certain specified contingencies? The bill proposes the last mode. It also contains other provisions highly exceptionable and dangerous; inasmuch as it permits the President to raise the embargo, "*in part or in whole*," and authorizes him to exercise an unlimited discretion as to the penalties and restrictions he may lay upon the commerce he shall allow. My objections to the bill, therefore, are—first, that it limits the exercise of the Executive as to the whole embargo, to particular events, which if they do not occur, no discretion can be exercised, and let the necessity of abandoning the measure be, in other respects, ever so great, the specified events not occurring, the embargo is absolute at least until the ensuing session; next, that if the events do happen, the whole of the commerce he may in his discretion set free, is entirely at his mercy; the door is opened to every species of favoritism, personal or local. This power may not be abused; but it ought not to be trusted. The true, the only safe ground on which this measure, during our absence, ought to be placed is, that which was taken in the year 1794. The President ought to have authority to take off the prohibition, whenever, in his judgment, the public good shall require; not partially, not under arbitrary bonds and restrictions; but totally, if at all. I know that this will be rung in the popular ear, as an unlimited power. Dictatorships, protectorships, "shadows dire will throng into the memory." But let gentlemen weigh the real nature of the power I advocate, and they will find it not so enormous as it first appears, and in effect much less than the bill itself proposes to invest. In the one case he has the simple and solitary power of raising or retaining the prohibition, according to his view of the public good. In the other he is not only the judge of the events specified in the bill, but also of the degree of commerce to be permitted, of the place from which and to which it is to be allowed; he is the judge of its nature, and has the power to impose whatever regulation he pleases. Surely there can be no question but that the latter power is of much more magnitude and more portentous than the former. I solicit gentlemen to lay aside their prepossessions and to investigate what the substantial interest of this country requires; to consider by what dispositions this measure may be made least dangerous to the tranquillity and interests of this people; and most productive of that peculiar good, which is avowed to be its object. I address not those who deny our Constitutional power to invest a discretion to suspend, but I address the great majority, who are friendly to this bill, who, by adopting it, sanction the constitutionality of the grant of fresh authority to whom, therefore, the degree of discretion is a fair question of expediency. In recommending that a discretion, not limited by events, should be vested in the Executive, I can have no personal wish to augment his power. He is no political friend of mine. I deem it essential, both for the tranquillity of the people and for the success of the measure, that such a power should be committed to him. Neither personal nor party feelings shall prevent me from advocating a measure, in my estimation, salutary to the most important interests of this country. It is true that I am among the earliest and the most uniform opponents of the embargo. I have seen nothing to vary my original belief, that its policy was equally cruel to individuals and mischievous to society. As a weapon to control foreign Powers, it seemed to me, dubious in its effect, uncertain in its operation; of all possible machinery the most difficult to set up, and the most expensive to maintain. As a mean to preserve our resources, nothing could, to my mind, be more ill adapted. The best guarantees of the interest society has in the wealth of the members which compose it, are the industry, intelligence, and enterprise of the individual proprietors, strengthened as they always are by knowledge of business, and quickened by that which gives the keenest edge to human ingenuity—self-interest. When all the property of a multitude is at hazard, the simplest and surest way of securing the greatest portion, is not to limit individual exertion, but to stimulate it; not to conceal the nature of the exposure, but, by giving a full knowledge of the state of things, to leave the wit of every proprietor free, to work out the salvation of his property, according to the opportunities he may discern. Notwithstanding the decrees of the belligerents, there appeared to me a field wide enough to occupy and reward mercantile enterprise. If we left commerce at liberty, we might, according to the fable, lose some of her golden eggs, but if we crushed commerce, the parent which produced them, with her our future hopes perished. Without entering into the particular details, whence these conclusions resulted, it is enough that they were such as satisfied my mind as to the duty of opposition to the system, in its incipient state, and in all the restrictions which have grown out of it. But the system is adopted. May it be successful! It is not to diminish, but to increase the chance of that success, I urge that a discretion, unlimited by events, should be vested in the Executive. I shall rejoice if this great miracle be worked. I shall congratulate my country, if the experiment shall prove, that the old world can be controlled by fear of being excluded from the commerce of the new. Happy shall I be, if on the other side of this dark valley of the shadow of death, through which our commercial hopes are passing, shall be found regions of future safety and felicity.

Among all the propositions offered to this House, no man has suggested, that we ought to rise and leave this embargo until our return, pressing upon the people, without some power of suspension vested in the Executive. Why this uniformity of opinion? The reason is obvious; the greatness of comparison. If the people were left six months without hope, no man could anticipate the consequences. All agree that such an experiment would be unwise and dangerous. Now precisely the same reasons which induce the majority not to go away without making some provision for its removal, on which to feed popular expectation, is conclusive in my mind that the discretion proposed to be invested should not be limited by contingencies.

The embargo power, which now holds in its palsying gripe all the hopes of this nation, is distinguished by two characteristics of material import, in deciding what control shall be left over it during our recess. I allude to its greatness and its novelty.

As to its greatness, nothing is like it. Every class of men feels it. Every interest in the nation is affected by it. The merchant, the farmer, the planter, the mechanic, the laboring poor; all, are sinking under its weight. But there is this peculiar in it; that there is no equality in its nature. It is not like taxation, which raises revenue according to the average of wealth; burdening the rich and letting the poor go free. But it presses upon the particular classes of society, in an inverse ratio to the capacity of each to bear it. From those who have much it takes, indeed, something. But from those who have little, it takes all. For what hope is left to the industrious poor, when enterprise, activity, and capital are proscribed their legitimate exercise? This power resembles not the mild influences of an intelligent mind, balancing the interests and conditions of men, and so conducting a complicated machine as to make inevitable pressure bear upon its strongest parts. But it is like one of the blind visitations of nature; a tornado or a whirlwind. It sweeps away the weak; it only strips the strong. The humble plant, uprooted, is overwhelmed by the tempest. The oak escapes with the loss of nothing except its annual honors. It is true the sheriff does not enter any man's house to collect a tax from his property. But want knocks at his door and poverty thrusts his face into the window. And what relief can the rich extend? They sit upon their heaps and feel them mouldering into ruins under them. The regulations of society forbid what was once property, to be so any longer. For property depends on circulation; on exchange; on ideal value. The power of property is all relative. It depends not merely upon opinion here, but upon opinion in other countries. If it be cut off from its destined market, much of it is worth nothing, and all of it is worth infinitely less than when circulation is unobstructed.

This embargo power is therefore of all powers the most enormous, in the manner in which it affects the hopes and interests of a nation. But its magnitude is not more remarkable than its novelty. An experiment, such as is now making, was never before—I will not say tried—it never before entered into the human imagination. There is nothing like it in the narrations of history or in the tales of fiction. All the habits of a mighty nation are at once counteracted. All their property depreciated. All their external connexions violated. Five millions of people are engaged. They cannot go beyond the limits of that once free country; now they are not even permitted to thrust their own property through the grates. I am not now questioning its policy, its wisdom, or its practicability, I am merely stating the fact. And I ask if such a power as this, thus great, thus novel, thus interfering with all the great passions and interests of a whole people, ought to be left for six months in operation, without any power of control, except upon the occurrence of certain specified and arbitrary contingencies? Who can foretel when the spirit of endurance will cease? Who, when the strength of nature shall outgrow the strength of your bonds? Or if they do, who can give a pledge that the patience of the people will not first be exhausted? I make a supposition, Mr. Chairman—you are a great physician; you take a hearty, hale man, in the very pride of health, his young blood all active in his veins, and you outstretch him on a bed; you stop up all his natural orifices, you hermetically seal

down his pores, so that nothing shall escape outwards, and that all his functions and all his humors shall be turned inward upon his system. While your patient is laboring in the very crisis of this course of treatment, you, his physician, take a journey into a far country, and you say to his attendant, "I have a great experiment here 'in process, and a new one. It is all for the good 'of the young man, so do not fail to adhere to it. 'These are my directions, and the power with 'which I invest you. No attention is to be paid 'to any internal symptom which may occur. Let 'the patient be convulsed as much as he will, you 'are to remove none of my bandages. But, in case 'something external should happen; if the sky 'should fall, and larks should begin to appear, if 'three birds of Paradise should fly into the window, 'the great purpose of all these sufferings is answered. Then, and then only, have you my 'authority to administer relief."

The conduct of such a physician, in such a case, would not be more extraordinary than that of this House in the present, should it adjourn and limit the discretion of the Executive to certain specified events arbitrarily anticipated; leaving him destitute of the power to grant relief should internal symptoms indicate that nothing else would prevent convulsions. If the events you specify do not happen, then the embargo is absolutely fixed until our return. Is there one among us that has such an enlarged view of the nature and necessities of this people as to warrant that such a system can continue six months longer? It is a presumption which no known facts substantiate, and which the strength and the universality of the passions such a pressure will set at work in the community, render, to say the least, of very dubious credit. My argument in this part has this prudential truth for its basis: If a great power is put in motion, affecting great interests, the power which is left to manage it should be adequate to its control. If the power be not only great in its nature, but novel in its mode of operation, the superintending power should be permitted to exercise a wise discretion; for if you limit him by contingencies, the experiment may fail, or its results be unexpected. In either case, nothing but shame or ruin would be our portion.

But I ask the House to view this subject in relation to the success of this measure, which the majority have justly so much at heart. Which position of invested power is the most auspicious to a happy issue?

As soon as this House has risen, what think you will be the first question every man in this nation will put to his neighbor? Will it not be—"What has Congress done with the embargo?" Suppose the reply should be—"They have made no provision." This corroding cancer is to be left absolutely on the vitals six months longer." Is there a man who doubts but that such a reply would sink the heart of every owner of property, and of every laborer in the community? No man can hesitate. The magnitude of the evil, the certain prospect of so terrible a calamity thus long protracted, would itself tend to counteract the continuance of the measure by the discontent and despair it could not fail to produce in the great body of the people. But suppose in reply to such a question, it should be said—"The re-'moval of the embargo depend upon events. 'France must retrace her steps. England must 'apologize and atone for her insolence. Two of 'the proudest and most powerful nations on the 'globe must truckle for our favor, or we shall per-'sist in maintaining our dignified retirement." What then would be the consequence? Would not every reflecting man in the nation set himself at work to calculate the probability of the occurrence of these events? If they were likely to happen, the distress and discontent would be scarcely less than in the case of absolute certainty for six months' perpetuation of it. For if the events do not happen, the embargo is absolute. Such a state of popular mind all agree is little favorable either to perseverance in the measure, or to its ultimate success. But suppose that the people should find a discretionary power was invested in the Executive, to act as in his judgment, according to circumstances, the public good should require. Would not such a state of things have a direct tendency to allay fear, to tranquillize discontent, and encourage endurance of suffering? Should experience prove, that it is absolutely insupportable, there is a Constitutional way of relief. The way of escape is not wholly closed. The knowledge of this fact would be alone a support to the people. They would endure it longer. They would endure it better. We would be secure of a more cordial co-operation in the measure, as the people would see they were not wholly hopeless, in case the experiment was oppressive. Surely nothing can be more favorable to its success than producing such a state of public sentiment.

But it is objected, that a power like this is too great to be invested in the Executive. In my opinion, as I have urged, it has less than that which you are about to confer. But what is this great discretion, so dangerous and alarming? It is simply a power to remove a prohibition, when the public good, in his judgment, requires. It is merely a power to do good; without the possibility of doing harm. If the specified events do not happen, then it is absolutely a six months' embargo. Worse than this it cannot be, should he have the discretion, and fail to exercise it. But suppose the events do not happen, and the state of the country requires that the embargo should be raised; then discretion becomes only an instrument of good—a means of escape from ruin. There is only one apprehension, which is in opposition to this reasoning; and that is, that the Executive might raise the embargo before a fair experiment of its efficacy. Can there be, possibly, any just ground for such a fear? Is not the Executive, in a manner, pledged for its success? Is it not eminently his measure? It is not too much to say that he is, and that he ought to be the last man in the nation who can be convinced of its inefficacy.

But there is another objection. It would expose the President to frequent solicitation for its removal. The preparing such solicitation would be a work of time, and while pending, by keeping hope alive, would tend to tranquillize the people. Should such solicitations spring from party spirit, would not its rival party counteract and defeat their efforts? But suppose the real sufferings, previous to the next session, should break down party distinction; suppose that men of all political sects should unite in judgment concerning the wisdom of abandoning the measure, are we prepared to say, that in such a state of things, it shall not be removed?

But I confess there are other reasons which have great weight in my mind, against this limitation of Executive discretion by events. First, it is altogether doubtful whether the contingencies will happen; and if they do, and thereupon the embargo should be raised, there is no possible security can be given that, as soon as our property is again upon the sea, the obnoxious policy will not be renewed. The fear of commissioned piracy, when it is combined with a pre-determination not to protect commerce against it, furnishes quite as sound a reason for a perpetual, as for a temporary abandonment of the ocean. But a more powerful argument, in my mind, against this specification of events, on the occurrence of which alone the embargo shall be raised, is, that, reasoning according to the known principles of human conduct, it seems full as likely to prevent as to promote that change of European policy at which we aim. I think it is clearly to be seen, from the nature of the British decrees, which in a manner carry their own antidote with them, and by their operation defeat their own object, that a change of measures will be produced from the evils inevitably resulting, independent of any act of ours, not to neutrals merely, but to the English themselves. From the perpetually shifting administration of that Government, resulting partly from its nature and partly from the characters of the men now the rivals for power in it, there can be but little doubt that a change will soon be wrought, and a wiser course towards neutrals be pursued. The ready way to prevent such a change is to unite the pride of the whole nation in opposition to our pretensions. Let us once declare to the world, that before our embargo policy be abandoned, the French orders and the British decrees must be revoked, and we league whatever honorable spirit exists in both those nations against us. Not to do that, under a threat, which we could do either from a sense of justice or from a sense of interest, is a common and a necessary principle of national, as well as personal dignity. No nation will easily be brought to knowledge that it is so dependent upon another, that by its withholding intercourse an abandonment has been necessarily effected of a settled plan of policy. The admission sinks the nation making it, from the rank of an equal to that of a dependant. Again, by proclaiming to the world the terms on which our Executive may raise the embargo, we compromise our own honor. This weapon has two edges. It not merely pledges us to raise it, when those events occur, but what is worse it pledges us to keep it on, until they happen. We solemnly avow our purpose; can we recede from it afterwards but with disgrace? It is infinitely wiser to leave the reasons for the embargo in that obscure and mystical light, which has yet characterized the whole course of its existence. Let us not commit ourselves as to its object. Let it continue to be as it has yet been, sometimes intended to save our seamen, and sometimes to save our property; now to constrain France, and now to take vengeance on Great Britain. At one time let its end be to protect commerce; at another to encourage manufactures. To day let it be an attempt to preserve our neutrality; to-morrow a trial, "who shall do one another most harm." Thus we leave ground enough to retreat upon, "in the undefined field of contingencies."

But there is another most weighty objection to this restriction of Executive discretion by events. Such a course places the whole commerce of the United States at the mercy of foreign nations. The language of this policy is—"rescind your decrees and your orders, or else we will, in our wrath, abandon the ocean." Now, suppose that Great Britain, governed by a spirit of mercantile calculation, should reply—"Is this your mode of vengeance? Take the whole benefit of it. It is the very thing we wish. You are our only rivals. By driving you out of the market, we gain more than we lose by your retirement." Are gentlemen prepared to prove that such will not be her interest; or are they quite certain, if it be not, that she may not mistake her interest, under the influence of some stronger passion? What then will be our situation? Why, the melancholy alternative will alone be left us of abandoning forever the highway of nations; or retracting, with shame, a policy to which we had pledged ourselves without sufficient caution. I do indeed believe that the commerce of the United States is important enough to France and Great Britain, to incline both those nations to grant us for its continuance many and great commercial privileges. But that it is so consequential to either, as that for its enjoyment the one could be tempted to forego a policy, which has for its object to crush the only obstacle in its way to universal empire, or the other induced to abandon a system, adopted as the only means for the preservation of its national existence, now in peril, on all sides, I confess I am very far from believing.

We are but a young nation. The United States are scarcely yet hardened into the bone of manhood. The whole period of our national existence has been nothing else than a continued series of prosperity. The miseries of the Revolutionary war were but as the pangs of parturition. The experience of that period was of a nature not to be very useful after our nation had acquired an individual form and a manly, Constitutional stamina. It is to be feared we have grown giddy with good fortune; attributing the greatness of our prosperity to our own wisdom, rather than to a course of events, and a guidance over which we had no influence. It is to be feared that we are now en-

tering that school of adversity, the first blessing of which is to chastise an overweening conceit of ourselves. A nation mistakes its relative consequence, when it thinks its countenance, or its intercourse, or its existence, all-important to the rest of the world. There is scarcely any people, and none of any weight in the society of nations, which does not possess within its own sphere all that is essential to its existence. An individual who should retire from conversation with the world for the purpose of taking vengeance on it for some real or imaginary wrong, would soon find himself grievously mistaken. Notwithstanding the delusions of self-flattery, he would certainly be taught that the world was moving along just as well, after his dignified retirement, as it did while he intermeddled with its concerns. The case of a nation which should make a similar trial of its consequence to other nations, would not be very different from that of such an individual. The intercourse of human life has its basis in a natural reciprocity, which always exists, although the vanity of nations, as well as of individuals, will often suggest to inflated fancies, that they give more than they gain in the interchange of friendship, or civilities, or of business. I conjure gentlemen not to commit the nation upon the objects of this embargo measure, but by leaving a wise discretion during our absence with the Executive, neither to admit nor deny by the terms of our law that its object was to coerce foreign nations. Such a state of things is safest for our own honor and the wisest to secure success for this system of policy.

Mr. KEY said, he well knew how painful it was to address gentlemen who had already made up their minds; but the magnitude of this important Constitutional question compelled him to trespass for a few moments on the patience of the House. I shall, said he, confine myself to the Constitutionality of the bill from the Senate, in hopes that if the House feel the impressions on the subject which I feel, they will reject it; or at least word it so, that the power given to the President shall be Constitutional. I was in hopes, from the talents of the gentlemen who spoke the other day, that I should have heard some reply, some attempt made to defeat the Constitutional objections which I offered to the resolution; if they did not meet them with fair argument, that they would at least have shown what part of the conclusions which I had drawn were incorrect. Gentlemen say the argument is not true. They must either allow my deductions, or show wherein I am incorrect in drawing them. I call upon the understanding of the House, and their attachment to the Constitution, to follow me but for a few moments, and see whether we can vest the power contemplated by the bill.

All the respective Representatives of the people of the States at large, and the sovereignty in a political capacity of each State, must concur to enact a law. An honorable gentleman from Tennessee (Mr. CAMPBELL) admitted that the power to repeal must be co-extensive with the power to make. If this be admitted, I will not fail to convince you that in the manner in which this law is worded we cannot constitutionally assent to it. What does it propose? To give the President of the United States power to repeal an existing law now in force—upon what? Upon the happening of certain contingencies in Europe? No; but if those contingencies when they happen in his judgment shall render it safe to repeal the law, a discretion is committed to him, upon the happening of those events, to suspend the law. It is that discretion to which I object. I do not say it would be improperly placed at all; but the power and discretion to judge of the safety of the United States, is a power Legislative in its nature and effects, and as such, under the Constitution, cannot be exercised by one branch of the Legislature. I pray gentlemen to note the distinction: that whenever the events happen, if the President exercise his judgment upon those events, and suspend the law, it is the exercise of a Legislative power; the people, by the Constitution of the country, never meant to confide to any one man the power of legislating for them.

Is the suspension of the law a Legislative act? Can any man doubt it? It is as much a Legislative act as to repeal or make a law; and the same power which can give any man a right to suspend a law, can give him an equal right to make a law. I ask if these principles are not clear and manifest to any one who will consider them? Is the power to suspend a law a Legislative act? Certainly; because it changes the law to a new rule of conduct. For instance—the law is in full force; no ship or vessel can depart from our ports. That prohibition ceases and a new rule is established by the suspension of the law. Hence the suspension of a law, by repealing an old rule of conduct and establishing a new one, is unquestionably a Legislative act. If I am correct—and I call upon gentlemen to show in what respect I am not correct; I call upon them by argument or reasoning to prove that the power of suspending a law is not the power of repealing one—I then beg of you to lay your hand on the Constitution of the United States, and say where is the power of confiding the enaction (repeal and enaction requiring the same power) of laws to any individual whatever? None can be found; and till some can be found, we must recognise it as a sacred truth that under the Constitution none does exist.

I have endeavored to show that it is a Legislative power, and my reason for doing so was, to testify to a gentleman from Massachusetts (Mr. QUINCY) that with this explanation I will give an easy understanding of this question. I do not say that we cannot give the President upon certain predicated events a power by which the embargo may be taken off. Such may be done. But when it is done, a repeal or suspension must be the act of the Congress of the United States, operating upon events or facts to which the President by his proclamation may give publicity. Very different is this bill from that; and from the idea of a gentleman who the other day said that the President was only to judge of the fact. Of what fact? Not of the happening of the events solely; for after

they do happen, he is to exercise his exclusive judgment whether it will comport with the safety of the United States to suspend the embargo.

The gentleman does not seem to think that I draw a fair conclusion. I think the bill does not restrict the power of the President to suspend the law upon the happening of certain events. The President is to exercise his sole judgment, upon the happening of these events, whether it is consistent with the safety of the United States to remove the embargo. Is he bound upon the happening of these events to take off the embargo? If not, something more is to be done. He is to exercise a sound discretion whether the trade of our country may be safely prosecuted. He is not even then bound to suspend the whole of the embargo act; but to suspend the whole or in part, under certain exceptions or restrictions. Who is to make these exceptions and restrictions? The President of the United States. Then when under this power of suspension, he makes restrictions to which you are bound to adhere, does he not make the suspension a law of the land? Most manifestly. If he does, is not the suspension an actual imposition of new circumstances? He exercises a Legislative act by the suspension, and by fixing terms and conditions on which the commerce of the United States may be afterwards carried on. In both cases he exercises a Legislative, not an Executive power.

I said the other day that to give the President of the United States power to suspend any law, was equal to giving him power to suspend all laws. And I ask any gentlemen attached to the Constitution, where they will find that power. For if it be true in part it is true in the whole as to the power; though we may not in our discretion confide the exercise of the whole power to him. Now, I ask where the Constitution gives us a power to enable him to suspend any law? Of all the powers on earth, even were it clear that we possess it, it ought to be exercised with the greatest hesitation. It was perhaps the most dangerous prerogative ever claimed by the Crown for several centuries in England—the power of suspending the effects of laws enacted by the people. I call the attention of gentlemen to recollect that when the last of the unfortunate race of Stuart was about to abdicate the throne, one of the greatest reasons for the abdication was his suspending laws; that he undertook to suspend the penal laws respecting the Catholic system, and introduce Popery. The courtiers of those days attempted to justify the power not only as a prerogative of the Crown, but as often given to it by the people; and in ransacking the history of England, but two precedents were found. No sooner did the patriot convention meet, but in the most solemn manner they declared that such a power did not exist; and governed as that Parliament are now by corruption and intrigues, there never since has been an attempt to give the King the power of suspending laws. My observations flow from no want of confidence in the Executive. I am in conscience and conviction opposed to our having the right to impart a Legislative power at all. In England it might be done, because the Legislature is omnipotent; but we are limited within the sphere of our Constitution; and if the power is not there to be found, it can nowhere exist. Hence I state that in forming this Constitution it was declared that all laws to be enforced must have the assent of the three branches representing three distinct interests of the community; and to repeal them the same formality is required.

It has been said, that powers analogous to that now attempted to be given, have been exercised. One in the case of the non importation law; where the power to suspend was contained in the body of the law itself. I can satisfy the gentleman from Massachusetts that the powers which he refers to were all Executive, capable of being exercised by any one as well as by the President. If we have authority to give the President of the United States the power of suspending a law, have we not a right to select any other man in society, and give him the same power? We cannot transfer it anywhere. I ask the gentleman if we are capable of giving power to the President of the United States to suspend a law, can we not to any officer of Departments? If we cannot, what limits us? How are we bound? By what clause in the Constitution, and on what principle? The President, it is true, is the person to whom, if we had the power, it would be most properly confided; but there is nothing which confines us exclusively to him, or which prevents us, if we have authority to delegate the power at all, from giving it to another.

The honorable gentleman from Massachusetts (Mr. QUINCY) observed that there is a distinction to be taken in the construction of the Constitution, from nature and necessity. I sit so remote from him that I could not distinctly hear him. But I cannot see how there can be any distinction in our power from the nature of things, the whole Constitution being in writing, containing limitations to our power; nor from necessity, for if that is to have any weight, the Constitution is a perfect panacea. The Constitution has limited our power, and never even thought of nature and necessity; but told you to revolve in the sphere prescribed to you. As to Legislative power, there can be no distinction in it on earth; it is a simple unique power—the right to make, suspend, or repeal laws. There are powers created by that Legislative authority; and there the gentleman ought to have taken his distinction. The Legislative authority may communicate power to any man in the country to be exercised. They may direct a survey of the country to be made, and empower the President to appoint the person to execute it. This is a power created by the Legislature to be exercised by the Executive, not involving a Legislative power at all. So by borrowing money. The power of borrowing money was an authority given to Congress to enable them to pledge the faith of the United States, as a guarantee to inspire confidence in those who might lend. When a law passes for borrowing money you may constitute any person in the country an agent to execute the bond which may

be given, to negotiate a loan, or to receive the money in the Treasury. Is there in transacting this business anything of a Legislative power? Certainly not. If by this bill the President of the United States was limited upon the happening of certain specified events to issue his proclamation, and thereupon that the law should cease and determine, I should have no objection to it. [I will read my ideas, which might have met the ideas of the House, and will go far to explain to what point I would go and where I would stop. [Mr. KEY then read an amendment somewhat similar to that offered by Mr. RANDOLPH; that in the event of peace or official notification of the rescinding the orders and decrees of the belligerents, &c., the President should issue his proclamation declaring the fact, and thereupon the law imposing an embargo should be repealed.] This, said he, is a Legislative repeal or suspension of the act laying an embargo, upon the happening of certain events; involving no power or discretion of any one human being. The suspension or repeal follows by the Constitutional exercise of our power, upon the happening of those events which the Executive by proclamation shall notify. And let any gentleman show any farther power can constitutionally be given.

Other cases were mentioned, where impliedly or directly the President might or must have power to suspend our laws. I agree with the gentleman that we may give these powers in the manner which the Constitution requires. The President may have power to suspend our intercourse with any port or country in the case of contagion. In this case it depends upon the phraseology of the law whether the power be constitutionally exercised or not. If we state in an intercourse law, that if a disease shall exist in any of the West India islands or elsewhere, and that upon proclamation of the existence of such disease the law shall be suspended, the provision made is entirely different from that contemplated by the present bill. I say if gentlemen will attend to the distinction they will find that it is as plain as the sun at noon-day. It requires but little discernment to perceive that in the present case you devolve a power of suspension or repeal; while, in the case adduced as parallel, the law suspends itself. It requires but little distinction of ideas to mark a difference between a case in which we ourselves by law suspend an act upon the happening of an event yet in the womb of time, and a case in which we give the Executive a power to suspend the law *ad libitum* when that event does occur.

I therefore do give the bill from the Senate my decided opposition, on the ground that we cannot pass the bill as sent to us; not that I am unwilling to raise the embargo, for I wish an immediate repeal.

Being apparently in a small minority on that question, I am willing to acquiesce in such a measure as that proposed, if it can be done on terms to which I can consistently accede. If there is no difficulty as to events on which the embargo shall be suspended, I feel inclined to hope that my amendment will be adopted. If there be a difficulty, it may be modified.

The examples of former times would have little influence on my mind. I should lament that in the early part of our Republican Government constructions so dangerous had been given. Instead of pursuing them, the wiser way would be to immediately retrace our steps and rally round the Constitution. It will take a weight off my mind, if I can be convinced: 1, That the phraseology of this bill does not give the President a Legislative power; and 2, If it does, that there should be a concurrence of sentiment so to modify it as to vest the power in such a manner as to make its exercise consonant with the Constitution.

Mr. HOLLAND said, when this subject had been first introduced he had conceived it to be one of those plain cases which would require no illustration. He had no idea the power could be doubted. He was dissatisfied with the gentleman from Tennessee, because he had taken up some time to show that they did possess the power; he then thought all the time taken up on the subject was time lost. It had never been before questioned; the power had been exercised from the commencement of the Government to the present time, and never before doubted; and therefore he had been dissatisfied with the gentleman from Tennessee, because he took up a few minutes to show that they possessed the power. I am yet, said he, unable to see that the principle of the bill is shaken by the arguments I have heard against it, although much ingenuity has been exercised on the subject by one or two gentlemen; but, when we come to examine their arguments, they are far from being plausible, certainly not solid. The gentleman from Maryland supposes that the maxim will not be contradicted, that it takes the same power to repeal a law that it does to make it. None will contradict it; but does it apply to this case? Do we vest a power to repeal a law? It is correct that it requires the same power to destroy as to create; that the power creating always has power over the thing which it creates, and can modify it in any manner. If then the power which makes a law, says at what particular period and under what particular circumstances this law shall cease to operate, does it follow that the power of suspension given to an agent is an unconstitutional power? If a power be given by the creating power to suspend a law, does it follow that this power has subverted the original intention of the creator? When a power is invested to suspend the operation of a law, the person who exercises this authority acts in an Executive capacity, and only does what the law enjoins to be done. If I am correct in this, all the arguments of gentlemen in opposition to the bill fall to the ground. One gentleman says, that in relation to the non-importation law, the power to suspend was contained within the law itself. Does he mean to say, because this power was not contained in the original embargo law, that we cannot give it by a subsequent act? Certainly the gentleman does not mean this, because this if passed will be a part of the same law; as it is a known principle that all

laws on the same subject shall be considered in the same manner as though connected together. It is not material then whether the power of suspension of a law be given in the body of the law itself, or by a subsequent act. The gentleman from Virginia who proposed the amendment under consideration says, if you will authorize a suspension until twenty days after the commencement of the next session of Congress, why not give him power to repeal it altogether? There is some reason why it should not be repealed altogether; for, were it to be repealed, it might be necessary to reinstate it, which would give us the trouble of re-enacting the law; and Congress will be better able then to judge whether it shall be repealed or not, than they are now.

It may be proper, and perhaps it is not out of order, to take some notice of some observations of the gentleman from Virginia (Mr. RANDOLPH,) introduced on this subject, not relative to the principle of the bill, for it is so plain that it needs no support, that this power may be given, and that it is expedient to give it; but to take some notice of observations made in the course of the debate.

In the outset of this business he informed the House that he had now discovered that the embargo itself was unconstitutional; that no such power ever did exist under this Constitution as the power to lay an embargo. If he be correct in this, there is no necessity to act upon the subject at all; because the judges of your country, if it be unconstitutional, will not permit it to continue in force. However, admitting that it is unconstitutional, he says it is inexpedient. I do not regret the exercise of the power either on the ground of constitutionality or expediency. The gentleman from Virginia has however answered all arguments in opposition to him, by a sweeping denunciation of all lawyers. Perhaps I may be as much liable to the gentleman's displeasure as some others; having been once of a professional character, and gentlemen in that line having been in the habit of advocating right or wrong indiscriminately, no dependence is to be placed on them. It would be well for that gentleman, if, instead of an excess of political refinement, he attended a little more to legal distinctions; he would perhaps be more useful in this House, and be better satisfied with his own conduct. Let us examine whether the gentleman is not guilty of the same conduct as that with which he charges other gentlemen. He tells the House that the present embargo is not such an embargo as that which he proposed. What species of embargo did he propose? Was it any wise different from this? For what purpose did he have the Journal read on the impost law? Did he do it to show that he opposed the embargo law on Constitutional grounds? In what was not his embargo the same as that from the Senate, which was adopted? They differ in nothing. Conduct of this kind in a lawyer in or out of court would be chargeable with what is called quibbling; it is too nice, and would not reflect honor even on a county court lawyer. I will not be so lost to the politeness which I owe to the gentleman and myself as to say that it actually is equivocating; but really it is a conduct I do not understand.

The gentleman complains that he is frequently misrepresented; that he is scarcely ever understood. It is not necessary for me to say that I do not misrepresent him by design. I will not clear myself of the general aspersion by declarations—actions speak louder than words—I agree with the gentleman from Virginia that those who make many professions cannot be more relied on than those who make none. Perhaps it would be better for many of us to take up less time with those declarations, and attend more to business. There was a time when I understood the gentleman from Virginia, but that time has gone. I understood him when some years ago he brought forward a proposition in consequence of a message from the Executive in relation to the then agitated question of the right of deposite at New Orleans. The message mentioned "means." The gentleman understood the word, and so did the House; they understood money was wanting to purchase Louisiana. The object was effected. But when a proposition of a similar kind came, for purchasing the Floridas, in similar language, I understood it as I did before, to mean money. But the gentleman from Virginia could not understand it. It is well known that he could not or would not understand it; he declared that there was nothing in the message which conveyed that meaning. I confess I did not, could not, understand the gentleman then; and I do not understand him yet on that subject.

In 1806, I was equally at a loss to understand the gentleman as I am now. At that time he was for raising a military force; at that time a project of this kind was premised; it was then for a good purpose, was just and proper. I understood him then to say it was intended to repair the injuries done us by the Spanish nation, as he said, under the influence of the French Government. I understood him then to say that Great Britain was fighting the battles of the world, and for the freedom of mankind; and I did not understand him then to say that that army was to bear upon Great Britain, but upon France and Spain, particularly France. But I understand him now to say that the object he had in view at that time, was to bear on France, Spain, and England. I cannot understand the gentleman, sir, when he says this; for I understood him at that time to say that England was fighting the battles of the world, and we ought to support her. That army which he wished to raise against France alone, was then proper and of great utility. The present six thousand troops, to defend us against England as well as France, are altogether improper, dangerous to the liberties of the nation, and of no use. I cannot understand this, sir.

In 1806, I understood the gentleman to say that the British possessions were worth nothing; and that, if we took them, we should catch a Tartar. But at the commencement of this session, I understood him to say that, if he had the direction of this Government, he would have taken Canada

and Jamaica, to be held as hostages until the British Government came and knocked at our door. If they were worth less than nothing two years ago, how their value is so materially changed, I cannot understand. It is too difficult for my plain understanding.

I did not understand him when he talked of holding them as hostages. The expression was, to my view, improper, and incorrect in principle. I should have understood him better if he had said that he would have taken the British possessions and maintained them forever. Why tell the world that he would hold them as hostages? A restoration of them to their original possessors would have no effect but to warn them to make them more difficult to be re-acquired, if it should become necessary. What purpose had he then in view? I did not understand this, sir.

I do not very well understand why, at the commencement of the session, he was so anxious for war, that he wished to have taken Canada; and now he is so amazingly pleased that we shall not fight. Neither do I understand why we should not go to war when the time comes that we ought to go to war; but we ought to consult our reason as to the time, and not our passions.

Neither can I understand the gentleman when he tells the nation that Jay's treaty was an infamous treaty, and at the same time tells you that the rejected treaty, which was worse still, ought to have been accepted. This I cannot understand. I acknowledge it is beyond my capacity to understand *him*, as he has been pleased to observe of other gentlemen. I admit that Monroe's treaty was worse than Jay's; for it does not appear that by it we should have gained a single thing which we wanted, while we conceded everything. It completely cut off the power of laying an embargo. The gentleman once thought the power of laying an embargo was the only strong power we had in our hands: that power is now abandoned as unconstitutional; for he would have accepted Monroe's treaty. I do not understand this.

On the 18th of last December, an embargo was our only weapon. On the next day (I speak with confidence, because I know I shall not be contradicted) it was a bad one. He would have nothing to do with it, because, as I understood him to say, it operated particularly against England and not against France. The gentleman now tells you that it operates exclusively in favor of England; that it is the only thing she wants; that it gives her the commerce of the whole world. At one time it is a strong weapon which will operate against England alone; and at another it is all she wants. This is, indeed, unintelligible to me. In 1806 the gentleman complained much of the Executive of this country, and our unfortunate situation in consequence of our having no Cabinet; it would not point out the course to be pursued; and because it did not, was feeble, weak, and good for nothing. But now, what is our situation? He says the Executive is too strong; has too much power; that it is a concealed monarchy. I do not understand this, sir.

These extremes, in my mind, cannot be reconciled; nor do I believe the nation can understand them. The gentleman himself alone can understand them; and all the explanations he can make, and he is at liberty to make ten thousand, will not make them intelligible to the community.

According to the professions of the gentleman himself, none is a greater lover of liberty than he is. I do not doubt his motives; but, according to him, the motives of a large majority of this House are much to be suspected. No gentleman in this House or the other, looks for better treatment than he does; and yet not a gentleman in this House has taken the liberty to be harsher to others than he has been. No gentleman asks so often to explain; and none, before him, ever refused liberty to another to explain.

A lover of liberty! I cannot understand him, sir. A gentleman asks leave to explain. "No, sir," he says, "I hold you in contempt." "Encore," says he," "more of it; you are not worthy of a reply." He professes for a gentleman who has rebutted his arguments a sovereign contempt; and, although on equal ground as Representatives, he will allow no replication.

[The Chairman observed to the gentleman, that he thought he was not in order.]

Mr. H. said he thought it proper, as the gentleman from Virginia was so often misunderstood, to let him know how he understood him. Considering myself as one of the Representatives of the people, in common with him, and, I trust, possessing common sense, the gentleman ought to be anxious to know that I understand him correctly. His passions at the moment, according to my understanding, seem to govern all his actions. The whim of the moment——

[The Chairman reminded Mr. H. that the question before the House was on Mr. Randolph's amendment.]

I understand the Chairman, said Mr. H. I am combining reasons why the amendment should not be adopted. I do not trouble the House very often, and as great liberties have been taken by the gentleman from Virginin in relation to others, I wish to make some observations in reply. His passions regulate all his political conduct; and he is so fond of his conduct, that he is fond of all those who support it. They are all men of the highest respectability and talent; very learned and wise, and entitled to great consideration; while those who oppose his measures are disgraced, in his opinion.

What I have said as to this character so far, will show the point of view in which I have considered the gentleman and the measures which he has professed. The view I have taken may be wrong; but I take the same view of this amendment; and shall certainly be satisfied, if the gentleman will say that my views originate in a want of capacity. If he lets me off in that way I shall be content. There are such a vast number of corresponding circumstances which convince me that no faith is to be put in any measures proposed by him, that he must excuse me for not relying implicitly on the present proposition. It has

conceded the position which he himself contested; it admits a discretionary power, putting it in his own language. I think I understand all men who speak the language of their hearts; but if that gentleman speaks the language of his heart, I do not understand him; and I have assigned these facts to show why I cannot. I never can understand a person who, at one time, says a thing is Constitutional; and at another, the Constitution not being amended, says it is unconstitutional. I do not understand this; nor can I understand a gentleman who makes such positive declarations and sudden recantations. I had rather put my confidence in a man not possessed of the same talents, but more uniformity of judgment; whose opinion on the same subject at different times would be the same. I am astonished, however, that the recollection of the gentleman has not afforded him a sufficient reason to mistrust his own judgment. If he could go back and take as extensive a view of it as I have, he could not but mistrust it. If he does not mistrust it, however, I am still more astonished that he should impose it so frequently on others; and upon those especially who, by this time, do not pay a very high regard to it. For my part I have felt a considerable degree of injury from sitting so long concealing what I feel; for it is a fact, that I would rely on the judgment of ninety-nine individuals out of a hundred of political men in preference to that of the gentleman from Virginia; and nine-tenths of the people of the United States have, I hope, the same opinion of it. I have, however, been obliged to sit here day after day, week after week, session after session, hearing what is said to be argument, but what I have considered declamation; for all the argument which he has ever used might be confined within a nut-shell. This, in common with my fellow-members, I have been compelled to bear with. I have heard the most fulsome praise lavished upon all gentlemen who would support those measures which he proposed, and at the same time all others, no matter how venerable, indiscriminately denounced. Age, rank, and reputation weighed nothing. Not only individuals, in their official, judicial, and political characters, have been denounced on occasions when they had not the slightest concern with the subject before the House, but the constituted authorities have been abused. How often have we been treated with denunciations of the Senate, and an extreme solicitude lest that body should violate the Constitution. Where is the use of all this? Is it intended to harmonize the public councils of the nation? Certainly not? Will it inspire confidence in the Government at home or abroad? Certainly not. Then why do we hear it on this floor?

I rejoice that no very bad effects have as yet resulted from all this; and I felicitate the nation that, whatever has been the design, these things have not operated. Our officers, civil, military, and judicial, all retain the confidence of the people, as well as we ourselves. Not only so, but we possess the confidence of the Powers abroad; the nations of the world are obliged to respect us—not from our power, but from the purity of the principles which direct our Government. There can be no doubt, in the sound mind of any man who will examine the conduct of this nation, but that the measures of Government, if persisted in, will have the desired effect. No doubt, if we go on with a solemn, steady step, we shall accomplish our object; but, let us not go back; let us not put on the same character that the gentleman himself has assumed. No, sir; let men do as they will, when nations move, they should proceed slowly and steadily—never retreat. I therefore think it would be exceedingly fortunate for some gentlemen if they could confine their observations to legislative subjects, and not interfere with the concerns of the other departments, which are beyond their sphere of judging correctly. If they will do this, their conduct may be of some use to the nation and to themselves. But at present those who indiscriminately denounce every eminent man in the nation, can do no honor to their hearts or heads. In England the minority in Parliament are generally respectable, being elected for their talents and independence; but it does not follow, in this country, where our institutions are different, that a systematic minority should possess either talents or respectability. They should not, from policy, oppose every measure. I know not that any gentlemen do this exactly, but their conduct is so extremely like system, that it is difficult to tell whether it partakes of it or not.

I have seen, with regret, and so have many of his friends, that the gentleman from Virginia has, of late, pursued this course. It always gives me pain to see talents misapplied—for from misapplication arises injury. I do not regret it so much on account of public injury resulting from it, as on account of that which the individual himself must sustain. The public, however, may have sustained some injury—not in consequence of any division which this conduct has created in the nation—for the citizens have too much understanding to be misled by it; they are capable of understanding the difference between declamation and solid argument; but I regret that we should have been told, on this occasion and others, that we cannot go on in the way which we have begun; that we cannot bear the embargo; that we cannot resist. I do not regret the operation of this language upon the House, for we know how to estimate it, but it will pass over the water. Declamations of this kind have no good effect abroad, if relied on as coming from men of understanding. I regret, also, that we are told that Great Britain will never relinquish the right of impressment. I regret that we are told by the gentleman from Virginia that we shall not go to war. It is not correct; this nation will go to war when the time comes, and perhaps that may shortly come. The nations of the world ought not to be told the contrary, unless it be with a design to encourage those nations in persisting in those injuries which they have done us. It is said that the English prints have corroborated what is said here; that America will not go to war; that

if they persist in their injuries, all will be conceded. This conduct may be American, and correct, but to my understanding it is not.

It is said by the gentleman from New York (Mr. Masters) that any treaty, no matter what, is better than war. That does not appear to be the language of an American. It certainly comes from an American, but there is a vast difference between this and the language of 1776. At that time, when we were weak and feeble, possessing no common Government, and broken into factions, we went to war with one heart and one soul to contend for our rights and liberties. America will do it yet in preference to signing a treaty which commutes her liberties and rights. We may bear, we have borne, with transgression and insult; but when the time comes when it will be necessary to bear with them no longer, we shall resent them. The gentleman says that our acts prove that we shall not go to war. Do our acts at this session prove it? Quite the contrary. Our present regular force, with the additional six thousand, and our one hundred thousand militia, are more than competent to reduce British or Spanish America. I should not hesitate to say that the ten thousand regulars alone would be a much more efficient force than any which we had at any time during the Revolution. We then went to war. Our strength and resources are more than double. Why is it said, then, that we will not go to war? This opinion cannot be forced upon me or upon the people of the United States.

It is said that you must take off the embargo, because it is incidental to war, and we are not at war. I have always understood it to be a precautionary measure, which has preceded war. We will keep the embargo on, then, till our rights are respected by the nations abroad; we will give them a reasonable time to consider our rights and make reparation. After that time is spent, and we are thus prepared to assert our rights, if they will not do us justice, we shall be able not only to repel aggression, but to chastise it. We shall be able to do it, sir, come from what quarter it will.

A gentleman from Maryland, (Mr. Key,) whose opinion, we are told by the gentleman from Virginia, is entitled to very great weight, was once of opinion that the embargo might operate on the nations of Europe through their Colonies; but he says an experiment of five months has been made, and it has not operated, and he is now convinced it ought to be taken off. How could it have operated in four (not five) months, when it has scarcely been heard of in the Colonies? And could it be supposed that, in four or five months, it should have reduced them to starvation? I was opposed to the embargo, not because I did not think it would be an effectual measure, but because I was in hopes of an adjustment of our differences without it. But, after it is laid, and the nations of Europe have proceeded in their new restrictions on our commerce, and refused to make reparation for the injuries committed on our national rights, shall we relax the measures which we have adopted? Certainly not. The gentleman from Maryland went further. He said that no measure which we could take could influence the conduct of those nations. Surely that gentleman has not consulted his friends on this subject, nor had time to form a correct opinion himself. Surely, if the nations of Europe depend on our raw materials and provisions, they will be affected by the measures which we have taken; and it will be a mere matter of calculation with them whether they wil lgrant our right, or suffer from the effect of our measures.

It becomes not members of the Congress—Representatives of the United States—to express themselves in this way. A member of Congress has said that we cannot affect the European nations. Infuse that belief in England and France, and when shall we be respected as we ought? Are we so weak, so far below par already, that we must relinquish everything? It is degrading to the Representatives of a free and great nation to use this language; it cannot convey the sentiments of the gentleman's own constituents. Surely the people of this country do believe that we had better undergo any suffering, short of destruction, rather than by compact surrender our rights, than have signed the rejected treaty, which was not dictated by that spirit of independence which commenced and terminated the American Revolution. It was the genius of Republican America, the same spirit of independence which was displayed in 1776, that dictated the rejection of the treaty, and will support its rejection; and will sustain our measures until our injuries are repaired, or we appeal to the God of War.

Mr. Findley said, that when this subject was discussed formerly he had been prepared to make some observations on it, but the floor being sufficiently occupied he had declined rising, and had intended to have done so now, but for reasons which he would mention.

On the former discussion, the embargo was declared to be unconstitutional. It was boldly asserted that the Government was not authorized to lay an embargo, &c. He was indeed astonished to hear such an assertion, especially coming from the quarter it did. He had apprehended, however, that on that occasion it had been so ably refuted by others that it would not be introduced again; but it having been again introduced today, and the proposed transfer of the power of suspending the operation of the embargo to the President objected to on the same ground, he claimed the attention of the Committee for a short time. His object was to state the observations he had early made on this subject and the precedents that existed. In doing so, he would not follow gentlemen's arguments, on the other side, in detail, but would state facts and draw some very concise conclusions. In doing this he would confine himself to proving the Constitutional authority of Congress to lay an embargo, and the constitutionality and expediency of the proposed transfer of the provisional suspending power to the Executive and the expediency of the measure.

It is known to every member that one of the

greatest defects in the Confederation Government was the total want of the power to regulate commerce. The first instance in which this was severely felt was, in the want of power to lay an embargo. It must be remembered by many who heard him that the Army was frequently reduced to a state of starvation. That particularly at the Valley Forge, in 1778, famine was in the camp, and the horses died for want of forage, while provisions were exported in commercial speculations, either designed to feed the enemy or become prizes to their cruisers, and was applied to that purpose. Afterwards, for the accommodation of the General Government, the Legislature of Pennsylvania laid an embargo to prevent the exportation of flour, but the neighboring States declined doing so. The consequence was, that the export trade of Pennsylvanina was diverted to other channels. The flour was exported from Wilmington, &c. This circumstance afforded strong conviction of the necessity of vesting in Congress the power of regulating commerce with foreign nations. It was not till the public debt had accumulated near the conclusion of the war, that the propriety and even the necessity of raising a revenue from commerce added a powerful inducement to this purpose, and these, with other additional motives, which were developed by experience, were the efficient causes which produced the Federal Constitution under which we are intrusted to act. Pennsylvania early vested Congress with the power of regulating, but some other States persevered in refusing it. Mr. F. said, several gentlemen had a few days since deduced the power of laying an embargo from different sources; but from the observations already made, it was evident that he deduced it from the power of regulating commerce, taken in connexion with the other powers vested in Congress. To prove this, it was, however, proper to examine the Constitution itself. Here he read that part of the Constitution which vests Congress with the power of regulating commerce, and said it included every possible commercial legislative power that was not expressly excepted; that making special exceptions to any power vested in Government, fully demonstrated that every part of that power that was not excepted was granted. He then read the exceptions, which are, that no duty or tax shall be laid on articles exported from any State, and that no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, &c., and that Congress should not have the power of stopping or embargoing the slave trade for a given time; in this section it considers persons, no doubt meaning slaves, to be an article of commerce, and as such Congress was authorized to impose a tax or duty on such importation.

From the arguments which had been offered on this subject, he was induced to suspect that gentlemen differed in opinion about the meaning of the word *embargo*. He understood an embargo to be a stopping of trade generally, or of any article of trade or commerce, either by land or water; this he said was the definition of that term, such as he found it in the best authorities; but if there could be any reasonable doubt of laying embargoes being included in the power of regulating commerce, which he thought there could not, it was clearly deducible from other powers taken in connexion with this. Here he read and applied the power to provide for the common defence and general welfare of the United States, and the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, &c. He said, he agreed with gentlemen on the other side, that this only authorized Congress to carry into effect the powers therein before enumerated, and vested no new power in Congress, but demonstrated beyond a doubt that Congress had power to apply these regulations of commerce to an embargo, if in their opinion it was necesary for the common defence and general welfare of the United States. He said that considering an embargo as incidental, or necessary, either as a substitute of prevention or aid in prosecuting war, the power was beyond dispute; but on this he would not enlarge, it being sufficiently evident otherwise, but he would, by stating the exercise of that power heretofore, illustrate the subject.

That Congress, by the Constitution, are the official interpreters of that instrument, as far as it relates to legislative power, must be admitted by all, and has never been denied by any. No other authority can interfere with the exercise of this power, even admitting the power of the judiciary to decide on the constitutionality of laws to the most extravagant extent that ever has been suggested. Yet even on that ground the legislative construction must be held good till a court of justice has decided otherwise. Embargoes have been frequently laid, and no measure can possibly afford more evident or more numerous cases for bringing the constitutionality of the law before a court of justice, but though counsel has been employed in embargo cases, yet none has ever questioned the authority of the law as unconstitutional.

In 1794, three embargoes were authorized by Congress, two of them were in full operation during the period prescribed. No doubt the circumstances were different then from what they are now; but circumstances relate to the expediency of the measure, not to the authority of the Legislature. This affords three precedents of the exercise of the Constitutional authority of laying an embargo. Numerous other instances may be given. He had already stated that every stoppage of any usual trade by law was an embargo, for less or more did not change the principle. The Congress which met in 1793, stopped the exportation of arms and ammunition, that is to say, laid an embargo on them; he believed this had been done on other occasions, and these were now included in the embargo. An embargo had been laid several years on all trade with St. Domingo, which still continues, and this had till then been a usual and very beneficial trade; but every prohibition of a usual trade being an embargo to the extent of the prohibition, it was not necessary to

enumerate them all. He would only add, that at the last session of Congress a law was enacted for laying a complete embargo on the slave trade, a trade which had been carried on between Africa and the British colonies, now United States, without legal interruption, for more than two hundred years, but though that embargo was laid without limitation of time, it might be repealed.

The gentleman (Mr. J. RANDOLPH) who has most powerfully objected to the embargo as an unconstitutional measure, has taken strong hold of the circumstances of no limited period being fixed when it may terminate or be re-enacted. He has considered this circumstance as without precedent. Mr. F. presumed that neither that gentleman nor himself had examined the precedents set by other commercial nations, so as to pronounce on them with certainty. The general embargo recommended by President WASHINGTON, it was true, was only laid for thirty days at one time, and renewed, but it was only occasioned by a temporary aggression of one nation, viz. the British plundering orders of November, 1793, which were restrained in January following; but lest they should be renewed during the recess of Congress, power was transferred to the President to lay and regulate an embargo during the time Congress stood adjourned. On the present occasion the embargo was intended as a precaution against and a corrective of a seemingly permanent system of retaliation between the great belligerent Powers, each of which, though they agreed in nothing else, were agreed in exterminating neutrality from the ocean, if not from the world, and the precautionary and corrective measure was necessarily calculated to correspond with the aggression. But why did not gentlemen recollect that the embargo laid on the slave trade had no limitation of time, that most probably the Congress which laid it wished it never to be repealed, yet Congress might repeal it to-morrow if they thought it expedient, and so they might the embargo laid upon our own ships and the exportation of our own produce, and they will do so, as soon as they judge doing it is for the general welfare, for the members of Congress have a common interest with their constituents in the repeal of the embargo when it can be done to advantage.

The first embargo laid by Congress was soon after the Constitution had undergone a critical and severe scrutiny in every State in the Union, not only by the press but by the State conventions, a member of one of which he had been, and had assisted in examining it, not with the most delicate hand; but neither that convention nor any other, it was believed, censured the transfer of the power of laying an embargo to the General Government, nor challenged the want of it, nor moved to have it excepted out of the general powers of regulating commerce, as the power of taxing exports had been. The third Congress was also in a considerable degree composed of such as had not long before been members of the General or State conventions, or both. Such was the President, WASHINGTON, who recommended the first embargo, and he was no mean judge of the extent of the constitutional powers. Almost every Congress since that period had exercised the same power in a greater or lesser degree. He admitted that this Congress had an equal right to judge of the extent of the powers granted by the Constitution as any former Congress, but they possessed no superior advantages to enable them to judge more correctly.

Mr. F. said, he had a right to make an apology for detaining the Committee so long in proving a position which he thought so plain. His only excuse was that the House had been so boldly charged a few days since with usurping an authority not granted by the Constitution, which is a tyranny of the worst kind, and that this charge had gone abroad, and notwithstanding it had been sufficiently refuted by other members, it had been urged again to day in argument; but when he considered that it was a new light suddenly burst forth, and that new lights were apt to dazzle the eyes for a while and vanish, it would probably be the case with this also. When it is considered how long the gentleman who advocated this objection with so much eloquence had been an advocate for an embargo, and how lately he had moved for, and how zealously he had supported that measure, he thought it probable that, on more mature reflection, he would again change his opinion.

Mr. F. said that as for himself, he was not very liable to be taken with the first impression, and therefore not in much danger of being misled by new discoveries. The principles which he advocated had been received and acted upon for at least fourteen years, and the first doubt had been only heard of a few days ago. All the branches of the Government having deliberately determined that the embargo in present circumstances was expedient, arguments to prove it to be so would now be unnecessary, expecially as the members now were much more unanimous in their opinion of its expediency than when it was laid.

The constitutionality of the embargo being demonstrated, the direct question before the Committee was, are we not constrained by the Constitution, or at least by the nature of the Government, from transferring the power of suspending its operation, on any terms, to the President, and is it expedient to do so? Mr. F. said the first was a question of some delicacy, about which good men might very much differ; the Constitution however was silent on the subject, and theory, by some called the spirit of the Government, such as that it consists of three separate and distinct branches, could never be perfectly carried into effect, but only in a limited degree. This was demonstrated by all the American constitutions and by the experience and practice of all other Governments. The common theory that though Executive power may be transferred, Legislative power cannot, has also its limitation in practice; these theories are good general rules, but like all other general rules, they have their exceptions in practice. He admitted, with the gentleman from Maryland, (Mr. KEY,) that suspending or changing the embargo, as it changed the rule of conduct, was a legislative act, but not in the full sense of that term. If Congress were to adjourn leaving the embargo as it is, in full operation, and the President during the recess was to suspend or change it, solely by his own authority, this would be an assumption of legislative authority, and a complete legislative act, in opposition to which the gentleman's arguments would apply with great force, but they do not apply against the transfer proposed in the bill. In the bill before the committee, Congress express its will that the embargo should be suspended as soon as the causes from which it originated ceases, or modified in its operations agreeably to the change of those causes, over which we have no control. These changes depending wholly on the will of the belligerent Powers, it is impossible for Congress to prescribe the contingencies that may produce these changes, so it is impossible to prescribe the specific contingencies on which it would be proper to modify or suspend the embargo, therefore it is only the power of applying the law to cases which are yet uncertain that is proposed to be transferred to the President. This is not strictly transferring a legislative power, but a latitude of discretion in the execution of the law, a latitude which arises solely from the nature and necessity of the case, and must be justified from that necessity.

Mr. F. said that such a latitude being vested by law in the Executive was neither new nor singular. A portion of it was to be found in almost all our general laws. In the revenue laws, and in the laws for organizing the Army and Navy, large portions of discretion which depended on the will of the Legislature were vested in the Executive departments, and several cases might be produced, if he had time to examine, in which the applications of the law depended on the President's opinion of contingent, but probable events, as they arose. This arose from the nature of the case. Legislating for existing cases of which all the circumstances are known does not require much discretion to be vested in the Executive; but legislating by anticipation for cases that probably may or may not happen, but which the common defence and general welfare renders it necessary that the Legislature should provide for before hand if they should take place, renders a large portion of Executive discretion in such cases absolutely necessary to be vested in the Executive; this is precisely the case with the present bill.

Laws for the internal government of a nation seldom require large portions of discretion to be vested in the Executive; but regulations of commerce with foreign nations always do, because their operations are so much under the control of the regulations of other commercial nations, all of whom vest large portions of discretion in the Executive. By these, changes are often made so suddenly as not to admit of the slow method of convening a deliberative body. In Britain, the most skilful in commerce of any nation in the world, large portions of discretion are constantly vested in the Executive, to be exercised by the King in Council, or by the Lords of Trade, as the case may be, but when they exceed the powers, thus, from time to time, vested by act of Parliament, as they have done in the late oppressive orders respecting neutrals, they must seek for and obtain an act of indemnity, or pardon from Parliament, as they have recently done; but if this is refused, all who have done so are liable to impeachment, except the King, which in that country goes to life and estate as well as character. With us, the President is equally liable to punishment as any other officer. In short, there is a very material difference between regulations of foreign commerce in which other nations are a party, and laws made solely for the government of our own citizens, over which foreign nations have no control; hence arises the expediency of settling these regulations by commercial treaties negotiated and ratified by the Executive.

Passing other examples in our own administration that might be mentioned, he would introduce one precedent that applied completely to the case. In 1794, after the British orders of November, 1793, the execution of which had induced President Washington to recommend an embargo, had been restrained, and after it was discovered that the embargo distressed other nations against whom it was not intended to operate, and after negotiation was determined on, the embargo, which had existed sixty days, was dropped, even while some of the first commercial cities were petitioning for its continuance, and none for its removal; but a law was passed which authorized the President, at his discretion—[Here Mr. F. read the law]—it authorized the President to lay, to regulate, and to raise an embargo, as, during the recess of Congress, he, in his discretion, should judge expedient. By this law he was authorized to apply the embargo to ships of all nations, or to our own only; by the bill before us, no power is given to lay an embargo, but only to suspend the operation of that already laid; and that law, from the journals, appears to have passed unanimously. He said that he recollected well, that he himself voted for it on the principles which he had just mentioned. There had been a difference of opinion about the expedieney of laying an embargo when it was recommended. Some were apprehensive that it would lead to actual war, and all the alarms of the distress and ruin to be occasioned by it, were displayed with shut doors, as well on that occasion as this, but not so perseveringly; such, however, was the different spirit of party between that time and this, that to prevent the impression going abroad that we were a divided people, the minority did not call the yeas and nays on any of the questions respecting it, indeed, party spirit had not then assumed the same form it has done since, nor the same temper.

During the early period of the administration of the Government, various attempts were made to transfer large portions of the Legislative authority to the Executive. The principle was avowed that the Executive branch was too weak, and ought to be strengthened in this manner. He would not detain the Committee with producing cases, but would assure them that to all these attempts he had been opposed, and, generally, with success; and yet he, even during that period, along

with his then political friends, voted for the law vesting the Executive with a far more extensive discretion respecting the embargo than is proposed by the bill now before the Committee, and did not think that, in so doing, they acted inconsistently. They distinguished between vesting the Executive with power to make or supply the defects of general laws for the government of the citizens, and by an express law authorized the President, by methods prescribed in that law, to accommodate the administration of the Government to probable emergencies that were not under our control, and which it was not in the power of Congress to provide for with certainty in any other manner. When it was considered that the cases to be provided for depended solely on the measures of foreign nations, to negotiate with whom the President was the Constitutional organ of the Government, it was certainly expedient to vest him with such legislative powers as were calculated to facilitate an amicable negotiation.

Mr. F. said he was not much affected with the imaginary alarms of danger which some gentlemen suggested. He was not apprehensive that the present, or any other President, would make the worst use possible to be imagined of the powers vested in them for special purposes. Even supposing a President to be destitute of moral integrity, yet his common interest with the nation, his high responsibility, the short period for which he is elected, and his future prospects and fame, all contributed as a security against a flagrant breach of trust; but he could not admit that electors, carefully selected throughout the whole United States, would ever choose a President destitute of moral virtue.

He knew well that a number of highly respectable members were opposed to the bill from the Senate, now before the Committee, not from any apprehension of the abuse of the power proposed to be vested in the President, but from an honest opinion that the embargo will not have been long enough in operation to have produced its proper effect, either in convincing the belligerent Powers of their error, or in promoting the manufactures of our own country, before the next meeting of Congress, nor even then; and that it is bad policy towards these Powers to discover such anxiety for the suspension of the operation of the embargo, as the passing of this law seems to express. He confessed there was great weight in these reasons, and such were his own first impressions; but on seriously examining the circumstances and reasonable expectations of our own citizens, and the distresses occasioned all over Europe by the present unjust and unwise system of the belligerent Powers, he believed, upon the whole, it was best to afford on our part easy access to reasonable accommodation.

Other honorable gentlemen were for accompanying the powers with more specific conditions and restrictions, for which purpose resolutions had been laid on the table a few days since. As he did not know what circumstances might turn up in the changing and retaliating systems of Europe, he could not agree to such specific restrictions as would leave no latitude of discretion, and were calculated to prevent advances towards negotiation. Others again were opposed to all restrictions prescribed to the Executive discretion; but would have it vested with other limitations than what arose from circumstances, as had been done by the law of 1794, already mentioned; and solely on account of its not being so, were opposed to the bill. He confessed he wished the bill had been more simple; but he did not see the dangers arising from its details which impressed the minds of those gentlemen, and, therefore, would vote for it.

A few members advocated an immediate repeal of the embargo. In favor of this the gentleman from Maryland (Mr. Key) had delivered a long and eloquent argument, in which, however, the distresses arising from the embargo had been much overrated; but it having been ably refuted by the gentleman from South Carolina, (Mr. D. R. Williams,) he would only take notice of one illustration he had introduced in opposition to the bill. He had mentioned the arbitrary conduct of Charles I. of England, which produced a civil war, and brought himself to the scaffold, and the dispensing power of King James, which drove him and his family from the throne, as similar to that proposed by the bill. Mr. F. said he was much astonished to hear a member of that gentleman's information and candor introducing such an argument; but few members of the Committee, if any, could be imposed on by it. All in any measure acquainted with the history of that period, which he presumed every member was, knew that these high prerogative acts of the Stuarts were not only done without the authority of the legislature, but in express opposition to the acts and authority of Parliament; that they were exertions of the royal prerogative, agreeably to the doctrine of hereditary right, passive obedience, and non-resistance, then claimed and taught; and consequently had not the most remote bearing upon the question before the Committee, which provided only for vesting the President with a provisionary power for a specified purpose, and no longer than during the recess of Congress, and by a special law for that purpose.

A motion was made that the Committee now rise.—Negatived, ayes 19.

Mr. Rowan expressed his opposition to the passage of the bill as it now stood. I believe, said Mr. R., that the Constitution does not permit us to pass it, if expediency does. Permit me to say, that not having on my shoulders any of the pressure of the embargo, yet, believing it to be severe, I would join the majority in any Constitutional measure to lessen it. I am willing to repeal it, or to define certain events upon which it shall be repealed; but I am unwilling to vest a discretionary power in the President to repeal or modify it. It does not satisfy my mind to vote for this, because precedents are produced of the power having been granted heretofore; for there never has been a departure from principle in which the climax has not been preceded by progressive deviation. Precedents can have no effect on cases

defined by our charter; they can have effect only where the exercise of power is left to a sound discretion, and founded on no written rule. Where we have a defined course, precedent should not interfere; a precedent in which it has been departed from, only shows that the Constitution has been violated. A repetition but doubles the violation; and no argument can be drawn from precedent where that precedent is manifestly incorrect.

Arguments of this kind cease to have weight when attended to, because they are found to have been used in all nations which have travelled from liberty to vassalage. Authority of this kind grows immensely, and materials are never wanted. It seems to me, however, that a plain process of reasoning, if we are influenced by the Constitution, ought to be satisfactory to us that we do not possess the power. I take it as correct, that our power is itself derivative. Those who have given powers to us have carefully guarded them. They have defined and circumscribed with caution the portions of power which they have delegated. To this House, the Senate, and the Executive, they have delegated a legislative power; to this House one kind of responsibility, to the other branch, a different responsibility, and to the other department, a far different responsibilty.

The people, then, are the fountain of power, and power must be derived from them by delegation or usurpation. If by delegation, it must be by a decided expression of their will. The Constitution is the instrument which contains this expression. To the Legislature of the Union they have by it delegated a Legislative power, it being a veto on the proceedings of the two branches, except sanctioned by two-thirds of the members of each branch. This bill involves a kind of absurdity. No act can have force until sanctioned by the President's assent. The President, then, by approving this law, is to give an assent by which he gives to himself a power with which the people never intended to vest him; and, by the bill, he is to exercise a legislative power, with Executive responsibility. We are accountable to the people at the end of every four years, and the Senate (by the renewal of one-third of its whole number) every two years. By this bill the responsibility is confounded, and the legislative responsibility committed to the Executive. Is there any such authority delegated by the Constitution? Certainly not; and the very idea of our delegating it is absurd. You cannot empower another to exercise his discretion for you, except you have the power of transferring the exercise of it. No such power is to be found in the Constitution. Therefore, it seems to me that the people have not conceded to this House the power of vesting the Executive with responsibility of this high kind. The absurdity of a man's exercising a legislative power by which he vests himself with the power of legislating (for so will the President act in approving this bill) must be evident to every one. If the two Houses of Congress pass this law and he gives it his sanction, he gives himself power to exercise an authority for which there is no ground in the Constitution, or in the genius or nature of our Government.

The argument of the gentleman from Maryland, that if we authorize the President to do this, we can authorize any other person, possesses great force. If we derive our authority to pass this bill from precedent, and not from the Constitution, we are not confined to the President more than to any other person. Any other person may be selected with the same propriety as the President. So far as the Constitutional principle would interfere, Congress have a right to take any other man in the nation.

So far, then, as we choose to confine ourselves to the Constitution for authority, it seems to me none will be found there which will sanction the delegation of the power contended for. The bill does not say that the President shall perform an executive act; it would be unnecessary; for the Executive, from the nature of his office, has the power of executing every law which Congress shall pass. If we empower the execution of a law, the President of course is to execute it. Were we to pass this law for that purpose only, it would be unnecessary; but that is not the thing. It vests him with the power of legislation. If we can vest him with the power to suspend our laws, can we not vest him with power to enact new ones? It requires no more legislative force to enact a law than to repeal it; and, upon the principle that it requires the same force to destroy as to create, when you vest the power to destroy, you vest all power to create; and this bill is only a particular modification of the power for a particular purpose. The arguments which support a transfer to the Executive in this case, would equally apply to a proposition to vest a power in the President to legislate upon his will for the whole nation. You may amuse yourself with names, but names do not change the nature of things, for he will be a despot. If to govern yourselves be an attribute of freemen, so far as you cease to be free; and it is in this way that the most dangerous despotisms have been constructed, not by grasping, but by progressive concessions. An individual does not originally possess power; but, when owing to any cause, there shall be gradual concessions of power, and the people shall be ready for vassalage, having armed him with the power, they are gone. This is the way that liberty is lost; and, upon this ground, precedent on constitutional questions should have no weight. Recur to the history of Republics. No man was ever so hardy as to step forward and overturn them at once; but the people have been influenced to give power unconsciously, until their habits have become favorable to subversion, and enabled an individual to avail himself of their dispositions. It is, therefore, that commencements in relaxation of principles should be guarded against. Pass this bill, and see what will be its effect. When such a precedent as this has been set in the time of Jefferson's Administration, (a more popular one never did exist, and, for the sake of civil liberty, I hope in God never will again,) who will dare to

resist it? I think we ought to pause on this question. Those on the same side of the question as myself are charged with subtility. It requires none, for it is as plain as day. Who are to legislate? Every man will answer, the Legislature. Would any man point out the President as legislator-general? It would not occur to any man in the nation that the situation of this country in relation to foreign Powers, and its commercial prospects, should depend upon the legislative power of the President of the United States.

The pressure and weight of the embargo should not have influence in deciding this question. It seems that the feelings of gentlemen are interested in it. The gentleman from Massachusetts wishes to be relieved from it. As you regard civil liberty and the rights of individuals, take it off before you go, sit till you will take it off, or go away and come back to do it. Do not be influenced by sympathy for the people suffering under the pressure of the embargo to make a sacrifice of the rights of these very people under color of sympathy for whom you are about to pursue this course. These evils may not be the immediate consequence of this course, but you are not less responsible for it from the remoteness of its consequence. We are answerable for all the proceedings of future Legislatures upon this precedent. That is the misfortune of it. We cannot see what consequences are attached to it. It may be improved upon by our successors further and further, till it is impossible for them to retrace their steps; and it is in that point of view that I am strongly opposed to the vestiture of this power. Is it possible that, in this early state of our Government, this thing should be deliberately done? We know very well the popularity of our first President, when the first precedent of this kind was set. It is unfortunate for the happiness and well-being of society, that there sometimes are men whose opinions have such a weight as to overturn deliberation. We need no longer deem so extravagant the custom of ostracism, which banished every man whose popularity and influence was too great. Strip this question of men, and resort to the Constitution, and it will be impossible to sustain the bill. Even its advocates do not deny that it is unconstitutional. It is not to be found in the fountain of our power; they go back to precedent for authority to pass it, and the resort to precedent is itself one of the strongest arguments against it. They do not find a specific delegation to us of authority to transfer our power. The true ground is abandoned, and those materials resorted to, as a substitute for argument, which have always ruined republican Governments—precedent and feeling. Judgment is silenced by feeling, and then precedent is called in to aid the overthrow of principle. Instead of looking into the Constitution, and deriving our authority from the fountain, we agree that others shall have thought for us. Here are precedents; the persons who formed them were republicans; no doubt they examined the Constitution; we will confide in them, and bottom our decision on their opinion. The first attribute of freedom is to act for yourself; and when others think for you, you evince that you are ready to be governed by them—for, if others think for you, and act for you, you have little else than vassalage left.

I am opposed to the bill, then, upon principle. I will join heartily in any Constitutional mode of repealing the law. I would say to the gentlemen who passed the embargo law, "I have no doubt that you meant to serve the country by passing it; upon you rests the responsibility; and I will act with you to repeal it in any way which shall be Constitutional."

There is a provision in this bill which is more dangerous still. It not only belongs to Congress to regulate commerce, but to declare war. Pass this bill, and the Executive has it in his power to declare war—for he is to take off the embargo when, in his judgment, the interests of the nation require it; and, then, under such restrictions as his judgment shall dictate, determine with which of the Powers of Europe he will go to war, or whether with both—for he may so exercise the power which you shall give him as not to leave it optional in the nation whether it will declare war or not. Our honor may be assailed in such a manner in consequence of it, as not to leave us at liberty to inquire whether properly or not. The power, if given at all, should be confined to a total repeal, and not put it in the power of the President to say with whom we shall be embroiled. How do gentlemen reason? I have not heard any reasoning, though I have heard it said, and, no doubt, a course of reasoning might have served to prove it, that this bill only confers Executive power. What did Congress more when they laid the embargo than that which they now authorize the Executive to do—to legislate upon existing circumstances and probable events? He is to exercise his judgment, whether the embargo shall be suspended upon ratification of a treaty of peace, suspension of hostilities, &c., and the modification of the suspension rests with him. If this be not legislation, I am at a loss to know what is. Enforcing a law constitutes an Executive duty; but not exercising a judgment upon the circumstances which form the basis of a law, and then acting upon it. The Executive cannot combine in himself two powers which the Constitution declares shall be forever separate. Reason and the Constitution direct that the executive and legislative departments shall be kept separate and distinct.

Being young in legislation, I may learn to repose upon the opinion of others, and not be governed by my own interpretation of the Constitution; I have not as yet, however, learned it, and must be governed by my own understanding.

The power of borrowing money has been assimilated to the present power, and it is said that you must admit the cases to be parallel. The Legislature, in that case, determines whether they want money, and what sum they want. The Executive does not exercise a legislative discretion before he borrows the money. When it is determined by the Legislature that a certain sum of money is necessary, the Executive, when notified of it, performs an executive, not a legislative, duty, in procuring it. So in case of contagion. The Legislature declares that there shall be no intercourse with contagious cities. They may say that, after a certain confirmation to the Executive, the epidemic has ceased, he shall proclaim the fact, and the restriction shall cease. The same is the course, I presume, in all description of cases; and so, according to the amendment of the gentleman from Virginia, I am willing to vote in this case; but I cannot consent that the Executive shall exercise a legislative authority, because such an exercise would be a violation of the Constitution, which should ever remain inviolate.

I believe the bill is dangerous, and I lament that it should pass under the present Administration; because it is believed by a large majority of the nation that nothing in violation of civil liberty can have their sanction.

Mr. Lyon moved that the Committee now rise. Negatived—58 to 13.

The question was then taken on Mr. Randolph's amendment and negatived—Ayes 14.

Mr. Randolph moved to strike out of the bill the words "under such restrictions as the public interest and the circumstances of the case may appear to require." This bill contains two separate and distinct provisions. The first gives the President of the United States power, in the event of such peace in Europe, or such changes in the measures of the belligerents in relation to our commerce as shall, in his opinion, render it sufficiently safe to suspend the acts laying an embargo. On that subject it is not my wish to say anything, as everything has been said by the gentleman from Maryland, and no reply, nothing like a semblance of argument by way of reply, has been made. The bill, exclusively of that, in my judgment, highly dangerous power, contains another power which will enable the President of the United States to lay an embargo under any limitations or restrictions, according to his discretion as to penalty, country, species of bottoms, sort of cargo; in fact, to enact embargo laws to the same extent to which the Legislature is competent to go, granting that the Legislature possesses the power of laying an embargo. That power is contained in the words which I have moved to strike out. He may change the nature of bond and security to be given, of the penalty; he may, in fact, regulate the commerce of the United States as he pleases. He *may* do this, I do not say he will; I am far from suspecting it; I am speaking of the nature of the power granted by the bill. You give him a carte-blanche to lay embargo laws under any restriction that his will may prescribe. I venture to say that you may hunt up all the laws since the commencement of the Government, and find nothing analogous to this. The President of the United States may, by this bill, except Danish, Swedish, British, or French bottoms, from entering particular ports or any port, and may prevent our own vessels from going to such and such countries. He may alter bonds; he may, in fact he has the power of ringing all the changes human ingenuity can suggest on the trade of the United States. This is a power, to which, if this House were intent on investigating the merits of this bill as they are on adjourning on Monday next, they would never consent. I wish some gentleman would point out any analogous grants of power under this Government. I do not know why, if a sedition bill was now brought in, a precedent of the former sedition law might not be adduced as a conclusive argument in its favor. In the case of which I am speaking, we have a precedent under the worst Administration which this country has yet known. I do believe, that when the President of the United States prohibited commercial intercourse with France and her dependencies, a power of this sort, though infinitely less dangerous and less liable to abuse than this, was granted. I hope the sense of the Committee will be taken on this question, not only here, but in the House, that some record may be left for those who follow us, to enable them to judge of the height to which blind Executive confidence rose in one Administration; that, like the torrent of the Nile, some new current may be found to direct its stream, and fertilize the nation by its filth.

The question was put on Mr. Randolph's amendment, and negatived—43 to 32.

Mr. Quincy moved an amendment to authorize the President of the United States, "whenever the public good shall require it, during the recess of Congress, to suspend the embargo."—Negatived—ayes 8.

Mr. Lewis moved to amend the bill so as to repeal the embargo from and after the passing of this bill.

Mr. Randolph said that this motion of his colleague's went pretty directly to the root of the evil. There had been a variety of propositions before the Committee. For myself, I have no hesitation in saying, that if we must grant a discretion to the President of the United States, I should wish that discretion, so far as it relates to the suspension of the embargo, to be as ample as possible; for, if the Constitution is to be violated, the greatest good attending that violation should flow from it, if indeed good can flow from the violation of the Constitution. But I think that benefits have flowed from Constitutional violations, and why should they not again? Our body politic is not of so tender a nature as to die outright even of so violent an assault as this; there are stamina in it which will ultimately restore it to its wonted vigor. I understand that the gentleman from Virginia who makes this motion, does it from the apprehension that an idea will go forth that he is not in favor of raising the embargo, although he voted against it originally. I conceive it impossible that such an idea should go forth. Is it possible that those who voted against laying the embargo can now be insensible to its pressure? What is the operation of the embargo, and what will be the operation of this confidence which we are about to repose in the Executive of the United States? Why, when the embargo was laid, there were those who made money on it, because they got earlier intelligence

of it than their fellow-citizens; and now, when the embargo is in operation, there are those who do not suffer under it. I have it from good information, that at least 100,000 barrels of flour have been shipped from Baltimore alone since it was laid. It may be recollected, that the gentleman from Maryland, who, the other day, gave us so able an illustration of the question, urged as an argument against it, that the embargo operated unequally. I should be sorry to put myself on a par with that gentleman in any knowledge, much less could I assume to possess a better knowledge of his own district than he himself possesses; but I believe it has been said by a gentleman said to be possessed of considerable commercial knowledge, that many thousand barrels of flour had been shipped from that gentleman's district alone through Baltimore. I was in hopes that this reply would have been made before, because, coming from the quarter whence it must have come, it would have operated as an argument to estimate the value of this measure on the West India Islands; and it is evident, that nothing but an evasion of this kind would keep up the price, low as it is—for, when I single out Baltimore, I have no doubt the same game is going on elsewhere—at Eastern Point and Passamaquoddy particularly. The operation of the embargo is to furnish rogues with an opportunity of getting rich at the expense of honest men. The man who is hardy enough to give bond and leave his security in the lurch, can make great returns; whereas the honest merchant and planter are suffering at home, and bearing the burden. It is for the benefit of the dishonest trader—for the planter is out of the question, as he cannot be a partner in the act which contravenes the law of the land. Is this all the operation of the embargo? No; for I will tell you another operation it has; that while the sheriff is hunting the citizen from bailiwick to bailiwick with a writ, his produce lying on his hands worth nothing, your shaving gentry—accommodation men, five per cent. per month men—are making fifty or sixty per cent. by usury; or making still more by usury of a worse sort—buying the property of their neighbor at less than one-half its value: and well they may afford to appropriate their money to such profitable uses, supposing character, morals, religion, honor, and everything dear to man, trodden under foot by Mammon. Are these alone the effects which result from the embargo? No, sir; you are teaching your merchants, on whose fidelity, on whose sacred observation of an oath, when the course of events returns to its natural channel, your whole revenue depends; you are putting them to school, and must expect to take the consequences of their education. You are, by the pressure of the embargo, which is almost too strong for human nature, laying calculations and snares in the way, teaching them to disregard their oath for the sake of profit; and do you expect your commerce to return to its natural channel without smuggling? You may take all your Navy, and gunboats into the bargain, with all which you cannot stop them. Those men who now export so many barrels of flour from our markets, will not pay the high duties on wines and groceries when they can avoid it by evasion of the laws; for they will have learned the art of evading laws; they will have taken their degrees in the school of the embargo. This is the necessary result. You lay temptations before them too strong for their virtue to resist, and then, having cast your daughters into a brothel, you expect them to come out pure and uncontaminated. It is out of the question, and I venture to predict that the effect of this measure upon our imposts and our morals too, sir, will be felt when not one man in this assembly shall be alive. Every arrival from the West Indies tells you of the cargoes of flour daily carried in, until it becomes a point of honor not to tell of one another.

On this subject, though not immediately connected with it, yet as the observation was made during the pending of the bill, I think proper to notice it; among other encouragements given to the American people, are the sentiments of Lord Grenville, Lord Erskine, and other conspicuous members of the British Parliament; and really there has been an eulogy on the greatness of the opposition generally that does not so well comport with the correctness of this assembly. But pray who are this opposition so much relied on as the sheet-anchor of our affairs in Great Britain; as the mouth-piece of the agriculturists and manufacturers? That very Ministry who negotiated the rejected treaty with you; who attached to that treaty the humiliating note which you are told prostrated the independence of the United States. The same individuals who were prompt leaders of the Grenville and Fox Ministry now speak the language of the British opposition. Suppose them successful, and others out of power. We shall then be in the same situation as we were on the 31st of December, 1806, having no chance of better terms than those which have been already spurned. I mention this to show the inconsistency of those gentlemen who wish to continue the embargo. The very same people who, you are triumphantly told, have moved for a revocation of the Orders of Council of the 11th of November, are the very persons who negotiated that treaty, which was rejected; not only rejected, but rejected with scorn and indignation. Gentlemen speak in one breath with the utmost abhorrence and indignation of the treaty and the Ministry who formed it, and of the same persons, in the same breath, in the highest terms of eulogium.

Mr. Lewis's amendment was then negatived—ayes 22.

The bill having been reported to the House by the Committee of the Whole, the House then proceeded to consider it: Whereupon a motion was made by Mr. Key, to amend the said bill, by striking out, after the words "in Congress assembled," in the first line, the words following, to wit:

"That, in the event of such peace, or suspension of hostilities, between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in the judgment of the President of the United States, he is hereby authorized, during the recess of Congress, to suspend, in whole or in part, the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, under such exceptions and restrictions, and on such bond and security being given, as the public interest and circumstances of the case may appear to require:"

And inserting, in lieu thereof, the following words:

"That, in the event of peace, or suspension of hostilities, between the belligerent Powers of Europe, or, in the event of the Governments of France or Great Britain officially rescinding their orders or decrees, affecting the neutral commerce of the United States, the President is hereby authorized and empowered to issue his Proclamation, notifying such event or events having taken place; and, from the date of such Proclamation, the act laying an embargo on all ships and vessels in the ports of the United States, and the several acts supplementary thereto, shall be, and the same are hereby, repealed:"

The question being taken thereupon, it passed in the negative—yeas 22, nays 70, as follows:

Yeas—William W. Bibb, Epaphroditus Champion, John Culpepper, Daniel M. Durell, James M. Garnett, William Hoge, John G. Jackson, Walter Jones, James Kelly, Philip B. Key, Joseph Lewis, junior, Matthew Lyon, Josiah Masters, William Milnor, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, Samuel Taggart, Archibald Van Horn, and Killian K. Van Rensselaer.

Nays—Lemuel J. Alston, Willis Alston, jr., David Baird, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Samuel W. Dana, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Richard Humphreys, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Clement Storer, Benjamin Tallmadge, John Taylor, James I. Van Allen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Richard Winn, and James Witherell.

A motion was then made by Mr. Randolph, to amend the bill, by striking out, after the word "that," in the second line, to the end of the bill, the words following, to wit:

"In the event of such peace, or suspension of hostilities between the belligerent Powers of Europe, or such changes in their measures affecting neutral commerce as may render that of the United States sufficiently safe, in the judgment of the President of the United States, he is hereby authorized, during the recess of Congress, to suspend, in whole or in part, the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, under such exceptions and restrictions, and on such bond and security being given, as the public interest and circumstances of the case may appear to require: *Provided*, such suspension shall not extend beyond twenty days after the next meeting of Congress:"

And inserting, in lieu thereof, the following words:

"The act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be repealed, so far as they prohibit trade with France and her dependencies, and States associated in common cause with her, so soon as the United States shall be exempted from the operation of her decrees, of the twenty-first of November, one thousand eight hundred and six, and the seventeenth of December, one thousand eight hundred and seven, and the President of the United States shall have been informed thereof, and shall have received assurances that the existing stipulations between the United States and France shall be respected by her.

"*And be it further enacted*, That the said acts shall be repealed, so far as they prohibit trade with Great Britain and her dependencies, and States associated in common cause with her, so soon as her Orders of Council, of November last, shall be revoked, so far as they affect the commerce of the United States, and the President of the United States shall have received official assurances thereof, and that the neutral rights of the United States shall be respected by her: and the President of the United States shall be, and he hereby is, authorized and required, on the receipt of such assurances from either of the two belligerents, to notify the same forthwith, by Proclamation; whereupon, the embargo shall be raised in regard to such belligerent: And if such assurances be received from both the said belligerents, Proclamation shall in like manner be forthwith issued; whereupon, the act aforesaid, and the several acts supplementary thereto, shall cease and determine."

The question being put thereupon, it passed in the negative—yeas 26, nays 73, as follows:

Yeas—Burwell Bassett, Epaphroditus Champion, Matthew Clay, Howell Cobb, John Culpepper, Joseph Desha, Daniel M. Durell, James M. Garnett, Charles Goldsborough, John Harris, William Hoge, Walter Jones, James Kelly, Philip B. Key, Joseph Lewis, jr., Edward Lloyd, Matthew Lyon, Josiah Masters, William Milnor, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, Archibald Van Horn, and Killian K. Van Rensselaer.

Nays—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Clopton, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Heister, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Tim-

othy Pitkin, jr., John Porter, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, George M. Troup, James I. Van Allen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Richard Winn, and James Witherell.

Another motion was then made by Mr. RANDOLPH, to amend the said bill by striking out therefrom, in the fourth line, the words "in whole or in part," and, in the sixth and seventh lines, the words, "under such exceptions and restrictions, and on such bond and security being given as the public interest and circumstances of the case may appear to require."

A division of the question on the said amendment was called for: Whereupon, the question being taken upon the first member of the said proposed amendment to strike out the words "in whole or in part?" it passed in the negative—yeas 43, nays 58, as follows:

YEAS—William W. Bibb, William Blackledge, Thomas Blount, William A. Burwell, Epaphroditus Champion, John Culpepper, Samuel W. Dana, John Davenport, jun., Joseph Desha, William Ely, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, William Hoge, John G. Jackson, Walter Jones, Philip B. Key, Joseph Lewis, jr., Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jr., Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, Samuel Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jr., Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Howell Cobb, Richard Cutts, John Dawson, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherell.

The question was then taken upon the second member of the said proposed amendment, to strike out the words "under such exceptions and restrictions, and on such bond and security being given as the public interest and circumstances of the case may appear to require;" and passed in the negative—yeas 45, nays 59, as follows:

YEAS—William W. Bibb, William Blackledge, Thomas Blount, William A. Burwell, Epaphroditus Champion, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, William Ely, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, William Hoge, John G. Jackson, Walter Jones, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jun., Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rhea of Tennessee, John Rowan, John Russell, Samuel Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jun., Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Howell Cobb, Richard Cutts, John Dawson, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherell.

A motion was made by Mr. BLOUNT, to amend the said bill, by inserting next after the word "not," and before the word "extend," in the seventh line, the words, "take effect until the eleventh day from and after the date of the Proclamation by which the same shall be announced, nor:" and the question being taken thereupon, it passed in the negative.

A motion was then made by Mr. LEWIS to amend the bill, by adding to the end thereof, a new section, as a second section, in the words following, to wit:

SEC. 2. *And be it further enacted*, That, from and after the first day of May next, the act laying an embargo on all ships and vessels in the ports of the United States, and the several acts supplementary thereto, shall be, and the same are hereby, repealed:

Whereupon, Mr. SPEAKER decided that the motion of Mr. LEWIS, to add a new section to the end of the bill, was not in order, it being a substitute, and by a standing rule and order of the House, it is declared "that no new motion or 'proposition shall be admitted, under color of 'amendment, as a substitute for the motion or 'proposition under debate:"

From which decision of the Chair, an appeal to the House was made by two members; and on the question, "Is the said decision of the Chair correct?" it was resolved in the affirmative—ayes 70.

The bill was then ordered to a third reading—ayes 56, noes 27. To-morrow being named for the day, was lost—yeas 28. It was then ordered to be read this evening, without a division. And having been read a third time, Messrs. MASTERS, DANA, JACKSON, BIBB, and LYON, opposed the bill, and Mr. TROUP supported it.

Mr. MILNOR moved to adjourn (half past eight) negatived—ayes 27.

Mr. M. then opposed the bill.

Mr. STANFORD also opposed the bill, and renewed the motion to adjourn, negatived—ayes 19.

Messrs. RHEA and LYON opposed the bill.

Another motion to adjourn was then negatived—ayes 18.

Messrs. RANDOLPH and CULPEPPER opposed the bill.

The question was then taken (half past ten) by yeas and nays—yeas 60, nays 36, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, junior, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, John Lambert, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Alexander Wilson, Richard Winn, and James Witherell.

NAYS—William W. Bibb, Thomas Blount, Epaphroditus Champion, John Culpepper, Samuel W. Dana, John Davenport, jun., William Ely, Francis Gardner, James M. Garnett, Charles Goldsborough, John Harris, William Hoge, John G. Jackson, Walter Jones, Philip B. Key, Joseph Lewis, junior, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jun., Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rhea of Tennessee, John Rowan, Samuel Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

Mr. RANDOLPH then moved to strike out of the bill the words "under certain conditions;" for nothing could be more certain than that the bill contained no certainty.—Negatived without a division.

Ordered, That the Clerk of the House do carry the said bill to the Senate, and inform them that it has passed the House without amendment.

On motion, the House then adjourned.

WEDNESDAY, April 20.

A message from the Senate informed the House that the Senate have passed the following bills, to which they desire the concurrence of this House: one, entitled "An act to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's;" another, entitled "An act to alter the time for the next meeting of Congress;" and another, entitled "An act in addition to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and for other purposes."

Mr. FISK, from the committee to whom was referred, on the second ultimo, a petition of James Jay, of the State of New York, made a report thereon; which he delivered in at the Clerk's table, where the same was read. Whereupon, the resolution contained therein being read the second time, in the words following, to wit:

Resolved, That it is expedient to authorise the President of the United States to purchase, for the use of the public, of James Jay, his invention of a system of secret correspondence:

A motion was made by Mr. J. MONTGOMERY, that the further consideration of the said report be postponed indefinitely. And the question being taken thereupon, it was resolved in the affirmative—44 to 33.

POST ROADS.

Mr. BIBB said, unwilling as he was at this late period of the session to trespass on the time of the House, he was yet compelled, in justice to his constituents, to submit a motion to the consideration of the House. It would be recollected that the situation of the State of Georgia had been shown by him and his colleague, (Mr. TROUP,) when the General Post Office bill, which has been rejected by the Senate, had been under consideration; even the opponents of the bill had then said that they would agree to pass a special bill for Georgia, whose acquisitions of new and fertile country, with a rapidly increasing population, so loudly called for accommodation. Mr. B., after stating in addition, that the State of Georgia had annually yielded a considerable revenue to the Post Office Establishment, moved the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of establishing the following post roads in the State of Georgia, viz: From Darien, by John Jones's to Milledgeville, and from thence to Athens; from Sparta to Milledgeville, and from thence, by Jones's Court-house, to the garrison on Ockmulgee; from Milledgemille to Putnam Court-House, and from thence to Morgan Court-house, and to Randolph Court-house.

Mr. BLACKLEDGE, after representing the difficulties under which his constituents labor from the want of roads proposed by the rejected bill to be established, and that the great objection to the erection of the new roads had been the too great expense of the Post Office Establishment, moved an amendment to the resolution directing the committee to report on the propriety of putting down all the unproductive routes reported by the Postmaster General, in order that they might not form an objection to future alterations. Negatived without a division.

Mr. GARDNER then moved to amend the said proposed resolution, by adding to the end thereof the following words: "In New Hampshire, from

Portsmouth, through Durham, Concord, Hopkinton, Heniker, Hillsborough, Leinster, and Acworth, to Charlestown;" and, on the question that the House do agree to the said amendment, it passed in the negative.

The question was then taken on the resolution as originally proposed by Mr. Bibb, and resolved in the affirmative—59 to 17.

Ordered, That Mr. Bibb, Mr. Rhea of Tennessee, and Mr. Green, be appointed a committee, pursuant to said resolution.

JUDGE INNES.

On motion of Mr. Rowan, the House took up for consideration the report of the committee appointed to inquire into the conduct of Harry Innes—56 to 26.

Mr. Smilie moved that the report be committed to a Committee of the Whole, with a view to let it lie over until the next session. The select committee in considering the testimony before them, which consisted of those documents before the House, had thought they did not contain sufficient matter on which to ground an impeachment; at the same time that they felt a disposition to pursue the inquiry if other testimony could be had, which did not appear possible to be had during the present session. A postponement of the subject would give an opportunity to procure testimony *pro* and *con*.

Mr. Rowan was opposed to commitment, as he thought it could answer no purpose but to delay a decision. For himself he was of opinion that the documents already before the House were abundantly sufficient for the conviction of Judge Innes; at least sufficient on which to ground an impeachment. It certainly was not for the interest of the community, if this man were guilty, that he should be continued in the exercise of his high authorities longer than could be avoided, and therefore, in justice to the United States, and to the people of Kentucky, an early decision should be had.

Mr. R. then took a view of the testimony contained in the report of the committee of the Legislature of Kentucky in the case of Judge Sebastian, on which he dwelt at some length, stating more than one fact proved by it, which he thought would of itself be a sufficient ground for removal from office of a judge of the United States.

Nothing could be gained, he said, by sending the subject to a committee. The people of Kentucky were alive to the subject. They had manifested their anxiety in regard to it, and their attachment to the Union by sending forward to this body a solemn resolution expressive of their desire for a full inquiry, and on this subject he thought the zeal of the State should not outstrip that of the nation. This commitment and consequent postponement would be a manifest disregard of the act of an honorable State, to whom the House should not show disrespect. He concluded by hoping that Kentucky would be permitted to have a judge who was truly an American; one who could not tamper with the enemies of his country, and about whom should be such an atmosphere of repulsion as to prevent him from being selected as a fit object for corruption. Such a judge as this Kentucky wanted.

Mr. Smilie said neither his respect for the State of Kentucky, nor yet any suspicious circumstances should affect his feelings; he wanted testimony to satisfy his mind of the guilt of the man. None but legal testimony could be received on trial for impeachment, and such he wished to see before he voted for commencing an impeachment. Setting all other considerations aside, the House had now but four days to sit, and it would occupy the whole of that time at least to discuss the subject, were it now to be decided.

Mr. Taylor had been one of the select committee, and in the minority on the report which they agreed upon. Whatever might be the opinion of the committee, he thought the House were bound, from the respectable source from which the subject had been presented, to act upon it during the present session. With respect to the evidence necessary to prove a misdemeanor, it was not necessary that they should put their finger on the statute book to find the offence, for common sense would decide it. A judge of the United States had been dismissed from office for drunkenness, much less a misdemeanor than conferring with the agent of a foreign Government for purposes injurious to his country. It was said that Judge Innes had, instead of being as he ought to have been the preserver of peace in the community, suffered a foreign agent to make communications to him, and then to pass quietly out of his jurisdiction. The House had now ground sufficient to commence a process of impeachment, for the simple oath of a person saying that he has good cause to believe such an one guilty of any offence was sufficient ground for a judge to commence a prosecution against the person accused, and so also good ground of suspicion was sufficient for the institution of an impeachment or incipient process in this case. He thought, therefore, that there was no occasion for commitment, as it was moved with a view to postpone the subject.

Mr. Fisk was averse to a hasty decision on this subject. He was by no means convinced of the guilt of Judge Innes; for although the Legislature of a State had declared an opinion on the subject, States as well as individuals might err, and it did not become this body to found its decisions on popular prejudice or reports, but to examine impartially.

Mr. F. then went over the evidence contained in Judge Innes's deposition in the case of Judge Sebastian. It did not appear, he said, that Judge Innes had personal knowledge of the facts which he stated in his deposition, but from common report, for they were notorious in Kentucky, and were known in Massachusetts at the same time. He said he wished, as much as the gentleman from Kentucky, to see our judicial springs pure; but he wished not to oppress when there was no hope of conviction, nor to harass when there was no hope of punishing.

Mr. Dana took an extensive view of the proof

which would constitute a sufficient ground for impeachment, and concluding that strong probability formed a sufficient ground for preferring articles of impeachment, he thought there was sufficient ground in the present case.

Mr. J. Montgomery, as one of the select committee, rose to vindicate the report. He went over the evidence, commenting upon it at some length. He thought that from the evidence, taking it altogether, and not concealing what went to show his innocence, Judge Innes had acted as a candid man and a friend to the State of Kentucky. The whole subject had been communicated to Mr. James Ross, a Senator of the United States, who, had anything criminal appeared in the conduct of Judge Innes, would have thought it his duty to bring the subject at that time before the Legislature of the Union. But he had not done so, and the presumption was, that then, when the transactions were recent, and proof within reach, they were considered perfectly innocent.

Mr. Rowan replied at great length to the remarks of Messrs. Smilie, Fisk, and Montgomery, and to their deductions from the evidence.

Mr. Johnson wished the subject to be decided immediately. He felt himself under a very great responsibility in the vote which he should give; he was not perfectly decided in his opinion, and had never, that he recollected, hazarded an opinion on the guilt or innocence of Judge Innes, though this person lived within the district which he represented, and the subject had been much agitated there. He felt all the respect for the Legislature of the State, of which he was in part a representative, to which it was so justly entitled. Their request, however, would not weigh with him so far as to induce him to disregard his own opinion on a matter of conscience. He prayed that a decision might be had, but wished the question on the report to be laid over till tomorrow morning, that he might examine the evidence more fully, and be prepared to express his sentiments on the question, and give a vote according to his deliberate judgment. Whichever way he should vote, his decision would be questioned perhaps by a moiety of his own constituents; but on such a question as this he must form an opinion to the best of his judgment, and on his own responsibility alone.

Mr. W. Alston was in favor of commitment; for, were they now to act on it, he presumed that gentlemen were by no means prepared to decide on it either affirmatively or negatively. Whatever respect was due to the Legislature of a State, implicit confidence was not to be placed in their acts; as a reason in support of this position, he adduced the fact that the same Legislature who had requested an inquiry had subsequently refused but by a small majority to expel the person who had urged the accusation of Judge Innes.

Mr. Smilie defended his motion for commitment. No member in the House, from pressure of other business, could have so far attended to this as to be prepared to give a vote now, and for himself he could never agree to vote for preferring articles of impeachment except upon evidence on which he would undertake to support that impeachment.

Mr. Rowan, in allusion to what had been said by the gentleman from New York, (Mr. Alston,) observed that the resolution for the expulsion of Mr. Marshall had been urged vindictively by the friends of Mr. Innes, immediately after the resolution requesting an impeachment had been agreed to.

Mr. R. then alluded to what had fallen from his colleague, (Mr. Johnson,) who it seemed had not expressed an opinion on the subject; and standing alone as the representative of Kentucky on this occasion, Mr. R. said must be his apology for again troubling the House on the subject. As this was a matter of considerable importance to the people of Kentucky, he called for the yeas and nays on the motion to commit it, considering the commitment as an evasion of a decision.

Mr. Rhea wished to know of the gentleman who conducted this business whether any other documents on this subject could be had?

Mr. Rowan said that proof could be had of what was stated in those documents, and he understood that it could be proven that Judge Innes had one other communication with foreign agents than was mentioned in those documents.

Mr. Rhea said he should vote against commitment, because he wished the question to be directly taken on the report of the committee, for which he should vote, according to the evidence before him.

Mr. Lyon said, that in obedience to the request of the Legislature of the State of Kentucky, he felt himself bound to vote against the commitment, and to press an immediate decision.

The question was then taken by yeas and nays on the motion for commitment, and carried—48 to 25, as follows:

Yeas—Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, William A. Burwell, William Butler, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, John W. Eppes, William Findley, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, Reuben Humphreys, Walter Jones, John Lambert, Robert Marion, Josiah Masters, William McCreery, John Montgomery, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, John Porter, John Pugh, Jacob Richards, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, John Thompson, James I. Van Allen, Archibald Van Horn, Daniel C. Verplanck, Robert Whitehill, and Isaac Wilbour.

Nays—Howell Cobb, John Culpepper, Samuel W Dana, Joseph Desha, Francis Gardner, James M. Garnett, William Hoge, James Holland, David Holmes, Daniel Ilsley, Richard M. Johnson, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Daniel Montgomery, jun., Thomas Newbold, Timothy Pitkin, jr., John Rhea of Tennessee, John Rowan, Samuel Smith, Richard Stanford, John Taylor, George M. Troup, David R. Williams, and James Witherell.

Resolved, That the said report be the order of the day for Friday next.

THURSDAY, April 21.

Mr. BIBB, from the committee appointed on the twentieth instant, presented a bill to establish certain post roads in the State of Georgia; which was read twice, and ordered to be engrossed, and read the third time to-day.

Mr. JEREMIAH MORROW, from the committee appointed on the eighteenth instant to inquire into the conduct of Peter B. Bruin, a Judge of the Superior Court of Mississippi Territory, and report whether, in their opinion, he hath so acted in his official capacity as to require the interposition of the Constitutional powers of this House, made a report thereon; which was read. Whereupon, the resolution contained therein being amended at the Clerk's table, was, on the question put thereupon, agreed to by the House, as follows:

Resolved, That George Poindexter, chairman of the said committee, be authorized to cause to be taken, before a magistrate or other proper officer, such depositions in relation to the official conduct of the said Judge as in his judgment may be material to the inquiry; having first notified the said Bruin of the time and place, or places, of taking such depositions, so that he may give his attendance; and that the depositions so taken be laid before Congress at their next session.

Mr. J. MONTGOMERY, from the committee to whom were referred, on the 20th of February and the 10th of March last, the memorials of the officers and surgeons of the Navy of the United States, reported a bill, in addition to the act, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes;'" which was ordered to lie on the table.

Mr. GARDNER, from the committee appointed on the eighteenth instant, presented a bill to alter the time for the next meeting of Congress; which was ordered to lie on the table.

An engrossed bill concerning invalid pensioners was read the third time, and passed.

On motion of Mr. J. MONTGOMERY, it was ordered that the committee appointed, on the second of December last, to inquire whether any, and if any, what amendments are necessary to the laws for the punishment of certain crimes against the United States, be discharged from the further consideration of the same.

Mr. STANFORD, from the committee to whom was recommitted, on the fifth instant, the bill to make good a deficit in the appropriation of one thousand eight hundred and seven, and to make a further appropriation for completing the south wing of the Capitol, and for other purposes, presented the said bill without amendment; also, a detailed report of the circumstances which produced the deficit in the appropriation for public buildings, and how far it may be consistent with the public interest to abolish the office of Surveyor of the Public Buildings; which he delivered in at the Clerk's table, where the same were read twice, and, together with the report, ordered to be committed to a Committee of the Whole to-morrow.

An engrossed bill to establish certain post roads in the State of Georgia was read the third time, and passed.

The bill sent from the Senate, entitled "An act to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's," was read twice, and committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act in addition to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto, and for other purposes," was read twice, and committed to a Committee of the whole House to-day.

The bill sent from the Senate, entitled "An act to authorize the President of the United States to suspend the operation of the act prohibiting the importation of certain goods, wares, and merchandise, and the acts supplementary thereto," was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. JOHN MONTGOMERY, that the House do now proceed to consider the amendments proposed by the Senate to the bill, entitled "An act concerning Courts Martial and Courts of Inquiry," the question was taken thereupon, and passed in the negative.

Mr. RANDOLPH, from the committee appointed on the fourth of December last, presented a bill to amend the act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war;" which was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. MACON, it was

Resolved, That the Secretary of the Treasury be directed to report to this House, at the next session of Congress, every sum of money which has been drawn from the Treasury of the United States, and not accounted for on the thirtieth day of June next.

The House proceeded to consider the bill sent from the Senate, entitled "An act for the relief of Philip Turner," to which the Committee of the Whole reported no amendment on the fourteenth instant. Whereupon, the bill was read the third time, and passed.

The bill sent from the Senate, entitled "An act to alter the time for the next meeting of Congress," was read three times, and passed—yeas 61, nays 30, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Blake, jr., Robert Brown, William A. Burwell, Joseph Calhoun, Geo. W. Campbell, John Campbell, Epaphroditus Champion, John Clopton, Howell Cobb, John Culpepper, Richard Cutts, Joseph Desha, Daniel M. Durell, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, Benj. Howard, Reuben Humphreys, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, John Lambert, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rhea of Tennessee, Samuel Riker, John Russell, Dennis Smelt, John Smilie, Jedediah K. Smith, Sam'l Taggart, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Alexander Wilson, Richard Winn, James Witherell.

NAYS—Burwell Bassett, William W. Bibb, Thomas Blount, William Butler, Matthew Clay, John Davenport, jr., James M. Garnett, Peterson Goodwyn, John Heister, William Hoge, James Holland, Daniel Ilsley, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr., Thos. Moore, Roger Nelson, Thomas Newbold, Jacob Richards, Mathias Richards, John Rowan, James Sloan, Sam'l Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Jesse Wharton, and David R. Williams.

ADDITIONAL ARMY.

On motion of Mr. G. W. CAMPBELL the House resolved into a Committee of the Whole, on the bill making an appropriation for the support of an additional military force for the year 1808.

The blanks in the bill were filled to the amount of $986,000.

The bill being gone through, was reported to the House, and ordered to a third reading.

On motion of Mr. G. W. CAMPBELL the House went into Committee of the Whole on the bill making an additional appropriation for the support of Government for the year 1808, and to meet expenses of valuation of houses, lands, &c.

[The first item in the bill is $7,000 for contingent expenses of the House of Representatives during the present session.

The second item is $5,401, a balance of a former appropriation which had been carried to the credit of the surplus fund, and was now deficient.]

The bill having been gone through was reported to the House, and ordered to a third reading.

BATTURE AT NEW ORLEANS.

The House then resolved itself into a Committee of the Whole, 45 to 28, on the bill for relinquishing to the Corporation of the city of New Orleans the right to the batture in front of the suburbs of St. Mary's.

Mr. ROWAN moved to strike out the first section of the bill, as it went possibly to prostrate an individual right. It was known that an individual in a suit respecting this batture had decision in his favor by a competent tribunal, but had been dispossessed, and ousted from possession under the law to prevent persons from settling on lands of the United States. The individual interested could not have a knowledge that a law was about to pass by strong implication, declaring a title to exist in the United States to the claim; and the passage of the law would be an *ex parte* decision. No injury could result from postponement, as the corporation were now in peaceable possession.

Mr. EPPES said that the gentleman from Kentucky was mistaken as to one material fact, to wit, that the corporation were in peaceable possession. The contrary was the case: for although the individual had been deprived of possession, the court had lately interfered on the subject, and the question of right was again in agitation. He was happy that the House were in possession of documents, which would show much more clearly than in his power, the precise situation of the case, and how far it was necessary for the House to act at present.

[The Clerk then read the statement of the case, and opinion by counsel in New Orleans.]

Mr. EPPES said the question of relative right of the individual or corporation was not now before the House. In whomsoever the right might lie, the bill before the House was calculated to do justice as well to the individual as to the corporation. Under a law of the United States, the President was authorized to remove by force settlers of the United States, who are now in possession of the land. The intention of the law is to bring fairly before a court a trial of the title, to enable the individual and the United States, or the corporation, to obtain a fair and impartial decision. The bill provided for an appeal, because it was thought that where the United States is party, it is proper that the decision of the Territorial court should not be conclusive, as a variety of circumstances might operate upon their decision.

The question was then taken on striking out the first section, and negatived, ayes 23.

On motion of Mr. CLARK, a new section was added to the bill, in the words following:

"SEC. 4. *And be it further enacted*, That the claim of the Corporation of the city of New Orleans to the commons adjacent to the said city, and within six hundred yards from the fortifications of the same, be, and the same are hereby, recognised and confirmed: *Provided*, That the said Corporation shall, within six months after passing this act, relinquish and release any claim they may have to such commons beyond the distance of six hundred yards aforesaid: *Provided, also*, That the Corporation shall reserve for the purpose, and convey gratuitously for the public benefit, to the company authorized by the Legislature of the Territory of Orleans, as much of the said commons as shall be necessary to continue the canal of Carondelet, from the present basin to the Mississippi, and shall not dispose of, for the purpose of building thereon, any lot within sixty feet of the space reserved for a canal, which shall forever remain open as a public highway: *And provided, also*, That nothing herein contained shall be construed to affect or impair the rights of any individual or individuals to the said commons, which are derived from any grant of the French or Spanish Government."

The Committee then rose and reported the bill.

Mr. ROWAN moved to postpone the report indefinitely. It was extremely hard after the widow claimant had already obtained one decision at the expense of $12,000 that a new trial should be granted, for this was in fact granting a new trial. The paper which had been read was a statement of citizens of Orleans, and an opinion by a single lawyer, opposed to the solemn decision of a court. Mr. R. dwelt some time on the difficulty of this subject, as the bill prostrated the right of the individual and strongly implicated the decision of a court of the United States. He did not wish to relinquish the claim of the United States, but he did not wish the United States to declare their

right, which would be the undoubted implication of this law without a full statement of the facts.

Mr. ELY, although one of the committee, stated reasons which influenced him to think that the subject ought to be postponed.

Mr. EPPES stated in reply to Messrs. ROWAN and ELY, that the land was now in possession of the United States, from whom it could not be taken; this law prescribed the only way in which this widow woman, if she had a title, could have it confirmed; for the United States could not be sued. The gentleman had controverted the right of the United States on the ground that there was no proof of title in the United States. Mr. E. said the property had been always claimed by the Spanish Government, and held as public property by Spain; and various instances were upon record in which application had been made by individuals, and objected to, first, because it was public property, and secondly, because buildings might affect the health of the city. Individual rights were not in question; for he trusted in God that such a body as this would never attempt to try rights between man and man.

Mr. RANDOLPH observed that he had just been informed that the Senate had postponed the subject indefinitely. This might possibly be a reason for postponement.

Mr. D. R. WILLIAMS hoped it would not be postponed on this account. For, in case of the drawback business, the Senate had postponed it, and afterwards agreed to take it up; and very possibly they might change their mind in this case also.

The question on postponement was then taken by yeas and nays, and lost—yeas 29, nays 58, as follows:

YEAS—William W. Bibb, Ephraditus Champion, John Culpepper, John Davenport, jun., William Ely, James Fisk, Charles Goldsborough, John Heister, William Hoge, James Kelly, John Lambert, Joseph Lewis, junior, Matthew Lyon, Nathaniel Macon, William Milnor, John Morrow, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Rowan, John Russell, Dennis Smelt, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benj. Tallmadge, James I. Van Allen, and Archibald Van Horn.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, John W. Eppes, William Findley, Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Walter Jones, Philip B. Key, William Kirkpatrick, John Love, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Randolph, John Rhea of Tennessee, Matthias Richards, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, John Taylor, John Thompson, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, and James Witherell.

Mr. BIBB moved to strike out the second section of the bill. [This section provides for an appeal from the final decree on this subject in any court in Orleans to the Supreme Court of the United States.] He thought it went to establish a principle by which the Yazoo claimants may hereafter bring their claim before the Supreme Court of the United States. For whenever it came before that court, it was not difficult to foresee how it would be decided.

Mr. RANDOLPH said he voted in the majority against postponement. If the gentleman from Georgia would withdraw his motion he would move to reconsider that vote.

Mr. BIBB withdrew his motion, and

Mr. RANDOLPH moved to reconsider the vote on postponement.

Mr. EPPES said if this second section were a general provision for appeal from Territorial courts to the Supreme courts, he should be one of the last to support it. How did this section establish the general principle of appeal? It did not; on the contrary the section showed that this was a particular case of appeal authorized by a special and particular law; and he called upon gentlemen to show how an appeal could be had except by a special law passed for that purpose—and he asked also how, if at any future period the House determined to allow an appeal, it could be prevented, supposing this bill not to pass? It could not. In the present case there were various reasons why the appeal should be authorized, and if the clause were struck out, he must vote against the whole bill. For, in a case involving property to the value of perhaps a million of dollars, being a piece of land the only spot whence the dykes which kept the Mississippi from inundating the property could be constructed—when it was considered that every cart-load of sand, which was constantly renewed by the Mississippi, was worth twenty-five cents, and the property consequently almost invaluable—when all these things are taken together, and in addition the feeling and sentiment excited on the subject, it was at least doubtful whether either the individual on the one side or the United States on the other, could have a fair and impartial trial without appeal: and it must be conceived that a decision at a distance from the scene of contest would promote justice between the individuals and the United States. If he thought this could go to establish a principle which in any shape could bring the case of the Yazoo claims before the Supreme Court, he would himself be the last in the House to vote for it.

Mr. BIBB observed that he had not supposed that the law made a general provision for appeal in all cases; but it established a principle which might hereafter be drawn into precedent as a reason for allowing appeal in a similar case.

Messrs. KEY and ELY followed in support of the second section.

Mr. RANDOLPH supported the motion for reconsideration of the motion for postponement. He admitted that his opinion was that the right was either in the United States or the Corporation of New Orleans. If the right were in the United States he was desirous of transferring it to the

Corporation; but he was in favor of postponing the bill on two distinct grounds. He thought with his friend from Georgia (Mr. BIBB) that he could see a squinting towards Yazooism in that bill; that it might be a precedent to give the same power to the Supreme Court in relation to cases decided before a Mississippi court as it went to give in this case. He had ever been of opinion that cases like that alluded to by his friend from Georgia—cases of empires, he might say—not of hundreds of acres but of thousands of square miles, were not subjects of judicial decision. He said he should as soon think of trying the independence of the United States, or whether the Declaration of Independence was a lawful act, before a petty jury, with appeal to a Supreme Court as to try cases of this immense magnitude. He was in favor of postponement on another ground. This case of the Batture, the right to which had been enjoyed a long while, although perhaps essential to the city, was a different case entirely from a case going to cover a claim to territory of a hundred miles in length and breadth; it was very much such a case as might present itself within sight of the House. Suppose a contest between Mr. J. Mason and the Corporation of Georgetown as to the mud deposited on his island by the Potomac—whether it should be considered as the property of Mr. Mason or of the Corporation of Georgetown. There was a vast difference between a case like this, and the giving power to decide whether an immense country shall belong to swindlers; and perhaps the means which might be resorted to in the one case would not be justified in the other. Mr. R. said, he had heard of no corrupt grants in relation to this claim, which had been burnt, as they always ought to be, by the hands of the common hangman; but it was one of those nice and subtle points with which those gentlemen learned in the law like to amuse themselves—something like a case which he had lately heard of, in which a man said, if as the lawyers said his land was his exclusive property from the Heavens above downward to the centre, his neighbor had no right to plant poplars on the ground adjacent to his, because the roots would infallibly extend into his soil. Mr. R. said, they should not pass a law respecting a special case while it was *sub judice* between the corporation and the nominal claimant who he had heard it said was a widow woman, though he understood the real claimant was a very different person.

Mr. R. went at some length into a view of the subject. He was willing to give the corporation the right of the United States and let them establish that right if they could. This was as far as he should go.

Mr. HOLLAND remarked on Mr. RANDOLPH'S observations. He questioned the correctness of the gentleman's doctrine; for he had taken a singular distinction; he would permit cases involving property of small value to go before the Supreme Court, but in a case involving property of great value he would not trust them, but legislate specially for it. Mr. H. was willing to give all Territorial courts the right of appeal—to adopt the universal principle of doing universal justice. He said he should not have expected to hear from any gentleman on this floor that our judges were not to be trusted; and the declaration of the gentleman from Georgia (Mr. BIBB) that the Yazoo business would be decided in favor of the claimants, was a clear evidence that it ought to be so decided.

Mr. SMILIE opposed the motion for reconsideration. He was of opinion that the second section of the bill was Constitutional and expedient; and it could not be suspected that he would support anything to favor the Yazoo claim, his sentiments on it being well known.

Mr. TROUP could not see the danger which his colleague apprehended; he was not himself governed by precedent, nor ever would be. If this second section were to operate at all as precedent, it would be in a case where it should be proposed to give the Yazoo claimants a right of appeal from the circuit or district court of the Mississippi Territory to the Supreme Court. What the Legislature would do indirectly in such a case they would not hesitate to do directly. They would not hesitate to make a gift of ten millions of dollars, or to make a donation in fee simple of thirty millions of acres. It was a position as clear as the noon day, that where a Legislature was found disposed to do either one or the other, such a Legislature must be as notoriously corrupt as the Yazoo claimants themselves.

Mr. BIBB said he should hope with his colleague that precedents would not influence this House or any other, but he was convinced that they would and do govern legislative proceedings. It might happen that a proposition might be made to give Territorial courts appellate jurisdiction, and a majority might revolt at it if this bill should not pass, because it was a case without precedent. Supposing a number of new members, and such a proposition introduced; it might be said to them, you may pass this bill; it is not a novel thing; a former Legislature has passed a similar bill, and there can be no impropriety in it. In this way Mr. B. said it might be drawn into precedent.

Mr. MACON wished it were possible to get a question. If gentlemen wished to adjourn at the time fixed, it was necessary that it should be immediately decided one way or the other; for Yazoo had been dragged into the discussion and it might occupy a month. The seats were empty, and it was time to adjourn, if but for an hour, to give an opportunity for members to take refreshment.

Mr. HOLLAND commenced some observations in relation to Yazoo. No subject could be introduced, but this or some such alarm which had no relation to the subject was certainly introduced, to no purpose but to operate a delay of business.

A quorum of members not appearing within the bar, Mr. HOLLAND resumed his seat, and the House adjourned, 38 to 23.

FRIDAY, April 22.

On a motion made by Mr. BLACKLEDGE, that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of establishing a communication by mail between Shell Castle Island, at Ocracock Inlet, in the State of North Carolina, and some of the post towns on the waters discharging themselves through that inlet:

The House proceeded to consider the said resolution; and the same being twice read, was, on the question put thereupon, disagreed to by the House.

An engrossed bill making appropriations for the support of an additional military force, for the year one thousand eight hundred and eight, was read the third time, and passed.

An engrossed bill making an appropriation to supply a deficiency in an appropriation for the support of Government during the present year, and making an appropriation for defraying the expenses incident to the valuation of houses and lands, and the enumeration of slaves within the United States, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning invalid pensioners," with several amendments; to which they desire the concurrence of this House; also, the bill, entitled "An act to establish certain post roads in the State of Georgia," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act to authorize and require the President of the United States to cause to be prepared for service the frigates and other armed vessels of the United States;" also, a bill, entitled "An act for the relief of George Hunter;" to which they desire the concurrence of this House.

A Message, in writing, was received from the President of the United States, by his Secretary, who delivered, in the same, and then withdrew.

THE EMBARGO.

The House resolved itself into a Committee of the Whole on the bill in addition to the several acts laying an embargo.

Mr. D. R. Williams, after some observations going to show that the embargo ought to be rigidly enforced, and that it was as much the duty of all, however originally disposed towards the measure, to secure its observance, as it would be to prevent a robbery or fraud of any sort, stated a circumstance which had occurred at Georgetown, under his own eyes, and which called for remedy. Application had also been lately made to the custom-house officer of a Southern port for clearance to New Orleans for a ship said to be laden with 500 hogsheads New England rum. The collector, being surprised at so large a cargo of such an article, sent an inspector to examine it, and, on inspection, it was found to be 500 hogsheads of rice instead of rum. Nothing would have been easier than for this vessel to have slipped into New Providence or Havana, landed its cargo, and reloaded with rum, which could be carried into New Orleans, thus committing a double fraud—violating the embargo law and defrauding the revenue of the duty on the rum thus imported. He therefore offered a new section to the bill, which it would be seen would operate only on such vessels as take licenses.

[This section goes to require every vessel required to take out a license to be loaded under the immediate inspection of the revenue officers.]

Mr. Goldsborough objected to the section as going to operate a great inconvenience, almost an impossibility, to the revenue officers. Some of the districts, for instance the one he represented, comprising many ports or places of loading, to which only one collector belonged; so that it was impossible that he could attend to the loading every vessel required to take a license under the provisions of this bill.

Mr. D. R. Williams replied, that this objection could not properly be made to the House, but to the Secretary of the Treasury, whose duty it would be to appoint additional inspectors.

The section was agreed to—yeas 55.

A new section was also added, on motion of Mr. Newton, supported by Mr. Cutts, to permit vessels with cargoes on board to remove from port to port, and to remain loaded, for the purpose of preserving their produce.

A section was also added for allowing to Indians their usual trade.

Mr. Newton, wishing in the times which try men's souls, that the true American and patriot should be distinguished from the unfair trader or British agent, moved a new section, directing the Secretary of the Treasury to cause to be published the names of those persons who have violated the embargo laws.

On the suggestion of Mr. D. R. Williams, that this had better be done by resolution, Mr. Newton withdrew the motion.

Several other verbal amendments having been made, the Committee rose, and reported the bill as amended.

Mr. Goldsborough moved to postpone the further consideration of the bill, in order that the amendments might be printed.—Negatived, yeas 19.

The yeas and nays being required by Mr. Quincy on the section moved by Mr. D. R. Williams in Committee of the Whole—

Mr. D. R. Williams said that the section was such an one as could distress no honest man, and would promote an observance of the laws. It had also an operation which gentlemen from commercial towns should look to; for it went to provide employment for the inspectors, who were now almost starving for the want of it.

Mr. Dana and Mr. Quincy objected to the section on the general principle that it threw difficulties into the way unnecessarily; and on account of the distressing operation which this section and the law generally would have upon the coasting trade. Mr. Q. complained also that the bill could not be understood, from the numerous amendments made to it in Committee, and that the operation of each section could not be distinctly seen.

The question was then taken, by yeas and nays,

on concurring with the Committee of the Whole, and carried—yeas 74, nays 20, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Richard Stanford, Clement Storer, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, and Alexander Wilson.

Nays—John Campbell, George Clinton, jr., John Culpepper, Samuel W. Dana, John Davenport, jr., William Ely, Charles Goldsborough, William Hoge, James Kelly, Joseph Lewis, jr., Matthew Lyon, Timothy Pitkin, jr., Josiah Quincy, John Rowan, John Russell, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Archibald Van Horn, and Killian K. Van Rensselaer.

The fifth amendment, to add a new section as the eleventh section of the bill, being read, in the following words, to wit:

"Sec. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized to detain any vessel ostensibly bound with a cargo to some other port of the United States, whenever, in their opinion, the intention is to violate or evade any of the provisions of the acts laying an embargo, until the decision of the President of the United States be had thereupon:"

The question was taken that the House do agree to the said fifth amendment, and decided in the affirmative—yeas 64, nays 25, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, Josiah Deane, John W. Eppes, William Findley, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, John Lambert, Edward Lloyd, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, David R. Williams, and Alexander Wilson.

Nays—Ezekiel Bacon, John Culpepper, Samuel W. Dana, John Davenport jun., William Ely, Francis Gardner, Charles Goldsborough, John Harris, William Hoge, James Kelly, Joseph Lewis, jun., Josiah Masters, William Milnor, Timothy Pitkin, jun., Josiah Quincy, John Rowan, John Russell, Samuel Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, James I. Van Allen, Archibald Van Horn, and Killian K. Van Rensselaer.

The House then adjourned until five o'clock, P. M.

Five o'clock, P. M.

BRITISH LAND CLAIMS.

A Message from the President of the United States was read, as follows:

To the Senate and House of Representatives of the United States:

I transmit to both Houses of Congress a letter from the Envoy of His Britannic Majesty, at this place, to the Secretary of State, on the subject of certain British claims to lands in the Territory of Mississippi, relative to which several acts have heretofore been passed by the Legislature.

TH. JEFFERSON.

April 22, 1808.

Mr. G. W. Campbell moved to refer the papers and documents to the Committee on Public Lands.

Mr. Rowan moved to postpone them indefinitely. It was but little worth while to consider claims of this nature, while claims by us of such enormous magnitude against that nation remained unsettled.

The Speaker declared a motion for a reference to take precedence.

Mr. Blackledge thought that as the communication had been made in the form of civility, it might at least receive the form of a consideration.

Mr. Fisk hoped it would not be referred. He had no respect for form in these little cases where they had shown none for reality in greater claims by us.

Mr. G. W. Campbell said this was a claim by individuals, not by the Government, and he hoped, therefore, it would be referred.

Mr. Newton could not see the difference between a motion for reference and a motion for postponement; for the subject was equally postponed by either course. With respect to individual right, were not the claims of our impressed seamen claims for personal liberty and individual right, and had they ever been listened to?

Mr. Dana said, that the President of the United States had transmitted a Message recommending the subject to their attention; from respect to the Chief Magistrate of our own country, therefore, it would perhaps be proper to refer it.

Mr. Smilie said he would just observe that we had always valued ourselves on doing justice to every nation. That being the case, whatever injury may have been received by us, we should

act in such a way as to show that we will always hear complaints, and consider whether they are well founded or not. In justice to the character of the nation, it ought to be referred.

Mr. RHEA, of Tennessee, having called for the reading of the memorial of the claimants to the British Minister—

Mr. EPPES observed that he understood the memorial only to claim further time, which had, in certain cases, been already granted. This was an application; whether further time should be given or not, might be inquired into by the House. He did not expect that it would be acted on during the present session.

The Message was referred to the Committee on Public Lands.

THE EMBARGO.

The House resumed the consideration of the amendments reported from the Committee of the Whole to the bill sent from the Senate, entitled "An act in addition to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto, and for other purposes:" whereupon the sixth amendment, to add a new section as the twelfth section of the bill, being read, in the words following, to wit:

"SEC. 12. *And be it further enacted*, That, if any unusual deposite of provisions, lumber, or other articles of domestic growth or manufacture, shall have been, or shall be made, in any of the ports of the United States, the collector of the district shall be, and he is hereby, authorized to take the same in his custody, and not to permit such articles to be removed until bond, with sufficient sureties, shall have been given for the landing or delivery of the same in some port or place of the United States:"

The question was taken that the House do agree to the said sixth amendment, and resolved in the affirmative—yeas 58, nays 36, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Howell Cobb, John Dawson, Josiah Deane, John W. Eppes, William Findley, Peterson Goodwyn, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Dennis Smelt, John Smilie, Jedediah K. Smith, Richard Stanford, John Taylor, George M. Troup, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, John Blake, jr., Adam Boyd, Epaphroditus Champion, John Culpepper, Samuel W. Dana, John Davenport, jr., Joseph Desha, Daniel M. Durell, William Ely, James Fisk, Francis Gardner, Isaiah L. Green, John Harris, William Hoge, Reuben Humphreys, Joseph Lewis, jr., Josiah Masters, William Milnor, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Rowan, John Russell, James Sloan, Samuel Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, James I. Van Allen, and Killian K. Van Rensselaer.

The seventh amendment, to add a new section as the thirteenth section of the bill, being twice read in the words following, to wit:

"SEC. 13. *And be it further enacted*, That any ship or vessel, owned by a citizen or citizens of the United States, loaded or in part loaded, with the produce of the United States, before the act laying an embargo was passed, and by said act detained in any port of the United States, may be permitted to proceed to any part of the United States, and there to remain with such cargo on board, subject to such other restrictions and bonds as are prescribed in the act laying an embargo, and the several supplementary acts thereto:"

Mr. D. R. WILLIAMS asked for the yeas and nays on it, because, as they were compelled to impose hardships on the people, he wished it to be shown that they were desirous of giving them every alleviation in their power.

Mr. ROWAN opposed this amendment, because it granted no privilege not already allowed by the embargo laws; and because, if it did, it did not impose the same obligations on the motions of these vessels as they had just done on small craft; he could, therefore, see no object of it, but that it exempted a particular class of vessels from the general duty. He wished to be informed whether these vessels might not be blown off the coast as others were said to be? Certainly they would be much more likely to be so than those compelled to give such heavy bond. As to these additional embargo laws he could not agree with gentlemen in their zealous endeavors to amend them, for every law which passed on the subject embraced a ground not before touched; every additional law, in fact, was a new embargo law.

Messrs. D. R. WILLIAMS and MARION replied, that there were a sort of vessels cut off from sailing by the embargo in the Southern ports, whose bottoms would be eaten up, and crews become sick in the summer, and therefore they wished to remove to the Northern ports to act as store ships. True, that, by the present laws, these vessels might sail from one port to the other, but were compelled on arrival to reland their cargo before their bonds could be cancelled, which it was now wished to retain on board the ships, to save the expense of storage. The cargo, consisting of cotton, and being packed by means of screws, it was extremely troublesome to load and reload. These vessels would not be more subject to be blown off than others, for they would give the same bonds on removal with this section as without it; the only difference was, that they were not compelled to be unladen.

The amendment was concurred in—yeas 88, nays 6, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Matthew Clay, John Clopton, Howell Cobb, John Culpepper, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Josiah Masters, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Dennis Smelt, John Smilie, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Wynn.

NAYS—Adam Boyd, William Hoge, Joseph Lewis, jr., John Rowan, James Sloan, and Jedediah K. Smith.

The eighth amendment reported from the Committee of the whole House being twice read, was, on the question put thereupon, agreed to by the House.

The ninth amendment, to add a new section as the fifteenth section of the bill, being amended to read in the words following, to wit:

"SEC. 15. *And be it further enacted*, That nothing in the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or in the several acts supplementary thereto, or in the act to prohibit the importation of certain goods, wares, and merchandise, shall be construed to prevent the exportation by land or inland navigation from the territories of the United States into those of Great Britain, of the furs and peltries the property of subjects of Great Britain, and by them purchased from the Indians; or to prevent the importation by land or inland navigation from the territories of Great Britain into those of the United States, of merchandise the property of British subjects, and by them imported solely for the use of the Indians aforesaid:"

This amendment was opposed by Messrs. ROWAN, MONTGOMERY, and RHEA; and supported by Messrs. NEWTON, DANA, EPPES, and CAMPBELL. Mr. ROWAN called for the yeas and nays on it.

The opponents contended that, while such great differences existed between this country and Great Britain, it was not well to yield up any commerce to her, when she has totally interdicted ours. If it were for the exclusive benefit of the Indians, they would not object to it; but it went to admit Great Britain to pursue in our territories a trade of considerable value, and it certainly was the interest of the United States to give a clear preference to the American trade. From very good information, it was said that there is now arrested within the territory of the United States, peltry to an immense amount, which, by this amendment would be taken out. The British trader was more benefitted by this amendment than the Indians could be; for, without it, the trade would be diverted in its course from the British to the American trader. In the present situation of affairs to act a benevolent part to either European Power was wrong; whatever part other nations pursue, we ought to mete out to them the same.

On the other hand, it was said by the friends of the provision, that it was not to yield our commerce to Britain, but to permit trade with unoffending tribes of Indians, and would but deprive Great Britain of a powerful weapon which she might possess in the distress of the savages in consequence of our measures. That various tribes of Indians had become habitually dependant on the British provinces for supplies; and a stoppage of them by the United States would only have an ill effect on their dispositions towards us. That, if there were any race of human beings who could not be made to understand an embargo system, it was the native Indians of America; in vain, then, would it be attempted to convince them of the necessity of cutting them off from their supplies. A rejection of this amendment would be, in fact, tantamount to a declaration of war against them; and, to save a few thousand dollars value of trade, we should have to spend millions in an Indian war.

The amendment was agreed to—yeas 69, nays 32, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Robert Brown, George W. Campbell, Epaphroditus Champion, George Clinton, jr., John Clopton, Howell Cobb, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, William Ely, John W. Eppes, Wm. Findley, Francis Gardner, James M. Garnett, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Heister, William Hoge, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Walter Jones, William Kirkpatrick, John Lambert, Robert Marion, Daniel Montgomery, jun., Nicholas R. Moore, T. Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Thos. Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Pugh, Josiah Quincy, Matthias Richards, Samuel Riker, John Russel, John Smilie, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, and Alexander Wilson.

NAYS—Thomas Blount, Adam Boyd, William A. Burwell, William Butler, Jos. Calhoun, Matthew Clay, John Culpepper, Joseph Desha, Daniel M. Durell, James Fisk, John Harris, Benjamin Howard, Richard M. Johnson, Joseph Lewis, jr., John Love, Nathaniel Macon, Josiah Masters, William McCreery, Wm. Milnor, John Montgomery, Roger Nelson, John Porter, John Rhea of Tennessee, Jacob Richards, John Rowan, Jas. Sloan, Dennis Smelt, Jedediah K. Smith, Samuel Smith, Clement Storer, Richard Winn, and James Witherell.

Some further verbal amendments having been

made, the bill, as amended, was ordered to a third reading to-morrow.

A motion to adjourn was negatived—ayes 38.

The House went into Committee of the Whole, on the bill to ereet Plymouth, North Carolina, into a port of entry, and to change the name of the district of Nanjemoy, &c. An amendment was added to the bill, on motion of Mr. Cutts, including the town of Augusta, in the district of Maine. The Committee rose and reported the bill.

Mr. Randolph said, he really did not suppose the House had agreed to sit in the evening to transact such *important* business as this, and therefore moved to adjourn.—Negatived.

The bill before mentioned was ordered to a third reading.

The amendments of the Senate to the bill concerning certain post roads in the State of Georgia and the bill concerning invalid pensioners, were taken up, and agreed to.

The Speaker had proceeded in reading the bill to authorize the President of the United States to arm and equip the frigates, when Mr. Nelson moved to postpone it until to-morrow.

The reading being called for by a member, the Speaker proceeded in reading the bill.

A question of order having been made whether the bill should be read, after the motion of postponement, the Speaker decided in the affirmative.

Mr. Nelson appealed from the Speaker's decision, and called for the yeas and and nays on the appeal.

Mr. Garnett moved to adjourn.—Negatived.

After a desultory debate of half an hour on the point of order, in the course of which Mr. Randolph made a motion to adjourn, which was negatived, 43 to 29, Mr. Nelson withdrew his appeal.

The bill was then read the first time, and, on the question stated by the Speaker, that it do now have a second reading—

Mr. Stanford moved to reject the bill.

On motion of Mr. Nicholas, the House adjourned, at half past eight.

Saturday, April 23.

On a motion made by Mr. Tallmadge, that the House do agree to the following order, which being read, was, on the question put thereupon, agreed to by the House, as follows:

Ordered, That the Clerk of this House do cause to be bound as many sets of the documents accompanying the Messages of the President of the United States, of the twenty-second and thirtieth of March, one thousand eight hundred and eight, together with copies of a report of a committee of the Senate, made on the sixteenth instant, as shall be sufficient to furnish each member of the House of Representatives with one copy, and that the same be delivered to them at the next session of Congress.

The bill sent from the Senate, entitled "An act to make Plymouth, in North Carolina, a port of entry, and to change the name of the district of Nanjemoy to that of St. Mary's," was read the third time; and the same being amended at the Clerk's table,

Resolved, That the said bill do pass, and that the title be, "An act to make Plymouth, in North Carolina, a port of entry; to change the name of the District of Nanjemoy to that of St. Mary's; and to make Augusta, in the District of Maine, a port of delivery."

The bill sent from the Senate, entitled "An act for the relief of George Hunter," was read the third time, and passed.

Mr. Randolph said the House would recollect that a few days past he had given notice of an intention to move for an inquiry into a certain subject, which intention grew out of a fact which he had then stated to the House as having come to his knowledge. He was happy to have it in his power to state that the difficulty had not arisen from fraud, but from the circumstance that there were two persons of the same name; and that after a great deal of delay and difficulty the business of the party had been accomplished.

A message from the Senate, informed the House that the Senate have passed a bill, entitled "An act for the relief of Richard Sparks;" to which they desire the concurrence of this House.

THE EMBARGO.

The engrossed bill in addition to the embargo laws having been read, and the question put, "that the bill pass?"

Mr. Sloan opposed the bill on the ground that it was in its details distressing to the people on the seacoasts, who now patiently acquiesce in the measure of embargo, believing it to be a prudent measure; but who would no doubt become instantly dissatisfied with it.

The question on the passing of the bill was then taken by yeas and nays, and carried, 73 to 26, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, John Blake, jr., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Howell Cobb, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Mathias Richards, Samuel Riker, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, John Smith, Richard Stanford, Clement Storer, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Richard Winn, and James Witherell.

Nays—Adam Boyd, John Campbell, John Culpepper, John Davenport, jun., Daniel M. Durell, William Ely, Francis Gardner, James M. Garnett, Charles Goldsborough, James Kelly, Philip B. Key, Joseph Lewis, jr., Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rowan, John Russell, James Sloan, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Archibald Van Horn, and Killian K. Van Rensselaer.

EQUIPMENT OF FRIGATES.

The House then took up the unfinished business of yesterday on the bill to authorize the equipment of the frigates.

Mr. Stanford withdrew his motion for rejection.

The bill was read a second time.

Mr. Stanford moved to postpone it indefinitely, and Mr. D. R. Williams called for the yeas and nays on the motion.

The question having been taken, there were for the postponement 40, against it 52, as follows:

Yeas—Ezekiel Bacon, Joseph Barker, Thomas Blount, William A. Burwell, William Butler, John Clopton, John Culpepper, John Dawson, Josiah Deane, William Findley, James M. Garnett, Peterson Goodwyn, John Heister, William Hoge, James Holland, David Holmes, William Kirkpatrick, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., Thomas Moore, Jeremiah Morrow, Roger Nelson, John Pugh, John Randolph, Jacob Richards, James Sloan, John Smilie, Samuel Smith, John Smith, Richard Stanford, John Taylor, Abram Trigg, Archibald Van Horn, Jesse Wharton, Robert Whitehill, David R. Williams, and Richard Winn.

Nays—Willis Alston, jun., John Blake jun., Adam Boyd, Joseph Calhoun, John Campbell, Matthew Clay, Richard Cutts, John Davenport, jr., Joseph Desha, Daniel M. Durell, William Ely, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jr., John Love, Josiah Masters, William Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Dennis Smelt, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jas. I. Van Allen, Killian K. Van Rensselaer, Daniel C. Verplanck, and James Witherell.

The bill was then referred to a Committee of the Whole, and made the order of the day for this day.

On motion of Mr. D. R. Williams, who wished it to be immediately decided, if they were to be saddled with this monstrous thing, the House resolved itself into a Committee of the Whole on the bill.

Mr. Goldsborough wished to leave a discretionary power with the President of the United States to call into action all the force of the United States, and therefore moved to strike out the words "and required." Negatived, 41 to 39. The Committee rose and reported the bill.

Mr. Milnor moved to amend the bill by striking out "and require."

Mr. Goldsborough called for the yeas and nays on the motion.

Mr. Bibb made a motion which superseded that, to postpone the subject indefinitely.

In the course of discussion on this subject in the House and Committee of the Whole,

Mr. D. R. Williams observed that there was a law already in force authorizing the President to keep in employment during peace as many ships as he should think proper. Mr. W. said he voted againit that; but that, compared to this bill, which contained a positive requisition to the President, was but as a mole-hill to a mountain. The honorable gentlemen who were the fathers of this navy system, created it to defend commerce. Had we now, he asked, any commerce to defend? It is embargoed. Then why this extravagance? He declared that he felt himself at a loss to find a term sufficiently expressive of his abhorrence of a navy. He would go a great deal further to see it burnt than extinguish the fire; he wished it was burnt, for it was a curse to the country, and never had been anything else. What would be the expenditure if the President of the United States does what the bill requires? We never had enough money in the Treasury to effect the object. The ten millions boasted in the Treasury at the commencement of the session would not have been competent; with the embargo system it was absolutely impossible, and they must resort to the old system of internal taxes and loans. He had always voted against these highly Federal measures, and thanked his God that he had an opportunity to vote against them again.

Mr. Goldsborough wished to give to the President of the United States a discretionary power to call into service our armed vessels to carry into effect our laws. A law had the other day passed for maintaining peace in the ports and harbors; and another this morning amendatory of the embargo law. For these purposes the armed force of the United States might be necessary.

Mr. Macon had thought, after the affair of Copenhagen, that the nation would think no more of a navy; he had thought that it would have been entirely given up. The President had already authority to call our frigates; then where was the necessity of repeating the authority? for gentleman seemed to be unwilling absolutely to require it, as the Senate had done. If the Executive had been guilty of neglect in not exercising the authority reposed in him, there was a Constitutional mode of calling him to account for it, without doing it indirectly by passing this bill.

Mr. Milnor wished to leave a fair discretion with the President to employ these vessels to enforce obedience to the laws, and to protect our harbors. The seamen also now out of service might be employed, which would be a desirable thing. He felt not so great a terror at the bare mention of a navy that some gentlemen seemed to do.

Mr. G. W. Campbell said he had been in favor of every measure of defence which had been pro-

posed, and which he considered our circumstances to require; but he could not see the necessity for this bill. The expense of it would be very great; three or four millions had already been appropriated for defence during the present session, and it must be known to all that our receipts from revenue would be considerably diminished in consequence of the embargo.

Mr. SMILIE was strongly opposed to the bill. If the navy were equipped and sent to sea, war would be the inevitable result; and even if it would not, the expense would exceed calculation.

Mr. PITKIN entered somewhat at large into the use and advantages of a navy. He wished the President of the United States to have power to repel attack, if we are to have it. We have a right to peace within our waters, and within three miles of our shores; if we could not preserve it, we had better give up our sovereignty. Our commercial tonnage, he said, was almost as much as that of England, and much more than that of any other nation; we ought therefore to have some ships to protect it.

Mr. HOLLAND was opposed to the bill. If we were to attempt to meet the British on the sea, it would be the only way in which we could be materially injured by them; and would afford them an opportunity of gratifying their thirst for naval dominion.

He was as much against the war as the gentleman from Connecticut; and it was because he wished for peace he was opposed to a navy, as it must only become a prey to a superior maritime Power. Let them once more attack us, said he, and we will retaliate on them not by sea, but by land, where they are vulnerable, and our ten thousand men, with a few of our militia, will revenge their insults.

The question on postponement was then taken by yeas and nays, and the bill was postponed, 55 to 42, as follows:

YEAS—Lemuel J. Alston, Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Howell Cobb, John Culpepper, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James M. Garnett, Peterson Goodwyn, John Heister, William Hoge, James Holland, David Holmes, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, John Pugh, John Randolph, Jacob Richards, Matthias Richards, James Sloan, John Smilie, Samuel Smith, John Smith, Richard Stanford, John Taylor, George M. Troup, Archibald Van Horn, Jesse Wharton, Robert Whitehill, David R. Williams and Alexander Wilson.

NAYS—Willis Alston, junior, William Blackledge, John Campbell, Epaphroditus Champion, Matthew Clay, George Clinton, jun., Richard Cutts, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, William Ely, Francis Gardner, Charles Goldsborough, Isaiah L. Green, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, James Kelly, Joseph Lewis, jr., Matthew Lyon, Josiah Masters, William Milnor, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Dennis Smelt, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Samuel Taggart, John Thompson, James I. Van Allen, Killian K. Van Rensselaer, Daniel C. Verplanck, and Isaac Wilbour.

PUBLIC BUILDINGS.

The House then went into a Committee of the Whole on the bill making appropriation to supply the deficit in the appropriation for the public buildings for the year 1807, and for other purposes.

The bill having gone through the Committee of the Whole, after filling up the blanks for the deficit, and for a small sum for finishing the wall round the President's House, and refusing to make an appropriation for the ensuing year, for other purposes, the Committee rose and reported the bill.

The House then adjourned till five o'clock.

Five o'clock, P. M.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act authorizing the Secretary of the Treasury, to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States; and, after some time spent therein, the bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be read the third time on Monday next.

APPROPRIATIONS.

The House resumed the consideration of the amendments reported from the Committee of the Whole to the bill to make good a deficit in the appropriation of eighteen hundred and seven, and to make further appropriation for completing the south wing of the Capitol, and for other purposes: Whereupon, the first amendment reported from the Committee of the Whole to fill up the first blank in the bill with the words fifty-one thousand five hundred dollars, was agreed to by the House—yeas 75, nays 14, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Epaphroditus Champion, John Clopton, John Culpepper, Richard Cutts, John Davenport, jr., Josiah Deane, Joseph Desha, Daniel M. Durell, William Ely, William Findley, James Fisk, Francis Gardner Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, James Kelly, Joseph Lewis, jr., Matthew Lyon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Russell, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, Richard Winn, and James Witherell.

NAYS—Burwell Bassett, William W. Bibb, William A. Burwell, John Dawson, James M. Garnett, William Hoge, John G. Jackson, Nathaniel Macon, Josiah Masters, Daniel Montgomery, jr., John Randolph, John Rowan, Samuel Smith, and David R. Williams.

The other amendments reported from the Committee of the Whole being again read, the third, fourth, fifth, and sixth amendments were agreed to, and the second amendment was, on the question put thereupon, disagreed to by the House. The said bill was then further amended and, together with the amendments agreed to, ordered to be engrossed, and read the third time this day.

FORTIFICATIONS, &c.

Mr. CUTTS having called for the bill respecting sites for fortifications in or near Portland, and a motion being made by Mr. LEWIS to postpone it,

Mr. ROWAN advocated the motion, in order to give him an opportunity to move that the Committee of the Whole be discharged from the consideration of the report of the committee on the case of Judge Innes, in order to commit it to a select committee, with power to send for persons, papers, &c., and as he was alone from Kentucky on this occasion, and should not be present on Monday, he wished an opportunity to make the motion.

Messrs DANA, JOHNSON, and HOWARD, supported the motion for postponement, on the ground that it would be but reasonable that the gentleman should have an opportunity to make the motion, more especially as it was a matter of considerable interest to Kentucky.

Messrs. MONTGOMERY and HOLLAND opposed the motion for postponement with this view: As the House had already determined by their vote of reference to postpone the subject, they could not see the necessity for again considering it, as it might occupy the whole time they had on hand. It was unusual also after a committee had reported in favor of a person to recommit that report for a further inquiry.

Mr. LEWIS withdrew his motion for postponement, as he had but made it with a view to having the engrossed bill concerning the public buildings read.

Mr. ROWAN renewed the motion, and spoke in support of it. Why all this zeal against a full inquiry into the case of Judge Innes? The case of Judge Bruin had been permitted to pass, and the delegate from Mississippi Territory had been authorized to take depositions, almost without an objection. He could not conceive why gentlemen were so zealous on this case peculiarly.

Mr. CUTTS asked whether the gentleman were in order, the question being on the postponement of another subject?

The SPEAKER said the gentleman was in order.

Mr. ROWAN then said a few words, upon which he was called to order by several gentlemen.

And a member having required that the words for which the gentleman was called to order should be reduced to writing—

Mr. JACKSON said: I call the gentleman to order, and have reduced the words to writing as applied to the gentleman from Massachusetts, (Mr. CUTTS,) by the gentleman from Kentucky, (Mr. ROWAN.) The words were: "Let the gentleman call me to order again." Anything in the nature of a threat was inadmissible, and therefore he had called the gentleman to order.

Mr. MACON called for the reading of the rule.

The SPEAKER read the rule, as follows:

"If any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain, and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to; if the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House."

A member rising to speak on the subject, and being called to order, as the question admitted not of debate, on motion of Mr. RANDOLPH the House adjourned.

MONDAY, April 25.

On motion of Mr. G. W. CAMPBELL,

Resolved, That a joint committee be appointed to wait on the President of the United States and inform him of the proposed adjournment of Congress.

Messrs. G. W. CAMPBELL and NICHOLAS were appointed the committee.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a letter to him from the Comptroller of the Treasury, with sundry statements marked A, B, and C, prepared in pursuance of the seventh section of the "An act establishing a Mint, and regulating the coins of the United States;" which were read, and ordered to lie on the table.

On motion of Mr. NEWTON,

Resolved, That the Secretary of the Treasury be, and he is hereby, required to report to this House, at the next session of Congress, the amount of the fees and emoluments received during the present year, by the collectors, naval officers, and surveyors of the customs, respectively, and whether, under existing circumstances, any addition ought, in his opinion, to be made thereto.

Mr. QUINCY, from the committee to whom were referred, on the ninth and fifteenth of February last, two Messages, from the President of the United States, relative to our affairs with the Dey and Regency of Algiers, made a report thereon; which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have agreed to the amendments

proposed by this House to the bill sent from the Senate, entitled "An act in addition to the act for laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and for other purposes," with amendments; to which they desire the concurrence of this House.

The House proceeded to consider the said amendments; and the same being severally twice read, were agreed to.

On motion of Mr. Newton,

Resolved, That the Secretary of the Treasury be, and he is hereby, required to report to this House, at the next session of Congress, the amount of the fees and emoluments received during the present year, by the collectors, naval officers, and surveyors of the customs, respectively; and whether, under existing circumstances, any addition ought in his opinion, to be made thereto.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to authorize and empower the President of the United States to exchange the lands whereon the fort and battery now stand in the town of Portland, for lands more suitable for fortification, and the protection of said harbor and town of Portland, in the District of Maine," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the said amendments of the Senate: Whereupon,

Resolved, That this House doth agree to the said amendments.

Mr. Holmes, from the Committee of Claims, made a report on the claim of Madame Beaumarchais. The committee thought proper to state by way of report why the claim had not been decided on by the committee this session. The report asks leave for the committee to be discharged from the further consideration of the claim the present session. Agreed to.

GENERAL WILKINSON.

Mr. Clark said, it would be recollected by the House, that he had some time since been directed to make a statement in relation to General Wilkinson. He now held in his hand a correspondence with the Spanish Government, which he would lay upon the table, as it went to substantiate the facts contained in that statement.

These papers were read, and consist chiefly of memoranda in the handwriting of Philip Noland, and purporting to be instructions from General Wilkinson to Thomas Power, and of answers from Thomas Power.

Mr. Randolph moved that they be printed.

Mr. Smilie opposed the printing, as, if it were indeed testimony, this House was not the tribunal to decide upon it.

Mr. Randolph said, it was certain, that from the noise in the House, or some other cause, the papers as read could not be understood. They appeared to embrace a correspondence of Philip Noland, said to be the agent of General Wilkinson, with Power, and in the course of them there was a recommendation that General W.'s handwriting should not be used. He presumed that gentlemen felt more interested in these than in the papers every day laid on their table and printed.

Mr. Smilie said, they had had enough of this business of denunciation, and he wished no more of it. He was willing that the papers should be sent to the court of inquiry, but he would go no further.

Mr. Randolph called for the yeas and nays on the motion for printing.

Mr. Rhea supported the motion for printing.

The question was then taken by yeas and nays on printing, and carried, 52 to 30, as follows:

Yeas—Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, William Butler, John Campbell, Epaphroditus Champion, Matthew Clay, John Clopton, Howell Cobb, John Culpepper, Joseph Desha, William Ely, James M. Garnett, Charles Goldsborough, John Harris, David Holmes, Benjamin Howard, Richard M. Johnson, Walter Jones, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, junior, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, Wm. Milnor, Daniel Montgomery, jr., Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Rhea of Tennessee, Dennis Smelt, Samuel Smith, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, John Thompson, Abram Trigg, George M. Troup, Archibald Van Horn, Killian K. Van Rensselaer, Robert Whitehill, and Alexander Wilson.

Nays—Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Joseph Calhoun, Richard Cutts, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Fisk, Isaiah L. Green, John Heister, James Holland, Reuben Humphreys, Daniel Ilsley, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, Matthias Richards, James Sloan, John Smilie, Jedediah K. Smith, Henry Southard, James I. Van Allen, Richard Winn, and James Witherell.

On motion of Mr. Kelly,

Resolved, That the papers and information relative to the conduct of General James Wilkinson, which have been this day communicated to this House by Daniel Clark, Esq., be transmitted to the President of the United States.

PUBLIC BUILDINGS.

The engrossed bill to supply the deficit in the appropriations for the public buildings, being read the third time,

Mr. Randolph called for the yeas and nays upon it.

Mr. Randolph then opposed the bill at some length, on account of its infringing, as he conceived, every principle of the Constitution and the law; for if this were to be permitted, they might as well open the Treasury and dismiss their accounting officers at once.

Messrs. Holland, Stanford, and Smilie, replied; they conceived that the Superintendent, acting under a resolution of the House to prepare the room for the next meeting, had done his duty by preparing it; and was at least justifiable in having acted so.

The question was then taken, and the bill was passed, 73 to 8, as follows:

Yeas—Willis Alston, junior, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Matthew Clay, John Clopton, Howell Cobb, John Culpepper, Richard Cutts, John Davenport, jr., Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, John Heister, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, James Kelly, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., John Love, Matthew Lyon, Robert Marion, Josiah Masters, Wm. McCreery, John Montgomery, N. R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thos. Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rhea of Tennessee, Matthias Richards, Dennis Smelt, John Smilie, John Smith, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, John Thompson, James I. Van Allen, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Alexander Wilson, Richard Winn, and James Witherell.

Nays—Adam Boyd, William A. Burwell, Epaphroditus Champion, John Dawson, James M. Garnett, Nathaniel Macon, John Randolph, and Jacob Richards.

The bill to empower the President of the United States to exchange certain sites for fortifications in Portland, Maine, went through a Committee of the Whole, and was ordered to a third reading, 67 to 5; and was afterwards read a third time and passed, 64 to 8.

While in Committee on this bill, Mr. Blackledge moved to amend the bill so as to give a general power to exchange sites for fortifications where it shall be judged expedient so to do—Negatived.

The House resolved itself into a Committee of the Whole, on the bill from the Senate for the relief of Joseph Chase, Jared Gardner, and others; the bill being gone through, Mr. Pitkin reported the bill, which was ordered to a third reading, 58 to 13; and was read a third time and passed accordingly, 58 to 14.

The House resolved itself into a Committee of the Whole, on the bill amendatory of the act regulating grants of land in the Michigan Territory. The bill being gone through and various amendments being made to it, the Committee rose and reported the bill, which was ordered to a third reading, 68 to 7; and was afterwards read and passed, 56 to 17.

INVALID OFFICERS AND SOLDIERS.

The House resolved itself into Committee of the Whole, yeas 38, on the bill for the relief of the superannuated officers and soldiers of the Army of the United States.

Mr. Bibb moved that the Committee rise and ask leave to sit again; for he did not believe that three members of the Committee had considered the bill, or knew its provisions.

Mr. Nelson objected to this motion. Our soldiers at present, he said, were in a worse situation than those of any other nation. In most countries there was a provision of this kind; in this country, however, to its disgrace, there was no such provision. Even now they might see poor wretches around the door, reduced to their crutches from hard service. No man of humanity could see it unmoved. These men even now would do good garrison service. They would be capable of giving good instruction and useful information; they would form in fact so many military schools. Mr. N. went into an examination of this subject. There were also, he said, at present officers in the Army of the United States, who by age were incapable of performing a tour of duty. He cited instances of two Majors, one of whom lately died, who were totally incapacitated from service, and being both Revolutionary soldiers, and guilty of no misconduct, the Executive, although authorized so to do, would never be so totally dead to feeling as to dismis them from service. The one now left was obliged to be drawn about or carried in a blanket from camp to camp; while others, younger or more active men, were kept back from service by his occupying the place.

Mr. Bibb felt as much commiseration for this class of citizens, as any one could do. It was not to the principle which he objected; but the House were not now prepared to investigate the merits of any bill which needed discussion to explain them, and it was, therefore, he had made the motion. At the next session, he should be willing to meet the gentleman on the subject.

Mr. Macon was influenced by the same motives as the gentleman from Georgia. He also thought the bill wanted amendment, which could not well be made now.

The Committee then rose, ayes 53, reported progress, and were refused leave to sit again, 41 to 31.

The House resolved itself into a Committe of the Whole on the bill to ascertain the boundaries of the land districts of Indiana Territory, and to continue for a longer time the authority of the Commissioners of Kaskaskias.

Mr. Nelson moved that the Committee rise.

Mr. Morrow objected to it, as he considered it very important that the bill should pass. It provided for continuing the Commissioners of Kaskaskias, who had lately discovered a fraud committed on the property of the United States, to the amount of one hundred thousand acres of land, and who were of great advantage to the United States.

Mr. Nelson said the bill was not important in comparison with that which the House just refused to discuss. Mr. N. thought, what was sauce for the goose was sauce to the gander, and hoped this bill would go the way of all bills.

Mr. Morrow stated that this bill went to wrest from individuals land the property of the United States, which they wrongfully held; and was material to the interests of the United States.

After some further observations, the Committee rose, 45 to 39.

COURTS MARTIAL.

Mr. J. Montgomery called for the consideration of the amendments to the bill concerning courts martial.

Mr. Lewis moved to postpone the subject indefinitely; for when there was but a bare quorum in the House, it was not proper to act on the bill.

Mr. J. Montgomery opposed the motion, and Mr. Macon supported it.

The motion was agreed to, ayes 46.

PUBLIC BUILDINGS.

The bill for making appropriations to supply the deficit in the appropriation for public buildings, was returned from the Senate with amendments.

The first amendment, allowing twenty-five thousand dollars to carry up the solid work in the interior of the north wing, being under consideration—

Mr. Stanford moved to strike out that sum and insert twelve thousand five hundred dollars—negatived.

The amendment of the Senate was then agreed to, 48 to 22.

The next amendment, for appropriating a sum for drains, bridges, highways, &c., was negatived, 42 to 26.

The next amendment, of eleven thousand dollars for finishing the interior of the south wing, being under consideration—

Mr. Stanford said, as they seemed willing to do a part, they had as well agree to the whole, and appropriate fifteen thousand dollars also for securing the northwest angle of the south wing, and moved accordingly—negatived.

The amendment of the Senate was then agreed to, 52 to 21.

The House adjourned until five o'clock, P. M.

Five o'clock, P. M.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the punishment of certain crimes and offences against the United States," being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being put thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the relief of Richard Sparks," being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being put thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the preservation of peace, and maintenance of the authority of the United States in the ports, harbors, and waters under their jurisdiction," being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being put thereupon, it was resolved in the affirmative,

The order of the day for the House to resolve itself into a Committee of the Whole on the amendments of the Senate to the bill, entitled "An act to incorporate the Trustees of the Baptist Church in the City of Washington," being called for, a motion was made that the further consideration of the said bill and amendments be postponed indefinitely. And the question being taken thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act fixing the Military Peace Establishment of the United States,'" being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being put thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason," being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being taken thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act making provision for registering certain claims to lands lying in the State of Tennessee," being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being taken thereupon, it was resolved in the affirmative.

The order of the day for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to revive and continue in force the nineteenth section of an act, entitled 'An act to ascertain and fix the Military Peace Establishment of the United States, and to extend the provisions thereof,'" being called for, a motion was made that the further consideration of the said bill be postponed indefinitely. And the question being taken thereupon, it was resolved in the affirmative.

On motion of Mr. Blount, it was

Ordered, That the committee to whom was referred, on the twenty-fifth ultimo, a Message from the President of the United States, respecting the execution of the act for fortifying the ports and harbors of the United States, be discharged from the further consideration thereof.

On motion of Mr. Jeremiah Morrow,

Ordered, That the Committee on the Public Lands, to whom was referred, on the twenty-second instant, a Message from the President of the United States, transmitting a letter from the Envoy of His Britannic Majesty to the Secretary of State, on the subject of certain British claims to lands in the Territory of Mississippi, be discharged from the consideration of the same.

On a motion made by Mr. N. R. Moore, that the House do come to a resolution, which he delivered in at the Clerk's table, where the same being read, and amended on motion of Mr. Blount, was agreed to by the House, as follows:

Resolved, That the Committee of Accounts be authorized to settle and adjust the accounts of Thomas Claxton, jr., and James Claxton, for their services during the present session, and allow them a sum out of the contingent fund of this House, not exceeding one hundred dollars each.

On motion of Mr. Van Rensselaer, that the House do come to a resolution, which he delivered in at the Clerk's table, where the same being read, and amended on motion of Mr. Nelson, was agreed to by the House, as follows:

Resolved, That the Clerk is hereby authorized and directed to pay, out of the contingent fund, to Elexius Spalding, John Phillips, Richard Stewart, George Cooper, and William Gray, each, fifty dollars for extra services performed during the present session.

NON-IMPORTATION.

The bill from the Senate to authorize the President, under certain contingencies, to suspend the non-importation law, having been called up, and a motion having been made to postpone it indefinitely,

Mr. Newton begged the House to consider one moment before they postponed this bill. They had already passed a law authorizing the President of the United States to suspend the operation of the embargo law, in the event of a general peace, or such accommodation to neutrals as should render the commerce of the United States safe. Now, in the event of that law being suspended, it might also be proper to suspend this.

Mr. Nelson said he should never vote for the repeal or suspension of this law. He hoped to see the time when it should become a permanent regulation; he would not yield to any of the Powers of Europe, and he wished to be independent of them. There were many things now imported from Europe which could as well be made in our own country. If they could be as well made, he considered it sound policy to give a preference to our own manufactures, and so far to prohibit theirs as to effect a preference of our own. Whether in this principle I am right or wrong, said he, I am certainly right in this: That at this late period of the session it is impossible to discuss such a question as this, and therefore I wish the motion to prevail.

Mr. Burwell said he would add but a single observation to those of the gentlemen just sat down. He was in favor of postponing the bill indefinitely, because he wished it to be understood that we have a right to make all regulations we please respecting our commerce, or trade, or aught else, without consulting the dispositions of any Power whatever. He wished it to be understood here and elsewhere, and therefore he was in favor of postponement of this bill.

Mr. Marion said he was one of those who originally voted for the non-importation law, and he had never repented his vote; but he voted for it under a firm persuasion that it would go into operation. It had been afterwards suspended because there was a negotiation pending and a prospect of accommodation; but if it were the determination never to suffer it to go into operation, he had much rather see it repealed. If it were to be kept in suspension, hung up like a rod *in terrorem*, it would merit ridicule. What cause could there be for suspending it at present? Any negotiation pending? He believed not. If it were the understanding of a majority that the bill should not go into operation, he hoped they would propose a repeal of it.

Mr. Newton believed he was as much opposed as his friend from Maryland and Virginia to concede any point to Great Britain or France. He would wear sackcloth and ashes for the remainder of his life, rather than surrender one atom to either of those Powers. But what had produced this law? The violation of our commerce and impressment of our seamen. If any change should cause Great Britain to desist, was there any impropriety in trusting the President with a discretion to say that the operation of the law should cease until the next session of Congress? Certainly not. He wished to see the day, with his friend from Maryland, when every man in these walls, and in the United Srates, should be clad in the fabrics of his own country, and he made no doubt, when once established, that the manufacturers of this country would afford everything necessary for supplies of every kind. But that was not the case yet, and for that reason they had already invested the President with a discretionary power to suspend the embargo law, and he considered it a proper reason for the passage of this law.

Mr. Eppes said it appeared that the question of suspension of the non-importation act was very different from that of a suspension of the embargo. The former was a measure of coercion on Great Britain, and whether it had that effect or not, he believed at the time the law was passed that the only way which we could operate on that Power was by commercial restrictions; and he felt now free to declare, that if ample reparation were made for the outrage on the Chesapeake, if the decrees were withdrawn and every injury redressed, that he would hold on upon the non-importation act so long as the impressment of our seamen remained. Whenever you take off this, said he, you have nothing to enforce your rights as to impressment, nor as to that system of commercial pillage which has been adopted by Great Britain. We know that the embargo was imposed as a measure of safety. It was to give us time to make preparation to meet the event. If the decrees which produced the embargo are withdrawn, the embargo may be withdrawn with propriety. But let me ask any gentleman whether he believes that any circumstances which produced the non-importation act will be removed? Whether they believe that Great Britain will give up her system of impressing seamen? If he does, let him look at the course she has adopted. After appointing a Min

ister to negotiate with you, she has issued a proclamation, establishing the right of impressment on its broadest footing. Shortly after, it was declared by the King, at the opening of Parliament, to be one of those rights which never could nor ever would be admitted. I was originally in favor of the non-importation law, and I am still so. If gentlemen take into consideration all the circumstances which produced the law, I will venture to say that there is not a man in the House originally in favor of it who can now vote for its suspension. It has never yet been fairly in operation. It is now indeed a law of the land, but its operation is virtually suspended by the embargo. I am in favor of its going into operation, and never will consent to its suspension till its intended effect be fulfilled, or the experiment is made.

The question of indefinite postponement was carried—58 to 29.

HOME MANUFACTURES.

Mr. BIBB said, that notwithstanding the difference of opinion which had taken place occasionally between the members of this House during the present session, on questions of policy, he was pleased to perceive that no difference of sentiment existed in regard to the injuries done us by foreign nations. He believed that but one spirit actuated the people of the United States—that they were attached to their country, and to their country alone. He wished not only by professions, but by practice, to show foreign nations that we can live without them. He therefore offered the following resolution:

Resolved, That the members of the House of Representatives will appear at their next meeting clothed in the manufactures of their own country.

Mr. MACON would never agree to a resolution which they could not enforce. Congress have nothing to do with this subject. He could not conceive what effect this resolution could have. If it was intended as a pledge, he was not willing to give it; if to have force he denied their authority to enforce it.

Mr. RHEA said, if the House adopted the resolution, he should pay no regard to it. He would appear in what clothing he chose, this resolution to the contrary notwithstanding.

Mr. EPPES admitted that the resolution could have no force; it was intended to express the feelings of the House. He should rejoice to see every member of the House and every man in the nation, clothed entirely in the manufactures of this country. It would establish an independence of the best kind. The proposition was a valuable one, and he wished to God that the ladies could be placed in a situation to adopt a similar resolution. If he were to appear in the manufactures of his own State, he must be confined to a homely garb; but if the resolution passed, he would, before the next session, have cloth manufactured for his use in his own family. Mr. E. calculated that a million of men in the United States wore broadcloth coats, and if they were all manufactured in this country the saving would be immense.

Mr. MACON did not conceive it fair that those who like him had no wives at home to make them coats, should not only be reproached for their misfortune, but pointed at as sinners. He had during this session bought himself a suit, but he was not able to obtain American manufacture. His friend from Maryland (Mr. NELSON) had procured him a hat, and that was all that he could obtain of American manufacture. As to the ladies, if they were to legislate on the subject he did not believe that the gentleman from Virginia, (Mr. EPPES,) fond as he is of the ladies, would persuade one in the House, or in the nation, to agree to such a resolution. Had I a wife, I should be willing to see her dressed to her own satisfaction. The ladies have a right to dress as they please, and he did not care who knew it. The gentleman from Virginia reminded him of a neighbor who used often to say, O, how rich we might be, if it was not for the expense of eating and clothing!

Mr. FINDLEY spoke some time on the subject, but too indistinctly to be well understood.

Mr. BIBB said he had hoped that the resolution would be at once adopted unanimously. He did not wish to provoke debate, and therefore withdrew his resolution.

ADJOURNMENT.

Mr. G. W. CAMPBELL, from the committee appointed on the part of this House, jointly, with a committee appointed on the part of the Senate, to wait on the President of the United States, and inform him of the proposed adjournment of Congress, reported that the committee had performed that service, and that the President had signified to them that he had no further communication to make to Congress during the present session.

A message from the Senate informed the House that the Senate, having completed the Legislative business before them, are now ready to adjourn.

Ordered, That a message be sent to the Senate to acquaint them that this House, having finished the business before them, are now about to adjourn until the day appointed by law for the next meeting of Congress; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message, and, being returned, Mr. SPEAKER adjourned the House until the first Monday in November next.

APPENDIX

TO THE HISTORY OF THE TENTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

GREAT BRITAIN.

[*Communicated to Congress by the Message of October 27, 1807.*]

The following is an extract from that Message:

"To former violations [by Great Britain] of maritime rights another is now added of very extensive effect. The Government of that nation has issued an Order interdicting all trade by neutrals between ports not in amity with them; and being now at war with every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first ports they touch, or to return home without the benefit of returning to any other market. Under this new law of the ocean, our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas has been threatened with the same fate."

Note communicated by Lord Howick to Mr. Monroe, dated

DOWNING STREET, *Jan.* 10, 1807.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe that the French Government having issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with His Majesty's dominions, and also to prevent such nations from trading with any other country in any articles, the growth, produce, or manufacture of His Majesty's dominions: And the said Government having also taken upon itself to declare all His Majesty's dominions to be in a state of blockade, at a time when the fleets of France and her allies are themselves confined within their own ports by the superior valor and discipline of the British navy:

Such attempts on the part of the enemy, giving to His Majesty an unquestionable right of retaliation, and warranting His Majesty in enforcing the same prohibition of all commerce with France, which that Power vainly hopes to effect against the commerce of His Majesty's subjects, a prohibition which the superiority of His Majesty's naval forces might enable him to support, by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous:

His Majesty, though unwilling to follow the example of his enemies, by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade; yet feels himself bound by a due regard to the just defence of the rights and interests of his people, not to suffer such measures to be taken by the enemy, without taking some steps on his part, to restrain this violence, and to retort upon them the evils of their own injustice. Mr. Monroe is, therefore, requested to apprize the American Consuls and merchants residing in England, that His Majesty has, therefore, judged it expedient to order, that no vessel shall be permitted to trade from one port to another, both which ports shall belong to, or be in possession of France or her allies, or shall be so far under their control, as that British vessels may not freely trade thereat; and that the commanders of His Majesty's ships of war and privateers have been instructed to warn every neutral vessel, coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port; and every vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this His Majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and, together with her cargo, shall be condemned as lawful prize; and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted, and executed with respect to vessels attempting to violate the said order after this notice.

HOWICK.

SPANISH DECREE.

[TRANSLATION.]

By the greatest outrage against humanity, and against policy, Spain was forced by Great Britain to take part in the present war. This Power has exercised over the sea and over the commerce of the world, an exclusive dominion. Her numerous factories disseminated through all countries are like sponges which imbibe the riches of those (countries) without leaving them more than the appearances of mercantile liberty. From this maritime and commercial despotism, England derives immense resources for carrying on a war whose object is to destroy the commerce which

belongs to each State from its industry and situation. Experience has proved that the morality of the British Cabinet has no hesitation as to the means, so long as they lead to the accomplishment of its designs; and while this Power can continue to enjoy the fruits of its immense traffic, humanity will groan under the weight of a desolating war. To put an end to this, and to attain a solid peace, the Emperor of the French and King of Italy issued a decree on the 21st of November last, in which, adopting the principle of reprisals, the blockade of the British isles is determined on; and his Ambassador, his Excellency Francis de Beauharnois, Grand Dignitary of the Order, of the Iron Crown, of the Legion of Honor, &c., &c., having communicated this decree to the King our master, and His Majesty being desirous to co-operate by means sanctioned by the rights of reciprocity, has been pleased to authorize His Most Serene Highness the Prince Generalisimo of the Marine, to issue a circular of the following tenor:

"As soon as England committed the horrible outrage of intercepting the vessels of the Royal marine, insidiously violating the good faith with which peace assures individual property and the rights of nations, His Majesty considered himself in a state of war with that Power, although his Royal soul suspended the promulgation of the manifesto until he saw the atrocity committed by its seamen sanctioned by the Government of London. From that time, and without the necessity of warning the inhabitants of these kingdoms of the circumspection with which they ought to conduct themselves toward those of a country which disregards the sacred laws of property and the rights of nations, His Majesty made known to his subjects the state of war in which he found himself with that nation. All trade, all commerce is prohibited in such a situation; and no sentiments ought to be entertained toward such an enemy which are not dictated by honor, avoiding all intercourse which might be considered as the vile effect of avarice operating on the subjects of a nation which degrades itself by them.

"His Majesty is well persuaded that such sentiments of honor are rooted in the hearts of his beloved subjects; but he does not choose on that account to allow the smallest indulgence to the violators of the law, nor permit that, through ignorance, they should be taken by surprise—authorizing me by these presents to declare that all English property shall be confiscated whenever it is found on board a vessel, although a neutral, if the consignment belongs to Spanish individuals. So likewise will be confiscated all merchandise which may be met with, although it may be in neutral vessels, whenever it is destined for the ports of England or her isles.

"And, finally, His Majesty, conforming himself to the ideas of his ally, the Emperor of the French, declares in his States the same law, which, from principles of reciprocity and suitable respect, His Imperial Majesty promulgated under date of the 21st November, 1806.

"The execution of this determination of His Majesty belongs to the chiefs of provinces, of departments, and of vessels, (baxeles,) and communicating it to them, in the name of His Majesty, I hope they will leave no room for his Royal displeasure. God preserve you many years.

"THE PRINCE,

"*Generalissimo of the Marine.*

"ARANJUEZ, *Feb.* 19, 1807."

[Reported to the House November 17, 1807.]

Report relative to aggressions within our ports, and violations of our jurisdiction.

The Committee to whom was referred so much of the Message of the President of the United States as relates to aggressions committed within our ports and waters by foreign armed vessels; to violations of our jurisdiction, and to the measures necessary for the protection of our ports and harbors, report, in part:

That, participating deeply in the general sensibility excited by the outrage committed upon the United States frigate Chesapeake by the British ship of war Leopard, on the 22d June last; and feeling it to be their duty to collect and present to the view of this House without delay, all the facts relating to that atrocious act of aggression, they directed their first attention to that important subject, and have obtained from the State and Navy Departments the documents herewith presented, from which they are authorized to make the following statement, viz:

That the United States frigate Chesapeake, being ordered on a cruise to the Mediterranean Sea, under the command of Commodore James Barron, sailed from Hampton Roads on the 22d June last past, having on board a crew of more than three hundred and seventy men, and completely equipped with everything necessary for such a ship of war, sailing on such a cruise;

That, in proceeding to sea from Hampton Roads, she passed a British squadron, at anchor in Lynnhaven Bay, who, at the time of her passing them, were making signals to each other;

That the British ship of war Leopard, of 50 guns, one of the squadron then at anchor within the limits of the United States, weighed immediately after these signals were thrown out, and stood to sea;

That, at half past 3 o'clock in the afternoon of the same day, at the distance of three leagues from Cape Henry, which was then bearing N. W. by W., the Leopard came up with the Chesapeake, backed the main-top-sail, and spoke her; when Commodore Barron, to promote her convenience, understanding her commander to say he had a communication to make which he would send on board, ordered the Chesapeake hove to;

That an officer was accordingly sent from the Leopard to the Chesapeake, who, on his arrival, presented to Commodore Barron a note from the Captain of the Leopard respecting some deserters from some of His Britannic Majesty's ships, supposed to be serving as part of the crew of the

Chesapeake, and enclosing a copy of an order from Vice Admiral Berkely, requiring and directing the commanders of His Britannic Majesty's ships and vessels under his command, in case of meeting with the American frigate Chesapeake at sea, and without the limits of the United States, to show such order to the Captain of her, and to require to search his ship for the deserters from certain ships therein named, and to proceed and search for the same; and if a similar demand is made by the American, he is permitted to search for deserters from their service, according to the customs and usage of civilized nations on terms of amity with each other. [The first of these papers will be found in document A, No. 1; the other, among the documents received from the Department of State, No. 7;]

That Commodore Barron gave to these communications an answer purporting that he knew of no such men as were described; that the recruiting officers for the Chesapeake had been particularly instructed by the Government, through him, not to enter any deserters from His Britannic Majesty's ships; that he knew of none such being in her; that he was instructed never to permit the crew of any ship under his command to be mustered by any officers but her own; that he was disposed to preserve harmony, and hoped his answer would prove satisfactory. [See No. 2, in document A.]

That the Leopard, shortly after this answer was received by her commander, ranged alongside of the Chesapeake, and commenced a heavy fire on her;

That, when the attack on the Chesapeake commenced, some of her guns were not securely fitted in their carriages; some of her sponges and wads were too large; but few of her powder horns were filled; her matches were not primed; some of her rammers were not in their proper places; her marines were not supplied with cartridges enough, while those they had were not of the proper size; and she was otherwise unprepared for action;

That the Chesapeake made no resistance whatever, but remained under the incessant fire of the Leopard from twenty to thirty minutes, when, having suffered much damage in her hull, rigging, and spars, and lost three men killed and eighteen wounded, Commodore Barron ordered his colors to be struck, he says in his log book, after firing one gun, but the court of inquiry lately held upon his conduct, say before a single gun of any kind was fired from her;

That Commodore Barron, immediately after striking his colors, sent Lieutenant Smith on board the Leopard to inform her commander that he considered the Chesapeake her prize;

That the commander of the Leopard sent an officer on board, who took possession of the Chesapeake, mustered her crew, and carrying off four of her men, viz: John Strahan, William Ware, Daniel Martin, and John Wilson, abandoned the ship; and

That Commodore Barron, after the ship was abandoned, and after writing to the commander of the Leopard, the letter No. 3, and receiving from him the answer No. 4, in document A, finding that she was very much injured, and had three and an half feet water in her hold, returned, with the advice of his officers, to Hampton Roads.

The committee might add to this statement that it has been incontestably proved, as the accompanying printed document, No. 8, will show, that William Ware, John Strahan, and Daniel Martin, are citizens of the United States, and the two former natives of the State of Maryland; but they conceive it unnecessary for them, or for this House, to go into any inquiry upon that part of the subject, as, in their opinion, whether the men taken from the Chesapeake were or were not citizens of the United States, and whether the Chesapeake was or was not within the acknowledged limits of the United States at the time they were taken, the character of the act of taking them remains the same.

From the foregoing facts it appears to your committee, that the outrage committed on the frigate Chesapeake has been stamped with circumstances of indignity and insult, of which there is scarcely to be found a parallel in the history of civilized nations, and requires only the sanction of the Government, under the color of whose authority it was perpetrated, to make it just cause of, if not an irresistible call for, instant and severe retaliation. Whether it will receive that sanction, or be disavowed and declared an unauthorized act of a subordinate officer, remains to be determined by the answer which shall be given to the demand of explanation: that answer, now daily expected, will either sink the detestable act into piracy, or expand it, the magnitude of premeditated hostility against the sovereignty and independence of this nation; and until its true character shall be fixed and known, your committee deem it expedient to decline expressing any opinion as to the measures proper to be adopted in relation to it. But, as other acts of aggression have been committed within our ports and waters by British ships of war, as well anterior as posterior to this, some of them manifesting the same disregard of our national rights, and seeming to flow from the same contempt for the authority of our laws; and especially as the British squadron, of which the Leopard was one, after being notified of the President's proclamation ordering them to depart from the waters of the United States, which they knew had been published in conformity to act of Congress, anchored within the capes of Chesapeake bay, and in that situation remained capturing American vessels, even within our acknowledged territorial limits, and sending them to Halifax for adjudication; impressing seamen aboard American vessels; firing on vessels and boats of all descriptions having occasion to pass near them in pursuit of their lawful trade, and occasionally denouncing threats calculated to alarm and irritate the good people of the United States, particularly the inhabitants of Norfolk and Hampton; all which facts are substantiated by the accompanying documents, No. 1 to 6; the committee are of opinion, that it is expedient to provide

more effectually for the protection of our ports and harbors, but not being prepared to report specifically on that subject, they ask further indulgence of the House, and beg leave to submit for their consideration the following resolution:

Resolved, That the attack of the British ship of war Leopard on the United States frigate Chesapeake, was a flagrant violation of the jurisdiction of the United States, and that the continuance of the British squadron (of which the Leopard was one) in their waters, after being notified of the proclamation of the President of the United States, ordering them then to depart the same, was a further violation thereof.

DEPARTMENT OF STATE, *Nov.* 12, 1807.

SIR: In compliance with the request stated in your letter of the 15th instant, I have the honor to communicate the several documents numbered from one to six, relative to aggressions committed by foreign armed vessels within the ports and waters of the United States; also document No. 7, relating to the outrage committed by the British ship of war Leopard on the American frigate Chesapeake.

To the above documents is added the evidence received by the Department of State, relative to the national character of William Ware, John Strahan, and Daniel Martin, three of the seamen taken from the Chesapeake.

I have the honor to be, &c.

JAMES MADISON.

HON. THOMAS BLOUNT.

No. 1.

Deposition of Thomas Clarke, respecting an outrage committed by the Melampus.

BALTIMORE COUNTY,

State of Maryland, to wit:

This day personally appeared before me, one of the justices of peace for said county, Thomas Clarke, the subscriber, who being duly sworn on the Holy Evangelists of Almighty God, deposeth as follows:

That being on a cruise as a branch pilot of this State, for inward bound vessels, he, on the twenty-third instant, was taken on board the brig Three Brothers, Captain Pitts, from Bordeaux, bound to Baltimore, which vessel this deponent piloted to the entrance into the bay of Chesapeake: that being close to Cape Henry, and about one and a half miles distant therefrom, and in five fathom water, a shot was fired at said brig, by one of his Britannic Majesty's cruisers, called the Melampus, (a frigate of about thirty-six guns,) which said shot struck the water abreast the beams, at a short distance from said brig, upon which the said pilot hove to under the lee of said frigate, who immediately sent a boat on board the Three Brothers, under command of an officer, who sent the captain of said brig, with his papers, on board the frigate. Shortly after another boat was despatched from said frigate, who carried off ten men, who this deponent understood were picked up at sea by Captain Pitts. The same boat shortly after returned with a prize-master and nine men, who took charge of said brig Three Brothers, and immediately after sent this deponent two passengers, second mate, and crew of said brig, on board the frigate, leaving only the first mate on board the brig. Further, that on arriving on board the frigate with the people aforesaid, the captain of the Three Brothers was ordered on board his vessel, which immediately after hoisted sail for Halifax, detaining on board the frigate the passengers and crew as beforesaid. The passengers and this deponent were afterward put on board a vessel from Boston, bound to Baltimore. Two of the brig's crew, (viz:) two black men, were sent in a vessel bound to Norfolk, and the remainder, (viz:) the second mate and two hands, who this deponent verily believes are American seamen, (having seen their protections,) were detained on board said frigate. And further this deponent saith not.

THOMAS CLARKE.

The foregoing was sworn to before me, on the 30th day of April, 1807.

WILLIAM LOWREY.

No. 2. (1.)

The Captain Commandant of Fort Johnson to the commanding officer of H. B. M. sloop of war Driver, dated

MAY 2, 1807.

SIR: The President of the United States of America having, by proclamation, bearing date, May 23, 1807, forever interdicted His Britannic Majesty's sloop of war Driver from entering "any port or harbor of the United States," and the said vessel having entered this port, in contempt of the said proclamation, my duty compels me to demand that the sloop of war Driver do depart from this harbor within twenty-four hours from the date hereof. Need I add, sir, how repugnant it would be to my feelings should any blood be spilt, which must certainly be the case if this communication be not complied with. Lieutenant Wyndham, of the artillery, is charged with the delivery of this, and will receive your reply.

MICHAEL KALTEISEN.
Captain Commandant.

No. (2.)

The commanding officer of the sloop of war Driver to the Captain Commandant of Fort Johnson, dated

MAY 3. 1807.

SIR: I have received your letter, and having some doubts as to the authority by which it was written, I thought proper to satisfy myself on that head before I should reply.

By the threat it contains, you appear, like your Government, to have something to learn. A British subject knows too well how to respect and obey the laws of his own country, to offer intentionally an outrage to those of others, when once they are known to be such; but I have to observe the proclamation you mention to have been issued by the President of the United States of America,

in May, 1807, I know nothing of. Of that which was issued in May, 1806, I have only to say, that, so far from being either creditable or becoming to the President of a country wishing to be ranked among the civilized nations of the world, it would, in the opinion of every liberal and enlarged mind, have disgraced the sanguinary pen of Robespierre, or the most miserable and petty State of Barbary. It appears that the supposed offence is to be remedied by a repetition of the circumstances complained of, and that on those who, so far from having anything to do with it, were not even on or near the American coast at the time; and as Captain Whitby's trial may probably at this moment be pending, with the concurrence of the United States, and the proclamation resting upon his being brought to justice, it ought not to have been thought of. However, as my proceeding to sea comes exactly within the limits of my intentions, according to the orders I am under, I shall do so whenever the pilot shall think it proper; which orders have for their view the advantage of the American flag, as well as the protection of the British. But I must observe, that, from the difficulty I have experienced in obtaining water for the purposes I wish, I shall be obliged to have recourse to such methods as are completely in my power, and which I should not otherwise have thought of. In the mean time, it is necessary to observe, that His Majesty's ship under my command is at all times perfectly ready to resist and punish any insult that may be offered to the flag he has the honor to bear, to the last drop of blood that shall remain of the dutiful and loyal subjects of an adored sovereign and exalted country. I am, &c.

WILLIAM LOVE.

No. (3.)

The Captain Commandant of Fort Johnson to the commanding officer of the British sloop of war Driver, dated

MAY 3. 1807.

SIR: I have received your letter of this day. The nature of the contents of it demands of me to transmit it immediately to the Government, which I shall do by a special messenger. I am, &c.

MICHAEL KALTEISEN,
Captain Commandant.

The Captain Commandant of Fort Johnson to the President of the United States, dated

MAY 5, 1807.

SIR: I deem it my duty to despatch a special messenger to-day to lay before your Excellency a correspondence that has taken place between myself and the commanding officer of His Britannic Majesty's sloop Driver, now lying in this harbor.

The said sloop, interdicted by your Excellency from ever entering any port or harbor of the United States, anchored abreast this fort on Thursday, 30th of April. On Friday, May 1, my officers, Lieutenant Roberts and Wyndham, waited upon the Governor of this State, to consult with him, and receive his orders, relative to measures necessary to be taken to expel said vessel from this port. They could not see him; in consequence, I addressed a note, on Saturday, May 2, to the commanding officer of said vessel, of which a copy is herewith sent, and marked No. (1.) On Sunday, May 3, I received an answer from the commanding officer of the said sloop Driver, of which No. (2) is the original. Its extraordinary language induced me to forward it immediately by an officer to your Excellency. My reply thereto is marked No. (3.)

Lieutenant Wyndham, who is the bearer of these despatches, will furnish any further information that may be required. I beg leave to recommend him to the notice of your Excellency.

Hoping that my conduct may meet your approbation,

I have the honor to remain, &c.

MICHAEL KALTEISEN,
Captain Commanding.

No. 3.

UNITED STATES OF AMERICA,

State of Maryland to wit:

I, Samuel Sterett, Notary Public, by letters patent under the great seal of the State of Maryland, duly commissioned and qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that, on the day of the date hereof, before me personally appeared George Davis, master of the brig Mercury, of Philadelphia, then lying in the port of Baltimore, and recently arrived from Bordeaux, who, being by me duly sworn, did depose, declare, and, for truth, say, that, on Tuesday, the 19th instant, being on his passage, and having the wind to the northward, with a strong current setting against them, the pilot on board the said brig brought her to anchor in seven and a half fathoms water, about two miles from the shore, and about twenty-five miles to the southward of Cape Henry. And this appearer saith, that, while lying at anchor, he was boarded by an officer from the British frigate Melampus, who, after examining the brig's papers, requested this appearer to return with him on board the Melampus, which this appearer declined, thinking himself within the limits and maritime jurisdiction of the United States; the said officer also himself admitting that said brig was anchored within three miles of the shore. And this appearer saith that the said officer then left the brig, but in a little time came back, and informed this appearer that he had positive orders to take him and his papers, letter-bag, &c. on board the said frigate; that this appearer accordingly went with the said papers, and, on getting on board the frigate, his papers and letter-bag were carried into the cabin, and this appearer left on deck, and not permitted to accompany them; that, after his papers and letter-bag had been detained from him about three-quarters of an hour, they were restored to him, and he himself put on board the brig; that, immediately on getting aboard his own vessel, he descended into the cabin, and, on opening the said

letter-bag, discovered that a number of the letters had been opened, and the invoices and bills of lading they originally contained thrown promiscuously into the bag, and in the greatest confusion and disorder in which situation he lodged the said letters in the post office of this city immediately on his arrival yesterday.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have hereunto set my hand, and affixed my notarial seal, the twenty-third day of May, in the year of our Lord one thousand eight hundred and seven.

GEORGE DAVIS.
SAMUEL STERETT, *Not. Pub.*

No. 4.

Captain Harrison's report to the Collector of the Customs at Norfolk, respecting an outrage committed by the British squadron in the Chesapeake.

JULY 6, 1807.

The schooner Cynthea Ann, from Folly Landing, Captain Harrison, was fired at in Hampton Roads by a boat belonging to the British squadron, but, not thinking proper to stop, continued his way up to Norfolk, although they continued firing from the boat, to the number of fourteen or sixteen guns; but, of a sudden, found he was fired at from the tender* just ahead of him; he immediately rounded to, and was boarded, and asked why, a damned rascal, he did not heave to for the boat? to which he answered, that he did not know why he was stopped in his own harbor. The boat then came up, and the crew on board also abused him, and said they wished they had sunk him, and that they aimed to hit him, which he thinks they did, as their shot seemed very well aimed. They ordered him to tow them back, which he did, and was dismissed.

NORFOLK, *July* 6, 1807.

Above is a copy of a report to me by Captain Harrison, which I consider it my duty to forward. All vessels are stopped coming to this place, and fired at within our harbors. This report I was requested to forward to you for your consideration.

I am, respectfully, your obedient servant.

THOMAS NEWTON.

The Hon. JAMES MADISON, &c.

No. 5.

UNITED STATES OF AMERICA,
State of New York, ss:

By this public instrument be it known to all whom the same doth concern, that I, Maltby Gelston, a public notary in and for the State of New York, residing in the city of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally appeared the within named John Squire, George R. Rice, and Vinson Smith, who, being by me duly sworn on the Holy Evangelists of Almighty God, did severally and solemnly depose and declare as follows:

That all and singular the matters and things contained and set forth in the within annexed statements in writing (to which their names are subscribed) are in every respect correct, just, and true. And further they say not.

JOHN SQUIRE.
G. R. RICE.
VINSON SMITH.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 9th day of July, in the year 1807. M. GELSON, *Notary Public.*

CITY OF NEW YORK, *ss:*

John Squire, first Lieutenant and commander of the United States' revenue cutter "Active," George R. Rice second Lieutenant, and Vinson Smith, mariner, acting as mate of the said vessel, being duly sworn, did depose and declare as follows, that is to say:

That they sailed, in their above respective capacities, in and with the said vessel, from Washington City, having on board as passenger the Vice President of the United States, and bound for this port of New York. That on the 29th of June last, at half-past four, P. M., the said vessel being then under easy sail, with the wind from the southwest, bound as aforesaid, Cape Henry bearing South about four miles distant, they saw four armed ships lying at anchor, at the distance of about four miles and a half to the southwest, which they were informed and verily believed were British ships of war, under the command of Commodore Douglas, and belonging to His Britannic Majesty; that the cutter being nearly abreast of the said ships, a gun was fired from one of them, and that immediately thereafter they discovered a boat from the said ship in pursuit of the cutter; that the boat continued in chase of the cutter, and at about three miles distant therefrom, a gun was fired from the boat towards the cutter, which these deponents believe to be a swivel; that the boat continued to row and sail; and appeared to make every possible exertion to come up with the cutter, and actually gained on her until about six o'clock, P. M., when they were within about one mile and a half of each other, and a breeze springing up, the boat fired a swivel, and soon after discontinued the pursuit; that during the said chase, one gun besides those before mentioned was fired from the boat, and two guns from one of the said ships; that these deponents verily believe that the said armed boat was in pursuit of the said cutter, as there was no other vessel near them, and that the pennant of the said cutter was flying from the time the said armed ships were discovered until the discontinuance of the pursuit by the said armed boat, and that the pennant is such as is worn only by vessels employed in aid of the revenue of the United States.

And these deponents further say, that at the instance and request of the Vice President of these United States aforesaid, they made memoranda of the aforegoing circumstances shortly after they had occurred.

JOHN SQUIRE.
G. R. RICE.
VINSON SMITH.

No. 6.

PASSAMAQUODDY, *June* 24, 1807.

DEAR SIR: It being my duty, and for the information of Government, I enclose an advertisement recently published at St. John's New Brunswick. It has the appearance and complexion of a repetition of Mr. G. Leonard's threats, and is calculated to interrupt the peaceable intercourse in the plaster trade carried on in this bay.

This commander, J. Flintoph, arrived on the evening of the 5th instant, fired his guns promiscuously, and in every direction, even among houses. The shot is in my possession that rolled between innocent children, to the great alarm of the peaceable inhabitants of both Governments in this vicinity.

The schooner Boston, James Perry, commander, just arrived from Boston, was brought to, having received a shot in her foremast; but not being immediately boarded, the master bore away. I myself saw four shots strike the water, fired at said schooner Boston after she was within the limits of our port.

Captain Nathan Meryman, of the schooner Rising States, an American vessel, lumber loaded, was boarded as getting under way, the tide being proper to proceed through the narrows; the master much maltreated, being taken and carried on board the armed vessel and detained a considerable time, so as to lose his tide and time, greatly to his detriment.

The citizens of the United States, in this place, are much shocked and exasperated at such treatment, and have enjoined it on me to forward this statement; are desirous their application for some armed vessels of the United States to be stationed here may be reconsidered, as the only means to prevent such imperious proceedings in future.

With all esteem and respect, I have the honor to be, sir, your most obedient servant,

L. F. DELESDERNIER.

The Hon. JAMES MADISON,
Secretary of State to the United States.

[Forwarded per Nathan Ranwood, master of the brig Susanna, of Newburyport, via Alexandrir.]

Transcript from the Royal Gazette published at St. John's, New Brunswick, dated July 1, 1807. Publication continued from the 8th of June last.

HIS MAJESTY'S ARMED SCHOONER POGGE,
ST. JOHN'S, *June* 8, 1807.

PUBLIC INFORMATION.

To prevent as much as possible any interruption being given to the carrying trade between these provinces and the United States of America; notice is hereby given to all concerned, that any vessel employed in conveying plaster of Paris and grindstones, from the quarries of Nova Scotia and New Brunswick to the places of consumption southward and westward of Portland, shall pass unmolested; and I pledge my word of honor that I will not interrupt them in their lawful pursuits, unless it shall appear that they have on board deserters from His Majesty's navy or army; the same special regard will be paid to all persons coming within the description of fishermen. And to discourage and punish all those concerned in illicit traffic, I am determined to treat with the utmost severity such as are found delivering their cargoes into American vessels in the Bay of Possamaquoddy or its neighborhood, or who may clandestinely introduce any articles into either province contrary to law.

J. FLINTOPH,
Lieutenant Commanding.

DUDLEY ISLAND, (EASTPORT.)
July 9, 1807.

DEAR SIR: From your desire, whilst at my house last evening, to give a statement of the proceedings relative to the pirate which laid off Friers Head on day before yesterday, as far as I was acquainted, I will, as far as my memory relate. On the morning of that day, (it being the 7th instant,) Mr. Graves came from Mr. Rice's and informed me, that the same vessel (as he supposed) that had committed depredations at this place some weeks past, had sent an armed boat the past night and taken an American schooner, commanded by Captain Hewes, from Mr. Rice's island, which probably might as she then lay, have toiled in so as to have touched the wharf; and likewise had taken captain York an American, out of his cabin, on board his own vessel; that Captain York and Captain Hewes, with his crew and a number of American citizens, were confined on board the said pirate, and that Mr. Rice had gone to inform you of the proceedings, being much alarmed from such conduct not having anything to justify it. I immediately went to Mr. Rice's island to get more information; there I observed that captain York's vessel lay so near the shore, that at low water and the wind blowing on, I suppose that her stern must have touched the shore, and from whence I was informed he was taken. On Mr. Rice's return, being informed that you were to be there soon, I waited until about half flood; before this, Messrs. Dexter, Allen, Joy, and others who had relations on board, came there with hopes to get them liberated. Fearful that some accident might prevent you from getting over soon enough to see what could be done, and a probability of a wind for them to go out, and from conjectures that she was a press vessel, and knowing a number taken who had no protections, (being landsmen,) I concluded to go on board in a birch canoe alone, with such documents as to prove that I was a public officer of the Commonwealth, expecting to get such as I knew

* The tenders were purchased here as advice boats, and are now armed.

to be citizens of our country liberated. For this purpose I was put home by those who were most interested; the boat, after landing me, crossed over towards the narrows, with expectations, as I understood, to land and go down to see the officers on Campo Bello, who were acquainted with those who were in confinement, that from a representation there was another possibility for releasement. Previous to this, a boat passed with five on board, as I discovered with my glass, which appeared to have come from Moose island, and were passing towards Campo Bello; this boat was fired at, and went on board, and soon after left the vessel with five. While I was preparing to go on board, I heard the discharge of a cannon; I immediately went out and discovered the revenue colors in the boat in which you was in, about one-third from Moose island, aiming directly for this island, and, as I supposed, three quarters or one mile within the limits of the United States; the smoke of this discharge appeared to be aimed for you. While observing this, (being on the south east point of this island) and I suppose a little more than a mile from the said pirate, another cannon was discharged, I suppose at you; I heard a ball very distinctly pass, in about the elevation of twenty degrees from me; this ball I suppose I heard strike, but did not see it. Supposing from your being on your lawful employment, within our own waters, you would be sunk before you would be forced on board, I immediately directed my family to be on their guard, as I expected you would pass my house. Just on my going out, I observed another discharge, I supposed aimed at you; I did not hear the ball from this, but was informed by others who I believe, that balls were fired every time, and am informed that one struck this island. In the course of this time the boat which landed me was fired at with a swivel, four balls were observed by them to strike the water, and some near the boat. I judged this boat to be as one quarter of a mile within the limits of the United States. Before this, I observed a person, who since I have heard was Doctor Edwards, coming from Moose island and bound up Soward's bay; three musket shots I saw fired towards him, and he was, after hard labor, forced on board. In all this time I did not see the least appearance of a flag displayed, which makes me give them the appellation of pirates. What I have here stated, I am willing to go before the proper authority of our country, and testify to.

I am, dear sir, very respectfully, yours,

WILLIAM ALLEN.

L. F. Delesdernier, Esq.

District of Passamaquoddy,
July 14, 1807.

Continuation, stating the conduct of J. Flintoph, commander of His Britannic Majesty's armed schooner the Pogge.

On the 6th instant, in the evening late, the Pogge again made her appearance in this bay, and immediately under her guns, boarded and removed two American vessels, and took out of another the master and two hands: also, by after information, vexed two others; one was fired upon, several shot cut her rigging and sails, examined and dismissed; the other was taken, crew removed on board the armed vessels, manned and brought back under her guns, as may further appear by the list herewith, and depositions from No. 1 to 8.

Narration. On the 7th instant, early, being informed of the foregoing circumstances, I embarked in the revenue boat, accompanied by several of the principal inhabitants of Moose Island, and proceeded to the southerly part of the port; we saw three cannon fired ahead of the revenue boat; Judge Lincoln's boat having put off a little before us, having two women and a child, with other passengers; the three shot just mentioned were fired at her. The revenue boat proceeded on, round eastward of Dudley Island to Rice's (or Fred Isle.) I was surprised we had not been fired upon, when we learnt every boat that passed in sight of the vessel had been brought to and forced alongside. I felt conviction that an interview with the commander was indispensable; but judged it imprudence to board in foreign jurisdiction, in my own boat, and unintroduced. I proceeded to Snug Cove on the Island of Campo Bello; here I saw several which had been on board and were dismissed, who stated that a 12lb. carronade had been loaded and repeatedly ordered to be fired into the revenue boat. A British gentleman who had also been on board, observed, this commander acted like one insane or mad.

Having met with Colonel Thomas Wyen, (a judge of the bench for the county of Charlotte,) and having acquainted him with my object of requesting his introduction, he unhesitatingly took me in his boat, and repaired alongside this armed vessel, where after a guard being placed over the boat, to prevent all intercourse between the vessels and boat, I was admitted on deck and below. Previously, and with much irritation, the commander peremptorily rejected any less demand or explanation relating to the present situation of the vessels in his custody, which I desired to present, make, and require; but the general observation made was breach of treaties, encroachment of territory, and illicit trade.

I took the liberty to expostulate as to his firing shot, without his jurisdiction, but in vain; he should fire as often, when and where he pleased; got so petulant as to be rude, and use illiberal language; ordered Colonel Wyen immediately over the side into his boat, repeatedly. I was admitted to retire with a little more gentleness; I was glad to withdraw from such imperiousness. Shortly after I got on shore, he dismissed one vessel, and the master of the sloop, and his two people, as per list.

The same afternoon he fell down the tide, and went eastward with the other.

A true report.

L. F. DELESDERNIER.

Collector's Office,
Passamaquoddy, *Sept.* 1, 1807.

Sir: Since my last, of July the 15th, stating the conduct of John Flintoph, Lieutenant and Commander of His Britannic Majesty's armed schooner the Pogge, (or Progui,) accompanied with sundry depositions, &c. in continuation, I take the liberty to state, for the further information of Government, some subsequent occurrences relating to a proceeding from these transactions.

The schooner Harmony, of Islesborough, Paoli Hewes, master and owner, which was then captured and carried into St. Johns, New Brunswick, for adjudication, has undergone a rigorous trial, through the Court of Vice Admiralty, is now returned by a decree of restoration, as may be more fully understood by examining the file of documents accompanying this communication, and were deposited at this office with earnest request should be forthwith forwarded, together with Captain P. Hewes's memorial, protest, letter from his counsel, and an estimate of damages for costs and detention, sustained by this defendant and claimant, in the progress of the business, to which he solicits humbly, due attention and relief.

The other vessel, also carried into St. John's with the above, to wit: the schooner Nabby, of Eastport, John Pace, master and owner, burden about twenty-one tons, licensed to carry on the cod fishery, and employed in importing plaster of Paris, by permit to touch and trade, has been condemned at their court, sold at public vendue for sixty dollars. The owner was so indigent as not to have it in his power to buy her in, and the probability is she will be burnt—the proceeding in such cases.

I take the liberty to suggest, would it not be judicious, as soon as feasible, to have the boundary line from the mouth of the St. Croix into the Bay of Fundy, definitively ascertained, and permanently fixed. There is a gap, through which all the wild creatures come in and commit depredations on our peaceable and unsuspecting citizens, and alarm us in our most retired moments of rest; not only threatening destruction, but actually throwing shot among unoffending individuals of every sex and age, passing and repassing in their domestic occupations, within the limits of their own peaceable Government. This I experienced among others, and narrowly escaped being in the revenue boat; a gun was loaded and repeatedly ordered to be fired into the boat, but the dispensation of Divine Providence, I presume, interposed.

I regret much that I have to make such observations, as well as to find that the imperiousness of the British naval commanders is so correspondent on all our extensive seacoast.

With sentiments of highest esteem, I have the honor, &c.

L. F. DELESDERNIER,
Collector of Passamaquoddy.

Hon. James Madison, *Secretary of State.*

N. B. See deposition No. 6, formerly forwarded.

No. 7.

Hampton, *July* 11, 1807.

Sir: Yesterday I applied to the proper authority in this place, for permission to send to Commodore Douglas a letter, (which was at the same time submitted to their inspection,) the object of which was to obtain a copy of Vice Admiral Berkeley's order respecting deserters, and under which the Leopard acted. The result enables me to forward you an exact copy.

I have the honor to be, &c.

JAMES BARRON.

Hon. James Madison.

By the honorable George Cranfield Berkeley,

Vice Admiral of the White, and Commander-in-Chief of His Majesty's ships and vessels, employed in the river St. Lawrence, along the coast of Nova Scotia, the Island of St. John and Cape Breton, the Bay of Fundy, and at and about the Island of Bermuda, or Somers' Islands:

Whereas many seamen, subjects of His Britannic Majesty, and serving in his Majesty's ships and vessels, as per margin,* while at anchor in the Chesapeake, deserted and entered aboard the United States frigate the Chesapeake, and openly paraded the streets of Norfolk, in sight of their officers, under the American flag, protected by the magistrates of the town, and the recruiting officer belonging to the above mentioned American frigate; which magistrate and naval officer refused giving them up, although demanded by His Britanic Majesty's Consul, as well as the captains of the ships from which the said men had deserted, the captains and commanders of His Majesty's ships and vessels under my command are therefore, hereby required and directed, in case of meeting with the American frigate Chesapeake, at sea, and without the limits of the United States, to show to the captain of her this order, and to require to search his ship for the deserters from the before mentioned ships, and to proceed and search for the same; and if a similar demand should be made by the American he is permitted to search for deserters from their service, according to the customs and usage of civilized nations, on terms of peace and amity with each other.

Given under my hand, at Halifax, Nova Scotia, the first day of June, one thousand eight hundred and seven.

G. C. BERKELEY.

To the respective Captains and Commanders of His Majesty's ships and vessels on the North American Station.

No. 8.

State of Maryland, *Alleghany county, ss:*

Upton Bruce, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that, among the servants belonging to his father (Norman Bruce,) is a female slave named Philis,

*Belleisle, Bellona, Triumph, Chichester, Halifax Zenobia, (cutter.)

a dark mulatto; that, at an early age, she became the mother of two children, as was universally admitted, by a white man named Andrew Ware. This fact was never questioned, and Ware himself never, to my knowledge, denied it. The children passed for, and were admitted to be his, and assumed his name; one was a boy, and being myself older than either of them, and brought up as it were in the same family, nothing like doubt rests upon my mind as to his birth and parentage. I am as well assured of it as I can be of any fact of the kind, and no one that I heard ever presumed to suppose otherwise. This boy was raised upon my father's farm, on Pipe Creek, at the mills in Frederick county, and being the child of a slave, was reared with the children of other slaves, and stood upon the same footing. His mother is still living; she it was that nursed him in his infancy, and she he considered, acknowledged, and treated as his mother. When I engaged in the management of my father's property, which I did on reaching the years of manhood, this boy was then about twelve or fourteen years old, and he remained along with the other servants until about the age of twenty, when, in consideration of his color, the regard I had for his father (then dead,) and the desire expressed by that father to have these children liberated, this boy was suffered to go at large; he promising to make some compensation, which never has been done. After leaving me, he was working about the country some few years, employed sometimes as wagoner, driving a team to and from Baltimore, until at length I learned he entered on board some vessel and had gone to sea; and this life, I had reason to believe, he persevered in, until, for some time past, hearing nothing of him, I supposed it probable he might be dead. His appearance may have changed since I last knew him; he then had his growth in height, and was, as near as I could now guess, about five feet six or seven inches high, of a slender make, a thin foot, and he bent or stood rather back upon his hams; his face somewhat round, a nose not large, lips not thick, and a chin rather small; his color was swarthy or Indian-like, remarkably bright though for a mulatto, and would pass for something nearer white; his hair was of a darkish color, inclined to curl, which he sometimes kept tied; and which, upon inspection, would show to be different from the hair of a white man, and yet far removed from the wool of an African. He went by the name of Romulus and is, I should imagine, now about the age of twenty-eight or thirty.

UPTON BRUCE.

Sworn to and subscribed before me, a justice of the peace for Alleghany county, this eighteenth of July, eighteen hundred and seven.

THOMAS THISTLE.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that Thomas Thistle, Esquire, before whom the foregoing deposition appears to have been made, and who has thereto subscribed his name, was, at the time of taking and signing the same, one of the State of Maryland justices of the peace in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord, eighteen hundred and seven, and the thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk of Alleghany co.*

STATE OF MARYLAND, *Alleghany county, ss:*

William McNair, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, it is about twelve years ago, when he was employed as an overseer by Upton Bruce, son of Norman Bruce, who then lived with his father on the farm at Pipe Creek, of which he then had the management, his father giving it into his hands, and that among the lads under his direction was one of a very bright color, like a very dark white man, and plainly showed the mixture, and as descending from black and white parents; that among the female slaves was one called Philis, who acknowledged this boy as her child, and no doubt could be of the fact, and was so universally known by the whole family and neighborhood. His mother was a dark mulatto, and his father, as was well understood, was Andrew Ware, who I knew well. This boy was as much a slave to Mr. Bruce as any other he had, and no doubt was suggested to the contrary that ever I heard, nor was his origin or birth questioned; that he is, by guess, five feet seven inches high, rather slender made, his hair rather curly, and his age, to the best of the deponent's knowledge, is now about thirty years; that he understood he made some agreement with his master, by which he was suffered to go at large; and the last time this deponent recollects to have seen him, was driving a team on the Baltimore road, between six and seven years ago; that he then passed by the name of Romulus, and this deponent understood he afterwards took to the sea.

WILLIAM McNAIR.

The within sworn to this 17th day of July, 1807, before me, one of the justices of the peace for Alleghany county aforesaid.

ANDREW BRUCE.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that Andrew Bruce, Esquire, before whom the depositions hereto annexed appear to have been taken, and who has thereto subscribed his name, was, at the time of taking and signing the same, one of the State of Maryland justices of the peace, in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed

my name, and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord eighteen hundred and seven, and the thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk of Alleghany co.*

STATE OF MARYLAND, *Alleghany county, ss:*

Sarah Lewis, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that she lived many years in Frederick county, of this State; that she lived in the neighborhood of Norman Bruce's family, was well acquainted there, and that among his servants she well recollects having noticed a very bright mulatto child, approaching nearer to white than any mulatto she ever saw; that, at the time she first noticed this child, he was about four or five years old; that his birth or origin she never heard doubted; his being the child of Phillis, a dark mulatto woman, (slave to Norman Bruce, who lived on Pipe Creek,) by Andrew Ware, a white man; that she knew the said child from that time until it grew up, and reached near the age of twenty; that during that time he remained in the family of the said Bruce as his slave, upon the same footing and treated as his other slaves; that when he grew up he was not a large man, being spare; a round or flattish face; that he must now be about thirty years of age or upwards; that then he passed and was called by the name of Romulus; that his mother had a daughter by the same father, as was acknowledged, and as appeared from her color and resemblance to her brother. He left the service of his master by his permission, or some agreement, I suppose, and, as I understood, afterwards went to sea.

SARAH LEWIS, her ⋈ mark.

Sworn to this 17th day of July, 1807, before me, one of the justices of the peace for Alleghany county aforesaid.

STATE OF MARYLAND, *Alleghany county, to wit:*

William Bruce, being sworn on the Holy Evangelists of Almighty God, deposeth and saith, that about the age of twelve years, he went to Frederick county, and lived with his uncle, Norman Bruce, on Pipe Creek, for several years, going occasionally to school; that, among the other servants, he well remembers a remarkably bright mulatto boy, or he might pass for a very dark, swarthy white one. This boy, I always understood, was the son of a slave, named Phillis, by a white man called Andrew Ware. I have never heard to the contrary, nor can I doubt it, the boy acknowledging this Phillis as his mother, and she receiving him as her child, and it was so admitted and understood by the whole family and neighborhood. I knew this boy for several years afterwards, and until he grew up. He was in height about five feet five or six inches, his hair dark and somewhat curly, and his make thin. He went by the name of Romulus, and I know of no particular mark to distinguish him except a scar on one of his thumbs, I think occasioned by a bite in some fight he had; and is now, I suppose, about twenty-eight or thirty years of age. And further this deponent saith not.

WILLIAM BRUCE.

Sworn and subscribed to, this 18th day of July, 1807, before GEORGE RIZER.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that George Rizer, Esquire, before whom the within deposition appears to have been made, and who has subscribed his name thereto, was, at the time of so doing, one of the State of Maryland justices of the peace, in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this 18th day of July, in the year of our Lord eighteen hundred and seven, and thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk, &c.*

The deposition of Greenbury Griffin, of Talbot county, in the State of Maryland, aged about thirty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for Queen Anne's county, duly commissioned and qualified as such, this 4th day of August, in the year of our Lord one thousand eight hundred and seven, saith, that John Strahan, or Strawhan, the son of Samuel Strawhan, of Queen Anne's county, and State of Maryland, was bound to him to the sea-service, about the year eighteen hundred and two, (as the indenture will show, which will be procured as part of this deponent's information;) that the said John left the said Greenbury about the year eighteen hundred and four, at Norfolk; at this time he was sailing with a certain Captain John Kemp, from Trinidad to Norfolk aforesaid; that this deponent has not seen the said John Strahan since; that the said John Strahan has a light sandy complexion, and looks older than he really is, and is a pretty well made man.

Sworn to before me the day and year aforesaid.

WILLIAM LINDSEY.

STATE OF MARYLAND, *Queen Anne's county, to wit:*

I do hereby certify all whom it doth or may concern, that Wm. Lindsey, gentleman, before whom the within deposition appears to have been taken, and who hath subscribed his name, was, at the time of so doing, and still is, one of the justices of the peace of the State of Maryland in and for the county aforesaid, duly commissioned and sworn, and to all acts done by him as such, due faith and credit is, and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereunto subscribed my name, and affixed the public seal of

my said office, this sixth day of August, anno Domini eighteen hundred and seven.

SAMUEL T. WRIGHT,
Clerk of Queen Anne's county court.

This indenture, made the 20th day of March, in the year of our Lord 1802, witnesseth that John Strawhan, of Queen Anne's county, aged seventeen years and ten months, hath, of his own free and voluntary will, placed and bound himself apprentice unto Greenbury Griffin, of Talbot county, waterman, to learn the said trade, mystery, or occupation of a waterman, which he, the said Greenbury Griffin, now useth, and with him as an apprentice to dwell, continue, and serve from the day of the date hereof, unto the full end and term of three years and two months, from thence next ensuing, and fully to be completed and ended, during all which term of three years and two months, the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands gladly do and obey, hurt to his said master he shall not do, nor wilfully suffer to be done by others, but of the same, to the utmost of his power, shall forthwith give notice to his said master; the goods of his said master he shall not embezzle nor waste, nor them lend without his consent, to any; at cards, dice, or any other unlawful games he shall not play; taverns or ale-houses he shall not frequent; fornication he shall not commit; matrimony he shall not contract; from the service of his said master he shall not at any time depart or absent himself without his said master's leave, but in all things, as a good and faithful apprentice, shall and will demean and behave himself towards his said master and all his, during the said term: and the said master, in consideration of the sum of thirty pounds of lawful money of Maryland, to him in hand paid by his said apprentice, in the said trade, mystery, or occupation of a waterman, which he now useth, with all things thereunto belonging, shall and will teach, instruct, or cause to be well and sufficiently taught and instructed, after the best way and manner he can, and shall and will also find and allow unto his said apprentice meat, drink, washing, lodging, and wearing apparel, and all other necessaries fit and convenient for such an apprentice; and also the said master is to give unto the said apprentice six months' schooling, within the said term. In witness whereof, either of the parties have hereunto set their hands the day and year within written.

JOHN STRAWHAN.
GREENBURY GRIFFIN.

Witnesses: John Merchant, Thomas Lambdin, John McDaniel.

Received 21st March, 1802. In Orphans' court, April 13th, 1802.

The within indenture was examined and approved. Certified per,

J. PRICE, *Register of Wills.*

TALBOT COUNTY, *ss:*

In testimony that the within is truly copied from liber J. P. No. A. folios 247 and 248, one of the record books belonging to my office, I have hereunto set my hand, and the seal of my office affixed, this twenty-first day of August, Anno Domini eighteen hundred and seven.

Test: J. PRICE, *Register of Wills.*

The deposition of James Roe Pratt, of Queen Anne's county, and State of Maryland, aged about forty-five years, taken before William Lindsey, gentleman, one of the justices of the peace for the said county, duly commissioned, and qualified as such, this fourth day of August, in the year eighteen hundred and seven, saith that he is well acquainted with Samuel Strahan and his son, John Strahan, who he understood was bound to Greenbury Griffin; that the said John is a well made man, and has a sandy complexion: and further saith not.

Sworn before me this day and year aforesaid.

WM. LINDSEY.

The deposition of John Price, of Kent Island, in Queen Anne's county, and State of Maryland, aged about forty-one years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he was well acquainted with Sam'l Strahan, late of Queen Anne's county, and his son John Strahan; that the said John Strahan was a well made young man, and had a sandy complexion; that this deponent knows nothing of his going to sea, or anything of him for many years, until the late information of his being pressed into the British service.

Sworn before me, the day and year aforesaid.

WM. LINDSEY.

The deposition of Thomas Lynch, of Queen Anne's county, and State of Maryland, aged about forty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he is well acquainted with the aforesaid Strahan, and his son John, who was bound apprentice to the aforesaid Greenbury Griffin, as the father had frequently informed him; that the said Samuel Strahan lived at the tan-yard of Mr. Tilghman, between Centerville and Queenstown, and that John Strahan, the son of the said Samuel, was born there; that he was a well made young man when he left his father, and had a sandy complexion, and that he had pretty good information in the tanning business.

Sworn before me, this day and year aforesaid.

WM. LINDSEY.

The deposition of Samuel Strahan, or Strawhan, as generally called here, of Carolina county, and State of Maryland, aged about fifty-six years, taken before William Lindsey, gentleman, one of

the justices of the peace for Queen Anne's county, duly commissioned and qualified as such, this fourth day of August in the year of our Lord one thousand eight hundred and seven, saith, that he has, or had, a son called John Strahan, or Strawhan, as they are called here, born about the fourteenth day of April, seventeen hundred and eighty-four, as well as he recollects; that this son was bound apprentice to a certain Greenbury Griffin, who was then a seaman, and employed in the West India business, as he understood; that he has never seen his said son since, nor heard from him for several years, until the notification from the Government of the United States; that this son was pretty well made, and had a light sandy complexion, and that he was born at the tan-yard belonging to a certain William Tilghman, on the public road from Centerville to Queenstown.

Sworn before me, the day and year aforesaid.

WM. LINDSEY.

[Each of the foregoing depositions is accompanied by a similar certificate of offices as the first.]

The following is extracted from the signatures to the original articles of agreement and roll of equipage of the schooner Eagle, Greenbury Griffin, master bound from Norfolk to St. Bartholomew.

"August 9th.—John Strawhan, Queen Anne's county, Maryland."

I, Benjamin Davis, of Westport in the county of Bristol and Commonwealth of Massachusetts, yeoman, being legally qualified to give evidence, do depose and say, that, about fourteen or fifteen years ago, William Howland, late of said Westport mariner, deceased, brought to Westport with him a colored boy, then about six years of age; that the name of the said boy was Daniel Martin; that he was bound to the said William, as an apprentice or servant, under the authority of the laws of this Commonwealth, by the selectmen and overseers of the poor of said town of Westport, and the indentures were executed at the house of this deponent; that the said Daniel was afterwards, on his arrival at the age of fourteen years, an apprentice or servant of Nancy Howland, widow and relict of said William Howland, and it is now about seven years since I have seen the said Daniel. He was then of a common stature, straight built, and without any prominent marks by which to describe his person. It was always understood by me that the said Daniel was from some Spanish settlement in America.

BENJAMIN DAVIS.

UNITED STATES OF AMERICA,
Commonwealth of Massachusetts, Bristol, ss:

On this 13th day of July, 1807, before me, Eli Haskell, Notary Public, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Benjamin Davis, Esq., and made solemn oath to the truth of the foregoing statement of affidavit by him subscribed.

In testimony whereof, I have hereunto set my hand and notarial seal, in such cases used, the day and year first written.

ELI HASKELL, *Not. Pub.*

I, Nancy Howland, of New Bedford, in the county of Bristol and Commonwealth of Massachusetts, widow and relict of William Howland, late of Westport, in said county, mariner, do depose and say, that, in the month of August, in the year of our Lord 1792, according to the best of my recollection, my said husband brought with him, on a voyage from Buenos Ayres, Daniel Martin, a colored boy, then in the seventh year of his age, who was bound to him, as an apprentice or servant, by his mother; that, after the death of my said husband, and at the arrival of said Daniel at the age of fourteen years, he bound himself, by a law of this Commonwealth, to me, the deponent, and, after living with me about one year, left me, and, since that time, I have never seen or heard from the said Daniel until the application to take this testimony. At the time the said Daniel left me, he was of a common stature, and I do not now recollect any peculiar marks by which he could be readily described; he was very straight at that time. The indentures by which he was bound, by accident and length of time, are mislaid or lost.

NANCY HOWLAND.

UNITED STATES OF AMERICA,
Commonwealth of Massachusetts, Bristol, ss:

On this 13th day of July, 1807, before me, Eli Haskell, Notary Public, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Nancy Howland, and made solemn oath to the truth of the foregoing statement or affidavit, by her subscribed.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, the day and year above written.

ELI HASKELL, *Not. Pub.*

The following is extracted from the portage bill of the ship Caledonia, Francis Mahaly, master, who sailed, about the 25th of January, 1802, for Canton, and returned about the 13th of March, 1803:

"Daniel Martin, seaman, shipped January 24, 1802; discharged March 14th, 1803; time on board, thirteen months, seventeen days, $12 a month; total wages, $162 75."

No. 9.

NAVY DEPARTMENT, *Nov.* 12, 1807.

SIR: in compliance with your letter of the 9th instant, I have the honor of herewith transmitting to you papers A, B, and C, which contain all the information that has been communicated to the Navy Department, in relation "to the outrage committed on the frigate Chesapeake."

I have the honor to be, respectfully, sir, your obedient servant.

R. SMITH.

Hon. THOMAS BLOUNT, *Chairman, &c.*

NAVY DEPARTMENT, *Nov.* 23, 1807.

SIR: Having this morning received the original record of the proceedings of the Court of Inquiry, I find, upon comparing them with the copy of the opinion transmitted to you in my letter of 17th instant, that in the copy sent to you there are some errors, and an omission, which I hasten to correct.

In the first article of the opinion, second line, after Chesapeake, the words "of 38 guns," should be inserted.

In the twenty-seventh article, instead of reading "her marines were neither supplied with enough cartridges, nor were those which they had of the proper size—none of these circumstances could have," &c., it should read thus: "her marines were not supplied with enough cartridges, and none of those which they had were of the proper size;—these circumstances, however, could not have," &c. There are other errors, but of no consequence, being entirely verbal.

The following concluding article is not in the copy sent to you:

"39. The court is, lastly, of opinion that the causes of the surrender of the Chesapeake were, her being attacked by a ship of superior force, at a time when such an attack not having been expected by her commander, no sufficient preparation for resistance had been made. That there were abundant causes, however, to have induced the expectation of such an attack, and that there was ample time to have made such preparation, the court have already stated. That the ship was prematurely surrendered, even under such circumstances, the court have also stated. And the reasons of such want of preparation, and improper surrender, will be found fully exhibited in former parts of this report."

These errors, and this omission, are explained in a letter from Littleton W. Tazewell, Esq., Judge Advocate to the court, to me, dated 17th November, 1807, and this morning received by me, of which the following is an extract:

"I have the honor now to forward to you the original record of the proceedings of the Court of Inquiry, convened here under your warrant, and of the evidence adduced before that court. Supposing that it might be satisfactory to you to be informed, at the earliest period, of the result of the proceedings of the court, I did myself the honor to forward you, some time since, on the day the report and opinion was agreed to, and delivered by the court, a copy of that report. On comparing them, you will find some slight differences between the report itself, and the copy sent you. This is caused by some alterations, in and additions to the opinion and report, which the court deemed it proper to make, subsequent to the writing of my letter. The copy sent was taken from the original rough draught, before it was amended and modified, as was afterwards done."

I have the honor to be, respectfully, sir, your obedient servant,

R. SMITH.

Hon. THOMAS BLOUNT *Chairman, &c.*

A.

BRITISH CONSUL'S OFFICE,
NORFOLK, (Va.,) *March* 6, 1807.

SIR: The men named in the margin,* deserted some time since from His Majesty's ship Melampus, in Hampton Roads, by running away with her gig, and the three first are stated to have entered at the rendezvous, now open here, for the enlistment of seamen in the service of the United States. As the Melampus is at present in Hampton Roads, I submit to you, sir, the propriety of your directing these men (should they have entered for your service) to be returned to their duty on board His Majesty's ship before mentioned.

I have the honor to remain, with perfect truth and respect, sir, your most obedient servant,

JOHN HAMILTON.

Captain DECATUR.

BRITISH CONSUL'S OFFICE,
NORFOLK, (Va.,) *March* 7, 1807.

SIR: Mr. John Murphy, master of the British merchant ship Herald, in this harbor, has represented to me that John Wilson, a seaman under articles to that ship, and John Murphy, (his son,) an apprentice, both subjects of His Majesty, have deserted and enlisted at the rendezvous for the naval service of the United States, in this borough, requesting me to use my official interposition with you to obtain for him the recovery of the persons before mentioned. It has, therefore, become my duty to solicit that the seamen and apprentice in question (if they should have entered for the Navy of the United States) may be returned to the master of the Herald, and to the performance of their respective engagements on board of that ship.

I have the honor to remain, with perfect truth and respect, sir, your most obedient humble servant,

JOHN HAMILTON.

Captain DECATUR.

NORFOLK, *March* 8, 1807.

SIR: Your communications with Captain Decatur have been transmitted to me by that officer.

I must observe, in answer, that John Murphy appearing to be an apprentice to his commander, has been delivered to the civil authority.

I do not feel myself justified in delivering any men who are not apprentices, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

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*Wm. Ware, Daniel Martin, John Strachan, John Little.

I have the honor to be, with high respect, sir, your obedient humble servant,

A. SINCLAIR.

JOHN HAMILTON, Esq., &c., *Norfolk.*

BRITISH CONSUL'S OFFICE,
NORFOLK, (Va.,) *March* 9, 1807.

SIR: I have had the honor to receive your letter, dated yesterday, acquainting me, in reply to my communications, addressed (through misinformation) to Captain Decatur, which he had done me the kindness to transmit to you, that John Murphy, being an apprentice to his commander, had been delivered up to the civil authority, but that you do not feel yourself justified in delivering up any men who are not thus bound, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

I can only regret that you do not consider yourself authorized to comply with my request.

I have the honor to remain, with perfect truth and respect, sir, your most obedient humble servant,

JOHN HAMILTON.

Lieutenant SINCLAIR.

NAVY YARD, WASHINGTON, *April* 7, 1807.

SIR: I have the honor to enclose you the result of my inquiries relating to the men mentioned in your letter of yesterday.

And have the honor to be, sir, with great respect, your obedient servant,

JAS. BARRON.

Hon. R. SMITH, *Secretary of the Navy.*

William Ware, pressed from on board the brig Neptune, Captain Crafts, by the British frigate Melampus, in the Bay of Biscay, and has served on board the said frigate fifteen months.

William Ware is a native American; born on Pipe Creek, Frederick county, State of Maryland, at Bruce's Mills, and served his time at said mills; he also lived at Ellicot's Mills, near Baltimore, and drove a wagon several years between Hagerstown and Baltimore; he also served eighteen months on board the United States' frigate Chesapeake, under the command of Commodore Morris and Captain James Barron; he is an Indian looking man.

Daniel Martin was pressed at the same time and place; he is a native of Westport, in Massachusetts, about thirty miles to the eastward of Newport, Rhode Island; served his time out of New York with Captain Marrowby in the Caledonia; refers to Mr. Benjamin Davis, merchant, and Mr. Benjamin Corce, of Westport; he is a colored man.

John Strachan, born on the Eastern Shore of Maryland, Queen Anne's county, between Centreville and Queenstown; refers to Mr. John Price and —— Pratt, Esq., on Kent Island, who know his relations; Strachan sailed in the brig Martha Bland, Captain Wivill, from Norfolk to Dublin, and from thence to Liverpool; he there left the brig, and shipped on board an English Guineaman; he was pressed on board the Melampus, off Cape Finisterre; to better his situation he consented to enter, being determined to make his escape when opportunity offered; he served on board the frigate two years; he is a white man, about five feet seven inches high.

William Ware and John Strachan have protections; Daniel Martin says he lost his after leaving the frigate.

John Little, alias Francis, and Ambrose Watts, escaped from the Melampus at the same time; known to the above persons to be Americans, but have not been entered by my recruiting officer.

William Ware, Daniel Martin, and John Strachan state that, some time in February last there was an entertainment on board the Melampus, lying then in Hampton Roads; that while the officers of —— were engaged, and all the ship's boats, except the captain's gig, being hoisted in, themselves, and the two other men mentioned, availed themselves of a moment to seize the gig and row off; that, as soon as they had got into the boat they were hailed to know what they were going to do; they replied they were going ashore; a brisk fire of musketry instantly commenced from the ship; that, in defiance of balls, and the hazard of their lives, they continued to pull, and finally effected their escape to land, namely, Lowell's Point; that they then carefully hauled up the boat on the beach, rolled up the coat, and placed that and the oars in the boat, gave three cheers, and moved up the country.

UNITED STATES FRIGATE CHESAPEAKE,
CHESAPEAKE BAY, *June* 22, 1807.

SIR: Yesterday at 6 A. M., the wind became favorable, and knowing your anxiety that the ship should sail with all possible despatch, we weighed from our station in Hampton Roads and stood to sea. In Lynnhaven bay we passed two British men of war, one of them the Bellona, the other the Melampus; their colors flying, and their appearance friendly. Some time afterwards, we observed one of the two line-of-battle ships that lay off Cape Henry to get under way, and stand to sea; at this time the wind became light, and it was not until near four in the afternoon that the ship under way came within hail. Cape Henry then bearing northwest by west, distance three leagues, the communication, which appeared to be her commander's object for speaking the Chesapeake, he said he would send on board; on which I ordered the Chesapeake to be hove to for his convenience. On the arrival of the officer he presented me with the enclosed paper (No. 1) from the captain of the Leopard, and a copy of an order from Admiral Berkeley, which another officer afterwards took back, to which I gave the enclosed answer, (No. 2,) and was waiting for his reply. About this time I observed some appearance of a hostile nature, and said to Captain Gordon that it was possible they were serious, and requested him to have his men sent to their quarters with as little noise as pos-

sible, not using those ceremonies which we should have done with an avowed enemy, as I fully supposed their arrangements were more menace than anything serious. Captain Gordon immediately gave the orders to the officers and men to go to quarters, and have all things in readiness; but before a match could be lighted, or the quarter-bill of any division examined, or the lumber on the gun-deck, such as sails, cables, &c., could be cleared, the commander of the Leopard hailed; I could not hear what he said, and was talking to him, as I supposed, when she commenced a heavy fire, which did great execution.

It is distressing to me to acknowledge, that I found from the advantage they had gained over our unprepared and unsuspicious state, did not warrant a longer opposition; nor should I have exposed this ship and crew to so galling a fire had it not been with a hope of getting the gun-deck clear, so as to have made a more formidable defence; consequently our resistance was but feeble. In about twenty minutes after I ordered the colors to be struck, and sent Lieutenant Smith on board the Leopard to inform her commander that I considered the Chesapeake as her prize. To this message I received no answer. The Leopard's boat soon after came on board, and the officer who came in her demanded the muster-book. I replied the ship and books were theirs, and if he expected to see the men he must find them. They called on the purser who delivered his book, and the men were examined, and the three men demanded at Washington, and one man more, were taken away. On their departure from the ship I wrote the commander of the Leopard the enclosed, (No. 3,) to which I received the answer, (No. 4.) On finding that the men were his only object, and that he refused to consider the ship his prize, and the officers and crew his prisoners, I called a council of our officers, and requested their opinion relative to the conduct it was now our duty to pursue. The result was that the ship should return to Hampton Roads, and there wait your further orders. Enclosed you have a list of the unfortunate killed and wounded, as also a statement of the damage sustained in the hull, spars, and rigging of the ship.

I have sent this letter to you by Captain Gordon, in order that you may have an opportunity of getting such information as you may wish.

With great respect, I have the honor to be, sir, your obedient servant,

JAMES BARRON.

Hon. ROBERT SMITH,
Secretary of the Navy, Washington.

No. 1.

HIS MAJESTY'S SHIP LEOPARD,
AT SEA, *June* 22, 1807.

The captain of His Britannic Majesty's ship Leopard has the honor to enclose the captain of the United States' ship Chesapeake an order from the honorable Vice Admiral Berkeley, commander-in-chief of His Majesty's ships on the North American station, respecting some deserters from the ships (therein mentioned) under his command, and supposed to be now serving as part of the crew of the Chesapeake.

The captain of the Leopard will not presume to say anything in addition to what the commander-in-chief has stated, more than to express a hope that every circumstance respecting them may be adjusted in a manner that the harmony subsisting between the two countries may remain undisturbed.

To the COMMANDER
of the U. S. ship Chesapeake.

No. 2.

AT SEA, *June* 22, 1807.

I know of no such men as you describe. The officers that were on the recruiting service for this ship were particularly instructed by the Government, through me, not to enter any deserters from His Britannic Majesty's ships, nor do I know of any being here. I am also instructed never to permit the crew of any ship that I command to be mustered by any other but their own officers. It is my disposition to preserve harmony, and I hope this answer to your despatch may prove satisfactory.

JAMES BARRON.

To the COMMANDER
of H. B. M.'s ship Leopard.

No. 3.

CHESAPEAKE, AT SEA, *June* 22, 1807.

SIR: I consider the frigate Chesapeake your prize, and am ready to deliver her to any officer authorized to receive her. By the return of the boat I shall expect your answer,

And have the honor to be yours, &c.,

JAMES BARRON.

To the COMMANDER
of H. B. M.'s ship Leopard.

No. 4.

LEOPARD, AT SEA, *June* 22, 1807.

SIR: Having, to the utmost of my power, fulfilled the instructions of my Commander-in-Chief, I have nothing more to desire, and must, in consequence, proceed to join the remainder of the squadron, repeating that I am ready to give you every assistance in my power, and do most sincerely deplore that any lives should have been lost in the execution of a service which might have been adjusted more amicably, not only with respect to ourselves, but the nations to which we respectively belong.

I have the honor to be, sir, your obedient humble servant,

S. P. HUMPHREYS.

To the COMMANDER
of the U. S. ship Chesapeake.

The purport of the general order said to be issued by Admiral Berkeley was, that each and every vessel of the squadron should take by force, if they could not be obtained by other means, any British deserters that could be found on board the Chesapeake, and that, on the part of the commanders of the ships of his squadron, a search should be admitted for American deserters.

This, as well as my memory serves me, was the tenor of the paper handed me by the visiting officer of His Britannic Majesty's ship Leopard, and stated to have been orders recently issued by Admiral Berkeley.

There were several names mentioned in the body of the demand, neither of which was known to us.

Return of dead and wounded on board the frigate Chesapeake, Commodore James Barron, June 23, 1807.

Killed.—John Lawrence, James Arnold, John Shakeley.

Badly wounded.—John Haden, Cotton Brown, John Parker, George Percival, Peter Simmons, Robert McDonald, Francis Cownsven, James Eppes.

Slightly wounded.—Commodore James Barron, Midshipman James Broom, Peter Elison, William Hendricks, Thomas Short, William Moody, David Creighton, John Martyr, Emanuel Fernandy, John Wilson. J. G. T. HUNT,
Surgeon to the Chesapeake.

Capt. CHARLES GORDON.

Agreeably to your requisition of this date, to us directed, we have taken a strict and careful survey on the hull of the United States' frigate Chesapeake, and find it as follows:

Twenty-two round shot in her hull, that is to say, twenty-one on the starboard and one on the larboard side.

Given under our hands on board the late United States' frigate Chesapeake, June 23, 1807.

BENJAMIN SMITH, *Lieut.*
SIDNEY SMITH, *Lieut.*
SAMUEL BROOKER, *Master.*

Capt. CHARLES GORDON.

Agreeably to your requisition of this date, to us directed, we have taken a strict and careful survey on the masts and standing rigging of the late United States' frigate Chesapeake, and find them in the following state:

The fore and mainmasts are incapable of being made sea-worthy; the mizzenmast badly wounded, but not incapable of being repaired on shore. Three starboard and two larboard main shrouds; two starboard fore shrouds; two starboard mizzen shrouds; main topmast stay; cap bobstay, and starboard main-lift, cut away; likewise the middle stay-sail stay.

Given under our hands on board the late United States' frigate Chesapeake, June 23, 1807.

BENJAMIN SMITH, *1st Lieut.*
SIDNEY SMITH, *5th Lieut.*
SAMUEL BROOKER, *Master.*

JUNE 23, 1807.

Agreeably to your requisition of this date, to us directed, we have taken a strict and careful survey on the sails, spare spars, and boats of the late United States' frigate Chesapeake, and find them in the following state:

In the foresail, four round shot holes, twelve grape shot holes, and the starboard leech cut away. In the mainsail, three round shot holes, full of grape shot holes, and the foot rope cut away. Main topsail, one round shot hole; fore topmast staysail much injured by grape shot. In the spare fore ropemast two twelve pound shot holes, which have rendered it entirely unfit for service. Main skysail-mast cut in two.

The second cutter much injured by a shot hole, which went through and through her; cut both of her masts and three of her arms in two.

First cutter slightly injured.

Given under our hands on board the late frigate Chesapeake.

BENJAMIN SMITH, *Lieut.*
SIDNEY SMITH, *Lieut.*
SAMUEL BROOKER, *Master.*

Capt. CHARLES GORDON.

FRIGATE CHESAPEAKE,
Hampton Roads, June 29, 1807.

SIR: Enclosed I have the honor to forward you an exact copy of this ship's log-book, and have the honor to be, sir, with great respect, your obedient servant,

JAS. BARRON.

Hon. R. SMITH,
Secretary of the Navy.

The following is the copy above alluded to:

MONDAY, June 22.—Commences with light breezes from the southward and westward, and clear weather. At 7, A. M., hoisted out the jolly boat, and hoisted in the second cutter; run the jolly boat up astern. At quarter past 7, weighed anchor; made sail with a pleasant breeze from west southwest, and stood out for sea. At 9, passed two of His Britannic Majesty's ships at anchor; stowed the larboard anchor, and secured the boats. At meridian the light on Cape Henry, bore southwest by south; people employed in clearing ship for sea. This day ends at meridian, and contains seventeen hours.

TUESDAY, June 23.—Commences with light breezes from the south and west, and clear weather. A ship in sight apparently standing for us. At 1, P. M., the wind hauled to the northward and eastward, in studding sails, and hauled upon a wind, and at half past three the ship came up with us; backed the main topsail and spoke her; was boarded by her. She proved to be the British ship Leopard of fifty guns; they came on board to demand some men who had deserted from the English navy. The Commodore refusing to give them up, the boat returned: they ranged alongside of us, and commenced a heavy fire. We being unprepared, and the ship much lumbered, it

was impossible to clear ship for action in proper time, though every possible exertion was made, and not suspecting an enemy so near, did not begin to clear the deck until the enemy had commenced firing. In about thirty minutes, after receiving much damage in our hull, rigging, and spars, and having three men killed, to wit: Joseph Arnold, Peter Shakely, and John Lawrence; and sixteen wounded, to wit: Commodore Barron, Mr. Broom, John Hadden, Cotton Brown, Peter Ellison, John Parker, George Percival, Peter Summers, William Hendrick, W. Macdonald, Francis Conhoven, Thomas Short, William Moody, David Creighton, John Martyr, James Eppes, Emanuel Hendrichs, John Wilson, William Warren, and John Bates; and having one gun ready, fired, and hauled down our colors. The Leopard ceased firing, sent her boat on board, and mustered the ship's company. At sundown they left the ship, taking with them four men, viz: John Strahan, Daniel Martin, William Ware, and John Wilson, who had deserted from their service; at the same time Lieutenant Allen went on board, and returned at eight o'clock. The Leopard left us, and stood in.

We then made sail and stood in shore, having three-and-a-half feet water in our hold. Crew employed in pumping and working ship in for Hampton Roads; got the anchors clear for coming to. At 5, A. M., took the third reef in the main topsail, and set top gallant sails; held a survey on the masts and rigging. At 8, Cape Henry bore southwest, distance four or five miles; employed ship in for Hampton Roads. At half past meridian came to with the starboard anchor in seven fathom water in Hampton Roads.

B.

NORFOLK, *June* 29, 1807.

SIR: The enclosed papers, Nos. 1 and 2, you will perceive, are from the committee of the people of Norfolk, calling on me for aid, with the gunboats under my command, to prevent an invasion which has been threatened by the commanding officer of the British squadron, lying in the vicinity of this place. You will see, sir, by No. 3, my reply. The British commander has also threatened that he will again take possession of the Chesapeake. I have it also from the most unquestionable authority, that they have asserted positively that, in case the President should issue a similar order to that issued respecting the Leander, they will consider it as an act of hostility, and will commence hostile operations immediately. Under an impression that they will do as they say, I hope and feel satisfied my preparing to act on the defensive, will meet the approbation of the President and yourself. If, however, it should be thought I have been precipitate, I beg it may be attributed to my extreme desire not to omit any service I might render my country. The four old gunboats are all that can be immediately equipped for service; those we commenced fitting this morning. They are now entirely ready for the reception of the men, who, I trust, will come forward in sufficient numbers to authorize our proceeding to Hampton to-morrow. Sir, as I have no doubt, from the threats the British have made, we shall have to fight, I shall not leave this until the boats are manned to my satisfaction; to do which it will take one hundred and sixty men. The British, if they attempt anything against us, it will be in the night, with rowboats, or other boats that they may press. The rowboats belonging to their squadron are capable of carrying five hundred men with ease. This number, if we are full manned, I feel confident of being able to oppose. I beg you, sir, however, to bear in mind that our crews will be composed of volunteers who, notwithstanding their great zeal, will not possess all the skill we could wish. I should, however, be mortified if it were understood I wished to convey an idea that as much should not be expected from us as ought to be expected from any four gunboats; more, I hope, will not be expected.

The new boats at this place can be in readiness in a short time, should you choose to order it. Although, sir, I shall always be ready to serve my country in any way I can be useful, I hope, sir, if the frigates are to be fitted out, I shall not be continued in gunboats. The gentlemen who have volunteered their services, have agreed to stay with us only until such time as we shall hear from Washington what steps will be taken, which will be on Thursday.

I have the honor to be, with sentiments of high respect, sir, your obedient servant,

STEPHEN DECATUR, JR.

HON. ROBERT SMITH,
Secretary of the Navy.

No. 1.

NORFOLK, *June* 28, 1807.

SIR: We take pleasure in presenting to you the resolution of the committee appointed by the inhabitants of this borough, now enclosed. Requesting your answer to the resolution, we are,

With the highest respect, sir, your obedient servants,

THOMAS BLANCHARD,
SETH FOSTER,
J. W. MURDAUGH.

Capt. DECATUR.

No. 2.

NORFOLK, *June* 28, 1807.

Whereas, the committee have received information from various sources, that the commander of the British ships of war have menaced the inhabitants of Hampton with an invasion for the purpose of procuring water: It is resolved that application be made to Captain Stephen Decatur, commander of the United State's naval force at this place, to equip the gunboats, by availing himself of the services of the captains and seamen who have proffered them, to proceed to Hampton, or as near it as he may judge proper, to co-operate with the people in their defence in any manner he

may judge most expedient, or to act as circumstances may dictate in preventing the execution of their threat.

Resolved, That Thomas Blanchard, Seth Foster, and J. W. Murdaugh, be a committee to wait on Captain Decatur with this application.

Extract from the minutes.

THEO. ARMISTEAD,
Secretary of the Committee.

No. 3.

NORFOLK, *June* 28, 1807.

GENTLEMEN: I have received your letter of this day, enclosing the resolution of the committee calling on me as the commander of the naval forces at this place, to equip and resist, with the gunboats under my command, a threatened invasion of the territory of the United States by the British, now lying in the waters of the Chesapeake.

Having the fullest confidence that the committee would not have made a request of this nature unless they were fully impressed with a belief that the hostility spoken of was certainly intended, I feel it my duty to repel, as far as I have power, any such attempt that may be made; for which purpose, if a sufficient number of volunteers can be procured, I will repair to Hampton with all possible expedition.

I have the honor to be, with sentiments of high respect, gentlemen, your obedient servant,

STEPHEN DECATUR.

TO THOMAS BLANCHARD,
SETH FOSTER, J. W. MURDAUGH, Esqs.

Extract of a letter from Commodore Stephen Decatur to the Secretary of the Navy, dated

U. S. FRIGATE CHESAPEAKE,
July 4, 1807.

When I was honored with your orders I was on board the gunboats; four of them are only wanting men to place them in a complete state of readiness for immediate service. The Chesapeake, when I took command of her, had been brought up into the bite of Craney island, in consequence of the threats of the British. Their movements, sir, are extremely suspicious; since the affair of the Leopard and Chesapeake, they have been at anchor inside the capes, and have brought to, by firing at, every vessel that has passed in or out of the capes. They have sent many insolent and menacing messages to Norfolk—such as, if the people did not supply them with articles they might want, they would come up and retake the Chesapeake, and cut out the French frigate Sibylle. This, sir, from their movements, it is my opinion they intend to attempt. Yesterday afternoon the four British ships came in and anchored in Hampton Roads. This morning they sent their tenders and sounded quite through the narrows. The present situation of the Chesapeake and Sibylle is such, in consequence of the narrowness of the channel, that if an attempt was made on either of them by the ships, they could not render to each other that support which would be necessary. In consequence of this, I have determined to move up nearer the town, where we shall be able to take such a position as will enable us, with the assistance of the fort, to make such a defence as may render abortive any attempt that may be made upon us.

I have learned that the depth of the water from Hampton Roads to Norfolk will admit of three of the British squadron coming up.

Copy of a letter from Commodore Stephen Decatur, jun., to the Secretary of the Navy, dated

U. S. FRIGATE CHESAPEAKE,
July 4, 1807.

SIR: I have just been informed by Dr. Bullus, who has returned from Norfolk, that Commodore Douglas, commander of the British squadron, has written to the inhabitants of Norfolk, that, in consequence of some resolves passed by a committee selected from the inhabitants of Norfolk and its vicinity, he had anchored his ships in such a position as to prevent any vessels going to or coming from Norfolk; which he is determined to do if these resolves are not rescinded.

I have the honor to be, &c.

STEPHEN DECATUR, Jr.

Extract of a letter from Commodore Decatur to the Secretary of the Navy, dated

U. S. FRIGATE CHESAPEAKE,
Norfolk, July 8, 1807.

The menacing latter written by Commodore Douglas to the Mayor of Norfolk, he has since stated, verbally, contained no menace; and he has further said that he has no hostile intention against Norfolk. However, sir, you will see, by the enclosed affidavit, that his actions do not compare with his words. He has lightened his ship since the pacific message sent to the Mayor, and the day before yesterday he fired many shot at an Eastern Shore man. If he makes an attempt to come up with the force they speak of, I think I am not over sanguine when I say I believe they will not all go down again.

Extract of a letter from Commodore Decatur to the Secretary of the Navy, dated

U. S. FRIGATE CHESAPEAKE,
July 12, 1807.

The British squadron lying in Hampton Roads bring to every vessel passing to this place, but have not detained any. The Bellona and Leopard continue in their former station in the Roads. The Triumph and Melampus have weighed, and are now at anchor in Lynnhaven bay.

C.

At a court of inquiry assembled on board the United States' ship Chesapeake, in the harbor of Norfolk, and State of Virginia, by order of the honorable Robert Smith, Secretary of the Navy of the United States, and continued by adjourn-

ment from day to day, from Monday, the 5th of October, 1807, until Wednesday, the 4th day of November, 1807.

Present, Captain Alexander Murray, President.

Captains Isaac Hull and Isaac Chauncey, members thereof.

The following opinion and report was unanimously given and directed by the court to be transmitted to the honorable the Secretary of the Navy of the United States.

Pursuant to an order from the Hon. Robert Smith, Secretary of the Navy of the United States, to Captain Alexander Murray directed, dated the twelfth day of September, in the year of our Lord one thousand eight hundred and seven, the court proceeded to inquire into the causes of the surrender of the Chesapeake, a frigate of the United States, then under the command of James Barron, Esq., a Captain in the Navy of the United States, to a British vessel of war, which surrender was made (as in the said order stated) without that defence being made which might have been expected from the known valor of Americans; and having heard all the evidence adduced, as well by the Judge Advocate as by the said Captain James Barron, and having maturely and thoroughly considered the same, (Captain James Barron having declined to offer any defence,) report to the honorable the Secretary of the Navy of the United States, as by his said warrant is required, a state of the matters touching the said surrender, together with their opinion thereon, as followeth:

1. It appears to the court that the United States ship Chesapeake, then under the command of James Barron, Esq., a Captain in the Navy of the United States, sailed from Hampton Roads, on an intended cruise in the Mediterranean Sea, on the morning of the 22d June last past, having on board a crew consisting of more than three hundred and seventy men, and completely equipped with everything necessary for such a ship of war, sailing on such a cruise.

2. It appears to the court that Captain Barron was appointed Commodore of the ships and vessels destined for the Mediterranean service, on the 15th day of May last past, and hoisted his broad pennant on board the Chesapeake the first time he came on board of her after her arrival in Hampton Roads, to wit, on or about the 6th day of June last past.

3. It appears to the court that Commodore Barron visited the Chesapeake only twice during the period she remained in Hampton Roads, and before he came on board to proceed to sea; on neither of which occasions did he examine particularly into her state and condition.

4. It appears to the court that the guns of the Chesapeake were never exercised before she proceeded to sea; that her crew were quartered but a few days previous to that time, and had never been called to quarters more than three times prior to her sailing for sea.

5. It appears to the court that the ship was reported to Commodore Barron to be ready for sea on the 17th day of June; that he came on board on the 21st, and that the ship sailed on the morning of the 22d of June last past.

6. It appears to the court that, antecedent to the sailing of the Chesapeake, there had been received on board of her some persons who had been claimed by the British Government as deserters from their service, but who were not ordered to be delivered up by the American officers. That there was also a report in circulation, and generally known on board the Chesapeake, that a threat had been used by the captain of the British ship of war Melampus, to take these men from the Chesapeake. That Commodore Barron had full knowledge of the fact that such men were on board his ship; that they had been demanded by the British Government, and had not been given up, the court are perfectly satisfied; but no positive evidence has been adduced to prove that the threat above mentioned was communicated to him before his ship sailed.

7. It appears to the court that the Chesapeake, in proceeding from Hampton Roads to sea, passed a British squadron at anchor in Lynnhaven bay, who, at the time of her passing them, were making signals to each other, which was not only reported to Commodore Barron by one of his officers, but actually observed by himself.

8. It appears to the court that the British ship of war Leopard, of fifty guns, one of the squadron then at anchor within the limits of the United States, weighed immediately after these signals were thrown out, and stood to sea.

9. It does not appear to the court that at this time there was any vessel in sight, or any other object to induce her to go to sea, but the Chesapeake.

10. It appears to the court that, at the time the Leopard got under weigh, the wind was at south southwest, and, therefore, fair for her to proceed to sea; but that, instead of his availing himself of this to clear the land, she hauled by the wind, close round Cape Henry, and stood to the southward, under easy sail; thereby showing it was not her intention to get off the land speedily.

11. It appears to the court that after this the wind became light and baffling, and likely to shift, and came out from the eastward; that when this happened, the Leopard shortened sail, and stood to the eastward.

12. It appears to the court that after this the wind did come out about south southeast, and that the Leopard then having thus got the weathergage, preserved it by tacking in shore, when the Chesapeake did so in order to get off her pilot, and after the Chesapeake again stood off to the eastward, that the Leopard wore, and bore down for her.

13. It appears to the court that when the Leopard tacked and stood in shore, on the same tack with the Chesapeake, that her lower deck ports were all triced up.

14. It appears to the court that when the Leopard ran down for the Chesapeake, she rounded to on her starboard quarter, and to windward of her, and that at this time her tompions were out of her guns.

15. It appears to the court that Commodore Barron was upon deck, observing the Leopard during the time these manœuvres were practising and these appearances exhibited.

16. The court is of opinion that the circumstances above stated were in themselves so suspicious as to have furnished sufficient warning to a prudent, discreet, and attentive officer, of the probable designs of a ship of war conducted in that way, and ought to have induced Commodore Barron to have prepared his ship for action, especially when the information he possessed of the situation of his crew generally, of those who had been demanded by the British Government particularly, and of the general state of the ship at that time.

17. It appears to the court that Commodore Barron, nevertheless, did not order his ship to be cleared for action, and that he did not call his men to quarters.

18. It appears to the court that when the Leopard came alongside of the Chesapeake, an officer was sent from her, with a communication from Captain Humphreys, the captain of the Leopard, to Commodore Barron, which the latter could not, and did not misunderstand, but very correctly concluded to be a demand with which he ought not, and could not comply, and one which, if refused, would be enforced, if possible.

19. It appears to the court that, although such was the situation and impression of Commodore Barron at this time, yet that he did not still order his ship to be prepared for action, although ample time was allowed for that purpose, the British officer being detained on board the Chesapeake from thirty-five to forty-five minutes.

20. The court is of opinion, that the neglect of Commodore Barron to prepare his ship for action under such circumstances, is a direct breach of the fourth article of the rules and regulations for the government of the navy of the United States, adopted by an act of the Congress of the United States, passed on the 23d day of April, 1800, entitled "An act for the better government of the navy of the United States."

21. It appears to the court, that after the British officer left the Chesapeake, bearing a positive refusal from Commodore Barron to the demand which had been made by Captain Humphreys, and after Commodore Barron was himself satisfied that an attack upon his ship would be made, he did not take prompt, necessary, and efficient means to prepare his ship for battle. That his first order was merely to clear his gun-deck, and the second, given after the lapse of some time, was, to get his men to quarters secretly, without beat of drum; although, with such a crew as he had on board, and in such a situation as the ship then was, it was not to be expected that such orders could be effectually accomplished.

22. It appears to the court, that the conduct of Commodore Barron, during the attack of the Leopard, manifested great indecision, and a disposition to negotiate rather than a determination bravely to defend his ship; that he repeatedly hailed the Leopard during her attack upon him; that he drew his men from their guns, to lower down boats, to send on board the attacking ship; and that he ordered his first lieutenant from his quarters during the attack, to carry a message on board the Leopard, at that time firing upon him.

23. It appears to the court, that during the attack, Commodore Barron used language, in the presence of his men, calculated to dispirit his crew, by ordering them to keep down, that they would all be cut to pieces.

24. It appears to the court, that Commodore Barron ordered the colors of the Chesapeake to be struck, and they were struck before a single gun of any kind was fired from her, and that at the time they were so struck, her main-deck battery was in a situation which would have enabled the return of a broadside in a very short time.

25. The court is therefore of opinion, that the Chesapeake was prematurely surrendered, at a time when she was nearly prepared for battle, and when the injuries sustained either in the ship or crew did not make such a surrender then necessary; and that for this, Commodore Barron falls under a part of the sixth article of the rules and regulations for the government of the navy of the United States, adopted by an act of the Congress of the United States, passed on the 23d day of April, 1800, entitled "An act for the better government of the navy of the United States."

26. The court is of opinion, that although the conduct of Commodore Barron, before and during the attack of the Leopard, evinced great inattention to his duty, and want of decision, yet that, during that attack, he exposed his person and did not manifest, either by orders or actions, any personal fear or want of courage.

27. It appears to the court, that although the Chesapeake might and ought to have been better defended than she was, yet that she was not in a situation, at the time of the attack made upon her, to have enabled so gallant a defence being made as might be expected. Some of her guns were not securely fitted to their carriages, some of her sponges and wads were too large, but few of her powder-horns were filled, her matches were not primed, some of her rammers were not in their proper places, her marines were neither supplied with enough cartridges, nor were those of which they had of the proper size. None of these circumstances, however, could have influenced Commodore Barron in striking his colors, because they were not known to him at the time.

28. The court is of opinion, that the conduct of all the other officers of the ship, except those whose duty it was to have remedied the deficiences before stated, and of the crew, generally, was proper, commendable, and honorable.

L. W. TAZEWELL, *Judge Advocate.*

[Communicated to Congress, December 8, 1807.]

Gentleman of the Senate and House of Representatives:

Having recently received from our late Minister Plenipotentiary at the Court of London a duplicate of despatches, the originals of which

have been sent by the Revenge schooner, not yet arrived, I hasten to lay them before both Houses of Congress. They contain the whole of what has passed between the two Governments on the subject of the outrage committed by the British ship Leopard on the frigate Chesapeake. Congress will learn from these papers the present state of the discussion on that transaction, and that it is to be transferred to this place by the mission of a special minister.

While this information will have its proper effect on their deliberations and proceedings respecting the relations between the two countries, they will be sensible that, the negotiation being still pending, it is proper for me to request the communications may be considered as confidential.

TH. JEFFERSON.

DECEMBER 7, 1807.

[The documents referred to in the above message are included among those communicated by the public message of March 22, 1808.]

GREAT BRITAIN AND FRANCE.

[Communicated to Congress, December 18, 1807.]

To the Senate and House of Representatives of the United States:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened, on the high seas and elsewhere, from the belligerent Powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

TH. JEFFERSON.

DECEMBER 18, 1807.

Extract of a letter from the Grand Judge, Minister of Justice, to the Imperial Attorney General for the Council of Prizes.

PARIS, *September* 18, 1807.

SIR: I have submitted to His Majesty the Emperor and King, the doubts raised by His Excellency the Minister of Marine and Colonies, on the extent of certain dispositions of the Imperial Decree of the 21st November, 1806, which has declared the British isles in a state of blockade. The following are His Majesty's intentions on the points in question:

1. May vessels of war, by virtue of the Imperial decree of the 21st November last, seize, on board neutral vessels, either English property, or even all merchandise proceeding from the English manufacturers or territory?

Answer. His Majesty has intimated that, as he did not think proper to express any exception in his decree, there is no ground for making any in its execution, in relation to any whomsoever, (a l'égard de qui que ce peut être.)

2. His Majesty has postponed a decision on the question, whether armed French vessels ought to capture neutral vessels bound to or from England, even when they have no English merchandise on board.

REGNIER.

[NOTE.—That a proclamation on the subject of impressments by the British Government has been officially made known; but not the instrument itself. The enclosed form, however, has been published in such a manner as to leave no doubt of its correctness substantially. TH. J.]

From the London Gazette, Oct. 17.

BY THE KING—A PROCLAMATION,

For recalling and prohibiting British seamen from serving foreign Princes and States.

GEORGE R.: Whereas it hath been represented unto us, that great numbers of mariners and seafaring men, our natural-born subjects, have been enticed to enter into the service of foreign States, and are now actually serving, as well on board the ships of war belonging to the said foreign States, as on board the merchant vessels belonging to their subjects, notwithstanding our former Proclamation recalling them, contrary to the duty and allegiance which our said subjects owe to us, and to the great disservice of their native country; we have, therefore, thought it necessary, at the present moment, when our kingdom is menaced and endangered, and when the maritime rights on which its power and greatness do mainly depend, are disputed and called in question, to publish, by and with the advice of our Privy Council, this our Royal Proclamation: We do hereby strictly charge and command all masters of ships, pilots, mariners, and other seafaring men, being our natural-born subjects, who may have been enticed into the pay or service of any foreign State, or do serve in any foreign ship or vessel, that forthwith they and every of them do (according to their bounden duty and allegiance, and in consideration that their native country hath need of all their services) withdraw themselves, and depart from, and quit such foreign service, and do return home to their native country; or do enter on board such of our ships of war as they may chance to fall in with, either on the high seas, or in any rivers, waters, havens, roads, ports, or places, whatsoever or wheresoever.

And, for the better execution of the purposes of this our Royal Proclamation, we do authorize and command all captains, masters, and others, commanding our ships and vessels of war, to stop and make stay of all and every such person or persons (being our natural-born subjects) as shall endeavor to transport or enter themselves into the service of any foreign State, contrary to the intent and command of this our Royal Proclamation, and to seize upon, take, and bring away, all such

persons as aforesaid, who shall be found to be employed or serving in any foreign merchant ship or vessel as aforesaid; but we do strictly enjoin all such our captains, masters, and others, that they do permit no man to go on board such ships and vessels belonging to States at amity with us, for the purpose of so seizing upon, taking and bringing away, such persons aforesaid, for whose discreet and orderly demeanor the said captains cannot answer; and that they do take especial care that no unnecessary violence be done or offered to the vessel, or to the remainder of the crew, from out of which such persons shall be taken.

And in case of their receiving information of any such person or persons being employed or serving on board of any ship of war belonging to such foreign State at amity with us, we do authorize and command our captains, masters, and others, commanding our ships of war, to require of the captain or commander of such foreign ship of war, that he do forthwith release and discharge such person or persons, being our natural-born subject or subjects; and if such release and discharge shall be refused, then to transmit information of such refusal to the Commander-in-Chief of the squadron under whose orders such captain or commander shall be then serving; which information the said Commander-in-Chief is hereby strictly directed and enjoined to transmit, with the least possible delay, to our Minister Resident residing at the seat of Government of that State to which the said foreign ship of war shall belong, or to our Lord High Admiral, or Lords Commissioners of the Admiralty for the time being, in order that we, being apprized of such proceeding, may forthwith direct the necessary steps to be taken for obtaining redress from the Government to which such foreign ship of war shall belong, for the injury done to us by the unwarranted detention of natural-born subjects in the service of a foreign State.

And whereas it has been further represented unto us, that divers mariners and seafaring men, our natural-born subjects, have been induced to accept letters of naturalization, or certificates of citizenship, from foreign States; and have been taught to believe that, by such letters or certificates, they are discharged from that duty of allegiance which, as our natural-born subjects, they owe to us; now we do hereby warn all such mariners, seafaring men, and others, our natural-born subjects, that no such letters of naturalization, or certificates of citizenship, do, or can, in any manner, divest our natural-born subjects of the allegiance, or in any degree alter the duty which they owe to us their lawful Sovereign. But, in consideration of the error into which such mariners and seafaring men as aforesaid may have been led, we do hereby publish and declare our free pardon to all such our subjects, who, repenting of the delusion under which they have acted, shall immediately, upon the knowledge of this our Royal Proclamation, withdraw themselves from foreign service, and return to their allegiance to us; and we do declare that all such subjects, who shall continue in the service of foreign States, in disregard and contempt of this our Royal Proclamation, will not only incur our just displeasure, but are liable to be proceeded against for such contempt, and shall be proceeded against accordingly; and we do hereby declare, that if any such masters of ships, pilots, mariners, seamen, shipwrights, or other seafaring men, (being our natural-born subjects,) shall be taken in any foreign service by the Algerines, or other Barbary Powers, and carried into slavery, they shall not be reclaimed by us as subjects of Great Britain.

And we do hereby notify, that all such our subjects as aforesaid, who have voluntarily entered, or shall enter, or voluntarily continue to serve on board of any ships of war belonging to any foreign State at enmity with us, are and will be guilty of high treason; and we do by this our Royal Proclamation declare, that they shall be punished with the utmost severity of the law.

Given at our Court at the Queen's Palace, the sixteenth day of October, one thousand eight hundred and seven, and in the forty-seventh year of our reign.

God save the King.

TRIPOLI—HAMET CARAMALLI.

[Reported to the House December 18, 1807.]

The committee to whom was referred the letter of William Eaton, communicating a memorial from Hamet Caramalli, ex-Bashaw of Tripoli, report:

That the memorial is dated "Syracuse, the 18th of February, 1807," in which the memorial states, that he has sacrificed all his means of support, and exposed his life in the service of the United States; that he is in exile at Syracuse, far from his family, and deprived of every convenience of life; that he had hoped to be recompensed by an equivalent to his usefulness and to his sacrifices; that the promises made to him admitted no suspicion that so much time would have elapsed, and that hope not yet realized. He complains of the delay in affording him relief, and appeals to the magnanimity of Congress to restore him to his family, and to grant him a competent support.

The committee having examined the subject, find the following to be a brief statement of the facts relative to the situation of the memorialist, and his claim to further remuneration from this Government.

The memorialist, Hamet Caramalli, being driven from the throne of Tripoli by his younger brother, the present reigning Bashaw; having made various unsuccessful efforts to regain it, and still meditating the recovery of his inheritance; in 1804, while the United States were prosecuting a war with that State, it was represented to the Executive that a co-operation with our forces was desirable to the ex-Bashaw; but, in order to enable him to carry on his operations with greater

effect, it would be necessary to furnish him with arms, ammunition, and some money.

Considering that concerted operations with him against the reigning Bashaw, who was then his as well as our common enemy, was justifiable, and might be productive of beneficial effects to both, without binding this Government to pursue the war any longer than to effect the objects for which it was commenced, the Executive authorized Commodore Barron, then proceeding with his squadron to the Mediterranean, to enter into such an understanding with the ex-Bashaw, if he should deem it useful to co-operate with him; and, in that case, to furnish him with arms, ammunition, and money, to a moderate extent.

It appears to the committee, that Commodore Barron perfectly understood his instructions, to go no further than to authorize a co-operation with the ex-Bashaw, leaving the agents of our Government at full liberty to conclude a peace with the Regency of Tripoli, whenever such terms should be offered by that Power, as our agent, authorized to negotiate a treaty and conclude such peace, should think proper to accept of, and the Commodore's letter to General Eaton, who joined the ex-Bashaw in his operations by land, appears to be conformable to that opinion of his powers.

That, when the ex-Bashaw, with the aid of General Eaton and a number of other Americans, and with the assistance of the arms and other supplies furnished by Commodore Barron, had recovered the city of Derne, and the possession of that province, from which he had formerly been driven, overtures of peace were made by the reigning Bashaw to our agent, Mr. Lear, and a peace concluded with that Regency.

That, in one of the articles of this treaty, it is stipulated that the Americans will use all the means in their power to persuade the ex-Bashaw to withdraw from the territory of the reigning Bashaw, but not employ force or improper means to effect it; and, in case he should withdraw himself as aforesaid, the reigning Bashaw engaged to deliver up to him his wife and children. It appears, however, to the committee, that the influence and resources of the ex-Bashaw were so small, although in possession of that province, that he himself considered it necessary to his own safety that he should withdraw; and, therefore, this circumstance can form no ground of a claim on this Government; and that the stipulation in the treaty, on the part of the reigning Bashaw, to deliver up his wife and children, in case he should so withdraw himself, was not in consequence of any previous engagement on the part of this Government to effect that object.

That the ex-Bashaw left Derne in June, and arrived at Syracuse in July, 1805, and that he still resides at that place, with a few of his followers or suite, which are said to be about twelve or fifteen in number.

That, from the 12th July, 1805, to the 12th May, 1807, he received from Mr. Dyson, navy agent, on an order issued by Commodore Rodgers, two hundred dollars per month, amounting to four thousand four hundred dollars; and that, in the month of May or June last, the further sum of two thousand four hundred dollars, appropriated by an act passed the 21st April, 1806, was also paid him, amounting in the whole to six thousand eight hundred dollars; by which it will be seen, that, at the date of his memorial he was receiving regularly two hundred dollars per month; and that, since its date, he has also received two thousand four hundred dollars.

That, although the wife and children of the ex-Bashaw were not delivered up on the 3d of June last, nor any provision made by the reigning Bashaw for his support, yet he had given assurances to the American Consul at Tripoli, that said wife and children would be delivered at any time a conveyance could be procured for them; and that expectations were entertained by the Consul that the ruling Bashaw would make some pecuniary arrangements for his brother and the other exiles.

From this view of the subject, although the United States are not under any obligation to support the ex-Bashaw, or to have given him what has already been bestowed, yet as an act of generosity on the part of Government towards an individual who may have rendered it services, and whose expectations may have been improperly raised in relation to the transaction which is the cause of the present application, the committee are of opinion that a sum, in addition to what has already been paid to him, should be placed in the power of the Executive, to be paid over, under his direction, to the ex-Bashaw; but with the understanding that he is not to expect any further pecuniary aid from this Government. The committee, therefore, submit the following resolution for the consideration of the House:

Resolved, That the sum of —— dollars be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid, under the direction of the President of the United States, to Hamet Caramalli, ex-Bashaw of Tripoli.

WASHINGTON CITY, *Nov.* 3, 1807.

SIR: I beg leave, through the medium of the Chair, to lay the enclosed communication before the Representatives of the United States in Congress.

I have the honor to be, very respectfully, &c.,
WILLIAM EATON.

The Hon. the SPEAKER
of the House of Representatives.

To the honorable the Senate and House of Representatives of the United States, in Congress assembled:

Since the adjournment of the first session of the ninth Congress, I have received, at different times, communications from Hamet Caramalli, ex-Bashaw of Tripoli, stating his distressed situation, and imploring relief from the beneficence of the United States; which communications have been transmitted to the proper department. I have the honor to offer, for the consideration of Congress, a translated copy of the last address from him, (the original in Italian is in the office of the Department of State,) which is evidently intended for the Representatives of the people of the United States, and is as follows:

SYRACUSE, *February* 18, 1807.

To their Most Serene Highnesses:

In the depth of my miseries, my only consolation has been the reliance I placed on the powerful support of a Republic so distinguished throughout the world for that justice which protects and sustains whoever confides himself to her patronage. This credulity resigned me wholly to her discretion. But I could never have thought that this my confidence should work out my individual destruction. I have sacrificed all my means, and exposed my life in the service of the United States. It was impossible for me to expect, by way of recompense, an exilement in Syracuse, far from my family, and deprived of every convenience of life. I hoped to be recompensed by an equivalent to my usefulness and to my sacrifices. The promises made to me admitted no suspicion that so much time should have elapsed and that hope not yet realized, or that I should not yet have found repose. Public ships of war have repeatedly returned hither, which had been bearers of my communications. Seeing myself nevertheless unnoticed, I suspect my letters have been miscarried; for it is impossible to persuade me—my circumstances and wants being known to them—that the United States would abandon me.

My situation does not enable me to take a long voyage for the purpose of making a personal representation of my deplorable condition. I hope this exalted Republic will not require this of me, in order to awaken their feelings to my just expressions of solicitude and concern for myself. It would be unjust to neglect my complaints, and severely felt by those who occasion them.

I have lost my family; I have lost my inheritance; my acquisitions and my fair prospects are lost also. I have indeed sacrificed my claim to the confidence of a faithful ally, [Elfi Bey,] whom I abandoned through my partiality to the Americans. I had no right to apprehend that my devotion and my complacency would overwhelm me in bottomless ruin.

To my own individual sufferings I ought to annex also those of my faithful people, whose attachment to me has involved in the same wretchedness—who suffer with me the same sequestration from their country, from their families, and from their property—all which they have left through violations of those whose duty it was to sustain them.

I will not, like the world, reproach the Representatives of the American nation with ingratitude. I rather implore their commiseration towards me—at least, so far as to restore to me my family, and to grant me a competence.

It is yet possible that, absent from my own country, I may become serviceable to the United States. My former subjects are ever ready to devote their lives to my service: mine with theirs I will hold ever ready to devote to that of this exalted Republic. And am, forever, most Serene Highnesses,

HAM. BASH. CARAMALLI,
Son of Ali Bashaw, &c.

Some expectations have been lately entertained by our Government, from the representations of Consul Davis, that provision would be made by the ruling Bashaw of Tripoli for the subsistence of his exiled brother. But, upon information directly from Syracuse, by George Dyson, Esquire, navy agent of the United States, now in this city, it is rendered *certain* that no relief can be relied on from that quarter; and *probable*, that whatever encouragement of this nature had been held out by the usurper, it had no other object than to betray his brother to destruction.

Having had myself the chief influence, as an agent of the United States, in drawing the ex-Bashaw from his situation in Upper Egypt; and having, in conformity to treaty arrangements, been instrumental in reconciling him to the unparalleled reverse of abandoning his flattering prospects; of relinquishing forever his hopes of recovering the kingdom wrested from him by treason, and now apparently within his grasp; and of receding from victory, like a prisoner, to a land of strangers;—having effected this by the assurances which I was authorized to make to him, that his wife and family should be restored to him, and that a manly respect to his future well being would be had by our country, it may not be deemed inconsistent with the dictates of commiseration towards the supplicant, nor with my duties of respect towards the honorable body to whom his supplications are addressed, if I indulge a remark on the occasion.

It is remarkable (for it is an incontestable truth) that, whether the claims of the ex-Bashaw go to the *justice* or the *generosity* of the United States, the use which was made of his services contributed much if not wholly influenced the overtures of peace on the part of the ruling Bashaw; for it was negotiated at a time when no coercion of our squadron then in the Mediterranean had as yet been attempted to be tried upon him, and when the infirmities of Commodore Barron placed such an experiment at an incalculable distance. That no serious impressions had from any quarter been made on the apprehensions of the enemy after the transfer of the squadron from Commodore Preble to Commodore Barron, except what were impressed by the capture and subjugation of his eastern province, the internal revolution of his kingdom, and the annihilation of his army through the influence and co-operation of Hamet Bashaw. That the United States alone enjoy the advantages resulting from those events, while the ex-Bashaw, as he has truly represented, reaps no other benefit from his confidence and his exertions than privation and exile, but a little better than captivity.

It cannot be contested that Hamet Bashaw has two fair claims on this nation—to be reinstated in a situation as eligible as that from which he has been drawn, and to have his family restored to

him: the former guarantied by honorable promises, the latter by the solemnity of treaty stipulation. And it is firmly believed the people of the United States are liberally disposed to see those obligations cancelled.

From a country blessed beyond the common lot of nations—rich in her means, and proud in the righteousness of her dispositions—does not honor, justice, and humanity, give the world a right to expect that the hand of charity at least will be opened to a friend whom, without his fault or free agency, and from causes so notorious, accident has thrown into misery so profound as this unfortunate Prince now suffers?

It ought not to be concealed from Congress, also, that there are at Malta and elsewhere sundry foreigners—Frenchmen, Greeks, and Mahometans—whose wounds received in the service of the United States, in the Province of Derne, render them incapable of acquiring a subsistence, and to whose cases no provisions made by law can be extended.

Most respectfully submitted.

WILLIAM EATON.

General Eaton to General Thomas.

SIR: My statement to the Speaker of the House of Representatives of February 20, 1804, and to the Secretary of the Navy of August, 1805, are fair indices to all our engagements with Hamet Caramalli, ex-Bashaw of Tripoli, and to the result of the measures concerted with him. Much document concerning this subject has been exhibited, both to the committee of the Senate and to that of the House of Representatives, who had it under consideration during the first session of the ninth Congress; to which recurrence may now be had for information.

The general instructions from the Secretary of the Navy of 1804–'5, to the Commander-in-Chief of the expedition, (Commodore Barron,) and the instructions of the Secretary of State of June 6, 1804, and April 20, 1805, to the Commissioner, (Mr. Lear,) show the views and expectations of Government, both in regard to the operations of the force provided for the Mediterranean, and to the terms on which peace might be concluded. It will appear, on examination, that in both Government have been disappointed. To those exhibits, and the comments of the committee of the Senate thereon, in their report, it seems nothing need be added to enable your committee to form a clear opinion on the subject referred to them.

The following copy of an order from Commodore Rodgers, and the statement annexed, show the provisions passed to the Bashaw since our having removed him from the Province of Derne, in his kingdom.

U. S. SHIP CONSTITUTION,
Syracuse, July 12, 1805.

SIR: For the subsistence of Hamet Bashaw, you will be pleased to pay him two hundred Spanish dollars per month, on account of the United States, giving him one month in advance.

This order to continue in force until the pleasure of the Government of the United States shall be made known to you through a regular channel; observing at the same time that on his leaving this island without my consent, you are to consider this obligation as no longer obliging you to make him any further advances on account of the United States.

I have the honor to be, sir, your obedient servant,

JOHN RODGERS.

GEORGE DYSON, Esq.,
U. S. Navy Agent, Syracuse.

WASHINGTON CITY, *Nov.* 12, 1807.

I certify the above to be a true copy from the original. GEORGE DYSON.

On the within order, Mr. Dyson paid him, up to the 12th of May, 1807, $4,400; and in the end of May or beginning of June of the same year, the further sum of $2,400, agreeably to special appropriation—amounting to $6,800.

The number of the Bashaw's suite, on arrival at Syracuse, was about forty, attached to his person. That number is reduced, by death or desertion, to about twelve or fifteen.

The moveable property, consisting of horses, camels, arms, and clothing, which he abandoned at Derne, did not exceed $50,000. But when drawn from Upper Egypt, he was at the head of the Mameluke Arabs, as General-in chief, in alliance with Elfi Bey. He cannot return thither.

The sum of $30,000 or $40,000 might be considered a generous provision for his future subsistence; but, to enable him to enjoy it he should be removed to some part of the Turkish dominions. Very respectfully, sir,

WILLIAM EATON.

Hon. D. THOMAS, *Chairman, &c.*

The Secretary of State to Mr. Thomas.

DEPARTMENT OF STATE, *Nov.* 11, 1807.

SIR: In answer to your letter of the 10th instant, making certain inquiries relative to the ex-Bashaw of Tripoli, I have the honor to observe, that the execution of the act of Congress appropriating $2,400 to his immediate relief having taken place through the Navy Department, the information requested on that point does not belong to this.

On the other points, I have to state that the wife and children of the ex-Bashaw had not been delivered up on the 3d of June last; but the reigning Bashaw had given assurances to the American Consul at Tripoli, that it would be done at any time when a conveyance should be procured for them; and expectations were entertained by the Consul that some pecuniary arrangement would also be made by the reigning Bashaw for the exiles; to what precise or probable amount is not explained.

I have the honor to be, with great respect, sir, your most obedient servant,

JAMES MADISON.

Hon. D. THOMAS, *Chairman, &c.*

The Secretary of the Navy to Mr. Thomas.

NAVY DEPARTMENT, *Nov.* 16, 1807.

SIR: I have had the honor of receiving your letter of the 13th instant.

The sum of $2,400 appropriated by act of Congress of 21st April, 1806, for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, was remitted to the officer commanding the naval forces in the Mediterranean, in June, 1806; and although the Navy Department does not possess any official information as to the fact of this money having been paid over to Hamet Caramalli, yet there exists good reason to presume that it was paid to him; that in May, 1807, $1,000, part of the $2,400, was paid to him, and that in June, 1807, the balance, viz: $1,400, was paid to him.

The commanding officer to whom the remittance was made has lately arrived in the country, and will shortly exhibit his accounts for settlement, when full information will be afforded upon the subject of these payments.

I have the honor to be, respectfully, sir, your obedient servant,

ROBERT SMITH.

Hon. D. THOMAS, *Chairman, &c.*

GREAT BRITAIN.

[Communicated to Congress, February 4, 1808.]

To the Senate and House of Representatives of the United States:

Having received an official communication of certain orders of the British Government against the maritime rights of neutrals, bearing date the 11th of November, 1807, I transmit them to Congress as a further proof of the increasing dangers to our navigation and commerce which led to the provident measure of the act of the present session laying an embargo on our own vessels.

TH. JEFFERSON.

FEBRUARY 2, 1808.

At the Court at the Queen's Palace, the 11th November, 1807; present, the King's Most Excellent Majesty in Council.

Whereas certain orders, establishing an unprecedented system of warfare against this kingdom, and aimed especially at the destruction of its commerce and resources, were, sometime since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with His Majesty's dominions:

And whereas by the same orders, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize."

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give effect to such orders:

And whereas His Majesty's order of the 7th of January last has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigor:

And whereas His Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power which the exertions and valor of this people have, under the blessing of Providence, enabled him to establish and maintain; and the maintenance of which is not more essential to the safety and prosperity of His Majesty's dominions, than it is to the protection of such States as still retain their independence, and to the general intercourse and happiness of mankind:

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe, from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner. And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries, or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries, or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries, or colonies, shall be captured, and condemned as prize to the captors.

But, although His Majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions with respect to all the countries and colonies of his enemies, without exception or qualification; yet, His Majesty, being nevertheless desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect His Majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice; and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply; and even to leave open, for the present, such trade with His Majesty's enemies as shall be carried on directly with the ports of His Majesty's dominions, or of his allies, in the manner hereinafter mentioned;

His Majesty is therefore pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation any vessel, or the cargo of any vessel, belonging to any country not declared by this order to be subjected to the restriction incident to

a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in His Majesty's colonies, under circumstances in which such trade from such free ports is permitted, direct to some port or place in the colonies of his Majesty's enemies, or from those colonies direct to the country to which such vessel belongs, or to some free port in His Majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall have cleared out from some port or place in this kingdom, or from Gibraltar or Malta, under such regulations as His Majesty may think fit to prescribe, or from any port belonging to His Majesty's allies, and shall be proceeding direct to the port specified in her clearance; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall be coming from any port or place in Europe which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to His Majesty, and which shall be on her voyage direct thereto; but these exceptions are not to be understood as exempting from capture or confiscation any vessel or goods which shall be liable thereto in respect of having entered or departed from any port or place actually blockaded by His Majesty's squadrons, or ships of war, or for being enemies' property, or for any other cause than the contravention of this present order.

And the commanders of his Majesty's ships of war and privateers, and other vessels acting under His Majesty's commission, shall be, and are hereby, instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with His Majesty, or to any port or place from which the British flag as aforesaid is excluded, or to any colony belonging to His Majesty's enemies, and which shall not have cleared out as is hereinbefore allowed, to discontinue her voyage, and to proceed to some port or place in this kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this His Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries, not engaged in the war, have acquiesced in the orders of France, prohibiting all trade in any articles the produce or manufacture of His Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons, styling themselves commercial agents of the enemy, resident at neutral ports, certain documents, termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of His Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it;

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this His Majesty's order at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to, or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf, any such document was put on board.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measure herein, as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807; present, the King's Most Excellent Majesty in Council.

Whereas articles of the growth and manufacture of foreign countries cannot by law be imported into this country, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an Order in Council specially authorizing the same:

His Majesty taking into consideration the Order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance, or at amity with His Majesty, may be permitted to import into this country articles of the produce or manufacture of countries at war with His Majesty:

His Majesty, by and with the advice of his Privy Council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandises, specified and included in the schedule of an act, passed in the forty-third year of his present Majesty's reign, entitled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place belonging to any State not at amity with His Majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the importation of the said goods, wares, or merchandise, in ships navigated according to law

and with respect to such of the said goods, wares, or merchandise, as are authorized to be warehoused under the provisions of an act, passed in the forty-third year of his present Majesty's reign, entitled "An act for permitting certain goods imported into Great Britain, to be secured in warehouses without payment of duty," subject to all the regulations of the said last-mentioned act; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered, that the same shall be reported for exportation to any country in amity or alliance with His Majesty.

And His Majesty is further pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United Kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or to any port at amity with His Majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, (which certificate the said collectors and comptrollers of the customs are hereby authorized and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid; and that they were permitted to sail from such port under the regulations which His Majesty has been pleased to establish in respect to such vessels. But in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar, or at Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to be specified in such clearance; and with respect to the last-mentioned articles, to export the same to such ports, and under such conditions and regulations only, as His Majesty, by any license to be granted for that purpose, may direct.

And the right honorable Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

Whereas the sale of ships by a belligerent to a neutral is considered by France to be illegal:

And whereas a great part of the shipping of France, and her allies, has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals:

And whereas it is fully justifiable to adopt the same rule, in this respect, towards the enemy, which is applied by the enemy to this country:

His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that, in future, the sale to a neutral, of any vessel belonging to His Majesty's enemies, shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel; and all vessels now belonging, or which shall hereafter belong to an enemy of His Majesty, notwithstanding any sale or pretended sale to a neutral, after a reasonable time shall have elapsed for receiving information of this His Majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretary of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

ALGIERS.

[Communicated to Congress on the 10th and 16th of February, 1808.]

To the Senate and House of Representatives of the United States:

I communicate to Congress, for their information, a letter from the person acting in the absence of our Consul at Naples, giving reason to believe, on the affidavit of a Captain Sheffield, of the American schooner Mary Ann, that the Dey of Algiers has commenced war against the United States. For this no just cause has been given on our part, within my knowledge. We may daily expect more authentic and particular information on the subject from Mr. Lear, who was residing as our Consul at Algiers.

TH. JEFFERSON.

FEBRUARY 9, 1808.

To the Senate and House of Representatives of the United States:

I communicate for the information of Congress, a letter from the Consul of the United States at

Malaga, to the Secretary of State, covering one from Mr. Lear, our Consul at Algiers, which gives information that the rupture threatened on the part of the Dey of Algiers has been amicably settled, and the vessels seized by him are liberated.

TH. JEFFERSON.

FEBRUARY 15, 1808.

NAPLES, *November* 9, 1807.

SIR: I have the honor to inform you that, from the report of Captain Ichabod Sheffield, of the schooner Mary Ann, of New York, arrived on the 4th instant in this port from America, it appears that an unexpected war has taken place between the Regency of Algiers and the United States. He has declared in this Consulate, upon oath, that, on the 26th ultimo, he fell in, within the Straits, with an Algerine frigate of forty-four guns, by which he was made a prize of, and which, without hardly any examination, took three men out of the said schooner, and ordered her into Algiers, under the charge of nine Turks, including a boy. He was in their possession until the 29th, when, being near the Barbary shore, he determined to endeavor to retake his vessel, in which he had the good fortune to succeed, having thrown four of the Turks overboard by surprise, secured four of the others, whom he embarked in a boat, and kept the boy, who is now on board. He, after that, shaped his course toward Italy, and came safe into our mole on the 4th aforesaid. Captain Sheffield has further declared that the brig Violet of Boston, loaded with Colonial produces for Leghorn, was also taken, within sight of him, by the said frigate; and that he had also heard that they had captured an American ship and schooner a few days before.

I mention, in haste, these circumstances to you, in order that you may make them known to what Americans are or may arrive in your port, and take such steps as you may deem most prudent for their safety.

I am, respectfully, your most obedient humble servant, in the absence, and by the authorization, of Frederick Degen, Esq., Consul of the United States.

J. B. DUCOSTER.

MARSEILLES, *Nov.* 21, 1807.

A true copy:

STEPHEN CATHALAN, Jr.

NOTE.—Captain Sheffield retook his vessel with three men and a boy.

STEPHEN CATHALAN, *Marseilles.*

MARSEILLES, *Nov.* 21, 1807.

SIR: I had the honor of addressing you on the 5th of last August, and the 14th ultimo.

This, under cover of William Lee, Esquire, our Consul at Bordeaux, is to remit you, here enclosed, a copy of a letter I just received from our Consul at Naples, dated the 9th instant, begging your reference to its unexpected contents.

I have already advised the American masters and citizens of the United States in my district, and am sending copies of the same to the Minister Plenipotentiary of the United States at Paris and several Consuls, in order that they may take proper steps for the safety of our merchant vessels and seamen.

In haste, I have the honor to be, with great respect, sir, your most obedient humble servant,

STEPHEN CATHALAN, Jr.

JAMES MADISON, Esq.

Extract of a letter from William Kirkpatrick, Consul of the United States at Malaga, to the Secretary of State, dated

JANUARY 8, 1808.

By my last letter of the 15th December, I enclosed copies of the information I had received from Barcelona and Marseilles, regarding the hostilities commenced on our commerce by the cruisers of the Dey of Algiers, and am now happy in having it in my power to transmit a copy of a letter I have just received from Colonel Lear, under date of December 16 and 17, with the pleasing information that he has succeeded in adjusting matters with the Dey, and that the vessels captured had been set at liberty, which I hasten to communicate to you, by a vessel on the departure for Calais.

From Tobias Lear to William Kirkpatrick, Esq.

ALGIERS, *December* 16, 1807.

SIR: You have undoubtedly before this heard that three American vessels had been detained by a frigate of this place in consequence of the annuities, for two years past, not having been sent from the United States in naval and military stores, as stipulated by treaty, notwithstanding the amount thereof has been repeatedly offered in cash.

These vessels are the ship Eagle of New York, Thater, master, from Bristol to Palermo; cargo, glass bottles; brig Violet of Boston, James Merrit master, from Oporto to Leghorn; cargo, sugar, hides, indigo, &c.; and schooner Mary Ann of New York, Ichabod Sheffield master, from the straits of Belle Isle to Leghorn; cargo, fish.

The two former have been in this port upwards of forty days. The schooner has not arrived, and is supposed to have made some other port. The people on board these vessels have been treated very well, and no pillage of any kind has been committed.

I have now the honor to inform you that I have adjusted this business with the Dey, who has received the amount of two years' annuities due, in cash, and the vessels are liberated, and that our commerce will receive no further molestation from the cruisers of this Regency.

I pray you will have the goodness to give this as much publicity as possible for the benefit of all concerned therein. I have the honor, &c.

TOBIAS LEAR.

WILLIAM KIRKPATRICK, Esq.,
Consul of the United States, Malaga.

DECEMBER 17, 1807.

P. S. We have this moment heard, by an arrival from Leghorn, that the schooner before mentioned has arrived in Naples, having been retaken by the captain, and part of the crew left on board, who threw overboard four of the captors, and put four others into the boat to shift for themselves.

I have myself received no advice of this, and on application to the Dey, who first sent me the information, he assures me that it shall not alter the arrangement made yesterday, and that our vessels may navigate without fear of molestation. At present all their cruisers are in port.

I have the honor, &c. T. L.

Please to forward a copy of this letter to the Secretary of State of the United States by the first opportunity.

A true copy: WM. KIRKPATRICK.

MALAGA, *January* 5, 1808.

The following report was made to the House of Representatives on the 25th of April, 1808, by the committee to whom the foregoing papers were referred:

The committee to whom was referred the Message of the President of the United States of the 9th and 15th of February relative to the rupture and amicable settlement with the Dey of Algiers, report: That they have received from the Secretary of State a letter touching the relations of the United States with that Regency, which they submit for the information and consideration of the House.

By order: JOSIAH QUINCY,
Chairman.

APRIL 25, 1808.

DEPARTMENT OF STATE,
Washington, April 12, 1808.

SIR: As the documents in this office did not enable me fully to answer the queries contained in the letters written by you as chairman of the committee "to whom were referred the Messages of the President of the United States of the 9th and 16th February, relative to the rupture and to the amicable settlement with the Dey of Algiers." I have delayed my reply to them, under the daily hope of receiving such communications from Colonel Lear, our Consul General at Algiers, as would enable me to give you the information you ask for; but, as yet, I have received none. As further delay, however, may be inconvenient to the committee, I have the honor to state that our payments to Algiers are of two kinds:

1. That stipulated by treaty, viz: twelve thousand sequins, equal to twenty-one thousand six hundred dollars, made annually in naval stores.

2. Those made in conformity with what is called *usage* at Algiers, by which it is understood we are bound. These are

1st. The present on the presentation of a Consul, $20,000.

2d. The biennial presents to the officers of that Government, estimated at $17,000.

3d. Incidental and contingent presents, as well on the promotion of the principal officers of the Dey and Regency as for the attainment of any important object. Of these no estimate can be made.

As these presents are made in cash, or in articles procured at Algiers for the occasion, and as Colonel Lear has been furnished with the means of making them, it is believed that they have been regularly made; but of this there is no positive information, as the accounts have not been received.

Various causes have occasionally delayed the payment of the annuity in naval stores. Some of these will readily suggest themselves to the committee. It may be proper here to state that the loss on the payment made in this way is from fifty to one hundred per cent., as the estimate of the stores is made by officers of the Algerine Government, without any reference to their cost. Hence our agent has been instructed to use his efforts to obtain the substitution of a cash payment for that of naval stores: and to enable him the more readily to do this, he had authority to draw either on our bankers in London, or on this department. Draughts, accordingly, to enable him to meet the arrangements he lately made at Algiers, have been received at this office; but owing to some cause unknown to me, no despatches from him on that subject have come to hand. We know only that the annuity due in March, 1806, was then paid, and something advanced on account of the annuity which would become due in March, 1807. To meet the payment of this annuity cannon had been purchased; but before they were shipped, it was understood that the present Dey would not have them, although they had been asked for by his predecessor. Hence it became necessary to order other articles in place of them. This was done last Summer, and the shipment would have been made but for the precarious state of our foreign relations, and a hope that Colonel Lear would be able to prevail on the Dey to receive money in lieu of naval stores.

I have the honor to be, very respectfully, sir, your most obedient servant,

JAMES MADISON.

Hon. JOSIAH QUINCY, Esq.

COMMITTEE ROOM, *Feb.* 13, 1808.

The committee to whom was referred the Message of the President of the United States of the 9th instant, relative to the war commenced against the United States by the Dey of Algiers, have instructed me to request that you would cause to be laid before them, the present state of the pecuniary stipulations of the United States with that Regency; the period to which they are known to have been fulfilled; the amount and nature of the remittances on account of such annual payments as are not yet known to be discharged; specifying the persons to whom, and the time when, such remittances were made.

The committee are also desirous of being in-

formed of the present state of the Dey's maritime force, so far as that information is in the possession of your department. I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

Hon. SECRETARY OF STATE.

COMMITTEE ROOM, *Feb.* 13, 1808.

SIR: The committee, to whom was referred the Message of the President of the United States, of the 9th instant, relative to the war commenced against the United States by the Dey of Algiers, have instructed me to request a statement of the maritime force, which will be sufficient to give effectual protection to the commerce of the United States in the Mediterranean sea, against the power of the Regency of Algiers.

The committee particularly solicit your opinion as to the number of vessels required; and the species best adapted for service in that sea and on the Algerine coast. They request an estimate of the annual expense of such vessels and of the appropriation requisite to prepare them for the service.

The committee are also desirous that any information in the possession of your department relative to the present state of the maritime force of that Regency may be communicated to them.

I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

Hon. SECRETARY OF THE NAVY.

DEPARTMENT OF STATE, *Feb.* 29, 1808.

SIR: May I be permitted to inquire whether the committee, of which you are the chairman, wish a report from this office in reply to your letter of the 13th instant. We had made some progress in it when the last information was received from Algiers, which led to a belief that it might not be wanted; it was in consequence laid aside to give place to some more urgent business; but if you wish it, it will be again taken up.

With sentiments of the highest respect, I have the honor to be, sir, your most obedient servant,

JOHN GRAHAM,
Chief Clerk Department of State.

Hon. JOSIAH QUINCY.

COMMITTEE ROOM, *March* 9, 1808.

SIR: In reply to your inquiry, contained in Mr. Graham's letter of the 29th ultimo, I am instructed by the committee, to whom were referred the Messages of the President of the United States of the 9th and 15th of February, relative to the rupture and to the amicable settlement with the Dey of Algiers, to state that, notwithstanding "the late information from Algiers," they are desirous of the statements requested in my former letter.

They have also instructed me to request that, in addition to the information sought by that letter, you would communicate the causes which occasioned the omission, for two years, of the payment of the annuities to the Dey; the amount of the offers of cash mentioned in Mr. Lear's letter to Mr. Kirkpatrick, and when they were made; the sum finally accepted by the Dey in lieu of the stipulated marine stores; when the remittances, which enabled Mr. Lear to make the cash payments, were made; whether the arrangements with the Dey as to the cash liquidation extend to future annuities; and what are the advantages accruing to the United States by payments in cash instead of maritime stores.

The committee are also desirous to be informed whether any legislative interposition be necessary to secure hereafter punctual performance of the treaty stipulations with that Regency.

I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

Hon. SECRETARY OF STATE.

[The following letters were communicated to Congress on the 8th November, 1808:]

ALGIERS, *March* 31, 1808.

SIR: A copy of what I had the honor of writing to you on the 28th instant, with its enclosures, accompanies this. The vessel which took the aforesaid letter did not sail until the 29th.

Yesterday I sent my dragoman to the palace to know from the Dey what were his ultimate intentions (if he chose to declare them) respecting the business mentioned in my last; and to request that I might be allowed three months to receive the orders of my Government. The answer he brought was, that if I paid the money in the course of the day we should stand as we were before; but if I did not, he should pursue his own measures. As I was yet uncertain whether his threats would be put in execution against me personally, or against our commerce, I remained fixed in my first resolution. This morning the two frigates, which had been preparing for some days past, made the signal for sailing; and as a formal message was sent to inform me that they had orders to capture American vessels, (the threats of personal violence to me having had no effect,) I thought it a duty which I owed to my Government and to my country, to prevent, if possible, the calamity which might fall on our citizens and their property, I therefore sent to inform the Dey, that if he should recall his orders from these vessels before they sailed, and make no renewal of them to these or others, I would pay the money; but that I considered it as a measure forced upon me, and as such should represent it to my Government. The order was recalled after the frigates had got under way; and the money is to be paid to-morrow; which I shall obtain by bills on John Gavino, Esq., our Consul in Gibraltar, to whom I shall give bills on the Secretary of State of the United States to meet the same. The frigates have gone out, and the other cruisers will be got ready for sea immediately. A vessel is expected to sail in a few days for Alicante, by which I shall write to our Consul, contravening the positive advices for our vessels not to leave the ports in which they may be; but, at the same time, directing them to be strictly on their guard.

I have this day had an opportunity of writing to Tripoli, (the first which has occurred for more than three months,) which I have improved; and by the same route to Tunis, giving information of what has passed.

Painful as has been my situation in this affair, I feel conscious of having discharged my duty to my country in the best, and indeed only manner in my power. While I could believe that the consequence of refusing to make this unjust payment would fall upon me personally, I was ready to meet it; but when I was convinced that my country would suffer in the persons and property of its citizens, I was obliged to yield.

My letters which accompany this contain all I have to say on our affairs here; and I shall only add the assurances of high respect, and sincere attachment with which I have the honor to be, sir, your most faithful and obedient servant,

TOBIAS LEAR.

Hon. JAMES MADISON,
Secretary of State.

Mr. Lear to the Secretary of State.

ALGIERS, *March* 28, 1808.

SIR: I have the honor to enclose triplicate of my respects to you of the 4th of January, and duplicate of that of the 9th instant, and schedule of my account with the United States. Since forwarding the first of these I have heard nothing respecting the United States, excepting by a letter from Mr. Montgomery, our Consul in Alicante, that an embargo had been laid on all vessels in the ports of the United States.

It is with regret, I have to inform you that our affairs wear a different aspect from what they did when I had last the honor of writing to you. On the 6th instant, the Dey sent me a message by my dragoman, that I should pay immediately sixteen thousand dollars for eight of the subjects of this Regency, said to have been destroyed on board the American schooner Mary Ann, captured some time since by one of his frigates, as mentioned in my former letters. I returned for answer that I had not yet received any authentic advice of this business, and could therefore say nothing about it. The Dey then sent me word he would wait the arival of the courier from Alicante, by which I might receive some information. But on the 24th (the courier not having yet arrived) the dragoman informed me that the Dey had sent for him and ordered him to tell me that if I did not pay the money before night I should be sent to prison in chains.

I ordered him to return immediately to the Dey, and say, that I could not pay the money without the order of my Government, as it was an affair out of the usual course of our business here, and that I was ready to meet the event. He brought me word that the Dey would see me the next noon on the subject. He accordingly sent for me at noon on the 25th.

When I entered the palace I met Mr. Ulrich, the Danish Consul, who was descending from an audience of the Dey. He was seized by a Chaux, who carried him through the streets in a most indignant manner, to the slave prison, where he was loaded with an enormous chain, the reason assigned for which was, that he had been called upon for his biennial presents, which he declared he could not make without having time given him, as the vessel containing it, and annuities for the Regency, had been taken by the English.

On meeting the Dey he demanded from me immediate payment for the prisoners before mentioned, together with an additional two thousand dollars for the boy said to have been carried in the schooner to Naples.

I told him with firmness that I could not pay it without the orders of my Government, as it was an extraordinary case, and requested time to write and receive an answer; but was answered, that if it was not paid immediately, I knew what the consequence would be; I replied, that let the consequence be what it might, I should not pay it. I was then ordered to leave his presence.

On descending to the area of the palace, where the Danish Consul had been seized, I expected the same compliment which he had met with, and was prepared for it; but finding no one to molest me, I left the palace and returned to my own house, where I supposed the orders would be sent to have me arrested; but the day passed without my hearing anything more of the matter. In the evening, I met the French and Swedish Consuls (the others being at their gardens) and we agreed to send for the other Consuls the following morning, to concert measures for the liberation of the Dane. At noon we met at the Danish Consul's house, with our respective dragomen, and proceeded to the palace, where we had an audience with the Dey, who, after some conversation agreed to release the Danish Consul from his chains, at the intercession made for him. From thence we went to the marine, where the Consul had been sent to work with the other slaves carrying a chain of forty pounds weight, to receive and conduct him to his house. While we were with the Dey on the business before mentioned, he asked me, in presence of the Consuls, if I did not intend to pay the money. I answered him as I had done the day before, to which he made the same reply; and I remain in daily expectation of experiencing the effects of this refusal, which is dictated by a sense of duty and a conviction that the honor of my country demands such conduct from me. I make no comments on the unpleasantness of my situation; my Government and my country will consider it, and do what is right respecting it.

As it is very likely that the cruisers which are now fitting out will have orders to capture American vessels, I have written to our Consul in Alicante by this opportunity, which is unexpected, and the only one likely to occur soon, to convey notice to all the Consuls of the United States in this sea, to guard our merchant vessels against the evil which may occur. A copy of my letter to him I have the honor to enclose. In consequence of the barbarous outrage which has been committed on the Danish Consul, and threatened to

be put in execution against me, the Consuls have been brought to reflect on their precarious situation here; and I trust that in a few days there will be a compact entered into among us, that we will use our best endeavors to enforce that article which exists in all the treaties between this Regency and Christian Powers, securing the person and family of the Consul from violence and outrage, in consequence of anything he may do in the exercise of his official functions. And I hope each one will bind himself not to do any act as a public agent, while any one is held in, or threatened with, durance vile.

Our respective Governments I trust will sanction such a measure, and give orders to their Consuls accordingly.

Notwithstanding all I have stated, it is possible that the Dey may not proceed to extremities towards me, or commit hostilities on our commerce and citizens, until I hear from my Government on the subject. But I have thought it my duty to guard as much as possible against the evil, by giving notice to our vessels which may be in this sea, as well as those in the Atlantic, for at present there is nothing to prevent their cruisers from passing the straits.

The camp is expected to march in a few days against Tunis, and their cruisers are said to be intended for that quarter; but there is no doubt but some of them will cruise in every part of this sea, and probably go into the Atlantic.

With sentiments of the highest respect, and most sincere attachment, I have the honor to be, sir, your most obedient servant.

TOBIAS LEAR,
U. S. Consul, Algiers.

Hon. JAMES MADISON,
Secretary of State.

GREAT BRITAIN.

[Communicated to Congress, March 22 and 30, 1808.]

To the Senate and House of Representatives of the United States:

At the opening of the present session I informed the Legislature that the measures which had been taken with the Government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part; that instructions had consequently been sent there to our Ministers to resume the negotiations, and to endeavor to obtain certain alterations, and that this was interrupted by the transaction which took place between the frigates Leopard and Chesapeake. The call on that Government for reparation of this wrong produced, as Congress has been already informed, the mission of a special Minister to this country, and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our Minister resident at London, and his communications with that Government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special Minister charged with the adjustment of that difference; the instructions to our Ministers for the formation of a treaty; their correspondence with the British commissioners, and with their own Government on that subject; the treaty itself, and written declaration of the British commissioners accompanying it; and the instructions given by us for resuming the negotiation, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State from one of our late Ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty, and of its several articles, may be fairly presented and understood.

Although I have heretofore, and from time to time, made such communications to Congress, as to keep them possessed of a general and just view of the proceedings and dispositions of the Government of France towards this country, yet, in our present critical situation, when we find that no conduct on our part, however impartial and friendly, has been sufficient to insure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers which, for these reasons, I now lay before you, embrace all the communications, official or verbal, from the French Government, respecting the general relations between the two countries, which have been transmitted through our Minister here, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had, from time to time, been given them. Some of these papers have already been submitted to Congress, but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th of February, I communicated to both Houses the letter of General Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence; but perceiving that this caution, proceeding purely from a regard to the public good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow-citizens, will more than countervail the ordinary objection to such publications; it is my wish, therefore, that it may be now published.

TH. JEFFERSON.

MARCH 22, 1808.

To the Senate and House of Representatives of the United States:

In a separate message of this date I have communicated to Congress so much as may be made public of papers which give a full view of the present state of our relations with the two contending Powers of France* and England. Every one must be sensible that in the details of instructions for negotiating a treaty, and in the correspondence and conferences respecting it, matters will occur which interest sometimes, and sometimes respect, or other proper motives, forbid to be made public. To reconcile my duty, in this particular, with my desire of letting Congress know everything which can give them a full understanding of the subjects on which they are to act, I have suppressed in the documents of the other Message the parts which ought not to be made public, and have given them in the supplementary and confidential papers herewith enclosed, with such references as that they may be read in their original places as if still standing in them; and when these confidential papers shall have been read to the satisfaction of the House, I request their return, and that their contents may not be made public. TH. JEFFERSON.

MARCH 22, 1808.

To the Senate and House of Representatives of the United States:

Since my Message of the 22d instant, letters have been received from our Ministers at Paris and London, extracts from which, with a letter to General Armstrong from the French Minister of Foreign Relations, and a letter from the British Envoy residing here to the Secretary of State, I now communicate to Congress. They add to the materials for estimating the dispositions of those Governments towards this country; the proceedings of both indicate designs of drawing us, if possible, into the vortex of their contests; but every new information confirms the prudence of guarding against these designs, as it does of adhering to the precautionary system hitherto contemplated.

TH. JEFFERSON.

MARCH 30, 1808.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *Jan.* 5.† 1804.

SIR: The information and observations which you have as yet received from me since your arrival in London, on the impressment of our seamen and other violations of our rights, have been in private letters only. The delay in making these injuries the subject of official communications proceeded, first, from an expectation that the British Government would have notified formally to the United States, as a neutral Power, the state of war between Great Britain and France, which would have been an apt occasion for combining with assurances of the fairness with which our neutral obligations would be fulfilled, our just claims on a correspondent respect for our neutral rights, and particularly of those which had been least respected during the last war: secondly, from the expected arrival of Mr. Merry, which, if he should not be charged with such a notification, might be a favorable opportunity for commencing the explanations and discussions which must precede a thorough correction of the wrongs which we experience.

Since the arrival of Mr. Merry, accordingly no time has been lost in calling his attention to the subject, and in preparing both it and him for the negotiation which is now to be committed to you. If appearances are to be trusted, his impressions and representations will be friendly to it. In my conversations with him, which have been free and full, he has expressed the best dispositions, has listened with candor to the appeals made, as well to the considerations of justice as of the solid interest of his nation; and, although he suggests serious difficulties on certain points, he will, I believe, sincerely co-operate in lessening them, and in bringing about an arrangement which will be acceptable to this country. The only topic on which anything has passed in writing between the Department of State and him, is that of the pretended blockade of St. Domingo. Copies of my letter to him, and of his answer, are herewith enclosed; as also of the letter written to Mr. Thornton, some time before, and referred to in that to Mr. Merry, in relation to a like blockade of Martinique and Guadaloupe.

Although there are many important objects which may be thought to invite conventional regulations between the United States and Great Britain, it is evidently proper to leave, for subsequent consideration, such as are less urgent in their nature, or more difficult in their adjustment, and thereby to render the way plainer and shorter to an agreement with respect to objects which cannot be much longer delayed without danger to the good understanding between the two nations. With this view, the plan of a convention contemplated by the President is limited to the cases of impressments of our seamen, of blockades, of visiting and searching our vessels, of contraband of war, and of the trade with hostile colonies, with a few other cases affecting our maritime rights; embracing, however, as inducements to Great Britain to do us justice therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies.

The plan digested for your use is subjoined. The first column contains the articles which are to be proposed in the first instance, and which are considered as within our just expectations; the second modifies the articles into the concessions which the British Government may possibly require, and which it may be expedient for us ultimately to admit.

*The documents relating to the negotiations with France, transmitted by this Message, and by the Message of the 30th March, will be found with those transmitted by the Message of November 8, 1808.

†Although an extract from this letter was communicated by the Message of January 17, 1806, the entire letter is now inserted.

A Convention between the United States and Great Britain.

FIRST PROPOSAL.	SECOND AND ULTIMATUM.
ARTICLE 1. No person whatever shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties by the public or private armed ships belonging to, or in the service of, the other, unless such person be at the time in the military service of an enemy of such other party.	ARTICLE 1. No seaman, seafaring, or other person shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships belonging to, or in the service of, the other party; and strict and effectual orders shall be given for the due observance of this engagement; but it is to be understood that this article shall not exempt any person on board the ships of either of the parties from being taken therefrom by the other party, in cases where they may be liable to be so taken according to the laws of nations, which liability, however, shall not be construed to extend in any case to seamen, or seafaring persons being actually part of the crew of the vessel in which they may be, nor to persons of any description passing from one port to another port of either of the parties.
ART. 2. The same.	ART. 2. No person being a subject or citizen of one of the parties, and resorting to, or residing in, the dominions of the other, shall in any case be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by an adequate recompense, to return to their own country.
ART. 3. The same.	ART. 3. If the ships of either of the parties shall be met with, sailing either along the coasts or on the high seas, by any ship of war, or other public or private armed ships of the other party, such ships of war, or other armed vessels, shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea, or the place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, her papers, or any person from on board to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her to the number of two or three men only, who may, in an orderly manner, make the necessary inquiries concerning the vessel and her cargo; and it is agreed that effectual provision shall be made for punishing violations of any part of this article.
ART. 4. The same.	ART. 4. Contraband of war shall consist of the following articles only: Saltpetre, sulphur, cuirasses, pikes, swords, sword belts, knapsacks, saddles and bridles, cannon, mortars, fire arms, pistols, bombs, grenades, bullets, firelocks, flints, matches, and gunpowder, excepting, however, the quantity of the said articles which may be necessary for the defence or use of the ship, and those who compose the crew; and no other articles whatever, not here enumerated, shall be reputed contraband, or liable to confiscation, but shall pass freely, without being subjected to the smallest difficulty, unless they be enemy's property; and it is to be particularly understood that under the denomination of enemy's property, is not to be comprised the merchandise of the growth, produce, or manufactures of the countries or dominions at war, which shall have been acquired by the citizens or subjects of the neutral Power, and shall be transported for their account; which merchandise cannot, in any case, or on any pretext, be excepted from the freedom of the neutral flag.
ART. 5. The same.	ART. 5. In all cases where prize courts of either party shall pronounce judgment against any vessel or property claimed by citizens or subjects of the other, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.
ART. 6. The same.	ART. 6. In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the Power which attacks it with ships stationary or sufficiently near, an evident danger in entering.
ART. 7. Omit the preamble.	ART. 7. [In consideration of the distance of the ports likely to be blockaded by either party, from the ports of the other party, and of other circumstances incident to their relative situations,] it is agreed that no vessel sailing from the ports of either shall, although cleared or bound to a blockaded port, be considered as violating in any manner the blockade, unless on her approach towards such port she shall have been previously warned against entering the same.
ART. 8. Omit "captains, officers."	ART. 8. It is agreed that no refuge or protection shall be afforded by either party to the "captains, officers," mariners, sailors, or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf: *Provided*, That proof be made within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person that the deserters so demanded were actually part of the crew of the vessels in question. And for the more effectual execution of this article, adequate provision shall be made, for causing to be arrested, on the application of the respective Consuls or Vice-Consuls to the competent authorities, all deserters as aforesaid, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, and all due aid and assistance shall be given in searching for, as well as in seizing and arresting the said deserters; who shall even be detained and kept in the prisons of the country, at the request and expense of the said Consuls or Vice-Consuls, until they shall have found an opportunity of sending them back, or removing them as aforesaid. But if they be not so sent back, or removed, within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.
ART. 9. Omit "officers or."	ART. 9. It is further agreed that no refuge or protection shall be afforded by either of the parties to any "officers or" soldiers, not found to be its own citizens or subjects, who shall desert from the military service of the other; but that, on the contrary, effectual measures shall be taken, in like manner, and under like regulations and conditions as with respect to sailors, for apprehending any such deserting soldiers, and delivering them to the commanding officers of the military posts, forts, or garrisons from which they shall have deserted, or to the Consuls or Vice-Consuls on either side, or to such persons as may be duly authorized to demand their restitution.
ART. 10. Omitted.	ART. 10. It is, however, understood that no stipulation herein made shall be construed to empower the civil or military officers of either of the parties to enter forcibly into any of the forts, garrisons, posts, or other places, or to use violence of any sort within the jurisdiction of the other party, or be construed in any manner to contravene or derogate from the stipulation contained in the first of the above articles, against demanding or

FIRST PROPOSAL.	SECOND AND ULTIMATUM.
	taking any persons out of vessels on the high seas, and without the jurisdiction of either of the parties.
ART. 11. The same.	ART. 11. Each party will prohibit its citizens or subjects from clandestinely carrying away from the territories or dominions of the other, any seamen or soldiers belonging to such other party.
ART. 12. The same.	ART. 12. Neither party shall permit any of the articles above enumerated as contraband of war to be cleared out from its ports to any place within the jurisdiction of an enemy of the other party; and, in order to enforce this regulation, due proof and security shall be given, that all such articles of contraband as may be exported from the ports of either of the parties, have been actually destined elsewhere than within the jurisdiction of an enemy of the other party.
ART. 13. The same.	ART. 13. This convention shall be in force for the term of eight years from the date of the exchange of ratifications. It shall be ratified on both sides within —— months from the day of its signature, or sooner if possible, and the ratifications exchanged, without delay, in the United States, at the city of Washington.

Observations on the preceding Plan.

The first article relates to impressments from American vessels on the high seas. The commanders of British armed vessels have, as is well known, been long in this practice. They have, indeed, not only continued it, under the sanction of their superiors, on the high seas, but have, with impunity, extended it to our own coasts, to neutral ports, and to neutral territory, and, in some instances, to our own harbors. The article does not comprehend these latter cases, because it would not be very honorable in Great Britain to stipulate against the practice of such enormities, nor in the United States to recur to stipulations as a security against it; and because it may be presumed that such particular enormities will not be repeated or unpunished, after a general stop shall have been put to impressments.

The article, in its first form, renounces the claim to take from the vessels of the neutral party on the high seas, any person whatever not in the military service of an enemy; an exception which we admit to come within the law of nations, on the subject of contraband of war.

With this exception, we consider a neutral flag on the high seas as a safeguard to those sailing under it. Great Britain, on the contrary, asserts a right to search for and seize her own subjects, and under that cover, as cannot but happen, are often seized and taken off citizens of the United States, and citizens or subjects of other neutral countries navigating the high seas under the protection of the American flag.

Were the right of Great Britain in this case not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise; but the right is denied, and on the best grounds.

Although Great Britain has not yet adopted in the same latitude with most other nations the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it by the law of nations. She must produce, then, such an exception in the law of nations in favor of the right she contends for. But in what written and received authority will she find it? In what usage, except her own, will it be found? She will find in both that a neutral vessel does not protect certain objects denominated contraband of war, (including enemies serving in the war,) nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemy's property of any kind. But nowhere will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person, not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any Sovereign to enforce his claims to the allegiance of his subjects on board neutral vessels on the high seas; on the contrary, whenever a belligerent claim against persons on board neutral vessels is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not, then, from the law or the usage of nations, nor from the tenor of treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended that the sovereignty of any nation extends, in any case whatever, beyond its own dominions, and its own vessels on the high seas; such a doctrine would give just alarm to all nations, and, more than anything, would countenance the imputation of aspiring to a universal empire of the seas. It would be the less admissible, too, as it would be applicable to times of peace as well as to times of war, and to property as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If

the reason alleged for it be good in time of war, namely, that the Sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occasion for which he may want their services, nor is external danger the only danger against which their services may be required for his security. Again: If the authority of a municipal law can operate on persons in foreign vessels on the high seas, because, within the dominion of their Sovereign they would be subject to that law, and are violating that law by being in that situation, how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported? And thus every commercial regulation, in time of peace, too, as well as of war, would be made obligatory on foreigners and their vessels, not only whilst within the dominion of the Sovereign making the regulation, but in every sea, and at every distance, where an armed vessel might meet with them. Another inference deserves attention: If the subjects of one Sovereign may be taken by force from the vessels of another on the high seas, the right of taking them when found implies the right of searching for them—a vexation of commerce, especially in time of peace, which has not yet been attempted, and which, for that as well as other reasons, may be regarded as contradicting the principle from which it would flow.

Taking reason and justice for the tests of this practice, it is peculiarly indefensible, because it deprives the dearest rights of persons of a regular trial, to which the most inconsiderable article of property captured on the high seas is entitled, and leaves their destiny to the will of an officer, sometimes cruel, often ignorant, and generally interested, by his want of mariners, in his own decisions. Whenever property found in a neutral vessel is supposed to be liable on any grounds to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable, then, or just, that a belligerent commander, who is thus restricted and thus responsible in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel to decide the important question of their respective allegiances, and to carry that decision into instant execution, by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers? Reason, justice, and humanity, unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is, that the similarity of language and of features between American citizens and British subjects are such as not easily to be distinguished; and that, without this arbitrary and summary authority to make the distinction, British subjects would escape, under the name of American citizens, from the duty which they owe to their Sovereign. Is, then, the difficulty of distinguishing a mariner of one country from the mariner of the other, and the importance of his services, a good plea for referring the question, whether he belongs to the one or the other, to an arbitrary decision on the spot, by an interested and irresponsible officer? In all other cases, the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object, is to admit that the object is unjustifiable; since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die when viewed in its practice as well as its principles. Were it allowable that British subjects should be taken out of American vessels on the high seas, it might at least be required that the proof of their allegiance should lie on the British side. This obvious and just rule is, however, reversed; and every seaman on board, though going from an American port, and sailing under the American flag, and sometimes even speaking an idiom proving him not to be a British subject, is presumed to be such, unless shown to be an American citizen. It may safely be affirmed that this is an outrage and an indignity which has no precedent, and which Great Britain would be among the last nations in the world to suffer, if offered to her own subjects and her own flag. Nor is it always against the right presumption alone, which is in favor of the citizenship corresponding with the flag, that the violence is committed. Not unfrequently it takes place in defiance of the most positive proof, certified in due form by an American officer. Let it not be said that, in granting to American seamen this protection for their rights, as such, the point is yielded; that the proof lies on the American side; and that the want of it in the prescribed form justifies the inference that the seaman is not of American allegiance. It is distinctly to be understood that the certificate, usually called a protection, to American seamen, is not meant to protect them under their own, or even any other neutral flag on the high seas. We can never admit that, in such a situation, any other protection is required for them than the neutral flag itself on the high seas. The document is given to prove their real character, in situations to which neither the law of nations, nor the law of their own country, is applicable; in other words, to protect them within the jurisdiction of the British laws, and to secure to them within every other jurisdiction the rights and immunities due to them. If, in the course of their navigation, even on the high seas, the document should have the effect of repelling wrongs of any sort, it is an incidental advantage only of which they avail them-

selves, and is by no means to be misconstrued into a right to exact such a proof, or to make any disadvantageous inference from the want of it.

Were it even admitted that certificates for protection might be justly required in time of war from American seamen, they could only be required in cases where the lapse of time, from its commencement, had given an opportunity for the American seamen to provide themselves with such a document. Yet it is certain, that, in a variety of instances, seamen have been impressed from American vessels, on the plea that they had not this proof of citizenship, when the dates and places of impressments demonstrated the impossibility of their knowing, in time to provide the proof, that a state of war had rendered it necessary.

Whether, therefore, we consult the law of nations, the tenor of treaties, or the dictates of reason and justice, no warrant, no pretext can be found for the British practice of making impressments from American vessels on the high seas.

Great Britain has the less to say in excuse for this practice, as it is in direct contradiction to the principles on which she proceeds in other cases. Whilst she claims and seizes on the high seas her own subjects voluntarily serving in American vessels, she has constantly given, when she could give, as a reason for not discharging from her service American citizens, that they had voluntarily engaged in it. Nay, more, whilst she impresses her own subjects from the American service, although they may have been settled and married, and even naturalized in the United States, she constantly refuses to release from hers American citizens impressed into it, whenever she can give for a reason that they were either settled or married within her own dominions. Thus, when the voluntary consent of the individual favors her pretensions, she pleads the validity of that consent. When the voluntary consent of the individual stands in the way of her pretensions, it goes for nothing! When marriage or residence can be pleaded in her favor, she avails herself of the plea. When marriage and residence, and even naturalization, are against her, no respect whatever is paid for either! She takes by force her own subject voluntarily serving in our vessels. She keeps by force American citizens involuntarily serving in hers! More flagrant inconsistencies cannot be imagined.

Notwithstanding the powerful motives which ought to be felt by the British Government to relinquish a practice which exposes it to so many reproaches, if is foreseen that objections of different sorts will be pressed on you. You will be told first, of the great numbers of British seamen in the American trade, and of the necessity for their services in time of war and danger. Secondly, of the right and prejudice of the British nation, with respect to what are called the British or narrow seas, where its domain would be abandoned by the general stipulation required. Thirdly, of the use which would be made of such a sanctuary as that of American vessels, for desertions, and traitorous communications to her enemies, especially across the channel to France.

1st. With respect to the British seamen serving in our trade, it may be remarked, first, that the number, though considerable, is probably less than may be supposed. Secondly, that what is wrong in itself cannot be made right by considerations of expediency or advantage. Thirdly, that it is proved by the fact, that the number of real British subjects gained by the practice in question, is of inconsiderable importance even in the scale of advantage. The annexed report of Congress on the subject of impressments, with the addition of such cases as may be in the hands of Mr. Erving, will verify the remark in its application to the present war. The statement made by his predecessor during the last war, and which is also annexed, is in the same view still more conclusive. The statement comprehends not only all the applications made by him in the first instance, for the liberation of impressed seamen, between the month of June, 1797, and September, 1801, but many also which have been made previous to this agency, by Mr. Pinckney and Mr. King, and which it was necessary for him to renew. These applications, therefore, may fairly be considered as embracing the greatest part of the period of the war; and as applications are known to be pretty indiscriminately made, they may further be considered as embracing, if not the whole the far greater part of the impressments, those of British subjects as well as others. Yet the result exhibits two thousand and fifty-nine cases only, and of this number one hundred and two seamen only detained as being British subjects, which is less than one-twentieth of the number impressed, and one thousand one hundred and forty-two discharged, or ordered to be so, as not being British subjects, which is more than half of the whole number, leaving eight hundred and five for further proof, with the strongest presumption that the greater part, if not the whole, were Americans or other aliens, whose proof of citizenship had been lost or destroyed, or whose situation would account for the difficulties and delays in producing it. So that it is certain, that for all the British seamen gained by this violent proceeding, more than an equal number who were not so were the victims; it is highly probable that for every British seaman so gained, a number of others, not less than ten for one, must have been the victims, and it is even possible that this number may have exceeded the proportion of twenty to one.

It cannot, therefore, be doubted, that the acquisition of British seamen, by these impressments, whatever may be its advantage, is lost in the wrong done to Americans ignorantly or wilfully mistaken for British subjects, in the jealousy and ill-will excited among all maritime nations by an adherence to such a practice, and in the particular provocation to measure of redress on the part of the United States, not less disagreeable to them than embarrassing to Great Britain, and which may threaten the good understanding which ought to be faithfully cultivated by both. The copy of a bill brought into Congress, under the influence of violations committed on our flag, gives force to this latter consideration. Whether it will pass into a law, and at the present session, is more than can yet be said. As there is every reason to believe that it has been proposed with reluctance, it will probably not be pursued into effect, if any hope can be supported of a remedy, by an amicable arrangement between the two nations. But such is the feeling through this country, produced by the reiterated and atrocious cases of impressments and other insults on our flag, that a remedy of some kind will ere long be called for in a tone not to be disregarded. A copy of the bill referred to is herewith enclosed.

There is a further consideration which ought to have weight in this question. Although the British seamen employed in carrying on American commerce be, in some respects, lost to their own nation, yet such is the intimate and extensive connexion of this commerce, direct and circuitous, with the commerce, and manufactures, the revenue, and the general resources of the British nation, that in other respects its mariners, on board American vessels, may truly be said to be rendering it the most valuable services. It would not be extravagant to make it a question, whether Great Britain would not suffer more by withdrawing her seamen from the merchant vessels of the United States, than her enemies would suffer from the addition of them to the crews of her ships of war and cruisers.

Should any difficulty be started concerning seamen born within the British dominions, and naturalized by the United States since the treaty of 1793, you may remove it by observing: First, that very few, if any, such naturalizations can take place, the law here requiring a preparatory residence of five years, with notice of the intention to become a citizen, entered of record two years before the last necessary formality, besides a regular proof of good moral character, conditions but little likely to be complied with by ordinary seafaring persons. Secondly, that a discontinuance of impressments on the high seas will preclude an actual collision between the interfering claims. Within the jurisdiction of each nation, and in their respective vessels on the high seas, each will enforce the allegiance which it claims. In other situations, the individuals doubly claimed will be within a jurisdiction independent of both nations.

2d. The British pretensions to domain over the narrow seas are so obsolete, and so indefensible, that they never would have occurred as a probable objection in this case, if they had not actually frustrated an arrangement settled by Mr. King, with the British Ministry, on the subject of impressments from American vessels on the high seas. At the moment when the articles were expected to be signed, an exception of the "narrow seas" was urged and insisted on by Lord St. Vincent; and being utterly inadmissible, on our part, the negotiation was abandoned. Mr. King seems to be of opinion, however, that, with more time than was left him for the experiment, the objection might have been overcome. This is not improbable, if the objection was not merely an expedient for evading a relinquishment of a favorite practice.

The objection, in itself, has certainly not the slightest foundation. The time has been, indeed, when England not only claimed but exercised pretensions scarcely inferior to full sovereignty over the seas surrounding the British isles, and even as far as Cape Finisterre to the South, and Vanstaten, in Norway, to the North. It was a time, however, when reason, had but little share in determining the law and the intercourse of nations; when power alone decided questions of right, and when the ignorance and want of concert among other maritime countries faciliated such an usurpation. The progress of civilization and information has produced a change in all these respects; and no principle in the code of public law is at present better established than the common freedom of the seas beyond a very limited distance from the territories washed by them. This distance is not, indeed, fixed with absolute precision. It is varied in a small degree by written authorities, and perhaps it may be reasonably varied, in some degree, by local peculiarities: but the greatest distance which would now be listened to anywhere, would make a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great Britain over these seas? If they were really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors or rivers of the country. Nothing of this sort is pretended. Nothing of this sort would be tolerated. The only instances in which these seas are distinguished from other seas, or in which Great Britain enjoys within them any distinction over other nations, are, first, the compliment paid by other flags to hers; secondly, the extension of her territorial jurisdiction, in certain cases, to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however, even at the expense of bloody wars, and is still borne with ill-will and impatience by her neighbors. At the last Treaty of Peace at Amiens, the abolition of it was repeatedly and strongly pressed by France; and it is not improbable that, at no remote day, it will follow the fate of the title of "King of France," so long worn by the British monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage and long acquiescence, which are construed, as in a few other cases of maritime claims, into the effect of a general, though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This, too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and

the peculiar interest which Great Britain has in preventing a practice affecting so deeply her whole system of revenue, commerce, and manufactures: while the limitation itself to four leagues necessarily implies that beyond that distance no territorial jurisdiction is assumed.

But, whatever may be the origin or the value of these prerogatives over foreign flags in one case, and within a limited portion of these seas in another, it is obvious that neither of them will be violated by the exemption of American vessels from impressments, which are nowise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of Parliament, passed in the year 1736. (9 G. II. c. 35) the terms of which comprehend all vessels, foreign as well as British. It is possible, however, that the former are constructively excepted. Should your inquiries ascertain this to be the case, you will find yourself on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1783 this compliment was peremptorily withheld by France, in spite of the remonstrances of Great Britain; and it remains for your inquiry whether it did not continue to be refused, notwithstanding the failure at Amiens to obtain from Great Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect that the exception of the narrow seas, from the stipulations against impressments, will not be inflexibly maintained. Should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade, direct and circuitous, passes through those channels, and such is its peculiar exposure in them to the wrong practised, that, with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy by confirming a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

3d. It appears, as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility which would be given, particularly in the British channel, by the immunity claimed for American vessels, to the escape of traitors, and the desertion of others, whose services in the time of war may be particularly important to an enemy, forms one of the pleas for the British practice of examining American crews, and will be one of the objections to a formal relinquishment of it.

This plea, like all others, admits a solid and satisfactory reply. In the first place, if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a hostile country only, whereas the practice of impressing is applied to persons, few, if any of whom are alleged to be of either description, and to vessels whithersoever bound, even to Great Britain herself. In the next place, it is not only a preference of a small object on one side to a greater object on the other, but a sacrifice of right on one side to expediency on the other side.

Considering, nevertheless, the possible adherence of the British Government to this last objection, and the extreme importance to our seafaring citizens and commerce, of a stipulation suppressing a practice flagrant in its nature, and still more so in the abuses inseparable from it, you are left at liberty to concur, if necessary, in the modification as it stands in the second column. You will observe that this guards, in all cases, the crews of our vessels from being meddled with, and, in referring for an exception to the immunity on board our vessels to the law of nations, yields no principle maintained by the United States; inasmuch as the reference will be satisfied by the acknowledged exception of enemies in military service. Should persons, therefore, other than such, be taken, under pretext of the law of nations, the United States will be free to contest the proceeding; and there is the less difficulty in leaving the stipulation on this footing, as the case may never happen, and will be pretty sure to happen but rarely. You will observe, also, that, in the passage from one port to another of the respective countries, the vessels of the neutral parties are to protect all persons without exception. Independently of the general principle asserted by the United States, this respect is due to the peculiar character of the coasting trade, and the utter improbability that it will, at any time, be a vehicle to persons of any obnoxious description.

On Article II. The reasonableness of this article is manifest. Citizens or subjects of one country residing in another, though bound by their temporary allegiance to many common duties, cannever be rightfully forced into military service, particularly external service, nor be restrained from leaving their residence when they please. The law of nations protects them against both, and the violation of this law by the avowed impressment of American citizens residing in Great Britain may be pressed with the greater force on the British Government, as it is in direct inconsistency with her impressment of her own subjects bound by much stronger ties to the United States, as above explained, as well as with the spirit of her commercial laws and policy, by which foreigners are invited to a residence. The liberation of the persons comprehended by this article, therefore, cannot be justly or honorably refused, and the provision for their recompense and their return home is equally due to the service rendered by, and the wrong done to them.

On Article III. This regulation is conformable to the law of nations, and to the tenor of all treaties, which define the belligerent claim of visiting and searching neutral vessels. No treaty can be cited, in which the practice of compelling the neutral vessel to send its boat, its officers, its people, or its papers, to the belligerent vessel, is authorized. British treaties, as well as those to which she is not a party, in every instance where a regulation of the claim is undertaken, coincide with the article here proposed. The article is in fact almost a transcript of the —— article of the treaty of 1786 between Great Britain and France.

The regulation is founded in the best reasons. 1st. It is sufficient for the neutral that he acquiesces in the interruption of his voyage, and the trouble of the examination, imposed by the belligerent commander. To require a positive and active co-operation on his part in behalf of the latter, is more than can be justified on any principle. 2d. The belligerent party can always send more conveniently to the neutral vessel, than this can send to the belligerent vessel, having neither such fit boats for the purpose, especially in a rough sea, nor being so abundantly manned. 3d. This last consideration is enforced by the numerous and cruel abuses committed in the practice of requiring the neutral vessel to send to the belligerent. As an example, you will find in the documents now transmitted a case where neither the smallness and leakiness of the boat, nor the boisterous state of the weather, nor the pathetic remonstrances of the neutral commander, had any effect on the imperious injunctions of the belligerent, and where the task was performed at the manifest peril of the boat, the papers, and the lives of the people. The limitation of the number to be sent on board the neutral vessel is a reasonable and usual precaution against the danger of insult and pillage.

On Article IV. This enumeration of contraband articles is copied from the treaty of 1791, between Great Britain and Russia. It is sufficiently limited, and that treaty is an authority more likely than any other to be respected by the British Government. The sequel of the article, which protects the productions of a hostile colony converted into neutral property, is taken from the same model, with the addition of the terms, "in any case or on any pretext." This addition is meant to embrace more explicitly our right to trade freely with the colonies at war with Great Britain, and between them and all parts of the world, in colonial productions, being at the time not enemy's but neutral property; a trade equally legitimate in itself with that between neutral countries directly, and in their respective vessels, and such colonies, which her regulations do not contest.

In support of this right, in opposition to the British doctrine, that a trade not allowed by a nation in time of peace cannot be opened to neutrals in time of war, it may be urged, that all nations are in the practice of varying more or less, in time of war, their commercial laws, from the state of these laws in time of peace; a practice agreeable to reason, as well as favorable to neutral nations; that the change may be made in time of war, on considerations not incident to a state of war, but on such as are known to have the same effect in time of peace; that Great Britain herself is in the regular practice of changing her navigation and commercial laws, in times of war, particularly in relation to a neutral intercourse with her colonies; that at this time she admits a trade between neutral countries and the colonies of her enemies, when carried on directly between them, or between the former and herself, interrupting only a direct trade between such colonies and their parent State, and between them and countries in Europe, other than those to which the neutral trade may respectively belong; that as she does not contest the right of neutrals to trade with hostile colonies, within these limitations, the trade can be, and actually is, carried on indirectly between such colonies and all countries, even those to which the colonies belong: and, consequently, that the effect of her doctrine and her practice is not to deprive her enemy of their colonial trade, but merely to lessen the value of it in proportion to the charges incident to the curious course into which it is forced, an advantage to her which, if just in itself, would not be sufficient to balance the impolitic vexations accruing to neutral and friendly nations.

These views of the subject have entered into my conversations with Mr. Merry. He expresses, notwithstanding, a belief that Great Britain will turn an unfavorable ear to any proposition calculated to give her enemies the resources of their colonial trade, beyond the degree in which her present regulations permit. This is doubtless to be apprehended, but considering the proposition as an article which may find a balance in the general bargain, it may not be inadmissible; or if inadmissible in the extent proposed, a middle ground may perhaps be accepted. The colonial trade in question consists of four branches; first, between the colonies and Great Britain herself; secondly, between the colonies and the neutral countries carrying on the trade; thirdly, between the colonies and neutral countries not themselves carrying on the trade; fourthly, between the colonies and the countries to which they belong, or which are parties to the war with Great Britain.

The first and second branches are those with which her own regulations accord. The last is that to which her aversion will of course be the strongest. Should this aversion be unconquerable, let it be tried then, and then only, whether, on our yielding, or rather omitting that point, she will not yield to us, in return, the direct trade between hostile colonies and neutral countries generally. You will be careful, however, so to modify the compromise as will mark as little as may be a positive relinquishment of the direct trade between the belligerent nations and their colonies.

Should such a compromise be altogether rejected, you will limit the article to the simple enumeration of contraband, it being desirable that, without a very valuable consideration, no precedent should be given by the United States of a stipulated acknowledgment that free ships do not make free goods. And you will omit the article altogether, if a proper list of contraband cannot be

agreed on, particularly one that excludes money, provisions, and naval stores.

On Article V. This article, taken from the convention of 1800 between the United States and France, is conformable to the general practice of the prize courts in the latter, and is the more worthy of adoption every where, as it would contribute so much to the consistency and stability of the rules of admiralty proceedings. Without a single objection justly lying against it, it will have the important advantages of being a check on the inferior tribunals, of enabling the superior tribunal, where a faulty reason appears on the face of the sentence, to correct the wrong without delay or expense, and of being a check moreover on the decision of the superior tribunal itself. As prize causes also are tried by courts not of a third party, but of one of the parties interested, it is but reasonable that the ground should be known to the other, on which judgment has passed against its citizens or subjects, in order, if deemed proper, that negotiation may be employed for redressing past, or of guarding against future, injustice.

On Article VI. The fictitious blockades proclaimed by Great Britain, and made the pretext for violating the commerce of neutral nations, has been one of the greatest abuses ever committed on the high seas. During the late war they were carried to an extravagance, which would have been ridiculous, if in their effects they had not inflicted such serious and extensive injuries on neutral nations. Ports were proclaimed in a state of blockade, previous to the arrival of any force at them, were considered in that state without regard to intermissions in the presence of the blockading force, and the proclamations left in operation after its final departure; the British cruisers during the whole time seizing every vessel bound to such ports, at whatever distance from them, and the British prize courts pronouncing condemnations wherever a knowledge of the proclamation at the time of sailing could be presumed, although it might afterwards be known that no real blockade existed. The whole scene was a perfect mockery, in which fact was sacrificed to form and right to power and plunder. The United States were among the greatest sufferers; and would have been still more so, if redress for some of the spoliations proceeding from this source had not fallen within the provisions of an article in the Treaty of 1794.

From the effect of this and other arbitrary practices of Great Britain on the temper and policy of neutral nations towards her; from the spirit of her treaty made near the close of the late war with Russia; from the general disposition manifested at the beginning of the present towards the United States, and the comparative moderation observed in Europe with respect to blockades, (if indeed the two cases of the Weser and Elbe are not to be excepted,) it was hoped that the mockeries and mischiefs practised under the name of blockades would no where be repeated. It is found, however, the West Indies are again the theatre of them. The three entire and extensive islands of Martinique, Guadaloupe, and St. Domingo, have been published as in a state of blockade, although the whole naval force applied to the purpose is inconsiderable; although it appears that a part of this inconsiderable force is occasionally seen at the distance of many leagues at sea; although it does not appear that more than one or two ports at the most have at any time been actually blockaded; and although complaints are heard, that the British ships of war do not protect their own trade against the numerous cruisers from the islands under this pretended blockade.

Enclosed herewith are three letters on this subject; two from me, the first to Mr. Thornton, the second to Mr. Merry, and the third from Mr. Merry to me. You will observe that he does not pretend to justify the measure pursued in the West Indies; but, on the contrary, wishes them to be regarded as proceeding from an officer who does not pursue the intentions of his Government. Still such measures prove that no general regulations or orders have been yet issued by that Government against the evil, as might reasonably have been expected, and that a stipulated security against it is an object as important as it is just.

In the two letters to Mr Thornton and Mr. Merry the ground is marked out, on which you will be able to combat the false blockades, and to maintain the definition of a real one, contained in the proposed article, which is a literal copy from the fourth article of the Russian Treaty above cited. In addition to these letters, you will find enclosed a letter of the —— of —— to Mr. Pinkney, in which some views are taken of the subject, which may also be of use in your discussions with the British Government.

On Article VII. This article is due, if not to all neutrals, at least to the United States, who are distinguished by the distance of their situation. Decisions of the British Court of Admiralty have so far respected this peculiarity as to admit a want of information as a plea for going to a blockaded port, where such a plea would be refused to less remote countries. But more than this may be claimed. A vessel knowing that a particular blockade existed two months before, may well conjecture that before her arrival at the port, which will require two months more, the blockade will have ceased; and may accordingly clear and steer for such port with an honest intention, in case of finding, on her approach, the fact otherwise, not to attempt an unlawful entrance. To condemn vessels under such circumstances would be manifestly unjust, and to restrain them from a distant voyage, to a port once in a state of blockade, until information of a change shall have travelled a like distance, must produce a delay and uncertainty little short of an absolute prohibition of the commerce. To require them even to go out of their course to seek at other ports information on the subject would be an unreasonable imposition. The British Government can have little objection to this article, after defining blockades as is agreed with Russia, and as is here proposed; since our distance is of itself a security against any concert with the blockaded for surreptitious entries, which might be attempted by nearer adventurers; and since in the case of blockades, by a force actually present, a preliminary notice may be required without impairing their efficacy, as might be the case with blockades, such as the preceding article guards against.

The only difference between the articles as standing in the different columns, consists in the preamble to that which is to be admitted, if the proposition of the other should not succeed. The article is preferable without the recital of any reason particular to the United States, because as a naked stipulation, it strengthens instead of weakening a general principle friendly to neutral and pacific nations.

On Articles VIII, IX, and X. These are articles which are known to have been long wished and contemplated on the part of Great Britain, and together with the justice and in many views the expediency to Great Britain herself of the articles desired on our part, may induce her to accede to the whole. The articles are in substance the same with a project offered to the American Administration in the year 1800, by Mr. Liston, who appears to have borrowed it from corresponding stipulations in the convention between the United States and France in the year ——. The project was at that time dropped, owing, perhaps, in part to the change in the head of the Department of State, between whom and Mr. Liston it had been discussed, and principally to the difficulty of combining with it proper stipulations against British impressments on the high seas. Without such an equivalent, the project had little to recommend it to the United States. Considered by itself, it was, too, the less admissible, as one of its articles, under some obscurity of expression, was thought to favor the British pretension to impress British seamen from American vessels on the high seas.

A copy of this document is enclosed, as it may be not without use in showing the ideas of the British Government at that time, so far at least as its Minister here was an organ of them.

The terms in which these articles are to be proposed, differ but slightly from those in which they may be admitted. In the former the delivery of deserters is confined to soldiers and seamen, without requiring a delivery of officers, whose desertion will not be from the service of their country, but on account of offences for which it might sometimes be more agreeable to the United States to be unbound to give them up for trial and punishment. At the same time this consideration ought not to be a bar to an arrangement which, in its general character, will be so important to the interests of the United States.

On Article XI. This is a stipulation which is not to be yielded but in the event of its being made an indispensable condition. It cannot be essential for the object of it, whilst the British Government is left free to take the precautions allowable within its own jurisdiction for preventing the clandestine departure of its seamen or its soldiers in neutral vessels. And it is very ineligible to the United States, inasmuch as it will be difficult to enforce the prohibition, whether we regard the embarcation of such persons in British ports, or their landing on the American shores; and inasmuch as the inefficacy of regulations for such purposes, though made with due sincerity and care, may become a source of secret jealousy and dissatisfaction, if not of controversy and reproach.

The article is copied from that in the arrangement (of which you have a copy) discussed and brought near to a conclusion between Mr. King and the British Ministry, and you are authorized to accede to it, on the supposition that it may again be insisted on. It is to be recollected, however, that the article was then understood to be the only price given for relinquishing the impressment of American seamen. The other offers, now substituted, will justify you in pressing the omission of the original one.

On Article XII. The law of nations does not exact of neutral Powers the prohibition specified in this article. On the other hand, it does not restrain them from prohibiting a trade which appears on the face of the official papers proceeding from the custom-house to be intended to violate the law of nations, and from which legitimate considerations of prudence may also dissuade a Government. All that can be reasonably expected by belligerent from neutral Powers, is, that their regulations on this subject be impartial, and that their stipulations relative to it, when made in time of war, at least, should not preclude an impartiality.

It is not certain what degree of value Great Britain may put on this article, connected as it essentially is with the article which limits the list of contraband. It will at least mitigate her objection to such a limitation. With the range given to contraband by her construction of the law of nations, even as acquiesced in by the United States, a stipulation of this sort would be utterly inadmissible.

The last article, in making this city the place for exchanging the ratifications, consults expedition in putting the treaty into operation, since the British ratification can be forwarded at the same time with the instrument itself. And it is otherwise reasonable, that as the negotiation and formation of the treaty will have taken place at the seat of the British Government, the concluding formality shall be at that of the Government of the United States.

In addition to these articles, which, with the observations thereon, I am charged by the President to communicate to you as his instructions, he leaves you at liberty to insert any others which may do no more than place British armed vessels with their prizes on an equality, within our ports and jurisdiction, with those of France. This would only stipulate what would probably be done by gratuitous regulations there, and as it would no doubt be acceptable to Great Britain, it may not only aid in reconciling her to the principal objects desired by the United States, but may induce her to concur in the further insertion of articles corresponding with those in the convention of 1800

with France, which regulate more precisely and more effectually the treatment of vessels of the neutral party on the high seas.

The occasion will be proper, also, for calling the attention of the British Government to the reasonableness of permitting American Consuls to reside in every part of her dominions where and so long as she permits our citizens to trade. It is not denied that she has a natural right to refuse such a residence, and that she is free, by her treaty with us, to refuse it in other than her European dominions. But the exception authorized with respect to the residence of Consuls elsewhere having reference to the refusal of our trade elsewhere, the refusal of the one ought manifestly to cease with the refusal of the other. When our vessels and citizens are allowed to trade to ports in the West Indies, there is the same reason for a contemporary admission of Consuls to take care of it, as there is for their admission in ports where the trade is permanently allowed. There is the just expectation of your success on this point, as some official patronage is due to the rights of our citizens in the prize courts established in the West India Islands. Should the British Government be unwilling to enter into a stipulated provision, you may perhaps obtain an order to the Governors for that purpose. Or if Consuls be objected to altogether, it is desirable that agents may be admitted, if nowhere else, at least in the islands where the Vice Admiralty Courts are established.

It has been intimated that the articles, as standing in the different columns, are to be considered, the one as the offer to be made, the other as the ultimatum to be required. This is, however, not to be taken too strictly; it being impossible to foresee the turns and the combinations which may present themselves in the course of the negotiation. The essential objects for the United States are the suppression of impressments, and the definition of blockades. Next to these in importance are the reduction of the list of contraband, and the enlargement of our neutral trade with hostile colonies. Whilst you keep in view, therefore, those objects, the two last as highly important, and the two first as absolutely indispensable, your discretion, in which the President places great confidence, must guide you in all that relates to the inferior ones.

With sentiments of great respect and esteem I remain, sir, your most obedient servant,

JAMES MADISON.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *Feb.* 14, 1804.

SIR: You will herewith receive the ratification, by the President and Senate, of the convention with the British Government, signed on the 12th of May, 1803, with an exception of the fifth article. Should the British Government accede to this change in the instrument, you will proceed to an exchange of ratifications, and transmit the one received without delay, in order that the proper steps may be taken for carrying the convention into effect. As the same considerations, which led to the arrangements settled by it, urge a prompt execution of them, it may be expected that the steps depending on that Government will be hastened. As far as your exhortations may be requisite, you will of course apply them.

The objection to the fifth article appears to have arisen from the posteriority of the signature and ratification of this convention to those of the last convention with France, ceding Louisiana to the United States, and from a presumption that the line to be run in pursuance of the fifth article might thence be found, or alleged, to abridge the northern extent of that acquisition.

It may reasonably be expected that the British Government will make no difficulty in concurring in this alteration; because,

First. It would be unreasonable that any advantage against the United States should be constructively authorized by the posteriority of the dates in question; the instructions given to enter into convention, and the understanding of the parties at the time of signing it, having no reference whatever to any territorial rights of the United States acquired by the previous convention with France, but referring merely to the territorial rights as understood at the date of the instructions for, and signature of, the British convention. The copy of a letter from Mr. King, hereto annexed, is precise and conclusive on this subject.

Secondly. If the article be expunged, the north boundary of Louisiana will, as is reasonable, remain the same in the hands of the United States as it was in the hands of France, and may be adjusted and established according to the principles and authorities which would in that case have been applicable.

Thirdly. There is reason to believe that the boundary between Louisiana and the British territories north of it were actually fixed by Commissioners appointed under the Treaty of Utrecht, and that this boundary was to run from the Lake of the Woods westwardly in latitude 49; in which case the fifth article would be nugatory, as the line, from the Lake of the Woods to the nearest source of the Mississippi, would run through territory which on both sides of the line would belong to the United States. Annexed is a paper stating the authority on which the decision of the Commissioners under the Treaty of Utrecht rests, and the reasoning opposed to the construction making the 49th degree of latitude the northern boundary of Louisiana, with marginal notes in support of that construction. This paper will put you more readily into possession of the subject, as it may enter into your discussions with the British Government. But you will perceive the necessity of recurring to the proceedings of the Commissioners, as the source of authentic information. These are not within our reach here, and it must consequently be left to your own researches and judgment to determine the proper use to be made of them.

Fourthly. Laying aside, however, all the objections to the fifth article, the proper extension of a dividing line in that quarter will be equally open for friendly negotiation after, as, without agreeing to the other parts of the convention, and considering the remoteness of the time at which such a line will become actually necessary, the postponement of it is of little or no consequence. The truth is, that the British Government seemed at one time to favor this delay, and the instructions given by the United States readily acquiesced in it. The annexed extracts from Mr. King's and Mr. Gore's letters will, with that from the Department of State, explain this observation.

The fourth article of the convention provides that the Commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the exchange of ratifications. It has been supposed that the compensation allowed to the Commissioners under the Treaty of Amity, Commerce, and Navigation, who settled the St. Croix boundary, would be satisfactory to the British Government; and upon this idea the estimate, of which a copy is enclosed, was framed as the basis of an appropriation to be asked from Congress. The President authorizes you, therefore, to agree to the sum mentioned therein, viz: four thousand four hundred and forty-four dollars and forty-four cents, to be paid by each Government to the Commissioner appointed by itself, the same sum being allowed the third Commissioner, to be paid to him in equal portions by the two Governments. Should, however, the British Government insist upon a variation of the compensation from the sum abovementioned, you may consent to it, provided it does not exceed six thousand six hundred and sixty-six dollars and sixty-six cents, each party contributing equally to the payment, and each Commissioner receiving the same sum as his colleagues.

I have the honor to be, &c.

JAMES MADISON.

Extract of a letter from Mr. Madison, Secretary of State, to Mr. Monroe.

DEPARTMENT OF STATE, *March* 5, 1804.

The Treaty of 1794, so far as it relates to commerce, having expired on the first day of October last (that being the date of the preliminary articles,) the commercial intercourse between the two countries is left to the regulations which the parties separately may think fit to establish. It may be expected, however, that the friendship and mutual interest between them will produce a continuance on both sides of such regulations as are just and equal, and an accommodation to those principles of such as, on either side, are otherwise than just and equal. On the side of the United States, their commercial regulations place Great Britain, in every respect, on the footing of the most favored nation. Great Britain cannot say as much with respect to hers. One instance at least is explained in a letter from this Department to Mr. King, of which a copy is enclosed, from which you will see that, although the act of Parliament to which it refers be no longer a breach of stipulation, it is not less a violation of equality than it is of sound policy. With respect to the British West Indies, it is not known that the United States are on a worse footing than other nations, whatever want of reciprocity there may be to the liberal regulations of the United States. With respect to the East India trade, it is understood that the Treaty of 1794, by denying to American vessels both the coasting branch of it, and a direct intercourse between India and foreign countries, other than America, the United States were in both instances placed on a worse footing than other nations, and even on a worse footing than they themselves enjoyed prior to the treaty. The expiration of the treaty, and the friendly and favorable equality allowed by the United States to Great Britain in every branch of their trade, ought certainly to restore what the treaty suspended.

These observations are made not with a view to any negotiation whatever, leading at the present moment to a treaty on those or any other commercial points, or to discussions which might be misconstrued into a wish to take unreasonable advantage of a critical moment, but to enable you to present the ideas of your Government with more precision, to vindicate our commercial policy against misconceptions, and to avail yourself the better of fit occasions for obtaining from the British Government such relaxations as may be due to our example, and be calculated to cherish amity and useful intercourse between the two nations.

In my letter of ——, I stated the reasonableness of admitting American Consuls in the dependencies of Great Britain, whenever and wherever the American commerce should be admitted. The principle urged in this case is applicable to the East as well as to the West Indies. During the last war an American agent was, informally at least, allowed to reside at Calcutta, and take care of the trade of his countrymen. Mr. Jacob Lewis, who was appointed to succeed him, proceeded to London on his way thither, but peace having intervened, his application for an exequatur was refused. It is of real importance to our trade with that country, that such a functionary should be permitted to reside in it; the more so, if it be true that the rule forbidding foreign factors to do so be enforced there. Be so good as to sound the British Government on this subject, and communicate its sentiments for the information of the President.

No. 21.

Mr. Monroe to Mr. Madison.

LONDON, *March* 18, 1804.

SIR: I have lately received from Mr. Baring your letters of the 5th and 16th of January; that of October 24th, with the documents mentioned in it, had reached me at an earlier period.

I rejoice to hear that our Government has obtained complete and quiet possession of Louisiana. Independent of the vast importance of the acquisition, which surely cannot be held in too high

estimation, it is very satisfactory to see the affair concluded in a manner so amicable, and at the same time so honorable to the nations who are parties to it. Both Governments have performed everything which they had respectively stipulated, and each has, therefore, much reason to approve the conduct of the other. The transaction has, I trust, established their peace and friendship on a basis which will never be shaken.

I shall pay all the attention to the instructions contained in your letter of the 5th of January, which is due to their great importance. As soon as I am sufficiently possessed of the subject, I shall ask a conference with Lord Hawkesbury, to propose to his Government a convention between the two nations, for the adjustment of the points and on the principles of the project you have sent me. I hope to be able to commence the business in a week or ten days, and flatter myself that the negotiations will be productive of real advantage to the United States. Should it not succeed in all its objects, the attempt must nevertheless be considered as a very satisfactory proof of a strong desire in our Government to preserve, on just ground, the friendship of this country, and is likely, by the explanations to which it may lead alone, to have that tendency. I am, however, far from thinking it improbable that a suitable convention may be formed, especially on some of the points that are deemed interesting.

The indisposition of the King still continues, though it has so much abated as to permit occasionally his attention to certain inferior objects of business. His life is no longer considered in danger. His disorder, a species of mental derangement, with which he was formerly attacked, has been less violent on this occasion; and, having proceeded in a great measure, as is believed, from other infirmities, will probably cease when they are removed which is said to be nearly the case at present. In this interim, the Administration must be considered as having lost much of its strength. The sickness of the King and his probable decline, have put in motion all the interests that are connected with the monarchy. Those who had little hope of employment in his lifetime seem to have left the ministry, or rather to have become active against them. The old opposition has acquired greater energy, and become more formidable. Mr. Fox attacks it on all occasions, in a manner the most direct and unqualified; and the support which Mr. Pitt sometimes gives it is yielded in a mode to do it more injury than service. It is obvious that he does not mean to connect his fortune with theirs; and I think I have observed, on some occasions, such a degree of attention and spirit of accommodation from him to Mr. Fox as to justify a presumption that he is not averse to a coalition with him, in case the terms are made acceptable. No change has taken place in our concerns since my last; and, as I am now authorized to negotiate a treaty, I shall not call the attention of the Government to them, otherwise than in the latter mode. It is probable that the omission to answer my communications and redress our injuries, with which it is justly chargeable, may furnish a motive for acceding to a more permanent arrangement.

There is no change in the state of the war. The menace of invasion is continued with the same effect here. Of the object and parties to the late conspiracy at Paris, you will get more correct information from that quarter than I can give you.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 22.

Mr. Monroe to Mr. Madison.

LONDON, *April* 15, 1804.

SIR: Soon after my last, I requested an interview with Lord Hawkesbury, which took place on the 2d instant, in which I informed him that I had received your instructions to propose to his Government the regulation, by convention, of certain points, which I was persuaded both countries would find their advantage in placing on explicit and equitable ground. I stated to his lordship the concerns which it was desirous thus to regulate, in which I complied strictly with your views; and assured him that the object of the President was to fix the friendship of the two nations on the most solid basis, by removing every cause which had a tendency, in their intercourse and other relations, especially in time of war, to disturb it. In the conversation, I entered into detail on every point, in which I was met by his lordship with apparent candor, the sincerity of which I had no reason to doubt, which manifested a disposition equally strong in favor of the professed and, indeed, real object of the proposed negotiation. He requested me, in the conclusion, to furnish him a project, which he promised to submit to his Cabinet, and to communicate to me the result of its deliberations on it as soon as he could. I have since sent him a project, but too recently to admit my obtaining an answer to it. I am inclined to think, from what passed in the conference, that some advantage may be fairly expected from the negotiation. His lordship did not bind himself to anything, it is true; he even went so far as to express a wish that the principles of our treaty of 1794 might be adopted in the present convention where they applied, and an expectation that, if the accommodation which had been given, in certain cases, to the Northern Powers, should be stipulated in our favor, we should accord fully what they had yielded in return. Although I was very desirous to do justice to the moderate and friendly views of our Government on the occasion, yet I did not fail to give him to understand that I could not accede to his idea in either case. I shall endeavor to bring the business to a conclusion, and apprize you of the result as soon as possible; when I shall also communicate fully, and in detail, an account of what passes between us in the course of the transaction.

Not many of our vessels have been interrupted in their commerce with France or Holland; not one, that I recollect, has been condemned. Some of them have been brought in, under various pretexts, which have generally been discharged, without a long detention. I send you a copy of my correspondence with Lord Hawkesbury on the subject of the Brutus, Captain Haley, in which you will find that ample recompense is promised for the injury complained of.

I have the pleasure to enclose you a copy of a communication from Mr. Dethonig, Chargé des Affaires of the King of Sweden at Constantinople, in which he promises his good offices to obtain, by intermediation with the Porte, the liberation of our citizens lately taken prisoners in the Philadelphia frigate, by the Bey of Tripoli. Having known Mr. Dethonig formerly in France, he voluntarily offered his good offices on this occasion, on hearing of the disaster.

I have also the pleasure to transmit you a copy of a letter from Mr. Harris, our Consul at Petersburg, with one from the Minister of the Emperor, which contains a very strong testimonial of his friendship for the United States. The assurances which he gives of the good offices of His Majesty with the Ottoman Porte, to obtain of the Bey of Tripoli the discharge of the men and restitution of the frigate, induced me to make my acknowledgment to his Ambassador here of the sensibility which I felt to an act which was so humane und honorable to the author. I was led to this by the consideration that, as Mr. Harris was only vested with the character of a Consul, such an expression from a person in my place might produce an immediate good effect. I flattered myself that the knowledge of the friendly disposition of the Emperor towards us might be even serviceable here.

The King still continues indisposed, though in what degree is uncertain. In other respects, the state of affairs has not varied since my last,

I am, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Project of a Convention presented to Lord Hawkesbury, April 7, 1804.

ARTICLE 1. No person shall, upon the high seas, and without the jurisdiction of the other party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the other parties, by the public or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

ART. 2. No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall, in any case, be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens and subjects whatever of the respective parties, at the time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by adequate recompense, to return to their own country.

A certified list of the crew, or protection from either Government, in such form as they shall respectively prescribe, showing that the person claiming under it is a citizen or subject of either Power, shall be deemed satisfactory evidence of the same; and in all cases where these documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either Power, such other evidence of said claim shall be received and admitted as would be satisfactory in a court of judicature.

ART. 3. If the ships of either of the parties shall be met sailing either along the coasts or on the high seas by any ship of war or the public or private armed ship of the other party, such ships of war or other armed vessels shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea or place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, or her papers, or any person from on board, to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her, to the number of two or three men only, who may in an orderly manner examine the same; and it is agreed that effectual provision shall be made for preventing violations of any part of this article.

ART. 4. In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the Power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

ART. 5. It is agreed that no vessel sailing from the ports of either party shall, although cleared and bound to a blockaded port, be considered as violating in any manner the blockade, unless, in her approach towards such port, she shall have been previously warned against entering the same.

ART. 6. It is agreed that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons, not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and, by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And, for the more effectual execution of this article, adequate provision shall be made for causing to be arrested on the application of the respective Consuls or Vice-Consuls, to the competent authorities, all deserters duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, at the request and ex-

pense of the said Consuls or Vice-Consuls, until they shall have found an opportunity of sending them back, or removing them as aforesaid; but, if they are not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

ART. 7. This convention shall be in force for the term of five years from the date of the exchange of ratifications. It shall be ratified on both sides within three months from the date of its signature, or sooner, if possible, and the ratifications exchanged, without delay, in the United States, at the City of Washington.

No. 24.

Mr. Monroe to Mr. Madison.

LONDON, *June* 2, 1804.

SIR: The late struggle in the Parliament has produced the appointment of Mr. Pitt to the place of Mr. Addington, of Lord Harrowby to that of Lord Hawkesbury, (the latter being removed to the Home Department, from which Mr. Yorke retired,) and Lord Melville to the head of the Admiralty, in the room of Lord St. Vincent. Not many other changes are made, the present ministry being formed principally of Mr. Pitt and some few of his friends, with the other members of the late one. It is understood that the King would not consent to the admission of Mr. Fox into the ministry, in consequence of which the Grenvilles and Mr. Wyndham refused to enter it.

While the late ministry was on the decline, it seemed useless to press it on any concerns of ours. I remained tranquil, in the hope of availing myself with effect of the moment when it should either recover its strength, or, by retiring, give place to another, with which I might treat on the important concerns entrusted to me. As soon as Lord Harrowby came into office, he notified it to the foreign Ministers, and invited them to an interview at his office on the concerns of their respective countries. As each was introdueed separately, I took occasion to mention to him the subjects which were depending with his predecessor, more especially the project of a treaty concerning impressments, and other topics, and the interest of the State of Maryland in some bank stock, which I hoped might soon be concluded. I mentioned to him, also, that I had lately received from you the ratification of the treaty respecting boundaries, by the President, with the advice of the Senate, with the exception of the fifth article, which I wished to submit to his consideration. He replied, that he was glad I had turned his attention to those subjects, since he would make them the particular object of his research, but hoped that I would not press any of them, as he had so lately come into office, and had so many concerns before him of the first importance to his country, and of a nature very urgent. I assured him I had no disposition to hurry any point; should wait with pleasure his accommodation, though I hoped it would suit his convenience to conclude soon the affair of the bank stock, which was intrusted to the care of Mr. Pinkney. He promised me to examine the papers immediately, and to write me as soon as he understood them. Nearly a fortnight afterwards elapsed, and I heard nothing from him. As Mr. Pinkney was extremely impatient, and I really wished to get into communication on the other topics, also, I wrote him a note on the —— ultimo, requesting an interview on the general subject, with permission to present to him Mr. Pinkney at the same time, which was granted on the 30th. As the particulars which occurred in this interview appear to me to be of a nature very interesting, I shall endeavor to state them with the utmost accuracy.

Mr. Pinkney opened his subject, the result of which seemed to promise a speedy conclusion of it, in a manner satisfactory to him. As he will doubtless communicate everything that occurs in that concern, it is useless for me to repeat anything that you may receive more fully from him. He withdrew as soon as his object was accomplished. I then asked his Lordship if he had read the project relative to seamen, &c., which I had given to Lord Hawkesbury some time since, and which I had mentioned to him in our former interview? He replied that he had not; that I would recollect that he had requested me to delay the examination of it for the present, as it did not press; the Congress having adjourned, and the bill concerning it being postponed. I replied that I did recollect it, but that I hoped by this time he had examined it, and, being one which involved no difficulty, that he would be prepared to act on it. He said he was not, nor did he know that he should be during the session of Parliament. I told him that his mind being thus expressed, I should certainly say no more on the subject for the present. I then asked him if he was disposed to examine the ratification of the treaty respecting boundaries, which I had also mentioned in our former interview? He said he had not time, but would be glad to know in what manner it had been ratified? I replied, with the exception of the fifth article. He censured, in strong terms, the practice into which we had fallen of ratifying treaties, with exceptions to parts of them, a practice which he termed new, unauthorized, and not to be sanctioned. I replied, that this was not the first example of the kind; that he must recollect one had been given in a transaction between our respective nations in their Treaty of 1794; that in that case a proposition for a modification in that mode was well received, and agreed to; that to make such a proposition was proof of an existing friendship, and a desire to preserve it; that a treaty was not obligatory until it was ratified, and, in fact, was not one till then. He said the doctrine was not so clear as I had stated it to be; that there were other opinions on it, and seemed to imply, though he did not state it, that an omission to ratify did an injury to the other party of a very serious kind. He asked me, why the fifth article had been excepted from the ratification? I replied that a doubt had arisen whether the ratification of it might not lay the foundation for

disputes hereafter, from a cause which had no connexion with this transaction. This treaty was signed on the 12th of May, 1803: the late treaty with France, which obtained the cession of Louisiana, bore date on the 30th of April preceding. At the time this treaty was formed, neither our Minister nor his had any knowledge of that with France; that the cession of Louisiana was not in the contemplation of either Government or its agent when their instructions were given or acted on, and, in consequence, the rights acquired under it ought not and would not be affected by this treaty. He observed, with some degree of severity in the manner, in substance, as well as I recollect, that, having discovered, since this treaty was formed, that you had ceded territory which you do not wish to part with, you are not disposed to ratify that article. I replied that he had misconceived my idea; that we did not admit that the treaty would have any such effect, since it could not operate upon an interest which did not exist when it was made; that we were, however, anxious to prevent any misunderstanding on the subject by previous explanation and arrangement; that, by postponing the subject for the present, the door was left open for amicable negotiation and adjustment, which we wished; that, at present, we were treating upon a subject too remote from our settlements to be well understood, or, in point of interest, pressing; that, by delay, there was no privation of right; and the amicable disposition which now subsisted between the two nations remaining, the affair could not otherwise than be adjusted hereafter to their mutual satisfaction. He repeated again the idea which he first expressed, implying strongly that we seemed desirous of getting rid of an article on finding that it did not suit us. I could not but feel the injustice of the insinuation, which was made much stronger by the manner which accompanied it; nevertheless, I only added that he ought not to expect to derive an advantage from a treaty, the conditions of which were not known to his or our Government when this treaty was made, in an interest in which we alone had paid the whole consideration. I offered to leave the ratification with him, but he declined taking it, observing that it was useless, as he could not act upon the subject at present.

The conduct of Lord Harrowby through the whole of this conference was calculated to wound and to irritate. Not a friendly sentiment toward the United States or their Government escaped him. In proposing a postponement of the interests in which we were a party, he did not seem to desire my sanction, but to assume a tone which supposed his will had settled the point. By his manner he put it out of my power, in assenting to the delay, to mingle with it any expressions declaratory of the pleasure with which I acceded to an arrangement which accommodated his Government or himself. Such expressions can never be used with propriety, except where they are voluntary, and acknowledged to be founded in generous motives. But no sentiment of that kind seemed to animate him on this occasion. Everything that he said was uttered in an unfriendly tone, and much more was apparently meant than was said. I was surprised at a deportment which I had seen no example before since I came into the country, and which was certainly provoked by no act of mine; yet I am persuaded it did not produce an improper effect on my conduct. I did not reciprocate the irritation by anything that escaped me. I am equally well persuaded that I made no improper concession, and let it be clearly seen that I felt that I represented a respectable and independent nation, whose Government could not be intimidated, or compelled to lose sight of its dignity by an abandonment of its just claims in its transactions with any other.

I now consider these concerns as postponed indefinitely. I do not foresee at what time it will be proper for me to revive the subject. Much is said of the probability of a coalition between Great Britain and the Northern Powers, and the frequent Cabinet consultations, at which the Ministers of Russia and Sweden assist, give countenance to the report. If that should be the case, it is probable that the policy and tone of this Government toward neutral Powers may be less friendly or accommodating. The new Minister may seek to distinguish his career from that of his predecessor by measures which may be deemed more enterprising. His system in the last war, so far as it affected us, was marked by an extraordinary harassment of neutral commerce; by the blockade of France, the islands, &c. Our unexampled prosperity and rapid rise, it is well known, excite their jealousy and alarm their apprehensions. It may be painful for them to look on and see the comforts and blessings which we enjoy, in contrast to the sufferings to which, by the calamities of war, they are doomed. Whether the conduct of Lord Harrowby was produced by any change of policy toward us, or by any other cause, transient or otherwise, it is utterly out of my power to ascertain at present. My most earnest advice, however, is to look to the possibility of such a change. The best security against it will be found in the firmness of our councils, and the ability to resent and punish injuries. It is said, on what authority I know not, that Mr. Merry will be recalled, and some person of the first distinction sent in his stead. If this is the case, although the exterior may be otherwise, yet it ought not to be considered as a measure adopted with a view to harmony, or from motives of respect to our Government, since, if such were the objects, the tone which I have above communicated would not have been assumed by Lord Harrowby, nor should I be among the last to hear of it. These remarks I have deemed it my duty to make, from the circumstances on which they are founded. Being sincerely anxious for peace, from a knowledge—such is the happy condition of our country—that much expense and injury must result from war, while it is impossible for us to derive any advantage from it, you may rest satisfied that I shall cherish our present amicable relations by all the fair and honorable means in my power; that I shall also be observant of events,

and not fail to communicate to you with the greatest despatch possible whatever occurs, which may be deemed worthy your attention.

I am, sir, with great respect and esteem, your obedient servant,

JAMES MONROE.

No. 27.

LONDON, *August* 7, 1804.

SIR: I received a note from Lord Harrowby on the 3d instant, requesting me to call on him at his office the next day, which I did. His Lordship asked me in what light was our treaty viewed by our Government? I replied that it had been ratified, with the exception of the fifth article, as I had informed him on a former occasion. He observed that he meant the Treaty of 1794, which, by one of its stipulations was to expire two years after the signature of preliminary articles for concluding the then existing war between Great Britain and France. He wished to know whether we considered the treaty as actually expired? I said that I did presume there could be but one opinion on that point, in respect to the commercial part of the treaty, which was, that it had expired; that the first ten articles were made permanent; that other articles had been executed, but that these, being limited to a definite period, which had passed, must be considered as expiring with it. He said it seemed to him doubtful whether the stipulation of the treaty had been satisfied by what had occurred since the peace; that a fair construction of it might possibly require an interval of two years' peace after the war, which had not taken place in point of form, much less so in fact, for the state of things which existed between the countries through that period was far from being a peaceable one. I informed his Lordship that the distinction had never occurred to us, though certainly it would receive from our Government all the consideration which it merited, especially if it was relied on on his part. After some further conversation, he seemed to admit that the construction he had suggested of the stipulation referred to was rather a forced one; that, by the more obvious import of the article, the commercial part of the treaty must be considered as having expired. What, then, said he, is the subsisting relation between the two countries? Are we in the state we were at the close of the American war? By what rule is our intercourse to be governed respecting tonnage, imports, and the like? I said that the law in each country, as I presumed, regulated these points. He replied that the subject was, nevertheless, under some embarrassment here. He asked how far it would be agreeable to our Government to stipulate that the Treaty of 1794 should remain in force until two years should expire after the conclusion of the present war? I told his Lordship that I had no power to agree to such a proposal; that the President, animated by a sincere desire to cherish and perpetuate the friendly relations subsisting between the two countries, had been disposed to postpone the regulation of their general commercial system until the period should arrive when each party, enjoying the blessings of peace, might find itself at liberty to pay the subject the attention it merited; that he wished those regulations to be founded in the permanent interests, justly and liberally viewed, of both countries; that he sought for the present only to remove certain topics which produced irritation in the intercourse, such as the impressment of seamen, and in our commerce with other Powers, parties to the present war, according to the project which I had had the honor to present his predecessor some months since, with which I presumed his Lordship was acquainted. He seemed desirous to decline any conversation on this latter subject, though it was clearly to be inferred, from what he said, to be his opinion that the policy which our Government seemed disposed to pursue, in respect to the general system, could not otherwise than be agreeable to his. He then added, that his Government might probably, for the present, adopt the Treaty of 1794 as the rule of its own concerns, or in respect to duties on importations from our country, and, as I understood him, all other subjects to which it extended; in which case, he said, if the treaty had expired, the Ministry would take the responsibility on itself, as there would be no law to sanction the measure; that, in so doing, he presumed that the measure would be well received by our Government, and a similar practice in what concerned Great Britain reciprocated. I observed that, on that particular topic, I had no authority to say anything specially, the proposal being altogether new and unexpected; that I should communicate it to you, and that I doubted not it would be considered by the President with the attention it merited. Not wishing, however, to authorize an inference that that treaty should ever form a basis of a future one between the two countries, I repeated some remarks which I had made to Lord Hawkesbury in the interview which we had just before he left the Department of Foreign Affairs, by observing, that, in forming a new treaty, we must begin *de novo;* that America was a young and thriving country; that, at the time that treaty was formed, she had had little experience of her relations with foreign Powers; that ten years had since elapsed, a great portion of the term within which she had held the rank of a separate and independent nation, and exercised the powers belonging to it; that our interests were better understood on both sides at this time than they were; that the treaty was known to contain things that neither liked; that I spoke with confidence on that point on our part; that, in making a new treaty, we might ingraft from that into it what suited us, omit what we disliked, and add what the experience of our respective interests might suggest to be proper. And being equally anxious to preclude the inference of any sanction to the maritime pretensions of Great Britain under that treaty, in respect to neutral commerce, I deemed it proper to advert again to the project which I had presented some time since for the regulation of those points, to notice its contents, and express an earnest wish

that his Lordship would find leisure, and be disposed to act on it. He excused himself again from entering into this subject, from the weight and urgency of other business, the difficulty of the subject, and other general remarks of the kind. I told him that the most urgent part of the subject was that which respected our seamen; that our Government wished to adopt a remedy which would be commensurate with the evils complained of by both countries: his Government complained that deserters from their ships in America were not restored to them; ours, that our seamen were impressed in their ports, (those of Great Britain,) and on the high seas, in our vessels, and sometimes in our bays and rivers; that such injuries ought to be put an end to; and that we were willing to adopt a fair and efficacious remedy for the purpose. He said he was afraid, however well disposed our Government might be to give the aid of the civil authority to restore deserters to their vessels in the United States, that little advantage could be derived from such a stipulation. The bias and spirit of the people would be against it, with us, as it was here, under favor of which deserters would always find means to elude the most active search of the most vigilant peace officers. I replied that I did not think the difficulty would be found so great as he supposed; that our people were very obedient to the law in all cases; that, as soon as the apprehension and restoration of deserting seamen to their vessels was made a law, (as it would be, by becoming the stipulation of a treaty,) the public feeling on that point would change, especially when it was considered as the price of a stipulation which secured from impressment their fellow-citizens who might be at sea or in a foreign country; that sailors never retired far into the interior, or remained where they went long, but soon returned to the seaport towns to embark again in the sea service; that it was not likely they would be able to elude the search of the magistracy, supported, as it would be, by the Government itself. I found, on the whole, that his Lordship, did not wish to encourage the expectation that we should agree in any arrangement on this head, though he was equally cautious not to preclude it. I left him without asking another interview, and the affair, of course, open to further communication.

Mr. Pinkney has fortunately obtained an adjustment of the interest of Maryland in some stock in the Bank of England, by a transfer to him, as agent of the State, of the amount, by the Crown. The Government itself appeared well disposed to the object, but it and the Court of Chancery were so beset by a number of persons having claims on the State after the interest vested in the Crown, that it was very difficult to bring it to a happy conclusion. To quiet the claimants, and enable the Government to act in it with satisfaction to itself, required a spirit of accommodation, perseverance, and ability in the management of the trust, without which it could not have been effected. The terms on which the affair is concluded have appeared to me to be as advantageous to the State as it was possible to obtain. To approve them was the only duty left for me to perform, as the able and laborious attention which Mr. Pinkney paid to the subject rendered it altogether unnecessary for me to take any other part in it. After the expiration of Mr. Pinkney's office as Commissioner under the Treaty of 1794 with Great Britain, he ceased to have a right to draw his salary in that character: as, however, his continuance here, under the authority of the President, on the other duty, which was indispensable, exposed him to at least equal expense, I thought it proper to request our bankers to advance him five hundred pounds on that head, to be accounted for with you. This sum is rather more than his compensation as a Commissioner would have been for an equal term; but as it was necessary to enable him to pursue the object and facilitate his return home, I flatter myself the President will approve the measure. The advance being made on my responsibility, under the circumstances of the case, can, of course, have no influence on the vote of compensation to be allowed him for the service, or in designating the party which ought to make it.

Mr. Lear having obtained a commutation of the tribute which was to have been paid to the Government of Algiers in naval stores into money, and drawn for the amount on our Consul at Leghorn, who forwarded bills for the same on our Government to the house of Mr. Hengist Glennie here for sale, and it appearing that they could not be negotiated without considerable loss, I concurred with Mr. Erving in opinion that he had better save the public from so great an injury, by taking them up with some public moneys which he had in his hands. He has done so, as he most probably has already informed you. The money which the Commissioners under the British Treaty directed, by form, to be returned to me, was paid by my order into the hands of our bankers, by the clerk who brought the order of the Commissioners to me.

I propose, in a week or ten days, to ask another interview of Lord Harrowby on the topics depending between our two Governments. By what has passed, you will infer that I have at present but little hope of bringing them to a conclusion. The practice of this Government is, however, on the whole, very favorable to us; our commerce enjoys a protection, which is a proof of the increasing respectability of our Government and country. None of our vessels that I know of have been condemned, but few are brought in under any pretext, and, in one case, compensation has been made for the detention. I hope to be able, after the proposed interview with Lord Harrowby, to fix the time when I shall set out for Spain.

I am, with great respect and esteem, your very obedient servant, JAMES MONROE.

No. 28.

Mr. Monroe to Mr. Madison.

LONDON, *September* 8, 1804.

SIR: I obtained an interview with Lord Harrowby on the 1st instant, which I had asked, to

ascertain the sentiments and disposition of his Government on the subjects which I had long before submitted to it. The conference was free and full on every point, in which I urged everything which I could draw from the lights in my possession, to induce his Government to adopt the convention which I had proposed in the spirit of my instructions, for the suppression of impressments, &c., and to ratify that respecting our boundaries, with the exception of the fifth article, as the President had done. His Lordship heard me with attention and apparent candor; he stated difficulties and received explanations, and finally promised to submit the subject to the Cabinet, and give me as early an answer as he could. In examining that part of the project which respects impressments, he expressed some regret that the affair had been taken up with such earnestness in the Congress. I told him that business was conducted there differently from what it was here: that here the ministry in both Houses proposed and carried public measures; but that with us the members of the Administration were excluded from the Legislature; that the branches were completely separate and distinct from each other; that although they were a check each on the other, yet that neither was responsible for the acts of the other: that the passage of a bill by both Houses was no evidence of the sense of the Executive on the subject of it until it had its sanction; that, in the present case, the motions which had been made in Congress were only to be considered as a proof of the great sensibility of the nation to the object of them; that the practice of impressing our men, which had been carried to great excess, was a cause of continued and high irritation throughout the Union; that it was very much to be wished that that cause could be removed by satisfactory arrangement between the Governments, which was deemed practicable, and which our Government with great earnestness and sincerity sought, as was shown by the propositions which I had made by its order; that the President certainly preferred a security of our rights by such an arrangement, as the Congress likewise did, as was seen by the failure of the motions alluded to, though made by members of great respectability, and strongly supported by the public feeling. He said much as to the extent of the propositions being of a nature quite hostile; of the time at which they were made being anterior to any proposal to negotiate; though in this idea he seemed to correct himself, as he was aware that Mr. King had endeavored to arrange the affair before his departure, and that I had expressed a similar desire soon after my arrival here. He spoke much of the difficulty attending any arrangement, from the similitude of the people; of the great numbers of their seamen which it was known we had in our service. I replied that the arrangement was not proposed to be permanent, but for a short term, and experimental; that it looked to the evils complained of on his side as well as ours, and sought to remedy them; that it was believed the remedy it proposed would be effectual; but if the experiment should throw any light on the subject, so as to enable our Governments hereafter to arrange it better, much would be done. He declined giving any opinion on the articles in the project which respected this interest, though I inferred by his stating no objection to them that he did not deem them unreasonable. In speaking of those articles which defined in certain cases neutral rights, he observed that they only touched the subject in part; that if our Government adopted the proposition which he had made lately, of considering the Treaty of 1794 in force until two years after the expiration of the present war, the whole subject would be provided for. I replied, that in touching the subject in the points to which the articles extended, and in those only, our Government sought to put out of the way for the present, and during the war, all temporary or transient causes of irritation which might tend to the injury or to disturb the harmony of the two nations; that in seeking a postponement of a general arrangement of our commerce till peace, it was supposed that his Government would be accommodated by it, which consideration had had much weight with the President, since, as he wished all future arrangements of that kind to be founded in the mutual and permanent interests of both countries, so he was satisfied that those interests could at no time be so well examined or understood as when both parties, being happy in the enjoyment of peace, might have leisure to pay them the attention they merited; that the articles proposed did not stipulate anything which his Government had not sanctioned by its treaties with other Powers, as well as by its present practice. He observed, however, that they omitted other objects which were included in those treaties, and which his Government deemed very important to its welfare; that these points had been paid for by the Powers to whom the concession had been made by stipulations which secured the interests which the project I had presented had omitted. In this remark he alluded more especially to the doctrine of the "ship's giving protection to the goods," which he called modern and theoretical, and to Russia as furnishing an example of the kind he stated. I told him that *our* Government was not disposed to give *his* trouble on that point, though it could have no motive to enter into any stipulation respecting it; that its whole conduct during the war had been friendly and conciliating; that he had not heard of any measures taken with the neutral Powers which ought to excite a jealousy of our views, or create a suspicion that the President was disposed to embarrass them in such cases; on the contrary, that I could assure him, if the objects to which the articles in the project extended were secured, that none others would be thought of. We then proceeded to examine the convention respecting the boundaries, in the light in which the ratification by the President presented it. On that subject also I omitted nothing which the documents in my possession enabled me to say; in aid of which I thought it advisable, a few days afterwards, to send to his Lordship a note explanatory of the motives which induced the President and Senate to decline ratifying the fifth article. As the affair had become by that circumstance in some degree a delicate one, and as it was in its nature intricate, I thought it improper to let the explanation which I had given rest on the memory of a single individual. By committing it to paper, it might be better understood by Lord Harrowby and by the Cabinet, to whom he will doubtless submit it. As I send you a copy of that paper, it is useless to detail the substance of what passed between us on the subject of it. I sent him at the same time an abstract of the impressments, which Mr. Erving had furnished me, which had taken place since my communication to Lord Hawkesbury. As Mr. Erving gives you regular and correct information on that head, I do not annex it to this communication.

Before I left Lord Harrowby I informed him that, independent of the interesting nature of the subject of our conference, on which I should be happy to be enabled to communicate something that would be satisfactory to our Government, I had another motive for wishing an early answer from him respecting it; that I had lately received instructions from you to repair to Madrid in the character of Envoy Extraordinary, to join Mr. Pinckney in the adjustment of some points which grew out of the cession of Louisiana by France to the United States. He asked me if these did not respect our boundaries; to which I replied in the affirmative. We had some conversation on that point, in which I communicated a general idea of the ground on which our Government had concluded that West Florida was comprised in the cession. He seemed to have entertained a different one, but to hear with attention and candor the statement which I gave of the question. I told him that my absence would be short; that I should leave Mr. Purviance, the Secretary of the Legation, in the charge of our affairs in my absence, with which he seemed to be well satisfied, and assured me that an accommodation with the views of the President in the proposed mission would be a motive for giving me an early answer to the subjects depending here; by which, however, I understood only that he would endeavor as much as he could to prevent their proving a cause of my detention. I thought it proper at that time to communicate the fact of my mission to Spain, and of my desire to set out soon in discharge of it, that he and his Government might clearly see that it was a measure ordered by the President, and had relation to the concerns of the United States only. I told him that the President had taken this measure from motives of friendship for Spain, with whom the United States were desirous and expected to preserve that relation forever. I made this remark to preclude the possibility of any improper use being made of what had been said, on the presumption (which might inspire a disposition to make such use of it) that a disagreement between the United States and Spain, much less a rupture, could result from the negotiation, whereby a hope might be fostered by this Government that we should become a party to the present war on its side. If circumstances permitted, it would be agreeable to me, as in that case I should presume on the approbation of the President, to intimate the willingness of our Government to receive, in the proposed negotiation, the good offices of friendly Powers. Such intimation would make it less likely to view with jealousy the aid we may receive, should that be the case, from France. In making the suggestion, I should observe, that I did it from the knowledge I had of the pleasure with which the President would avail himself of opportunities to render good offices to the Powers with whom the United States were in amity. If our business here is closed satisfactorily, I should think myself at liberty to give such an intimation.

While we were conferring on these subjects generally, Lord Harrowby noticed the conduct of Captain Bradley, of the Cambrian, which he said his Government had disapproved and censured by his removal from the command, and ordering him home to account for it. He said that as this step had been taken before any complaint had been received from our Government, it could not be viewed otherwise than as a strong proof of the desire of His Majesty to cultivate the friendship of the United States; to which I readily assented.

Of the prospect of success in the points depending here, it is impossible for me to give any satisfactory opinion. The business has, however, now reached a stage to promise an early conclusion. Still it is of too much importance for me to precipitate it. I shall wait some days longer in patience before I call for an answer, as I deem it important, be the event what it may, to conclude the negotiation so far as respects my deportment, in a manner equally respectful to the Government as that in which it commenced.

You will receive within a copy of the project as I presented it to Lord Hawkesbury. You will find that I have omitted in it the fourth, fifth, ninth, tenth, eleventh, and twelfth articles of that which you sent me. I omitted the fourth because it brought into view the question of contraband, and exposed us to the revival of the claim of this Government respecting provisions, which I saw, by what had taken place with Sweden, was likely to be insisted on; the fifth, because the present practice of the court conforms with it; the ninth, tenth, eleventh, and twelfth because, being intended as accommodations to them, it would be in time to introduce them when asked for, when it would be more seasonable to seek some equivalent in return; though, indeed, it is not likely that they care much about them, especially at this moment. I was the more confirmed in the idea of omitting the fourth article, from a knowledge that the abandonment by treaty of the principle that free ships make free goods, would produce an ill effect with France. I had this information from authority the most direct, that is, that she would be likely to consider it, being in war, an unfriendly act. By presenting it in the

form it bears, to which I was prompted by information recently obtained, and which could not have reached you. I hoped to secure the great objects which you had in view without hazarding any inconvenience whatever. It was also material to know that no case had then occurred (nor indeed has there since) in which the Admiralty have denied the right to our citizens to acquire merchandise, the growth of an enemy's country, and transport it as their own. There was, of course, no motive for securing it, especially at any expense.

I am, with great respect and esteem, your most obedient and very humble servant,

JAMES MONROE.

P. S. I find that there is a case of the kind adverted to above now depending before the Admiralty. The vessel, the Missouri, touched here on its way from Batavia, as is supposed, to Holland. I think it best to take this up on its own merits, unconnected with the principle adverted to, for the reasons above mentioned, which I trust will be approved by the President.

Paper respecting the boundary of the United States, delivered to Lord Harrowby, September 5, 1804.

By the tenth article of the Treaty of Utrecht, it is agreed "that France shall restore to Great Britain the Bay and Straits of Hudson, together with all lands, seas, seacoasts, rivers, and places, situate in the said bay and straits which belong thereunto," &c.

It is also agreed, "that Commissaries shall be forthwith appointed by each Power to determine, within a year, the limits between the said Bay of Hudson and the places appertaining to the French; and also to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts."

Commissaries were accordingly appointed by each Power, who executed the stipulations of the treaty in establishing the boundaries proposed by it. They fixed the northern boundary of Canada and Louisiana by a line beginning on the Atlantic, at a cape or promontory in 58 deg. 30 min. north latitude; thence, southwestwardly, to the Lake Mistasin; thence, further southwest, to the latitude 49 deg. north from the Equator, and along that line indefinitely.

At the time this treaty was formed France possessed Canada and Louisiana, which she connected by a chain of forts extended from the mouth of the Mississippi, on all its waters, and on the Lakes along the St. Lawrence to Montreal. Her encroachments eastward on the territory of the present United States, then British provinces, extended to the foot of the Alleghany mountain. It is well known that, on the Ohio, at a point formed by the confluence of the Alleghany and Monongahela branches, below which the stream takes the name of Ohio, that the French had built a fort which was called Duquesne; a fort which has been better known since by the name of Pittsburg. The adjustment of the boundary of the territory between the two Powers in this quarter, was the result of another war, and another treaty.

By the fourth article of the Treaty of 1763, France ceded to Great Britain, Canada, Nova Scotia, &c., in the north; and, by the seventh article, the bay and port of Mobile, and all the territory which she possessed to the left of the Mississippi, except the town and island of New Orleans.

By the seventh article it was also stipulated, that a line to be drawn along the middle of the Mississippi, from its source to the river Iberville, and thence along the middle of that river, and the Lakes Maurepas and Pontchartrain, to the sea, should be the boundary between the British territory to the eastward, and Louisiana to the west. At that time it was understood, as it has been ever since, till very lately, that the Mississippi took its source in some mountain at least as high north as the forty-ninth degree of north latitude.

By the Treaty of 1783, between the United States and Great Britain, the boundary between these States, and Nova Scotia and Canada, is fixed by a line which is to run along the St. Croix and highlands, bounding the southern waters of the St. Lawrence, the forty-fifth degree of latitude to the water communication between the Lakes, and along that communication to the Lake of the Woods, and through that Lake to the northwestern point thereof; thence, a due west course, to the Mississippi. The line follows afterward the course of the Mississippi to the thirty-first degree of north latitude.

By Mitchell's map, by which the Treaty of 1783 was formed, it was evident that the northwestern point of the Lake of the Woods was at least as high north as the latitude of 49 deg. By the observations of Mr. Thompson, astronomer to the Northwestern Company, it appears to be in latitude 49 deg. 37 min. By joining, then, the western boundary of Canada to its northern in the Lake of the Woods, and closing both there, it follows that it was the obvious intention of the Ministers who negotiated the treaty, and of their respective Governments, that the United States should possess all the territory lying between the Lakes and the Mississippi, south of the parallel of the forty-ninth degree of north latitude. This is confirmed by the courses which are afterward pursued by the treaty, since they are precisely those which had been established between Great Britain and France in former treaties. By running due west from the northern point of the Lake of the Woods to the Mississippi, it must have been intended, according to the lights before them, to take the parallel of the forty-ninth degree of latitude as established under the Treaty of Utrecht; and by pursuing thence the course of the Mississippi to the thirty-first degree of latitude, the whole extent of the western boundary of the United States, the boundary which had been established by the Treaty of 1763 was actually adopted. This conclusion is further supported by the liberal spirit which terminated the war of our Revolution; it having been manifestly the intention of the parties to heal, as far as could be done, the wounds which it had inflicted. Nor is it essentially weakened by the circumstance, that the Mississippi is called for by the western course from the Lake of the Woods, or that its navigation is stipulated in favor of both Powers. Westward of the Mississippi, to the south of the forty-ninth degree of north latitude, Great Britain held then no territory; that river was her western boundary. In running west, and ceding the territory to the river, it was impossible not to call for it; and, on the supposition that it took its source within the limits of the Hudson Bay Company, it was natural that it should stipulate the free navigation of the river; but, in so doing, it is presumed that her Government respected more a delicate sense of what it might be supposed to owe to the interest of that company, than any strong motive of policy, founded on the interests of Canada or its other possessions in that quarter. As Great Britain ceded at the same time the Floridas to Spain, the navigation of the Mississippi by her subjects, if it took place, being under a foreign jurisdiction, could not fail to draw from her own territories the resources which properly belonged to them, and therefore could not be viewed in the light of a national advantage. After the Treaty of 1783, and at the time the convention in contemplation was entered into, the state of things was as is above stated. The territory which Great Britain held westward of the Lake of the Woods, was bounded south by the forty-ninth degree of north latitude; that which lay between the Lake of the Woods and the Mississippi, southward of that parallel, belanged to the United States; and that which lay to the west of the Mississippi, to Spain. It being, however, understood, by more recent observations, that the source of the Mississippi did not extend so high north as had been supposed, and Great Britain having shown a desire to have the boundary of the United States modified in such manner as to strike that river, an article to that effect was inserted in the late convention; but, in so doing, it was not the intention of the American Minister, or of the British Minister, to do more than simply to define the American boundary. It was not contemplated by either of them, that America should convey to Great Britain any right to the territory lying westward of that line, since not a foot of it belonged to her; it was intended to leave it to Great Britain to settle the point as to such territory, or such portion of it as she might want, with Spain, or rather with France, to whom it then belonged. At this period, however, certain measures respecting the Mississippi, and movements in that quarter, took place, which seemed to menace the great interests of America that were dependent on that river. These excited a sensibility, acute and universal, of which, in equal degree, her history furnishes but few examples. They led to a discussion which terminated in a treaty with France, by which that Power ceded to the United States the whole of Louisiana, as she had received it of Spain. This treaty took place on the 30th of April, 1803, twelve days only before the convention between Great Britain and the United States was signed, and some days before the adoption of such a treaty was known to the Plenipotentiaries who negotiated and signed the convention.

Under such circumstances, it is impossible that any right which the United States derived under that treaty could be conveyed by this convention to Great Britain, or that the Ministers who formed the convention could have contemplated such an effect by it. Thus the stipulation which is contained in the fifth article of the convention has become, by the cession made by the treaty, perfectly nugatory; for, as Great Britain holds no territory southward of the forty-ninth degree of north latitude, and the United States the whole of it, the line proposed by that article would run through a country which now belongs exclusively to the latter.

No. 30.

Mr. Monroe to Mr. Madison.

LONDON, *October* 3, 1804.

SIR: Some days after Lord Harrowby returned from Weymouth, I received from him a note of the 26th, expressing his regret that he had been so engaged since his return, that he had not been able to see me, and that he could not even fix a time for the purpose. This note concluded with an invitation to dinner on the 29th at his house in the country. On an attentive consideration of the note, and all preceding circumstances, I was of opinion that his object by it was either to give me to understand, in a conciliating manner, that he could not conclude with me at present the business in which we were engaged, and wished it postponed, or that he sought an opportunity of conferring with me in retirement more freely on the subject of it than he could do at his office. In either view, I thought it incumbent on me to accept the invitation. I had, however, some doubt as to the mode; I hesitated at first whether I ought not to meet him in an expression of regret at the delay to which I was subjected, but I could not well connect such a sentiment with an acceptance of the invitation; and there was the less reason so to do, as that was to take effect so soon; I therefore thought it best to let his measure have its course, to see the result of it, and then adopt such a one as might appear most advisable at the time. With this view, I confined my reply altogether to the invitation, which I accepted. The dinner party was small, yet so composed as evidently to preclude the idea of an interesting political conversation with me having been intended by it. Not a word was said on the subject; so that I returned with that material fact only added to the data on which I had to deliberate. In deciding the part it now became me to take, I saw distinctly that the motive first above mentioned had dictated the note to me of the 26th; that Lord Harrowby actually wished me to infer from it, that he could not now proceed in the business

in which we were engaged, with the hope of an early conclusion of it, and was also desirous that the intimation should not affect the friendly relations subsisting between the two Powers. I resolved at once not to press the affair further at this time, from a belief that such pressure, instead of promoting the object desired, was more likely to increase the indisposition of this Government to any arrangement by treaty, as it seemed to lead directly from the safe ground on which I stood, to a vexatious and irritating controversy. I resolved also to hasten my departure for Spain, with as much despatch as the explanations incident to such a measure, under existing circumstances, would permit. There seemed, however, to be some considerable degree of delicacy and importance attached to the manner in which this decision should be communicated to his Lordship. Two modes occurred, essentially different in character. The first supposed the negotiation at an end; the second as suspended only. To the first were opposed several strong objections, which were counterbalanced by no single advantage that could reasonably be hoped from it. 1st. A declaration by me to Lord Harrowby, that I considered the negotiation at an end, thereby implying that it had failed in its object, might appear to form a species of rupture between the two countries, especially when taken in connexion with my immediate departure from this, with intention to pass through France. 2d. A measure of such tone was not invited by, nor did it necessarily result from, his Lordship's note of the 26th, which sought only delay, and in a conciliating manner. The circumstances of the country might induce him to expect an accommodation in that respect from a friendly Power; and to fail in giving it, create a deep impression of resentment in the mind of the Ministry, and perhaps of the nation, against our Government and country. 3d. Such a measure, with the implication incident to it, was not justified by fact, or the true interest of the United States. The negotiation had not failed in its great objects, our commerce was never so much favored in time of war, nor was there ever less cause of complaint furnished by impressment. The state of Europe is unsettled; the events of war are uncertain; the United States are prosperous beyond the example of any other nation, and more might be lost at home and abroad by an appearance of hostility with any Power than could be expected from a formal concession of the points contended for. 4th. Such a declaration would also be contrary to the spirit in which the negotiation had been commenced, and carried to the present stage. It would lose the credit which our moderation had merited; expose to hazard fortunes that were secure; and even with less hope of advantage, in any view, than might be entertained from a continuance of the same system of moderation. 5th. My instructions did not authorize a measure so hazardous; they seemed to require only that I should make a fair experiment of the disposition of this Government, to arrange these points amicably, and submit the result to the wisdom of our Government, to act afterward, on a view of all circumstances, as it might deem most advisable, unfettered by any compromitment of mine. 6th. By keeping the negotiation open, it was in our power to renew it at pleasure; and it was probable, by preserving our neutrality, and profiting of the credit attached to it, that our attitude in it would every day become more imposing. Under these considerations, I resolved to pursue the latter course; to meet the friendly sentiments expressed in Lord Harrowby's letter of the 26th, with a like one on our part; to regret the delay, but to admit that the state of things might impose it on him; to state the necessity of my departure for Spain, but declare the pleasure with which I should return to resume the negotiation. His Lordship's reply, which is also enclosed, breathed the same sentiments; so that the affair rests precisely on that ground. The negotiation is suspended by mutual consent, to be revived on my return from Spain, or whenever the President shall otherwise provide for the same.

I took occasion, in my letter to Lord Harrowby, to state the route I should pursue to Madrid, through Holland and France, to scout the degrading suspicions which too often attach to such movements in such times—suspicions which are generally created by the artifices which are used to hide the movements, since they are considered, and perhaps properly, as proofs of guilt.

I thought proper to notify to Lord Harrowby, at the same time, that Mr. Purviance would be left in charge of our affairs here, and that I should be happy in having an opportunity to present him to his lordship in that character; which was arranged on the following day. I have committed this trust to Mr. Purviance, in full confidence that he will discharge it with perfect integrity, and a diligence and capacity to merit the approbation of the President. His compensation, which has proved totally inadequate to his station as secretary, becomes, of course, much more so to his present one, which will unavoidably expose him to many heavy additional expenses. I have taken the liberty to instruct our bankers to advance him the sum of one thousand dollars, which is necessay for his immediate accommodation, and trust that the President will make him such an allowance as may be suitable to his situation.

In the interview which I had with Lord Harrowby, we had much general conversation on the topics depending between us, which, as it corresponded with what has passed before, and communicated to you, it is unnecessary to repeat. He appeared to agree with me, with great sincerity, in the advantage to be derived to both countries from the preservation of their present amicable relations, and to be quite satisfied with the state in which the negotiation was left, assuring me that he would not fail to take it up on my return, with an earnest desire to conclude it to the satisfaction of both parties, though he intimated that there was great difficulty attending certain branches of it. He suggested that, as I was forced to go to Spain, he hoped that the suspension would prove equally convenient to us both; to which I assented. He thought it unnecessary for me to go to Weymouth to take leave of the King, as he kept no regular Court there, and my absence would be short. He promised, however, to communicate to His Majesty my request to be presented to him there, as of his undertaking to prevent it; with which view, he desired to address him a special note to that effect, to be submitted to the King; a copy of which is enclosed.

In the course of this conversation, Lord Harrowby expressed concern to find the United States opposed to Great Britain on certain great neutral questions in favor of the doctrines of the modern law, which he termed novelties. I replied that, in adhering to our principles, the President had endeavored to arrange them in a friendly manner with his Government; that he had taken no step of an opposite character; that he had sought no concert with the neutral Powers in support of them, as he had supposed that a satisfactory arrangement to both Governments might be made by direct communication between them, which he preferred. He observed that, although while the negotiation was suspended, his Government would adhere to its principles, yet that it would act in what concerned us with moderation in the practice of them.

I informed you, in my letter of the 8th of September, that a case had occurred of an American vessel, engaged in commerce between Batavia and Holland, as was inferred by her having a European destination, being brought into port and subjected to trial. The case is not yet decided, though, in his remarks while the cause was in hearing before the court, the judge maintained the British doctrine; it was postponed to give time to ascertain what the regulations of the Government of Holland were, in peace, respecting our commerce with that colony. He did not say, if they prohibited the trade, that he would condemn the vessel. It is probable she may be acquitted on some other point in the cause, without impugning that principle. It is understood that several other vessels engaged in the same trade, which were stopped and examined at the Texel by the British cruisers, were permitted to prosecute their voyage; hence, it is presumable that orders were given to that effect by the Government. It is certain that, on no principle or pretext whatever, has more than one of our vessels been condemned, on which judgment there is an appeal.

The whole subject is now before the President; on which I have to remark that, in discharging this trust, I have endeavored, in every stage, to give full effect to the feelings and sentiments of my country in respect to the objects in question, especially the unwarrantable practice of impressment, without taking any step which should compromit our Government in the part it should take when the result was submitted to it. In that state the affair now is; for, after the expiration of a few months, it is perfectly consistent with it to revive the negotiation in such form as the President may deem advisable. The proceeding here lays a foundation for any course which the public honor and interest may dictate. If it is deemed expedient, in pursuing our just rights, to profit of time and circumstances, and, in the interim, unless they be secured by a fair and equal treaty, to act with moderation till the occasion invites to a more decisive and hazardous policy, the state of things permits it; or, if it should be deemed more advisable to adopt the latter course at present, the opportunity is fair for such a measure. The situation in which our Government will find itself on receiving this communication is a very different one from that in which I have stood throughout. If the latter course is preferred, it cannot be doubted that the moderation which has been so far observed, will strengthen the Government in any the most vigorous measures which may be thought necessary. A virtuous and free people will be more united in support of such measures, however strong they may be, when they see, by the clearest evidence, that the cause is not only just, but that their Government has done everything in its power which the national honor and interest would permit, to avoid such an extremity.

I shall apprize our Consuls that Mr. Purviance is left in charge of our affairs during my absence; and have only to add, that I expect to sail to-morrow or next day, in a vessel bound to Rotterdam, (my baggage being already on board,) on my way to Madrid, whither I shall proceed with all the despatch that may be practicable.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Extract.—Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE,
March 6, 1805.

SIR: The experience of every day shows more and more the obligation on both sides to enter seriously on the means of guarding the harmony of the two countries against the dangers with which it is threatened, by a perseverance of Great Britain in her irregularities on the high seas, and particularly in the impressments from American vessels. The extent in which these have taken place since the commencement of the war will be seen by the enclosed report, required from this Department by a vote of the House of Representatives; and the call for it, whilst negotiations on the subject were understood to be in train, is itself a proof of the public sensibility to those aggressions on the security of our citizens and the rights of our flag. A further proof will be seen in the motion, also enclosed, which was made by Mr. Crowninshield, and which will probably be revived at the next session. This motion, with his remarks upon it, appear very generally in the newspapers, with comments proceeding from a coincidence of the sensibility out of doors with that within. A still stronger proof of impatience under this evil will be found in the proceedings authorized by an act of Congress just passed, and which is likewise enclosed, against British officers committing on the high seas trespasses or torts on board American vessels, offences manifestly including cases of impressment.

In communicating these circumstances, it will occur to you, whilst they may be allowed to proclaim the growing sensibility of the United States on the subject of impressments, they ought, by proper explanations and assurances, to be guarded against a misconstruction into marks of illiberal or hostile sentiments towards Great Britain. The truth is, and it may be so stated by you, that this practice of impressments, aggravated by so many provoking incidents, has been so long continued, and so often in vain remonstrated against, that, without more encouragement than yet appears, to expect speedy redress from the British Government, the United States are, in a manner, driven to the necessity of seeking for some remedy dependent on themselves alone. But it is no less true that they are warmly disposed to cherish all the friendly relations subsisting with Great Britain; that they wish to see that necessity banished by just and prudent arrangements between the two Governments; and that, with this view, you were instructed to open the negotiations which are now depending. It is impossible for the British Government to doubt the sincerity of these sentiments. The forbearance of the United States, year after year, and war after war, to avail themselves of those obvious means, which, without violating their national obligations of any sort, would appeal in the strongest manner to the interest of Great Britain, is of itself a sufficient demonstration of the amicable spirit which has directed their public councils. This spirit is sufficiently manifested also by the propositions which have been lately made through you, and by the patience and cordiality with which you have conducted the negotiation. I might add, as a further proof to the same effect, that, notwithstanding the refusal, of which we have official information, from Glasgow and Liverpool particularly, to restore American seamen deserting their ships in British ports, the laws of many of the States have been left, without interruption, to restore British deserters. One of the States (Virginia) has, even at the last session of its Legislature, passed an act for the express purpose of restoring such deserters, which deserves the more attention as it was done in the midst of irritations resulting from the multiplied irregularities committed by British ships in the American seas.

Mr. Merry has expressed some inquietude with respect to the clause in the act above referred to which animadverts on British trespasses on board American vessels, and his language, on several late occasions, has strongly opposed the expectation that Great Britain will ever relinquish her practice of taking her own subjects out of neutral vessels. I did not conceal from him my opinion that the terms "trespass," &c., would be applicable to the impressment of British subjects as well as others, or that the United States would never accede to that practice. I observed to him, that every preceding Administration had maintained the same doctrine with the present on that point, and, such were the ideas and feelings of the nation on it, that no Administration would dare so far to surrender the rights of the American flag. He expressed dissatisfaction also at the section which requires certain compliances, on the part of British ships of war entering our harbors, with arrangements to be prescribed by the collectors. He did not deny the right of the nation to make what rules it might please in such cases, but apprehended that some of them were such as the commanders might deem incompatible with their just pretensions, especially when subjecting them to the discretion of so subaltern an authority as that of the collectors, and, consequently, that the law would have the unfriendly effect of excluding British ships of war altogether from American ports. He was reminded, in reply, that the collectors were, according to the terms of the section, to be guided in the exercise of their power by the directions of the President; and it was not only to be presumed, but he might be particularly assured, that the directions given would be consistent with the usages due to public ships, and with the respect entertained for nations in amity with the United States. He asked whether, in transmitting the act to his Government, as his duty would require, he might add the explanation and assurances he had heard from me. I answered that, without having received any particular authority for that purpose from the President, I could safely undertake what I had stated was conformable to his sentiments.

Enclosed is another act of Congress, restraining and regulating the arming of private vessels by American citizens. This act was occasioned by the abuse made of such armaments in forcing a trade, even in contraband of war, with the Island of St. Domingo, and by the representations made on the subject of that trade by the French Chargé des Affaires and Minister here, and by the British Minister, with respect to abuses which had resulted, or might result, from such armaments, in cases injurious to Great Britain. A report of these representations, as made to the President, is herewith enclosed. The act, in substituting a security against the unlawful use of the armaments in place of an absolute prohibition of them, is not only consistent with the obligations of a neutral nation, but conformable to the laws* and ordinances of Great Britain and France themselves, and is consequently free from objections by either. The interposition of the Government, though claimed in behalf both of Great Britain and of France, was most pressed in behalf of the latter. Yet the measure, particularly as it relates to the shipment of contraband articles for the West Indies, is likely to operate much more conveniently for Great Britain than for France, who cannot, like Great Britain, otherwise insure a supply of these articles for the defence of their colonies.

In the project which you have offered to the British Government, I observe you have subjoined a clause for securing respect to certificates of citizenship. The effect of this clause, taken as it ought to be, and as was doubtless intended, in con-

* See act of Parliament, 35 George III, ch. 22, sections 37, 38; and Valin's Commentaries liv. 1, tit. 10, art. 1.

text with the preceding clause, is limited to the case provided for in that clause. Still it may be well, in order to guard against the possibility of its being turned into a pretext for requiring such certificates in other cases, that a proviso for the purpose be added, or that words of equivalent restriction be inserted.

Another subject requiring your attention is pointed at by the resolutions of the Senate, moved by General Smith, on the subject of a British tax on exports, under the name of a convoy duty. A copy of the resolution is enclosed. A duty under that name was first laid in the year 1798; it then amounted to half of one per cent. on exports to Europe, and one per cent. on exports to other places, and consequently to the United States. The discrimination, being evidently contrary to the treaty then in force, became a subject of discussion between Mr. King and the British ministry. His letters to the Secretary of State and to Lord Grenville explain the objections urged by him, and the pretexts in support of the measure alleged by them. The subject was resumed in my letter of the 5th of March, 1804, to Mr. King, with a copy of which you have been already furnished. It was received by Mr. Gore, during the absence of Mr. King on the continent; and if any occasion was found proper by either for repeating the remonstrance against the duty, it appears to have been without effect. Whilst the treaty was in force, the discrimination was unquestionably a violation of its faith. When the war ceased, it lost the pretext that it was the price of the convoy, which, giving a longer protection to the American than to the European trade, justified a higher price for the former than for the latter. Even during war the exports are generally made as American property, and in American vessels; and therefore, with a few exceptions only, a convoy, which would subject them to condemnation, from which they would otherwise be free, would not be a benefit, but an injury. Since the expiration of the treaty, the discrimination, as well as the duty itself, can be combated by no other arguments than those which, in the document referred to, are drawn from justice, friendship, and sound policy; including the tendency of the measure to produce a discontinuance of the liberal but unavailing example given to Great Britain by the regulations of commerce on our side, and a recurrence to such counteracting measures as are probably contemplated by the mover of the resolutions of the Senate. All these arguments gain strength, in proportion to the augmentations which the evil has lately received; it being now stated that the duty amounts to four per cent. on the exports to the United States. These, according to Cox's answer to Sheffield, amounted, in the year 1801, to about seven and a half millions sterling, and therefore levy a tax on the United States of about one million three hundred thousand dollars. From this is, indeed, to be deducted a sum proportioned to the amount of re-exportation from the United States; but, on the other hand, is to be added the increase of the exports since the year 1801, which probably exceed the re-exportations.

With the aid of these communications and remarks you will be at no loss for the views of the subject most proper to be presented to the British Government, in order to promote the object of the resolutions; and the resolutions themselves ought powerfully to second your efforts, if the British Government feels the same desire, as actuates the United States, to confirm the friendship and confidence on both sides, by a greater conformity on that side to the spirit of the commercial regulations on this.

I have referred above to the enclosed copy of the motion made by Mr. Crowninshield, in the House of Representatives. The part of it which has relation to the trade with the West Indies was suggested, as appears in his introductory observations, by the late proclamations of the British West India Governors, excluding from that trade vessels of the United States, and certain articles of our exportations, particularly fish, even in British vessels. These regulations are to be ascribed partly to the attachment of the present administration in Great Britain to the colonial and navigation system; partly to the interested representations of certain merchants and others residing in the British provinces on the continent. Without entering at large into the policy on which the colonial restrictions are founded, it may be observed that no crisis could be more ineligible for enforcing them than the present, because at none more than the present have the West Indies been absolutely dependent on the United States for the supplies essential to their existence. It is evident, in fact, that the United States, by asserting the principle of a reasonable reciprocity, such as is admitted in the trade with the European ports of Great Britain, and as is admitted even in the colonial trade of other European nations, so far at least as respects the vessels employed in the trade, might reduce the British Government at once to the dilemma of relaxing her regulations, or of sacrificing her colonies; and with respect to the interdict of supplies from the United States of articles necessary to the subsistence and prosperity of the West Indies, in order to force the growth and prosperity of the continental provinces of Nova Scotia, &c., what can be more unjust than thus to impoverish one part of the foreign dominions, which is considered as a source of wealth and power to the parent country, not with a view to favor the parent country, but to favor another part of its foreign dominions, which is rather expensive than profitable to it? What can be more preposterous than thus, at the expense of islands which not only contribute to the revenue, commerce, and navigation of the parent State, but can be secured in their dependence by that naval ascendancy which they aid, to foster unproductive establishments?

Considerations, such as these, ought to have weight with the British Government, and may very properly enter into frank conversations with its ministry on favorable occasions. However repugnant that Government may be to a departure from its system, in the extent contemplated

by Mr. Crowninshield's motion, it may at least be expected that the trade, as opened in former wars, will not be refused under circumstances which, in the present, particularly demand it. It may be hoped that the way will be prepared for some permanent arrangement on this subject between the two nations, which will be conformable to equity, to reciprocity, and to their mutual advantage. I have the honor to be, &c.,

JAMES MADISON.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *April* 12, 1805.

SIR: The papers herewith enclosed explain particularly the case of the brig Aurora.

The sum of the case is, that while Spain was at war with Great Britain, this vessel, owned by a citizen of the United States, brought a cargo of Spanish produce, purchased at the Havana, from that place to Charleston, where the cargo was landed, except an insignificant portion of it, and the duties paid, or secured, according to law, in like manner as they are required to be paid, or secured, on a like cargo, from whatever port, meant for home consumption; that the cargo remained on land about three weeks, when it was reshipped for Barcelona, in Old Spain, and the duties drawn back, with a deduction of three and a half per cent., as is permitted to imported articles in all cases, at any time within one year, under certain regulations, which were pursued in this case; that the vessel was taken on her voyage by a British cruiser, and sent for trial to Newfoundland, where the cargo was condemned by the Court of Vice-Admiralty; and that the cause was carried thence, by appeal, to Great Britain, where it was apprehended that the sentence below could not be reversed.

The ground of this sentence was, and that of its confirmation, if such be the result, must be, that the trade in which the vessel was engaged was unlawful; and this unlawfulness must rest, first, on the general principle assumed by Great Britain, that a trade from a colony to its parent country, being a trade not permitted to other nations in time of peace, cannot be made lawful to them in time of war; secondly, on the allegation that the continuity of the voyage from the Havana to Barcelona was not broken by landing the cargo in the United States, paying the duties thereon, and thus fulfilling the legal pre-requisites to a home consumption; and, therefore, that the cargo was subject to condemnation, even under the British regulation of January, 1788, which so far relaxes the general principle as to allow a direct trade between a belligerent colony and a neutral country carrying on such a trade.

With respect to the general principle which disallows to neutral nations, in time of war, a trade not allowed to them in time of peace, it may be observed:

First. That the principle is of modern date; that it is maintained, as is believed, by no other nation but Great Britain, and that it was assumed by her under the auspices of a maritime ascendency, which rendered such a principle subservient to her particular interest. The history of her regulations on this subject shows that they have been constantly modified under the influence of that consideration. The course of these modifications will be seen in an appendix to the fourth volume of Robinson's Admiralty Reports.

Secondly. That the principle is manifestly contrary to the general interest of commercial nations, as well as to the laws of nations, settled by the most approved authorities, which recognises no restraints on the trade of nations not at war, with nations at war, other than it shall be impartial between the latter; that it shall not extend to certain military articles, nor to the transportation of persons in military service, nor to places actually blockaded or besieged.

Thirdly. That the principle is the more contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace, may, and often does, result from considerations which open to neutrals direct channels of trade with the parent State, shut to them in times of peace, the legality of which latter relaxation is not known to have been contested; and inasmuch as a commerce may be, and frequently is, opened in time of war, between a colony and other countries, from considerations which are not incident to the war, and which would produce the same effect in time of peace; such, for example, as a failure or diminution of the ordinary sources of necessary supplies, or new turns in the course of profitable interchanges.

Fourthly. That it is not only contrary to the principles and practice of other nations, but to the practice of Great Britain herself. It is well known to be her invariable practice in time of war, by relaxations in her navigation laws, to admit neutrals to trade in channels forbidden to them in times of peace, and particularly to open her colonial trade, both to neutral vessels and supplies, to which it is shut in times of peace; and that one at least of her objects in these relaxations, is to give to her trade an immunity from capture, to which, in her own hands, it would be subjected by the war.

Fifthly. The practice which has prevailed in the British dominions, sanctioned by orders of Council and an act of Parliament, (39 Geo. III. c. 98,) authorizing for British subjects a direct trade with the enemy, still further diminishes the force of her pretensions for depriving us of the colonial trade. Thus we see in Robinson's Admiralty Reports, passim, that during the last war a licensed commercial intercourse prevailed between Great Britain and her enemies, France, Spain, and Holland, because it comprehended articles necessary for her manufactures and agriculture, notwithstanding the effect it had in opening a vent to the surplus productions of the others. In this manner she assumes to suspend the war itself, as to particular objects of trade beneficial to herself, whilst she denies the right of the other belligerents to suspend their accustomed commercial restrictions in favor of neutrals. But

the injustice and inconsistency of her attempt to press a strict rule on neutrals, is more forcibly displayed by the nature of the trade which is openly carried on between the colonies of Great Britain and Spain, in the West Indies. The mode of it is detailed in the enclosed copy of a letter from ———, wherein it will be seen that American vessels and cargoes, after being condemned in British courts, under pretence of illicit commerce, are sent on British account to the enemies of Great Britain, if not to the very port of the destination interrupted when they were American property. What respect can be claimed from others to a doctrine, not only of so recent an origin, and enforced with so little uniformity, but which is so conspicuously disregarded in practice by the nation itself, which stands alone in contending for it?

Sixthly. It is particularly worthy of attention, that the Board of Commissioners, jointly constituted by the British and American Governments, under the seventh article of the treaty of 1794, by reversing condemnations of the British courts, founded on the British instructions of November, 1793, condemned the principle, that a trade forbidden to neutrals in time of peace could not be opened to them in time of war; on which precise principle these instructions were founded. And, as the reversal could be justified by no other authority than the law of nations, by which they were guided, the law of nations, according to that joint tribunal, condemns the principle here combated. Whether the British Commissioners concurred in these reversals, does not appear; but whether they did or did not, the decision was equally binding, and affords a precedent which could not be disrespected by a like succeeding tribunal, and ought not to be without great weight with both nations, in like questions recurring between them.

On these grounds the United States may justly regard the British captures and condemnations of neutral trade, with colonies of the enemies of Great Britain, as violations of right; and if reason, consistency, or that sound policy which cannot be at variance with either, be allowed the weight which they ought to have, the British Government will feel sufficient motives to repair the wrongs done in such cases by its cruisers and courts.

But, apart from this general view of the subject, a refusal to indemnify the sufferers, in the particular case of the Aurora, is destitute of every pretext; because, in the second place, the continuity of her voyage was clearly and palpably broken, and the trade converted into a new character.

It has been already noted, that the British regulation of 1798 admits a direct trade, in time of war, between a belligerent colony and a neutral country carrying on the trade; and admits, consequently, the legality of the importation by the Aurora, from the Havana to Charleston. Nor has it ever been pretended that a neutral nation has not a right to re-export to any belligerent country whatever foreign productions, not contraband of war, which may have been duly incorporated and naturalized, as a part of the commercial stock of the country re-exporting it.

The question then to be decided under the British regulation itself is, whether in landing the cargo, paying the duties, and thus as effectually qualifying the articles for the legal consumption of the country as if they had been its native productions, they were not, at the same time, equally qualified with native productions for exportation to a foreign market. That such ought to be the decision results irresistibly from the following considerations:

1. From the respect which is due to the internal regulations of every country, where they cannot be charged with a temporizing partiality towards particular belligerent parties, or with fraudulent views towards all of them. The regulations of the United States on this subject must be free from every possible imputation, being not only fair in their appearance, but just in their principles, and having continued the same during the periods of war as they were in those of peace. It may be added, that they probably correspond, in every essential feature relating to re-exportations, with the laws of other commercial countries, and particularly with those of Great Britain. The annexed outline of them, by the Secretary of the Treasury will at once explain their character, and show that, in the case of the Aurora, every legal requisite was duly complied with.

2. From the impossibility of substituting any other admissible criterion than that of landing the articles, and otherwise qualifying them for the use of the country. If this regular and customary proceeding be not a barrier against further inquiries, where, it may be asked, are the inquiries to stop? By what evidence are particular articles to be identified on the high seas or before a foreign tribunal? If identified, how is it to be ascertained whether they were imported with a view to the market at home or to a foreign market, or, as ought always to be presumed, to the one or the other, as it should happen to invite? Or, if to a foreign market, whether to one forbidden or permitted by the British regulations? For it is to be recollected, that among the modifications which her policy has given to the general principle asserted by her, a direct trade is permitted to a neutral carrier from a belligerent colony to her ports, as well as to those of his own country. If, again, the landing of the goods, and the payment of the duties, be not sufficient to break the continuity of the voyage, what, it may be asked, is the degree of internal change or alienation which shall have that effect? May not a claim be set up to trace the articles from hand to hand, from ship to ship, in the same port, and even from one port to another port, as long as they remain in the country? In a word, in departing from the simple criterion provided by the country itself for its own legitimate and permanent objects, it is obvious that, besides the defalcations which might be committed on our carrying trade, pretexts will be given to cruisers for endless vexations on our commerce at large, and that a latitude and delays will accrue in the dis-

tant proceedings of Admiralty Courts still more ruinous and intolerable.

3. From the decision in the British High Court of Admiralty itself, given in the case of the Polly, Lasky, master, by a judge deservedly celebrated for his profound judgment, which cannot be suspected of leaning towards doctrines unjust or injurious to the rights of his own country. On that occasion he expressly declares: "It is not my business to say what is universally the test of a *bona fide* importation. It is argued that it would be sufficient that the duties should be paid, and that the cargo should be landed. If these criteria are not to be resorted to, I should be at a loss to know what should be the test; and I am strongly disposed to hold that it would be sufficient that the goods should be landed and the duties paid."—2 *Robinson's Reports, p.* 368–9.

The President has thought it proper that you should be furnished with such a view of the subject as is here sketched, that you may make the use of it best suited to the occasion. If the trial of the Aurora should not be over, it is questionable whether the Government will interfere with its courts. Should the trial be over, and the sentence of the Vice Admiralty Court at St. John's have been confirmed, you are to lose no time in presenting to the British Government a representation corresponding with the scope of these observations; and in urging that redress in the case which is equally due to private justice, to the reasonable expectations of the United States, and to that confidence and harmony which ought to be cherished between the two nations.

The effect of the doctrine involved in the sentence of the court in Newfoundland on our carrying trade will at once be seen by you. The average amount of our re-exportations for three years, ending 30th September, 1803, has been thirty-two million three thousand nine hundred and twenty-one dollars. Besides the mercantile and navigation profits, the average revenue from drawbacks on goods re-exported for three years, ending the thirty-first December, 1803, is one hundred and eighty-four thousand two hundred and seventy-one dollars, to which is to be added an uncertain but considerable sum, consisting of duties paid on articles re-exported, after having lost, through neglect or lapse of time, the privilege of drawback. A very considerable portion of this branch of trade, with all its advantages, will be cut off if the formalities heretofore respected are not to protect our re-exportations. Indeed, it is difficult to see the extent to which the apprehended innovation may be carried in theory, or to estimate the mischief which it may produce in practice. If Great Britain, disregarding the precepts of justice, suffers herself to calculate the interest she has in spoliating or abridging our commerce by the value of it to the United States, she ought certainly not to forget that the United States must, in that case, calculate by the same standard the measures which the stake will afford for counteracting her unjust and unfriendly policy. I have the honor to be, &c.

JAMES MADISON.

Mr. Monroe to Mr. Madison.

LONDON, *August* 16, 1805.

SIR: I enclose you a copy of my letters to Lord Mulgrave, relative to the late seizures of our vessels by His Majesty's cruisers in the Channel and North Sea, and of his replies. I had yesterday an interview with him on the subject, in which he gave me a report from each of the King's law officers in the Admiralty respecting the late decisions, and promised me another interview on that and the other topics depending between our Governments, as soon as I should desire it, after having perused the reports. By my note to him of this date, you will find that I consider these documents unsatisfactory on the great question, and have asked another interview. It appears, however, by them, that no recent order has been issued by the Government; hence it is probable that the late decisions on the point of continuity of voyage, which have carried the restraints on that commerce to a greater extent than heretofore, may have furnished to the parties interested a motive for these seizures. It is equally probable that the decision of the Court of Appeals in the case of the "Essex," as several of its members are also members of the Cabinet, may have been dictated by policy, to promote the navigation of this country at the expense of that of the United States. In the late interview with Lord Mulgrave much general conversation took place on the subject, in which he assured me, in the most explicit terms, that nothing was more remote from the views of his Government than to take an unfriendly attitude towards the United States; he assured me also, that no new orders had been issued, and that his Government was disposed to do everything in its power to arrange this and the other points to our satisfaction; by which, however, I did not understand that the principle in this case would be abandoned, though I think it probable that in other respects much accommodation may be obtained relative to that commerce. Affairs here seem to be approaching a crisis. It is said that the combined fleets, having been previously joined by the Rochefort squadron, have entered Ferrol, and that the force now there is thirty-seven sail-of-the-line. Sir Robert Calder has joined Admiral Cornwallis before Brest. The French fleet there consists of about twenty-six sail-of-the-line. This force, so nearly united, is a very imposing one. The menace of invasion is kept up and increased. Everything seems to indicate that an attempt will soon be made.

I have the honor to be, with great respect and regard, sir, your very obedient servant,

JAMES MONROE.

No. 1.

To Lord Mulgrave.

DOVER STREET, *July* 31, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and requests the honor of an interview with his Lordship on the subjects that were depending between their Governments at the time of Mr. Monroe's departure last Autumn for Spain,

and postponed at the instance of Lord Harrowby until his return. These subjects will be found in a communication to Lord Harrowby of the 5th of September last, which contains a project of a convention to define certain neutral rights, to discriminate between American and British seamen, and protect the former from impressment; and also to establish, by a modification of the convention entered into by Lord Hawkesbury and Mr. King, on the 12th of May, 1803, in the manner proposed, and for the reasons stated in that communication, the boundary between the territories of His Majesty and those of the United States on their northwestern frontier. The two first mentioned of these topics have been the cause of much irritation and complaint on the part of the United States, which cannot otherwise than be increased by the principles which appear to have been adopted in some late decisions of the Court of Admiralty relative to the commerce of the United States with the colonies of the enemies of Great Britain, and with the parent country in the productions of such colonies. Mr. Monroe is persuaded that it is of great importance to both countries to arrange these points between them, and he flatters himself that it will be easy to do it on terms that will be equally safe and satisfactory to both parties.

No. 2.

From Lord Mulgrave.

DOWNING STREET, *August* 5, 1805.

Lord Mulgrave presents his compliments to Mr. Monroe, and will have the honor of appointing a day for receiving him at the Foreign Office early next week. Lord Mulgrave wishes to inform himself of the state of the business opened to Lord Harrowby, previous to his conference with Mr. Monroe.

No. 3.

To Lord Mulgrave.

DOVER STREET, *August* 8, 1805.

MY LORD: The late seizures of the vessels of the United States by His Majesty's cruisers is so important an event as to make it my duty to invite your Lordship's attention to it. My Government will naturally expect of me immediately the best information I can obtain of the nature and character of the measure, the extent to which it has been and will be carried, and of the policy which dictates it. Being in a state of profound peace with His Britannic Majesty and his dominions, conscious of having cherished that relation, and performed all its duties with the most perfect good faith, it will be surprised at a measure which will be understood to breathe a contrary spirit. From the view which I have of the subject I can only state, that many of our vessels have been brought in under orders that were equally unknown to the parties that were affected by them, and to the representative of the United States accredited with His Majesty; that the principles on which some of them have been condemned are denied by our Government, and, as it is contended, upon the soundest principles of the law of nations. I wish to possess, and to give correct information on the whole subject, and shall be happy that your Lordship will enable me to do it.

It would have been agreeable to me to have postponed this inquiry until I should be honored with the interview which I requested of your Lordship on the 31st ultimo, and which you have been so good as to promise me next week; but the importance of the subject, the impression that the measure has made on the parties interested, and doubtless will make in the United States, together with the propriety of giving to my Government such information as is official and authentic only, will, I flatter myself, satisfy your Lordship that I could not justify a longer delay.

I have the honor to be, my Lord, your most obedient, humble servant, J. MONROE.

No. 4.

From Lord Mulgrave.

DOWNING STREET, *August* 9, 1805.

SIR: I have just received the honor of your letter of yesterday's date, stating the existence of some measures relative to the vessels of the United States, of which you have cause to complain. As you have not mentioned either the nature or the period of the trasanction to which you allude, I am not enabled to give you a satisfactory answer; and I am not aware of any recent occurrence of so pressing a nature as to require an explanation previous to the day on which I shall have the honor of seeing you in the course of the next week. If you will inform me more particularly of the ground of complaint, I shall, without delay, give the subject every attention in my power.

I have the honor to be, sir, your most obedient, humble servant, MULGRAVE.

No. 5.

To Lord Mulgrave.

DOVER STREET, *August* 12, 1805.

MY LORD: I have been honored with your Lordship's letter of the 9th instant, and shall willingly comply with your request in stating more fully the nature of the complaint to which I alluded in mine of the 8th, and the period within which it has occurred. By a report of the Consul of the United States for this port and district, of which I have the honor to enclose you a copy, it appears that, in the course of a few weeks past, about twenty American vessels have been seized in the Channel and North Sea, by His Majesty's ships of war and privateers, and brought into his ports for trial: the officers who seized them stated (according to the report of some of the masters) that they had acted by order, as is to be presumed, of the Government. As this proceeding was sudden, without notice, and without example in the conduct of the present war, as it has embraced a considerable number of vessels, and may be extended to many others, it was impossible for me to reconcile it with the friendly relations subsisting between the two Powers. It is, therefore, my

duty to request of your Lordship such information respecting it, as I may transmit without delay to my Government. Of a measure so highly important to the rights and interests of the United States, no erroneous opinion should be formed, no incorrect idea entertained.

It is proper here to observe, that the decisions of the courts to which I alluded in mine of the 8th, the principles of which are considered by my Government as subversive of the established law of nations, were given in the case of the "Essex" a few weeks since, and in those of the "Enoch" and "Mars" on the 23d and 24th ultimo. These decision impose restraints on the commerce of neutral nations with the enemies of Great Britain, which it is contended derive no sanction from that authority. The principle on which they are founded asserts a right in Great Britain to restrain neutral nations from any commerce with the colonies of an enemy in time of war which they do not enjoy in time of peace; or, in other words, denies, in respect to neutrals, the sovereignty of an enemy in time of war over its own colonies, which remain in other respects subject to its authority, and governed by its laws. It cannot well be conceived how there should be a difference on principle, in the rights of neutral Powers, to a commerce between any two ports of an enemy, not regularly blockaded, and any other two of its ports: how it should be lawful to carry on such commerce from one port to another of the parent country, and not from its colonies to the parent country. As the Board of Commissioners under the seventh article of the Treaty of 1794, in revising the decisions of the British courts founded on the instructions of November 6, 1793, condemned this doctrine, there was just cause to expect that it would never have been revived. It is understood that no other Power admits it, and that it is also repugnant to the practice of Great Britain herself with respect to her own colonies in time of war. It is easy to show that the doctrine is of modern date even in England; that the decisions of her courts have not been uniform, and that those in the cases referred to have carried the pretension to an extent which, by assuming cognizance, if not jurisdiction, in the interior concerns of the United States, is utterly incompatible with the rights of sovereignty, and the self-respect which, as an independent nation, they can never lose sight of. I forbear, however, to enter further into this subject at present, in the expectation that I shall be honored with such information from your Lordship of the views of His Majesty's Government as will be satisfactory to that which I have the honor to represent.

I have the honor to be, my Lord, &c.

JAMES MONROE.

No. 6.

From Lord Mulgrave.

DOWNING STREET, *August* 12, 1805.

Lord Mulgrave presents his compliments to Mr. Monroe, and will be very happy to see him at his office on Thursday next, at two o'clock.

No. 7.

To Lord Mulgrave.

DOVER STREET, *August* 12, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and will do himself the honor to wait on him at his office on Thursday next, at two o'clock. He has the pleasure to send his Lordship a reply to his letter of the 9th instant.

No 8.

To Lord Mulgrave.

DOVER STREET, *August* 16, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and has the honor to return his Lordship the papers which he was so good as to deliver him yesterday. Mr. Monroe is sorry to find that those documents furnish no satisfactory explanation on the real ground of complaint on the part of the United States, as stated in his letter of the 12th; he will, therefore, be happy to see Lord Mulgrave again on the subject, as soon as it may be convenient for his Lordship to receive him.

Mr. Monroe to Mr. Madison.

LONDON, *August* 20, 1805.

SIR: I had an interview with Lord Mulgrave yesterday, on the late seizure of our vessels, which, I am sorry to observe, presented the prospect of a less favorable result than I had anticipated from the preceding one. He asserted the principle, in the fullest extent, that a neutral Power had no right to a commerce with the colonies of an enemy in time of war which it had not in time of peace, and every extension of it in a former state, beyond the limit of the latter, was due to the concession of Great Britain, not to the right of the neutral Power. I denied the principle in equal extent, and insisted that Great Britain had no more right in war to interpose with or control the commerce of a neutral Power with the colonies of an enemy, than she had in peace. As we could not agree on the principle, I asked on what footing his Government was willing to place the trade? His reply showed that it was not disposed to relax in the slightest degree from the doctrine of the late decrees of the Courts of Admiralty and Appeals, which go to cut up by the roots the commerce of the United States in the produce of the colonies of its enemies, other than for the home consumption of their citizens. I urged, in as strong terms as I could, the objections which occurred to me to this pretension. but he showed no disposition to accommodate, so that we parted as remote from an accord as possibly could be. I asked Lord Mulgrave whether I should consider the sentiments which he expressed as those of his Government? He said he had in the commencement expressed a desire that our conversations should be considered rather as informal than official, as entered into more in the hope of producing an accord than in the expectation that we should ultimately disagree; that he was sorry to find that we could not agree;

that, however, he should report the result to the Cabinet, and give me such an answer to my letters for my Government, of the views of his own, as it might wish to be taken of its conduct and policy in this business. I do not state the arguments that were used in the conference on each side, because those of Lord Mulgrave will probably be furnished by himself, and you will readily conceive those to which I resorted. What the ultimate decision of his Government may be, I cannot pretend to say. It is possible that he held the tone mentioned above, in the late conference, to see whether I could be prevailed on to accommodate with his views. It is difficult to believe that it will yield no accommodation on its part to our just claims, in the present state of public affairs.

In my former interview with Lord Mulgrave, he said that I should find, by the reports which he gave me, that most of the vessels had been dismissed; and it appeared by the reports that some of them had been, one or two on the opinion of Dr. Lawrence, counsel for the captured, which had been taken in the absence of the King's proctor. I returned to him the reports, to obtain copies for you. General Lyman has informed me that others have been since dismissed, and, as he thought, some that had been seized on the new doctrine of continuity of voyage, though nothing to countenance such an expectation escaped Lord Mulgrave in the last conference.

It is decided, on consideration of all circumstances, that Mr. Bowdoin will repair to Paris, where he will probably remain until he receives the orders of the President, and that Mr. Erving will proceed immediately to Madrid, to relieve Mr. Pinckney. Mr. Bowdoin, by being on that ground, will be more in the way of obeying such orders as he may receive, than here; and both he and Mr. Erving, respectively, may perhaps take their ground with greater propriety in this stage, while it is known that our Government has not acted, than afterwards.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 34.

Mr. Monroe to Mr. Madison.

LONDON, *September* 25, 1805.

SIR: I have already forwarded you copies of two letters to Lord Mulgrave, respecting the late seizure of American vessels, and you will receive with this a copy of a third one. His Lordship has endeavored to manage this business without writing, from a desire, which has been very apparent, to get rid of it without any compromitment. With that view he gave me, in an early interview, a report of the King's advocate general and proctor on my first letter, which had been referred to them, which gave some explanation on the subject, which he might suppose would be satisfactory. I soon, however, assured him that it was not, and pressed an answer to my letters, which was promised, but which has not yet been given. A few days before Mr. Erving left this for the continent, I requested him to ask Mr. Hammond when I should be favored with one. I send you a note of the conversation between them. Having waited some time longer, I thought it my duty to press the point again, and, in so doing, to expose as fully as I could the fallacy and injustice of the principle on which Great Britain asserts the right to interdict our commerce with the colonies of her enemies, and elsewhere in the productions of those colonies. I do not know that I shall be able to obtain an answer to this or the other letters. The presumption is against it, because she does not wish to tie up her hands from doing what her interest may dictate, in case the new combination with Russia and Austria should be successful against France. In the mean time she seeks to tranquillize us by dismissing our vessels in every case that she possibly can. It is evident to those who attend the trials, that the tone of the judge has become more moderate; that he acquits whenever he can acquit our vessels, and, keeping within the precedent of the Essex, seizes every fact that the papers or other evidence furnish, in the cases which occur, to bring them within that limit. If anything can be done in our affairs, it may be in a week or ten days; and if not done in that time, it most probably will not be during the present winter. I shall do everything in my power to bring them to a satisfactory conclusion.

I am, sir, with great respect and esteem, your very obedient servant

JAMES MONROE.

P. S. I enclose you a copy of my letter to General Armstrong, by Mr. Erving.

No. 35.

Mr. Monroe to Mr. Madison.

LONDON. *October* 18, 1805.

SIR: I sent you lately, by Colonel Mercer, my note to Lord Mulgrave of the 23d ultimo, relative to the late seizures of our vessels, in which I thought proper to advert, at the conclusion, to the other topics that were depending when I left this country for Spain. I endeavored to touch those topics, especially the insults in our ports and impressment of our seamen, in a manner to show a due sensibility to such outrages, and, if possible, to conciliate this Government to concur in a suitable arrangement to prevent the like in future. It seemed to be improper, and it was certainly useless, to touch them without expressing the sense which the President entertained of the injury and indignity to which the United States had thereby been exposed. The acts were of a nature to require it, and the conduct of this Government since had increased the obligation to do it. It appeared, also, by your letters, which were received by Mr. Purviance in my absence, that the President expected that this Government would make such an example of the officers who had most signalized themselves by their misconduct, as would serve as a warning to the com-

manders of other vessels who may hereafter seek shelter or hospitality in our ports. This had not been done. On the contrary, I was informed by the best authority, that Captain Bradley, of the Cambrian, whose conduct had been most offensive, had been promoted, immediately on his return, to the command of a ship-of-the-line. By that measure, which prejudged the case, this Government seemed to have adopted those acts of its officers as its own, and even to announce to all others that the commission of like aggressions within our jurisdiction would pave the way to their preferment. It is said, it is true, that the translation of an officer from a frigate to a ship-of-the-line is not considered in all cases a promotion, or, more correctly speaking, is not such a one as is solicited by the officers of the navy. The command of a frigate on a separate station, especially one which affords an opportunity to make prizes, is often preferred by them to that of a ship-of-the-line in a fleet, and may perhaps be deemed a more important trust by the Government. Ostensibly, however, and in effect, it is a promotion; the least, therefore, that could be said of the disposition which this Government has shown respecting the misconduct of that officer, was, that if it had not been the cause, it certainly formed no obstacle to his. Under such circumstances, it seemed to be impossible to separate the officer from the Government in these outrages, and quite useless to demand the censure of him. I thought it, therefore, most advisable in the present stage, at least, to treat the affair in a general way, rather than in reference to a particular occurrence; and in looking to the offensive object, and paying any regard to what was due to the United States, the manner was as conciliating as I could make it.

Having waited near three weeks after my letter of the 23d ultimo to Lord Mulgrave, without hearing from him, I wrote him on the 10th instant, and stated that, by the permission of the President, I proposed to sail to the United States this autumn, and, as the favorable season was far advanced, wished to depart with the least possible delay; that I should be happy to see the interesting concerns depending between our Governments satisfactorily arranged before I sailed; that I had been, and should continue to be, prepared to enter on them while I remained in England; and that the time of my departure would be made subservient to that very important object. To this note I received, some days afterwards, a short answer, which promised as early a reply to my communication as the additional matter contained in that of the 23d ultimo would permit. Having taken the liberty to inform you from Madrid that I should sail for the United States soon after my arrival here, it was my intention, after making a fair experiment to arrange the concerns of this Government, to have departed forthwith, be the success of it what it might. I considered myself as having the permission of the President to return home after such an experiment, and it was very much my wish, and that of my family, to avail ourselves of it. But, unfortunately, at that period, the seizures, which had just before commenced, began to assume a serious aspect. It became my duty, in my first letter to Lord Mulgrave, to notice them, and they soon claimed the principal attention. On the 10th, however, I thought myself perfectly at liberty to give notice of my intention to depart, in a guarded manner. I had already said everything, in my several communications on the subjects that were depending, that I intended to say, unless it should be made necessary to add more by a reply to them; I had also waited in vain a sufficient time for a reply; I could not depart without giving timely notice of it, especially after the late correspondence; and the season was so far advanced, that, if I withheld it longer, I should be exposed to a winter passage, or compelled to remain until the spring. It was on these considerations that I wrote the above mentioned note to Lord Mulgrave, in the hope of promoting, without longer delay, a satisfactory arrangement of the points alluded to. But so vague is his answer, that it is quite out of my power to determine at this time whether it will be proper for me to sail or not in the course of the present season. Indeed, there is but one vessel now in port, destined to the United States, in which I should wish to embark with my family at so late a period. She will be commanded by Captain Tompkins, for Norfolk, who, I understand, proposes to set out in the beginning of next month. By that time I shall probably see more fully into the ultimate intentions and policy of this Government towards the United States; and I think I may venture to say, that, if I sail during the present autumn, it will be in that vessel.

I have no doubt that the seizure of our vessels was a deliberate act of this Government. I do not know that the measure was regularly submitted to and decided in the Cabinet, but I am satisfied that that department of it, having cognizance of and control over the business, dictated the measure. The circumstances attending the transaction justify this opinion. Before the coalition with Russia and Sweden, the commerce was free. The blow was given when that coalition was formed. Great Britain has shown much political management in the whole of this affair. By the emendatory article of her treaty with Russia, in 1801, the latter abandons the right to the direct trade between the colonies of an enemy and the parent country, and agrees to rest on the ground which the United States may hold in that respect. It is to be presumed that she declined the seizure before the coalition was formed with the Northern Powers, lest it might alarm them and endanger the coalition; and that she made the seizure afterwards, on the idea, that, as they were embarked in the war with her, they would become indifferent to the object, and leave her free to push her pretensions against us. The manner in which the pressure is made, being through the Admiralty Court, on a pretext that the trade is direct, although the articles were landed in our ports and the duties paid on them, is equally a proof of management on her part. It was obviously intended to urge, (indeed Lord Mulgrave in our first interview began by urging,) that there

had been no new measure, that the Government had not acted in the business, while the court, by considering every species of that commerce direct, and every accommodation on the part of our citizens with previous regulations fraudulent and evasive, should push the pretensions of the Government to such an extent as to annihilate it altogether. Lord Mulgrave insisted in express terms, in the second interview, that we ought not to carry it on at all with the parent country; that the importation into our country ought to be confined strictly to supplies necessary for home consumption. I am equally confident that if Great Britain should succeed in establishing her pretensions against us, she would avail herself hereafter of the example with the Northern Powers. It is, therefore, a question of great importance to them also.

With respect to our other concerns with Great Britain, I am sorry to say that I do not see any prospect of arranging them on just and reasonable terms at the present time. No disposition has been shown to prescribe, by treaty, any restraint on the impressment of our seamen whenever the Government may be disposed, or even when any of its officers in the West Indies or elsewhere may think fit. On the subject of boundary nothing has been lately said, nor does there appear to be any inclination to enter on it. I have also reason to think that this Government is equally disposed to postpone an arrangement of our commerce in general, by treaty, for any number of years. On this point, however, I cannot speak with so much confidence as on the others, having never made any proposition that was calculated to obtain an explicit declaration of its sentiments. The conversations which I had with Lords Hawkesbury and Harrowby before I went to Spain, on the other subjects, naturally brought this into view; but being incidentally, it was only slightly touched. The proposition which was made by the latter, to consider the treaty of 1794 in force, was a temporary expedient, not a permanent regulation. From that circumstance, and the manner in which they spoke of that treaty, I concluded that their Government would be willing to revive it for an equal term. It might, however, have been made only to obtain delay. You will observe that in my note of the 23d ultimo I have taken the liberty to mention the subject in a manner to show that it is not one to which the United States are indifferent, or which the President wishes to postpone. Although I have no power to form a treaty of so comprehensive a nature, yet I thought I might with propriety open the subject, so far at least as to ascertain the views of this Government on it for your information.

On a review of the conduct of this Government towards the United States, from the commencement of the war, I am inclined to think that the delay which has been so studiously sought, in all these concerns, is the part of a system, and that it is intended, as circumstances favor, to subject our commerce at present and hereafter to every restraint in their power. It is certain that the greatest jealousy is entertained of our present and increasing prosperity, and I am satisfied that nothing which is likely to succeed will be left untried to impair it. That this sentiment has taken a deep hold of the public councils here was sufficiently proved by the late seizures, being at a time when the state of our affairs with Spain menaced a rupture, from which Great Britain could not fail to derive the most solid advantages. It was natural to expect, especially when we advert to the then critical situation of this country, that the Government would have seized the opportunity to promote that object by a more just and enlightened policy. The part, however, which it acted was calculated, so far as depended on it, to prevent one. It proves satisfactorily that no event is deemed more unfavorable to Great Britain than the growing importance of the United States, and that it is a primary object of her Government to check, if not to crush it. It is possible that this Government may be influenced in its conduct by a belief that the United States will not revive the treaty of 1794, unless they be driven to it by such means. It may also be attributable to policy still more unfriendly. There is cause to believe that many prejudices are still fostered here in certain circles at least, which the experience of multiplied and striking facts ought long since to have swept away. Among these it is proper to mention an opinion, which many do not hesitate to avow, that the United States are, by the nature of their Government, being popular, incapable of any great, vigorous, or persevering exertion: that they cannot, for example, resist a system of commercial hostility from this country, but must yield to the pressure. It is useless to mention other prejudices still more idle, which had influence on past measures and certainly still exist with many of great consideration. With such a view of their interest, of the means of promoting it, and the confidence which is entertained of success, it cannot be doubted that it is their intention to push their fortune in every practicable line at our expense. The late seizure is probably an experiment on this principle of what the United States will bear, and the delay which is observed in answering my letters, only an expedient to give the Government time to see its effect. If it succeeds they will, I presume, pursue the advantage gained to the greatest extent, in all the relations subsisting between the two countries, more especially in the impressment of our seamen, the prostration and pillage of our commerce through the war, and in the more elevated tone of the Government in a future negotiation. If it fails, I am equally confident that their whole system of conduct towards the United States will change, and that it would then be easy to adjust our affairs with this country, and place them on an equal and a reciprocally advantageous footing. Perhaps no time was ever more favorable for resisting these unjust encroachments than the present one. The conduct of our Government is universally known to have been just, friendly, and conciliating towards Great Britain, while the attack by her Government on the United States is as universally known to be unjust, wanton, and unpro-

voked. The measure has wounded deeply the interests of many of her own people, and is not a popular one. The United States furnish them at all times one of the best markets for their manufactures, and at present almost the only one. Her colonies are dependent on us. Harassed as they are already with war, and the menaces of a powerful adversary, a state of hostility with us would probably go far to throw this country into confusion. It is an event which the ministry would find it difficult to resist, and therefore cannot, I presume, be willing to encounter.

But is it safe for the United States to attempt a vindication of their rights and interests in a decisive manner with Spain and Britain at the same time? Will it not unite them against us, and do us most essential injury? This is certainly a very important consideration, and will of course be maturely weighed by our Government. In my view of the subject the cases do not interfere. We probably shall never be able to settle our concerns with either Power without pushing our just claims on each with the greatest decision. At present, though at war with each other, they harmonize in a system of aggression against us, as far as it is possible in such a state. Is it not presumable, then, that at peace their harmony will be greater and its effects more injurious? It seems to be a question, simply, whether we will resist their unjust pressure at this time or defer it to some other opportunity, and surely none can be more favorable for us or less so for them. They are now respectively much in our power. We can would both essentially should it be necessary to push things to that extremity, without receiving much comparative injury in return. I am strong in the opinion that a pressure on each at the same time would produce a good effect with the other. Success with either could not well fail to produce it with the other. I am far from thinking that the incident with Britain should change our conduct towards Spain, or that the necessity we may be under to push our pretensions with Spain should relax our exertions against Great Britain. Some considerations indeed occur which make it probable that the latter incident was a fortunate one. By pressing both at the same time France may find herself relieved from a dilemma, in which a pressure on Spain alone might place her, in consideration of her conduct in the late negotiation; and being desirous to encourage our misunderstanding with England, she may be prompted to promote an adjustment of our differences with Spain, to leave us free to push the object with England. As these subjects have been practically much under my view, in the trusts with which I have been honored by the President, and have entirely engrossed my attention, I have thought it would be agreeable to you to receive the result of my reflections on them.

I am, sir, with great respect and esteem, your very obedient servant.

JAMES MONROE.

P. S. October 25. I have just had an interview with Mr Hammond, in which I asked him when I should obtain an answer from Lord Mulgrave. He assured me that the subject was under the consideration of the Cabinet, and that it was intended to give me as early an answer as its own importance and the other very important concerns of the Government would permit: that I knew they were contending for their existence &c. I told him that I was detained here by that business alone, and should have sailed long since for the United States had his Government placed our affairs on such a footing as to have enabled me: that we wanted nothing but what was just and reasonable. Nothing else material passed in the interview; Mr. Bowdoin sailed for the continent about ten days since. I have not heard of his arrival in Holland, and fear, as the winds have been unfavorable, that he has had a bad passage. Captain Tompkins will not sail until February, so that there is no prospect of an immediate passage in his vessel.

No. 37.

Mr. Monroe to Mr. Madison.

LONDON, *Nov.* 26, 1805.

SIR: I hasten to transmit to you a copy of a letter which I received yesterday from Lord Mulgrave, in reply to mine of August 12 and September 23. From the length of time which had elapsed, and other circumstances, I had almost concluded that his Government had resolved not to enter on the subject, but to leave me to get its determination as I could from the decisions of the Admiralty. I find, however, with much satisfaction, that it is intended to take it up; whence there is some cause to presume that the business may yet be placed on a satisfactory footing. I shall not fail to cherish a disposition to such an adjustment by all the means in my power, or to inform you without delay of whatever may occur in it.

I am, sir, with great respect and esteem, your very obedient servant.

JAMES MONROE.

Lord Mulgrave to Mr. Monroe.

DOWNING STREET, *Nov.* 25, 1805.

SIR: Upon a deliberate consideration of the nature and importance of the question which you have opened in the two official notes which I had the honor to receive from you, and adverting to the grounds of reasoning upon which you have principally rested your representations, I deemed it indispensably necessary to a due discussion of the subject, that a reference should be made by me to those who are best acquainted with all the circumstances respecting the decisions which have taken place, and the rules which have been established in our courts of admiralty and appeal, as well as with the principles and practice according to which the law is therein administered. I have not yet received any report in consequence of the reference which I have made, but I hope at no distant period to be enabled to give a full and, I trust, conclusive answer upon this most important point. I trust that you will not consider the interval of time which is necessary for due investigation of so considerable a question, as a delay either inexpedient or misplaced.

I have the honor to be, with great consideration, sir, your most obedient and humble servant,

MULGRAVE.

JAMES MONROE, Esq., &c.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *Jan.* 15, 1806.

SIR: The letters received from you since my last are down to No. 36, inclusive. The perseverance of the British Government in the principle which licenses the depredations on our commerce in colonial productions, with the losses already sustained, and still apprehended by our merchants, has produced a very general indignation throughout this country, and makes it necessary that you should renew and extend your remonstrances on the subject. In aid of the means for this purpose, furnished by the information and instructions given you from time to time, I forward you an examination of it just published, in which you will find a variety of facts and views of the British principle and proceedings that may be made to bear against them. I will forward also, in a few days, copies of sundry memorials from the merchants of our maritime cities, explaining the wrongs done them, and the disgust with which their are filled. They, with other documents accompanying them, will assist your endeavors to make on the Government impressions which the occasion calls for.

I shall only add at present, that notwithstanding the conviction of the illegality of the British principle, which becomes more and more evident the more it is investigated, the President so far yields to a spirit of conciliation as to be still willing to concur in the adjustment on the point authorized in your instructions of January 5, 1804; but expects and enjoins that you will be particularly careful to use such forms of expression as will furnish no pretext for considering an exception of the direct trade between a belligerent nation and its colonies as declaratory of a limitation of the neutral right, and not a positive stipulation, founded on considerations of expediency.

I have the honor to be, &c.,

JAMES MADISON.

No. 38.

Mr. Monroe to Mr. Madison.

CHELTENHAM, *Dec.* 11, 1805.

SIR: The delicate state of health which my family has enjoyed of late, attributable as is supposed in a great measure to the atmosphere of London, induced me to come here last week. A letter from Lord Mulgrave, which I received just before I left town, having revived the expectation that I should hear from him on the subject of my former ones, I thought it proper to apprize him of my proposed absence; as that it would be short; that Mr. Purviance would remain behind to receive and forward me his letters; and that I would repair to London to wait on him whenever it might be necessary.

By late accounts from the Continent, it appears that the French have entered Vienna almost without opposition, the Austrian and Russian armies having left it open to them. It was a while reported and believed that the Emperor of Austria had made a separate peace, the conditions of which had been dictated to him by his adversary in the spirit of conquest; but this is now contradicted and disbelieved. The Emperor it seems plays a bolder game, and is willing to hazard all rather than make the sacrifices which it is supposed were insisted on. Thus the campaign seems to be hastening to its crisis, which will unfold the policy of some movements in the field and cabinet which may not have been heretofore well understood. It will soon be seen whether the Emperor of France has been drawn on, without system, by the brilliancy of his success against General Mack, to hazard more than an able and prudent commander ought to have done, or, having in view the accomplishment of a vast object, his movements, combined with those of General Massena in Italy, were judicious, and conformable to a plan wisely laid down in the commencement. It will soon be seen whether Prussia, who cannot be an indifferent spectator, and has much in her power, intends to act a part in the adventure, and performs it well; or, governed by circumstances, makes and breaks her resolutions as they change, and finally becomes a victim to unsteady and feeble councils. Whatever may have been the motive of the Emperor of France to take his present position, it is certainly a daring and hazardous one. It gives, in plain terms, the defiance to Europe; and, if Prussia takes part against him, he may be considered as fairly pitted against Europe; for the Powers that are on his side are not volunteers in the cause. If he experiences a serious reverse of fortune, they will, I think, quickly fall off. He must either succeed—that is, make at least a good and safe retreat in case of necessity—or he is utterly undone. It remains to be seen whether, in case he succeeds by completely vanquishing the armies opposed to him, he will be able to make a prudent use of his victories, for the purpose of consolidating and securing his own power; and of course whether his victories are to prove of any solid and permanent advantage to him. It may, perhaps, require greater talents in the present state of the world, in respect to that object, to turn such victories to the best account, than, at the head of the veteran armies of France, to gain them.

The situation of the United States, in respect to all these Powers, is, in every view, a very favorable one. So circumstanced are they, respectively, that while we have the means of doing each irreparable injury, all are interested in preserving the relations of peace and friendship with us; and none have it in their power to do us comparatively equal harm. As things now stand, each of the parties forms a complete counterpoise to the other, in a way best adapted to its own safety, and to our interest. Victorious by land, France has scarcely

a ship at sea, and is, therefore, interested in the prosperity of our commerce. Victorious at sea, Great Britain finds herself compelled to concentrate her force so much in this quarter, with a view to her own security, that she would not only be unable to annoy us essentially in case of war, but even to protect her commerce and possessions elsewhere which would be exposed to our attacks. As to Spain, she ought not, perhaps, to be considered as a party to this controversy. If she was asked in which scale her interest lay, which party she wished to prevail, her friends or her enemies, she would most probably be at a loss to decide. I think it must be her interest that neither should succeed; but that the scales should stand suspended as they now are. If her enemies succeeded completely, she would be undone; and the same thing would happen if her friends did. Thus it appears that from none of these Powers have we any serious danger or injury to apprehend in the present state of affairs; nor, from what I can see, is it likely that we soon shall have. While the Powers of Europe are contending against each other, none of them can venture to break with us, in consideration of such motives as the just pretensions and claims of our Government may furnish; and by many causes they seem to be destined to remain in that state some years longer, or at least in one of great jealousy and rivalry of interest, which may produce the same effect.

I have just received your letter of September 20th, respecting the ship Huntress, which has been given up to General Lyman, as I understood, by the order of the Admiralty. The cargo, consisting of provisions, having been much injured by the detention, was, at his suggestion, and by my direction, to have been lately disposed of. I shall communicate with him on the subject, and transmit you shortly a correct account of the business.

I am sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 39.

Mr. Monroe to Mr. Madison.

LONDON, *December* 23, 1805.

SIR: I came to town on the 20th, in consequence of a letter from General Lyman, of which a copy is enclosed. Although the suggestion which it communicated as proceeding from Dr. Lawrence, a proctor in the Admiralty, who has no connexion with the Ministry, that the Government would suspend, on my application, the seizure of our vessels till the principle could be adjusted, might be founded on mere conjecture, yet I did not feel myself at liberty altogether to disregard it. After what had passed, it did not seem probable that the Government would expect any new application from me before it had answered those I had already made, or that it would adopt such an expedient to obtain one. If it was disposed to accommodate, the invitation already given was surely sufficiently strong. Still, it was not an impossible case. Dr. Lawrence's standing in the court is a very respectable one, and I knew that reference had been made to him in some of the cases that were depending, although he was employed by our citizens on the receipt of my first letters, and that on his opinion the vessels were discharged. But, what gave more countenance to the presumption, was certain extraneous circumstances which were likely to be felt by the Government. A strong paper, extracted from the National Intelligencer, which reprehended in decisive terms the conduct of this Government towards our commerce, had appeared in the Morning Chronicle, and produced some sensation in the city. In addition to which, the character of events on the Continent, under the most favorable aspect in which they might be viewed, still wore an equivocal face. My experience here, without going further back into our history, has satisfied me that nothing inspires those in power with such friendly sentiments towards, or brings to their recollection, with such glowing feelings and expressions, the circumstances of our common origin, language, &c., as adversity. Before I went to Spain, when this country stood alone pitted against its adversary, and I pressed a decision on the propositions I had presented, I heard some eloquent discourses on that topic, to which I was not insensible. But as soon as the prospect improves, the relationship is forgotten and scouted; nothing is thought of then but their maritime rights, which, by their pretensions, comprise a complete monopoly of the ocean sovereignty over all islands belonging to their enemies, &c. This change has been very visible of late, and is to be traced to the period of the organization of the new coalition. What the disposition of this Government is at this moment on these subjects I shall endeavor to ascertain. It is my intention to sound it thoroughly, in some suitable mode, and to profit of the opportunity, if one is offered, to arrange them on satisfactory terms.

The latest accounts from the scene of action state, with some degree of credibility, that the conflict was continued between the contending parties, near Austerlitz, on the 3d, 4th, and even the 5th, and that fortune finally proved favorable to the allies—in what degree, however, is variously represented. Some accounts state that the French army was completely broken and put to rout, while others represent it only as a handsome check. In truth, less confidence is now due to official statements than they used to obtain. Since they have begun, under the pretext of *ruses de guerre*, to mistake simple facts, people at a distance do not well know what to believe. From everything I can collect, it does not seem probable that any event has taken place to decide the fate of the campaign, much less of the war, nor is there any certainty that Prussia has taken a more decisive attitude towards France, as yet, though it is often reported to be the case. On this point you will doubtless receive better information from the Continent than I can give you.

It is probable that negotiations for peace will be opened in the course of the Winter, as it may be that most of the parties seriously wish it. The mission of Count Haugwitz was supposed to present to the Emperor of France a species of ultimatum, which, if adopted, would put an end to the war, or, being rejected, bring Prussia into it on the side of the allies. The following are said to be its conditions: that he should separate the Crown of Italy from that of France, and withdraw his troops from Naples, Holland, and Switzerland, and leave those countries to the enjoyment of their independence. It is reported that the conditions, be they what they may, were known to and approved by the Emperor Alexander, whence it is inferred that they are such as Austria and Great Britain also would accede to. It is likewise reported that a provisional treaty was formed between Russia and Prussia, when Alexander was at Berlin, which stipulated that Prussia should join the allies in case France rejected the propositions of the latter. But I should not be surprised if it should ultimately appear that this mission was adopted by the King of Prussia to get rid, at the time, in a handsome manner, of the pressure of the Emperor Alexander; or, being adopted in good faith for the ostensible purpose, should nevertheless produce no immediate effect, either with respect to a general peace, or the union of Prussia with the allies in the war against France. It is not probable that the King of Prussia sent to the Emperor of France a positive, unqualified ultimatum, which should admit of no modification. A measure so bold and hazardous is not consistent with the character of the Prussian Cabinet, which is more remarkable for its hesitation and deliberation than the promptitude of its action; for its desire to preserve what it has by peace, than to risk everything in an attempt to gain more by war. And, if the propositions which were to be made by the Prussian envoy were liable to modification, I cannot well discern how his mission is to be distinguished from ordinary ones, which commence in negotiation, and have a regular course and termination. In this view, it is not unlikely that the business may be referred to conferences or a congress to be held elsewhere, which by management, may be prolonged for a considerable time, and whose result may finally depend on the fortune of other battles between the existing parties; unless, indeed, by the successes of France over her present opponents, and the high pretensions of her chief, Prussia should hereafter have no alternative, but be forced into the war in her own defence. Be the fact however, as it may, with respect to Prussia, that is, whether she abstains from the war or becomes a party to it, and at an earlier or later period, I do not think that there is much prospect of a general peace in the course of this winter. I rather think that the war will go on till it produces some great change in the condition of one of the parties. The contest is, in truth, between France and her dependencies and the rest of Europe, and seems to be now so deeply laid that I cannot well perceive how a solid and permanent peace can be established between them till one or other gains so far the ascendency as to be able to dictate the terms. The gigantic struggle of the French revolution had so far extended the bounds and contributed to the aggrandizement of France, at the expense of other Powers, that it seemed to be impossible for them to reconcile their safety with her existing state. The new dynasty, too, which grew out of the revolution, did not diminish, if it did not increase, the difficulty. It seems to have made up its mind that it was impossible for it to incorporate itself with the ancient ones, even by alliance, if such were to be formed in such a manner as to establish confidence, friendship, and an opinion of security between them. The French Emperor has not been able to attach to him the ancient nobility of France. He has taken many into his service, but even these are not the persons in whom he reposes his chief confidence. Thus, while he possesses powers utterly incompatible with the principles of the revolution, he finds himself under the necessity to rely principally for his support on the revolutionary party in the public councils, in the armies, and among the people. It cannot be doubted that it draws to his aid every species of support from every quarter, and by means which he deems best adapted to the end; still, the revolutionary party are his chief counsellors, his generals, and body guard. Where that business will end is a problem to be solved, which time alone can solve. Perhaps the result is connected with other causes in embryo, which may hereafter unfold themselves. From what I can see, he appears to think that foreign war tends to consolidate his power at home, and thus that consideration increases much the interval between him and foreign Powers, and also gives an additional impulse to the revolutionary movement, though directed to a different end. Should the issue be fairly made between France and the other Powers, it is by no means certain, provided the parties live, in whose favor the scale will preponderate. On one side there is a vast superiority of population; on the other an extraordinary concentration of talents, with proportional activity and enterprise, in the leaders of a great and powerful people. On both, the regular force is nearly equal; but the character of the troops, as well as of the people, is essentially different. On the side of France, they feel the impulse of the revolutionary movement; while, on that of Austria, there seems to be a consciousness of imbecility, an entire want of enterprise, and an evident indisposition to the conflict, which cannot be attributed to the want of courage, for there are no braver troops. Under such circumstances, the superiority of population promises to be of little avail. We have already seen, by the incursion into Germany, that no part of it, or but a very inconsiderable one, has been brought into action; that it is a lifeless mass, subject to the command of the victorious army in the field, though perhaps inferior to the force to be found in the smallest provinces. It seems probable, if the Emperor of France beats the armies opposed to him, that he may demolish the dynasties; but then would arise a question, whether, in case those events happened, the nations were subdued. The world has seen with astonishment, that Austria, who has among her people several millions of fighting men, has not been able to call into the field, at this great crisis, above two

hundred thousand. Surely, it cannot be said that the defeat of this force is the subduction of Austria. Does it not, on the contrary, give good cause to presume that her Government has lost its influence, that the people have withdrawn their confidence from it, that it is tottering, and that everything is ripe for a change, which the slightest external pressure may produce? If I may judge of Austria by what I saw of Spain, and I am told that in many respects the lines are parallel, there is much ground for these suggestions. I did not believe that there existed in Europe, if there did on earth, a Government so completely worn out and exhausted, in all its institutions and functions as I found that to be; or that it was possible for any Government to produce such an impoverishing and destructive effect on the moral character of the people, which is naturally a manly one, and on the face of the country, its cultivation, and even on the soil itself, as is evident there. These considerations afford sufficient cause, at least, to doubt that, although the armies be defeated and the dynasties overthrown, the nation ought not to be considered as subdued, or liable to be disposed of as a conquered people, by arrangements that are likely to be durable. This is, however, in some measure a digression from the subject. In stating that I did not think it probable the existing strife between the Powers at war would be soon settled, I have thought that it might not be improper to explain the reasons of that opinion.

I will conclude these with a few additional remarks. Under existing circumstances, I think our attitude with all these Powers is a very imposing one; that, although with their loose system of political morality, inordinate pride, and extravagant pretensions, they will respectively commit all kinds of injustice and outrage against us, if permitted, it is nevertheless in our power, and will be while the present state lasts, to obtain of either, by a suitable pressure, any just and reasonable demand we may have against it. That nothing will be obtained without some kind of pressure, such a one as excites an apprehension that it will be increased in case of necessity, and that to produce that effect, and protect ourselves against unexpected and unfavorable results, which are always to be supposed and provided for, it will be proper to put our country by invigorating the militia system, and increasing the naval force, in a better state of defence.

I am, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. Since I came to town I have endeavored to ascertain whether anything had lately occurred, to invite from me a new application to the Ministry respecting the proceedings against our commerce; and the result has been to satisfy me that there had not. I called on my arrival at Downing street to see Lord Mulgrave; who, as I was informed, was at Bath with Mr. Pitt, as he had been more than a fortnight. I asked the young man in the office who is charged, in the absence of Mr. Hammond, with the American business, if Lord Mulgrave had prepared an answer for me? to which he replied in the negative. In conversation he gave me reason to infer that no decision had been made upon the subject. I requested him to inform his Lordship that I had come to town to see him on that business, and should remain some time, in the hope of hearing from him; which I was desirous of doing at this time, as the Congress was sitting, and several opportunities offered to bear my despatches to our Government. He promised to do so immediately, and assured me, that if he received his Lordship's instructions to make any communications to me, that I should hear from him without delay. Four days were more than sufficient for the correspondence between them, whereas twice that term has now elapsed without my hearing anything on the subject; so that I conclude that no change has taken place in the disposition of the Cabinet on it. The business is in the regular train between the Government and myself. It appears to me that I have done everything that it was proper to do, and must attend an answer, which, if much longer withheld, cannot be considered otherwise than as a decision of the Government to support present measures till some stronger motive presents itself.

It is unnecessary to add that, in giving my sentiments on these important subjects, I am far from being wedded to them; that being founded on a partial view only, that which is presented here, of those facts and circumstances which ought to be taken into consideration in making a decision, I have always given them with diffidence; and, as I well know that a combined view of all the great interests and concerns which merit attention will be taken by our Government in making the decision, by whom alone it can be taken with advantage, I shall, from that and many other considerations, have much greater confidence in its judgment than my own.

No. 40.

Mr. Monroe to Mr. Madison.

LONDON, *January* 28, 1806.

SIR: I informed you lately, in a short note by Mr. Clark, who sailed in the Remittance, of the death of Mr. Pitt, which took place last week. The King hath since resolved to commit the administration to the opposition, as we are informed by all the gazettes of this day. It is said that he announced this to Lord Grenville yesterday, and authorized him, in conjunction with Mr. Fox, to form a new Ministry from among their friends. It is expected that this will be done in a day or two, as they are now engaged in the business. This change has an aspect toward peace, and fully persuaded I am that it will be the serious object of those who may be thus brought into power to endeavor to make one. Mr. Fox, it is understood, will have the Department of Foreign Affairs. I shall see if it is possible, as soon as he is inaugurated, to obtain a change in the policy of this Government toward the United States; of which, I think, there is great probability. About a fortnight before Mr. Pitt's death, an order was sent to the suitable department to report the number of American vessels which had been seized, and condemned, or dismissed, with the damages incident thereto, which looked as if a change was contemplated even under him. The disasters on the continent tended to show the folly of the measure, to which the eyes of the new Ministry will doubtless be more open. The present is a very important epoch in our concerns with this country and Spain, as to the commerce which we are to enjoy with the West Indies after a peace. There would be cause of regret if that event took place before they were adjusted. I have heard nothing from General Armstrong, or Mr. Bowdoin, for more than two months past. I shall do everything in my power to avail myself of the favorable opportunity which is thus presented, by a concurrence of extraordinary events, to place our affairs with this country on an advantageous footing, and I hope not without effect. The considerations which made it improper for me to sail to the United States at any time since my return to England, seem now to operate with peculiar force. As the seizure of our vessels had then commenced, I could not withdraw without great compromitment of our Government and myself, without remonstrating against it. And, after taking that step, I could not withdraw and leave the business unfinished, especially after the strong opposition which I made to it; which I thought the nature of the transaction merited, and the state of public affairs in Europe justified. Thus engaged, I have felt it imperiously my duty to pursue the business in all its windings. I shall, therefore, neither abandon the ground, nor relax in my exertions to accomplish the object till something conclusive is done, unless the President may think proper to consign the trust to some other person. I fear that the expectation of my return to the United States, which was authorized by my first letters after my return here, as by those of an earlier date, has prevented your communicating to me your sentiments on these important topics, as you otherwise might have done. I flatter myself, however, that you will have concluded from those which followed, as from the nature and course which this business has taken, that I should be detained through the Winter; and, in consequence, that I shall soon have the pleasure to receive such communications from you. As the health of my family has been improved by the late excursion into the country, I expect them in town in a few days; since now that the Ministry is about to change, and there is a fair prospect of accomplishing something to advantage, I do not wish to be absent a moment.

The President's Message to Congress has produced a very good effect here. I have reason to think that it was not ill-received by the Government, as, at the levee and drawing-room, I was shown rather more than usual attention by the King and Queen soon after it appeared, and have experienced from Lord Mulgrave, in an interview of ceremony at his own house since, as I had before at the Court, much civility. By his deportment I was also convinced that the manner in which I had opposed the measure of his Government, had produced no improper effect. The Message is considered by the public in general as furnishing satisfactory proof that our Government will vindicate its rights with firmness, in case this Government imposes on it the necessity. There seems to be no difference of opinion that, in case a misunderstanding took place between the two countries, it was attributable to this Government, and not to ours. In consideration of the effect which the extent of our commerce, as heretofore enjoyed, had on the fortunes of this country in impairing its own resources, or rather was supposed to have, and in supplying the wants of its enemies, the party in favor of the sentiments of the Ministry was a strong one, as a measure of policy. But there did not appear to be any one, or at most very few, who approved the manner in which that measure was introduced, being without notice to our Government, and of course a surprise on our people; under the circumstance, too, of an existing negotiation, which made it more highly reprehensible. I expect in a day or two to give you more full information respecting the arrangement of the new Ministry, and of the consequences likely to result from the change.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 41.

Mr. Monroe to Mr. Madison.

LONDON, *February* 12, 1806.

SIR: The arrangement of the new Ministry was completed, and its members installed in their respective offices, in the course of the last week. It makes, as you will find by the list, a thorough change of character, as I hope it will of principle, in its measures, at least in respect to us. It is well known that the King yielded to this change with extreme reluctance; that he offered to supply the chief place, which had become vacant by the death of Mr. Pitt, by Lord Hawkesbury, who did not seem unwilling to accept it, and in other respects to preserve the power in the same hands, with a view, as is to be inferred, of pursuing the same system of measures; but the other members of the late Ministry seemed disposed to retire, and as the opposition was not to be broken, and external causes pressed with great force, the change could no longer be resisted. The measure itself being resolved on, the King had the prudence not to embarrass it with conditions that were sure to be ill-received, or not accepted. He assented at once to commit the administration to the opposition, and authorized Lord Grenville and Mr. Fox to form and present to him an arrangement for the purpose. The only obstacle which was understood to have arisen afterward, respected the continuance of the Duke of York in the chief command of the forces, which was objected to by these gentlemen. That obstacle, however, was finally removed, by the King's assenting that the Duke might be assisted, or perhaps controlled,

by a military council. The new Ministry is composed of characters who have, till of late, been opposed to each other; from which circumstance, as from a knowledge that the King must retain a strong prejudice against some of them, it is believed by many that it will not remain long in power. The presumption is not an unreasonable one, though there are many considerations to authorize a different conclusion. It is not likely that the causes which formed the union will soon be done away. It is more probable that they will acquire greater force. From present appearances, those which are external cannot well fail to do it, and they must tend to produce a correspondent effect internally. If the war continues between this country and France, or the present rivalry in peace, this Government will be compelled, to preserve its independence, to arm the whole nation, whence the people must unavoidably have more influence in its measures. Such a course of things would be apt, not only to preserve the union which already exists between many who have been hitherto opposed to each other, but to strengthen it, and even to increase the weight and consideration of those who were viewed for many years past with most jealousy, and now admitted into a participation of power with the greatest reluctance, in the direction of public affairs.

As soon as Mr. Fox took possession of his office, he reqdested an interview with the foreign Ministers, which took place yesterday. We were introduced separately. As soon as the ceremony of the interview had passed, I observed that I presumed he had been too short a term in office to have made himself acquainted with what had occurred between his predecessors and myself, more especially the last one. He said he had not had time to read the papers, though he presumed he had a general idea on some of the topics. In respect to the immediate question, he asked whether I had made to them, or they to me, any proposition? I gave a short sketch of the part which our respective Governments had acted since the commencement of the present war toward each other. I told him that my Government had been ready to form a commercial treaty with his on the expiration of the late one; that it had agreed to postpone it to accommodate his, and with a desire that the arrangements which might be formed, being entered into at a time when each had sufficient leisure to attend to the object, and founded on a liberal view of their respective interests, might place their relations on such a footing as to secure their friendship from interruption, at least at an early day; that in the same spirit it had sought to put out of the way certain causes of a transient nature which might possibly create misunderstanding in the course of the war, such as the impressment of our seamen, blockades by proclamation, &c., according to a project which had been presented to Lord Hawkesbury, and to both his successors; that those gentlemen never gave any definitive answer to that project, and urged, as a cause of their delay, the other and pressing engagements of their Government, with which I was well acquainted, as also that its conduct toward the United States in the course of the present war was as consonant to their principles and wishes in the most important points as they could desire it to be; that on that ground I left the business, when I went to Spain, in the expectation that no change in the existing relations between the countries would be made in my absence. I assured him that I was astonished to find, on my return, that on the contrary those relations had experienced a most essential change; that an attack had been made on our commerce on a principle which had heretofore been so completely settled between our Governments, and abandoned by his, as to have been a case for which no provision was proposed in the project referred to. I explained to him the ground of this remark, and informed him that I had written several notes to Lord Mulgrave on the subject, to which I had not been able to obtain an answer, on the main question, though he seemed desirous, by keeping it open, in his short replies, that I should not consider it as decided against the United States. I could not avoid intimating to him that the friendly disposition which our Government had shown had been most ungenerously requited by his; that it seemed as if it had pursued a just and friendly conduct toward the United States till the moment that the new coalition was formed, gave the present blow when the prospect was favorable to success, and kept the business in suspense to see the result of affairs on the Continent and in the United States. He heard me with much attention and apparent interest; intimated that he had been accused of being too friendly to America, and when I spoke of the treaty with Russia, he observed that he had thought that the arrangement made by it was a good one, though I did not understand him as pledging himself by the remark to its conditions. I requested that he would make himself master, as soon as in his power, of the correspondence between Lord Mulgrave and myself, and give me an interview, which he promised. I am happy to add, on a view of all the circumstances, that I think the prospect of arranging our affairs with this Government, especially that one which respects our trade with the colonies of its enemies, on satisfactory terms, a very favorable one. It is certain that nothing more favorable was, or could reasonably have been expected from the first interview with the present Minister.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 42.

Mr. Monroe to Mr. Madison.

LONDON, *February* 28, 1806.

SIR: Presuming that it may be satisfactory to the President, and useful to be made acquainted without delay with every incident that occurs, I have the pleasure to send you a copy of a late note to Mr. Fox, on our concerns in his hands. In our first interview he promised to examine the papers, and give me another at an early day; but as I did not hear from him within the time I had expected, I called again, when he informed me that he had not yet been able to take up the American papers, but should soon do it. He asked in what shape the most interesting topic presented itself, alluding, as I understood, to the late seizures? I replied by a complaint on the part of the United States of a violation by Great Britain of the relations subsisting between the countries; and I illustrated the remark by a sketch of the conduct of his Government in the most material circumstances. To the merits of the case he said but little. What he did say, however, was conciliating; and he repeated, what he had said in the former interview, his earnest desire to see the affairs of the two countries placed on the most friendly footing. He assured me that I should hear from him as soon as he had read the papers, which he would do without delay. I intimated that, by giving him a summary of the whole, I might perhaps facilitate his research, to which he assented. It was on that ground that I addressed him the enclosed note.

I have since received your letter of January 13, in which you promise to send me an examination of the British principle lately published, the memorials of the merchants of our principal towns, and other documents illustrative of the subject. I shall be happy to receive these, and shall certainly endeavor to draw from them all the aid which they can furnish. The letter referred to in the commencement of that of the 13th has not come to hand, nor has any of a later date than December 4. I shall be attentive to the injunction contained in the last paragraph of that of the 13th.

As the subject is now fairly before the new ministry, who seem to be well disposed in the business, permit me to submit it to consideration whether it may not be better that no measure should be definitively adopted, or, if already adopted, be executed till a fair experiment be made of what may be expected of it. By suspending what might have been contemplated in another view, and even necessary, it may tend to conciliate those now in power, and be productive of good.

I have the honor to be, with great respect and consideration, your obedient servant,

JAMES MONROE.

PRINCE'S STREET, *Feb.* 25, 1806.

SIR: I have the honor to transmit you a note of the papers which are material in my correspondence with your predecessors on certain interesting topics, which have been for some time depending between our Governments, and are still unsettled. These are, 1st. The rights of neutral Powers in certain specified cases; 2d. The impressment of American and desertion of British seamen; and 3d. The boundary between the United States and the British possessions in America. The papers referred to will, I presume, sufficiently illustrate these topics. I shall, however, be permitted to accompany them with some remarks, to explain the course which the business has taken, and the state in which you receive it. Aware of the abuses which had been practised, in respect to neutral rights and seamen in the last war, and of their injurious effect on the interest of both countries, my Government was very desirous to prevent a repetition of them in the present one. With that view, and by its order, I had the honor to propose to Lord Hawkesbury, soon after the commencement of the war, an arrangement by convention of these interests, on such just and fair conditions as was presumed would have been readily acceded to. You will see by the project which I then presented to his Lordship at his request, that the object was strictly to prevent abuses and the ill consequences incident to them, not to acquire any advantage to the United States by the establishment of controverted principles in the one, or unreasonable pretensions in the other case. In respect to neutral rights, it was proposed to adopt between the Governments, in such cases as were more liable to abuse, certain principles or rules of conduct which Great Britain had already assented to in her Treaty with Russia in 1801. As those Powers had entered into that treaty for the express purpose of defining the law of nations in the cases to which it applied, and Great Britain had adopted its conditions afterwards in separate conventions with Denmark and Sweden, with the same view, it was concluded that her Government would not hesitate to admit its doctrine, or to observe its injunctions with other Powers. The same motive was felt and respected in the proposition which I had the honor to make in respect to seamen. The sensibility of the Government, and indeed of the whole nation, had been subjected to great and almost continual excitement by the abuses which had been committed in that line, on the high seas, in the islands, and sometimes in the ports, of the United States. The sons of respectable citizens had been snatched from them, many of whom were doomed never to return, to be slain in wars to which their country was not a party, or otherwise perish in a foreign service. No rule had been established by the Government to discriminate between American and British seamen, a thing not easily done by the most impartial, and the commanders of many of His Majesty's ships of war and privateers, especially the latter, acknowledged none but their own judgments in making the discrimination. The highest American documents were often either not looked at, or utterly disregarded. It was evidently improper that an interest of a nature so delicate and important, one which is so intimately connected with the sovereignty and independence of the nation, should be left longer in such a state of oppression. My Government felt that it would be wanting in what it owed to its character as in its duty, if it did not endeavor to put an end to a practice so injurious, and at the same time so degrading. It was, therefore, one of the objects of the project referred to, to provide a remedy for that evil. But it was understood that Great Britain complained likewise of an injury in respect to her seamen, though of a different kind;

for that also it was proposed to provide an adequate remedy. In protecting American citizens from impressment, my Government was far from desiring to extend its protection to any one who had not a just claim to it. It was ready to meet the injury complained of by Great Britain, and to suppress it by the most effectual means in its power. These propositions were neither accepted nor rejected by Lord Hawkesbury, though I think myself perfectly correct in stating that nothing occurred in our conferences, to justify an inference that he thought them unreasonable. They were postponed from time to time at his instance, and finally transferred to Lord Harrowby, his successor. I revived the subject immediately with Lord Harrowby, to whom I also submitted, at the same time, a proposition relative to boundaries. It happened that Lord Hawkesbury and Mr. King had made a convention on this latter subject within a few days of the time, when one was also concluded between the United States and France, whereby the province of Louisiana was ceded to those States. As it was not known to Lord Hawkesbury or Mr. King, when they formed their treaty, that one had been concluded with France, it was impossible that the conditions of the French Treaty should be in any degree affected by that with Great Britain. It was, however, apprehended that, if the British Treaty should be ratified by the President and Senate, after the conditions of the other were known, without providing against it, it might lay the foundation for such a pretension. It was, therefore, proposed to modify the convention in such a manner as to preclude a claim which would be equally unjust and unauthorized. As this subject is fully explained in my note to Lord Harrowby, of the 5th September, 1804, it is unnecessary to enter further into it at present. The conduct of Lord Harrowby in this business was essentially the same with that of his predecessor. It was postponed from time to time for the consideration of the Cabinet, whose decision I was taught to expect, but never received. I had been ordered by my Government, before Lord Harrowby came into office, to repair to Spain on a special mission, as soon as the business with his Lordship should be concluded. Of that fact, after waiting some time, I gave his Lordship information, in the hope of promoting despatch. Still, however, the business was delayed, the Cabinet, as I was informed, having come to no decision on any point, till finally it was agreed between us, to postpone the whole until my return from Spain, when it should be resumed and concluded. I left Great Britain on that mission in October, 1804, and returned in July, 1805.

At the epoch referred to, the relations between the two countries were of a character the most friendly. Not an American vessel had been condemned on any principle which was relied on by my Government, and only one that I knew of on any principle whatever. Their commerce with each other was, as it always will be when left to its natural course, most flourishing; and that which the United States claimed, as a neutral Power, with other nations on a footing which was perfectly satisfactory to their Government. At my return, however, the scene was completely changed. A system of seizure and condemnation of American vessels had been commenced on a principle respecting which, it was presumed, that no new discussion could ever arise; one which was considered as having been so completely settled between the Governments, that, in the project above referred to, it was not contemplated to make a provision for it: a principle which had been renounced by Great Britain in her treaty with the United States in 1794; which had been condemned by the Commissioners who sat under that treaty; which had been renounced by the Court of Admiralty in a subsequent decision; by Lord Hawkesbury in a formal communication with my predecessor in 1801; by the treaty with Russia in the same year; and, what is perhaps still more conclusive, by the Government, in the sanction which had been given to that commerce for the two preceding years of the war. I could not otherwise than be much surprised at a proceeding which I considered objectionable in so many views, and hastened to remonstrate against it to Lord Mulgrave in several notes whose dates are annexed. To these his Lordship never honored me with a conclusive answer, with one which acknowledged the measure an act of the Government, or disclaimed it on its part. The proceeding has been highly injurious to the United States; about one hundred and twenty of their vessels have been seized, several of which were condemned, all taken from their course, detained, and otherwise subjected to heavy losses and damages. To the immediate sufferers it has been disastrous; but the ill effect has not been confined to them only. It has been severely felt in the general commerce of the country.

I have thought it my duty to give you above a sketch of the several topics depending between our Governments, which are submitted to your consideration. They are all of a nature very interesting, as I am persuaded you will find by a perusal of the documents referred to. But the late seizure and condemnation of American vessels, are acts which have proved so highly injurious to the United States, and have so essentially changed the relations which subsisted between the countries, that they will, I flatter myself, obtain from you a more immediate and particular attention. I beg you to be assured that I shall be happy to have it in my power to transmit to my Government, without delay, such communications on your part, which may serve not only to heal the wound which has been thus unexpectedly received, but to promote in other respects, by suitable arrangements, the reciprocal and permanent interests of both nations and the best understanding between their Governments.

I beg you to accept the assurance of the high consideration with which I have the honor to be, sir, your most obedient and most humble servant.

JAMES MONROE.

The Right Hon. C. J. Fox, &c.

No. 43.

Mr. Monroe to Mr. Madison.

LONDON, *March* 31, 1806.

SIR: Your letter of the 13th January is the last I have received. The pamphlet enclosed with it has been republished here, and I have this day transmitted a copy of it to Mr. Fox, with whom I had an interview on the 28th. I had expected, from what passed between us on the 11th, that before this much progress would have been made in the adjustment of our affairs; I am, however, sorry to add that this has not been the case. In the late interview I complained of the delay which had taken place, more especially as the court continued to condemn our vessels on the principle it had heretofore done. Mr. Fox said that, till the business was arranged, he presumed the court would be consistent, but gave reason to expect that the condemnations would be suspended. He assured me explicitly that the late decision was not to be considered as an evidence of the disposition of the present Ministry. I endeavored to fix with him the conditions of our adjustment of that question, but found that he was not prepared to conclude anything. The tenor of his conversation, however, was perfectly consistent with what he had said before on it, as heretofore communicated to you. The interview terminated in his assuring me that he should devote the Easter holidays to a full examination of the whole subject, after which he would be prepared to meet me on it, and that he was persuaded we might conclude it in a month or six weeks from that time; that he would certainly give it all the despatch in his power. He intimated that if, indeed, a peace should take place, of which there was at present but little prospect, he was, nevertheless, desirous of settling this business amicably with the United States, with a view to preserve future harmony. I told him that we expected payment for the spoliations. He said that that was a very serious and difficult point, but gave no opinion on it. Finding that nothing could be done conclusively, I had only to assure him that I should be ready to meet him whenever he might be prepared, which I hoped would be immediately after the holidays. From what I can discern, I think that there is much reason to believe that Mr. Fox has the best disposition to settle our differences on just principles; but it must be recollected that some other of the members of the Cabinet have not always thought with him on such topics. On the most deliberate reflection, I am convinced that too much reliance ought not to be placed on these favorable appearances, and that there is cause to fear that if the Congress should separate without adopting a system of coercive policy, calculated to meet the most unfavorable result, their forbearance may contribute to the disappointment of our reasonable expectations. By this, however, I do not wish to imply that measures of the kind alluded to should be carried into prompt execution. I mean only that the attitude should be taken, but its operation be suspended, by suitable powers to the President, till he shall be duly notified that the negotiation has failed. Such a suspension will be deemed a sufficient mark of respect to those in the Ministry who are disposed to a fair accommodation, and the attitude will, in my opinion, tend to aid their councils in producing that effect.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 44.

Mr. Monroe to Mr. Madison.

LONDON, *April* 3, 1806.

SIR: As it appeared by what occurred in my interview with Mr. Fox on the 28th ultimo, that some weeks at least would elapse before I could hope to bring our business to any conclusion, I thought it proper to make a formal application to him on the 31st, for an order to suspend the seizure and condemnation of our vessels on the principle of the late decrees. I had not requested this in explicit terms before, because I hoped from what passed in our first interview, that the whole affair would have been concluded much sooner. I was fearful, too, that if the demand should be granted, it would become a reason why nothing more should be done. This latter reason, it is true, still remains in some degree in force, if, indeed, it had any weight at first. It was, however, outweighed by the consideration that the seizures were continued, and that I ought not, on a mere speculative point of expedience, as to the effect which such an application might have on the general question, to delay any longer my utmost exertion to put an end to the practice.

There were also some other considerations which prevented my making the application sooner, which had ceased, if they did not furnish motives, for making it in the present stage. The new Ministry had a just claim to sufficient time to become acquainted with the merits of the question, and even to sound the Parliament on it, before it could be expected to take any step in the business. Had I made the demand at an earlier period I thought I should incur the imputation of a want of candor, without a reasonable prospect of hastening a decision, unless, indeed, by urging it unseasonably, I might promote an improper one. To Mr. Fox, especially, much attention was due in the mode of proceeding, on account of his character and principles in reference to our country, which are known to be just and liberal. It seemed probable that, by respecting that sentiment towards him in the measures taken, his feelings would be gratified and his mind conciliated, which could not otherwise than produce a good effect. His exertions on topics in which the United States were interested form an important trait in his political life, and it was evident, in our first and subsequent interviews, that he looked back on them with interest and satisfaction. This, therefore, formed a special motive for giving time and acting with delicacy in the business. At this period, however, the application seemed to be free from all these objections,

while it had become obviously my duty to make it by the consideration stated in my note.

How the Cabinet is disposed in this question it is not in my power to state. Some of its members are known to have differed with Mr. Fox in respect to the policy of Great Britain towards the United States on former occasions and in similar cases. It is possible that the spirit of conciliation on which the Ministry is formed may be felt in the present case. Every view, however, which I have been able to take of the subject confirms me in the justice of the remarks which were communicated to you in my last, of the 31st ultimo.

I enclose you a copy of a letter from Mr. Guillemard, claiming his compensation as fifth Commissioner under the Treaty of 1794, to the period of the dissolution of the Board, to which I promised to obtain him your answer. I have the pleasure also to send you a copy of my correspondence with the house of Baring & Co., at the instance of General Lafayette, on a subject interesting to him. As they have furnished him the accommodation which he desired, from considerations which cannot fail to be satisfactory to our Government, I hope the President will be disposed to secure, so far as depends on him, their ultimate reimbursement out of the land which has been granted to him by the Congress.

The house of Baring & Co. having lately presented to me a statement of my drafts from the continent, for my support and that of my family there, I have, after deducting a portion of what was on no principle chargeable to the United States, certified a sum which I wished to be allowed in their account with the Government. Other deductions are still to be made on the same principle, which will diminish the charge to the public, in any view incident to that business. These I propose to make on my return home, and, in the interim, I must stand in the account indebted to the public. You will observe that the salary of the Secretary, his travelling expenses, those of the messenger to Paris, and other charges, are comprised in the statement. I have flattered myself that the same principle which was applied to Mr. Pinkney ten years past, when the expense of living was much less, would be extended to me. It is far from my intention, however, to make any difficulty on this point, having in truth no right to do it, and, from many considerations very interesting to me, most certainly not the disposition.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

[ENCLOSURE.]

Mr. Monroe to Mr. Fox.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to send him a copy of an American essay containing an examination of the principle on which the Admiralty has lately condemned the vessels of the United States. As this work is written with great ability and candor, Mr. Monroe flatters himself that Mr. Fox will take the trouble to give it an attentive perusal.

Mr. Monroe has been much gratified by the assurances which Mr. Fox has given him in their several interviews of his disposition to adjust the differences between their Governments on the most just and liberal principles. He has high confidence in these assurances, and in the prospect they afford of an early accomplishment of their object. In consideration, however, of the great length of time which has elapsed since the commencement of the seizures, and of that which which will be required to complete the business, he deems it his duty to submit to Mr. Fox whether it will not be proper that His Majesty's Government should suspend the seizure and condemnation of American vessels on the principle in question. Mr. Monroe presumes that such a suspension, in any case where one of the parties to an amicable negotiation was suffering very extensive injuries under the operation of a principle which they were desirous to adjust, would be proper. In the present one, however, it seems to him to be made peculiarly so by a late decision of the Lords Commissioners of Appeals, in the case of William Treffrey, which confirms the principles of the former decisions, which have been, as Mr. Monroe presumes, so justly complained of by his Government. He apprehends that this decision, unless followed by the suspension proposed, will be considered by the United States and His Majesty's cruisers, as a sanction by the present Government to the policy which has been heretofore pursued. In case His Majesty's Government thinks proper to adopt the measure which is requested, Mr. Monroe hopes that Mr. Fox will be so good as to give him early notice of it, that he may transmit it to his Government without delay.

No. 45.

Mr. Monroe to Mr. Madison.

LONDON, *April* 18, 1806.

SIR: I received yesterday a note from Mr. Fox appointing to-morrow (Saturday 19th) for an interview, with which I shall of course comply. I met him afterwards and had a conversation with him in the Queen's drawing room, which, being of an interesting nature, I hasten to communicate to you. He took me aside, and observed that we must now soon settle our business. I replied, that I hoped he was ready to do it. He intimated that he was so essentially; that he would begin it on Saturday and pursue it without delay until it was concluded. Some remarks of his having led the conversation to the merits of the principal topic, I told him that he must leave us in the enjoyment of the trade in question, and pay us for the property taken. To the first proposition he immediately assented. To the second, he said there would be objections. He added, that he had taken steps to prohibit the further condemnation of our vessels and cargoes, as I had desired, of which he intended to have informed me by note, but had been prevented by other business; he had no objection, however, still to do it. I cannot be positive whether he said that the prohibition extended also to the seizure of our vessels, though I rather think it did. When I see him to-morrow I shall easily ascertain this. He observed that we must make some arrangements to accommodate them in return; that the practice of buying, or pretending to buy, enemies' vessels, as was done in the North, ought to be suppressed, and he hoped that I would join him in it. I said that we would do all we could to prevent fraudulent practices; that such purchases were rarely made by our citizens, as we were rather sellers than purchasers of ships. He considered it in that light, and I found wished some precedent from us, which might avail him in the North, and make more acceptable at home the accommodation given us in other respects. I left this topic open, having said nothing to compromit myself on it. As the whole of this conversation, though apart, was, nevertheless, in a public room, full of company, it was impossible to make it more precise. I could not, therefore, attempt to ascertain to what length he was willing to leave the commerce with enemies' colonies free. I shall doubtless collect his idea on that point to-morrow, since it seems best to hear his proposition before I say anything on it, and I shall not fail in any case to attend to your instruction of January 13th.

I have sent you two copies of a pamphlet, entitled "An Inquiry into the State of the Nation," &c., which is attributed to Lord Holland, and, as I presume, with reason. It breathes very liberal sentiments towards the United States, and in regard to them, as to other objects, is probably intended to prepare the public mind for the system of policy adopted by the present Ministry. It looks towards a general peace, and may be written to promote it. Communications have taken place between this Government and that of France lately, which are supposed to touch that subject; but as I know nothing on it which the papers do not contain, it is useless for me to hazard conjectures on facts which are of a general character, and equally well known to you.

I am sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. I have also sent you a work of Lord Sheffield's, which treats much on our subject. He appears to have worked himself up to a pitch of great passion, and to mistake facts so obvious to detection, as to allow that apology for it.

The 13th January is the date of the last letter I have from you.

No. 46.

Mr. Monroe to Mr. Madison.

LONDON, *April* 20, 1806.

SIR: I have the pleasure to inform you that I had an interview with Mr. Fox yesterday, in which we conferred on all the interesting topics depending between our Governments. The result was as satisfactory in respect to his own views as his more early communications had promised, and gave a prospect more favorable of the disposition of the Cabinet generally than I had anticipated. The substance of what passed in our conference of the 17th was fully confirmed in this, and his sentiments on some points on which I had not then clearly understood them were made more explicit. The prohibition mentioned in my letter of the 18th is to be extended to the seizure as well as the condemnation of our vessels, of which he is to give me official notice in a day or two. On the principle, there seems to be no question between us but in respect to the direct trade between the colony and the parent country. To the justice of our claim of indemnity he said little, but I see that it is a point which the ministry will find it difficult to concede, from a variety of considerations. I am, however, not without the hope that it may be placed on a satisfactory footing. He expressed a desire to take up the subject of commerce generally, more especially in respect to the West Indies, the intercourse between which and the United States he thought it important to both countries to arrange at this time. I showed a willingness to meet him on the general subject, or any part of it, on which we could agree. The sentiments which he expressed on this and every other subject to which our conversation extended, were of a very liberal kind, and communicated with frankness and candor. He admitted that it ought not to be expected that the United States would allow their productions and resources which were necessary to the existence of the West India colonies, to be drawn from them otherwise than on fair principles of reciprocity. It was finally agreed that he should write me a second letter, which would be in reply to those I had written to Lord Mulgrave, in which he would explain the views of his Government on the subject of them. He promised to write this letter in a week or ten days if not prevented by unexpected events. This letter will of course lay the foundation, on the part of his Government, of the negotiation.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE,
April 23, 1806.

SIR: Your last letter bears date on the 12th of February. Those of the 18th October, 11th, 26th November, 11th and 23d December, and 18th January, had been previously received.

Congress adjourned the evening before the last. The gazettes before and herewith sent will give you a general view of the proceedings of the session. As soon as the laws passed shall be ready, a complete copy of them will be forwarded. For the present I enclose only a copy of the act shutting our market, after the 15th November next, against certain articles of British manufacture. Notwithstanding the hope that the new Ministers of Great Britain bring into the Cabinet dispositions more just and favorable to the Uni-

ted States than their predecessors, it was thought most consistent both with self-respect and with sound policy not to allow a change of persons, without an actual or promised change of measures, to arrest the meditated course of remedial provisions. You will not fail, however, by due explanations, to guard the act against the imputation of motives and views of a nature to excite feelings on the other side, unfriendly to a fair estimate of their true interests. You may with confidence affirm, that a resort to such a manifestation of the sensibility of this country to wrongs so long continued, and of late so grievously extended, has been had with the most sincere reluctance; and that nothing is necessary on the part of Great Britain to smooth the way to perfect cordiality, and to all the beneficial intercourse of commerce, but a redress, which the United States are willing to limit to the clearest demands of justice and right. As a proof of their solicitude to bring about a final and amicable adjustment of all points in question between the two countries, and of their readiness to establish the principles of navigation and commerce in a form that will extend the latter, and render the former no longer a source of discord, the measure has been adopted of appointing yourself, and Mr. Pinkney, of Baltimore, Commissioners Extraordinary and Plenipotentiary for those purposes. The objects of the appointment, as described in the terms of it, are "to settle all matters of difference between the United States and the United Kingdom of Great Britain and Ireland, relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."

No time will be lost in preparing the instructions for your joint negotiation; and Mr. Pinkney will doubtless not fail to be ready to embark with as little delay as possible.

With great respect, &c.,

JAMES MADISON.

No. 47.

Mr. Monroe to Mr. Madison.

LONDON, *April* 28, 1806.

SIR: Having waited a week after my interview with Mr. Fox, on the 19th, without receiving either of the communications which he then promised me, I called on him on the 25th to know the cause, and to confer freely again on our affairs, if he should be so disposed. As he anticipated the object of the visit, we soon entered on it. After some introductory remarks on other topics, he began by asking what was the minimum of our demands respecting the seizures? Could we not agree in some modification of our respective pretensions, some compromise? For example, to adopt some plan which might answer our object without compromitting his Government. As I perceived that he alluded principally to our claim to an indemnity, I observed, that if the principle was admitted to be with us, the indemnity followed of course. But, says he, cannot we agree to suspend our rights, and leave you, in a satisfactory mode, the enjoyment of the trade? In that case, nothing would be said about the principle, and there would be no claim to an indemnity. I told him that I could not agree to such an adjustment; that the right was unquestionably with us; the injury had been severe and unprovoked, and that we could not abandon our claim in either case. He entered into such a view of the subject as showed a disposition to yield what accommodation he could, in a manner the least objectionable on his part. He did not seem desirous of discussing the question of right, nor did he deny that an indemnity was fairly incident to it. He then asked, how the fact stood relative to the continuity of the voyage? On what ground did the charges rest of the Congress having made regulations to evade the principle insisted on by the Court of Admiralty? I replied, on none whatever; that the question of continuity had never occurred between our Governments; that it was a creature of the Court of Admiralty, who had set it up as doctrine, and supported it by such charges to justify the condemnation; that my Government had never admitted the right in his to impose any restraint on the trade of neutrals with enemies' colonies, other than with the parent country; that his Government had repeatedly admitted and established that claim by the most solemn acts, as had been proved by the documents in his possession; that he must be sensible if my Government was capable, in any case, of passing acts to evade a principle, it would not do it in the present one, where it could only serve to create doubts to the prejudice of the United States, and by giving a new sanction to the former pretensions of his Government, revive a controversy which had been already amicably settled in their favor. I added, that I possessed an official document which fully proved what I had advanced respecting our regulations, which, with his permission, I would send him; he expressed a desire to receive it. Well, says he, I perceive that your minimum and maximum are the same. I replied, that I did not see how it could be otherwise; that we only sought what was strictly just, and ought not to be desired to relinquish any portion of that. He then proceeded to insist that our vessels which should be engaged in that commerce must enter our ports, their cargoes be landed, and the duties paid on them. I said that such restraints were incompatible with our just rights. He urged, also, that we must unite in a plan to prevent the fraudulent sale and use of enemies' vessels. I was apprehensive that any stipulation on that head might lay the foundation of new disputes. He thought we were interested, as ship-builders, in suppressing such frauds; besides, says he, you must yield something to justify the concessions that are expected from us. I told him that I should be glad to see his project, or that he would answer my letters in such a manner as to lay the foundation of a treaty. He assured me that he would do so as soon as he could, but as he had failed to comply with his former promise, he was afraid to make another as to time, but gave me reason to expect one in a week or ten days. As I had cause to suspect from his remarks on the whole subject, that an order to prohibit the seizure and condemnation of our vessels had not been issued, I asked him explicitly the question. He said that none had been issued; that, in truth, such a step would be to give up the point in negotiation. I inferred, however, that the measures which he informed me, on the 17th and 19th, he had taken for that purpose, were of a nature to produce the desired effect; these are, I suppose, confidential in the Cabinet with the Court of Admiralty, &c. The order itself has most probably been withheld for the present, that it might be connected with the general subject, on the principle above adverted to by Mr. Fox. I could not, however, push the inquiry on that point further at the time, from motives of delicacy to him, nor did there appear to be any strong reason for it. I cannot suppose that nothing is done in that respect, and am persuaded that the business is so far advanced, that, if intended, as I presume, the order must soon be issued.

On the day after the interview above mentioned, I sent Mr. Fox a copy of Mr. Gallatin's letter to you, explaining the mode of entering goods and paying the duties on them in the United States, as I had promised. I had not done this to Lord Mulgrave, because the state of the business with him would have given it the air of a concession on my part. I availed myself of the opportunity to state explicitly, that I could not enter into any adjustment which did not provide a reasonable indemnity for injuries. It seemed to me obvious, that that claim formed a principal difficulty in the Cabinet; and I was persuaded that it might have a good effect to give him what would be considered the ultimatum on it. I have not heard from Mr. Fox since, though it is presumable that I soon shall, for I do not suspect him of the want of good faith in his communications with me. It is proper, however, to add, that, independent of the real importance of the subject, and the responsibility incident to any concessions which may be made in our favor by the present Ministry of the pretensions of the former, circumstances which are likely to inspire caution and create delay in the Cabinet, the additional one of his being a member of the House of Commons for the management of the prosecution of Lord Melville, cannot fail to increase it. I shall, nevertheless, do everything in my power, consistent with propriety, to bring the business to as early a conclusion as possible; and to comprise in the adjustment, in the manner enjoined by my instructions, the important questions respecting our seamen and boundaries.

You will observe, that Mr. Fox insisted, in the late interview, on restricting the trade with enemies' colonies in a greater degree than he had done in the preceding one. I am convinced that this was produced by the Cabinet deliberations on the subject; for I am strong in the opinion, that, if left to himself, he would meet in arrangements, which would place the whole business, and, indeed, all our relations, on the most broad and liberal basis; in a firm belief that, by so doing, he would advance the best interests of his country. But he has to consult and accommodate with others, some of whom may, perhaps, not entertain, in all respects, the same sentiments, or be equally prepared to encounter in a new scheme of policy ancient and deep-rooted prejudices. When I get his answer, I may remind him of his former concession in this respect, if it should appear that any advantage was likely to result from it. I shall not fail, however, to pay great attention to this particular object, and will certainly not agree to any restraint on the trade which can be avoided, or is likely to be disapproved by the President.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

[Enclosed in Mr. Monroe's of 28th April, 1806.]

Mr. Monroe to Mr. Fox.

PRINCE'S STREET, *April* 26, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to enclose him a copy of the official document mentioned in their interview of yesterday, being a letter from the Secretary of the Treasury to the Secretary of State, explaining the manner in which duties are paid on goods imported into and exported from the United States. Mr. Fox will find by this document that the regulations respecting that subject are uniform, and applicable to all articles exported, and that they were not adopted to favor any particular commerce, as has been erroneously supposed. Mr. Fox will be the more sensible of this fact when he recollects that the Government of the United States never admitted the right in Great Britain to inhibit the commerce in question; that, on the contrary, it had concluded, on the highest possible evidence, as is proved by the papers in Mr. Fox's possession, that Great Britain had relinquished the pretension.

Mr. Monroe considers it his duty to observe to Mr. Fox, that as his Government thinks itself entitled to the commerce referred to, and that the citizens of the United States have been injured by the attack which has been made on it by His Majesty's cruisers and privateers, under circumstances, too, that were peculiarly calculated to inspire a confidence in their security, his instructions forbid his entering into any adjustment which does not look to the object of a reasonable compensation. He makes this communication with candor, in the hope that Mr. Fox will take it into consideration in the answer which he has been so good as to promise him at an early day.

Mr. Monroe flatters himself that His Majesty's Government will be animated by a sincere desire to meet the Government of the United States in such an arrangement as will establish the relations of the two countries on a ground of permanent friendship, and that it will be of opinion, independent of the satisfaction to be derived from rendering justice to a friendly Power which it

has injured without provocation, that the recompense due to the sufferers is but a trifling consideration when compared with so great a national object. Mr. Monroe hopes that Mr. Fox will see the propriety of placing this business in his answer on such grounds as may promise a satisfactory adjustment of it, and for the reasons stated in his note of the 31st ultimo, that his Majesty's Government will not hesitate in the present stage to prohibit the further seizure and condemnation of American vessels on the principle in question.

Extract—Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE. *May* 15, 1806.

SIR: Since my last of the 23d of April, I have received your several letters of the 20th February and 11th March. This will be put in the hands of Mr. Pinkney, whose appointment jointly with you, by a commission extraordinary, has been already communicated, and who proceeds to London with the powers and instructions for carrying the joint commission into effect. This you will find embraces a larger field of negotiation and convention than fell within the instructions heretofore given you in your capacity of Minister Plenipotentiary alone. The commission extraordinary, therefore, will not be without important objects, even if those previously committed to yourself should have been obtained. Mr. Pinkney carries with him also a commission and letter of credence as your successor, in case you should persist in your intention of returning after the occasion which suspended it shall be over. A letter of farewell also for yourself goes by him, of the same provisional character.

As the joint commission does not include the subject of the convention of limits not yet acceded to by Great Britain, as varied by the Senate here, it will remain with you alone, or your successor, to continue the endeavors to bring that business to a conclusion. If any repugnance should be shown to the erasure of the fifth article as proposed by the Senate, and thereby leaving unsettled for the present the boundaries in the northwest quarter of the Union, and preference should be given to a proviso against any constructive effect of the Louisiana convention on the intention of the parties at the signature of the depending convention, you may concur in the alteration with a view to bring the subject in that form before the ratifying authority of the United States.

I must observe to you, however, that either another proviso or a clear understanding to the same effect, or at least an understanding that the question is open for future settlement, will be proper in order to supersede pretensions which the British Government may otherwise found on their possession of the island of Grand Menan, and the silence of the instrument with respect to it. This island is of considerable extent, is clearly within the general limits of the United States as fixed by the Treaty of Peace, and is understood not to be within the exception made by the treaty of islands appurtenant to Nova Scotia, since all such islands must be either west, east, or north of the coast of that Province, and within six leagues thereof; whereas the island of Grand Menan is nearly due south of the nearest part of the coast, and is either in the whole, or with the exception of a mere point, beyond the distance of six leagues. No just title can therefore be alleged on the British side, and care would have been taken to guard against a pretended one, by a clause to that effect, if the facts of British settlement and the exercise of British jurisdiction had been known at the time. The documents now transmitted will sufficiently explain the subject, and enable you to annex a proper clause to the convention. One of these documents will give you a view, at the same time, of a late case in which an American vessel, bringing plaster of Paris from Nova Scotia to the United States, was condemned. In strictness of law the condemnation may not have been objectionable, but considering the continuance of the trade for a length of time, and the official sanction added to the usage, the case makes a very strong appeal to the equity and liberality of the British Government. The dependence of the British settlements in that quarter on supplies from the United States, more essential to them than plaster is to us, suggests other considerations not unworthy of attention. These, however, will be brought most advantageously into view in one of the branches of the joint negotiation.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE.
May 17, 1806.

GENTLEMEN: I herewith enclose a commission and letters of credence, authorizing you to treat with the British Government concerning the maritime wrongs which have been committed, and the regulation of commerce and navigation between the parties. Your authority is made several as well as joint, as a provision for any contingency depriving either of the co-operation of the other.

The importance of the trust is evinced by its being made the occasion of an extraordinary mission, as well as by the subjects which it embraces. And I have great pleasure in expressing the confidence which the President feels in the prudence and talents to which the business is committed.

It is his particular wish that the British Government should be made fully to understand that the United States are sincerely and anxiously disposed to cherish good-will and liberal intercourse between the two nations; that an unwillingness alone to take measures not congenial with that disposition has made them so long patient under violations of their rights and of the rules of a friendly reciprocity; and when forced at length by accumulating wrongs to depart from an absolute forbearance, they have not only selected a mode strictly pacific, but, in demonstration of their friendly policy, have connected with the measure an extraordinary mission, with powers to remove every source of difference, and even to enlarge the foundations of future harmony and mutual interest.

There can be the less ground of umbrage to the British Government in the act prohibiting the importation of certain articles of British manufacture, 1st. Because there is nothing on the face of the act beyond a mere commercial regulation, tending to foster manufactures in the United States, to lessen our dependence on a single nation by the distribution of our trade, and to substitute for woollens and linens manufactures made from one of our principal agricultural staples. 2dly. Because it is far short of a reciprocity with British exclusions of American articles of export. 3d. Because, as a commercial measure discriminating in time of war between British and other nations, it has examples in British practice. It deserves attention, also, that a discrimination was made, and under another name still exists, in the amount of convoy-duty imposed on the trade between Great Britain with Europe and with America. 4th. Because the measure cannot be ascribed to a partiality towards the enemies of Great Britain, or to a view of favoring them in the war; having for its sole object the interest of the United States, which it pursues in a mode strictly conformable to the rights and the practice of all nations.

To observations of this kind it may be useful to add that the measure was undertaken before the late change in the British Ministry, and does not therefore imply any particular distrust of the views of the new one, but merely a belief that it was most consistent with self-respect not to be diverted by an occurrence of that nature from a ground which had been deliberately and publicly assumed; not to mention that no assurances sufficiently decisive had been received, that a disposition to correct the evil in question predominated in the present Cabinet, whilst it was known that some of its most distinguished members have heretofore been among the warmest champions of the maritime doctrines in which those evils have their origin.

In one respect the act may even be favorable to the objects of the present Cabinet, if it should be disposed to make unpopular concessions refused by their predecessors, since concessions alone can now regain a lost market for certain important and popular classes of British manufactures.

In fine, the act may truly be represented as so far from derogating from the amicable dispositions of the United States towards Great Britain, that it has resulted solely from the inefficacy of their protracted and reiterated endeavors otherwise to obtain a just redress, and from a hope that an appeal, in this peaceable form, to the reflections and interests of an enlightened nation would be more successful in removing every obstacle to a perfect and permanent cordiality between the two nations.

The instructions given to Mr. Monroe, January 5, 1804, having taken into view, and being still applicable to a great proportion of the matter now committed to your joint negotiations, it will be most convenient to refer you to those instructions as your general guide, and to confine the present to the alterations and additions, which a change of circumstances, or a contemplation of new objects, may require.

The first article of the project comprised in the instructions of 1804 relates to the impressment of seamen. The importance of an effectual remedy for this practice derives urgency from the licentiousness with which it is still pursued, and from the growing impatience of this country under it. So indispensable is some adequate provision for the case, that the President makes it a necessary preliminary to any stipulation requiring a repeal of the act shutting the market of the United States against certain British manufactures. At the same time he authorizes you, in case the ultimatum, as stated in the article above referred to, should not be acceptable to the British Government, to substantiate one in the terms following: "No seamen nor seafaring persons shall upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships or men of war, belonging to or in the service of the other party; and strict orders shall be given for the due observance of this engagement."

An article in these terms was, with the acquiescence of Lord Hawkesbury and Mr. Addington, concerted between Mr. King and Lord St. Vincent, on the approaching renewal of the late war. It was frustrated by an exception of the "narrow seas," inserted by Lord St. Vincent; an exception so evidently inadmissible, both in principle and in practice, that it must have been intended as a pretext for evading the stipulation at that time. Perhaps the present ministry may neither be disposed to resort to such a pretext, nor unwilling to avail themselves of the precise sanction as far as it was given by their predecessors.

With respect to contraband, which is the subject of the fourth article, it may be observed, that as it excludes naval stores from the list, and is otherwise limited to articles strictly military, it must, if admissible to Great Britain, leave but feeble objections to an abolition of contraband altogether. In the present state of the arts in Europe, with the intercourse by land, no nation at war with Great Britain can be much embarrassed by leaving those particular articles subject to maritime capture. Whilst belligerent nations, therefore, have little interest in the limited right against contraband, it imposes on neutrals all the evils resulting from suspicious and vexatious searches, and from questions incident to the terms used in the actual enumeration. It is not an unreasonable hope, therefore, that, in place of this article, an entire abolition of contraband may be substituted. Should this be found unattainable, it may be an improvement of the article as it stands to subjoin, for the sake of greater caution, to the positive enumeration a negative specification of certain articles, such as provisions, money, naval stores, &c. as in no case to be deemed within the meaning of the article, with a proviso that the

specification shall not be construed to imply in the least that any articles not specified in the exception shall on that account be liable to be drawn into question.

A doctrine has been lately introduced by the British courts, and at length adopted by the instructions of June, 1803, to British cruisers, which regards contraband conveyed in one voyage as affecting a resumed or return voyage, although the contraband shall have been previously deposited at its port of destination. It will be a further improvement of the article to insert a declaratory clause against this innovation and the abuses incident to it.

The fourth article, besides the stipulation on the subject of contraband, relates to two other subjects: 1st, That of free ships free goods; 2d, That of a trade with enemies' colonies.

1st. With respect to the first, the principle that a neutral flag covers the property of an enemy is relinquished, in pursuance of the example of the Russian treaty, on which the article is modelled; the relinquishment, however, being connected with and conditioned on the provision required in favor of the neutral right to the colonial trade. The importance of that principle to the security of neutral commerce and to the freedom of the seas has at all times been felt by the United States; and although they have not asserted it as the established law of nations, they have ever been anxious to see it made a part of that law. It was with reluctance, of course, that a contrary stipulation was authorized, and merely as a means of obtaining from Great Britain the recognition of a principle now become of more importance to neutral nations possessing mercantile capital than the principle of "free ships free goods." It is to be particularly kept in view, therefore, that such a contrary stipulation is to be avoided, if possible; and if unavoidable, that the stipulation be so modified as to interfere as little as possible with the spirit and policy of any provisions in favor of the principle which may be likely to be introduced into a treaty of peace among the present belligerent Powers of Europe. Should it be known that Russia as well as France mean to insist on such a provision, and that such a stipulation by the United States, however modified, will materially affect her confidence and good will towards them, the objection to the measure will acquire a force that can yield only to the consideration that, without such a sacrifice, the provisions for the security of our seamen and of our neutral commerce cannot be obtained, and that the sacrifice will effectually answer these purposes.

2d. The vast importance of the colonial trade, with the circumstances and the excitement which have taken place since the date of the original instructions to Mr. Monroe, will require that the neutral right on this subject be provided for in an appropriate article, and in terms more explicit than are used in the article under review. As the right in this case turns on the general principle that neutrals may lawfully trade, with the exceptions of blockades and contraband, to and between all ports of an enemy, and in all articles, although the trade shall not have been open to them in time of peace, particular care is to be taken that no part of the principle be expressly or virtually abandoned, as being no part of the law of nations. On the contrary, it is much to be desired that the general principle, in its full extent, be laid down in the stipulation. But as this may not be attainable, and as too much ought not to be risked by an inflexible pursuit of abstract right, especially against the example and the sentiments of great Powers having concurrent interests with the United States, you are left at liberty, if found necessary, to abridge the right in practice, as is done in the supplement of October, 1801, to the treaty of June of that year between Russia and Great Britain; not omitting to provide that, in case Great Britain should, by her treaties or instructions, leave to any other nation the right in a greater extent than it is stipulated to the United States, they may claim the enjoyment of it in an equal extent.

The abuses which have been committed by Great Britain, under the pretext that a neutral trade from enemy colonies, through neutral ports, was a direct trade, render it indispensable to guard against such a pretext by some express declaration on that point. The most that can be conceded on the part of the United States is, that the landing of the goods, the securing the duties, and the change of the ship, or, preferably, the landing of the goods alone, or with the securing the duties, shall be requisite to destroy the identity of the voyage and the distinctness of the trade; and that the ordinary documents of the custom-house officers shall be sufficient evidence of the facts or fact.

A satisfactory provision on this subject of a trade with enemy colonies is deemed of so much consequence to the rights and interests of the United States, and is so well understood to have been contemplated, along with a like provision against the impressment of seamen, in the late act of Congress prohibiting the importation of certain classes of British manufactures, that, as was enjoined with respect to the provision against impressment, no stipulation is to be entered into not consistent with a continuance of that act, unless the provision with respect to the colonial trade be also obtained.

In remodelling the provision with respect to the colonial trade, you may, with great propriety, urge a distinction between the West India colonies and the very distant ones in the East Indies, and elsewhere, and the reasonableness of limiting to the former the exception of the direct trade with their parent countries out of the general neutral right. The distinction is supported by several considerations, particularly by the greater difficulty in the case of the more distant colonies, of previously knowing, and eventually proving, the regulations as they may have actually stood in time of peace, and by the ruinous delays and expenses attending the judicial investigations. The British courts have, in fact, admitted the distinction so far as to presume the lawfulness of the neutral trade with the East India colonies, as being generally open in peace as well as war, whilst they reverse the presumption with respect to the West Indies.

In addition to what is proposed on the subject of blockades in the sixth and seventh articles, the perseverance of Great Britain in considering a notification of a blockade, and even of an intended blockade, to a foreign Government, or its Ministers at London, as a notice to its citizens, and as rendering a vessel, wherever found in a destination to the notified port, liable to capture, calls for a special remedy. The palpable injustice of the practice is aggravated by the auxiliary rule prevailing in the British courts, that the blockade is to be held in legal force until the Governmental notifications be expressly rescinded, however certain the fact may be that the blockade was never formed, or had ceased. You will be at no loss for topics to enforce the inconsistency of these innovations with the law of nations, with the nature of blockades, with the safety of neutral commerce, and particularly with the communication made to this Government by order of the British Government in the year 1804, according to which the British commanders and Vice Admiralty Courts were instructed not to consider any blockade of the islands of Martinique and Gaudaloupe as existing, unless in respect of particular ports which may actually be invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them.

The absurdity of substituting such diplomatic notifications in place of a special warning from the blockading ships, cannot be better illustrated than by the fact, that before the notification of a proposed blockade of Cadiz, in the year 1805, was received here from our Minister at London, official information was received from Cadiz that the blockade had actually been raised by an enemy's fleet.

It may be worth your attention that a distinction has been admitted by the British prize courts, in consideration of the distance of the United States from European blockades, between their citizens and those of States less distant; the notice required for the former being more positive than is made necessary for the latter. You will be able to avail yourselves in this discussion, and perhaps in the modification of the article, of the reasons on which such a distinction rests.

The instructions in the hands of Mr. Monroe are silent with respect to convoys. If the footing on which the neutral right on that subject is placed by the Russian and British Treaty of 1801 can be turned to advantage in your negotiations, and should be understood to coincide with the present way of thinking of Russia, and other maritime Powers, an article corresponding with the regulations in that treaty may be admitted. But as the United States are not in the practice of convoying their trade, nor likely to be so within the period of any stipulation now to be made, and as the progress of opinion is rather favorable than discouraging to the enlargement of neutral rights, it is not, in a general view, desirable that any stipulation, such as Great Britain will probably admit, should at this time be entered into. In whatever arrangement on the subject, limiting the protecting right of public ships of war, may be deemed expedient, you will be careful so to express the limitation that it may be applied to the exercise of the right without affecting the abstract right itself.

There remains, as an object of great importance, some adequate provision against the insults and injuries committed by British cruisers in the vicinity of our shores and harbors. These have been heretofore a topic of remonstrance, and have, in a late instance, been repeated with circumstances peculiarly provoking, as they include the murder of an American seaman within the jurisdictional limits of the United States. Mr. Monroe is in full possession of the documents explaining a former instance. Herewith will be received those relating to the late one. They not only support a just demand of an exemplary punishment of the offenders, and of indemnity for the spoliations, but call for some stipulations against such outrages in future. With this view, it is proper that all armed belligerent ships should be expressly and effectually restrained from making seizures or searches within a certain distance from our coasts, or taking stations near our harbors commodious for those purposes.

In defining the distance protected against belligerent proceedings, it would not, perhaps, be unreasonable, considering the extent of the United States, the shoalness of their coast, and the natural indication furnished by the well-defined path of the Gulf stream, to expect an immunity for the space between that limit and the American shore. But at least it may be insisted that the extent of the neutral immunity should correspond with the claims maintained by Great Britain around her own territory. Without any particular inquiry into the extent of these, it may be observed, 1st. That the British act of Parliament in the year 1736, 9 G. II, c. 35, supposed to be that called the Hovering Act, assumes, for certain purposes of trade, the distance of four leagues from the shores. 2d. That it appears that, both in the reign of James I, and Charles II,* the security of the commerce with British ports was provided for by express prohibitions against the roving or hovering of belligerent ships so near the neutral harbors and coasts of Great Britain as to disturb or threaten vessels homeward or outward bound, as well as against belligerent proceedings generally, within an inconvenient approach towards British territory.

With this example, and with a view to what is suggested by our own experience, it may be expected that the British Government will not refuse to concur in an article to the following effect:

"It is agreed that all armed vessels belonging to either of the parties engaged in war, shall be effectually restrained by positive orders and penal provisions, from seizing, searching, or otherwise

* See L. Jenkins, vols. 1 and 2.

interrupting or disturbing vessels to whomsoever belonging, whether outward or inward bound, within the harbors or the chambers formed by headlands, or anywhere at sea, within the distance of four leagues from the shore, or from a right line from one headland to another. It is further agreed, that, by like orders and provisions, all armed vessels shall be effectually restrained by the party to which they respectively belong, from stationing themselves, or from roving or hovering so near the entry of any of the harbors or coasts of the other, as that merchantmen shall apprehend their passage to be unsafe, or in danger of being set upon and surprised; and that in all cases where death shall be occasioned by any proceeding contrary to these stipulations, and the offender cannot conveniently be brought to trial and punishment under the laws of the party offended, he shall, on demand made within —— months, be delivered up for that purpose."

If the distance of four leagues cannot be obtained, any distance not less than one sea league may be substituted in the article. It will occur to you that the stipulation against the roving and hovering of armed ships on our coasts so as to endanger or alarm trading vessels, will acquire importance as the space entitled to immunity shall be narrowed.

Another object not comprehended in the instructions of 1804 to Mr. Monroe, is rendered important by the number of illegal captures and injuries which have been committed by British cruisers since that date. An indemnity for them is due on every consideration of justice and friendship, and is enforced by the example heretofore given by Great Britain herself, as well as by other nations which have provided by treaty for repairing the spoliations practised under color of their authority. You will press this as an object too reasonable not to be confidently expected by the United States; many of the claims, indeed, for indemnification, are so obviously just, that a refusal to satisfy them cannot be decently made, and ought not, therefore, to be presumed.

The two modes most readily presenting themselves for a comprehensive provision for the claims, are, first, the establishment of a Board analogous to that provided for in the 7th article of the Treaty of 1794; secondly, the substitution of a gross sum to be distributed among the claimants according to a liquidation to be made under the authority of the United States.

The second is the mode most eligible, if the gross sum to be allowed be thought to approach the amount of losses to be indemnified. To assist you in estimating these, the statements addressed to this department by the underwriters and others, are herewith transmitted. These statements, with those furnished by Mr. Lyman, to November 1, will have to be reduced according to the redress which shall have been judicially afforded, and, on the other hand, to be augmented by the addition of cases not reported here, and to be collected from the sources of information within your own reach.

If the first mode should be adopted, great care will be requisite, in describing the cases, to employ such general terms as will comprehend all that are fairly entitled to redress. It will be well at the same time to secure, by specifying, such of the cases as can be specified, and as are least susceptible of objection. Under this head may be classed, 1st. Cases in which the official communication made by Lord Hawkesbury to Mr. King, of the 11th day of April, 1801, has been violated. 2d. Cases in which the rules of blockade, stated in Mr. Merry's communication to the Department of State, on the 12th day of April, 1804, have been violated. 3d. Cases where the territorial jurisdiction of the United States has been violated.

The list of neutral rights asserted in the report of the Secretary of State to the President, on the 25th day of January, 1806, will suggest other specifications which may be attempted. It may be worth recollecting that the British Order of Council, bearing date 24th June, 1803, and subjecting to capture vessels on a return voyage which had carried contraband in the outward voyage, was never promulged, nor was it known that such a rule was to be enforced until the Summer of 1805. Could the rule be regarded otherwise than as it certainly is, an innovation on the law of nations? All captures before it was made known, and contrary to antecedent practice, would be marked by an unjust surprise, fairly entitling them to redress.

The business to come before such a Board may be much diminished by the reference of cases, particularly of costs and damages, and such others, whose description, by common consent, entitles them to redress, to the King's advocate, and an advocate to be named on your part, who may be authorized to report the sums due, subject to the approbation, in each case, of Mr. Lyman, our agent. As far as the cases fall within the observation here made, a liquidation of them may be carried on during the period of negotiation.

Although the subject of indemnifications for past wrongs is to be pressed as of great magnitude in a satisfactory adjustment of our differences with Great Britain, yet, as the British Government may be inflexible in refusing an arrangement implying that her maritime principles of capture were contrary to the law of nations, whilst she would not be inflexible in stipulating a future practice conformable to our wishes, it is not thought proper that a provision for indemnities should be an absolute condition of the repeal of the act of Congress concerning British manufactures, provided satisfactory arrangements shall be made relative to impressments, and the trade with enemies' colonies. Still, however, it is to be kept in view that there are claims founded on acts of British cruisers violating the law of nations, as recognised by Great Britain herself, and others founded on unexpected departures, without notice, from rules of practice deliberately settled, and formally announced. Of these, examples have been referred to in the communication of Lord Hawkesbury to Mr. King, and of Mr. Merry to the Department of State.

With respect to claims of these several kinds, it is evident that provision is clearly due for them, and that it may be made without any implication which can alarm the pride, or the caution which may be professed. You will not fail, therefore, to bring, if necessary, these claims into view, as distinguished from others founded on controverted principles, and to let it be understood that a refusal of them will be a painful ingredient in the negotiations for extinguishing discontents on both sides, and consolidating and perpetuating the friendship between them. In case this distinction should operate in the adjustment, it will furnish an additional reason for preferring a gross sum to the liquidations of a joint Board: First, because it will admit of a liberal sum, if the British Government should be liberally disposed, on presumptions not affecting her maritime principles. Secondly, because it will leave the United States free to apply the gross sum in redressing claims according to our maritime principles. A precedent for such an expedient may be found in the convention of January, 1756, between Great Britain and Prussia, whereby a gross sum of twenty thousand pounds sterling was paid to the latter as an extinguishment of claims on account of illegal captures, without reference to the precise rules by which it was to be applied. The Treaty of Pardo, in January, 1739, between Great Britain and Spain, is another precedent. In that treaty the sum of ninety-five thousand pounds sterling was stipulated, in the like general manner, to be paid to Great Britain by Spain, as a compromise for all reparations of maritime injuries.

If the United States succeed in making satisfactory arrangements on the principal points of impressments of seamen, colonial trade, and still more, if provision be also made for indemnity for spoliations, it may be naturally expected that Great Britain will require, not only the repeal of the prohibitory act of last session, but also some security that the United States will not, by subsequent acts of the same nature, place her on a worse footing than other nations. She may reasonably urge that demand, on the double plea of having yielded on those points which were the subjects of complaint on the part of the United States, and of her being now, for want of a commercial treaty, placed in that respect at the discretion of the United States; whilst they are precluded by their treaties with the enemies of Great Britain (Holland, France, and Spain,) from the power of laying prohibitions or restrictions particularly affecting those nations.

The most natural arrangement in that respect will be, simply to agree that the two parties shall enjoy, in the ports of each other, in regard to commerce and navigation, the privileges of the most favored nation. But the article should be framed so as to embrace, first, every privilege, and particularly the exemption from higher duties of every description, either on exports or imports, and including convoy duties, that are paid by the most favored nation. Secondly, all the possessions of Great Britain, in every part of the world; which will secure admission at all times in both the East and West Indies, on the same terms as are now, or may in future be, enjoyed by the most favored nation, whether it be a friend or an enemy.

The same clause of the footing of the most favored nation may be extended, not only to navigation and commercial intercourse between the two nations, but to points which relate to the rights and duties of belligerents and neutrals; an arrangement which would secure to Great Britain the same right in relation to the admission of her armed vessels in our ports, and to the exclusion of her enemies' privateers and of their prizes, which are now enjoyed by Holland, Spain, and other most favored nations; whilst it would place the rights of the United States, as neutrals, on the same footing with Russia, or the most favored nation, in respect to search, convoys, blockades, and contraband.

If it shall be thought eligible to place the reciprocal commercial privileges of the two nations on a more definite basis than they would be placed by the general expression of the most favored nation, (a stipulation which is liable to the difficulty of ascertaining the equivalent to be given in cases where a privilege is granted by one of the contracting parties to another nation, in exchange for some favor which the other contracting party cannot specifically give,) it may be done either by abolishing all alien duties, either on vessel or cargo, or both, and reciprocally placing the vessels of the other nation on the same footing with national vessels, conformably to a provision in which Great Britain concurred by an act of Parliament in the year 1802, or by fixing the maximum of alien duty which each nation shall have the right to impose on the vessels or cargoes of the other nation. But should the last plan be adopted, care must be taken, 1. That, in fixing the maximum of the alien duty to be levied on vessels, all charges whatever, and under whatever name known, whether tonnage, light-house money, port charges, &c., shall be included. 2. That the maximum of the alien duty to be levied on merchandise imported in the vessel of the other nation (beyond the duties levied on similar articles imported in the national vessels) shall be a per centage on the value of the merchandise itself, and not on the original duty. 3. That the right of imposing such maximum duties, either on the vessels or merchandise, shall never be exercised so as to contravene the other stipulation of enjoying the privileges of the most favored nation. 4. That the stipulation shall not embrace vessels and cargoes coming from or going to ports from which the vessels or cargoes of the United States are excluded.

Should the expedient of a maximum be adopted, it must not be overlooked that the productions of the United States exported to Great Britain employ a far greater tonnage than the exports from Great Britain to the United States; that the higher the maximum, therefore, the more favorable to Great Britain, who may avail herself, according to the degree of it, to secure to herself the carriage of our bulky productions, of which her duty

on tobacco imported in American vessels is an example, leaving to the United States the opportunity only of securing to their vessels the carriage of her unbulky exports; and that, consequently, no maximum ought to be admitted more unfavorable to the United States than the regulations likely to prevail, if uncontrolled by treaty. A mutual abolition of alien duties would probably be favorable to the navigation of the United States, which would then have to contend on equal terms with British navigation, for which it may be expected to be a match at least, at all times, and more than a match when Great Britain is at war, which is not less than half the time.

The only great branch of commercial intercourse which would remain unprovided for, is that of intercourse with the British colonies and dependencies; and if nothing can be obtained on that ground, care also must be taken, in framing the article, for reciprocally enjoying the privileges of the most favored nation, not to deprive the United States of the right of making such regulations as they may think proper, in relation to vessels coming from ports from which their own vessels are excluded, or in relation generally to the intercourse with such ports.

As the United States confer no particular benefit on the British possessions in the East Indies by their intercourse with that country, it can hardly be expected that Great Britain will grant anything more than the general stipulation to be placed on the footing of the most favored nation; or possibly a stipulation to the United States of the privileges heretofore granted to foreigners; which, in relation to the country trade, and the trade from India ports to all foreign countries, as well as that owning the vessel, exceeded the privleges stipulated in the treaty of 1794. But, as relates to the West Indies and North American colonies, it must be a permanent object of the United States to have the intercourse with them made as free as that with Europe. The relative situation of the United States and those colonies, and particularly those wants which we can alone supply, must necessarily produce that effect at some no very distant period. And it should not be voluntarily retarded, either by abandoning by treaty the stronghold which our right of stopping the intercourse gives us, or by accepting any temporary or trifling privilege, the exercise of which would diminish the probability of soon obtaining a perfectly free trade.

It is not probable that Great Britain will be disposed to open the intercourse to our vessels with her North American colonies; nor does it appear that any limitation or restriction can be offered by the United States calculated to quiet the apprehensions of Great Britain, that to open the trade to our vessels would destroy their own. It is not perceived that anything else can be proposed but perfect reciprocity, as is contemplated in relation to the intercourse between the United States and the British dominions in Europe; such reciprocity to consist either of a total abolition of alien duties, or of a fixed maximum as above stated; and the intercourse to be also either general, or confined to articles of the growth, produce, or manufacture of the United States and of the said colonies, respectively. It must not be forgotten, as relates to our commerce with Nova Scotia and New Brunswick, that, however advantageous to both parties, it is more beneficial to the United States than to those colonies. The importance of not less than thirty, perhaps fifty thousand tons of plaster to our agriculture, needs no comment; and, notwithstanding our exclusion from their ports, we have, in fact, as the trade has hitherto been carried on, a greater share of it than themselves. This, however, is the result of a connivance in practice, which may possibly be withdrawn. The produce of their fisheries is brought by them from Halifax to Boston, and by us, from Boston, carried to the West Indies. Their plaster is brought by them from Fundy Bay to Maine, and by us, from Maine, to New York, Philadelphia and the Chesapeake. A strong jealousy seems to exist between the shipping interest of Massachusetts and that of those colonies. Hence the wish of their Legislative Assemblies to prohibit the exportation of plaster in their own vessels to our Eastern ports; and hence the law which laid the lighthouse-money tax, and a high duty on their fish, taking away, at the same time, the drawback on the re-exportation of such fish. An enlightened policy, and a mutual wish to promote the real interest and welfare of the inhabitants on both sides, should induce both Governments to throw the trade perfectly open. But it cannot be denied that it will give us a very great share of their carrying trade.

The minimum which should be accepted in relation to the intercourse with the West Indies, will be the admission of our vessels laden solely with articles of our growth, produce, or manufacture, the importation of which in British vessels is not prohibited, on the same terms as British vessels solely laden with the colonial articles shall be admitted in our ports; that is to say, either without alien duties, or with a fixed maximum of such alien duties, with the two following restrictions: 1st. That Great Britain may prohibit our vessels from exporting from the British West India islands, in sugar and coffee, more than one-half of the proceeds of their inward cargoes. 2dly. That such sugar and coffee shall be exported only to the United States, or that the vessels thus admitted in the West Indies shall be obliged to return and land their cargoes in the United States; provided they may, however, on their return, touch at any other West India island, or the Bahamas, to complete their cargo. For it is usual to carry the specie which proceeds from the sale of a cargo in the West Indies to Turk's Island or the Bahamas, and there load with salt for the United States. Although these restrictions, and particularly the first, be inconvenient, yet they may be acquiesced in. As respects the first restriction, the value of our average exportations to the British West India islands being six millions of dollars, and our exportations from thence, in every article, (sugar and coffee excepted,) being three millions of dollars, the privilege of bringing in return, in sugar and coffee, one-half of the value of our exportations, will just complete the return cargoes. But it would be desirable that the restriction should be altogether dispensed with, or that Great Britain should allow the exportation in those two articles to the amount of two-thirds or three-fourths of the value of our cargoes. As relates to Great Britain, if she once yields the point of admission, the restrictions which are proposed seem to be amply sufficient to remove her minor objections. We now import, notwithstanding the nominal prohibitions to some amount in American vessels, about one million and a half dollars, being the whole amount imported from the British islands in both American and British vessels. The value of our average importations from all the world is, in sugar, seven millions eight hundred thousand; in coffee, eight millions four hundred thousand; or more than sixteen millions of dollars. The value of our annual consumption, exclusively of the New Orleans sugar, is, in sugar, four millions; in coffee, one million five hundred thousand; or five and a half millions of dollars.

To permit us, therefore, to import for three millions, cannot enable us to re-export. And three millions of dollars compared with the value of the sugar and coffee exported annually from the British West Indies, which amounts to not less than —— millions, cannot in any degree affect their own commerce or navigation.

The second restriction is intended still more effectually to remove any apprehension that our vessels might become carriers of British West India produce to any other country than the United States. And it may even, if insisted on, be further agreed that no drawback shall be allowable on the re-exportation of those articles imported from the British West Indies in American vessels; provided, however, that on that condition the first mentioned restriction limiting the quantity which may be thus imported from the British West Indies in American vessels, shall be dispensed with. The utmost care is to be taken in framing the restriction on re-exporting from the United States the produce of the British West Indies imported in American vessels, so to express it as to leave no possible pretext for applying the restriction to any similar articles, whether produced within the United States or imported from any other than British possessions.

It will be a reasonable stipulation on the part of Great Britain, that, at all times and places at which the trade of the United States is admitted generally or partially, the residence of Consuls and factors shall also be admitted.

The duration of the commercial part of the treaty, and of any other parts which do not establish in their full extent the rights of neutral nations, ought not to exceed the term of eight years; and an abridgment even of that term may, perhaps, be rendered expedient by the tenor of articles not inconsistent with these instructions.

I have the honor to be, gentlemen, &c.

JAMES MADISON.

No. 48.

Mr. Monroe to Mr. Madison.

LONDON, *May* 17, 1806.

SIR: After my interview with Mr. Fox, on the 25th ultimo, I waited a fortnight without hearing from him. This new instance of delay surprised me, because he had shown a sensibility to the former one, and did not seem aware of the necessity of adding to it. Independent of the general object, the war with Prussia, and the blockades incident to it, the doctrine and practice respecting which it was necessary to arrange, furnished a new motive for a communication with him. On mature reflection, I thought it best to call informally, which I did on the 11th, with a view to enter on these topics in the familiar manner I had heretofore done. Mr. Fox was at the office, but did not receive me. He sent the expression of his regret at not being able to do it, being, as he said, just going to attend the Cabinet, who were waiting for him. I called again on the 13th, and experienced the same result, though I had left word that I should then be there. I was informed, by his desire, that a summons from the King, to attend him at the palace, prevented his receiving me on that day. I met him, on the 15th, at the drawing room, but had no opportunity of speaking to him. Sir Francis Vincent, the First Under Secretary of State, being acquainted with my desire, promised to arrange with him an interview, and to inform me of it. These are the only circumstances worthy of notice which have occurred here since my last, till to-day. I mention them that you may be better enabled to judge correctly, in all respects, of the light in which the incident of this day ought to be viewed. Early this morning I received from Mr. Fox a note, of which a copy is enclosed, which you will perceive, embraces explicitly a principal subject depending between our Governments, though in rather a singular mode. A similar communication is, I presume made to the other Ministers, though of that I have no information. The note is couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless it takes from many ports already blockaded; indeed, from all east of Ostend, and west of the Seine, except in articles contraband of war and enemy's property, which are seizable without a blockade. And in like form of exception, considering every enemy as one Power, it admits the trade of neutrals within the same limit to be free in the productions of enemies' colonies, in every but the direct route between the colony and the parent country. I have, however, been too short a time in possession of this paper to trace it in all its consequences in regard to this question. It cannot be doubted that the note was drawn by the Government in reference to the question; and, if intended by the Cabinet as a foundation on which Mr. Fox is authorized to form a treaty, and obtained by him for the purpose, it must be viewed in a very favorable light. It seems clearly to put an end to further seizures on the principle which has been hereto-

fore in contestation. I am engaged, by invitation, with Mr. Fox, on the 19th, when it is probable I may have an opportunity of conversing with him, and thereby enabled to form a satisfactory opinion on the subject. I hasten, however, to forward you the enclosed, with the above details, as it is important for you to have them. It is worthy of attention, that, at the drawing-room, on the 15th, it was whispered about that the bill for prohibiting the importation of British goods, &c., had passed the Senate, of which it was said that intelligence had that morning been received. It evidently produced some sensation, which was doubtless the stronger from the idea then entertained, that the bill was to commence its operation at an early day. I observe, however, with pleasure, that, on the whole, the measure is considered by the Government papers, on account of the period at which it does commence, rather as a pacific than a hostile one. I persuade myself that the present Ministry will see, in the circumstance of delay, a strong proof of the disposition of the United States, not only to preserve the relations of peace with Great Britain, but of their confidence that the Ministry is animated with the same desire. I cannot help remarking, likewise, the fact that this paper was sent me immediately after the passage of the bill was known. It furnishes a strong presumption that the Government papers judge correctly of the sentiments of the Government on that point. It may be inferred that a knowledge of the passage of the bill hastened the communication to me. But my own opinion is, that the business, having had its regular course, was advanced to such a stage that it would have been made had the intelligence not been received. This opinion, however, is formed on circumstances only, and may be erroneous. I hope soon to be able to give you more certain and satisfactory information respecting it.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

[Referred to and enclosed in the preceding despatch.]

Mr. Fox to Mr. Monroe.

DOWNING STREET, *May* 16, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe that the King, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct that the necessary measures should be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive; and the said coast, rivers, and ports are, and must be considered as blockaded; but that His Majesty is pleased to declare that such blockade shall not extend to prevent neutral ships and vessels, laden with goods not being the property of His Majesty's enemies, and not being contraband of war, from approaching the said coasts, and entering into and sailing from the said rivers and ports, (save and except the coasts, rivers, and ports, from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued;) provided the said ships and vessels so approaching and entering (except as aforesaid) shall not have been laden at any port belonging to or in the possession of any of His Majesty's enemies; and that the said ships and vessels so sailing from the said rivers and ports (except as aforesaid) shall not be destined to any port belonging to or in the possession of any of His Majesty's enemies, nor have previously broken the blockade.

Mr. Monroe is therefore requested to apprize the American Consuls and merchants residing in England, that the coast, rivers, and ports abovementioned, must be considered as being in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe to accept the assurances of his high consideration.

C. J. FOX.

No. 49.

Mr. Monroe to Mr. Madison.

LONDON, *May* 20, 1806.

SIR: I had supposed that it might be possible to have some conversation with Mr. Fox last night, at his house, on our affairs, especially on his note of the 16th instant; but in this I was mistaken. The occasion was not a favorable one, being an assemblage of a vast crowd, and he apparently indisposed, as he retired early in the evening. I asked Sir Francis Vincent the cause of the delay to which our affairs were exposed? He said it was not owing to Mr. Fox. As he did not mention the interview which he had promised to arrange for me, I concluded that he had not done it. I made no direct inquiry on that point, but took occasion to remark, that I presumed Mr. Fox was not desirous of meeting me till he was prepared to act. He replied that he was not authorized to say so, but would confer freely with him on the subject, and inform me of the result. Alluding to our non-importation bill, and presuming it had passed, he said he thought it a strong measure. I thought otherwise, and flattered myself that the distant period at which it was to commence would be considered by his Government, as I was satisfied it was intended by ours, as a strong proof of its disposition to arrange the business amicably. I told him that I was persuaded that, if it had been known early in the session of Congress that the Ministry had changed, no such measure would have been resorted to, as our Government would most probably have deemed it unnecessary with the present Ministry, whose disposition was believed by it to be just and friendly towards the United States.

But as the subject had been taken up and acted on before the change was known, it seemed to be impossible for the Congress to dismiss it altogether, without incurring the suspicion either that the object was deemed unimportant by it, or that no effort would be made to support our rights; that the strongest proof which our Government could give, under existing circumstances, of its friendly disposition towards Great Britain, and of its confidence in a similar one in the present Ministry, had been given by the late period to which the commencement of the act was postponed. He did not consider it as any obstacle to an amicable arrangement. I had much conversation with Lord Holland, who told me frankly that he viewed that proceeding pretty much in the light that I did; that, in fact, there seemed to be no other way of acting than "by letting the affair down easily," after what had been done. I mention these remarks of Lord Holland from the circumstance of his being the near relative and confidential friend of Mr. Fox, and an influential member of Parliament.

From what I could collect I have been strengthened in the opinion, which I communicated to you in my last, that Mr. Fox's note of the 16th was drawn with a view to a principal question with the United States—I mean that of the trade with enemies' colonies. It embraces, it is true, other objects, particularly the commerce with Prussia, and the North generally, whose ports it opens to neutral Powers, under whose flag British manufactures will find a market there. In this particular, especially, the measure promises to be highly satisfactory to the commercial interest, and it may have been the primary object of the Government. You will observe that I have not considered the note as a reply to mine, or as being any way connected with them. It was not communicated to me as such, and it was evidently improper for me to consider it in that light. In directing the publication of it, I have expressed no sentiment of the contents, but left them to the criticism of the public.

With respect to the delay to which I am exposed, it is utterly out of my power to explain to you the cause. I have no reason to change the opinion which I have heretofore expressed of Mr. Fox's disposition on the subject, though I have had no late communication with him. His present reserve is unfavorable, but it may be otherwise accounted for, and on principles which are quite natural, and therefore presumable. He may have experienced more difficulties in the Cabinet than he had expected. Many of the members may be indisposed to an arrangement on such terms as can be accepted, and most of them willing to postpone any decision until the result of the proceedings in Congress is known. Under these circumstances, he may find it most eligible to avoid any further communication with me for the present. It becomes, therefore, very difficult, if not altogether improper, for me to press the business at this time. It seems to be my duty to postpone such pressure to the same epoch, that is, till the final proceedings of Congress are known. I shall doubtless receive with them the instructions of the President on the whole subject, which I beg to assure you I shall use my utmost exertions to carry into effect.

I am, with great respect and esteem, sir, your very obedient servant,

JAMES MONROE.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE, *May* 30, 1806.

GENTLEMEN: Under the third article of the Treaty of 1794, as it has been expounded, Indian traders on each side have a right to resort to and trade with the tribes within the limits of the other party, with an exception of the country covered by the charter of the Hudson's Bay Company.

This article is found in its operation to be very seriously detrimental to the United States.

1st. It gives to the British traders dealing with the Indians on our side of the boundary opportunities of gaining an influence, which it cannot be doubted that they have frequently employed in stirring up the Indians against the United States.

2dly. The mixture of British traders with the American traders produces collisions and heart-burnings, with mutual efforts to make the Indians their partisans, and sometimes their avengers, against the property and persons of their rivals.

3dly. The animosity of the British traders, in such cases, against their rivals, is easily extended against the United States, and the Indian partisans still more readily pass from a vindictive spirit against the American traders to a hostile one against the nation to which they belong.

4thly. The intrusion of these foreign traders among the Indians, by disturbing harmony and good order, and, above all, by clandestinely introducing ardent spirits, counteract the benevolent provisions and steady efforts of the Government of the United States to abolish the savage manners of those tribes, and to substitute the arts of civilized life, not less conducive to their own happiness than to the peace of our neighboring settlements.

5thly. These evils are not even attended with any real reciprocity of advantage to the American traders, it being a fact that they never go among the Indians on the British side for the purpose of traffic; and it being moreover known that such a traffic is rendered unsafe by the sway possessed over the Indians by the Northwest Company of British traders, and by the preventive measures employed by their interested jealousies. It is, indeed, certain that no British trader not of the company can with advantage, or, as is said, even with safety, participate in the trade with Indians within the British limits.

These observations, which are strengthened by the unlimited duration of the stipulation, sufficiently explain the importance of amending the article in such a manner as will mutually authorize the parties to confine the Indian trade within their respective limits to their own traders.

The British Government, though vigilant and habitually rigid in maintaining every commercial advantage, may, perhaps, in a moment of liberality and of general adjustment, listen to such an amendment; and it is the wish of the President that the experiment be made. In recommendation of the change, you will be able to remind them, 1st, that it will have the valuable effect of cutting off forever one source of jealousy and ill-will; 2d, that, as the stipulated privilege does not extend to Louisiana, but is limited by the treaty to the small tribes eastward of the Mississippi, and by circumstances still further limited to those northwest of the Ohio, the trade is, in itself, of too little weight to be put into the scale against the advancement of friendship and harmony; 3d, that the value of the privilege to Great Britain is reduced to almost nothing, by the consideration that, whether this scanty portion of Indian trade be carried on by American or British traders, the goods furnished will be of British manufacture; and that, if furnished by the former, the peltries and furs taken in return will be added to the surplus of those articles now exported free of duty from the United States to Great Britain.

I have the honor to be, &c.

JAMES MADISON.

No. 50.

Mr. Monroe to Mr. Madison.

LONDON, *June* 9, 1806.

SIR: On the 31st ultimo accounts were received here from the United States that the President and Senate had adopted the measure of a special mission to this country, in which Mr. Pinkney and myself were associated. These accounts, which appeared to be well authenticated at first, have been confirmed since by letters to individuals, so that the fact seems to be unquestionable. I have not received official information of it, but expect it from you daily.

A suspension of further proceeding in the business in which I have been engaged seemed to be the natural consequence of this measure as soon as it was known. It has accordingly already produced that effect, and will probably preserve it in the same state till Mr. Pinkney arrives. I hope, therefore, that I shall soon have the pleasure of seeing him.

My former letters, the last of which was of May 20th, showed how this business stood at that time. I have since seen Mr. Fox twice—on the 4th, and again on the 7th instant. The first interview was at his own house, on the anniversary of the King's birth, in a general rendezvous of the diplomatic corps. In that we touched on some interesting subjects, particularly the outrages lately committed at New York by the British cruisers, our non importation act, and the affair of General Miranda. But as we could not treat those subjects with advantage in a crowd, it was agreed to postpone the consideration of them to the 6th, when I promised to attend him at his office for the purpose of entering more fully into it. The interview was afterwards deferred by him to the 7th, when it took place.

Although the object of this latter meeting was special, yet it naturally brought into view the other topics in which we had been engaged, and with them that of the appointment abovementioned. Mr. Fox asked me, soon after we met, whether such an appointment was made. I told him that I had no official information of it, but I believed that it was. He said that Mr. Merry had informed him in his last letter that the measure was decided on, but had not been communicated to the Senate. What effect, added he, will it produce in our business? It was evident that he thought it ought to suspend it. It was of course useless for me, had it even been proper, and I of a different opinion, to express it. My answer, therefore, corresponded with his expectation. I availed myself of the opportunity to assure Mr. Fox that Mr. Pinkney was every way well qualified for the trust, and that I was persuaded he would be well satisfied with the appointment.

The general subject being thus disposed of, we proceeded to those which had been touched on in our conversation of the 4th. I told Mr. Fox that the outrage in the case of the unfortunate victim, John Pierce, had been committed, as appeared by the affidavits published, within the jurisdiction of the United States. I stated that the harbor of New York had been blocked up by those frigates as if it were an enemy's port; that they did not appear to have taken their station there for hospitality or shelter, but for invasion. I told him of the outrages which had been committed at the same port in the autumn of 1804, by the same frigates, as of the conduct of his Government in that respect, recalling, in the first instance, the officer who had given most offence, but finally promoting him to the command of a ship-of-the-line. Mr. Fox said that he wanted information respecting the late unfortunate event; should it appear that the officers had acted improperly, due attention should be paid to the subject. He added, that he had already written to Mr. Merry in that sentiment, and would also express it in a letter to me. In speaking of the non-importation act, he expressed his regret that it had passed. He said it had the air of a menace, and that it was not agreeable to do things by compulsion. I reminded him how long we had complained of injuries which his Government had not attempted to justify—injuries which were not imaginary or perspective, but real and severe, which affected equally the honor and the interest of the United States. I added, that, under such circumstances, his Government had no right to complain of the act referred to. I assured him, however, that I was of opinion, if the Ministry had not changed, that a bill of a very different import would have been adopted; that I had reason to believe that the tone of our Government and of the Congress had been essentially moderated by the information which I had given of his assurances that our differences should be settled amicably and on just principles; that the act which had passed, in consequence of that information, was little more than a declaration to the citizens of the United States that the object would be duly attended to. I observed that he must be sensible, after the subject had been taken up by Congress, as it was before the change of the Ministry was known, that it was impossible for that body to dismiss it, without some expression of its sense of the rights of the United States in the question in dispute, without exposing itself to the charge of having abandoned them. He seemed finally to admit that the Congress could not well have avoided doing something in the business, and that the measure which had been adopted ought to be considered as a moderate one. I was glad to hear this sentiment from Mr. Fox, because I had feared that he would urge the passage of the act as a discharge from the obligation which his communications with me had, in a certain degree, imposed on him, in respect to the conditions on which he was disposed to make the settlement, and in which, in some particular and interesting points, he was precise and explicit.

I then observed to Mr. Fox that I should be glad he would state, in the letter which he had promised, his willingness to resume the business when Mr. Pinkney should arrive, and with a view to conciliation and despatch, objects which merited attention at the present time, that he would also advert in it to the several subjects which we had under consideration, in the sentiments which he had expressed in our conferences. He seemed to be aware that the proposition was a reasonable one, and promised without hesitation to comply with it; but, says he, I am afraid that I cannot be very distinct in it. I replied, that I should leave that to himself, but that I presumed he could easily recollect what had passed between us on each point; that, in respect to the trade with enemies' colonies especially, I did suppose that it had been intended by the late order to place it on the ground of the Russian treaty, and that he might go with safety in his letter as far as the order went. He neither admitted nor denied the fact explicitly, though he did not seem willing to give his sanction to the inference I had drawn. I criticised the order as well as I could from memory, to show why I had made the inference, without, however, expressing any approbation of the order. He said it was true that the produce of enemies' colonies might, under the exceptions stated in the order, find admission in neutral vessels into the enemies' ports, but yet he did not seem willing to admit that that was the particular object of the order. I did not press this point further, because I saw no motive for it. I concluded, however, from this conversation, as I had done from what had occurred before, that this measure had been taken to prevent the further seizure and condemnation of our vessels on the principle in discussion between our Governments, and that an acknowledgment of it had been withheld from a consideration mentioned by Mr. Fox in one of our conferences, that such acknowledgment would be to give up the point in negotiation. Several circumstances, independent of those alluded to, support this idea. It is not necessary to state them, because I trust that the business will, ere long, be placed on a much more solid footing.

Of General Miranda's affair, Mr. Fox asked me, on the 4th, what I thought. It appeared to me to acquire some importance by late accounts. He thought so. What, said he, would be the consequence of his success? He presumed that Great Britain and the United States would be the principal gainers. I was of the same opinion. On the 7th, after he had had time to reflect on the subject, I asked him what part his Government intended to take in it. He said that it was a delicate business to interfere in. By engaging in it, the difficulty of making a peace might be increased, if the object was pursued; and it would not be agreeable to abandon the people after promising them support. Of peace, however, he added, that there was not much prospect at present; though, in expressing that idea, I thought he did it with less force than on a former occasion. I inferred, from that circumstance, that there existed some correspondence between this Government and that of France on the subject.

I am, with great respect and esteem, sir, your very obedient servant.

JAMES MONROE.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States, in London.

DEPARTMENT OF STATE,
June 11, 1806.

GENTLEMEN: Since the date of my last, (May 30,) I have obtained from the Secretary of War the enclosed copies of a correspondence between an officer of the United States and an agent of the British Northwest Company for the Indian trade. The correspondence may be of use in explaining the inconveniences resulting from the constructive permission given by the treaty of 1794 to British traders to carry on trade among Indians within the limits of the United States, and the importance of such an amendment of the treaty as has been suggested to you.

I enclose, also, as connected with the subject, copies of two letters from this Department to Mr. Merry; and of the opinion of the Attorney General in answer to a claim of British traders to carry supplies of merchandise to the Indian tribes within the limits of Louisiana, and to certain immunities in their general trade with our Indians.

I have the honor to be, &c.

JAMES MADISON.

No. 1.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, *July* 25, 1806.

SIR: You will have been surprised at not hearing from us sooner on the business confided to us under the commission with which we are honored by the President. The delay proceeded from a desire to give you some satisfactory information of our progress in it, which it was not in our power

to do. It happened, unfortunately, just about the time of Mr. Pinkney's arrival, on the 24th ultimo, that Mr. Fox was taken ill of a dropsical complaint, from which he has not yet recovered, and probably never will. That circumstance opposed to us a serious obstacle, which it was difficult to surmount, even in the first stage. As Mr. Fox was the official organ of the Government, we could not approach it in that mode through any other channel; and as he and his friends are believed to be favorably disposed to the object of our mission, and are strong in the Cabinet, it seemed to be hazardous to make any experiment for that purpose which might have a tendency to irritate them. Thus we were kept for some time at a stand. Every necessary step was taken with the Department of Foreign Affairs, without making any advance. At length, through the good offices of Lord Holland, to whom, as the relative of Mr. Fox, we presumed we might apply without giving offence to him or his friends, we obtained our recognition of the King; and we trust, now that the door is open, that we shall soon be able to proceed in the business on which we have to treat with some suitable organ of the Government. We persuade ourselves, if Mr. Fox should continue unable to act, that some other person will be appointed to meet us in his stead. We have the pleasure to enclose you a copy of the several notes which have passed in this introductory stage of the business.

Our audience of the King took place on the 21st instant. The reception was quite a favorable one. To the assurances which we gave of the friendly policy of the United States towards Great Britain, as particularly exemplified by the present mission, His Majesty in return expressed himself to be highly satisfied with the proof which that measure gave of that disposition in their Government, as that Mr. Pinkney had been selected by the President from among their citizens to be employed in it. His other remarks, though not applicable to the topic of existing differences, were, nevertheless, of a conciliatory and friendly character.

We beg you to be assured that we shall continue to exert our best efforts to accomplish the important objects of our mission. Of the actual disposition of this Government on that subject, and of the prospect of a satisfactory adjustment, it is not in our power to speak, from any recent occurrence. The general view, as founded on the sentiments which have been expressed by those about the Government with whom we have conferred, is favorable. We cannot but believe that the delay to which we were subjected in obtaining our recognition by the King ought to be attributed to Mr. Fox's indisposition alone. It is, however, proper to mention, that a negotiation with France is still depending, and that many entertain the expectation that it will terminate in peace. We are not aware that such an event is likely soon to happen, and flatter ourselves, even in case it should, that the motive for preserving a good understanding with the United States, in the present situation of the world, is otherwise sufficiently strong with this Government to induce it to accede to a fair and satisfactory adjustment of differences with them.

We have received your letter of May 30, and shall not fail to pay due attention to the instruction it communicates.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAMES MONROE,
WILLIAM PINKNEY.

To Mr. Fox.

Low Layton, *June* 21, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to inform him of the arrival of Mr. Pinkney at Liverpool, and to request that he will be so good as to give an order that his baggage and effects may be landed and brought to London. Mr. Monroe presumes that Mr. Pinkney, being in a diplomatic character, will be permitted to proceed on his journey hither without the sanction of a passport; should it be necessary, he requests that Mr. Fox will be so good as to send him one.

From Mr. Fox.

Stable Yard, *June* 22, 1806.

Mr. Fox presents his compliments to Mr. Monroe, and will be very glad to see him here to-morrow, at 12 o'clock.

Mr. Fox is very much obliged to Mr. Monroe for his note informing him of Mr. Pinkney's arrival. He imagines that no passport is necessary for that gentleman to proceed to London. The order respecting his baggage and effects shall be immediately expedited.

To Mr. Fox.

Low Layton, *June* 23, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and regrets that he had not the pleasure of receiving his note of yesterday till so late an hour this day as to render it impossible for him to comply with his obliging invitation. The hour appointed for him to call in Stable Yard had not only passed, but he concluded that, before he could arrive in Downing street, Mr. Fox would have left it and gone to the House of Commons. Mr. Monroe will be happy to wait on Mr. Fox at any other time which may be convenient to him.

Mr. Monroe expects Mr. Pinkney in town to-night. As soon as he arrives, he will have the pleasure to inform Mr. Fox of it, and to request the appointment of an hour when he may have the honor of presenting him to Mr. Fox.

To Mr. Fox.

Low Layton, *June* 25, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to inform him of the arrival of Mr. Pinkney, in the character of joint Commissioner Extraordinary and Plenipotentiary from the United States to His Britannic Majesty. Mr. Monroe requests that Mr. Fox will be so good as to appoint a time when he may have the honor of presenting Mr. Pinkney to him. He will avail himself of the same opportunity to deliver to Mr. Fox a copy of their joint letters of credence.

From Sir Francis Vincent.

Stable Yard, *June* 27, 1806.

Dear Sir: Mr. Fox has been, and indeed still continues, so unwell with severe rheumatism, that it is not in his power, as yet, to fix a day to have the honor of seeing you and Mr. Pinkney, which, I assure you, he is very anxious and impatient to do; but as soon as he is able, I shall have the honor of informing you. In the meantime, Mr. Fox hopes that you will have the goodness to excuse this unavoidable delay.

Mr. Fox requests that you will offer Mr. Pinkney his best compliments on his safe arrival. May I request that you would do me the honor to offer mine also?

Believe me, dear sir, your very faithful, humble servant,

F. VINCENT.

To Sir Francis Vincent.

Low Layton, *June* 27, 1806.

Dear Sir: It is with extreme regret that I heard yesterday of the indisposition of Mr. Fox, and I beg you to be assured that I would on no consideration whatever hasten our interview at the expense of his quiet. I shall explain the cause of the delay to Mr. Pinkney, who will, I am satisfied, unite with me in this sentiment. I sincerely hope that his recovery will be rapid, and that I shall soon have the pleasure of seeing him in good health.

Accept my acknowledgment for the very obliging expressions contained in your favor of this date, and believe me to be, with great consideration and esteem, very truly, your most obedient servant,

JAMES MONROE.

From Mr. Fox.

Stable Yard, *July* 15.

Mr. Fox presents his compliments to Mr. Monroe, and begs to have the honor of seeing him here, with Mr. Pinkney, at 3 o'clock to-day.

[A similar note to Mr. Pinkney.]

From Sir Francis Vincent.

Arlington Street,
Tuesday evening, July 15.

My Dear Sir: The King does not come to town until Monday, on which day you and Mr. Pinkney may certainly be presented to His Majesty.

Yours ever, and most sincerely,

F. VINCENT.

James Monroe, Esq., &c.

From Lord Holland.

Sunday Night, *July* 20.

Dear Sir: Lord Howick, whom I have seen, will be very happy to be of any use to you, but is not the person who can officially present you, on producing your credentials. If you wish to settle the business through him, he will be ready to receive you at any time before 12 at the Admiralty. Since I saw him I have written to Lord Spencer, who is the regular person on such an occasion to supply my uncle's place; and though my letter went late this night, I hope his answer to it will find you as soon as this. I am sure, if time allows, he will be happy to receive Mr. Pinkney and yourself, and present you in form, &c., to the King.

My uncle begged me to express his regret at having disappointed Mr. Pinkney and yourself, and, feeling his health uncertain, was almost afraid of again fixing an hour; but as you will be in that part of the town, and his best hour is from four to five, or thereabouts, perhaps Mr. Pinkney and you will be so good as to call about that time at Stable Yard.

Believe me, dear sir, ever your obliged,

HOLLAND.

P. S. If you settle to go to Court with Lord Spencer, have the goodness to inform Lord Howick by a line, as he will otherwise wait for your commands till past 12 o'clock.

James Monroe, Esq., &c.

From Lord Spencer.

St. James's Place, *July* 21, 1806.

Lord Spencer presents his compliments to Mr. Monroe, and has the honor to inform him, by desire of Mr. Fox, who is too much indisposed to have it in his power to receive him and Mr. Pinkney this morning, that the King will be at the Queen's house to-day at 2 o'clock, when, if it will be convenient for Mr. Monroe and Mr. Pinkney to attend, Lord Spencer will be very happy to have the honor of introducing Mr. Pinkney to His Majesty, for the purpose of delivering his credentials from the United States; and if Mr. Monroe and Mr. Pinkney are desirous of seeing Lord Spencer before they go to the Queen's house, he will be at his office at Whitehall at 1 o'clock, where, if they would have the goodness to call, he will have the honor of receiving them.

To Lord Spencer.

Portland Place, *July* 21, 1806.

Mr. Monroe presents his compliments to Lord Spencer, and begs to inform his Lordship that Mr. Pinkney and himself will have the honor to wait on him at Whitehall at 1 o'clock, at which hour his Lordship has been so good as to intimate that he will be prepared to receive them. Mr. Monroe very much regrets the indisposition of Mr. Fox; but Mr. Pinkney and himself will avail themselves with pleasure of his Lordship's obliging offer to do them the honor of presenting them to His Majesty to-day at 2 o'clock. Although

Mr. Monroe is already an accredited Minister at this Court, yet as he is invested with a new character, being included in the special mission from the United States, he presumes that it will be proper that he should have the honor of being presented to His Majesty as a party to it. Mr. Pinkney and Mr. Monroe will have the honor of delivering to Lord Spencer a copy of their joint letter of credence at 1 o'clock.

To Lord Howick.

PORTLAND PLACE, *July* 21, 1806.

Mr. Monroe presents his compliments to Lord Howick, and begs to assure his Lordship that he is very sensible of his obliging attention in offering, as he is just informed by Lord Holland, his good offices to procure Mr. Pinkney and himself the honor of being presented to His Majesty today, which has been hitherto delayed by the much lamented indisposition of Mr. Fox. Mr. Monroe has the honor to inform Lord Howick that he has just received a letter from Lord Spencer, intimating that his Lordship will do Mr. Pinkney and himself the honor of presenting them to His Majesty to-day. He hastens to give Lord Howick this information, in consequence of a suggestion from Lord Holland that Lord Howick would be so good as to remain at home until 12 o'clock for the purpose of receiving them.

From Sir Francis Vincent.

STABLE YARD, *July* 21. 1806.

MY DEAR SIR: I am very sorry to be under the necessity of asking you and Mr. Pinkney whether you should consider it as of great inconvenience to postpone your presentation to the King until his next coming to town, which will be early next week, as it has not yet been in Mr. Fox's power to announce it officially to His Majesty. In the meantime, every communication from you and Mr. Pinkney will meet with the same attention as if this ceremony had been gone through; an attention which it will always be the pride of the Foreign Office to show to the Ministers of the United States, our half-countrymen. And from this delay no detriment will arise to the great cause, as I fear some days must yet elapse before Mr. Fox will be well enough to discuss business; he is, however, better. Pray write me a line in answer to this. I have not written to Mr. Pinkney. Will you make my excuse to him, as I am anxious for your getting this soon?

Believe me, dear sir, most truly yours,

F. VINCENT.

JAMES MONROE, Esq., &c.

NOTE.—On Friday, the 11th, Sir Francis Vincent promised us an interview with Mr. Fox on the 15th, which Mr. Fox invited by his note of that date. We attended at Mr. Fox's house, according to appointment, but did not see him, his health not permitting it. On the evening of the same day Sir Francis Vincent wrote the note which bears his name of that date. The arrangement with Lord Holland was made on the 20th, for which the circumstance of our dining with him furnished a favorable opportunity. Sir Francis Vincent's note of the 21st was written before he was acquainted with that arrangement.

[Owing to the haste in despatching the original, the copy of the correspondence annexed to it was not so full as that accompanying the duplicate.]

No. 2.

LONDON, *August* 11, 1806.

SIR: It was intimated to us by Sir Francis Vincent, soon after the date of our last, that as the state of Mr. Fox's health was not likely soon to permit him to attend to us or the subjects of our mission, Lord Grenville would be asked to communicate with us in his stead, and Sir Francis promised that he would endeavor, without loss of time, to arrange with Lord Grenville to that effect.

On the 1st instant Sir Francis informed us, by a note to Mr. Monroe, that Lord Grenville had been applied to, and that he would fix an early day for our reception. Believing that we should not make the most profitable use of the opportunity if we waited for a note from Lord Grenville, we determined to write him immediately, and request him to appoint a time for receiving us. He accordingly appointed Monday, the 4th, which, on account of an interfering engagement not at first adverted to, was changed to the day following.

His Lordship received us with great cordiality, but, as we had expected, was not prepared to enter into any formal consideration of the subjects embraced by our commission; which, as the letter of credence had been delivered to the King, and had not been seen by Lord Grenville, we thought it advisable to submit to his perusal. He told us that he was at present able to say little more than that His Majesty's Government was earnestly desirous of giving the most prompt and effectual attention to what we had to propose, and of adjusting satisfactorily whatever was in any degree calculated to disturb the good understanding which ought to subsist between us; that he had always entertained and acted upon a sincere disposition to cultivate the most friendly connexion and intercourse with the United States, and that he could say for his colleagues that such was their disposition also; that we were aware that the delay we had hitherto experienced arose entirely from the illness of Mr. Fox, to whose Department subjects of this description particularly belonged; that he himself, having only recently returned to a situation of confidence in His Majesty's councils, was of course but very imperfectly acquainted with those immediate transactions and discussions which had a bearing upon the relations of the two countries; that he could not, therefore, at this moment, undertake even to converse with us upon them otherwise than very loosely and informally; but that he should, notwithstanding, be glad to hear from us a statement of the principal points which it was

supposed our negotiation would involve. His Lordship added, that if Mr. Fox should unfortunately continue to be disqualified by indisposition from attending personally to the affairs of our mission, it would be necessary to receive His Majesty's pleasure whether this important duty should be committed to some other of the Secretaries of State, or to Commissioners to be specially appointed to treat with us, and that this would not be delayed beyond the actual necessity of the occasion.

The statement which his Lordship invited was of course given with as much minuteness as was thought to be prudent; and it drew from him several remarks, some of which, though not very interesting, it may be proper to state.

On the subject of the impressment of our seamen, he suggested doubts (which we endeavored to remove by suitable explanations) of the practicability of devising the means of discrimination between the seamen of the two countries within (as we understood him) their respective jurisdictions; and he spoke of the importance to the safety of Great Britain, in the present state of the power of her enemy, of preserving in their utmost strength the right and the capacity of Government to avail itself in war of the services of its seamen. These observations were connected with frequent professions of an earnest wish that some liberal and equitable plan should be adopted for reconciling the exercise of this essential right with the just claims of the United States, and for removing from it all cause of complaint and irritation.

To a very brief sketch of the views of our Government relative to belligerent proceedings in the vicinity of our coasts and harbors, he replied that there could be no objection on their part to a suitable provision on that head. And as this topic recalled the recollection of Captain Whitby's outrages at New York, his Lordship took occasion to say that, if they had been truly represented, they would meet with the severest censure here; that Captain Whitby could not be condemned upon such grave charges unheard, but that he would return to answer for his conduct.

To what was suggested by us on the subject of contraband, he replied only that he and Mr. Jay had copied the enumeration in their treaty from the British Treaty with Sweden.

Upon the commercial subject, very little was said on either side. For obvious reasons, it was not proper that we should do more than lead to it in a very general way. On the West Indian branch of it, Lord Grenville remarked that he did not feel the difficulties which were supposed by many to belong to it; and that he regretted that the twelfth article of Mr. Jay's Treaty had not been retained, as it would have prepared the way for the more complete admission of the United States into that trade. We inferred, from the little that passed on this point, that Lord Grenville looked to a prevailing prejudice here, at variance with his own opinion, as likely to oppose itself to our views.

As the illness of Mr. Fox had hitherto restrained Mr. Monroe from sending to him a note which he had prepared on the subject of Captain Whitby's proceedings, he took the opportunity afforded by this interview of asking the opinion of Lord Grenville as to the course which, in reference to that interesting object, would now be most proper; intimating at the same time his own desire that his communication, delayed thus long by motives of delicacy and respect towards Mr. Fox, should, as soon as possible, be brought under the serious consideration of His Majesty's Government. Lord Grenville stated his opinion and his wish to be, that the note should be retained for the present.

On the 7th, Mr. Fox underwent the operation of tapping, by which he was much relieved; and his friends have since had strong hopes of his permanent recovery.

On the 7th, we called on Sir Francis Vincent, and stated to him what had passed with Lord Grenville. He now assured us that Mr. Fox wished extremely to act in our affairs himself, and the late favorable appearances seemed to justify an expectation that his convalescence would be sufficiently rapid to enable him to indulge that wish. He even went so far as to express his conviction that if there was one reason more than another why Mr. Fox was at this time particularly anxious to remain in office, it was his strong desire to settle personally with us every question relative to our country.

The public papers will inform you that Lord Lauderdale has been sent by his Government to Paris on the subject of peace. According to some opinions, the basis and the terms had been settled by previous correspondence, and his Lordship was simply to perform the office of signing a treaty already adjusted. Others have supposed that he has been sent to make the usual experiment; and others again, that, although much has been agreed upon, there are certain points upon which this Government has been misunderstood by that of France, which require to be explained by an Envoy, and are of course still open.

The terms of M. d'Aubril's Treaty are yet unknown; and the treaty itself is in all respects as mysterious as at first.

We need not suggest to you the various conjectures which it would be possible to form as to the causes to which it is owing that our negotiation is not yet in train, and as to the probable effect of our mission. We have not been inattentive to what has passed here and upon the Continent; but we are disposed to give credit to the professions of just and amicable views which we have so often heard, and to the precise assurances which have so often been given us, that Mr. Fox's illness alone has suspended our progress. In the actual state of things, it would be vain, and probably injurious, and certainly harsh, to be very urgent for despatch. You may be assured, however, that we shall lose no opportunity of fulfilling the just expectations of our Government with as little delay as possible.

We have the honor to be, with great consideration and esteem, your most obedient servants.

JAMES MONROE,
WILLIAM PINKNEY.

JAMES MADISON, Esq.

From Sir Francis Vincent.

DOWNING STREET, *Aug.* 1, 1806.

MY DEAR SIR: Having communicated to Lord Grenville, as I told you I would, your and Mr. Pinkney's anxiety to see one of His Majesty's Ministers, his Lordship has desired me to inform you that he will fix as early a time as he can to have the honor of receiving you. If you will have the goodness to communicate this to Mr. Pinkney, I trust he will dispense with my troubling him with a similar notification.

Believe me ever, dear sir, most truly and sincerely yours, F. VINCENT.

JAMES MONROE, Esq.

To Lord Grenville.

PORTLAND PLACE, *August* 2, 1806.

Mr. Monroe and Mr. Pinkney present their compliments to Lord Grenville, and request the honor of an interview with his Lordship on the interesting subjects which form the object of the special mission with which they are honored by their Government to His Britannic Majesty. They make this request in consequence of the much lamented indisposition of Mr. Fox, which has hitherto and still continues to put it out of his power to meet them on that important business.

From Lord Grenville.

DOWNING STREET, *August* 2, 1806.

Lord Grenville presents his compliments to Mr. Monroe and Mr. Pinkney, and will be happy to have the honor of seeing them on Monday next at 1 o'clock.

[A similar note sent to Mr. Pinkney.]

From Lord Grenville.

DOWNING STREET, *August* 3, 1806.

Lord Grenville presents his compliments to Mr. Monroe and to Mr. Pinkney. Lord Grenville, when he made the appointment for to-day at one o'clock, did not recollect an engagement he had in the city at that hour, and therefore requests to have the honor of seeing Mr. Monroe and Mr. Pinkney on Tuesday, at 1 o'clock.

[A similar note sent to Mr. Pinkney.]

No. 3.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, *August* 15, 1806.

SIR: We have the honor to transmit, herewith enclosed, a duplicate of our last, under date of the 11th instant. Some circumstances have since occurred with which it is proper that you should be made acquainted.

On the 13th we dined with Lord Grenville at his house in Downing street, where we met the Lord Chancellor, Lord Howick, Lord Auckland, Marquis Wellesley, Lord Holland, Mr. Erskine, and several other persons of distinction. After dinner, it was mentioned to us by Lord Grenville, as well as by Sir Francis Vincent, that Lord Auckland and Lord Holland had been appointed and commissioned to treat with us; that Sir Francis Vincent had directions to communicate this circumstance to us, and that he would not fail to do so formally on the next day. Sir Francis has not in fact made this communication, but we doubt not we shall very soon receive it.

Just before we retired, Lord Auckland invited us to visit him in the country, "where," he added, "I trust we shall be able to do some good to mankind, if your powers are sufficiently extensive." He seemed to suppose that we should be under the necessity of consulting our Government in the progress of our negotiation, upon questions to arise out of it. To his inquiries on this head, (which were connected with the most liberal and conciliatory professions,) it was replied that we had no reason to believe that our powers would be found to be, in any essential particular, inadequate to their object. He did not explain the nature of the topics to which these doubts applied, but it is to be presumed that we shall not long be left to conjecture them.

Mr. Erskine sails for the United States in the course of next week, as successor of Mr. Merry.

The calculation of the day is against the success of Lord Lauderdale's mission.

It was intimated to Mr. Monroe that his note on the subject of Captain Whitby's improper conduct at New York as not being comprehended within the objects of the joint commission, might be sent to Mr. Fox, and that it would now be attended to. He proposes to take immediate advantage of this suggestion, and to transmit a copy of his note, and of the answer to it, as soon as it is received. It was expressly stated, though not in a manner to authorize the communication to be considered as an official act, that Captain Whitby was recalled, and would be subjected to a trial by a court martial.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAMES MONROE.
WILLIAM PINKNEY.

No. 4.

Extract of a letter from Messrs. Monroe and Pinkney to the Secretary of State.

LONDON, *August* 21, 1806.

SIR: We have the pleasure to transmit you a copy of a note from Mr. Fox of yesterday, which announces the appointment of Lords Holland and Auckland to meet us on the subjects which are embraced by our joint commission. We flatter ourselves that we shall enter on this business in the course of a few days, and that we shall be able in a short time afterwards to speak with some confidence of the result. We add, with pleasure, that we see no reason at this time to think the prospect less favorable to a satisfactory one than we have heretofore presumed it to be. Aware of the considerations which urge despatch, we have been, and shall continue to be, attentive to that object, though it is far from being in our power to promise anything explicit on that point.

Mr. Fox to Mr. Monroe.

DOWNING STREET, *August* 20, 1806.

Mr. Secretary Fox presents his compliments to Mr. Monroe and Mr. Pinkney, and he has the honor to inform them that His Majesty has been graciously pleased (Mr. Fox not being yet sufficiently recovered to attend to business of such magnitude) to appoint Lord Holland and Lord Auckland to enter with Mr. Monroe and Mr. Pinkney upon the discussion of all matters now depending between His Majesty's Government and the Government of the United States.

Mr. Fox feels it his duty, in expressing his regret at being unable, at the present moment to undertake this important business himself, to observe that His Majesty, in this appointment of Commissioners, has given a fresh proof of his most anxious and constant desire to bring to a speedy termination all discussions between the two countries, and to form such arrangements as may tend to render perpetual a system of mutual friendship and cordiality so conducive to the honor and interests of both.

Mr. Fox begs Mr. Monroe and Mr. Pinkney will accept the assurances of his high consideration.

No. 5.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, *September* 11, 1806.

SIR: Our first meeting with Lord Holland and Lord Auckland took place in Downing street, on the 22d of August.* After the usual exchange of powers, we stated, at their request, the objects of our mission, and the general nature of the stipulations by which we expected them to be provided for. They took minutes of what was said by us, for the purpose of making their report to the Cabinet, and threw out some observations, but of a very loose and inconclusive character, upon several branches of the subject. They resisted, with great earnestness and decision, as an impracticable subject, the claim of indemnity, which we pressed as standing upon unquestionable grounds of justice. They appeared to consider the subject of impressment as extremely delicate and embarrassing, and that of our trade with the colonies of their enemies as presenting important, though not equal difficulties; and Lord Auckland expressed a strong desire, which, of course, we discouraged, that the former should be suffered to rest upon mere understanding, and find no place in the projected treaty. The best dispositions were, however, professed to arrange everything upon fair and amicable principles, and nothing was suggested to impair the hope that the result of our negotiation would be entirely satisfactory. We were told at parting that an early day would be mentioned for renewing our conferences.

On the 28th,† we met them again upon their own appointment. We were then told that the purpose of this interview was to obtain from us an explanation of our views with reference to some of the points upon which we had touched at the former meeting. We were accordingly asked to state precisely what equivalent stipulation for restoring British seamen leaving their service we would be disposed to insert in the article relative to impressment. Having ascertained that it was in vain to expect their consent to an arrangement on this interesting topic, in which some such provision was not an ingredient, we gave them at length a project upon this point, extracted from Mr. Monroe's instructions of 1804, requesting them, however, to receive it as perfectly extra official, and combining it, as you will perceive, with the provisions in their most advantageous form, for which it was required as the equivalent. A copy of this paper is among the enclosures. We presumed that this course, while it hazarded nothing, would at least promote despatch, and that the air of frankness which belonged to it would be likely to influence advantageously the temper and character of our discussions upon this and every other question before us.

We were also asked to explain the footing upon which we desired to place the commercial intercourse between the United States and the British European dominions. This we did by intimating, as we had done at the former meeting, that the footing of the most favored nation was in a general view the most natural. Their inquiries, however, looked to some precise and equal arrangement of tonnage and imposts, and the countervailing power in the treaty of 1794 was slightly mentioned. Without encouraging at this time any discussion on this point, which they did not seem to be prepared or inclined to enter into, we thought it proper to suggest, for their consideration, the expedient of a mutual abolition of alien duties.

On the impressment subject, it was soon apparent that they felt the strongest repugnance to a formal renunciation or abandonment of their claim to take from our vessels on the high seas such seamen as should appear to be their own subjects; and they pressed upon us with much zeal, as a substitute for such an abandonment, a provision that the persons composing the crews of our ships should be furnished with authentic documents of citizenship, the nature and form of which should be settled by treaty; that these documents should completely protect those to whom they related; but that, subject to such protections, the ships of war of Great Britain should continue to visit and impress on the main ocean as heretofore.

They enforced their preference for this sort of arrangement in a desultory conversation, by observing that they supposed the object of our plan to be to prevent the impressment at sea of American seamen, and not to withdraw British seamen from the naval service of their country in times of great national peril, for the purpose of employing them ourselves; that the first of these purposes would be effectually accomplished by a system which should introduce and establish a clear and

* This date is erroneous; the first meeting took place on the 27th.

† This date is also erroneous; the meeting took place on the 1st of September.

conclusive distinction between the seamen of the two countries, which, on all occasions, would be implicitly respected; that if they should consent to make our commercial navy a floating asylum for all the British seamen who, tempted by higher wages, should quit their service for ours, the effect of such a concession upon their maritime strength, on which Great Britain depended, not only for her prosperity but her safety, might be fatal; that, on the most alarming emergency, they might thus be deprived, to an extent which it was impossible to calculate, but which could not fail to be great, of their only means of security; that our vessels might become receptacles for deserters to any amount, even from the military marine in the ports of neutral States, and when once at sea might set at defiance the just claims of the service to which such deserters belonged; that, even within the United States, it could not be expected that any plan for recovering British deserters could be efficacious; and that, moreover, the plan we proposed was inadequate in its range and object, inasmuch as it was merely prospective, confined wholly to deserters, and in no respect providing for the case of the vast body of British seamen now employed in our trade to every part of the world. To this it was replied, that one of the suppositions on which much reliance had been placed was that of an extreme case, which was barely possible in fact, and which, if it should happen at all, and redress should not be afforded by the interference of the neutral Power in whose port the unlawful refuge should be attempted, could not be considered as within the spirit of such a provision as we had suggested; that another of these suppositions ascribed undue importance to the resource in question, which, while it severely oppressed and irritated their friends, could add little to the effective strength of their navy; that the number of men thus violently taken from our vessels, if American citizens should be deducted, had always been comparatively small; that, if Great Britain should now be admitted, as intended by the plan, to the benefit of our domestic regulations for apprehending and securing within our country future deserters from her merchant and other vessels, the number to which such a resource could apply must hereafter be considerably less, and in time be wholly insignificant: that it would be in their own power to prevent us, by suitable regulations, from carrying their seamen from their own ports, and would become our duty to assist in restoring them when they should desert and be found within our jurisdiction; that there was every reason to believe that this assistance would be as effectual as it was known to be in the case of our seamen deserting from our own vessels; for that, even if it should be admitted that a motive might now be imagined of sufficient power to induce the people of the United States to give shelter and protection to deserting British seamen, it was obvious that this motive arose out of the claim and practice on the part of Great Britain which it was now proposed to renounce, and would cease with them; that there would moreover be open to this country the fair and reasonable exercise of the right of regaining her own seamen within her own jurisdiction, as opportunity occurred, in whatsoever vessel they should be found; that impressment upon the high seas by those to whom that service is necessarily confided must, under any conceivable guards, be frequently abused, and in its best form cannot fail to generate private animosity and national resentment, and of course to endanger the friendly relations of the two countries; that, if it were for no other cause, we should see with deep regret the power of impressment at sea under any modification, however plausible, insisted upon; but that it was, besides, impossible that we should acknowledge in favor of any foreign Power the claim to such jurisdiction on board our vessels found upon the main ocean as this sort of impressment implied—a claim as plainly inadmissible in its principle, and derogatory from the unquestionable rights of our sovereignty, as it was vexatious in its practical consequences.

Upon the commercial subject, we collected that the East India trade would not be likely to give much trouble; but that an open trade to the British West Indies will be obtained, if at all, with great difficulty. Lord Auckland expressed an opinion that there should be a restriction upon the tonnage, as in the twelfth article of the Treaty of 1794, which we told him at once could never be assented to; and Lord Holland spoke of a duty to be imposed by our Government upon importations from their Islands, which should be of sufficient amount to check the exportation of the articles so imported to Europe. His idea was, of course, that no part of this duty should be remitted as a drawback, and he wished to comprehend in this plan our importations from enemy colonies, without which it could have no other effect than to force the imports from British colonies into our internal consumption, and leave the imports from enemy colonies for exportation. We thought it proper to oppose ourselves in a particular manner to the last-mentioned application of this plan, and it was not persisted in.

The trade with enemies' colonies was still viewed as an embarrassing subject, and continuous voyages even between neutral European ports and these colonies were strongly protested against. It appeared to be certain, however, that our opponents would finally agree that the continuity of the voyages should, in all cases, be held to be broken by the landing of the cargoes in the United States, and perhaps also the paying or securing the duties, as heretofore practised. We did not bring into view at this time the distinction which we mean hereafter to urge in favor of our commerce with the East India colonies of the other parties to the war.

In the course of this conference Lord Auckland renewed a proposal which he had glanced at in our first interview, that the Treaty of 1794 should be made the basis of the present negotiation. This was rejected in such a manner as to obtain for the rejection his entire acquiescence. His Lordship, towards the close of the meeting, inquired if Congress had not at their last session passed some law affecting their commercial relations with Great Britain. We had been restrained from calling their attention to the act prohibiting, &c., by the apprehension that, as they could not be supposed to be ignorant of it, we might be thought, by pressing it officiously and ostentatiously into notice, to wish to make use of it as a menace; but we now took occasion to explain, in as conciliatory a manner as was consistent with the complete justification of the law, its origin, and character. They requested us to give them a copy of the act, and we sent it accordingly the next day.

On the 4th instant, at night, we received from the British Commissioners a note upon the subject of the act of Congress, of which a copy is enclosed. It appeared to us, that it would be prudent to found upon this note a request of an immediate interview, in the course of which it might perhaps be practicable to avail ourselves of their anxiety, that a suspension of the act should be pressed upon our Government, to advance our negotiations, with reference at least, to the most interesting of the topics involved in it. To our note desiring an interview, Lord Holland replied that he would be glad to see us on the ——, but that Lord Auckland being out of town, would not probably be able to attend; Lord Auckland did not in fact, and we believe could not attend. We opened the conference with Lord Holland, by observing that we had been withheld by considerations, which he would easily comprehend, from being the first to mention the act of the American Government which formed the subject of their note, but that it had been constantly present to our minds, as making it peculiarly desirable that we should understand one another as soon as possible, upon some, if not all, of the points in discussion between us; and as presenting the prospect of a dilemma, as the period prescribed for its commencement approached without finding us forward in our negotiation. After a short vindication of the act, in the course of which we did not omit to represent it in connexion with the special mission which grew out of it as manifesting the friendly sentiments and views of our Government towards that of His Majesty, we observed that, relying upon the dispositions which their Lordships constantly had avowed, and by which they were evidently animated, to establish between the two countries, by a suitable adjustment of all subsisting differences, the most perfect and lasting harmony, it was our earnest desire to take some effectual step, which should save the honor of both Governments, for insuring the suspension which their Lordships had recommended; that there might be reason to apprehend that, unless some advantageous change should appear to have taken place, in the state of things, which, in the opinion of Congress, required the adoption of the measure in question, it would not easily be abandoned even for a time; that no such change has taken place, for that all the subjects of complaint which had excited the sensibility of Congress at their last session, and led to the passage of this act, were still as much at large as ever; that it was, indeed, true that Commissioners, in the highest degree acceptable, had been appointed by His Majesty's Government to treat with us, and that the spirit of justice and amity displayed by their Lordships promised the happiest results; but that it was also true that, up to this period, it could only be said, as might equally be said of the period when this act was finally passed, that negotiations were depending; that we were therefore extremely anxious, when we should transmit their Lordships' note to the United States, to be enabled to accompany it with assurances that, although much remained to be done, the two subjects of impressment and trade with enemies' colonies would certainly be adjusted to the satisfaction of our Government.

Lord Holland told us, in reply, that we were aware that the first of these subjects was full of difficulty, and required that the feelings and opinions of many persons should be managed and consulted; that it touched the most delicate and momentous of their national concerns, and called for much inquiry and deliberation; that he hoped it would soon be practicable (and we might be confident that there should be no unreasonable delay) to submit to us a plan, to which both sides might without reluctance consent; that, in the meantime, we could state to our Government, what was unquestionably true, that those with whom we were treating were diligently and anxiously employed in endeavors to devise an arrangement which should be convenient and honorable to us, and at the same time free from improper hazard to Great Britain; that it appeared to him, that the actual pendency of the negotiations here, unless their sincerity were distrusted, as he was sure it would not be, would furnish an adequate motive to Congress for merely postponing the commencement of a law which was originally a very strong measure, and would certainly, if allowed to go into operation at a moment when Great Britain was affording, in the face of the world, an unequivocal demonstration of her wish to remove every ground of misunderstanding between us, acquire a character of extreme harshness; that it was greatly to be lamented that the discussions in which we were now engaged had not been sooner begun, but that, knowing as we did to what cause the delay was to be ascribed, we knew also that it was unavoidable. His Lordship mingled with these observations the most amicable assurances, and took an occasion, which a remark from one of us presented, to express his conviction that the event of a peace between Great Britain and France would be so far from creating any indisposition, or producing any obstacles on the part of this country to a liberal adjustment with us, that it would rather facilitate that adjustment, by removing from some of the topics the peculiar interest and difficulty which the present crisis imparts to them.

After some further efforts on our part to promote the object of this interview, without departing from that tone of conciliation which prudence as well as inclination recommended, we separated,

and soon afterward we prepared and sent to the British Commissioners an answer to their note of the 4th, of which you will find a copy enclosed.

To these details, we take the liberty to add our opinion, formed upon a careful review of the whole subject, that it will be proper, upon the meeting of Congress in December, to suspend the act for prohibiting the importation of certain articles of British manufacture, so as to afford further time for the completion of the negotiations which it evidently presumes, and which are now in train.

The ground which Congress have taken in this just and salutary measure we are far from wishing to abandon; but to suspend and to abandon it are very different things. The last would wound deeply the honor of the nation, and prostrate the character of the Government; but the first is in perfect conformity with the spirit and purpose of the law; and while it would furnish a signal proof of the equity and moderation of our public councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now especially, to maintain. The suspension will be so far from relinquishing the measure, or weakening its effect, that it will distinctly imply a reassertion of its principle and policy, and an unshaken resolution to act upon and enforce it as soon as negotiation shall have been sufficiently and unsuccessfully tried.

The death of Mr. Fox, which every hour is expected to announce, may, and probably will, retard our progress for some time; but our hopes are strong that we shall finally, and without much further delay, accomplish the great objects confided to us. The temper which the British Commissioners have obviously brought to the negotiation corresponding with that which has been manifested toward the mission by those who hold official stations here, as well as by the public in general, is as friendly and respectful to our Government and country as could be desired. We shall continue our exertions to fulfil, with all possible despatch, the instructions with which we have been honored, and shall communicate to you by the earliest opportunity whatever of importance shall occur.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAMES MONROE,
WILLIAM PINKNEY.

P. S. September 12. We have just received separate notes to the same effect from Lord Auckland, of which copies are enclosed. They authorize us to expect that the conference of Wednesday next, to which he invites us, will enable us to give you details of a more precise and interesting nature than it has been practicable to give in the letter to which this is a postscript.

We omitted to mention in this letter that we have been assured by the British Commissioners (particularly by Lord Holland) that a liberal and satisfactory article, relative to the extent of our jurisdiction over the waters near our own coast, and the exemption of our defined limits from all the operations of war, will be cheerfully agreed to, and that an article for defining blockade will meet with no opposition.

September 13. The last account of Mr. Fox's health of this morning is, that the symptoms have increased to so alarming a degree, that he is not expected to survive many hours.

From Lord Holland.

DOWNING STREET, *Aug.* 23, 1806.

DEAR SIR: I have seen Lord Auckland this morning, and, if not inconvenient to you and Mr. Pinkney, we thought of proposing to you to meet us at the Foreign Office, Downing street, at 12 o'clock next Wednesday, [27th August.] On that day we can exchange our powers, and will, if you please, take minutes of the general objects of your mission.

I am, dear sir, ever sincerely yours,

HOLLAND.

JAMES MONROE, Esq., &c.

To Lord Holland.

PORTLAND PLACE, *Aug.* 24, 1806.

MY LORD: I have been honored by your note of yesterday, inviting Mr. Pinkney and myself to meet your Lordship and Lord Auckland at the Foreign Office, in Downing street, at 12 o'clock, on Wednesday next, for the purpose of exchanging our powers and commencing the business confided to us by our respective Governments. I have conferred with Mr. Pinkney on the subject, and have to assure your Lordship that we shall be punctual to the appointment which you have been so good as to give us.

I am, with great consideration and esteem, very sincerely yours, JAMES MONROE.

LORD HOLLAND, &c.

From Lord Holland and Lord Auckland.

DOWNING STREET, *Aug.* 26, 1806.

Lord Holland and Lord Auckland present their compliments to Mr. Monroe, and request that, if it be not inconvenient to him, he will have the goodness to meet them in Downing street, on Monday next, [1st September,] at twelve precisely.

[A similar note sent to Mr. Pinkney.]

To Lord Holland and Lord Auckland.

AUGUST 29, 1806.

Mr. Monroe presents his compliments to Lord Holland and Lord Auckland, and has the honor to inform them that Mr. Pinkney and he will not fail to wait on their Lordships in Downing street, on Monday next at twelve o'clock.

To Lord Holland and Lord Auckland.

SEPTEMBER 2, 1806.

Mr. Monroe and Mr. Pinkney present their compliments to Lord Holland and Lord Auckland, and have the honor to enclose to their Lordships a copy of the act of Congress which they requested in their interview yesterday.

From Lord Holland and Lord Auckland.

DOWNING STREET, *Sept.* 4, 1806.

GENTLEMEN: We have received a copy (sent by you, at our request,) of the "act of Congress to prohibit, from and after the 15th of next November, the importation into the territories of the United States of a very large description of goods, wares, and merchandise, from any port or place situated in Great Britain or Ireland."

On a full consideration of that act, we think it our duty to express our earnest hope and expectation that some means may be found to suspend the execution of a measure so opposite in its temper and tendency to the disposition and views with which our pending negotiation has been commenced and is carrying on.

That measure, unless suspended, will take effect, if not before our discussions can be closed, at least before it is possible that their result can be known in the United States; and would obviously lead to the necessity of proposing to Parliament similar steps on the part of this country, by which mutual irritation would be excited, and fresh impediments created in the way of such a final adjustment as, we trust, is mutually desired.

We rely on you for taking such immediate steps in this business as may best contribute to a happy termination of our treaty, and to a cordial and permanent friendship between His Majesty's subjects and the citizens of the United States.

We have the honor to be, your faithful, humble servants, VASSAL HOLLAND,
AUCKLAND.

P. S. The sailing orders of the North American mail will, of course, be issued this evening, unless you should wish to have them delayed for a day or two.

To Lord Holland and Lord Auckland.

SEPT. 4, 1806. *Ten o'clock, P. M.*

Mr. Monroe and Mr. Pinkney present their compliments to Lord Holland and Lord Auckland, and have the honor to request an interview with their Lordships, at as early a moment as shall suit their convenience, on the subject of their note of this day, which they have just received. In the meantime, the delay suggested, in the postscript of their Lordships' note, of the sailing orders of the North American mail, will be extremely agreeable to Mr. Monroe and Mr. Pinkney.

From Mr. Allen, Secretary of Lord Holland.

HOLLAND HOUSE, *Friday, Sept.* 5.

DEAR SIR: Lord Holland, understanding by your and Mr. Pinkney's note of yesterday, that you are desirous to have some conversation with him before the sailing of the American packet, will be happy to meet you and Mr. Pinkney tomorrow at the Foreign Office, at half-past eleven o'clock. I have the honor to be, dear sir, &c.

JOHN ALLEN.

JAMES MONROE, Esq., &c.

The American Ministers to Lord Holland.

SEPTEMBER 10, 1806.

The undersigned Ministers Extraordinary and Plenipotentiary of the United States of America, present their compliments to Lord Holland and Lord Auckland, and have the honor to inform them that they will hasten to transmit to their Government their Lordships' note of the fourth instant, the receipt of which has already been acknowledged.

The undersigned consider it their duty to assure Lord Holland and Lord Auckland, that nothing is more remote from the views of their Government than to oppose any obstacle to a fair and satisfactory conclusion of the present negotiation. They are persuaded, if all the circumstances which have occurred between the two Governments since the commencement of the present war are taken impartially into consideration, that not the slightest doubt can remain on that point. It is certain that the act of Congress to which their Lordships have objected is attributable to other causes of a very imperious nature, and that it furnishes no sufficient reason to call in question the sincerity with which the United States have uniformly sought to preserve the most friendly relations with Great Britain. The undersigned are, however, far from being desirous to look back to incidents, a review of which can serve only to produce regret. It is more important, and therefore more agreeable, to look forward, and to provide, by suitable arrangements, against the like in future.

The undersigned flatter themselves that nothing will occur on either side to excite irritation or to create new obstacles in the way of an adjustment, which it is confidently believed the interest of both countries requires. They indulge the hope that the present negotiation, which has been entered into by both Governments with a sincere desire to adjust all subsisting differences and to place their navigation and commerce on a basis of reciprocal advantage, will succeed in all its objects. The undersigned will not fail to promote that desirable result by all the means in their power. They will be happy in communicating to their Government a copy of their Lordships' note of the 4th instant, to do justice to the friendly disposition which their Lordships have brought into the negotiation; and, in the meantime, the undersigned will always be prepared to promote, by their joint labors, with the greatest possible despatch, and on fair conditions, a satisfactory conclusion of it.

The undersigned request Lord Holland and Lord Auckland to accept the assurance of their high consideration.

JAMES MONROE.
WILLIAM PINKNEY.

[Enclosed in Messrs. Monroe and Pinkney's despatch of 11th September.]

ART. 1. No person whatever shall, on the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the public or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens or subjects whatever of the respective parties at this time compulsively serving on board the vessels of the other shall be forthwith liberated, and enabled, by an adequate recompense, to return to their own country.

In all questions which may arise within the dominions of either Power, respecting the national character of any person who claims to be a citizen or subject of the other Power, due credit shall be given to such public documents as his Government may have granted for his protection; and where such documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either party, such other evidence of said claim shall be received and admitted, as would be satisfactory in a court of judicature. The high contracting parties engage that due care shall be taken that such documents shall be granted in their respective ports to such persons only as are justly entitled to them, and by suitable officers who shall be specially designated for the purpose.

ART. 2. It is agreed that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective Consuls or Vice-Consuls to the competent authorities, all deserters, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country. And all due aid and assistance shall be given in searching for as well as in seizing and arresting the said deserters, who shall even be detained and kept in the prisons of the country, at the request and expense of the said Consuls or Vice-Consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

From Lord Auckland to Mr. Monroe.

OFFICE FOR TRADE,
WHITEHALL, *Sept.* 12, 1806.

MY DEAR SIR: Lord Holland and I have received your note of September 10, in answer to ours of the 4th instant. The unhappy consideration which at present occupies Lord Holland has prevented him from meeting me since I returned from Dropmore; but I have received several letters from him, in which he expresses great anxiety that you should be informed by me that we are not neglecting the joint object which we all have in view.

If you and Mr. Pinkney (to whom I send a duplicate of this note) could conveniently come to Downing street at eleven o'clock next Wednesday morning, [September the 17th,] I shall then be able to state provisionally (in Lord Holland's absence) many particulars which may deserve your consideration and advance our next official discussion.

I am, my dear sir, most sincerely yours,
AUCKLAND.

To Lord Auckland.

PORTLAND PLACE, *September* 14, 1806.

MY LORD: I have had the pleasure to receive your letter of the 12th, and shall, with Mr. Pinkney, not fail to meet your Lordship at Downing street on Wednesday next, at eleven o'clock in the morning. We will receive there any communications which your Lordship will be so good as to make on the interesting subjects which engage our joint attention, not doubting that every interview will contribute to advance the business to its desired conclusion. We are aware that Lord Holland's domestic distress and duties will deprive us of the pleasure of seeing him for the present, and hope that your Lordship will prevent that circumstance giving him the least anxiety. I beg your Lordship to present, &c., and to be assured of the great consideration and esteem with which I have the honor, &c.

JAMES MONROE.

No. 6.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, *November* 11, 1806.

SIR: We flattered ourselves, at the date of our last despatch, which was of September 11th, that we should have been able to have concluded a treaty with the British Commissioners, and to have transmitted it to you before this, on the interesting topics which are embraced by our instructions, and on terms that would be approved by our Government. The disposition which had been shown by the members of the Cabinet, with most of whom we had had conversations on the subject, and the sentiments which had been expressed in our conferences by the Plenipotentiaries who had been appointed to meet us, independent of other considerations of a favorable character, had inspired us with great confidence in such a result. We regret, however, to be now under the necessity of stating to you, that although every topic has been frequently taken into consideration and discussed, and there is good cause to believe that a satisfactory arrangement may be obtained of many of the great points, and an admissible one of the inferior, that, nevertheless, nothing has been concluded on any point, and an insurmountable difficulty has occurred on one which is deservedly considered of the first importance to our country.

The opportunity by which we propose to forward this communication is so pressing as to time, that we fear we shall not be able to give you all the details which have attended the negotiation since the 11th September; we shall, however, endeavor to comprise in it every circumstance which may be necessary to convey a just idea of its present state and probable result.

You were apprized by our last of the delay to which we had been previously exposed by the indisposition of Mr. Fox. It happened unfortunately that the same case subjected us afterwards to much interruption in the prosecution of the business, which was finally suspended altogether, for several weeks, by his death. We add, however, with pleasure, that we experienced no delay on account of Mr. Fox's indisposition which did not appear to us, in consideration of all circumstances, to be natural and reasonable; that the business was resumed by the British Commissioners as soon after his death and interment as a suitable respect for his memory would permit; and that it has been pursued by them since in a manner to evince an evident desire on their part to bring it to a speedy conclusion.

Our attention was naturally drawn from the commencement of the negotiation to its principal objects, the impressment of our seamen, and the trade with enemies' colonies; the former of which presented the most serious difficulties with this Government. As we knew that the tranquillity of our country, if not its peace, was essentially connected with a suitable provision for this great interest, it seems useless to proceed to those of minor consideration, till it should be satisfactorily disposed of. Hence the greater portion of our time and labor has been bestowed in our several conferences on this latter topic. We have said everything that we could in support of our claim, that the flag should protect the crew, which we have contended was founded in unquestionable right, whose enjoyment it was indispensable to secure, by an unqualified and positive stipulation in its favor. We have also proposed, in a spirit of accommodation, every suitable expedient that we could devise, consistent with that principle, to obviate the inconveniences which it was urged on the other side were likely to result from its admission. But all our efforts have so far proved ineffectual. The right was denied by the British Commissioners, who asserted that of their Government to seize its subjects on board neutral merchant vessels on the high seas, and who also urged that the relinquishment of it at this time would go far to the overthow of their naval power, on which the safety of the State essentially depended. At one time, and that very recently, there was a propect of an agreement on conditions which appeared to be just and fair between the parties, but that seems now to have completely vanished. It was urged by the British Commisioners, that the proposition which we have made, to give the aid of the local authorities of the United States, to apprehend and restore deserters from their vessels, as an inducement for their Government to acknowledge the right which we contended for in favor of the vessels of the United States on the high seas, did not furnish a complete remedy for the evil complained of. It did not follow, they observed, that such deserters would, in all, or even most cases, retire into the country; they might, on the contrary, go on board an American vessel which might put immediately to sea, where our flag would protect them; that such desertions might also take place in a neutral port, and be attended with like consequences. They were, therefore, desirous that we should stipulate that a law should be passed by the Congress, (to be of course reciprocal,) which should make it penal for the commanders of American vessels to take deserters from those of Great Britain under such circumstances, they being British subjects, and likewise to make it the duty of our Government to restore them on their arrival in the United States, on suitable application, and due proof being made of their persons. We agreed to provide a remedy for this presumptive evil. They then observed that the term "deserters" was too limited, according to their law, to comprehend those who might leave their merchant vessels; that it would apply only to such as left their ships of war; they, therefore, proposed that we should enlarge its import by adding the following terms, "seafaring people quitting their service," to which we also agreed; taking care, however, by confining their operation always to the case of real desertion from some vessel, not to give them a greater range in the sense of our law than we had at first intended. To our original project, thus amended, the British Commissioners seemed to give their assent; they agreed expressly to propose an article to the Cabinet to that effect; from which circumstance, and from what had previously occurred in our conferences, we were led to conclude that they would also support it. To give the Cabinet full time for deliberation on the subject, our next meeting was postponed to so distant a day as to admit it. We are sorry to add, that the result of that deliberation was a rejection of the project, and, with it, an end to all hope of obtaining at this time, in its stead, any satisfactory stipulation by treaty respecting impressments.

Our next interview had been appointed to take

place on the 5th instant. On the preceding day we received a note from the British Commissioners, with a report from a law officer of the Crown, which seemed to be communicated to prepare us for what they had to announce more formally the next day. The report of the Crown officer had been made in answer to an inquiry from them, on what ground Great Britain claimed a right to take by force her seamen from on board the merchant vessels of other Powers on the high seas. The report justified the pretension by stating that the King had a right, by his prerogative, to require the service of all his seafaring subjects against the enemy, and to seize them by force wherever found, not being within the territorial limits of another Power; that as the high seas were extra-territorial, the merchant vessels of other Powers navigating on them were not admitted to possess such a jurisdiction as to protect British subjects from the exercise of the King's prerogative over them. We were desired to consider the communication as a private one, at least in that stage. At our meeting the next day, the British Commissioners stated explicitly, but in a very conciliating manner, that it was not in their power to adopt an article in the spirit of our project; that the Board of Admiralty had been consulted on the subject, as had also been the Crown officers in Doctors' Commons, who united all, without exception, in the opinion that the right of their Government, in the case in question, was well founded, and ought not to be relinquished; they added that, under such circumstances, the relinquishment of it was a measure which the Government could not adopt, without taking on itself a responsibility which no ministry would be willing to meet, however pressing the emergency might be. They presented to us at the same time a counter-project, which they intimated they did in obedience to instructions from their Government. It was proposed by this that laws should be passed by the parties, respectively, whereby it should be made penal for the commanders of British vessels to impress American citizens on board American vessels on the high seas, and for the officers of the United States to grant certificates of citizenship to British subjects. The negotiation being thus brought, as it were, to an issue on this very important point, the discussion of the whole subject was necessarily resumed at considerable length, and with great earnestness. We maintained, with all the force in our power, the right of our Government, on the principle and to the extent we had done before, and denied as strenuously the pretension advanced by Great Britain; their counter-project we declared was utterly inadmissible, as its adoption, so far from securing the just rights of the United States, and remedying the evils of which they complained, would prove an abandonment of their rights, and a sanction, in a considerable degree at least, to future injuries. The British Commissioners, after supporting with great force, but with candor, the claim of their Government, assured us that it was willing to do anything in its power to satisfy the United States on the ground of their complaints, which might be done without a relinquishment of their claim. This interview terminated in the appointment of another to take place on the 7th, when it was agreed that the subject should be definitively disposed of, and, in the interim, that each party should revolve it in mind, to see if it might be possible to suggest some plan which should prove equally satisfactory to both.

We met on the 7th, according to appointment, and, having repeated what we had said before of their counter-project, which we deemed altogether inadmissible, and having also stated that we could adopt none which did not allow our ships to protect their crews, or suggest any accommodation other than what we had already proposed as an inducement to their Government to admit the principle, and it appearing that no change had taken place in their instructions, we came at length to the main question, (that which had, in truth, been the great object of the meeting,) what was next to be done under existing circumstances? Should the negotiation cease? The British Commissioners expressed an earnest desire that it should not. We had repeatedly stated, that unless this interest was provided for in a satisfactory manner, it would be useless to touch the other points, since a continuance of the same abuses on their part would render of no effect any arrangement, however eligible, which might be made of them. They intimated that their Government gave at present no cause of offence to the United States by impressments, and that we might be satisfied it would continue to pursue the same policy; that it might be better that neither party should abandon its rights, and that each should endeavor to act, in respect to the injuries complained of by the other, in such a manner as to prevent future complaints. They thought that, with such a disposition on both sides, seconded by a correspondent exertion, which they assured us existed, and would be made on their part, it was likely that the interest of each country would be placed on a footing equally secure for temporary purposes, and much more so in respect to a permanent good understanding, than it could be for either, by a treaty, which should even stipulate for it the object which it sought. We desired them to communicate to us, by note, the ideas which they had thus expressed, which they readily undertook by proceeding to give a sketch of them at the time, and evidently throwing a disposition to make it as acceptable to us as they could do consistently with the principles of their Government. We adjourned to meet again on the 12th instant, without having come to any positive decision as to the part which it became us to take in the delicate conjuncture in which we were placed. We did not fail, however, in showing our regret that no suitable provision had been made for the very important question which had been so long under consideration, to express our sincere desire to pursue that course in respect to the other objects of the negotiation which our duty, under existing circumstances, would permit, and which might

be most likely to promote a good understanding between the two countries.

On the 9th instant we received from the British Commissioners the note which they had promised us in the last interview, which we have found to correspond in all respects with what we have been taught to expect. We have also weighed, with due consideration, the great question which is propounded by it, and are decidedly of opinion that it is our duty to proceed to the other objects of the negotiation, leaving that of impressment on the ground on which it will be placed by this note, and our acting on it. Many strong reasons favor this course, while none occur to us of any weight against it. When we take into view all that has passed on this subject, we are far from considering the note of the British Commissioners as a mere circumstance of form. We persuade ourselves, that by accepting the invitation which it gives, and proceeding in the negotiation, we shall place the business almost, if not altogether, on as good a footing as we should have done by treaty, had the project which we offered them been adopted. The time at which this note was presented to us, and the circumstances under which it was presented, being when the negotiation was absolutely at a stand on this very question, and we had informed the British Commissioners that we could do nothing if it was not provided for, give the act a peculiar degree of solemnity and obligation. It was sent to us as a public paper, and intended that we should so consider it, and with the knowledge and approbation of the Cabinet. It ought, therefore, to be held as obligatory on the Government, in its just import, as if the substance had been stipulated in a treaty. It is just, also, to give it a liberal construction in favor of the United States, in considering that it is the act of the British Government. In that view it merits attention; that everything is expressed in it that could be desired, except the relinquishment of the principle; that in speaking of impressments, the exercise of that act on the high seas is not mentioned, an omission which we know to have been intentional. From a full view of all these circumstances, we think it fair to infer that this Government intends to conform its conduct in future to the just claims of the United States on this great interest, while, by particular motives of policy, it deems it improper to relinquish a claim, especially at this time, which has been long sustained and acted on by it, and which has been heretofore strongly supported by the national feeling, or more properly speaking, prejudice: for we cannot believe that the interest of the nation is in favor of it, more especially if the project which we proposed should be adopted, or correspondent regulations entered into, to produce the same effect, by friendly co-operation between the two Governments. We are, therefore, of opinion, if the negotiation had contemplated an arrangement of this point alone, that it would be proper to close the business amicably, on the ground on which it is thus placed, rather than to break it off abruptly, and take an unfriendly attitude, from which no advantage could possibly arise in any one respect, and much injury might, and most probably would, for a time at least, even to this very interest. How much stronger, then, is the obligation to proceed, when the other objects of the negotiation are taken also into view, all of which it is highly interesting to arrange, and several of which, of the first importance, it is, as we believe, in our power to arrange? We are aware that our instructions impose on us the necessity of providing satisfactorily for this great interest, as one of the conditions on which a treaty shall be formed; but it does not appear that the fair object of that instruction will not be satisfied by the arrangement thus made. The prohibition not to conclude a treaty, otherwise than on the condition adverted to, is fairly to be understood as applicable to a refusal, on the part of this Government, to arrange the business on just principles, and an adherence by it to its former improper and offensive conduct, which it is well known is not the case. Impelled by these considerations and motives, we shall go forward in the negotiation, and use our best efforts to place the other points on the most advantageous footing that may be practicable. We are the more confirmed in this resolution from the consideration that we shall be able to do it without exposing our Government or country to any the slightest inconvenience. It is known to the British Commissioners that in proceeding, under existing circumstances, we shall do it on our own responsibility; a responsibility, however, which we undertake in full confidence that our conduct and the motives of it will be approved.

We shall meet the British Commissioners tomorrow to proceed in the negotiation, which we are persuaded it will not require any considerable length of time to conclude. All the other topics have been heretofore brought into view and discussed, but without any intention in that stage, on either side, to push a definitive settlement of them. So much, however, has been said on each by the British Commissioners, as to enable us, as we presume, to form a tolerably correct estimate of what may be obtained on several, especially those of the greatest importance. In respect to the trade with enemies' colonies, they have repeatedly told us, that on condition we would land the cargoes in the United States, store them for a month, and change the ship, they would agree that the trade might be free afterwards in the productions of those colonies to other countries, including the parent country of the colony. We have refused to comply with the condition in respect to the storing of goods for a month, and changing the ship. Some arrangement more advantageous to us than their proposition will, we have no doubt, be obtained. The question of blockade, and others connected with it, may, we think, be satisfactorily arranged. They will agree also to acknowledge our jurisdiction to the extent of a league from our coast; we have claimed that acknowledgment to the extent of three leagues. The trade with India they will put on the footing it held under the Treaty of 1794. That with the West Indies must, we fear,

rest on the ground of the most favored nation only. Something, we think, may also be done in favor of an intercourse with the British Provinces to the north of us. But our claim to an indemnity has been much discouraged, though we have never ceased to press it with great zeal. We shall continue to use our best endeavors to place all these great concerns on the most just and advantageous ground in our power, and shall hasten to communicate to you the result, with the greatest possible despatch, as soon as the business is concluded.

We have been cautious not to compromit ourselves with respect to the law which was passed the last session of the Congress, prohibiting the importation of certain British manufactures into the United States after the 15th of this month, either with this Government or individuals. We think it our duty, however, to observe, that our opinion of the propriety of suspending that law remains unchanged, as it was communicated to you in our letter of September the 11th. Indeed, the uniform conciliating disposition of this Government has strengthened us in that opinion.

Of the state of the war on the Continent, the gazettes which accompany this will give you all the information which we possess. Of the ultimate views of Prussia, under existing circumstances, we know nothing. So far, she has followed the example and participated in the fortune of Austria, as exhibited in the last campaign; and so far has Austria imitated hers of the same epoch, by viewing with an apparent indifference events which menace the overthrow of both.

We have the honor to be, with great respect, your most obedient servants.

JAS. MONROE,
WM. PINKNEY.

HOLLAND HOUSE, *November* 8, 1806.

His Majesty's Commissioners and Plenipotentiaries have the honor to represent to the Commissioners and Plenipotentiaries of the United States:

That the project of an article on the subject of impressing seamen, together with the reasonings by which the Commissioners of the United States have urged the expediency of an arrangement on that subject, has been laid before His Majesty's Government and has been considered with the same friendly and conciliatory disposition which has marked every step of the negotiation.

That His Majesty's Government has not felt itself prepared to disclaim or derogate from a right which has ever been uniformly and generally maintained, and in the exercise of which the security of the British navy may be essentially involved; more especially in a conjunctnre when His Majesty is engaged in wars which enforce the necessity of the most vigilant attention to the preservation and supply of the naval force of his kingdom.

That His Majesty's Government, animated by an earnest desire to remove every cause of dissatisfaction, has directed His Majesty's Commissioners to give to Mr. Monroe and to Mr. Pinkney the most positive assurances that instructions have been given, and shall be repeated and enforced, for the observance of the greatest caution in the impressing of British seamen; and that the strictest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that immediate and prompt redress shall be afforded upon any representation of injury sustained by them.

That the Commissioners of the United States well know that no recent causes of complaint have occurred, and that no probable inconvenience can result from the postponement of an article subject to so many difficulties. Still, that His Majesty's Commissioners are instructed to entertain the discussion of any plan that can be devised to secure the interests of both States, without any injury to rights to which they are respectively attached.

That, in the mean time, the desire of promoting a right conclusion of the proposed treaty, and of drawing closer the ties of connexion between the two countries, induces His Majesty's Commissioners to express their readiness to proceed to the completion of the other articles, in the confident hope that the result cannot fail to cultivate and confirm the good understanding happily subsisting between the high contracting parties, and still further to augment the mutual prosperity of His Majesty's subjects and of the citizens of the United States.

VASSAL HOLLAND.
AUCKLAND.

To JAMES MONROE, Esq. and
WILLIAM PINKNEY, Esq.

PROJECT.

In order to prevent the vessels of either party becoming a sanctuary at sea for deserters from the vessels of the other party, it is expressly stipulated by the high contracting parties that they will respectively enact laws whereby it shall be made penal for the commanders or masters of the vessels of either of the parties, who may happen to be in the ports of some third Power, or in the ports of one of the parties, with the vessels of the other party, to receive on board and carry to sea (knowing them to be such) the sailors belonging to and deserting from such vessels. It is further agreed, whenever the vessels having on board the sailors who may have so deserted in a neutral port shall arrive at any port of the party to which they belong, that such party shall cause such deserters to be delivered up, on proper application, supported by lawful evidence, to the agent or consul of the other party, who may be duly authorized by his Government to act in such cases.

COUNTER-PROJECT.

Whereas, when the one nation is at war and the other at peace, it is not lawful for the belligerent to impress or carry off from on board the vessels of the neutral seafaring persons, who are

the native subjects of the neutral, or others who are not the subjects of the belligerent; and whereas, from the similarity of language and appearance, it may be difficult to distinguish the subjects of the two States, the high contracting parties agree, that for the greater security of the neutral, they will enact such laws respectively as shall subject to heavy penalties the commanders of the belligerent ships who shall impress or carry off the native subjects of the neutral, or others, not being the subjects of the belligerent, from on board the neutral vessels, on any pretence whatever. And they further agree to enact laws, respectively, making it highly penal in the subjects of the neutral to grant any certificates of the birth and country of seafaring persons, without due evidence and proof of the same.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE,
November 28, 1806.

GENTLEMEN: Your despatch of the 11th of September has been duly received. Although the tenor of the discussions which it recites does not exhibit on the part of the British Commissioners the readiness in yielding to the justice of our claims and to the energy of your statements which might be wished, yet the general spirit of conciliation with which they profess, and appear to have met you, cherishes a hope that further explanations on your part, and reflection on theirs, will have brought the negotiation to a favorable result. In this hope, and in consideration of the amicable views and manner in which a suspension of the non-importation act is pressed, the President has not hesitated in his determination to recommend the measure to Congress, whose session will commence on Monday next. This will be done, not in his first general Message, which has been already put into its final form, but in a Message appropriated to the subject, which will follow as soon as the course of business will conveniently admit.

In your communication of this compliance, so far as depends on the President, with the object of the British Commissioners, seconded by your recommendation, you will not fail to let it be understood, as a proof of his earnest desire to smooth the way to a happy adjustment of all differences between the two nations, and to make every sacrifice for the purpose which may be reconcilable with that consistency and just policy in the national proceedings which cannot be abandoned.

This letter, with another to Mr. Monroe, will be put into the hands of Mr. Merry, who, in consequence of the arrival of Mr. Erskine, is now on his return. I have made him acquainted with the general posture of your negotiations, and with the intention of the President to recommend to Congress the proposed suspension of the prohibitory act.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE,
December 3, 1806.

GENTLEMEN: The President having this day complied with the recommendation in your letter of September 11, by a special Message to Congress on the subject of the non-importation act of the last session, I lose not a moment in forwarding to Mr. Merry's care the enclosed copy, hoping that it will either find him still at Alexandria, or overtake him before the vessel gets out of reach. I remain, &c.

JAMES MADISON.

Messrs. MONROE and PINKNEY, *Ministers, &c.*

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE,
December 6, 1806.

GENTLEMEN: The detention of the Leonidas enables me to enclose a copy of the bill suspending the non-importation act of the last session, as it was passed by the House of Representatives this day, with only five dissenting voices.

In the object, the House is supposed to have been unanimous, the difference of opinion being produced by a disagreement about the time to which the suspension should be limited. As the bill passed with unusual celerity, it is not improbable that the suspension may be further extended by the Senate, especially as a proposal to suspend till the 30th December next, was lost by a majority of sixty to forty in the House.

Enclosed I transmit a copy of the documents referred to in the President's Message, respecting the approaches of the Spaniards upon the Orleans Territory, and a few printed copies of the special Message, recommending a suspension of the non-importation law. I have the honor to be, &c.

JAMES MADISON.

Messrs. MONROE and PINKNEY, *Ministers, &c.*

Mr. Madison to Messrs. Monroe and Pinkney.

DEPARTMENT OF STATE,
December 20, 1806.

GENTLEMEN: You will have seen by my letter of the 6th, which went by sundry other conveyances, that the bill suspending the non-importation act had passed the House of Representatives. I now enclose it in the form of a law, with an amendment providing for a further suspension by the Executive, in case the state of things between the two countries should require it. In the Senate the vote for the bill was unanimous. I add a continuation of the newspapers, and refer to them for the current information of a public nature.

I have the honor to be, &c.

JAMES MADISON.

Messrs. MONROE and PINKNEY, *Ministers, &c.*

No. 7.

Mr. Monroe and Mr Pinkney to Mr. Madison.

LONDON, *Dec.* 27, 1806.

SIR: We have the pleasure to acquaint you that we have this day agreed with the British Commissioners to conclude a treaty on all the points which have formed the object of our negotiation, and on terms which we trust our Government will approve. It will require only a few days to reduce it to form. When that is done, we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence for the information and guidance of our Government in such measures as may have reference to the subject.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAS. MONROE.
WM. PINKNEY.

JAMES MADISON, *Secretary of State.*

No. 8.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, *January* 3, 1807.

SIR: We have the honor to transmit you a treaty which we concluded with the British Comsioners on the 31st of December. Although we had entertained great confidence from the commencement of the negotiation that such would be its result, it was not until the 27th that we were able to make any satisfactory arrangement of several of the most important points that were involved in it. On the next day we communicated to you that event by several despatches, three of which were forwarded by vessels from Liverpool, so that we hope you will receive very early intelligence of it. We commit this, with the treaty, to Mr. Purviance, who, we flatter ourselves, will have the good fortune to arrive in time to deliver it to you before the adjournment of Congress.

The necessity we feel ourselves under to forward to you the treaty without delay will, we fear, render it impossible for us to enter so fully into the subject of it as on many considerations it might be proper to do. We are aware that such instruments must be construed by an impartial view of their contents, uninfluenced by extraneous matter. A knowledge, however, of the sense in which the several articles of a treaty were understood by the parties to it may in most cases be useful. It is also just to remark, that some circumstances occurred in the course of this negotiation, which, although they do not appear on the face of the instrument itself, yet, as they may have no inconsiderable influence on the future relations of the two countries, it is peculiarly important to explain. We shall endeavor to give such explanations where they may be necessary, in the best manner that may be found compatible with the despatch which the occasion so imperiously requires, and, we flatter ourselves, without omitting anything on any point that may be deemed of essential importance.

The first article of the present treaty, which stipulates that peace shall subsist between the parties, is taken from that of 1794, and is found in most of the modern treaties.

The second article confirms those of a permanent nature in the Treaty of 1794. The British Commissioners were very desirous to introduce the permanent articles of that treaty, in the form of new stipulations, into the present one. They insisted, with great earnestness, that that article which relates to the trade with the Indian tribes should be so amended as to admit the traders of Canada and the Hudson Bay Company to participate with us in that trade with the tribes in Louisiana. They seemed to admit that, by a fair construction of the article, they could not support such a claim, but contended that it was justified by its spirit. Their solicitude on this point, which they had supposed was an unimportant one to the United States, created some embarrassment and delay in the business. They intimated that it proceeded from a desire to conciliate the public opinion in this country in favor of the treaty, which became necessary in consequence of the concessions which they thought they made us on other points. As we were decidedly of opinion that the article in the Treaty of 1794 could not apply to territory afterwards acquired, and could see nothing in its spirit which entitled it to such an extension, and more especially as our instructions contemplated a different result, it was impossible for us to adopt their proposal. They finally agreed, therefore, though not without evident reluctance, to the article in its present form.

We regret to say that the third article, which regulates our trade with the British possessions in India, which, with one essential and most unfavorable difference, is the same with the thirteenth article of the Treaty of 1794, is not what we had been led to hope it would be practicable to make it. Aware of the importance attached to this commerce in America, we have used the most zealous and persevering efforts, not only to prevent the introduction of new restraints upon it, but even to emancipate it from some of those which the Treaty of 1794 had distinctly sanctioned. The India Company have, however, been less accommodating than was at first expected, and hence the rejection of all the amendments proposed by us, one of which sought to omit entirely, and (when that was refused) to modify the proviso copied from the Treaty of 1794, that our voyages from the British possessions should be direct to the United States. This amendment, in both its shapes, was repelled in such a manner as to convince us that nothing would be gained by continuing to press it; and we gave it up at length with great reluctance. In this stage of the business, the British Commissioners insisted upon an amendment on their part, by which our voyages to British India were required to be direct from the United States. This unexpected amendment was proposed at the instance of the India Company, after the project of the British Commissioners (which, with reference to this subject, was a literal copy of the thirteenth

article of the Treaty of 1794) had not only been presented to us, but fully discussed, and, as we understood, settled. The real intention and office of it were said by Lord Holland and Lord Auckland to be no more than to make the article speak unequivocally what was the true meaning of the article in the late treaty. We replied to this, that the article in the late treaty was not susceptible of this limited construction; that its obvious import was, that only the voyage from India should be direct; that this had been solemnly adjudged by their own courts of law; and that the practice had been, and still continued to be so. We were answered by the production of a paper, purporting to be a report of ——, that in their opinion, an American vessel was not entitled to a clearance from a port in Great Britain to Calcutta, under the Treaty of 1794. We were told, moreover, that Lord Grenville, when he made the treaty, the India Company when it sanctioned, and the British Government when it ratified it, did not mean to authorize any other than direct voyages, outward as well as homeward, between the United States and their Indian possessions; and that if the treaty was liable to another construction, it arose from mere inadvertence in adjusting the phraseology; but that, in truth, it was not a fair and natural interpretation of words which authorized a commerce between two defined limits; that a commence between one of these limits and some third place was intended to be allowed, although not a word was said about it in the article. Having given the obvious answer to these suggestions, we urged as long and as zealously as was thought advisable the inconveniences to which our trade with India would be subjected by prohibiting any of the modes in which it was prosecuted, as well as the unfriendly appearance of the new restriction, for which there existed no adequate motive. We spoke of the sensibility which would be excited in our country by such an ill-timed and ungracious interference, the interests which it would affect, and the passions which it would enlist against the entire treaty; to all which it was finally answered, that the India Company could not be prevailed upon to relax upon this point; that, moreover, it ought not to be forgotten that this was a trade from which their own subjects were ordinarily excluded, in favor of the company's monopoly; that this monopoly, as a losing concern, seemed at present to require peculiar protection; that our admission into British India at all was a boon for which we did not and could not give any equivalent; and, of course, that we could not justly complain if that admission was somewhat qualified, with a view to the mitigation of the evils by which it was undoubtedly attended, and which it was not possible wholly to prevent, especially if we were not placed upon a more disadvantageous footing in that respect than other friendly Powers; which was so far from being the case, that we were unquestionably admitted by the article, as they proposed to amend it, upon much better terms than any other nation, inasmuch as our commerce (exclusive of the advantage of being secured by treaty) would be subject only to British duties; whereas the Danes and Swedes paid alien duties to a considerable amount, without enjoying any privilege (whatever might be said to the contrary) to which we were not equally entitled. We were at last reduced to the necessity of accepting the article with the obnoxious amendment, rendered less obnoxious, perhaps, by the clause relative to the most favored nation; or making a treaty without any article upon the subject, which would have the same, and probably worse effects; or of making no treaty at all. We preferred the first.

The fourth and fifth articles regulate the trade between the United States and the British possessions in Europe. By these we are persuaded that much greater satisfaction will be given to our Government and country than in the preceding one. The first three clauses of the fifth article, which place the vessels and merchandise of each country in the ports of the other, in respect to duties and prohibitions, on the footing of the most favored nation, are taken from the Treaty of 1794. To these we are not aware that any well founded objection was ever made. But the subsequent clauses give a new character to this intercourse. The right which the British Government reserved, by the Treaty of 1794, to impose a tonnage duty on American vessels equal to the duty which was payable on British vessels in the United States, is, by the first of these clauses, made reciprocal. Under that reservation, or rather, as we presume, on the pretext of it, the British Government had actually imposed a tonnage duty on American vessels of six shillings and five pence sterling per ton, being almost three times the amount of the duty which was payable on British vessels in the United States. And as the United States had expressly stipulated not to raise the duty on British vessels higher than it then was, it was out of their power, without a palpable violation of that stipulation, to countervail the duty imposed by Great Britain on American vessels. But by making the reservation reciprocal, the United States have an unquestionable right to raise the duty on British vessels to the same level, wherever that may be. And by confining the reciprocity strictly to the principle of national equality, that is, an equality of tonnage duties which shall be payable on the vessels of each party in the ports of the other, a right is reserved to each to give what preference it thinks fit, within that limit, to its own vessels and people. At present, such preference is given by our law to the amount of forty-four cents per ton, which is not only protected by this clause against any countervailing measure, other than by lessening the duty, but the right is secured to increase it in the degree above stated. By this we do not wish to imply that it would be advisable to take all the advantage of this circumstance which the article admits of. The presumption is, that the British Government will, in case the treaty is ratified, repeal the additional duty on American vessels, which will leave them charged, in common with their own and those of every other nation, with the sum of four shillings and five

pence per ton. Should our Government think proper to raise the duty on British vessels to the same point, it may, perhaps, be advisable not to increase the present discrimination. The last clause of this article, which stipulates that the same duties of exportation and importation shall be paid on all goods and merchandise, and that the same drawbacks and bounties shall be allowed in both countries, whether the same be in British or American vessels, will, it is also hoped, be found of very essential advantage to the United States. The right which Great Britain had reserved by the Treaty of 1794, to countervail the difference of duty payable in the United States on Asiatic goods, when imported in British or American vessels, had been productive of very serious injury. The duties which had been imposed by the British Government on American productions, on that principle, were so high, making in most cases a difference of —— shillings per ton in favor of British vessels, that it must have been impossible in peace for our navigation to have borne it. The evil was the greater, because the species of commercial warfare in which it engaged us, in consideration of the comparative value and bulk of the articles subject to it in each country, would be its effect. By this clause it is presumed that the evil will be completely done away, while we flatter ourselves that the stipulation in favor of drawbacks and bounties, without exposing us to any inconvenience, will be productive of some advantage.

It is proper to remark that we did not omit to propose an arrangement on the subject of export duties, by which the United States should at least be placed, in that respect, upon the footing of all other nations. The discrimination to our prejudice in the British duties on exportation, which took their rise in the convoy duty of the last war, has undoubtedly an unkind and an oppressive effect. This discrimination is found in the 43 Geo. III, ch. 68, a permanent act, (which repealed the then existing duties, and substituted others,) and in the 43 Geo. III, ch. 70, which imposes additional duties during the present war. Taking the war duty and the permanent duty together, the consumers in the United States of certain British manufactures (for the duties in question apply only to *British* manufactures, and not to all of them, British corn, yarn, and manufactures, and some other articles, being excepted) pay two and a half per cent. ad valorem, more than the consumer in Europe, or within the Straits, pays on the same goods.

The only mode in which it could be supposed to be possible that this unpleasant distinction could be removed was by applying to the subject the rule of the most favored nation. Great Britain was not likely, in her present situation, to stipulate against all export duties, or even to agree to a maximum. Neither was she likely, by considering the actual duties as originally, and even now, convoy duties, and therefore, in their principle applicable only to the navigation which her convoys protect, to relieve from them wholly, or in part, such merchandise as should be carried to our country in American vessels, and leave them to oppress her own tonnage, thus offering a bounty in favor of American ships against her own. The rule of the most favored nation was, therefore, finally suggested with a hope that it would meet with no objection. It was, however, perseveringly opposed. We were told that the single effect of such an arrangement would be to compel Great Britain to raise the export duties against other countries, not to reduce them as to us; and that this would be of no advantage to the United States, but might be a serious embarrassment to Great Britain. It was urged, on our part, that, if Great Britain could not give up entirely the excess of export duty now paid by us, it did not follow that it might not be fairly distributed among the consumers of her merchandise in every part of the world, so as still to produce the same revenue, with more regard to justice; that, as her best customers, we had a right to be placed upon at least an equal footing with other nations, and to complain if we were rather distinguished by the peculiar burdens which she undertook to impose upon us; that the discrimination against us, upon the notion that the duty had reference to convoy, was a fallacy, since we, who paid the duty, derived no benefit from the convoy, which was professed to be the consideration of it; and since the protection of their own trade, in their own navigation, being a general and national concern, there was no sound reason why the relative expense of particular convoys should be allowed to suggest the relative measure of the duties which were to supply the means of affording them. They replied to the idea of distributing the amount of the discrimination among all the consumers of their merchandise, by referring us to the present state of Europe. They reminded us that their own colonies in America paid the same export duty that was paid by us, and repeated that, as it was only the discrimination between the United States and Europe, of which we could not demand to have any part of the duty, against which we have any right to complain, withdrawn from us, and we could gain nothing by forcing this country to add to the burdens of others already overwhelmed and impoverished by the calamities of war. We were obliged, though very reluctantly, to abandon this object.

The sixth article relates to the commerce with the West Indies, which it was found impossible to arrange in a satisfactory manner. There were many serious obstacles to an agreement on this point, some of which seemed to be peculiarly applicable to the present time. The British West India merchants had, at an early stage, represented that, by the trade which our citizens enjoyed with the colonies of their enemies, we had so completely stocked the markets of the Continent with West India productions as to shut those markets on them. They had remonstrated earnestly against any arrangement of that point which should sanction, in any degree, our trade with those colonies. This question had taken deep hold of the minds of a great proportion of this community, among whom may be classed not those in the mercantile line only, who were immediately engaged in the trade, but the whole commercial interest, and many in other circles of great consideration in the country. Of this fact sufficient proof was furnished by the debate which took place, in the last session of Parliament, on the bill for regulating the intercourse between the United States and the West Indies. The British Commissioners seemed to have taken from that debate, more especially from the support which their opponents apparently received from the public, a very strong admonition not to touch the subject by treaty at this time. They were apprehensive that any regulation of this trade, however fair it might be, which should accompany their sanction of that with the colonies of their enemies, would produce the worst effect with all parties, and endanger any treaty which might be formed. They were, therefore, desirous of postponing the subject for the present; to which we agreed. In the stipulation which provided for the postponement, we have, as you will perceive, in conformity with our instructions, reserved the right to our Government to counteract any regulations by which the British Government may exclude us from a fair participation in that commerce. While the war lasts, we shall enjoy it, in a certain degree, by the consent of the British Government, by necessity; and the reservation cannot fail to be considered by it as a powerful weapon of defence, to be used when occasion calls for it. It must be seen that it will be impossible for the Congress to prohibit an intercourse between the United States and the West Indies in British vessels, without producing a very serious effect on their whole navigation and commercial interests. We flatter ourselves, therefore, that it may be found practicable, and perhaps not difficult, to arrange this business hereafter to the satisfaction of both countries.

The seventh article relates to the appointment of Consuls by each party in the territories and ports of the other. It was taken from the Treaty of 1794.

The eighth article, which specifies the causes for which vessels may be captured or detained, including among them the circumstance of their having enemies' property on board, is (except the last clause) a transcript of the seventeenth article of the Treaty of 1794. The stipulation contained in that clause (that the parties shall be allowed adequate damages and charges of the trial in all cases of unfounded detention or other contravention of the regulations of the present treaty) will, we presume, produce the salutary effect contemplated by it. There is, perhaps, no principle in the maritime pretensions of this country which has been more abused in practice than that which this provision is intended to remedy. That damages should be allowed in all such cases is, it is true, a doctrine recognised by the Court of Admiralty. It cannot, however, be doubted that, by providing for them in the treaty, the obligation to allow them will acquire greater force with the Court, and even the Government itself, while it cannot fail to give a useful admonition to the cruisers.

The ninth article regulates what shall be deemed contraband of war.

You will observe that tar and turpentine, except when destined to a place of naval equipment, are not comprised in the list, and that provisions are altogether omitted. We endeavored to exclude from it naval stores, but without effect. We succeeded, however, in exempting the vessel on the return voyage, after depositing her cargo at the port of her destination, from being detained on the pretence that it consisted of contraband articles.

The provision in the tenth article, relative to vessels sailing without knowledge of a blockade, is somewhat altered from the Treaty of 1794. The precise effect of the change cannot, perhaps, be pronounced with certainty; but it seems to be clear that it cannot be otherwise than advantageous. The alterations consist in the introduction into the preamble of "the distance and other circumstances incident to the situation of the contracting parties," and of the word "such" into the provision which follows. The first amendment appears to justify an inference that, on account of the peculiar circumstances, local and relative, thus recited as the reasons why, in the opinion of the contracting parties, "it may frequently happen that vessels may sail for a port or place without knowing that it is besieged, blockaded, or invested.". Our vessels ought not to be liable to be judicially affected with knowledge of a blockade, so as to subject them to penalty by the evidence usually held to be sufficient for that purpose. Sir William Scott decided, in 1790, that, in consequence of the distance of the United States from Europe, we were entitled to a more favorable rule, in that respect, than other countries; and our article may be fairly considered as adopting that idea, and acting upon it. On the foundation of the single fact of distance, Sir William Scott justified a conjectural destination from America to Amsterdam, although the blockade of that port had been notified; and the parties concerned were proved to have known of the commencement of it. The article, as it now stands, seems necessarily to imply, at least, the same indulgence; and, if it does, it certainly goes further than Sir William Scott's opinion, which does not admit that an inquiry can be made of the blockading force, as our article unquestionably does, in the cases to which it applies. It does not appear to be unreasonable to hold that, a peculiar motive being now assigned in the preamble for the provision which it introduces, a correspondent peculiar effect is contemplated by that provision; and no such effect can follow from it, if it be not that (as our distance makes it impossible "that we should have constant information of the state of the blockade, whether it continues or is relaxed,) the mere notification of the blockade, or even the knowledge that the blockade has been commenced *de facto*, shall not be sufficient to make the destination illegal; but that, notwithstanding such

notification or knowledge, we shall receive warning at the port or place blockaded. The words, "without knowing that the same is either besieged, blockaded, or invested," will admit of this interpretation, since, by reason of our distance, it may, in our case, be truly said (and has, in substance, been judicially said) to be one thing to know that a blockade has been notified or instituted, and another that it continues. We endeavored, without success, to obtain the consent of the British Commissioners to the article proposed in your project. They would only agree, as you will perceive, to take its preamble, and ingraft it upon the article of 1794, observing that this would give to that article a new and more favorable, though certainly an undefined, character; and that, at a moment when their maritime efforts, in this mode of hostility, might more than ever become indispensable to the national safety, it was impossible to do more. We pressed them long and earnestly to connect with the clause a definition of blockade, to which, in the early stages of our negotiation, it was believed there would be no objection. We found them, however, decidedly averse to such a definition by treaty, notwithstanding the precedent afforded by Lord St. Helen's convention with Russia. They maintained that the British doctrine was already as explicit upon this point as any definition could make it; that it was difficult, if not impracticable, to agree upon one which should be at the same time accurate and complete; that the clause, in its present form, would do much towards the accomplishment of our object; and that what remained it would be in their power, as it certainly was in their inclination, to supply as effectually as in the treaty itself, by taking occasion to state, in a letter which it was intended should be delivered to us, on their part, at the time of the signature of the treaty, in which you will hereafter find explained the theory and practice of the British Government on this subject.

This reasoning was in no degree satisfactory, and it was resisted accordingly, but without effect. The proposed substitute for a definition by treaty might be of some value, and was not therefore opposed; but it was obvious that it would be greatly impaired, if not wholly destroyed, by the nature of the letter of which we had received a full explanation, and in which the suggested statement was to be inserted.

The eleventh article regulates the great question of our commerce with enemies' colonies, the interruption of which was one of the principal causes of the late disagreement between the two countries. We trust that the compromise which has been made on this point will be advantageous to our commercial interest, and satisfactory to our Government. The British Commissioners were very desirous of burdening this intercourse with severe restrictions, to place, as they did not hesitate to state, their own merchants on an equal footing in the great markets of the Continent with those of the United States. With that view, and to settle all questions concerning the continuity of the voyage, they proposed that all articles of West India produce should be stored in the United States for the term of one month, be transported thence to Europe in another ship from that in which they were brought, and be likewise subjected to a duty of at least four per cent. on re-exportation. They finally agreed, however, to relinquish all these pretensions, except the landing of the goods in the United States, and the payment (by which is understood the securing of the payment in the mode prescribed by our law) of one per cent. on such European articles as may be carried from thence to the colonies; and of two per cent. on such West India productions as may be carried to Europe, including the parent and every other country. We are persuaded that this arrangement will be attended with less inconvenience to the parties than the other restrictions above-mentioned, or either of them. The storing of the goods, especially for a month, seemed to be peculiarly objectionable, as it would have subjected us to a serious injury, without being attended with any circumstances to alleviate the regret inseparable from it. We flatter ourselves that the sum agreed to be paid will not be felt as a heavy one by our merchants, whose patriotism will be gratified by the recollection, that the duty which they pay will redound to the advantage of their country. By the compromise which is made, the practical enjoyment of the rights of each party is forborne, in the manner stated and for the term specified, while the rights themselves are reserved. The stipulation being in the form of a concession on the part of Great Britain, is intended to mitigate her principle where it applies, but in no respect to enlarge the sphere of its operation. No judicial decision of the Court of Admiralty in this country has hitherto extended the British principle to enemies' colonies in the East Indies, and it is understood that it does not apply to the greater part, if to any of them. Some cases are depending before it from the Vice Admiralty Courts of Halifax and Colombo, which will bring the point into question. Should the opinion of the Court be, that the principle is applicable to the colony to which the cause relates, then the party will have the advantage of the provision contained in this article; should it, on the contrary, decide that it does not apply to such colony, then the trade between it and the parent country will be free. This view of the subject was entertained equally by the British Commissioners and ourselves, and is that, as they assure us, which the Court of Admiralty will adopt in its decisions. We endeavored to exempt this branch of the trade with enemies' colonies from the operation of the British principle, but that was found to be impracticable. We flatter ourselves that the arrangement made respecting it will be deemed the next most eligible one that could have been adopted, and that it will produce in practice, in a great measure, if not altogether, the same effect.

The twelfth article establishes the maritime jurisdiction of the United States to the distance of five marine miles from their coast, in favor of their own vessels and the unarmed vessels of all

other Powers who may acknowledge the same limit. This Government contended that three marine miles was the greatest extent to which the pretension could be carried by the law of nations, and resisted, at the instance of the Admiralty and the law officers of the Crown, in Doctors' Commons, the concession, which was supposed to be made by this arrangement, with great earnestness. The Ministry seemed to view our claim in the light of an innovation of dangerous tendency, whose admission, especially at the present time, might be deemed an act unworthy of the Government. The outrages lately committed on our coast, which made some provision of the kind necessary as a useful lesson to the commanders of their squadrons, and a reparation for the insults offered to our Government, increased the difficulty of obtaining any accommodation whatever. The British Commissioners did not fail to represent that which is contained in this article, as a strong proof of a conciliating disposition in their Government toward the Government and people of the United States. The limit established was not so extensive as that which we had contended for, and expected to have obtained; we persuade ourselves, however, that the great object which was contemplated by any arrangement of the subject, will result from that which has been made. The article in the treaty, in connexion with the causes which produced it, forms an interesting occurrence in the history of our country, which cannot fail to produce the most salutary consequences. It is fair to presume, that the sentiment of respect which Great Britain has shown by this measure for the United States, will be felt and observed in future by her squadrons in their conduct on our coast, and in our bays and harbors. It is equally fair to presume, that the example of consideration which it affords in their favor, by a nation so vastly preponderant at sea, will be followed by other Powers.

By the thirteenth article it is agreed, that the sum for which bonds shall be given by the commanders of privateers, before they receive their commissions, to indemnify those who shall be injured by their misconduct, shall be increased to a greater amount than was required by the nineteenth article of the Treaty of 1794. It is also enjoined in stronger and more definite terms on the belligerent, in this than in the former article, to see that its ships of war and privateers shall observe, in a manner, the most favorable to neutrals, the acknowledged principles and rules of the law of nations in the search of merchant vessels. We endeavored to obtain an arrangement more adequate to the object, and relinquished the pursuit of it with regret. While the subject of visitation and search was under consideration, the British Commissioners assured us that their Government would regulate it in a satisfactory manner to the United States, by act of Parliament, especially in respect to privateers; which assurance they repeated when the treaty was signed.

The following articles to the twenty-first, inclusive, are taken from the Treaty of 1794. The British Commissioners showed a desire to retain them, and as it appeared that they had, in substance, been introduced into the treaty with France in 1801, and that an attempt on our part to omit them would be thought unaccommodating and captious, we agreed to them.

The twenty-second article contains a new and useful provision in favor of the unfortunate, in the case of shipwreck.

The twenty-third article, after declaring that it is the intention of the high contracting parties that the people of their respective dominions shall be on the footing of the most favored nations, stipulates that, in case either of the parties shall hereafter grant any additional advantages in navigation or commerce to any other nation, the citizens or subjects of the other party shall fully participate in them. This article is deemed peculiarly important in many views, but more especially in its application to the British possessions in the East Indies. If it can be shown that any peculiar accommodation is, or shall be hereafter, granted to any other Powers, we become entitled to it of course.

The twenty-fourth article engages that the parties shall communicate to each other the laws which their respective Legislatures may enact for the abolition or limitation of the African slave trade, and that they will also use their best endeavors to procure the co-operation of other Powers for the complete abolition of that trade. As this engagement reposes on the basis of our laws, it follows that it does not enjoin any obligation unknown to them. If it should be acted on at all by our Government, further than by communicating to this the laws of Congress, as is proposed in the first article, the sphere of its operation would be a very contracted one till the year 1808. After that period, such a co-operation, on a more enlarged scale, would become a Constitutional measure of the Government, and, as we think, a suitable one. Mr. Fox had taken great interest in this question, and it is understood that, in suggesting the idea, in the address of the House of Commons to the King, of obtaining the co-operation of other Powers, the United States were held particularly in view. The British Commissioners proposed the article, and showed great desire that we should accede to it. As this stipulation was not comprised within the scope of our instructions, we have thought it our duty to explain to you the cause to which its admission into the treaty is to be attributed.

The twenty-fifth article was introduced for the purpose of protecting other Powers having treaties with either party in the enjoyment of the rights secured by them. The stipulation contained in our treaty with France in 1803, of certain commercial privileges in favor of French and Spanish subjects, for a definite term, in Louisiana, made such a provision particularly necessary.

The twenty-sixth article fixes the term of the treaty to ten years from the date of the exchange of the ratifications.

We are sorry to add that this treaty contains no provision against the impressment of our sea-

men. Our despatch of the 11th of November communicated to you the result of our labors on that subject, and our opinion, that, although this Government did not feel itself at liberty to relinquish formally, by treaty, its claim to search our merchant vessels for British seamen, its practice would, nevertheless, be essentially, if not completely abandoned. That opinion has been since confirmed by frequent conferences on the subject with the British Commissioners, who have repeatedly assured us that, in their judgment, we were made as secure against the exercise of their pretension by the policy which their Government had adopted in regard to that very delicate and important question, as we could have been made by treaty. It is proper to observe, however, that the good effect of this disposition, and of its continuance, may depend, in a great measure, on the means which may be taken by the Congress hereafter to check desertions from the British service. If the treaty is ratified, and a perfectly good understanding produced by it between the two countries, it will be easy for their Governments, by friendly communications, to state to each other what they respectively desire, and in that mode so arrange the business as satisfactorily as it could be done by treaty.

We regret, also, to be under the necessity of stating that no provision has been made by the treaty to indemnify our citizens for their losses by the late seizures, and other violations of the law of nations. This object engaged our attention in every stage of the negotiation, and was not abandoned by the signature of the treaty. On the day it was signed, we stated in explicit terms to the British Commissioners, that we could not conclude without having a satisfactory assurance by them of the part their Government intended to take, equally in regard to the vessels and cargoes which had been condemned, and to the suits that were depending. The principle established in the correspondence between Mr. King and Lord Hawkesbury we admitted should form the bound of our claim in respect to the seizures for an imputed illegal trade, for every violation of which, in cases of condemnation, we expected a full indemnity, and a dismission of all the causes still depending that were protected by it. The British Commissioners observed, that it was neither their wish nor expectation that we should relinquish our claim; on the contrary, they were willing we should preserve it: with which view they proposed that we should present them a paper bearing date prior to the signature, which should make the reservation in such form as we thought best suited to the object. They intimated that, in cases of vested right, it was not in the power of their Government to interfere to the prejudice of the parties, and that it would be hard on the Government, and unpopular in the Ministry, to apply the public money to such a purpose; still, they said nothing to preclude that expectation; on the contrary, they encouraged it, and were still more explicit in suggesting that the depending cases would not be unfavorably adjudged. They seemed desirous that, while we should reserve our claim, their Government should retain a right to pursue such a course of conduct in regard to it as might be dictated hereafter by circumstances. To enter into an engagement in favor of our claim, in the present state of things, appeared to them as being likely to expose their Government to the imputation of having done it by coercion, and to deprive it of a claim to any merit for such accommodation as it might, under other circumstances, be disposed to yield. Should the circumstances of collision which had taken place between the two countries be done away, and their commerce and friendly relations be re-established, as they hoped was already in a great measure done, and would be so completely by this treaty, their Government, they thought, would feel itself more at liberty to yield accommodations on this topic than in the actual state. This was the substance of the communication made to us on this subject by the British Commissioners before the signature of the treaty, on which, and our declaring explicitly that we would reserve the right in the manner they had proposed, in full confidence that their Government would respect it, we proceeded to sign the treaty. We have had an interview with the British Commissioners since the signature, and were happy to find that they had not forgotten what had passed between us on that occasion. We had asked the interview, as we informed them, for the purpose of conferring on this subject, and of obtaining their sentiments in so distinct a form as to leave us under no embarrassment in the communication it was our duty to make to you on it. Nothing passed in this interview on their part to change the ground on which the business had been placed in the former one. They intimated, however, that it might be advantageous, and would certainly be proper for us, in the present stage, to confer with Lord Howick on this subject, since any declaration from him could not fail, according to its import, to merit the peculiar attention of our Government. We have accordingly seen and conferred with Lord Howick upon this topic, whose sentiments appeared to correspond strictly with those which had been delivered to us by the British Commissioners. He intimated, however, that it would be better for us to address the note which should contain a reservation of our rights to indemnity to him than to the Commissioners, to which we assented, as we could not perceive that that circumstance would make any difference in the case. We are engaged in preparing this paper, which we expect to present to his Lordship in a few days, though we fear it will not be ready in time to enable us to obtain his answer to it to be forwarded to you with this despatch. We shall not fail to communicate to you without delay whatever may occur on this subject. We think it our duty, however, to add, that we do not wish our Government to be too sanguine in the expectation of a satisfactory result. In the deliberation on this subject, it may, perhaps, be better to presume that such a one may not be obtained, as it is not provided for in the treaty. The above statement is, nevertheless, perfectly correct, and we beg you to be assured that

we shall continue to exert our best endeavors to secure an object which we consider of so much importance. We shall send you a statement of the cases of condemnation, and of the causes still depending, which is less extensive, in both views, than may have been supposed.

It happened, when the negotiation had reached a very advanced stage, that an account was received here of the decree of the Emperor of France at Berlin, of November 21, which declared Great Britain and Ireland in a state of blockade, and all British manufactures and the produce of British colonies lawful prize. This circumstance produced a strong impression on this Government, which was very seriously felt in our concerns. It seemed probable for some days that it would subject the negotiation to a long suspension, if it did not entirely defeat its object. The British Commissioners informed us that the decree of the Government of France had opposed a powerful obstacle to the conclusion of any treaty with us, before our Government should be consulted on the subject, and its answer obtained as to the part it might take in regard to it; that in case the United States submitted to a violation of their neutral rights by France in the manner contemplated by that decree, it would be impossible for Great Britain to respect them; that by concluding a treaty with the United States, by which they should not only bind themselves to the observance of such rights, but agree to concessions or relaxations of what they conceive to be their unquestionable rights of war, after knowing the contents of that decree, they might be understood to restrain themselves from counteracting the policy of France, which it would be improper to do, unless our Government should engage to support its rights against the measures of France. In consideration of these circumstances, they proposed that we should proceed in the business so far as to agree on all the articles of a treaty, to reduce them to form, and then transmit the instrument to the United States, to become obligatory in case our Government should enter into a satisfactory engagement of the kind proposed.

We replied in very explicit terms to the British Commissioners, that we considered their proposition altogether inadmissible on our part, and not likely to accomplish, if we could agree to it, the object which they contemplated by it; that such a proposition to our Government, under the circumstances attending it, would amount in substance to an offer to it of the alternative between the treaty and a war with France, since, if our Government refused to give the satisfaction which they desired, the treaty would be lost; and if such satisfaction was given, and the treaty concluded, and France should persist to execute her decree according to the construction given of it here, war seemed to be inevitable; that if it should happen that our Government should approve the treaty, it was not to be presumed that it would make any sacrifice, or stipulate anything not contained in the instrument, especially so very important an act as that alluded to, as the condition on which it was to be obtained; that the arrangement of our differences and other concerns with Great Britain was an affair which rested on its own ground, and had no connexion with our relations with France; that His Majesty's Government ought to suppose that the United States would not fail, in any case, to support, with becoming dignity, their rights with any Power, and that it must be sensible that it would be more at liberty to enter into suitable friendly explanations with the Government of France on the subject of the decree in question, after the adjustment of their differences with Britain, than while they existed; as it likewise must be that the prospect of obtaining satisfactory explanations on that point of France would be better while they acted under their own impulse, as an independent and friendly Power, than it would be in case they entered into an engagement of the kind proposed with her adversary. The British Commissioners admitted that these considerations were entitled to much attention; at length, however, after the subject had been, as we had reason to believe, maturely weighed by the Cabinet, they informed us that their Government still thought it incumbent on it to make a reservation of their right to counteract the policy of France, in case our Government did not give them the satisfaction they desired, either by suitable assurances before the ratification of the treaty, or by its conduct afterwards. With this view, they presented us a paper, which we have the honor to transmit with this despatch. In transmitting to you this paper, it is our duty to observe that we do not consider ourselves a party to it, or as having given it in any the slightest degree our sanction. The incident which produced the paper was unexpected on our part, and, without entering into its merits, we used our best exertions to diminish its effect in relation to the objects of our negotiation. The British Commissioners brought the incident into view, and made it the subject of discussion in the manner above stated, as they did the part which it became their Government to take in the depending negotiation in consequence of it. We therefore thought, not only that we were at liberty, but that it was imperiously our duty to use our best exertions to make the paper which they proposed to present to us, in reference to the decree of France, as little injurious as possible, and even to urge that decree as a strong reason why Great Britain should be more explicit and satisfactory in her definition of neutral rights, as well for the purpose of vindicating herself against the strong denunciation it contained, as to enable our Government to urge with more force with the Government of France its objections to the decree. We were glad to find that these remarks were not altogether without effect, as will appear by the paper referred to, especially the definition it gives of a blockade, which is tolerably correct.

You will observe that the commerce between the United States and the British colonies, which bound them to the East and North, has not been regulated by this treaty. The British Commissioners refused to agree to any arrangement of

it, in consequence of our declining to admit their Canada and Hudson Bay traders into Louisiana.

It has occurred to us, that it might be advantageous to the United States, and consistent with the views of our Government, to comprise both these objects, under suitable regulations, in a separate convention, especially if they can be made instrumental to a satisfactory establishment of our boundaries. We have reason to think, that in the form of a new act in connexion with these other objects, it would be more agreeable to this Government to settle the question of boundary, according to the views of the President and Senate, than by ratifying the convention already entered into, with the exception of the fifth article. The British Commissioners have expressed their willingness to proceed in the business for the purpose of arranging all these topics in a satisfactory manner, as Lord Howick has likewise done; and it seems to be highly important to take advantage of this disposition to settle amicably with this Government, at the present time, every remaining cause of strife, so far as it may be practicable. Should we undertake to form such a convention, the commercial part of it, with respect to Louisiana, as well as the British provinces, will, of course, be limited to the same term, not to exceed that of the treaty. We shall also be attentive to the conditions on which the traders with the Indian tribes are to be admitted into Louisiana, by being particularly careful that it be done on such conditions as to render it impossible for them to do any injury. We are persuaded that such regulations might be adopted, as would, even at this time, have that effect. We are confident that our population will have so far spread over the whole surface of that country, by the time the treaty would expire, as to supersede the necessity of renewing it.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAMES MONROE.
WILLIAM PINKNEY.

JAMES MADISON, Esq.

Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America.

His Britannic Majesty and the United States of America, being equally desirous to promote and perpetuate the good understanding and friendship which happily subsist between the subjects of the United Kingdom and the citizens of the United States, and for that purpose to regulate the commerce and navigation between their respective countries, territories, and people, on the basis of reciprocity and mutual convenience, have respectively named their Plenipotentiaries, and have given to them full powers to make and conclude a Treaty of Amity, Navigation, and Commerce; that is to say, His Britannic Majesty has named for his Plenipotentiaries, Henry Richard Vassal, Lord Holland; one of his Majesty's Privy Council and Lord Keeper of His Majesty's Privy Seal, and William, Lord Auckland, one of his Majesty's Privy Council, and President of the Committee of Council for all matters of Trade and Foreign Plantations: and the President of the United States, by and with the advice of the Senate thereof, hath appointed for their Plenipotentiaries, James Monroe and William Pinkney, Commissioners Extraordinary and Plenipotentiaries; who, after having exchanged their respective full powers, have agreed on the following articles:

ART. 1. There shall be a firm, inviolable and universal peace, and a true and sincere friendship, between his Britannic Majesty, his heirs and successors, and the United States of America, and between their respective countries, territories, cities, towns, and people, of every degree, without exception of persons or places.

ART. 2. It is agreed that the several articles of the Treaty of Amity, Commerce, and Navigation, between His Majesty and the United States, made at London, on the nineteenth day of November, one thousand seven hundred and ninety-four, which have not expired, nor, as yet, had their full operation and effect, shall be confirmed in their best form, and in their full tenor; and that the contracting parties will also from time to time enter into friendly explanation on the subject of the said articles, for the purpose of removing all such doubts as may arise or have arisen as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience.

ART. 3. His Majesty agrees that the vessels belonging to the United States of America, and sailing direct from the ports of the said States, shall be admitted and hospitably received in all the seaports and harbors of the British dominions in the East Indies; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States in all articles of which the importation or exportation respectively to or from the said territories shall not be entirely prohibited. Provided only that it shall not be lawful for them in any time of war between the British Government and any other Power or State whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage than shall be payable on British vessels when admitted into the ports of the United States; and they shall pay no higher or other duties or charges on the importation or exportation of the cargoes of the said vessels than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties as shall, from time to time, be found necessary to

enforce the due and faithful observance of this stipulation.

It is also understood, that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but the vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade; neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgressions should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America, in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted in manner aforesaid to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatever nature, established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may, from time to time, establish there.

ART. 4. There shall be between all the dominions of His Majesty in Europe, and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries respectively shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time; also to hire and possess houses and warehouses for the purposes of commerce; and generally, the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries respectively.

ART. 5. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country.

Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations. But the British Government reserves to itself the right of imposing on American vessels entering into the British ports in Europe a tonnage duty equal to that which shall at any time be payable by British vessels in the ports of America; and the Government of the United States reserves to itself a right of imposing on British vessels entering into the ports of the United States a tonnage duty equal to that which shall at any time be payable by American vessels in the British ports in Europe.

It is agreed that in the trade of the two countries with each other, the same duties of exportation and importation on all goods and merchandise, and also the same drawbacks and bounties, shall be paid and allowed in either country, whether such importation or exportation shall be in British or American vessels.

ART. 6. The high contracting parties not having been able to arrange at present by treaty any commercial intercourse between the territories of the United States and His Majesty's islands and ports in the West Indies, agree that until that subject shall be regulated in a satisfactory manner, each of the parties shall remain in the complete possession of its rights in respect to such an intercourse.

ART. 7. It shall be free for the two contracting parties respectively to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their function. But before any Consul shall act as such, he shall be in the usual forms approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper, that in case of illegal or improper conduct towards the laws or Government, a Consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back; the offended Government assigning to the other the reasons for the same.

Either of the parties may except from the residence of Consuls such particular places as such party shall judge proper to be so excepted.

ART. 8. It is agreed that in all cases where vessels shall be captured, or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, or for other lawful cause, the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy, or is otherwise confiscable, shall be made prize, and the vessel, unless by law subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

It is also agreed that in all cases of unfounded

detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial.

ART. 9. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war by land or sea, such as cannon, muskets, mortars, petards, bombs, grenadoes, carcasses, saucisses, carriages for cannon, musket-rests, bandoliers, gunpowder, matches, saltpetre, balls, pikes, swords, head-pieces, cuirasses, halberds, lances, javelins, horse-furniture, holsters, belts, and generally all other implements of war; as also timber for ship building, copper in sheets, sail cloth, hemp, and cordage, and in general (with the exception of unwrought iron and fir-planks, and also with the exception of tar and pitch, when not going to a port of naval equipment, in which case they shall be entitled to preemption) whatever may serve directly to the equipment of vessels; and all the above articles are hereby declared to be just objects of confiscation whenever they are attempted to be carried to an enemy. But no vessel shall be detained on pretence of carrying contraband of war, unless some of the above-mentioned articles not excepted are found on board of the said vessel at the time it is searched.

ART. 10. Whereas, in consideration of the distance and of other circumstances incident to the situation of the high contracting parties, it may frequently happen that vessels may sail for a port or place belonging to an enemy without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after such notice she shall again attempt to enter, but she shall be permitted to go to any port or place she may think proper; nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

Neither of the parties when at war shall, during the continuance of the treaty, take from on board the vessels of the other the subjects of the opposite belligerent, unless they be in the actual employment of such belligerent.

ART. 11. Whereas differences have arisen concerning the trading with the colonies of His Majesty's enemies, and the instructions given by His Majesty to his cruisers in regard thereto, it is agreed that during the present hostilities, all articles of the growth, produce, and manufacture of Europe, not being contraband of war, may be freely carried from the United States to the port of any colony not blockaded belonging to His Majesty's enemies, provided such goods shall previously have been entered and landed in the United States, and shall have paid the ordinary duties on such articles so imported for home consumption; and, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to not less than one per cent. ad valorem; and that the said goods and vessels conveying the same shall, from the time of their clearance from the American port, be *bona fide* the property of citizens and inhabitants of the United States; and in like manner that all articles, not being contraband of war, and being the growth and produce of the enemy's colonies may be brought to the United States, and after having been there landed, may be freely carried from thence to any port of Europe not blockaded, provided such goods shall previously have been entered and landed in the said United States, and shall have paid the ordinary duties on colonial articles so imported for home consumption; and, on re-exportation shall, after the drawback, remain subject to a duty equivalent to and not less than two per cent. ad valorem; and provided that the said goods and the vessel conveying the same be *bona fide* the property of citizens and inhabitants of the United States.

Provided always, That this article, or anything therein contained, shall not operate to the prejudice of any right belonging to either party; but, that after the expiration of the time limited for the article, the rights on both sides shall revive and be in full force.

ART. 12. And whereas it is expedient to make special provisions respecting the maritime jurisdiction of the high contracting parties on the coast of their respective possessions in North America on account of peculiar circumstances belonging to those coasts, it is agreed that in all cases where one of the said high contracting parties shall be engaged in war, and the other shall be at peace, the belligerent Power shall not stop except for the purpose hereafter mentioned, the vessels of the neutral Power, or armed vessels of other nations, within five marine miles from the shore belonging to the said neutral Power on the American seas.

Provided, That the said stipulation shall not take effect in favor of the ships of any nation or nations which shall not have agreed to respect the limits aforesaid, as the line of maritime jurisdiction of the said neutral State. And it is further stipulated, that if either of the high contracting parties shall be at war with any nation or nations which shall not have agreed to respect the said special limit or line of maritime jurisdiction herein agreed upon, such contracting party shall have the right to stop or search any vessel beyond the limit of a cannon shot, or three marine miles from the coast of the neutral Power, for the purpose of ascertaining the nation to which such vessel shall belong; and with respect to the ships and property of the nation or nations not having agreed to respect the aforesaid line of jurisdiction, the belligerent Power shall exercise the same rights as if this article did not exist; and the several provisions stipulated by this article shall

have full force and effect only during the continuance of the present Treaty.

ART. 13. With respect to the searching of merchant ships, the commanders of ships of war and privateers shall conduct themselves as favorably as the course of the war then existing may possibly permit towards the most friendly Power that may remain neuter, observing as much as possible the acknowledged principles and rules of the law of nations; and for the better security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war or privateers, and all others, the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be compelled to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand pounds sterling, or, if such be provided with above one hundred and fifty seamen and soldiers, in the sum of four thousand pounds sterling, to satisfy all damages and injuries, which the privateers or officers, or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the laws or instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed, that whenever a Judge of a Court of Admiralty of either of the parties shall pronounce sentence against any vessel, or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel, without the smallest delay, he paying all legal fees and demands for the same.

ART. 14. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them and brought into the ports of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or the factors, or agents duly deputed, and authorized in writing by them, (proper evidence being shown in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe, or suspect that they had been piratically taken.

ART. 15. It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in the military service, any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed; and if any subject or citizen of the said parties, respectively, shall accept any foreign commission or letters of marque for arming any vessel, to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque as a pirate.

ART. 16. It is expressly stipulated, that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ART. 17. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and Government of the country. The officers shall be treated with that respect which is due to the commissions which they bear, and, if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And both contracting parties agree, that in case any vessel of the one should, by stress of weather, danger from enemies, or other misfortunes, be reduced to the necessity of seeking shelter in any of the ports of the other, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the Government of the place, be hospitably received, and permitted to refit and to purchase at the market price such necessaries as she may stand in need of, conformably to such orders and regulations as the Government of the place, having respect to the circumstances of each case shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted; nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ART. 18. It shall not be lawful for any foreign privateers, (not being subjects or citizens of either of the said parties,) who have commissions from any Power or State in enmity with either nation, to arm their ships in the ports of either of the

said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ART. 19. It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any fees to the officers of the Admiralty, or to any judges whatever; nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized; nor shall the seachers or other officers of those places visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce;) nor shall such officers take cognizance of the validity of such prizes, but they shall be at liberty to hoist sail and depart as speedily as may be, and carry their prizes to the places mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show.

No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but, if forced by stress of weather or the dangers of the sea to enter them, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible. Nothing in this treaty contained shall, however, be construed to operate contrary to the former and existing public treaties with other Sovereigns or States; but the two parties agree that, while they continue in amity, neither of them will in future make any treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in Article 13, so long as the provisions of the said article shall be in force, by ships of war or others having commissions from any Prince, Republic, or State, whatever. But in case it should so happen, the party whose territorial rights shall thus have been violated shall use the utmost endeavors to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 20. If at any time a rupture should take place (which God forbid) between His Majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they do it peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order shall be allowed them for that purpose, to remove with their families, effects, and property; but this favor shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be pending, nor until the respective Ambassadors or Ministers, if such there shall be, shall be recalled or sent home on account of differences, and not on account of personal misconduct, according to the nature and degree of which both parties retain their rights either to request the recall or immediately to send home the Ambassador or Minister of the other, and that without prejudice to their mutual friendship and good understanding.

ART. 21. It is further agreed, that His Majesty and the United States, on mutual requisitions by them respectively, or by their respective Ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive.

ART. 22. In the event of a shipwreck happening in a place belonging to one or other of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects which they shall have thrown out of the ship into the sea shall not be concealed, or detained, or damaged, under any pretext whatever. On the contrary, the above-mentioned effects and merchandise shall be preserved, and restored to them upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, and effects.

ART. 23. And it being the intention of the high contracting parties that the people of their respective dominions shall continue to be on the footing of the most favored nation, it is agreed that, in case either party shall hereafter grant any additional advantages in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein.

ART. 24. The high contracting parties engage to communicate to each other, without delay, all such laws as have been or shall be hereafter enacted by their respective Legislatures, as also all measures which shall have been taken for the abolition or limitation of the African slave trade; and they further agree to use their best endeavors to procure the co-operation of other Powers for the final and complete abolition of a trade so repugnant to the principles of justice and humanity.

ART. 25. And it is further agreed, that nothing herein contained shall contravene or affect the due execution of any treaty or treaties now actually subsisting between either of the high contracting parties and any other Power or Powers.

ART. 26. This treaty, when the same shall have been ratified by His Majesty and by the President of the United States, with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States for ten years from the date of the exchange of the said ratification, and shall be reciprocally executed and observed with punctuality and the most sincere regard to good faith.

In faith whereof, we, the undersigned, Plenipotentiaries on the part of His Majesty the King of Great Britain, and the Commissioners Extraordinary and Plenipotentiaries on the part of the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms.

Done at London, this thirty-first day of December, one thousand eight hundred and six.

VASSAL HOLLAND,
AUCKLAND,
JAMES MONROE.
WILLIAM PINKNEY.

GEORGE R.

George the Third by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, Duke of Brunswick and Lunenburg, Arch Treasurer, and Prince Elector of the Holy Roman Empire, &c., &c. To all and singular to whom these presents shall come, greeting:

Whereas, for the better treating of and arranging certain subjects now in discussion between us and our good friends the United States of America, the President of the United States, with the consent and by the authority of the Senate and House of Representatives of the said United States, has nominated, constituted, and appointed James Monroe, Esquire, and William Pinkney, Esquire, Commissioners Extraordinary to conduct the said discussion on behalf of the said United States; and we, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of our right trusty and well beloved Councillor Henry Richard, Lord Holland, and our right trusty and well beloved Councillor, William, Lord Auckland, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint them our true, certain, and undoubted Commissioners, Procurators, and Plenipotentiaries, giving to them all, and all manner of faculty, power, and authority, together with general as well as with special orders, (so as the general do not derogate from the special, nor on the contrary,) for us and in our name to meet, confer, treat, and conclude with the said James Monroe and William Pinkney, being duly furnished with sufficient powers, on the part of our good friends the United States of America, of and concerning all such matters and things as may be requisite and necessary for accomplishing and completing the several ends and purposes hereinbefore adverted to, and of and concerning all such matters and things as may tend to the mutual interests and advantage of our subjects or dominions, and of those of our said good friends, and to the promoting and maintaining a mutual friendship, good understanding, and intercourse between our subjects or dominions, and those of our said good friends, and for us and in our name to sign all such articles, or other instuments whatsoever, as may be agreed upon between the said Plenipotentiaries, and mutually to deliver and receive the same in exchange; and to do and perform all such other acts, matters, and things, as may be anywise proper and conducive to the purposes above adverted to, in as full and ample manner, and with the like validity and effect, as we ourself, if we were present, could do and perform the same; engaging and promising on our Royal word, that we will accept, ratify, and confirm all such acts, matters, and things as shall be so concluded by our aforesaid Commissioners, Procurators, and Plenipotentiaries; and that we will never suffer any person to violate the same, in whole or in part, to act contrary thereto.

In testimony and confirmation of all which, we have caused our great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents, signed with our Royal hand.

Given at our Court at St. James's, the twentieth day of August, in the year of our Lord one thousand eight hundred and six, and of our reign the forty-sixth.

Note from Lord Holland and Lord Auckland.

LONDON, *December* 31, 1806.

The undersigned, Henry Richard Vassal, Lord Holland, and William, Lord Auckland, Plenipotentiaries of His Britannic Majesty, have the honor to inform James Monroe and William Pinkney, Commissioners Extraordinary and Plenipotentiary of the United States of America, that they are now ready to proceed to the signature of the Treaty of Amity, Commerce, and Navigation, on the articles of which they have mutually agreed.

But, at the same time, they have it in command from His Majesty to call the attention of the Commissioners of the United States to some extraordinary proceedings which have lately taken place on the Continent of Europe, and to communicate to them officially the sentiments of His Majesty's Government thereupon.

The proceedings alluded to are certain declarations and orders of the French Government, issued at Berlin, on the 21st November last.

In those Orders the French Government seeks to justify or palliate its own unjust pretensions by imputing to Great Britain principles which she never professed, and practices which never existed. His Majesty is accused of a systematic and general disregard of the law of nations recognised by civilized States, and more particularly of an unwarrantable extension of the right of blockade; whereas His Majesty may confidently appeal to the world on his uniform respect for neutral rights, and his general and scrupulous adherence to the law of nations, without condescending to contrast

his conduct in these particulars with that of his enemy; and with regard to the only specific charge, it is notorious that he has never declared any ports to be in a state of blockade, without allotting to that object a force sufficient to make the entrance into them manifestly dangerous.

By such allegations, unfounded as they are, the enemy attempts to justify his pretensions of confiscating, as lawful prize, all produce of English industry or manufacture, though it be the property of neutrals; of excluding from his harbors every neutral vessel which has touched at any port of His Majesty's dominions, though employed in an innocent commerce; and of declaring Great Britain to be in a state of blockade, though his own naval ports and arsenals are actually blockaded, and he is unable to station any naval force whatever before any port of the United Kingdom.

Such principles are, in themselves, extravagant and repugnant to the law of nations; and the pretensions founded on them, though professedly directed solely against Great Britain, tend to alter the practice of war among civilized nations, and utterly to subvert the rights and independence of neutral Powers. The undersigned cannot, therefore, believe that the enemy will ever seriously attempt to enforce such a system. If he should, they are confident that the good sense of the American Government will perceive the fatal consequences of such pretensions to neutral commerce, and its spirit and regard to national honor will prevent its acquiescence in such palpable violations of its rights, and injurious encroachments on its interest.

If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, His Majesty might probably be compelled, however reluctantly, to retaliate in his just defence, and to adopt, in regard to the commerce of neutral nations with his enemies, the same measures which those nations shall have permitted to be enforced against their commerce with his subjects. The Commissioners of the United States will therefore feel that, at a moment when His Majesty and all neutral nations are threatened with such an extension of the belligerent pretensions of his enemies, he cannot enter into the stipulations of the present treaty, without an explanation from the United States of their intentions, or a reservation on the part of His Majesty in the case above-mentioned, if it should ever occur.

The undersigned, considering that the distance of the American Government renders any immediate explanation on this subject impossible; and animated by a desire of forwarding the beneficial work in which they are engaged, are authorized by His Majesty to conclude the treaty without delay. They proceed to the signature under the full persuasion that before the treaty shall be returned from America, with the ratification of the United States, the enemy will either have formally abandoned or tacitly relinquished his unjust pretensions, or that the Government of the United States, by its conduct or assurances, will have given security to His Majesty that it will not submit to such innovations on the established system of maritime law. And the undersigned have presented this note from an anxious wish that it should be clearly understood on both sides, that, without such an abandonment on the part of the enemy, or such assurance for such conduct on the part of the United States, His Majesty will not consider himself bound by the present signature of his Commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy.

The undersigned cannot conclude without expressing their satisfaction at the prospect of accomplishing an object so important to the interests and friendly connexion of both nations, and their just sense of the conciliatory disposition manifested by the Commissioners of the United States during the whole course of the negotiation.

VASSAL HOLLAND,
AUCKLAND.

Extra Official Communication with regard to the Canada Trade.

A memorial has been presented to Lord Holland and Lord Auckland on the part of the Canada merchants, setting forth a variety of injuries which they complain of having sustained from the Government and servants of the United States, and praying that their complaints may be attended to, and redress obtained for them in the discussions which are at present pending between the American and British Commissioners.

The injuries brought forward in their memorial may be reduced to the three following heads: 1st, their exclusion from Louisiana; 2d, their being made to pay higher duties for the goods they import into the United States from Canada than the duties payable by the citizens of the United States on the importation of the same goods in American vessels into the Atlantic ports of the United States; 3d, certain minor grievances which they contend to be in like manner contrary to the letter and spirit of the Treaty of 1794.

By the third article of the Treaty of 1794, "it is agreed that it shall at all times be free to His Majesty's subjects and to the citizens of the United States freely to pass and repass by land or inland navigation into the respective territories and countries of the two parties on the continent of America, and to navigate all the lakes and waters thereof, and freely to carry on trade with each other."

But, notwithstanding this express stipulation, which secures to His Majesty's subjects, without limitation or reservation, the right of commercial intercourse by land or inland navigation with all the territories of the United States on the continent of America, the Governor of Louisiana has thought proper to exclude them from the commerce of that extensive province, unless they abjure their allegiance to His Majesty, and take an oath of allegiance to the United States; and the same Governor has taken it upon him to prohibit the introduction of any goods or merchandise

which are not the property of citizens of the United States.

This arbitrary proceeding, besides being a direct violation of the Treaty of 1794, is highly detrimental to the private interest of the Canada merchants, for it excludes them from a country where they have been carrying on trade successfully for many years without interruption from the Spaniards, having lately pushed their commercial posts even to the banks of the Missouri, and augmented the sale of their goods in Louisiana to the amount of about forty or fifty thousand pounds annually.

By the second paragraph of the third article of the Treaty of 1794, "it is agreed that all goods and merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purpose of commerce, be carried into the same in the manner aforesaid by His Majesty's subjects; and such goods or merchandise shall be subject to no higher duties than those payable by citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States."

But, notwithstanding this stipulation, that the duties on goods imported into the United States from Canada shall be no higher than the duties paid for the goods when imported in American vessels into the Atlantic ports of the United States, the custom-house officers of the inland ports practise a mode of estimating the duties on goods imported from Canada, which has the effect of raising the duty on the prime cost of these goods to twenty-two pounds per cent. instead of sixteen pounds ten shillings per cent., which is the amount of the duty payable for the goods, when imported in American vessels into the Atlantic ports of the United States.

As these goods are destined ultimately for the Indian market, this difference gives a decided advantage in that commerce to the citizens of the United States over the subjects of His Majesty, contrary to the spirit and obvious meaning of the Treaty of 1794, the basis of which, in all its stipulations with regard to the inland trade, were impartiality, equality, and reciprocity of advantage.

The manner in which this evasion of the treaty is effected will appear from the account given of it by the Canada merchants in their memorial above referred to.

They state that, by the revenue laws of the United States, all goods imported into their territory, not charged with a particular duty, pay a duty of fifteen per cent. ad valorem, excepting goods from the Cape of Good Hope, and from the countries beyond it; that, in calculating this duty, ten per cent is first added to the prime cost of the goods, and the duty afterwards calculated on the amount, in the following manner:

Prime cost in Europe - - - - -	£100
Ten per cent. added - - - - -	10
	£110

Fifteen per cent. duty on one hundred and ten pounds amounts to sixteen pounds ten shillings; but that, in estimating the duty on goods imported from Canada, the custom-house officers add ten per cent., not to the prime cost, but to their value at Montreal, where it is the custom for merchants to add thirty-three and a third per cent. to the prime cost in Europe, as an equivalent for the expense and risk of transporting them so far; that, proceeding on this principle, the duties on goods imported into the United States from Canada are calculated in the following manner:

Prime cost in Europe - - -	£100	0	0
Additional charge at Montreal - -	33	6	8
	133	6	8
Additional ten per cent. - - -	13	6	8
	£146	13	4

Duty of fifteen per cent. on one hundred and forty-six pounds thirteen shillings and four pence amounts to twenty pounds; so that the same goods which pay a duty of only sixteen pounds eight shillings, when imported by an American dealer, pay a duty of twenty-two pounds, when brought to the same market by a British dealer, contrary to the obvious spirit and meaning, and to the express stipulation of the Treaty of 1794.

Under the third head of minor grievances are to be classed the following: First, though British subjects are entitled, in the terms of the Treaty of 1794, "freely to pass and repass by land or inland navigation into the Territories of the United States," yet they are obliged to pay six dollars for a license to trade with the Indians within the boundaries of the United States by the servants of the States; and, when they arrive at the American ports in the interior, they are often compelled to dismiss their canoe men, and to hire others at a great expense and inconvenience. Second, though it is agreed in the treaty, "that no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying places, on either side, for the purpose of being immediately re-embarked and carried to some other place or places," yet various attempts have been made to collect such duties at the American portages, which have at length compelled the British traders to abandon the *Grande Portage*, and to establish a new portage at Kiminesti within the British line.

Though the arrangement of the Indian trade by the Treaty of 1794 was "intended to render, in a great degree, the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood," yet the revenue officers of the United States, without considering the difficulty of observing in the lakes and rivers of Canada those regulations with regard to the approach to shores and ports which are applicable to the ports of the ocean, have, in many instances, and in particular in the case of the two batteaux, stopped at Michilimackinac, manifested a disposition to harass and impede the trade of British merchants on pretences the most frivolous and unfounded, and in a manner equally vexatious and injurious to them

Mr. Madison to Messrs. Monroe and Pinkney.

DEPARTMENT OF STATE,
February 3, 1807.

GENTLEMEN: The triplicate of your communications of November 11, has just been received. Those of September 11, had been previously received in due time.

The turn which the negotiation has taken was not expected, and excites as much of regret as of disappointment. The conciliatory spirit manifested on both sides, with the apparent consistency of the interests of Great Britain, with the right of the American flag, touching impressments, seemed to promise as much success to your efforts on that subject as on the others; and notwithstanding the perseverance of the British Cabinet in resisting your reasonable propositions, the hope is not abandoned that a more enlightened and enlarged policy will finally overcome scruples, which doubtless proceed more from habits of opinion and official caution than from an unbiassed regard to all the considerations which enter into the true merits of the question.

In the mean time, the President has, with all those friendly and conciliatory dispositions which produced your mission and pervade your instructions, weighed the arrangement held out in your last letter, which contemplates a formal adjustment of the other topics under discussion, and an informal understanding only on that of impressment. The result of his deliberations which I am now to state to you is, that it does not comport with his views of the national sentiment or the legislative policy, that any treaty should be entered into with the British Government which, whilst on every other point it is either limited to or short of strict right, would include no article providing for a case which, both in principle and in practice, is so feelingly connected with the honor and the sovereignty of the nation, as well as with its fair interests, and, indeed, with the peace of both nations.

The President thinks it more eligible, under all circumstances, that if no satisfactory or formal stipulation on the subject of impressment be attainable, the negotiation should be made to terminate without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party will entirely conform to what may be thus informally settled. And you are authorized, in case an arrangement of this kind shall be satisfactory in its substance, to give assurances that, as long as it shall be duly respected in practice by the other party, more particularly on the subjects of neutral trade and impressments, it will be earnestly, and probably successfully, recommended to Congress by the President, not to permit the non-importation act to go into operation. You are also authorized to inform the British Government that the President, adhering to the sentiments which led him to recommend to Congress at the commencement of the session a suspension of that act, and trusting to the influence of mutual dispositions and interests in giving an amicable issue to the negotiation, will, if no intervening intelligence forbid, exercise the authority vested in him by the act of continuing its suspension from the first day of July to the term limited by the act, and which will afford to Congress, who will then be in session, the opportunity of making due provision for the case.

You will perceive that this explanation of the views of the President requires, that, if previous to the receipt of it, a treaty not including an article relating to impressments should have been concluded, and be on the way, the British Commissioners should be candidly apprized of the reason for not expecting its ratification; and that, on this ground, they be invited to enter anew on the business, with an eye to such a result as has just been explained and authorized.

Having thus communicated the outlines assigned by the President as your guide in the important and delicate task on your hands, I proceed to make a few observations which are suggested by the contents of your last despatches, and which may be of use in your further discussions and your final arrangements.

Impressments.

The British Government is under an egregious mistake in supposing that "no recent causes of complaint have occurred" on this subject. How far the language of Mr. Lyman's books may countenance this error I cannot say, but I think it probable that even there the means of correcting it may be found.

In the American seas, including the West Indies, the impressments have, perhaps, at no time been more numerous or vexatious. It is equally a mistake, therefore, to suppose "that no probable inconvenience can result from the postponement of an article" for this cause.

The remedy proposed in the note from the British Commissioners, however well intended, does not inspire the confidence here which gave it so much value in their judgment. They see the favorable side only of the character of their naval commanders. The spirit which vexes neutrals in their maritime rights is fully understood by neutrals only. The habits generated by naval command, and the interest which is felt in the abuse of it, both as respects captures and impressments, render inadequate every provision which does not put an end to all discretionary power in the commanders. As long as the British navy has so complete an ascendency on the high seas, its commanders have not only an interest in violating the rights of neutrals within the limits of neutral patience, especially of those whose commerce and mariners are unguarded by fleets; they feel, moreover, the strongest temptation, as is well known from the occasional language of some of them, to covet the full range for spoliation opened by a state of war. The rich harvest promised by the commerce of the United States gives to this cupidity all its force. Whatever general injuries might accrue to their nation, or whatever surplus of reprisals might result to American cruisers, the fortunes of British cruisers would not be the less certain in the event of hostilities between the two nations.

Whilst all these considerations require, in our behalf, the most precise and peremptory security against the propensities of British naval commanders, and, on the tender subject of impressment more than any other, it is impossible to find equivalent, or even important motives on the British side, for declining such a security. The proposition which you have made, aided by the internal regulations which the British Government is always free to make, closes all the considerable avenues through which its seamen can find their way into our service. The only loss, consequently, which could remain, would be in the number at present in this service, with a deduction of those who might from time to time voluntarily leave it, or be found within the limits of Great Britain, or of her possessions; and in the proportion of this reduced number who might otherwise be gained by impressment. The smallness of this loss appears from the annual amount of impressment, which has not exceeded a few hundred British seamen, the great mass consisting of real Americans and of subjects of other neutral Powers. And even from the few British seamen ought to be deducted those impressed within neutral ports, where it is agreed that the proceeding is clearly unlawful.

Under this view of the subject, the sacrifice which Great Britain would make dwindles to the merest trifle; or, rather, there is just reason to believe that, instead of a loss, she would find an actual gain, in the excess of the deserters who would be surrendered by the United States, over the number actually recoverable by impressment.

In practice, therefore, Great Britain would make no sacrifice by acceding to our terms; and her principle, if not expressly saved by a recital, as it easily might be, would, in effect, be so by the tenor of the arrangement; inasmuch as she would obtain, for her forbearance to exercise what she deems a right, a right to measures, on our part, which we have a right to refuse; she would, consequently, merely exchange one right for another; she would also, by such a forbearance, violate no personal right of individuals under her protection. The United States, on the other hand, in yielding to the claims of Great Britain on this subject, would necessarily surrender what they deem an essential right of their flag, and of their sovereignty, without even acquiring any new right; would violate the rights of the individuals under the protection of both, and expose their native citizens to all the calamitous mistakes, voluntary and involuntary, of which experience gives such forcible warning.

I take for granted that you have not failed to make due use of the arrangement concerted by Mr. King with Lord Hawkesbury, in the year 1802, for settling the question of impressments. On that occasion, and under that Administration, the British principle was fairly renounced in favor of our flag. Lord Hawkesbury having agreed to prohibit impressment altogether on the high seas, and Lord St. Vincent requiring nothing more than an exception of the narrow seas—an exception resting on the obsolete claim of Great Britain to some peculiar dominion over them—I have thought it not amiss to enclose another extract from Mr. King's letter giving an account of that transaction.

In the note of November 8, from the British Commissioners, the security held out to the crews of our vessels is, that instructions have been given, and *will be repeated*, for enforcing the greatest caution, &c. If the future instructions are to be repetitions of the past, we well know the inefficacy of them. Any instructions which are to answer the purpose, must differ essentially from the past, both in their tenor and their sanctions. In case an informal arrangement should be substituted for a regular stipulation, it may reasonably be expected from the candor of the British Government that the instructions on which we are to rely should be communicated to you.

Colonial Trade.

It may reasonably be expected that on this subject the British Government will not persist in attempting to place the United States on a worse footing than Russia. In agreeing to consider the storing for a month, and changing the ship, as a naturalization of the property, the concession would be on our side, not on theirs; and in making this a condition on which alone we could trade with enemies' colonies, even directly to and from our own ports, beyond the amount of our own consumption, we should make every sacrifice short of a complete abandonment of our principle, while they would retain as much of their pretension as is compatible with any sacrifice whatever; a pretension, too, which they have in so many ways fairly precluded themselves from now maintaining. In addition to the many authorities for this remark, already known to you, you will find one of the highest grade in 5th vol. of Tomlin's edition of Brown's Cases in Parliament, p. 328, Hendricks and others against Cunningham and others, where it was expressly admitted by the House of Lords, in a war case before them, that "it is now established, by repeated determinations, that neither ships nor cargoes, the property of subjects of neutral Powers, either going to trade at or coming from the French West India islands, with cargoes purchased there, are liable to capture; and, therefore, when a ship and cargo so circumstanced are seized and condemned, the seizure and condemnation shall be reversed, and the value of the ship and cargo accounted for and paid to the owners by the captors."

As it has generally happened that the British instructions issued to the Vice Admiralty Courts and naval commanders have not come first to light in British prints, I enclose one of November 14, which has just made its appearance in ours. As it relates to the present subject it claims attention, as a proof that all question as to the legality of the voyage, in a Russian trade with the enemies of Great Britain, is excluded, by limiting

the right of capture to cases where the innocence or ownership of the articles are questioned. The instruction may at least be considered as coextensive in its favorable import with the article in the Russian Treaty, which you have been authorized to admit into your arrangements; and in that view, as well as on account of its date, the instruction may furnish a convenient topic of argument or expostulation.

If the British Government once consent that the United States may make their ports a medium of trade between the colonies of its enemies and other countries, belligerent as well as neutral, why should there be a wish to clog it with the regulations suggested? Why not, in fact, consent to a direct trade by our merchants between those colonies and all other countries? Is it that the price may be a little raised on the consumers by the circuit of the voyage and the charges incident to the port regulations? This cannot be presumed. With respect to the enemies of Great Britain, the object would be unimportant. With respect to her neutral friends, it would not be a legitimate object. Must not the answer, then, be sought in the mere policy of lessening the competition with, and thereby favoring the price of British and other colonial productions re-exported by British merchants from British ports; and sought, consequently, not in a belligerent right, or even in a policy merely belligerent, but in one which has no origin or plea but those of commercial jealousy and monopoly?

Blockades.

On this subject it is fortunate that Great Britain has already, in a formal communication, admitted the principle for which we contend. It will be only necessary, therefore, to hold her to the true sense of her own act. The words of the communication are, "that vessels must be warned not to enter." The term "warn" technically imports a distinction between an individual notice to vessels and a general notice by proclamation or diplomatic communication; and the term "not to enter" equally distinguishes a notice at or very near the blockaded port, from a notice directed against the original destination or the apparent intention of a vessel nowise approaching such a port.

Marginal Jurisdiction on the High Seas.

There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any authorities on the law of nations. If any nation can fairly claim a greater extent, the United States have pleas which cannot be rejected; and if any nation is more particularly bound by its own example not to contest our claim, Great Britain must be so by the extent of her own claims to jurisdiction on the seas which surround her. It is hoped, at least, that within the extent of one league you will be able to obtain an effectual prohibition of British ships of war from repeating the irregularities which have so much vexed our commerce and provoked the public resentment, and against which an article in your instructions emphatically provides. It cannot be too earnestly pressed on the British Government, that in applying the remedy copied from regulations heretofore enforced against a violation of the neutral rights of British harbors and coasts, nothing more will be done than what is essential to the preservation of harmony between the two nations. In no case is the temptation or the facility greater to ships of war for annoying our commerce, than in their hovering on our coasts and about our harbors; nor is the national sensibility in any case more justly or more highly excited than by such insults. The communications lately made to Mr. Monroe, with respect to the conduct of British commanders, even within our own waters, will strengthen the claim for such an arrangement on this subject, and for such new orders from the British Government, as will be a satisfactory security against future causes of complaint.

East and West India Trades.

If the West India trade cannot be put on such footing as is authorized by your instructions, it will be evidently best to leave it as it is, and of course with a freedom to either party to make such regulations as may be justified by those of the other.

With respect to the East India trade, you will find a very useful light thrown on it in the remarks of ——, of which several copies were forwarded in October. They will confirm to you the impolicy, as explained in your instructions, of putting the trade under the regulations admitted in the Treaty of 1794. The general footing of other nations in peace with Great Britain will be clearly more advantageous; and on this footing it will be well to leave or place it, if no peculiar advantages, of which there are intimations in —— remarks, can be obtained.

Indemnifications.

The justice of these ought to be admitted by Great Britain whenever the claim is founded on violations of our rights, as they may be recognised in any new arrangement or understanding between the parties. But in cases, of which there are many examples, where the claim is supported by principles which she never contested, the British Government ought to have too much respect for its professions and its reputation to hesitate at concurring in a provision analogous to that heretofore adopted.

It is not satisfactory to allege that in all such cases redress may be attained in the ordinary course of judicial proceedings. If this were true, there would be sound policy, as well as true equity and economy, in transferring the complaints from partial tribunals, occupied with a great mass of other cases, to a joint tribunal exclusively charged with this special trust. But it is not true that redress is attainable in the ordinary course of justice, and under the actual constitution and rules of the tribunals which administer it in cases of captures. Of this the facts within your knowledge, and particularly some which have been

lately transmitted to Mr. Monroe, are ample and striking proofs, and will doubtless derive, from the manner of your presenting them, all the force with which they can appeal to the sentiments and principles which ought to guide the policy of an enlightened nation. I have the honor to be, &c.

JAMES MADISON.

Mr. Madison to Messrs. Monroe and Pinkney.

DEPARTMENT OF STATE,
March 18, 1807.

GENTLEMEN: Your despatch of January 3d, with the treaty signed December 31st, with the British Commissioners, were safely delivered on the 15th instant; your letter of December 27th, notifying the approach of that event, had been previously received in time to be included in a communication of the President to Congress, then in session. A copy of the instrument in its actual form, with the declaration of the British Commissioners on signing it, was received by Mr. Erskine on the day of the adjournment of Congress, and communicated by him to the Executive.

The observations relating to the whole subject, as it is now presented, with such instructions in detail as will explain the views of the President, will be prepared with as little delay as possible, and transmitted by Mr. Purviance, who holds himself in readiness to be the bearer.

For the present, I am charged by the President to refer you to my letter of February 3d, and to signify his desire that the negotiation may proceed in the form therein stated, but without being brought to an absolute conclusion, until further instructions shall arrive.

You will conform also to the views of the President, in forbearing to enter into any conventional arrangements with the British Government which shall embrace a trade or intercourse of its subjects with the Indian tribes within any part of the territories westward of the Mississippi, under the authority of the United States. Considerations derived from a recent knowledge of the state of the aboriginal inhabitants of that extensive region, irresistibly oppose the admission of foreign traders into it.

I have only to add, that a Proclamation will immediately issue, suspending the non-importation measure until the next session of Congress. This will be a sufficient evidence to the British Government of the conciliatory sentiments of the President, and of his sincere desire that no circumstance whatever may obstruct the prosecution of experiments for putting an end to differences which ought no longer to exist between two nations having so many motives to establish and cherish mutual friendship.

I have the honor to be, &c.

JAMES MADISON.

The American Ministers to Lord Howick.

LONDON, *March* 14, 1807.

MY LORD: In conformity with the intimation which your Lordship was so good as to make us at a late interview, relative to certain claims and prize causes which had been brought into discussion, in the course of the late negotiation between His Majesty's Commissioners and those of the United States, we have the honor to transmit to your Lordship the copy of a note to Lord Holland and Lord Auckland, in which those claims and prize causes are fully explained. It is proper to add, that at the time of the signature of the treaty, it was distinctly understood between the Commissioners on both sides that this subject was not to be affected by it, but was to remain completely open for future adjustment.

We leave it, upon the statement contained in that note, and the document to which it refers, in perfect confidence that it will be viewed by your Lordship with the interest which belongs to it; and that everything which is suitable to the high and honorable character of His Majesty's Government, and the just claims of the United States, will be done in relation to it as promptly as circumstances will permit.

We have the honor to be, my Lord, your Lordship's most obedient, humble servants,

JAMES MONROE,
WM. PINKNEY.

Lord Viscount HOWICK, &c.

[Referred to in the preceding note to the British Minister.]

Messrs. Monroe and Pinkney to Lord Holland and Lord Auckland.

LONDON, *August* 20, 1806.

The undersigned, Commissioners Extraordinary and Plenipotentiary of the United States of America, think it necessary to give to Lord Holland and Lord Auckland, the Commissioners Extraordinary and Plenipotentiary of His Majesty, a brief explanation in writing of the claims, which they have already had the honor to mention to their Lordships in a recent conference, of sundry American citizens, for suitable compensation for losses and damages sustained in the course of the present war, by reason of irregular or illegal captures or condemnation of their vessels and other property; and, at the same time, to call the attention of their Lordships to the situation of certain prize causes, arising out of some of these captures, now depending in the tribunals of this country.

The undersigned are happy in having it in their power to state, that, according to the information they have been able to obtain, such of these claims as relate to captures, which, from causes peculiar to themselves, have excited in America a more than ordinary degree of sensibility, are not so considerable in number as at first was supposed.

The complaints of this description, to which the undersigned would particularly invite the attention of their Lordships, have been produced by seizures as prize, made in direct violation of rules of maritime practice, previously declared by His Majesty's Government to the Government of the United States; and in no degree revoked or

affected by any arrangement between them, or even by any notification that they were about to be abandoned.

Of these seizures the most important, and in every view the most interesting, were made in the year 1805, and in the early part of the year 1806, of the ships and merchandise of American citizens, upon the pretension, that the voyages in which they were engaged were direct or continuous between the colonies of His Majesty's enemies and some port in Europe.

Although it is certain, that the Government of the United States has never admitted that illegality can be imputed to such a trade, even when confessedly continuous or direct, and had concluded that the question had been otherwise formally settled in its favor; the undersigned believe it to be unnecessary to bring that point into view with any reference to the cases now under consideration. It is sufficient to state that, at the date of these seizures, the merchants of the United States did explicitly understand, and were justified in a confident belief, founded, not only upon antecedent practice, but upon a formal communication, in the year 1801, to the American Minister in London from His Majesty's principal Secretary of State for the Department of Foreign Affairs, that the circumstances by which these voyages were accompanied had been and were distinctly admitted by the British Government and by British Courts of Prize, to break their continuity, and render them unquestionably lawful.

The following detail will show, more precisely, the nature and effect of the communication to which the undersigned allude.

The public and private armed ships of this country having seized American vessels, bound from the United States to the Spanish West Indies, on the pretext that their cargoes consisted of articles of the growth of Spain, then at war with Great Britain, and the Vice Admiralty Court of Nassau having condemned the cargo of one of these vessels upon that pretext, Mr. King, in a note to Lord Hawkesbury, of the 13th of March, 1801, remonstrated against these acts as palpable abuses. The subject of this remonstrance was immediately referred to the King's Advocate, whose report of the 16th of March, 1801, after declaring that the sentence of the Vice Admiralty Court was erroneous, concluded with the following exposition of the law, as understood in Great Britain, relative to the commerce of neutrals with belligerents and their colonies: "It is now distinctly understood, and has been repeatedly so decided by the High Court of Appeal, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and, in like manner, the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The direct trade, however, between the mother country and its colonies has not, I apprehend, been recognised as legal, either by His Majesty's Government, or by his tribunals.

"What is a direct trade, or what amounts to an intermediate importation into the neutral country, may sometimes be a question of some difficulty. A general definition of either, applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case. Perhaps the mere touching in the neutral country to take fresh clearances may properly be considered as a fraudulent evasion, and is in effect the direct trade; but the High Court of Admiralty has expressly decided, (and I see no reason to expect that the Court of Appeal will vary the rule,) that landing the goods and paying the duties in the neutral country breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and be forwarded for sale to the mother country or the colony."

An extract from this report, containing the foregoing passage, was transmitted by the Duke of Portland, in a letter of the 30th of March, 1801, to the Lords Commissioners of the Admiralty. His Grace's letter concludes thus:

"In order, therefore, to put a stop to the inconveniences arising from these erroneous sentences of the Vice Admiralty Courts, I have the honor to signify to your Lordships the King's pleasure that a communication of the doctrine laid down in the said report should be immediately made by your Lordships to the several judges presiding in them, setting forth what is held to be the law upon the subject by the superior tribunals, for their future guidance and direction."

On the 11th of April, 1801, Lord Hawkesbury communicated to Mr. King, for the information of the Government of the United States, a copy of the above letter of the Duke of Portland, which is stated by his Lordship to have been written by His Majesty's command, in consequence of Mr. King's representation of the preceding month, together with a copy of the extract from the report of the King's Advocate, referred to in his Grace's letter, and already above quoted. Upon the receipt of this communication, Mr. King transmitted it to his Government, in a letter (of which a copy is annexed) containing the following observations: "I take the liberty of suggesting the expediency of publishing these copies in our newspapers, as the most expeditious means of communicating the same to the cruising ships and privateers in the American seas. Having intimated this suggestion to Lord Hawkesbury, before he prepared and sent me his answer, there can be no exceptions here against such a publication." The publication was directed, and took place accordingly.

The undersigned are persuaded that Lord Holland and Lord Auckland will at once perceive that the report of the King's Advocate, thus unequivocally adopted by His Majesty's Government, and communicated, as an act to be respected and confided in, through the American Minister to the Government of the United States, and finally to their citizens and to Europe, through the medium of a publication expected and authorized,

cannot, in any fair construction, be viewed as anything short of a formal declaration on the part of Great Britain, "that the landing of the cargo and the payment of the duties in the neutral country would be considered as legalizing the circuitous trade, even between a belligerent and its own colonies."

The practice during the late, and the two first years of the present war, was in perfect conformity with this document, and by that conformity increased its authority, and furnished an additional justification, if any had been required, for a dependence upon the doctrine which it had announced.

In the Summer of 1805, however, when a large amount of American property was afloat, undeniably entitled to the protection of the above rule, and committed to the high seas under an implicit reliance upon a strict adherence to it, the rule was suddenly abandoned, and British cruisers fell upon this trade, thus sanctioned by the express admission, as well as by the acquiescence of their Government; and these captures are understood to have received the highest judicial sanction.

The undersigned have no desire to dwell upon this subject. They are convinced that the liberal and equitable sentiments which distinguish His Majesty's Government, render unnecessary the further explanations of which it is susceptible. Referring to two notes from the undersigned, Mr. Monroe to Lord Mulgrave, of the 23d of September, 1805, and to Mr. Fox, of the 25th of February, 1806, the undersigned have only to declare their sincere conviction that His Majesty's Government will not fail to see in the facts, which they have had the honor to state, an irresistible call upon it to repair the injurious effects of these seizures. As to the few cases of this class now depending before the Lords Commissioners of Appeal, or in other prize courts of His Majesty, the undersigned feel assured that measures will be taken to cause them to be favorably disposed of, and that suitable reparation will moreover be secured to the parties injured for the loss and damage they have sustained. The undersigned have the honor to transmit, herewith, a list of all the cases of this class, in which are distinguished such as are still judicially depending.

The next class of these cases (of which lists and estimates will hereafter be furnished) comprehends captures, during the existing war, contrary to the tenor of a letter of the 5th January, 1804, from Sir Evan Nepean to Mr. Hammond, on the subject of the blockade of Martinique and Guadaloupe, of which a copy was enclosed in a letter of the 12th of April, 1804, from Mr. Merry to Mr. Madison, of both of which letters copies are herewith transmitted.

The citizens of the United States complain that they have suffered severely by captures, in violation of the rules laid down with so much fairness and precision in this communication; and that, where condemnations have not followed, compensation equivalent to the actual loss has not been, and cannot be, procured in the ordinary course by any exertions on their part. The pretext for some of these captures has been the breach of an alleged blockade of Martinique or Guadaloupe; for others, the breach of an imaginary blockade of Curracoa; and, for others, the breach of an equally imaginary blockade of other ports and places. In all these cases, either the actual investment of the particular port was wanting, or the vessel, seized for an imputed criminal destination to it, had not been warned as required. The just extent of these claims the undersigned are not able to state, but they presume that it cannot be considerable.

The only remaining claims which are reducible to any precise class, are those which relate to captures within the territorial jurisdiction of the United States. Of these, as well as some others of a miscellaneous nature, which the undersigned have not at present the means of presenting distinctly to Lord Holland and Lord Auckland, lists shall hereafter be prepared and laid before their Lordships, accompanied by suitable explanations.

The undersigned request Lord Holland and Lord Auckland to accept the assurance of their perfect consideration.

JAS. MONROE.
WM. PINKNEY.

Mr. Erskine, Envoy, &c., of Great Britain, to Mr. Madison.

WASHINGTON, *March* 12, 1807.

SIR: I am charged by His Majesty to express to the Government of the United States His Majesty's perfect confidence in their good sense and firmness in resisting the unjust pretensions contained in the decree issued by the French Government at Berlin, on the 21st November, which, if suffered to take effect, must prove so destructive to the commerce of all neutral nations.

His Majesty has learned that the measures announced in this decree have already, in some instances, been carried into execution by the privateers of the enemy, and there could be no doubt that His Majesty would have an indisputable right to exercise a just retaliation. Neutral nations cannot, indeed, expect that the King should suffer the commerce of his enemies to be carried on through them, while they submit to the prohibition which France has decreed against the commerce of His Majesty's subjects. But though this right of retaliation would unquestionably accrue to His Majesty, yet His Majesty is unwilling, except in the last extremity, to have recourse to measures which must prove so distressing to all nations not engaged in the war against France.

His Majesty, therefore, with that forbearance and moderation which have at all times distinguished his conduct, has determined, for the present, to confine himself to the exercise of the power given him by his decided naval superiority, in such a manner only as is authorized by the acknowledged principles of the law of nations, and has issued an order for preventing all commerce, from port to port, of his enemies, comprehending in this order not only the ports of France, but those of other nations, as, either in alliance with

France, or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

His Majesty feels an entire confidence that the moderation and justice of this conduct will be duly appreciated by the United States, and has charged me to express to their Government, in the strongest terms, the regret he has experienced in being thus compelled, in his own defence, to act in a manner which must prove, in some degree, embarrassing to the commerce of neutral nations, and his sincere desire to avoid any stronger measures, to which however, if the injustice and aggression of his enemies should not be resisted by those nations whose rights and interests are invaded by so flagrant a violation of all public law, it may be ultimately necessary for the King to have recourse.

I have the honor to be, with great respect and consideration, sir, your obedient servant.

D. M. ERSKINE.

Mr. Madison to Mr. Erskine.

DEPARTMENT OF STATE,
March 20, 1807.

SIR: I have laid before the President your letter of the 12th instant, communicating the views of His Britannic Majesty in relation to the French decree of November 21, 1806, and to the principle of retaliation, through the commerce of the neutrals who may submit to the operation of that decree, as also the measure actually taken, of other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

The President cannot be insensible, sir, to the friendship and confidence towards the United States which are signified by His Britannic Majesty in this communication. In making this acknowledgment, however, the President considers it not less incumbent on him, to reserve for a state of things which it is hoped may never occur, the right of discussing the legality of any particular measures to which resort may be had, on a ground of retaliation. At this time, it would suffice to observe, that it remains to be more fully ascertained in what sense the decree in question will be explained, and to what extent it will be carried into execution; and, consequently, whether in any case the United States can be involved in questions concerning measures of retaliation, supposed to accrue to one belligerent from such a proceeding by another. But it is worthy the justice and liberality of the British Government to recollect, that, within the period of those great events which continue to agitate Europe, instances have occurred in which the commerce of neutral nations, more especially of the United States, has experienced the severest distresses from its own orders and measures, manifestly unauthorized by the law of nations. The respect which the United States owe to their neutral rights, and the interest they have in maintaining them, will always be sufficient pledges, that no culpable acquiescence on their part will render them accessary to the proceedings of one belligerent nation, through their rights of neutrality, against the commerce of its adversary.

With regard to the particular order issued against the trade of neutrals from one port to another, of the enemies of Great Britain, no fair objection can lie against it provided it be founded on, and enforced by, actual blockades, as authorized by the law of nations. If, on the other hand, the order has reference not to such a blockade, but to a supposed illegality of the neutral trade from one to another of the described ports, the remark is obvious that, on that supposition, the order is superfluous, the trade being, as interdicted by the law of nations, liable at all times, without any such order, to the capture of British cruisers, and the condemnation of British courts; and if not interdicted as such by the law of nations, it can no otherwise be made illegal than by a legal blockade of the ports comprehended in the order. This inference is applicable even to the case of a neutral trade between the ports of France herself, since it is not a principle of the acknowledged law of nations that neutrals may not trade from one to another port of the same belligerent nation; and it would be an innovation on that law, not before attempted, to extend the principle to a neutral trade between ports of different countries, confessedly open in times of peace as well as of war.

If the British order refers for its basis to the principle of retaliation against the French decree, it falls under the observations already made on that subject, and which need not be repeated.

I have the honor to be, with great respect and consideration, sir, your obedient servant.

JAMES MADISON.

Mr. Madison to Mr. Erksine.

DEPARTMENT OF STATE,
March 29, 1807.

SIR: Further reflection on the tenor and tendency of the order of His Britannic Majesty, communicated by your letter of the 12th instant, which was answered by mine of the 20th, induces me to resume that important subject.

From the difficulty of supposing that the order can have for its basis either a legal blockade, impossible to be extended to all the ports described in the order, or a supposed illegality of the trade between those ports—an illegality which has never been applied by the British Government or its Admiralty courts to an accustomed trade, even between ports of the same belligerent nation, and is utterly at variance with the conduct of both in reference to a trade between a belligerent nation and its allies, a necessity seems to result of ascribing the order to the policy of countervailing, through the commerce of neutrals, the French decree of the 21st November last.

In this view of the order, it demands, on the part of the United States, the most serious attention, both to its principle and to its operation.

With respect to its principle, it will not be contested that a retaliation by one nation on its enemy, which is to operate through the interest of a nation not an enemy, essentially requires not only that the injury inflicted should be limited by the measure of injury sustained, but that every retaliating step, in such a case, should be preceded by an unreasonable failure of the neutral party, in some mode or other, to put an end to the inequality wrongfully produced.

Were it certain, therefore, that the French decree is to be enforced in the sense in which it was taken, and that, in violation of the treaty between France and the United States, the commerce of the latter will not be exempted, the British order, being peremptory in its import and immediate in its execution, might justly be regarded by the United States as a proceeding equally premature and unfriendly.

But, in the uncertainty as to the real meaning of that decree, and whilst a presumption offered itself that the decree, if avowed and executed in an unlawful extent, might not embrace the commerce of the United States, they are bound by justice to their interests, as well as by respect for their rights, to consider the British Order as a ground of serious complaint and remonstrance.

Should it prove that the decree had not the meaning ascribed to it, and particularly should the respect of France for her treaties with the United States except their trade from the operation of the decree, the Order of the British Government will stand exposed to still severer comments. It will take the character of an original aggression; will furnish to the French Government a like ground with that assumed by itself for retaliating measures; and will derive a very unfavorable feature from the consideration that it was a palpable infraction of a treaty just signed on the part of the British Government, and expected, at the date of the order, to be speedily ratified on the part of the United States.

The necessity of presenting the subject in its true light is strengthened by the operation which the British order will have on a vast proportion of the entire commerce of the United States. Not to dwell on the carrying branch of the commerce between the ports and countries of Europe, and which the immunity given by our flag, in consequence of treaties with the enemies of Great Britain, to British property, and not enjoyed by the property of her enemies, has hitherto been advantageous to Great Britain; and, without inquiring into the effect of an application of the interdict to other quarters of the globe, all of which are evidently within the comprehensive terms of the order, it cannot be overlooked that the character and course of nearly the whole of the American commerce, with the ports of Europe, other than that of Great Britain, will fall under the destructive operation of the order. It is well known that the cargoes exported from the United States frequently require that they be disposed of partly at one market, and partly at another. The return cargoes are still more frequently collected at different ports, and not unfrequently at ports different from those receiving the outward cargoes. In this circuitous voyage, generally consisting of several links, the interest of the undertakers materially requires also either a trade or a freightage between the ports visited in the circuit. To restrain the vessels of the United States, therefore, from this legitimate and customary mode of trading with the continent of Europe, as is contemplated by the orders, and to compel them, on one hand, to dispose of the whole of their cargoes at a port which may want but a part, and on the other hand to seek the whole of their returns at the same port, which may furnish but a part, or perhaps no part, of the articles wanted, would be a proceeding as ruinous to our commerce as contrary to our essential rights.

These observations, which are made in conformity with the sentiments of the President, cannot fail, sir, to have all the weight with an enlightened and friendly Government to which they are entitled; and the President persuades himself that the good effect of the truths which they disclose will be seen in such measures as will remove all ground for dissatisfaction, and demonstrate on that side the same sincere disposition to cultivate harmony and beneficial intercourse as is felt and evinced by the United States and their Government. I have the honor to be, &c.

JAMES MADISON.

The Hon. DAVID M. ERSKINE, Esq., &c.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, *April* 22, 1807.

SIR: We had the honor to receive your letter of February 3d on the 6th instant, and are now to give you a detail of the measures we have pursued, in obedience to the instructions it communicated.

To enable you to form a just idea of those measures, it will be proper to state concisely what had occurred at the time of receiving your letter, after the departure of Mr. Purviance with the treaty and our despatch of the 3d of January.

Soon after that date, we resumed our conference with the British Commissioners, as we intimated it was our intention to do, and had nearly digested with them the project of a supplemental convention upon the principal topics alluded to in the last paragraph of that despatch, when an entire change took place in the British Ministry; Lord Grenville and his associates being compelled to retire, in favor of the friends of the late Mr. Pitt. This change, of course, suspended the further progress of the business, and in that state it still remains.

Before this change in the Administration, we had presented to the British Commissioners, according to an agreement which accompanied the signature of the treaty, an antedated note on the subject of indemnity, and another to Lord Howick on the same subject, previously seen and approved by the British Commissioners. With these papers (of which copies are now transmitted) the British Commissioners not only expressed their perfect satisfaction, but assured us then, as they have frequently done since, that the just confidence with which that agreement had inspired us in regard to its object would not be disappointed.

We had many conferences with the British Commissioners, previous to the late change, upon the subject of impressments, in which they invariably declared to us that the practice of their Government would be strictly conformable to the spirit of the article which they had settled with us, and which was afterwards rejected by the Cabinet. They stated that the prejudice of the Navy, and of the country generally, was so strong in favor of their pretension that the ministry could not encounter it in a direct form; and that, in truth, the support of Parliament could not have been relied on in such a case. It was their idea that, by discontinuing the practice in the mode proposed by them, which might be done without giving any shock to the public feeling, this prejudice might be gradually overcome, and an arrangement, by treaty, on this very delicate and difficult subject, rendered ultimately practicable. The United States would, in the interim, enjoy the security they sought, without any abandonment of their rights, and be induced to yield, in return, as their confidence increased, the equivalents which we had offered in our project.

The footing upon which the note of the British Commissioners (which is and must be considered as equally obligatory as if actually inserted in the treaty) left this point was supposed to be the less liable to exception on our part, because, while it affords a pledge unquestionably intended to secure the substance of our object, and constantly admitted here to be equal to that effect, it keeps it nevertheless for our advantage completely open for future negotiation and more formal adjustment. The note declares that the discussion of any plan will be entertained that can be devised "to secure the interests of both States without injury to rights to which they are respectively attached," and consequently provides for a renewal of negotiation with a sincere view to such an arrangement as shall be practically consistent with the declared pretensions of the United States, and yet leave untouched the British principle; or, in other words, an arrangement in which Great Britain shall agree to conform her conduct to our views without renouncing the claim which she has hitherto maintained and acted upon. It was supposed, therefore, to be the clear import of that note that the conduct of Great Britain would not, while the discussion of such a plan as it might be proper to insert in a treaty stood postponed at the request of its Commissioners, encroach in practice upon rights which we had so strongly asserted and vindicated as rights not to be abandoned; which it was well understood our Government and country would not suffer to be invaded in future, as they have been during the past; and which the British Commissioners themselves, acting under the immediate orders of the Cabinet, had in their note distinctly recognised as fit to be preserved hereafter from injury and violation. This conclusion was thought to be the more just and natural, when it was remembered that it was supported, not only by the verbal admissions and declarations of the British Commissioners, which would, of course, as they well knew, be reported to our Government, but by the language of such parts of the note as looked particularly to the future practice of Great Britain on the subject of impressments. It was believed to be fortified, too, by the obvious consideration that the United States would be authorized, notwithstanding any adjustment by treaty upon other points, in case of the impressment on the high seas of a single mariner from on board an American vessel, to view it as an act of aggression, and to resent it accordingly. This right existed, undoubtedly, independently of that note; but it seemed notwithstanding, to derive from it a new and high sanction favorable to its just effect: and certainly the sensibility and determination which have been manifested on this point by the United States, especially of late, and by the American Commissioners during the recent negotiation, must have inspired this Government with the conviction that a perseverance in such outrages upon their sovereignty and the rights of their citizens would be wholly incompatible with the peaceable relations of the two countries, which it was the professed object of the British Commissioners and their Government to preserve. It is proper, however, for us to state, that it was our intention to have requested of this Government written explanations on this topic of impressment, as well as on that of indemnity, for the purpose of transmitting them to you. The approaching departure of Mr. Monroe for the United States would, it was thought, furnish a suitable occasion for such an application.

Towards the end of the last month the change took place in the ministry, and on the 27th the diplomatic corps had their first interview with Mr. Canning, who succeeded Lord Howick in the Foreign Department. Although the meeting was general, a separate audience was given, as is usual, to the representatives of each Power. At Mr. Canning's request, we gave him a concise but just view of the state of the business between our Governments. He appeared not to have heard before of what had taken place relative to the project of a supplemental convention. He said that he had come too recently into office to be able to say anything decisive on any of the topics of which we had given him a sketch, but that he would soon make himself acquainted with them, and give us another interview. His professions, which were of a general nature, were conciliatory.

Such was the state of affairs when we had the honor to receive your letter of February the 3d. We were anxious to carry into effect the instructions contained in that letter in the best manner in our power, and with the least possible delay. It became especially our duty to make known to the new ministry, as soon as we might be able, the understanding which had subsisted between the British Commissioners, and, through them the late Cabinet, and us, as to the condition on which we had consented to continue the negotiation after our project relative to impressments had been rejected; that, in fact, we had no authority to treat after that event; that our Government was not bound, or supposed or intended to be bound,

to ratify what we had done, if it disapproved of it. We were equally desirous of turning to the best account the appeal, which a refusal to ratify by our Government would make to the interests of this country, in an effort to arrange by treaty this great point with the new ministry. The first measure seemed to be free from difficulty. The statement proposed was an act of justice to our Government, and of duty to it and our country, which might be discharged without the slightest hazard to the public interest. Indeed, as it was presumable that this Government would soon receive intelligence from Mr. Erskine, which, without such an explanation, could hardly fail to produce an unfavorable effect, it appeared to be indispensably necessary to make it, to prevent a public injury. The second object, however, was evidently involved in more difficulty. From what we had seen, in the debates of Parliament, of the disposition of several of the members of the new ministry, before they came into power, on subjects which were connected with our treaty, independent of other causes, we had reason to believe that great caution ought to be observed in any communication which we might make to it on that point. Although Lord Holland and Lord Auckland had retired from their offices of Lord Privy Seal and President of the Board of Trade, they still retained their situations as Commissioners Extraordinary and Plenipotentiary, and, as we presumed, would continue to do so until the business in which we had been engaged with them should be concluded. In every view it seemed to be just and expedient to confer with them on the subject of our late despatch. We accordingly obtained an early interview, in which we communicated, in confidence, the substance of that despatch, as well in conformity with the orders of the President as in the hope that they might be able to assist us in the accomplishment of its objects. But we found them under circumstances of such peculiar delicacy with the new ministry, that it was not in their power to give us the slightest aid. They informed us that, on the change of the ministry, Lord Howick had communicated to Mr. Canning the state in which our business stood, and more particularly the progress which had been made in the proposed plan of a convention, in the expectation that he would have requested them to proceed in it; that, however, no such request had been made, in consequence of which they should feel it their duty, in case he continued silent, to withdraw from the commission. They expressed their regret that they had not been able to arrange with us by treaty the subject of impressment, as they wished to have done; but assured us that the order, which they had engaged should be issued in their note of November 8, had been actually issued about that time, and in terms calculated, as they had understood, to accomplish the object desired. They saw no objection to our being furnished with a copy of that order, and presumed that it might still be obtained. In adverting to the understanding which had subsisted between us on the failure of the article which had been submitted to the Cabinet for providing against impressments at sea, we were happy to find that they retained a perfect recollection of it in the sense in which we have stated it above. They admitted that we had a right to expect from the new ministry an explanation of its views relative to the project of a convention, and to indemnity and impressment, from the particular state in which those great subjects were left, and the claims which we had on the Government from what had been done in them. Of our prospect of making with the present ministry a satisfactory arrangement against impressments by treaty, they said nothing; but they repeated, what they had often said before, that they had done all on that point in their power; and declared it as their opinion, that if their friends had remained in office, well disposed as they knew them to be towards the United States, the mode in which we were now about to pursue this object would not tend to produce, in that or any other respect, a favorable effect. They could, therefore, give us no advice as to the part which it became us to take in the present juncture. They intimated, however, that, by obtaining an interview and conferring with Mr. Canning, we might probably ascertain the sentiments of his Government on the whole subject, and be enabled thereby to pursue the course which would be the best adapted to the spirit of our instructions and the interests of our country.

Immediately after our interview with the British Commissioners, we asked one of Mr. Canning, which was obtained on the —— instant. It was our intention to have confined ourselves in the first instance to the topics above mentioned, and to the information which we thought it our duty to give him of the understanding which had subsisted between the British Commissioners and ourselves, of the condition on which we had proceeded to the other points of negotiation after the project of an article relative to impressments had been rejected. As soon, however, as we glanced at the objects of the interview, he observed that he had just received intelligence, which, if true, would make it unnecessary for us to enter at present on any of the topics alluded to; that it had been represented to him that an officer just arrived from America had that morning informed the Admiralty that the treaty which had been lately concluded here, had been rejected by our Government; that he had not seen the officer, and therefore could not state the grounds on which the information rested. He observed that such an event would place the relations of the two countries in an embarrassing situation, and wished to know whether we had received any intelligence of a like import. We perceived at once that the important feature in your despatch of February 3d, respecting the disclosure of which to the new Ministry, we had entertained some doubts, was not only either already known to it or soon would be, but that inferences of a dangerous tendency were likely to be drawn from the refusal of our Government to ratify the treaty, in case it should occur, which such an event could not justify. We saw therefore the necessity of communicating to

Mr. Canning immediately the substance of that despatch, as well for the purpose of preventing those errors, as to obey the instructions contained in it, over which, in the respect alluded to, we should have exercised any discretion with great reluctance. We assured Mr. Canning that there could be no foundation for the report of the rejection of the treaty, as we were satisfied that Mr. Purviance, who had carried it to our Government, could not have arrived in the United States in time to enable the President to submit it to the consideration of the Senate before the 3d of March, when Congress must have adjourned, and that he must be sensible that, until the receipt of our despatch, no step, at least of so decisive a character, would be taken in the business. We stated, however, that we had great reason to believe that the treaty would not be ratified in its present form, for a cause which was well known to His Majesty's late Government. We then communicated to him fully all the circumstances on which that remark was founded, particularly the nature of our instructions relative to impressments; the knowledge which the British Commissioners had of them; the entire suspension of the negotiation at a certain period on the failure with the Cabinet of a project of an article for the regulation of that point; the considerations which induced us afterwards to proceed in the negotiation, founded on the note of the British Commissioners of the 8th of November, the nature of which we fully explained; and finally the condition on which we did proceed in the business, that is, that our Government would not be bound to ratify the treaty, if it should not be satisfied with the substitute for such an article offered in that note. He asked us, in case the treaty should not be ratified, in what state our Government wished to place the relations of the two countries? We replied that it was its wish that the subject of impressment should be resumed and arranged. We explained to him the nature of the article, on the failure of which the negotiation had been suspended, and showed that Great Britain would gain by it much more than an equivalent for the forbearance of the practice of which we complained, independent of the other good effects likely to result from it. On this point he gave no opinion, but asked what the relation should be in case no such agreement as we desired should take place respecting impressments? We replied that in such a case, it would be the desire of our Government that no treaty should be concluded, but that the relations should be placed informally on the most friendly footing, adhering in the explanations which we gave him on this head to the ideas contained in your letter of February 3; but without mentioning the actual recept of such a letter. He said he was glad to find that our Government looked in all events to amicable arrangement. We told him that we had not heard from you since the treaty had arrived in America; but that full instructions would doubtless be forwarded to us as soon after that event as possible. He then observed that, under present circumstances, he thought it would be better to let the whole business rest, as it would be impossible for either party to move in it with advantage. He promised, in case the officer above mentioned brought anything material, to inform us of it, and to appoint a time for another interview, which, however, he has not since done. We enclose a copy of his note of the next day.

It is impossible for us to give you a satisfactory opinion as to the prospect of arranging this important business with the present ministry. All the facts on which such an opinion should be formed, not previously known to you, are stated above. As, however, we are not perfectly aware of the consequences of any act on our part, which might tend to lessen the obligation of this Government to ratify the treaty, in case it should be ratified by the President and Senate, we have thought it best (especially as Mr. Canning, after promising us an appointment, has shown no disposition towards another interview,) to leave things in their present state until we hear from you. We flatter ourselves that we shall soon have that satisfaction, as we see by the gazettes that Mr. Purviance must have arrived at Washington about the 12th of March. In the mean time we have placed our affairs on a footing the most favorable for any course which our Government may take, and we beg you to be assured that we shall, with the utmost zeal and promptitude, adopt that which shall be thought the most expedient.

We have the honor to be, with the highest respect and consideration,

JAMES MONROE,
WILLIAM PINKNEY.

P. S. We are preparing a letter to you explanatory of the project of a supplemental convention mentioned above which will be forwarded in a few days. A copy of the project of the British Commissioners will be enclosed. It is not our intention to proceed, even if this Government should be so disposed, to do anything conclusive upon the subjects embraced by it, until the views of the President shall be known to us relative to such of the topics as were not contemplated by the instructions originally given to the mission.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, *April* 25, 1807.

SIR: We had the honor to inform you, in our letter of the 22d instant, that the British Commissioners having proposed to us to endeavor to adjust the terms of a supplemental convention relative to boundary, to a trade by sea between the United States and the British northern colonies, and to the subjects reserved for future explanation by the second article of our treaty, we had resumed our conferences with them, and had made considerable progress in digesting the plan of such a convention, when the business was interrupted by an entire change of the King's ministers. It is the purpose of this despatch concisely to explain that negotiation and its objects.

After many interviews and much discussion, the British Commissioners at length presented

to us the project of which a copy is now transmitted, differing in many essential particulars from that which had been originally offered on our part.

The first article in our plan, which, like the first article in their project, defined the connecting line between the mouth of the St. Croix, as heretofore settled by commissioners, and the Bay of Fundy, was copied from the convention of Mr. King and Lord Hawkesbury, and adopting the ship channel between Deer island and Campo Bello island, first included and then excepted the latter. The British Commissioners alleged that the article, in that shape, accomplished its object by a useless inconsistency; that it gave a line of property and jurisdiction beyond its own views, merely to furnish occasion for an exception of almost equal importance with the whole residue of the subject; and that the navigation of the east passage being secured to the United States by a precise provision, the whole effect of the first article of the Convention of 1803 would be produced at once by running the line along the middle of the west passage. They therefore proposed an article framed upon that principle, to which no objection of any weight has occurred to us. We do not perceive that, in substance, this article is different from the other, while it is more simple and intelligible in its plan. Even if the commencement of one of the parallel east lines, within which, by the Treaty of Peace, the United States are entitled to all islands within twenty leagues of any part of our shores (not within the limits of Nova Scotia) should be admitted to depend upon the channel through which our line from the St. Croix is conducted to the Bay of Fundy, it would probably be indifferent to the United States whether the east or the west channel were adopted. Grand Manan seems to be considerably southward of an east line drawn even from West Quoddy Head, and we know of no other island, taking into consideration the exception in the Treaty of Peace, to the title of which the commencement of that line can now be important.

To the fifth article, regulating our boundary in the northwest, which has encountered much zealous opposition here, even in the form suggested by the British Commissioners, from the prejudices, supposed interests, and mistaken views of many persons, an explanation of some of which will be found in an idle paper written by Lord Selkirk, (of which a copy is enclosed,) we finally objected, that the division line between our respective territories in that quarter ought to be drawn from the most northwestern point of the Lake of the Woods due north or south until it shall intersect the parallel of forty-nine degrees, and from the point of such intersection due west along and with that parallel. This was agreed to by the British Commissioners.

We objected, also, to the terms, defining the extension of the west line, viz: "as far as the territories of the United States extend in that quarter." It appeared to us that, by these words, a great portion of the subject was in danger of being set at large; that the provision would, perhaps, do no more than establish between the parties the commencement of the line, and might, of course, leave it open to Great Britain to found a claim hereafter to any part of the tract of country to the westward of that commencement, upon the notions of occupancy or conquest, which you will find stated by Lord Selkirk in the paper above mentioned, or upon some future purchase from Spain, as intimated by others. We therefore proposed to omit the words in question altogether, which the concluding proviso appeared to render wholly unnecessary, even upon the ideas of the British Commissioners. This was not agreed to; but it was said there would be no objection to give to this part of the description a character of reciprocity, so as to make it read "as far as their said respective territories extend in that quarter."

A copy is enclosed of our plan of a fifth article, as also of the same article, with the description above quoted, merely made reciprocal.

It is proper to observe in this place, that the project of the British Commissioners contemplates what, of course, had not entered into our plan, a permanent concession, on our part, of access, through our territories in the northwestern quarter, to the river Mississippi, for the purpose of enabling British subjects to enjoy the navigation of that river, as secured to them by the Treaty of Peace and the Treaty of 1794, and the like access to the rivers falling into the Mississippi from the westward. The desired concession, however, amounts simply to a right of passage, and is claimed, not only as an equivalent for such a permanent adjustment of boundary as is here thought, or affected to be thought, highly advantageous to us, and injurious to Great Britain, but (as regards access to the Mississippi) upon the idea, among others, that the Treaty of Peace which secures to Great Britain the free navigation of that river, appears to have looked to it, in common with the Treaty of 1763, as overreaching our northern limit, and consequently as being accessible to the British in the territory of Hudson's Bay. It is probable that this demand, so far as respects the waters falling into the Mississippi, from the westward, would not be persisted in, if no other difficulty should present itself.

The seventh article of the project is wholly that of the British Commissioners, and proposes to extend, as you were apprized by our letter of the 3d of January would be attempted by them, for the term of the treaty, the privileges of trade and inland navigation, secured by the 3d article of the Treaty of 1794, to the territories of the contracting parties to the north and south of the dividing line established by the fifth article, in other words, to Louisiana and the territory of the Hudson's Bay Company, with the exception only of the actual settlements of that company, and their immediate neighborhood. This, if agreed to, must undoubtedly be considered as a concession to Great Britain; although the proposed arrangement throws open to us, for the first time, the territories of the Hudson's Bay; although they still insist that their admission into the trade of Louisiana is a necessary consequence of our acqui-

sition of it, coupled with the third article of the Treaty of 1794; and although they sometimes intimate that the independent tribes of savages who inhabit that vast region, have a right to carry on within it their usual traffic with whom they please, and, of course, to authorize a continuance of the customary British trade to which this article relates; and, if not absolutely to authorize it, at least to give to Great Britain a claim upon the United States for a recognition of it, (especially in connexion with the Treaty of 1794,) upon fair terms and equivalents. We resisted this proposal by every consideration which has been stated by you, or has occurred to ourselves. We dwelt particularly upon the high motives of duty and the urgent views of policy connected with the public tranquillity, as suggested by recent facts, or by the state and peculiar population, as far as they were known, of the country to the westward of the Mississippi, as well as by the nature and character of the traffic itself, which were likely to influence our Government against any plan which should admit British, or any other foreign traders into it. We were not able, however, to produce any disposition to dispense with this demand, and had abundant reason to apprehend that a rejection of it by the United States would be considered here as an unfriendly act, without an adequate motive, and might prevent the completion of any satisfactory arrangement of the other points embraced by the proposed convention. Still, if the consideration of this subject should be resumed, we shall not fail to renew our efforts, whatever may be the prospect of success, to reconcile this Government to the failure of this favorite object, unless the instructions we may receive from you should appear to point to a different course.

There is another feature in this article which it is proper to notice. It relates to a subject with which you are already familiar, the mode of calculating the ad valorem duties on goods imported into the United States, under the third article of the Treaty of 1794. The calculation is understood to be made upon the value in Canada, not upon the value at the place of original exportation. This is complained of, not as a hardship merely, but as a plain infringement of the treaty. The object is not, perhaps, of such value as to make a perseverance in this doubtful practice desirable, and it is certain that the explanation, if made at this time (and if not made now, it will probably be pressed hereafter with increased zeal, as being demanded by good faith) will be received in this country as the effect of a just and liberal policy towards Great Britain. The remaining provisions of the article in favor of Great Britain are of no importance, and will, perhaps, be best explained by the enclosed copy of an "extra official communication with regard to the Canada trade," made to us by Lord Holland and Lord Auckland some time ago.

The eighth article of the project relates to a trade by sea, between some port or ports of the British northern provinces and the United States, in the vessels of either party. The article is not such as we entirely approve, but connected with an act of Parliament, which it was proposed to pass immediately, and of which the draught was shown to us by the British Commissioners, it would, perhaps, go near to accomplish the object of our Government. Our project contained an article upon this subject, proposing an open trade in native productions, with the same system of duties as is contained in our treaty. We were told that, although well disposed towards our object, it was impossible for the Government to venture at present upon a measure striking so plainly and essentially at their colonial system; that, with the aid of the good understanding between the two countries, which would grow out of the adjustment of all points of difference, their plan would be found, in its practical effect, to be nearly, if not altogether, as convenient and beneficial to us as our own; and that, by taking a form as little calculated as possible to alarm the advocates of rigorous monopoly, it was more likely to become the successful means of introducing more enlightened opinions and a more liberal practice into the whole colony system of this country.

The 9th article merely prescribes the duration of the commercial articles of the convention.

We ought to add that we had inserted in our project upon the subject of boundary, an article relative to Grand Manan, but found it impracticable to retain it. The British Commissioners had been induced to believe that Great Britain had been in possession of that island for a great number of years, and that, although this possession might not amount to a title, it was a reasonable ground upon which to presume everything which constituted title, so as to make it improper for them to bring it into question. We argued in vain that the title to Grand Manan must depend upon two plain questions of fact: whether, being within twenty leagues of our shores, it was included within the parallel east lines, described in the Treaty of Peace as comprehending the islands which should belong to the United States; and whether, if that should be so, it was at the making of that treaty or at any time before within the limits of Nova Scotia; that it was impossible to pretend that the last of these questions could be answered in favor of Great Britain, and that there was strong reason to believe that the answer to the first would be found to be in favor of the United States; that their possession, such as it was, (although its precise nature did not appear and ought not to be taken for granted,) commenced after the Treaty of Peace, and could neither give them a title, nor, in any fair reasoning applicable to the claims of sovereign States, justify a presumption of these facts upon which their title must rest; facts which were so easily capable of ascertainment, and which it was the immediate object of our article to ascertain, in the same manner as other disputed facts relative to boundary had already been, and were again by this convention proposed to be ascertained. It was retorted that our title to Moose island, Frederick island, and Dudley island, in the bay of Passamaquoddy, was, under the Treaty of Peace, of a very questionable kind, and that, even if it should be admitted, that their title to Grand Manan was also doubtful, it was but a fair and equitable compromise, that, as we were suffered to hold, principally upon the score of possession, three islands to which Great Britain might make out a claim of considerable strength, she should, on her part, be suffered to retain, upon the same score of long possession, the only island not given up to the United States, to which they seemed to think they had any shadow of pretension. We replied by denying that it was at all doubtful that these islands belonged to the United States; but, as it was evident that there was no disposition to yield upon the main point, we finally thought it most advisable to forbear to press the subject for the present, and to leave the case of Grand Manan for future adjustment, as an independent case, freed from the disadvantage of this idea of compromise.

We have only to repeat, what is stated in our last, that we do not mean in any event to act conclusively upon the project in question until the views of the President, relative to such parts of it as were not embraced by our original instructions, shall have been communicated to us. The intimations thrown out towards the end of our despatch of the third of January may perhaps produce such a communication.

We have the honor to be, &c.

JAMES MONROE.
WILLIAM PINKNEY.

[Enclosed in Messrs. Monroe and Pinkney's letter of the 25th April, 1807.]

Additional and explanatory articles, signed the —— day of ——, 1807, to be added to the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America, signed at London, the 31st day of December, 1806.

Whereas, by the second article of the Treaty of Amity, Commerce, and Navigation, concluded at London, on the 31st day of December, 1806, between His Majesty and the United States of America, it is agreed that the several articles of the Treaty of 1794, "which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form and in their full tenor; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise, or have arisen, as to the true import of the same, as well for the purpose of rendering the said articles more conformable to their mutual wishes and convenience;" and it being the sincere desire of His Britannic Majesty and of the United States that certain points should be so explained as to promote mutual satisfaction and friendship; and, for this purpose, the respective Plenipotentiaries who concluded and signed the aforesaid treaty of the 31st of December, 1806, having already exchanged their full powers, have, in virtue of the same, entered into these additional and explanatory articles.

ARTICLE 1. The line hereinafter described shall, and is hereafter declared to be, the boundary between the mouth of the river St. Croix and the Bay of Fundy; that is to say, a line beginning in the middle of the channel of the river St. Croix, at its mouth, as the same has been ascertained by the Commissioners appointed for that purpose; thence through the middle of the channel, between Deer island, Marvel island, and Campo Bello island on the east, and Moose island, Dudley island, and Frederick island on the west; and round the south point of Campo Bello island to the Bay of Fundy; and the islands and waters westward of the said boundary are declared to be within the jurisdiction and part of Massachusetts, one of the said United States; notwithstanding which, a full and entire right of navigation is reserved to the United States in the channel between Deer island on the east and north, and Moose island and Campo Bello island on the west and south, and round the east point of Campo Bello island into the Bay of Fundy; the aforesaid channel frequently affording the only convenient and practicable navigation.

ART. 2. And whereas it has become expedient that the northwest angle of Nova Scotia, mentioned and described in the Treaty of Peace between His Majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix and the said northwest angle of Nova Scotia should be run and marked, according to the provisions of the said Treaty of Peace, it is agreed that for this purpose Commissioners shall be appointed in the following manner, viz: One Commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two Commissioners shall agree in the choice of a third; or, if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be taken by lot, in the presence of the two original Commissioners; and the three Commissioners so appointed shall be sworn impartially to ascertain and determine the said northwest angle of Nova Scotia, pursuant to the provisions of the said Treaty of Peace; and likewise to cause the same boundary line between the source of the river St. Croix, as the same has been determined by the Commissioners appointed for that purpose, and the northwest angle of Nova Scotia, to be run and marked, according to the provisions of the treaty aforesaid; the said Commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary; the said Commissioners shall draw up a report of their proceedings, which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined as aforesaid to be the northwest angle of Nova Scotia; duplicates of which re-

port, under the hands and seals of the said Commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective Governments; and the decision and proceedings of the said Commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. 3. It is further agreed that the said Commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they hereby are, authorized upon their oaths impartially to ascertain and determine the northwesternmost head of Connecticut river, according to the provisions of the aforesaid Treaty of Peace, and likewise to cause the boundary line, described in the said Treaty of Peace, between the northwest angle of Nova Scotia, and the said northwesternmost head of Connecticut river, to be run and marked pursuant to the provisions of the said treaty; the said Commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary; the said Commissioners shall draw up a report of their proceedings which shall describe the boundary line aforesaid, and particularize the longitude and latitude of the northwesternmost head of Connecticut river, duplicates of which report, under the hands and seals of said Commissioners, or a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same, in behalf of their respective Governments, and the decision and proceedings of the said Commissioners, made and had as aforesaid, shall be final and conclusive.

ART. 4. It is further agreed that the aforesaid Commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the ratification of this convention; and all other expenses incurred by the said Commissioners shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said Commissioners; and, in case of death, sickness, or necessary absence, the place of any Commissioner shall be supplied in the same manner as such Commissioner was appointed, and the new Commissioner shall take the same oath and do the same duties.

ART. 5. It is agreed that a line drawn due west from the Lake of the Woods along the forty-ninth parallel of north latitude shall be the line of demarcation [division line] between His Majesty's territories and those of the United States to the westward of the said lake, as far as the territories of the United States extend in that quarter; and that the said line shall, to that extent, form the southern boundary of His Majesty's said territories, and the northern boundary of the said territories of the United States; provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to or claimed by either party, on the Continent of America, to the westward of the Stony mountains.

ART. 6. It is agreed by the United States that His Majesty's subjects shall have, at all times, free access from His Majesty's aforesaid territories by land or inland navigation into the aforesaid territories of the United States to the river Mississippi, with the goods and effects of His Majesty's said subjects, in order to enjoy the benefit of the navigation of that river, as secured to them by the Treaty of Peace between His Majesty and the United States, and also by the third article of the Treaty of Amity, Commerce, and Navigation, of one thousand seven hundred and ninety-four. And it is further agreed that His Majesty's subjects shall, in like manner, and at all times, have free access to all the waters and rivers falling into the western side of the river Mississippi, and to the navigation of the said river.

ART. 7. It is agreed that the privileges of intercourse and trade by land or inland navigation, secured to His Majesty's subjects, and to the citizens of the United States, and to the Indians dwelling on each side of the boundary line between the respective territories on the Continent of America, by the third article of the Treaty of Amity, Commerce, and Navigation between His Britannic Majesty and the United States of America, signed at London, the 19th of November, 1794, as well as by the explanatory article, concluded at Philadelphia, in 1796, shall extend to all the territories belonging to either of the high contracting Powers on the Continent of America, (the actual settlements of the Hudson's Bay Company, and the immediate neighborhood of those settlements, always excepted,) situated on either side of any part of the boundary line described in the preceding article, so that all the rights and privileges secured to His Majesty's subjects and to the citizens of the United States by the aforesaid article of the Treaty of 1794, as well as by the explanatory article of 1796, shall be enjoyed by them in the aforesaid territories. It is further agreed that goods or merchandise imported, by land or inland navigation, from the territories of the one Power into those of the other, shall not be subjected to other or higher duties when so imported than would be payable for the same goods if imported directly into the said territories from Europe, or from beyond the seas, and, therefore, that the value of the said goods and merchandise shall be estimated by their respective custom-house officers, in the same manner as if they were so directly imported from Europe or from beyond the seas. It is further agreed that no duties shall be exacted from the traders of either Power for licenses to trade with the Indians for themselves, their servants, or their canoe men, or for passes for their canoes, or for any other purpose whatever. But, if such licenses are required by either Power as a measure of police or internal regulation, they shall be granted

by the Power requiring them to the subjects or citizens of the other, without any fee or gratuity, and shall not be withheld from any person demanding them for himself, his servants, or his canoe men, except for some offence committed, or impropriety of conduct on the part of the person for whom the license is demanded. It is further agreed that no restrictions or limitations shall be applied by either Power to the trade of the subjects or citizens of the other Power with the Indians living on its own side of the boundary line, except such limitations and restrictions as a regard to its own safety may, from time to time, compel it to adopt with regard to the trade of its own subjects or citizens.

ART. 8. Whereas it is expedient that the exchange of gypsum, grindstones, and certain other articles of the produce of His Majesty's colonies in North America, and of British manufactures, and British West India produce, to be exported from the said colonies, in return for horses, cattle, grain, provisions, slaves, pitch, tar, turpentine, and certain other articles, the produce of the United States, should be permitted, encouraged, and regulated, by sea, between the subjects of His Majesty and the citizens of the United States: it is agreed that measures shall be taken as speedily as may be for giving a legalized exchange and intercourse for the purposes aforesaid, at such port or ports as shall be fixed, for the vessels of either party, with such fair and equal regulations, restrictions, or extensions, from time to time, as may best promote the said objects, consistently with the respective and essential interests of navigation and trade.

ART. 9. Lastly. This treaty, when the same shall have been ratified by His Majesty and the President of the United States, by and with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory upon His Majesty and upon the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith; and it is agreed that the first six articles of this treaty shall be permanent, and that the seventh and eighth articles shall be limited in their duration to ten years, to be computed from the day on which the ratification of the Treaty of Amity, Commerce, and Navigation, signed at London on the 31st of December last, shall have been exchanged.

In faith whereof, &c.

ARTICLE 5.

As proposed by the American Commissioners.

It is agreed that a line drawn due North or South (as the case may require) from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of North latitude, and from the point of such intersection, due West, along and with the said parallel, shall be the dividing line between His Majesty's territories and those of the United States to the westward of the said Lake; and that the said line, to and along and with the said parallel, shall form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the Northwest coast of America, or to the territories belonging to or claimed by either party on the Continent of America to the westward of the Stony mountains.

ARTICLE 5.

As the British Commissioners would agree to make it.

It is agreed that a line drawn due North or South (as the case may require) from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of North latitude, and from the point of such intersection, due West, along and with the said parallel, shall be the dividing line between His Majesty's territories and those of the United States to the westward of the said Lake, as far as their said respective territories extend in that quarter; and that the said line shall, to that extent, form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the Northwest coast of America, or to the territories belonging to or claimed by either party on the Continent of America to the westward of the Stony mountains.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, *May* 7, 1807.

SIR: We had the honor to receive, on the 27th of last month, your letter of the 18th of March, to which the detailed explanations contained in your letters of the 22d and 25th ultimo render any particular reply unnecessary.

We transmit, enclosed, a statement of the American prize causes for hearing in the High Court of Appeals. That which was forwarded by Mr. Purviance was very hastily prepared by General Lyman, under a misconception of our views, and included only cases in the High Court of Admiralty.

We have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servants,

JAMES MONROE.
WILLIAM PINKNEY.

JAMES MADISON, Esq., &c.

Mr. Madison to Messrs. Monroe and Pinkney.

DEPARTMENT OF STATE,
May 20, 1807.

GENTLEMEN: My letter of March 18th acknowledged the receipt of your despatches and of the treaty signed on the 31st December, of which Mr. Purviance was the bearer, and signified that the sentiments and views of the President, formed on the actual posture of our affairs with Great Britain, would, without any useless delay, be communicated. The subject is accordingly resumed in this despatch, with which Mr. Purvi-

ance will be charged. To render his passage the more sure and convenient, he takes it in the sloop of war Wasp, which will convey him to a British port, on her way to the Mediterranean. She will touch also at a French port, probably l'Orient, with despatches for General Armstrong and Mr. Bowdoin, and will afford a good opportunity for any communications you may have occasion to make to those gentlemen.

The President has seen, in your exertions to accomplish the great objects of your instructions, ample proofs of that zeal and patriotism in which he confided, and feels deep regret that your success has not corresponded with the reasonableness of your propositions and the ability with which they were supported. He laments more especially that the British Government has not yielded to the just and cogent considerations which forbid the practice of its cruisers in visiting and impressing the crews of our vessels, covered by an independent flag, and guarded by the laws of the high seas, which ought to be sacred with all nations.

The President continues to regard this subject in the light in which it has been pressed on the justice and friendship of Great Britain. He cannot reconcile it with his duty to our seafaring citizens, or with the sensibility or sovereignty of the nation, to recognise, even constructively, a principle that would expose, on the high seas, their liberty, their lives—everything, in a word, that is dearest to the human heart, to the capricious or interested sentences which may be pronounced against their allegiance by officers of a foreign Government, whom neither the law of nations nor even the laws of that Government will allow to decide on the ownership or character of the minutest article of property found in a like situation.

It has a great and necessary weight, also, with the President, that the views of Congress, as manifested during the session which passed the non-importation act, as well as the primary rank held by the object of securing American crews against British impressment, among the objects which suggested the solemnity of an extraordinary mission, are opposed to any conventional arrangement, which, without effectually providing for that object, would disarm the United States of the means deemed most eligible as an eventual remedy.

It is considered, moreover, by the President, the more reasonable, that the necessary concession in this case should be made by Great Britain rather than by the United States, on the double consideration, first, that a concession on our part would violate both a moral and political duty of the Government to our citizens, which would not be the case on the other side; secondly, that a greater number of American citizens than of British subjects are, in fact, impressed from our vessels; and that, consequently, more of wrong is done to the United States than of right to Great Britain, taking even her own claim for the legal criterion.

On these grounds the President is constrained to decline any arrangement, formal or informal, which does not comprise a provision against impressments from American vessels on the high seas, and which would, notwithstanding, be a bar to legislative measures such as Congress have thought or may think proper to adopt for controlling that species of aggression.

Persevering, at the same time, in his earnest desire to establish the harmony of the two nations on a proper foundation, and calculating on the motives which must be equally felt by Great Britain to secure that important object, it is his intention that your efforts should be renewed, with a view to such alterations of the instrument signed on the 31st December, as may render it acceptable to the United States.

That you may the more fully understand his impressions and purposes, I will explain the alterations which are to be regarded as essential, and proceed then to such observations on the several articles as will show the other alterations which are to be attempted, and the degree of importance respectively attached to them.

1. Without a provision against impressments, substantially such as is contemplated in your original instructions, no treaty is to be concluded.

2. The eleventh article, on the subject of colonial trade, cannot be admitted, unless freed from the conditions which restrict to the market of Europe the re-exportation of colonial produce, and to European articles the supplies to the colonial market.

3. The change made by the third article, in the provisions of the Treaty of 1794, relative to the trade with the British possessions in India, by limiting the privilege to a direct trade *from* the United States as well as well as *to* them, is deemed an insuperable objection.

4. Either an express provision is to be insisted on for indemnifying sufferers from wrongful captures, or at least a saving, in some form or other, of their rights against any implied abandonment.

5. Articles 18 and 19 to be so altered as to leave the United States free, as a neutral nation, to keep and place other belligerent nations on an equality with Great Britain.

6. No such alternative as is presented by the declaratory note on the subject of the French decree of November 21, 1806, will be admissible.

First. The considerations which render a provision on the subject of impressments indispensable have been already sufficiently explained.

Second. The essential importance of the amendment required in the eleventh article results from the extensive effect which the article, if unamended, would have on the system of our commerce, as hitherto carried on with the sanction or acquiescence of Great Britain herself.

It was hoped that the British Government, in regulating the subject of this article, would at least have yielded to the example of its treaty with Russia. It could not have been supposed that a modification would be insisted on, which shuts to our neutral commerce important channels, left open by the adjudication of British courts, and particularly by the principle officially announced by that Government to this, through Mr. King, in the year 1801.

According to that principle and those adjudications, the indirect trade through our neutral ports was as free from enemies' colonies to every other part of the world as to Europe; and as free to such colonies, in the articles of all other countries, as in European articles.

According to the tenor of the article, and the general prohibitory principle assumed by Great Britain, to which it has an implied reference, the productions, both of the continental and of the insular colonies in America, can no longer be re-exported, as heretofore, to any part of Asia or Africa, or even of America, and, consequently, can no longer enter into the trades carried on from the United States to the Asiatic or African shores of the Mediterranean, nor to any of the places beyond the Cape of Good Hope offering a market for them, nor, finally, to any other enemy or neutral colonies in this quarter, to which, in reason as well as according to practice, they ought to be as re-exportable as to the countries in Europe to which such colonies belong.

In like manner, the importations from beyond the Cape of Good Hope, more especially the cotton fabrics of China and India, can no longer be sent, as heretofore, to the West Indies or the Spanish main, where they not only now yield a great profit to our merchants, but, being mixed in cargoes with the produce of this country, facilitate and encourage trade in the latter. Besides the effect of the article in abridging so materially our valuable commerce, the distinction which it produces between the manufactures of Europe and those of China and India, is chargeable with evils of another sort. In many cases it might not be easy to pronounce on the real origin of the articles. It is not improbable that suppositious attempts, also, might be occasionally made by the least scrupulous traders. With such pretexts as these, arguing from the abuse made of less plausible ones, the interruptions and vexations of our trade by the greedy cruisers which swarm on the ocean, could not fail to be augmented in a degree not a little enforcing the objection to the article in its present form.

As the prohibitory principle of Great Britain does not extend to the case of a colonial trade usually open, and no judicial decision has professedly applied the principle to such a trade, it is a reasonable inference, that the article will not be so construed as to interfere with the trade of that description, between enemy colonies beyond the Cape of Good Hope, and other countries and ports in that quarter. But, on the other hand, it may not be amiss to guard against a construction of the article that would abolish the rule observed in the prize courts of Great Britain, which, in the case of the Eastern colonies, presumes that these ports were always open, and thereby throws on the captors, instead of the claimants, the disadvantage of proving the fact in question.

It is observable that the duration of this article is limited to the period of the present hostilities, while the others are to be in force for ten years; so that if there should be a peace and a renewal of the war, as is very possible, within the latter period, the onerous parts of the bargain would survive a part, in consideration of which they were assumed. Justice and reciprocity evidently require that the more important articles of the treaty should be regarded as conditions of each other, and therefore that they should be co-durable. In this point of view, you will bring the subject under reconsideration, and without making this particular amendment an ultimatum, press it with all the force which it merits. This amendment ought to be less resisted on the British side, as it would still leave to that side an advantage resulting from the nature of the two great objects to be attained by the United States, namely, the immunity of our crews, and of our neutral commerce, which are connected with a state of war only; whereas, the stipulations valued by Great Britain will operate constantly throughout the period of the treaty, as well in a state of peace as in a state of war.

Whatever term may finally be settled for the continuance of this regulation, it will be proper to retain the clause which saves the right involved in the article from any constructive abandonment or abridgment. Even the temporary modification of the right, as it will stand without the inadmissible restrictions now in the article, is considered as an important sacrifice on the part of the United States to their desire of friendly adjustment with Great Britain. To an admission of the article, with these restrictions, the President prefers the footing promised to the colonial trade, by the deference of Great Britain for the maritime Powers, and by an unfettered right of the United States to adapt their regulations to the course which her policy may take.

That the operation of the article, in its present form, might be more fully understood, it was thought proper to avail the public of the ideas of a citizen of great intelligence and experience with respect to our commerce. His remarks, contained in the paper herewith enclosed, afford a valuable elucidation of the subject. They will suggest, at the same time, some explanatory precautions worthy of attention, particularly in the case of articles, which, paying no duty on importation into the United States, do not fall under the regulation of drawbacks, and in the case of securing by bond, instead of actually paying the duties allowed to be drawn back. It appears by the observations in your letter of January 3d, that the bond was understood, as it surely ought to be, equivalent to actual payment. But this is a point so material, that it cannot be too explicitly guarded against the misinterpretation of interested cruisers, and the ignorance or perverseness of inferior courts.

Third. The necessity of the change required in the third article, in order to secure an indirect as well as direct trade to the British East Indies, will be fully explained by the observations which have been obtained from several of our best informed citizens on the subject, and which are herewith enclosed.

As this latitude of intercourse was stipulated by the thirteenth article of the Treaty of 1794, as judicially expounded by the British superior courts; as it was enjoyed by the United States prior to that epoch, and has been always enjoyed, both before and since, by other friendly nations; and as there is reason to believe that the British Government has been at all times ready, since the article expired, to renew it in its original form, it may justly be expected that the inserted innovation will not be insisted on. Should the expectation fail, the course preferred is to drop the article altogether, leaving the trade on the general footing of the most favored nation, or even trusting to the interest of Great Britain for such regulations as may correspond with that of the United States.

Should the negotiation take up the East India article of the Treaty of 1794, you will find several amendments suggested in the extracts above referred to, some of which may be attempted with the greater chance of success, as they are harmless, if not favorable to the British system. To these suggestions may be added, a privilege to American vessels of touching at the Cape of Good Hope. The objection to such a stipulation, under the present defeasible title of Great Britain to the Cape, may be obviated by a descriptive provision, not necessarily applicable to it, in the event of its restitution by a Treaty of Peace, but embracing it, in case the British title should be established by that event. It may be agreed "that vessels of the United States may touch for refreshment at all the ports and places in the possession of Great Britain on or in the African or Asiatic seas."

Fourth. Without a provision, or a reservation, as to the claims of indemnity, an abandonment of them may be inferred from a treaty, as being a final settlement of existing controversies. It cannot be presumed that a precaution against such an inference, in any mode that may be most effectual, can be opposed or complained of. On the contrary, it excites just surprise that so much resistance should be made to indemnifications supported by the clearest rules of right, and by a precedent, in a former treaty between the two countries, from which so many other articles have been copied. The only colorable plea for refusing the desired provision, flows from a presumption, not only that the British Courts are disposed, but that they are competent, to the purpose of complete redress. Not to repeat observations heretofore made on this subject, an unanswerable one is suggested by the clause in the —— article of the treaty, annulling the principle, or rather the pretence, that vessels without contraband of war on board, returning from a port to which they had carried articles of that sort, were subject to capture and condemnation. Previous even to this recognition, it had been settled as the law of nations, by the British High Court of Admiralty, that vessels so circumstanced were exempt from interruption. Yet a British Order of August, 1803, expressly declares them to be lawful prizes; and it is well known that a number of American vessels have been seized and condemned under that order. Here, then, is a class of wrongs undeniably entitled to redress, and which neither can, nor ever could possibly be redressed in the ordinary course; it being an avowed rule with the prize courts, to follow such orders of the Government as either expounding or superseding the law of nations. Even cases not finally decided would probably be considered as falling under the rule existing at the time of the capture, and consequently be added to this catalogue of acknowledged but unredressed injuries.

Fifth. Articles 18 and 19. An effect of these articles is to secure to British cruisers and their prizes a treatment in American ports more favorable than will be permitted to those of an enemy, with a saving of contrary stipulations already made, and a prohibition of any such in future. As none of our treaties with the belligerent nations (France excepted) stipulate to their cruisers an equality in this respect, and as there are parties to the war with whom we have no treaties, it follows that a discrimination is made in the midst of war between the belligerent nations, which it will not be in the power of the United States to redress.

Weighty considerations would dissuade from such a deviation from a strict equality toward belligerent nations, if stipulated at a time least liable to objection. But it would be impossible to justify a stipulation in the midst of war, substituting for an existing equality an advantage to one of the belligerent parties over its adversaries; and that, too, without any compensation to the neutral, shielding its motive from the appearance of mere partiality. Hitherto the United States have avoided, as much as possible, such embarrassments; and with this view have gratuitously extended to all belligerents the privileges stipulated to any of them. Great Britain has had the benefit of this scrupulous policy; she can, therefore, with the less reason expect it to be relinquished for her benefit.

The last paragraph of the nineteenth article establishes a just principle as to the responsibility of a neutral nation, whose territory has been violated by captures within its limits; but by extending the principle to the two miles added to our jurisdiction by the twelfth article, qualified as that addition is, it is made peculiarly important that an amendment should take place.

Passing by the failure of a reciprocity, either in the terms of the probable operation of the responsibility, the United States seem to be bound to claim from the enemies of Great Britain redress for a hostile act, which such enemies may not have renounced their right to commit within the given space; making thus the United States liable to the one party, without a correspondent liability to them in the other party; and, at the same time, entitling Great Britain to redress for acts committed by her enemies, which she has reserved to herself a right to commit against them.

Should all the other belligerent nations, contrary to probability, concur in the addition of two

miles to our jurisdiction, this construction would still be applicable to their armed ships; those unarmed alone being the additional immunity against British cruisers; and the armed as well as the unarmed ships of Great Britain being expressly within the additional responsibility of the United States.

Sixth. No treaty can be sanctioned by the United States under the alternative presented by the declaratory note on the subject of the French decree of November 21st. It is hoped that the occasion which produced it will have vanished, and that it will not be renewed in connexion with a future signature on the part of Great Britain. The utmost that would be allowable in such a case would be, a candid declaration that, in signing or ratifying a treaty, it was understood on the part of Great Britain, that nothing therein contained would be a bar to any measures, which, if no such treaty existed, would be lawful as a retaliation against the measures of an enemy. And with such a declaration, it would be proper, on the part of the United States, to combine an equivalent protest against its being understood, that either the treaty or the British declaration would derogate from any rights or immunities against the effect of such retaliating measures, which would lawfully appertain to them as a neutral nation, in case no such treaty or declaration existed.

Having given this view of the alterations which are to be held essential, I proceed to notice such others, as, though not included in the ultimatum, are to be regarded as more or less deserving your best exertions. This will be most conveniently done, by a review of the several articles in their numerical order.

The second, fourth, and fifth articles, all relate to the trade and navigation between the two countries. The two first make no change in the stipulations of the Treaty of 1794. The last has changed, and much for the better, the provisions of that treaty on the subject of tonnage and navigation.

Two important questions, however, enter into an estimate of these articles.

The first is, whether they are to be understood as a bar to any regulations, such as navigation acts, which would merely establish a reciprocity with British regulations? From the construction which seems to have been always put on the same stipulations in the Treaty of 1794, it is concluded that no such bar could be created, and, consequently, that the articles are, in that respect, unexceptionable. It may be well, nevertheless, to ascertain that the subject is viewed in this light by the British Government.

The second question is, whether the parties be, or be not, mutually restrained from laying duties, as well as prohibitions, unfavorably discriminating between articles exported to them and like articles exported to other nations?

According to the construction put by the United States on the same clauses in the Treaty of 1794, the mutual restraint was applicable to discriminations of both kinds. The British discriminating duties on exports, introduced under the name of convoy duties, and since continued and augmented under other names, were accordingly combated during the existence of the treaty, as infractions of its text. The British Government, however, never yielded to our construction, either in discussion or in practice. And it appears, from what passed in your negotiations on this subject, that the construction which is to prevail admits discriminating duties on exports.

In this point of view, the stipulation merits very serious attention. It cannot be regarded as either reciprocal or fair in principle, or as just and friendly in practice.

In the case of prohibitions, where both Governments are on an equal footing, because it is understood that both have the authority to impose them, neither is left at liberty to exercise the authority.

In the case of duties, where the British Government possesses the authority to impose them, but where it is well known that the authority is withheld from the Government of the United States by their Constitution, the articles are silent; and, of course, the British Government is left free to impose discriminating duties on their exports, while no such duties can be imposed by that of the United States. How will it be in practice? Stating the exports of Great Britain to the United States at six millions sterling only, the present duty of four per cent. levies a tax on the United States amounting to two hundred and forty thousand pounds, or one million sixty-five thousand six hundred dollars; and there is nothing, while the war in Europe checks competition there, and while obvious causes must for a long time enfeeble it here, that can secure us against further augmentations of the tribute.

Even under a regulation placing the United States on the footing of the most favored nation, it appears that the British Government would draw into its treasury, from our consumption, three-eighths of the revenue now paid into it by the United States. Such a footing, however, would be material, as giving the United States the benefit of the check accruing from the more manufacturing state of the European nation. But to be deprived of that check by the want of an article, putting us on the footing of the nations most favored by Great Britain, and at the same time deprived of our own checks by clauses putting Great Britain on the commercial footing of the nations most favored by the United States, would, in effect, confirm a foreign authority to tax the people of the United States, without the chance of reciprocity or redress.

The British duty on exports to the United States has another effect, not entirely to be disregarded. It proportionally augments the price of British manufactures re-exported from the United States to other markets, and so far promotes a direct supply from Great Britain by her own merchants and ships. Should this not be the effect of her regulations as now framed, there is nothing that would forbid a change of them, having that for its object.

On these considerations, it is enjoined upon you by the President, to press, in the strongest terms, such an explanation or amendment of this part of the treaty, as will, if possible, restrain Great Britain altogether from taxing exports to the United States, or at least place them on the footing of the most favored nation; or if neither be attainable, such a change in the instrument, in other respects, as will reserve to the United States the right to discriminate between Great Britain and other nations in their *prohibition* of exports; the only discrimination, in the case of exports, permitted by the Constitution. The unwillingness of the President to risk an entire failure of the projected accommodation with Great Britain restrains him from making an amendmemt of this part of the treaty a *sine qua non;* but he considers it so reasonable, and so much called for by the opinions and feelings of this country, that he is equally anxious and confident with respect to a compliance on the part of the British Government.

Art. 6. This article, as taking the case of the West India trade out of any general stipulation of privileges granted to other nations, may prove convenient, by disencumbering measures which may be taken against the British monopoly from questions of which that stipulation might otherwise be susceptible.

Art. 7, though to remain, if desired, would be more reasonable without the last paragraph, or with a right only to except places and periods at which the trade of the other party may not be permitted.

Art. 8. This article is framed with more accuracy than the seventeenth, on the same subject, in the Treaty of 1794, and is improved by the additional paragraph at the close of it. But as such general stipulations have not been found of much avail in practice, and as it continues to be the wish of the President to avoid, especially at the present juncture, unnecessary confirmations of the principle that a neutral flag does not protect enemies' property, an omission of the article is much preferred, unless it be so varied as to be free from this objection. This may easily be done, by substituting a general stipulation "that, in all cases where vessels shall be captured or detained for any lawful cause, they shall be brought to the nearest or most convenient port, and such part only of the articles on board as are confiscable by the law of nations shall be made prize; and the vessel, unless by that law subject also to confiscation, shall be at liberty to proceed," &c.

There ought to be the less hesitation on the British side in making this change, as the article, in its present form, departs from that of 1794; and there is the more reason on our side for requiring the change, as the addition of "for other lawful cause," after specifying the two cases of enemy's property and contraband of war, is probably valued by Great Britain as supporting her doctrine, and impairing ours, with respect to colonial trade. The only case other than those specified to which the right of capture is applicable is that of blockades, which might have been as easily specified as provided for by such a residuary phrase; and the pretext for appropriating this phrase to the case of the colonial trade would be strengthened by the specific provision, in a subsequent article, for the case of blockades.

It cannot be alleged that the specification of the two cases of enemy's property and contraband of war is necessary to prevent uncertainty and controversy: the United States having sufficiently manifested their acquiescence in these causes of capture. If there be a source of uncertainty and controversy, it is in the expressions "other lawful cause," and "otherwise confiscable;" and this source could not be increased by the change here proposed.

Art. 9. This article is an improvement of that on the same subject in the Treaty of 1794, inasmuch as it excepts from the list of contraband tar and pitch, when not bound to a port of naval equipment; and, when so bound, substitutes preemption for forfeiture. It has an advantage, also, in the clause renouncing the principle of the British Order of June, 1803, against vessels returning from places to which they had carried contraband of war.

On the other hand, it would not have been unreasonable to expect that the British Government would, in a Treaty with the United States, have insisted on no stipulation less favorable than her stipulation on the same subject with Russia, especially as the naval stores exported from the United States are equally the growth and produce of the country.

Consistency, again, as well as reason, evidently required that the exception in favor of tar and pitch should have been extended to every species of naval stores equally applicable to other uses than those of war, and destined to places other than those of naval equipment.

Lastly, it is observable than even turpentine and rosin are not included with tar and pitch in the favorable exceptions, though of a character so kindred as to leave no pretext for the distinction.

Neither has the British Government the slightest ground for regarding as a concession the stipulated immunity of a vessel which, on her outward voyage, had carried contraband to a hostile port. The principle asserted by her order on that subject is an innovation against the clearest right of neutrals, as recognised and enforced even by British courts. The very language of the article implies that this is a pretence for the innovation.

These considerations urge a remodification of the article, and they are strengthened by the great dislike of the President to formal recognitions, at this particular moment, of principles combated by some, and unfavorable to all neutral nations. So ineligible, indeed, in his view, is any step tending in the least to retard the progress of these principles, that naval stores are to be left on a stipulated list of contraband in the event only of an inflexible refusal of the British Government to omit them; nor are they to be retained, in any event, without an addition or explanation that will except turpentine and rosin, as well as tar and pitch; there being no plausible motive for the distinction, and

the quantity and value of the two former exported from the United States being found, on inquiry, to make them of equal importance with the two latter. It can scarcely be supposed that the British Government will insist on this unwarrantable distinction. It is not, indeed, improbable that it has been a mere inadvertence. Such an inference is favored by the circumstance of your speaking, in your comment on this article, of tar and turpentine as being the two exceptions. Whatever the true state of the case may be, it is thought better to omit a list of contraband altogether than not to include in the exception from it turpentine and rosin, as well as tar and pitch.

Art. 10. The abuse of blockades has been so extravagant, and has produced so much vexation and injury to the fair commerce of the United States, that as, on one hand, it is of great importance to find a remedy, so, on the other, it is the more necessary that the remedy should be such as not itself to admit of abuse. The considerations which reconciled you to the tenor of the article as at least a constructive approach to a solid provision for the case, are allowed the weight which they justly merit; whilst the course which your discussions took is a proof of the exertions which were used to give the article a more satisfactory form.

The failure, however, of the British Commissioners to substantiate a favorable construction of the article, by a proper explanatory letter addressed to you, with their reasons for refusing to insert in the treaty a definition of blockade, justify apprehensions that the vague terms which alone were permitted to compose the article would be more likely to be turned against our object by courts and cruisers, and perhaps by a less liberal Cabinet, than to receive in practice the more favorable construction which candor anticipated.

The British doctrine of blockades, exemplified by practice, is different from that of all other nations, as well as from the reason and nature of that operation of war. The mode of notifying a blockade by proclamations and diplomatic communications, of what, too, is to be done, rather than of what, in fact, has been done, is more particularly the evil which is to be corrected. Against these nominal blockades the article does not sufficiently close the door. The preamble itself, which refers to distance of situation as a *frequent* cause of not knowing that a blockade exists, though, in one view, giving the United States the advantage of a favorable presumption, in another view carries an admission unfavorable to our principle, which rests not on the distance of situation, but on the nature of the case, and which consequently rejects, in *all* cases, the legal sufficiency of notifications in the British mode. The preamble is liable to the remark also, that it separates our cause from the common one of neutral nations in a less distant situation, and that the principle of it may even be pleaded against us in the case of blockades in the West Indies. These considerations would have been outweighed by the advantage of establishing a satisfactory rule on this subject in favor of our trade; but, without such a provision in the article, it is thought less advisable to retain it than to trust to the law of blockades, as laid down by all writers of authority, as supported by all treaties which define it, and more especially as recognised and communicated to the United States by the British Government, through its Minister here, in —— last; not to mention the influence which the course of events and the sentiments of the maritime nations in friendship with Great Britain may have in producing a reform on this subject.

The last paragraph, though subjecting persons in civil as well as military service of an enemy, to capture in our vessels, may prove a valuable safeguard to ordinary passengers and mariners, against the wrongs which they now frequently experience, and which affect the vessel as well as themselves.

Art. 12. It is much regretted that a provision could not be obtained against the practice of British cruisers, in hovering and taking stations for the purpose of surprising the trade going in and out of our harbors; a practice with the British Government felt to be so injurious to the dignity and rights of that nation, at periods when it was neutral. An addition of two miles, nevertheless, to our maritime jurisdiction, so far as to protect neutral and other unarmed vessels, notwithstanding its want of anything like a due reciprocity, is not without its value. This value will at the same time be very materially impaired, if the stipulation cannot be liberated from the clause requiring the consent of the other belligerent nations, as necessary to exempt their vessels from search and seizure. None of the other belligerent nations have, in fact, unarmed vessels engaged in our trade, nor are they likely to have any during the war; and those alone could derive advantage from their consent, their armed vessels being expressly excepted. There can be no motive with them, therefore, to agree to the regulation. They would rather be tempted to embarrass it, with a view to continue, as much as possible, vexations which lessen the mutual good will of the parties. And as, by their not agreeing to the regulation, the right is reserved to British cruisers to examine all vessels for the purpose of ascertaining whether they may not belong to a belligerent, the disturbance of our trade might be little diminished within the additional two miles. Besides the mere interruption of a search concerning the vessel, it is hardly to be expected, from the general spirit of cruisers, that the search will not be extended to the cargo; and if the latter should be thus or otherwise found or suspected to be of a confiscable sort, that the temptation to capture would be resisted, the less so, perhaps, as the increased distance from the shore and the increased difficulty of proof would favor the chance of condemnation, or at least countenance courts in their propensity to refuse damages and costs to the claimants.

To secure the advantage promised by this article, the right of search ought to be suppressed altogether, the additional space enjoying in this respect the same immunity as is allowed to the marine league. To this object the President wishes your endeavors to be directed.

I reserve for the seventeenth article another view of the subject, which will claim your attention.

Art. 18. The general provision here copied from the Treaty of 1794, though not hitherto found of much effect in controlling the licentiousness of cruisers, and very different from the special rules in favor of neutrals contained in most treaties which touch the subject of search, enters very properly into a comprehensive argument between two friendly nations. The introductory sentence alone, which consists of new matter, invites particular notice. The expressions "as the course of the war may possible permit," and "observing as much as possible, the acknowledged principles and rules of the law of nations," however favorably intended by the British negotiators, will not improbably be construed in a relaxation of the neutral right in favor of belligerent pleas, drawn from circumstances of which belligerent nations will be the judges. The expressions may easily be so varied as to refer simply to the law of nations for the rule, and to the friendship of the parties for the spirit, according to which the search is to be conducted. If such an amendment should be deliberately rejected by the British Government, it will be a proof of a lurking danger that will recommend an omission of what relates to the subject of search, in preference to retaining it.

Articles 14, 15, and 16, call for no particular observation.

Art. 17. So much of this article as relates to the admission of ships of war would be advantageously exchanged for a general stipulation, allowing on this subject the privilege granted to the most favored nation. It would then be in the power of the United States to limit the number admissible at one time, whereas such an indefinite admission of British ships imposes on our neutrality a like indulgence to the fleets of other nations. Such an alteration of the article is the more reasonable and important, as there will be but little reciprocity in its operation; the United States having but few ships, and the inconveniences from British ships in our ports being much greater than those from our ships in British ports.

The engagement to treat officers of the navy with respect is not only too indefinite to be enforced by penal regulations, but implies a reproachful defect of hospitality and civility. In this light it was viewed during the discussions of the Treaty of 1794. The clause probably grew then out of recent complaints, well or ill founded, of disrespectful conduct on some occasion towards British officers. If latter occurrences were to be consulted, it would be a more apt provision now to stipulate for the punishment of naval commanders making insulting and ungrateful returns for the kindness shown them in our ports and towns. The President makes almost a point of excluding this part of the article.

Articles 18 and 19 already noticed.

Art. 20. Considering the great number of British merchants residing in the United States, with the great means of influence possessed by them, and the very few American merchants who reside in Great Britain, the inconvenience which may be incident to such a protracted right, to remain during a state of war, is evidently much greater on our side than on the other. In this view the stipulation is very unequal. The liberal spirit of it is, at the same time, highly commendable. It were only to be wished that the readiness on one side to make sacrifices of this sort, to a spirit which ought to pervade every part of a treaty between the parties, had been less met by an apparent disposition on the other side rather to extort from than to emulate it.

Art. 21 Not agreeable, but not to be an insuperable obstacle.

Art. 22 is altogether proper.

Art. 23. This article granting the privileges of the most favored nation, seems to require explanation, if not alteration. The term "shall *continue* to be on the footing of the most favored nation." implies that the parties are now on that footing. To look no further, the discrimination between exports from Great Britain to Europe and to the United States is a proof that the fact is otherwise.

But may not the expression be construed into a barrier against laws on the part of the United States, establishing a reciprocity with the British navigation act and West India regulations? It might be impolitic to extend such laws to all other nations, as it would be unjust to extend them to such as had not adopted the restrictive system of Great Britain. And yet a discrimination might be arraigned, as not *continuing* Great Britain on the same footing with other nations.

The object of this article, so far as it is a legitimate one, would be sufficiently provided for by a mutual stipulation of the privileges in trade and navigation enjoyed by the most favored nation; and such stipulations, moreover, ought in justice to import or imply that where privileges are granted to a third nation in consideration of privileges received, the privileges cannot be claimed under the stipulation without a return of the same or of equivalent privileges. The condition is certainly not without difficulties in the execution, but it avoids a greater evil. Should Spain or France open her colonies to our ships and productions on our granting certain privileges to her trade, these could not be be claimed or expected by the most friendly nation who would not pay the price of them.

Articles 24 and 25 are entirely proper.

Art. 26. It is particularly desirable that the duration of the treaty should be abridged to the term limited in the instructions of the 5th of January, 1804.

Having taken this view of the subject with reference to a formal treaty under new modifications, it is necessary to recollect that you were authorized by my letter of February 3 to enter into informal arrangements, and that before the receipt of my letter of March 18 a plan of that sort may have been definitely settled. In such a state of things, it is impossible to do better than to leave your own judgments, aided by a knowledge of circumstances unknown here, and by the sentiments of

the President now communicated, to decide how far it may be eligible, or otherwise, to attempt to supersede that informal arrangement, by opening the negotiation herein contemplated.

Should, on another hand, the negotiation be found in the state authorized by my letter of March 18, that is to say, matured provisionally only, and consequently leaving the door open for the experiment now provided for, it must equally remain with your own judgments, guided by a comparison of the terms of the provisional arrangement with the present instructions, to decide how far it may be best to close the former, or to pursue the objects of the latter, with a view, in case of failure, to return to and close the former.

Whatever may be the course recommended by the actual state of things, you will feel the propriety of smoothing the way for it, by the explanations which will best satisfy the British Government that the several steps taken on the part of the United States have proceeded from their solicitude to find some ground on which the difficulties and differences existing between the two countries might be amicably and permanently terminated. You will be equally aware of the importance of transmitting hither as early and as circumstantial information of your proceedings and prospects as opportunities will permit; and will particularly keep in mind the earnest desire of the President to possess in due time every material, preparatory to the communications relating to our affairs with Great Britain, which will be so anxiously expected on the meeting of Congress on the first Monday in December.

Since the contents of this despatch were determined on and mostly prepared, advices have been received of the change which is taking place in the British administration. Composed as the new one is likely to be, or rather is said to be, the event will subject our British affairs to new calculations. The difference in the general complexion ascribed to the politics of the rival parties towards the United States, and the language held by some individuals of the one now entering the Cabinet, augur, on one hand, fresh obstacles to a favorable negotiation; on the other hand, however, a less degree of confidence in their own strength than was felt by their predecessors, and a dread of furnishing these with such a topic as might be found in a real or impending collision with this country, may be a powerful control on illiberal dispositions towards it. Another favorable consideration is, that an important member of the new Ministry, Lord Hawkesbury, was formerly at the head of the Foreign Department, the person who negotiated with Mr. King a relinquishment of impressments on the high seas; who made to the same public Minister the communications assuring to neutrals a re-exportation of colonial produce unfettered in any respect other than by the condition of its having been landed and paid the ordinary duties; and, finally, who communicated to this Government, through Mr. Merry, the instructions given to the British commanders and courts in the West Indies, in which blockades, and the mode of giving notice of them, were defined in terms liable to no objection. His concurrence, therefore, in an admissible provision on these cardinal points, is due to that consistency which all men value more or less, and to which you will of course appeal, as far as circumstances may invite and delicacy permit. The inducement to touch that string is the greater, as it has not appeared that, in any of the late Parliamentary discussions, this nobleman has joined in the unfriendly language held in relation to the neutral and commercial right of this country. It is to be recollected, also, that Lord Sidmouth was at the head of the Administration at the period alluded to, and consequently ought to be induced, by a like regard for his character, to promote the adjustment we claim, in case he should be excepted, as is said to be not improbable, out of the dismission of his colleagues.

There are considerations, moreover, which cannot be without weight with a prudent Cabinet, however composed. They must know that, apart from the obstacles which may be opposed here to the use of British manufactures, the United States, by a mere reciprocation of the British navigation and colonial laws, may give a very serious blow to a favorite system—a blow that would be felt, perhaps, as much too in its example as in its immediate operation. Should this policy be adopted by the United States as it respects the British West Indies, the value of those possessions would be either speedily lost, or be saved not otherwise than by a compliance with the fair reciprocity claimed by this country. It can no longer be unknown to the most sanguine partisan of the colonial monopoly that the necessaries of life and of cultivation can be furnished to those islands from no other source than the United States; that immediate ruin would ensue if this source was shut up; and that a gradual one would be the effect of even turning the supplies out of the present direct channel into a circuitous one through neutral ports in the West Indies. In this latter alternative, (the least unfavorable that presents itself,) the produce of this country would be carried probably to a Danish island, with the same mercantile profit and the same employment of our navigation as if carried to the British island consuming; and would thence be transported to the British island with little advantage to British ships, which would necessarily be sent in ballast, and confined to a sickly climate, whilst the enhanced price of the supplies would be fatal, first to the prosperity, and finally to the existence of those dependencies.

It ought to occur, moreover, to the British Government, that its marine may become as dependent as its colonies on the supplies of the United States. As an auxiliary resource for naval stores, this country must be at all times important to Great Britain. But it will be the sole, and, therefore, an essential one in case that of the Baltic, and even of the Black sea, should fail. And it may be justly remarked, that a prohibition of this branch of our exports would be a less sacrifice than that of any other important one, inasmuch as some of the articles of which it consists,

being necessary to ourselves, and of an exhaustible nature, make it a problem whether the regulation would not, in itself, accord with our permanent interests.

Lastly, it should not be forgotten that the United States are one of the granaries which supply the annual deficit of the British harvests. The northern part of Europe, the usual concurrent resource, is in a situation that must disable it for some time, whatever the course of events may be, to spare any of its stock of food; nor can any substitute, other than the redundant harvests of the United States, be relied on to make up that deficiency. Add to this prospect the possibility of an unfavorable season requiring enlarged importations of bread from the only source that can furnish it, and the risk of losing this would be an evil which no provident councils would neglect to guard against by any measures equitable in themselves, or even by concessions neither dishonorable nor materially injurious.

On the other hand, Great Britain, having been led by her peculiar system to carry her commercial exclusions and restrictions to the utmost limit permitted by her immediate wants, would find no countervailing resources to be turned against the United States. She could not prohibit the importation of our productions. These are necessaries which feed her people, which supply her manufactories, which keep up her navy, and which, by direct and indirect contributions to her revenue and credit, strengthen all her faculties as a great Power. As little could she prohibit the exportation of her manufactures to the United States. This is the last evil she would think of inflicting on herself. If it withheld from us the means of enjoyment, it would take from her own people the means of existence.

Would war be a better resort? That it would be a calamity to the United States is so well understood by them, that peace has been cherished in the midst of provocations which scarcely permitted honor to listen to interest, to reason, or to humanity. War they will continue to avert by every policy which can be reconciled with the essential duties which a nation owes to itself. But what will be the gain and the loss to Great Britain by a choice of this resort? The spoils of our defenceless commerce might enrich her greedy cruisers, and flatter the sentiments of national wealth. A temporary spasm might, at the same time, be produced in the affairs of the United States. But these effects weigh little against the considerations which belong to the opposite scale. To say nothing of the hostile use that might be made against Great Britain of fifty thousand seamen, not less hardy or enterprising than her own, nor of her valuable possessions in our neighborhood, which, though little desired by the United States, are highly prized by her, nor of the general tendency of adding the United States to the mass of nations already in arms against her, it is enough to observe that a war with the United States involves a complete loss of the principal remaining market for her manufactures, and of the principal, perhaps the sole, remaining source of supplies, without which all her faculties must wither. Nor is it an unimportant circumstance, though it seems to have engaged little of her attention, that in the loss would be included all the advantages which she now derives from the neutrality of our flag and of our ports, and for which she could find no substitutes in distributing her manufactures, and even her fish, to their necessary markets, and in obtaining the returns which she wants. The more these collateral advantages are inquired into, the more important will the interest appear which Great Britain has in preserving them.

These are views of the subject, which, though not to be presented to Great Britain with an air of menace or defiance, equally forbidden by respect to ourselves and to her, may find a proper way to her attention. They merit hers as well as ours; and if they ought to promote on both sides a spirit of accommodation, they show at the same time that Great Britain is not the party which has the least interest in taking counsel from them.

Such are the instructions and explanations under which the task is consigned to you of renewing the discussions with the British Government. The President is well assured that it will be executed with all the advantage which talents and patriotism can contribute; and he is unwilling to believe that that Government will finally prefer, to the reasonable terms proposed, the serious state of things which will be left by a miscarriage of this ulterior appeal to the motives which ought to govern a just and friendly nation. As it is possible, however, that this favorable calculation may not be verified, and it will necessarily remain to be decided whether such a state of things can be obviated by any additional proposition not beyond the justifiable limits of concession, the President has taken the case into his serious deliberation, and has concluded to authorize you, in the event of a rejection of every arrangement already authorized, but in that event only, to admit an article to the following effect:

"It is agreed that, after the term of —— months, computed from the exchange of ratifications, and during a war in which either of the parties may be engaged, neither of them will permit any seaman, not being its own citizen or subject, and being a citizen or subject of the other party, who shall not have been for two years, at least, prior to that date, constantly and voluntarily in the service, or within the jurisdiction of the parties, respectively, to enter or be employed on board any of its vessels navigating the high seas; and proper regulations, enforced by adequate penalties, shall be mutually established for distinguishing the seamen of the parties, respectively, and for giving full effect to this stipulation."

You will observe that the proposition is so framed as not to comprehend among British seamen those who have been made citizens of the United States, and who must necessarily be so regarded within their jurisdiction and under their flag. This modification of the article cannot produce any real objection on the part of Great Britain: 1. Because the legal prerequisites to naturalization, in the United States, imply, what is sufficiently known, that the number of seamen actually naturalized, or likely to be so, is too small to claim attention in any arrangement on this subject. 2. Because the right of British subjects to naturalize themselves in a foreign trade and navigation, as laid down by the judicial authority of Great Britain, ought to restrain the Government from making a difficulty on this point.—(See Dunford and East's Reports, Wilson vs. Marriatt, and the same case in Bosanquet and Buller's Reports.)

You will observe, also, that the article does not extend to British seamen navigating, not the high seas, but our interior waters. Should the success of the proposition be endangered by this distinction, it may be given up; but it cannot well be supposed of sufficient importance to have that effect. The objection, too, is answered by the consideration, that, as Great Britain would regard the proposed disuse of her seamen as a commutation for her claim to impress them, which is limited to the high seas, the principle of the compromise does not embrace the seamen not employed on the high seas.

If an attempt should be made to bind the United States to deliver up the seamen to Great Britain, instead of excluding them merely from their own service, you are to say at once, that it would be inconsistent with our principles, and cannot be acceded to.

It will occur to you that the period of two years has been chosen in allusion to the period established by Great Britain as sufficiently incorporating alien with British seamen. Her own example, at least, must have weight with her, and the implied appeal to it may be of use in shielding the measure against public prejudices to which the Government may not wish to expose itself.

If the British Government be not predetermined against a friendly adjustment, it is confidently presumed that the concession proposed will not only overcome all obstacles to your success on the essential points, but may be turned to account in promoting the amendment of the other articles.

Should the concession, however, contrary to all expectation, not succeed even as to the essential objects, the course prescribed by prudence will be, to signify your purpose of transmitting the result to your Government, avoiding carefully any language or appearance of hostile anticipations, and receiving and transmitting at the same time any overtures which may be made on the other side with a view to bring about an accommodation. As long as negotiation can be honorably protracted, it is a resource to be preferred, under existing circumstances, to the peremptory alternative of improper concessions or inevitable collisions.

The last suggestion I have to make to you is, that in case of great difficulties in readjusting the multiplied provisions embraced by the Treaty of December, particularly those relating to commerce, it may be advisable to simplify the transaction by confining it to the few essential objects, or by not adding more than a few others of least difficulty and most importance. A general article may suffice for the rest, giving reciprocally, in regard to trade and navigation, armed ships and prizes, the privileges of the most favored nation, and leaving for more leisurely and detailed provision whatever further may conduce to the mutual interests, and correspond with the friendly dispositions of the parties. A general stipulation of this sort applied to the subject of commerce would have the advantage to the United States of abolishing and preventing British discriminations on exports, and to Great Britain the like advantage with respect to American discriminations on imports.

I have the honor to be, &c.

JAMES MADISON.

Mr. Monroe to Mr. Madison, Secretary of State.*

RICHMOND, *Feb.* 28, 1808.

SIR: It appears, by your letter of May 20, 1807, which was forwarded by Mr. Purviance to Mr. Pinkney and myself at London, and received on the 16th of July, that you had construed several articles of the treaty which we had signed with the British Commissioners on the 31st of December, 1806, in a different sense from that in which they were conceived by us. As the course we were instructed to pursue by your letter of February 3, with regard to that treaty, which was confirmed in that of May 20, was in no degree dependent on our construction of any of its articles, or on the political considerations which induced us to sign it, we deemed it unnecessary to enter into any explanation in reply, either of our construction of its articles, or of the political considerations alluded to. We thought it more consistent with our duty to look solely to the object of our instructions, and to exert our utmost efforts to accomplish it, and we acted in conformity to that sentiment. The result of these efforts was made known by the documents which I had the honor to present to you when I was lately at Washington, being copies of a joint despatch which Mr. Pinkney and I had forwarded by Mr. Rose. We had flattered ourselves that it might have been practicable to obtain the amendments of the treaty which the President desired, as the state of affairs in Europe had become more favorable to such a result, but in that we were disappointed. We found no difficulty in accomplishing the other object, of setting it aside, as we were instructed to do, in case the proposed amendments were not acceded to.

At this time there is no objection to such an explanation that I am aware of, and there are many reasons why it should be given. You will be sensible that, so far as an unfavorable estimate is entertained of that transaction, it must, in the

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* The document being explanatory to the treaty *signed* by Mr. Monroe and Mr. Pinkney, is inserted here as a sequel to the proceedings upon it, although not in strict chronological order.

degree, tend to injure those who gave it the sanction of their names, and you will be equally sensible that, if the United States are in any degree interested in it at this time, it must consist in its being viewed in a just, rather than an unfavorable light. In retiring from the station which I have lately held, this is the last act of public and private duty which I have to perform in relation to it. It is to me, in many views, a painful duty, but still it is one which it is highly incumbent on me to execute.

It is far from my desire to compromit Mr. Pinkney, in this letter, in the slightest circumstance. In the management of the business, which was entrusted to us jointly, we acted with the greatest harmony, and exerted our best efforts to accomplish the objects of our instructions. I am not aware that, in speaking of any part of the treaty, I shall give it a construction in which he would not concur, but that presumption is founded altogether on what took place between us in the course of the negotiation. To this communication he is not a party, nor, indeed, does he know that such a one will be made. In every view, therefore, it is improper, and would be unjust, that he should be considered as having any concern in it.

The impressment of seamen from our merchant vessels is a topic which claims a primary attention from the order which it holds in your letter, but more especially from some important considerations that are connected with it. The idea entertained by the public is, that the rights of the United States were abandoned by the American Commissioners in the late negotiation, and that their seamen were left, by tacit acquiescence, if not by formal renunciation, to depend for their safety on the mercy of the British cruisers. I have, on the contrary, always believed, and still do believe, that the ground on which that interest was placed by the paper of the British Commissioners of November 8, 1806, and the explanations which accompanied it, was both honorable and advantageous to the United States; that it contained a concession in their favor, on the part of Great Britain, on the great principle in contestation, never before made by a formal and obligatory act of the Government, which was highly favorable to their interest; and that it also imposed on her the obligation to conform her practice under it till a more complete arrangement should be concluded to the just claims of the United States. To place this transaction in its true light, and to do justice to the conduct of the American Commissioners, it will be necessary to enter at some length into the subject.

The British paper states that the King was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars which enforced the necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his Commissioners to give to the Commissioners of the United States the most positive assurances that instructions had been given, and should be repeated and enforced, to observe the greatest caution in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury, and that immediate and prompt redress should be afforded on any representation of injury sustained by them. It then proposes to postpone the article relative to impressment, on account of the difficulties which were experienced in arranging any article on that subject, and to proceed to conclude a treaty on the other points that were embraced by the negotiation. As a motive to such postponement and the condition of it, it assures us that the British Commissioners were instructed still to entertain the discussion of any plan which could be devised to secure the interests of both States, without injury to the rights of either.

By this paper it is evident that the rights of the United States were expressly to be reserved, and not abandoned, as has been most erroneously supposed; that the negotiation on the subject of impressment was to be postponed for a limited time, and for a special object only, and to be revived as soon as that object was accomplished; and, in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States. It is, indeed, evident, from a correct view of the contents of that paper, that Great Britain refused to *disclaim* or *derogate* only from what she called her right; as it also is, that, as her refusal was made applicable to a crisis of extraordinary peril, it authorized the reasonable expectation, if not the just claim, that even in that the accommodation desired would be hereafter yielded.

In our letter to you of November 11, which accompanied the paper under consideration, and in that of January 3 which was forwarded with the treaty, these sentiments were fully confirmed. In that of November 11, we communicated one important fact, which left no doubt of the sense in which it was intended by the British Commissioners that that paper should be construed by us. In calling your attention to the passage which treats of impressment, in reference to the practice which should be observed in future, we remarked that the terms "high seas" were not mentioned in it, and added, that we knew that the omission had been intentional. It was impossible that these terms could have been omitted intentionally, with our knowledge, for any purpose other than to admit a construction that it was intended that impressments should be confined to the land. I do not mean to imply that it was understood between the British Commissioners and us, that Great Britain should abandon the practice of impressment on the high seas altogether. I mean, however, distinctly to state, that it was understood that the practice heretofore pursued by her should be abandoned, and that no impressment should be made on the high seas, under the obligation of that paper, except in cases of an extraordinary nature, to which no general prohibition against it could be construed fairly to extend. The cases to which I allude were described in our letter of November 11. They suppose a British ship of war and a merchant vessel of the United States lying in the Tagus, or some other port, the desertion of some of the sailors from the ship of war to the merchant vessel, and the sailing of the latter with such deserters on board, they being British subjects. It was admitted that no general prohibition against impressment could be contrued to sanction such cases of injustice and fraud, and to such cases, it was understood, that the practice should in future be confined.

It is a just claim, on our part, that the explanations which were given of that paper by the British Commissioners, when they presented it to us, and afterwards while the negotiation was depending, which we communicated to you in due order of time, should be taken into view in a fair estimate of our conduct in that transaction. As the arrangement which they proposed was of an informal nature, resting on an understanding between the parties, in a certain degree confidential, it could not otherwise than happen that such explanations would be given us, in the course of the business, of the views of their Government in regard to it; and if an arrangement by informal understanding is admissible, in any case, between nations, it was our duty to receive those explanations; to give them the weight to which they were justly entitled, and to communicate them to you with our impression of the extent of the obligation which they imposed. It is in that mode only that what is called an informal understanding between nations can be entered into. It presumes a want of precision in the written documents connected with it, which is supplied by mutual explanations and confidence. Reduce the transaction to form, and it becomes a treaty. That an informal understanding was an admissible mode of arranging this interest with Great Britain, is made sufficiently evident by your letter of February 3, 1807, in reply to ours of November 11, of the preceding year.

Without relying, however, on the explanations that were given by the British Commissioners of the import of that paper, or of the course which their Government intended to pursue under it, it is fair to remark on the paper itself that, as by it the rights of the parties were reserved, and the negotiation might be continued on this particular topic, after a treaty should be formed on the others, Great Britain was bound not to trespass on those rights while that negotiation was depending, and in case she did trespass on them in any the slightest degree, the United States would be justified in breaking off the negotiation and appealing to force in vindication of their rights. The mere circumstance of entertaining an amicable negotiation by one party for the adjustment of a controversy, where no right had been acknowledged in it, by the other, gives to the latter a just claim to such a forbearance on the part of the former. But the entertainment of a negotiation for the express purpose of securing interests sanctioned by acknowledged rights, makes such claim irresistible. We were therefore decidedly of opinion that the paper of the British Commissioners placed the interest of impressment on ground which it was both safe and honorable for the United States to admit; that, in short, it gave their Government the command of the subject for every necessary and useful purpose. Attached to the treaty, it was the basis or condition on which the treaty rested. Strong in its character in their favor on the great question of right, and admitting a favorable construction on others, it placed them on more elevated ground in those respects than they had held before, and, by keeping the negotiation open to obtain a more complete adjustment, the Administration was armed with the most effectual means of securing it. By this arrangement the Government possessed a power to coerce without being compelled to assume the character belonging to coercion, and it was able to give effect to that power without violating the relations of amity between the two countries. The right to break off the negotiation and appeal to force could never be lost sight of, in any discussion on the subject, while there was no obligation to make that appeal till necessity compelled it. If Great Britain conformed her practice to the rule prescribed by the paper of November 8, and the explanations which accompanied it, our Government might rest on that ground with advantage; but if she departed from that rule, and a favorable opportunity offered for the accomplishment of a more complete and satisfactory arrangement, by a decisive effort, it would be at liberty to seize such opportunity for the advantage of the country. These considerations, founded on a view of the proposed arrangement itself, furnished strong inducement to us to proceed to the other objects of the negotiation. There were other considerations of a different character which recommended it with still greater force. Had we refused to proceed in the negotiation, what was the alternative which such a refusal presented to our view? The negotiation would have been at an end, after having failed in all its objects; for if this interest was not arranged, none others could be. The attitude which the Governments held towards each other was, in a certain degree, hostile. Injuries had been inflicted by one party, and resentment shown by the other; the latter having taken a step in the case of the non-importation law which was intended to vindicate the public rights and honor, by being made the means of obtaining a redress of those injuries. The measure was intended for the Ministry of Mr. Pitt, from which the injuries were received, but by the removal of that Ministry, and the delay which took place in the passage of the law, it came into operation against the Ministry of Mr. Fox and Lord Grenville, who would not have rendered those injuries, and against whom, of course, such a weapon would not have been raised.

Notwithstanding the existence of that law, and the attitude which still remained between the Governments, it was impossible to appeal to it as a strong motive of action with the new Ministry. Such an appeal was sure to produce more harm than good. It would have lost us all claim on the generous feelings and liberal policy which the new Ministry was believed to indulge and supposed to adopt towards the United States.

The negotiation, therefore, with the new Ministry, was conducted by policy as well as by inclination on friendly and conciliatory principles. Should it fail, however, in its object, and be broken off, the relation of the parties would change in an instant. From that moment the new Ministry would stand on the ground of the old one, and the nation be united in all its political parties against us. The attitude would become, in fact, what the exterior announced it to be—hostile; and it was difficult to perceive how it could be changed, and peace be preserved, with honor to the United States. They could not recede from the ground which they had taken, or accept, by compulsion, terms which they had rejected in an amicable negotiation. War, therefore, seemed to be the inevitable consequence of such a state of things; and I was far from considering it an alternative which ought to be preferred to the arrangement which was offered to us. When I took into view the prosperous and happy condition of the United States, compared with that of other nations; that as a neutral Power, they were almost the exclusive carriers of the productions of the whole world; and that in commerce they flourished beyond example, notwithstanding the losses which they occasionally suffered, I was strong in the opinion that those blessings ought not to be hazarded in such a question. Many other considerations tended to confirm me in that sentiment. I knew that the United States were not prepared for war; that their coast was unfortified, and their cities in a great measure defenceless; that their militia in many of the States were neither armed nor trained; and that their whole revenue was derived from commerce. I could not presume that there was just cause to doubt which of the alternatives ought to be preferred. Had it, however, been practicable to terminate the negotiation without such an adjustment as that proposed, and without taking any decisive measure in consequence of its failure, what was to become of the non-importation law? If suffered to remain in force, it was sure to produce war. Great Britain, it was known, would enter into no arrangement by treaty which did not provide for its repeal; and there was little reason to presume, after the rupture of the negotiation, by which the relation between the parties would be less friendly, that she would become more accommodating. It was, on the contrary, fairly to be concluded that, if any arrangement whatever should be practicable, it would be a less advantageous one than that which we had sanctioned. Some disposition of it was therefore indispensably necessary in any course which might be taken.

These considerations had much weight in deciding that which was pursued, and I frankly own that a sincere desire to afford to the Administration an honorable opportunity for its repeal, since, under existing circumstances, it did not seem probable that it could be longer useful, and might be injurious, was a strong motive with me to incur the responsibility which I took on myself in that transaction. To the arrangement proposed we gave our sanction. We undertook to submit it to the consideration of our Government, taking care to inform the British Commissioners that we had no power to conclude a treaty that would be obligatory on the United States, which did not arrange in a satisfactory manner the interest of impressment. We agreed also to proceed in a discussion of the other objects of the negotiation, and eventually concluded a treaty, it being understood, from what we had frequently stated, that, if our Government should disapprove the arrangement relative to impressment, the whole would fall with it. Thus, the United States enjoyed the advantage of being at liberty to accept or reject the arrangement, while on the British Government it was binding. With one party it was a project; with the other a treaty. There was, in truth, nothing unreasonable in this circumstance, as the British Commissioners acted in presence of the Cabinet, consulted and took its instruction on every point; while our distance from our Government rendered such a recurrence to it impossible. This advantage, however, proceeded from the nature of the transaction; it was not the effect of finesse on our part. We advanced in the negotiation, and concluded a treaty in a firm belief that, although it fell short of what we had expected to obtain, it was nevertheless, in the then state of affairs, such a one as the United States might adopt with credit and advantage. I have no doubt that the British Commissioners entertained still greater confidence in such a result. The circumstance of our finally agreeing to sanction the arrangement, rather than break off the negotiation, at which issue we had frequently stood in the progress of it, was calculated to make that impression. But it was much strengthened by a knowledge that the whole arrangement would expose them to very severe and probably successful attacks from the opposition, while they had no expectation that it would be popular in the country.

By your letter of February 3, 1807, in reply to ours of November 11, 1806, the course which the Government resolved to pursue was announced. By it we were informed that the President disapproved the informal arrangement proposed by the British Commissioners relative to impressment, and was resolved to enter into no treaty with the British Government which, when limited to or short of strict right on every other point, should include in it no article on that particular one; that, in case such an article could not be obtained, we should terminate the negotiation without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party would entirely conform to what should be thus informally settled between them; and we were authorized to give assurances, in case such an arrangement should be satisfactory in substance, that, as long as it should be respected in practice, particularly on the subjects of neutral trade and impressment, the President would earnestly, and probably successfully, recommend it to Congress not to permit the non-importation law to go into operation; and, in the mean time, that

he would exercise the power vested in him by an act of Congress, if no intervening intelligence forbade it, of suspending its operation till the meeting of Congress, who, being in session, would have an opportunity to make due provision for the case; and finally, that, if a treaty which did not provide for the interest of impressment should have been concluded before the receipt of that letter, we should candidly apprize the British Commissioners of the reasons why it would not be ratified, and invite them to enter again on the business with a view to such a result as was desired.

By this letter the arrangement which we had sanctioned, comprising the informal one relative to impressment, and that by treaty on the other topics, was rejected, and, in lieu of it, we were instructed to enter into an informal understanding or arrangement of the whole subject, and, as was to be inferred from the fair import of the letter, on the same conditions. It was the more to be presumed that the Government was willing to accept, in the mode which it proposed, the conditions which we might be able to obtain in the other, from the consideration that the latter were under its view at the time the instructions were given by the paper of the British Commissioners of November 8th, and our letter of the 11th, and the certainty with which it, as well as we, must have been impressed, that more favorable could not be expected.

In defending myself against the imputation of having sacrificed the rights of our seamen, I shall be permitted to derive support from the conduct of the Government itself in the same interest. Under that impression, I have to remark that I consider the conduct of the Government as furnishing the most ample vindication of that of the American Commissioners. The Government was equally willing to enter into some arrangement which should preserve the peace of the country, although it should not accomplish the object which had been so ardently desired. The only difference between the plan which we sanctioned and that which it proposed, was, that the whole arrangement should be informal. Had the Administration resorted to war as a preferable alternative, or been willing to leave the business unsettled, its policy and example might have been pleaded against us; but, in offering to accept the same conditions in an informal mode, and to withdraw, in some form, the non-importation law as a motive to it, it showed that the considerations which had been respected by us had as much weight with it.

But the conduct of the Administration furnishes other strong arguments in favor of the arrangement proposed by the American Commissioners. By engaging to observe the informal arrangement which we were instructed to enter into, as long as Great Britain should observe it, it seemed as if the United States would be deprived of the right of insisting on other terms, however favorable the opportunity for it might be, while Great Britain would be at liberty to depart from such arrangement whenever the events of war furnished her an adequate motive for it. This was the opposite of our arrangement, as I have stated above, by which, as we presumed, she would be bound, and we free. Certainty to our merchants was all-important. Any fair, well-defined rule, within which they might prosecute in safety their enterprises, although it might fall short in some respects of our just claims, might perhaps be preferable to frequent collisions, which put everything at hazard. In any event it was an object of great importance to keep the peace of the country in our own hands, by retaining the right to resort to war when it suited us, and then only.

I will now proceed to the other topics which are adverted to in your letter of May 20, 1807, and on which I shall be as concise as possible. In your examination of the treaty, you notice several of primary importance, which you conceive to have been improperly arranged in the articles which refer to them. I will pursue, in my remarks, the order which you have traced.

You consider the eleventh article as objectionable, in having shut to our commerce important channels which were left open to it by the decisions of the British courts, and the principles contained in the communications from Lord Hawkesbury to Mr. King. In support of that opinion, you observe, that, as the article stipulates that the United States may carry the manufactures and productions of Europe from their own ports to any colonies of the enemies of Great Britain, they are prohibited by it from carrying the manufactures or productions of the countries beyond the Cape of Good Hope, in like manner, to such colonies. You observe, also, that as the United States are authorized to carry from their own ports the productions of enemy colonies to Europe, they are prohibited from carrying those productions to the southern coasts of the Mediterranean, or beyond the Cape of Good Hope, or to any other enemy or neutral colonies in this quarter.

I am persuaded that you will be satisfied, on further consideration, that this construction of that article is unfounded. It is not the object of the article to regulate the general commerce of the countries, or to compromit their claims in any case to which the regulation does not explicitly extend. The regulation prescribed by it applies to a case of controversy between the parties, in a point of immediate contact, and it was the object of the article to adjust the controversy in that point. If we advert to the issue which was made up between them, as clearly defined by the orders of the British Government, the decisions of the Courts of Admiralty under them, and the discussions which took place between the Governments on the subject, we shall find that in no view can the construction, which you impute to the article, be supported.

The issue lately made up between the parties involved solely the question, what circumstances or acts, to be performed in the neutral country, were necessary to break the continuity of a voyage from the colony of an enemy to its parent country, or some enemy country in Europe? This point had been settled, as was presumed, by

former decisions of the British Courts of Admiralty, and explanations of the British Government, in a manner which was so far satisfactory to the United States, as to justify a belief that if those decisions and explanations had been adhered to, the existing controversy on this subject would not have arisen. But in 1805 the British Courts of Admiralty insisted on the performance of new acts in the United States, or what amounted to the same thing, extended by construction the doctrine of former decisions in such a manner as to make the performance of new acts, such too as were of a nature highly onerous and oppressive, indispensably necessary. On this special point, the parties were at issue, and the sole object of the article was to adjust, by temporary arrangement, the controversy on that point. The rights of the parties in every other instance, not within the scope of the adjustment, were to remain of course untouched, and in that particular one, to revive at the expiration of the term limited for the duration of the article.

A concise analysis of the several orders of the British Government, relative to the trade of neutral Powers with enemy colonies, will place in a clear point of view the ground of the controversy between the parties, and the precise object and effect of the regulation proposed by the article under consideration. The first order bears date on the 6th November, 1793. It directed the British cruisers to bring in for lawful adjudication all vessels laden with goods, the produce of any colony of France, or carrying provisions or supplies for such colony. That order amounted in express terms to a declaration of war against the neutral Powers, and it was issued in that spirit by the British Government. The policy, however, which dictated the order, did not last long; events soon produced a change of policy, and with it a revocation, or to use the technical phraseology of the Admiralty, a relaxation of the order. The second order was of the 8th January, 1794. It directed the cruisers "to bring in all vessels laden with goods, the produce of the French West India islands, and coming directly from any port of the said islands to any port in Europe." This order being directory, prescribed the case in which neutral vessels engaged in such a trade should be seized, and thereby confined the seizure to that case only. No vessel engaged in that trade, which did not come within the scope of the order, could be touched. Thus, the effect of the order was to inhibit the direct trade of the United States, between enemy colonies and Europe, in the productions of those colonies. It left the trade free between the United States and enemy colonies, and between the United States and Europe, and of course every other country. It left it free also, in the direct line, between enemy colonies and Africa and Asia. By confining the restriction to Europe, those countries were necessarily exempted from its operations. The third order, of the 25th January, 1798, directed the cruisers to "bring in all vessels laden with cargoes, the produce of any island of France, Spain, or Holland, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of Great Britain, nor of the country to which such ships, being neutral, belonged." The sole effect of this order was to extend to the neutral Powers of Europe the accommodation which had been yielded to the United States by that of 8th January, 1794. The next order bears date on the 24th June, 1803. It directs the cruisers not to seize any vessel which shall be carrying on trade directly between the colonies of the enemies and the neutral country to which the vessel belongs, and laden with the property of inhabitants of such neutral country, provided such vessel shall not be supplying, nor have supplied, the enemy on the outward voyage with any articles of contraband of war," &c. The sole object of this order appears to have been to introduce a new rule relative to contraband, by subjecting a vessel to seizure on that account, on her return voyage, after depositing her cargo at her place of destination. It prohibits the seizure of neutral vessels, European as well as American, engaged in a trade between enemy colonies and the neutral countries, by positive inhibition. That trade had been left free before, by the restriction of the seizure to vessels engaged in the direct trade between enemy colonies and the parent country. It was now secured by positive inhibition. The right to carry on the trade from the neutral country to other countries, was left on the ground on which it stood before. That this order was not intended to affect that trade, and did not affect it, is made sufficiently evident by many decisions of the Courts of Admiralty which have been given since the order was issued. In proof of this, I refer to all the cases that were decided by the British Courts of Admiralty, touching the trade of neutrals with enemy colonies, in the years 1805 and 1806, and more especially to that of the William, Trefrey, it being the last one, and containing a summary of the whole doctrine.

If we recur to the decisions of the courts themselves, we shall find a full confirmation of what is here advanced. We shall find that, in conforming their decisions to the spirit of the orders of the Government, they inhibit the direct trade only between the colony and the parent country, or some other country of Europe; that they do not call in question the trade between neutral Powers, in the productions of enemy colonies, after those productions were allowed to have been incorporated into the stock of the country; that they gave recent and high offence only by the new doctrines advanced on this latter point, which, by assuming to investigate the motives of the parties engaged in the trade, and to reject acts which were before deemed satisfactory by decisions the most solemn, and to impose new conditions the most onerous and oppressive, laid that commerce completely at the mercy of British tribunals. The most material cases are those of the Immanuel, which involved the question of a trade between Bordeaux and St. Domingo, that is, the direct trade between the parent country and its colony, in which the goods were condemned on that account [Robin. Rep. vol. 2, page 186,] and of

the Polly, Lasky, in which the vessel was taken on a voyage from Marblehead to Spain, charged with the productions of the Havana, brought to Marblehead by the same vessel. In this case the question of continuity of voyage was involved, and the court decided in favor of the American claim, on ground that gave no offence. It was admitted, in explicit terms, by the judge, that an American had a right to import the produce of the Spanish colonies into his own country, and to carry them on thence to the general commerce of Europe, and that the landing of the cargo and payment of the duties would be sufficient *criteria* of a *bona fide* importation, [2 Rob. Rep. page 361.] The next cases were those of the Essex, Orme, of the Rowhena, and some others of the same kind in 1805, which turned on the point of continuity of voyage, in which the court, pushing its doctrine to the unjust and pernicious extent complained of, produced the controversy which took place between the two countries. The communication between Mr. King and Lord Hawkesbury is of the same character. The Advocate General admits, in his report, which was adopted by Lord Hawkesbury, and communicated by him to Mr. King, that, by the relaxation of the general principle respecting the trade with enemy colonies, it was distinctly understood, and had been repeatedly so decided by the Court of Appeal, that the produce of enemy colonies might be imported into the neutral country and re-exported thence even to the mother country of such colony; and in the like manner that the produce and manufactures of the mother country might be carried to its colonies. He states that the direct trade between the mother country and its colonies had not been recognised as legal; that what amounted to an intermediate importation into the neutral country might sometimes be a question of difficulty; that the mere touching in the neutral country to take fresh clearances, might perhaps be deemed evasive, and, in effect, the direct trade; but that the High Court of Admiralty had expressly decided, (and he saw no reason to expect that the Court of Appeal would vary the rules,) that landing the goods, and paying the duties in the neutral country, would break the continuity of the voyage, and was such an importation as would legalize the trade, although the goods were reshipped in the same vessel, on account of the same proprietors, and were forwarded for sale to the mother country of the colony.

This communication corresponds in every the minutest circumstance with the spirit of the orders and decisions of the courts, as above explained. It insists, and in terms that are far from being positive, that the direct trade only between the mother country and the colony was inhibited. It admits that the trade through the neutral country to the mother country of the colony was lawful, and fixes, with great precision, the acts to be performed in the neutral country, which would be sufficient to incorporate the goods into the stock of the country, and break the continuity of the voyage. In the latter part of the report alluded to, the Advocate General seems to make a kind of reservation of the right of the Court of Appeal to revise the decisions of the High Court of Admiralty, which he represents to have settled the doctrine. But he makes that reservation, if indeed it was intended as one, in such terms as to preclude the idea that it would ever be taken advantage of, especially when it is considered that the report was adopted by the Government, and communicated officially by the Secretary of State to a foreign Minister. It is certain, however, that through the Court of Appeal the new encroachment on the rights of the United States was made, which produced the controversy which ensued immediately afterwards.

The discussion which took place between Lord Mulgrave and myself, in 1805, on the subject of the seizures then made, treated the encroachment in that line as the special cause of complaint on the part of the United States. Although the British pretension to inhibit even the direct trade had not been countenanced by the Government, yet the commerce of the United States had been made, in a certain degree, to accommodate with it by the merchants. They were content to decline the direct trade, and to prosecute their enterprises through the United States equally with the mother country and its colonies. It was natural, in the course of a controversy which involved such important interests, that the rights of the parties should be taken up on principle and carried to the greatest extent. To the light thrown upon the subject by a very able essay which I received from you, I was much indebted, and I acknowledge, in this communication, the aid that it afforded me with peculiar satisfaction. A vindication however of the cause, on principle, however extensive the range may be, could not affect the origin of the controversy, nor give to the article entered into for its adjustment a construction different from that which, by well-established rules, is fairly applicable to it.

From this view of the several orders of the British Government, and from the exposition given of them by the courts and by the Government itself, it appears that the sole object of those that were issued after that of the 6th November, 1793, was to inhibit the direct trade of the United States between enemy colonies and Europe; that they did not touch and were not intended to interfere with the trade between the United States and Europe, even the parent country, and *a fortiori* between the United States and Asia and Africa. It was, indeed, the object of the order of November 6, 1793, to suppress the commerce of neutral Powers with enemy colonies altogether; but that being abandoned, the next idea that occurred was to embarrass that trade, by forcing it through neutral countries. Here, then, arose a new question, which turned entirely on another principle; that a neutral Power had a right to carry on trade, from its own ports, in any articles, though of foreign produce, which had been incorporated into the stock of the country, not contraband of war, and to all countries, was not controverted. That point, otherwise clear and indisputable in itself, had been long settled by the highest tribunals, and

by the most eminent jurists in England. The circumstances which constituted such an incorporation of foreign articles into the stock of the country, had also been settled by the same authorities, still, the question which now arose turned on this latter point. In forcing this commerce through neutral ports with a view to embarrass it, it became necessary (to give the greatest effect to that expedient) to increase the difficulties in those ports, which was done in the manner already stated.

If the instructions of the British Government did not inhibit the trade in question, the adjustment contained in the article under consideration could not affect it. That article supposes a difference between the parties relative to a trade with enemy colonies, and the instructions which interfere with it. The article could not operate on any trade to which the instructions did not extend, and concerning which there was no controversy. In the present case the conclusion is the more irresistible, because there did not exist even a possibility of controversy in regard to that trade. But it is inferred that, because it is stipulated that the produce of enemy colonies may be carried to Europe from the United States, that the ports of Asia and Africa are shut on them; and, that because it is stipulated that the manufactures of Europe may be carried from the United States to the West Indies, that those of Asia and Africa are prohibited from being carried there. This objection has been already obviated. Had the instructions of the British Government inhibited that trade, and a controversy between the Governments arisen from the inhibition, as the article does not extend to the case, the most that could have been inferred would have been, that it was unprovided for, and that the rights of the parties would remain in the same state respecting it, as if the article had not been entered into. It is easy to explain the cause why the term "Europe" was introduced into the article, in reference to the ports to which colony produce might be carried, and "European," in reference to the manufactures which might be carried to enemy colonies, and to show that they were adopted with a view to open, on the widest scale, the ports which had been at any time shut on them by the British orders. Although the policy of these orders, as well as of the principle on which they are founded, is more particularly applicable to the direct trade between enemy colonies and their mother country, yet as the term "Europe" had been adopted in the modifications that were made in them, first, at the instance of the United States, and afterwards at that of the neutral European Powers, as the widest scale within which the inhibition operated, it was thought best to use that term to prevent the possibility of mistake as to the extent of the adjustment. Had terms of more extensive import been adopted, they could not have been more effectual to the object, while they might have tended to enlarge the sphere of British pretensions, by extending it to cases to which it would be highly improper to give a sanction.

But it is supposed that, although the orders of the British Government may not have inhibited this trade, it is comprised in the general inhibition of the British principle. If the British principle inhibits such a trade, which I do not admit, it does not follow that a sanction to that inhibition is given by this article, for reasons already stated. If the provision of the article does not extend to that trade, the rights of the parties cannot be affected by it. They remain equally in force against the principle as against the instructions, had they inhibited it. But the claim to an exemption for that trade, from the operations of the British principle, rests on still stronger ground, admitting that it ever extended to it, which, however, I am far from admitting. It can be shown that the orders themselves take it completely from within the scope of that principle. By instructing the cruisers to seize vessels engaged in a particular trade, every other trade is allowed. It is in that mode, that what is called a relaxation of the British principle is effected. The order reduces the principle to its own standard, or in other words, becomes the principle itself. If this doctrine is not true, it is impossible to designate in what mode the relaxation, which is universally admitted of the British principle, is wrought; or to prove that there has been any relaxation of it whatever. If the orders have not that effect, of what avail are they? That they have that effect is proved by the decisions of the courts, and the practice under them. I am aware of the broad doctrine held by the courts on this subject, but that doctrine, necessarily ambiguous, from the dilemma in which the courts were placed by the inconsistent orders of the Government, if not reconcilable to this construction, (as I think it is, when the whole subject is taken into view,) is contradicted by the decisions of the same courts, and the explanations of the Government itself.

I say that this trade is not inhibited by the British principle, because it supposes a trade between enemy colonies and the mother country. But a trade between the United States and Asia and Africa, let the subject of it be what it may, is not a trade of that kind. It is a trade with independent Powers, at peace with Great Britain, with whom we have a right to trade, by all the rules which Great Britain has at any time insisted on. It would be of dangerous tendency to admit that Great Britain had a pretension to interfere with such a trade in any case. After the goods are received into the United States, no matter of what articles they consist, or from what quarter they came, they are the property of the country, and may, of right, be shipped to any other country. The British principle does not controvert this doctrine; it asserts, in its widest range, the right only to seize them on their route to the neutral country, and from it to the mother country of the colony, or some other enemy country of Europe, provided they be not incorporated into the stock of the neutral country. If they are, they may go under the arrangement made to the countries to which the British principle applies; but they require no sanction from the British Government to go to those to which it does not apply. The

destination of the vessel alone would, as I presume, dispel every doubt of the legality of the trade, and preclude all further inquiry concerning it. The question of continuity of voyage could never arise in such a case. It is certain that the arrangement alluded to gives no sanction to it, and for the best of all reasons, that the trade was not admitted, or even contended to be comprised within the range of British principle.

I shall close my remarks on this point by observing, that as the arrangement of the acts to break the continuity of the voyage from the United States to the parent country, and other enemy countries of Europe, in the produce of their colonies, and from the United States to those colonies, in the manufactures of Europe, is confined strictly to that object; the rights of the parties remain unimpaired in every other circumstance relative to that trade; that, as the article contains no stipulation against the direct trade from the colony to the parent country, the right to carry on even that trade is not necessarily suspended by it; that if, in any view, it can be considered as suspended, it is by implication arising out of the whole transaction, rather than from the stipulation itself. How much stronger, then, is the conclusion already drawn from other premises, that nothing is to be deduced from that article to justify the construction which has been imputed to it.

The remarks above made refer more particularly to a trade between the United States and Europe in the produce of enemy colonies. They are, however, equally applicable to the other objection stated in your letter, of a trade between the United States and enemy colonies in the produce or manufactures of Africa or Asia. None of the orders alluded to inhibit that commerce, and it is most certain that the article alluded to gives no sanction to such a pretension.

As to the conditions by which it is agreed to break the continuity of the voyage, I have to observe that they are as favorable as you had expected. We were authorized to stipulate, if better conditions could not be obtained, that the goods should be landed, the duties paid, and the ship changed. We stipulated only that the goods should be landed and the duty paid, making the duty on European goods one per cent., and on colony productions two. By exempting the party from the necessity of changing the ship, an important advantage was certainly secured. By fixing the duty at one per cent. in the one instance, and at two in the other, it was not possible that the slightest embarrassment should be thrown in the way of the trade. The duty payable on manufactures consumed in the country is about fifteen per cent., and on West India productions twenty-five. The trifling amount made payable to the country on the re-exportation of the articles could not be felt by the merchant; it would fall on the European consumer. It could not be felt as a heavy imposition on the trade itself; our only competitor in it would be Great Britain, whose merchants would labor under the disadvantages incident to war in a thousand shapes, more especially as the ports of the whole continent would be shut on them, in not being able to get their goods into those ports, otherwise than by smuggling them—a mode which could not fail to be onerous if it succeeded, but which was likely to fail in most cases. It should be remembered, also, that the increased duties which would accrue to the country would tend in the highest degree to interest the whole community in support of a commerce in which the commercial part was most materially interested. It is the policy of the European Powers having colonies in the West Indies to make the parent country the *entrepôt* of the productions of the colonies. Is not that policy worthy the attention and ambition of the United States, in respect to the trade of the colonies in question? The duty received would make some recompense to the nation for the expenses incurred and sums expended in supporting our right to that trade. Besides, by making the ports of the United States the *entrepôts* for such productions, the country in general would derive some advantage from the measure. Every ship engaged in the commerce which entered an American port would bring something to and take something from it. The vast amount of Asiatic, European, and West India articles brought to our markets would cheapen the price of those articles at home; and each ship, while in port, and in the prosecution of her voyage, would require supplies in provision and other articles, which would raise the price of those articles, to the great advantage of the general interest of the country.

The limitation of the article to the term specified was a condition which we presumed might prove advantageous to the United States, while it could not possibly injure them. It is expressly stipulated that the right of both parties shall revive at the expiration of the term. Those of the United States, therefore, would then be in force, and to the full extent of their pretensions, in the same manner as if the stipulation had not been entered into. In another war they might insist on conditions which this stipulation did not secure; and if Great Britain did not yield to their demand, they might resort to any expedient to compel her which the wisdom of their councils might dictate. Any encroachment on the part of Great Britain on their rights, as heretofore contended for, might be considered by their Government an act of hostility, and treated accordingly. The least favorable conditions that she could offer would be those already settled, which the United States might accept or reject, as they thought best. As a youthful, prosperous, and rising nation, it could not be doubted that in the next war their situation would be more imposing than in the present one. The presumption is, that they would be able then to obtain better conditions than at present.

On the third article I have to observe, in addition to what is stated in our joint letter of January 3, 1807, that nothing would have been more easy than to have omitted any provision on the subject of it, and to have placed that trade on the footing of the most favored nation. To obtain better terms by treaty was utterly impossible. We were much inclined to omit any provision on the subject, because we were aware that the arrange-

ment made would fall short of the expectation of our Government and country, and most probably subject us to censure. We acceded to that arrangement from a conviction that it secured us better terms than we should be likely to enjoy if left to depend on the pleasure of the British Government, stimulated as we knew that was to restrict us in it by the India Company and other interests of the country. It is impossible to conceive too high an idea of the jealousy which is entertained of the United States in a commercial view by that Government, and of the danger with which it thinks Great Britain is menaced by their extraordinary prosperity and rapid growth. The boldness of the projects, and the activity and ability with which they are prosecuted by our merchants and mariners, excite the admiration of Europe. Great Britain has seen that, wherever our citizens gained a foothold, they never lost it. Without distrusting her own means, or the hardiness and activity of her people, she finds that our own position, remote from Europe, contiguous to the West Indies and the Southern continent, and as near to India as herself, gives us advantages against which she cannot cope. The effort which we made and persevered in for several months to gain admission into British India on more favorable terms, and the disposition which was shown by the British Commissioners to yield, excited a sensation (or, more properly speaking, an alarm) in the Board of India Directors, and of the commercial people in general, even among those who had no particular interest in the question, which was extremely obvious. Had we made no provision in the treaty to secure our admittance into India on certain conditions, we had much reason to believe that that commerce would have been fettered to an extreme degree, and in every form.

We were extremely anxious to provide that our citizens might make their shipments from Europe, to take specie from Spain and Portugal, goods from England, &c., and that they might touch at the Cape of Good Hope, at the Isle of Bourbon, at the Mauritius, &c.; that they might carry on the coasting trade in India, and be permitted to pass from Calcutta to China. Those advantages were insisted on; but the pressure which we made produced reports from the Board of Directors, at the instance of the Government, and from political men conversant in these topics, which fixed the Government in its decision not to grant them. I repeat, however, that it would have been easy to have omitted the regulation from the treaty, and placed the trade on the footing of the most favored nation, as it would have been at any time afterwards had the state of affairs in other respects permitted it.

By your instructions, a provision in favor of indemnity was not made an indispensable condition of a treaty. We were authorized to conclude one without it; we were therefore persuaded that the ground on which that interest was placed could not fail to be approved. The arrangement which we made authorized a just claim to expect a dismission of all the causes that were depending in the Courts of Admiralty and even to an indemnity in the cases of condemnation. The documents which we forwarded to you in our joint letter of —— give a full view of this subject, and to them I beg to refer.

Your fifth objection applies to the eighteenth and nineteenth articles of the treaty, and, in the first instance, to the prohibition it contains of extending the privileges which are made reciprocal between the parties to other nations, which is supposed to be a breach of neutrality. Had I conceived that those articles were justly exposed to that imputation, I should certainly not have assented to them; but I saw no foundation for the imputation. With Spain and Holland we have treaties which secure them all the rights to which they are entitled. It is usual, and certainly proper, for a nation, in estimating its claims on other Powers, to examine its treaties with them, and not to think of setting up a pretension beyond the limit of such treaties. By treaty, neither of those Powers have any right in the case in question, nor have we in the ports of either. By treaty, Great Britain had enjoyed those rights in the ports of the United States, as we had in her ports from the year 1794. Spain and Holland knew the conditions of that treaty, which was in force at the commencement of the present war, and some time afterwards, and would have been in force till late in the last year had a special condition of the twelfth article been carried into effect.

To renew the treaty in the express terms of the former one—a treaty which deprived no one Power of any existing conventional right; which subjected none to conditions to which they had not been always subjected; which allowed to Great Britain, on principles of reciprocity, a privilege which there was no reason to presume that any other Power, especially Spain, would consent to reciprocate with the United States—did not seem to be liable to the objection stated to it. The general principle which you advance, of extending those privileges to as small a number of Powers as possible, had also some weight in inducing us to accede to the arrangement. France is admitted to an enjoyment of them in the same extent with Great Britain; she therefore has no cause of complaint. I do not think that the stipulation forbids any arrangement of the Government relative to the number of ships of war that shall be admitted into the ports of the United States at one time, or any regulation relative to their conduct while within the ports of the United States, provided it be general and equally applicable to both Powers. A stipulation that the ships of war of each nation shall be hospitably received into the ports of the other does not necessarily imply that there is to be no rule as to the numbers to be admitted into the ports to which they shall be confined, or the order they shall observe while in port. All these topics have been at all times, as I have reason to believe, the object of regulation by Great Britain; and I have equal reason to believe that her Government did not consider itself as having abandoned its right to regulate them by this article.

Your next objection applies to the last paragraph of the nineteenth article taken in connexion with the twelfth article. By your construction of those parts of the treaty, the United States would be bound to claim redress, in favor of Great Britain, of her enemies, for any acts of hostility which they might commit on her ships of war or merchant vessels within the additional limit, while she might commit with impunity like acts of hostility on the ships of war and merchant vessels of her enemies in case they did not acknowledge it; and against their ships of war in case they did, although her own ships of war in both cases would be protected within it. I was decidedly of opinion, and still am, that while those articles secure to the United States an unconditional advantage, none whatever is stipulated by them in favor of Great Britain, which must not of necessity be common to her enemies; that her privilege, on the contrary, whatever it may be, must be founded on their consent—follow and terminate with it.

The twelfth article stipulates that Great Britain shall not stop the vessels of the United States within five marine miles of their coast, except for the purpose of examining whether they be American or those of another Power; and that she shall not stop the unarmed vessels of other Powers within the same limit, provided they acknowledge it, except to ascertain whether they belong to those who have acknowledged it. The vessels of the Powers who do not adopt the regulation are not affected by it. They remain under the ordinary protection of the law of nations, which extends to the distance of cannon-shot, or three miles from the coast. Beyond that limit the enemies of Great Britain have a right to search and seize her vessels, without being amenable to the United States; and the same right is reserved to her by this article as if it had not been entered into. Vessels of war are expressly excluded from the advantage of the regulation.

It is the sole object of the twelfth article to secure to the United States an accommodation, by extending their jurisdiction on their coast, in what concerns themselves, from three to five miles. The stipulation is unconditional as to them, but conditional as to other Powers, dependent on their acknowledging the same limit. It is made reciprocal, by being extended to the British dominions northward of the United States; a circumstance which merits attention, as it precludes the idea that any other equivalent was expected or intended to be given for it. It would have been extended to the dominions of Great Britain in Europe and elsewhere had the British Commissioners desired it; they declined it, from a fear that it might produce some innovation in the general doctrine of the law of nations on the subject. This is, I think, fairly to be inferred from the instrument itself.

The last paragraph of the nineteenth article stipulates that neither of the parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in the twelfth article, so long as the provisions of the said article shall be in force, by the ships of war of other Powers; but in case it should so happen, the party whose territorial rights shall thus have been violated shall endeavor to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

If any advantage is given to Great Britain by the arrangement proposed by the twelfth article and this clause of the nineteenth, to the prejudice of her enemies or of the United States, it must be by this clause. She can certainly claim none under the twelfth article. This clause consists of two distinct members of very different import. The first contains a general stipulation conformable to the law of nations, applicable to all the dominions of both parties, and equally so to their ships of war and merchant vessels. With respect to the latter, however, it is conditional. The second member applies to the arrangement made in the twelfth article, and in the sense and spirit of that article. If the twelfth article is carried into effect in favor of other Powers, which can only be done by their consent, then the advantage which is secured to them by it will accrue likewise to Great Britain. What is that advantage? Protection to their merchant vessels within the additional two miles, and nothing else. It is obvious that the protection which is stipulated in favor of ships of war is provided for by the first member of the clause, and not by the second. It cannot be by both, for the distance defined by them is different, it being three miles in one and five miles in the other. It is equally obvious that the stipulation contained in the second member of the clause relative to the twelfth article, is intended to operate in the spirit of that article, and to be dependent on it. By the terms "nor within the jurisdiction described in the twelfth article so long as the provisions of the said article shall be in force," the stipulation contemplated is made conditional. In force in respect to whom? Not the United States, because it was unconditional as to them. It was conditional only with respect to other Powers. Other reasons might be given to show that the arrangement under consideration is not liable to the objection made to it, but I presume that those stated will be satisfactory.

The difficulty to obtain the accommodation which was yielded in the twelfth article was extreme. We labored most earnestly to extend it to other Powers without their consenting to reciprocate it in favor of Great Britain, but that could not be accomplished. The British Commissioners urged that as Great Britain predominated at sea, and must lose by the concession in any form, it would be unjust for her to make the concession in their favor, unless they would allow her the advantage of it. Finding that it was impossible to extend the additional limit to other Powers on other terms, we thought it advisable to adopt the arrangement in respect to them conditionally, putting it in their power to accept or reject it as they thought fit. We flattered ourselves that as they could not lose by it, they would not refuse their assent to an arrangement by which they might gain, expecially as it would prove advantageous to a friendly Power. We deemed it highly important to establish the additional limit

in favor of the United States, from the advantage it might afford to their commerce within it, and from the effect which the measure seemed likely to produce on the future conduct of the British squadrons on our coast, by whom it could not fail to be considered as a severe censure on the past.

It is readily admitted that more suitable terms might have been adopted to accomplish the object in view. But it ought to be recollected that as the right of jurisdiction imposes of necessity the obligation of protection, without a special exception to it, there was some difficulty in making an arrangement which should secure to the United States the advantage which they desired, and at the same time exempt them from the duty incident to it.

To your sixth objection little need be added to what is stated on the subject of it in our letter of January 3. 1807. As the paper of the British Commissioners to which it relates had no sanction whatever from us, as was fully shown by that letter, the objection cannot be said to apply to any part of our conduct. The paper was produced by the decree of the Emperor of France, of the 21st November, 1806. and was intended by the British Commissioners to operate as a reservation of right in their Government not to ratify the treaty, or not to be precluded, under certain circumstances, in case it did not ratify it, from adopting such measures as it might find necessary to counteract the restrictions imposed by that decree. The exercise of the right reserved was made dependent on the abandonment of the principle of that decree by the French Government, or an assurance from the Government of the United States, or such conduct as would be equivalent, that the pretension would not be submitted to by it. We apprized the British Commissioners that our Government would enter into no engagement whatever of what it would do in any case with another Power. Had the treaty been ratified even without any notice being taken of that paper, it could not have imposed the slightest obligation on the United States, either to perform any act on their part, or to submit to any on the part of Great Britain. I had supposed, however, in the case of ratification, that we should have been instructed to present to the British Government, with the instrument of ratification, a counter-declaration to that effect. The whole subject was before our Government, with our strong and decided objection to the paper. All that we could do was to transmit it to you, with a correct statement of what had occurred in the negotiation respecting it, which we did. To the Government it belonged to take the step which the occasion required, not to us.

Having noticed the objections which are specially stated in your letter of May 20, 1807, and given our view of the several parts of the treaty to which they relate, I shall proceed to make explanatory remarks on the other articles, in order to do justice to the conduct of the American Commissioners in regard to them.

Art. 5. You admit that this article is an essential improvement of that on the same subject in the Treaty of 1794. It certainly improves it in two important interests: 1st, in that of the navigation of the United States; and 2d, in that of duties on American productions carried into the British market. The tonnage on American ships in British ports had been raised to —— sterling per ton, while that on British ships in the ports of the United States was only fifty cents or two shillings and three-pence per ton; and the duty on the bulky productions of the United States in American bottoms had been raised to such a height under the countervailing regulations which the treaty allowed, as to secure, in time of peace, the entire carriage of those productions to British vessels, if indeed it did not materially affect the price of the articles themselves. What made it more unfortunate was, that the United States could not adopt any measure to remedy those evils without committing a direct and palpable violation of the treaty, as they were bound by it not to raise the existing duties higher than they were at the time the treaty was concluded. Those evils would, however, have been completely done away by this article. By it the United States would have had a right to raise the duty on British vessels to any height to which the British Government might raise it on theirs—a check which could not fail to prove adequate to the object; while they had also a right to give what preference they thought fit to their own vessels, which might be done by reducing the duty on them below the tonnage which was imposed on those of Great Britain. This arrangement secured to the United States an advantage which Great Britain could not countervail, as the necessity she is under to avail herself of every resource which she can command to raise revenue for indispensable purposes renders it impossible for her to make a like discrimination in favor of her own vessels. The inhibition of all discriminating duties on the production of the one and manufactures of the other party, whether they be carried in American or British bottoms, was a stipulation which it was presumed would also prove highly advantageous to the United States. The pernicious tendency of that principle was well known to you, and we were happy to be able to suppress it.

The objections which you urge to other parts of the article apply to clauses in the Treaty of 1794, which it was impossible for us to change. I have, however, to observe that there is nothing in it to prevent the passage of a navigation act, provided it be adopted as a measure of general policy. Most of the nations of Europe, especially France, would be happy, in a general view, to see the United States resort to that expedient to counteract the restrictive system of England; and as it is one which could not essentially affect them, they could find no motive of that kind to inspire a wish to oppose it; nor could the United States, as I supposed, find one to exempt them from it.

We regretted that we could not obtain a stipulation which should compel Great Britain to repeal the laws which impose so high a duty on her manufactures when exported to the United States. Our letter showed that we did everything in our power to obtain such a stipulation. I was, however, persuaded that the want of it would not

expose us to all the evils which you seem to apprehend from it, admitting that the British construction of that clause in the former treaty was one, and that nothing is contained in the twenty-third article of the present one to discountenance it. It is certain that no Government will ever tax exports higher than indispensable necessity compels it; because such a tax always tends in all cases to check industry, and to destroy the most productive source of national prosperity. The inhibition imposed by the Constitution of the United States on the Congress to tax in the slightest degree their exports, affords a strong argument, drawn from the acknowledged wisdom of its framers, against the policy of such a tax in the abstract; and I am persuaded that the reasons against it are as strong with Great Britain, if not stronger, than with any other nation. Without taking a more comprehensive view of the subject, it is sufficient to observe that a tax on British exports must operate as a bounty in favor of American manufactures, which are already in an advanced state in certain parts of the Union. Great Britain must be sensible of this fact; and, aware of the encouragement which the present export duty gives them, and of the consequences attending it, I should presume that there was not much cause to apprehend that she would tax the export of her manufactures to the United States to prevent their being sent thence to other countries. The sole effect of such a tax would be to secure to her own vessels the carriage of the articles, if indeed that were attainable. In both cases, the manufactures of Great Britain would be the subject of the commerce. The supply of the great, the productive, and increasing markets of the United States must be a primary object of British policy, and Great Britain would doubtless be cautious not to hazard it for one comparatively of much less importance.

Art. 6. As this was approved, I shall only observe that I considered the reservation contained in it important, as it enabled the United States to counteract the British policy in respect to the trade with the West Indies, which is the object of it, by means the most efficacious, whenever they should be resorted to. The trade of Great Britain with the United States is carried on principally by circuitous voyages, in which her vessels pass from the ports of the United States to the West Indies. By suspending the intercourse between the United States and her West Indies in British vessels, the chain would be broken, and the whole commerce in such vessels be in a great measure suspended. The provision in the article obviously looks to such an object, and the time of carrying it into effect, unless the trade should be placed on satisfactory ground, would have depended altogether on the United States.

Having already noticed the subjects which are embraced by the following articles, I shall add but little more on any of them to what is said in our joint letter of January 3. 1807. The seventh was taken literally from the Treaty of 1794. The eighth and ninth amended, as you allow, the articles in that treaty on the same subject. The tenth, relative to blockade, taken in connexion with the British paper of December 31, 1806, placed, as I presumed, that interest on ground which would be satisfactory. The preamble cannot affect it unfavorably, as it does not alter the acknowledged law. The only effect which it could have would be to admonish the courts to be cautious in admitting evidence of notice, on account of the distance of the United States from the blockaded ports. It was supposed to give the United States a claim to a more favorable rule, in respect to evidence, than was allowed to Powers more contiguous to the theatre of action. The doctrine contained in Mr. Merry's note to you was not contested by the British Commissioners. It is, on the contrary, maintained in their note to us of December 31, 1806, in which it is asserted to be notorious "that the King did not declare any ports to be in a state of blockade without allotting to that object a force sufficient to make the entrance into them manifestly dangerous." I quote the passage in their note, to observe that the doctrine is not made conditional on any other part of it, but is laid down as the established law. It justifies the additional remark, that the preamble was not intended, and cannot be construed to alter the law. It follows that it cannot produce any other effect than that which is above imputed to it.

The thirteenth article relates to the search of merchant vessels, and differs from the nineteenth of the Treaty of 1794 in the introductory sentence, which enjoins it on the commanders of ships of war and privateers to observe, in the course of the war which may then exist, as much as possible, the acknowledged rules and principles of the law of nations, and also in the penal sum (which it increases) to be given by the commanders of privateers before they receive their commissions, as a security for their good conduct under them. It was supposed that in this, as in the preceding case, the law remained untouched, and that the stipulation produced no other effect than to enjoin it on the Governments respectively, to be particularly attentive to the conduct of its officers in the respect alluded to.

The thirteenth article and the paper of the British Commissioners of the 31st December, 1806, obviously look to the Russian convention as the standard of the acknowledged law respecting the search of merchant vessels and blockade. That instrument was held constantly in view on both sides, in every discussion on those subjects, and indeed on every other to which it extends; and its doctrine admitted, especially in those, to be the established law. We were extremely desirous, and used our best exertions, to introduce articles to the same effect into our treaty, but it was utterly impossible to accomplish it. It must, however, be allowed, that if engagements of the kind alluded to, especially in regard to blockade, for which there was a special document, would not be observed, that it would be useless to stipulate them by treaty.

On the subject of the seventeenth article I have already made some remarks under another head. I cannot think that a stipulation to receive

the ships of war of each party hospitably into the ports of the other, restrains them from limiting the number of ships to be admitted at one time, or from designating the ports to which they shall be admitted. A stipulation to admit them settles only, as I presume, the principle that they shall be admitted, and leaves open to arrangement the other points connected with it. This opinion is supported by a passage in the article itself, as to the ports, which secures to vessels which might be driven by stress of weather, &c., into ports not open to them in ordinary cases, an hospitable reception in such ports. Had the right to designate the ports been given up by the general stipulation, there would have been no necessity for that contained in this passage. The remark is equally applicable to the other case, that of the number to be admitted at one time, as that must be an affair of special and strict regulation; an exception which admitted none, by securing rights to them in case they entered, would necessarily defeat the limitation itself.

The stipulation which relates to the good treatment of the officers of each party in the ports of the other, being reciprocal, contains no reflection on one which is not applicable to the other, and I will venture to affirm that it is equally necessary in regard Great Britain as to the United States. It is well known, in respect to the latter, that the passions which were excited by the Revolution did not long survive the struggle; that the sword was no sooner sheathed than the calamities of the war were forgotten. The injured are always the first to forgive. It is, however, just to remark, that time has essentially effaced from the people of both nations the hostile impression which that arduous conflict produced. The twenty-third article was thought to contain a useful stipulation, by securing to the United States the advantages in navigation and commerce which Great Britain might afterwards grant to any other nation, and subject, of course, to the conditions incident to it. It amounts to this, that if Great Britain should concede any accommodation to another Power in commerce with her East or West India colonies, or any other part of her dominions, gratuitously, the United States would be entitled to it on the same terms; but if she made such accommodation in consideration of certain equivalents to be given her in return, that the United States would not be entitled to those advantages without paying equivalents. The doctrine is the same in its application to the United States. If they should grant any privileges in trade to France or Spain for admission into their West India colonies, Great Britain would be entitled to the same, provided she admitted the United States into her islands also, and not otherwise. I could not perceive, therefore, how it was possible that the United States should be injured by the stipulation contained in this article, while it was probable that they might derive some advantage from it. It could not restrain them from passing a navigation act to place them on an equal footing with Great Britain, especially if it was made general, or applied only to her and the other nations having such acts. The right to pass such an act was not taken away by any other stipulation in the treaty, and there was nothing in this article that had such a tendency. The terms, "shall *continue* to be on the footing of the most favored nations," &c., refer to the principles established by the preceding articles, and not to the existing laws or regulations of either party. If the latter was the case, it would follow that the tonnage duties, the discriminating duties, &c., would remain as they were. The preceding articles were intended, in the points to which they extended, to establish a standard of equality between the parties, to which the regulations of each, whether they exceeded or fell short of it, should be brought. It could not be doubted that the British export duty was of the first description; that it violated the principle of the most favored nation. The British Commissioners admitted the fact, and did not pretend to justify it on that ground. They urged in its favor, only, that the same duty was imposed on exports to their own colonies in America; and that if any change was made in it, to satisfy the claim of the United States, on the principle of the right of the most favored nation, it would be to raise it on the goods exported to other countries, not to reduce it on those sent to the United States. The principle, however, established by this article, being applicable to that duty, it was to be presumed that it might fairly be relied on to obtain a modification of it, either by reducing the duty on exports to the United States, or raising it on those to other nations. There is nothing in this article to restrain the United States from adopting measures to counteract the British policy with respect to the West Indies. If that object had not been secured by a special article, from a possibility of being affected by the others, the principle established by the present one could not have affected it otherwise than beneficially.

Having replied to your objections to the several articles of the treaty and the papers connected with it, and given our view of them, I shall proceed to make some remarks on the whole subject, to do justice to the conduct of the American Commissioners in that transaction.

In every case which involved a question of neutral right or even of commercial accommodation, Great Britain was resolved to yield no ground which she could avoid, and was evidently prepared to hazard war rather than yield much. There seemed to be no mode of compelling her to yield than that of embarking in the war with the opposite belligerent, on which great question it belonged to the National Councils to decide. We had pressed the claims of the United States, in the negotiation, to the utmost limit that we could go, without provoking that issue. It is most certain that better terms could not have been obtained, at the time we signed the treaty, than it contains.

The state of the war in Europe, suggested, likewise, the propriety of caution on our part. Russia was then on the side of England, and likely to continue so; and Austria, known to be in the same interest, was holding an equivocal attitude,

and ready to take advantage of any favorable event that might occur. Prussia, lately powerful, had been defeated, but was not absolutely subdued; her King, the ally and friend of Alexander, kept the field with him, and made head against France. The Emperor of France, far removed from his dominions, was making the bold and dangerous experiment of the effect which his absence might produce in the interior, and in a situation to be compelled to risk every thing, if pressed by his adversary, on the precarious issue of a single battle. These were strong reasons why we should not throw ourselves too decisively into that scale.

The situation of the United States, always a respectable one, was then less imposing than it usually was. It was known that they were not on good terms with Spain, and that France was the ally of Spain. Their interior, too, was disturbed by a conspiracy of doubtful extent and dangerous tendency, the consequences of which were sure to be greatly magnified by all who were unfriendly to our happy system of Government. Those circumstances could not fail to be taken into view by any the most friendly administration in England, when pressed to make concessions which it was unwilling to make. Add to these considerations the important one, that the British Ministry had become much impaired in its strength, especially in what concerned the United States, by the death of a very eminent and distinguished statesman, and had not the power, or thought that it had not, to pursue a liberal policy towards the United States, and that its power was evidently daily diminishing.

These considerations induced us to sign the treaty, and submit it to the wisdom of our Government, after obtaining the best conditions that it was possible to obtain. We were aware that, in several points, it fell short of the just claims of our country. But we were persuaded that such an arrangement was made of the whole subject as justified us in the part which we took. In the rejection or adoption of the treaty I felt no personal interest. Having discharged my duty with integrity and zeal, I neither wished applause nor dreaded censure. Having the highest confidence in the wisdom, the rectitude, and patriotism of the Administration, I was satisfied that it would pursue the course which an enlightened view of the public interest and a just sensibility to the national honor might dictate.

Our letter of January 3 was written in haste, and was deficient in many of the explanations which would otherwise have been given of the treaty. I was happy, when at Washington, to find that you were perfectly willing to receive any explanation which I might now be disposed to give of that transaction, and to allow them the weight which they might deserve. In making this communication, I have indulged the freedom which belonged to it, in full confidence that it would be approved.

I cannot conclude this letter without adding my most ardent wish that the Administration may succeed in conducting our affairs with every Power to the happiest result. My retirement, which had been long desired, and delayed only by the arduous and very important duties in which I was engaged, had become necessary as a relief to my mind, after much fatigue, and to the interest of my family, which had been neglected and greatly injured by my absence in the public service. It is still my desire to cherish retirement. Should it, however, be our unfortunate destiny, which I most earnestly hope will not be the case, to be involved in foreign war or domestic trouble, and should my services be deemed useful, I will not hesitate, at the desire of the Administration, to repair again to the standard of my country.

JAMES MONROE.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE,
May 22, 1807.

SIR: In my letter of March 18th to the joint commission, it was signified that, in a conventional arrangement on the subject of boundaries, it would be inconsistent with the views of the President to open any part of Louisiana to a British trade with the Indians. From the evident solicitude of the British Government on this point, it is highly probable that the determination of the President will be a bar to any adjustment of that part of the differences between the two countries; nor is it very probable, considering the jealousy and want of information on the British side, that, independently of that obstacle, the adjustment would, at this time, be concluded. That you may not, however, be without any information which might contribute to its accuracy, or put you on your guard against propositions militating against any of our just pretensions, I transmit herewith copies of a communication from the Governor of New York, and of another from the Governor of Vermont. With respect to the last, it may be sufficient merely to save the right of correcting the alleged error at a future day. With respect to the subject of the former, it may be proper either to leave that also open to future discussion, or rather to provide for a joint examination and report relative to the islands and channels in the St. Lawrence, &c. The most obvious and convenient demarcation would seem to be the channel best fitted for navigation. But as a more equal division of the islands might possibly be made, without losing sight of a sufficient channel for common use, and as military positions may be involved in the case, it may be most safe and satisfactory to both parties to proceed on more thorough and impartial information than is now possessed by either. I address these communications to our ordinary Minister at London, merely because the subject has not been formally transferred to the joint Commissioners. They will, of course, be for the use of the latter, if this branch of the negotiation should remain in their hands.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *July* 6, 1807.

SIR: The documents herewith enclosed, from No. 1 to No. 9, inclusively, explain the hostile at-

tack, with the insulting pretext for it, lately committed near the Capes of Virginia by the British ship of war the Leopard on the American frigate the Chesapeake.

No. 10 is a copy of the proclamation issued by the President, interdicting, in consequence of that outrage, the use of our waters, and every other accommodation, to all British armed ships.

This enormity is not a subject for discussion. The immunity of a national ship of war from every species and purpose of search on the high seas, has never been contested by any nation. Great Britain would be second to none in resenting such a violation of her rights and such an insult on her flag. She may bring the case to the test of her own feelings by supposing that, instead of the customary demand of our mariners, serving compulsively even on board her ships of war, opportunities had been seized for rescuing them, in like manner, whenever the superiority of force, or the chance of a surprise, might be possessed by our ships of war.

But the present case is marked by circumstances which give it a peculiar die. The seamen taken from the Chesapeake had been ascertained to be native citizens of the United States, and this fact was made known to the bearer of the demand, and doubtless communicated by him to his commander previous to the commencement of the attack. It is a fact, also, affirmed by two of the men with every appearance of truth, that they had been impressed from American vessels into the British frigate from which they escaped, and by the third, that having been impressed from a British merchant ship, he had accepted the recruiting bounty under that duress, and with a view to alleviate his situation till he could escape to his own country: add, that the attack was made during a period of negotiation, and in the midst of friendly assurances from the British Government.

The printed papers herewith sent will enable you to judge of the spirit which has been roused by the occasion. It pervades the whole community; is abolishing the distinctions of party; and, regarding only the indignity offered to the sovereignty and flag of the nation, and the blood of citizens so wantonly and wickedly shed, demands, in the loudest tone, an honorable reparation.

With this demand you are charged by the President. The tenor of his proclamation will be your guide in reminding the British Government of the uniform proofs given by the United States of their disposition to maintain faithfully every friendly relation; of the multiplied infractions of their rights by British naval commanders on our coasts and in our harbors; of the inefficacy of reiterated appeals to the justice and friendship of that Government; and of the moderation, on the part of the United States, which reiterated disappointments had not extinguished; till at length no alternative is left, but a voluntary satisfaction on the part of Great Britain, or a resort to means depending on the United States alone.

The nature and extent of the satisfaction ought to be suggested to the British Government, not less by a sense of its own honor than by justice to that of the United States. A formal disavowal of the deed, and restoration of the four seamen to the ship from which they were taken, are things of course, and indispensable. As a security for the future, an entire abolition of impressments from vessels under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction. The abolition must be on terms compatible with the instructions to yourself and Mr. Pinkney on this subject; and, if possible, without the authorized rejection from the service of the United States of British seamen who have not been two years in it. Should it be impossible to avoid this concession on the part of the United States, it ought, as of itself more than a reasonable price for future security, to extend the reparation due for the past.

But beyond these indispensable conditions, the United States have a right to expect every solemnity of form, and every other ingredient of retribution and respect, which, according to usage and the sentiments of mankind, are proper in the strongest cases of insult to the rights and sovereignty of a nation. And the British Government is to be apprized of the importance of the full compliance with this expectation, to the thorough healing of the wound which has been made in the feelings of the American nation.

Should it be alleged as a ground for declining or diminishing the satisfaction in this case, that the United States have themselves taken it by the interdict contained in the proclamation, the answer will be obvious. The interdict is a measure not of reparation, but of precaution, and would, besides, be amply justified by occurrences prior to the extraordinary outrage in question.

The exclusion of all armed ships whatever from our waters is, in fact, so much required by the vexations and dangers to our peace, experienced from these visits, that the President makes it a special part of the charge to you to avoid laying the United States under any species of restraint from adopting that remedy. Being extended to all belligerent nations, none of them could of right complain, and with the less reason, as the policy of most nations has limited the admission of foreign ships of war into their ports to such numbers as being inferior to the naval force of the country, could be readily made to respect its authority and laws.

As it may be useful, in enforcing the justice of the present demand, to bring into view applicable cases, especially where Great Britain has been the complaining party, I refer you to the ground taken and the language held by her in those of Falkland's Island and Nootka Sound, notwithstanding the assertion of Spain, in both cases, that the real right was in her, and the possessory only in Great Britain. These cases will be found in the Annual Registers for 1771 and 1790, and in the Parliamentary Debates for those years. In the latter you will find also two cases referred to, in one of which the French King sent an Ambassador Extraordinary to the King of Sardinia, in the most public and solemn manner, with an

apology for an infringement of his territorial rights in the pursuit of a smuggler and murderer. In the other case, an Ambassador Extraordinary was sent by the British Government to the Court of Portugal with an apology for the pursuit and destruction, by Admiral Boscawen, of certain French ships on the coasts of this last kingdom. Many other cases, more or less analogous, may doubtless be found, (see particularly the reparation by France to Great Britain for the attack on Turk's Island in 1764, as related in the Annual Register and in Smollett's continuation of Hume, vol. 10; the proceedings in the case of an English merchantman which suffered much in her crew and otherwise from the fire of certain Spanish xebecks cruising in the Mediterranean, and the execution of the lieutenant of a privateer for firing a gun into a Venetian merchantman, which killed the captain, as stated in the Annual Register for 1784, page 94.) The case of an affront offered to a Russian Ambassador in the reign of Queen Anne, though less analogous, shows, in a general view, the solemnity with which reparation is made for insults having immediate relation to the sovereignty of a nation.

Although the principle, which was outraged in the proceedings against the American frigate, is independent of the question concerning the allegiance of the seamen taken from her, the fact that they were citizens of the United Sates, and not British subjects, may have such an influence on the feelings of all, and perhaps, on the opinions of some unacquainted with the laws and usages of nations, that it has been thought proper to seek more regular proofs of their national character than were deemed sufficient in the first instance. These proofs will be added by this conveyance, if obtained in time, if not, by the first that succeeds.

The President has an evident right to expect from the British Government not only an ample reparation to the United States in this case, but that it will be decided without difficulty or delay. Should this expectation fail, and, above all, should reparation be refused, it will be incumbent on you to take proper measures for hastening home, according to the degree of urgency, all American vessels remaining in British ports, using for the purpose the mode least likely to awaken the attention of the British Government. Where there may be no ground to distrust the prudence or fidelity of Consuls, they will probably be found the fittest vehicles for your intimations. It will be particularly requisite to communicate to our public ships in the Mediterranean the state of appearances, if it be such as ought to influence their movements.

All negotiation with the British Government on other subjects will, of course, be suspended until satisfaction on this be so pledged and arranged as to render negotiation honorable. Whatever may be the result or the prospect, you will please to forward to us the earliest information.

The scope of the proclamation will signify to you that the President has yielded to the presumption that the hostile act of the British commander did not pursue the intentions of his Government. It is not indeed easy to suppose that so rash and so critical a step should have originated with the admiral, but it is still more difficult to believe that such orders were prescribed by any Government, under circumstances such as existed between Great Britain and the United States.

Calculations founded on dates are also strongly opposed to the supposition that the orders in question could have been transmitted from England. In the same scale are to be put the apparent and declared persuasion of the British representative, Mr. Erskine, that no orders of a hostile spirit could have been issued or authorized by his Government, and the coincidence of this assurance with the amicable professions of Mr. Canning, the organ of the new Administration, as stated in the despatch of April 22 from yourself and Mr. Pinkney.

Proceeding on these considerations, the President has inferred that the justice and honor of the British Government will readily make the atonement required; and, in that expectation, he has forborne an immediate call of Congress, notwithstanding the strong wish which has been manifested by many that measures depending on their authority should without delay be adopted. The motives to this forbearance have, at the same time, been strengthened by the policy of avoiding a course which might stimulate the public cruisers, in this quarter, to arrest our ships and seamen now arriving, and shortly expected in great numbers from all quarters. It is probable, however, that the Legislature will be convened in time to receive the answer of the British Government on the subject of this despatch, or even sooner, if the conduct of the British squadron here, or other occurrences, should require immediate measures beyond the authority of the Executive.

In order to give the more expedition and security to the present despatch, a public armed vessel, the Revenge, is specially employed, and Dr. Bullus is made the bearer, who was on board the Chesapeake, on his way to a Consulate in the Mediterranean, and will be able to detail and explain circumstances which may possibly become interesting in the course of your communications with the British Government.

The vessel, after depositing Dr. Bullus at a British port, will proceed with despatches to a French port, but will return to England with a view to bring the result of your transactions with the British Government. The trip to France will afford you and Mr. Pinkney a favorable opportunity for communicating with our Ministers at Paris, who, being instructed to regulate their conduct on the present occasion by the advices they may receive from you, will need every explanation that can throw light on the probable turn and issue of things with Great Britain.

I have the honor to be, &c.,

JAMES MADISON.

JAMES MONROE, Esq.

Mr. Madison to Mr. Monroe and Mr. Pinkney.

DEPARTMENT OF STATE,
July 30, 1807.

GENTLEMEN: Your letter of April 25th, enclosing the British project of a convention of limits, and your proposed amendments, has been duly received. The following observations explain the terms on which the President authorizes you to close and sign the instrument.

1st. The modification of the 5th article (noted as one which the British Commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the proviso to both should be omitted. This is in no view whatever necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific Ocean. However reasonable such claims may be compared with those others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which is probably an object with Great Britain to excite by the clause in question.

2d. The privileges of British trade and intercourse with the Indians, allowed by existing stipulations, are not to be extended to Indians dwelling within the limits of the United States as determined by the Treaty of Peace.

The motives for excluding foreign traders from the territories of the United States westward of the Mississippi, have been heretofore stated to you. These motives gain strength daily. It is manifest, also, that the proposition on the part of Great Britain fails essentially in the point of real and fair reciprocity; first, as it excepts the possessions of the Hudson Bay Company, without any equivalent exception on our side of the boundary; secondly, as the use of the privilege by our traders on the British side of the boundary is known to be attended with danger and secret obstructions, to which British traders on our side of the boundary are in no degree exposed; 3dly, as all chance of competition with British traders on the British side would be completely frustrated by the disparity of duties and of prices, under which the American and British traders would respectively carry their merchandise to the Indian market on that side. The British Government now complains of the disadvantage resulting to their Indian traders on the eastern side of the Mississippi, from an excess of duty amounting to about six per cent. In the Indian trade within the British territory, the difference against our traders is equal to the difference between the duties imposed in the United States and those imposed in Canada, or rather, as no duties are probably imposed in Canada, equal to the full amount imposed in the United States, that is, to 15 or 20 per cent. It is enough to be under this inequality, as it relates to the existing stipulation. To extend it as proposed is more than can be fairly expected. The bargain would still be far worse on our side, if the British proposals contemplate a free access to the waters westward of the Mississippi, with goods free of duty for the Indians of Louisiana.

Having already transmitted to Mr. Monroe sundry documents throwing light on our relations with the Indians in the northwest quarter, I add a few others not a little curious as well as not uninteresting.

3d. Access by land or inland navigation from the British territories, through the territory of the United States, to the river Mississippi, is not to be allowed to the British subjects with their goods or effects, unless such articles shall have paid all the duties, and be within all the custom-house regulations, applicable to goods and effects of citizens of the United States. An access through the territory of the United States to the waters running into the western side of the Mississippi, is under no modification whatever to be stipulated to British subjects.

There can be no good reason with Great Britain for wishing an access to the Mississippi for goods free of duty, because the river can never be a highway to any other market than the consumption of our citizens; and as this cannot be attained without a previous payment of the usual duties, it must be the same thing whether the duties be paid on and after entering the limits of the United States; or rather the only difference would be in the greater facility of evading the duties in the latter than in the former case—a facility which cannot be supposed to be approved by Great Britain, or admissible by the United States.

4th. It may be agreed that the ad valorem duties now payable on goods imported into the United States from the neighboring territories of Great Britain shall be regulated according to the value thereof, estimated in the same manner as if directly imported from beyond sea, and that licenses to Indian traders, and passes for their canoes and carriages, shall be freely granted; but that the British traders shall in all respects be subject to the restrictions and precautions with respect to the articles to be supplied to the Indians as are imposed on citizens of the United States engaged in the same trade.

I have only to express the President's approbation of the idea of keeping open, for future decision, our right to the island of Grand Manan, and to suggest as a desirable addition to the eighth article, a clause providing "that in the meantime British vessels shall not be restrained from carrying plaster, &c., to any ports of the United States." It appears that a disposition exists to compel the British vessels to trade to the more distant ports of the United States, instead of resorting to the nearer ones, whence the plaster, &c. is now conveyed by vessels of the United States. To the spirit and outrages which prevail in that quarter, I refer to the communications from the collector of Passamaquoddy, herewith enclosed. Affidavits of the facts stated by the collector have also been transmitted by him.

I have the honor to be, &c.,
JAMES MADISON.

Messrs. MONROE and PINKNEY, *Ministers, &c.*

Mr. Monroe to Mr. Madison.

LONDON, *August* 4, 1807.

SIR: I avail myself of the opportunity afforded by Mr. Biddle to communicate to you a copy of a correspondence, and the substance of a conference between Mr. Canning and myself, relative to the late aggression on the peace and sovereignty of the United States by the British ship Leopard, in an attack on the Chesapeake, off the Capes of Virginia.

Mr. Canning's private letter of July 25, which gave the first intelligence of the occurrence, left it doubtful whether the British officers had been culpable in it; and as I knew how very reprehensible their conduct had been on our coast on many other occasions, and to what height the sensibility of our citizens had been excited by it, I thought it not improbable that something might have occurred to divide the blame between the parties. It was under that impression that my answer was written. On the next day, the leading features of the transaction were presented to the public through the medium of the gazettes, which were taken from private accounts received directly from Halifax, by a vessel which had been despatched by Admiral Berkeley with the official one. By these it was evident that the British officer was completely the aggressor in an outrage of great enormity, attended with circumstances which increased the offence. It was understood, likewise, from good authority, that the official intelligence which the Government had received corresponded with and confirmed the other accounts already before the public.

On full consideration of these circumstances, I concluded that it would be highly improper for me to leave the affair on the ground on which Mr. Canning had placed it. I could see no other motive in him to obtain further information relative to the transaction than for the purpose of ascertaining whether the men said to be deserters, and for whom the attack was made, were American citizens or British subjects; to which it was impossible for me to give any countenance. I thought it indispensable, therefore, to call on the Government to disavow the principle, and to engage such other reparation to the United States as their injured honor obviously required. It appeared to me that any delay in taking that step, which depended on an abstract principle, and required no argument to illustrate or facts to support it, would have a tendency to weaken a claim which was unquestionable, and to countenance the idea that it would not be supported with suitable energy.

I had, before the knowledge of this event, obtained the appointment of an interview with Mr. Canning, on other business, to take place on the 29th ultimo. We met according to the appointment. I observed, in opening the conference, that, although the topics which had brought us together were important, the late occurrence, at the entrance of the Chesapeake, had, in a great measure, put them out of sight. He expressed his regret that such an event, which would at all times furnish cause of concern, should have happened at the present time. He asked if the men in question were American citizens or British subjects? I replied that that was a point which could not come into view in the case; that it was one which, according as the fact might be, would make the cause more or less popular in either country, but could not affect the principle; that, on principle, a ship of war protected all the people on board, and could not be entered to be searched for deserters, or for any purpose, without violating the sovereignty of the nation whose flag she bore; that, in the present case, I had been assured that the men were American citizens, and that the British Minister at Washington had been made acquainted with it. He said little on the subject, but, by the tendency of what he did say, seemed to imply that his Government could not lose sight of the consideration above alluded to; nor indeed did he admit, by anything that escaped him, that the abstract principle itself would not be insisted on. His remarks, however, were generally of a conciliatory and friendly character. Without pledging himself on any point, he seemed desirous to satisfy me that no new orders had been issued by the present Ministry to the commandant of the British squadron at Halifax. I observed that, as the notes which had passed between us were informal, and on a very limited view of the subject on my part, it would be proper for me, now that the circumstances were better known, to present him an official note on it. He admitted the propriety of it.

I then drew Mr. Canning's attention to the subjects on which I had asked the interview, being the case of the Impetueux. Captain Love's correspondence, the conduct of Captain Douglas, and of the British squadron, generally, on our coast. I observed that I had heretofore postponed any official communication on these points, from a desire to connect them with the greater object depending between our Governments, and, of course, from motives the most friendly; that I brought them to his view at this time in consequence of Mr. Pinkney and myself having commenced the other business, as he knew had been done. He promised to attend to them.

On the 29th of July I wrote Mr. Canning the note which I had promised him in the late interview. I addressed it in terms which I thought suitable to the occasion, observing to state in it that I took the step from a sense of duty applicable to my station, as the resident Minister, and without authority from my Government. I considered the act as that of the British officer, in which the Government had no agency, was not bound to support, and which it would be honorable for it to disavow. I flattered myself that some advantage might arise from the measure, and that, under the circumstances in which it was taken, no injury possibly could. His reply is dated on the 3d instant, which, though addressed in rather a harsh tone, may be considered as conceding essentially the point desired. It is my intention to say nothing more to him on the

subject till I hear from you, and in the meantime to observe the most conciliatory conduct that circumstances will admit.

Such is the state of this country at the present crisis, that it is impossible to foresee what will be its course of conduct towards the United States. There has been, at all times since the commencement of the present war, a strong party here for extending its ravages to them. This party is composed of the ship owners, the navy, the East and West India merchants, and certain political characters of great consideration in the State. So powerful in this combination, that it is most certain that nothing can be obtained of the Government on any point but what may be extorted by necessity. The disasters to the north ought to inspire moderation, but, with respect to the Northern Powers, it seems to have produced directly the opposite effect. A fleet of about twenty-five ships-of-the-line, with a suitable number of frigates, &c., and above twenty thousand men, has been lately equipped and sent to the Baltic, as it is said, to take possession of the Danish and Russian navies. This measure is imputed to an understanding which, it is supposed, has been established between the Cabinets of Russia and Paris by the late peace, and which has for its object a concert of measures for the purpose of attempting to force on this country a maritime code more favorable to neutral nations. The motive assigned for the expedition is that of taking possession of the Danish fleet, to keep it out of the hands of the French. That the Russian fleet is one of the objects is not so generally believed, though perhaps not less probable.

Mr. Pinkney and myself have taken the first step in our business; we will write you in a few days the state of it. You may be assured that we shall do everything in our power to promote, in the mode most likely to succeed, the object of our instructions and the interests of our country. Want of time prevents my going into further detail.

I have the honor to be, with great consideration, sir, your most obedient servant,

JAMES MONROE.

JAMES MADISON, *Secretary of State.*

[Referred to in Mr. Monroe's despatch of August 4.]

Mr. Canning to Mr. Monroe.

FOREIGN OFFICE,
Saturday, July 25, 1807.

Mr. Canning presents his compliments to Mr. Monroe; and, with sentiments of the deepest regret, hastens to inform him that intelligence has just been received of a transaction which has taken place, off the coast of America, between a ship of war of His Majesty and a frigate belonging to the United States; the result of which has been the loss of some lives on board the American frigate.

The particulars of this transaction, and the grounds of the justification of the British officer, and of the Admiral under whose orders he acted, Mr. Canning is not at present enabled to communicate to Mr. Monroe.

If Mr. Monroe should have received any accounts of it, Mr. Canning trusts that he will lose no time in communicating them to Mr. Canning.

But whatever the real merits and character of the transaction may turn out to be, Mr. Canning could not forbear expressing without delay the sincere concern and sorrow which he feels at its unfortunate result, and assuring the American Minister, both from himself and on the behalf of His Majesty's Government, that, if the British officers should prove to have been culpable, the most prompt and effectual reparation shall be afforded to the Government of the United States.

JAMES MONROE, Esq., &c.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE,
Monday, July 27, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and is much obliged to him for the information communicated in his note of Saturday. Mr. Monroe has heard with extreme regret the account it contains of a rencounter between a British ship of war and an American frigate, off the coast of the United States. He has no knowledge of the subject, except what Mr. Canning's note has furnished, but will not fail to communicate the earliest intelligence which he may receive of an event so deeply to be lamented. Mr. Monroe derives, in the meantime, much satisfaction from the friendly assurance of Mr. Canning that this unfortunate occurrence was not authorized by His Majesty's Government, and that suitable reparation will be made for the injury, if, on inquiry, the British officer shall be found the aggressor.

The Right Hon. GEORGE CANNING, &c.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *July* 29, 1807.

SIR: Although I have no instruction from my Government on the subject, it is my duty to request the attention of His Britannic Majesty's Government to a late aggression on the sovereignty of the United States of a very extraordinary nature. The circumstances of the transaction are too distinctly marked to leave any doubt of the extent of the outrage, or of the reparation which it obviously claims. By accounts, which are entitled to full confidence, it appears that, on the 23d of June last, His Majesty's ship the Leopard attacked an American frigate off the coast of the United States, with a view to assert and enforce the unfounded and most unjustifiable pretension to search for deserters; and, after having killed and wounded a number of her men, entered on board and carried away forcibly several of the crew. The conduct of the British officer, which in itself forms an act of complete hostility, is rendered more reprehensible from the consideration that, just before this aggression, he held a station within the jurisdiction of the United States, in the waters of the Chesapeake, where, while he enjoyed the rights of hospitality, he projected this attack against the ship of a neutral Power, whose commander, relying on the good faith of His Majesty's Government and the friendly relations subsisting between Great Britain and the United States, could not have suspected the design. I might state other examples of great indignity and outrage, many of which are of recent date, to which the United States have been exposed off their coast, and even within several of their harbors, from the British squadron; but it is improper to mingle them with the present more serious cause of complaint. I have called your attention to this subject, in full confidence that His Majesty's Government will see, in the act complained of, a flagrant abuse of its own authority, and that it will not hesitate to enable me to communicate to my Government, without delay, a frank disavowal of the principle on which it was made, and its assurance that the officer who is responsible for it shall suffer the punishment which so unexampled an aggression on the sovereignty of a neutral nation justly deserves.

I have the honor to be, with great consideration, sir, your very obedient servant,

JAMES MONROE.

The Right Hon. GEORGE CANNING, &c.

From Mr. Canning.

FOREIGN OFFICE, *Aug.* 3, 1807.

SIR: I have the honor to acknowledge the receipt of your official note of the 29th ultimo, which I have lost no time in laying before the King.

As the statement of the transaction to which this note refers is not brought forward either by the authority of the Government of the United States, or with any precise knowledge of the facts on which it is founded, it might have been sufficient for me to express to you His Majesty's readiness to take the whole of the circumstances of the case, when fully disclosed, into his consideration, and to make reparation for any alleged injury to the sovereignty of the United States, whenever it should be clearly shown that such injury has been actually sustained, and that such reparation is really due.

Of the existence of such a disposition on the part of the British Government, you, sir, cannot be ignorant: I have already assured you of it, though in an unofficial form, by the letter which I addressed to you on the first receipt of the intelligence of this unfortunate transaction; and I may, perhaps, be permitted to express my surprise, after such an assurance, at the tone of that representation which I have just had the honor to receive from you.

But the earnest desire of His Majesty to evince, in the most satisfactory manner, the principles of justice and moderation by which he is uniformly actuated, has not permitted him to hesitate in commanding me to assure you, that His Majesty neither does nor has at any time maintained the pretension of a right to search ships of war, in the national service of any State, for deserters.

If, therefore, the statement in your note should prove to be correct, and to contain all the circumstances of the case, upon which complaint is intended to be made, and if it shall appear that the act of his His Majesty's officers rested on no other grounds than the simple and unqualified assertion of the pretension above referred to, His Majesty has no difficulty in disavowing that act, and will have no difficulty in manifesting his displeasure at the conduct of his officers.

With respect to the other causes of complaint, (whatever they may be,) which are hinted at in your note, I perfectly agree with you, in the sentiment which you express, as to the propriety of not involving them in a question, which of itself is of sufficient importance to claim a separate and most serious consideration.

I have only to lament that the same sentiment did not induce you to abstain from alluding to these subjects on an occasion which you were yourself of opinion was not favorable for pursuing the discussion of them.

I have the honor to be, with great consideration, your most obedient, humble servant,

GEORGE CANNING.

JAMES MONROE, Esq., &c.

Mr. Monroe to the Secretary of State of the United States.

LONDON, *August* 14, 1807.

SIR: I had the honor to transmit you, with my letter of the 4th instant, a copy of a correspondence with Mr. Canning, relative to the late aggression in the case of the Chesapeake frigate. You will receive with this a copy of a more recent one on the same subject.

By Mr. Canning's queries in his last note, I was led to consider them as preparatory to an embargo on American vessels. I could not conceive why he should request information of me, whether the President's Proclamation was authentic, and when it would be carried into effect, if it was not intended to found some measure on my reply of an unfriendly nature. The information desired was not necessary to remove any doubts of his Government on the points to which it applied, or to enable it to do justice to the United States in regard to the aggression of which they complained. The presumption that an embargo was intended gained strength from the circumstance that most of the gazettes had recommended, and that the public mind seemed to be essentially prepared for it. It was my earnest wish to prevent, as far as in my power, so unjust and pernicious a procedure. As the measure contemplated, whatever it might be, seemed to be suspended for my answer, I was extremely solicitous, by the manner, to deprive this Government of all pretext for any of the kind alluded to. By replying generally that I had no instructions from my Government, and could state nothing on its part respecting the late occurrence, I avoided giving a direct answer to Mr. Canning's queries;

and by drawing his attention to the application, which it was to be presumed would soon be made on the part of my Government on that subject, I endeavored to show more strongly the impolicy and injustice which would stamp any such measure on the part of Great Britain in the present stage.

No step has yet been taken by this Government of an unfriendly character towards the United States, and, from the communication which Mr. Canning made to the House of Commons on the day he received my last note, which you will find in the gazettes sent, I am persuaded that things will remain in the state in which they are, till your despatch is received. I trust that a disposition exists to make such reparation on the point in question, as will be satisfactory to the United States, and that it will be practicable and not difficult to preserve the friendly relations subsisting between the two countries. The party, however, in favor of war, consisting of the combined interests mentioned in my last, is strong and active, so that it is impossible to foresee the result.

I have the honor to be, &c.,

JAMES MONROE.

[Referred to in Mr. Monroe's despatch of August 14.]

From Mr. Canning to Mr. Monroe.

FOREIGN OFFICE, *Aug.* 8, 1807.

SIR: Having received from His Majesty's Minister in America an unofficial printed paper, purporting to be a copy of a Proclamation of the President of the United States, I have to request that you will be pleased to acquaint me whether you have received any communication from your Government which enables you to pronounce if such paper be authentic.

In the event of your being empowered to admit its authenticity, I have further to request of you, that you will inform me whether you are also authorized to announce it to be the intention of the Government of the United States to carry into effect the measures stated in the Proclamation of the President, without requiring or waiting for any explanation, on the part of the British Government, with respect to the late unfortunate transaction, upon which the determination to resort to these measures is professed to be founded?

I have the honor to be, &c.,

GEORGE CANNING.

P. S. I have the honor to enclose an American newspaper containing a copy of the paper in question.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Aug.* 9, 1807.

SIR: I have the honor to acknowledge the receipt of your note of yesterday, and should not hesitate to communicate the information which you have desired, if I possessed it; but as I have not heard from my Government on the subject of the unfortunate occurrence alluded to, it is not in my power to state to you anything on the part of my Government respecting it. I have no doubt that I shall be instructed, in a very few days, to make a communication to His Majesty's Government on that highly interesting event, in which I shall be enabled to furnish a full and just view of all the circumstances attending it. As soon as I receive instructions, I shall hasten to apprize you of it.

I have the honor, &c.

JAMES MONROE.

Mr. Monroe to Mr. Madison.

LONDON, *Sept.* 16, 1807.

SIR: I had the honor to receive your letter of July 6th, by Doctor Bullus, on the 31st altimo, and did not lose a moment in entering on the business committed to me by it in the manner which seemed most likely to obtain success. The details shall be communicated to you in my next despatch. All that I can state at present is, that the whole subject has been placed fully before this Government, in as strong an appeal to its interest and judgment as I could make; and that as a week has elapsed since my official note was presented, I am in daily expectation of receiving its decision on it. The moment is in many views very favorable to a satisfactory result, but still it is not in my power, from anything that has occurred, to speak with confidence of it. The joint negotiation committed to Mr. Pinkney and myself was suspended by the intelligence of the affair with our frigate, and has never been revived since. That intelligence reached this about a week after Mr. Purviance, so that we had only been able, with the utmost diligence, to take the preliminary step of presenting to Mr. Canning, in conformity to our instructions, a project, and of explaining to him, in the most minute and comprehensive manner that we could, every circumstance appertaining to it. No answer was given to our communication; the suspension, therefore, of the negotiation was imputable to Mr. Canning; had he answered our communication, and proposed to proceed in the negotiation, it would have become a question for the commission to have decided how far it would have been proper, under existing circumstances, to comply with the invitation. His silence, however, relieved us from that dilemma.

Permit me to present to you Mr. Joseph A. Smith, of South Carolina, and to refer you to him for much information of a general nature on the subject of our affairs with this country. Having been long in Europe, and visited almost every part, he possesses great information of the political state of the several Powers, especially of Russia, from whose Sovereign he received very distinguished marks of attention. In much communication which I have had with Mr. Smith for a year past, I have found him to be animated with strong sentiments of patriotism toward his country; and as he has expressed a desire of being personally known to the President and yourself, I have been happy to promote his object by giving him this introduction.

I am with great respect, sir, your most obedient servant,

JAMES MONROE.

JAMES MADISON, *Secretary of State.*

P. S. A copy of my note to Mr. Canning is enclosed.

No. 10.

PORTLAND PLACE, *Sept.* 1, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and has the honor to inform him that he has just received instructions from his Government relative to the late attack on the United States' frigate Chesapeake by His Majesty's ship Leopard, off the coast of the United States.

Mr. Monroe requests that Mr. Canning would have the goodness to give him an early interview on that subject.

Mr. Monroe requests Mr. Canning to accept the assurances of his high consideration.

No. 11.

From Mr. Canning to Mr. Monroe.

FOREIGN OFFICE, *Sept.* 1, 1807.

Mr. Canning presents his compliments to Mr. Monroe, and requests the honor of seeing him at the Foreign Office on Thursday next, at twelve o'clock.

Mr. Canning would have proposed to see Mr. Monroe to-morrow, if he had not been under the necessity of attending the levee and council at the Queen's palace.

Mr. Canning requests Mr. Monroe to accept the assurances of his high consideration.

No. 12.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Sept.* 7, 1807.

SIR: By the order of my Government, it is my duty to request your attention to the aggression lately committed on the peace and sovereignty of the United States, by His Britannic Majesty's ship of war Leopard, in an attack on an American frigate, the Chesapeake, off the Capes of Virginia. The object of this communication is to obtain of His Majesty's Government a suitable reparation for that outrage, and such an arrangement of the great interest which is connected with it, as will place the future relations of the two Powers on a solid foundation of peace and friendship.

In bringing this subject again to the view of His Majesty's Government, it is unnecessary to dwell on circumstances which are already so well known to you. By the documents which I have the honor to transmit to you, it is shown, that while the outrage was unprovoked and unexpected on one side, there was nothing to extenuate it on the other. The commander of His Majesty's squadron on the coast of the United States appears to have acted on a presumption that he possessed the power to make war, and to decide on the causes of war. It will be difficult to explain the conduct of that officer on any other principle, and equally so to find an example of an aggression marked with such high indignity and injustice to a friendly Power.

The pretext for this aggression could not fail to heighten the sense of injury which the act itself was so signally calculated to excite. My Government was taught to infer from it, that there was no limit to a pretension which had already produced so much mischief, and against which so many remonstrances had been presented, in its application to merchant vessels. But I find, with great satisfaction, that this pretension forms no topic for discussion between us in respect to ships of war; and I trust that the just and enlightened policy which produced the decision in one instance will surmount the obstacle which has hitherto embarrassed it in the other.

The national character of the men who were taken thus violently from on board the Chesapeake makes no part of the question. It is impossible that it should come into view in estimating the injury which the United States have received. The outrage involved a great and uncontested principle, which ought not, in any view, to be affected by appealing to national sensibilities on either side. I have, however, the honor to transmit you documents, which will, I presume, satisfy you that they were American citizens.

With respect to the reparation which my Government ought to receive for this outrage, it will only be necessary to appeal to those sentiments which Great Britain would be sure to indulge, under like circumstances, to that sensibility to national honor which has distinguished so many epochs of her history. It will be recollected that the injury, which in itself was great, was much aggravated by the circumstances which attended it; that the peaceful relations of the United States were violated, and their unsuspecting confidence surprised. But I forbear to recite details which it is painful to contemplate. You will, I am persuaded, be satisfied, that in every light in which the subject can be seen, the honor of my Government, and of the whole nation, has been greatly outraged by the aggression, and that it becomes the honor of His Majesty's Government to make a distinguished reparation for it.

In presenting, in this friendly manner, this important subject to the consideration of His Majesty's Government, I am particularly instructed to request its attention to the great cause to which this and so many other injuries of a like kind may be traced—the impressment of men from the merchant vessels of the United States. In many essential circumstances, the objections which are applicable to impressments from ships of war, are equally applicable to those from merchant vessels. To the individuals who suffer by the practice, the injury is the same in either case. Their claim on their Government for protection is in both cases equal; every maxim of public law, and private

right, which is violated in one, is equally violated in the other. The relation of the belligerent to the neutral Power extends to certain objects only, and is defined in each by known laws. Beyond that limit the rights of the neutral are sacred, and cannot be encroached on without violence and injustice. Is there a question of contraband, is the vessel destined to a blockaded port in violation of established principles, or does she contain enemies' property, the greatest extent to which the maritime law is carried by any nation? In these cases she is conducted to port for trial; the parties are heard by an impartial and responsible tribunal, and are heard again by appeal, if they desire it. Are any of the passengers on board the neutral vessel in the naval or military service of the enemy? If such are found, they are made prisoners; but, as prisoners, they have rights which the opposite belligerent is bound to respect. This practice, however, looks to other objects than are here recited. It involves no question of belligerent on one side, and of neutral on the other. It pursues the vessel of a friend for an unlawful purpose, which it executes in a manner equally unlawful. Every commercial vessel of the United States that navigates the ocean is liable to be invaded by it, and not an individual on board any of them is secure while the practice is maintained. It sets up every officer of His Majesty's navy as a judge, from whose decision there is no appeal. It makes him a judge, not of property, which is held most sacred, nor of the liberty of his fellow-subjects only, however great the trust, and liable to abuse on the main ocean, but that of the citizens of another Power, whose rights as a nation are trampled on by the decision; a decision, in rendering which, every rule of evidence is violated, as it puts the proof of innocence on the accused; and is further highly objectionable, as there is too much reason to believe that it has been often guided more by the fitness of the party for service than any other circumstance. The distressing examples of this system of aggression, as it has affected individuals, on a scale of vast extent, it is unnecessary to recount here; they may be easily imagined. Voluminous documents, which prove them, are in the possession of both Governments.

It is possible that this practice may, in certain cases, and under certain circumstances, have been extended to the vessels of other Powers; but with them there was an infallible criterion to prevent error. It would be easy to distinguish between an Englishman and a Spaniard, an Italian, or a Swede; and the clear and irresistible evidence of his national character, and perhaps of his desertion, would establish the British claim to the individual, and reconcile the nation into whose service he had entered to his surrender. But the very circumstances which would constitute an infallible criterion in those cases, would be sure to produce endless error in the other. Who is so skilful in physiognomy as to distinguish between an American and an Englishman, especially among those whose profession and whose sea-terms are the same? It is evident that this practice, as applied to a foreign nation, to any great extent, has grown out of the American Revolution, and that it is impossible for the United States not to see in it the assertion of a claim which is utterly incompatible with that great event. When the character of this claim, and the pernicious tendency of the practice, are maturely weighed, it must furnish cause for surprise that some just and friendly arrangement has not long since been adopted, to prevent the evils incident to it.

My Government is aware that His Majesty's Government has also an interest of importance to attend to in this delicate concern, and I am instructed to state on its part, that the best disposition exists to provide for it. The United States are far from desiring to profit of a resource which does not belong to them, especially to the prejudice of a friendly Power. In securing them against the practice, which is found to be so highly injurious to their dearest rights, and most valuable interests, every suitable provision will be made to give equal security to those of Great Britain. On this point I am authorized to enter into such an engagement as will, I am persuaded, be adequate to the object.

This great interest of impressment has been blended in all its relations, as you will perceive, by no act of the United States. Its connexion with the late disastrous incident has been produced by an extraordinary act of violence, of which they were the victims only. That act, which exhibits the pretensions in its widest range, has become identified with the general practice, in the feelings and sympathies of the nation, and in the sentiments of the Government. I trust, therefore, that His Majesty's Government will be equally disposed to take up the whole subject at this time, and, in making the reparation which the particular injury claims, provide a remedy for the whole evil. My Government looks to this complete adjustment with confidence, it being indispensably necessary to heal the deep wound which has been inflicted on the national honor of the United States by so great and unjustifiable an outrage.

I avail myself, with great satisfaction, of the opportunity which this communication affords to acknowledge the prompt assurance which you gave me of the disposition of His Majesty's Government to make a suitable reparation to the Government of the United States for the injury of which, by its order, it is now my duty to complain, and for the frank disavowal of the pretension on which it was founded, I hastened to transmit copies of those documents to my Government, by whom, I trust, they are by this time received.

I have the honor to be, with great consideration, sir, your most obedient, humble servant.

JAMES MONROE.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Sept.* 9, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and has the honor to inform him that he called at his office yesterday, for the purpose of making some remarks on the subject treated in the note which he addressed on the —— instant to Mr. Canning. Mr. Monroe regrets that he had not the pleasure of seeing Mr. Canning at that time, and requests that he will be so good as to give him an interview to-morrow, at such hour as may be most convenient to him. Mr. Monroe will be happy to attend Mr. Canning in the country, should it be more agreeable to Mr. Canning to receive him there.

From Mr. Canning, in answer.

BURLINGTON HOUSE,
Wednesday, Sept. 9, 1807, 8¾ P. M.

Mr. Canning presents his compliments to Mr. Monroe, and will be happy to have the honor of seeing him at the Foreign Office to-morrow at 12 o'clock.

Mr. Canning has but this minute received Mr. Monroe's note.

Mr. Monroe to Mr. Madison.

LONDON, *October* 10, 1807.

SIR: I have the honor to transmit you, by Dr. Bullus, a copy of my correspondence with Mr. Canning, on the subject which was committed to my care by your letter of the 6th of July last. You will find by it that the pressure which has been made on this Government, in obedience to the instruction contained in that letter, has terminated in a decision to send a Minister to the United States to adjust the business there. What the powers of that Minister will be, whether it is intended to confine them to the sole object of reparation by the special outrage, or to extend them, in case the proposed separation of that from the general topic of impressment is admitted, to the latter object, it is not in my power to state. Mr. Canning has given me no information on that head in conference, and his note is not explicit on it. It states that the Minister who shall be sent to the United States to bring the dispute relative to the attack on the Chesapeake to a conclusion, shall not be empowered to entertain, as connected with that subject, any proposition respecting the search of merchant vessels; a presumption is authorized, by those terms, that the Minister will have power to treat on the general topic after the special one is arranged. But it is possible that that presumption may have been raised for some other purpose, or that the terms which excite it were introduced merely to convey the idea that the mission should be confined to the special object.

In the discharge of this delicate and important trust, I thought that I should be able more effectually to promote its object by opening the subject to Mr. Canning in conference than by an official note. As the attitude taken by my Government, which was evidently supported by the whole nation, was of a very impressive nature, it seemed probable, from the feverish state of the public mind here in regard to us, that a tone of conciliation, which should not weaken the pressure, would be more likely to succeed in obtaining the reparation desired than an official and peremptory demand. Under this impression, I had had several conferences with Mr. Canning, the substance of which in each I will endeavor to state with precision. A knowledge of what passed in these interviews, in aid of that which is afforded by the correspondence, will enable you to form the most correct idea of the object of the proposed mission that present circumstances will admit of.

The first interview was on the 3d of September, as soon as it could be obtained after the receipt of your letter of July the 6th, which was on the 30th of August. I informed Mr. Canning that, as I wished the discussion in which we were about to enter to terminate amicably and honorably to both our Governments, I had asked the interview for the purpose of promoting that desirable end; that by explaining to each other fully, in friendly conference, the views of our respective Governments relative to the late aggression, I was persuaded that it would be more easy for us to arrange the business to the satisfaction of both parties, than by any other mode which we could pursue. He expressed his sensibility to that which I had chosen, and his readiness to concur in it. I then stated in detail, in explicit terms, the reparation which my Government thought the United States entitled to, and expected that they should receive, for the injury and indignity offered by the late aggression: that the men taken from the frigate should be restored to it; that the officers who had committed the aggression should be exemplarily punished; that the practice of impressment from merchant vessels should be suppressed; and that the reparation consisting of those several acts should be announced to our Government through the medium of a special mission—a solemnity which the extraordinary nature of the aggression particularly required. I observed, that as the aggression, and the principle on which it was founded, had been frankly disavowed, as soon as known, by his Government, I was persuaded that there could be no serious objection on its part to any of the acts which it was desired should constitute the proposed reparation; that to the first act, the restoration of the men, there could doubtless be none, as the least that could be done, after such an outrage, would be to replace the United States, as far as it might be practicable, on the ground they held before the injury was received; that the punishment of the officers followed, as a necessary consequence, to the disavowal of the act; that the suppression of the practice of impressment from merchant vessels had been made indispensable by the late aggression, for reasons which were sufficiently well known to him. I stated to him that the mode in which it was desired that the reparation should be made by a special mission, was that which had been adopted by other Powers, and by Great Britain herself, for injuries less severe than the one alluded to, of which I gave him the examples furnished me in your letter of July 6th. Mr. Canning took a note of what I had stated, and made,

some general remarks on the whole subject, which were intended to give his view of it, on each point, but without compromitting himself in a positive manner on any one. He said that, by the proclamation of the President, and the seizure and detention of some men who had landed on the coast to procure water, the Government seemed to have taken redress into its own hands; he complained of the difference which he said had been made between France and England, by restoring deserters to the vessels of the former and not the latter; he insisted that the late aggression was an act different in all respects to the former practice, and ought not to be connected with it, as it showed a disposition to make a particular incident, in which they were in the wrong, instrumental to an accommodation in a case where his Government held a different doctrine. I urged, in reply, that the proclamation could not be considered as an act of hostility or retaliation for injuries, though the aggression had provoked, and would have justified any the strongest act of reprisal, but as a mere measure of police, which had become indispensable for the preservation of order within the limits of the United States. I informed him that the men who had landed from the squadron, in defiance of the proclamation, and of the law on which it was founded, had been restored to it; that, with respect to the other point, the difference said to be made in the case of deserters from British and French ships, I was unacquainted with the fact, but was satisfied, if the statement was correct, that the difference was imputable to the local authorities and not to the National Government, because, as the United States were not bound by treaty to restore deserters from the service of either nation, it was not presumable that their Government would interfere in the business. I observed, however, that if such a preference had been given, there was a natural and justifiable cause for it, proceeding from the conduct of the squadrons of France and England on the coast of the United States and on the main ocean; it being a well known fact that the former did not maintain as a right, or adopt in practice, the doctrine of the latter to impress seamen from our merchant vessels. I then discussed at length, and urged with great earnestness, the justice and policy of his terminating at this time all the differences which had arisen between our Governments from this cause, by an arrangement which should suppress the practice on the part of Great Britain, and remedy the evil of which she complained. In aid of those reasons which were applicable to the merits of the question, I urged the example given by the late Ministry, in the paper of November 8th, presented to Mr. Pinkney and myself by the British Commissioners, which had, as I thought, laid the foundation of such an arrangement. I stated that, as it was stipulated by that paper that the negotiation should be kept open for the purpose of arranging this great interest, without prejudice to the rights of either Power, it was fairly to be understood, as the sense of both parties, that our rights were to be respected, until that arrangement was concluded; whence it would follow that the same effect would be produced in practice, as if it had been provided for by treaty. I relied on this paper, and the construction which I thought it admitted, with which, however, the practice had since in no degree corresponded, to show the extent to which the former Ministry had gone in meeting the just views of our Government, and thereby to prove that the present Ministry, in improving that ground, had nothing to apprehend from the preceding one. Mr. Canning admitted that the view which I had taken of this paper derived much support from its contents, and the time and circumstances under which it was presented, but persisted in his desire to keep the subject separate. I proposed, as an expedient to get rid of his objection, that we should take up and arrange both points informally; in which case, provided it was done in a manner to be obligatory, I offered to frame my note, which should demand reparation for the outrage, in general terms, so as that it should not appear, by official document, that the subjects had any connexion in the negotiation. I urged that, unless it was intended to make no provision against impressment from merchant vessels, I could see no objection to his meeting me on that ground, as, after what had passed, it was impossible to take up either subject without having the other in view, and equally so to devise any mode which should keep them more completely separate than that which I proposed. Mr. Canning still adhered to his doctrine of having nothing to do with impressment from merchant vessels till the affair of the Chesapeake was disposed of, after which he professed his willingness to proceed to the other object. In this manner the conference ended, without having produced the arrangement which I had hoped from it. Mr. Canning's conduct was in all other respects conciliatory.

My note to Mr. Canning was founded on the result of this conference. As it had not been in my power to come to any agreement with him on the general subject of impressment from merchant vessels, I considered it my duty to combine it with the affair of the Chesapeake, in the paper which I presented him to claim reparation for the outrage. I thought it best, however, to omit the other acts of which it was desired that the reparation should consist. It seemed probable that specification of each circumstance, in the note, would increase the indisposition of the Ministry to accommodate, and give it support with the nation, in a complete rejection of the demand. I expressed myself, therefore, in regard to the other acts, in general and conciliatory terms, but with all the force in my power. The details had been communicated to Mr. Canning in conference too recently to be forgotten. Still it was just that no improper inference should be drawn from the omission of them. To prevent it, I obtained an interview of Mr. Canning immediately after my note was presented, in which, after reminding him of the omission alluded to, the motive to which, I presumed, he could not mistake, I added that my object in asking the interview had been

to repeat to him informally what I had stated in the former one, the other acts of which my Government expected that the reparation should consist. In this interview nothing occurred without the limit of the special object for which it had been obtained. Mr. Canning did not lead the conversation to any other topic, and I could not invite it.

Mr. Canning's answer to my note was delayed more than a fortnight. Having refused to treat the subjects in connexion, and intimated in plain terms that, if I was not authorized to separate them, it would be useless to prolong the discussion, I thought it improper to press it. My reply was equally explicit, so that with it the negotiation ended. The measure which he announced as being determined on by the King in case I could not agree to the separation, is completely the act of his Government. You will observe that it is announced in a form which precludes, in a great degree, the idea of its being adopted, at my suggestion, as an act of reparation, and in a tone of decision which seemed equally to preclude my holding any communication with him on it.

My mission, being thus brought to an end, has afforded an opportunity for me to return to the United States, as I have long desired. Nothing but the great interest which I take in the welfare of my country, and my earnest desire to give all the aid in my power to the present Administration in support of the pure principles of our most excellent Constitution, would have detained me here so long. In the present state, however, it is not possible, if in any it would be, to render any service by a longer continuance here. As soon, therefore, as I had answered Mr. Canning's note, I communicated to him my intention to return, and requested that he would be so good as to obtain for me an audience of the King for the purpose of taking my leave of him. This was granted on the 7th of this month, in which I renewed the assurance of the sincere desire of my Government to preserve the most friendly relation between the United States and Great Britain, which sentiment was reciprocated by His Majesty. Mr. Pinkney succeeds me, by an arrangement with Mr. Canning, which will appear in the enclosed copy of my correspondence with him, and which I have full confidence the President will approve. I regret that, in transferring the business into his hands, I do not leave him altogether free from difficulty.

I have the honor to be, with great respect, sir, your most obedient servant.

JAMES MONROE.

Hon. JAMES MADISON.

P. S. Not being satisfied with the undefined character of the proposed mission to the United States, and Mr. Canning having communicated nothing new to me on the subject in my interview with him on the day I was presented to the King, although an opportunity was afforded for the purpose, I wrote him a note, after the commencement of this letter, to make certain inquiries on that head, a copy of which note and of his answer is herewith enclosed. You will observe that he still holds himself aloof on it. I thought it my duty, and that it comported with strict delicacy, to make the inquiry, and I cannot but consider his reserve as affording cause for an unfavorable inference. It is probable, however, as the door is left open for further communication between us until the moment of my departure, that he will take some other occasion to explain himself more fully on the subject. You may be assured that I will seek every favorable opportunity to obtain such explanation of him.

[Enclosed in the preceding letter.]

From Mr. Canning.

FOREIGN OFFICE, *October* 22, 1807.

SIR: Having seen in the American newspapers an official article, (of which I have the honor to enclose a copy,) prohibiting all intercourse between the inhabitants of the United States and His Majesty's ships of war, universally, I have the honor to request that you will have the goodness to inform me whether this prohibition will extend to the ship of war in which a Minister, accredited from His Majesty, and charged with a mission to the American Government, shall arrive in any of the ports of the United States? Or whether you or Mr. Pinkney can undertake to furnish Mr. Rose with such documents as shall insure his admission into the American ports, and a reception therein suitable to the character with which he is invested?

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

GEORGE CANNING.

JAMES MONROE, Esq., &c.

To Mr. Canning.

PORTLAND PLACE, *October* 23, 1807.

SIR: I have the honor to state, in reply to your letter of yesterday, that the case to which you alluded is especially provided for by the proclamation of the President. You will observe, on a view of that document, that an exception is made, from the prohibition it contains on other vessels, in favor of such ships of His Majesty as may enter the ports of the United States with despatches from His Majesty's Government. Had the case of a public Minister, employed in a special mission to my Government, not been comprised in that exception, as it clearly is, I have no hesitation in stating that he would be received without delay at any port at which he might arrive. I have the honor to add, that Mr. Pinkney and myself will be happy to give to His Majesty's Minister every facility in our power to secure him the reception at the port of his destination which is due to his public character, and promote his speedy arrival at the seat of the Government of the United States.

I have the honor to be, with great consideration, &c. JAMES MONROE.

The Rt. Hon. GEORGE CANNING, &c.

From Mr. Canning.

FOREIGN OFFICE, *October* 23, 1807.
Half-past 10, *P. M.*

SIR: I have to acknowledge the honor of your answer to my letter of yesterday evening. It appears to me to be so important to have a clear understanding on the subject to which that letter refers, that I cannot forbear requesting you to have the goodness to call at the Foreign Office to-morrow at two o'clock, if that hour should suit your convenience.

I have the honor to be, with great consideration, sir, your most obedient, humble servant.

GEORGE CANNING.

JAMES MONROE, Esq., &c.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, *October*, 10, 1807.

SIR: We avail ourselves of the opportunity afforded by the return of the schooner Revenge, to give you a brief account of the transactions of the joint mission, from the time of Mr. Purviance's arrival in England until the receipt of intelligence here of the late outrage in the American seas upon the sovereignty of our country.

Your letter of the —— day of May was delivered to us on the —— day of July, and we lost no time in obtaining an interview with Mr. Canning on the subjects to which it relates. In the course of that interview, we entered at large into the explanations required by our instructions, and, at the same time, recalled to Mr. Canning's attention the statement which we made to him at former conferences, relative to our want of power to bind our Government by a treaty which should not provide in a satisfactory manner for the subject of impressments. That we might be enabled to give to Mr. Canning a more complete view of the grounds of the President's disapprobation of the instrument signed in December last, and of the alterations in that instrument which we had to propose, we thought it advisable to suggest these alterations in the margin of a copy of it, and to prepare moreover separate clauses relative to impressments and indemnity. Of these papers, copies are herewith transmitted.

We had scarcely finished our explanations, when Mr. Canning intimated the propriety of putting them into the form of a note. He expressed, however, his readiness and his wish, for the purpose of saving time, to receive immediately the papers above mentioned, which, as containing the project of such an arrangement as would be acceptable to the President, we did not hesitate to deliver to him. An official note being required by Mr. Canning, we had no choice but to consent to that course, and, as you will find in the copy of the note itself, a brief recapitulation of the substance of what we thought it prudent to say to him, in that stage of the transaction, upon the principal points embraced by it, it is unnecessary to repeat it here. It is proper, however, to observe, that, although nothing was said by Mr. Canning which authorized us to calculate with certainty on the ultimate success of renewed negotiation, there was nothing in his language or manner of an unfriendly character.

Our note was prepared with as much expedition as the importance and delicacy of its topics would permit, but, before it was possible to send it to Mr. Canning, he reminded us of it by a note, of which a copy is enclosed. Our note, which we hope will meet with the President's approbation, was delivered to Mr. Canning on the next day. We did not think it proper, for obvious reasons, either in conversation or in our note, to enter into any argument in support of the different alterations suggested by our project to the proposed treaty. This it was thought would be more regularly as well as advantageously attempted when negotiation should be resumed. It is only necesrary to add, that before Mr. Canning had replied to our note, information was received of the outrage committed by the Leopard, and that our proceedings were in consequence suspended.

We have the honor to enclose the copy of a bill delivered to us some time ago by Lord Auckland for permitting an intercourse, by sea, between the British North American Colonies and the United States. This bill was brought into the House of Commons, during the last session of Parliament, by Mr. Rose and Mr. Eden, and has passed into a law. You will perceive that it has in view the eighth article of the project of a convention of limits, already transmitted to you. A copy is also enclosed of the communication which we have thought it our duty to make to General Armstong and Mr. Bowdoin.

We have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servants,

JAMES MONROE,
WILLIAM PINKNEY.

JAMES MADISON, Esq.

P. S. We have the honor to acknowledge the receipt of your letters of the 17th and 30th of July. There not being time to prepare a copy of the project presented Mr. Canning for Dr. Bullus, it will be forwarded by another opportunity without delay.

WILLIAM PINKNEY.

[Transmitted in Messrs. Monroe and Pinkney's despatch of October 10, 1807.]

Mr. Monroe and Mr. Pinkney to Mr. Canning.

LONDON, *July* 24, 1807.

The undersigned, Ministers Extraordinary and Plenipotentiary of the United States of America, have the honor to inform Mr. Canning that they are instructed by the President of the United States to propose to His Majesty's Government a renewal of negotiation, relative to the mission of the undersigned, with a view to a more satisfactory result than is found in the instrument signed on the 31st of December last, by His Majesty's Plenipotentiaries and those of the United States.

The undersigned are persuaded that His Majesty's Government will see in this measure an unquestionable proof of the sincere desire of the President to place the friendly relations of the two countries beyond the reach of those misunderstandings which either the absence or the inadequacy of precise arrangements on subjects of the greatest delicacy and importance might from time to time occasion.

It is under the influence of this solicitude, that the President has charged the undersigned to express to His Majesty's Government his unfeigned regret that the instrument above mentioned does not appear to him to be such as he can approve, and, at the same time, to declare his entire confidence that the just and liberal sentiments which animate His Majesty's Government, corresponding with those which belong to the Government of the United States, cannot fail to lead without delay or difficulty to such an issue of the negotiation, which is now proposed, as shall be suited, in all respects to the right and interest of both nations, and, therefore, calculated to insure a long continuance of the friendship which so happily subsists between them.

The undersigned have already had the honor to present to Mr. Canning a paper, which, taken in connexion with a project on the subject of impressment, and another on the subject of certain claims to compensation by American citizens, presented by the undersigned at the same time, will be found to exhibit a complete view of the alterations which the instrument above mentioned is deemed by the President to require. They forbear to trouble Mr. Canning with a recapitulation of the details which these papers contain; but there are some explanations upon the topics of impressment and compensation which they do not furnish, and which it is, therefore, incumbent upon the undersigned to avail themselves of this occasion to give.

It was one of the primary objects of the mission of the undersigned to adjust with His Majesty's Government a formal and explicit arrangement relative to a practice by British ships of war, which has excited in a very great degree the sensibility of the American people, and claimed the anxious attention of their Government. The practice alluded to is that of visiting on the main ocean the merchant vessels of the United States, navigating under the American flag, for the purpose of subjecting their crews to a hasty and humiliating inquisition, and impressing as British seamen such of the mariners as upon that inquisition the visiting officer declares to be so. The effect of the practice is, that the flag of an independent Power is dishonored, and one of the most essential rights of its sovereignty violated; that American citizens, either mistaken for British subjects, or assumed to be such without sufficient inquiry, are forced from the quiet pursuits of lawful commerce into the severe and dangerous service of a foreign military navy, to expose their lives in fighting against those with whom their country is at peace; and that the merchant vessels of the United States are frequently thus stripped of so large a portion of their hands, before their voyages have been performed, as to bring into the most imminent peril, and sometimes to produce the actual loss of the vessels, their cargoes, and their remaining crews. It cannot be thought surprising that a practice like this should act with peculiar force upon the feelings of those whom it oppresses, and that the sensation should extend itself both to their countrymen and their Government.

The Government of the United States has accordingly made this pretension the subject of frequent discussion with Great Britain, and, when an extraordinary mission to His Majesty's Government was last year determined on, it was one of the instructions to the undersigned, to whom the duties of that mission were confided, to make no treaty which should not provide for that object. In the first stages of the negotiation which followed that mission, the undersigned were led to indulge a confident expectation that such a provision would be obtained. At length, however, the rejection by His Majesty's Government of a project of an article on this point, which, without touching the question of right, offered on the part of the United States an effectual equivalent for the mere forbearance of the practice, having extinguished all hope of an immediate adjustment of this subject by treaty, the undersigned felt that they were called upon by candor, as well as by their duty to their Government, to inform the British Commissioners, that the project relative to impressment having failed, they had no power to conclude a treaty upon the other points which had been discussed between them, so as to bind the Government of the United States. The undersigned did accordingly give them this information in the most explicit terms, and the negotiation was, in consequence, for a short time suspended. It was soon afterwards, however, suggested by His Majesty's Commissioners, that if this topic should be expressly reserved for future conventional arrangement, and a pledge given to the United States for resuming the consideration of it, at a convenient season, with that view; and if in the meantime, such an informal understanding should be substituted as in its practical effect would remove the vexation complained of, it might, perhaps, be yet possible to conduct the negotiation to a result which would not be unacceptable to the respective Governments; and in pursuance of this suggestion the British Commissioners presented to the undersigned, on the 8th day of November last, the official note, of which a copy is herewith enclosed. The undersigned transmitted to their Government for its consideration a copy of this note, together with a statement of the circumstances connected with it, and without giving it their sanction, agreed in the meantime to concur with the British Commissioners, as they were invited to do, in an effort to adjust the stipulations of a treaty upon the remaining objects of their mission, and to leave the effect of what should be so adjusted to their Government.

It appears that the President of the United States considers this collateral proceeding upon a concern of such paramount importance as un-

suitable to the nature of it, as well in the mode as in its terms. In this opinion the President does but continue to respect the considerations which heretofore induced him to believe that an arrangement upon this point ought to stipulate with precision against the practice in question, and that the manner of it would properly be that which should be chosen for the arrangement of the other points of discussion; and in the instructions which, in conformity with that opinion, he has now given to the undersigned, he does manifest his reliance upon the spirit of justice and amity which he is assured His Majesty's Government will bring to the renewed consideration of a subject, so interesting to the rights and feelings of a friendly nation, for such an adjustment of this, as well as of every other question belonging to the relations of the two countries, as shall confirm their dispositions to mutual kindness and promote the happiness of both.

The subject of compensation will perhaps be sufficiently explained by the enclosed copies of two notes from the undersigned to Lord Holland and Lord Auckland, and to Lord Howick. It will appear, from the last of these notes, that this subject, for which the projected treaty did not provide, was not to be affected by it; but on the contrary that the rights of the United States, and the claims of their citizens, were understood to be reserved for future adjustment, as completely as if no treaty had been made; and it will occur to Mr. Canning that the project of an article on this point which they had the honor to leave with him at their late interview is in the spirit of that understanding, and is besides so entirely free from objection, that no motive is likely to exist against the adoption of it.

There is another subject to which the undersigned have the orders of the President to invite the attention of His Majesty's Government, as affecting materially and giving a new and unexpected character to the proposed treaty. They allude to the written declaration, relative to the French decree of the 21st of November last, by which His Majesty's Plenipotentiaries accompanied their signature of the treaty; a declaration which, in its actual form, creates unnecessary embarrassments in the way of an acceptance of the treaty by the United States.

The undersigned persuade themselves that, as this proceeding, to which no sanction was given on their part, imposed on the United States no new obligation, and could only be intended to declare that, in signing or ratifying the treaty, it was understood by Great Britain that nothing contained in it would be a bar to any measure, which if no such treaty had been signed, would be lawful as a measure of retaliation against her enemy, and as the occasion which produced it does not now appear to exist as then supposed, it will not be thought that anything is sacrificed by withdrawing it as unnecessary.

The undersigned request Mr. Canning to accept the assurances of their distinguished consideration.

JAMES MONROE,
WILLIAM PINKNEY.

[Received in Mr. Monroe and Mr. Pinkney's despatch of October 10.]

Copy of Proposed Alterations.

Article 3. Omit the words "and sailing direct from the ports of the said States."

Omit the words "between the said territories and the United States," and substitute "with the said territories."

After the words near the end of the first paragraph, "where the same shall be unladen," insert "or to some port or place, or ports or places, in China, or the Indian, or other seas beyond the Cape of Good Hope, from whence the said vessel shall proceed as aforesaid to some port or place in America, and there unlade their cargoes."

After the words "British territories," near the beginning of the second paragraph, insert "without the special permission of the British Government there."

After the words "St. Helena," near the end of the article, insert "or at such other places as may be in the possession of Great Britain in the African or Indian seas."

At the end of the article add, "and it is further agreed that if any other trade in and with the said British territories in the East Indies than is hereby authorized, or any other, or greater rights, or advantages in respect thereof, shall be granted or permitted to the citizens or subjects of any European nation, the same shall be common to the citizens of the United States."

Article 5. At the end of the first paragraph, insert "nor shall any higher duties or charges be imposed in one country on the exportation of any articles to the ports of the other, than such as are payable on the exportation of the like articles to every other foreign country."

Article 7. Propose to strike out the last paragraph.

Article 8. Omit the words "on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war."

Omit the word "other," immediately following these words, and substitute "any."

Omit the words "if any property of an enemy should be found on board such vessel."

Omit the words "belonging to an enemy or."

Omit the word "otherwise."

Article 9. After "tar and pitch," add "turpentine and rosin."

Article 10. At the end of the first paragraph introduce a definition of the blockade, "In order to determine what characterizes a blockade, that denomination is given only to a port where there is, by the disposition of the Power which blockades it with ships stationary, an evident danger in entering."

Article 11. Omit "during the present hostilities."

After the word "Europe," which immediately follows the above words, insert "or elsewhere."

Insert the same words after the word "Europe," in the second branch of the provision.

After the word "paid," insert "or secured to be paid."

After the words "and shall," in the proviso about duties, insert "except only mahogany and fustic."

At the end of the paragraph which precedes the last proviso, introduce the following: "It is understood that no inference is to be drawn from this article, to affect any question now or hereafter to be judicially depending, touching the legality or illegality of a direct trade from Europe or elsewhere, by citizens of the United States, with enemies' colonies beyond the Cape of Good Hope."

Article 12. Omit the last paragraph.

And the following words in the first paragraph, "except for the purpose hereafter mentioned."

Article 13. In the first paragraph of the article omit the words, "as favorably as the course of the war then existing may possibly permit, towards the most friendly Power that may remain neuter," &c. and the words, "as much as possible." So as to make it read thus: "According to the acknowledged principles and rules of the law of nations, and as favorably moreover as the course of the war then existing may possibly permit, towards the most friendly Power that may remain neuter."

Article 17 to be struck out, and the following to be substituted: "The ships of war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the nation most favored."

Article 19. The two last paragraphs to be struck out.

Article 23 to stand thus: "It is agreed that, in case either party shall hereafter grant any additional advantages in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein freely, where it is freely granted to such other nation, or on yielding the same compensation where the grant is conditional."

INDEMNITY ARTICLE.

Complaints having been made by divers merchants and others, citizens of the United States, that during the war in which His Majesty is engaged, they have sustained loss and damage by reason of the irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commission from His Majesty, contrary to the tenor of a communication from Lord Hawkesbury to Mr. King, of the 11th April, 1801, of which a copy is annexed to this treaty; or contrary to the tenor of a letter from Mr. Merry to Mr. Madison, of the 12th April, 1801, of which, also, a copy is hereto annexed; or otherwise, contrary to the known and established rules of the law of nations; and the said merchants and others having further complained that full and complete redress for the said losses and damages has not been, and cannot be, for various causes, had and obtained in the ordinary course of judicial proceedings, His Majesty agrees, that he will, without delay, cause the most effectual measures to be taken, in concert with the United States, for an impartial examination of the said complaints; and that he will cause full and complete reparation to be made thereupon to the parties entitled, as justice, and equity, and the nature of the respective cases, shall appear to require.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, *October* 22, 1807.

SIR: We have the honor to transmit, enclosed, a duplicate of our joint letter to you by Dr. Bullus, together with a copy of the project of alterations to which it refers, and which could not be prepared in time to be sent with the original. We also enclose a prrinted copy of the act of Parliament relative to an intercourse by sea between the United States and the British North American colonies, of which a manuscript copy has been transmitted.

Since the departure of Dr. Bullus, communications have taken place between Mr. Canning and ourselves, with which it is proper that you should be made acquainted.

On the 15th instant we received from Mr. Canning a note, requesting a conference on the following Saturday, (the 17th,) accompanied by a note, of which a copy is enclosed, explanatory of the purpose for which the conference was desired. Our reply was merely that we should wait on him at the time proposed. Mr. Canning opened this conference by observing, that before he stated the view which his Government had taken of the subject to which his note alluded, he had to request, if we saw no objection to it, an explanation of that part of our official note of the 24th of July, which, speaking of the written declaration of the British Commissioners of the 31st of December last, suggests an opinion, that the occasion which produced it "does not now appear to exist as then supposed." He then read the concluding paragraphs of the declaration, and observed, that it was with a view to the reservation contained in them, that his inquiry, which we might be assured had the most friendly motive, was made. We replied, by stating with exactness the real foundation of the opinion in question, which, as he seemed to wish it, we promised to repeat in a note, to be sent to him without delay. A copy of the note afterwards delivered to him, in pursuance of this engagement, being among the enclosures, we beg leave to refer to it for the substance of what was stated by us upon this point in conversation.

Mr. Canning closed this interview by saying, that he feared it would be necessary to postpone what he had further to communicate until another opportunity; and requested us to meet him again on Monday, the 19th. Supposing that he was not in town on Sunday, and that nothing would be gained by sending in our promised note before the time appointed for our adjourned conference, we took the note with us, and delivered it ourselves, on Monday. Mr. Canning appeared to be satisfied with the explanation, to which we thought it our duty strictly to confine ourselves; but he did not seem to be prepared to proceed with the conference, and intimated that he would be glad to meet us again for that purpose on the Thursday

or Friday following, and would give us notice which of those days would be most convenient.

A proclamation relative to the searching of the national and merchant vessels of neutral Powers for British seamen, having appeared in the London Gazette on the 17th, (with which the newspapers, already forwarded, and now sent, will make you acquainted,) we thought this a suitable occasion, of which it was incumbent on us to take advantage, for leading to an explanation of that proceeding. We began by expressing a hope that this paper was not intended to shut the door against negotiation and concession on the subject of impressment on board the merchant vessels of the United States, upon which Mr. Canning already knew the opinion and feeling of our Government. Mr. Canning replied, that the proclamation was not intended to have that effect; that it was simply a statement of the principles and practice upon the points to which it relates, which the British Government understood to be warranted by public law and long established usage; that such a statement did not exclude the idea of amicable discussion and adjustment with a Power which favored a different doctrine, and sought for the introduction of a different practice; that, as it did no more than declare with truth and precision the past and actual state of their rules upon these interesting points, no more was done by it to shut the door against negotiation and arrangement with the United States, than would have been done without it by the mere operation of the rules themselves, of which it was declaratory; that, while in this view, it could have no inconvenient effect, it was manifestly useful, and imperiously required in another; that it was indispensably necessary, for the information of their naval commanders, especially upon distant stations, who, after what had lately happened, would, without some such guide, be at a loss to know how to regulate their conduct, and would thus be exposed to the perpetual hazard, either of falling short of their duty or of exceeding it, in matters of the highest moment; that it was so far from being meant to wear an unfriendly appearance, or to increase the difficulties in the way of a good understanding with our country, that it was believed by His Majesty's Government to exhibit their disposition to conciliation in a way not to be mistaken, and to facilitate the establishment of such an understanding: that the proclamation had been prepared nearly three months ago, but had not been published until it was ascertained that the subject of if could not be affected by any negotiation, of which the result could soon be known; that the effect of Mr. Rose's mission, whatever might be hoped, could not appear for some months, and that, in the meantime, it seemed to be proper, that without changing the state of things to the prejudice of either party, their navy should not be left to conjecture their duty on subjects of such delicacy and importance, upon which so much had occurred to produce misconception and irritation; that it was impossible to consider in connexion his (Mr. Canning's) first note to Mr. Monroe, upon the receipt of intelligence of the affair of the Leopard and Chesapeake, the promptitude with which the King's Government had disavowed the intention of asserting a claim to search national ships for deserters, the explicit prohibition of such a practice in the proclamation, at a time when it was very generally maintained by the press, and notoriously countenanced by public opinion as lawful, expedient, and essential; and the mission, which was about to proceed to the United States, without being persuaded that, in the transaction in question, the views of Government were of the most friendly character.

These explanations were followed by others of a less satisfactory description. He said, in the progress of the conversation, that he ought not to leave us under the impression that there was any prospect that the Government of Great Britain could recede from its declared pretensions relative to searching on the high seas the merchant ships of neutral nations for British seamen; that the present state of the world, and the nature and mode of that hostility which France is now waging against this country, of which the great instrument was avowed to be the systematic exclusion of the trade, productions, and manufactures of Great Britain and her colonies from their usual markets, rendered it to the last degree hazardous, if not absolutely impracticable, to stipulate for the abandonment of a practice to which the navy and people of England attached so much importance, even although the Government should itself be persuaded that it might be done with safety.

We endeavored to impress upon Mr. Canning the unfortunate influence which such views and sentiments could not fail to have upon any negotiation which might be attempted, in whatever form between the two countries. But, although his manner was as conciliatory as it could be, he did not allow us to believe that these sentiments would be relinquished, or consequently that Mr. Rose would have powers upon the general topic of impressment.

We have not since heard from Mr. Canning, but are every moment in expectation of an appointment for another interview.

We deem it to be so important that you should be in possession of the foregoing details before the Government of the United States takes its course relative to Mr. Rose's mission, that we have determined to send this despatch by Mr. Rose himself, who is so good as to offer to take charge of our letters. As he sails immediately in a frigate now at Portsmouth, the presumption is that he will arrive before Mr. Monroe, who will sail in a few days in the Augustus for Norfolk.

We shall add in a postscript anything that shall occur before Mr. Rose leaves town.

We have the honor to be, with the highest respect and consideration, your most obedient, humble servants,

JAMES MONROE,
WILLIAM PINKNEY.

P. S. Mr. Canning's note, (erroneously dated on the 17th instead of the 15th instant,) of which a copy is enclosed, states the existence of a mutual understanding between him and us, "by which, on the receipt of the first accounts of the unfortunate encounter between the Leopard and the Chesapeake, we agreed to confine our official discussions to that single subject until it should be finally adjusted." It may not be improper to mention, although the fact is of no real importance that this statement is inaccurate. Upon the receipt of intelligence that the proposed treaty of December last was not likely to be accepted by our Government, there was an understanding (as heretofore explained to you) that it might be necessary to suspend our proceedings, until the arrival of more precise information upon that point, and perhaps until the arrival of our instructions, Mr. Canning confounds that epoch with the more recent one to which he alludes. His conduct in forbearing to press our negotiation after the affair of the Chesapeake was known was undoubtedly such as we approved and desired, but it did not arise out of any agreement with us.

P. S. October 24th. We received yesterday a note from Mr. Canning dated the 22d, transmitting the answer of this Government to our note of the 24th July. Copies of these papers are enclosed.

JAMES MONROE,
WILLIAM PINKNEY.

JAMES MADISON, Esq., &c.

[Referred to in the preceding despatch.]

Mr. Canning to Mr. Monroe and Mr. Pinkney.

FOREIGN OFFICE, *Oct.* 17, [15,] 1807.

GENTLEMEN: The mutual understanding, by which, on the receipt of the first accounts of the unfortunate encounter between the Leopard and the Chesapeake, we agreed to confine our official discussions to that single subject until it should be finally adjusted, has alone prevented me from returning long ago an official answer to your note of the 24th of July.

The nature of Mr. Monroe's instructions have unfortunately precluded that settlement, which His Majesty's Government so anxiously desired, of the question respecting the Chesapeake, by negotiation, between that gentleman and myself. But that question being now put into a train of separate adjustment, by the appointment of a Minister on the part of His Majesty to proceed to America for that special purpose, and the return of Mr. Monroe to America making it necessary that you should be apprized of the sentiments of His Majesty's Government as to the state in which the treaty signed by you and His Majesty's Commissioners on the 31st of December last is left, by the refusal of the President of the United States to ratify that instrument, I have to request a conference with you for that purpose previous to Mr. Monroe's departure.

I have the honor to be, with the highest consideration, gentlemen, your most obedient, humble servant,

GEORGE CANNING.

Messrs. MONROE and PINKNEY.

Messrs. Monroe and Pinkney to Mr. Canning.

LONDON, *October* 18, 1807.

SIR: In our interview of yesterday you requested that we would explain the ground of the opinion (that which is expressed in our letter to you of July 24) that the occasion which induced the British Commissioners to present to us the note of the 31st December preceding had ceased to exist.

We hasten to comply with that request, as we shall do to give an explanation of any other passage in that letter which you may desire.

We were of opinion, at the time that the British Commissioners presented to us that paper, that the decree of the Government of France, to which it related, ought not to be considered applicable to the United States, because such a construction was plainly repugnant to the treaty subsisting between the United States and France, and likewise because the decree might be understood to relate only to France and the dominions subject to her arms. We alluded, however, in our letter of July 24, to circumstances which had occurred since the date of the decree, as fixing unequivocally an interpretation of it which we at first supposed to be reasonable.

Great anxiety having been excited by a different construction which many believed the decree to be susceptible of, the Minister of the United States at Paris requested of the Minister of Marine, who was charged with its execution, an explanation of the sense in which it was understood by his Government, who assured him that it was not intended that it should in any degree interfere with the provisions of the Treaty of 1800 between the United States and France.

We relied also upon the fact, not only that no countenance had been given by any practice or judicial decision in France to a different construction, but that the practice was in precise conformity with the view above suggested; and that, in a cause in which the question had been formally brought into discussion, the court had sanctioned the conclusion that the treaty between the two nations was to be exactly fulfilled, and that the decree was to be so construed as not to infringe it.

We think it proper to confine ourselves to the explanation which you have desired of the passage alluded to in our former letter, and not to enter in this communication, in any other respect, on the subject of the paper with which it is connected.

We have the honor to be, with the highest consideration, sir, your most obedient, humble servants,

JAMES MONROE.
WILLIAM PINKNEY.

Right Hon. GEORGE CANNING.

Mr. Canning to Messrs. Monroe and Pinkney.

FOREIGN OFFICE, *Oct.* 22, 1807.

GENTLEMEN: The considerations which have hitherto suspended our communication on the subject of the treaty returned from America having ceased by the termination of the discussion

between Mr. Monroe and myself respecting the encounter between the Leopard and the Chesapeake, I have now the honor to transmit to you the answer which I have been commanded by His Majesty to return to your note of the 24th of July.

I have the honor to be, with high consideration, gentlemen, your most obedient, humble servant.

GEORGE CANNING.

Messrs. Monroe and Pinkney, &c.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, in returning an answer to the official note with which Messrs. Monroe and Pinkney have accompanied their communication of the copy of the treaty which has been sent back unratified from America, is commanded, in the first place, to inform the American Commissioners that His Majesty cannot profess himself to be satisfied that the American Government has taken any effectual steps with respect to the decree of France, by which the whole of His Majesty's dominions are declared in a state of blockade, as to do away the ground of that reservation which was contained in the note delivered by His Majesty's Commissioners at the time of the signature of the treaty; but that, reserving to himself the right of taking, in consequence of that decree, and of the omission of any effectual interposition on the part of neutral nations to obtain its revocation, such measures of retaliation as His Majesty might judge expedient, it was nevertheless the desire and determination of His Majesty, if the treaty had been sanctioned by the ratification of the President of the United States, to have ratified it on His Majesty's part, and to have given the fullest extent to all its stipulations.

Some of the considerations upon which the refusal of the President of the United States to ratify the treaty is founded, are such as can be matter of discussion only between the American Government and its Commissioners; since it is not for His Majesty to inquire, whether, in the conduct of this negotiation, the Commissioners of the United States have failed to conform themselves in any respect to the instructions of their Government.

In order to determine the course which His Majesty has to pursue in the present stage of the transaction, it is sufficient that the treaty was considered by those who signed it as a complete and perfect instrument. No engagements were entered into on the part of His Majesty, as connected with the treaty, except such as appear upon the face of it. Whatever encouragement may have been given by His Majesty's Commissioners to the hope expressed by the Commissioners of the United States, that discussions might thereafter be entertained with respect to the impressment of British seamen from merchant vessels, must be understood to have had in view the renewal of such discussions, not as forming any part of the treaty then signed, (as the American Commissioners appear to have been instructed to assume,) but separately, and at some subsequent period more favorable to their successful termination.

But the alterations proposed by the President of the United States in the body of the treaty thus formally concluded, appear to require more particular observations.

The undersigned is commanded distinctly to protest against a practice altogether unusual in the political transactions of States, by which the American Government assumes to itself the privilege of revising and altering agreements concluded and signed on its behalf by its agents duly authorized for that purpose; of retaining so much of those agreements as may be favorable to its own views, and of rejecting such stipulations, or such parts of stipulations, as are conceived to be sufficiently beneficial to America.

If the American Government has a right to exercise such a revision, an equal right cannot be denied to others; and it is obvious that the adoption of such a practice by both parties to a treaty would tend to render negotiation indefinite, and settlement hopeless; or rather to supersede altogether the practice of negotiation through authorized Commissioners, and to make every article of a compact between State and State the subject of repeated reference and of endless discussion. The alteration of particular articles in a treaty, after the whole has been carefully adjusted and arranged, must necessarily open the whole to renewed deliberation. The demands of one party are not to be considered as absolute, nor the concession of the other as unconditional.

What may have been given on the one hand, in consideration of advantage to be derived in return for accompanying stipulations, might have been refused if those stipulations had been less favorable, and must necessarily be withdrawn if they are changed.

It cannot be admitted that any Government should hold those with whom it treats to all that has been granted by them in its favor, relaxing at the same time on its part the reciprocal conditions for which its own faith has been engaged; or that, after having obtained by negotiation a knowledge of the utmost extent of concession to which the other contracting party is prepared to consent in the conclusion of a treaty, it should require yet further concession, without equivalent, as the price of its ratification.

The undersigned is therefore commanded to apprize the American Commissioners that, although His Majesty will be at all times ready to listen to any suggestions for arranging in an amicable and advantageous manner the respective interests of the two countries, the proposal of the President of the United States for proceeding to negotiate anew upon the basis of a treaty already solemnly concluded and signed, is a proposal wholly inadmissible. And His Majesty has therefore no option, under the present circumstances of this transaction, but to acquiesce in the refusal of the President of the United States to ratify the treaty signed on the 31st December, 1806.

The undersigned requests Messrs Monroe and Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Mr. Monroe to Mr. Madison.

London, *October* 28, 1807.

Sir: I have the honor to send you a copy of a correspondence with Mr. Canning, touching a difficulty which he supposed Mr. Rose might experience in entering the bay of Chesapeake, in consequence of the proclamation of the President. In the interview invited by his last note I expressed my surprise that any doubt should exist on the subject of it, and assured him that Mr. Pinkney and myself would be responsible for Mr. Rose's prompt admission into our harbors, and arrival at Washington, without suffering the slightest molestation; on the contrary, that he should receive every attention and facility on the route which he might require. I told him that no document from us would be necessary for that purpose; but that, to put the question beyond all doubt, we would give him a passport, which should go to every object in detail, and that we would also give him letters of introduction to the Governors of Maryland and Virginia, the States through which he would pass, to be taken advantage of if he found that they would be useful. With this explanation and arrangement Mr. Canning was satisfied.

I also send you a copy of a letter from Mr. Rose, Sen., and my answer relative to the mission of his son to the United States. Although Mr. Rose's letter is unofficial, I have thought it proper, in consideration of his near connexion with the Minister and station in the Government, to communicate it.

I leave this to-morrow to meet in the channel the Augustus, the ship in which I propose to sail with my family to the United States. She has left this port, and is on her way to Portsmouth, where she will receive us. Mr. Rose, by going in a frigate, will most probably arrive before me, and even before Doctor Bullus. It is important that you should possess all the information which I can give respecting the business in which I have been lately engaged with Mr. Canning, and of Mr. Rose's mission, at the moment of his arrival. I have therefore thought it advisable to commit to him this letter, and a copy of my correspondence with Mr. Canning, as Mr. Pinkney and I have done our joint despatch. I expect to be at sea in a week from this date, and shall proceed to Washington immediately after my arrival in the United States, to communicate to you such further information as I may have relative to the important concerns of our country in which I have been employed.

I have the honor to be, with great respect,

JAMES MONROE.

No. 16.

[Enclosed in Mr. Monroe's despatch of October 28.]

Mr. Canning to Mr. Monroe.

Foreign Office, *Sept.* 23, 1807.

Sir: I have laid before the King my master the letter which I had the honor to receive from you on the 8th of this month.

Before I proceed to observe upon that part of it which relates more immediately to the question now at issue between our two Governments, I am commanded in the first instance to express the surprise which is felt at the total omission of a subject upon which I had already been commanded to apply to you for information—the proclamation purported to have been issued by the President of the United States. Of this paper, when last I addressed you upon it, you professed not to have any knowledge beyond what the ordinary channels of public information afforded, nor any authority to declare it to be authentic.

I feel it an indispensable duty to renew my inquiry on this subject. The answer which I may receive from you is by no means unimportant to the settlement of the discussion which has arisen from the encounter between the Leopard and the Chesapeake.

The whole of the question arising out of that transaction is in fact, no other than a question as to the amount of reparation due by His Majesty for the unauthorized act of his officer: and you will therefore readily perceive that, in so far as the Government of the United States have thought proper to take that reparation into their own hands, and to resort to measures of retaliation, previously to any direct application to the British Government or to the British Minister in America for redress, in so far the British Government is entitled to take such measures into account, and to consider them in the estimate of reparation which is acknowledged to have been originally due.

The total exclusion of all ships of war belonging to one of two belligerent parties, while the ships of war of the other were protected by the harbors of the neutral Power, would furnish no light ground of complaint against that neutral, if considered in any other point of view than as a measure of retaliation for a previous injury; and, so considered, it cannot but be necessary to take it into account in the adjustment of the original dispute.

I am, therefore, distinctly to repeat the inquiry whether you are now enabled to declare, sir, that the proclamation is to be considered as the authentic act of your Government? And, if so, I am further to inquire whether you are authorized to notify the intention of your Government to withdraw that proclamation, on the knowledge of His Majesty's disavowal of the act which occasioned its publication?

The light in which you are directed to represent Admiral Berkeley's conduct, and the description which you give of the character of the measure imputed to him, that "he acted as if he had the power to make war, and to decide the causes of war," sufficiently evince the necessity of comprehending in this discussion all the circumstances which have led to or have followed the action with the Chesapeake.

Undoubtedly the attack upon a national ship of war is an act of hostility, and the very essence of the charge against Admiral Berkeley, as you represent it, is the having taken upon himself to commit an act of hostility without the previous authority of his Government.

The provocation which may have led to such an act without such previous authority, if it cannot justify, may possibly extenuate it; as the steps which have been taken in reprisal, though they cannot alter the character of the original act, may and do materially affect every question concerning the reparation claimed for it.

On this ground it is, that, while I am commanded to repeat to you (what you consider so satisfactory) that the general and unqualified pretension to search ships of war for deserters is not asserted by this country, I am precluded from concurring in the inference, that therefore the national character of the men who were violently taken from on board the Chesapeake makes no part of the present question.

If the right to search ships of war for deserters is not insisted upon by this country, it is not because the employment and the detention of British mariners on board the national ships of any State are considered as less injurious towards Great Britain than their employment on board of merchant vessels, (a proposition which would be manifestly absurd.) It is not intended to allow that the sailors of Great Britain would be justly employed against her consent in foreign ships of war, but merely that redress is, in that case, to be sought for by Government from Government, and not be summarily enforced by the unauthorized officer of any of His Majesty's ships of war.

It follows from this reasoning, that not only the national character of the men taken out of the Chesapeake is matter for consideration, but that the reparation to be made by the British Government to that of the United States would depend, among other circumstances, on the question, whether an act, which the British Government would be justified in considering as an act of hostility, had been committed by the Government of the United States (in refusing to discharge British seamen in their national service) previously to the commission of an act of hostility of an officer of His Majesty?

The act of the British officer would still be an unauthorized act, and, as such, liable to complaint and disapprobation; but the case, as between Government and Government, would be materially varied.

At the same time that I offer to you this explanation of the principles upon which His Majesty has authorized me to discuss with you the subject of your representation, and that I renew to you the assurances of the disposition to conduct that discussion in the most amicable form, and to bring it to a conclusion satisfactory to the honor and to the feelings of both countries, it is matter of regret that you should have been instructed to annex to the demand of reparation for the attack of the Leopard upon the Chesapeake any proposition whatever respecting the search for British seamen in merchant vessels; a subject which is wholly unconnected with the case of the Leopard and the Chesapeake, and which can only tend to complicate and embarrass a discussion in itself of sufficient delicacy and importance.

In stating the grounds upon which your Government expect with confidence that "the whole subject of impressment shall be taken up at this time," and that, in making the reparation which is claimed for the particular injury alleged to have been sustained by the United States in the late unfortunate transaction off the Capes of Virginia, "a remedy shall be provided for the whole evil," you appear to have been directed to assume that this act of violence (such as you describe it) is the natural and almost necessary result of the practice of impressment of British seamen from the merchant vessels of other States; and to represent the particular transaction, and the general question of impressment, as "identified in the feelings and sympathies of your nation, as well as in the sentiment of your Government."

With every attention due to the feelings of the people of the United States, I am sure you will readily allow that those feelings cannot properly be considered as affecting the merits of the case.

The first ebullitions of national sensibility may very naturally have communicated an impulse to the proceedings of the American Government, but it cannot be expected that they should guide the deliberate opinions and conduct of the Government with which you have to treat. I would further observe to you, that your Government cannot reasonably claim any advantage in argument from the expressed sense of its own people, unless it be prepared at the same time to take upon itself a responsibility (which there is no desire of attributing to it) for the outrage and indecency with which, upon the late occasion, that expression has in too many instances been accompanied. It is better for temperate reasoning, and, assuredly, it is more advantageous for the Government of the United States, that the consideration of popular feeling should be wholly omitted in this discussion.

The right and the practice of which you are instructed to complain as irreconcilable with justice, and intolerable in all their parts, have been exercised by Great Britain from the earliest ages of the British naval power, even without any qualification or exception in favor of national ships of war.

The ground upon which such a distinction has been admitted in later times, and upon which, for the course of nearly a century, the Crown has forborne to instruct the commanders of its ships of war to search foreign ships of war for deserters, I have already had the honor to explain to you; and you will have perceived that those grounds are wholly inapplicable to ships in the merchant service.

That a foreign Power will not, knowingly, retain in its national service mariners, the natural born subjects of His Majesty, who have been recalled by public proclamation, may be regarded as a presumption arising out of the hostile nature of the act, and out of the probable consequences to which such an act of hostility must lead.

But with respect to merchant vessels there is no such presumption.

When mariners, subjects of His Majesty, are employed in the private service of foreign individuals, under private civil contracts, the King's subjects and the foreign individuals with whom they serve enter into engagements inconsistent with the duty of His Majesty's subjects towards him; but to those engagements the Government of the foreign nation has not made itself a party.

In such cases, the species of redress which the practice of all times has admitted and sanctioned, is that of taking those subjects at sea out of the service of such foreign individuals, and recalling them to the discharge of that previous and paramount duty which they owe to their Sovereign and to their country.

That the exercise of this right involves some of the dearest interests of Great Britain, your Government is ready to acknowledge; and has accordingly authorized you to propose certain regulations which you apprehend would be equivalent in their effect for the preservation of the interests concerned.

There will be no indisposition here to entertain, at a proper time, the discussion of such proposed regulations. But when you recollect that many proposals to this effect have already been brought forward and have been found wholly inadmissible; when you have yourself recently had occasion to experience the difficulty of framing any satisfactory arrangement upon the subject, with all the anxiety which is properly felt by both Governments for the speedy adjustment of the difference between them, and for the "healing of that deep wound" which you state to have been "inflicted on the national honor of the United States," surely it is not well advised to make the termination of that difference, and the healing of that wound, dependent wholly on the complete success of an attempt which has already been made so often, and which has hitherto uniformly failed.

Your own reasoning shows that you are aware of the more than ordinary difficulty which must attend any arrangement for the prevention of desertion between the two nations, whose similarity of manners and habits and whose identity of language interpose so many impediments to the discrimination of "national character."

To these circumstances, and not (as you almost seem to insinuate) to any peculiar harshness toward the United States, it is owing, that the exercise of this right, as with respect to them, is necessarily more frequent than with respect to any other nation; and it is felt by them to be more rigid and vexatious. But those circumstances cannot furnish an argument for the suspension of the exercise of the right with respect to America, unless it be contended that multiplicity of frauds and difficulty of detection are reasons against suspicion or motives for acquiescence.

As little foundation is there for complaint, that the practice has grown out of the recognition of American independence, and that the character of that event is affected by its continuance.

It is needless to repeat that these rights existed in their fullest force for ages previous to the establishment of the United States of America as an independent Government; and it would be difficult to contend that the recognition of that independence can have operated any change in this respect, unless it can be shown that, in acknowledging the Government of the United States, Great Britain virtually abdicated her own rights as a naval Power; or unless there were any express stipulations by which the ancient and prescriptive usages of Great Britain, founded on the soundest principles of natural law, though still enforced against other independent nations of the world, were to be suspended whenever they might come in contact with the interests or the feelings of the American people.

I would now recall your attention to the consideration of the question respecting the late transaction between the Leopard and the Chesapeake, which, till the receipt of your letter, I imagined to be the only question actually in discussion between us, and in consideration of the delicacy and pressing importance of which we had, by common consent, waived the consideration of all other matters pending between our two Governments.

Into the discussion of this question I am prepared to enter, with what disposition on the part of His Majesty's Government to consult the feelings and the honor of the United States it is not necessary for me here to declare, for you have yourself done justice to the sincerity of that disposition.

The difficulties in the way of such adjustment are already smoothed by the disavowal, voluntarily offered at the very outset of the discussion, of the general and unqualified pretension to search ships of war for deserters. There remained only to ascertain the facts of the particular case, and to proportion the reparation to the wrong.

Is the British Government now to understand that you, sir, are not authorized to enter into this question separately and distinctly, without having obtained, as a preliminary concession, the consent of this country to enter into discussion with respect to the practice of searching merchant vessels for deserters?

Whether any arrangement can be devised by which this practice may admit of modification, without prejudice to the essential rights and interests of Great Britain, is a question which, as I have already said, the British Government may, at a proper season, be ready to entertain; but whether the consent of Great Britain to the entering into such discussion shall be extorted as the price of an amicable adjustment, as the condition of being admitted to make honorable reparation for an injury, is a question of quite a different sort, and one which can be answered no otherwise than by an unqualified refusal.

I earnestly recommend to you, therefore, to consider whether the instructions which you have received from your Government may not leave you at liberty to come to an adjustment of the case of the Leopard and the Chesapeake, independently of the other question, with which it appears to have been unnecessarily connected.

If your instructions leave you no discretion, I cannot press you to act in contradiction to them.

In that case there can be no advantage in pursuing a discussion which you are not authorized to conclude; and I shall have only to regret that the disposition of His Majesty to terminate that difference amicably and satisfactorily is for the present rendered unavailing.

In that case, His Majesty, in pursuance of the disposition of which he has given such signal proofs, will lose no time in sending a Minister to America, furnished with the necessary instructions and powers for bringing this unfortunate dispute to a conclusion consistent with the harmony subsisting between Great Britain and the United States. But, in order to avoid the inconvenience which has arisen from the mixed nature of your instructions, that Minister will not be empowered to entertain, as connected with this subject, any proposition respecting the search of merchant vessels.

It will, however, be far more satisfactory to His Majesty to learn that, upon reconsideration, you think yourself authorized to separate the two questions.

I hope you will allow me to express, at the same time, the sincere pleasure which I should feel in having to treat with you, sir, personally, for the re-establishment of a good understanding between our two countries.

I have the honor to be, &c.

GEORGE CANNING.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Sept.* 29, 1807.

SIR: I have had the honor to receive your letter of the 23d of this month, and shall transmit it without delay to my Government.

I perceive by it, with great regret, that His Britannic Majesty's Government is not disposed to enter into an arrangement, at this time, of all the differences that have arisen between our Governments, respecting the impressment of seamen from American vessels by British cruisers; that it is willing to look to one object only, the late aggression, and provide for it, while the other is left to depend on future adjustment. My Government had presumed that His Majesty's Government would have seen, in the recent and greater injury, a strong motive for bringing the whole subject into one view, and providing for it at the same time. The excess of the latter outrage could not fail to revive, in the minds of the suffering party, a high sense of former injuries; and it was reasonable to infer that the great injustice, inseparable from the practice, of which the incident furnished so striking an example, would have produced between our Governments the most prompt and friendly co-operation in the means of suppressing it. That the United States have suffered a greater injury by a recent occurrence than they had done before, cannot be a good reason, and ought not to be a motive, for delaying the redress of the others, especially when it is considered that they were already in a train of amicable accommodation and arrangement. Since, however, you inform me that His Majesty's Government is unwilling to take up the subject in a combined view, it is unnecessary for me to press it.

You ask whether I am authorized to separate this latter incident from the general practice, and to treat it as a distinct topic? On this point I have to state, that my instructions, which are explicit, enjoin me to consider the whole of this class of injuries as an entire subject; and so intimately connected are they in their nature, that it seems to be difficult, if not impossible, to separate them for any useful purpose to either party. My Government, being sincerely desirous to place the relations of the two Powers on the solid basis of permanent friendship, is satisfied, as well by what has occurred in the general practice as by the more awful admonition derived from the late incident, that that can only be done with effect, by mounting to the source of the evil, and providing an adequate remedy for it. In pursuing this great object, it is my duty to repeat that my Government does not seek to confine the remedy proposed to the injuries which the United States have suffered, and continue to suffer, but is desirous to extend it to those also which are complained of by Great Britain. Experience has shown that both parties complain of injuries, though certainly of a very different character and less urgent nature. How much more advisable, then, is it not, in every view, for them to enter into an arrangement which shall provide an adequate remedy for their respective injuries; which shall bind the honor of each Government to do what is just and right in respect to the other, and enlist the feelings of each nation on its side, than to suffer things to remain longer in their present state? How much more advantageous would not such an arrangement be likely to prove to Great Britain, in the particular object which she has in view, than her adherence to a practice which rejects a means which could not fail to be more productive; a practice which cannot be maintained in principle; which leads by immutable causes, that ought to inspire different sentiments in the parties to each other, to great and constant abuse; and which is also considered by the United States as subversive of their rights, and degrading to their character as an independent Power?

So much I have thought it proper to state, in order to place in a just light the conduct of my Government on the present occasion, on this great and very interesting subject of impressment. Well knowing its desire to cultivate the most friendly relations with Great Britain, on just and honorable conditions, it would be highly improper that any doubt should be suffered to exist on that point.

You inform me that His Majesty has determined, in case my instructions do not permit me to separate the late aggression from the general practice of impressment, to transfer the business to the United States, by committing it to a Minister, who shall be sent there with full powers to conclude it. To that measure, I am far from being disposed to raise any obstacle, and shall immediately apprize my Government of the decision to adopt it. Under such circumstances, I perfectly agree with you in the opinion, that it would be useless to pursue a discussion which it would be impossible for me to bring to a satisfactory conclusion.

It is still my duty to give the explanation which you have desired of the motives which induced the President to adopt the measures announced in his Proclamation of the 2d of July last. However great the injury which the United States had received, by the aggressions complained of, it is just that it should be shown that the President did not lose sight in those measures of the friendly relations subsisting between the two Powers. When the hostile nature of the attack on the Chesapeake is taken into view, and the general conduct of the British squadron, within the waters of the United States, before and after the attack, I am persuaded that there was no limit to which the President would not have been justified in going, which he might have thought essential to the honor and safety of the nation. Before the attack, the British squadron had violated the jurisdiction of the United States, by the impressment of men within it, whom the commander had refused to surrender; and, after the attack, the attitude which he assumed continued to be of a very menacing and hostile character. An act of hostility, it must be admitted, justifies any act of a like nature toward the party who commits it. The President, however, did not believe that His Majesty's Government had authorized the conduct of the British squadron, and his measures were evidently founded on that belief. They were marked by no circumstance of hostility or of retaliation toward Great Britain; but were intended simply to preserve order within the jurisdiction of the United States, to which end the removal of the British squadron without their limits became indispensable. After the acts of violence which had been committed by that squadron, it was impossible that it should remain longer there without increasing the irritation and widening the breach between the two nations, which it was the earnest object of the President to prevent. There certainly existed no desire of giving a preference in favor of the ships of war of one belligerent party to those of another. Before this aggression it is well known that His Britannic Majesty's ships lay within the waters of the Chesapeake, and enjoyed all the advantages of the most favored nation; it cannot, therefore, be doubted that my Government will be ready to restore them to the same situation as soon as it can be done consistently with the honor and rights of the United States.

I cannot conclude this communication without expressing my earnest hope that the differences, which have unhappily arisen between our Governments, may soon be settled on conditions honorable and satisfactory to both the parties. To have co-operated with you, in the accomplishment of so great and useful a work, would have been highly gratifying to me. The disposition which you have brought to the discussion, and the sentiments which you communicated on the principal transaction, when the first intelligence of it was received, have inspired me with great confidence that we should soon have been able to bring it to such a conclusion. To have been a party to it would have terminated my mission to His Majesty in the mode which I have long and sincerely desired.

I have the honor to be, &c.

JAMES MONROE.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Oct.* 9, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and requests that he will be so good as to inform him whether it is intended that the Minister, whom His Majesty proposes to send to the Government of the United States, shall be employed in a special mission, without having any connexion, immediate or eventual, with the ordinary legation. Mr. Monroe has inferred from Mr. Canning's note that the mission will be of the special nature above described; but he will be much obliged to Mr. Canning to inform him whether he has taken a correct view of the measure. Mr. Monroe would also be happy to know of Mr. Canning at what time it is expected that the Minister will sail for the United States. Mr. Canning will be sensible that Mr. Monroe's motive in requesting this information is, that he may be enabled to communicate it without delay to his Government, the propriety of which he is persuaded Mr. Canning will readily admit.

Mr. Monroe requests Mr. Canning to accept the assurance of his high consideration.

From Mr. Canning.

FOREIGN OFFICE, *Oct.* 10, 1807.

Mr. Canning presents his compliments to Mr. Monroe; and, in acknowledging the honor of his note of yesterday, has great pleasure in assuring him that he is at all times ready to answer any inquiries to which Mr. Monroe attaches any importance, and which it is in Mr. Canning's power to answer with precision, without public inconvenience. But it is not in Mr. Canning's power to state with confidence what may be the *eventual* determination of His Majesty in respect to the permanent mission in America. The mission of the Minister whom His Majesty is now about to send will certainly be limited, *in the first instance*, to the discussion of the question of the Chesapeake.

Mr. Pinkney to Mr. Madison.

LONDON, *November* 23, 1807.

SIR: I have the honor to transmit a duplicate of my letter of the 17th, enclosing a copy of the orders of council, lately issued by this Government relative to neutral trade.

When I was about to ask a conference with Mr. Canning on the subject of these orders, I re-

ceived a note from him requesting an interview. Although it was to be presumed that the purpose of this interview would appear to be the mere explanation of certain ambiguities in the details of this extraordinary measure, it seemed to furnish the opportunity, which I was preparing to seek, of remonstrating against the measure itself. It had occurred to me that it would not be proper that, by appearing to interest myself in its subordinate provisions, I should unnecessarily compromise with a transaction, of which the whole scheme and principle were so hostile to the incontestable rights of my country, and of which, however modified, the effect could not fail to be in the last degree injurious to its commerce. Under this persuasion I was disposed to leave that part of the subject, at least in the first instance, to the committee of merchants trading to the United States, of whose proceedings I was kept constantly informed, and from whose communications with the Board of Trade more useful results were, in this view, to be expected than from mine with the Foreign Department. It was, besides, not unnatural to hope that, while this respectable body of men were employed in demanding explanations of what was supposed to be doubtful in the phraseology of the orders, some of them, with whose opinions I was acquainted, would disclose to Government, with advantage to the discussion I had in contemplation, their conviction of their fatal tendency in a commercial, if not a political sense. In the hope of such a disclosure I was not wholly disappointed; but the Administration had decided irrevocably on their new system, which now appears to have been long meditated in secret. The only effect of the interference of the committee will be found in their printed report herewith transmitted. It will be seen that the explanations which this report contains are far from softening the harsh spirit of the orders, or furnishing any evidence of a disposition on the part of Government to make them more respectful to neutral rights, or less inconvenient in their execution. On the contrary, the blockade, which the orders institute against the ports of France and her allies, and against such other ports as the British flag may be excluded from, is, by these explanations, extended to the ports of the allies of Great Britain, so far as to prevent our carrying to them from the United States colonial productions.

In some respects, too, they have put a precise negative upon a favorable interpretation of the orders, adopted on their first publication by several intelligent merchants, by which much of their pernicious character would have disappeared in practice; and it is declared by them, contrary to all expectation, and with a wonderful disregard of justice, that one of the great agricultural products of the United States, after being forcibly drawn into Great Britain as the commercial vortex of the world, is, upon re-exportation, to go charged with a British duty.

My interview with Mr. Canning took place two days ago. He commenced the conversation by saying that he had requested to see me, not with the intention of discussing the general propriety of the late orders of council, for that, being already adopted, discussion could now answer no valuable purpose; but with the view of explaining to me such of their provisions as had been supposed to be liable to misconstruction, or might appear to me to be doubtful. He then read to me a paper, which was the same in substance with the report of the committee of merchants. It was not, however, stated in this paper, as he read it, that re-exported cotton was not to be exempt from duty, in common with our other native commodities. And when I remarked to him that the prohibition contained in his paper, of the direct carriage of colonial produce from neutral ports to the ports of His Majesty's allies, was not warranted by anything in the orders of council, he struck it out as a mistake, after having examined the orders, and satisfied himself that they did not comprehend the case. The truth is, however, that this prohibition is supposed here to be a necessary part of the system, and that upon that ground, or as being justified by the rule of the war of 1756, it is the intention of the Government to enforce it.

As soon as Mr. Canning had finished the reading of this paper, I told him that as he had intimated a wish to decline the present discussion of the principle of the orders, I certainly would not urge it at this time; but that as the explanations which he had just given relative to their details had not, in any degree, served to diminish the deep concern and extreme astonishment with which I had at first perused them, I would take the liberty in the course of a few days to trouble him with a note, in which should be given a view of the entire subject, as it presented itself to me. He replied, that there could be no objection to such a note.

To an observation of mine, that the orders menaced with absolute ruin the trade of the United States in all its important branches, and would probably exclude from the European seas, and drive back upon our shores, even the produce of our own soil, Mr. Canning answered that they had not appeared to him to be at all likely to produce these effects; and he invited me to state my ideas upon that point. This led insensibly to a conversation upon the whole subject, in which I endeavored to show that the orders were unjust, ill-timed, and impolitic; destructive at once of all the great maxims in which the civilized world have a common interest, (and Great Britain more than the rest,) and of the prosperity of the nations at war, as well as those at peace, and rested by Great Britain upon grounds which were not correct in fact, or sufficient if the facts were admitted.

To prove that the effect of the orders upon American commerce would be such as I had suggested, it was only necessary to compare their provisions with the known law of France, which had been adopted by her allies, and extended to the countries subject to her arms. The decrees of France, and of the States in alliance with her, exclude from their respective ports all vessels coming from a British port; and the British orders declare that no neutral vessel shall go to an enemy port, unless from a port of the United Kingdom, from Gibraltar or Malta, or from a port of His Majesty's allies; under such regulations, too, as his Majesty shall think fit to prescribe.

As the communication with enemy ports, through the "ports of His Majesty's allies," under the British licenses, can be little more than nominal, (and if it were not so would probably soon be prohibited by the other parties to the war,) it is difficult to imagine, even if there were nothing more in the orders of council, in what way, consistently with them, an American vessel, with whatsoever cargo she should be freighted, could, to any other effect than that of confiscation, find her way to a port of any of the enemies of Great Britain.

Before these orders were issued, it was possible that a neutral, going from a British port, might evade the laws of some of the opposite belligerents, at the hazard of seizure and forfeiture, by fictitious papers and declarations as to the port of her departure; but, if such an evasion was difficult, as undoubtedly it was, before the issuing of these orders, it is now become impossible. The obligation now attempted to be imposed upon all neutral vessels to take their departure for a belligerent port, (with the single unavailing exception above mentioned,) coupled with the known power of the British navy to render that obligation effectual, will make deception upon this point no longer practicable, if it were even to be desired; and thus, such of the staple commodities of the United States, as have heretofore had all Europe for their market, will, by the operation of this new article in the law of prize, be made to depend almost wholly on British consumption.

The trade of American citizens in the surplus of colonial productions, imported from the colonies of the parties to the war, will be yet more completely discouraged. To bring them here for consumption would be absurd, if indeed it should be allowed; and, once brought here, they could only go elsewhere in search of seizure and confiscation.

But even if it should be admitted that the laws of one or more of the opposite belligerents may be eluded, so far as respects the touching at or coming from a British port; or that the ports of His Majesty's allies may, in that view, afford some facility to the transportation of American commodities to France, or the countries connected with her; the orders of council meet this ill-fated trade with another obstacle, for which it is not easy to find a motive, but which cannot be surmounted. "Certificates of origin" are necessary to the admission and safety of neutral cargoes in the ports of France, and, it is believed in those of her allies, and in the ports of the countries which, not being the allies of France, she controls by her arms. The British orders subject to capture and condemnation, as prize of war, any neutral vessel carrying such a document, and the cargo to which it applies. How is this to be evaded, unless by a most hazardous concealment by the neutral of the interdicted document, of which the consequence would frequently be the loss of a vessel and cargo by the sentence of a British Court of Admiralty; while, if the concealment should be successful, and the British regulations, hereafter to be made, should not counteract its effect, (as they easily may, and probably will, either wholly or partially,) the introduction of the cargo into the enemy port would still have to contend with the impediment already mentioned?

With difficulties so formidable and so multiplied, no trade can struggle with success. The consequence must be that our merchants can have no inducement to send to this country cargoes of any description much beyond the internal demand, which, for some of our productions, exists but in a slight degree, for others to an inadequate extent, and for colonial productions not at all. And even with a view to British consumption, the obstacles and discouragements to American commerce will be great and destructive. The new system cannot fail to produce the necessary consequence of all such invasions of the rights and interests of mankind—a disposition to evade it. The attempts which will arise out of that disposition will be encountered by intolerable inquisitions, by seizures, detentions, and confiscations upon arbitrary presumptions, involving the innocent with the guilty. And if these alarming hazards should not be sufficient to beat down the enterprising spirit of our people, so as to banish from this commerce, thus limited in its range, the usual competition, it will follow that it must be overdone, to the ruin of those who embark in it, and finally of the commerce itself. In this work of destruction Great Britain will not only act, but suffer. The wound which she inflicts upon a Power, hitherto her best customer, will be deeply felt by herself, without the prospect of a single advantage, within the reach of imagination to suggest, to atone for it.

In the course of my remarks upon this branch of the subject I had called those parts of the French decrees, which require certificates of origin, and refuse admission into the ports of France to such neutral vessels as come from Great Britain, mere municipal regulations. Mr. Canning observed, upon this phrase, that it was inapplicable to the provision which prescribes certificates of origin; erroneously supposing that the want of that document subjected a neutral vessel and cargo to French capture on the high seas. I assured him that this wss a misapprehension; and finding that he was not unwilling to attend to an explanation of the whole of the French system, as I understood it, and of its bearing upon the British orders of council in the light of a justification of those orders, I went at some length into such an explanation. Mr. Canning received it in a very friendly manner; but did not give me any reason to believe that it was likely to produce an effect upon the measure against which it was directed. It may not, perhaps, be improper to trouble you with a hasty sketch of what I thought it my duty to urge on this topic. I am conscious that I have not done justice to the subject; but it will be re-

collected that it is an extremely delicate one, and that the necessity for discussing it was sudden and unforeseen.

I introduced my explanations with a brief analysis of the British measure. Its great feature is the establishment, by the sole operation of an order of council, of an unexampled blockade, not existing or pretended to exist, in fact, of all the ports and places of France and her allies, and all other countries at war with His Majesty; of all other ports and places in Europe from which the British flag is excluded; and all the ports and places in the colonies belonging to His Majesty's enemies. It does more than this, however. The first order declares, "that all trade in articles of the produce or manufacture of the said countries or colonies shall be deemed unlawful," &c.

Upon these two provisions, connected with that which relates to certificates of origin, the measure relies for its whole efficacy. The rest is but gratuitous exception and qualification, which may at any time be withdrawn.

In the preamble to the first order we are in substance referred, for the inducements to this measure, to the French decree of November, 1806, coupled with an imputed acquiescence in that decree by the nations at peace. That decree contains provisions which seem, at first sight, to be of different characters. The British orders point to the first article, which declares the British islands in a state of blockade; and to the fifth, which prohibits all trading in English merchandise, &c., as trenching upon neutral rights by setting up new rule of maritime capture. The remaining articles seem to be admitted to be, and undoubtedly are, municipal laws, resting upon the foundations of territorial sovereignty.

If the first article be considered in an abstract state, it would be difficult to avoid the conclusion that it was intended to affect the rights of neutrals upon the ocean. It is not in that state, however, that it ought to be considered; since it is found, in fact, in a state of connexion with other provisions. So connected, it appears to be susceptible of an interpretation consistent with neutral rights. Without going into an argument upon this point, it may be allowable to infer that it was not meant to give to the declaration contained in this article, unaccompanied by the shadow of an actual blockade, the incidents which only belong to such a blockade, from the single consideration that some of the subsequent articles are not to be reconciled with that intention. The seventh and eighth articles are particularly important in this view, and are fortified by the municipal scope and tendency of the whole decree.

The fifth article is yet more evidently than the first a municipal rule. Its terms can be completely satisfied by such a construction; while, without it, no office can be assigned to the seventh and eighth.

It is to be admitted, however, that the phraseology of the decree, especially of the first article, was such as very naturally to excite the attention of the nations at peace, as being liable to an exposition hostile to their just neutral claims. The Minister of the United States at Paris was, accordingly, among the first to demand of the Minister of Marine, (who was charged, in what concerned his department, with the execution of it,) "the official explanation which may have been given to this decree, so far as it involves the rights of neutral nations." The answer was prompt and explicit. Here I read General Armstrong's letter of the 10th of December last to the French Minister of Marine, and the reply of that Minister of the 24th of the same month, as communicated by the President to Congress, in February, 1807. I relied particularly on the following passages in that reply.

"I consider the imperial decree of the 21st of November last as thus far conveying no modification of the regulations at present observed in France with regard to neutral navigators, nor consequently," &c.

"That the declaration expressed by the first article not at all changing the present French laws concerning maritime capture," &c.

"That an American vessel cannot be taken at sea for the mere reason that she is going to a port of England, or is returning from one; because, conformably with the seventh article, we are limited," &c.

"That the provisions of articles second and fifth naturally apply to foreign citizens *domiciliated* in France," &c.

It is obvious that these explanations, which cannot be evaded by the suggestion that they are not sufficiently precise, or that the Minister of Marine, who undertook to give them, was not the regular organ of such a communication, impress upon all the obnoxious parts of this decree the character of domestic rules, operating, not on the seas, but in the interior of France, against which, however inconvenient, neutral nations could offer neither resistance nor remonstrance as infringements of their neutral rights. Nor, in that light, could Great Britain be justified in complaining of them. In peace, as well as in war, she has her navigation and other laws, modifying the intercourse of other nations with her ports, with an exclusive view to her own advantage; and it was not to be expected that, in the contest in which she is engaged, her enemy would, if he could do without them, encourage her manufactures by consuming them, or her colonies by purchasing their productions.

As domestic regulations, then, it is impossible to maintain that the articles of the French decree form any apology for the British orders, upon any intelligible notion of the right of retaliation. The British orders annihilate the whole public law of Europe relative to maritime prize, and substitute a sweeping system of condemnation and penalty in its place. The French decree produced no change at all in that law. The last was no more than a legitimate, though possibly an ungracious exercise of the rights of local sovereignty; while the former can be referred only to force, and look for the scene of their operation to the ocean.

But the decree of France has been explained, not only by the French Minister of Marine, but

by the practice under it, to which more than to those explanations, or even to the decree itself, the States at peace were to look for its real importance to their rights and their prosperity. And here I read an extract from a letter to Mr. Monroe and myself from General Armstrong, of the 8th of February last, confirmed by all subsequent information, in which he states that the practice under this decree "is entirely that of the old regulations. Its operation is accordingly confined to neutral ships passing from British ports to those of France or her allies."

Now, let the mere theory of the decree be what it may, if in effect it does not violate the rights of neutral nations, it furnishes no foundation for a real, extensive, practical measure, on the part of Great Britain, which sweeps from the seas everything to which those rights can apply.

But the Orders of Council rely (as they ought to do) not merely on the provisions of the French decree, but on the forbearance of neutral nations "to interpose with effect to obtain their revocation."

So far as respects the United States, (who could only be bound to take care of their own rights,) it has been seen that their Minister lost no time in doing what only he could properly do. He required official explanation of those parts of the decree upon which Great Britain founds her retaliating system, at the expense of the United States; and the answer to his demand removed all real ground of complaint—an answer with which he had the more reason to be satisfied, as the contemporaneous and subsequent practice corresponded with it. This he communicated to his Government; and it cannot be imagined that, without even the pretext of an actual grievance, the United States were called upon "to interpose" against a mere form of words, by which none were injured, lest Great Britain should construe their forbearance into a surrender of the rights of their neutrality, and build upon that imputed surrender the ruin of their lawful commerce.

It is suggested in the orders that the parts of the French decree which it recites "have recently been enforced with increased rigor." To this I might reply that I have no knowledge of any such fact as respects the provisions in question. But, be the fact as it may, it is obvious that the United States cannot be said to acquiesce in that of which they have not yet been apprized. They have met the transaction, as it presented itself to them, with effect; and, if it has lately taken a new shape, they cannot be made responsible for it by Great Britain, even upon her own principles, until they shall have had an opportunity of being informed of this recent change, and of dealing with it as their honor and interests may require.

It appeared that Mr. Canning had supposed it to be understood by me that the French decree had always operated, according to the British construction of it, against all neutral nations, with an exception in favor of the United States. Upon this supposition, he intimated that such a peculiar exemption might (although he was far from saying or intending to imply that it was so) have been purchased by sacrifices, when it was perhaps incumbent on the nation enjoying it, instead of thus withdrawing itself from the common cause of neutrals, to insist upon its rights as identified with theirs, and to obtain the recantation of what was hostile to them. To this I replied, that the answer of the French Minister of Marine did not turn upon any such peculiar exemption, nor did the French practice rest upon it; nor did the view which I had taken of the decree itself suppose it. But, if it were otherwise, it would be recollected that any peculiar immunity which American commerce might enjoy from the effect of this decree must stand, not upon subsequent compromise, but upon an antecedent treaty, with which the decree, as understood here, was certainly inconsistent, and which, so far as they conflicted, might well be allowed to create exceptions not expressed in the decree itself. I added, although the observation could not be important to the United States, that, if any neutral State had even obtained an exemption from the decree after it was promulgated, and if, moreover, this exemption was not common to all neutral nations, it was not to be admitted that the exemption (not being purchased by unneutral means) would give to Great Britain a just pretence for retaliating against France, through the rights of the nation thus exempted. I forebore, however, from enlarging upon this topic, as wholly inapplicable to the case under consideration; as I did from touching at all upon the general right of retaliation, as, under all circumstances, unimportant to it.

Upon the subject of certificates of origin I made but few remarks. The French decree of November last does not require them. They are prescribed by a former *arrêt*, and are intended solely to prevent the introduction into France of British merchandise or colonial produce. The decree requiring them is, in form, as well as effect, a perfectly domestic law. The British orders, however, affect to consider it as part of a "new system of warfare," directed against the trade of this country; and Mr. Canning had imagined, as I have already stated, that it operated upon the high seas. It was only necessary to rectify this error, and to show, in few words, the inadmissible nature of a measure, whether combined with others or not, which, founding itself upon an extravagant claim by one belligerent to force its commodities upon the other, whether it will have them or not, retaliates upon neutrals with maritime capture, if, in their ordinary trade, they attempt a compliance with such of the local regulations of that other belligerent as have for their object the exclusion of those enemy commodities from its own territories.

Towards the close of our interview, I asked Mr. Canning if Mr. Rose was authorized to mention to the Government of the United States the determination of his Majesty's Government to adopt a measure which could not but be viewed by it as of the highest moment, and for which nothing that had hitherto passed could be supposed in any degree to prepare it. He told me that Mr. Rose

had no authority to mention this step, and was, as he believed, ignorant of the intention of Government to take it; that his mission had, as I knew, a special purpose; and that it was not meant that his functions should interfere with those of Mr. Erskine, to whom a communication of the orders would be made; that they had delayed that communication until the judgment of practical men had been exercised upon the orders, so as to lead to the explanation and complete amendment of their ambiguities and defects, and until he should have had an interview with me; but that it would certainly be made with very little further delay, and that instead of waiting for the packet he believed they should send out a vessel for that sole object, of which he intended to apprize me, as presenting the means of forwarding my despatches also.

I have only to add to this very hasty letter, that, as I had more opportunity of discussing the British orders of council with Mr. Canning than, at the commencement of our interview, was likely to be afforded, I am at present inclined not to send him a note, as I should otherwise, perhaps, have thought it my duty to do. I am not aware that such a step can now be of any utility. Remonstrance before the measure was adopted might have been useful; but the studied secrecy with which it was prepared made that impracticable. I can say little in a note which I have not already suggested in conversation, and the reports which reach me from the Continent render it prudent to pause. The President may be assured, however, that, if any chance should occur of doing good, either by personal representations or otherwise, I will not omit to avail myself of it.

An attempt will, I think, be made by some of the merchants trading to the United States to prevail upon their whole body in the different parts of the Kingdom to urge the Government, if not to an abandonment, at least to a considerable modification of the orders, so as, perhaps, to leave the trade of our country in its native productions free. I do not believe that the attempt will succeed. The orders, in their present shape, are more popular than could have been expected. There are, indeed, many who are at a loss to conceive the policy which has dictated them, and are convinced that they cannot be vindicated upon principle. But they have the appearance of vigor suited to the crisis, and gratify, moreover, many passions and peculiar interests.

The peril of the moment is truly supposed to be great beyond all former example; and it is therefore believed to require efforts of a new and extraordinary character, which, in common times, would be admitted to threaten the dangers which now they are intended to prevent. Experience only will teach them that moderation and justice would still be the best foundations of their power, and the surest means of defence.

This measure will not, probably, and indeed cannot, be long persisted in. Its injurious consequences to their own trade and manufactures will soon be perceived. The speculation is said to be, that it will create a pressure upon the Government of France, which will compel it to emancipate neutral commerce from the thraldom of its late restrictions; but it does not seem to be considered that the greater pressure will be here, with the smaller capacity to bear it.

I have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

Extract.—Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *Dec.* 23, 1807.

SIR: Mr. Erskine having been so good as to let me know that the mail of this evening will carry his despatches for a British packet, which will sail from New York immediately on their arrival there, and other conveyances now failing, I avail myself of the opportunity to enclose you a copy of a Message from the President to Congress, and their act in pursuance of it, laying an immediate embargo on our vessels and exports. The policy and the causes of the measure are explained in the Message itself. But it may be proper to authorize you to assure the British Government, as has been just expressed to its Minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting, or leading to hostility with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries.

The suddenness of the present opportunity does not allow me time to add more than a newspaper containing a part of the proceedings of Congress in relation to the embargo.

P. S. As you may be able to find conveyances to Paris, whither none will for some time offer hence, I request the favor of you to communicate to General Armstrong the contents of this letter, and, through him, or otherwise, to Mr. Erving, at Madrid.

Extract.—Mr. Pinkney to Mr. Madison.

LONDON, *January* 26, 1808.

I had the honor to receive this morning your letter of the 23d of last month enclosing a copy of a Message from the President to Congress, and of their act in pursuance of it laying an embargo on our vesssels and exports.

It appeared to be my duty to lose no time in giving such explanations to the British Government of this wise and salutary measure as your letter suggests, and accordingly I went to Downing street immediately, and had a short conference with Mr. Canning, who received my explanations with great apparent satisfaction, and took occasion to express the most friendly dispositions towards our country. I availed myself of this opportunity to mention a subject of some importance connected with the late orders of council. I had been told that American vessels, coming into British ports, under warning, could not obtain any document to enable them to return to the United States in the event of its being found imprudent either to deposite their cargoes here, or to resume their original voyages. Although they are not prohibited from returning, yet, as the warning is endorsed on their papers, the return may be hazardous without some British document to prove compliance with it and give security to the voyage. Mr. Canning took a note of what I said, and assured me that whatever was necessary to give the facility in question would be done without delay; and he added that it was their sincere wish to show, in everything connected with the orders of council, which only necessity had compelled them to adopt, their anxiety to accommodate them, as far as was consistent with their object, to the feelings and interests of the American Government and people. I was induced by these observations to mention, and to make several strong remarks upon the duty intended to be imposed on our cotton when re-exported to the Continent, and the adherence to the determination not to allow to our vessels warned into British ports any change of destination. He told me that these subjects (with which, however, it was evident he was very little acquainted) should be taken into immediate consideration, and that he would let me know the result. I am to have another interview with him in the course of a few days.

Mr. Pinkney to Mr. Madison.

LONDON, *February* 2, 1808.

SIR: I had an interview this morning with Mr. Canning, at his own request. One object of the interview related to the Message of the President of the 27th of October last, of which a newspaper copy had been received from Mr. Erskine. A call for a copy of this message was expected in Parliament, and Mr. Canning wished to be in a situation to produce it. I could not assist him, and suppose the newspaper copy will be considered sufficient.

As soon as this subject was disposed of, Mr. Canning observed that he had requested to see me principally for the purpose of conversing with me privately and extra-officially upon the duty proposed to be laid, in consequence of their late blockading orders, upon cotton intended for re-exportation to enemy ports upon the Continent. The very few occasional remarks which I had made upon this subject at our last interview (already mentioned in my letter of the 26th ultimo) had led him to suppose that it was only to the mode of excluding our cotton from France that the United States would be likely to object, and that if their object could be accomplished in another way, the measure would cease to be offensive. Having admitted (what indeed was sufficiently obvious before) that they looked to the intended duty upon cotton as a complete prohibition, he said, that if it would be more acceptable to the United States, the form of the proceeding should be changed, so as to leave the exclusion of cotton from the Continent to the mere effect of the blockade. Their desire to consult our feelings and wishes, in whatever did not entirely counteract the great end of the measure, would dispose them to adopt such a modification of their plan. In the course of his explanations upon this point, he introduced professions of good will towards our country, of regret that France had imposed upon them the necessity of resorting to a step which might be supposed to press with severity upon our interests, and of an anxious desire that a return to a system of equity and moderation on the part of her enemies would speedily enable Great Britain to abandon (as she would in that case instantly do) the whole of the recent Orders in Council. He stated that it was peculiarly important towards the just effect of the Orders (of which it was the object to compel France to relieve the commerce of the world from the oppression of her late decrees) that considerable supplies of cotton should not be introduced into the Continent; that it had been hoped and believed that the United States would not view as harsh or unfriendly a constrained attempt by Great Britain to prevent such supplies from being received by the other parties to the war, especially as it was certain that Great Britain could herself consume almost the whole of the cotton which we were in the habit of sending abroad; and that they had preferred the imposition of a duty upon cotton to a direct prohibition through the operation of the blockade, because it was consistent with the various and extensive modifications of the blockade to which they had been led, not merely by views of advantage to themselves, but by a respect for the convenience and feelings of other nations, and particularly of America. In fine, he wished to know my private opinion, before the subject came before Parliament, whether an alteration in this respect, from a prohibitory duty to an absolute interdict, would be likely to be acceptable to us. I replied, in as conciliatory a manner as I could, that, as soon as I had understood that a duty was to be proposed on re-exported cotton, I had been disposed to take for granted that the object was not revenue, but prohibition; that, whether the object were the one or the other, it was, as he knew, my opinion that the United States would hold the object, as well as the means, and the whole system connected with them, to be utterly inadmissible; and that I did not feel myself authorized to say to which of the courses he had suggested my Government would give the preference, or that it would feel any preference for either.

Mr. Canning at length asked me if I should think it worth while to consult my Government on this subject, observing, at the same time, that he would not wish it to be done if there was the least danger of giving offence; and assuring me that what he had said proceeded from motives the most amicable and respectful towards us. He added, that, upon reflection, this would perhaps be the most convenient mode, as it would give them a good deal of trouble to accommodate their plan, as prepared for Parliament, to a change of so much importance, in season to be acted upon.

I answered, in substance, (as I saw it was his

wish,) that I would mention what had passed to you, and that I did not doubt that the motives of his proposal, whatever might be thought of the proposal itself, would be acceptable to the President. He requested me to say to you, that, although the necessary bills would be proposed and would pass in Parliament, according to their first project of a duty, yet that the alteration above suggested would be adopted whenever it should be known that it would be agreeable to us.

I need not trouble you with any reflections upon this conversation. But it is my duty to say, that, although Mr. Canning's manner was extremely conciliatory, not a word escaped him to encourage a hope that the Orders of Council would be in any degree abandoned, or that I should gain anything by urging a reconsideration of them. I threw out some intimations with that tendency, but soon perceived that it could not be useful to follow them up. I have the honor to be, &c.,

WILLIAM PINKNEY.

Hon. JAMES MADISON.

Extract.—Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *Feb.* 19, 1808.

SIR: A vessel having been engaged to carry from the port of New York public despatches and mercantile letters to Europe, I avail myself of the opportunity of forwarding you a series of gazettes which contain the proceedings of Congress, and such current information as will give you a view of our internal affairs. They will be put, with this letter, into the hands of Mr. Nourse, a passenger in the despatch vessel, who will deliver them at London; and as the vessel, which will have previously touched at L'Orient, will, after waiting ten or twelve days at Falmouth, return to that port, and thence to the United States, you will have an opportunity of sending thither any communications you may wish to make to Paris, as well as of transmitting to your Government such as may follow up your correspondence, which, at the present period, will be the more acceptable the more it be frequent and full.

My last, which was committed to the British packet, enclosed a copy of the act of embargo, and explained the policy of the measure. Among the considerations which enforced it, was the probability of such decrees as were issued by the British Government on the 11th of November; the language of the British gazettes, with other indications, having left little doubt that such were meditated. The appearance of these decrees has had much effect in reconciling all descriptions among us to the embargo, and in fixing in the friends of the measure their attachment to its provident guardianship of our maritime interests.

Mr. Erskine communicated, a few days ago, the several late decrees of His Government, with expressions of the regret felt by His Britannic Majesty at the necessity imposed on him for such an interference with neutral commerce, and assurances that His Majesty would readily follow the example, in case the Berlin decree should be rescinded, or would proceed, *pari passu*, with France, in relaxing the rigor of their measures. Mr. Erkine was asked whether his Government distinguished between the operation of the French decree, municipally on land, and its operation on the high seas. On this point he was unable to answer; as he also was to an inquiry whether the late British decrees had reference to the late extension of the French decree with respect to the United States. He seemed also, as is perhaps the case with his Government, to have taken very little into consideration the violations of neutral commerce, and, through them, the vast injury to France, antecedent to the Berlin decree. It is probable that something further is to pass between us on this subject.

Mr. Pinkney to Mr. Madison.

LONDON, *February* 23, 1808.

SIR: Mr. Canning has just sent me a note, of which a copy is enclosed, relative to an intended alteration, upon the subject of cotton, in their bill for carrying into execution the late Orders in Council. You will perceive that he lays some stress upon the accidental observations which (as already explained to you in my letter of the 26th of last month) were drawn from me, some time since, upon the singularly offensive project of imposing a transit duty upon our cotton. I mentioned to you, in my letter of the 2d instant, that he appeared to have misapprehended the tendency of these observations, and that, in a subsequent conversation, he showed a disposition to remove this obnoxious feature from their plan, for the purpose of substituting an absolute interdict of the export of that article, under an idea that we should cease then to object to it, but that I thought it my duty to decline to give him any encouragement to do so, although I agreed, as he seemed to wish it, to mention his disposition to you. A few days ago he sent for me again, and renewed his proposal of an immediate change with respect to cotton, from a prohibitory duty to direct prohibition. My answer was the same in substance as it had been before. He then suggested the alternative arrangement which you will see stated in his note; but, adhering to the determination I had formed upon the first appearance of the Orders in Council, to make no compromise (without precise directions from my Government) with the system which they announce, by becoming a party to its details, I received this proposal as I had done the other.

The British Government, however, had resolved to adopt this last mentioned plan, whether it received my concurrence or not, upon a presumption that it would be more acceptable to us, and, perhaps, too, under the idea that it was more defensible than their original scheme; and the purpose of Mr. Canning's note is merely to signify to me, in a manner as friendly and respectful as possible to the United States, their intention to propose it to Parliament. One object of all this is certainly to conciliate us, although it may be another to free their system, as far as they can, from the disadvantage of one of the formidable

reproaches which their opponents cast upon it. But the wise and magnanimous course would be at once to tread back their steps upon the whole of this ill-judged measure, instead of relying upon small and unsubstantial modifications, which neither produce an effect upon its character and principle, nor mitigate the severity of its practical consequences. I might, if I thought it advisable, take the occasion, which Mr. Canning's note undoubtedly furnishes, to press upon him once more the policy as well as the justice of such a course. But I believe it, under all circumstances, to be more prudent to wait for your instructions, which must, I think, be very soon received.

I have already had the honor to send you two copies of the resolutions moved in the House of Commons by the Chancellor of the Exchequer, as tables of export duties, to which their bill should refer. I have enclosed in another letter, with which this will be accompanied, a copy of the bill itself, which will, however, undergo several alterations. These will be found to be explained (as far as I am acquainted with them) in the letter above mentioned.

I have the honor to be, &c.

WM. PINKNEY.

Hon. JAMES MADISON,
Secretary of State.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE. *Feb.* 22, 1808.

SIR: I have already had the honor of assuring you, in conversation, of the disposition which is felt by the British Government to give due weight to the observations which you have made to me respecting the unfavorable impression likely (in your opinion) to be excited in the United States by the duty proposed to be levied upon cotton destined for the use of the enemy, but brought into the ports of this country conformably to the tenor of the Orders of Council of the 11th November last.

You are already apprized that the principle upon which the whole of this measure has been framed, is that of refusing to the enemy those advantages of commerce which he has forbidden to this country.

The simple method of enforcing this system of retaliation would have been to follow the example of the enemy, by prohibiting altogether all commercial intercourse between him and other States.

It was from considerations of indulgence to neutral trade, that the more mitigated measure of permitting intercourse under the restraints and regulations of a duty *in transitu* was adopted; and, being adopted with this view, it was not immediately felt by the British Government that there might be a distinction taken by neutral States, with respect to articles the produce of their own soil; and that while the commutation of prohibition into duty was acknowledged as an indulgence, when applied to articles of foreign commerce, of which they were only the carriers, it might be considered as an invidious imposition when applied to their own productions.

From the moment that this distinction has been explained to the British Government, they have been desirous of manifesting every attention to it; and if you, sir, had been possessed of the necessary authority from your Government, there would have been no difficulty in entering into a specific agreement with you upon the subject. In order, however, to obviate the objection in a great degree, I have the honor to inform you that it is intended to be proposed to Parliament, that all cotton, brought into this country, in conformity to the orders of council, should be absolutely prohibited from being exported to the territories of the enemy. But as you are not prepared to take upon yourself to say that in no case the option would be acceptable, an option will still be left to the neutral owner, either to acquiesce in the total prohibition, or to re-export the article, on the payment of such a duty as Parliament may judge it expedient to impose.

I flatter myself, sir, that this alteration in the legislative regulations, by which the orders of council are intended to be carried into execution, will be considered by you as a satisfactory evidence of the disposition of His Majesty's Government to consult the feelings as well as the interests of the United States, in any manner which may not impair the effect of that measure of commercial restriction, to which the necessity of repelling the injustice of his enemies has obliged His Majesty reluctantly to have recourse.

I have the honor to be, &c.,

GEORGE CANNING.

WILLIAM PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,
February 23, 1808.

Mr. Pinkney presents his compliments to his Excellency Mr. Canning, and has the honor to acknowledge the receipt of his note of yesterday, relative to an alteration on the subject of cotton, in the legislative regulations, by which the late orders in council are intended to be carried into execution, which Mr. Pinkney will hasten to transmit to his Government.

Mr. Pinkney requests Mr. Canning to accept assurances of his high consideration.

Mr. Erskine to Mr. Madison.

WASHINGTON, *Feb.* 23, 1808.

SIR: I have the honor to transmit to you the copies of certain orders of council which His Majesty has thought proper to issue in consequence of the hostile conduct of France towards the navigation and commerce of Great Britain and of neutral States.

His Majesty has been induced hitherto to forbear recurring to measures of this nature, by the expectation that the Government of the neutral States, who have been the objects of the French decrees, would have been awakened to a just

sense of what they owe to their interests and own rights, and would have interposed with effect either to prevent the execution of the French decrees, or to procure their abrogation.

But His Majesty having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures as, by retorting on the enemy the inconveniences and evils produced by his injustice and violence, may afford the only remaining chance of putting an end to a system, the perseverance in which is no more injurious to His Majesty's dominions than to nations not parties to the war between Great Britain and France.

The principle upon which His Majesty finds himself compelled to proceed would justify a complete and unqualified retaliation on this part of the system, announced and acted upon by France, in respect to His Majesty's dominions; and His Majesty might, therefore, have declared in a state of rigorous and unmitigated blockade all the coasts and colonies of France and her allies. Such a measure the maritime power of Great Britain would have enabled His Majesty to enforce; nor would those nations which have acquiesced without effectual remonstrance in the French decree of blockade, have derived any right from the more perfect execution of a corresponding determination, on the part of His Majesty, to complain of His Majesty's enforcing that measure, which the enemy has executed imperfectly only from the want of the means of execution.

His Majesty, however, actuated by the same sentiments of moderation by which His Majesty's conduct has been uniformly governed, has been desirous of alleviating as much as possible the inconveniences necessarily brought upon neutral nations by a state of things so unfavorable to the commercial intercourse of the world, and has therefore anxiously considered what modifications it would be practicable to apply to the principle upon which he is compelled to act, which would not, at the same time that they might afford relief from the pressure of that principle upon neutral or friendly nations, impede or enfeeble its operation upon the enemy.

In pursuance of this desire, the order in council, which, if it had ended with the sixth paragraph, would have been no more than a strict and justifiable retaliation for the French decree of November, 1806, proceeds, as you will observe, sir, to provide many material exceptions which are calculated to qualify the operation of the order upon neutral nations in general, but which must be considered as most peculiarly favorable to the particular interests of the United States.

It will not escape you, sir, that by this order in council, thus modified and regulated, the direct intercourse of the United States with the colonies of the enemy is unrestrained; an indulgence, which, when it is considered to be (as it really is) not only a mitigation of that principle of just reprisal upon which the order itself is framed, but a deviation in favor of the United States, from that ancient and established principle of maritime law by which the intercourse with the colonies of an enemy in time of war is limited to the extent which that enemy was accustomed in time of peace to prescribe for it, and which, by reference to the conduct of France in a time of peace, would amount to a complete interdiction, cannot fail to afford to the American Government a proof of the amicable disposition of His Majesty towards the United States.

You will observe, sir, also, that the transportation of the colonial produce of the enemy from the United States to Europe, instead of being altogether prohibited, which would have been the natural retaliation for the rigorous and universal prohibition of British produce and manufactures by France, is freely permitted to the ports of Great Britain, with the power of subsequently re-exporting it to any part of Europe, under certain regulations.

The object of these regulations will be the establishment of such a protecting duty as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain. In this duty it is evident that America is no otherwise concerned than as being to make an advance to that amount for which it is in her own power amply to indemnify herself at the expense of the foreign consumer.

Another most important relaxation of the principles upon which His Majesty's orders proceed is, that which licenses the importation of all flour and meal, and all grains, tobacco, and other articles, the produce of the soil of America, with the exception of cotton, through the ports of His Majesty's dominions into those of his enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which His Majesty has deprived this measure of its most efficacious and hurtful operation against the enemy, through motives of consideration for the interests of America. The reason why His Majesty could not feel himself at liberty, consistent with what was necessary for the execution of his purpose in any tolerable degree, to allow this relaxation to apply to cotton, is to be found in the great extent to which France has pushed the manufacture of that article, and the consequent embarrassment upon her trade, which a heavy impost upon cotton, as it passes through Great Britain to France, must necessarily produce.

I cannot refrain from calling the attention of the Government of the United States to the contrast between the different modes in which His Majesty's orders and those of France are carried into execution. By His Majesty's, the utmost consideration is manifested for the interests of those nations whose commerce he is reluctantly compelled to impede, and ample time allowed for their becoming acquainted with the new regulations and conforming to them; whereas France,

without any previous notice, and without any interval, applies her orders to trade already entered upon in ignorance of any such orders, and subjects to condemnation ships whose voyages, when commenced, were in strict conformity to all the regulations at that time promulgated by France.

Even with these and other modifications, His Majesty is not unaware that a measure extorted from him by the injustice of the enemy must inevitably produce inconveniences to the neutral parties who are affected by its operation. The right of His Majesty to resort to retaliation cannot be questioned. The suffering occasioned to neutral parties is incidental, and not of His Majesty's seeking. In the exercise of this undoubted right, His Majesty has studiously endeavored to avoid aggravating unnecessarily the inconveniences suffered by the neutral. And I am commanded by His Majesty especially to represent to the Government of the United States the earnest desire of His Majesty to see the commerce of the world restored once more to that freedom which is necessary for its prosperity, and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary. But His Majesty entertains the conviction, upon which alone his present measures are founded, that it would be in vain to hope for such a retraction until the enemy shall himself have been made to feel a portion of the evils which he has endeavored to inflict upon others.

I have the honor to be, with great consideration and respect, your obedient servant,

D. M. ERSKINE.

JAMES MADISON, *Secretary of State.*

Mr. Madison, Secretary of State, to Mr. Erskine.

DEPARTMENT OF STATE,
March 25, 1808.

SIR: Having laid before the President your letter of the 23d of February, explaining the character of certain British orders of council issued in November last, I proceed to communicate the observations and representations which will manifest to your Government the sentiments of the President on so deep a violation of the commerce and rights of the United States.

These orders interdict to neutral nations, or rather to the United States, now the only commercial nation in a state of neutrality, all commerce with the enemies of Great Britain, now nearly the whole commercial world, with certain exceptions only, and under certain regulations, but too evidently fashioned to the commercial, the manufacturing, and the fiscal policy of Great Britain; and, on that account, the more derogatory from the honor and independence of neutral nations.

The orders are the more calculated to excite surprise in the United States, as they have disregarded the remonstrances conveyed in my letters of the 20th and 29th March, 1807, against another order of council, issued on a similar plea, in the month of January, 1807. To those just remonstrances no answer was indeed ever given; whilst the order has been continued in its pernicious operation against the lawful commerce of the United States, and we now find added to it others instituting still more ruinous depredations, without even the addition of any new pretext; and when, moreover, it is notorious that the order of January was of a nature greatly to overbalance in its effects any injuries to Great Britain that could be apprehended from the illegal operation of the French decree on which the order was to retaliate, had that decree in its illegal operation been actually applied to the United States and been acquiesced in by them.

The last orders, like that of January, proceed on the most unsubstantial foundation. They assume for fact an acquiescence of the United States in an unlawful application to them of the French decree; and they assume for a principle that the right of retaliation, accruing to one belligerent against a neutral, through whom an injury is done by another belligerent, is not to have for its measure that of the injury received, but may be exercised in any extent and under any modifications which may suit the pleasure or the policy of the complaining party.

The fact, sir, is unequivocally disowned. It is not true that the United States have acquiesced in any illegal operation of the French decree; nor is it even true that, at the date of the British orders of November 11, a single application of that decree to the commerce of the United States on the high seas can be presumed to have been known to the British Government.

The French decree in question has two distinct aspects; one clearly importing an intended operation within the territorial limits as a local law, the other apparently importing an intended operation on the high seas.

Under the first aspect, the decree, however otherwise objectionable, cannot be said to have violated the neutrality of the United States. If the governing Powers on the Continent of Europe choose to exclude from their ports British property or British productions, or neutral vessels proceeding from British ports, it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by Great Britain at all times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is only, therefore, under the other aspect of the decree, that it can have violated neutral rights, and this would have resulted from its execution on the high seas, whether on the pretext of nominal blockade, or with a view to enforce a domestic regulation against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations.

Has, then, the French decree been executed on the high seas against the commerce of the United States with Great Britain? and have the United States acquiesced in the unlawful and injurious proceeding?

I state, sir, on undeniable authority, that the

first instance in which that decree was put in force against the neutral rights of the United States was that of the Horizon, an American ship, bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France, but condemned under an exposition of the decree, extending to the high seas its operation against neutrals. This judicial decision took place as late as the 16th day of October, 1807, and was not officially known to the Minister Plenipotentiary of the United States at Paris until some time in November. At the date, therefore, of the first order of Great Britain, no injury whatever had been done to her, through an aggression on the commerce of the United States. No presumption even had been sufficiently authorized that the express stipulations in the treaty of France with the United States would not exempt their commerce at least from the operation of any edict incompatible with them. At the date even of the latter orders of November 11th, it appears that the only aggression which had then occurred, was pretty certainly unknown to the British Government, and could therefore have had no share in producing this alleged retaliation.

To the fact that the case of the ship Horizon was the first that occurred of an execution of the French decree on the high seas, I am able to add, that as late as the 30th of November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruisers have since taken place, but it remains to be known whether they are to be referred to the concurrence of the French Government in the judgment pronounced in the case of the Horizon, or not rather to a French decree of the 17th December last, professing to be a retaliation on the British orders of November 11.

I state, with equal confidence, that at no time have the United States acquiesced in violations of their neutral rights, injurious to Great Britain, or any other belligerent nation. So far were they in particular from acquiescing in the French decree of November, 1806, that the moment it was known to the Minister at Paris, he called for explanations of its meaning, in relation to the United States, which were favorable, and uncontradicted by the actual operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them, to the commerce of the United States; that no time was lost, after the decree came to the knowledge of the Government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the Horizon, in presenting to the French Government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity after that decision reached the President, the particular instructions required by it were forwarded to that Minister. Nor is it to be forgotten that, previous to the British orders of November, it had been explicitly communicated to the British Government by the American Minister at London, that explanations uncontradicted by any overt act had been given to our Minister at Paris, which justified a reliance that the French decree would not be put in force against the United States, and that the communication was repeated to the British Government immediately on the publication of those orders.

What more could have been required on the part of the United States to obviate retaliating pretensions of any sort on the part of Great Britain? Retaliations are measures of right in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to by a magnanimous or a just Power, which will always allow to the third party its right to discuss the merits of the case, and will never permit itself to enforce its measures, without affording a reasonable time for the use of reasonable means for substituting another remedy. What would be the situation of neutral Powers, if the first blow levelled through them by one belligerent against another was to leave them no choice but between the retaliating vengeance of the latter, and an instant declaration of war against the former? Reason revolts against this as the sole alternative. The United States could no more be bound to evade the British orders by an immediate war with France, than they were bound to atone for the burning of the French ship of war, on the shore of North Carolina, by an immediate resort to arms against Great Britain.

With respect to the principle assumed by the British orders, it is perfectly clear that it could not justify them in the extent given to their operation, if the facts erroneously assumed could have been fully sustained.

Retaliation is a specific or equivalent return of injury, for injury received; and where it is to operate through the interests of a third party, having no voluntary participation in the injury received, the return ought, as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense and the clearest equity. As the right to retaliate results merely from the wrong suffered, it cannot, in the nature of things, extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What, then, is the extent of the injury experienced by Great Britain from the measures of her enemies, so far as the operation of those measures through the United States can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or the means to carry it into effect, against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter to retaliate at the expense of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the

course prescribed by the respect he owed to himself. No real damage having accrued to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent, which he is known to be either not in a situation, or not to intend to carry but partially into execution against a neutral, to the injury of another belligerent, could never give more than a right to a commensurate redress against the neutral. All remaining unexecuted, and evidently not to be executed, is merely ostensible, working no injury to any, unless it be in the disrespect to the neutral, to whom alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced, if you please, against the neutral commerce of the United States, on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which, let it be supposed, the United States were answerable. On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States. Now, sir, it never was pretended that at the date of the first British order, issued in January, 1807, any injury had accrued to or was apprehended by Great Britain from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights; so far from it, that the order stands self condemned as a measure of retaliation, by expressly stating that the fleets of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports by the entire superiority of the British navy; converting thus, by the strangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders, also, whilst it is admitted that the French decree could not be but imperfectly executed, for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts and such the principles on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valued remains.

Against such an unprecedented system of warfare on neutral rights and national independence, the common judgment and common feelings of mankind must forever protest.

I touch, sir, with reluctance, the question on which of the belligerent sides the invasion of neutral rights had its origin. As the United States do not acquiesce in these invasions by either, there could be no plea for involving them in the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your Government of the illegal interruptions and spoliations suffered, previous to that decree, by the neutral commerce of the United States, under the proceedings of British cruisers and courts, and, for the most part, in consequence of express orders of the Government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the United States, founded on the plea of blockades, never legally established according to recognised definitions, to the still more extensive violations of our commerce with ports of her enemies not pretended to be in a state of blockade, and to the British order of Council issued near the commencement of the existing war. This order, besides its general interpolation against the established law of nations, is distinguished by a special ingredient, violating that law as recognised by the course of decisions in the British courts. It subjects to capture and condemnation all neutral vessels returning with lawful cargoes, on the sole consideration that they had in their outward voyage deposited contraband of war at a hostile port.

If the commerce of the United States could, therefore, in any case, be reasonably made the victim and the sport of mutual charges and reproaches between belligerent parties, with respect to the priority of their aggressions on neutral commerce, Great Britain must look beyond the epoch she has chosen for illegal acts of her adversary, in support of the allegation on which she founds her retaliating edicts against our commerce.

But the United States are given to understand that the British Government has, as a proof of its indulgent and amicable disposition towards them, mitigated the authorized rigor it might have given to its measures, by certain exceptions peculiarly favorable to the commercial interests of the United States.

I forbear, sir, to express all the emotions with which such a language, on such an occasion, is calculated to inspire a nation which cannot for a moment be unconscious of its rights, nor mistake for an alleviation of wrongs, regulations, to admit the validity of which would be to assume badges of humiliation never worn by an independent Power.

The first of these indulgences is a commercial intercourse with the dependencies of the enemies of Great Britain, and it is considered as enhanced by its being a deviation, in favor of the United States, from the *ancient* and established principle of maritime law, prohibiting altogether such an intercourse in time of war.

Surely, sir, your Government, in assuming this principle in such terms, in relation to the United States, must have forgotten their repeated and

formal protests against it, as these are to be found in the discussions and communications of their Minister at London, as well as in explanations occasionally made on that subject to the British representative here. But permit me to ask more particularly, how it could have happened that the principle is characterized as an ancient and established one? I put the question the more freely, because it has never been denied that the principle, as asserted by your Government, was, for the first time, introduced during the war of 1756. It is in fact, invariably cited and described in all judicial and other official transactions, "as the rule of 1756." It can have no pretension, therefore, to the title of an *ancient* rule.

And, instead of being an *established* rule or principle, it is well known that Great Britain is the only nation that has acted upon, or otherwise given a sanction to it. Nay, it is not even an established principle in the practice of Great Britain herself. When first applied in the war of 1756, the *legality* of a *neutral* trade with enemies' colonies was not contested by it. In certain cases only of the colonial trade, the allegation was, that the presumptive evidence arising from circumstances against the *bona fide* neutrality of the ownership justified the condemnation as of enemies' property. If the rule of condemnation was afterwards, during that war, converted into the principle now asserted, it could not possibly have been in operation, in its new shape, more than a very few years. During the succeeding war of 1778, it is admitted by every British authority, that the principle was never brought into operation. It may be regarded, in fact, as having been silently abandoned. And within the period of war, since its commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British Orders of Council and the British Courts of Admiralty.

With the exception, therefore, of a period, the last in modern times from which authentic precedents of maritime law will be drawn, and throughout which the United States, more interested in the question than any other nation, have uniformly combated the innovation, the principle has not in the British tribunals been in operation for a longer term than three, four, or five years, whilst in no others, has it ever made its appearance, but to receive a decision protesting against it.

Such is the antiquity, and such the authority, of a principle, the deviations from which are held out as so many favors consoling the United States for the wide-spread destruction of their legitimate commerce.

What must be said as to the other exceptions, which seem to have been viewed as claims on the gratitude of the United States? Is it an indulgence to them in carrying on their trade with the whole Continent of Europe, to be laid under the necessity of going first to a British port, to accept a British license, and to pay a tribute to the British exchequer, as if we had been reduced to the colonial situation which once imposed these monopolizing restraints?

What, again, must be said as to the other features which we see blended on the face of these regulations? If the policy of them be to subject an enemy to privations, why are channels opened for a British trade with them which are shut to a neutral trade? If, in other cases, the real object be to admit a neutral trade with the enemy, why is it required that neutral vessels shall perform the ceremony of passing through a British port, when it can have no imaginable effect but the known and inevitable one of prohibiting the admission of the trade into the port of destination?

I will not ask why a primary article of our productions and exports, cotton wool, is to be distinguished, in its transit, by a heavy impost not imposed on other articles, because it is frankly avowed, in your explanation of the orders, to be intended as an encouragement to British manufactures, and a check to the rival ones of France. I suppress, also, though without the same reason for it, the inquiry why less rigorous restrictions are applied to the trade of the Barbary Powers than are enforced against that of a nation, such as the United States, and in relations such as have existed between them and Great Britain.

I cannot, however, pass without notice the very unwarrantable innovations contained in the two last of the orders. In one of them, a certificate of the local origin of a cargo, although permitted in the port of departure, and required in the port of destination, by regulations purely domestic in both, and strictly analogous in principle to regulations in the commercial code of Great Britain, is made a cause of capture on the high seas, and of condemnation in her maritime courts. In the other order, the sale of a merchant ship by a belligerent owner to a neutral, although a transaction as legal, when fair, as a dealing in any other article, is condemned by a general rule, without an atom of proof or of presumption, that the transfer in the particular case is fraudulent, and the property, therefore, left in an enemy.

In fine, sir, the President sees in the edicts communicated by you, facts assumed which did not exist, principles asserted which never can be admitted, and, under the name of retaliation, measures transcending the limits reconcilable with the facts and the principles, as if both were as correct as they are unfounded. He sees, moreover, in the modifications of this system, regulations violating equally our neutral rights and our national sovereignty. He persuades himself, therefore, that your Government will see in the justice of the observations now made, in addition to those I had the honor verbally to state to you in the first instance, that the United States are well warranted in looking for a speedy revocation of a system which is every day augmenting the mass of injury, for which the United States have the best of claims to redress.

I have the honor to be, with great respect and consideration, sir, your obedient servant,

JAMES MADISON.

The Hon. D. M. ERSKINE,
Minister Plenipotentiary, &c.

Mr. Rose to Mr. Madison.

WASHINGTON, *January* 26, 1808.

SIR: Having had the honor to state to you, that I am expressly precluded by my instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of His Majesty's ship Leopard and the frigate of the United States the Chesapeake, as long as the proclamation of the President of the United States of the 2d of July, 1807, shall be in force, I beg leave to offer you such further explanation of the nature of that condition, as appears to me calculated to place the motives, under which it has been enjoined to me, thus to bring it forward in their true light.

In whatever spirit that instrument was issued, it is sufficiently obvious that it has been productive of considerable prejudice to His Majesty's interests, as confided to his military and other servants in the United States, to the honor of his flag, and to the privileges of his Ministers accredited to the American Government. From the operation of this proclamation have unavoidably resulted effects of retaliation and self-assumed redress, which might be held to affect materially the question of the reparation due to the United States, especially inasmuch as its execution has been persevered in after the knowledge of His Majesty's early, unequivocal, and unsolicited disavowal of the unauthorized act of Admiral Berkeley, his disclaimer of the pretension exhibited by that officer to search the national ships of a friendly Power for deserters, and the assurances of prompt and effectual reparation, all communicated without loss of time to the Minister of the United States in London, so as not to leave a doubt as to His Majesty's just and amicable intentions. But His Majesty, making every allowance for the irritation which was excited, and the misapprehensions which existed, has authorized me to proceed in the negotiation upon the sole discontinuance of measures of so inimical a tendency.

You are aware, sir, that any delay which may have arisen in the adjustment of the present differences is not imputable to an intention of procrastination on the part of His Majesty's Government; on the contrary, its anxiety to terminate, as expeditiously as possible, the discussion of a matter so interesting to both nations, has been evinced by the communication made by Mr. Secretary Canning to Mr. Monroe, before that Minister of the United States was even informed of the encounter, and now by the promptitude with which it has despatched a special mission to this country for that express purpose.

I can have no difficulty in stating anew to you, with respect to the provisions of my instructions, calculated as they are to insure an honorable adjustment of the important point in question, and to remove the impressions which the late cause of difference may have excited in the minds of this nation, that I am authorized to express my conviction that they are such as will enable me to terminate the negotiation amicably and satisfactorily.

Having learned from you, sir, that it is solely as a measure of precaution the provisions of the proclamation are now enforced, I must persuade myself that a due consideration of His Majesty's conduct in this transaction will remove, as well any misapprehensions which may have been entertained respecting His Majesty's disposition towards the United States, as the grounds upon which that enforcement rests; and the more so, as it has long been a matter of notoriety, that the orders issued to the officers of His Majesty's navy, in his proclamation of the 16th October, 1807, afforded ample security that no attempt can again be made to assert a pretension which His Majesty from the first disavowed.

I may add, that if His Majesty has not commanded me to enter into the discussion of the other causes of complaint, stated to arise from the conduct of his naval commanders in these seas, prior to the encounter of the Leopard and the Chesapeake, it was because it has been deemed improper to mingle them, whatever may be their merits, with the present matter, so much more interesting and important in its nature; an opinion originally and distinctly expressed by Mr. Monroe, and assented to by Mr. Secretary Canning. But if upon this more recent and more weighty matter of discussion, upon which the proclamation mainly and materially rests, His Majesty's amicable intentions are unequivocally evinced, it is sufficiently clear that no hostile disposition can be supposed to exist on his part, nor can any views be attributed to his Government, such as requiring to be counteracted by measures of precaution, could be deduced from transactions which preceded that encounter.

In offering these elucidations, I should observe, that the view in which I have brought forward the preliminary which I have specified, is neither to demand concession or redress, as for a wrong committed: into such the claim to a discontinuance of hostile provisions cannot be construed; but it is simply to require a cessation of enactments injurious in their effects, and which, if persisted in, especially after these explanations, must evince a spirit of hostility, under which His Majesty could not authorize the prosecution of the present negotiation, either consistently with his own honor, or with any well founded expectation of the renewal or duration of that good understanding between the two countries which it is equally the interest of both to foster and to ameliorate.

I have the honor to be, with the highest consideration, sir, your most obedient and humble servant,

G. H. ROSE.

Hon. JAMES MADISON,
Secretary of State.

Mr. Madison to Mr. Rose.

DEPARTMENT OF STATE.
March 5, 1808.

SIR: I have had the honor to receive and lay before the President your letter of the 26th January, in which you state that you are "expressly precluded by your instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of His Britannic Majesty's ship Leopard and the frigate of the United States the Chesapeake, as long as the proclamation of the President of the 2d of July, 1807, shall be in force."

This demand, sir, might justly suggest the simple answer, that, before the proclamation of the President could become a subject of consideration, satisfaction should be made for the acknowledged aggression which preceded it. This is evidently agreeable to the order of time, to the order of reason, and, it may be added, to the order of usage, as maintained by Great Britain, whenever, in analogous cases, she has been the complaining party.

But as you have subjoined to the preliminary demand certain explanations, with a view, doubtless, to obviate such an answer, it will best accord with the candor of the President to meet them with such a review of the whole subject as will suggest the solid grounds on which he regards such a demand as inadmissible.

I begin with the occurrences from which the proclamation of July 2d resulted. These are in general terms referred to by the instrument itself. A more particular notice of the most important of them will here be in place.

Passing over, then, the habitual but minor irregularities of His Britannic Majesty's ships of war in making the hospitalities of our ports subservient to the annoyance of our trade, both outward and inward, a practice not only contrary to the principles of public law, but expressly contrary to British ordinances enforced during maritime wars to which she bore a neutral relation, I am constrained, unwelcome as the task is, to call your attention to the following more prominent instances:

In the Summer of the year 1804, the British frigate the Cambrian, with other cruisers in company, entered the harbor of New York. The commander, Captain Bradley, in violation of the port laws relating both to health and revenue, caused a merchant vessel just arrived, and confessedly within the limits and under the authority of the United States, to be boarded by persons under his command, who, after resisting the officers of the port in the legal exercise of their functions, actually impressed and carried off a number of seamen and passengers into the service of the ships of war. On an appeal to his voluntary respect for the laws, he first failed to give up the offender to justice, and finally repelled the officer charged with the regular process for the purpose.

This procedure was not only a flagrant insult to the sovereignty of the nation, but an infraction of its neutrality also, which did not permit a belligerent ship thus to augment its force within the neutral territory.

To finish the scene, this commander went so far as to declare, in an official letter to the Minister Plenipotentiary of His Britannic Majesty, and by him communicated to this Government, that he considered his ship, whilst lying in the harbor of New York, as having dominion around her within the distance of her buoys.

All these circumstances were duly made known to the British Government, in just expectation of honorable reparation. None has ever been offered. Captain Bradley was advanced from his frigate to the command of a ship-of-the-line.

At a subsequent period, several British frigates, under the command of Captain Whitby, of the Leander, pursuing the practice of vexing the inward and outward trade of our ports, and hovering, for that purpose, about the entrance of that of New York, closed a series of irregularities with an attempt to arrest a coasting vessel, on board which an American citizen was killed by a cannon ball, which entered the vessel whilst within less than a mile from the shore.

The blood of a citizen thus murdered, in a trade from one to another port of his own country, and within the sanctuary of its territorial jurisdiction, could not fail to arouse the sensibility of the public, and to make a solemn appeal to the justice of the British Government. The case was presented moreover to that Government by this in the account which it required, and with due confidence that the offender was to receive the exemplary punishment which he deserved. That there might be no failure of legal proof of a fact, sufficiently notorious of itself, unexceptionable witnesses to establish it were sent to Great Britain at the expense of the United States.

Captain Whitby was, notwithstanding, honorably acquitted; no animadversions took place on any other officer belonging to the squadron; nor has any apology or explanation been made since the trial was over, as a conciliatory offering to the disappointment of this country at such a result.

A case of another character occurred in the month of September, 1806. The Impetueux, a French ship of seventy-four guns when aground within a few hundred yards of the shore of North Carolina, and therefore visibly within the terrritorial jurisdiction and hospitable protection of the United States, was fired upon, boarded, and burned, by three British ships of war, under the command of Captain Douglas. Having completed this outrage on the sovereignty and neutrality of the United States, the British commander felt no scruple in proceeding thence into the waters near Norfolk, nor, in the midst of the hospitalities enjoyed by him, to add to what had passed a refusal to discharge from his ships impressed citizens of the United States, not denied to be such, on the plea that the Government of the United States had refused to surrender to the demand of Admiral Berkeley certain seamen alleged to be British deserters; a demand which it is well understood your Government disclaims any right to make.

It would be very superfluous to dwell on the features which marked this aggravated insult. But I must be permitted to remind you, that in so serious a light was a similar violation of neutral territory, by the destruction of certain French ships on the coast of Portugal by a British squadron, under the command of Admiral Boscawen, regarded by the Court of Great Britain, that a Minister Extraordinary was despatched for the express purpose of expiating the aggression on the sovereignty of a friendly Power.

Lastly, presents itself the attack by the British ship of war Leopard, on the American frigate Chesapeake, a case too familiar in all its circumstances to need a recital of any part of them. It is sufficient to remark, that the conclusive evidence which this event added to that which had preceded, of the uncontrolled excesses of the British naval commanders, in insulting our sovereignty and abusing our hospitality, determined the President to extend to all British armed ships the precaution heretofore applied to a few by name, of interdicting to them the use and privileges of our harbors and waters.

This was done by his proclamation of July 2, 1807, referring to the series of occurrences, ending with the aggression on the frigate Chesapeake, as the considerations requiring it. And if the apprehensions from the licentious spirit of the British naval commanders, thus developed and uncontrolled, which led to this measure of precaution, could need other justification than was afforded by what had passed, it would be amply found in the subsequent conduct of the ships under the command of the same Captain Douglas.

This officer, neither admonished by reflections on the crisis produced by the attack on the Chesapeake, nor controlled by respect for the law of nations or the laws of the land, did not cease within our waters to bring to, by firing at, vessels pursuing their regular course of trade; and, in the same spirit which had displayed itself in the recent outrage committed on the American frigate, he not only indulged himself in hostile threats and indications of a hostile approach to Norfolk, but actually obstructed our citizens in the ordinary communication between that and neighboring places. His proceedings constituted, in fact, a blockade of the port, and as real an invasion of the country, according to the extent of his forces, as if troops had been debarked, and the town besieged on the land side.

Was it possible for the Chief Magistrate of a nation, who felt for its rights and honor, to do less than interpose some measure of precaution, at least, against the repetition of enormites which had been so long uncontrolled by the Government whose officers had committed them, and which had at last taken the exorbitant shape of hostility and insult, seen in the attack on the frigate Chesapeake? Candor will pronounce that less could not be done; and it will as readily admit that the proclamation comprising that measure could not have breathed a more temperate spirit, nor spoken in a more becoming tone. How far it has received from those whose intrusions it prohibited the respect due to the national authority, or been made the occasion of new indignities, needs no explanation.

The President, having interposed this precautionary interdict, lost no time in instructing the Ministers Plenipotentiary of the United States to represent to the British Government the signal aggression which had been committed on their sovereignty and their flag, and to require the satisfaction due for it; indulging the expectation that His Britannic Majesty would at once perceive it to be the truest magnanimity, as well as the strictest justice, to offer that prompt and full expiation of an acknowledged wrong which would re-establish and improve, both in fact and in feeling, the state of things which it had violated.

This expectation was considered as not only honorable to the sentiments of His Majesty, but was supported by known examples, in which, being the complaining party, he had required and obtained, as a preliminary to any counter complaints whatever, a precise replacement of things, in every practical circumstance, in their pre-existing situation.

Thus, in the year 1764, Bermudians, and others, British subjects, who had, according to annual custom, taken possession of Turk's Island for the season of making salt, having been forcibly removed, with their vessels and effects, by a French detachment from the island of St. Domingo, to which Turk's Island was alleged to be an appurtenance, the British Ambassador at Paris, in pursuance of instructions from his Government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed, the intention of acquiring Turk's Island disclaimed, orders given for the immediate abandonment of it on the part of the French, everything restored to the condition in which it was at the time of the aggression, and reparation made of the damages which any British subjects should be found to have sustained, according to an estimate to be settled between the Governors of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again: In the year 1789, certain English merchants having opened a trade at Nootka Sound, on the northwest coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, despatched from Mexico a frigate which captured two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish Government was the first to complain, in this case of the intrusions committed by the British merchants. The British Government, however, demanded that the vessels taken by the Spanish frigate should be restored, and adequate satisfaction granted, previous to any other discussion.

This demand prevailed; the Spanish Government agreeing to make full restoration of the captured vessels, and to indemnify the parties in them for the losses sustained. They restored, also, the buildings and tracts of land of which the British subjects had been dispossessed. The British, how-

ever, soon gave a proof of the little value they set on the possession by a voluntary dereliction, under which it has since remained.

The case which will be noticed last, though of a date prior to the case of Nootka Sound, is that of Falkland's islands. These islands lie about one hundred leagues eastward of the Straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and other circumstances, the pretension of Spain bore an advantageous comparison with those of her competitors. In the year 1770, the British took possession of Port Egmont in one of the islands, the Spaniards being at the time in possession of another port, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres, by the Governor of that place, which forcibly dispossessed and drove off the British settlers.

The British Government looking entirely to the dispossession by force, demanded, as a specific condition of preserving harmony between the two Courts, not only the disavowal of the Spanish proceedings, but that the affairs of that settlement should be immediately restored to the precise state in which they were previous to the act of dispossession. The Spanish Government made some difficulties, requiring particularly a disavowal, on the part of Great Britain, of the conduct of her officers at Falkland's islands, which, it was alleged, gave occasion to the steps taken by the Spanish Governor, and proposing an adjustment by mutual stipulations in the ordinary form.

The reply was, that the moderation of His Britannic Majesty having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution; *reparation losing its value if it be conditional*, and to be obtained by any stipulation whatever from the party injured.

The Spanish Government yielded. The violent proceedings of its officers were disavowed; the fort, the port, and everything else were agreed to be immediately restored to the precise situation which had been disturbed; and duplicates of orders issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal Secretaries of State. Here, again, it is to be remarked, that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British Government, and were, in a short time, finally evacuated, and Port Egmont remains, with every other part of them, in the hands of Spain.

Could stronger pledges have been given than are here found, that an honorable and instant reparation would be made in a case, differing no otherwise from those recited, than as it furnished to the same monarch of a great nation opportunity to prove that, adhering always to the same immutable principles, he was as ready to do right to others as to require it for himself?

Returning to the instructions given to the Minister Plenipotentiary of the United States at London, I am to observe, that the President thought it just and expedient to insert, as a necessary ingredient, in the adjustment of the outrage committed on the American frigate, a security against the future practice of British naval commanders in impressing from merchant vessels of the United States on the high seas, such of their crews as they might undertake to denominate British subjects.

To this association of the two subjects, the President was determined, first, by his regarding both as resting on kindred principles, the immunity of private ships, with the known exceptions made by the law of nations, being as well established as that of public ships; and there being no pretext for including in these exceptions the impressment (if it could be freed from its enormous and notorious abuse) of the subjects of a belligerent by the officers of that belligerent. The rights of a belligerent against the ships of a neutral nation accrue merely from the relation of the neutral to the other belligerent, as in conveying to him contraband of war, or in supplying a blockaded port.

The claim of a belligerent to search for and seize, on board neutral vessels on the high seas, persons under his allegiance, does not, therefore, rest on any belligerent right under the law of nations, but on a prerogative derived from municipal law, and involves the extravagant supposition that one nation has a right to execute, at all times, and in all cases, its municipal laws and regulations on board the ships of another nation, not being within its territorial limits.

The President was led to the same determination, secondly, by his desire of converting a particular incident into an occasion for removing another and more extensive source of danger to the harmony of the two countries; and thirdly, by his persuasion that the liberality of the propositions, authorized with this view, would not fail to induce the ready concurrence of His Britannic Majesty; and that, the more extensive source of irritation and perplexity being removed, a satisfactory adjustment of the particular incident would be the less difficult. The President still thinks that such would have been the tendency of the mode for which he had provided; and he cannot, therefore, but regret that the door was shut against the experiment by the peremptory refusal of Mr. Canning to admit it into discussion, even in the most informal manner, as was suggested by Mr. Monroe.

The President felt the greater right, as the step he had taken towards a more enlarged and lasting accommodation became thus a bar to the adjustment of the particular and recent aggression which had been committed against the United States. He found, however, an alleviation in the signified purpose of His Britannic Majesty to charge with this adjustment a special mission to the United States, which, restricted as it was, seemed to indicate a disposition from which a liberal and conciliatory arrangement of one great object at least might be confidently expected.

In this confidence, your arrival was awaited with every friendly solicitude, and our first interview having opened the way by an acquiescence in the separation of the two cases insisted on by His Britannic Majesty, notwithstanding the strong grounds on which they had been united by the President, it was not to be doubted that a tender of the satisfaction claimed by the United States for a distinguished and acknowledged insult by one of his officers would immediately follow.

It was not, therefore, without a very painful surprise that the error of this expectation was discovered. Instead of the satisfaction due from the original aggression, it was announced that the first step towards the adjustment must proceed from the party injured; and your letter now before me formally repeats that, as long as the proclamation of the President, which issued on the 2d July, 1807, shall be in force, it will be an insuperable obstacle to a negotiation, even on the subject of the aggression which preceded it; in other words, that the proclamation must be put out of force before an adjustment of the aggression can be taken into discussion.

In explaining the grounds of this extraordinary demand, it is alleged to be supported by the consideration that the proceeding and pretension of the offending officer has been disavowed; that general assurances are given of a disposition and intention in His Britannic Majesty to make satisfaction; that a special Minister was despatched with promptitude for the purpose of carrying into effect the disposition; and that you have a personal conviction that the particular terms which you are not at liberty previously to disclose, will be deemed by the United States satisfactory.

With respect to the disavowal, it would be unjust not to regard it as a proof of candor and amity towards the United States, and as some presage of the voluntary reparation which it implied to be due. But the disavowal can be the less confounded with the reparation itself, since it was sufficiently required by the respect which Great Britain owed to her own honor; it being impossible that an enlightened Government, had hostility been meditated, would have commenced it in such a manner, and in the midst of existing professions of peace and friendship. She owed it, also, to consistency with the disavowal, on a former occasion, in which the pretension had been enforced by a British squadron against the sloop of war Baltimore, belonging to the United States; and, finally, to the interest which Great Britain has, more than any other nation, in disclaiming a principle which would expose her superior number of ships of war to so many indignities from inferior navies.

As little can the general assurances that reparation would be made claim a return which could properly follow the actual reparation only. They cannot amount to more than a disposition, or at most a promise, to do what the aggressor may deem a fulfilment of his obligation. They do not prove even a disposition to do what may be satisfactory to the injured party, who cannot have less than an equal right to decide on the sufficiency of the redress.

In despatching a special Minister for the purpose of adjusting the difference, the United States ought cheerfully to acknowledge all the proof it affords, on the part of His Britannic Majesty, of his pacific views towards them, and of his respect for their friendship. But whilst they could not, under any circumstances, allow to the measure more than a certain participation in an honorable reparation, it is to be recollected that the avowed and primary object of the mission was to substitute, for the more extended adjustment proposed by the United States at London, a separation of the subjects, as preferred by His Britannic Majesty: and you well know, sir, how fully this object was accomplished.

With respect to the personal conviction which you have expressed, that the terms which you decline to disclose would be satisfactory to the United States, it is incumbent on me to observe, that, with the highest respect for your judgment, and the most perfect confidence in your sincerity, an insuperable objection manifestly lies to the acceptance of a personal and unexplained opinion in place of a disclosure which would enable this Government to exercise its own judgment in a case affecting so essentially its honor and its rights. Such a course of proceeding would be without example; and there can be no hazard in saying that one will never be afforded by a Government which respects itself as much as yours justly does; and, therefore, can never be reasonably expected from one which respects itself as much as this has a right to do.

I forbear, sir, to enlarge on the intrinsic incongruity of the expedient proposed. But I must be allowed to remark, as an additional admonition of the singular and mortifying perplexity in which a compliance might involve the President, that there are, in the letter of Mr. Canning, communicating to Mr. Monroe the special mission to the United States, pregnant indications that other questions and conditions may have been contemplated, which would be found utterly irreconcilable with the sentiments of this nation.

If neither any nor all of these considerations can sustain the preliminary demand made in your communication, it remains to be seen whether such a demand rests with greater advantage on the more precise ground on which you finally seem to place it.

The proclamation is considered as a hostile measure, and a discontinuance of it as due to the discontinuance of the aggression which led to it.

It has been sufficiently shown that the proclamation, as appears on the face of it, was produced by a train of occurrences terminating in the attack on the American frigate, and not by this last alone. To a demand, therefore, that the proclamation be revoked, it would be perfectly fair to oppose a demand that redress be first given for the numerous irregularities which preceded the aggression on the American frigate, as well as for this particular aggression, and that effectual control be interposed against repetitions of them.

And as no such redress has been given for the past, notwithstanding the undiminished reasonableness of it, it follows that a continuance of the proclamation would be consistent with an entire discontinuance of one only of the occurrences from which it proceeded.

But it is not necessary to avail the argument of this view of the case, although of itself entirely conclusive. Had the proclamation been founded on the single aggression committed on the Chesapeake, and were it admitted that the discontinuance of that aggression merely gave a claim to the discontinuance of the proclamation, the claim would be defeated by the incontestable fact that that aggression has not been discontinued. It has never ceased to exist, and is in existence at this moment. Need I remind you, sir, that the seizure and asportation of the seamen belonging to the crew of the Chesapeake entered into the very essence of that aggression; that, with an exception of the victim to a trial forbidden by the most solemn considerations, and greatly aggravating the guilt of its author, the seamen in question are still retained; and, consequently, that the aggression, if in no other respect, is by that act alone continued and in force?

If the views which have been taken of the subject have the justness which they claim, they will have shown that on no ground whatever can an annulment of the proclamation of July 2 be reasonably required as a preliminary to the negotiation with which you are charged. On the contrary, it clearly results, from a recurrence to the causes and objects of the proclamation, that, as was at first intimated, the strongest sanctions of Great Britain herself would support the demand that, previous to a discussion of the proclamation, due satisfaction should be made to the United States, that this satisfaction ought to extend to all the wrongs which preceded and produced that act; and that, even limiting the merits of the question to the single relation of the proclamation to the wrong committed in the attack on the American frigate, and deciding the question on the principle that a discontinuance of the latter required of right a discontinuance of the former, nothing appears that does not leave such a preliminary destitute of every foundation which could be assumed for it.

With a right to draw this conclusion, the President might have instructed me to close this communication with the reply stated in the beginning of it, and perhaps in taking this course he would only have consulted a sensibility to which most Governments would, in such a case, have yielded. But adhering to the moderation by which he has been invariably guided, and anxious to rescue the two nations from the circumstances under which an abortive issue to your mission necessarily places them, he has authorized me, in the event of your disclosing the terms of reparation which you believe will be satisfactory, and on its appearing that they are so, to consider this evidence of the justice of His Britannic Majesty as a pledge for an effectual interposition with respect to all the abuses against a recurrence of which the proclamation was meant to provide, and to proceed to concert with you a revocation of that act, bearing the same date with the act of reparation to which the United States are entitled.

I am not unaware, sir, that, according to the view which you appear to have taken of your instructions, such a course of proceeding has not been contemplated by them. It is possible, nevertheless, that a re-examination, in the spirit in which I am well persuaded it will be made, may discover them to be not inflexible to a proposition, in so high a decree liberal and conciliatory. In every event, the President will have manifested his willingness to meet your Government on a ground of accommodation, which spares to its feelings, however misapplied he may deem them, every concession not essentially due to those which must be equally respected, and, consequently, will have demonstrated that the very ineligible posture given to so important a subject in the relations of the two countries, by the unsuccessful termination of your mission, can be referred to no other source than the rigorous restrictions under which it was to be executed.

I make no apology, sir, for the long interval between the date of your letter and that under which I write. It is rendered unnecessary by your knowledge of the circumstances to which the delay is to be ascribed.

With high consideration and respect, I have the honor to be, sir, your most obedient servant.

JAMES MADISON.

GEORGE H. ROSE, Esq.
His Britannic Majesty's Minister, &c.

Mr. Rose to Mr. Madison.

WASHINGTON, *March* 17, 1808.

SIR: Being deeply impressed with the sense of His Majesty's anxiety that full effect should be given to those views of justice and moderation, by which his conduct has been regulated through the whole of the unfortunate transaction whence the present differences have arisen, and of the disappointment with which he would learn the frustration of his just and equitable purposes, I have felt it incumbent upon me, on the receipt of the letter which you did me the honor to address to me on the 5th instant, to apply anew to this matter the most ample and serious consideration. It is with the most painful sensations of regret that I find myself, on the result of it, under the necessity of declining to enter into the terms of negotiation, which, by direction of the President of the United States, you therein offer. I do not feel myself competent, in the present instance, to depart from those instructions which I stated in my letter of the 26th of January last, and which preclude me from acceding to the condition thus proposed.

I should add, that I am absolutely prohibited from entering upon matters unconnected with the specific object I am authorized to discuss, much less can I thus give any pledge concerning them. The condition suggested, moreover, leads to the direct inference that the proclamation of the

President of the United States of the 2d of July, 1807, is maintained either as an equivalent for reparation for the time being, or as a compulsion to make it.

It is with the more profound regret that I feel myself under the necessity of declaring that I am unable to act upon the terms thus proposed, as it becomes my duty to inform you, in conformity to my instructions, that, on the rejection of the demand stated in my former letter, on the part of His Majesty, my mission is terminated. And as His Majesty's Government, in providing me with those instructions, did not conceive that, after the declaration of his sentiments respecting the affair of the Chesapeake was made known to this Government, the state of any transactions pending or unterminated between the two nations could justify the perseverance in the enforcement of the President's Proclamation, I can exercise no discretion on this point.

As on a former occasion I detailed, though minutely, the motives for that demand on the part of His Majesty, which I with so much concern learn to be deemed inadmissible by the Government of the United States, I should here abstain from an exposition of them, which visibly can have no further effect upon the negotiation, if I did not deem it essential that they should not be left under any misapprehension which I might be able to remove. I shall, thefore, take a short review of the transaction which has given rise to these discussions, in order the more correctly to determine the soundness of the principles upon which that demand is made.

Certain deserters from His Majesty's navy, many of them his natural born subjects, having entered into the service of the United States, were repeatedly and fruitlessly demanded by the British officers of the recruiting officers of the United States, but were retained in their service. As it was a matter of notoriety that several of these deserters were on board the frigate of the United States, the Chesapeake, they were demanded of that frigate on the high seas by His Majesty's ship Leopard, and all knowledge of their presence on board being denied, she was attacked, and four of them, one avowedly a native Englishman, were taken out of her. Without being deterred by the consideration of how far circumstances hostile in their nature had provoked, though they undoubtedly by no means justified this act of the British officer, His Majesty's Government directed that a positive disavowal of the right of search asserted in this case, and of the act of the British officer as being unauthorized, and a promise of reparation, should be conveyed to the American Minister in London, before he had made any representation by order of the United States. This disavowal, made on the 2d of August last, was transmitted by him to his Government before the 6th of that month; but before Mr. Monroe had received his orders to demand reparation, His Majesty learned, with what surprise it is needless to dwell upon, that the President of the United States had interdicted, by proclamation bearing date the 2d of July 1807, the entry of all their ports to the whole of his navy; this surprise was certainly increased, when, in the letter delivered by that Minister to require redress for the wrong, although it went into details unconnected with it, not only no concern was expressed on the part of the United States at having felt themselves compelled to enact measures of so much injury and indignity towards a friendly Power, but no mention was made of the causes of such measures being resorted to, or even of the fact of their having been adopted. In addition to the embarrassment arising from these circumstances, and the insufficiency of the explanations subsequently given to Mr. Canning, the introduction of a subject foreign to that of the complaint became the main impediment to the success of the discussion which took place in London. When I had the honor to open the negotiation with you, sir, as I had learned that the President's proclamation was still in force, it became my duty, conformably to my instructions, to require its recall as a preliminary to further discussion; had it not been in force, I was not ordered to have taken it into consideration in the adjustment of reparation; and it was considered as hardly possible that it should not have been, recalled immediately upon the knowledge of His Majesty's disavowal of the attack upon the Chesapeake, as an unauthorized act. But His Majesty could not suffer the negotiation to be carried on, on his behalf, under an interdict, which, even if justifiable in the first moment of irritation, cannot be continued after the declaration of His Majesty's sentiments upon the transaction, except in a spirit of hostility.

It might have been fairly contended that, in the first instance, the exercise of such an act of power, before reparation was refused or unduly protracted, was incompatible with the purposes and essence of a pacific negotiation, and with a demand of redress through that channel; but such have been His Majesty's conciliatory views, that this argument has not been insisted on, although it might now be the more forcibly urged, as it appears that the Government of the United States was from the first sensible, that even had hostility been meditated by the British Government, it would not have commenced it in such a manner. But the exception taken is to the enforcement, continued up to the present time, of measures highly unfriendly in their tendency, persisted in not only after the disavowal in question, the promise of the proffer of suitable reparation, and the renewed assurances of His Majesty's amicable disposition, but after security has been given in a public instrument, bearing date the 16th of October, 1807, that the claim to the seizure of deserters from the national ships of other Powers cannot again be brought forward by His Majesty's naval officers. It is unnecessary to dwell upon the injury and indignity to which His Majesty's service is exposed, both as touching the freedom and security of correspondence of his agents and accredited Ministers in the United States, or as resulting from a measure which in time of war excludes the whole of his navy from all their ports,

which ports are completely open to the fleets of his enemies. It will be sufficient to observe, that, even where exemptions from it are granted, they are made subject to such conditions, that if the three last British ships of war entered these ports upon public business, two of them, His Majesty's ship Statira, having on board a Minister sent out for the adjustment of the present differences, and a schooner bearing despatches, in consequence of their inability to procure pilots, were obliged to enter their waters without such assistance, and were exposed to considerable danger. Great Britain, by the forms established, could repair the wrongs committed, even to the satisfaction of the United States, no otherwise than by the channel of negotiation; yet she avowed distinctly that a wrong was committed, and that she was ready to make reparation for it; it cannot, therefore, be contended that the unavoidable delay of actual reparation subjected her to the imputation of persisting in an aggression which was disclaimed from the first. If this be true, however much she will regret any impediment in the adjustment of a difference in which the feelings of this nation are so materially interested, can she, consistently with a due care of her own honor and interests, allow it to be concluded on her part under an adherence to a conduct which has a decided character of enmity in the proceedings held towards her by the other party?

I know not in what view the perseverance in the President's proclamation up to this moment can be considered but that of a measure of retaliation, or of self-assumed reparation, or a measure intended to compel reparation; unless it be that which, if I rightly understand, you define it to be, a measure of precaution.

If, when a wrong is committed, retaliation is immediately resorted to by the injured party, the door to pacific adjustment is closed, and the means of conciliation are precluded. The right to demand reparation is incompatible with the assumption of it. When parties are in a state of mutual hostility, they are so far on a footing, and, as such, they may treat; but a party disclaiming every unfriendly intention, and giving unequivocal proofs of an amicable disposition, cannot be expected to treat with another whose conduct towards it has the direct effects of actual hostility. If, then, the enforcement of the President's proclamation, up to the present moment, is a measure of self-assumed reparation, it is directly repugnant to the spirit and fact of amicable negotiation; if it is a measure to compel reparation, it is equally so; and, by the perseverance in it, Great Britain has dispensed with the duty of proffering redress. But if it is a measure of precaution, in order to secure reparation, or in order to compel it, it falls under the objections I have just stated. If it is a precaution adopted as a guard against acts of violence apprehended on the part of His Majesty's naval officers, it surely cannot be considered as being as effectual a security as that arising from the renewed assurances of His Majesty's friendly disposition, which imply a due observance of the rights of nations with which Great Britain is in amity, by all persons holding authority under His Majesty's Government; from the disavowal of the pretension of the search of national ships, and from the further assurance of that disavowal given in His Majesty's proclamation of the 16th of October last. Neither under these concurrent circumstances can the plea of necessity be maintained; and if such a proceeding has not the plea of necessity, it assumes the character of aggression. If these concurrent securities against such an apprehension have any value, the necessity no longer exists; if they are of no value, negotiation cannot be attempted, as the basis upon which it rests, the mutual confidence of the two parties, would be wholly wanting.

From the moment after the unfortunate affair of the Chesapeake, that His Majesty's naval commanders in these waters had ascertained that they were safe from the effervescence of that popular fury, under which the most glaring outrages were committed, and by which they were very naturally led to the supposition that they were objects of particular hostility, and that a state of war against them, requiring precautions on their part, had commenced, no conduct has been imputed to them which could vindicate the necessity of maintaining in force the President's proclamation. Since that time such of those officers as have been necessitated by the circumstances of the war to remain in these waters, have held no communication with the shore, (except in an instance too trifling to dwell upon, and instantly disavowed by the commanding officer;) and they have acquiesced quietly in various privations, highly prejudicial to the service they were upon, and, in consequence of an interdict, which had they been regardless of their duties towards a State in amity with their Sovereign, and had they not carefully repressed the feelings its tone and language had a direct tendency to provoke in them, would have rather excited than have averted the evil it was stated to be intended to prevent; were they regardful of these duties, it was unnecessary. Had they felt themselves obliged completely to evacuate the waters of the United States, especially whilst an enemy's squadron was harbored in them, they could have done it but under the admission of hostile compulsion; and under such compulsion, carried into full effect, His Majesty could not have dissembled the extent of the injury received.

In the several cases adduced, in which Great Britain required certain preliminaries previously to entering into negotiation, she regulated her conduct by the same principles to which she now adheres; and refused, whilst no hostility was exhibited on her part, to treat with Powers whose proceedings denoted it towards her, and who maintained their right in what they had assumed.

From the considerations thus offered, I trust that neither the order of reason nor that of usage is in contradiction to the demand I have urged; nor am I aware how the order of time opposes the revocation in the first instance of that act, which affects injuriously one of the parties, and is still avowed by the other.

The subject is thus presented to you, sir, in the

light in which it was natural that it should offer itself to His Majesty's Government. It certainly conceived the President's proclamation to rest chiefly, and most materially, upon the attack made upon the frigate of the United States, the Chesapeake, by His Majesty's ship Leopard, although other topics were adduced as accessories. In this apprehension it may be held to have been sufficiently warranted, by the precise time at which and the circumstances under which it was issued, and by its whole context; and the more so, as the impulse under which it was drawn up appears to have been so sudden, as to have precluded a due examination of all the grounds of allegation contained in it. And here I beg leave to assure you, that with respect to the spirit and tone of that instrument, it would be highly satisfactory to me if I could feel myself justified in expressing on the part of His Majesty, any degree of coincidence with the opinions you have announced; or, when thus appealed to, and making every allowance for the irritation of the moment, I could dissemble the extreme surprise experienced by Great Britain, that the Government of a friendly nation, even before an amicable demand of reparation was made, and yet meaning to make that demand, should have issued an edict directing measures of injury very disproportionate to what it knew was an unauthorized offence, and both in its terms and its purport so injurious to the Government to which that demand was to be addressed, and tending to call forth in both nations the feelings under which a friendly adjustment would be the most difficult. But if, as I learn from you, sir, the proclamation rests substantially on other causes, it is then peculiarly to be regretted, that, together with the demand for redress made in September last, the Government of the United States did not think fit to offer a negotiation or an explanation of so momentous a measure, or to declare that its recall must be more or less connected with the adjustment of other alleged wrongs. Neither did it think it necessary to return any answer to the remonstrance given in by His Majesty's Envoy at Washington, on the 13th July, 1807, in which he represented "that he considered that interdiction to be so unfriendly in its object, and so injurious in its consequences to His Majesty's interests, that he could not refrain from expressing the most sincere regret that it ever should have been issued, and most earnestly deprecating its being enforced."

It could not be supposed that a circumstance of so great weight could be overlooked by His Majesty's Government, in determining the line of conduct to be held in the negotiation; and as little could it be expected to pass it over, when, on the failure of the discussion with Mr. Monroe, it directed a special mission to be sent to the United States. It had the less reason to imagine that any other grievances could be connected with that for the adjustment of which I am empowered to negotiate, as Mr. Monroe, in his letter to Mr. Canning of the 29th July last, had stated, with respect to other subjects of remonstrance, that it was improper to mingle them with the present more serious cause of complaint—an opinion to which Mr. Canning declared his perfect assent in his letter to that Minister of the second of the subsequent month; so that this act was left as single and distinct, to be singly and distinctly considered. His Majesty's Government, therefore, could not, consistently with any view of the subject then before it, or indeed with the just object of my mission, direct or empower me to enter upon matters not connected with that of the Chesapeake; and they could with the less propriety do it, as in order to render the adjustment of differences of such a nature the more easy and the more conspicuous, the Ministers charged especially with such offices have been, with few if any exceptions, restricted to the precise affair to be negotiated. With respect, therefore, to those other causes of complaint, upon which you inform me that the President's proclamation rests, I cannot be furnished with documents enabling me either to admit or to controvert those statements of grievance foreign to the attack upon that ship contained in your letter, or authorized to discuss the matters themselves. I shall, therefore, not allow myself to offer such comments as my personal knowledge of some of those transactions suggest to me, although their tendency would materially affect both the marked manner in which those transactions are portrayed, and the disadvantageous light in which His Majesty's Government is represented to have acted respecting them. I am moreover led to the persuasion that my Government will be the more easily able to rescue itself from inculpation by the reference arising from passages in Mr. Monroe's letter to Mr. Secretary Canning, of the 29th of September last, that the differences unhappily existing between the two nations were in a train of adjustment.

If His Majesty has not permitted me to enter into the discussion of the search of neutral merchant ships for British seamen, together with the adjustment of the amount of reparation for the attack upon the Chesapeake, it was nowise with a view of precluding the further agitation of that question at a suitable time, but it was that the negotiation might be relieved from the embarrassment arising from the connexion of the present matter with the one so foreign to it, and as it was but too well known, so difficult to be adjusted; of a right distinctly disclaimed with one which Great Britain has at all times asserted, of enforcing her claim to the services of her natural born subjects when found on board merchant vessels of other nations; a claim which she founds in that principle of universal law, which gives to the State the right of requiring the aid and assistance of her native citizens. The recurrence, therefore, to that cause of negotiation which had been originally settled between Mr. Secretary Canning and Mr. Monroe, and which had been broken in upon by the orders subsequently received by that Minister, can only be considered as a resumption of that course of things which Great Britain strenuously contended there was no ground to depart from. I may observe that this purpose might have been effected without the intervention of a special Minister.

It will be in your recollection, sir, that in our first interview I stated the condition which makes the subject of the present letter, before I was informed by you that the President of the United States would consent to the separation of the two subjects.

I had trusted that the exposition which I added in my letter of the 26th of January, to the verbal explanation I had before offered of the grounds of His Majesty's demand, was, both in its purport and in the terms in which it was couched, such as to prevent a suspicion that they were in their intention derogatory to the honor or calculated to wound the just sensibility of this nation. I may add, that such a supposition could not be reconciled with the various ostensible and unequivocal demonstrations of His Majesty's good faith and anxiety that this transaction should be brought to an amicable termination, which were exhibited even prior to any remonstrances on the part or by order of this Government. The other topic which I felt myself authorized to advance in that letter in illustration of that amicable disposition on the part of the King, were brought forward from the conviction I entertained that they must be of a nature to be satisfactory to this Government, and therefore such as it was particularly my duty to enforce, but not with a view to rest upon them the right to advance the claim which I have stated.

I may here remark, it is obvious, that far from requiring that the first step towards an arrangement of reparation should be taken by the United States, Great Britain has already made them openly and distinctly; they are indubitable testimonies to the respect borne and decidedly marked by Great Britain to the ties of amity subsisting between the two nations, and of her cordial desire to maintain them unimpaired; and as such alone they were urged.

As His Majesty would have derived sincere satisfaction from the evidence of corresponding feelings on the part of the United States, so it would be the more painful to me to dwell upon a series of insults and menaces, which, without any provocation of warlike preparation on the part of Great Britain, have been for months accumulated upon her through the United States, and but too frequently from quarters whose authority necessarily and powerfully commanded attention.

I ought perhaps to apologize for adverting to an incidental expression in your letter, if I did not think it right to remove any ambiguity respecting the nature of the claim which Great Britain maintained to her seamen, native citizens of the realm, who have deserted from her service to that of other Powers; it is that, on demand, they shall be discharged *forthwith*, and consequently they shall instantly be freed from their newly contracted obligations.

Before I close this letter, allow me to state to you, sir, that I have felt it my duty to transmit to His Majesty's Government the exposition contained in your letter of the 5th instant, of the various demands on the honor and good faith of Great Britain on which the complaint is made, that satisfaction has not been afforded to the United States, and on which, conjointly with the affair of the Chesapeake, you inform me that the proclamation of the President of the United States of the 2d of July, 1807, is founded. It will be for His Majesty's Government to determine, on the part of Great Britain, whether any, and what obligations remain to be fulfilled by her; whether any denial or such protraction of redress has occurred on her part, as to render necessary or justifiable the perseverance in an edict, which, when not necessary or justifiable, assumes a character of aggression; and whether, on the result of these considerations, the present negotiation can be resumed on the part of His Majesty, with a due regard for his own honor, or with a prospect of a more successful termination.

I have the honor to be, with the highest consideration, sir, your most obedient and most humble servant,

G. H. ROSE.

STATE OF THE FINANCES.

[Communicated to the Senate, November 7, 1807.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

Revenue and Receipts.

The net revenue arising from duties on merchandise and tonnage, which accrued during the year 1805, amounted to - - $14,135,138

And that which accrued during the year 1806, amounted, as will appear by the statement A. to - - $16,576,454

The same revenue, after deducting that portion which arose from the duty on salt, and from the additional duties constituting the Mediterranean fund, amounted, during the year 1805, to - - - - 12.520.532

And during the year 1806, to - - 14,809,758

It is ascertained that the net revenue, which has accrued during the three first quarters of the year 1807, exceeds that of the corresponding quarters of the year 1806; and that branch of the revenue may, exclusively of the duty on salt, and of the Mediterranean fund, both of which expire on the first day of January next, be safely estimated, for the present, and if no change takes place in the relations of the United States with foreign nations, at fourteen millions of dollars.

The statement B exhibits in detail the several species of merchandise, and other sources, from which that revenue was collected during the year 1806.

It appears, by the statement C, that the sales of the public lands have, during the year ending on the 30th of September, 1807, exceeded 284,000 acres. Some returns are not yet received; and

the proceeds of sales in the Mississippi Territory, being, after deducting the surveying and other incidental expenses, appropriated, in the first place, to the payment of a sum of $1,250,000 to the State of Georgia, have not been included, but are distinctly stated. The actual payments by purchasers, have, during the same period, exceeded $680,000; and the receipts into the Treasury from that source, may, after deducting charges, and the five per cent. reserved for roads, be estimated, for the ensuing year, at five hundred thousand dollars.

The receipts arising from the permanent revenue of the United States, may, therefore, without including the duties on postage, and other incidental branches, be computed, for the year 1808, at - - - - - - - - $14,500,000

And the payments into the Treasury during the same year, on account of the salt and Mediterranean duties, previously accrued, are estimated at - - - - - - - - 1,300,000

Making the whole, an aggregate of $15,800,000

Last quarter of the year 1807.

The balance in the Treasury, which, on the 30th day of September, 1806, amounted to $5,496,969 77, did, on the 30th day of September, 1807, amount to - - - - - - $8,530,000

The receipts into the Treasury from the first of October to the 31st of December, 1807, are estimated at 4,000,000

$12,530,000

The expenses, during the same period, for all objects whatever, the public debt excepted, and including $686,076 for the extraordinary expenditures of the Navy Department, of which the estimate has been transmitted, are estimated at - - - - - - - - $1,700,000

The ordinary payments on account of the public debt, including the provision for the interest on the Louisiana and Dutch debt, to the 1st July, 1808, are estimated at - - - - 1,700,000

A further sum of about $1,500,000, should also be paid during this quarter, in order to complete the annual appropriation of $800,000. If the whole of this sum, which is applicable to the purchase of the eight per cent. stock, cannot be expended this year, the unexpended balance will form an additional expenditure for the year 1808, charging however, the whole to this quarter - - - - - - 1,500,000

Makes an aggregate of - - $4,900,000

And will leave in the Treasury, at the close of the year, a balance of about seven millions six hundred thousand dollars - - - - - - - 7,630,000

$12,530,000

Expenditures of the year 1808.

The permanent expenses, calculated on a Peace Establishment, are estimated at $11,600,000, and consist of the following items, viz:

1st. For the civil department, and all domestic expenses of a civil nature, including invalid pensioners, the light-house and mint establishments, the expenses of surveying public lands and the seacoast, the fifth instalment of the loan due to Maryland, and a sum of $100,000, to meet such miscellaneous appropriations, not included in the estimates, as may be made by Congress - - - - - - - $1,100,000

2. For expenses incident to the intercourse with foreign nations, including the permanent appropriation for Algiers - - - - - - 200,000

3. For the Military and Indian departments, including trading houses, and the permanent appropriations for certain Indian tribes - - 1,280,000

4. For the Naval Establishment - 1,020,000

5. The annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt, of which sum not more than $3,400,000 will, for the year 1808, be applicable to the payment of interest - - - - - - 8,000,000

$11,600,000

To the permanent expenses must be added, for the year 1808, a sum of about $800,000, necessary, in addition to the annual appropriation of eight millions of dollars, to complete, on the 1st January, 1809, the reimbursement of the eight per cent. stock - - - - - - 800,000

And for paying the balance of American claims assumed by the French convention - - - - - - 200,000

Making, altogether, for the expenses of that year - - - - - - $12,600,000

The receipts of that year having been estimated at - - - - - $15,800,000

And the probable balance in the Treasury, the 1st of January next at - 7,630,000

Making, altogether - $23.430.000

Would therefore, probably, leave in the Treasury, on the 1st January, 1809, a balance of near eleven millions of dollars - - - - - 10,830,000

$23,430,000

Public Debt.

It appears by the statement D, that the payments on account of the principal of the public debt, have, during, the year ending on the 30th

day of September, 1807, exceeded four millions six hundred thousand dollars; making the total public debt reimbursed from the 1st of April, 1801, to the 1st of October, 1807, about twenty-five millions eight hundred and eighty thousand dollars, exclusively of more than six millions which have been paid during the same period, in conformity with the provisions of the treaty and convention with Great Britain, and of the Louisiana convention.

Of the twelve millions of dollars, which, according to the preceding estimates, may be paid on account of the public debt, between the 30th September, 1807, and the 1st January, 1809, about eight millions will be on account of the principal. It must, however, be observed, that the unascertained result of the proposition made to the public creditors, for a modification of the debt, may affect the amount payable during the year 1808, on account of both principal and interest.

On the first day of January, 1809, the principal of the debt will, if the proposed modification be not assented to by the public creditors, amount to near fifty-seven millions and five hundred thousand dollars; the subsequent annual payments thereon, on account of principal and interest, will not, exclusively of occasional purchases, exceed $4,600,000; and the whole of the debt, the nineteen millions three per cent. stock only excepted, will be reimbursed in sixteen years.

A general subscription would reduce the capital to about fifty-one millions of dollars; the payments would amount to eight millions of dollars, annually, during six years, and average less than three millions during the seven following; at the end of which period the whole debt would be extinguished.

An annual unappropriated surplus of at least three millions of dollars may, henceforth, be relied upon with great confidence. The receipts of the year 1808 have been estimated at $15,800,000, and the expenses at $12,600,000. The permanent revenue has been computed at $14,500,000; and the permanent expenses, predicated on an annual payment of eight millions of dollars on account of the debt, have been stated at $11,600,000; and, as these would, if no modification of the debt shall take place, be reduced to less than $8,500,000, the annual surplus would then amount to six millions of dollars. Nor are the seven millions and a half of dollars, which will remain in the Treasury at the end of the present year, included in the calculation.

What portion of that surplus may be wanted for necessary measures of security and defence; what portion should be applied to internal improvements, which, while increasing and diffusing the national wealth, will strengthen the bonds of union, are the subjects which do not fall within the province of the Treasury Department. But it is not improbable that, after making ample provision for both those objects, considerable surplusses, and which can no longer be applied to the redemption of the debt, may still accumulate in the Treasury.

A previous accumulation of treasure, in time of peace, might in a great degree defray the extraordinary expenses of war, and diminish the necessity of either loans or additional taxes. It would provide, during periods of prosperity, for those adverse events to which every nation is exposed, instead of increasing the burdens of the people at a time when they are least able to bear them, or of impairing, by anticipations, the resources of ensuing generations. And the public moneys of the United States not being locked up and withdrawn from the general circulation, but, on the contrary, deposited in banks, and continuing to form a part of the circulating medium, the most formidable objection to that system, which has, nevertheless, been, at times, adopted with considerable success, in other countries, is, thereby, altogether removed. It is also believed that the renewal of the charter of the Bank of the United States may, amongst other advantages, afford to the Government an opportunity of obtaining interest on the public deposites, whenever they shall exceed a certain amount. Should the United States, contrary to their expectation and desire, be involved in a war, it is believed that the receipts of the year 1808 will not be materially affected by the event, inasmuch as they will, principally, arise from the revenue accrued during the present year. The amount of outstanding bonds due by importers, after deducting the debentures issued on account of re-exportations, exceeds, at this time, sixteen millions of dollars. The deductions to be made from these, on account of subsequent re-exportations, would, in case of war, be less than usual; for, exportations will then be checked as well as importations; and, in proportion as these will decrease, a greater home demand will be created for the stock on hand, and the necessity of re-exporting be diminished.

It has already been stated that the specie in the Treasury, at the end of this year, together with the surplus of the year 1808, will amount to near eleven millions of dollars—a sum probably adequate to meet the extraordinary expenses of a war for that year. It will also be recollected, that, in the estimated expenses of the year 1808, a reimbursement of near five millions and a half of the principal of the debt is included. The only provision, therefore, which may, under any contingency, be necessary for the extraordinary service of that year, in order to cover any deficiency of revenue or increase of expenditure beyond what has been estimated, will be an authority to borrow a sum equal to that reimbursement.

That the revenue of the United States will, in subsequent years, be considerably impaired by a war, neither can, or ought to be concealed. It is, on the contrary, necessary, in order to be prepared for the crisis, to take an early view of the subject, and to examine the resources which should be selected for supplying the deficiency and defraying the extraordinary expenses.

There are no data from which the extent of the defalcation can, at this moment, be calculated, or even estimated. It will be sufficient to state, 1st. That it appears necessary to provide a revenue at least equal to the annual expenses on a Peace Establishment, the interest of the existing debt, and the interest on the loans which may be raised. 2dly. That those expenses, together with the interest of the debt, will, after the year 1808, amount to a sum less than seven millions of dollars, and, therefore, if the present revenue of $14,500,000 shall not be diminished more than one half by a war, it will still be adequate to that object, leaving only the interest of war-loans to be provided for.

Whether taxes should be raised to a greater amount, or loans be altogether relied on for defraying the expenses of the war, is the next subject of consideration.

Taxes are paid by the great mass of the citizens, and immediately affect almost every individual of the community. Loans are supplied by capitals previously accumulated by a few individuals. In a country where the resources of individuals are not generally and materially affected by the war, it is practicable and wise to raise by taxes the greater part at least of the annual supplies. The credit of the nation may, also, from various circumstances, be at times so far impaired as to leave no resource but taxation. In both respects the situation of the United States is totally dissimilar.

A maritime war will, in the United States, generally and deeply affect, whilst it continues, the resources of individuals; as not only commercial profits will be curtailed, but, principally, because a great portion of the surplus of agricultural produce necessarily requires a foreign market. The reduced price of the principal articles exported from the United States will operate more heavily than any contemplated tax. And, without inquiring whether a similar cause may not still more deeply and permanently affect a nation at war with the United States, it seems to follow that, so far as relates to America, the losses and privations caused by the war should not be aggravated by taxes beyond what is strictly necessary. An addition to the debt is doubtless an evil; but experience having now shown with what rapid progress the revenue of the Union increases in time of peace; with what facility the debt formerly contracted has, in a few years, been reduced; a hope may confidently be entertained that all the evils of the war will be temporary, and easily repaired; and that the return of peace will, without any effort, afford ample resources for reimbursing whatever may have been borrowed during the war.

The credit of the United States is also unimpaired, either at home or abroad; and it is believed that loans to a reasonable amount may be obtained on eligible terms. Measures have been taken to ascertain to what extent this may be effected abroad. And it will be sufficient here to suggest, that the several banks of the United States may find it convenient, after the ensuing year, and as the diminished commerce of the country may require less capital, to loan to Government a considerable portion of their capital stock, now computed at about forty millions of dollars.

It might be premature to enter into a particular detail of the several branches of revenue which may be selected in order to provide for the interest of war loans, and to cover deficiencies, in case the existing revenue should fall below seven millions of dollars. A general enumeration seems at present sufficient.

1. Not only the duty on salt and the Mediterranean duties may be immediately revived, but the duties on importation generally, may, in case of war, be considerably increased, perhaps doubled with less inconvenience than would arise from any other mode of taxation. Without resorting to the example of other nations, experience has proven that this source of revenue is, in the United States, the most productive, the easiest to collect, and the least burdensome to the great mass of the people. In time of war, the danger of smuggling is diminished; the scarcity of foreign articles prevents the duty ever falling on the importer; the consumers are precisely those members of the community who are best able to pay the duty; and the increase of domestic manufactures, which may be indirectly affected, is in itself a desirable object.

2. Indirect taxes, however ineligible, will doubtless be cheerfully paid as *war taxes*, if necessary. Several modifications of the system formerly adopted, might, however, be introduced, both in order to diminish some of the inconveniences which were experienced, and particularly to insure the collection of the duties.

3. Direct taxes are liable to a particular objection, arising from unavoidable inequality, produced by the general rule of the Constitution. Whatever difference may exist between the relative wealth and consequent ability of paying of the several States, still the tax must, necessarily, be raised in proportion to their relative population. Should it, however, become necessary to resort to that resource, it is believed that a tax, raised upon that species of property, in each State, which, by the State laws, is liable to taxation, as had originally been contemplated by Congress, would be preferable to a general assessment, laid uniformly on the same species of property in all the States, as was ultimately adopted.

All which is respectfully submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Nov. 5th*, 1807.

[Tables of details are omitted.]

SINKING FUND.

[Communicated to the Senate, Feb. 5, 1808.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of the 5th February, 1807, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 4th day of the present month, and in the statements

therein referred to, which are herewith transmitted and prayed to be received as a part of this report.

G. CLINTON, *President of Senate.*
J. MARSHALL, *Chief Justice U. S.*
J. MADISON, *Secretary of State.*
A. GALLATIN, *Secretary Treasury.*
C. A. RODNEY, *Att'y General U. S.*

WASHINGTON, *Feb.* 5, 1808.

TREASURY DEPARTMENT, *Feb.* 4, 1808.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance remaining unexpended at the close of the year 1805, and applicable to payments falling due after that year; which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - - - - $1,647,475 39

Together with the disbursements made during the year 1806, out of the Treasury, on account of the principal and interest of the public debt, which disbursement, as appears by the statement C, annexed to the last annual report, amounted to - - - - 8,948,006 90

And, with a further sum, arising from the remittances from America to Europe, purchased in the year 1806, which profit, as appears by the statement D, annexed to last annual report, amounted to - - - - - - 35,697 77

And, also, with a further sum arising from the difference between amount in stock of the public debt purchased by the Commissioners of the Sinking Fund in the year 1806, and the moneys applied to said purchases, amounting, as appears by the statement L, annexed to the last annual report, to 437 96

And amounting, altogether, to $10,631,618 52

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1806, on account of the principal of protested bills, as appears by the statement E, annexed to the last annual report, a sum of - - - $6,000 00

2. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to $8,739,260 42, viz:

Paid in reimbursement of the principal of the debt -	$4,828,479 00	
Paid on account of interest and charges on the same - -	3,910,781 42	
		8,739,260 42

3. The balance remaining unexpended at the close of the year 1806, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - - - - - 1,886,358 10

Amounting to - - - $10,631,618 52

That, during the year 1807, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

1. On account of the reimbursement of the interest of the domestic debt - $5,833,441 32
2. On account of the domestic unfunded debt - - - - - - 2,119 53
3. On account of the principal and interest of the foreign debt, and the interest on the Louisiana stock - - 511,904 99

Amounting, together, as will appear by the annexed list of warrants, C, to - $6,347,465 84

Which disbursements were made out of the following funds, viz:

From the funds constituting the annual appropriation of eight millions of dollars for the year 1807, viz:

1. From the fund arising from the interest of the debt transferred to Commissioners of the Sinking Fund, as per account I - - $958,292 04

From the funds arising from the sale of public lands, being the amount of moneys paid into the Treasury from 1st October, 1806, to 30th September, 1807, as per account K - - 654,319 39

From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels - - - - 4,672,068 06

$6,284,679 49

Which sum of - - $6,284,679 49

Together with the sum advanced during the year 1806, on account of the appropriation for the year 1807, and amounting, as appears by the last annual report, to - - - 1,003,790 70

Making in the whole $7,288,470 19

Leaving, at the close of the year 1807, an unexpended balance of - - 711,529 81

To complete the annual appropriation for the year 1807, of - - $8,000,000 00

2. From payments into the Treasury on account of remittances purchased for providing for the foreign debt, and of advances made to Commissioners of Loans, and to agents for the purchase of the public debt, as will appear by the statement E, viz:

Repayment of the purchase-money and advances - -	$61,189 66	
Damages and interest recovered - - -	364 54	
		61,554 20

3. From the moneys appropriated by law for paying commissions to agents employed in the purchase of remittances for the foreign debt, being the amount paid at the Treasury during the year

1807, for that object, as will appear by the statement C - - - - - 1,232 15

Making - - - - $6,347,465 84

That the abovementioned disbursements, together with the above stated balance of - - - - - - - - 1,886,358 10

Which remained unexpended at the close of the year 1806, and with a sum arising from profit on remittances from America to Europe, purchased in the year 1807, and amounting, as will appear by the statement D, to - - 9,427 58

And amounting, altogether, to $8,243,251 52

Will be accounted for in the next annual report, in conformity with the accounts which shall then have been rendered to the Treasury Department. That, in the meanwhile, the manner in which the said sum has been applied, is estimated as follows:

1. The repayments into the Treasury on account of principal, have, during the year 1807, amounted, as by the abovementioned statement E, to $61,189 66

2. The sums actually applied, during the year 1807, to the principal and interest of the public debt, are estimated as follows:

Paid in reimbursement of the public debt - - -	$3,729,163 39	
Paid on account of interest and charges on the same - - -	3,633,408 66	
		7,362,572 05

As will appear by estimate F.

3. The balance remaining unexpended, at the close of the year 1807, and applicable to payments falling due after that year, is estimated, as per estimate G, at - - - - - - - 819,489 81

Making - - - - $8,343,251 52

That, in conformity with the proceedings and resolutions of the Commissioners of the Sinking Fund, of the 23d of March, 1807, a copy whereof (M) is annexed, $866,700 eight per cent. stock were purchased for $890,520 75 specie; and $300,007 62 exchanged six per cent. stock were purchased for $293,454 22 specie, as will appear by statement L.

That the whole of the unexpended balance of the annual appropriation of eight millions of dollars, for the year 1807, and amounting, as above stated, to $711,529 81, will be wanted in aid of the annual appropriation of eight millions of dollars for the present year, for the purpose of effecting the payments on account of interest on the public debt, and of reimbursing the stock bearing an interest of eight per cent., which becomes redeemable on the first day of January, 1809.

And that the statement H exhibits the amount of stock transferred to Commissioners of the Sinking Fund, in trust for the United States, to the 31st of December, 1807, including the sum of $5,934 24, transferred in the year 1807, in payment for public lands. Respectfully submitted.

ALBERT GALLATIN.

PUBLIC BUILDINGS.

[Communicated to the House October 28, 1807.]

WASHINGTON, *Oct.* 27, 1807.

SIR: The arrangement approved by the President of the United States, and adopted for the south wing of the Capitol, varies in so many respects from that of the buildings hitherto appropriated to the session of Congress, that I beg leave most respectfully to lay before you some explanation of the principles on which the design was formed, in order that, in deliberating upon the regulations which, to the wisdom of the House of Representatives, may appear best adapted to the holding of their sittings, no information may be wanting to them which it is in my power to furnish.

In the distribution of the House, it is provided that the access of those citizens who attend in the gallery, solely for the purpose of being present at the debates, is on the south front, at a distance from the eastern entrance, which leads to the apartments appropriated to legislative business. Between these parts of the buildings there is no communication whatever, excepting by a small door from the lobby, which door is only intended to admit the Doorkeeper into the gallery, in order to execute an order of the House for the exclusion of strangers.

Thus, all intrusion upon the business of the House, and of its committees, may be effectually prevented by regulating admissions by the eastern entrance.

The ground floor is entirely appropriated to the use of the committees of the House, and of the Clerk. The committee rooms ranged on the east and west fronts have an ante-chamber or waiting room, to each range, for the use of those citizens who have to attend the committees, and who, heretofore, had no accommodation but such as the lobby or the gallery of the House afforded. Such persons must, of necessity, enter at the eastern door.

From this entrance, also, the staircases lead up to the door of the House. Within the House the lobbies are to the right and left. The position of the Doorkeeper gives him an immediate view of every one who enters, while the interior of the House cannot be seen excepting from the galleries of the lobbies. There is, therefore, no temptation to continuance in the lobby, but for the sake of hearing the debates from its galleries, in which the presence of the House will preserve order and silence.

Within the colonnade of the House there is no room for any persons not members of the House, excepting on the seats under the northern part of the wall. Those seats were erected on the presumption that the House might appropriate the same to the use of the Senators of the United States, when attending the House, and of such other persons, distinguished by their official characters, as the House might judge proper to admit to them.

It will be in the recollection of the members

that, in the north wing of the Capitol, in which were all the committee rooms and the Clerk's office, even during the sitting of the House in the temporary building, erected on the site of the south wing, every one, without discrimination, had access to all the passages of the building. It was, indeed, impossible to distinguish those who ought from those who ought not to have entered. The consequence was, that every part was crowded by those who had, and by more who had no business in the House. There are annually from four to five hundred persons whom their affairs bring to the seat of Government during the sitting of the National Legislature; for these citizens the interior of the House afforded the only shelter during the severity of the Winter. The lobby of the House was, therefore, usually filled with a part of them, to the great inconvenience of the members, and sometimes to the interruption of legislative business. Besides these, idle and dissolute persons ranged the whole building; the walls were defaced by obscenity and by libels; the public furniture and utensils of the House were considered as fair objects of depredation; and were I to state the amount of some of the depredations, it would appear almost incredible. The committee rooms themselves have not been secure from the most improper intrusion; and, to particularize only one fact, much of the leakage of the roof arose from the smaller pieces of lead, called *flashings*, being stolen.

I am very confident that, under strict regulations, the distribution of the House, which I have described, will render it easily practicable to avoid all these evils; and I beg very respectfully to submit such regulations as I presume would be effectual, even before the plan of the whole Capitol, which provides for the residence of the Doorkeeper within the House, can be completed.

While it is thought proper to admit, without discrimination, all persons who choose to go into the galleries, no attendant at the gallery door will be necessary. As, however, the lower gallery lobbies will probably become the stations of those who usually sell refreshment in such places, some restriction might probably be laid upon the intrusion of boys of all colors beyond the outer door, by regulating the occupancy of these lobbies.

But, at the east entrance, it seems necessary that a respectable and responsible deputy of the principal Doorkeeper should regulate the admission of all persons whatever, and have in charge the keys of all the committee rooms, control the servants who attend the fires of the committee rooms and the furnaces of the House, and prevent the defacing of the walls, as well as the depredations hitherto committed on the furniture. The station of such an officer would be at the foot of the stairs. A short practice would enable him, without difficulty, to superintend the whole of the ground story and the stairs of the House.

Experience has long pointed out the extreme difficulty of preventing the walls of public buildings from being defaced; but if, by a summary process before a magistrate, those idle persons who find amusement in so scandalous a practice could be fined, or otherwise punished, it might cease.

In the design and construction of the House of Representatives, all that I could effect by study and labor has been done to carry the desire of the President, to give to the House every practicable convenience and accommodation, into execution. In the permanence and solidity of the work, I hope nothing will be found deficient. The size and arrangement of the committee rooms were, in a great measure, imposed by the exterior form and structure of the north wing, of which the exterior of the south wing is necessarily an exact copy. Much of what might have been better arranged in the interior, owes its imperfection to this cause. Upon the whole, it is my ardent wish, and all my ambition is centered in the desire, that the personal accommodation of the members, and the convenience of the committees of the House, upon which so much depend the despatch and ease of legislative business, as well as the best practicable disposition and arrangement of the legislative hall itself, may have been attained. I am conscious of irremediable defects. I hope, however, that they are not considerable, and grow out of the necessary size and loftiness of an edifice, which must be sufficiently enlarged to contain a numerous assembly, while the powers of the human voice and of the human ear remain limited to a certain standard. Magnificence is easily bought by expense, and is infinitely less important than utility.

The meeting of Congress, at a period so much earlier than was expected, in a very advanced part of the season, has prevented the completion of many small arrangements, which will render the House still more commodious. Every exertion is now making to complete them; and should any part of the work be found, on experiment, to require alteration, provision is made for its speedy and effectual correction.

With the highest respect, I am yours, faithfully,

B. HENRY LATROBE,
Surveyor of the Public Buildings, U. S.

The Hon. SPEAKER
of the House of Representatives.

PATENT RIGHTS TO ALIENS.

[Communicated to the House, December 18, 1807.]

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled. The petition of Anthony Boucherie, of the city of Philadelphia, sugar refiner, most respectfully showeth:

That the application of sciences to the improvement of the useful arts is one of the best means of contributing to the prosperity of society. In that aim your petitioner for a series of years, directing his knowledge in chemistry toward the benefit of one of the most useful and rich productions of nature, has succeeded in an important discovery.

The art of extracting the sugar from the cane

which produces it, known, in some measure, for more than a century back, had remained under the ignorance which generally prevailed at that early period of the laws of physics. The juice of the cane, it was said, cannot be manufactured into sugar without producing a residue of forty to fifty per cent., which residue is known in this country under the name of molasses; this is entirely erroneous.

Nature produces no molasses; it is by a wrong mode of manufacturing, the result of a decomposition depending more or less on sundry occurrences, that the planter is not acquainted with, and which perplex him so that he is obliged to confess that he has no fixed rules to guide him in his process.

A sugar refiner by trade, and fond of science, the petitioner could not content himself with such uncertain proceedings; inquiries, labors, experiments, everything that could elucidate the matter, he has tried; in these pursuits he has followed, even sometimes personally promoted, the progress of chemistry, and seized its numerous discoveries for the benefit of an art which, after thirty years' perseverance, he dares to say he has brought to great perfection.

The principles on which he proceeds are as simple as certain; by them the sugar planter may depend upon the whole amount of his crops without those reductions occasioned by the vicious system now in use. Those of Louisiana particularly, who so much deserve to be encouraged, and look up with confidence to a beneficent Government, will once more congratulate themselves for not having yielded to the difficulties they have partly overcome; they will henceforth be enabled to supply the consumption of the United States, and assist its commerce with that precious production which, in time of peace, they cannot expect to get from the West Indies.

Excited by the augmentation of produce, by the facility of baking the sugar, and the superiority of its quality, new planters will abound in that part of the Union, and increase its prosperity far beyond the hopes of its well-wishers.

The petitioner has not limited his researches to the means of preventing the formation of molasses in the sugar manufactories; but, to the great advantage of the refiner, he equally expels it from the refineries; moreover, the principles of his process apply to the fabrication of the sugar drawn from the sugar maple, and will also be extremely beneficial for those Western States, which, however abundantly endowed with that precious tree, are far from gathering all the profits which may be obtained therefrom. Then, by such immense economies of raw materials, a considerable diminution will generally take place in the price of so indispensable an article.

When the petitioner brought to the United States this valuable discovery, unknown in all the sugar islands, he was far from supposing that the obtaining of a patent which would preserve to him the temporary proprietorship thereof, could be suspended until after two years' residence; that information, confirmed to him by the chief of the patent division, has prevented his departure for Louisiana, where he should have been at this time, had he been in possession of the only title which can assure him some indemnities for his expenses and some reward for his long labors. But inspired by the wisdom and liberality of the American Legislature, he begs leave respectfully to represent to your honorable body, that, whetever might have been the policy of the law at first, motives as powerful plead for its modification in the individual case of the petitioner; the importance of a discovery, the influence it may have on the public welfare, the possibility of its being irretrievably lost, are of themselves such as may deserve the attention of this Areopagus.

May the petitioner, with great deference, inquire whether a stranger, bringing with him the means of obtaining out of the same stock two ears of corn instead of one, it would be wise to deprive the country of that advantage, because the man had not completed two years' residence on this Continent? It is these two ears of corn instead of one that the petitioner offers, to those who cultivate the sugar cane and sugar maple in several States of the Union. Must the enjoyment of that benefit be withholden from them one year longer, because the improver landed on the American shore but last year?

Besides, the petitioner, who is the only possessor of this process, is sixty years of age, and can scarcely, therefore, expect to retain for many years a sufficient portion of activity to teach a number of disciples for propagating his art; perhaps, indeed, one year may deprive the United States of one of the most useful discoveries.

If any one entertains any doubts on the advantages above announced, the petitioner humbly begs you to consider, on the one side, that a patent would be useless to him had he not, both from theory and practice, the certainty of its being successful; and, on the other side, that in any manner the State cannot be exposed by the grant.

Your petitioner, therefore, humbly prays, that in consideration of what is above stated, Congress will be pleased to pass an act extending to him the benefits of the law passed on the 17th April, 1800, entitled, "An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patents," notwithstanding his not having previously resided two years within the United States.

And your petitioner shall ever pray.

A. BOUCHERIE.

GENERAL JAMES WILKINSON.

[Communicated to the House, January 20, 1808.]

To the House of Representatives of the United States:

Some days previous to your resolutions of the 13th instant, a court of inquiry had been institu-

ted at the request of General Wilkinson, charged to make the inquiry into his conduct which the first resolution desires, and had commenced their proceedings. To the Judge Advocate of that court the papers and information on that subject, transmitted to me by the House of Representatives, have been delivered to be used according to the rules and powers of that court.

The request of a communication of any information which may have been received at any time since the establishment of the present Government, touching combinations with foreign agents for dismembering the Union, or the corrupt receipt of money by any officer of the United States from the agents of foreign Governments, can be complied with but in a partial degree.

It is well understood that in the first or second year of the Presidency of General WASHINGTON, information was given to him relating to certain combinations with the agents of a foreign Government for the dismemberment of the Union; which combinations had taken place before the establishment of the present Federal Government. This information, however, is believed never to have been deposited in any public office, or left in that of the President's Secretary, (these having been duly examined,) but to have been considered as personally confidential, and therefore retained among his private papers. A communication from the Governor of Virginia to President WASHINGTON is found in the office of the President's Secretary, which, although not strictly within the terms of the request of the House of Representatives, is communicated, inasmuch as it may throw some light on the subjects of the correspondence of that time between certain foreign agents and citizens of the United States.

In the first or second year of the Administration of President Adams, Andrew Ellicott, then employed in designating, in conjunction with the Spanish authorities, the boundaries between the territories of the United States and of Spain, under the treaty with that nation, communicated to the Executive of the United States papers and information respecting the subjects of the present inquiry, which were deposited in the office of State. Copies of these are now transmitted to the House of Representatives, except of a single letter and a reference from the said Ellicott, which, being expressly desired to be kept secret, is therefore not communicated, but its contents can be obtained from himself in a more legal form; and directions have been given to summon him to appear as a witness before the court of inquiry.

A paper "on the commerce of Louisiana," bearing date the 18th of April, 1798, is found in the office of State, supposed to have been communicated by Mr. Daniel Clark, of New Orleans, then a subject of Spain, and now of the House of Representatives of the United States, stating certain commercial transactions of General Wilkinson in New Orleans; an extract from this is now communicated, because it contains facts which may have some bearing on the questions relating to him.

The destruction of the War Office by fire in the close of 1800 involved all information it contained at that date.

The papers already described, therefore, constitute the whole of the information on these subjects deposited in the public offices during the preceding Administrations, as far as has yet been found, but it cannot be affirmed that there may be no other, because the papers of the offices being filed for the most part alphabetically, unless aided by the suggestion of any particular name which may have given such information, nothing short of a careful examination of the papers in the offices generally could authorize such an affirmation.

About a twelvemonth after I came to the administration of the Government, Mr. Clark gave some verbal information to myself as well as to the Secretary of State, relating to the letter of Governor Gayoso addressed to himself, of which a copy is now communicated. After his return to New Orleans he forwarded to the Secretary of State other papers, with a request that, after perusal, they should be burned. This, however, was not done: and he was so informed by the Secretary of State, and that they would be held subject to his orders. These papers have not yet been found in the office. A letter, therefore, has been addressed to the former chief clerk, who may perhaps give information respecting them. As far as our memories enable us to say, they related only to the combinations before spoken of, and not at all to the corrupt receipt of money by any officer of the United States: consequently, they respected what was considered as a dead matter, known to the preceding Administrations, and offering nothing new to call for the investigations which those nearest the dates of the transactions had not thought proper to institute.

In the course of the communications made to me on the subject of the conspiracy of Aaron Burr, I sometimes received letters, some of them anonymous, some under names, true or false, expressing suspicions and insinuations against General Wilkinson. But only one of them, and that anonymous, specified any particular fact, and that fact was one of those which had been already communicated to a former Administration.

No other information within the purview of the request of the House is known to have been received by any department of the Government from the establishment of the present Federal Government. That which has been recently communicated to the House of Representatives, and by them to me, is the first direct testimony ever made known to me, charging General Wilkinson with a corrupt receipt of money: and the House of Representatives may be assured that the duties which this information devolves on me shall be exercised with rigorous impartiality. Should any want of power in the court to compel the rendering of testimony obstruct that full and impartial inquiry which alone can establish guilt or innocence and satisfy justice, the legislative authority only will be competent to the remedy.

TH. JEFFERSON.

JANUARY 20, 1808.

WAR DEPARTMENT, *Jan.* 2, 1808.

In compliance with a request from Brigadier General James Wilkinson, the President of the United States has directed a court of inquiry to be instituted, for the purpose of hearing such testimony as may be produced in relation to the said General James Wilkinson's having been, or now being, a pensioner to the Spanish Government, while holding a commission under the Government of the United States.

Colonel Henry Burbeck, as President, Colonel Thomas H. Cushing and Lieutenant Colonel Jonathan Williams, as members, are hereby directed to meet at the City of Washington, on Monday the 11th day of the present month of January, as a court of inquiry for the purpose above stated; and, after a full investigation of such evidence and circumstances as may come to their knowledge, the court will report to this Department a correct statement of its proceedings, together with its opinion on the amount of testimony exhibited.

Walter Jones, Esquire, District Attorney for the District of Columbia, will be requested to act as Judge Advocate or Recorder to the court.

H. DEARBORN, *Secretary of War.*

Col. HENRY BURBECK,
President Court of Inquiry.

RICHMOND, *May* 31, 1790.

SIR: The enclosed copy of a letter from the Spanish Governor of New Orleans to a respectable gentleman in Kentucky, was handed to me by Mr. Banks of this city. As the subject of this paper appears interesting to the United States, I have taken the liberty to forward it to you.

I am, with the highest respect, your most obedient servant,

BEVERLY RANDOLPH.

NEW ORLEANS, *Sept.* 16, 1789.

SIR: General Wilkinson having represented to me, that you had it in contemplation to settle in this province, and that your example would have considerable influence on many good families of your country, I think it my duty, in order to forward the intentions of my royal master, to inform you that I shall receive you and your followers with great pleasure, and that you have liberty to settle in any part of Louisiana, or anywhere on the east side of the Mississippi, below the Yazoo river. In order to populate the province, His Majesty has been graciously pleased to authorize me to grant to the emigrants, free of all expense, tracts of from two hundred and forty to eight hundred acres, in proportion to their property, and in particular cases of men of influence, who may aid these views, I shall extend the grant as far as three thousand acres. To all persons who actually become settlers, liberty is granted to bring down their property in the produce of your country, duty free; but the King does not agree to take your tobacco, and, of consequence, you must depend upon the common market of this city, as the province makes more than the quantity which the King allows me to take. I mention this particular to prevent disappointment. You will be exempt from taxation, and will be allowed the private exercise of your religion without molestation from any person whatever, and will enjoy all the rights, privileges, and immunities of His Majesty's other subjects.

In order to cultivate an amicable connexion with the settlers of the Ohio, His Majesty has been graciously pleased, at the same time, to give liberty to the inhabitants of that country to bring down their produce to this city for sale, subject to a duty of fifteen per cent. on the value here; but to prevent imposition, and to distinguish between the real settler and the trader, the former, on entering their produce at the custom-house, will be obliged to subscribe to the conditions mentioned in the proclamation, of which General Wilkinson carries a copy for your information.

Though unknown to you, General Wilkinson has taught me to respect your character.

It is, therefore, I subscribe myself, with great esteem your most obedient and humble servant,

ESTEVAN MIRO.

BENJAMIN SEBASTIAN, Esq. *Kentucky.*
Attest: S. COLEMAN, *A. C. C.*

NATCHEZ, *June* 17, 1796.

MY DEAR FRIEND: I received your favor of the 12th instant, in which you give me a proof of your sincere friendship by opening your heart, without reserve, on the interesting subject of the treaty. Following the same sentiments that have dictated to you the confidence that you have in me, I shall, unreservedly, and in the most confidential manner, give you my opinion on the same subject.

I have powerful reasons to believe that the part of the treaty concerning limits will never be accomplished; and for that reason so little has been said on what otherwise should be detailed concerning the subjects and citizens of both countries. The State of Georgia is as much displeased as you express yourself, and several petitions have already been presented to Congress against the treaty.

In the time that the treaty was signed, the political affairs of Europe determined our Court to do anything to keep the United States in a perfect neutrality, and thereby destroy a new plan that was forming to renew and continue a destructive war. The treaty with England had a different object. It was to attract the Americans to their interest in such a manner as to have still in her power to keep them dependent; the plan has fallen through, and the British will no longer deliver the posts. Our treaty that was made to counterbalance that, will suffer equal difficulties; for the circumstances being altered, so will be the conditions on every side. Spain made a treaty with the Union; but if this Union is dissolved, one of the contracting parties exists no longer, and the other is absolved from her engagements. It is more than probable that a separation of several States will take place, which will alter the

political existence of a Power that could influence on the balance of that of others; therefore Spain, being deprived of that assistance, which could arise from her connexion with the Union, will alter her views. This is the political situation of things with regard to the treaty; besides that, there are other insurmountable difficulties with respect to the *Indians*, which render impracticable the execution of the part concerning limits; therefore, even when no change should happen in the United States, the treaty will be reduced to the navigation of this river.

Laying aside every obstacle, and only guided by the same principles that have affected you, I have already represented in the strongest and most energetic manner on the subject of real property; without a solution from Court, it will be out of our power to fulfil the contents of the treaty. When I told you that your property should not suffer in this Government, was founded on all these principles, and several others that are not vanished. I have constantly been a friend to the country, and in this critical moment will not neglect its interest. Be sure, and assure all your neighbors, that I will do the needful, and that my exertions at all times shall be in proportion to the exigency.

With regard to the debts of this Government, they will continue to be paid in the manner prescribed; however, I shall act in such a manner as to have them cleared much sooner than what is expected. Every individual of this Government is just now attending their crops of cotton, that promise very advantageously; therefore in this critical moment they must not be disturbed, or they will suffer essentially. I am waiting anxiously for Mr. Dunbar to regulate several things in which he has had, and is to have an interference. I really believe that the Baron has him employed. I do not know for certain when the Baron is to go to the Havana, nor do I believe that he knows it. The first packet may perhaps throw some light on the subject. The return of our Court to Madrid will be productive of some very great change in the administration of our affairs; therefore I wait that moment with impatience.

Nothing can affect the mortgage you have on Fuly's property; he has not yet appeared, but Mr. Ree acts for him.

I remain, with the most sincere friendship, my dear friend, your most obedient,

M. GAYOSO DE LEMOS.

Reserve this letter.

P. S.—In the other letter I express the reason of my new regulation, &c.

DANIEL CLARK, Esq.

Extract from a paper on the commerce of Louisiana, supposed to be referred to in a letter from Mr. Daniel Clark to the Secretary of State, of the 18th April, 1798, and written by him.

About the period of which we are now speaking, in the middle of the year 1787, the foundation of an intercourse with Kentucky and the settlements on the Ohio was laid, which daily increases. Previous to that time, all those who ventured on the Mississippi had their property seized by the first commanding officer whom they met, and little or no communication was kept up between the countries. Now and then, an emigrant who wished to settle in Natchez, by dint of entreaty, and solicitation of friends who had interest in New Orleans, procured permission to remove there with his family, slaves, cattle, furniture, and farming utensils; but was allowed to bring no other property, except cash. An unexpected incident, however, changed the face of things, and was productive of a new line of conduct. The arrival of a boat, belonging to General Wilkinson, loaded with tobacco and other productions of Kentucky, is announced in town, and a guard was immediately sent on board of it. The General's name had hindered this being done at Natchez, as the commandant was fearful that such a step might be displeasing to his superiors, who might wish to show some respect to the property of a general officer; at any rate, the boat was proceeding to Orleans, and they would then resolve on what measures they ought to pursue, and put in execution. The Government, not much disposed to show any mark of respect or forbearance towards the General's property, he not having at that time arrived, was about proceeding in the usual way of confiscation, when a merchant in Orleans, who had considerable influence there, and who was formerly acquainted with the General, represented to the Governor that the measures taken by the Intendant would very probably give rise to disagreeable events; that the people of Kentucky were already exasperated at the conduct of the Spaniards in seizing on the property of all those who navigated the Mississippi; and, if this system was pursued, they would very probably, in spite of Congress and the Executive of the United States, take upon themselves to obtain the navigation of the river by force, which they were well able to do; a measure for some time before much dreaded by this Government, which had no force to resist them, if such a plan was put in execution. Hints were likewise given that Wilkinson was a very popular man, who could influence the whole of that country; and probably that his sending a boat before him, with a wish that she might be seized, was but a snare at his return to influence the minds of the people, and, having brought them to the point he wished, induce them to appoint him their leader, and then, like a torrent, spread over the country, and carry fire and desolation from one end of the province to the other.

Governor Miro, a weak man, unacquainted with the American Government, ignorant even of the position of Kentucky with respect to his own province, but alarmed at the very idea of an irruption of Kentucky men, whom he feared without knowing their strength, communicated his wishes to the Intendant that the guard might be removed from the boat, which was accordingly done; and a Mr. Patterson, who was the agent of the General, was permitted to take charge of the property on board, and to sell it free of duty.

The General, on his arrival in Orleans some time after, was informed of the obligation he lay under to the merchant who had impressed the Government with such an idea of his importance and influence at home, waited on him, and, in concert with him, formed a plan for their future operations. In his interview with the Governor, that he might not seem to derogate from the character given of him by appearing concerned in so trifling a business as a boat-load of tobacco, hams, and butter, he gave him to understand that the property belonged to many citizens of Kentucky, who, availing themselves of his return to the Atlantic States by way of Orleans, wished to make a trial of the temper of this Government, as he, on his arrival, might inform his own what steps had been pursued under his eye, that adequate measures might be afterwards taken to procure satisfaction. He acknowledged with gratitude the attention and respect manifested by the Governor towards himself in the favor shown to his agent; but at the same time mentioned that he would not wish the Governor to expose himself to the anger of his Court by refraining from seizing on the boat and cargo, as it was but a trifle, if such were the positive orders from Court, and that he had not a power to relax them according to circumstances. Convinced by this discourse that the General rather wished for an opportunity of embroiling affairs than sought to avoid it, the Governor became more alarmed. For two or three years before, particularly since the arrival of the Commissioners from Georgia, who had come to Natchez to claim that country, he had been fearful of an invasion at every annual rise of the waters, and the news of a few boats being seen was enough to alarm the whole province. He revolved in his mind what measures he ought to pursue (consistent with the orders he had from home to permit the free navigation of the river) in order to keep the Kentucky people quiet; and, in his succeeding interviews with Wilkinson, having procured more knowledge than he had hitherto acquired of their character, population, strength, and dispositions, he thought he could do nothing better than hold out a bait to Wilkinson to use his influence in restraining the people from an invasion of this province till he could give advice to this Court, and require further instructions. This was the point to which the parties wished to bring him, and, being informed that in Kentucky two or three crops were on hand, for which, if an immediate vent was not found, the people could not be kept within bounds, he made Wilkinson the offer of a permission to import, on his own account, to New Orleans, free of duty, all the productions of Kentucky, thinking by this means to conciliate the good will of the people, without yielding the point of navigation, as the commerce carried on would appear the effect of an indulgence to an individual, which could be withdrawn at pleasure. On consultation with his friends, who well knew what further concessions Wilkinson could extort from the fears of the Spaniards, by the promises of his good offices in preaching peace, harmony, and good understanding with this Government, until arrangements were made between Spain and America, he was advised to insist that the Governor should insure him a market for all the flour and tobacco he might send, as in the event of an unfortunate shipment, he would be ruined whilst endeavoring to do a service to Louisiana. This was accepted. Flour was always wanted in New Orleans, and the King of Spain had given orders to purchase more tobacco for the supply of his manufactories at home than Louisiana at that time produced, and which was paid for at about $9 50 per cwt. In Kentucky it cost but $2, and the profit was immense. In consequence, the General appointed his friend Daniel Clark his agent here, returned by way of Charleston in a vessel, with a particular permission to go to the United States, even at the very moment of Gardoqui's information; and, on his arrival in Kentucky, bought up all the produce he could collect, which he shipped and disposed of as before mentioned; and for sometime all the trade for the Ohio was carried on in his name, a line from him sufficing to insure to the owner of the boat every privilege and protection he could desire.

On granting this privilege to Wilkinson, the Government came to a resolution of encouraging emigration from the Western country, and offered passports to all settlers, with an exemption of duty on all the property they might bring with them invested in the produce of the country they came from, under the denomination of settlers. All those who had acquaintances with a few persons of influence in Orleans obtained passports, made shipments to their address, which were admitted free of duty, and, under pretence of following shortly after with their families, continued their speculations. Others came with their property, had lands granted them, which, after locating, they disposed of, and, having finished their business, returned to the United States. A few only remained in the province, and they were the people who, in general, availed themselves least of the immunities granted by the Government. They possessed a few slaves and cattle, but had little other property, and they generally settled among their countrymen in the Natchez, and increased the cultivation of tobacco, at that time the principal article raised for export in the district. This encouragement given to emigrants and speculators opened a market for the produce of the Ohio. Flour was imported from Pittsburg; and the farmers finding a vent for all they could raise, their lands augmented in value, their industry increased, and they exported annually to Louisiana, for some time past, from ten to fifteen thousand barrels of flour, for which they generally find a ready market. When the first adventurers began to purchase, flour was to be had for from eighteen to twenty shillings, Pennsylvania currency, per barrel, on the Monongahela, but was of a very bad quality, and was only made use of for biscuit, or in times of scarcity. It gradually improved, and in 1792 the best kind was supposed equal to that manufactured in Philadelphia; but, being put up negligently, does not keep so long,

and for that reason alone is not so much esteemed as Philadelphia flour.

The Court of Spain, informed by its officers here of the steps they had taken, and the motives which had induced them, otherwise ignorant of the situation of affairs with respect to Kentucky, and consequently easily impressed with the ideas they wished to inculcate, not only approved of what they had done, but granted a further permission to all the inhabitants of the Western country to export their produce to Orleans, where it was admitted on paying fifteen per cent. duty. This increased the intercourse, as many who would not before adventure, while it was a matter of favor granted by the Governor, now entered into commercial speculations; and, from the Ohio, the province of Louisiana was not only supplied with a sufficient stock of flour, whiskey, and salted provisions, hemp, and, latterly, cordage, but a considerable quantity of some of them often was shipped from hence, as the produce of this province, to Havana and other Spanish ports; besides these articles, the produce of their lands, dry goods were secretly imported, and sold in the different ports along the river; and, although orders were given to the commandant of New Madrid, the first Spanish port below the mouth of the Ohio, to prevent such importations, and seize on all who transgressed these orders, it was easily avoided. Here the boats gave a manifest of their cargo, under which a passport was given; this was endorsed by the different commandants on the river as the boats passed; the owners might sell their cargoes where they pleased, and by the manifest which they were bound to deliver to the Government immediately on their arrival at New Orleans, their duties were calculated. These duties continued to be exacted at the rate of fifteen per cent. until after the arrival of the Baron de Carondelet, when, under the idea of facilitating certain political ideas of his own, he reduced them, on his own authority, to six per cent. This measure was highly disapproved of by Gardoqui, the Minister of Finance, who threatened to make him personally responsible for the difference, and ordered the duties to be placed on the former footing. The Baron, who was not easily diverted from a favorite measure, paid no attention to the Minister's first orders; he represented a second time, and again received a more positive order than the first. Despairing of being able to gain his point with him, and determined not to abandon it, he addressed himself to the King, through the Minister of State. His plans were approved of, and the duty fixed at six per cent., at which rate it still subsists: and this is the duty exacted on everything imported from any of the American settlements on the Ohio or Mississippi for sale in New Orleans. This duty is far from being burdensome to the importer, on account of the low rate of estimation, and the facility with which, by various means, a considerable part of it is always avoided. Flour is valued but at four dollars a barrel; first quality tobacco, three dollars per hundred weight; other quality, two dollars; whiskey, thirty-seven and a half cents per gallon; and salt provisions and all other articles at a reasonable rate, as may be seen in the tariff which accompanies this, according to which the duties are calculated, and which naturally fall on the consumer. By degrees the importation of flour from the Ohio has almost put a final stop to any from the Atlantic States, and we shortly expect that such quantities will be manufactured in the Western country, as to permit the merchant of Orleans to enter into competition with those of the Middle States at foreign markets. The quantity of different productions imported from the Ohio since the opening of that trade has varied considerably from year to year. In the beginning, tobacco was the principal export from Kentucky, and, at one period, from one thousand five hundred to two thousand hogsheads came down the Mississippi annually for three or four years; they, at the same time, exported a great quantity of butter, lard, and salt provisions. Within the last three years, the exportation of tobacco has considerably diminished, and flour seems to take its place. Hemp has likewise been imported from thence in considerable quantities; was formerly reshipped from hence to the Atlantic States, but what now comes is manufactured here. Cordage is likewise imported from Kentucky, where some rope-walks are set up; and, in future, it is to be presumed that little or no hemp will be exported from New Orleans: for the encouragement of the manufactory here, that article is exempt from duty on importation. In the year 1792, the King ceased purchasing the usual quantities of tobacco in Louisiana, which was formerly two millions of pounds, on account of some frauds in packing, and the general bad quality of the tobacco, as the planters, sure of having theirs received by the inspectors, on giving a small gratuity, made generally three cuttings, and put up everything that ever looked like tobacco. This punishment was sensibly felt, as a great price was given for it, say nine dollars and a half per hundred weight. This culture ceased immediately on the eastern side of the Mississippi on this event taking place. The people of Natchez turned their attention to indigo, which they raised with success; but changed this branch for that of cotton, which now forms the staple article of their growth, and bids fair to be an object of the greatest importance; the crop of last year from that district is supposed to exceed three thousand bales, of two hundred and fifty pounds each, and the average price has been twenty cents per pound.

NATCHEZ, *June* 4, 1797.

SIR: As it is probable that this will reach you before my despatches of the 27th of last month, by way of New Orleans, I have enclosed duplicates.

About seven days ago, twenty-five Spanish soldiers arrived at this place, where they continued one night, and then proceeded up to the Walnut Hills. On the 28th of May, I received a letter from Governor Gayoso, No. 1, to which I replied on the 31st, No. 2. From Governor Gayoso's letter, it appears that the Baron de Carondelet is not well satisfied with his conduct; they are at this time not on good terms, and the breach has been widened by the artful management of a certain Mr. Power, now at this place, who was last season intriguing in the State of Kentucky for the Spanish Government; he is particularly patronised by the Baron. The transactions which the Baron alludes to, I suspect, are the arrangements I made with Governor Gayoso, by which the troops of the United States were brought into this district with his consent and apparent approbation. The difficulty of getting them away is now obvious both to himself and the Baron, and as it was done without consulting the latter, he feels an inclination to condemn the conduct of the former.

It is now reported by the Spaniards that a Minister Plenipotentiary has been sent by the Court of Madrid to the United States to inform our Executive that the country and posts now held by His Catholic Majesty on the east side of the Mississippi, above the thirty-first degree of North latitude, are not to be given up until a general peace takes place in Europe, and that, from the uniform pacific disposition of the United States, there can be no doubt of his success. This report is credited but by few.

The citizens of the United States, who are trading on the Mississippi, are frequently treated with great insolence at the Spanish posts, and their property taken for the use of His Catholic Majesty, when wanted, and always at a reduced price. About three weeks ago, a cargo of flour, consisting of between three and four hundred barrels, was taken at the Walnut Hills from a Mr. McCluny, of Washington county, in the State of Pennsylvania, against his will, to be paid for in New Orleans at such price as the officers of Government see proper to give, which is generally three dollars per barrel less than the current price in market. A few days ago Mr. Francis Baily, a citizen of the United States, who had lately come on here with some goods, had a tender of a commissary's certificate payable at the treasury in New Orleans, which species of paper was passing at a discount of twelve per cent.; Mr. Baily declined taking the certificate as payment for the debt, and appealed to Governor Gayoso for redress, who immediately decreed that the tender was legal. These cases are not singular; they are particularized because both the gentlemen mentioned will be in Philadelphia in the course of a few weeks, and I expect will make a point of substantiating the facts—both cases being a violation of the late treaty between His Catholic Majesty and the United States.

From the jealous and suspicious disposition of the Spaniards, I do not think it possible that any treaty or compact can be lasting between that nation and our Western people, while the former have any possessions on the east side of the Mississippi.

Dr. Watrous is now here. He was on his way from Fort Hamilton, on furlough, to the State of Connecticut, but Captain Pope and myself prevailed upon him to stay with us, until we have some intelligence respecting our continuance in this country.

I am, sir, with great esteem and respect, your friend and humble servant,

ANDREW ELLICOTT.

Hon. SECRETARY OF STATE.

P. S. At the moment I was folding this, the enclosed proclamation, No. 3, by the Baron de Carondelet, was put into my hands. The various and contradictory reasons assigned by the Spanish officers for their delay in carrying the late treaty into effect, are too obvious to need a comment.

A. E.

NATCHEZ, *June* 5, 1797.

SIR: I have this moment received private information that Mr. Power, who I have mentioned to you in my communication of yesterday, is, by order of the Baron de Carondelet, to proceed immediately through the wilderness, to the State of Kentucky. There is every reason to believe that his business is to forward the views of Spain, by detaching the citizens of Kentucky from the Union. It has been hinted to me that Mr. Power will, in the first instance, pay a visit to General Wilkinson, who, we are informed, is now in Cincinnati.

I am, sir, your obedient servant,

ANDREW ELLICOTT.

Hon. SECRETARY OF STATE.

DARLING'S CREEK, *Nov.* 8, 1798.

SIR: On the 10th of last month, having opened the boundary between the United States and His Catholic Majesty, from the Mississippi river to the thin pine country, we ceased carrying the line on in that accurate scientific manner in which it was begun, and from the end of the line, designated in the report which accompanies this, the work will generally be done with a common surveying compass, and corrected at the different navigable water-courses which it may happen to cross.

The line mentioned in the report is opened sixty feet wide, and passes through a country impenetrable to any but Americans. The labor has been equal to what would in our country have opened at least one hundred miles. The business, it is evident, will not go on with that rapidity we could wish; nothing, however, will be wanting on our part, and I think it will be completed the ensuing season. Governor Gayoso has evidently been brought into a co-operation very reluctantly, and certainly has no desire of having it pushed. Mr. Power, a gentleman well known for his intrigues in Kentucky and other parts of the United States, is the surveyor on the part of the Crown of Spain; he has attended but one week on the line, and I do not believe that he will attend another, during the execution of the work. He has, however, employed a deputy, who is Mr. Daniel Burnet, the same person who carried Mr. Hutchins's papers to Congress last Winter; he has yet

behaved very well. The others employed, Major Minor excepted, are of little consequence, except to disorganize and talk politics. The acting commissary is a Mr. Gensack; he was taken by the British at the Cape, and carried to Jamaica, from whence he made his escape to the United States, where he found safety, but, in the true character of his nation, he equally hates both Americans and British: he is sullen, reserved, and intriguing. There are no Spaniards concerned in the business, and but a few of the common soldiers. Major Minor and Mr. Burnet are Americans; the others, including the laborers, are generally French, or descended from French ancestors, or Roman Catholic Irish. When I look over this strange heterogeneous collection, I cannot help asking this question, "Can the Spaniards really be serious in carrying the treaty into effect?" If they are, it is very extraordinary that there is not one of that nation employed above the rank of a common soldier.

I have always been of opinion that it was a happy circumstance for both countries that Major Minor was appointed Commissioner on behalf of the Crown of Spain; his prudence and sound judgment will, in all probability, enable us to carry the work through, which I am confident would not have been the case, had Mr. Power been appointed to that trust, as was proposed by Governor Gayoso, and to which I pointedly objected, as did Mr. Dunbar also.

If our surveyor had been a man of prudence and talents, our difficulties would have been much less; but his want of information, extreme pride, and ungovernable temper, constantly furnish the opposite party with weapons. He has insinuated that the work is erroneous, and that Major Minor and myself have combined to injure both Governments, and wantonly lavish away public money. He himself has been the only idle person on the side of the United States; his whole attendance on the line as surveyor would not exceed one week. His insinuations, I am confident, would have but little weight with the people of the United States, but the case is very different with the Spaniards, naturally jealous, and uninformed in science, particularly so far as it relates to astronomical operations.

On Friday, the 12th of last month, General Wilkinson arrived at our camp, and continued with us until Sunday, the 14th. We had much conversation on the state and situation of the country; his ideas respecting both appeared very correct so far as I was able to determine. He informed me that he had seen some of Mr. Freeman's correspondence with Captain Guion, which, in his opinion, came fully within the meaning of the late sedition law; and recommended, in the most serious manner, that he should be immediately suspended from his employment on the line. This, added to the opinion of Governor Sargent, (who spent a number of days at our camp,) Colonel Bruin, and many other respectable gentlemen, determined me in taking that measure. The surveying at present is done by Mr. Gillespie, the chain-carrying by Mr. Ellicott and Mr. Walker. General Wilkinson has removed Mr. McClary from the command of my escort; his conduct was far less exceptionable than that of Mr. Freeman, and when he did err it was generally the effect of bad advice.

Mr. Freeman left our camp on the 30th September, at the very time we were changing our system of carrying on the work, and in which the compass only is used, without giving me any notice of his departure, that arrangements might be made to meet the want of a surveyor. He was absent until the evening of the 17th ultimo, and on the morning of the 18th he was furnished with a note of suspension. He has constantly conducted himself in that same independent way.

The reference, No. 9, which was in cipher, in my communication of the 14th of November last, contained an account of an extraordinary plan; but that plan, in my opinion, is now given over, and the knowledge obtained of the country, its strength, and the disposition of the inhabitants, will be turned to the advantage of the United States by some of the principal characters concerned. It is the best they can now do. That the plan is given over may be collected from No. 1, which for particular reasons is in cipher, and ought to be secret. It cannot be considered as a literal translation, which you will see by the introduction, but it conveys accurately the ideas contained in the letter from which it is extracted.

The plan of Baron de Carondelet, mentioned in my communication of 27th of June last year, was correct as there stated; the particulars I have since obtained, and will be detailed to you by a gentleman, in the course of a few months, who was in the secret of the whole business. That you may not be at a loss when that gentleman calls upon you, he will have a letter of introduction from me, with an official communication, and a number of questions in the same cipher with reference to No. 1. His answers to those questions will convince you that my information has constantly been correct.

I shall leave this place (where I have only halted to draw up this communication) to-morrow, and proceed to the Pearl river, where the guide line will be corrected. I shall then proceed down the river to Lake Maurepas, from thence into Lake Pontchartrain and to New Orleans, where I expect to arrive about the 1st of January next. From New Orleans I shall follow the coast to Mobile, and again correct the guide line as run by the surveyors. From Mobile I shall follow the coast to Pensacola; I shall pursue the coast to the Chatetucka, and ascend the river to the guide line; as soon as that is corrected, I shall proceed to the mouth of Flint river and from thence to St. Mary's.

You will easily perceive that my design in following the coast is to obtain an accurate knowledge of its situation, the navigation of the different rivers we shall have to ascend, and to correct the geographical positions where it may be necessary. My map of the Mississippi, corrected by a great number of observations, is now made out in the rough, and ready for copying.

The astronomical observations which I have made since I left Philadelphia, will make a large and not uninteresting publication.

Our business now goes on with the greatest harmony. That part near the coast, in which, as an American and friend to my country, I feel myself the most interested, will be nearly completed before Mr. Freeman can join us, if the President should disapprove of the measures which have been taken with him; and in that case I must request the favor of being permitted to return home. All that his friend General Mathews, Colonel Pannell, and a few others, can say of him, must be negative evidence; they may say what he has done; but what they say he has done in forwarding our business must be from his own report. They have not been visiters at our camp, where the only information founded upon facts could be had. He has not made a single observation since we came into this country, though he endeavored, after my course at the beginning of the line was furnished, one whole week without success. He is, nevertheless, by General Mathews and Colonel Pannell, declared not inferior to Newton! This is not strange; they may possibly have less scientific knowledge than he has, and the solemn air and dictatorial manner of a professional schoolmaster may have contributed much to establish his character with them. His abuse of me I disregarded, till his caballing got into the camp; the consequences then became more serious, and the measure which I took was founded upon the best of motives—the service of my country, *and I have but one*, added to a natural desire to live in peace with all mankind. I have but few observations to add to the depositions respecting his conduct which are forwarded with this. Mr. Robins, one of the deponents, is superintendent of the laborers, and always with them. Mr. Collins, another of the deponents, is as worthy a man as any in the United States, and assistant to Mr. Anderson; he constantly resides in the laborers' camp. Mr. Lindsey likewise resides in the camp; he is a gentleman of veracity, and agent for the contractor. These gentlemen have been with us from the commencement of the business to the present time, and perfectly acquainted with the conduct of Mr. Freeman, and superior to his art, which he frequently exerted with them in vain. Similar depositions to those forwarded might be obtained from the gentlemen of the Spanish camp, but it appeared to me improper. You will see I have omitted taking those of Mr. Gillespie and the chain-bearers; it might be said they were interested. And, as Mr. Anderson has been equally abused with myself, on that account his has not been taken. You will see by the depositions that I rise early: it is generally before the break of day; from that time until dark I rarely sit down one hour; after candle-light I am generally engaged until 10 o'clock in writing and arranging my observations.

I hope the citizens of the United States begin by this time to be weaned from their attachment to the French nation. For my part I have experienced so much want of principle and integrity among them, and their partisans in this country, both individually and collectively, that my prejudices against the whole nation are so strong, that it is with difficulty I can guard my expressions so as not to give offence.

The arrival of General Wilkinson has created considerable alarm in the Spanish colonies below, and Governor Gayoso has directed that the militia within his Government be immediately armed. The fears and jealousies of the Spanish nation will certainly, in the course of a few years, occasion the loss of all the country on this side of the Mississippi, to the Crown of Spain.

The whole of my correspondence on various subjects, since my communication of the 29th of July last, would make a large volume, and as there is but little of it immediately interesting to the United States, I shall only refer you to Nos. 2, 3, 4, and 5.

I am sensible you will perceive a great want of arrangement in this communication; but at the same time I am equally so that you will excuse it, when I assure you that the whole packet, except Mr. Clark's letters and the correspondence with Governor Gayoso, is the work only of two nights and one day, and that in the woods, without any other table than a small instrument box, the weather cold and windy, and all my young men who used to aid me in copying many miles ahead on the line.

I am sorry that the report mentioned in the beginning of this is not forwarded; my part has been done some time, but the Spanish part is not yet ready, owing to the absence of Mr. Power. I shall write to you again from New Orleans. In the meantime, believe me to be, &c.,

ANDREW ELLICOTT.

Hon. SECRETARY OF STATE.

P. S. Daniel Clark, Esq., of New Orleans, has lately spent a number of days with me in my camp; from him I have received much valuable information, which it will be unnecessary for me to detail, as he will give it to you himself in Philadelphia the ensuing winter. He intends to visit that city immediately after our interview in New Orleans.

There is not a gentleman of literature or science, and scarcely one of respectability in this country, with whom I have not been upon the most intimate footing ever since I came into it; and every attack that has been made upon me has arisen either from envy or misconception, to which I should never have paid any attention had the principles of opposition not entered our camp, and began to embarrass our business.

A. E.

[Communicated to the House, February 4, 1804.]

To the House of Representatives of the United States:

In my Message of January 20th, I stated that some papers forwarded by Mr. Daniel Clark of New Orleans, to the Secretary of State, in 1803, had not then been found in the office of State, and

that a letter had been addresseed to the former chief Clerk, in the hope that he might advise where they should be sought for. By indications received from him they are now found. Among them, are two letters from the Baron de Carondelet, to an officer serving under him at a separate post, in which his views of a dismemberment of our Union are expressed. Extracts of so much of these letters as are within the scope of the resolution of the House are now communicated. With these were found the letters written by Mr. Clark to the Secretary of State, in 1803. A part of one only of these relates to this subject, and is extracted and enclosed for the information of the House. In no part of the papers communicated by Mr. Clark, which are voluminous, and in different languages, nor in his letters, have we found any intimation of the corrupt receipt of money by any officer of the United States from any foreign agent. As to the combinations with foreign agents for dismembering the Union, these papers and letters offer nothing which was not probably known to my predecessors, or which could call anew for inquiries, which they had not thought necessary to institute, when the facts were recent, and could be better proved. They probably believed it best to let pass into oblivion transactions which, however culpable, had commenced before this Government existed, and had been finally extinguished by the Treaty of 1795.

TH. JEFFERSON.

FEBRUARY 4, 1808.

Extract of a letter from the Baron de Carondelet, dated

NEW ORLEANS, *July* 10, 1796.

I suppose, sir, that you are now at the Bluffs, and in possession of a command which requires firmness, vigilance, conciliation, and prudence, as well with regard to the savages as to the Americans; for the evacuation of that important post is not yet so certain as not to admit of doubt, at least so long as the savages remain attached to us. Besides, it is proper to keep in view that the neighboring States, that is to say, Kentucky and Tennessee, are interested that it should remain in our power, for political reasons which cannot be trusted to paper. You must, of consequence, keep them in those sentiments, by treating their inhabitants, to whom the liberty of the navigation is granted, with kindness and regard. Let the friendship of the Chickasaws and the satisfaction of the Americans who navigate the river, be the basis of your conduct; as for the rest, I have not yet received any official news from the Court concerning the treaty, which we know nothing of but through the American gazettes.

All the appearances of an approaching peace in Europe have vanished; but it is probable that we shall not have war with the English. Fourteen French ships-of-the-line, with ten thousand men, are actually to take possession of the Spanish port of St. Domingo; and France and Spain appear more united than ever. The Spanish inhabitants have lost their slaves.

Extract of a letter from the Baron de Carondelet, dated

NEW ORLEANS, *Sept.* 12, 1796.

In answer, sir, to your private letter, of the 10th of last month, I will acknowledge to you that I was under the belief that the Fort of St. Ferdinand was badly constructed, but not to the degree that you point out to me. You must, however, without augmenting the expenses which its evacuation would render useless, put it in a state to maintain yourself there until I receive new instructions from the Court. Should the Court think proper, as may very well happen, not to evacuate our posts on the Mississippi, I will despatch a courier to you in all haste, that you may change the situation of the fort, which ought to be done with all diligence, and so as that it be again sufficiently intrenched to prevent its being surprised or attacked before it is in a state of defence; for this purpose I will send immediate and secret orders to New Madrid and to St. Genevieve, that carpenters, masons, &c. should instantly be sent to you, and you may also count on a reinforcement of troops, which I will send to you by the galley Philapa, which I am causing to be rebuilt without noise; all these dispositions, I repeat to you, ought to be prompt and secret. I expect the answer of the Court in ———.

If His Majesty, on the contrary, should persist in it that the evacuation of the forts must take place, it will be done in the most simple mode, towards the commencement of January. In the mean time you must prepare the minds of the Chickasaws, and of the inhabitants of Kentucky and Tennessee, for one or the other of these events. You ought to make the latter understand that their natural interest leading them to separate at some day (*un jour*) from the Atlantic States, the occupation of our posts on the Mississippi by the troops of the latter could not but be disastrous to them, since they would cut off all communication between them and us, from whom alone they could, in that case, hope to receive assistance.

Extract of a letter from Daniel Clark to the Secretary of State, dated

NEW ORLEANS, *March* 8, 1803.

As a proof that expectations of assistance from ourselves against our own Government have been always relied on by the Spaniards, and that they have constantly looked to a division of our Western States from the General Government, I now forward you an order to receive from Washington Morton, Esq., of New York, a sealed packet which I left in his possession when I set out for Europe, and which I then mentioned I would show you at my return, not thinking, at that time, that circumstances would occur so soon as to render the disclosure a measure of immediate necessity. Among other papers of less importance in this packet, is a small part of the correspondence of the Baron de Carondelet with the officer commanding Fort St. Ferdinand, at the Chickasaw Bluffs, in which he suffers his plans and views to be clearly perceived, and which were solely aimed at our destruction; the remainder are, as well as I recollect, copies of talks and letters to and from the Chickasaw Indians; and, by the Baron de Carondelet's letter to the officer, you will perceive that the fact I advised you respecting the annual pension of five hundred dollars to Uguluycabé cannot be disputed.

Should you think these documents of sufficient importance to require my presence in Washington to elucidate any part of them, I shall immediately sacrifice all private business of my own, and hasten there; and, in the meantime, will endeavor to collect, from undoubted sources, such other information relative to this subject as may be acceptable.

Although for four or five years past I had a perfect conviction that the intrigues of the Spaniards with the Western country were not for the time dangerous, on account of the incapacity of the Governors of this province, and their want of pecuniary means, yet, fearful of what might happen in future, should more enlightened and ambitious chiefs preside over it, I could not last year resist the temptation of hinting my suspicions of what had been formerly done in this way to the President at an interview with which he honored me, and I even went so far as to assert that a person supposed to be an agent from the State of Kentucky had been here in the end of 1795 and beginning of 1796, to negotiate on the part of that State, independent of the General Government, for the navigation of the Mississippi, before the result of the Treaty of St. Lorenzo was known, wishing that this hint might induce the President to cause inquiry to be made into the circumstance, which he could easily find the means of investigating; but as he made no other inquiry of me respecting it than merely in what year the thing happened, it struck me that he must have had other information on the subject, and that he thought it needless to hear anything more about it. By great accident I have lately learned something which induces me to suppose that any information he may have received respecting the measure alluded to has been incorrect, and given with the view of misleading him, and I request you will mention the subject anew to him, that you may know how far I am right in my suspicions. The information I possessed on the subject could not, from the way in which it was obtained, be accompanied with what would be proof to convict the person concerned, or I should have openly accused him in the face of the world; but to me it amounts to a moral certainty of his guilt, and my conduct to him showed, on all occasions, how much I detested his object and his person. The same want of proof positive, sufficient to convict him, prevents me at present from naming him; but if inquiry is diligently made about the influential character from Kentucky, who at that period was so long in Natchez, and afterwards here, what his business was, and what was the idea entertained of him, enough will doubtless be discovered to put our Government on its guard against him and others of his stamp, and against all foreign machinations in that quarter in future.

CUMBERLAND ROAD.

[Communicated to Congress, February 19, 1808.]

The undersigned, Commissioners appointed under the law of the United States, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," in addition to the communications heretofore made, beg leave further to communicate to the President of the United States that, by the delay of the answer of the Legislature of Pennsylvania to the application for permission to pass the road through that State, the Commissioners could not proceed to the business of the road in the Spring before vegetation had so far advanced as to render the work of exploring and surveying difficult and tedious, from which circumstance it was postponed until last Autumn, when the business was again resumed. That, in obedience to the special instructions given to them, the route heretofore reported has been so changed as to pass through Uniontown, and that they have completed the location, gradation, and marking of the route, from Cumberland to Brownsville, Bridgeport, and the Monongahela river, agreeably to a plat of the courses, distances, and grades, in which is described the marks and monuments by which the route is designated, and which is herewith exhibited; that by this plat and measurement it will appear (when compared with the road now travelled) there is a saving of four miles of distance between Cumberland and Brownsville on the new route.

In the gradation of the surface of the route (which became necessary to confine it within the limits prescribed by the law) is ascertained the comparative elevation and depression of different points on the route, and taking a point ten feet above the surface of low water in the Potomac river at Cumberland as the horizon, the most prominent points are found to be elevated as follows, viz:

	Feet.	10ths.
Summit of Will's Mountain - -	581	3
Western foot of same - - -	304	4
Summit of Savage Mountain -	2022	24
Savage River - - - - -	1741	6
Summit of Red Hill - - -	1914	3
Summit Little Savage Mountain	1900	4
Branch Pine Run, first Western water	1699	9
Summit Little Meadow Mountain	2026	16
Little Youghiogana River - -	1322	6
East fork of Shade Run - -	1558	92
Summit of Negro Mountain, highest point - - - - - -	2328	12
Middle branch of White's Creek, at the foot of Negro Mountain - -	1360	5
White's Creek - - - - -	1185	5
Big Youghiogana River - - -	645	5
Summit of a ridge between Youghiogana River and Beaver waters	1514	5
Beaver Run - - - - -	1123	8
Summit of Laurel Hill - -	1550	16
Court House in Uniontown - -	274	65

A point ten feet above the surface of low water in the Monongahela River, at the mouth of Dunlap's Creek - 119 26

The law requiring the Commissioners to report those parts of the route as are laid on the old road as well as those on new grounds, and to state those parts which require the most immediate attention and amelioration, the probable expense of making the same passable in the most difficult parts, and through the whole distance, they have to state that, from the crooked and hilly course of the road now travelled, the new route could not be made to occupy any part of it (except an intersection on Will's Mountain, another at Jesse Tomlinson's, and a third near Big Youghiogana, embracing not a mile of distance in the whole,) without unnecessary sacrifices of distance and expense. That, therefore, an estimate must be made on the route as passing wholly through new grounds. In doing this the Commissioners feel great difficulty, as they cannot, with any degree of precision, estimate the expense of making it merely passable; nor can they allow themselves to suppose that a less breadth than that mentioned in the law was to be taken into the calculation. The rugged deformity of the grounds rendered it impossible to lay a route within the grade limited by law otherwise than by ascending and descending the hills obliquely, by which circumstance a great proportion of the route occupies the sides of hills which cannot be safely passed on a road of common breadth, and where it will, in the opinion of the Commissioners, be necessary, by digging, to give the proper form to thirty feet, at least in the breadth of the road, to afford suitable security in passing on a way to be frequently crowded with wagons moving in opposite directions with transports of emigrant families, and droves of cattle, hogs, &c. on the way to market. Considering, therefore, that a road on those grounds must have sufficient breadth to afford ways and water courses, and satisfied that nothing short of well constructed and completely finished conduits can insure it against injuries which must otherwise render it impassable at every change of the seasons, by heavy falls of rain or melting of the beds of snow, with which the country is frequently covered; the Commissioners beg leave to say, that in a former report they estimated the expense of a road on these grounds, when properly shaped, made and finished in the style of a stone covered turnpike, at $6,000 per mile, exclusive of bridges over the principal streams on the way; and that with all the information they have since been able to collect, they have no reason to make any alteration in that estimate.

The contracts authorized by, and which have been taken under the superintendence of the Commissioner, Thomas Moore, (duplicates of which accompany this report) will show what has been undertaken relative to clearing the timber and brush from part of the breadth of the road. The performance of these contracts was in such forwardness on the 1st instant as leaves no doubt of their being completely fulfilled by the 1st of March.

The Commissioners further state, that, to aid them in the extension of their route, they run and marked a straight line from the crossing place on the Monongahela to Wheeling, and had progressed twenty miles with their usual and necessary lines of experiment in ascertaining the shortest and best connexion of practicable grounds, when the approach of Winter and the shortness of the days afforded no expectation that they could complete the location without a needless expense in the most inclement season of the year. And presuming that the postponement of the remaining part till the ensuing Spring would produce no delay in the business of making the road, they were induced to retire from it for the present.

The great length of time already employed in this business makes it proper for the Commissioners to observe that, in order to connect the best grounds with that circumspection which the importance of the duties confided to them demanded, it became indispensably necessary to run lines of experiment and reference in various directions, which exceed an average of four times the distance located for the route, and that through a country so irregularly broken, and crowded with very thick underwood in many places, the work has been found so incalculably tedious, that, without an adequate idea of the difficulty, it is not easy to reconcile the delay.

It is proper to mention that an imperious call from the private concerns of Commissioner Joseph Kerr compelled him to return home on the 29th of November, which will account for the want of his signature to this report.

All which is, with due deference, submitted this 15th day of January, 1808.

ELIE WILLIAMS,
THOMAS MOORE.

[Communicated to the House, March 8, 1808.]

TREASURY DEPARTMENT,
March 3, 1808.

SIR: In answer to your letter of the 1st instant, I have the honor to state:

1st. That the 5 per cent. reserved by the act of 30th April, 1803, on the net moneys received for public lands in the State of Ohio, sold since 1st July, 1802, has amounted to the following sums, viz:

From 1st July, 1802, to 30 June, 1803,	$6,220 00
From 1st July, 1803, to 30th June, 1804,	8,810 17
From 1st July, 1804, to 30th June, 1805,	13,994 30
From 1st July, 1805, to 30th June, 1806,	31,442 20
From 1st July 1806, to 30th June, 1807,	28,827 92
From 1st July, 1807, to 31st December, 1807, estimated - - - -	15,000 00
	$104.294 59

And that the said 5 per cent. will henceforth probably amount to $30,000 a year.

2d. That, of the $30,000 appropriated by act of 29th March, 1806, there has been expended, in laying out the Cumberland road from Cumberland to Brownsville, about - - - - $10,000
That there may be wanted, to complete the location, about - - - - - 5,000
$15,000

3d. That contracts have been made for opening one-half of the breadth of said road, which, as verbally informed by one of the Commissioners, will require about $3,000, leaving, probably, about $12,000 of the appropriation for the further improvement of the road.

4th. That the portion of the road actually located and confirmed, no part of which exceeds an angle of five degrees, extends from the navigable waters of the Potomac at Cumberland to the navigable waters of the Monongahela at Brownsville, (Red Stone Old Fort,) and it is stated, though no official report has been made to me, at about seventy miles.

5. That that road can be considered as a national object only if completed as a turnpike, whereby all the flour and other produce of the western adjacent counties may be brought to a market on the Atlantic shores; and the transportation of all the salt and other commodities and merchandise whatever, imported from the Atlantic ports to the Western country, generally, may be reduced probably one dollar per cwt.

And, lastly, that the expense of completing that part of the road in such manner is estimated at $400,000.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

HON JOHN MONTGOMERY,
Chairman, &c.

PUBLIC BUILDINGS.

[Communicated to Congress, March 25, 1808.]

To the Senate and House of Representatives of the United States:

I transmit to both Houses of Congress a report from the Surveyor of the Public Buildings of the progress made on them during the last season, of their present state, and of that of the funds appropriated to them. These have been much exceeded by the cost of the work done, a fact not known to me till the close of the season. The circumstances from which it arose are stated in the report of the Surveyor.

TH. JEFFERSON.

MARCH 25, 1808.

Report of the Surveyor of the Public Buildings of the United States at Washington, March 23, 1808.

My report on the progress and state of the public buildings of the United States in the City of Washington during the year 1807 has been delayed until all the work performed at the Capitol and President's house could be measured, and the accounts closed as nearly to the present time as possible; and also until those additions and alterations could be made in the south wing of the Capitol, which have been pointed out as necessary by the experience of the first part of the present session.

There remain now very few (and those small) accounts in any department of the public buildings which have not been ultimately settled; and the statement which I shall annex to this report may be considered as comprising all the demands against them of every kind up to the present time. Ever since the year 1803, when the work on the south wing of the Capitol was commenced, accounts of particular parts of the building have necessarily been in an open state, although partial settlements, at as short periods as possible, have always been made. But until the work had arrived at its present state, no complete admeasurement and valuation of the whole was practicable. The accumulated balances of settled accounts form a very considerable total, which has been increased by the stock of particular kinds of materials on hand, the purchase of which appeared highly prudent, if not absolutely necessary, should Congress think proper to proceed further with the public works.

I now beg leave to report on each of the public buildings, separately:

1. *South wing of the Capitol.*

At the close of the year 1806, the framing of the roof of the south wing was put on, and during the winter it was covered in. The greatest exertions were then used to finish the interior; and, notwithstanding the early meeting of the Legislature in October last, the building was so far completed as to be occupied by the House of Representatives; and at the present moment this wing of the Capitol may be considered as finished, excepting in the following particulars:

1. All the wood-work and walls require to be painted. The wood-work is only primed.

2. Of the 24 Corinthian columns of the Hall of Representatives, the capitals of only two are entirely finished; eight are in a state of forwardness; and fourteen are only rough-hewn or bosted.

3. Only part of the moulding of the cornice is finished.

4. The sculpture over the entrance is incomplete.

5. The enclosure of the lobbies is not yet finished.

6. All the chimney pieces of the principal story, and two of the vestibules, ten in number, are wanting.

7. Two small capitals in the circular vestibule are still to be carved.

8. The platform on the south front giving access to the galleries, is erected upon the old scaffolding, which, having been some years in use, is weak and decayed. It is required by the nature of the ground that a permanent platform on arches should be extended along this front.

In respect to these deficiencies, I beg leave to submit the following remarks:

To preserve the wood-work, the painting should be performed in the ensuing season; the walls are not yet sufficiently dry to admit it; but the painting of the ceiling of the Hall of Representatives ought not to be postponed. Its present state constitutes the only defect which remains to be corrected in that room, as I shall endeavor to explain, in speaking of the very just complaints that were made at the commencement of the session of the difficulty of hearing and speaking in it.

The sculpture, which is still deficient, can only be completed in the course of time. There are at present in the service of the United States two very skilful Italian sculptors, Messrs. Andrei and Franzoni, whose talents are evident in their works. They and their pupil, Somerville, one of our own citizens, will make very considerable progress during the next season; and much other assistance can be obtained in the less difficult parts of the work.

The chimney pieces have been ordered, and may soon be put up; and the platform on the south front is not a work of great expense.

But, besides completing the south wing in these particulars, it appears equally necessary to erect during the present year that part of the west front which is opposite to the eastern entrance of the House, and projects westward from the north-west corner of the present building. In this part of the work it is intended to provide a dwelling for the Doorkeeper of the House, in the height of the office story, and above to have committee rooms for the House of Representatives. The necessity of the work arises from two causes, which I beg leave to state to you.

1. In my former reports, and especially in a printed letter to the members of the Legislature, which I have had the honor to communicate to you, I explained the reasons which obliged me to carry up the external north wall of the House independently of those internal walls with which it is connected, and upon which it depends for the principal resistance against the lateral pressure of the arches and roof of the House. This very bold undertaking succeeded in enabling us to get much more forward with the work than would have been otherwise possible; and, by the erection of the entrance and its communication, this wall is now firmly supported as far as they extend. But the western end of the wall still remains without any counterpoise against the pressure outwards, but what arises from its own weight. The cellars, which were formerly sunk at the northwest angle of the south wing, and which for many years have been the receptacle of rain water, will, until covered, remain a source of injury to this part of the building. Every feasible step has been taken to prevent the lodging of the water in them, but much mischief was done before this could be effected; and a gradual settlement of the northwest part of the wall has been going on from the commencement, and still increases, though very slowly. It may be observed in the lobby of the House, and, though not immediately dangerous, it ought to be stopped as soon as possible.

2. There is another consideration which is perhaps of equal importance in another point of view.

On the removal of the National Legislature to this city, an act was passed appropriating *forever* to the use of the Doorkeepers of the two Houses of Congress the buildings erected for the temporary accommodation of the workmen while employed on the Capitol. It was, perhaps, not observed that these buildings stand actually in the street which passes on the south side of the Capitol square and in the Jersey avenue, and thus destroy not only the appearance and regularity of the square and streets, but, being placed high above their level, are a dangerous obstruction to the intercourse around the Capitol. They are, besides, so badly built, and already so rotten, as scarcely to be habitable; and, from being placed on the surface of the vegetable mould, having no cellars, and having a very bad aspect, they are so unhealthy that, of the families who have inhabited them, many have died, and all have been afflicted with severe sickness. Provision will require to be made to carry the intention of the Legislature to provide dwellings for their Doorkeepers into effect; and a slight observation of the necessity of a more close attention to the domestic arrangements and expenses, and the better government of the servants of the House than at present can possibly be had, would point out a powerful reason for the speedy erection of this part of the building, even if it were not necessary to the support of what is already carried up.

Before I close my account of the south wing of the Capitol, I most respectfully beg permission to notice in this report the two objections to the Hall of Congress, which were discovered immediately on the opening of the session—the difficulty of hearing and speaking in it, and the unpleasant effect of the mode adopted to warm the House upon the air of the room. These objections have been forcibly stated and permanently recorded in the speeches of the members, and the appointment of committees for the purpose of inquiry into their cause and remedy; and I crave this permission, not only for the purpose of personal exculpation, but with the hope that the explanation I shall give will prove of public utility in similar cases.

In every large room the great average distance of the speaker from the hearer is a cause of difficulty of hearing and speaking which cannot be removed; but the effect of this cause bears no proportion to that indistinctness which arises from the innumerable echoes that are reverberated from the walls and arched ceiling of such a room as the Hall of Representatives. These surfaces give back to the ear echoes, not only of the voice of the speaker, at a perceptible distance of time from the original sound, but also distinct echoes of every accidental noise and separate conversation in the House and lobbies, and renders debate very laborious to the speaker and almost useless to the hearers. This defect was foreseen; and, in furnishing the House, the curtains and draperies of the windows were made as ample as propriety would admit; draperies were hung in other proper

situations, and a large curtain closed the opening of the columns behind the Speaker's chair. But all this drapery bore a small proportion to the extent of uncovered surface, though it rendered those particular situations of the hearer, thus freed from echo, superior to all others.

If the dimensions of a room, erected for the purpose of debate, were so moderate that the echoes of the voice of the speaker could reach the ear of the hearer, without the intervention of a perceptible distance of time, then the echo would strengthen and support the voice; and we find that this is actually the case in small lecture-rooms, expressly constructed to produce innumerable echoes. But there is a circumstance attending halls of debate which distinguishes them from rooms intended for the lectures of one speaker; the impossibility of preserving perfect silence, and of confining persons to their seats, so as to prevent all sound but that of the speaker's voice; for it is evident that sounds from all quarters and of all kinds will be re-echoed with perfect impartiality.

The Hall of Representatives is one hundred and ten feet long from east to west, and fifty-five feet high; therefore, before the echo of a sound, issuing from the centre of the floor, can return to its place, it must travel one hundred and ten feet, a distance very perceptible to the ear in the return of echo. The distance will be still greater if the speaker be placed at a distance from the hearer. And as the walls, in their various breaks, return each a separate echo, their confusion must necessarily render it almost impossible to understand what is spoken.

From these plain facts it is evident that the walls of every large hall of debate should be covered with tapestry, or other material which does not reverberate sound. On reference to the original drawing it will be seen that this was intended, but neither the time nor the extent of the appropriation for furniture, which proved insufficient for the indispensable articles of carpeting, tables, chairs, desks, and curtains, would admit it.

A committee being appointed by the House to inquire into the causes and remedy of the difficulty of hearing and speaking, the foregoing facts and reasonings were laid before them; and it was proposed to suspend curtains between the columns round the whole internal area of the House, and others behind the seats of the galleries, and to paint the ceiling in flock. The proposal was approved, and has been executed, as far as it could be done, by hanging all the curtains; the painting of the ceiling must be postponed until the House rises. The fullest success attended this measure; and, although the echoes of the ceiling produce in the centre of the House some confusion of sound, it is a small inconvenience, which will be removed. When the size of this room is considered, it may be safely asserted that it is now as little liable to objection as any other hall of debate in the United States; that it is in all respects superior to most others, and that, when the proposed improvements, which are of comparatively small import, are made, it will be second to none in every legislative convenience. Another inconvenience has been felt, especially by some of the members, from the effect of the stoves by which the hall is warmed upon the air of the room, especially when the House and galleries have been crowded. The mouths of these stoves are in the office story below the hall, and a cavity being contrived of from three to five feet deep, below the platforms on which the seats are placed, the flues in this cavity wind to the extent of two hundred feet before they pass into the chimney. When the session was first opened the flues and walls were damp; the fire was injudiciously forced by the servants of the House, and the heat and steam was not only unpleasant, but highly injurious to the health of many of the members; part of this inconvenience diminished as the flues became drier, and less fire was made. But, in order to renew the air of the House, the external air has been freely admitted into the cavity of the flues, and a ventilator is made in the roof. The principle on which these stoves are constructed is not new, and it has been so often and so successfully put into practice that, when every proposed improvement is made, and the building has become dry, there can be little, if any, doubt of its being productive of no inconvenience whatever to any individual member of the House.

2. *North wing of the Capitol.*

The appropriation made at the last session of Congress had, for its principal object, such repair of the House, and especially of the roof and gutters, as should keep out the weather and prevent the danger arising from the frequent falling down of the plastering of the ceilings. It was late in the season before the weather permitted any part of the roof to be stripped for examination, and, when this was done in the centre of the building, all the timbers were found in such a state of decay that no part of them could be suffered to remain in their place. The decay was not, however, confined to the timbers of the roof; the floors down to the ground-floor were discovered to be in the same state. The floors and ceiling of the Senate chamber and library being also rotten, it was judged most prudent and necessary to begin with a thorough repair of the centre from the foundation, and not to disturb these apartments, the use of which could not be dispensed with the ensuing session; for, had the roof of the Senate chamber been opened, no exertions could have completed the repairs in proper time, while the south wing called for all the workmen which by any means we could collect. Besides, the permanent repairs and alterations proposed for the centre of the House were of such a nature as to stop the leakage of every other part of the House; and it was, therefore, executed in the most permanent manner, and on the principles on which the south wing has been built. All the timber floors, and galleries of the centre lobbies, were taken up, and the work carried up by solid vaulting in brick from the foundation of the House

to the top of the dome; a staircase, much wanted, was made to lead into the fuel cellars; and arched galleries constructed, giving access into the rooms in the third story, which have never been finished, but which will be highly useful apartments whenever the wing shall be completed.

In the great staircase the old wooden skylight and cove was entirely taken down, and a solid brick cupola turned over this large area of forty-five by thirty-five feet, and crowned by a lantern light. The stairs themselves remain in the same dangerous and decayed state in which they were found, but they have been properly secured for the present.

All that could be done with the rest of the roof, was to put it in the best repair that was practicable without stripping it. But it cannot be denied that all the timbers of the House, especially those parts that are inserted into the walls, are in a state of the most dangerous decay; and, as far as the ceilings and floor have been opened, the dry rot is found to have possession, and to be making progress. It appears, therefore, unavoidable that a thorough repair of the whole House, upon the permanent construction of the work of the last season, should be pursued, more especially as the accommodation of the Senate and of the Courts is very far from being convenient to the despatch of public business. On this head I beg leave to refer to my report of last year, and will now only state once more my opinion that the present chamber of the Senate cannot be considered as altogether safe, either as to the plastering, of which the columns and entablature consist, or as to its floor and ceiling.

3. Besides the work executed in the buildings themselves, a large sum has been expended in rendering them safe from injury, and accessible to the members. The quantity of earth to be removed in front of the south wing, and the ground to be raised to the southward and eastward, was considerable. A permanent drain was required to prevent the wash of the hill on which the building stands to the south of the circular road, and the road leading to the House was to be raised and covered with gravel.

On the north the main drain was carried away by the heavy rains of the season. This drain has, for some years past, been an annual source of expense and inconvenience; it is now durably constructed. Nothing has been done which did not appear unavoidable, or done in a manner to require further alteration and expense; and, although all the work which does not properly belong to the building itself has been expensive, the objects of the expense have been permanently effected.

4. *Highways.*

The sum of three thousand dollars, appropriated to the use of the roads, has been expended in widening the carriage-way of the Pennsylvania avenue, in substituting permanent for temporary drains, in general repairs and improvements, and principally in making a permanent road south of the President's square. Several of the drains on the Pennsylvania avenue still require to be more permanently built; and a large permanent sewer is required across the new road opposite to the President's house, without which that road, now the proper and permanent means of reaching the offices from the Capitol, will never be passable in winter. This road, without which the enclosure of the President's ground could not be at all undertaken, has been executed in the most economical manner that could be devised, by laying it out so as to make that part in which earth was greatly deficient out of the spoils of the hill which was to be cut through; it is still required to be covered with gravel.

President's House.

The work performed at the President's house has consisted of the covered way in front of the offices on each wing; of the erection of one-half of the wall of enclosure and one of the gates; of the levelling of the greatest part of the enclosed grounds, and of minor repairs and improvements of the house itself. Neither the wall of enclosure nor the levelling of the ground could be completed by the appropriation, but as much has been done as was practicable, and the ground is now partially enclosed and ready to be planted.

The state of the south wing of the Capitol has enabled me to make a complete measurement of all the work of every kind performed, at the principal object of expenditure since the year 1803, and not only in respect to that work, but in every other department of the buildings; I have obtained settlements of accounts and measurements up to the present period, and also correct valuations of all the work lying contiguous to the buildings in a state of greater or less preparation. From hence, by favor of the Superintendent of the city, I am enabled to lay before you a statement of all the expenditures and outstanding claims up to the present time, which may be considered as correct; the unascertained and unsettled accounts being of very small amount and importance, and capable of tolerably correct estimation. From this statement it will appear that the outstanding claims are of very considerable amount in the aggregate; an amount which could only have been reduced by leaving the works in an unfinished and useless state. In respect to the south wing of the Capitol, no consideration of the risk of future appropriation operated with the workmen who have so long and so faithfully labored at the public buildings, to induce them to stop when it was known that the appropriation was exhausted, and by this means very large sums have become due to two of the principal and most respectable persons engaged in the work. Another increase of expenditure, not as yet properly chargeable to any branch of the work, has been incurred by the very evident utility, if not absolute necessity of supplying the public with particular kinds of ironmongery and glass, of which it was evident that no supply on reasonable terms would shortly be attainable. This swells the amount of the deficit very greatly, although the value of the materials on hand would be greater than is stated

if sold at the market price. I have, in the first instance, charged all deficiencies not specially stated to its proper appropriation to the south wing of the Capitol, and, in the general account current, which I subjoin, I have given the proper credits for materials on hand, and moneys advanced to collateral uses.

1. *South wing of the Capitol.*

Appropriation for 1807 - - -		$25,000 00
Amount of all outstanding claims not specifically stated below -	$40,598 19	
From which deduct this sum in hand - -	$2,167 00	
Due from the contingent funds of the offices of State, War, Navy, and the Post Office* - -	3,218 65	
Deficit on the south wing and on general charges	35,212 54	$35,212 54
	$40,598 19	

2. *North wing of the Capitol.*

Appropriation of 1807 - - -		$25,000 00
Expenditures in 1808:		
Settled accounts -	$22,388 49	
Unsettled accounts -	402 01	
Proportion of salaries of the surveyor of public buildings and clerk of the works, charged to the south wing heretofore - - - - -	2,050 00	
	$24,840 50	
Cash in hand - -	159 50	
	$25,000 00	

3. *President's House.*

Appropriation, 1807 - - -		$15,000 00
Expenditures on all objects above mentioned	$18,919 46	
Deficit of the appropriation, 1807 - - -	$3,919 46	
To this must be added the amount of the claims which were incurred prior to the appropriation - -	1,737 44	
	$5,656 90	

* This sum was laid out in the year 1806, when, by the falling in of the old drains, and the filling of the cellars with water, the offices became unhealthy; and it was absolutely necessary to remedy the evil or desert the buildings. I have stated it below as a deficit, as it has not yet been repaid.

4. *Public Highways.*

Appropriation, 1807 - - -		$3,000 00
Expenditures on roads, highways, drains, and making the new road south of the President's square - - - -	$6,644 79	
Deficit - -	$3,644 79	

5. *Furniture of the south wing of the Capitol.*

In my former report, I stated the sum required to furnish the House to be $20,000. This estimate did not include the expense of new desks, because, from the best information I could obtain, the old desks were supposed applicable to the new House. But the frequent removals of the platforms, and the erroneous opinions of those who had made them, led into error; and when the session was closed and the desks removed, it was found utterly impracticable either to place the desks on the new platforms, or to accommodate the platforms to the desks, without destroying all convenience within the House. New desks have therefore been made. In other respects, the estimate was founded on very simple data, as the numbers of tables, curtains, blinds, chairs, and bookcases, and the quality and quantity of the carpeting, and of the ironmongery, could not be so varied as to make any material difference in the expense; and, on inspection, I trust it will be found that no unnecessary furniture has been introduced into the House or committee rooms.

The amount of appropriation was -		$17,000 00
Expenditure on new desks - - - -	$2,164 66	
On all the articles included in the estimate	19,051 68	
	$21,216 34	
Deficit - -	$4,216 34	

RECAPITULATION.

1. South wing of the Capitol - -		$35,212 54
2. To make good the sum loaned to the public offices - - -		3,218 65
3. President's house -	$3,919 46	
Prior claims to 1807, on President's house -	1,737 44	
		5,656 90
4. Public highways - - -		3,644 79
5. Furniture fund - - - -		4,216 34
		$51,949 22

Estimate for the year 1808.

To make good the deficit of 1807, including the debt due from the public offices - - - - - -	$51,500 00
To execute the work deficient in the south wing - - - - - -	11,509 00

To carry up that part of the west front which is necessary to secure the northwest angle of the south wing - - - - - -		15,000 00
To carry up, in solid work, the interior of the wing, comprising the Senate chamber - - - -		25,000 00
To complete the wall of the President's house; plant the ground, so as to close this branch of expenditure; build a solid flight of steps to the principal door, and minor expenses - - - - - - -		15,000 00
To repair the highways and build drains - - - - - - -		5,000 00
Total - - - - -		$123.000 00

I now beg leave to add a statement of the actual expenditures on the north and south wings of the Capitol, up to the present time.

1. *South wing of the Capitol.*

Expended from April, 1803, up to January 1, 1807, including the pulling down and rebuilding the work formerly erected -		$216,061 47½
Cash on hand, 1807 -	$11.000 00	
Appropriation, 1807 -	25,000 00	
Deficit, 1808 - -	35,212 54	
		71.212 54
		$287.274 01½

Per contra.

Materials on hand, Crown glass - -	$1,000 00	
Plate glass and ironmongery, - -	2,000 00	
Sheet iron for roofing	3,000 00	
Scaffolding and utensils - - -	1.500 00	
Freestone - - -	1.500 00	
Glass and lead used in other parts of the works, not yet charged to their account	1,383 00	
Proportion of salaries chargeable to the north wing - -	2,050 00	
		12.433 00
Actual cost of the south wing		$274 841 01½

2. *North wing of the Capitol.*

Expended on the north wing of the Capitol, prior to 1803, including the foundations of the south wing and centre - -	$337,735 38	
From this sum deduct the full value of the above foundations -	30,000 00	
		$307.735 38
Expended in 1803 - - -		3 301 75
Expended in 1807 - - -		24,840 50
Total cost of the north wing		$335.877 63

All which is most respectfully submitted, by your faithful humble servant,

B. HENRY LATROBE,
Surveyor Public Buildings U. S.

To the PRESIDENT OF THE U. S.

INQUIRY INTO THE CONDUCT OF JUDGE INNES.

[Communicated to the House, April 19, 1808.]

Mr. ROWAN, from the committee appointed "to inquire into the conduct of Harry Innes, District Judge of the United States for the District of Kentucky, relative to his having, while in the tenure of his office as aforesaid, been party or privy to a project, on the part of Spain, or her subjects, to dismember these United States, or to the seduction of the State of Kentucky from this Union; or relative to his having been party or privy, during the time aforesaid, to a project of France, or her citizens, to embroil these United States in a war with Spain; or relative to his having illicitly corresponded with both or either of the Governments aforeseid, or their subjects or citizens, upon one or both projects aforesaid; or relative to his having known and concealed from this Government one or both the said projects;" made the following report:

That they have considered the same, and the accompanying documents, which documents are the only evidence which, the committee are informed, can be obtained material to the inquiry, and are of opinion that the said Harry Innes has not so acted as to require the interposition of the Constitutional powers of this House.

FRANKFORT, *Feb.* 27, 1807.

SIR: By direction of the Legislature of this State, I have the honor of enclosing to you a resolution respecting the Honorable Harry Innes; the copy of a letter from Joshua Barbee to said Innes; and a copy of the report of the select committee appointed to inquire into the conduct of Benjamin Sebastian, to which you are requested to give your attention.

I have the honor to be, &c.

CHRISTOPHER GREENUP.

Hon. JOHN ROWAN.

Resolution respecting the Hon. Harry Innes.

IN GENERAL ASSEMBLY,
February 17, 1808.

Whereas the House of Representatives did, at the last session, appoint a committee to examine into and report on the conduct of Benjamin Sebastian, one of the Judges of the Court of Appeals of this State, in relation to the said Sebastian being a Spanish pensioner while holding his office aforesaid, in which report there were circumstances implicating Harry Innes, a District Judge of the United States in and for the Kentucky district, as detailed by himself when called on as a witness on the part of this Commonwealth against the said Sebastian; and these circumstances, in the conduct of the said Harry Innes, are deemed sufficient, by the present General Assembly, to call forth the public expression of their opinion: Therefore,

Resolved by the Senate and House of Representatives, That an inquiry ought to be instituted by the constituted authority into the conduct of the said Judge Innes; and, also,

Resolved, That the Governor be requested to transmit to each of the Representatives of this State in the Congress of the United States, a copy of said report, as also a copy of a letter from Joshua Barbee to the said Judge Innes, dated Danville, January 4, 1807, together with these resolutions, to be laid by them before the House of Representatives in Congress, and that our said Representatives from this State do request an inquiry to be made into the conduct of said Judge Innes.

HENRY CLAY,
Speaker of the House of Reps.
GREEN CLAY,
Speaker of the Senate, pro tem.

Approved, February 19, 1808.

CHRISTOPHER GREENUP,
Governor of Kentucky.

By the Governor:
ALFRED W. GRAYSON, *Secretary.*

I, William C. Greenup, Secretary of the State of Kentucky, do certify the foregoing to be a true copy from the original enrolled resolution filed in my office.

Given under my hand and seal of office, this 26th day of February, 1808.

WILLIAM C. GREENUP.

Copy of a letter from Joshua Barbee to Judge Innes.

DANVILLE, *January* 4, 1807.

SIR: In answer to yours of the 10th ultimo, wherein you say a piece had appeared, addressed particularly to you, in the "Western World," and, among other things, had charged you with being instrumental in aiding and sending three men with secret despatches for General Wilkinson to New Orleans, in the Spring of 1788, in a canoe, I have to observe that, at your instance, I went to Wilkinson's about the 1st of March, 1788; that he employed me to go in a canoe with two others to New Orleans; that we left his house in Woodford county, and took water at General Scott's, about the 20th of the same month; that we went to New Orleans, and while there, I delivered letters or packets to the Governor and Daniel Clark, now deceased, having on our way down called at Natchez, where I delivered one to the commandant at that post; that these letters or packets (whichever they were) were handed to me, and, I believe, written by Wilkinson.

You request me to state particularly what agency you had, if any, with the business; also whether there were any secret injunctions given me by you, in your presence, or by any other person. The only agency that I know of was that of informing me that Wilkinson wanted to employ a person, on whom dependence might be placed, to make the tour aforesaid, and that, if I was disposed to be employed, I must go to Wilkinson and make my bargain with him; after which I do not recollect our speaking on the subject; and, as to the secret injunctions, if I had any, they were not given by you nor in your presence, consequently not pertinent to your case.

It having become too common to publish letters of this kind, and, without an objection being made known to you, this might make its appearance in a newspaper; I cannot consent to this letter being published, as I have objections to my name becoming the subject of comment and animadversion. I am, sir, yours, &c.

JOSHUA BARBEE.

A copy. Attest:
WILLIAM C. GREENUP, *Secretary.*

STATE OF KENTUCKY, *ss:*

I, Christopher Greenup, Governor of the Commonwealth aforesaid, do certify all whom it may concern, that William C. Greenup, Esquire, who attests the resolutions respecting an inquiry to be made into the conduct of the Hon. Harry Innes, Judge of the District Court for the District of Kentucky, was, at the time of attesting the same, and still is, the Secretary of State aforesaid, duly commissioned and sworn.

In testimony whereof, I have caused the seal of the said Commonwealth to be affixed to these presents.

Given under my hand, at Frankfort, this 27th day of February, A. D. 1808, and in the sixteenth year of the Commonwealth.

CHRISTOPHER GREENUP.

By the Governor:
WILLIAM C. GREENUP, *Secretary.*

STATE OF KENTUCKY.
In the House of Representatives,
December 6, 1806.

Mr. POPE, from the select committee appointed to inquire into the charges against Benjamin Sebastian, one of the Judges of the Court of Appeals, reported the following resolution, viz:

The committee to whom was referred the information communicated to the House, charging Judge Sebastian, with having received a pension from the Spanish Government, have had the same under consideration, and report that they have with circumspection and attention, examined the various evidence brought before them, which is as follows:

The evidence given on the inquiry into the charge against Benjamin Sebastian, Esquire, one of the Judges of the Kentucky Court of Appeals, before a special committee, appointed by the House of Representatives for that purpose, on the 27th day of November, 1806.

Mr. Thomas Bullitt, of lawful age, being first duly sworn, deposed: that, in the year 1800 or

1801, he was spoken to by Judge Sebastian to receive money for him at New Orleans, which, he said, was coming to him annually, and, upon his, the said Bullitt, agreeing to do so, Judge Sebastian gave a draught on Don Andre Armisto, not as an officer, but in the form which draughts are commonly drawn for money, without a consideration stated; which draught he forwarded by a Mr. Smith, and was paid off; and that Judge Sebastian informed him that he drew two thousand dollars annually, for life, in consequence of his, the said Sebastian, having been active in some commercial arrangements with the Spanish Government, and the people of the Western country; and that, in the year 1802, he also got a second draught from Judge Sebastian for two thousand dollars, which was presented and paid. He also said that he had seen a letter from Governor Carondelet to Judge Sebastian, requesting him, the said Sebastian, to appoint an agent or agents to meet Gayoso at Madrid, which letter was dated previous to the draughts, and, in consequence of which letter, Judge Sebastian said he was induced to take his first trip to New Orleans. Mr. Bullitt, upon being interrogated whether this letter did not go to implicate Judge Sebastian, as an officer under Spain? he answered in the negative. Mr. Bullitt also stated that Judge Sebastian told him that, while he was making those commercial arrangements, for which he became entitled to the annuity, a courier arrived at New Orleans, giving information of the negotiation of peace between America and Spain, which put a stop to the arrangements. Mr. Bullitt was also interrogated whether or not the annuity spoken of was in consequence of any moneyed or property consideration? He answered that he understood that it was in consequence of Judge Sebastian's own personal services, in bringing about the beforementioned commercial arrangements.

Examined and signed by

THOMAS BULLITT.

Mr. Charles Wilkins, being duly sworn, deposeth: that in the fall of 1804, he went to Natchez, and on examining the papers of John A. Seitz, deceased, deposited in the house of J. & C. Wilkins, at Natchez, found among them a draught on "the Spanish Governor at New Orleans, or any other person authorized, drawn by Benjamin Sebastian, for the amount of his, the said Benjamin Sebastian's pension," but did not recollect the date of the draught. Mr. Wilkins being interrogated whether or not the word "pension" was made use of in the draught? he answered that he was confident it was. Mr. Wilkins was also asked if Don Andre Armisto was not the Secretary of the Colony of Louisiana? he answered that he was. It was also inquired of Mr. Wilkins, if the handwriting of the draught, and the letter produced by him, did not appear to be the same? he also answered that it did appear to be the same.

Examined and signed by

CHARLES WILKINS.

The letter referred to in the foregoing deposition, is in the following words and figures, to wit:

LOUISVILLE, *Feb.* 18, 1804.

DEAR SIR: The intelligence of your having safely arrived at Natchez about a month ago, gave me very considerable pleasure, not only because you were thus far secure from the dangers of a hazardous voyage, but also that you would soon have it in your power to determine whether the application to be made on my account would be productive or not. As this subject is all-important to me, and, of course, I feel considerable solicitude about it, the sooner you can inform me of the true situation of the business the better; for if you succeed, I shall be eased of a great weight of anxiety; and if you do not, I must immediately make the necessary preparations to descend the river myself for the purpose of collecting proof of my situation, and lay a statement of the business before the Minister. If the person who was authorized to have transacted this affair in New Orleans should be gone hence before you arrive there, it is probable the application must be made at the Havana; and if this idea had suggested itself to you, I have flattered myself that that circumstance would hasten your departure from Natchez; or that you would devise some mode whereby application at New Orleans might be made, through the agency of some confidential person.

Accept the warmest wishes for your prosperity and happiness, of your sincere friend and humble servant, BEN. SEBASTIAN.

Messrs. Joseph H. Daviess, Thomas Bullitt, John Allen, and John Pope, proved that the body and signature of the said letter were in the handwriting of Judge Sebastian.

Mr. James T. Martin, being duly sworn, deposed as follows: In the year 1806, I received, from the agent of Messrs. John and Charles Wilkins, at Natchez, a trunk, delivered to me as the property of the late John A. Seitz, who died at New Orleans, in July, 1805. The trunk contained a number of papers relative to the concern of said Seitz; among which I discovered a draught signed "Sebastian" as the drawer; but I did not know the hand-writing of Judge Sebastian, nor am I confident that it was signed Benjamin Sebastian; but I recollect perfectly the substance of the address of the draught is contained, and I believe expressed, in the following words: "To the proper officer in the Spanish Government for paying off such claims."

The trunk that contained the above paper, I forwarded to John Clay, in New Orleans, in October, 1805, accompanied with a letter, in which I requested him, as well as I recollect, to give it the first conveyance to Mr. Francis West, of Philadelphia. JAMES T. MARTIN.

Before the Committee on the inquiry into the charge against Judge Sebastian.

NOVEMBER 28, 1806, A. M.

Mr. THOMAS BULLITT was again called upon; and stated on oath, as follows: that the letter spoken of yesterday by him from the Baron of Carondelet to Judge Sebastian, was on the subject of commercial arrangements, and that the name of Mr. Innes. Mr. Nicholas, and some other person not recollected, were in it; and who were requested, jointly with Judge Sebastian, to appoint an agent or agents to meet Gayoso at Madrid; and that commercial arrangements appeared to be the only object of that letter; and that Judge Sebastian informed him, that he, the said Sebastian, insisted on the articles of their commercial arrangements being signed, stating that the treaty might not be ratified; and, if it was not, they would have their operation; and, if it was, they would do no harm. The Governor answered, he would not do anything further in the business.

Examined and signed by

THOMAS BULLITT.

His Excellency C. GREENUP, Esq., was duly sworn, and deposed as follows: that he knew nothing of Judge Sebastian's receiving money from the Spanish Government until yesterday, on the receipt of Judge Sebastian's resignation, in which he stated the commercial arrangements, and the money which he had received in consequence of them; but he saw a memorial in 1799 or 1800, concerning a negotiation with Spain for a grant of land, in which memorial some expressions were contained like the following: That the memorialists were dissatisfied with their Government, and were more pleased with the mild and pacific Government of His Catholic Majesty; and that Judge Sebastian told him that the Baron of Carondelet assured him, the said Sebastian, that upon a proper company being formed a grant of land would be made to them.

Examiued and signed,

CHRISTOPHER GREENUP.

Mr. RICHARD STEELE was also duly sworn, and deposed, that the memorial alluded to by Governor Greenup was drawn up by Judge Sebastian, as he conceived from the handwriting and conversation which he had had with Judge Sebastian on that subject; and that he, as one of the company, did refuse to have any thing further to do with it, in consequence of its stating that the memorialists were dissatisfied with the Government of their country, and were more pleased with the Government of Spain; which expressions were afterwards, at a meeting of the company, expunged; and that Judge Sebastian refused to be their agent, or to have any more to do with it, in consequence of those expressions in the memorial being stricken out. Mr. Steele also stated that Messrs. Grayson, of Bardstown; A. Steele, of Shelbyville; Doctor F. Ridgely, now of Woodford county; and the late John A. Seitz, then of Lexington, are directors; and that upon Judge Sebastian's withdrawing from the company, Doctor John Watkins was appointed agent to carry the scheme into effect.

Examined and signed by R. STEELE.

Mr. WINGFIELD BULLOCK, being also sworn, deposed, that he was one of the memorialists spoken of by Mr. Steele, and at a meeting of a company held at Frankfort, previous to the one alluded to by Mr. Steele, it was proposed to strike out of the memorial the expressions of their being dissatisfied with their Government, and were more pleased with that of Spain; which proposition was warmly opposed by Judge Sebastian; and upon which he withdrew his name, and had nothing more to do with the company.

Mr. DANIEL WEISIGER being also duly sworn deposed that he was administrator with the Hon. Harry Innes, of the late Samuel M. Brown, deceased, and then Judge Sebastian had a claim against the estate of said Brown, amounting to about $1,500, which he, the said Sebastian, informed him was sent by some person from New Orleans, for the support and education of his son, then at Judge Sebastian's, over whom Judge Sebastian had the control; and that a Mr. Griffith, who came up from New Orleans with the said Brown's boat, accounted to Judge Sebastian for $300, part of said $1,500; and the balance remained unaccounted for, as the estate of Brown was insolvent.

The deposition of HARRY INNES, who being sworn, deposeth, and answereth to the following questions:

Do you or do you not know of Mr. Sebastian's receiving money from the Spanish Government, or of any officer of that Government, and at what time?

Have you any knowledge of any negotiation which was entered into, or attempted, by Mr. Sebastian and the Spanish Government at New Orleans, or with any officer of that Government? If you have, depose to these facts.

Answer to the first interrogatory. The deponent saith he had very little knowledge; and that the first intimation which he ever received upon that subject was from Mr. Wilkins, in Lexington, some time in August last; that as Mr. Wilkins has deposed to the fact, and anything detailed by this deponent as coming from that gentleman would be hearsay, the deponent conceives it improper to relate it; that Mr. Wilkins informed this deponent of a letter signed by Mr. Sebastian, which he had in his possession, and which he found among the papers of Mr. Seitz, relative to a money transaction, which he promised to show this deponent, and give him a copy; that the next day Mr. Wilkins showed the original letter, which was signed by Mr. Sebastian's name, but had no direction, it being supposed to have gone under a cover; which letter, this deponent, from his knowledge of Mr. Sebastian's handwriting, believes to be his; and Mr. Wilkins gave the promised copy, after comparing.

This deponent further states that he had no communication with Mr. Sebastian, after receiving the said copy, till the Saturday of the first week of the session of the court of appeals, in October last, when, in an interview in this town, this deponent mentioned the information he had received

from Mr. Wilkins respecting the bill for a pension, and showed him a copy of the letter. Mr. Sebastian read the letter; said he had no recollection of having written such a letter, and acknowledged that he had given Mr. Seitz the bill; and then observed that the pension had been given to him in consequence of the business which induced him to go to New Orleans in 1795.

Answer to the second question. I have. But, before this deponent proceeds to answer the question, he requests to be indulged with making some preliminary observations on the state of the public mind in this country, in the year 1794, respecting the navigation of the Mississippi. This deponent observes that it must be known and recollected by some of the committee, the violent heat that pervaded this State, arising from the publications and proceedings of the Democratic Society in Lexington and some other places; that it must be known and recollected that the French Minister (Genet) had sent his emissaries to this State to excite the people of Kentucky to offensive measures against the Spanish province of Louisiana; that officers were appointed to command an army to be raised for that purpose, and that report said it was to consist of two thousand men. The truth of these facts the deponent has no doubt can, if necessary, be proved; and this deponent is of opinion that the proceedings of the people in the Western country induced Spain to accede to the treaty at the time she did.

The deponent further states that such was the heat of the public mind at that period, respecting the navigation of the Mississippi, that he avoided all the meetings of the democratic societies, lest their measures should lead to acts which would attract the notice of the General Government, and prosecutions be instituted, which could only be done in the court in which this deponent presides.

That this deponent is convinced that the anxiety which appeared to pervade this State at that period, as expressed by the democratic societies, induced the President of the United States to send a messenger (to wit, Colonel James Innes) to this State, to communicate, through the Executive, to the people of Kentucky, the situation of the pending negotiation between the United States and Spain respecting the navigation of the Mississippi; that the messenger arrived in this place on the 25th day of December, 1794, and in the course of that winter made a communication to Governor Shelby, and that this communication quieted the public mind for the present; that the harvest of 1795 was very abundant, and in the fall of that year a general murmur pervaded the people of this country respecting their crops, on account of the probability of having no opportunity of exporting their produce the ensuing season; that some time in November, or early in December, 1795, this deponent and William Murray, Esq., received a letter from Mr. Sebastian, requesting us to meet him at Colonel George Nicholas's house, in Mercer county, on a day stated in the letter, observing that he had business of importance to communicate, which related to us all. This deponent and Mr. Murray went to Colonel Nicholas's, where we were met, agreeably to appointment, by Mr. Sebastian, who submitted to us a letter he received from the Baron de Carondelet, then Governor of Louisiana, to which this deponent refers, and makes a part of this deposition, in the words and figures following:

NEW ORLEANS, *July* 16, 1795.

SIR: The confidence reposed in you by my predecessor, Brigadier General Miro, and your former correspondence with him, have induced me to make a communication to you highly interesting to the country in which you live and to Louisiana.

His Majesty, being willing to open the navigation of the Mississippi to the people of the Western country, and being also desirous to establish certain regulations, reciprocally beneficial to the commerce of both countries, has ordered me to proceed on the business, and to effect, in a way the most satisfactory to the people of the Western country, his benevolent design.

I have, therefore, made this communication to you, in expectation that you will procure agents to be chosen and fully empowered by the people of your country to negotiate with Colonel Gayoso on the subject, at New Madrid, whom I shall send there in October next, properly authorized for that purpose, with directions to continue in that place, or its vicinity, until the arrival of your agents.

I am, by information, well acquainted with the character of some of the most respectable inhabitants of Kentucky, particularly of Innes, Nicholas, and Murray, to whom I wish you to communicate the purport of this address; and, should you and those gentlemen think the object of it as important as I do, you will doubtless accede, without hesitation, to the proposition I have made of sending a delegation of your countrymen, sufficiently authorized to treat on a subject which so deeply involves the interest of both our countries.

I remain, with every esteem and regard, sir your most obedient, humble servant,

THE BARON OF CARONDELET.

LOUISIANA, *July* 19, 1807.

The deponent further states, that, after deliberating on the contents of the letter, it was the unanimous opinion of the four persons referred to in the letter, that, from the situation of the pending Treaty between the United States and Spain, of which no communication had been received for nearly twelve months, and the uncertainty when it would terminate; that, as it was a subject in which all the Western people were greatly interested; that, as it had excited great heat in the minds of the people of this country; that, as we had no power to appoint agents to meet Colonel Gayoso, as was requested; that, under these existing circumstances, it would not be prudent to communicate the subject-matter of the letter; yet, that it was advisable to know what was the object of the Spanish Government upon that important subject. To accomplish this object, it was

thought advisable that, as the communication was made to Mr. Sebastian, he ought to meet Colonel Gayoso; and, in consequence of this opinion, Mr. Sebastian descended the Ohio. On Mr. Sebastian's return from New Orleans, in 1796, he informed this deponent that Colonel Gayoso was at the mouth of the Ohio river, waiting an answer to the Baron's letter; that the severity of the weather induced them to go to New Madrid, where a conference took place on the subject of the letter; that, among the concessions which were stipulated, Gayoso proposed to reduce the duty of six per cent. import and six per cent export, amounting to twelve per cent., to four per cent.; that he (Mr. Sebastian) insisted that as the Spanish Government had come forward upon the principle of conciliating the people of the Western country, no duty ought to be exacted from them, because they claimed as a right the free and undisturbed navigation of the Mississippi river. Finding Gayoso fixed and immoveable on that point, he proposed to go to New Orleans and refer the point in dispute to the Governor General, which being acceded to, he descended the river to New Orleans with Colonel Gayoso. Upon their arrival at New Orleans, the Governor had a private interview with Mr. Sebastian, and requested information as to the point in dispute between him and Colonel Gayoso. Mr. Sebastian stated the demand of four per cent. import; to which the Governor replied, that Colonel Gayoso was wrong, and that he would release it, as the plan was altogether conciliatory; but observed that he was then pressed by public business, yet would attend to him on a particular day, which he named; that, a day or two preceding the time fixed for the interview, he received a message to immediately wait on the Governor. Upon repairing to the Government house, the Governor informed him that a courier had arrived from the Havana, informing that a Treaty of Friendship, Limits, and Navigation had been entered into by His Catholic Majesty and the United States, which put an end to their business; that Mr. Sebastian then showed this deponent a paper, in his handwriting, containing the concessions which had been stipulated by Gayoso, and which he believes is the same paper now in his hands, and here presented to the committee, which is in the words and figures following:

"His Catholic Majesty having taken into consideration the relative situation of his province of Louisiana and its dependencies, and that part of the United States of America lying west of the Apalachian mountains, and being of opinion that a commercial intercourse between the two countries will be productive of the harmony and reciprocal interest thereof, has been pleased to concede to the people of the said Western country, during his pleasure, the following privileges:

"1. The people of the Western country shall henceforth freely use, and exclusively enjoy, for the purposes of commerce, the navigation of the river Mississippi, and all the ports and places thereon under the Government of His Catholic Majesty, subject to the same regulations and restrictions, and no other, by which the commerce of the subjects of His Catholic Majesty is now governed. And whereas, the people of the said Western country are now subject to the payment of six per cent. ad valorem on all the produce of the said Western country imported into the Government of Louisiana and its dependencies, and also to the payment of the same duty on the exportation; and His Majesty being willing to remove every obstacle to that friendly intercourse which he is desirous to establish and maintain with the said Western people, does hereby concede that the said Western people shall hereafter be subject to the payment of a duty of four per cent. only, whether the produce imported be disposed of in the markets of Louisiana, or exported to foreign markets; and that the duty to be thus paid by the said Western people shall be regulated by the valuation of their produce hereto annexed.

"2. That there may be no obstruction or impediment to the fullest and most advantageous enjoyment of the privileges hereby granted to the people of the said Western country by His Catholic Majesty, such of the Western people as may choose to reside in the Government of Louisiana for the purpose of carrying on commerce, shall henceforth be permitted to acquire, by purchase or otherwise, both real and personal property in any port or place on the said river Mississippi, or at any other place within the Government of the said province of Louisiana and its dependencies, and shall be protected by the said Government in the enjoyment thereof; the said residents being amenable during their residence to the same laws and regulations by which the subjects of the said province are governed; and should the said residents or any of them die in the said province, or think proper to remove to the United States or elsewhere, their property, both real and personal, shall in the first case be disposed of according to the will of the decedent, and, where no will has been made, shall descend to and be distributed among the legal representatives of the deceased, agreeable to the laws of the said province, and in the last case the removing resident shall have the liberty of disposing of the absolute estate, in the whole or any part of the property which he has either carried to, or acquired in the said province, and to transport the proceeds thereof free from duty to any part of the world.

"3. His Catholic Majesty, to evince to the said Western people his disposition to encourage the commerce of their country, hereby permits them, when they cannot get a satisfactory market for their produce in the province of Louisiana or its dependencies, to export the same to the Havana, or to any other port or place either in the United States or Europe, and the said produce being exported to the Havana or to any of the said ports in the Spanish dominions, having paid the duty in the province of Louisiana, and the proprietor thereof taking from the proper officer in the said province authentic documents of the payment, shall not again be subject to the payment of any duty in any port or place in the said Spanish dominions to which the said produce shall be exported; but the same may be disposed of in such

port or place under the same rules and regulations which at present govern the disposal of the produce of Louisiana.

"4. To prevent any misconstruction or improper use of the privileges hereby granted, it is explicitly declared that the importation of all articles of commerce of what nature or description soever, which are not actually the production of the said Western country, is absolutely prohibited; and if any person shall hereafter attempt, under any pretext whatsoever, to introduce into the province of Louisiana and its dependencies down the Mississippi the products or manufactures of any other country, (unless specially permitted by the Government) the same are hereby declared to be contraband, and liable to seizure.

"5. As the commutation of the products of one country for those of another is the foundation of commerce, His Majesty, in order to establish that reciprocity of interest between his dominions and the said Western country, without which no commercial intercourse can be permanent, will cause a preference to be always given in his markets to the products of the Western country, and, therefore, expects that the people of the said Western country, acting under the influence of the same principle, will, in the purchase of such articles of commerce as they may need, whether foreign or domestic, prefer his markets to any other. And, as a further inducement thereto, His Majesty, contrary to a long established rule of his Government, does henceforth permit the people of the said Western country to carry out of his dominions whatever money may remain to them after completing their purchase, free from any duty or impost whatsoever."

This deponent having detailed everything which occurred within his knowledge respecting Mr. Sebastian's receiving a pension, and the object which had induced him to descend the Mississippi in the latter end of 1795, or beginning of 1796, addressed this committee, and stated that he was going to make a communication which was not pertinent to the subject of the testimony he had already given, but had relation to the same matter; that he was induced to do it in consequence of the slanders which had been falsely and lavishly heaped upon him by the publications in the Western World; that he had been charged as a disorganizer of the Government; that he had been charged in an indirect manner as having improperly received Spanish money, on account of his intimacy with and friendly agency towards General Wilkinson after he had joined the army. To make this communication was a duty he owed to his own character, and to the memory of the late Colonel Nicholas, whose character has also been attacked in the Western World; that he made a solemn appeal to the chairman of the committee, to his country, and to his God, that the accusations were false; that the communication he was about to make was of a delicate nature, as it related to this deponent, because, from the circumstances which attended it, much must depend upon his own veracity, as he could only prove the facts by circumstantial evidence, to wit: the declarations of Colonel Nicholas in his lifetime on the same subject.

This deponent then proceeded to state, that a certain Thomas Power, whom this deponent never saw, came from Louisiana in the Summer of 1797, and made a communication to Mr. Sebastian in writing, which has reference to the same characters that were named in the letter of the Baron de Carondelet, hereinbefore inserted; that Mr. Sebastian came to this deponent's house some short time after receiving the communication, and showed it to him; upon which this deponent observed that it was a dangerous project, and ought not to be countenanced, as the Western people had now obtained the navigation of the Mississippi, by which all their wishes were gratified. Mr. Sebastian concurred in sentiment, but observed that Power wished a written answer, and requested me to see Colonel Nicholas, saying, that whatever we did he would concur in. I promised to visit the Colonel in two or three days. This deponent never had any communication with Mr. Murray upon the business, nor does he know that Mr. Sebastian ever did inform Mr. Murray of it.

This deponent rode to Lexington, and had a conference with Colonel Nicholas respecting the communication from Power, who agreeing with the deponent that the proposition ought to be rejected, he, Colonel Nicholas, instantly wrote an answer, which was copied by this deponent, signed by both of us, and directed by me; that a copy of our joint answer was taken possession of by me, and has been ever since in my possession, except for a short time that I left it in the hands of Mr. Morrison in August last, to have copied, as being the executor and friend of Colonel Nicholas he wished to have a copy; Mr. Morrison having previously informed me that Colonel Nicholas in his lifetime had related all the circumstances to him, and that he had communicated it to James Ross, Esq., of Pennsylvania, when in this country, in, I believe, 1798, who was then a Senator in the Congress of the United States.

This deponent, since making this communication, recollects that Mr. Sebastion informed him when he gave up the original paper to be submitted to Colonel Nicholas, Mr. Power requested it to be returned to him with our answer, which was done, but not until this deponent took a copy, which, with the answer, are as follows:

"His Excellency the Baron de Carondelet, Commander-in-Chief and Governor of His Catholic Majesty's provinces of West Florida and Louisiana, having communications of importance, embracing the interests of said provinces, and at the same time deeply affecting those of Kentucky and the Western country in general, to make to its inhabitants, through the medium of the influential characters in this country, and judging it, in the present uncertain and critical attitude of politics, highly imprudent and dangerous to lay them on paper, has expressly commissioned and authorized me to submit the following proposals to the consideration of Messrs. S. N. I. and M. and also of such other gentlemen as may be pointed

out by them, and to receive from them their sentiments and determination on the subject.

"1. The above-mentioned gentlemen are immediately to exert all their influence in impressing on the minds of the inhabitants of the Western country a conviction of the necessity of their withdrawing and separating themselves from the Federal Union, and forming an independent Government wholly unconnected with that of the Atlantic States. To prepare and dispose the people for such an event, it will be necessary that the most popular and eloquent writers in this State should, in well-timed publications, expose, in the most striking point of view, the inconveniences and disadvantages that a longer connexion with, and dependence on, the Atlantic States must inevitably draw upon them, and the great and innumerable difficulties in which they will probably be entangled if they do not speedily recede from the Union; the benefits they will certainly reap from a secession ought to be pointed out in the most forcible and powerful manner; and the danger of permitting the Federal troops to take possession of the posts of the Mississippi, and thus forming a cordon of fortified places round them, must be particularly expatiated upon. In consideration of gentlemen devoting their time and talents to this object, His Excellency the Baron de Carondelet will appropriate the sum of one hundred thousand dollars to their use, which shall be paid in drafts on the royal treasury at New Orleans; or, if more convenient, shall be conveyed at the expense of His Catholic Majesty into this country, and held at their disposal. Moreover, should such persons as shall be instrumental in promoting the views of His Catholic Majesty hold any public employment, and in consequence of taking an active part in endeavoring to affect a secession, shall lose their employments, a compensation, equal at least to the emoluments of their office, shall be made to them by His Catholic Majesty, let their efforts be crowned with success, or terminate in disappointment.

"2. Immediately after the declaration of independence, Fort Massac should be taken possession of by the troops of the new Government, which shall be furnished by His Catholic Majesty, without loss of time, with twenty field pieces, with their carriages and every necessary appendage, including powder, balls, &c., together with a number of small arms and ammunition, sufficient to equip the troops that it shall be judged expedient to raise. The whole to be transported at his expense to the already mentioned Fort Massac. His Catholic Majesty will further supply the sum of one hundred thousand dollars, for the raising and maintaining the said troops, which sum shall also be conveyed to, and delivered at Fort Massac.

"3. The northern boundary of His Catholic Majesty's provinces of East and West Florida shall be designated by a line commencing on the Mississippi, at the mouth of the river Yazoo, extending due east to the river Confederation or Tombigbee: *Provided, however*, that all his Majesty's forts, ports, or settlements, on the Confederation or Tombigbee, are included on the south of such a line; but should any of His Majesty's forts, ports, or settlements, fall to the north of said line, then the northern boundary of His Majesty's provinces of East and West Florida shall be designated by a line beginning at the same point on the Mississippi, and drawn in such a direction as to meet the river Confederation or Tombigbee, six miles to the north of the most northern Spanish fort, post, or settlement on the said river. All the lands to the north of that line shall be considered as constituting a part of the territory of the new Government, saving that small tract of land at the Chickasaw Bluffs, on the eastern bank of the Mississippi, ceded to His Majesty by the Chickasaw nation in a formal treaty, concluded on the spot in the year 1795, between His Excellency Señor Don Manuel Gayoso De Lemos, Governor of Natchez, and Aughiakabee, and some other Chickasaw chiefs; which tract of land His Majesty reserves for himself. The eastern boundary of the Floridas shall be hereafter regulated.

"4. His Catholic Majesty will, in case the Indian nations south of the Ohio should declare war or commit hostilities against the new Government, not only join and assist it in repelling its enemies, but if said Government shall, at any future period, deem it necessary to reduce said Indian nations, extend its dominion over them, and compel them to submit themselves to its Constitution and laws, His Majesty will heartily concur and co-operate with the new Government in the most effectual manner in attaining this desirable end.

"5. His Catholic Majesty will not, either directly or indirectly, interfere in the framing of the Constitution or laws which the new Government shall think fit to adopt, nor will he at any time, by any means whatever, attempt to lessen the independence of the said Government, or endeavor to acquire an undue influence in it, but will, in the manner that shall hereafter be stipulated by treaty, defend and support it in preserving its independence.

"The preceding proposals are the outlines of a provisional treaty, which His Excellency the Baron of Carondelet is desirous of entering into with the inhabitants of the Western country, the moment they shall be in a situation to treat for themselves. Should they not meet entirely with your approbation, and should you wish to make any alterations in, or additions to them, I shall, on my return, if you think proper to communicate them to me, lay them before His Excellency, who is animated with a sincere and ardent desire to foster the promising and rising infant country, and at the same time promote and fortify the interests of his beneficent royal master, in securing, by a generous and disinterested conduct, the gratitude and affections of a just, sensible, and enlightened people.

"The important and unexpected events that have taken place in Europe since the ratification of the treaty concluded on the 27th of October, 1795, between His Catholic Majesty and the United States of America, having convulsed the general system of politics in that quarter of the globe, and wherever its influence is extended, causing a

collision of interests between nations formerly living in the most perfect union and harmony, and directing the political views of some States towards objects the most remote from their former pursuits, but none being so completely unhinged and disjointed as the cabinet of Spain, it may be confidently asserted, without incurring the reproach of presumption, that His Catholic Majesty will not carry the abovementioned treaty into execution; nevertheless the thorough knowledge I have of the Spanish Government justifies me in saying that, so far from its being His Majesty's wish to exclude the inhabitants of this Western country from the free navigation of the Mississippi, or withhold from them any of the benefits stipulated for them by the treaty, it is positively his intention, so soon as they shall put it in his power to treat with them, by declaring themselves independent of the Federal Government, and establishing one of their own, to grant them privileges far more extensive, give them a decided preference over the Atlantic States in his commercial connexions with them, and place them in a situation infinitely more advantageous, in every point of view, than that in which they would find themselves were the treaty to be carried into effect."

THOMAS POWER.

To which the following answer was returned:

DECEMBER 1, 1806.

"SIR: We have seen the communication made by you to Mr. Sebastian. In answer thereto, we declare unequivocally, that we will not be concerned, either directly or indirectly, in any attempt that may be made to separate the Western country from the United States; that whatever part we may at any time be induced to take in the politics of our country, that her welfare will be our only inducement, and that we will never receive any pecuniary or other reward for any personal exertions made by us to promote that welfare.

"The free navigation of the Mississippi must always be the favorite object of the inhabitants of the Western country; they cannot be contented without it, and will not be deprived of it longer than necessity shall compel them to submit to its being withheld from them.

"We flatter ourselves that everything respecting this important business will be set right by the Governments of the two nations; but if this should not be the case, it appears to us that it must be the policy of Spain to encourage, by every possible means, the free intercourse with the inhabitants of the Western country, as this will be the most efficient means to conciliate their good will, and to obtain, without hazard and at reduced prices, those supplies which are indispensably necessary to the Spanish Government and its subjects."

The original communication and joint answer of Colonel Nicholas and this deponent were forwarded to Mr. Sebastian, who has since informed this deponent that both were given to Mr. Power. Whether the letter was signed also by Mr. Sebastian this deponent does not know; it was sent open to him, nor does he recollect that Mr. Sebastian ever informed him that he had signed it.

This deponent says that the reasons why he and Colonel Nicholas did not communicate the subject to the Executive of the United States, were these: 1st. That it was well known that neither of us approved of Mr. Adams's Administration, and that we believe he kept a watchful eye over our actions; that the communication must depend on his opinion of our veracity; and it would have the appearance of courting his favor. 2d. That we both had reason, and did believe that the Administration were disposed upon the slightest pretext, to send an army to this State, which we considered would be a grievance to the people, and, therefore, declined making any communication upon the subject, as we apprehended no danger from the Spanish Government.

This deponent requests the committee to summon Mr. Morrison, to prove the declarations of Col. Nicholas respecting the transactions which relate to that gentleman, if any doubt exists as to the truth of the statement herein made.

HARRY INNES.

DECEMBER 1, 1806.

This deponent requested that the committee would permit an address from the Democratic Society of Lexington, bearing date the 13th of December, 1793, and addressed to the people west of the Alleghany and Apalachian mountains, and a remonstrance from the people of Kentucky to the President and Congress of the United States, on the subject of the navigation of the Mississippi, as also a letter signed Auguste Lachise, dated, as is supposed from other papers, sometime in May, 1794, addressed to the Democratic Society in Lexington, stating that two thousand brave Kentuckians had been recruited to march against the Spaniards in Louisiana, to assist the French to regain that country, in support of the statement made by this deponent in his deposition relative to the state of the public mind in Kentucky, in the year 1794, which was accordingly ordered, and the papers read.

HARRY INNES.

To the inhabitants of the United States, west of the Alleghany and Apalachian Mountains:

DECEMBER 13, 1793,

FELLOW-CITIZENS: The Democratic Society of Kentucky having had under consideration the measures necessary to obtain the exercise of your rights to the free navigation of the Mississippi, have determined to address you upon that important topic. In so doing they think that they only use the undoubted right of citizens to consult for their common welfare. This measure is not dictated by party or faction; it is the consequence of unavoidable necessity. It has become so from the neglect shown by the General Government, to obtain for those of the citizens of the United States who are interested therein the navigation of that river.

In the present stage, when the rights of man have been fully investigated and declared by the voice of nations, and more particularly in America, where those rights were first developed and declared, it will not be necessary to prove that the free navigation of the Mississippi is the natural right of the inhabitants of the country watered by its streams. It cannot be believed that the beneficent God of nature would have blessed this country with unparalleled fertility, and furnished it with a number of navigable streams, and that that fertility should be consumed at home, and those streams should not convey its superabundance to other climes. Far from it: for if we examine the wise diversity of the earth as to climate and productions, lands, and rivers, we must discover the glorious plan of infinite beneficence to unite by the exchange of their surplus, various nations, and connect the ends of the earth in the bands of commerce and mutual good offices. From the everlasting decrees of Providence, then, we derive this right; and it must be criminal either to surrender or suffer it to be taken from us, without the most arduous struggles. But this right is ours, not only from nature, but compact. We do not mean to urge this, as if a compact could give an additional sanction to a natural right, but to show that our claim is derived from every source which can give it validity. The navigation of the Mississippi was solemnly given and confirmed by Great Britain to the citizens of the United States, by the provisional articles entered into at Paris, between the two nations. More than eleven years have since elapsed, during which we have been denied the exercise of a right, founded upon such irrefragable grounds. What has been done by the former or present Government, during this period, on our behalf? In the former we have been able to learn of no attempt to procure from the King of Spain even an acknowledgment of our right. Repeated memorials were presented to Congress upon the subject, but they were treated with a neglect bordering on contempt. They were laid upon the table, there to rest in endless oblivion. Once, indeed, we know, this subject was introduced into Congress, under the former Government; but it was by an unwarrantable and disgraceful proposition to barter away our rights. The proposition was not adopted; the attempt being rendered abortive by the spirit and patriotic opposition of a part of the Union. The time at length came, when the voice of the people called for a change in the General Government, and the present Constitution of the United States was adopted. We then flattered ourselves that our right would be protected; for we were taught to believe, that the former loose and weak confederation having been done away, the new Government would possess the requisite energy. Memorials upon the subject were renewed. Six years have passed away, and our right is not yet obtained. Money is to be taken from us by an odious and oppressive excise, but the means of procuring it by the exercise of our just rights is denied. In the meanwhile, our brethren on the Eastern waters possess every advantage which nature or compact can give them. Nay, we do not know that even one firm attempt to obtain it has been made. Alas! Is the energy of our Government not to be exerted against our enemies? Is it all to be reserved for her citizens?

Experience, fellow-citizens, has shown us that the General Government is unwilling that we should obtain the navigation of the river Mississippi. A local policy appears to have an undue weight in the Councils of the Union. It seems to be the object of that policy to prevent the population of this country, which would draw from the Eastern States their industrious citizens. This conclusion inevitably follows from a consideration of the measures taken to prevent the purchase and settlement of the lands bordering on the Mississippi. Among those measures, the unconstitutional interference which rescinded sales, by one of the States, to private individuals, makes a striking object. And perhaps the fear of a successful rivalship, in every article of their exports, may have its weight. But, if they are not unwilling to do us justice, they are at least regardless of our rights and welfare. We have found prayers and supplications of no avail, and should we continue to load the table of Congress with memorials from a part only of the Western country, it is too probable they would meet with a fate similar to those which have been formerly presented. Let us, then, all unite our endeavors in the common cause. Let all join in a firm and manly remonstrance to the President and Congress of the United States, stating our just and undoubted right to the navigation of the Mississippi, remonstrating against the conduct of Government with regard to that right, which must have been occasioned by local policy or neglect, and demanding of them speedy and effectual exertions for its attainment. We cannot doubt that you will cordially and unanimously join in this measure. It can hardly be necessary to remind you that considerable quantities of beef, pork, flour, hemp, tobacco, &c., the produce of this country, remain on hand for want of purchasers, or are sold at inadequate prices. Much greater quantities might be raised if the inhabitants were encouraged by the certain sale which the free navigation of the Mississippi would afford. An additional increase of those articles, and a greater variety of produce and manufactures would be supplied by means of the encouragement which the attainment of that great object would give to emigration. But it is not only your own rights which you are to regard. Remember that your posterity have a claim to your exertions to obtain and secure that right. Let not your memory be stigmatised with a neglect of duty. Let not history record that the inhabitants of this beautiful country lost a most invaluable right, and half the benefits bestowed upon it by a bountiful Providence, through your neglect and supineness. The present crisis is favorable. Spain is engaged in a war which requires all her forces. If the present golden opportunity be suffered to pass without advantage, and she shall have concluded a peace with France, we must then contend against her undivided strength.

But what may be the event of the proposed application is still uncertain. We ought, therefore, to be still upon our guard, and watchful to seize the first favorable opportunity to gain our object. in order to this, our union should be as perfect and lasting as possible. We propose that societies should be formed in convenient districts in every part of the Western country, who shall preserve a correspondence upon this and every other subject of general concern. By means of these societies we shall be enabled speedily to know what may be the result of our endeavors, to consult upon such further measures as may be necessary to preserve union, and, finally, by these means, secure success.

Remember that it is a common cause which ought to unite us, that that cause is indubitably just, that ourselves and posterity are interested, that the crisis is favorable, and that it is only by union that the object can be achieved. The obstacles are great, and so ought to be our efforts. Adverse fortune may attend us, but it shall never dispirit us. We may for a while exhaust our wealth and strength, but until the all important object is procured we pledge ourselves to each other, that our perseverance and our friendship will be inexhaustible.

J. BRECKENRIDGE, *Chairman.*

Test: THOMAS TODD, THOMAS BODLEY, *Clerks.*

To the President and Congress of the United States of America. The remonstrance of the subscribers, citizens of the Commonwealth of Kentucky, showeth:

That your remonstrants have observed, with concern and indignation, the injuries and insults offered to the United States by the King of Great Britain. He has violated, in important parts, that Treaty of Peace, the observance of which might have obliterated the remembrance of former injuries. He has, by means of his agent, supplied arms, ammunition, clothing, and provision to those merciless savages who have so long ravaged the Western frontier of these States. He has interposed, unsolicited, and negotiated truces for Portugal and Holland, with the piratical States, in order to turn the rapine of those African barbarians solely on the American commerce. His vessels of war, and the piratical vessels of his subjects, by his orders, in violation of the law of nations, have despoiled the commerce, and insulted the neutral flag of America. He has made no compensation for the property of citizens of these States, carried away by his troops contrary to treaty, and, that we might escape no species of injury which could be heaped on the weakest and most despicable of nations, he holds within the territory of the United States, in defiance of treaty and of right, posts fortified and garrisoned by his armies.

That these injuries and insults call loudly for redress, and that we will, to the utmost of our abilities, and in any mode that can be devised, support the General Government in the firmest and most effectual measures to obtain full satisfaction for all our wrongs.

That your remonstrants, and the other inhabitants of the United States, west of the Alleghany and Apalachian mountains, are entitled, by nature and stipulation, to the free and undisturbed navigation of the river Mississippi; and that, from the year 1783 to this day, they have been prevented uniformly, by the Spanish King, from exercising that right. Your remonstrants have observed, with concern, that the General Government, whose duty it was to have preserved that right, have used no effectual measures for its attainment: that even their tardy and ineffectual negotiations have been veiled with the most mysterious secrecy; that that secrecy is a violation of the political rights of the citizen, as it declares that the people are unfit to be intrusted with important facts relative to their rights, and that their servants may retain from them the knowledge of those facts. Eight years are surely sufficient for the discussion of the most doubtful and disputable claim. The right to the navigation of the Mississippi admits neither of doubt nor dispute. Your remonstrants, therefore, conceive that the negotiations on that subject have been necessarily lengthy, and they expect that it be demanded categorically of the Spanish King whether he will acknowledge the right of the citizens of the United States to the free and uninterrupted navigation of the river Mississippi, and cause all obstructions, and hindrance to the exercise of that right, in future, to be withdrawn and avoided; that immediate answer thereto be required, and that such answer be the final period of all negotiations upon this subject.

Your remonstrants further represent, that the encroachment of the Spaniards upon the territory of the United States is a striking and melancholy proof of the situation to which our country will be reduced, if a tame policy should still continue to direct our councils.

Your remonstrants join their voice to that of their fellow-citizens in the Atlantic States, calling for satisfaction for the injuries and insults offered to America; and they expect such satisfaction shall extend to every injury and insult done or offered to any part of America by Great Britain and Spain; and as the detention of the posts, and the interruption to the navigation of the Mississippi, are injuries and insults of the greatest atrocity and of the longest duration, they require the most particular attention to those subjects.

To the Democratic Society of Lexington:

CITIZENS: Events, unforeseen, the effects of causes which it is unnecessary here to develope, have stopped the march of two thousand brave Kentuckians, who, strong in their courage, in the justice of their rights, their cause, the general assent of their fellow-citizens, and convinced of the brotherly dispositions of the Louisianians, waited only for their orders to go, by the strength of their arms, take from the Spaniards, the despotic usurpers of the empire of the Mississippi, insure to their country the navigation of it, break the chains of the Americans, and their brethren the French, hoist up the flag of liberty in the name of the

French Republic, and lay the foundation of the prosperity and happiness of two nations situated so, and destined by nature to be but one, the most happy in the universe.

Citizens: The greater attempts you have made towards the success of that expedition, the more sensible you must be of the impediments which delay the execution of it, the more energetic should your efforts be towards new means of success. There is one from which I expect the greatest advantages, which you may render decisive by an address to the National Convention, or to the Executive Council of France. In the name of my countrymen of Louisiana, in the name of the interest of yours, I dare once more ask you this new proof of your patriotism.

Being deprived of my dearest hopes, of the pleasure, after fourteen years absence, and three years of proscription, to return to the bosom of my family, my friends, and my countrymen, I have only one path to follow, that of going to France, and express to the representatives of the French people the cry, the general wish of the Louisianians, to make part of the French Republic, to inform them of the most ardent desire which the Kentuckians have had, and will continue to have, forever, to take the most active part in any undertaking tending to open to them the free navigation of the Mississippi.

The French Republic, in their sublime constitutional act, have proffered their protection to all those nations who had the courage to shake off the yoke of tyranny. The Louisianians have the most sacred right to it. They are French, but have been sacrificed to despotism by arbitrary power. The honor, the glory, the duty of the National Convention is to grant them their powerful support.

Every petition or plan relative to that important object would be considered in the highest degree; the address of the Democratic Society of Lexington would give it a greater weight.

Accept, citizens, the farewell, not the last, of a brother, who is determined to sacrifice everything in his power for the liberty of his country, and the prosperity of the generous inhabitants of Kentucky.

Salut en la patrie,

AUGUSTE LACHAISE.

[Endorsement on the back]

This letter was written previous to the 14th of May, 1794. The Democratic Society acted on it that day. An address was prepared and presented; and on the 19th of May an answer returned.

JOSEPH HAMILTON DAVIESS deposed, that no information has been derived by this deponent from the papers of the late Colonel Nicholas, this deponent's testator, relative to any connexion between any citizen and the Spanish Government. This deponent does not believe he has seen any letter from Judge Sebastian on the subject of the present inquiry, other than that in possession of the committee.

J. H. DAVIESS.

DECEMBER 1, 1806.

JOHN BROWN deposeth and saith, that he has no personal knowledge of the business upon which it is said Mr. Sebastian went to New Orleans in the years 1795–6, or relative to his having at any time received a pension from the Government of Spain; that Mr. Sebastian never made to him any communication whatever on those subjects; nor did he ever receive any information respecting them from any quarter, until he read certain publications which appeared in the Western World since the fourth of July last; that in or about the month of August last, Mr. Innes did make a communication to this deponent relative to the business on which he, said Mr. Sebastian, had gone to New Orleans; and also stated some information which had been given to him by Charles Wilkins relative to said pension; but as the communications then made to this deponent, are, as he believs substantially contained in the testimony delivered by Mr. Innes to this committee, he deems it unnecessary to state them; that he heard Mr. Sebastian had been in Philadelphia on his return from New Orleans in 1796, but he did not call on this deponent, then attending Congress in that city; and he has been informed that he did not call on any of the then members of the Kentucky delegation at that place; some time after, Mr. Genet arrived at Philadelphia, and during the continuance of the war between France and Spain, he informed this deponent that he had it in contemplatation to raise an army, to consist of recruits from Kentucky, Tennessee, the Creek and other Indian tribes, for the conquest of Louisiana on behalf of France. Shortly after he understood from one of the heads of departments that he was apprized of the project of Genet; that he was absent from Kentucky from the autumn of 1792, till about August 1795; and therefore, has no personal knowledge of the progress of any agent of Genet, in issuing commissions or enlisting men; but during that time he received letters from Kentucky containing information on that subject, and without delay gave extracts from them to the then Secretary of State, for the information of the President of the United States.

J. BROWN.

THOMAS TODD, being sworn, was interrogated by Mr. Grundy. Do you know any thing of money being received by Mr. Sebastian from, or his having any negotiation with, the Spanish Government or any of its officers? If you do, at what time did you come to the knowledge of it?

The deponent says, that in the month of August last, in a conversation with Mr. Innes, as to the statements published in the Western World, he showed to this deponent a copy of the concessions which some short time before, as this deponent understood, had been sent to Mr. Innes by Mr. Sebastian. Mr. Innes at the same time showed this deponent the papers relative to the proposition made by Power, and the answer. That, in the course of the said month of August, at Lexington, Mr. Innes mentioned to this deponent the conversation which he had with Mr. Charles

Wilkins of that place, showed this deponent the copy of a letter from Mr. Sebastian to John A. Seitz, who had previously died at New Orleans, and informed this deponent that the original letter was in the possession of Mr. Wilkins, and that Mr. Wilkins had seen, among Mr. Seitz's papers, a draft drawn by Mr. Sebastian on some officer of the Spanish Government, in favor of Mr. Seitz for his (Mr. Sebastian's) pension. That the papers above alluded to, and the information coming from Mr. Wilkins, was the first knowledge I had of the real cause of Mr. Sebastian's having descended the Ohio and Mississippi rivers. That at the commencement of the last October term of the court of appeals, this deponent mentioned to Mr. Sebastian the above circumstances; he then acknowledged that he had drawn such a draft in favor of Mr. Seitz, and stated that in consequence of a letter which he had received from the Governor of New Orleans, he had in the Fall or Winter of 1795–6 descended the Ohio, and at or near its mouth had met with Gayoso. That they entered on the business, and he received the concession before alluded to; that a difference in opinion took place between him and Gayoso as to the duty which should be paid by the people of the Western country who might export produce down the Mississippi; Gayoso insisting that they should pay four per cent. as an acknowledgment for the permission given them; he (Mr. Sebastian) insisting that as it was a conciliatory measure on the part of the Spanish Government, that no duty ought to be exacted; and that it was at length agreed to descend the river and submit the difference to the Governor at New Orleans. They did so, and in some short time after their arrival, he (Mr. Sebastian) had an audience with the Governor, who decided against Gayoso. That the Governor appointed a day when he should again attend, in order to complete the business; but, previous to the day appointed, a courier arrived at New Orleans with the intelligence that the Treaty of Friendship, Limits, and Navigation had been entered into between the Governments of the United States and Spain. That the Governor sent for him and informed him of that circumstance, and observed to him that the business as to the concession was at an end; but that he had it in charge from the King to inform whoever should come on that business, should be entitled to two thousand dollars a year. That upon this ground he had drawn, in favor of Mr. Seitz, the draft before alluded to.

Upon being further questioned, at what time was Mr. Sebastian appointed a judge of the court of appeals? At what time was he absent, and how long?

This deponent says that Mr. Sebastian was appointed a judge of the court of appeals in the year 1792, shortly after the commencement of this Government; that, from the record book of the court of appeals, it appears that he qualified as judge on the 7th day of January, 1793. From the same record book it appears that he was absent at the May term of the court of appeals 1796; that this absence was, as this deponent was informed, and believes, in consequence of his having descended the Ohio and Mississippi rivers in the Fall or Winter of 1795–6. That it also appears from the said record book he was also absent at the May and October terms of the court of appeals in 1798; this deponent was informed, and believes, that this absence was from his having also descended the said rivers in that year.

Question. Were you not clerk of the Kentucky Convention in the year 1788?

Answer. I was.

Question. Did not General Wilkinson produce a lengthy memorial, and read the same to that Convention, and then state that he had before that time presented to the Governor or Intendant at New Orleans a copy thereof?

Answer. He did.

Question. Was that paper deposited and left with you as clerk, as other papers produced in like manner generally are?

Answer. It was not.

Question. At what time were you first informed that a negotiation of any kind, unauthorized by Government, had been carried on, or attempted, between the officers or agents of the Spanish Government, and any individuals or set of men in the Western country?

Answer. Not until I saw the papers before stated in the month of August last.

Question. Did Mr. Sebastian, at the time he explained himself to you as to the drafts drawn in favor of Mr. Seitz, speak of his having drawn drafts in favor of any other person?

Answer. He did not.

Question. Do you recollect the substance or object of the memorial read by General Wilkinson.

Answer. I do not; but upon reading the letters published in the newspapers, as having passed between Colonel Marshall and General Washington, it appears to me to be tolerably accurately stated in Colonel Marshall's letter.

THOMAS TODD.

Colonel JOSEPH CROCKETT, being duly sworn to give evidence before the special committee appointed by the House of Representatives, for the inquiry into the charge against Judge Sebastian, deposeth and saith, that he was in the Kentucky Convention held at Danville in the year 1788, when General Wilkinson produced a memorial, which he read to the said convention as handed to him, sheet, by sheet, by Judge Sebastian; and that the said memorial never was read or handed into the clerk's table of the said convention.

JOSEPH CROCKETT.

DECEMBER 1, 1806.

STATE OF KENTUCKY,

Clerk's office of the Court of Appeals, sct:

At the request of a special committee appointed to inquire into certain charges alleged against Mr. Benjamin Sebastian, late judge of the court aforesaid, I do hereby certify that from an examination of the order of said court, I find that Mr. Sebastian qualified as a judge of said court on the 7th day of January 1793; and that he hath attended the respective terms of said court ever since the May term in 1796, and the May and October terms in 1788 excepted.

Given under my hand, as a clerk of the court aforesaid, this 1st day of December, 1806.

ACHILLES SNEED.

AUDITOR'S OFFICE, *November* 29, 1806.

I do hereby certify that it appears from the books and records in my office, that the honorable Benjamin Sebastian has regularly drawn his salary as one of the judges of the Court of Appeals for the State of Kentucky, from the 18th of July, 1792, to the 1st day of October in the present year.

Given under my hand, as Auditor of Public Accounts for the State of Kentucky, the date above.

GEORGE MADISON.

Whereupon your committee does not hesitate to declare, as their opinion, that the information given to the House of Representatives is substantially true and correctly detailed; and that the said Judge Sebastian is guilty of having for several years received from the Spanish Government a pension, paid in cash annually, to the amount of $2,000.

Your committee further report, as their opinion, that while Judge Sebastian was in the exercise of his office in this State, and drawing his annual salary therefrom, he was employed in carrying on, with the agents of the Spanish Government, an illicit, unjustifiable, and highly criminal intercourse, subversive of the duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky.

And the same being read, was unanimously agreed to, the following members being present: Messrs. Atkinson, Barnes, Bartlett, Blackburn, Brents, Buford, Bullock, Cosby, Crabtree, Crist, Davidge, Dougherty, Ewing, Field, Fletcher, Ford, Grundy, Holton, Hopkins, Jones, Kercheval, Lowe, Manifee, Marshall, Mills, Miller, McKee, McMillin, McClanahan, McIntire, Moderill, J. Morgan, D. Morgan, Pitts, Pope, Pollock, Porter, Polk, Ray, Reed, Rennick, Robinson, Rogers, Russell, Rutter, Semple, Simpson, South, Spalding, J. Thompson, G. C. Thompson, Trapnall, and Woodford—53.

Whereupon, Mr. Grundy moved the following resolution:

Whereas it appears to this House that since the institution of the inquiry into the charges exhibited against Benjamin Sebastian, Esq., that the said Sebastian has resigned his office of Judge of the Kentucky Court of Appeals: *Resolved, therefore,* That any further proceeding to effect the removal of the said Sebastian from office is rendered unnecessary.

Extracts, &c. Attest:

THOMAS TODD,
Clerk of the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES,
December 6, 1806.

Resolved, That the printers who were employed to print the proceedings on the inquiry into the conduct of Benjamin Sebastian, are hereby requested to subjoin, at the end of each copy of said proceedings, the resolutions lately adopted, expressive of our attachment to the Union, and our approbation of the present administration of the Federal Government.

Extract, &c. Attest:

THOMAS TODD, *Clerk.*

IN GENERAL ASSEMBLY, *Dec.* 4, 1806.

Whereas it is considered of importance that citizens living under the same Government should be correctly informed of the views and intentions of every portion of the community; and as the sentiments of the people of Kentucky may be misunderstood by those who, from their remote situation, have not an opportunity of judging of the disposition which the citizens of this State entertain towards the General Government; and as an expression of the public will, through their Representatives, is deemed the most effectual mode to prevent any misapprehension of our sentiments, which might be occasioned by the conduct of individuals, or might grow out of misrepresentations.

Resolved, therefore, by the General Assembly, That the people of Kentucky feel the strongest attachment to the Federal Government, and consider a dismemberment of the Union as the greatest evil which could befall them, and would view with abhorrence any individual, or set of individuals, who should attempt to separate us from those whose interests are so intimately connected with our own, and for whom the people of Kentucky entertain an unchangeable attachment, arising from a lively recollection of their united efforts for liberty.

Resolved, That the people of Kentucky have an entire confidence in the present administration of the General Government, and have no doubt that such measures will be pursued as are best calculated to secure us peace and tranquillity, and at the same time preserve our national honor from insult.

Resolved, That the Governor of this State be requested to transmit copies of the foregoing resolutions to the President of the United States, to the Executives of the different States, and to our present Senators and Representatives in Congress.

Passed unanimously.

IN THE HOUSE OF REPRESENTATIVES,
December 11, 1806.

Resolved, That Joseph M. Street & Co. be requested to annex the depositions of Charles Wilkins and James Morrison, this day laid before this House, to each of the one thousand two hundred copies of the report of the committee appointed to inquire into the conduct of Judge Sebastian.

Extract, &c. Attest:

THOMAS TODD, *Clerk.*

In the month of August last, Judge Innes called on me in Lexington, to inquire into the circumstances relative to a pension which it was said Judge Sebastian had received from the Spanish Government at New Orleans.

Judge Innes said that Mr. Morrison, of Lexington, had communicated to him information which he had received from me; but believing Judge Sebastian incapable of anything inconsistent with his character, induced him to think that which he had received could not be correct. I immediately detailed to him all the knowledge I possessed, and the manner by which I procured it, (which will appear by a reference to my testimony, given before a committee of the House of Representatives of this date, 27th of November, 1806.) Judge Innes expressed his surprise, and regretted that he, Judge Sebastian, had suffered himself to become the pensioner of Spain, and observed to me, that there were some circumstances attending this transaction which I had not been informed of, and that but two or three persons now living were acquainted with. He, Judge Innes, then communicated to me the substance of the letter from the Baron of Carondelet to Mr. Sebastian, which had a reference to Colonel Nicholas, Mr. Murray, and Colonel Innes, in the year 1795; the result of the conference between Sebastian and Gayoso at New Madrid, and as nearly as he said he could recollect, the purport of the concessions to be made by the Spanish Government to the people of the Western country, &c. Judge Innes proceeded to communicate the substance of the propositions made by a certain Thomas Power to the above-mentioned gentleman in the year 1797, and the reply thereto by Colonel Nicholas and himself. Judge Innes further observed, that copies of Power's communications, and the answer would be left with Mr. James Morrison, in Lexington, to take copies; and that Mr. Morrison should be instructed to show them to me for my perusal. I called upon Mr. Morrison in one or two days after the conversation between Judge Innes and myself, and was put in possession of the papers alluded to above. I read them with attention, and believe them to be correct copies of the letter, &c., communicated to the committee by Judge Innes, on the 28th of November, 1806. The reading of the papers shown to me by Mr. Morrison induced us to converse freely upon the subject. He detailed to me the substance of frequent conversations between him, Mr. Morrison, and Colonel Nicholas, about this transaction, and communicated to me the reasons assigned by Colonel Nicholas for withholding this information from the President of the United States, all of which agree substantially with the information given by Judge Innes to the committee of the House of Representatives of this State, on the 28th of November, 1806. Judge Innes assured me that he never heard that Judge Sebastian had been in the receipt of a pension from the Government of Spain, and observed that he feared Judge Sebastian had acted indiscreetly.

CHARLES WILKINS.

Colonel George Nicholas informed me of certain propositions having been made by the Baron of Carondelet, through the agency of a certain Thomas Power, in the year 1797, to him, Benjamin Sebastian, Harry Innes, and William Murray; that he had never seen Power, but received from Judge Innes the object of his mission to Kentucky; that he at once expressed his disgust and abhorrence of the views of the Spanish Governor, with which opinion Judge Innes concurring, he immediately prepared a concise answer, which was to be forwarded by the latter to Mr. Sebastian, to be delivered by him to the said Power; that he was convinced, from the purport of the propositions, that improper representations had been made to the Spanish Governor, of the views, disposition, and intentions, of the citizens of Kentucky; that the answer which they had given would, in his opinion, prevent a similar application; but that should he be mistaken, he was determined to have Power, or any other person who might again be sent by the Spanish Governor, apprehended and detained as a prisoner, until the Executive was fully apprized of all the circumstances; and that he had taken care Power should be correctly informed of such determination. He then went on, in consequence of some questions which I asked, to state the reasons which had prevented him from giving the Executive information of the hostile disposition of the Spanish Government. Among others, he observed that the General Government was leaning strongly in favor of monarchical principles; that the Executive was deeply prejudiced against the leading men in our State; that he would lay hold of the information with pleasure and avidity, and make it the basis for increasing the Army, and thereby strengthen the hands of those who were opposed to our republican form of Government; that the means of discharging the public debt would thereby be completely perverted; that our citizens would be saddled with troops, and burdened with taxes for the support of Government; and and that he was well assured, from information which he could not disbelieve, that the Executive was thirsting for a plausible pretext to send an army into our country, as he had declared, not only to curb the licentiousness of the press, but to check a daring disposition in our citizens to intermeddle with the affairs of the General Government. He stated further, that, having a perfect knowledge of the temper and attachment of our citizens to their Constitution, and how impossible it would be for the Spanish Government to effect a change in its favor, and that however fortunate that Government or its agents might be in corrupting one or two solitary and discontented individuals, the mass was immovable; that it was, as it had been ever since he became a citizen of Kentucky, his intention to be watchful and attentive to the conduct of certain individuals; that, from his situation, no movement or attempt to alienate the citizens from our Government, and attach them to the Spanish interest, could take place without his knowledge; and that if he ever discovered such attempts were making, he would be the first to raise his voice against the authors and to give the Executive every information he was possessed of. He remarked, that he had often debated with himself whether it would not still be proper to give our Government information of the facts which had come to his knowledge; and that he was never more at a loss to make up an opinion; but that, from the circumstances before stated, he had hitherto been prevented. He said he had no doubt but that our Government was already possessed of imperfect information on the subject; and that the motives of a communication from him would probably be misconstrued, and considered as a dereliction of the republican principles which he had avowed, and for which he knew he was denounced by the Executive.

In a conversation with James Ross, Esq., of Pittsburg, in the year 1798, (a day or two after Colonel Nicholas had been endeavoring to convince him, by a lengthy and detailed account, of the causes which induced himself and others in Kentucky to condemn certain acts of the then Administration,) I stated to him that I believed the citizens of Kentucky were as firmly attached to the General Government as those of any State in the Union; and that as an evidence in support of that position, I observed, that Colonel Nicholas, and some others equally suspected and obnoxious to the Administration, and who were believed to be in the Spanish interest, or deeply disposed to insurrection, had convinced me that their intentions and views had been shamefully misrepresented; and, in support of this opinion, I then informed him of the rejection of Carondelet's alluring proposition, with his $100,000; that on the same, or succeeding day, I stated to Colonel Nicholas the substance of the conversation which I had with Mr. Ross, and of having communicated the proposition by the Baron of Carondelet, &c. He replied that he was much pleased that I had done so, observing that he had only been prevented from making that gentleman acquainted with all the circumstances, from an idea that he might probably suppose he was solicitous of enhancing or raising himself in his opinion by a display of his patriotism and disinterestedness; but that now Mr. Ross (a Senator in Congress of the United States, and known to be highly in the confidence of the Executive,) was in possession of the facts, and would no doubt make them known, which relieved him of great solicitude; and he was conscious it would be highly gratifying to Judge Innes that the Executive would gain the information through a channel that could not be questioned, and would no doubt keep a watchful eye over our Spanish neighbors.

It may not be improper here to observe, that I had a conversation with Judge Innes relative to the overtures made by the Spanish Government, through Power, &c., but was ignorant of the papers being in his possession, until informed by himself, in July last, and at my request he placed them in my hands, in the succeeding month, until I had taken copies; the first was a letter from the Baron of Carondelet to Mr. Sebastian, dated at New Orleans, 16th July, 1795; the second, without date, consisting of propositions, or rather concessions, by His Catholic Majesty, in favor of the citizens of the United States west of the Apalachian mountains; the third, propositions to the people of the Western country, by the Baron of Carondelet, signed by Thomas Power, and dated at Louisville, July 19, 1797; and the fourth, an answer without date. The two first were in the handwriting of Mr. Benjamin Sebastian, the third in that of Judge Innes, and the fourth in that of George Nicholas.

JAMES MORRISON.

FRANKLIN COUNTY, *ss.*

Personally came before me, the subscriber, a justice of the peace for said county, the abovementioned James Morrison, who made oath that the foregoing statement contains the truth, to the best of his recollection and belief.

Given under my hand, this 6th day of December, 1806.

THOMAS LOVE, *J. P.*

Attest: WM. C. GREENUP, *Sec'y.*

PUBLIC BUILDINGS.

[Communicated to the House, April 21, 1808.]

Mr. STANFORD, from the committee to whom was recommitted the bill to make good a deficit in the appropriation of 1807, and to make a further appropriation for completing the south wing of the Capitol, and for other purposes, "with instructions to make to the House a detailed report of the circumstances which produced the deficit for the public buildings, and how far it may be consistent with the public interest to abolish the office of Surveyor of the Public Buildings," made the following report:

That they have made every research in their power into the causes and circumstances which produced the deficit for the public buildings for the year 1807, and find that, by an act of 1802, the offices of the then commissioners of the city were abolished, and the office of Superintendent created; and that on this officer were devolved all the powers and duties which the commissioners had before exercised. The Superintendent is, then, at this time, under the general control and direction of the President, the only proper officer to disburse the moneys, and through whose hands must pass all accounts and other charges upon the funds of the city. So soon, therefore, as it appeared to him probable the appropriations of the year 1807, particularly that for the south wing of the Capitol, might be exceeded, he did not fail to suggest his fears, and to give to the Surveyor of Public Buildings due precaution against such consequence. All this may appear in more satisfactory detail in a letter from the Superintendent, which accompanies this report, to which the committee beg leave to refer.

The Surveyor of the Public Buildings appears not to be an officer recognised by the law, but has been employed and appointed by the President alone, as the principal architect, to design, direct, and combine the whole into one general system, and see to its due execution; and, withall, it appears also to form contracts with the different subordinate mechanics, and with other per-

sons, for the various materials wanted in the progress of the work. This gentleman, keeping mainly in view the more appropriate duties of his own profession, that of executing the work in a style and character which should do honor to his art, and that of accomplishing it also within a time more limited than had been anticipated in the earlier part of the season, appears not to have been impressed with the probability (if, indeed, it should be considered as coming within his province to be so, or to guard against such impropriety) that the expenditure would exceed the general appropriations for the different objects of the public work, till it had actually happened so on a principal one, or was certain to do so to a considerable amount; and when thus informed by the Superintendent, and that he (the Superintendent) should pass no account, as such could not pass the Treasury if he did, which exceeded the funds placed in his hands for such object. At this stage of the business, when Congress was in a few weeks to be in session, the Surveyor laid a state of the case before some of the principal mechanics, and a number of them, to whom the greater part of the excess was likely to be due, voluntarily came forward, and, rather than stop and proceed to the measurement of their work while in an unfinished state, agreed to progress with it at their own risk, and in the fullest confidence that Congress would not receive the benefit of their labor without remuneration, and that, under the circumstances of the case, an appropriation would be in due time made to indemnify them. A certificate of some of those mechanics to this effect accompanies this report, to which the committee also beg leave to refer.

To these considerations may be also added another circumstance which contributes to the largeness of the present deficit. In the appropriation of the year 1806, a considerable deficit also occurred, (which, too, had grown, in part, out of a train of deficits of years still preceding,) the accounts for which, as the Superintendent in his letter states, were not presented in form to him for payment till in the year 1807, and were accordingly paid out of the appropriations of that year. Thus, then, the deficit of the last year, (if fair to estimate the probable amount of all preceding deficits, and to take also into view a considerable quantity of materials remaining now on hand for future public use,) the actual amount of what seems to be the present deficit would be greatly diminished. The committee, however, feel it their duty to say that the Surveyor of Public Buildings appears to have pursued the duties coming within the scope of his professional business and charge with a laudable zeal, and with an integrity which not a shadow of reason appears to them to question.

As to the propriety of abolishing the office of Surveyor of Public Buildings, the committee, not finding such an officer recognised by law, cannot perceive how the President, under whose general control all the public works of the city are conducted, can dispense with the employment of some such principal architect. If he can, it is now, and will be at other times, in his power to do so. It is an office, indeed, which must cease with the appropriations that sustain it.

Upon the whole, the committee not having been able to discover that the sacred principle of the Constitution, which enjoins that no money shall be drawn from the Treasury but in consequence of appropriations made by law, has been at all violated; and although a debt has been incurred, and the public faith in a manner pledged beyond the real amount of actual appropriation in the present instance, believe the whole has happened under circumstances forming an apology not slight in its nature, and the force of which, it may be presumed, the House will at once see. They, therefore, beg leave, with the accompanying documents, to offer the same bill which they before reported to the House.

SUPERINTENDENT'S OFFICE,
Washington, April 15, 1808.

SIR: In reply to your letter requiring "information of the circumstances which produced the deficit in the appropriation for the Public Buildings," I have the honor to state that the moneys which have been appropriated for these buildings, and the ways between the same, have been placed in my hands by the President of the United States, to be disbursed under his direction, and accounted for with the Treasury Department; that, in the execution of this agency, I was obliged, by its nature and necessary connexion with the duties and province of the architect or surveyor of the works, to rely very much on him, as well in certifying and attesting claims for materials and workmanship, as in so regulating our operations that the cost of the work of each season should be commensurate with or within the limit of the appropriation made to cover it; and the state of the funds was, for that purpose, from time to time, communicated to the architect.

This system was pursued with the desired effect until the close of the year 1806, when, after the appropriation of that year had been wholly disbursed, and my accounts made up, I found there were some unsatisfied claims, but supposed the amount was as small as could be expected in transactions of that kind and extent. In that supposition, however, I was disappointed; for it appears that a considerable portion of the appropriation for 1807 (which I understood and expected was made as adequate only to cover the works of that year) has been paid for prior claims, though not presented to me till 1807. This circumstance, and the state of our funds early last Fall, convinced me that the then unexpended balance would be insufficient for effecting the contemplated objects of the season, particularly that the portion of that balance applicable to the south wing of the Capitol would fall short of preparing it for the reception of the Representatives, without incurring debt, and I accordingly apprized the architect of my apprehensions; and then, as well as often subsequently, gave him a view of the funds, and invited his attention thereto, from time to time, so as to avoid unauthorized debts by exceeding the appropriations, which would not only be a violation of a principle of Government which could not be too sacredly regarded, but would also be in contravention of the strict and often repeated injunction of the President of the United States, never to let the cost of the work of any season exceed the amount of the appropriation.

The Surveyor was doubtless fully impressed with the necessity and propriety of being governed by these obligations and considerations of duty, and stated that he hoped and believed that, when the account of the south wing should be justly credited with various articles wholly charged, when purchased, to that account, but afterward partially applied to other objects and uses, there would be found fairly applicable to that wing a sum nearly, if not quite, sufficient to put it into a state of timely preparation for the ensuing session of Congress; but that the little time within which a great deal of work was to be done would not admit of making such measurements and returns as would show the precise state of things before the close of the season. The south wing fund soon after appeared on the face of my books to be wholly disbursed, and I declined charging any further sums to that fund; but, in consequence of the assurance of the Surveyor that it would be entitled, as before stated, to considerable credits, I made advances, on account of many persons who had mixed claims, out of the north wing fund, and in that way kept the workmen together, and the work progressing until Congress met, and time was afforded for an apportionment and separation of those mixed transactions, and an accurate arrangement of all the accounts. By these, as taken from the measurements and certified returns of the Surveyor, it appears that a much larger debt or deficit has been incurred than he had, I believe, ever conceived, certainly than he ever expressed to me an idea of. This error of misconception of the amount of debt, was, in a great degree, caused by the circumstance of an immense amount of stonecutters' and other work done by contract not having been previously measured, in consequence of difficulty alleged to attend the measurement of such work in a progressive and unfinished state. Payments on account to a large amount had been made to these contractors, on estimates certified to me, from time to time, and known by all parties to be within the amount due; but until accurate measurements were made, none of us supposed the balances due from the public were so large.

I have only to add, that, although this excess is only now discovered, it may fairly be considered as arising out of the works of five years, amounting to between three and four hundred thousand dollars, and of a nature and magnitude hardly susceptible of precision or exactness, in all their unforeseen and various ramifications. It is also a just consideration that, in the amount of that excess, is included materials now on hand and ready for public use, but which, if put into market, would reimburse a large portion of the deficit.

I have the honor to be, very respectfully, sir, your most obedient servant,

THOMAS MUNROE.

HON. RICHARD STANFORD.

WASHINGTON, *April* 5, 1808.

SIR: At your request, we whose names are hereunto subscribed, willingly state that, in the course of the year 1807, and a considerable time previous to the completion of the public works on which we were engaged, we were apprized that the appropriation of moneys by Congress was exhausted, and that we proceeded in the execution of the work committed to us, in full confidence that, unless our work were insufficiently or unfaithfully performed, we should not be permitted by the National Legislature to lose the reward of our labor or the value of our materials.

GEORGE BLAGDEN, *Stonecutter,*
THOMAS MACHEN, *Stonemason,*
S. MEADS, *Foreman of carpenters,*
HENRY INGLE, *Cabinetmaker and ironmonger,*
GRIFFITH COOMBE, *Lumber merchant.*

B. HENRY LATROBE, Esq.,
Surveyor of the Public Buildings U. S. at Washington.

The principal part of the workmen are at present absent from the city.

B. H. LATROBE.

GENERAL JAMES WILKINSON.

[Communicated to the House, April 25, 1808.]

Pursuant to the resolution of the House, calling on me for testimony relative to General Wilkinson's receipt of money from the Spaniards, I now lay before it some original papers, corroborating the statement which I have already given:

No. 1. The first is the translation of a letter, in Spanish, from Thomas Power to D. Thomas Portell, dated at New Madrid, June 27, 1796, and containing the reasons why it was proper for Portell to deliver to Power, without an order in writing from General Wilkinson, a sum of money which had been placed for that purpose in Portell's hands by the Spanish Government of New Orleans. The original letter is subjoined in the hand-writing of Mr. Power, with which I am acquainted.

This letter explains the deposition of Derbigny, and also makes mention of the letter in cipher from General Wilkinson to Gayoso, then Governor of Natchez, of which a translation, in the hand-writing of Gayoso, has heretofore been laid before the House. It may be proper to add that I am well acquainted with the hand-writing of Gayoso, in which the translation is written, and that he has been dead more than eight years.

No. 2. A translation of Portell's answer to the foregoing, dated Madrid, on the same day, June

27, 1796. The original is subjoined in the hand-writing of Portell, with which I am acquainted.

The object of this correspondence seems to have been to furnish to Portell the means of explaining to his superiors his motives for delivering the money without a written order.

Nos. 3 and 4 are two original papers in the hand-writing of Philip Nolan, with which I am well acquainted. Nolan was the confidential agent of General Wilkinson in 1796, and has been dead several years.

These two papers are stated by Mr. Power to be secret instructions given to him by General Wilkinson, after the latter received money from Portell, mentioned in Nos. 1 and 2. The instructions, according to Mr. Power's statement, were given in the hand-writing of Nolan, as a measure of precaution against the danger of detection. The six hundred and forty dollars, of which they make mention, are stated by Mr. Power to be a part of the sum received, for Wilkinson, of Portell, which Power, after his arrival in Kentucky, was obliged to use for the expenses of his journey.

No. 5. Is the translation of a letter to the Baron de Carondelet from Mr. Power, dated at New Orleans, May 9, 1797, after his return from Kentucky. The original letter in Spanish is subjoined. It is in Mr. Power's hand-writing, with which I am acquainted. It explains the affair of the six hundred and forty dollars, mentioned in the secret instructions, Nos. 3. and 4, and refers to and quotes those instructions as the instructions of General Wilkinson.

No. 6. Is the translation of the Baron de Carondelet's answer to this letter. The answer is in Spanish, and in the hand-writing of Don Andres Armesto, secretary to the Government, which I know. It is signed by the Baron de Carondelet, with whose signature I am acquainted.

DANIEL CLARK.

No. 1.

Translation of a letter from Thomas Power to Don Thomas Portell, Commandant of New Madrid, dated

NEW MADRID, *June* 26, 1797.

Having received verbal instructions from Mr. James Wilkinson, the American General, to take charge of the money, which, by a letter, he received from the Secretary of the Government, Don Andres Armesto, under date of seventh or eighth of March last, of which I was bearer, he has advice, is deposited in this post, and being informed, by the official letter which you have received on this business from the Governor General of the Province, of which you will be pleased to furnish me a copy, that said money is not to be delivered without an express order from the said Mr. Wilkinson, I find myself forced to relate circumstantially some particulars to smooth and remove the difficulty which the want of a written order on the part of the aforesaid General Wilkinson presents. Although this relation may appear an abuse of the confidence with which the Governor General of the Province and the Governor of Natchez, and particularly General Wilkinson, have honored me, I am persuaded that the urgency of the case which offers will serve me as an excuse and justification.

You are not ignorant of the fact, that Don Manuel Gayoso de Lemos being here in the month of September, of the year last past, he intrusted to me some despatches of the greatest importance for General Wilkinson, which I carried to Cincinnati, and I returned with the answers in the month of November. By order of the said Don Manuel Gayoso, I made immediately another journey to the Ohio, and I ascended it to Red Bank in search of Sebastian, who came with me to the mouth of the Ohio, where we met with the Governor of Natchez. At the end of December, I accompanied this gentleman to Natchez, and I went thence to New Orleans.

The principal object of my going down was to take charge, by order of General Wilkinson, of the money which you have now in deposite for him, which is shown by the letters which he wrote to the Governors of this Province and of Natchez; but, at my arrival, the money had been already sent off in one of His Majesty's galleys for this place, which I learned from the Baron de Carondelet, the Intendant, and Don Andres de Armesto. I repeatedly treated on this business with the two last of these persons, urging forcibly the necessity of sending sugar, coffee, and powder to New Madrid, to form a cargo to take to Kentucky with Wilkinson's money, hiding, by this means, the true intention of the voyage, and giving it the appearance of a commercial speculation. All this Wilkinson had before represented as indispensable for many reasons, particularly in order to avoid a misfortune similar to that which had already occurred. At last the Secretary told me that the barge in which Mr. Aaron Gregg, the American officer, was to go up, was destined for this service, and that as for the crew, he would permit me to choose among the Creoles, residents in this post, those who might appear to me most worthy of confidence, so that I left New Orleans with the belief that at my return to this post I should find everything disposed conformable to what I have just related. On arrival at Greenville, informed General Wilkinson of the steps which I had no doubt had been taken, from whence has resulted, that he, like myself, was impressed with the belief that all the measures for executing this service with success had been taken. I cannot communicate all the motives why Wilkinson has not given me an order in writing; but one of them was, that he did not know the sum of money which you had to deliver to his order, the Governors not having written a word to him on the subject, the Secretary only saying that his money was deposited in New Madrid, without expressing the sum. In the letters in cipher, from General Wilkinson for the Governors, which are here enclosed, he tells them that he has sent me to bring the aforesaid money, informing you that the No. 1 is for the Governor General of the Province, and the No. 2 for Don

Manuel Gayoso. I will add that General Wilkinson, when I represented to him that on presenting myself without his order in writing some difficulty might arise, authorized me, if the case required it, to write an order that you should deliver his money, specifying the sum there might be, signing it in his name, and giving you a receipt therefor. I cannot omit that the commission of General Wilkinson was so sudden, so urgent, that it was extended even to limiting my return to my destination by the first of August, of which I advise you that you may endeavor not to delay the service. I believe that the Governor General is not ignorant of the embarrassments of General Wilkinson, nor can he be ignorant that, for a long time past, he has been expecting this money, the delay of which has been the cause of much trouble to him, involving him in great difficulties; and I can assure you, confidently, that he will be very much disgusted with any delays in the expedition, which might be productive of serious injury. As for the mode of carrying the money, it is evident that to take it openly would be too scandalous a thing, if I were not to say that it would be madness. The unhappy result of the expedition of the unfortunate Henry Owen ought to serve as a beacon, in order not to lose ourselves on the same rock, and to make us take another course less dangerous. I would wish you to put a bag of one thousand dollars in a barrel of coffee or sugar, so that although the difference of the respective gravity, between silver, sugar, and coffee be very great the quantity being so small it will not be easily known. It will likewise be prudent to carry some barrels without money in order to sell them before arriving at Cincinnati, if it should so happen that any one should offer to buy these goods, because not to sell them when it might be done to advantage would excite suspicion; and to complete the disguise it would be well to take a certain quantity of powder and rum. If these dispositions should appear defective, I beg you to make such changes as may be to your mind. God preserve you many years.

No. 2.

Translation of a letter from Don Thomas Portell to Mr. Thomas Power, dated

NEW MADRID, *June* 27, 1796.

Having well considered the contents of your letter of this day, I mention that I agree in everything to the whole of the reflections you place before me; although at first sight it appears that I ought to wait the decision of the Governor General, as he prescribes to me in his official letter of the 20th of January of the present year, and of which I enclose you a copy, which you request of me. The circumstances which you expose are such, that they leave me nothing more to do than to tell you to forward me a memorandum of the number of pounds of coffee, sugar, barrels in which to fill the powder and rum you desire for your expedition, because, as soon as I receive it, I will get it ready as you desire, informing you that for the merchandise you must sign me an acknowledgment of having received it, and for the money a receipt as the attorney of General Wilkinson.

In order that the barge may be ready, and as you may want it, I have written an official letter to the Lieutenant Colonel Vincente Folch, that he may send it as soon as possible, because as nothing was said to me of what you have now mentioned respecting it, Mr. Francis Langlois asked it of me for an affair of service, and took it loaded with corn to the Fort of San Fernando, and it has not been returned, although I have required it, thinking it might be wanted here; Don Vincente Folch having answered me, that if I had not orders to keep it, there were none to return it.

The two letters in cipher remain in my hands, which I shall forward by the first safe opportunity, with the distinction you point out, No. 1 to the Governor General, and No. 2 to the Governor of Natchez.

As for packing the money and arranging the barrels, as soon as they are ready, between you and myself, all this may be done without any one else acquiring a knowledge of it. God preserve you many years.

No. 3.

Instructions from Gen. Wilkinson to Thomas Power.

To proceed to Galliopolis: to make application and propositions to the leading characters there to induce them to move to New Madrid, with all the French of that settlement: to urge this point in such measure as to attract the attention of the public officers there, whose report to the Executive will immediately follow, and will account for his frequent missions to that place: to return as rapidly as possible; to load with flour and proceed without a moment's delay to New Orleans; in the route to see Newman, and to enter on the subject of his desertion; to inform him of the facts which have transpired, and the opinions prevalent; to urge his return, as the request of all his friends; to assure him of safety, and of such reward as he may demand; also, that, being pardoned for the imputed offence, no further process can lay against him for the same; that the oath which he was suborned to take, being made while in duress, is in itself a nullity, and cannot be offered in crimination of him; it will be necessary that he should take down his examination, founded on the interrogations furnished him; and if they prove material to the crimination of Wane and his associates, then he must embark N——n under a fictitious name at New Orleans for Philadelphia; and having arrived there, must lodge him in some retired place, and call upon me, under cover of the night, for further advice. You will hear of me at ——. If N——n cannot be prevailed upon to return under dispositions favorable to my views, then let his declaration on oath be circumstantially taken to all the points enumerated in the interrogations, in the presence of Dr. Flowers. Colonel Bruin, Daniel Clark, or any three or four of the most notorious, and of

the most respectable Americans of the Natchez district. Let these gentlemen certify to two copies, and to the original, and let them be transmitted to me through different channels. P. to take charge of the original. Mr. P. must take with him credentials from the Government of Louisiana, acquitting him of any political connexion or agency injurious or hostile to the interests of the United States. He must carry to Philadelphia testimonials of his family and character, addressed to as many of the native respectable merchants of that city as possible: these may be readily procured from New Orleans and the Havana.

It is indispensable that P. should meet me in Philadelphia; for the rest let him rely on my friendship and address. To collect from Bradford every information respecting the Pittsburg insurrection, which may be employed, should it be found necessary, to disgrace certain persons: to bear no paper about him which carries my name upon it.

No. 4.

Employ the six hundred and forty dollars, *avec le cargaison*, to pay expenses and lay in a cargo of best flour *pour la ville*, where it will help to reimburse. In making your settlement, take care to secure me the six hundred and forty dollars advanced and bring them with you. I have urged peremptorily the necessity of your presence at the metropolis. Bring me N——n, if, upon examination, you find his presence of more consequence than his disposition, when taken as directed. I believe he was caused to desert by O'Hara: probe him to that point. You are to bring me papers, but my name is not to be written or spoken. You must do the needful below to expose and detect past treachery or indiscretion, and to prevent either in future. I have referred particularly on this head. I shall expect you impatiently. Should I continue where I am, I shall wish you near me. If I cross the water, you are to accompany: bring every credential of family and fortune to repulse the insinuations of ——. Trust something to my address, and put faith in my honor and affections to the grave.

No. 5.

Letter from Thomas Power to the Baron de Carondelet, dated

NEW ORLEANS, *May* 9, 1797.

Enclosed your Excellency will receive the documents relative to my last confidential expedition, made by your Excellency's order, on the Ohio, of which I have already given you a narrative, as well verbal as in writing. The remarks which follow will serve for its elucidation.

I left New Madrid with ten oarsmen and a patron; the provisions which were delivered to the crew were, biscuit for a month; meat for a month; rum for fifteen days.

To disguise, as far as possible, the true object of the expedition, we had hired the people under the same conditions as are common in commercial voyages, so that the monthly rations allowed by the King did not even last fifteen days. The reason why I issued to the crew two extraordinary allowances of liquor daily, counting from the day we left Red Bank until our arrival at the falls of Ohio, was to encourage them to row with vigor, that Lieutenant Steel, whom I thought in pursuit of me, might not again take me, because, had I fallen into his hands a second time, I was lost. As respects the one hundred and fifty dollars, for the horse which I bought to make the journey from Frankfort to Cincinnati, and the expenses which accrued on this journey, they were indispensable for a double motive: to carry my complaint against Steel, for having offered so great an insult to our flag, and to give advice of my arrival to the American General, Mr. James Wilkinson, that he might take the necessary measures. I have to add that, the motive which has induced me to dispose of the merchandise which I received of J. and A. Hunt, in exchange for the coffee and sugar, was to give credit to the opinion which I myself had raised, that I had come to purchase horses to take to Natchez, in order to better the breed in that district. Besides this, as the occurrence with Steel had awakened suspicions, excited apprehensions, and attracted the attention of the inhabitants of the Western country, all had their eyes directed on me, so that I found myself obliged to do something which should please them, that it might serve me as a safe conduct to quit those parts, which by this means I happily effected. The mare, of which the statement No. 1 makes mention, was lost on my arrival at New Madrid in the woods, where she died of thirst, the excessive frosts having entirely frozen up the waters. The stud-horse I delivered on going down to Don Manuel Gayoso de Lemos, but he returned him to me a short time since, and I have him carefully kept until your Excellency is pleased to make some disposition respecting him. Of the sum of $9.640, which I was to deliver to Mr. James Wilkinson, I have only delivered him nine thousand, having retained the six hundred and forty dollars to avoid the unfortunate result with which I was threatened, and likewise to provide what was necessary for the crew during the voyage. The following are the documents which are enclosed:

No. 1. The account sale of the merchandise, laden, &c.

No. 2. Account of the expenses for the crew.

No. 3. Account and expenditure of the six hundred and forty dollars.

No. 4. Statement which shows in what manner the merchandise has been made use of.

No. 5. Statement which shows what is due to me.

No. 6. Invoice of J. and A. Hunt.

All which are accompanied with the obligation of Mr. N. Welch for one hundred and five dollars, and the two receipts of Mr. Boyd, the one for four hundred and sixty-six dollars and two-thirds, for the value of a horse; the other for two hundred dollars, for the value of a mare. The balance

which appears in my favor, according to the statements numbers 3 and 4, as well as the account of my monthly pay for fourteen months, I beg your Excellency will be pleased to direct that it should be remitted to me, or delivered to Mr. Philip Nolan, to whom I have given advice on the subject.

Mr. James Wilkinson, in the instructions which he has given me, directs that I should present to your Excellency the account of the expenses to which the six hundred and forty dollars have been applied, (and I have done so in the statement No. 3,) that he may be reimbursed said amount. The instruction says, "in making your settlement take care to secure me the six hundred and forty dollars advanced, and bring them with you." Although he charged me to take them to him to the United States, I am of opinion that no one is better suited to remit them than Mr. Philip Nolan, as your Excellency has now resolved that I should remain in this Province; your Excellency will please to suffer me to assure you that in every particular I have acted with prudence, with honor, and the disinterestedness of an honest man, as well as with the zeal and fidelity which the King's service requires, and with the vigilance and activity, [here there is a line unintelligible.] I deserve nothing, and expect nothing, for having fulfilled the obligations of a good subject to His Majesty, unless your Excellency will be pleased to procure me opportunities of displaying the inclination I feel of sacrificing myself for the prosperity of my country and glory of my Sovereign.

God preserve your Excellency many years.

THOMAS POWER.

No. 6.

Answer to the foregoing, dated

NEW ORLEANS, *May* 28, 1797.

There remains in my hands the six documents relative to the account of the last expedition which you made on the Ohio, and which you enclosed to me in your official letter of the 9th instant, and they are as follows:

No. 1. Account sales of the effects laden at New Madrid.

No. 2. Another of the expenses of the crew.

No. 3. Account of the expenditure of the six hundred and forty dollars.

No. 4. Statement which shows how the merchandise has been employed.

No. 5 Statement which shows the balances due to you, &c.

No. 6. Original invoice of J. and A. Hunt.

On account of it, there will be delivered to you one thousand dollars, that you may make preparations for your journey in the new commission which I intrust to your care.

It is necessary to see how you can get rid of the horse with the least possible loss, as well as to recover the debt of Nicholas Welch, or have it recovered, for which purpose I enclose you his obligation; and likewise the proceeds of the merchandise, which, to the amount of three hundred and fifty-three dollars, you delivered to Don Pedro Derbigny, in order to give an account to the Court without these balances, which cause trouble and appear speculations, when they are no more than the effect of necessity, and the difficulty which these commissions cause in places where there are no resources, when you have to deceive the vigilance of spies.

As you finish these matters, and as soon as your present commission is fulfilled, you will give me advice.

God preserve you many years.

BARON DE CARONDELET.

To THOMAS POWER.

CLAIM OF BEAUMARCHAIS.

[Communicated to the House, December 14, 1807.]

DEPARTMENT OF STATE,
December 10, 1807.

The Secretary of State, to whom was referred, by the House of Representatives, on the 26th of February last, the Message of the President transmitting a memorial of the French Minister, on the subject of the claim of Amelie Eugenie de Beaumarchais, with instructions to report thereon, now reports:

That having, in pursuance of the report of the Committee of Claims, on which the reference was founded, consulted the Attorney General, on the question whether the sum of one million of livres, received June 10, 1776, by Mr. de Beaumarchais from the French Government, ought to be regarded as a legal payment of so much in behalf of the United States, which question formed the principal difficulty in settling the accounts of Mr. Beaumarchais with the United States, he has received, in answer, the examination and opinion hereto annexed, and which contain the view of the subject which he begs leave to lay before the House.

Respectfully submitted.

JAMES MADISON.

DECEMBER 7, 1807.

SIR: I have examined with great care and attention the papers you submitted to my consideration, concerning the claim of the representative of the late Caron de Beaumarchais. The subject is, in every view, important. Though I commenced the investigation with prepossessions unfavorable to the claim, from the first perusal of the documents, the inclination of my mind was against the respectable opinions which have been given on the principal, if not the sole question material to be decided. This circumstance led me to distrust my first impressions. I suspected they must be erroneous, and that they would yield to a more diligent inquiry and more mature deliberation. With this view, I have reconsidered the case, and the result of my reflections confirms me in my original opinion. I shall give it with great deference, because the sentiments I entertain are opposed to those of gentlemen every way well qualified to judge correctly on the subject.

My remarks will be confined to that part of the case which embraces the question, relative to the million of livres received on the 10th of June, A. D. 1776.

Before we can form a correct judgment of the law applicable to the case, it is necessary first to ascertain the facts. *Ex facto oritur jus.* Very fortunately, in this instance, there is little dispute about mere facts, though the inferences to be drawn from particular circumstances that exist in the case afford room for great diversity of opinion.

It appears satisfactorily from the documents, and seems, indeed, to be admitted, that the United States did actually receive, to the full value of the millions of livres in question, in arms, ammunition, and warlike stores, from the late Mr. Beaumarchais, according to contract. The account between the United States and Beaumarchais, as settled by Mr. Harrison, the Auditor, on the 24th May, 1793, and as revised and corrected by Mr. Duvall, the Comptroller, on the 10th December, 1805, fully confirms this fact. That Beaumarchais originally had a legal claim for the value of these articles must be evident from a perusal of the papers. That this claim may yet exist, unless satisfied or extinguished, is equally clear. On the part of the United States, it is contended that this claim has been paid. When the allegation of payment is opposed to a demand acknowledged to be otherwise just, the plea should be supported by proof equally strong with the evidence that would have been required to verify the claim. The plea of payment is affirmative, and the burden rests with the party who relies on this defence to make out his case by sufficient testimony. Natural justice would seem to require that degree of proof which would be necessary to establish the right in an original suit to recover a sum of equal amount.

The United States, however, do not allege that they paid the money themselves. They do not say that Beaumarchais received this sum from their hands, but that it was paid for them, at a particular period, by the French Government; to speak more correctly, that the Government of France advanced to Beaumarchais, on account of the American Government, a million of livres, as part of a larger sum gratuitously given by the King to the United States. For this sum the United States claim a discount against the representative of Beaumarchais. Whether it be considered in the light of a payment, or of a discount, cannot vary the question or the degree of proof required.

Let us, to make the case more familiar, suppose a suit to be instituted against the United States, to recover the value of the articles furnished, amounting to one million of livres; the defence relied upon would be either the plea of payment or discount. Let us proceed to examine the testimony that would be adduced to make out the defence.

If the United States should fail in maintaining, by legal proof, the grounds of defence assumed, the claim of Beaumarchais must be established against them; for there is no other objection to it. Unless it has been satisfied in the manner contended, it is a legal and existing claim for a debt contracted during the Revolution.

The contract entered into by Dr. Franklin with the Count de Vergennes, on the 25th of February, 1783, is relied on, to prove that the King of France had, previously to the date of our Treaty of the 6th February, 1778, granted to the United States three millions of livres, as aids and subsidies, under the title of gratuitous assistance from the pure generosity of the King. This paper ascertains the fact, and imports the receipt by the United States. The Minister of the French Government declares, and that of the American Government admits, the grant of three millions of livres had actually taken place before the 6th February, 1778. So far as the two Governments are concerned, this instrument would seem conclusive upon them. But it is very questionable how far a contract, to which Beaumarchais was neither a party, nor privy, ought to affect his rights or interests. It is, strictly speaking, in relation to him, *res inter alios acta*. The effect of this contract is to show that the French Government declared they had granted to us, previous to the 6th February, 1778, three millions of livres, and that we acquiesced in that statement, without calling on them to explain in what way, either in the shape of aids or subsidies, all the money had been applied. We were then satisfied with their simple assertion, reposing full faith and confidence, I presume, in their declarations, and believing that the whole sum had been regularly disbursed for our benefit and advantage.

It was subsequently ascertained that the banker of the United States at Paris had received but *two* of these *three* millions of livres. In the year 1786 application was made to the Count de Vergennes to ascertain at what date, and to whom, the remaining million was paid. It is a remarkable fact in this case, that the application was not made by the American Government. Dr. Franklin, to prevent his character from being implicated in the transaction, solicited Mr. Le Grand, the banker of the United States, to make the inquiry of the Count de Vergennes. Several letters were accordingly addressed to the proper officer, and laid before the Minister, earnestly demanding information on the subject. The answers gave the date on which the money was paid, but in the last the Count de Vergennes persisted in his refusal to give up the name of the individual who received it, declaring it would be useless and inconvenient. These circumstances prove the transaction a secret one, and would seem to impress the belief that the application of the money was to remain a profound secret. Why this should be done, unless it had been expended in secret services it would be difficult to say. The natural inference is, that it was applied in this manner. Whether the undertaking to pay with one hand in this secret way the money they had given with the other, instead of permitting the United States to lay it out according to their own discretion, can be fairly considered within the terms of their grant, was originally a question of importance

between the two Governments. That in this particular instance the French Government assumed the power, I presume, appears from the facts adduced. That we acquiesced in it, is equally plain. By the contract we there had acknowledged the grant, though we knew neither the date, nor the person to whom the money was paid.

When the name of the individual was refused, it could not have been intended that our Government should have from him any account of its application; for without knowing the person who received the money, we could not possibly have an account rendered. It would be difficult at this period (1786) to assign any other motive for concealing the name of the individual who received the money than the one already suggested. It is true that France attempted, in justifying her conduct towards England, to impose the belief that she gave us no assistance prior to her treaty with us. But as far back as 1783, by the contract with Dr. Franklin, she avowed the fact of having voluntarily granted us large sums before the date of the treaty. Nor did she hesitate to declare that arms, ammunition, and warlike stores, had been furnished from the King's stores.

The concealment of his name is in absolute hostility with every idea that the individual was accountable to the United States, because it effectually defeated that object. These facts and circumstances speak for themselves, and, in my humble opinion, prove that the original destination of the money was directed to a secret purpose.

As far as we have progressed with the facts and documents, there is, I believe, no evidence from which it could be presumed that this million of livres had been received by Beaumarchais on account of the United States. We might as legally charge it to the account of any other person as Beaumarchais.

It seems, however, on proceeding further, that Dr. Franklin suspected, as this sum had been paid before the arrival of the American Commissioners at Paris, that it was probable it had been received by Beaumarchais. In what capacity does not appear.

After the death of M. de Vergennes, and when France had become a Republic, in the year 1794, on the application of our Minister, G. Morris, a diligent search was made among the public papers, and at length a receipt was found, which I take the trouble to transcribe.

"I have received from Monsieur du Vergier, agreeably to the order transmitted to him of Monsieur the Count of Vergennes, dated the 5th current, the sum of one million, for which I will account to my said sieur Count de Vergennes.

"At Paris, this 10th June, 1776.

"CARON DE BEAUMARCHAIS."

"Good for one million of livres tournois."

This is the important piece of testimony in the case. It is on the foundation of this receipt, connected with the declarations contained in the contract of 1783, that the fabric of defence rests.

Let us proceed to examine this receipt agreeably to the general principles of evidence and law. On the face of the instrument itself, it appears that Beaumarchais was to account to M. de Vergennes, and not to the United States, for the expenditure of the money. This contradicts the idea that he was to be accountable to us for its application. When a written instrument is produced in a court of justice, generally speaking, you cannot travel out of it. It cannot be varied by parole evidence, where there is no doubt as to the import of its terms. In this case there is neither the *ambiguitas patens* nor the *ambiguitas latens*. The engagement of Beaumarchais is positive, express, and unqualified, to account to M. de Vergennes, and to him only, for the money received. The United States are no parties to the instrument; there is no stipulation to render them any account of the expenditure. Taking this insulated paper, could we legally charge, in an account against Beaumarchais, this sum as a debit, in order to compel him to show its application, when the instrument itself shows that for the application of the money he was solely responsible to M. de Vergennes? From M. de Vergennes the money was received, and to him alone had Beaumarchais engaged to account. It is not easy to conceive upon what principle he ought to be obliged to account twice for the same sum. If, in compliance with the language of his receipt, he satisfied M. de Vergennes, is it reasonable that he should be compelled to settle his accounts a second time with us? This would make him doubly responsible: for one million received, he must account for two.

I believe the million specified in the receipt to be the same with that which M. de Vergennes declared was paid on the 10th June, 1776. All the circumstances combined seem fairly to establish their identity.

An idea had been once entertained that the arms and ammunition, or part of them, furnished the United States by Beaumarchais, in consequence of their having been taken from the King's stores, were furnished on account of His Most Christian Majesty. To remove every doubt on this point, our Commissioners, in 1779, applied to M. de Vergennes for information on the subject. His reply, and the letters of Mr. Girard to Congress in the same year, are full and explicit on this point. They state that all the articles were furnished by Beaumarchais on his private account, who had settled with the artillery department for them, by giving orders or bills for the value; that it was a transaction wholly commercial, with which the Minister of France had no concern; and that he could only interfere to prevent the United States being pressed for an immediate reimbursement. This explanation excludes the idea that the million of livres in question were intended to be applied to the payment in advance of the account of Beaumarchais, for arms and supplies furnished by him under an agreement dated 22d July, 1776, with Silas Dean, the agent appointed by a secret committee of Congress, or any subsequent contract. The impropriety also of supposing that the French Government would, on the 10th June, 1776, pay out of the coffers of the

treasury a million of livres, that they might, at a subsequent period, be deposited in the military chest, must be obvious. We have already seen that the War Department, however, was not paid in cash, but in bills or draughts, whose days of grace might be extended, and the time of payment thus prolonged, by the French Government. Hence the offer of M. de Vergennes, thus stated, to interfere so far as to prevent the American Government being pressed for payment by Beaumarchais.

When a proposal was made, as appears by Mr. Girard's note of January 4, 1779, in order to relieve the United States, that France should pay, on account of Congress, a certain sum of money to Beaumarchais, to whom Congress were indebted, we do not find any allusion to this receipt for one million of livres received long before. It is reasonable to conclude that some notice would have been taken of it, if it were intended *pro tanto* a payment on discount against the debt of Beaumarchais.

Admitting, then, the million of livres specified in the receipt of Beaumarchais, to be the identical sum which M. de Vergennes asserts in the contract with Doctor Franklin was granted among the "aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance," and, combining these facts, let us inquire into their legal operation and effect. We will first consider them separate and apart from the other testimony in the case, and then view them in connexion with the rest of the evidence.

M. de Vergennes was privy to the receipt, and was a party to the contract. Beaumarchais was a party to the first, but was not privy to the last. In a strictly legal sense, an instrument between third persons, made without Beaumarchais' knowledge, participation, or consent, and a single line of which he could not alter, ought not to affect his rights. For the language of this instrument he cannot be responsible in any shape. The receipt to M. de Vergennes declares, and it may be considered as his own declaration, that the money was to be accounted for to him, and not to the United States. In the contract, the same minister declares this sum to be among the aids and subsidies granted the United States. Are these different declarations from the same lips reconcilable with each other? They are not, if we compel Beaumarchais to account with the United States; for his stipulation is clear and express to account to M. de Vergennes. On the other hand, if M. de Vergennes considered the application of this million to the secret service of America, as one of the most powerful aids that could be given, he might number it in that class. That this construction was legally or politically correct, I will not undertake to say. Suffice it to observe, that from a view of the various facts, it seems to have been the construction put upon the voluntary grants of the King, by the French Government, at that period; a construction acquiesced in by our own Government, in the contract of 1783, when we knew neither the date nor the person to whom the money had been paid.

It is a general principle, that you should reconcile testimony apparently contradictory. This exposition of the facts, as far as we have progressed with them, is calculated to produce such an effect. It renders the various documents consistent with each other, and relieves us from the embarrassment that would otherwise ensue.

When we advert to the official declarations of General Turreau, we find they verify the position that this million of livres was appropriated solely and exclusively to a secret service. The source from whence this testimony is derived is that alone to which resort could be had for information on the subject. In every court of justice the best evidence, of which the nature of the case admits, is always required. The United States allege that the French Government paid this debt for them. That Government, through their Minister, declares officially that they did not. In the case of individuals there could not be room for dispute. The just principles of our laws require not impossibilities—*lex non cogit seu impossibilia seu vana*. The French Minister officially declares that for this million of livres Beaumarchais accounted with M. de Vergennes, agreeably to the tenor of his receipt, and that it is their uniform rule to destroy all the vouchers and accounts relative to secret transactions as soon as they have been duly sanctioned.

Upon the whole, I cannot think the plea of payment or discount can be supported, unless collusion with Beaumarchais be attributed to the French Government; an idea inadmissible, and which cannot enter into my view of the case.

Such are the remarks I have to submit in obedience to your request. If they are of any service in performing the task assigned to you by the House of Representatives, I shall feel amply compensated for the time and labor employed in examining the documents.

I have the honor to be, &c.

C. A. RODNEY.

Hon. JAMES MADISON, *Secretary of State.*

MILITARY ACADEMY.

[Communicated to Congress, March 18, 1808.]

WASHINGTON, *March* 14, 1808.

SIR: In conformity to the commands of the President of the United States, I have the honor to transmit a report on the progress and present state of the Military Academy, with some suggested alterations, in which I have included those you had the goodness to point out.

I have the honor to be, with the greatest respect, sir, your most obedient servant,

JONA. WILLIAMS,
Colonel of Engineers.

The SECRETARY OF WAR.

WASHINGTON CITY, *March* 14, 1808.

In obedience to the verbal commands of the President of the United States, the subscriber has the honor to submit, to the Secretary of War, the following report on the progress and present state of the Military Academy:

This institution was established at West Point, in the year 1801, under the direction of a private citizen, and was nothing more than a mathematical school for the few cadets that were then in service. It was soon found that the government of young military men was incompatible with the ordinary system of schools, and, consequently, this institution ran into disorder, and the teacher into contempt.

When the peace establishment was made, the corps of engineers was created, and the twenty-seventh section enacts that the corps "shall be stationed at West Point, in the State of New York, and shall constitute a Military Academy, and the engineers, assistant engineers, and cadets, shall be subject to do duty at such places, and on such service, as the President of the United States may direct." It was not probably foreseen, that, although the headquarters of the corps might be at West Point, yet the duties of the individual officers necessarily spread them along our coast from one extremity of the United States to the other; and as the whole number of officers can be no more than sixteen, they could not, in their dispersed state, constitute a Military Academy. The incongruity of a stationary and errant existence, in the same corps, has been amply exemplified by experience. Indeed, it never can be supposed that engineers, as such, could be efficient elementary teachers; their capability, consistent with other duties, is confined to *practical* teaching, by combining example with precept, and carrying the rudiments of the art into practical execution; in the same manner that other professional men generally have youth under their tuition, *after* they have gone through every branch of elementary learning relating to their profession.

A part only of the officers were appointed soon after the passage of the act, of whom the major, who was ex-officio the chief engineer, and two captains, took charge of the Academy, the students of which were the cadets belonging to the regiment of artillery. The major occasionally read lectures on fortifications, gave practical lessons in the field, and taught the use of instruments generally. The two captains taught mathematics; the one in the line of geometrical, the other in that of algebraical demonstrations.

As the corps was small, as it had little or nothing to do in its more appropriate professional duties, and as the students were few, the institution went on producing all the effect in its power, and all that could be expected on its limited scale. It was soon discovered that mere mathematics would not make either an artillerist or an engineer, and a power was given, by law, to appoint a teacher of drawing and of the French language. Had this law, instead of absolutely limiting the number of teachers and designating their duties, left it general in the discretion of the President to appoint such and so many as he might find requisite to produce the effect contemplated by the establishment, and left the internal organization to him, who, from constant observation, could judge of the most expedient one, with a reasonable but ample appropriation, we should, at this day, have a greater number of well instructed young officers than we can boast of. From that time to this, however, the Academy has progressed beyond what could have been expected from its means; but now the first mathematical teacher has resigned, and the second has, for several years, been employed as Surveyor General of the United States in the Western country.

During the last year, a citizen, of eminent talents as a mathematician, has been employed as principal teacher, and a first lieutenant of engineers performed the duties of assistant teacher, while the professor of French and drawing confined his abilities to these branches. So far as talents can go, nothing is wanting as to these teachers; they are all capable in the highest degree: the subscriber is only apprehensive that he shall not be able to retain them. Mr. Hassler, the chief mathematician, is already designated for a survey of the coast, when circumstances shall permit that business to be undertaken, and it could not be committed to more able hands. Mr. Mason, the professor of French and drawing, is a man of too great and too extensive abilities to be kept in a situation so much below his merit; this gentleman, being perfect master of the French and English languages, fully acquainted with all that has been written on the art of fortification, and eminently distinguished in science and general erudition, ought, in the opinion of the subscriber, to be placed at the head of what the French call *Le Genie*, which cannot be literally translated in its extensive sense. It signifies the art of an engineer, generally, in all its branches. Mr. Mason being the only teacher designated by the law, he is the only one that, exclusive of the corps of engineers, can be said to belong to the institution.

In short, the Military Academy, as it now stands, is like a foundling, barely existing among the mountains, and nurtured at a distance, out of sight, and almost unknown to its legitimate parents. The questions that have been frequently put to the subscriber, by members of Congress, evidently show that the little interest the institution has excited arises solely from its being unknown to those who ought to be, and doubtless would willingly become, its generous guardians and powerful protectors. Had it been so attached to the Government (its real and only parent) as to be always with it, always in sight, and always in the way of its fostering care, it would probably have flourished, and have become an honorable and interesting appendage to the national family.

The question recurs, What ought to be done? The subscriber would wish the answer to arise out of the nature of the case, and carry with it a demonstration of its being founded in the most pure, though zealous regard for the public good. Actuated only by such motives, and without the stimulus of either ambition or interest, he begs leave to state, in the form of a proposition, what

The Military Academy.

appears to him to be the natural and proper remedies.

First. Let the Military Academy be placed under the direction of the President of the United States in all that does or can relate to it, anything contained in any former law to the contrary notwithstanding.

Second. Let an academical staff be created in manner following; and as the regulations must necessarily be military, let the professors, when not of army rank, take that of their denominations (as relates to the Academy only) in the manner of brevets:

1. The commanding officer of the corps of engineers to be ex-officio superintendent of the institution, with the power of appointing one of the officers or professors to do the duties of superintendent in his absence.

2. Let there be a professor of natural and experimental philosophy in all its branches; if taken from the corps of engineers and of lesser grade, let him have as much, in addition to his pay and emoluments, as will equal those of a lieutenant colonel; and if not of the corps, let *these* be his emoluments, and *that* his denomination, without similar rank in the army.

3. Let there be a professor of mathematics generally, with the pay, emoluments, and denomination of a major, and allowed to have two teachers under him, with the pay, emoluments, and denominations of captains: to this branch will expressly belong nautical astronomy, geography, and navigation.

4. Let there be a professor of the art of an engineer in all its branches, expressly to include fortification, attack, and defence, gunnery, and castrametation, with the pay, emoluments, and denomination of a major, and allowed to have a drawing teacher, with a French teacher, and a German teacher, under him, with the pay, emoluments, and denomination of captains.

To this academical staff he begs leave to suggest the addition of the following professors; they are thus separately named, because they are supposed to be citizens engaged in other pursuits, and could only give a portion of their professional labors to this institution.

5. A professor of architecture, to be occasionally at the Academy, and to give lectures, accompanied with demonstrations by models and specimens of the nature of the materials, of cements, of the composition of works, of bridges, causeways, canals, &c., to be paid per diem, when on duty, and to be allowed quarters in the Academy.

6. A professor of chemistry and mineralogy, on the same terms and conditions.

7. A riding-master and teacher of the broad and small sword.

Third. With respect to the corps of engineers, whose functions have become extensive, let the following additions be made to it:

Two captains, two first lieutenants, two second lieutenants, four cadets, nine artificers, and thirty-one men—the officers to be appointed, and the men to be engaged, on the same conditions as those now composing the corps.

The whole will then consist of twenty-two officers, eight cadets, fifty men, and ten artificers.

It will appear necessary to make, in the first instance, an appropriation for the proper buildings, apparatus, library, &c.; this being done, (and it should be remembered that, being once well done, it will be but *one* expense, not subject to repetition) it is presumed the annual appropriation would be inconsiderable; it might indeed be so connected with the appropriation for the corps of engineers, that all the surplusage of one would fall into the other, and the extension of the sum would not be felt.

It might be well to make the plan upon such a scale as not only to take in the minor officers of the navy but, also, any youths from any of the States, who might wish for such an education, whether designed for the army and navy, or neither, and to let these be assessed to the value of their education, which might form a fund for extra or contingent expenses. On this plan it might be proper to suppress the ration system while the students are at the Academy, and oblige all but commissioned officers to board in commons as in other universities. The citizen youth, so adopted, should be required to sign the articles of war, (for the time being,) since it would be impossible, and improper if it were possible, to make any exceptions to the rules and regulations of the Academy. As these youths grow up and take their stations in society, they would naturally become militia officers, and, in a few years, in the ordinary course of events, we should see an uniformity in our militia, resulting from a spirit of emulation, which the reputation of having received a military education would naturally excite, and the same duties, which have often been considered a burden, would become a pleasurable privilege. There is nothing more fascinating to youth than excellence in arms, and a little knowledge will create a desire to acquire more.

That Congress may have as little trouble as possible, and to avoid a frequent recurrence to its authority on matters of course, it might, perhaps, be expedient to pass one short act, naming the additions to be made to the corps of engineers, but placing the direction of the Academy, external and internal, in the President of the United States, leaving the site, the buildings, the number and kind of professors, and all other matters connected with the institution, entirely to his judgment.

All which is most respectfully submitted.

JONA. WILLIAMS,
Colonel of Engineers.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE TENTH CONGRESS, BEGUN AND HELD AT THE CITY OF WASHINGTON, OCTOBER 26, 1807.

AN ACT making further appropriation for the support of the Navy of the United States, during the year one thousand eight hundred and seven.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That for defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and seven, the following sums, in addition to the sums heretofore appropriated for that object, be, and the same are hereby, respectively appropriated; that is to say:

For the pay and subsistence of the officers, and pay of the seamen, seventy-four thousand seven hundred and fifty four dollars and twenty-nine cents.

For provisions, thirty-one thousand four hundred and sixty-eight dollars and fifteen cents.

For repairs of vessels, one hundred and forty-two thousand eight-hundred and eighty-four dollars and sixty-one cents.

For pay and subsistence of the Marine Corps, eighteen thousand five hundred dollars.

For clothing for the same, ten thousand one hundred and thirty-nine dollars and forty-two cents.

For medicines and hospital stores, one thousand two hundred and sixty-three dollars and forty cents.

For ordnance and military stores, three hundred and ten thousand five hundred and fifty-four dollars and sixty sents.

For timber for the navy, eighty-seven thousand five hundred dollars.

SEC. 2. *And be it further enacted*, That the several sums herein specifically appropriated, shall be paid out of any moneys in the Treasury, not otherwise appropriated.

J. B. VARNUM,
Speaker of the House of Representatives.
G. CLINTON,
Vice President of the United States, and President of the Senate.

Approved, November 24, 1807.

TH. JEFFERSON.

An Act allowing an additional compensation to the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories.

Be it enacted, &c., That each of the Secretaries of the Mississippi, Indiana, Louisiana, and Michigan Territories, appointed under the authority of the United States, be entitled to the annual sum of one thousand dollars, in lieu of his present compensation, to commence on the first day of January next.

Approved, December 5, 1807.

An Act to change the name of the district of Biddeford and Pepperelborough, in Massachusetts, to that of Saco.

Be it enacted, &c., That the district, at present called the district of Biddeford and Pepperelborough, in Massachusetts, shall in future be called the district of Saco, and that the collector of the said district be permitted to reside in Saco or Biddeford, and that all the provisions of the several acts of Congress, that relate to the district of Biddeford and Pepperelborough, shall be, and the same are hereby, continued in full force, with respect to the district of Saco.

Approved, December, 15, 1807.

An Act to appropriate money for the providing of an additional number of gunboats.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to cause to be built, or purchased, armed, and equipped, a number, not exceeding one hundred and eighty-eight gunboats, for the better protection of the ports and harbors of the United States, and for such other purposes as in his opinion the public service may require.

SEC. 2. *And be it further enacted*, That a sum not exceeding eight hundred and fifty-two thousand five hundred dollars, be, and hereby is, appropriated, for this purpose, out of any moneys in the Treasury not otherwise appropriated.

Approved, December 18, 1807.

An Act laying an embargo on all ships and vessels in the ports and harbors of the United States.

Be it enacted, &c., That an embargo be, and hereby is, laid on all ships and vessels in the ports and places within the limits or jurisdiction of the United States, cleared or not cleared, bound to any foreign port or place; and that no clearance be furnished to any ship or vessel bound to such foreign port or place, except vessels under the immediate direction of the President of the United States; and that the President be authorized to give such instructions to the officers of the revenue, and of the Navy and revenue cutters of the United States, as shall appear best adapted for

carrying the same into full effect: *Provided*, That nothing herein contained shall be construed to prevent the departure of any foreign ship or vessel, either in ballast, or with the goods, wares, and merchandise, on board such foreign ship or vessel, when notified of this act.

Sec. 2. *And be it further enacted*, That, during the continuance of this act, no registered, or sea-letter vessel, having on board goods, wares, and merchandise, shall be allowed to depart from one port of the United States to any other within the same, unless the master, owner, consignee, or factor of such vessel shall first give bond, with one or more sureties, to the collector of the district from which she is bound to depart, in a sum of double the value of the vessel and cargo, that the said goods, wares, or merchandise, shall be relanded in some port of the United States, dangers of the sea excepted; which bond, and also a certificate from the collector where the same may be relanded, shall by the collector, respectively, be transmitted to the Secretary of the Treasury. All armed vessels possessing public commissions from any foreign Power, are not to be considered as liable to the embargo laid by this act.

Approved, December 22, 1807.

An Act supplementary to an act, entitled "An act for fortifying the ports and harbors of the United States, and for building gunboats."

Be it enacted, &c., That the President of the United States is hereby authorized to cause such of the fortifications heretofore built or commenced, as he may deem necessary, to be repaired or completed, and such other fortifications and works to be erected as will afford more effectual protection to our ports and harbors, and preserve therein the respect due to the constituted authorities of the nation; and that the sum of one million of dollars, in addition to the sums heretofore appropriated, be, and the same is hereby, appropriated for that purpose, out of any money in the Treasury not otherwise appropriated.

Approved, January 8, 1808.

An Act supplementary to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States.

Be it enacted, &c., That, during the continuance of the act to which this act is a supplement, no vessel licensed for the coasting trade shall be allowed to depart from any port of the United States, or shall receive a clearance, until the owner, consignee, agent, or factor shall, with the master, give bond with one or more sureties to the United States, in a sum double the value of the vessel and cargo, that the vessel shall not proceed to any foreign port or place, and that the cargo shall be relanded in some port of the United States.

Sec. 2. *And be it further enacted*, That the owner or owners of all vessels licensed for fisheries, or those bound on a whaling voyage, and having no other cargo than sea-stores, salt, and the usual fishing tackling and apparel, shall give a general bond, in four times the value of the vessel and cargo, that they will not, during the continuance of the abovementioned act, proceed to any foreign port or place, and will return with their fishing fare to some port or place within the United States: *Provided*, That it shall be lawful and shall be sufficient in the case of any licensed vessel, whose employment has uniformly been confined to rivers, bays, and sounds, within the jurisdiction of the United States, to give bond, in an amount equal to three hundred dollars for each ton of said vessel, with condition that such vessel shall not be employed in any foreign trade during the time limited in the condition of the bond.

Sec. 3. *And be it further enacted*, That if any ship or vessel shall, during the continuance of the act to which this act is a supplement, depart from any port of the United States without a clearance or permit, or if any ship or vessel shall, contrary to the provisions of this act, or of the act to which this act is a supplement, proceed to a foreign port or place, or trade with, or put on board of any other ship or vessel, any goods, wares, or merchandise, of foreign or domestic growth or manufacture, such ships or vessels, goods, wares, and merchandise, shall be wholly forfeited, and if the same shall not be seized, the owner or owners, agent, freighter or factors of any such ship or vessel shall, for every such offence, forfeit and pay a sum equal to double the value of the ship or vessel and cargo, and shall never thereafter be allowed a credit for duties on any goods, wares, or merchandise imported by him or them into any of the ports of the United States, and the master or commander of such ship or vessel, as well as all other persons who shall knowingly be concerned in such prohibited foreign voyage, shall each respectively forfeit and pay a sum not exceeding twenty thousand, nor less than one thousand dollars, for every such offence, whether the vessel be seized and condemned or not, and the oath or affirmation of any master or commander knowingly offending against the provisions of this section, shall ever thereafter be inadmissible before any collector of the customs of the United States.

Sec. 4. *And be it further enacted*, That the exception made by the act to which this act is a supplement, in favor of armed vessels possessing public commissions from foreign Powers, shall apply only to public armed vessels, and shall not be construed to embrace either privateers, vessels having letters of marque, or any other private armed vessels; but such private armed vessels shall be permitted to depart in the same manner, and on the same conditions, as is provided for other private foreign ships or vessels.

Sec. 5. *And be it further enacted*, That if any foreign ship or vessel shall, during the continuance of the act to which this act is a supplement, take on board any specie, or any goods, wares, or merchandise, other than the provisions and sea-stores necessary for the voyage, such ship or vessel, and the specie and cargo on board, shall be

wholly forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction, and every person concerned in such unlawful shipment shall forfeit and pay a sum not exceeding twenty thousand dollars, nor less than one thousand dollars, for every such offence.

Sec. 6. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act shall be sued for, recovered, distributed, and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed the third of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh of February, one thousand eight hundred.

Sec. 7. *And be it further enacted*, That the time during which the act to which this act is a supplement, shall continue in force, shall not be computed as making part of the term of twelve calendar months during which goods, wares, or merchandise, imported into the United States, must be re-exported in order to be entitled to a drawback of the duties paid on the importation thereof.

Approved, January 9, 1808.

An Act extending the right of suffrage in the Mississippi Territory, and for other purposes.

Be it enacted, &c., That every free white male person in the Mississippi Territory, above the age of twenty-one years, having been a citizen of the United States, and resident in the said Territory, one year next preceding an election of representatives, and who has a legal or equitable title to a tract of land from the United States of the quantity of fifty acres, or who may hold in his own right a town lot of the value of one hundred dollars within the said Territory, shall be entitled to vote for representatives to the General Assembly of said Territory.

Sec. 2. *And be it further enacted*, That the General Assembly of the Territory aforesaid, shall have power to apportion the representatives of the several counties therein, or which may hereafter be established therein, according to the number of free white male inhabitants above the age of twenty-one years in such counties: *Provided*, That there be not more than twelve, nor less than ten of the whole number of representatives, any act or acts to the contrary notwithstanding, until there shall be six thousand free male white inhabitants of full age in said Territory; after which time the number of representatives shall be regulated agreeably to the ordinance for the government thereof.

Sec. 3. *And be it further enacted*, That the citizens of the said Territory, entitled to vote for representatives to the General Assembly thereof, shall, at the time of electing their representatives to the said General Assembly, also elect one delegate from the said Territory to the Congress of the United States, who shall possess the same powers heretofore granted to the delegates from the several Territories of the United States; anything in the ordinance for the government of said Territory to the contrary notwithstanding.

Approved, January 9, 1808.

An Act supplemental to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee."

Be it enacted, &c., That every person, and the legal representatives of every person, who being either the head of a family, or above the age of twenty-one years, and who did on the third day of March, one thousand eight hundred and seven, actually inhabit and cultivate a tract of land not claimed by virtue of a certificate granted by the Boards of Commissioners east and west of Pearl river, in the Mississippi Territory, and who has obtained permission to remain on such tract or tracts of land, agreeably to an act entitled "An act to prevent settlements being made on lands ceded to the United States, until authorized by law," shall be entitled to a preference in becoming the purchaser from the United States of such tracts of land, at the price at which the other lands of the United States in the said Territory are directed to be sold; and payment may be made therefor in the same manner, and under the same conditions, as directed by law for such other lands: *Provided*, That such tract of land shall not exceed one section: *And provided, also*, That the same shall be surveyed agreeably to the sectional lines already established, or which may hereafter be established by the surveyor of the lands of the United States south of the State of Tennessee.

Sec. 2. *And be it further enacted*, That every person claiming a tract of land by virtue of this act shall, before the first day of October next, deliver to the register of the land office within whose district the land may be, a notice of his claim, in writing, together with a plat of the tract of land claimed; and if any person shall fail to deliver such notice and plat, the person or persons so failing shall forfeit all claim, or pretension of claim, to such tract of land, and the same shall be sold with the other lands of the United States in said Territory.

Sec. 3. *And be it further enacted*, That persons entitled to a right of pre-emption under the first section of this act shall be allowed until the first day of January, one thousand eight hundred and nine, to make the first payment of the purchase money of such tract or tracts of land as may be claimed by virtue of said section, and the residue of the said purchase money shall be paid in the same manner, and under the same conditions, as directed for the other lands in said Territory.

Sec. 4. *And be it further enacted*, That this act shall not extend to any person or persons claiming other lands in said Territory, in his or their own right, by virtue of British or Spanish grants, or to any person or persons to whom a donation has been granted, by either of the said Boards of Commissioners.

Approved, January 19, 1808.

An Act to revive and continue in force for a further time, the first section of the act, entitled "An act to protect the commerce and seamen of the United States against the Barbary Powers."

Be it enacted, &c., That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act be, and the same hereby is, revived and continued in force, until the first day of January next: *Provided, however*, That the additional duty laid by the said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, January 19, 1808.

An Act to provide for the payment of certain expenses incurred in the impeachment of Samuel Chase.

Be it enacted, &c., That the accounting officers of the Treasury be, and they are hereby, directed to audit and settle the accounts of all persons who may have claims against the United States for expenses incurred in the inquiry into the conduct and in the impeachment of Samuel Chase; which expenses may have been authorized by the committee of inquiry or the managers of the said impeachment: *Provided*, That the said accounts shall have been first certified by the chairman of the said committee or managers; and the same shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, January 21, 1808.

An Act to continue in force for a limited time an act, entitled "An act continuing in force for a limited time the salaries of the officers of Government therein mentioned."

Be it enacted, &c., That an act passed on the twentieth day of February, one thousand eight hundred and four, entitled "An act continuing for a limited time the salaries of the officers of Government therein mentioned," shall be and continue in force for the term of three years, and to the end of the next session of Congress thereafter, and no longer.

Approved, January 27, 1808.

An Act authorizing the erection of a bridge over the river Potomac, within the District of Columbia.

Be it enacted, &c., That the following persons, viz: Robert Brent, Daniel Carroll of Duddington, Thomas Munroe, James D. Barry, Frederick May, Samuel Harrison Smith, Jonah Thompson, Jonathan Swift, Thomas Vowell, Cuthbert Powell, Elisha Janney, and Charles Alexander, or any seven of them, be, and they are hereby, constituted a Board of Commissioners, with full power and authority to open, or cause to be opened, books for receiving and entering subscriptions for raising a capital stock, not exceeding two hundred thousand dollars, in shares of one hundred dollars each, for the purpose of erecting a bridge over the river Potomac, between the City of Washington and Alexander's island, and making such other incidental works, and defraying such other incidental expenses, as shall be required by this act, or deemed necessary or expedient by the company hereinafter named; the time, place, and manner of receiving and entering such subscriptions to be ascertained by the said Board of Commissioners, and duly advertised in such gazettes as they may deem expedient: *Provided*, That the time to be fixed upon by the said Board of Commissioners for opening books for receiving the said subscriptions shall be on or before the first Monday in July next, and that no subscription shall be received unless the sum of ten dollars be first paid into the hands of the person authorized to receive the same, on each share subscribed for.

Sec. 2. *And be it further enacted*, That whenever nineteen hundred of the said shares shall be subscribed for, all persons who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assigns, of such subscribers, shall be, and they are hereby, made and created a body politic and corporate, by the name and style of "The Washington Bridge Company," and by that name may sue and be sued, implead and be impleaded, and do and suffer all acts, matters, and things, which a body politic and corporate may lawfully do and suffer; and may have a common seal, and the same may break and alter at pleasure, and may make all by-laws, rules, regulations, and ordinances for the good government and well-being of the said company, and for carrying into effect the objects of their institution, so that such by-laws, rules, regulations, or ordinances, be not repugnant to the laws of the United States in force within the District of Columbia.

Sec. 3. *And be it further enacted*, That when nineteen hundred of the said shares shall be subscribed for as aforesaid, or as soon after as may be, the said Board of Commissioners shall call a meeting of the company, at the City of Washington, by public advertisement, in one or more gazettes published in Washington, Alexandria, or Georgetown, appointing a fit and convenient time and place of meeting, for the purpose of electing five directors, a clerk, and a treasurer, and such other officers, agents, and servants, as the said company may think fit to appoint, and for transacting any other business in pursuance of this act and appertaining to the nature and objects of the institution of the said company; and the said

Board of Commissioners shall, if necessary, adjourn the said meeting from time to time, until a quorum shall be formed; and a majority of the said company, or the proprietors of two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, shall be a quorum to do business; and the said Board of Commissioners, before opening the said subscription books, shall ascertain and publish, in their said advertisement, a fit and convenient mode of authenticating all powers of attorney authorizing subscriptions to be made in the name of any person or persons; and, before calling a meeting of the said company, shall ascertain and publish in their advertisement a fit and convenient mode of authenticating all instruments of writing authorizing any person or persons to act and vote at such meeting as the proxy or proxies of any member of the said company; all which powers of attorney and instruments of writing shall be filed with the clerk of the said company, and by him be safely kept among the records and documents appertaining to his office; and as soon as a quorum of the said company and a board of directors shall be formed as aforesaid, all the powers, authority, and duties whatsoever, by this act vested in the said Board of Commissioners, shall cease and determine, and thenceforward become vested in the directors, for the time being, of the said company, under such limitations and restrictions as the said company may think fit to prescribe; and the said Board of Commissioners shall account to the said company, at the first meeting of the same, for all moneys received by them or their agents on account of such subscriptions, and shall immediately pay over the same to the treasurer of the said company, or to such other person or persons as the said company may direct and appoint; the said company, nevertheless, to allow all just credits for moneys actually and necessarily expended by the said Board of Commissioners in the execution of their said trust and duties.

Sec. 4. *And be it further enacted*, That there shall be annually holden, on the first Monday in January, a meeting of the said company, for the purpose of electing five directors, a clerk, and a treasurer; and the said company shall have power, at any meeting legally called and constituted, in pursuance of this act, to displace any of their directors or officers, and to supply by a new election or appointment all vacancies that may happen among the directors or officers of the company; and the said company shall have power to prescribe and regulate the powers and duties of the said directors, and of all other officers of the company; and a majority of the said directors may, from time to time, elect one of their body as President, and may previously supply, by their own election, any vacancies that may happen among the number of directors, or among any of the officers of the company, and the persons so elected by the said directors may continue in office till the next legal meeting of the company; and the directors of the said company, to be elected in pursuance of this act, shall, unless sooner displaced by the said company, continue in office until the first Monday in January next succeeding their election, and from that time until a new election shall be made by the said company.

Sec. 5. *And be it further enacted*, That a meeting of the said company may at any time be called by a majority of the directors of the company, for the time being, and by one-third of the members of the said company, or by the proprietors of one-third of the shares actually subscribed for, or the legal representatives or successors of such members or proprietors: *Provided, however*, That no meeting of the said company shall be legal or valid unless a quorum shall be formed, consisting of the majority of the members of the said company, or of the proprietors of at least two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, nor unless the place (being within the City of Washington) and the time of such meeting be previously advertised for three weeks successively in one or more gazettes in the City of Washington, Alexandria, or Georgetown.

Sec. 6. *And be it further enacted*, That the said shares shall be negotiable and transferable from one to another, by assignments in writing, executed before two witnesses at the least, and authenticated, and registered, as the said company may prescribe and direct in their by-laws and regulations.

Sec. 7. *And be it further enacted*, That in suits at law against the said company, the first process shall be a summons, to be served on the president, or any one or more of the directors of the said company; upon the service and return of which summons, if no appearance shall be entered for the said company, at the return term, the court may order the general issue to be entered on the record, and may proceed to trial and judgment, in like manner as if an appearance had been entered, and the issue made up by the said company; and if judgment shall be recovered against the said company, the court may order the usual process of execution, or a special writ to attach the money, goods, chattels, debts, choses in action, and tolls in the hands of any officer of the said company, or of any other person; and such attachment shall operate on the tolls thereafter to be received, which may [be] collected by a person, specially appointed by the court, for the use of the plaintiff recovering such judgment, until such judgment shall be satisfied; and the court may make such further or other order for enforcing the payment of such judgment, as may be consistent with the practice and powers of such court, as a court of law or equity; and that the shares in said company shall be deemed personal and not real property, and transferable in such manner as the company shall direct; and that the shares held by any individual shall be liable to be attached or taken by fieri facias, to satisfy the debts due from such individual, in like manner as other personal property may be.

Sec. 8. *And be it further enacted*, That the

amount of each share shall be paid by instalments of ten dollars, at such time as the said company shall direct; and in case any instalment or instalments shall not be paid at the time appointed by the said company, or within ten days thereafter, the same may be recovered, in the name of the said company, by warrant from a justice of the peace, if the amount due shall not exceed twenty dollars; and if the sum so due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, on ten days' notice, in any court of record in the county or district, where the debtor shall be found; and in all such warrants and motions, the certificate of the clerk of the said company, authenticated by the president, under the common seal of the said company, shall be conclusive evidence of the defendant's being a member of the company, and *prima facie* evidence of the amount due on the shares held by such defendant. And if such instalments be not paid within sixty days, after the time limited for the payment of the same, and advertised for four weeks successively, in one or more gazettes, published in Washington, Alexandria, or Georgetown, the president and directors of the said company may proceed to forfeit, for the use of the company, the share or shares of the person or persons so failing to pay.

Sec. 9. *And be it further enacted*, That the said company be, and they are hereby, authorized and empowered to erect and build, or to cause to be erected and built, over the river Potomac, between the termination of Maryland avenue and Alexander's island, a good and sufficient bridge, at least thirty-six feet wide, of sound and suitable materials, and in all respects adequate for the passage of travellers, horses, cattle, and carriages, with a secure railing on each side, at least four feet high; of which width, six feet on one side shall be appropriated to the purpose of a way for foot passengers, and shall be separated from the carriage-way by a good and sufficient railing, at least four feet high.

Sec. 10. *And be it further enacted*, That the said company shall cause to be built, and kept and maintained in good repair, a convenient and sufficient draw or passage-way, at least thirty-five feet wide, in the said bridge, over the main channel of the river, for the passing and re-passing of vessels, by day and by night; and shall also cause to be built, and to be kept and maintained in good repair, a well constructed and substantial wharf, erected on piles, on each side of the said bridge, and adjoining or near to the said draw, in every respect sufficient for ships and other vessels to lie at securely; and all ships, waiting for a passage through the said draw, may lie at such wharves, free of charge, until a suitable opportunity offers of passing through the said draw; and the said company shall, at their own cost, and without toll, cause the said draw or passage-way to be hoisted or removed, without delay, for the passage of all ships and vessels with masts, that are unable to pass under the same; and if, through the unskilfulness or negligence of the person or persons employed by the said company, to hoist or remove the said draw, any ship or vessel shall be unjustly or unreasonably hindered or delayed, or shall be damaged in her hull, spars, or rigging, in passing the said draw, the said company shall be liable to the master or the owner or owners of such ship or vessel, for damages, at the rate of six cents per ton of such ship or vessel, for each and every hour such ship or vessel shall be hindered or delayed, and for all damages in her hull, spars, and rigging, as aforesaid, to be ascertained and recovered in a special action on the case, in any court of competent jurisdiction; and the said company shall constantly keep the said bridge furnished with twenty good lamps, to be well supplied with oil, and lighted in due season, four of which lamps shall be kept at the said draw, and kept burning through the night, and the others shall be kept burning until the hour of twelve at night, under the penalty of five dollars for each offence, to be recovered by warrant before any justice of the peace, having jurisdiction, by such person or persons as shall sue for the same. And it shall be lawful for the said company to cause each leaf of the said draw to be made of the width of twenty feet, instead of thirty-six feet, the width of the said bridge; and if at any time hereafter the channel under the said principal draw of thirty-five feet shall change and shift to and under any other part of said bridge, then it shall be the duty of said company at all times to remove the former and keep a good and sufficient draw of thirty-five feet in width over the main and principal channel, wherever the same shall pass under the said bridge: *Provided*, That the same shall appear necessary, on a survey to be made by three commissioners, to be appointed for that purpose by the President of the United States.

Sec. 11. *And be it further enacted*, That the said company shall, in like manner, cause a draw or passage-way, at least fifteen feet wide, to be made in the said bridge, across the other channel of the said river, near the eastern shore, commonly called the Maryland channel, subject to all the restrictions, penalties, and provisions, contained in the last preceding section, for keeping and maintaining the draw or passage-way over the main channel of the said river, except so far as respects the building of wharves on each side thereof: *Provided*, That the same shall appear necessary, on a view and survey thereof, by three commissioners, to be appointed for that purpose by the President of the United States.

Sec. 12. *And be it further enacted*, That as soon as the said bridge and wharves shall be erected and built, and furnished and completed, as required by this act, the said company shall be entitled to demand and receive, by their proper agents, servants, or officers, tolls at the following rates, viz: For each foot passenger six cents and a quarter; for each person and a horse, eighteen cents and three quarters of a cent; for each chaise, sulky, or riding chair, thirty-seven cents and a half; for each coach, coachee, stage-wagon, chariot, phaeton or curricle, or other riding carriage, one hundred cents, and the further sum of twelve

cents and a half for each horse, more than two, by which such coach, coachee, chariot, phaeton, or curricle, shall be drawn; for each sled or sleigh, thirty-seven cents and a half, and the further sum of twelve cents and a half for each horse or other beast, more than two, by which such sled or sleigh shall be drawn; for each four-wheeled wagon, cart, or other four-wheeled carriage of burden, thirty-seven cents and a half, and the further sum of twelve cents and a half, for each horse or other beast, more than two, by which the same shall be drawn; for each two-wheeled cart, dray, or other two-wheeled carriage of burden, eighteen cents and three quarters; and the further sum of twelve cents and a half for each horse or other beast, more than one, by which the same shall be drawn; for each sheep, or swine, three cents; for horses and neat cattle, other than those in teams, drawing sleds, sleighs, or carriages, or those with riders, six cents and a quarter each; and one person only to each team or drove shall be allowed to pass free of toll: *Provided*, That no toll shall be exacted at said bridge, for the passage of any wagon or carriage, laden with the property of the United States, or for the drivers thereof; or for the passage of any troops of the United States, or the militia of any State, or the District of Columbia, marching in a body, or any cannon or military equipments belonging to the United States; and it shall be the duty of the said company to keep posted up in some conspicuous place on the said bridge, where the toll is collected, a printed list of the rates of toll allowed by this act; and for every day the same shall be neglected, they shall forfeit and pay one dollar, to be recovered by warrant, by any person who shall sue for the same: *Provided, also*, That if the number of nineteen hundred shares shall not be subscribed within one year from the time of opening subscription books by the commissioners, as hereinbefore directed, or if the said bridge and wharves be not erected and built, and finished and completed, as required by this act, within five years, from and after the first day of October next, or if it should remain at any time thereafter so out of repair, for two years, as to be unsafe for travelling; then and in that case, all the powers, authority, privileges, emoluments, and immunities whatsoever, by this act granted to the said company, shall cease and determine, and become absolutely forfeited.

Sec. 13. *And be it further enacted*, That it shall be the duty of the said corporation, as long as they shall be entitled to receive toll at the said bridge, to keep the same in good repair; and if, in neglect of their said duty, the said corporation shall at any time suffer the said bridge to be out of repair, so as to be unsafe or inconvenient for passengers, the said corporation shall be liable to be presented for such neglect, before any court of competent jurisdiction, and upon conviction thereof, to pay to the United States a penalty not exceeding five hundred dollars, at the discretion of the court; and shall also be responsible for all damages which may be sustained by any person or persons in consequence of such a want of repair, to be recovered in an action or actions of trespass on the case, in any court competent to try the same.

Sec. 14. *And be it further enacted*, That the toll to be taken at the said bridge shall be receivable by the said corporation, for and during the term of sixty years, to commence from the day when the said bridge shall be opened for passengers; after which time the said bridge shall be the property of the United States, and the said corporation be dissolved.

Approved, February 5, 1808.

An Act to erect a light-house on Point Judith, in the State of Rhode Island.

Be it enacted, &c., That the Secretary of the Treasury shall be, and he hereby is, authorized and required to cause a good and sufficient light-house to be erected on Point Judith, in the State of Rhode Island, and to appoint the keeper of the said light-house, under the direction of the President of the United States, and otherwise to provide for such light-house at the expense of the United States: *Provided*, That sufficient land for accommodation of such light-house can be obtained, at a reasonable price, and the Legislature of Rhode Island shall cede the jurisdiction over the same to the United States. And the sum, not exceeding five thousand dollars, is hereby appropriated for the purpose of defraying the expense of erecting the said light-house; to be paid out of any moneys in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause the said light-house to be so constructed that the light, on being discovered, may with certainty be distinguished from that of the other light-houses, heretofore erected in its neighborhood.

Approved, February 10, 1808.

An Act making appropriations for the support of Government, during the year one thousand eight hundred and eight.

Be it enacted, &c., That, for the expenditures of the civil list, in the year one thousand eight hundred and eight, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the mint establishment; for the expenses of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands, and for satisfying certain miscellaneous claims, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars.

For the expense of firewood, stationery, printing, and all other contingent expenses of the two Houses of Congress, twenty-nine thousand two hundred dollars.

For all contingent expenses of the Library of Congress, and the Librarian's allowance, for the year one thousand eight hundred and eight, eight hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, thirteen thousand dollars.

For the incidental and contingent expenses of the said department, four thousand two hundred dollars.

For printing and distributing copies of the laws of the first session of the tenth Congress, and printing the laws in newspapers, eight thousand two hundred and fifty dollars.

For special messengers charged with despatches, two thousand dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, sixteen thousand seven hundred dollars.

For the expense of translating foreign languages, allowance to the person employed in receiving and transmitting passports and sea letters, stationery, and printing, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy-seven dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars.

For expense of stationery, printing, and incidental and contingent expenses in the office of the Auditor of the Treasury, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and two cents.

For expense of stationery and printing in the Register's office, (including books for the public stocks, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For purchasing books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For fuel and other contingent expenses of the Treasury Department, four thousand dollars.

For defraying the expenses of stating and printing the public accounts for the year one thousand eight hundred and eight, one thousand two hundred dollars.

For compensation to a Superintendent employed to secure the buildings and records of the Treasury, during the year one thousand eight hundred and eight, including the expense of two watchmen, and for the repair of two fire engines, buckets, lanterns, and other incidental expenses, one thousand one hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to clerks employed in the Paymaster's office, one thousand eight hundred dollars.

For fuel in the said office, ninety dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for the said office, four thousand six hundred dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand eight hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of the Navy, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, ten thousand four hundred and ten dollars.

For contingent expenses in the office of the Accountant of the Navy, five hundred dollars.

For compensation to the Postmaster General, to the Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, sixteen thousand dollars.

For expense of fuel, candles, house rent for the messenger, stationery, chests, &c., two thousand five hundred dollars.

For compensation to the several Loan Officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the several Commissioners of Loans, and for an allowance to certain Loan Officers in lieu of clerk hire, and to defray the authorized expenses of several Loan Officers, fifteen thousand dollars.

For compensation to the Surveyor General, and for his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of lands south of the State of Tennessee, clerks employed in his office, stationery, and other contingencies, three thousand two hundred dollars.

For compensation to the officers of the Mint:

The Director, two thousand dollars.

The Treasurer, one thousand two hundred dollars.

The Assayer, one thousand five hundred dollars.

The Chief Coiner, one thousand five hundred dollars.

The Melter and Refiner, one thousand five hundred dollars.

The Engraver, one thousand two hundred dollars.

One clerk, at seven hundred dollars.

And two clerks, at five hundred dollars each.

For the wages of persons employed in the different branches of melting, coining, carpenters', millwrights', and smiths' work, including the sum of one thousand dollars per annum, allowed to an assistant coiner and die forger, who also oversees the execution of the iron works, eight thousand and fifty dollars.

For the repairs of furnaces, cost of rollers and screws, timber, bar iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, thirteen thousand dollars.

For incidental and contingent expenses of the Executive officers of the said Territory, and for express hire and compensation of an Indian interpreter, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, including additional compensation allowed the Judges for the year one thousand eight hundred and seven, nine thousand four hundred dollars.

For expense of stationery, office rent, and other contingent expenses in said Territory, including a deficiency in the appropriation for these objects in the year one thousand eight hundred and seven, six hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Indiana Territory, including additional compensation allowed to the Judges for the year one thousand eight hundred and seven, seven thousand eight hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, including additional compensation allowed to the Judges for the year one thousand eight hundred and seven, seven thousand eight hundred dollars.

For expenses of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, including additional compensation allowed to the Judges for the year one thousand eight hundred and seven, seven thousand eight hundred dollars.

For expense of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, two thousand dollars.

For additional compensation to the clerks of the several Departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding for each Department, respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," thirteen thousand two hundred and sixty-nine dollars and thirty-three cents.

For compensation granted by law to the Chief Justice, Associate Judges, and District Judges of the United States, including the Chief Justice and two Associate Judges of the District of Columbia; to the Attorney General, and to the District Judge of the Territory of Orleans, fifty-nine thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation to the Marshals of the Districts of Maine, New Hampshire, Vermont, Kentucky, Ohio, East and West Tennessee, and Orleans, one thousand six hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and likewise for defraying the expenses of prosecutions for offences against the United States, and for safe keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late Government, eight hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and eight, to the fourth of March, one thousand eight hundred and nine, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stakeages of channels, bars, and shoals, and certain contingent expenses, including repairs and raising Newport light-house, eighty-five thousand dollars.

For erecting light-houses at the mouth of the Mississippi river, and at or near the pitch of Cape Lookout, in North Carolina, a former appropriation of twenty thousand dollars for those objects having been carried to the surplus fund, twenty thousand dollars.

For erecting a light-house on the south point of Cumberland island, in the State of Georgia, a former appropriation of four thousand dollars for that object having been carried to the surplus fund, four thousand dollars.

For erecting a light-house on Cape Hatteras, and beacon on Shellcastle Island, in addition to the sums heretofore appropriated for those objects, one thousand one hundred and forty-five dollars and forty-four cents.

For erecting the following light-houses in addition to the sums heretofore appropriated for them respectively, that is to say:

For erecting a light-house on New Point Comfort, in Virginia, one hundred and seventy-seven dollars and twenty cents.

For erecting light-houses on Long Island Sound, one thousand dollars.

For erecting a light-house on Wood Island or Fletcher's neck, one hundred dollars.

For erecting a double light-house at or near Chatham harbor, on the back of Cape Cod, two thousand dollars.

For placing buoys and beacons in or near the rocks and shoals in the channel leading into the harbor of Salem, in Massachusetts, in addition to the sum heretofore appropriated for that object, five thousand dollars.

For the expenses of the Boards formed in the Territories of Orleans and Louisiana, for investigating and adjusting titles and claims to land, in addition to the sum heretofore appropriated for that object, thirty-three thousand three hundred dollars.

For carrying on the surveys of the public lands in the several Territories, twenty-one thousand one hundred and seventy-four dollars.

For the contingent expenses of Government, the balance of former appropriations for that object having been carried to the surplus fund, twenty thousand dollars.

For expenses of intercourse with foreign nations, thirty-three thousand and fifty dollars.

For contingent expenses of intercourse with foreign nations, twenty thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For contingent expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the relief and protection of distressed American seamen, five thousand dollars.

For expenses of prosecuting claims in relation to captures, twelve thousand five hundred dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 10, 1808.

An Act making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and eight.

Be it enacted, &c., That, for defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and eight, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, three hundred and sixty-eight thousand and forty-eight dollars.

For provisions, one hundred and sixty-two thousand seven hundred and sixty-five dollars and ten cents.

For medicines, instruments, and hospital stores, five thousand dollars.

For repairs of vessels, one hundred and ninety-five thousand dollars.

For freight, store rent, commissions to agents, and other contingent expenses, seventy-five thousand dollars.

For pay and subsistence of the Marine Corps, including provisions for those on shore, and forage for the staff, one hundred and sixty thousand one hundred and thirty-one dollars and ninety cents.

For clothing for the same, twenty-nine thousand nine hundred and thirty-three dollars and eighty cents.

For military stores for the same, nine thousand six hundred and fifty-four dollars.

For medicine, medical services, hospital stores, and all other expenses on account of the sick belonging to the Marine Corps, two thousand dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting, musical instruments, bounty to music, and other contingent expenses, fourteen thousand and thirty-five dollars.

For the expense of navy yards, comprising docks and other improvements, pay of superintendents, storekeepers, clerks, and laborers, sixty thousand dollars.

For ordnance, fifty thousand dollars.

Sec. 2. *And be it further enacted*, That the several sums herein specifically appropriated shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 10, 1808.

An Act to revive and continue certain causes and proceedings in the District Court of the District of Columbia.

Be it enacted, &c., That all causes, suits, actions, writs, process, and proceedings, which were pending in the district court of the District of Columbia at the time appointed by law for holding a session thereof, on the first Tuesday of October last past, or which were returnable to the session of the said court, which ought to have been holden on the first Tuesday of October, shall be, and the same are hereby, revived, reinstated, and continued over to the next stated session of the said court, to be holden on the first Tuesday of April next, in the same manner and condition, and the same further proceedings may be had therein, as if a session of the said court had been, on the said first Tuesday of October, holden according to law, and as if a regular continuance of all the said causes, suits, actions, writs, process, and proceedings, had been duly entered upon the records of the said court.

Approved, February 10, 1808.

An Act making appropriations for carrying into effect certain Indian Treaties.

Be it enacted, &c., That, for the purpose of carrying into effect a treaty between the United States and the Choctaw nation of Indians, concluded at Pooshapukanuk, in the Choctaw country, on the sixteenth day of November, one thousand eight hundred and five, the following sums be, and the same hereby are, appropriated, in conformity with the stipulations contained in the said treaty, that is to say:

To the said Choctaw nation, fifty thousand five hundred dollars, and the further annual sum of three thousand dollars.

To each of the three great Medal Mingoes, Pukshunnubbee, Mingo Hoomastubbee, and Pooshamattaha, five hundred dollars, and a further annual sum of one hundred and fifty dollars to each of the said Mingoes during his continuance in office.

Sec. 2. *And be it further enacted*, That, for the purpose of carrying into effect a treaty between the United States and the Ottawa, Chippewa, Wyandotte, and Pottawatamie nations of Indians, concluded at Detroit on the seventeenth day of November, in the year one thousand eight hundred and seven, the following sums be, and the same hereby are, appropriated, in conformity with the stipulations contained in the said treaty, that is to say:

Ten thousand dollars to be paid to the said nations in the following proportions:

To the Ottawa nation, three thousand three hundred and thirty-three dollars thirty-three cents and four mills.

To the Chippewa nation, three thousand three hundred thirty-three dollars thirty-three cents and four mills.

To the Wyandotte nation, one thousand six hundred and sixty-six dollars sixty-six cents and six mills.

To the Pottawatamie nation, one thousand six hundred and sixty-six dollars sixty-six cents and six mills; and the further annual sum of two thousand four hundred dollars, to be paid to the said nations in the following proportions:

To the Ottawas, eight hundred dollars.

To the Chippewas, eight hundred dollars.

To the Wyandottes, eight hundred dollars; and to such of the Pottawatamies as now reside on the river Huron of Lake Erie, the river Raisin, and in the vicinity of the said rivers, four hundred dollars.

Sec. 3. *And be it further enacted*, That the several sums appropriated by this act shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 19, 1808.

An Act to provide for the payment of certain expenses incurred in the inquiry into the conduct of John Smith, a Senator from the State of Ohio.

Be it enacted, &c., That the Accounting officers of the Treasury be, and they are hereby directed to audit and settle the accounts of all persons who may have claims against the United States, for expenses incurred in the inquiry into the conduct of John Smith, a Senator of the United States, from the State of Ohio, as an alleged associate of Aaron Burr; which expenses may have been authorized by the committee of inquiry, or by order of the Senate: *Provided*, That the said accounts shall have been first certified by the chairman of the committee, or by the Secretary of the Senate.

Sec. 2. *And be it further enacted*, That to every witness before the said committee of inquiry, or before the Senate upon the said inquiry, there shall be allowed and paid for every day's attendance thereon, the sum of three dollars. And to defray the said expenses, there is hereby appropriated the sum of five hundred dollars, to be paid from any moneys in the Treasury not otherwise appropriated.

Approved, February 19, 1808.

An Act making additional compensation to the Marshals for the Districts of North Carolina and New Jersey.

Be it enacted, &c., That, from and after the last day of March next, there shall be paid annually to the Marshal for the district of North Carolina, the sum of four hundred dollars; to the Marshal for the district of New Jersey, the sum of two hundred dollars, in addition to the fees and emoluments heretofore allowed them by law.

Approved, February 25, 1808.

An Act extending the right of suffrage in the Indiana Territory.

Be it enacted, &c., That every free white male person in the Indiana Territory, above the age of twenty-one years, having been a citizen of the United States, and resident in the said Territory, one year next preceding an election of Representatives, and who has a legal or equitable title to a tract of land of the quantity of fifty acres, or who may become the purchaser from the United States of a tract of land of the quantity of fifty acres, or who holds in his own right a town lot of the value of one hundred dollars, shall be entitled to vote for Representatives to the General Assembly of the said Territory.

Approved, February 26, 1808.

An Act supplementary to the act entitled "An act to prohibit the importation of certain goods, wares, and merchandise."

Be it enacted, &c., That nothing in the act to which this is a supplement shall be so construed as to prohibit the importation of the following articles, that is to say:

First. Wrappers and outside packages, in which goods, the importation of which is not prohibited, usually are and shall be wrapped or packed, at the time of their importation:

Second. Bags or sacks in which salt shall be imported:

Third. Glass bottles or phials in which drugs,

medicines, or any other article, the importation of which is not prohibited, shall be imported:

Fourth. Printed books, maps, and charts:

Fifth. Watches, tradesmen's and artificers' tools; mathematical, astronomical, and surgical instruments; gilt buttons, locks, and all other articles manufactured partly of brass and partly of any other metal;

Sixth. Shalloons and woollen stuffs, muskets, bayonets, swords, cutlasses, and pistols.

Sec. 2. *And be it further enacted*, That the articles of the following description shall be held and considered as being embraced by the description of articles, the importation of which is prohibited by the act to which this act is a supplement, that is to say:

All articles manufactured entirely of silk and wool, or of silk and flax, or of flax and wool; floor-cloths, woollen cassimeres, carpets, carpeting, and mats, whose invoice prices shall exceed five shillings sterling per square yard.

Sec. 3. *And be it further enacted*, That no articles imported on board any vessel of the United States, cleared out before the fourteenth day of December last, from any port within the United States, or the Territories thereof, shall be subject to the prohibition enacted by the act to which this act is a supplement: *Provided*, That such vessels which may have cleared for any port beyond the Cape of Good Hope, shall return to some port in the United States, or its Territories, within twelve months: *And provided*, That such vessels as shall have cleared from any other port shall return as aforesaid within six months from the said fourteenth day of December.

Approved, February 27, 1808.

An Act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress.

Be it enacted, &c., That all the sections of land heretofore reserved for the future disposition of Congress, not sold or otherwise disposed of, and lying within either of the districts established for the disposition of public lands in the State of Ohio, with the exception of the section numbered sixteen, of the salt springs, and lands reserved for the use of the same, shall be offered for sale in that district within which such reserved sections may respectively lie, on the same terms, and under the same regulations, as other lands in the same district: *Provided*, That such sections shall previously be offered to the highest bidder, at public sales, to be held under the superintendence of the registers and receivers of public moneys of the land offices, respectively, to which they are attached, on the same terms as have been provided by law for the public sales of the other lands of the United States, and on such day or days as shall, by a proclamation of the President of the United States, be designated for that purpose. *And provided, also*, That no such heretofore reserved section shall be sold, either at public or private sale, at a less price than four dollars per acre.

Approved, February 29, 1808.

An Act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and eight.

Be it enacted, &c., That for defraying the expense of the Military Establishment of the United States, for the year one thousand eight hundred and eight, for the Indian Department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be, and the same hereby are, respectively appropriated; that is to say.

For the pay of the Army of the United States, three hundred and two thousand nine hundred and fifty-two dollars.

For forage, four thousand six hundred and eight dollars.

For the subsistence of the Army and corps of engineers, two hundred and forty-two thousand five hundred and forty-eight dollars and thirty-five cents.

For clothing, eighty-five thousand dollars.

For bounties and premiums, fifteen thousand dollars.

For the medical and hospital departments, fifteen thousand dollars.

For camp equipage, fuel, tools, and transportation, ninety thousand dollars.

For fortifications, arsenals, magazines, and armories, two hundred and eighteen thousand six hundred and forty-two dollars and five cents.

For purchasing maps, plans, books, and instruments, fifteen hundred dollars.

For contingencies, eighteen thousand dollars:

For ordnance, forty-five thousand dollars.

For tents, twenty thousand dollars.

For extra transportation of military stores, twenty-five thousand dollars.

For the Indian Department, one hundred and forty thousand six hundred dollars.

Sec. 2. *And be it further enacted*, That the several sums herein specifically appropriated, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1808.

An Act to allow the importation of old copper, saltpetre, and sulphur, free of duty.

Be it enacted, &c., That, from and after the thirty-first day of March next, no duty shall be demanded or collected on the importation of old copper, which term shall apply only to such copper manufactures as have been worn out or otherwise so damaged as to be unfit for any other purpose than that of supplying a raw material, to be manufactured anew. And it shall be lawful for the collector of the port or district in which such old copper shall arrive, should any doubt arise whether such importation comes within the intent and meaning of this act, to appoint one person, and the owner, importer, or consignee, to appoint another, who shall ascertain whether the copper imported comes under the denomination of old copper, as above described; and the proceedings in this instance shall be conducted in the like manner and form as the proceedings are

directed to be had by the fifty-second section of the act passed the second of March, one thousand seven hundred and ninety-nine, regulating the collection of duties on imports and tonnage, in cases of incomplete entry, or of damage sustained by goods, wares, and merchandise, during the voyage.

Sec. 2. *And be it further enacted*, That, from and after the said thirty-first day of March next, no duty shall be demanded or collected on the importation of saltpetre or sulphur.

Approved, March 4, 1808.

An Act in further addition to an act entitled "An act to amend the Judicial System of the United States."

Be it enacted, &c., That the Circuit Court of the United States, in the second circuit, shall consist of the Justice of the Supreme Court residing within said circuit, and the district judge of the district in which such court may be holden.

Sec. 2. *And be it further enacted*, That within the district of Georgia, the Circuit Court to be holden in the month of December, annually, shall hereafter be holden at Milledgeville instead of Louisville.

Sec. 3. *And be it further enacted*, That instead of the times heretofore established by law for holding the fall terms of the district court for the district of North Carolina, the same be commenced and holden in future on the following days; that is to say: at Wilmington, in and for the district of Cape Fear, on the third Monday of October; at Newbern, in and for the district of Pamptico, on the Friday next after the third Monday of October, and at Edenton, in and for the district of Albemarle, on the first Tuesday which shall follow the Friday next after the third Monday of October, annually. And that all actions, suits, writs, process, pleadings, and other proceedings commenced, or to be commenced, or which shall be now pending in any of the district courts of the district of North Carolina, for the terms aforesaid, shall be continued over and have day according to the alterations hereby made and established, anything in any former act or acts to the contrary notwithstanding.

Approved, March 9, 1808.

An Act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes.

Be it enacted, &c., That the payment of all bonds given for duties on the importation of coffee, sugar, pepper, indigo, cocoa, and wine, paying a duty of twenty-three cents per gallon, which remain unpaid at the passing of this act, and have or may become due, subsequent to the twenty-second of December last, and whilst the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," shall continue in force, may be suspended during the continuance of the said act, on the terms and conditions hereinafter provided: *Provided*, That such extension of credit shall not apply to the duties due for any of the above described articles, which either have been reexported, or are not entitled to be exported with benefit of drawback, nor to any which have been, or will be, sold by the importer.

Sec. 2. *And be it further enacted*, That the persons entitled to the extension of credit, allowed by the preceding section, shall, in order to enjoy its benefit, take up, or have cancelled, the bonds heretofore given for duties, on which the extension of credit is allowed, and give to the collector new bonds, with one or more sureties, to the satisfaction of said collector, for the sums of their former bonds respectively, payable whenever the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," shall no longer be in force: which bonds shall be accepted by the collectors respectively, upon the terms following, that is to say; the goods for the duties whereon such bonds shall be accepted shall be deposited at the expense and risk of the importer or importers, parties to the said bonds, in one or more store-house or storehouses, in the same manner as is now provided for the deposite of teas, by the sixty-second section of the act, entitled "An act to regulate the collection of duties on imports and tonnage," but no delivery of the said goods, or of part thereof, shall be made to the owners thereof, unless the duties on so much thereof as may, on the application of the owners, be thus delivered, shall have been paid. And whenever the sum specified in any of the bonds taken by virtue of this section shall become due and remain unpaid more than forty-five days, so much of the said deposited goods as may be necessary shall be sold by the collector at public sale, and the proceeds thereof, after deducting the charges of safe-keeping and sale thereof, shall be applied to the payment of such sum, rendering the overplus arising on such sale and the residue of the goods so deposited, if any there be, to the person or persons by whom such a deposite shall have been made, or to his or their agent or lawful representative. But if the proceeds of such sale shall not be sufficient to pay the duties and charges, or if any of the goods shall, while deposited, be destroyed, stolen, lost, or damaged, the bond taken by virtue of this section, for the payment of duties on such goods, shall be proceeded with, in all respects, as other bonds taken by collectors for duties due to the United States.

Sec. 3. *And be it further enacted*, That whenever any goods, wares, or merchandise, which, being entitled to be exported with benefit of drawback, had, prior to the twenty-second day of December last, been actually laden on board a vessel, and inspected under the superintendence of a proper officer, in conformity with the provisions of the seventy-sixth section of the act, entitled "An act to regulate the collection of duties on imports and tonnage," have been detained under the act laying an embargo on all ships and vessels in the ports and harbors of the United States, so as to prevent the actual exportation of such goods, wares, and merchandise, the payment of bonds given for duties on the importation of the same, may, to an amount equal to that of such duties

and no farther, be suspended during the continuance of the last mentioned act, in the same manner, and on the same terms and conditions, as is provided by the preceding section for bonds given for duties on certain specified articles: *Provided*, That the owners of such goods, wares, and merchandise, shall surrender any debentures which previously have been granted for the drawback of duties on the same.

Sec. 4. *And be it further enacted*, That the persons entitled to the extension of credit allowed by the next preceding section, may, at their option, either deposite the goods, wares, and merchandise, in a store-house or store-houses, or leave the same on board the vessel on which the same have been laden; the said goods, wares, and merchandise, being in either case secured in the same manner as is provided for goods deposited in conformity with the second section of this act: *Provided, always*, That whenever it may be lawful to export such goods, wares, or merchandise, it shall be necessary that the same should again be inspected by a proper officer on board the vessel in which the same shall be exported, in order to entitle the exporter to the benefit of drawback; nor shall any debentures for drawback of duties on such goods, wares, and merchandise, be issued or paid, until after the actual exportation of the same: *And provided, also*, That nothing herein contained shall be construed to prevent the owners of such goods, wares, and merchandise, who may not claim the extension of credit allowed by this act, and who have not received debentures for the drawback of duties on the same, from landing and keeping in their possession any such goods, wares, and merchandise.

Approved, March 10, 1808.

An Act procuring an additional number of arms, and for the purchase of saltpetre and sulphur.

Be it enacted, &c., That a sum of money, not exceeding three hundred thousand dollars, be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of procuring by purchase, or causing to be manufactured within the United States, and under the direction of the President of the United States, an additional number of stands of arms, to be deposited in safe and suitable places. And for the purchase of saltpetre and sulphur, a sum not exceeding one hundred and fifty thousand dollars.

Approved, March 11, 1808.

An Act in addition to the act, entitled "An act supplementary to the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States."

Be it enacted, &c., That, during the continuance of the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," no ship, vessel, or boat, of any description whatever, owned by citizens of the United States, and which is neither registered, licensed, nor possessed of a sea-letter, shall be allowed to depart from any port of the United States, or shall receive a clearance; nor shall any foreign vessel be allowed to depart from any port of the United States, with a cargo destined for another port of the United States, or shall receive a clearance for that purpose, until the owner or owners, consignee, or factors, of such American or foreign vessel, shall, with the master, give bond with one or more sureties, to the United States, in case of a vessel owned by citizens of the United States, in a sum double the value of the vessel and cargo, and in that of a foreign vessel four times the value of the vessel and cargo, that the vessel shall not proceed to any foreign port or place, and that the cargo shall be relanded in some port of the United States: *Provided*, That it shall be lawful and sufficient, in the case of any such American vessel, whose employment has uniformly been confined to rivers, bays, sounds, and lakes, within the jurisdiction of the United States, to give bond, in an amount equal to two hundred dollars for each ton of said vessel, with condition that such vessel shall not be employed in any foreign trade during the time limited in the condition of the bond.

Sec. 2. *And be it further enacted*, That no bond shall be required of boats not masted, or, if masted, not being decked, whose employment has been, and shall continue to be, confined to rivers, bays, and sounds, within the jurisdiction of the United States, and lying within districts which are not adjacent to the territories, colonies, or provinces of a foreign nation, whether such boats be licensed or not, and unless, in the opinion of the Secretary of the Treasury, such bond be necessary; and in case the Secretary shall deem such bond necessary, it shall be lawful and sufficient for the owner of the boat, to give bond, in an amount equal to thirty dollars for each ton of said boat, with condition that such boat shall not be employed in any foreign trade during the continuance of the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States."

Sec. 3. *And be it further enacted*, That in every case where bond hath been or shall be given to the United States under this act, or under the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," or under the act supplementary to the last mentioned act, with condition that certain goods, wares, and merchandise, or the cargo of a vessel, shall be relanded in some port of the United States; the party or parties to such bond shall, within four months after the date of the same, produce to the collector of the port, from which the vessel had been cleared with such goods, wares, merchandise, or cargo, a certificate of the relanding of the same, from the collector of the proper port; on failure whereof the bond shall be put in suit, and in every such such suit judgment shall be given against the defendant or defendants, unless proof shall be produced of such relanding, or of loss by sea, or other unavoidable accident.

Sec. 4. *And be it further enacted*, That it shall not be lawful to export from the United States, in any manner whatever, any goods, wares, or merchandise, of foreign or domestic growth or manufacture; and if any goods, wares, or merchandise, shall, during the continuance of the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and of the act supplementary to the last mentioned act, contrary to the prohibitions of this act, be exported from the United States, either by land or water, the vessel, boat, raft, cart, wagon, sleigh, or other carriage, in which the same shall have been exported, shall, together with the tackle, apparel, horses, mules, and oxen, be forfeited, and the owner or owners of such goods, wares, or merchandise, and every other person knowingly concerned in such prohibited exportation, shall each, respectively, forfeit and pay a sum not exceeding ten thousand dollars for every such offence: *Provided, however*, That nothing in this section contained shall be construed to prevent foreign vessels from departing from the ports of the United States with the cargo or cargoes which may be on board of the same, when notified of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, in conformity with the provisions of the said act, nor to take away any power conferred on the President by the last mentioned act, nor to prevent foreign vessels from furnishing themselves with necessary provisions and sea-stores for the voyage, nor fishing vessels from departing with sea-stores, salt, and their usual fishing tackle and apparel, in the manner prescribed by the act supplementary to the aforesaid act.

Sec. 5. *And be it further enacted*, That on the return into the United States of any fishing vessel, such as is described by the second section of the act, supplementary to the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," which shall have sailed subsequent to the passage of the last mentioned acts, it shall be the duty of the master and mate to declare on oath or affirmation, before the collector, whether any part of the fishing fare has been sold during the voyage, and in default of taking such oath or affirmation, the master and mate shall each respectively forfeit and pay one hundred dollars: *Provided*, That the aforesaid oath or affirmation may be dispensed with so far as relates to the fishery on our own coasts in the customary small vessels.

Sec. 6. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, shall be sued for, recovered, distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," passed the third of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh of February, one thousand eight hundred.

Sec. 7. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, if he shall be satisfied by a statement or account current, on oath or affirmation, of any citizen or citizens of the United States, and such other proof as the nature of the case will admit, or the President may require, that such citizen or citizens have property of value in any port or place without the jurisdiction of the United States, arising from property actually without such jurisdiction, prior to the twenty-second day of December last, to grant, on application, permission to such citizen or citizens, to despatch a vessel in ballast to such port or place, for the purpose of importing into the United States such property: *Provided*, That bond with sufficient security be given to the United States, under the direction of the Secretary of the Treasury, in such a sum as he shall deem necessary, with the following conditions, to wit: that such vessels shall not export from the United States any specie or any goods, wares, or merchandise, of foreign or domestic growth or manufacture, necessary provisions and stores excepted, that she shall return (reasonable time being allowed for performing the voyage) to the United States with such property, and that she shall not, during the voyage, either directly or indirectly, be engaged in any traffic, freighting, or other employment, and that no goods, wares, or merchandise, shall be imported in such vessel other than the property for which such vessel shall obtain such permission, or the proceeds of property shipped *bona fide* by a citizen or citizens of the United States prior to the said twenty-second day of December last: *And provided, also*, That the bond herein directed to be taken shall not be cancelled, unless the Secretary of the Treasury be satisfied, either by the oath of the party or parties to the same, or such other proof as the nature of the case will admit, that the conditions of the said bond have been complied with: *And provided, further*, That the owner or owners, factor or agent, master and mate of such vessel, shall, on her return to the United States, make oath or affirmation that such vessel hath not, to the best of their knowledge and belief, during the voyage for which such permission had been granted, either directly or indirectly been employed in any act contrary to the tenor of such bond.

Approved, March 12, 1808.

An Act remitting the duties payable on the importation of a monument to be erected in memory of the officers of the United States Navy, who fell during the attack made on the city of Tripoli, in the year one thousand eight hundred and four.

Be it enacted, &c., That the duties payable according to law, on the importation of a monument imported in the frigate Constitution, from Italy, on account of the officers of the United States' Navy, be, and they are hereby, remitted.

Approved, March 13, 1808.

An Act for erecting a light-house on the south point of the island of Sapelo, and for placing buoys and beacons in the shoals of the inlet leading to the town of Darien, and near the entrance of Ipswich harbor, near Plymouth harbor, before the harbor of Nantucket, and on the island of Tuckanuck, at or near the entrance of Connecticut river, and near the entrance of Great Egg Harbor river.

Be it enacted, &c., That as soon as the jurisdiction of so much of the head land of the south point of the island of Sapelo, in the State of Georgia, as the President of the United States shall deem sufficient for the purpose of erecting a light-house and its appurtenances, shall have been ceded to the United States, provided the said land can be obtained at a reasonable price, it shall be the duty of the Secretary of the Treasury to provide by contract, which shall be approved by the President of the United States, for building a light-house thereon, and furnishing the same with all necessary supplies, and also to agree for the salaries or wages of the person or persons who may be appointed, by the President, for the superintendence and care of building the said light-house. And the President is hereby authorized to make the said appointment.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be further authorized and directed to cause to be placed four buoys on the shoals called the South and North banks of the harbor, or entrance, of the inlet leading to the town of Darien.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to cause to be erected and placed beacons and buoys at the following places, to wit: two beacons and three buoys near the entrance of Ipswich harbor; three buoys, one on Gurnet rock, one on Boss rock, and one on Deck's flats, and two beacons on the stony muscle bed, near Plymouth harbor; three additional buoys before the harbor of Nantucket, and a buoy or leading mark on the island of Tuckanuck, in the State of Massachusetts; three buoys at or near the entrance of Connecticut river, and three buoys to be placed at or near the entrance of Great Egg Harbor river, in the State of New Jersey.

Sec. 4. *And be it further enacted*, That there shall be appropriated and paid out of any moneys in the Treasury, not otherwise appropriated, a sum not exceeding eleven thousand five hundred dollars, for the purposes aforesaid.

Approved, March 17, 1808.

An Act extending the time for issuing and locating military land warrants.

Be it enacted, &c., That the Secretary of War be authorized to issue military land warrants to such persons as have, or shall, before the first day of March, one thousand eight hundred and ten, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and ten, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants.

Approved, March 21, 1808.

An Act to amend the act, entitled "An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio."

Be it enacted, &c., That so much of the second section of the act, entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," passed the twenty-fourth day of February, eighteen hundred and seven, constituting the State of Tennessee one district, for the purpose of holding circuit courts therein, shall be, and is hereby repealed; and from and after the passage of this act, the State of Tennessee shall be divided into two districts, for the purpose of holding circuit courts therein, and the limits of the said districts shall be the same as those now prescribed for the districts of East and West Tennessee, in and by the fourth section of the above recited act; and there shall be holden annually, in each of the said two districts, one circuit court, to consist of one justice of the Supreme Court of the United States and the district judge of the said district of East and West Tennessee; and the sessions of the said courts shall be held in each of the said districts, at Nashville on the second Monday in June, and at Knoxville on the third Monday in October annually; and that all actions, causes, pleas, processes, and other proceedings relative to any cause, civil or criminal, which shall be returnable to or depending in the said circuit court of the United States, to be held at Nashville on the first Monday of June next, shall be returned, and held continued to, and be proceeded upon, on the second Monday in June next, in the same manner they would have been if this change had not taken place.

Sec. 2. *And be it further enacted*, That where any suit or suits has or have been brought, or is or are now pending before the circuit court held at Knoxville, in and for the district of East Tennessee, against a person residing in said district of East Tennessee, such suit or suits shall be proceeded upon, and finally determined in the district of East Tennessee; and where any suit or suits has or have been brought, or is or are now pending before the circuit court held at Nashville, in and for the district of West Tennessee, against a person residing in the said district of West Tennessee, such suit or suits shall be proceeded upon and finally determined in the district of West Tennessee.

Sec. 3. *And be it further enacted*, That it shall be the duty of the district judge of Tennessee to attend at Knoxville, on the first Thursday after the third Monday in April next, and on the first Thursday after the third Monday in April of each and every year thereafter, and at Nashville on the first Thursday after the fourth Monday in November next, and on the first Thursday after the fourth Monday in November of each and every year thereafter, who shall have power to make all necessary orders touching any suit, action, appeal, writ of error, process, pleadings, or proceedings, returned to the circuit court next to be holden thereafter at Knoxville, and Nashville, or depending therein, preparatory to the hearing, trial, or decision of such action, suit, appeal, writ of error, process, pleadings, or proceedings; and all writs and process may be returnable to the said courts on the first Thursday after the third Monday in April, at Knoxville, and on the first Thursday after the fourth Monday in November, at Nashville, in the same manner as to the sessions of the circuit court, directed to be held by this act in the district of East Tennessee, at Knoxville, and in the district of West Tennessee, at Nashville; and the said writs, returnable to the circuit courts to be held at Knoxville, may also bear teste on the said first Thursday after the third Monday in April; and the writs returnable to the circuit courts to be held at Nashville may bear teste on the first Monday in November, as though a session of the said circuit court was holden on those days at Knoxville and Nashville respectively.

Sec. 4. *And be it further enacted*, That there shall be two clerks appointed, one for the circuit court to held at Knoxville, and one for the circuit court to be held at Nashville, whose duty it shall be to attend the said district judge on the said first Thursday after the third Monday in April, and on the said first Thursday after the fourth Monday in November, of each and every year, at the places aforesaid, who shall make due entry of all such matters and things as shall or may be ordered by the said judge; and at each and every of the said sessions, so held for the purpose aforesaid, all actions, pleas, and other proceedings, relative to any cause, civil or criminal, shall, for the circuit court to be held at Nashville, be continued over to the ensuing second Monday in June, and shall for the circuit court to be held at Knoxville, be continued over to the ensuing third Monday in October.

Sec. 5. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, civil or criminal, which were originally returned to the circuit court begun and held at Nashville, on the first Monday in June last; and all writs, process, and proceedings, as aforesaid, which are, or may be made returnable to the said circuit court to be held at Nashville, shall, after the next June term of the circuit court, be continued, returned to, and have day in the session to be held by this act, on the first Thursday after the fourth Monday in November next, and all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, civil or criminal, which were originally returned to the circuit court begun and held at Knoxville, on the third Monday in October last; and all writs, process, and pleadings, as aforesaid, which are or may be made returnable to the said circuit court, shall be continued, returned to, and have day in the session to be held by this act, on the first Thursday after the third Monday in April next; and such proceedings shall be had thereon, at the said session, as are hereinbefore provided.

Approved, March 22, 1808.

An Act authorizing a detachment from the Militia of the United States.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized, at such times as he shall deem necessary, to require of the Executives of the several States and Territories, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thousand militia, officers included, to be apportioned by the President of the United States, from the latest militia returns in the Department of War, and in cases where such returns have not been made, by such other data as he shall judge equitable.

Sec. 2. *And be it further enacted*, That the Executives of the several States and Territories may accept, as part of the said detachment, any corps of volunteers who shall engage to continue in service six months after they arrive at the place of rendezvous.

Sec. 3. *And be it further enacted*, That the detachment of militia and volunteers aforesaid shall be officered out of the present militia officers, or others, at the option and discretion of the constitutional authority in the respective States and Territories, the President apportioning the general officers among the respective States and Territories, as he may deem proper.

Sec. 4. *And be it further enacted*, That the said detachments shall not be compelled to serve a longer time than six months after they arrive at the place of rendezvous, and that during the time of their service they shall be entitled to the same pay, rations, and allowance for clothing, as are established by law for the army of the United States.

Sec. 5. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to call into actual service any part, or the whole, of said detachment, when he shall judge that the exigencies of the United States require it; and, if a part only of said detachment shall be called into actual service, they shall be taken from such part thereof as the President of the United States shall deem proper.

Sec. 6. *And be it further enacted*, That a sum not exceeding one million of dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the pay, subsistence, and support of such part of said detachment as may be called into actual service.

Sec. 7. *And be it further enacted*, That this act shall continue and be in force for the term of two years from the passing thereof, and no longer.

Approved, March 30, 1808.

An Act concerning the sale of the lands of the United States, and for other purposes.

Be it enacted, &c., That whenever the President of the United States has been or may be authorized to cause the public lands in any land district to be offered for sale, it shall be lawful, whenever he shall think it convenient, to offer for sale, at first, only a part of the lands contained in such district, and, at any subsequent time or times, to offer for sale in the same manner any other part, or the remainder of the lands contained in the same.

Sec. 2. *And be it further enacted*, That the fourth section of an act passed the twenty-first day of April, one thousand eight hundred and six, entitled "An act in addition to an act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee,'" be revived and continued in force until the first day of October next; and in any case where a donation shall be granted in lieu of a pre-emption certificate, agreeably to the provisions of the said fourth section, the money, if any shall have been paid, shall be by the receiver of the public money repaid to the person or persons who have paid the same.

Sec. 3. *And be it further enacted*, That certain settlers on the river Mobile, in the Mississippi Territory, (east of Pearl river, who reside near the line of demarcation, between the United States and Spain, run in pursuance of the treaty of the twenty-seventh day of October, one thousand seven hundred and ninety-five, and whose claims to land has not been decided on according to law,) shall be allowed until the first day of October next to file a notice in writing with the Register of the Land Office, stating the nature and extent of their claims, together with a plat of the tract or tracts claimed; and the said Register of the Land Office, and the Receiver of Public Moneys, are hereby required to hear and determine such claims according to the several acts of Congress "regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee," and to grant certificates in the form heretofore prescribed by the Board of Commissioners in said district.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Registers of the Land Office east and west of Pearl river, in the Mississippi Territory, to transmit to the Secretary of the Treasury of the United States, on or before the first day of November next, a full and fair report of all the claims of certain persons to lands in the Mississippi Territory, founded upon British or Spanish warrants or orders of survey granted prior to the twenty-seventh day of October, one thousand seven hundred and ninety-five, not confirmed by former laws regulating the grants of lands in said Territory, which have heretofore been regularly filed with the Register of the Land Office aforesaid, together with the evidence in support of such claims respectively, and to be by him laid before Congress at their next ensuing session. And the land contained in such warrants or orders of survey shall not be disposed of until otherwise directed by law.

Sec. 5. *And be it further enacted*, That that part of the lands to which the Indian title was extinguished by the treaty with the Choctaw nation made on Mount Dexter, in the year one thousand eight hundred and five, lying on the east of Pearl river, shall be attached to the land district east of Pearl river, and that the residue of the lands to which the Indian title was extinguished by said treaty, shall be attached to the land district west of Pearl river; and the said lands shall, with the exception of section number sixteen, which shall be reserved in each township for the use of schools within the same, and also with the exception of fifteen hundred acres of land, which is hereby confirmed to John McGrew, in compliance with the fourth article of said treaty, be offered for sale under the same regulations, at the same prices, and on the same terms, as other lands lying within the said districts.

Sec. 6. *And be it further enacted*, That every person, and the legal representatives of every person, who being either the head of a family or above the age of twenty-one years, who did before the third day of March, one thousand eight hundred and seven, actually inhabit and cultivate a tract of land in the Mississippi Territory, belonging to the United States, shall be allowed until the first day of October next to obtain permission to remain on such tract or tracts of land, according to the provisions of the act entitled "An act to prevent settlements being made on lands ceded to the United States until authorized by law;" and the person or persons obtaining such permission shall be entitled to all the benefits, rights, and privileges granted by law to those who obtained the same prior to the first day of January, one thousand eight hundred and eight.

Sec. 7. *And be it further enacted*, That the right of the United States to two town lots lying and being in the city of Natchez, be, and the same is hereby, forever vested in the corporation of the said city, so as not to affect the legal or equitable claims of any individuals, or of any body politic or corporate, if any such there be.

Sec. 8. *And be it further enacted*, That whenever the claims of persons having a right of pre-emption in either of the districts east or west of Pearl river, shall interfere with each other, the Register and Receiver of Public Moneys are hereby authorized, in their respective districts, so to regulate their locations as to prevent such interference.

Approved, March 31, 1808.

An Act further to prolong the continuance of the Mint at Philadelphia.

Be it enacted, &c., That the act entitled "An act concerning the Mint," approved March the third, one thousand eight hundred and one, is hereby revived and continued in force and operation for the further time of five years after the fourth day of March, one thousand eight hundred and eight.

Approved, April 1, 1808.

An Act authorizing the sale of Public Arms.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be sold to individual States, which may wish to purchase, any arms now owned by the United States, and which may be parted with without injury to the public. Accounts of such sales shall be laid before Congress, and the money arising therefrom be, and the same is hereby, appropriated, under the direction of the President of the United States, to the purchase or manufacture of other arms for the use of the United States: *Provided*, That such arms be not delivered to any State or their agents until the payment of the purchase money be first made into the Treasury of the United States, in money or in the stock of the United States, at its value, as established by an act, entitled "An act to repeal so much of any act or acts as authorize the receipt of evidences of the public debt, in payment for the lands of the United States, and for other purposes relative to the public debt:" *Provided, also*, That this provision shall not extend to any purchase, not exceeding five thousand stand of arms, which shall be made by a State to which the United States by existing engagements are bound to pay a sum of money, equal to the amount of such purchase.

Approved, April 2, 1808.

An Act to raise for a limited time an additional Military Force.

Be it enacted, &c., That, in addition to the present Military Establishment of the United States, there be raised five regiments of infantry, one regiment of riflemen, one regiment of light artillery, and one regiment of light dragoons, to be enlisted for the term of five years, unless sooner discharged.

Sec. 2. *And be it further enacted*, That the said regiments of infantry, riflemen, and artillery, shall consist of ten companies each, and the regiment of light dragoons of eight troops; and the field and staff officers of each regiment, of one colonel, one lieutenant colonel, one major, one adjutant, one quartermaster, one paymaster, one surgeon, one surgeon's mate, one sergeant major, one quartermaster sergeant, two principal musicians, and for the regiment of light dragoons, one riding master; each company of infantry and riflemen, to consist of one captain, one first and one second lieutenant, one ensign, two cadets, four sergeants, four corporals, two musicians, and sixty-eight privates; each company of artillery, of one captain, one first and one second lieutenant, two cadets, four sergeants, four corporals, two musicians, eight artificers, and fifty-eight matrosses; and each troop of light dragoons, of one captain, one first and one second lieutenant, one cornet, two cadets, four sergeants, four corporals, two musicians, one saddler, one farrier, and sixty-four privates.

Sec. 3. *And be it further enacted*, That when, in the opinion of the President of the United States, a suitable proportion of the troops authorized by this act shall be raised, there may be appointed two additional brigadier generals, who shall be entitled to one aid-de-camp each, to be taken from the subalterns of the line; two brigade inspectors, and two brigade quartermasters; and such number of hospital surgeons, and surgeons' mates, as the service may require, but not exceeding five surgeons and fifteen mates, with one steward and one wardmaster to each hospital; the brigade inspectors appointed under this act shall be taken from the line; and the brigade quartermasters, the adjutants, regimental quartermasters, and paymasters, from the subalterns of the line.

Sec. 4. *And be it further enacted*, That the compensation of the officers, cadets, non-commissioned officers, musicians, artificers, and privates, authorized by this act, shall be, viz: to each brigadier general, one hundred and four dollars per month, twelve rations per day, or an equivalent in money, and sixteen dollars per month for forage, when not furnished by the public; each brigade inspector, thirty dollars per month, in addition to his pay in the line; each brigade quartermaster and aid-de-camp, twenty dollars, and each adjutant regimental quartermaster and paymaster, ten dollars per month, in addition to their pay in the line; and to each, six dollars per month for forage, when not furnished as aforesaid; each hospital surgeon, seventy-five dollars per month, six rations per day, or an equivalent in money, and twelve dollars per month for forage, when not furnished as aforesaid; each hospital surgeon's mate, forty dollars per month, two rations per day, or an equivalent in money, and six dollars per month for forage, when not furnished as aforesaid; each hospital steward, twenty dollars per month and two rations per day, or an equivalent in money; each wardmaster, sixteen dollars per month, and two rations per day, or an equivalent in money; to the colonel of light dragoons, ninety dollars per month, six rations per day, and forage for five horses; to the lieutenant colonel of light dragoons, seventy-five dollars per month, five rations per day, and forage for four horses; to the major of light dragoons, sixty dollars per month, four rations per day, and forage for four horses; to each captain of light dragoons, fifty dollars per month, three rations per day, and forage for three horses; to each lieutenant of light dragoons, thirty-three and one third dollars per month, two rations per day, and forage for two horses; to each cornet of light dragoons, twenty-six and two third dollars per month, two rations per day, and forage for two horses; to the riding master, twenty-six and two third dollars per month, two rations per day, and forage for two horses; each saddler and farrier, ten dollars per month, one ration per day, and a suit of uniform clothing annually; and all other officers, cadets, non-commissioned officers, musicians, artificers, and privates, authorized by this

act, shall receive the like pay, clothing, rations, forage, and other emoluments, as the officers, cadets, non-commissioned officers, musicians, artificers, and privates of the present Military Establishment: *Provided*, The officers and riding master furnish their own horses and accoutrements, and actually keep in service the aforesaid number of horses to entitle them to the aforegoing allowance for forage, or its equivalent in money: *And provided also*, That the whole or any part of the regiment of light dragoons shall be liable to serve on foot as light infantry until, by order of the President of the United States, horses and accoutrements shall be provided to equip the whole or any part thereof, as mounted dragoons.

Sec. 5. *And be it further enacted*, That the officers, cadets, non-commissioned officers, musicians, artificers, and privates, raised pursuant to this act, shall be entitled to the like compensation in case of disability by wounds and otherwise, incurred in the service, as the officers, cadets, non-commissioned officers, musicians, artificers, and privates in the present Military Establishment, and with them shall be subject to the rules and articles of war which have been established or may be hereafter, by law, established: And that the provisions of the act, entitled "An act fixing the Military Peace Establishment of the United States," relative to the widow, child, or children of any commissioned officer who shall die, while in the service of the United States, by reason of any wound received in actual service of the United States, to courts martial, the regulation and compensation of recruiting officers, the age, size, qualifications and bounties of recruits, arrears of pay, the bonds and duties of paymasters, penalties for desertion, punishment of persons who shall procure or entice any soldier to desert, or shall purchase from any soldier his arms, uniform, clothing, or any part thereof; and the punishment of any commanding officer of any ship or vessel who shall receive on board of his ship or vessel, as one of his crew, knowing him to have deserted, or otherwise carry away any such soldier, or shall refuse to deliver him up to the orders of his commanding officer, to the oath or affirmation to be taken and subscribed by officers, non-commissioned officers, musicians, and privates, to the allowance for extra expense to any commissioned officer in travelling and sitting on general courts martial, to arrests of non-commissioned officers, musicians, and privates, for debts, to the allowance to soldiers discharged from service, except by way of punishment, in force and applied to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same.

Sec. 6. *And be it further enacted*, That the subsistence of the officers of the army, when not received in kind, shall be estimated at twenty cents per ration.

Sec. 7. *And be it further enacted*, That there shall be appointed to each brigade, one chaplain, who shall be entitled to the same pay and emoluments as a major in the infantry.

Sec. 8. *And be it further enacted*, That, in the recess of the Senate, the President of the United States is hereby authorized to appoint all or any of the officers, other than the general officers, proper to be appointed under this act, which appointments shall be submitted to the Senate at the next session, for their advice and consent.

Sec. 9. *And be it further enacted*, That every commissioned and staff officer, to be appointed in virtue of this act, shall be a citizen of the United States, or some one of the Territories thereof.

Approved, April 12, 1808.

An Act to authorize the transportation of certain documents by mail, free of postage.

Be it enacted, &c., That the members of Congress, the Secretary of the Senate, and the Clerk of the House of Representatives, be, and they are hereby, authorized to transmit, free of postage, the Message of the President of the United States, of the twenty-second day of March, one thousand eight hundred and eight, and the documents accompanying the Message of the President of the United States, of the thirtieth of March, printed by order of the Senate and House of Representatives, to any post office within the United States and Territories thereof, to which they may respectively direct; and it shall be the duty of the Secretary of the Senate, and of the Clerk of the House of Representatives, to send, by the mail, the printed copies of the same Message and documents, or any part thereof that may remain after Congress shall adjourn, and the same shall be conveyed, free of postage, as aforesaid, conformably to the directions of the members of each House of Congress respectively: any law to the contrary notwithstanding.

Approved, April 13, 1808.

An Act to continue in force, for a further time, an act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction."

Be it enacted, &c., That the act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction," passed on the third day of March, in the year of our Lord one thousand eight hundred and five, be, and the same hereby is, continued in force for the term of two years, and from thence to the end of the next session of Congress, and no longer.

Approved, April 19, 1808.

An Act to revive and continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia."

Be it enacted, &c., That the act which passed the seventeenth day of March, in the year one thousand eight hundred, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," be, and the same is hereby, revived and continued in force until

the third day of March, one thousand eight hundred and fourteen.

Approved, April 20, 1808.

An Act concerning Public Contracts.

Be it enacted, &c., That, from and after the passage of this act, no member of Congress shall, directly or indirectly, himself, or by any other person whatsoever, in trust for him, or for his use or benefit, or on his account, undertake, execute, hold or enjoy, in the whole or in part, any contract or agreement hereafter to be made or entered into with any officer of the United States, in their behalf, or with any person authorized to make contracts on the part of the United States; and if any member of Congress shall, directly or indirectly, himself, or by any other person whatsoever, in trust for him, or for his use or benefit, or on his account, enter into, accept of, agree for, undertake, or execute any such contract or agreement, in the whole, or in part, every member so offending, shall, for every such offence, upon conviction thereof before any court of the United States, or of the Territories thereof, having cognizance of such offence, be adjudged guilty of a high misdemeanor, and shall be fined three thousand dollars; and every such contract or agreement, as aforesaid, shall moreover be absolutely void and of no effect: *Provided, nevertheless*, That in all cases where any sum or sums of money shall have been advanced on the part of the United States, in consideration of any such contract or agreement, the same shall be forthwith repaid; and in case of refusal or delay to repay the same, when demanded, by the proper officer of the department under whose authority such contract or agreement shall have been made or entered into, every person so refusing or delaying, together with his surety or sureties, shall be forthwith prosecuted at law for the recovery of any such sum or sums of money advanced as aforesaid.

Sec. 2. *And be it further enacted*, That nothing herein contained shall extend or be construed to extend to any contract or agreement, made or entered into, or accepted, by any incorporated company, where such contract or agreement shall be made for the general benefit of such incorporation or company; nor to the purchase or sale of bills of exchange or other property by any member of Congress, where the same shall be ready for delivery, and for which payment shall be made at the time of making or entering into the contract or agreement.

Sec. 3. *And be it further enacted*, That in every such contract or agreement to be made or entered into, or accepted as aforesaid, there shall be inserted an express condition that no member of Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

Sec. 4. *And be it further enacted*, That if any officer of the United States, on behalf of the United States, shall directly or indirectly make or enter into any contract, bargain, or agreement, in writing or otherwise, other than such as are herein excepted, with any member of Congress, such officer so offending, on conviction thereof before any court having jurisdiction thereof, shall be deemed and taken to be guilty of a high misdemeanor, and be fined in a sum of three thousand dollars.

Sec. 5. *And be it further enacted*, That, from and after the passing of this act, it shall be the duty of the Secretary of the Treasury, Secretary of War, Secretary of the Navy, and the Postmaster General, annually, to lay before Congress a statement of all the contracts which have been made in their respective Departments, during the year preceding such report, exhibiting in such statement the name of the contractor, the article or thing contracted for, the place where the article was to be delivered, or the thing performed, the sum to be paid for its performance or delivery, the date and duration of the contract.

Approved, April 21, 1808.

An Act for the establishment of a Turnpike Company in the county of Alexandria, in the District of Columbia.

Be it enacted, &c., That Jonah Thompson, Thomas Swann, Charles Alexander, Edmund I. Lee, Jacob Hoffman, Cuthbert Powell, and John Mandeville, or a majority of them, be, and they are hereby, constituted a Board of Commissioners, with full power and authority to open, or cause to be opened, books for receiving and entering subscriptions for raising a capital stock, not exceeding twenty thousand dollars each, for the purpose of opening, gravelling, and improving a road, not exceeding one hundred, nor less than thirty feet wide, between the town of Alexandria and Bridgepoint, on Alexander's island, opposite the City of Washington, and of erecting a bridge over Four Mile creek, in the county of Alexandria; and of making such other incidental works, and defraying such other incidental expenses as may be deemed necessary or expedient by the company hereinafter named; the time, place, and manner of receiving and entering such subscriptions to be ascertained by the said Board of Commissioners, and duly advertised in such gazettes as they may deem expedient: *Provided*, That the time to be fixed upon by the said Board of Commissioners for opening books for receiving the said subscriptions shall be on or before the first Monday in April next; and that no subscription shall be received, unless the sum of ten dollars be first paid into the hands of the person authorized to receive the same, on each share subscribed for.

Sec. 2. *And be it further enacted*, That whenever two hundred of the said shares shall be subscribed for, all persons who then may, or thereafter may become the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same or as the legal representatives, successors, or assignees of such subscribers, shall be, and they are hereby, made and created a body politic and corporate, by the name and style of "The Washington and Alexandria Turnpike Company," and by that name

may sue and be sued, implead and be impleaded, and do and suffer all acts, matters, and things which a body politic and corporate may lawfully do and suffer; and may have a common seal, and the same may break and alter at pleasure and may make all by-laws, rules, regulations, and ordinances for the good government and well-being of the said company, and for carrying into effect the objects of their institution, so that such by-laws, rules, regulations, or ordinances be not repugnant to the laws of the United States in force within the said county of Alexandria.

Sec. 3. *And be it further enacted*, That when two hundred of the said shares shall be subscribed for as aforesaid, or as soon after as may be, the said Board of Commissioners shall call a meeting of the company, at the town of Alexandria, by public advertisement in one or more gazettes published in Washington and Alexandria, appointing a fit and convenient time and place of meeting for the purpose of electing five directors, a clerk, and a treasurer, and such other officers, agents, and servants, as the said company may think fit to appoint, and for transacting any other business in pursuance of this act, and appertaining to the nature and objects of the institution of the said company; and the said Board of Commissioners shall, if necessary, adjourn the said meeting from time to time, until a quorum shall be formed; and a majority of the said company, or the proprietors of two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, shall be a quorum to do business; and the said Board of Commissioners, before opening the said subscription books, shall ascertain, and publish in their said advertisement, a fit and convenient mode of authenticating all powers of attorney, authorizing subscriptions to be made in the name of any person or persons; and, before calling a meeting of the said company, shall ascertain, and publish in their advertisement, a fit and convenient mode of authenticating all instruments of writing, authorizing any person or persons to act and vote at such meeting as the proxy or proxies of any member of the said company; all which powers of attorney and instrument of writing shall be filed with the clerk of the said company, and by him be safely kept among the records and documents appertaining to his office; and as soon as a quorum of the said company, and a board of directors shall be formed as aforesaid, all the powers, authority, and duties whatsoever, by this act vested in the said Board of Commissioners, shall cease and determine, and thenceforward become vested in the directors, for the time being, of the said company, under such limitations and restrictions as the said company may think fit to prescribe. And the said Board of Commissioners shall account to the said company, at the first meeting of the same, for all moneys received by them or their agents, on account of such subscriptions, and shall immediately pay over the same to the treasurer of the said company, or to such other person or persons as the said company may direct and appoint; the said company nevertheless, to allow all just credits for moneys actually and necessarily expended by the said Board of Commissioners in the execution of their said trust and duties.

Sec. 4. *And be it further enacted*, That there shall be annually holden, on the first Monday in January, a meeting of the said company, for the purpose of electing five directors, a clerk, and a treasurer; and the said company shall have power, at any meeting legally called and constituted, in pursuance of this act, to displace any of their directors or officers, and to supply, by a new election or appointment, all vacancies that may happen among the directors or officers of the company; and the said company shall have power to prescribe and regulate the powers and duties of the said directors, and of all other officers of the company; and a majority of the said directors may, from time to time, elect one of their body as president, and may provisionally supply, by their own election, any vacancies that may happen among the number of directors, or among any of the officers of the company; and the persons so elected by the said directors may continue in office till the next legal meeting of the company; and the directors of the said company to be elected in pursuance of this act shall, unless sooner displaced by the said company, continue in office until the first Monday in January next succeeding their election, and from that time until a new election shall be made by the said company.

Sec. 5. *And be it further enacted*, That a meeting of the said company may at any time be called by a majority of the directors of the company, for the time being, or by one-third of the members of the said company, or by the proprietors of one-third of the shares actually subscribed for, or the legal representatives or successors of such members or proprietors: *Provided, however*, That no meeting of the said company shall be legal or valid, unless a quorum shall be formed, consisting of the majority of the members of the said company, or of the proprietors of at least two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, nor unless the place (being within the town of Alexandria) and the time of such meeting be previously advertised for three weeks, successively, in one or more gazettes in the City of Washington and Alexandria.

Sec. 6. *And be it further enacted*, That every director, clerk, and treasurer, before he acts as such, shall take an oath or affirmation for the due execution of his office.

Sec. 7. *And be it further enacted*, That the said shares shall be negotiable and transferable from one to another, by assignments in writing, executed before two witnesses, at the least, and authenticated and registered, as the said company may prescribe and direct in their by-laws and regulations.

Sec. 8. *And be it further enacted*, That the amount of each share shall be paid by instalments of ten dollars, at such times as the said directors, for the time being, shall appoint; and in case any instalment or instalments shall not be paid at the time appointed, or within ten days thereafter, the same may be recovered in the name of the company, by warrant from a justice of the peace, if the amount due shall not exceed twenty dollars; and if the sum so due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, on ten days' notice, in any court of record in the county or district where the debtor may be found; and in all such warrants and motions the certificate of the clerk of the said company shall be conclusive evidence of the defendant's being a member of the company, and *prima facie* evidence of the amount due on the shares held by such defendant; and if such instalment or instalments be not paid within sixty days after the time limited for the payment of the same, and advertised for four weeks successively in one or more gazettes published in Washington or Alexandria, the president and directors of the said company may proceed to forfeit, for the use of the company, the share or shares of the person or persons so failing to pay.

Sec. 9. *And whereas*, certain individuals have already subscribed and paid sundry small sums of money, which have been appropriated to the purpose of opening and partially improving the said road from Alexandria to Washington: *Be it further enacted* That it shall and may be lawful for the said Board of Commissioners to place the said payments to the credit of those individuals, who have respectively paid the same, and who are desirous of purchasing stock in the said company, by allowing them the full amount of the money they have respectively advanced, in the purchase of a share or shares in the said company.

Sec. 10. *And be it further enacted*, That the said company be, and they are hereby, authorized and empowered to open, extend, gravel, and improve, in the turnpike manner, a good and sufficient road, commencing at the intersection of Washington and Montgomery streets, in the said town of Alexandria, thence extending in a straight line to the northeastern corner of the alms-house lot, and thence, by the most eligible and convenient route, to Bridge point, on Alexander's island; and also to erect and build, or cause to be erected and built over Four Mile creek a good and sufficient bridge, of sound and suitable materials, and in all respects adequate for the passage of travellers, horses, and carriages, with a secure railing on each side, at least four feet high, and a convenient way for foot passengers, on one side, which shall be separated from the carriage way, by a good and sufficient railing, at least four feet high.

Sec. 11. *And be it further enacted*, That it shall and may be lawful for the said president and directors, or the majority of them, to agree with the owners of any land, through which the said road is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the district, on application to one of the judges of the circuit court, the said judge shall issue a warrant directed to the marshal of the district, to summon a jury of twenty-four inhabitants of Alexandria county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the marshal, upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided there be not less than twelve, shall administer an oath or affimation to every juryman that shall appear, "That he will faithfully, justly, and impartially value the land, not exceeding the width of one hundred feet, and all damages the owner thereof shall sustain by opening the road through such land, according to the best of his skill and judgment." And the inquisition thereupon taken shall be signed by the marshal and by the jurymen present, and returned by the marshal to the clerk of the county, to be by him recorded. And upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued; and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors to the owner of the land, or his legal representative; and on payment thereof said land shall become an open public road forever.

Sec. 12. *And be it further enacted*, That as soon as the said road shall be opened and improved, and the said bridge shall be erected and built, as required by this act, the said company shall be entitled to demand and receive by their proper agents, servants, or officers, at the said bridge, tolls, not exceeding the following rates, to be regulated from time to time by the circuit court of the United States, in and for the District of Columbia, in the county of Alexandria, under the direction of Congress: for each person and horse, six cents and a quarter; for each chaise, sulky, or riding chair, twelve and a half cents; for each coach, coachee, stage wagon, chariot, phaeton, or curricle, or other riding carriage, twenty five cents, and the further sum of four cents for each horse, more than two, by which such coach, coachee, chariot, phaeton, or curricle, shall be drawn; for each sled or sleigh, twelve and a half cents, and the further sum of four cents for each horse or other beast, more than two, by which such sled or sleigh shall be drawn; for each four-wheeled wagon, cart, or other four wheeled carriage of burden, twenty five cents, and the further sum of four cents for each horse or other beast, more than two, by which the same shall be drawn; for each two-wheeled cart, dray, or other two wheeled carriage of burden, twelve and a half cents, and the further sum of four cents for each horse or other beast, more than one, by which the same shall be drawn; for each sheep or swine, one cent; for horses and neat cattle, other than those in teams, drawing sleds, sleighs, or carriages, or those with riders, two cents each. And it shall be the duty of the said company to keep posted up in some conspicuous place, at the said bridge, where the toll is collected, a printed list of the rates of toll allowed by this act, and for every day the same shall be neglected, they shall forfeit and pay one dollar, to be recovered

by warrant, by any person who shall sue for the same.

Sec. 13. *And be it further enacted*, That it shall be the duty of the said corporation to keep the said road and bridge in good repair; and if, in neglect of their said duty, the said corporation shall at any time suffer the said road or bridge to be out of repair, so as to be unsafe or inconvenient for passengers, the said corporation shall be liable to be presented for such neglect, before any court of competent jurisdiction, and, upon conviction thereof, to pay to the United States a penalty not exceeding one hundred dollars, at the discretion of the court; and shall also be responsible for all damages which may be sustained by any person or persons, in consequence of such want of repair, to be recovered in an action of trespass on the case, in any court competent to try the same: *Provided always, and it is further enacted*, That whenever the net proceeds of toll collected on said road shall amount to a sum sufficient to reimburse the capital stock, which shall be expended in the purchase of said land, building said bridge, and making said road, and twelve per cent. interest thereon, to be ascertained by said circuit court, the same shall become a free road, and toll shall be no longer collected thereon; and said company shall annually make returns to said circuit court, of the amount of toll collected, and of their necessary expenses, so as to enable said circuit court to determine when said toll shall cease.

Approved, April 21, 1808.

An Act to continue in force an act, entitled "An act to extend jurisdiction in certain cases to State Judges and State Courts, and for other purposes."

Be it enacted, &c., That the act, entitled "An act to extend jurisdiction in certain cases to State judges and State courts" passed the eighth day of March, one thousand eight hundred and six, be, and the same is hereby, continued in force without limitation of time.

Sec. 2. *And be it further enacted*, That the several provisions of the above-mentioned act, entitled "An act to extend jurisdiction in certain cases to State judges and State courts," be, and the same are hereby, extended to the respective county courts within, or next adjoining the revenue districts in the State of Ohio on Lake Erie, and to the district attorney of the United States for the district of Ohio.

Approved, April 21, 1808.

An Act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto.

Be it enacted, &c., That in the event of such peace or suspension of hostilities between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in the judgment of the President of the United States, he is hereby authorized, during the recess of Congress, to suspend, in whole or in part, the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, under such exceptions and restrictions, and on such bond and security being given as the public interest and circumstances of the case may appear to require: *Provided*, such suspension shall not extend beyond twenty days after the next meeting of Congress.

Approved, April 22, 1808.

An Act to alter the time for the next meeting of Congress.

Be it enacted, &c., That, after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of November next.

Approved, April 22, 1808.

An Act making provision for arming and equipping the whole body of the Militia of the United States.

Be it enacted, &c., That the annual sum of two hundred thousand dollars be, and the same hereby is, appropriated for the purpose of providing arms and military equipments for the whole body of the militia of the United States, either by purchase or manufacture, by and on account of the United States.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to purchase sites for, and erect such additional arsenals and manufactories of arms, as he may deem expedient, under the limitations and restrictions now provided by law: *Provided also*, That so much of any law as restricts the number of workmen in the armories of the United States to one hundred men, be, and the same hereby is, repealed.

Sec. 3. *And be it further enacted*, That all the arms procured in virtue of this act shall be transmitted to the several States composing this Union, and Territories thereof, to each State and Territory respectively, in proportion to the number of the effective militia in each State and Territory, and by each State and Territory to be distributed to the militia in such State and Territory, under such rules and regulations as shall be by law prescribed by the Legislature of each State and Territory.

Approved, April 23, 1808.

An Act to establish certain post roads in the States of Georgia and Ohio.

Be it enacted, &c., That the following post roads be established, viz: From Darien, by John Jones's to Milledgeville, and from thence to Athens; from Sparta to Milledgeville, and from thence by Jones's Court-house to the Garrison on Ockmulgee; from Milledgeville to Putnam Court-house, and from thence to Morgan Court-house, and to Randolph Court-house; from New Lisbon to Canton, in Ohio.

Approved, April 23, 1808.

An Act making an appropriation to supply a deficiency in an appropriation for the support of Government during the present year, and making an appropriation for defraying the expenses incident to the valuation of houses and lands, and the enumeration of slaves within the United States.

Be it enacted, &c., That to make good a deficiency in the appropriation for the contingent expenses of both Houses of Congress, authorized by the act of the tenth of February last, the further sum of seven thousand dollars be, and the same hereby is, appropriated.

Sec. 2. *And be it further enacted*, That a sum not exceeding five thousand four hundred and one dollars and twenty-seven cents, the balance of a former appropriation to that amount, for that object, having been carried to the credit of the surplus fund, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same is hereby, appropriated, for defraying the further expenses incident to the valuation of houses and lands, and the enumeration of slaves within the United States.

Approved, April 23, 1808.

An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be, and he is hereby directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times herein mentioned, that is to say:

Thomas Lamar Davis, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Albert Chapman, at the rate of ten dollars per month, to commence on the seventeenth day of October, one thousand eight hundred and seven.

Ambrose Homan, at the rate of two dollars and fifty cents per month, to commence on the fifteenth day of December, one thousand eight hundred and six.

Richard Scott, at the rate of two dollars and fifty cents per month, to commence on the fifth day of October, one thousand eight hundred and seven.

Francis Blood, at the rate of five dollars per month, to commence on the sixteenth day of December, one thousand eight hundred and six.

Jonas Green, at the rate of five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

William Green, at the rate of eight dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

Seth Weed, at the rate of six dollars per month, to commence on the seventh day of October, one thousand eight hundred and seven.

Samuel Lathrop, at the rate of five dollars per month, to commence on the twenty-second day of September, one thousand eight hundred and seven.

Peter Smith, at the rate of four dollars per month, to commence on the sixteenth day of July, one thousand eight hundred and six.

William Johnson, at the rate of two dollars and fifty cents per month, to commence on the first day of April, one thousand eight hundred and seven.

James Houston, at the rate of fifteen dollars per month, to commence on the thirteenth day of July, one thousand eight hundred and seven.

Jedediah Hyde, at the rate of fifteen dollars per month, to commence on the third day of August, one thousand eight hundred and seven.

Samuel Nesbit, at the rate of five dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and seven.

Shepherd Packard, at the rate of three dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

Richard Kisby, at the rate of four dollars per month, to commence on the twenty-fourth day of March, one thousand eight hundred and seven.

Jonathan Wilkins, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth day of March, one thousand eight hundred and seven.

Waterman Baldwin, at the rate of five dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and seven.

John Clark, at the rate of eight dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and seven.

John Venus, at the rate of two dollars and fifty cents per month, to commence on the eleventh day of December, one thousand eight hundred and seven.

John Holcombe, at the rate of fifteen dollars per month, to commence on the first day of December, one thousand eight hundred and seven.

Richard Steads, at the rate of four dollars per month, to commence on the ninth day of December, one thousand eight hundred and seven.

Alexander Jones, at the rate of three dollars thirty-three and one-third cents per month, to commence on the nineteenth day of June, one thousand seven hundred and eighty-four.

Benjamin Saddler, at the rate of three dollars per month, to commence on the first day of January, one thousand eight hundred and three.

Benjamin Jenkins, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of September, one thousand eight hundred and seven.

William Scott, at the rate of twenty-five dollars per month, to commence on the twelfth day of March, one thousand eight hundred and seven.

James Bruff, at the rate of twenty dollars per month, to commence on the seventeenth day of August, one thousand eight hundred and seven.

Nathan Taylor, at the rate of ten dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and eight.

Aaron Stevens, at the rate of ten dollars per

month, to commence on the twenty-fourth day of February, one thousand eight hundred and eight.

Simon Morgan, at the rate of twenty dollars per month, to commence on the second day of March, one thousand eight hundred and eight.

Jonathan Batch, at the rate of five dollars per month, to commence on the eleventh day of July, one thousand eight hundred and six.

Ebenezer Rowe, at the rate of five dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and seven.

Benjamin Kendrick, at the rate of three dollars thirty-three and one-third cents per month, to commence on the first day of January, one thousand seven hundred and eighty-six.

Nicholas Hoff, at the rate of five dollars per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Samuel Shaw, at the rate of eight dollars per month, to commence on the thirteenth day of February, one thousand eight hundred and eight.

Nicholas Isott, at the rate of two dollars and fifty cents per month, to commence on the twenty-third day of January, one thousand eight hundred and eight.

Humphrey Becket, at the rate of two dollars and fifty cents per month, to commence on the eighth day of January, one thousand eight hundred and eight.

Silas Parrot, at the rate of six dollars per month, to commence on the tenth day of February, one thousand eight hundred and eight.

Jared Hinkley, junior, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of January, one thousand eight hundred and eight.

Francis Davidson, at the rate of four dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and eight.

Andrew Waggoner, at the rate of twenty dollars per month, to commence on the second day of November, one thousand eight hundred and seven.

George Richardson, at the rate of four dollars per month, to commence on the tenth day of February, one thousand eight hundred and eight.

William Wallace, at the rate of eight dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Joseph Bird, at the rate of four dollars per month, to commence on the twenty-ninth day of January, one thousand eight hundred and eight.

John St. John, at the rate of five dollars per month, to commence on the twenty-ninth day of January, one thousand eight hundred and eight.

Abner Snow, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-seventh day of January, one thousand eight hundred and eight.

Aaron Crane, at the rate of two dollars and fifty cents per month, to commence on the third day of November, one thousand eight hundred and seven.

James Hawkley, at the rate of five dollars per month, to commence on the sixth day of January, one thousand eight hundred and eight.

Elijah Morse, at the rate of four dollars per month, to commence on the sixth day of January, one thousand eight hundred and eight.

John Van Anglen, at the rate of fifteen dollars per month, to commence on the third day of November, one thousand eight hundred and seven.

James Boden, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, one thousand eight hundred and eight.

Isaac Burnham, at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and three.

Benjamin Hillman, at the rate of ten dollars per month, to commence on the fourteenth day of March, one thousand eight hundred and eight.

Silas Pierce, at the rate of ten dollars per month, to commence on the seventh day of March, one thousand eight hundred and eight.

Randal McAllistor, at the rate of five dollars per month, to commence on the seventh day of March, one thousand eight hundred and eight.

John Durnal, at the rate of three dollars per month, to commence on the seventh day of April, one thousand eight hundred and eight.

Jabez Church, at the rate of two dollars and fifty cents per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Thomas Machen, at the rate of ten dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and eight.

David Richey, at the rate of two dollars and fifty cents per month, to commence on the second day of April, one thousand eight hundred and eight.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times herein mentioned, that is to say:

James Campbell, four dollars per month, to commence on the twenty-fifth day of September, one thousand eight hundred and seven.

John Beardsley, junior, five dollars per month, to commence on the thirteenth day of November, one thousand eight hundred and seven.

Thomas Bristol, four dollars per month, to commence on the twenty-second day of October, one thousand eight hundred and seven.

Josiah Smith, five dollars per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Joseph Ware, five dollars per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Daniel Buck, five dollars per month, to commence on the seventeenth day of December, one thousand eight hundred and seven.

Lemuel King, five dollars per month, to commence on the twenty-third day of December, one thousand eight hundred and seven.

William Wallace, five dollars per month, to commence on the seventeenth day of November, one thousand eight hundred and seven.

Joseph Saunders, five dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

William Hastings, five dollars per month, to commence on the eleventh day of February, one thousand eight hundred and seven.

Joshua Lovejoy, five dollars per month, to commence on the fifth day of June, one thousand eight hundred and seven.

Isaac Higgins, three dollars thirty-three and one-third cents per month, to commence on the twenty-ninth day of September, one thousand eight hundred and seven.

Reuben Dow, fifteen dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and seven.

Joseph Harrup, five dollars per month, to commence on the fifteenth day of September, one thousand eight hundred and seven.

David Ranney, five dollars per month, to commence on the fifth day of November, one thousand eight hundred and seven.

John Whitehorn, five dollars per month, to commence on the thirtieth day of September, one thousand eight hundred and seven.

Richard Sherman, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Noah Sinclair, three dollars and seventy-five cents per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Nathaniel Church, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Gershom Clarke, five dollars per month, to commence on the first day of January, one thousand eight hundred and eight.

John McKinstry, twelve dollars per month, to commence on the seventh day of December, one thousand eight hundred and seven.

Ebenezer Perkins, five dollars per month, to commence on the fifteenth of September, one thousand eight hundred and seven.

Henry Ten Eyck, fifteen dollars per month, to commence on the twenty-first day of November, one thousand eight hundred and seven.

Thomas Simpson, thirteen dollars thirty-three and one-third cents, to commence on the twenty-fourth day of December, one thousand eight hundred and six.

John Rybecker, four dollars per month, to commence on the eighteenth day of April, one thousand eight hundred and seven.

Lemuel Dean, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Thomas Johnson, five dollars per month, to commence on the seventeenth day of April, one thousand eight hundred and seven.

Levi Chubbuck, three dollars and seventy-five cents per month, to commence on the twentieth day of June, one thousand eight hundred and seven.

George Walter, two dollars and fifty cents per month, to commence on the twenty-fourth day of February, one thousand eight hundred and eight.

Samuel Rossetter, five dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Jeremiah Prichard, thirteen dollars thirty-three and one third cents per month, to commence on the sixth day of January, one thousand eight hundred and eight.

Abner Gage, five dollars per month, to commence on the twenty-sixth day of January, one thousand eight hundred and eight.

John Devoe, five dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Nathaniel Bradley, five dollars per month, to commence on the twenty-sixth day of January, one thousand eight hundred and eight.

Thaddeus Seely, two dollars and fifty cents per month, to commence on the ninth day of January, one thousand eight hundred and eight.

John Herron, two dollars and fifty cents per month, to commence on the twenty-sixth day of January one thousand eight hundred and eight.

Peter Nevius, four dollars per month, to commence on the seventeenth day of February, one thousand eight hundred and eight.

John Hampton, six dollars per month, to commence on the seventeenth day of February, one thousand eight hundred and eight.

Rossnell Woodworth, five dollars per month, to commence on the twenty-third day of March, one thousand eight hundred and eight.

David Hulbell, five dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and eight.

John McKoy, five dollars per month, to commence on the fifteenth day of March, one thousand eight hundred and eight.

Caleb Hunt, five dollars per month, to commence on the fifth day of March, one thousand eight hundred and eight.

Henry Gates, five dollars per month, to commence on the ninth day of March, one thousand eight hundred and eight.

David Hall, five dollars per month to commence on the twelfth day of February, one thousand eight hundred and eight.

Jonah Cook, five dollars per month, to commence on the fourth day of April, one thousand eight hundred and eight.

William Nelson, to five dollars per month, to commence on the twenty-second day of January, one thousand eight hundred and eight.

SEC. 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to place on the pension list of the United States, all persons who now remain on the pension list of any of the States, and who were placed on the same in consequence of disability occasioned by known wounds received during the Revolutionary war, whether such person or persons served in the land or sea service of the forces of the United States, or of any particular State, in the regular corps, or the militia, or as volunteers: *Provided*, That in no case the pensions allowed to such person or persons, shall exceed the sums specified by the sixth section of an

act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," passed the tenth day of April, one thousand eight hundred and six: *And provided*, That in every case where application shall be made to have such person or persons placed on the pension list of the United States, under this law, satisfactory documents, from the proper officers of the State, shall be adduced to establish the fact of such person or persons having been placed on the State pension list in consequence of disability occasioned by known wounds received during the Revolutionary war.

Sec. 4. *And be it further enacted*, That any officer, non-commissioned officer, musician, or private, who has been wounded, or disabled since the Revolutionary war, while in the line of his duty, in the actual service of the United States, whether he belong to the Military Establishment, or the militia, or any volunteer corps, called into service, under the authority of the United States, may be placed on the pension list of the United States, at such rates of compensation, and under such regulations as are prescribed by the act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," passed April the tenth, one thousand eight hundred and six.

Sec. 5. *And be it further enacted*, That the pensioners, becoming such in virtue of this act, shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

Approved, April 25, 1808.

An act to authorize and empower the President of the United States to exchange certain lands, for other lands more suitable for fortification.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to cause the lands in Portland, whereon the fort and battery now stand, and the lands at Ocracock and Old Topsail inlets, in North Carolina, acquired with a view to erecting fortifications, to be exchanged for other lands more suitable for fortification, and the protection of Portland, in the district of Maine, and Ocracock, and Old Topsail inlet, in North Carolina.

Approved, April 25, 1808.

An Act to make Plymouth, in North Carolina, a port of entry; to change the name of the district of Nanjemoy, to that of St. Mary's, and to make Augusta, in the district of Maine, a port of delivery.

Be it enacted, &c., That, from and after the thirteenth day of June next, a district shall be formed out of the district of Edenton, in North Carolina, to be called the district of Plymouth, which shall include and comprehend the rivers Roanoke and Cashie, and all the waters, creeks, and harbors belonging thereto. The town of Plymouth shall be the port of entry and delivery; and Windsor and Skewarky, ports of delivery. A collector for the district shall be appointed, to reside and keep his office at the town of Plymouth, who shall be entitled to receive three per cent. commissions on all moneys by him received on account of the duties arising on goods, wares, and merchandise, imported into the said district, and on the tonnage of ships and vessels, and the other emoluments and fees of office established by law.

Sec. 2. *And be it further enacted*, That, from and after the thirtieth day of June next, the district of Nanjemoy, in the State of Maryland, shall be called the district of St. Mary's, and the collector shall reside at St. Mary's river, which shall be the port of entry and delivery for said district, and Nanjemoy a port of delivery only, to which a surveyor shall be appointed, who shall be entitled, in addition to the fees and emoluments already allowed by law, to receive a salary of one hundred and fifty dollars.

Sec. 3. *And be it further enacted*, That the town of Augusta, in the district of Maine, shall be and the same is hereby constituted a port of delivery, to be annexed to the district of Bath, and subject to the same regulations and restrictions as other ports of delivery in the United States; and there shall be appointed a surveyor, to reside at the said port of delivery, who shall be entitled to receive a salary of one hundred and fifty dollars, annually, in addition to the other emoluments allowed by law.

Approved, April 25, 1808.

An Act making appropriations for the support of an additional Military Force, for the year one thousand eight hundred and eight.

Be it enacted, &c., That for defraying the necessary expense, to the first day of January next, of the troops to be raised by virtue of an act, entitled "An act to raise for a limited time an additional military force," passed on the twelfth day of April, one thousand eight hundred and eight, the following sums be, and the same are hereby, respectively appropriated, that is to say:

For pay, two hundred and eighty-five thousand nine hundred and twenty dollars.

For forage, eighteen thousand four hundred and seventy-nine dollars.

For subsistence, two hundred and thirteen thousand six hundred and ninety-six dollars.

For clothing, one hundred and fifty thousand five hundred and twenty-eight dollars.

For bounties and premiums, eighty-five thousand one hundred and twenty dollars.

For the medical and hospital departments, fifteen thousand dollars.

For camp equipage, tents, barracks, fuel, and transportation, one hundred and eleven thousand dollars.

For contingencies, ten thousand dollars.

For ordnance, sixty thousand dollars.

For the purchase of horses, and other expenses necessary to mount the cavalry, thirty-six thousand seven hundred and twenty dollars.

Sec. 2. *And be it further enacted*, That the several sums herein specifically appropriated, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, April 25, 1808.

An act authorizing the Secretary of the Treasury to pay to the Comptroller of the Treasury, in trust, the amount of certain bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasury of the United States.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, into the hands of the Comptroller of the Treasury of the United States, the amount, in cash, of the bills drawn by John Armstrong, Minister from the United States to the Court of France, on the Treasurer of the United States, in favor of Nathan Freres, Denton, and Hall, pursuant to a liquidation made by the Government of France, under the convention concluded between the United States and the French Government, on the thirtieth day of April, in the year one thousand eight hundred and three; *and also*, the amount of the bills drawn by the aforesaid Minister, on the said Treasurer of the United States, in favor of Joseph Sands, pursuant to a liquidation made under the convention aforesaid; which sums, so paid to the Comptroller, shall be held, by him in trust, to pay and satisfy such persons, and in such proportions, as shall be adjudged or decreed by the courts hereafter specified; and the said sums shall be by the Comptroller deposited in the office of discount and deposite, in the City of Washington, for safe keeping until such judgments or decrees shall take place.

Sec. 2. *And be it further enacted*, That all suits or proceedings, at law or in equity, to establish claims against, or recover the whole, or any part, of the sum so deposited, on account of the bills drawn in favor of Nathan Freres, Denton, and Hall, shall be commenced on or before the first day of November next, in the circuit court of the fourth circuit, holden in the district of Maryland; and all suits or proceedings, at law or in equity, to establish claims against, or to recover, the whole or any part of the sum so deposited, on account of the bills drawn in favor of Joseph Sands, shall be commenced on or before the day aforesaid, in the circuit court of the second circuit, holden in the district of New York, or in the circuit court of the District of Columbia, to be held for Washington county, in said district; and any, or either, party aggrieved by the judgment or decree of either of the said courts, may remove the same to the Supreme Court of the United States, in the same manner, and on the same terms and conditions, as appeals and writs of error are now prosecuted from the said courts.

Sec. 3. *And be it further enacted*, That whenever a final judgment or decree shall be entered up by either of the said courts, in favor of any person or persons who may have established a right or claim to the whole, or any part, of the said sums, so paid to the Comptroller, and deposited in virtue of this law, the said Comptroller shall direct the cashier of the said office of discount and deposite to pay the amount recovered to the party or persons entitled under such judgment or decree, so rendered by the said courts.

Approved, April 25, 1808.

An Act to make good a deficit in the appropriation of eighteen hundred and seven, for completing the public buildings; and for other purposes.

Be it enacted, &c., That, in addition to the appropriations already made, the following sums of money be, and the same are hereby, appropriated, to be applied, under the direction of the President of the United States, to the purposes hereinafter mentioned, that is to say:

For making good the deficit of eighteen hundred and seven, including the debt due from the public offices, fifty-one thousand five hundred dollars.

For completing the wall of the President's square, planting the ground so as to close this part of the expenditure, building a solid flight of steps to the principal door, and minor expenses, fourteen thousand dollars.

For carrying up, in solid work, the interior of the north wing, comprising the Senate Chamber, twenty-five thousand dollars.

For executing the work deficient in the interior of the south wing, and for painting, eleven thousand five hundred dollars.

Sec. 2. *And be it further enacted*, That the several sums of money hereby appropriated, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 25, 1808.

An act in addition to the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, and for other purposes.

Be it enacted, &c., That, during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, no vessel of any description whatever, and wherever bound, whose employment is confined to the navigation of bays, sounds, rivers, and lakes, within the jurisdiction of the United States, (packets, ferry-boats, and vessels exempted from the obligation of giving any bond whatever, only excepted,) shall be allowed to depart from any district of the United States, without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure a manifest of the whole cargo on board, including articles of domestic growth or manufacture, as well as foreign merchandise. And it shall also be the duty of the owners, agents, or masters of every such vessel, to produce, within two months, thereafter, to the collector of the district from which the vessel departed, a certificate of the landing of the whole of such cargo, in a port of the United States, within the bay, sound, rivers, or lakes, to which the navigation of such vessel is confined, signed

by the collector or surveyor of the port where the cargo shall have been landed.

Sec. 2. *And be it further enacted*, That during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, no ship or vessel of any description whatever, other than those described in the next preceding section, and wherever bound, shall receive a clearance, unless the lading shall be made hereafter under the inspection of the proper revenue officers, subject to the same restrictions, regulations, penalties, and forfeitures, as are provided by law for the inspection of goods, wares, and merchandise, imported into the United States, upon which duties are imposed, any law to the contrary notwithstanding: *Provided*, that nothing herein contained shall be construed to affect vessels laden, in whole or in part, on the receipt of this act by the respective collectors.

Sec. 3. *And be it further enacted*, That if any vessel, described in the first section, shall depart from any district of the United States without a clearance, or before the manifest of the cargo shall have been delivered to the collector or surveyor, in the manner therein prohibited, or if a certificate of the landing of the cargo shall not be produced within the time and in the manner therein provided, such vessels and cargo shall be forfeited, and the owner or owners, consignee, agent, factors, freighters, master, or skipper of such vessel, shall respectively forfeit and pay a sum not exceeding five thousand dollars, nor less than one thousand dollars: *Provided always*, that nothing herein contained shall be construed to bar or prevent the recovery of the penalty on the bond given for such vessel.

Sec. 4. *And be it further enacted*, That during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, it shall be the duty of the master or person having charge or command of any vessel, flat, or boat, intended to enter that part of the river Mississippi which lies between the southern boundary of the Mississippi Territory and the river Iberville, if going down the said river, to stop at Fort Adams, and if going up the river to stop at Iberville, and at each place, as the case may be, to deliver to an inspector of the revenue, to be stationed there for that purpose, a manifest of the whole cargo on board; and also to produce to the same officer, within two months thereafter, if going down the river, and within six months thereafter, if going up the river, a certificate of the landing of the same in some part of the district of Mississippi, and within the jurisdiction of the United States; which certificate shall be signed by the collector or one of the surveyors of the district of Mississippi; or, if the cargo shall be landed more than thirty miles from the place of residence of any such officer, by a State or Territorial judge, having jurisdiction at the place of such landing.

Sec. 5. *And be it further enacted*, That, if any vessel, flat, or boat, shall enter that part of the river Mississippi, as prescribed in the next preceding section, without stopping and delivering a manifest in the manner therein provided, or if a certificate of the landing of the cargo shall not be produced within the time, and in the manner therein provided, such vessel, flat, or boat, and cargo, shall be forfeited, and the owner or owners, consignee, agent, factors, freighters, master, or skipper of such vessel, flat, or boat, shall respectively forfeit and pay a sum not exceeding five thousand dollars, nor less than one thousand dollars.

Sec. 6. *And be it further enacted*, That no ship or vessel having any cargo whatever on board, shall, during the continuance of the act laying an embargo on all ships and vessels, in the ports and harbors of the United States, be allowed to depart from any port of the United States, for any other port or district of the United States, adjacent to the territories, colonies, or provinces of a foreign nation; nor shall any clearance be furnished to any ship or vessel, bound as aforesaid, without special permission of the President of the United States. And if any ship or vessel shall, contrary to the provisions of this act, proceed to any port or district adjacent to the territories, colonies, or provinces of a foreign nation, such ship or vessel, with her cargo, shall be wholly forfeited; and if the same shall not be seized, the owner, agents, factors, and freighters of such ship or vessel shall, for every such offence, forfeit and pay double the value of such ship and cargo; and the master and commander of such ship or vessel, as well as all other persons, who shall knowingly be concerned in such prohibited voyage, shall each respectively forfeit and pay not exceeding three thousand dollars, nor less than five hundred dollars, for such offence, whether the vessel be seized or not.

Sec. 7. *And be it further enacted*, That the commanders of the public armed vessels and gunboats of the United States shall, as well as the commanders or masters of the revenue cutters, and revenue boats, be authorized, and they are hereby authorized, to stop and examine any vessel, flat, or boat, belonging to any citizen of the United States, either on the high seas, or within the jurisdiction of the United States, or any foreign vessel within the jurisdiction of the United States, which there may be reason to suspect to be engaged in any traffic or commerce, or in the transportation of merchandise, of either domestic or foreign growth or manufacture, contrary to the provisions of this act, or of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or of any of the acts supplementary thereto; and if, upon examination, it shall appear that such vessel, flat, or boat, is thus engaged, it shall be the duty of the commander to seize every such vessel, flat, or boat, and to send the same to the nearest port of the United States for trial.

Sec. 8. *And be it further enacted*, That the Comptroller of the Treasury be, and he hereby is, authorized to remit the duties accruing on the importation of goods of domestic produce, or which, being of foreign produce, had been exported without receiving a drawback, which may

have been, or may be re-imported in vessels owned by citizens of the United States, and which having sailed subsequent to the first day of October last, and prior to the twenty-second day of December last, may be or have been stopped on the high seas by foreign armed vessels, and by reason thereof have returned, or may hereafter return into the United States. And the said Comptroller is likewise authorized to direct the exportation bonds given for foreign merchandise, exported with privilege of drawback, in such vessel and re-imported in the same, in the manner aforesaid, to be cancelled, the duties on such re-importation being previously paid, and on such other conditions and restrictions as may be necessary for the security of the revenue.

Sec. 9. *And be it further enacted*, That, during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, no foreign ship or vessel shall go from one port in the United States to another, and should any foreign ship or vessel, contrary to this section, go from one port of the United States to another, the vessel with her cargo shall be wholly forfeited, the owner, or owners, agent, factors, freighters, and master of such ship or vessel, shall forfeit and pay a sum not exceeding three thousand dollars, nor less than one thousand dollars.

Sec. 10. *And be it further enacted*, That no vessel, flat, or boat, comprehended in this act shall be obliged to pay more than twenty cents for each clearance.

Sec. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized to detain any vessel ostensibly bound with a cargo to some other port of the United States, whenever in their opinions the intention is to violate or evade any of the provisions of the acts laying an embargo, until the decision of the President of the United States be had thereupon.

Sec. 12. *And be it further enacted*, That if any unusual deposites of provisions, lumber, or other articles of domestic growth or manufacture, shall have been, or shall be made in any of the ports of the United States, adjacent to the territories, colonies, or provinces of a foreign nation, the collector of the district shall be, and he hereby is, authorized to take the same in his custody, and not to permit such articles to be removed until bond with sufficient sureties shall have been given for the landing or delivery of the same in some port or place of the United States.

Sec. 13. *And be it further enacted*, That any ship or vessel, owned by a citizen or citizens of the United States, loaded, or in part loaded, with the produce of the United States, before the act laying an embargo was passed, and by said act detained in any port of the United States, may be permitted to proceed to any other port of the United States, and there to remain with such cargo on board, subject to such other restrictions and bonds as are prescribed in the act laying an embargo, and the several supplementary acts thereto.

Sec. 14. *And be it further enacted*, That all penalties and forfeitures, incurred by force of this act, may be mitigated and remitted in the manner prescribed by the act, entitled "An act to provide for mitigating and remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" and all penalties and forfeitures which may be recovered in pursuance of this act, in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, entitled "An act for the government of the Navy of the United States," and all other penalties and forfeitures, arising under this act, shall be distributed in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage."

Sec. 15. *And be it further enacted*, That nothing in the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or in the several acts supplementary thereto, or in the act to prohibit the importation of certain goods, wares, and merchandise, shall be construed to prevent the exportation by land, or inland navigation, from the territories of the United States into those of Great Britain, of furs and peltries, the property of subjects of Great Britain, and by them purchased from the Indians, or to prevent the importation by land, or inland navigation, from the territories of Great Britain into those of the United States, of merchandise the property of British subjects, and by them imported solely for the use of the Indians aforesaid.

Approved, April 25, 1808.

An Act supplemental to "An act regulating the grants of land in the Territory of Michigan."

Be it enacted, &c., That every person claiming lands, within that part of the Michigan Territory to which the Indian title hath been extinguished, by virtue of any legal grant made by the French Government prior to the Treaty of Paris, of the tenth of February, one thousand seven hundred and sixty-three; or of any legal grant made by the British Government subsequent to the said treaty, and prior to the Treaty of Peace between the United States and Great Britain, of the third of September, one thousand seven hundred and eighty-three, or of the second section of the act to which this act is a supplement, shall be allowed until the first day of January next, to deliver to the register of the land office for the district of Detroit, a notice in writing, stating the nature and extent of his claims, together with a plat or plats of the tract or tracts claimed; and if such person shall fail to deliver such notice in writing, together with a plat of the tract claimed, all his right, so far as it may be derived from any act of Congress, shall become void; and the Commissioners appointed for the purpose of ascertaining and deciding the rights of persons claiming lands in the said district of Detroit, shall have the same powers and perform the duties in relation to the claims, notices of which shall be thus filed, as are provided

by the act to which this act is a supplement, in relation to the claims therein described.

Sec. 2. *And be it further enacted*, That every person whose claim has been or shall be confirmed, by the Commissioners aforesaid, to a tract of land bordering on the river Detroit, and not exceeding in depth forty arpens, French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of his own tract, not exceeding forty arpens, French measure, in depth, nor in quantity of land that which is contained in his own tract, at the same price, and on the same terms and conditions as are provided by law for the other public lands in the said district. And the surveyor general shall be, and he is hereby, authorized, as soon as may be, to cause to be surveyed the tracts claimed by virtue of this section, and in all cases where, by reason of lands in the said river, and of adjacent prior, or pre-emption claims, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land, applicable to that object, between the several claimants, in such manner as to him will appear most equitable. And every person entitled to the benefit of this section, shall, on or before the first day of January next, deliver to the register of the land office for the district of Detroit, a notice in writing, stating the situation and extent of the tract of land he wishes to purchase, and deposite at the same time one-twentieth part of the purchase money; and shall also, within three months after the return of the survey to the office of the said register, produce to him a receipt from the receiver of public money for the said district for one-fourth part of the purchase money. And if any such person shall fail to deliver such notice, and make such deposite and payment, at the times above mentioned, his right of pre-emption shall cease, and become void.

Sec. 3. *And be it further enacted*, That every person who, being the head of a family, did, prior to the twenty-sixth of March, one thousand eight hundred and four, and doth, at the time of the passage of this act, inhabit and cultivate a tract of land in the Territory of Michigan, not claimed by virtue of a legal French or British grant, or by the second section of the act to which this act is a supplement, shall be entitled to a preference, in becoming the purchaser from the United States of such tract of land, not exceeding one section, at the price at which the other public lands in the said Territory are directed to be sold; and payment may be made therefor in the same manner, and under the same conditions, as are provided by law for such other public lands. And every person entitled to the benefit of this section, shall, on or before the first day of January next, deliver to the register of the land office, for the district aforesaid, a notice in writing, of the situation and extent of the tract of land he wishes to purchase. The Commissioners aforesaid are hereby authorized to examine and decide the claims of every person claiming the benefit of this section, and whenever it shall appear to them that the claimant is entitled to a right of pre-emption they shall give a certificate thereof, directed to the register of the land office, which certificate, together with a receipt from the receiver of public money, of at least one-fourth part of the purchase money, shall, on or before the first day of January next, be produced by the claimant to the register of the land office for the said district. And if any person shall fail to deliver such notice in writing, or produce such certificate and receipt within the times above-mentioned, his right of pre-emption shall cease and become void.

Sec. 4. *And be it further enacted*, That so much of the second section of the act to which this act is a supplement, as provides that not more than one tract or parcel of land shall be granted to any one person, shall be, and the same is hereby, repealed.

Sec. 5. *And be it further enacted*, That the lands to which the Indian title has been extinguished, by the treaty made at Detroit, on the seventeenth of November, one thousand eight hundred and seven, shall be attached to and made a part of the district of Detroit, and be offered for sale at that place, under the same exceptions and regulations, at the same price, and on the same terms, as other lands lying in that district.

Approved, April 25, 1808.

Resolution to authorize the disposition of certain charts of the coast of North Carolina.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to cause to be sold as many of the charts of the coast of North Carolina, published in conformity to the resolution which passed the second of March, one thousand eight hundred and seven, as shall remain on hand, after reserving the number requisite for the use of the Government of the United States.

Approved, March 4, 1808.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

TENTH CONGRESS.—SECOND SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

TENTH CONGRESS—SECOND SESSION.

COMPRISING THE PERIOD FROM NOVEMBER 7, 1808, TO MARCH 3, 1809, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

1853.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE TENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 7, 1808.

MONDAY, November 7, 1808.

Conformably to the act, passed the last session, entitled "An act to alter the time for the next meeting of Congress," the second session of the tenth Congress commenced this day; and the Senate assembled at the City of Washington.

PRESENT:

GEORGE CLINTON, Vice President of the United States and President of the Senate.

NICHOLAS GILMAN and NAHUM PARKER, from New Hampshire.

TIMOTHY PICKERING, from Massachusetts.

JAMES HILLHOUSE and CHAUNCEY GOODRICH, from Connecticut.

BENJAMIN HOWLAND and ELISHA MATHEWSON, from Rhode Island.

STEPHEN R. BRADLEY and JONATHAN ROBINSON, from Vermont.

SAMUEL L. MITCHILL and JOHN SMITH, from New York.

JOHN CONDIT and AARON KITCHEL, from New Jersey.

SAMUEL MACLAY, from Pennsylvania.

SAMUEL WHITE, from Delaware.

WILLIAM B. GILES, from Virginia.

JAMES TURNER, from North Carolina.

THOMAS SUMTER and JOHN GAILLARD, from South Carolina.

WILLIAM H. CRAWFORD, from Georgia.

BUCKNER THRUSTON and JOHN POPE, from Kentucky.

DANIEL SMITH, from Tennessee.

EDWARD TIFFIN, from Ohio.

JAMES LLOYD, Jun., appointed a Senator by the Legislature of the State of Massachusetts, to supply the place of JOHN QUINCY ADAMS, resigned, took his seat in the Senate, and produced his credentials, which were read, and the oath prescribed by law was administered to him.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; and that Messrs. BRADLEY and POPE be a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled and ready to proceed to business; and that the House had appointed a committee on their part, jointly, with the committee appointed on the part of the Senate, to wait on the President of United States and notify him that a quorum of the two Houses is assembled.

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose, provided that the same be furnished at the usual rate for the annual charge of such papers; and, provided, also, that if any Senator shall choose to take any newspapers other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

The PRESIDENT communicated a resolution and memorial of the House of Representatives of the Mississippi Territory, signed by the Speaker, praying an extension of the time for payment of the first instalment for the purchase of lands, due January, 1809; also, praying that a bill under consideration in the House of Representatives at their last session, for establishing a Federal court in that district, should not pass into a law, for reasons mentioned in the memorial; which was read and ordered to lie for consideration.

Resolved, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

On motion, by Mr. BRADLEY,

Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

Mr. BRADLEY reported, from the joint commit-

tee, that they had waited on the President of the United States, agreeably to order, and that the President of the United States informed the committee that he would make a communication to the two Houses at 12 o'clock to-morrow.

TUESDAY, November 8.

SAMUEL SMITH and PHILIP REED, from the State of Maryland, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

It would have been a source, fellow-citizens, of much gratification, if our last communications from Europe had enabled me to inform you that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I lost no time in availing myself of the act authorizing a suspension, in whole, or in part, of the several embargo laws. Our Ministers at London and Paris were instructed to explain to the respective Governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged, on all sides, had been reluctantly obstructed. As each of those Governments had pledged its readiness to concur in renouncing a measure which reached its adversary through the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their professions, and for restoring to the commerce of the United States its legitimate freedom. The instructions of our Ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances, and to the condition annexed by law to the Executive power of suspension requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge therefore of a suspension of the embargo as to her, in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between the other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition to state, explicitly, on her rescinding her orders in relation to the United States, their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favorable reception of the proposition to Great Britain was the less to be doubted, as her Orders of Council had not only been referred for their vindication to an acquiescence on the part of the United States no longer to be pretended, but as the arrangement proposed, whilst it resisted the illegal decrees of France, involved, moreover, substantially, the precise advantages professedly aimed at by the British Orders. The arrangement has, nevertheless, been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the Executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that, in return for the privations imposed by the measure, and which our fellow-citizens in general have borne with patriotism, it has had the important effects of saving our mariners, and our vast mercantile property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involved war, if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures, which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiments of our constituents, my confidence is strengthened that, in forming this decision, they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues which, on other occasions, have marked the character of our fellow-citizens, if I did not cherish an equal confidence that the alternative chosen, whatever it may be, will be maintained with all the fortitude and patriotism which the crisis ought to inspire.

The documents containing the correspondences on the subject of foreign edicts against our commerce, with the instructions given to our Ministers at London and Paris, are now laid before you.

The communications made to Congress at their last session explained the posture in which the close of the discussions relating to the attack by a British ship of war on the frigate Chesapeake, left a subject on which the nation had manifested so honorable a sensibility. Every view of what had passed authorized a belief that immediate steps would be taken by the British Government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen, in the documents laid before you, that the inadmissible preliminary, which obstructed the adjustment, is still adhered to; and, moreover, that it is now brought into connexion with the distinct and irrelative case of the Orders in Council. The instructions which had been given to our Minister at London, with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other Powers of Europe have undergone no material changes since our last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause under the extraordinary and interesting crisis which distinguishes her internal situation.

With the Barbary Powers we continue in harmony, with the exception of an unjustifiable proceeding of the Dey of Algiers towards our Consul to that Regency,

Its character and circumstances are now laid before you, and will enable you to decide how far it may, either now or hereafter, call for any measures not within the limits of the Executive authority.

With our Indian neighbors the public peace has been steadily maintained. Some instances of individual wrong have, as at other times, taken place, but in no wise implicating the will of the nation. Beyond the Mississippi, the Iowas, the Sacs, and the Alabamas, have delivered up for trial and punishment individuals from among themselves, accused of murdering citizens of the United States. On this side of the Mississippi, the Creeks are exerting themselves to arrest offenders of the same kind; and the Choctaws have manifested their readiness and desire for amicable and just arrangements respecting depredations committed by disorderly persons of their tribe. And, generally, from a conviction that we consider them as a part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily, is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufactures are advancing among them, more rapidly with the southern than northern tribes, from circumstances of soil and climate; and one of the two great divisions of the Cherokee nation have now under consideration to solicit the citizenship of the United States, and to be identified with us in laws and government, in such progressive manner as we shall think best.

In consequence of the appropriations of the last session of Congress for the security of our seaport towns and harbors, such works of defence have been erected as seemed to be called for by the situation of the several places, their relative importance, and the scale of expense indicated by the amount of the appropriation. These works will chiefly be finished in the course of the present season, except at New York and New Orleans, where most was to be done; and although a great proportion of the last appropriation has been expended on the former place, yet some further views will be submitted to Congress for rendering its security entirely adequate against naval enterprise. A view of what has been done at the several places, and of what is proposed to be done, shall be communicated as soon as the several reports are received.

Of the gun-boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbors and waters most exposed, and the residue will require little time for their construction when it shall be deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were necessary for carrying on the business of recruiting, and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present you a statement of the number engaged.

I have not thought it necessary, in the course of the last season, to call for any general detachments of militia or of volunteers, under the laws passed for that purpose. For the ensuing season, however, they will be required to be in readiness should their service be wanted. Some small and special detachments have been necessary to maintain the laws of embargo on that portion of our northern frontier which offered peculiar facilities for evasion, but these were replaced as soon as it could be done by bodies of new recruits. By the aid of these, and of the armed vessels called into service in other quarters, the spirit of disobedience and abuse, which manifested itself early, and with sensible effect while we were unprepared to meet it, has been considerably repressed.

Considering the extraordinary character of the times in which we live, our attention should unremittingly be fixed on the safety of our country. For a people who are free, and who mean to remain so, a well organized and armed militia is their best security. It is therefore incumbent on us, at every meeting, to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion? Some of the States have paid a laudable attention to this object; but every degree of neglect is to be found among others. Congress alone having the power to produce an uniform state of preparation in this great organ of defence, the interests which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation.

Under the acts of March 11 and April 23, respecting arms, the difficulty of procuring them from abroad, during the present situation and dispositions of Europe, induced us to direct our whole efforts to the means of internal supply. The public factories have therefore been enlarged, additional machineries erected, and, in proportion as artificers can be found or formed, their effect, already more than doubled, may be increased so as to keep pace with the yearly increase of the militia. The annual sums appropriated by the latter act have been directed to the encouragement of private factories of arms, and contracts have been entered into with individual undertakers to nearly the amount of the first year's appropriation.

The suspension of our foreign commerce, produced by the injustice of the belligerent Powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions, become permanent. The commerce with the Indians too, within our own boundaries, is likely to receive abundant aliment from the same internal source, and will secure to them peace and the progress of civilization, undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the thirtieth day of September last, being not yet made up, a correct statement will hereafter be transmitted from the Treasury. In the meantime, it is ascertained that the receipts have amounted to near eighteen millions of dollars, which, with the eight millions and a half in the Treasury at the beginning of the year, have enabled us, after meeting the current demands, and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the Treasury, on that day, near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years and a half preceding, will have extinguished thirty-three millions five hun-

dred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and our contracts; and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surpluses of revenue beyond what can be applied to the payment of the public debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or, shall it not rather be appropriated to the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendment of the Constitution as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this, the last occasion which will occur, of addressing the two Houses of the Legislature at their meeting, I cannot omit the expression of my sincere gratitude for the repeated proofs of confidence manifested to me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow-citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But I may say with truth my errors have been of the understanding, not of intention, and that the advancement of their rights and interests has been the constant motive for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust, that, in their steady character, unshaken by difficulties, in their love of liberty, obedience to law, and support of the public authorities, I see a sure guarantee of the permanence of our Republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion that Heaven has in store for our beloved country long ages to come of prosperity and happiness. TH. JEFFERSON.

NOVEMBER 8, 1808.

The Message and papers were in part read, and one thousand copies ordered to be printed for the use of the Senate.

A confidential Message was also received, with sundry documents therein referred to, which were read for consideration.

WEDNESDAY, November 9.

JESSE FRANKLIN, from the State of North Carolina, attended.

The Senate proceeded in reading the documents referred to in the Message of the President of the United States of yesterday.

On motion by Mr. REED,

Resolved, That a committee be appointed to inquire into the state and condition of the Chamber prepared for the Senate to convene in during the present session, and to report whether it is safe and expedient to continue therein, or to remove to some other apartment.

Ordered, That Messrs. REED, WHITE, and BRADLEY, be the committee.

THURSDAY, November 10.

Mr. SMITH of Maryland, submitted the following motion:

Resolved, That a committee be appointed to inquire whether any, and, if any, what, amendments are necessary to the militia laws of the United States.

The following motion was submitted by Mr. GILES:

Resolved, That so much of the Message of the President of the United States as relates to the several embargo laws, be referred to a select committee, with instructions to examine and report whether any further measures are now necessary to enforce a due observance thereof during their continuance; and, also, whether any further modification thereof be expedient at this time, and that such committee have leave to report by bill or otherwise.

On making this motion, Mr. GILES observed, that, as the resolution he had the honor of moving respecting the embargo laws, was intended only as an inquiry into that subject, which was deemed important to all, and if to be further acted upon, requiring immediate attention; and, as it did not commit the Senate upon any point in relation to those laws, he hoped that the committee might be now appointed.

Mr. GOODRICH requested that the motion might not be acted upon until to-morrow, to which Mr. GILES agreed.

The Senate proceeded to the election of a Chaplain on their part, in pursuance of the resolution of the two Houses, and the whole number of votes collected was 20, of which the Reverend Mr. ELLIOTT had 11, and was accordingly elected.

FRIDAY, November 11.

Mr. WHITE submitted the following motion:

Resolved, That the President of the United States cause to be laid before the Senate copies of all the orders and decrees of the belligerent Powers of Europe, passed since one thousand seven hundred and ninety-two, affecting the commercial rights of the United States.

Mr. HILLHOUSE submitted the following motion:

Resolved, That it is expedient that the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, be repealed; and that a committee be appointed to prepare and report a bill for that purpose.

Mr. LLOYD submitted the following motion:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement showing the number of vessels which have departed from the United States, with permission, between the 22d of December, 1807, and the 30th September, 1808; specifying the names of the vessels and their owners; the size of the vessels; the date of their clearances; the ports or places for which they were destined; and the amount authorized to be brought back to the United States in each of such vessels.

The Senate proceeded to consider the motion made yesterday, that a committee be appointed to inquire whether any, and, if any, what, amendments are necessary to the militia laws of the United States; and having agreed thereto,

Ordered, That Messrs. SMITH of Maryland, SUMTER, and BRADLEY, be the committee.

Mr. MACLAY presented the memorial of Charles Pleasants, and other merchants, of the city of Philadelphia, stating that, since the 10th of March, 1808, they have imported sundry goods, wares, and merchandise, consisting of articles enumerated in the act of Congress, passed on that day, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes;" but that, by the construction of the Treasury officers, no advantage of its provisions can be had in favor of goods imported subsequent to its date. The memorialists, therefore, pray that the Legislature will provide for an extension of the relief afforded by the said act to their cases, for reasons stated in the memorial; which was read and ordered to lie for consideration.

The following motion was submitted by Mr. REED:

Resolved, That, in future, the Secretary provide, for the use of the Senate, stationery of the manufacture of the United States, or of some Territory thereof.

The Senate resumed the motion made yesterday, that so much of the Message of the President of the United States as relates to the several embargo laws, be referred to a select committee, with instructions to examine and report whether any further measures are now necessary to enforce due observance thereof during their continuance; and, also, whether any further modification thereof be expedient at this time; and that such committee have leave to report by bill or otherwise.

Mr. MITCHILL moved an amendment, to insert after the word "modification," the words "or a repeal." Mr. M. said his object was to refer the whole subject, and authorize the committee to inquire as well into the expediency of a removal of these laws, as into further provisions for enforcing them, if it should be judged most safe and proper to preserve them in operation. He thought this the most expeditious way of obtaining the opinion of the Senate on that great question, which was the subject of the most anxious solicitude, and on which he wished there might not be a day's nor even an hour's delay.

The amendment was not seconded. Mr. GILES's motion was then agreed to, and Messrs. GILES, SMITH of Maryland, HILLHOUSE, BRADLEY, and POPE, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have appointed the Rev. Mr. BROWN a Chaplain to Congress, on their part, during the present session.

MONDAY, November 14.

JOSEPH ANDERSON, from the State of Tennessee, and ANDREW MOORE, from the State of Virginia, attended.

The Senate resumed the consideration of the motion made on the 11th instant, requesting the President of the United States to lay before the Senate the orders and decrees of the belligerent Powers of Europe since 1792; and the motion having been amended, was agreed to as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate copies of all the orders and decrees of the belligerent Powers of Europe, passed since one thousand seven hundred and ninety-one, affecting the commercial rights of the United States.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the motion made on the 11th instant, requesting the President of the United States to lay before the Senate a statement showing the number of vessels which have departed from the United States since December 22, 1807; and

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement showing the number of vessels which have departed from the United States, with permission, between the 22d of December, 1807, and the 30th of September, 1808, specifying the names of vessels and their owners, the size of the vessels, the date of their clearances, the ports or places for which they were destined, and the amount authorized to be brought back to the United States in each of such vessels.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the motion made on the 11th instant, directing the use of American stationery, and, having amended the motion, it was agreed to, as follows:

Resolved, That, in future, the Secretary provide for the use of the Senate stationery of the manufacture of the United States, or of some Territory thereof, as far as the same can be conveniently procured.

TUESDAY, November 15.

The PRESIDENT communicated the resolutions passed by the House of Representatives of the Indiana Territory, on the 11th of October last, stating the discontents prevailing among the people west of the Wabash, in consequence of their connexion with the people eastward of the said river, and requesting a separation, as the only means of restoring harmony, and terminating those discontents, so essential to their general prosperity; and the resolutions were read.

Ordered, That they be referred to Messrs. POPE, TIFFIN, and BRADLEY, to consider and report thereon.

Mr. REED, from the committee appointed on the 9th instant, to inquire into the state and condition of the Chamber prepared for the Senate during the present session, and whether it is safe and expedient to continue therein, made a report, which was read, and ordered to lie for consideration.

WEDNESDAY, November 16.

ANDREW GREGG, from the State of Pennsylvania, attended.

Mr. BRADLEY laid the following motion on the table:

Resolved, That so much of the Message of the President of the United States as relates to the Barbary Powers, and the unjustifiable proceeding of the Dey of Algiers towards our Consul at that Regency, with the documents accompanying the same, be referred to a select committee, to consider and report thereon.

On motion, it was agreed that the motion of Mr. HILLHOUSE, for repealing the embargo laws, be the order of the day for Monday next.

THURSDAY, November 17.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transportation of a certain Message of the President of the United States, and documents accompanying the same;" in which they request the concurrence of the Senate.

The bill was read three several times by unanimous consent, and passed.

The Senate resumed the consideration of the motion made yesterday, to refer so much of the Message of the President of the United States as relates to the Barbary Powers, and the unjustifiable proceeding of the Dey of Algiers towards our Consul at that Regency, with the documents accompanying the same, to a select committee, to consider and report thereon; and, having agreed thereto, Messrs. BRADLEY, GILES, and SMITH of Maryland, were appointed the committee.

Mr. ANDERSON submitted the following motion:

Resolved, That —— copies of the memorials of the merchants of Boston, Salem, New York, Philadelphia, Baltimore, and Norfolk, which were presented to the Senate during the first session of the ninth Congress, relative to the infringements of our neutral trade, together with the resolutions of the Senate predicated thereupon, be printed for the use of the Senate.

Mr. WHITE laid on the table the following motion:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, so far as he may deem consistent with the public safety, the reasons that have induced the late call upon the Governors of the respective States, to have their quotas of an hundred thousand militia draughted, equipped, and ready to march at a moment's warning, and the services on which it is apprehended there may be a necessity of employing them.

Mr. THRUSTON gave notice that he should to-morrow ask leave to bring in a bill to reward Andrew Joseph Villard for an invention of public utility.

FRIDAY, November 18.

Mr. THRUSTON, agreeably to notice, asked and obtained leave to bring in a bill to reward Andrew Joseph Villard for an invention of public utility; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion made yesterday for printing the memorials of certain merchants, presented during the first session of the ninth Congress; and the motion was amended, as follows:

Resolved, That two hundred copies of the memorials of the merchants of Boston, Salem, New York, Philadelphia, Baltimore, New Haven, and Newburyport, which were presented to the Senate during the first session of the ninth Congress, relative to the infringements of our neutral trade, together with the resolutions of the Senate predicated thereupon, be printed for the use of the Senate.

On motion of Mr. LLOYD, further to amend the motion by adding the following, after the word "thereupon:" "and also of the memorials presented to Congress in the year 1798, by sundry citizens of the United States, in opposition to permission being granted to the merchants of the United States to arm their vessels:" it was determined in the negative. And the original motion, as amended, was agreed to.

On motion, it was agreed, that the motion submitted yesterday, to request the President of the United States to lay before the Senate the reasons for calling on the Governors of the several States for their quotas of one hundred thousand men, be postponed.

MONDAY, November 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the conveyance of certain papers and documents by the mail free of postage," in which they request the concurrence of the Senate.

The bill lasst mentioned was read, and passed to the second reading.

The PRESIDENT communicated the resolutions of the Legislative Council of the Indiana Territory, passed October 26, 1808, respecting the mode of electing the Legislative Council, and the time of their continuance in office; which were read, and ordered to lie for consideration.

The bill to reward Andrew Joseph Villard, for an invention of public utility, was read the second time.

THE EMBARGO.

This being the day fixed for the discussion of the following resolution, offered by Mr. HILLHOUSE:

Resolved, That it is expedient that the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, be repealed; and that a committee be appointed to prepare and report a bill for that purpose.

Mr. HILLHOUSE opened the debate. When the reporter entered the Senate chamber, Mr. H. had been speaking for a few minutes, and was then discussing the effect which the embargo had had upon France, and the light in which it was viewed by her rulers. He alluded to the declaration of satisfaction at the measure, contained in a late French exposé, and made many observations

tending to show that it was not a measure of hostility or coercion, as applied to France.

On England it had little or no effect. Her resources were immense. If deprived of a supply of grain here, she could obtain it elsewhere. The Barbary Powers were at war with France and at peace with England, who might thence obtain wheat in any quantity she pleased. Great Britain, he said, was a nation with the whole world before her; her commerce spread over every sea, and she had access to almost every port and clime. Could America expect to starve this nation? It was a farce, an idle farce. As to her West India islands, they raised Indian corn; all their sugar plantations could be converted into corn-fields, and would any man say that they would starve because they could not get superfine flour? Was this a necessary of life without which they could not subsist? On the contrary, a great proportion of the American people subsisted on it, and enjoyed as good health as if they ate nothing but the finest of wheat flour. The moment people understood that they could not get their necessary supplies from a customary source, they would look out for it in another quarter, and ample time had been given to them to make arrangements for this purpose. A man of the first respectability in the town in which Mr. H. lived, had been there during this embargo, under the President's permission. What accounts did he bring? Why, that the trade in corn meal and live cattle, articles of great export from Connecticut, and comprising not only the product of that State, but of parts of the neighboring States, would be entirely defeated; that, where they had formerly sent *a hundred* hogsheads of meal, they would not now find vent for *ten*; and that, from South America, where cattle had, in times past, been killed merely for their hides and tallow, cattle in abundance could be procured. Were these people to be starved out, when they could actually purchase cheaper now from other places than they had formerly done from us? No; the only consequence would be, and that too severely felt, that we should lose our markets; the embargo thus producing, not only present privation and injury, but permanent mischief. The United States would have lost the chance of obtaining future supplies, they would have lost their market, and ten or twenty years would place them on the same footing as before. Mr. H. said, the West Indians would have learnt that they can do without us; that they can raise provisions cheaper on their own plantations than we can sell them; and knowing this, they would never resort to us. Though we might retain a part of this commerce, the best part would be lost forever. The trade would not be worth pursuing; though this might answer one purpose intended by the embargo, and which was not expressed.

Having considered the article of provisions as important to various parts of the Union, Mr. H. said he would now turn to another article, cotton. It had been very triumphantly said, that the want of this article would distress the manufacturers of Great Britain, produce a clamor amongst them, and consequently accelerate the repeal of the Orders in Council. Mr. H. said he would examine this a little, and see if all the evil consequences which opened on him at the time of the passage of the embargo law were not likely to be realized. He had hinted at some of them at that time, but the bill had gone through the Senate like a flash of lightning, giving no time for examination; once, twice, and a third time in one day, affording no time for the development of all its consequences. This article of cotton was used not only by Britain but by France and other nations on the Continent. Cotton, not being grown in Europe, must be transported by water carriage. This being the case, who would now be most likely to be supplied with it? Not the Continental Powers who have so little commerce afloat nor any neutrals to convey it to them; for the United States were the only neutral which, of late, traded with France, and now the embargo was laid, she had no chance of getting it, except by the precarious captures made by her privateers. To Great Britain, then, was left the whole commerce of the world, and her merchants were the only carriers. Would not these carriers supply their own manufacturers? Would they suffer cotton to go elsewhere, until they themselves were supplied? America was not the only country where cotton was raised; for he had seen an account of a whole cargo brought into Salem from the East Indies, and thence exported to Holland, with a good profit. Cotton was also raised in Africa, as well as elsewhere; and this wary nation, Great Britain, conceiving that the United States might be so impolitic as to keep on the embargo, had carried whole cargoes of the best cotton seed there for the purpose of raising cotton for her use. Great Britain had possessions in every climate on the globe, and cotton did not, like the sturdy oak, require forty or fifty years to arrive at maturity; but, if planted, would produce a plentiful supply in a year. Thus, then, when this powerful nation found America resorting to such means to coerce her, she had taken care to look out for supplies in other quarters; and, with the command of all the cotton on the globe which went to market, could we expect to coerce her by withholding ours? Mr. H. said no; all the inconvenience which she could feel from our measure had already been borne; and Great Britain was turning her attention to every part of the globe to obtain those supplies which she was wont to get from us, that she might not be reduced to the humiliating condition of making concession to induce us to repeal our own law, and purchase an accommodation by telling us that we had a weapon which we could wield to her annoyance. Mr. H. wished to know of gentlemen if we had not experience enough to know that Great Britain was not to be threatened into compliance by a rod of coercion? Let us examine ourselves, said he, for if we trace our genealogy we shall find that we descend from them; were they to use us in this manner, is there an American that would stoop to them? I hope not; and neither will that nation, from which we are descended, be driven from their position, however erroneous, by threats.

This embargo, therefore, instead of operating on those nations which had been violating our rights, was fraught with evils and privations to the people of the United States. They were the sufferers. And have we adopted the monkish plan of scourging ourselves for the sins of others? He hoped not; and that, having made the experiment and found that it had not produced its expected effect, they would abandon it as a measure wholly inefficient as to the objects intended by it, and as having weakened the great hold which we had on Great Britain, from her supposed dependence on us for raw materials.

Some gentlemen appeared to build up expectations of the efficiency of this system by an addition to it of a non-intercourse law. Mr. H. treated this as a futile idea. They should, however examine it seriously, and not like children shut their eyes to danger. Great Britain was not the only manufacturing nation in Europe. Germany, Holland, France, Spain, Portugal, and Italy, manufactured more or less, and most of them had colonies, the exclusive supply of whose manufactures they had heretofore reserved to themselves. While we had enjoyed the carrying trade, we had supplied the deficiency in navigation of those nations; and all the inconvenience felt for the want of it ceased because we stepped in and aided them. This trade had been cut up, and perhaps it was not a trade which the energies of the nation should be embarked in defending. Who was there now to supply all these various colonies that used to be supplied by us? None but England, the sole mistress of the ocean. Whose products, then, would Great Britain carry? Would she carry products of other nations and let her own manufacturers starve? No; and this exclusion from the colonies of other manufactures, and leaving her merchants the sole carriers of the world, produced a greater vent for her manufactures than the whole quantity consumed in the United States.

This, however, was arguing upon the ground that the United States would consume none of her manufactures in case of a non-intercourse. Mr. H. said he was young when the old non-intercourse took place, but he remembered it well, and had then his ideas on the subject. The British army was then at their door, burning their towns and ravaging the country, and at least as much patriotism existed then as now; but British fabrics were received and consumed to almost as great an extent as before the prohibition. The armies could not get fresh provisions from Europe, but they got them here by paying higher prices in guineas for them than was paid by our Government in ragged continental paper money. When the country was in want of clothing, and could get it for one-fourth price from the British, what was the consequence? Why, all the zealous patriots—for this work of tarring and feathering, and meeting in mobs to destroy their neighbor's property, because he could not think quite as fast as they did, which seemed to be coming in fashion now, had been carried on then with great zeal—these patriots, although all intercourse was penal, carried on commerce notwithstanding. Supplies went hence, and manufactures were received from Europe. Now, what reliance could be placed on this patriotism? A gentleman from Vermont had told the Senate at the last session that the patriotism of Vermont would stop all exportation by land, without the assistance of the law. How had it turned out? Why, patriotism, cannon, militia, and all had not stopped it; and although the field pieces might have stopped it on the Lakes, they were absolutely cutting new roads to carry it on by land. And yet the gentleman had supposed that their patriotism would effectually stop it! Now Mr. H. wanted to know how a non-intercourse law was to be executed by us with a coast of fifteen hundred miles open to Great Britain by sea, and joining her by land? Her goods would come through our Courts of Admiralty by the means of friendly captors; they would be brought in, condemned, and then naturalized, as Irishmen are now naturalized, before they have been a month in the country.

Mr. H. went on at some length to show the impracticability of enforcing a non-intercourse law on our citizens.

It had been said that the embargo should not be raised, because there was no commerce that could now be safely pursued. He was astonished that gentlemen should introduce this argument, as it went upon the ground that France and England could mutually arrest our commerce with each other. If this were really the fact, merchants, who were so nice in their calculations, would not risk their property. The insurance offices were perfect thermometers by which to calculate the degree of risk in any commerce. They always made their calculations on the safe side, and it would be found that no property was more sought after than insurance stock, and this was because the institutions were usually conducted by cautious merchants. A few harum-scarum individual merchants might engage in hazardous enterprises and lose all. Such men would never be controlled by law or prudent considerations. But the great body of merchants would always regulate the course of trade, and there was no need of an embargo to save them from running too great a risk.

How had they done in times past? Laws had been in force making it unlawful to trade with the Spanish possessions in South America; but we had nevertheless carried on a profitable trade there, and not all the vigilance of Spain could prevent it. Now and then a few of our citizens had been caught and imprisoned, but that had not stopped our trade; nor was it in the power of France and England combined to do it. On this subject, Mr. H. said, gentlemen took for granted what was not true. France had issued her decree, saying that no vessel should navigate to England or her dependencies. What had been the consequence of this decree? It had not raised insurance five per centum. Had there been no good reason for this? Yes; it was well known that the whole combined navy of France was not able to meet a British fleet on the ocean. The

French ships of war, therefore, could never go out but by stealth, and could not spread over the ocean so as to endanger our commerce. Insurance had therefore been very little affected; and was it worth while to abandon trade with England altogether because France said we must not carry it on? This was revenging ourselves upon them with a witness! After the embargo had been laid—for, at that time, he affirmed they had no knowledge of the British orders—some newspaper speculations on the subject had appeared, but the orders were not officially communicated by the President till the 4th of February ensuing—what said England? You shall not trade to France, said she. England had it in her power to enforce her decree, and the insurance rising proportionably, the merchant had it in his power to say whether his probable profits would justify his sending a cargo to France under so great an insurance. But he asked a question now as to our interest simply, excluding other forcible considerations—when it was not in the power of France to enforce her decrees, and it was in the power of England to enforce her orders in a very great extent, would it have been good policy to involve ourselves in a maritime war with England, who had overcome all the combined fleets of Europe, for the sake of defending our trade with France? If any trade cost more than it was worth, Mr. H. said it was our interest to abandon it. But there was another danger attendant on our trade to France, and which had ever attended it—sequestration. American property was very apt to be sequestered; and, in enforcing their Berlin decree, the French had thought proper to burn our vessels; and though it had been said that the Berlin decree had never been applied to us before the case of the Horizon, yet vessels had been sequestered in February, 1807, sold, and the money retained, and would probably never be restored. This sequestration had been practised in the French ports more or less since the commencement of the Revolution, and we had never got one dollar as compensation. To be sure, in the Treaty of Louisiana, we had been allowed to pay money to our own citizens, but it had never come out of French coffers. Was it worth our while to engage in a maritime war with England to support a trade with France? Mr. H. said no; our interest would not have warranted it. For, notwithstanding all that France could do, at a risk of five per cent. we might have had a trade with the British islands, Sweden, Portugal, the East Indies, the British West India islands, and other countries—a profitable trade, too. But gentlemen said, would they submit to pay tribute to Great Britain? No. This tribute was but a mere name. They must pay tribute for going from England to France, where they would be captured as a matter of course, because they had touched English ground. It was a tribute to be paid in a case which would never happen—a mere nullity. But, said gentlemen, there are American vessels which have gone to England, the embargo notwithstanding, and thence to various ports of the Continent, by the aid of false papers. Were they to embark in a conflict to prevent their citizens from doing this? All this smuggling work, where it was not under the sanction of laws of the United States, reflected no disgrace on the honor of the nation, which was not responsible for it.

If there were nothing that would commit the honor of the nation in the way of it, Mr. H. said it would be the interest of this nation to abandon its commerce with France, not only on account of the risk in carrying it on, but on account of the risk after it gets into port. Mr. Armstrong said—but he would not allude to him, for fear he might tread on confidential ground; however, accounts had been received from our Consuls and merchants, that whenever it suited the convenience of the French nation to lay their hands on American property, they had done it; and, therefore, our trade to that country was on a very insecure footing indeed.

But, said gentlemen, if they allowed our vessels to trade to England and not to France, it was a submission to her orders, and a resignation of our independence; therefore, the embargo must be maintained to keep on equal ground. I could never see, observed Mr. H., how the embargo was the means of preserving the honor of the nation. These nations say we shall not trade; and, therefore, by an embargo, we destroy our commerce. This is magnanimous, indeed. It is a new way of preserving commerce; because foreign nations say we shall not follow it, we say we will abandon it. Do we not comply with the requisition of these nations completely; more than comply, for we surrender *all* commerce. It is the most tame surrender of our rights.

But, said gentlemen, we must have embargo or war. This, Mr. H. said, had been urged in public debate, in the newspapers, and almost all communications they had received. For his part he could not see how a repeal of the embargo was to involve us in war, except it were, as was said last winter, that Bonaparte would have no neutrals; and, therefore, if we did not continue the embargo, he would declare war against us. Was this a ground on which to surrender commerce, and subject all our citizens to inconvenience because he would otherwise declare war? What more could he do than he had done? What more than burn our ships and sequester our property? He could do no more. Why, then, should they be terrified thus? If war came thus, let it come. Mr. H. said he was not for declaring war against any nation, but he was for authorizing the arming our commerce, for authorizing our merchants to defend those maritime rights which were clear and indisputable; and this would not be war, for no nation, not predetermined to make war, would make war upon us for defending our maritime rights. I should not, said he, be willing to go to war for doubtful rights, as that of the carrying trade between the mother country and her colonies; but our indisputable neutral rights I am for defending, not abandoning.

Mr. H. said he thought when the embargo was laid, though, perhaps, he had been singular in the

opinion, that it was intended as a permanent measure; that the real object was not what had been expressed in the Message, but to put down commerce and set up manufactures; to convert all our commercial capital into manufactures, and all our commercial men into manufacturers; and many honest politicians had thought it would be a practicable, and useful, and beneficial plan, though the contrary had ever been his opinion. In confirmation of his opinion, Mr. H. said, when they looked over official and other publications which bore the stamp of authority, or were considered as being approved by the constituted authorities of the country, they were told that the agriculturist and manufacturer should be planted side by side, and that they should sit at their own doors, clothed in their own manufactures of those articles which they had before received from others. These ideas could never be realized but by abandoning commerce.

Mr. H. here went at some length into a discussion on the subject of manufactures, using arguments tending to demonstrate that large manufactories are as unsuitable to the genius of a free people as to the peculiar habits of the people of the United States.

M. H. said no man was more desirous to obey the laws of his country than he was; but in a free country laws could not be forced down. Either by force, or in some other way, the people would get rid of a disagreeable law. They always had and always would do it. Therefore, attempting this system was prostrating the dignity of the Government and teaching the people to trample on the constituted authorities. He wished to see the magistracy of a free country omnipotent in its laws; but if, by projects of this kind, the people were driven to opposition, they would not confine themselves to the Constitutional remedy, but feeling their power, would exercise it with violence. Therefore, when a measure was found not to operate right, they should retreat, and they might do it too with a good grace, for it would be for the honor of the nation that they should retrace their steps.

Mr. H. said he imagined some ulterior steps might be proper if the embargo were raised; but, on conversing with members, he had found so many different opinions to prevail, that he had not coupled anything with this. When the embargo should have been done away, no doubt the councils of the nation would come to some result and adopt some measure which would take its place. For all these reasons, Mr. H. concluded by saying that he was clearly of opinion that his resolution should be adopted, and the embargo repealed.

Mr. BRADLEY moved the postponement of the further consideration of the subject till to-morrow. A committee had been appointed by the House on this subject, and the present agitation of the subject must paralyze the proceedings of the committee, if not operate against its total dissolution.

Mr. HILLHOUSE said he had no objection that the subject should be postponed till to-morrow, but the reason the gentleman had given for it was a very extraordinary one, for when an objection had been made to the appointment of this committee it had been answered that its appointment would not at all interfere with his (Mr. H.'s) resolution; upon which ground no opposition had been made to the appointment of the committee.

Mr. POPE said it had been his opinion this morning that this resolution should have been referred to that committee, but after what had been said, it was his wish that some commercial gentleman, whose knowledge of commercial subjects would enable him to explore the wide field taken by the gentleman from Connecticut, would have answered him. He had hoped, at this session, after the Presidential election was decided, that all would have dismounted from their political hobbies, that they would have been all Federalists, all Republicans, all Americans. When they saw the ocean swarming with pirates, and commerce almost annihilated, he had hoped that the demon of party spirit would not have reared its head within these walls, but that they would all have mingled opinions and consulted the common good. He had heretofore been often charmed with the matter-of-fact arguments of the gentleman from Connecticut; but on this day the gentleman had resorted to arguments from newspapers, and revived all the old story of French influence, in the same breath in which he begged them to discard all party feelings and discuss with candor. The gentleman had gone into a wide field, which Mr. H. said he would not now explore, but begged time till to-morrow, when he would endeavor to show to the nation and to the world that the arguments used by the gentleman in favor of his resolution were most weighty against it. If patriotism had departed the land, if the streams of foreign corruption had flowed so far that the people were ready to rise in opposition to their Government, it was indeed time that foreign intercourse should cease. If the spirit of 1776 were no more—if the spirit of commercial speculation had surmounted all patriotism—if this was the melancholy situation of the United States, it was time to redeem the people from this degeneracy, to regenerate them, to cause them to be born again of the spirit of 1776. But he believed he should be able to show that the proposition of the gentleman from Connecticut hardly merited the respect or serious consideration of this honorable body. Mr. P. said he had expected that in advocating his resolution the gentleman would have told the Senate that we should go to war with Great Britain and France; that he would have risen with patriotic indignation and have called for a more efficient measure. But to his surprise, the gentleman had risen, and with the utmost *sang froid* told them, let your ships go out, all's well, and nothing is to be apprehended. Mr. P. said he would not go into the subject at this moment; he had but risen to express his feelings on the occasion. He wished the subject postponed, the more because he wished to consult a document just laid on their table, to see how the memorials presented a short time ago

from those whose cause the gentleman from Connecticut undertook to advocate, accorded with the sentiments he had this day expressed for them.

Mr. HILLHOUSE said he should have been much gratified if the gentleman from Kentucky had confined his remarks to argument, without making a personal attack on him. Mr. H. said he had arraigned no party, charged none with party views or corruption. He could not see where the gentleman found ground for personality; for Mr. H. said he never did use it himself, nor ever would.

Mr. LLOYD said as it was an exceedingly interesting subject, and had been ten days before the House, and put off with as much civility as possible to accommodate gentlemen, he wished that the subject might progress in regular discussion, not expecting, however, that it would be decided to-day or to-morrow.

Mr. S. SMITH said that if the honorable gentleman last up had a design to give a view of the subject such as it deserved, he should be glad to hear him. The gentleman was capable of giving a correct view of the subject, and perhaps had prepared his mind on it. Mr. S. confessed his own negligence in not being prepared; but if the gentleman from Massachusetts would give a commercial view of the subject, he hoped the gentleman from Vermont would withdraw his motion.

Mr. LLOYD said this was so interesting a subject that he could not be silent on it. Whether he should give that chaste view of the subject of which the gentleman from Maryland was capable, he could not say. If the Senate would indulge him, however, he would express those ideas which immediately occurred to him on the subject.

Mr. BRADLEY withdrew his motion for postponement.

Mr. LLOYD said he considered the question now under discussion as one of the most important that has occurred since the adoption of the Federal Constitution. It is a subject, said Mr. L., deeply implicating, and perhaps determining, the fate of the commerce and navigation of our country; a commerce which has afforded employment for nearly a million and a half of tons of navigation; which has found occupation for hundreds of thousands of our citizens; which has spread wealth and prosperity in every region of our country, and which has upheld the Government by furnishing the revenue for its support.

A commerce which has yielded an annual amount of exports exceeding one hundred millions of dollars; an amount of exports three times as great as was possessed by the first maritime and commercial nation of the world at the commencement of the last century, when her population was double that of the United States at this time; an amount of exports equal to what Great Britain, with her navy of a thousand ships, and with all her boasted manufactures, possessed even at so recent a period as within about fifteen years from this date: surely this is a commerce not to be trifled with; a commerce not lightly to be offered up as the victim of fruitless experiment.

Our commerce has unquestionably been subject to great embarrassment, vexation, and plunder, from the belligerents of Europe. There is no doubt but both France and Great Britain have violated the laws of nations, and immolated the rights of neutrals; but there is, in my opinion, a striking difference in the circumstances of the two nations; the one, instigated by a lawless thirst of universal domination, is seeking to extend an iron-handed, merciless despotism over every region of the globe; while the other is fighting for her *natale solum*, for the preservation of her liberties, and probably for her very existence.

The one professes to relict at the inconvenience she occasions you by the adoption of measures, which are declared to be intended merely as measures of retaliation on her enemies, and which she avows she will retract, as soon as the causes which occasion them are withdrawn. The other, in addition to depredation and conflagration, treats you with the utmost contumely and disdain; she admits not that you possess the rights of sovereignty and independence, but undertakes to legislate for you, and declares that, whether you are willing or unwilling, she considers you as at war with her enemy; that she had arrested your property, and would hold it as bail for your obedience, until she knew whether you would servilely echo submission to her mandates.

There is no doubt that the conduct of these belligerents gave rise to the embargo; but if this measure has been proved by experience to be inoperative as it regards them, and destructive only as it respects ourselves, then every dictate of magnanimity, of wisdom, and of prudence, should urge the immediate repeal of it.

The propriety of doing this is now under discussion. The proposition is a naked one; it is unconnected with ulterior measures; and gentlemen who vote for its repeal ought not to be considered as averse from, and they are not opposed to, the subsequent adoption of such other measures as the honor and the interest of the country may require.

In considering this subject, it naturally presents itself under three distinct heads:

1st. As it respects the security which it gave to our navigation, and the protection it offered our seamen, which were the ostensible objects of its adoption.

2dly. In reference to its effect on other nations, meaning France and Great Britain, in coercing them to adopt a more just and honorable course of policy towards us: and,

3dly. As it regards the effects which it has produced and will produce among ourselves.

In thus considering it, sir, I shall only make a few remarks on the first head. I have no desire to indulge in retrospections; the measure was adopted by the Government; if evil has flowed from it, that evil cannot now be recalled. If events have proved it to be a wise and beneficial measure, I am willing that those to whom it owes its parentage should receive all the honors that are due to them; but if security to our navigation, and protection to our seamen, were the real objects of the embargo, then it has already answer-

ed all the effects that can be expected from it. In fact, its longer continuance will effectually counteract the objects of its adoption; for it is notorious, that each day lessens the number of our seamen, by their emigration to foreign countries, in quest of that employment and subsistence which they have been accustomed to find, but can no longer procure, at home; and as it regards our navigation, considered as part of the national property, it is not perhaps very material whether it is sunk in the ocean, or whether it is destined to become worthless from lying and rotting at our wharves. In either case, destruction is equally certain, it is death; and the only difference seems to be, between death by a *coup de grace*, or death after having sustained the long protracted torments of torture.

What effect has this measure produced on foreign nations? What effect has it produced on France?

The honorable gentleman from Connecticut has told you, and told you truly, in an exposé presented by the French Minister of Foreign Affairs to the Emperor, that this measure is much applauded: it is called a magnanimous measure of the Americans! And in a conversation which is stated to have passed recently at Bayonne, between the Emperor of France and an American gentleman, it is said, and I believe correctly, that the Emperor expressed his approbation of the embargo. I have no doubt that this is the fact; the measure is too consentaneous with his system of policy, not to be approbated by him. So long as the extreme maritime preponderancy of Great Britain shall continue, with or without the existence of an American embargo, or with, or without the British Orders in Council, France can enjoy but very little foreign commerce, and that little, the Emperor of France would undoubtedly be willing to sacrifice, provided that, by so doing, he could insure the destruction of a much larger, and more valuable amount of British and American commerce.

It is therefore apparent, that this measure, considered as a coercive measure against France, is nugatory in the extreme.

What, sir, are, or have been its effects on Great Britain?

When the embargo was first laid the nation were alarmed. Engaged in a very extended and important commerce with this country, prosecuted upon the most liberal and confidential terms, this measure, whether considered as an act of hostility, or as a mere municipal restrictive regulation, could not but excite apprehension; for most of her writers, in relation to her colonies, had impressed the belief of the dependence of the West India settlements on the United States for the means of subsistence. Accordingly, for several months after the imposition of the embargo, we find it remained an object of solicitude with them, nor have I any doubt that the Ministry, at that time, partook of the national feeling; for it appears, so late as June that such a disposition existed with the British Ministry, as induced our Minister at the Court of London to entertain the belief, and to make known to his Government the expectation he entertained, that an adjustment would take place of the differences between this country and Great Britain.

But, sir, the apprehensions of the British nation and Ministry gradually became weaker; the embargo had been submitted to the never erring test of experience, and information of its real effects flowed in from every quarter.

It was found that, instead of reducing the West Indies by famine, the planters in the West Indies, by varying their process of agriculture, and appropriating a small part of their plantations for the raising of ground provisions, were enabled, without materially diminishing their usual crops of produce, in a great measure, to depend upon themselves for their own means of subsistence.

The British Ministry also became acquainted about this time (June) with the unexpected and unexampled prosperity of their colonies of Canada and Nova Scotia. It was perceived that one year of an American embargo was worth to them twenty years of peace or war under any other circumstances; that the usual order of things was reversed; that in lieu of American merchants making estates from the use of British merchandise and British capital, the Canadian merchants were making fortunes, of from ten to thirty or forty thousand pounds in a year, from the use of American merchandise and American capital: for it is notorious, that great supplies of lumber. and pot and pearl ashes, have been transported from the American to the British side of the Lakes; this merchandise, for want of competition, the Canadian merchant bought at a very reasonable rate, sent it to his correspondents in England, and drew exchange against the shipments; the bills for which exchange he sold to the merchants of the United States for specie, transported by wagon loads at noon-day, from the banks in the United States, over the borders into Canada. And thus was the Canadian merchant enabled, with the assistance only of a good credit, to carry on an immensely extended and beneficial commerce, without the necessary employment, on his part, of a single cent of his own capital.

About this time, also, the revolution in Spain developed itself. The British Ministry foresaw the advantage this would be of to them, and immediately formed a coalition with the patriots: by doing this, they secured to themselves, in despite of their enemies, an accessible channel of communication with the Continent. They must also have been convinced, that if the Spaniards did not succeed in Europe, the Colonies would declare themselves independent of the mother country, and rely on the maritime force of Great Britain for their protection, and thus would they have opened to them an incalculably advantageous mart for their commerce and manufactures; for, having joined the Spaniards without stipulation, they undoubtedly expected to reap their reward in the exclusive commercial privileges that would be accorded to them; nor were they desirous to seek competitors for the favor of the Spaniards: if they could keep the navigation, the enterprise,

and the capital of the United States from an interference with them, it was their interest to do it, and they would, from this circumstance, probably, consider a one, two, or three years' continuance of the embargo as a boon to them.

It is, therefore, sir, undoubted, in my mind, that the embargo, as it respects England as well as France, is inefficacious.

But, sir, are there yet other channels through which we can operate upon Great Britain, by means of this measure? It may possibly be said that disturbances among the manufacturers in England yet exist, and that they are only quieted for the moment. Sir, as long as I remember to have heard of the British nation, I have heard of tumults among her manufacturers, although I have never known any serious result from them; but every petty squabble between a manufacturer and his workmen, is, by the magic of some gentlemen's imagination, converted into an alarming insurrection, menacing the prostration of her Government. Suppose, sir, by abstaining from the receipt of British manufactures, you make bankrupts of one hundred of her wealthiest manufacturers; what is produced by this? Within twelve months you have witnessed nearly as many bankruptcies in one of your own cities, and yet that city retains its usual credit and reputation for wealth. But, to extend this argument further, suppose, from the causes before mentioned, you make bankrupts of five hundred of the wealthiest of her manufacturers, and that in consequence you deprive of employment fifty thousand of their workmen; what is the effect produced by this? What has become of the manufacturers of France? These men will not starve; they will not become nonentities; in time of war they have a certain asylum; they will be absorbed in her army or navy; and thus you take fifty thousand of the most turbulent of her citizens, who are in constant opposition to the Government, from under the control of a lax civil authority, and by placing them under the coercion of an efficient military discipline, you add in reality to the strength of the nation, and give to her the means of extending and retaining her maritime dominion: this surely is not desirable.

Some gentlemen may say, that the fear of famine is to effect what an insurrection among her manufacturers will not accomplish. Of all idle expectations, this is the most idle. It is well known that the harvest in England is got in during the month of August, and the early part of September: I have before me, sir, a price current of the 20th of September, from which it appears that American flour, subject to the payment of freight, insurance, commission, and other charges, was selling in Liverpool at forty-seven shillings sterling the barrel.

Another fact will, perhaps, give gentlemen some information on this subject. Owing to the interdiction of the trade to the Continent of Europe, sugars, during the last Winter, from the West Indies, had so greatly accumulated in England, as to render them unsaleable in any considerable quantity: this greatly incommoded the West India interest; they petitioned Parliament for a prohibition of the use of grain in the distilleries, and the substitution of sugar and molasses in lieu of it: the reasons assigned in support of the petition were, that it would give a double advantage to the nation, by affording relief to the West India planters, and also greatly reduce the price of food to the poor. The bill was, however, opposed to the landed interest, and at that time rejected on the single ground, that by bringing into the market so large a surplus quantity of grain, as six millions of bushels, being the amount annually consumed in the distilleries, the price would be so greatly reduced as not to pay the farmer for the labor and expense of raising it.

Thus it is evident that we have no chance of operating on the fears of Great Britain on account of her harvest; for it is shown that she has it at any time in her power, and even with an encouragement to her colonies, to throw into her corn market a quantity of grain nearly equal to the whole quantity of wheat exported from this country in the year ending in September, 1807; for, by the returns of the Secretary of the Treasury, it appeared that all the flour and wheat exported during that year, amounted only to what would be equal to about seven millions three hundred thousand bushels of wheat.

But, sir, if we cannot trade with France and England, why should we be deprived of all intercourse with Spain and Portugal? These are nations struggling for their liberties. Will it be told you, sir, that the trade to these countries is an inconsiderable one; that it will yield little or no profit; and that it will be unequally and unjustly divided between the different parts of the United States? Spain, Portugal, and their dependencies, have taken of our exports about twenty millions of dollars in a year. Can this be called an inconsiderable trade?

The exports of Spain and Portugal consist principally in wines, brandies, and fruits. They are not grain countries, but depend principally for their supplies of grain upon other countries. They have formerly received them from the Mediterranean, from the coast of Barbary, and from the Baltic. Under the present circumstances of the European world, these supplies could probably be best obtained from the United States, and would require large quantities of wheat and flour from the Southern States. The Spaniards and Portuguese professing the Roman Catholic religion, and being obliged by its ordinances to abstain for part of the year from the use of meat, and being accustomed to live during that time principally on fish, have rendered Spain and Portugal the best market in Europe for that staple of the Northern States. The lumber for their packages, their casks, and boxes, they obtain chiefly from New York and Norfolk; the lumber of the Eastern States not being so well adapted for their purpose. Thus, then, it appears, that this trade, instead of being an unequal one, is more equally divided among the different portions of the Union, than any other trade which is prosecuted from the United States to any part of Europe.

It remains now, sir, to consider the effects of the embargo on ourselves. Every gentleman must be the best judge of its effects within the immediate circle of his own observation. From the observations I have been enabled to make, it appears to me to be fraught with destruction. It appears to be wasting our resources instead of preserving them; breaking down the spirit of the people, and dividing instead of uniting them. It is inviting foreign insult and aggression, by the imbecility which it opposes to them; and it appears to me to bear extremely hard upon the commercial and navigating States.

The human mind is composed of nearly the same materials in all countries. Extend over an enlightened community, possessing the means of easy communication, a great and severe degree of privation and suffering, without accompanying that suffering with an absolute conviction on the public mind of some great, some urgent public necessity requiring it, and some eventual good to emanate from it, and there is reason to fear you may create great discontent and uneasiness. Wherever this exists in a great degree, it will be manifested in memorials to the constituted authorities of the country. Legislative resolutions will next follow; remonstrances succeed; and if these are unattended to, resistance imbodies itself, and the spark of discontent, which might easily have been smothered in its origin, is fanned into a flame of rebellion, spreading ruin and desolation around it, and in its progress perhaps overturning the liberties and Government of the country.

Happily, we have not reached this stage: I trust in God we never shall. It should be the duty of every man, both in and out of office, to adopt every measure, and make every exertion to prevent it. The removal of the embargo will, as I believe, be one means to check an incipient state of discontent. I am therefore for this, as well as for many other reasons, most earnestly and zealously in favor of its repeal, and the passing the resolution for that purpose.

A motion was now made for adjournment, and negatived.

Mr. SMITH, of Maryland, said he was not prepared to go as largely into this subject as it merited, having neither documents nor papers before him. He would therefore only take a short view of it in his way, and endeavor to rebut a part of the argument of the gentleman from Massachusetts, and perhaps to notice some of the observations of the gentleman from Connecticut. He perfectly agreed with the latter gentleman that this subject ought to be taken up with coolness, and with temper, and he could have wished that the gentleman from Connecticut would have been candid enough to pursue that course which he had laid down for others. Had he done it? No. In the course of the discussion, the gentleman had charged it upon some one, he knew not whom, that there was a disposition to break down commerce for the purpose of erecting manufactures on its ruins. If this was the disposition of those who had advocated the embargo, Mr. S. said, he was not one to go with them, and perfectly corresponded with the gentleman in saying that such a plan would be extremely injurious; that possibly it could not be enforced in the United States; and that, if it could, merchants would conceive themselves highly aggrieved by it. But the gentleman's ideas had no foundation. Mr. S. said he had before seen it in newspapers, but had considered it a mere electioneering trick; that nothing like common sense or reason was meant by it, and nobody believed it. The gentleman surely did not throw out this suggestion by way of harmonizing; for nothing could be more calculated to create heat.

The gentleman last up, throughout his argument, had gone upon the ground that it is the embargo which has prevented all our commerce; that, if the embargo were removed, we might pursue it in the same manner as if the commerce of the whole world was open to us. If the gentleman could have shown this, he would have gone with him heart and hand; but it did not appear to him that, were the embargo taken off to-morrow, any commerce of moment could be pursued. Mr. S. said he was not certain that it might not be a wise measure to take off the embargo; but he was certain that some other measure should be taken before they thought of taking that. And he had hoped that gentlemen would have told them what measure should have been taken before they removed the embargo. Not so, however. A naked proposition was before them to take off the embargo; and were that agreed to, and the property of America subject to depredations by both the belligerents, they would be foreclosed from taking any measure at all for its defence. For this reason this resolution should properly have gone originally to the committee on the resolution of the gentleman from Virginia (Mr. GILES.)

Mr. S. said he was not prepared for a long discussion, he should take but a short view. He would not go back to see which nation had been the first offender. He was not the apologist of any nation, but, he trusted, a fervent defender of the rights, honor, and interest of his own country. By the decrees of France every vessel bound to or from Great Britain, was declared good prize. And still further; if spoken alone by any British vessel, they were condemned in the French prize courts. When a vessel arrived in the ports of France, Mr. S. said, bribery and corruption were made use of in order to effect her condemnation. Every sailor on board was separately examined as to what had happened in the course of the voyage; they were told, you will have one-third of the vessel and cargo as your portion of the prize-money, if you will say that your vessel has touched at a British port or has been visited by a British cruiser. Of course then, by the decrees of France, all American property that floats is subject to condemnation by the French, if it had come in contact with British hands. Were gentlemen willing to submit to this; to raise the embargo, and subject our trade to this depredation? Yes, said the gentleman from Connecticut, who was willing, however, that our ships should arm and defend themselves. Mr. S. said that he had

hoped the honorable gentleman would have gone further, and said not only that he would in this case permit our vessels to defend themselves, but to make good prize of any vessel which should impede the trade admitted by the laws of nations. But the gentleman had stopped short of this.

By the Orders in Council, now made law (said Mr. S.) all neutrals—all *neutrals*, this is a mere word *ad captandum*, as it is well known, there is no neutral commerce but American—all American vessels, then, bound to France, or countries in alliance with her, are made good prize in the British courts. When bound to any part of the continent of Europe, or any possessions in Turkey or Asia, they are a good prize, Sweden alone excepted. We are then permitted to trade—for it is a permission to trade, since we must acknowledge ourselves indebted to her for any she permits—we are graciously permitted to go to Sweden, to which country our whole exports amount to $56,157! This petty trade is generously permitted us as a boon, and this boon will be struck off the list of permission, the moment any difference arises between Great Britain and Sweden. I am aware, sir, that gentlemen will say this may require explanation. I will give it to them. Great Britain says you shall not trade to any of the countries I have interdicted till you have my leave; pay me a duty, and then you may go to any port; pay me a tribute, and then you shall have my license to trade to any ports you choose. What is this tribute? Not having the documents before me, I may make an error of a fraction, but in the principle I am correct. On the article of flour, they tell us, you may bring flour to Great Britain from America, land it, and, if you re-export it, pay into our treasury two dollars on every barrel. For every barrel of flour which we send to Spain, Portugal, or Italy, where the gentleman from Massachusetts has correctly told us much of it is consumed, little of it being used in Great Britain or France, you must pay two dollars besides your freight and insurance. And this tribute is to be paid for a permission to trade. Are gentlemen willing to submit to this?

On the article of wheat, exported, you must pay in Great Britain a duty of, I believe, two shillings sterling a bushel, before it can be re-exported. On the important article of cotton they have charged a duty on its exportation of nine pence sterling per lb., equal to the whole value of the article itself in Georgia or South Carolina. This is in addition to the usual import duty of two pence in the pound. Thus, if we wish to go to the Continent, we may go on condition of paying a tribute equal to the value of the cotton, in addition to risk or insurance. It is generally understood that two-thirds of the cotton exported by us, may be consumed in England, when all her manufactures are in good work. On the remaining third the people of the Southern country are subject to a tribute—on twenty millions of pounds, at the rate of 17 cents per pound. Let this be calculated, and it will be seen what tax we must pay for leave to sell that article.

But, says the gentleman from Massachusetts, we may now trade to Spain and Portugal—because Great Britain permits us. [Mr. LLOYD observed that he had not said we could trade there because Great Britain permitted it.] I know the gentleman did not say that (said Mr. S.) but it is my inference. He said we might trade there. I deny it. I beg the gentleman to recollect what passed some time ago, between Lord Hawkesbury and Mr. King, and see what reliance can be placed on the promises of British Ministers. On a representation made by Mr. King on the subject of the colonial trade, Lord Hawskesbury agreed, provided the vessel carrying produce from the colonies should go to the United States and reland her cargo, that she should not be liable to capture. What was the consequence? One year afterwards private instructions were given to the British cruisers to take such vessels, and every atom of this produce was swept from the ocean. If this is the manner in which Ministerial promises have heretofore been fulfilled, what reliance can be placed on them now? By letters from my correspondents, I learn that three merchants engaged in the American trade had waited on Mr. Canning to see whether American vessels might trade to Spain and Portugal. Yes, Mr. Canning answered, they might trade in the produce of their own country. But the King is authorized to vary these laws, and give permission to trade with any country when he pleases. Has he given any such permission to trade with Spain? No. Is then the mere conversation of Mr. Canning a sufficient security? No. Is it anything like as binding as that formerly officially given to Mr. King, and which was violated? Certainly not. Can this then be a safe trade? No, sir; my informant, who was one of the merchants who waited upon Mr. Canning, says that should France, now warring with Spain, overrun any part of the country, and our vessels afterwards attempt to enter, not having heard of it, they would be good prize. I am not learned in the law, but I will ask this question of those who are: Would not a British judge in this case be obliged to abide by the law, instead of the conversation of Mr. Canning? He certainly would; and would give our Minister in this case precisely the answer which the French Council of Prizes gave General Armstrong, that the opinion of an individual could not contravene the express stipulation of a positive law.

The gentleman last up told us that American flour was selling at forty-seven shillings a barrel in England. The gentleman knows that flour carried there, and not entered for re-exportation, cannot be removed. Flour in that situation has been lying ten or twelve months in London, could not be exported, and is somewhat injured by age, having been locked up in the stores of England, without a possibility of exporting it; and it is this that sells at that price.

The honorable gentleman last up has said that the exports of the United States to Spain and Portugal were twenty millions of dollars. The gentleman's arguments were applied to Spain and Portugal. The exports to Spain and Portugal, and all their possessions, including the immense

exports to La Vera Cruz, amounted to something near this sum. But let us take the gentleman on his own ground, and see what we could carry on of this trade, in our domestic product, if the embargo were removed. The whole exports of the United States, in the produce of the land, the year ending in October, 1807, were $48,509,502; of which, the proportion to Spain was $1,131,281; to Portugal, $329,313. I agree with the gentleman, that, if the embargo was off, we might carry on a very lucrative trade with the Spanish colonies and the Brazils, if we had the materials to carry it on. They do not want our flour, but articles which can now no longer be got—goods imported from Germany, and nankeens and cotton goods from India. But these are not the produce of our country, to which the gentleman alluded; and I say that the exports of our domestic produce to the colonies and islands of Spain (Cuba alone excepted) are very small. Great Britain will not let us go to Germany to get German goods, and therefore we cannot carry them as we were accustomed to do. But perhaps we shall be told we may carry British goods. What does the gentleman say, as a merchant, to paying double freight, duty, and insurance, and then competing with England in the sale of her own manufactures? We have done it heretofore, because Great Britain was excluded from that trade. Confine the trade then to Spain and Portugal, supposing it to be free, and it will not amount to two and a half millions altogether. We are to say to Great Britain, If you will give us the boon of going to Spain and Portugal, (and perhaps this is but an *ignis fatuus* to lead us to her prize courts,) we will submit to your tributs elsewhere.

The English Orders had told us we might trade as usual with the West India islands; but now, believing no doubt that this Government has not strength or energy in itself to maintain any system long, what has she done? Proclaimed a blockade on the remaining islands of France, so that we are now confined to British islands alone! We are restricted from trading there by blockade, and what security have we, that if the embargo be taken off—for I wish it were off: no man suffers more from it, in proportion to his capital, than I do; but I stand here the Representative of the people, and must endeavor to act in such a manner as will best secure their interests; and I pledge myself to join heart and hand with gentlemen to take it off, whenever we can have a safe and honorable trade—that, from our submitting to these interdictions, as a right of Great Britain, she may not choose to interdict all trade, she being omnipotent, and sole mistress of the ocean, as we were told by the gentleman from Connecticut. I have seen a late English pamphlet, called "Hints to both Parties," said to be by a ministerial writer, to this effect: that Great Britain, having command over all the seas, could and ought to exclude and monopolize the trade of the world to herself. This pamphlet goes critically into an examination of the subject; says that by a stroke of policy she can cut us off from our extensive trade; that she has the power, and, having the power, she ought to do it.

Mr. S. concluded by saying that he had not meant to take up so much time of the House—he had meant merely to state his ideas of the situation in which we were placed by the edicts of the two belligerents. He wished to place it in such a point of view that gentlemen might be led to adopt such measures as might best secure the interests of the country. Mr. S. said his own private interests pressed so heavily on his mind, that he could scarcely trust himself to decide. He had therefore submitted these ideas to gentlemen whose feelings were not thus affected, that if they might think proper, with the honorable gentleman, to take off the embargo, he might join with them; if not, that some other might be adopted which would lead to the security of our peace and honor.

Mr. POPE said, that in the observations which he had made a short time ago, he had no intention to violate the decorum of debate; and if he had discovered warmth on the general subject, he hoped no gentleman would consider his remarks as personally applied to him.

Mr. LLOYD said he rose for the purpose of making a single observation. He had stated, when up before, that the trade to Spain, Portugal, and her colonies, took off about twenty millions of dollars. He found, by the report of the Secretary of the Treasury, that the exports to these countries amounted to upwards of seventy millions, excluding a large portion of the trade.

Mr. SMITH said he understood the gentleman to apply his arguments to our domestic exports to Spain and Portugal only, and not their dependencies, which the gentleman might, however, have meant to have included.

The Senate adjourned about half past 2 o'clock.

TUESDAY, November 22.

The bill, entitled "An act to authorize the conveyance of certain papers and documents by the mail, free of postage," was read the second time, and referred to Messrs. ANDERSON, MOORE, and FRANKLIN, to consider and report thereon.

The Senate resumed the second reading of the bill to reward Andrew Joseph Villard, for an invention of public utility.

Ordered, That it be referred to Messrs. THRUSTON, TIFFIN, and BRADLEY, to consider and report thereon.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

Mr. POPE.—Mr. President: I rise with more than ordinary diffidence to address you on the interesting question under consideration. When I consider the present state of our country—embarrassed with difficulties; menaced with dangers by foreign nations; our ships captured and burnt by one Power, captured, condemned, and confiscated by the other; a storm gathering in the East, which threatens to burst upon us with rebellion and dis-

union; the honor, independence and best interest of the American people deeply involved in the course to be pursued—I am seriously impressed with the immense responsibility which devolves upon me, as one of their Representatives, at this awful crisis. The want of some documents, which I had expected would before this have been furnished us, and of a more intimate acquaintance with the commercial world, renders me unable to do justice to all the topics which gentlemen have introduced in the wide range they have taken; although I shall not attempt to explore the whole ground, I will endeavor, with the best lights I possess, to notice such of the arguments of the gentlemen in opposition as seem to demand attention.

On the 4th of July, 1776, the people of these States declared themselves free and independent, and this declaration they sealed with their blood. Their independence was soon after recognised by different Powers of Europe, and finally by Great Britain herself. By this memorable and glorious event, which released them from the shackles of the British Government, and gave them independence, they became entitled to all the rights and privileges on the high seas which could be rightfully claimed by any other nation; and these rights, I presume, it will not be pretended they have either abandoned or forfeited. The high seas have been hitherto considered the common highway of nations, designed by the God of Nature for the common use of mankind, and over which no Power could rightfully claim exclusive dominion. I shall not waste the time of the Senate to inquire whether France or Great Britain has been the first aggressor on our neutral rights, or from which we have received the most injuries and indignities, because such an inquiry appears to me at this time unimportant. I am willing to view both nations with an equal eye as common enemies. Nor do I deem it necessary to retrospect injuries and insults of an ancient date, but shall confine myself to a period and circumstances more intimately connected with the present crisis. In 1805, the British Government asserted that this country was not entitled to carry on trade with her enemy in time of war, not permitted in time of peace. Under color of this new principle, a number of American vessels were captured by British cruisers and condemned in British Courts of Admiralty. This conduct of the British Government alarmed the whole commercial interest of this country, and memorials were sent to the President from the different commercial towns in the United States, protesting in strong and spirited language against this novel principle, and calling upon our Government to resist by negotiation it, as well as the impressment of our seamen. I beg leave to read a part of the memorial from New Haven, in the State of Connecticut. Mr. POPE read as follows:

"That your memorialists have observed with no common degree of surprise and solicitude, the numerous embarrassments which the commerce of the United States has suffered, during the present war with Europe and the Indies, arising from the adoption of new principles by the Admiralty Courts of Great Britain, as well as from the depredations committed on our unprotected trade by lawless freebooters, and the unwarrantable impressment of our seamen. Your memorialists will not attempt to discuss at large the principle, which, they understand, has been adopted by the Admiralty Courts of Great Britain, in recent decisions respecting the rights of neutral nations; it is sufficient for them to observe, that in their opinion, the principle assumed by Great Britain, of considering all the trade of a neutral nation as unlawful, which the same cannot carry on in time of peace, to be new and unwarrantable; a principle not authorized by the maxims of sound justice, which have long been received and respected by nations, as laws by which their mutual intercourse ought to be regulated.

The people of Boston, in their memorial, after reasoning with great ability and perspicuity to prove that this new principle assumed by the British Courts of Admiralty was an alarming infraction of neutral rights, solicit the Government on account of the importance of the subject, to send a special mission to London. Here Mr. POPE read from the Boston memorial as follows:

"But whatever may have been the motives for the proceedings on the part of Great Britain, the effect is notorious. From her recent conduct great losses have been sustained; our commerce has been checked and embarrassed, and large quantities of produce are now remaining locked up in this country, which were purchased for foreign markets; because our merchants cannot send it abroad, without taking risks on themselves which prudence would not justify, or without paying such rates for insurance as the trade of the country cannot afford.

"Thus circumstanced, the merchants of Boston have thought it their duty respectfully to make known their complaints to their Government. Believing the citizens of the United States desirous of cultivating relations of amity with the whole human race; and particularly connected as they are with Great Britain, by habits of constant intercourse and by mutual wants, they cannot but hope, that like dispositions are entertained by the British nation towards this country, and if measures were speedily taken for the amicable discussion, by negotiation, of our complaints, that a sense of her own interest, and a respect for the rights of others, would induce her to depart from her present measures, and to conduct towards us with justice and liberality.

"Under this persuasion, and without meaning in the smallest degree to derogate from the talents or attention of the American Minister at the Court of London, the subscribers, with deference and humility, beg leave to suggest, whether, when so important national interests are at stake, a special mission would not carry with it great influence, and be very instrumental in the accomplishment of our reasonable wishes."

This earnest and fervent call on the Government by the commercial interest was promptly obeyed by the Administration. The course pointed out by the memorialists was pursued; a special mission was immediately sent; this new principle, as well as other violations of our maritime rights, were resisted with energy and ability, and every effort made to obtain a redress of injuries, and to place our commerce upon a just and honorable basis, as must be evident to every man who has read the documents communicated to

Congress during the last and present session. I shall pass over the different decrees and orders of the two belligerents from 1805, until the Fall of 1807. I will pass over the affair of the Chesapeake, which called forth such a burst of indignation throughout this country. In December 1807, during the last session of Congress, the President was officially informed, that Bonaparte had determined to extend his decree of Berlin to American commerce, and although not officially notified, had every reason to believe that the French decree had been or would be retaliated by the British Orders of Council. The President thus warned of the dangers which threatened our commerce on the high seas, communicated the subject to Congress by a confidential message, recommending an embargo, to secure our vessels and seamen from capture. His advice was attended to; the measure was adopted. I expected, or at least hoped at that time, that this measure, besides securing our property, by its pressure on the belligerents, aided by a conciliatory course on the part of our Government, would have induced an amicable adjustment of differences with both or one of the belligerents, and thereby averted the calamities of war; that if it failed to produce this effect, it would at least afford us time to prepare to meet war, if inevitable. That our Administration has used every honorable means during the existence of this measure to settle our differences amicably with the belligerents, cannot be doubted by any one who has read the documents accompanying his recent message. After the Administration had pursued the course marked out by the commercial people, whose organs the gentlemen in the opposition appear to be on this occasion—after resisting the unjust pretensions of France and Great Britain—after the Government had laid an embargo and brought the nation to the eve of a war for the maintenance of our maritime rights—what do we hear? We are told by a part of these same people, to the astonishment of all America, by solemn resolutions, which are already before the public, called the Essex resolutions, that we have no cause of war against Great Britain, and all her aggressions, if not justified, are excused; and our Government is gravely told to disgrace itself by receding from the ground it has taken. The gentleman from Connecticut, whose object seems to be rather to prove this measure wrong at first than what ought now to be done, tells us that the French decree of Berlin was not sufficient to justify this measure at the time it was adopted, because France had no naval force to give it effect on the high seas. If the Berlin decree was not sufficient to justify our embargo, upon what principle can it be pretended that it justified or even palliated the British Orders of Council? Although at the time the embargo was laid we had every reason to believe that the orders had issued, and which turned out to be the fact, yet I will admit, for the sake of argument, that the Berlin decree was not a sufficient ground for the embargo. Will gentlemen contend that the Berlin decree, British Orders of Council, and the French decree of Milan, all which were in force at that time, if then officially known to our Government, would not have been a sufficient cause for the embargo? And if they admit that the whole, combined, would have justified the measure, at the same time that they deny it to have been wise, they are constrained to acknowledge that it was at least fortunate. If the dangers to which our commerce was then exposed rendered the measure proper, how can gentlemen seriously contend that while those dangers continue, it ought to be removed, without proposing some more efficient measure as a substitute?

We are told, however, that the avowed object of this measure was to secure our property and seamen from capture, and that it was represented to the two belligerents as a measure of precaution, not as a measure of coercion or hostility. It is in its nature a precautionary measure, and it was the duty of the President to represent it in that light to foreign Governments; and whatever inconveniences may result from it, they cannot, by the law of nations, consider it as a measure of hostility. Yet the gentleman from Connecticut tells us triumphantly that it has not only failed to produce any effect upon foreign nations, but that it never will operate as a measure of coercion. If the gentleman does not think this measure the best that can be devised, and that some other would better suit the present state of things, it is certainly his duty to propose it, and not to press a negative proposition calculated merely to censure, to find fault. I sincerely lament that this measure has not been productive of all the good effects anticipated. But, sir, although it has not, owing to numerous evasions and violations, together with other causes, induced foreign Powers to discontinue their depredations and restrictions upon our commerce, it does not necessarily follow that, if persevered in and properly executed, it would not produce this effect. It is some consolation to the friends of this measure that it has been productive of some good. It has prevented a large portion of our property from falling into the hands of the belligerents, it has preserved peace and afforded us time to prepare for war, if this sad alternative must be resorted to. The gentleman from Connecticut and the gentleman from Massachusetts do not appear to agree as to the effects of this measure. The gentleman from Connecticut contends that it had no effect, while the gentleman from Massachusetts informs us that it had a very considerable effect on Great Britain in May or June last. If it has at any time had an effect upon either of the belligerents, it proves at least that its advocates did not miscalculate as much as the gentleman from Connecticut would induce the world to believe. The gentlemen have cited a French *exposé*, to prove that the embargo is approved by that Government; this document I have never seen, and cannot, therefore, comment on it; and the gentleman might have proved by Mr. Canning's letter, that Great Britain is not dissatisfied with it, if the sincerity of such declarations is to be confided in.

The gentlemen have not explained their object in referring to this document; was it to prove

that it did not operate on France, but did upon Great Britain, or that it had no effect upon either? If it was their design to prove by this document that France is reconciled to bear the inconveniences of this measure herself, on account of its more severe pressure upon her enemy, which may be the fact, it establishes the very reverse of what the gentlemen contend for. They have endeavored to prove that it has had no effect, nor will have any upon either. We have been told that we have been commanded by one Power to make war upon the other; that it has been the policy of both belligerents to draw us into the contest, is evident; and if our embargo has enabled us to resist their dictatorial mandates or insidious policy, it is fortunate for this country. It has been said that we had as well give up our ships to the enemy as let them rot in our harbors. I think very differently. I would rather have them sunk in the ocean than give them up to enrich our enemies. There is something of principle concerned in this. [Mr. LLOYD said he had not expressed this idea; he had said that it affected the national wealth no more that the vessels should be lost at sea, than that they should rot at the wharves.] Mr. P. said he considered the present contest, between us and the belligerents, not merely as a question of profit and loss; there was something of principle, honor, and independence at stake, and he was not disposed to calculate how much money would be gained by succumbing to a foreign Power. This is not the question with Congress or the nation. After the manner of the gentleman from Connecticut, who was fond of illustrating his ideas by very familiar examples, I will suppose that gentleman was in the habit of dealing largely with two merchants, A and B; that the intercourse between them was mutually advantageous; these merchants suddenly quarrel: A tells him he shall not trade with B, and that if he attempts it he will stop by force, and rob him of what he may be found carrying to B. B tells him he shall not trade with A, under similar pains and penalties, unless he will first go to B and purchase of him a license to deal with A; what would the gentleman do? I presume he would either chastise both for their insolence and injustice, or, if that was not convenient, he would tell them I will have no intercourse with either of you. He would certainly resist their insolence and injustice by force, discontinue all intercourse with them, or submit to their terms. Would the gentleman in such a case calculate whether it would be his interest to submit to the disgraceful conditions of B, who happened to be the stronger of the two, than bear the inconveniences resulting from a non-intercourse? Would the gentleman submit to disgraceful conditions for the pounds, shillings, and pence he would make by a renewal of intercourse with them? I presume he would not. Great Britain and France, in defiance of all law, justice, and right, have, by their decrees and orders, interdicted our trade to a very great extent. Great Britain, however, will permit us to trade, provided we will agree to pay her for the privilege. Now, sir, it appears to me that we must resist their decrees and orders by war, non-intercourse, or we must submit. Are we to be told that honor and independence are out of the question, and that we ought to submit to disgraceful conditions for the sake of trade, because we shall make money by it? Surely not.

However the gentleman from Connecticut and myself may differ in other respects, I concur with him in opinion that we have nothing to hope from the friendship or justice of the belligerents, and that the most efficient means of coercing them is by operating on their interest. If, then, his position be correct, that our only means of bringing Great Britain to terms is to affect her interest, and if it is true, as is generally believed, that our commerce is very advantageous to Great Britain, shall we not, by suspending that commerce, operate on her interest, and will not her interest induce her to do us justice, in order to renew it? The gentleman from Connecticut has told us that our embargo, with the aid of a non-importation act, would produce no effect, because the West India planters can convert their sugar-plantations into cornfields, and that therefore they could not be starved. Does the gentleman suppose any man of common sense ever believed that this system of starving, as it has been called, would destroy the belligerents? No, sir; it was expected to operate upon their interest—the only way in which the gentleman tells us they can be coerced. If, as the gentleman supposes, the West India planters will be compelled by our embargo to employ their capital and land in the culture of corn in order to subsist, will they not be materially injured by it? Will not the shipping interest engaged in carrying West India produce to Europe be injured, and will not the consumers in the mother country be injured by a rise in the prices of West India produce, independent of the injury to the Government on the score of revenue? If it had been the interest of the sugar planters to employ any portion of their capital in raising corn, it is wonderful they have never before made the discovery. The gentleman from Connecticut has also informed us that these islands can be supplied from other countries. If other countries can supply the West Indies with those articles which they have heretofore received from the United States, I would thank the gentleman to inform us why those other countries have not rivalled us in this market; for it is not a new one; it has been known a great length of time. Those countries from which these islands can be supplied must have been, I presume, employed heretofore in more lucrative pursuits; and, according to a position advanced by the gentleman himself on the subject of manufactures, those other countries could not be induced to abandon suddenly their present pursuits, in order to supply the West India market. If Great Britain can procure these supplies elsewhere, it cannot be her interest to do so, because it is not presumable that she can procure them on as good terms as from the United States.

The gentleman has informed us that Great

Britain can be supplied with cotton from the East Indies and other countries. I will ask the gentleman if Great Britain can procure this article from the East Indies and other countries in sufficient quantity, and on as good terms as from the United States? If she cannot, which I suppose to be the case, she must feel our embargo in her manufactures—one of the vital sources of her strength and prosperity. We are told that a non-importation act would have no effect, because it could not be enforced; smuggling would be carried on to a very great extent. That a non-importation act would, like all other laws, be partially violated, was to be expected. Every law is violated, but with due vigilance such a measure could be enforced to a very great extent. This measure would not be efficient, says the gentleman, because Great Britain will find a market for her manufactures in New Spain and South America. I will ask the gentlemen, whether South America has not been supplied heretofore with British manufactures to a considerable extent, and does the gentleman seriously believe that she would find a market in that country for the immense quantity of her manufactures hitherto consumed in the United States?

Although the gentleman has not, in his resolution to repeal the embargo, proposed a substitute, he intimated in his argument that we ought to arm our commerce against all nations. I am not prepared to say that I will adhere to this embargo system if a better can be devised; but before I embrace a substitute, I must be informed how it is to operate; the gentleman must therefore excuse me for propounding a few questions to him in relation to this measure. I wish to be informed, would not such a measure be war with France and Great Britain, or should we not by such a measure put it in the power of the commercial interest to embroil us with which nation they pleased? Is it probable that our merchants would run the risk of fighting their way to the Continent of Europe, with loaded vessels, in defiance of the British navy? Is it not more probable that Great Britain would have agents in this country to sell licenses to our merchants to trade to the Continent, and would not our merchants for their own security secretly purchase and trade under those licenses? If the object of Great Britain be a commercial monopoly, and we remove our embargo, would it not be in the power of the British merchants, by a secret understanding with, and the connivance of their Government, by agents and secret partners in the United States, to carry on the very trade to the Continent which Great Britain interdicts to us? I have been led to make these inquiries by reading the memorial of the merchants of Baltimore, presented to the Government in 1806, respecting neutral trade, and which was signed by men of all parties, in which it was positively charged that the object of Great Britain in harassing our trade, was to cripple American commerce and promote her own, and that she granted licenses to neutrals to carry on the trade which she interdicted. I will read it:

"It has been said that, by embarking in the colony trade of either of the belligerents, neutral nations, in some sort, interpose in the war, since they assist and serve the belligerent, in whose trade they so embark. It is a sufficient answer to this observation, that the same course of reasoning would prove that neutrals ought to discontinue all trade whatsoever with the parties at war. A continuance of their accustomed peace trade assists and serves the belligerent with whom it is continued; and if this effect were sufficient to make a trade unneutral and illegal, the best established and most useful traffic would, of course, become so. But Great Britain supplies us with another answer to this notion, that our interference in the trade of the colonies of her enemies is unlawful, because they are benefited by it. It is known that the same trade is, and long has been, carried on by British subjects, and your memorialists feel themselves bound to state that, according to authentic information lately received, the Government of Great Britain does, at this moment, grant licenses to neutral vessels, taking in a proportion of their cargoes there, to proceed on trading voyages to the colonies of Spain, from which she would exclude us, upon the condition, that the return cargoes shall be carried to Great Britain to swell the gains of her merchants, and to give her a monopoly of the commerce of the world. This great belligerent right, then, upon which so much has been supposed to depend, sinks into an article of barter. It is used, not as a hostile instrument, wielded by a warlike State, by which her enemies are to be wounded, or their colonies subdued, but as the selfish means of commercial aggrandizement, to the impoverishment and ruin of her friends; as an engine by which Great Britain is to be lifted up to a vast height of prosperity, and the trade of neutrals crippled, and crushed, and destroyed."

According to the course of reasoning adopted by the gentleman from Connecticut, the object of Great Britain in blockading the Continent is not to starve it; it must therefore be to secure to herself the benefit of all the commerce carried on with the Continental Powers. In such a state of things, while those who were trading under the licenses of foreign Governments were making their fortunes, the honest Americans, who would not consent to degrade their country by navigating the ocean under the protection of any Government but their own, would be plundered by both belligerents. If we are to consider the belligerent nations as pirates, no longer bound by those principles of public law to which civilized nations have hitherto subscribed, and are prepared to purchase our rights on the seas, let us do it as a nation, by paying them a sum in gross, and thereby place our citizens on equal ground. We are told that we can carry on a considerable commerce with countries not within the scope of the decrees or orders of the belligerents. This argument is specious and captivating, let us examine it, for I feel as much solicitude as the gentlemen in the opposition to remove this embargo whenever it can be done with propriety; on this, as well as on the subject of an armed commerce, the gentleman will pardon me for requesting information. If we remove our embargo as to Portugal and other places to which our trade is not interdicted, and by a law declare that our citizens shall trade only to those countries permitted by the belligerents, would not that be submission to their orders and decrees; and if we open our ports, and restrict our commerce to those countries, could we ever afterwards hope for a relaxation of the British Orders of Council? Would not Great Britain have every inducement to perpetuate such a state of things, which would afford to her the benefits of our commerce without its inconveniences?

The gentleman from Connecticut has informed us that the object of the Administration, in adopting the present system, is to put down commerce and promote manufactures.

If the Administration has any concealed motive for this measure, I am a stranger to it. It is well known that it has been a favorite object with the present Administration to pay the public debt, and it would be strange indeed that it should pursue a system which cuts off our only source of revenue. This conjecture of the gentleman is too improbable to require a serious refutation. On the policy of promoting manufactures I shall make but a few remarks, as it will hereafter be a subject of distinct consideration. I have supposed that it would be sound policy in this Government to diminish, in some degree, the inducements now held out to our citizens to embark in foreign commerce, and induce them to invest their money in the interior; the increase of manufactures would lessen our dependence on foreign nations, and render us more dependent on each other. There would be more intercourse between the people of the different States, which would tend to nationalize us, and give more strength and permanency to the American Union. To what extent this policy should be carried, I am not now prepared to say. A distinction has been taken between native and foreign commerce, or what is more commonly called the carrying trade. The policy of encouraging our citizens to participate in the carrying trade is one thing, our maritime rights is another. The gentlemen in the opposition complain that this measure bears peculiarly hard on the commercial States. On the subject of commerce, as all others of national concern, I am disposed to consider the United States as an integer, and to forget the lines of partition by which we are separated into different States and districts, for the purpose of internal government; but as the gentleman have contrasted the commercial with the agricultural States, I am willing to meet them. I had thought that this measure, if its pressure was greater upon one part of the country than another, operated more severely upon the growers of cotton than any other part of the nation, and they ought, if influenced by pecuniary considerations, to be the first to complain. The people I represent are an agricultural people, and I ask the gentleman of what importance it is to them whether their produce is carried in foreign or American vessels? For what are the agricultural people now suffering, but to maintain our maritime rights. Sir, we are willing to discard all calculations of profit or loss, and make a common cause with our brethren of other States in defence of our national rights and independence.

It appears to me, sir, that the commercial people ought to be the last to complain. Our Government has imposed discriminating tonnage duties, to give our own vessels an advantage in our own ports over foreigners. We have remitted the duties on foreign articles imported into the United States, intended for exportation. Our Government has evinced every disposition to foster commerce and maintain our maritime rights. We are told that the people are opposed to this measure. To the voice of a free people I shall always bow with reverence. But, sir, it ought to be remembered that in this country the will of the majority must prevail; it is a fundamental principle of our Government, and if we are to judge from recent events, a great majority of the nation are in favor of this measure. We are informed, and it has been intimated on this floor, that rebellion in the Eastern Staies will be the probable consequence of perseverance in this measure. Are we to be driven from the course dictated by the public interest by alarms of this sort? Are we to be told by a minority that we must recede from the ground we have taken; that we must admit the Government has not sufficient energy to enforce its authority, or that they will rebel? Will gentlemen inform us who they are that are prepared to erect the standard of rebellion against their own Government on the very graves of the brave Bostonians who first raised the standard of American independence? They must be some new people who have obtruded themselves upon our shores; they cannot be Americans; I will not think so unworthily of my countrymen. I believe the American people are generally attached to their Government; I trust it is but the clamor of the moment, which will cease the moment the will of the Government shall be decisively and constitutionally expressed. It has been frequently said that Great Britain is fighting for the liberties of the world; that she is the only barrier between France and universal dominion, and therefore that our weight ought to be thrown into the scale of England, to assist her in this mighty conflict. If our friendship is necessary to England, ought she not to entitle herself to it, at least to do us justice and respect our rights? Shall we submit to insults and indignities from Great Britain to induce her to save us from subjugation by France? Shall we admit for a moment that we cannot maintain our independence? The gentlemen in the opposition have protested against submission; they have not declared themselves for war; if they are for it, I hope they will avow it; they have proposed no substitute. I am not prepared to say how long good policy will justify a continuance of the present system; but, sir, I am ready to declare that I will adhere to it until a better can be substituted. If it be true, as the gentleman from Connecticut has informed us, that the most efficient means of coercing Great Britain, is to affect her interest, and if it be true that our embargo will compel the West India planters to con-

vert their sugar plantations into cornfields for subsistence; if it will produce a scarcity of cotton in Great Britain, or enhance the price; if by a non-importation act we can deprive her of a market for a large portion of her manufactures, the present system, with the addition of a non-importation act, if firmly adhered to, and well executed, may have the desired effect. When I cast my eyes over these States, and observe the freedom and happiness they enjoy, I feel constrained to pause, before I consent to take a step which will involve them in the calamities of war. When I consider the peculiar character of the contest between the two great belligerents of Europe, I feel very unwilling to be drawn into the vortex, lest the fate of this happy nation may become too closely connected with the destiny of one or the other of these contending Powers. At the same time that I consider it my duty to make war the last alternative, I know the American people would prefer to meet it, rather than submit to a sacrifice of their national independence. The conduct of the belligerents, and the state of our country, furnish strong reasons for believing that the period is not distant, when this alternative must be accepted, if the present system should prove inefficient. I hope I have not, in the warmth of debate, violated that decorum which the dignity of the Senate requires to be observed. I certainly have not intended it. I shall conclude with requesting gentlemen to reflect, that in this hour of difficulty and danger unanimity constitutes the basis of our national security.

Mr. WHITE.—I have listened with great pleasure to the gentleman from Kentucky, (Mr. POPE,) who has just sat down; but, although entertained with his eloquence, have not been convinced by his arguments. I shall not follow him through the New England memorials, nor discuss with him the policy of a non-intercourse law, as that is not the question before the Senate; neither shall I join issue with him as to the apparent expediency of laying an embargo at the last session of Congress; but I will endeavor to show that the operation of this measure upon the country, has been such as now calls most imperiously upon this body to pass the resolution before us. The importance of this subject is admitted on all sides, and the anxiety known to exist throughout every section, and almost in every individual of the community, in relation to the decision now about to be had upon it, is the fullest evidence of the deep and unusual degree of interest universally felt throughout the country, and attaches to the vote we are to give the highest responsibility. Such a responsibility I am not willing to meet without assigning some of the reasons that influence my opinion. And this I shall do the more cheerfully, as I know they will be in conformity with the sentiments of a vast portion of those I have the honor to represent. The embargo, when laid, was admitted to be a mere experiment, but one which we were admonished not to resist, as it was to do great things for the United States. It was, in a few months, to reduce the West Indies to a state of starvation, and to bring the two great belligerent Powers of Europe to our feet. In the prophetic language of the President, it was to "keep in safety our merchandise, our vessels, and our seamen, those essential resources;" and we were told, on all sides, by the numerous advocates of the measure, that it would speedily bring the French and British Governments to a sense of justice. But has it, or is it likely to accomplish any of these desirable objects? I grant you, it has kept our merchandise in safety, if by that was intended to lock up in our barns and storehouses all the produce of our country to rot upon our hands. And as to our dismantled, ark-roofed vessels, they are indeed decaying in safety at our wharves; presenting daily to the merchant a melancholy memento of his present or approaching ruin, and forming a suitable monument to the memory of our departed commerce. But, where are your seamen? Gone, sir; driven into foreign exile in search of subsistence. The very measure that was to preserve them to their country has banished them from it, and many of them forever. Even the vigilance and terrors of our gunboat navy have not been sufficient to confine and starve them in our ports. But, sir, the most mortifying disappointment we have to sustain, is the total indifference with which this boasted measure of our Administration has been treated by both the belligerents. Instead of coercing them to do us justice, we now know officially that it is neither felt nor thought of in France; and the British, so far from offering us terms on the subject, will not even ask us to take it off. Here, I will beg leave to read a short passage from Mr. Canning's letter to Mr. Pinkney, of the 23d of September last, showing most distinctly the sense and determination of the British Government on this subject:

"His Majesty (says Mr. Canning) sees nothing in the embargo laid on by the President of the United States of America, which varies this original and simple state of the question. If considered as a measure of impartial hostility against both belligerents, the embargo appears to His Majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong; and His Majesty cannot consent to buy off that hostility which America ought not to have extended to him, at the expense of a concession made, not to America, but to France.

"If, as it has been more generally represented by the Government of the United States, the embargo is only to be considered as an innocent, municipal regulation, which affects none but the United States themselves, and with which no foreign State has any concern; viewed in this light, His Majesty does not conceive that he has the right, or the pretension, to make any complaint of it, and he has made none. But in this light there appears not only no reciprocity, but no assignable relation between the repeal by the United States of a measure of voluntary self-restriction, and the surrender by His Majesty of his right of retaliation against his enemies."

Here the embargo, as a measure of coercion or retaliation on our part, is officially treated by the British Minister even with ridicule; he tauntingly admits, indeed, what is unfortunately too

true, that it is a regulation which affects none but the United States themselves, and tells us that His Majesty neither does nor means to complain of it. And although the gentleman from Kentucky informs us, he has not met with, yet I have seen a recent report made by a French Minister to the Emperor, in which the embargo is approved of and applauded as, what it really is, a measure favorable to them, and an act of great self-denial on our part. Under all these circumstances, and every gentleman here knows the facts I state to be correct, why, in the name of Heaven, continue it? What beneficial end can it produce? The country is, at this moment, bleeding at every pore under it, without the remotest prospect or probability of ultimately deriving the least possible advantage or security from the measure. And as it is not among the least discouraging of the circumstances belonging to the present state of things, that we are able to make no calculation as to the probable time when we shall see the end of the evil; for, upon the same principle that the embargo is continued now, it may be continued for twenty or for forty years, or at least during the war between the two great contending Powers of Europe, which, I presume, no gentleman here expects will be at an end in the life of the present Emperor of France, and as long as an Englishman exists with the means and courage to defend the independence of his country.

I am willing to believe, and do believe, what the honorable gentleman from Kentucky has just now in substance declared, that the gentlemen who supported the embargo laws at the last session upon this floor, supposed they would be speedily productive of great and beneficial results upon our foreign relations; that they would bring the two great belligerents, and especially England, to just and reasonable terms; and that there would be no occasion for continuing them longer than till they should be known on the other side of the Atlantic. But in all this they now see and know their mistake; they now know, from the most authentic sources, that these laws have produced no alteration in the conduct of either France or England in relation to us; that, in fact, they are applauded by the one, and treated with contempt and derision by the other, while we are ourselves the suffering and bleeding victims of the rack upon which we vainly expected to torture them.

It is the fate of humanity to err; the wisest and the best of men are liable to it. And all we ask of these honorable gentlemen now, is to come out openly and acknowledge, in the face of the nation, the egregious mistake into which they fell, and unite with us in redressing the injuries and healing the wounds they have so unnecessarily inflicted upon their devoted country. I make this appeal to them with the more confidence, because I know every gentleman here has too much character and patriotism to be influenced by the pride of opinion to consistency in political error. I will submit to you, Mr. President, whether we have not before us sufficient evidence to show that the Administration themselves are now convinced of the impolicy of this measure, and would willingly get rid of it, if they could do so, consistently with the character of infallibility they wish to preserve in the public opinion. I deduce this conclusion from the offer they say they have recently made to the British Government to take off the embargo as to them, and to continue it as to France, provided they would rescind their Orders of Council. An offer, which, if indeed made unencumbered with other terms, is a complete acknowledgment of a conviction of error on the part of the Administration; because, after they had subjected the country to all the deprivations, and ruinous effects of the embargo for more than six months, it was coming to the precise ground we were requested to take in relation to France, by the British Government, a year before the embargo was laid, in the famous note of Lords Holland and Auckland to Messrs. Monroe and Pinkney, accompanying the British Treaty formed by those gentlemen. All they then asked of us was, that we should "not acquiesce in the palpable violation of our rights directed by the Berlin decree if attempted to be enforced;" and surely they could not have contemplated more than that, if France did attempt to enforce that decree; we would interdict all intercourse with her, and continue our commerce with Great Britain; which would be the very effect of the stipulation recently proposed. This proposition from the British Government, however, in December, 1806, was spurned with disdain; and now, after the country is half ruined with the experiment of a perpetual embargo, such as I believe was never before practised upon any people, we condescend to beg those very terms, and they refuse to grant them. Sir, the truth is, the Administration must now be convinced that the embargo is injuring no one but ourselves, and us it must eventually ruin if persisted in. I regret, too, this proposition was made, because it has furnished to Mr. Canning an opportunity of offering a most sarcastic insult to the Government of this country. He tells Mr. Pinkney in reply to it, that "His Majesty would not 'hesitate to contribute in any manner in his pow-'er to restore to the commerce of the United 'States its wonted activity; and if it were possi-'ble to make any sacrifice for the repeal of the 'embargo, without appearing to deprecate it as a 'measure of hostility, he would gladly have fa-'cilitated its removal as a measure of inconveni-'ent restriction upon the American people." His Majesty would not hesitate to contribute in any manner in his power to restore to the commerce of the United States its wonted activity, and if it were possible, without any sacrifice, for the repeal of the embargo, would gladly facilitate its removal as a measure of "inconvenient restriction upon the American people." I have no faith, Mr. President, in the sincerity of this profession; but I feel most sensibly the severity of the sarcasm, as applied to a measure of our Administration that we were confidently told was to bring England to our own terms.

I will now, sir, with the indulgence of the Senate, endeavor to examine, as concisely and as cor-

rectly as I am capable of, the operation of the embargo upon the commerce and general prosperity of the United States. According to the last report of the Secretary of the Treasury, it will be found, that the goods, wares, and merchandise, of foreign growth and manufacture, exported from the United States in the year prior to the first day of October, 1807, amounted to $59,643,558. All the revenue, all the national and commercial wealth that would have arisen from this very extensive trade, is completely destroyed by the embargo; it is a total loss to the country, that can never be recovered. In the same report it appears that the goods, wares, and merchandise, of domestic growth and manufacture, the actual produce of our own country, exported from the United States in the same year, amounted to $48,699,592. The whole commercial profits and national wealth that would have arisen from the exportation and proceeds of this immensely valuable produce is for the present lost to the country, and a large portion of the merchandise, the produce itself, must be forever lost if the embargo be long continued. All, or nearly all, the product of the fisheries, amounting to $2,804,000, as likewise the agricultural produce of the country, a few articles, such as tobacco, cotton, rice, &c., excepted, which I have not included in this estimate, amounting to $18,521,000, making in the whole twenty-one millions four hundred and twenty-five thousand dollars, that must be forever lost to the fisherman, the farmer, or the merchant, because they are articles of a perishable kind, such as fish, wheat, flour, Indian meal, flaxseed, beef, pork, &c., that will not admit of being kept on hand for market. So that, if the embargo be now continued, the country in fact may be said already to have sustained a clear loss, in her native produce only, of more than twenty-one million of dollars by the measure, besides the duties that would have arisen from near a million and a half of tonnage now idle in our docks, and the immense expense of large detachments of militia, regular troops, and a fleet of gunboats to enforce the laws. And so obnoxious are those laws, that, although to enforce their execution, we have blockaded our own ports, and hung our own citizens, they are still openly resisted by force, and seriously endanger the domestic tranquillity of the country. But, sir, it is to be observed that the actual loss sustained during the embargo is not the only evil arising from it; another more permanent is to be apprehended. It will have the effect of throwing the commerce of the world into other and different channels; of inducing foreign nations to seek in other countries what they have heretofore been in the habit of purchasing from us, and what we now deny them. In the single article of cotton, for instance, we now, or did, export more than fourteen million of dollars' worth annually, and principally supplied the British manufactories with this article; but it is well known that the soil and climate of the Brazils are equally congenial to the growth of this crop with our own, and with due attention to the cultivation of it, is capable of supplying abundantly all the manufactories of England. Surely, then, I shall be correct in stating, that the embargo is a premium sufficient to stimulate them to this exertion, and to enable them ultimately to supplant us in the sale of this very valuable staple of some of our Southern States. And the intimate connexion known at present to exist between the British Government and the Regency of that country, will greatly aid in producing this result.

Now, sir, let me inquire, during the existence of the present state of things, whence we are to derive our revenue? A consideration certainly of no small importance to a Government depending entirely for her revenue upon commerce. Our commerce is entirely at an end, and of course our revenue; by the way, another loss to the nation of at least fifteen millions of dollars annually by the embargo. This, I know, cannot be felt during the present year, because our Treasury is overflowing with the proceeds of the last. But, from what sources are you to obtain money next year, for the support of Government, and the payment of the national debt? Are gentlemen ready to resort to a direct tax? No, sir; they love place and power too well. That was once done for the purpose of raising money, I believe, to defend commerce, and the people on that occasion taught their servants a lesson that, I presume, will not be shortly forgotten. The President, I know, in his late Message, has given a favorable account of the present state of the Treasury; and most kindly indeed expresses much concern as to the best use to be made of the surplus revenue of the next year. Sir, among all the cares and troubles of his successor, I venture to predict this will not be one of them; he will not be plagued with surplus revenue next year. Mr. Jefferson's overweening anxiety for the public good must have blinded him to the obvious fact, that, before he can be well warm in his seat at Monticello, the revenue now bonded for will be collected, and as, in consequence of the present abandonment of commerce, there will certainly be no other bonds to become due, it follows necessarily, in the course of your annual expenditures, that, by the next meeting of Congress, your Treasury must be empty; so that, instead of being troubled with surplus revenue, it will require all the fiscal talents of the next incumbent of the Palace, be him whom he may, to provide the sum essential for the support of Government.

The gentlemen who advocate this—I do not know what to call it—terrapin policy; I beg pardon, sir—when driven from every other hold, invariably launch into futurity, and tell us that, if we dare to put out our heads in any part of this wide world, we shall get them broke; or, in other words, if we take off the embargo, we shall have war. Laying out of view any comparison between the probable expense of war, and the actual loss annually sustained by the embargo, the former bearing no comparison with the latter, let us examine, for a moment, what foundation there is for this assertion, and whether we might not at this time, even admitting the British Orders of Council to have their full operation, carry on safely a most extensive and valuable commerce

with at least three-fourths of the commercial world. I have before me those Orders in Council; the only restrictive clause is in the following words:

"His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places of France, and her allies, or of any other country at war with His Majesty, and all other ports or places, from which, although not at war with His Majesty, the British flag is excluded; and all ports or places in the colonies belonging to His Majesty's enemies, shall from henceforth be subject to the same restrictions in point of trade and navigation, with the exceptions hereafter mentioned, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner."

As much as I condemn and feel disposed to resist these arbitrary regulations, they certainly do not interfere with, or in any respect embarrass our trade to Hindostan, China, Java, Sweden, Gibraltar, England, Portugal, Sicily, the whole extent of the Mediterranean and Atlantic coast of Africa, Arabia, the Western Isles, and Madeira, Nova Scotia, Canada, the Spanish, Swedish, and British West Indies, the Floridas, Brazils, and all the rest of South America, except Cayenne, as likewise the Northwest coast of America. These countries, too, as will appear by the last report of the Secretary of the Treasury, receive annually nearly four-fifths of the whole native exports of the United States, and are certainly, none of them, notwithstanding what has been said by the gentleman from Maryland, (Mr. SMITH,) within the purview of the British Orders of Council. That gentleman, when on this part of the subject, I will do him the justice to acknowledge, told us he had risen in great haste, and was unprepared; and, indeed, sir, it would require great haste and great want of preparation to justify some of the statements made by the gentleman to the Senate. Among other things equally extravagant, he told us, in the face of the British Orders of Council, I have just read, that we were now interdicted by those orders from any trade with Spain or Portugal; and, after referring to Mr. Canning's reply to the committee of merchants viz: "That neutrals were not now excluded from the ports of Portugal and Spain by those orders," triumphantly asked us to tell him, as lawyers, whether, if a vessel engaged in that trade was carried into a British Court of Admiralty, she would be tried by Mr. Canning's conversation with the merchants, or according to the law of the land? I answer the gentleman, not as a lawyer, but as a man of common sense, that she would be tried according to the law of the land. And I wonder it had not occurred to that gentleman, as a man of common sense, that, according to the law of the land, she must be acquitted. Sir, the express language of these orders is, "that all the ports 'and places of France and her allies, or of any 'other country at war with His Majesty, and all 'other ports or places in Europe, from which, al-'though not at war with His Majesty, the British 'flag is excluded," &c. And will the gentleman undertake to say here, that Spain and Portugal are now the allies of France, or that the British flag is now excluded from their ports? No, sir. The gentleman knows they are, at this moment, waging a most exterminating war with France, in defence of their very existence; and that they derive their principal support and subsistence under the British flag. There is no man who can read and understand plain English, and shall examine these orders, but will tell you in a moment that the ports of Spain and Portugal, so far from being within their spirit, are not now even within the letter of them. But, independent of this, there was a special proclamation of the King, dated on the 4th of July last, notifying to the world that the blockade no longer existed as to the ports of Spain. The advices the gentleman has been pleased to detail to us, as received in private letters from Europe, I shall take no notice of; they are entitled to none, unless he will first submit those letters to the Senate, and then we shall give to the information they contain, that weight to which the characters of his correspondents, and their means of acquiring correct information may entitle it.

Gentlemen, by turning to the last report of the Secretary, to which I have before referred, and I wish them to examine for themselves, will find, that of the $48,699,592 worth of produce and other merchandise, the actual growth and manufacture of our country exported from the United States in 1807, we sent

To England and her dependencies in Europe, Asia, Africa, and America -	$27,917,077
To Spain and her dependencies in Europe and America - - - -	3,998,575
To Portugal and her dependencies in Europe and America - - - -	1,399,616
To Sweden and Swedish West Indies - - - - - - -	472,666
To China, the East and West Indies, generally, (not included above,) Africa, and Northwest coast of America - - - - - - - -	1,919,908
Making in the whole - - -	$35,707,842

Almost four-fifths of the whole native exports of the United States for that year, which we might export nearly as safely now as then, but for the embargo; for it cannot, it certainly will not, be now contended, that any part of this commerce is embraced by the British Orders of Council; and the French decrees in relation to it, from a total inability to execute them, are a mere nullity. It is not, therefore, as has been said, the decrees and orders of foreign Powers that have reduced our country to its present distressed and embarrassed condition. It is our own folly, the embargo, that now palsies the labor, the energies, and enterprise of our citizens, and locks up more than thirty-five millions of dollars, the native produce of our country, to perish and sink upon our hands. I want to hear, sir, for I have not heard yet, how this enormous, this unnecessary, and ruinous sacrifice of individual and national wealth, can be justified to the public. There is

no man who holds more indignantly than I do, those French Decrees and British Orders; but, before my God, I do most religiously believe that the embargo is a thousand times more injurious to our country than they both could be rendered. Instead of availing ourselves of the immensely extensive and valuable commerce now open to us, with at least three-fourths of the commercial world, it has now become a great favor, if we can be permitted, by the President and his gunboats, to sneak along shore, from one of our ports to another, with as much flour and pork as we can eat on the passage.

Sir, this is the next commercial country in the world to England; we are, in fact, in this respect, their only competitors, and while, as at present, they have an opportunity of monopolizing all the commerce of the world, do you believe they will ever ask you to take off the embargo laws? No, sir. This would be an act of madness in them, equal almost to our continuing them. They do not wish to meet upon the ocean again their industrious and enterprising rivals. They are, no doubt, pleased to see us shackling and crippling ourselves.

Much has been said by the gentleman from Maryland (Mr. SMITH) on the subject of tribute, and in a manner I do not well understand, unless it be to retort upon the gentleman his own language, *ad captandum*. I wish it, however, to be distinctly understood, that no part of the commerce, I have undertaken to show the United States might now carry on, would be subject to any tribute. I wish it to be further understood, sir, that I would not only see this country clad in homespun, but covered in sackcloth and ashes, rather than that she should consent to pay tribute. I would see every commercial city upon our shores, and every rag of canvass we hold in flames. I would see our soil smoking with the best blood of its inhabitants, and the bones of our citizens mingled with the ashes of their dwellings, rather than see this people submit to pay tribute to any nation on earth. I trust there is not in either House a member who would not sooner risk his life, and spill his blood, than give a vote that should reduce his country to a condition so slavish and degrading. And I hope, Mr. President, that no insinuation has or will be made here calculated even to intimate an idea that the gentlemen of this body who may vote for the repeal of the embargo laws, would subject this nation to tribute. Such an insinuation would not only be unfounded, illiberal, and derogatory of this floor, but, in other respects, highly unjustifiable.

It has been asked by the gentleman from Kentucky, why do not those who oppose the embargo propose some substitute? Certainly it cannot be expected of us to offer ourselves as the pioneers of this Administration; but, in reply to the question, I will refer gentlemen to a confidential letter, submitted to the Senate a few days past: gentlemen need not be alarmed, I am not going to tell what that letter contains. If any substitute be necessary, in that is pointed out the one I would adopt; there is marked a safe, a high, and an honorable course, that, if pursued, without, I believe, endangering our peace, would add alike to our national character and our national wealth.

It has been well observed by the gentleman from Virginia (Mr. GILES) that it was time we had become a nation, that we were nationalized. The sentiment was worthy of that gentleman, and one to which I entirely subscribed. But is the system of which this measure is apprehended by many to be but the commencement, calculated to nationalize? No, sir; much better calculated, I fear, to estrange the extremes of the Union from each other, and to familiarize our ideas to an event, that I deem it almost treason to think of, and that every honorable and patriotic American must view as the most calamitous curse that could be forced upon this country. I beseech gentlemen, therefore, to beware how they press this system too far. There is a section, a very respectable and powerful section of this country, that, with commerce, is rich and happy; deprived of that commerce a large portion of its population must starve. That population expect, and, as a portion of the community, have a right to expect, that their only means of subsistence will be fostered and defended, and not sacrificed to manufacturing whims or local prejudices. I do not mean to intimate that the embargo grew out of either of these causes; but the continuance of it at present, under existing circumstances, after the galling experience we have had, and when it can obviously produce nothing but distress and embarrassment to ourselves, may engender and nurture jealousies that, perhaps, time will not allay. I believe the people of this country will submit to any privations for the public good, but they must first be convinced that the public good requires the sacrifice. It must, it will astonish every unprejudiced and reflecting man in the community, if this ruinous measure be persisted in, after the experience we have received, and when we have before us the most conclusive and irresistible evidence to show that it is utterly inadequate to the accomplishment of any of the objects for which it was said to be intended. And conduct that cannot be accounted for on any reasonable ground, is apt, however unjustly, to be attributed to unworthy motives. I trust, therefore, that gentlemen, on their own accounts, will not reject this resolution; that they will, at least, first deliberate and look to consequences; that they will feel well the public pulse before, by this rash prescription, they stagnate the national blood.

Mr. MOORE said he was not a little surprised to hear insinuations of the disaffection of any portion of the people of the United States; but the Senate was now called upon to beware how they drove the people of the Eastern States to rebellion. The Councils of the United States were not to be inflamed by these suggestions; he could not believe them to be well founded; he could not believe that the citizens who, in our Revolution, exhibited such incontestable marks of patriotism, under the privations which the peculiar

situation of our country rendered necessary, would now revolt against the Government which they themselves had constituted. He held no such opinion. On the contrary, he believed that they would unite with their fellow-citizens who were sufferers in the common cause with themselves, and unite every effort to maintain that independence they had assisted to gain.

The gentleman from Connecticut had asked, if the embargo had been productive of the consequences expected to result from it when passed? Had it not been more injurious to the United States than to foreign nations? It is certainly true (said Mr. M.) that it has not been productive of all the effects expected by those who were its advocates when it passed, but it has not had a fair experiment. The law has been violated, and an illicit commerce carried on, by which the belligerents have received such supplies as to have partially prevented its good effects.

The publications throughout the United States, and thence in England, that the embargo could not be maintained, have induced the belligerents to believe that we wanted energy, and that we are too fluctuating in our councils to persevere in a measure which requires privations from the people. Under these circumstances, it appears to me that the embargo has not had a fair trial. I have ever been of opinion that the only warfare which we could ever carry on to advantage, must be commercial; and, but for evasions and miscalculations on our weakness, we should before this have been suffered to pursue our accustomed trade.

It has been asked whether the embargo has not operated more on the United States than on the European Powers? In estimating this, it will be proper to take into consideration the evils prevented, as well as the injury done by the embargo. If the embargo had not passed, is it not certain that the whole produce of the United States would have invited attack and afforded a bait to the rapacity of the belligerent cruisers? If a few have accidentally escaped them, it is no evidence that, if the embargo had not been laid, the whole would not have been in the hands of the belligerents. That both belligerents have manifested hostilities by edicts which prostrated our commerce will not be denied by any gentleman. Great Britain, on a former occasion, passed an order, sent it out secretly, and before our Minister was officially notified it was in full operation. Their late orders included all our commerce which was afloat. Was it not to be expected that such would have been the policy of Great Britain in this case, and such our proportionate loss, if the embargo had not been laid, and thus snatched this valuable commerce from their grasp?

Great inconveniences are apprehended from this measure, giving another direction to commerce, and from our losing that to which we have been accustomed. I have no such apprehensions. If, on the contrary, we tamely acquiesce, I will not say in paying tribute, for every one seems to disclaim it—Great Britain, however, having excluded us from the Continent, if we tamely acquiesce, have we reason to expect that she will not, as long as she is a nation, exercise the same policy? Suppose it even to be policy, adopted in time of war, if we calculate the number of years she is in war in proportion to the number of years she is at peace, and suppose such a regulation to exist during all her wars, I conceive that we have lost our independence, if we submit for it. It appears to me that, for many years, Great Britain has adopted new regulations, and added new principles to the established law of nations, to the subversion of lawful neutral commerce. It cannot be doubted then, that if it be in her power she will totally destroy it.

I am not competent to enter into examination of the private evils or benefits resulting to commerce from the measure of the embargo. But I will state a point which, in my mind, is all important in this case: When the Revolutionary war commenced, it was not merely the paying a small duty on tea which was the subject of contest, for it was considered as unimportant; but it was the right of Great Britain to impose a tax without our consent. This is the question now in contest, affecting our independence, as in former times it affected our rights. It is a question affecting our very existence as a nation. If this embargo be removed, and that is the only question now under consideration, no gentleman in the opposition has stated what he would wish in its room. Therefore I shall take the question on the ground of acquiescence on the part of the United States in the Orders of Council. Then, I ask, will the United States so far abandon their independence as to subject themselves to the regulations of Great Britain and France, and be dictatorially told that they shall trade to such and such places only? Shall we admit the right of foreign Powers to restrict us? If we do, with what propriety can we at any future day contest the principle? In my mind this is the important point, and I still remain to form my opinion whether the embargo is the very best measure that could be adopted. Yet, to show to the world that I will not surrender my rights, that I will struggle for our independence, I shall certainly vote against this resolution till I see whether anything else can with propriety take its place.

Mr. S. SMITH said he did not rise to go into the discussion, for he had already taken his share in it, but to answer one observation of the gentleman from Delaware. It would be recollected that the gentleman had some days ago called for all the orders and decrees of the belligerents affecting neutral commerce; it would be recollected that the subject had been pressed upon the Senate yesterday, before these documents could have been received; that, at the request of a gentleman from Massachusetts, the gentleman from Vermont (Mr. BRADLEY) had withdrawn his motion for postponement; that the gentleman from Massachusetts had then spoken, and that he (Mr. SMITH) had replied to him. I stated facts as they occurred to me, without paper or document, and asked the opinion of legal gentlemen on the subject of the operation of the Orders of Council on

Spain and Portugal. The gentleman from Delaware has undertaken to decide the question according to common sense. Common sense is my guide, sir; and permit me to say that, nine times out of ten, it is the best guide to follow; and though I have heard the opinion of the gentleman from Delaware, I have not changed my opinion on the subject. I believe that the British will now exclude our commerce from those ports, because the act of Parliament making permanent those orders, authorizes the King to modify them, as to His Majesty may appear proper. I asked yesterday whether a proclamation to this effect had been issued by the King of Great Britain? The gentleman says, common sense will give the orders the construction for which he contends. I take the answer of Mr. Canning to the committee of merchants, and bottom my assertion on it. Will the gentleman deny that, before the Orders in Council were issued, we could, under certain restrictions, trade to those countries? Yet, Mr. Canning answers, when asked by these three respectable merchants, who must have had doubts on the subject, or they would not have applied for information, "with *American produce* they may go." If they were, as the gentleman contends, as free to go now as prior to the Orders in Council, why did not Mr. Canning answer that they might go without restriction, instead of limiting the commerce to the carriage of American produce?

When Mr. S. SMITH had concluded, the Senate adjourned.

WEDNESDAY, November 23.

THE EMBARGO.

The Senate resumed the consideration of the motion of Mr. HILLHOUSE, made on the 11th instant, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementay thereto."

Mr. CRAWFORD said that one of the objects of the gentleman from Connecticut was, no doubt, to obtain information of the effects of the embargo system from every part of the United States. This information was very desirable at the present time, to assist the Councils of the nation in an opinion of the course proper to be pursued in relation to it. A Government founded, like ours, on the principle of the will of the nation, which subsisted but by it, should be attentive as far as possible to the feelings and wishes of the people over whom they presided. He did not say that the representatives of a free people ought to yield implicit obedience to any portion of the people who may believe them to act erroneously; but their will, when fairly expressed, ought to have great weight on a Government like ours. The Senate had received several descriptions of the effects produced by the embargo in the eastern section of the Union. As the Representative of another extreme of this nation, Mr. C. said he conceived it his duty to give a fair, faithful, and candid representation of the sentiments of the people whom he had the honor to represent. It was always the duty of a Representative to examine whether the effects expected from any given measure, had or had not been produced. If this were a general duty, how much more imperiously was it their duty at this time! Every one admitted that considerable sufferings have been undergone, and much more was now to be borne.

Gentlemen have considered this subject, generally, in a two-fold view, (said Mr. C.,) as to its effects on ourselves, and as to its effects on foreign nations. I think this a proper and correct division of the subject because we are certainly more interested in the effects of this measure on ourselves than on other nations. I shall therefore thus pursue the subject.

It is in vain to deny that this is not a prosperous time in the United States; that our situation is neither promising nor flattering. It is impossible to say that we have suffered no privations in the year 1808, or that there is a general spirit of content throughout the United States; but I am very far from believing that there is a general spirit of discontent. Whenever the measures of the Government immediately affect the interest of any considerable portion of its citizens, discontents will arise, however great the benefits which are expected from such measures. One discontented man excites more attention than a thousand contented men, and hence the number of discontented is always overrated. In the country which I represent, I believe no measure is more applauded or more cheerfully submitted to than the embargo. It has been viewed there as the only alternative to avoid war. It is a measure which is enforced in that country at every sacrifice. At the same time that I make this declaration, I am justified in asserting that there is no section of the Union whose interests are more immediately affected by the measure than the Southern States—than the State of Georgia.

We have been told by an honorable gentleman, who has declaimed with great force and eloquence against this measure, that great part of the produce of the Eastern country has found its way into market; that new ways have been cut open, and produce has found its way out. Not so with us; we raise no provisions, except a small quantity of rice, for exportation. The production of our lands lies on our hands. We have suffered, and now suffer; yet we have not complained.

The fears of the Southern States particularly have been addressed by the gentleman from Connecticut, by a declaration that Great Britain, whose fleets cover the ocean, will certainly find a source from which to procure supplies of those raw materials which she has heretofore been in the habit of receiving from us; and that having thus found another market, when we have found the evil of our ways, she will turn a deaf ear to us. By way of exemplification, the gentlemen cited a familiar example of a man buying butter from his neighbors. It did not appear to me that this butter story received a very happy elucidation. In the country in which he lives there are so many buyers and so may sellers of butter,

that no difficulty results from a change of purchasers or customers. Not so with our raw material. Admitting that Britain can find other markets with ease, there is still a great distinction between this and the gentleman's butter case. When a man sells butter he receives money or supplies in payment for it. His wants and wishes and those of his purchasers are so reciprocal, that no difficulty can ever arise. But Great Britain must always purchase raw materials of those who purchase her manufactures. It is not to oblige us that she takes our raw materials, but it is because we take her manufactures in exchange. So long as this state of things continues, so long they will continue to resort to our market. I have considered the gentleman's argument on this point as applied to the feelings of the Southern country. No article exported from the United States equals cotton in amount. If then we are willing to run the risk, I trust no other part of the United States will hesitate on this subject.

Another reason offered by the gentleman from Connecticut, and a substantial one if true, is, that this measure cannot be executed. If this be the case, it is certainly in vain to persevere in it, for the non-execution of any public law must have a bad tendency on the morals of the people. But the facility with which the gentleman represents these laws to have been evaded, proves that the morals of the evaders could not have been very sound when the measure was adopted; for a man trained to virtue will not, whatever facility exists, on that account, step into the paths of error and vice.

Although I believe myself that this measure has not been properly executed, nor in that way in which the situation of our country might reasonably have induced us to expect, yet it has been so far executed as to produce some good effect. So far as the orders and decrees remain in full force, so far it has failed of the effect hoped from it. But it has produced a considerable effect, as I shall attempt to show hereafter.

In commenting on this part of the gentleman's observations, it becomes proper to notice, not an insinuation, but a positive declaration that the secret intention of laying the embargo was to destroy commerce; and was in a state of hostility to the avowed intention. This certainly is a heavy charge. In a Government like this, we should act openly, honestly, and candidly; the people ought to know their situation, and the views of those who conduct their affairs. It is the worst of political dishonesty to adopt a measure, and offer that reason as a motive for it which is not the true and substantial one. The true and substantial reason for the embargo, the gentleman says he believes, was to destroy commerce, and on its ruins to raise up domestic manufactures. This idea, I think, though not expressly combatted by the observations of the gentleman from Delaware, (Mr. WHITE,) was substantially refuted by him. That gentleman, with great elegance and something of sarcasm, applied to the House to know how the Treasury would be filled in the next year; and observed that the "present incumbent of the Presidential palace" would not dare to resort to a direct tax, because a former Administration had done so and felt the effects of it, insinuating that the present Administration did not possess courage enough to attempt it. Now, I ask, if they dare not resort to a direct tax, excise laws, and stamp acts, where will they obtain money? In what way will the public coffers be filled? The gentleman must acknowledge that all our present revenue is derived from commerce, and must continue to be so, except resort be had to a direct tax, and the gentleman says, we have not courage enough for that. The gentleman from Connecticut must suppose, if the gentleman from Delaware be correct, that the Administration seeks its own destruction. We must have revenue, and yet are told that we wish to destroy the only way in which it can be had, except by a direct tax; a resort to which, it is asserted, would drive us from the public service.

But, we are told, with a grave face, that a disposition is manifested to make this measure permanent. The States who call themselves commercial States, when compared with the Southern States, may emphatically be called manufacturing States. The Southern States are not manufacturing States, while the great commercial States are absolutely the manufacturing States. If this embargo system were intended to be permanent, those commercial States would be benefitted by the exchange, to the injury of the Southern States. It is impossible for us to find a market for our produce but by foreign commerce; and whenever a change of the kind alluded to is made, that change will operate to the injury of the Southern States more than to the injury of the commercial States, so called.

But another secret motive with which the Government is charged to have been actuated is, that this measure was intended and is calculated to promote the interests of France. To be sure none of the gentlemen have expressly said that we are under French influence, but a resort is had to the exposé of the French Minister, and a deduction thence made that the embargo was laid at the wish of Bonaparte. The gentleman from Connecticut told us of this exposé for this purpose; and the gentleman from Massachusetts appeared to notice it with the same view.

Now we are told that there is no danger of war, excepting it be because we have understood that Bonaparte has said there shall be no neutrals; and that, if we repeal the embargo, we may expect that he will make war on us. And this is the only source from whence the gentleman could see any danger of war. If this declaration against neutrality which is attributed to the Gallic Emperor be true, and it may be so, his Gallic Majesty could not pursue a more direct course to effect his own wishes than to declare that our embargo had been adopted under his influence. And unless the British Minister had more political sagacity than the gentleman who offered the evidence of the exposé in proof of the charge, it would produce the very end which those gentlemen wished to avoid—a war with Great Britain; for she

would commence the attack could she believe this country under the influence of France. I would just as much believe in the sincerity of that exposé, as Mr. Canning's sincerity, when he says that his Majesty would gladly make any sacrifice to restore to the commerce of the United States its wonted activity. No man in the nation is silly enough to be gulled by these declarations; but, from the use made of them, we should be led to think otherwise, were it not for the exercise of our whole stock of charity. Now I cannot believe that any man in this nation does believe in the sincerity of Mr. Canning's expressions, or that Bonaparte believes that the embargo was laid to promote his interest. I cannot believe that there is any man in this nation who does candidly and seriously entertain such an opinion.

When we advance to the second proposition, we are told in the most positive terms, by the gentlemen from Delaware and Connecticut, that this measure has produced no effect on foreign nations. The gentleman from Massachusetts barely admits that at first it had excited some small degree of alarm in Great Britain for a short time. I cannot believe that gentlemen wish to be understood literally when they tell us this. It can be nothing more than a figure of rhetoric. It cannot really be meant that the embargo has produced no effect. The gentleman from Massachusetts gets over it by saying that insurrections among her manufacturers were familiar to him; he had always heard of them. But, sir, I do not recollect to have heard of any insurrection, of the kind to which I allude, having taken place. They have at times heretofore been disorderly indeed, but in the late case it was a peaceable assemblage of laborers, not intending to overthrow the Government or to resist the laws, but to show the absolute state of starvation with which they were threatened. There has been nothing of this kind within my recollection before. We have heard of mobs and riotous tumults; but in the present case no movement was made by these unfortunate people to disturb the Government. With a degree of facility which excited my astonishment, the gentlemen tells us that if 100 principal manufacturers should be reduced to bankruptcy, and 50,000 mechanics should be turned out of employ, this would but strengthen the army and navy of the British nation; that, when you affect Great Britain most seriously, you do her a benefit. Pursuing this argument a little farther, suppose 500,000 should be unemployed, the arm of the nation would be so much the more strengthened, and the more it would enable her to enforce her arbitrary maritime regulations. I see no conclusion to which this argument would lead us, but to this; that as you destroy her manufactures you make her powerful. If the effect of destroying her manufactures was to be simply that which the gentleman conceives, of arming her vessels and filling the ranks of her armies, it possibly might promote her strength. But these people must be clothed and fed, whether in the sea or land service, and must also have a little pay. If all her manufactures are destroyed, where is she to obtain the sum of money necessary to pay, clothe, and feed these people. Sir, we affect them vitally by affecting their manufactures; for by the export duty on these, and imports on their returns, they obtain great part of their revenue. If they export nothing they can import nothing. This conclusion of the gentleman from Massachusetts cannot therefore be correct.

The gentleman from Massachusetts says, it is true that a considerable alarm was excited in England when the news of the embargo arrived there; that they had been led to believe, from their writers and speakers, that a discontinuance of their intercourse with this country would be productive of most injurious consequences; but that they were now convinced that all their writers and statesmen were mistaken, and that she can suffer a discontinuance of intercourse without being convulsed or suffering at all. To believe this requires a considerable portion of credulity, especially when the most intelligent men affirm to the contrary. In the last of March or the first of April last, we find, on an examination of merchants at the bar of the British House of Commons, that the most positive injury must result from a continuance of non-intercourse. It is not possible that our merchants on this side of the water, however intelligent they may be, can be as well acquainted with the interests of Great Britain as her most intelligent merchants. This alarm however, the gentleman has told us, continued through the Spring and dissipated in the Summer. It is very easy to discover the cause of the dissipation of this alarm. It was not because the loss of intercourse was not calulated to produce an effect, but it proceeded from an adventitious cause, which could not have been anticipated—the revolution in Spain; and there is no intelligent man who will not acknowledge its injurious effects on our concerns. No sooner did the British Ministers see a probability that the struggle between the Spanish patriots and France would be maintained, than they conceived hopes that they might find other supplies; and then they thought they might give to the people an impulse by interesting the nation in the affairs of Spain, which would render lighter the effects of our embargo. This is the cause of the change in Mr. Canning's language; for every gentleman in the House knows that a very material change took place in it in the latter part of the Summer. If then the embargo has not produced the effects calculated from it, we have every reason to believe that its failure to produce these effects has been connected with causes wholly adventitious, and which may give way if the nation adheres to the measure. If however there be any probability that these causes will be continued for a long time, we ought to abandon it. I am not in favor of continuing any measure of this kind, except there be a probability of its producing some effect on those who make it necessary for us to exercise this act of self-denial. When I first saw the account of the revolution in Spain, my fears were excited lest it should produce the effect which it has done. As soon as I saw the stand made by the Spanish patriots, I was

apprehensive that it might buoy up the British nation under the sufferings arising from the effects of their iniquitous orders, which, compared with the sufferings which we ourselves have borne, have been as an hundred to one. If there be evidence that the effects of this measure will yet be counteracted by recent events in Spain, I will abandon it, but its substitute should be war, and no ordinary war—I say this notwithstanding the petitions in the other branch of the Legislature, and the resolutions of a State Legislature which have lately been published. When I read the resolutions, called emphatically the Essex resolutions, I blush for the disgrace they reflect on my country. We are told there that this nation has no just cause of complaint against Great Britain; and that all our complaints are a mere pretext for war. I blush that any man belonging to the great American family should be so debased, so degraded, so lost to every generous and national feeling, as to make a declaration of this kind. It is debasing to the national character.

We are told by the gentleman from Connecticut, not, to be sure, in language equally strong with that of the Essex resolutions, that the repeal of the embargo will not involve us in war, unless indeed Bonaparte makes war on us; that we are not driven to that alternative; that we have yet an honorable and lucrative trade left open to us. The same gentleman has said that he will not consent to go to war for rights not well established, but that he will never abandon a neutral right which is clearly established. From this it would appear that the gentleman thinks that the British Orders in Council are no infringement on the rights of neutral nations. [Mr. HILLHOUSE said he did not say so.] I did not say that the gentleman said so; but I drew the inference from the gentleman's position. [Mr. HILLHOUSE observed that he had said that he was doubtful whether the nation should go to war for doubtful rights; but for rights clearly indisputable he would permit the arming of our merchant vessels.] The gentleman's explanations, Mr. CRAWFORD said, did not change the inference he had before stated. He admits that he said that a repeal of the embargo would not involve the nation in war; and that in support of rights not clearly established, he is not prepared to say whether he would go to war or not. I here understood the gentleman to allude to that portion of trade carried on by exporting the produce of enemies' colonies to foreign countries. I had thought that the right of an independent nation to trade with the whole world, except in ports absolutely blockaded, or in articles contraband of war, was a right which could not be denied, a right in which no nation had heretofore attempted to control another. The gentleman from Connecticut says he will not go to war for doubtful rights; and, that he will not go to war against the Orders in Council. I can draw no other inference from these observations, than that the gentleman conceives that the Orders in Council do not infringe our neutral rights; or, that all our rights are doubtful.

How are these orders and decrees to be opposed but by war, except we keep without their reach? If the embargo produces a repeal of these edicts, we effect it without going to war. Whenever we repeal the embargo we are at war, or we abandon our neutral rights. It is impossible to take the middle ground, and say that we do not abandon them by trading with Great Britain alone. You must submit, or oppose force to force. Can arming our merchant vessels, by resisting the whole navy of Great Britain, oppose force to force? It is impossible. The idea is absurd.

By way of ridiculing the embargo, the gentleman from Connecticut, in his familiar way, has attempted to expose this measure. He elucidated it by one of those familiar examples by which he generally exemplifies his precepts. He says your neighbor tells you that you shall not trade with another neighbor, and you say you will not trade at all. Now this, he says, is very magnanimous, but it is a kind of magnanimity with which he is not acquainted. Now let us see the magnanimity of that gentleman, and see if it savors more of true magnanimity than our course. Great Britain and France each say that we shall not trade with the other. We say we will not trade with either of them, because we believe our trade will be important to both of them. The gentleman says it is a poor way of defending the national rights. Suppose we pursue his course. Great Britain says we shall not trade to France; we say we will not, but will obey her. We will trade upon such terms as she may impose. "This will be magnanimity indeed; this will be defending commerce with a witness!" It will be bowing the neck to the yoke. The opposition to taxation against our consent, at the commencement of the Revolution, was not more meritorious than the opposition to tribute and imposition at the present day. I cannot, for my soul, see the difference between paying tribute and a tacit acquiescence in the British Orders in Council. True, every gentleman revolts at paying tribute. But where is the difference between that and suffering yourself to be controlled by the arbitrary act of another nation? If you raise the embargo you must carry your produce to Great Britain and pay an arbitrary sum before you can carry it elsewhere. If it remains there, the markets will be glutted and it will produce nothing. For it appears, from the very evidence to which I have before alluded, that at least four-fifths of our whole exports of tobacco must go to England and pay a tax before we could look for a market elsewhere, and that out of seventy-five thousand hogsheads raised in this country, not more than fifteen thousand are consumed in Great Britain. Where does the remainder usually go? Why, to the ports of the Continent. I ask, then, if the whole consumption of Great Britain be but fifteen thousand hogsheads, if an annual addition of sixty thousand hogsheads be thrown into that market, would it sell for the costs of freight? Certainly not. The same would be the situation of our other produce.

But the gentleman says that he is not prepared to go to war for doubtful rights! What are these doubtful rights? Has the law of nations ever in-

terdicted the trade with enemies' colonies, against the interruption of which the American merchants lately remonstrated with so much force and perspicuity? For the information of the Senate I will read a part of the memorial presented by the merchants of Boston. For my own part, I have never considered it a matter of much importance whether we have suffered more from France or Great Britain. I have long been convinced that both nations intended to do us all the evil they could; and where there is a difference in the *quantum*, it only results from an inability in the least mischievous to do more. But it is attempted to be shown by the gentleman from Massachusetts that there is a great difference between the injuries received from one Power, and those which we have received from another:

"While your memorialists have witnessed, with mingled feelings of indignation towards the perpetrators and of commiseration of their unfortunate countrymen, the insults and barbarities which the commerce of these States have sustained from the cruisers of France and Spain, it is their object, in the present memorial, to confine their animadversions to the more alarming, because more numerous and extensive detentions and condemnations of American vessels by Great Britain; and to advert to the principles recently avowed, and adopted by her courts, relative to neutral trade in articles of colonial produce. Principles which, if admitted or practised upon in all the latitude which may fairly be inferred to be intended, would be destructive of the navigation, and radically impair the most lucrative commerce of our country."

After going into a train of reasoning to show that the pretensions of Great Britain are a manifest violation of the neutral rights of this nation, they conclude by saying:

"But whatever may have been the motives for the proceedings on the part of Great Britain, the effect is notorious. From her recent conduct great losses have been sustained; our commerce has been checked and embarrassed, and large quantities of produce are now remaining locked up in this country which were purchased for foreign markets, because our merchants cannot send it abroad, without taking risks on themselves which prudence would not justify, or without paying such rates for insurance as the trade of the country cannot afford."

This memorial is in support of the very trade which the gentleman from Connecticut says he would not go to war for. Now a different language is held by the signers of this petition, under the increased injuries we have sustained; and I am only sorry for the character of the United States that this difference of language has taken place.

The gentleman from Delaware, (Mr. WHITE) has said, that, by repealing the embargo, we can now carry on a safe and secure trade to the extent of nearly four-fifths of the amount of our domestic productions. There is nothing more delusive, and better calculated to impose on those who do not investigate subjects, than these calculations in gross. If the gentleman will take the trouble to make the necessary inquiries, he will find that instead of Great Britain taking to the amount he supposes of our domestic productions, she takes nothing like it. It is true that a large proportion of our domestic exports is shipped ostensibly for Great Britain; but it is equally true that a very large proportion of these very exports find their way into the continental ports. For the British merchants in their examination before the House of Commons, already alluded to, say that three-fourths of their receipts for exportation to the United States have been usually drawn from the Continent; and that even if the embargo was removed and the Orders in Council were continued, they must stop their exportation, because the continental ports would be closed against American vessels; because their coasts swarm with English cruisers, the French must know that the American vessels attempting to enter have come from an English port. That they had facilities of conveyance to the Continent prior to the Orders in Council, the merchants acknowledged; and when requested to explain the mode of conveyance, they begged to be excused. No doubt every gentleman has seen these depositions, or might have seen them, for they have been published in almost every paper on the Continent. They have opened to me and to my constituents a scene perfectly new. They tell you that the Berlin decree was nothing. Notwithstanding that decree, they had a facility of conveying produce into the continental ports; but the Orders of Council completely shut the ports of the Continent against the entrance of American vessels. On this point there was no contrariety of opinion; and several of these merchants declared that they had sent vessels to the Continent a very few days before the date of the Orders of Council. This clearly shows that any conclusion to be drawn from the gross amount of exports must be fallacious, and that probably three-fourths ought to be deducted from the gross amount. This statement of the gentleman from Delaware, which holds out to the public the prospect of a lucrative trade in four-fifths of their exports, will certainly have a tendency to render them uneasy under the privations which they are called upon to suffer by the iniquitous measures of foreign nations. Although the statement was extremely delusive, I do not say that the gentleman meant to delude by it. This, however, being the effect of the gentleman's assertion, I am certainly warranted in saying that the evidence of the British merchants who carry on this trade, is better authority than the gentleman's statements.

But admit, for the sake of argument, and on no other ground would I admit it, that these gross statements are correct; and that, at the time the embargo was adopted, these Orders in Council notwithstanding, the trade of the United States could have been carried on to this extent. What security have we, if the embargo had not been laid, after submitting and compromitting the national dignity and independence, that the British aggressions and Orders in Council would have stopped at the point at which we find them? Have we not conclusive evidence to the contrary? Are we not officially notified that the French leeward islands are declared by proclamation in a state of blockade? And do we not know that this is but carrying into effect a report of the

committee of the British House of Commons on the West India islands, in which this measure is recommended, and in which it is stated that His Britannic Majesty's West India subjects ought to receive further aid by placing these islands in a state of blockade? I can see in this measure nothing but a continuation of the system recommended last Winter in this report, and published—for the information of the United States, I suppose.

If the embargo should be repealed, and our vessels suffered to go out in the face of the present Orders in Council and blockading decrees and proclamations, Mr. C. said, they would but expose us to new insults and aggressions. It was in vain to talk about the magnanimity of nations. It was not that magnanimity which induced nations as well as men to act honestly; and that was the best kind of magnanimity. The very magnanimity which had induced them to distress our commerce, would equally induce them to cut off the pitiful portion they had left to us. In a general point of view, there was now no lawful commerce. No vessel could sail from the United States without being liable to condemnation in Britain or France. If they sailed to France, Mr. C. said, they were carried into Britain; if they sailed to Britain, they were carried into France. Now, he asked, whether men who had any regard to national honor would consent to navigate the ocean on terms so disgraceful? We must be cool calculators, indeed, if we could submit to disgrace like this!

The last reason offered by the supporters of the present resolution, Mr. C. said, may properly be said to be an argument *in terrorem*. The gentleman from Massachusetts says, by way of abstract proposition, that a perseverance in a measure opposed to the feelings and interests of the people may lead to opposition and insurrection; but the gentleman from Connecticut uses the same expressions as applicable to the embargo. It may be a forcible argument with some gentlemen, and most likely may have had its effect on those who intended it to produce an effect on others. But I trust that this House and this nation are not to be addressed in this way. Our understandings may be convinced by reason, but an address to our fears ought to be treated with contempt. If I were capable of being actuated by motives of fear, I should be unworthy of the seat which I hold on this floor. If the nation be satisfied that any course is proper, it would be base and degrading to be driven from it by the discordant murmurs of a minority. We are cautioned to beware how we execute a measure with which the feelings of the people are at war. I should be the last to persist in a measure which injuriously affected the interest of the United States; but no man feels more imperiously the duty of persevering in a course which is right, notwithstanding the contrary opinion of a few; and though I may regret and respect the feelings of these few, I will persist in the course which I believe to be right, at the expense even of the Government itself.

Mr. MITCHILL said he was not prepared to vote on the question of repealing the embargo laws, in the precise form in which it had been brought before the Senate. There was as yet a want of information; for certain additional documents, expected from the Executive, had not yet been communicated, and the select committee to which the part of the Message concerning the foreign relations of the country was lately referred, had not brought forward a report. He would have been better pleased if the proposition had been so framed as to have expressed indignation at the injuries our Government had received from foreign nations. Then he would cheerfully have given it his concurrence. But now, when those who are willing to do something, though not exactly what the motion proposes, are made to vote directly against a removal of the existing restrictions upon our commerce, their situation is rather unpleasant; indeed, it is unfair, inasmuch as they must either give their assent to a measure, to the time and manner of which they may be averse, or they must vote negatively in a case which, but for some incidental or formal matter, would have met their hearty approbation. He could, therefore, have wished that the question had been presented to the House in such terms as to afford an opportunity of expressing their sense of the wrongs our nation had endured from foreign Sovereigns, and of the restrictions laid upon American commerce by their unjust regulations, as well as on the further restrictions that, under the pressure of events, it had been thought necessary for our own Legislature to impose.

But, although this course had not been taken, he should avail himself of the present occasion to offer to the Senate such sentiments as had arisen in his mind on the subject. In doing this, he should endeavor to take a commercial view of our situation; and, although he felt no small discouragement, from inability to arrange, in a methodical way, the proper topics for a speech, yet he found it his duty to offer something like a survey, however partial or detached, of the mercantile condition of the United States. For this purpose, he should give a sketch of the progress of our trade and navigation from the recognition of our independence in 1783.

Immediately after the severing of their empire in America from the British Crown, difficulties arose on the mode of conducting commercial intercourse between this country and Great Britain. The Parliament immediately took the matter into consideration, and provided by law for a commercial intercourse with the new States. The details of this arrangement were vested in the King and Council, and to this first statute of the British, on the manner of conducting American trade, may be traced the origin of the delegated legislative power, with which that body of men have, in subsequent years, assailed neutral rights. Thus authorized by Parliament to regulate commerce, they have prescribed, enforced, relaxed, or rescinded their orders, according to their pleasure, or the ever-varying course of events, and thereby been enabled, in a summary way, to meet the exigencies of the times.

About this time may be traced the commencement of that wonderful spirit of adventure which so distinguishes our people. We find some of them doubling the Cape of Good Hope, and displaying, for the first time, the flag of their nation to the Chinese at Canton, while others found their way round Cape Horn, and opened a traffic with the nations of the Northwest coast of America. And the joy which was excited on this side of the Atlantic by the success and the profits of these voyages, was attended by a jealousy on the other, that the monopoly of the East India Company would be invaded by these daring competitors. The exertions of this class of our countrymen have been such, that a small firm in partnership, or even the capital of an individual American merchant, has repeatedly provided the outfit, that, forty years ago, required the patronage of an European Government. Madagascar, the Sandwich, and the Fejee Islands, have been visited, and served but as resting places for our mariners in their circumnavigation of the globe.

Difficulties having been found to increase between the American States and the British Islands, in respect to their commerce, it was found expedient on our part to send them a Minister Plenipotentiary. And, accordingly, in 1785, Mr. Adams went to London in that capacity. As an evidence of the temper both of England and France, at that period of our history, ought to be mentioned the attempts then made to seduce the whalemen from Nantucket. So successful for a while were these wily efforts, that the sandy but industrious island, whence its inhabitants migrated to Liverpool and to Dunkirk, suffered no inconsiderable shock by the migration of many of its most active citizens, and a removal of much of its shipping and stock. It was easy to discern that the desire of the two great commercial nations to increase their respective supplies of spermaceti, bone, and oil, was gratified by depriving our country of the most skilful and daring of its seamen.

While the precarious Orders in Council thus governed the trade of our people to Great Britain, there existed a source of difficulty within the American States themselves, which proceeded from their political condition. A cluster of independent governments, loosely adhering by the original articles of compact, framed during the Revolution, and under the specious appearance of political unity, assuming the character of thirteen distinct sovereignties, begat a variety of unprecedented occurrences. Attempts to strengthen this confederation, by granting the duties on imports to Congress for the purpose of paying the debts and supporting the credit of the nation, were ineffectual. And the refusal of New York, in 1787, to surrender its rich and increasing impost, may be considered as having left the Union to expire for want of support. Under the new Constitution, which was framed that very year, provision was expressly made for vesting in Congress the authority to regulate commerce. We were merely enabled to remedy many of the defects inherent in our former system: and particularly to assume an entire and undivided character in relation to foreign Powers.

The navigating spirit of our countrymen having called the attention of the world to the Northwest coast of America, we find that, in 1790, Great Britain and Spain were preparing to engage in a war, concerning the possession of a region, which, in truth, belonged to neither, but which had been purchased of the natives some years before, and possessed in full right and property by citizens of Massachusetts. In 1793, France, having undergone its republican metamorphosis, declared in due form the same commercial privileges to this as to other nations.

This, if I am not mistaken, said Mr. M., is the point of time when the commercial enterprise of our countrymen was considered, by the belligerent Powers of Europe, as worthy of special attention. And here is the commencement of these efforts to drive a lucrative trade on the one side, and of those exertions to curtail it on the other, which have led us, step by step, to our present awful situation. Repeated disasters and defeats had weakened the naval armament of France. She was unable to maintain her dominion on the ocean, or to give adequate protection to her external commerce. The business which had heretofore been carried on by her own merchant ships was now transferred to neutrals. And of these, the Americans, as the most enterprising, and contiguous to her West India colonies, acquired the principal part of it. Great Britain saw with displeasure the relief thus afforded to her enemy. She endeavored to prevent this interference of a neutral. And, that very year, ordered her cruisers to stop vessels of neutrals going to France and her dominions. The vast diffusion of our commerce, already spread over the greater part of the maritime world, was now very ably portrayed, and presented to the inspection of a prosperous and thrifty people by the American Secretary of State. The intercourse with France, still alluring neutrals by the prospect of great profits, our people crowded their ports with vessels and cargoes. The British persisted in their interruptions of this trade, and proceeded to make seizures, on the allegation that those ships were freighted with French property.

With the British nation, possessing a commerce of the greatest extent and a navy capable of protecting her trade and settlements abroad, it was a matter of the most ardent desire that our Government should have a Treaty of Amity and Commerce. The uneasiness of the people and the discontents in the great cities were so serious, that it was judged necessary to send an Envoy Extraordinary to the Court of St. James. And, with the hope that the fermentation would be delayed by a suitable negotiation, Mr. Jay was despatched on a special mission. He succeeded in forming a treaty. When, however, the President submitted it to the Senate, and its contents were made known to the nation, the dissatisfaction seemed to have been rather aggravated than assuaged. It was contended on the part of a people who could but count, ten years since, the date of

their existence as a nation, that the terms were unequal and disadvantageous; and that a total rejection was preferable to the ratification of an instrument by which we made such mighty concessions. It was always my opinion, sir, that the statesman employed to negotiate on this occasion, was treated by public clamor with unmerited severity. He obtained a treaty from Great Britain, at that juncture, which, on the whole, answered our purposes exceedingly well, and was in reality more favorable to us than it probably would have been, had not the pressure of her affairs on the Continent of Europe induced her Ministers to be rather more conciliatory than usual.

In the meantime the thirteen stripes were displayed with increasing frequency and numbers along the coasts of Europe. And such was the opinion of the three great maritime kingdoms, of their appearance, that, in 1794 and 1795, the cruisers of Spain, as well as of England and France, made captures of American vessels. They offered various pretexts for these acts. These chiefly referred to evasions of blockades, to the carrying of enemy's property, and to the concealing or covering it by fraudulent invoices and papers. On the part of France, however, our affairs soon wore a serious aspect. Uncivil dispositions were working up to hostility. The resident Minister of the United States was recalled, and another sent in his stead. At length, after successive and fruitless attempts to accommodate the differences, during which marked disrespect had been shown to our Government and its Commissioners, Congress formally dissolved the existing treaty between the two nations, and authorized American vessels to cruise against those of France. This brings me to the year 1798, during which, and the time we were then embroiled, the British Government granted, for a stipulated sum, the protection of convoy to the merchant vessels of the United States.

This period of our commercial history, of which I am tracing this faint and imperfect outline, was distinguished by two remarkable events; one emanating from an act of our own Legislature, and the other from the misconduct of a petty despot of Barbary. And they are worthy of notice as tending to display the course of our trade and navigation, and of the proceedings of the Government in relation to them. The voyages to Africa for slaves had long disgraced while it enriched several of the European nations. The profits of a traffic in which rum and baubles were bartered away for negroes, allured our countrymen to embark in it. But, for the purpose of stopping so disgraceful and unprincipled an employment, Congress enacted heavy penalties against it. And the commerce of a people, which, as far as its internal regulations extended had been universal, underwent a restriction which permanently prohibited the trade to Guinea in human beings. The rich cargoes conveyed under our flag through the Mediterranean sea had often tempted the cupidity of the Deys and Beys ruling the inhabitants of its southern shore. By annual stipends, the subsidies paid by the Government for the protection of our foreign commerce in those distant regions, the persons, and the goods of our citizens were protected against those audacious pirates. One however, more unwise and unjust than the rest, by the exorbitancy of his demands, drew on himself the vengeance of our nation. He had captured American vessels and doomed their officers and crews to slavery. A war with Tripoli was the consequence, and, at the expense of a million of dollars from the Treasury, our naval heroes compelled those sons of rapine to respect the rights of our nation, and restore to its wonted freedom the commerce of its citizens.

In 1801, there was an occurrence which, though it happened in Denmark, was of evil augury in the eyes of neutral nations. And as forming a link in the chain of events it ought to be mentioned here. A project had been formed among the northern Powers of Europe to revive the Armed Neutrality, which had been originally conceived at St. Petersburg in 1780. A British fleet was sent to the Baltic Sound to dissolve it. A destructive cannonade of Copenhagen, was the consequence of Danish adherence to their principles. Awed by superior force, those brave asserters of their rights sunk into acquiescence. But the citizens of our own or of any neutral nation who consider this transaction in its true bearings and tendencies, will find it big with mischiefs to the weaker Powers that take no part in the neighboring wars. An armed neutrality, or an armed commerce, may be expected alike to impel the stronger belligerent to repress it as a measure of precaution, or to destroy it under a pretence of necessity.

The peace of Amiens subsisted but a short year; for, in 1803, the recommencement of hostilities between France and Great Britain implicated in additional difficulties the foreign commerce of America. Our citizens persisted in their right to visit the ports of friendly nations. Our dispute with France had been terminated amicably by a treaty with the First Consul. The British Council, acting under a conviction that this trade was conducted in a manner that succored the enemy while it greatly incommoded themselves, determined that interference was necessary. Their cruisers seized American vessels trading with some of the French ports that were not blockaded, and their courts passed decrees of condemnation against ships with innocent cargoes on a return from ports to which they had carried contraband articles.

Moralists have sometimes considered blindness to the future, a happy trait in the constitution of the human mind. They might with equal or with greater propriety have ascribed much of private and public felicity to a becoming degree of foresight. There was indeed little, very little of a prophetic spirit wanting to satisfy us that our halcyon days were passing rapidly away, and a season of privation and adversity would arise. The haughty nation that had terrified the Scandinavian thrones, next tormented the American coast. The Hudson, the Delaware, and the Chesapeake, had been annoyed by her squadrons of vigilance; ships both inward and outward bound had been captured and sent to Halifax. The trade

of New York, Philadelphia, Norfolk, Charleston, and Baltimore was sorely distressed at the very mouths of their harbors. Passengers and seamen were arbitrarily impressed, as the milder phrase is, but really kidnapped or made prisoners. Coasting vessels carrying the domestic produce of our country from one port to another, and in no respect concerned in foreign commerce, were fired upon, and one of their people killed. The national territory was violated, the service of writs to arrest some of these disorderly persons was resisted, the civil authority despised, and defied, and even the public vessels of the revenue assailed with shot. Conduct of this atrocious character was so imprudent and so reiterated, that the repeated appeals of the citizens to their Government, rendered it at length a case in which right blended with duty called upon Congress to act, and the result of these intolerable outrages was the statute for preserving peace in our own ports and harbors.

In the ordinary intercourse of nations, such conduct would have amounted to war. It was indeed war; it was legitimate cause of war; nothing was required after such a severe blow given by them, but for us to return it and the American would have entered the bloody amphitheatre to contend with the gladiators of Europe. But a pacific policy prevailed. The feeling of our people, smarting still under the wounds of the Revolution, and maintaining the doctrine that every citizen possesses, as an indefeasible inheritance, a portion of his country's sovereignty, was averse to contention in arms. On the part of France no reparation had been made for the heavy spoliations made upon our commerce by her cruisers, save the sum provided to be paid out of our own Treasury in satisfaction of them, by one of the conventions appertenant to the treaty by which Louisiana was ceded to us. For the losses sustained by our merchants and underwriters, reparation had years before been sought for from Congress; but it had there been decided that losses in consequence of capture by a belligerent as well as by danger from the sea were to be borne by the concerned, and not to be considered as guarantied by the national Treasury.

I now come to the year 1806, an eventful year to the foreign commerce of our people. An extravagant and armed trade had for a considerable time been carried on by some of our citizens with the emancipated or revolted blacks of Hayti. The French Minister, conformably to the instructions of his Government, remonstrated against this traffic as ungracious and improper; and under an impression that our citizens ought to be restrained from intercourse with the negroes of Hispaniola, Congress passed an act forbidding that altogether. This was the second time that our Government circumscribed the commercial conduct of its citizens. It was also during this year that memorials were forwarded to the executive and legislative branches of our Government by the merchants of our principal seaports, stating the vexations of their foreign commerce to be intolerable, and calling in the most earnest terms for relief or redress. These addresses were mostly composed with great ability; it seemed as if the merchants were in danger of total ruin. Their situation was depicted as being deplorable in the extreme. The interposition of their Government was asked in the most strenuous and pressing terms; and your table, Mr. President, was literally loaded with petitions. The chief cause of this distress was briefly this. These citizens of the United States were engaged during the war in Europe, in a commerce with enemies colonies' not open in time of peace; by this means, the produce of the French West Indies was conveyed under the neutral flag to the mother country. Great Britain opposed the direct commerce from the colony to France through the neutral bottom. The neutral then evaded the attempt against him by landing the colonial produce in his own country, and after having thus neutralized or naturalized it, exported it under drawback for Bordeaux or Marseilles; this proceeding was also opposed by the British, and much property was captured and condemned in executing their orders against it. Their writers justified their conduct by charging fraud upon the neutral flag, and declaring that under cover of them a "war in disguise" was carried on, while on our side the rights of neutrals were defended with great learning and ability in a most profound investigation of the subject.

Connected with these events, progressing from bad to worse, are some proceedings of the Senate, which I deem it necessary here to state. This dignified body listened with peculiar attention to the complaints of the merchants. Their tale of sufferings excited a general sympathy. The most studious efforts were made for devising a plan of relief; at last it occurred that the peculiar organization of the Senate would enable it to pursue a course different from the ordinary routine of legislative business. In its executive capacity, the Senators were the Constitutional counsellors of the President as to treaties with foreign nations; and the Senate, influenced by a desire of removing the difficulties that were thickening around us, resolved to express their sense to the President upon that solemn occasion. After full consideration they framed two strong resolutions, which are recorded in your journal of that session; the one expressed indignant feelings at the aggressions made by the belligerents, and the other requested to demand restitution and reparation for the captures, condemnations, and impressments, they had committed. The members of the Senate were sent to communicate these resolutions to the President. It was my lot, sir, to be employed in that service, and I well remember the interview. What effect this conduct of the Senate produced in the mind of the President, it is impossible for me to say, but certain it is, that shortly after, he nominated Mr. Pinkney as Envoy Extraordinary to England, and the Senate gave their advice and consent; and this important step was taken to appease mercantile uneasiness, and to remove obstructions to the freedom of commerce.

This same year was ushered in by a proclamation of General Ferrand, the French commandant at St. Domingo, imposing vexations on the trade of our citizens; and a partial non-importation law was enacted against Great Britain by Congress about the middle of April. But these were not all the impediments which arose. Notices were given to the American Minister in London of several blockades. The chief of these was that of the coast, from the Elbe to Brest inclusive, in May. And here, as it occurs to me, may I mention, the spurious blockade of Curraçoa, under which numerous captures were made. And lastly, to complete the catalogue of disasters for 1806, and to close the woful climax, the French decree of Berlin came forth in November, and, as if sporting with the interests and feelings of Americans, proclaimed Great Britain and her progeny of isles to be in a state of blockade.

Hopes had been entertained that such a violent and convulsed condition of society, would not be of long duration. Experience, however, soon proved that the infuriate rage of man was as yet unsatisfied, and had much greater lengths to go. For, early in the succeeding year (1807,) an order of the British Council was issued, by which the trade of neutrals, and of course of American citizens, was interdicted from the port of one belligerent to the port of another. And in the ensuing May, the rivers Elbe, Weser, and Ems, with the interjacent coasts, were declared by them to be in a state of blockade, and a similar declaration was made on their part to neutrals in regard to the straits of the Dardenelles, and the city of Smyrna. But these were but subordinate incidents in this commercial drama; the catastrophe of the tragedy was soon to be developed. "On the 22d of June, by a formal order 'from a British admiral, our frigate Chesapeake, 'leaving her port for a distant service, was at-'tacked by one of these vessels, which had been 'lying in our harbors under the indulgence of 'hospitality, was disabled from proceeding, had 'several of her crew killed, and four taken away." Immediately the President by proclamation interdicted our harbors and waters to all British armed vessels, and forbade intercourse with them. Under an uncertainty how far hostilities were intended, and the town of Norfolk being threatened with an immediate attack, a sufficient force was ordered for the protection of that place and such other preparations commenced and pursued as the prospect rendered proper.

In furtherance of these schemes, a proclamation was published, holding all their absent seamen to their allegiance, recalling them from foreign services, and denouncing heavy penalties for disobedience. The operation of this upon the American merchant service would have been very sensibly felt. Many British born subjects were in the employ of our merchants, and that very Government which claimed as a British subject every American citizen who had been but two years a seamen in their service, refused to be bound by their own rule in relation to British subjects who had served an equal term on board the ships of the United States. But this was not all. The month of November was distinguished by an order retaliating on France a decree passed by her sometime before, declaring the sale of ships by belligerents to be illegal; and thus, by virtue of concurrent acts of these implacable enemies, the poor neutral found it impossible to purchase a ship either from a subject of Great Britain or of France. That season of gloom was famous, or rather infamous, for another act, prohibiting wholly the commerce of neutrals with the enemies of Great Britain, and for yet another, pregnant with the principles of lordly domination, on their part, and of colonial vassalage on our, by which the citizens of these independent and sovereign States are compelled to pay duties on their cargoes in British ports, and receive licenses under the authority of that Government, as a condition of being permitted to trade to any part of Europe in possession of her enemies.

This outrageous edict on the part of Britain was succeeded by another on the side of France, equalling, or if possible, surpassing it in injustice. In December came forth the decree of Milan, enforcing the decree of Berlin against American trade; dooming to confiscation every vessel of the United States that had been boarded or even spoken to by a Briton, and encouraging, by the most unjustifiable lures, passengers and sailors to turn informers. The abominable mandate was quickly echoed in Spain, and sanctioned by the approbation of His Most Catholic Majesty. It has been executed with shocking atrocity. In addition to other calamities, the property of neutrals has been sequestered in France, and their ships burned by her cruisers on the ocean.

Such, Mr. President, was the situation of the European world, when Congress deemed it necessary to declare an embargo on our own vessels. Denmark and Prussia, and Russia, and Portugal, had become associated or allied with France; and, with the exception of Sweden, the commerce of our citizens was prohibited, by the mutually vindictive and retaliating belligerents, from the White Sea to the Adriatic. American ships and cargoes were declared the prize and plunder of the contending Powers. The widely extended commerce of our people was to be crushed to atoms between the two mighty millstones, or prudently withdrawn from its dangerous exposure, and detained in safety at home. Policy and prudence dictated the latter measure. And as the ocean was become the scene of political storm and tempest, more dreadful than had ever agitated the physical elements, our citizens were admonished to partake of that security for their persons and property, in the peaceful havens of their country, which they sought in vain on the high seas and in European harbors. The regulations, so destructive to our commerce, were not enacted by us. They were imposed upon us by foreign tyrants. Congress had no volition, to vote upon the question. In the shipwreck of our trade, all that remained for us to do, was to save as much as we could from perishing, and as far as our efforts would go, to prevent a total loss.

I touch, with a delicate hand, the mission of

Mr. Rose. The arrival of this Envoy Extraordinary from Britain was nearly of the same date with an order of his Government, blockading Carthagena, Cadiz, and St. Lucar, and the intermediate ports of Spain, and thereby vexing the commerce of American citizens. The unsuccessful termination of his negotiation has been but a few months since followed by a refusal on the part of his Government to rescind its orders, that work so much oppression to our commerce, on condition of having the embargo suspended in respect to theirs. And the French Ministry has treated a similar friendly and pacific overture, from our Executive, with total disregard. In addition to all which we learn, from the highest source of intelligence, that the British naval commander at Barbadoes did, about the middle of October, declare the French leeward Caribbean islands to be in a state of strict blockade, and cautioning neutrals to govern themselves accordingly, under pain of capture and condemnation.

If it should appear to you, sir, that I have dwelt with too much minuteness on the series of events that have progressed step by step to the present crisis, the only apology I have to offer is, that I consider it necessary for the purpose of ascertaining what the situation of the nation truly is. Unequal indeed is the contest between the weak and the strong. Where force is substituted for principle, it is vain and useless to talk of rights. Two foreign nations are contending with gigantic efforts for superiority. They have labored, with but too much success, to make the bystanders take sides in the contest. Our Government has hitherto magnanimously maintained its neutrality. Yielding to the solicitations of neither, it was desirous of doing impartial justice to the two. But this fair and equal demeanor would not satisfy them. The tempter not unfrequently practises upon innocence the arts of circumvention; and exalted virtue gives to its possesser no indemnity against malice. The uprightness of our public conduct was pleasing neither to Albion nor to Gaul. And as we had refused to become the ally of either, we have to a certain degree suffered the hostility of both. The ancient and venerable code prescribing law to civilized communities, is abrogated. New and capricious inventions, calculated to suit the clamor of a party, or the spite of a foe, are substituted in their stead. The freedom of the ocean is taken away. This highway of nations is infested with freebooters and pirates; and the most powerful legislates for the rest, in all cases whatever. Towards ourselves the old colonial principle is revived. Americans may navigate the seas indeed, but on condition of paying duties to Britain, or taking from her licenses to trade, and observing such further directions as it shall please her to prescribe.

Are the American people prepared to submit to this? Having examined in my cursory manner the modern and I may say the present state of our affairs, I shall next take a hasty retrospect of this American people, while yet related to Britain as colonists, and before the idea of a separation had entered into the boldest head. The Parliament and Council maintained the right to tax and bind the colonies. The people of the plantations and colonies, since risen to the dignity of States, denied the pernicious doctrine. The mother country prepared to enforce it; and the colonies meditated resistance.

Duties were laid upon paper, glass, and painter's colors, to be collected at the ports of entry in the colonies. Public indignation was never more vehement. It was communicated with electrical speed, from one extremity of the Empire to the other. It was resolved to defeat the stamp act by a refusal to buy its paper. All business was at a stand; memorials and remonstrances were forwarded to the King and to the Parliament. The discontent was so well grounded and so deeply fixed, that Hillsborough, the Secretary of State for the colonies, trembled for the consequences. Resistance, in the form of insurrection or rebellion, seemed inevitable, and to prevent the horrors of a civil war, the odious statute was repealed. The freemen of New York were almost frantic with joy on this occasion, and they erected a superb statue to Chatham for his exertions against the continuance of the law. Their countrymen, from Kennebec to Savannah, sympathized with them in their honest exertions.

The duties on the other articles were also repealed; but the Parliament adhering to the right of taxation, and determining to test the principle, reserved a small impost on tea, to be collected in the colonies. All the resentment which the stamp act had excited, was revived on this occasion; murmurs increased to uproar. To enforce the execution of this law, the officers of the British navy were commissionsd to act also as officers of the revenue. To manifest their opposition the people refused to consume the tea. They carried their aversion so far that the tickets of the State lottery, a fourth part of which had usually been purchased in the colonies, remained unsold. They refused to import British merchandise. They established domestic manufactures. They destroyed the obnoxious drug on board the vessels which brought it. They defended their privilege against the naval and military force sent to subdue them. In short, they defended their holy cause: they expelled the enemy from their shores, and finally they achieved the independence of their country. If, in the year 1768, our predecessors could declare a non-importation agreement, rather than submit to foreign taxation, what ought the present race of Americans to do in 1808, when menaced with similar exactions from abroad?

That the present case is stronger than that which preceded and induced the Revolution, may be inferred from several considerations: The American Governments were at that time dependent colonies; they are now independent States. The British Parliament had at least the *color* of right to levy money upon them; they have now no legal pretext whatever. It was then alleged that the money raised on the colonies would be employed in their own protection and defence; but now there is not even a pre-

tence of the kind: then the colonies looked to the King of that country as their proper sovereign, and the source of all honor and power; now he is an alien to them, and the allegiance that once connected the prince and his subjects has been absolved by his own act. And yet money is demanded by that monarch, from this very people, for the privilege of navigating the ocean, and of carrying her merchandise to the Continent of Europe!

Did the people of the United States authorize their public agents to consent to this? No. Have the President and Senate conceded the point by virtue of the treaty-making power? No. Are the American people represented in the Parliament that authorized these arbitrary measures? They are not. Do they allow that they ought to be taxed where they are not represented? They do not. Is this highminded nation prepared, at the age of thirty-five years, to surrender its independence by submitting to domination at which the infant colonies revolted? I cannot believe it. Will they consent to pay duties on their exports, when required by a foreign Government, while their own Constitution expressly withholds such a power from Congress? I think not, by no means. But I shall be told that this is an external regulation, and has no possible connexion with our internal and domestic concerns. Why really, if this is the fact, I cannot but admire the dullness of British statesmen forty years ago. The simpletons of that day conceived it necessary to collect the amount of duties in the colonial ports where the goods were entered for consumption. The experiment cost them an empire, but it taught them an important lesson. They learned from it a more easy and effectual mode of taxation: This was to charge a duty on their own exports, and collect the money in their cities at home, and by the hands of their officers there. They have successfully followed this lucrative business over since the expedient occurred to them. Such has been the avidity of the Americans to consume British manufactures, that they have always contributed largely to the ways and means of that Government. It has been calculated upon as a sure and efficient fund. One may almost credit the declarations of certain British enthusiasts, who declare the loss of the colonies to have been a blessing, inasmuch as they were formerly very expensive, and paid no taxes, and at present contribute large sums of money, and are not chargeable at all. And with this tax, in addition to light money, quarantine fees, convoy duty, port charges, toppage, keelage, and various other things that have not yet received names in the commercial nomenclature of America, has our commerce with Great Britain been constantly burdened. As, however, these were in reality regulations of a domestic and municipal nature, a compliance with them involved no dishonor. If our people voluntarily entered their ports, they were bound to obey their laws. But on the late occasion this arrogant Power has gone a greater length. American citizens navigating the ocean, and lawfully pursuing their own business, are arrested on their voyage, and compelled, as a condition of proceeding, to pay an impost for the cargo, or in other words to purchase a license to enable them to go to their place of destination, whether outward or homeward bound. What other expedients those political economists may have in reserve for raising further sums of money on our trade, I am not Œdipus enough to unriddle. As far, however, as I can comprehend the case before me, it is marked with stronger features than those which characterized the dawning Revolution. I cannot suppose that any luxury has corrupted, during the short period of their existence, the spirit and temper of the American people. The old Whig temperament still survives unchanged, unadulterated. And he who has but a single drop of whiggish blood in his veins, will ever be ready to assert the good old principles, and maintain them inviolate. If I am deceived in this, I should not err materially in expressing my doubts whether the acquisition of independence is to be considered as a blessing. Upon principle, therefore, the Revolutionary patriots have set us a noble precedent. They carried their self-denial to an absolute privation of intercourse. Is there firmness enough at the present crisis to carry such a law into operation? I know that, at home and abroad, the most subtle measures are adopted to thwart us. For example: Our non-importation law, in forbidding Irish linens, was calculated to encourage the introduction of them from the Netherlands and Silesia. But the British Ministry frame their orders to prohibit this, unless we pay duties to them, and thus purchase the privilege. Our embargo law rendered it unlawful for the collectors to give clearances to American vessels; yet, to defeat this regulation, the British Governors instantly open the West India ports to all manner of persons that will run away without them. While our gunboats and cutters are watching the harbors and sounds of the Atlantic, a strange inversion of business ensues, and by a retrograde motion of all the interior machinery of the country, potash and lumber are launched upon the lakes, and Champlain and Ontario feel the bustle of illicit trade; and strange to tell, under the embargo system, the southern atmosphere has become so subject to gales and tempests from the north, that our poor coasters, who love to hug their native shores, are by distress of weather often driven to Cuba and Jamaica, and there forced (dire necessity!) to sell their cargoes to repair the damage they have sustained, and refit for a return to that land which they are longing and sickening to see.

If I have not erred in my reasoning, the embargo was correct in its principle, and would also be correct in its continuance under the increasing aggressions of the belligerent nations. But it is contended by the honorable mover (Mr. HILLHOUSE) of the resolution, that *expediency* ought to govern us on this occasion; and thus I suppose the exception will be as broad as the rule. Let us examine the arguments in favor of this expediency.

We are told that the embargo, if continued, will ruin our commerce. The true operation of the embargo is to save our commerce from spoil and depredation of foreign Powers. The notion that our own Government is unfriendly to commerce is wholly unfounded; from commerce we derive the greater part of our revenue. And to destroy that source of income would be to commit an act of political suicide. It would be killing the hen that lays the golden eggs. To every person who understands the history of our embarrassments, and knows how incessantly Government has been laboring to protect, secure, and improve the commerce of its citizens, such a declaration must appear wholly groundless. Why, sir, the existing quarrels are surely commercial; they are neither territorial nor genealogical. I am one of the warmest friends to American commerce, and always have been. I wish as heartily as any man all the prosperity to that useful occupation that it merits. No gentleman regrets more than myself that it has been harassed so much by the parties at war. No one regretted more than I the imperious necessity under which they laid us of employing an embargo. And I am anxiously looking for the time when, with safety to commerce, it may be removed. If a repeal of the embargo law would restore our commerce to its former thrift, I would call for the question instantly, and give it my affirmative. But, in the present state of the world, it will do no such thing. As soon as the restrictions are taken off, captures and condemnations will be renewed, and the rapacity of the spoilers, stimulated by avarice, as hunger is increased by abstinence, will be greedy to seize and not easy to satiate. As to changing the commercial habits of our people, it is idle to attempt it; the disposition is already formed, and it cannot be altered. This nation is not a new-born babe, whom we can mould and fashion as we please, but it may be compared to a sturdy youth, with habits that will never alter. Nor is this trading spirit peculiar to the seaports. It pervades the innermost recesses of the country, and delights as much in the purchase of lands and their produce as of ships and their cargoes. Such, then, being the turn and disposition of our people, it is as much out of the power of the Government to eradicate their mercantile habits, even if it would, as it was impossible for the rulers of France to abolish the Sabbath.

But it is urged that the embargo will deprive us of revenue. That it will lessen our income is certain. But we have ample resources in our Treasury, to bear us along for a considerable time to come. The stagnating capital of commerce will partly be turned into land, and the purchasers of these national lands will pay the value into the Treasury. There will be a large increase of revenue from this source. By the reduction of the public debt, under the present Administration, thirty millions of dollars, there will be a saving of all the interest that was hitherto paid upon that portion of the principal. And with a discreet economy in our finance, we shall find enough to answer our current purposes. It must be owned indeed that the political atmosphere is cloudy. It would be no cause of surprise to me, that the gloom and darkness should increase and thicken around us. But if this should happen, the patriot heart ought not to be appalled. For my own part, I never permitted myself to despair of the Republic. The storm will pass away, and the cheering rays of the sun will beam upon us again. Suppose, however, that the finances be deficient. The public faith is unimpaired. The national credit is unlimited. Lenders will present themselves in abundance, offering their money upon loan, on the most accommodating terms, like an individual whom losses and disappointments have reduced to the necessity of borrowing moderate sums to facilitate his business. this nation may employ a temporary accommodation in its pecuniary concerns, with benefit to the citizens and without disrepute to itself. Better times will arrive, and the sure and certain hope of this event will be allowed, upon moral, political, and even on Christian principles, to be a firm ground of reliance. Again, it is urged, on the side of expediency, that the surplus produce, if kept at home under the embargo, will spoil upon our hands. Better, sir, to accumulate in our barns and stores, than pass into the possession of enemies. By the bounty of Providence our land has been productive beyond measure. Our citizens now revel in abundance of good things. For the plenty poured into the lap of their country, they are ungrateful to repine. They ought on the other hand to be thankful, and I trust they are so. For an accumulation, it is eminently desirable there should be an outlet. The demand for our provisions in foreign parts arises in a great degree from the occupation of men in pursuits different from the raising of articles for food; and our demand for articles of foreign growth or manufacture, proceeds from the employment of our people in the culture of such substances as are proper to support human life. The former class comprehends eaters or consumers of provisions, who do not labor to rear them. To the latter, belong the growers or cultivators who are directly engaged in procuring sustenance. The surplus produce of each of these classes is exchanged for the accommodation of the other. Now, if the eating class should increase on our side of the Atlantic, consumption will be promoted just as well as if our provisions should be carried abroad, and the farmer will obtain purchasers in his country, who will pay him as good prices as foreigners; besides, it remains to be proved that the removal of the embargo would restore the safe transportation, the rapid sales, and the high receipts, so vehemently desired. The ocean is infested by harpies, who will snatch the food from our mouths. Perishable cargoes will be lost to them under confiscation, or will spoil under detention. It is wholly a *petitio principii*, to say that a removal of the existing restrictions will diffuse an antiseptic virtue sufficient to keep flour and fish from decay. But the *auri sacra fames* burns with impatience, and, in the lottery of trade, overlooks the adverse chances, and calculates

with certainty on the possession of a prize; and if my estimates of the benefits were as extravagant as those of some gentlemen, I should join with them in the unconditional removal of the restraints. But, even then, I should differ with them on one point; instead of clamoring against our own Government, I should vent my indignation against the belligerents, the real authors of our distresses.

Supposing, however, that the class of persons who consume provisions without laboring directly to raise them, should increase in the United States, and thereby enlarge our domestic market, this very occurrence is made a subject of alarm, under a pretence that a systematic plan is in operation to annihilate commerce, and substitute manufactures in its place. This is one of the most idle whimsies that ever entered into the mind of a statesman. Reasoners often bewilder themselves by ideal or imaginary distinctions, that have no foundation in nature; they make partitions in the intellectual regions, like the invisible or arbitrary lines of geometers, and not by the rivers and mountains, which distinguish the face of nature, and which every eye can discern. Commerce is to be sacrified at the shrine of manufactures. It would be a pitiful commerce that could be carried on without manufactures. And I will offer as one of the unanswerable arguments against this fallacious reasoning, that the ship, without which commerce cannot be carried on, is a domestic manufacture. Our citizens have become proficients in this exquisite art, and I hope they will never forget their skill. The construction of the ship, in which our productions are to be carried to foreign markets, implies the existence of a cluster of manufactures, and without their aid, the ship cannot be equipped for sea. A commercial state of society, therefore, presupposes the establishment of manufactures, and cannot be carried on without them. I hope the advocates of commerce will not proscribe the shipwright's handicraft, and for fear of promoting domestic manufactures, go beyond the seas to buy their vessels. The ship manufacture is one of the arts that confers distinction and honor to America. I wish prosperity to the ship-builder, and to the rope-maker, and the joiner, and the rigger, and the painter, and the glazier, and the plumber, and iron-founder, and the blacksmith, and the other laborers who work with him in this admirable manufacture; and my good wishes extend to him who shapes the spars and masts, prepares the tar and turpentine, forms the copper into bolts and sheets, and forms the hemp into canvass. In the furniture of the ship too, Mr. President, are contained other manufactures, which do the highest honor to the hand and the head of man; the telescope, the quadrant, the chronometer, the compass, with gunpowder and artillery. And yet the gentleman from Connecticut is terribly afraid that manufactures will supplant commerce. While the ship continues to be the pride and boast of America, and of man, let no one decry manufactures; for without a constellation of auxiliar arts, that stupendous manufacture cannot exist. While on the subject of manufactures, I must do these States the justice to remark, that they are already become a great manufacturing country. The manufactures in iron, from the gathering of the ore, through the operations of forging and refining, up to the casting of hollow ware, the preparation of nails, and fabrication of cannon, are pursued with great success. Works in pelts and skins, such as leather, military accoutrements, saddlery, trunks, gloves, breeches, shoes, boots, harness-making, and book-binding, are carried on to wide extent. Preparations of wood in cabinet ware, furniture, and carriages, are done in beautiful style; in woollen goods, the combination of industry, with skill, has passed from the family fireside to public institutions. The brass-founder, the copper-smith, the jeweller, and the wire-worker, have made distinguished progress in their respective arts. I pass over brewing, distillery, and a hundred other employments, that I may give credit to the Congress for the aid given to certain other branches of manufacture a few sessions ago. By an exemption of rags from the payment of duties, ample stock was provided for the paper mills, and an additional supply of the materials prepared for gazettes, pamphlets, and books, so necessary to a free and well-informed people. By a similar regulation in favor of regulus of antimony, the manufacture of types was favored, and such aid given to literature, that already the Greek and Latin classics appear in American print. The preparation of mill-stones, and flour, that staple of our country, was encouraged by permitting unwrought burrs to be imported from their quartzy strata in France, free from imposts. In like manner the admission of clay, cork, gypsum, bristles, hides, bullion, furs, wool, and many other articles, have worked beneficial effects upon our domestic manufactures. In this enumeration there is no mention of the manufactures which depress the character and prostrate the soul of man. I hope the degeneracy which accompanies the silk manufacture at Lyons, the cotton manufacture at Manchester, and the hard-ware manufacture at Birmingham and Sheffield, will never, never be seen in these abodes of liberty. Indeed, it is impossible it should, while industry is rewarded with the highest wages, and where land can be bought at a moderate price. That compact population, where there are more mouths than food, and those statutes of apprenticeship and poor laws which tie up the hands of the subject, and almost deprive him of locomotion, are unknown among us. The miseries consequent upon an over-population, and upon the manufactures which grow out of that state of society, are as yet so far off, that centuries must pass away before they will overtake us.

The people moreover, it is contended, will not endure the embargo, and will, if it is not repealed, rise in open opposition to their Government, by resisting it. Turbulent men may perhaps be found, who may make direct resistance to those statutes. But Mr. M. declared he had a better opinion of his countrymen than to suppose they would be concerned in insurrections. He was

consoled by the reflection that American citizens were not only freemen but trained to the profession and use of fire-arms as militiamen, accustomed to attend courts as jurors, called to decide differences as arbitrators, and privileged to vote as electors; they were besides instructed in the principles of civil liberty, moral order, and religious discipline; they comprehended well the value of life, property, and social connexions; and they had also steady habits of respect to themselves, and the laws enacted by men of their own choice. Such a people will consider maturely the turpitude of resisting the lawful authority. The awful consequences of treason will be perfectly foreseen and avoided. A people worthy to enjoy freedom, will not be prone to riotous conduct; on the contrary, they will feel a strong co-operation of interest with duty, to prevent violence and disorder. The government which surpasses every other in strength is a popular government, where each individual, feeling himself to be a portion of the sovereignty, exerts himself to support the majesty of the laws. The yeomanry of the different commonwealths have nothing to gain by mobs; they are the safeguards of the nation, and the determined foes of rebellion. And as long as the farmers preserve their integrity, (and they will probably maintain it longer than any other class,) so long will misrule and anarchy be prevented. Though a few intemperate and deluded men have already become outrageous, their influence has been very limited and their reign exceedingly short.

Another consequence of the embargo will be, it is urged, an annihilation of the military courage and glory of the nation. If by this observation is meant that it would be better to take warlike measures, I must take this opportunity of declaring, that it has always, since the commencement of my Congressional life, been a most desirable object with me to prepare for the worst of events. Peace has ever appeared to me the season to prepare for war, as Summer is the time to lay up a store for Winter, and youth to provide for old age. Accordingly, I have conceived it to be a leading object of my public duty, to vote for all the measures proposed by others for the general defence, and to propose others myself. I have pressed the business of appropriations for fortifying our weak places with a zeal that some of my friends may have deemed unfortunate. But if a war should be found necessary for the settlement of these commercial disputes, I should think some further time would be requisite to prepare for it. I question whether we are in a condition to rush immediately to the hostile conflict. A little further preparation for the general welfare is probably necessary. Perhaps I may be influenced too much in this case by social feelings. A resident of New York city, I feel the most sincere concern for a people who have long bestowed on me their confidence and loaded me with honors. The works of defence erecting for their security are scarcely far enough advanced to be pronounced effectual; and I heartily hope that important, though vulnerable port, may be properly shielded before we contend with an enemy. I know, and all the world knows, the bravery of the Americans; while, therefore, I disregard the gasconading language of such as would talk us into war, I would prepare seriously for that event. Being so prepared, we may remove the embargo and take our former position on the ocean with a manly and determined attitude, Until Congress shall take further measures of this kind, prudence would indicate a continuance in our present state, at least for a short time; and until the means of precaution and of security shall be more effectually provided, I shall, for one, be willing to bear the reproach of withholding my eager countrymen from the display of their courage, and the acquisition of glory.

But we are told, that the evasions of the embargo laws are so frequent that they cannot be executed. This indeed is lamentably true. We read constantly in the gazettes of American flour offered for sale in the West Indies. The vegetable alkali of New York and Vermont is advertised in Liverpool, as potash from Canada. Ships that were abroad when the embargo was laid, continue to shun their country, though navigating in exile, under the American flag. British vessels are chartered in our ports to carry on a commerce which our vessels are forbidden to engage in. The violators of the laws are making fortunes, while the conscientious observers of them are suffering sad privations. It would be easy to mention many more of these stratagems. The violation of a law is of itself no argument against its wisdom or duration. The statutes against larceny, forgery, burglary, and murder, are frequently broken; and yet it would be thought very strange if such occasional infractions should be pleaded as reasons for their repeal. If, on the whole, I was convinced, that the embargo laws could not be executed, I should consider them as worse than useless, and demanding an immediate repeal; or if I thought the adherence to them for the purpose of avoiding a foreign war, would involve us in a domestic one, there would on that supposition be not one moment's hesitation in my mind in preferring a contest abroad to contention at home. On these points, however, I want further information; and I hope the motion on the table may be so disposed of, as to permit that information to be brought before us. We shall then discover how far the laws are inoperative through their own imperfect construction, through the carelessness of those whose duty it is to execute them, and through the general and avowed disposition of the people at large to disregard them. We shall also learn whether discontent and disaffection have spread so through society, as our alarmists would persuade us. Having thus, sir, taken a view of our past and present condition, I shall, with your leave, offer a few remarks of a prospective kind. Let us now suppose the embargo actually removed, what would be the consequence? There are several subjects of doubt and apprehension, directly before us.

First, I feel if I should give my vote for the resolution before the Senate, I should consent to a

surrender of the honor and independence of my country. For these, as long as any portion of them are confided to me, I hold myself, and this nation holds me, solemnly responsible. At the same time, I wish some method might be devised to give a partial outlet to our accumulated productions. I confidently hope this may be accomplished without violating any principle, without incurring the least reproach. The convenience of the citizens will thus be in unison with the honor of their Government.

Secondly, the unqualified and unconditional removal of the existing restrictions would probably give such a loose to commerce, that the reiterated aggressions of former years would be revived, and impressment of seamen and passengers, capture and condemnation of vessels and cargoes, violations of territory, investment of our ports and harbors, and the murder of our citizens, be practised as heretofore.

Thirdly, under existing circumstances, the safety of commerce might require licenses to arm and make reprisals. And this warfare would in all probability soon be whetted up to war. And although I do not dread a state of hostility, when we are impelled thereto by just and necessary causes, as so calamitous an event as many of my friends are pleased to consider it, yet certainly it ought not to be courted, but on the other hand avoided if possible. It has been shrewdly observed by somebody, that nations now and then fall into plethoric habits, and that bloodletting is the most speedy and efficacious remedy. Whether any of the State physicians shall pronounce that disease to exist, and shall attempt to cure it by abstinence or bleeding, my own opinion is that the repeal of the embargo ought to be accompanied with various provisional and defensive measures, not expressed in the motion before the Senate.

Fourthly—but I check myself and forbear to enlarge on these topics. In all our deliberations let us discard foreign preferences, and remember that on great public questions, where alien Governments are brought into collision with our own, there ought to exist in our councils but one mind, one spirit, one feeling, and these should be truly American.

When Mr. M. concluded, the Senate adjourned.

TUESDAY, November 24.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act to authorize the conveyance of certain papers and documents by the mail free of postage," reported the bill without amendment.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

Mr. GILES addressed the Senate as follows:

Mr. President: Having during the recess of Congress retired from the political world, and having little agency in the passing political scenes, living in a part of the country, too, where there is little or no difference in political opinions, and where the embargo laws are almost universally approved, I felt the real want of information upon the subject now under discussion. I thought I knew something of the general objects of the embargo laws, and I had not been inattentive to their general operations upon society, as far as I had opportunities of observing thereupon.

When I arrived here, and found that this subject had excited so much sensibility in the minds of many gentlemen I met with, as to engross their whole thoughts, and almost to banish every other topic of conversation, I felt also a curiosity to know what were the horrible effects of these laws in other parts of the country, and which had escaped my observation in the part of the country in which I reside. Of course, sir, I have given to the gentlemen, who have favored us with their observations on both sides of the question under consideration, the most careful and respectful attention, and particularly to the gentlemen representing the eastern section of the Union, where most of this sensibility had been excited. I always listen to gentlemen from that part of the United States with pleasure, and generally receive instruction from them; but on this occasion, I am reluctantly compelled to acknowledge, that I have received from them less satisfaction, and less information than usual; and still less conviction.

It was hardly to have been expected, Mr. President, that after so many angry and turbulent passions had been called into action, by the recent agitations throughout the whole United States, resulting from the elections by the people, to almost all the important offices within their gift, and particularly from the elections of Electors for choosing the President and Vice President of the United States, that gentlemen would have met here perfectly exempt from the feelings which this state of things was naturally calculated to inspire. Much less was it to have been expected, sir, that gentlemen who had once possessed the power of the nation, and who, from some cause or other, had lost it; (a loss, which they now tell us they *but too well remember*, and I fear, might have added, *too deeply deplore*,) gentlemen too, sir, who at one time during the electioneering scene, had indulged the fond and delusive hope, that through the privations necessarily imposed upon our fellow-citizens, by the unexampled aggressions of the belligerent Powers, they might once more find their way to office and power, and who now find themselves disappointed in this darling expectation—it was not at all to be expected, sir, that these gentlemen should now appear here, perfectly exempt from the unpleasant feelings which so dreadful a disappointment must necessarily have produced. It was a demand upon human nature for too great a sacrifice; and however desirable such an exemption might have been at the present moment, and however honorable it would have been to those gentlemen, it was not expected.

But, sir, I had indulged a hope that the extraordinary dangers and difficulties pressed upon us by the aggressing belligerents, attended, too, with so many circumstances of indignity and insult, would have awakened a sensibility in the bosom of every gentleman of this body, which would have wholly suppressed, or at least suspended, these unpleasant feelings, until some measures, consulting the general interests and welfare of the people, could have been devised, to meet, resist, and if possible, to subdue the extraordinary crisis. But, sir, even in this hope too, I have been totally disappointed. I was the more encouraged in this hope, when upon opening this debate the gentleman from Connecticut (Mr. HILLHOUSE) seemed sensible of this sacred obligation, imposed by the crisis; when he exhorted us, in conducting our deliberations, utterly to discard the influence of party spirit. It would have given me great pleasure, sir, if the gentleman had afforded us a magnanimous example of a precept so admirably suited to the present state of things. But in this too, sir, I have been unfortunately disappointed. That gentleman's observations consisted almost exclusively of retrospective animadversions upon the original objects and horrible effects of the embargo laws, without seeming to think it was worth his attention to favor us with any reflections upon the prospective course of measures, which the people's interests, the public safety, and general welfare, so imperiously demand. That gentleman represented the embargo laws as mere acts of volition, impelled by no cause nor necessity; whilst the British orders, and French edicts, were scarcely glanced at, and certainly formed the least prominent feature of his observations. He represented these laws as a wanton and wicked attack upon commerce, with a view to its destruction, whilst he seemed scarcely to have recollected the extraordinary dangers and difficulties which overspread the ocean—indeed, sir, he described the ocean as perfectly free from dangers and difficulties, unruffled by any storms, and that we had nothing to do but to unfurl our canvass to the wind, that it would be filled with prosperous gales, and wafted to the ports of its destination, where it would be received with open arms of friendship and hospitality. I wish, sir, with all my heart, the gentleman could but realize these dreaming visions; their reality would act like a magic spell upon the embargo laws, and dissipate them in a moment! But, alas, sir, when we come to look at realities, when we turn our eyes upon the real dangers and difficulties which do overspread the ocean, we shall find them so formidable, that the wisdom of our undivided counsels, and the energy of our undivided action, will scarcely be sufficient to resist and conquer them. To my great regret, sir, we now see, that the United States cannot even hope to be blessed with this union of mind and action, although certainly their dearest interests demand it.

Mr. President, perhaps the greatest inconvenience attending popular governments, consists in this; that whenever the union and energy of the people are most required to resist foreign aggressions, the pressure of these aggressions presents most temptations to distrusts and divisions. Was there ever a stronger illustration of the truth and correctness of this observation than the recent efforts made under the pressure of the embargo laws? The moment the privations, reluctantly, but necessarily imposed by these laws, became to be felt, was the moment of signal to every political demagogue, who wished to find his way to office and to power, to excite the distrusts of the people, and then to separate them from the Government of their choice, by every exaggeration which ingenuity could devise, and every misrepresentation which falsehood could invent; nothing was omitted which it was conceived would have a tendency to effect this object. But, Mr. President, the people of the United States must learn the lessen now, and at all future times, of disrespecting the bold and disingenuous charges and insinuations of such aspiring demagogues. They must learn to respect and rally round their own Government, or they never can present a formidable front to a foreign aggressor. Sir, the people of the United States have already learnt this lesson. They have recently given an honorable and glorious example of their knowledge in this respect. They have, in their recent elections, demonstrated to the nation and to the world that they possess too much good sense to become the dupes of these delusive artifices, and too much patriotism to desert their Government, when it stands most in need of their support and energy.

The gentleman from Connecticut (Mr. HILLHOUSE) has made the most strict, and I had almost said, uncharitable scrutiny into the objects and effects of the embargo laws, in the delusive hope, I presume, of obtaining a triumph over his political adversaries. I propose to follow the gentleman, in a fair and candid comparison of information and opinions upon this subject; and I shall do so in the most perfect confidence, that, whenever a thorough examination of the objects and effects of the embargo laws shall be made known, and the merits of the measure fully understood, that there is not a man in the United States who will not applaud and support the Administration for its adoption, who has the uncontaminated heart of an American throbbing within his bosom.

Sir, I have always understood that there were two objects contemplated by the embargo laws. The first, precautionary, operating upon ourselves. The second, coercive, operating upon the aggressing belligerents. Precautionary, in saving our seamen, our ships, and our merchandise, from the plunder of our enemies, and avoiding the calamities of war. Coercive, by addressing strong appeals to the interests of both the belligerents. The first object has been answered beyond my most sanguine expectations. To make a fair and just estimate of this measure, reference should be had to our situation at the time of its adoption. At that time, the aggressions of both the belligerents were such, as to leave the United States but a painful alternative in the choice of one of three measures, to wit, the embargo, war, or submission. I know that this position has not been admitted, though but faintly denied in the discussion. I shall however proceed upon this hypothesis for the present, and in the course of my observations will prove its correctness by the statements of the gentlemen in favor of the resolution.

Before the recommendation of the measure, the laudable and provident circumspection of the Administration had obtained tolerably correct estimates of the amount and value of the ships and merchandise belonging to the citizens of the United States then afloat, and the amount and value of what was shortly expected to be afloat; together with a conjectural statement of the number of the seamen employed in the navigation thereof.

It was found that merchandise to the value of one hundred millions of dollars was actually afloat, in vessels amounting in value to twenty millions more. That an amount of merchandise and vessels equal to fifty millions of dollars more, was expected to be shortly put afloat, and that it would require fifty thousand seamen to be employed in the navigation of this enormous amount of property. The Administration was informed of the hostile edicts of France previously issued, and then in a state of execution, and of an intention on the part of Great Britain to issue her orders, the character and object of which were also known. The object was, to sweep this valuable commerce from the ocean. The situation of this commerce was as well known to Great Britain, as to ourselves, and her inordinate cupidity could not withstand the temptation of the rich booty, she vainly thought within her power. This was the state of information at the time this measure was recommended.

The President of the United States, ever watchful and anxious for the preservation of the persons and property of all our fellow-citizens, but particularly of the merchants, whose property is most exposed to danger, and of the seamen whose persons are also most exposed, recommended the embargo for the protection of both; and it has saved and protected both. Let us now suppose, for a moment, that the President, possessed of this information, had not apprized the merchants and seamen of their danger, and had recommended no measure for their safety and protection; would he not in that case have merited and received the reproaches which the ignorance or ingratitude of merchants and others have so unjustly heaped upon him, for his judicious and anxious attentions to their interests? It is admitted by all, that the embargo laws have saved this enormous amount of property, and this number of seamen, which, without them, would have forcibly gone into the hands of our enemies, to pamper their arrogance, stimulate their injustice, and increase their means of annoyance.

I should suppose, Mr. President, this saving worth some notice. But, sir, we are told that instead of protecting our seamen, it has driven them out of the country, and into foreign service. I believe, sir, that this fact is greatly exaggerated. But, sir, suppose for a moment that it is so, the Government has done all, in this respect, it was bound to do. It placed these seamen in the bosoms of their friends and families, in a state of perfect security; and if they have since thought proper to abandon these blessings, and emigrate from their country, it was an act of choice, not of necessity. But, what would have been the unhappy destiny of these brave tars, if they had been permitted to have been carried into captivity, and sent adrift on unfriendly and inhospitable shores? Why, sir, in that case, they would have had no choice; necessity would have driven them into a hard and ignominious service, to fight the battles of the authors of their dreadful calamities, against a nation with which their country was at peace. And is the bold and generous American tar to be told, that he is to disrespect the Administration for its anxious and effectual attentions to his interests? for relieving him from a dreadful captivity? Even under the hardships he does suffer, and which I sincerely regret, every generous feeling of his noble heart would repel the base attempt with indignation. But, sir, the American seamen have not deserted their country; foreign seamen may and probably have gone into foreign service; and, for one, I am glad of it. I hope they will never return; and I am willing to pass a law, in favor of the true-hearted American seamen, that these foreign seamen never should return. I would even prohibit them from being employed in merchant vessels. The American seamen have found employment in the country; and whenever the proper season shall arrive for employing them on their proper element, you will find them, like true birds of passage, hovering in crowds upon your shores.

Whilst considering this part of the subject, I cannot help expressing my regret that, at the time of passing our embargo laws, a proportion of our seamen was not taken into the public service; because, in my judgment, the nation required their services, and it would have been some alleviation to their hardships, which the measure peculiarly imposed upon them, as a class of citizens, by affecting their immediate occupation; and the other classes, as well as the public Treasury, were able to contribute to their alleviation; and I am willing to do the same thing at this time. Indeed, its omission is the only regret I have ever felt, at the measures of the last Congress. I like the character—I like the open frankness, and the generous feelings of the honest American tar; and, whenever in my power, I am ready to give, and will with pleasure give him my protection and support. One of the most important and agreeable effects of the embargo laws, is giving these honest fellows a safe asylum. But, sir, these are not the only good effects of the embargo. It has preserved our peace—it has saved our honor—it has saved our national independence. Are these savings not worth notice? Are these blessings not worth preserving? The gentleman from Delaware (Mr. WHITE) has, indeed, told us, that under the embargo laws, the United States are bleeding at every pore.

This, surely, sir, is one of the most extravagant effects that could have been ascribed to these laws by the frantic dreams of the most infatuated passions. Blood-letting is the last effect that I ever expected to hear ascribed to this measure. I thought it was of the opposite character; but it serves to show that nothing is too extravagant for the misguided zeal of gentlemen in the opposition. I have cast my eyes about in vain to discover those copious streams of blood; but I neither see not hear anything of them from any other quarter. So far from the United States bleeding at every pore, under the embargo, it has saved them from bleeding at any pore; and one of the highest compliments to the measure is, that it has saved us from the very calamity which the gentleman attributed to it; but which, thanks to our better stars and wiser counsels, does not exist.

The gentleman from Connecticut, (Mr. HILLHOUSE,) not content with describing the general horrors of the embargo laws, has addressed himself, in plaintive tones, to several particular classes of citizens, and has kindly informed each of his particular hardships and sufferings. The gentleman asks, what has become of the merchant? What has become of the farmer? I know something of the situation of the farmer; and, as to the merchant, I had felt serious apprehensions for his situation, until they were materially relieved by the information given by the gentleman. The gentleman tells us that the great capitalists do not suffer; they are in favor of the embargo; but the young, dashing, enterprising merchant, without capital, is destroyed. This statement is highly honorable to the embargo laws, and proves a great deal. The capitalist, who has property, finds its security under the embargo; he is therefore in favor of the measure; but the merchant, who has nothing, is deprived of an opportunity of making something out of that nothing. But his rights are not affected by the embargo; he is left in the enjoyment of the nothing he possessed; and has no reason to complain that the embargo does not give him something without laboring for it. I regret, however, that these merchants, without capital, have lost the chance of making their fortunes by the embargo; but even the most of these, the gentleman tells us, would probably have become bankrupt by their wild speculations, even if the embargo were not in being; and, of course, their situation cannot be much worsted by it.

But, Mr. President, I am willing to admit that there are many worthy merchants, of small capital, who do suffer by the suspension of their employments; and I am very sorry for them; but this suffering is incidental to every coerced state of things; and is attributable, not properly to the embargo, but to the causes that rendered its adoption indispensable.

The gentleman, however, tells us, with the most sympathetic feelings, that the ships of the great capitalists are rotting at our wharves, and yet these capitalists are in favor of the embargo. Why, sir, this is a very plain case, when stript of its exaggerations. The ships are precisely twelve months older than they were twelve months ago; and the owners would rather have them there, with this difference of age and proportionate decay, than to see them torn away by lawless plunderers, and wholly lost forever. But, sir, what would have become of many of these capitalists if it had not been for the embargo? Their property would have been plundered, and they become bankrupts. Is it any wonder then, sir, that these men should be in favor of the embargo? Review, then, this statement made by the gentlemen, respecting the merchants, and what is the actual result? Why this, sir; that, although they do suffer by the necessary interruption of their particular occupation, (a suffering I deplore as much as any gentleman in the United States,) yet the real owners of the property do not complain; and almost the only grumblers are those who have nothing to grumble about.

But, says the gentleman, what has become of the farmer? The gentleman knows that I am a farmer, and that I have long borne the appellation with sincere pleasure; I may therefore be presumed to know something of the situation of the farmer; and not only in my own name, but in the name of the whole happy, useful, and honorable fraternity of American farmers, I will tell the gentleman what that situation is at this moment. The American farmer is now enjoying the fruits of his honest industry, in peace and security, blessed at the same time with every political, social, and domestic enjoyment, perfectly exempt from all vexations, and I had almost said taxations, and with pleasure beholds a surplus of fourteen millions of dollars in the public Treasury after paying every debt which could be demanded of the honor of the Government. All these blessings, too, are sweetened by the noble consciousness that they are enjoyed by him as a freeman, and by a constant recollection, and perfect confidence, that he is protected in this enjoyment by a Government which will never basely surrender his rights, nor the national sovereignty, to any foreign aggressor upon earth. Blessed with all these uninterrupted enjoyments, I agree perfectly in sentiment with the gentleman from New York, (Mr. MITCHILL,) that with a heart overflowing with the most grateful affections, he should render thanks to the author of all good, that in the bountiful dispensation of his providence, he has been pleased to pour so many blessings into the lap of the American farmer. Grumbling and repining when thus favored, would, in my opinion, be impiety to Heaven, and ingratitude to his own Government.

The gentleman does not tell you, sir, that the farmer wants anything, but that he has plenty, over much. The puzzle is, to know what to do with the surplus plenty. And how does the gentleman advise the farmer to dispose of it? Why he tells him, raise the embargo and it will increase the price of your surplus produce; and for this supposed difference in price, he advises the farmer to sell his own freedom and his country's independence; and in this contemptible and miserable barter, to purchase his own, and his country's

vassalage—to cease to be a freeman, and to become a slave—to give up the noble feelings inspired by liberty and freedom, and to descend to the abject and ignominious existence of a slave without any mental feeling whatever. Sir, let me tell that gentleman, in my own name and in the name of every farmer in the United States, that we would repel with indignity and indignation the disgraceful golden allurement, even if it could be realized. But, sir, dishonorable as the allurement is, it is fictitious, it is visionary. It could not be realized. I believe, and every sensible farmer will believe, that he has for the last ten months obtained more for his surplus plenty under the embargo, than he could have done in any other state of things, which was in the choice of the Government. Let us suppose that the immense mercantile capital which is admitted to have been saved by the embargo had been seized and carried into foreign ports and there condemned; what would have been its effects upon the mercantile capital of this country? It would have so crippled our merchants, that they would not have been able for a long time to purchase the surplus produce of the nation.

But that is not all, these merchants would have claimed indemnification from the Government for losses which, in that case they would have urged, were sustained by its culpable neglect; and they would have plunged us into war, to repair so great an injury inflicted upon the nation; the foreign plunderers too, would have told us, that they cared but little about a war, as they had taken from us sufficient means for defraying its expense. Thus, in that state of things, a war would have been inevitable; and would you tell the farmer, that he would get more for his surplus produce in time of war, than he has received since the embargo? Sir, the farmer knows too well the calamities of war, to be thus deluded by these visionary golden dreams. In the event of war, he would not have received as much for his surplus produce, as under the embargo laws: hence, it obviously appears, from a fair estimate of pounds, shillings, and pence, (since we are compelled to resort to that standard, as the only orthodox test of our national honor, national sensibility, and even national independence,) yes, sir, even according to that sordid standard, the farmer would have been the loser. Besides, sir, to say nothing of the increased taxes, and other burdens indispensable to the support of war, who can count its chances, or limit its duration? Who can calculate its demoralizing consequences? But calamitous as war is, the American farmers would with eagerness encounter all its terrors, rather than surrender their own liberties, and the nation's honor, independence, and sovereignty; let us then for a time, sir, bear our present privations—let war be the last experiment.

But, sir, I will mention another circumstance, which may be some alleviation to the farmer, for the difference in the price of his surplus plenty now and in ordinary times. When the price of produce is low, the temptation to raise large crops will be lessened, and the farmer will turn a certain portion of his labor to the improvement of his farm. The high prices of produce heretofore have induced the farmer to impose too much upon his land—too great demands have been made on it—and it has been in some degree exhausted. The embargo has apprized the farmer of this important circumstance, and taught him his true interest in this respect. I have observed a great change in the application of labor, in this respect, and I have no doubt a general sentiment exists in favor of a still greater change. A greater portion of labor is also converted into household manufactures, which will lessen our demand and dependence upon foreign nations. In both these respects, I believe, the operation of the embargo is favorable to the farmer, at the present moment, and will certainly be favorable to posterity, by transmitting to it a more fertilized soil for cultivation. It will be favorable, at the present moment, in this respect—that, before the adoption of the embargo, the farmer was tempted to apply too great a proportion of his labor to the annual increase of crops, and too small a portion of it to the permanent improvement and fertilization of his farm. I mention this as an alleviation, not as a complete exemption from the effects of the embargo, and its so far producing a beneficial influence upon cultivation and internal improvement.

I hope by this time, Mr. President, that the gentleman will concur with me in opinion, that the situation of the American farmers is rather enviable than miserable—that he has good sense enough to make a just estimate of his own interests, and possesses too much honorable sensibility not to repel with indignation every attempt to seduce him into a disgraceful surrender of his own liberties or his country's independence.

Let us now take a view of its effects upon some other classes of our fellow-citizens, which seem almost to have escaped the gentleman's notice, or at least not to have excited so much of his plaintive sympathies—I allude to the manufacturer, the mechanic, and the laborer. The manufacturer seems to be in such a state of prosperity, as rather to have excited the gentleman's jealousy than his tender commiseration. He fears that the real object of the embargo was to erect the manufacturing system upon the ruins of commerce. I do not mean here, sir, to reply to the suggestion of this unfounded jealousy. I mean, in the course of these observations, to make that a subject of distinct and separate examination. I shall here however take the liberty of remarking, without the fear of still further exciting the gentleman's jealousy, that I am extremely happy to see, not only that we have abundant fabrics for manufactures, but that we have artisans sufficient to mould them into all the articles necessary for home consumption, and thus lessen our dependence upon foreign nations for our supply. I rejoice, indeed, to see our infant manufactures growing into importance, and that the most successful experiment has attended every attempt at improvement. What is the situation of the mechanic and the laborer? They have full employment, good wages, and cheap living. I am told, sir, that within the

last year, one thousand houses have been erected in Philadelphia. I see at this time more houses building at Georgetoown, even for mercantile purposes, and more improvements in this city, than ever I have seen before; and I believe this generally to be the case throughout the country. That this is a correct statement of facts, I have no doubt. How, then, is this agreeable and unexpected scene accounted for, amidst this mercantile clamor about the stagnation of business? It is because a greater proportion of the overgrown mercantile capital is now diverted from external commerce to internal improvements. And I am strongly inclined to think that this transposition of a certain portion of the mercantile capital will produce a beneficial operation, in a national point of view, and probably even more productive to the capitalist than risking it in the employment of foreign trade.

This I believe to be a fair, just, and candid statement of the operation of the embargo laws upon the several great classes of citizens; and, when correctly viewed, how different in its aspect from the miserable picture of horrors presented to us by the gentleman from Connecticut! When you tell a mechanic or a laborer of his distresses and sufferings, when he has full employment, good wages, and cheap living, he would laugh at you; he would either think you silly, or that you meant to treat him with indignity and insult. These are all the blessings he could wish, and they are enough for any man to possess, when he reflects upon the narrow span of human enjoyments this world affords. Sir, the miserable laborer on the other side the Atlantic would consider the enjoyments of the laborers here Elysium itself; and I can but lament, for the sake of suffering humanity, that it cannot find the way to these enjoyments. I presume that, during the late electioneering scene, every laborer and mechanic in Pennsylvania was told a thousand times that he was ruined by the embargo; but thirty thousand votes (majority) have told these frantic, officious disturbers of the public quiet, in loud and awful tones, how silly and ridiculous they consider the suggestion. The recent elections in most of the other States speak the same emphatic language.

I have been thus minute, Mr. President, in the examination of this part of the subject, as well to relieve ourselves from the miseries and apprehensions of our own deluded imaginations, as to relieve foreign nations, as far as was within my power, from their delusions, which I shall show in the course of my observations, are the principal if not the only cause of the very hardships and sufferings so loudly and causelessly complained of by some gentlemen. Now, sir, take an impartial review of the effects of the embargo laws, as operating upon ourselves, and what is the actual result? Why, sir, as far as they were precautionary, their success has been complete; and whilst in their general operations they have been attended with some privations and sufferings, they have not been without their beneficial effects on society.

The gentleman next triumphantly tells us, that the embargo laws have not had their expected effects upon the aggressing belligerents. That they have not had their complete effects; that they have not caused a revocation of the British orders and French decrees, will readily be admitted; but they certainly have not been without some beneficial effects upon those nations. Let me, however, ask, sir, is this failure a cause of triumph to the gentleman? Does he feel more pleasure in the delusive expectation of a triumph over a political adversary, than in the triumph of the nation over our common adversaries? Are his political feelings so strong, that they are to be indulged, even at the expense of his own, and his country's interests? Does he vainly suppose, that, disregarding or postponing all consideration of the people's interests, when their all is at stake, to the indulgence of these petty animosities, will give him a just claim to the people's applause? If he does, sir, he is mistaken. It is by the reverse of this conduct that he can lay any just claim to their applause. It is by banishing his prejudices—it is by conquering his own passions, and by devoting the whole energy of his mind to their service, at this critical moment, that he can be justly entitled to their applause. This would be for him a glorious triumph—a triumph over his own passions; and it would secure him the public approbation, because the conduct would be right. Let us then, sir, hope for this conciliation, which would be so honorable to ourselves, and would promise so much advantage to the nation.

In this spirit of conciliation and patriotism, then, Mr. President, let us inquire, first, what have been the actual effects of the embargo laws upon the aggressing belligerents? And, secondly, what are the actual causes of their failure of complete success? The first inquiry involves much mercantile information. I have only some views of general mercantile principles—I know little or nothing of their operative details—I had, therefore, hoped for much information upon this part of the subject from gentlemen who possessed it; but have received very little satisfaction from them in that respect.

The first effect of the embargo, upon the aggressing belligerents, was to lessen their inducements to war, by keeping out of their way the rich spoils of our commerce, which had invited their cupidity, and which was saved by those laws. If they had once possessed themselves of this enormous booty, it would have been a sure pledge for open and direct war. It would have defrayed the expenses of the war for several years. If they had not gone to war, they would have been compelled either to restore the captured property, or to make indemnification for it. Its amount alone would have been a sufficient security against either of these acts of justice. And is it not better that this enormous amount of property should be on this side of the Atlantic, than on the other? In the hands of its lawful owners, than in the hands of unprincipled freebooters? Is it not better that it should be drawn to our aid in the event of war, than applied to aid our unjust adversary?

Upon this point, I presume, there can be but one opinion.

The second effect, which the embargo laws have had on the aggressing belligerents, is to enhance the prices of all American produce, especially articles of the first necessity to them, to a considerable degree, and, if it be a little longer persisted in, will either banish our produce (which I believe indispensable to them) from their markets altogether, or increase the prices to an enormous amount; and, of course, we may hope will furnish irresistible inducements for a relaxation of their hostile orders and edicts. However I may generally respect the mercantile information of the gentleman from Massachusetts (Mr. LLOYD,) and the gentleman from Connecticut, (Mr. HILLHOUSE,) they appear to me, on this occasion, not to have been very correct. I have before me, two Prices Current from Liverpool, the one of the 8th, the other of the 20th September last. They, I presume, were written under no political bias, favorable to the United States. Let us draw our facts from them. I will begin with the article of the first necessity in Great Britain, and one which, at all times, excites her highest sensibility. She manifests, at all times, more anxiety about her corn laws, than any other subject of her political economy. This is a necessary result from the peculiar state of her population.

Let us then inquire, what is the present state of breadstuffs in Great Britain. In the Liverpool Price Current of the 8th of September, I find this information upon this subject:

"Our grain market, for the most part of the last month was very dull; however, within this day or two there have been some extensive sales made of New York wheat at 13*s.* and 3*d.* at 70 lbs., and the holders now demand 13*s.* and 6*d.* to 14*s.* for prime parcels, which may possibly be obtained, as the appearances for the harvest in most parts of this kingdom are not quite so favorable as was at first thought, the late heavy rains having proved injurious in many places, and the grain is much lighter in the ear than former seasons; but as the dealers and country millers buy only to supply their immediate wants, we do not calculate upon a material improvement on the annexed prices, unless some export vent to Spain or our West India colonies takes place. Good sweet American flour is not to be had in this market."

In the Price Current of the 20th, I find these observations:

"Large speculations have lately been made in tobacco, in consequence of our stock becoming limited; but should the embargo be raised, this and every other description of your produce must very materially decline in price, wheat and flour excepted.

"Our stocks of grain are but moderate, although we have been much favored in our harvest."

What reflection does this information naturally present to the mind? That the crop is limited; that breadstuffs are high, and likely to be higher; that there is such a deficiency of breadstuffs, that our whole supply will not depress the market, even in the event of raising the embargo; and certainly continuing it, (which does not seem at all calculated upon in England,) would lessen the quantity and raise proportionably the demand and price.

The gentleman from Connecticut (Mr. HILLHOUSE) tells us we cannot starve Great Britain, she, being mistress of the trade of the world, will supply herself with breadstuffs from other quarters and particularly from Spanish America. I never heard it suggested, except by the gentlemen in the opposition, that we could starve Great Britain; but that, through our produce, particularly our breadstuffs, we could make a strong appeal to her interests. This fact is demonstrated to my mind. The Liverpool merchants differ with the gentleman in his mercantile information. They tell us that our whole supply of breadstuffs will not depress their market. If a ready supply could be obtained elsewhere, upon better terms, there would be no need of a supply from us. But when has it happened, that Spanish America could afford this supply? So far from affording a supply to Great Britain, it gets a portion of its own supply from us. The gentleman tells us that Spanish Americans export great quantities of hides and tallow. That is true; these, however, are not breadstuffs. It is not pretended that Great Britain is in want of meat, but bread; bread is an essential of life; meat is no substitute for bread; it could not prevent even a famine. These documents also go to show the reason of the low price of New York flour, quoted by the gentleman from Massachusetts, (Mr. LLOYD.) It is because the flour was not sweet; it had been so long kept as to become sour. I have no doubt that the British Cabinet is now looking at this subject with great anxiety; and particularly at our movements in relation to it. Again, sir; suppose Great Britain should be able to provision her Islands, it would be at such an expensive rate as to render them very unprofitable.

The next important article is cotton. Let us see the prices current respecting that article:

"The operations in our cotton market during the whole of last month have been immense, while our total imports are inadequate to one-half the usual monthly consumption; as the stocks of this article have become more depressed, the speculators continue purchasing with increased spirit, and many of them have already realized considerable profits; we therefore quote an advance on all descriptions of cotton, of from 4*d.* to 6*d.* per lb. above our last month's rates, which has principally occurred within the last ten days; but we must beg leave to remark, that such unexampled advances are scarcely ever so well maintained as when they are gradually established, and some occurrence may, perhaps, shortly take place to put a stop to further speculations; we are, however, of opinion, that prices may yet be driven considerably higher, although they have to encounter an extremely bad trade in Manchester."

"West India cottons have advanced nearly in the same proportion as American, and the recent arrivals have fully brought the annexed prices, with every appearance of much higher being realized."

"In cottons we have a great stir; and should we not soon have arrivals from the Brazils, prices must be enormous."

Here the Liverpool merchants tell us, not only that the prices are extremely high, and may be driven much higher, unless some occurrence (to wit, raising the embargo) may perhaps shortly take place, to put a stop to further speculation; but that the total imports are inadequate to one-half the usual monthly consumption. Now, sir, whence is one-half of the usual consumption of cotton to be supplied to the British market. The British merchants seem totally at a loss for a supply from any place; but the gentleman from Connecticut (Mr. HILLHOUSE) has pointed out several places of supply—the East and West Indies; and even Africa has been resorted to. They have supplies from all these places now, and yet the Liverpool merchants tell you that the whole imports are not equal to one-half the monthly consumption; I therefore have no confidence in the statement made by the gentleman. With respect to the illustration of his position, by stating the supposed analogous case of his butter merchants, I shall make no reply. Its fallacy was ably demonstrated by the gentleman from Georgia, (Mr. CRAWFORD.) I will only incidentally remark, however, that it is the first time I ever recollect to have seen that gentleman in debate, when it appeared to me that he did not know on which side *his own* bread was buttered.

But the gentleman tells us, that the provident British Government has sent cotton seed to Africa to answer a supply of cotton; that cotton is an annual plant, and of course a competent supply may be produed from that quarter. I am inclined to think that this provident Government does not rely much upon this resource; because I imagine the whole quantity of seed sent thither, would not be equal to the offal from one good South Carolina plantation; and although cotton is certainly an annual plant, yet the conversion of the labor of society from one occupation to another, is not the effect of an annual effort. It is one of the most difficult operations to be performed on society. I therefore feel no apprehension of a supply from this source, at least, for many years. If Great Britain should be cut off from one-half of her supply of cotton, it would certainly place the many thousand manufacturers employed in the various branches of the cotton business, in a state of great distress; and must command the attention of the British Government.

The next article I shall mention, is the article of timber or lumber. I mention these articles particularly in relation to the supply of the West Indies; and the rather, as the traders to these Islands have been foremost in urging the British hostile orders. I recollect, sometime since, to have seen a report made, I believe to the House of Commons, showing the proportion of these articles imported to the West Indies from the United States, in relation to the same articles imported thither from all the rest of the world; and the proportion of these articles, was ninety-nine in the hundred, imported from the United States. It is known that these articles are indispensable to the exports from those Islands; particularly rum, sugar, and molasses. And I am at a loss to know from whence these articles can be supplied, except from the United States. It should also be recollected that timber and lumber are not of annual growth, they are part of the veteran sturdy oak itself; and therefore that their deficiency cannot be so easily supplied as is suggested in relation to cotton.

The next article I shall mention, is tobacco. What say the Liverpool merchants respecting this article?

"During the last month tobacco has experienced some fluctuation, and sales have been made at prices under those quoted; but some considerable orders having appeared for export, the market has again settled at these rates, and if any opening to the continent of Europe, through the medium of Holland, should be found, an advance may be expected; on the contrary, if we have only our home consumption to depend upon, little alteration can take place until the sentiments of the American Government be known at the meeting of Congress in November next."

It is admitted that tobacco is not an article of the first necessity; it is, however, material to the manufacturer, and highly important to the revenue.

Naval stores are also certainly entitled to some consideration, although some supply of those articles is now furnished from Sweden.

I have selected these articles as specimens of the intimacy and importance of the commercial connexion between the United States and Great Britain; and to demonstrate that it cannot be withdrawn on our part without essentially affecting her interests. Again, sir; what effect will this recession of intercourse have upon the revenue of that country? I shall make no minute estimate, but it will certainly have an effect which cannot be disregarded; and the rather when it is recollected that Great Britain has imposed an export duty of four per cent. upon her goods sent to the United States, which produces to her an annual revenue of about six hundred thousand dollars, probably much more; and that this is a discriminating duty against the United States, which ought to have been repelled the moment it was laid; and especially, as it was avowed that it was imposed upon the United States with the view of placing them on the same footing with the British Colonies.

The gentleman from Massachusetts (Mr. LLOYD) tells us, even suppose that your embargo laws drive fifty thousand, or more, manufacturers from their employment in Great Britain, it will only add to her naval and military strength. It would only give her fifty thousand seamen or soldiers more than she now has. This, sir, is an unfortunate specimen of the prosperity which Great Britain is supposed to derive from the embargo laws. If I am rightly informed, generally, and particularly yesterday, by the learned gentleman from New York, (Mr. MITCHILL,) of the materials of which the manufacturers consist, I am disposed to think they would make poor seamen, and sorry soldiers. I do not think the world would have much to fear from their prowess. They are fit for manufacturers, and nothing else; and if driven from

their habitual employments they must starve, or become a charge upon the nation. But, sir, the conversion of fifty thousand productive and even expensive laborers, could not contribute much to the wealth or power of any nation; and such an operation in Great Britain, where the poor rates are sufficiently high already, would command the serious attention of the Government.

There is something essential to the physical power of a nation, besides the numbers of seamen and soldiers. It is money, it is revenue. This operation upon labor could not be productive of revenue, but would be an enormous charge upon it. I am therefore inclined to think that the British Cabinet would not feel any great obligation to the gentleman for his ingenious discovery. All these considerations must present strong inducements to Great Britain to revoke her hostile orders; but she has hitherto refused to do so.

Let a candid inquiry be now made into the actual causes of this refusal. The gentleman from Massachusetts (Mr. LLOYD) informs us, that the British Cabinet showed some solicitude about the embargo laws, till some time between the 22d of June and the 29th of July last, within which time information flowed in upon them, which relieved them from this solicitude, and reconciled them to the embargo. [Mr. LLOYD rose to explain. He said he referred to the months of June and July, without mentioning any particular days of those months.] I admit that the gentleman did not mention the particular days; I took the particular days, for greater precision, from the correspondence between Mr. Pinkney and Mr. Madison, from which I presume the gentleman had drawn his information.

What was the information that flowed in upon the British Cabinet, from the 22d June to the 29th of July? That period announced two events. First, the wonderful revolution in Spain, although this event must have been pretty well understood in London before even the 22d of June, perhaps not to its full extent. The other event was, the paltry attempt at the resistance of the embargo laws in Vermont, magnified into a formidable insurrection against the Government; and the unhappy discontents manifested in Boston and its neighborhood, together with the results of the elections in Massachusetts. All these circumstances were certainly greatly exaggerated, or utterly misrepresented. Here then, sir, we clearly discern the real causes of the refusal of the British Cabinet to meet the just and honorable proposition of the United States, and to revoke their Orders in Council. The Spanish Revolution, no doubt, contributed to their determination; but the principal cause was our own divisions and discontents, either wholly misrepresented or highly exaggerated.

Before the 22d June Mr. Pinkney and Mr. Canning were engaged in the most informal and friendly communications; Mr. Canning had gone so far as to intimate to Mr. Pinkney that he might in a few days expect to be able to communicate to his Government some agreeable intelligence, evidently meaning either the revocation, or relaxation of the hostile orders. But unfortunately, shortly after the 22d June, the packet arrived with this flood of disgraceful information from the United States. Immediately after the receipt of this misinformation, Mr. Canning changes his conduct. All informal conferences with Mr. Pinkney are denied, and a formal note demanded, in reply to which, the note of refusal was returned, marked, as we have seen, with indignity and insult to the United States.

Now, sir, let me ask, whether these facts do not demonstrate that the continuation of the hostile orders is principally, if not solely, owing to the dishonorable divisions and discontents in this country, and the exaggerated accounts given of them to the British Government? That events in Spain alone, however intoxicating to the British Cabinet, were not, of themselves, sufficient to produce this effect; because they were known before the change in Mr. Canning's conduct took place, and had not produced that effect. But, the moment the extravagant accounts of the discontents and divisions in this country were received, was the moment of change in Mr. Canning's conduct, and, therefore, must be considered as the real cause that produced it. Besides, sir, was not this change of conduct the natural effect of this disgraceful information? When Mr. Canning was informed that the people of the United States had become false to themselves; had refused to bear the necessary privations imposed by the Government; had in fact, separated themselves from their own Government—that they would elect persons to office, who would, voluntarily, yield obedience to Mr. Canning's orders—what inducements could he have for their revocation? If obedience and submission were gratuitously tendered by the people of the United States, he had certainly nothing to do but graciously to accept them; and his note affords full evidence of this impression on his mind. The refusal of the British Government to revoke their hostile orders, therefore, appears not to have been founded upon a calculation of its interests upon correct information; but upon a miscalculation of its interests upon misinformation. How much, then, is it to be lamented, Mr. President, that our sufferings and privations should be continued, by the discontents which were intended to remedy them? How can the authors of these discontents reconcile their conduct to the nation, or to their own consciences? What compensation or atonement can they ever hope to make to the people for the protraction of their privations and sufferings? What, for the disgrace brought upon the nation? What, for all the horrors and calamities of war, which may, and probably will, be the consequences of such conduct? Let the infatuated authors of it answer these questions. Ages of services cannot atone for these cruel, these unfortunate errors.

It is asked sir, how do the embargo laws operate on France? It is readily admitted, that the commercial connexion between the United States and France is not of such a nature as to make a suspension of it operate as injurious to France herself, particularly in the interior, as on Great

Britain. But our commerce cannot be deemed unimportant to France, in the feeble state of her navy. At the time, too, of laying the embargo, Spain, Portugal, and Holland, were in alliance with, or, in subjection to France. Its pressure was materially felt by Spain and Portugal, from their want of provisions; and it is questionable how far that measure contributed to the convention for the evacuation of Portugal by the French army. The want of provisions being one ground alleged for their late convention for that purpose.

The French West India islands, too, have felt the pressure with great severity. They are at this moment in a state of blockade. There were probably two objects in this blockade. The one to reduce the French islands for want of provisions. The other, to seize upon their merchant ships, which it was presumed would hasten thither immediately upon raising the embargo. And it appeared extremely well-timed to effect that object, if Congress, upon their first meeting, had been weak or pusillanimous enough to have raised it. The loss of these islands would be severely felt by the French Emperor, and would probably produce some regret on his part in having contributed to drive the United States to the extremity of the embargo laws.

But, sir, gentlemen are very much alarmed at an expression in a late French exposé. They have made some general allusions to it, but in so vague a manner, as not to be understood with precision. As I am always fond of a correct statement of facts, I will read the expression probably alluded to: "The Americans, a people who in-'volve their fortunes, their prosperity, and almost 'their existence, in commerce, have given an ex-'ample of a great and courageous sacrifice. They 'have suspended, by a general embargo, all com-'merce and navigation, rather than shamefully 'submit to that tribute, which the English impose 'on the navigation of all nations." I cannot conceive the importance attached to this expression, or the view with which it was introduced. It is to be remarked that this is the character given to this measure throughout all Europe, and by none more loudly and decisively, than by the Federal American merchants now in Great Britain.

It is only on this side of the Atlantic, that we hear it described as a weak or wicked measure. But what of all this, sir? Will this French expression change the real character of the measure? Shall we change our own opinions of the true character of the measure because the French Government has thought proper to pronounce an opinion upon it? Are we told to abandon our own right of judging of our own measures, because the French Government officiously undertakes to judge for us? Sir, to me it is perfectly indifferent, what the French Government thinks upon the subject; I shall take the liberty of exercising my own judgment upon it, perfectly exempt from any extraneous influence whatever.

Mr. Canning, sir, has also undertaken to say something respecting the character of the embargo laws. Let us hear what he says upon the subject:

"If considered as a measure of impartial hostility against both belligerents, the embargo appears to His Majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong. And His Majesty cannot consent to buy off that hostility, which America ought not to have extended to him, at the expense of a concession made not to America, but to France.

"If, as it has more generally been represented by the Government of the United States, the embargo is only to be considered as an innocent, municipal regulation, which affects none but the United States themselves, and with which no foreign State has any concern; viewed in this light, His Majesty does not conceive that he has the right or the pretension to make any complaint of it; and he has made none."

"His Majesty would not hesitate to contribute in any manner in his power to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal as a measure of inconvenient restriction upon the American people."

Let me now ask you, Mr. President, what feelings must rush themselves into your bosom, upon hearing this last, this arrogant insinuation? What must be the feelings of every war-worn veteran, who has so long enjoyed the pleasing consciousness of having been instrumental in achieving his country's independence? What must be the feelings of every young American, who has not basely degenerated from his father's virtues? Do you not see, sir, in this sentence, almost a direct overture of the interference of His Most Gracious Majesty in our political concerns? Do you not see the vain and idle effort to encourage discontents by the expression of His Majesty's good disposition to interpose his good offices to relieve the American people from the inconvenient restrictions imposed on them by their own Government? What indignity, what insult could be greater upon the American people? What could more clearly demonstrate the infatuation, the intoxication of Mr. Canning's mind, produced by the unfortunate flood of misinformation which had poured in upon him? The American people will repel the overture with indignation, with disdain; and sir, as a sure and pleasing anticipation of this result, I rejoiced to see the indignant resentment manifested by the gentleman from Delaware (Mr. WHITE.) It was the more honorable to him, sir, because it was the triumph of his American feelings over a host of prejudices with which I fear he is surrounded. I always knew that gentleman to be a patriot, and when it shall become necessary, I expect to see him amongst the foremost in the ranks of honor, in the defence of his country's rights.

Yes, sir, this insulting overture will doubtless burst the strong fetters of the prejudices of thousands of other American patriots, who will rally to the standard of their own Government, and will teach Mr. Canning how little he knows of American character, or the American sensibility, when he thus ventures to insult it.

Sir, the sentiments contained in this extraordinary note of Mr. Canning's are not new to me. I have seen them for some months in some of the Boston newspapers—it contains nothing more than the ridiculous intimations contained in them, reduced to the form of a diplomatic note, not at all improved, nor dignified, nor better calculated to effect their object, by the sarcastic insolence of Mr. Canning.

Upon an impartial review of the whole of this part of the subject, Mr. President, I think I am warranted in the conclusion that the embargo laws have not been without materially beneficial effects upon both the belligerents; that they have presented strong appeals to the interests of both, but that these appeals have not produced their complete effect. I have no hesitation in saying, sir, that when the proper time shall arrive—if these orders and decrees shall unfortunately be persevered in—I shall, for one, be ready to make still stronger appeals to their interests—appeals limited only by the whole force and energy of the nation.

I think also, sir, I am warranted in concluding, that if the embargo laws have failed of complete success, their failure has been owing to extraordinary causes, which could neither have been foreseen nor anticipated at the time of the adoption of the measure, and therefore cannot furnish any imputation against its policy or wisdom.

Permit me now, sir, to make some observations upon the general character of this measure, as well as replies to some of the more general objections brought against it. I have said, sir, that there are no substitutes for the embargo, but war or submission. I will now proceed to prove this position. A repeal of the embargo, without a substitute, is submission; if with a substitute, it is war. Gentlemen in the opposition seem fully sensible of the delicacy and urgency of this part of the question. When pressed for their substitute, they manifest vast reluctance in producing it.

The gentleman from Delaware, indeed, told us he was not the pioneer of the Administration. I never knew that he was called upon to act in that character; but I hope he will not voluntarily act as the sapper nor the miner of the Administration, especially when he must behold the Administration assailed by the two most powerful belligerents in the world, unfortunately aided I fear too, sir, by a host of domestic sappers and miners, and underminers in the bargain. I am sure, sir, the gentleman will not take upon himself such a character. The gentleman, however, did not withhold from us an intimation, at least, of his substitute—an intimation which could not be mistaken. It was war with France. The question therefore as to him is at an end upon this point. War is the substitute.

But, the gentleman from Connecticut, (Mr. HILLHOUSE,) after protesting against furnishing any substitute, intimates merely that he is in favor of an armed commerce. Why, sir, do gentlemen in the opposition manifest such a reluctance in producing a substitute, if they have one? They seem to be laboring under an impression that this is a mere question between themselves and the Administration—an unimportant question of *ins* and *outs*. The question is certainly of a very different description. It is a question between this nation and foreign nations. It is a question involving our national existence and independence, and the dearest rights of the people.

Let me tell these gentlemen, sir, that the people have a right to demand a substitute from them, if they have one; not merely a vague insinuation to fill up a chasm in a defective argument, but a written proposition, reduced to form, presented for serious consideration; that every word may be strictly examined, and all its bearings seen. Then, sir, we should be in a state of preparation to make a choice between such substitute and the measures of the Administration.

Besides, sir, if this obligation were disregarded, every rule of criticism, every principle of common sense, would require a substitute. If you criticise upon a sentence in writing, the criticism is incomplete until you show a better. In law pleadings, if you object to a plea, as defective, you are bound to show a better. And certainly, sir, the magnitude of the question does not lessen the obligation imposed by the ordinary rules of common sense. Again, sir, I hardly could have supposed that gentlemen of such lofty pretensions to wisdom and talents would have contented themselves with the humble office of finding fault, without furnishing the proper correction. This inactive conduct—this doing nothing for the people in these dangerous and critical times—can furnish but a poor claim to the people's gratitude and applause.

But, sir, I will consider the gentleman's substitute, even with the glimmering views of it which he has presented. His substitute is an armed commerce. Would he extend it to acts of reprisal? If so, it is immediate war. Would he stop short of that? It would still be war, but of a more inefficient kind. If our vessels are to arm, I presume their arms are to be used in self-defence—they would be used against both the belligerents. In the present temper of Great Britain, the first gun fired in a spirit of hostility, even with a blank cartridge—or if it were a pop-gun—would be instant war. It would be a signal to her navy to seize upon the whole of our commerce, which would be spread upon the ocean the moment of raising the embargo. The gentleman's substitute I therefore believe to be war, and war of the most inefficient kind. A repeal of the embargo, without a substitute, is submission. Submission to what? To colonization, to taxation, to tribute!—That this is the true character of the British Orders and Acts of Parliament, we not only know from the measures themselves, but we know it was so understood in the British Parliament at the time of their adoption. As an evidence of this fact, let me call your most serious attention, sir, to some of the observations made in Parliament at the time of their adoption, particularly the observations of Lord Grenville in the House of Lords.

His Lordship said: "As to the duties proposed to 'be levied under these Orders of Council, he 'should only say, that when the peace of 1783 took 'place, he never thought that he should have lived,

'or that the British Parliament should have lived 'to see the day when a proposition should be made 'to tax America!" And when a similar suggestion was made in the House of Commons, what was Mr. Canning's reply? Did he deny the object? No, sir; but begged the gentlemen in the opposition not to tell the secret to the Americans! Hush, gentlemen, was, in substance, his reply. Thus adding indignity and insult to the arrogant pretension. Upon this part of the subject, I shall make no comment. It is impossible to improve the eloquence of this Parliamentary language! It must strike deep into the heart of every true American.

The gentleman from Connecticut (Mr. HILLHOUSE) says, no tribute will be paid, because there will be no inducement to pay it. France will not receive vessels into her ports, which have submitted to such a disgrace. It is admitted that the tribute is imposed; and to avoid the payment of it, we are to look to France: to give up our national character, and our national honor to the safe-keeping of the French Emperor. [The gentleman rose to explain. He protested against making any such inference.] This was admitted. He only stated the facts, and I supplied the inference. The inference from the facts I deem irresistible. I despise, sir, this miserable subterfuge. Let us act like a nation of freemen—let us be the conservators of our own honor and character. We should be the gainers by it upon the most economical calculation, in pounds, shillings, and pence. Our national character is now worth more than the delusive gains held out by this miserable commerce, and would sell for more in every market; submit to this disgraceful tribute, it would not be worth a cent, and would not sell for it in any market.

The gentleman from Connecticut (Mr. HILLHOUSE) says, that the embargo is submission to the mandates of both France and Great Britain, and, therefore, dishonorable. He makes this statement—France says, you shall not trade with Great Britain; Great Britain says, you shall not trade with France; and we say, we will not trade with either, and, therefore, gratify both. The fallacy of this argument consists in the misstatement. France says you may trade with me, and I am anxious you should do so, but you shall not trade with Great Britain; we say, we will not trade with you, nor with Great Britain. Now, sir, is this yielding to the mandate, or gratifying the wish of France? Certainly not. Great Britain uses the same language, and meets with the same reply. Now I contend that we have neither yielded submission, nor gratified the wish of either; but have resisted the wishes and mandates of both; and I have no doubt that both are astonished at the honorable and dignified attitude we have assumed and hitherto persisted in.

But, sir, the gentleman intimates, that the Government of the United States has suspended a rod over the head of Great Britain, and asks, whether an American would negotiate with a rod suspended over his head? Let me ask in turn, sir, if the gentleman's proposition, is not submission; not indeed, while the rod is suspended over our heads; but whilst it is applied with the most unrelenting severity to our backs? I was really hurt, sir, to see that any gentleman could make an observation which would bear the most distant tint of an apology for Great Britain; and I cannot conceive how any gentleman can reconcile it to himself, when he reflects upon the many outrages committed by Great Britain against the United States, before even any attempt was made to do ourselves justice—and that these outrages were increased, in proportion to our patience under them.

The gentleman from Massachusetts (Mr. LLOYD) expresses his fears of some design for the destruction of commerce. He tells us, our commerce has grown to an enormous size, and warns us that it is not to be trifled with. The gentleman from Connecticut, too, tells us, that the avowed, was not the real object, of the embargo laws; and that he so prophesied at the time of passing them; that their real object was to encourage manufactures, at the expense of commerce. This charge of insincerity is a serious one. It is of a nature to impose a restraint upon the feelings, against making the merited reply. It has excited my surprise more than anything I ever heard fall from that gentleman; and the only apology I can find for it, is, that he unfortunately prophesied it. It is a painful effort of the mind to admit ourselves false prophets. By this time, it is impossible but the gentleman must be convinced that this was a false prophecy. He reminds me of the two lines in Hudibras:

> "A man convinc'd against his will,
> Is of the same opinion still."

The gentleman must be convinced, but retains the same opinion. Sir, whether it be a suspicion, or a jealousy, or whatever delusion the gentleman is laboring under, I peremptorily deny the existence of the fact he has insinuated. How has it happened that the commerce of the United States has become so enormous, but from the fostering and protecting influence of the Federal Government? What act of hostility against commerce has ever been shown by the Government? I challenge the gentleman to name one, or a single act from the Southern members unfavorable to our commercial prosperity. On the other hand, have we not always concurred in the stimuli given to commerce by discriminating duties, both on tonnage and merchandise, by the drawback system; and many other acts not material now to mention? It has been from these causes, added to the enterprises of our people, that commerce has arrived to such a pitch of prosperity. They certainly do not warrant the charge brought against the Government.

But what has excited my suprise, more than anything else, respecting this suggestion is, that the delusion upon the gentleman's mind, should be so strong as to banish his recollection of the local interests of the different States in the Union. He seems to suppose that the Southern are manufacturing States. This is not the fact. The fact

is, that the commercial are, also, the manufacturing States. The Southern States are agricultural and commercial, not manufacturing, except in the household way; and that is not the species of manufacturing that has excited the gentleman's alarm. The peculiar organization of society in the Southern States, will, for a long time, forbid large establishments of domestic manufactures. This is the kind which gives the gentleman so much alarm; and, in this kind, the Southern States have no local interests whatever. They have, however, an essential interest in commerce, although, generally, the merchants carrying it on, may not reside within them. The agriculturists know, that a prosperous commerce is essential to good prices, and, therefore, they have always contributed to its protection and prosperity. In this state of facts, the gentleman may find a perfect security against his extravagant, and unfounded jealousies. But the gentleman is alarmed, because he has discovered, in the President's replies to sundry addresses from the manufacturers, expressions of satisfaction at their prosperity and improvement in the manufacturing system. But the President has nowhere expressed an intimation, or a wish, that this improvement, or prosperity, should be encouraged and promoted at the expense of commerce. And if he were to indulge so extraordinary an inclination, he could not expect to get a vote south of the Potomac, in favor of the system. Suppose the merchants had addressed the President, in the days of their prosperity, would he not have expressed his satisfaction at the circumstance? And would such expression have been just ground, or any ground, of alarm and jealousy to the manufacturer? Certainly not, sir. Every patriot must rejoice at the prosperity of each, and every class of citizens. Indeed, sir, did not the gentleman himself, in the course of his observations, with a laudable animation, express his high satisfaction at the doings of his own Legislature, giving encouragement to Colonel Humphries, in his attempts at introducing manufactures into the State of Connecticut? Proceedings highly honorable both to the Legislature and Colonel Humphries; and which I have also seen with great satisfaction. But, sir, would it be correct to infer from this circumstance, that commerce is to be assailed and prostrated? Such an inference would be as idle and absurd in this case, as it is in relation to the views of the General Government. Indeed, sir, I concur perfectly with the gentleman in the opinions he has expressed upon the manufacturing system, in relation to the commercial. I have taken more pains in repelling this extraordinary jealousy or suspicion, in the hope that in correcting the public sentiment, in this respect, it would, at the same time, dissipate a great portion of the objections to the embargo laws, which seem to me at this time to be imperiously demanded, by the extraordinary crisis of our foreign relations.

I am now approaching a part of this subject, Mr. President, which fills me with regret. I know its delicacy, sir, and deeply regret the necessity which impels the examination of it. It is however rendered indispensable, perhaps, by exterior events; but certainly by observations made in the course of this debate. I allude, sir, to the inexecution of the embargo laws; or, rather, sir, to the suggested incapacity of the Government to enforce their observance. The gentleman from Connecticut (Mr. HILLHOUSE) tells us, directly, that the Government has not power to enforce the execution of these laws. The gentleman from Massachusetts (Mr. LLOYD) even points out the mode of resistance. He tells us they may be resisted, first, by town meetings, then by petitions, then by legislative resolutions, and, finally, by insurrections and rebellion. [Mr. LLOYD rose to explain. He said, "he did not say 'that this would be the course of events. He only 'stated them, abstractly, as probable results from 'those laws."] The gentleman is correct in his statement. I meant to be understood, as stating his observations in that way. It cannot escape observation, however, Mr. President, that this is the practical process now going on in the State the gentleman has the honor to represent.

It is submitted to the patriotism and good sense of those gentlemen to determine, whether mentioning these circumstances, even in that way, may not have some tendency to produce effects, which must be so much deprecated by all; and permit me to hope, sir, by none more than by those gentlemen. And whether, sir, they are not calculated to keep up the delusions in foreign nations, which, I believe in God to be the principal causes of our present embarrassments. These circumstances were the less to be expected from gentlemen, who, a few years ago, arrogated to themselves the exclusive appellation of lovers of order and good Government, whilst their political opponents were denounced as anarchists and disorganizers, and not even possessing virtue and honesty enough to be trusted with the public treasury. This, sir, was an imposing appellation; and as long as its sincerity was confided in, it preserved these gentlemen in the dominion of the United States. It was hardly to have been expected that these gentlemen would now be found the first to sound the alarm in favor of anarchy and confusion; nor was it to have been expected, sir, that the Eastern States, which were the first to press the Constitution upon us, and which have reaped a golden harvest from its operations, should be the first to wish to absolve themselves from its sacred obligations.

But, Mr. President, I believe this Government does possess power sufficient to enforce laws. The real character of our Government seems to be entirely misunderstood by foreigners and not fully appreciated by some of our own citizens. It has all the strength of execution, with the most despotic Governments upon earth. It is aided, too, by the knowledge of every citizen, that, when its will is pronounced, it is the fair expression of the will of the majority. The checks of this Government are exclusively upon its deliberations, not upon its powers of execution. So far from it, that the Constitution has expressly provided, that the Government should possess all means necessary

and proper for executing its specified powers. There is no limitation, whatever, upon the means for executing the general will, when fairly and deliberately pronounced. Nothing could be more absurd than to suppose, that after so many checks had been imposed upon deliberation in pronouncing the public will, after that will was thus pronounced, that any means, whatever, for its execution should be withheld.

Again, sir, the fundamental principle of our Government is, that the majority shall govern. The principle is known and respected by every citizen, and by none more than the people of Massachusetts. They are taught to respect it from the cradle to manhood. First in their town meetings, then in their Legislature, and, finally, in the General Government. They know too well the fatal consequences of resisting it. I have perfect confidence, therefore, in the people of Massachusetts; and if their electioneering leaders and partisans should unfortunately stimulate some of them into insurrection, I have no doubt but that the militia of that State, when lawfully called on, will obey the call, and will do their duty. Such a movement would share the fate of all similar attempts, which have preceded it; and its only consequence would be, that its authors, as they would be the first to merit the fate, so they would become the first victims of it. But, sir, I have but little apprehensions from these threats of insurrection and rebellion, for other reasons.

The peculiar interests of the people of Massachusetts forbid the attempt. A few leaders may, perhaps, postpone their interests to their love of power; but few, however, could enjoy the power under any new order of things, and the people at large would soon see that their interests were sacrificed to the indulgence of this infatuated ambition of the few.

Let this subject Mr. President, be a little further examined in reference to the local interests of the Eastern States, as members of this Union. Potomac may be considered as the boundary line between the commercial and agricultural States.

When our first difficulties with the belligerents occurred, it respected merely a commercial right. What was the conduct of the merchants, and commercial States, upon the subject? You have heard, sir, their memorials read, calling upon the Government, in a voice too loud to be suppressed, to protect them in their commercial rights; the call was obeyed. As I think this part of the subject ought to be well understood, I beg the indulgence of the Senate to read their own proceedings thereupon:

"The Senate resumed the consideration of the report of the committee, made on the 5th instant, on that part of the Message of the President of the United States which relates to the violation of neutral rights and the impressment of American seamen.

On motion, to commit the second resolution reported, it passed in the negative.

On motion, to strike out the following words in the second resolution reported:

'Demand and insist upon the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by those captures and condemnations, and to'—

It was determined in the negative—yeas 13, nays 16.

The yeas and nays having been required by one-fifth of the Senators present, those who voted in the affirmative, are—

Messrs. Adair, Baldwin, Bradley, Gaillard, Howland, Logan, Maclay, Moore, Plumer, Smith of Vermont, Sumter, Turner, Worthington.

Those who voted in the negative are—

Messrs. Adams, Anderson, Bayard, Gilman, Hillhouse, Kitchel, Mitchill, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Thruston, Tracy, White, Wright.

And several amendments to the said second resolution having been adopted;

On motion, to agree thereto as determined, it was determined in the affirmative—yeas 23, nays 7.

The yeas and nays having been required by one-fifth of the Senators present, those who voted in the affirmative are—

Messrs. Adams, Anderson, Baldwin, Bayard, Gaillard, Gilman, Hillhouse, Howland, Kitchel, Logan, Maclay, Mitchill, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Ohio, Smith of Tennessee, Tracy, Turner, White, Worthington, Wright.

Those who voted in the negative are—

Messrs. Adair, Bradley, Plumer, Smith of Vermont, Stone, Sumter, Thruston.

So it was,

Resolved, That the President of the United States be requested to demand the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and the indemnification of such American citizens, for their losses and damages sustained by those captures and condemnations; and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens by amicable negotiation, that justice to which they are entitled."

At this time the question involved only a commercial right. What was the conduct of the merchants then? They came forward and pledged their lives and fortunes to support the Government in any measures for its protection. The question is now changed. To the original question, is added a question of national sovereignty and independence. What is now the conduct of these same merchants? They tell you, sir, to tread back your steps, give up the contest, and disgrace your country. These merchants, too, threaten you with insurrection and rebellion, unless you yield implicit obedience to their mandates.

Again, sir, I have little apprehension from these threats, for the following reasons: First, many of the individuals engaged in these excitements, I am told, are gentlemen of property and families. They are, therefore, now in the enjoyment of every political and domestic blessing—their infatuated passions to the contrary notwithstanding. I think persons of this description will pause before they hazard all these blessings; and a moment's impartial reflection will be sufficient to check their career. In the next place, there are many local advantages accruing to the people of the Eastern States from the operations of the General Government. They consist principally of the following, although there are others:

1. The protection afforded to their carrying trade by discriminating duties, both on tonnage and merchandise;

2. Protection and facility afforded to the coasting trade;

3. Protection to their fisheries by duties on foreign fish;

4. Affording a good market for their surplus manufactures and other articles;

5. Payment of the public debt at par, which was bought up at very low rates;

6. As a result from all these advantages, the protection of their population on the seaboard, by lessening the inducements to emigration.

Permit me, sir, to remind the gentleman from Massachusetts (Mr. LLOYD) that these advantages are not to be trifled with.

But, sir, I have heard it intimated that these advantages could be compensated by a connexion with Great Britain. Indulge me, sir, with an examination of this idea. A connexion between New England and Old England could only be for the benefit of the latter. They are essentially rivals in every occupation. First, in navigation; second, in exports. The exports of New England are principally fish and beef. It would be a great object with Old England utterly to destroy the New England fish market; and the Irish beef would come into an advantageous competition with the export of that article.

These are permanent points of competition, unalterably fixed in the nature of things. They cannot be altered nor destroyed by any sudden ebullitions of passion, nor by any connexion resulting therefrom.

Again, sir, what would be the effect of such a connexion upon the rest of the United States? In that case, the discriminating duties now in favor of the New England States would be turned against them, and would probably be given to the Middle States, and thus New England would be effectually excluded from carrying the bulky and heavy productions of the Southern States. Discrimination might even be made in favor of British ships. It is a matter of no consequence to the agriculturist whether his produce is carried to market in a New England or Old England ship. The only interest he has in the transaction is the price of his produce; and that could always be driven to its highest point by the competition of British tonnage and British capital alone, without taking into the estimate the tonnage and capital of the Middle States. The people of the Southern States are perfectly sensible of the local advantages their Eastern brethren enjoy from the operation of the General Government. But they envy them not—they revel in their prosperity; and the Southern people are pleased with the recollection that they contribute to their prosperity. They find, in return, their compensation in the general safety and protection. I do not mean safety and protection from any internal movements. Upon that point, I would agree with our Eastern brethren upon a reciprocal absolution from all obligation. I mean safety and protection against foreign aggression. Under this plain and obvious view of this part of the subject, Mr. President, I should be disposed to think that our Eastern brethren would be the last to desire to absolve themselves from the sacred obligations of the Constitution.

In the Southern States, we feel no resentments nor jealousies against our Eastern friends. There are no inducements with us to foster and encourage such unpleasant and mischievous feelings. The gentleman from Massachusetts (Mr. LLOYD) has ventured to interpose an opinion between Great Britain and France, respecting the character of the quarrel between them. He has ventured to say, sir, that France is fighting for lawless domination, whilst Great Britain is fighting for her *natale solum*—for her national existence. Sir, in my opinion, it must be inauspicious to the interests of the people of the United States when their rulers not only feel, but express sympathies in favor of one of the belligerent Powers; and surely, sir, the gentleman must feel no small sympathy for one of the belligerents, if he believes the character of the quarrel to be such as he has described it.

In my judgment, sir, the United States have nothing to do with the character of the quarrel of the belligerents: but I differ entirely with the gentleman on this point. I believe the character of the quarrel is precisely the same on both sides—they are both fighting for lawless domination; and I believe that Great Britain has full as much chance of conquering France, as France has of conquering Great Britain. The only difference between them consists in the difference in the objects of their lawless domination. France claims dominion on the land, Great Britain on the water; they are both equally hostile to us.

The difference to us consists only in the different degrees of force they can bring to bear upon us—in this respect Great Britain does us most injury. We are, thank God, remote from the influence of French power—but the power of Great Britain extends to our shores. France, when she can, seizes and burns our vessels—Great Britain having more power on the ocean, seizes, and confiscates them. The only limit of their hostility is the limit of their power. Both are equally the objects of our just resistance and punishment if we possess the power.

I rejoice that I have heard no apologist for France on this floor, nor anywhere else. I feel, sir, a condescension in introducing, for the purpose of denying, the idle and ridiculous tale of French influence, which has so disrespectfully and disgracefully to our country, been circulated by newspapers. Sir, this idle and ridiculous tale of French influence, I have strong reasons to believe, was originally suggested by British influence. The tale was probably invented by the British Cabinet about the same time of the inven-

tion of the tale respecting the secret article of the Treaty of Tilsit, that the Danes had agreed to give up their fleet to the French Emperor to facilitate his invasion of Great Britain. This tale I believe Lord Hutchinson has since pronounced, in the British Parliament, to be a falsehood. About the same period this same energetic British Cabinet probably determined upon the destruction of American commerce, although the Orders for that purpose were not actually issued for several months afterwards. Some tale was thought necessary for the justification of the act, and the suggestion of French influence operating upon our councils was probably the one suggested.

I have heard it said, and believe it to be true, that the Governor of Nova Scotia made the suggestion, in a letter addressed to certain British partisans in Boston. It is hardly to be presumed, that he would have taken upon himself the responsibility of such a suggestion, without the authority of the Cabinet. I am inclined to think that this fact could be proved in a court of justice. Perhaps there may be gentlemen here from Boston, who could give us more particular information upon this subject. I feel, sir, a condescension in touching upon this subject. I wish to see all extraneous influence utterly banished from the country, and the only operating influence—American influence.

I have now, sir, gone through this unpleasant, and, I fear, unprofitable discussion, respecting the character of measures heretofore adopted by the Government; the only hope I have from it is, that it may put us into a better temper for deliberating on the measures now proper to be adopted. Let me then, Mr. President, call the attention of the Senate, to the situation of the United States at this time.

The United States are now left alone to protect neutral principles against the belligerent encroachments of a warring world. In all former wars, the belligerent encroachments have been proportioned to the influence of the Powers at war, compared to the influence of those remaining at peace; but I believe history presents no example of the warring Powers at any former time putting at defiance all neutral rights, all public law. It remained for the present times to witness this unexampled aggression; and it remained for the United States alone to bear the shock. This state of things imposes on them a great, a sacred obligation; the obligation of protecting neutral principles—principles which lessen the inducements to war, and mitigate its rigor—principles highly interesting to mankind; not only to the present, but to future generations, and, in a peculiar manner, to the people of the United States. This arises from their remote situation from the great contending nations of Europe. Hitherto, sir, the talents displayed in defining, and the magnanimity in protecting these principles, have obtained for the United States the respect and sympathy of an astonished world. And shall we, sir, at the moment of extraordinary pressure, basely abandon them without striking a blow? Forbid it interest! Forbid it honor! Forbid it American gallantry! But, sir, some gentleman seem sufficiently impressed with the hostile character of the belligerent aggressions. With respect to those of France, there is but one opinion. They amount to hostility itself. But, sir, to my astonishment, the acts of Great Britain seem not to have made the same strong impression on the minds of some gentlemen. Let me then inquire, sir, into the real charater of acts, which can by some gentlemen be palliated or excused? They are acts amounting to colonization and taxation; to the exercise of the national sovereignty of the United States. Great Britain has even gone so far, as to exercise an act of sovereignty over the people of the United States, which they would not intrust to Congress, but retained to themselves in their highest sovereign capacity.

The British Orders of Council, now sanctioned by an act of Parliament, direct all vessels laden with the produce of the United States, destined to any of the ports of the enemies of Great Britain, to call at a British port, and then to pay an enormous transit duty, and accept a license for the further prosecution of the voyage; and upon refusal, they are forced to do so by British armed ships. This is literally and precisely the introduction of the old and long established colonial principle, of coercing all the commerce of the colony to the ports of the mother country, there to pay a transit duty for their protection by the mother country. In the Colonial state, the mandate of the mother country was sufficient to effect this object. Now the same object is effected by an armed force. This is the only real difference in the two cases. But, sir, this is not all; Great Britain has attempted, by an act of Parliament, to exercise an act of sovereignty over the United States, solemnly given by the people to their Congress. Among the powers given to Congress, I find these words: "Congress shall have power to regulate commerce with foreign nations," &c. Now, sir, permit me to read an act of Parliament, and see whether it does not only impose a tax upon American productions, but also exercises this act of national sovereignty delegated by the people to Congress:

"And whereas it is expedient and necessary, in order effectually to accomplish the object of such orders, that duties of customs should be granted upon certain goods exported from Great Britain; we, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom, in Parliament assembled, do most humbly beseech your Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this act, there shall be raised, levied, collected, and paid unto His Majesty, his heirs and successors, upon all goods, wares, and merchandise, enumerated or described in the tables, A. B. and C., annexed to this act, exported from Great Britain, the several duties and customs, as the same are respectively described and set forth in figures in said tables."

In those tables, marked A. B. C., are to be found

productious of the United States. It has been said, that Great Britain may lay an export duty upon goods within her ports. That is readily admitted—it being a mere municipal regulation. But Great Britain has no right to compel our ships to carry our productions into her ports, for the purpose of imposing duties thereon; and this is the act regulating our commerce, of which I complain.

Again, sir, Great Britain has attempted by this act of Parliament to lay an export duty upon the productions of the United States, a power not even intrusted to the discretion of Congress. I find in the Constitution, these words: "no tax or duty shall be laid on articles exported from any State." Here then is an express prohibition to Congress against laying a duty on any articles exported from any State; yet Great Britain has attempted, by an act of Parliament, to lay an export duty on cotton exported from one of the United States—an authority which can only be exercised by the people in their highest sovereign capacity. It is true, sir, that Mr. Canning offered to commute this duty into an entire prohibition of the article, as an export from Great Britain. This, sir, was only adding insult to injury, and showed that Mr. Canning possessed very little knowledge of human character, if he expected to soothe the feelings by insulting the understanding.

I regret that so much respect was shown to this proposition, as to forward it to our Government. It would have been more agreeable to me, if the American Minister had thrown the proposition back upon Mr. Canning.

It is true, Mr. President, that the export duty is to be collected in London, and not in Charleston. But, sir, it is not the better in principle on that account; and it is worse in practice. A vessel sailing from Charleston, is to be forced into London, for the purpose of paying this tribute—better would it be to collect it in Charleston; because the circuity of the voyage would be saved, and many other vexations and expenses avoided which are now incurred by being forced into London, to make the payment. And if this measure were to be submitted to, I should not be at all surprised to see His Most Gracious Majesty, in the spirit of a mitigated retaliation, send out his collectors to the ports of the United States for the accommodation of our merchants. In that case, I presume, we should all admit it to be a duty imposed upon an article exported from a particular State. Are we, sir, not only basely to surrender to Great Britain our rights, intrusted to us by the people, but treacherously to them to surrender rights reserved to themselves in their highest sovereign capacity? And in a case like this, sir, can it be necessary to resort to argument, to rouse the indignant feelings of the American people?

Mr. President, the eyes of the world are now turned upon us; if we submit to these indignities and aggressions, Great Britain herself would despise us; she would consider us an outcast among nations; she would not own us for her offspring: France would despise us; all the world would despise us; and what is infinitely worse, we should be compelled to despise ourselves! If we resist, we shall command the respect of our enemies, the sympathies of the world, and the noble approbation of our own consciences.

Mr. President, our fate is in our own hands; let us have union and we have nothing to fear. So highly do I prize union, at this awful moment, that I would prefer any one measure of resistance with union, to any other measure of resistance with division; let us then, sir, banish all personal feelings; let us present to our enemies, the formidable front of an indissoluble band of brothers, nothing else is necessary to our success. Mr. President, unequal as this contest may seem; favored as we are by our situation, and under the blessing of a beneficent Providence, who has never lost sight of the United States in times of difficulty and trial, I have the most perfect confidence, that if we prove true to ourselves, we shall triumph over our enemies. Deeply impressed with these considerations, I am prepared to give the resolution, a flat and decided negative.*

* It was intended in the course of the foregoing observations, to show, that the British Board of Trade had, at length, undertaken to regulate our commerce with foreign nations, even when it did not pass through British ports. The paper intended to be offered as evidence of this fact, was then mislaid. It is now subjoined for that purpose.

"The Lords of the Committee of Council for Trade and Foreign Plantations having authorized us to make public the following answers to certain questions proposed by us to their Lordships, we publish them for the information of all whom they concern.

"THOS. BARING,
"A. GLENNIE.
"THOS. MULLETT.

"LONDON, 15th *August*, 1808.

"*Question* 1. His Majesty's Order in Council of the 4th of July, 1808, having ordered that all hostilities against Spain on the part of His Majesty shall immediately cease, and that the blockade of all the ports of Spain, except such as may be still in possession or under control of France, shall be forthwith raised—

"Can an American vessel proceed from a port in the United States of America, with a cargo, the produce of the United States, or colonial produce, direct to any port of Spain or Portugal, not being in the possession of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo the growth or produce of Spain or Portugal, without being liable to capture and condemnation, under the Orders of Council of the 11th and 25th of November, 1807, and the several acts of Parliament passed to carry them into effect?

"*Answer.* American vessels may proceed from a port in the United States of America with a cargo, the produce of the United States, or colonial produce, *provided such produce be not the produce of the enemy's colonies*, direct to any port of Spain or Portugal; such port not being in the possession or under the control of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo the growth or produce of Spain, or Portugal.

"*Question* 2. Can an American vessel, having en-

FRIDAY, November 25.

JOHN MILLEDGE, from the State of Georgia, attended.

The bill providing for the conveyance by mail, free of postage, of all public documents, to or from members of Congress, was read the third time; and on the question, Shall the bill pass?

Mr. ANDERSON observed that the committee of the Senate to whom the bill from the House of Representatives had been committed, had reported the bill without amendment, because they thought the principle objectionable. The committee had conceived that under this law any package, book, bundle of paper, or anything else might be franked. They had also understood from the Department, that the contractors for carrying the mail already complained of its great bulk, proceeding from the quantity of the documents and communications sent from Congress; and that were the present regulation to be adopted, great part of the mail must often be omitted, by which letters or communications requiring expedition and safe carriage might be mislaid or lost. These disadvantages the committee had conceived to be too great to be counterbalanced by the advantages to be derived from a saving to the United States, of the sum allowed to the Postmaster here on free packets, which he understood had been the chief reason for the introduction of the law. He wished, therefore, that the bill might be negatived.

And on the question on its passage, but three members rose in favor of it.

LEGISLATIVE INSTRUCTIONS.

Mr. PICKERING laid before the Senate a resolution of the Legislature of the State of Massachusetts, instructing their Senators and requesting their Representatives to use their endeavors to have the embargo laws repealed.

The House agreed that it should be read.

The Clerk was proceeding to read the instructions, when

Mr. ANDERSON objected to it, as he found it was the report of a committee which the gentleman had presented, and which he did not wish to be entered on the journal of the Senate.

Mr. PICKERING observed, that it was not merely the report of a committee, but the act of the Legislature, both Houses having concurred in it.

Mr. ANDERSON said he objected to its being read in any point of view, because it was a novel thing in legislation that instructions given by a State to its Representatives should be inserted on the journals of the Senate. He, therefore, moved a reconsideration of the motion for reading it.

Messrs. HILLHOUSE, WHITE, PICKERING, and LLOYD, opposed Mr. ANDERSON'S motion, contending that this was the mode in which the Legislature of Massachusetts had thought fit to express its sentiments of the measures of the General Government; that so much respect was always given to the memorial of an individual, as to suffer it to be read, and at least as much respect should be shown to the act of a State Legislature.

Messrs. ANDERSON and S. SMITH advocated the motion for reconsideration, contending that it was in nothing like a memorial from the State of Massachusetts, for whom they professed a great respect; that in no former instance had similar instructions been read by the Clerk of the House, except in the case of amendments to the Constitution, in respect to which every State had a Constitutional right to interfere. Mr. SMITH particularly stated an instance in which he had been prevented from presenting to the House resolutions of the Legislature of Maryland instructing him to oppose the erection of a bridge over the Potomac; which, however, he had read in his place, as a part of the debate, and which the gentleman from Massachusetts were certainly at liberty to do.

Mr. HILLHOUSE called for the yeas and nays on the question of reconsideration.

Mr. GILES taking his seat about this time requested, as he had not heard the discussion, that the farther consideration of the subject should be postponed till Monday next.—Agreed to.

The document is as follows:

Commonwealth of Massachusetts.

IN THE HOUSE OF REPRESENTATIVES,
November 15, 1808.

The committee appointed to consider "whether it will be expedient for this Legislature to adopt any measures with a view to procure a repeal of the laws of the United States interdicting to the citizens all foreign commerce, and imposing vexatious embarrassments on the coasting trade; to relieve the people of this Commonwealth from their distressed state, and to arrest the progress of that ruin which threatens to involve all classes of the community," beg leave to report:

That the committee perceive, with the most serious regret, that the distresses occasioned by the several laws imposing an embargo, have borne with extreme and increasing pressure upon the people, and every day's experience justifies a belief that a continuance of these laws must soon become intolerable. As measures of coercion they are now acknowledged to be altogether impotent. They afford satisfaction to France, and are regarded as ineffectual demonstrations of a hostile disposition by Great Britain. Upon our own country, their effects are becoming daily and palpably more injurious. The produce of our agriculture, of our forests, and of our fisheries, is excluded, altogether, from every foreign market; our merchants and mechanics are deprived of employment; our coasting trade is interrupted, and harassed by grievous embarrassments, and our foreign trade is becoming diverted into channels, from which there is no prospect of its return. The sources of our revenue are dried up, and Government must soon resort to direct taxation. Our sailors are

tered a port in Spain, previous to the commencement of hostilities by the patriots, against the enemy, proceed from such port with a cargo, the growth and produce of Spain, direct to a port in the United States, without being liable to a seizure and condemnation as above?

"*Answer.* An American vessel having entered a port in Spain, previous to the commencement of hostilities by the patriots against the enemy, may proceed from such port with a cargo, the growth and produce of Spain, direct to a port in the United States, without being liable to seizure and condemnation as above, *unless the vessel entered in breach of the Orders in Council.*"

forced to expatriate themselves. Strong temptations are afforded to systematical evasions of the laws, which tend to corrupt the spirit of honorable commerce, and will materially injure the public morals. In fact, the evils which are menaced, by the continuance of this policy, are so enormous and deplorable; the suspension of commerce is so contrary to the habits of our people, and so repugnant to their feelings and interests, that they must soon become intolerable, and endanger our domestic peace, and the union of these States. As the embargo laws have been the cause of the public distress, your committee are of opinion that no equal, permanent, or effectual relief can be afforded to the citizens of this Commonwealth, but by the repeal of these laws. They persuade themselves that the Congress of the United States must be fully impressed with a sense of the total inefficiency of these laws for any valuable purpose, and of their direct tendency to the most serious consequences. Your committee, therefore, trust that Congress will not fail to repeal them. In this confidence, therefore, your committee are of opinion that, upon this subject, the Legislature should, in its present session, confine itself to a repeated disapprobation of the laws interdicting foreign commerce, and to instructing our Senators, and requesting our Representatives in Congress, to use their utmost exertions to procure their repeal.

Your committee might, probably, have contented themselves with the preceding remarks, had not the late Message of the President of the United States excited the most serious alarm; which, in the present critical state of the country, they conceive it a duty to express. They perceive, with the most painful regret, that, in the estimation of the President, our country is now presented with the only alternative of a continued embargo, or a ruinous war; but they cannot hesitate to express their confident belief that the wisdom of the Government may yet find means to avoid the necessity of electing between these great public calamities. If, however, this severe necessity exists in regard to Great Britain, they are led by the Message to presume it results, in a great measure, if not entirely, from the determination of the Executive to adhere to the proclamation of July, 1807, interdicting all British ships of war from the waters of the United States; which has been, and, as we infer from the Message, is still, deemed by the British Government, a measure so inhospitable and oppressive, if not hostile in its character, as to form an insuperable obstacle to amicable adjustment.

Upon this delicate and important subject, the committee are far from asserting that the attack on the Frigate Chesapeake did not justify the original issuing of this proclamation, and enforcing it so long as the injury might be presumed to have the sanction of the British Government. But, as the violation of neutral rights was promptly and explicitly disavowed by the Sovereign of the aggressor, before the remonstrances or measures of our Government could be known; as the right to search our national ships was expressly disclaimed, and a special envoy deputed for the professed object of making to our Government a full, satisfactory, and public reparation, on the simple condition of a previous revocation of this proclamation; your committee are constrained to declare their opinion, that such a revocation, under such circumstances, would not have involved any dishonorable concession, or an abandonment of any just right or pretension, but would have been a fair, reasonable, and magnanimous pledge of the sincerity of the wishes of the American Government to restore the accustomed relations of peace and amity between the two countries. This course must have compelled the British Envoy to have offered that ample and honorable reparation, which would have been deemed by our own nation, and by the world, an adequate atonement for the outrage; or have justified, in the event of the refusal, not only the renewal of the proclamation, but the adoption of measures of the most rigorous and hostile description.

But, even on the presumption that the course adopted by the Government, in refusing to revoke the proclamation as a preliminary to the adjustment of that controversy, be sanctioned by the usages of nations, and the justice of our claims, your committee are still of opinion that a punctilious adherence to diplomatic forms and precedents should not be maintained, at the risk of war, by a nation whose genius and policy are pacific; and which, while justly jealous of the national honor and independence, looks principally to the substantial security of those blessings and regards as insignificant those petty contentions which, originating in courtly pride and vanity, frequently terminate in bloody wars. And they therefore think, that this proclamation ought not, in the present situation of Europe and this country, to remain as the only, or even as the principal barrier to the restoration of our amicable relations with the British nation.

Your committee, therefore, ask leave to report the following resolutions:

Resolved, That the Senators of this Commonwealth in Congress be instructed, and the Representatives thereof requested, to use their most strenuous exertions to procure an immediate repeal of the various laws imposing an embargo on the ships and vessels of the United States, as the only equal and effectual means of affording permanent relief to the citizens of this Commonwealth, from the aggravated evils which they now experience.

Resolved, That, although this Legislature would cheerfully support the General Government in the prosecution of a just and necessary war, yet they cannot perceive the necessity, intimated in the Message of the President to Congress, of continuing the embargo, or resorting to war; that it is not the policy of the United States to engage in a controversy with any nation, upon points of diplomatic usage, or equivocal right, provided substantial reparation for injuries can be obtained; and that the revocation of the proclamation interdicting the British ships of war from our waters, ought not, in the opinion of this Legislature, to be deemed an inadmissible preliminary, which should obstruct the adjustment of the controversy between the United States and Great Britain.

IN THE HOUSE OF REPRESENTATIVES,
November 15, 1808.

Read and accepted—Sent up for concurrence.

TIMOTHY BIGELOW, *Speaker.*

IN SENATE, *November* 16, 1808.

Read and concurred.

H. G. OTIS, *President.*

Commonwealth of Massachusetts.

IN SENATE, *November* 16, 1808.

Ordered, That the President of the Senate and Speaker of the House of Representatives be requested to transmit to each Senator and Representative from this Commonwealth, in the Congress of the United

States, an attested copy of the report of the committee and resolutions of the Legislature, passed at the present session, respecting the expediency of the existing embargo, and of other subjects connected therewith.

Sent down for concurrence.

IN THE HOUSE OF REPRESENTATIVES,
November 17, 1808.

Read and concurred.

SIR: In conformity to the foregoing order, we have the honor to transmit to you a copy of the resolutions therein alluded to, and are, respectfully, your most obedient servants,

H. G. OTIS.
TIMOTHY BIGELOW.

NOVEMBER 18, 1808.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

Mr. LLOYD rose and addressed the Senate as follows:

Mr. President: I feel impelled, sir, by a sense of duty, and by the observations of the honorable gentleman last up, (Mr. GILES,) to make some further remarks on this subject.

When I had the honor before to address the Senate, I did not enter into any numerical statements, which, as a mercantile man, might have been expected from me, of the value of the trade which would yet remain to be prosecuted from the United States, notwithstanding the existence of the French decrees or the British Orders in Council; nor did I enter into any detailed examinations of the different degrees of suffering sustained by different sections of the United States, in consequence of the existing situation of our affairs. The reason why the latter was omitted will be presently mentioned. The reasons for not noticing the former were, that having seen so many details in the newspapers and other ephemeral publications, founded apparently on correct data, that I did not consider it necessary to lay any further sentiments on this subject before gentlemen who must be so well informed as the honorable members of this House. But, sir, I had other reasons: having been recently introduced into the Senate, not being much accustomed to public speaking, and being very unexpectedly called into debate, I felt desirous to take up as little time of the Senate as could be done with propriety, being much more disposed to listen to the arguments of other gentlemen than to obtrude upon them any remarks of my own.

When I objected to the postponement on the first day of the debate, it was not my intention at that time to have expressed my sentiments on this subject; but I had hoped to have heard the gentleman from Virginia, who addressed you yesterday, and whom I had observed taking notes for the purpose. Had I been present and heard the observations of the gentleman from Kentucky, (Mr. POPE,) which I have since seen in the newspapers, I should not have objected to the postponement, as it will always afford me pleasure to meet with civility and respect the wishes of any member of the Senate.

To do away any erroneous impression which may exist, these observations are perhaps not wholly useless.

When I before rose, sir, no gentleman in opposition to the resolution had then spoken on it; and having risen unexpectedly, I could only rely on conjecture for the grounds of that opposition. When I came to this city, from the general public impression abroad, my expectation was, that the embargo would be raised. The question then was, if the embargo were raised, what was next to be done? Of the leading gentlemen with whom I conversed, some had said we must have war; that the question would come to this point in a month; some, that we must fight with both the belligerents; some, with one of them. As I was not Quixotic enough to think of fighting at the same time with the two nations, who commanded nearly all the force of Europe, the question, in my mind, for the consideration of Congress, was narrowed to this point: ought we to go to war with France or with Great Britain? And from this view I made the discrimination between the circumstances of those two Powers when last I addressed you; and I have now no hesitation to say, if we must have war, it would, in my opinion, be preferable to have war with France rather than with Great Britain.

A great deal has been said in relation to the Orders in Council, and the act of Parliament under them, imposing a duty, tax, or tribute—call it what you please—on the transportation of American merchandise from Great Britain to the ports on the Continent. I shall say but a few words more on that subject. France says you shall not go to England on any terms; England says you may go to France under certain conditions. Now, sir, as I have been taught to believe that the whole includes all its parts, I do not see by this how a limited exclusion can be more than a total one. England then, had not, in this instance, behaved worse than France: they have both behaved bad enough. Still, after making these observations, I wish not to be misunderstood. The regulation is an offensive one; and if any gentleman will bring in a bill making it highly penal for any American owner or master of a vessel to purchase this license for proceeding on his voyage from the United States to the ports on the Continent, through the medium of Great Britain, or should pay the tax, and proceed, after being coerced into a British port, I will cheerfully unite with him in passing such a law.

With regard to the Orders in Council, the British say they are measures of retaliation, to be retracted as soon as the decrees which occasioned them shall have been withdrawn on the part of France. Gentlemen say they do not believe these professions; but that Great Britain has deeper and more hostile views than these; that she is jealous of the prosperity of the United States,

and fears them as a commercial rival; that she wants to cripple and destroy our trade. Admitting this to be the fact, (and very possibly it may be in part well founded,) what does your embargo effect? I contend that it is an act of absolute submission to her. This is strong ground, and I wish to have it noticed. Suppose Great Britain has the dispositions you attribute to her; she will not now attempt to enforce them; she dare not attempt to drive you from the ocean, because her own interests would at this time be materially injured by it. Suppose she were to attempt it, what would be the consequences? Suffer even the merchants to arm their vessels and their convoys, and their minor cruisers would occasionally experience some unpleasant rencontres. In adjusting the depending accounts of her merchants with this country, she would sustain some inconvenience; and she would also be obliged to submit to the loss of her colonies on the continent of America, now become doubly dear to her, from their recent prosperity, and from the supplies she is drawing from them for the support of her settlements in the West Indies. Now, sir, what does the embargo effect? By it you are doing for Great Britain, without any inconvenience to her, precisely that which she will not venture to do for herself. Great Britain says, you shall trade only partially; and you agree to trade not at all. The continuance of the embargo is, therefore, complete submission to her.

Much has been said about British influence, and certain passages have been read from the memorial of the merchants of Boston, for the purpose, as I suppose, of demonstrating an inconsistency in their opinions in 1806 and at the present time. I have not seen the paper for these two years, but there is no inconsistency in it; the sentiments entertained then are the sentiments entertained now. Great Britain violated our neutral rights; the merchants of Boston complained to their Government in pointed terms, and called on it for protection and redress against Great Britain. Was this an evidence of British influence? The charge, however, existed at that time as well as at the present; but the scene is changed; we had not then a Berlin decree, a Milan decree, a Bayonne decree; our vessels had not been wantonly burned on the ocean, nor had we received any letters from Champagny.

And on this subject what says the Secretary of State to General Armstrong? He tells him that "the burning of neutral vessels detained on the high seas is the most distressing of all the modes by which belligerents exert force contrary to right, and in proportion as it is destitute of apology ought at least to be the promptitude and amplitude of redress." Has this redress ever been obtained? To my knowledge or belief it never has. The merchants of Boston, therefore, probably think that a war with France would now be more for the honor and the interest of the United States than a war with Great Britain. For thinking this, are they justly chargeable with being under British influence? This is an old story. I shall take none of it to myself, nor admit any of its allusions. I challenge any one to produce a shadow of plausibility for any such imputation. I know they were not meant as personal allusions.

Notwithstanding all that has been said, the gentleman from Virginia still considers the embargo as a coercive measure; and if it is not, I know not what good it can effect; and if this good be not effected, then it ought not to be persisted in.

The gentleman seems to think, that by this continuance, Great Britain may still be seriously affected by her want of breadstuff, of timber, of tobacco, or of cotton. Sir, I am sorry that in this discussion we have to refer so much to foreign nations, and sometimes to appear to place their resources in opposition to our own; but I know of no other way in which to take into consideration the propriety of this embargo, or the effects that are likely to be produced from it. The statements, if correct, must be known to them, if not to ourselves; and we ought also to know them.

The gentleman from Virginia thinks that the want of our breadstuff will affect Great Britain. From his extensive knowledge, he must know that the annual consumption of grain in Great Britain is estimated at about one hundred and fifty millions of bushels; that the whole of our exports, converting the flour into wheat, is about seven millions three hundred thousand bushels. Now, admitting that every kernel of this grain used to be sent to Great Britain, (which is very far from the fact,) does the gentleman expect seriously to operate on Great Britain by retaining within our ports five per cent. of all the grain she consumes? Surely not, sir.

The gentleman also thinks that the want of our timber may affect her. Does he recollect that she now has at command the forests of Sweden, of Canada, Nova Scotia, New Brunswick, and the whole coast of South America? With these resources, is it possible that she can want timber? No, sir; and the worst evidence of it for us is, that she has just laid such a new duty on timber from the United States as, if the trade were now open, would amount to nearly a total exclusion of it.

Will she want tobacco? There are gentlemen on this floor so much better informed respecting this article, that I shall say little about it. It is not a necessary of life; and what is produced in the West Indies, the Carracas, the Brazils, and the Spanish provinces, must, I should presume, be sufficient to prevent the embargo from affecting her by this commodity.

Does she want cotton? Yes, sir, she does. Although the mention made by the gentleman of the "bad trade at Manchester," is not a very happy illustration of the fact, too lively an interest cannot be paid to this article by the Government of the United States. It is the great staple of the country, and more especially of the Southern States. Great Britain imports seventy millions of pounds of cotton annually. The exports from the United States of this article amount to above sixty millions of pounds; of this, Great Britain takes about two-thirds; say, however, she receives

from us forty-five or fifty millions of pounds in a year, and that this supply is very important to her manufactures; the question then is, whether, if we abstain from all intercourse with her, she can supply herself elsewhere? I fear she can. In addition to the increasing supply from her own West India colonies, the Brazils can furnish fifteen millions of pounds. The annual export of cotton by the British from Bombay to China is from fifteen to twenty millions of pounds, which can be sent to Europe with a profit. Here, then, are at least thirty millions of pounds. The cultivation of cotton in Bengal is progressing, and Spanish America will further increase the stock. But I fear we have in our own neighborhood a much more formidable competitor than can arise from any of the beforementioned places; the commerce of the whole coast of Guiana is under the control of Great Britain: a coast of three hundred miles in extent, as well calculated for the production of the best kind of cotton as any in the world. Until within a few years, it scarcely produced any quantity of importance. It now brings into the market more than fifteen millions of pounds annually, and is considered as being capable of producing, in a few years, more than sixty millions of pounds.

One of the worst effects of the embargo is, that it has trumpeted abroad what we never ought to have divulged; it has taught other nations the secret of their own self-dependence; it has induced them to seek new avenues of commerce, and when we are ready again to trade with them, it is greatly to be feared that they will not leave their new to return to their old customers.

The gentleman from Virginia (Mr. GILES) thinks the embargo may be considered as a fortunate measure; that the people in his part of the country are contented with it; that the interior is improving; that Philadelphia has increased, and so have Georgetown and Washington; that the condition of the farmers of his neighborhood is ameliorated; they cultivated too much land before; they now raise less produce, but they are better situated. If this reasoning of the gentleman be sound, pursue the amelioration still further, and he will find his countrymen becoming exceedingly wealthy when they possess nothing at all. I am glad, however, to hear that any part of our country is in a prosperous situation. I should rejoice were the country whence I came similarly circumstanced. With us, industry is paralyzed; our produce is rotting on our hands, and real estate has become nearly unsaleable. This may in part arise from the difference in the nature of our produce. The principal products of Virginia are, I believe, wheat, corn, and tobacco. The gentleman says our exports are beef and fish. These are among the principal. Cattle cannot be sold while beef cannot be exported; and must, therefore, be killed and lost, or kept on hand for better times, at an expense perhaps exceeding its value. In little more than twelve months the fish must return to the ocean in a much more worthless state than it was received from it; while the tobacco of Virginia for a time improves from age, and the grain, with care, may be kept two or three years without essential injury.

The gentleman from Virginia also says that the Constitution of the United States has mostly benefited the Eastern States; that it is immaterial to the Southern and Western States who are the carriers of their produce; the discriminating duties in favor of American shipping are nothing to them; that the Northern States hold the public debt; and, I understood him to say, that the Southern States protect them.

The Constitution, sir, was a matter of compact; the partners to which, like the parties to all other contracts of the kind, probably surrendered something of their individual advantages for the general benefit.

Have the Middle and Eastern States surrendered nothing? For what reason is it that Northern citizens, on the floor of the other branch of the National Legislature, have not an equal representation with Southern citizens? It is because it was part of the compact; it was a concession made by the Eastern States; and for what? for the protection of their commerce. How was this expectation expressed at the time of the adoption of the Constitution? Emblematical representations of commerce and navigation, ships in miniature, were drawn triumphantly through the streets of all the principal seaports in the Eastern States, as indicative of the expected protection to commerce from its adoption. Without American navigation, how would Southern produce have found a market for the last ten years?

As to the public debt, it has nothing to do with the question, unless you wish to criminate those who showed most confidence in the stability of your Government.

With regard to protection, sir; against whom do the Northern States want protection? They have no internal enemies nor enemies on their frontiers, against whom they cannot protect themselves. The assistance of the Southern States may be useful in protecting their commerce from European enemies. If this can be done, and they can have an open trade, it is all they ask.

The drawing parallels of the different degrees of suffering in the different sections of the Union is an unpleasant task; but, in my opinion, my duty requires it. I cannot believe, with the gentleman from Virginia, that any part of the United States is prospering under the present state of things. No, sir; we are all suffering too much. He does not agree with other Southern gentlemen, and among them with his colleague. I think he stated that Virginia, he believed, suffered as much as the Eastern States. This ought to be understood. For a national object our sufferings ought to be nearly equal. I will, therefore, make a short statement, to show how the State of Virginia and the State I in part have the honor to represent, (Massachusetts,) are relatively affected by our present situation. They are both great States.

By the returns from the Treasury Office, it appears that, in the year ending September 30, 1807,

Virginia exported of foreign produce to the amount of - - - - -	$367,713
Massachusetts - - - - - -	13,926,377
Virginia exported of domestic produce to the amount of - - - - -	4,393,521
Massachusetts - - - - - -	6,185,748

Thus, then, Massachusetts exported, of domestic produce, half as much again as Virginia, and more than thirty times as much foreign merchandise.*

But, sir, take another view of it. Large as it may be, take no account of the whole amount of the exports of Massachusetts, as above stated, about twenty millions of dollars; retain in the account all the exports of Virginia, about five million of dollars; taking it in this confined point of view, which suffers most?

The inhabitants of Massachusetts, in general, cultivate a soil which yields to their unremitting industry the necessaries of life, but affords none of the great staples of the Southern States; still they envy not their Southern brethren the possession of a happier climate, or a more fertile region. They do, however, consider the ocean, which the bounty of the God of nature has spread before them, as in some degree their property; they consider the use of it as their birth-right, as an inheritance bequeathed to them by their ancestors. Those of them who live on the seaboard look to it as the principal means of their subsistence; their vessels are, therefore, to them what his farm is to the Virginian.

Of the whole tonnage of the United States, Massachusetts possesses more than one-third. She has 450,000 tons; Virginia has 69,000 tons. Deduct these 69,000 tons, and estimate the residue at two dollars per ton a month, which is about the common rate of charter in times of active employment, and it will give upwards of nine millions of dollars for a year. Discard from this statement nearly one-half the sum on account of the embarrassments on our foreign commerce, which might remain after the embargo was raised; for the remnant of the coasting trade which is yet prosecuted; for occasional want of employment, and for other incidental deductions, and there will then be left a sum, lost to the owners of navigation in Massachusetts, not much less than the entire amount of the exports from Virginia, as stated in the returns; with this difference, that the produce of Virginia yet remains, and one-half, or one-third, or a greater proportion of its value may be now had, or may be obtained when the embargo shall be raised. Not so with the produce of navigation; that is totally lost; it does not exist nor remain on hand like cotton or tobacco.

I regret extremely that the situation of different parts of the Union is, to my view, so different, and that a sense of my duty to my more immediate constituents requires me to make the contrast; but, be it what it may, the independence of the country is to be preserved at all hazards; and the people of Massachusetts will, I trust, always manifest a love of order and of patriotism which will carry them through every danger which menaces them, and through every danger which menaces the Constitution.

Gentlemen opposed to the resolution say, that those who have brought it forward propose no substitute for the embargo; and the gentleman from Virginia says, that I in particular have given no intimation on this head. I have no reserve in my opinion on the subject. I am free to say, remove the embargo, suffer the merchants to arm their vessels, put the nation in a state of defence, and assert your well-established and indisputable rights, or perish in the contest.

When Mr. LLOYD had concluded—

Mr. MILLEDGE observed that as he had but this day taken his seat, and had always been in favor of granting time to others, he wished that its further consideration should be postponed till Monday next. Agreed to without opposition.

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* How far the coasting trade may vary this statement is uncertain, as there are no documents before Congress specifically showing the state of it. On the one hand, a considerable quantity of the produce of Virginia is shipped from the seaports of other States; while, on the other, Massachusetts also ships to the same ports very large amounts of India and European merchandise, as well as considerable quantities of domestic produce and manufactures. And the India and China trade from Massachusetts alone, must amount to at least two millions of dollars more than their proportion of the amount as stated in the documents, owing to the principal part of that trade being prosecuted with specie, which is not included in the returns.

MONDAY, November 28.

Mr. THRUSTON, from the committee to whom was referred the bill to reward Andrew Joseph Villard, for an invention of public utility, reported an amendment; which was read; and ordered to lie for consideration.

On motion, by Mr. WHITE,

Ordered, That the report of the Secretary of the Treasury respecting roads and canals, made the 4th of April last, together with the memorials of the President and Directors of the Delaware and Chesapeake Canal Company, of 1st December, 1805, and 10th January, 1807, be referred to Messrs. WHITE, REED, MITCHILL, ANDERSON, and POPE, to consider and report thereon by bill or otherwise.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

Mr. S. SMITH rose and addressed the Chair as follows:

Mr. President: When I last had the honor to address the Senate upon the subject now under consideration, to wit, the repeal of the laws laying an embargo, I took occasion to observe, on the transit duty, or tribute laid by Great Britain,

on certain articles, the produce of the United States, when exported to the countries where they are usually consumed on the Continent of Europe. It may not be improper for me to pursue that subject so far as the said tribute is imposed on all the articles usually exported from the United States to the Continent of Europe. I then spoke from memory, but find I was correct as to the amounts on the articles mentioned. I observe, however, a mistake by one of the stenographers, in the word *sterling*, in the article wheat, when I meant the *currency* of my country. By the act of Parliament, of the 28th March last, duties on exports are said to carry into effect the Orders of Council. I shall not notice any but those charged on the products of the United States. It will be recollected that I have already stated that none of the products of the United States can be carried to the Continent of Europe without being subject to capture by British cruisers, unless they shall first be carried to, and landed in Great Britain, and there pay a transit duty, or tribute; of course, all articles the produce of the United States are subjected to that tribute on their way to the countries, so far as they consume the same. On the following articles, those duties or tribute attach, to wit:

American Produce.—Indigo, 45 cents per lb.; Pitch, 95 cents per bbl.; Tar, 95 cents per bbl.; Turpentine, 78 cents per cwt.; Rice, 45 cents per cwt.; Tobacco, per 100 lbs. $3; Cotton, 16 cents per lb.; Timber, staves, and lumber, a prohibitory duty; Ashes, $2 22 per cwt.; Corn, 15 cents per bushel; Wheat, 28 cents per bushel; Flour, $2 per bbl.; Fish, 90 cents per cwt.; Pork, $6 86 per bbl.; Beef, $3 33 per bbl.

What amount would cargoes of some of those articles pay of tribute?

A ship carrying 1,000 bags of cotton, will pay a tribute of $50,000, being about the value in South Carolina; to which add merchants' commission, and other charges of port, of $2,000.

A cargo of 400 hhds. of tobacco will pay, of 1,000 weight each, $11,100

A cargo of 3,000 bbls. of flour will pay $6,650.

A cargo of fish, as I am informed, (for I am unacquainted with the number of quintals carried by a ship of 300 tons,) will pay from $3,500 to $4,000.

Double insurance, double premium, double merchants' commission, insurance, and other charges not noticed—I leave that for the calculation of others.

It is true the King may suspend or alter any part of the act as he shall see proper, and the continuance of the act is only to the end of the next session of Parliament. It is to be hoped that England will see the error which she has committed, as well as it affects her own interest, as also the deep wound inflicted on the honor and interest of her most useful customer. But, sir, if we retract from the stand which we have taken, will she not think, from the instability of our councils, that she may proceed in her system of monopoly, until every branch of our commerce shall be extinguished? But, Mr. President, does the British nation lay similar duties of export on similar articles from her own colonies or her allies? She has heavily taxed the colonial produce carried in American ships in her ports on exportation, but her own coffee, sugar, and other colonial articles, are still exported free of duty; thus enabling her to undersell in the ports of Europe similar articles carried there, the property of Americans. But, says the gentleman from Connecticut, (Mr. HILLHOUSE,) this tribute is a nullity of itself, for the decrees of France caused all goods that have been landed in England to be seized and condemned on their arrival; of course, he presumes that none will go there: he is mistaken, Mr. President; if the articles shall promise a profit on the Continent, men will be found (and many will do it) that will pay the tribute in England, (and this the English Minister knows,) and who will contrive ways and means of admittance. Is this visionary? No, sir; what has been done, and is done every day, will be pursued when profits sufficient offer the temptation; what then has been done? American ships arriving in the port of London have been chartered (unknown to their owners) to proceed to Holland with a cargo of British coffee, sugar, and other goods, at an enormous freight. The American crew, except the captain, is discharged; a new crew of Englishmen taken on board, to each of whom a promise is made, beside the usual wages, of a large sum, perhaps 50 or 100 guineas, to be paid on the performance of the voyage. They are told that they must declare, if questioned, that the vessel has come direct from America; that she has not been visited by any British cruiser, and has not touched at any British port. Papers forged in England—for the English, Mr. President, are great manufacturers, and have a manufactory of all the papers and documents usually necessary for an American ship. Every paper, even to the merchant's oath, that the property is his, that no foreigner is either directly or indirectly concerned therein; the Consular certificates of origin, of the French or Spanish Consul, as the case may be, showing that the cargo on board had been imported into the United States from some French or Spanish colony; every seal of office so completely imitated, that no man can know the difference. The ship thus provided proceeds to Holland. The Dutch, Mr. President, are hostile to those decrees of France; all are willing to countenance this trade; very little inquiry is made there; the trade is winked at by all the officers of Government, and thus carried on with security. Now, Mr. President, as this trade can thus be carried on, I will ask the honorable gentleman from Connecticut, whether the temptations being great, it will not be carried on by our people, and the tribute paid, for without paying that they cannot escape the vigilance of the British cruisers; they will go into England, they will pay the tribute, and pursue their voyages; and what right shall we have to say they do wrong in so doing? What right has Government to expect individual patriotism, when opposed to individual interest, when the Government itself

sacrifices the honor and independence of the nation to sordid interest? Take off the embargo, Mr. President, and will not men say, our Government has acquiesced in the tribute, laid upon commerce by Great Britain? We therefore do no wrong in paying it; we do what every prudent man will do, make our property as safe as possible, and pursue our trade; for we well know that if we do not stop and pay the tribute in England, our ship and cargo must fall a prey to British depredations. We will therefore go into England, pay the tribute, and take our chance to evade the decrees of France. Yes, Mr. President, and it will become such a trade as will in a very short time meet with security by insurances, and that at no very high premium. Again, those vessels returning with articles for the consumption of the United States must stop in England, (or subject themselves to capture,) there land their cargo, and pay tribute, before they can proceed to their own country. Is this a state to which the gentlemen wish to reduce their country? Are they willing to pay tribute to Great Britain? If they are, take off the embargo, and you encourage further aggressions, and further exactions. Sir, there will be no end to them; we had better have remained colonies than submit to such a state of degradation.

Let us take a view of some of the principal articles thus charged, that we may know in what countries they are usually consumed. *Cotton*, an article of such importance, that its value may be considered as amounting to nearly one-fourth of the value of all the exports of the produce of the United States. Two-thirds, some say less thereof, is required for the English manufactures, when in full work; and one-third for the Continent of Europe. Under the Orders of Council, that one-third, or twenty millions of pounds of cotton, are prohibited from proceeding to its usual place of consumption; of course that one-third must either remain on the hands of the planter, or be shipped to England, where it cannot be consumed, and thus reduce, by so large a surplus, the price of the whole.

Flour.—This article is seldom wanted in France, for France exports the article; nor in England, for home consumption, except when there is a defect in the harvest. It is principally exported to Spain, Portugal, and Italy—to those countries we are forbid to carry it, by the Orders of Council, unless we submit to pay two dollars on each barrel, which two dollars must necessarily be taken off the price in this country, and thus operate as a tax upon the farmer of two dollars per barrel.

Tobacco.—This article is consumed principally on the Continent of Europe—only about one-seventh thereof, or 14,000 hogsheads per annum, is believed to be consumed in England; the residue, or 76,000 hogsheads, per annum, usually consumed in Germany, Holland, and France, must either remain in the tobacco houses of Virginia and Maryland, or go to rot in the King's warehouses at London; or, if removed from thence, subjected to a duty of three dollars per hundred pounds. This is peculiarly hard on the State of Maryland, for of the 14,000 hogsheads exported by that State, not more than 500 or 600 hogsheads is believed to be consumed in England; the residue, say 13,500 hogsheads, can alone find a market in the ports of Holland and Germany, to which countries the English say we shall not carry it; therefore, the taking off the embargo would operate no relief to the numerous and respectable body of planters of the State which I have the honor to represent.

Fish is consumed only in France, Spain, Portugal, and Italy. To these countries we are forbidden to go with this article. It is not candid in gentlemen to state to the Senate, that the embargo compelled the owners of fish to keep that article to rot upon their hands, when it is well known that many vessels were compelled, after having made their voyage to the coast of Europe, to return home with their cargoes of fish, the English not permitting them to enter the ports of their destination. It is true a small portion of the fish caught by the people of the United States is consumed in the West India islands. Gentlemen may be deceived by looking at the report of the Secretary of the Treasury, when they see the large amount stated to be shipped to Great Britain, of the products of the United States. Almost all our business passes, in some way or other, through the hands of British merchants, either by consignments or remittances. By shipping to their address, the American merchant is permitted to draw bills of exchange for a proportion of the amount on the British merchant. The ship proceeds to Cowes or Falmouth, and there receives the order of the London merchant to proceed to the country where the best market can be obtained for their articles; and in this way the export to England is swelled to a large amount, when, in truth, the consumption is in other countries.

The gentleman from Connecticut (Mr. HILLHOUSE) says that the embargo tends to demoralize our people. I fear, Mr. President, that the payment of tribute in England, and the perjury employed to evade the decrees of France, will not only demoralize and degrade them in the eyes of all Europe, but also in our own estimation.

When I was last up, I took a view of the exports still left to the people of the United States, not implicated either by the decrees of France or the orders of England. In answer, the gentleman from Delaware (Mr. WHITE) has stated that (the decrees of France and Orders of Council notwithstanding) there would still be an export free to the United States of four-fifths of the amount exported therefrom. The gentleman from Massachusetts, (Mr. LLOYD,) more cautious, has stated that there would be still important branches of commerce left open to us. The gentleman from Delaware has given us the countries to which the four-fifths of our exports could go, to wit: Sumatra, Africa, Java, China, Northwest of America, Spanish possessions and islands, Sweden and her colonies. On examining the report of the Secretary, I find that to those countries and some others, we can export as follows, viz:

Spanish colonies, Florida, Main, and Cuba	$2,617,348
Portuguese ditto, say Madeira, Western Isles, Cape de Verd, and Brazil	570,303
Morocco and Barbary Powers	8,358
China	84,022
Africa	369,924
South Seas	3,385
Northwest Coast	10,777
Sweden and colonies	472,666
	4,136,783

To those countries (and they are the only ones to which we could have exported under the Orders in Council) it appears that the total amount of exports is only $4,136,783. I have admitted Sweden and her colonies to please the gentleman, although I understand them to be subject to capture under the French decree. A large item is to St. Bartholomews, a Swedish island, serving only as an entrepot. But we are told that Great Britain, in her great goodness, has lately permitted us to trade with Spain and Portugal, and that the Orders of Council no longer attach to those nations. I am of a different opinion, and I derive my opinion from the document now in my hand, viz:

"The Lords of the Committee of Council for Trade and Foreign Plantations having authorized us to make public the following answers to certain questions proposed by us to their Lordships, we publish them for the information of all whom they may concern.

" THOS. BARING.
" A. GLENNIE.
" THOS. MULLETT.

" LONDON, 15th August, 1803."

" *Question.* His Majesty's Orders in Council of the 4th July, 1808, having ordered, that all hostilities against Spain on the part of His Majesty shall immediately cease, and that the blockade of all the ports of Spain, except such as may be still in possession, or under control of France, shall be forthwith raised—

"Can an American vessel proceed from a port in the United States of America, with a cargo, the produce of the United States, or Colonial produce, direct to any port of Spain or Portugal, not being in the possession of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo the growth or produce of Spain or Portugal, without being liable to capture and condemnation, under the Orders of Council of the 11th and 12th of November, 1807, and the several acts of Parliament passed to carry them into effect?

" *Answer.* American vessels may proceed from a port in the United States of America, with a cargo, the produce of the United States, or Colonial produce, provided such produce be not the produce of the enemies' colonies, direct to any port of Spain or Portugal; such port not being in the possession, or under the control of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo the growth or produce of Spain or Portugal."

[Here Mr. WHITE explained, and said, that a proclamation had been issued declaring the ports of Spain and Portugal, not in possession of France or her allies, open to the admission of American vessels, with the produce of their own country, or of the colonies of the two nations; but they must return direct to their own country.]

Where the gentleman has got that proclamation, said Mr. S., I know not. I never have seen it, or heard of it. I am, however, of opinion that the Orders of Council do still attach to Spain and Portugal; and that this is only a bountiful relaxation of His Britannic Majesty, which he can change at pleasure, being authorized by the act of Parliament to repeal or alter, as he may see fit. It is a well known fact, that prior to the Orders of Council, we could trade with the Colonial produce of those countries. These regulations of the Lords Commissioners of Trade and Plantations, do not permit such commerce; of course the Orders of Council attach, and should Bonaparte get possession of any port of Spain, and an American vessel be bound to such port, she would, under the Orders of Council, be seized and carried into England—in which case I do not believe the honorable gentleman from Massachusetts would insure for ninety per cent., againt condemnation in the courts of Great Britain.

Pursuing the idea of the gentleman from Virginia, (Mr. GILES,) that the regulation of the Board of Trade and Plantations, if submitted to, will reduce us to a state of colonization—I beg leave to observe, that this same Board of Trade regulated our commerce when we were colonies. We were then permitted to go direct to the ports of Spain and Portugal with our flour, Indian corn and lumber, and might return direct to America with salt; but, if we wished to bring wines or fruits, we were compelled to proceed to England, land them, and then proceed to this country. What are the regulations now made for us by the Lords of Trade? Why, sir, we are permitted to proceed to Spain and Portugal, with the produce of our country, but we must return therefrom direct to the United States. If we turn to the right or left hand, we come under the Orders of Council, and are good prize. We are forbid to carry any of the produce of those countries to their colonies, although they permit the trade. And why, Mr. President? Because the British thereby secure that advantage to their own ships. Again, sir, when colonies, Great Britain compelled us to carry our tobacco, indigo, and rice, to England, and there land the same, but permitted us to re-ship those articles, free of any duty, to the countries where they were consumed. Even in time of war, tobacco was re-shipped to France. Now, Great Britain, although we are independent of her power, (perhaps not of her influence,) orders all the produce of our country to be landed in England, and prohibits the re-shipment, until we pay an enormous duty; when, at the same time, the produce of her colonies may be re shipped, even to her enemies, free of duty. Where is the difference, in principle, between the regulations made for us when colonies, and those made for us at this time? Does not Great Britain still assume the same rights over us, to wit, to regulate our trade in the one instance as well as in the other? We are, in either case, completely in the situation of colonies. It cannot be misunderstood. The Lords of

Trade emphatically say, what trade we shall, and what trade we shall not pursue. Nay, in England, I have little doubt, that many people will consider it as excessive impudence in us to complain, when put upon a footing with their own colonies. They forgot that we are independent—I trust, Mr. President, that we shall not also forget it. But let us indulge the gentleman, and add our exports to Spain and Portugal—to what amount are they? To Spain, Teneriffe, and the Floridas, we export annually $1,381,327; to Portugal; $829,313, making, together with the $4,136,783, already stated, the sum of $6,347,323, being, as stated in a luminous report of a committee of the House of Representatives, less than $7,000,000, free of danger from the decrees of France and the orders of Great Britain. So that the gentleman's four-fifths appear, by public documents, (which cannot be controverted,) to be reduced to an amount little more than one-eighth of the native exports of the Union; the total amount being $48,699,592. Shall we, for this pittance, relinquish our independent rights as a nation?

The trade to China gives an export of only $84,000 per annum. It employs an exportation of dollars to near $4,000,000. Nankeens is the object in return of principal value, an export whereof to Europe we are now cut off from. If this trade should be pursued, under this oppression, I will venture, without the spirit of prophecy, to believe that every dollar in the United States will be shipped therefrom. The law prohibiting the importation of slaves has completely destroyed the trade to Africa, so that the item to that country can no longer be counted.

We are told that the sufferings of the commercial States are insupportable, and, from the discussion in the Senate, it would appear as generally admitted that the four New England States are the only commercial—comparisons are generally disagreeable—they appear however necessary upon the present occasion, to show the relative state of commerce among the States. I am warranted also, by the example set me by the gentleman from Massachusetts, (Mr. LLOYD,) in making the comparison which I intend to present to this House. In doing it, I pray I may be understood, as not meaning any offence to any State, nor to any individual thereof. New Hampshire cannot be considered a commercial State; judging from the Treasury Report, the products of its labor and agriculture go, I presume to swell the amount of exports from Massachusetts, for their export of native products is only $365,950. Rhode Island may be considered commercial in proportion to her numbers. I have ever admired the industry and enterprise of her citizens, and have been gratified in the extension of her commerce; but their commerce does not exceed the proportion which is due to their numbers—the amount of export of their products is $741,988. But Connecticut, Mr. President, is she commercial? Every American traveller that visits the Eastern States, returns highly gratified with that State; he states with exultation and pleasure, the delightful fields thereof; its high state of agriculture; its smiling villages; and the content and happiness that beams on every human countenance; but does this arise from its external commerce? No, sir, we must give to Connecticut a higher rank; she is agricultural, and will also be a great manufacturing State; her citizens who annually emigrate, to swell the numbers of other States, will be induced to remain at home, and, by their labor and ingenuity, extend and promote the manufactures of their native State. Her port of export is probably New York; with what State, as a commercial State, shall I compare her? not with Georgia, for that State, though with only half her population, exports more than double the amount of Connecticut. With South Carolina? No, sir, that State spares of her products, to swell the exports of Baltimore, Philadelphia, New York, and Boston, an amount equal to the whole of the exports of the native products of Connecticut. With Maryland? No, sir, with a population very little greater, Maryland exports to near three times her amount. With what part of the Union shall I then compare her commerce? It assimilates nearly to that of the District of Columbia, its export being $1,363,352, when that of Connecticut is $1,519,083.

Massachusetts—yes, sir, Massachusetts—is really commercial, but not more so in proportion to numbers than many other States; nay, not equal to some. For instance, South Carolina with half her number exports $7,129,365, when Massachusetts exports of native products only $6,185,748. New York, whose population is the same with Massachusetts, exports $9,957,416—being half as much more as that exported by Massachusetts. Maryland exports $4,016,699—being in full proportion to the exports of that State. Nay, sir, New York alone exports more than all the New England States together, their whole native exports being only $8,812,769. But we may be told (what is true) that the trade of a country does not consist alone in its native exports. We may get some information by examining as well its native as its foreign articles of exportation. Let us examine it in that point of view. It will be found that New York alone, who appears to approve of the embargo, if we are to credit their Governor's Speech, and the answer thereto of both branches of the Legislature, does export of all articles, foreign as well as domestic, to a greater amount than all the New England States together; for her exports are $26,357,963, when the total exports of those States amount only to $24,074,438. Nay, sir, Maryland exports an amount equal to three-fifths of the whole of the New England States, her general export being $14,298,984. I have deemed it not unprofitable to take this view of the subject, to show the commerce of the United States, as they compare with each other.

The gentleman from Massachusetts (Mr. LLOYD) has told us, and told us truly, that the tonnage owned by the citizens of that State is one-third of the whole tonnage of the Union; that the want of employment thereof causes an annual injury to the amount of six millions of dollars. My calculation, Mr. President, does not make it near so

much. But, sir, suppose the fact, is this attributable to the embargo? I think not, sir. On the contrary, that the owners of these ships ought to bless the wisdom and firmness of those who laid the embargo, and thus saved this immense tonnage from British depredation and condemnation under their Orders of Council, and from French burning and destruction under the infernal decree of Milan. For it has been truly said, by an eminent merchant of Salem, (Mr. Gray,) that not more than one vessel in eight, that sailed for Europe within a short time prior to the embargo, ever reached her port of destination. My own experience, however, has taught me the truth of this remark; and, as a further proof, I have in my hand a list of fifteen vessels which sailed for Europe, and were insured in an office in Baltimore. They sailed between the 1st September and 23d December, 1807. Three arrived, one was captured by the French, one by the Spaniards, one was seized in Hamburg, and nine carried into England. But for the embargo, the ships of the United States that would have sailed for Europe would have shared a fate at least as bad—in my opinion much worse—as that of those fifteen. Not one in twenty would have arrived; for those vessels that sailed in September might well have arrived before the date of the Orders in Council (the 11th November) or the decrees of France. I say, again, let the ship-owners return thanks to their best friends—to those who laid the embargo. As one whose property has thereby been saved, I pray you to accept mine. But, sir, let us compare, in order to know the sufferings of each, whether the other States do not suffer, as to their tonnage, in proportion to the New England States. I take leave to submit the tonnage of the Eastern and a few of the other States.

STATES.	Tunnage.	
	Registered.	Licensed.
New Hampshire - - -	20,606	3,493
Massachusetts - - -	304,357	134,603
Rhode Island - - -	28,715	6,523
Connecticut - - -	26,022	20,000
Totals - - - -	379,700	164,619
New York - - - -	131,047	
Pennsylvania - - -	86,723	
Maryland - - - -	71,648	
South Carolina - - -	48,156	
Total - - - -	337,574	

By this, it will appear that the States of New York, Pennsylvania, Maryland, and South Carolina, own, of ships engaged in foreign trade, nearly the same number of tons as the four New England States. Thus, then, the loss to those States, in point of tonnage, is nearly equal to that of the other four; and, in addition, they suffer the loss sustained by having on hand a greater amount of native products. In fact, the State of Massachusetts suffers less, because she has an immense tonnage employed in the coasting trade, which renders its usual profits and usual employment for her sailors, when those other States have not the same advantage. This advantage applies more particularly to Connecticut than to any other State in the Union; for, of her 46,000 tons of vessels, 20,000 are actually employed in the coasting trade. So that, as to the use of ships, she suffers less than any other in the Union. Her trade by land and water to the other States still continues in full vigor, and renders to her advantages not known to any other State.

We are told that the embargo is a measure injurious only to ourselves; that our fish, beef, pork, flour, tobacco, and cotton, remain to perish on our hands. I have already stated that the fish finds its greatest consumption only in Spain, Portugal, Italy and France, from which countries we are excluded by the Orders of Council; of course the embargo cannot be chargeable with its loss, nor with that of tobacco, when not more than one-seventh thereof as already stated can go to the places of consumption without being subject to British capture. The gentlemen from the States which produce cotton, do not appear to be alarmed at the danger presented to their view, arising from that article being produced in Guiana and Africa. For they well know that it will require population and men well acquainted with the culture of that article to enable those countries to enter into competition with them. They know that cotton cannot be produced in the quantities required by the British manufacturers in any reasonable time, so that they feel confident that a sufficient supply cannot be obtained from any other country than their own. But no man can, no man will believe that any supply from any other country can be brought forward to prevent a stoppage taking place of the looms of Manchester.

We are told, that when the British islands are accustomed to receive their supplies of live cattle from the Main, that Connecticut will lose that valuable branch of their commerce. Yes, Mr. President, if Bonaparte should conquer Spain, her colonies will forever be lost to the mother country—they will become independent—they will be open to the trade of the world; and if cattle can (as the gentleman has truly told us) be procured at their own door by the British planters for two or three dollars per head, it will very soon become unfashionable to go to Connecticut, and there to pay thirty to sixty dollars. But will this be chargeable on the embargo? Certainly not. The gentleman has also attempted to alarm us, lest the Spanish colonies should supply the islands with breadstuffs. No impossibilities stand in his way. The sugar planter will turn his sugar land into corn grounds, and no longer take his supply from the United States. Yes, sir, this will be done, when the gentleman, (Mr. H.) can prove that men will prostrate their own interest. The idea is an idle one, and does not merit an answer.

We are told that the embargo, as a coercive

measure, has had, and can have no operation, either on England or on France. I differ with the gentlemen.

France, Mr. President, will feel its operation on the loss of their islands of Martinique and Guadaloupe, (which must fall a pray to the British fleet and army, now about to attack them,) for want of those supplies of provisions they usually derived from the United States—by the famine and distress that will ensue in the Isles of France and Bourbon. Those valuable possessions were formerly supplied from the Cape of Good Hope; but for years have relied entirely upon the United States, and will therefore be in the greatest possible distress, when cut off therefrom. They cannot now obtain supplies from the Cape of Good Hope—for that colony is in possession of the British. France will feel its effect, and the consequent loss of our trade at home. She loses an immense revenue, heretofore collected by the duties on the sugar, coffee, pepper, tobacco, and other articles imported into her ports by our ships. Her people can live without the articles; but the want of the revenue will be severely felt by her Government. New sources must be resorted to, which her subjects will be distressed to meet, being completely deprived of any sale for their brandy, wine, and other valuable articles drawn from France by Americans, and distributed by them to every quarter of the world. France will be made to feel by a want of money. Holland can no longer, in so great a degree as formerly, supply that want. Cut off from commerce, what is Holland? If the Emperor's system is pursued, the grass will be seen growing in the streets of Amsterdam. The German Kingdoms, subject to his power, will be so reduced by the want of sale for their linens, and the want of commerce in the Hanse Towns, that they will be able to render him no aid in money. From the extremes of his power, it will press upon him even to the centre of Paris, and will knock with violence at the doors of his palace.

England, it is true, with her great navy and all-powerful fleets, might preserve herself from feeling the effects of the want of bread, provided that the ports of the Baltic were open to her; but shut out as she is, from every country which has usually exported wheat, where will she find the quantity necessary to enable her to afford supplies to Spain and Portugal, now struggling for their liberties; for their West India islands, and for their immense fleets and armies now employed in foreign countries? From the coast of Barbary we are told! Yes, sir, Barbary, under a good government, could supply all the wants of Europe. But, sir, that Government, immediately it finds that the farmer has gotten his land into a high state of cultivation, the hand of power is laid upon his property, and the man, with his family, flies to the mountains. Nor is this all, the Dey lays such a duty on the export, as leaves but a small pittance, say 20*d.* sterling per bushel, to the cultivator. From thence no important supply can be derived, and this is well known in England. But is the want of breadstuff the only suffering that Great Britain must endure? No, sir; she will feel our embargo in the immense loss of revenue, resulting from the importation of our tobacco, cotton, rice, and other valuable products. Her cities will feel the loss of the non-arrival of our ships, which afforded to them a large revenue for the town dues, employment for the various mechanics and manufacturers employed about ships, the want of commissions derived to their merchants, and from other causes not necessary to enumerate. Liverpool, which owes its rapid rise, in a great proportion, to the American commerce, will feel the loss thereof in a manner that may make them be heard in the Councils of the Kingdom. Is it possible that that nation will not deplore the loss of their exports to us, amounting to twelve millions of pounds sterling per annum? Will gentlemen believe they have no value therefor, when they know that they sent large fleets and armies to La Plata, not to conquer the country, but to force a trade—to compel the Spaniards to receive their manufactures? And what trade? Not more than one million, or, at the most, two millions sterling per annum. What ridiculous policy must that be that can induce a nation to go to an immense expense of blood and treasure to secure two millions of trade, and at the same time wantonly throw away a trade of twelve millions, arising to them without expense of either blood or treasure? Will they long shut their eyes to such a scene of folly and wickedness? No, sir, a non-intercourse will open the eyes of the nation to such ridiculous conduct on the part of their rulers. Is this all, Mr. President? The sugar planters of their West India islands (and they most deserve it) will be made severely to feel; they will not starve, perhaps, but they will have to pay three or four times the price for every article of provision which they, or their slaves consume, and ten times the price for staves and other lumber. Heretofore, they have paid for such supplies in what I call the offal of their plantations, in rum and molasses. Those articles must remain on their hands unconsumed, for none but Englishmen and their descendants make use thereof. We import from the British islands 350,000 gallons of molasses, per annum, value on the spot $87,500; of rum, 5,590,000 gallons, value about $2,412,500. Will gentlemen believe that the want of sales, (and the consequent loss of their value) to the annual amount of two and a half millions of dollars, will not be felt by the British planters? Yes, sir, it has already been felt, if I am rightly informed, to wit: that the Government has been obliged to grant large aid in money to support the West India planters. But I shall fatigue the Senate with details of this kind. My duty, however, has compelled me to present my ideas on this part of the subject to the Senate.

The gentleman from Delaware (Mr. WHITE) feels all alive for the present rulers of the United States; he asks, where are we to get revenue, and with an air of triumph, tells us that we shall not have a dollar in the Treasury at the next meeting of Congress. We were told the same

story last year, and thousands of handbills had been distributed throughout the Union asserting that fact. Yet, sir, when we met we found fourteen millions of dollars in the Treasury. We found our receipts more than in any preceding year. The gentleman is alarmed lest the present party in power shall be prostrated, as he thinks that was to which he belonged, by the necessity of laying a direct tax. He is mistaken; they were dismissed, because that the tax after tax, duty on duty, that was laid by them, were dissipated, the people knew not how, and because the people thought their system would lead the nation imperceptibly to monarchy.

I feel greatly obliged to the gentleman for the tender feelings which he has expressed on the subject, but I am not alarmed. The present Administration have pursued a course unknown to the last, to wit: the payment of the public debt, averaging for some years past, five millions of dollars per annum. From this payment we are now relieved, because the law permits us no longer to make payment thereof, except by purchase of the stockholders; we cannot compel them to receive. Besides, sir, having paid off thirty-three millions of dollars of the public debt, we have relieved ourselves thereby from the payment of an annual interest of two millions of dollars. These two items, making together seven millions of dollars, will operate in effect for any purposes now required as so much received. But, sir, we have other resources. It will be recollected, that the law of last session authorized the articles of sugar, coffee, teas, pepper, and certain wines, to be deposited in the public stores until wanted for exportation. Those articles will now be required for consumption, and presuming that as much thereof will be consumed as in former years, we may fairly count on the following duties being collected thereon, to wit:

On sugar - - - - - -	$1.843.199
Coffee - - - - - -	867.259
Teas - - - - - -	966.686
Pepper - - - - - -	250,000
Wines, under 23 cents duty -	41,377
	$3,968.521
On the public lands - - - -	700,000
Making together - - - -	$4,668.521

Nor is this all; it is a well known fact, which will not be contradicted by the gentleman from Massachusetts, (Mr. LLOYD,) that the importations from India and China have, in the present year, been equal to that of any preceding year. The bonds (for the duties on which) will become due in the next year; nor has the importation of dry goods from England during the present year been so much less than former years as materially to affect the revenues. On the whole, Mr. President, I believe that the receipts for the year 1809 may with safety be calculated upon, as at least twelve millions dollars, from which nothing being payable toward the principal of the public debt, we may count the actual supply to the Treasury as equal to any preceding year.

Let us take a view of the customary expenditures of the Government for the year 1809.

Civil expenditure - - - - -	1,000,000
Barbary Powers and Foreign intercourse - - - - - -	200,000
Military Department - - -	1,280,000
Naval ditto - - - - -	1,020,000
Interest on Louisiana debt - - -	675,000
Interest on old debt and reimbursement - - - - - - -	3,500,000
New regiments - - - - -	1,000,000
	$8,675.000

If the gentleman from Delaware (Mr. WHITE) will not admit any other of my calculations, he will certainly admit that if we have fourteen millions now in the Treasury, and expend only $8,675,000, that we certainly shall have some money in the Treasury at the next meeting of Congress, even should the embargo continue all that time; and in case of war, if the people do consume as much as usual, ways and means will be found to introduce the articles on which the duties have heretofore been collected. It must be admitted, however, that our revenue does sustain, and has sustained, a material injury resulting from the Orders of Council of Great Britain. On articles heretofore imported from the Continent of Europe, we derived a revenue equal to three millions of dollars, the importation of those articles is now prohibited by Great Britain. That gentleman may correct me if I am wrong. I will take a view of the articles annually consumed, to wit:

French brandies, 2,739,711 gallons, duty thereon - - - - -	$821.913
Ditto wines - - - - - -	31,133
Goods ad valorem, from France and her allies - - - - - -	1,000,000
Hemp, iron, glass, cordage, and other articles - - - - - -	250,000
Three and a half per cent. retained on drawback, and advantages from neutral trade - - - - - -	1,000,000
	$3.103.046

This item is a serious sum cut off from our revenue, by the orders of Great Britain. On the whole, Mr. President, I am, however, of opinion that we safely can calculate on a surplus, after paying the usual expenses of Government, of a sum not less than sixteen millions being in the Treasury, at the next meeting of Congress, or at the disposal of Government provided war shall ensue. But do gentlemen calculate nothing upon the credit of the United States. It is now known to the world, that whatever party may be in power, the faith of the Government, as it relates to the payment of its debts, has been held sacred. It will be recollected, that it was charged against the present ruling party, that when they got into power, all respect for public credit would be lost, and the property in our public funds would

be in jeopardy. These, with other charges of a similar nature, having been found to be false, and that the present rulers are as tenacious of public credit, as their predecessors, all fears on that account, have ceased. The public credit will be admitted to be good, and there can be no doubt that any sum of money that may be required for a war, may be had by loan; either in our own country or abroad, without having recourse to a direct tax. So that I pray the honorable gentleman from Delaware to quiet his tender feelings on this subject.

The Seamen.—We at length find the gentlemen are alive to the interest of this useful class of citizens. It may be considered a novelty to them. They tell us that our seamen have abandoned their country and gone into foreign employ. Will the gentleman from Connecticut (Mr. HILLHOUSE) say in his place, that the sailors of Connecticut have deserted their country to take refuge on board British ships of war? No, sir, he knows the abhorrence of his fellow-citizens to that kind of service. The seamen of this Union have fathers, uncles, brothers, friends, with whom they find employment. They will be found in the public works of the extensive manufactories which have been established, and among the farmers of the United States. I will not believe that any American sailors have left their country, except some worthless, drunken men. I well know whence this idea has arisen. To avoid the complaints of Great Britain, the navy, prior to the embargo, had discharged all British deserters; they also discharged all British seamen found on board their ships of war—those, together with foreign seamen employed in the merchant service, have been collected by the British Consuls, (who have found that their numbers did not equal their expectations,) and by them have been sent out of the country. That they may never return must be the sincere wish of every lover of his country! We should thereby silence the complaint of Great Britain, to wit: that we employ their subjects, and take from that Government the pretext of impressing American seamen under the presumption that they are their own. The vacancy made by their thus abandoning our country will very soon be filled up by our own citizens—of whom sufficient for all the purposes of navigation will soon be found.

Gentlemen whose feelings are now so tender with respect to American seamen showed little of this when their fellow-citizens were seized, put on board British ships of war, and compelled to fight their battles against nations with whom theirs was at peace. Nay, sir, we find some of them offering apologies in behalf of the British Government for this violence offered to the liberties of our fellow-citizens and to our independence as a nation. I have in my hand a public letter, and, therefore, I may use it, where the writer, a Senator from Massachusetts, (Mr. PICKERING,) says "I will close this long letter by stating all the existing pretences, for there are no causes for a war with Great Britain," &c. &c.

"1. The British ships of war, agreeably to a 'right claimed and exercised for ages—a right 'claimed and exercised during the whole of the 'Administrations of Washington, of Adams, and 'of Jefferson—continue to take some of the British 'seamen found on board our merchant vessels, and 'with them a small number of ours, from the im-'possibility of always distinguishing Englishmen 'from citizens of the United States. On this point, 'our Government well know that Great Britain 'is perfectly willing to adopt any arrangement that 'can be devised, which will secure to her service 'the seamen who are her own subjects, and at the 'same time exempt ours from impressment."

Gracious God Mr. President! can that man feel for American seamen, who can say and write, deliberately, that the impressment of five thousand Americans by Great Britain is no real cause, but a pretext only? Will any man believe that a person making use of such expressions can have any feelings whatever for the sufferings of our seamen? I wish Mr. President, we had before us the able discussion held by the same gentleman, (Mr. PICKERING,) on the subject of impressment of American seamen, with Mr. Liston. In that we should see our rights maintained by a strength of argument drawn from our just complaints. He did not then call our remonstrances on that subject pretexts. No, sir, he thought as every American will think, that they were grievous, intolerable, and such as no free and high-spirited people ought to submit to. In what estimation are we to hold the future opinions of a gentleman, who, in 1806, did by a solemn vote in Senate approbate the following resolution in Senate, which advised the President to send a special mission, "to demand a reparation of wrongs, and particularly as it related to the impressment of American seamen," when we see a public letter in 1808, from the same gentleman, calling the complaints on that subject—pretences, and not just causes!

"*Resolved*, That the President of the United States be requested to demand the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and the indemnification of such American citizens, for their losses and damages sustained by those captures and condemnations; and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled."

Let us cast our eyes back to the session of 1805-6, and we shall recollect the memorials presented from the merchants of all the great seaports, praying Congress to adopt measures for the obtaining redress of the wrongs sustained by them from depredations committed on their property by the British, under the pretext "that they were carrying on a trade not permitted in times of peace," although it was acknowledged, that our

commerce was carried on conformably to a convention solemnly made between Lord Hawkesbury and Mr. King. The memorial from Boston advised a special mission; that from New Haven, Connecticut, pledged their lives and fortunes in support of such measures as Government might adopt to obtain redress and reparation for past losses. The Senate, alive to those remonstrances, advised the President to demand reparation for the past, and security for the future. The President, in obedience to this advice and in respect to the memorialists, did send a special mission; a treaty was made. It was sent back by the President. Why? It redressed not our wrongs. It requested us to tax our exports, so as to put them on a footing with the British, as to their war charges in similar articles. It made no provision for that grievance to which the Senate had particularly directed the attention of the President, to wit, the impressment of our seamen, and before it was possible that the President could receive it, the British issued a new order for plunder, to wit, to seize all our vessels, without any previous notice, found trading from one port of their enemies to every other port of her or her allies, by which order fifty or sixty American vessels were seized, together with cargoes to the amount of near two millions—this was followed up by other orders, until our commerce is entirely cut off from all its usual course, as well by British as by French decrees. Government took a stand, I think an honorable stand, and now we find those same memorialists, indeed I may say the gentlemen in Senate who advocated the advice to the President, telling us, that truly they had no cause of complaint, that a pittance of trade may yet be pursued, (the orders or decrees to the contrary notwithstanding;) and to pursue this miserable pittance they demand that Government should tread back their steps, shall make this nation contemptible in the eyes of all Europe, shall repeal the embargo laws before they have taken any other step, or adopted any other measure. The honor of our country forbids it, and that Senate which gave the advice, will not meanly retract their own act, or bend the neck to any Power on earth. We know our power, and fear not that of our enemies.

In 1806 the Senate passed the resolution already quoted. In addition to the wrongs then complained of, wrong upon wrong had been heaped upon us, prior to the date of the public letter already mentioned. Who could have believed that the gentleman from Massachusetts, (Mr. PICKERING,) at such a moment, after having recorded his vote on our Journal, against the claim set up by Great Britain, would have written and published the following justification in support thereof:

"The merchant vessels of France, Spain, and Holland, being driven from the ocean, or destroyed, the commerce of those countries with one another, and with their colonies, could no longer be carried on by themselves. Here the vessels of neutral nations came into their aid, and carried on nearly the whole commerce of those nations. With their seamen thus liberated from the merchant service, those nations, in the present and preceding wars, were enabled to man their ships of war; and the neutral vessels and seamen supplied their places, became in fact, though not in name, auxiliaries in war. The commerce of those nations, without one armed ship on the sea appropriated for its protection, was intended thus to be secured under neutral flags; while the merchant vessels of Great Britain, with its numerous armed ships to guard them, were exposed to occasional capture. Such a course of things Great Britain has resisted, not in the present only, but in former wars: at least as far back as that of 1756. And she has claimed and maintained a right to impose on this commerce some limits and restraints; because it was a commerce which was denied by those nations to neutrals in time of peace; because it was a commerce of immense value to the subjects of her enemies; and because it filled the treasuries with money to enable them to carry on their wars with Great Britain.

What did the people of Salem, of Boston and of New Haven mean, when they pledged their lives and fortunes in support of any measures that Government might take to obtain redress of the wrongs that this nation had endured? They meant that there was cause, and that they were prepared to go to war. And yet the gentleman from Massachusetts (Mr. PICKERING.) has written gravely, when other oppressions were added to those then complained of, that truly, "there were pretences, but no real causes of complaint against Great Britain."

Hostility to commerce—Yes, sir, I have seen a charge of that kind against the party in power, in newspapers, and in town-meeting speeches. I believed it to be used for party purposes. I did not believe that any man of respectable standing, would have asserted such a fact. The honorable gentleman from Connecticut (Mr. HILLHOUSE) has now declared that he verily believes that there is a serious intention to break down commerce, and to raise manufactures upon its ruins. And what are his proofs? That he did at the last session prophecy, that such would be the course of conduct. In ancient days, Mr. President, there were prophets—there were false prophets, who went through the land prophesying falsely to deceive the people. And I trust, Mr. President, the prophecy of the honorable gentleman may be ranked with them. I challenge the gentleman to produce one act—one solitary act—to prove his assertion. He cannot produce one. He may report conversations with individual gentlemen, who might suppose that commerce had been too much favored; and such opinions are entertained, not only by gentlemen from the South, but also by gentlemen from the interior of the North and the East. Yet, sir, I have never seen any of those gentlemen predicate any act hostile to commerce thereon. It may not be unprofitable to take a view of the acts which I have considered as expressive of sincere friendship toward commerce. The statute books are filled with laws establishing lighthouses along the whole extent of our coasts, and a chain of lights are now to be seen extending from St. Croix to St. Mary's. No new duty charged therefor, has ever been proposed by any member to be imposed on the tonnage of the United States. The duty on tonnage has remained the same from the first law passed thereon. It is small and not felt. The coasting trade of the United States is countenanced in a peculiar manner. It is confined to our own vessels and free of charge. Early after the adoption of our Constitution, Congress passed a law, levying a heavy duty on foreign tonnage, for the promotion of our own; and charging, on all goods imported in foreign vessels, a duty of ten per cent. on the duty imposed on similar goods when imported in American ships. This system secured the carriage of all goods imported into the United States, to our own vessels, and tended greatly to the immense tonnage now possessed by the merchants of the Union. This advantage was necessary to promote our navigation, when in its infancy, but, being now in its manhood, I should have no objection to admit foreign ships on the same footing with our own, to such foreign nations as would admit us on terms of reciprocity into their ports; for, on equal terms, I have no fear of the enterprise of any nation being superior to our own. A system was adopted, and has been continued, highly just in itself and proper, which conduced to the immense neutral trade carried on by the merchants of the United States. I mean the system of granting drawbacks on re-exportation of foreign goods—by which system the nation has been greatly enriched, and thereby aided in the payment of the national debt; but which agricultural men may permit themselves innocently to believe, has contributed to conduct the United States to the present crisis. We, the merchants, ought, therefore, to be cautious how we charge agricultural men with hostility to commerce. Had Congress been justly chargeable therewith, they had a fair opportunity of showing it in 1806, when your tables groaned with memorials from the seaport towns. They might then have said, What have the agriculturalists to do with your neutral commerce? We will protect the commerce carried on in native exports, but will not entangle the nation with those of foreign origin. Did they do so? No, sir; they, as well from the South as from the North, did declare their willingness to support and protect all the fair commerce of the Union. They treated the memorials with respect, and this House acted thereon.

Of thirty Senators present, only seven members voted against the resolution of advice to the President. Three of those were from the East, two from the South, and two from the West. Those gentlemen feared that we should be implicated in war for that trade which the supporters thereof now wish us in a great measure to relinquish. For were the embargo off, it could no longer be pursued to any port of Europe.

But, say gentlemen, protecting duties have been laid on foreign goods to benefit the manufactures of the Union. I sincerely wish there had been, but know of none, except on shoes and on ship-building; this latter I presume commercial men will not complain of. The duties therefore laid were to obtain revenue, not to protect manufactures. Nor did I ever until now hear any gentleman from Connecticut complain or oppose any aid contemplated for our manufactures. The complaint is novel to me, for I should suppose if any State in the Union is in a situation to benefit by manufactures, Connecticut, from her population being full, will be that State. Some small duties have been laid to protect our agriculture, such as on hemp, indigo, and sugars, and a protecting duty laid on fish imported from foreign countries, to secure the consumption of our own country to the labor of its own fishermen, to which little opposition was made by agricultural men. In truth, Mr. President, there has been no act of hostility shown by Congress to the commercial interest, and much, very much of real friendship has been apparent in all the acts of that body.

I have in my hand, Mr. President, a report of a committee made to Parliament in June last. The object of which was to point out what aid could be afforded to their sugar planters of the West Indies. In this report it is recommended "vigorously to blockade the colonies of their enemies," to prevent any sugar, coffee, or other colonial produce being brought to the United States from thence, to compel us to go to their islands for the supply of all our wants of sugar, coffee, rum, and molasses, and be subject there to whatever high price they may charge thereon, and to whatever duty on the exportation thereof they may think proper to impose. This system, which will be to us a system of taxation, has already commenced, as may be seen by the blockade lately declared of all the French islands. It will be continued, sir, and, if the embargo were off, we should find ourselves completely excluded from the benefits which gentlemen have promised themselves by a trade thereto. Retract our present measures, Mr. President, and we submit to every species of taxation and oppression on our commerce that Great Britain or France may think proper to impose thereon. They will think you a degraded people, fit only to be hewers of wood and drawers of water for them. Nor is this visionary; six years ago the British Parliament taxed you in company with their own colonies, (for they still consider you as colonies,) with a duty on all goods exported from Great Britain, of four per cent., when to all other nations they charge but one-and-a-half per cent. Thus imposing on the United States an annual tribute of one million of dollars. We submitted to that imposition, and this has encouraged them to proceed with other and heavier oppressions.

The gentleman from Connecticut (Mr. HILLHOUSE) has observed, that, were the embargo off, merchants would buy the produce of the land, the farmer would be relieved, and the loss arising from capture by the belligerents would fall upon the merchants. Why should we take care of them, said he, let the merchants take care of themselves. Is this the language used when the memorials were presented? Did we then tell the merchants to protect themselves? And is this the tender friendship the gentleman from Connecticut means to show to the commerce of the

Union? Had such language come from a Southern gentleman, the honorable gentleman from Connecticut would have good right to call it hostility to commerce. The same gentleman has told us, that, although France had interdicted our commerce with England, before the passing of the embargo law, yet insurance did not rise five per cent. on that account. The gentleman is correct—it did not rise at all, for no merchant apprehended any danger from French capture under the Berlin Decree; for the explanation given to General Armstrong by the French Minister of Marine gave full security against every capture on the high seas by the cruisers of France; for not one vessel was taken under that decree on the high seas; of course insurance never rose on that account in America, nor in England, as appears by the examination of merchants before Parliament, except for a short time. The moment the explanation given to General Armstrong came to London the insurance fell to its usual rates, and this will account why insurance did not rise in America prior to the passage of the embargo law. But, sir, it would be very different were the trade open and our vessels subject to capture under the Milan Decree. Privateers of France, knowing that our trade was unprotected, would swarm upon the ocean, and capture all that would be left from the depredations of Great Britain.

Should the resolution to repeal the embargo prevail, I have very little hesitation in saying, that the premium of insurance on vessels bound to England would, in a short time, rise to twenty or twenty five per cent. against capture by French cruisers; and that no premium would induce the offices to underwrite vessels bound to the Continent of Europe against British cruisers.

We are told by the gentleman from Massachusetts, (Mr. LLOYD,) that one of the belligerents makes war upon the world for universal dominion, and the other for her *natale solum*. For my part, Mr. President, I cannot conceive why the United States should take part with either. Our policy has been "entanglements with no foreign nation." I hope, sir, we shall never turn Don Quixotes in support of one nation whose object is universal dominion on the land, nor in favor of the other, whose object (more injurious to us) is tyranny and universal dominion on the seas. The same gentleman has told us of immense fortunes being made in Canada, by the advantages deriving to the merchants there, from our embargo. I believe there have been evasions in the articles of pot and pearl ashes, which went to Canada, but I cannot think it could amount to the quantity insinuated. The principal trade to that colony has been the export of specie, where bills of exchange on London have been purchased at five per cent. below par, and sold at Boston and New York at seven and a half per cent. above par. The profits resulting therefrom has been to the merchants of those cities. The injury to the nation has been the export of its specie. Measures, no doubt, will be taken to prevent such injury.

The gentleman has said that, if the embargo were off, and we were brought into a war by her conduct, that Great Britain would sorely repent it, for that the loss of Canada and perhaps of Nova Scotia would be the consequence. The same gentleman has told us that Great Britain will be able to obtain timber and lumber of all kinds sufficient for her wants from Norway and Sweden. He is mistaken; for Norway belongs to the Dane, from whose King the British plundered at Copenhagen sufficient for their navy for some time, and Sweden cannot supply Great Britain with staves and other articles of lumber. I agree with the gentleman that our ships are our farms; that our Government is as much bound to protect them as they are to protect terra firma; and, sir, it was for their protection, and not for the protection of the land, that the embargo was laid, and that purpose has most effectually been obtained.

Great Britain will also feel severely the want of our commerce to her East India possessions; nay, sir, it has already been felt there—our imports from thence amount to about four millions annually, for which we make payment in Spanish dollars; the goods we purchase are inferior to those made for the India Company. The want of such vent for so large a quantity of goods will be felt; it has been, for the prices thereof fell twenty-five to thirty-three and a third per cent. in Calcutta, the instant they were informed of the embargo. And, sir, the Government of India will feel it as well, arising from the complaints of those who manufacture, as in the want of the annual supply of four million dollars. Indeed, sir, I am informed by a respectable gentleman just arrived from Calcutta, that the Government of India, and English subjects residing there, were greatly distressed when they were informed that an embargo had been laid in the United States—they consider it as a measure peculiarly injurious to that Government.

It may not be improper, before I conclude, to take a view of the dangers which would result to our commerce in case the resolution should obtain. All American vessels bound to Great Britain or any of her possessions in the East or West Indies, or in Europe, would be subject to capture by French cruisers under the decrees of France.

All American vessels bound to Russia, Denmark, Hamburg, Bremen, Holland, France, Italy, the Turkish dominions, Austria, or any part of Spain or Portugal, in possession of French troops, would be subject to capture by British cruisers under their Orders of Council, enforced by an act of Parliament. In this state of insecurity and danger to our commerce, I cannot give my consent to adopt the measure under consideration.

I will terminate by making use of an observation of Mr. Canning, which I conceive equally applicable to us in our present situation:

"Character is power. To lose our character is 'to lose a material part of our power;" again: "Not a doubt shall remain, to distant times, of 'our determination and of our ability to have continued resistance; and that no step which could 'even mistakenly be construed into concession, 'should be taken on our part, while it can be a 'question, whether the plan devised for our destruction has, or has not, either completely failed, or been unequivocally abandoned."

When Mr. SMITH had concluded, the Senate adjourned.

TUESDAY, November 29.

The Senate resumed the consideration of the motion for the reconsideration of the vote of the 25th instant, for receiving and reading the instructions of the Legislature of the State of Massachusetts to their Senators on the subject of the embargo; and on motion, by Mr. ANDERSON, the motion for reconsideration was withdrawn, and the instructions were read.

Mr. GILES gave notice that he should, to-morrow, ask leave to bring in a bill appropriating a sum of money to enable the President of the United States to call into service the seamen authorized by the act of the 5th of March, 1807, not exceeding five hundred.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

Mr. HILLHOUSE rose and addressed the Senate as follows:

Mr. President: When I offered the resolution for a removal of the embargo, and submitted my remarks to the Senate, I was impressed with serious apprehensions for our country's welfare, on account of the embarrassments so forcibly described, and which have been painted in such vivid colors, by the gentleman from Virginia, (Mr. GILES.) It was because I felt anxious that we should extricate ourselves as soon as possible from those embarrassments, that I came forward thus early with my resolution. I had been led to believe, and still believe, that the way to extricate ourselves is, to explore the causes of our difficulties, to examine into the truth of facts, and to have a candid and impartial inquiry into the policy and expediency of our present measures; that if, unfortunately, we should be found in an error, we may retrace our steps, and not, by an obstinate perseverance therein, involve our country in ruin. Little did I expect that I should be charged with having proposed a tame submission to foreign aggression, or a disposition to abandon our neutral rights, or surrender the independence of my country—much less, with having forgotten the spirit and policy of '76, which carried us safely through the Revolution, and achieved our independence. I confined myself to general remarks, and was not, perhaps, so particular as I ought to have been, to make myself understood. I shall, therefore, now take the liberty of stating what was the spirit and policy of '76; and I shall be able to show, from public documents and records, that, as long as that spirit and policy were pursued, they secured us in the enjoyment of our independence, and caused our maritime rights to be respected. Unfortunately for our country, it was a departure from that policy that has brought us into our present situation. It is not surprising that many mistakes should be made respecting the spirit and policy of '76 by those who must have derived their information from tradition, and not from their own personal observation. I have noticed that many of those who say most on that subject, were either not born, or were in their cradles, or have since migrated to the United States, to enjoy the fruits and blessings of that Revolution.

The patriots and statesmen who guided our public councils at the commencement of the Revolution, believing our rights were invaded, and our liberties endangered by the arbitrary and unwarrantable claims of the British Parliament, resorted first to respectful petitions and remonstrances to induce the British Government to abandon their unjust claims, and adopt such measures as would secure our rights and liberties. But, when these means were found to be ineffectual, they nobly dared to make their appeal to arms, and to declare themselves a free and independent nation. And, though we were without a regular organized Government, and had neither Army nor Navy, they dared, in defence of their just rights, to wage war with a powerful nation. They did not tell us that we must abandon our right to navigate the ocean, or yield up any other right because of surrounding dangers. The maxims then were that, rights which were not worth defending, were no rights; that, to be respected, we must convince others that we would not tamely submit to insult; and that, to preserve peace, we must be prepared for war. This spirit and policy carried us safely through the Revolutionary war, established our independence, and secured our sovereignty, one essential attribute of which, is the right to navigate the ocean. In 1783 we obtained an honorable peace. In 1793, war having commenced between France and England, our maritime rights were invaded by the latter, and our vessels were captured and condemned under the memorable November orders. An attempt was then made to introduce the same policy, to defend our rights and vindicate our honor, which is now, and for some time has been, in the flood tide of experiment. The famous resolutions proposing duties of discrimination between foreign nations, the entering into a commercial warfare with England, and propositions for a non-intercourse law, and sequestration of British debts, will be remembered. The Journals of that session of Congress contain a record of them, and will show who were the friends and advocates of that policy.

Fortunately for the nation, we then had a Chief Magistrate who was actuated by the spirit, and well knew, and was determined to pursue, the policy of '76. He boldly came forward, and put an end to all those projects by nominating an Envoy Extraordinary to the Court of Great Britain, to remonstrate against the wrongs, and demand satisfaction for the injuries we had sustained. That Minister was not sent out with a non-importation or non-intercourse act in his hand, which the President well knew, would have been understood

and considered by Great Britain in the nature of a threat, or an attempt to coerce, and would defeat the object of the mission. He was in reality sent with the olive branch, on the principle of a fair and honorable negotiation.

In the meantime, knowing that a failure of the negotiation must result in war, or an abandonment of our rights, every preparation to meet the event which it was in the power of the country to make, was made. Laws were passed for fortifying our ports and harbors; to provide a Navy; to erect arsenals, and provide magazines; for raising artillerists and engineers; for directing a detachment from the militia; to prohibit the exportation of arms and ammunition, and to encourage the importation of the same; to build or purchase vessels to be armed and equipped as galleys, or otherwise; and for making further and more effectual provision for the protection of the frontiers of the United States. These several acts were passed in the short space of about ten weeks, and, not only found their way into the statute book, but were promptly carried into execution; and, being laws of a mere municipal nature, providing for our internal security and defence, they gave no umbrage to Great Britain. Yet they spoke a language she well understood. What was the consequence? Great Britain admitted our claim, revoked her orders, and made satisfaction for the injury; and a treaty was concluded, under which our citizens have received millions of dollars for the losses they sustained by the capture and condemnation of our vessels. And, since it went into operation, as the gentleman from Virginia candidly admits, the United States have enjoyed unexampled prosperity.

France, still at war with England, had expected that the differences between England and the United States would involve the two countries in war. Dissatisfied, therefore, with the treaty, France manifested an unfriendly disposition towards our Government. In 1797, the spoliations committed under the outrageous decrees of France were such as could no longer be tolerated consistently with our national honor and interest, and the French Government had, moreover, refused to receive our Minister.

It was once more fortunate for the nation that our then Chief Magistrate, and the Councils of our country, were still under the influence and guidance of the spirit and policy of '76. Envoys Extraordinary were sent to remonstrate against the injuries we were suffering and to demand satisfaction—not accompanied by non-importation laws, or any other acts or resolutions which could wound the pride of that nation. At the same time, Congress provided means of defence, so that the nation might be prepared to avenge its wrongs, and vindicate its honor, in case of a refusal on the part of France to do us justice. Laws were passed, prohibiting the exportation of arms and ammunition, and for encouraging the importation thereof; to provide for the defence of the ports and harbors of the United States; to authorize a detachment from the militia, and to provide a naval armament.

France did refuse to treat, and rejected our Ministers. What was the result? Not long, detailed, diplomatic correspondences, further remonstrances, and paper resolutions. A negotiation of a different nature commenced. We spoke a language not to be misunderstood. We spoke from the mouth of the cannon. Our treaties with her were annulled; all intercourse prohibited; our merchant vessels authorized to arm, and defend themselves against French privateers; an army was raised, and our little Navy equipped, manned, and sent out to protect our commerce and capture the armed vessels of France. A war, not of offence, but defence, was commenced. Naval conflicts soon ensued, and a French frigate was taken, after a hard fought battle, by an American frigate commanded by the gallant Truxtun. The French privateers and piratical boats which had annoyed our trade were swept from the ocean, our commerce resumed its wonted activity, and our vessels again navigated in safety every sea. What was the conduct of France? A declaration of war? Far from it. Though she had before treated us with indignity, the manly attitude we assumed in defence of our rights and national honor commanded her respect, and she proposed and entered into a negotiation, which ended in a treaty that was ratified by both Governments, and was finally promulgated by a proclamation of the President of the United States, on the 21st of December, 1801. At this period the American flag was respected in every sea, and the American name and character were honored by all nations.

Since that period, unfortunately for our country, a different policy has prevailed in the public councils, founded, no doubt, on the idea that "a just nation is trusted on its word, while wars are only necessary to nations of an opposite character." A policy calculated on to save the necessity of ships of war, and exactly comporting with some of the modern ideas of economy. In pursuance of this policy, our Navy has been suffered to decline, and some of our ships have, for years, been moored, to rot, in the mud of the Eastern Branch of the Potomac.

Many efforts have been made, but in vain, for removing our little fleet into the salt water to protect our commerce, at least on our coast, and to secure us from being insulted within our own jurisdiction, by the armed vessels of the belligerents. We were told that if our ships went out, and should meet with foreign vessels depredating on our commerce, or insulting our Government, they would fight, and we should have war. That our ships would fight, on proper occasions, I have no doubt.

Though the discouragements which have been thrown in the way of our naval prosperity have greatly tended to depress the martial spirit, it still exists, and, if an opportunity presents, will be drawn forth into action. Believing this, I confidently rely on our being ultimately able to extricate ourselves from the perplexing and distressing situation described by the gentleman from Virginia. That this opinion is correct, the conduct of our naval force in the Mediterranean sea furnishes ample proof. The war with Tripoli has afforded the only active and honorable employment which our Navy has had since the Treaty with France; and in which, the gallant deeds of our little band of heroes, deeds worthy of the American name and character, have commanded the admiration and applause of surrounding nations; and the recollection thereof will be cherished by the American people, when yonder marble monument, erected in honor of those heroes who fell before Tripoli, shall be mouldered into dust.

The question recurs, What is the cause of our present embarrassments—what has brought us into our present sad dilemma? For a sad one it is, if it be true that we are reduced to the alternative of a war with both belligerents, or the continuance of the present embargo system. Surely they could not have originated in party newspaper publications, or the electioneering squabbles of the *ins* and the *outs*. The effects of these are greatly overrated. Though they produce much excitement and noise here, they make but a small impression on the other side of the water. The public documents on our table—those furnished last session of Congress, and information in possession of the Senate—show that our difficulties arise from our having forsaken the spirit and departed from the policy of '76, and in lieu thereof adopted that retiring policy which recommends the abandonment of our right to navigate the ocean, because our commerce is exposed to danger from the illegal attacks and depredations of the belligerent Powers. The spirit of '76 induced us to face danger to secure that right, and would not the same spirit prompt us to hazard something in its defence?

It is a painful task to me to undertake to point out the impolicy and impropriety of our present system of measures; but I see no other way of avoiding those evils which the gentleman from Virginia has so forcibly described, (to remove which I would most cordially co-operate, or to effect that union in our public councils which he so ardently desires, and which I most devoutly wish for,) than by going into the inquiry, to discover where the error lies.

I will go no further back than to 1806, the date of the memorials of the merchants of New Haven, and the great cities and towns on the seacoast, now introduced by the gentleman from Kentucky, (Mr. POPE.) They complained of aggressions on their commerce by Great Britain, and prayed that the protecting arm of Government might be extended for their relief. The Boston memorial suggested a special mission. They expected, no doubt, that the Envoy would be sent, as heretofore, to attempt a friendly negotiation of differences; not to hold out a *non-importation act* for an *olive branch*, or to be bound by instructions to demand as an *ultimatum* that the American flag should protect all persons on board our merchant vessels; which the British Government contended could not be granted, because, they said, it would tend to unman their navy, and cripple that important means of defence against a powerful and enraged foe. And as they disclaimed all right of impressing American seamen, they supposed that our claim, in its utmost extent, might be considered a measure calculated to withdraw from their service their own seamen, rather than to protect real American seamen. This had been the subject of negotiation, as well under the former as the present Administration, and the point had been pressed as far as could be of any avail. The like answer was given to both Administrations—the principle cannot be admitted.

The gentleman from Virginia has read a resolution, declaring that there had been a violation of our neutral rights, and an encroachment upon our national independence, by the capture and condemnation of our vessels under the Orders of the British Government; which resolution passed in February, 1806, by the unanimous vote of the Senate—a vote that does honor to that body, as it exhibits to the nation, and to the world, that whatever may be the collision of party on subjects of minor importance, whenever it is a question in regard to the defence of our own rights, and the interest of a foreign Power, we are an undivided people. Yet, notwithstanding this unanimous expression of the opinion of the Senate, and the appointment of an Envoy, which took place at this time, no measures of defence were adopted. A non-importation act was passed and relied upon for maintaining our claims. This was declared in public debate; and, being made known, could not be concealed. It was wafted to England before our Envoy could reach her shores. So far from being able to use that act for the purpose of enforcing our claims, to prevent its being an insuperable bar to negotiation, our Ministers inform the Secretary of State, in their letter of September 11, 1806, that, in speaking to the British Minister of that act, they mentioned it in these terms: "After a short vindication of the act, in the course 'of which we did not omit to represent it in con-'nexion with the special mission which grew out 'of it, as manifesting the friendly sentiments and 'views of our Government towards that of His 'Majesty."

Although the mission failed of success, have we not reason to believe, from the documents laid before Congress, that, if the instructions had been as liberal, and the negotiation had been conducted in the spirit and policy of 1776, as was that of 1794, which doubtless was expected by those merchants, it would have had a like favorable termination; an intimation having been previously given, by the British Minister, of a disposition (which, in diplomatic proceedings, is tantamount to a direct offer) to renew the former treaty under which we had enjoyed ten years' peace, and (to use the expression of the gentleman from Virginia) unexampled prosperity—to remain in force two years after the termination of the present war. The overture was not accepted, from an apprehension, perhaps, that our dexterity in managing a negotiation, aided by such measures as the present policy might dictate, would enable us to obtain better terms. That the non-importation act did not aid, but tended to obstruct, a

friendly adjustment, is manifest from the following note of Lord Holland and Lord Auckland, addressed to our Ministers:

DOWNING STREET, *Sept.* 4, 1806.

GENTLEMEN: We have received a copy (sent by you at our request) of the act of Congress to prohibit, from and after the fifteenth of November, the import into the territories of the United States of a very large description of goods, wares, and merchandise, from any port or place situated in Great Britain or Ireland.

On a full consideration of that act, we think it our duty to express our earnest hope and expectation that some means may be found to suspend the execution of a measure so opposite in its temper and tendency to the disposition and views with which our pending negotiation has been commenced and is carrying on.

The measure, unless suspended, will take effect, if not before our discussions can be closed, at least before it is possible that their result can be known in the United States, and would obviously lead to the necessity of proposing to Parliament similar steps on the part of this country, by which mutual irritation would be excited, and fresh impediments created in the way of such a final adjustment as we trust is mutually desired.

We rely on you for taking such immediate steps in this business as may best contribute to a happy termination of our treaty, and to a cordial and permanent friendship between His Majesty's subjects and the citizens of the United States.

We have the honor to be your faithful, humble servants, VASSAL HOLLAND, AUCKLAND.

Our Ministers did recommend a suspension of the act, and it was accordingly suspended.

The effects usually produced by a policy which attempts to coerce, by threats addressed to an independent Power, were exemplified in the correspondence of our Minister at the Court of Madrid, appointed soon after the commencement of the present Administration. After protracted diplomatic discussions, in which our Minister labored to convince the Spanish Government of the justice of our claim, and the propriety of their acceding to it, and this appeal to their reason had proved ineffectual, a last attempt was made, in a pompous, gasconading note, in which (as well as I remember, from having heard the correspondence once read) our Minister informed the Government of Spain that the United States were a great, powerful, and high-spirited nation, who would not submit to injury or insult, and concluded by telling the Spanish Minister that there were only two modes of settling controversies between nations—arbitration or war. The Spanish Minister returned for answer, that the King his master had commanded him to inform the American Minister he should not choose arbitration.

Thus has the matter rested, and our claims are still unsatisfied.

When it was discovered that the United States had abandoned the spirit and policy of 1776, and placed their dependence on acts of Congress, paper resolutions, and diplomatic remonstrances, as their system of defence, what was the consequence? Repeated violations of our neutral rights, and the capture and condemnation of our vessels. Long and elaborate reasonings have been gone into to establish our rights, and induce a change in the conduct of those Powers, and to cause them to respect our rights, but all to no purpose. Evils have been accumulating upon us to that degree, that we are now told, that, to save our independence and honor, and secure our rights, we must agree to a continued embargo—"a permanent suspension of commerce"—that is, to preserve our rights, we must abandon them altogether. Logic, this, which I do not understand! If there be wisdom or policy in the measure, it is beyond my comprehension. Had this been the spirit and policy of 1776, should we ever have achieved our independence? should we now occupy these seats, under the Constitution of the United States? Our rights are attacked on the ocean; we are called upon to abandon them. If our shores should be invaded, would not this retiring policy invite us to flee to the mountains?

On my mind, there rests not the smallest doubt, that if our public councils had been undeviatingly guided by the spirit and policy of 1776, we should neither have had war, nor been under the necessity, in obedience to our own laws, of abandoning the ocean, and submitting to the loss of a commerce second only in importance to that of any nation on the face of the globe: whereby we are called upon to make a sacrifice of property greater than the whole expense of all the armaments and other defensive measures adopted under both the former Administrations for the protection of our commerce and the vindication of our national honor. In point of real economy, then, we are losers to a vast amount. And to what extent these privations and sufferings are to be carried, and how long to be continued, cannot be foreseen.

Gentlemen who oppose the repeal of the embargo tell us that Great Britain has obtained the complete dominion of the sea; that she is proud, haughty, avaricious; and that her object is to obtain the commerce and carrying trade of the world. After having secured the quiet possession thereof, will she peaceably suffer us to become her rival? Will she not tell us, you voluntarily abandoned, and shall not again assume, them? And would it not be attended with more danger, expense, and difficulty, to regain them, than to hold fast the possession?

In vain should we address her from that retirement recommended by the gentleman from Virginia, as dignified; a retirement in which would be dissipated the resources and wealth of the nation. In vain, I say, should we address her with arguments the most forcible to prove our right to navigate the ocean. In vain should we ask her consent, though we were to employ the persuasive eloquence of that gentleman, to permit us to resume our extended and profitable commerce. We should come forth from our dignified retirement under great disadvantages to commence a new conflict for our right to navigate the ocean. The enemy with whom we shall have to contend may have made peace with her rival, and we be left alone to maintain the conflict.

Or perhaps we may have to contend with an

enemy all powerful on the land, and who may become formidable on the sea; with a Power that has for a long time cast a wishful eye towards the fair fields of America, and has almost kept up continual claim to a large portion of the United States, which was once within her embrace, and which was wrested from her by the war of 1756. Then may we expect to see adopted the ancient Roman policy—the turning out of the old proprietors of the soil to make way for military adventurers. Then might we expect the feudal system in all its ancient rigor.

The gentleman from Virginia has told us that his brother farmers must raise less produce, and turn their surplus labor to improve and beautify their farms. Is there not some danger that even this may serve as a lure to tempt the cupidity of some foreign nation; and if the same timid, retiring policy should prevail, will they not be emboldened to attempt to possess themselves of those very farms and improvements? Nor should we be secure, were we to assume the savage garb and manner of life. Mr. President, if a conflict should be necessary to maintain our right to navigate the ocean, I wish it may happen while some of the revolutionary patriots of '76 are still living, who can reanimate their countrymen with their spirit. Some of the present generation may acquire that spirit by inheritance; but none, I fear, by education.

It has been insinuated more than once, that the opposition to the present system of measures (and to that system no one has been more opposed than myself) proceeds from party feelings and disappointed ambition. That this is unfounded, will appear by a resort to the journals of Congress, our statute books, and to well known public transactions. At the commencement of the struggle for our liberties and independence, from a full conviction of the rectitude of the cause, I engaged on the side of our country, with the ardor natural to a youthful mind. And those who know me best will not accuse me of having declined, through the whole Revolutionary war, any exposure or sacrifice which the call of my country required. In 1794 I voted for all those efficient measures of defence then adopted, and opposed the paper resolution policy then brought forward, the same substantially which for some years has been pursued, and is now urged upon us. In 1797–8 I voted for the naval and military preparations then made. Under the present Administration, I have uniformly voted for all such measures of defence as appeared to me to have efficacy, or to comport with the spirit and policy of '76; though the gentleman from Virginia would seem to imagine I was smarting under the unpopularity of my former votes for armies and navies; measures which are supposed to have gone far in effecting a change in the Administration. I am happy, however, in the reflection, that if those votes lost me my popularity and political power, they contributed to save my country's rights and honor. I shall also be found uniformly to have opposed a timid, humiliating policy, which must ever end in war, or an abandonment of our nation's rights and honor. A Senator of the United States is unworthy of that high and responsible station, and to be intrusted with the destinies of his country, if, upon questions of great national importance, involving our rights, honor, and independence, his vote could be governed by his attachment or dislike to a Chief Magistrate, or others in power.

The gentleman from Kentucky, in referring to me, has used the expression "the gentleman in Opposition," meaning, I suppose, to have it understood, that I am an opposer of the present Administration. I do not admit that I am, or ever have been the opposer or the favorite of any Administration. I avow myself to be the opposer only of such measures as in my judgment will not promote the public good. [Mr. POPE rose to explain, and said he meant only to refer to the opposition of Mr. HILLHOUSE to the embargo.] Mr. H. declared himself satisfied.

The gentleman from Kentucky has also announced (he does not say officially) that the Presidential electioneering races for the present season are over, and calls upon the several riders to dismount their hobbies; not reflecting that I am not one of the jockey club, nor had a card of invitation to the race ground, without which none were admitted. Neither I, nor any member from Connecticut, was invited to attend the famous caucus which was convened for the purpose of manufacturing the great officers of State. We were not emulous of that honor, being content with the mode pointed out by the Constitution of the United States, for choosing President and Vice President.

To preserve our independence, and avoid tame submission, we are gravely told by the gentleman from Virginia, and also in a report pronounced by the gentleman from Maryland (Mr. SMITH) to be the most luminous production ever submitted to Congress, (the result probably of the combined wisdom of the whole Administration,) that "there is no other alternative but war with both nations, or a continuance of the present system." The idea of going to war, at the same time, with the two great belligerent Powers, is as novel and surprising to me, as the idea of a permanent embargo for a measure of defence. Suppose the warfare be on the land; in what manner, let me ask, would the three belligerents, each hostile to the other, array their forces for action, and conduct the battle? Would it be in the form of a triangle, each firing alternately, first on one enemy and then on the other? Or suppose the fleets of two of the belligerents, say French and American, meet on the ocean; and after a bloody conflict, for I have no doubt both nations would fight bravely, the American fleet, for I would always incline to our own side, cripples and captures that of their enemy; a British fleet then comes up and takes both, though inferior perhaps before the action, to either? The idea is too ridiculous to merit serious attention.

When two nations have a common enemy, they are inclined to cultivate a friendly disposition towards each other. If we were to declare war

against England, France, no doubt, would revoke her decrees, give us a friendly reception into her ports, and afford us all the aid and protection in her power both by sea and land. England would do the like, if we were to declare war against France. Such unquestionably would be the fact; and it is in vain to shut our eyes against the truth. There was a strong proof of this exhibited in the conduct of England and France in 1794, and 1798.

Is it not national antipathies, more than foreign predilections, that produce crimination and recrimination of an English party, and a French party, of English and French influence? For the honor of my country I hope it is; for I should be sorry to think so meanly of the American people as to believe they would prefer the interest of any foreign nation to that of their own. Should we unfortunately be brought to make the experiment, by being engaged in a just and necessary war, (and none other I hope will ever be made by the United States,) I am confident we shall find a union of sentiment and action. These are, however, unnecessary speculations; for I see no necessity of declaring war against any nation.

To permit our merchant vessels to arm, under proper restrictions, and to equip, man, and send out our public ships, to defend those maritime rights which are clear and indisputable, is not war, nor will it necessarily involve us in war. Every nation on earth would respect us for defending our essential rights. I do not agree with the gentleman from Kentucky, that the commanders of merchant vessels can commit the peace of the nation, if the Government do not countenance and uphold them in their wrong, but promptly disavow the act. Vessels bound up the Mediterranean sea, and to the East Indies, have always been allowed to arm; and I have never heard that they have, in a single instance, committed the peace of the nation.

In answer to the inquiry, what good has the embargo done? the gentleman from Virginia says, that it has saved to our citizens one hundred and fifty millions of property, which would have been captured and carried into France or England; and to our country fifty thousand seamen, who, instead of being in captivity in a foreign land, are placed in the bosom of their families. This, if true, is an important consideration; but I doubt the fact. Not that I question the veracity of the gentleman: were he to declare a fact as of his own knowledge, I should have a most perfect reliance on it. But in this case the gentleman's declaration being but an expression of opinion, not supported by any one fact within his knowledge, he must excuse me if I cannot yield my assent to it; more especially as circumstances, some of which are within my own knowledge, lead me to a different opinion. It is a fact, that most of our vessels which escaped the embargo, or have since gone out under permits from the President of the United States, have returned in safety, and made good voyages, from which the seamen "have returned to the bosom of their familes," and with something to administer to their wants and comfort; not, as in the other case, empty-handed from our dismantled ships, to share the distresses of their little households, and to hear their children cry for bread. Many of our vessels which were out when the embargo was laid, have remained out, avoiding the inhospitable shores of their own country, as they would a land infected with pestilence. Those vessels have been navigating the ocean under the American flag, with as much safety as before the embargo was laid, and have constantly been employed in the carrying trade to vast profit.

Having, at the commencement of this debate, submitted my observations on the supposed possibility of starving England or destroying her manufactures; and the gentleman from Massachusetts, (Mr. LLOYD,) better informed on the subject of commerce than myself, having exhibited the facts to the Senate in a manner that must carry conviction, I shall not trespass on the patience of the Senate with any further remarks on that point.

Nor shall I add to what I have already said to prove that one object of the embargo was to put down commerce, for the purpose of raising up manufactures, than to adduce the authority on which my opinion rests; which was not, as has been insinuated by the gentleman from Maryland, common-place observations, and party newspaper publications, but the declarations of the President of the United States, not in an ordinary correspondence, but in an answer to an address from the Legislature of New Hampshire, a New England State, participating in common with the other New England States in the benefits of commerce. Speaking of the embargo, he says: "It gave us 'time to make a last appeal to the reason and re-'putation of nations. In the meanwhile I see 'with satisfaction that this measure of self-denial 'is approved and supported by the great body of 'our real citizens; that they meet with cheerful-'ness the temporary privations it occasions; and 'are preparing with spirit to provide for them-'selves those comforts and conveniences of life, 'for which it would be unwise ever more to resort 'to distant countries." In another answer to an address, this sentiment is expressed, that the agriculturist and manufacturer shall be planted down side by side, so as to receive, at our own doors, those comforts and conveniences of life, which we have been accustomed to seek on the ocean. No such effects could be produced by the embargo, nor can it answer any such purpose, unless made perpetual, or continued for a great length of time.

The gentleman from Virginia has thought proper to go into a consideration of the commercial advantages which he imagines are enjoyed by the people inhabiting the Northern in comparison with the Southern States, under the Constitution and laws of the United States, and has indulged himself in remarks respecting a disposition in the people of New England to *insurrection*, *rebellion*, and *disunion;* but these are topics on which I shall say nothing, as I do not think it expedient to discuss them at this time.

The *intimations* of the gentleman from Kentucky and the gentleman from Georgia, (Mr. Crawford,) about *amputation* and *military coercion*, I shall also pass by without further notice, than to assure those gentlemen, that in New England they will produce no *intimidation*, if they should excite any attention.

It was particularly unfortunate for the gentleman from Virginia, that he should feel himself under the necessity of making remarks that may be construed into a denunciation of a certain description of our fellow-citizens as demagogues, and as having attempted to excite sedition and rebellion, because they doubt the expediency of the embargo, and question the policy of some of the measures of the present Administration. That gentleman, I imagine, will hardly consent that to doubt the policy and oppose the measures of an Administration, shall be the criterion for deciding who are the demagogues of our country; for surely, if that is to be the rule of decision, the conduct of that gentleman during the first Administration under the Constitution of the United States, and the ability and perseverance with which he maintained his opposition to it, would give him a pre-eminent claim to rank high on the list of demagogues. I extremely regret those remarks on another account. I know many of the most venerable characters of our country, men who were patriots of '76, men who made great sacrifices, and risked their lives in our struggle for liberty and independence, men who have acquired a well-earned fame, which has never been tarnished, who doubt the policy of the embargo, and decidedly disapprove the measure, as being altogether inefficient as it regards foreign Powers, and ruinous to ourselves.

The gentleman from Virginia is peculiarly unfortunate also, in ascribing the failure of the embargo, to produce the desired effect on foreign nations, to party misrepresentations, and newspaper electioneering publications, describing the embargo as an unpopular measure calculated to excite general discontent, and bring about a change of rulers, which, he says, reached England between the 22d of June and the 29th of July, and produced a sudden change in the conduct of the British Minister, and in his disposition to a friendly accommodation. I could hardly have expected, even in the heat of debate, such a declaration from a gentleman so well acquainted with the British character and Government. The ministry there know full well how to appreciate party publications, and the representations of the *ins* and the *outs*.

Those party misrepresentations, as the gentleman is pleased to call them, and those newspaper electioneering publications, would have had but little effect in England, and still less weight with the ministry, if they had not had an official stamp of truth put upon them, by the Proclamation of the President of the United States. With the indulgence of the Senate, I will read the Proclamation.

"*By the President of the United States a Proclamation.*"

"Whereas information has been received, that sundry persons are combined or combining and confederating together, on Lake Champlain and the country thereto adjacent, for the purpose of forming insurrections against the authority of the laws of the United States, for opposing the same, and obstructing their execution; and that such combinations are too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the Marshals by the laws of the United States:

"Now, therefore, to the end that the authority of the laws may be maintained, and that those concerned, directly or indirectly, in any insurrection or combination against the same, may be duly warned, I have issued this my Proclamation, hereby commanding such insurgents, and all concerned in such combinations, instantly and without delay to disperse and retire peaceably to their respective abodes; and I do hereby further require and command all officers, having authority, civil or military, and all other persons, civil or military, who shall be found within the vicinage of such insurrections or combinations, to be aiding and assisting, by all the means in their power, by force of arms or otherwise, to quell and subdue such insurrections or combinations, to seize upon all those therein concerned, who shall not, instantly and without delay, disperse and retire to their respective abodes; and to deliver them over to the civil authority of the place, to be proceeded against according to law.

"In testimony whereof I have caused the seal of the United States, to be affixed to these presents, and signed the same with my hand. Given at the City of Washington, the 19th day of April, 1808, and in the sovereignty and independence of the United States the thirty-second. "TH. JEFFERSON.

"By the President,

"JAMES MADISON, *Secretary of State.*"

The Senate will recollect that the last session of Congress was closed on the 25th of April; and, although the Proclamation was dated the 19th of that month, no intimation thereof, or of the state of the country to which it referred, was given to Congress by the President of the United States. The Proclamation was published in Vermont, April 30, and in the National Intelligencer, printed at the Seat of Government, on the 13th of May. Here was an official document, issuing from the same high authority that recommended the embargo, declaring to the nation, and to the world, that there existed so great uneasiness and discontent on account of the embargo, as to induce the forming of unlawful combinations to resist its execution, too powerful to be suppressed by the ordinary process of law, and which required the employment of a military force. Superadd to this, that our small standing army, and the whole naval force in actual service, were put in requisition, to aid in its execution.

These circumstances present a melancholy view of our situation. An embargo recommended under the influence of the great popularity of the President, and professed to be laid for preserving in safety our vessels, our seamen, and merchandise, and saving the honor, and vindicating the rights of our country, had become so unpopular, before the close of the session of the Congress which imposed it, that in the President's opinion, it could not be executed by the ordinary process of law, and through the mild medium of courts of justice; so that it had already become necessary to call in the aid of an armed force.

I could have hoped it would not have been found necessary to employ the American navy to cruise against our own commerce; and little did I expect that the army I had so recently voted to raise, for the purpose, as I supposed, of opposing foreign aggression, would be required to point their bayonets at the breasts of their fellow citizens.

When Mr. HILLHOUSE had concluded, the Senate adjourned.

WEDNESDAY, November 30.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill to reward Andrew Joseph Villard, for an invention of public utility; and the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th instant, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto.

Mr. PICKERING rose and addressed the Senate as follows:

Mr. President: The ample discussion already given to the resolution on your table, leaves me nothing to detail on the effects produced by the embargo, in regard to France, to England, or ourselves. On the two great belligerents, practical men, who knew the characters and resources of those nations, foresaw and pronounced that it would make no impression. This we all now know to be the fact, while we ourselves severely feel its pressure. Why, then, not remove it? Because, as we are told, those two nations have violated our neutral maritime rights; and, seeing that to compel their respect for these, we imposed the embargo, and they treat the measure with contempt, to remove it would be submission. So we will endeavor to conceal our mortification, and, because we cannot injure them, we will continue to punish ourselves. To renew our commerce while their decrees and orders remain uncancelled, would, we are told, "be abject and degrading submission; and, that we have but this alternative, "to make war with both nations," or, "continue and enforce the present suspension of commerce."

It has been justly remarked by the gentleman from Connecticut, (Mr. HILLHOUSE,) that to run away and abandon our rights, is abject and degrading.

To make war on both the belligerents is the most strange, Quixotic idea that ever entered into the head of a statesman. I suppose, as we have a thousand and a thousand times declared, that we have maintained an impartial neutrality towards those nations; so, to verify our declarations, we must now make war upon both *impartially!* And, as their injuries are said to be equal, (or, we will not inquire which has done us "the most harm,") so we must measure out to each an equal quantity of resentment, and give to each an equal number of blows.

In respect to our violated rights, so far as Great Britain is concerned, those presented by the Administration in the front of our claims, are

1. An exemption from impressment of all seamen on board our merchant vessels.

2. A free trade with the colonies of her enemies.

3. An exemption from capture of our vessels destined for any port of her enemies not actually blockaded.

I am aware, sir, of the consequences of advancing anything from which conclusions may be drawn adverse to the opinions of our own Administration, which, by many, are conceived to be indisputably just. Merely to state these questions, and to mention such arguments as the British Government may, perhaps, have urged in their support on her side, is sufficient to subject a man to the popular charge of being under British influence, or to the vulgar slander of being a "British tory." He will be fortunate to escape the accusation of touching British gold. But, sir, none of these things move me. The patrons of the miscreants who utter these slanders know better, but are, nevertheless, willing to benefit by the impression they may make on the minds of the people. From an early period of my life I was zealously engaged in every measure opposed to the attempts of Great Britain to encroach upon our rights, until the commencement of our Revolutionary war, and during its whole continuance, I was uninterruptedly employed in important civil or military departments, contributing all my efforts to bring that war to a successful termination.

I, sir, am not the advocate of wrong-doers, to whatever country they belong, whether Emperors, or Kings, or the Administrators of a Republic. Justice is my object, and Truth my guide; and, wherever she points the way I shall not fear to go.

Great Britain has done us many wrongs. When we were Colonies, she attempted to deprive us of some of our dearest birth-rights—rights derived from our English ancestors, rights which we defended, and finally established, by the successful conclusion of the Revolutionary War. But these wrongs, and all the wounds of war, were intended to be obliterated and healed by the treaty of peace, when all enmities should have ceased.

Great Britain wronged us in the capture and condemnation of our vessels under her orders of 1793, and she has made reparation for these wrongs, pursuant to a treaty, negotiated on practical principles by a statesman who, with liberal views and real candor, sought adjustment and reparation.

At subsequent periods she has committed wrongs, and if reparation had been demanded in the same spirit of candor and firmness which were manifested in 1794, that distinguished precedent authorizes the opinion, that like equitable adjustment and reparation might have been obtained. But after a four years' negotiation, in which volumes of essays and letters have been written, it has, like the seven years' negotiation with Spain,

been brought (in the language of the President) "to an issue of some sort:" that is, every subject of dispute remains as far, probably farther from adjustment, than when the negotiations were begun.

It is this disastrous issue which now enters into our deliberations. According to the statements of the Administration, we are brought into a situation from which we cannot advance without war, nor retreat without dishonor. Their negotiations with France have also terminated in mortification and defeat.

On the two questions of the impressment of seamen on board our merchant vessels, and a trade with the enemies of Great Britain prohibited in time of peace, the gentleman from Maryland (Mr. SMITH) was pleased to read some parts of a letter written by me last Winter to the Governor of Massachusetts, to be laid before the Legislature; and on the latter (neutral trade) he also read the Journal of the Senate, which exhibited a unanimous vote declaratory of our right to that trade; and then the names of the Senators (mine being one) who voted to request the President to demand and insist on reparation for the injuries done us in violation of that right, and for this purpose to enter into amicable arrangements with the British Government.

On these two questions, I should add nothing to the observations made yesterday by the gentleman from Connecticut, but for the apparent intention of the gentleman from Maryland, to exhibit an inconsistency between my votes in the Senate and the observation of my letter on the same subject.

It is sufficient for me to remark, that in the passages recited by the gentleman from my letter, my object was to show, by exhibiting in a few words, to the view of my immediate constituents, and through them to the people of Massachusetts, some of the reasons which might have influenced Great Britain not to relinquish her ancient usage of impressing her own seamen; nor to consent that neutrals should carry on (as we and other neutrals were carrying on) the whole trade between the countries of her enemies in Europe and their colonies; to show, I say, that as much was to be said on both sides, those rights, as claimed by the United States, were not to be considered so clear and indisputable as to justify a war with Great Britain; into which the proceedings of the Executive, in a variety of ways, seemed calculated to plunge us.

Before I quit this subject, I will make one more observation. It appears to be generally supposed that the rule respecting the colonial trade adopted by Great Britain, and usually called the Rule of 1756, which it seems she has considered as "the ancient and established principle of maritime law." * was peculiar to Great Britain: and Mr. Madison says, "it is well known that Great Britain is the only nation that has acted upon or otherwise given a sanction to it."† He also mentions this rule as having been introduced, for the first time, in the war of 1756; as having been in operation only a few years in that war; and not afterwards acted upon until 1793. Let us examine the subject.

In Valin's celebrated work on maritime law (a book in the Secretary of State's office) is a regulation of Louis the Fourteenth, in 1704, from which I will recite some passages.

The title of the regulation is remarkable: it is, "Concerning Prizes made at Sea; to secure the navigation of neutral States and allies during war;" implying that this regulation was intended to abate the rigor of maritime law before that time practised towards neutral commerce.

After observing that propositions had been made to him by the Deputies of the Council of Commerce, the French King expresses his approbation of them, "seeing he finds in them the 'means which he has always sought of procuring 'equally the advantages of the subjects of neutral 'Princes and French cruisers." He adds: "The 'subjects of neutral Princes will thus find the care 'which His Majesty has taken to preserve for them 'the same extent and the same liberty of commerce 'which they have been accustomed to enjoy during peace."

I will now read such of the articles of this French regulation as relate to the question under examination.

"*Article* 1. His Majesty forbids French privateers to stop, or bring into the ports of His Kingdom, vessels belonging to subjects of neutral Princes, going from the ports of their dominion, and laden on account of the owners or other subjects of the said neutral Princes with merchandise of the growth or manufacture of their own country, to carry the same directly into any other States, whatsoever, even those with which His Majesty is at war; provided nevertheless, that there be not in the said vessels any contraband goods.

"*Article* 2. They are in like manner forbidden to stop vessels belonging to subjects of neutral Princes, going from the ports of any State whatsoever, even of those with which His Majesty is at war, and laden on account of the owners or other subjects of the said neutral Princes, with merchandise which they shall have received in the same country or State whence they shall have departed, to return directly into the ports of the dominion of their sovereign.

"*Article* 3. He also forbids them to stop vessels belonging to the subjects of neutral Provinces, departing, from the ports of one of the States neutral or allied to His Majesty, to go into another State alike neutral or allied to His Majesty; provided they are not laden with merchandise of the growth or manufacture of his enemies; in which case the merchandise shall be good prize, and the vessels shall be released.

"*Article* 4. In like manner His Majesty forbids privateers to stop vessels belonging to subjects of neutral Princes departing from a State, allied to His Majesty or neutral, to go to a State the enemy of His Majesty; provided there be not on board said vessel any merchandise contraband, nor of the growth or manufacture of the enemies of His Majesty; in which cases, the merchandise shall be good prize and the vessels shall be released.

"*Article* 6. Vessels belonging to subjects of neutral States which shall depart from the ports of a State the

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* Mr. Madison's letter of March 25, 1808, to Mr. Erskine. † Same letter.

enemy of His Majesty, and there have taken their lading, in whole or in part, to go to the States of any other Prince than their own, whether allied to His Majesty, neutral, or enemy, may be stopped and brought into His Kingdom, and shall be declared good prize with their lading, even although laden on account of the subjects of His Majesty, or of an allied or neutral State."

The regulation of Louis XIV. in 1704, (he being then at war with England and Holland,) was re-enacted by Louis XV. in 1744, (France being again at war with England,) with some exceptions in regard to those neutral nations with whom France had formed treaty-stipulations incompatible with that regulation.

In these five articles we have, if I mistake not, the whole doctrine of the British rule of 1756. The direct trade to and from neutral ports and the enemy's ports being permitted, but not the trade to and from the ports of one allied or neutral State, with the ports of another allied or neutral State, if the lading of the neutral vessel consists of merchandise, the productions of the enemy's country; much less to carry the same from one port of the enemy to another port of the enemy.

The principle of the British rule, and of the French regulation, appears to be to prevent neutrals coming in to aid the enemy in the commerce of one part of his dominions with any other part thereof, or in procuring a market for the enemy's productions in any other country than that of the neutral actually transporting the same, and for its own use and consumption.

It appears, moreover, by the preamble to the French regulation, that the restrictions on neutral commerce, which we are now examining, instead of commencing in 1756, were in exercise by the English and Dutch antecedent to that regulation, and with greater rigor; the French King professing to ameliorate the condition of neutral commerce by that regulation.*

On the subject of blockade, when vessels of war were not so stationed before the port declared to be blockaded as to constitute what is called an actual blockade, undoubtedly abuses have taken place.

To form an actual blockade of a port, ships destined for that object must be "sufficiently near to produce an evident danger in entering." But these words by no means imply a certainty of capture, by the blockading ships, of the vessel so attempting to enter. What degree of risk from blockading ships will amount to a lawful blockade, may sometimes be a disputable question. Would the chance of capturing three vessels out of four, or seven out of eight, exhibit such an "evident danger in entering," as would constitute an actual blockade—that is, when to insure their entering in safety would be worth a premium of from seventy-five to ninety per cent.? This must remain a question of some difficulty to adjust.

On these points, sir, and all others in dispute with Great Britain, my opinion remains unchanged, that they are yet proper subjects of negotiation, to be undertaken in the real spirit of conciliation and adjustment. That the embargo will not induce her to yield to our demands we have ample proof, not only in the answer of the British Government to our Minister in London, but in the certain ability of that nation and her colonies to supply all their own wants. That she possesses the means, I think, has been demonstrated by gentlemen who have spoken before me. We have heard much of the patriotism and patient endurance of our fellow-citizens under the distresses of the embargo, and, gentlemen speak confidently, that this patience will hold out until Great Britain shall be brought to our feet. At the same time they calculate on the distresses which they fondly imagine the embargo will inflict on the people of Great Britain and her colonies, to excite discontents and insurrections sufficiently alarming to induce that Government to abandon usages on which she relies to maintain her maritime ascendency, and, at this time, her independence as a nation. But, why should it be supposed that the people of Great Britain will be less patient under sufferings than the people of the United States? Theirs would arise from causes beyond their control; ours from some cause or causes operating on our rulers, but which the people can neither see nor understand. Within four months after the embargo was imposed, the President himself, by a proclamation, announced to us and to the world the existence of one insurrection occasioned by the embargo; and the provisions made in the supplementary acts to compel obedience at the point of the bayonet, show how apprehensive the Government were of discontents and resistance. These extraordinary provisions for the execution of a specific measure demonstrate that it was considered as opposed to the general sense of the people; and, in a free country, such a measure cannot long be carried into execution. The votes of approbation of the embargo by public bodies, and other assemblies of citizens, so ostentatiously displayed, while they manifest the force of party, are, to say the least, but equivocal indications of the general sense of the people, or even of the individuals composing those assemblies. Those votes have always had fewer hearts than voices.

Mr. President, the gentleman from Maryland mentioned the extreme danger to which our commerce would be exposed, while the French decrees and British orders remain unrepealed. It has been often said, and perhaps oftener insinuated, in newspapers and pamphlets, that if our vessels were permitted to go to sea, all would be taken. What escaped the French, would be captured by the English; and what escaped the latter, would fall a prey to the former. There is a want of truth in all this. The same gentleman quoted a statement made by an eminent merchant of Massachusetts, [Mr. Gray, of Salem,] that of eight or ten vessels which sailed about the time the embargo was laid, only one had reached the place of her destination. I remember seeing a statement of that sort; and I think, also, that I saw a detection of its fallacy. If they had not reached their destined ports, it did not follow that they were captured and condemned.

The same merchant has expressed his decided opinion, "that, notwithstanding the French decrees and British Orders in Council, if our embargo was off we should have more trade than would be enjoyed by us, if all the world were at peace, and the respective nations should monopolize as much of their own commerce as usual." Another eminent merchant [Mr. Thorndike, of Beverly] expressed, at the same time, the same opinion.

But, without resting the question on opinions, we may appeal to facts. I have sought information of the risks which have attended our foreign trade, within the present year, from the two principal districts of Massachusetts.

By the statement in my hand, lately received, and which is of unquestionable authority, I find, that at one insurance office in Boston, 43 policies have been written, on vessels engaged in foreign voyages, since the first of January, 1808. Of these,

5 were undetermined.

1 vessel (the Neutrality) bound from Marseilles to Boston, captured and condemned at Gibraltar, for violating the blockade declared by the British Orders in Council.

37 arrived safely. In all 43.

It is stated, that there were three policies on the Neutrality; and that possibly there might be more than one policy on one vessel among the 37 safe arrivals.

At another office in Boston, out of 75 risks, principally to the West Indies,

3 vessels were captured by the French, of which the British re-captured 2.

1 captured by the British, supposed to be French property.

16—about this number are undetermined; and the rest, about 55, have ended safely. In all 75.

At another office in Boston, out of somewhat more than 100 risks,

4 vessels were captured by the British, of which 2 were condemned for breach of Orders in Council; 1 probably enemy's property, and 1 remained under adjudication.

1 captured and condemned by the French; and,

1 seized by them at Alicant, while they had the power there.

25 risks were undetermined; and the remainder ended safely.

The premiums of insurance have been about eleven per cent. to and from the West Indies, for the whole voyage.

7 per cent. from the West Indies, with cargo on board.

9 to 10 per cent. from Europe, if not violating British orders.

4 to 5 per cent. from Europe against French capture only.

By a statement received from Salem, on the correctness of which I can rely, I find that in the district of Salem and Beverly, 22 vessels sailed, by the President's permission, between the 5th of April and the 10th of August. Of these vessels, 1 sailed to Sumatra, 1 to Senegal, and the rest to different ports in the West Indies. Of the whole number,

1 returned leaky, and remained at home.

12 returned in safety; and,

9 remained undetermined; but it was not known that any of them had been detained or condemned by any foreign Power.

In all 22.

The insurance on the Sumatra voyage, out and home, was 14 per cent.

Martinico, Havana, and Surinam—the voyage out and home, 9 to 10 per cent.

Havana, at and from, 5¼ per cent.

The premium of insurance from Calcutta to the United States, the last Summer and Autumn, has been 8 per cent.

Thus, Mr. President, we see that the risk on our foreign trade has been very little increased since the issuing the French Decree of Berlin, and the British Orders in Council.

The gentleman from Maryland (Mr. SMITH) asks, What would have been the insurance on an American vessel bound to France? I am not informed. Perhaps 75 to 90 per cent., though it is

* But, Great Britain has admitted that the vessels of the United States might carry on an indirect trade from the European dominions of her enemies to their colonies, and from those colonies to their parent countries in Europe; and in both cases, the trade has been considered indirect when carried on through the United States—that is, when the cargoes laden on board American vessels, in the ports of the enemies of Great Britain, have been first imported into the United States, and carried thence in the same, or other American vessels, to the enemy's countries or colonies respectively. But the facts which should constitute an indirect trade not having been definitively declared—on the contrary, as they have been several times varied, either by the orders of the British Government, or by the decisions of her Courts of Admiralty—much vexation and injury have thence accrued to the commerce of the United States.

But the treaty negotiated by the President's Ministers, (Messrs. Monroe and Pinkney,) and signed by them, with the British Commissioners on the 31st of December, 1806, comprehended a definitive provision on this head. Such trade, between the parent countries and colonies of the enemies of Great Britain, was to be considered indirect, when the articles of the growth, produce, or manufacture of Europe, were first carried to the United States, and, on re-exportation remained, after the drawback, subject to a duty of one per cent. on their value. In like manner, all articles of the growth and produce of the enemy's colonies, being first brought to the United States, and there entered and landed, and on re-exportation remaining subject to a duty of two per cent. on their value, might be re-laden and freely exported to any country in Europe. The duties, in both cases, to be paid into the Treasury of the United States.

This arrangement was calculated to prevent any further dispute between the United States and Great Britain, about the trade between the countries of her enemies in Europe and their colonies. But the President thought fit to reject this treaty, without laying it before the Senate.

not probable that our merchants would hazard their vessels on such a voyage, or that the underwriters would insure them. But what does this prove? Why, that the risk, under the British Orders, is so great, in attempting to enter a port in France, as perhaps to amount to an actual blockade.

I now beg leave, sir, to communicate the information I have recently received from the latter of the two merchants before referred to.* Having requested of him the data on which his opinion before-mentioned was founded, he has sent me an answer, dated the 23d instant, from which I will read the material parts. He says:

"Respecting the comparative trade of profound peace, and the present moment, if the embargo should be removed, and the decrees and Orders of Council remain, it is a subject about which it is difficult to go into that detail which will show satisfactorily an exact result; because, if you resort to the exports of a year in time of profound peace, and compare the aggregate with a year in war, the prices being so different, the difference in amount will not give the exact data we want. And to take the quantity of each article of export will not be satisfactory; because in different years we export more of the same article to the same market, and in proportion to the quantity raised, or goodness or badness of the crop. But of the fact I have no doubt, that our trade would be much greater and more productive, if the embargo were removed, than it can be in time of peace; because when the colonial trade of the European Powers is confined as usual, we cannot carry any kind of provisions to the colonies of any of them, without being subject to a heavy duty, nearly equal to a prohibition. And we are not allowed to bring away anything but rum and molasses; and of course we lose the whole of the colonial trade, so far as respects importing any articles with a view of exporting them again; excepting only from the Isle of France, and Bourbon, which has generally been free. But we may be shut out there. The trade to the colonies is now free for all exports and imports with small duties. And if the largest and most natural European markets for the sale of colonial produce are occluded, still we have open to us, all that the British have, and we can carry those articles to Sweden, Spain, Portugal, coast of Barbary, Turkey, Sicily, Sardinia, and Malta; the three last of which are ports at which the articles sell high, and are bought for the purpose of smuggling over to the Continent, where they are sent in great quantities."

The following statement is then given, of the amount of our exports from the 30th of September, 1806, to September 30, 1807, (taken from the report of the Secretary of the Treasury) to countries and places other than those in Europe, which are under the government or control, or in alliance with the French Emperor; all which are considered as shut up by the British Orders of Council:

"Domestic exports (or of articles of the growth, produce, or manufacture of the United States - - - - - -	$36,109,991
Foreign goods exported - - -	24,140,495
	60,250,486

To this may be added Spanish dollars, exported to India and China, and which are not noticed in the report of the Secretary of the Treasury, and may be estimated at least at - - - - - - 6,000,000

Whole amount - - - 66,250,486

"This amount may be exported without being subject to the British Orders of Council, and the extra premiums against French captures would not exceed the following rates, viz:

"To Sweden, 2 per cent.; Swedish and other West Indies, and the Spanish Main, 5 do.; Cape of Good Hope, 4 do.; England, Scotland, without the Channel, say Liverpool, Greenock, Ireland, &c., &c., 4 do.; and within the Channel, 6 do.; Guernsey, Jersey, &c., 5 do.; Gibraltar, 3 do.; Spanish ports in the Bay of Biscay, 6 do.; Spanish ports on the Atlantic, 3 do.; Spanish ports on the Mediterranean, 5 do.; Madeira, the Canaries, Fayal, and other Azores, 3 do; Portugal, 3 do.; Cape de Verd, 3 do.; Sicily, 5 do; Malta, 6 do.; China, 4 do.; Sumatra, 3 do.; Spanish and Portuguese America, 3 do.; Calcutta and the coast of Coromandel and Malabar, 8 do.; Africa, 4 do.; Arabia, and Red Sea, including Mocha and Muscat, 4 do.; Manilla, 4 do.; Northwest coast of America, 2 do; Halifax and Newfoundland, 1 do.

"In time of profound peace, our trade might be fairly estimated thus:

Domestic exports - - - - -	$48,699,592
To which may be added specie to China and India - - - - - -	6,000,000
	54,699,592
Foreign exports, nothing.	

"In time of peace these must be so very inconsiderable as to be unimportant in this statement."

This is supposing the same domestic articles as were exported in 1806, and allowing them to be at the same prices: so that the comparison stands thus:

Our exports, if the embargo were removed, would be - - - - - - -	$66,250,846
Free from any embarrassment from the British Orders in Council.	
If peace were to take place and the European nations assume their trade as usual; and the prices of our domestic articles remain at the average prices in 1806, (which they would not,) we should export - - - - - - - -	54,699,592
Leaving - - - -	11,550,894

less export trade in time of peace than we might now enjoy, and which amount is to be twice water borne, once in importing it from the places of growth, and again carrying it to the consumers; and of course would employ shipping appertaining to the carriage of one freight, equal in amount to more than twenty-three millions one hundred thousand dollars.

"As an evidence of the correctness of this statement, it will be seen by a recurrence to the statement of the Secretary of the Treasury, for the year 1803, that the exports had fallen, in that short peace, from $93,020,513, to $55,800,032.

"It is to be observed, that we might now enjoy a trade to South America and the Spanish Main, which might be estimated at least at from four to five millions of dollars, a considerable part of which would be again exported to Spain and Portugal, and which has never

* Mr. Thorndike.

made any part of the Secretary's report; because the trade to those countries has been prohibited until lately. It may also be remembered, that the export trade does not show the whole advantage of the colonial trade which we might now enjoy; because all we import for our own consumption ought to be added."

[Here Mr. LLOYD stated that, in his opinion, the value of the trade which might now be prosecuted from the United States, considering the present circumstances of the great nations of Europe, would be as extensive as could be carried on after a general peace, and the adoption, by the European Powers, of their restrictive colonial systems.]

On this clear and interesting view of the commerce which the United States might carry on, were the embargo out of the way, no comments are necessary. The observations of the writer of the letter are evidences of his being master of the subject.

Mr. President, the gentleman from Virginia (Mr. GILES) has been pleased to attribute the discontents, in New England, especially in Massachusetts, relative to the embargo, solely to the arts of demagogues, who wish to get into office.

The gentleman from Connecticut noticed this reproach; but as it appeared to be levelled chiefly at leading citizens in Massachusetts, I feel it to be my duty further to remark, that of all the citizens of the United States, none stand more aloof from, none more detest the character of demagogues, than those to whom the gentleman referred. I know those men who reprobate the embargo, and who, in conversation, and in newspapers, express their sentiments about it, or patronize those who do. They are not seeking for offices—many of them could not be persuaded to accept the best office in the President's gift—but to save their country from the effects of measures, in their view, alike ruinous and disgraceful. They are men, sir, whose age, whose experience, whose knowledge, whose wisdom, whose virtue, place them in the first rank of citizens. They are men, sir, ten of whom, had they been in Sodom, would have saved that city from destruction. Among them was the immortal Ames, than whom a purer spirit never left the earth. He wrote while he had strength to hold a pen. He died on the anniversary morning of the nation's birthday—and this was among his last prayers: "Oh, save my country!"

Gentlemen have said much about insurrection and rebellion; and, in language not very conciliatory, pointed all their allusions to the people of New England. Other rulers pronounced them rebels, more than thirty years ago; while many then unborn now wish to cover themselves with their mantle, and to share the honors of the patriots of 1776.

But, why should gentlemen be surprised that great discontents prevail in that country; and that the Legislatures, with a deliberation and solemnity which should command attention, have pronounced their opinions of the embargo? Gentlemen will recollect that there the Revolution began, of which Boston was the cradle. And if they will turn to the Declaration of Independence, they will find one of the reasons for the Colonies separating themselves from Great Britain, and renouncing the Government of the King, was, their enacting laws "for cutting off our trade with all parts of the world."

Mr. President, in a public document on our tables, we are told, that "after a period of twenty-five years of peace, hardly interrupted by transient hostilities, and of prosperity unparalleled in the history of nations, the United States are for the first time, since the treaty which terminated the Revolutionary war, placed in a situation equally difficult, critical, and dangerous."

That our country has enjoyed such unexampled prosperity, I readily agree: but the present is not the first time that these States have been placed in a difficult, critical, and dangerous situation.

The gentleman from Connecticut yesterday noticed the most difficult crisis. In 1793, it required all the firmness and immense popularity of President WASHINGTON, to stem the torrent of popular delusion, that was hurrying the United States into the vortex of the French Revolution.

In 1794, the same steadiness, the same undeviating pursuit of the public welfare, in spite of popular clamor and formal opposition, were necessary to institute a mission to Great Britain, to negotiate and settle with that Government questions of the highest moment to these States, and which, if they remained much longer unsettled, might endanger the peace of the nation. That negotiation, committed to the conduct of a statesman, than whom our country has produced not one more firm, more wise, or more upright, was, by his candor, ability, and decision, brought to a happy conclusion, in fewer months, than some more modern negotiations have occupied years, without being brought to any conclusion; unless their utter failure may be called a conclusion.

In 1795, the United States were agitated to their centre, by the opposition to the British Treaty. Artful and aspiring demagogues seized upon the known prejudices of the people in regard to the two great contending nations; and exerting all their faculties to keep up the popular delusion, hoped that, by the loud and extended clamor, the President would be deterred from ratifying the treaty which Mr. Jay had so happily concluded. Here again were displayed the firmness and patriotism of WASHINGTON. Always determined to pursue the true interests of the people, although at the hazard of his popularity, he ratified the treaty. Here it was presumed, all opposition would cease. But it again appeared, and with a more formidable aspect, in the National Legislature. But I will not dwell upon it. The treaty was finally carried into execution. It had, however, one more enemy to encounter.

Revolutionary France, wishing to involve us in a war with Great Britain, which this treaty, merely of amity and commerce, had prevented, pretended that it was equivalent to a Treaty of Alliance with Great Britain. And seizing on this pretence, at once to vent her resentment, and gratify the rapacity of her rulers with the plun-

der of our citizens, she let loose her cruisers upon our commerce.

We urged the obligations of treaties, violated by these captures. She answered, that she found only a real disadvantage in those obligations: and continued her depredations. Repeated missions of respectable Ministers to Paris endeavored to propitiate her rulers, and prevail on them to put a stop to such enormities. But they were deaf to the voice of justice. Then it was that our Government authorized an armed commerce, and equipped a small but gallant navy for its further protection; and made other defensive preparations, such as have been stated by the gentleman from Connecticut.

If, sir, our country is now placed in a situation more "difficult, critical and dangerous," than at any of the periods to which I have adverted, though I am very far from adopting that opinion, where shall we look for the cause? If in 1794, when England had powerful associates in her war with France, and the latter had been, comparatively, but little extended beyond her natural limits; the United States, with perhaps two-thirds of her present population, and less than half her present revenue, were able to induce England to accede to their just demands, and to close all differences by an advantageous treaty; how has it happened that the present Administration, with all the accession of power from an increased population, and a more than doubled revenue; when, too, gigantic France wielded the force and the resources of continental Europe; and England, single-handed, was left to meet a world in arms; how has it happened, that with these superior advantages and more powerful means, all the negotiations of the present Administration with England, one excepted, of local rather than general application, and which I need not explain, have failed? Had they been conducted with equal candor, ability, and dignity, must they not have produced as early, and at least as advantageous results? Was this a cause of their failure, that points of questionable right, because not settled by the universally acknowledged law of nations, and therefore of doubtful, or hopeless attainment, were pertinaciously insisted on?

Mr. President, to find a remedy for evils, as well in the body politic as in the natural body, it is necessary to investigate their causes.

Nearly eight years have elapsed since we were told, by the highest authority in the nation, that under the auspices of the Federal Government, the United States were then "in the full tide of successful experiment." And the report on our tables, to which I have before alluded, declares, in grave and solemn language, that during a period of twenty-five years, which brings us down to the embargo, the United States have enjoyed a "prosperity unexampled in the history of nations." Yet during the whole of this period of unequalled prosperity, arising from the active pursuits of commerce and agriculture, each giving life and vigor to the other, that commerce has been exposed to the aggressions of the belligerent nations. For those of Great Britain, up to near the close of 1794, compensation was made, pursuant to the provisions of Mr. Jay's treaty. For the like aggressions by Spain, the like indemnity was given by virtue of the treaty with that Power, concluded in October 1795. For French spoliations during the whole period of her revolutionary war, spoliations which have been estimated at not less than millions of dollars, we have received nothing? Nor have we obtained any reimbursement from Spain for the spoliations committed by her cruisers, after she became the ally of France.

Captures and condemnations, however, more or less extended, have never ceased; notwithstanding all which, and the continued impressment of seamen from our merchant vessels, the same unexampled prosperity has attended us; until suddenly, and to the astonishment of the nation, this flowing tide of successful commerce and agriculture was stopped by that fatal measure the embargo. The shock was aggravated by the concealment of its real cause. Sir, I hazard nothing in asserting, that to this day that cause has not been satisfactorily declared. Allow me time to justify this assertion. I bring together facts and circumstances, and then gentlemen will judge whether my conclusion be erroneous or just.

On the 14th of December, 1807, the despatches brought by the Revenge, from our Minister in Paris, were delivered to the Secretary of State. On her arrival at New York, reports brought by her stated, that the French Emperor had declared that there should be no neutrals. The sources of information, and the character of the Emperor, rendered those reports worthy of credit; and though afterwards publicly and stoutly denied, they were believed; and no gentleman here will now be inclined to doubt the fact. These reports, and the mystery which surrounded the recommended embargo, naturally excited suspicions and alarms.

Of the French papers supposed to be brought by the Revenge, none were communicated to Congress, save a letter dated September 24, 1807, from General Armstrong to M. Champagny, and his answer of the 7th of October, relative to the Berlin decree; and a letter from Regnier, Minister of Justice, to Champagny, giving the Emperor's interpretation of that decree. These three papers, with a newspaper copy of a Proclamation of the King of Great Britain issued in the same October, were all the papers communicated by the President to Congress, as the grounds on which he recommended the embargo. These papers, he said, "showed the great and increasing dangers 'with which our vessels, our seamen, and merchandise were threatened on the high seas and 'elsewhere, from the belligerent Powers of Europe."

As to the Proclamation of the King of Great Britain, requiring the return of his subjects, and particularly the seamen from foreign countries, it was no more than every government has a right to issue, and commonly does issue, in time of war. This Proclamation contained no evidence of increasing danger to "our seamen;" on the contrary, if I mistake not, (for I have not the Proclamation by me,) there was a solemn, public injunction to his naval officers to conduct impressments with increased caution and care. So that impressments would probably rather be diminished than increased.

Let us now examine the three other papers, all of which, as I have noticed, and as gentlemen remember, related to the decree of November 21, 1806. This decree was issued at Berlin, by the French Emperor, at the moment when, inflated with more than ordinary arrogance and pride, he was sitting in that capital of the Prussian monarchy, just then subverted by his arms.

The first articles declared all the British Isles in a state of blockade. This, according to its terms, subjected to capture and condemnation all neutral vessels bound to and from British ports; but it seems to have been held in a state of suspense. But another article, declaring "all mea-'chandise belonging to England, or coming from 'its manufactories and colonies, (although belong-'ing to neutrals,) to be lawful prize," was to be carried into execution. Such was the decision of the Emperor as stated by his Minister of Justice on the 18th of September, 1807, in his letter to Champagny. This decision coming to the knowledge of General Armstrong, he, on the 24th of September, wrote to Mr. Champagny, and asked "whether it was the Emperor's intention to infract the obligations of the treaty subsisting between the United States and the French Empire." Mr. Champagny, in his answer of the 7th of October, inclosing the letter of the Minister of Justice, with wonderful assurance, tells General Armstrong that it was easy to reconcile the execution of the decree with the observance of treaties; although nothing was more obvious, (as Mr. MADISON, on the 8th of February last, wrote to General Armstrong,) than that it violated as well the positive stipulations of our treaty with France, as the incontestable principles of public law.

In the European ports, under the Emperor's control, and even in neutral ports, the decree was rigorously executed. And, although it is said there was no formal decision in the French Council of Prizes, condemning American property, under the decree, until the 16th day of October, 1807; yet, Mr. Madison states, as early as the 22d of May, 1807, (in his letter of that date to General Armstrong,) that "there were proofs that the French West India privateers had, under color of the edict, (the Berlin decree,) committed depredations" on our commerce. And, moreover, that Spain "avowedly pursuing the example and the views of the French Emperor," had issued a similar decree, and even in broader terms, which, "if not speedily recalled or corrected, would doubtless extend the scene of spoliations already begun in that quarter."

Such were the French papers in this case. And now let us see the amount of "the great and increasing dangers which threatened our vessels, our seamen, and merchandise."

In the letter of February 8, 1808, from Mr. Madison to General Armstrong, speaking of the Berlin decree, and the Emperor's decision thereon, Mr. Madison says: "The conduct of the 'French Government, in giving this extended 'operation to its decree, and, indeed, in issuing 'one with such an apparent or doubtful import, 'against the rights of the sea, is the more extra-'ordinary, inasmuch as the inability to enforce it 'on that element, exhibited the measure in the 'light of an empty menace." And in his letter of the 25th of March, 1808, to Mr. Erskine, Mr. Madison, speaking of the same decree, says "that 'France was without the means to carry it into 'effect against the rights and obligations of a neu-'tral nation."

Thus, then, we see the President's "great and 'increasing dangers with which our vessels, our 'seamen, and merchandise, were threatened on 'the high seas and elsewhere," and its extended operation, rested on what he, through his Secretary, Mr. Madison, has since pronounced "an empty menace," a project "which France had no means to carry into effect."

Shall I be told, Mr. President, of the Britsh Orders of Council? and that they were comprehended in the President's view of the great and increasing dangers to which our commerce was exposed? If that were the fact, was it not his duty to give such information of them as he possessed, to the Senate? He gave none. I know that those orders were afterwards pressed into his service to justify the measure; and still later it has been confidently said, "that those orders stood in front of the real causes of the embargo;" and yet they were invisible to the Senate. What! the great, the operative cause of the embargo, "before which all other motives sunk into insignificance," not seen, not known to the Senate! Not glanced at by the President in his Message, nor intimated to any of the members who were honored with his confidence, and by them to the Senate!

But, from reasoning, I will recur to written proofs, furnished by the President himself, and now on our tables.

In Mr. Madison's letter to Mr. Pinkney, the President's Minister in London, dated December 23, 1807, the next day after the act laying an embargo was passed; and this, after it had undergone three days of earnest opposition in the House of Representatives, during which it behooved the father of the measure, and his friends, to furnish every possible argument to silence opposition, and to satisfy the nation of its expediency and necessity; after all this, Mr. Madison, in that letter, tells Mr. Pinkney that "the policy and the causes of the measure are explained in the Message itself." The contents of the Message (comprehending the papers it referred to) I have already stated; and the statement demonstrates, that they were not the causes or motives of the embargo; for an "empty menace," a decree without the means of carrying it into effect, could be no cause, no motive for a measure, whose avowed object was "to save our vessels, our seamen, and merchandise, from great and increasing dangers."

Sir, let all the documents laid on our tables by the President be examined, and you will not find

one in which he hazards the assertion, that the British orders of November 11, were known to him at the time he recommended the embargo, or that an expectation of them determined his recommendation. It was not until the 2d of February, when they had been officially communicated by the British Minister, that he offered them to Congress "as a farther proof of the increasing dan-'gers to our navigation and commerce, which led 'to the provident measure of the act laying an 'embargo." And Mr. Madison, in his letter to Mr. Pinkney of February 19, 1808, cautiously avoids ascribing the origin of the embargo to the British orders; though, he says, the probability of such decrees was among the considerations which "enforced" the measure; the language of the British gazettes, with other indications, having, he said, left little doubt that such orders were "meditated." And he adds, that "the appear-'ance of these decrees (meaning the British or-'ders) had much effect in reconciling all descrip-'tions among us to the embargo."

But I must notice the change of language in Mr. Madison's last letter. In that of December 23 to Mr. Pinkney, he says, "the policy and the 'causes of the embargo are explained in the Pre-'sident's Message." But in his letter of February 19, he says, "my last (that of December 23) in-'closed a copy of the act of embargo, and ex-'plained the policy of the measure;" leaving out "causes," and introducing the unknown British orders as among the considerations which enforced it.

The President, too, in his answer to the Boston petition for suspending the embargo, says, not that the British orders were known to exist at the time when the embargo was laid; but only that they were in existence at the date of the law; from which the unwary reader might suppose that they were known to exist at that date.

From all these considerations, it appears to be demonstrated, that the British Orders in Council of November 11, 1807, were not known, and that the newspaper rumors concerning them never entered into the views of the President and Congress, as a motive for laying the embargo. And here the well-known maxim applies, *de non apparentibus et non existentibus eadem est lex.* Although the British orders were in existence, yet, as they were not known to exist, they were, as to the embargo, nonentities.

The conclusions resulting from the facts and circumstances which I have collected and compared, are serious and alarming. They demonstrate that the representation, in the President's Message recommending the embargo, was delusive, calculated to lead Congress into the belief that the situation of the United States, in relation to France and England, was extremely perilous, requiring the instant adoption of the measure recommended. And as Congress did adopt it, enacting the law recommended, it must be presumed that they believed an embargo was necessary to preserve our vessels, our seamen, and merchandise, from the great and increasing dangers with which the Message stated that they were threatened.

It also follows, as no subsequent disclosure has been made of other dangers known at the time the Message was communicated, that the real cause or motive for the embargo has been, and yet is, veiled from the eye of Congress and the nation.

M. Champagny's letter of October 7, (one of the papers communicated with the President's Message,) requires examination. But I should first remark that, during the years 1806 and 1807, in order to reduce England, by destroying her commerce, the French Emperor, in execution of, and in the spirit of his Berlin decree, ordered all English merchandise to be seized and confiscated in every place on the European continent, enemy or neutral, occupied or which should be occupied, by the French armies. For this purpose, and as one instance among many, his troops took possession of Hamburg, a city with which American merchants carried on a large and valuable commerce, and which, as neutral, was entitled to the same exemption from hostile violence as the territory of the United States, and by the Emperor's orders, Bourrienne, his accredited Minister to that free city, addressed a note to the Senate, in which, having stated that every person who traded on the Continent in English merchandise, seconded the views of England, and ought to be considered as her accomplice; and that a great portion of the inhabitants of Hamburg were in that predicament, and notoriously attached to England; the Emperor caused possession to be taken of their city, and his Berlin decree to be carried into rigorous execution. Accordingly, that Minister, in obedience to the Emperor's orders, among other outrages, declared, "all English merchan-'dises that may be found in the city, in the har-'bor, or on the territory of Hamburg, no matter to 'whom they belong, shall be confiscated." This was done so early as the 24th of November, 1806, only three days after the Berlin decree was issued.

With equal atrocity the Emperor caused to be seized and sequestered the vessels and cargoes of neutrals which were brought into, or voluntarily resorted to, the ports of France for purposes of lawful trade. And we know, from a source which will not be questioned, that their liberation was hopeless; because they were worth eighteen or twenty millions of dollars!

Of the vast property thus plundered, a large portion belongs to citizens of the United States. On the 15th of January last the Emperor's Minister, Champagny, wrote to our Minister, General Armstrong, that their property would remain sequestered until a decision should be had thereon; and this decision depended on our associating or refusing to associate ourselves with him and his allied States in their war with Great Britain. Indeed the Emperor was willing to save us the trouble of considering and deciding for ourselves: he declared war for us. "War exists then in fact between England and the United States," are the words of Champagny, in the letter just mentioned! What measures ought to be kept with such a Power? While we are yet independent,

he undertakes to prescribe the line of conduct we shall observe, on pain of confiscation of all the property of our innocent and unsuspecting merchants within his grasp! And this monstrous outrage upon our honor and independence, the Secretary of State, with very exemplary meekness, says, "had the air, at least, of an assumed authority!"*

Where his armies did not thus penetrate and plunder, the French Emperor sent to the several Powers on the Continent, whether Emperors, Kings, or petty States, requiring (or, which from him was equivalent to a command, inviting) them to shut their ports against the commerce of England; and, Sweden excepted, (between whom and the French armies lay a narrow sea guarded by Swedish and British ships,) all obeyed. Even the Emperor of Austria, though at peace with England, shut against her his two or three little ports at the head of the Adriatic Sea.

The Prince Regent of Portugal, whose country for more than a century had lived in friendship with England, was the last to obey. But, though he shut his ports, national faith and gratitude towards his friends, forbade his arresting Englishmen and English merchandise. By shutting his ports, he hoped to appease the Emperor, and save his kingdom. But his fate had been determined; although Portugal had for many years been paying a heavy tribute to France, and been, moreover, anxious to observe the duties of a neutral nation. To save himself and family from disgrace and bondage, the Prince quitted his kingdom; finding an asylum in his American dominions.

Thus we have seen the French Emperor not only shutting his own ports and those of his allies, but even those of neutral States, against British commerce; and seizing and confiscating the merchandise proceeding from England and her colonies, although belonging to neutrals, and on neutral territories; and that this unexampled scene of devastation commenced within four days after the Berlin decree was issued.

It was after she had witnessed all these atrocities, and seen the deadly weapon aimed at her vitals, that England issued her retaliating orders of November 11th, 1807.

I now recur to Mr. Champagny's letter of October 7, to General Armstrong, in answer to his inquiry, "whether (in executing the Berlin de-'cree) it was His Majesty's intention to infract 'the obligations of the treaty now subsisting be-'tween the United States and the French Em-'pire?" The answer to which has been already recited.

Allow me to repeat, that this letter of Champagny was one of the four papers communicated by the President with his Message recommending the embargo, and one of the two which, after being read, was not then suffered to remain on the files of the Senate, but was returned to the President, together with General Armstrong's letter to which it was an answer, agreeably to his request. Subsequent events drew it from the Cabinet. Gentlemen will also recollect, that the concluding paragraph of the President's Message, in which he desired a return of those two letters, was ordered by the Senate to be omitted; so that no evidence of the existence of those letters could appear on the Senate's Journal, or in the printed copy. In this letter of Champagny, the views of the French Emperor were but too clearly indicated. To render his decree of blockade "more effectual" (that is in destroying the commerce of England) "its execution must be complete." But as it could not be complete while the vessels of the United States (then with those of England carrying on, almost exclusively, the commerce of the world) continued their extensive trade with England, we were, in language sufficiently intelligible, invited to fall into the imperial ranks, with the maritime Powers of Europe, whom the French Emperor had marshalled against England, and "to unite in support of the same cause;" that is, to destroy the commerce of England. But the people of the United States would have been shocked at an open proposition to shut their ports against the English commerce, at the command or invitation of the French Emperor; they would not have endured it. The measure could be accomplished only by an embargo, and that wrapped up in the mystery which I have endeavored to unfold.

The letter of Champagny must have arrived in the Revenge; and General Armstrong's despatches by her, reached Washington, as Mr. Madison informs us, on the 14th of December; and on the 18th the embargo was proposed and recommended! Four days gave little enough time to digest and mature such a plan!

These, sir, are my views of the origin of the embargo; the result of a careful, and I trust, an impartial investigation. The material facts are on record. Of my reasonings and conclusions gentlemen will judge. If these be correct, the course to be pursued must be obvious. The nation's honor is compatible with the repeal of the embargo. The welfare of our country is not to be sacrificed to the views or feelings of those who have brought it into its present situation.

Let then, the resolution before us be adopted and the embargo removed. As the British Orders in Council were not the cause of the embargo, the honor of the United States is not pledged for their previous repeal.

When Mr. PICKERING had concluded, the Senate adjourned.

* Mr. Madison's letter of May 2d, 1808, to General Armstrong.

THURSDAY, December 1.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress a report from the Surveyor of the Public Buildings, of the progress made on them during the last session, of their present state, and the

expenditures incurred, and of those that may be requisite for their further prosecution.

TH. JEFFERSON.

DECEMBER 1, 1808.

The Message and report were read and ordered to lie for consideration.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th ultimo, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto.

Mr. ANDERSON addressed the Chair as follows:

Mr. President: Two considerations had determined me to give a silent vote upon the resolutions before the Senate; one is, that my sight has been very much affected by an inflammation which I have long had in my eyes, in consequence of which I have not been able to give the necessary examination to the documents which have been published, that have a particular relation to this subject; the other is, that the very able and luminous discussion which has been given to the subject, both in a political and commercial point of view, by the gentlemen who have spoken against the adoption of the resolution, had left little if anything to be said. But, sir, the speech which the gentleman from Massachusetts (Mr. PICKERING) read in his place yesterday, has determined me to endeavor to answer him. In following the gentleman, I was obliged to take very hasty notes, for his speech being written, he was not obliged to make those pauses which are usually made in public speaking, and which afford time to take more copious notes. I shall, therefore, be obliged to answer the gentleman almost entirely from memory.

In discussing this subject, sir, I think it totally unimportant to inquire whether France or England has done us the most injury, or which was the first aggressor upon our neutral rights. It is admitted by all, that both have given us ample cause of war, and that each has done us much more injury than we are ever likely to receive reparation for. It is our business, therefore, to pursue that course that we conceive will produce the best effect upon both those nations, without evidencing the least partiality for either the one or the other. If, sir, they should both see that we united against them, every measure we adopt would have its proper effect; but if either of those nations should discover that they have any apologists among us, and more particularly in the councils of our nation, every measure we adopt against such nation must lose full half of its effect. Having made these preliminary observations, I will proceed to consider the arguments of the gentleman from Massachusetts (Mr. PICKERING) which he has offered in support of the resolution. He has said that no cause whatever existed for laying the embargo; and then proceeds to state the Message of the President and the papers which accompanied it. Those papers, he tells you, were a proclamation of the King of England, requiring the return of his subjects, and particularly the seamen from foreign countries—a letter from General Armstrong to Champagny, and his answer, dated 7th October, relative to the Berlin decree—and a letter from Regnier, Minister of Justice, to Champagny, containing the Emperor's interpretation of that decree.

As to the proclamation, says the gentleman, it contained no evidence of increasing danger to our seamen, for it contained a solemn injunction to the naval officers to conduct impressments with increased caution and care; so that, says the gentleman, impressments would probably rather be diminished than increased. With respect to the construction of the proclamation, Mr. President, I differ greatly with the gentleman. In my opinion, it was intended to extend the arbitrary right of impressment; it speaks a language that cannot be misunderstood; it authorizes any subaltern officer who might be sent on board of merchant vessels to impress all such of their crews as might be taken, or mistaken, for British natural born subjects, those officers being the sole and absolute judges in the case; and the proclamation has expressly directed the officer to pay no respect whatever to certificates of citizenship from any foreign State. I will read a part of the proclamation: "And whereas our natural born subjects have 'been induced to accept letters of naturalization, 'or certificates of citizenship, from foreign States, 'and have been taught to believe that, by such 'letters, or certificates, they are discharged from 'that duty of allegiance which, as our natural 'born subjects, they owe to us—Now, we do here'by warn all such mariners, seafaring men, and 'others, our natural born subjects, that no such 'letter of naturalization, or certificate of citizen'ship, do, or can in any manner divest our natu'ral born subjects of the allegiance, or in any de'gree alter the duty which they owe to us, their 'lawful sovereign." Can the gentleman, for one moment, believe, after hearing this language of the British proclamation, that it was intended (as he has said) to diminish impressments? I think it impossible. It is evidently intended to extend impressments, not only to seamen, as such, but to every citizen of the United States who has been naturalized since the acknowledgment of our independence by Great Britain, and who might perchance be found on board a merchant vessel. And would not this extensive kind of search render our native American seamen much more liable to be taken than before the issuing of this proclamation? For the gentleman himself has, upon a former occasion, said, that the British and American seamen were so much alike in their manners, habits, and language, that it was no easy matter to distinguish one from the other. And is it not highly probable, sir, that if so great a likeness has been discovered by one of our own citizens, that at least as great a likeness would be discovered by a British officer who might want seamen, and who had been directed by the proclamation to pay no respect to certificates of citizenship, which had often heretofore protected our citizen seamen against impressments, but which were now all prostrated by the British proclama-

tion? It is rather singular, Mr. President, that Great Britain should set up this claim to naturalized citizens, when by her own statute laws she declares, that "any foreign mariner, or seaman, 'who serves on board a British man of war, any 'British merchant vessel, or privateer, during the 'time of war, for the term of two years, shall, to 'all intents and purposes, be deemed and taken to 'be a natural born subject of Great Britain." And this nation, the gentlemen has told us, is so firm, that she never recedes from any ground she has taken: hence we are to conclude, that every American citizen whom she can thus metamorphose into a British subject, she will never give up. If then, sir, American citizens are impressed and put on board British vessels in time of war, and remain on board two years during a time of war, according to the statute law of Great Britain, such American citizens become British subjects, and, as such, are never to be given up; and yet no British subject can become an American citizen by our statute laws; for, says the British proclamation, no letter of naturalization, or certificate of citizenship, from any foreign State, do, or can in any manner divest our natural born subjects of the allegiance they owe us, their lawful Sovereign. Does not this proclamation show great and increasing dangers to our seamen? To my mind it does.

I will now examine the other papers which the gentleman has taken notice of, which accompanied the President's Message. These relate to the Berlin decree, passed the 21st November, 1806; this decree was not put in force against neutral vessels for near a year thereafter.

On the 24th of September, 1807, General Armstrong, in a letter to M. Champagny, said that he had learned that a new and extensive construction, highly injurious to the commerce of the United States, was about to be given to the Berlin decree, and asks for an explanation of the Emperor's views in relation to the subject; and on the 7th of October receives for answer, that since His Majesty had not thought proper to express any exception in his decree, (with respect to neutrals,) there was no ground to make any in the execution with respect to anything whatever. This exposition of the Berlin decree, by the Emperor of France, placed in jeopardy all our vessels which might infringe its provisions, and showed the great danger from thenceforward accruing to our commerce. M. Champagny also tells General Armstrong, in the reference he makes to the explanations of the Procureur General of the Council of Prizes, that His Majesty has not decided the question, whether French armed vessels may possess themselves of neutral vessels going to or from England, although they have no English merchandise on board. The doubting manner in which the French Emperor speaks upon this subject, evidently shows his intention, and, of course, the increasing dangers to our ships and merchandise; and the state of things which has since taken place in Europe tends completely to show the well-timed wisdom of laying the embargo.

But, Mr. President, there was another consideration which presented itself at the time, serious and imposing. Shall I be told, says the gentleman from Massachusetts, (Mr. PICKERING,) of the British Orders of Council? I answer by assuring him, that he will be told that the British Orders of Council had a very imposing influence in laying the embargo; they were in many of the public papers, and published in such a manner, and under such circumstances, as could hardly leave a doubt of their having been actually signed by the King on the 11th of November, as stated in the *National Intelligencer:* and here I hope I may be permitted to take the same ground to prove the fact, that the gentleman has himself taken upon a former occasion; he has said, that the *National Intelligencer* is considered, and generally believed to be, the Government paper; and that any publication which appears in it as emanating from the Administration, is considered as true. Now, sir, I shall only ask of the gentleman to grant me as much with respect to the British ministerial paper—I think called the *Sun*—from which paper the *National Intelligencer* had taken the British publication respecting the Orders of Council, and which stated that those orders had been agreed upon by His Majesty, in Council, on the 11th November, and that they were to be signed by the King on the fourteenth. Thus, then, Mr. President, if the gentleman gives as much credit to the publication of a British ministerial paper, with respect to the transactions of the British Cabinet, as he has thought proper to give to the publication of what he calls our own Administration paper, he must admit that the British publication respecting the Orders of Council was true, and, of course, entitled to credit. But if any doubt yet remains with the gentleman with respect to the British Orders of Council being known here before the Message of the President was sent to Congress recommending the embargo, I will refer him to the evidence given before the British House of Commons, the authenticity of which, I expect he will not doubt.

It is stated by Mr. Martin, an eminent merchant, that on the 12th of November he wrote a circular letter to his American correspondent, which letter was received in America on the 12th or 13th of December, but he believed on the 12th. In this letter, he says that he stated—"It is strongly reported that it is the intention of our Gov'ernment to extend the system of blockade to 'France, and the respective States on the Conti'nent under her influence, prohibiting from en'trance into any of their ports all vessels what'ever, unless such as have last cleared from Great 'Britain and her dependencies."

Mr. Kinder, another eminent merchant, produced a New York paper, dated the 15th December, in which it was stated, that "the English 'Government have not issued their proclamation 'declaring France and her dependencies in a state 'of siege, and prohibiting all intercourse with 'them, except direct from a British port, it not 'having received the signature of the King. A 'private letter from a member of Parliament,

'mentions that it would be published in the *Ga-*
'*zette* on the 14th." There are several other proofs made before the House of Commons of a similar character, which I do not think necessary to produce; those which I have adduced, tend most fully to prove, that the British Orders of Council were well known in America some days before the embargo law passed; that they were in fact published in the British ministerial paper on the 14th of November, (as stated in the *National Intelligencer*,) they were to be,) being the very day on which the private letter from the member of Parliament stated that they were to be published. I now trust that the gentleman from Massachusetts will admit, that the British Orders of Council were fully known in this country, known to every member of Congress who had attended to the reading of the newspapers; that he will not say they have been pressed into our service, but that they are fairly proved to have been known, and have had an imposing influence in laying the embargo. But, says the gentleman, if those orders were comprehended in the view of the President, was it not his duty to give such information of them to the Senate? Sir, I do not believe it was his duty to communicate officially, unofficial information. The gentleman well knows, that as President, he is responsible for all his communications, and that he ought to have the most unequivocal proof of every fact which he communicates for our information: and such I believe are the impressions of the gentleman himself—for it will be recollected, that although the British proclamation which accompanied the Message of the President appeared to have every mark of authenticity (and had been officially published by the British Government,) yet as it had not been officially made known to our Government, the gentleman appeared to be of opinion it ought not to have been communicated by the President; and I am induced to this belief by the gentleman's own showing, for in his letter to Governor Sullivan, in mentioning the papers received from the President, he says, that one of them, meaning the proclamation, was cut out of a newspaper—thereby evidently inferring, that no information but such as the President had officially received ought to have been communicated. If then, Mr. President, the gentleman was so much dissatisfied with the proclamation being sent, which had been published officially, but not officially made known to our Government, how much more so would he have been, had the President sent us unauthenticated publications taken from the newspapers? Besides, the newspaper information was in everybody's hands, and the Senate are not foreclosed from availing themselves of information, from any extraneous source, upon every subject on which they are called to decide. That we decided rightly in laying the embargo, is believed by our country and the world; and had we even decided wrong, we erred upon the safe side, for the means of immediate relief was within our own power. But not so, if the embargo had not been laid; then, indeed, would a very great portion of our seamen, ships, and merchandise, have been wrested from us, perhaps forever: but, sir, happily for our country, the precautionary wisdom of the President, saw, and warned us of our approaching danger; and from the resources that have thus been saved to our country, we are ready and willing to prove to the world, that "we have millions for defence, but not one cent for tribute."

It has been said by the gentleman from Massachusetts, (Mr. PICKERING,) that the embargo has not produced the effect its friends had foretold. He will acknowledge, I expect, sir, that it has had a very unfair trial.

Our Government, Mr. President, being predicated upon and supported by the will of the people, that will, in order to induce a strict conformance to the law, should be correctly informed by those from whom the people have a right to expect correct information, but should never be led astray.

But unhappily, sir, with respect to the law under consideration, this has not been the case. Scarce had the law passed before the gentleman from Massachusetts (Mr. P.) had recourse to very extraordinary means to render it unpopular. He addressed a letter of a very extraordinary character to the Governor of Massachusetts, with intent, as he said, to have it presented to the Legislature, and through them to the people; thereby evidently intending to create an alarm, which was by no means warranted by the passage of the act. What the gentleman's views were, he best can tell. This letter, going from a Senator of the United States, (at a time, too, when Congress was in session,) gave it an imposing influence with the people. It immediately became the life and soul of the Federal newspapers; they sounded it from one end of the Continent to the other. Many weak minds were led astray by it, and it would have done infinite mischief had it not been for the timely appearance of a very able letter written in answer to it, by the gentleman's former colleague, (Mr. ADAMS.) It, nevertheless, had considerable effect upon the immoral, dissolute, and disorderly; it taught them to disrespect the law, being supported by the authority of a Senator, who had written so severe a philippic against it. The tocsin of alarm being sounded against the Administration for having recommended the embargo, and the majority for having passed it, party feelings and prejudices were brought to operate against it; and before it could have a chance of a fair trial as to the effects it might produce, its infringements became numerous, and its operative effects were measurably destroyed. But, sir, I consider the evasions of the law in our own ports but a minor evil compared with those which have been produced by other means. This letter, with all its contingent consequences, was communicated to England, (where, I have been informed, it was considered of so much consequence to that nation as to pass through eight or ten editions,) and by that letter and its accompanying information, the British Government was given to understand, that very great dissatisfaction prevailed among the people. It was, in fact, a notification to that Government to adhere to their Orders of

Council, in order that the continuance of the embargo might make a more effectual impression upon the feelings and immediate interests of the people, and thereby change the character of our elections, not only in our States and Congressional districts, but upon our great national election also. But, notwithstanding all these means, thus devised and thus executed, we have to congratulate ourselves, that the good sense and patriotism of our fellow-citizens have prevailed, and we yet remain sustained by the commanding voice of the nation.

That impressions of the character to which I have alluded had been made upon the mind of Mr. Canning, is evident from the correspondence; for Mr. Pinkney, in his letter to the Secretary of State, of the 4th of August, says, that on the 29th of June, he had a conversation with Mr. Canning, which had rendered it somewhat probable that the object mentioned in Mr. Madison's letter of the 30th April, would be accomplished, if he, Mr. Pinkney, should authorize the expectation which that letter suggests. This letter from Mr. Madison to Mr. Pinkney says, "the President is authorized, in such event, (that is, the rescinding of the British Orders of Council,) to suspend in whole, or in part, the several embargo laws." It is evident, from Mr. Pinkney's letter, that on the 29th of June, Mr. Canning evinced a disposition to accede to the equitable and liberal views of the President, which I have already explained. But between the 29th of June and the 23d of September, some extraordinary cause had produced a very different disposition in Mr. Canning, as appears by his letter of the latter date. Upon this letter I shall make no comment; it is before the people, and they will, no doubt, judge of it as they ought. But, sir, I would inquire, from what cause did this change in the British Government proceed? Not from the convulsions in Spain, as has been stated, for they were well known in England previous to the 29th June; nor from the trifling disturbances in Vermont, (which some gentlemen have endeavored to magnify, but) which were of too insignificant a character to produce any effect upon a Government so well informed and enlightened as Great Britain, and one so accustomed to experience, and suppress similar trifling disorders among their people. The real cause of this change in Mr. Canning must then be sought from some other source; and, in my opinion, it can only be found in the torrent of unfounded information, which the British Government had received (after the 29th of June.) of the tenor and character I have already described. To this cause may justly be attributed the continuance of the embargo at this time, and, of course, the real reasons why it had not produced its desired effect; for had it not been for the improper and delusive impressions made upon the British Government, from the causes I have stated, we have reason to believe that Mr. Canning would have accepted the liberal offer made by our Government; the Orders of Council would have been rescinded, the embargo would of course have been raised, and our country would at this time be enjoying the benefits of a lucrative and extensive commerce. Mr. President, I have taken some pains to prove that the President had ample cause for recommending the embargo, and Congress for passing the law; and I have endeavored to show why it has not had its full and desired effect: how far I have succeeded in either, this honorable House will judge.

Upon that part of the subject upon which I shall now speak, (it being entirely of a mercantile character,) I shall not pretend to enter into detail; more especially as the honorable gentleman from Maryland, (Mr. SMITH,) who is a practical merchant, has given us a very satisfactory, able, and extensive view of it. I shall, therefore, be concise, confining my observations to the Orders of Council and the French decrees. I shall take as a postulatum, that all the reasons which operated in laying the embargo, operate with equal, if not greater force, against adopting the resolution for the repeal of the law. I will ask whether any change in our foreign relations has taken place that would now render it more safe to navigate the ocean than when the embargo was laid? The contrary is the fact—for the Orders of Council, which were then only unofficially known, have since been officially communicated to our Government, with all their numerous and appendant explanations, which have rendered the original orders infinitely more complex. Those Orders of Council, with all their modifications, have been confirmed by act of Parliament; and by that act, power is given to the King in Council, further to modify, alter, or extend their provisions at pleasure; so that now we have not even the certainty of those orders, or of the acts of Parliament, upon which to depend, since the King in Council can, and no doubt will, whenever they see cause, adopt a new system of orders, to operate precisely in the manner, and at the time which they might conceive most convenient to themselves, or perhaps most injurious to us; for, from the evidences we have had of the disposition of that Government towards our commerce, we have little indulgence to hope. Those Orders of Council are so susceptible of a variety of construction, so dependent on the will of the Admiralty judge, and the more inscrutable, but not less dangerous will of the King and Council, that an American vessel could scarce hope to make a voyage to almost any port with safety. If our vessels take in cargoes of our own produce, and clear for any port on the Continent of Europe, they are taken by British cruisers and carried to England, for the purpose of paying the transit duty, as it is called, but which, in fact, is a tribute exacted from us, for the privilege of trading to places, to which, as an independent nation, we have a right to go: and this, as has been truly said by my friend from Virginia, (Mr. GILES) is exercising a power over our native exports, which by the Constitution has been denied to Congress. This, indeed, if submitted to, will succumb the best interest of our country, and destroy every attribute of our national independence. Again, our vessels returning from a foreign port, are

equally liable to be carried into England by British armed ships, there to pay tribute for the privilege of bringing home their cargo, as in the case of the Sophia. She had only a few casks of gin on board, merely as ballast, but she was nevertheless taken into England, and compelled to pay several thousand dollars, and to purchase a permit to return to her own country! Can we, as an independent nation, submit to these intolerable impositions? And yet, sir, raising the embargo without some more energetic measures being adopted, would be to tell the world, we are so humble a people, so fond of commerce, that we will prostrate both our honor and our independence for the purpose of obtaining it. Forbid it, the spirit and principles of seventy-six! Young, at that day—scarcely in the gristle—not having reached half our present strength—oppressed by the same domineering Power whose ships now cover the ocean, we indignantly refused to submit to similar impositions, although a pretext then existed for claiming a right to exercise them. We, then, were colonies; we, notwithstanding, resisted—first with mildness, but with firmness; and when they refused to listen to the justice of our cause, we appealed to arms, and trusted to the God of battles. We fought, our cause prevailed, and our rights and independence were acknowledged. Some of us still live who devoted not only the springtide and summer of our days, but often risked our lives to achieve these blessings to our country. They were too dearly bought to be tamely surrendered, nor will my countrymen ever agree to surrender them; yet such would be in fact the case, were we to submit to trade under the restrictions of these degrading Orders of Council. Mr. President, in addition to the operation of the British Orders of Council upon our commerce, we have to add the catalogue of French decrees, some of which have come to our knowledge since laying the embargo; and although those decrees cannot affect our commerce in any considerable degree, proportioned to those of England, yet their provisions are equally hostile to the rights of a free and independent nation. Although they have not said, we shall pay tribute for the privilege of carrying our produce to any foreign country, they have said, that if our vessels are caught carrying our own produce to England, they shall be good prize; and the Milan decree has gone so far as to change the character of an American vessel, if in going to a port not even within the purview of the Orders of Council, such vessel shall have been spoken by an English vessel; thus these two Powers, under the pretext of retaliating decrees against each other, sweep the American commerce upon the ocean, wherever either the one or the other can bring it within the provisions of their respective decrees: and we have seen enough of their effects upon some of our vessels that were upon foreign voyages when the embargo was laid, to know that these decrees of France are like those of England, rigidly executed. We have therefore seen, that even as far as the French decrees can be carried into effect, they tend greatly to injure our commerce, and that from both England and France, under the operation of their tyrannic decrees and Orders of Council, we have sustained severe and heavy losses. These orders and decrees still stand in full force, and ready to meet your commerce upon the ocean whenever your embargo shall be raised, especially in the extensive manner contemplated by the resolution upon your table, which evidently intends a total repeal of the law, and without any substitute being offered in its place.

I will now, sir, reply to some observations of the gentleman from Connecticut. He has said that our object in continuing the embargo, is to put down commerce; and I have often heard it said, that the Western and Southern members are unfriendly to commerce. This I deny, as it respects myself. But as I have often been opposed to the extension of our laws (and sometimes successfully) relative to that branch of commerce called the carrying trade, I suppose I may be one of those whom the gentleman has said were opposed to commerce. I will, Mr. President, give my views of the subject, and state my reasons why I have not been very friendly to that kind of trade. When I first took my seat as a member of this House, I considered it my duty to endeavor to make myself acquainted with the revenue laws (which it is known are pretty complex) by which I should be the better able to discharge my duties upon this floor, in a national point of view; and if any collisions of interest should happen from the operation of those laws, between agriculture and commerce, by discovering this collision, I could more faithfully and ably guard the true interest of my constituents, almost all of whom are, as well as myself, agriculturists. In examining these laws, I will acknowledge the drawback system did not fully meet my approbation. It appeared to me, sir, to put too much at hazard the peace of our country. I will not attempt to enter into a full and minute detail of this trade, but will take a sufficient view of it to make myself understood. This trade, Mr. President, it is known is carried on almost entirely in foreign articles, which are imported into this country, and entered for re-exportation. The duties upon those articles which are re-exported, amount to but a small sum compared with the immense tonnage engaged in that trade: the tonnage thus engaged amounts to one-third of the whole tonnage of the United States; and yet the duties do not amount to more than one-fifteenth. The whole duties received from this drawback system amount to about one million of dollars a year, and the whole revenue of the United States, say about sixteen millions. This sum of one million of dollars, thus derived from this kind of trade, is in my opinion too small to hazard so much for it as we do. This trade creates a collision of interest between our own shipping and the shipping interest of the great naval Powers, even when the trade is freely permitted; for, in proportion to the quantity of foreign produce our vessels engaged in this trade carry, in so great a degree do they interfere with the shipping interest of those great naval States, whose existence, in a considerable degree, particularly England, depends upon the support of their navies, and the carrying trade is essential to that support: first, to supply the means of subsistence for immense numbers, who could not be otherwise well supported; and, secondly, by keeping those ships employed in this carrying trade, they create and maintain seamen for the nation, which may and will be wanted in time of war. We do not want this kind of trade, Mr. President, to supply us with seamen for our Navy: our fisheries are encouraged in a sufficient degree for that purpose, and I trust it will be a long time before we shall attempt to establish anything like what may be called a national Navy. From this trade our country is much more liable to be involved in war than we could possibly be by carrying on the whole amount of our own direct and immediate commerce, which nets to the nation, as I have before stated, full fifteen times as much annual revenue as is produced by the carrying trade: and yet this immense commerce, carried on in our own produce, employs but about double the tonnage that is employed in the carrying trade. So extensively, Mr. President, had our merchants engaged in this carrying trade, which although lawful according to the recognised principles of neutrality, predicated upon the established law of nations; yet so great a pressure did it make upon the political views and shipping interest of Great Britain, that she determined to arrest it; accordingly her Courts of Admiralty were directed to declare "that neutrals should not carry on a trade 'in time of war that was not permitted to them 'in time of peace, and that they should not be 'permitted to effect that in a circuitous, which is 'inhibited in a direct trade." Thus, sir, from the extension of this trade, were we now brought to the eve of war with Great Britain—for under this new principle, thus interpolated, our ships were taken in immense numbers, and few escaped condemnation. In consequence, memorials have been presented to Congress from a principal part of all the great cities in the United States, stating in very strong terms the iniquity and injustice of this new principle, introduced by Great Britain to the almost total annihilation of this carrying trade. These memorials contain a train of reasoning upon this subject, in support of this neutral right, that I think unanswerable: and so much were those merchants engaged at that time in supporting it, that they tendered their lives and fortunes to their country. The right to trade being unequivocally a long established neutral right, the Senate determined to sustain it: accordingly, by an unanimous vote, this body resolved, 'that the capture and condemnation under the 'orders of the British Government, and adjudications of their Courts of Admiralty, of American 'vessels and their cargoes, on the pretext of their 'being employed in a trade with the enemies of 'Great Britain prohibited in time of peace, is an 'unprovoked aggression upon the property of the 'citizens of these United States, a violation of 'their neutral rights, and an encroachment upon 'their national independence." This resolution is very expressive of the sense of the Senate, but we did not stop here; we passed another resolution recommending to the President of the United States, "to demand and insist upon the restoration of the property of our citizens, which had been thus captured and condemned;" and requested the President "to enter into such arrange-'ments with the British Government, upon this 'and all other differences, as might be consistent 'with the honor and interest of the United States." The negotiation thus recommended, the President has not been able to effect, according to the tenor of the resolution: that is, consistent with the honor and interest of the United States—although he sent a special Minister for that purpose. Great Britain now pretends to sustain this new principle, under the pretext of its being an old established rule, commonly called the rule of fifty-six; and the gentleman from Massachusetts, (Mr. PICKERING,) who formerly voted in favor of the resolutions which I have read, has introduced a book to support this rule of fifty-six, of which I will hereafter take notice. Thus, Mr. President, we see how nearly we have been to a war for the support of this neutral trade, which yields us so very small a revenue. I am therefore of opinion, that the landed interest ought not to be compromitted for the support of this trade. I am willing to support it to a certain extent, but not so far as to hazard the peace of my country. I have now given my reasons for not being friendly to this drawback system; and representing, as I do, an agricultural people, I consider it my imperative duty to watch with vigilance over their interests, which they have confided to my care, and which I trust I shall never cease to support while I possess the power of speech, and words preserve their form and meaning. But, Mr. President, I can with confidence say for my fellow-citizens, and for myself, that we are truly friendly to the true American commerce—meaning that kind, sir, that is carried on with the produce of our own country. This will bring us into no collisions, and will give to the farmer his due portion of the profits of his own industry. In this kind of commerce, the interest of the farmer is assimilated to and rendered reciprocal with that of the merchant. The people that I have the honor to represent, are deeply interested in this kind of commerce; we inhabit a fertile country, growing rapidly in population and improvement, and producing cotton, hemp, and tobacco, and every kind of grain in great abundance, besides stock of all kinds: for the surplus of those articles we can only find a market through the medium of commerce. These, I repeat, sir, are my own sentiments and the sentiments of my constituents, upon the subject of a free commerce, and so strongly are we impressed with the importance of it, that we consider agriculture and commerce essential to the existence and growth of each other.

The gentleman from Massachusetts, (Mr. P.,) as I have before stated, did, in 1806, vote in support of our neutral rights, but he now tells us they are doubtful—and why does he tell us so? Why, sir, he has found out an old French book,

which it seems has convinced him that he was wrong when he formerly voted in favor of supporting our neutral rights against the interpolations of Great Britain. He calls the book a celebrated work on maritime law. One valuable trait in the character of this book, and which seems to have rendered it celebrated in the opinion of the gentleman is, that he thinks its doctrines upon the subject of neutral rights support the doctrine of Great Britain, commonly called the rule of 1756. It appears, says the gentleman, to be generally supposed, that the rule respecting the colonial trade adopted by Great Britain, and usually called the rule of 1756, was peculiar to Great Britain. He also says, it seems that she, meaning Great Britain, has considered the rule of 1756 as the ancient and established principles of maritime law: and this the gentleman attempts to prove for her, and for this purpose introduces *Valin's* celebrated work, as he calls it, on maritime law. I shall not enter into a detailed examination of the several articles he has read, which however appear to be essentially different from the rule of 1756, but I shall contest the applicability of these regulations altogether; and I trust I can show to the Senate that they cannot, by any possible construction, be admitted as of any authority, as containing established principles of maritime law.

I would ask the gentleman how he proves the rule of 1756 to be the ancient and established principles of maritime law. Because, says he, it appears by *Valin* that Louis XIV issued a regulation in 1704 respecting neutral rights, and which was re-enacted by Louis XV in 1744, similar in its nature to the rule of 1756 of Great Britain. I shall admit, for argument sake, that those rules of 1756 and regulations of 1704 are similar; but, sir, can this similarity give them any claim to be considered as the established principles of maritime law? Certainly not, sir; for maritime law is considered as the law of nations, particularly with respect to those nations which agree to it; but the gentleman has not shown that the maritime nations ever acquiesced in those French regulations any more than they have in the rule of 1756; and, sir, he ought to have shown that they had, in order to give them the force of maritime law. If those nations had given this sanction, and thereby established the principles contended for by the gentleman, then indeed he would have been correct; and had this been the case, some of the British jurists would no doubt long since have brought them into view, and would have exhibited them as precedents, to support and establish the British rule of 1756.—They seem, however, to have left it for the gentleman from Massachusetts, (Mr. PICKERING,) and their not having done so, is a sufficient proof to my mind that these regulations of Louis XIV and Louis XV, were considered in no other point of view by the other maritime Powers, and by the jurists who have written upon this subject, than the decrees of Bonaparte are now considered by the gentleman from Massachusetts (Mr. P.;) and eighty or a hundred years hence, these decrees of the French Emperor would form as good precedents, and there would be quite as much propriety in bringing forward these decrees of Bonaparte as the established principles of maritime law, as those regulations of Louis XIV and Louis XV, offered by the gentleman in support of the rule of 1756; nay, Mr. President, there would be much more propriety, because almost all the continental Powers have sanctioned these decrees of the French Emperor, and yet, would the gentleman say that they ought ever to be brought into precedent as the established principles of maritime law? I suspect he would not. If, then, he would not, sir, his rules of 1704 and 1744, cannot be considered as precedents, but must be returned to their archives, there to rest for another century.

One particular object the gentleman seems to have had in view in introducing these obselete and inapplicable regulations, is to make it appear that Mr. Madison is mistaken in his letter to Mr. Erskine of the 25th of March, in which he speaks of the rule of 1756. Mr. Madison, said the gentleman, says, "it is well known that Great Britain is the only nation that has acted upon or otherwise given a sanction to it," meaning the rule of 1756. Here, Mr. President, I must observe, that the gentleman has not exhibited that portion of candor (in using the quotation) which he has so uniformly declared he possesses; he has taken only a part of a sentence, it would seem, for the purpose of drawing an inference from it, of which the whole taken together is by no means susceptible, but conveys to my mind a very different meaning. Mr. Madison, in his letter of the 25th of March to Mr. Erskine, in speaking of the rule of 1756, says, "and instead of its being an 'established rule or principle, it is well known 'that Great Britain is the only nation that has 'acted upon, or otherwise given a sanction to it." Here, sir, the whole sentence taken together, conveys a very different meaning from the one the gentleman has thought proper to give it. Mr. Madison is evidently speaking of it as not being an established rule or principle; those words the gentleman omitted. Now, sir, to give the rule of 1756 the sanction of an established rule or principle of maritime law as the gentleman is pleased to call the regulations of 1704 and 1744, and the rule of 1756, it was absolutely essential that they should have been acquiesced in and formally sanctioned by all the maritime Powers; otherwise they must be considered as mere rules, and cannot, by any possible construction, be entitled to be considered as an established rule or principle; and this, sir, is the distinction evidently taken by Mr. Madison between a mere rule acted upon by Great Britain only, and an established rule or principle sanctioned by the maritime nations. I will, Mr. President, examine this doctrine a little further: the gentleman has said (as I have before stated) that Great Britain has considered the rule of 1756 as the ancient and established principle of maritime law, and this he seems desirous himself to think, if we may judge from the means to which he has had recourse to prove and support it. I find, sir, on examining the memorials

of the merchants of many of the great towns in the United States, which were presented to Congress in 1806, that they differ very greatly with the gentleman with respect to the antiquity of the rule of 1756. In the memorial from the respectable town of Salem, in the State which the gentleman represents, it is expressly stated "that 'even the advocates of Great Britain have not 'pretended to ascertain the existence of the pre-'tended rule previous to the year 1756. To this 'period they refer for its first establishment; they 'pretend not to quote any foreign adjudications 'in point, but rest satisfied that their own courts 'were competent to establish the law, and to give 'it binding efficacy on all nations." The memorialists however conceive, and rightly, that it is not within the authority of any nation to legislate for the rest; and that to establish the rule of 1756 as a principle of maritime law, it must, as I have before shown, be acquiesced in by the maritime nations. This has not been the case—for we find that the first attempt which was made to carry this rule into effect was against the Dutch; who, so far from acquiescing in it, protested against it in terms of the warmest reprobation; and the first attempt made to carry it into effect against the United States was in 1801, which was a decree of the Vice Admiralty Court at Nassau, which condemned the cargo of an American vessel going from the United States to a port in the Spanish colonies, with a cargo consisting of articles the growth of Old Spain. Our Minister at the Court of Great Britain remonstrated against this violation of the rights of neutrals, and the subject was referred by the British Government to the consideration of the Advocate General, whose report upon that subject I will read. He says "the sentence of the Vice Admiralty Court was founded in error; that it was now (1801) distinctly understood, and had been repeatedly so decided by the High Court of Appeals, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence even to the mother country of such colony; and in like manner the produce and manufactures of the mother country may in this circuitous route legally find their way to the colonies; that a direct trade not being recognised as legal, and the decision of what was, or was not, a direct trade, was a question of some difficulty, but that the High Court of Admiralty had expressly decided, and the Advocate General saw no reason to expect the Court of Appeals would vary the rule, that landing the goods and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country. This report of the Advocate General was accepted by the British Government, immediately transmitted by Lord Hawkesbury to Mr. King, our Minister at the Court of Great Britain, and by His Majesty's express command, communicated by the Duke of Portland, the principal Secretary of State, to the Lords Commissioners of the Admiralty, with the information "that it 'was His Majesty's pleasure that the doctrine laid 'down in the Advocate General's report should be 'immediately made known to the several judges 'of the Vice Admiralty Courts, setting forth to 'them what is held to be the law upon the subject 'by the superior tribunals, for their future gui-'dance." Thus our neutral rights were admitted by Great Britain, and the obsolete doctrine of the pretended rule of 1756, after a lapse of nearly half a century, with only one attempt to revive its iniquitous principle, was resisted with success; and this doctrine, by the formal decision of the Advocate General of Great Britain, and sanctioned by the King, was abandoned.

That this doctrine, which had been thus fairly given up, should have been since revived, tends only to prove that whenever Great Britain conceives her interest shall require it, she will exercise her power and forget right. But, sir, it is to me most extraordinary, that after this pretended ancient principle of maritime law first set up by Great Britain in 1756 should have been thus formally relinquished by Great Britain herself, that there should be a solitary citizen of the United States, and still more that a member of this House should attempt to support so hostile a principle to the commerce of his own country; and in order to sustain so unrighteous a doctrine, to offer as a precedent the mere arbitrary regulations of an absolute monarch, and even those unsupported by the acknowledgment of any one single maritime Power.

I now approach, Mr. President, a more serious part of this subject, and I am extremely sorry it has been brought into the debate; but as it has, we must endeavor to meet it. We have been told that the embargo law is peculiarly oppressive and disagreeable to our brethren of the Eastern States, and that whenever the people dislike a law, they will in some way or other get clear of it. We have also been told, that if this law is not repealed, it will in all probability produce disunion. This, Mr. President, is a very serious state of things if the gentlemen are correct; but, sir, in the warmth of argument, our feelings sometimes gain an ascendency over our reason, and I hope this is the case with those gentlemen. I will not draw any comparison between the sufferings of our fellow-citizens of the East, and those of any other section of the Union—we all experience them. But, sir, I have too much confidence in the patriotism of the people of those States, to believe that they will have recourse to any illegal or violent measures to effect the removal of the law; and less do I believe that they will risk that high character which they so well acquired in contending for the rights of self-government, by using coercive means to destroy that fair fabric, which the united exertions of the whole people, the lives of our heroes, the wisdom of our statesmen, and the firmness and magnanimity of the great Washington have reared for this happy country. And now for what would our fellow-citizens thus commit their characters, and their best interests,

which no time or circumstances could restore? Why, say the gentlemen, to obtain a repeal of the embargo. Sir, it is impossible, that men so enlightened should put so much at hazard, to obtain the repeal of a law which by the common consent of the nation in a Constitutional way, will no doubt ere long cease to exist: and, sir, I think it must be equally unfounded, that our fellow-citizens of the East can, for one moment, seriously contemplate withdrawing from the federal Union: our interest binds us too firmly together to admit of such a supposition. The Eastern and Western people are more strongly united by a common interest than is generally understood; we are entirely agricultural, and inhabit one of the most fertile countries on the globe; our produce, which is already very great, and rapidly increasing, will require a large supply of shipping to carry it to market; that shipping our Eastern brethren have hitherto principally supplied, and will, we trust, continue to supply. Thus, by this union of interest, we find that we are absolutely necessary to each other. The Southern States also supply vast quantities of heavy produce, which our Eastern brethren would always have a preference in carrying while we continued united. But should a separation take place, (which I trust and hope no time or circumstances may produce,) in that event, we should be like two near friends engaged in a serious quarrel, which is always more bitter than between strangers; we should conceive that our Eastern brethren had withdrawn unjustly from us, had greatly sacrificed our interest as well as their own; and our attachment, by which we now feel most strongly bound to them, would, of course, become alienated, having no longer a community of interests to support it, which it must be acknowledged has, in a political point of view, great and decided influence. We should, of course, seek other means and other channels, by which to transport our commodities. The old Government would withal make such regulations with respect to commerce that our Eastern brethren (whose products are infinitely small in quantity compared with those of the middle, southern, and western sections of the Union) would lose an immense portion of those benefits which they now enjoy; and although they would injure us in point of physical strength, in proportion to their numbers as the whole force of the Union; yet, in so great a degree, they must also injure themselves. Our vast importance as a nation must sink with this division, neither portion of it must expect to have much weight in the scale of the political world, nothing would be left untried by the intriguing nations of the old world, to establish and preserve as much as possible collisions of interests and discontents in our respective Governments. Viewed in all its bearings, it excites the most solemn consideration, one that fills the heart with the most melancholy sorrow; and under the view that I have presented, and the catalogue of evils that might be added, I think it impossible that our Eastern brethren can have one serious thought of involving themselves, their wives and children, and their common country, in all the horrors of anarchy and of civil war.

Mr. PICKERING spoke in favor of the resolution, and in reply to Mr. ANDERSON; when the Senate adjourned.

FRIDAY, December 2.

Ordered, That Messrs. TIFFIN, TURNER, and GREGG, be a committee agreeably to the 22d rule for conducting business in the Senate.

The following motion was submitted for consideration by Mr. GAILLARD:

Resolved, That a committee be appointed to inquire whether any, and what, provision ought to be made in case of the inability of the District Judge of either of the districts of the United States to perform the duties of his office; and that they have leave to report by bill or otherwise.

THE EMBARGO.

The Senate resumed the consideration of the motion made on the 11th of November, for repealing the "Act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto.

Mr. GILES rose, and addressed the Chair as follows:

Mr. President: I sincerely regret, sir, to find myself driven again into this debate, whilst every feeling of my heart admonishes me to retirement. I sincerely wish to retire, not only from this debate, but from the political world. I am now acting only in obedience to a sense of duty. I shall, however, limit my remarks to as few objects as may be consistent with this obligation. They will principally relate to facts which, in my judgment, have been incorrectly stated, and, of course, require correction. The first fact to which I shall call the attention of the Senate, is the one stated by the gentleman from Connecticut, (Mr. HILLHOUSE,) and repeated by the gentleman from Massachusetts, (Mr. PICKERING,) that the non-importation act was an obstruction to an amicable adjustment with Great Britain. Both the gentlemen have stated that Great Britain would not treat with this rod suspended over her head. I assert, on the other hand, that she did treat with this rod suspended over her head, and that its suspension was continued at the request of the British Commissioners. Now, sir, let us resort to the evidence. This will be found in the correspondence from Messrs. Monroe and Pinkney to Mr. Madison. Speaking of Lord Holland, these gentlemen tell us he said:

"That in the meantime we could state to our Government, what was unquestionably true, that those with whom we were treating were diligently and anxiously employed in endeavors to devise an arrangement which should be convenient and honorable to us, and at the same time free from improper hazard to Great Britain; that it appeared to him that the actual pendency of the negotiations here, unless their sincerity were distrusted, as he was sure it would not be, would furnish an adequate motive to Congress for merely postponing the commencement of a law which was originally a very strong measure, and would certainly, if allowed to go into operation at a moment when Great Britain was affording, in the face of the world, an unequivocal demonstration of her wish to remove every ground of misunderstanding between us, acquire a character of extreme harshness; that it was greatly to be lamented that the discussions in which we were now engaged had not been sooner begun; but that knowing, as we did, to what cause the delay was to be ascribed, we knew also that it was unavoidable."

"To these details we take the liberty to add our opinion, formed upon a careful view of the whole subject, that it would be proper, upon the meeting of Congress in December, to suspend the act for prohibiting the importation of certain articles of British manufacture, so as to afford farther time for the completion of the negotiations which it evidently presumes, and which are now in train."

"The ground which Congress have taken in this just and salutary measure, we are far from wishing to abandon; but to suspend and abandon it, are very different things. The last would wound deeply the honor of the nation, and prostrate the character of the Government; but the first is in perfect conformity with the spirit and purpose of the law, and while it would furnish a signal proof of the equity and moderation of our public councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now especially, to maintain. The suspension will be, so far from relinquishing the measure or weakening its effect, that it will distinctly imply a reassertion of its principle and policy, and an unshaken resolution to act upon and enforce it, as soon as negotiation shall have been sufficiently and unsuccessfully tried."

Our Ministers here state that *a suspension of this act* was all that was required by the British Commissioners. We also know that the Commissioners of both sides did go on to negotiate, and that a treaty was concluded on, without its being once intimated that this act formed the smallest obstruction to the negotiation, or had any influence in the smallest degree injurious to the provisions of the treaty. But, sir, I think this act facilitated and accelerated the negotiation. It will be recollected that, before the passage of this act, every effort of our Minister to negotiate had been either avoided or refused, and at the time of passing the law the negotiation was itself entirely suspended.* After its passage, you will find, by attending to the correspondence just read, every disposition was manifested by the British Commissioners to accelerate the negotiations; and every pledge of sincerity on their part to that effect was given, to induce our Government here to suspend the law merely to give time for completing the negotiation. I cannot place my hand on the note of the British Commissioners requesting the American Ministers to furnish them with a copy of the act; but in that note, to the best of my recollection, may be seen the real cause of the anxiety of the British Commissioners for the further suspension of that act. It was the injurious effect the measure was calculated to have upon the commerce of Great Britain, if it once should go into operation; and it was this they were anxious to prevent. This act appears to have been viewed by the British Commissioners precisely in the light in which it was seen here by the favorers of the measure. Its character and operation answered every expectation. It produced a treaty; and I regret, sir, that the provisions of the treaty were not such as to justify its ratification. I am aware the gentleman told us that he paid but little respect to the representations of our Ministers; but, sir, they certainly ought to be respected, or we ought to abandon the policy of having Ministers at foreign Courts. In this case, however, there was the less reason for disrespecting their communications, because they have been for some time published, and neither disrespected nor contradicted by the British Commissioners. In this case too, sir, it is not necessary to resort to this evidence exclusively in proof of this fact. It is proved by the note of the British Commissioners, read by the gentleman himself. Let us review that note, and see what information it gives:

"SEPTEMBER 4, 1806.

"On a full consideration of that act, we think it our duty to express our earnest hope and expectation that some means may be found to suspend the execution of a measure so opposite, in its temper and tendency, to the disposition and views with which our pending negotiation has been commenced and is carrying on."

Here, sir, is a request merely *to suspend the execution of this act*, &c., which is the only rod that gentlemen complain so much of here, but which was no further complained of by the British Commissioners. The true reason of their anxiety for this suspension I have before stated. Now, sir, how does this fact stand? Why, that the British Commissioners did treat with this rod suspended over their heads; and, so far from its having had any injurious influence on the negotiations, it probably had a beneficial one. The gentlemen, then, are utterly mistaken in this fact. For, sir, whether it touched the pride or affected the sensibility of Great Britain or not, she unquestionably did treat with the same rod suspended over her head.

The next subject I shall mention is, the attempt to reproach the President for his instructions respecting the impressment of American seamen. This is an attempt, sir, which really excited my astonishment. Let us critically examine the circumstances under which these instructions were given. The basis of our late negotiations at London were laid in the Senate. What did the Senate say to the President upon the subject of the impressment of American seamen? Let me read a part of their resolution upon that subject: "and 'to enter into such arrangements with the British Government on this and all other differences 'subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the 'honor and interests of the United States, and 'manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled."

* See note at the end of the speech.

Here, sir, we find the Senate, not content with intermingling the safety of our seamen with the other objects of the resolution, manifest a laudable solicitude upon this subject, by calling the President's attention to it in a special manner, "and particularly respecting the impressment of American seamen," say the Senate, and both these gentlemen voting in favor of the resolution; and now, when instructions are given in strict conformity with this special injunction, the gentlemen come forward with the most indignant reproaches for this conduct. The ground of objection is stated to be, that the President instructed our Ministers to insist that the American flag should protect all persons sailing *in fact under its protection;* when the gentleman from Massachusetts, (Mr. PICKERING,) with an irrascibility of temper the most wonderful, tells us that the President *knew* that the British Government would not accede to the proposition; and then ascribes to the President the unworthy motive of intending thereby to defeat the objects of the negotiation. It is necessary to restrain the feelings in replying to this groundless and unworthy insinuation. But, sir, I will tell the gentleman that the President *knew* no such thing; that the gentleman himself *knew* no such thing, until the experiment was made. Indeed, there was no time, during the negotiation, when there was a great probability that it would succeed. But, sir, whether the proposition would succeed or not, the President, acting upon the recommendation of the Senate, and particularly of this very gentleman, was bound to make the experiment; especially, sir, when he offered the British Commissioners to make their own terms for securing to themselves the service of their own seamen. But, sir, why not make the proposition? Is it because it is not our right? Is it because it is not just? No; that is not pretended; but because the President *knew* that the British Government would not accede to the proposition, just or unjust. Now, sir, for one, I am not disposed to indulge the British Government in this capricious outrage upon our unquestionable rights. But, sir, the President was bound to make the experiment, and was bound never to admit the British pretension, if he thought that the only arrangement competent to the protection of American seamen from impressment. Yes, sir, and if the President had given no instructions upon this point, this same gentleman would have been as liberal in his reproaches as he now is, and they would have been much more merited. This singular freak of passionate invective is, to me, unaccountable. The gentleman from Connecticut (Mr. HILLHOUSE) gives me great credit for my candor, in ascribing the commercial prosperity of the United States to the British Treaty. The gentleman is entirely mistaken in this statement. I admitted the fact of our commercial prosperity, but I ascribed it to its proper causes, to wit, the encouragements given to it by the Government, and the enterprise and talents of our fellow-citizens. I am willing to admit that the British Treaty had not so baneful an effect upon society as to have prevented this commercial prosperity; but it is the last cause to which, I think, it can properly be attributed. If, however, sir, I had really been convinced, or supposed that the British Treaty had been instrumental in producing that effect, I should have no hesitation in admitting the fact, notwithstanding my opposition to it. I am very far from deeming my opinions infallible; I have often experienced their fallibility; and whenever I shall be convinced of an error, I shall feel no difficulty in avowing the conviction.

The next circumstance to which I shall advert, is the extraordinary suggestion that the embargo is intended to be made permanent. This is a most singular notion, and nothing but the respect I feel for the candor and sincerity of the gentlemen who suggest it, could induce me to believe that they are in earnest. I really before thought, Mr. President, it was merely what I should call an electioneering watch-word. I never expected that it could have had any operation beyond the electioneering ground. No sir; the embargo is not intended to be permanent. But, sir, let us wait a little while, before we make ourselves bloody in the wars of Europe. Let us have a little patience, a little self-denial. I am as much opposed to a permanent embargo as either of the gentlemen from Massachusetts or Connecticut; I think the idea perfectly absurd. I am as ready to fight for the *birthright* of the ocean as either of the gentlemen. But, sir, I never will consent to raise the embargo until some measures shall be substituted better calculated to assert and maintain our national rights and national independence—measures of more activity and more energy. I am not certain, sir, that this is not the time for their adoption; but, sir, no great mischief can arise from waiting a little longer; waiting events in Europe now in a state of rapid succession.

The next fact suggested which I shall notice is, that the embargo has arrested and destroyed commerce. I think very differently; I think it has been, and still is, a shield interposed for the protection of commerce. French edicts and British Orders would have destroyed commerce; but the embargo, I hope, has saved it. It is very easy to say that the embargo destroyed commerce, because it was the act immediately preceding its suspension, and is easily resorted to as the proximate cause; but there is such a thing as an original or primitive cause: this was the French edicts and British Orders. These would have caused its entire destruction; but they caused the embargo, which caused the suspension of commerce, and has, I hope, shielded it from destruction.

The gentleman from Massachusetts (Mr. PICKERING) has taken great pains to show that the Orders of Council had no influence in producing the embargo laws. I think this circumstance of no sort of consequence to the community, but the gentleman seems to think it is of the last importance to himself individually. It probably is; I suppose he stands committed to the public upon that fact. I was not present at the time of passing the first embargo law; but the gentleman's

labor has perfectly convinced me that he is utterly mistaken in the fact. Let me critically examine the gentleman's evidence. First, he says, that the Orders are not mentioned in the President's Message; and, secondly, that the Secretary of State refers Mr. Pinkney to the President's Message for the causes of the embargo laws. I have examined the President's Message, and think it perfectly correct, the gentleman's angry invectives to the contrary notwithstanding. I do not believe the gentleman could now frame as good a one, after all the lights which time and a farther disclosure of events have shed upon the subject. Permit me now, Mr. President, to call your attention in a particular manner to the contents of this Message. "The communications now 'made, showing the great and increasing dangers 'with which our vessels, our seamen, and mer-'chandise, are threatened on the high seas and 'elsewhere from the belligerent Powers of Eu-'rope, and it being of the greatest importance to 'keep in safety these essential resources." &c., &c. Now, sir, what were the communications accompanying this Message? The correspondence between Mr. Armstrong and Mr. Champagny, showing that the Berlin Decree was in a state of execution, which had before been suspended in its operation in relation to the United States. But, says the gentleman, no papers were communicated respecting these Orders of Council, and, therefore, the gentleman infers that no apprehension existed which could influence this transaction. I draw a very different inference from the Message itself. I presume the communication of this hostile act of France, so immediately after it was known to the Executive, and avoiding a direct reference to the apprehended hostility of Great Britain, could not be conceived to be an act of favoritism towards France. That some hostile act from Great Britain was in contemplation, is most evident from the Message itself. From what quarter does the Message say that great and increasing dangers are *threatened* to our vessels, our seamen, and merchandise? From the belligerents of Europe. Here is no exception. The belligerents of Europe mean all the belligerents. If the President conceived there were no dangers threatened from any other quarter than from France, he would have used the term *France*, not the *belligerents of Europe*. But why communicate the evidence of his apprehensions from France and not Great Britain, if he entertained any? Why, sir, for the most obvious reason imaginable—because the information from France was official. The information from Great Britain was not. It was contained in newspapers only, which were in the hands of every gentleman, and their contents every gentleman could appreciate as well as the President. Now, sir, under these circumstances, was not the Message of the President perfectly correct? Let me ask the gentleman if he can now mend it? If, sir, the President, in his Message, had communicated this newspaper information respecting the apprehended hostility of the British Government, what a glorious theme of invective would have been afforded the gentleman of favoritism to France and hostility against Great Britain! The omission, however, to do this, could not screen the President from the same angry reproaches. If the gentleman will impartially review all these circumstances, and then turn his eyes towards his own heart, he will find that the errors he has so uncharitably ascribed to the President will be found in his own unhappy, ungovernable passions. But, sir, this is not all. I will now refer the gentleman to some evidence to show the incorrectness of the assertion he has made—evidence which he cannot deny, because it comes from his own words, and was attended with such circumstances, in the face of this Senate, that it cannot be mistaken. In the gentleman's passionate zeal yesterday, he told us that no time was allowed in the Senate for the discussion of the original embargo law, but that it was discussed in the House of Representatives; and the principal arguments urged there in favor of the measure were drawn from the hostile acts of Great Britain. The gentleman said that it was urged in that House that the measure would starve Great Britain; that it would bring her to our feet, &c., &c. Now, sir, why these arguments in that House, if there were no apprehended acts of hostility from Great Britain? They would have been strange arguments, if the only hostile acts inducing the measure were the hostile acts of France, not of Great Britain.

[Mr. PICKERING rose to explain. He said he mentioned these circumstances yesterday to show the effects expected from the measure by the friends of it, in which they had been mistaken. He did not speak of them as inducements to the measure.]

I readily admit that the gentleman, at the time of making these observations, was entirely insensible of their irresistible operation in establishing a fact, which he thinks so important to himself to disprove; and in my judgment, sir, they do unquestionably prove that these British Orders, or the apprehensions of them, stood in the front of the inducements to the original embargo law. Sir, were not these arguments in the House of Representatives immediate results from these inducements? Why, sir, that although the Orders were not received in such an official form as to justify their communication by the President, the intention to issue them was announced in the newspapers with so many marks of probability as justly to excite apprehensions in the Government for the safety of our seamen and commerce, and to justify the measure for the protection of both. It has been proved, not only that this information was published in newspapers before the passage of the act in the Senate, but the gentleman will recollect that it did not pass the House of Representatives for two or three days after it had passed the Senate. It was, therefore, very natural that the longer these apprehensions were felt, the stronger would be the inducements to the measure deduced from them; and hence the character of the discussions in that House described by the gentleman. But the gentleman

seems to think that apprehensions are not correct grounds for legislation. In ordinary cases, it is admitted; but this was an extraordinary case. The measure was precautionary, and if these apprehensions had not been realized, it would at any time have been in the power of the Government to dispense with the prosecution; whereas, if Congress had waited for a formal authentication of the Orders, their intended object would have been answered, and the precautionary measure rendered unnecessary. But, sir, I think this explanation of very little consequence to the nation. It can be of little consequence to ascertain whether the adoption of the embargo was a lucky hit or a dictate of wisdom; and I should not have taken the trouble of this examination, if the gentleman from Massachusetts (Mr. PICKERING) had not availed himself of this occasion to assail the reputation of his late colleague, (Mr. Adams)—a gentleman who represented the State of Massachusetts with so much honor to himself and advantage to the State and the nation; upon a point, too, in which the gentleman here present has put himself so clearly in the wrong, from his own showing. I had hoped, Mr. President, that the gentleman would have so far restrained his feelings as to have permitted this gentleman's retirement to have shielded him from these unmerited reproaches; but it now seems that no delicacy of situation can procure an exemption from the inveteracy of the gentleman's passions. This cruel attack has imposed upon me an indispensable obligation to defend this absent gentleman; and it has been principally this circumstance which has driven me again most reluctantly into this debate. Sir, I can attest, and now do attest, with great pleasure, the disinterestedness and purity of the motives which dictated that gentleman's (Mr. Adams) late political conduct. As to its wisdom, that is matter of opinion, and now in a course of experiment; but as to his exemption from all views of personal promotion or aggrandizement, I here assert that fact, upon my own knowledge and my own responsibility, as far as can be warranted by the most explicit and unequivocal assurances from the gentleman himself; given, too, under circumstances which render their sincerity unquestionable. It gives me great pleasure to defend this absent gentleman, not only on account of his innocence of these reproaches, but on account of his merits, his virtues, and his talents, which, in my judgment, place him on so high a ground as not to induce a wish, on his part, to shrink from any comparison with either of the five worthies of Massachusetts, of whom we have been informed by the gentleman, (Mr. PICKERING.)

Permit me now, sir, to proceed with the discussion. The gentleman from Massachusetts (Mr. PICKERING) proceeds to tell us that Mr. Rose was sent here as a messenger of peace; that he brought the olive branch in his hand, but that it was designedly refused by the Administration, and of course a subject of serious reproach and lamentation. Sir, I do not know what Mr. Rose brought in his hand; he never would tell the Government what he brought. But let me ask the gentleman what he left behind him? The gentleman has furnished me with an apposite figure. He left behind him a rod in pickle for us. He left behind him these very Orders of Council, which were designedly concealed from him, although they had been long deliberated upon, and were matured before he left London; and were actually issued almost as soon as he lost sight of the land. If, therefore, he brought in his hand the olive branch, he certainly left concealed behind him the scourge of our commerce. Yes, sir, it was the besom which was intended to sweep, and would have swept our commerce from the face of the ocean. And the gentleman tells us, in a tone of lamentation, that when Mr. Rose arrived here he was met by the embargo. Yes, sir, the judicious vigilance of the Government had saved our commerce from the destructive influence of these concealed Orders of Council. Could you have supposed, Mr. President, that this would have been a subject of lamentation to any American citizen? Could you have supposed, sir, that it could have been made the subject of reproach against the Administration? Could you have supposed, sir, that the most jaundiced passions could have deluded any American citizen so far as to commit himself upon such a charge? Sir, we differ so much in our facts, that it would be more wonderful if we should agree than differ in our conclusions. Is there a gentleman here, sir, prepared to say that this is not a correct statement of facts? And if it is, what is the result? Why, simply, that Great Britain had, in the most insidious manner, issued orders for the entire destruction of our commerce, and that our Government had completely disappointed their iniquitous object, by interposing the embargo for its protection.

But, sir, the gentleman, not content with the profusion of his invectives against the Administration collectively, and the absent gentleman, whom I have defended with great pleasure, has directed his bitterest resentments against the Secretary of State individually. He, sir, has ventured to accuse the Secretary of insincerity in his diplomatic correspondence. Permit me to tell that gentleman that the Secretary of State is incapable of an act of insincerity, either as a man or a politician. The gentleman, himself, sir, has been Secretary of State; and, even in the frenzy of his passions, it is wonderful to me that he did not see that he was forcing himself into a most disadvantageous comparison. I think the instances of insincerity he has quoted partake nothing of that character. I think them perfectly proper, the gentleman's angry criticisms to the contrary notwithstanding. Let us attend particularly to the instances quoted. The first is, that the Secretary had told the British Minister that the Berlin Decree, so far as it professed to place all the British isles in a state of blockade, was an empty menace. Now, let me ask the gentleman if that was not, and is not, the fact? I believe that no gentleman is more strongly impressed with the truth of this fact, nor rejoices more in its truth, than the gentleman himself. But the gentleman

infers, if this decree was a mere empty menace, as it respects the blockading the whole British isles, it could not furnish any inducement to the measure of the embargo. I differ entirely with the gentleman in his inference. The Berlin Decree, after it was put in a state of execution against the United States, would operate very differently upon the defenceless American commerce spread along the French coast, from its operation as forming the blockade of the British isles; and therefore would be, as it in fact was, an empty menace in that case, whilst it would have a most serious effect in the other, and would certainly furnish a just inducement to the Government for the protection of the exposed commerce of the United States. Here then, sir, I see a perfectly correct sentiment, without any mark of insincerity about it.

But, sir, the gentleman has brought into view another act of insincerity. Let that be also examined. The gentleman complains that our Ministers in London were instructed to tell the British Minister only of the precautionary object of the embargo laws, and of course leave their coercive object to be inferred by the British Minister. This was both polite and proper. It was an instruction to our Ministers in fact to avoid touching the sensibility of the British Ministers and nation. What would the gentleman have done himself, sir? Would he, because there were two objects in passing the law, have instructed our Ministers to have pressed both upon the British Commissioners, although one of them would have touched their national pride and sensibility? This was unnecessary, and would not have been very urbane. It would have been an outrage upon every principle of diplomatic delicacy. I cannot, therefore, see the ground of objection to this instruction, unless it is, that the Secretary of State has not taken the gentleman from Massachusetts (Mr. PICKERING) for his model; that he had not resorted to some of the gentleman's bold metaphorical flourishes; that he did not instruct our Ministers to tell the British, "that the tiger crouches before he leaps upon his prey." Yes, sir, I am extremely happy to behold the striking contrast exhibited between the former, and present Secretary of State; a contrast so highly honorable to the present Secretary. Indeed, sir, I am the more astonished at the gentleman's driving us into the comparison, so unfortunate to himself, when he must know, or certainly ought to know, that his own inveterate passions utterly incapaciated him from the discharge of the duties of that office, and finally expelled him from it. The gentleman seems to be still harping upon the miserable tale of French influence. I suppose he also, unfortunately stands committed upon that idle suggestion. Sir, insinuations of this nature are degrading to the national character; and I always feel a condescension in being compelled to make a reply. Indeed, sir, it is necessary to impose strong restraints upon the feelings in making the reply the suggestion deserves.

But, sir, the gentleman is so intent, I suppose, upon his own self-justification, that he has manifested great labor and ingenuity in making a collection of scraps from the numerous documents before us; from which he has attempted to infer, not only that the Executive Department was acting under French influence, but that this honorable body was also acting under the same influence; yes, sir, the body of which the gentleman himself is a member. Yet, sir, the gentleman knows, notwithstanding his jealousies, his surmises, and his inferences, that it is impossible; that the fact is not so. Let me ask that gentleman, if he is prepared to say in his place, that any one member of this body, or that this body itself, is acting under French influence, or any improper influence? The gentleman must have too much respect for himself to make such an unfounded assertion. Why then, sir, all this labor at surmise, suspicion, and inference? I leave the gentleman to answer this question. Equally unfounded are the miserable intimations towards the Executive.

Let me ask the gentleman, through what channel his unhappy, suspicious mind has taught him to suppose, that these dark, these invisible negotiations could be carried on? I suppose he would necessarily reply through Mr. Armstrong, our Minister in Paris. Yet Mr. Armstrong has lately retrieved himself entirely from the gentleman's delusive suspicions. We are now told, Mr. Armstrong is a patriot; follow his advice. Again, sir, let me ask the gentleman, if he has heard any apology for the hostile conduct of France, either in this House or anywhere else? Has not every person declared, that their conduct was hostility itself? Mr. President, whether the gentleman intended to make insinuations, or inferences, or surmises, or suspicions, or assertions, if he pleases, of French influence, as operating either upon the Executive, or upon this body, I here in my place do pronounce the whole to be utterly unfounded. But, sir, the gentleman boldly says, there is something concealed. I really should like to know what it is that he supposes can be concealed. I should really like to know, what witchcraft it is that has continually tortured the gentleman's mind with these unhappy, fantastic delusions. No, sir, there is nothing concealed; there is too much exposed; for, sir, in the present whirlpool of inordinate passions, all honorable confidence seems to be disrespected. I will not accuse this gentleman of acting under British influence:* I feel too much respect for the American character to do so. I hope and trust he is not. I am willing to admit that his views are American. But, sir, this consideration will not deter me from expressing my wonder and astonishment at the extrordinary views that the gentleman takes of American interests; first, in the unremitting labor he has taken to put his own Government in the wrong upon every point of discussion between it and the British Government; and in his strange misrepresentation or total disregard of facts; of outrages, sir, upon our dearest rights, by the British Government; outrages which ought to rouse every

* See note at the end of the speech.

American feeling into action. Secondly, in the comparative view he has taken of the hostile acts of France and Great Britain. Sir, he has used every effort to magnify, if possible, French aggressions; whilst he has faintly admitted British aggressions, and even palliated or excused them. Let us now see, sir, what is the true character of aggressions which are treated with so much tenderness? Sir, I said the other day, and I have not heard it contradicted, and I say again to-day, that the British Government seizes and confiscates our vessels engaged in a lawful trade; that she has attempted, by an act of Parliament, to colonize and tax us; that she has in the same manner, undertaken to exercise acts of national sovereignty solemnly given by the people to Congress; that she has undertaken to exercise an act of legislation over the people of the United States refused to Congress, and retained to themselves in their highest sovereign capacity. Are these facts denied? No, sir; if true, let me ask the gentleman, what can be worse? what can be more injurious to our interests, or derogatory to our national character? what can the French do, that is worse than this? Nothing, sir, these acts form the climax of outrages. But, sir, the gentleman tells us, that the French Emperor has said, there shall be no neutrals. I do not know whether he has used that identical expression or not. I believe it is not the expression in the paper to which the gentleman alludes. But, sir, suppose it is; what then? Is the gentleman so ready to obey the mandate of the French Emperor, as to take part in the war, because he orders him to do so I did not think the gentleman would take the yoke so quietly. In effect, both Great Britain and France have said, there shall be no neutrals; and I care nothing for the form of expression. The first declaration to that effect, which I have seen, is contained in the polite note of Lords Holland and Auckland, attached to the late unratified treaty. The language in effect is, if you do not make war on France, we will reserve to ourselves the right to make war on you, according to this treaty of amity and commerce. But, sir, these two great belligerents command us to take part in their wars; are we bound to obey their cruel mandates? Are we to abandon the right of judging of our own interests and policy? I am disposed to think they will ultimately drive us into their wars; but let us keep out of them as long as we think our own interests and policy require the recession.

The gentleman from Connecticut (Mr. HILLHOUSE) has attempted to place our situation in a ludicrous point of view; he asks how are we to fight at triangles? Are we to fight France and Great Britain at the same time? Why, sir, this is the very circumstance which increases our embarrassments. It is a situation perfectly novel and unexampled; and distinguishes it from all the cases put by the gentleman as analogous to it. At every other time we have had but one adversary; if we had but one at this time, there would be no difficulty in the choice of measures; but having two at the same time, and both so formidable, presents an unexampled difficulty in the choice of measures; and is the strongest argument imaginable in favor of the position we have assumed. This, sir, is made more evident by the gentleman's illustration. The gentleman says, if two men were to attack him at the same time, would he avoid the combat until he could get one by himself? I presume he would, if he were a man of prudence; especially if either of them were a full match for him; and he knew the moment he set on one, the other would set on him, and tear him to pieces. I think, under such circumstances, a dignified retirement would be at least as honorable as being tumbled in the dust; and would certainly be more the dictate of prudence and wisdom. It therefore appears to me, that the gentleman's illustration is an extremely happy one, to justify the position assumed by the United States, under the peculiarity of their difficulties.

The gentleman from Massachusetts, (Mr. LLOYD,) I presume with a view of showing that our supply of provisions can be of little consequence to Great Britain, has favored us with a statement of her annual consumption of grain, and our annual exports. The annual consumption of Great Britain he states at one hundred and fifty millions of bushels, and our whole exports at seven millions. I am willing to take his estimate, although our whole exports are probably much more. From this statement, the gentleman seems to infer, that this small sum can be of but little consequence in a market requiring this enormous consumption. I draw a very different inference from these data given by the gentleman; and I am the more disposed to examine this point, as I have often heard the same inferences drawn by others. According to this statement, if Great Britain should raise barely enough for her own consumption, except seven millions of bushels, and it is probable she will not exceed this product the present year, she would want a supply for her whole population for above a fortnight in the year. This would be a serious deficiency; and to appreciate my argument, the gentleman should first make the experiment of starving a fortnight; and I think, before the expiration of that time, he would be willing to admit there was some force at least in my argument. It would be the same case with a nation, if the scarcity operated equally, and upon every individual in the nation, at the same time. But that is not the way in which a scarcity does operate. It operates by raising the prices of grain, and thus excluding those from the use of it, who have no money to buy. In the event of a scarcity in Great Britain, Mr. Canning would probably not have a dish less to his table on that account, whilst the poor would suffer for the want of bread. As the scarcity increased, the greater would be the numbers excluded from the use of bread; and the stock in the nation would be exclusively consumed by those who had the means of purchasing a proportion of it. This would be the course of things as long as the order of society could be maintained, and the suffering poor compelled to bear their hard fate. But, sir, if

this quantity of provisions should be wanted in Great Britain this year, and it cannot be obtained anywhere, but from the United States; and if the want of it should drive the prices very high, and bear of course with great severity upon the suffering poor; would not these circumstances alone furnish strong inducements to Great Britain to relax her orders, and to do us justice? To do us justice, did I say, sir? No, sir, to do us half justice; we do not require more than half justice at her hands.

If the suffering poor could be apprized that the deficit of provisions could be made up by opening an intercourse with the United States, and that this depended upon the pleasure of the British Cabinet, would there not be strong representations to them to relieve the suffering poor, when nothing but an act of half justice would be necessary to effect the object? Under such a state of things, the Cabinet could not withstand the representations of the people. May we not hope then, sir, if this should be the state of things in Great Britain during the present year, that these appeals to her interest will not be unavailing? But, sir, I am ready to admit, that I derive the less consolation from this hope, from the apprehension that if even a relaxation of these orders should take place in consequence of any coerced state of things in Great Britain, the relaxation would be but temporary; and the moment the pressure ceased, the hostile measures would be resumed. Since Great Britain has become intoxicated with this extraordinary project of re-colonization, I verily believe we shall again have to fight her out of it; and I am inclined to think that now is as good a time for the contest as we can expect in any future time. But, sir, we are told that this subject has a commercial as well as a political bearing; the commercial must certainly be a subordinate one. Let me, however, bestow a few thoughts on its commercial bearings. I mean no disrespect to merchants; but upon this subject I do not think their statements ought to be confided in. I am sure they will excuse the observation, when I tell them that I was taught this lesson at the time of laying the former embargo, by one of the most respectable merchants in the United States; and then a Representative in Congress from the city of Philadelphia. That gentleman then told us, that upon the question of an embargo, the information of merchants was not to be relied upon; that, without imputing to them any improper motive, their statements would necessarily partake of their calculations of their own particular interests.

The gentleman from Massachusetts (Mr. PICKERING) has favored us with mercantile information from the insurance offices at Boston and Salem, as well as information from some of his respectable mercantile correspondents. I am willing to respect this species of information as far as it extends and merits attention; but, sir, it does not contain all the information I want; and as little as I know of mercantile principles, I know that it is essentially erroneous. Sir, the information from the insurance offices does not extend to all the objects it ought to embrace. I want to know in the first place, sir, if we repeal the embargo laws, without any substitute, and agree to trade under the British Orders in Council, what would be the premium of insurance upon our national character and national independence? This important article of barter seems to have escaped the attention of the offices altogether; whereas it appears to me to be the previous question. All others sink into insignificance before it. Sir, cent per cent. would not insure them. The policy must be made upon a calculation of a total loss. The insurance could not be done upon these essential articles of barter, in all the insurance offices in the United States. Now, sir, as these are articles which I hold with others in trust, I can never violate the sacred deposite, or put it at risk, until I deem the policy perfectly competent to cover the loss. Again, sir, I wish to know the premium against the British Orders in Council, upon a voyage to France, or anywhere else, where an American vessel may go under the protection of the laws of nations? Cent per cent. would not insure in the exercise of this right; and for one I would rather fight for it than abandon it. Again, sir, what would be the insurance against French captures to European ports, in case the embargo were raised? It would be difficult to make a calculation until some experiments should be made. The reason of the low insurance now is, that the French have no inducements to send out privateers to depredate upon our commerce as long as the embargo restrains it within our ports; raise the embargo, and the temptation to plunder would fill the ocean with privateers. The commerce would stand little chance to escape the plunderers.

These observations are sufficient to show, first, that the information from the insurance offices does not embrace all the articles of barter we have in the market; particularly those of the *first necessity*. Secondly, that the policies upon most of the articles embraced by it are calculated upon incorrect principles, and not adjusted to the state of things which would exist upon raising the embargo without a substitute. Further, sir, with my little knowledge of commercial details, I will venture, without the fear of contradiction, to question the accuracy of the information furnished by the gentleman's respectable commercial correspondent (Mr. Thorndike.) I am willing to admit, sir, that he is, as the gentleman describes him to be, a merchant of the first respectability; and as such I respect him; but I cannot, in all points, subscribe to his mercantile information. I will mention only two points in which he is evidently mistaken, and they will be important enough to vary the whole aspect of the calculation he has made, as to what trade we could carry on under the Orders in Council. First, he has made a calculation of our trade to Great Britain upon the usual prices of American articles in British markets. This is an extremely incorrect standard of prices; because, if all American articles were driven into the British market, and excluded from the markets where they are con-

sumed, they would bear no price at all. They would not defray expenses. Take the article of tobacco for instance. The United States export upon an average 75,000 hogsheads; of which Great Britain consumes 14,000. The rest are exported to the European Continent. What would be the price of an article, when there is five times as much at market as is wanted for consumption, or for any other use? The merchants examined before the House of Commons unanimously agree, that this article would not defray expenses. They have not only sworn to this fact, but I would ask, if it is not the dictate of common sense, and the common result of every principle of barter? The same remark would apply to cotton and rice, and other American articles; but, perhaps, not in the same degree. As to cotton, I am perfectly convinced from the immense and increasing quantities of that article, raised in the United States, the only way to keep up the price is to keep open all the markets in the world where it is consumed. The gentleman also includes in his estimate exports to the French West India islands. They are now in a state of strict blockade, and of course the whole of this item ought to be expunged. There are probably other material errors; but these of themselves are sufficient to vary the whole aspect and bearing of his calculation. Indeed, sir, I am of opinion that little or no commerce could be carried on under the conflicting orders and decrees. All these calculations are made upon the assumed principle, that the rules prescribed in these hostile decrees and orders would be invariably adhered to in their practical operations. I entertain a very different opinion. The commerce which might strictly be permitted by the orders and decrees, would be subjected to so many vexations by the ignorance or artifices of the commanders of the hostile armed ships, as to render all the remaining commerce dangerous and unprofitable; and I am perfectly satisfied, after incurring the disgrace of submitting to these arrogant and unwarrantable impositions, we should, covered over with disgrace, be compelled to fight for the miserable pittance of commerce, apparently held out to us by these hostile and conflicting orders and edicts. This miserable and disgraceful commerce affords no allurement to me; and it will disappoint all those who have made these delusive calculations upon it. The gentleman from Massachusetts, (Mr. PICKERING,) in a great degree unravelled the mystery, which was before suspended over the calculations of his mercantile friend, by telling us that this friend had at this time several vessels laden with Southern productions, ready to set sail the moment the embargo shall be raised. This circumstance, without any imputation upon the motives of the gentleman, may be fairly conceived to have had some bearing upon his calculations, and is a case in point to prove the correctness of the information derived from the gentleman of Philadelphia, on a former and similar occasion.

Before I sit down, Mr. President, permit me to explain some expressions which fell from me in debate a few days since, and which seem to have roused into action the indignant feelings of the gentleman from Massachusetts (Mr. PICKERING.) The gentleman might have saved himself these painful feelings, if he had been more attentive to my observations. He supposes that I called his Federal friends in Massachusetts political demagogues. Now, sir, those gentlemen were not particularly alluded to either in words or intentions. I made an observation in very general terms upon the structure of popular Governments. I stated, as an inconvenient circumstance in the operations of such Governments, that when the union and energy of the people were most required to resist foreign aggressions, the pressure of these very aggressions would present temptations to political demagogues, to separate the people from their own Government, and through the people's discontents, to find their way to office and to power. I applied this observation to the present and all future times. I then gave the late and present proceedings, under the pressure of the embargo laws, in evidence to prove the correctness of the remark. I made no particular application of it to any description of gentlemen, nor to any particular part of the United States, nor was it intended to be so applied; it was intended to be general in its application to every part of the Union. The gentleman himself has made the application to his friends; and I readily admit, without reminding him of the old adage, that he is better informed than I am, whether his own application suits his own friends. But, sir, I did not particularly allude to those gentlemen. I feel the same respect for the gentlemen of Massachusetts that I do for those of any other part of the Union. Nor have I any difficulty in saying, that a difference in political opinions is no ground of personal disrespect; and that I do not now, and never have made it one. On the contrary, I am willing to proclaim it to all the world, that I know many Federal gentlemen for whom I feel great personal respect. I regret also, Mr. President, that some of the observations which fell from me the other day have made so strong impressions upon the feelings of the gentleman from Connecticut, (Mr. HILLHOUSE,) for whom I do feel a high personal respect. Upon reviewing some of them, I fear they were calculated to have too strong a bearing upon that gentleman's feelings; but, sir, it will be recollected, that to his observations I was principally replying, and therefore that my remarks had apparently a stronger application towards him personally than in fact they were intended to have. It will also be recollected, that most of the remarks of this nature were directed against the repeal of the embargo laws without any substitute, and which, in my judgment, would have been submission to foreign aggressions. Since the gentleman has disclaimed all ideas of submission, and has come forward in the true spirit of 1776, I am as ready as any gentleman to do honor to his patriotism. Mr. President, we have now made a fair comparison of opinion and information upon the measures heretofore adopted by the Government. Gentlemen

have been indulged with a full retrospect of these measures; may we not hope that we are better prepared to see what measures are now proper to be adopted to save the nation from surrounding dangers? Sir, if we could prevail upon ourselves to act under the scriptural injuction; if we could first employ ourselves in taking the motes out of our own eyes, instead of being so busy in taking them out of the eyes of our neighbors, is it not reasonable to expect that we should see more clearly the course of conduct most proper to be adopted for the people's interest and the general welfare? If we could seriously turn our eyes in upon our own hearts, and impartially examine our own passions, might we not expect to find there some of the errors which we delusively ascribe to others? Is it not to be feared, that this is the real source of our disunion? And is it not greatly to be regretted, sir, that union cannot be obtained, when it is all that is wanted to insure us complete success against our unjust adversaries? Let us then, sir, with a magnanimity becoming ourselves and our stations, banish all personal animosities; let us act like brethren of one family, united in interest, united in honor, united in affection. A knowledge of this circumstance alone might probably secure justice from our adversaries without striking a blow. But, sir, if unfortunately we should be compelled to engage in the bloody scene, how indispensable is it that we should be able to exert the whole energy of an undivided nation!

[NOTES.

French influence.—What are the means of French influence in this country? None. The idea is absurd.

British influence.—What are the means of British influence in this country? The following, among others:

Language, jurisprudence, law books, literature; tories, and the descendants of tory families; blood connexions, intermarriages; mercantile capital, mercantile partnerships; newspapers, &c. These influences are interwoven into society, and if we mean to preserve our independence, demand the most watchful vigilance of the politician.

Extract of a letter from Mr. Monroe to Mr. Madison.

"LONDON, *May* 17, 1806.

"After my interview with Mr. FOX, on the 25th ult., I waited a fortnight without hearing from him. This new instance of delay surprised me, because he had shown a sensibility to the former one, and did not seem aware of the necessity of adding to it. Independent of the general object, the war with Prussia, and the blockades incident to it; the doctrine and practice respecting which it was necessary to arrange, furnished a new motive for a communication with him. On mature reflection, I thought it best to call informally, which I did on the 11th, with a view to enter on these topics in the familiar manner I had heretofore done. Mr. FOX was at the office, but did not receive me. He sent the expression of his regret at not being able to do it, being, as he said, just going to attend the Cabinet, who were waiting for him. I called again on the 13th, and experienced the same result, though I had left word that I should then be there. I was informed by his desire, that a summons from the King, to attend him at the Palace, prevented his receiving me on that day. I met him on the 15th at the drawing-room, but had no opportunity of speaking to him. Sir Francis Vincent, the first under Secretary of State, being acquainted with my desire, promised to arrange with him an interview, and to inform me of it. These are the only circumstances worthy of notice that have occurred here since my last till to-day. I mention them that you may be better enabled to judge correctly, in all respects, of the light in which the incident of this day ought to be viewed."

Extract of a letter from Mr. Monroe to Mr. Madison.

"LONDON, *May* 20, 1806.

"With respect to the delay to which I am exposed, it is utterly out of my power to explain to you the cause. I have no reason to change the opinion which I have heretofore expressed of Mr. FOX's disposition on the subject, though I have had no late communication with him. His present reserve is unfavorable, but it may be otherwise accounted for, and on principles which are quite natural, and therefore presumable. He may have experienced more difficulties in the Cabinet than he had expected. Many of the members may be indisposed to an arrangement on such terms as can be accepted, and most of them willing to postpone any decision until the result of the proceedings in Congress is known. Under these circumstances he may find it most eligible to avoid any further communication with me on the subject.

"It becomes, therefore, very difficult, if not altogether improper, for me to press the business at this time. It seems to be my duty to postpone such pressure to the same epoch, that is, till the final proceedings of Congress are known. I shall doubtless receive with them the instructions of the President on the whole subject, which I beg to assure you I shall use my utmost exertions to carry into effect."]

Mr. HILLHOUSE spoke in favor of his motion, and in reply to Mr. GILES. Mr. POPE also spoke against the motion; when,

On motion, by Mr. REED, to refer this motion to the committee to whom was referred, on the 11th of November, so much of the Message of the President of the United States, as relates to the several embargo laws, it was determined in the negative—yeas 5, nays 25, as follows:

YEAS—Messrs. Franklin, Parker, Reed, Robinson.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Lloyd, Mathewson, Milledge, Moore, Pickering, Pope, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner, and White.

On the question to agree to the original motion, to wit:

Resolved, That it is expedient that the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, be repealed, and that a committee be appointed to prepare and report a bill for that purpose:

It was determined in the negative—yeas 6, nays 25, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd Pickering, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kit-

chel, Mathewson, Milledge, Mitchill, Moore, Parker, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

MONDAY, December 5.

The Senate resumed the consideration of the motion, submitted on the 3d instant, that a committee be appointed to inquire whether any, and what, provision ought to be made in case of the inability of the district judge of either of the districts of the United States to perform the duties of his office; and that they report by bill or otherwise; and having agreed thereto, Messrs. GAILLARD, ANDERSON, BRADLEY, GREGG, and CRAWFORD, were appointed the committee.

Mr. TIFFIN reported from the committee, that the bill to reward Andrew Joseph Villard for an invention of public utility, was correctly engrossed; and the bill was read the third time and postponed.

Mr. REED presented the memorial of Lemuel Taylor and others, inhabitants of Baltimore and the Eastern Shore of Maryland, praying an alteration in the route of the mail from Washington to Chestertown; which was read, and referred to Messrs. REED, CRAWFORD, and TIFFIN, to consider and report thereon.

TUESDAY, December 6.

The Senate resumed the bill to reward Andrew Joseph Villard, for an invention of public utility; and, on motion, the further consideration thereof was postponed to Monday next.

WEDNESDAY, December 7.

Mr. GAILLARD, from the committee to whom the subject was referred, on the 5th instant, reported a bill further to amend the judicial system of the United States; and the bill was read and passed to the second reading.

THURSDAY, December 8.

Mr. GILES reported, in part, a bill making further provision for enforcing the embargo; which was read, and passed to the second reading.

Ordered, That the Message of the President of the United States, of the first instant, with the communications respecting the public buildings, be referred to Messrs. BRADLEY, GREGG, and FRANKLIN, to consider and report thereon by bill or otherwise.

The bill further to amend the judicial system of the United States was read a second time, as in Committee of the Whole; and the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. MACLAY presented the memorial of a number of the surviving officers in the Pennsylvania line of the army of the United States, in our Revolutionary struggle, praying for a remuneration of losses sustained by the commutation of half-pay, for the reasons mentioned in the memorial; which was read.

REPORT ON THE EMBARGO.

Mr. GILES, from the committee appointed on the 11th November last, on that part of the Message of the President of the United States, which relates to the embargo laws, made report in part of a communication by the Secretary of the Treasury on the subject; which was read, as follows:

COMMITTEE CHAMBER, *Nov.* 12, 1808.

DEAR SIR: Under instructions from the committee appointed to consider the several embargo laws, I have to request the favor of your attendance in the committee chamber of the Senate, at 10 o'clock on Monday morning next, prepared to give such information to the committee as your Department affords, respecting the subjects embraced by the enclosed resolution.

Be pleased, sir, to accept assurances of my high consideration and regard, WM. B. GILES.

Hon. A. GALLATIN, *Secretary Treasury.*

Resolved, That so much of the Message of the President of the United as relates to the several embargo laws be referred to a select committee, with instructions to examine and report whether any further measures are now necessary to enforce due observance thereof during their continuance; and, also, whether any further modification of it be expedient at this time; and that such committee have leave to report by bill or otherwise.

COMMITTEE CHAMBER, *Nov.* 14, 1808.

DEAR SIR: I am instructed by the committee appointed to consider the several embargo laws, &c., to request you to lay before them, with as little delay as possible, such information as your Department affords, upon the following questions:

1. What measures would be most effectual in preventing the violations or evasions of the several embargo laws, and enforcing a due observance thereof?

2. Can any of the inconveniences of the present system be remedied by further modifications; and what modifications would effect that object?

Be pleased, sir, to accept assurances of my high consideration and regard,

WM. B. GILES, *Chairman.*

Hon. A. GALLATIN, *Secretary Treasury.*

TREASURY DEPARTMENT, *Nov.* 24, 1808.

SIR: Indisposition has prevented an earlier answer to your letter of the 14th instant.

For better preventing coasting vessels, regularly cleared, from violating the embargo, two measures appear necessary:

1. That the amount of the bond should be increased.

2. That neither capture, distress, nor any other accident, should be admitted as a plea, or given in evidence on trial.

By the first regulation, the temptation of going to a foreign port, in hopes that the profit on the sale of the cargo will indemnify for the forfeiture of the penalty, will be done away. By the second, every expectation of escaping the payment of the penalty under fraudulent pretences will be disappointed, and the power of remitting the penalties in the few cases of unavoidable accident which may occur will remain as heretofore, and, as in other cases, with the Treasury.

As the object of those two regulations will be to make the bond a sufficient and complete security, they will

have a tendency to relieve in a considerable degree the coasting trade from the inconvenience resulting from detentions.

The sufficiency of the bond will, in many doubtful cases, remove the necessity of detaining vessels, or, what amounts to the same, of informing the owners, that, unless they reduce the amount of their cargoes, they will be detained.

I would also submit the propriety of placing under the control of the President, that power of detention vested in the collectors by the act of the 25th of April last. That subject has been a constant source of complaint and difficulty. It has been the uniform practice, from the establishment of the Government of the United States, to give positive instructions to the collectors respecting the execution of the laws, and which they were bound to obey, unless a different construction should be established by a legal decision. This indeed was essentially necessary, in order to secure an uniform construction and execution of the laws. But the provision now alluded to makes the detention to rest on the opinion of each collector, and this must necessarily produce a great diversity in the manner in which the power should be executed. All has been done that could be done to obviate that evil; and the President being authorized to decide on the detentions when made, the opportunity was taken to inform the collectors of what, in his opinion, should be a proper cause of detention. This, however, could be given only as opinion, and operate as a recommendation, and not as an order. Nor does it appear practicable to establish uniformity and to prevent partiality, and either laxity or too great severity in practice, unless the power of prescribing general rules, in that respect, by which the collectors will be bound to abide, be vested in the President.

I am aware that there is another mode of evasion by regular coasting vessels, which will not be prevented by either of the preceding provisions. Either whilst in port, or on their way down our rivers and bays, coasting vessels may receive articles not entered in their manifest, which they put on board other vessels, lying off the coast for that purpose.

But it is not perceived that any legal provision can prevent that infraction, nor that any other remedy can be found than the vigilance of the officers. Another general regulation will however be suggested, perhaps useful as a permanent measure, but which would at all events, under existing circumstances, give additional security for the observance of the laws, and afford some relief to our own seamen, to wit: a prohibition to employ any aliens, either as masters or part of the crew of any coasting vessel.

It is still more difficult to guard against violations by vessels departing without clearance, in open defiance of the laws. The following provisions, on mature consideration, appear the most efficient that can be devised against infractions, which it is the more necessary to repress, as they may be daily expected to increase, and threaten to prostrate the law and Government itself:

1. To forbid expressly, under pain of forfeiture, (the penalty now being only implied,) the lading of any vessel without the permission of the collector, and without the bond for a coasting voyage being previously given—authorizing the collectors to refuse permission, unless the object be that of a lawful coasting or fishing voyage. The great number of vessels now laden, and in a state of readiness to depart, shows the necessity of this provision. If there be cases in which the indulgence of converting vessels into warehouses ought to be granted, there will be no hardship, where the intention is fair, to require a bond similar to that given for a coasting voyage. And the collectors should likewise, in such cases, be expressly authorized to take such efficient precautions as will put it out of the power of such vessels to sail without warning.

2. In order to prevent those fraudulent sales of vessels by which ostensible owners of no responsibility are substituted for those from whom penalties might be recovered, it is necessary to provide that those owners of vessels whose names appear on the register or license should continue to be reputed as such, and liable to the penalties, in case of infraction of the laws, until the register or license shall have been actually surrendered, and new papers shall have been regularly granted by the collector to the purchaser. And, in every such case of purchase, a sufficient bond that the embargo shall not be infringed, to be previously required.

3. The power to seize unusual deposites, now vested in the collectors of districts adjacent to the territories of foreign nations, should, as was contemplated in the bill passed by the House of Representatives, be extended to all the districts. That this is an arbitrary power, which nothing but the unremitted efforts in some places to evade the law can possibly justify, cannot be denied; and it should, like that of detention, be placed under the control of the President, and be executed only in conformity with such general rules as he would prescribe.

4. Exclusively of the assistance which may be derived from gunboats and from the armed vessels of the United States, it would be advisable to authorize the President to add ten or twelve cutters to the establishment. Fast-sailing vessels, of easy draught of water, and requiring only from fifteen to thirty men each, are mostly wanted, and would, for the object contemplated, be as useful as the largest frigates.

5. It is with regret that the necessity of authorizing, on the application of the collector, an immediate call for the local, physical force of the country, must also be stated. But such partial acts of violence as have taken place in some of the seaports cannot be prevented by the circuitous manner in which the public force must now be brought out in support of the laws. And no doubt exists that the mass of the citizens, whether they approve or disapprove of the embargo, would, in every port, instantaneously suppress any such outrage, provided they can be called upon to act in a legal manner.

Some other provisions appear also necessary, for the purpose of carrying the laws more completely into effect along our land frontier:

1. The exportation of specie by land should be expressly prohibited.

2. The power of detaining deposites should be so expressed as to leave no doubt of the authority to detain wagons and other carriages laden and actually on their way to a foreign territory. Although I cannot perceive any reason for the distinction, it has been supposed, in one of the districts, that the law which authorized the detention of flour, beef, or potash, deposited in a warehouse, did not extend to the case of their being deposited in a wagon, although evidently on its way to Canada.

3. The offence now punishable by law is that of exportation. This is not consummated till after the property has actually been carried beyond the lines, where, being in a foreign jurisdiction, it cannot be seized; so that forfeiture, which is the most efficient penalty, can never apply to exportations by land; and no bond being required, as in the case of vessels, the only remedy is the uncertain one of recovering penalties against apparent offenders, who either abscond or have no

property. How far it may be practicable to make the act of preparing the means of exportation punishable, or to provide some other remedy, is submitted to the committee.

But it must also be observed, that every degree of opposition to the laws which falls short of treason, is now, with but few exceptions, an offence undefined and unprovided for by the laws of the United States; whence it follows, that such offences remain unpunished, when the State authorities do not interfere. The necessity of defining those offences by law as misdemeanors, and of providing an adequate punishment, appears obvious.

I will beg leave here to add, that it does not appear necessary to continue any longer the indulgence granted to the British merchants to import, for the use of the Indians, articles of which the importation is generally prohibited by law; as that privilege is liable to great abuse, and affords just ground of dissatisfaction to American citizens. Whether it be advisable to continue the permission given to those Indian traders to export furs and peltries, is a question to be decided by political considerations.

The last branch of the subject to which I wish, at present, to call the attention of the committee, relates to interruptions and certain injurious proceedings attempted under color of law:

1. Veratious suits are brought against collectors, which not only perplex faithful officers, but have the effect of intimidating others, and prevent an energetic performance of their duties. The only provisions which have occurred to me on that subject, are, to enable the collectors who may be sued, always to remove the cause before a court of the United States; to make a certificate, issued by the proper authority, that there was reasonable cause of detention; protect them against damages in cases of detentions, in the same manner as is now provided in case of seizures; and to provide for the safe-keeping, and restoring, when proper, and on security being given, the vessels and property which may be detained.

2. Attempts have in several instances been made to wrest from the collectors by writs of replevin, issued by State courts or officers, property detained or seized by said collectors, or which in any other manner is in their possession, in conformity with some law of the United States. It is evident that such attempts, if submitted to, would defeat, not only the embargo, but also the revenue laws of the United States; that, whenever property is, by virtue of a law of the United States, in possession of a collector, marshal, or any other of their officers, no process, *in rem*, which will take the property away, whether of replevin, attachment, or any other, can be legally issued by a State authority; and that the sheriff or other person executing the same must be considered as a mere trespasser, and be resisted accordingly. But there is no other way at present to resist such illegal process but actual force. And it appears necessary that another remedy should be afforded, by providing a summary mode of superseding any such process through the interference of the courts and judges of the United States, and by making it penal for any sheriff or other person to execute the same, or in any manner to attempt to take property, which, by virtue of any law of the United States, is in the collector's possession.

3. In some instances where vessels and cargoes libelled for infractions of the embargo have been restored to the owners on their giving security for the appraised value, the valuations have been so low as to reduce the forfeiture to an inconsiderable sum, thereby defeating altogether the law. It is suggested that this might be prevented by a provision authorizing and directing the district judges to set aside, on motion of the district attorney, such valuations, whenever, in their opinion, falling short of the true value.

On the subject of *mandamus*, I will only observe, that, in the only instance which has taken place, the court, supposing they had jurisdiction, could not, from the manner in which the question was brought before them, have decided otherwise than they did; but that it is desirable that the question of jurisdiction, as it relates either to the courts in whom the power ought to be vested, or to the cases to which it should extend, should be precisely defined by law.

I have not, in this communication, taken into consideration the technical defects of the existing embargo laws, because prosecutions do not fall within my immediate cognizance, and I do not feel competent to the task of pointing out the necessary alterations. Measures have however been taken to procure on that subject, and from the proper sources, information which will hereafter be laid before the committee.

To the remaining inquiry of the committee, whether the inconveniences of the present system may not in some degree be removed, I can only answer, generally, that a law which lays such extensive restrictions as the embargo, cannot be carried into effect without imposing serious inconveniences, even on the domestic intercourse of the United States; and that these must necessarily be increased in proportion to the opposition and efforts to evade or violate the law. It has already been stated, that provisions, which will render the bond given by coasting vessels a complete security against violations by them, will diminish the necessity and extent of more arbitrary restrictions. An authority to permit, on proper security being given, such vessels, when they arrive in port, to keep their cargoes on board, would afford some relief. And I think that the credit on duties accruing on the importation of certain articles which was allowed by the act of the 10th March last, should be extended to all importations of the same articles, made after the passing of the act; those made in vessels which sailed under special permission only excepted. With respect to this last class of importations, as they were permitted by special indulgence, and as it is understood that it has been impossible in many cases to prevent its being abused, and as in almost all, the parties having a species of exclusive privilege, have made sufficiently profitable voyages, the propriety, particularly in the existing situation of the revenue, of allowing them also the advantage of an extended credit on duties, is not perceived.

I have the honor to be, with great respect, sir, your obedient servant, ALBERT GALLATIN.

Hon. W. B. GILES, *Chairman, &c.*

Ordered, That the report be printed for the use of the Senate.

FRIDAY, December 9.

Mr. BRADLEY, from the committee to whom was referred the Message of the President of the United States, of the 1st instant, with the communication respecting the public buildings, reported a bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes; and the bill was read twice.

Mr. TIFFIN, from the committee, reported the bill further to amend the Judicial system of the United States correctly engrossed; and the bill was read the third time, and passed.

Mr. REED, from the committee to whom was referred, on the 5th instant, the memorial of Lemuel Taylor and others, praying an alteration in the route of the mail from Washington to Chestertown, reported a bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall; and the bill was read, and passed to the second reading.

On motion, by Mr. GILES,

Resolved, That the committee appointed on so much of the President's Message as relates to the embargo laws, be instructed to inquire whether it be expedient to suspend the payment of certain revenue bonds given subsequent to the date of the act, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes;" and that the committee have leave to report by bill, or otherwise.

Mr. GILES, from the committee last mentioned, reported a bill supplemental to an act, entiled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes;" which was read, and passed to the second reading.

MONDAY, December 12.

Mr. MITCHILL presented the memorial of the surviving officers of the late Revolutionary army and navy of the State of New York, stating the losses they have sustained in consequence of the commutation, which they were induced to accept in lieu of half pay for life, and praying relief.

Mr. GREGG presented sundry petitions from officers in the Pennsylvania line, on the same subject; and the memorials were read.

Ordered, That they, together with one presented on the 8th instant, on the same subject, be referred to Messrs. GREGG, MITCHILL, and BRADLEY, to consider and report thereon.

Mr. THRUSTON presented the petition of Thomas Pearson, an officer in the Revolutionary war, representing that, from a want of knowledge of the necessary proceedings, and his remote situation, he was not placed on the pension list till the year 1803, although entitled under the first act of Congress on the subject, and praying relief; and the petition was read, and referred to the Secretary of War, to consider and report thereon.

The bill supplemental to an act, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes," was read the second time, as in Committee of the Whole, and the PRESIDENT reported it to the House without amendment. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall, was read the second time as in Committee of the Whole; and the President having reported the bill to the House amended; on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," in which they request the concurrence of the Senate.

The bill was read, and passed to the second reading.

The bill making further provision for enforcing the embargo was read the second time; and, on motion, it was ordered to be considered as in Committee of the Whole to-morrow.

The Senate resumed the third reading of the bill to reward Andrew Joseph Villard for an invention of public utility; and having amended the title,

Resolved, That the bill pass, and the title thereof be "An act for the relief of Andrew Joseph Villard."

Mr. BRADLEY gave notice that he should, on Thursday next, ask leave to bring in a bill supplementary to the act, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction."

ENFORCEMENT OF THE EMBARGO LAWS.

Mr. GILES, from the committee appointed the 11th of November last, on that part of the Message of the President of the United States which relates to the embargo laws, and the measures necessary to enforce due observance thereof, made a further report, in part, of a bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats of the United States; and the bill was read, and passed to the second reading.

The bill is as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President be, and he is hereby, authorized and required, to cause to be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, including gunboats; and to cause the frigates and armed vessels, so soon as they can be prepared for actual service, respectively, to be stationed at such ports and places on the seacoast as he may deem most expedient, or to cruise on any part of the coast of the United States, or Territories thereof.

"SEC. 2. *And be it further enacted*, That, for the purpose of carrying the foregoing provision into immediate effect, the President of the United States be, and is hereby, authorized and required, in addition to the number of petty officers, able seamen, ordinary seamen, and boys, at present authorized by law, to appoint, and cause to be engaged and employed as soon as may be, —— midshipmen, —— corporals of marines —— able seamen, —— ordinary seamen and boys, which shall be engaged to serve for a period not exceeding —— years, but the President may discharge the same sooner, if in his judgment their services may be dispensed with; and to satisfy the necessary expenditures to be incurred therein, a sum not exceed-

ing —— dollars be, and the same is hereby, appropriated, and shall be paid out of any moneys in the Treasury not otherwise appropriated."

TUESDAY, December 13.

The Senate resumed the consideration of the motion made yesterday respecting the expense of the public buildings. The motion was amended and agreed to, as follows:

Resolved, That a committee be appointed to ascertain and report to the Senate the amount which has been already expended by the United States on the public buildings in the City of Washington; and also to ascertain, as near as may be, the amount which would be required to complete and finish the President's house and square, and the two wings of the Capitol.

Ordered, That Messrs. BRADLEY, LLOYD, and SMITH of Maryland, be the committee.

The bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," was read the second time, and referred to Messrs. MITCHILL, SMITH of Maryland, and CRAWFORD, to consider and report thereon.

The bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats, of the United States, was read the second time, as in Committee of the Whole; and the PRESIDENT having reported the bill to the House amended; on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making further provision for enforcing the embargo; and, an amendment having been proposed by Mr. BRADLEY, it was agreed that the bill, together with the amendment, be recommitted to the original committee, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes.

Ordered, That the consideration of the bill be further postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now transmit to both Houses of Congress a report of the Commissioners appointed under the act of March 25, 1808, concerning a road from Cumberland to Ohio, being a statement of the proceedings under the said act since their last report communicated to Congress, in order that Congress may be enabled to adopt such further measures as may be proper under existing circumstances.

TH. JEFFERSON.

DECEMBER 13, 1808.

The Message and report were read, and ordered to lie for consideration.

Mr. TIFFIN, from the committee, having reported the bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall, correctly engrossed; it was read the third time, and passed.

Mr. TIFFIN, from the committee, having reported the bill supplemental to an act, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes," correctly engrossed; it was read the third time, and passed.

WEDNESDAY, December 14.

Mr. GREGG presented the memorial of the officers of the marine corps, praying that "that corps may be so organized as to place the officers upon a footing, as to military promotion, with their brother officers in the army," for reasons mentioned in the memorial; which was read, and referred to Messrs. GREGG, SMITH of Maryland, and SUMTER, to consider and report thereon.

Mr. TIFFIN, from the committee, reported the bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats, of the United States, correctly engrossed; the bill was read the third time, and the consideration thereof further postponed.

THURSDAY, December 15.

Mr. GILES, from the committee to whom was recommitted the bill making further provision for enforcing the embargo, reported amendments, which were amended and agreed to; and the PRESIDENT reported the bill to the House amended; and, on motion by Mr. CRAWFORD, it was agreed to amend the 6th and 10th sections of the bill. On the question, Shall this bill be engrossed, and read the third time as amended? it was determined in the affirmative.

On motion, by Mr. GILES,

Ordered, That the bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats, of the United States, be recommitted to the original committee, further to consider and report thereon.

FRIDAY, December 16.

Mr. GILES, from the committee to whom was recommitted the bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats, of the United States, reported amendments; and the amendments were considered as in Committee of the Whole, and agreed to; and the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

Mr. TIFFIN, from the committee, reported the bill correctly engrossed, and it was read the third time.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, in obedience to the act, entitled "An act to establish the Treasury Department;" and the report was read, and ordered to lie for consideration.

Mr. TIFFIN, from the committee, reported the bill making further provision for enforcing the embargo, correctly engrossed; and the bill was read the third time. On motion, by Mr. GOODRICH, to postpone the further consideration thereof until to-morrow; the yeas and nays having been required by one fifth of the Senators present, those who voted in the affirmative, are—

Messrs. Condit, Crawford, Franklin, Gilman, Goodrich, Hillhouse, Howland, Lloyd, Maclay, Parker, Pickering, Smith of New York, Sumter, and Thruston.

Those who voted in the negative, are—

Messrs. Bradley, Gaillard, Giles, Gregg, Kitchel, Milledge, Mitchill, Moore, Pope, Robinson, Smith of Maryland, Smith of Tennesse, Tiffin, and Turner.

The Senate being equally divided, the PRESIDENT determined the question in the affirmative.

SATURDAY, December 17.

The credentials of MICHAEL LEIB, appointed a Senator by the State of Pennsylvania, were presented and read, and ordered to lie on file.

The Senate resumed the third reading of the bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats, of the United States; and the blanks having been filled, and the title amended,

Resolved, That this bill pass, and that the title thereof be "An act to provide for arming and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States."

ENFORCEMENT OF THE EMBARGO.

The Senate resumed the bill making further provision for enforcing the embargo.

Mr. GOODRICH rose, and addressed the Senate as follows—

Mr. President: This bill, making further provision for enforcing the embargo, requires all our attention. We are not on ordinary business. An embargo for an indefinite period, over a great country like ours, abounding in rich staples and domestic products, and carrying on in its own vessels an extensive and profitable commerce, is a phenomenon in the civilized world. We are about entering on the second year of this novel measure, and even in defiance of the lessons which experience teaches, that without producing any beneficial results, it is embroiling the choicest interests of the nation. On foreign Powers it has made no impression, and its ruinous effect on our own country, we see in the waste of private property and public revenue; in the discontents of our citizens; in the perplexed state of the public councils, and the increasing difficulties that are fast gathering round the Government. The friends of the embargo say, that it has been evaded and violated, but that when strictly enforced, it will compel foreign nations to respect our rights. Under these impressions, the system is to be maintained. To enforce it, the powers of the Government are to be put in array throughout our country, especially in places where discontents are manifested; and an extension is to be given to that system of arbitrary seizures of vessels, goods, merchandise, and domestic products, on suspicion of their being intended for exportation, which came in with the embargo laws, and has attended their execution.

In all this, sir, I see nothing that is to conciliate the conflicting opinions and passions of our citizens, and restore concord amongst them. I see nothing that will invigorate the public councils, and resuscitate the dormant spirit and resources of the nation. To me it seems that the Administration, without presenting to public view any definite object or course, are pressing forward our affairs into a chaos of inextricable difficulties. And I cannot but regard this bill as holding a prominent place among the measures leading on that unfortunate issue.

This bill bears marks of distrust entertained by the Government of the people, or a considerable portion of them, and of the State authorities; it places the coasting trade under further and vexatious restraints, as well as its general regulations under the control of the President. It intrenches on the municipal polity of the States, and the intercourse of the people in their ordinary business. And, what above all will wound the public sentiment, for the accustomed and mild means of executing the laws by civil process through the tribunals of justice, it substitutes military powers to be called out and exercised, not in aid, but in place, of the civil authorities.

To show that this is a correct delineation of the character, principles, and provisions of the bill, I ask, sir, your attention to an elucidation of its most important sections.

Not having had time critically to examine the first two, which have lately been introduced by way of amendment, I pass them without remark; leaving it for gentlemen who may follow, to point out their extravagant and oppressive principles.

This bill, as I before observed to you, sir, subjects the coasting trade to further and vexatious restraints, and places it under the control of the President.

It is enacted (section 2:)

"It shall not be lawful to put on board any ship, vessel, or boat, of any description whatever, any specie or goods, wares or merchandise, either of domestic or foreign growth, produce, or manufacture, and the same is hereby prohibited, unless a permit particularly stating the articles thus to be laden shall have been previously obtained from the collector of the district in which such ship, vessel, or boat may then be, or from a revenue officer especially authorized by the collector to grant such permits; nor unless the lading shall be made under the inspection of the proper revenue officers, nor unless the owner or owners, consignee, or factor of such ship, vessel, or boat shall, with the mas-

ter, have given bond with one or more sureties to the United States, in a sum six times the value of the vessel and cargo, that the vessel shall not leave the port without a clearance, nor shall, when leaving the port, proceed to a foreign port or place, nor shall put any article on board of any other vessel; and that the whole cargo shall be relanded either in the port where the vessel may then be, or in such other port of the United States as shall be designated in the clearance. And it shall be lawful for the collectors of the customs to refuse permission to put any cargo on board any such ship, vessel, or boat, whenever in their opinion there is an intention to violate the embargo, or whenever they shall have received instructions to that effect by direction of the President of the United States: *Provided*, That nothing contained in this section shall be construed to extend to any ship, vessel, or boat, uniformly employed in the navigation only of bays, sounds, rivers, and lakes within the jurisdiction of the United States, which shall have obtained a general permission, agreeably to the provisions in the fourth section of this act."

The third section regulates all that branch of the coasting trade not confined to rivers, bays, sounds, and lakes.

The sum required in the bond is six times the value of vessel and cargo, and, as is said by those well informed, in most cases will amount to fifteen or twenty thousand dollars. It is apprehended, that many coasters will not be able to obtain sureties for that sum. Many of the owners of coasting vessels are men of moderate property, belonging to the middle class of society in point of wealth, the most numerous and not least meritorious of citizens, whom sudden and adverse changes, and consequent loss of business, first affect and depress.

Should the excessive amount of the bonds drive this description of coasters out of their regular employment, and throw it into the hands of competitors of larger capitals, we shall have an additional evil to those growing out of the embargo to deprecate. The coasting trade is nearly ruined already by the destruction of foreign trade. Both these valuable interests, like the other interests of a free and commercial people, are interwoven with each other; and while we are shut out from a commercial intercourse with the rest of the world, the Government ought to afford by every facility in its power an encouragement to a commercial intercourse between the States.

The collectors may refuse permission to put a cargo on board of any ship, vessel, or boat specified in this section, whenever in their opinion there is an intention to violate the embargo, or whenever they shall have received instructions to that effect by direction of the President of the United States.

Hereby the collectors are deputed to be viceroys over commerce in the spheres they occupy under the supremacy of the President. As we shall meet with an analogous provision in a subsequent paragraph, I at present waive further remarks on the dangerous policy of vesting the President with such enormous powers.

The fifth section treats of the trade uniformly carried on in rivers, bays, sounds, and lakes. It is there enacted:

"That the collectors of the customs be, and they are hereby, authorized to grant, under such general instructions as the President of the United States may give to that effect, a general permission to ships, vessels, or boats, whose employment has uniformly been confined to the navigation of bays, sounds, rivers, or lakes within the jurisdiction of the United States, when it can be done without danger of the embargo being violated, to take on board at any time such articles of domestic or foreign growth as may be designated in such general permission or permissions, bond with one or more sureties being previously given to the United States by the owner, owners, consignee, or factors of such ship, vessel, or boat, and by the master thereof, in an amount equal to three hundred dollars for each ton of said vessel; that such vessel shall not during the time limited in the condition of the bond, depart from any district of the United States without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure a manifest of the whole cargo on board; that the said vessel shall not, during the time abovementioned, proceed to any other port than that mentioned in her clearance, or put any article on board of any other vessel, or be employed in any foreign trade; and that on every voyage or trip the whole of the cargo shall be landed in a port of the United States within the bay, sound, rivers, or lakes to which the navigation of such vessel is confined."

The amount of the bond prescribed in this clause is three hundred dollars for each ton of the vessel; and it is not less objectionable on account of its magnitude, than in the case I have just animadverted on, whether compared with the relative abilities of the two classes of coasters on whom the respective provisions operate, or the objects in view; and it is more grievous to the districts of country dependent on trade, and intimately connected with its prosperity. The navigation of the ocean we deny, and have long denied to our citizens; that between States is impeded, and I fear we are going on from time to time, by piecemeal, to offer up the trade between districts of the same State, at the shrine of our embargo system.

The coasting trade is placed under the regulation of the President by this bill:

1st. Collectors may refuse permission to put a cargo on board of any ship, vessel or boat, in any case where they have their own personal suspicions that it is intended for foreign exportation, and in every case which may be comprehended within the scope of any general instructions, issued by command of the President. But there is a proviso as to coasting vessels uniformly employed in the navigation of bays, sounds, rivers, and lakes, which shall have obtained a general permission.

2d. General permissions may be granted to the last mentioned vessels, under such general instructions as the President of the United States may give, when it can be done without danger of the embargo being violated, to take on board such articles as may be designated in such general permission or permissions.

By these general instructions, the President may prescribe the kind and quantity of exports from, and imports into the individual States, and from and to the particular districts within a State. He may suspend them in part or in whole.

The power of issuing general instructions now proposed to be given to the President by law, he exercised in the recess of Congress, and in my opinion, without law. The Governor of Massachusetts was authorized to give certificates, or licenses for the importation of flour into that State; and, under general instructions from the President, without personal suspicion of his own, the collector at Charleston, in South Carolina, detained a vessel; which called forth the independent exercise of the judicial power of the circuit court in that State, to control the President's instructions. I am sensible the Administration and its friends have an arduous task in executing the embargo; difficulties beset them on every side; difficulties inherent in the measure itself, and not to be overcome by accumulating rigorous penalties, and an extension of the Executive power. The power to regulate commerce is vested in Congress, and by granting it to the President, do we not transfer to him one of the most important and delicate of the Legislative powers? What State would have adopted the Constitution, if it had been foreseen that this power would be granted to any man, however distinguished by office?

I will in this place notice one or two objectionable clauses in the bill not immediately connected with either of the points I have discussed.

By a clause in the eighth section, it is provided, that in a suit on a bond for not relanding goods, wares, and merchandise, and failing to produce a certificate thereof, capture, distress, or any other accident shall not be given in plea or admitted in evidence in any such suit. The doctrine here assumed, that capture, distress, or any other accident shall not be pleaded or given in evidence, infringes the first principles of justice, and involves innocence in the punishment of guilt, together with its disgraceful and ruinous consequences. The crime created by the bill, is that of a person's clearing out a vessel and cargo for a port in the United States, and voluntarily going, contrary to law, to a foreign port. To a case of capture, or being prevented by the act of God from reaching the destined port, there can be no pretence of crime. And will Congress declare an offence by statute, and deny to a party accused the right of pleading and giving in evidence the only matter of fact that goes to his exculpation? Of what use is the trial by jury, for ages revered as the palladium of innocence against the oppression of power, if it may thus be narrowed down and perverted? And for what cause is this principle to be introduced? Are courts and juries distrusted? And therefore is it that the established usages and rules of trial are to be abandoned? The Secretary of the Treasury, it is said, may remit and mitigate forfeitures and penalties, and he will give relief. So innocence is to sue, as a favor, for relief, from penalties and forfeitures awarded to guilt, from a Secretary of the Treasury, when it is entitled to an acquittal in a court of justice.

It is made lawful by the seventh section of the bill for collectors to withhold a license or register for a vessel when sold, unless a bond shall be given by the owner previous to the sale, that such ship or vessel shall not contravene the embargo acts.

This provision infringes an essential right of property, and is as oppressive as it is unjust. Owners of vessels already deprived of their use by the embargo, are to be prevented from disposing of them in payment of their debts, or for other purposes, unless on condition of becoming bound for the good behaviour of all future owners of the vessel in respect of the embargo acts, as long as they shall continue.

The sections I have considered, principally affect merchants and seafaring men in their business, at stores, custom-houses, about wharves, ships, and vessels. But other sections take a wider range, and intrench on the ordinary concerns of the great body of the people, by the powers they give for unreasonable and arbitrary searches for, and seizures of their property.

Collectors of the customs throughout the United States, by the tenth section, are empowered to take into custody, specie, or any articles of domestic growth or manufacture, under these circumstances, when deposited in unusual places, in unusual quantities, in places where there is reason to believe they are intended for exportation in vessels, sleighs, or other carriages, or in any manner apparently on their way towards the territories of foreign nations, or a place whence such articles are intended to be exported. And, when taken into custody they are not permitted to be removed without bonds being given for their being relanded in some place whence, in the opinion of the collector, there is no danger of their being exported.

Without warrant founded on proof, from suspicion only, may this unbounded license be exercised. Our houses, heretofore our castles, and the secure abodes of our families, may be thrown open to the visits of collectors to search for and seize our money and goods, whenever instigated by suspicion, prejudice, resentment, or party spirit.

No place is to be protected; the people may everywhere be exposed, at home, on the way, and abroad. Specie and goods thus seized without warrant, and on suspicion only, are not to be removed unless and until bond with sureties shall be given for landing or delivering the same in some place of the United States, whence, in the opinion of the collector, there shall not be any danger of such articles being exported. These provisions strike at the vital principles of a free Government; and are they not contrary to the fourth and sixth articles of amendments to the Constitution? Are not these searches and seizures, without warrant, on the mere suspicion of a collector, unreasonable searches and seizures? And is not a man thereby to be deprived of property without due process of law?

Such is the unprecedented nature and enormous extent of the powers given to collectors by this bill; and by what means, and in what manner, are they to be exercised? By the eleventh section it is enacted:

"That the powers given to the collectors by this or any other act respecting the embargo, to detain any vessel, or to take into their custody any articles for the purpose of preventing violations of the embargo, shall be exercised in conformity with such instructions as the President may give, and such general rules as he may prescribe for that purpose, made in pursuance of the powers aforesaid; which instructions and general rules the collectors shall be bound to obey; nor shall they be liable to any action, suit, or judgment on account of any detention of a vessel, or for having taken articles into their custody in conformity with such instructions and general rules."

Here Presidential instructions receive their last seal and stamp of authority. They are made binding upon collectors, and, for acts done in pursuance of those instructions, they are to be irresponsible.

These instructions, according to the terms of the bill, are to become the supreme law of the land, and obligatory on the courts of the United States and of the States. It may be said that to render them authoritative, the instructions must be in pursuance of the powers granted by the bill to the collectors, and that they are mere Executive directions given for the purpose of producing a uniform and systematic course of proceedings among collectors. If indeed this be their object, why is the clause inserted? Since the establishment of the Treasury Department, it has been the practice of the Secretary of the Treasury to issue instructions to subordinate officers; but this favorite embargo, to which all considerations are made to bend, offers the first instance of an attempt to give to them the force of laws. And a critical attention to the section shows that such is its intendment. Although it is declared that, to have the effect of laws, the President's instructions must be in pursuance of the powers granted by the bill to the collectors, it is to be remembered that collectors are to act in particular cases on their discretion, under the President's instructions, which are to be general, and neither the one nor the other are to be defined or limited by any precise rule. Both are arbitrary within the spheres of their general authorities, and the President's instructions are absolute on the collectors, and attempted to be made absolute on the court for their indemnity. They are issued from time to time as supplementary laws to enforce the embargo. No direction is given by the bill for their being published, while they necessarily must and will have important effects upon the rights and liberties of our citizens. It would still be some consolation if this unpleasant inquiry might stop here, but we must enter on a more painful duty. I have before asked by what means are these unprecedented powers to be executed? They are to be executed by military force, not to be employed in aid of the civil authority, but in the first instance in the place, and to the exclusion of the civil authority. By the twelfth section

"It is made lawful for the President of the United States, or such other person as he shall have empowered, to employ such part of the land or naval forces of the United States, or of the militia thereof, as may be judged necessary for the purpose, in conformity with the provisions of this and other acts respecting the embargo, of preventing the illegal departure of any ship or vessel, or of taking into custody and guarding any articles of domestic growth, produce, or manufacture, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same."

The military may be employed by such person as the President may have empowered. He may designate, at certain places in the States, persons to call out such part of the land or naval forces of the United States, or of the militia, as may be judged necessary. Those will be selected who are most convenient and in all respects qualified to act in the scenes to which they may be called. In these appointments the Senate is to have no concurrence. They are to be Presidential agents for issuing requisitions to the standing army, for militia, and not amenable to any tribunal for their conduct. Heretofore a delicate and respectful attention has been paid to the State authorities on this subject. The requisitions of the General Government for the militia have been made to the Governors of the States; and what reason is there for taking a different course to enforce the embargo?

Under our present system have not insurrections been suppressed, rebellions quelled, and combinations and resistance against lawful authority overcome, by the force of the General Government in co-operation with the State governments? Is not the authority of the marshals competent to the execution of the laws? I see no cause for these arrays of the military throughout the country, and the unrestrained license that is to be given to its operations. It is a fundamental principle of a free government, "that the military be kept in subordination to the civil power," and never be put in motion until those be found incompetent to preserve the public peace and authority. But, by the provisions of this bill, these Presidential agents may call out the standing army or militia, or part of them, to follow in the collector's train, to seize specie and goods in houses, stores, and elsewhere, and generally for executing the embargo laws. And even the public peace, so far as respects the suppressing armed and riotous assemblages of persons resisting the custom-house officers in the exercise of their duties, it would seem can no longer be confided to the States, and it is thought necessary to surround custom-house officers with bands of the standing army or militia.

The bill before us is bottomed on a report of the Secretary of the Treasury. How often were

his strenuous remonstrances, and those of the chairman of the committee who reported the bill, (Mr. GILES,) formerly heard against the extension of Executive patronage and influence; the interference of the General Government in the local policy of the States, and the ordinary concerns of the people; and, above all, against standing armies? Then no such Executive prerogatives were claimed as this bill contains; no such attempts made as here are made for intrenchments on the internal policy of the States, and the ordinary concerns of the people; and then our Army, small in comparison with the present establishment, was kept aloof from the affairs of the State, and the persons and property of the citizens. Our country was happy, prosperous, and respected. The present crisis is portentous. Internal disquiets will not be healed, nor public sentiment controlled, by precipitate and rash measures. It is time for the public councils to pause. This bill, sir, ought not to pass. It strikes at the vital principles of our republican system. It proposes to place the country in a time of peace under military law, the first appearance of which ought here to be resisted with all our talents and efforts. It proposes to introduce a military despotism, to which freemen can never submit, and which can never govern except by terror and carnage.

Mr. THRUSTON, now moved to recommit the bill, which was determined in the negative. And after debate, the Senate adjourned.

MONDAY, December 19.

ENFORCEMENT OF THE EMBARGO.

The Senate resumed the bill making further provision for enforcing the embargo.

Mr. LLOYD stated, that he had no objection to the recommitment of the bill, as proposed by the gentleman from Vermont. He had wished for the postponement of it in the second reading, but the Senate had chosen to order otherwise; he had however then said, that he should not feel precluded from offering his reasons against some of the details, as well as against the general principles of the bill in the third reading; and as he had no reason to suppose that he should be one of the two additional members proposed to be placed on the committee, and as, on a former day, those who were opposed to the bill were called on to give their reasons before it should be committed, he would now do it, in order, that if his observations were of any weight, they might receive from the committee, to whom the subject was again to be referred, such consideration as they would merit.

Mr. L. observed, that he had not risen to oppose the bill because the object of it was to enforce a law to the policy of which he was adverse, but he was opposed to the bill, because, in itself, it appeared to him to contain provisions which would be extremely injurious and vexatious to the citizens, and principles which, in his view of them, were arbitrary in their nature, and in their virtual effect unconstitutional. In thus characterizing the bill, he meant no reflection on the committee who reported it; they had undoubtedly taken a different view of the subject from what he had, and if he (Mr. L.) was mistaken in the estimation he had formed of it, he would rejoice more than any member of the committee.

By the third section of the bill, said Mr. L., it is enacted, that it shall not be lawful to put on board any ship, vessel, or boat, any specie, goods, wares, or merchandise, unless the owner, or owners, consignee or factor, of such ship, vessel, or boat, shall with the master have given bond, with one or more sureties to the United States, in a sum six times the value of the vessel and cargo, that the vessel shall not leave the port without a clearance, &c. And by the fifth section it is enacted, that general permission shall be given to vessels that have been uniformly employed in the navigation of bays and rivers, still to navigate the same, provided the owners and master, with sureties, shall first give bond to the amount of three hundred dollars, for every ton of such vessel so employed; which, on a vessel of one hundred tons burden, would amount to thirty thousand dollars.

Requisitions of bonds to this amount, Mr. L. said, were in his opinion excessive. He would instance the effect of them on the State of Massachusetts, not that he conceived they were legislating for a particular State, but he adduced the circumstances of that State in illustration of the principles of the bill, because they were most familiar to him; other States were in different degrees undoubtedly similarly circumstanced. The Hudson alone found employment for near two thousand coasting vessels.

A very large coasting trade, said Mr. L., was carried on between the principal seaports in old Massachusetts and the District of Maine; this trade, for the most part, is prosecuted in lumber, lime, and firewood, towards the Autumn or the close of the year, principally in the latter. The inhabitants of the old seaports are not in the habit of burning coal for fuel, they make use almost entirely of firewood, for a great part of their supplies of which they rely on the District of Maine, and this trade is alike important to the inhabitants of that district, who depend in some measure on the sale of their wood and lumber for their support. They almost exclusively own the vessels engaged in this trade; these vessels are from eighty to one hundred or one hundred and twenty tons burden—some of them are worth three or four thousand dollars; it will be a fair average to estimate them at two thousand dollars each; the cargoes may be worth from three to five hundred dollars: thus then, one of these vessels and a cargo would be worth about two thousand five hundred dollars; and bonds for six times this amount, or fifteen thousand dollars, will be required for every trip they make, for only about three or four weeks employment for their vessels.

The coasters are generally of a respectable but not wealthy class of persons, they inhabit a new country, thinly settled; for the land they occupy, many of them are partially indebted, as well as

for the equipment of their vessels. Under present circumstances, in many cases, the whole vicinity, for an extent of several miles, could not muster fifteen thousand dollars in money, to pay the penalty, provided the law was violated; the consequence must be, either that the regulation must be a fallacy, on account of insufficient bondsmen being given, and be a mere business of vexation, or the trade would in many instances be abandoned from inability of the owners of vessels to procure such bondsmen as would be acceptable to the collector. If the latter were the case, and the principal part of the trade were cut off, the inhabitants of that part of Massachusetts, who have hitherto received their firewood from Maine, might be greatly incommoded for the supplies of an indispensable necessary of life, in a climate so inclement as the one they inhabit; while the inhabitants of Maine would be equally distressed, from being interdicted from the pursuit of their ordinary occupations, from being deprived of a market for almost the only cash article they now possess, from procuring clothes to cover them, or of obtaining food for their subsistence, for in many parts of that district they do not raise corn enough for their consumption.

And, said Mr. L., what right has Congress to prohibit such a trade as this, for an indefinite period? It was not given by the Constitution, nor in his opinion was it by any means certain that Congress possessed it; perhaps gentlemen were not aware on how frail a tenure it might be considered that they held even the right to regulate this trade; it might be found to rest on no more solid a basis than that of sufferance. He knew that there was a sweeping clause in the Constitution, on which the gentlemen placed great reliance, that Congress should possess the power to make all laws that might be necessary for carrying the Constitution into effect—but he also knew that in all political contracts, whatever was not specially given, was retained. He also knew that amendments to the Constitution, whenever they clashed with the original stipulations in the Constitution, were of superior force—and by the 11th and 12th amendments, it is expressly declared, that the 'enumeration in the Constitution of 'certain rights, shall not be construed to deny or 'disparage others retained by the people. That 'the powers not delegated to the United States 'by the Constitution, nor prohibited by it to the 'States, are reserved to the States respectively, 'or the people."

Now, said Mr. L., what is the authority given by the Constitution to the General Government with regard to commerce—it is comprised in two lines—"Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Now apply this to the coasting trade between two ports in the same State—take for example the ports of Boston and Portland—and if this trade be not a trade with foreign nations, a trade among the several States, or a trade with the Indian tribes, then sir, whence arises your power even to regulate it, except from sufferance? It may be said that it is natural to suppose the framers of the Constitution meant to give to the General Government the same power to regulate a trade between two ports in the same State, as between two ports in different States—but if their intention were ascertained, it would not become law; it may be a *casus omissus*, but that does not alter the fact.

It is true this trade has been regulated by the General Government—so long as the regulations were not oppressive, it made no difference to the State, or to the public, whether the regulations came from the General, or from the State Government, and probably would never be objected to. But screw up these regulations so tightly, as to deprive the citizens of their accustomed avocations, take from them the means of subsistence, and your authority to do this will be questioned; and should this bill be passed into a law, and a coaster, engaged in trade between Boston and Portland, was to violate the provisions of it, be indicted for so doing, and convicted thereof, and was to demur to the constitutionality of the law, it is very doubtful, said Mr. L., if there could be found a judge on the judicial bench of the United States that would inflict on him its penalties.

In the sixth section of the bill it is stated, that if any ship, vessel, or boat, not having a general permission, and giving a general bond as prescribed by the act, shall take on board any specie, goods, wares, or merchandise, contrary to the provisions of the act, such ship, vessel or boat, with the goods, wares, and merchandise, shall be wholly forfeited, and the owner or owners shall moreover forfeit and pay a sum equal to the value of the ship, vessel or boat, and of the cargo put on board the same. Can gentlemen, said Mr. L., be aware of the operation of this clause? Suppose he had chartered a vessel a fortnight since to a merchant of Baltimore, and this merchant after the passing of the present act, and contrary to the provisions of it, attempted to evade the embargo, sent the vessel to sea with a cargo of ten, twenty or thirty thousand dollars, and was detected; was he, the owner of the vessel, Mr. L. asked, not only to lose his vessel, but also again to lose the value of ten, twenty or thirty thousand dollars in addition, as the case may be, for the misconduct of another man, of which misconduct he had neither the knowledge or suspicion, nor the power to control or prevent it? The provisions of the second section are still more exceptionable with regard to sleighs, wagons, and carriages. Suppose a man of respectable appearance should have his carriage destroyed or broke to pieces by accident in Boston, and should hire of a hackney coachman, a carriage, without hiring of the same person a driver and horses, to proceed to New York; suppose that after getting to New York, instead of returning the carriage to Boston, the person who has hired it, proceeds with it towards Canada, puts into the carriage fifteen or twenty thousand dollars in gold, and is afterwards detected; is the hackney coachman not only to lose his carriage, and three times the amount carried in it—to lose his house, his entire property—to be stripped naked, not for

a crime committed by him, but for lawfully pursuing a business which he had prosecuted not only without censure, but with commendations on his industry, perhaps for twenty years before? This cannot be, as the gentleman from Kentucky (Mr. THRUSTON) has said, with reference to some of the provisions of this bill. It is too monstrous a principle of legislation ever to be carried into effect, in any free country on the face of the earth.

But, sir, said Mr. L., bad as this is, the next section is still worse; by that section it is enacted 'That the person or persons, whose names do, or 'may appear, as owner or owners of any ships or 'vessels, either in the certificates of registry, enrolment, or license of any such ship or vessel, or 'on the last custom-house document issued before 'the passing this act, shall be reputed as the true 'owner or owners of such ship or vessel, and be 'liable to the payment of all penalties which may 'be incurred by the owners of such ship or vessel, 'by reason of any violation of any of the provi'sions of this act, or of the act laying an em'bargo." It is well known, said Mr. L., to all mercantile men, that the custom-house officers will not let the owners of ships keep their own registers; so soon as the vessel enters, the register is taken from the captain by the collector, nor can the owner get it or obtain a new one until the vessel is again loaded and ready for sea. Suppose, said Mr. L., he had sold a vessel last January for ten thousand dollars, to a man whom he knew nothing about, who had paid him the purchase money—in consequence of the embargo, this purchaser of the vessel had not been able to send her to sea until this time; but perhaps a fortnight after the passing this bill, he puts a valuable cargo on board the vessel, attempts to evade the law, and is discovered; am I, said Mr. L., to be punished to the amount of the vessel and her cargo? Am I to be reduced from affluence to beggary for the conduct of a man with whom I have no more concern than with an inhabitant of Kamschatka, and of whose doings I had no more knowledge—merely because I sold him a piece of property and conveyed it to him in conformity with a special law of the United States, twelve months before the existence of the law, under which I am punished for this offence? This is not only an *ex post facto* law—it is punishing the innocent with the guilty—it is going one step beyond the Mosaical regulation mentioned by the gentleman from Vermont, (Mr. BRADLEY.) it is not only punishing the man that owned the bullock, but it is punishing the person who sold the cow, that brought the bullock, that committed the injury! This, said, Mr. L., may be sport to us, but it will be death to the victims who come under the operation of the bill, should it ever become a law.

Mr. L. observed, that there were other minor objections to the bill, with the enumeration of which, as the bill would be committed, he should not then trouble the Senate—but with regard to the authority given to the President, under him to the collectors, to arrest and detain the property of the citizens on suspicion; with regard to the exemption granted to the collectors from actions at law, or civil process in consequence of their conduct under instructions received from the President of the United States; and with regard to the authority given the President, to delegate the power to whomsoever he might please—to call into actual service the militia of the United States, without reference to the State authorities—he considered them as principles totally hostile and repugnant to the feelings and all the political institutions of the American people.

Mr. L. said, he knew that the Constitution of the United States was the paramount law of the land, but he also knew, that Constitution possessed only the powers that were given to it, and that, as well as the several State constitutions, it was predicated upon the same broad principles of civil and rational liberty—principles which cannot be infringed in a free country; for in whatever country these principles are violated, that country ceases to be a free one. Among these principles are the following:

All men have certain, natural, essential, and inalienable rights—and among them, the right of enjoying and defending their rights and liberties; of acquiring and possessing and defending property.

Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty, and property, according to standing laws.

Every man ought to find a certain remedy by having recourse to the laws for all wrongs done his person, property, or character; he ought to obtain right and justice freely and without being obliged to purchase it—promptly, and without delay.

Every citizen has a right to be secure from all unreasonable searches, and seizures of his person, his house, his papers, and all his possessions.

Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free Government.

The military shall be kept in entire subserviency to the civil power.

In free Governments, the Legislative, the Judicial, and Executive branches ought forever to be kept distinct, in order that they may be Governments of laws, and not of men.

Now, sir, (said Mr. L.,) it appears to me, by this bill, that every one of these principles is violated.

Instead of the citizens being subject to standing laws perspicuously formed, and which promulgate offences before punishment is inflicted for the commission of them, by this bill they may be made to suffer not for crimes, but for lawful and commendable actions performed in the usual course of their ordinary business, many months before such a law as this was even thought of. Instead of their being placed under the dominion of a Government of laws and not of men, they may, by this bill, be subjected to the arbitrary will, whim, caprice, malevolence, misconstruction, or misinformation of an individual; and, Mr. L. said, it made no difference in opinion, whether

this individual were the President of the United States, or a collector—they were both human beings, and as much liable to error; the principle being radically wrong in itself, the person acting under it, could not sanction it.

Instead of the citizens obtaining justice promptly and without delay—instead of their being able to find speedy redress for all wrongs done to their persons, their character and their property—in consequence of the attacks of the soldiery, of an unfounded imputation to violate the laws of their country, or an undue arrestation and detention of their property—a shield was interposed between them and the immediate wrong-doer—they could not come into legal contact with him. The laws had lost their office with regard to collectors. And if it were possible to conceive, that a President of the United States, from misconstruction, from inattention, mistake, mental derangement, or corrupt views, could give unauthorized instructions to the collectors, and the citizens were to suffer severely under them; Mr. L. said, it appeared to him, that the only course they could pursue to obtain redress, was to institute a suit against the incumbent or the individual who might be in the office of the President, and with this suit to travel on from the district court to the circuit court, from the circuit court to the Supreme Court, from Passamaquoddy to Washington—and after dancing attendance several months at this city, if they were successful in the issue of the suit, and were also so fortunate as to have a very liberal jury, they might stand some chance to get a verdict in their favor, with or without one half the value of the loss of their time and the expenses of the prosecution.

Instead, said Mr. L., of the military being kept in strict subordination to the civil authority—instead of the three great branches of Government being kept for ever distinct, it appeared to him, that the military was exalted above the civil power; that the three distinguishing features of free Government, the Legislative, the Judicial and the Executive—instead of their being kept forever separate—were by this bill amalgamated and absorbed by an individual, who on the slightest circumstances in nature, on trifles light as air, gets his suspicions excited; on these suspicions he forms an opinion, on which opinion he passes judgment, and this judgment he is authorized to carry into effect, against perhaps an unoffending citizen, with the whole military force of the United States within his district, if it be necessary for him to employ it.

This state of things, said Mr. L. cannot be; he meant not to wound the feelings of any gentleman, but he must speak freely on the subject; principles of this sort appeared to him more nearly allied to the bow-string discipline of a Turkish despotism, than to the pure and wholesome laws of a free and elective Republic. The entire conviction which gentlemen might feel in their own minds, that the person to whom these powers were given would not abuse them, ought to form no excuse for enacting such laws; they were not legislating for themselves alone, but also for posterity. If there were no other objections to the bill under consideration, it contained precedents of the most dangerous tendency, which might in future, if not at present, be perverted to the worst of purposes. For these reasons, Mr. L. said, he was opposed to the bill, and he both hoped and trusted it never could nor would pass into a law of the United States.

When Mr. LLOYD had concluded, on motion, by Mr. BRADLEY, the bill was recommitted to the original committee; and Messrs. CRAWFORD and THRUSTON were added to the committee, further to consider and report thereon.

TUESDAY, December 20.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the payment of certain pensions by the Secretary of War, at the seat of Government," in which they request the concurrence of the Senate.

The bill was read, and passed to the second reading.

Mr. GILES, from the committee to whom was recommitted the bill making further provision for enforcing the embargo, reported amendments, which were agreed to as in Committee of the Whole; and the bill was further amended, and the PRESIDENT reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

WEDNESDAY, December 21.

The PRESIDENT communicated the petition of Eunice Hunt, widow of the late Thomas Hunt, Colonel Commandant of the first regiment United States' infantry, stating the "numberless distresses of indigence to which she is exposed, in a remote corner of the territories of the United States," and praying such relief as may to Congress be deemed proper; and the petition was read and referred to Messrs. MITCHILL, FRANKLIN, and SUMTER, to consider and report thereon.

Mr. BRADLEY, from the committee appointed on the 13th instant, to ascertain and report the expenditures and probable estimates in relation to the public buildings in the City of Washington, made report; which was read for consideration.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," reported an amendment; which was read and ordered to lie for consideration.

The bill, entitled "An act authorizing the payment of certain pensions by the Secretary of War, at the seat of Government," was read the second time, and referred to Messrs. ANDERSON, TIFFIN, and ROBINSON, to consider and report thereon.

Mr. TIFFIN, from the committee, reported the bill making further provision for enforcing the embargo correctly engrossed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William White and others;" also, a bill, entitled "An act authorizing the proprietors of squares and lots in the city of Washington to have the same subdivided and admitted to record;" in which bills they request the concurrence of the Senate.

ENFORCEMENT OF THE EMBARGO.

The bill making further provision for enforcing the embargo was read the third time; and the title having been amended—

Mr. GILES said, I am sensible that I owe an apology to the Senate, as chairman of the committee, for not having made an exposition of the objects and principles of the bill, reported for consideration, at an earlier stage of the discussion. This omission has not in the smallest degree been influenced by any apprehension, that these principles are indefensible; but, in some degree, from a desire to screen myself, as much as possible, from intermixing in discussions; a task which is never agreeable, but is at present peculiarly distressing and afflicting to my feelings. I also thought that the session had already been sufficiently fruitful of discussions intimately connected with the bill before us; and that the public interests, at this time, required action. I know, too, sir, that I owe an apology to the Senate, for the great number of amendments which, under their indulgence, has been made to this bill after it was first presented to their consideration. But, sir, you will find some apology in the intrinsic difficulty and delicacy of the subject itself, and also in the disposition manifested by the committee, to give to the objections made by the opponents of the bill, that respectful attention to which many of them were certainly entitled, and to accommodate its provisions, as far as possible, to the views of those gentlemen. After every effort, however, to effect this object, it still appears that the bill presents temptations for addressing the popular sensibility too strong to be resisted by gentlemen in the opposition. They have, accordingly, with great zeal and ability, described the provisions of the bill as dangerous and alarming to the rights and liberties of the people. This, sir, is the common course of opposition, and applies to every strong measure requiring the exercise of much Executive discretion. I think, however, I shall be able to show that there is no new principle contained in the provisions of that bill; but that every provision it contains is amply justified by precedents in pre-existing laws, which have not been found to be so destructive to the rights of the people, as gentlemen strenuously insist similar provisions in this bill will be, if they receive the sanction of law. In performing this task, I shall bring into view only such parts of the bill as have been objected to by gentlemen, presuming, that as their objections have evidently been the result of great industry and deliberation, all other parts of the bill remain unobjectionable. I shall also, perhaps, avoid some of the observations respecting minute details; apply my remarks generally to principles; and thus bring my observations and replies into as short a compass as possible.

The gentleman from Connecticut (Mr. GOODRICH) commenced his remarks by declaring the embargo to be a permanent measure, deprecating its effects, as ruinous at home and ineffectual abroad. These observations have been repeatedly made by others, and already replied to by several gentlemen, as well as myself; and I am strengthened in the correctness of those replies by all the further reflections I have been enabled to bestow upon them. This part of the subject will, therefore, be passed over without further notice, except to remark, that perhaps one of the causes of the inefficacy of the measure abroad, has been the unprincipled violations of its provisions at home; and the great and leading object of the present bill, is, to prevent such violations. Upon this part of the subject, I am happy to find that one of its most strenuous and judicious opposers (Mr. HILLHOUSE) has candidly informed the Senate, that the provisions of the bill are admirably calculated to effect that object—and if in their practical operation, they should realize the character anticipated by that gentleman, I shall feel no regret for that portion of labor I have bestowed upon them. Indeed, I shall congratulate the committee as well as myself in having been so fortunate as to find a competent remedy for so great an evil.

The gentleman from Connecticut (Mr. GOODRICH) informs us, that the public councils are pressing on to measures pregnant with the most alarming results. I hope the gentleman is mistaken in his apprehensions, and I should have been much pleased if the gentleman had been good enough to point them to a better course; but, sir, he has not done so, nor has any gentleman on the same side of the question. Indeed, sir, it would give me great pleasure to do something that would be agreeable to our Eastern friends; but, unfortunately, amidst all the intrinsic difficulties, which press upon us, that seems not to be among the least of them. The gentlemen themselves will not explicitly tell us what would produce the effect—and I am inclined to think that nothing short of putting the Government in their hands would do it. Even this would not be exempt from difficulties. The gentlemen from that part of the United States are nearly equally divided among themselves respecting the proper course of measures to be pursued, and there is an immense majority in every other part of the United States, in favor of the measures proposed; we are therefore surrounded with real and intrinsic difficulties from every quarter, and those of a domestic nature are infinitely the most formidable, and most to be deprecated. Indeed, sir, under present circumstances, the administration of the Government cannot be a pleasant task; and, in my judgment, it requires a great effort of patriotism to undertake it, not on account of external pressures, but on account of internal discontents, stimulated too by so many artful intrigues. But for these unfortunate cir-

cumstances, every gentleman would feel an honorable pride in contributing his efforts to devise measures for repelling foreign aggressions, and he would court the responsibility attached to his station. I would not, Mr. President, give up a scintilla of that portion of the responsibility which the crisis imposes on me. Indeed, sir, to have the honor of bearing my full share of it, is the only inducement I have at this moment for occupying a place on this floor. Without that consideration I should now be in retirement. But when I turn my eyes upon internal divisions, discontents, and violations of law, and am compelled to think of measures for their suppression, it produces the most painful sensations, and distressing reflections.

The gentleman from Connecticut (Mr. GOODRICH) has been pleased to remind me of my opposition to former Administrations; and he has thought proper to assign me a higher place in the ranks of the opposition than I ever aspired to. If the gentleman will review the proceedings of former days, he will probably find that my opposition was directed more to the objects contemplated by former Administrations, than to the means of effecting objects generally approved.

[Mr. GOODRICH rose to explain. He said that he did not mean to refer to the gentleman's opposition to those Administrations generally, but to the transfer of legislative powers to the Executive particularly.]

I understood the gentleman differently, but stand corrected by his explanation, and will waive the intended reply. I am now, however, unwilling to look into retrospection; it could only produce an unpleasant and unprofitable examination—it is now, as it has been from the beginning of the session, my unceasing effort to take a prospective view of measures—I would rather follow the example of a celebrated Roman conqueror. It was his maxim always to forget the last defeat, and to turn his whole thoughts upon the best means of obtaining victory in the next battle. Stimulated, then, sir, solely by a solicitude to discover what the public interests prospectively require, I will proceed, with the most respectful attention to the gentlemen in the opposition, to examine the objections urged against this bill, both generally and particularly.

The great principle of objection, the gentlemen tell us, consists in the transfer of legislative powers to the executive department. This is an old and abstract question, often heretofore brought into view, and leads to endless discussion. I think I shall be able to show, that the bill introduces no new principle in this respect, but only applies an established principle to new practical objects. The general principle of the separation of departments is generally admitted in the abstract; but the difficulties in this discussion arise from applying the principle to practical objects. The great difficulty exists in the attempt to fix on the precise boundary line between legislative and executive powers in their practical operation. This is not possible. You might attempt the search for the philosopher's stone, or the discovery of the perpetual motion, with as much prospect of success. The reason of this difficulty is, that the practical objects and events, to which this abstract principle is attempted to be applied, are perpetually varying, according to the practical progression of human affairs, and therefore cannot admit of any uniform standard of application. This reflection might have saved the gentleman from Massachusetts (Mr. LLOYD) the trouble of reading to us the constitution or bill of rights of Massachusetts, in which the principle of separation of departments is very clearly and properly laid down, and which will be very readily assented to in the abstract, but which forms no part of the question in dispute. It cannot, however, escape observation, that this principle is not laid down, even in the abstract, in the Constitution of the United States; and, although it is the leading principle of the Constitution, and probably was the principal guide in its formation, it is nevertheless in several respects departed from.

This body partakes essentially both of the legislative and executive powers of the Government. The executive department also partakes of the legislative powers, as far at least as an approbation of, and a qualified negative of the laws extend, &c. I make these observations, however, not in derogation of the general principle of the separation of powers among the several departments, so far as is practicable, but merely to show that there must necessarily be some limitations in its practical operation. Perhaps the best general rule for guiding our discretion upon this subject will be found to consist in this: That legislation ought to extend as far as definition is practicable—when definition stops, execution must necessarily begin. But some of the particular provisions of this bill, will furnish more precise illustrations of my opinions upon this question; it will, therefore, be waived until I shall come to their consideration.

I will now proceed to examine the more particular objections urged against the detail of this bill. Its provisions respecting the coasting trade are said to be objectionable in the following respects:

First objection—The penalty of the bonds required, is said to be excessive. To enable us to decide correctly upon this point, the object proposed to be effected, and the penalty required, should be considered in reference to each other. The object is to prevent, by means of coasting vessels, domestic articles from being carried abroad. Flour, for instance, to the West Indies. The price of that article here, is less than five dollars; in the West Indies, it is said to be thirty and upward. The penalty of the bonds required is six times the amount of the value of the vessel and cargo. Is any gentleman prepared to say, a smaller penalty will effect the object? I presume not. Indeed, the committee were disposed to put it at the lowest possible point, consistently with an effectuation of the object; and probably it is rather too low for that purpose. As to the penalty, according to the tonnage of vessels, it is believed, no alteration in the existing laws is made in that respect. These penalties will appear the more reasonable, when it is recollected, that, through the indulgence given of the coasting trade, most of the violations of the embargo laws have been contrived and effected.

Second objection—The collectors may be influenced by party spirit in the exercise of their discretion. It is hoped that this will not be the case, and if it were, it would certainly be much to be regretted. It may, however, probably happen, and is one of the inconveniences of the system.

Third objection—The high penalties of the bonds will drive many persons of small means from their accustomed occupations. They will not be able to procure the competent security for their prosecution. It is not to be presumed that this will be the effect to any great extent. If the owner is known to be honest, and has in view legal and honest objects, I have very little apprehension of his not being able to get the security required. But here the question recurs, are these apprehended inconveniences of such a nature as to render it necessary to abandon a great national object, for the accommodation of a few individuals who are affected by them? Is the last effort to preserve the peace of the nation, to be abandoned from these considerations? I should conclude, certainly not.

The next objections are made to the seventh section of the bill, which provides that stress of weather, and other unavoidable accidents at sea, shall not be given in evidence in a trial at law to save the penalty of bonds given as security against the violation of the embargo laws. It is known that, through pretexts derived from this permission, at present, most of the violations of these laws have been committed with impunity—it is, therefore, important to the future execution of the laws, to take away these pretexts. But it is objected that this regulation manifests a distrust of oaths. It does, of what is called custom-house oaths; their violation is already almost proverbial; it does not, however, produce nor encourage this profligacy; it takes away the temptation to it. It is further said, it impairs the trial by jury—very far from it; the trial by jury still exists; this provision only regulates the evidence to be produced before the jury. Gentlemen state particular hardships which may take place under this regulation. It is easy to state possible hardships under any general regulation; but they have never been deemed sufficient objections to general regulations producing in other respects beneficial results. This bill, however, contains a provision for relief in all cases of hardships under the embargo laws. The Secretary of the Treasury is authorized to grant relief in all such cases. This power vested in the Secretary, is also objected to. It is said to manifest a distrust of courts, and to transfer their powers to the Secretary of the Treasury. Whatever may be my distrust of some of the courts of the United States, I can say that consideration furnished no inducement to this provision. It is a power not suited to the organization of courts, and it has for a long time been exercised by the Secretary of the Treasury without being complained of. Congress proceeded with great caution on this subject. On the third day of March, 1797, they first introduced this principle into their laws, in relation to the collection of the revenue; and, after an experiment of nearly three years, on the eleventh day of February, 1800, they made the law perpetual. This will appear from the 12th section of this bill, which merely borrows this provision from pre-existing laws. It introduces no new principle whatever. This doctrine is carried still further, by an act passed the third of March, 1807, in the eighth volume of the laws, page 318:

"An Act to prevent settlements being made on lands ceded to the United States, until authorized by law.

"And it shall moreover be lawful for the President of the United States to direct the Marshal, or officer acting as Marshal, in the manner hereinafter directed, and also to take such other measures, and to employ such military force as he may judge necessary and proper, to remove from lands ceded, or secured to the United States by treaty, or cession as aforesaid, any person or persons, who shall hereafter take possession of the same, or make or attempt to make a settlement thereon, until authorized by law."

Here the President is authorized to use the military force to remove settlers from the public lands without the intervention of courts; and the reason is, that the peculiarity of the case is not suited to the jurisdiction of courts, nor would their powers be competent to the object, nor, indeed, are courts allowed to interfere with any claims of individuals against the United States, but Congress undertakes to decide upon all such cases finally and peremptorily, without the intervention of courts.

This part of the bill is, therefore, supported both by principle and precedent.

While speaking of the distrust of courts, I hope I may be indulged in remarking, that individually my respect for judicial proceedings is materially impaired. I find, sir, that latterly, in some instances, the callous insensibility to extrinsic objects, which, in times past, was thought the most honorable trait in the character of an upright judge, is now, by some courts, entirely disrespected. It seems, by some judges, to be no longer thought an ornament to the judicial character, but is now substituted by the most capricious sensibilities.

Justice was formerly painted blind, as a proper emblem of this honorable insensibility to external objects; but modern justice might more properly be represented by the most bright-eyed goddess of the whole Pantheon—tremblingly alive to the influence of all external objects, and so replete with irritable feelings, as, upon some occasions, to approach almost to hysterical affections. When judges so far forget the true character and dignity of their stations, judicial proceedings cannot long preserve the respect heretofore attached to them. The next objections are made against the ninth section of the bill; it is in the following words:

"That the collectors of all the districts of the United States, shall and they are hereby authorized to take into their custody specie or any articles of domestic growth, produce, or manufacture, when there is reason to believe that they are intended for exportation, or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently on their way toward the territories of a foreign nation, or the vicinity thereof, or toward a place whence such articles are intended to be exported; and not to permit such articles to be removed until bond with sufficient sureties shall have been given for the landing or delivery of the same in some place of the United States, whence, in the opinion of the collector, there shall not be any danger of such articles being exported."

The objection is, that it violates the fourth article of the amendments to the Constitution; that article is in the following words:

"ART. 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

If this section, or any other, violated this or any other article, word, or letter of the Constitution, the bill would drop unsupported from my hands. The only question which arises between this section and the fourth article of the Constitution is: whether the seizures here authorized are reasonable or unreasonable? I believe that every person will conclude that when property is intended to be used to violate the laws of the United States, and to accommodate their enemies, that it ought to be seized, and the object of its owner prevented; such seizure, therefore, cannot be deemed unreasonable, and of course not unconstitutional: as to searching, there is no power whatever in the section given to enter into houses, nor to search them, either with or without a warrant, neither in the day, nor in the night time, and of course the clause respecting searches can in no respect whatever apply to this section. Seizures, under less imperious circumstances, are justified by all your revenue laws, &c., and as one case in point among others, I would beg to read an extract from the fourth volume of laws, section 60, page 389:

"An Act to regulate the collection of duties on imports and tonnage.

"SEC. 68. That every collector, naval officer, and surveyor, or other person specially appointed by either of them for that purpose, shall have full power and authority to enter any ship or vessel, in which they shall have reason to suspect any goods, wares, or merchandise, subject to duty, are concealed, and therein to search for, seize, and secure any such goods, wares, or merchandise," &c.

I have never heard of any complaint from this mode of proceeding in collecting the revenue, and there certainly ought to be none against a similar provision for enforcing a due observance of the embargo laws.

It is said this section violates the fifth article of the amendments to the Constitution. The mere reading of this article will be sufficient to show that it has not the remotest reference to any part of this section in question. It is in the following words:

"No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

No private property is proposed by this section to be taken for public use, either with or without compensation, but merely that it should be held for the owner until he should give security that he would not thereby violate the law. I beg leave to refer to a case in point to justify this provision. It is in the sixty-ninth section of the revenue law just read, fourth volume, page 390; the words are as follows:

"SEC. 69. That all goods, wares, and merchandise, which shall be seized by virtue of this act, shall be put into and remain in the custody of the collector, or such other person as he shall appoint for that purpose, until such proceedings shall be had as by this act are required, to ascertain whether the same have been forfeited or not," &c.

The seventieth section of the same act extends the doctrine of seizure for the violation of the law still further. It is in the following words:

"SEC. 70. That it shall be the duty of the several officers of the customs to make seizures of, and secure any ship or vessel, goods, wares, or merchandise, which shall be liable to seizure, by virtue of this or any other act of the United States respecting the revenue, which is now or may hereafter be enacted, as well without as within their respective districts."

The most alarming objections are suggested to be contained in the following clause of the tenth section of the bill:

"SEC. 10. *And be it further enacted*, That the powers given to the collectors, either by this or any other act respecting the embargo, to detain any vessel, or to take into their custody any articles for the purpose of preventing violations of the embargo, shall be exercised in conformity with such instructions as the President may give, and such general rules as he may prescribe for that purpose, made in pursuance of the powers aforesaid; which instructions and general rules the collectors shall be bound to obey."

This clause merely provides for the transfer of powers previously given to the collectors, to the President, for the purpose of producing, as far as practicable, uniformity and impartiality in their execution. It was hardly to have been expected that ingenuity itself could have found an objection to this provision. But it is said that this clause gives the President's instructions the force of law. It certainly does in relation to the objects to which they are directed and limited. What are these objects? They are incidental occurrences arising in the course of the execution

of the embargo laws, which can neither be foreseen nor guarded against by legislation in any other way, because they are incapable of definition; this provision relates to events and details not in existence, but which may probably happen; events and details, therefore, incapable of definition, and of course cannot be reached by legislation without the aid of the executive department. This case serves to illustrate the general principles I before laid down respecting the transfer of legislative powers to the executive department. But, sir, as great stress has been laid upon this objection by the opponents of the bill, permit me to examine this doctrine in reference to the pre-existing practice of this Government with more minute attention. In this examination it will be found, that, at all times, since its establishment, when it had an object in view which could not be defined, and of course could not be reached by legislation, it has called in the aid of executive discretion for the purpose, sometimes with more, and sometimes with less limitation and restriction. In the first place, let me call attention, sir, to the act of the last session of Congress, to authorize the President to suspend in whole or in part the several embargo laws, in the following words:

"An Act to authorize the President of the United States, under certain restrictions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto.

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That, in the event of such peace or suspension of hostilities between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in the judgment of the President of the United States, he is hereby authorized, during the recess of Congress, to suspend, in whole or in part, the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, under such exceptions and restrictions, and on such bond and security being given as the public interest and circumstances of the case may appear to require. Provided such suspension shall not extend beyond twenty days after the next meeting of Congress.

"Approved, 22d April, 1808."

The principle upon which this bill passed, was, that it related to an event not in existence, but which might have occurred during the recess of Congress; and if it had taken place, it would have been all important to the interests of the people, that the suspension of the embargo should take place in consequence of the happening of the contemplated events. Congress, therefore, after extending legislation as far as it could do in defining the circumstances in which the suspension might take place, did not hesitate to trust to executive discretion for making the necessary decisions and arrangements respecting all other circumstances which might occur, but which could not be foreseen; because they depended upon the will of foreign nations, which could neither be anticipated nor controlled. But, sir, perhaps gentlemen will be inclined to disrespect this precedent, because it was adopted without the sanction of their votes. I will, therefore, turn their attention to a precedent, sanctioned, I believe, by the unanimous votes of both branches of the Legislature, and certainly by the votes of the gentleman from Connecticut (Mr. HILLHOUSE) and myself, and approved by the then President (Gen. WASHINGTON.) I allude to an act which passed the House of Representatives on the 30th May, 1794, in the following words—approved the 4th June:

"An Act to authorize the President of the United States to lay, regulate, and revoke embargoes.

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President of the United States be, and he is hereby, authorized and empowered, whenever, in his opinion, the public safety shall so require, to lay an embargo on all ships and vessels in the ports of the United States, or upon the ships and vessels of any foreign nation, under such regulations as the circumstances of the case may require, and to continue or revoke the same, whenever he shall think proper. And the President is hereby fully authorized to give all such orders to the officers of the United States, as may be necessary to carry the same into full effect: *Provided*, The authority aforesaid shall not be exercised while the Congress of the United States shall be in session, and any embargo, which may be laid by the President as aforesaid, shall cease and determine in fifteen days from the actual meeting of Congress, next after laying the same.

"SEC. 2. *And be it further enacted*, That this act shall continue and be in force until fifteen days after the commencement of the next session of Congress, and no longer.

"FREDERICK AUGUSTUS MUHLENBERG,
"*Speaker of the House of Representatives.*
"RALPH IZARD,
"*President of the Senate pro tempore.*
"Approved, June 4th, 1794.
"GEO. WASHINGTON,
"*President of the United States.*"

This act, giving the President the most unqualified powers to lay, regulate, and revoke embargoes, was, I believe, passed unanimously by both Houses of Congress; but as I was unwilling to trust to my recollection upon this point, I have had reference to the Journals of the House of Representatives at that day, for more precise information, and I find the yeas and nays were not called for upon the passage of the bill; the strong presumption, therefore, is, that there was no opposition to its passage. The following is the extract from the Journals:

Journal of the House of Representatives of the United States, 3d Congress, first session, page 376.

"An engrossed bill authorizing the President of the United States, to lay, regulate, and revoke embargoes, was read the third time.

"*Resolved*, That the said bill do pass, and that the title be, an act to authorize the President of the United States to lay, regulate, and revoke embargoes.

"*Ordered*, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence."

I also find, from the further inspection of the Journals of that day, that very little ceremony was used in laying embargoes; it was then done by resolutions, without even the formality of a bill, and the President authorized to give all the necessary instructions for carrying it into effect, even during the session of Congress. The following is the original resolution for laying an embargo:

Journal of third Congress, first session, pages 216–17.

"*Resolved, by the Senate and House of Representatives, &c.*, That an embargo be laid on all ships and vessels in the ports of the United States bound to any foreign port or place, for the term of thirty days, and that no clearance be furnished during that time to any ship or vessel bound to such foreign port or place, except ships or vessels under the immediate directions of the President of the United States; and that the President of the United States be authorized to give such instructions to the revenue officers of the United States as shall appear best adapted for carrying the said resolution into full effect.

"Approved, 26th March, 1794."

I find, also, upon a further examination of the Journals, that sundry memorials from the merchants were presented for the continuation of the embargo, and among others, one from the inhabitants of the town of Salem, as appears from the following extract:

Journal of third Congress, first session, page 339.

"A memorial of the inhabitants of the town of Salem, in the State of Massachusetts, was presented to the House and read, praying a further continuation of the embargo laid on ships or vessels in the United States, bound to any foreign port or place."

I have read these proceedings to show that the same terrific alarms, respecting embargoes, were not circulated through the country in the year 1794, which now are, because there were then no objects for such an excitement. The history of those times will also show the principle upon which Congress gave to the President unlimited powers to lay embargoes, at his discretion, during their recess. It is known that, in consequence of the British hostile orders against our commerce in 1793, during the session of 1794, Mr. Jay was sent to London to demand redress from the British Government for the injuries done to our commerce under those orders, and to make an amicable adjustment of all the differences between the two countries. It was believed by Congress that if the mission did not succeed, war might probably be the consequence of its failure, and as the result would probably be known during the recess. Congress did not hesitate to give to the President full power to protect our commerce and seamen by an embargo, from the dangers to which both would have been exposed in the event of a war with Great Britain. Upon what principle was this unlimited power given? Why, simply upon this, that the event, upon which its exercise was to depend, was not in existence, but might possibly exist, and, therefore, was incapable of definition, or, in other words, of legislation; and yet the exercise of the power in case of the happening of the event, might be indispensable to the common defence and general welfare.

At that time the nation acted from a just sense of its own interest and honor. It was considered as the cause of this nation, against a foreign nation. It was, then, the irresistible effort of an undivided nation. It must be admitted by all, that the British Orders of 1793, did not present to us the dangers and difficulties resulting from the combined influence of the British Orders and French Decrees of the present day. Whence, then, this sad reverse in our public councils? Whence, then, these unfortunate and alarming internal divisions? These evils can only be ascribed to party spirit. Fortunately at that day, the United States were not distracted and torn asunder by party spirit. Unfortunately, at the present day, this baneful influence seems to have become so inveterate, so lost to its own interest and honor, as to be willing to seek a temporary and ruinous protection under foreign aggressors, rather than to unite in any measures to resist and repel their aggressions.

Gentlemen have even gone so far as to object to the clause for the protection of the public officers from vexatious suits for the discharge of their duties. It is believed that this provision is not only correct in itself, but that it exists in the laws of the several States and in the laws of the Union; the only reply, therefore, that I shall make to this suggestion, will consist in reading the clause objected to in this bill, and a similar clause in the existing laws:

Extract from the bill.

"And if any action or suit be brought against any collector, or other person, acting under the direction of and in pursuance of this act, he may plead the general issue, and give this act and the instructions and regulations of the President in evidence for his justification and defence."

Extract from one of the existing laws.

"SEC. 71. That if any officer, or other person, executing or aiding or assisting in the seizure of goods, shall be sued or molested for anything done in virtue of the powers given by this act, or by virtue of a warrant granted by any judge or justice, pursuant to law, such officer, or other person, may plead the general issue, and give this act and the special matter in evidence; and if in such suit the plaintiff is nonsuited, or judgment pass against him, the plaintiff shall recover double costs; and in actions, suits, or informations to be brought, where any seizure shall be made, pursuant to this act, if the property be claimed by any person, in every such case the *onus probandi* shall be upon such claimant."

The gentleman from Connecticut, (Mr. GOODRICH,) not content with finding fault with the provisions of the bill, has ventured to give it a general character. He has ventured to call it a "military despotism." This, surely, would be a most alarming mark to stamp on the forehead of this bill. If true, the bill would certainly be left without an advocate.* But, sir, before I enter into an examination of this harsh and uncharitable suggestion, permit me to ask what is the situation of the United States at this moment as it

respects peace or war? It can hardly be said that the United States are at peace, when two belligerents are making war on them; when some of the essential attributes of national sovereignty are attempted to be forcibly wrested from them. The most that can be said, if we are at all at peace, is, that it is a peace like war, and, in my judgment, would authorize the adoption of any measure, which would be justified in a state of war. And, in the event of war, are we to expect to meet with little cavils and difficulties of this kind, with every measure which may be proposed for the annoyance of the common enemy? I hope not, sir. If we should, unfortunately, be driven into war after so many patient efforts to avoid it, I hope and trust it will not be a war like a peace; but that the whole energy of the nation will be brought to bear upon the enemy both by land and sea—I hope the war will be vigorous; and in that case, I am sure it will be short and successful. Let me, then, sir, under this exposition of our real situation, examine the terrible suggestion brought against this bill—what is it, which has doomed it to this unwarrantable reproach? The only section which has the remotest reference to the use of military force, is the eleventh, which is in the following words:

"SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces, or militia of the United States, and of the Territories thereof, as may be deemed necessary, in conformity with the provisions of this act and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody any ship or vessel, or of taking into custody and guarding any specie or articles of domestic growth, produce, or manufacture, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same."

It will be found, upon examination, that this section contains no new principle; but, like others which have been objected to, merely applies an old principle to a new object. In justification of this assertion, permit me here to read an extract from an act of Congress, which will be found in the seventh volume of the Laws, page 365, in the following words—they will be found to be precisely of the same import with the material words of the section under discussion:

"An Act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction.

"SEC. 5. *And be it, &c.*, That whensoever any armed vessel of a foreign nation entering the harbors or waters within the jurisdiction of the United States, and required to depart therefrom, shall fail so to do, it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces of the United States, or the militia thereof, as he shall deem necessary, to compel the said armed vessel to depart," &c.

But, sir, as gentlemen in the opposition may have more respect for a precedent in 1794, which probably received the sanction of the votes of all those then in Congress, I will furnish them with one of that date expressly in point. It is in the following words:

Third volume Laws, page 92.

"An Act in addition to the act for the punishment of certain crimes against the United States. Approved the 5th June, 1794.

"SEC. 7. *Be it enacted, &c.*, That in every case in which a vessel shall be fitted out and armed, or attempted so to be fitted out or armed, or in which the force of any vessel of war, cruiser or other armed vessel shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot contrary to the prohibitions and provisions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as above defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel, of any foreign Prince or State, or of the subjects or citizens of such Prince or State; in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be judged necessary for the purpose of taking possession of, and detaining any such ship or vessel with her prize or prizes," &c.

In all these cases the principle is precisely the same. It is the application of the physical force of the nation to carry into effect its laws in different forms, according to the different objects to be effected by it.

But, sir, as I know how easy it is to alarm the public sensibility by the suggestion of "a military despotism," without examining into its applicability to the case in question, I will take the liberty of giving a short history of the proceedings of the Government in relation to this subject.

In the year 1792, shortly after the establishment of the Government, it was foreseen by Congress, that a state of things might exist, which would require the physical force of the nation to be called forth to execute the laws of the Union, suppress insurrections, and repel invasions. At this time, however, no occasion having occurred to render a resort to this remedy necessary, considerable precaution and delicacy were manifested in making the provisions for this object. Accordingly, on the 2d day of May, 1792, a law for this purpose was passed. It is not necessary now to read it, but merely to remark, that it was accompanied with so many precautions, and consequent delays, that, upon the first experiment made under its provisions, it was found to be ineffectual.

This occurred in the insurrection, or the apprehended insurrection in Pennsylvania, and shortly after an act was passed for the same pur-

pose, repealing the act in question, and dispensing with most of its dilatory ceremonies, which were found rather calculated to defeat, than to effect the object, in the event of a prompt and formidable resistance, &c. This act contains the following among other provisions:

Third volume Laws, page 189.

"An Act for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, &c.

"SEC. 1. That whenever the laws of the United States shall be opposed or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and cause the laws to be duly executed; and the use of the militia to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 2. *Provided always, and be it further enacted,* That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by Proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time."

It cannot escape observation, sir, that the authority given to the President to call out the force of the nation, was limited to the militia only, in both the laws referred to; at that time such were the apprehensions or fears of employing the regular land or naval forces for the purpose of executing the laws, &c., that the authority to employ them for that purpose was actually withheld from the President. But subsequent events have taught us the necessity and propriety of dismissing such groundless alarms. It was discovered by the insurrection of Burr, that the United States might be attacked and threatened by the most serious dangers in parts where the militia could not be brought to act with effect, and it was rendered probable that the most exposed and defenceless parts would generally become the objects of attack; accordingly, Congress did not hesitate to pass a law, I believe unanimously, (at least I recollect to have drawn the law, and do not recollect any opposition to its passage) solely for the purpose of authorizing the President to employ the land and naval forces in all cases in which he was previously authorized to call out the militia. The act is in the following words:

Eighth volume, page 311.

"An Act authorizing the employment of the land and naval forces of the United States in cases of insurrection.

"That in all cases of insurrection or obstruction to the laws either of the United States or of an individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purpose, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect."

In all these cases Congress proceeded upon the rational ground of applying the force to the object. It is now proposed to proceed on the same principle, and apply the force eto existing objects. What is the nature of the obstructions to the laws now proposed to be suppressed? Why, sir, they generally are, forcibly seizing and carrying away from the custody of the revenue officer, vessels or other property seized by him for violating the embargo laws. It is a mere scuffle between the revenue officers and unprincipled banditti for the possession of property. Now, sir, in applying the public force to this object, would it not be perfectly absurd to require that the President should be sent to from the extremes of the United States to issue his Proclamation commanding the insurgents to disperse, &c., when their sole object is to disperse as soon as the mischief is accomplished? This, too, would be almost instantaneous. It certainly would, sir. This is surely a stronger case than the one which called forth precisely a similar provision in 1794, for seizing, &c., vessels intended to be fitted out as privateers in violation of the existing laws; this case is before referred to in the course of these observations. The necessity and propriety of this provision is so obvious, that the people themselves have discovered the want of it, and are now beginning to tender their services for enforcing the embargo laws, in places where they have witnessed their violation—and shall Congress be deterred from accepting this the honorable and patriotic tender of their services? As an honorable testimony of this fact, I have just had put into my hands, the patriotic resolutions of the people of the town of Marblehead, in Massachusetts. They are so highly honorable to the patriotism, disinterestedness, and good sense of the people of that town, that I beg leave to present them to the Senate in their own words:

"At a meeting of the freeholders, and others, inhabitants of the town of Marblehead, legally convened at the Town-house, in said town, on Tuesday, the 7th day of December, 1808, at half-past two o'clock in the afternoon—Capt. Richard James, Moderator.

"The following resolves being read, it was unanimously voted that they pass:

"*Resolved*, That the town continues steadfast in the faith that the embargo law was a law of wisdom, and that the President and Congress of the United States are entitled and shall receive our warmest thanks for their early attention to the independence, liberty, and just rights of the Union, and particularly of the commercial part thereof.

"*Resolved*, That this town will use all the energy they possess to carry into full effect all laws the present Congress have or may enact, for the support of our just and equal rights as an independent nation, against the unjustifiable, tyrannical, and imperial orders and decrees of the belligerent Powers of Europe, by proffering to our country our property and services.

"Voted, a committee be appointed to transmit to Joseph Story, Esq., our Representative in Congress, the doings of the meeting.

"Voted, the above committee consist of the following persons: Captains William Story, Nathan B. Martin, and Joseph Pedrick.

"Attest: J. PRENTISS, *Town Clerk.*"

Upon a candid review of this terrific objection, I think I am warranted in the conclusion, that the provision partakes nothing of the character of military despotism—but is fully justified both by principle and precedent.

Still further to excite our alarms, intimations have been thrown out, but faintly I acknowledge, that the embargo laws are unconstitutional. After what had taken place upon that subject in 1794 by the unanimous consent of all the departments, as well as what has lately been decided upon in that respect, I really should have been surprised, in entering a boarding school, to have heard that question propounded, merely to try the skill, or whet the ingenuity of spouting boys, or lisping misses; but to hear it intimated by grave legislators, in quest of truth, and engaged in directing the practical operation of the Government, even too by judges and lawyers, is to me really astonishing; I am astonished that the respect they must feel for the opinions of their acquaintances, as well as of future times, could not deter them from hazarding themselves upon such a suggestion. But, sir, I find, within a few days past, the mental optics of some gentlemen have been upon the stretch to discover other doubts, which, under the names of *casus omissus*, or some other subtleties, are transformed into realities, so formidable as to destroy the whole energy of the Constitution, and arrest completely the practical operation of the Government. I allude, sir, to the supposed discovery of the gentleman from Massachusetts, (Mr. LLOYD.) that Congress could make no regulation of commerce between the ports of the same State, although he will find the principle settled in every law that was ever passed for regulating the coasting trade; that the same principle was formerly decided by the unanimous vote of this body only a year or two ago, and with not more than five dissentients in the other House; and even they might have been influenced by some collateral considerations, when it is also considered, that, without the exercise of this power, several of the most important specified powers would be rendered wholly nugatory. Yes, sir, every speck which a disturbed imagination had supposed it had discovered upon the horizon of the Constitution, is now, by the help of mental microscopes, transformed into a tremendous cloud, fraught with dreadful storms and horrid thunders; and which, in its destructive course, is to tear up all our rights and liberties by the roots! Sir, it is time to turn from such unprofitable scrutinies—it is time to bend our thoughts on other objects—it is time to face the public dangers, and to repel them.

The last tocsin of alarm which has been sounded upon this occasion, is the suspension of the writ of habeas corpus.* We have been reminded of the proceedings of this House upon that subject, and the fate they experienced in the other House. Instead of this circumstance being urged as an admonition to those who wish to see the laws respected, and to furnish the means for causing the national will to be executed, it ought to be a caution to those who, with the most laudable zeal for the preservation of individual rights, are deterred from these objects by popular suggestions. I thought, by this time, that every man of common impartiality and common sense had seen in subsequent events the propriety of that measure. I rejoice that I had the honor of proposing it, and always regretted its rejection. Indulge me, sir, with a very few observations on this subject. The Constitution contains but one clause respecting this writ: "The privileges of 'the writ of habeas corpus shall not be suspend-'ed unless when, in cases of rebellion or invasion, 'the public safety may require it." I presume that every man in the United States will now admit that a rebellion did exist, and that the public safety was in danger; no Constitutional objection could therefore exist to the bill, and when its limitations and directions are observed, which appear never to have been presented to public notice, I presume posterior events will have demonstrated its propriety, in the opinion of every candid man of understanding in the community. What, Mr. President, have been the consequences of its rejection! You have seen your judiciary publicly held up to the world as a spectacle of disgrace. You have seen a jury sworn to try an issue in a criminal case, and excluded from the privilege of hearing the most material evidence, upon which the trial of the issue depended. You have seen treason go unpunished. And you have seen the character of imbecility given to our Government, calculated to excite distrust at home, and to invite contempt and attacks from abroad. What would have been the probable effects of passing the bill? Guilt would have received its just reward. The public justice would have been appeased, the confidence in the energy of the Government would have been preserved, and you

*An Act to suspend the privileges of the writ of habeas corpus, for a limited time, in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all cases where any person or persons charged on oath with treason, misprision of treason, or other high crime or misdemeanor endangering the peace, safety, or neutrality of the United States, have been, or shall be arrested and imprisoned by virtue of any warrant or authority from the President of the United States, or from the Chief Executive Magistrate of any State or Territorial government, or from any person acting under the direction or authority of the President of the United States, the privilege of the writ of habeas corpus shall be, and the same hereby is, suspended for and during the term of three months from and after the passage of this act and no longer.

OFFICE OF THE SECRETARY OF THE SENATE,
January 2, 1809.

I certify that the foregoing is a true copy of a bill that passed the Senate on the 23d of January, 1807.

SAMUEL A. OTIS, *Secretary.*

would have been saved, sir, the painful mortification of beholding the most atrocious treason stalking unpunished through the land, triumphing in a security afforded, it is feared, sir, through the hostile propensities of the judge against his own Government, or at least against the administration of his own Government. Yes, sir, and if through popular suggestions we should now be driven from affording the means of executing the embargo laws, the consequences will be the more to be regretted, as the evils to be remedied are much more formidable. Let me, then, sir, now inquire into the causes of the violations of the embargo laws; the nature of the offences, and the description of persons engaged in their commission. The original cause of these violations is, British influence. I do not mean to apply this observation, in the remotest degree, to any gentleman in the opposition to this bill—I believe those gentlemen are perfectly exempt from this influence. I merely speak of British influence as a fact which exists, as an incident attached to society, and of course ought to be guarded against. It is a fact notoriously known, that as soon as the British Government was apprized of the measure of the embargo, an order was issued inviting our citizens to violate the laws by offering to receive and protect their vessels, although they should leave our ports without the customary papers, engage in a lawless trade, and thus at least to assimilate themselves to pirates. It is also known, that the British Government has agents in most of our seaport towns for purchasing up supplies for its fleets and armies. That there are also British merchants, and British capital, connected with unprincipled Americans, engaged in the violation of these laws. Yes, sir, unprincipled Americans have been invited, through these means, to engage in this scandalous traffic. And what, sir, is the nature of the offences they have been induced to commit? Is it treason? No, sir, but it partakes essentially of its character. If, instead of an incipient, we were in an actual state of war, it would be treason, and treason of the basest sort. It is, to say the least, a base abandonment of every honorable and patriotic sentiment. Is it bribery? It certainly partakes of that character. It is violating the laws of our country, and co-operating in counteracting their effects upon our enemies for the sake of money, regardless of consequences. Is it perjury? Yes, sir, it is in most cases perjury in its essence, and subornation of perjury in all. Yet, sir, the authors of these offences and those who countenance and advise the commission of them, have the impudence to talk of moral and religious obligations! Are these the individuals, sir, who are to be treated with so much tenderness? Are these the offences which are to be proclaimed legal and Constitutional? That they have conquered the Constitution, and cannot be controlled by its provisions? If, sir, we should be driven by our fears from affording the means of executing the embargo laws, in what situation should we stand before the nation and the world? We have just said we will not for the present repeal these laws, and we are now about to declare that we are afraid to execute them! That the Constitution furnishes no means for this purpose. What a slander upon the Constitution! What an insult upon the framers of it! What an insult to the people who adopted it! And what will the people say to all this? What is the general sentiment at this moment? It is, enforce your embargo laws or repeal them. And are we about to tell them that the Constitution contains no means for executing the national will when fairly pronounced upon legitimate objects? Or are we to tell them that the Constitution does afford the proper and necessary means for executing the national will, but that we are either afraid, or do not know how to call them into action?

Sir, those who assert that the Constitution is defective in this respect, either do not understand, or they misrepresent its provisions. They neither breathe the spirit, nor speak the language of the Constitution. Sir, I feel for this instrument the most sacred veneration. And with this Constitution in my hand, and its precepts in my heart, I am now ready and willing, in its own spirit and language, to furnish the means necessary and proper for carrying into effect a great national and Constitutional object—for carrying into effect the embargo laws—and thus to make a last effort to preserve the peace of the nation.

Mr. PICKERING said, the legal, the Constitutional, and the commercial objections to the bill under consideration, have been stated by the gentleman from Connecticut, and my colleague, and enforced by reasons which to me appear irresistible. But if their statements were as incorrect as they are true; if their reasoning were as doubtful as it is irrefragable; and if the rigorous provisions of the bill were carried into execution—not by the marshal aided by the *posse comitatus* or militia, according to former safe and wholesome usages, but by the standing army, by the regular troops, who, as despotism seems now advancing with rapid strides, may soon become the prætorian guards of the Palace; if, I say, the provisions of this bill should be perfectly executed, and the embargo be rendered "complete"—the question, the important question, still recurs—What good will it do our country? How will it promote the public welfare? Shall I be again told, what originated at the Palace, and has been a thousand times repeated by its supporters, that it has saved our seamen, our vessels, and our merchandise? When every man who will open his eyes must see that the position is unfounded, and, that, when assigned as the motive for laying the embargo, has been demonstrated to be a delusion? Yes, sir, it is still insisted on, that if our vessels were permitted to go out, they would all be swept from the ocean! I am astonished at the confidence with which gentlemen, laying high claims to information and discernment, continue to make this assertion.

On a former day, by exhibiting lists of vessels which had been safely sailing on the high seas, and the moderate rate of insurance, I demonstrated that the danger so much talked of was fictitious—that it did not exist. I recollect that the gentleman from Virginia (Mr. GILES) has since suggested, that the calculations of my mercantile friend (Mr. Thorndike) of the rates of insurance must be incorrect; that now insurances were low, because "the French have no inducements to send out privateers to depredate upon our commerce, as long as the embargo restrains it within our ports." To say nothing of the multitude of English merchant vessels, sufficient to excite French cupidity and lust for plunder, I will observe, that my mercantile friend possesses as acute native discernment as the gentleman from Virginia, and, in mercantile knowledge, is most unquestionably his superior. My friend's calculations do not look back; they are prospective; formed on the risks to be run, if the embargo be removed, and the sails of our merchant vessels be again spread on the sea.

But as the gentleman alike disregards such calculations, and the facts appearing at several insurance offices (and among men of plain, practical understanding, these would be resorted to as sources of correct information;) seeing, I say, the gentleman from Virginia is not satisfied with this testimony, why did he not advert to an authority which he holds in the highest respect, the authority of the President and Secretary of State? They have said, that Bonaparte's Berlin Decree was an "empty menace," and that "France was without the means of carrying it into effect against the rights and obligations of neutral nations." But this also the gentleman passes by. Let me, then, mention one more statement.

In the Message, at the opening of the present session of Congress, the President informed us, that his Ministers at London and Paris had been instructed to explain to the respective Governments his disposition to exercise his power of suspending the embargo laws, in such manner as to open the way to a renewal of commercial intercourse—but that neither Government had accepted his offer. The instructions to his Minister in Paris, the President says, were necessarily modified—but how he did not say; and from the obscurity of his language it would be impossible to divine. By looking, however, to the correspondence between Mr. Madison and General Armstrong, perhaps we may discover the boon or boons offered to France, on condition of the Emperor's repealing his decrees. Mr. Madison says, that if France revoke her decrees, Great Britain, by following the example, would be obliged to restore to France the full benefit of neutral trade, or, by persevering in her orders, "render collisions with the United States inevitable." And General Armstrong says, in the like case, that "it may be fairly presumed the United States could no longer hesitate about becoming a party to the war against England." He adds, that if Great Britain should not obstruct our trade, the wants of France and her colonies would be supplied. If Great Britain should obstruct the trade, "the wishes of His Majesty (the French Emperor) as expressed in February last, would be directly promoted."

What were the wishes so expressed? No communication of the French Government to the American Minister, exhibiting those wishes, has been laid before Congress. In the mass of other information communicated, has so important a document been accidentally overlooked?

With regard to the other belligerent, the President speaks a plainer language. He says that to Great Britain, "whose power on the ocean is in the ascendant," it was stated explicitly, "that on 'her rescinding her orders in relation to the United States, their trade will be opened with her, 'and remain shut to her enemy—in case of his 'failure to rescind his decrees also." Indeed, Mr. President! Let our ships loose from our wharves, let them take in rich cargoes, and sail for all the ports on the globe—except those of France and her dependent States—when, according to the gentleman from Virginia, that temptation to plunder would fill the ocean with French privateers! I will recite the gentleman's words: "The reason 'of the low insurance, is, that the French have 'no inducement to send out privateers, to depredate upon our commerce, as long as the embargo restrains it within our ports—raise the embargo, and the temptation to plunder would fill 'the ocean with privateers. The commerce would 'stand little chance to escape the plunderers." And yet the President, who professes so much solicitude for American seamen and American commerce, was willing, we have just seen, to suspend the embargo, and thereby expose our seamen, our vessels, and our merchandise, "these essential resources," and "with little chance to escape," to the plunder of French privateers, which would then fill the ocean! Into such contradictions will mankind be plunged, when the real object in view does not admit of a fair and candid disclosure.

To recur to the question, What good will the embargo do? How will it promote the public welfare? That it is not necessary to preserve our seamen, our vessels, and our merchandise, has been conclusively proved. Yet it is said that it must be continued, and if continued, that it must be enforced with all the arbitrary regulations and powers contained in the bill before us, and which have been so strikingly described by the gentlemen who have spoken before me, in order to preserve our honor—"our national character, and national independence." In my apprehension this is incorrect. I see, sir, a constant effort to identify our Administration with the nation, but they are essentially distinguishable. The errors of an Administration may bring mischief upon and hazard the ruin of a nation. Witness, at this moment, the brave and generous Spaniards, who, after suffering an age of depression, have been regenerated in a moment, as with an electric stroke, and, nobly rising, are now breaking the chains forged for them, upon the head of their oppressor. Who that has a heart—who that has any sympathy for human sufferings—who that respects the rights of self-government, inherent in every nation—will not bid them God-speed? I would say, go on, noble Spaniards, and be the instruments of Heaven to stay the ravages of the

most ruthless tyrant that has scourged the European world, since the Roman Empire fell!

I was saying, sir, that a nation and its administration are essentially distinguishable. It is necessary now to distinguish them in our own country. How has it been brought into its present state of embarrassment? Has it been without the agency of its Administration? For a series of years, sir, illusions have been industriously spread among the people. To dissipate those illusions, so far as was in my power, I have exposed myself to the slanders and reproaches of the ignorant, the base, and the unprincipled. But I am not by such means to be discouraged. Hitherto my attention has been confined to the embargo. It is that which immediately brought the nation into its present deplorable situation; and the only way to escape from it is, by making the distinction to which I have alluded. And I say, sir, that, while in the nature of things it is impossible for the embargo to vindicate the rights or the honor of the nation, its maintenance is deemed of the first importance to the Administration, who have staked their reputation upon it. Hence the unvaried efforts of the Administration and their partisans to impress the belief, that the British Orders in Council were the principal cause of the embargo. For they see that the documents originally laid before Congress as the cause, are utterly insufficient. But if those orders were the cause, the great primary cause, "before which all other motives sink into insignificance," it would seem to follow that the embargo must be continued until these orders are revoked. Hence, sir, it appeared to me of the last importance to show that the British Orders in Council were not the cause of the embargo; and impartial observers think I have shown it, by proving that when the embargo was recommended by the President, those orders were, in this country, unknown. But as some gentlemen persist in asserting the contrary, and on that ground advocate the continuance of the embargo, with the reinforcement of the bill on our tables, and that to be followed, I suppose, with a non-intercourse law, I must be permitted to adduce some further proofs.

We have been gravely told that the French Emperor's Berlin Decree declaring all the British isles in a state of blockade, could not be justified as a measure of retaliation against England, on account of her declaring in a state of blockade a certain extent of coast, the whole of which could not be invested and blockaded even by her powerful navy, because France had it not in her power to station a single ship before any one port in the British dominions; and that the Milan Decree of 1807 can still rest for its defence on the supposed acquiescence of the United States in the British Orders of the preceding month, "since those orders, which have not been acquiesced in, were not even known in America at the date of the decree." Now gentlemen will be pleased to recollect, that the French Emperor's Decree of Milan bears date on the 17th of December, 1807; and that on the very next morning, December 18th, came the President's Message to both Houses of Congress, recommending the laying of an embargo.

Now, if the British Orders were unknown in America on the 17th of December, what man of common sense will believe that the plan for imposing the embargo (a plan fraught with such extensive and terrible consequences) recommended by the President in the morning of the 18th, had for its basis the British Orders in Council, which were not known in America on the next preceding day? As I observed on a former occasion, even four days (the time which intervened between the arrival of the despatches from France by the Revenge, and the 18th of December, when the embargo was recommended) "gave little enough time to digest and mature such a plan." I now add, sir, that that plan, as far as it then went (and more was not then practicable) was conformable to the views and wishes of the French Emperor. I say, further, sir, that should the strong bill now on our tables become a law, we shall have advanced one large stride further towards such conformity; and that when we concur in one other measure, a resolution for a total non-intercourse with Great Britain, which was adopted last Saturday evening in the other House, we shall then have acted in complete conformity with the views and wishes of the French Emperor, as they are supposed to have existed at the time the embargo was laid. We shall then have shut all our ports against the entrance of British ships and British merchandise; just as the unfortunate and submissive nations of Europe, who are within reach of his arm, had previously shut their ports. I do not say, sir, that it was in obedience to a requisition of the French Emperor, that the President recommended the embargo; but the facts I have adduced show, that the embargo, with its various reinforcements, up to the non-intercourse now in embryo, happens to be in exact conformity with the views and wishes of the French Emperor, as they are supposed to have existed a year ago. But it seems that this will not satisfy the Emperor. We have been too tardy in our movements. A non-intercourse with Great Britain, twelve months ago, might have appeased him. Now we can no longer remain neutral. Now we must be his allies or his enemies. To the offer to suspend the embargo, if he would repeal his decrees, he has not even deigned to give an answer.

With respect to Great Britain, the overture to suspend the embargo, on condition that the Orders in Council were revoked, has been answered. She maintains her original position, that the Orders in Council were purely retaliatory for the French Berlin Decree; which, she says,

"Was the commencement of an attempt, not merely to check and impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity—that in this attempt almost all the Powers of the European Continent had been compelled, more or less, to co-operate; and that the American embargo, though most assuredly not intended to that end (for America can have no real interest in the subversion of the British power,)

but by some unfortunate occurrence of circumstances, without any hostile intention, the American embargo did come in aid of the blockade of the American Continent at the very moment when, if that blockade could have succeeded at all, the interposition of the American Government would most effectually have contributed to its success."

"To this universal combination (continues Mr. Canning) His Majesty has opposed a temperate, but a determined retaliation upon the enemy—trusting that a firm resistance would defeat his project, but knowing that the smallest concession would infallibly encourage a perseverance in it."

If the embargo was designed, as professed, why did our Government declare a blockade against the British dominions by land as well as by sea? Neither seamen nor property could be exposed to capture by continuing the trade which had been advantageously carried on by land with the British colonies bordering on the United States. The people of Vermont, particularly, had been accustomed, ever since the Peace of 1783, to exchange their productions with the British subjects in Canada, for salt and other articles of merchandise. Yet even this beneficial trade has been prohibited by the embargo acts; and bloodshed and death have been the consequence. Similar tragic scenes have been acted in the District of Maine. Does not the rigorous prohibition of this land commerce alone demonstrate that other views than have ever been officially avowed really dictated the embargo? Lately we find that, in Holland, (a country governed by a brother of the French Emperor, and absolutely under his control,) the necessities of the people for the supplies usually obtained from England, having caused evasions of the Emperor's strict decrees of blockade—additional provisions have been made; and the breaches of those decrees are henceforward to be punished with death. With similar pace, the United States are advancing—and, by the bill before us, the embargo is to be enforced by additional regulations and penalties of unexampled rigor, and hostile to the mild spirit of American laws; and which, though not in words prescribing the punishment of death, will infallibly have that issue.

Among the reasons assigned for persevering in the embargo, are, "the present unsettled state of 'the world, the extraordinary situation in which 'the United States are placed, and the necessity, 'if war be resorted to, of making it at the same 'time against both the belligerent nations, and 'these the two most powerful in the world;" and, under these circumstances, a principle of justice forbade our choosing our adversary! Must not such sentiments expose us to derision? Two nations have injured us—and we should violate the principles of justice, if, to obtain satisfaction, we attacked one without at the same time attacking the other! If we would descend from the airy regions of philosophy, and stand on the ground of plain common sense, we should see this embarrassment which apparently overwhelms the Administration, to be a mere dream. Sir, if a man travelling on the highway should meet two stout fellow-travellers, and be alternately insulted and attacked by both, and he at the same time perceived that they were enemies to each other, what would he do? Stand still, and be kicked and wounded by both? or co-operate with one, at least so far as was necessary to avenge his wrongs, and to provide for his own defence and security against the other? This course is so simple and obvious that even school-boys (who also have their quarrels) could not miss it. But if, while, in this way, avenging the wrongs done by the adversary, he, in effect disarmed the other, and made him his friend; and had, moreover, a fair prospect of inducing him to make satisfaction for the injuries he had committed; how could he hesitate to adopt it?

But, we have been advised by the gentleman from Virginia, (Mr. GILES,) to wait a little longer, "to wait events in Europe, now in a state of rapid succession." Yes, sir, wait until we see whether Bonaparte overwhelms the Spanish nation; and if Heaven permits this sad catastrophe—what then? Are we to join his arms, and by conquering Canada and Nova Scotia, prepare those countries with our own for a new master? and hasten the glorious period when to the lofty titles of Emperor of France and King of Italy, and Protector of the Confederation of the Rhine, shall be added that of Emperor of the Two Americas? That, sir, will be the natural course of things, if, as some have wished, the British navy were destroyed.

In the short interval of peace, in 1808, Bonaparte, in a few months, sent forty thousand soldiers to subdue the negroes of St. Domingo. The climate subdued his soldiers, and St. Domingo continues independent. But the United States present a very different theatre. French soldiers would here be as healthy as our own. And if with the ships suddenly furnished in France and Holland, Bonaparte at once transported forty thousand men to St. Domingo, what numbers could he not send to the United States in the thousands of British ships, were they also at his command?

It is estimated, sir, that the observations I have made, though on a question for repealing the acts laying the embargo, are irrelevant on the bill now before us. But to me they appear perfectly applicable in both cases; for if they go to show that the embargo ought never to have been imposed, they must avail, in like manner, against enforcing its execution; and, therefore, I have adduced them.

Mr. HILLHOUSE rose and addressed the Senate as follows:

Mr. President: Before I proceed to remark on the merits of the bill under consideration, I shall take the liberty of noticing some general observations of the gentleman from Virginia, (Mr. GILES,) which can have no bearing on the matter under consideration, and could have been thrown out for no other purpose than to impress the idea that the opposers of this bill and of the embargo are acting under some undue influence or bias, and are endeavoring to obstruct or paralyze the energies of the nation in their operations against

foreign aggression. We are told of British capital, British agents, British gold, in too close connexion with the opposition to the embargo and the present bill. Sir, if it is meant to insinuate that the opposers of the embargo and of this bill are under such influence, I despise the insinuation. [Mr. GILES rose and declared that he did not mean to throw out the smallest intimation that the opposers of the bill were under such, or any other, improper influence.] The character and conduct of the greater part of that description of our fellow-citizens, who have been and still are opposed to the embargo, furnish a sufficient answer to any such insinuations as to them. No, sir, our opposition to the embargo proceeds from far different motives; from a thorough conviction of its inefficacy as regards foreign nations, and its ruinous operation as to ourselves. We are not willing to inflict a wound on our own country, because foreign nations do us wrong.

The gentleman from Virginia has renewed his call for a substitute for the embargo. Sir, the embargo admits no substitute. It is a measure radically wrong, and stands in the way of every proper measure. Remove the embargo, and then, and not till then, will the way be open to adopt measures for securing our commerce and defending our rights. I am not a little surprised that the gentleman from Virginia could make up his face to such an imposing call. Had that gentleman run through the journals, from which he has read some passages, he would have found that during a long and uniform course of opposition to a former Administration, which was conducted with acknowledged ability, he was not in the habit of proposing substitutes. He told us what would not, but not what would do. In the present case, were the embargo out of the way, and I found a disposition to listen, I should not hesitate to express my opinion of the proper course to be pursued. But so long as our national councils are under the embargo system, any attempt at other measures would be unavailing.

For the purpose of contrasting the present proceedings of Congress with what was done in 1794, the gentleman from Virginia read from the journals some passages to show "that the nation then moved in a solid body." Yes, sir, the unanimity and spirit then manifested does honor to the nation. But with whom were we contending then? With England. I should have been much gratified if the journals of 1798 (which the gentleman did not think proper to read) had exhibited the same unanimity and spirit when our rights were violated by another Power, and we were insulted by the contemptuous rejection of our Ministers. Far otherwise was the fact; there was then a violent and persevering opposition to the measures of defence which were then proposed and adopted; and by the same description of men who claim credit for a pre-eminent share of patriotism; a conduct to which I advert with reluctance. I was ready to vindicate our rights against England in 1794, and at a much earlier period. I was equally ready to do the like against France in 1798. It matters not to me from what nation injury or insult comes, I am ready to take sides with my country in repelling it—not, indeed, by an embargo, but by any measures of energy which policy or prudence shall dictate. I have never shrunk from taking my full share of responsibility when called to act on great national questions. I leave it to those who have known and observed my public conduct, to decide whether I have manifested much solicitude to find out which would be the popular side. I, sir, am under no apprehensions of being suspected by those who know me of acting under foreign, or any improper, influence. My opposition to the bill does not proceed from a wish to shield from punishment the violators of the embargo; those corrupt agents and friends of Great Britain, as the gentleman has described them. My opposition to the bill proceeds from an unwillingness to see the liberties of my country prostrated by a military despotism; the foundation of which I clearly discern in this bill. Says the gentleman from Virginia, the Senate have declared that they will not repeal the embargo; and they are now called upon to say it shall not be enforced. Not so, the call is that it should not be enforced by improper means—means which endanger liberty and violate the Constitution. Better that the embargo should not be executed than that the Constitution of the United States should be violated.

I extremely regret that the gentleman from Virginia should have felt himself at liberty to travel out of his way to cast reproach on the Judiciary. The judges, by a faithful discharge of their duty (sometimes being obliged to withstand popular error, and sometimes to interpose themselves between a defenceless individual and Executive power.) are exposed to their full share of opprobium. No reproach for the rejection of the bill to suspend the habeas corpus can fall on the judges; they had no agency in the business. I have indeed felt, sensibly felt, the reproach cast upon the Senate for having passed that bill in so hasty a manner; but it was not slanders contained in newspaper paragraphs which I regarded; they have no more effect on my mind than the passing wind. It was the manner in which that bill was treated by the House of Representatives that wounded my feelings—I felt for the honor of the Senate. I voted with the gentleman from Virginia for that bill, though I did not at the time feel all the apprehensions which seemed to be impressed on his mind. I did not apprehend that a rebellion excited by an individual not clothed with any official consequence or power, without resources, and almost without friends, could ultimately endanger the safety of the Union. But from the communications made to Congress by the President, I was led to believe there was some treasonable proceeding and rebellion which ought to be speedily and promptly resisted and put down. Though I did not see the necessity of passing the bill with so much haste as to subject the Senate to the charge of precipitation; yet, being satisfied of the propriety of passing such a bill, I felt a reluctance, as I always do, at interposing my vote in a manner that may have even the appearance of throwing difficulties in the way of measures which regard the public safety. But no motives of delicacy, or any other cause, will prevent my opposing measures which I think wrong in principle. The loss of the bill to suspend the habeas corpus was in no respect attributable to the court or the judges. There was no interference on their part, nor any conduct of theirs that could warrant the gentleman from Virginia in making the heavy charge "that the hostile propensities of a court against its own country and its own Government, were the reasons why treason escaped punishment." In what instance have the judges interposed a shield between guilt and punishment? The principal leader in that rebellion was apprehended and taken to Virginia; and I rejoiced, at the time, that Virginia was to be the place of his trial, so that no suspicion might exist of a disposition to favor his escape from conviction and punishment. Aaron Burr was acquitted—whether from a defect in the law or testimony, I am not sufficiently informed to decide. But I have no hesitation in declaring it as my opinion, that it was not owing to any indisposition in the judge to do his duty; on the contrary, I think he manifested great integrity and firmness in adhering to the established rules of proceeding in criminal trials, which are the great shield of innocence against oppression; and in giving a fair trial to a political opponent, against whom the popular current ran high, and whose prosecution was aided by Executive influence and power. The opinions of the judge are in print, so that every one can examine for himself, and form his own. Thus much I may venture to say, that the gentleman from Virginia would find it no easy task to point out errors.

It is cause of regret when an individual, and much to be lamented when a public body become so zealously engaged in the pursuit of an object, as not to examine with candor the propriety or expediency of the measures by which such object is to be attained. In the present case, I fear that a zeal to enforce the embargo has blinded the eyes of some to the consequences likely to follow from the course of measures now pursued. I fear, also, that an error has been committed in pointing the debates and measures at a particular portion of the Union, as if violations of the embargo were confined to that quarter. Think ye that the people of Vermont and Massachusetts have been sinners above all the people of the United States? Have there been no violations of the embargo except in New England? Yes, verily. The only difference is, that on Vermont has fallen that political tower of Siloam, the President's proclamation. On the coasts of Massachusetts, and the States of the Chesapeake, almost the whole of our naval force has been sent to cruise, to detect and punish the transgressions of their citizens. This has given an opportunity to the Southern States to violate the embargo with impunity. It has been and still continues to be violated, even in that great and respectable State represented in part by my brother farmer (Mr. GILES;) which State, he has assured us, not only acquiesced in, but applauded the embargo as a wise and salutary measure. To show that I am correct, I will communicate to the Senate some information. One of the committee who had a principal hand in drawing the bill, stated that he was informed by the captain of a coaster (on whose information I should rely, being acquainted with him, and esteeming him a man of truth, and who had the means of knowledge, being employed in navigating up and down the Potomac) that there was a great display of activity and exertion in transporting the produce of the country, particularly flour, to the banks of the river, and shipping it off for other markets. Confirmatory of this, I hold in my hand other information:—"Captain Scovel, who arrived at New 'York yesterday, (December the 12th,) from St 'Pierres, Martinique, and Antigua, states to us 'that vessels which daily arrived in distress, in the 'ports he visited, were almost exclusively from 'the Southern ports, and the greater number from 'the State of Virginia, laden with flour and other 'provisions." Again: "Captain Scovel, who arrived here (New York) last Monday, (December '12th,) from Martinique, via Antigua and St. 'Kitts, informs us, that while he lay at Martinique, a Virginia pilot-boat schooner arrived 'there with 750 barrels of flour, which the captain sold for $30 per barrel; that, while at Antigua, in the course of four days only, three vessels came in there with full cargoes of flour from 'Virginia; that he saw at St. Kitts a Virginia 'schooner that had been at Barbadoes with a 'cargo of flour, sold part, and then came to St. 'Kitts with the remainder for a better market." The Secretary of the Treasury informed that the flour which had accumulated in the great flour markets of the United States, was gone. What has become of it? I have heard of no bonfires, except in one instance, to consume some imported gin. One circumstance strongly impresses on my mind a belief, that the products of that State, Virginia, and even the article of tobacco, have found their way to foreign markets; which is, that flour and tobacco, at a particular period during the last Summer, when the embargo was in full operation, rose to a handsome price, and that some of her citizens of distinguished rank were so fortunate as to avail themselves of that price. The gentleman from Maryland (Mr. SMITH) also stated sundry violations of the embargo. From which, and other information, I am induced to believe, that there are not many States in the Union where the embargo has not been violated. The use I wish to make of this information is, to show that this measure is not to have a limited or local operation; but is to pervade our whole country, and may affect every citizen of the United States. Let me, therefore, entreat this Senate to consider well before they give their sanction to a bill which is to have such a general operation; a bill which contains such novel and extraordinary provisions; a bill which may endanger civil liberty, and lay the foundation of a military despotism.

On the recommitment of the bill, one very obnoxious paragraph was stricken out, and others were altered. Some of the paragraphs I shall pass by without notice. The first to which I shall ask the attention of the Senate is the second section. That places the whole trade and intercourse between the States at the arbitrary will and pleasure of the President, collectors, and special revenue officers; there being no rule laid down by which their discretion is to be governed. And who are these collectors and revenue officers who are to be intrusted with such unlimited power? Not judges holding their offices independent of the Executive will, and free from Executive influence. They are the mere creatures of the Executive, who are killed or made alive by the breath of the President.

This section provides that it shall not be lawful to put on board any ship, vessel, or boat, of any description whatever, any specie, or goods, wares, or merchandise, either of domestic or foreign growth, unless a permit, particularly stating the articles thus to be laden, shall have been previously obtained from the collector of the district in which such ship, vessel, or boat, may then be, or from a revenue officer specially authorized by such collector to grant such permit; nor unless bonds with surety to the amount of six times the value of the vessel and cargo shall be given for relanding the whole cargo in the United States. And it is made lawful for the collectors to refuse permission to put any cargo on board, whenever, in their opinion, there is an intention to violate the embargo; or whenever they shall have received instructions to that effect, by direction of the President of the United States. A proviso excepts from the operation of this section the bay and river craft. The bond demanded is excessive and oppressive. There is no rule laid down by which the discretion of the collectors or revenue officers is to be governed; or to point out to the citizens of the United States what they may expect or claim as a right. The permit may be refused altogether, upon the mere suspicion or jealousy of the officer, however unfounded. What a door is here opened for partiality and favoritism, and to gratify party feelings and party animosities? And have we not reason to believe it will, in many instances, be improved for the most oppressive party purposes?

Section fourth places the bay and river craft under the like arbitrary discretion of the collectors, who are authorized to grant, under such general instructions as the President of the United States may give, general permission, when it can be done without danger of the embargo being violated, to take on board, at any time, such articles of domestic or foreign growth as may be designated in such permit; bond with surety being previously given in an amount equal to three hundred dollars for each ton, conditioned that every article taken on board shall be relanded in the United States, and that such vessel shall not be employed in any foreign trade, &c.

When the regulation of the whole commerce and intercourse between the different States is placed at the arbitrary discretion of such an host of collectors, without any specific rule laid down in the law by which they are to govern their conduct; will there not, under this act, if it should pass, be danger, will there not be a certainty, that different collectors will adopt different rules, and that different and greater restrictions will be put upon the commerce of some States than others? which would be a violation of that clause of the Constitution which says "that no preference shall 'be given by any regulation of commerce or rev-'enue to the ports of one State over those of an-'other." This clause of the Constitution renders it indispensable that Congress should by law prescribe the rules by which commerce is to be regulated, that they may be certain, specific, and uniform in all the States. There was an inequality in the regulations of last Summer. The Governors of some of the States were authorized to grant permits to import flour: a like indulgence was not extended to the Governors of other States. In some States permits would be very liberally granted; in others, the collectors would be rigid, and stop nearly all the trade of a State.

The fifth section subjects innocent persons to penalties, confounds innocence and guilt, involving both in one common punishment. After declaring the forfeiture of the ship, vessel, or boat, together with the specie, goods, wares, and merchandise, taken on board contrary to the provisions of the third section of this act, it goes on to say that the owner, or owners, agent, freighter or factor, master, or commander of such ship, vessel, or boat, shall moreover severally forfeit and pay a sum equal to the value of the ship, vessel, or boat, and of the cargo put on board the same. By the provision of this section, the inquiry before the court and jury will be, not whether the person accused has been concerned in a violation of the embargo, but whether he be an owner, agent, freighter, factor, master, or commander of such ship, vessel, or boat; and he may have been ignorant of any intention to violate the law; nay more, though opposed to such violation, he is to be adjudged guilty and subjected to punishment. But, says the gentleman from Virginia, this is no new principle, it has already been introduced and recognised by the revenue laws. To prove this, and that collectors are thereby authorized to search for and seize goods, he read the 68th and 69th sections of the collection law of March 2, 1799.*

* "SEC. 68. *And be it further enacted*, That every collector, naval officer, and surveyor, or other person specially appointed by either of them for that purpose, shall have full power and authority to enter any ship or vessel, in which they shall have reason to suspect any goods, wares, or merchandise, subject to duty, are concealed, and therein to search for, seize, and secure any such goods, wares, or merchandise; and if they shall have cause to suspect a concealment thereof in any particular dwelling-house, store, building, or other place, they, or either of them, shall, upon proper application upon oath, to any justice of the peace, be entitled to a warrant to enter such house, store, or other place (in the day time only) and there to search for such goods; and if any shall be found to seize and secure the same for trial; and all such goods, wares, and merchandise, on which the duties shall not have been paid, or secured to be paid, shall be forfeited.

"SEC. 69. *And be it further enacted*, That all goods, wares, or merchandise, which shall be seized by virtue of this act, shall be put into and remain in the custody of the collector, or such other person as he shall appoint for that purpose, until such proceedings shall be had as by this act are required, to ascertain whether the same have been forfeited or not; and if it shall be adjudged that they are not forfeited, they shall be restored to the owner or owners, claimant or claimants thereof; and if any person or persons shall conceal or buy any goods, wares, or merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum double the amount or value of the goods, wares, or merchandise, so concealed or purchased."

The great and leading principle of the revenue law is, that the penalty operates on the property in all cases except where a person is negligent, or knowingly guilty of a violation of the law; in which case there is superadded a personal penalty. For example, a captain who neglects or refuses to enter his vessel, or makes a false entry, or attempts to run goods and avoid the payment of duties, the vessel and goods are declared forfeit, and the captain and other persons concerned in such violation of the law, subjected to a penalty; but in no instance is the owner, agent, freighter, or factor, who has no knowledge of such violation, subjected to a penalty. True it is, the innocent owner may be subjected to the loss of his vessel and goods; but that goes upon an entirely different principle; which is, that the owner is responsible for the good conduct of his captain or agent, so far as the property goes that he entrusts in his hands. But it was reserved for this bill to introduce into our code the criminal principle that an innocent man is to be arraigned, found guilty, and punished, merely for being an owner, agent,* freighter, or factor. This is a principle which would disgrace the most tyrannical code of the most tyrannical Government that ever existed.

Section sixth subjects the reputed owner to the same forfeitures and penalties as the real owner in the preceding section. So that an innocent person is not only liable to the charge of a crime, but to a conviction and punishment, because his name happens to appear on a certificate of registry, enrolment, or license, or the last clearance or custom-house document, though he may have no interest or property whatever in the ship or vessel that shall violate the law, and no knowledge of such violation, or of any intention to violate the law. This same section establishes unwarrantable restrictions on the sale and transfer of property, for it is provided that no sale shall be recognised or rendered effectual, until a bond shall be given equal to three hundred dollars for each ton of such ship or vessel so proposed to be sold, conditioned that such ship or vessel shall not, during the continuance of the embargo, contravene or infringe any of the provisions of the said acts. A vessel of one hundred tons burden cannot be sold without entering a bond of $30,000; an enormous bond, which very few, if any, such owners would be able to obtain, though under the most pressing necessity of selling to obtain the means of subsistence, or bread for his family. Who would entangle his fortune with such a bond? Let me ask the gentleman from Virginia whether, even to oblige a suffering neighbor, he would pledge his farm and mills by entering into such a bond? I have too good an opinion of his prudence and foresight to believe he would thus encumber the place of his dignified retirement with such a bond; and if his patriotism would not induce him to give such a bond, who is there that would do it? As well might Congress pass a law declaring it unlawful to sell at all, as to pass this law; for it is an indirect mode of doing the same thing. And has the Constitution given to Congress any such power? If we are doomed to suffer under the embargo system, it is better far to stop the coasting trade altogether, and chain our coasters, as are our other vessels, to rot at our wharves, than to disgrace our country by such an act. An act which only tantalizes our citizens with the show of a coasting trade, when, by requiring excessive bonds, imposing burdensome restrictions, and submitting the whole to the arbitrary discretion and caprice of a host of collectors it will in fact be annihilated, or nearly so; an act which, under pretence of regulating the sale of vessels, has required a bond which in its operation would, in most cases, amount to an absolute prohibition. An act which opens a door for the most wanton favoritism and cruel oppression; an act which violates some of the most important principles of justice.

The seventh section contains a most extraordinary provision; a provision which virtually goes to deprive the party of his right of trial by jury, an impartial jury of the vicinity, before whom the party would have it in his power to adduce evidence, and make his defence. By this bill, the

* An Act to authorize the President of the United States to lay, regulate, and revoke Embargoes.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President of the United States be, and he hereby is, authorized and empowered, whenever in his opinion the public safety shall require, to lay an embargo on all ships and vessels in the ports of the United States, or upon the ships and vessels of any foreign nation, under such regulations as the circumstances of the case may require, and to continue or revoke the same whenever he shall think proper. And the President is hereby fully authorized to give all such orders to the officers of the United States as may be necessary to carry the same into full effect: *Provided*, The authority aforesaid shall not be exercised while the Congress of the United States be in session. And any embargo which may be laid by the President, as aforesaid, shall cease and determine in fifteen days from the actual meeting of Congress next after laying the same.

SEC. 2. *And be it further enacted*, That this act shall continue and be in force until fifteen days after the commencement of the next session of Congress, and no longer.

Approved, June 4, 1794.

final decision, whatever it may be, is referred to the Secretary of the Treasury, an Executive officer, holding his office at the pleasure of the President, and residing in this city, the seat of the General Government, which, as regards the convenience of a great portion of the citizens of the United States, is in a distant land. The section provides that, in all suits on bonds given by virtue of this or any of the embargo acts, conditioned that goods, wares, or merchandise, or the cargo of a vessel, shall be relanded in the United States, judgment shall be given against the defendant, unless proof shall be given of such relanding, or the loss of the vessel at sea. But neither capture, distress, or any other accident whatever, shall be pleaded or given in evidence in any such suit. What possible difference can there be between depriving a party of his trial by jury altogether, and precluding the evidence necessary to his defence and the establishment of his innocence? It is an axiom admitted in all codes, that the act of God shall prejudice no man. But, by this bill, if a vessel bound, for example, from New York to New Haven, should have a single hogshead of rum on board, and, in a thunderstorm, this should be set on fire and consumed, and the vessel fortunately escape, because the relanding of the rum, or the loss of the vessel, cannot be proved, judgment is to go on the bond—although the defendant has the most incontrovertible evidence to prove the above fact, (the destruction of the rum,) a complete defence at law—not by custom-house oaths, of which the gentleman from Virginia seems to think so lightly (and which I am sorry he should disparage, as on them depends much of our revenue,) but by the oaths of the most respectable characters of our country, who may be on board, and eye-witnesses of the fact; nay, it might happen to be the gentleman himself. Another case: in a storm, to save the vessel and their lives, the crew and passengers throw overboard a cargo of flour, or such as may be on deck and in the way of working the ship; proof of this is not to be admitted before the court and jury, but judgment is to be rendered against the defendant. Many other such like cases might be put equally strong. Article seventh, of the amendments to the Constitution, provides, that "where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." Two of the prominent articles of grievance set forth in the Declaration of Independence are in these words:

"For depriving us in many cases of the benefit of trial by jury."

"For transporting us beyond the seas, to be tried for pretended offences."

To deprive the party of the right to plead or give in evidence what would establish his innocence, is to deprive him of his trial; to require a court to render judgment on a bond against the defendant, who is prepared and offers his plea and evidence, to establish a complete and legal defence before a court and jury, is to deprive him of his trial by jury, and is a denial of justice. And to send a defendant thus condemned to the City of Washington to obtain relief is indeed sending him "to be tried for pretended offences." But, says the gentleman from Virginia, by the humane provision contained in the twelth section, the person thus unjustly condemned may escape the penalties of the law. And how? By conforming to the law of March 3d, 1797, which provides for mitigating or remitting forfeitures, penalties, and disabilities. That is, by going hundreds of miles from his own home to the City of Washington, (little less inconvenient than a voyage across the Atlantic,) there to appear not before an impartial tribunal, composed of judges and jurors of his own vicinity, free from all Executive influence and party bias, but before the Secretary of the Treasury, holding his office at the will of the Executive—not in the manly attitude of a citizen bold in conscious innocence, to defend his character against the imputation of being a violator of the laws of his country—but in the attitude of a suppliant, against whom judgment has already been pronounced; humbly praying, on the bended knee, for the remission of the penalty of the law; which he can claim, not as matter of right, but of grace. Is it possible that free-born Americans can submit to such indignity? Is it thus that the character, the feelings, and the innocence of the American people are to be made the sport of an embargo system? No, sir, pass this law, and that system now oppressive will become odious, more odious, if possible, than were the measures of the British Parliament, which drove us into the Revolution, induced us to bear all the hardships of a long war, and severed the colonies from the parent country.

Sec. 9—Authorizes the collectors to seize or take into their custody, without warrant, without evidence, and at their own discretion, specie, or any article of domestic growth, produce, or manufacture, when there is reason to believe they are intended for exportation; or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently on their way towards the territory of a foreign nation, or in the vicinity thereof, or towards a place whence such articles are intended to be exported. This seizure may be made, not only on board a vessel, but on the land; not only in a cart, wagon, or sleigh, but wherever they may be; provided there is reason to believe they are intended for exportation. Money is not kept in the highway or open field, but in a house, in a desk, or private drawer; flour and other articles of produce are not kept in a situation to be exposed to the weather, or other injury, but in warehouses or stores: when, therefore, an authority is given to take these articles, when the collector believes they are intended for exportation, it is to take them where they are usually kept and may be expected to be found. My house, I have always been taught to believe, was my castle, my sanctuary, where myself and property could remain in perfect security, unless I should have forfeited the privilege by some crime against the State. But are we not about to declare, by this bill, that a collector, and without any warrant from a civil magistrate, and

merely on the ground of his own suspicion, and governed only by his own discretion, may enter my enclosure, my store, my dwelling-house, and there take into custody my money and other articles? That he may call the military to aid him in this work? In the progress of which, may not my private and most confidential papers be exposed? Do not these things tend to irritation, to resistance, to bloodshed? Can such Legislative provisions consist with a wise policy, with the principles of a free Government, or the Constitution of the United States?

In article four of the amendments, it is provided, that "the right of the people to be secure in their 'persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and 'particularly describing the place to be searched 'and the person or things to be seized."

The gentleman from Virginia, here, as in other instances, rests his defence of this section on the law for the collection of the revenue, and particularly on the same sixty-eighth section, which has been read. True it is, that by that law the collector is authorized to go on board a vessel and make search or seizure without warrant; but the moment he sets his foot on the land, and wishes to make search or seizure, application on oath must be made to a magistrate for a warrant, to be executed in the manner directed. There has always been a difference in the mode of enforcing the laws on board of vessels on the water, from what was admitted on the land; and less formality and caution has been observed in making search and seizure on board of vessels, than what is required on the land, in our stores and dwelling-houses. For the purpose of executing the law of nations on the high seas, commercial regulations and the collection of revenue, it has been found necessary at all times, to subject vessels to the inconvenience of being liable to search and seizure without warrant, and without much formality. A great discrimnation has always been made between vessels and houses.

There is another manifest distinction between seizures under the law for collecting revenue, and the present bill; there the articles seized are claimed to have become forfeited; but by the present bill there is a bare suspicion that they are about so to be proceeded with as that they may become forfeited. Under those laws the property is immediately placed in the custody of the law, and under the jurisdiction of a court of justice; where the claimant can have a trial, and if he can make out a well-founded claim, is entitled to a restoration of his property. By this bill, the property is held by the collectors, and the owner has no way of obtaining the same but by substituting a bond, with sufficient sureties (which the party may not be able to obtain) for the landing or delivery of the same in some place in the United States, where, in the opinion of the collector, there shall not be danger of such articles being exported.

When the collector has seized or taken money or other articles, it is made his duty to guard them; which must be done either in the place where taken, or in some other place to which he shall in his discretion remove them. And for the purpose of taking into custody and guarding specie or any other article, the 11th section authorizes the President of the United States, or such other person as he shall have appointed, to employ the land and naval forces, or militia of the United States. Take either alternative, the law cannot be executed without a violation of the Constitution. For suppose it to be money, and to avoid any question about an unreasonable search, we will suppose the collector present in my house, and sees me count and place a large sum of money in my desk, which he believes is intended for exportation in violation of the embargo, and makes a seizure, as would be his duty under this bill. If the money is not to be removed, he must, or may, introduce a soldier or soldiers into my house to guard it; which would be in direct violation of the 3d article of the amendments to the Constitution, which says, "no soldier shall in 'time of peace be quartered in any house, without 'the consent of the owner; nor in time of war, but 'in manner to be prescribed by law." If the money is to be removed to some other (in the opinion of the collector) safe place, then is there a violation of the 5th article of the amendments, which says, that no person shall be "deprived of his life, liberty or property, without due process of law."

Sec. 10—Gives to the President's instructions, and the rules he may prescribe, the authority of law. Are we prepared for this, to authorize the President to make proclamation laws? In that section it is provided, thst the powers given to collectors "shall be exercised in conformity with 'such instructions as the President may give, and 'such general rules as he may prescribe for that 'purpose, made in pursuance of the powers aforesaid—which instructions and general rules the 'collectors shall be bound to obey. And if any 'action or suit be brought against any collector or other person, acting under the directions 'of and in pursuance of this act, he may plead 'the general issue, and give this act and the instructions and regulations of the President, in 'evidence for his justification and defence." Neither in this or the former act is there any rule laid down by which the President's instructions are to be governed—consequently, they depend on his own arbitrary will and pleasure; and it is made the duty of the collectors to pay implicit obedience to those instructions, and through the collectors they are to operate upon the property and concerns of the people. There is no mode pointed out by which these instructions are to be promulgated and made known, as are the laws. By the Constitution, all laws are to receive the sanction of the two branches of the Legislature and be approved by the President. But, according to this section, the President's instructions, proceeding from the recesses of the palace, and communicated only to the collectors, are to have the binding force of law—are to affect the property

and concern of the citizens of the United States—are to control the courts of justice—and thus violate that sanctuary which has always been esteemed a great bulwark to guard the liberties of a free people. These instructions are to be given in evidence on any suit against the officer for his justification and defence. If the officer is bound to obey these instructions, the courts must necessarily be bound to receive them as evidence in justification of the collector—the consequence necessarily follows that they must control the courts of justice.

To support the principle of this section of the bill, the gentleman from Virginia has read to us a law of the United States passed in June, 1794, authorizing the President to lay an embargo, provide the necessary regulations for carrying it into effect, and for revoking the same. Whether I did or did not vote for that law I do not now recollect; the yeas and nays were not taken. But I have no hesitation in saying, that with my present impressions, I should, under like circumstances, vote for such a law, either under the then Administration or the present. We then had disputes with the British Government, which, unless settled by the negotiation then pending, must terminate in war. We had adopted every defensive measure in our power, and Congress were about to adjourn, and wait the issue of the negotiation. If unsuccessful it might become necessary suddenly to stop our vessels in our harbors, previous to a declaration of war. Congress could not be convened, so as to pass a law, much short of two months. It resulted therefore, as a necessary consequence, that the power must be lodged somewhere; and where more properly than with the Chief Magistrate? In my opinion, the power to lay an embargo is not given to Congress by that clause of the Constitution, which gives the power to regulate commerce; it is in direct hostility to commerce. The power to lay an embargo, follows as a necessary appendage to the power of making war. The case might happen when even the commanding officer of the army might be justified in laying an embargo on all ships and vessels in certain harbors and rivers, when necessary to aid a military expedition then on foot. The Parliament of England have the sole power to regulate commerce; the King has the power of declaring war and of laying an embargo. But this is a power to be exercised with great caution; it is a measure temporary in its nature. The present is, I believe, the first experiment of a permanent embargo. It is a power, when given to the Executive, which is to be carefully guarded; as was the law in 1794 by which the President was not to lay an embargo when Congress were in session nor that should continue in force but for a short time after Congress should convene.

To enable us to form a correct opinion in this case, it is proper to inquire what is an embargo. An embargo, in its nature and legitimate import, is most emphatically a measure, not affecting the internal policy of a country, but operating upon the waters in relation to ships and vessels. Its proper element is the water, not the land; but Congress, during the last session and the present, have been laboring to convert this water-fowl into a land-turtle, which might creep into the enclosure of every man in the nation. Upon these principles, an embargo law, or resolution, would be very short, as was that in 1794. But in the present case, Congress have accumulated one long intricate statute upon another, until the property of the whole country is involved within their grasp. In short, the effort has been to convert an embargo into a non-exportation act. In this, as in many other cases, a wrong title has been adopted; and from that circumstance arises much of our present embarrassment. Had the law of 1794, giving to the President of the United States the power of laying an embargo, so confidently relied on by the gentleman from Virginia, as justifying the powers and principles of the present bill, contained such powers and such principles, it never would have had my support or my vote. It would have merited conflagration, and to have been burnt, as on another occasion was the law of a State, by no ordinary fire.

Mr. President, after enumerating such a catalogue of arbitrary restrictions, oppressive regulations, and unconstitutional provisions, comprised in this one bill, could it have been imagined that there was one objectionable section still left for consideration, more alarming than any that have preceded? One that makes a full stride towards the introduction of a military despotism? It is section 11, which says:

"That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval force, or militia of the United States, or of the Territories thereof, as may be judged necessary, in conformity with the provisions of this and the other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody any ship or vessel, or of taking into custody and guarding any specie or articles of domestic growth, produce, or manufacture, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom-house officers in the execution of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same."

Here we see the military called on, in the first instance, to execute the laws—taking the lead under a military chief; not following in the train and under the direction of the civil magistrate, as ought invariably to be the case in a well regulated free Government. Under such a Government, the laws have always been carefully guarded, to keep the military in subordination to the civil power. Once permit the military to get the upper hand, and your liberties are gone. By this bill under whose direction is the military, in the bosom of a State, to be placed? not of the Chief Magistrate of the State, nor of any officer who has received his appointment from a State, or whose appointment has been made with the advice and consent of this Senate; but of a person

who is to receive his appointment from the President's sole authority. That no such power as is contained in the provisions of this bill, is necessary for the purpose of executing the laws, or quelling insurrections, is manifest from past experience. Under this Constitution we have had one insurrection, and also a powerful combination to resist the execution of the laws. What was the conduct then? Fortunately for our country, our then Chief Magistrate was both a soldier and a statesman. A statesman who was duly sensible of the importance of keeping the military in subordination to the civil power. In the Western Insurrection, a considerable military force was called out, to the amount of thousands, and marched against the insurgents, but they were preceded by the marshal of the district, the attorney, and the judge. And instead of military execution, the mild process of the civil law was resorted to; and was found sufficient to bring offenders to justice, and maintain the majesty of the laws. The insurrection was quelled, and tranquillity restored to our country. The combination under Fries, to resist the execution of the laws, was also suppressed by a resort to the like mild but efficient measures. No suggestion was then made that it was necessary that more of the military should be introduced into our civil code.

The laws of the United States and the State laws have made ample provisions for calling in the aid of the military, when necessary to execute the laws. By the act of February 28, 1795, the President is clothed with ample power to use military force to execute the laws, observing the necessary prerequisite of a proclamation; and by the ninth section of the same act, the marshals are clothed with the same power and authority, to enable them to execute their duty, as is given to the sheriffs in the several States. And that this is sufficient, the experience of every State evinces. Why this attempt to place the execution of the laws, in the first instance, in the hands of the military? Why this innovation on our ancient usage? I fear it bodes no good to our country.

Has the embargo, which was professed to be laid for the benevolent purpose of "preserving our vessels, our seamen, and our merchandise," become so unpopular, so odious, that it cannot be executed through the mild medium of courts of justice; but that the country must be put under martial law, and the bayonet of the soldier substituted in the place of the tribunal of justice? If so, it ought to be repealed. In a Government like ours, resting wholly on the popular voice, no law ought to be continued that will require a military execution.

I do hope, and must hope, until the signature of the President to the act shall be announced to the Senate, that this bill will never pass the different branches, and be approved by the President. The plea that it is necessary for carrying the embargo into effect, will not justify the measure. This same plea of necessity has always been resorted to by tyrants. It is in times when parties run high, and under popular leaders, that measures are adopted and precedents established, that eventually overturn the liberties of a country. I do not believe, sir, that the citizens of the United States are yet prepared to surrender their liberties at the shrine of either foreign or domestic tyranny, though it should be recommended by the most popular of their favorites. The American people are too well acquainted with the history of former Republics to submit their necks to the yoke, and to wear the chains of slavery, however gilded, and though invited to wear them by the seductive voice of party spirit. When it shall be discovered (and an attempt to execute this act, if unfortunately it should pass, will open the eyes of the people) and they will discover, that there is an attack on civil liberty, the party dissensions which now distract our unhappy country, and are the cause of so much mischief, will disappear; and public spirit, notwithstanding the operation of political soporifics, must be awakened. The people, coming forth in their might, would at once put down the first essay towards the worst of despotisms, a military despotism.

In my mind, the present prospect excites the most serious apprehensions. A storm seeems to be gathering, which portends not a tempest on the ocean, but domestic convulsions. However painful the task, a sense of duty calls upon me to raise my voice, and use my utmost exertions to prevent the passing of this bill. I feel myself bound in conscience to declare, lest the blood of those who may fall in the execution of this measure should be on my head, that I do consider this to be an act which directs a mortal blow at the liberties of my country; an act containing unconstitutional provisions, to which the people are not bound to submit, and to which in my opinion they will not submit.

Mr. POPE spoke in favor of the bill.

And on the question, Shall this bill pass? it was determined in the affirmative—yeas 20, nays 7, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Kitchel, Milledge, Mitchill, Moore, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

NAYS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Mathewson, Pickering, and White.

So it was, *Resolved*, That this bill pass, and that the title thereof be "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto."

THURSDAY, December 22.

The bill brought from the House of Representatives yesterday entitled "An act for the relief of William White and others," was read and passed to the second reading.

The bill, entitled "An act authorizing the proprietors of squares and lots in the City of Washington, to have the same subdivided and admitted to record," was read; and, by unanimous consent,

the bill was read a second time, and referred to Messrs. WHITE, LLOYD, and BRADLEY, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the report of the select committee to whom was referred the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters;" and on motion by Mr. CRAWFORD, the further consideration of the bill was postponed.

FRIDAY, December 23.

The bill, entitled "An act for the relief of William White and others," was read the second time and referred to Messrs. MITCHILL, GREGG, and BRADLEY, to consider and report thereon.

MONDAY, December 26.

The VICE PRESIDENT being indisposed, the Senate adjourned.

TUESDAY, December 27.

The VICE PRESIDENT continuing indisposed, the Senate adjourned.

WEDNESDAY, December 28.

The VICE PRESIDENT being absent by reason of the ill state of his health, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and STEPHEN R. BRADLEY was appointed.

On motion, by Mr. GILES,

Ordered, That the Secretary wait on the President of the United States and acquaint him that the Senate have, in the absence of the Vice President, elected STEPHEN R. BRADLEY their President *pro tempore*.

On motion, by Mr. GILES,

Ordered, That the Secretary make a like communication to the House of Representatives.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

According to the request of the Senate, in their resolution of November 14, that copies should be laid before them of all the orders and decrees of the belligerent Powers of Europe, passed since 1791, affecting the commercial rights of the United States, I now transmit them a report of the Secretary of State, of such of them as have been attainable in the Department of State, and are supposed to have entered into the views of the Senate.

TH. JEFFERSON.

DECEMBER 23, 1808.

The Message and papers accompanying it were read, and five hundred copies thereof ordered to be printed for the use of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

According to the request expressed by the Senate, in their resolution of November 14, I now transmit a report of the Secretary of the Treasury, and statement, showing, as far as returns have been received from the collectors, the number of vessels which have departed from the United States with permission, and specifying the other particulars contemplated by that resolution.

TH. JEFFERSON.

DECEMBER 27, 1808.

The Message and documents were read, and three hundred copies thereof ordered to be printed for the use of the Senate.

Mr. MILLEDGE presented the petition of William Brown, an officer of artillery, during the whole of the Revolutionary war, stating his services in that arduous contest, and praying that, at an advanced age, he may be placed above the pressure of want; and the petition was read and referred to Messrs. MILLEDGE, FRANKLIN, and GREGG, to consider and report thereon.

Mr. MITCHILL, from the committee to whom was referred the petition of Eunice Hunt, made report; which was read for consideration.

The Senate resumed, as in Committee of the Whole, the report of the select committee to whom was referred the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters;" and having agreed to the amendment, the President reported the bill to the House amended. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

On motion, it was agreed, that the bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes, be further postponed.

Mr. GREGG submitted the following motion:

Resolved, That the Secretary of the Senate do cause to be bound as many sets of the documents accompanying the Messages of the President of the United States of the twenty-second and thirtieth of March, one thousand eight hundred and eight, and also of the documents accompanying the President's Message of the eighth of November, one thousand eight hundred and eight, as shall be sufficient to furnish each member of the Senate with one copy, to be delivered during the present session.

TUESDAY, December 29.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" a bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines;" also, a bill, entitled "An act for the relief of Augustin Serry;" in which bills they request the concurrence of the Senate. They have passed the bill, entitled "An act supplemental to an act, entitled 'An act for the extending the terms of credit on revenue bonds in certain cases, and for other purposes," with amendments; in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes; and the bill having been amended, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. TIFFIN, from the committee, reported the amendments to the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," correctly engrossed; and the bill was read the third time.

Resolved, That this bill pass with amendments.

Mr. POPE presented the petition of the Marine Insurance Company of Alexandria, praying an extension of their charter, authorizing them to "make insurances against fire, on houses, household furniture, and goods, wares, and merchandise, within the United States;" and the petition was read and referred to Messrs. POPE, GILES, and ROBINSON, to consider and report thereon.

The three bills last brought up for concurrence were read, and passed to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act supplemental to an act, entitled 'An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes," were read and ordered to lie for consideration.

The Senate resumed the consideration of the report of the committee to whom was referred the petition of Eunice Hunt, and agreed thereto accordingly; and

Resolved, That the petitioner have leave to withdraw her petition.

On motion, by Mr. FRANKLIN,

The bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the second time by unanimous consent, and referred to Messrs. FRANKLIN, ANDERSON, and HILLHOUSE, to consider and report thereon.

FRIDAY, December 30.

The bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," was read the second time, and referred to Messrs. WHITE, GREGG, and MILLEDGE, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before the Legislature a letter from Governor Claiborne on the subject of a small tribe of Alabama Indians, on the western side of the Mississippi, consisting of about a dozen families. Like other erratic tribes in that country, it is understood that they have hitherto moved from place to place, according to their convenience, without appropriating to themselves exclusively any particular territory. But having now become habituated to some of the occupations of civilized life, they wish for a fixed residence. I suppose it will be the interest of the United States to encourage the wandering tribes of that country to reduce themselves to fixed habitations whenever they are so disposed. The establishment of towns and growing attachments to them, will furnish, in some degree, pledges of their peaceable and friendly conduct. The case of this particular tribe is now submitted to the consideration of Congress.

TH. JEFFERSON.

DECEMBER 30, 1808.

The Message and resolutions were read, and ordered to be printed for the use of the Senate.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act authorizing the payment of certain pensions by the Secretary of War, at the seat of Government," reported the bill without amendment.

Ordered, That it pass to a third reading.

Mr. FRANKLIN presented the representation of the grand jury, and others, inhabitants of Cabarras county, in the State of North Carolina, on the present embargo, and soliciting permission to export their surplus produce, if it can be granted without any abandonment of national independence or a surrender of essential rights; and the representation was read, and ordered to lie on the table.

Mr. MITCHILL submitted the following motion:

Resolved, That a committee be appointed to inquire whether any, and what, provisions ought to be made at this time for the relief of sick and disabled seamen of the United States.

The bill, entitled "An act for the relief of Augustin Serry," was read the second time, and referred to Messrs. MITCHILL, REED, and SUMTER, to consider and report thereon.

The Senate resumed the amendments of the House of Representatives to the bill, entitled "An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes;" and on motion, by Mr. LLOYD, it was agreed that they be referred to a select committee; and

Ordered, That Messrs. MILLEDGE, LLOYD, and GILMAN, be the committee to consider and report thereon.

Mr. TIFFIN from the committee, reported the bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes," correctly engrossed; and the bill was read the third time, and on motion, by Mr. LLOYD, it was ordered to be recommitted to Messrs. GREGG, THRUSTON, and ANDERSON, further to consider and report thereon.

NORTH CAROLINA RESOLUTIONS.

Mr. TURNER presented the resolutions of the Legislature of the State of North Carolina, expressing their sentiments on the present situation of our foreign relations, and approbatory of the measures of Government; which were read, and ordered to be printed for the use of the Senate.

They are as follows:

IN SENATE, *November* 29, 1808.

The General Assembly of North Carolina, viewing the present situation of the United States, in relation

to Great Britain and France, as being alarmingly critical—as requiring the exercise of the greatest wisdom, energy, and prudence, on the part of the General Government, and the highest degree of patriotism and unanimity amongst the real friends of their country—are of opinion, that, as great clamor has been raised against some of the measures lately taken by our Administration, which may have led foreign nations to believe that the people of the United States are a divided people, unable or unwilling to carry into effect any energetic measures of their Government, it may serve to strengthen the hands of those who have the management of our national affairs, for Legislative and other public bodies to publish an expression of their sentiments on the present situation of our foreign relations; which the General Assembly of North Carolina do, in the following resolutions:

Resolved, That we view the pretext offered by Great Britain for not making reparation for the acknowledged outrage on our frigate Chesapeake, by the British ship of war Leopard, as unworthy a nation boasting of a free and enlightened Government.

Resolved, That we consider the acts, decrees, and orders, affecting neutral commerce, issued and enacted by Great Britain and France, as unjust and vexatious, and equally calculated to violate our neutral rights and national sovereignty.

Resolved, That we most cordially approve of the measures which the President of the United States has taken, in the spirit of moderation and equity, to obtain, both from Great Britain and France, a reparation of the wrongs committed against this country, and the repeal of those obnoxious acts, decrees, and orders.

Resolved, That, though the laws laying an embargo have borne hard upon a great part of the citizens of the United States, the Legislature of North Carolina consider them as the best means which could have been devised to preserve our citizens and property from the devouring grasp of the belligerent Powers.

Resolved, That, though the citizens of North Carolina have felt their full share of the pressure of these laws, they will cheerfully acquiesce in their continuance, should the competent authorities deem it expedient to persevere in the measure, until a repeal can be obtained of the unjust regulations which occasioned them; or in any other measure which Congress may deem necessary for the maintenance of our neutral rights.

Resolved, That, sooner than submit to unjust and vexatious restrictions on our commerce; to the impressment of our seamen; and to the taxation of the cargoes of our vessels, at the pleasure of foreign nations; we will live to ourselves, and have no connexion with any of them.

Resolved, That we value peace as one of the greatest blessings which any nation can enjoy; yet, rather than surrender our liberty and independence, we will surround the standard of our country, and risk our lives and fortunes in her defence.

MONDAY, January 2, 1809.

Mr. WHITE, from the committee to whom was referred the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," reported it without amendment.

Ordered, That the consideration of this bill be postponed.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" reported it without amendment.

TUESDAY, January 3.

Mr. WHITE presented the memorial of the surviving officers in the Delaware line of the Revolutionary army, praying for a remuneration of losses sustained by the commutation of half pay, for reasons mentioned in the memorial; which was read, and referred to the committee appointed on the 12th December last, to consider and report upon similar memorials.

The Senate resumed the motion made on the 28th of December last, for binding certain documents; and

Resolved, That the Secretary of the Senate do cause to be bound as many sets of the documents accompanying the Messages of the President of the United States, of the twenty-second and thirtieth of March, one thousand eight hundred and eight; and, also, of the documents accompanying the President's Message of the eighth of November, one thousand eight hundred and eight, as shall be sufficient to furnish each member of the Senate with one copy, to be delivered during the present session.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transmission of certain documents, by the mail, free of postage," in which they request the concurrence of the Senate. The House of Representatives disagree to the first amendment of the Senate to the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters;" and agree to the other amendment.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate proceeded to consider their amendment to the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," disagreed to by the House of Representatives; and, on motion, by Mr. GILES,

Resolved, That they recede from their said amendment.

The credentials of JAMES HILLHOUSE, appointed a Senator by the Legislature of the State of Connecticut, for six years, commencing on the fourth day of March next, were read, and ordered to lie on file.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines;" and on motion, by Mr. HILLHOUSE, to amend the first part of the first section, after the word "assembled," in the second line, to read as follows:

"That there be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, and gunboats; that the President of the United States be authorized

and empowered to cause the frigates and armed vessels, so soon as they can be prepared for actual service, respectively, to be stationed at such ports and places on the seacoast as he may deem most expedient, or to cruise on any part of the coast of the United States, or territories thereof:"

And it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Bradley, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Lloyd, Mathewson, Milledge, Mitchill, Moore, Parker, Pickering, Reed, Robinson, Smith of New York, Sumter, Thruston, and White.

NAYS—Messrs. Anderson, Condit, Crawford, Franklin, Kitchel, Pope, Smith of Tennessee, Tiffin, and Turner.

And the bill having been further amended, on the question, Shall it be read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to continue in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers.'"

On motion, by Mr. HILLHOUSE, to recommit the bill, it was determined in the negative.

Ordered, That it pass to a third reading.

The Senate resumed the motion, made on the 30th of December last, that a committee be appointed to inquire whether any and what provisions ought to be made at this time for the relief of sick and disabled seamen of the United States; and, having agreed thereto, Messrs. MITCHILL, HILLHOUSE, and REED, were appointed the committee.

On motion, by Mr. GILES,

Ordered, That the letter of the Secretary of the Navy to the committee on the bill providing for the arming, manning, and fitting out for immediate service, all the public ships of war, be printed for the use of the Senate.

The bill, entitled "An act authorizing the payment of certain pensions by the Secretary of War, at the seat of Government," was read the third time, and passed.

WEDNESDAY, January 4.

Mr. MILLEDGE, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled, "An act supplemental to an act, entitled 'An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes,'" made report. Whereupon,

Resolved, That the Senate do agree to the amendments with an amendment.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act for the relief of Augustin Serry," reported it amended; and the House having agreed to the amendments, the PRESIDENT reported the bill accordingly.

Ordered, That this bill pass to the third reading as amended.

Mr. POPE, from the committee to whom was referred the memorial of the Marine Insurance Company of Alexandria, asked and obtained leave to bring in a bill to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire; and the bill was read, and ordered to the second reading.

The bill, entitled "An act to authorize the transmission of certain documents, by the mail, free of postage," was read the second time and considered as in Committee of the Whole; and, on motion by Mr. LLOYD to commit the bill, it was determined in the negative; and the President having reported the bill to the House amended, on motion, by Mr. MILLEDGE, the further consideration of the bill was postponed to the first Monday in June next.

Mr. TIFFIN, from the committee, reported the amendments to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," correctly engrossed; and the bill was read the third time as amended. And the title having been also amended, the bill was passed with amendments.

The bill, entitled "An act to continue in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" was read the third time, and passed.

On motion, the bill was reconsidered and amended, by unanimous consent; and the title having been amended,

Resolved, That this bill pass with amendments.

Mr. REED communicated the resolution of the Legislature of the State of Maryland, disapproving of the alteration proposed to the Constitution of the United States, by a resolution of the General Assembly of the State of Virginia, so as "to render the Senators in Congress of the United States removable from office by the vote of a majority of the whole number of the members of the respective State Legislatures by which the said Senators have been or may be appointed;" which was read, and ordered to lie on the table.

Mr. LLOYD submitted the following motion.

Resolved, That President of the United States be requested to cause to be laid before the Senate all the official as well as informal correspondence between Mr. Rose, the late British Minister to the United States, and the Secretary of State, or any other officer of this Government, which has not already been communicated to Congress.

THURSDAY, January 5.

Mr. GREGG from the committee to whom was recommitted the bill making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes, reported the bill without amendment.

The Senate proceeded to consider the bill as in Committee of the Whole. A motion was made, by Mr. REED, to strike out the words, "carrying up in solid work, and repairing the west side of the north wing, providing permanent accommo-

dations for the library;" and on the question to agree to the striking out of these words, it was determined in the affirmative—yeas 20, nays 10, as follows:

YEAS—Messrs. Anderson, Bradley, Crawford, Franklin, Gilman, Goodrich, Hillhouse, Howland, Kitchel, Lloyd, Mathewson, Mitchill, Moore, Parker, Pickering, Reed, Robinson, Sumter, Tiffin, and Turner.

NAYS—Messrs. Condit, Gaillard, Giles, Gregg, Milledge, Pope, Smith of New York, Smith of Tennessee, Thruston, and White.

And the PRESIDENT reported the bill to the House amended.

On motion of Mr. THRUSTON the bill was further amended, by inserting, after the word "staircase," the words, "and providing temporary and adequate accommodations for the library, in the room now used for that purpose, and in the one in which the Senate now sit;"

On motion, by Mr. REED, to strike out from the clause "for improvements and repairs of the President's House and square, including a carriage house," the words, "and square:" it was determined in the negative—yeas 15, nays 14, as follows:

YEAS—Messrs. Anderson, Crawford, Franklin, Gilman, Goodrich, Hillhouse, Howland, Lloyd, Mathewson, Moore, Parker, Pickering, Reed, Sumter, and Turner.

NAYS—Messrs. Bradley, Condit, Gaillard, Giles, Gregg, Kitchell, Milledge, Mitchill, Pope, Robinson, Smith of New York, Smith of Tennessee, Thruston, Tiffin, and White.

On motion, by Mr. THRUSTON, the clause for finishing the road on the south side of the President's square, and gravelling the same, with a bridge across the Tiber, on the north side of Pennsylvania avenue, to accommodate foot passengers ——thousand dollars," was amended, by inserting the words "of stone and brick." after the word "bridge;" and on motion, by Mr. REED, to strike out the whole clause as amended, it was determined in the affirmative—yeas 16, nays 14, as follows:

YEAS—Messrs. Anderson, Crawford, Franklin, Goodrich, Hillhouse, Howland, Kitchell, Lloyd, Mathewson, Moore Parker, Reed, Sumter, Tiffin, and Turner.

NAYS—Messrs. Bradley, Condit, Gaillard, Giles, Gilman, Gregg, Milledge, Mitchill, Pope, Robinson, Smith of New York, Smith of Tennessee, Thruston, and White.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The bill to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire, was read the second time, and considered as in Committee of the Whole; and the President having reported the bill to the House without amendment, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. TIFFIN, from the committee, reported the amendment to the bill entitled "An act for the relief of Augustin Serry," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. WHITE, from the committee to whom was referred the bill entitled "An act authorizing the proprietors of squares and lots in the City of Washington to have the same subdivided and admitted to record," reported it without amendment.

Ordered, That this bill pass to a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress, the report of the Director of the Mint, of the operations of that establishment during the last year.

TH. JEFFERSON.

JANUARY 5, 1809.

The Message and communications were read and ordered to lie for consideration.

FRIDAY, January 6.

RETURN JONATHAN MEIGS, Jun., appointed a Senator by the General Assembly of the State of Ohio, to fill the vacancy occasioned by the resignation of JOHN SMITH, and, also, for six years ensuing the third day of March next, attended, and produced his credentials, which were read; and the oath prescribed by law was administered to him.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto," with amendments, in which they request the concurrence of the Senate.

The amendments were read, and ordered to lie for consideration.

Mr. TIFFIN, from the committee, reported the bill making further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes; also, the bill to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire, correctly engrossed.

Mr. GILES presented the petition of Richard Bland Lee, stating the damages that he hath sustained from the troops of the United States when stationed at Harper's Ferry, and otherwise, and praying immediate and adequate redress; and the petition was read, and referred to Messrs. GILES, FRANKLIN, and MITCHILL, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress a statement of the works of defence which it has been thought necessary to provide in the first instance for the security of our seaport towns and harbors, and of the progress towards their completion. Their extent has been adapted to the scale of the appropriation, and to the circumstances of the several places.

The works undertaken at New York are calculated to annoy and endanger any naval force which shall enter the harbor, and still more, one which should attempt to lie before the city. To prevent altogether the entrance of large vessels, a line of blocks across the harbor has been contemplated, and would, as is believed, with the auxiliary means already provided, render that city safe against naval enterprise. The expense, as well as the importance of the work, render it a subject proper for the special consideration of Congress.

At New Orleans, two separate systems of defence are necessary, the one for the river, the other for the lake, which at present can give no aid to one another. The canal now leading from the lake if continued into the river, would enable the armed vessels in both stations to unite, and to meet in conjunction an attack from either side. Half the aggregate force would then have the same effect as the whole; or the same force double the effect of what either can now have. It would also enable the vessels stationed in the lake, when attacked by superior force, to retire to a safer position in the river. The same considerations of expense and importance render this also a question for the special decision of Congress.

TH. JEFFERSON.

JANUARY 6, 1809.

Accompanying the message is a detailed report of the Secretary of War, which shows that much has been done during the past year towards the defence of our ports and harbors.

The following are the sums expended in the several States:

New Orleans	$80,373
Georgia, South and North Carolina	204,289
Virginia and Maryland	111,432
Delaware, Pennsylvania, and N. Jersey	5,000
New York	379,133
Connecticut and Rhode Island	11,000
Massachusetts and New Hampshire	223,475
	1,014,702

The Message and Report were referred to Messrs. GILES, MITCHILL, SUMTER, ANDERSON, and MILLEDGE.

The bill making further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes, was read the third time, and passed.

The bill to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire, was read the third time, and passed.

The bill entitled "An act authorizing the proprietors of squares and lots in the City of Washington to have the same subdivided and admitted to record," was read the third time, and passed.

The Senate resumed the consideration of the motion made on the 4th instant:

"That the President of the United States be requested to cause to be laid before the Senate all the official as well as informal correspondence between Mr. Rose, the late British Minister to the United States, and the Secretary of State, or any other officer of the Government, which has not already been communicated to Congress.

And a motion was made, by Mr. PICKERING, to insert the following as a preamble to the resolution:

"It having been stated to the Senate, by a member in his place, that besides the formal negotiations with the British Government, relative to the attack made on the United States' frigate Chesapeake, exhibited in the documents communicated to Congress during their last session, by the President of the United States, there had been certain informal overtures upon the same subject, between the British Minister, Mr. Rose, or some person authorized by him, and some person or persons on the part of our Government, which overtures and their result ought, according to the opinion expressed by the said member, to be made known to the people of the United States."

And on motion, by Mr. PICKERING, to amend the said preamble, by inserting, after the word "place," the words "that he had reason to believe:" it was determined in the negative. And, on the question to agree to the preamble, it was determined in the negative—yeas 5, nays 24, as follows:

YEAS—Messrs. Goodrich, Hillhouse, Lloyd, Pickering, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Gregg, Kitchel, Mathewson, Meigs, Milledge, Moore, Parker, Pope, Reed, Robinson, Smith of New York, Smith of Tenessee, Sumter, Thruston, Tiffin, and Turner.

And, on the question to agree to the original motion, it was determined in the negative—yeas 7, nays 22, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Kitchel, Mathewson, Meigs, Milledge, Moore, Parker, Pope, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

On motion, by Mr. WHITE, that the bill, entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto," be printed for the use of the Senate, it was determined in the negative.

Mr. THRUSTON reported from the committee, that they had this day laid before the President of the United States the enrolled bill, entitled "An act authorizing the President of the United States to employ an additional number of revenue cutters;" also, the enrolled bill, entitled "An act authorizing the payment of certain pensions by the Secretary of War, at the seat of Government."

SATURDAY, January 7.

ENFORCING THE EMBARGO.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto;" and agreed to several amendments.

On motion, by Mr. LLOYD, to amend the amend-

ment to seventh section, after the word defendant, by inserting the words "provided it be practicable to produce them, of which practicability the court before whom the cause is pending shall judge and determine:" it was determined in the negative—yeas 10, nays 20, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Mathewson, Parker, Pickering, Reed, Sumter and White.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Meigs, Milledge, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Thruston, Tiffin, and Turner.

On motion, by Mr. HILLHOUSE, to amend the second amendment to the tenth section, after the word "court" by insertion of these words: "provided nothing herein contained shall be construed to deprive the party aggrieved of his right of trial according to the rules of common law, as practised in the State where the parties reside," it was determined in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Mathewson, Meigs, Milledge, Mitchill, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

On motion to concur in the amendment, as follows: after the word "defence," at the end of the section, add:

"And any person aggrieved by the acts of any collector, in either of the cases aforesaid, may file his petition before the district court of the district wherein the collector resides, stating the facts of his case, and, thereupon, after due notice given to the district attorney and the collector, the said court may summarily hear and adjudge thereupon as law and justice may require, and the judgment of the said court, and the reason and facts whereon it is grounded, shall be filed among the records of said court; and if restoration of the property detained or taken in custody, or permission to load as aforesaid shall be decreed, it shall be upon the parties giving such bond with sureties, as is or shall be required to be taken in similar cases by the collector, and not otherwise; but, if the said court shall adjudge against such petition, the collector shall be entitled to treble costs, which shall be taxed for him, and execution awarded accordingly by the court."

It was determined in the affirmative—yeas 23, nays 7, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Mathewson, Meigs, Milledge, Mitchill, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

NAYS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd Pickering, Reed, and White.

On motion, by Mr. WHITE, to postpone the further consideration of the bill and the amendments to the first Monday in November next, it was determined in the negative—yeas 7, nays 22, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Matthewson, Meigs, Milledge, Mitchill, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

Mr. REED moved to strike out "Secretary of the Treasury," in the 13th section, for the purpose of inserting "President of the United States." He supported the motion with a few pertinent remarks, which were not replied to.

When the vote was about to be taken, Mr. WHITE rose, and observed—

Mr. President, I have no hope of the present amendment succeeding, and, indeed, I distinctly perceive it is not the intention of the majority to vary the bill in any respect from the form in which it is now presented to us. In this, sir, perhaps, they may be right, for I view the bill myself as so vitally poisonous, so radically corrupt, that I do not believe it is amendable. It is under this solemn impression, I confess, more from a sense of duty than a hope of success, that I now arise to make one other last effort to ward off, if possible, this bold and deadly charge upon the Constitution and liberties of this country. For the purpose, therefore, of obtaining another vote of the Senate upon the bill itself, as well as the amendments, I now move you, that the further consideration of the subject be postponed till the first Monday in December next. I thank God that it is at least accorded to one branch of the Legislature to pass upon this bill in the day time, and to this I must attribute the sudden dumbness that seems to have fallen upon its advocates here—their refusal, not only to discuss, but their evident reluctance even to hear any discussion on this subject.

Upon the motion which I have submitted, I consider the bill, as well as the amendments from the other House, open to debate. It was not, however, with this view that I made the motion. I have no wish to talk for the sake of being heard, or to occupy the time of the Senate without, at least, the hope of attaining some object. I had not intended to have said a word on this subject, nor will I now enter upon the merits of the bill. My objections lay to every part of it. Yet, sir, I could not have patience to examine the minute details of a measure in the prominent points of which I see, concealed, a blow directed at the vital parts of everything dear to a freeman. Pass this bill, and the liberties of your country are prostrated. The civil authority is subjected to the military. Not only the property, but the personal liberty, nay, the life of every man in the community, is at the mercy of the Executive; and, what is worse, at the mercy of any instrument he may authorize to call out the military, under the pretence of executing the embargo laws. I see, in this bill, several palpable and glaring violations of the Constitution of the United States, which I am sworn to support. I consider it as laying the whole country under military law—as nothing less than a declaration of war, on the part of the Government, against our own citizens. And has it come to this, sir? For the purpose of executing the embargo, are we ready to sacrifice, or, at least, to hazard, everything dear and valuable? Let me beg gentlemen, once more, to read the eleventh section of this bill. It enacts, that—

"It shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces, or militia of the United States, or of the Territories thereof, as may be judged necessary, in conformity with the provisions of this, and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody, any ship or vessel, or, of taking into custody and guarding, any specie, or articles of domestic growth, produce, or manufacture; and, also, for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same."

I am aware, sir, that it may be said we have, in our statute books, a precedent for this section, and that the fifth section, I think, (for I have no book before me,) of a law further to preserve peace within the ports and harbors of the United States, may be resorted to in justification of it. But, it is a precedent only in verbiage. The cases are essentially different. The authority there given to the President, was for the purpose of preserving peace within our own waters, and could be exercised only against an offending vessel of war of a foreign nation. Is that the present case? Is it like it? No, sir. By this section, you delegate to the President, and to his irresponsible agents, uncontrolled authority over all the naval and military forces of the United States now in service and about to be raised; not, give me leave to say, for the purpose of preserving peace—not to be exercised against a foreign enemy, but, to be turned against the bosoms of your own citizens. Will freemen submit to this? Let me admit that the act will not be executed in this way—that even this inordinate and dangerous power may be safely confided to our present Executive—yet, I shudder at the precedent. It is in the days of political calms, and of blind confidence in a favorite, that we are in danger of establishing precedents that, in more stormy times, may be resorted to by ambitious and desperate men, to subvert the Constitution and liberties of our country. And I contend, sir, that, whenever your Executive chair shall be filled by a bold and ambitious man, supported by a blind and dominant party in the two Houses of Congress, and such a man shall wish to play the tyrant, if he first procures a sufficient army to be provided, under any pretences, and can then get delegated to him, by Congress, the powers given in this eleventh section of the bill, his object is accomplished. Your Constitution and your liberties are at an end. He will establish a southern, a western, an eastern, or any other dynasty he pleases, in this country. And this bill will then be shown to Congress. They will then be told that no danger is to be apprehended from such a grant of power to a President, because similar powers had heretofore been given and no injury had resulted to the country.

I arose, sir, with a promise not to occupy the time of the Senate, and it was then, indeed, my only object to move a postponement of the bill. I have, therefore, already said much more than I intended; but, while I am up, I must be permitted to notice for a moment the thirteenth section, which is not an original part of the bill, but has been sent to us by the House of Representatives. This section authorizes the hiring of thirty vessels, not exceeding an hundred and thirty tons each, to be armed and equipped for sea, for the purpose of executing the embargo laws. Sir, the man must be blind who cannot see through this. It savors so strongly of the source from whence it came that it is impossible to mistake it for a moment. It has the very fish-oil about it. It is a Marblehead trick. This is a rider to the famous Marblehead patriotic resolutions, read to us some days since by the gentleman from Virginia, (Mr. GILES.) These Marblehead patriots, not being permitted, during the embargo, to export their fish, for the want of some other capital, are about to commence trade upon their patriotism, and have sent that to market. It seems they not only approve of the embargo, but, with much patriotic modesty, recommend to the Government to hire them and their hundred-and-thirty-ton vessels to execute it. It is not impossible that this thirteenth section was considered and approved of by the same meeting that adopted the resolutions, and is now intended as a Governmental premium to buy patriots with. Hire these Marblehead men, sir; arm their vessels, and tell one of them to victual his vessel for a three, or six months' cruise upon our coast, and to go to sea; my word for it, the next news you have of your patriot, he is in the West Indies, exchanging the pork and flour of the United States for coffee and sugar for himself. This was the object of the resolutions. This is the concealed object of the section. It is intended to disgrace the Government by making it an accessary to the violation of its own laws. But, sir, I have another objection to this section. These thirty vessels, in addition to the twelve revenue cutters we have lately provided, and those now in service, will place under the exclusive direction, not of the President of the United States, but of a subordinate officer, the Secretary of the Treasury, more than fifty vessels of war. A larger number than has ever been intrusted to the control of the Government itself. And who are to appoint these officers? The President and this Senate? No, sir; the Secretary of the Treasury. He is to be the Marblehead President. We all know how difficult it is to restrain even the young officers commanding our gunboats, selected and appointed as they are by the President and Senate, from committing acts of violence and outrage upon our citizens. And what control do you expect the Secretary of the Treasury will be able to assume over these Marblehead marauders if once they are turned loose upon the little coasting commerce that yet remains to our citizens? Sir, I had rather see so many French

or British picaroons upon the coast, because they would not be permitted to rob with impunity.

Mr. HILLHOUSE.—I shall not trespass on the patience of the Senate by repeating any arguments already submitted to their consideration. But it will be remembered that the debate on passing the bill as it went from the Senate, was protracted to a late hour, when both speakers and hearers were much fatigued, and it became impossible to consider every point. I will therefore now take the liberty of noticing the precedents upon which the gentleman from Virginia (Mr. GILES) so confidently relies to justify the principles of this bill.

The first is, that clause in one of the embargo acts which gives to the President of the United States a discretionary power to suspend the embargo, "in whole or in part," which was indeed an extraordinary power, and nothing short of committing into his hands the power of involving the country in war. The gentleman ought further to have stated, that it was opposed at the time on that ground, and that the votes of gentlemen opposed to this bill are recorded on the journals against it. Who gave to the Executive that extraordinary power? It was the like overwhelming majority that laid the embargo, and would now enforce it by the arbitrary provisions contained in this bill. It is indeed extraordinary, that to justify an arbitrary and unwarrantable grant of power, gentlemen should quote a precedent, of a like nature, of their own making.

An act of March 3d, 1807, authorizing the President of the United States to use military force to remove from public lands, persons attempting to make settlements thereon, is also relied on to justify the principles of this bill; but the gentleman from Virginia will find by the Journals of the Senate, that an act making provision for carrying into execution an Indian treaty, was, at a previous session rejected, because it contained a like arbitrary and unwarrantable provision. The act, as stated by that gentleman, was afterwards passed; not, however, without a strenuous opposition—the votes were 17 to 15, as appears by the yeas and nays.* My vote was against that act, as I hope it will be against every act containing like arbitrary and oppressive provisions. The gentlemen from Virginia advocated and voted for that act, as he has done for others containing grants of extraordinary power to the Executive. Formerly that gentleman's voice was one of the loudest, and I think I have heard none louder, in proclaiming his love and adoration for the people; but now that he is got into the saddle, he, like many others who have acquired power in the same way, is for riding on the necks of the people, and for exercising power in an arbitrary and oppressive manner.

I shall next notice the law of March 31, 1805, and a law containing a like provision, passed June 4th, 1794. As the gentleman from Virginia seems to attach some importance to his precedent, from the circumstance of my having in some instances voted for them, I do not hesitate to declare that I voted for the law of 1805, and it is probable I did also for that of 1794; as I could have no objection to a law which was necessary to preserve peace, and prevent insults to our Government, or the violation of the laws within our ports and harbors, and on waters within our jurisdiction, by foreign armed ships, or vessels fitting out with hostile views against any Power with which we were in amity. The military force authorized by those laws would in no instance be employed on the land, and against our own citizens, except to prevent the carrying on a military expedition or enterprise against such foreign Power. So cautious were the administrators of the General Government of calling in the aid of the military to enforce the laws, that no express power was given to the President of the United States by any act of Congress, to employ any part of the standing army or naval force, until, under the present Administration, the law mentioned by the gentleman from Virginia, of March 3d, 1807, in my opinion a very proper law, was passed, giving the President the power, in all cases where he might call forth the militia for the purpose of suppressing insurrections, or of causing the laws to be executed, to employ for the same purpose, such part of the land and naval force of the United States, as he may judge necessary, "having first observed all the prerequisites of the law in that respect." In the two last lines of this law are a few words of great significance and import—"having first observed the prerequisites of the law." The military is not to take the lead, as in the present bill, but is to come in aid of, and be subordinate to the civil power. That it may appear on our Journals that no effort consistent with the rules of the Senate has been omitted to prevent the passage of this fatal bill, I am glad the gentleman from Delaware, (Mr. WHITE,) has brought forward his motion for a postponement of the bill to the first Monday of December next. The amendments from the House of Representatives have not in the least reconciled me to the bill—one only is of any value. That offered to the seventh section is a mockery of justice, an insult to the understandings of the American people. By the original bill, as it passed the Senate, "neither 'capture, distress, nor any other accident what-'ever, shall be pleaded or given in evidence." The amendment proposes to add:

"Unless such capture shall be expressly proved to have been hostile, and such distress or accident occasioned by no negligence or deviation; nor unless such vessel shall have been, from the commencement of the voyage, wholly navigated by a master, mate or mates, mariners, and crew, all whom shall be citizens of the United States; nor unless such mate or mates, mariners and crew, shall all, if living, and the proof of their death shall lie on the defendant, be produced on the trial, and sworn as competent witnesses; nor unless such master, mate or mates, mariners and crew, shall have signed a shipping paper in due form of law, and a copy thereof, designating specially the master, mate or mates, mariners and crew, and their permanent places of residence, shall have been lodged with the collector of the port, to whom the bond aforesaid shall have been given before the commencement of the voyage; and subscribed and sworn to by the master before such collector; and any master who shall falsely, wilfully, and corruptly swear as to the facts contained in such copy, shall, on conviction, suffer the pains and penalties of perjury."

*On the question, Shall the bill pass? it was determined in the affirmative, yeas 17, nays 15.

YEAS—Messrs. Baldwin, Bradley, Condit, Fenner, Gaillard, Giles, Howland, Kitchel, Maclay, Milledge, Mitchill, Moore, Plumer, Smith of Maryland, Smith of New York, Smith of Tennessee, and Turner.

NAYS—Messrs. Adams, Bayard, Clay, Gilman, Hillhouse, Logan, Pickering, Reed, Smith of Ohio, Smith of Vermont, Stone, Thruston, Tracy, White, and Worthington.

The impracticability and absurdity of this amendment will be best exemplified by a plain case. A vessel bound from Baltimore to Charleston, South Carolina, say the regular packet, takes on board flour and other articles, to the value, including vessel, of twenty thousand dollars, and twenty members of Congress, who must be presumed to be men of character. On the passage, in a storm, to save the vessel, and the lives of the passengers, part of the cargo is thrown overboard. On the arrival at Charleston every remaining article is fairly landed, and a certificate obtained, which with the testimony of those twenty members, to prove that every article not contained in the certificate was in fact thrown into the sea, are offered to exonerate the bondsmen from the penalty of the bond, which cannot be less than one hundred and twenty thousand dollars. By this amendment the evidence cannot be admitted; but judgment must be rendered for the whole amount of the bond; unless among other conditions, difficult and embarrassing, "the mate or 'mates, mariners and crew, shall all, if living, and 'the proof of their deaths shall be on the defend-'ant, be produced on the trial, and sworn as com-'petent witnesses." It is hardly a supposeable case, that the bondsmen residing in Baltimore, where the suit must be commenced, should after the lapse of two months, before which no suit can be brought, be able to bring from Charleston, and to court, the mate or mates, and every one of the mariners and crew: some one may have been taken out on the passage by an armed vessel of a foreign nation; or after the arrival at Charleston, it would be marvellous indeed, if some one or more of the crew had not within two months shipped on board some other vessel, and gone to parts unknown to the bondsmen. In the bill there is no provision to enable the master or bondsmen to hold the mate, mariners and crew in custody until a trial can be had, they cannot even summon them until a suit is commenced. In case of a hostile capture, most of the mariners and crew would be carried away to a foreign country, and it would be impossible for the bondsmen to have them in court.

Having offered my sentiments on the various amendments from the House of Representatives, and the amendments offered in the Senate to those amendments as they were severally under consideration, I shall now close with a few remarks on the proposed new section for hiring and employing thirty vessels, not exceeding one hundred and thirty tons each, for enforcing the laws of the United States on the seacoast, and to be employed under the direction of the Secretary of the Treasury. The Constitution has placed the military and naval force of the United States under the direction of the President, who is to "take care that the laws be faithfully executed." This section places thirty armed vessels, a naval force of no small import, under the direction of the Secretary of the Treasury, for enforcing the laws. Even the revenue cutters, which from the circumstance of their commanders being deemed and by law declared to be officers of the customs, fall under the direction of the Secretary of the Treasury, under whose superintendence the law has placed the collection of the revenue; even those revenue cutters, when otherwise employed than in the collection of the revenue, are not permitted to remain under the direction of the Secretary; who of all the officers of Government is the most improper to have the direction of the military and naval force to be employed in executing the embargo; for to him alone is confided the power of mitigating the rigor of the several acts, and of remitting penalties and forfeitures. There is a manifest impropriety in making the same person both judge and executioner. The gentleman from Virginia, says we have heretofore reproached the Administration with the want of energy; and complained of them for relying on proclamations, paper resolutions, and legislative acts; and now that something is proposed that has in it the appearance of energy, we are equally clamorous in heaping reproach upon them. Sir, it is the inversion of the proper order of things of which we complain. The Administration and their friends have been making proclamations, paper resolutions, and legislative acts, to be aimed at foreign nations, against whom they are unavailing; whereas, in regard to our own citizens, aided by the marshal and posse commitatus, they might be effectual. And to complete the inversion, the same Administration and their friends have unnecessarily, and in my apprehension, wantonly directed against our own citizens, the bayonet, the military and naval force of our country, which might be efficient against foreign aggresssions. It is for adopting this strange, this unaccountable policy we are dissatisfied.

I have opposed the bill in every stage of its progress, and used every exertion in my power to prevent its passage. I shall now only ask that the question may be taken by yeas and nays, that I may once more record my name on the journals against a measure, which, if acquiesced in, may prove fatal to the liberties of my country.

The question was now taken on Mr. REED's amendment, and determined in the negative—yeas 10, nays 20, as follows:

YEAS—Messrs. Gilman, Goodrich, Gregg, Hillhouse, Lloyd, Mathewson, Meigs, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Bradley, Condit, Craw-

ford, Franklin, Gaillard, Giles, Howland, Kitchel, Milledge, Mitchill, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

On the question to agree to the amendment proposing a new section, as follows:

SEC. 13. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to hire, arm, and employ, thirty vessels, not exceeding in tonnage one hundred and thirty tons each, belonging to citizens of the United States, and so many seamen as shall be necessary to man the same for immediate service, in enforcing the laws of the United States on the seacoast thereof, and to dismiss the same from service whenever he shall deem the same expedient. *Provided, however*, That such hiring, arming, and employment, shall not be for a term exceeding one year; and the said ships or vessels, when so hired and armed, shall be employed under the direction of the Secretary of the Treasury."

It was determined in the affirmative—yeas 17, nays 13, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Giles, Howland, Kitchel, Milledge, Mitchill, Moore, Pope, Robinson, Smith of New York, Smith of Tennessee, Tiffin, and Turner.

NAYS—Messrs. Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Lloyd, Mathewson, Meigs, Pickering, Reed, Sumter, Thruston, and White.

On the question to agree to the amendment proposing a new section, as follows:

SEC. 14. *And be it further enacted*, That the powers given to the President of the United States, by the seventh section of the act of March the twelfth, one thousand eight hundred and eight, to grant permission to citizens having property of value in places without the jurisdiction of the United States, to despatch vessels for the same, shall henceforth cease."

It was determined in the affirmative—yeas 26, nays 4, as follows:

Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Gregg, Howland, Kitchel, Mathewson, Meigs, Milledge, Mitchill, Moore, Pope, Reed, Robinson, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Goodrich, Hillhouse, Lloyd, and Pickering.

So it was *Resolved*, That the Senate concur in all the amendments to the bill last mentioned.

MONDAY, January 9.

Mr. MILLEDGE, from the committee to whom was referred the petition of William Brown, late an officer in the Revolutionary army, made report. Whereupon,

Resolved, That the petitioner have leave to withdraw his petition.

TUESDAY, January 10.

JAMES A. BAYARD, from the State of Delaware, attended.

Mr. GILES presented the petition of the President and Directors of the Bank of Potomac, praying an act of incorporation, with such privileges as may appear reasonable, to commence and take effect from and after the expiration of the term of the charter of the Bank of the United States, for reasons mentioned in the petition; which was read, and referred to the Secretary of the Treasury, to consider and report thereon.

The PRESIDENT communicated the petition of Ebenezer S. Platt, now of Philadelphia, stating his services and sufferings during the Revolutionary war; and that, in consideration thereof, Congress, in August 1777, voted him one hundred guineas, which sum he hath never received. Being now, in his old age, through misfortune reduced to indigent circumstances, he prays that Congress will take his case into consideration, and grant him such relief as his services and sufferings may have merited; and the petition was read, and referred to Messrs. MILLEDGE, FRANKLIN, and BRADLEY, to consider and report thereon.

On motion by Mr. GILES, it was agreed that two members be added to the committee on the Message of the President of the United States, of the 6th instant, on the subject of fortifications; and Messrs. LLOYD and GILMAN were appointed.

Mr. MITCHILL presented the petition of Ebenezer Stevens and others, merchants, of the city of New York, stating, that they have imported from the East Indies large quantities of articles not intended for home consumption, and praying that provision may be made by law, whereby the petitioners may be permitted to re-export their aforesaid merchandise within a reasonable time after the embargo shall be raised, with the benefit of such drawback as has been in such cases heretofore allowed, for reasons mentioned in the petition; which was read, and ordered to lie on the table.

Mr. SMITH, of Maryland, from the committee appointed on the 11th of November last, asked and obtained leave to bring in a bill supplementary to an act, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States;" and the bill was read, and passed to the second reading.

WEDNESDAY, January 11.

The bill supplementary to an act, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," was read the second time, and considered as in Committee of the Whole; and the PRESIDENT reported it to the House amended.

On motion, by Mr. HILLHOUSE, to strike out the following words from the second section of the bill, "to be painted and superscribed with such motto or device as the President may direct;" it was determined in the affirmative—yeas 12, nays 12, as follows:

YEAS—Messrs. Bayard, Crawford, Franklin, Gilman, Goodrich, Hillhouse, Howland, Lloyd, Mathewson, Parker, Reed, and White,

NAYS—Messrs. Anderson, Bradley, Condit, Gaillard, Gregg, Meigs, Milledge, Mitchill, Pope, Smith of Maryland, Sumter, and Turner.

The votes being equally divided, the PRESIDENT determined the question in the affirmative. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transportation of certain documents, by mail, free of postage," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read; and on the question, Shall this bill be read a second time? it was determined in the negative.

Mr. BRADLEY gave notice that he should, to-morrow, ask leave to bring in a bill making further provision for a corps of engineers.

THURSDAY, January 12.

On motion, by Mr. MITCHILL, that the Senate do reconsider their vote of yesterday on the second reading of the bill, entitled "An act to authorize the transportation of certain documents, by mail, free of postage," it was determined in the negative—yeas 12, nays 13, as follows:

YEAS—Messrs. Crawford, Kitchel, Meigs, Mitchill, Parker, Reed, Robinson, Smith of Maryland, Sumter, Tiffin, Turner, and White.

NAYS—Messrs. Anderson, Bayard, Bradley, Condit, Franklin, Gaillard, Gilman, Gregg, Mathewson, Milledge, Moore, Smith of Tennessee, and Thruston.

Mr. TIFFIN, from the committee, reported the bill supplementary to an act, entitled "An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States," correctly engrossed; and the bill was read the third time, and passed.

Agreeably to notice given yesterday, Mr. BRADLEY asked and obtained leave to bring in a bill making further provision for the corps of engineers; which was read, and passed to the second reading.

FRIDAY, January 13.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now render to Congress the account of the fund established for defraying the contingent expenses of Government for the year 1808. Of the $20,000 appropriated for that purpose, $2,000 were deposited in the hands of the Attorney General of the United States, to pay expenses incident to the prosecution of Aaron Burr and his accomplices, for treasons and misdemeanors alleged to have been committed by them; $990 were paid to the order of Governor Williams on the same account; the balance, of $17,010, remains in the Treasury unexpended.

TH. JEFFERSON.

JANUARY 12, 1809.

The Message was read, and ordered to lie for consideration.

Mr. MITCHILL presented two memorials from the surviving officers of the New York and Connecticut lines in the Revolutionary army, stating the losses they have sustained by the commutation of half pay, which they were induced to receive; and praying remuneration, for reasons mentioned in the memorials; which were read, and referred to the committee appointed on the 12th of December last, to consider and report upon similar memorials.

The bill making further provision for the corps of engineers was read the second time, and made the order of the day for Monday next.

Mr. SMITH, of Tennessee, gave notice that he should to-morrow ask leave to bring in a bill supplementary to the act to amend an act establishing circuit courts, and abridging the jurisdiction of the district courts of the district of Kentucky, Tennessee, and Ohio.

MONDAY, January 16.

The credentials of MICHAEL LEIB, appointed a Senator by the Legislature of the State of Pennsylvania, to fill the vacancy occasioned by the resignation of Samuel Maclay, were read, and ordered to lie on file.

The PRESIDENT communicated the general account of the Treasurer of the United States, from October 1, 1807, to October 1, 1808; as, also, the accounts of the War and Navy Departments for the same period; together with the reports of the accounting officers of the Treasury thereon; which were read for consideration.

Mr. MITCHILL, from the committee appointed on the 3d instant, "to inquire whether any and what provisions ought to be made, at this time, for the relief of sick and disabled seamen of the United States," asked and obtained leave to bring in a bill for the relief of sick, disabled, and distressed seamen; and the bill was read, and passed to the second reading.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the bill making further provision for the corps of engineers.

On motion, by Mr. MITCHILL, to strike out, after the word "repealed," to the end of the bill, as follows:

"And thereafter the said corps of engineers, constituting the Military Academy, shall be removed, under the direction of the President of the United States, from West Point, and stationed at Washington, in the District of Columbia:"

It was determined in the negative—yeas 12, nays 16, as follows:

YEAS—Messrs. Gilman, Goodrich, Hillhouse, Howland, Kitchel, Mathewson, Mitchill, Parker, Robinson, Smith of Maryland, Smith of New York, and Turner.

NAYS—Messrs. Anderson, Bayard, Bradley, Condit, Crawford, Franklin, Gaillard, Gregg, Meigs, Milledge, Moore, Pope, Smith of Tennessee, Sumter, Thruston, and White.

On motion, by Mr. BRADLEY, the bill was referred to a select committee; and Messrs. BRADLEY, MITCHILL, and SMITH of Maryland, were appointed the committee.

Mr. MITCHILL, from the committee to whom was referred, on the 30th of December last, the Message of the President of the United States of that date, respecting a tribe of Alabama Indians, asked and obtained leave to bring in a bill for the relief of certain Alabama Indians; which was read, and passed to the second reading.

Mr. SMITH, of Maryland, submitted the following motion:

Resolved, That the President be requested to direct the proper officers to report to this House the measures which have been adopted to carry into execution the act of Congress, of 21st February, 1806, appropriating two millions of dollars for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations; particularly whether the said two millions of dollars, or any portion thereof, was sent in specie, or by bills of exchange, to either France, Spain, Holland, or any other country, for the purpose of carrying into execution the said act; and, also, to what object the sums so remitted have been applied, or were authorized or intended to be applied.

Mr. SMITH, of Tennessee, asked and obtained leave to bring in a bill supplementary to the act, entitled "An act to amend the act, entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio;" and the bill was read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of sick, disabled, and distressed seamen," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

TUESDAY, January 17.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines."

The Senate resumed the consideration of the motion made yesterday; and

Resolved, That the President be requested to direct the proper officers to report to the House the measures which have been adopted to carry into execution the act of Congress of 21st February, 1806, appropriating two millions of dollars for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations; particularly whether the said two millions of dollars, or any portion thereof, was sent in specie, or by bills of exchange, to either France, Spain, Holland, or any other country, for the purpose of carrying into execution the said act; and, also, to what object the sums so remitted have been applied, or were authorized or intended to be applied.

Ordered, That the Secretary lay this resolution before the President of the United States.

The bill supplementary to the act, entitled "An act to amend the act, entitled 'An act establishing circuit courts and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," was read the second time, and referred to Messrs. ANDERSON, SMITH of Tennessee, and CRAWFORD, to consider and report thereon.

The following Message was received from the President of the United States:

To the Senate and House of Representatives of the United States:

I communicate to Congress certain letters which passed between the British Secretary of State, Mr. Canning, and Mr. Pinkney, our Minister Plenipotentiary at London. When the documents concerning the relations between the United States and Great Britain were laid before Congress, at the commencement of the session, the answer of Mr. Pinkney to the letter of Mr. Canning had not been received, and a communication of the letter alone would have accorded neither with propriety nor with the wishes of Mr. Pinkney. When that answer afterwards arrived, it was considered that, as what had passed in conversation had been superseded by the written and formal correspondence on the subject, the variance in the statement of what had verbally passed was not of sufficient importance to be made the matter of a distinct and special communication. The letter of Mr. Canning, however, having lately appeared in print, unaccompanied by that of Mr. Pinkney, in reply, and having a tendency to make impressions not warranted by the statements of Mr. Pinkney, it has become proper that the whole should be brought into public view.

TH. JEFFERSON.

JANUARY 17, 1809.

The Message and communications were read, and one thousand copies thereof ordered to be printed for the use of the Senate.

The bill from the House of Representatives, entitled "An act for the relief of sick, disabled, and distressed seamen," was read the second time, and referred to Messrs. ANDERSON, MITCHILL, and BRADLEY, to consider and report thereon.

Ordered, That the bill reported by a committee of the Senate for the relief of sick, disabled, and distressed seamen, it having been read the second time, be referred to the same committee.

The bill for the relief of certain Alabama Indians was read the second time, and ordered to lie for consideration.

The Senate proceeded to consider the resolution of the House of Representatives disagreeing to the amendments of the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," and on motion, by Mr. ANDERSON, that the Senate do recede from their first amendment, in the words following:

SEC. 1. After the word "assembled," insert as follows: "That there be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, and gunboats. That the President of the United States be authorized and empowered to cause the frigates and armed vessels, so soon as they can be prepared for actual service, respectively, to be stationed at such ports and places on the seacoast, as he may deem most expedient, or to

cruise on any part of the coast of the United States, or territories thereof:"

It was determined in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Kitchel, Sumter, Tiffin, and Turner.

NAYS—Messrs. Bayard, Bradley, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Lloyd, Mathewson, Meigs, Milledge, Mitchill, Moore, Parker, Pickering, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and White.

On motion, by Mr. BRADLEY,

Resolved, That the Senate do insist on all their amendments to the bill last mentioned, and ask a conference thereon.

And Messrs. BRADLEY, GILES, and HILLHOUSE, were appointed the managers on the part of the Senate.

Mr. MITCHILL presented the memorial of William Hardy, an officer in the Revolutionary war, stating his services and sufferings, and praying relief.

Ordered, That it be referred to Messrs. MITCHILL, CONDIT, and GILMAN, to consider and report thereon.

WEDNESDAY, January 18.

The Senate resumed, as in Committee of the Whole, the second reading of the bill for the relief of certain Alabama Indians; and the President having reported it to the House without amendment, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

THURSDAY, January 19.

MICHAEL LEIB, appointed a Senator by the Legislature of the State of Pennsylvania, to fill the vacancy occasioned by the resignation of the honorable Samuel Maclay, attended, and the oath prescribed by law was administered to him.

Mr. TIFFIN presented sundry petitions from purchasers of public lands in the State of Ohio, stating "that, from the various incidents to which new settlers are liable, and more especially from the great uncertainty of commanding cash for produce at the present time, they will not be able to make up the final payments for their lands at the time they will respectively become due," and praying that Congress will "so modify the present land laws as will guard them from the embarrassments and ruin they otherwise apprehend may fall upon them;" and the petitions were read, and referred to Messrs. TIFFIN, GREGG, and BRADLEY, to consider and report thereon.

The PRESIDENT communicated the report of the Postmaster General respecting the salaries allowed to the clerks in his office, in obedience to the act of Congress of 21st February, 1806; which was read for consideration.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the amendments of the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines." They agree to the conference proposed by the Senate on the disagreeing votes of the two Houses, and have appointed managers on their part. The House have passed a bill, entitled "An act for dividing the Indiana Territory into two separate governments;" also, a bill, entitled "An act for the relief of Edmund Beamont;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. TIFFIN, from the committee, reported the bill for the relief of certain Alabama Indians, correctly engrossed; and the bill was read the third time, and passed.

Mr. GILES, from the committee to whom was referred, on the 6th instant, the Message of the President of the United States on the subject of fortifications, reported, in part, a bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet; and the bill was read, and passed to the second reading.

The PRESIDENT communicated the representation of the inhabitants of Newry, in the county of Oxford, and Commonwealth of Massachusetts, on the mode in which Electors of President and Vice President have been appointed by the two Houses of the Legislature of that State, in Convention; contrary, as they state, to the usual and constitutional mode of legislation; and the representation was read.

FRIDAY, January 20.

The bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet, was read the second time, and the further consideration of the bill was postponed to Monday next.

Mr. BRADLEY presented the petition of the Baptist Church of the City of Washington, signed by their committee, praying "an act of incorporation upon such principles as may seem meet;" and the petition was read, and referred to Messrs. BRADLEY, KITCHEL, and TIFFIN, to consider and report thereon, by bill or otherwise.

Mr. TIFFIN, from the committee to whom were referred sundry petitions from purchasers of public lands in the State of Ohio, asked and obtained leave to bring in a bill to extend the time for making payment for the public lands of the United States; and the bill was read, and passed to the second reading.

The bill, entitled "An act for the relief of Edmund Beamont," was read the second time, and referred, together with the accompanying papers, to Messrs HILLHOUSE, BRADLEY, and FRANKLIN, to consider and report thereon.

The bill, entitled "An act for dividing the Indiana Territory into two separate governments," was read the second time, and referred to Messrs. POPE, TIFFIN, and BRADLEY, the committee to whom were referred, on the 15th of November last, the resolutions passed by the House of Representatives of the Indiana Territory on the 11th of October last, and that Messrs. MEIGS and HILLHOUSE be added to the committee.

Mr. ANDERSON, from the committee to whom was referred the bill supplementary to the act, entitled "An act to amend the act, entitled 'An act establishing circuit courts and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," reported amendments; which were read, and ordered to lie for consideration.

Mr. ANDERSON, from the committee to whom was referred the bill for the relief of sick, disabled, and distressed seamen, made a report. Whereupon,

Resolved, That the further consideration of the bill be postponed to the first Monday in December next.

Mr. ANDERSON, from the same committee, reported the bill, entitled "An act for the relief of sick, disabled, and distressed seamen," without amendment; and the bill was considered as in Committee of the Whole.

On motion, by Mr. HILLHOUSE, to strike out the following words:

"And the same shall be refunded to the Treasury of the United States, out of such surplus as may accrue to the fund for the relief of sick and disabled seamen, at such times and in such manner as shall not defeat the general purpose for which such fund is established:"

It was determined in the affirmative—yeas 20, nays 11, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Condit, Franklin, Gaillard, Giles, Goodrich, Gregg, Hillhouse, Howland, Mathewson, Meigs, Milledge, Pickering, Smith of New York, Sumter, Tiffin, Turner, and White.

NAYS—Messrs. Crawford, Kitchel, Leib, Lloyd, Mitchill, Moore, Parker, Pope, Smith of Maryland, Smith of Tennessee, and Thruston.

On motion of Mr. POPE, to strike out the words "and distressed," after the word "disabled:" it was determined in the affirmative—yeas 18, nays 14, as follows:

YEAS—Messrs. Anderson, Condit, Franklin, Gaillard, Gregg, Howland, Kitchel, Leib, Mathewson, Milledge, Pickering, Pope, Smith of Maryland, Sumter, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Bayard, Bradley, Crawford, Giles, Gilman, Goodrich, Hillhouse, Lloyd, Meigs, Mitchill, Moore, Parker, Smith of New York, and Smith of Tennessee.

On motion, by Mr. GILES, the further consideration of the bill was postponed to Monday next.

MONDAY, January 23.

Mr. HILLHOUSE, from the committee to whom was referred the bill entitled "An act for the relief of Edmund Beamont," reported the bill without amendment; and the bill was passed to the third reading.

The bill to extend the time for making payments for the public lands of the United States, was read the second time.

The Senate resumed, as in Committee of the Whole, the bill supplementary to the act, entitled "An act to amend the act, entitled 'An act, establishing circuit courts and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio;" and the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of sick, disabled, and distressed seamen."

On motion, by Mr. MITCHILL, the consideration thereof was further postponed.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet; and the PRESIDENT having reported the bill to the House without amendment, on the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative.

ADDITIONAL NAVAL FORCE.

Mr. BRADLEY, of the conferees from the Senate, on the disagreement between the two Houses, in relation to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," made the following report:

That they have met the conferees on the part of the House of Representatives, and have had a free conference on the subject of the disagreement between the two Houses, and regret that it has not been in their power to compromise the disagreement. They submit to the Senate certain propositions made by them to the conferees from the other House, as evidence of their earnest desire to have accommodated all differences, and a justification of their conduct to the nation; they subjoin the letter from the superintendent of the navy yard, in the absence of the Secretary of the Navy, that the state of the frigates might me fully known. They are compelled to say, they found no disposition on the part of the other conferees to depart in the least respect from the bill as passed by the House of Representatives, or in any manner to wish any accommodation, short of the Senate receding, in every instance, from their amendments. They therefore unanimously recommend to the Senate to adhere to their amendments.

Propositions, with the subjoined letter, communicated to the conferees on the part of the House of Representatives.

"The conferees from the Senate, on the disagreement between the two Houses, in relation to the amendments made by the Senate to the bill, entitled "An act authorizing the appointment of an additional number of navy officers, seamen, and marines," being sincerely desirous to accommodate all differences between the two Houses, do propose to the conferees from the House of Representatives, a middle course, which will impose little, if any, additional burdens on the nation; the four frigates being at present in a state of repair, as they are informed, can very soon be equipped for actual service; they presume, from the known liberality and spirit of accommodation, which has so uniformly marked the proceedings of both Houses of Congress, that they will readily concur therein, to wit:

"To amend the first amendment made by the Senate, to read as follows:

"That, in addition to the frigates now employed in actual service, there be fitted out, officered, and manned, as soon as may be, the four following frigates, to wit: the United States, Essex, John Adams, and President; and, moreover, the President of the United States is hereby authorized and empowered to equip, man, and employ, in actual service, so many of the other public armed vessels now laid up in ordinary, and gunboats, as, in his judgment, the public service may require; and to cause the frigates and other armed vessels, when prepared for actual service, respectively, to be stationed at such ports and places on the seacoast as he may deem most expedient, or to cruise on any part of the coast of the United States or Territories thereof, and"

And so modify the second amendment of the Senate, that, in lieu of the words "three hundred and fifty," insert only "three hundred."

And so modify the third amendment of the Senate, that, in lieu of "four thousand four hundred and forty-seven," insert the words, "three thousand six hundred."

And to recommend to the Senate, to recede from their two last amendments made to the second section of the bill.

And to amend the title to read,

"An act authorizing the employment of an additional naval force."

Subjoined is a letter from Captain Tingey, superintendent of the navy yard, showing the state of the frigates.

NAVY YARD, WASHINGTON,
January 20, 1809.

SIR: I have the honor to state, in reply to your note of this morning, that the frigates United States, Essex, and John Adams, are now in as good order in their hulls as on the day they were launched, and can be rigged in a few weeks if so ordered, and suitable appropriations made.

The frigates "Congress and Adams" might also proceed to a station in the mouths of any of our bays or harbors, but I do not consider their hulls in a situation fit to bear the sea in heavy weather.

The frigates Constellation and New York, I consider as unfit to proceed from this yard, until they shall have had a thorough repair, and the remaining frigate, the President, is now progressing under a thorough repair, and may, I presume, be ready for sea in May next, with the number of carpenters now employed here.

I have the honor to be, very respectfully, sir, your obedient servant.

THOMAS TINGEY.

Hon. STEPHEN R. BRADLEY.

Ordered, That the report lie for consideration, and that it be printed for the use of the Senate.

And on motion, the Senate adjourned until to-morrow.

TUESDAY, January 24.

Mr. POPE, from the committee to whom was referred the bill, entitled "An act for dividing the Indiana Territory into two separate governments," reported the bill without amendment.

On motion, by Mr. WHITE, on behalf of the committee to whom was referred the report of the Secretary of the Treasury on roads and canals, it was ordered that the memorial and petition of the President and Directors of the Chesapeake and Delaware Canal Company, be printed for the use of both Houses of Congress.

Mr. TIFFIN, from the committee, reported the bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet, correctly engrossed; and the bill was read the third time, and passed.

Mr. TIFFIN, from the committee, reported the bill supplementary to the act, entitled "An act to amend the act, entitled 'An act establishing circuit courts and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," correctly engrossed; and the bill was read the third time, and passed.

The bill, entitled "An act for the relief of Edmund Beamont," was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill to extend the time for making payments for public lands of the United States; and the further consideration of the bill was postponed until to-morrow.

The Senate resumed the consideration of the report of the managers, on the part of the Senate, at the conference on the disagreeing votes of the two Houses, on the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," in the words following:

"That they have met the conferees, on the part of the House of Representatives, and have had a free conference on the subject of the disagreement between the two Houses, and regret that it has not been in their power to compromise the disagreement.

"They submit to the Senate certain propositions made by them to the conferees from the other House, as evidence of their earnest desire to have accommodated all differences, and a justification of their conduct to the nation; they subjoined the letter from the superintendent of the navy yard, in the absence of the Secretary of the Navy, that the state of the frigates might be fully known.

"They are compelled to say, they found no disposition, on the part of the other conferees, to depart in the least respect from the bill as passed by the House of Representatives, or in any manner to wish any accommodation short of the Senate receding, in every instance, from their amendments. They therefore unanimously recommend to the Senate to adhere to their amendments."

On motion, to adhere to their amendments to the bill, agreeably to the report of the conferees,

it was determined in the affirmative—yeas 23, nays 10, as follows:

YEAS—Messrs. Bayard, Bradley, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Leib, Lloyd, Mathewson, Mrigs, Milledge, Mitchill, Moore, Parker, Pickering, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, and White.

NAYS—Messrs. Condit, Crawford, Franklin, Gaillard, Kitchel, Pope, Sumter, Thruston, Tiffin, and Turner.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter the time for the next meeting of Congress," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

FOREIGN INTERCOURSE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

According to the resolution of the Senate, of the 17th instant, I now transmit them the information therein requested, respecting the execution of the act of Congress of February 24, 1806, appropriating two millions of dollars for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations.

TH. JEFFERSON.

JANUARY 24, 1809.

The Message and documents were read, and one thousand copies thereof ordered to be printed for the use of the two Houses of Congress.

The documents are as follow:

In compliance with the resolution of the Senate, so far as the same is not complied with by the report of the Secretary of the Treasury of the 20th instant, the Secretary of State respectfully reports, that neither the whole nor any portion of the two millions of dollars appropriated by the act of Congress of the 21st of February, 1806, "for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," was ever authorized or intended to be applied to the use of either France, Holland, or any country other than Spain; nor otherwise to be applied to Spain than by treaty with the Government thereof, and exclusively in consideration of a cession and delivery to the United States of the territory held by Spain eastward of the river Mississippi.

All which is respectfully submitted.

JAMES MADISON.

DEPARTMENT OF STATE, *Jan.* 21.

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In compliance with the resolution of the Senate of the 17th instant, the Secretary of the Treasury respectfully reports:

That the President of the United States did, by virtue of the act of the 21st of February, 1806, authorize the Secretary of the Treasury to place two millions of dollars at the joint disposal of John Armstrong and James Bowdoin, Commissioners for settling all matters of difference between the United States and the Government of Spain, and in case of the death of one of them, at the disposal of the survivor, to be jointly applied, by the said John Armstrong and James Bowdoin, or in case of the death of one of them, by the survivor, to such purposes, as he, the said President, should think proper to direct in his instructions to them.

That the Secretary of the Treasury did, accordingly, on the 18th day of March, 1806, authorize the said John Armstrong and James Bowdoin, to draw bills of exchange for the said two millions of dollars, in the manner following, viz: on the bankers of the United States at Amsterdam for one million of dollars, and on the Treasury of the United States for one million of dollars.

That the bankers of the United States at Amsterdam were, at the same time, authorized to pay the bills, which might be thus drawn on them, out of the funds in their hands on account of the foreign debt, for which purpose remittances to that amount, and which were not necessary for the payment of that debt till the year 1807, were purchased and transmitted to them, between the 13th day of February and the 18th day of March 1806.

That this transaction was officially communicated by the Secretary of the Treasury, to Congress at their next session, in his annual report on finances, of 5th December 1806, and in the following words—"It is here proper to state, that, under the authority given by that act, a credit of one million of dollars has been opened in Holland to the Ministers of the United States appointed to treat with Spain. Should the credit be used, the million will be charged to the proper appropriation; but, although the balance chargeable to the expenditure of the year 1807, will in that case be only one, instead of two millions, as stated in the above estimate, the general result will be the same; as it will then be necessary to replace in Holland the million thus employed for a different object than the payment of the foreign debt, to which it now stands charged."

That no specie was sent to any country whatever, nor any other remittances made, nor any other measures, than those above stated, taken by this department, for the purpose of carrying into execution the abovementioned act.

That John Armstrong and James Bowdoin have not, jointly or separately, drawn either on Holland or on the Treasury, or in any other manner, for any part whatever of the sum which had been thus placed at their disposal: and that all the remittances which had, with a view to that object, been made to the bankers at Amsterdam, sooner than was necessary for the payment of the foreign debt, have by them been exclusively applied, in the course of the year 1807, to the payment of that debt.

That the authority which had been given to John Armstrong and James Bowdoin to draw for that money, or any part thereof, ceased with the return of the last mentioned gentleman to the United States.

And that no part of the moneys appropriated by the abovementioned act, of the 13th February 1806, has been, or can hereafter be expended: the appropriation, untouched and entire, having expired on the 31st day of December last, and been carried to the credit of the surplus fund, in conformity with the provisions of the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed March 3, 1795.

Respectfully submitted,

ALBERT GALLATIN.

TREASURY DEPARTMENT, *Jan.* 20, 1809.

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By virtue of the act, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," passed on the 13th day of February 1806, and of which the annexed is an official exemplification:—I, Thomas Jefferson, President of the United States of America, do hereby authorize and empower Albert Gallatin, Secretary of the Treasury of the United States, to take all proper and necessary measures for placing the two millions of dollars appropriated by the act above recited, at the joint disposal of John Armstrong and James Bowdoin, Commissioners Plenipotentiary and Extraordinary, for settling all matters of difference between the United States and the Government of Spain, and in case of the death of one of them, at the disposal of the survivor—to be jointly applied by the said John Armstrong and James Bowdoin—or, in case of the death of one of them, by the survivor, to such purposes as I may think proper to direct in my instructions to them: and for so doing this shall be his sufficient warrant.

In testimony whereof I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, this eighteenth day of March, one thousand eight hundred and six.

TH. JEFFERSON.

By the President:

JAMES MADISON, *Secretary of State.*

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Be it known, that I, Albert Gallatin, Secretary of the Treasury of the United States for the time being, by virtue of the within commission, power, or warrant of the President of the United States, have authorized and empowered, and by these presents do authorize and empower the within mentioned John Armstrong and James Bowdoin, jointly, or, in case of the death of one of them, the survivor, to draw bills of exchange, for the two millions of dollars appropriated by the annexed act of Congress, in manner following, viz: on Wilhem and Jan Willink, N. & J. & R. Van Staphorst, bankers of the United States at Amsterdam, for two millions, five hundred thousand guilders, current money of Holland, equal at par to one million of dollars, and on the Treasury of the United States for one million of dollars, being the remainder of the sum appropriated as aforesaid—the bills for one fourth part of the last mentioned million to be made payable on demand, and the bills for the remaining three-fourths thereof, to be drawn at thirty, sixty, and ninety days after sight.

In testimony whereof, I have caused the seal of the Treasury to be affixed to these presents, and have hereunto subscribed my hand at the City of Washington, the 18th day of March, one thousand eight hundred and six.

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An Act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That a sum of two millions of dollars be, and the same is hereby, appropriated towards defraying any extraordinary expenses which may be incurred, in the intercourse between the United States and foreign nations, to be paid out of any money in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall cause an account thereof to be laid before Congress as soon as may be.

SEC. 2. *And be it further enacted*, That the President of the United States be and he is hereby authorized, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per cent per annum, redeemable at the will of the Congress of the United States. And it shall be lawful for the Bank of the United States to lend the whole or any part of the same.

SEC. 3. *And be it further enacted*, That so much as may be necessary of the surplus of the duties on imports and tonnage beyond the permanent appropriation, heretofore charged upon them by law, shall be and hereby is pledged and appropriated for the payment of the interest, and reimbursement of the principal of all such moneys as may be borrowed in pursuance of this act, according to the terms and conditions on which the loan or loans may be effected.

NATHANIEL MACON,
Speaker of the House of Representatives.
GEORGE CLINTON,
Vice President U. S. and Pres't of Senate.

Approved, February 13th 1806.

TH. JEFFERSON.

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I, James Madison, Secretary for the Department of State of the United States of America, hereby certify, that the writing within contained is a true copy of an act of the Congress of the said States, passed on the 13th day of February last, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," the said copy having been compared with the original roll remaining in the office of the Department of State, aforesaid.

Witness my hand and official seal, at the City of Washington, the eighteenth day of March, in the year of our Lord, one thousand eight hundred and six; and of the independence of the said States the thirtieth.

JAMES MADISON.

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MARCH 18, 1806.

GENTLEMEN: Having been directed by the President of the United States to place at your disposal two millions of dollars, under the authority vested in him by the act, entitled "An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," passed on the thirteenth of February, 1806, I have the honor to enclose a power under the seal of this office, authorizing you to draw 2,500,000 guilders current money of Holland, and equal to one million of dollars, on the bankers of the United States at Amsterdam, and the other million of dollars on the Secretary of the Treasury at Washington. An open letter to the said bankers, is also enclosed, which you will be pleased to transmit to them only in case you may find it necessary to draw on them for that sum, as I have not thought it proper to give them any previous information on the subject, and have only placed sufficient funds in their hands without apprizing them of the object. It will therefore be necessary, that you make arrangements with them respecting the manner in which you will draw; but I believe they will be able to answer your drafts even if they were at ten days sight. It is proper for me to add that you are not authorized to draw partially on that fund, nor for any other object than that pointed out to you by the Secretary of State. And it will be necessary that you should inform me as early as possible, whether you will draw on Amsterdam or not; as the extent of the remittances

to be made by this department on account of the foreign debt, will depend on the knowledge of that fact.

In relation to the drafts on the Secretary of the Treasury for the other million of dollars, you will be pleased to observe that they must not be at shorter sights than is mentioned in the power, that they must be expressed in dollars, and that they must not be negotiated under par. Letters of advice must accompany every act, and in addition thereto, a triplicate of all the bills should at the same time be transmitted.

I have the honor to be, respectfully, gentlemen, your obedient servant,

ALBERT GALLATIN.

JOHN ARMSTRONG and JAMES BOWDOIN, Esqrs.

TREASURY DEPARTMENT, *March* 18, 1808.

GENTLEMEN: In my three letters of the 1st and 13th instant, and of this day, I enclosed remittances, amounting altogether to Grs. 2,597,660 11; which remittances were made on account of the principal and interest of loans obtained by the United States in Holland, but subject nevertheless to such other dispositions as I might think proper to direct.

I have now the honor to inform you, that, in conformity with orders received from the President of the United States, I have this day authorized John Armstrong, Minister Plenipotentiary of the United States at Paris, and James Bowdoin, Minister of the United States at Madrid, (who have been appointed Commissioners Plenipotentiary and Extraordinary, to adjust all differences between the said States and Government of Spain,) jointly, or in case of the death of one of them, the survivor, to draw on you for two millions five hundred thousand guilders, current money of Holland. You will, therefore, be pleased to honor their joint, or, in case of death, the survivor's drafts on you to that amount, and as soon as you shall have received notice of their intention thus to draw to give me immediate intimation, in order that I may have time to replace the funds necessary to meet the demands payable at Amsterdam in 1807, on account of the principal and interest of the loans obtained by the United States in Holland.

From my view of the funds heretofore placed in your hands, I presume that you may honor the drafts of those gentlemen even before the time when the remittances above-mentioned shall become due. But, in order to prevent any inconvenience or disappointment, Messrs. Armstrong and Bowdoin have been requested to write to you, and to make in concert the necessary arrangements on that subject.

I have the honor to be, respectfully, gentlemen, your obedient servant,

ALBERT GALLATIN.

Messrs. Wilhem & Jan Willink, N. & J. & R. Van Staphorst, merchants, Amsterdam.

WEDNESDAY, January 25.

The bill entitled "An act to alter the time for the next meeting of Congress," was read the second time, and ordered to the third reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for dividing the Indiana Territory into two separate governments," and, the PRESIDENT having reported it to the House without amendment.

Ordered, That it pass to a third reading.

THURSDAY, January 26.

Mr. BRADLEY, from the committee to whom was referred the petition of Obadiah Brown and others, a committee in behalf of the Baptist Church in the City of Washington, reported a bill to provide for the incorporation of religious societies in the District of Columbia; and the bill was read, and passed to the second reading.

The bill, entitled "An act to alter the time for the next meeting of Congress," was read the third time, and passed.

FRIDAY, January 27.

Mr. MITCHILL, from the joint committee of the two Houses of Congress, appointed to direct the expenditure of the sum appropriated for the Library, made a report; which was read, and ordered to lie for consideration.

The bill to provide for the incorporation of religious societies in the District of Columbia was read the second time.

Mr. WHITE, from the committee to whom was referred, on the 28th November last, the report of the Secretary of the Treasury on roads and canals, together with the memorials of the President and Directors of the Delaware and Chesapeake Canal Company, reported a bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware and Ohio Canal Companies; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to extend the time for making payments for the public lands of the United States; and the PRESIDENT having reported the bill to the House amended, on the question, "Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The bill, entitled "An act for dividing the Indiana Territory into two separate governments," was resumed, and, on motion, the further consideration of the bill was postponed to Monday next.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to provide for arming, manning, and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States," with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act to revive and continue for a further time the authority of the Commissioners of Kaskaskia;" also, an act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet;" in which bills they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives to the bill,

entitled "An act to provide for arming, manning, and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States." Whereupon,

Resolved, That the Senate concur in the said amendments.

The bill, entitled "An act to revive, and continue for a further time, the authority of the Commissioners of Kaskaskia," was read, and passed to the second reading.

The following motion was submitted by Mr. BAYARD:

Resolved, That a committee be appointed to prepare and bring in a bill making provision for the support of such of the Judges of the United States as, from age, sickness, or infirmity, shall be incapable of discharging the duties of their offices, and who shall resign the same.

MONDAY, January 30.

The VICE PRESIDENT having retired, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and the Hon. JOHN MILLEDGE was appointed.

Mr. LEIB presented the memorial of William Hall, surviving partner of Hall & Sellers, and Robert B. Sellers, administrator on the estate of William Sellers, deceased, stating the services rendered by Hall & Sellers, Printers to Congress during the Revolutionary war, in printing bills of credit, certificates, &c., and praying to be allowed a considerable balance which remains due to them; and the memorial was read.

The PRESIDENT communicated the report of the Postmaster General, made in obedience to the act of the 21st April, 1808 concerning public contracts; together with his report on unproductive routes, pursuant to the thirtieth section of the act to establish the Post Office; and the reports were read, and ordered to lie for consideration.

Mr. TIFFIN, from the committee, reported a bill to extend the time for making payments for the public lands of the United States correctly engrossed; and the bill was read the third time and passed.

The bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet," was read the second time, and the consideration of the bill was postponed until to-morrow.

The bill, entitled "An act to revive, and continue for a further time, the authority of the Commissioners of Kaskaskia," was read the second time, and referred to Messrs. ANDERSON, POPE, and THRUSTON, to consider and report thereon.

Mr. MITCHILL, from the committee to whom was referred the bill, entitled "An act for the relief of William White and others," reported the bill without amendment; also, a statement of facts on the subject-matter thereof; which was read for consideration.

Mr. THRUSTON gave notice that he should to-morrow ask leave to bring in a bill to repeal so much of an act or acts as authorizes the courts of the United States to make compensation to their officers for unenumerated services out of the public Treasury; also, a bill fixing the allowance to be made to private physicians and surgeons employed in the public service.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress a letter recently received from our Minister at the Court of St. James, covering one to him from the British Secretary of State, with his reply. These are communicated as forming a sequel to the correspondence which accompanied my Message to both Houses, of the 17th instant.

TH. JEFFERSON.

JANUARY 30, 1809.

The Message and papers were read, and one thousand copies thereof ordered to be printed for the use of the Senate.

The bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware and Ohio Canal Companies, was read the second time, and considered as in Committee of the Whole; and on motion by Mr. LLOYD to amend the bill, it was agreed that the further consideration thereof, together with the amendment, be postponed until Wednesday next.

The bill, entitled "An act for dividing the Indiana Territory into two separate governments," was read the third time, and the further consideration thereof postponed until to-morrow.

The Senate resumed the consideration of the motion made the 27th instant, and

Resolved, That a committee be appointed to prepare and bring in a bill making provision for the support of such of the Judges of the United States as, from age, sickness, or infirmity, shall be unable to discharge the duties of their offices, and who shall resign the same; and Messrs. BAYARD, CRAWFORD, and BRADLEY, were appointed the committee.

TUESDAY, January 31.

Mr. GREGG presented the memorial of the President, Managers, and Company, of the Philadelphia, Brandywine, and New London Turnpike Road, praying the assistance and support of Congress in their undertaking, for reasons mentioned in their memorial; which was read, and ordered to lie for consideration.

Mr. GAILLARD presented the memorial of the officers of the American Revolutionary army residing in the State of South Carolina, praying to be allowed remuneration for their losses in consequence of receiving commutation in lieu of half-pay for life; and the memorial was read, and referred to Messrs. GREGG, MITCHILL, and CRAWFORD, the committee to whom were referred, on the 12th December last, similar memorials, to consider and report thereon.

Mr. THRUSTON asked and obtained leave to bring in a bill to repeal so much of any act or acts as authorizes the courts of the United States to

make compensation to their officers for unenumerated services out of the public Treasury; and the bill was read, and ordered to the second reading.

The Senate resumed, as in Committee of the Whole, the bill sent from the House of Representatives, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi, the canal of Carondelet."

On motion of Mr. BRADLEY, it was ordered that the further consideration of this bill be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the bill to provide for the incorporation of religious societies in the District of Columbia; and the PRESIDENT having reported the bill to the House without amendment, on the question, Shall the bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed the third reading of the bill, entitled "An act for dividing the Indiana Territory into two separate governments; and it was resolved that this bill pass.

Mr. BAYARD, from the committee to whom the subject was referred, reported a bill making provision for Judges of the United States, in certain cases; and the bill was read, and passed to the second reading.

WEDNESDAY, February 1.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet; and the PRESIDENT having reported the bill to the House amended, it was ordered to the third reading as amended.

The bill making provision for Judges of the United States, in certain cases, was read the second time, and considered as in Committee of the Whole; and no amendments being offered, on the question, Shall this bill be engrossed and read a third time? it was determined in the negative.

The bill to repeal so much of any act or acts to authorize the courts of the United States to make compensation to their officers for unenumerated services out of the public Treasury, was read the second time, and referred to Messrs. THRUSTON, BAYARD, and ANDERSON, to consider and report thereon.

The bill, entitled "An act for the relief of William White and others," was resumed, as in Committee of the Whole; and, after debate, the Senate adjourned.

THURSDAY, February 2.

The credentials of SAMUEL WHITE, appointed a Senator by the Legislature of the State of Delaware, for six years, commencing on the 4th of March next, were read, and ordered to lie on file.

Mr. SMITH, of Maryland, presented the petition of Robert Brent, and others, inhabitants of the City of Washington, praying that a company may be incorporated for opening a canal through the city, for reasons mentioned in the petition; which was read, and referred to Messrs. SMITH of Maryland, BAYARD, and WHITE, to consider and report thereon.

Mr. BAYARD stated that he, together with his colleague, were instructed on the subject, and submitted the following resolution, which was agreed to:

Resolved, That the Secretary of War be required to inquire and report to the Senate whether it be expedient that one or more batteries or fortifications should be erected at or near Wilmington, at or near Newcastle, at or near Port Penn, and at or near Lewis, in the State of Delaware, for the protection of the said towns and the country adjacent; and in case he be of opinion that it would be expedient to erect such batteries or fortifications, that he report whether any, and what, additional appropriations will be necessary for the purpose.

Mr. TIFFIN, from the committee, reported the amendments to the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening, and extending to the river Mississippi, the canal of Carondelet," correctly engrossed, and the bill was read the third time as amended.

Resolved, That this bill pass as amended.

Mr. TIFFIN, from the committee, reported the bill to provide for the incorporation of religious societies in the District of Columbia, correctly engrossed; and the bill was read the third time, and passed.

Mr. THRUSTON asked and obtained leave to bring in a bill fixing the allowance to be made to private physicians and surgeons employed in the public service; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware and Ohio Canal Companies, and the motion made on the 30th of January to amend the bill was withdrawn.

On motion, by Mr. LLOYD, to strike out the sixth section of the bill, as follows:

"SEC. 6. *And be it further enacted*, That a quantity of land, not exceeding —— acres, shall be sold and granted to the Ohio Canal Company, at the rate, and subject to all the rules, regulations, and conditions of the grant made by this bill to the Chesapeake and Delaware Canal Company, to be located on any of the public lands of the United States in the Indiana Territory, in the manner provided for the said Chesapeake and Delaware Canal Company:"

It was determined in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Bradley, Condit, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Leib, Lloyd, Parker, Pickering, Robinson, Smith of New York, and Sumter.

NAYS—Messrs. Anderson, Bayard, Crawford, Meigs, Milledge, Pope, Smith of Tennessee, Thruston, Tiffin, Turner, and White.

And the bill having been further amended, the President reported it to the House accordingly; and on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Ordered, That the bill, entitled "An act for the relief of William White, and others," be further postponed.

FRIDAY, February 3.

The bill fixing the allowance to be made to private physicians and surgeons employed in the public service, was read the second time, and referred to Messrs. THRUSTON, LEIB, and CONDIT, to consider and report thereon.

Mr. TIFFIN, from the committee, reported the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, correctly engrossed; and the bill was read the third time, and the blanks filled as follows: First, two hundred thousand acres; second, two thousand shares; third, four hundred thousand dollars; fourth, seven years.

Resolved, That this bill pass, and that the title thereof be "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company."

A message from the House of Representatives informed the Senate that the House do not concur in the amendments of the Senate to the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet."

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act to revive and continue, for a further time, the authority of the commissioners of Kaskaskia," reported the bill without amendment, and the consideration of the bill was postponed to Monday next.

The Senate proceeded to consider their amendment to the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet," disagreed to by the House of Representatives; and it was agreed that the further consideration thereof be postponed.

Mr. POPE gave notice that on Monday next he should move for leave to bring in a bill authorizing the sale and grant of a certain quantity of public land to the Ohio Canal Company.

Mr. ANDERSON gave notice that he should, on Monday next, ask leave to bring in a bill to authorize the making of a turnpike road from Mason's causeway to Alexandria.

Mr. SMITH, of Maryland, submitted the following motion, which was read and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election; and for regulating the time, place, and manner, of administering the oath of office to the President.

Ordered, That Messrs. SMITH of Maryland, and GAILLARD, be the committee on the part of the Senate.

MONDAY, February 6.

Mr. SMITH, of Maryland, from the committee to whom was referred the petition of Robert Brent and others, by permission, reported a bill to incorporate a company for opening a canal in the City of Washington; and the bill was read, and passed to the second reading.

Mr. ANDERSON obtained leave to bring in a bill to authorize the making of a turnpike road from Mason's causeway to Alexandria; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet; and, on motion, by Mr. MITCHILL,

Resolved, That the Senate do recede from their said amendment.

The PRESIDENT communicated the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board, subsequent to their report of the 5th of February, 1808, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the third day of the present month, and in the statements therein referred to, which are therewith transmitted and prayed to be received as part of their report. And the report was read, and ordered to lie for consideration.

The bill, entitled "An act to revive and continue for a further time the authority of the Commissioners of Kaskaskia," was resumed as in Committee of the Whole; and the consideration of the bill further postponed.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate for the appointment of a joint committee to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election; and for regulating the time, place, and manner, of administering the oath of office to the President, and have appointed a committee on their part.

TUESDAY, February 7.

The bill to authorize the making of a turnpike road from Mason's causeway to Alexandria was read the second time, and referred to Messrs. ANDERSON, FRANKLIN, and SMITH of Maryland, to consider and report thereon.

Mr. SMITH, of Maryland, from the joint committee appointed to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and for regulating the time, place, and manner, of administering the oath of office to the President, reported in part the following resolution; which was read and agreed to:

Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday next, at 12 o'clock; that one person be appointed a teller on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President, and, together with a list of the votes, to be entered on the Journals of the two Houses.

Ordered, That Mr. SMITH, of Maryland, be appointed teller on the part of the Senate, agreeably to the foregoing resolution.

A message from the House of Representatives brought to the Senate "the several memorials from sundry citizens of the State of Massachusetts, remonstrating against the mode in which the appointment of Electors for President and Vice President has been proceeded to on the part of the Senate and House of Representatives of said State as irregular and unconstitutional, and praying for the interference of the Senate and House of Representatives of the United States, for the purpose of preventing the establishment of so dangerous a precedent."

The message last mentioned, referring to the memorials of sundry citizens of the State of Massachusetts, was read.

Ordered, That the message and memorials lie on the table.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to revive, and continue for a further time, the authority of the Commissioners of Kaskaskia," and no amendment having been proposed, the bill was ordered to the third reading.

The bill to incorporate a company for opening a canal in the City of Washington was resumed as in Committee of the Whole, and no amendment having been proposed, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House agree to the report of the joint committee "appointed to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and to regulate the time, place, and manner, of administering the oath of office to the President," and have appointed Messrs NICHOLAS and VAN DYKE tellers on their part.

WEDNESDAY, February 8.

The PRESIDENT laid before the Senate a letter from Joshua Clark, an American seaman, stating that he was imprisoned at Bordeaux, and otherwise experienced great sufferings, under the authority of the American Consul at that place, and praying redress; and the letter was read.

Ordered. That it be transmitted to the Secretary of State.

A message from the House of Representatives informed the Senate that the House is now ready to attend the Senate in opening the certificates and counting the votes of the Electors of the several States in the choice of a President and Vice President of the United States, in pursuance of the resolutions of the two Houses of Congress of the seventh instant; and that the President of the Senate will be introduced to the Speaker's Chair by the Speaker of the House of Representatives.

The two Houses of Congress, agreeably to the joint resolution, assembled in the Representatives' Chamber, and the certificates of the Electors for the several States were, by the President of the Senate, opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the President of the Senate, which was read, as follows:

STATES.	For President.			For Vice President.				
	James Madison.	George Clinton.	C. C. Pinckney.	George Clinton.	James Madison.	James Monroe.	John Langdon.	Rufus King.
New Hampshire	–	–	7	–	–	–	–	7
Massachusetts	–	–	19	–	–	–	–	19
Rhode Island	–	–	4	–	–	–	–	4
Connecticut	–	–	9	–	–	–	–	9
Vermont	6	–	–	–	–	–	6	
New York	13	6	–	13	3	3		
New Jersey	8	–	–	8				
Pennsylvania	20	–	–	20				
Delaware	–	–	3	–	–	–	–	3
Maryland	9	–	2	9	–	–	–	2
Virginia	24	–	–	24				
North Carolina	11	–	3	11	–	–	–	3
South Carolina	10	–	–	10				
Georgia	6	–	–	6				
Kentucky	7	–	–	7				
Tennessee	5	–	–	5				
Ohio	3	–	–	–	–	–	3	
Totals	122	6	47	113	3	3	9	47

The whole number of votes being 175, of which 88 make a majority.

Whereupon, the President of the Senate declared JAMES MADISON elected President of the United States for four years, commencing with the fourth day of March next; and GEORGE CLINTON Vice President of the United States for four years, commencing with the fourth day of March next.

The votes of the Electors were then delivered to the Secretary of the Senate; the two Houses of Congress separated; and the Senate returned to their own Chamber.

On motion, by Mr. SMITH of Maryland,

Resolved, That the President of the United States be requested to cause to be delivered to JAMES MADISON, Esq. of Virginia, now Secretary of State of the United States, a notification of his election to the office of President of the United States; and to be transmitted to GEORGE CLINTON, Esq. of New York, Vice President elect of the United States, notification of his election to that office; and that the President of the Senate do make out and sign a certificate in the words following, viz:

Be it known, That the Senate and House of Representatives of the United States of America, being convened at the City of Washington, on the second Wednesday in February, in the year of our Lord one thousand eight hundred and nine, the underwritten, President of the Senate *pro tempore*, did, in presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the Electors for a President and Vice President of the United States. Whereupon, it appeared that JAMES MADISON, of Virginia, had a majority of the votes of the Electors as President, and GEORGE CLINTON, of New York, had a majority of the votes of the Electors as Vice President. By all which it appears that JAMES MADISON, of Virginia, has been duly elected President, and GEORGE CLINTON of New York, has been duly elected Vice President of the United States, agreeably to the Constitution.

In witness, whereof, I have hereunto set my hand, and caused the seal of the Senate to be affixed, this —— day of February, 1809.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States with this resolution.

Mr. GILES submitted the following resolution:

Resolved, That the several laws laying an embargo on all ships and vessels in the ports and harbors of the United States, be repealed on the 4th day of March next except as to Great Britain and France, and their dependencies, and that provision be made by law for prohibiting all commercial intercourse with those nations and their dependencies, and the importation of any article into the United States, the growth, produce, or manufacture, of either of the said nations, or of the dominions of either of them.

Mr. GILES also submitted the following motion:

Resolved, That provision ought to be made by law for interdicting all foreign armed ships from the waters of the United States.

And on motion, the Senate adjourned until to-morrow.

THURSDAY, February 9.

The President communicated a report of the Secretary of War, in obedience to the orders of the Senate of February 2, respecting fortifications in the State of Delaware; which was read, and ordered to lie for consideration.

The PRESIDENT communicated a letter signed James Sykes, Speaker of the Senate of the State of Delaware, enclosing a certificate of the appointment of SAMUEL WHITE, a Senator of the United States, for six years, commencing with the 4th of March next.

Mr. TIFFIN, from the committee, reported a bill to incorporate a company for opening the canal in the City of Washington, correctly engrossed.

Mr. ANDERSON, from the committee to whom was referred the bill to authorize the making of a turnpike road from Mason's causeway to Alexandria, reported an amendment; which was read, and ordered to lie for consideration.

FRIDAY, February 10.

Mr. MITCHILL, from the committee to whom was referred the petition of William Hardy, made report. Whereupon,

Resolved, That the petitioner have leave to withdraw his petition.

The bill to incorporate a company for opening the canal in the City of Washington was read the third time; and the blanks having been filled, as follows: first, one hundred thousand; second, forty thousand; third, forty thousand—

Resolved That this bill pass, and that the title thereof be "An act to incorporate a company for opening the canal in the City of Washington."

The Senate resumed, as in Committee of the Whole, the bill to authorize the making of a turnpike road from Mason's causeway to Alexandria; and the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The bill, entitled "An act to revive and continue for a further time the authority of the Commissioners of Kaskaskia," was read the third time, and passed.

SATURDAY, February 11.

Mr. TIPFIN, from the committee, reported the bill to authorize the making of a turnpike road from Mason's causeway to Alexandria, correctly engrossed; and the bill was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government during the year 1809, in which they request the concurrence of the Senate.

The bill last brought up for concurrence was twice read by unanimous consent, and referred to Messrs. SMITH of Maryland, FRANKLIN, and CRAWFORD, to consider and report thereon.

MONDAY, February 13.

On motion, by Mr. GREGG, the following resolution was agreed to:

Resolved, That the committee to whom the petition of the marine officers was referred, be instructed to inquire whether any, and if any, to what extent, augmentation of the marine corps is necessary; and that they be authorized to report by bill or otherwise.

Mr. WHITE presented two memorials from citizens of the State of Delaware, whose names are thereunto subscribed, praying the repeal of the embargo laws, for reasons stated in the memorials; which were read, and ordered to lie for consideration.

The PRESIDENT communicated the memorial of the inhabitants of Point Coupee, in the Territory of Orleans, praying to be allowed the right of pre-emption to certain lands rendered fit for cultivation by their exertions, or that the said lands may be granted to them as a donation or compensation for their industry, care, and expense; and the memorial was read, and ordered to lie for consideration.

DISBURSEMENT OF PUBLIC MONEYS.

Mr. HILLHOUSE—Mr. President: I hold in my hand a resolution, which I intend to submit to the consideration of the Senate, after having made a few remarks to show the ground on which it rests, and explained my reasons for bringing it forward at this time.

In the discharge of my official duty, as one of a committee to inquire after facts in relation to a nomination which has recently been under the consideration of the Senate, I was led to inspect sundry accounts and documents in the public offices, from which I derive the knowledge of what I am about to state, and concerning which there can be no mistake, as the several items are taken from those accounts and documents.

Having formerly had some acquaintance with the manner of conducting business in the public offices in relation to our money concerns, I did suppose there existed a complete check upon all improper expenditures of public money, and a perfect security against its being drawn out of the Treasury in a manner not warranted by law. One predominant and principal ground of security, I had understood to consist in the control which the head of each department had over the business confided to his department, and his responsibility for a due and reasonable exercise of his discretion and judgment. But having discovered, by an opinion of the Senate lately expressed, an opinion which I am bound to respect, that the Secretary of War is not responsible for what I consider an improper expenditure of public money in that department, I am of opinion that some further and more effectual provision ought to be made. To show on what I ground my opinion, that there has been an improper disbursement of public money, I will read part of two sections of the law fixing the Military Peace Establishment of the United States, passed March 16th, 1802; and exhibit a brief statement of facts.

The 4th section fixes the monthly compensation of the Brigadier General as follows: "to the Brigadier General two hundred and twenty-five dollars, which shall be his full and entire compensation, without a right to demand or receive any rations, forage, travelling expenses, or other perquisite or emolument whatsoever, except such stationery as may be requisite for the use of his department." The fifth section fixes the number of rations to which each officer and soldier shall be entitled, by which no officer above the rank of colonel is entitled to any rations at all. That section further provides that there shall be allowed, "to the commanding officer of each separate post, such additional number of rations as the President of the United States shall from time to time direct, having respect to the special circumstances of each post." Under the provisions of that law there have been allowed, at Natchitoches, to Colonel Cushing double rations from September 1st to 23d of October, 1806, and from the 8th to the 20th of November, 1806. At New Orleans, to Lieutenant Colonel Freeman, triple rations from July 1st to 11th December, 1806; and to Colonel Cushing in the like manner, from the 17th December, 1806, to 20th of May, 1807; and in June 1809, Brigadier General Wilkinson's account for extra rations as commanding officer at those same posts was allowed as follows, viz:

At Natchitoches, 36 rations per day, from the 13th to the 30th September, 1806, 18 days at 17½ cents	113 40
Same place, 36 rations, from October 1, to November 11, 1806, 2016 rations at 18 cents	272 16
	385 56
At New Orleans, 36 rations per day, from November 12, 1806 to 24th May, 1807, 194 days, 9,312 rations at 15 cents	1,047 60
Quarters, stabling, &c. from 25th November, 1806 to 24th May, 1807, six months	600 00
	$2,033 16

Notwithstanding the express provisions of the law, and the allowance of extra rations to other officers at the same posts, the above account was admitted by the Secretary of War, and sanctioned by his signature; but was disallowed by the Accountant of the War Department as being against the law of March 16th, 1802. Whereupon the final decision was referred to the Comptroller of the Treasury, who decided that the account might be passed to the credit of General Wilkinson, because it had been admitted by the Secretary of War, with the approbation of the President of the United States, and sanctioned by the opinion of the Attorney General. By which it appears that the approbation of the President of the United States, supported by the opinion of the Attorney General, is considered as a sufficient authority for the allowance of accounts and the payment of money in direct opposition to a positive law of the United States, an error which ought to be corrected.

By the act establishing the Department of War, Indian affairs are placed under the direction and control of the Secretary of War; and in that Department there have been allowed and paid, as compensation to Indian Commissioners to hold treaties, for the table expenses of the Commissioners, supplying the Indians, and other expenses, the following sums, viz:

To General Wilkinson, as compensation for holding a treaty with the Cherokees, at Southwest Point, from July 12th, to September 10th, 1801, at $8 per day	443 00
The Chickasaws, at Wolf River, from September 11th, to October 28th 1801, at $8 per day	384 00
The Choctaws, at Fort Adams, from October 29th to December 31st, 1801, at $8 per day	512 00
At Fort Adams, treating with Choctaw Commissioners for carrying the last mentioned treaty into execution, from January 1st to March 22d, 1802, at $8 per day	548 00
The Creeks at Fort Wilkinson, from March 23d to July 18th, 1802, at $8 per day	944 00
	$2,831 00
For the expense of the Commissioner's table	5,026 20
For supplies for the Indians, including a part of the expense of the Commissioner's table, which cannot be separated	9,968 41
For the amount of articles purchased by the Quartermaster General for the use of the Commissioners	3,121 49
	18,116 10
As compensation to Benjamin Hawkins, from July 23d, 1801, to June 21st, 1802, 247 days	1,976 00
Do. to Andrew Perkins, 61 days, including $18 for travelling expenses	506 00
	$20,598 10

There has also been paid to General Wilkinson, as compensation for treating as sole Commissioner with the Choctaws at Fort Confederation, from July 19th to October 20th, 1802, 94 days, at $8 per day | $752 00

Marking boundary lines, from October 21st to 31st December, 1802, 72 days, at $6 per day	432 00
Ditto ditto, continuation from January 1st to 28th February, 1803, 59 days, at do.	354 00
Ditto, ditto, Choctaw, west of Mobile, &c., and Creeks, east of the Alabama, &c., from March 1st to 3d December, 1803, 278 days, at do.	1,668 00
Returning from Mobile to New Orleans on his way to Philadelphia, from December 4th to 16th December, 1803, 13 days, at $8 per day	104 00
Returning from New Orleans to Philadelphia as Indian Commissioner, from April 25th to June 1st, 1804, 37 days, at $8 per day	296 00
	3,606 00
For the personal expenses of General Wilkinson for 1802 and 1803, as settled at the War Office	2,715 29
For expenses other than personal	3,152 10
	9,473 39

Officers of the United States receiving salaries or monthly pay, have been occasionally employed on other business for a short time, and, on account of extraordinary trouble and expense attending such employment, have received, in addition to their ordinary compensation, the per diem allowance fixed by law or usage for such service. The present is, I believe, the first instance in which such an officer has been employed every day in the year for two or three years in succession, and has been permitted to receive, in addition to his entire salary or monthly pay, a per diem allowance exceeding his salary or monthly pay, and the whole of his expenses. The salary of Judge Ellsworth, while employed on a foreign mission, had been received during his absence, by his attorney, but was refunded, and he received only his compensation as a foreign Minister; and in the case of Mr. Jay, his expenses only were paid. There can be no propriety in such allowance, and a remedy ought to be provided.

There has also been allowed and paid in the War Department an account amounting to $6,619 72, for the table expenses of General Wilkinson and Governor Claiborne, from December 7th, 1803, to April 24th, 1804, four months and seventeen days, the time they were employed as Commissioners to take possession of New Orleans, and for a private secretary $548, and for stationery $27 50, amounting in the whole to $7,266 62. The allowance of this account is under the hand of the Secretary of War, who states that it was done by order of the President of the United States. As this account had no relation either to the military service or to Indian affairs, I am unable to say why it was carried for settlement to the War Department and not to the Accounting officers of the Treasury.

It appears, by authentic documents which I have examined, that there have been paid to General Wilkinson, this favorite of the Administration, (for I think none other than a favorite could have obtained from the Treasury of the United States money to such an amount,) the following sums, viz:

For his pay as Brigadier General from March 16th, 1802, the date of the law, to February 1, 1809, at $225 per month | $16,562 50

For extra rations, quarters, &c., as per amount before stated	2,033 16
For his compensation as Indian Commissioner, from July 12, 1801, to July 18, 1802	2,976 00
For his compensation as Indian Commissioner, and running lines, from July 19, 1802, to 1st June, 1804	3,606 00
For his personal expenses for 1802 and 1803	2,715 20
For his salary as Governor of Upper Louisiana from July 4, 1805, to March 2, 1807	3,326 02
For amount of moneys and supplies furnished him by public agents, with which he is chargeable on the public books, and for which he has not accounted	7,891 03
For moneys charged by John Wilkins, late Quartermaster General, as advanced to General Wilkinson, and for which he has not accounted	3,879 71
For secret service money, received January 10, 1809, on the certificate of the President of the United States, for that sum "disbursed for objects in relation to the contingent expenses of intercourse between the United States and foreign nations, the specification of which disbursement at this time is deemed inexpedient"	1,196 00
For his compensation as a witness on the trial of Burr, at Richmond, Circuit Court United States May term, 1807	284 50
	44,470 21
To which, if there be added the table expenses of General Wilkinson and the other Commissioners holding treaties in 1801 and 1802, exclusive of the expense of furnishing the Indians	5,026 00
And the table expenses of General Wilkinson and Governor Claiborne at New Orleans, from December 7th, 1803, to April 21, 1804	619 82
Makes the enormous sum of	56 116 03

More than $50,000 of which may fairly be placed to the account of General Wilkinson.

It may also be proper, by some legislative provision to regulate the business of advance pay to the officers of the Army. There may be circumstances when it would be proper, as when ordered on distant service; but, unless regulated, it is liable to great abuse, as is obvious from an inspection of General Wilkinson's account, by which it appears that he has received, since March 1st 1808, his pay in manner following, to wit:

Per warrant No. 1114, signed by himself as Commander-in-Chief, for his pay from March 1st to June 30th, 1808, as per receipt February 18th, 1808 — $900 00

Per warrant No. 1,212, signed by himself as the Commander in Chief, for his pay in advance for July and August, 1808, as per receipt June 28th, 1808 — 450 00

Per warrant No. 10, signed by the Secretary of War, for his pay in advance, from September 1, 1808 to 28th February, 1809 per receipt July 14, 1808 — 1,350 00

Per warrant No. 161, signed by the Secretary of War, for his pay in advance, March, April, and May, 1809, three months, per receipt November 28, 1808 — 675 00

Per warrant No. 219, dated 16th January, 1809, signed by the Secretary of War, for his pay in advance, from May 1 to December 1, 1809, six months — 1,250 00

There is only one other statement from the accounts of the Department which I will mention—it is that of Henry A. S. Dearborn, employed by the Secretary of War as an engineer to construct a fort at Portland, from April 8th to November 29th, 1808, 204 days, at $3 per day — $612 00

And an allowance of two per cent. commission on the money expended, being $30 736 97 — 768 33

1 380 33

Which account has been paid. The compensation allowed was at the rate of more than $200 per month, when the pay of a brigadier general, exclusive of rations and forage, is only $104 per month. The person employed had no claim to experience. While we have artillery officers and a corps of engineers in public pay, it would seem as though some of them should have been employed in such service.

Perhaps the accounts of Indian agents ought to be examined, to see if some provision be not necessary to prevent the improper expenditure of public money; for in that business there is great latitude of discretion, which opens a door to favoritism, which in a government like ours ought to be carefully guarded against. There may be, and often is, not only the appearance, but the exercise of the most rigid economy, nay parsimony, as regards a poor soldier, or person having little influence, while there is a lavish expenditure of public money on favorites.

Mr. HILLHOUSE then offered the following resolution, which was ordered to lie on the table.

Resolved, That a committee be appointed to examine and report whether any, and what, further regulations or provisions are necessary to check the allowance or payment of extravagant claims, or unreasonable accounts, and to prevent an improper expenditure of public money; and that the committee be authorized to call on the several Departments for such information and papers as may be necessary to aid them in their inquiry; and to report by bill or otherwise.

PARTIAL REPEAL OF THE EMBARGO.

The Senate resumed the consideration of Mr. GILES's motion made on the 8th instant, for repealing, on the 4th of March, the laws laying an embargo on all ships and vessels in the ports and harbors of the United States, except as to Great Britain and France, and their dependencies; and prohibiting all commercial intercourse with those nations and their dominions.

Mr. GILES addressed the Senate as follows:

Mr. President: In times of great public trial and difficulty, when a proposition deeply affecting the character and the interests of the nation is presented for adoption, an indispensable obligation is imposed upon its author to state the considerations upon which it is founded. Under this impression, I shall now proceed to make as full and as frank a development of my inducements in moving the present resolution, as may consist with the ordinary limits of discussion.

It is a circumstance greatly to be regretted, sir, that as our dangers and difficulties are increasing and pressing upon us, our divisions of opinion respecting the proper course to be pursued in relation to them, appear to be increasing in the same proportion. This probably arises, in a great degree, from the unfortunate state of mind produced by collisions in argument. Gentlemen are in the habit of bending their whole thoughts upon the discovery, not only of arguments for fortifying their own opinions, but for repelling the differing opinions of their friends. If this habit of reflection could be reversed—if each gentleman could prevail upon himself to give full weight to the arguments, to respect more the opinions and motives of his friend, and to doubt more the infallibility of his own, it is scarcely possible to believe, that when an union of interests is admitted by all, but that some point of union in the measures to promote those interests, might be found and agreed upon. And may we not be permitted to hope, sir, when the fatal consequences of divisions are so obvious to all, that the urgency of our difficulties will produce this course of reflection? Amidst all these difficulties, it is fortunate however, that there is one point in which we are all united—that is, resistance to foreign aggressions. It is true, no vote upon that point specifically has yet been taken in this House; but in the other House it has, after much discussion and great deliberation, and the result was as near unanimity as could be expected upon any occasion involving so many considerations. The only points of difference now to be adjusted and compromised, relate to the extent of that resistance, and the mode of its application.

The resolution I have had the honor to submit, is brought forward solely in reference to those points; and is dictated by that spirit of concession and conciliation which I have taken the liberty of recommending to others, and which, in my judgment, is imperiously demanded by the present critical situation of our affairs.

I am fully sensible, Mr. President, of the high responsibility incurred by moving the present resolution; and I also know, that when nothing is left us but a choice of difficulties, it is much easier to criticise any expedient that may be chosen, than to devise and present a better for consideration. But, sir, it should be recollected, that merely to criticise or find fault, when no expedient is left us altogether free from objection, is the most subordinate office that genius can perform; and at the same time it is the least honorable for the individual, and the most unprofitable to the nation and to the people. I make this observation, not with a view of deterring gentlemen from bringing forward any fair objections to the resolution under consideration, but merely to remind them that I shall consider the task unaccomplished, until they present some substitute better calculated to save the honor and protect the interests of the nation; and when this is done, I will readily pay them the tribute of superior wisdom, and unite with them with the most fervent devotion.

The resolution before you, sir, is not the one of my choice, nor the one by which I could wish that my responsibility could be tested. It is the offspring of conciliation and of great concession on my part. I feel, sir, in common with my fellow-citizens, a great repugnance to war. I think the dreadful resort should only be made in a case of self-defence. I protest against war merely for the purposes of conquest, or aggrandizement: but in my opinion, war is amply justified by the existing crisis.

In my judgment, if the public sentiment could be brought to support them, wisdom would dictate the combined measures of embargo, non-intercourse, and war. I have no doubt but that their combined influence would be the most efficacious in meeting and subduing the crisis; but, sir, very few gentlemen, I believe, have brought their minds up to this state of energy; and perhaps, in the present state of the public mind, distracted and drawn by various delusions, as it is, from the real source of our injuries, the experiment might be deemed a rash one, even if it could be obtained. I have, however, sir, so much confidence in the good sense and patriotism of the people, and in the efficacy of these measures, that I will briefly state their probable effects for the consideration of the people; and I am the more disposed to do so, because I believe the time is not past, but is fast approaching, when the whole energy of the nation must be called forth to save what we have left of our honor, independence, and dearest interests. These would be the obvious effects of the combined influence of the measures suggested. Embargo would deprive our real enemy of many of our productions which I believe to be indispensable to his prosperity in many respects. Non-intercourse would deprive him of our market for his surplus manufactures, an operation not less injurious to him than the other, whilst war could be made to retort upon him some of the evils of his own injustice. I would present nothing of value to him on the ocean, to whet his cupidity, and stimulate him to a perseverance in the war. I would front him on the ocean with empty destructive ships, brave and hardy defenders of them, and rusty iron guns. If he achieved a conquest, it should be a conquest of hard knocks, while there

should be nothing of value to gratify his cupidity, or compensate his own losses.

I would at the same time, seize upon his colonial possessions upon this continent. If the whole energy of the nation could be brought to act vigorously in this way, I will venture to predict, that within six months Great Britain would be brought to value our friendship as much as she would to deprecate our enmity. But, sir, whilst I would apply the scourge with one hand, with all the severity which the active energy of the whole nation could inflict, I would, with sincerity and good faith, hold out the olive branch with the other; my demands should be moderate, and within the limits of justice. And believe me, Mr. President, Great Britain would soon learn how to make a choice. Whilst, sir, you would expose nothing of value to her, she would necessarily present to your spoliations a rich commerce, a commerce which her Orders in Council were intended to enlarge, and which she considers as almost indispensable to her national existence. Permit me at the same time to express an opinion that the whole British navy would be very far from affording a competent protection to this wide spread commerce. With respect to prejudices against the embargo, I would remark, that considering the zeal, ability, and artifices, which have been employed to excite them, particularly in one section of the Union, it is matter of surprise that the people have submitted to the privations, which have been delusively ascribed to that measure, with no greater discontents than have been manifested by them; and the experiment has rather confirmed, than lessened my opinion of the patriotism of the people; but still perhaps so many prejudices have been excited, as to justify some relaxation in that respect. In that case however, letters of marque and reprisal, and the invasion of Canada ought, in my judgment, to have been substituted; war would then have been resorted to in a less efficient form, and the people upon the experiment, I have no doubt, would regret the sacrifice; but the House of Representatives has thought proper to reject that proposition, and the one now offered seems to be the next best calculated to save the honor and protect the rights and interests of the nation.

I have never relied so much on the coercive effects of the embargo singly, as some gentlemen have done; and I have at all times been of opinion that preparations for more efficient measures should have been made to come in aid of, or to substitute the embargo, whenever it should be ascertained that it had failed of its coercive objects. I was, notwithstanding, willing at the commencement of the present session to persevere in the system until the events which I anticipated should take place in Spain, and become known in Great Britain, and until the early proceedings of Congress should also be known there. It appeared to me that if a relaxation on the part of Great Britain, should not be coerced by the influence of these events combined, upon their first impression in Great Britain, all hope of a relaxation from the embargo alone would then be at an end, and that no other alternative would be left us but war. The first impression produced by these results, would probably be the greatest; because the spirit of speculation would be stimulated thereby, and the natural effect of that spirit is to drive prices beyond the level which would be produced by the ordinary causes; and if, under such an impression, no relaxation should take place, none could be afterwards rationally expected. My sincere love of peace, and the little remaining hope of avoiding war, induced me at that time sternly to set my face against the repeal of the embargo; but I then thought, and still think, that at some period of this session some other measures ought to be resorted to, either with or without the embargo. That period is now arrived, submission cannot for a moment be taken into consideration. The decisive course of measures which I conceived were imperiously demanded by the existing circumstances of the country, are still more strongly called for by the contents of Mr. Canning's letter of the 22d of November last, to Mr. Pinkney. This letter I have heard represented as wholly unimportant. I view its contents in a very different light. I deem them highly important. They go to take away my last hope of peace. They go to satisfy my mind, that we have now no alternative but war. Submission is out of the question. Permit me to read an extract or two from that letter, upon which my opinion is founded. They will be found in pages 13, 14, of the last printed Message of the President—

"The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion. I cannot conclude it, however, without adverting very shortly to that part of your letter, in which you argue that the failure of France, in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliatory system of Great Britain."

"If the foundation of the retaliating system of Great Britain was, (as we contend it to have been) originally just, that system will be justifiably continued in force, not so long only, as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned, and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from it, while the enemy's original provocation remains unrepealed, might lead to false conclusions, as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that Power to resort to the same system on any future occasion."

Here we find Mr. Canning, although in a tone somewhat different, not only confirming his rejection of the first and honorable overture made by Mr. Pinkney, for the revocation of the hostile orders, &c., contained in his letter to Mr. Pinkney of the 23d of September preceding, but we find him introducing the subject apparently for the purpose of preventing any similar overture, under any circumstances, and expressly declaring that the orders shall continue in force, not only

so long as the French decrees shall be mischievously operative, but until they shall be unequivocally abandoned, and leaves a strong inference on my mind that they are not to be abandoned on any terms; and, I believe, are intended to become the permanent law of the land. If this point were clearly ascertained, surely all America would eagerly unite in the war. But, sir, I shall have occasion again, in the course of the observations I propose to make, to remark further upon the contents of this letter. Although this resolution is not the one of my choice, and is, as gentlemen must now see, several points below the ground which in my judgment the best interests of the nation would authorize and require us to take, yet I will state some of the effects, which I presume will flow from it, and which, under all circumstances, are the best that can now be obtained. It will put the destructive influence of the Orders of Council to the test of practical experiment, and thus settle for us the question of peace or war. It will be a resumption of our commerce with all nations, except the belligerents having in force against us hostile orders or edicts, whilst it will be a continual protest against them. It will manifest our attention to the wishes and interests of our Eastern friends, who will not be satisfied, of the destructive effects of the Orders in Council upon their commerce, by any inferences drawn from the obvious meaning of those orders, but insist upon a practical experiment upon them. Their vessels may be put in motion, and trade to all countries, where they can trade without compromitting their own and their country's honor. It will demonstrate the necessity of putting the nation into a better state of defence, whilst it will postpone, for a time, the resort to war; in my judgment, the ultimate and only reasource now left us against belligerent aggressions. It is therefore the only remaining chance for preserving peace. It will leave no chasm in our protest against the belligerent orders and edicts, and thus far save us the disgrace of submission.

I am bound in charity to presume, Mr. President, that gentlemen must differ essentially with me in opinion respecting the causes of war, or it is not possible that we should differ so much as to the propriety and necessity of resorting to it. I therefore propose to state with openness and candor the real causes of our sufferings, the real causes of war. These may principally be summed up in the monstrous and extravagant claim set up by Great Britain to the despotism of the ocean. The despotism claimed upon the land by France, although equally reprehensible, is less injurious to us. It is felt, no doubt, with great severity by those nations whose situation has subjected them to its influence—but it has pleased a kind and beneficent Providence to place us beyond the sphere of its destructive influence, whilst the impotency of France, upon the ocean, relieves us from any great and serious injuries from her upon that element.

Great Britain has assumed the principle of the conquest of the ocean, and, as a reward of that conquest, asserts and maintains the right to carry on herself the commerce of the world, or to prescribe rules for conducting it by other nations, and thus render it subservient to her own views, and her own interests. This claim of exclusive dominion upon the ocean by Great Britain, is hostility against the rights of all other nations. It is in fact war against all nations having equal rights with herself to navigate the ocean. It compels all other nations either to surrender to Great Britain the monopoly of the commerce of the world, or to submit to such rules as she shall prescribe for conducting it. This extravagant notion was conceived by the British jurists as early as the commencement of the French revolution; and since the destruction of the French fleet at Toulon, the Government has made several attempts to introduce it into practice; sometimes with more, sometimes with less restraint or disguise. It is impossible for me to refer to all the instances of this kind; I must, therefore, turn the recollection of the Senate generally to the various orders issued since that time, restraining neutral commerce, in utter contempt of all public law, and acknowledged neutral rights. During the latter part of Mr. Pitt's administration this doctrine had become popular, and it was resolved to put it into practice. It was, however, deemed proper to prepare the world for the reception of the monstrous pretension: accordingly, a pamphlet was written as the precursor of the system proposed to be introduced for the government of the commercial world. I pay but little respect to pamphlets in general, and should not now, but the pamphlet alluded to has always been represented as written under the direction of the then British Ministry, and intended to prepare the world for this new system of commercial warfare; and in this point of view it is entitled to the most serious consideration, and the rather, as the course of policy recommended by it, has since been strictly pursued by the British Ministry, and they have even extended the system since, beyond the utmost limit prescribed in that work.

The pamphlet alluded to, is entitled "War in Disguise." I beg to call the attention of the Senate to two or three short paragraphs therein. They will be found in pages eight and nine:

"Have we then lost the triumphant means of such effectual warfare, or have the ancient fields of victory been neglected?

"Neither such a misfortune, nor such folly, can be alleged. Never was our maritime superiority more decisive than in the last and present war. We are still the unresisted masters of every sea; and the open intercourse of our enemies with their colonies, was never so completely precluded."

Here the pretension of the unresisted masters of the ocean is explicitly assumed, and it can hardly be necessary to remark, that the whole policy recommended in the book, is founded upon that assumed principle. Again, in pages 183, 184, in considering the prudence of applying the proposed remedy in regard to the colonial trade, I find these expressions:

"The sum of all these opposing considerations seems to be this, 'we may provoke a quarrel with the neu-

tral Powers.' I propose, therefore, briefly to consider, first, the degree of this danger; and next, whether the evils of such a quarrel, if certain, would be greater than those to which we at present submit."

"It is certain, that should His Majesty's Government think fit to recall the indulgent instruction that has been so much abused, and revert to the rule of the war in 1756, with such modifications only as can be safely allowed, great clamors would immediately arise in the neutral countries. The neutralizing agents, deprived of a large portion of their fraudulent gains, would exclaim aloud against the measure; and even such merchants as have carried on the colonial trade on their own account, would not be well satisfied to find their field of commerce materially narrowed by the assertion of our belligerent rights.

The neutral Governments therefore would, no doubt, complain and remonstrate; but would they, if firmly though temperately resisted, push the controversy into a quarrel?' Would they maintain their pretensions to the trade in question, at the expense of a war with Great Britain! I firmly believe they would not."

These passages serve to show, that the principle was assumed with a full knowledge of its destructive influence on neutral rights.

The next, or the Fox Administration, seemed to think there was some hazard and delicacy in making this unprovoked attack upon the rights of all nations, and seemed to entertain some doubts of the practicability of the profligate system; but they were compelled, by the infatuated jurists of the day, to make some essay towards carrying it into effect: witness their orders of January 7, 1807, interdicting neutrals from going from one port to another port of their enemy. This extraordinary order, too, was issued only seven days after signing a Treaty of Amity and Commerce with the United States. But, sir, this partial compliance with the public sentiment could not retain them in office. The little respect they retained for neutral rights, and their timid doubts, were amongst the causes which drove them from office, to make way for an energetic administration—one totally destitute of all respect for public law, for neutral rights—destitute of all the scruples and obligations of justice. I propose to give a short sketch of the history of this energetic administration.

1st. As its operations have affected other nations?

2d. As they have affected the United States.

Let us see the consequences which have resulted, and which are likely to result from this energy, originating in folly and in pride; stimulated to its ends in utter disregard of every principle of justice and of public law, and directed to unattainable objects. Permit me, sir, in this exposition, to pay some attention to dates—they will serve to illustrate some of my ideas. The change of Ministry took place either in the month of January or February, 1807. Preparations for executing this lawless system of energy were made with great activity, and in the month of August following, they were made to burst upon the head of an unsuspecting and unoffending friend.

In that month, a surrender of the Danish fleet is demanded. This demand is founded upon a false suggestion, that the Danes had, by a secret article in the Treaty of Tilsit, agreed to give up their fleet to France, to facilitate the invasion of Great Britain. This suggestion was utterly false and unfounded, and so the Ministry were flatly told, to their faces, in Parliament afterwards, by Lord Hutchinson, at that time Minister at the Court of St. Petersburg. Upon the refusal of this iniquitous demand, Copenhagen was immediately sacked, and a profligate and indiscriminate slaughter of men, women, and children ensued. The Danish fleet was forcibly seized, and borne off in triumph. But, sir, with their unhallowed trophies, the British bore off the distrusts and detestation of the world, and left behind them the hatred and the enmity of Denmark. Do you believe, sir, that the British Ministry, or the British nation, have gained any solid advantage by this wanton display of energy? Do you believe, sir, that the loss of character, and the enmity of Denmark, are compensated for by the booty of the Danish fleet, which Great Britain did not want? No, sir. The one might excite in the nation a thoughtless and transitory exultation, but the others are durable losses and stains, which time itself cannot wipe away, so long as history shall remain to record the acts of men and of nations.

The next effort to display this energy makes its appearance in Sweden. A nation fighting for its independence against all Europe, and protected from their lawless power, more from the inaccessibility of the country, its lakes, morasses, &c., than by its resources and arms. Under these circumstances, Sir J. Moore, a great military chief, is sent to offer to the King of Sweden the aid of British co-operation, probably the admission of the British fleet into Swedish ports. How was this flattering overture received by that monarch, in the depth of his distress? Sir, he instantly saw the danger of British perfidy, and he ordered the messenger to be confined—to be incarcerated. But, fortunately for him, he escaped in disguise and disgrace. For this, and other acts, the King of Sweden has been called a madman; but, sir, this act, in my judgment, serves to show that he is a statesman, as well as a soldier. The British perfidy towards Denmark was the cause, and the justification, of his conduct. He had just seen the British, upon a false suggestion, seize upon the fleet of his neighbor, Denmark, and he justly concluded, that, if he admitted a British fleet into his ports, his fleet would also be seized upon, and borne off, whenever the convenience or interest of Great Britain should require it. Here sir, are seen some of the fruits of the perfidious energy practised upon Denmark. And, in the month of July, 1808, Sir John Moore returned to London, to give some mysterious and unintelligible account of the disgraceful issue of his perfidious embassy.

About the same time, those generous interposers in the affairs of other nations sent a fleet and army to Portugal, their friend and ally, to aid the Portuguese in expelling or subduing a French army, then in the bosom of their country. These

wretched and devoted people, deserted by a weak and impotent Government, left almost without the smallest semblance of internal police, and struggling against a French army in their bosom, hailed with acclamations of joy the arrival of their generous deliverers. And what happens? In the month of September, following, a convention for the evacuation of Portugal is made by the British and the French—the Portuguese, the principals in the war, and the allies of Great Britain, not even consulted—and, upon taking down the French standard of despotism, the Portuguese, with indignation and astonishment, behold unfurled, in its stead, the British standard of despotism.

I now find, sir, from the London newspapers, by the last accounts from Portugal, that a formidable party has risen up against the Regency; or, in plain English, against British insolence and despotism—for, sir, the cause of the Regency is the cause of the British—and is not this the natural consequence of such conduct? Yes, sir, that miserable and devoted people are probably divided in opinion. The one-half thinks the despotism of their French oppressors the most intolerable; the other-half, that the despotism of their generous British deliverers is still worse.

Spain is now also receiving the generous interposition of this energetic Administration. The tragic scene in this devoted and commiserated country is not yet closed, or, at least, not known here. But, I should not be at all surprised to hear, by the very next intelligence which shall be wafted from that bloody scene of action, that the generous Britons have run away, and left the Spanish patriots in the lurch, and have forcibly borne away the Spanish fleet as a slight reward for the generous aid afforded the patriots. And, if such should be the fact, Mr. President, do you not believe it would be justified in this country? Yes, sir, some old rule, or some new rule, or some no rule, would instantly be hunted out for its justification. After so many atrocious acts of Great Britain, affecting the dearest interests of our own country, have been justified, there is no act she could perform towards other nations, which would leave her without her advocates here.

I turn with disgust and mortification from this horrible picture of wrongs inflicted by Great Britain upon other nations, to a recollection and recapitulation of the injuries and insults heaped upon my own country, and particularly by the present energetic Administration; and I feel degraded as an American, when I review and recollect our patient forbearance under them, and particularly, sir, when I hear one of my fellow-citizens say there are no causes of war; wait for a further accumulation of injuries and insults. I hope, sir, I am mistaken in the views I have of the causes of war. A discovery of the mistake might relieve me from feelings which, as an American, I cannot but possess, but which I am unable to describe. But, sir, to call the attention of gentlemen with more certainty and precision to the injuries and insults inflicted on us, I have reduced the disgusting catalogue to writing. Sir, I believe that nearly contemporaneous with the determination of the British Ministry to seize the Danish fleet, was its determination to plunder and destroy American commerce. The principle of that determination applied with equal force to both nations. It was exclusive dominion on the ocean; and as one false suggestion was made the pretext for seizing the Danish fleet, so another suggestion, equally false, was made the pretext at once for the destruction of our commerce, and for sowing the seeds of division among our people. That false suggestion was, sir, that the Government of the United States was acting under French influence, and engaged in some secret negotiation with the French Emperor for some ridiculous and visionary division of the United States. The success of this falsehood, and the extent of its circulation, &c., are now pretty generally known in all parts of the United States. Without any further prefatory observations, therefore, let me read to you the catalogue of injuries and insults inflicted by Great Britain on the United States. I think it probable, sir, I have omitted some, because it is a subject to which I turn my mind with disgust, and from it with pleasure.

Catalogue of British Injuries and Insults.

Impressment of American seamen.

Seizing and confiscating our vessels upon various unauthorized pretexts.

Blockading our ports, seizing vessels entering therein, and sending them to some neighboring ports for condemnation.

Firing at, and detaining coasting vessels within our acknowledged jurisdiction; murdering a citizen in these acts of wantonness.

Violating our neutrality by destroying a French ship of war within our jurisdiction, and thus entitled to protection.

Attacking a public armed ship of the United States.

Rifling some, and murdering others of her crew. Refusing atonement for these outrages. Regulating and restraining our commerce. Colonizing and taxing us by Orders of Council, reduced to the form of law by an act of Parliament.

Interfering in our political concerns, by inviting our citizens to violate our laws, and by publishing a letter from the British Secretary of State, by way of appeal to the people against their own Government.

Forcing a contraband trade with armed ships, &c.

Mr. President, am I mistaken in these facts, or are they true? If true, sir, is there a gentleman here present prepared to tell the American people that all these injuries and insults have been inflicted upon them by Great Britain, and all atonement for them refused, and that there is no cause of war? That their honor and interest do not demand war, that they are not yet sufficiently degraded, but must wait for a greater accumulation of injuries and insults! But, sir, permit me to press this inquiry still further. Its im-

portance demands it. It is of the last importance to the people to understand it correctly; that not a doubt should be suspended over the facts. Sir, I have said twice before this session, and I now say a third time, and I beg gentlemen to answer me explicitly, yea or nay—I have twice said, and I now say a third time, that Great Britain by her Orders in Council, now reduced to the form of law, has abridged the rights of national sovereignty, that she has colonized and taxed the people of the United States. Here let me stop, sir; let me single out these acts alone, and ask gentlemen if they are true? Gentlemen have not denied them; gentlemen cannot deny them. Well, sir, are gentlemen prepared to tell the people of the United States that Great Britain has abridged their rights of national sovereignty, that she has colonized and taxed them, and perseveres in so doing, and in the same breath, and at the same time, to tell them there are no causes of war, that they must wait for further injuries and insults! I have so much confidence in the intelligence and patriotism of the people in every section of the Union, that I do not believe such language would be justified or even tolerated in any part of the United States. No, sir, the people of Boston, enveloped as they are with prejudices, would repel the degrading expostulation if it were fairly presented to their view and consideration. But, sir, I propose to press the examination of this subject still further. I propose to select two or three of the most formidable and intolerable acts of outrage from the disgusting catalogue, and to bestow on them a more critical attention. These will be acts of the present energetic Administration. I suppose that other gentlemen cannot understand the Orders of Council as I do; if they did, it would be impossible for an American to offer an apology for, or even a palliation of them. They shall, therefore, receive my first attention: First, as they affect our rights of national sovereignty; secondly, as they affect the different occupations of commerce, agriculture, and fishing; thirdly, the pretexts upon which they are attempted to be justified.

The Orders of Council, now reduced to the form of law, abridge our national sovereignty, in undertaking coercively to regulate our commerce, in defiance of our own laws and the laws of nations, and in subjecting it to heavy taxes or tribute. The power to regulate the commerce of the United States with foreign nations, is given by the people to Congress. These Orders of Council undertake to regulate it by force, and in defiance of the laws of Congress. Indeed, the orders extend their regulation of it further than Congress is authorized to do by the people; for they have charged our exports with heavy duties, which Congress is prohibited from doing by the Constitution. Great Britain may, by municipal regulations, lay any tax she pleases upon the exports of our productions from Great Britain, but she has no right to force our commerce into her ports for the purpose of collecting a tax from it, nor subjecting it to capture and condemnation for any departure from the rules she prescribes for conducting it upon the ocean. Submission to these regulations would be the surrender of some of the most essential attributes of national sovereignty, and would justly exclude us from the family of nations, because we should thereby consent to be excluded from the exercise of some of the essential rights of sovereignty, which are indispensable to the equality of nations. This result is so plain, that I suppose that there can be but one opinion respecting it.

But, sir, I am the more disposed to examine the operation of these orders upon the different occupations of commerce, agriculture, and fishing, because I have lately heard it said and repeated, that they merely affect the *occupation* of commerce, and as a consequence resulting from this interpretation of them, it is said that the merchants may go out and take care of themselves. This, sir, is an extremely fallacious suggestion, and gentlemen, particularly agriculturists, ought to be very cautious in adopting it. This mistake has probably arisen from the want of a due consideration of the subject. It has arisen from the want of discriminating between the right of commerce, or rather the right of regulating commerce, of prescribing the rules for conducting it, and the occupation of the merchant. The right of commerce is a national right; it belongs to the nation collectively. The occupation or the exercise of the right only belongs to the merchant. The right to carry on commerce does not belong to the merchant exclusively; any other citizen may, if he chooses, exercise the right; but these Orders of Council affect both the right of commerce, and the occupation of commerce; they also affect the right of agriculture, and of fishing, still more. They affect the occupation of commerce by limiting its extent and objects; but the principle of the orders once admitted, it will regulate the occupation of agriculture, and probably destroy the occupation of fishing. If submitted to, it would probably lessen the value of every farm in the United States, as well the farms upon the water, as the farms upon the land. Apply the orders to the articles of either flour, cotton, tobacco, or fish. I will select two articles only for the purposes of illustration; but the operation of the orders will apply equally to all. Take tobacco, for example. According to the orders, every hogshead of tobacco exported from the United States, is to be carried first into a British port, there to pay an export duty of three dollars per hundred weight, before it can be permitted to find its way to the Continent of Europe, where it is principally consumed. The value of the article to the grower is upon an average about $6 per hundred weight. The merchant in purchasing the tobacco of the grower, will tell him, your tobacco is worth $6, but I can give you three only, because I am compelled to call in Great Britain, and there pay the other three to make up the price to the British treasury, and besides to incur all the charges of the ports, and the circuity of the voyage, &c. The same observations will apply with equal

force to every other article of agriculture. And thus, the principle of the Orders of Council once submitted to, will enable Great Britain as effectually to regulate the various occupations of agriculture, as if she were permitted to say at once, the colonists may raise grain, &c., but they shall not raise tobacco, &c. If you permit her to impose taxes at pleasure, on any of your productions on their way across the ocean, to their market of consumption, she can in that way as effectually prohibit its cultivation, as if she were authorized to prohibit it in the first instance by a positive prohibitory regulation. The effect of the principle in each case is the same, the only difference consists in the mode or the medium through which the principle is effectuated. It is not likely Great Britain would discourage the cultivation of grain, because she generally requires the importation of a certain quantity for her own consumption. But if the Orders of Council were to be submitted to, living in a part of the country where I have an election to cultivate grain or tobacco, I should certainly abandon the cultivation of tobacco altogether, because, charged with the present export tax, I am persuaded it would afford nothing to the grower.

Now, sir, let me see how these orders are likely to operate on the American fisheries, and American fish. I believe no American fish is allowed to be consumed in Great Britain; yet all the American fish carried to foreign markets for consumption, must first call at a British port, and there pay a duty. I do not recollect the precise amount. [Mr. SMITH, of Maryland, said ninety cents per quintal.] I do not know the proportion that this tax bears to the whole value of the quintal, but it is not material to my illustration. Admit the principle, and the proportion of the tax to the value of the articles can be varied at the pleasure of the British Government. When you come to recollect, sir, the extreme jealousy entertained at all times by the British Government of the American fisheries, the importance they attach to their own fisheries, as the nursery of their seamen, and as almost indispensable to the prosperity of their navy, would you not conclude, sir, that the farms upon the ocean were in as much danger from the operation of the Orders of Council, as the farms upon the land? And I beg gentlemen more particularly interested upon this subject to give these observations a fair and impartial consideration.

But, Mr. President, this suggestion of withholding the protection of the Government from commerce, I conceive wholly inadmissible; for, exclusively of many other considerations, it must have been the result of some very cursory reflections, or superficial observations, upon the attitude the Government has assumed in relation to revenue, or an entire miscomprehension of it. Sir, the occupation of commerce is as much entitled to the protection of the Government as any other occupation, and an abandonment of it as injurious to the interests, and as derogatory to the character of the Government, as the abandonment of any other. Once avow that principle, once have it understood by foreign nations that your commerce is abandoned to its fate, and its prosperity is impossible, its destruction is inevitable. Its very prosperity would produce its destruction, by inviting the cupidity and violence of foreign nations. But, sir, the attitude the Government has taken upon the subject of revenue, forbids the abandonment of commerce. Almost your whole revenue is derived from commerce. You have dispensed with your internal taxes, and your only internal resource is derived from the sale of your public lands. Whatever may be the productiveness of that fund hereafter, it is not now more than equal to one-twentieth of the demands of the Government. Hence, sir, the Government must either afford protection to commerce, or renew the internal taxes. Can you doubt, sir, which of these alternatives the Government would choose? We are told, sir, there are prejudices against a navy. I know there are, sir, and I believe I have partaken of them as much as any gentlemen in the United States, and stand as much committed to the nation upon that point. But the circumstances of the country, at the time of discussing the question of creating a navy, formerly and at the present time, are extremely different. Our commerce then was comparatively small to what it now is. The proposed expenditure upon the navy would have been nearly equal to the whole annual product of the revenue derived from commerce. The revenue now derived from commerce is nearly quadrupled, and besides, at that time, our commerce was almost exempt from foreign aggressions. Its present prosperity, and unprotected state, has invited aggressions from abroad, and unless it is protected it will be destroyed.

Whatever my prejudices or opinions may have been, or may now be upon this subject, I am not so weak and obstinate as to suppose that those prejudices or opinions can control the practical progression of human affairs, nor that there is any consistency in applying the same opinions to a different state of circumstances and events. These must and will control prejudices and opinions. Mr. President, notwithstanding all the existing prejudices against a navy, I now confidently express an opinion, that if you continue to draw your revenue through the medium of commerce, if that commerce should continue to prosper and increase, and if foreign cupidity and violence should continue to exist, you will have a navy to protect your commerce. I consider the effect as certain as any other effect produced by irresistible causes. When this effect will take place, when these prejudices will be overcome, whether this year or the next, or at some more future time, I will not pretend to say; but that it will happen at some time, is as certain as that any other effect will happen that is impelled by irresistible causes. The extent of this protection will depend on the discretion of the Government, and there is a security against its being carried too far by the great preponderating influence of the landed and mechanical interests of the United States. The present measures, dictated by

the present state of things, are in my judgment peculiarly favorable to the acceleration of this result; and I am surprised that our Eastern friends, instead of encouraging them, should be throwing obstructions in the way. A result at all times so desirable to them, and so well calculated to give them that weight in the scale of the Union which they now seem to think they do not possess, but which they have lately manifested great anxiety to possess.

Whilst upon this part of the subject, Mr. President, permit me to express my deep mortification and regret at the unfortunate differences of opinion which exist between the Eastern and Southern people respecting our foreign relations. I will not examine into the causes of these differences of opinion, because it might excite unpleasant feelings in some gentlemen, which I wish particularly to avoid. These differences are the more to be wondered at, when we all know that our interests are common in that respect; and that in relation to each other they are peculiarly mutual and reciprocal. Never were there people whose occupations rendered their interests more mutual and reciprocal than the Eastern and Southern people of this Union, whose wants and supplies were better suited to each other, or presented fewer points of rivalship. The Eastern people have ships and seamen, and delight in employment upon the water; the Southern have lands, and delight in agriculture. Their productions too are bulky and heavy, and peculiarly suited to furnish employment for the Eastern carriers, not only coastwise, but for foreign trade. The Southern people have no desire to enter into the competition, but are perfectly content to permit their Eastern friends to take the trouble of carrying their productions to the markets of their consumption, and to enrich themselves from the fruits of their labors and their speculations; yet, notwithstanding all these things, and notwithstanding we all know the horrible consequences of divisions, we still witness alarming differences of opinion, which have not only encouraged and invited the interference of a foreign nation in our political concerns, but have also pervaded social intercourse, and even materially lessened the enjoyments of society. And after all, Mr. President, permit me emphatically to ask you, to whose, or to what good? Why, sir, our foreign adversaries may profit by our divisions, but they are equally destructive to the real interests of all parties among ourselves.

Sir, without pressing this subject further, may I not be permitted to indulge the flattering hope, that when these solemn truths shall be presented to the serious reflection of all the people of the United States, in every quarter and section, that they may be impelled by a sense of common interests, and common dangers, to unite heart and hand against our common adversaries; and notwithstanding present appearances, that our unfortunate differences of opinion may finally eventuate in renewed acts of reciprocal kindness, confidence, and friendship?

Permit me now, sir, to inquire into the pretexts upon which the British Ministry undertake to justify these extraordinary Orders in Council, and I will venture to assert that they will be found both false and insincere. The pretext set up for the justification of these orders, is suggested to be founded on the right of retaliation upon their enemy. The right to retaliate through the United States is said to be founded on the culpable neglect of their Government to resist French aggressions upon their neutral rights, by which it is pretended that Great Britain has sustained an injury, and thus claims a right to counteract the injury through the United States. Upon the same pretext France claims and exercises what she calls the same right, in consequence of the culpable neglect of the United States in not resisting the aggressions of Great Britain. The suggestion of each is false in fact. The United States have not been guilty of any culpable abandonment of its rights in relation to either of the aggressing belligerents. The Government has constantly interposed all reasonable resistance to the aggressions of both; of which reasonable resistance it was the proper judge; at least it was entitled to its full share in the decision, and any forcible resistance to that decision when made was an act of war. I do not therefore propose to enter into the question, whether Great Britain or France first commenced their aggressions, since both were properly and reasonably resisted. But, if I were to express an opinion upon this question, I should have no hesitation in saying that Great Britain first began, and so far France has more pretexts for her conduct. There were many acts of the most serious aggressions committed by Great Britain, under pretended blockades, before the Berlin decree; and the impressment of American seamen was contemporaneous with the commencement of the war. (*a*) This was not, and is not the less an act of aggression, because it is stale, has been long practised, and because we are habituated to it—but it was not acquiesced in. It was met by reasonable remonstrance, and resistance, and therefore is no justification of the French decrees; but at the same time it takes away even the shadow of a pretext from Great Britain upon the question of who began to do wrong first; for there is a reciprocal condemnation of each other, and so far a joint exculpation of us, at least from the commencement of the wrong to either. But, sir, let me now examine the pretext of the British Ministry according to Mr. Canning's own exposition of it.

The acts of France complained of are admitted by Mr. Canning now to be merely nominal in relation to Great Britain, that they are utterly harmless and contemptible, that they have ceased to be mischievous, operative, &c. Yet he tells you that he will not revoke the Orders in Council for fear his motives in doing so may be mistaken; not that it is not in itself just and proper to revoke them, according to the principle of retaliation upon which they were originally adopted; but merely for fear his motive in doing an act of justice and propriety, may be mistaken or misconceived by others. But, sir, let us hear him in his own words:

"The struggle has been viewed by other Powers, not without an apprehension that it might be fatal to this country. The British Government has not disguised from itself, that the trial of such an experiment might be arduous and long, though it has never doubted of the final issue. But if that issue, such as the British Government confidently anticipated, has providentially arrived much sooner than could even have been hoped; if 'the blockade of the continent,' as it has been triumphantly styled by the enemy, is raised even before it had been well established, and if that system, of which extent and continuity were the vital principles, is broken up into fragments, utterly harmless and contemptible, it is nevertheless important in the highest degree to the reputation of this country (a reputation which constitutes great part of her power) that this disappointment of the hopes of her enemies should not have been purchased by any concession; that not a doubt should remain to distant times of her determination and of her ability to have continued her resistance, and that no step which could even mistakenly be construed into concession, should be taken on her part, while the smallest link of the confederacy remained undissolved; or while it can be a question whether the plan devised for her destruction has, or has not, either completely failed, or been unequivocally abandoned." [*Canning to Pinkney, Sept.* 23, 1808.]

"The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion. I cannot conclude it, however, without adverting very shortly to that part of your letter, in which you argue that the failure of France in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliatory system of Great Britain. This impotency of the enemy to carry his projects of violence and injustice into execution, might, with more propriety, be pleaded with him, as a motive for withdrawing decrees at once so indefensible, and so little efficacious for their purpose, than represented as creating an obligation upon Great Britain to desist from those measures of defensive retaliation, which those decrees have necessarily occasioned. If the foundation of the retaliating system of Great Britain was (as we contend it to have been) originally just, that system will be justifiably continued in force, not so long only as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned; and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from it, while the enemy's original provocation remains unrepealed, might lead to false conclusions, as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that Power to resort to the same system on any future occasion." [*Canning to Pinkney, Nov.* 22, 1808.]

What, sir, does Mr. Canning here tell us? Why, sir, on the 23d of September last, that the French blockading decrees were then broken up into fragments, utterly harmless and contemptible; and on the 22d of November following, that they had ceased to be mischievously operative, &c. &c. Retaliation may be defined an injury returned for a wrong received. Well, sir, if the United States had done no other wrong to Great Britain but neglecting to repel the wrong of France, and the wrong of France ceased to produce any injurious consequences, why not revoke the orders inflicting the most destructive injuries upon the United States? Why, Mr. Canning in substance tells us, not that it would be wrong to do so, but he is afraid that the world would mistake his motive for doing right. And, sir, is the commerce of the United States to be destroyed, the people to be colonized and taxed, and the nation to be insulted and degraded, merely because Mr. Canning fears, if he should cease to inflict these wrongs, his motive for ceasing to do so may be misconceived or mistaken! And are the people of the United States to be told that all these injuries and insults are to be continued merely to expiate Mr. Canning's idle and pretended fears, that his motive for his conduct may be mistaken? What, sir, can be more derogatory to the character? what more injurious to the interests? what more insulting to the understanding of the American people? Yet, sir, we are told there are no causes of war! We must wait for more degradation! Sir, Mr. Canning tells us he thinks this is no mean motive of policy for continuing these orders after the original causes ceased. Sir, I will not pretend to think against Mr. Canning upon this subject; but, sir, I think, and I know that it will be a mean, an infinitely mean motive of policy on our part to submit to his injuries, his insults, and his degradations, as well as his absurd and sophisticated exposition of his motives for them. But, sir, permit me again to ask if the United States had not a right to judge of the extent and mode of resisting the French decrees? They certainly had, and did so; and after having made their decision in those respects, a contrary hostile decision by Great Britain was an act of war against the United States; and, according to her own principle of retaliation, the proper act of retaliation on their part was an act of war, not indeed through the ribs of a third innocent, unoffending party, but directly back upon herself, and it ought instantly to have been resorted to upon her refusal to revoke her hostile orders.

But, sir, permit me to put this doctrine in a still stronger point of view. The right of retaliation, I presume, is equal and reciprocal among all nations, and when the British Ministry ventured to retaliate upon their enemy through us, they adopted that policy upon their own responsibility; they subjected themselves to all its consequences; we certainly had a right to adopt a counteracting policy; war would have been the natural, legitimate, and correct act of retaliation. But, sir, suppose I were now, in a spirit of mitigated retaliation, to propose to pass a law imposing a duty equal to one-half of the value of all the original productions of Great Britain, and direct, that all her vessels sailing with such productions either to Spanish America, or any of the American Indies or isles, or to any other place under the protection of the laws of nations, should first call at some port of the United States, either Boston, New York, Baltimore or Charleston, and there pay the tribute; and if they failed or refused so to do, to

authorize our armed ships to capture and bring them in for condemnation; would not the proposition be thought extravagant and monstrous? the proposition of a madman? Yet, sir, it would be more reasonable than the Orders in Council, which are the same in substance, but were adopted without provocation or pretext. Yes, sir, the pretext is false, it is insincere. The real ground of the Orders in Council will be found in the settled determination of the British Cabinet to monopolize the commerce of the world, or to render it subservient to their own views and interests, and particularly to involve in this general destruction the commerce of the United States. Sir, I draw this conclusion not only from Mr. Canning's own prevaricating letters and sophisticated expositions, but from various intimations to that effect by the British jurists, and particularly from a late pamphlet, written it is said, under the direction of the Ministry, and for the express purpose of preparing the British nation and the world for the monstrous pretension. Indeed the production is ascribed to the elder Mr. Rose, one of the most influential advisers of the Cabinet, and it is extremely probable we shall see the doctrine openly avowed in the British Parliament, now expected to be in session. The pamphlet is entitled "Hints to both Parties," from which I beg leave to read a few extracts:

"The Orders in Council have been stigmatized, as being at once absurd and contemptible, in relinquishing the principle of right on which their justification is founded, for a paltry consideration of pounds, shillings and pence. But how can that measure be deemed absurd, which at once unites interest and policy? And so far from rendering Great Britain contemptible, how can she possibly assume a more dignified character, than in thus showing the world that Bonaparte, with all his dependent Kings, are but her tributaries; that they can receive no article either of comfort or necessity, without paying an acknowledgment to her maritime supremacy, and contributing to the expense of carrying on that war, which the ambition, injustice, and aggressions of their tyrant have rendered necessary."

Here, sir, we see a picture of the fantastic and gigantic attitude which the inflated pride of Great Britain has assumed. Bonaparte and all his dependent Kings are her tributaries, paying tribute to her treasury, and homage to her pride. Why, sir, to be sure, this dreaming delusive vision must be very fascinating to British pride, and gratifying to British cupidity, and I should have said nothing about the Ministry's indulging themselves in these delightful reveries, if they had not included the United States in the magnificent train of their humble tributaries. It is true, sir, they are not expressly included in this sentence, but they are made so in fact, and it was intended they should be so included, as I shall presently show by another quotation from this ministerial production. Yes, sir, I shall presently show you one single word, which is the key that unlocks the whole views of this energetic Ministry in relation to the United States. But let me first present you another passage, sir, which will serve to show how far this Ministry calculates upon effecting their objects by interfering in our political concerns, and by fomenting divisions and discontents among us? After speaking with apparent exultation of the assassination of the Emperor of Russia, in consequence of his interruptions of the trade of his subjects with Great Britain, an event impliedly admitted to have been produced by British stratagem, the author thus proceeds in page 37:

"If any further elucidation of the principle to which this event is ascribed were wanting, it promises to be found in the United States of America, where the cultivators of the soil are deprived of the fruits of their labors, and the merchants of their commercial gains, by the present embargo. This forced state of things cannot be of long continuance. Already have the Vermontese set the constituted authorities at defiance, and persist in carrying on their trade with the Canadians across Lake Champlain, while the Northern States manifest strong symptoms of discontent."

I shall only remark upon this sentence, that it serves to show how greedily these events were seized upon, and how greatly they were overrated, and proceed to the 39th page:

"From what has been adduced upon the subject of privations, it may be inferred that the attempts of other Powers to injure Great Britain, by pursuing this system, must be abortive. But it is not so with the same system adopted by Great Britain, in retaliation upon them. What they can only threaten, she can execute. While they can only partially restrict her commerce, her naval superiority gives her the means of annihilating theirs. The people, thus reduced to misery and distress, will consider their rulers as the authors of their sufferings; and this sentiment once excited, will lead to revolt, through revolt to revolution, through revolution to a change of measures, and ultimately to peace."

"Let then the principle of the Orders in Council be strictly enforced. When the enemy feels the pressure of our retaliations, and relaxes his decrees, we should reject, instead of admitting those commodities, by the sale of which he procures resources for his revenue, gives relief to his subjects, encourages them to the continuance of the war, and reconciles them to his authority."

Here sir, we see the vital principle of all our wrongs, of all our sufferings. It is the supremacy of the British navy. What others threaten, Great Britain can execute. While her commerce is protected, she has the means of annihilating the commerce of others. But this is not all of the horrid picture which is here exhibited. Although the British navy is admitted to be the destructive machine for inflicting all the wrongs upon the people of the United States, they will be told to look for the real cause of their sufferings to their rulers, as the authors of them; and this sentiment once excited, will lead to revolt, through revolt to revolution, through revolution to a change of measures, &c.; and thus the people are to be deluded and made the unsuspecting instruments of their own slavery and sufferings. And Mr. President, permit me, with the most humiliated feelings as an American citizen, to ask, whether the course of events in this country has not corresponded precisely with these anticipations!

and whether there be a doubt that the authors of these anticipations have also been instrumental in practising these delusions upon the people for the purpose of effecting their objects, and realizing their calculations and predictions? But, Mr. President, may we not indulge the pleasing hope, that these unfortunate delusions of the people are nearly at an end? or that they will be so, as soon as the real authors of their delusions and sufferings are pointed out to them? I will now turn over to the next page, and there you will find the key which unlocks the whole iniquitous views of this energetic Ministry towards the United States. The author is urging the country gentlemen in England to unite with the Ministry in this gigantic project of universal dominion on the ocean, and thus he expresses himself:

"Many gentlemen connected with the landed interest opposed the substitution of sugar for corn in the distilleries, as a discouragement to the agriculture of Great Britain. How much more strongly ought they to oppose these licenses to trade in the staple commodities of France and Holland; not only on the same principle, but on every consideration of sound policy! The former measure is temporary, the latter is permanent. The former gives relief and encouragement to our own subjects; the latter gives relief and encouragement to our enemies. The former promotes the agriculture of our own colonies; the latter promotes the agriculture of our enemies. The former enables us to consume an additional quantity of sugar, which is paid for in British corn, or manufactures; neither of which are taken in exchange for the commodities imported under the latter. The sugars imported under the former, are brought home in British ships, and add to that carrying trade which is the nursery of our naval strength; the articles imported under the latter, are brought in foreign vessels, and increase the naval strength of other Powers. Let the country gentlemen, then, unite their efforts, and support the cause of British commerce, and the British navy, against the agriculture, the commerce, and the navy, of our enemies or rivals."

Here the United States are expressly included in this scene of general destruction meditated against commerce. Enemies or rivals! The word rivals, sir, is the key which unlocks the designs of the Ministry against the United States. Do you suppose, sir, the author did not know the meaning of the word rivals, or that it was slipped in without design? No, sir, it was intended to tell the British nation that they must not stop at the destruction of the commerce of their enemies. The destruction must be indiscriminate; it must extend to rivals as well as enemies. And, sir, who are the rivals of Great Britain in commerce? The United States, and the United States alone. The term rivals, is as descriptive of the United States as the term United States itself. I think, sir, from the combined influence of all the preceding circumstances, it is demonstrated beyond a doubt, that all our sufferings arise from the settled determination of the British Ministry to exercise exclusive dominion upon the ocean. To monopolize the commerce of the world, or render it subservient to British views and British interests.

Permit me now, sir, to select another act of this energetic administration towards the United States for a few animadversions. I mean, sir, their interfering in our political concerns in many respects, but particularly by holding out inducements to our citizens to violate our laws; and even appealing to the people against their own Government, by some invisible agency. I allude, sir, to the order (*b*) issued shortly after the passing of our embargo laws, for receiving vessels which should violate those laws, even without the customary papers; and to the publication of Mr. Canning's letter addressed to Mr. Pinkney on the 23d of September last, in one of the newspapers printed in Boston.

I consider both these acts as highly insulting to the American people and Government, and they ought to have been repelled with indignation, and would have justified hostility itself. Sir, in issuing this order, the British Ministry appears to me to have set a dangerous example to other nations, particularly to the United States, because the United States might retort her favorite retaliatory system upon herself. Suppose, sir, immediately upon the receipt of that order in the country, the United States had retorted by passing a law holding out inducements to British seamen to desert from their ships, and to afford them protection, and even to promise them protection and rewards upon bringing in the ships themselves. Do you think, sir, that Great Britain would have been altogether free from apprehensions as to the effects of such a retaliatory measure? The British fleet, sir, is extremely formidable to the Government—the floating dungeons and severe discipline, not always palatable to the seamen. They have several times been very much out of humor, and it is impossible to foresee the consequences of the inducements the United States have in their power to offer the disaffected. But sir, this subject presents another consideration to my mind. In the year 1793, Great Britain entered into the war against France solely upon the ground of resisting the spirit of disorganization, which, it was alleged, France was introducing into all nations. It was for the alleged act of separating the people from their Government. Now, sir, how is Great Britain likely to wind up the war? Why, sir, she seems now to have become the champion of the very system against which she originally entered into the war. She now seems to have become the common disturber of the peace of all nations. Surely, sir, the British nation or Parliament never can, upon cool reflection, approve of this profligate act of its Ministry.

Let me now, sir, implore your most serious attention to the publication of Mr. Canning's letter in the Boston newspaper. The time and circumstances attending its publication aggravate the act. It was an unpardonable insult, and ought to be repelled with indignation. Particularly insulting was it to those for whose use it was more immediately intended. Is it possible that the British Parliament or nation can justify this act of abandoned profligacy? In the cases of Genet, Yrujo, &c., their Ministerial functions were suspended. Their recall was immediately requested, and com-

plied with. In those cases, the authors were known; in this, he is concealed. The publication is conducted, or directed, by an invisible hand. But, sir, the act is not the less dishonorable or reprehensible on that account.

No, sir, the author, skulking from public view, stamps the character of the transaction with peculiar disgrace. Insults of this kind, sir, have been practised upon the British Government and nation. Let us see how insults of this nature were received and treated by that Government and nation. Several cases of this nature have occurred in Great Britain, but I will select one in point, which occurred in the time of George the First, in the year 1727. It will be found recorded in "Belsham's Memoirs of George the First," pages 192, 193, and in the proceedings of Parliament of that day, in reference to that subject. These I have examined, and find them still more pointed than the historical account of them, particularly the resolutions of the House of Commons, which are highly worthy of imitation. They are contained in a very large book, and I therefore declined bringing it to the Senate. The case was, sir, that the Imperial Resident at the Court of London, Count de Palm, was instructed by His Government to present to His Britannic Majesty a strong and pointed memorial against certain expressions or intimations in the King's Speech to Parliament, which were suggested by the Imperial Court to be unfounded and false, as they probably were, &c., &c., and to publish the memorial for the information of the British nation. How, sir, did the British Government and nation receive and repel this insult? Sir, it was received with universal detestation, and repelled with universal indignation. It hushed, for the moment, the spirit of party. It was deemed an insult to every man, woman, and child, in Great Britain, &c., &c. But, sir, let me give you the account in the words of the historian.

"With the memorial also was transmitted, from Vienna, a letter from the Chancellor, Count Zinzendorf, to Count Palm, expressly commanding him, in the name of His Imperial Majesty, after presenting the memorial to the King of Great Britain, to publish it, together with the letter annexed, for the information of the British nation. The Chancellor Zinzendorf affirms, in this letter, that, 'it is easy to see that the speech was made for no other purpose but to exhort the nation to a rupture and open war with the Emperor and Spain, and to make the Parliament approve the precipitate and burdensome measures which the Government has taken for private ends, too well known. That, on the first report of these false suppositions, the Emperor, and the King of Spain, in order to silence them, proposed a formal act, *de non offendendo*, into which all the contracting parties of the Treaties of Vienna and Hanover might enter, till such time as a definitive agreement might have taken place, but, that this proposition was rejected. He says that, the articles of the quadruple alliance are expressly and publicly laid down as the unalterable basis of the Treaty of Vienna, and, that to affirm, that by a secret part, concluded at the same time, engagements have been entered into by their Imperial and Catholic Majesties, repugnant to the same, is an outrageous insult to the majesty of the two contracting Powers, who have a right to demand a reparation proportioned to the enormity of the affront. And, that the high contracting parties had no other view than that of making peace between themselves without injuring any one else.' The allegations contained in this letter and memorial seem but too well founded, but the intemperate language of these papers gave high and just offence; and Mr. Shippen, Mr. Hungerford, Sir William Wyndham, and all the leaders of opposition in Parliament, warmly concurred in the address presented to the Throne on this occasion, and which passed the House without a dissentient vote. And an order was sent to M. de Palm, signifying 'that the said Palm, having delivered into the hands of His Majesty, at his late audience, a memorial highly injurious to the honor and dignity of his Crown; and having, also, publicly dispersed the same, with a letter from the Count de Zinzendorf to him, the said Palm, still more insolent than the memorial, His Majesty looked upon him no longer as public Minister, and required him forthwith to depart out of this kingdom.'"

Here, sir, we find the Imperial Resident, the Count de Palm, immediately ordered out of the country, and the nation rising into instant war to repel the insult and retrieve the wounded honor of the nation. Here, sir, we find the bickerings of party silenced; we find every heart united; we find the opposition facing about, and the whole nation presenting a hostile front to the authors of the insult. Can you believe, Mr. President, that a nation which feels so just a sensibility, when an insult is inflicted by others upon itself, can for a moment justify its Ministry in inflicting a similar insult upon another nation? Can you believe, sir, that the British nation or Ministry can feel any respect for those for whose use the publication was intended, when you contrast their conduct with the generous and correct conduct of the British Opposition? When, instead of rousing every American feeling to repel the insult with indignation, it seems to have been received with complacency, and directed to its iniquitous end! And shall we be compelled to believe that all honorable feeling is lost and buried under the dominant influence of party sensibility? Surely, sir, this cannot be an attitude which any party would wish to assume, and thus present itself either to the American or the British nation! Yet, sir, the only difference in the character of the insult in the two cases is, that in one the author was known and avowed, and in the other, he secures himself by his invisibility. But, sir, if the author of the publication be an authorized British agent, and he will avow himself in a bold and manly way, I have no hesitation in saying he ought instantly to be sent out of the country, let the consequences be what they may. Sir, in no country in the world ought this point to be held more sacred, and the insult more firmly repelled than in the United States, where our presses are under no restraint—where not only freedom, but licentiousness, characterizes almost every page.

But, sir, our degradation does not stop here. Let me select one other act for a single animadversion. The British are now driving a forced trade, in violation of our laws, on our Southern frontier; and whilst it demonstrates the importance of our commerce to their prosperity, it at the same time degrades us below the Spanish colonies; for they do sometimes resist such aggressions, but we take them with patient forbearance and quiet submission. Let me now, sir, compare the injuries and insults received by the United States, and by other nations, from Great Britain, and contrast the resistance. Sir, I wish I could spare myself the pain and mortification of performing this task; but, sir, I deem it indispensable. It is a sacred duty I owe to the people, and must be performed. Sir, the demand upon Denmark, whilst observing an honest neutrality, was, to be sure, flagitious, but it was resisted by war. The overture to Sweden, whilst in the depth of distress and difficulties, to be sure, was perfidious, but the messenger was ordered to be incarcerated. The conduct in Portugal, whilst weak—deserted by its Government—conquered almost by a foreign host—was cruel and insulting; but it was repelled with indignation, and perhaps by hostility. The horrid catastrophe of the bloody tragedy in Spain is not yet known; and as my mind is perfectly exempt from even the semblance of a wish to exaggerate British outrage, so I will suppress my anticipations in relation to the fate of the Spanish fleet. Whilst the United States, more injured and insulted than all these nations together, are alone to bear with patient meekness and long suffering; and the gallant, honorable, and high-minded American people to be told there are no causes of war!—that they must be still more humiliated—still further degraded! Wait, with patience, till another catalogue of injuries and insults shall stain the fair, unsullied page of your national character! And some men go so far as to recommend submission altogether! Mr. President, the love of peace is one of the most amiable passions of the human mind. It is fondly cherished by the American people. But, sir, when it degenerates into a fear of war, it becomes, of all passions, the most despicable. In its application, it is, of all others, the most unfortunate and ruinous to a nation. It excites contempt and invites attack from abroad, whilst at home it dispirits the people, and disqualifies them from exerting the energy they possess. Is there not ground to fear, sir, that Great Britain has mistaken the character of the people and Government of the United States in that respect? And, if so, is it of no importance to undeceive her? And how can this be done? It can only be done by manly, open, direct, and honorable war. Let war, then, sir, be openly resorted to, and vigorously conducted. Give the people an opportunity of retrieving their character, or at least of proclaiming their true character to the world. It will even be found economical of blood and treasure; it will in the end be favorable to peace itself; for, sir—permit me to borrow an appropriate and emphatical expression of a gentleman from Connecticut, (Mr. HILLHOUSE)—it will be a war for peace. Yes, sir, as that gentleman expresses it, we must fight for peace. Without war, or fortunate events abroad, I am satisfied we can have no peace.

I fear, Mr. President, I am trespassing too much on the kind indulgence of the Senate, but, sir, I cannot conclude my observations without examining the most prominent objections urged against a war with Great Britain. This I propose to do with candor and impartiality.

The first objection is derived from the supposed character of the quarrel in which Great Britain is engaged. It is said she is fighting the battles of the world against the spirit of French domination. That her national existence is at stake. That she is fighting merely for her *natale solum*, &c., whilst France is contending for the dominion of the world. This is not the true character of the quarrel. They are both fighting for domination; each upon the element to which he can apply his power. France claims domination on the land—Great Britain on the ocean. But it is said if the Emperor of France should succeed and destroy Great Britain, or control her fleet, his power would be directed against the United States, and they would be the next victim. This is a remote and extremely improbable contingency. It is my opinion that the chances are greatly in favor of Great Britain's succeeding in the contest; and I believe that our situation would be just as critical, if Great Britain, having the command of her fleet, had also the command of the men on the continent, as if France, having the command of the men on the continent, had also the command of the British fleet. In either event we could expect no mercy, and our only reliance for preserving our independence would, as it ought always to, be upon our own courage and resources. I would, therefore, deprecate either of these events. But, sir, whilst I should deplore the circumstances of either of these nations subduing the other, I think the chances of ultimate success in favor of Great Britain. I will state a few of the grounds of this opinion. In Great Britain the Government is strong, stable, popular, and from her insular situation, the navy affords the nation a complete protection against foreign invasion. The resources of Great Britain are great, and her people brave and loyal, &c. These afford her strong securities. In France, the order of things is scarcely settled. The dynasty is new, probably depending on the life of a single individual; the chances of his death alone and the probable consequences flowing from that single event, give to Great Britain a better prospect of final success in the contest than any reasonable calculation of probable events would give France, in relation to the conquest of Great Britain. This consideration, therefore, has no alarms or terrors for me. It is certainly a mere possible contingency against every calculation upon probable events—it is visionary. But, sir, where does this sensibility—(I will not call it sympathy, because Great Britain has no feeling from which it can be derived) where, I say, sir, does this sensibility for the safety of Great Britain exist? I believe in the United States alone; certainly not in the British nation nor Ministry. Let me call your recollection to Mr. Canning's language on this subject. Do you hear him express any whining fears of the loss of national existence?

any timid alarms from the influence of French power? What does he say, sir? On the 23d of September last he tells you that Bonaparte's gigantic projects of domination were then broken up into fragments, utterly harmless and contemptible. And on the 22d of November last, that Bonaparte's decrees were merely nominal; that from his impotency they had ceased to be mischievous in practice, &c., &c. And what do the Ministerial pamphleteers tell you? Why, sir, that Bonaparte and his train of dependent Kings are the tributaries of Great Britain; and that the British rivals also shall follow in the train to grace the magnificence of the scene, and shall contribute their homage also to the supremacy of the British navy! Is this the language of a nation struggling for its existence? Is this the language of a nation trembling with alarms of subjugation from French power? No, sir, the British nation has no such feelings nor apprehensions; this sensibility exists only in the United States. If Great Britain really felt these alarms, she would feel more respect for the rights of other nations; she would moderate her claims upon the ocean; she would leave to other nations some little share in the exercise of rights upon that element. But, sir, where will this argument end? If on account of some remote, improbable, and contingent danger, we are to bear all the wrongs already heaped upon us by Great Britain, when are we to stop? When will the load become too grievous to be borne? I wish this point ascertained and fixed, that Great Britain may know it, as well as ourselves; for there is no doubt she will pile on us as long as we will bear, and perhaps she may overstep the bounds from the want of knowing the limits. Sir, these grounds of objection are unsubstantial; they are nothing more than mere pretexts for indulging our habitual predilections for Great Britain, and if we think otherwise we deceive ourselves. The plausibility of these suggestions may, perhaps, however, have extended their influence beyond the sphere of British predilections. But, sir, I am convinced in all those cases, it has arisen from the want of due consideration of the subject.

The only effects of entering into the war against Great Britain, would be to lessen the range of her commerce, and limit the dangerous influence of her navy, and thus to restore to ourselves some of our lost commercial rights. But her national existence even in that case would not be endangered, and even if it were, she could stop the war at pleasure, by doing us less than justice.(*c*)

Indulge me now, sir, in examining another objection against entering into a war with Great Britain; which, while it is the most unaccountable, has I believe more influence on the minds of gentlemen, than all other considerations taken together. It is, sir, the strange suggestion, that the British Ministry had refused to accede to the just and reasonable propositions made on the part of the United States, from a belief of the insincerity of our Government in conducting the negotiation; and that, if the overture could be renewed in sincerity and good faith, it would be accepted on the part of the British Government. Groundless and extravagant as this supposition is, permit me to make a few observations on it. In the first place I would ask, by whom have our negotiations with Great Britain been conducted since the commencement of the present Administration? First, by Mr. King. Has Mr. King ever made any intimations of insincerity on the part of the Administration during his agency? I believe not. I believe that Mr. King entirely approved of the course pursued during his time, and I am sure the Administration highly approved of his conduct. I believe it was judicious, honorable, and dignified. I presume some respect might be paid to his negotiations by Federal gentlemen, for I believe he has not yet forfeited their confidence, if I am to form an opinion from the votes given to him for the Vice Presidency at the late election. The Federalists gave him all the votes which were at their disposal. The next agent on the part of the United States was Mr. Monroe. From late occurrences it cannot be presumed that Mr. Monroe is in possession of the knowledge of any circumstance of insincerity against the Administration, which he would withhold from the public. Mr. Monroe has, in fact, written a book. He has told all he did know. Although, sometime since, we often heard it said, he could tell more than he would tell. But no evidence of insincerity has yet appeared. Our present agent is Mr. Pinkney. He is a Federalist: an intelligent, honorable, and respectable Federalist. Some confidence, it is supposed, might be paid to his opinions, and communications. Yet it is known that he approves of the measures of the Administration, as far as they go, but he would go further. If, however, sir, gentlemen disrespect the testimony of all these witnesses, let me present them with another, to whom, upon this point at least, they will certainly yield some respect. It is Mr. Canning. Although his desire to cherish and encourage this delusion may clearly be seen, through the prevarications of his two last letters to Mr. Pinkney, yet he expressly tenders Mr. Pinckney the homage of his respect for the candor and liberality displayed by Mr. Pinkney in conducting the negotiation, and it is very easy to discern that he is compelled to respect the motives which dictated Mr. Pinkney's instructions.(*d*) But, sir, it was placed completely in Mr. Canning's power to put the sincerity of our Government to the test, by accepting, instead of rejecting, the frank and reasonable proposition offered to him by Mr. Pinkney. His rejection of it is proof positive, that he did not wish to put the sincerity of our Government to the test. Again, sir, let me beg your attention to another consideration. Whatever errors the political opponents of the President may fancy they see in his general character, their prejudices could never carry them so far, as not to exempt him entirely from the passions of political ambition, and personal aggrandizement. His voluntary retirement from his present station, is irresistible proof of his exemption from these passions. In a few days he goes into a chosen retirement, to enjoy the blessings, in common with his fellow-citizens, which

his wise Administration has spread over this extended country; and, sir, in his solitude, with a heart overflowing with gratitude, I sincerely hope he will enjoy all the happiness which is the just reward of the amiableness and philanthropy of his character. But, sir, under such circumstances, what possible inducement could he have for an act of insincerity in conducting our foreigh relations? What possible inducement could he have to involve his country unnecessarily in war? In his retirement, he will be as much subject to the good or bad consequences of his own measures, as any other citizen; it is not, therefore, possible to conceive that he would adopt ruinous measures, while he himself would be subject to all their consequences. No, sir, this suggestion of insincerity is nothing more than a miserable delusive vision; a mere catch of the human mind, to indulge itself in its own passions and prejudices, when there is no justification that can be derived from more substantial considerations. It is the result of a forced suspicion, for the want of some document or paper, as a justification for the indulgence of these unfortunate passions. Observe, too, the inconsistencies and absurd contradictions of gentlemen laboring under the influence of these passions. In the same breath, sir, they accuse the President of such a devotion to a vain philanthropy and speculative philosophy, as to disqualify him for the rugged duties of a politician, and of an insincerity in conducting our foreign relations, with a view of involving the United States in war, in direct opposition to the habitual and dominant passions of his mind. No, sir, the President is the lover of peace, and I fear that his amiable and anxious solicitude to preserve it, may have had some tendency towards rendering war indispensable. Sir, these prejudices and jealousies, so causelessly indulged by gentlemen, may have, it is feared, the most unfortunate influence upon the interests of the American people, and upon the character of the American nation. For, sir, when jealousies and prejudices once take hold of the human mind, they distort all facts, they invert all just inferences, and they make themselves the food for their own subsistence and indulgence.

Let me now, sir, solicit your attention to one more consideration in relation to this subject. If it be once admitted that the hostile measures of Great Britain against the commerce of the United States, are dictated by the settled determination of the Ministry to exercise exclusive dominion upon the ocean, you will find in that principle alone the solution of all our difficulties in our negotiations with Great Britain, without resorting to the delusive and extravagant suspicion of an insincerity on the part of the Administration. That this is the real principle which has dictated her measures, I think I have demonstrated beyond the possibility of a doubt; and nothing but adverse events in Europe, or war by the United States, can, in my judgment, induce her to recede from a principle at once so fascinating to national pride, and gratifying to mercantile cupidity.

No, sir, I am perfectly satisfied, if the Administration were to send a deputation of a chosen band of British partisans, even headed by Mr. Erskine himself, that the British Ministry would not sacrifice this favorite visionary project of aggrandizement upon the altar of their combined supplications and intercessions. This is not a question of mere complaisance between the two nations. It is a question of power, of lawless, unrelenting power on one side, against right, unquestionable unassuming right on the other.

Mr. President, does it not appear from a review of all the facts and observations I have now had the honor of presenting to this Senate, that forbearance has extended to its utmost limit; that without some relaxation on the part of the belligerents, war is inevitable; and that we have no expedient left, but to demonstrate by our own energies, both to Great Britain and France, how much more interest they have in cultivating our friendship than in provoking our enmity? Mr. President, from these observations, it will be also readily seen that the proposition before us is pitched to a key several tones below that which my wishes and my views of the public interests would strike. I hope, sir, it is still within the limits of national honor and national interests. Strike only one key lower, sir, and I fear it will sound in national disgrace and dishonor. How desirable, therefore, is it, sir, that we should all, of all parties, unite in some proposition to save the honor and protect the interests of the nation? And may not this yet be hoped for, when Federalists, as well as Republicans, have all entered their solemn protest against submission? After having displayed an almost unanimity in favor of resistance, may we not hope for an equal unanimity in favor of the extent and mode of resistance? May we not indulge the hope, that gentlemen who differ with us upon political subjects generally, will now meet us upon this proposition of conciliation and concession? Particularly, sir, when they must know and see the dangers of division! When other nations have lately presented so many instructions and horrible examples of divisions; that at all times one party is as much the victim of them as the other; that the ruin to both is equal and indiscriminate, and the advantages alone to the common adversary of both. And, sir, can it be necessary to urge any arguments to those who have usually associated in political measures and opinions against the ruinous effects of divisions amongst themselves? Surely not, sir. The ruinous effects must be obvious to every gentleman. Is it not better then, sir; is it not more honorable, wise, and magnanimous, for each gentleman to concede something of the particular views which he has taken of our difficulties, to the varying views of his friend and associate, than by pertinaciously adhering to the full extent of his own, paralyze and destroy the views of both? The spirit of conciliation and concession is peculiarly recommended by the novelty and difficulty of our situation; and surely, sir, no gentleman has yielded to its influence more readily, or to a greater extent, than myself. I could not give a stronger example of its operat-

ing influence on myself, than the proposition now under consideration affords; and I would require no greater concession on the part of any other gentleman. Let us then, sir, unite in this proposition. I believe it will save the honor of the nation; it will settle for us the question of peace or war, by the meeting of the next Congress; it will be a continual protest against the hostile edicts of the aggressing belligerents; and it will give us time for effectual and active preparations for defence and of offence. Let us then, for the present, assume this attitude, and direct all our attention to those indispensable objects. Let us meet here in May next, in a state of readiness for war; and if, in the interval, no relaxation of the hostile orders and edicts of the belligerents should take place, let us then call into action the whole resources and energies of the nation to assert our rights, and to do ourselves that justice which is now so ruinously and iniquitously withheld.

[NOTES.

(*a*) *Extract from a convention between His Britannic Majesty and the Empress of Russia, signed at London, 15th of March*, 1793.

"Article 3. Their said Majesties reciprocally engage to shut all their ports against French ships; not to permit the exportation, in any case, from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

"Article 4. Their Majesties engage to unite all their efforts to prevent other Powers, not implicated in this war, from giving, on this occasion of common concern to every civilized State, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea or in the ports of France."

A similar treaty was entered into between His Britannic Majesty and the King of Spain, on the 23d of May following; with the King of Prussia, on the 14th July following; and with the Emperor of Austria, on the 30th of August following.

Extract of a letter from Thomas Pinckney to the Secretary of State, dated London, July 5th, 1793.

"I urged every argument that suggested itself to me, in support of the neutral rights which I contended were injured in this instance; pointed to inconveniences that would attend the execution of the instructions, and urged that the case put by Vattel, of a well grounded hope of reducing the enemy by famine, did not exist, provisions being cheaper in the ports of France than in those of England. Lord Grenville, on being asked, said Spain would pursue the same line of conduct; and upon its being objected, that even their late convention with Russia did not extend to this subject, he answered that, though it was not expressly mentioned, it was fully understood by both parties to be within the intention of it. At the close of the conversation, I told him I should transmit these instructions to you, accompanied by his reasons in their justification. Lord Grenville spoke in high terms of approbation of the answers to Mr. Hammond's memorial, which he received by the packet.

Extract from a report made by a committee of the Senate on the 18th of April, 1808, *on the subject of foreign relations, recapitulating the order of belligerent aggressions on neutral trade.*

"1st. The British order of June, 1803, unlawfully restricting the trade of the United States with a certain portion of the unblockaded ports of her enemies, and condemning vessels with innocent cargoes, on a return from ports where they had deposited contraband articles.

"2d. The capture and condemnation in the British Courts of Admiralty of American property, on a pretended principle, debarring neutral nations from a trade with the enemies of Great Britain interdicted in time of peace. The injuries suffered by the citizens of the United States, on this head, arose not from any public order of the British Council, but from a variation in the principle upon which the Courts of Admiralty pronounced their decisions. These decisions have indeed again varied, without any new Orders of Council being issued; and, in the higher Courts of Admiralty, some of the decisions, which had formed the greatest cause for complaint, have been reversed and the property restored. There still remains, however, a heavy claim of indemnity for confiscations, which were made during the period of these unwarrantable decisions, and for which all negotiation has hitherto proved unavailing.

"3d. Blockades notified to the Minister of the United States at London, and thence made a ground of capture against the trade of the United States, in entire disregard of the law of nations, and even of the definition of legal blockades, laid down by the British Government itself. Examples of these illegitimate blockades, will be found in the notifications of the blockade of May 16th, 1808, of the coast from the river Elbe inclusive—blockade of 11th May, 1807, expounded 19th of June, 1807, of the Elbe, Weser, and Ems, and the coast between the same—blockade 11th of May, 1807, of the Dardanelles and Smyrna—blockade of the 8th of January, 1808, of Carthagena, Cadiz and St. Lucar, and of all the intermediate ports between Carthagena and St. Lucar, comprehending a much greater extent of coast than the whole British navy could blockade, according to the established law of nations.

"4th. To these injuries, immediately authorized by the British Government, might be added other spurious blockades by British naval commanders, particularly that of the island of Curracoa, which for a very considerable period was made a pretext for very extensive spoilations on the commerce of the United States.

"5th. The British Proclamation of October last, which makes it the duty of the British officers to impress from American merchant vessels, all of such of their crews as might be taken or mistaken for British subjects—those officers being the sole and absolute judges in the case.

"For the decrees and acts of the French Government, violating the maritime law of nations in respect to the United States, the committee refer to the instances contained in the report of the Secretary of State, January 25th, 1806, to the Senate; in one of which, viz. a decree of the French General Ferrand, at St. Domingo, are regulations sensibly affecting the neutral and commercial rights of the United States.

"The French act next in order of time is, the decree of November 21, 1806—declaring the British Isles in a state of blockade, and professing to be a retaliation on antecedent proceedings of Great British violating the law of nations.

"This decree was followed, first by the British order of January, 1807, professing to be a retaliation on that decree, and subjecting to capture the trade of the United States, from the port of one belligerent to a port of another—and secondly, by the orders of November last, professing to be a further retaliation on the same decree, and prohibiting the commerce of neutrals, with the enemies of Great Britain, as explained in the aforesaid letter of Mr. Erskine.

"These last British orders again, have been followed by the French decree of December 17th, purporting to be a retaliation on the said orders, and to be put in force against the commerce of the United States, as stated in the aforesaid letter of Mr. Champagny."

(*b*) GEORGE R.—*Instruction to the commanders of our ships of war and privateers; given at our Court at Windsor, the 11th day of April, in the 48th year of our reign.*

"Our will and pleasure is, that you do not interrupt any neutral vessel laden with lumber and provisions, and going to any of our colonies, islands or settlements in the West Indies or South America, to whomsoever the property may appear to belong, and notwithstanding such vessel may not have regular clearances and documents on board; and in case any vessel shall be met with, and be in her due course to the alleged port of her destination, an endorsement shall be made on one or more of the principal papers of such vessel, specifying the destination alleged, and the place where the vessel was so visited. And in case any vessel so laden shall arrive and deliver her cargo at any of our colonies, islands or settlements aforesaid, such vessel shall be permitted to receive her freight, and to depart, either in ballast, or with goods that may be legally exported in such vessel, and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place; and a passport for such purpose shall be granted to the vessel by the Governor, or other person, having the chief civil command in such colony, island or settlement. G. R."

(*c*) Can any thing be more important to the United States, than to ascertain with unequivocal certainty the true principle upon which the Orders in Council are founded? If, as I conscientiously believe, they are founded upon the principle of exclusive dominion upon the ocean; what would be the effects of a war with France, which is recommended as a palliative by some gentlemen? Would it not be to rivet upon the United States the commercial shackles under which they are now groaning? In what character would this nation act with Great Britain in the war? As a colony, or as an independent nation? In the event of success in establishing the principle of the war, the exclusive dominion of Great Britain on the ocean; what share of jurisdiction would she deal out to the United States? What share could her rivals expect from her domineering pride, her spirit of monopoly, and her mercantile cupidity? Fellow citizens! ponder upon these questions!

(*d*) The following paragraph contains an extraordinary example of Mr. Canning's prevarications. It is taken from his letter to Mr. Pinkney, of the 22d November last. The object of writing this letter, appears principally to have been, to prepare Parliament, now probably in session, by anticipation, for the explanation of an assertion made by him to the preceding Parliament. It is presumed, he thought this assertion necessary to induce Parliament to give his energetic Orders in Council the form of law. Hear him, in his own words—

"It is to to these missions that I particularly referred, when I said that I had 'more than once expected you to open a correspondence with me upon the subject of the Orders in Council.' This expectation it was that alone prevented the sending instructions to Mr. Erskine to reply to the note addressed to him by Mr. Madison, on the 25th of March, in answer to that note of Mr. Erskine's in which he communicated the Orders in Council, and in allusion to these missions, particularly to that of the Osage, and to the expectation which had been founded here, upon the return here of that vessel after its voyage to France, it was, that I made that declaration in Parliament which, I see, has been the subject of some misapprehension, (I will not say misrepresentation) in America, that 'since the termination of Mr. Rose's mission, the American Government had not made any communication here in the shape of remonstrance, or in a tone of irritation."

The public will doubtless be surprised to be informed, that previous to Mr. Canning's making this unfounded assertion in Parliament, he had not only received from Mr. Pinkney the most pointed and eloquent remonstrance against these Orders in Council, within a very few days after they were first issued, but that he had also previously received the most formal and urgent remonstrance from Mr. Madison, dated —— day of ——, through Mr. Erskine; the medium of communication pointed out by himself. I had, on a former occasion, made such observations in the Senate upon this profligate conduct, as it appeared to me to merit. The repetition therefore was deemed unnecessary in this debate, although the subject was intimately connected with it. But as those observations have never found their way to the public view, and as it is deemed highly important that this transaction should appear in its true character before the public, I have thought proper to subjoin it by way of note; and merely to remark, that the assertion made by Mr. Canning was a false suggestion, both in its essence, and in its consequences; and even, according to the most indulgent construction of Mr. Canning's own dexterous explanatory equivocation, it is an intentional suppression of the truth. How far the British Parliament will be pleased, or feel itself disrespected, in being thus entrapped into a measure, involving the deepest interests of that country, is for its exclusive determination. But it must be peculiarly aggravating to the American people to be informed, that an attempt has been made to blot them from the list of independent nations, to colonize, and to tax them, upon no better foundation than a mere Ministerial stratagem.

Extracts from the Journals of the House of Commons.

"MERCURII, 8 DIE MARTII;

"*Anno* 13, *Georgii Regis*, 1726.

"*Resolved*, That an humble Address be presented to His Majesty, that he will be graciously pleased to give directions, that the memorial presented to His Majesty on Thursday last, by Monsieur de Palm, the Imperial Resident, may be laid before this House.

"*Ordered*, That the said Address be presented to His Majesty by such members of this House as are of His Majesty's most honorable Privy Council."

"LUNÆ, 13 DIE MARTII;

"*Anno* 13, *Georgii Regis*, 1726.

"And a complaint being made to the House, that the substance of the said memorial had been printed and published in a paper, entitled:

"Translation of the memorial presented in Latin to the King of Great Britain, by Monsieur de Palm, the Imperial Resident, upon the Speech of his Britannic Majesty made to the two Houses of his Parliament on the 23-17 of January, 1726-'7.

"The said printed paper was brought up to the table, and read.

"The said printed paper is bound up with the other papers of this session.

"*Resolved, nemine contradicente*, That an humble Address be presented to His Majesty, to express the highest resentment of this House at the affront and indignity offered to his Most Sacred Majesty, by the memorial delivered by Monsieur de Palm, the Emperor's Resident, and at his insolence in printing and dispersing the same throughout the Kingdom; to declare their utmost abhorrence of this audacious manner of appealing to the people against his Majesty, and their detestation of the presumptuous and vain attempt, in endeavoring to instil into the minds of any of His Majesty's faithful subjects the least distrust or diffidence in his most sacred royal word:

"To return His Majesty the thanks of this House for his care and vigilance in discovering the secret and pernicious designs of his enemies, and his goodness in communicating to his Parliament the dangers that threatened this Kingdom: and to assure His Majesty that this House will stand by, and support His Majesty against all his open and secret enemies, both at home and abroad; and effectually defeat the expectations of all such as may have in any manner countenanced, encouraged, or abetted, the disturbers of the public tranquillity, in this extravagant insult upon His Majesty; or flattered them with hopes, that an obstinate perseverance in their destructive measures could stagger the firmness of the British nation in vindication of His honor and in the defence of their rights and privileges.'

"*Ordered*, That a committee be appointed to draw up an Address, to be presented to His Majesty, upon the said resolution.

"VENERIS, 17 die MARTII;
"*Anno* 13, *Georgii Regis*, 1726.

"The Speaker reported, that both Houses did, yesterday, attend His Majesty with their Address; to which His Majesty was pleased to give this most gracious answer:

"MY LORDS AND GENTLEMEN: Your unanimous concurrence in this dutiful and affectionate address gives me the greatest satisfaction. The just concern you express, for my honor, and the dignity of the Crown, is very becoming a British Parliament; and this fresh proof of your confidence in me will convince the world that all attempts to divide our hearts and interests will be vain and ineffectual."

TUESDAY, February 14.

The Senate resumed the consideration of the motion made by Mr. HILLHOUSE yesterday; and

Resolved, That a committee be appointed to examine and report whether any, and what, further regulations or provisions are necessary to check the allowance or payment of extravagant claims, or unreasonable accounts, and to prevent an improper expenditure of public money; and that the committee be authorized to call on the several Departments for such information and papers as may be necessary to aid them in their inquiry; and to report by bill or otherwise.

Ordered, That Messrs. GILES, HILLHOUSE, and CRAWFORD, be the committee.

Mr. GREGG, from the committee appointed on the subject, reported a bill authorizing an augmentation of the Marine Corps; and the bill was read, and passed to a second reading.

Mr. GREGG also reported a letter and estimate from the Secretary of the Navy, on the subject, for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes;" also, a bill, entitled "An act for the relief of Daniel Cotton;" in which they request the concurrence of the Senate.

The two bills last brought up for concurrence were read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the land commissioners as antedated, and for other purposes;" in which they request the concurrence of the Senate.

The bill was read and passed to the second reading.

PARTIAL REPEAL OF THE EMBARGO.

The Senate resumed the consideration of the motion made on the 18th instant, viz:

"That the several laws laying an embargo on all ships and vessels in the ports and harbors of the United States, be repealed on the 4th day of March next, except as to Great Britain and France, and their dependencies; and that provision be made by law for prohibiting all commercial intercourse with those nations and their dependencies, and the importation of any article into the United States, the growth, produce, or manufacture, of either of the said nations, or of the dominions of either of them."

Mr. BAYARD moved to strike out the following words.

"Except as to Great Britain and France, and their dependencies; and that provision ought to be made by law for prohibiting all commercial intercourse with those nations and their dependencies, and the importation of any article into the United States, the growth, produce, or manufacture, of either of the said nations, or of the dominions of either of them."

Mr. BAYARD addressed the Chair as follows:

It will be perceived, Mr. President, by the motion which I have made to amend the resolution offered by the honorable gentleman from Virginia, that I do not approve of the course which it seems the Government have determined at length to pursue. The honorable gentleman has told us, it is not his plan, and I give him credit for the fairness and candor with which he has avowed the measures to which he would have resorted. He would have raised the embargo and declared war against England. Being opposed in this scheme, by a majority of his friends, his next proposition was to issue letters of marque and reprisal. Finding, however, that the other

House had refused to go even so far, he had, on the principle of concession and conciliation with his friends, agreed to take the course proposed in the resolution, in hopes that our vessels going upon the ocean and being captured under the Orders in Council, would drag the nation into a war; when, he presumed, the war being made upon us, we would agree to fight our enemy. Sir, it is upon this very ground, and considering this as its object, that I am opposed to the resolution. England is not our enemy, nor does a necessity exist to make her so. I am not going to deny that we have many, and heavy complaints to make against her conduct, nor shall I contend that causes do not exist which might justify a war; but I mean to say that policy forbids the measure, and that honor does not require it.

The gentleman has painted in very glowing colors, the wrongs and insults which we have suffered from British violence: he has recorded in his catalogue the offensive acts of British agents, as well as the injuries, pretensions, and orders of the Government. I do not mean to defend, nor even to palliate any aggressions, public or private, against the rights or honor of our country; but sir, I cannot conceal my surprise, that this gentleman, so much alive to British wrongs, should be insensible to everything which we have suffered from France. The gentleman has exhausted the language of terms of invective and reproach against the British Government and nation, but he has been silent as the grave as to the French. How can it be, that what is wrong in Britain is right in France? And wherefore is it, that the same acts of France are borne with patience, which, proceeding from Britain, excite such a spirit of indignation? You have the Orders in Council to complain of; but have you not the decrees of His Imperial Majesty? We are told that the Orders in Council give us laws, regulate our commerce, and degrade us to the state of colonies; but do they contain more, or do they extend as far as the imperial decrees? Do they make us more the colonies of Britain, than the decrees make us the colonies of France? And are we to invoke the spirit of liberty and patriotism to a resistance to Britain, while we are tamely yielding ourselves to French bondage? We are told of our vessels being forced into British ports and compelled to pay tribute; but nothing is said of their being invited into French harbors and then seized and confiscated.

With all the complaints against the British orders, and the silence as to the French decrees, ought we not to be surprised in discovering that the orders are exceeded in severity and injustice by the decrees? Let it be remembered that this system of outrage upon neutral rights originated on the part of France in the Berlin Decree—that decree, in effect, forbids neutrals to trade to England or her colonies, or to purchase or to carry their manufactures or produce. In commencing this system, France justified its principle, and compelled her adversary to retaliate by acts of the same injustice against neutrals who submitted to it. Tell me which we have first and most to blame, the one who set the example, or him who followed it?

It is a consideration also of great weight, that at the time when the Berlin Decree issued, France was bound to the United States by a solemn treaty to permit the trade which that decree prohibits—a treaty signed by Bonaparte himself, and expressly providing for the freedom and security of our commerce with his enemy, in the event of war: and if the Orders in Council are a violation of the laws of nations, they are not, like the French decrees, a breach of plighted faith. The orders leave to us the direct colonial trade.

Our intercourse is not interrupted with the colonies and dependencies of France; but the decrees interdict all neutral commerce with the colonies and dependencies of England, as well as with the mother country. Your very ships which entered an English port are "denationalized," and are liable, after the lapse of any time, though performing a voyage otherwise innocent, to seizure and confiscation.

Another feature of injustice and iniquity distinguishes the decrees from the orders. By the orders our merchants are apprized of the commerce which is interdicted. Full time for the notice of the prohibition is allowed, before the property is exposed by transgression of the orders, to be confiscated or seized. No such forbearance can be discovered in the decrees, which are to be indiscriminately executed upon the innocent and the guilty; upon those who never heard or could have heard of them, in the same manner as upon those who, knowingly, violate them.

I hope, sir, it will not be understood that I mean to defend the Orders in Council, or to advise this nation to submit to them; but I could wish to direct some portion of the warmth and indignation which has been expressed against them, against those decrees which produced them, and which exceed them in iniquity and outrage. The avowed object of the gentleman from Virginia is a war with England. On this subject I make but one question—is it possible to avoid it with honor?

If this possibility exists, the war ought to be avoided. And it is my opinion that it does exist. To this opinion I am in a great degree led by a want of confidence in the sincerity of the disposition of our Executive to settle our differences with Great Britain. Your measures have not been impartial as to the belligerents, and your negotiations have not been sincere as to England. The gentleman from Virginia has called this charge of insincerity a miserable vision. I believe, sir, it is a miserable and melancholy fact; and if you will have patience with me, I will furnish proof enough to support the belief even of the most incredulous.

I mean to show that your Government has had it in its power to secure peace with Britain by the settlement of the differences between the two nations, and that the means have not only been neglected, but means employed to prevent such a settlement from taking place.

It will be necessary for us to consider what those differences were.

They may be refered to three heads:

1st. The rule, as it is called, of the war of 1756.

2d. Constructive blockade.

3d. Impressment of seamen on board of American merchant vessels.

I do not mean to say, that there were no other causes of complaint, arising from the indiscretion and insolence of the British commanders; but they had not the character of national differences, and would probably have soon ceased and been forgotten if the points of controversy between the Governments had been amicably arranged. To settle the differences which I have stated, a negotiation was opened in London, in 1803, and carried on till December, 1806. It is remarkable, that while this negotiation was depending and progressing, our Government had recourse to a step in its nature calculated to repel, instead of to invite the British Government to a friendly settlement. In April, 1806, they passed a law prohibiting the importation of certain British goods. The acknowledged object of this law was to coerce Britain to agree to our own terms. Did this law evidence a disposition to be friendly on our part, or was it calculated to inspire a friendly temper on the part of England?

It was fuel to the flame of discord. The British Government is not less high-spirited and proud than our own, and the attempt to force them to terms, was the likeliest course which could have been pursued, by provoking retaliation, to widen the breach between the two countries.

This measure, enforced when negotiation was going on, and promised a favorable result, is no small proof in my mind, that the Executive was satisfied with the forms of negotiation, but wanted no treaty with England.

I proceed to inquire whether our differences with Britain were not of a nature to be compromised; and if our Government had been sincerely disposed, whether they might not have retained the relations of amity with that Power.

First, as to the rule of 1756. This rule was founded on the principle, that a neutral could not acquire a right to trade by the cession of one belligerent in time of war, which did not exist but was withheld in time of peace. The rule was supported on the principle, that a neutral could not come in aid of a belligerent and cover its property on the ocean, when it was incapable of protecting itself.

I am not going to defend this rule, nor to inquire into its origin. Thus much I will say, that if it was the British rule of 1756, it was the express rule of the French maritime code in the years 1704 and 1744. I will not trouble you with the reading the decrees of the French Monarchs, which I have on the table, made in the years mentioned, and which prohibit to neutrals any but a direct trade to the colony of an enemy. Though the rule of 1756 may not be an ancient rule, yet we must admit it was a new rule, introduced in the present war, and contrived to ruin or injure the American commerce.

France was unable to trade with her colonies; the United States became her carriers, and under our flag, the manufactures of the mother country were safely carried to the colonies, and the produce of the colonies transported to Europe. This trade was certainly as beneficial to France as profitable to the United States. Britain only was the sufferer, and the rule of 1756 was revived in order to take from French commerce the protection of a neutral flag. Our Government were certainly right in claiming the free enjoyment of this profitable trade, but the only question is, whether the neutral and belligerent pretension did not admit of adjustment by each side making an equal concession of points of interest.

The Treaty of 1806, which the President rejected, fairly compromised the dispute on this subject. The eleventh article of that Treaty secured to the United States the carrying trade of France and her colonies, subject to terms somewhat inconvenient to the merchant, but rendering it no less beneficial to the nation. The treaty requires that goods exported from France or her colonies in American vessels shall be entered and landed in the United States; and when exported from France through the United States to her colonies, shall be liable to a duty of one per cent., and from the colonies to France of two per cent., to be paid into our own Treasury. This regulation of benefit to the Government, by the duty which it gave to it, was of little prejudice to the trade, and there is no room to doubt that the trade, thus secured from the spoliations to which it was before subject, would have flourished beyond its former limits.

Our differences, therefore, as to the carrying trade so much harassed by the British rule of 1756, not only admitted of compromise, but was actually settled by an arrangement in the Treaty of 1806, with which the nation would have been perfectly satisfied.

The second head of dispute regards the practice of constructive blockades. The complaint on this subject was, that blockades were formed by proclamations, and that neutrals were compelled to consider ports blockaded before which no force was stationed. That the principle of blockades was extended to unwarrantable limits, is most certainly true, and there is no question as to our having just cause to complain of the vexatious interruptions to which it exposed our trade. The present war between France and England is without a parallel between civilized nations; it is not a struggle for renown or ordinary conquest, but on the part of Britain for her independence and existence. Principles of neutrality or of right have been little regarded upon the land or upon the ocean; and the question with the belligerents has been less what the law of nations permitted them to do, than what their strength enabled them to accomplish. It is unlawful for a neutral to attempt to enter a blockaded port—but a port cannot be considered as blockaded unless a force adequate to the end is stationed before it. The blockades, therefore, which England created simply by a proclamation, were an abuse of which neutrals had just cause to complain.

The United States did complain, and these complaints were listened to by the British Government. The tenth article of the Treaty of 1806, has made provision on the subject; and though England has not renounced the principle of which we complain, yet it is qualified by the notice which is required to be given to the vessel attempting to enter a blockaded port, before she is exposed to seizure and confiscation. The provision in the treaty would no doubt have corrected in a considerable degree the abuse from which we had suffered, and it was our policy to have waited for better times for a completer remedy for the evil.

But, sir, the last head of dispute which I enumerated was made the chief and most important ground of complaint against the British Government—I mean the searching American vessels for British seamen. The right claimed by England was to seize her own seamen on board our private vessels. The right to search a public vessel, or to seize an American sailor, was never asserted by the Government. The claim, however, which was insisted on, involved a point of equal interest and delicacy to both countries. There is nothing novel in the pretension, that a nation engaged in war had a right to recall her subjects from foreign countries, or from foreign service, to assist her in the war.

Every nation in Europe has claimed and exercised the right. Our Government has not denied it; but the consequences of the manner of exercising it, have formed the ground of our complaint. Has a belligerent a right to search a neutral vessel for her seamen? I should suppose not. This question between other nations is of small importance. Between the United States and Britain, it is of great magnitude.

The sameness of manners, habits, language, and appearance, render it always difficult and sometimes impossible to distinguish between an English and an American sailor. If the right to search for British seamen were admitted, there would no longer be security for the American sailor; the right admitted, I have no doubt our navigation would be ruined. As an American, therefore, I would never concede the principle. Let us see however, how the case stands in relation to Britian. Her navy is the shield of her salvation—whatever impairs its strength diminishes its power and safety. Tenacious as she has ever been of personal liberty at home, yet when men are wanted for her fleets, the *habeas corpus* sleeps. Her sailors are her right arm, which withers as she is deprived of them. From the seductions of our maritime service she had everything to dread. Our merchants can give her seamen a dollar for every shilling which she is able to afford them.

They shall be better fed, more gently treated, and exposed less to hardship and danger. Let them find a secure asylum on board our merchant ships, and how soon will the decks be thinned of the English ships of war. Which has the most at stake on this subject, England or America? I will not decide the question; but this is evident, that neither will ever unconditionally relinquish the principle for which she has contended. At the present crisis, it was impossible for our Government to expect the formal abandonment by the British Government of this right of search. What course, then, should they have pursued? They should have temporized on the point, as Britain was willing to do, and waited for a more propitious epoch, for the final arrangement of the dispute.

Your Commissioners, who negotiated the treaty, found that it was impracticable to obtain the cession of the principle for which they contended, and upon their own responsibility, to their great honor, to preserve the peace of the two countries, accepted assurances from the British Ministry, which in their opinion, and I have no doubt, in fact, would have effectually removed the abuses of which we complained. I beg pardon of the Senate for reading an extract from the letter of Messrs. Monroe and Pinkney, of the 3d of January, 1807, which contains the assurances to which I refer: "We are sorry to add, that this treaty 'contains no provision against the impressment 'of our seamen. Our despatch of the 11th of 'November, communicated to you the result of 'our labors on that subject, and our opinion that 'although this Government did not feel itself at 'liberty to relinquish formally, by treaty, its claim 'to search our merchant vessels for British seamen, its practice would nevertheless be essentially, if not completely, abandoned. That opinion has been since confirmed by frequent conferences on the subject with the British Commissioners, who have repeatedly assured us, that 'in their judgment, we were made as secure 'against the exercise of their pretensions, by the 'policy which their Government had adopted in 'regard to that very delicate and important question, as we could have been made by treaty. It 'is proper to observe, however, that the good effect 'of this disposition, and its continuance, may 'depend, in a great measure, on the means which 'may be taken by the Congress hereafter to check 'desertions from the British service. If the treaty 'is ratified, and a perfect good understanding produced between the two nations, it will be easy 'for their Governments, by friendly communications, to state to each other what they respectively desire, and, in that mode, to arrange the 'business as satisfactorily as it could be done by 'treaty." Such was the footing upon which our Commissioners were wisely disposed to leave this delicate affair. And would to God that our President, wishing as sincerely as his friends profess for him, to accommodate the differences between the two countries, had as prudently agreed to the arrangement made for him by his Ministers! What has been the consequence of this excessive anxiety to secure our seamen? Why, that your service has lost more sailors in one year of embargo than it would have lost in ten years of impressment.

But, sir, in this lies the secret—a secret I will dare to pronounce. Your President never meant

to have a treaty with Great Britain. If he had intended it, he would have taken the treaty of the 31st of December, 1806. If he had intended it, he would never have fettered the Commissioners with *sine qua nons* which were insuperable.

It was an invariable article in the instructions, to form no treaty, unless the claim to search merchant vessels for deserters was utterly abandoned; this was never expected, and at the arduous crisis at which it was insisted upon, it was impossible to expect it. And yet, rather than temporize upon the point; rather than accept the actual abandonment of the principle, without its formal renunciation, a treaty, the work of years, negotiated by his favorite Minister, and calculated to appease the animosities existing between the two nations, is rejected.

You will bear with me, sir, while I say that this precipitate and fatal measure is the cause of all the embarrassments which we have felt, which we are feeling, and which we are likely to suffer. I ask, why was this treaty rejected? We are told for two reasons—

1. Because it contained no engagement against the impressment of American seamen on board merchant vessels.

2. Because of the collateral declaration of the British Commissioners, that England retained the right to retaliate upon France the principles of her Berlin Decree, if the United States should submit to its execution.

I have shown, from the public documents furnished to us by the President, the footing upon which our Ministers placed the point of impressments.

Our Commissioners considered the assurances given by the British Ministers, a better pledge for the safety of our seamen than a formal provision in the treaty. But if these assurances had even not been given, the treaty would not have compromitted our rights, or prejudiced our interests on the subject; in the mean time, it would have induced more friendly relations, and prepared both countries for such further concessions as their mutual interests might require. To me it is a matter both novel and surprising, to discover in our President this strong and unyielding attachment to the highest points of our maritime rights. I had thought before, that he was not so friendly to our Navy, to our merchants, and to our commerce.

I had thought that he would rather our ships were exchanged for farming utensils, and our seamen converted into husbandmen. But now, sir, it seems, so highly does he value our navigation, that he prefers hazarding all the calamities of war, rather than suffer one feather to be forcibly plucked from the wing of commerce.

Can any one believe that our Government seriously intended to conclude a treaty with England, when our Commissioners were instructed to make no treaty unless Britain formally consented that our merchant flag should protect every deserter from her navy?

The insertion of this *sine qua non* in the instructions is sufficient to satisfy my mind that there was no sincerity in the negotiation which was carried on with the British Government.

We have been asked by the honorable gentleman from Virginia, (Mr. GILES,) whether it can be imagined that such men as KING, MONROE, and PINKNEY, would have colluded with the Executive, or, if they would not have borne evidence of his insincerity if such had been the fact? Mr. King, he tells us, is a Federalist, to whom we have lately given proof of confidence and attachment. Mr. Monroe, he represents of a disposition not likely to be guilty of concealment through affection for the Administration; and Mr. Pinkney is said, also, to be a Federalist.

All this the gentleman may take as true. But, Mr. King, sir, was never engaged in this negotiation, and, as to Mr. Monroe and Mr. Pinkney, I most clearly acquit them of any collusion with the President, because, so far from colluding with him, they have acted against his secret and express instructions. Surely, I have no reason to doubt the sincere disposition of these gentlemen to make a treaty with England, when they concluded one under the responsibility of acting against their orders. No; my charge of insincerity against the Executive, is founded upon the documents, a long time secret, now public, and upon the nature of the objections which have uniformly obstructed the adjustment of our differences with Britain.

The second impediment to the ratification of the treaty was, the declaration of Lords Holland and Auckland which accompanied it. What did this paper impose upon us? Resistance to the Berlin Decree. And, will you permit me to ask, whether it was ever your intention to submit to that decree? You do not mean to submit to the Orders in Council, and does not the Berlin Decree go to the extent of those orders? Are you better prepared, or more disposed to submit to France than to England? No; I hope we shall agree to fight, before we consent that either of those Powers shall give laws to the ocean.

I know, at one time, it was pretended that the Berlin Decree was designed only as a municipal regulation; municipal, when it declared England and her dependencies in a state of blockade, and their manufactures and produce liable to capture! It is true that the Minister of the United States in France, got some such explanation of the decree from the French Minister of Marine. He did not consider it as derogating from the Treaty of 1800, between France and the United States. But, when the Emperor is applied to by the Grand Judge, his answer is, "that since he had 'not thought proper to express any exception in 'his decree, there is no ground to make any, in 'the execution, with respect to anything whatsoever." When the Minister of Marine was applied to for his construction of the decree, he gave his opinion, but affected not to be the proper organ of communication on the subject. In this, you see that craft and force were both united for the most destructive execution of the decree.

The decree was allowed to sleep for nearly a year; a public Minister delivers his opinion that

it was not to infract our treaty, and, after our property, to an immense amount, is allured by these deceitful appearances into French ports, His Imperial Majesty declares, in effect, through his Minister of Justice, that the Treaty with the United States was not expressed as an exception in the decree, and, therefore, its provisions were to form no obstruction to its execution. So, sir, we have probably lost some millions of dollars by our anxiety to consider this decree as a municipal regulation. Suppose, however, it had not designed what its terms so plainly express—the blockade of the British isles. In such case, what embarrassment would our Government have incurred by agreeing to the proposition of the English Commissioners to resist the decree, if executed against our neutral rights? If France had confined the execution of the decree to her own ports, Britain could not have complained of the execution of her own law, within her own jurisdiction, and we should have had nothing to which we were to oppose resistance. But, suppose the decree had been executed on the ocean, and you had become bound to oppose its execution by force—would your undertaking have been greater than the offer you lately made to England in case she would repeal her Orders in Council?

I shall, hereafter, have occasion to view this subject in another point of light; but at present, I ask, did not Mr. Pinkney mean to tell Mr. Canning, under his instructions from the President, that, if Great Britain would repeal her Orders in Council, the United States would resist the execution of the French decrees? This is stated in the letter of Mr. Canning to Mr. Pinkney, of the 23d of August, 1808, and admitted, as it is not denied, in the letter of Mr. Pinkney to Mr. Canning of the 8th of October, in the same year. Your Government, then, would now agree to the terms which they so indignantly repelled when first proposed to them, and on the ground of which, in part, they refused the treaty which their Ministers had negotiated. It would seem, then, that no other material ground remains for the rejection of the treaty than the want of a formal clause to secure our merchant seamen against impressment.

Is it your intention ever to have a treaty with Britain, or, are the nations always to continue in a state of strife and contention? You were offered the Treaty of 1794, and you refused it. Messrs. Monroe and Pinkney negotiate a treaty in 1806. The President rejects it, and insists on a point in the most obnoxious form, which he knows will never be conceded, and without the concession of which no treaty is ever to be made. Does all this look like a sincere disposition to adjust our differences with England?

It is of importance, Mr. President, to consider, in the late negotiation, who were the men in power in the respective countries. Can our President expect ever to see an English Administration more disposed to treat upon favorable terms with this country, than the Fox Administration? The name of Fox is the most grateful English name that is known to an American ear. From my childhood, I have heard that Fox was the friend of America. He was the early champion of our rights when Britain first attempted to deprive us of them. His voice was always raised in our favor, in opposition to the power of the Crown. Fox was at the head of the ancient Whig interest of England, and a firm supporter of the principles of freedom. He was, too, a philanthropist, and deemed, in sentiment, by some, a citizen of the world. He was, additionally, sir, a French citizen—as well as our worthy President.

I hope it will not be thought that I mention with any invidious view, this last circumstance. I state it, only, for the material purpose of showing the community of character between these great men, which recommend them to the fraternization of the French people. If Mr. Jefferson was not willing to accept the treaty which Mr. Fox offered him, from what administration in England can he ever expect a better? And may I not ask, also, if he can look to men in the United States in whom he will have more confidence, for their skill and integrity, than in those whom he employed in the late negotiation? We have all heard that Mr. Monroe was his early and bosom friend, and we have all seen that he has been his favorite Minister.

Let us, also, not forget the time when the treaty was concluded. No time could have been more propitious. It was at the moment when England was sinking under the triumphs of her adversary. Bonaparte had just broken to pieces the power of Prussia, driven the Russians to their frontier, and converted their Emperor from an enemy into an ally. If you are not satisfied with the terms which England was willing to grant you at a moment of depression, can you look for better when she has less to fear from your enmity, or to hope from your friendship?

You find, sir, that your President was favored by every circumstance in the negotiation of the treaty which he finally rejected.

It is not a little remarkable that he should have undertaken to reject this treaty without consulting the Senate, his Constitutional advisers. He was in possession of a copy of the treaty, while the Senate were not allowed to see it. He would not trust their opinions upon it. They might have approved it, and the responsibility would have been still greater to have rejected it after they had agreed to it. You will pardon me for speaking plainly. It is my duty to express my conviction, though I may happen to be wrong.

To me it has always appeared that your President was taken by surprise when he found a British Treaty laid at his door. His instructions to his Ministers precluded the possibility of a treaty, and it never entered his head that they would have been daring enough to conclude a treaty against his orders. But, the Ministers having obtained what they considered the substance, disregarded the form, and sent a treaty as little looked for as desired.

I do not mean to contend that the President was bound to lay this treaty before the Senate,

but, in exercising the power to reject it without their advice, he took upon himself a great responsibility, and is answerable for all the consequences of an act exclusively his own. To this act, in my opinion, may be attributed the present embarrassments of our country. Had the treaty been accepted, our trade would have flourished, as heretofore, and with it our agriculture, manufactures, and the fisheries. But it pleased our Chief Magistrate to reject it, and every day has since added to the gloom which has spread over our country.

In this condition was the state of our affairs, when an unexpected event occurred, calculated to inflame to the highest pitch the animosity of our citizens against the British Government. I allude to the attack of the Leopard upon the Chesapeake, in June, 1807. In relation to this outrage, the people of America felt but one sentiment. A more wanton, flagitious, and perfidious act was never perpetrated. It is an act which America never will, nor ought to forgive, till it is expiated by adequate satisfaction. But still, sir, we must restrain our indignation while we inquire whose act it was, and who is answerable for it. The material inquiry is, was it, or has it become the act of the British Government?

The British Minister, as soon as the news of the occurrence reached him, voluntarily and unasked, declared that it was unauthorized by the Government. He disavowed it in Parliament, and the King himself confirmed the disavowal.

It rested then as the act of Admiral Berkeley. The nation, however, were bound to make satisfaction for the injury done us by their public servant. If they refuse adequate satisfaction, they adopt the act. The Government were sensible of this obligation, and they took steps to comply with it. They sent a special Minister, for the sole purpose of making reparation for the injury we had suffered. This Minister we received, and agreed to consider the outrage which had been committed, as the act of Berkeley. Considered as the act of the Government, it would have been an act of open war. You commence a negotiation as to the terms of reparation, but here the same spirit which rejected the treaty, baffles every effort to accommodate this new cause of offence.

When informed of the attack upon one of our public vessels by a British man of war under the orders of an Admiral, our Government had reason to apprehend that no individual, however high in rank, would have hazarded so daring an outrage without the authority of his Government.

With this view, and to preserve peace and tranquillity in our harbors, we may consider the President as justified in issuing his proclamation, interdicting the entrance of British armed ships into the waters of the United States. But, sir, the moment it was ascertained that the act of Berkeley was unauthorized, so soon as the Government had solemnly disavowed it and offered reparation, the proclamation ought to have been withdrawn. Are you permitted to punish a nation for the acts of its subjects, in which it does not participate? The law and the practice of civilized nations on this point, is explicit and uniform. When the subject of one Power offends against the sovereignty of another, this will not justify retaliation upon other subjects of the same Power with the one who offended. It has uniformly been our own doctrine, and it is the common interest of mankind to maintain it, that in such case you must apply to the sovereign of the party offending, and abstain from any act of hostility till he refuse you reparation. This course our Government did not pursue; for the act of an individual they retaliated against his nation.

Upon the grounds which have been stated, you may excuse the issuing of the proclamation; but what excuse is there for its continuance, when we acknowledge ourselves, in treating for reparation, that the act complained of is the act of an individual, and not of his Government?

A proclamation like the one issued, without adequate cause, was a breach of neutrality, and a just cause of war. For, to admit into your ports and grant succor to the armed ships of one belligerent, while you exclude those of the other, is not consistent with that impartiality which belligerents are entitled to claim from neutrals. The point was so understood and so felt by the British Government, and they required, as they had a right to do, that as they had not committed the act complained of, the proclamation, which had an operation or appearance of hostility against them, should be recalled. If they refused reparation, we had a right to redress ourselves, but had we a right to take the redress into our own hands, and at the same time to require them to make us reparation? When you ask justice, you must expect to do it. A nation should be as ready to perform its duties as to insist upon its rights. The British Government had given sufficient evidence of a disposition to grant satisfaction for the injury done us, by sending to the country a special Minister for the purpose; that Minister was instructed to make voluntary reparation, but to grant none under the coercion of the proclamation. In his first communication to the Secretary of State, he informed him that his powers did not allow him to make reparation unless the proclamation was withdrawn. The affair was then managed with sufficient adroitness to catch the popularity of the country; when it was known that the proclamation must be first withdrawn, its revocation and reparation were proposed by the Secretary as simultaneous acts. Why was this proclamation so tenaciously insisted on? If you had revoked it, and the reparation offered was deemed insufficient, you would have no difficulty in renewing it. It is no task to our President to issue a proclamation; at most, we contend only for a point of etiquette, a thing important perhaps in a monarchy but very little respected among us Republicans. Give me leave to say, that in this negotiation I soon became persuaded, that the difference in question was not to be settled by itself, but was to stand open in the general account. If there had been a sincere desire to settle it, the paltry measure of the proclamation would not have formed an obstacle for a moment.

I have here a new and great proof that the Executive is not sincerely desirous of a full and friendly settlement of all differences with England. It may be difficult to trace the motive which governs; but I can plainly discover the same spirit now, which agitated the nation in 1795; a spirit then subdued by the mighty influence of Washington, but which has since risen with increased strength, and now dominates.

I consider, sir, that the measures of the Administration have been not only insincere, but extremely feeble; they will not settle the differences with England, and yet have not courage openly to quarrel with her. They pass a non-importation act to punish the impressment of seamen and the aggressions upon our carrying trade; they exclude by proclamation British armed ships from our waters to avenge the outrage on the Chesapeake; and what benefit to ourselves or detriment to our adversary have these measures produced? They are calculated to increase the animosity between the nations, but I know of no other effect they can produce. So far, indeed, have they been from constraining Britain to accede to our terms, that they have rendered her more regardless of our rights and interests. She has since given us new and more feeling causes of complaint by her Orders in Council of the 7th of January, and the 11th of November, 1807. These orders take from us the trade of nearly all Europe. They are the counterpart of the French decrees. God forbid that I should justify them! I will never admit that France or England has a right to make laws for the ocean; nor shall I ever hesitate, when they insist on the execution of such laws, to declare myself for war. I am as free as any gentleman in this Senate, to protest against submission to the decrees of France or the orders of England; but is not submission to the decrees as disgraceful as submission to the orders? The gentleman from Virginia said nothing of the decrees; nothing of a war with France—his resentment was confined to Britain.

We have, sir, to choose our enemy between these two nations. We are hardly equal to a contention against both at the same time.

How does the case stand in relation to them? The Emperor first issues his Berlin Decree, interdicting our trade to England and her colonies; England then gave us notice, if you allow France to prevent your trading with us, we will not suffer you to trade with France. If you are tame enough to submit to a French decree, you will surely not be too proud to yield to British orders. Assure us that you will resist the execution of the decree, and we will not retort its principles upon you. This our Government declined doing, and left England to pursue her own course. Her Government then issues the order of the eleventh of November, retaliating the Berlin decree. I do not defend this order; but if the Administration had resisted, as they ought to have done, the Berlin decree, we should not have seen the order. What now is to be done? England insists on her orders, as a measure of retaliation against France. Prevail on France to repeal her decrees, or agree to resist the execution of them; and if England then executes her orders, I will be as ready as any man to go to war with her.

No such course has been taken, but what have we done? Laid an embargo. And for what purpose did we lay the embargo? This is a subject of conjecture to some; but our Government tell us, it was to preserve our ships, our sailors, and our mercantile capital. Some have said to preserve them from the operation of the Orders in Council. When the embargo was laid the Orders in Council were not known in this country.

Of this fact I want no stronger proof, no stronger can exist, than that the President in his Message to Congress, in which he recommends the embargo, says not a word of these Orders in Council. No, the embargo was not produced by the Orders in Council, nor by anything which we heard from England, but by news which had then been recently received from France.

We are told the embargo was to save our ships, our sailors, and mercantile capital. I do not believe that such was its object, but if such were its purpose, we have been miserably disappointed. The embargo for a short period might have been a prudent measure. As a step of precaution, to collect our seamen and mercantile capital, I never have complained of it. But it is insulting to common sense, to propose it as a scheme of permanent security, as it must daily consume, and finally annihilate the objects of its preservation. Your ships once in, and the danger known, you should have left your merchants to their own discretion. They would have calculated the profits and the perils, and been determined by the balance of the account. No class of society is more capable of taking care of itself.

It is said we have preserved our seamen. The President has as gravely repeated this remark in his Message, as he recommended to us to devise means to dispose of our surplus revenue, at a moment when it was evident that the situation of our country would drain the Treasury of its last dollar.

Where are your sailors? They are not to be seen in your ports. One half that were employed by you have passed into foreign service, and many that remain, are to be found begging in your roads and at your doors.

As to our ships and mercantile capital, the one-tenth part of the loss from decay and waste and want of employment, would have paid for an insurance against every danger to which they would have been exposed. It is not my intention, Mr. President, to detain you with any details on this subject, as I should be compelled to repeat the same things which have been stated by other gentlemen on a former occasion. But there are some general views of the subject not undeserving of notice, which yet remain to be taken.

If the embargo were ever a measure of precaution it certainly has long lost that character. As a measure of coercion, it was hopeless unless completely executed. If the party to be coerced was partially supplied, the object was defeated.

Now I ask you, sir, if your Government ought

not to have been acquainted with its own powers, its own people, and its own situation, well enough to have known that it was impossible for it to confine the whole produce of the country within its limits for any length of time? Ought they not to have seen the vast temptations which have arisen and presented themselves, as well to our own citizens as to foreigners, to combine in order to break or elude your laws? Ought they not to have known that with our extent of coast and frontiers, with our numerous waters, that a wretched gunboat navy, aided even by ten thousand regulars, was not capable of covering our borders and shutting up the numberless outlets of the country? Could they expect that patriotism was to feed and clothe the people of the North; or that thousands would submit to starve in order to contribute to the success of an experiment?

We all know that the opposition to the embargo in the Eastern States is not the opposition of a political party, or of a few discontented men, but the resistance of the people to a measure which they feel as oppressive and regard as ruinous. The people of this country are not to be governed by force, but by affection and confidence. It is for them we legislate; and if they do not like our laws, it is our duty to repeal them.

It is madness to talk of forcing submission when there is general dissatisfaction. Your Government is in the hands of the people; it has no force but what it derives from them; and your enforcing laws are dead letters when they are once driven to resist your measures.

It would, sir, be some consolation, amid the sufferings which this miserable system has caused, if, in looking abroad, we could discover that the nations who have injured and offended us felt its oppression only equally with ourselves. But when we find that we have been scourging ourselves for their benefit and amusement, when they can tell us with indifference and contempt that they feel for us, but that we must correct our own folly; instead of meeting with the poor comfort which we expected, we are overwhelmed with accumulated mortification.

Was this a measure against France? No; the Emperor commends the magnanimous sacrifice which you have made of your commerce, rather than submit to British tyranny on the ocean. His Imperial Majesty never approves what he does not like, and he never likes what does not comport with his own designs. I consider it admitted that the embargo was intended to coerce England, and that the gentleman from Virginia now contends that, if it had been strictly executed, it would have had that effect. Nothing has happened that common foresight might not have foreseen. The gentleman has read to you extracts from an English pamphlet, published before the embargo was laid, which predicts the very evasions of the law, the discontents it would produce, and the opposition it would meet with, which we all have had the melancholy opportunity of witnessing. I know the pamphlet was referred to for another purpose—to show that British gold or influence had corrupted or seduced the Vermontese before the embargo was imposed. The gentleman may believe the fact to be so, if he pleases; but I say, sir, that your Government here, with all its means of information, ought to have known as much about the condition of Vermont as a pamphleteer on the other side of the Atlantic.

It seems now to be admitted, and the fact is too evident to be denied, that the embargo has failed in its coercive effect upon Britain. The want of bread, cotton, or lumber, has neither starved her subjects nor excited them to insurrection. Some gentlemen have shrewdness enough to discover an effect in an English price current, which might, to be sure, have been owing to the embargo, or might have been produced by the operation on the market of some private speculations. But it has enriched Canada, and has taught the islands their policy and ability to live without us.

Would to God, Mr. President, that the embargo had done as little evil to ourselves as it has done to foreign nations!

It is ourselves who are the victims of this miserable experiment. Your Treasury will lose at least fifteen millions of dollars, and your country, in addition, not less than forty. This tax has not been so much felt, though it has not in truth been less paid, because the embargo has not taken the money out of our pockets, but only prevented it going into them. This measure has been not only ruinous to our interests, but it is hostile to the genius of our Government. It calls for an increase of your regular Army, and a vast augmentation to your military force. Ten thousand bayonets were not sufficient to enforce it, but fifty thousand volunteers (as I have seen by a bill on the table) were to be invited to assist in its execution.

That measure of an Administration which arms citizen against citizen, or requires the soldier to act against the citizen, is baneful to liberty. If persevered in, there would soon be an end of free government.

The effect is also to be deprecated, upon the spirit of your military. They are called upon to execute the laws they are unable to construe, and, in obeying their orders, are exposed to the commission of murder.

Your naval forces are sent out to cruise, not for enemies, but for defenceless fellow-citizens, and they return to boast, not of a gallant battle, but of a miserable seizure, which may bring poverty upon some wretched family in their own country.

It has been often said, in defence of the embargo, that the nation had nothing left but that measure, submission, or war. Can you distinguish between the embargo and submission? Can you pretend to say what is a voluntary self-restriction imposed as a matter of choice? Can it be denied that it has been forced upon us by the conduct of one or both of the belligerents? And, with a full knowledge of the fact, can you describe it as anything but vile, abject submission?

France tells you, you shall not trade to Britain; you obey her. Britain tells you, you shall not trade with France; you submit. You have not resisted the Decrees or Orders, but have complied with the object of both. We have borne the burden of the embargo till it has almost broke our backs, and even when we are sinking under it, we pretend to say, it is no task to bear it. In this case, it is then said, there only remained submission or war. Submission I put out of the case. I trust in God it never entered into the head of one American. But I deny that war is necessarily the alternative; and I never will admit it, till I see sincere efforts made to accommodate our differences with England. The President, in his Message at the opening of Congress, would give us the impression that Britain had refused the last and the fairest offer it was in the power of our Government to make, in order to preserve peace. It will be important for us to understand the nature and extent of that offer. The proposition, no doubt, was made by Mr. Pinkney, in conformity with his instructions. To avoid error, I will take the liberty of reading to the Senate the words of Mr. Pinkney to Mr. Canning on the subject, in his letter of the 23d of August last:

"I had the honor to state to you sir, that it was the intention of the President, in case Great Britain repealed her orders, as regarded the United States, to exercise the power vested in him by the act of the last session of Congress, entitled 'An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several supplementary acts thereto,' by suspending the embargo law and its supplements as regards Great Britain. I am authorized to give you this assurance in the most formal manner."

Now, sir, what is the amount of this boasted offer? Nothing more than the assurance of our Minister of an intention of the President to remove the embargo in case the Orders in Council were actually repealed. Great Britain was to repeal her Orders, allow the President to make the most of that act with her enemy, and trust to his executing his good intention when it should suit his good pleasure. The offer to England related only to the embargo, when this experimental measure, so far from being injurious to her, was adding wealth and strength. It leaves her navigation without a rival on the ocean, and has restored to her more seamen than she could have impressed in ten years. Well may Mr. Canning say there is no assignable relation between the removal of the embargo and the repeal of the Orders in Council.

The President had instructed his Minister to assure the British Government that the embargo was designed solely as a municipal regulation, operating in favor of Britain, if she will relieve us from the pressure of a measure adopted against her enemy. But, let me ask, was there any offer made to rescind the proclamation or to repeal the non-importation law? Two measures much more offensive and hostile to Great Britain than the embargo. With these laws in force, it was a mere mockery to offer the removal of the embargo. What more proof do we want, than this transaction affords, that the Executive has not been sincere in his endeavors to restore a good understanding between this country and England? And therefore it is that I contend war is not unavoidable with that nation. I confess, sir, I should think a war with England, one of the greatest evils which could befall this country, not only from the sufferings which it would inflict upon it, but also from the fatal connexion with France to which it would give birth.

We have seen what has been the course of the Government in relation to Britain; and I will beg a few moments to examine what has been its conduct in regard to France. The last proposition made to Britain is well known—the documents fully disclose it; but what at the same time was proposed to the French Government? This we know little of. We have not been furnished with the correspondence with that Government on the subject. The transaction is covered with a dark and impenetrable veil. The President tells us in his Message that the same proposals were not made to the two belligerents; and it would seem, from what he hints, that the offer to France in case she repealed her decrees, was to join her in the war against England. It cannot be denied, that we have lost more by the spoliations, and have been more harassed under the arbitrary edicts of France, than of England. By the Treaty of 1800, we gave up more than twenty millions of dollars which had been seized, and confiscated in France. Since that time we are officially informed, that an amount nearly equal has been seized, and confiscated or sequestered. She has wantonly burnt our ships on the ocean and made no compensation. Her Berlin decree, of the 21st of November 1806, commenced the present system of outrage upon neutral rights. In effect it interdicts all trade with England and her colonies. This is followed by the Milan decree of the 17th of December, 1807. Under this edict an American vessel which has been searched, or visited against her will, by a British cruiser, or is proceeding to, or returning from England, is liable to be captured as good prize. And finally, to complete this monstrous system, comes the Bayonne decree, the 17th of April 1808, which declares every American vessel, found upon the ocean, liable to seizure and confiscation. Opposed to these accumulated violations of our neutral rights, what step has our Government taken against France?

Have they passed a non-importation act, issued a proclamation, or imposed an embargo? The last measure is general in its terms, but is avowedly against England alone. No, they have contented themselves with memorializing, remonstrating, and protesting. Against England we took every step short of war, against France we have employed nothing but gentle words. Has your Government then shown an equal resentment against the wrongs suffered from these two Powers?

It may be from the habit of enduring; but we

do not feel an aggression from France with the same quickness and sensibility that we do from England. Let us see, sir, the same conduct observed with regard to both belligerents; let us see the impediments to a friendly settlement with Great Britain removed; let us witness a sincere effort made to regulate the intercourse of the two nations by a treaty formed on principles of mutual concession and equal interest, and I will answer for it, if Great Britain persists in her orders, that you will find no division in this country, on the question whether we shall submit to them or resist their execution.

Permit me, Mr. President, to detain you a few moments longer. I am sensible that I have already trespassed upon the indulgence of the Senate, and I shall hasten to conclude the remarks which I have thought it of importance to make upon the resolution which has been submitted.

The objects of the resolution are embargo, non-intercourse, and non-importation, as to England and France and their colonies. The existing embargo is to be repealed only in part, one-half the channel of your rivers is opened, the other half is to be embargoed; and vessels may proceed to sea, but they must not pass through the embargoed waters. I can well conceive of one port in the United States being embargoed and the others open; but of an embargo which gives the right to every vessel in the harbor to leave it, I confess I have no comprehension. I should have supposed that the honorable gentleman might have ventured to repeal the embargo generally, and trusted to the provisions on the subject of non-intercourse to accomplish what seems to be the object in view, in partially retaining it. Sir, it is a strange infatuation that the name of this odious measure should be preserved, when the thing itself is abandoned.

And what, sir, are we to gain by a non-intercourse? It can never benefit the nation—it is nothing more than a part of that miserable musquito system, which is to sting and irritate England into acts of hostility. I have no doubt she sees the object, and she will take care not to give us the advantage which would be derived from war being commenced on her part. But, I ask, what will be the effect of non-intercourse? I see no other than that it will require two voyages instead of one to transport our produce to the markets of the interdicted countries. You carry your merchandise to Lisbon, and there deposite it; and from thence it is carried in foreign ships to England and France. Who will pay the expense of this circuitry of transportation? The United States. It will be deducted from the price of your produce. Can the gentleman contrive no system which will operate with less severity upon ourselves than upon those whom he deems our enemies? If the resolution has no design, but what is apparent on the face of it, it is evident that its sole operation is against ourselves. Its inevitable effect will be to reduce the profit of what we have to sell, and to increase the expense of what we have to purchase. I can perceive also, sir, that it will be a measure of unequal pressure upon different sections of the country, and that its weight will fall heaviest upon that part of the Union already too much galled to suffer any addition to its burden. The lumber, the live stock, the fish, and the articles of common exportation to the Eastward will not bear the expense of double freights. Will they thank you for repealing the embargo, and adopting a substitute which continues to shut the ports of the North while it opens those of the South? Will they thank you for a measure which deprives them even of the miserable consolation of having fellow sufferers in their distress? If this resolution be adopted you do nothing to heal the wounds which you have inflicted. If New England loses her trade she will derive no comfort from its being under a non-intercourse, and not under an embargo law.

It is a part of the resolution, that we are to import no produce or merchandise from England, or France, or their colonies. Do you expect, sir, that a law to this effect could ever be executed, in time of peace? As to the manufactures of England she can make them the manufactures of any country in Europe; she will give you the exact marks, and stamps, and packages of any place to which your trade is open, and she will defy you to distinguish her fabrics from those they attempt to imitate. But, sir, the consequence chiefly to be dreaded from such a measure would be the practice of smuggling, to which it would certainly give birth. Can you expect in one moment to change the habits of a whole country? We know, sir, the power of habit: it is a second nature. Can an act of Congress instantly change your nature? No, sir—they who can afford it, will have what they have been accustomed to. They will pay any price for articles, without which, perhaps they can scarcely exist. Smuggling must follow—and will follow with forgery and perjury in its train. It is the honor and character of your trading people which now protects you from smuggling. Break down this sentiment, habituate them to perjury, destroy the disgrace attached to this violation of your law, and you lose half the security and means you have in the collection of your revenue.

The complaint has been made, that while we find fault with the measures proposed, we refuse to point out the course we would have the Administration to pursue. I have, sir, no hesitation on my part to disclose my opinion, or to offer the humble assistance of my advice on the subject. In a few words I will tell you what I would do: Place England and France upon the same footing, by repealing the non-importation act, rescinding the proclamation, and repealing the embargo. Then ask for, and insist upon adequate reparation for the affair of the Chesapeake. Make a treaty with Great Britain, if as good terms could be obtained as those in either of the treaties which have been refused. Agree to resist the execution of the Berlin Decree, and if she afterwards persisted in her Orders of Council, declare war against her. Such would be my course. War would be the last resort, and I believe, in my conscience, we should never be driven to it, if the course were pursued

with a sincere disposition to preserve peace. Permit me, sir, to notice one remark of the honorable gentleman from Virginia, which had escaped me, and I am done. The gentleman told us that the removal of the embargo was designed as a concession to our Eastern brethren. I rejoiced to hear this sentiment of forbearance. Such sentiments give hopes that the Union may still be preserved. We have been led to the brink of a tremendous precipice—another false step, and we shall be lost in the abyss. Our safety is in treading back our steps. We have lost our way. Some *ignis fatuus* has beguiled us. There is a path of safety and honor—the path the nation once trod. Let us endeavor to regain it, and invoke the spirit of WASHINGTON to lead us once more into it!

The question was now taken on Mr. BAYARD's amendment, and determined in the negative—yeas 8, nays 23, as follows:

YEAS—Messrs. Bayard, Gilman, Goodwich, Hillhouse, Lloyd, Parker, Pickering, and White.

NAYS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Leib, Matthewson, Milledge, Mitchill, Moore, Pope, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

On motion of Mr. HILLHOUSE to postpone the further consideration of the motion, it passed in the negative.

On the question to agree to the original motion, it was determined in the affirmative—yeas 22, nays 9, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Leib, Mathewson, Milledge, Mitchill, Moore, Pope, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, and Tiffin.

NAYS—Messrs. Bayard, Gilman, Goodrich, Hillhouse, Lloyd, Parker, Pickering, Turner, and White.

Ordered, That Messrs. GILES, SMITH of Maryland, and CRAWFORD, be the committee to bring in a bill accordingly.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of Government during the year 1809," reported the bill without amendment.

WEDNESDAY, February 15.

On motion, by Mr. SMITH, of Maryland,

Resolved, That a committee be appointed, to join such committee as may be appointed on the part of the House of Representatives, to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the 4th day of March next, to report by bill or otherwise.

Ordered, That Messrs. SMITH of Maryland, WHITE, and SUMTER, be the committee on the part of the Senate.

Mr. GREGG gave notice that he should to-morrow ask leave to bring in a bill to amend the charter of Georgetown.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government during the year 1809;" and the PRESIDENT having reported the bill to the House amended, it was ordered to the third reading as amended.

The bill authorizing an augmentation of the Marine Corps was read the second time.

Ordered, That the consideration thereof be postponed.

The bill, entitled "An act for the relief of William White and others," was resumed, and the consideration thereof postponed until Monday next.

On motion, by Mr. SMITH, of Maryland, the bill, entitled "An act making appropriations for the support of Government during the year 1809," as amended, was read the third time, by unanimous consent, and passed.

The bill, entitled "An act for the relief of Daniel Cotton," was read the second time, and referred to Messrs. WHITE, SMITH of Maryland, and SUMTER, to consider and report thereon.

The bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the land commissioners as antedated, and for other purposes," was read the second time, and referred to Messrs. ANDERSON, FRANKLIN, and CRAWFORD, to consider and report thereon.

The bill, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes," was read the second time, and referred to Messrs. POPE, TIFFIN, and SMITH, of Tennessee, to consider and report thereon.

The Senate resumed the consideration of the motion made the 8th instant, that provision ought to be made by law, for interdicting all foreign armed ships from the waters of the United States;" and having agreed thereto,

Ordered, That it be referred to Messrs. GILES, SMITH of Maryland, and CRAWFORD, the committee to whom was yesterday referred the motion for the repeal of the embargo laws, to consider and report thereon.

THURSDAY, February 16.

The bill authorizing an augmentation of the Marine Corps was resumed, as in Committee of the Whole; on motion, by Mr. REED, to strike out the words "one Major." it was determined in the negative—yeas 10, nays 17, as follows:

YEAS—Messrs. Condit, Crawford, Franklin, Howland, Kitchel, Leib, Mathewson, Moore, Reed, and Turner.

NAYS—Messrs. Bradley, Giles, Gilman, Goodrich, Gregg, Hillhouse, Lloyd, Milledge, Mitchill, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, Tiffin, and White.

And no amendment having been made to the bill, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House agree to the resolution for the appointment of a joint commit-

tee to consider whether any measures ought to be adopted for the accommodation of the President of the United States, for the term commencing the 4th of March next, and have appointed a committee on their part.

Mr. GILES, from the committee appointed on the 14th instant, on the subject, reported a bill to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes; and the bill was read, and passed to the second reading.

Mr. GILES gave notice that he should to-morrow ask leave to bring in a bill to provide for the better government of the Navy of the United States.

Mr. GREGG obtained leave to bring in a bill supplementary to the act, entitled "An act to amend the charter of Georgetown;" and the bill was read, and passed to the second reading.

And on motion, the Senate adjourned until to-morrow.

FRIDAY, February 17.

Mr. TIFFIN, from the committee to whom was referred the bill, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes," reported the bill without amendment; and the bill was considered as in Committee of the Whole; and no amendment having been proposed, it was ordered to the third reading.

Mr. TIFFIN, from the committee, reported the bill authorizing an augmentation of the Marine Corps, correctly engrossed; and the bill was read the third time, and passed.

The bill supplementary to the act, entitled "An act to amend the charter of Georgetown," was read the second time, and referred to Messrs. GREGG, FRANKLIN, and THRUSTON, to consider and report thereon.

Mr. GILES asked and obtained leave to bring in a bill supplementary to the act, entitled "An act for the better government of the Navy of the United States;" and the bill was read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," in which they ask the concurrence of the Senate.

The last bill brought up for concurrence was read, and passed to the second reading.

On motion, by Mr. LLOYD,

Resolved, That a committee be appointed to confer with the Surveyor of the Public Buildings, relative to the accommodation of the Senate at the next session of Congress.

Ordered, That Messrs. THRUSTON, LLOYD, and GREGG, be the committee.

The PRESIDENT communicated the report of the Secretary of War, in compliance with the fifth section of the "Act to regulate and fix the compensation of clerks;" and the report was read, and ordered to lie for consideration.

And on motion, the Senate adjourned.

SATURDAY, February 18.

Mr. FRANKLIN gave notice that he should on Monday next ask leave to bring in a bill freeing from postage all letters and packets to Thomas Jefferson.

Mr. SMITH, of Maryland, from the joint committee appointed to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the 4th day of March next, reported a bill making provision for the further accommodation of the household of the President of the United States; and the bill was twice read by unanimous consent, and ordered to lie for consideration.

The bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," was read the second time, and referred to Messrs. SMITH of Maryland, FRANKLIN, and BRADLEY, to consider and report thereon.

Mr. THRUSTON, from the committee to whom was referred the motion relative to the accommodation of the Senate, at the next session of Congress, made report; which was read, and ordered to lie for consideration.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the land commissioners as antedated, and for other purposes," reported amendments; which were read, and ordered to lie for consideration.

Mr. WHITE presented a memorial from sundry citizens of the State of Delaware, praying a repeal of the embargo laws, for reasons mentioned in the memorial.—Laid on the table.

The bill supplementary to the act, entitled "An act for the better government of the Navy of the United States," was read the second time, and considered as in Committee of the Whole; and the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

The PRESIDENT communicated the petition of a number of French citizens of the Territory of Michigan, praying that Congress would authorize an edition of the laws relating to that Territory, as well as the most important general laws, in the French language, for reasons mentioned in the petition; which was read, and referred to Messrs. THRUSTON, BRADLEY, and MITCHILL, to consider and report thereon.

The bill, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes," was read the third time, and passed.

MONDAY, February 20.

Mr. GREGG, from the committee to whom was referred the bill supplementary to the act, entitled "An act to amend the charter of Georgetown," reported amendments; which were read, and ordered to lie for consideration.

Mr. GILES submitted the following motion:

Resolved, That a committee be appointed to inquire into the expediency of amending the act, entitled "An act to establish the judicial courts of the United States," in such a manner as that the circuit and district courts of the United States shall be subjected to, and be regulated by, the laws of the several States in which they shall be held, which are now in existence, or may hereafter be enacted, regulating the issuing of process, the proceedings thereon, and the suspension thereof: *Provided*, The same shall not extend to process on behalf of the United States.

Mr. FRANKLIN asked and obtained leave to bring in a bill freeing from postage all letters and packets to Thomas Jefferson; and the bill was read, and passed to the second reading.

The bill to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, was read the second time, and considered as in Committee of the Whole; and the PRESIDENT reported the bill to the House amended.

On motion, by Mr. REED, to strike out of the 14th section, the following words: "and to cause to be issued, under suitable pledges and precautions, letters of marque and reprisal against the nation thereafter continuing in force its unlawful edicts against the commerce of the United States," it was determined in the negative—yeas 11, nays 14, as follows:

YEAS—Messrs. Condit, Franklin, Gilman, Goodrich, Hillhouse, Lloyd, Mathewson, Parker, Pickering, Reed, and Sumter.

NAYS—Messrs. Anderson, Crawford, Gaillard, Giles, Gregg, Howland, Milledge, Moore, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Tiffin, and Turner.

And the bill having been further amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. TIFFIN, from the committee, reported the bill supplementary to the act, entitled "An act for the better government of the Navy of the United States," correctly engrossed; and the bill was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the land commissioners as antedated, and for other purposes;" and, having agreed thereto, the PRESIDENT reported the bill to the House amended accordingly. And the bill having been further amended, it was ordered to the third reading, as amended.

The Senate resumed, as in Committee of the Whole, the bill making provision for the further accommodation of the household of the President of the United States; and the bill having been amended, the PRESIDENT reported it to the House accordingly. On the question, Shall this bill be engrossed, and read the third time, as amended? it was determined in the affirmative.

On motion, the Senate adjourned.

TUESDAY, February 21.

The credentials of JOSEPH ANDERSON, appointed a Senator for the State of Tennessee, by the Executive of that State, from and after the expiration of the time limited in his present appointment, until the end of the next session of the Legislature thereof, were presented and read, and ordered to lie on file.

The Senate resumed the consideration of the motion submitted yesterday, and,

Resolved, That a committee be appointed to inquire into the expediency of amending the act, entitled "An act to establish the Judicial Courts of the United States," in such a manner as that the Circuit and District Courts of the United States shall be subjected to, and be regulated by, the laws of the several States in which they shall be held, which are now in existence, or may be hereafter enacted, regulating the issuing of process, the proceedings thereon, and the suspension thereof: *Provided*, The same shall not extend to process on behalf of the United States.

Ordered, That Messrs. GILES, BAYARD, and ANDERSON, be the committee to consider and report thereon.

The bill freeing from postage all letters and packets to Thomas Jefferson was read the second time, and considered as in Committee of the Whole; and no amendment having been proposed, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill supplementary to the act, entitled "An act to amend the Charter of Georgetown;" and the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. TIFFIN, from the committee, reported the bill making provision for the further accommodation of the household of the President of the United States correctly engrossed; and the bill was read the third time, and passed.

Mr. TIFFIN, from the committee, reported the amendments to the bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the commissioners as antedated, and for other purposes," correctly engrossed; and the bill was read the third time, as amended.

Resolved, That this bill pass, with amendments.

NON-INTERCOURSE.

Mr. TIFFIN, from the committee, reported the bill to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, correctly engrossed; and the bill was read the third time, and the blanks filled—section three, with the words *twentieth* and *May* in two instances.

On motion by Mr. BRADLEY, the words, "or being pursued by the enemy," were stricken out of the first and third sections, by unanimous consent.

Mr. LLOYD addressed the Senate as follows:

Mr. President: When the resolution on which

this bill is founded was brought forward, I had expected it would have been advocated—as a means of preserving peace—as a menace to the belligerents, that a more rigorous course of conduct was about to be adopted towards them, on the part of the United States, provided they continued to persist in their injurious decrees, and Orders in Council—as giving us time to prepare for war—or as a covert, but actual war, against France and Great Britain.

I feel indebted to the honorable gentleman from Virginia, (Mr. GILES,) for not only having very much narrowed the consideration of this subject, but for the open, candid, and manly ground he has taken, both in support of the resolution and the bill. I understood him to avow, that the effect must be war, and that a war with Great Britain; that, notwithstanding the non-intercourse attached to this bill, the merchants would send their vessels to sea; those vessels would be captured by British cruisers; these captures would be resisted; such resistance would produce war, and that was what he both wished and expected. I agree perfectly with the gentleman, that this is the natural progress, and must be the ultimate effect of the measure; and I am also glad, that neither the honorable Senate nor the people of the United States can entertain any doubts upon the subject.

I understood the gentleman also to to say, that this was a result he had long expected. Now, sir, as there have been no recent decrees, or Orders in Council issued, if war has been long looked for, from those now in operation, I know not what excuse those who have the management of our concerns can offer to the people of the United States, for leaving the country in its present exposed, naked, and defenceless situation.

What are our preparations for war? After being together four-fifths of the session, we have extorted a reluctant consent to fit out four frigates. We have also on the stocks, in the navy yard and elsewhere scattered along the coast, from the Mississippi to the Schoodick, one hundred and seventy gunboats, which, during the summer season, and under the influence of gentle western breezes, may, when in commission, make out to navigate some of our bays and rivers, not, however, for any effectual purposes of defence, for I most conscientiously believe, that three stout frigates would destroy the whole of them; and of the enormous expense at which this burlesque naval establishment is kept up, we have had a specimen the present session, by a bill exhibited to the Senate, of eight hundred dollars for medical attendance, on a single gunboat for a single month, at New Orleans. If other expenditures are to be made in this ratio, it requires but few powers of calculation to foretell that, if the gunboats can destroy nothing else, they would soon destroy the public Treasury.

We have also heard of a project for raising fifty thousand volunteers, which has, I believe, been very properly stifled in its birth, and we have appropriated, during the present session, one hundred and fifty thousand dollars towards the erection, repairing, and completion, of our fortifications. A sum about equal to the expenditure of the British Government for six weeks, or two months, on a single fortress in the Province of Canada, and which sum, with us, is to put into a state of defence, against the naval power of Great Britain, an exposed and accessible maritime frontier of two thousand miles in extent!

In contemplating war, it is also proper to advert to the state of the Treasury. Under such an event, and with any serious preparation for war or actual prosecution of it, the present funds would soon be exhausted. How soon cannot be stated, because the amount of them cannot be accurately ascertained. A part, and a considerable part, of the money now on hand, does not belong to the public. It is the property of the merchants; it is deposited in the Treasury as in a bank, to be checked for, whenever that commerce, which Mr. Jefferson, in his Notes on Virginia, most emphatically says, our country *will have*, shall be again reopened.

And thus situated, what are the projects offered for replenishing the public coffers in future? It is the duty of the Secretary of the Treasury to develope the resources of the nation, and to point out new sources of supply, whenever the usual channels are impeded. He has designated three modes. The first, if executed, embraces, in my view, and I am sorry to say it, a marked violation of the public faith. It is the suggestion of stopping drawbacks on merchandise, which, in many instances, the merchants, from a reliance on the stability of your laws, and the integrity of the Government, have imported expressly for exportation, and not for domestic use or consumption in this country, and which exportation you have prevented them, alike contrary to their inclinations and their interests, from making for a longer period than ever was known or endured in any other nation.

The second project is one which, in my opinion, would do little honor to the genius of any man. It is a sweeping project for doubling, at the moment, the duties on every description of imported merchandise, on which a duty is now payable. Without notice to the merchant, without inquiry, without discrimination, without distinction between the necessaries of the poor man and the luxuries of the rich one; between the indispensable raw materials of the manufacturer and the useless decorations of fashion. By which, bohea tea and Madeira wine, brown sugar and cosmetics, coaches and carpenters' tools, are all, by a single stroke of the pen, raised in the same ratio; and a duty of 100 per cent. on the present rates, without favor or affection, equally recommended to be imposed on the whole of them.

The third project is certainly not a novel one; it is simply that of shifting the burden off our own shoulders on to those of our successors: it is that of borrowing money on loans.

I have been, sir, among those who have respected the intelligence and acuteness of the Secretary of the Treasury. I have thought the office very ably filled; nor has my estimation of his

talents been diminished from the few personal conferences I have had with him since I have been in this city; but if his fame rested on no firmer a basis than the reports made to Congress the present session, in relation to enforcing the embargo laws, and to our fiscal concerns, then an infant's breath might easily burst the bubble. At any rate, it may very truly be said, that if such are our preparations for commencing, and our resources for continuing a war, they are those which will serve neither to inspirit ourselves, nor to frighten our enemies.

If we are to have war, with whom is it to be prosecuted—not in terms I mean, but in fact? Certainly not with France. Her few possessions in the West Indies have probably, by this time, ceased to belong to her, and between her European territories and the United States a gulf intervenes, a power is interposed, which neither the Emperor of the West nor the King of the Two Americas can either fathom or resist.

It then appears, if we we are to have war, it is to be a covert war, with the two belligerents, but in reality an actual war with Great Britain alone, and not a war with both France and Great Britain, as the face of this bill seems to import.

If this be the determination of our Government, and the war is to commence at a future day, and not instantly, what is the course which policy would dictate to this country to pursue? Certainly not a prohibition of the importation of her manufactures. A long period of years must elapse before we can furnish for ourselves many articles we receive from her even of the first necessity, or those which, from habit, have become such to us. We should, therefore, sedulously endeavor, not only to guard against exhausting our present stock, but to adopt every means in our power to replenish it.

It would be expedient to throw wide open the entrance of our ports for importations, to overstock as much as possible the United States with British manufactures. This would procure for us a double advantage; it would promote our own accommodation, by giving us the means of commencing and prosecuting war with fewer privations, and it would powerfully tend to unite the interests of a certain class of the inhabitants of that country with our own—for, as the mass of importations from Great Britain are made on long credits, should a war ensue before such credits are cancelled, it is obvious, that, until the conclusion of the war, those debts could not be collected, and this circumstance alone, to a certain extent, might operate as a preventive check to war, or, at any rate, would secure in the bosom of the British nation a party whose interests and feelings would be intimately connected with a speedy return of peace.

By adopting a non-intercourse antecedent to a state of war, our own stock of supplies becomes exhausted, the British merchants have time and notice given them to collect, or alienate, by assignment, their debts in this country. A warning is given them to buckle on their armor; their good disposition towards us is not only changed, but embittered, and the very persons, who, in the one case, might possibly prevent a war, or be instrumental in effecting the restoration of peace, would in the other, probably be among the most willing to rush into the contest, from the impulse of temper, and from the conviction that their own circumstances would not be deteriorated by its consequences.

A non-intercourse would also be attended with great hazard and disadvantage. It would be as well understood by others as by ourselves; it could alone be considered as the precursor of war; and the blow would be struck, not when we were prepared, but when our opponents were ready for the contest; and should this bill go into operation, it is very possible, that during the ensuing Summer, some of our cities may exhibit heaps of ruins and of ashes, before expresses could convene at the seat of Government even the heads of our departments.

Another evil would arise, and that a permanent one; whether a non-intercourse eventuated in war or peace, it would materially and adversely affect both the habits of the people and the revenue of the State. Many of the articles which are now imported from Great Britain are indispensable for our comfort, and some of them for our existence. The people cannot do without them: the consequence must be, that, instead of being regularly imported, the articles will be smuggled into this country, and thereby the price not only becomes greatly enhanced to the consumer, but the duties are wholly lost to the Government.

Hitherto, the revenue of the United States arising from impost has been collected with a degree of integrity and punctuality highly honorable and unexampled in the history of commercial nations. This successful collection of duties has not however been effected by the employment of swarms of revenue officers, spies, and informers, as in other countries; it has been infinitely more effectually secured, by an honorable pride of character, and that sentiment of affection which was naturally excited in the hearts of freemen towards the Government of their choice, and a Government under which, in the main, they have experienced much prosperity. But barriers of this description, like other high-toned sentiments of the mind, being once broken down, can with difficulty be restored, and the chance of materially impairing this, in reality, "cheap defence of nations," should, in my opinion, of itself, afford a sufficient reason for the rejection of all measures of doubtful policy.

In a country nearly surrounded by, and every where intersected with, navigable waters, encompassed by a frontier beyond the ability of ten Bonapartean armies to guard, and inhabited by a race of men unrivalled for hardihood and enterprise, and at present in a state of poverty, the temptation of great prices will be irresistible—for there is no truism in morals or philosophy better established than the commercial axiom, that demand will ultimately furnish a supply.

There are, undoubtedly, periods in the history

of a nation, in which a contest would be both honorable and indispensable, but it should ever be the result of great deliberation, and in an extended republic, perhaps, of necessity. That government is most wise and most patriotic, which so conducts the affairs of the nation over which it presides, as to produce the greatest ultimate good; and when a nation is attacked at the same time by two assailants, it is no reflection on its honor or its bravery, to select its opponent; and on principles of reciprocity, independently of those of interest, the first aggressor would undoubtedly be entitled to the first notice.

Who then has been the first aggressor? I answer, France. The Berlin Decree is in a great measure the cause of our present difficulties. In justification of France in doing this, I know gentlemen resort to the convention between Russia and Great Britain in 1793, to prohibit a supply of grain to France; but this is by no means sufficient justification to France, even without referring to a decree to the same effect issued in May of the same year by France, while she was ignorant of the secret stipulation between Russia and Great Britain.

For a long period, and among most of the maritime nations of Europe, the right of inhibiting a supply of provisions to an enemy, was tacitly acquiesced in, or expressly admitted. This practice existed even so long ago as the Mithridatic war, and has probably been followed up, without an interval at any one time of fifty years, from the commencement of the Christian era to the present day. This attempt therefore of Great Britain to injure France, formed no excuse for France to attempt to injure Great Britain by violating the commerce of the United States.

On the 31st of December, 1806, the British Government formally notified the American Government, that Great Britain would consider an acquiescence in the Berlin Decree on the part of neutral nations, as giving to her (Great Britain) the right to retaliate in the same way against France.

Had the American Government, at this period, manfully and explicitly made known its determination to support our rights at all hazards, I have no belief that our present difficulties would ever have existed.

In May succeeding, advices were received of French privateers, under this decree, depredating upon American vessels in the West Indies; and during the same month the ship Horizon, in distress, was thrown by the act of God on the French coast, and was seized under the same authority.

In November, 1807, the British, in conformity with their notice, issued their retaliating order. A prior Order in Council of January, 1807, had been issued, but this only affected vessels trading between different ports of France, or between ports of France and her allies; a trade always obnoxious to suspicion, and one which during war must ever be expected in a great degree to be restricted, and which is also interdicted by a standing law of the French Government, passed in 1778, and confirmed by the present Emperor.

Then followed in succession, on the part of France, the Milan and Bayonne decrees. The last of which dooms an American vessel to condemnation from the exercise of a right universally acknowledged to belong to belligerents, and one which the neutral has no possibility of preventing, that of being spoken with by an enemy cruiser, which from her superior sailing there was no possibility of avoiding. In point of principle, this is the most outrageous violation of neutral rights ever known, and this, too, took place under the existence of a treaty made within a few years by the same person who issued these very decrees. While with Great Britain we have no treaty, and whose orders are expressly bottomed upon and limited in duration by the French decrees, and issued after having given twelve months' notice of her intention to oppose them in this way, and the Orders in Council are even as yet not coextensive in principle with the French decrees.

I have, in taking this brief view, confined myself exclusively to the decrees and orders of the two Governments, without adverting to other causes of complaint on either side. I consider myself as warranted in doing this, from the American Government having explicitly taken this ground, and made known that, on the removal of the decrees and orders, it would, on our part, remove the embargo, and restore the accustomed intercourse between the two countries.

From this consideration of the subject, it irresistibly follows, that France was the first aggressor on us, in issuing her decrees—that in point of principle, they are much more outrageous violations of right than the British Orders in Council—that the latter originate from, and co-exist only with the former, and that France should of consequence be the first object of our vengeance.

The effects of a war with one or the other nation, would be as distinctly perceptible. With France it would make no difference to us. For as long as she continues her decrees, commerce with her could not be prosecuted—no man would be mad enough while her coast is lined, and the ocean covered with British cruisers, to send his vessel to France, where she would meet with certain condemnation for being even seen and spoken with by a British frigate. With France therefore, the actual difference arising from passing this bill, and declaring a non-intercourse would be next to nothing.

With Great Britain the effects would be reversed. No one now doubts her ability or disposition to carry her orders into effect, nor her preparation to extend the theatre of war. If we commenced war upon France, as she would be the common enemy of both nations, there is no doubt in my mind that our differences with Great Britain would be favorably settled, that the commerce of the world, excepting as it respects France and her allies, would be again open to us, and that a trade, which has hitherto employed nearly seventy millions of our capital, might be again accessible to the industry and enterprise of our citizens.

Reverse this picture, admitting that you have

a war with Great Britain, what will be its consequences? If your citizens are united, you can capture Canada, Nova Scotia, and New Brunswick; when you have effected this, what remains next to be done? You have reached the *ne plus ultra* of your ability. Thenceforward your ports are hermetically sealed. Privateering, from the convoy system adopted by Great Britain, could not be successfully prosecuted; no food for enterprise remains, and thus you would remain, five, ten, or fifteen years, as the case might be, until the wisdom and good sense of the nation predominated over its passion, when an accommodation would be made with Great Britain, following her example with regard to her West India conquests restoring the captured provinces, enriched by American population and industry, and giving us perhaps a treaty, still less favorable than the much execrated instrument of 1794, which, bad as it was said to be, has proved a *cornucopia* of wealth to our country, if it produced nothing less than a thirteen years' peace and which, to my view, is vastly preferable to its abortive successor of the year eighteen hundred and six.

As a young people, neither our duty nor our interest requires that we should enter into a war with any nation without a rational prospect of success. If we are to engage in a war with Great Britain, it will be a war of no ordinary cast—whose effects and duration no man can distinctly foretell; such a war cannot be carried on with a divided people, with "restrictive energies," or paper resolutions—it must be a war to be prosecuted at the expense of the blood, the treasure, and perhaps the prosperity of the country.

Such a war ought never to be undertaken by a young nation, by a Republican people, unambitious of conquest, already possessing territory enough for "the thousandth generation," except under circumstances of the most urgent necessity, and after every honorable, open, and reciprocal effort to preserve peace had been in vain attempted.

In this country it may emphatically be said the *vox populi* is the *vox Dei*. The Government, whatever may be its disposition, cannot go to war without the people; and the people, intelligent in many parts of the country as their rulers, knowing their own interests, and knowing also who will have to sustain the burden of the contest, will not engage in any but a just and necessary war, and then only after the necessity has been made obvious to their comprehension.

It is the policy of this Government to spread information before the people, they can therefore judge for themselves. With regard to our foreign relations, they have not before them all the facts; they have however enough to present to them the singular spectacle, that we are about to declare a non-intercourse with two nations; with one of which it must produce a destructive war, while the other enemy, if it be proper so to style her, who furnishes the root of the system, chuckles at the measure we adopt, ostensibly to annoy her—praises our embargo, and speaks in the most recent and official communications of her Government, to us, as joined in a common cause with her; and publicly declares "that the allies of 'France and the United States sacrifice, with a 'resolution equally generous, their private con-'veniences, in repelling from all points the Eng-'lish commerce, and employing the means cal-'culated to promote that end."

What will the Government of Great Britain and the people of this country, after hearing this, think of the rumors now afloat? That the French Minister, apparently well satisfied with his situation, has engaged a house near the city of Baltimore on a three years' lease? That the President's confidential Secretary, leaving the duties of his recent appointment as a captain in the army, is going to France, while a six-dollar bearer of despatches, I know not whom, is going to England; and that even at this moment, when all intercourse is to be interdicted, we are, from the exuberance of our philanthropy, cutting our own throats, and sending cotton seed to France in a Government vessel, to teach them how to supplant us in the cultivation of the great staple commodity of our own country.

To say the least of it, the people will perceive in a non-intercourse, or in its synonyme, war, an uncommon, if fortuitous coincidence with the views of one belligerent, in opposition to those of the other, and will not at present, in my belief, concur in such a coincidence if they can constitutionally prevent it.

The recollection is yet too vivid, of the enormities of the French Revolution; of the more recent but still more extended atrocities of her imperial Government; the violation of her treaty with us; the gross infractions of our rights; the unmeasured contempt and disgrace she has heaped upon us; to permit for a moment the people of this country, either in terms or in substance, to join with her "in a common cause to repel from all points the English commerce, and to employ the means calculated to promote that end."

In the Northern and Eastern sections of the United States the great majority of the people are, as I believe, ready for a war with France, if the Government choose to direct it, as being the war first called for, by a regard to the honor and interest of our country, and as being the nation with whom, according to the observations of the gentleman from Virginia, made some time since, we are already in a state of actual hostility.

With Great Britain they would not readily engage in war, until all hope of accommodation shall have vanished; and to evince this, a new negotiation, another effort at adjustment, ought still to be made. The attempt to produce peace can disgrace no nation not in danger of immediate subjugation.

If this negotiation be undertaken and conducted with publicity—in the spirit of amity, moderation, frankness, and reciprocity, and with a due regard to the existing and peculiar circumstances of the times, and it should fail, then the boon so ardently desired, by every honest man in the country, that of union, would be attained. In such case, there would be but one voice in the Republic—the nation would be united as one man, and

would be ready, at the command of their rulers, to take the path to death or victory.

This is the course which, in my humble opinion, the United States ought to pursue.

As to the commercial effects of a non-intercourse with Great Britain and France and their respective dependencies, and with any country or place in the actual possession of Great Britain or France, and a prohibition to import their manufactures or produce, I shall not waste the time of the Senate minutely to consider it.

No trade would remain, which could be prosecuted without fraud, humiliation, or disgrace; no one would mistake a non-intercourse for a pacific measure; distant voyages, therefore, those of the Northwest coast of America—to China, Manilla, Batavia—to the Arabian and Persian Gulfs, would not be undertaken; with a non-intercourse hanging over their heads, our merchants would not even venture to send their vessels to the Brazils.

In Europe, who can tell whether Spain or Portugal are in the actual possession of France or Great Britain? They both have armies there, or on the frontiers, and neither nation has a Government. No honorable Senator of this House, nor any collector in the United States, can now tell, whether a merchant has or has not a right, under this law, to send a vessel to either of those countries; and if he did, and the French or the British were the conquerors before her arrival there, whether such vessel would or would not come within the penalties of this act.

Yes, sir, we can trade elsewhere, we can go to the lawless States of Barbary, and perhaps make Algiers a great emporium for American merchandise—to the Azores or Western Islands—to Sweden, the most impoverished country in Europe, and where half a dozen ships loaded with West India produce would overstock all her markets. We could also for a short time trade to St. Bartholomews, in the West Indies—I mean until actual war commenced. But wherever a depot was opened it would be instantly glutted with American produce, which, from a combination among the purchasers, would be sold for a song; while British manufactures would come to us by a circuitous route, and at an immense price, covered with perjuries, and doubly plated with Russian, Prussian, Dutch, and German certificates.

The consequence of all this must be, that the products of the Southern States, the corn, wheat, flour, cotton, and some of the tobacco, would find a bad market; while the bulky and more perishable articles of the North—the fish, which in warm weather cannot be rehandled, and the lumber, which from its bulk and little value cannot pay two freights, would, under this non-intercourse, be nearly as unsaleable as under the embargo; while, worse even than this, our excommunicated opponents would get their supplies on cheaper terms than they have ever received them since we have been a nation. I have no hesitation in saying, that such a trade as this would be superlative degradation, and that it ought not to be prosecuted by any independent people.

Mr. HILLHOUSE said: As it regards the future destinies of our country, the bill on your table is one of the most important that has engaged the attention of Congress. This bill marches us to the precipice, from which the next step may plunge the nation into a war, incalculable as to calamity and duration. Under circumstances like these, the duty I owe to myself, my constituents, and my country, requires me to come forth boldly, and speak my sentiments in plain language.

I am sorry, sir, we have not the whole information to which we are entitled before we are called on to decide this question. The bill is predicated on the principle of the entire failure of the negotiation with the great belligerents; the whole correspondence, therefore, ought to be before us, that we may perfectly understand what is our situation in relation to those Powers. But I know, sir, and every Senator must know, we have not that information. It is withheld from us. It is manifest, from the documents which have been communicated by the President of the United States, that there has been a double geared correspondence between our foreign Ministers and the Department of State. An official correspondence, and a private correspondence. As regards England, we have very little of the private correspondence. As regards France, we have but a small portion of either the official or private correspondence. Can any one believe, that, during such a critical period of our affairs with that nation, for very long intervals there should have been no communications or correspondence between our Government and our Minister at the Court of France? The very letters we have, refer to others which must contain important information. Why this concealment? Sir, being denied the direct and clear evidence in the possession of our Government, we must depend on such information as we can find. This must be my apology for some of the circumstances which I shall state in the course of my remarks; circumstances to which I should not have been under the necessity of resorting, if all the correspondence, official and private, had been laid before us. Such as was not proper to be made public might have been sent confidentially, as is frequently done. It ought to be known before we determine on committing the peace of the nation.

Before I proceed to general remarks, I will notice some few of the details of the bill; on which I shall, however, be very concise, as the whole is radically wrong, and incapable of amendment. This is the first attempt in legislation to have a partial embargo on the same port. I know it is not unusual to have a partial embargo, that is, an embargo on a particular port, or certain ports. But that all the ports should be embargoed and not embargoed at the same time, is a novelty, is what I cannot understand. The very nature of an embargo is to confine vessels in port; and how can vessels be confined and not confined by the same act? The gentlemen who prepared this bill were not so wanting in knowledge in the affairs of legislation as not to understand this business perfectly. The only possible use there can

be in keeping alive the embargo act, the supplementary embargo acts, and the enforcing statute, is to avail themselves of the military force, and of the odious and oppressive provisions contained in them, to aid in the execution of this measure, without incurring the popularity which might be attached to the re-enacting of like provisions in this bill. The fact is, however, that all the provisions in those various acts for carrying them into effect, so far as regards France or England, or their colonies and dependencies, are virtually adopted by this bill.

Section eleventh of this bill authorizes the President of the United States, "in case either 'France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate 'the neutral commerce of the United States, to 'declare the same by proclamation; and thereupon cause to be issued letters of marque and 'reprisal against the nation thereafter continuing 'in force its unlawful edicts." The Constitution says, "The Congress shall have power to declare 'war, grant letters of marque and reprisal, and 'make rules concerning captures on land or water." The exercise of this authority, given by this section to the President, to grant letters of marque and reprisal, is to rest on the revocation or modification of the edicts of France or Great Britain, so as not to violate the neutral commerce of the United States. And this complicated question is left to the judgment and unlimited discretion of the President. His individual opinion on the nature of a variety of edicts not specified, and which will admit of various constructions, is to govern. If the condition on which such a power was to be exercised, were some specified event, certain and precise in point of fact, which is not this case, it might be questioned whether the Constitution would, even then, warrant Congress in delegating to the President the power of declaring war, or of granting letters of marque and reprisal.

The thirteenth section provides that no vessel shall be allowed to go on a foreign voyage, unless, among other things, bonds are given, in some instances in double, and others in four times the value of the vessel and cargo; "nor unless every other requisite and provision of the second section of the act"—(the enforcing act) "shall have been complied with." One of which is, that bonds shall be given to six times the value of vessel and cargo. It cannot be the intention that bonds, in some instances to eight, and others ten times the value, should be demanded; and yet I may ask, how are you to get along with the positive provision in this section? Perhaps, indeed, it may be done with the aid of the present learned Attorney General, who has such a wonderful faculty of explaining away positive statutes.

Section fourteen contains a provision directly opposed to that part of the Constitution which says, "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

By this section all the ports of the United States are released from certain oppressive and burdensome restrictions respecting their coasting trade, excepting the collection districts adjacent to the territories of a foreign nation, which are to remain subject to those restrictions, amounting almost to a total prohibition of their coasting trade. No such exception is to be found in the Constitution; and if Congress may thus single out the ports of one district, why not those of a State, and thereby wholly arrest the commerce of a State which may be so unfortunate as to fall under the displeasure of the Administration? If the Constitution may be departed from in one instance, what security is there that all imposts, duties, or excises, shall be uniform—that capitation or other direct tax shall be according to the census—or that no tax or duty shall be laid on the exports? As well, nay better, might a tax or duty be laid on the exports of a particular port, than that their coasting trade should be burdened according to the provisions of those several acts.

I will close my remarks on the details of the bill with some notice of the nineteenth and last section, which seems to be a favorite one with the gentleman from Maryland, (Mr. SMITH,) because it repeals, after the end of the next session of Congress, the several embargo acts, and the enforcing statute. Sir, I have no confidence in this provision. We find such a clause tacked to almost every bill which may hazard popularity. By examining the statute book, you will find a great number of important laws resting on such a clause; and before the close of almost every session we pass a short bill, containing perhaps three or four lines, further to continue such laws in force to the next or some future session of Congress.

Mr. President, it has been with very great concern that I have viewed the progress of our affairs in regard to our foreign relations, since the discussion on the resolution I had the honor to submit, for the repeal of the embargo. It is with deep anxiety, I contemplate the passing such an act as is now under consideration. The embargo has produced discontents of a very alarming nature. This bill, if it should unfortunately pass, may drive the people to desperation. The embargo has destroyed our commerce. This bill, if carried into effect, will destroy the benefits of commerce, and may involve us in war. If the provisions of the bill are not intended to be executed, it would be degrading to the Government, it would be dishonorable to pass it; as it would be holding out a lure, nay an invitation, to our citizens to become violators of our laws, and expose us to the derision of the world.

Suppose the act passed, and rigorously executed, what would be the consequence? Every man of common sense in our country can tell you. Our produce would be confined to a few ports, one or two, perhaps, in the West Indies, the market would be glutted, and it would not bring one-third its value. British and other merchants would purchase at their own price, and transport it to markets where wanted, at an immense profit. Such articles of foreign growth and manufacture as were admitted would be at an exorbitant price,

but many articles of indispensable necessity would be excluded altogether.

It will be remembered, that, when the embargo bill was on its rapid march through the Senate, at the last session, I did not fail to warn them of the danger of passing such an act; for that an embargo could not and would not, for any great length of time, be executed. No, sir, the despotic power of Bonaparte could not execute it. Now that it is found it cannot be executed, the bill on your table is proposed as a substitute. Let me ask, can that be executed? I have no hesitation in saying it cannot and will not be executed. For if the laws will not admit the introduction of such articles of foreign growth and manufacture as are of indispensable necessity, they will be smuggled into the country, and the payment of duties avoided. Sir, Congress cannot control the elements; and they might as well attempt that, as to enforce such acts against the general interests and wishes of the people. The operation of such statutes will be to convert your merchants into smugglers, and your citizens into spies, prowling about like beasts of prey, seeking whom they may devour. Our country will be filled with seizures; our Federal courts crowded with suits for penalties and forfeitures, and our State courts with suits for damages. Many of our citizens possessing integrity and honor, too scrupulous to engage in such a traffic, might think of quitting their country, and seeking protection under some foreign Power, having laws of a milder aspect.

Let me entreat the Senate to pause, for a moment, and reflect whether they can have any assurance that there will, much longer, be a patient submission to such measures? Whether the burden is not already insupportable? And whether the sufferings of the people have not become intolerable? Some gentlemen have declared their disbelief of the accounts of the sufferings of the people. They do not believe that such sufferings exist, because the sufferers have not proclaimed them on the house-top. It is not men of wealth, who, under any circumstances, and in any times, can produce an abundance of the necessaries of life—or men in the receipt of ample salaries, which suffer no diminution from the embargo—or men who receive a per diem allowance, not depending upon commerce or agriculture for its continuance—about whom I feel an anxiety. Such men, though, by the embargo, they may be deprived of the opportunity of adding to the thousands already laid up in store, will not suffer want. It is the laboring people in the Northern and Eastern States, who depend on their daily occupations for the support of themselves and their numerous families, whose sufferings I regard. On this class of citizens we depend to do the labor of our country. Many of them, though in the humbler walks of life, are respectable; they are freemen; they add greatly to our strength and security in the hour of danger; for they are numerous, and hardy, and bear arms; and, what is most to their honor, are always prepared, when their country calls, to go forth in her defence. These are men who cannot be turned off with a peck of corn a week.* Men about whose sufferings we cannot feel indifferent. To find out the sufferings of this class of our citizens, you must not go to demagogues, political partisans, or office hunters, who always say what they think will please those in power; you must look behind the curtain which shields from public view domestic concerns and private sufferings. There is nothing which people more studiously conceal than that pinching poverty which compels them to beg charity of others. I have known families, who, from sickness or other misfortune, have been deprived of a regular supply of the necessaries of life from the labor and industry of him on whom they depend for support, who have almost perished with want, rather than go to the poor-house, or submit to be supported by the town; and for whose relief the most secret and delicate modes of bestowing charity have been resorted to.

To convince the Senate that the sufferings of our people are real and not imaginary, I will state one piece of information from New Haven, on which may be placed the fullest reliance. During the present inclement season, hundreds of applicants for admittance into the poor-house have been denied. In ordinary times the poor-house would accommodate three times the number in it. Always, until now, it has been more than sufficient to accommodate all that were under the necessity of going to it. In addition to the provision made by the town, and the various charitable societies, resort has been had to the raising of money by subscriptions, to purchase wood and provisions, to prevent people from perishing with cold and hunger; a point of suffering this to which we were never reduced under all the pressure of the Revolutionary war; though in that time our little town suffered much, and was once sacked and plundered by the British army. This, for the moment, was distressing, but the usual occupations of its inhabitants, a sure source for the supply of their wants, not being taken away, they were soon able to procure for themselves the necessaries and many of the comforts of life. Sir, it is no pleasant spectacle to behold a flourishing little town, where, though wealth did not abound, a competency, derived from honest industry, made every man happy, reduced to such distress, and that, too, by the measures of their own Government. These sufferings are not confined to New Haven, they pervade all our commercial towns. I have seen very affecting descriptions of them from other places—descriptions which must touch the tender feelings of every heart not rendered callous by party spirit. From the patriotic city of Baltimore, where the embargo has been approbated, we have the following information, being an extract from the communication of the Mayor to the City Council:

"The gentleman appointed to distribute the funds, have, with zeal and industry truly commendable, in every instance, in person, visited the families applying for relief, and extended the hand of charity to them, in

* In the slave States the allowance for the subsistence of a negro, is one peck of corn per week.

proportion to their several necessities, and the sums collected. In your wisdom and humanity, I confidently repose for further relief; as the reports of the gentlemen appointed to visit them are truly distressing to the feelings of humanity, both as to their numbers and their necessities."

In this same paper, I find the following account:

"The Marine Society of Philadelphia have discovered upward of one thousand objects of charity, who, from a state of comfort, have been reduced to the lowest abyss of poverty."

I shall not take up the time of the Senate in noticing other official accounts of suffering equally distressing. It will be doubly afflictive to the people to find our Government obstinately bent on measures which have produced so much individual distress, after they are acknowledged to have failed to produce the desired effect on foreign nations. This will seem to be more than trifling with their sufferings; and I will not be answerable for the consequences. For my part, I believe the point of suffering is as great as can be endured; and may I not be permitted to ask the question, whether much more ought to be endured?

I am not one of those who advocate the doctrine of passive obedience and non-resistance; or that oppression, even from our own Government, is not to be resisted. I do believe that it is not only justifiable, but a paramount duty to resist, whenever the oppression becomes intolerable, or unconstitutional measures, which strike at the foundation of civil liberty, are attempted to be enforced. This doctrine is not new, sir, it is the doctrine which our ancestors brought with them to New England, and have handed down to us as our most precious birthright; an invaluable inheritance to freemen, which I hope neither we nor our children will ever be induced to surrender.

To show that the doctrines which I have advanced, and the opinions I entertain, are not peculiar to New England, I will take the liberty of reading what was said by Earl Chatham, one of the greatest statesmen England ever knew, when oppressive and unconstitutional measures were, by an administration of that country, attempted to be enforced. And, surely, gentlemen will not say the Constitution and Government of England is more friendly to liberty, and the free expression of opinion, than the Constitution and Government of the United States. Parliamentary Debates, volume 29, page 50:

"My Lords, I need not look abroad for grievances. The grand capital mischief is fixed at home. It corrupts the very foundation of our political existence, and preys upon the vitals of the State—the constitution has been grossly violated—the constitution at this moment stands violated. Until that wound be healed, until the grievance is redressed, it is vain to recommend union to Parliament—in vain to promote concord among the people. If we mean seriously to unite the nation within itself, we must convince them that their complaints are regarded, and that their injuries shall be redressed. On that foundation, I would take the lead in recommending peace and harmony to the people. On any other, I would never wish to see them united again. If the breach in the constitution be effectually repaired, the people will of themselves return to a state of tranquillity. If not, may discord prevail forever! I know to what point this doctrine and this language will appear directed. But I feel the principle of an Englishman; and I utter them without apprehension or reserve. The crisis is indeed alarming: So much the more does it require a prudent relaxation on the part of Government. If the King's servants will not permit a Constitutional question to be decided on, according to the forms, and on the principles of the constitution, it must then be decided in some other manner; and rather than it should be given up, rather than the nation should surrender their birthright to a despotic Minister, I hope, my Lords, old as I am, I shall see the question brought to issue, and fairly tried between the people and the Government. My Lords, this is not the language of faction; let it be tried by that criterion, by which alone we can distinguish what is factious, from what is not—by the principles of the English constitution. I have been bred up in these principles; and know that, when the liberty of the subject is invaded, and all redress is denied him, resistance is justified."

When the Parliament of England were attempting to enforce these unjust and oppressive measures on the Colonies, which caused resistance, and terminated in our Revolution and independence, Lord Chatham, this friend of civil liberty, said in the House of Lords, "I rejoice that the Colonies have resisted."

An objection arises to this measure of non-importation and non-intercourse, from the circumstance of the strong resemblance it bears to that system of warfare which the nations of continental Europe have, under the auspices of Bonaparte, been induced to wage against England. Was not that a non-intercourse, and a non-importation of all articles the growth or manufacture of the British dominions? Will not this circumstance alarm the minds of the people? It may be said this measure, upon the face of it, purports to be against both belligerents, and is therefore impartial. Was not that the case also with the embargo? And has not that been found to be a measure in perfect unison with the wishes, feelings, and views of Bonaparte? It is in vain to deny it, he has been too explicit in his declarations on that subject to leave a doubt. Nay, sir, what he has said, taken in connexion with other known facts, has gone far to excite, in the minds of the people, in one portion of the Union, a suspicion, and I should be incorrect if I should say more than suspicion, that there was some secret understanding. Here let me remark that, I do not mean to accuse the Administration of anything inconsistent with our rights as an independent nation; for as such we have a right not only to co-operate but to form an alliance with France. If our Administration believed, as I know many do believe, that it would be a wise policy, should we not have cause to fear they would adopt that course? It is because I believe such a policy would be unwise, would be ruinous to the nation, that I wish to avoid everything that looks that way.

I have said that what the Emperor of France, or, which is the same thing, what his confidential Ministers have said, taken in connexion with other

matters known to us, has excited suspicion, that there was an understanding between our Administration and France in relation to the embargo. I will now enumerate some of the circumstances. During the last session of Congress, letters were received from the Continent of Europe, bringing information, from a respectable source, that on the sailing of the United States' armed schooner Revenge, from France, with Doctor Bullus, and despatches, our Minister there wrote to Holland, communicating information that the arrival of the Revenge in the United States would be immediately followed by a general embargo, and urging the merchants to hasten the departure of their vessels, under an apprehension, as I suppose, that the embargo might induce a declaration of war on the part of Great Britain. This intelligence, I am credibly informed, has been confirmed by a person not long since in this city, who states that he was in Holland at the time, and was well acquainted with the fact. The Revenge arrived, and the ever memorable embargo was laid. The question is asked, and I am not able to answer it, how was it known in France, unless there had been some previous communication and understanding on that subject, that such an embargo would be laid, at a time when such a thing was not suspected by the people of the United States? That the Emperor expected a policy of the nature of the embargo to be adopted in the United States, is manifest from another circumstance. After the embargo began to operate on the inhabitants of Guadaloupe, to induce them to be patient under their sufferings, the three chief officers there, members of Bonaparte's Legion of Honor, issued their proclamation on the 21st of March, 1808, in the name of the Emperor of the French, in which, referring to our embargo, they say:

"That the rigor of these measures is a new proof of the faithfulness of this Power (the United States) to its former friendship with the French empire; of its attachment to the general interests of Europe, which are likewise its own, as one of the great means of accelerating a maritime peace, by the impossibility which it presents to the common enemy of the means to continue the war."

This proclamation must have been issued in consequence of orders and instructions from the Emperor; for his officers do not act in his name without orders; and those orders must have been issued in consequence of his previous knowledge that an embargo was to be laid; because there was not time, after the embargo act arrived in France, for such orders to have reached Guadaloupe before the issuing of this proclamation. Another circumstance, which made some impression, was the unceasing effort, during the last session of Congress, to convert the embargo into a non-intercourse. Expecting, no doubt, that, by cutting off all remittances, by land as well as by sea, the merchants would cease to send out their goods. If this bill passes, we shall have adopted the very measures which have been required by the French Emperor of other neutral nations, and it will be considered as furnishing irresistible evidence to confirm those existing suspicions.

There are other circumstances which have excited alarm. I must speak out—times have become too serious to conceal anything; for I consider the vote which is about to be given, on this bill, as deciding the all important question of peace or war. When an opinion seemed to prevail, a little time since, that it would be necessary to repeal the embargo, those who are considered as the most confidential organs of the Administration, strenuously urged the first of June for the time of the repeal. And why? Not certainly on account of any advantage it could be to the people of the United States to postpone the repeal to that time. The real cause why the 1st of June was fixed on, is not for me to say; but I can tell you what is suspected by some of the people to be the reason; it is, that there may be time for the despatch vessel to go to France and return; so that some arrangement may be made as to a substitute for the embargo, that the Emperor may not take umbrage at the repeal. These suspicions are much increased by a report which is in circulation, for the truth of which, however, I cannot vouch, that the Private Secretary of the President is to be the bearer of the despatches. It can hardly be supposed that this confidential agent of the President should be sent on the mere errand of a post-boy. People fear some private agency, some secret negotiation, which may ultimate in linking the destinies of our country to those of France. An idea which is terrifying to them; for, as it regards our liberties and our free Government, the embrace of France would be the grasp of death. Bonaparte will never rest satisfied to see the people of any country in the enjoyment of liberty. The name of a free Republic is a living reproach to him. Other questions are asked, which I am not able to answer; such as, why the next session of Congress is fixed on the fourth Monday of May? Whether it is not to give time for the despatch vessel to go and return? Whether the plan of going to war with both the belligerents was not with an understanding with one nation that it was to be merely a nominal war? And whether, in any other point of view, the idea of going to war with two such powerful belligerents, at the same time, was not too ridiculous to be seriously entertained for a moment? On the last point, I have information perfectly satisfactory to my mind, that such a war would not be objected to on the part of France.

Sir, the bill before you is war. It is to suspend all intercourse, to put an end to all the relations of amity. What is that but war? war of the worst kind—war under the disguise of non-intercourse, which is only a milder mode of declaring it. If we must have war, let it be an open war. Let gentlemen come forward with a bold and manly front and declare war; and not attempt, in this covert manner, to decoy and deceive the people into war. I honor the open conduct of the gentleman from Virginia: he has not hesitated to declare that his sentiments and wishes are for war. If I entertained the same opinion of the conduct of our Administration, and of foreign nations, as he has declared, I would join him

heart and hand for a declaration of war. But, sir, the policy of our country is pacific, as I hope it always will be. The nation will not consent to go to war until all honorable and fair means have been attempted to settle differences by negotiation—a negotiation conducted in a manner that shall evince the most perfect sincerity and justice. An Administration that should commence a war, against public sentiment, would assume an awful responsibility, and bring on themselves and their country inevitable disgrace. Even the monarchy of England cannot sustain a war that is unpopular.

The gentleman from Virginia has, in pathetic strains, invited us; he has in emphatic language called upon all parties to unite in supporting the cause of our country. In the cause of our country we will unite. The American people will all unite in supporting our nation's independence, and in the support of our rights. In no portion of this Union will the people be more united, or more obedient to such a call than in New England. They will not surrender, but with their lives, either to foreign domination, or domestic despotism, their unalienable privilege of freemen, their birthright.

But, sir, there is a manifest difference between a call to support our country's cause—and a call to support the measures of an Administration. The former is peremptory and irresistible. But the latter is not entitled to the like support, unless its measures are founded in justice, wisdom, and sound policy. The people of New England have sufficient discernment to distinguish between the Constitution of the United States and the Administration—between their country and the Administration of its Government. They cannot be induced to sacrifice their best interests to support the failing projects of an Administration whose political character and influence, and not the honor and interest of the country, are at stake on the measures now proposed to be enforced.

An Administration to be just must be sincere and impartial, both toward foreign nations and our own citizens. Conscious of this truth, the gentleman from Virginia has declared, in the most decisive language, that the present Administration have been both sincere and impartial, and has challenged us to adduce proof to the contrary. As the gentleman from Delaware (Mr. BAYARD) has so ably and so conclusively proved the insincerity and partiality of the Administration, as regards foreign nations, I shall not take up the time of the Senate on that point, but confine myself to a very few remarks upon the insincerity and partiality which have been practised upon our own citizens. May I not ask, whether the commencement of this Administration was not distinguished by circumstances which might well excite doubts of Executive sincerity? In the inaugural speech, we were told:

"All will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable, that the minority possess equal rights, which equal laws must protect, and to violate would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which liberty, and even life itself are but dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained but little, if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecution. We have called by different names brethren of the same principle. We are all Republicans—we are all Federalists. Equal and exact justice to all men, of whatever state or persuasion, religious or political."

I was so credulous as to believe all this sincere. I went home, and was active and in earnest to propagate the same opinion among the people of the State to which I belonged. The people were prepared not only to support the Constitution and Government of their country, which they will always do, but such an Administration as they understood, from the inaugural speech, we were to have. A few months only elapsed, however, before there was displayed a spirit of intolerance and party spirit, which filled them with astonishment. Persons, old Revolutionary characters, were displaced, not for want of talents or integrity to the due execution of their offices, nor for any neglect or infidelity in the performance of their duty. Whether such removals were merely on account of political opinion, or because such men would not be obsequious to the particular and private views of the Executive, I leave to others to explain. Though eight years have elapsed, this political intolerance has not ceased; during this very session we have been called upon to sanction appointments to fill vacancies made by such removals. Like partiality and injustice have been practised toward citizens of the United States in regard to appointments to new offices. I will not take up the time of the Senate in enumerating cases. The appointments of the present session are fresh in the minds of every member of this body. Unfortunately, the time has never yet arrived, when the only inquiry was to be, "is he honest, is he capable, is he faithful to the Constitution." Sir, an Administration thus conducting is not entitled to support; and an Administration thus managing the affairs of a nation will not ultimately be supported.

I shall next inquire in what has consisted the wisdom of the Administration as regards their measures? Those measures which have been adopted, and are now proposed to be extended and enforced, for they are links of the same chain, and as they regard foreign nations, are feeble; and, as far as the experiment has been made, have proved wholly inefficient. While at home they have prostrated a flourishing commerce—destroyed both our revenue and our resources—paralyzed private enterprise and honest industry—given encouragement to fraud, deception, and violence; exposing the honest, industrious, unsuspecting citizen, to become the dupe and the prey of unprincipled speculators—deprived many of our fellow-citizens of the means of gaining a subsistence—and rendered them incapable of contrib-

uting anything to the general defence and security of the nation. In the management of our foreign relations there has been such a want of wisdom as to bring our country (to use the expression of the gentleman from Virginia,) "into an awful crisis;" and if the same course of measures is to be persevered in, we shall, in all probability, be entangled in inextricable broils.

As to sound policy, as regards the measures of the present Administration, I have not been able to discern it. The measures now pursuing appear to me to be the reverse of sound policy. Let me ask, in what consists the policy of administering another poisonous dose to a patient already sick and fainting under the embargo? Has not experience shown us that there is no policy in non-importation and non-intercourse laws? Can it consist with good policy to increase the discontents of a people driven almost to desperation, by attempting to enforce, by the bayonet, acts which are opposed to the sentiments, feelings, and interest of the people? So long as the people preserve their liberties, and reserve in their own hands their arms, can it be prudent or politic for an Administration to attempt coercion?

Mr. President, I will now close my remarks with a concise prospective view. If we pass this bill, in what situation will the President elect find our affairs on the 4th day of March next, when he is to take the chair of State? To the embargo, and various supplementary acts, and the enforcing statute, the unpopularity of which an Administration of eight years standing, aided by the personal popularity of the Chief Magistrate could not sustain, we are about to superadd a non-importation and a non-intercourse; measures as incapable of execution—not less inefficient in regard to foreign nations—and, as they respect ourselves, equally oppressive and injurious, and, if possible, more odious than the embargo. This bill is covert war, and not only gives to the President of the United States the power, but seems to lay him under a necessity of commencing active war; which by the Constitution is confided only to Congress. By this bill we are about to extend that threatening policy, which is not likely to bring about an amicable adjustment of differences, but is, as well as other provisions of the bill, artfully calculated to involve our country in war. No Power having national feelings, or regard to national character, and possessing the means of resistance, will submit to such coercion.

Is it conducting candidly toward the President elect? Is it giving him a fair opportunity, for the present Congress to lay him under the necessity of going to war, or of receding in a manner to which some might be disposed to attach the idea of disgrace? No, sir, good policy requires that we now recede from measures found to be ineffectual or injurious. There would be magnanimity in this. To retract errors becomes a great mind. We ought to repeal the embargo altogether, and leave the President elect free to adopt such measures, and to pursue such a course as wisdom, sound policy, and the lessons of experience may dictate. In this situation the President elect would have it in his power to extricate us from our present embarrassments, if, fortunately, he should possess the fortitude and magnanimity (which may I not be permitted to hope will be the case?) to determine to assume the elevated character of President of the United States, and not to become the chief of a party.

If the Administration which is to commence on the 4th of March, shall adopt and pursue a course of measures which shall wear the stamp of sincerity, justice, wisdom, and sound policy, both as regards our own citizens and foreign nations, it will have the cordial co-operation and firm support of the great body of the people; but if governed by an intolerant spirit of party, a persecuting spirit as regards our own citizens, or a want of sincerity and justice toward any foreign nation, such an Administration will not be supported; and, on the experiment, it will be found that such an Administration cannot go on with the Government.

The question was now taken on the passage of the bill, and determined in the affirmative—yeas 21, nays 12, as follows:

YEAS—Messrs. Anderson, Condit, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Leib, Mathewson, Meigs, Milledge, Mitchill, Moore, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Tiffin.

NAYS—Messrs. Bayard, Crawford, Gilman, Goodrich, Hillhouse, Lloyd, Parker, Pickering, Reed, Sumter, Turner, and White.

So it was resolved that this bill pass, and that the title thereof be, "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

WEDNESDAY, February 22.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," reported amendments; which were read, and ordered to lie for consideration.

The Senate resumed the consideration of the report of the committee appointed to confer with the Surveyor of the Public Buildings, relative to the accommodation of the Senate at the next meeting of Congress, and

Resolved, That the Surveyor of Public Buildings do cause to be prepared, for the accommodation of the Senate at the next session of Congress, the room called "The Library Room," in the manner stated in the said Surveyor's report, with as little expense as may consist with the reasonable comfort of the members, and the convenience of spectators.

Mr TIFFIN, from the committee, reported the bill supplementary to the act, entitled "An act to amend the charter of Georgetown," correctly engrossed. The bill was read the third time, and the blank in the fourth section was filled with the word *twelve*.

Resolved, That this bill pass, and that the title thereof be, "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown."

Mr. TIFFIN, from the committee, reported the bill freeing from postage all letters and packets to Thomas Jefferson, correctly engrossed; and the bill was read the third time.

Resolved, That this bill pass, and that the title thereof be, "An act freeing from postage all letters and packets to Thomas Jefferson."

Mr. GILES, from the committee to whom the subject was referred on the 14th instant, reported a bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments; and the bill was read, and passed to the second reading.

THURSDAY, February 23.

Mr. BRADLEY, from the committee to whom was referred the bill making further provision for the Corps of Engineers, reported the bill amended.

The Senate proceeded to consider the amendments, as in Committee of the Whole, and having agreed thereto, the PRESIDENT reported the bill to the House amended; and on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

On motion of Mr. BRADLEY, it was ordered that the bill, entitled "An act for the relief of William White and others" be the order of the day for Monday next.

The bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, was read the second time.

Mr. WHITE from the committee to whom was referred the bill, entitled "An act for the relief of Daniel Cotton," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

The Senate resumed, as in Committeee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place;" and having agreed to the report, and the bill having been further amended, the PRESIDENT reported it to the House accordingly.

On motion, by Mr. LLOYD, the bill was further amended, by inserting, after the word "place," in the eighth line of the printed bill, "except in any vessel which cleared out from the United States prior to the 22d of December, 1807, for any port or place not in Europe or the West Indies;" and on the question, Shall this bill pass to the third reading as amended? it was determined in the affirmative—yeas 20, nays 9, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Gregg, Howland, Kitchel, Leib, Mathewson, Meigs, Milledge, Mitchill, Moore, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, and Turner.

NAYS—Messrs. Bayard, Bradley, Gilman, Hillhouse, Lloyd, Parker, Pickering, Reed, and White.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act for the relief of certain Alabama Indians," with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act for the relief of certain Alabama Indians."

Ordered, That it be referred to Messrs. MITCHILL, CRAWFORD, and GREGG, to consider and report thereon.

Mr. GREGG, from the committee, reported the bill making further provision for the Corps of Engineers, correctly engrossed.

FRIDAY, February 24.

Mr. GREGG from the committee, reported the amendments to the bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," correctly engrossed.

Mr. THRUSTON, from the committee to whom was refered the petition of a number of French citizens of the Territory of Michigan, reported a bill providing for the promulgation of certain laws in the Territory of Michigan; and the bill was read, and passed to the second reading.

The bill making further provision for the Corps of Engineers was read the third time, and the blank in the first section filled with "July."

Resolved, That this bill pass and the title thereof be "An act making further provision for the Corps of Engineers."

Mr. FRANKLIN reported from the committee appointed on the subject: Whereupon,

Ordered, That the committee to whom was referred the petition of Richard Bland Lee be discharged from the further consideration thereof.

ADDITIONAL DUTIES.

The bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," was read the third time as amended.

Mr. LLOYD moved to postpone the further consideration of this bill until the first Monday in June next; and addressed the Chair as follows:

Mr. President: After the observations which I have before made, sir, on this bill, and the detailed consideration which was given to it yesterday, I should not again rise, were the subject not a commercial, and an exceedingly important one; nor is it now my intention to make more than a few remarks, and these the Senate will probably think entitled to more than usual respect, when I inform them they will principally be, neither my own, nor wholly accordant with my opinions.

This bill can only be advocated upon the ground that a war is about to ensue, and that, to prepare the public treasury to sustain the prosecution of such war, this proposed duty is necessary. My purpose is to cite some authorities to show

that neither the one nor the other is either expected or necessary; and the authorities I shall adduce to prove this, are those to which the Senate is accustomed to pay the highest respect.

The first is from Mr. Gallatin's report to Congress in November, 1807, in which he says—

"A maritime war will, in the United States, generally and deeply affect, whilst it continues, the resources of individuals; as not only commercial profits will be curtailed; but, principally, because a great portion of the surplus of agricultural produce necessarily requires a foreign market. The reduced price of the principal articles exported from the United States will operate more heavily than any contemplated tax. And, without inquiring whether a similar cause may not still more deeply and permanently affect a nation at war with the United States, it seems to follow that, so far as relates to America, the losses and privations caused by the war should not be aggravated by taxes beyond what is strictly necessary. An addition to the debt is doubtless an evil; but experience having now shown with what rapid progress the revenue of the Union increases in time of peace; with what facility the debt formerly contracted has, in a few years, been reduced; a hope may confidently be entertained that all the evils of the war will be temporary, and easily repaired; and that the return of peace will, without any effort, afford ample resources for reimbursing whatever may have been borrowed during the war.

"The credit of the United States is also unimpaired, either at home or abroad; and it is believed that loans to a reasonable amount may be obtained on eligible terms."

And the same gentleman, (Mr. Gallatin,) in his report to Congress the present session, further remarks—

"The expenditures for the year 1809 ought not to exceed the sum of thirteen millions of dollars, which, as has been stated, is requisite for the support of the present establishment; and this would leave, for the service of the year 1810, a surplus of three millions of dollars, which, together with the proposed loan of five millions of dollars, would be sufficient to defray the Peace Establishment, and to pay the interest on the public debt during that year; thus two years more would be provided for, without either increasing the public debt or laying any new taxes. It is certainly only with a view to war, either immediate or contemplated, that it will become necessary to resort, at least to any considerable extent, to extraordinary sources of supply."

Now, sir, as there is no doubt but a new duty is a new tax, it is apparent from these observations of Mr. Gallatin, that if revenue is wanted, *loans*, and not *taxes*, ought to be resorted to, and that of course this new duty or tax ought not to be imposed, as the opinion expressed by the Secretary no doubt is correct, that the present "reduced price of the principal articles of the United States, already operate more heavily upon the citizens, than any contemplated tax that ought to be assessed, and that the losses and privations caused by war should not be aggravated beyond what is strictly necessary," and more especially should this not be done, when war as yet may be uncertain, and when it also appears that without a war, the Secretary, according to his own statement, has resources enough, without new duties or taxes, to carry the United States forward two years, to the end of 1810.

The next authority I shall adduce, is one that will not be contested in this House; it is the highest in the nation. The President of the United States, in his Message to Congress at the commencement of the present session, after stating that the receipts amounted to near eighteen millions of dollars, and also remarking on the partial extinction of the public debt makes the following observations and inquiries: "The probable accumulation of the 'surpluses of revenue beyond what can be applied 'to the payment of the public debt, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue 'be reduced? Or shall it not rather be appropriated to the improvement of roads, canals, rivers, 'education, and other great foundations of prosperity and union?

Sir, as no new decrees, or Orders in Council, have taken place since the delivery of his Message, no very material change in our foreign relations can have occurred. I know that an accommodation with Great Britain at the commencement of the session was not expected by the President of the United States; he, therefore, cannot now expect war more than then; nor could he ask you whether the surpluses of revenue should "lie unproductive in the public vaults?" or whether "the revenue should be reduced?" if he had the least idea of a necessity to raise the duties on imported merchandise 50 per cent. on the present rates,—which in some instances is equal to 50 per cent., also, on the first cost of the articles—and this, too, so shortly after he made these inquiries. It is clear, therefore, the President could not recommend the assessment of these duties; and if you pass the bill, he very possibly may refuse to sign it.

The last authority I shall bring forward is that of an honorable Senator from Maryland, now in his place, (Mr. S. SMITH,) to whose opinions on commerce and finance, his friends in this country are disposed to pay much respect. In his speech delivered in favor of the embargo, which is printed, he said, in answer to the gentleman from Delaware—

"We are told that we shall not have a dollar in the Treasury at the meeting of Congress. We were told the same story last year, and thousands of hand bills had been distributed through the Union asserting that fact; yet, sir, when we met, we found fourteen millions of dollars in the Treasury—*we found our receipts more than in any preceding year*. The gentleman is alarmed lest the present party in power shall be prostrated, as he thinks that was to which he belonged, by the necessity of laying a direct tax. He is mistaken; they were dismissed, because that, *the tax after tax, duty on duty*, that were laid by them, were dissipated, the people knew not how; and because the people thought their system would lead the nation imperceptibly to monarchy."

The gentleman from Maryland proceeds to show the diminution of the public debt by an average of five millions of dollars a year, and then states that,—

"Besides having paid off thirty-three millions of dollars of the public debt, we have relieved ourselves thereby from the payment of an annual interest of two millions of dollars. These items, making together seven millions of dollars, will operate, in effect, for any purposes now required, as so much received. But we have other resources. The law of the last session authorized the articles of sugar, coffee, tea, pepper, and certain wines, to be deposited in the public stores until wanted for exportation. Those articles will now be required for consumption, and, presuming that as much thereof will be consumed as in former years, we may fairly count on the following duties being collected, to wit: on sugar, &c., including public lands, $4,668,000. Nor is this all. It is a well known fact, which will not be contradicted by the gentleman from Massachusetts, that the importations from India and China have, in the present year, been equal to that of any preceding year; nor has the importation of dry goods from England during the present year been so much less than former years, as materially to affect the revenue. On the whole, Mr. President, I believe that the receipts for the year 1809 may with safety be calculated on as at least twelve millions of dollars, from which, nothing being payable towards the principal of the public debt, we may count the actual supply to the Treasury as equal to any preceding year.

"Let us take a view of the customary expenses of the Government for the year 1809. Civil List, &c., including one million of dollars for new regiments, $8,675,000. If the gentleman from Delaware will not admit any other of my calculations, he will certainly admit that, if we have fourteen millions now in the Treasury, at the next meeting of Congress, (in the winter session,) and in case of war, if the people consume as much as usual, ways and means will be found to introduce the articles on which the duties have heretofore been collected."

Now, sir, it is clear, from the showing even of this honorable gentleman whose calculations are received with so much respect here, that whether there is peace, war, or embargo, our resources are yet abundant to carry us on, at least until the next winter, and as we are to meet again in three months, it follows, that the present undigested project must be worse than useless.

To all this mass of evidence and authority against both the necessity and policy of laying this duty, I have only to add a few observations to show that it will, in its operation, be both unequal and unjust.

It is well known that permanent duties, except on their first imposition, are paid by the consumer; but whenever duties are to be of short duration, as in the present instance, or until the stocks of merchandise prior to the assessment of the duty are run off, the price does not rise in ratio with the duty, and that, of consequence, the whole, or part of the duty, is thus much of loss to the merchant. This, in a degree, cannot be avoided, nor is it even a subject of complaint, where due notice has been given of the intention to lay the duty; but if it be imposed without notice, or giving time for preparation, then the interest of the merchant is sacrificed.

The basis of all commerce is calculation; what calculation can be found for distant enterprises when the data are perpetually shifting? If a merchant rests on the stability of the laws of the Government, and sends away his vessel, and on her return finds a new duty of 50 per cent. imposed, which, for the circumstance of it, the consumer does not pay, his whole calculations are defeated, and he pockets a loss instead of a profit for his industry.

Commerce is very probably as well understood in England as anywhere. In that country new duties on imports are imposed with great caution; whenever contemplated, the subject is generally a long time under consideration, sometimes hanging over from one session to another. The Ministry make it a point frequently to consult committees of merchants from most of the principal seaports in the kingdom. The result is, the subject is well considered; and, when the duties are imposed, they are submitted to with cordiality and cheerfulness. Mr. Pitt, in the latter part of his life, always adopted this mode. He did not think it condescension to consult merchants on subjects with which they were better acquainted than himself. In the early part of his administration, I have understood, he rashly imposed some additional and heavy duties on imported merchandise; the consequence was, the revenue diminished, and smuggling increased. With his characteristic vigor he determined to stop it, and lined the coast with luggers, revenue cutters, and frigates; still the revenue did not increase. He consulted the merchants—they told him the articles were taxed beyond their bearing; he manfully retraced his steps, and took off the additional duty—and immediately smuggling did not pay its cost—his luggers, cutters, and frigates, became useless, and the revenue advanced to its ancient standard. This is one among many memorable instances that might be adduced to show that an unwise augmentation of duties is very far from producing an increase of revenue.

There is another view of the subject on which I shall say a few words. This new duty will operate as a bounty to monopolizers, forestallers, and speculators. Gentlemen are not aware of the avidity with which mercantile men have regarded the proceedings of this session. I am told that, within half an hour after the question was taken, about a fortnight since, in the other House, ten expresses started for different parts of the United States. It is notorious that English and West India goods, and most articles of foreign merchandise in the United States, have been bought up by speculators; it is now in the hands of a few persons; by passing this law, you discourage new importations, and enable the present holders to grind the poor, by extorting high prices for the articles they hold, from a want of competition in the market. From all these views of the subject, and from the sentiments I have quoted from the President, Mr. Gallatin, and General Smith, it is apparent that this measure is unwise, unnecessary, and impolitic.

I am unwilling, sir, to take up the time of the Senate; but, however unavailing may be the efforts of my friends and myself, I wish to have it recorded that I was neither ignorant of the very

injurious operation of this bill upon my constituents, nor unwilling to endeavor to prevent it. I therefore ask the indulgence of the Senate, that the ayes and noes may be taken when this question is decided.

And on the question, it was determined in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Bayard, Bradley, Gilman, Hillhouse, Lloyd, Mitchill, Parker, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Gregg, Howland, Kitchel, Leib, Meigs, Milledge, Moore, Pope, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, and Turner.

On motion, by Mr. SMITH, of Maryland, the further consideration of the bill was postponed to Monday next.

SATURDAY, February 25.

Mr. SMITH, of Maryland, presented a memorial signed by twelve hundred and four citizens of Frederick county, and State of Maryland, pledging "their lives, fortunes, and sacred honor," to support the constituted authorities against foreign and domestic violence; and the memorial was read; and, on request of Mr. SMITH, withdrawn for the purpose of communicating it to the House of Representatives.

The bill providing for the promulgation of certain laws to the Territory of Michigan, was read the second time, and postponed until Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress a statement of the militia of the United States, according to the last returns received by the Department of War.

TH. JEFFERSON.

FEBRUARY 25, 1809.

The Message and documents were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments; and, after progress, on motion, by Mr. GILES, the consideration of the bill was postponed until Monday next.

Mr. GILES submitted a communication from the Secretary of the Navy in relation to this bill; and it was agreed that it be printed for the use of the Senate.

Mr. MITCHILL, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act for the relief of certain Alabama Indians," made report: Whereupon,

Resolved, That the Senate do concur in the said amendments.

Mr. MITCHILL submitted the following resolution:

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appropriated by the "Act making a further appropriation for the support of a library," passed 21st February, 1806; and that the Secretary give information thereof to the House of Representatives.

The bill, entitled "An act for the relief of Daniel Cotton," was read the third time, and passed.

MONDAY, February 27.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of William White and others."

Ordered, That it be recommitted to Messrs. POPE, GREGG, BRADLEY, MITCHILL, and ANDERSON, further to consider and report thereon.

On motion, by Mr. GILES,

Ordered, That the bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, be postponed until to-morrow.

The Senate resumed the third reading of the bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place."

Ordered, That the consideration thereof be postponed until Thursday next.

The Senate resumed the consideration of the motion made on the 25th instant; and,

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appropriated by the "Act making a further appropriation for the support of a library," passed 21st of February, 1806; and that the Secretary give information thereof to the House of Representatives.

Ordered, That Messrs. GILES, THRUSTON, and GREGG, be the committee on the part of the Senate.

REMONSTRANCE OF MASSACHUSETTS.

Mr. LLOYD, in behalf of the Senators from Massachusetts, presented a memorial and remonstrance from the Legislature of the State of Massachusetts, against certain acts of the General Government, and also expressing the opinion of that Legislature in relation to certain measures presumed by them to be contemplated by the Government of the United States; which was received and read, as follows:

To the Honorable the Senate and House of Representatives of the United States, the memorial and remonstrance of the Legislature of Massachusetts.

When the Government of a free people is felt to be oppressive on the community; when its measures appear to originate in imperfect conceptions of the interest of the whole, or inattention to the important concerns of any considerable portion; a decent respect for the opinions of their fellow-citizens, and a just sense of their own rights, require of that part of the society which feels oppressed or alarmed, a prompt and explicit declaration of their opinions. Such a course of proceeding, by producing early and frequent public discussions, is calculated to support all such measures as are wise

and expedient, and on the other hand it furnishes a seasonable opportunity to the Government to abandon all such as are found to be impracticable or injurious: it is calculated at once to silence the murmurs of the people if they are unfounded, and to remove all their just causes of complaint.

The citizens of Massachusetts are firm and zealous in the vindication of their rights; but their habits and their principles equally forbid a resort to violent, disorderly, or unconstitutional means for that purpose. They indulge a pride in the belief, that the Constitutions of Government, under which they live, are so framed, as to afford a peaceable remedy for every grievance to which they may be subjected. They have accordingly, by petitions from various parts of the State, expressed to the President of the United States their sentiments on the oppressive operation and destructive tendency of the embargo laid on their ships and vessels in December, 1807. This Legislature, also, in the same spirit, have heretofore endeavored, through their Senators and Representatives, to communicate to the Government of the United States, their opinions and views of the system of policy lately adopted and pursued by the Administration. They have seen with regret that these peaceable and respectful efforts have not produced any relaxation of the rigorous measures complained of; but that, on the contrary, it has been thought proper to enforce the embargo, by a late act, exceeding in severity all that preceded it—an act which, if continued in operation, will, as we apprehend, not only complete the destruction of the commercial prosperity, but prove highly dangerous to the public liberty and domestic peace of this people. This Legislature have also felt the most serious alarm from perceiving the other measures lately proposed and contemplated in the Congress of the United States. At this awful and momentous crisis, we ought not to affect ignorance of those events, which, on ordinary occasions, a sense of decorum might forbid our noticing. It would be a base dereliction of duty if, at such a moment as the present, we should permit a too scrupulous regard for mere forms, to prevent our attempting everything possible for the security of our constituents, and for the peace and happiness of our common country. This Legislature, therefore, with the plainness and sincerity which become the representatives of a free people, and with all the respect which is due to the honorable body which they address, do present this their solemn remonstrance against the course of measures which is now oppressing this part of the United States

Commerce has been one of the chief employments of the people of New England, from the first settlement of the country, and their success has promoted and abundantly rewarded the labors of agriculture. This latter in its turn has extended and encouraged commerce, and from the joint operation of these causes, New England, without any great staple, and without any peculiar local advantages, has constantly and rapidly increased in wealth, prosperity, and power. If, however, the advantages of commerce were less obvious and less important, yet the habits of the country, so long and firmly established, could not be suddenly changed, without producing consequences the most distressing and destructive. Our husbandmen and mariners cannot, by an act of Government, be converted into manufacturers; nor will our merchants and mechanics ever consent to abandon their cities, and retire from the sea shore, to clear up and cultivate the wilderness. The history of the world has demonstrated, that even the most despotic Governments have hardly ever succeeded in changing the habits of a great people; and most certainly in a free country it cannot be attempted with any prospect of success. The measures adopted by the British Government to interdict or control our commerce, were among the most powerful causes of the Revolution. The power of establishing commerce is enumerated, in the Declaration of our Independence, among the essential rights of sovereignty; and in the articles of confederation, trade, religion, and the sovereignty of the States, are mentioned as the three principal objects which that compact was intended to protect. In the present Constitution of the United States, while the Government are entrusted with a greater and more adequate power for the protection and extension of commerce, the caution and jealousy of the people have imposed various restrictions on that power. The Government are prohibited from imposing any tax or duty whatever on exports, lest, in virtue of that authority, they might in any degree embarrass the exportation of our produce. The people have manifested a similar disposition in other articles of the Constitution; and if, at the time of framing and adopting that instrument, any question had arisen as to the extent of the power, or the duty of the Government in this particular, there can be no doubt that a clause would have been inserted, most explicitly declaring the interests of commerce to be one of the principal inducements for forming the Union, and its encouragement and defence to be among the first duties of the Government; while the right to annihilate or obstruct it would have been explicitly denied. For a long time after the establishment of this Government, the fisheries, navigation, and trade of the country were protected and widely extended. They furnished almost the whole revenue of the United States, and encouraged universal industry. When, in the year 1794, the commercial rights of the nation were assailed by Great Britain, the immortal Washington, by dignified, fair, and impartial negotiation, procured for his country ample compensation for past injuries, and security against future aggressions. In the year 1798, our Government, under similar circumstances, attempted, in the same manner, to obtain from France indemnity for outrages, and a recognition of our rights; and when fair negotiation was found to be fruitless, they did not hesitate immediately to adopt measures of defence becoming an independent and powerful people. The success of these wise and patriotic measures, and the universal satisfaction manifested by the people, in their effects, seemed to have decided forever the true policy of the United States. But, in the year 1806, when our commercial rights were again attacked by the same nation, which had but imperfectly atoned for her injuries in 1798, and in a manner more unwarrantable, insolent, and outrageous, than before, the people expected that the Government would have recourse to the same policy which had formerly been crowned with such signal success. Instead of prompt and vigorous measures of defence, they have seen the Government retiring from the conflict, and by annihilating their whole foreign commerce, tacitly confess that they are unwilling or unable to protect it. This apparent inability or indisposition to resist aggression has furnished a pretence to another Prince to retaliate on his enemy though our unprotected rights. Thus the United States are placed in a situation unprecedented, it is believed, in the history of the world, being involved at the same moment in serious controversies with two most powerful nations, who are themselves at war with each other.

The interdiction of foreign commerce, for an indefi-

nite period, by perpetual laws, is justly considered as a total annihilation of it. The people of this country are not accustomed to class among their rights such enjoyments and privileges as depend on the will of any set of men whatever; under such circumstances they would cease to be the rights of a free people. Yet it is obvious, that the acts laying an embargo have suspended their commercial rights, and if those acts are Constitutional, these rights can never be restored without a concurrent act of all the branches of the Federal Government. The events now passing at the Seat of Government strongly exemplify the force of this remark. If one branch of the Legislature should be unanimously inclined to remove the embargo, and even if the other branch should concur, yet the President of the United States may prevent the passing of an act for such a purpose; and if afterwards only twelve members of the Senate should adopt his policy, and unite in supporting his measures, the embargo must remain in force. Most certainly the people of this country never intended to subject to the discretionary power of thirteen men one of their most essential and invaluable rights. If the existence or the apprehension of war would justify a temporary embargo, the spirit of the Constitution would demand that it should be imposed for a short and definite period; so as to require from time to time the same concurrence of opinion to continue it which is now required for its removal.

In the act of Congress, passed on the ninth day of January last, for enforcing the preceding embargo acts, this Legislature see with extreme pain a perseverance in the system which has proved so injurious to the country. But they are still more alarmed from examining some of the provisions of this act, which appear to them hostile to the dignity and independence of this Commonwealth, and subversive of the civil liberty and Constitutional rights of its citizens. They see there, the rights of individuals subjected to the arbitrary will of an Executive officer, instead of being defined and secured by standing laws; secret and variable instructions and orders of the President entitled to equal respect with the laws of the land; an indefinite and almost unlimited authority given to the officers of the customs, without any warrant from a civil magistrate to search for and seize, the property of the citizens; excessive sureties required of men who are not even charged with any offence, and excessive fines and penalties imposed; individuals exposed to losses and penalties, for actions which were lawful at the time of committing them; and the benefits of a trial by jury in many cases virtually denied. If any citizen, who is aggrieved, should apply for redress to the laws and judicial courts of the Commonwealth, their processes may be impeded, their officers resisted, and their authority put at defiance, by the standing army of the United States, under the command of any inferior officer empowered by the President. Thus, whenever a petty officer shall be found hardy and adventurous enough to exercise the authority conferred by this act, the sovereignty and independence of the State will be humbled in the dust, or its Government must vindicate by force its dignity and its honor, and may be consequently involved in a civil war.

This Legislature cannot review, without the most painful emotions, the measures of the General Government which they have here been considering. They cannot, without the most gloomy apprehensions, contemplate the probable consequences of a perseverance in such measures. They are constrained respectfully, but most unequivocally, to declare their conviction, that the several laws before referred to, which interdict the foreign commerce of the United States, and which have imposed numerous embarrassments on the coasting trade, must have originated in a misconstruction of the Federal Constitution; that they are contrary to the spirit and intention of that instrument, and are not warranted by any of the powers therein given by the People to the Congress of the United States. In the hope of preventing any further evil consequences from these measures, and with the most ardent desire to preserve inviolate the Constitution of these States, and to remove every source of discontent and jealousy among the different members of the Union, this Legislature do solemnly remonstrate against the several acts of Congress for imposing and enforcing the embargo, and do earnestly request your honorable body to take the same into your most serious consideration; and by repealing them to restore this People to their former enviable state of freedom, prosperity, and happiness.

It is impossible to contemplate the repeal of the several acts relating to the embargo, without considering the various substitutes for this measure which have been proposed, and which are now before the public. This Legislature feel bound to express the strong and decided opinion they entertain on the subject before any of these proposed measures shall be adopted. The expression of this opinion is required by a just sense of their own rights and those of the State which they represent, and also by a due regard to the sentiments and feelings of their constituents, which are well known to the individuals of this Legislature, and which are so strongly displayed in the numerous petitions and memorials daily arriving from all parts of the Commonwealth.

The prohibition of all intercourse with France and Great Britain, and their respective dependencies, would probably prove fruitless and inefficient, from the extreme difficulty of enforcing its observance; and would thus serve to bring into contempt the laws and the Government of the country; or, if enforced, it would impose embarrassments on commerce nearly as fatal as the obstructions created by the present embargo. It would soon become a restriction only on the orderly and well disposed part of the community, and would furnish opportunities and inducements to the officers of Government, by occasional indulgence and connivance, to promote the interest of their personal and political friends. But, in another view of this measure, it appears still more serious and alarming. It is obvious that, if the embargo was removed, our citizens would have but little intercourse with France or her dependencies. The total disregard of the laws of nations, and the obligation of treaties, manifested by that Government; the seizure and detention of neutral property in all parts of her dominions; the unprecedented decrees against neutral commerce, promulgated at Berlin, at Milan, and at Bayonne, would deter our citizens from adventuring in commerce with her subjects. The proposed non-intercourse, therefore, would in effect apply solely to Great Britain. The natural tendency of this measure, which is undoubtedly foreseen, if not intended, by some of its advocates, would be to involve the nation in war with Great Britain—a measure which would necessarily produce a fatal alliance with France.

The project of arming our merchantmen to resist seizures by either of the belligerents, appears to manifest a spirit which, when excited in a just cause, will always be warmly approved, and vigorously supported by the people of Massachusetts. They cannot cease to lament, that some portion of this spirit had not been

exhibited in resisting the first outrage on our rights, by the Berlin decree of November, 1806. If our Government had at that time expressed a strong sense of this outrage on the nation, and a firm resolution to vindicate and maintain its rights, they would have been most cordially and zealously supported by men of all political parties. This project, if adopted now without limitation, however it may be intended by those who propose it, would speedily and inevitably lead to a war with Great Britain. France has comparatively few cruisers on the ocean, which is covered by the ships of her enemy. Our vessels would be seldom encountered by those of the former Power, while hardly one would escape those of the latter. All our actual collisions would necessarily be with Great Britain, who would thus be made to appear the only aggressor; and when the public sensibility was excited by these causes, the dictates of reason, of justice, and sound policy, would cease to be regarded. It cannot be too often repeated, that such a war would necessarily involve a destructive alliance with France—an alliance which experience has shown to be more fatal than any war, and which is universally dreaded, throughout this part of the United States, as highly dangerous to the independence of the nation, and hostile to the liberties of the world.

The Legislature of Massachusetts express without reserve their sentiments on the conduct of the two belligerent Powers of Europe. They cannot be restrained by the audacious and unfounded insination, that the people of New England are influenced by undue partiality to either of those Powers. They repel with indignation this slanderous aspersion, which cannot be believed even by those who propagate it. It is refuted by the well known spirit and patriotism of this people; it is disproved by the annals of our Revolutionary War, and by our whole history to the present day. This State was among the first to resist the encroachments of the British Government at that time; her citizens still retain the same spirit to oppose unjust aggressions, from whatever quarter they may be attempted. While they cultivate this spirit, the pledge of their liberties and their independence, they cherish also those moral habits and religious principles which distinguished their ancestors, the first settlers of this country. While vindicating their own rights, they are admonished candidly to examine, and religiously to respect, the rights of others. They can never cordially engage in any contest which does not appear to them *necessary* to the honor and the essential interests of their country; nor can they appeal with confidence to the God of armies, in a war which does not appear to them to be just.

With these impressions, the Legislature of Massachusetts have deliberately examined the several documents respecting the foreign relations of the United States, which were published by Congress for the information of the people. They have impartially weighed and considered the dates and the contents of the maritime decrees and orders of France and Great Britain, affecting the commerce of the United States, and the dispositions of those two Governments, as manifested in their correspondence with our public ministers. The numerous and repeated aggressions on the part of France, displayed in these documents, are as injurious to the honor of the nation as to the interests of the citizens—violating at once the obligations of our treaty with that Government and the established principles of the law of nations. The remonstrances and complaints of our Minister appear to have been treated with contemptuous silence, or answered only with new outrages; and he seems at last to have abandoned all hope and expectation of influencing that Government by diplomatic representations, and to have left to the wisdom and the spirit of the United States to adopt such other measures as may be necessary to cause their rights to be respected. While France shall maintain this contemptuous indifference, and these hostile dispositions, it appears hardly possible to attempt any accommodation with her which shall not tarnish the honor and endanger the independence of our country.

On the part of Great Britain there appears, from those documents, to be a disposition to cultivate a good understanding with this country. They have manifested a strong desire to make atonement and compensation for injuries that were even unauthorized and unintentional, and to adjust the respective rights and claims of the two nations on such a basis as shall prevent future collisions. If these dispositions on her part are sincere, and we do not see in these documents any reason to question their sincerity, they should undoubtedly be met by a correspondent disposition on our part. They certainly furnish an opportunity to attempt a negotiation, without any sacrifice of honorable sentiment or independent feelings, and this Legislature have great confidence that such a negotiation, conducted in a fair, impartial, and candid manner, would speedily restore harmony between the two countries. In considering the different degrees and orders of France and Great Britain, it is obvious that those of the former have been uniformly first in order of time, and most injurious in their nature. But even if those nations were, as has been sometimes asserted, on the most perfect equality in this respect, and if the conduct of each furnished such a cause of war as would leave only the choice of our adversary, every motive of policy would induce the United States to select France for her enemy. Without condescending to calculate, with precision, the comparative ability of those two nations to injure and annoy this country, the present state of the world should decide our choice. In one event we should have the satisfaction of aiding in that glorious struggle now carried on in Europe against the tyranny of France, and of assisting to maintain the cause of that brave and gallant nation which has lately thrown off the yoke of her oppressors, and which was among the first to promote our exertions in a like cause. In the other case we should be immediately arrayed on the side of France; we should necessarily aid the gigantic strides of her Emperor towards universal domination, and assist in annihilating the independence of nations and the freedom of the world.

On motion, by Mr. LLOYD, the memorial was ordered to be printed for the use of the Senate.

TUESDAY, February 28.

The Senate resumed, as in Committee of the Whole, the bill further to amend the several acts for the establishment of the Treasury, War, and Navy Departments; and the PRESIDENT reported the bill to the House amended.

On motion by Mr. HILLHOUSE, to add the following words to the end of the third section:

"And provided, also, that every agent of the United States shall make his payments on account of the United States, in the same description of money, or bank bills, which he may receive from the Treasury,

whenever practicable, and if impracticable in specie, or bank bills of equal value at the time of payment:"

It was determined in the negative—yeas 14, nays 17, as follows:

YEAS—Messrs. Anderson, Bayard, Goodrich, Gregg, Hillhouse, Kitchel, Leib, Lloyd, Meigs, Parker, Pickering, Reed, Sumter, and Turner.

NAYS—Messrs. Bradley, Condit, Franklin, Gaillard, Giles, Gilman, Howland, Mathewson, Milledge, Moore, Pope, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, Tiffin, and White.

On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year 1809;" also a bill, entitled "An act to extend to Amos Whittemore, and Wm. Whittemore, jr. the patent right to a machine for manufacturing cotton and wool cards;" in which they request the concurrence of the Senate.

The bill, entitled, "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year 1809," was twice read by unanimous consent, and referred to Messrs. SMITH of Maryland, CRAWFORD, and FRANKLIN, to consider and report thereon.

The bill, entitled "An act to extend to Amos Whittemore and William Whittemore, jr., the patent right to a machine for manufacturing cotton and wool cards," was twice read by unanimous consent, and referred to Messrs. LLOYD, BRADLEY, and MITCHILL, to consider and report thereon.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

On the question to agree to the amendment of the 11th section, as follows:

Strike out the words, "And to cause to be issued, under suitable pledges and precautions, letters of marque and reprisal against the nation thereafter continuing in force its unlawful edicts against the commerce of the United States:"

It was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Condit, Franklin, Gregg, Howland, Kitchel, Mathewson, Meigs, Mitchill, Parker, Pope, Reed, Sumter, Tiffin, and White.

NAYS—Messrs. Gaillard, Giles, Gilman, Goodrich, Hillhouse, Leib, Lloyd, Milledge, Moore, Pickering, Smith of Maryland, Smith of New York, Smith of Tennessee, and Turner.

On the question to agree to the amendment in the 12th section, as follows:

Strike out "fourth of March next," and insert "fifteenth of March, 1809:"

It was determined in the affirmative—yeas 25, nays 6, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Franklin, Gaillard, Giles, Gilman, Gregg, Howland, Kitchel, Leib, Mathewson, Meigs, Milledge, Mitchill, Moore, Parker, Pope, Reed, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Tiffin, and Turner.

NAYS—Messrs. Bayard, Goodrich, Hillhouse, Lloyd, Pickering, and White.

All the other amendments to the bill were agreed to.

WEDNESDAY, March 1.

Mr. TIFFIN, from the committee, reported the bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, correctly engrossed; and the bill was read the third time, and passed.

Mr. LLOYD, from the committee to whom was referred the bill, entitled "An act to extend to Amos Whittemore and William Whittemore, jr., the patent right to a machine for manufacturing cotton and wool cards," reported the bill without amendment; and the bill was read the third time, by unanimous consent, and passed.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year 1809," reported the bill amended; and the Senate proceeded to consider the said amendments, as in Committee of the Whole, and the PRESIDENT reported the bill to the House amended.

On motion, by Mr. BRADLEY, further to amend the bill, to strike out the following words in the sixth section: "For the fortification of the ports and harbors, in addition to the sums heretofore appropriated for that purpose, one million of dollars:" it was determined in the affirmative—yeas 23, nays 6, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Condit, Franklin, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Leib, Lloyd, Mathewson, Moore, Parker, Pickering, Pope, Smith of Tennessee, Sumter, Thruston, Tiffin, Turner, and White.

NAYS—Messrs. Crawford, Milledge, Mitchill, Robinson, Smith of Maryland, and Smith of New York.

And the bill having been further amended, it was ordered to the third reading as amended.

The PRESIDENT communicated a report of the Secretary of the Treasury, with a statement of the emoluments of the officers employed in the collection of the customs for the year 1808; which was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning invalid pensioners," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was twice read by unanimous consent, and referred to Messrs. BRADLEY, SMITH of Maryland, and FRANKLIN, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act further to amend the judicial system of the United States," with amendments; in which they request the concurrence of the Senate. They have also passed the bill, entitled "An act to extend the time for making payments for the public lands of the United States," with amendments, in which they request the concurrence of the Senate. The House of Representatives have passed a bill, entitled "An act supplemental to the act, entitled 'An act for establishing trading-houses with the Indian tribes,'" in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act further to amend the judicial system of the United States." Whereupon,

Resolved, That they concur therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to extend the time for making payments for the public lands of the United States." Whereupon,

Resolved, That they concur therein.

The bill, entitled "An act supplemental to the act, entitled 'An act for establishing trading-houses with the Indian tribes,'" was twice read by unanimous consent, and ordered to the third reading.

Mr. GREGG presented the memorial of Arthur St. Clair, accompanied with papers and remarks on the report of the committee to whom his petition was referred at the last session, and praying a reconsideration thereof, for reasons stated in the memorial; which was read, and ordered to lie on the table.

Mr. FRANKLIN, from the committee to whom was referred the petition of Ebenezer S. Platt, made report. Whereupon,

Resolved, That the prayer of his petition cannot be granted, and that he have leave to withdraw the same.

THURSDAY, March 2.

Mr. GILES, from the committee to whom was referred the resolution directing an inquiry into the expediency of amending the act, entitled "An act to establish the judicial courts of the United States," reported that it is not expedient at this time to adopt any measure in relation to that subject; and the report was agreed to.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act concerning invalid pensioners," reported the bill amended; and the PRESIDENT having reported the bill to the House amended, on motion, the bill was read the third time, by unanimous consent, as amended.

Resolved, That this bill pass with an amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act for the relief of Jacob Barnitz," in which they request the concurrence of the Senate.

Mr. TIFFIN, from the committee, reported the amendments to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States for the year 1809," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass as amended.

Agreeably to the order of the day, the Senate resumed the third reading of the bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place;" and on the question, Shall this bill pass as amended? it was determined in the negative—yeas 5, nays 21, as follows:

YEAS—Messrs. Condit, Kitchel, Leib, Pope, and Robinson.

NAYS—Messrs. Bayard, Bradley, Crawford, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Lloyd, Mathewson, Meigs, Milledge, Mitchill, Moore, Parker, Pickering, Smith of Maryland, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.

The bill, entitled "An act for the relief of Jacob Barnitz," was read three times by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the bill providing for the promulgation of certain laws in the Territory of Michigan. And, no amendment having been proposed, on the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative.

The bill, entitled "An act supplemental to the act, entitled 'An act for establishing trading-houses with the Indian tribes,'" was read the third time, and passed.

FRIDAY, March 3.

A message from the House of Representatives informed the Senate that the House disagree to the first and fourth amendment of the Senate to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment and the Navy of the United States for the year 1809;" and they agree to the other amendments to the said bill.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act further to amend

the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment and the Navy of the United States for the year 1809;" and, on motion, by Mr. GILES, that the Senate insist on their said amendments disagreed to, it was determined in the affirmative—yeas 26, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Condit, Gaillard, Giles, Gilman, Hillhouse, Howland, Kitchel, Leib, Lloyd, Mathewson, Meigs, Milledge, Moore, Parker, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Tiffin, and White.

NAYS—Messrs. Crawford and White.

So it was, *Resolved*, That they insist on their said amendments disagreed to by the House of Representatives.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabilities, any citizen of the United States taking a license from any foreign Power to navigate the ocean, or to trade with any other foreign and independent Power;" in which they request the concurrence of the Senate. They do not concur in the bill, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company."

The bill, entitled "An act to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabilities, any citizen of the United States taking a license from any foreign Power to navigate the ocean, or to trade with any other foreign and independent Power," was read; and, on the question, Shall this bill be read the second time? it was determined in the affirmative.

On motion, by Mr. ANDERSON, that the bill be read a second time, it was objected to as contrary to rule.

Mr. TIFFIN, from the committee, reported the bill providing for the promulgation of certain laws in the Territory of Michigan correctly engrossed; and the bill was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the augmentation of the Marine Corps," with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the said amendment. Whereupon,

Resolved, That they concur therein.

The PRESIDENT communicated to the Senate the following letter from the President elect of the United States:

CITY OF WASHINGTON, *March* 2, 1809.

SIR: I beg leave, through you, to inform the honorable the Senate of the United States, that I propose to take the oath which the Constitution prescribes to the President of the United States, before he enters on the execution of his office, on Saturday the 4th instant, at twelve o'clock, in the Chamber of the House of Representatives.

I have the honor to be, with the greatest respect, sir, your most obedient and most humble servant,

JAMES MADISON.

The Hon. JOHN MILLEDGE,
President pro tempore of the Senate.

BANK OF THE UNITED STATES.

The PRESIDENT also communicated the report of the Secretary of the Treasury on the memorial of the stockholders of the Bank of the United States, referred to him on the 26th of April last; which was read, as follows:

The Secretary of the Treasury, to whom was referred the memorial of the stockholders of the Bank of the United States, praying for a renewal of the charter which will expire on the 4th day of March, 1811, *respectfully submits the following report:*

The Bank of the United States was incorporated by the act of March 2, 1791, with a capital of ten millions of dollars, divided into twenty-five thousand shares, of four hundred dollars each. Two millions of dollars were subscribed by the United States, and paid in ten equal annual instalments. Of the eight millions of dollars subscribed by individuals, two millions were paid in specie, and six millions in six per cent. stock of the United States. Two thousand four hundred and ninety-three of the shares belonging to the Government were sold in the years 1796 and 1797, at an advance of twenty-five per cent.; two hundred and eighty-seven were sold in the year 1797, at an advance of twenty per cent.; and the other two thousand two hundred and twenty shares in the year 1802, at an advance of forty-five per cent.; making together, exclusively of the dividends, a profit of $671,860 to the United States. The greater part of the six per cent. stock originally paid by the stockholders has since been sold by the Bank; a portion has been redeemed by Government, by the operation of the annual reimbursement, and the Bank retains at present only a sum of $2,231,598 in six per cent. stock.

About eighteen thousand shares of the Bank stock are held by persons residing abroad, who are by the charter excluded from the right of voting. The stockholders resident within the United States, and who have the exclusive control over the institution, hold only seven thousand shares, or little more than one-fourth part of its capital. They appoint annually twenty-five directors of the Bank itself, which is established at Philadelphia, and those directors have the entire management of the discounts and other transactions of the institution in that city, and the general superintendence and appointment of the directors and cashiers of the offices of discount and deposite established in other places. There are at present eight of those offices, viz: at Boston, New York, Baltimore, Norfolk, Charleston, Savannah, the City of Washington, and New Orleans. The last two were established at the request of the Secretary of the Treasury.

The profits of a Bank arise from the interest received on the loans made, either to Government or to individuals; and they exceed six per cent. or the rate of interest at which the loans are made, because every bank lends, not only the whole of its capital, but also a portion of the moneys deposited for safekeeping in its vaults, either by Government or by individuals. For every sum of money thus deposited, the party making the deposite, either receives the amount in

bank notes, or obtains a credit on the books of the bank. In either case he has the same right at any time to withdraw his deposite; in the first case, on presentation and surrender of the bank notes; in the other case, by drawing on the bank for the amount. Bank notes, and credits on the books of the bank arise, therefore, equally from deposites, although the credits alone are, in common parlance, called deposites; and the aggregate of those credits, and of the bank notes issued, constitutes the circulating medium substituted by the banking operations to money; for payments from one individual to another are equally made by draughts on the bank, or by delivery of bank notes. Experience has taught the directors what portion of the money thus deposited they may lend, or in other words how far they may with safety extend their discounts beyond the capital of the bank, and what amount of specie it is necessary they should keep in their vaults. The profits, and therefore the dividends of a bank, will increase in proportion as the directors will increase loans of the moneys deposited, and suffer the amount of specie on hand to diminish. Moderate dividends, when not produced by some particular cause which checks the circulation of bank paper, are the best evidence of the safety of the institution, and of the wisdom of its direction.

The annexed table of all the dividends made by the Bank of the United States since its establishment, shows that they have on an average been at the rate of 8⅞ (precisely) 8-13 (14) per cent. a year, and proves that the bank has not in any considerable degree used the public deposites for the purpose of extending its discounts.

From what has been premised, it appears that the property of a bank in full operation, consists of three general items, viz: 1st. Outstanding debts, consisting principally of the notes payable at sixty days, which have been discounted at the bank. 2dly. Specie in the vaults. 3dly. Buildings necessary for the institution. On the other hand, the bank owes: 1st. To the stockholders, the amount of the capital stock originally subscribed, payable only in case of the dissolution of the institution. 2dly. To Government or individuals, the whole amount of moneys deposited, payable on demand, and including both the credits on the bank books, commonly called deposites, and the bank notes in circulation. The account is balanced by the amount of undivided profits and accruing discounts, which constitute the fund for defraying current expenses, for paying subsequent dividends, and for covering contingent losses.

The following statement of the situation of the Bank of the United States, including its branches, exhibits the true amount of public stock which is still held by the institution, of the cost of its buildings and lots of ground, and of the undivided surplus or contingent fund subsequent to the dividend made in January last. But the amount of loans to individuals or discounts, of specie in the vaults, and of moneys deposited, including both the credits on the bank books, commonly called deposites, and the bank notes in circulation, is taken on a medium; and, so far as relates on the credit side of the account, to specie on hand, and, on the debit side, to deposites, is several millions of dollars less than it happens to be at this moment; both having been swelled much beyond the average by the embargo, and by the unusually large balance in the Treasury, which is principally deposited in the bank. Some minor items arising from accidental circumstances are omitted for the sake of perspicuity.

CR.		
I. Debts due to the bank, viz:		
1. Six per cent. stock of the United States, being the residue of that part of the original subscription paid in public stocks, which is still held by the bank	$2,230,000	
2. Loans to individuals, consisting chiefly of discounted notes, payable at sixty days, and in some instances of bonds and mortgages taken in order to secure doubtful debts - -	15,000,000	
3. Due by banks incorporated by the States - - -	800,000	
		18,030,000
II. Specie in the vaults - -		5,000,000
III. Cost of lots of ground, and buildings erected - -		480,000
Total Cr.		$23,510,000
DR.		
I. Capital stock of the bank payable to the stockholders whenever the institution may be dissolved - - - -	10,000,000	
II. Moneys deposited, viz:		
1. Credits on the bank books commonly called deposites, including the deposites both by Government and by individuals	8,500,000	
2. Bank notes in circulation	4,500,000	
	23,000,000	
Total Dr.		23,000,000
Balance, being the amount of undivided profits, commonly called the "contingent fund," and applicable to cover losses which may arise from bad debts or other contingencies, and to extra dividends -		510,000

It sufficiently appears from this general view, that the affairs of the Bank of the United States, considered as a moneyed institution, have been wisely and skilfully managed.

The advantages derived by Government from the bank are nearly of the same nature with those obtained by individuals, who transact business with similar institutions, and may be reduced to the following heads.

1. Safe keeping of public moneys. This applies not only to moneys already in the Treasury, but also to those in the hands of the principal collectors, of the Commissioners of Loans, and of several other officers, and affords one of the best securities against delinquencies.

2. Transmission of public moneys. As the collection will always, in various quarters of the extensive territory of the Union, either exceed or fall short of the expenditures in the same places, a perpetual transmission of money, or purchase of remittances at the risk and expense of the United States, would become necessary in order to meet those demands; but this is done by the bank at its own risk and expense, for every place where one of its branches is established, which embraces all payments of any importance.

3. Collection of the revenue. The punctuality of payments introduced by the banking system, and the facilities afforded by the bank to the importers indebted for revenue bonds, are amongst the causes which have

enabled the United States to collect with so great facility, and with so few losses, the large revenue derived from the impost.

4. Loans. Although the prosperity of past years has enabled Government, during the present Administration, to meet all the public demands without recurring to loans, the bank had heretofore been eminently useful in making the advances which under different circumstances were necessary. There was a time when, exclusively of the six per cent. stock held by the institution as part of the original subscription, the loans obtained by Government from the bank amounted to $6,200,000. And a similar disposition has been repeatedly evinced whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained.

The numerous banks now established under the authority of the several States, might, it is true, afford considerable assistance to the Government in its fiscal operations. There is none, however, which could effect the transmission of public moneys with the same facility, and to the same extent, as the Bank of the United States is enabled to do through its several branches. The superior capital of that institution offers also a greater security against any possible losses, and greater resources in relation to loans. Nor is it eligible that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever. A National Bank, deriving its charter from the National Legislature, will at all times, and under every emergency, feel stronger inducements, both from interest and from a sense of duty, to afford to the Union every assistance within its power.

The strongest objection against the renewal of the charter seems to arise from the great portion of the bank stock held by foreigners; not on account of any influence it gives them over the institution, since they have no vote, but of the high rate of interest payable by America to foreign countries on the portion thus held. If the charter is not renewed, the principal of that portion, amounting to about $7,200,000, must at once be remitted abroad; but if the charter is renewed, dividends equal to an interest of about 8½ per cent. a year must be annually remitted in the same manner. The renewal of the charter will, in that respect, operate in a national point of view, as a foreign loan, bearing an interest of 8½ per cent. a year.

That inconvenience might perhaps be removed by a modification in the charter, providing for the repayment of that portion of the principal by a new subscription to the same amount in favor of citizens; but it does not, at all events, appear sufficient to outweigh the manifest public advantages derived from a renewal of the charter.

The conditions in favor of the public, on which this should be granted, are the next subject for consideration.

The nett profit, annually derived by the stockholders from a renewal of the charter, is equal to the difference between the annual dividends and the market rate of interest. Supposing this to continue at six per cent. during the period granted by the extension of the charter, and the dividends to be on an average at the rate of 8½ per cent., that profit will be 2½ per cent. a year. If the charter be extended twenty years, the value of the privilege will be equal to an annuity of 2½ per cent. on the capital, that is to say, of $250,000 for twenty years; and such annuity being payable semi-annually, is worth almost $2,890,000. This, however, would be much more than any bank would give for a charter, as it would leave it nothing but the right of dividing at the rate of six per cent. a year, which the stockholders have without a charter. It is believed that they would not be willing to give even half that sum for the extension, and that about $1,250,000 may be considered as the maximum which could be obtained, if it was thought eligible to sell the renewal of the charter for a fixed sum of money.

It is, however, presumed that the decision on the conditions which may be annexed to an extension of charter will be directed by considerations of a much greater importance than the payment of such a sum into the Treasury. The object will undoubtedly be to give to the institution all the public utility of which it is susceptible, and to derive from it permanent and solid advantages rather than mere temporary aid. Under those impressions, the following suggestions are respectfully submitted:

I. That the Bank should pay interest to the United States on the public deposites, whenever they should exceed a certain sum, which might perhaps be fixed at about $3,000,000.

II. That the Bank should be bound, whenever required, to lend to the United States a sum not exceeding three-fifths of its capital, at a rate of interest not exceeding six per cent.; the amount of such loan or loans to be paid by the Bank in instalments not exceeding a certain sum monthly, and to be reimbursed at the pleasure of Government.

III. That the capital stock of the Bank should be increased to $30,000,000, in the following manner, viz:

1. Five millions of dollars to be subscribed by citizens of the United States, under such regulations as would make an equitable apportionment amongst the several States and Territories.

2. Fifteen millions to be subscribed by such States as may desire it, and under such equitable apportionment amongst the several States as may be provided by law; and a branch to be established in each subscribing State, if subscribed for by the State.

3. The payments either by individuals or States to be either in specie or in public stock of the United States, at such rates as may be provided by law.

4. The subscribing States to pay their subscription in ten annual instalments, or sooner, if it suits their convenience, but to receive dividends in proportion only to the amount of subscription actually paid, and their shares of bank stock not to be transferable.

IV. That some share should be given in the direction to the General and State Governments: the General Government appointing a few directors, and the Government of each subscribing State appointing a few directors in the direction of the branch established in such State.

The result of that plan would be, 1st, That the United States, receiving no interest on public deposites, might, without inconvenience, accumulate during years of peace and prosperity, a treasure sufficient to meet periods of war and calamity, and thereby avoid the necessity of adding, by increased taxes, to the distresses of such periods. 2dly, That they might rely on a loan of $18,000,000 on any sudden emergency. 3dly, That the payment of the greater part of the proposed increase of capital being made in ten annual instalments, that increase would be gradual, and not more rapid than may be required by the progressive state of the country. 4thly, That the Bank itself would form an additional bond of common interest and union amongst the several States.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, *March* 2, 1809.

On motion, the Senate adjourned to five o'clock.

Five o'clock in the Evening.

Ordered, That Messrs. SMITH of Maryland, BAYARD, and GAILLARD, be a committee of arrangement for the reception of the President of the United States to-morrow, on the occasion of his inauguration.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the amendments of the Senate to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment and of the Navy of the United States for the year 1809." They ask a conference, on the disagreeing votes of the two Houses, and have appointed managers on their part. They have passed a bill, entitled "An act for the relief of William Hastings," in which they request the concurrence of the Senate.

The Senate proceeded to consider the resolution of the House of Representatives, requesting a conference on the disagreeing votes of the two Houses on the bill first above mentioned; and having agreed to the same,

Ordered, That Messrs. GILES and BRADLEY be the managers at the same on the part of the Senate.

The bill, entitled "An act for the relief of William Hastings," was read. On the question, Shall this bill be read a second time? it was determined in the affirmative. On motion, that the bill be now read a second time, it was objected to as against the rule.

Mr. GILES, from the managers at the conference on the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment and of the Navy of the United States for the year 1809," made report. Whereupon, it was agreed that a bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, be now read three several times, by unanimous consent.

Resolved, That this bill pass, and that the title thereof be "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments."

Resolved, That Messrs. MITCHILL and SMITH, of New York, be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are now ready to adjourn.

Ordered, That the Secretary acquaint the House of Representatives therewith, and request the appointment of a committee on their part.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown,'" with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown.'" On motion of Mr. BRADLEY, that the bill and amendment be postponed to the next sesssion of Congress, it was determined in the negative.

On motion, by Mr. BRADLEY,

Resolved, That the Senate disagree to the said amendment.

Mr. MITCHILL, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

Ordered, That the Secretary notify the House of Representatives that the Senate having finished the business before them, are about to adjourn.

The Secretary having performed that duty, the Senate adjourned without day.

EXTRA SESSION.

The President of the United States to ——, Senator for the State of ——:

Certain matters touching the public good requiring that the Senate should be convened on Saturday, the fourth day of March next, you are desired to attend at the Senate Chamber, in the City of Washington, on that day; then and there to deliberate on such communications as shall be made to you.

TH. JEFFERSON.

WASHINGTON, *Dec.* 30, 1808.

SATURDAY, March 4.

In conformity with the summons from the President of the United States, the Senate assembled in the Chamber of the House of Representatives.

PRESENT:

JOHN MILLEDGE, from the State of Georgia, President *pro tempore*.

NICHOLAS GILMAN, and NAHUM PARKER, from New Hampshire.

TIMOTHY PICKERING, from Massachusetts.

CHAUNCEY GOODRICH, from Connecticut.

ELISHA MATHEWSON, from Rhode Island.

STEPHEN R. BRADLEY, from Vermont.

JOHN SMITH, from New York.

AARON KITCHEL, from New Jersey.

ANDREW GREGG, from Pennsylvania.

JAMES A. BAYARD, from Delaware.

PHILIP REED, from Maryland.

WILLIAM B. GILES, from Virginia.

JAMES TURNER, and JESSE FRANKLIN, from North Carolina.

THOMAS SUMTER, and JOHN GAILLARD, from South Carolina.

WILLIAM H. CRAWFORD, from Georgia.

BUCKNER THRUSTON, and JOHN POPE, from Kentucky.

DANIEL SMITH, from Tennessee.

EDWARD TIFFIN, from Ohio.

JOHN LAMBERT, appointed a Senator by the Legislature of the State of New Jersey for six years, and SAMUEL SMITH, appointed a Senator by the Executive of the State of Maryland, attended, and their credentials were read.

JAMES LLOYD, junior, appointed a Senator by the Legislature of the State of Massachusetts, attended, stating that he was elected, but not in possession of his credentials.

JOSEPH ANDERSON, from the State of Tennessee; RICHARD BRENT, from the State of Virginia; JAMES HILLHOUSE, from the State of Connecticut; MICHAEL LEIB, from the State of Pennsylvania; RETURN J. MEIGS, from the State of Ohio; JONATHAN ROBINSON, from the State of Vermont; SAMUEL WHITE, from the State of Delaware, severally attended.

The oath required by law was administered to the Senators above mentioned, in the six years' class, respectively, except to Mr. BRENT.

The PRESIDENT OF THE UNITED STATES attended, and communicated the following

ADDRESS:

Unwilling to depart from examples of the most revered authority, I avail myself of the occasion now presented, to express the profound impression made on me by the call of my country to the station, to the duties of which I am about to pledge myself by the most solemn of sanctions. So distinguished a mark of confidence, proceeding from the deliberate and tranquil suffrage of a free and virtuous nation, would, under any circumstances, have commanded my gratitude and devotion, as well as filled me with an awful sense of the trust to be assumed. Under the various circumstances which give peculiar solemnity to the existing period, I feel that both the honor and the responsibility allotted to me are inexpressibly enhanced.

The present situation of the world is, indeed, without a parallel, and that of our own country full of difficulties. The pressure of these, too, is the more severely felt, because they have fallen upon us at a moment when the national prosperity being at a height not before attained, the contrast, resulting from the change, has been rendered the more striking. Under the benign influence of our Republican institutions, and the maintenance of peace with all nations, whilst so many of them were engaged in bloody and wasteful wars, the fruits of a just policy were enjoyed in an unrivalled growth of our faculties and resources. Proofs of this were seen in the improvements of agriculture; in the successful enterprises of commerce; in the progress of manufactures and useful arts; in the increase of the public revenue, and the use made of it in reducing the public debt; and in the valuable works and establishments everywhere multiplying over the face of our land.

It is a precious reflection that the transition from this prosperous condition of our country, to the scene which has for some time been distressing us, is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the public councils. Indulging no passions which trespass on the rights or the repose of other nations, it has been the true glory of the United States to cultivate peace by observing justice; and to entitle themselves to the respect of the nations at war, by fulfilling their neutral obligations with the most scrupulous impartiality. If there be candor in the world, the truth of these assertions will not be questioned; posterity, at least, will do justice to them.

This unexceptionable course could not avail against the injustice and violence of the belligerent Powers. In their rage against each other, or impelled by more direct motives, principles of retaliation have been introduced, equally contrary to universal reason and acknowledged law. How long their arbitrary edicts will be continued, in spite of the demonstrations that not even a pretext for them has been given by the United States, and of the fair and liberal attempt to induce a revocation of them, cannot be anticipated. Assuring myself, that, under every vicissitude, the determined spirit and united councils of the nation will be safeguards to its honor and its essential interests, I repair to the post assigned me with no other discouragement than what springs from my own inadequacy to its high duties. If I do not sink under the weight of this deep conviction, it is because I find some support in a consciousness of the purposes, and a confidence in the principles which I bring with me into this arduous service.

To cherish peace and friendly intercourse with all nations having correspondent dispositions; to maintain sincere neutrality towards belligerent nations; to prefer, in all cases, amicable discussion and reasonable accommodation of differences, to a decision of them by an appeal to arms; to exclude foreign intrigues and foreign partialities, so degrading to all countries, and so baneful to free ones; to foster a spirit of independence, too just to invade the rights of others, too proud to surrender our own, too liberal to indulge unworthy prejudices ourselves, and too elevated not to look down upon them in others; to hold the union of the States as the basis of their peace and happiness; to support the Constitution, which is the cement of the Union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the States and to the people, as equally incorporated with, and essential to the success of, the general system; to avoid the slightest interference with the rights of conscience or the functions of religion, so wisely exempted from civil jurisdiction; to preserve, in their full energy, the other salutary provisions in behalf of private and personal rights, and of the freedom of the press; to observe economy in public expenditures; to liberate the public resources by an honorable discharge of the public debts; to keep within the requisite limits a standing military force, always remembering that an armed and trained militia is the firmest bulwark of Republics; that without standing armies their liberty can never be in danger, nor with large ones safe; to promote, by authorized means, improvements friendly to agriculture, to manufactures, and to external as well as internal commerce; to favor, in like manner, the advancement of science and the diffusion of information, as the best aliment to true liberty; to carry on the benevolent plans which have been so meritoriously applied to the conversion of our aboriginal neighbors from the degradation and wretchedness of savage life, to a participation of the improvements of which the human mind and manners are susceptible in a civilized state;—as far as sentiments and intentions

such as these can aid the fulfilment of my duty, they will be a resource which cannot fail me.

It is my good fortune, moreover, to have the path in which I am to tread lighted by examples of illustrious services, successfully rendered in the most trying difficulties, by those who have marched before me. Of those of my immediate predecessor it might least become me here to speak. I may, however, be pardoned for not suppressing the sympathy with which my heart is full, in the rich reward he enjoys in the benedictions of a beloved country, gratefully bestowed for exalted talents, zealously devoted, through a long career, to the advancement of its highest interest and happiness.

But the source to which I look for the aids which alone can supply my deficiencies, is in the well-tried intelligence and virtue of my fellow-citizens, and in the counsels of those representing them in the other departments associated in the care of the national interests. In these my confidence will, under every difficulty, be best placed, next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future.

After which, the oath prescribed by law was administered to the PRESIDENT OF THE UNITED STATES, by the Chief Justice.

The President of the United States then retired, and the Senate repaired to their own Chamber.

Ordered, That Messrs. ANDERSON and BAYARD be a committee to wait on the President of the United States, and notify him that the Senate are ready to receive any communications that he may be pleased to make to them.

MONDAY, March 6.

FRANCIS MALBONE, appointed a Senator by the Legislature of the State of Rhode Island, for six years, commencing on the fourth instant, attended, and produced his credentials; which were read.

The credentials of RICHARD BRENT, appointed a Senator by the Legislature of the State of Virginia, for six years, commencing on the fourth instant, were read.

The oath required by law was administered to Messrs. BRENT and MALBONE, respectively.

On motion, by Mr. ROBINSON,

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to George Thomas, Walter Reynolds, and Tobias Simpson, the sum of fifty dollars each, in addition to their annual compensation.

Mr. ANDERSON reported, from the committee, that they had waited on the President of the United States, who informed them that he should this day make a communication to the Senate.

Soon after, a communication was received from the President of the United States, submitting sundry nominations to office, which were mostly confirmed.

TUESDAY, March 7.

The PRESIDENT laid before the Senate a communication from Governor Huntingdon, enclosing a resolution passed by the General Assembly of the State of Ohio, approving the measures of the General Government; which was read.

After the consideration of Executive business, Messrs. BAYARD and REED were appointed a committee to wait on the President of the United States, and notify him, that, unless he may have any further communications to make to them, the Senate are ready to adjourn.

Mr. BAYARD reported, from the committee, that they had waited upon the President of the United States, who informed them that he had no further communications to make to them. Whereupon,

The Senate adjourned without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE TENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 7, 1808.

MONDAY, November 7, 1808.

This being the day appointed by law for the meeting of the present session, the following members of the House of Representatives appeared and took their seats, to wit:

From New Hampshire—Daniel M. Durell, Francis Gardner, Jedediah K. Smith, and Clement Storer.

From Massachusetts—Ezekiel Bacon, Joseph Barker, Orchard Cook, Richard Cutts, Josiah Deane, William Ely, Isaiah L. Green, Daniel Ilsley, Edward St. Loe Livermore, Josiah Quincy, Ebenezer Seaver, William Stedman, Jabez Upham, and Joseph B. Varnum, (the Speaker.)

From Rhode Island—Isaac Wilbour.

From Connecticut—Epaphroditus Champion, Samuel W. Dana, John Davenport, jr., Jonathan O. Mosely, Timothy Pitkin, jr., Lewis B. Sturges, and Benjamin Tallmadge.

From Vermont—Martin Chittenden, James Elliot, and James Fisk.

From New York—John Blake, jr., John Harris, Reuben Humphreys, William Kirkpatrick, Gurdon S. Mumford, Samuel Riker, John Russell, Peter Swart, John Thompson, James I. Van Alen, Killian K. Van Rensselaer, and Daniel C. Verplanck.

From New Jersey—Adam Boyd, William Helms, John Lambert, Thomas Newbold, James Sloan, and Henry Southard.

From Pennsylvania—David Bard, Robert Brown, William Findley, John Heister, William Hoge, William Milnor, Daniel Montgomery, jr., John Porter, John Pugh, John Rea, Matthias Richards, John Smilie, Samuel Smith, and Robert Whitehill.

From Maryland—Charles Goldsborough, William McCreery, John Montgomery, Nicholas R. Moore, and Archibald Van Horn.

From Virginia—Burwell Bassett, William A. Burwell, John Clopton, John Dawson, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, David Holmes, John G. Jackson, Joseph Lewis, jun., John Love, John Morrow, Thomas Newton, John Smith, Abraham Trigg, and Alexander Wilson.

From Kentucky—Joseph Desha, Benjamin Howard, and Richard M. Johnson.

From North Carolina—Willis Alston, jr., William Blackledge, Thomas Blount, John Culpeper, Nathaniel Macon, Lemuel Sawyer, and Richard Stanford.

From Tennessee—George W. Campbell, John Rhea, and Jesse Wharton.

From South Carolina—Lemuel J. Alston, William Butler, Joseph Calhoun, John Taylor, and David R. Williams.

From Georgia—William W. Bibb, and George M. Troup.

From Ohio—Jeremiah Morrow.

From the Mississippi Territory—George Poindexter, Delegate.

Two new members, to wit: NATHAN WILSON, returned to serve in this House as a member for New York, in the room of David Thomas, who hath resigned his seat, and THOMAS GHOLSON, jr., returned to serve as a member from Virginia, in the room of John Claiborne, deceased; appeared, produced their credentials, and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present, a message was received from the Senate, informing the House that a quorum of the Senate is assembled, and ready to proceed to business; the Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

The oath or affirmation to support the Constitution of the United States was then administered to Mr. NATHAN WILSON and Mr. GHOLSON, by Mr. SPEAKER, according to law.

Ordered, That a message be sent to the Senate to inform them that a quorum of this House is assembled, and ready to proceed to business; and that the Clerk of this House do go with the said message.

The House proceeded to consider the resolution of the Senate for the appointment of a joint committee of the two Houses to wait on the President of the United States and inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may be pleased to make to them: Whereupon, the House agreed to the said resolution; and Mr. MACON, Mr. QUINCY, and Mr. MCCREERY, were appointed the committee on their part.

Mr. Macon, from the joint committee appointed to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, reported that the committee had performed that service; and that the President signified to them he would make a communication, in writing, to this House, to-morrow at twelve o'clock, by way of Message.

On motion of Mr. Smilie,

Resolved, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers to each member, such as the members shall respectively choose, to be delivered at their lodgings; and that the clerk be directed to procure such papers from any number of offices that the members shall elect: provided, the expense does not exceed the amount of three daily newspapers.

And then the House adjourned until to-morrow morning eleven o'clock.

Tuesday, November 8.

Several other members to, wit: from Pennsylvania, Jacob Richards; from Virginia, Matthew Clay, and Walter Jones; and from South Carolina, Robert Marion, appeared, and took their seats in the House.

A new member, to wit: Samuel Shaw, returned to serve in this House as a member from the State of Vermont, in the room of James Witherell, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, who shall interchange weekly; to which they desire the concurrence of the House.

The House proceeded to consider the foregoing resolution of the Senate, and it was agreed to.

The Speaker laid before the House a letter from the Governor of the State of Pennsylvania, enclosing a letter to him from Joseph Clay, the Representative for the district composed of the city and county of Philadelphia, and county of Delaware, in the said State, containing his resignation of a seat in this House; also, a proclamation of the said Governor, and a certificate of the election of Benjamin Say, to serve as a member for the said District and State, in the room of the said Joseph Clay; which were read, and referred to the Committee of Elections.

The Speaker laid before the House a letter from the Speaker of the House of Representatives of the Mississippi Territory, accompanied with a memorial of the said House of Representatives, praying a revision and amendment of the laws relating to the sale of the lands of the United States, as far as relates to the instalments due, and to become due, for the lands purchased by settlers in the said Territory; also, that the provisions of a bill which was depending before this House at the last session, for the establishment of a Federal Court in that Territory, may not be enacted into a law, for the reasons therein mentioned.—Read and referred to the Committee on the Public Lands.

A motion was made by Mr. Rhea, of Tennessee, that the House do agree to the following resolution and order, to wit:

Resolved, That the order hereto subjoined, be inserted among the rules and orders of this House:

Ordered, That a standing committee, to consist of one member from each State, the Representatives or Representative from which may or shall attend, and to be styled "the Committee of the Post Office and Post Roads," shall be appointed, whose duty it shall be to take into consideration all such matters and things touching the Post Office and Post Roads of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report thereon; and also to report such alterations and amendments to the laws concerning the Post Office and Post Roads as may become necessary.

The motion was read, and ordered to lie on the table.

A Message was received from the President of the United States.

The House proceeded in the reading of the said Message, and the documents which accompanied the same, and made some progress therein; when an adjournment was called for: Whereupon, the farther reading was postponed until to-morrow.

[For this Message see Senate Proceedings, of this date, *ante*, page 11.]

STANDING COMMITTEES.

The following Committees were appointed, agreeably to the standing rules and orders of the House, viz:

Committee of Elections—Mr. Findley, Mr. David R. Williams, Mr. Clay, Mr. Lambert, Mr. Blake, Mr. Sturges, and Mr. Elliot.

Committee of Claims—Mr. Holmes, Mr. Pitkin, Mr. Seaver, Mr. Johnson, Mr. Humphreys, Mr. Brown, and Mr. Butler.

Committee of Commerce and Manufactures—Mr. Newton, Mr. McCreery, Mr. Cutts, Mr. Marion, Mr. Dana, Mr. Mumford, and Mr. Porter.

Committee of Ways and Means—Mr. George Washington Campbell, Mr. Willis Alston, Mr. Eppes, Mr. Smilie, Mr. Tallmadge, Mr. Fisk, and Mr. John Montgomery.

Committee on the Public Lands—Mr. Jeremiah Morrow, Mr. Goodwyn, Mr. Russell, Mr. Boyd, Mr. Ely, Mr. Bibb, and Mr. Howard.

Committee of Revisal and Unfinished Business—Mr. Clopton, Mr. Van Rensselaer, and Mr. Durell.

Committee of Accounts—Mr. Nicholas R. Moore, Mr. Stedman, and Mr. Milnor.

Ordered, That a Committee for the District of Columbia be appointed, pursuant to an additional rule and order of the House, agreed to on the twenty-seventh of January last; and a committee was appointed, of Mr. Lewis, Mr. Van Horn, Mr. Southard, Mr. Blackledge, Mr. Rea of Pennsylvania, Mr. Lemuel J. Alston, and Mr. Wharton.

Wednesday, November 9.

Another member, to wit: Robert Jenkins, from Pennsylvania, appeared, and took his seat in the House.

The House proceeded in the reading of the documents accompanying the President's Message; which being concluded, on motion of Mr. Dawson, they were referred, together with the Message, to a Committee of the Whole on the state of the Union, and ordered to be printed.

On the question as to the number to be printed, it was moved by Mr. Fisk, and seconded by Mr. Dana, that ten thousand copies be printed. Negatived by a considerable majority.

Five thousand copies were then ordered to be printed.

The House was then cleared and the doors closed, for the purpose of reading the confidential part of the President's Message.

After the doors were opened, a resolution yesterday laid on the table by Mr. Rhea, for appointing a Committee of Post Offices and Post Roads, to consist of one member from each State, was taken up and agreed to. The following gentlemen compose the Committee: Mr. Rhea of Tennessee, Mr. Green, Mr. Chittenden, Mr. Davenport, Mr. Stanford, Mr. Calhoun, Mr. Troup, Mr. Desha, Mr. Whitehill, Mr. Newbold, Mr. Verplanck, Mr. Pugh, Mr. Storer, Mr. Jeremiah Morrow, Mr. Goldsborough, Mr. Nathan Wilson, and Mr. Wilbour.

Thursday, November 10.

Several other members, to wit: from Virginia, Wilson Cary Nicholas and John Randolph; and from North Carolina, James Holland; appeared, and took their seats in the House.

On motion of Mr. Lewis,

Ordered, That the memorial of sundry proprietors of Washington, relative to the subdivision of squares and lots in the said city, and admitting the same to record, presented the fourteenth of March, one thousand eight hundred and six, be referred to the Committee for the District of Columbia.

A message from the Senate informed the House that the Senate have proceeded to the appointment of a Chaplain to Congress for the present session, on their part; and the Reverend Mr. Elliott hath been duly elected.

The House then proceeded, by ballot, to the appointment of a Chaplain to Congress, for the present session, on the part of the House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. Obadiah B. Brown.

Mr. Porter presented the petition of a number of merchants of Philadelphia, praying that the bill giving an extension of credit on revenue bonds, be amended so as to include bonds given for duties on goods imported since the passage of that law; and for which it does not provide.—Referred to the Committee on Commerce and Manufactures.

Mr. Southard presented the petition of Stephen Sayre, praying further compensation for services rendered the United States by negotiation in the north of Europe; which he moved to refer to the Committee of Claims. The motion was negatived; and on motion of Mr. Holmes, the petition was rejected, without a division.

MOTION TO REPEAL THE EMBARGO.

Mr. Chittenden said he rose with considerable diffidence to offer to the House a resolution on the subject of the embargo. Having witnessed the feelings heretofore excited by a similar proposition at the last session, he said he would assure gentlemen that he had no object in view but to bring the subject before the House, and excite a fair and liberal discussion. He had hoped that the situation of our affairs would ere this have authorized the removal of the embargo. Disappointed in this, he felt it a duty which he owed to his constituents and to the nation, to endeavor to elicit an expression of the opinion of the House, to prevent ruinous speculations, and to relieve the nation from suspense. The measure had now been in operation ten or eleven months, and he had not perceived the good effects resulting from it. The importance of this subject, its interesting nature to his constituents, who, in addition to the common sufferings, had the extreme mortification of being represented as in a state of insurrection, must be an apology for his coming forward at this early period on the subject of the embargo. He then offered the following resolution:

"*Resolved*, That the act passed at the last session of Congress entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary and additional thereto," ought to be immediately repealed.

On the question whether the House will agree to consider the resolution, it was decided in the affirmative—yeas 83, nays 9, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, junior, Robert Brown, William A. Burwell, William Butler, George W. Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, John Davenport, jun., John Dawson, James Elliot, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Thomas Gholson, jun., Charles Goldsborough, Peterson Goodwyn, Edwin Gray, Isaiah L Green, John Harris, John Heister, William Helms, William Hoge, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Walter Jones, William Kirkpatrick, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jun., John Porter, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Samuel Riker, John Russell, Lemuel Sawyer, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, John Taylor, John Thompson, Jabez Upham, James I. Van Allen, Archi-

bald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, and Nathan Wilson.

Nays—William W. Bibb, Thomas Blount, Adam Boyd, Joseph Calhoun, John Clopton, Joseph Desha, Abram Trigg, George M. Troup, and Alexander Wilson.

Mr. Chittenden then moved, that it be referred to the Committee of the Whole House on the state of the Union, to whom was referred the President's Message.

Mr. Macon had no objection to a fair discussion. If the laws were wrong, and productive of no beneficial effect, they ought to be repealed. He suggested to the gentleman, however, the propriety of moving a reference to a Committee of the Whole, other than that on the state of the Union.

Mr. Chittenden so modified his motion, and it was agreed to refer the resolution to a Committee of the Whole.

On the question for what day it should be the order, Mr. Chittenden moved to-morrow.

Mr. Smilie said, he had no objection to meet this question, but not at so early a period. From the general state of our foreign relations, he thought the resolution was ill-timed. What could the gentleman mean by bringing this distinct question now before the House? Does he mean, said Mr. S., that we must repeal the whole of the embargo system, and substitute nothing in the room of it? Certainly, if his intention may be judged by the manner in which the subject is brought forward, he means this. If he does, I wish him to come forward and tell us so; tell us that he and his constituents are willing to pay tribute and submit; that they will surrender the independence of their country. To consider this motion now, unless a substitute for the embargo were proposed, Mr. S. said, he could not agree. He therefore moved that it be made the order of the day for Monday week. In the meantime he took it for granted that the President's Message would become the subject of consideration, and the House would be prepared to say what course it would pursue.

Mr. W. Alston objected to the mode in which the subject had been now introduced; and suggested that it would have been more respectful to the President first to have considered the Message. But since the gentleman had thus brought forward the question of repealing the embargo law, he was ready to meet him on his own ground to morrow. He trusted it would then be seen in what quarter and from whom the opposition to the execution of the measure had arisen, and the desire for its removal now proceeded.

Mr. Dana presumed the gentleman from Vermont was perfectly competent to show the motives of his actions and the object he had in view without the assistance of the gentleman from North Carolina. Really, commencing the public business in this manner did not bode auspiciously to its progress. As a reason for now bringing this subject forward, Mr. D. reminded gentlemen of a fact which in the fulness of their zeal they seemed wholly to have overlooked—that the season was fast approaching when the navigation of the northern portion of the Union would be locked up. If the embargo was to be removed at all, it was of the utmost importance that it should be done promptly; that it should be decided within a fortnight from this time. And whether it should be removed or not, it was of importance to know the opinion of this body. Need gentlemen now be told that in almost all the ports of the Union vessels were preparing for sea? That some had even bent their sails; many having taken cargoes on board? These now remained in a state of suspense, and a state of suspense always gave birth to perpetual speculations. To put a stop to these speculations, it was necessary that a decision of the question should be had. How it should be decided at the present time Mr. D. said he did not undertake to say. The people should know, as soon as practicable, consistently with the decorum of Legislative deliberation, the decision of the House.

As to the question asked by the gentleman from Pennsylvania (Mr. Smilie,) as to paying tribute, and as to the gentleman who proposed the resolution being willing to pay tribute—if the gentleman wanted to know the spirit of Vermont, Mr. D. referred him to the history of the Revolutionary war. Let the gentleman see if, for her numbers, any other State gave the enemy more bloody battles. Let him then suppose the gentleman from Vermont to differ from the mass of his fellow-citizens whom he represents. Mr. D. censured these insinuations as indecorous in the extreme. Mr. D. said the present motion led to a question of serious moment; and when they came to a decision of it he wished it to be done by comparing their opinions fairly, frankly, and decisively, if necessary; and that they might unite in taking the course which would best maintain the rights and preserve the honor of the nation. On the question of the raising of the embargo, it was necessary, however, that there should be an authoritative decision one way or other.

Mr. Elliot said it might for aught he knew be considered disrespectful to the President to urge the immediate agitation of this momentous question; but if it were so, a forbearance from so doing on that account would be a respect inconsistent with the independence of sentiment which elevates and warms the character of an independent people. He had read somewhere in the works of celebrated newspaper civilians of this country, that "oppugnation" or even disrespect were treasonable offences. He hoped no gentlemen here meant to advance the doctrine that disrespect partakes of the nature of treason.

Mr. E. then spoke of a resolution which he had intended to have offered, and which he described, as leading to an inquiry into the mode in which the embargo law had been executed.

Notwithstanding the insinuation of the gentleman from North Carolina, (Mr. Alston.) which no one could mistake, notwithstanding whole volumes of newspaper denunciation, Mr. Elliot said he trembled not for the character of Vermont. The great body of the people of Vermont, though hostile, as he firmly believed, to the whole system of the embargo, had manifested a degree of patriotism that had not been exceeded by any; they had never failed, when called upon, to march to the frontiers and enforce those laws which they disapproved.

He thought it due to the character of the nation to investigate this subject; the constitutionality of the laws, the propriety of their continuance, the manner in which they had been carried into execution, and the manner in which they had been evaded. Whilst he did not wish to precipitate the discussion, much less the decision, yet he thought the day mentioned by the gentleman from Pennsylvania was too distant. The people had certainly looked forward to the meeting of Congress with considerable solicitude, as much excited by the embargo system as by the situation of our foreign affairs. The people of the United States, (said he) do not believe that they are called upon to decide between the embargo or war. We who originally opposed the embargo law, believing that it would be ruinous to the nation, are under no obligation to propose the substitute which is called for, and which we would have proposed, though it would not have been adopted, had not the embargo been put into operation. Mr. E. apologized for his warmth on this subject by alleging the sensibility he had felt at the allusion of the gentleman from North Carolina.

Mr. Alston explained that he had not said or meant, that it would be seen from "what quarter of the Union" opposition came.

Mr. Macon could see no advantage in postponing a decision of the question, being himself ready to meet it at any moment. The very proposition of the resolution would excite all the attention of the seaports, and awaken all their anxiety. He thought it out of order now to discuss the merits of the question.

Mr. Troup said he felt himself bound at all times to treat with the greatest delicacy all motions and propositions of an ordinary nature. But there were times in which his feelings compelled him to depart from the ordinary rule. This was one. He had voted against the consideration of the resolution because he would reject, with that indignity which it deserved, an abstract proposition at this time to remove the embargo; and because he thought a prompt rejection would mark to the foreign world the temper of the country. He suggested, since it was to be discussed, that the discussion should be postponed a while until time was given to digest the voluminous mass of documents laid before them. For in these documents were contained the best arguments in favor of the embargo.

Mr. Eppes was willing to vote in favor of the commitment of the motion; but did not wish the delusion under which some portion of the people of the United States labored should longer continue. He wished them to understand what course would be pursued. If, said he, it be the opinion of the Representatives of the nation that the embargo should be taken off, and no other measure substituted, the majority governs in a Republic, and I should, with every good citizen, submit to its decision; but I should ever feel for the eternal disgrace of that nation of which I should then feel it a misfortune to be a member. As it is my opinion that should the embargo be raised, other measures ought to be adopted, whether I meet with the support of the House or not, I will at least evince to the people whose representative I am, that I will not submit to British or French tyranny, but hand down to their posterity unimpaired that liberty which their forefathers so nobly achieved.

Mr. E. then proposed the following resolutions, as an amendment to Mr. Chittenden's motion:

"*Resolved*, That, from and after the —— day of —— next, all intercourse between the United States and Great Britain, its islands and dependencies, ought to cease and determine.

"*Resolved*, That, from and after the —— day of —— next, all intercourse between the United States and France, its islands and dependencies, ought to cease and determine.

"*Resolved*, That provision ought to be made by law for arming and equipping for immediate service —— thousand militia, in addition to the force already authorized by law."

The Speaker informed Mr. Eppes that these could not be received while another question was pending, and Mr. E. withdrew them for the present.

Messrs. Blackledge, Clopton, and G. W. Campbell, declared themselves positively opposed to the motion in its present abstract form. Their observations were of the same tenor as those of Messrs. Smilie, Troup, and Eppes.

Messrs. Cook and Cutts spoke in favor of an immediate consideration of the subject, from its importance to the mercantile interest.

The resolution was then made the order of the day for Monday next; a motion for postponement until Monday week having been negatived.

EXECUTION AND EVASIONS OF THE EMBARGO LAWS.

Mr. Elliot offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before the House of Representatives copies of all instructions which have been transmitted by him to the collectors of the revenue and other officers of the United States, in relation to the execution of the act laying an embargo upon all ships and vessels in the ports and harbors of the United States, and the several acts supplementary and additional thereto.

Mr. Elliot observed, that as his sole object was to obtain information, he presumed no objection could be made to the resolution.

Mr. Quincy said it certainly was not his intention to make any objection to the resolution, on the contrary, he was happy that it had been brought forward. His mind had been turned to the same subject, and he suggested to the gentleman from Vermont whether his resolution comprised all the information which might be desirable. Mr. Q. said for himself he should wish to

see all the instructions given, not only by the Secretary of the Treasury, but by any head of any department, to any civil or military officer, touching the embargo law.

Mr. ELLIOT said that all the objects which he had in view would be answered by the resolution as it now stood. The calling for such a mass of matter might delay the production of the part which he wished immediately to obtain.

Mr. LOVE thought that the calling for these instructions would be an assumption by the Legislature of the functions of a department with which they had no connexion. Their business was to enact laws; the execution of those laws was confided to another department. If there had been an infraction of the Constitution or laws by that department, there was a Constitutional mode of redress.

Mr. D. R. WILLIAMS said, as the resolution went to call for information, he felt solicitous to enlarge its scope by an amendment which he held in his hand. [Mr. ELLIOT said he had no objection to such an amendment.] Mr. W. said the gentleman perhaps might not approve of the amendment when he heard it read. It was in these words:

"Also, as far as practicable, the names and places of residence of such persons as have been detected in violating the embargo laws."

Mr. ELLIOT consented to the amendment.

Mr. DANA said, on the general merits of the resolution, having information for its object, he should not suppose that it was so reprehensible as the gentleman from Virginia (Mr. LOVE) seemed to think it. They were placed in an unfortunate situation indeed if they could never ask for information, except they would first accuse some one of the Departments of misconduct. He really hoped the gentleman did not wish them to become accusers before they had information on which an accusation could be formed, or to prefer complaints before they knew of what to complain.

Mr. LOVE said, as he understood the resolution, it stood on the broad ground of an inquiry into the manner in which the laws had been executed, and that it was travelling out of their province. He was not opposed to receiving information; but he could not see how jurisdiction on this subject could be assumed by Congress. Would they pass a law declaring void instructions which had been given? No. If, then, no use could be made of information when received, he could not see why it should be required. He wished the gentleman to explain his object.

Mr. ELLIOT said the gentlemen from Virginia seemed to object to the motion, first, because he wished to hear it dilated on, and secondly to know the object contemplated by it. Though perhaps not so much in the habit of dilating as the gentleman from Virginia, he would explain his object, and before the subject was dismissed, there would probably be dilatation sufficient on it. He hoped, notwithstanding the alarming doctrines of late advanced in regard to motions, that no gentleman would ever rise on this floor to make a motion, the object of which he should be ashamed to declare and defend.

A great number of facts (said Mr. E.) have been stated to me from various quarters in relation to the execution of the several embargo laws. Indeed, I have collected almost enough to fill a volume, which have left in my mind not a particle of doubt that the Constitution and laws have been almost daily violated in the execution of the embargo laws, and sometimes in the most flagrant manner. These facts I will hereafter state to the House. It is not to be presumed, however, because the Constitution and the laws have been violated by subordinate officers, whether civil or military, that these violations have been authorized by the Executive. I will not presume it; I have no right to do so; nor does the resolution. But I think it very proper that it should be ascertained whether the officers, in these violations or supposed violations of the Constitution and laws, are or have not been authorized by instructions received from superior officers. If, when the information is obtained, it shall appear that the statements which I have received on these subjects are erroneous; that the Executive has not authorized the commission of these violations which have been stated to me; I shall certainly have nothing of which to accuse the Executive. And if it shall even appear that the Executive has gone further than he should, it will not follow that it will be either my duty or disposition to move an impeachment. Certainly the Executive officer is liable to errors of judgment; he may have misinterpreted his authority, and thus have led to violations, without any corrupt intention. I have stated in the most explicit manner my object: I mean not to impeach the head of the Executive or any other Department; for I know not, *officially*, where, in any one instance, orders have been issued which amount to a violation of the Constitution or laws. Although I have not dilated so much as the gentleman could wish, he must be convinced of the propriety of the motion.

Mr. LOVE said, since the gentleman had explained his object, he would withdraw his opposition.

Mr. G. W. CAMPBELL wished the resolution to lie on the table till to-morrow, to give time for further consideration. He had no objection to calling for information when necessary, though he must say, that had any persons suffered by violations of the Constitution and laws, under pretence of carrying them into effect, they had their remedy in a court of justice, against the individual officer perpetrating the offence. When brought to trial, the officer would, in defence, produce the authority upon which he acted. That authority would be the instructions to which the gentleman alluded; which would then properly be subjected to a judical decision on their constitutionality or legality, and the party injured thus obtain his redress.

The resolution was then, with the consent of Mr. ELLIOT, ordered to lie on the table.

Mr. EPPES now moved the resolutions given above; which were referred to the committee to whom was referred Mr. CHITTENDEN's resolution.

FRIDAY, November 11.

Two other members, to wit: from Massachusetts, SAMUEL TAGGART; and from Maryland, JOHN CAMPBELL; appeared, and took their seats in the House.

A new member, to wit: RICHARD S. JACKSON, returned to serve in this House, as a member for the State of Rhode Island, in the room of Nehemiah Knight deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion of Mr. LIVERMORE, the House came to the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of rebuilding two light-houses on Plumb Island, at the mouth of Merrimack river, in the State of Massachusetts; and that they report by bill or otherwise.

BRITISH ORDERS AND FRENCH DECREES.

Mr. BURWELL offered the following resolution:

"*Resolved*, That the President of the United States be requested to lay before this House copies of the act or acts of Parliament of Great Britain carrying the Orders in Council of the 11th November, 1807, into effect; and also an act placing the commerce of America in English ports upon the footing of the most favored nations."

Mr. B. said he had never met with the documents here referred to. He thought it very important that they should be before the House and the nation, that they might know precisely the duties imposed on American commerce; and particularly that they ought to have a copy of the act placing this country on the footing of the most favored nation, that it might be seen, in carrying their own produce to Great Britain, what immense advantage was given to America. If he was not mistaken, such was the advantage that the British merchant might pay double the freight for American produce to be exported in British vessels to England, which an American merchant would, and yet reap double the profit to be made on the same produce, if carried in American vessels. It was in this view he thought the production of these papers important, and to have considerable bearing on the question of our foreign relations, which had been made the order of the day for Monday next.

Mr. G. W. CAMPBELL said he was willing to see all the acts alluded to; but he believed they were so numerous and so contradictory in their nature, that it would require all the skill and ingenuity of the House to discover the extent of their operation, or to define what would be the practice under them.

Mr. BURWELL's resolution was adopted without a division; but a short time afterwards rescinded, on motion of Mr. MACON, seconded by Mr. QUINCY, with the consent of Mr. BURWELL, and the following resolution adopted, giving more latitude to the call for papers:

"*Resolved*, That the President of the United States be requested to lay before this House copies of all acts, decrees, orders, and proclamations, affecting the commercial rights of neutral nations, issued or enacted by Great Britain, and France, or any other belligerent Power, since the year 1791; and also an act placing the commerce of America in English ports upon the footing of the most favored nations."

In advocating the above resolution, Mr. QUINCY expressed his wish to have all these papers, that it might be clearly understood which Power had commenced the system of violations of neutral commerce.

In discussing the terms of the resolution Mr. J. G. JACKSON took occasion to observe that the precise words were immaterial; for that every edict violated which affected neutral commerce.

Messrs. BURWELL and CUTTS were appointed a committee to wait on the President with the above resolution.

EMBARGO LAWS.

Mr. J. G. JACKSON said, in order to meet the proposition of the gentleman from Vermont (Mr. CHITTENDEN) of yesterday, he would offer to the House the following resolutions:

"*Resolved*, That provision ought to be made by law for more effectually carrying into execution the several embargo laws.

"*Resolved*, That no vessel shall be allowed to depart from one port to another of the United States that does not with her cargo wholly belong to a citizen or citizens of the United States, and be navigated solely by citizens thereof."

Mr. JACKSON said, it was not his purpose now to discuss the propriety of their adoption or the principles contained in them; but he moved their reference to the same committee to whom was referred the resolution for repealing the embargo laws—which was agreed to.

PRESIDENT'S MESSAGE.

On motion of Mr. G. W. CAMPBELL, the House resolved itself into a Committee of the Whole, on the state of the Union, Mr. MACON in the Chair.

Mr CAMPBELL, after observing that it appeared proper that the several subjects contained in the President's Message should be referred to the consideration of committees, offered the following resolutions, which were severally agreed to in Committee of the Whole without a division, and concurred in by the House:

1. *Resolved*, That so much of the Message of the President of the United States as relates to our relations with foreign Powers, be referred to a select committee.

2. *Resolved*, That so much of the Message of the President of the United States as relates to fortifications for the security of the seaport towns and harbors, be referred to a select committee.

3. *Resolved*, That so much of the Message of the President of the United States as relates to our Military and Naval Establishments, be referred to a select committee.

4. *Resolved*, That so much of the Message of the President of the United States as relates to re-

vising and improving the militia system of the United States, be referred to a select committee.

5. *Resolved*, That so much of the Message of the President of the United States as relates to the disposition of surplusage of our revenue, to improvements of roads, canals, and rivers, be referred to a select committee.

6. *Resolved*, That so much of the Message of the President of the United States as relates to encouraging and promoting internal manufactures, be referred to the Committee of Commerce and Manufactures.

7. *Resolved*, That so much of the Message of the President of the United States as relates to our finances, be referred to the Committee of Ways and Means.

Mr. George Washington Campbell, Mr. Nicholson, Mr. Mumford, Mr. Fisk, Mr. Champion, Mr. John Montgomery, Mr. Bacon, Mr. Taylor, and Mr. Potter, were appointed a committee, pursuant to the first resolution.

Mr. Blount, Mr. Burwell, Mr. Cook, Mr. Goldsborough, Mr. Riker, Mr. Jedediah K. Smith, and Mr. Troup, were appointed a committee, pursuant to the second resolution.

Mr. Nelson, Mr. Dawson, Mr. Tallmadge, Mr. Howard, Mr. Storer, Mr. Butler, and Mr. Shaw, were appointed a committee, pursuant to the third resolution.

Mr. Macon, Mr. Clay, Mr. Findley, Mr. Dubelle, Mr. Cutts, Mr. Sturges, and Mr. Johnson, were appointed a committee, pursuant to the fourth resolution.

Mr. Randolph, Mr. Quincy, Mr. Brown, Mr. Kirkpatrick, Mr. Lambert, Mr. Sawyer, and Mr. Desha, were appointed a committee, pursuant to the fifth resolution.

And, on motion, the House adjourned until Monday.

Monday, November 14.

Several other members, to wit: from New York, Josiah Masters; from Maryland, Philip B. Key; and from North Carolina, Thomas Kenan; appeared and took their seats in the House.

On motion of Mr. Elliot, the House proceeded to consider the resolution proposed by him on the tenth instant, which lay on the table; and the same being again read, was, on the question put thereupon, agreed to by the House, as follows:

Resolved, That the Secretary of the Treasury be directed to lay before the House of Representatives, copies of all the instructions which have been transmitted by him to the Collecters of the Revenue and other officers of the United States, in relation to the execution of the act laying an embargo upon all ships and vessels in the ports and harbors of the United States, and the several acts supplementary and additional thereto; and, also, so far as practicable, the names and places of residence of such persons as have been detected in violating the embargo laws.

On motion of Mr. Newton,

Resolved, That the committee appointed on so much of the Message of the President of the United States as relates to the Military and Naval Establishments, be instructed to inquire into the expediency of authorizing the President of the United States to employ such an additional number of seamen, not exceeding ——, as, in his opinion, the public service may require; and that the committee have leave to report by bill or otherwise.

On motion of Mr. Bacon,

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing by law for the transportation of the Message of the President of the United States of the eighth instant, and the documents accompanying the same, by mail, free of postage.

On motion of Mr. Rhea, of Tennessee,

Resolved, That the Committee on Public Lands do inquire into the expediency of laying off and describing, by certain metes and bounds, a tract of country to which the Indian title hath been extinguished within the limits of Louisiana, and to include all the settlements within the said Territory; and of having the said tract of country laid off into townships and sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States; and, also, to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within —— years, actually improve and reside thereon.

Also, on motion of Mr. Rhea,

Resolved, That the Committee on Public Lands do inquire into the expediency of laying off and describing, by certain metes and bounds, a tract of country to which there is no existing Indian title, within the limits of the Territory of Orleans; and to include all the settlements on the west side of the river Mississippi within the said Territory; and of having the said tract of country laid off into townships and sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States; and, also, to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within —— years, actually improve and reside thereon.

The Speaker laid before the House a letter from the Speaker of the House of Representatives of the Indiana Territory, enclosing several resolutions of the said House of Representatives, submitting to the consideration of Congress certain propositions which they pray may be adopted for the convenience and benefit of the inhabitants of that Territory.—Read, and ordered to lie on the table.

On motion of Mr. Blackledge, the House came to the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of authorizing the President of the United States to employ an additional number of revenue cutters; and that they report by bill or otherwise.

INLAND NAVIGATION.

Mr. Marion presented the petition of the company for opening the Catawba and Wateree rivers, signed by J. F. Grimke, President, stating the embarrassed state of the association, and praying that the Secretary of the Treasury may be authorized to subscribe to such number of shares on account of the United States, as Congress may in their wisdom think proper.

Mr. M. moved a reference of the memorial to the committee on that part of the President's Message relating to internal improvements.

Mr. Randolph said, with due submission to the gentleman from South Carolina, he could not see the propriety of the reference moved for. He thought the petition was for a specific object. If he understood the reference of this part of the President's Message, it embraced a general question, and indeed nothing short of an alteration of the Constitution of the United States. He could not, therefore see the propriety of referring to it a petition for a specific aid.

Mr. Marion said, he was induced to move a reference to this committee, because he had no doubt the memorial had been preferred in consequence of an idea which had gone abroad, from the report of the Secretary of the Treasury of last session, that Congress had it in view to take the subject of the improvement of the country under serious consideration. Expecting that other applications of a like nature would be made, he thought it best that they should go to the committee on the general subject.

Mr. Randolph said, the two questions were totally distinct; for, if this petition should go to any committee already appointed by the House, it should be to the Committee of Claims. If not to the Committee of Claims, there should be some such thing as a Standing Committee of Benevolences and Aids, and it should go to that. Without any disparagement to the memorialists, he thought it highly improper to refer their prayer to a committee who had under their consideration the general subject of internal improvements, its expediency and constitutionality. This was entirely a matter of individual claim. The two subjects were in their nature so distinct, that it did not appear to him that the same committee could take up and consider both. With submission, therefore, to the gentleman who presented the memorial, he moved that it be referred to a select committee.

Mr. Marion consenting, that course was given to the petition, without opposition. Messrs. Marion, Trigg, Mosely, Jenkins, and Gardner, form the committee.

Mr. Rhea, of Tennesssee, offered the following resolution:

Resolved, That every pension or arrearages of pensions due or that may hereafter become due to any officer or soldier of the United States, *who served in the Revolutionary war with Great Britain*, and who doth reside in any of the United States, in which there hath not been established a Commissioner of Loans, or in which there may not be any resident attending Commissioner of Loans, shall be paid by the Secretary of the Treasury at the City of Washington, on application of the party interested, conformably to the rules and restrictions provided by law for the payment of pensions or arrearages of pensions by a Commissioner of Loans.

Mr. Morrow, of Ohio, moved to strike out the words in *italic*, as he could not conceive any reason why the accommodation should be confined to pensioners of one description only.—Agreed to.

Mr. Poindexter moved to insert, after the words "United States," the words "and Territories thereof"—Agreed to.

Mr Rhea's resolution, as amended, was referred to the Committee of Claims, to consider and report by bill or otherwise.

EMBARGO.

Mr. Mumford offered the following resolution:

Resolved, That the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, be repealed, so far as to allow the ships and vessels of the United States to depart with their cargoes for those countries not subject to the decrees of France, or those subject to the British Orders in Council.

Mr. Mumford observed, that his object was, simply, to inquire into the propriety of opening our trade with those countries not subject to the orders and decrees of England and France, viz: Spain and her colonies in the East and West Indies, including Buenos Ayres; Portugal and her colonies in the East and West Indies, including the Brazils; China and the native ports in India; Russia; Denmark; Sweden and her island of St. Bartholomew's in the West Indies; the coast of Barbary; and the Island of Hayti.

The resolution was referred to the Committee of the Whole, to whom several resolutions on the same subject have been referred, without opposition.

Tuesday, November 15.

Another member, to wit: James Kelly, from Pennsylvania, appeared, and took his seat in the House.

Mr. Clopton, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine the Journal of the last session, and report therefrom such matters of business as were then depending, made a report, in part, thereupon; which was read, and ordered to lie on the table.

On motion of Mr. Fisk,

Resolved, That a committee be appointed to inquire into the expediency of altering the times and places for holding the Circuit and District Courts of the United States in the district of Vermont; and that they report thereon by bill or otherwise.

Ordered, That Messrs. Fisk, Samuel Smith, and Gray, be appointed a committee pursuant to the said resolution.

On motion of Mr. John Montgomery,

Resolved, That a committee be appointed to inquire if any, and what, compensation ought to be made to Captain Pike, and his companions, for

their services in exploring the Mississippi river, in their late expedition to the sources of the Arkansas, Osage, and La Platte rivers, together with their tour through New Spain; and that they have leave to report by bill, or otherwise.

Ordered, That Messrs. J. Montgomery, D. R. Williams, John G. Jackson, Livermore, and Helms, be appointed a committee pursuant to the said resolution.

Mr. Rhea, of Tennessee, from the Committee on Post Offices and Post Roads, presented a bill to authorize the transportation, by mail, free of postage, of a certain Message of the President of the United States, and documents accompanying the same; which was read twice, and ordered to be engrossed, and read the third time to-day.

On motion of Mr. Poindexter,

Resolved, That a select committee be appointed to inquire into the expediency of repealing so much of the ordinance for the government of the several Territories of the United States as authorizes the Governors of said Territories, respectively, to prorogue and dissolve the General Assembly.

Ordered, That Messrs. Poindexter, Holland, John Smith, Kelly, and Deane, be appointed a committee, pursuant to the said resolution.

WEST INDIA TRADE.

Mr. Sawyer begged leave to add one more resolution to those already before the House on the subject of the embargo.

"*Resolved*, That it is expedient for the United States to open a communication and trade with the West Indies generally."

Mr. S. said, he thought the present resolution would be found, when they were all taken up and examined by the House, the least liable to exception of any. For he could not go so far with trade as to vote for the resolutions of the gentleman from Vermont in favor of an indiscriminate repeal of the whole embargo system; neither could he go so far against it as to support those of the gentleman from Virginia for a total non-intercourse. He thought our best policy might be found in a medium between the two. In the first place, the Orders in Council, which were, he supposed, a principal cause for those latter resolutions, do not affect our West India trade; and unless that trade came under the cause which very properly influenced the gentleman in his intention of suppressing our foreign trade, he could not see the necessity of its being included in its effects. He would mention one fact of serious importance, which was, the very great amount of revenue which we derived from that quarter. By recurring to the report of the Secretary of the Treasury of November last, it would be found that almost one half of our revenue arose from that trade. [He here read the report, and enumerated the different articles, with their relative amount, the aggregate of which was, $7,803,195.] Whether it would be prudent or wise in us to give up this large sum, to dry up this genial current, at a time when it was so much required to support the body politic under its accumulating ills, was certainly a serious question. To these considerations of a general nature, which he trusted would have some weight with the House, he added another particular reason, which had very great weight with him for introducing this resolution. The district he had the honor to represent was engaged exclusively in this trade. Their staple article, viz. lumber, was calculated for no other market. Vast piles of that article had been accumulating in the hands of our merchants, in payment of their accounts as in ordinary cases, under a supposition that some opportunity might offer of making their usual shipments, by which means alone would they be enabled to comply with their engagements. If this opportunity were now denied them, inevitable ruin must overtake a considerable portion, and infinite injury to the whole of them, as their creditors would see no motives for farther indulgence, but would fall upon them, and the hard earnings of an active life would be wrested from them for comparatively inconsiderable claims. This would induce the merchant to heap upon his customers a share of the evils which he felt himself. He therefore felt some solicitude for the fate of his resolution.

The resolution was referred to the Committee of the Whole to which several resolutions on the same subject had been referred.

Wednesday, November 16.

Another member, to wit: Roger Nelson, from Maryland, appeared, and took his seat in the House.

A new member, to wit: Benjamin Say, returned to serve in this House as a member from the State of Pennsylvania, in the room of Joseph Clay, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion of Mr. Van Horn, a memorial presented at the last session, and not finally acted on, on the subject of a canal through the City of Washington, was referred to the Committee of the District of Columbia.

Mr. Verplanck presented the memorial of a large and respectable number of the freeholders of Dutchess county, in the State of New York, detailing at considerable length the evils and pressure of the embargo, and praying its removal. The petition was referred to a Committee of the Whole to whom Mr. Chittenden's and other resolutions are referred.

MIRANDA'S EXPEDITION.

Mr. McCreery presented the petition of thirty-six American citizens, confined at Carthagena, in South America, under the sentence of slavery. The petition was read, as follows:

Vaults of St. Clara, Carthagena,
September 16, 1808.

To the honorable the Congress of the United States of America, in Congress assembled:

The petition of thirty-six American citizens confined at Carthagena, South America, under sentence of slavery, humbly showeth:

That we, your petitioners, were brought from New York in the armed ship Leander, Thomas Lewis, commander, on the 2d of February, 1806, together with a number of others, mostly inhabitants of that State and city, under the most specious engagements of their country; to establish which, they beg leave to state that Colonel William Smith, then Surveyor of the port of New York, William Armstrong, Daniel D. Durning, and John Fink, butcher, of the city of New York, declared they were authorized to enlist a number of men to go to New Orleans, to serve as guards to the United States mails, and a number of others as mechanics. Some backwardness on the part of your petitioners to engage being discovered by William Smith, he read passages from letters to prove his authority, and several paragraphs from newspapers to convince them of the validity of their engagements. William Armstrong and Daniel D. Durning were appointed to command them, and were to accompany them to the City of Washington, where they were to receive clothing and accoutrements, and thence to New Orleans. The ship Leander, owned by Samuel G. Ogden, and formerly in the St. Domingo trade, was procured for the conveyance of your petitioners to the City of Washington, for which purpose she was hauled down to the watering place, where your petitioners went on board her the 1st day of February, 1806, and the next day (the 2d) the ship put to sea. Shortly after Miranda, under the name of Martin, and a number of persons hitherto unknown to your petitioners, appeared on board, in the character of his officers; which, for the first time, awakened strong suspicions in the breasts of your petitioners that they had been entrapped into the power of wicked and designing men, and that, too, when retreat was impracticable. From New York your petitioners were carried to Jacmel, in the island of St. Domingo, where they were exercised in military duty, under the most arbitrary stretch of power, by Miranda and his officers. At Jacmel several attempts to escape proved abortive, from the vigilance of our oppressors, they having procured guards to be stationed in all the passes leading from Jacmel to other parts of the island, where your petitioners might expect to receive aid and protection from their countrymen. At Jacmel two schooners were hired, on board of which your petitioners were sent, under the care of a number of officers, whose wariness still remained unabated; and on the 27th March, 1806, the ship, accompanied by the two schooners, proceeded towards the coast of Terra Firma, where, after touching at the island of Aruba for refreshments, she arrived on the 28th of April, when two armed vessels hove in sight, which, after some manœuvring, the ship engaged, but soon ran away, leaving the two schooners to be captured. They were carried into Porto Cabello, where your petitioners were proceeded against as pirates, a number of warlike implements being found on board, which were placed there without the knowledge of your petitioners. And on the 12th July following, the process against us closed at Caracas, sentencing ten, whom they considered to be criminally engaged, to be hanged and beheaded, and the remainder (your petitioners) to eight and ten years' slavery on the public works at Omoa, Bocca Chica, and the island of Porto Rico. Your petitioners were all sent to this place, where those sentenced to Bocca Chica were put to work, chained two-and-two, and the residue, in double irons and close confinement, strongly guarded, waiting for an opportunity to be sent to their respective places. Upon several occasions your petitioners were told by William Armstrong, Thomas Lewis, and others, that they were sent out by the Government of the United States. To prove to the satisfaction of your honorable body the truth of the above statement, your petitioners beg you will examine Robert Laverty, John Stagg, John Ritter, Matthew Morgan, Richard Platt, Adam Ten Brook, and John Miller, of New York, who were under the same engagements with your petitioners. Francis White and Thomas McAllister, butchers in the Bear market, New York; Mr. Brinkeroff, tavern keeper, near the Bear market; David Williams, John Garret, and a Mr. Kemper, weighmaster, whose son was executed at Porto Cabello, were present when all or most of your petitioners were engaged, and can prove beyond all doubt that your petitioners could have had no other idea than that of entering into the service of the United States. Captain Bomberry, of the ship Mary, of Baltimore; Captain Israel, of the brig Robert and Mary; Captain Waldron, of the schooner Victory; and Captain Abbot, of the brig Charleston Packet, all of Philadelphia, were eyewitnesses to the tyranny and oppression under which your petitioners labored while at Jacmel. When the crew of the Bee, one of the schooners which was chartered by the Leander, refused to go in her, a number of officers from the ship, with Lewis at their head, came on board the Bee, and, after beating and cutting the men with sticks and sabres in the most brutal manner, dragged them on board the Leander, put them in irons under a strong guard, and kept them there until the moment of sailing, when they were sent on board the Bee, with orders to keep near and to leeward of the ship. Another man, who had effected his escape from a French privateer, and found his way to Jacmel, with the hope of getting a passage home in some of his country vessels, was seized at the instance of Thomas Lewis, commander of the Leander, and captain under Miranda, thrown into prison, and compelled to go in the expedition, or to starve in jail.

Your petitioners are confident, that, when your honorable body becomes thoroughly acquainted with the circumstances of art and deception which betrayed them into the expedition, the destination of which they had no knowledge until it was too late to retreat, you will not only punish such of their betrayers as are within the reach of your power, but will adopt proper measures to restore your unfortunate petitioners to liberty and their families. We beg leave to mention that Jeremiah Powell, who was an officer of high confidence in the expedition, was pardoned without hesitation by the Spanish monarch, on the application of his father. Your petitioners have embraced many opportunities to convey to your honorable body the prayer of a petition, but, from the length of time elapsed since they sent off their last, and not hearing of any measures being adopted in their favor, they fear none ever arrived; and by the present opportunity several copies of this petition have been transmitted to gentlemen residing in different parts of the United States, with the hope that some of them may arrive safe.

Your petitioners cannot for a moment believe that the United States will suffer officers under her Constitution to kidnap her citizens into expeditions and services fitted out and maintained by a foreign outlaw against Powers with whom she is at amity and peace, under the specious pretence of engaging them into the service of their country, without punishing the aggressors, and using every effort to regain her citizens. Such is the case of your unfortunate petitioners, who entreat you, as children would a parent, to relieve them from total destruction, on the brink of which they have been thrown by the practice of frauds and villanies hitherto unheard of.

A short time since, a British ship of war arrived at

this place, the commander of which, (Edward Kittoe, Esq.,) upon being applied to by nine of our companions, who declared themselves to be British-born subjects, and being made acquainted with the circumstances which led to our capture, immediately sent on a petition to the Viceroy of this Kingdom in behalf of us all, but particularly for such as are British subjects, whom we expect will eventually be liberated. Nothing but humanity and a strong desire to relieve distress could have induced Captain Kittoe to this step, who, we are confident, as much as ourselves regrets its failure of success, and to whom we feel every way indebted, and shall ever recollect it with gratitude and thanks.

When your petitioners remonstrate against any harsh treatment of these people, they invariably ask, "Why don't your country liberate you!—it rests solely with them."

Your petitioners feel confident, from the justness of their claim to the interference and protection of the constituted authorities of their country, measures will be adopted to restore them to liberty; and having no doubt but your honorable body will afford them that protection which citizens have a right to claim from their country, your petitioners beg that your honorable body will convey them an answer, and your petitioners, as in duty bound, will ever pray, &c.

Robert Saunders, Benjamin Davis, Henry Sperry, Joseph Hickle, Elleny King, William Long, Daniel Newbury, Wm. Cartwright, Samuel Tozier, James Hyatt, Abram Head, Robert Stevenson, Samuel Price, Robert Reins, Hugh Smith, Benjamin Nicholson, Geo. Ferguson, Wm. Pride, Pompey Grant, David Heckle, Bennett B. Negus, John Moore, John M. Elliot, Henry Ingersoll, John Parcels, John Hayes, David Winton, Matthew Buchanan, Alexander Buchanan, Jas. W. Grant, John Edsall, Thomas Gill, Joseph Benlett, Phineas Raymond, Peter Nautly, Stephen Burtis.

Carthagena, *August* 12, 1808.

On my arrival at this place, I was applied to in behalf of the unfortunate men captured under the orders of General Miranda, who are under sentence of transportation to the different public works at Omoa, Porto Rico, &c., among whom are several British subjects, (whose names are inserted below.) I am well aware of the enormity of their crime, as I understand they were taken without colors or papers; but, as a British officer, I consider it a duty to plead for those in distress, wherever they may be found; and I trust, from the known lenity of your Excellency's character, I shall not plead in vain. The men in question are originally of British descent, and are allied to my nation by many ties. They have no Consul—no Minister—to prefer the prayer of their petition to your Excellency, having been prevented by the war between our nations from making known their situation to the President of the United States. Suffer me, therefore, to address your Excellency, and beg for their release, on a solemn promise that they will never be found again in arms on a similar occasion. As I am the bearer of welcome tidings to the inhabitants of the province under your Excellency's command, make me also the bearer of them to the unhappy sufferers now confined in Carthagena. It is true, I am unauthorized to make this request in the name of the British Government for the men in general, but I am convinced the step will be approved; and if your Excellency will lend a favorable ear to my petition, the circumstance will not pass unnoticed on their part; at all events, your Excellency will have the prayer of many individuals for your eternal happiness, and among them will be found (not the least fervent) those of your Excellency's most humble servant,

EDWARD KITTOE,
Com. H. B. M. ship Sabrina.

P. S.—If my request for the liberation of all General Miranda's men is by your Excellency deemed unreasonable or improper, I beg to confine it particularly to such as are British subjects: that is an indispensable duty I owe to them and to my country.

Names of British subjects under sentence of transportation at Carthagena.

John Moore, Peter Nautly, John Hayes, Thomas Gill, Joseph Bennett, James Grant, Samuel Tozier, Robert Stevenson, and Hugh Smith, (a boy.)

Vaults of St. Clara, Carthagena,
September 16, 1808.

Respected Sir: I have taken the liberty to direct to your care a memorial of thirty-six American citizens, who have been lying in shackles more than two years—a great proportion of which time in stocks, upon the broad of their backs, not even taken out to answer the ordinary calls of nature—with the request that you would present, or procure it to be presented to the Legislature of the U. States; and, should it be acted upon the approaching session of Congress, to be good enough, by the first convenient opportunity, to acquaint us with what is to be done, and what prospect we have of being liberated from this loathsome confinement, little short of death. I enclose you a copy of a petition, which the commander of a British frigate presented to the Viceroy of this Kingdom, in our behalf, with liberty to publish it in the Telegraph, with a suitable caption, should you think proper. Indeed, I think it would serve our cause. However, its effect I submit to your better judgment, well convinced you will feel disposed to succor suffering humanity; and, if unable to bring to condign punishment the authors of our misfortunes, you will not withhold your aid to release us from this miserable condition. Our number has been reduced by deaths and escapes from forty-seven to thirty-six. I also enclose to your charge, a letter for my father, which I beg you would put on board some of the wood shallops belonging to Otter Point, which always may be found at the wharf, the foot of the Marsh market; or, if they cannot conveniently be found, to leave it at Mrs. Hay's, in Old Town, not far from Mr. Asque's, near the Baptist meeting, with the injunction to send it on as speedily as possible. For a description of the fraud and deception, which placed us in this unhappy situation, I refer you to the memorial itself.

I am your obedient, humble servant,

ROBERT SAUNDERS, Jr.

Mr. Thos. Dobbin, *Printer, Balt.*

The petition was referred to a committee, consisting of Messrs. McCreery, Love, Franklin, Daniel Montgomery, junior, and Thompson, to examine and report their opinion thereupon to the House.

TERRITORIAL GOVERNMENTS.

Mr. Poindexter, from the committee appointed on the subject, reported a bill concerning the power of the Territorial Governments. [The object of it is to take away from Governors of the Territories the power of proroguing or dissolving their Legislatures.]

The bill was twice read; and

Mr. Poindexter observed, that as the bill must stand or fall on its principle, and could not want amendment, he should wish to dispense with the usual course of reference to a Committee of the Whole, and that it should be engrossed for a third reading.

Mr. Troup hoped the House would not be precipitated unadvisedly into a decision of a question of this kind; that they would not break in upon a system which had served them so well without maturely deliberating upon it. The ordinance for the government of the Territories he considered as Constitutional law, and it should be viewed and treated with as much delicacy as the Constitution of the General Government itself. It had served them well, it had nurtured the Territories from infancy to maturity, and he hoped the House would not innovate on the system, but for the most substantial reasons. He therefore wished this bill to take the course of all other business, and go to a Committee of the Whole.

Mr. Poindexter said it was not his object to exclude deliberation by his motion; as the day for its third reading might be fixed a fortnight hence, if the gentleman from Georgia wished it. He knew the difficulty of getting up such bills when committed to a Committee of the Whole; he also knew that in a few days the House would be engaged in great national concerns, which would occupy their entire attention to the exclusion of other business of minor importance. The gentlemen seems to think (said Mr. P.) that to leave to the Governors of Territories of the United States powers which are fitted but for the Sovereigns of Europe is highly decorous; whilst I think they should be spurned from the statute book. The gentleman is mistaken when he says that we should view the ordinances in the same light as the Constitution; they are mere statutes. Placed by the Constitution under the particular care of Congress as the Territories are, the ordinances enacted for their government are mere statutes, subject to the revision of Congress, as other laws are.

Mr. Pitkin said the ordinances for the government of the Territories had been framed with great deliberation, and should always be considered as a compact between the General Government and its Territories. Whether an alteration could or could not be made without their consent, he would not undertake to say. He thought therefore in this case the usual rule should not be violated, for it was well known that no amendment could be received on the third reading of a bill.

Mr. Troup said, the gentleman from the Mississippi Territory had totally mistaken his object. It was not procrastination that he wanted, but a mature consideration of the question, whether on this day or on this day fortnight. When he had considered the ordinance as a compact equally sacred with the Constitution of the United States, and as unalterable without the consent of the parties to it, it was then that he considered this a question of such great and signal importance that he wished time for deliberation. And when he said this, he expressed the opinion of a man than whom no man in the country was more deeply read in its Constitution—St. George Tucker—who had described it as a compact unalterable, but with the consent of both parties. The gentleman would take away from the Territorial Governors the power to prorogue and dissolve the Assemblies. What would then be the state of the Territorial Legislatures? They would (said Mr. T.) be as completely independent of the General Government as the General Government is, I hope, of Great Britain at this moment. Retain the qualified veto, and take away the power to prorogue and dissolve, and what will be the consequence? The moment a misunderstanding takes place between the Legislature and Executive, legislation is at an end; and where legislation ends, revolution begins, and there is an end of government.

Mr. Poindexter said, at the suggestion of several gentlemen, he should consent to a reference of the bill to a committee, as he did not wish now to hasten the discussion. But the gentleman was mistaken if he supposed that taking away the power to prorogue, would deprive the Governors of their veto on laws. The Governors had an unqualified veto on the acts of the Legislature. The gentleman said, (observed Mr. P.) that take away the power of prorogation, and if a misunderstanding arise between the Governor and the Legislature, there is an end of legislation. That is now the fact. If there be any misunderstanding between them, the Governor sends the Legislature home; and I agree with the gentleman from Georgia, "where legislation ends, revolution begins." In this situation, I wish to take some power from the Governor and place it in the people, which would render the Government more congenial to the spirit of the Constitution and of the people of the United States. But I waive discussion and consent to reference.

The bill was made the order of the day for tomorrow.

FRANKING PRIVILEGE.

The bill reported yesterday, for authorizing the transportation by mail, free of postage, of the documents accompanying the President's Message, having been read a third time—

Mr. Randolph said it was very far from his intention to oppose the passage of this bill, as he should suppose there could be but one opinion on its final passage; but he submitted to the committee who reported the bill the propriety of acting on the subject generally, if they should think themselves authorized to do so; if not, after the passage of the bill, he would move a resolution to instruct the committee to report a bill to authorize the members of both branches of the Legislature to frank *all* public papers. He could not see the propriety of the law as it now stood, restricting packets to a certain weight; for if a member wished to send ten times the weight allowed by

law, he had nothing to do but to divide it into as many packets as it weighed ounces. *Cui bono?* For the benefit of the Postmaster of this place. The public is taxed, said he, two cents as many times as a document weighs ounces, when thus divided; and from this I understand that the Post Office here is perhaps the most lucrative in the Union. I acknowledge these remarks are not very pertinent; but as this bill is before the House, and no other business demands immediate attention, I thought it pertinent to ask the chairman of the committee whether the committee considered it within their function to report such a bill.

Mr. RHEA said that his own opinion was that the bill should be general; but the committee had not thought as he did.

The bill was passed without a division.

Mr. RANDOLPH then offered the following resolution adding to his former reasons, another: that the free packets paid a double duty—a tax at the office where they were received, and, by a special provision, he believed, a duty of two cents to the Postmaster here; and this did not prevent members from franking the most bulky packages, with this additional disadvantage, that if one part miscarried, the whole became useless:

Resolved, That provision ought to be made by law for sending free of postage, to and from members of Congress, all papers and documents touching the public service of the United States, or of any of the States or Territories thereof.

The resolution was passed, and referred to the Committee of Post Offices and Post Roads.

FOREIGN RELATIONS.

Mr. CHITTENDEN moved for the order of the day on his resolution on the subject of the embargo.

Mr. SMILIE thought, from the commencement of this business, they had taken an irregular course. In his opinion all the resolutions on this subject should have been referred to the committee on that part of the Message of the President of the United States relating to Foreign Relations. And to get at this object he moved to discharge the Committee of the Whole from the consideration of those resolutions.

The SPEAKER informed Mr. SMILIE that the motion could not be received while another was pending.

On the question to take up the order of the day, it was negatived—ayes 31.

Mr. COOK said he could not discern any disposition in the House to submit to the orders and decrees of Britain and France, and as the resolution which had been offered did not precisely meet his idea, he begged leave to submit another:

Resolved, That the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, be repealed, so far as to permit the vessels of the United States, to depart with their cargoes for those countries not subject to the decrees of France, nor the orders of the British Council: and

That the citizens of the United States be authorized by law to arm and equip their merchant vessels for the purpose of defending them against French and British cruisers, who may molest them when bound to any port or place not actually invested or blockaded.

On the suggestion of Mr. ELLIOT, the SPEAKER observed that the first clause of the resolution had been moved by Mr. MUMFORD, and was already before the House.

The second clause was then referred to the same committee to whom resolutions on the same subject have been referred.

THURSDAY, November 17.

Another member, to wit: DENNIS SMELT, from Georgia, appeared, and took his seat in the House.

Mr. SAY presented a memorial from sundry persons in the city of Philadelphia, stating that they have at great labor and expense erected a manufactory of shot; and praying that, to encourage the domestic manufacture, a duty be laid on all imported shot.—Referred to the Committee of Commerce and Manufactures.

PETITIONS FOR REPEAL OF THE EMBARGO.

Mr. LIVERMORE said he held in his hand several petitions from inhabitants of the State of Massachusetts, signed by between four and five thousand persons, praying for a repeal of the embargo laws.

One of the petitions (from Newburyport) was read.

[In this petition the following sentence was twice read, by desire of one of the members:

"Your memorialists would further represent to your honorable body that they have witnessed with great surprise and alarm a systematic attempt among the enemies of the people to excite a belief that our nation has in its power only a choice of evils; that an embargo, or war with Great Britain, is our only alternative, an opinion which appears to your memorialists wholly devoid of foundation. Whatever injuries the United States may have sustained from that Power, we cannot perceive that a war with her would be either necessary or just, whilst she evinces on her part a disposition for an amicable settlement of all subjects of controversy; and especially, when we view her as almost alone maintaining a contest, on the successful issue of which depend the rights and liberties of the civilized world."]

Mr. LIVERMORE said as the other petitions were precisely similar, he moved that their reading be dispensed with, and that they be referred to the Committee of the Whole to whom several resolutions on the subject have been referred.

The SPEAKER proceeding to put the question on reference—

Mr. D. R. WILLIAMS said, as he understood the same sentiments were repeated in all, and as there were sentiments expressed in the first which he could not understand, he called for the reading of another of them.

Mr. LIVERMORE said he had no objection.

Another of the petitions was then read, and they were all referred, without opposition, to the committee to whom several resolutions on the same subject have been referred.

Mr. LIVERMORE moved that the petition be printed—Negatived, 17 only rising in favor of it.

FOREIGN RELATIONS.

Mr. MACON said, already had many resolutions been submitted to the consideration of the House on the subject of our foreign relations, and the embargo; some for a total and some for a partial repeal of it. As none of the motions had met his entire approbation, and as he considered this as one of the most important questions that could come before the House, he wished to submit to the House two or three propositions; which he wished to take a course different from that which had been given to the others on the same subject.

I have been astonished (said Mr. M.) to see so many resolutions on the subject of the embargo, and none contemplating its entire continuance. Is the American nation ready to bow the neck? Are we ready to submit to be taxed by Great Britain and France, as if we were their colonies? Where is that spirit which for this reason separated us from the nations of Europe? Where is that spirit which enforced a simple resolution of the old Congress, not then binding upon the people, as a law from Heaven? Is it extinct? Is it lost to this nation? Has the love of gain superseded every other motive in the breasts of Americans? Shall the majority govern, or shall a few wicked and abandoned men drive this nation from the ground it has taken? Is it come to this, that a law constitutionally enacted, even after a formal decision in favor of its constitutionality, cannot be enforced? Shall the nation give way to an opposition of a few, and those the most profligate part of the community? I think the stand we took last year was a proper one; and I am for taking every measure for enabling the nation to maintain it. Just as our measure is beginning to operate, just as provisions are becoming scarce in the West Indies and elsewhere, notwithstanding the evasions of our law, we are called upon to repeal it. I should not have made this motion at this time, had it not been for the petition just presented. When I stand here, sir, charged by a part of the community with being one of "the enemies of the people," notwithstanding I am willing to commit the petition, treating it with that respect which I conceive to be due from us to the prayer of any portion of the people, I wish my sentiments on this subject to be seen.

A proclamation has been issued by one of the belligerents since the passage of our embargo law, sir. Look at it. What says it? Clearance or no clearance, we will receive any neutral vessel into our ports; and, in speaking of neutrals, recollect that there is no nation in the civilized world that has a claim to the title, except ourselves. This proclamation then tells our citizens "Evade the laws of your country, and we will receive and protect you." This is the plain English of it.

If the mad Powers of Europe had entered into compact to injure us as much as they could, they could not have taken a more direct course to it. I consider them both alike, and the measures I would take would place them both on the same footing. I have made my resolutions as general as possible, to give all latitude to the committee.

Mr. M. then read his resolutions, as follows:

"*Resolved*, That the committee appointed on that part of the President's Message which relates to our foreign relations, be instructed to inquire into the expediency of excluding by law from the ports, harbors, and waters of the United States, all armed ships and vessels belonging to any of the belligerent Powers having in force orders or decrees violating the lawful commerce of the United States as a nation.

"*Resolved*, That the same committee be instructed to inquire into the expediency of prohibiting by law the admission into the ports, harbors, and waters of the United States, any ship or vessel belonging to or coming from any place in the possession of any of the above-mentioned Powers, and also the importation of any goods, wares, and merchandise, the growth, produce and manufacture of the dominions of any of the said Powers.

"*Resolved*, That the same committee be instructed to inquire into the expediency of amending the act laying an embargo, and the severals acts supplementary and additional thereto."

On the subject of the first of these resolutions (said Mr. M.) it might be proper to interdict the entrance of all armed vessels, although I have confined the interdiction to the belligerents. A certain time might be fixed on which the second should go into operation.

I have thought proper, sir, to bring forward all these resolutions together, to show my own opinion on what ought to be done. It is time for those who think the embargo a lawful and proper measure to come forward and declare it. No other person having as yet thought proper to do it I have now done it. I believe the embargo was right; that it was right to pass laws to enforce it; and believing this, I feel no hesitation in avowing it. Time has been when the impressment of our seamen was cried out against by a large majority of Congress. Now the cry is, that we will not let them go out and be taken. For if they go out they must be taken. Neither of the two great Powers of Europe have shown the least disposition to relax their measures; neither I hope shall we. I believe we have but three alternatives—*war*, *embargo*, or *submission*. The last I discard; this nation never would submit; nor are there many people in it that would. That is out of the question; then, the only question is, whether in the present state of the world, the embargo or war is the best for us? Arm your merchantmen, as has been proposed, send them out, and you have war directly. If we are to have war, I should rather have it openly, and let the nation know that we mean it. I am for the embargo yet. I am told flour is from thirty to fifty dollars a barrel in the West Indies; I am also told that wheat is fourteen shillings sterling a bushel in England. This must have an effect, if adhered to, through Spain and Portugal. France if she carries her armies into that country, cannot support them. Nor can Spain support her own armies, and at the same time those Great Britain sends there; for where war is waged, almost all agriculture is destroyed; and it only requires firmness in us to force them both by this measure to acknowledge

our rights. If I am mistaken in my opinion, I wish that measure to be adopted which may best maintain our rights and independence.

It is not the embargo which causes the pressure on the people. No, sir; it is the orders and decrees of England and France. Take a license from England, and you may trade, but on no other terms. Let an officer of the British fleet visit your vessel, and France will condemn it. These are the things which destroy commerce. The country in which I live feels the measure as much as any; they are agriculturists, and their crops remain unsold; and if they will do without the principal, and resist imposition by withholding their produce, those who make a profit by the freight of our produce, may afford to lose that profit. Can any man tell what would be the consequence of war, in these times? In common war some regard is had to the laws of nations by belligerents, and they fight each other. In the present war the belligerents disregard the laws of nations, and fight every one but one another.

Mr. M. concluded by saying that he was aware that he had said nothing new, nor could anything new be said. The documents published at the last session and those published now put the subject in so complete a point of view, that it was impossible to add light to them.

The House agreed to consider the resolutions.

Mr. Alston suggested to his colleague the propriety of referring the last resolution to the Committee of Commerce and Manufactures, who had last session reported all the bills amendatory to the embargo laws.

Mr. Macon said he meant nothing less than disrespect to the Committee of Commerce and Manufactures, but he wished all the resolutions to go to one committee, that they might have the whole system before them.

Mr. Dana made a few observations which were not distinctly heard. He thought that an agreement to the third resolution would commit the House on the subject of the embargo; and suggested the propriety of taking the question on each separately.

Mr. Quincy said he wished the last resolution to be separated from the first, as the House would be committed by its adoption. Not that he wished to avoid a discussion of that subject, for he wished for nothing so much as that the House would permit them to go into a discussion of the subject in Committee of the Whole. [Mr. Macon consented that the last resolution should lie on the table.] Mr. Q. said he wished to press a discussion on the subject of the embargo; for such was the state of public opinion in the Northern part of the Union that but one general sentiment prevailed, that the embargo would be immediately raised. Instead of postponing the subject from day to day, he only wished it to come before the House that gentlemen might understand one another, and put an end to the doubts that now existed.

The first and second resolutions offered by Mr. Macon, were agreed to without a division. The third was ordered to lie on the table—yeas 78.

THE EMBARGO.

On motion of Mr. Chittenden that the House do now, according to the order of the day, resolve itself into a Committee of the Whole on a resolution moved on the tenth instant, relative to a repeal of the several acts laying an embargo on all ships and vessels in the ports and harbors of the United States; and the question being taken thereupon, it passed in the negative—yeas 56, nays 58, as follows:

Yeas—Lemuel J. Alston, Burwell Bassett, William Blackledge, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, Richard S. Jackson, Robert Jenkins, James Kelly, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, junior, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Russell, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, David R. Williams, and Nathan Wilson.

Nays—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Meshack Franklin, James M. Garnett, Thomas Gholson, junior, Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Isley, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Love, William McCreery, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Henry Southard, Clement Storer, John Thompson, Abram Trigg, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, and Alexander Wilson.

Friday, November 18.

Mr. Holmes, from the Committee of Claims, made reports favorable to the petitions of sundry inhabitants of Knox county, Kentucky, and of Daniel Cotton; which were referred to the Committee of the Whole.

Mr. Morrow presented the petition of sundry inhabitants of the State of Ohio, stating that, in consequence of not being able to make payment of the purchase money due for public lands, their purchases are liable to forfeiture.

[The petition contains the following sentence:

"Notwithstanding your petitioners find their means of payment suspended, and sincerely regret the causes which have produced the scarcity of circulating medium, and the loss of a market, yet we are decidedly of opinion that the measures pursued by the General Government were those, and those only, that saved our country from the evils and distresses of war, and which measures we are willing to support with our lives as well as our property."]

The petition was referred to the Committee of Public Lands.

Mr. Quincy moved that it be printed for the use of the members; negatived—ayes 20.

Mr. Lewis presented a petition of the Vestry of the Episcopal Church, in the town of Alexandria, praying that a law may be passed, authorizing the petitioners to raise, by way of lottery, the sum of twelve thousand dollars, for the purpose of building a new church, and the purchase of a burial ground within the said town, or its vicinity.—Referred to the Committee for the District of Columbia.

The Speaker laid before the House a letter from the President of the Legislative Council of Indiana Territory, enclosing a report of a Committee of the House of Representatives of the said Territory, adopted by the said House; also, the copy of a petition from sundry inhabitants of that Territory, in opposition to the admission of slavery or involuntary servitude within the same.

The Speaker laid before the House certain resolutions of the Legislative Council of the Indiana Territory, relative to the election of members of the said Council by citizens of the said Territory entitled to vote for Representatives to the General Assembly of that Territory; and that the continuance in office of the members of the Council shall be for the term of four years only.—Read, and ordered to lie on the table.

The Speaker laid before the House a certificate from the Legislative Council and House of Representatives of the said Territory of the election of Jesse B. Thomas, to serve in this House as the Delegate in Congress for the said Territory, in the room of Benjamin Parke, who has resigned his seat; which was read, and referred to the Committee of Elections.

Mr. Rhea, of Tennessee, from the Committee on Post Offices and Post Roads, presented a bill to authorize the conveyance of certain papers and documents, by the mail, free of postage; which was read twice, and ordered to be engrossed, and read the third time on Monday next.

Mr. Gholson presented the petition of Amey Dardin, of the county of Mecklenburg, in the State of Virginia, widow and relict of David Dardin, deceased, praying compensation for the value of a horse called Romulus, which was impressed into the service of the Continental army during the Revolutionary war with Great Britain.—Referred to the Committee of Claims.

TERRITORIAL GOVERNMENTS.

On motion of Mr. Poindexter, the House resolved itself into a Committee of the Whole, on the bill concerning Territorial Governments.

The bill having been read—

Mr. Bibb said, that if the House were now called upon for the first time to pass an ordinance for the government of the Territories of the United States, he should attach very little importance to the decision of the present question. But he considered it not now an abstract question of expediency, but as one of great moment, from the circumstances with which it was connected. He denied the right of the House to pass the bill; and if they had not the right, it was surely unnecessary to argue the question on the ground of policy. It would be recollected that the Mississippi Territory was formerly the property of the State of Georgia, and ceded by that State to the United States on certain conditions, one of which was that the ordinance for the government of the Territory Northwest of the Ohio should be the basis of the government of the Mississippi Territory. If this, said he, be one of the conditions of a compact between the United States and Georgia, surely the United States have no right to infringe it without the consent of Georgia; and I, as one of her Representatives, formally protest against the passage of this bill. It may be said, that Georgia is very little interested in the abstract question, whether the Governor should or should not have the power of prorogation; but, if a right exists to alter one part of the ordinance without the consent of Georgia, it certainly implies a power to alter it in every part.

Mr. Troup moved that the Committee rise and report progress.

Mr. Poindexter inquired of the gentleman, what was his object in making this motion?

Mr. Troup said, his object was that the Committee should rise and report progress, and give him an opportunity of making a motion that the further consideration thereof be indefinitely postponed; and he made the motion for the best of all possible reasons—that the Committee had no reason before it to induce it to act otherwise.

Mr. Poindexter said, he would state the reasons for which he had introduced the bill, and which would, he hoped, insure it the sanction of the Committee. I will, in the first place, said Mr. P., advert to that part of the ordinance which is proposed to be amended by the bill under consideration. In the ordinance for the government of the Northwestern Territory will be found this article: "The Governor shall have power to prorogue and dissolve the General Assembly, when, in his opinion, it shall be expedient." The bill proposes to take away this power, as being arbitrary and oppressive in the extreme, and incompatible with the Constitution of the United States. This ordinance was passed previous to the adoption of the Federal Constitution, and if it had been the subject of consideration subsequent to its adoption, this provision had never been inserted, giving to Governors of Territories a power paramount to any power possessed by the President of the United States. Take away this power and a Governor will still have left the power of negativing all acts, so that none can pass without his assent; and, being the agent of the General Government, he would give consent to no law incompatible with the interests of the United States.

It has been said that the ordinance cannot be altered without the common consent of the parties to it, and that the State of Georgia must be called upon to give its assent before the Congress can alter it. There are two parts of this ordinance; the first contains the form of government, and the second several articles of compact which are declared unalterable but with common consent. After reciting the form of government, the ordinance says:

"The following articles shall be considered as articles of compact between the original States and the people of the States in the said Territory, and forever remain unalterable, unless by common consent, to wit."

[Here follow six articles.] The ordinance declares that which follows the declaration to be unalterable, but by common consent; it follows of consequence that that which precedes the declaration is alterable. Independent of this reasoning, which cannot be refuted, at every session since we have been a Territory, there have been laws passed altering the ordinance in some shape or other. For example, the ordinance requires two judges to hold a court; and, in a variety of instances, Congress has legislated with respect to the form of government of the Territory. I had supposed that the articles of agreement between the United States and Georgia had become obsolete, with respect to the imagined necessity of the consent of Georgia to legislation on the subject of the Territory. It was urged at the last session with all the eloquence which the gentlemen from Georgia are in so great a degree possessed, and disregarded; for it was decided by both Houses that the United States had a right to rule the Territory without the consent of Georgia.

The Constitution of the United States says that Congress shall "have power to dispose of 'and make all needful rules and regulations re-'specting the territory or other property belong-'ing to the United States." Can an agreement arising from the exercise of this power, supersede the right of exercising the power expressly delegated by the Constitution itself? Certainly not.

On the ground of policy, I presume, that there is no gentleman who will contend that the power of which I wish to deprive the Governors, ought to be retained. The gentleman from Georgia himself says, that if he were about to frame an original ordinance, he would not think of such a power. As the opinion of Judge Tucker has been referred to on one subject, I will refer to it on the subject of prerogative. Let it be recollected, that the power to prorogue and dissolve is one of the highest prerogatives of the King of England; that it crept into the governments of his colonies, and thence into this ordinance, previous to the adoption of the Constitution. It now remains for the United States to say, whether they will copy after Great Britain, and because it is a high prerogative, give the Governors of the Territories of the United States the same powers as she gives to her Territorial Governors. I trust it will be expunged.

"The title 'prerogative,' it is presumed, was annihilated in America with the Kingly Government." "This definition (of prerogative) is enough to make a citizen of the United States shudder at the recollection that he was born under a Government in which such doctrines were received as catholic," &c.

This is the opinion of Judge Tucker. Is not this sufficient to induce us to take away from Governors this prerogative? Is not this feature modelled after the feature in the Government of England? Certainly; and that it is transferred from her Colonial Government, I can show by the present ordinance for the government of Canada, [to which Mr. P. referred.] It is the same principle, and we have copied it.

I will not object to retain this power, if any gentleman can show any advantage to be gained by it. I will suppose an extreme case; that any of the Territories designed to commit treason, and the Legislature were to pass an act giving it their sanction; (and they have shown less treasonable disposition than some of the elder States, if we may judge from occurrences of a few years past)—could not the Governor put his negative on this law? There could be no such law without his consent. It is therefore entirely unnecessary, in any possible case, to give the Governor the arbitrary power of dissolving the Legislature.

There is a special reason, which has operated upon my mind as forcibly as the general reason in favor of the bill on the table. In the Territory which I have the honor to represent, we have been nearly twelve months without any Legislature. The Governor thought proper to dissolve the Assembly without any reason given, for the ordinance does not bind him to assign reasons for his acts. Within a few days, a new Council has been chosen, which may again be dissolved as soon as it meets, and the Territory again left without a Legislature, and no reason assigned for the procedure. Is it possible that this Government will sanction such arbitrary practices? If it does, it will be the first case since the Revolution in which such a procedure has been sanctioned. I beg leave to refer gentlemen to the glorious year 1776. I beg them to revert to that instrument, in which all the sins of our political father, George III, were delineated, and they will find that one of the charges against him was that he permitted his Governors to dissolve the Legislatures from time to time. Are we prepared to ingraft these arbitrary principles into our Constitution, and cherish them when practised in so arbitrary a manner? Instead of this ordinance being passed with deliberation, it must have passed originally *sub silentio*, and been adopted for all the new Territories without any discussion at all; for, if the principle had been investigated, it would never have been enacted into a law. In the Declaration of Independence it is stated that "he (George III) has dissolved Representative 'Houses repeatedly, for opposing, with manly 'firmness, his invasions on the rights of the peo-'ple." Here we see that, at that day, we complained of the arbitrary exercise of power, and I

hope that, at this day, we shall give it a death-blow. If any gentleman wishes to retain it, let him show a single possible case in which it can properly be exercised—never, but to gratify the ambition or caprice of an individual. The people elect Representatives and send them to legislate; if they do not please the Governor, he can say, "gentlemen, go to your homes—I dissolve you." Can there be any necessity for this? But I will not detain the House longer, except to express a hope that the Committee will not rise, unless it be to report the bill.

Mr. TROUP said he would state, in as few words as he could, his objections to the passage of the bill. It was only the day before yesterday that this bill had been introduced into the House, proposing to alter one part of the ordinance. To-day, a petition came from another Territory to alter another part of it. Before they adjourned, it was ten thousand to one that not a remnant of the ordinance would be left, with their good will.

I have before stated it as my opinion, said he, that the articles of the ordinance are a compact between the people of the States and of the Territories, unalterable but with the consent of both parties. With the permission of the House, I will read the opinion of Judge Tucker on this subject:

"Congress, under the former confederation, passed an ordinance July 13, 1787, for the government of the Territory of the United States Northwest of the Ohio, which contained, among other things, six articles, which were to be considered as articles of compact between the original States and the people and States of said Territory, and to remain unalterable, except by common consent. These articles appear to have been confirmed by the sixth article of the Constitution, which declares, that all debts contracted and engagements entered into, before the adoption of the Constitution, shall be as valid against the United States under the Constitution as under the Confederation."

In this case there are not only two but three parties to the articles—the United States, the State of Georgia, and the people of the Territories. You will recollect, as my colleague properly stated to you, that the right of soil and jurisdiction of this Territory was originally in the people of Georgia. Of course Georgia had power to prescribe for the Territory what form of government she pleased, provided it was republican. By the articles of cession, the right of soil and jurisdiction was ceded to the people of the United States, on the express condition that the articles of the ordinance should form the government of the Mississippi Territory, and that they should not be governed otherwise. The inference inevitably is, that the State of Georgia would not have ceded but upon the express condition; and this inference is the more inevitable, inasmuch as, in this clause, Georgia has made an express exception to a particular article in the ordinance; from which, I say that Georgia intended that no other alteration should be made.

What was the policy of the ordinance, and what the object of its framers? Why, assuredly, to render the governments of the Territories dependent on the Government of the United States. And how was it to be effected? By making the Territorial Legislature in a great degree dependent on the Governor, and him absolutely dependent on the Federal Executive. The moment we make the Legislature of a Territory independent of its Executive, we make it independent of the Federal Government.

And again, as my colleague has correctly told you, if you have a right to repeal one part of the ordinance, you have a right to repeal another part, and so overturn the whole system at a blow. If so, what will be the effect on the articles of cession and agreement between you and Georgia? I will tell you. By the articles of cession you reserve to yourself the right of disposing of the Territory; you also agree to pay Georgia, one million two hundred and fifty thousand dollars out of the product of the first sales of the land. Suppose you transferred to the independent Legislature of the Mississippi Territory the right to dispose of this Territory, what security has Georgia for the payment of her one million two hundred and fifty thousand dollars? Moreover, I feel every disposition to treat with respect the people of the Mississippi Territory, and particularly as I perceive that they approve of that course of our Government, in which I most heartily concur; yet I must say that a large majority of the people have a landed interest distinct from that of the Government of the United States. Take away from the Governor his power to prorogue and dissolve, leave him the veto, and there will soon be collision. The Legislature passes an act; the Governor puts his veto on it. The Legislature stands out, and the Governor will not yield, and eventually you may, perhaps, have to decide the question of Territorial property by the sword. Recollect, that upward of six thousand people have gone over in the present year, with every apparent intention to force a settlement against your interest and that of Georgia. I am very glad that the military have received orders to disperse them. I trust that they will be dispersed, and that every man who stands forth in resistance will be put to the sword.

But the gentleman from Mississippi Territory is certainly mistaken as to one point. He seems to consider the Constitution of the United States as giving to the people of the Territories the same rights as the people of the States. It is a mistaken idea, neither warranted by the letter or spirit of the Constitution. For although the Constitution has declared that the people of one State are entitled to all the rights and privileges of another, yet it has not declared that the people of the Territories have the same rights as the people of the States. In another part of the Constitution it is, indeed, expressly declared that Congress shall make all laws for the disposal of the Territories; but there is a salvo, that all acts done and contracts made previous to the adoption of the Constitution, shall be as binding as if done afterward. The articles of the ordinance were

enacted previously, and are consequently binding under the Constitution. It cannot be controverted, that they were wisely adopted, and have been salutary in their operation. They were framed by the Congress of '87, composed of men whose integrity was incorruptible, and judgment almost infallible. These articles, from that time to this, have remained unaltered, and carried the Territories through difficulties, almost insuperable, to prosperity. And now, for the first or second time, an alteration is proposed, the consequence of which cannot be foreseen, without any evidence that it is either necessary or expedient.

The population of every new country must necessarily be composed of a heterogeneous mixture of various tempers, characters, and interests. In a population thus composed, it would be highly ridiculous to expect that love of order and obedience to law would always predominate. Therefore the old Congress wisely reserved to itself the right to control them; to give the Governor power, when a Legislature became disorderly, to dissolve them; and for the exercise of this power he is accountable to the General Government.

The gentleman from Mississippi wishes us not to treat the Territories as children, whose wild extravagancies may require correcting by the indulgent hand of their parents, but as the equals of the States, without any other reason than that which he states to be the situation of the people of his Territory. They will next wish us to admit them into the Union before their population will authorize it; tell us that that Territory does not grow fast enough, and we must demolish the system for their convenience.

Mr. T. adverted to the representation made by Mr. Poindexter, of the state of things now existing in the Mississippi Territory. If such were the situation of the Territory, and Mr. T. said he sincerely regretted it, he could put the gentleman in a way of settling the dispute in a regular and Constitutional way, and which would be the most prudent and advisable. Certainly, in this dispute, one of the parties must be right and the other wrong. They had nothing to do but prefer their complaints before the proper authority, and, if they were there substantiated, they would obtain redress of their wrongs. If, on the contrary, the people were wrong and the Governor right, the wisdom of this part of the ordinance would be proved beyond question.

Mr. Poindexter observed that the gentleman from Georgia had set out with telling the House that if the Legislature were made independent of the Governor, they could pass any law they pleased respecting land titles. The gentleman could not have looked at the ordinance, for there was an express provision that the Legislature should "never interfere with the primary disposal of the 'soil by the United States in Congress assembled, 'nor with any regulations Congress may find necessary for securing the title in such soil," &c. Independent of this, it is control sufficient if the Governor have a veto on the laws. The gentleman has told you, said Mr. P., that these articles are unalterable but with common consent. When up before, I read that part which is unalterable. It is the articles of ordinance and not the form of government; and to this Judge Tucker refers when he speaks of it. The gentleman has said, that the situation of the people would not be bettered by taking away the power, if the veto were left. In my opinion it would be ameliorated. Let the Governor retain his veto, but let them remain in session, and pass laws, that the General Government may see whether such laws are worthy of rejection or of approbation. Now, if the Governor discovers them about to pass a law or do an act he does not like, he sends them home. Lop off a little of this Executive power, and let the Legislature pass laws which he may negative, and the General Government will have an opportunity of seeing that the Governor will not consent to proper laws. Trust your Executive and distrust the people, and you sap the foundation of the Government. Whatever leads to the conclusion that the people are always wrong and the Executive right, strikes at the root of republican institutions.

The gentleman has spoken of the wildness and extravagance of the people of the Mississippi Territory. Does he recollect the invasion of the Spaniards two years ago? That, at a few days' notice, at the requisition of the Commander-in-Chief, a detachment of two hundred and fifty militia were sixty miles on their march? When an arch traitor from the East designed to sever the Union, the people of the Territory, without call, assembled near the city of Natchez, and arrested the traitor. These proceedings cannot be exceeded even by the spirit or prudence of the State of Georgia. I hope the indignation of this House will be displayed at these insinuations against the motives of people who have manifested the greatest patriotism. In respect to the late measures of the General Government, no people feel them more severely than the people of Mississippi, and no people better support them. There may be symptoms of wildness and extravagance, but they show a submission to the laws and measures of the Union.

The gentleman talks of tender parents. If he considers the State of Georgia as one of our tender parents, I protest against it. Although she be one of our parents, there has been no proposition ever made on this floor, for the good of the Territory, which has not met the opposition of that State. But these are subjects on which I will not dwell.

The gentleman has stated that a number of people have gone over to the Mississippi Territory to settle lands, against the express provisions of the law. That, under the pretext of a purchase from an Indian, named Double Head, people have gone over to settle lands, is true; but from where? From Georgia. They are citizens of Georgia; people nurtured by this tender parent into a state of manhood, and unwilling to participate longer in the tender cares of the State of Georgia. They have been, very properly, ordered to be driven off by military force, because they have infringed a law of the United States.

But these things do not touch the present question. I now propose to take away a power which has been, by mistake, incorporated into the Constitution of a free people.

Mr. Bibb said that the State of Georgia had never undertaken to legislate for the Mississippi Territory; but there was a compact existing between the United States and Georgia, and he called upon the United States to adhere to it. They dared not violate it, except they could violate the most solemn compact—the Constitution.

Mr. Troup observed that, it had been said this power of the Governor was a badge of slavery copied from the British constitution. That in many things they had been copied too far, he agreed; but as to this prerogative, it was no such badge of slavery, and was found not only in the articles of the ordinance, but in the constitutions of various States, qualified in a greater or less degree. Mr. T. quoted the constitutions of New York and Massachusetts, both which States had been considered republican. Massachusetts, to be sure, was a little wavering now, but he hoped she had not quite gone over to the enemy yet. These constitutions gave a qualified prerogative to the Governor of the State.

The Committee now rose—58 to 36.

Mr. Troup moved that the further consideration of the bill be postponed indefinitely—[equivalent to rejection.]

Mr. Poindexter calling for the yeas and nays on the motion, it was decided—yeas 57, nays 52, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, William W. Bibb, William Blackledge, John Blake, junior, Adam Boyd, Robert Brown, Joseph Calhoun, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, jun., William Ely, William Findley, Francis Gardner, Charles Goldsborough, Edwin Gray, John Heister, William Hoge, Richard S. Jackson, Robert Jenkins, Walter Jones, James Kelly, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Robert Marion, William McCreery, William Milnor, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Russell, Dennis Smelt, Henry Southard, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, George M. Troup, Jabez Upham, James I. Van Alen, Daniel C. Verplanck Robert Whitehill, David R. Williams, and Nathan Wilson.

Nays—Joseph Barker, Burwell Bassett, William A. Burwell, William Butler, Matthew Clay, John Clopton, John Culpeper, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard M. Johnson Nathaniel Macon, Daniel Montgomery, junior, John Montgomery, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, Clement Storer, John Thompson, Archibald Van Horn, Jesse Wharton, Isaac Wilbour, and Alexander Wilson.

So the bill was postponed indefinitely.

Monday, November 21.

Another member, to wit: John Boyle, from Kentucky, appeared and took his seat in the House.

Mr. Howard presented a petition of sundry inhabitants of the State of Kentucky, stating that the King of Great Britain having, by his proclamation of the sixteenth of October, one thousand eight hundred and seven, claimed the allegiance of all persons who may have been born in his dominions, and were not inhabitants of the United States of America at the period of their Revolution, and disregarding the laws of naturalization in other countries, hath authorized the impressment into his service of his pretended subjects, and treated as traitors such as may have taken up arms against him in the service of their adopted country; the petitioners being, at the present time, precluded from the privilege of following commercial pursuits on the high seas in safety, therefore pray that such measures be adopted by Congress as may effectually resist the unjust assumption of power claimed and exercised by a foreign nation; and pledging themselves to support with their lives and fortunes whatever steps may be taken, or acts passed, by the General Government, for the welfare of the Union.—Referred to Mr. Howard, Mr. John Morrow, and Mr. Harris, to examine the matter thereof, and report their opinion thereupon to the House.

Mr. Lewis presented a petition of the Common Council of the town of Alexandria, in the Territory of Columbia, praying that the petitioners may be invested with power to establish and regulate, by law, such inspections of articles of the growth, produce, or manufactures of the United States, offered for sale or exportation within the said town, as they may, from time to time, deem advantageous; also, that certain regulations relative to debtors and judicial process, in the town of Alexandria, may be adopted, for the convenience and benefit of the inhabitants thereof.

The said petition was read and ordered to be referred to the Committee for the District of Columbia.

An engrossed bill to authorize the conveyance of papers and documents by the mail, free of postage, was read the third time, and passed.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, to whom was referred, on the eighth instant, a memorial of the House of Representatives of the Mississippi Territory, made a report thereon; which was read, and ordered to lie on the table.

On a motion made by Mr. Dana, that the House do come to the following resolution:

Resolved, That it is expedient to provide for regulating the conduct of such merchant vessels as, by

agreement of the respective owners, may sail in concert for mutual assistance and defence, in cases which may be allowed by law; and also for settling, according to the course of proceeding in Courts of Admiralty, the respective rates of contribution to be made between them, on account of any loss or damage which may be thereby incurred:

The resolution was read, and referred to the Committee of the Whole to whom was committed a resolution moved by Mr. CHITTENDEN, on the tenth instant.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill authorizing the President to employ twelve additional revenue cutters; which was read twice, and committed to a Committee of the Whole House to-morrow.

On motion of Mr. J. G. JACKSON.

Ordered, That the memorial of Return Jonathan Meigs and others, witnesses against Aaron Burr, attending the circuit court for the Virginia district, presented the ninth of November, one thousand eight hundred and seven, be referred to Mr. JACKSON, Mr. HEISTER, and Mr. N. WILSON, to examine and report their opinion thereupon to the House.

MIRANDA'S EXPEDITION.

Mr. LOVE, from the committee to whom was referred, on the sixteenth instant, the petition of thirty-six citizens of the United States now confined at Carthagena, in South America, under sentence of slavery, made a report thereon; which was read, and ordered to be referred to a Committee of the Whole House to-morrow.

The report is as follows:

That it appears, from the statement of the petitioners, that, in February, 1806, they sailed from New York on board the Leander, a ship owned by Samuel G. Ogden, the command of which was, after getting to sea, assumed by General Miranda.

That, from New York, the said ship sailed to Jacmel, where the said Miranda procured two schooners, on board which the petitioners were placed, which, together with the Leander, sailed, under the command of Miranda, about the last of March, in the same year, for the northern parts of South America, and arrived on the coast of Terra Firma in the latter part of April following.

That, upon their arrival on the said coast, the two schooners, on board which the petitioners were embarked, were captured by two Spanish armed vessels; the ship Leander, with Miranda on board, having made her escape.

That the petitioners, together with ten others, were convicted by a Spanish tribunal, at Porto Cabello, of the crime of piracy, from the circumstances of suspicion which attached to their situation, and not from any act of that kind committed on the high seas; that the ten others abovementioned were sentenced to death, and the petitioners some to eight, others to ten years' slavery, which they now are suffering; some chained together, others closely confined under heavy irons and a guard, destined to other places and to similar punishment.

The petitioners state that they were entrapped into the service of the said Miranda, on the said expedition, by assurances, made at the time of their engagements, that they were to be employed in the service of the United States, and under the authority of the Government. For the truth of their statement, and a confirmation of the charges they make against certain persons of having thus deceived and betrayed them into an involuntary co-operation in the design of fitting out an armament against a nation in amity with the United States, they refer to the testimony of several persons, said to be inhabitants of the city of New York, and to have had proposals made to them similar to those by which the petitioners were induced to engage on board the Leander.

The petitioners also state that no opportunity was offered them of escaping from the service of the said Miranda and his associates; that they were restrained under the most rigorous discipline, and at Jacmel, the only place where an opportunity of escape might have been probable, they were strictly guarded to prevent it. For the truth of this they refer to certain captains of vessels then at Jacmel belonging to the ports of Philadelphia and Baltimore.

The committee further report that the foregoing statements of the petitioners are unaccompanied by any competent testimony in support of them, and, at the same time, are uncontradicted by any opposing circumstances; they are of opinion that a very strong probability of the petitioners not having been guilty of the crime of wilfully engaging in the unlawful expedition of Miranda attends their application: first, because the petitioners have made a detailed statement of facts relative to the deception practised on them, referring to such species of evidence as to render their contradiction easy, if not founded in truth, and thus lessen their claim on their country, and diminish their hopes of liberation; second, because it is presumed they were proven to the Spanish tribunal before which they were convicted to have been offenders in a secondary degree, those who were proven to have been more heinously guilty having been sentenced to suffer death.

The committee, however, are of opinion that, should the petitioners have been guilty of a crime against the United States by a voluntary or otherwise culpable infraction of its laws, the dictates of humanity, no less than the principles of justice, ought to influence the Legislature of the United States to adopt the proper means of restoring them to their country, in order that they may expiate the offence by a punishment suited to but not transcending the magnitude of their crime.

The committee, therefore, beg leave to submit the following resolution for the consideration of the House:

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain from the Viceroy of Grenada, in South America, or other proper authority, the liberation of thirty-six American citizens, condemned on a charge of piracy, and now held in slavery in the vaults of St. Clara, in Carthagena, and that the sum of —— dollars be appropriated for that purpose.

THE EMBARGO.

On a motion made by Mr. CHITTENDEN that the House do now resolve itself into a Committee of the Whole on a resolution submitted by him on the tenth instant, relative to a repeal of the several acts laying an embargo on all ships and vessels in the ports and harbors of the United States; and the question being taken thereupon, it passed in the negative—yeas 42, nays 71, as follows:

YEAS—Burwell Bassett, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, Edwin Gray, John Harris, William Helms, William Hoge, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jun., John Morrow, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, Dennis Smelt, John Smith, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, John Blake, jun., Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, William McCreery, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Alexander Wilson, and Nathan Wilson.

And on motion, the House adjourned until to-morrow.

TUESDAY, November 22.

Two other members, to wit: from New York, PHILIP VAN CORTLANDT, and from South Carolina, RICHARD WINN, appeared and took their seats in the House.

Mr. LEWIS presented a petition of the Washington and Alexandria Turnpike Company, and of sundry other inhabitants of the county of Alexandria, in the Territory of Columbia, praying a revision and amendment of a law, passed at the last session of Congress, entitled "An act for the establishment of a Turnpike Company in the county of Alexandria, in the District of Columbia."—Referred to the Committee for the District of Columbia.

On motion of Mr. VAN ALEN,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any amendment ought to be made relative to the compensations of the officers of the customs now allowed by law; with leave to report thereon by bill, or otherwise.

FOREIGN RELATIONS.

Mr. G. W. CAMPBELL, from the committee appointed, on the eleventh instant, on so much of the Message of the President of the United States, at the commencement of the present session, as respects our relations with foreign Powers, made a report in part thereon; which was read, and referred to a Committee of the Whole on Thursday next. The report is as follows:

The committee to whom was referred so much of the Message of the President of the United States, of the 3d instant, as respects our relations with foreign Powers, report in part—

After a period of twenty-five years of peace, hardly interrupted by transient hostilities, and of prosperity unparalleled in the history of nations, the United States are, for the first time since the treaty which terminated the Revolutionary War, placed in a situation equally difficult, critical, and dangerous.

Those principles, recognised by the civilized world under the name of law of nations, which heretofore controlled belligerent Powers, regulated the duties of neutrals and protected their rights, are now avowedly disregarded or forgotten by Great Britain and France. Each of those two nations captures and condemns all American vessels trading with her enemies or her enemy's allies; and every European Power having become a party in the contest, the whole of our commerce with Europe and European colonies, becomes liable to capture by either one or the other. If there be any nominal exception, it is made on a condition of tribute, which only adds insult to the injury.

The only plea urged in justification of those hostilities, is that of retaliation, grounded on a presumed acquiescence of the United States in previous aggressions by the other party. Waiving a discussion of the correctness of the principle of retaliation, a principle doubtful in itself, and altogether inadmissible to the extent to which it has been carried, and when operating on the neutral rather than on the enemy; it is altogether untrue that the United States have ever voluntarily acquiesced in the unlawful aggressions of either nation; omitted or delayed any measures calculated to obtain redress, or in any respect deviated from that impartiality to which they were bound by their neutrality. France has alluded to the violations of the national flag, and of the sovereignty of the United States, in the instances of Pierce's murder, of the outrage on the Chesapeake, and of the destruction of the Impetuous. The measures taken to obtain redress in those cases are of public notoriety, and it may be added, that, with the exception of the last, those aggressions on the sovereignty of the United States did not affect their neutrality, and gave no right to France either of complaint or interference. Setting aside irregularities of less importance and equally chargeable to both nations, such as the British Order of June, 1803, and the decree of the French General, Ferrand—the principal violations by England of the neutral rights of America, prior to the Berlin decree of November, 1806, and which, if acquiesced in, might have given grounds of complaint to France, are the capture of American vessels laden with Colonial produce, founded on a renewal of that pretended principle generally called "the rule of 1756," the impressment of American seamen, compelled thereby to become the auxiliaries of England against France, and proclamation or nominal blockades, particularly that of the coast from the river Elbe to Brest, notified in May, 1806.

It will not be asserted, that the United States ever tamely acquiesced in either of those pretensions. It will not be denied, that, with respect to the two first, the most strenuous efforts were incessantly made to procure an alteration of the British system.

It is true, that, to the nominal proclamation blockades of England, the United States had opposed only spirited and repeated remonstrances, and that these had not always been successful. But, the measures which a neutral nation may be supposed bound to take against the infractions of its neutrality, must always bear a certain proportion to the extent and nature of the injury received, and to the means of opposition. It cannot certainly be pretended that a hasty resort to war should in every such instance have become the duty of America. Nor, can the irregularities of England, in declaring in a state of blockade a certain extent of coast, part of which was not, and the whole of which could not, even by her powerful navy, be actually invested and blockaded, be plead in justification of that decree, by which France, without an efficient fleet, pretends to announce the blockade of the dominions of a Power which has the incontestable command of the sea, and before no port of which, she can station a single vessel.

The Milan decree of 1807 can still less rest for its defence on the supposed acquiescence of the United States in the British Orders of the preceding month, since those Orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree. And it is proper here to add, that the French have, particularly by the sequestration of certain vessels in their ports, and by burning our ships on the high seas, gone even beyond the tenor of their own extraordinary edicts.

The allegation of an acquiescence in the Berlin decree of November 1806, by which alone the British Government pretends to justify the Orders of Council, is equally unfounded. In the note on that subject, addressed on the 31st of December 1806, by the British Government to the American Ministers, after having stated that "they could not believe that the enemy would ever seriously attempt to enforce such a system," the following declaration is expressly made: "If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, His Majesty might probably be compelled, however reluctantly, to retaliate in his just defence," &c. The two requisites, necessary, in the opinion of Great Britain, to justify retaliation, are stated to be, the execution of the decree, and the acquiescence of neutral nations. Yet, within eight days after, and in the face of that declaration, without waiting for ascertaining either of those facts, the retaliating British Order of January 7th, 1807, was issued, which, contrary to the acknowledged law of nations, subjected to capture, vessels of the United States sailing from the ports of one belligerent to a port of another belligerent.

The United States, in the mean while, and without delay, had taken the necessary steps to ascertain the manner in which the French Government intended to execute their decree.

That decree might be construed merely as a municipal law forbidding the introduction of British merchandise, and the admission of vessels coming from England. Under that aspect, and if confined to that object, the neutral rights of America were not affected by its operation.

A belligerent may, without any infraction of neutral rights, forbid the admission into his ports of any vessel coming from the ports of his enemy; and France had undoubtedly the same right to exclude from her dominions every species of British merchandise, which the United States have exercised in forbidding the importation of certain species. Great Britain might be injured by such regulations; but America had no more right to complain of that part of the decree, than France had to object to the American Non-Importation Act. So far, indeed, as respects the United States, they were placed by the municipal part of the decree in the same situation, in relation to France, in which they are placed in their intercourse with Great Britain, by the permanent laws of that country. The French Decree forbids American vessels to import British merchandise into France. The British Navigation Act forbids American vessels to import French merchandise into England. But that broad clause of the Berlin Decree, which declared the British Islands in a state of blockade, though not followed by regulations to that effect, still threatened an intended operation on the high seas; this, if carried into effect, would be a flagrant violation of the neutral rights of the United States, and as such they would be bound to oppose it. The Minister of the United States at Paris immediately applied for explanation on that subject; and the French Minister of Marine, on the 24th December, 1806—seven days before the date of the above mentioned note of the British Government—stated, in answer, that the Decree made no alteration in the regulations then observed in France with regard to neutral navigation, or to the commercial convention of the United States with France; that the declaration of the British Islands being in a state of blockade did not change the existing French laws concerning maritime captures; and that American vessels could not be taken at sea for the mere reason of their being going to, or returning from, an English port.

The execution of the Decree comported for several months with those explanations: several vessels were arrested for having introduced articles of English manufacture or growth, and among them, some which, being actually from England, and laden with English colonial produce, had entered with forged papers, as if coming from the United States. But no alteration of the first construction given by the French Government took place until the month of September, 1807. The first condemnation on the principle that the Decree subjected neutral vessels to capture on the high seas, was that of the Horizon, on the 10th of October following. Prior to that time there could have been no acquiescence in a decree infringing the neutral rights of the United States, because, till that time it was explained, and, what was more important, executed in such manner as not to infringe those rights—because, until then no such infraction had taken place. The Ministers of the United States at London, at the request of the British Minister, communicated to him on the 18th October, 1807, the substance of the explanations received, and of the manner in which the Decree was executed; for they were at that time ignorant of the change which had taken place.

It was on the 18th of September, 1807, that a new construction of the decree took place; an instruction having on that day been transmitted to the Council of Prizes by the Minister of Justice, by which that court was informed, that French armed vessels were authorized, under that decree, to seize without exception, in neutral vessels, either English property or merchandise

of English growth or manufacture. An immediate explanation having been asked from the French Minister of Foreign Relations, he confirmed, in his answer of the 7th of October, 1807, the determination of his Government to adopt that construction. Its first application took place on the 10th of the same month, in the case of the Horizon, of which the Minister of the United States was not informed until the month of November; and on the 12th of that month, he presented a spirited remonstrance against that infraction of the neutral rights of the United States. He had, in the meantime, transmitted to America an instruction to the Council of Prizes of the 18th of September. This was received on the —— of December; and a copy of the decision in the case of the Horizon, having at the same time reached Government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French Decrees, and recommended the embargo, which was accordingly laid on the 22d of December, 1807; at which time it was well understood, in this country, that the British Orders of Council, of November preceding, had issued, although they were not officially communicated to our Government.

On the 11th of that month those orders did actually issue, declaring that all the ports of France, of her allies, and of any other country at war with England, and all other ports of Europe, from which, although not at war with England, the British flag was excluded, should thenceforth be considered as if the same were actually blockaded; that all trade in articles of the produce or manufactures of the said countries, should be deemed unlawful; and that every vessel trading from or to the said countries, together with all goods and merchandise on board, and also all articles of the produce or manufacture of the said countries, should be liable to capture and condemnation.

These orders cannot be defended on the ground of their being intended as retaliating on account of the Berlin Decree, as construed, and uniformly executed from its date to the 18th September, 1807, its construction and execution having till then infringed no neutral rights. For certainly the monstrous doctrine will not be asserted even by the British Government, that neutral nations are bound to resist, not only the acts of belligerent Powers which violate their rights, but also those municipal regulations, which, however they may injure the enemy, are lawful and do not affect the legitimate rights of the neutral. The only retaliation to be used in such cases, must be such as will operate on the enemy without infringing the rights of the neutral. If solely intended as a retaliation on the Berlin Decrees, as executed prior to the month of September, the British Orders of Council should have been confined to forbidding the introduction into Great Britain of French or enemy's merchandise, and the admission into British ports of neutral vessels coming from a French or other enemy's port. Indeed the ground of retaliation on account of any culpable acquiescence of neutrals in decrees violating their rights, is abandoned by the very tenor of the orders; their operations being extended to those countries from which the British flag was excluded, such as Austria, although such countries were neither at war with Great Britain, nor had passed any decree in any way affecting or connected with neutral rights.

Nor are the orders justifiable on the pretence of an acquiescence on the part of the United States in the French Decree, as construed and executed subsequent to the 18th September, 1807, when it became an evident infraction of their rights, and such as they were bound to oppose. For their Minister at Paris immediately made the necessary remonstrances; and the orders were issued not only without having ascertained whether the United States would acquiesce in the injurious alteration of the French Decree, but more than one month before that alteration was known in America. It may even be asserted that the alteration was not known in England when the Orders of Council were issued; the instruction of the 18th September, 1807, which gave the new and injurious construction, not having been promulgated in France, and its first publication having been made in December, 1807, and by the American Government itself.

The British Orders of Council are, therefore, unjustifiable on the principle of retaliation, even giving to that principle all the latitude which has ever been avowedly contended for. They are in open violation of the solemn declaration made by the British Ministers in December, 1806: that retaliation on the part of Great Britain would depend on the execution of an unlawful decree, and on the acquiescence of neutral nations in such infraction of their rights. And they were also issued, notwithstanding the official communication made by the Ministers of the United States, that the French Decree was construed and executed so as not to infringe their neutral rights, and without any previous notice or intimation denying the correctness of that statement.

The Berlin Decree as expounded and executed subsequent to the 18th September, 1807, and the British Orders of Council of the 11th November ensuing, are therefore, as they respect the United States, cotemporaneous aggressions of the belligerent Powers, equally unprovoked and equally indefensible on the presumed ground of acquiescence. These, together with the Milan Decree, of December, 1807, which filled the measure, would, on the principle of self-defence, have justified immediate hostilities against both nations on the part of the United States. They thought it more eligible, in the first instance, by withdrawing their vessels from the ocean, to avoid war, at least, for a season, and at the same time, to snatch their immense and defenceless commerce from impending destruction.

Another appeal has, in the meantime, been made, under the authority vested in the President for that purpose, to the justice and true interest of France and England. The proposition made by the United States and the arguments urged by their Ministers are before Congress. By these, the very pretext of the illegal edicts was removed and it is evident, that a revocation, by either nation, on the ground on which it was asked, either must have produced, what both pretended to have in view—a restoration of the freedom of commerce and of the acknowledged principles of the law of nations;—or, in case of refusal by the other belligerent, would have carried into effect, in the most efficient manner, the ostensible object of the edicts, and made the United States a party in the war against him. The effort has been ineffectual. The propositions have been actually rejected by one of the belligerent Powers, and remain unanswered by the other. In that state of things, what course ought the United States to pursue! Your committee can perceive no other alternative, but abject and degrading submission; war with both nations; or a continuance and enforcement of the present suspension of commerce.

The first cannot require any discussion. But the pressure of the embargo, so sensibly felt, and the calamities inseparable from a state of war, naturally create

a wish that some middle course might be discovered, which should avoid the evils of both, and not be inconsistent with national honor and independence. That illusion must be dissipated; and it is necessary that the people of the United States should fully understand the situation in which they are placed.

There is no other alternative, but war with both nations, or a continuance of the present system. For war with one of the belligerents only, would be submission to the edicts and will of the other; and a repeal in whole or in part of the embargo must necessarily be war or submission.

A general repeal without arming, would be submission to both nations.

A general repeal and arming of our merchant vessels, would be war with both, and war of the worst kind; suffering our enemies to plunder us without retaliation upon them.

A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other.

The last position is the only one on which there can be any doubt; and it will be most satisfactorily demonstrated by selecting among the several modifications which might be suggested, that which may on first view appear the least exceptionable—a proposition to repeal the embargo, so far only as relates to those Powers which have not passed or do not execute any decrees injurious to the neutral rights of the United States.

It is said that the adoption of that proposition would restore our commerce with the native Powers of Asia and Africa, and with Spain, Portugal, Sweden, and Russia. Let this be taken for granted, although the precise line of conduct now pursued by most of those nations in relation to the United States, is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of domestic produce of the United States, during the year ending the 30th September, 1807, amounted to $48,700,000, and that the portion exported to the countries above enumerated, falls short of seven millions; an amount too inconsiderable, when compared with the bulk of our exports, to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

But the true effect of the proposition would be to open an indirect trade with Great Britain, which, through St. Bartholomew and Havana, Lisbon, Cadiz, or Gotsenburg, would receive, at prices reduced by glutted markets and for want of competition, all the provisions, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favorable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenor of her orders, interrupt our scanty commerce with Russia, and occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant. Nor can it be doubted that a measure which would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then, at least, have the advantages of a direct market with the consumer. But the proposition can only be defended on the ground that France is the only aggressor, and that, having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified, as well as more advantageous course, openly to join England, and make war against France. The object would be clearly understood, an ally would be obtained, and the measure of submission might be better palliated.

It appears unnecessary to pursue any farther the examination of propositions, which the difficult situation of the United States could alone have suggested, and which will prove more inadmissible or impracticable as the subject is more thoroughly investigated. The alternative is painful; it is between a continued suspension of commerce, and war with both England and France. But the choice must ultimately be made between the two; and it is important that we should be prepared for either the one or the other.

The aggressions of England and France, collectively, affecting almost the whole of our commerce, and persisted in, notwithstanding repeated remonstrances, explanations, and propositions the most candid and unexceptionable, are, to all intents and purposes, a maritime war waged by both nations against the United States. It cannot be denied that the ultimate and only effectual mode of resisting that warfare, if persisted in, is war. A permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance; it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean. The present unsettled state of the world, the extraordinary situation in which the United States are placed, and the necessity, if war be resorted to, of making it at the same time against both nations, and these the two most powerful of the world, are the principal causes of hesitation. There would be none in resorting to that remedy, however calamitous, if a selection could be made on any principle of justice, or without a sacrifice of national independence.

On a question of such difficulty, involving the most important interests of the Union, and which has not, perhaps, until lately, been sufficiently considered, your committee think the House alone competent to pronounce a decisive opinion; and they have, in this report, confined themselves to an exposition of the subject, and to such introductory resolutions, as will be equally applicable to either alternative. The first of these, being merely declaratory of a determination not to submit to foreign aggressions, may, perhaps, at first view, appear superfluous. It is, however, believed by the committee, that a pledge by the Representatives of the nation, that they will not abandon its essential rights, will not at this critical moment be unacceptable. The misapprehensions which seem to have existed, and the misrepresentations which have been circulated, respecting the state of our foreign relations, render also such declaration expedient. And it may not be useless that every foreign nation should understand, that its aggressions never will be justified or encouraged by any description of American citizens. For the question for every citizen now is, whether he will rally round the Government of his choice, or enlist under foreign banners? Whether he will be for his country, or against his country?

The committee respectfully submit the following resolutions:

1. *Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France.

2. *Resolved*, That it is expedient to prohibit, by law,

the admission into the ports of the United States of all public or private, armed or unarmed, ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers, having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce or manufacture of the dominions of any of the said Powers, or imported from any place in the possession of either.

3. *Resolved*, That measures ought to be immediately taken for placing the country in a more complete state of defence.

Five thousand copies of the report were ordered to be printed for the use of the members of both Houses of Congress.

ADDITIONAL REVENUE CUTTERS.

Mr. NEWTON called for the order of the day on the bill authorizing the President to employ twelve additional revenue cutters.

Mr. QUINCY stated that he had no objection to the immediate discussion of the subject, any further than he thought it would forestall the more important questions which were to be debated upon. He alluded to the resolutions for the repeal of the embargo laws, &c.

The SPEAKER told the gentleman that the merits of the bill were not now before the House.

It was Mr. QUINCY's intention, (he continued,) to make a motion; and, if in order, he would move that the consideration of the bill be postponed.

The SPEAKER said the motion would have been in order had it been the first made; but, as that of the gentleman from Virginia had been previously submitted, it would of course be first put. The question was then taken upon Mr. NEWTON's motion, and carried—yeas 66, nays 29.

The House having resolved itself into a Committee of the Whole,

Mr. NEWTON rose to state that the Committee of Commerce and Manufactures had understood, from the proper authorities, there was a necessity, for the proper execution of the revenue laws, that the force under the direction of the Treasury Department should be considerably increased.

Mr. BLACKLEDGE remarked, that the cutters proposed to be built were necessary, not only the better to enforce our embargo laws, but, to the proper execution of those for the regulation of the revenue. He informed gentlemen that there was but one revenue cutter in the whole State of Georgia. Mr. B. hoped the Committee would agree to the bill then before them.

Mr. DANA inquired whether any written information touching the necessity there might be for twelve revenue cutters had been received by the Committee—any letter from the Secretary of the Treasury? He thought it was necessary, if so, that it should be submitted to the House.

Mr. NEWTON replied that there had been no written communication from the proper Department to the Committee. They had not thought it essential, having also understood that the Secretary of the Treasury was particularly occupied. However, he had taken the shortest method, by waiting upon the Secretary himself, and had received the information before alluded to. He had understood that the probable expense of each cutter would be about $10,000, or, $120.000 for the whole. Each cutter to carry about twenty men.

Mr. QUINCY thought that the correct mode of proceeding would require other than mere verbal information. Respect for themselves should induce gentlemen not to act without official communication upon the subject. They could not, upon any other conditions, agree to so great an augmentation of the force under the direction of the Treasury Department. There had, heretofore, been but ten cutters employed. There were never more than ten when commerce was at its height and the revenue flourishing. But now, the House was called upon to vote twelve additional cutters, when we are without revenue, without commerce, and there is no information of an official nature before the House, upon which it might act.

Mr. NEWTON could not see that it was of any consequence to the House, whether there had been a written communication to it upon the subject, so that the information came through the proper organ, from the proper authority. It was necessary, in times of difficulty like the present, to act with spirit and promptitude. The laws should be executed with the greatest strictness; and it was always wise to take time by the forelock.

Mr. ELLIOT had always been opposed to this mode of legislation. The gentleman from Virginia (Mr. NEWTON) had stated it to be of no consequence whether the House had written information upon the object of the bill, so that the communication had been made through the proper organ. Did the gentleman mean to call himself the proper organ of communication? If the gentleman did, he was willing to consider him as such. Let him then enter into a little detail, and show to the House the necessity there exists for the erection of twelve additional revenue cutters. It might be recollected that, upon a former occasion, when the building of a number of gunboats was proposed as a system of national defence, there had been a communication in writing made to them. The President did not take upon himself the responsibility of the measure. Before they were called upon to vote, they had found upon the table the necessary information from the Secretary of the Navy. Here had, indeed, been a communication through the proper organ, but it came in writing. And, as it had been obtained in that case, he hoped it would also be obtained in the present one. He wished to know where the necessity appeared for the increase of cutters proposed by the bill, for it surely could not arise from any increase in the revenue of the United States. Mr. E. was not at all satisfied that they were wanted, and, until further information was had, must vote against the bill.

Mr. NEWTON did not intend to reply to the gentleman last up, on his cavilling respecting the proper organ of communication. He, however, did consider himself, in the present case, as the proper organ. If the House had received any

information from the Treasury Department itself, it would have been found, he believed, to contain nothing further than he himself had detailed. Mr. N. then moved that the Committee rise and report the bill.

Mr. BLACKLEDGE made some observations in support of the bill, but they were not distinctly heard.

Mr. DESHA was of opinion that the consideration of the bill ought for a short time to be postponed, until the House could see whether the embargo laws would be repealed. Should those laws be rescinded, the cutters proposed to be built would be found to be unnecessary. He confessed that, without any official information, and until the great questions before the House should be decided, he felt a reluctance to vote upon the present bill. He, therefore, should move that the Committee rise and report progress.

Mr. UPHAM also hoped for a postponement of the subject. For his own part, he could not understand whether these cutters were wanted for the purpose of more effectually enforcing the embargo laws, or to prevent infractions of the revenue laws. As far as respects information, he thought himself entitled to know for what he was voting away money.

Mr. MOSELY said it seemed extraordinary to vote for the building of additional revenue cutters, when, in fact, there existed no revenue. Certainly the name of them should be changed, and, instead of *rerenue*, they should be called *embargo* cutters. It appeared to him that there would soon be more pressing calls for public money. The question should, in his opinion, be postponed.

Mr. BLACKLEDGE said that the expense of building the cutters would be defrayed by the detection of goods attempted to be smuggled. There had, already, been many condemnations. They were taking place every day. And it was to support the laws that these cutters had been called for.

On the motion of Mr. NEWTON, that the Committee rise and report the bill, it was carried—yeas 47, nays 46.

And, on a motion that the House should consider the report of the Committee of the Whole,

Mr. PITKIN moved that it be postponed until Monday next. The reasons for the adoption of the bill, as given by the gentleman from North Carolina, were the protection that would thus be afforded in the collection of the revenue, and the more strict enforcement of the embargo laws. But, shall we be at the expense of $120,000 without knowing, when the cutters are built, if they will then be wanted? They might, probably, be necessary if the House intended to continue the embargo laws and adopt the non-intercourse restrictions. He, however, wished first to know the result of these questions.

Mr. LIVERMORE was in favor of a postponement of the subject. Nothing could be lost by a short delay. To use the expression of the gentleman from Virginia, it was certainly prudent to take time by the forelock, and it was his wish to do so in regard to the information upon the subject, which was to be desired. It certainly would be better to wait, to see whether the measure was necessary. The gentleman had stated that each cutter will cost about $10,600; but, may he not be in error? This would not be the first time that a gentleman had been mistaken in his calculations. The cutters would, in his opinion, cost much more than the sum specified. They may probably cost $15,000 a-piece. Every gentleman had a right to call for information from the proper source. He asked where the great necessity could be shown for these vessels. For what purpose are Secretaries appointed if they cannot be called upon to yield the information to this House which many thought necessary? Such information had been so called for, and he wished to know from an official source what sum the cutters proposed to be built would cost. Should it turn out that these cutters would not be wanted, or that a much greater sum than had been contemplated was expended in building them, can we account to the nation and our constituents for it? Shall we tell them we did not know—but, that the Chairman of the Committee of Commerce and Manufactures told us so; telling us, at the same time, that he had it from the Secretary of the Treasury? But, has the President of the United States told us that these vessels were necessary? He has not. Mr. L. repeated that every gentleman upon that floor had a right to call for information. He should not vote for this bill unless the House had resolved to continue the embargo laws and pass a non-intercourse resolution. These great questions, he hoped, had not been prejudged, and decided upon beforehand. Certainly, if the embargo be repealed, it will, at least, be doubtful whether these cutters will be requisite; and there has not yet been information enough to convince the House that they ought to vote away the money.

Mr. NEWTON declared that he had no wish to precipitate any measure, and would be the last in urging the too hasty consideration of a question. The gentleman last up, has told the House that these revenue cutters are not wanting—that, in fact, there is no revenue. Others have talked about embargo cutters. It is true there is a resolution upon the table for the repeal of the embargo laws, but, these laws are not yet repealed. Let gentlemen recollect that they are still in existence, and if we do enact laws, it is our duty to see that they are enforced. He appealed to gentlemen whether information had not been made public of the intention of many British merchants to smuggle goods into our country, the importation of which our laws prohibited; and to the good sense of the House for the propriety of supporting the measures of Government and the sovereignty of the country. He would state to the House that there was, in Georgia, not a single revenue cutter.

Mr. LIVERMORE said that he did not deny the necessity there might be for employing the twelve additional cutters. He only said that he was not convinced of the necessity. For his part, he had heard of no smuggling but from Canada.

Mr. JACKSON, of Virginia, thought the consideration of the bill ought not to be postponed. The laws which we have passed have been most shamefully violated. So long as we have laws, we ought to see that they are rigidly enforced. Gentlemen tell us we ought not to act with precipitance. Sir, we have travelled a snail's pace in comparison with those miscreants who have violated, and are planning violations of your embargo laws. It appeared as if gentleman had agreed to create delays by long speeches about nothing. But he trusted the majority would not be driven from the ground which they had taken, and from the opinions he had heard expressed, he was convinced that a respectable majority of that House had determined against a repeal of the embargo laws. As to the talk about information, he had supposed there was information enough among the gentlemen of that House to ascertain the probable expense of building a revenue cutter.

Mr. DANA apprehended the question to be, whether we should deviate from the usual mode of proceeding? whether or not we shall dispense with official information to which we are undoubtedly entitled? It is the duty of the Executive to give us such information in an official form, upon all objects falling within the business of the department under his control. There has been heretofore but ten revenue cutters employed, and now we are called upon to double the amount. But the Secretary of the Treasury should tell us in an official manner, that the addition is necessary, and let the responsibility rest with the Treasury Department. He wished not to be understood as intending the slightest disrespect to the Chairman of the Committee of Commerce and Manufactures, or in the least as doubting the information of that gentleman. Yet he thought it always the better method, as the House had an unquestionable right to have official information, to adopt the usual course. The duty peculiarly belongs to the Secretary of the Treasury, and we should always have it from himself, unless upon such trivial subjects as did not merit serious consideration. Let us inquire if the expense of building these cutters is too trivial to merit this consideration. The gentleman from Virginia had supposed that there was information enough in the House to ascertain the price of twelve revenue cutters. But as they might vary in size, and the price was regulated by tonnage, it would be rather difficult. He really thought it would puzzle the most able seaman in the United States to tell the expense of building a vessel, the size of which he was unacquainted with. But the cost had been rated at $120,000, and that was certainly worthy of consideration. If the cutters should not be wanted, it would be throwing as much money away as would defray the expenses of that House during the session, and that to gentlemen would assuredly be worthy of consideration. He was always willing to provide for the proper protection of the revenue, but did not think we were always safe in passing laws without having the necessary information; he believed it the better course to have it. And as the present case was not very urgent, would vote to obtain the regular official information.

Mr. ALSTON observed that this was the old story; it was impossible to take a single step without motions for delay. Let gentlemen reflect on certain laws passed at the last session of Congress, and on the object of the bill now before them, and they would find that the power was left discretionary with the President to employ the cutters or to let it alone. If he does not find them to be necessary, he is not bound to have the cutters built. On this subject there can be no benefit derived from waiting for further information. Gentlemen have talked about the repeal of the embargo laws, the passage of a non-intercourse bill, &c. Mr. A. declared this was the first time in all his life that he had ever heard such an argument urged. It was the first time he had understood that we should wait in passing laws to protect our revenue, until a motion for the repeal of certain other laws had been acted upon.

Mr. UPHAM perfectly agreed with the gentleman, that whatever laws were in force, ought to be strictly executed. But he stated his conviction that a majority of the people of the United States had expected that the embargo laws would be repealed at the beginning of the present session of Congress. That had been his own honest opinion. He was doubtful whether these cutters were wanted at all or not; but if they were, and it was determined at all events to enforce the embargo laws, why not come up to the main question at once? The regular way would be to decide that great question first.

Mr. NEWTON rose to request the House to attend to the course which this discussion had taken. Gentlemen had called for information, but at the same time had manifested a disposition, if they had that information, not to cease their opposition to the continuance of the embargo laws. They had told us repeatedly that our seamen were in want, yet when a bill is brought forward to provide for those seamen they are foremost in opposing it.

Mr. DANA thought that if our seamen could have no other provision made for their support, this would scarcely answer the name. Ten revenue cutters to provide for sixty thousand seamen! Or taking half the number usually employed in the commerce of the United States, say thirty thousand, and ten revenue cutters are to provide for them! Really, sir, and how many men must one of these cutters carry? Our seamen were less respectable than he thought them, if they could be provided for in this way. For supposing each of these vessels to carry twenty men, or even one to every ton, it would not do. They could not then talk of dealing out half allowances, or the fiftieth hundredth part of an allowance, nay, a thousandth part. As it respected the revenue of the United States, when information was laid before the House, he could

then judge for himself. If this force be necessary for securing the revenue of the United States, it would be absurd to deny the responsible officer the means of doing his duty. But if it was intended for an inhibition of revenue, instead of protection, he should not vote for it until the main question was decided. He wished first to know the stand which would then be taken.

Mr. Quincy said that the argument drawn from a want of information, was not the strongest which might be urged against the consideration of the bill, for there had been none sufficient to convince the House that the twelve cutters mentioned in the bill would be enough for the purpose of enforcing the embargo and non-intercourse laws. Perhaps it might be thought necessary at this time to have official information, that we might act intelligibly. Gentleman say that our laws are violated, and that they must be carried into more complete effect; but if the laws are entirely done away, surely the House will not vote the twelve additional cutters. He hoped, therefore, that the House would not thus indiscreetly decide upon so important a question.

Mr. Lloyd asked what possible difference there could be between a decision now or on Monday? If it is necessary to act immediately, why not send out our armed vessels? They could surely be got ready before vessels which were yet to be built. And if the embargo was to be continued, he trusted these cutters were not the only means contemplated to enforce it, for it was desirable that it be made to operate equally on the honest and dishonest. If the embargo laws were repealed, he hoped the nation would have recourse to something more efficient than revenue cutters. It was Mr. L.'s wish to see the stand which might be taken before he could vote.

Mr. Pitkin remarked that he would not have made the motion had he thought it would have brought on a discussion. But a delay of the present bill was not a delay of the main question. He had not been one of those who had contributed to that delay. It would, however, be recollected, that the gentleman from North Carolina (Mr. Alston) had voted with those who had promoted that delay. Mr. P. was anxious that the main question should be acted upon before the collateral one was taken up. When that one had been decided, this one would of course come on.

The yeas and nays were here called for.

Mr. D. R. Williams believed that the object of the gentleman from Connecticut was not to delay the consideration of the bill before the House. He hoped that gentleman was incapable of it. Would not, then, his wishes be met, by again referring the bill to the Committee of Commerce and Manufactures? For there were no good reasons why the consideration of the bill should be postponed until Monday. Postpone it until Monday, and what do you gain by it? You are exactly where you were when you set out. By recommitting the bill to the committee which reported it, information could by it be obtained in an official form. If the gentleman would so vary his motion, he would vote for it with pleasure. There were many reasons in support of this mode of proceeding, in preference to its postponement. He then moved a recommitment.

Mr. Dana said the motion perfectly met his wish. He believed it accorded with the object of every remark which he had made upon the subject.

Mr. Pitkin had no objection to a recommitment.

Mr. D. R. Williams hoped the House would agree to a recommitment, as it would be observed, by the bill before them, not one revenue cutter could be obtained, there not being any specific appropriation for that purpose. And by the laws providing for the collection of the revenue, no appropriation had been made which could meet the expense. [Mr. W. here quoted the part of the laws which relate to this subject.] He then remarked that the House never had considered the moneys alluded to in these laws as an appropriation for a purpose like the present. Should the House recommit the bill, the committee, no doubt, would take good care to amend it in that respect.

Mr. Newton replied that this question occurred to him when he drew the bill. But he had found upon inquiry, that any expense incurred in the way proposed, was immediately charged to these laws. He here quoted the laws, and contended, that as soon as the bill was passed, the President, under them, was authorized to build the cutters. What was the object of the recommitment? If his construction of the law was right, there was no necessity for delay. In times like these, it is requisite we should be prepared for action. He added, that owing to our great extent of coast these cutters were absolutely necessary to prevent violations of the revenue laws.

The question on recommitment was then taken, and carried—ayes 61, noes 55.

Wednesday, November 23.

Mr. Jeremiah Morrow presented petitions from sundry inhabitants of the State of Ohio, respectively praying that the forfeitures of interest which may have been incurred on the instalments due for the purchase of lands of the United States by the petitioners, may be remitted; and that the time for completing the payment of the purchase money for the said lands may be extended to such length of time as Congress, in their wisdom, may deem proper—Referred to the Committee on the Public Lands.

On motion of Mr. Poindexter, that so much of the report of the Committee on the Public Lands, to whom was referred a memorial of the House of Representatives of the Mississippi Territory, made and ordered to lie on the table on the twenty-first instant, as is contained in the last resolution submitted by the committee, be recommitted to the same committee; and the question being taken thereupon, it passed in the negative.

On motion of Mr. Jeremiah Morrow, the said report was referred to a Committee of the Whole on Monday next.

Thursday, November 24.

Another member, to wit: Barent Gardenier, from New York appeared, and took his seat in the House.

Mr. Lewis, from the Committee for the District of Columbia, presented a bill authorizing the proprietors of squares and lots in the City of Washington, to have the same subdivided and admitted to record; which was read twice, and committed to a Committee of the whole House on Monday next.

Mr. Clopton, from the Committee of Revisal and Unfinished Business, to whom it was referred to examine such laws of the United States as have expired, or are near expiring, and require to be revived, or further continued, made a report, in part, thereupon; which was read, and ordered to lie on the table.

Friday, November 25.

Mr. Gardenier presented several petitions from the inhabitants of Ontario county, New York, praying for the repeal of the embargo laws.—Referred to the committee on Mr. Chittenden's resolution.

PRESIDENT'S PROCLAMATION.

Mr. Elliot observed, that there was more than one precedent on the Journals of the House, of cases in which copies of Proclamations of the President of the United States had been called for. At the last session the House had called for a copy of the Proclamation interdicting British ships from our waters. Therefore, in order to add another link to the chain of documents respecting the execution of the embargo laws, he wished to call for the Proclamation alluded to by his colleague, who had offered a resolution on the subject of the embargo.

Mr. E. then offered the following resolution, which was agreed to without opposition:

"*Resolved*, That the President of the United States be requested to cause to be laid before the House a copy of a Proclamation issued in April last, in consequence of the opposition to the embargo laws near Lake Champlain."

Mr. Elliot and Mr. Desha were appointed a Committee to present the resolution to the President of the United States.

THE EMBARGO.

Mr. Macon said he had some time ago moved three resolutions, two of which had been agreed to, and the third ordered to lie on the table, on the suggestion of some gentlemen, that it would interfere with a resolution already referred. He had waited thus long that a decision might be had on the resolution alluded to (Mr. Chittenden's.) Several unsuccessful attempts having been made to get that up, he now moved for the consideration of his resolution, in the following words:

"*Resolved*, That the same committee be instructed to inquire into the expediency of amending the act laying an embargo, and the several acts supplemental and additional thereto."

The resolution was taken up, and agreed to without opposition.

CLOSED DOORS.

Mr. Randolph said he was very sorry to be compelled by a sense of duty again to close the doors of the House, but he had a motion to make, which could not, agreeably to the rules and orders of the House, be made with the galleries open.

The doors were accordingly closed, and so remained for two hours, when they were opened.

The House then went into Committee of the Whole, on the report of the Committee of Claims favorable to the petition of the inhabitants of Knox county, Kentucky; which was concurred in, reported to the House, by whom it was also agreed to, and the House then adjourned till Monday.

Monday, November 28.

Another member, to wit: Matthew Lyon, from Kentucky, appeared, and took his seat in the House.

Mr. Holmes, from the Committee of Claims, reported a bill for the relief of certain persons therein mentioned, (certain citizens of Knox county, Kentucky) which was twice read and referred to a Committee of the Whole.

DISABLED SOLDIERS.

Mr. Nelson said he would make no apology for offering to the House the following resolution. It was on a subject which required no apology, and with which the House was sufficiently acquainted to render any preface unnecessary.

Resolved, That a committee be appointed to inquire into the expediency of making provision by law for the relief of the infirm, disabled, and superannuated officers and soldiers of the late Revolutionary Army and of the present Army of the United States; and that the committee have leave to report by bill or otherwise.

The resolution was agreed to without opposition, and Mr. Nelson, Mr. Say, Mr. Blount, Mr. Richard Jackson, and Mr. John Smith, were appointed the committee.

FOREIGN RELATIONS.

On motion of Mr. Campbell, the House resolved itself into a Committee of the Whole, on the report of the committee on the subject of our foreign relations.

The first resolution, in the following words, having been read:

Resolved, That the United States cannot, without a sacrifice of their rights, honor and independence, submit to the late edicts of Great Britain and France:

Mr. Campbell opened the debate. He said that ill health had hitherto prevented and might hereafter prevent him from giving that attention to the subject which the all-important crisis would seem to require; it was, however, his duty to bring the subject before the House. The committee having in their report presented to the House the view in which they had considered the subject referred to them, and the reasons generally which induced them to present these resolutions to the House, he said it was not his inten-

tion at this time to enter into a discussion of their merits. Those reasons had been deemed sufficient by the committee to justify them in presenting these resolutions to the House; and as the objections to this, if any there were, could not be foreseen, he would not attempt to anticipate them. According to the view which he himself had taken of the first resolution, it could require no discussion, it was too clear to require demonstration, and too self-evident to need proof of its propriety. It might indeed seem to require an apology from the committee for presenting a proposition which every American must long since have determined for himself. When the question had been first presented to his consideration, it had appeared to him that it was totally superfluous, and to be doing little more than announcing to the world that the United States were still independent; but on further consideration, it had been deemed by the select committee of some importance that in the present critical situation of the United States, they should fix on some point at which all would meet. After a perusal of the documents laid before the House at the opening of the session, Mr. C. said it had been supposed that no one would hesitate in declaring his indignation at the flagrant violations and encroachments on our rights by the belligerent Powers, while it had been supposed that some difference of opinion might exist as to the mode of resistance. After it was once determined that they would not submit, that they would repel aggression, it had been supposed that they might with greater probability of unanimity discuss the course proper to be pursued. With a view to this the committee had presented this resolution to the House. It was expected that all would unite in it and prove to the world that the Representatives of every portion of the American people were determined to maintain their rights, for the belligerent Powers really seemed to suppose that the American people had forgotten them, and had therefore assumed the right of prescribing the course of conduct which we should pursue. To submit to regulations of foreign Powers, which limited the conduct of the American people and prescribed the rules by which they were to be governed, which pointed out the very ports to which they should or should not go, which fixed the tribute or tax which they should pay, would be not only to abandon their dignity and honor, but to surrender, shamefully surrender our independence. Mr. C. said he would not take up the time of the Committee in showing that the Orders of Council of Great Britain and the Decrees of France, were, on the part of those nations, an assumption of power to give laws to this country, in direct violation of our neutral rights, and an encroachment on our sovereignty. This would require no argument. The real question is, said he, shall we govern ourselves or be controlled by the will of others, shall we become tributary or not, shall we submit or be independent? And to the Committee he cheerfully left the decision of this question.

Mr. Mumford next addressed the Committee of the Whole. He observed that although he had the honor of being one of the Committee of Foreign Relations who framed the report under consideration, he dissented from that report in some respects. We had now arrived at a momentous crisis in the affairs of our country, and he hoped the House would deliberate with that firmness and moderation which became the Representatives of the free and independent people they had the honor to represent on this all interesting concern. However they might differ on smaller points of minor importance, yet when the best interest of the country was at stake he hoped they would unite in some mode to secure our rights and promote the interests of the United States. The proposition which he had the honor to move a few days ago, was consonant in some degree to the instructions offered by our Ministers to Great Britain and France, offering to remove the embargo in relation to either, that should rescind their obnoxious decrees. Neither of them having receded, Mr. M. said he would continue the embargo in relation to them both. Nay, further, he would inflict the severest penalties on any one who should receive a license or voluntarily pay tribute to either of them. He considered them both alike. He wished to see the country placed in a complete posture of defence; but he could not see any good reason why we should not trade with those nations who were willing to receive us on friendly terms, and to trade with us on the principles of reciprocity and mutual interests. This would not compromit the honor of the nation. Even admitting that it might possibly lead to war, which he doubted, he was convinced that the citizens of this country would rise *en masse* in support of that commerce which neither France nor England had any right to interdict. He did presume, with all the zeal of some gentlemen for irritating measures, it was not seriously contemplated to declare war against all mankind; he was for having at least a few friends in case of need. What was our situation now? The President of the United States had told them, after speaking of France and England, that "our relations with the other Powers of Europe had undergone no material change since the last session." This being the case, our commerce was open with them all except France and Great Britain and their dependencies.

Mr. M. said he was well aware that he should be told, if we permitted this commerce to those countries who were disposed to receive us on friendly terms, Great Britain and France would indirectly receive their supplies. He acknowledged this, in a certain degree, but his primary object was to relieve his own country. Where was the patriotic breast that did not beat in unison with the patriotic and valorous sons of Spain? Shall we refuse them a loaf of bread merely because we are afraid Great Britain and France might possibly cut a slice off as it passed along? Let us take a view of their whole conduct towards the United States, since their Revolution, which had been a series of good offices. They had immediately released our vessels which had been

sequestered in the ports of Spain by the iron hand of the *soi-disant* Emperor of the West. Let us now turn to the New World. What has been the conduct of that Government erected by the friends of the Patriots in the Havana? More than fifty vessels had gone out, under the permission of the President, for the purpose of collecting debts due to them in that island. They have compelled their citizens to pay these debts, and the vessels have returned loaded to the United States, and contributed essentially to the revenue of the United States. Is this not truly characteristic of Castilian honor and generosity?

Mr. M. said, he considered the Revolution in Mexico as the most important era which had taken place since our glorious Revolution, which, in his opinion, would ultimately lead to securing our Southwestern boundary on a permanent footing; and but for the recent Revolution, New Orleans might even now have been in possession of France. When the question of slavery was agitated among the inhabitants of that place, it was not unusual for them to say of the United States, we care nothing about you—we shall soon have other governors. It was no doubt within the recollection of many members of this Committee, that a man had been lately taken up at Nacogdoches. He had not at the time taken much notice of the report—had considered it but a common newspaper report, or, as it might be called, a display of the arts of able editors—but there had a fact lately come to his knowledge which he conceived to be his bounden duty to give to the Committee. It had been communicated to him in such a confidential manner that he could not mention names; but love of country was with him paramount to every other consideration, and he would state the fact for the information of the Committee. A gentleman, said Mr. M.—an Italian by birth, of a noble family, and who was recommended in our Revolutionary war to General Washington, a man of genius—after having resided some time in the United States, returned to Europe, and was taken into favor by Bonaparte. At what time it is not known, but such a person was landed in some port of the Atlantic shores, and travelled from thence through your Western country. Some time in the month of June, information reached Louisiana that a French officer of distinction had a conference with Governor Grand Pré at Baton Rouge, which occasioned serious conjectures. No more was heard of him till the 21st July, when he passed over to the Spanish lines, wide off from the American post of Natchitoches. He there opened a trunk, and put on his regimentals, and proceeded to the Spanish port of Nacogdoches, where he was arrested by orders from the Spanish officers. It was presumed that the information of the Revolution of Spain had not reached him when travelling to the Westward. Thus, sir, while we have been threatened on the North, we have been treading on a precipice in the Southwest.

I will now proceed, said Mr. M., to give some details in respect to those countries which my motion contemplates. In the official report of the Secretary of the Treasury, we find the following

Statement of Domestic and Foreign Exports:

Whither exported.	Domestic	Foreign.	Total.
Sweden and her West India colony - -	$476,656	$949,613	$1,422,388
Spain and colonies -	3,998,575	14,226,145	18,224,720
Portugal and colonies	1,399,616	297,900	1,687,516
Africa and Morocco -	377,282	1,061,616	2,439,898
China - - -	84,022	113,253	197,280
South seas and N. W. coast of America -	14,162	98,199	122,361

The trade to Hayti may be considered, by examining the annual report from 1801 to 1802, to be about half the amount of the exports to the French islands, stated to be $6,710,889—half of which is $3,255,444. The greatest proportion of which consists in the productions of our own industry, as the Secretary at that time did not discriminate between foreign and domestic produce. We may, from the nature of the trade, pay about 10 per cent. on foreign productions.—Domestic, $3,000,000; foreign, $331,544; total, $3,315,444.

This, said Mr. M., will open a market for the produce of Ohio, Kentucky, Tennessee, and New Orleans—the Southern, Middle, and Eastern States—and give life and activity to commerce, so much desired by all classes of our citizens.

Mr. M. concluded by saying, that this was his view of the subject for the present. He said we were a young nation; and although he should not shrink from the contest, if necessary, yet it became us to act with precautionary steps. If he differed with gentlemen on this subject, it was an honest difference of opinion, and he had no other motive than a love of country.

Mr. Quincy.—Mr. Chairman, I am not, in general, a friend to abstract legislation. Ostentatious declaration of general principles is so often the resort of weakness and of ignorance, it is so frequently the subterfuge of men who are willing to amuse, or who mean to delude the people, that it is with great reluctance I yield to such a course my sanction.

If, however, a formal annunciation of a determination to perform one of the most common and undeniable of national duties, be deemed by a majority of this House essential to their character, or to the attainment of public confidence, I am willing to admit that the one now offered is as unexceptionable as any it would be likely to propose.

In this view, however, I lay wholly out of sight the report of the committee by which it is accompanied and introduced. The course advocated in that report is, in my opinion, loathsome; the spirit it breathes disgraceful; the temper it is likely to inspire neither calculated to regain the rights we have lost, nor to preserve those which remain to us. It is an established maxim, that in adopting a resolution offered by a committee in this House, no member is pledged to support the reasoning, or made sponsor for the facts, which they have seen fit to insert in it. I exercise, therefore, a common right, when I subscribe to the resolution, not on the principles of

the committee, but on those which obviously result from its terms, and are the plain meaning of its expressions.

I agree to this resolution, because, in my apprehension, it offers a solemn pledge to this nation—a pledge not to be mistaken, and not to be evaded—that the present system of public measures shall be totally abandoned. Adopt it, and there is an end of the policy of deserting our rights, under pretence of maintaining them. Adopt it, and we can no longer yield, at the beck of haughty belligerents, the right of navigating the ocean, that choice inheritance bequeathed to us by our fathers. Adopt it, and there is a termination of that base and abject submission, by which this country has for these eleven months been disgraced, and brought to the brink of ruin.

That the natural import and necessary implication of the terms of this resolution are such as I have suggested, will be apparent from a very transient consideration. What do its terms necessarily include? They contain an assertion and a pledge. The assertion is, that the edicts of Great Britain and France are contrary to our rights, honor, and independence. The pledge is, that we will not submit to them.

Concerning the assertion contained in this resolution I would say nothing, were it not that I fear those who have so long been in the habit of looking at the orders and decrees of foreign Powers as the measure of the rights of our own citizens, and been accustomed, in direct subserviency to them, of prohibiting commerce altogether, might apprehend that there was some lurking danger in such an assertion. They may be assured there can be nothing more harmless. Neither Great Britain nor France ever pretended that those edicts were consistent with American rights; on the contrary, both these nations ground those edicts on the principle of imperious necessity, which admits the injustice done at the very instant of executing the act of oppression. No gentleman need have any difficulty in screwing his courage up to this assertion. Neither of the belligerents will contradict it. Mr. Turreau and Mr. Erskine will both of them countersign the declaration to-morrow.

With respect to the pledge contained in this resolution, understood according to its true import, it is a glorious one. It opens new prospects. It promises a change in the disposition of this House. It is a solemn assurance to the nation that it will no longer submit to these edicts. It remains for us, therefore, to consider what submission is, and what the pledge not to submit implies.

One man submits to the order, decree, or edict of another, when he does that thing which such order, decree, or edict commands; or when he omits to do that thing which such order, decree, or edict prohibits. This, then, is submission. It is to take the will of another as the measure of our rights. It is to yield to his power—to go where he directs, or to refrain from going where he forbids us.

If this be submission, then the pledge not to submit implies the reverse of all this. It is a solemn declaration that we will not do that thing, which such order, decree, or edict commands, or that we will do what it prohibits. This, then, is freedom. This is honor. This is independence. It consists in taking the nature of things, and not the will of another, as the measure of our rights. What God and Nature has offered us we will enjoy, in despite of the commands, regardless of the menaces of iniquitous power.

Let us apply these correct and undeniable principles to the edicts of Great Britain and France, and the consequent abandonment of the ocean by the American Government. The decrees of France prohibit us from trading with Great Britain. The orders of Great Britain prohibit us from trading with France. And what do we? Why, in direct subserviency to the edicts of each, we prohibit our citizens from trading with either. We do more; as if unqualified submission was not humiliating enough, we descend to an act of supererogation in servility; we abandon trade altogether; we not only refrain from that particular trade which their respective edicts prescribe, but, lest the ingenuity of our merchants should enable them to evade their operations, to make submission doubly sure, the American Government virtually re-enact the edicts of the belligerents and abandon all the trade which, notwithstanding the practical effects of their edicts, remain to us. The same conclusion will result, if we consider our embargo in relation to the objects of this belligerent policy. France, by her edicts, would compress Great Britain by destroying her commerce and cutting off her supplies. All the Continent of Europe, in the hand of Bonaparte, is made subservient to this policy. The embargo law of the United States, in its operation, is an union with this Continental coalition against British commerce, at the very moment most auspicious to its success. Can anything be more in direct subserviency to the views of the French Emperor? If we consider the orders of Great Britain, the result will be the same. I proceed at present on the supposition of a perfect impartiality in our Administration towards both belligerents, so far as relates to the embargo law. Great Britain had two objects in issuing her orders. First, to excite discontent in the people of the Continent, by depriving them of their accustomed colonial supplies. Second, to secure to herself that commerce of which she deprived neutrals. Our embargo co-operates with the British views in both respects. By our dereliction of the ocean, the Continent is much more deprived of the advantages of commerce than it would be possible for the British navy to effect, and by removing our competition, all the commerce of the Continent which can be forced is wholly left to be reaped by Great Britain. The language of each sovereign is in direct conformity to these ideas. Napoleon tells the American Minister, virtually, that we are very good Americans; that, although he will not allow the property he has in his hands to escape him, nor desist from burning and capturing our vessels on every occasion, yet that he

is, thus far, satisfied with our co operation. And what is the language of George the Third, when our Minister presents to his consideration the embargo laws? Is it *Le Roi s'avisera?* The King will reflect upon them. No; it is the pure language of royal approbation, *Le Roi le veut.* The King wills it. Were you colonies he could expect no more. His subjects as inevitably get that commerce which you abandon as the water will certainly run into the only channel which remains after all the others are obstructed. In whatever point of view we consider these embargo laws in relation to those edicts and decrees, we shall find them co-operating with each belligerent in its policy. In this way, I grant, our conduct may be impartial; but what has become of our American rights to navigate the ocean? They are abandoned, in strict conformity to the decrees of both belligerents. This resolution declares that we shall no longer submit to such degrading humiliations. Little as I relish, I will take it, as the harbinger of a new day—the pledge of a new system of measures.

Perhaps here, in strictness, I ought to close my observations. But the report of the committee, contrary to what I deem the principle of the resolution, unquestionably recommended the continuance of the embargo laws. And such is the state of the nation, and particularly that portion of it which, in part I represent, under their oppression, that I cannot refrain from submitting some considerations on that subject.

When I enter on the subject of the embargo, I shrink with wonder at the very threshold. I know not with what words to express my astonisment. At the time I departed from Massachusetts, if there was an impression which I thought universal, it was, that at the commencement of this session an end would be put to this measure. The opinion was not so much that it would be terminated as that it was then at an end. Sir, the prevailing sentiment, according to my apprehension, was stronger than this—even that the pressure was so great that it could not possibly be endured; that it would soon be absolutely insupportable. And this opinion, as I then had reason to believe, was not confined to any one class, or description, or party; that even those who were friends of the existing Administration, and unwilling to abandon it, were yet satisfied that a sufficient trial had been given to this measure. With these impressions I arrive in this city. I hear the incantations of the great enchanter. I feel his spell. I see the Legislative machinery begin to move. The scene opens; and I am commanded to forget all my recollections, to disbelieve the evidence of my senses, to contradict what I have seen and heard and felt. I hear that all this discontent was mere party clamor—electioneering artifice; that the people of New England are able and willing to endure this embargo for an indefinite, unlimited period: some say for six months, some a year, some two years. The gentleman from North Carolina (Mr. Macon) told us that he preferred three years of embargo to a war. And the gentleman from Virginia (Mr. Clopton) said, expressly, that he hoped we should never allow our vessels to go upon the ocean again until the orders and decrees of the belligerents were rescinded. In plain English, until France and Great Britain should, in their great condescension, permit. Good Heavens! Mr. Chairman, are men mad? Is this House touched with that insanity which is the never-failing precursor of the intention of Heaven to destroy? The people of New England, after eleven months deprivation of the ocean, to be commanded still longer to abandon it, for an undefined period to hold their unalienable rights, at the tenure of the will of Britain or of Bonaparte? A people, commercial in all aspects, in all their relations, in all their recollections of the past, in all their prospects of the future—a people, whose first love was the ocean, the choice of their childhood, the approbation of their manly years, the most precious inheritance of their fathers, in the midst of their success, in the moment of the most exquisite perception of commercial prosperity, to be commanded to abandon it, not for a limited time, but for a time unlimited—not until they can be prepared to defend themselves there, (for that is not pretended,) but until their rivals recede from it—not until their necessities require, but until foreign nations permit! I am lost in astonishment, Mr. Chairman. I have not words to express the matchless absurdity of this attempt. I have no tongue to express the swift and headlong destruction which a blind perseverance in such a system must bring upon this nation.

But men from New England, representatives on this floor, equally with myself the Constitutional guardians of her interests, differ from me in these opinions. My honorable colleague (Mr. Bacon) took occasion, in secret session, to deny that there did exist all that discontent and distress which I had attempted, in an humble way, to describe. He told us he had travelled in Massachusetts; that the people were not thus dissatisfied; that the embargo had not produced any such tragical effects. Really, sir, my honorable colleague has travelled—all the way from Stockbridge to Hudson; from Berkshire to Boston; from inn to inn; from county court to county court; and doubtless he collected all that important information, which an acute intelligence never fails to retain on such occasions. He found tea, sugar, salt, West India rum and molasses dearer, beef, pork, butter, and cheese cheaper. Reflection enabled him to arrive at this difficult result: that in this way the evil and the good of the embargo equalize one another. But has my honorable colleague travelled on the seaboard? Has he witnessed the state of our cities? Has he seen our ships rotting at our wharves; our wharves deserted, our stores tenantless, our streets bereft of active business; industry forsaking her beloved haunts, and hope fled away from places where she had from earliest time been accustomed to make and to fulfil her most precious promises? Has he conversed with the merchant, and heard the tale of his embarrassments—his capital arrested in his hands, forbidden by your laws to resort

to a market, with property four times sufficient to discharge all his engagements, necessitated to hang on the precarious mercy of moneyed institutions for that indulgence which preserves him from stopping payment—the first step towards bankruptcy? Has he conversed with the mechanic? Has he seen him either destitute of employment or obliged to seek it in labors odious to him, because he was not educated to them?—that mechanic who, the day before this embargo passed, the very day that you took this bit, and rolled it like a sweet morsel under your tongue, had more business than he had hands, or time, or thought to employ on it, now soliciting, at reduced prices, that employment which the rich, owing to the uncertainty in which your laws have involved their capital, cannot afford. I could heighten this picture—I could show you laboring poor in the alms-house, and willing industry dependent upon charity. But I confine myself to particulars which have fallen under my own observation, and of which ten thousand suffering individuals on the seaboard of New England are living witnesses that there is nothing fictitious.

Mr. Chairman, other gentlemen must take their responsibilities—I shall take mine. This embargo must be repealed. You cannot enforce it for any important period of time longer. When I speak of your inability to enforce this law, let not gentlemen misunderstand me. I mean not to intimate insurrection or open defiance of them. Although it is impossible to foresee in what acts that "oppression" will finally terminate, which, we are told, "makes wise men mad." I speak of an inability resulting from very different causes.

The gentleman from North Carolina (Mr. MACON) exclaimed the other day, in a strain of patriotic ardor, "What! shall not our laws be executed? Shall their authority be defied? I am for enforcing them at every hazard." I honor that gentleman's zeal; and I mean no deviation from that true respect I entertain for him, when I tell him that, in this instance, "his zeal is not according to knowledge."

I ask this House, is there no control to its authority; is there no limit to the power of this National Legislature? I hope I shall offend no man when I intimate that two limits exist: Nature and the Constitution. Should this House undertake to declare that this atmosphere should no longer surround us; that water should cease to flow; that gravity should not hereafter operate; that the needle should not vibrate to the pole: I do suppose, Mr. Chairman—sir, I mean no disrespect to the authority of this House, I know the high notions some gentlemen entertain on this subject—I do suppose—sir, I hope I shall not offend—I think I may venture to affirm, that such a law to the contrary notwithstanding, the air would continue to circulate, the Mississippi, the Hudson, and the Potomac, would hurl their floods to the ocean, heavy bodies continue to descend, and the mysterious magnet hold on its course to its celestial cynosure.

Just as utterly absurd and contrary to nature is it, to attempt to prohibit the people of New England, for any considerable length of time, from the ocean. Commerce is not only associated with all the feelings, the habits, the interests, and relations of that people, but the nature of our soil and of our coasts, the state of our population and its mode of distribution over our territory, renders it indispensable. We have five hundred miles of seacoast, all furnished with harbors, bays, creeks, rivers, inlets, basins, with every variety of invitation to the sea, with every species of facility to violate such laws as these; our people are not scattered over an immense surface, at a solemn distance from each other, in lordly retirement, in the midst of extended plantations and intervening wastes. They are collected on the margin of the ocean, by the sides of rivers, at the heads of bays, looking into the water or on the surface of it for the incitement and the reward of their industry. Among a people thus situated, thus educated, thus numerous, laws prohibiting them from the exercise of their natural rights will have a binding effect not one moment longer than the public sentiment supports them.

Gentlemen talk of twelve revenue cutters additional to enforce the embargo laws. Multiply the number by twelve, multiply it by an hundred, join all your ships of war, all your gunboats, and all your militia, in despite of them all, such laws as these are of no avail when they become odious to public sentiment. Continue these laws any considerable time longer, and it is very doubtful if you will have officers to execute, juries to convict, or purchasers to bid for your confiscations. Cases have begun to occur. Ask your revenue officers, and they will tell you that already, at public sales in your cities, under these laws, the owner has bought his property at less than four per cent. upon its real value. Public opinion begins to look with such a jealous and hateful eye upon these laws, that even self-interest will not co-operate to enforce their penalties.

But where is our love of order? Where our respect for the laws? Let legislators beware lest, by the very nature of their laws, they weaken that sentiment of respect for them, so important to be inspired, and so difficult to be reinstated when it has once been driven from the mind. Regulate not the multitude to their ruin. Disgust not men of virtue by the tendency of your laws, lest, when they cannot yield them the sanction of their approbation, the enterprising and the necessitous find a principal check upon their fear of violating them removed. It is not enough for men in place to exclaim, "the worthless part of society!" Words cannot alter the nature of things. You cannot identify the violator of such laws as these, in our part of the country, for any great length of time, with the common smuggler, nor bring the former down to the level of the latter. The reason is obvious. You bring the duties the citizen owes to society into competition not only with the strongest interests, but, which is more, with the most sacred private obligations. When you present to the choice of a citizen bankruptcy, a total loss of the accumulated wealth of

his whole life, or a violation of a positive law, restrictive of the exercise of the most common rights, it presents to him a most critical alternative. I will not say how sublime casuists may decide, but it is easy to foretell that nature will plead too strong in the bosom to make obedience long possible. I state no imaginary case. Thousands in New England see in the continuance of this embargo, and in obedience to it, irremediable ruin to themselves and families. But where is our patriotism? Sir, you call upon patriotism for sacrifices to which it is unequal; and it requires its operation in a way in which that passion cannot long subsist. Patriotism is a great comfort to men in the interior, to the farmer and the planter, who are denied a market by your laws, whose local situation is such that they can neither sell their produce, nor scarcely give it away, and who are made to believe that these privations will ultimately redound to the benefit of the country. But on the seaboard, where men feel not only their annual profit, but their whole capital perishing, where they know the utter inefficacy of your laws to coerce foreign nations, and their utter futility as a means of saving our own property—to such laws, in such a situation, patriotism is, to say the least, a very inactive assistant. You cannot lay a man upon the rack and crack his muscles by a slow torment, and call patriotism to soothe the sufferer.

But there is another obstacle to a long and effectual continuance of this law—the doubt which hangs over its constitutionality. I know I shall be told that the sanction of the Judiciary has been added to this act of the Legislature. Sir, I honor that tribunal. I revere the individual whose opinion declared in this instance the constitutionality of the law. But it is one thing to venerate our courts of justice; it is one thing to deem this law obligatory upon the citizen, while it has all these sanctions; it is another, on this floor, in the high court of the people's privileges, to advocate its repeal on the ground that it is an invasion of their rights. The embargo laws have unquestionable sanction—they are laws of this land. Yet, who shall deny to a representative of the people the right, in their own favorite tribunal, of bringing your laws to the test of the principles of the Constitution?

Is there any principle more wise, or more generally received among statesmen, than that a law, in proportion to its pressure upon the people, should have its basis in unquestionable authority as well as necessity? A Legislature may sport with the rights of an individual. It may violate the Constitution, to the ruin of whole classes of men. But once let it begin, by its laws, to crush the hopes of the great mass of the citizens; let it bring every eye in the land to the scrutiny of its laws and its authority, to be permanent those laws must possess no flaw in their foundation.

I ask, in what page of the Constitution you find the power of laying an embargo? Directly given, it is nowhere. You have it, then, by construction or precedent. By construction, of the power to regulate. I lay out of the question the common place argument, that regulation cannot mean annihilation, and that what is annihilated cannot be regulated. I ask this question, Can a power be ever obtained by construction, which had never been exercised at the time of the authority given, the like of which had not only never been seen, but the idea of which had never entered into human imagination. I will not say in this country but in the world? Yet such is the power which, by construction, you assume to exercise. Never before did society witness a total prohibition, like this, in a commercial nation. Did the people of the United States invest this House with a power of which, at the time of investment, that people had not and could not have had any idea? for, even in times of faction, it had never existed. But we have precedent. Precedent is directly against you. For the only precedent, that in 1794, was in conformity to the embargo power, as it has been exercised in other countries. It was limited. Its duration was known. The power passed from the Representatives of this House only for sixty days. In that day, the Legislature would not trust even WASHINGTON, amid all his well-earned influence, with any other than a limited power. But, away, sir, with such deductions as these; I appeal to the history of the times when this national compact was formed. This Constitution grew out of our necessities, and it was, in every stage of its formation, obstructed by the jealousies and diverse interests of the different States. The gentlemen of the South had a certain species of property, with the control of which they would not trust us in the North; and wisely, for we neither appreciate it as they do, nor could regulate it safely for them. In the East our sentiment concerning their interest in commerce, and their power to understand its true interests, was, in a great degree, similar. The writings of that period exhibit this jealousy, and the fears excited by it, formed in that portion of the United States a formidable objection to its adoption. In this state of things, would the people of New England consent to convey to a Legislature, constituted as this in time must be, a power not only to regulate commerce, but to annihilate it, for a time unlimited, or altogether? Suppose, in 1788, in the convention of Massachusetts, while debating upon the adoption of this Constitution, some hoary sage had arisen, and with an eye looking deep into futurity, with a prophet's ken, had thus addressed the Assembly: "Fellow-citizens of Massachusetts: To what ruin are you hastening? Twenty years shall not elapse, before, under a strict and dubious construction of the instrument now proposed for your adoption, your commerce shall be annihilated. The whole of your vast trade prohibited. Not a boat shall cross your harbors, not a coaster shall be permitted to go out of your ports, unless under permission of the distant head of your nation, and after a grievous visitation of a custom-house officer."

Sir, does any man believe that, with such a prospect into futurity, the people of that State would have for one moment listened to its adop-

tion? Rather, would they not have rejected it with indignation? Yet this now is not prophecy, it is history. But this law is not perpetual, it is said. Show the limit to it—show by what terms it can be made more perpetual.

The universal opinion entertained in New England, among commercial men, of the total imbecility of this law, as a measure of coercion of either belligerent, is another cause pregnant with discontent in that country. It may do well enough to amuse ourselves with calculations of this kind on this floor, but intelligent merchants, masters of vessels, seamen, who are acquainted with the West Indies, and with the European dominions of both Powers, speak with sovereign contempt of the idea of starving either of these Powers into submission to our plans of policy. The entire failure of this scheme, after a trial of eleven months, would, I should suppose, have satisfied the most obstinate, of its hopelessness; yet it is revived again at this session. We are told, from high authority, of the failure of the wheat harvest in Great Britain, and this has been urged as a further reason for a continuance of this measure. Have gentlemen, who press this argument, informed themselves how exceedingly small a proportion our export of wheat bears to the whole consumption of the British dominions? Our whole export, to all the world, of wheat in its natural and manufactured state, does not amount to seven millions of bushels. The whole consumption of the British dominions exceeds one hundred and fifty millions. Let gentlemen consider what a small object this amount is, in a national point of view, even could the attainment of the whole supply be assumed, as the condition of her yielding to the terms we should prescribe. Are not the borders of the Black Sea, the coast of Africa, and South America, all wheat countries, open to her commerce?

But, the embargo saves our resources. It may justly be questioned, whether, in this point of view, the embargo is so effectual as, at first, men are led to imagine? It may be doubted if the seed-wheat for this harvest is not worth more than the whole crop. I say nothing of the embarrassments of our commerce, of the loss of our seamen, of the sunken value of real estate. But our dead, irredeemable loss by the embargo, during the present year, cannot be stated at less than ten per cent., on account of interest and profit on the whole export of our country; that is, on one hundred and eight millions, ten millions eight hundred thousand dollars.

Nor can our loss upon a million tons of unemployed shipping be stated at less than twenty dollars the ton—twenty millions of dollars. Thirty millions of dollars is a serious outfit for any voyage of salvation, and the profit ought to be very unquestionable before a wise man would be persuaded to renew or prolong it. Besides, is it true that the articles the embargo retains, are, in the common acceptation of the term, resources? I suppose that, by this word, so ostentatiously used on all occasions, it is meant to convey the idea that the produce thus retained in the country will be a resource for use or defence in case of war, or any other misfortune happening to it. But, is this true? Our exports are surplus products, what we raise beyond what we consume. Because we cannot use them, they are surplus. Of course, in this country, they have little or no value in use, but only in exchange. Take away the power of exchange, and how can they be called resources? Every year produces sufficient for its own consumption, and a surplus. Suppose an embargo of ten years, will gentlemen seriously contend that the accumulating surplus of fish, cotton, tobacco, and flour, would be a resource for any national exigencies? We cannot consume it, because the annual product is equal to our annual consumption. Our embargo forbids us to sell it. How, then, is it a resource? Are we stronger or richer for it? The reverse: we are poorer and weaker. Weaker by all the loss of motive and activity, by all the diminution of the industry of the country, which such a deprivation of the power to exchange produces. And what can be poorer than he who is obliged to keep what he cannot use, and to labor for that which profiteth not?

But the inequality of the pressure of this measure of embargo upon the people of the Eastern States, is another source of great discontent with it. Every gentleman who has spoken upon the subject has seemed to take it for granted that this was a burden which pressed equally. But is this the case? I shall confine myself to a single fact, although the point admits of other elucidations. Compare the State of Virginia with that of Massachusetts, in the single particular of the amount of capital embarrassed by this law. Virginia with a population, according to the last census, of nine hundred thousand souls, has four million seven hundred thousand dollars in exports, forty thousand eight hundred tons of registered shipping at thirty dollars the ton, amounting to one million seven hundred dollars in value, constituting an aggregate of six millions of dollars, obstructed by this embargo. Massachusetts, on the other hand, has in exports twenty million one hundred thousand dollars, and three hundred and six thousand tons of registered shipping, equal nearly to ten million of dollars in value, constituting an aggregate of capital, in Massachusetts, equal to thirty millions of dollars, obstructed by this law. By the last census, the population of Massachusetts is about six hundred thousand souls; so that, in Virginia, nine hundred thousand souls have to bear a pressure of embarrassed capital equal to six millions of dollars, and in Massachusetts, six hundred thousand souls, a pressure of thirty millions. To equalize the pressure of Virginia with Massachusetts the capital of the former ought to be forty-five millions instead of six millions. I wish not to bring into view any unpleasant comparisons, but, when gentlemen wonder at our complaints, they ought rightly to appreciate their causes. The pressure resulting from the embarrassments of this immense capital is the more sensibly felt, inasmuch as it is not divided in great masses among rich individuals, but in moderate portions among the middling classes of our citizens, who have, many of them, the earnings of a whole life invested in single articles destined for a foreign market from which your embargo alone prohibits them.

It is in vain to say that, if the embargo was raised, there would be no market. The merchants understand that subject better than you, and the eagerness with which preparations to load were carried on previous to the commencement of this session, speaks, in a language not to be mistaken, their opinion of the foreign markets. But, it has been asked, in debate, "will not Massachusetts, the cradle of liberty, submit to such privations?" An embargo liberty was never cradled in Massachusetts. Our liberty was not so much a mountain as a sea nymph. She was free as air. She could swim, or she could run. The ocean was her cradle. Our fathers met her as she came, like the goddess of beauty, from the waves. They caught her as she was sporting on the beach. They courted her while she was spreading her nets upon the rocks. But an embargo liberty—a hand-cuffed liberty—a liberty in fetters, a liberty traversing between the four sides of a prison and beating her head against the walls, is none of our offspring. We abjure the monster. Its parentage is all inland.

The gentleman from North Carolina (Mr. MACON) exclaimed the other day, "Where is the spirit of '76?" Ay, sir, where is it? Would to Heaven that, at our invocation, it would condescend to alight on this floor. But let gentlemen remember that the spirit of '76 was not a spirit of empty declaration, or of abstract propositions. It did not content itself with non-importation acts, or non intercourse laws. It was a spirit of active preparation, of dignified energy. It studied both to know our rights and to devise the effectual means of maintaining them. In all the annals of '76, you will find no such degrading doctrine as that maintained in this report. It never presented to the people of the United States the alternative of war, or a suspension of our rights, and recommending the latter rather than to incur the risk of the former. What was the language of that period, in one of the addresses of Congress, to Great Britain? "You attempt to reduce us, by the sword, to base and abject submission. On the sword, therefore, we rely for protection." In that day there were no alternatives presented to dishearten; no abandonment of our rights under the pretence of maintaining them; no gaining the battle by running away. In the whole history of that period there are no such terms as "embargo," "dignified retirement," "seeing who can do each other the most harm." At that time we had a Navy—that name so odious to the influences of the present day. Yes, sir, in 1776, though but in our infancy, we had a Navy scouring our coasts, and defending our commerce, which was never for one moment wholly suspended. In 1776, we had an army also, and a glorious army it was. Not composed of men halting from the stews, or swept from the jails, but of the best blood, the real yeomanry of the country, noble cavaliers, men without fear and without reproach. We had such an army in 1776, and WASHINGTON at its head. We have an army in 1808, and a head to it.

I will not humiliate those who lead the fortunes of the nation at the present day, by any comparison with the great men of that period; but, I recommend the advocates of the present system of public measures, to study well the true spirit of 1776, before they venture to call it in aid of their purposes. It may bring in its train some recollections not suited to give ease or hope to their bosoms. I beg gentlemen who are so frequent in their recurrence to that period to remember that, among the causes which led to a separation from Great Britain, the following are enumerated: unnecessary restrictions upon trade; cutting off commercial intercourse between the Colonies; embarrassing our fisheries; wantonly depriving our citizens of necessaries; invasion of private property by Governmental edicts; the authority of the Commander-in-chief, and under him of the Brigadier General, being rendered supreme in the civil government; the Commander-in-chief of the army made Governor of a Colony; citizens transferred from their native country for trial. Let gentlemen beware how they appeal to the spirit of '76, lest it come with the aspect, not of a friend, but of a tormentor; lest they find a warning when they look for support; and, instead of encouragement they are presented with an awful lesson.

But, repealing the embargo will be submission to tribute. The popular ear is fretted with this word *tribute*, and an odium is attempted to be thrown upon those who are indignant at this abandonment of their rights, by representing them as the advocates of tribute. Sir, who advocates it? No man, in this country, I believe. This outcry about tribute is the veriest bugbear that was ever raised in order to persuade them to quit rights, which God and nature had given them. In the first place, it is scarce possible that, if left to himself, the interest of the merchant could ever permit him to pay the British re-exportation duty, denominated tribute. France, under penalty of confiscation, prohibits our vessels from receiving a visit from an English ship, or touching at an English port. In this state of things, England pretends to permit us to export to France certain articles, paying her a duty. The very statement of the case shows the futility of the attempt. Who will pay a duty to England for permission to go to France to be confiscated? But, suppose there is a mistake in this, and that it may be the interest of the merchant to pay such a duty, for the purpose of going to certain destruction, have not you full powers over this matter? Cannot you, by pains and penalties, prohibit the merchant from the payment of such a duty? No man will obstruct you. There is not, as I believe, but one opinion upon this subject. I hope, therefore, that gentlemen will cease this outcry about tribute.

However, suppose that the payment of this duty is inevitable, which it certainly is not, let me ask, is embargo independence? Deceive not yourselves. It is palpable submission. Gentle-

men exclaim, "Great Britain 'smites us on one cheek!'" And what does the Administration? It "turns the other also." Gentlemen say, "Great Britain is a robber, she takes our cloak." And what says the Administration? "Let her take our coat also." France and Great Britain require you to relinquish a part of your commerce, and you yield it entirely. Sir, this conduct may be the way to dignity and honor in another world, but it will never secure safety and independence in this.

At every corner of this great city, we meet some gentlemen of the majority wringing their hands, and exclaiming "What shall we do? Nothing but embargo will save us! Remove it, and what shall we do?" Sir, it is not for me, a humble and uninfluential individual, at an awful distance from the predominant influences, to suggest plans of government. But, to my eye, the path of our duty is as distinct as the milky way—all studded with living sapphires—glowing with cumulating light. It is the path of active preparation—of dignified energy. It is the path of 1776. It consists not in abandoning our rights, but in supporting them as they exist, and where they exist—on the ocean as well as on the land. It consists in taking the nature of things as the measure of the rights of your citizens, not the orders and decrees of imperious foreigners. Give what protection you can. Take no counsel of fear. Your strength will increase with the trial, and prove greater than you are now aware.

But, I shall be told this may lead to war. I ask, Are we now at peace? Certainly not, unless retiring from insult be peace—unless shrinking under the lash be peace. The surest way to prevent war is, not to fear it. The idea that nothing on earth is so dreadful as war, is inculcated too studiously among us. Disgrace is worse. Abandonment of essential rights is worse.

Sir, I could not refrain from seizing the first opportunity of spreading before this House the sufferings and exigencies of New England under this embargo. Some gentlemen may deem it not strictly before us; in my opinion it is, necessarily. For if the idea of the committee be correct, and embargo is resistance, then this resolution sanctions its continuance. If, on the contrary, as I contend, embargo is submission, then this resolution is a pledge of its repeal.

Mr. Dana said, he considered it unfortunate if the doubt existed in the minds of members of this House which seemed to be implied by the resolution under consideration. Was it really a question whether the Representatives of the people of the United States would bow their free necks to a foreign yoke? Was it to be decided by renewing the Declaration of their Independence? Once declared, Mr. D. said, it was to be considered as a given point that our independence should be maintained. And it was not always a sufficient reason for agreeing to a proposition that it was truth. For himself, he had not supposed that much doubt existed on this point. Even the committee themselves seemed to have considered this declaration as unnecessary, for they say it might to some seem superfluous. He thought the real policy to be pursued by this country should be such as never to make this a question; and when it became a question, a declaration in words added not to the determination to resent aggressions on our independence. However, as the resolution had been submitted to the House, it became a question how it should be decided, and another question, what was the import of it? In one respect he approved the resolution, because it was concise; and yet there might be a difference of opinion as to the terms of it. The questions now submitted to the Councils of the Nation were questions relative to our maritime rights. He knew not that any question existed as to our territorial rights. The language of the resolution was very broad, and he wished that it might be varied, so as to be more specific and appropriate. With this view, that no doubt might exist of the import of the resolution, he moved to insert between the words *to* and *the*, the words, "abandon the navigation of the ocean in consequence of." This amendment presented a question on which he wished a decided expression of the opinion of the House.

Mr. Sloan said, he perfectly acquiesced in the amendment moved by the gentleman from Connecticut, if one word more was added, and that was the word "longer," between the words *not* and *submit*. He, for one, thought that our rights were already abandoned, and that they had been abandoned too long.

Mr. Dana said, that, whatever had been his opinion of the past measures of the Administration, he would not propose an amendment which would imply that the Councils of this Nation had submitted. Gentlemen who had favored those measures probably did not consider them as submission. He therefore could not consent to cast that reproach on them. The gentleman from New Jersey, he hoped, would not consider it a want of attention to him; but, for these reasons, he could not accept his amendment.

Mr. Bacon observed that he had hoped, from the observations of his colleague, (Mr. Quincy,) that there would have been no objection to the adoption of this resolution, as reported. What could be less exceptionable than the resolution here offered, that the United States would not sacrifice their rights, honor, and independence, to the edicts of Great Britain and France? There was, indeed, considerable address displayed in the construction of this amendment. The declaration contained in the resolution was, that the United States would not in any manner submit to the edicts. The gentleman wished to say that the United States would not submit to abandon the ocean—thus narrowing down the mode of resistance. The conclusion to be drawn from which, was, that they would not submit to the embargo, which resisted those decrees. Instead of saying that they would not submit to the decrees, the gentleman from Connecticut wished them to say that they would not submit to abandon the ocean. Gentlemen said that the embargo was an abandonment of the ocean. The gentleman, therefore, wished to entrap the House into a declaration that they would not submit to the embargo.

Mr. Taylor said, it had been the desire of the select committee to present to the House a proposition which should leave out of view not only party feelings, which were supposed sometimes to actuate the House and the nation, but anything relating to the manner in which this resistance was to be made by the nation against the orders and decrees, alluding but to one object—the infraction of our neutrality by foreign nations; that the question should not be trammelled with war or no war, with embargo or no embargo; but that it should appear to the world that there was a spirit in this nation determined to oppose the orders and decrees of the belligerents. It was not necessary that he should have stated this as his determination, for he had given an instance of it, and so had the House, in passing the embargo law. A proposition was now brought forward on which he must vote—what? That he would not abandon the ocean in consequence of the orders and decrees. He said that a temporary abandonment was not a total abandonment; and if by the former the House should think that they could coerce an observance of their rights, the measure would probably be resorted to. This however was a question for the decision of the House. Why then trammel this resolution with another proposition which was not connected with it? An apology might be thought necessary for proposing a truism to the consideration of the House; but it would be recollected that during the late session of Congress a colleague of his had come forward and demanded whether there was or was not a man in the nation who would submit to the belligerent edicts? From one quarter an appropriate answer had been made; from another quarter there had been no reply. And what had been the conduct of the latter? Had there not been a proposition made (by Mr. Livermore) at the late session, to make war against one (France) and enter into connexion with another (Great Britain?) This had been introduced; and would it not have been the most servile submission? This sentiment was not disavowed by the gentleman (Mr. Quincy) who had given them his opinion on this resolution, and travelled out of the path of his argument to vent his spleen against other measures which were not recommended to the House by the committee, who had left it wholly with the House to say what measures they would adopt. Why should the House be made to decide on a proposition like this; when they had already adopted a measure (the embargo) which showed their willingness to make any sacrifices for maintaining their right to the ocean? The complaints made by the gentleman from Massachusetts proved that the people had borne a great deal. Mr. T. said he had given a sufficient proof by his vote in favor of the embargo not to make it necessary for him now to say that he would not abandon the ocean, unless for such a time, as, by affecting the interests of the belligerents, should compel them to abandon the nefarious project of laying under contribution our lawful commerce. Notwithstanding this disposition, Mr. T. said, he could not vote for the amendment offered by the gentleman from Connecticut, as its adoption would evade the question which he wished to be taken on the principles of the resolution.

Mr. J. G. Jackson hoped that the Committee would not consent to permit an evasion of a decision on the great question now proposed to them, and thus enable gentlemen to creep out by the aid of the proposition of the gentleman from Connecticut. He wished the question to be solemnly decided, because he believed that there were individuals in a certain portion of this body, who were not willing to say that they would resist these aggressions; and he was induced to believe it by a late assertion that the United States had no cause of complaint against Great Britain. If the gentleman from Connecticut would bring forward a distinct proposition to the amount of his amendment, Mr. J. said he would vote with him. Retiring from the ocean for a time was not an abandonment of it; but an acquiescence in the arbitrary edicts of the belligerents would be an abandonment. What was the amount of the resolution as reported by the select committee? Let it be examined and it was this; that the United States would carry on trade notwithstanding their edicts. He wished not to afford gentlemen an opportunity of getting off the odium which would attach to them if they voted against the plain proposition for resistance; and he hoped that the committee would not sanction the amendment, notwithstanding that he was ready to vote for a distinct proposition to the same effect as the amendment.

Mr. Livermore said that the principal question proposed to the House by the amendment was, whether it was consistent with a determination to resist, to abandon the ocean in consequence of the edicts of Great Britain and France? Would any gentleman say that it was? Would any gentleman say that it comported with honor and independence to abandon the ocean? He conceived not. The gentleman from Massachusetts (Mr. Bacon) seemed to conceive that if the amendment were adopted, it would be contended that the embargo was an abandonment of commerce. From its intruding upon the gentleman's mind thus, Mr. L. said there must be some truth in the idea. In considering this amendment, Mr. L. said he wished to consider it in its full extent. He did not in general wish that in legislation any abstract proposition should be laid down. It did not appear to him to be the proper mode of doing business; though it was probable that gentlemen might, from a cursory view, think proper to give this resolution their sanction. He could not see how any gentleman could dissent from the amendment.

This declaration of non-submission must relate altogether to something to be done or suffered on the ocean: and what then? Why he should suppose that he submitted by giving up navigation in consequence of the edicts of foreign Powers. It really appeared to him, that in withdrawing from the ocean, we did submit; that receding from the ocean was obeying the edicts. France said that we should not trade with Great Britain.

Great Britain said that inasmuch as this was the case, we should not go to the Continent without paying her a certain duty. He granted that both were injurious. What then? The question was, should the United States submit to them? He was not one of those to whom the gentleman who spoke last had alluded, as being afraid of the odium of voting against the first resolution, though he should readily vote for it. But he would much rather vote for it with the amendment of the gentleman from Connecticut. He did not know why honorable gentleman should throw out these insinuations. The gentleman had said that those who opposed the proposition said that they would submit. He had never heard any one say so; on the contrary, he contended that it would be humiliating to submit. But they might differ as to the manner of resisting; and he should contend that withdrawing from the ocean was submitting to the decrees of France and Great Britain. He said that he would not submit to the edicts of Great Britain more than of France; at the same time that he contended that withdrawing from the ocean would be submission to both.

Mr. LYON said he felt as strong an abhorrence as any gentleman to submit to the edicts of Great Britain and France, therefore he was inclined to vote for the resolution as it would stand when amended as proposed by the gentleman from Connecticut; he would prefer the resolution in that shape much to what it was in the shape it was presented by the committee. The amendment gave a tone to the resolution, which could not be misunderstood; whereas the resolution as offered, while it speaks against submission, is a mere repetition of the professions against submission, which preceded the embargo, a measure which, in his opinion consisted of the very essence of submission. By that measure we have submitted to be shut off from the ocean. In the rage caused by this political hydrophobia we have submitted—submitted even to the destruction of our uninterdicted trade, even our innocent coasting trade.

I did hope, said Mr. L., that by this time the representatives of the nation would have recovered from this political hydrophobia. I did hope that, when gentlemen had had a year's experience with their wise, their strong measure, which I have always esteemed a foolish and weak measure as to its external operations—when they themselves were convinced that it had failed in every point of answering the purposes they contemplated, I had hoped they would have magnanimity enough to give it up. I did hope they would by this time have felt a disposition to be merciful to their own country; that they would suspend the operation of this destroyer against their fellow citizens. I had hoped they would have some regard for the intimations, the something like assurances they gave last year, that a year's experience would satisfy them; but my hopes are all vanished. From everything I can learn, from what has passed in the House this session, it seems the nation are, by the wise authors of this wise measure, to be subjected to its calamities—God only knows how long. And for what reason is it now to be continued? Is it to starve the British nation, and to save our seamen? With all the energy with which this wise measure has been armed by your countless embargo laws, I have not heard of a single poor West India negro being starved by it. I have seen, it is true, a newspaper, which states, under the sanction of high authority, that our seamen have been saved by it; but I have it from other quarters, that many more than half of those we last year called American seamen, have, together with many of our fishermen, gone into foreign service. The sailors have not all caught the hydrophobia; they retain their love for the watery element, and are gone to enjoy it.

Among the diversity of evils and calamities brought on by the embargo system, so emphatically called a wise measure by its very wise projectors and supporters, there is none has vexed me so much as the injury done to the cause of republicanism—that cause in which I have long labored, and will cease to labor in only when I cease to breathe—that cause has suffered much. I told the Eastern Democrats last year, both here and in private conversation, that the Federalists, grown wise by adversity, would take every advantage of their folly, and get themselves into power. I foresaw then what has happened in the Eastern States. I assured them that Massachusetts, New Hampshire, Rhode Island, and Vermont, would, in consequence of their wise measures, discard their democracy, and approve of that federal folly which would have left the nation in a state of progressive growth, in a state of activity, prepared for defence or offence, prepared to support its rights by other means than inactive declamation. I told them that their people would prefer the state of things in which every man is allowed to embargo himself, or to exercise his energies, and employ his capital or his credit to his own emolument, and the benefit of the nation. My predictions have come to pass. Massachusetts has returned to that Federalism which she had shaken off. New Hampshire has told her embargo delegation that she has no further occasion for their services. Rhode Island has done the same. I hear a great boasting that Vermont is saved. I am well acquainted with that State, its situation and its constitution, and I can declare to you that it is not saved from a radical change to Federalism; that State being able to aid the embargo laws a little while longer, is owing to a defect in their constitution—it is owing to their having perhaps one hundred rotten boroughs or Old Sarums represented in their Legislature. The majority of the people of that State have elevated the Federal Governor, whom they had lately discarded. They have elected a Federal upper house, but owing to unimproved townships, in which there are not more than half a dozen families, being able to send an equal representation with those townships which contain five hundred families or upwards, the republicans of that State have been able to boast of the short-lived triumph they now enjoy. The

time has been when the inequality I speak of was so great, that less than forty members in that House represented one-half the people of the State, while the other half sent more than one hundred and twenty members. The time has now arrived, sir, when my last year's predictions have come to pass; it is apparent as the daylight. Yet the republican gentlemen of that State are disposed to attribute the change to anything else rather than the true cause. In the embargo system, they seem determined with closed eyes and hardened hearts, to proceed on until their opponents shall wrest from them the last vestige of power.

I regret sincerely to see in the President's Message at this time an intimation to the Legislature to prepare for disposing of the surplus which is to arise from our revenue, after it has discharged certain debts which now encumber it. This intimation looks too much like diverting the attention of the nation from the real situation of its finances.

It is true that there are about fourteen millions in the Treasury. How much more is there to come in, and where is it to come from? That fourteen millions must be disposed of by this time twelve months, and we cannot expect money enough to come into the Treasury, within that time to carry us more than about three or four months longer. If you should now take off the embargo, the duties to be derived from the return cargoes are to be bonded, and the money will not reach the Treasury time enough to save you from borrowing next year. Should you now lay a land tax, it would be the same thing. I confess I am not financier enough to find out any way to avoid borrowing next session of Congress. When the people see you have recourse to the borrowing system—that system which we republicans so loudly exclaimed against under the former Administration, and that to support a measure, or a course of measures, that has no other effect than that of impoverishing them, they will turn their backs upon you; they will prefer Federalism, or any other *ism*, rather than be cajoled in this way. Passing southward from the New England States, how stands New York now? They have acted wiser; they have discarded their embargo men, without taking up Federalists altogether, but the danger is that Federalism will prevail even in that wiser State. Jersey will undoubtedly follow. And I will venture another prophecy: that this House will contain, after another election, a majority of Federalists from the States south of Pennsylvania, unless this system of coercing the people to be idle, to be inactive, to be poor, to be miserable, is given up. Not having had time to read all the documents, and being unprepared to enter largely into debate, I shall waive any further observations, with a view to expressing my opinions more fully on the subject at another time.

Some further desultory debate took place on Mr. DANA's amendment, in which Messrs. RHEA, MACON, G. W. CAMPBELL, and FISK opposed it, and Messrs. ELLIOT and DANA supported it.

On the motion of agreeing to the amendment of Mr. DANA, it was lost—ayes 31.

Mr. LIVERMORE said he had an amendment to propose, which he hoped would meet the opinion of every gentleman, since the chief argument against the amendment of the gentleman from Connecticut was, that it narrowed the ground of resistance. He proposed to add to the end of the resolution the following words: "and that an 'abandonment of the navigation of the ocean, is 'a relinquishment of our rights, and a submission 'to the edicts of Great Britain and France."

Mr. COOK objected to the insertion in this resolution of any irrelevant matter, with a view to evade its object; although were the amendment introduced as a separate proposition, he might vote for it.

Mr. SMILIE said he really could not help giving credit to the gentleman from Connecticut, for the ingenuity of his amendment; but the gentleman from Massachusetts had certainly improved upon it. Accept that amendment (said he) and you condemn indirectly the very measures which this Government has taken for resistance.

The amendment moved by Mr. LIVERMORE was negatived, twenty members only rising in favor of it.

The Committee then rose, (half past 3 o'clock,) reported progress, and obtained leave to sit again.

THE EMBARGO.

Mr. GARDENIER presented a petition of the inhabitants of Southold, Suffolk county, New York, against the embargo. He moved to dispense with the reading, and refer it to a committee.

Mr. D. R. WILLIAMS said he could not dispense with the reading.

The Clerk proceeded in the reading of the petition; but before it was concluded, a motion was made to adjourn, and carried.

TUESDAY, November 29.

On motion of Mr. JEREMIAH MORROW,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of reviving and continuing in force, for a further time, the authority of the board of commisioners for investigating claims to land in the Kaskaskia district; and that they report by bill, or otherwise.

Mr. HOLMES, from the Committee of Claims, presented a bill authorizing the payment of certain pensions by the Secretary of War at the seat of Government; which was read twice and committed to a Committee of the Whole to-morrow.

The letter presented yesterday, by Mr. GARDENIER, from sundry freeholders and inhabitants of the town of Southold, in the State of New York, was read, and ordered to be referred to the Committee of the whole House to whom was committed a resolution proposed by Mr. CHITTENDEN on the tenth instant.

FOREIGN RELATIONS.

The House resolved itself into a Committee of the Whole on the report of the committee on the subject of our foreign relations. The first resolution still under consideration.

Mr. W. Alston said, if gentlemen had confined themselves to the resolution immediately before them, it would not be necessary further to discuss it, as no gentleman had objected to its adoption; but as the subject of our foreign relations generally, as reported by the select committee, was fairly within the rules and orders of the House, and proper for investigation, he should offer a few remarks in support of that report, and in doing so, he assured the House that he should not very long ask their attention.

The gentleman from Massachusetts, (Mr. Quincy,) who favored us yesterday with a long harangue upon this question, made so many extraordinary assertions, so contradictory in themselves, that I think there is no man under Heaven that could well understand him, and much more difficult would it be to reconcile his very contradictory arguments to each other: for, however plausible he might be in some of his observations, before he concluded he was certain to destroy any impression they were calculated to make upon the minds of his hearers. Mr. A. said he would begin his observations in reply at the very point where the gentleman had ended; the gentleman had stated that the course the Government ought to pursue was as clear as the milky way; that no man could or ought to mistake it; but as he was an humble minority man, it was not his business to lay any plan before the House. Resistance! defend your rights upon the sea! was his language. Strange language this. If the path was so clear, how happened it that the whole wisdom of the Government and the nation should find such difficulty in pursuing of it? for, he believed, turn whichever way they would, innumerable difficulties presented themselves to all, except a few in the State of Massachusetts, and he hoped that they were very few, who wanted to join one party and go to war with the other; who were willing to submit to the orders of Great Britain, and plunge this nation into a war with France at the hazard of our liberty as an independent nation. If this was the gentleman's resistance, and from his observations and remarks he thought no man could well draw any other inference, he hoped they should not adopt his course. He, however, rather concluded, from everything the gentleman had said, that resistance to the laws of his own Government, fairly enacted, and declared by the Judiciary of his country to be Constitutional, would suit his palate a little better than any other resistance, unless, indeed, a coalition with Great Britain to resist France might suit him better. The gentleman had exclaimed loudly against paying tribute, and urged, at the same time, that no tribute would be paid, for, if our vessels were permitted to go to England, that the edicts of France would prevent them going elsewhere. This was not Mr. Alston's opinion, for were our vessels permitted to leave our ports, and by paying a duty in England, could find a better market upon the Continent, the merchants, tribute or no tribute, would pursue that course which their interest directed. The gentleman talked of resistance, and resistance on sea. Did any one believe that he seriously meant meeting the powerful navy of Great Britain on the sea; of that Britain who had been emphatically styled the mistress of the ocean, and who was fighting for the liberties of the world and of mankind? No, sir, said Mr. A., nothing of the kind is meant; submission to her orders would be the inevitable consequence of the gentleman's resistance, and finally a loss of everything dear to the American character; a loss of our liberty and independence as a free people.

The gentleman from Massachusetts talks about the spirit of 1776, and cautions my colleague, too, who mentioned that spirit a few days since, not to invoke it. Wherefore does the gentleman do this? Is it because he does not wish the American people of the present day to know that the spirit of our ancestors was opposition to British aggression?

The gentleman says the embargo must be repealed; that there is a voice in this nation louder than the voice of Congress; that the air will continue to circulate and the waters to descend, any law to the contrary notwithstanding. Good God, Mr. Chairman! has the American nation come to this, that the laws of our country are to be violated, that trade and commerce shall be carried on whether sanctioned by the Government or not? The gentleman says the whole nation calls aloud for its repeal; that there is but one sentiment on the occasion; that every part of this great community feel its effects, I readily admit; but that they wish its immediate repeal at the expense of our liberty as an independent nation, I positively deny. I must confess my astonishment, when I heard the gentleman reiterate those sentiments—when I cast my eyes into the newspapers of the day, and saw that town meetings had been held in the neighborhood of the town in which the gentleman comes from—(Boston) where I find the subject was discussed and a large majority against the repeal of the embargo laws; yet, sir, it may not be true, and the sentiment may be universal. It appears, from the same papers, that Mr. Gray, of Salem, one of the most intelligent and distinguished Federal merchants upon the continent, was present at a meeting in his town, and clearly pointed out to the satisfaction of a large majority present, that if the embargo laws were repealed whilst the present restrictions remained in force against our commerce, that any trade would be so hazardous and uncertain, that no honest merchant could or would attempt it. Notwithstanding all these facts, staring us in the face, what the gentleman asserts may be true, and these things not have taken place. If the subject of repealing the embargo was now before us, I would readily go into an investigation of the subject, and offer some remarks why it should not now be repealed. It will undoubtedly be discussed before the session

ends, and I am certain I shall be found as willing as any member on this floor to take it off as soon as the interest, safety, and honor of this nation will permit it.

From the great commercial talents of the gentleman, I had expected that he would have taken a commercial view of the subject, and have shown us that intercourse might be opened to advantage somewhere. Had it been shown, I am certain that I should be among the last to hold on upon restrictions injurious to the community. Had it been in the power of the gentleman, no doubt he would have done it. I therefore take it for granted, that under existing circumstances, no benefit would result to the honest and upright trader. Provided the gentleman could obtain his object, nothing but hazard, difficulty, and danger, would be presented, independent of national degradation and dishonor.

There has been laid upon our tables, this morning, a document containing petitions which were presented two years ago. I have not had time to look into them, but, as well as my memory serves me, they contain language and sentiments very different from the language of those of the present day, and from the self-same quarter of the United States, too. They pray a further attempt at negotiation, and suggest a special embassy; and, in case of its failure, they pledge their lives and fortunes in support of the measures that the Government may adopt in vindication of their just rights. I call upon gentlemen—particularly the gentleman from Massachusetts—to examine the grievances they complain of. It was nothing more or less than a violation of a commerce carried on by the merchants of this country from an enemy's colony to the mother country. This, sir, was the complaint in which the pledge was given to shed their blood in case of failure. Well, sir, the very steps were taken, and negotiation completely exhausted upon the subject; and (as is contained in the report of the select committee) nothing but insult, added to injury, is the result. Yet, we are told that these very people will not submit to the laws of their country. I cannot bring my mind to believe this to be the character of the good citizens of the State of Massachusetts, notwithstanding the gentleman's strong assertions to the contrary. If the gentleman is determined upon resistance, and that upon the sea, where is he to find an enemy? France, we are told, has not a rag of sail upon the ocean. Does the gentleman mean to invade the Emperor Napoleon's territory, or does he mean to attack Great Britain, the mistress of the ocean, who, we are emphatically told, is fighting the battles of the world for the liberties of mankind? An idea of that sort of resistance is too idle to merit serious consideration.

Mr. Bacon.—In all the various discussions which have arisen in the House on the great subject of our foreign relations, and on the general course of measures which were adopted in reference to them, in the course of the last session, I do not at present recollect having occupied the time of the House in listening to any observations of mine on those general subjects. I have heretofore forborne from trespassing upon their patience on two considerations—because I had been persuaded that the discussion was already in much abler hands than my own, and because I was strongly impressed with a conviction, that, in the perilous and momentous crisis to which the affairs of this country had been for the year past verging, both the House and the nation required from their Representatives on this floor less argument and more action—less declamation and more decision. I am now fully sensible that both these considerations continue to exist in their full force, and that the interests of the people will not always be best subserved by him who occupies their time with the most elaborate speeches, or amuses them with the best chosen rhetorical figures.

Impressed with the full force of these reflections, I should still have continued to listen to others, in silence, had I not conceived myself pretty loudly called upon by the observations of my colleague yesterday, and did I not think it a duty at this early period to rescue the report of the select committee (one of whom I had the honor to be) from those imputations which have been improperly heaped upon it by him; as also to meet some of those remarks which he seemed to direct particularly to myself.

That gentleman opened his address by expressing his entire and unqualified concurrence in the broad position which is set up in that general resolution reported by the select committee, which is now before us. And what was his reason? Because, said he, that resolution, if adopted, must be considered as a specific pledge, on the part of this House, for an entire departure from that general system of restrictive policy which has been pursued during the past year. If the gentleman, indeed, viewed the resolution in this light, why would he not suffer it to glide through with that silent and general acquiescence which on all hands seemed to be promised to it? Why step aside, with so much zeal, to attack that system, which, upon his supposition, no one was about any more to defend? Why make it the great laboring point of his very labored and systematic argument, to discredit that odious embargo system which he affected to think every one was now about to give up? Was it because his hostility to it was so deep that he could not bear to see it die, unless he had a hand in contributing to its exit, and was determined to show his constituents, that, in the language of sportsmen, he also was in "at the death?" The only reason which I recollect to have been given by him for his unusual course, was, that the future adherence to this embargo system was specifically recommended by the report of the committee. Whatever may be the future judgment of this House on the policy of continuing this measure for a longer period, or assuming a different position, I assert that no such recommendation is contained in that report; and it is inconceivable to me on what part of it the gentleman will support his assertion. So far from this, that the decision of that great question, and the expediency of electing either that or another alternative,

is expressly left open to the House by the committee themselves. [Mr. B. here read the following paragraph, from the report, in justification of his construction of it:]

"On a question of such difficulty, involving the most important interests of the Union, and which has not perhaps until lately been sufficiently considered, your committee think the House alone competent to pronounce a decisive opinion; and they have, in this report, confined themselves to an exposition of the subject, and to such introductory resolutions as will be equally applicable to either alternative."

The gentleman, therefore, is evidently utterly unsupported in imputing to the report what it expressly disavows; and cannot certainly justify the course which he took by any apology of this sort. But, even if the question of the embargo was one which could properly arise out of any part of the system recommended by the committee, it certainly was in no degree connected with the general declaratory resolution now under consideration. And the gentleman's observations, if applicable to any stage of the discussion, were obviously premature, and "a leaping before he came to the stile." The same remark would apply to the observations which we heard from the friend (political friend, I mean) of my colleague, from Kentucky, but which it is impossible I should think of answering on this floor. That the last-mentioned gentleman should have suffered himself to wander into so irregular a course, is not at all surprising—he is not a standing professor of method. But my honorable colleague is a man, who, in the course of his every-day discussions in this House, entrenches himself in all the niceties of a special pleader. He is a man of fine distinctions, of divisions, and subdivisions, and who will generally war upon a single word which he finds out of the ranks, and wage hostility upon a straggling adverb. Much more, then, should I have expected that he would not have allowed himself to stray into an argument so wholly irrelevant to the subject immediately before the Committee, and into observations so entirely premature. The gentleman (to use the language of the day) raised the embargo upon his anti-embargo speech before the time. Whether it was because it has been so long on hand, that, like some other articles, it might have spoiled by longer keeping, I will not undertake to say. But, although the course which the gentleman took, in his view of the subject before us, might not itself be correct, yet I feel myself now in some measure justified, if not strongly called upon, to follow him in some of those remarks upon our past measures and present state, which he has presented to the Committee.

The first remark of his which demands notice at present, is, that the principles which he found avowed in the report of the select committee were loathsome in his view, and disgraceful to the nation. As the gentleman has seen fit on this point to deal only in general allegations, it is impossible for me to vindicate from his reproaches any of those particular positions which are so much the object of his abhorrence. Is it that concluding paragraph which is so offensive to the gentleman?

"And it may not be useless that every foreign nation should understand that its aggressions never will be justified or encouraged by any description of American citizens. For, the question for every citizen now is, whether he will rally round the Government of his choice, or enlist under foreign banners? Whether he will be for his country, or against his country?"

I hope it was not this sentiment which bore with it so loathsome a relish; but it is not for me to select those parts of it which he is offended with, and which he has denounced only by general allegations. The gentleman had before, in commenting on the general resolution reported by the committee, remarked that he was opposed usually to abstract legislation, and general declaratory resolutions, viewing it as he did to be usually the resort of weakness or of ignorance; and yet he can himself thus deal in general and sweeping denunciations of that report. It is not for me to make the application of his former maxim. But, says the gentleman, of what use can be the declaration which is set up in this resolution, that the rights, honor, and independence, of our country were violated by the edicts of Great Britain and France—for who questions it? I am glad, sir, to hear at last, from so high authority, that there can be no question raised on this point. Accustomed as I have been for a long time past to be told, through the medium of too many of those prostituted gazettes which live upon the perverted passions of the day, and disgrace the nation which supports them, that this Government and not Great Britain were the real aggressors in the present controversy; that she, instead of being the injuring, was in truth the injured party, and had therefore the best right to complain. I rejoice to see these calumnies at last put down by so commanding an authority, and hope that, from this time, the public are to be imposed upon by them no longer. To those unquestionable invasions of our national rights, the gentleman further agrees, in general terms, that this nation ought not to submit. But what, says he, do your past measures amount to but submission? I well know that this language has been the catchword of newspaper argument during the Summer past, and am not altogether surprised at hearing the sophism renewed at this time—and how does the gentleman proceed to prove it? Submission, says he, is the agreeing to a thing ordered by another in the manner that he prescribes, or refraining to do a thing that he prohibits you from doing. England says that we shall not trade with France and her allies, and they, in their turn, say that we shall not trade with England. We prohibit altogether the trade with both. His conclusion is, that we submit to the course prescribed by both. But, sir, is the refraining from our trade with both those Powers pursuing that course of conduct which the interest of either of them demands, or the policy and spirit of their edicts against us evidently holds forth? It is as much the interest and the wish of Great Britain that we should continue our trade with her, as that we should forbear it with France and her allies. What have we said by the embargo?—that we

will forbear the latter and continue the former? No. But that, unless you take off your interdictions against that trade which you wish to deprive us of, you shall not have the benefits of that other trade which it is your interest and your wish to have us pursue. The policy of the French edicts, and their effect upon our interests and rights being precisely similar, the measure which we mete to them is also the same. Again, says the gentleman, the embargo is not only submission to both, but it is aiding directly the policy of both against each other—for, says he, the object of France is to compress the commerce of Great Britain. The withdrawing of our trade aids that policy. The policy of Great Britain is to cut up neutral trade to France, and thereby excite discontent and revolt among her subjects, and the withdrawing of our trade aids that policy. By the gentleman's own argument, then, it is proved that the embargo has operated as a measure of compression, of inconvenience, or, in other words, of coercion against both Powers; upon Great Britain, by compressing and narrowing her trade, and upon France, by withholding her customary supplies; and the very same argument by which he attempts to prove that it is in accordance with the policy of the one, proves also that it is in hostility with that of the other; that it is, so far as it goes, resistance; and this is all that was ever contended for by its advocates. I take the gentleman now solely upon his own argument, without drawing to my aid other considerations which strengthen and explain this conclusion. But the gentleman will allow nothing to be considered as resistance, which is not bottomed on powder and ball; every other measure, as one of coercion, must be submission. In the natural world, every order of animals is endowed with its own peculiar weapons of annoying its antagonist, and waging war in its defence; and most of them are different from each other. Would it be strange if there was a similar variety in the organization of nations. Because Great Britain wages hostility only by ships of war and great guns, does it follow that this country cannot and must not attempt to do it in any other mode, at least for a temporary period? or, because Napoleon attacks his enemies with muskets and bayonets, must the United States be allowed to use only those weapons? Even in open and actual war, fortresses are not always taken by open and direct assault; it is frequently found most practicable to reduce them by the slower operations of a siege, and the withholding of supplies. This may at times be the policy of a nation, and before other means are resorted to, may be a prudent and a wise policy. Those means failing, they must, to be sure, in the last resort, rely upon that which is emphatically called the last appeal of nations, and rest their vindication upon the sword; and upon that I trust we shall, if necessary, not be backward to rest ours.

Proceeding as he has heretofore done to represent to this House the interests and the sentiments, not only of all his own constituents, but those of the whole body of Massachusetts, the gentleman declares, that, in that State, the opinion that the embargo must at all events be removed, is not only general, but universal with every man of every party. Sir, I protest against the right or authority of my colleague to bring before this House the unanimous sentiments of Massachusetts, or to undertake in himself, alone, to represent their united interests. That the people of that State have suffered, and are now suffering much, from the present pressure of our national concerns, is not denied; that they all ardently desire that our commerce should be opened so soon as is compatible with the great interests of the nation, cannot be doubted; in this wish the interest and the most sincere desires of all here, as well as there, must unite. They have ardently hoped that such a repeal might take place consistent with the policy on which these laws were originally founded at the opening of Congress; and they, as well as the Government itself, had the best reason to suppose, at a particular period, that this might have been done. But that the undivided voice of the people of Massachusetts has ever been expressed unequivocally, that the embargo ought, at all events, and without any regard to the existing or future state of things, to be forthwith removed, is a position of which that gentleman has no evidence. On this subject, the opinions of a large portion of the citizens of Massachusetts, like those of their brethren elsewhere, have been formed upon no decisive system of measures; they repose with as much confidence as they ought to do, in the wisdom and information of the Government, for the adoption of that course which, under all circumstances, shall be thought the most prudent and eligible, and in that course, whatever it shall be, they will, I trust, acquiesce as good citizens, and carry it into effect with an undivided will. But, coming here, says the gentleman, under the impression of this universal sentiment, that the embargo must be removed, and meeting with men who, after hearing the incantations of the great enchanter, intimate that it may be best longer to continue it, I feel utterly astonished, seem to have got into the regions of magic, and ask whether this House is mad! Sir, it would not be the first instance wherein the madman himself has fancied that his own insanity was imputable to others. There is an eminent instance in sacred writ, wherein madness was unjustly charged upon one who spoke to his accuser only the words of truth and soberness. But if the gentleman means to intimate, that by the incantations of any man or men, the members of this House are operated upon by any undue influence, independent of their own judgment and views of propriety; in behalf of myself and those with whom I am generally happy in acting, I repel the charge, and pronounce it altogether unmerited. We know of no such enchantment, and we act under none. The insinuation, if so intended, is altogether unwarranted.

We are asked by the gentleman, in the common language of the day, whether any man thinks that the people of New England are to be indefi-

nitely prohibited from the use of the ocean, and commerce perpetually abandoned? The very words of the report which he so much reprobates furnishes the best answer to this suggestion. It is there stated, that—

"The aggressions of England and France collectively, affecting almost the whole of our commerce, and persisted in, notwithstanding repeated remonstrances, explanations, and propositions, the most candid and unexceptionable, are, to all intents and purposes, a maritime war waged by both nations against the United States. It cannot be denied that the ultimate and only effectual mode of resisting that warfare if persisted in, is war. A permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance; it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean. The present unsettled state of the world, the extraordinary situation in which the United States are placed, and the necessity, if war be resorted to, of making it at the same time against both nations, and these the two most powerful of the world, are the principal causes of hesitation. There would be none in resorting to that remedy, however calamitous, if a selection could be made on any principle of justice, or without a sacrifice of national independence."

The idea of this perpetual abandonment of the ocean, so often held up as the catch-word of party, is expressly negatived by the report, and exists no where but in the imagination of those who sound it. If we can ultimately make our way upon the ocean by no other means, we must fight it there; the only question is, when is the proper period to adopt it.

In his remarks upon some observations which fell from me in the course of our secret session, my colleague asks triumphantly, what are the means which I possess of knowing the actual situation of the various classes of people in Massachusetts, under the operation of the embargo? I have travelled more than once, during the Summer past, from the seaboard to the western frontiers of that State. Has the gentleman himself done as much? But have I been in the cities, seen the general desertion of their streets, and the ships rotting at the wharves? Yes, sir, I have been more than once in more than one of our principal cities, but have not seen that total desertion of the streets which is spoken of. I have seen, indeed, a great contrast to the picture exhibited in those times of profound peace and unparalleled prosperity which immediately preceded the present stagnation of business. But I have still seen much occupation and pretty general employment of some sort or other, for most classes of the citizens, but have seen or heard of no one starving in those streets. But have I conversed with merchants? Yes, sir, I have even conversed with merchants; have been to this oracle of all wisdom, as the gentleman seems to look upon them. I have conversed freely with more than one merchant, who had himself as many of his ships rotting at his wharves, as had most merchants of our country, and have found many of them, though suffering their full proportion of the general pressure of the times, satisfied that nothing better could have been done; convinced, that by the adoption of any other alternative, they could not have expected immediate relief, and willing to forego their immediate interest for the general good of our country; with a full confidence that Government had done the best that was in its power for their relief. It is far from my intention to be understood that the state of our national affairs has not been sensibly felt, and the industry of our citizens much paralyzed, in that part of our country, by the operation of these measures. It certainly has. But my object has been, both now and the other day, only to express my opinion, that the tragic picture of general ruin and universal suffering drawn by my colleague, a ruin so wide that every eye could see it, and a suffering so deep, that every man must feel it beyond endurance, was altogether overcharged and exaggerated, and this, so far as my information extends, I feel no hesitation in asserting.

It is pronounced in an emphatic and commanding style, by the gentleman, that these laws must be repealed, and for this imperative reason, that the public mind is against us, that we cannot expect to be able to enforce them much longer by any means, and that there exists a control over this body in the nature of things and in the Constitution. Sir, I agree there is a control, in the Constitution, over all our acts; but I had hoped, after this question had once been submitted, as it has been, to the decision of that tribunal whose judgments that gentleman and his friends had been heretofore so much in the habit of respecting, and when, after a solemn argument, an opinion sanctioning their constitutionality had been given upon great deliberation and advisement, by a judge of great legal weight and personal respectability, and whose opinion, from his known political character, could not be suspected of any party views; after all this, I had hoped that we should have heard no more suggestions about the unconstitutionality of this law; particularly from a quarter where we had been accustomed to hear the doctrine that the judicial power was supreme, controlling not only the exercise of individual rights, but also the power of every other branch of the Government. But we are told that a judicial decision is one thing, a popular decision may be another. Indeed, sir, has it come to this, that having appealed from the opinions of your legislative department, in all its branches, to that oracle of the Constitution, the Judiciary, and finding even that against them, we are now to be threatened by an appeal to the people, over the heads of the whole Government? It is now some years since the country was put into fermentation by the irregular conduct of a foreign incendiary, in affecting to appeal from the decision of your Executive branch alone, and I did not expect to have seen this course of conduct so soon revived in a more exceptionable manner by my honorable colleague. But when he speaks of a control over our proceedings existing in nature, what can he mean? He says, not by open insurrection. Sir, I trust that considerations of a control existing

over the acts of this Government in any source except the limitations of our Constitution, will not be suffered to influence our judgments in the exercise of our representative functions; they ought not to do it, and I trust they will not. But the public sentiment, we are told, is setting too strongly against us, and it is in vain to think of executing our laws in defiance of public opinion. It would be in vain, sir, to conceal that the public prejudice in the Eastern section of the Union has been too successfully operated upon by designing men, and a spirit of opposition to, and evasion of, these laws, most shamefully excited. And how has this nefarious object been effected? By the grossest misrepresentations and most palpable perversions of the objects, the causes, and the policy of this abused measure. By calumnies and misstatements emanating too often apparently from the seat of this Government. I have now in my hands a sample of one of them, which, among a thousand others of the same sort, has accidentally fallen under my notice.—[Mr. B. here read the following extract of a letter in the Boston *Repertory*, of the 22d instant, purporting to be written from Washington and dated November 15, 1808:]

"It is said (and there can be no doubt of the fact) that Mr. Armstrong has written a letter in which he has this observation: 'We have greatly overrated our means of coercion, the embargo is not felt here, and in England it is forgotten. I wish it was raised.' Notwithstanding this, these stupid politicians are determined to keep it on until they altogether destroy your commerce; and I believe it would give them not the least uneasiness to see a lighted torch put to your shipping at the wharves; indeed, I have heard some of them say as much."

Sir, I hope misrepresentations of this sort do not issue directly from this House, and yet the sentiment which has just been read is too much in accordance with the representations which, in the course of the last Spring, were given in handbills, circulated in a certain part of Massachusetts, purporting to be an address made to a public meeting of his constituents by an honorable member of this House, who had just come from the seat of our deliberations. We were there told of confidential and undisguised disclosures made to that gentleman by members of this House from the Southern section of the Union, that, in their opinion, our national commerce was rather an injury than a benefit, and that its advantages were not worth its protection. I do not know whether the gentleman to whom the propagation of such information was thus publicly imputed, is willing to be responsible for that which was attributed to him in the publication last alluded to; nor have I heard that he has contradicted it, and the declaration has been left to work its effect upon public prejudice. Sir, it is by calumnies of this sort that the feelings and jealousies of our citizens have been played upon, and this hostility against your laws excited. And, after all, these operations have been brought into action, gentlemen come and tell us that the public opinion in Massachusetts is setting against us, and that so repugnant are our laws to the feelings and habits of our people, that they cannot be executed. Sir, the people of that State and of all New England, are a people vigilant of their true interests, jealous, and very properly jealous, of their personal and commercial rights, and resolved to vindicate them against wanton aggression from any quarter. Goaded as they have been by artifices like these, and operated upon by misrepresentation of the views of their Southern brethren, and of the object and policy of our laws, is it strange that they have been wrought up to feverish habits, and that the execution of those laws is evaded, and in some few instances resisted? I trust that the means of true information which we have lately diffused among them, will, in a good measure, correct those misconceptions, and allay those prejudices which have been thus artfully and wickedly excited.

We are next told by the gentleman, that you cannot identify the violator of these laws with the common, unprincipled smuggler, that those who break them will not be considered as "the most worthless part of society," and therefore disreputable among their fellow-citizens. And why, sir, can you not? Because, says he, the temptation to violate is so strong that human nature cannot be expected to resist it; that the patriotism of your merchants, though it may induce them to shed their blood for the good of their country, cannot be expected to lead them to sacrifices which this system calls for. It is, sir, a rule in morals and ethics, that virtue is not virtue until it is put to the test by the ordeal of temptation; so in politics, that sort of patriotism which cannot withstand a pecuniary temptation for the good of our country, is not to be counted upon. But can it be that the gentleman has given us a correct character of the sort of patriotism of his mercantile friends; that they will consent to almost any sacrifices for their country's cause, even to the spilling of their blood, but touch their property and you touch them to the quick, and they shrink? Sir, I trust he has not done justice to the character of our merchants, and I cannot suffer his views of them to prejudice them in my esteem. They will, I trust, if our country calls, offer up not only their bodies and their blood in her cause, but will even consent to part with a little of their property, if necessary. I know that many of them would part with their all rather than they would brook dishonor.

No man, it is said, now believes that the professed objects of laying the embargo have been or can be at all answered by its continuance. The question of its continuance not being now before the House, I shall notice only some observations of my colleague as to its past effects. He says, that, as a saving of resources, the loss sustained by the country has already been greater than the saving. And how does he draw his comparison? By resorting to an estimate of our revenues—of the amount of our freightage, and the value of our shipping, taken in a year of profound peace, and at a period of prosperity unexampled, not only in the history of this nation, but of the world. He

then compares the aggregate of these with an estimate of the present probable amount of revenue accruing, and the value of our freightage and shipping. But, is this comparison a fair one? Will it be pretended, that under any measure which could have been adopted, to meet the unprecedented state of things in which, by the violence of other nations, we have been placed during the past year, that state of prosperity which we had before enjoyed would not have experienced a great and a sensible change—that the amount of our revenues would not have suffered a serious diminution, and the freightage and vessels of our merchants have sunk to a very disproportionate value, compared with former times? Sir, it cannot be pretended but that such, under whatever measures had been pursued, must have been the result. The contrast presented to us by the gentleman is therefore utterly fallacious. But it may, with propriety, be considered, that all that portion of our resources, which, by being kept at home, has not fallen into the hands of our enemies, may be said to be saved to ourselves, even though their value in our hands should be greatly diminished, or even annihilated. It has not been suffered to increase their resources, and multiply their means of annoyance against us. This consideration is certainly not without its weight.

The gentleman dwells much upon the unequal pressure of this measure, and its unfair operation upon the different sections of the country. The inequality is, in my view, by no means so great as he supposes. It affects most classes of our country who have anything to affect, and those who have not, are frequently as loud against it as any other part. But the same argument would probably apply with nearly equal force against any other measure which, in any event, might be necessary to assert our rights and vindicate our commercial interests. In the event of war, (which the gentleman allows must sometimes be resorted to,) the seaboard and frontier sentlements, being most exposed, must be subject to the greatest depredations, and experience the severest pressure. The great towns may be bombarded, their property ravaged, and their habitations levelled with the ground. Would our cities therefore say that we never must have war, even to save the country? These partial and unequal sacrifices for the general good always have been, and always must be, submitted to. It arises from the nature of things—is inevitable from the situation of the country—and does not grow out of this or any other particular course of measures; and especially ought any little inequalities to be submitted to, when the great object of the measure is to assert that particular interest in which the inhabitants of our cities are supposed by the gentleman to have a paramount interest.

We are warned by the gentleman not to appeal to the spirit of 1776, in aid of the general course of measures which have been taken in vindication of our rights. He tells us that the spirit of that day was one entirely different from that which governs the policy of these times; that it was a spirit of action, and not of passive submission—not of restrictions upon our commercial enterprise, but of active exertion.

Mr. QUINCY here said that he had not used the words now imputed to him; he said the word *embargo* was not to be found in the proceedings of that day.

Mr. BACON.—I will show the gentleman how much he will gain by his play upon words. [He then proceeded to read from the Journals of the old Congress the following paragraphs from the non-importation and non-exportation association of the Colonies, entered into by Congress, and recommended to the Colonies.]

Mr. QUINCY asked what was the date of those proceedings?

Mr. BACON answered, October 20, 1774.

Mr. QUINCY said, his expression was, that no such measure was taken in 1776.

Mr. BACON.—The gentleman is welcome to his hair-breadth escapes and his repeated explanations. I will soon bring him down to 1775—a period not very unlike 1776 in its principles and objects; nor is a non-exportation measure altogether different from an embargo.

[The following are the paragraphs referred to:]

"To obtain redress of these grievances, which threatened destruction to the lives, liberty, and property of His Majesty's subjects in North America, we are of opinion that a non-importation, non-consumption, and non-exportation agreement, faithfully adhered to, will prove the most speedy, effectual, and peaceable measure. And therefore we do, for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate, under the sacred ties of virtue, honor, and love of our country, as follows:

"1. That, from and after the 1st day of December next, we will not import into British America, from Great Britain or Ireland, any goods, wares, or merchandise, whatsoever; or, from any other place, any such goods, wares, or merchandise, as shall have been exported from Great Britain or Ireland. Nor will we, after that day, import any East India tea from any part of the world; nor any molasses, sirups, paneles, coffee, or pimento, from the British plantations or from Dominica; nor wines from Madeira or the Western Islands, nor foreign indigo."

"4. The earnest desire we have not to injure our fellow-subjects in Great Britain, Ireland, and the West Indies, induces us to suspend a non-exportation until the tenth day of September, 1775; at which time, if the said acts and parts of acts of the British Parliament, hereinafter mentioned, are not repealed, we will not directly or indirectly export any merchandise or commodity whatsoever to Great Britain, Ireland, or the West Indies, except rice to Europe."

This was in 1774. Again, on the 1st August, 1775, I find this further resolution:

"*Resolved*, That, under the prohibition, in the said association contained, to export to or import from the islands of Great Britain and Ireland, this Congress intends to comprise all exportation to or importation from the islands of Jersey, Guernsey, Sark, Alderney, and Man, and every European island settlement within the British dominions; and that, under the denomination of the West Indies, this Congress means to comprehend all the West India islands, British and foreign, to whatever State, Power, or Prince, belonging, or by whomsoever governed; and also the Summer islands, Bahama islands, Berbicia and Surinam on the Main, and every island and settlement within the latitude of the southern line of Georgia and the equator."

Thus far, sir, did the patriots of '76 commence their resistance to foreign subjugation by an embargo, and I was indeed surprised to hear my colleague endeavoring in this point of view to contrast the policy of that period and the present one, and now shielding himself from his error under a mere play upon the words by which, at different periods, the same measure happened to be called. I repeat it, then, that the spirit of the Revolution is not inaptly invoked at this crisis, nor are the measures of 1808 dishonored by a comparison with those of '76. The objects of that day and of this are substantially the same, and I trust that the same ulterior measures, and the same spirit will be found, if necessary, to carry us through the struggle.

But the gentleman protests against the suggestion of our having to pay tribute under the British orders, being brought into the debate to influence our prejudices, or alarm our apprehensions; he calls it the mere stalking-horse of party, and begs that it may be put out of the debate. He will excuse us if we cannot consent to lay aside in complaisance to him a consideration which this House and this nation never can and never ought to overlook. He does not deny that such is the requirement of the British Government; that our exports before they can go from this country to the Continent of Europe shall first enter at a British custom-house, and pay a duty to be fixed by that Government; but, says he, there is no danger that our merchants will ever pay it, because, by the French decrees, the very circumstance of their coming from England and paying the duty, subjects them to confiscation as soon as they shall arrive at a continental port. But the gentleman well knows that such of our merchants as have been allured by an improper thirst for gain, have long been in the habit of going with their cargoes from England to the Continent, notwithstanding the decrees; contriving by false and forged papers, purporting to be made out from American custom-houses, to conceal the fact of their having actually sailed from England. This is a thing now of public notoriety. There is, I am told, more than one instance of the official evidence of it in this city, and it is proved by British publications of the highest authority to have for some time been a course of business extensively pursued; and it is even said that there are in London offices where all the necessary papers for a vessel sailing from all the principal ports in the United States are to be purchased by the ream. What, then, has the commander of an American vessel, anxious to make a profitable voyage to the Continent of Europe, and unable to get there directly on account of the British orders, to do, but what it is proved too many of them have been in the habit of doing for a long time: visit Great Britain, pay the duty required upon his cargo by the acts of Parliament, purchase his forged papers giving him the appearance of coming directly from an American port, and thus complete his fraudulent voyage. But, says the gentleman, we can by our laws prohibit this procedure, and effectually punish and prevent those who would otherwise be base enough to attempt it; is this to be believed, sir? He had but a little before told us that the temptations of profit to evade our embargo laws were so great, that our merchants could not be expected to resist them; that it was too much to require of human nature, and we could not therefore execute these laws on our own soil. I ask whether the temptations of a profitable voyage to the Continent—and vastly profitable they are when they can be got through with—will not render it quite as difficult for those upon whom they operate to resist them, and whether we can expect to repress this spirit of cupidity in our citizens three thousand miles off, more easily than when they are upon our own shores? Certainly not. This disgraceful tribute, therefore, will be paid, and the consideration of it is a just and serious subject for our attention.

In answer to the inquiry which the gentleman very properly anticipated would be pressed upon him in relation to the course which in his judgment ought originally to have been pursued, instead of the one which he so much reprobates, he very modestly tells us, that it is not for him, a solitary individual, to offer his projects for the Government, though our course, he adds, is as clear as the milky way, if we would but see it. Sir, the honorable gentleman is not generally so over modest that he dare not even hint his projects to the House; nor indeed ought he to be. His talents and information will entitle him to assume a very different attitude, and he is generally not very backward in assuming it. If he or his friends have in truth some grand specific which would at once cure all the diseases of the nation, surely it is but a duty of patriotism in them to bring it forward, and let the nation see it. When they are in the habit of reprobating every other measure that can be proposed or adopted, we have a clear right to demand of them their project; we have a right to ferret them out of their lurking holes, and in the name of the nation, to demand a disclosure; but there is no danger of their disclosing that which they have not to disclose. They know full well, that in the peculiar state of this country and of the world, it is out of human power to point out any course which shall at once assert our rights, and not press upon the popular pulse and the general interest. It is safest, therefore, to deal in general assertions. The gentleman is willing generally not to submit; he would resist—but how? Why possibly it may be war. The gentleman condemns general abstract forms of legislation, as the general resort of weakness and folly. I do not think so of his general unspecified professions in relation to this subject; on the other hand they are in my view the expedient of art, of address, and of cunning, for the purpose of avoiding responsibility and commitment, and so must be received by the nation.

In conclusion I will only add, that I am rejoiced that we are likely at last to unite in one position; that the edicts which have been levelled at us are an unquestionable violation of the rights, honor, and independence of our country, and that they are not to be submitted to. I trust that the nation will follow us in this determination, and that like them, after having exhausted every other means of conciliation, and tried every other alternative, if they shall continue still to be driven from one stage of oppression to another, until having retreated to the very wall, they can consistently submit to aggression no longer; that they will then, like their fathers of 1776, without waiting to estimate the exact amount of their means, resolve at all events to vindicate their unquestionable rights, and trust to the sword for their defence.

Mr. Bacon concluded by saying, that as the question of the future continuance of the embargo had been expressly left open by the committee, so he did not wish to be understood as expressing any opinion on that point. His motive in rising had been principally to vindicate the report of the select committee from the attacks of his colleague, to repel his animadversions upon its past policy and operation, and to notice some of the particular allusions to himself.

Mr. Sloan said he should not, in asking the attention of the Committee to the remarks to which he was about to make, attempt to follow the observations of the gentleman from Massachusetts who had preceded him; and he hoped that his honest confession that he neither arrogated to himself the eloquence or information of that gentleman, would be an excuse for his blundering along in that manner of which he was capable. He first observed, that he had waited with great anxiety and much impatience to hear the commencement of a debate, which, from the importance of the subject and the suffering situation of his beloved country, he had expected would have been commenced in the first week of this important session. He had been rejoiced, therefore, to hear the resolution early brought forward by his worthy friend from Vermont, but was sorry that, at that time, observations had been made calculated to rouse into action all the angry passions which are so injurious to free discussion. This being his opinion, and having always entertained the opinion that more advantage was to be gained by discussing coolly, than in retorting with virulence and pursuing with precision, the arguments of others, he should make but little or no allusion to the observations of gentlemen who had preceded him. Mr. S. said he should—

1st. Briefly notice an observation of his friend from Massachusetts, (Mr. Quincy.)

2dly. He should state his objections to the embargo laws as they now stood.

3dly. He should give his opinion of the effect of these laws on foreign nations.

4thly. He would consider their operation on ourselves; and

5thly, and lastly, conclude with a few miscellaneous observations.

First, my friend from Massachusetts observed, that when one cheek had been slapped by Great Britain we have turned the other. Hearing this observation, I was induced to look minutely into the Message of the President of the United States to see whether this be true or not; and, having done so, I beg leave to dissent from his opinion. The President says:

"Under a continuance of the belligerent measures, which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiment of our constituents, my confidence is strengthened that, in forming this decision, they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made."

Now, sir, permit me to say, that this sentence does not warrant the construction put upon it; for I understand the President as having made no decision, but as having left the subject wholly to the Representatives.

It has been argued, that there is no alternative at this time but embargo or war. Did I believe this to be the fact, I should be of an opinion very different from that which I now entertain. But I do not believe that war will necessarily follow a removal of the embargo. I find, by reference to the fourth volume of the laws of the United States, that matters were carried to such a height between this country and France ten years ago, that the vessels were permitted to arm for their protection. What was the consequence of this? Did war ensue? In my apprehension it did not. I say, in my apprehension, because I recollect, at the last session, the House was divided in opinion as to the meaning of the word "war;" for some said we were at war last session, and others said we were not. In my opinion, therefore, as war did not follow the arming our merchant vessels, neither will it follow the removal of the embargo.

I will now state my Constitutional objection to the law. In the Constitution I find a power given to the Congress of the United States "to regulate commerce." This is the only section from which the power of laying an embargo is derived. Now I address myself to the plain understanding of every member in the House, and ask whether the power to regulate be a power to annihilate? Expressing myself in my unlearned way, suppose I employ a man a number of days to regulate my orchard, do I authorize him to cut it down? Certainly not. There is a power given to Commissioners of this city to regulate the markets; have they, therefore, a right to prohibit them? I contend not; they are appointed to keep them in order, and improve them. I would not be understood as saying that Congress have not a power to lay an embargo for a short time; but I do contend that they have not power to pass a law without limitation. I voted for the first embargo law

and for two supplements. Many members can bear me witness, that I opposed the third, and could I have voted upon the whole at that time, I would rather have voted against them than have voted for that supplementary law, which I considered oppressive and ruinous to the citizens of the United States. I considered it as acting unequally, and therefore unjustly; as much so as if Congress were to pass a law prohibiting the citizens of the United States from the interior of Pennsylvania or New York from taking their produce from their field or garden to carry it to market; and if any member in this House can satisfy me that there is any substantial difference between this, and prohibiting persons who had laid out their all in purchasing coasting vessels from carrying produce from one port to another, then I may be convinced that the third supplement was proper. I was willing to apply Constitutional power to prevent our citizens from exporting to a foreign market; but I would not prevent them from carrying produce to any place they conceived most convenient and ready, when the embargo should be raised, to make the most of it.

I will now give my opinion of the effect which this law has had upon foreign nations. I will not dwell upon the causes which produced it, nor the motives which induce others now to wish a continuance of it, for I believe the Representatives of the people never to have any other object in view than the public good. I conceive, however, that this measure has been pleasing to the British Government, for the reason that that Government has always been jealous of our commercial prosperity. The glorious luminary of Heaven is not more obvious to my view than that measure is giving them all that they wish. Methinks I hear them felicitating themselves on the arrival of the blessed time when they should not only occupy every sea, but become the carriers of the whole world. The embargo I consider as calculated to favor their purpose. Spain is nobly contending for her rights, and this I say, because I think every nation under Heaven is entitled to a choice of its Government; and the embargo prohibits our furnishing them with supplies. It also prohibits the export to St. Domingo, and other places against which we have no cause of complaint, and which the Emperor Napoleon is endeavoring to subjugate. Therefore I consider it perfectly congenial at this time to the will of the Emperor of the French, while England is at the same time enjoying that trade to St. Domingo and elsewhere, which would be extremely beneficial to us.

Now as to its effects upon ourselves, I consider it as acting partially and unequally upon different parts of the country, and that it must, in a short time, if continued, reduce to distress a large portion of the industrious part of the community. I mean those who have purchased land which they cannot pay for, those whose dependence and usual occupation is fishing, those who are solely employed in the coasting trade, and the seamen employed in conveying produce; as much they will be distressed as if Congress were to pass a law that the farmer or planter should farm or plant no more. In making these observations, I conceive that I am fully justified by sentiments which I have gathered from a large portion of citizens, particularly in the city of Philadelphia, which ranks as one of the first in the Union. I live near them, and think it my duty to inform the House that, for months before I left home, I was wearied with the cries of those suffering from the embargo, and hoping that something might be done for them. One woman says, "my husband has been out of employ so long, the family is starving; the embargo has ruined us; we cannot live over the winter." These cries, Mr. S. said, met his ears, and he always hoped to be sensible to the sufferings of the weak, and to be able to plead their cause.

Mr. S. adverted to the late elections in Pennsylvania, which he said were no proof of the approbation by the people of the embargo. He said that whatever he might be considered elsewhere, he was in the city of Philadelphia considered a Democratic Republican, and that the Republicans there said to him, if not to others, "we will support our principles; but we hope something will be done for us, for we cannot support the embargo." Mr. S. deprecated the making this a question of party. Did he come here to legislate for Democratic Republicans only? No; and it would hurt his feelings as much to hear the cries of the wife of a poor suffering Federalist as of the wife of a Democratic Republican.

Mr. S. concluded with miscellaneous remarks of some length. He exhorted the Representatives not to take a partial view; each of them ought to look widely around him in the performance of his legislative duty; to resemble Him, according to the poet,

"Who sees with equal eye, as God of all,
"A hero perish or a sparrow fall."

He alluded again to the distress in Philadelphia and elsewhere; spoke of the enormous and usurious interest he had of late known to be paid on money; stated the evil consequences of permitting the dishonest violators of the laws to make fortunes at the expense of honest citizens, and its tendency to promote evasion of revenue laws hereafter. He hinted at the danger of opposition to the laws from citizens with arms in their hands, and finally observed that he wished the embargo laws wholly repealed; though he might be induced to vote for any measure which should be thought proper to supply their place.

Mr. Smilie said he just rose to express his feelings at the fatherly regard the gentleman (Mr. Sloan) had manifested for the people of Pennsylvania. He had expected, however, that he would have furnished the House with an account of the state of the people in his own district. It was a little strange that the city of Philadelphia, which had two Representatives on the floor, should have chosen the gentleman from New Jersey as the organ for communicating their complaints to the House. From them there had been no complaint. Indeed, there had been no petition

or remonstrance from the State of Pennsylvania respecting the embargo. Perhaps the reason the gentleman from New Jersey was applied to was, the great weight which it was known he had in the House. But with respect to Pennsylvania the Government might be easy. He pledged himself that that State would support Government in all Constitutional and necessary measures, notwithstanding what had been said by the gentleman from New Jersey.

Mr. SLOAN said he would just observe that this was the first time that he had ever heard that a member from any particular State could not give his opinion as to any other State in the Union.

Mr. RHEA, of Tennessee, said that the report of the committee to whom had been referred that part of the Message of the President, which respected our foreign relations, was now out before the sovereign people of the United States; and while their Representatives were deliberating concerning it they also were considering and making their opinions of it.

It is desirable, said he, that this first resolution may have the support of every gentleman in this House, and that there may be a concurrence on the reasons which will decide the vote of this Committee on this resolution.

This resolution is a proposition deduced from the facts stated in the report; the report is a concise and correct statement of the case between the United States and Great Britain, and between the United States and France, respectively. It virtually is an appeal on behalf of the United States, and a declaration or manifest to all the world. It is not a declaration of independence; but a declaration is implied in the proposition, that is to say, the rights, honor, and independence of the United States are violated by the late edicts of Great Britain and France, and the United States cannot submit to the said edicts. To declare the United States of America free, sovereign, and independent, does not remain to be done. On the fourth day of July, in the year one thousand seven hundred and seventy-six, the United States of America were declared free, sovereign, and independent—that declaration was made with the noise of drums, the sound of trumpets, the thunder of artillery, and the shouts of thousands of brave men in arms. The sound of that declaration was loud and strong; it passed over and vibrated on the shores of the Atlantic, bounding the nations of Europe. The nations heard the sound, and all, except one, (Great Britain,) hailed with welcome the origin and rise of this new nation in the West, and said "let it be perpetual." Great Britain itself, after a bloody seven years' war, was compelled to acknowledge, in due form, by solemn treaty, that the United States of America were free, sovereign, and independent, as they had declared themselves to be, and that declaration is engraved on the tablet of eternity, and will never be erased.

The United States, sovereign and independent, have certain attributes and properties, and rights, without which sovereignty cannot exist. Among these may be numbered a supreme power of legislation, of ordaining and executing their own Government—a right to pursue their own happiness—to cultivate their own fields—to manufacture articles, such as may be deemed proper, and to navigate the ocean, in the exercise of commerce, agreeably to public law and public reason. "In the beginning, the ocean was composed of elementary particles, free and voluble, being part of the great donation to the human family, and rolling on the shores of islands and continents, it presents itself for use. The ocean is the right and common property, and the great road of all nations who may choose to use it."

The late edicts of Great Britain and France stated in the report, are the cause of the resolution now under consideration. An object of the resolution is to pledge every citizen, and every State and Territory of the United States, mutually and reciprocally to each other, in the support and maintenance of the rights, honor, and independence of these United States—"for, (in the language of the report,) the question for every citizen now is, whether he will rally round the Government of his choice, or enlist under foreign banners; whether he will be for his country or against his country?" An effect of the resolution, if agreed to, will be confidence of the citizens mutually in each other, and they will be, as they are, and ought to be, "a band of brothers." There is reason to believe that various reports, the off-spring of discord, and injurious to the United States, have occasionally, by accident or design, reached foreign Powers; the resolution, if adopted, will have powerful effect in evidencing the unreasonableness and inconsistency of all such reports.

Mr. R. said by the word edicts, used in this resolution, he understood all the Proclamations, Orders of Council, acts of Parliament, and decisions of Courts of Admiralty of Great Britain, and all the decrees and decisions of the tribunals of France, which violate the rights, the honor, and the independence of the United States. If it shall be asked, how are the rights of the United States violated by the edicts? It is answered—the report of the committee states how. Let the thousands of the seafaring citizens of the United States who are impressed, and separated from their friends, families, and country, have been forced on board of British armed vessels, and therein compelled to fight against nations with whom their country is not at war, speak and answer. Property to the amount of many millions of dollars belonging to citizens of the United States engaged in lawful commerce, consistent with the principles of public reason, has been captured on the ocean, and condemned by Courts of Admiralty, in pursuance of the same edicts; let that property answer. If it be asked, how is the honor of the United States violated by the edicts? It may be answered, that the United States, intent to preserve peace, and to continue in possession of those blessings which constitute national happiness, heretofore have not appealed to the sword, but endeavored by friendly negotiation to obtain redress for injuries and violences committed on them, in consequence of the same edicts; and from the same peaceable conduct, cause may be assumed to suppose that the United States will not do what is in their power to do to obtain satisfaction for injuries received, and to prevent in future the operation of the edicts.

If it be asked, how is the sovereignty of the United States violated by the edicts? It is answered, by the Constitution of the United States the Congress have power to establish an uniform rule of naturalization; that several persons, emigrants from the British dominions, have, since the Treaty of Peace with Great Britain, arrived in the United States, and in pursuance of laws of naturalization enacted by Congress have become citizens of the United States; notwithstanding which, by a late proclamation of the King of the United Kingdoms of Great Britain and Ireland, all such emigrants are required to return to the dominions of the said King; which requisition, so far as it can, goes to make void and of no effect the naturalization and citizenship of the same persons, and to contravene and repeal the laws in virtue whereof they became citizens, and to supersede and overthrow the Constitution, and Government, and sovereignty of the United States.

If the edicts of Great Britain and France are submitted to, what rights of the United States will be sacrificed? The neutral rights of the United States will be destroyed, and the right of navigating on the ocean, consistent with the rules of public reason, will be annihilated, and their commerce will be subservient to the rules, regulations, and laws of foreign Powers.

The United States, by the ever to be remembered Declaration of Independence, took high ground among the nations of the earth. The great men who, on behalf of this nation, signed their names to that declaration—their successors and followers, and citizens of every rank, who carried on the mighty work of Revolution, and in any manner assisted therein, persevered against all opposition, and finally succeeded in the establishment of this nation on the high ground which had been taken and manifested to all the world, in the same Declaration of Independence. A submission to the edicts will be descending from the high stand taken by the Declaration of Independence, and a sacrifice of the honor of the United States. Mr. R. said, let the members of this House read the Declaration of Independence—let them read the last paragraph of that declaration—let every citizen of the United States read it—and then let every one lay his hand on his breast and ask himself, am I prepared to depart and descend from the state and situation which the great and good men who effected the Revolution placed me on? If there be any one who will openly say and avow, that he is willing and prepared to descend from that state of national honor, let him say so—let him speak out, that he may be known.

If the edicts are submitted to, how or in what manner will the independence of the United States be sacrificed? Wherever supreme legislative power is, there dwells sovereignty. Whatever nation has power to impose laws on another, is sovereign to that other. If the edicts are submitted to by the United States, the United States will be bound by the Proclamations, Orders of Council, acts of Parliament, decrees and decisions of Courts of Admiralty of foreign Powers, in making, enacting, and ordaining, whereof they, the United States, had no voice. Where this state of national existence begins, national sovereignty ends, and a species of colonial or territorial, or tributary existence commences.

This proposition, said Mr. R., is a resolution properly, that is a determination; and, when agreed to, will be an expression of the will of this nation—a firm, immoveable, irrevocable determination not to submit to the late edicts of Great Britain and France.

Mr. R. said he had no design to offer any amendment to the first resolution reported by the committee, but for argument or illustration would suppose a motion made to amend it, by striking out the syllable "not," in the word "cannot," in the first line of the resolution, so that it might then read—"Resolved, That the United States can, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France." And suppose that amendment was agreed to, and this resolution so amended, should, together with the report, go out to the sovereign people of this nation for their inspection and approbation; what would they think? What would they say? What would they do? What would they not do? What would they not inflict on us, their Representatives, for agreeing on their behalf to such a dishonorable resolution? They would, and justly too, hurl vengeance on our devoted heads for sacrificing their rights, their honor, and their independence. Let us beware; the never-sleeping eye of the mighty spirit of this injured nation is watching and observing us, is marking and noting down all our conduct. This first resolution, Mr. R. said, is a complete text—every word of it is expressive—it is expressive of all the injuries, outrages, and oppressions, that these United States have, for many years past, endured from unjust and overbearing force and power. To add to or subtract from this resolution would destroy it; and every proposed amendment must have that object in whole or in part in view.

Mr. R. said he had not been able to please himself in doing justice to the merits of the resolution; that he had stated only some of its great outlines, and must submit a further elucidation of it to any gentleman better prepared who may think proper to do it. He said he considered the resolution under consideration all important—at this particular time more peculiarly so—and that it would have his support.

Mr. R. said he did not wish to make a text of any observation of any gentleman; but as the word *tribute* had been mentioned, and some gentleman had said that that word ought to be discarded and dismissed from the debate, it was not

his inclination to dismiss or discard that word. He thought the term appropriate—that the word tribute was nearly synonymous with the word tax or toll—that if a man is authorized by law to fix a turnpike on a highway or great road, and to collect from travellers a certain sum of money, that is called tax or toll. If a man is possessed of force and power sufficient to enable him arbitrarily or despotically to establish a turnpike gate on a highway, and to compel every passenger to pay to him a sum of money, say one dollar, for liberty to travel on the road to pass through the gate, that dollar in that case may properly be called tribute.

Mr. R. said, he contended that the ocean was a highway of nations, and if any one nation, for instance Great Britain, was possessed of maritime power and force sufficient to compel any other nation engaged in commerce to land its produce and pay tax or duty for it, to have liberty to convey it on the ocean to any third nation, that tax or duty may be properly denominated tribute; because the nation paying it is by superior force and power compelled to pay it to that nation who, by force, has arbitrarily and despotically, and contrary to public reason, erected an imaginary turnpike on the ocean to the complete destruction of all neutral commerce, and to effect and establish a perfect system of universal commercial monopoly. Mr. R. said he admitted that the maritime power of Great Britain was superior, that it extended over the ocean from the rising to the setting sun, and from the frozen ocean to the South to the frozen ocean in the North; but that notwithstanding this, he never would agree that the United States shall submit to the edicts of Great Britain. He said he also admitted that the power of France on the Continent of Europe was superior; notwithstanding that, he would never agree that the United States shall submit to the edicts of France. He said it was his opinion, and he firmly believed, that the sovereignty and independence of the United States were placed on a firm and immoveable foundation, and could not be overturned, and that they would be rising in virtue, honor, in greatness, in power, and in national happiness and felicity, when some of the nations who now oppress them would be sinking into corruption, mouldering into ruin, and blotted out, except in remembrance. Nations, in respect to existence, he said, are as trees in the forest; the loftiest, proudest oak, that has stood firm against the storms of ages, originating from an acorn, vegetating to greatness, and lifting its high head to the heavens, at length attains its utmost—decay begins, corruption progresses, it tumbles down from its height, and lays prostrate on parent earth; there it dissolves and returns to its pristine indiscriminate condition.

When Mr. R. had concluded.

Mr. Cook moved that the Committee rise and report progress—negatived, 55 to 50.

Mr. Randolph begged leave to renew the motion that the Committee now rise, report progress, and ask leave to sit again. He did this from a knowledge that some gentlemen had already left the House from indisposition, and others would soon follow their example, unless the Committee would indulge them by rising.

The motion was carried, ayes 71, and the House immediately adjourned.

Wednesday, November 30.

On motion of Mr. Holmes.

Ordered, That the Message of the President of the United States, of the sixth of February, one thousand eight hundred and seven, and a report of the Secretary of State of the fourteenth of December last, relative to a claim of the legal representatives of the late Caron de Beaumarchais, with the documents accompanying the same, be referred to the Committee of Claims.

Mr. D. R. Williams, after a few prefatory observations, offered the following resolutions, the first of which was referred to the Committee of Commerce and Manufactures, but not acted on, last session:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the entry of any vessel into the United States from any port or place, to which a vessel of the United States is not admitted by permanent regulations of the Government owning such port or place, or by treaty.

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the masters, commanders, and owners of vessels of the United States from receiving British licenses, and of enforcing the return of all vessels of the United States now without the same."

These resolutions were agreed to without opposition.

The following Message, was received from the President of the United States:

To the House of Representatives of the United States:

According to the request of the House of Representatives, expressed in their resolution of the twenty-fifth instant, I now lay before them a copy of my Proclamation of the nineteenth of April last.

Nov. 30, 1808. TH. JEFFERSON.

By the President of the United States.

A PROCLAMATION.

Whereas information has been received that sundry persons are combined or combining and confederating together on Lake Champlain, and in the country thereto adjacent, for the purpose of forming insurrections against the authority of the laws of the United States, for opposing the same and obstructing their execution, and that such combinations are too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the Marshals by the laws of the United States:

Now, therefore, to the end that the authority of the laws may be maintained, and that those concerned directly or indirectly in any insurrection or combination against the same may be duly warned, I have issued this my Proclamation, hereby commanding such insurgents, and all concerned in such combinations, instantly and without delay to disperse and retire peaceably to their respective abodes. And I do hereby further require and command all officers having authority, civil or military, and all other persons, civil and military, who shall be found within the vicinage of such insurrections or combinations, to be aiding and assisting, by all the means in their power, by force of arms or otherwise, to quell and subdue such insurrections or combinations, to seize upon all those therein concerned, who shall not instantly and without delay disperse and retire to their respective abodes, and to deliver them over to the civil authority of the place, to be proceeded against according to law.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand.

Given at the City of Washington, the 19th day of April, 1808, and in the sovereignty and independence of the United States the thirty-second.

By the President: T. JEFFERSON.

James Madison, *Secretary of State.*

The said Message and Proclamation were read, and ordered to lie on the table.

FOREIGN RELATIONS.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Foreign Relations; the first resolution reported by the committee still under consideration, as follows:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France."

Mr. Johnson said, that in discussing this subject he should consider the whole subject of foreign relations before the Committee. The first resolution he considered of primary importance, as containing a solemn declaration that the edicts of the two mighty belligerents of Europe were violations of our honor, our independence, and our sovereignty. An unanimous expression of this sentiment, said he, would give us confidence in each other; it will be a sacred pledge of all parties to resist these degrading encroachments; difference of opinion would then be manifested but as the means of saving this nation from the impending calamity. The whole nation would understand this declaration, that he who is not for us is against us—no neutrals. There can be no middle ground. The line should be drawn, that the friends and enemies of this country should be known; that the persecuted foreigner who left his native home to escape the iron yoke of despotism, may be distinguished from foreign agents and emissaries settled among us for the purposes of disaffection; and that American newspapers differing only as to the means of national security may be known from the seditious hirelings of foreign gold, whose daily avocation is the abuse of our Government, and the justification of foreign aggression.

To prove the great design of the French Emperor, we refer to the execution of the Berlin decree—unfriendly vexations of our trade in the Mediterranean and the English channel; the destruction of our merchant vessels upon the high seas by fire; the Milan and Bayonne decrees, under which our vessels have been detained and their cargoes confiscated.

To prove the deliberate hostility of the British Cabinet towards the United States, we refer to a catalogue of outrages of still deeper dye, and as to the quantum, of tenfold magnitude—a hostility coeval with the birth of this nation. Without magnanimity in prosperity, unadmonished by adversity, her conduct has been the same. Talk not of her conflict for existence. In the years 1791, '92, '93, '94, when she had to battle the combined Powers of Europe against France, haughty and imperious, our country fell a sacrifice to the cupidity of her cruisers, and our seamen were dragged into slavery upon British ships of war. And since the scene has been changed, and Napolean leads the same Continental Confederacy against England, her conduct has been the same—our seamen still impressed, and our commerce put under tribute.

I am more than astonished to see this House therefore inundated by every mail with publications from the East, declaring that we have no cause of complaint against Great Britain; that we should rescind the proclamation of interdict against British armed vessels; that we should repeal the non-importation law; that the embargo should be taken off as to Great Britain; that we should go to war with France; that punctilio prevents a settlement of our differences with Great Britain; inviting the people to violate and disregard the embargo, to put the laws and the Constitution at defiance, and rise in rebellion.

These considerations induced me to examine this matter, and to prove to every honest American, what we all believe in this place, that the object of one Power is to destroy our neutrality and involve us in the convulsing wars of Europe; and the object of the other, a monopoly of our commerce, and the destruction of our freedom and independence. Let evidence as conclusive as holy writ put the enemies of this insulted country to shame. We are informed by our Minister in London, (Mr. Monroe,) in a communication dated August, 1807, that a war party of powerful combination and influence existed in Great Britain, who wanted to extend their ravages to this country; that we could not make calculations upon the justice of Great Britain; that in her many assumptions of power and principle she would yield but from the absolute necessity. Who is this war party? The British navy, to whom we have opened our ports, and extended all the hospitalities of a generous nation; while in the enjoyment of which that very navy waged war against our unoffending citizens. The ship owners, the East and West India merchants, and what cause have they for war? The enterprising citizens of the United States have been their rivals and superiors in a lawful and profitable commerce; and, lastly, political characters of high consideration. These compose this war party. In January, 1804, in an official communication of Mr. Madison, Mr. Monroe is charged with the suppression of impressment as his primary object; 2d, the definition of blockade; 3d, the reduction of the list of contraband; 4th, the enlargement of our trade with hostile colonies. The negotiation opens

and what is done? With industry and exertion our Minister was unable to bring the British Cabinet to any amicable arrangement. Lords Hawkesbury, Harrowby, Mulgrave, and Mr. Fox, succeeded each other, and every attempt to negotiate was in vain. Each of them brings expressions of good will and good disposition towards the United States, and a wish for amicable arrangement. But these professions and dispositions evaporate in invitations to the country and the city—in promises and procrastinations. To-day we are amused with a conversation at the foreign office, which animates with a lively hope—to-morrow hope is swallowed up in despair—and the third day announces some new injury. Affairs on the Continent now call the attention of the British Ministry, and with every disposition of good will there must be a pause. In this amicable pause business required that our Minister should go to Old Spain; but upon his return to England, what astonishment seized his mind at the sad spectacle the changing scenes presented. Under the old rule of '56, and other interpolations upon public law, our merchant vessels are swept from the bosom of the ocean without notice, by British cruisers, and carried into British ports for condemnation. But why this change? A coalition had been formed in the North against France. British gold effected it. Russia and Austria had combined against France, and here the hopes of England rested.

But we all know her hopes were blasted. This is the reason why the blow was aimed, and your commerce sacrificed. The remonstrances of our Minister could not keep pace with new aggressions. This temporizing policy of England, and the destruction of our commerce, buried party spirit in America for the moment, and produced an indignant protest against her conduct from the great commercial cities in the Union, in which their lives and their property were pledged to support the Government in measures of just retaliation. And on this occasion the merchants of Boston requested the President to send a special Envoy to England, to give a greater solemnity to our claims of indemnity and future security. The cause of the merchants became a common cause, and the non-importation law was enacted, and Mr. Pinkney sent as a special Minister, agreeably to request. Let the commercial interest cease to complain. It is for them principally that we now suffer. These deeply-inflicted wounds upon the commerce of America, engulphed for a moment the consideration of the primary object of Mr. Monroe's mission—the impressment of seamen—and it would seem, that when our Minister pressed one great subject of complaint, some greater outrage was committed to draw our attention from the former injury. Thus the unavailing exertions of our Minister for upwards of two years at the Court of St. James, eventuated in an extraordinary mission, and the non-importation law; a measure of retaliation, and which rendered us less dependent upon a foreign Government for such articles as can be manufactured at home. To bring further evidence of British hostility, let us attend a little to the Administration of Mr. Fox. He came into office about the 1st of February. On the 31st of May, information was received in London of the extra mission of Mr. Pinkney. Mr. Monroe, therefore, had an opportunity of about four months with Mr. Fox to settle our differences, without any interruption, not even the ideal one which has been suggested, as giving a temporary stay to the negotiation, viz: the waiting the arrival of Mr. Pinkney. The United States had a right to expect something like justice from this able Minister, because he entertained a sincere desire to conciliate the friendship of this nation by acts of justice. But in this just expectation we were disappointed. The hostility of other members of the Cabinet with whom he was associated, was the real cause of difficulty, joined perhaps with his sudden indisposition and death. Mr. Fox acknowledged our right to the colonial trade; he promised to stop the capture and condemnation of our merchant vessels; but when pressed to answer our complaints in writing, he promised, but broke that promise, and ultimately refused to give any orders with respect to the capture and condemnation of our vessels. Thus the golden apple was presented to our grasp, and then snatched forever from our sight.

Now let the Committee attend to the chapter of negotiation, which produced the rejected treaty. First, the subject of blockade is proposed, and a definition demanded. We denied the doctrine of paper breastworks, spurious and illegitimate blockades, to be executed in every sea by the British Navy, of which our neutral rights were the victims. Such as the blockade of the coast of Europe from the Elbe to Brest, of the Elbe, the Weiser and Ems. The whole coast of Old Spain, of the Dardanelles, and Smyrna, and of Curraçon. Upon this subject, Great Britain would yield nothing.

2. No duty can be laid upon American exports, but Great Britain imposes a duty of four per cent. upon her exports to the United States, under the name of a convoy duty; by which duty the citizens of the United States pay to Great Britain an annual amount of $1,300,000; but upon this unfriendly discrimination she will yield nothing.

3. Upon the search of merchant vessels she would yield nothing.

4. Upon the colonial trade she imposed new restrictions. She would yield nothing; a trade which produced the United States revenue to the amount of $1,300,000 per annum; and furnished exports from the United States of $50,000,000 annually.

5. Upon the West India trade she would yield nothing, and upon the East India trade she imposed new restrictions.

6. Upon the impressment of seamen, the subject was too delicate; she was fighting for her existence; she would yield nothing.

7. Upon the mutual navigation of the St. Lawrence, so important to the Northern States, they would yield nothing; but would demand a monopoly of the fur trade, and influence over the

Indians within our own limits. Thus ended the chapter of negotiation.

I turn with indignation from this to a new species of injury, involving the events connected with and preceding the President's proclamation interdicting the armed vessels of Great Britain from our waters. I allude to the conduct of the officers of the British navy, and the evident connivance of the British Government. I will only mention three prominent cases.

1st. The Cambrian, and other British cruisers, commanded by Captain Bradley, who entered the port of New York, and in defiance of the Government arrested a merchant vessel, and impressed into the ships of war a number of seamen and passengers, refused to surrender them upon demand, and resisted the officers, served with regular process of law, for the purpose of arresting the offenders.

2d. The case of the Leander, Captain Whitby, with other British armed vessels, hovering about New York, vexing the trade of that port, arresting a coasting vessel of the United States by firing a cannon, which entered the vessel and killed John Pierce. The murder of Pierce, a fact so notorious, could not be proved in a sham trial in England, though the most unexceptionable characters are sent as witnesses from the United States; and not even an explanation is made to satisfy this country for the murder of a citizen. Call upon the citizens of New York, who saw the body of their slaughtered countryman; ask the mourning relatives of the murdered Pierce, whether he was slain or not! But from this tragic scene we must turn to one of a deeper hue.

The attack upon the Chesapeake. This vessel had just left the shores of Virginia, leaving the British ship of war, the Leopard, enjoying the hospitalities of our laws. The Chesapeake was bound to the Mediterranean in defence of our rights. One hundred and seventy American tars were on board, who had undertaken this honorable enterprise. Unsuspicious of harm, while their rough cheeks were bedewed with tears in parting from their friends and country, their powder-horns empty, rods mislaid, wads too large, guns not primed—all was confusion. In this unhappy moment the messenger of death comes. The unfortunate Barron refuses to permit his men to be mustered by any but an American officer. His Government had given the command. This is the provocation. The vessel is attacked, and, without resistance, eight are wounded, three are killed, and four taken and carried into British service, one of whom has been hung as a malefactor in Nova Scotia. It has been said, that the Goddess of Liberty was born of the ocean. At this solemn crisis, when the blood of these American seamen mingled with the waves, then this sea nymph arose indignant from the angry billows, and, like a redeeming spirit, kindled in every bosom indignation and resentment. A nation of patriots have expressed their resentment, and the sound has reached the utmost bounds of the habitable world. Let a reasoning world judge whether the President's proclamation was too strong for this state of things, and whether it should be rescinded without atonement.

Do the wrongs of this nation end with this outrage? No. Clouds thicken upon us; our wrongs are still increased; during the sensibility of this nation, and without atonement for the attack upon the Chesapeake, on the 16th October, 1807, a proclamation issues from the British Cabinet respecting sea-faring persons, enlarging the principles of former encroachments upon the practice of impressment. This proclamation makes it the indispensable duty of her naval officers to enter the unarmed merchant vessels of the United States, and impress as many of the crew as a petty and interested naval officer may without trial point out as British subjects. The pretension is not confined to the search after deserters, but extended to masters, carpenters, and naturalized citizens of the United States—thus extending their municipal laws to our merchant vessels and this country, and denying us the right of making laws upon the subject of naturalization. The partners of British and Scotch merchants can cover their property and their merchandise from other nations under the neutral flag of the United States to Leghorn, Amsterdam, Hamburg, &c. But the patriotic Irishman or Englishman who has sought this protecting asylum of liberty, are not secured by our flag from the ruthless fangs of a British press gang. And at this very moment our native citizens and adopted brethren, to a considerable number, are doomed to the most intolerable thraldom in the British navy by this degrading practice. There the freedom of our citizens depends upon the mercy of naval officers of Great Britain; and, upon this subject, every proposition for arrangement is trampled down by these unjust pretensions. Information was just received of the execution of the Berlin Decree, when the papers from every quarter announced the existence of the British Orders in Council, making a sweeping dash at our rightful commerce. Something must be done. The events which have been retraced, all pressed upon us. The treatment of our Minister, and his unavailing exertions; the result of the negotiation which gave birth to the rejected treaty; the memorials of the merchants; the outrageous conduct of the British naval officers upon our seaboard; the connivance at their conduct by the British Government; the proclamation of October 16, 1807; the execution of the Berlin Decree, and the Orders in Council. These considerations required the arm of Government, and at this inauspicious period, when the clouds which had so long threatened and darkened our political horizon gathered to a thick and horrible tempest, which now seemed about to burst upon our devoted nation, the embargo snatched our property from the storm, and deprived the thunderbolt of its real calamities. The effects of this measure at home and abroad, notwithstanding its inconveniences, will best attest the wisdom of the measure, which will be increased in its efficacy by a total non importation law. As a measure of coercion upon other nations, I not only have the strongest hopes, but

also a rational confidence in it, founded upon the most conclusive evidence. The misrepresentations in this country, the violations of the embargo, and the hope of changing the parties in the United States, or of producing a separation of the States; these miscalculations have destroyed entirely the efficacy of this measure, and been a main cause why Great Britain has not relaxed in her injustice towards America. And if we can rigidly enforce this system, my confidence is undiminished, my faith strong, that the United States will have reasonable terms offered to them. Yet the violators of your laws have been the great cause why the present state of things has been protracted. They are as infamous as the cowboys in the Revolution, who imbodied themselves to feed our enemies with the only cow of a weeping widow, or a poor soldier who was fighting for his country. The commerce of the United States with the West Indies, the Continent of Europe, and Great Britain, will present to this Committee the evidence upon which this faith is bottomed. The United States have furnished the West Indies with the essentials of existence, and also have afforded a market for the colonial produce of those islands. In fact, they cannot live without provisions from the United States in the present state of the world. These islands have been reduced to wretchedness and want already, notwithstanding the violations of the embargo, and flour, we learn, has been as high as 20, 30, 40. 50, and $60 per barrel. The vast importance of these possessions alone to the mother country, might have been sufficient to have produced a settlement of our differences, if other considerations had not prevented. Attend to the trade with England and the Continent previous to the Orders in Council. The annual exports of British manufactures to the United States amount to twelve million pounds sterling. In exchange for these manufactured articles, Great Britain receives to the amount of four million pounds sterling in tobacco, cotton, wheat, and the substantials of life. The eight millions which remain due must be paid in money or bills. To raise this money, the American merchants carry to the Continent of Europe produce of the United States to the amount of this eight millions, which is sold, and the amount remitted to the merchants in London to pay the debts of our merchants. This trade is now destroyed by the Orders in Council, and not the embargo—for this very measure has saved our vessels from capture, our merchandise from condemnation, and our seamen from impressment.

Admit for one moment that our embargo was raised to-morrow, and the merchants were permitted to carry on their commerce, keeping out of view the disgrace of submitting to British and French edicts, and what would be the result? If the merchants directed their course to any other ports than those of the British dominions and countries in alliance and friendship with her, then your property must only float upon the ocean as materials for British plunder. If they were to direct their course to the ports of the British dominions, they would be subject to capture by the French privateers. But admit that our vessels would escape these privateers, what price would our merchants get for their produce in British warehouses, when the British dominions would not consume fifteen millions of our exports, which have amounted altogether, foreign and domestic, to one hundred and eight millions? In this state of things our merchants would see their merchandise rotting in the British warehouses, with expenses of carriage upon it, without a possibility of relieving it from that situation. The Orders in Council, and not the embargo, have destroyed the commerce of the world. The commerce of the United States is of infinite importance to Great Britain. The whole manufacturing interest, the mechanic, the laboring poor, are deeply injured by its suspension. We shall no longer furnish a market for her manufacturers, nor furnish her the raw material and other exports important to her. Mr. J. then adverted to a statement of the exports from Great Britain to all the world, which had the stamp of authority upon it, amounting to thirty-seven million pounds sterling; and after deducting the exports to places from which Great Britain is now entirely excluded, including America, her exports would amount only to about six millions pounds sterling. Could a nation countenance a system like this when her very existence depended upon commerce? She might brave the storm for a season, and the immense capital thrown into the island of Great Britain for want of commerce, might enable the Cabinet to facilitate their loans; but a change must take place if this nation would persevere. Attend to London and Liverpool merchants, and Mr. Brougham, in the House of Commons, against the Orders in Council, and this statement will be confirmed. It was proved that, before the Orders in Council, the usual activity in trade existed. The merchants received the same remittances; the premium on insurance was the same. But when the Orders in Council were issued, the premiums on insurances amounted to a prohibition of trade. Merchants who had received remittances to the amount of £100,000 monthly, received nothing. Men of business reduced their hands from the number of fifty to twelve, and others reduced the wages which they paid for labor, from £200 per week to £50. Orders were protested, and the Orders in Council assigned as the special reason. Notwithstanding these facts, the cry is, take off the embargo. All the evils which afflict this nation are ascribed to the embargo, when in fact it protects our commerce from plunder.

Turn your attention, sir, to the interior of Great Britain. The embargo has produced other effects. The weavers and tailors assembled by hundreds and by thousands, in a peaceable way, to remonstrate against the Orders in Council; but they were welcomed home to see their families starve by the sound of the cannon, and some of them killed. And when these effects are seen, Mr. Canning tells us that he would gladly remove the embargo, as a measure of inconvenient restriction upon the American citizens, if it could be done without a great sacrifice, or without seeming to interfere in measures of our internal regulation. The prudence of His Majesty is very conspicuous, and his tenderness truly paternal. But, recollect the proclamation which issued from the British Cabinet, inviting and encouraging the violators of the embargo! The arms of His Britannic Majesty opened to receive smugglers! Come in, all ye heavy-laden with provisions, and I will give you rest! Whether you have papers or not, you shall not be molested. Thus, protection is offered to the smuggler, whilst the *bona fide* merchant must be driven from the ocean, or fall a sacrifice to the Orders in Council.

We have been admonished by gentlemen not to use the word *tribute*. If I should not be able to forget words which some gentlemen consider mere declamation, but which upon my mind make an awful impression, I hope to be excused. The British Orders in Council do fix a tax upon our commerce, as much as if it were imposed upon the wheat in your barn, the horse you ride, or the corn in the field; and submit to one on account of the superiority of the British navy, the other will soon follow, and be enforced by a standing army. A merchant vessel loads with cotton for the continent of Europe—the ship and cargo the property of an American citizen: Great Britain has said by her orders, confirmed by an act of Parliament, that the merchant shall enter a British port and pay a tonnage duty, a tax of ninepence per pound on the cotton, and then pay for a license—a pass to sail to Europe! Is this taxation or not? And an attempt has been made to evade the force of this statement, by saying that the tax would not be paid, because France had said, if we pay this infamous tribute, our property shall be confiscated on its arrival at the Continent.

Thus, the iniquity of the Orders in Council is washed away by a declaration from Napoleon, that we shall not pay this tribute, under the penalty of confiscation. But, sir, suppose our merchant should refuse to go by a British port and pay this tax, what follows? British cruisers will capture the vessels, and a British court of admiralty will condemn your cargo, under these *blessed* Orders in Council.

It is time that party spirit should sleep in oblivion. I exhort gentlemen to recollect the importance of union. At the most alarming crisis that ever convulsed the political world; when Empires and Kingdoms have changed with the season; and America, buffetted on every side, has maintained the ground of perfect neutrality; this nation should make a pause on this high eminence, before they plunge into the dread conflict. One false step might irretrievably involve the country in the common broil. If war becomes necessary, and the present measure should fail to coerce our enemies, the object in view is worth the conflict. But, between the non-intercourse system and war there is no alternative. A Republican Government should never seek or invite war; but they will never abandon their independence, or yield to the unjust demands of Imperial despotism or monopolizing monarchy.

We have been told not to invoke the spirit of 1776, and that it would become a tormentor to the embargo system. Sir, let us invoke and hail that spirit. When it comes, it will only frown on the enemies of our country.

The parallel between the times preceding the Declaration of Independence and the times preceding 1808 is awfully impressive. In both cases, as far as England is concerned, this nation had to resist taxation of a British Parliament. Without money or revenue, without ammunition, without clothing, the people of America resisted, and they were successful; and in 1808, their posterity, with a full Treasury, with ammunition, and every desirable object, will not sell their birthright for a mess of pottage. In 1776, the gentleman says, we had an Army. Before the Colonies had an army, a British army occupied the Legislative Hall of Boston, and the streets were drenched with the blood of its citizens. By saying this, does the gentleman mean war? Let him speak out; for the same spirit of slaughter which roused the Americans at the battle of Lexington now looks you in the teeth, and demands of you submission. Let not the gentleman talk of local jealousies—they do not exist. The cause is a common cause. In the conflict with Great Britain, in the Revolution, when Boston was to be the devoted victim of Parliamentary vengeance, did her patriotic sisters desert in the hour of danger? No, sir. Virginia declared the cause a common one, and her example was followed by other States. As early as 1769, Virginia recommended a non-importation agreement to resist foreign taxation. Did Massachusetts consider this as submission? No; she adopted the system, and was the last to abandon it. The enthusiasm of liberty was general, and men, women, and children, joined in its execution. The Union is one and indivisible. Inflict a wound upon the right hand in Massachusetts, and the blow is equally felt in the left in Kentucky. Though an interior State, and distant perhaps from the ravages of war, she will stand firm in the cause of freedom. For her firmness and patriotism, I, as one, stand pledged. The Western country never will relinquish the lawful commerce of the United States. Away, then, with those infamous publications which speak of enemies to commerce!

The imaginations of some gentlemen create ideal dangers. I neither fear the conscripts of Napoleon nor the navy of Great Britain. Upon *terra firma* we know we are safe. And, though a thousand evils may result from war, the spark of liberty can never be extinguished in America. Armies might mow down our citizens, as the mower his grass, but another race of men, more powerful than these, would rise up and defend the soil where the fathers of our independence are entombed. Events are rolling on, the effects of which human wisdom cannot foresee. This is not the cause of an individual; it is the cause of seventeen sovereign and independent States and their Territories. Not the present generation alone, but posterity, is deeply interested, and must rejoice or mourn at the result of our present struggles.

Mr. Clopton said, that it had not been his intention to trouble the Committee with any remarks on the resolution now immediately under consideration; but, from the turn which the debate had taken, he now thought it proper to offer to the Committee a few remarks.

I shall vote for the resolution, said Mr. C., but really, sir, I should pause—I should hesitate—I should feel extremely reluctant to vote for it, if I could imagine that it involves the consequences supposed by a gentleman from Massachusetts, (Mr. Quincy,) who spoke the day before yesterday on this subject. That gentleman supposes that the resolution, if adopted, will be a pledge that this House will abandon the whole system of measures heretofore adopted in respect to our foreign relations. That gentleman believes also that the suspension of trade is a complete abandonment of all our rights to trade. On both of these points, sir, I do widely differ in opinion from that gentleman. His opinion that an adoption of the resolution pledges the House to abandon the system heretofore adopted, with respect to the suspension of export trade, induces him to vote for it. My opinion being quite different from his, I feel a propriety in voting for it on the ground of my understanding of its import. I consider it, sir, as a plain declaration of the sense of the committee, on the wrongs inflicted on their country by the belligerent nations, and an evidence of their determination to assert their rights as an independent nation—that this is simply the true import of the resolution.

But there is a course of trade which, if sanctioned and pursued, would be an abandonment of our commercial rights. I do believe, said Mr. C., that a submission to exercise an absolute right under any condition or restriction whatever, prescribed by another Power, is a complete abandonment of that right. It is then no longer asserted as such absolute right. It becomes a mere favor granted by that other Power. But it is not so with a bare suspension of the exercise of that right. This suspension asserts the absolute right, by refusing to exercise any privilege under the condition or restriction prescribed by the other Power. Thus, sir, I will exemplify the position I have stated. When an American vessel, bound for a port in continental Europe, first sails into a British port, and there pays a tax, prescribed under British the Orders in Council for permission to proceed to the port of her original destination, she then abandons the absolute right to sail to that port, and accepts the permission as a mere privilege granted to her by the British Government. But a suspension of her voyage is no such abandonment. So a suspension of the commerce of the United States by the embargo law is no abandonment of their rights of commerce. The Legislature do not relinquish their rights by suspending the trade during such time as it shall be deemed expedient so to do.

The gentleman from Massachusetts, in the course of his remarks, made allusion to a declaration made by me some time ago, in reference to a resolution introduced by a gentleman from Vermont, (Mr. Chittenden.) That resolution proposed an absolute, unconditional repeal of the act laying an embargo, and the several acts supplementary thereto. The declaration alluded to was applied to that resolution, and the repeal proposed in it—an absolute, unconditional repeal of those laws, without proposal of any other measure. The declaration was that, as one member of this House, I never could, never would consent to the repeal so long as the orders and decrees of the belligerents against our commerce continued in force; that is, such repeal as was proposed in the resolution—an absolute, unconditional repeal, without the adoption of any other measure in lieu of it. This, sir, was meant, if not so expressed. Indeed, said Mr. C., I cannot see how it can be considered as necessary, for a right understanding, that I should have so particularly expressed myself; as the declaration was made in direct reference to the resolution proposed. I know not how I could have been supposed to mean otherwise—how I could have been supposed to pledge myself by that declaration forever to adhere to the embargo, at all events, during a continuance of those orders and decrees, and forever to prefer it to any other measure. The period may possibly arrive, said he, when it will be deemed preferable to arm and force the trade, rather than further continue the embargo. The period, for aught I know, may arrive when war itself would be preferable to such further continuance of it. The period may arrive when I may be convinced of this—when it will be my duty to vote for raising the embargo, and permitting American vessels to be armed for their defence, though war should be the consequence. But the period never can arrive, so long as those orders and decrees continue in force, when I shall feel willing (if I know anything of my own heart) to vote for raising the embargo without some other provision being made in support of our maritime rights. If, therefore, the period should arrive, during a continuance of those edicts, when I shall vote for removing the embargo, it will be on condition that some other provision, some effectual provision, shall be made in support of those rights. To open the trade under the existing circumstances, and subject it to all the outrages to which it would be exposed, without security, from the operation of those edicts, I trust, as one individual member of this body, I never shall consent.

The gentleman from Massachusetts expressed astonishment, that a declaration, like that alluded to, should have been made; and, if I mistake not, said Mr. C., he asked, very sagaciously indeed, if members of this House were becoming mad? Whether those gentlemen with whom I have the honor generally to act, or myself, shall manifest any degree of madness, our conduct, I presume, said Mr. C., will best determine; in the meanwhile, however, I believe we may safely answer the gentleman, that we are not mad, but "speak forth the words of truth and soberness:" And further, I trust that we are aiming to do the acts and deeds of honor and patriotism, as well as

others. Perhaps the gentleman's astonishment may be excited anew at the declaration now again made by me, precisely in the same sentiment, precisely with the same meaning, as before. It is not, I repeat it, an absolute declaration that I never will vote for raising the embargo during a continuance of the edicts of the belligerents; but that I never will vote for it without some other provision, in support of our just rights.

Sir, said Mr. C., I am not now pledging myself to vote for removing the embargo on the condition I have mentioned. On the contrary, I say that from every view I have been able to take of the existing state of things, it seems to me that the embargo ought still to be continued. When the resolution, which has been mentioned, proposing a repeal of the embargo system was first offered, I was then of opinion that no proceedings ought to be had relative to the particular act laying the embargo, since the belligerents had continued in force their unjust and outrageous edicts against our lawful commerce. On that subject I would then have remained perfectly silent. I would have passed over that particular act with the utmost indifference, I would have refrained from touching the subject, as I would refrain from moving the House for the appointment of a committee to inquire whether these States constitute an independent nation or not. In this sentiment I voted against a consideration of the resolution at that time. Did I say, sir, that I would have refrained from touching that subject? Yes. I would have refrained—and I would still refrain from touching it so as to agitate the question of repeal at this time, or so as in any other manner to weaken any of the laws upon that subject. I would rather make them much more effectual. I would add tenfold strength to their validity—I would act in that spirit, and would manifest such degree of unconcernedness as to the effect which the system has on ourselves as to demonstrate to the proud tyrants who inflict the injurious aggressions, and to the whole world besides, that we do not feel it. This would show to them that however they may view it as a sacrifice on the part of the people of this country, it is one which the great body of them do not regard—one which they are prepared to endure without a moment's uneasiness, without a moment's repining. This, said Mr. C., I did believe would have been good policy for the House to have adopted at the beginning of this session—a policy in which to have been joined by a majority I should have rejoiced. I consider it, said he, to be highly important to the reputation of this country that any expectation of the belligerents that this Government would submit to their unjust edicts should be disappointed; that they should as early as possible be convinced of their mistake in respect to the American character. Sir, said he, it is supremely important to the honor, the dignity, the glory of this rising nation that such edicts should never be in any manner submitted to on our part; that the idea of receiving as a gracious boon, from either of them, the privilege of trading where and in what we have a complete right to trade as we please, should be spurned with indignation; that there should be found no room for a doubt of our fixed determination, or of our ability, to abide by the measure, which we have adopted, as a means of asserting our rights; and that no step should be taken on our part, which could be construed into any degree of acquiescence in their violations. Shall we then submit to purchase such a paltry privilege by payment of tribute? an odious, abominable tribute? Can the high soul of America stoop down to this? No, sir, it cannot, it will not. I trust, said he, that this resolution will serve as one evidence that it is determined never to submit; and with this sentiment I feel a satisfaction in voting for the resolution. It manifests to the world the determination of this body; and, if adhered to, will leave no ground to the belligerents for any further calculations, favorable to their designs, from the partial discontents which have appeared in one section of the country.

Mr. C. concluded by observing that the measures recommended by the select committee in the other two resolutions reported by them, not being then immediately under consideration, he should not enter into any general discussion of them, or make any further remarks respecting the embargo at this time, as that subject also was not immediately before the Committee.

Mr. Randolph.—We have now progressed very far in the fourth week of our session. We met here at a time when every man in this House and out of it seemed to vie with his neighbor in the expression of the opinion that this is a momentous crisis. There are few of us who have influence enough at home to avoid the censure of their constituents, in case of a failure in a punctual attendance on their duty. At the commencement of this session public expectation was raised to the most painful pitch; and yet one-fourth of the time assigned by the Constitution for our deliberations has elapsed, and in what situation does the Congress of the United States find itself? Debating what has been termed an abstract proposition. When the report was made, my worthy friend who sits before me, (Mr. Macon,) with his wonted sagacity, saw in that proposition its entire futility. Let me not be mistaken, it is not my intention to deny the truth of the proposition, much less to vote against it; but my friend from North Carolina saw that it was not to be made the basis of a future conduct; that, in fact, no bill, no measure, nothing substantial, could grow out of it. And are we to employ ourselves in this manner for the amusement of the galleries, of the public of Georgetown, Washington, and its vicinity? When this resolution was introduced by the committee, whose report is now under consideration, I regretted it on a variety of accounts, not only in the same view as my friend before me has taken of it, but for other reasons. I asked myself, in the first place, on whom it was to operate? On us? Have we so conducted ourselves heretofore, or are we now about so to act that a doubt exists among us whether we will support our rights, or submit to the

high behests of the two great belligerents? For ourselves is this medicine, or for the American people? Do they want a rallying point? Has the Government of the United States ever taken a ground in which they have been backward to support it? Are we fearful of the temper of our own citizens? Do we think it necessary to raise their courage to the sticking-place by this incentive? or is it to operate on the two great belligerents? Is Mr. Armstrong or Mr. Pinkney, in some new note, to serve up this new prescription, to excite the minds of those Governments to American wrongs, and to a sense of justice? I am afraid not; I am afraid we have tried this method too often not again to fail of success. I did, indeed, regret it; I regretted the introduction of this resolution, not only for the reasons which I have stated, but as going still further to establish the creed that words, in some form or other, are all the means which we have to employ. No, sir; if we make an impression upon Europe, it must be by something more substantial. We have tried the old diet-drink, long enough.

The House will pardon me if I forbear a minute recapitulation of the wrongs which we have received, not only from the two great belligerents of Europe, but from the little belligerents also. I confess that I have not a stomach for the nauseous detail. I cannot, like Shylock, take a pleasure in saying, on such a day, you called me dog! on such a day, you spit upon my gabardine. I have seen them dressed in every possible shape, in correspondences of our Ministers and in reports of committees of this and the other House. I must confess, for me, that I take no pleasure in the perusal of such reports. I cannot riot in the strength of our argument—I wish the argument of the enemy was a little better, and ours a little worse; I cannot hail every new aggression, because it gives occasion to extend our demands of reparation. I wish we had not quite so much argument on our side, and that they had a little more of the injury on theirs. I verily believe that, as long as you have the whole of the injury, they will have very little solicitude in yielding to you the best of the argument. Yes, sir, I confess I feel a deep sense of mortification at hearing this incessant theme rung in my ear, and the only remedy found to be in words, words, words—correspondence of Ministers, instructions of Secretaries of State, and reports of committees of the two Houses. We have been four weeks in session, and, as to benefit—I speak of myself, I hope there are others who are conscious of having done a greater share—as to the benefit that the public has received from my attendance, I had much better have been at home, enjoying the fine weather in my own family, than sitting here, listening to the discussion of propositions, from which, whether negatived or agreed to, no possible good can be derived. We have been four weeks in session, raised a Committee of Exterior Relations, who have brought in a long and labored report, and, so help me Heaven, not one atom of substance is there in the report, except the instruction moved by my friend from North Carolina; all the rest is preface, episode, prologue, and epilogue. I have no disposition to attack the gentleman's report; I have no particular fault to find with it. It is much in the style and fashion of the times—the aggressions of France and Great Britain served up, though, I think, not with quite such exquisite cookery as sometimes is presented to our palates.

But perhaps it may be said that the declaration which occupies the outpost of that report is to be taken in connexion with the subsequent resolutions, and that the whole subject is fairly before the committee, and ought to be embraced in one point of view. As far as I have been able to understand the language of that resolution, it means precisely nothing, or more than meets the eye. It is a resolution that it is inconsistent with the honor, independence, and so forth, of the United States to submit to the edicts of Great Britain and France. I think that is the language. Is this to be considered as a declaration of war against these two Powers? Or are we to resolve in one breath that we cannot, without a sacrifice of our rights, honor, and independence, submit to the edicts of Great Britain and France, and, in the next breath, solemnly resolve that we will? I know it has been said that a temporary suspension of our commerce is not an annihilation of that commerce. Where will gentlemen find a temporary suspension of our commerce? In what clause of the statute book will they find the time prescribed when that commerce shall revive? And if a perpetual prohibition of all commerce of exports and a prohibition of all commerce of imports be not a submission to the edicts of Great Britain and France, I know not in what submission can consist. I have not the assurance to stand upon this floor and declare that the embargo is a resistance to the edicts of Great Britain and France, when I find our Government has given to the Governments of those two countries an explanation of it so very different. The embargo is represented to be nothing more than an internal regulation, not a cause of offence, not an aggression or cause of aggression, nothing hostile in its character. Is it, then, a resistance to the decrees of Great Britain and France? And if a suspension of exports be not resistance, but a mere measure of internal regulation, not of retaliation, how will the suspension of commerce or of imports constitute that resistance?

I listened to the gentleman from Massachusetts, (Mr. QUINCY,) the other day, with very great pain, because I heard him attempt, as I conceived, to draw lines of distinction between different sections of this great Continent. He entered into calculations, which I not only believe, but know, to be erroneous, tending to show that his section suffered out of all proportion more than all others. It is not my purpose now to examine his statements. I admit that there are parts of the country which suffer more than others, but I deny the gentleman's positions in toto; I deny that the Treasury and custom-house books afford any data of the relative commerce of each State, and particularly of the State which I partly represent and the State contiguous to it on the south. But, at the same time that I deprecate the effects of this measure throughout the United States, I trust that there exists and will always exist within this country a power to execute the laws. I shall be among the first to rally around them. When the opposite doctrine is fairly broached and acted on, I cannot see to what purpose we are a confederated people; to what purpose we have a national Government; I cannot bring myself to believe that there exists in this country a disposition, (and I am sorry to see this very resolution, because it seems to imply that there does exist such a disposition,) to violate the laws and sap the foundation of the Union. I shall not act on the presumption, but wait until a case shall occur, and, when it does occur, I would apply the only corrective—the knife, and the actual cautery. But, on that account, I do not the less deprecate the effects of the embargo; I look upon it as a measure ruinous, in a great degree, to our country. At the same time, there is an aspect in which I cannot but behold it with pleasure. It is a test of the patriotism and virtue of this people. The submission of those who think even worse of it than I do—I will say their quiet submission; for their opposition has extended only to argument—is a test of the virtue of our people, of their willingness to support the Government in any sacrifice for the public good—to support it even where that Government has obviously mistaken and misunderstood their best interests. Compare, if you please, for a moment, the pressure of the embargo, and the degree of pressure arising from the celebrated excise law; put the two things in the balance, and weigh them. In the one case there was insurrection, open rebellion; you see the Father of his Country obliged to extend his arm to chastise his undutiful children and reclaim them to the path of duty. In the other case you see (whatever may have been the evasions of the law) ostensible submission to it. The virtue in the one case which withstood the stronger temptation, is not to be put in competition with that which succumbed to the weaker in the other.

But in viewing the policy which has been pursued, for some time back, and gentlemen seemed determined now to adhere to it, I am irresistibly led to inquire into the causes which produced our present form of Government. I believe they grew out of commerce. The principal difficulty, I believe, among the States, was, that there was no general power for the regulation of commerce. That commerce was the principal source whence revenue was to be derived; and the want of general and uniform regulations dried up that very source. The first proposition was to vest the old Congress with the power of laying an ad valorem duty generally. Certain I am that the meeting at Annapolis, the precursor of the Convention of 1787, was a meeting directed to the promotion of the commercial interests of this country. The United States were governed by this consideration primarily—for surely they were in very little danger of going to war with one another—in forming a Government under which this very commerce has arisen to a height to which no man could have anticipated. And are we now, without warning, to break up all our institutions heretofore, and declare for a Chinese policy? Do gentlemen remember when a discrimination was made between American and foreign ships, the excitement which it created? The gentlemen from the Southern States said, you are going to tax us for the benefit of the Eastern navigation. When a proposition was made to lay a heavy duty on the import of foreign manufactures, the gentlemen of the Southern States said, you tax us for the benefit of your manufactures. This is well remembered. But, did any man ever dream that these two sections of the country should unite, the one to destroy the raw material, and the other to cut up commerce by the root? There was, indeed, formerly a contest between the grower and the carrier, each contending for his separate interest—but that both should unite, the one to prevent the growth, and the other to prevent the carriage of produce, is really a solecism I am unable to explain. The gentleman from Massachusetts (Mr. QUINCY) speaks feelingly of the sufferings of the people of Massachusetts. I believe the picture which he drew may be correct. I am even willing to allow (holding up my hands at the same time against all his calculations) that his constituents may suffer more than mine. But what is the situation of the tobacco country, and I live in the heart of it, whether you draw the line from North to South, or from East to West? If we pursue this course of policy, the product of the New England fisheries may be consumed, the rice of South Carolina may be eaten, and the cotton of Georgia may be spun. What is the tobacco planter to do with his two crops of that ridiculous and nauseous luxury? What is he to do with the third crop, for the time is fast approaching when preparation must be made to plant it? And in what situation are we placed? I have no disposition to enter into highly-colored pictures of the state of the country. I feel too much the condition of that part from which I come, to say much about it. It is deplorable—that is enough.

But perhaps it may be said that, whatever objection be taken to the two first resolutions, there can be no doubt of the perfect propriety of the final one. What is it?

"*Resolved*, That measures ought to be immediately taken to place the country in a more complete state of defence."

This is a twin brother of the first. Will you refer it to a committee to draft a bill in pursuance of it? Are you going to refer the first resolution to a committee that a bill may be placed on the statute book, to perpetuate the fact that the United States are insulted and have not resisted? For, as far as the report goes, of what does it speak? Of keeping within ourselves and of preparing for defence. If a man be insulted beyond the power of human endurance to bear, how does he resist? By retiring to his house and adding another bolt to his street door—another

supplement to the embargo system? Is this the way in which we will resist? And yet the same committee say that they will not submit, and bring nothing before you but a vague proposition that the United States be put in a better state of defence. Shall we raise more troops? Gentlemen will hardly venture upon that. Will you arm the militia? That plan, to use the slang of the day, has had the go-by given it. You are told that the militia can only be armed in such small portions that the good to result from the measure will amount to little or nothing. Nothing remains, then, but to build more gunboats. The President of the United States says, that it has not been deemed expedient to build those already authorized. What new measures of defence are then contemplated? We have tried every chord, and none of them will vibrate. What will be the next resort? In fact, I am extremely sorry to be obliged to speak in this free manner of this report; but it appears to me that this House have asked of the Committee of Exterior Relations bread, and they have received a stone. They have received "naked resolutions." Really, to use the words of one of the gentlemen (Mr. G. W. CAMPBELL) who advocates them, they appear in all the nakedness of infantile imbecility. Naked they came into the House, and naked they must go out of it. They are not to be clothed with measures; or, at least, it is generally avowed that no measure is to be taken in consequence of the one under discussion.

I do not know how far I may or may not have been in order in the observations which I have hastily thrown out; I say, hastily, because it may be supposed that I have risen to redeem that pledge which the public papers of the morning have given for me to address the House, when nothing was further from my mind. But, before I sit down, I will ask the gentlemen who brought in the report, to reconcile some things which do not appear to me altogether intelligible, as they now stand.

"The Milan decree of 1807 [17th December] can still less rest for its defence on the supposed acquiescence of the United States in the British orders of the preceding month, since those orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree."

The decree of Milan, then, was dated on the 17th of December; the orders were not known in America at the date of the decree, and the embargo was laid on the 22d. In another part of the report, we find the following:

"This was received on the —— day of December, and a copy of the decision in the case of the Horizon having at the same time reached Government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French decrees, and recommended the embargo, which was accordingly laid on the 22d of December, 1807; at which time it was well understood in this country, that the British Orders of Council of November preceding had issued, although they were not officially communicated to our Government."

This is an anachronism which I cannot reconcile, though I do not say that it is irreconcilable. It is very far from being my wish, if the United States are determined not to submit to the orders and decrees of the belligerents, nothing would be farther from my mind, than to destroy the unanimity of that resistance; but I confess that I wish to see in what that resistance is to consist. I am as firmly of opinion as I am certain that I am now addressing you, that the difficulties in which the United States now are, take date from the year 1805-'6—a date at which some gentlemen have, in the discussion, commenced the series of foreign wrongs inflicted on us. Much has been said of the spirit of '76. It was in the year 1805 that this spirit slept. We then knew that our territory was trod by hostile footsteps, and we would not take steps to assert its character. From that time, its character has been on the decline in Europe, and we have to re-establish it by something better than this report—by something of a very different nature—unless, indeed, the first resolution is meant to contain a declaration of war against both belligerents, and the second to devise the best mode of carrying it on against one of them, leaving at the same time all resistance to the other out of the question. I wish to confine myself to that part which goes to excluding imports; that part which excludes all foreign armed ships, has my hearty concurrence. It has so happened that, from the time to which I have referred, the difficulties of this country have been thickening, and the character of the country declining abroad. That this is a fact, no man can or will deny. Then it must be by a different policy from that pursued from the time which I have mentioned, that the character of the country is to be recovered. The old policy has been tried, it will not answer. What have we done? We have been trampled upon unresistingly by Spain. When the Minister of our country was at the Court of that Government, and when, I have every reason to believe, as far as the papers laid before the House enable me to judge, that he had taken an imposing attitude, what was the result? The negotiation was paralyzed by the news that a special mission of Mr. Bowdoin, a respectable man—if there must be a special mission, as good a man as any for the purpose—was to interfere with that negotiation! We had already two Ministers at the Court of Spain. When our negotiation was pending with the British Government, too, there seems to have been a fear lest a Minister of our country should come into collision with foreign Governments, and a special Minister is sent after him to keep the discussion forever hung up in a sort of diplomatic Court of Chancery. We passed a non-importation law, and neither the House nor the nation have forgotten the auspices under which that law passed. When it was said that it would lead to the destruction of commerce, was not the idea scouted by many; and, among others, by a member of great influence, who is now snatched from us by the hand of death, and who was the representative of the commercial town of Salem? He ridiculed the idea of our commerce being circumscribed. Were we not told that we could sweep the commerce of Britain from the ocean? And what has been the consequence? We have swept our own commerce from the ocean, and I fear we shall sweep our agriculture from the land. One false step leads on to another. For want of due resistance to the weaker power of Spain, we have been trampled on by the stronger. No, sir, this temporizing, this hesitating, this extraordinary mission policy will not do. After things were brought to their late and present disastrous condition, we laid an embargo; that was to be the panacea to react on the enemy—it was to be the sword and the shield—the war in disguise; it was to bring Europe, in general, and Great Britain in particular, to your feet. We have calculated long enough on the weakness of our adversary. We have waited with upcast eyes watching her downfall till our own begins to approach. It is time to calculate less on her weakness and more on our strength. I am amused sometimes at the arguments which I hear on this floor. The Grenville administration get into power—you negotiate with them and make a treaty—it is rejected, scouted. Be it so. Meanwhile the Grenvilles go out and the Portlands and Cannings come in; and, as if destitute of arguments of our own, the doctrines of these very men in opposition—Lords Grenville, Auckland, and Holland, (from whom nothing better than the rejected treaty could be obtained,) with the Barings and Broughams in their train, are hailed with joy and resorted to as the text-book whence we quote, to prove—what? To show that the sentiment of the people of Great Britain is in favor of us. And yet when we come to negotiate with these very advocates of ours, we cannot agree. At the same time, the declarations on this floor are resorted to there as arguments in their favor. In fact, it is high time for us to give over counting on the insurrections of the Manchester weavers, and for them to give over counting on the revolutionary spirit of the Green Mountain boys. We calculate with as much correctness on the effects of our non-importation and embargo systems, as they do on the disaffection of any part of this country. We know them to be mistaken, and why may we not be? In fact, we know ourselves to be mistaken. The result of those measures proves it. Indeed, with that description of people who calculate that the navy of Britain will sink her, or that the army of Napoleon will ruin him, there is no arguing. They are out of the sphere of reasoning. For those there should be a new dictionary, and a new system of logic. After all, then, we pass the embargo; this was the real, genuine panacea. What has been its effect? After speaking of it in this House as a measure which would coerce your enemies to submission, and talking of it in Europe as a municipal regulation, in offering to withdraw it we have been by one Power insulted, by the other laughed at. The report says, from one of them no answer has been received—from France. Sir, we have an answer from France which satisfies every one who has seen it; and there does not exist a man in this country base enough to comply with the wishes of the one party or the mandates of the other. We have gone to Europe, and said of this embargo, which was laid unquestionably, even by the report of the committee, before the British Orders in Council were received—because, as they tell you, it was before the Milan decree was known—we have told the belligerents that this *consequence* shall be withdrawn if they will withdraw their provocations. In fact, like Jack, in the tale of the Tub, we have hanged ourselves for spite, in hopes that one or the other of our enemies will come and cut us down. Both have refused, and it remains for us to say whether we will longer dangle in our garters. I, for one, have no such disposition.

On the subject of the embargo, as it has been dragged into this controversy, I will say that the view taken of its origin has been much more erroneous than the predictions as to its effect. It is well known to have originated in the determination of France to act on the Berlin decree in the broadest sense of the letter of it, and in the proclamation of Great Britain inviting home her native subjects. It is as well known to me that it did not originate in the Orders of Council, as that it did not originate in events which took place long since it was enacted. For although the Orders in Council were unquestionably issued before the embargo was laid, as unquestionably they were not known to us, and were not once mentioned in my hearing as a cause for the passage of that law.

Sir, I have occupied your time to very little purpose; I am as sensible of it as any man who hears me. It was not my intention to have taken some of the positions which I have advanced since I got up. I have been irresistibly led to open some questions which may lead to unpleasant discussion; but I could not omit the temptation to self-justification.

I know, sir, that I have had neither art nor part in bringing you into this disastrous situation, and that reflection is worth to me everything, which, in a political point of view, this world has to afford.

Mr. TROUP said he was extremely happy to agree in one thing with the honorable gentleman who had just sat down, that the Southern had not suffered less by the operation of the embargo than the Eastern States; but when, in differing from the gentleman from Massachusetts (Mr. QUINCY) on a point of still greater importance, he was also compelled to differ from the honorable gentleman from Virginia, he did so with the deepest regret. It has been said by the gentleman from Massachusetts, observed Mr. T., that for the last eleven months the country has suffered by this system of embargo the extreme of disgrace and humiliation, and the gentleman from Virginia has called it a measure of degrading submission. Sir, it is not a measure of submission; it is a measure of resistance, and of the most formidable resistance. Whatever may have been the object of the Executive in recommending the embargo, it has ever been supported by me as a measure of coercion—as a

measure of justifiable retaliation. I contend that it is not submission. Acquiescence in the orders and decrees—submission to seizure and condemnation—would be submission, to all intents and purposes; but that measure which keeps at home the ships and property which our enemies seek to capture on the high seas is not submission, but resistance: and the gentleman from Massachusetts will find it so to his sorrow. Commerce, sir, is the life-blood of England; it is the foundation of her wealth, her prosperity, and her maritime grandeur. But the gentleman says we have retired from the highway of nations, and left our great rival free to navigate it. True, we have retired from the ocean; we have left our rival free to navigate but very little more than between port and port of her own dominions. We have given the finishing stroke to her exclusion from the commerce of the whole civilized world; she has not one tittle of it left other than what you yourselves would have if your embargo were raised to-morrow; and your committee have told you what that is—a scanty, contemptible commerce of seven millions of dollars. England lost one hundred millions when France shut the Continent against her; she lost fifty millions by the occlusion of your own ports; and nothing of trade is left her but that which she may drive with the native Powers of Asia and Africa, with Sweden, and precariously with Spain, Portugal, and their possessions. No more, then, of raising the embargo to carry on commerce, when, without a sacrifice of independence—without a dishonorable submission to the Orders of Council—we cannot carry on more than seven millions of commerce.

I know it is said that the people of the Southern States are the enemies of foreign trade—that their spirit and their interest are anti-commercial. Sir, in this sentiment, which is itself without foundation—nay, without even the shadow of foundation—is to be sought that jealousy which has given rise to so many evils, and from which such serious evils are yet to be apprehended; but, sir, it is a mean, pitiful, contemptible jealousy. The Southern States are not the enemies of commerce. Indeed, how can it be said of a people who raise seventy millions of pounds of cotton, and for which they have not a home market for ten millions, that they are the enemies of commerce! No, sir; they have, from the beginning of your Government to the present day, sacrificed as much to the prosperity of commerce as any people of the Union. They have been at all times as ready to go to war for commerce—on the attack of the Chesapeake they were even more forward to go to war for the honor and dignity of the flag, than the people of the Eastern States.

A little more, than was said by my friend from Virginia, is to the comparative operation of the embargo on the Eastern and Southern States. Compare the operation of this measure by the proper test—the only true and correct one—the depreciation of the respective staples of those two sections of the Union. Let the gentleman from Massachusetts state to the House what has been the depreciation of his beef, pork, fish, cheese, butter, onions, potatoes, and cabbages, and I will tell him what has been the depreciation of our great staples, cotton and rice. The ordinary market price of cotton is between eighteen and twenty-two cents; the embargo price is from ten to twelve. The ordinary price of rice is from five to six dollars; the embargo price is from two to three. Our people are, besides, in proportion to their number, more in debt than the people of the Eastern States.

But the gentleman from Massachusetts warns us against a perseverance in the system of embargo. A perseverance, according to the gentleman, is to be followed by open hostility to the laws. Sir, I dread no such hostility—we have no reason to dread it. It is altogether impossible that men who are actuated by the basest of human passions can make a serious movement in a revolution. No, sir; I insist upon it, we have no cause to fear the anti-embargo men of Massachusetts. One brave, independent, generous yeoman of Massachusetts, would drive half a dozen such fellows into the ocean. But, the truth is, the gentleman seems to have wholly mistaken the condition of his countrymen. He told us they had suffered everything but famine; that the distress and ruin were co-extensive with the country. They could not or would not suffer longer. Yet, sir, the gentleman was not well seated, before his colleague (Mr. Bacon) rose, and with equal claim to veracity, and the same opportunity of forming a correct opinion, told you that his honorable colleague had given a very high coloring to the picture; that the distresses of the people were by no means as great as they were described; and that, if they were less prosperous and flourishing than before the embargo, they were far—very far—from that state of misery which his colleague had represented.

Sir, many of these observations have been made with extreme reluctance; they have been extorted under circumstances which must give pain to every American, but which cannot fail to kindle in him the liveliest indignation. No man can read without horror and disgust in the papers of the day the most treasonable and flagitious libel that ever disgraced our country—the anonymous publication circulated in Newburyport.

Sir, it is remarkable that we have been so gradually familiarized with British outrages, and have at length become so completely reconciled to the most extravagant excesses of them, that what two years ago you would have been willing to go to war for, would now be considered a matter of too trifling importance to merit your attention, much less your resentment. Two years ago you were willing to go to war to limit the right of search; you would have gone to war to prohibit the practice of impressment; you would have gone to war to overturn the lawless system of blockade; you would have gone to war for the colonial trade; for the attack on the Chesapeake; two years ago you would have gone to war for the Orders in Council; and now that all these outrages, and more than these, have accumulated on your head, until you are bowed down to the earth, you are content to beg a little commerce of England! You

tell England, if she will be pleased to grant you a little trade, you will open your ports to her, and shut them against France! This last, this humiliating overture, she rejects with indignation. You have no choice left, as your committee has reported, but between war and embargo. We cannot go to war with one, without going to war with the other; because, the wrongs done by one are not less than the wrongs done by the other—unless, indeed, you consider the shedding of innocent blood the greatest of all possible wrongs.

I know this measure of embargo has been condemned, loudly condemned; but only by men who propose to reseat themselves in power by an appeal to the feelings and interest of the community. In one part of the country this appeal has been made with effect. The avaricious have been corrupted, the ignorant have been duped. In all countries there are the avaricious and the ignorant, and the passion of the one and the credulity of the other have been wielded with success by the anti-embargo men. Sir, the people have been led to believe, that a great commerce could be carried on under the orders and decrees, when in fact no commerce could be carried on without compromitting the honor of the nation. They have been led to believe that a commerce could be carried on without hazarding the peace of the country, when in fact no commerce could be carried on without involving the country in war; and whilst the great object of the Government was to protect commerce, the embargo was said to aim a deadly blow at commerce. It is by such misrepresentations that the noisy enemies of embargo out of doors have been deluded and corrupted. And are these the people to whom we are called on to turn a respectful and deferential ear? the merest Shylocks—men who cry out, away with your honor, your independence, your neutrality—they are all stuff—give me gold! British merchants, British agents, and malcontent Americans—the depraved of the cities, and the ignorant of the country—men who are ready to sacrifice the honor and independence of the nation for a little trade in codfish and potash! If we are thus degenerate—if we are thus fallen in thirty short years, it is high time to abandon your republican system of Government. Sir, will posterity believe that this very people, who thirty years ago magnanimously offered up their lives and fortunes for the acquisition of independence, are now prepared to sacrifice that very independence to their avarice? Will posterity believe, that this same people, in one short year, forgot the affair of the Chesapeake? That they were ready to shake hands with the murderers and robbers of their countrymen? I will not, for myself, assent to such a base barter of honor for gold. No, sir! If it has come to this—if we cannot for a year or two years endure the privations incident to a measure of embargo, if we cannot exist without the luxuries of life, notwithstanding the most imperious calls of honor and of duty, we are unworthy the blessings we enjoy—we have lost our virtue, and are ripe for the dynasty of the Bonapartes or any other dynasty; and whether you are conquered by France into miserable servitude to-morrow, or corrupted to sell your country to England, is not worth a reflection. This accursed avarice will ruin you.

Sir, it is not to such a people as those—and I trust in God, a majority of the people of New England are very different—that I would appeal to test the correctness of the measure of embargo. Were I disposed to test its correctness by its popularity, I would appeal to the people of Virginia, too honorable to be corrupted, too enlightened to be duped. I would ask them what they thought of the embargo, and they would answer with an almost unanimous voice—they would go further—they would be ready to support it with their lives and fortunes.

You have done everything for commerce—you have negotiated for commerce—you have jeopardized the peace of the country for commerce—you have passed an embargo to protect commerce—and commerce is the first to abandon you. God forbid that I should speak thus of the whole mercantile community. I have seen too many instances on this floor of noble and magnanimous sacrifice of private interest to the public weal; they are not the Smiths, or the Grays, or the Crowninshields, of whom I speak.

If the embargo were raised to-morrow, none would trade but men of desperate character and bankrupt fortune—the real *bona fide* American merchant would not venture a ship at sea; and where would they trade? Why, to be sure, they might drive a trade in beef and pork and flour to the West Indies, and some of our cotton and rice and tobacco would find their way to England, if the French privateers did not catch them—but the market would soon be overrun—it would be no better than the home market; and where would you trade to besides? If you are determined to pay the ninepence per pound tribute, for permission to re-export your cotton to the Continent, the French decrees would take it, and if they did not, the price of the article would be so enhanced by the tribute, that the market of the Continent would be lost to you.

Permission to arm is tantamount to a declaration of war, and the people of this country want peace, as long as they can preserve it with honor. And do you think, sir, we are ready to plunge headlong into a ruinous war, naked and unarmed, to gratify a few bankrupt commercial speculators? It is easy to declare war; it is more difficult, under present circumstances, to maintain peace, and it is most difficult of all to wage a successful war. Sir, beware! It is the object of the gentleman from Massachusetts and his friends to lead you, step by step, into a war, and if he can, into an unpopular war, which the moment you cease to conduct with effect, you are ruined, and he and his friends are exalted. To such an event, deplorable as it would be, I could be reconciled if I believed the gentleman and his friends would govern in the true spirit of the Constitution; but liberty has been hunted down in the Old World—there is scarce a remnant of it left, save in America—here it is sustained by the ruling party; and,

sir, the moment this party ceases to rule, Republicanism is gone, and with it the hopes of all good men forever. On this account I deprecate such an event.

It would appear to me from the tenor of the gentleman's remarks (Mr. Quincy) that he wants war with France and alliance with England. If this be the fact, the gentleman is not consistent. If he is really as much afraid of the gigantic power of France as he affects to be, (and I must confess, for my part, I am very much afraid of it,) assuredly it is not policy to provoke France—it is our policy to keep out of the way of both monsters as long as we can, and to husband our resources. And what would avail an alliance with England? You could only furnish men to be slaughtered on the Continent. I can tell the gentleman from Massachusetts in what he would much better exemplify, both his patriotism and consistency—in union—in uniting to call into activity the resources of the nation for its defence—in organizing and arming and disciplining; and, what is not less desirable, in adopting a system of finance, which would not fail you in any exigency; in short, in pursuing the course in which you are—which the soundest policy points to as the safest and the best, the course of impartial neutrality, if indeed neutrality has anything to do with it.

As to the embargo, so much has been said, both in and out of doors, in its justification, that I will forbear to touch it. It is only necessary to observe that it has been supported, and will be continued as a measure of security and of just retaliation; as a measure of security it keeps the property at home, which, but for it, would have enriched your enemies—as a measure of retaliation, it would have had its effect, but for the anti-embargo men of Massachusetts. If the gentleman will co-operate to make it efficient he will soon find the great mercantile politicians of England, from Anderson down to M'Call Medford, have not been mistaken in the belief that this country can vitally affect the colonial and manufacturing interests of that, by an embargo system.

As to a declaration of war against France and Great Britain, and the policy of making it immediately, no local considerations should be permitted to enter into our view of it; but this much is to be said, that the Southern people are more interested in raising the embargo than going to war: by the first they would find a vent for a small proportion of their staples; by the latter they could get nothing but taxes and fighting. The anti-embargo men of Massachusetts would not make more by the first than ourselves, and by the last they would make nothing more than their privateers would make for them; but the great object is to postpone the evil.

One word, before I sit down, as to what fell from the gentleman from New York. He proposes to repeal the embargo in relation to Spain and Portugal. Sir, is the political condition of those States characterized by a permanency and stability which would warrant commercial connexion with them. Trade with the Junta of Seville—a mere political ephemeron—a being of a day! Sir, I wish the Spanish patriots success with all my heart, but success is impossible. Ten thousand to one, that whilst I am speaking, this same Junta of Seville is imploring clemency at the footstool of the great usurper. Indeed, sir, if we are bound to consider this people of any definite description, we are to consider them rather as French subjects than Spanish patriots, for the only official paper in relation to them is the instrument of abdication and renunciation by which this unhappy people have been transferred over, like a flock of sheep, to the Emperor Napoleon, and by the very men for whose rights of empire they are said to be contending.

Mr. Masters said he lamented the present situation of affairs, which he feared would terminate to our disgrace; he wished that one sober view should be taken of this great question, before they blindly rushed deeper into a scene of confusion and distress.

In the precarious situation in which this country stands, said he, it is the duty of every man to avow his principles and sentiments with firmness and integrity. It is public delusion to bow to the chimerical projects and phantoms of any man. No man can be deemed independent, unless he is guided by the reason and expedience of things, abstracted from all party and personal prejudices. I trust these resolutions will be determined by their merits, and not by Executive or party influence.

Great pains have been taken both in conversation and in print to work upon the feelings of the people, to persuade them it must be embargo or war, at the same time you intend non-intercourse and then war.

This report is calculated to manage, cultivate, and set in action, the warmth of public imagination, in order that a non-intercourse and the embargo may be well received.

The report states, at the time the embargo was laid, the British Orders in Council were known and understood in this country, though not officially communicated. The fact is, the British Orders in Council were not even mentioned in the debate on that question; and when the Administration found they had mistaken its operation, they went to the British Government supplicating and begging that those orders might be rescinded. Sir, this nation feels humbled with the unhappy issue of their measures, and by deviating from an energetic and practical course, are whirled about, the sport of every gust, and easily driven into any port.

Mr. M. said it had been in the power of this nation more than once to have adjusted their differences with Great Britain. When Mr. Fox came into the British administration, he offered our Minister to renew the expired treaty, and at the same time remarked it should not prevent him from proceeding in the negotiation, and endeavoring to make such a treaty as would be most satisfactory to both countries. In the meantime the renewal of the old treaty would prevent all collision between the two nations. Mr. Monroe's instructions would not admit of it.

Although Jay's Treaty was exceptionable in many points, and not popular in this country, yet this nation prospered under that treaty more than they have since without it.

Mr. M. said the late treaty concluded with the British Government, by Messrs. Monroe and Pinkney, was, in his opinion, more advantageous than the former. This last treaty was rejected principally on account of the protestation signed by the British Commissioners. It was worthy of consideration that the protestation was no part of the treaty, and our Government had since offered to continue the embargo as to France, provided the British Government would rescind their orders, which was substantially complying with the protestation, yet this treaty is rejected. It never has been in our power, said he, honorably, to adjust the existing differences with France, whose Emperor has always showed the greatest contempt for the neutrality of every nation, and whose determination is to compel us to take part in the war, either as friends or allies. If the nation does not know this, I know it, and you know it, Mr. Chairman. The demands are positive, and because we have not promptly obeyed, France has swept by sequestration and confiscation all the American property, from Italy to Antwerp, amounting to more than one hundred millions of livres; she has burnt and sunk many of your vessels without even the form of a trial. Why do you continue the embargo, and add to it a non-intercourse? Are you waiting for an answer from Bonaparte, that he has taken off his decrees, that you may go to war according to his demand? or do you wish to continue this pressure, in order to gain time to offer to the great Emperor, in more explicit terms, that you will take sides with him?—Your measures are leading to that point, and it will be the result.

Russia, Prussia, Holland, Spain, Portugal, Naples, in short, all the subjugated world, passed embargo laws under the influence of France, under the same pretence, and worded nearly in the same manner as ours; therefore your embargo laws had a tendency to prevent the British Government from rescinding their Orders of Council, and were more injurious than beneficial. Great Britain has given you her answer. Sir, our affairs have proceeded daily from bad to worse, until we have been brought step by step to this state of things. By not resisting the first belligerent decree, we have invited retaliation and courted calamity.

You ought to desist from a course of measures which will, in my opinion, bring the people of this nation into want and misery. This is a question which will decide the fate of this country. Sir, before you pass a non-intercourse, I beg the House sincerely and gravely to consider the calamities which will follow: inconveniences, mischief, and distress, are great and certain. The belligerent Powers have trampled upon the law of nations, and we have trampled on and disgraced ourselves. If these measures were intended to coerce them, they would prove visionary and philosophical, and not founded on experience. Your extreme and theoretical measures may be brought forward, *ad infinitum*, in order to extinguish all principles of action, which arise from experience and probability.

Mr. M. said the embargo originated from no plan of sound policy whatsoever, and was in contradiction to all the principles of commerce. Your finances, said he, must lean upon commerce, or your whole system will tumble upon your head. You are throwing open the doors to smuggling. Whenever the laws of trade press hard upon the people, your shores and frontiers are full of contraband. When he cast his eye back on our once flourishing commerce and agriculture, grown to perfection through a series of fortunate events, and a train of successful industry and enterprise unparalleled in the annals of the world, and contrasted them with our non-intercourse and embargo, it gave him melancholy reflections. He could not embrace a system which tended to destroy this country.

In looking round, said he, you will discover symptoms of radical decay, and proof of consuming strength. Never did a people suffer so much from fallacious measures and empty words. This non-intercourse and embargo must be given up. They stand on no solid principle; it is a reflection on your wisdom to persist in them; you cannot show either of them to be the means of obtaining some useful end; there can be no dignity in persevering on your ill chosen ground; you are not punishing the belligerents; the operation against them is childish and fruitless; you are punishing ourselves. The project of abstinence and starving men into a sense of duty might apply to a convent or monastery, but the operation as against the belligerents is extremely absurd and ridiculous.

We have got into this difficulty; the great question is, how are we to get out. One obstacle in the way is, that you proudly boasted when you laid the embargo, and you now scorn meanly to sneak out of difficulties, and are pressing the nation into non-intercourse and war. I think it best to have the generous courage, when you find and feel an error, honorably and fairly to renounce it.

If your non-intercourse and embargo are intended to habituate the citizens to the manufacturing and wearing of homespun, that is also visionary. Instead of homespun, the genius of the people is commerce, commerce—money, money; and we ought to spurn from us the hand of unconstitutional power, that would wrest from us those privileges. Let the House be cautious to guard against the progress of subtle encroachments on commerce, and consider that it may be undermined, as well as openly attacked. If you attempt to destroy or depress commerce, you excite a jealousy between the States, which, however much to be lamented, will end in a separation. Among the united interests of the commercial and agricultural parts of the Union, nothing can be more detrimental than their jealousies of each other, and nothing can be so advantageous to this country, as their united efforts

for their mutual benefit. You have already excited jealousies, and shaken the confidence of the people; mutual affection and confidence between the several States is the glory and safety of all. You have turned the course of trade into other channels, which cannot be recovered back for years to come, and posterity will curse the non-intercourse if it is adopted, and posterity will curse the embargo, which will be remembered as great instances to instruct the world to avoid unpardonable error. Sir, you know they cannot be carried into effect without a large military force, subject to military tribunals. I have always understood that military force was not to be applied to enforce obedience to a law, but when called for by a civil magistrate; and if they are not under the civil authority, it is not government, it is war, civil war, and we have no protection against tyranny. While we follow the sound of liberty, let us take care we do not lose the substance.

Mr. M. said he had taken great pains, and paid attention, with deliberation to the highly interesting and important situation of the country, and did believe it indispensably necessary to negative the resolution for a non-intercourse, and raise the embargo. If you do not, said he, it is but the beginning of distress, and I never knew anything which gave me more heartfelt regret than these measures. This nation has experienced great advantages resulting from the different branches of trade, and the sources of public wealth and individual happiness are increasing and extending. Reject this resolution of non-intercourse; raise the embargo, in whole or in part, you will then invigorate her exertions, and reanimate her hopes. If you do not, you will sink down the nation into despair, and an absence of hope for Constitutional relief, and their resentment may get the ascendency of their moderation, and your laws will be evaded by force. Sir, a want of remedy is in effect the same thing as a want of right.

I will not say where it will end; I will be silent on that head, and go no further. But look to the consequences. No rational man will deny that this state of things cannot be attended with either duration or stability.

Mr. Lyon occupied the floor till half past three o'clock, when the House adjourned.

Thursday, December 1.

Another member, to wit: Thomas Moore, from South Carolina, appeared and took his seat in the House.

Jesse B. Thomas, the delegate from the Indiana Territory, returned to serve in the room of Benjamin Parke, who hath resigned his seat, appeared, was qualified, and took his seat in the House.

Mr. Jeremiah Morrow presented a memorial of sundry officers who served in the Revolutionary war with Great Britain, now residing in the State of Ohio, stating, that, from the procrastination of the acts for funding the public debt, and the distress of the memorialists, they were compelled to dispose of their certificates for pay and commutation at much less than the nominal amount; and praying such relief in the premises, as to the wisdom and justice of Congress shall seem meet.

Mr. Samuel Smith presented a memorial of sundry late officers of the said Revolutionary army, residing in the State of Pennsylvania, to the like effect.

The memorials were read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the report of the committee to whom was referred the petition of thirty-six American citizens confined at Carthagena, in South America, under sentence of slavery; and, after some time spent therein the Committee rose and reported progress.

FOREIGN RELATIONS.

The House again went into Committee of the Whole on the report of the Committee on Foreign Relations, the first resolution under consideration, in the following words:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France."

The question was taken on the resolution, and carried, *nem. con.*

The second resolution having been read, in the following words:

"*Resolved*, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private, armed or unarmed, ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce, or manufacture of the dominions of any of the said Powers, or imported from any place in the possession of either."

Mr. Randolph called for a division of the resolution, taking the question on each clause of it separately.

The question was taken on the first clause, ending with the words "United States"—carried without opposition.

The second clause was agreed to by the Committee, eighty-four to twenty-one.

Mr. Burwell.—I feel bound by the course the debate has taken to express my sentiments upon the resolutions, and place in a proper point of view my conduct and opinions. The view taken of the subject by the gentleman from Massachusetts (Mr. Quincy) is, to be sure, an extraordinary one; he seems to have considered it a question whether we shall have a free trade or not. Can he seriously believe that to be the true question before the House? Can he hope to impose that belief upon us? In the course of my remarks I will endeavor to show that the question stands upon very different grounds, and that heretofore we have had but a choice of evils, and have but the same hereafter. He has presented us a

highly wrought picture of the distresses and sufferings of the New England States generally. Is this intended to operate upon us in favor of free trade? or does the gentleman expect, by unfolding to Europe these dreadful calamities, to awaken the tenderness of Mr. Canning, and dispose him, by withdrawing the Orders in Council, to facilitate the removal of the embargo, as a measure of inconvenient restriction to the American people? Will this language have a more beneficial effect upon France? No, sir, it requires a firm and decisive tone, manly fortitude, to command respect from these Governments. But the gentleman, like an indiscreet officer, in a state of siege, while endeavoring to form an honorable capitulation, tells his adversary he can hold out no longer, his provisions are exhausted, his men disheartened, and his works of defence are tottering. Others have taken a retrospective view of this subject, and say that the Government might have avoided the present difficulties, if a different course had been adopted. I could have wished that all which is past should be forgotten, and that we should now take the course best adapted to secure the honor and independence of our country; but as this Government depends upon the will of the people, and derives its strength from their approbation, it is necessary they should know the truth of things urged on this part of the subject. The gentleman from New York (Mr. Masters) told us yesterday all our difficulties might have been averted by the ratification of the rejected treaty of Monroe and Pinkney. Without deciding the merits of that treaty, at the same time yielding every tribute of respect to the talents of the negociators, I altogether deny the assertion. I beg leave to recall to the attention of gentlemen a single fact. By a reference to the note of Mr. Canning of 23d of September last, you will find the orders of January, 1807 and November 11th, rest upon the same ground, and are defended upon the same principle, the "unquestionable right of His Majesty to retort upon the enemy the evils of his own injustice." You well know that of January was issued in seven days after the signature of the treaty, and before its reception in the United States; and supposing therefore the treaty had been ratified, it proves that the same measure would have followed; and that part of the argument is completely done away by a reference to that note. With respect to the conduct of our Government in relation to Great Britain, the proclamation interdicting your ports and harbors to British ships of war, and the non-importation act, deserve some consideration, particularly the proclamation. It has been stated that all our difficulties have been protracted upon a point of etiquette. The proclamation was not a departure from our neutrality with Great Britain and France, because it inflicted a penalty for the violation of a general statute, passed in 1804, without reference to a particular nation, and applicable equally to any Power that should offend against it. If the ships of France had committed similar outrages, they would, I am confident, have received the same treatment. Do you doubt the violation of the law? Look at the conduct of the squadron. It cannot be reconciled with the independence of the United States, and the proclamation was the mildest precaution when they exercised the hostile rights of sovereignty in this country. They stopped our vessels, impressed our seamen, attacked our frigate, threatened the destruction of Norfolk, and arrayed themselves in complete hostility against us in our own waters. I do not mention these circumstances to excite strong feelings against the nation; I would ask if the United States could suffer the officers of a foreign Government to exercise this power, within our territory, and whether, if the French had done the same acts, it would not have been considered blameable to permit them to remain there?

If the British navy had conducted themselves right, they would have been entitled to and received the customary hospitality. Is it too much for the United States to ask, as a condition for revoking the proclamation, and inconsistent with the dignity of the British Government to give, an assurance that their hospitality shall not be again repaid by the violation of their peace? As to the non-importation act, I would ask, can gentlemen believe if it had not passed, the system pursued by Great Britain would have been different? Had not the policy which terminated in the Orders of Council commenced previous to the passage of your law? Mr. B. contended that the measures adopted by that Government grew out of the state of things in Europe, and the peculiar character of the present war. The non-importation act could not have given offence to the English Cabinet, because it was a commercial regulation justified by previous injuries, and the discrimination made in England of four per cent. more on goods exported to the United States than the continent of Europe; and this country had an undoubted right to countervail it in any way they pleased. England had the less right to complain, as she was in the habit of excluding from her ports such articles as were objectionable, and in her colonies had placed the exports of the United States upon terms by no means reciprocal.

Admit for argument sake, that the act was improper, its policy equivocal—it was not enforced; and therefore the English never experienced any injury from that act. It does not constitute an apology for them. Why ascribe the conduct of England to these causes, when your Ministers, Messrs. Monroe and Pinkney, have declared to you, there were strong and powerful interests in that country, anxious for a war with you; they have told you those interests combine power and wealth sufficient to control the Government; and you have been cautioned by Mr. Monroe, in the most propitious moments of his negotiations, against this spirit; that the liberal views of the Minister must yield to the clamor of the West India planters, the jealousies of the East India Company, and ship-holders, and the impatient avarice of the navy. It is the ascendency in the Cabinet of these influences, thwarted by the war on the Continent, which menaces your commerce with extermination, and your country with ser-

vitude. It kept pace precisely with the progress of these events.

The first cause of complaint you had, was the obstruction to the exportation of foreign articles to the Continent, the surplus of similar articles became multiplied in the hands of the British merchants, and the means of disposal gradually lessened, with the conquests of France, and her occupation of the continental seaports; in order to counteract these effects, they tried to destroy our trade, by declaring the continuity of the voyage between the colonies and mother country illegal; your vessels were then required to stop in the United States, change the cargo, and pay or secure the payment of the duties, before they could proceed to the Continent. These regulations obviously tended to destroy the superior advantages of the commerce of the United States, and when France had succeeded in cutting out the British entirely from the trade of the Continent, a report of the West India committee declared, that unless all West India and colonial produce was compelled to reach the Continent through England, they could not cope with the American merchant; and the planters in the British colonies could not compete with their rivals without absolute loss. To secure the interest of her planters the American commerce must be depressed. It was the same object which revived the rule of 1756, and extended its application to us upon principles totally new; and the orders of the 11th November, which followed the execution of the Berlin decree, were intended to give efficacy to this project. Upon this point the gentleman from Massachusetts is good authority; he admitted one of the objects was the annihilation of neutral commerce; he seems however to have forgotten that it was impossible for an American vessel to reach the Continent; and argues as if your commerce was perfectly free, overlooking the actual situation of the United States. You are told by the gentleman from Massachusetts, you have effectually yielded to the operation of the French and British edicts, by withdrawing from the ocean, in conformity to them. I would ask him, if we had armed against both Powers, in addition to the embargo, whether that would be submission? Yet, according to the gentleman's logic, submission consists in refusing to trade with the belligerents. Let us take him upon another ground; he says take off the embargo, and let your vessels go to sea. Well, suppose that to be done; your vessels go to sea, and trade exclusively to Great Britain; for she says you shall go no where else; would that be submission or resistance? Unquestionably submission. But, sir, grant your present system to be submission, is it of that abject kind recommended by the gentleman, which renounces the character of your flag, abandons your property and citizens to the mercy of every picaroon and plunderer on the high seas? Upon the subject of tribute, you are told by him, it will not be paid, if you first go to England—because your merchant will not afterwards go to the Continent, as he knows France will confiscate his property. Is it come to this, and are we to be indebted to France, our bitter enemy, for protection? Is the national honor to be deposited in such hands? It is asked, could we not trade to Russia, Denmark and Sweden? Yes, you could go direct, but for the Orders of Council, which compel you to touch first at a British port, and pay the duty which she requires for permission to carry on that commerce, to which you have an undoubted right, without imposition or obstruction from that Government. In this case who will save your honor, and your people from paying tribute? The gentleman from Massachusetts admits the trade of the United States must stop in England; it was upon that ground he endeavored to prove we need not pay tribute. What will be the consequence to the United States and the New England people themselves? Why, as England does not employ or consume more than one-third or one-fourth of all your exports, of course you will lose the employment of your shipping in that proportion. What will become of the vessels usually employed in the export trade, in exporting the remaining produce to the Continent, when they are absolutely prohibited from approaching it? They will be useless; and it is absurd, in the present state of things, to imagine they would be relieved by taking off the embargo. He tells us, in speaking of the relative importance of the commerce of Massachusetts and Virginia, that the State of Massachusetts exported to the amount of twenty millions of dollars, thirteen in foreign and seven in domestic produce. Great part of the latter is actually the product of Virginia, whose resources he has endeavored to underrate.

In the report of the Secretary of the Treasury you will find the whole United States exported a little more than one million and a half of foreign produce to England; this is all she wants; while Massachusetts alone exports thirteen millions; several other States export as much foreign produce. Can it be necessary to say what will be the consequence of carrying all these goods to Great Britain? Instead of enhancing the value to the proprietor, the loss and depreciation in the price are inevitable. You must pay an export duty of seventeen per cent. ad valorem, the consumption in that country being prohibited; and, according to the gentleman's account, the trade closes there. But, admit it may be sent abroad, that it escapes the fangs of French privateers and unprincipled confiscation in French ports; in that case you cannot, in addition to the expense of a circuitous voyage, pay seventeen per centum, and come into competition with British merchants trading in similar products, favored with the consumption of the home market, and aided by the drawback in foreign markets. Sir, you would lose upon the property at least as much as you do here, where, by the progress of internal consumption, it is gradually going off at its full value. When the gentleman talks about a disposition to sacrifice commerce, a disposition which never did or can exist, what would he say, if, instead of the British repealing our drawbacks, we were to do it? The drawback given by the United States to the Eastern merchant upon exportation to foster navigation, the British Government has undertaken to repeal, and that which we give as a stimulus to enterprise, they extort as a tax upon it. You will find the drawback has been made the standard for the duties imposed by England on foreign exports.

I would again demand, what would these gentlemen say if we should repeal the drawback? They would say, you paralyze our commerce, suspend the employment of our capital, and sacrifice us to our rivals; yet, when the thing is done by a foreign Government, having no jurisdiction over us, they see nothing hostile to commerce—not a murmur is heard; but they tell you, let the merchants trade, they will not pay tribute. France will prevent that: they are determined upon free trade in spite of drawbacks, circuitous voyages, exposure to captures, new duties, and total exclusion from a market. "Everything," says the gentleman from Massachusetts, "stops in England." How does this affect the remaining branch of your navigation? Such is the amount of the discriminating duty in favor of British vessels and against American, by giving them the preference in the transportation of some of your own produce, you save the whole freight, without including other charges incident to the voyage. Can your ship come into competition when it is the interest of the shipper of every article to give your adversary fifty per cent. more than you can carry it for? This fact is demonstrable, with the certainty of arithmetical calculation, and if gentlemen will take the trouble to calculate the discriminating duties upon cotton they will be satisfied. It is proper to observe a discriminating duty is not a recent thing, the duty is relatively now what it was before; but as the gross amount of duty imposed on American produce by the act of Parliament, carrying the Orders of Council into effect, has increased, this effect has resulted. Let us examine how the fisheries will be affected, which, to some gentlemen, are a source of tremendous uneasiness. For these fishermen I sympathize with all my soul, because they are precisely in my own situation. They impose on stockfish 2*s.* 6*d.* sterling per cwt., and on every species 4*s.* sterling per cwt. Now, gentlemen have always told you, the fisheries cannot subsist without some special bounty from Government. Will they now contend that that branch of industry can maintain itself against a duty, the fourth part of the value of the fish? Cut off, too, from its natural market, and forced into one in which there is no demand? The merchant who has patronized the fisheries, and vested his capital in the transportation, will no longer find it his interest to pursue his accustomed traffic in this article to Europe. On the subject of the fisheries, I remember a remark of Alexander Baring, who is considered one of the most intelligent merchants in England, that the cutting off our trade with the Continent would effectually destroy their own fisheries, because, he said, they used to sell their fish to the American merchants, who sent them to Spain, Portugal, &c., under the neutral flag. How much greater must be the injury when to the loss of the market must be added the expense of double freight and insurance, and a prohibitory instead of a protecting duty? Gentlemen will hardly call this a matter of bounty from his Royal Majesty. What will be the effect on the planter? I believe I have shown the interests of the Eastern merchants and fishermen are completely destroyed.

It will be found that similar duties are laid on lumber and other important articles, operating in the same way as on the fisheries. With respect to the productions of the Southern country, let us take tobacco, an article in which I am personally interested. We export annually about 86,000 hogsheads from the United States, of which, it is stated by Mr. Baring, the consumption in England is about 12,000 hhds. annually. What will become of the surplus? If lodged in England it will not sell, because the quantity exceeds the demand in England, while the risk of capture, and duties on exportation, must confine it to that country, and destroy competition among the purchasers. On this subject, I beg leave to read a calculation of the tribute to which that article is liable:

A cargo of tobacco may be said to consist of four hundred hogsheads. For the sake of round numbers we will suppose each hogshead only one thousand pounds, and the account stands thus:

Four hundred thousand pounds of tobacco at 1½ sterling per lb. is £2,500 sterling, or - -	$11,200 00
Tonnage at 12*s.* per ton, on 400 tons, is £240 sterling, or - - - - - -	1,065 60
Light money, and about fifty other charges, will amount to - - - - - -	800 00
Amount of tribute on each cargo - -	12,965 60
Deducting the amount of tobacco consumed in England, the residue destined for the Continent, and which would go direct but for the Orders in Council, is compelled to touch in England, and pay besides double freight duties, which, calculated as above, stands thus: Say 68,000, though the real quantity is 74,000 hhds. weighing 1,000 pounds, at 1½*d.* sterling per pound, is £425,000, or - - - - - -	$1,998,000 00
One hundred and seventy ships' tonnage, at $2,000 each - - - - -	340,000 00
Amount of tribute on tobacco - -	2,338,000 00

The amount of tribute, then, on 74,000 hhds., the quantity consumed on the Continent, is $2,338,000, nearly one half the value of the whole article when shipped from the United States, estimated on the custom-house books, at $6,060,000. After having destroyed its value, by depriving us of a market, and hindering its consumption, I venture to pronounce that, if the embargo was removed, it would not pay the risk and freight, much less the duty. The planter would receive no reward for his labor, and the merchant undertaking the shipment would be ruined. But the gentleman from Massachusetts talks about navigating the ocean as a matter of perfect safety. What are the facts, so far as they have transpired? Mr. Gray, of Salem, a man whose pa-

triotism has honorably triumphed over the prejudices of party, and whose commercial accuracy will not be questioned, has stated that, out of seven vessels which sailed from that port in the month of December, only one reached the Continent, and she had to pay heavy charges to escape confiscation; she was, to use a vulgar saying, whipped and cleared. I have seen a list from a single insurance office, in Baltimore, of vessels cleared out from the 1st of September to the 23d of December, and out of fifteen which sailed for the Continent, in that time only two escaped—two were condemned, two acquitted, and nine remain in jeopardy. Why, then, will gentlemen tell us we can carry on commerce, when such vessels as have sailed have been devoted to certain capture? In the case of the insurance company to which I have alluded, the loss of property was calculated at a risk of eighty per cent. on its whole value; and, in the case of the port of Salem, at a risk at least as great. With respect to the trade with the French and Spanish colonies, which was open when the embargo was laid, everybody knows we had enough of some of these articles to serve this country for five years to come—we were overstocked—they would be of no value in the United States, and why, then, bring them here? For, I have before shown that, if they had been brought, they could not have been re-exported with safety or profit.

This, then, being the state of affairs at the time the embargo was laid, it becomes proper to speak of the policy which governed my vote. It has been echoed from every part of the House, that the embargo has failed in its purpose; that it has not starved and brought England and France to our feet. I had no such expectation. As far as I recollect what I thought or said at the time of its passage, no such consequence as starving the belligerents was anticipated. I advocated it as a precautionary measure; in that point of view it has not disappointed my expectations. It has answered, then, fully, because it has saved the property which was in port, and got in that which was out, a sum equal to one hundred million of dollars.

It has as yet saved us from war, and what is equally important, it has saved us from tribute. I had another object; to give an opportunity to appeal to their interests, and ascertain whether the belligerents would respect our rights or not. As for what Mr. Canning insinuates, that we looked for the downfall of the British nation from our measures, I did not anticipate such an effect, neither did I with that view support the present system. I contend for nothing but free trade, and ask nothing more of them, nor will I ever be content with less. I am one of those who have always considered the British nation safer than it has been within a hundred years; her relative situation is incontestably more firm than it was at the commencement of the French revolution. Is there a navy on the ocean to oppose her? No. She has swept from that element everything under the name of a ship of war; a danger of internal commotion, which threatened her at the commencement of the present war, no longer exists from the example of the French revolution; no man can suppose that the example of France can now invite emulation; it has ceased to be contagious; the systems resemble too much—all honest men loathe and detest with abhorrence the habitual violation of national rights, whatever may be her internal regulations. In estimating the policy of the embargo when laid, and the effects it would have produced, we should bear in mind the situation of Europe; that was peculiarly favorable for an appeal to the commercial interests of Great Britain. Mr. C. himself admits it was a state in which such an attempt was most likely to succeed; at that time she was excluded from the Continent of Europe, and the want of the commerce of the United States would have been sensibly felt by her. If the coercive effects of the embargo have been partially defeated by the change which has since occurred in Spain, no one can consider it as an error in our calculations at the time, because it could not be foreseen.

There is a remark made by Mr. Canning, connected with this subject, which deserves a reply. He says, the embargo, by an unfortunate concurrence of circumstances, did come in aid of the "blockade of the Continent." The Minister would find a very natural solution for this mystery, if he would only recollect the "unfortunate concurrence" in point of time of the extension of the French decree and his orders against neutral commerce. But, sir, the embargo was materially unlike the blockade of the Continent, inasmuch as British goods were not excluded from your ports, and consequently "did not come in aid of it." I again disclaim all identity in the cause, or concurrence in the views of the French Emperor. My ground was exclusively American; I asked no surrender of British rights. How far the effects of this measure have been defeated by events in this country, appears very obvious to my mind. How does it happen that Mr. Pinkney, as late as July, had every reason to believe the British Government would accede to a proposition which has been since rejected? How does it happen that their tone has been so suddenly changed? This alteration could not have been caused by the events in Spain, because they were known previous to that time, and the change was too abrupt to have an entire connexion with the state of things in Spain and Portugal. Sanguine calculations were entertained that the United States would be dismembered, and your Government destroyed. This was the common prophecy of newspapers and pamphlets. The author of "Hints to both Parties," no less a man than Mr. Marriot, a Ministerial member of Parliament, sagely remarks, that the Chief of your Government must follow the fate of Paul, when Russia and Great Britain were at war; that he is mistaken (as my colleague Mr. Randolph declared) we all know; but the effects were the same as if the calculation had been correct, because the Ministry had acted upon it, assuming it to be a fact. But this writer is certainly mistaken in assimilating

this Government to that of Russia. Though it would be easy to *take off* an individual in this country, it will be found infinitely more difficult to effect a revolution in its policy. The destruction of one man would not change the temper of the people, or alter the policy of the National Councils. While I regret the effects produced in Europe by the intemperance of our own people, and the shameful misrepresentations of the papers and foreign emissaries, I am far from questioning the right of the people in every section of the country to speak what language, and to give what intelligence they please to foreign Powers. It is one of the evils arising from our political institutions, but which is counterbalanced by the good effects which the liberty of the press produces. It is, however, lamentable that the essential interests of the country have been sacrificed by retarding a settlement of our differences.

There is one fact which proves that the calculation of the British Government on our divisions has been decisive in her Councils. I mean the proclamation inviting the violation of our embargo laws—affording protection to those who resist the authority of the law. Is this the conduct to be pursued toward us by a nation professing friendship? Is it the conduct of one civilized country to another? It is not, and can only proceed from the delusion produced by the reports of individuals who have been scattered through this country to engender mischief. Mr. Canning speaks this language, as if his hopes of rebellion were consummated. He evidently considers us torn to pieces, incapable of resistance, and obliged to fall a victim to their policy. But I trust there is a redeeming spirit which will avenge the wrongs of this injured nation. There has been another effect produced by the embargo, notwithstanding the shameful evasion of the law. The price paid in the West India islands for your products, some of which are essential to existence, and all necessary to comfort; this price has been extravagantly high, and must have been injurious to the planters, who, while they found the means of vending their produce limited, were compelled to pay for articles of foreign growth, high prices, and exchange their own below the usual price, which, even at its common standard, afforded no profit. In Great Britain herself, as was expected, the gradual advance on the price of all the raw materials for her manufactures, has not only embarrassed their operations, but thrown thousands out of employment; the effect has kept pace with the exhaustion of the stock on hand when the embargo was laid.

The plan proposed by the gentleman from New York, (Mr. Mumford,) for permitting a trade with Spain and Portugal, would be far from affording adequate relief to the great and important interests concerned. Your exports to Spain and Portugal do not exceed four million of dollars in domestic, and sixteen millions in foreign produce. Supposing this commerce free, what would be the effect of prosecuting it? Do you think, in the present state of things, you can come into competition with the Spanish, Portuguese, and British vessels? I apprehend not; for it will unquestionably be the policy of the new Government to favor their own navigation, and that of the British nation, with whom they are in alliance, in preference to another. And, let me tell you, by this moment, their markets have been glutted with foreign produce by the English, who are convenient, and have, themselves, a superabundance. But, have you any assurance that the present state of things will continue? Suppose your vessels were to clear out for ports of Spain and Portugal; is there any certainty you would not find them occupied by French troops? And, in that case, an unprincipled confiscation of all your property must be the immediate consequence. Besides, how do you know, these countries are not within the scope of the Orders of Council? All you know upon this subject, is a conversation said to have passed between some merchants and Mr. Canning. He tells you, to be sure, it is not impossible some relaxation of the orders, not calculated to impair their rigor, but to accommodate them to neutrals, may take place. You understand pretty well, from experience, what these favorable modifications mean. I shall presently have occasion to speak of them. You rely, then, upon a conversation, in which a British Minister has undertaken to do—what? To regulate the trade between this country and an independent nation—(for it must be considered independent until subdued.) He tells you, that you may carry direct your own, and the produce of the Spanish and Portuguese colonies, and bring back the produce of those countries in return. This boon, seized upon here with avidity, is stamped with an assumption of authority, subversive of your national independence. If it rests with them to regulate your commerce at their pleasure, what pledge have you, when it conflicts with their interests, they will not curtail it? How are you to satisfy the scrupulous consciences of the Admiralty Courts, that the sugar you carry was raised in Cuba, and not in Martinique or Guadaloupe? And, if you succeed in this, a thousand pretexts will be found by the learned crafts of Doctors' Commons to rob you of your property. When I talk of the security of our trade, I talk of a nonentity. It is regulated by the single dash of a pen, and that not of your own Government, but of a foreign Power.

But, sir, gentlemen may attach some stability to this indulgence, from the exception of the Spanish and French colonies, in the Orders of Council. They have often adverted to the fact, and the British Government itself has not failed to press it upon you as a proof of her favor, and a new claim upon your gratitude. The truth is, she was pursuing her own interest; she was more concerned in the trade to the colonies than you were yourself, for which your merchants exported only four or five millions in native products. They became factors of the British, and circulated nearly twenty millions of English goods, which could not otherwise find entrance into those ports. Is it not easy to discover what was

the policy of the permission to trade to these islands? It was, that her special interests, not yours, were promoted by it. No; she would not even permit you to seek a market for your indemnification after serving her. Now she can go there directly, and sell her goods without your assistance. What follows? Does she consult your interest by permitting you to carry on the trade open to her own merchants? No, sir, and if any doubts remain, let me call your attention to the late proclamation, blockading the French West India islands. We have despatches from England down to the 25th of September; at that time there was no intimation to your Minister, and not a whisper in the political circles, of this thing, and suddenly, when it was supposed in England (in the language of the gentleman from Massachusetts) "that we must take off the embargo," you see a proclamation dated only fifteen days later than the latest dates from England, declaring that every vessel going to the French West India islands, shall be liable to seizure and condemnation. What language does it speak? What policy does it evince? To my mind it presents a train of reflections, to which I am unwilling to give utterance, and apply the appellation which the transaction deserves. It is insidious and hostile to its utmost extent. Suppose the gentleman had moved to take off the embargo the first of the session, and had succeeded by the tempting promise of this trade. You well know the French islands have been literally ruined by the embargo. They have not been, like the islands of His Majesty, supplied by the infractors of the law, principally British agents, through Canada and Nova Scotia, with provisions. Every vessel laden with flour and provisions would have shaped her course to these islands, where there was the greatest scarcity, and the greatest probability of profit; and by this "unfortunate concurrence" between the removal of the embargo, (as was expected in England,) and the proclamation of blockade, all your commerce in that direction would have been swept off and destroyed. This blockade is of old standing, at least as old as the petitions of the last summer—it is dated the 14th of October—delayed six days, and sent by express for our notification about ten days after the meeting of Congress, at which time it was supposed the embargo would be raised. It is said this express vessel met British vessels going into Barbadoes as she came out, from whom the instructions were received. But it is reduced to certainty, these vessels arrived on the 20th, and the proclamation issued on the 14th. Yes, sir, the nets were artfully spread, the sportsmen stationed, and the whole flock would have been entangled and taken, but for the embargo. Will gentlemen not take warning?

There has been one observation made on which I will make a few remarks, and but few; but they are necessary to a fair and candid discussion. It has been said that we ought to have resisted the Berlin decree; that if we had done that, we should have been saved from our present disagreeable situation, and have taken from Great Britain a pretext for enforcing her Orders in Council. The gentleman from Massachusetts defines submission to be the doing that which you are commanded to do, and resistance in the doing that which you are commanded not to do. I thank him; he is perfectly correct. I will use his definition, and apply his own principles to this case. What said the Berlin decree? You shall not go to Great Britain, if you do France will seize and confiscate your property. What was our conduct? We did go to Great Britain, and our shipments were nevertheless as great as before the decree; we did carry on the forbidden trade, and therefore, by the gentleman's own definition, resisted. Let us take another view of this subject. In the note of Lords Holland and Auckland, attached to the rejected British Treaty, they tell us among other things, that if the enemy should carry these threats into execution, and the United States should acquiesce, they should probably be compelled to retaliate in the same way; but disclaim the right to retaliate if the French Government formally abandons, or tacitly relinquishes them. What is tacit relinquishment? Was there a single case in which it was executed, and known to us previous to the Orders in Council? Not one; and does not the fact, that American vessels went from England to France, as before, prove a tacit relinquishment? Certainly. Indeed so far from its being a tacit relinquishment, it was a formal abandonment, amounting to a positive and express acknowledgment, that the decree was not in force against the commerce of the United States. I have already shown that England received no injury from the operation of that decree, because we traded with her as we had done before, and the retaliating orders, admitting the right of Great Britain to retaliate on her enemy through neutral trade, could not exist until we had received an injury and acquiesced in it. But so far from its being known we had acquiesced, the execution of the Berlin decree, and the orders of the 11th of November, reached this country nearly at the same time. If our commerce had been vitally assailed by this monstrous decree, and we had not effectually resisted, I am not prepared to say how far it would have been a departure from our neutrality, and would have justified the measures adopted. Sir, I never would have submitted to it. You must remember I declared I would vote against a general embargo, but that I anticipated, from the British, measures quite similar to those of France. We did our duty, resisted when attacked by it, and I scout all idea that the people would have submitted, or that any man would have proposed such submission. You hear no apology for France; you hear no palliation of her outrages, or disguise of her views, and you see every man ready to exert the energies of the nation to avenge the wrongs of the country. Take the Orders of Council in another point of view: they profess to retaliate on France through us, because we have permitted her to attack our rights. Why then were they not confined in their operation to France; why did they comprehend nations with whom we were in amity, and from whom we had received no injury? Will any person say we ought to have gone to war with Russia, Denmark, and Sweden? You are bound to consider these nations independent, and treat them as such, while they manifest no disposition to change the subsisting relations between us, and refrain from hostile acts. The unlimited scope given to the Orders in Council, manifestly shows the retaliation on France was a mere pretext. But if the object of Great Britain was really retaliation on France, how could she get over the proposition made by the Government of the United States to continue the embargo as to France, and remove it as to England, provided she would withdraw her Orders in Council? This would have been a compliance with her requisition for resistance to the Berlin decree, and destroyed all ground for the continuance of the orders. But here we are told that our Government has offered to comply with that, which if they had done in the first instance, would have saved us from difficulties. This is indeed a strange inference: that England would have acceded to the proposition formerly, because she now rejects it. Sir, the United States can never consent to give authority to that unlimited right of retaliation which she claims. And so far from this offer being a compliance with that demand, it was an honest and fair avowal of the conduct which the Government would pursue towards France, if left to itself. It was honorable, sir; and the rejection of that favorable proposition, connected with the obvious causes of that rejection, convinces my mind she does not want to be on good terms with us. She thinks more may be made in another way.

It has been urged in the course of this debate that the embargo destroys all our revenue, and that if we remove it our Treasury would be again filled. What is the fact on this subject, taking it upon their own ground? You inevitably lose upwards of a million of dollars collected by way of drawback, on articles re-exported from the United States for consumption in foreign markets; the obstacles interposed by the orders, and the imposition of a transit duty by act of Parliament equivalent to the duties remitted in this country, cut off at once this amount, it is pocketed elsewhere. Again, we have heretofore derived a revenue from all that part of our importations which is from the Continent of Europe, and every other part of the world not included in the Orders of Council; the impost derived from this trade, and the means which it afforded of paying revenue into the Treasury are at an end, nor could it be resumed by raising the embargo. I will venture to assert these losses constitute one-half of the revenue; they are irretrievably lost while Europe continues in its present state. Again: Suppose you continue to trade with England, how would your revenue derived from the consumption of her manufactures stand affected? Grant that one-half of our revenue is now collected from the commerce with Great Britain; if the produce of this country is reduced to a mere drug by being restricted to her ports, (and I have shown that would be the case,) could you continue to consume her goods? It is an established axiom in trade that the exports and imports must always bear an exact proportion, and it is ridiculous to suppose the use of foreign goods would continue after the means of payment ceased to exist; in other words, the exchange of labor between the two countries would be too unequal to last. In a short time even that branch of revenue would dwindle into insignificance; it would not replenish the Treasury. Thus, sir, take these edicts and Orders in Council in any possible point of view, their operation upon your commerce is exclusion from the continental market, the destruction of your revenue, the lessened value of the produce of your soil, and the prostration of your fisheries and navigation. Enterprise cannot continue when every avenue of commerce is cut off; in short they produce the very evils which gentlemen wish to charge on the embargo. I have endeavored to consider this question as a question of pecuniary calculation altogether, and it is so clear to my mind, that there does not exist a temptation to sacrifice the honor and independence of the United States, that I am astonished gentlemen can take any other view of the subject than that I have taken. To take off the embargo at this time, while the decrees of France and the orders of England remain in force, without adopting some other measure equally efficient, would be to submit to the meanest degradation. It would be sending your property to certain ruin, exposing it to the lawless spoliation of every pirate with which the ocean is infested, without the means of resistance or the hope of justice. If you do not now take a stand for your rights, when will you? Can the occasion ever be more urgent? It would be vain hereafter, when you have yielded, and the nation is habituated to foreign domination. Do you flatter yourself that your grievances will close here? You will be mistaken; it is not the nature of power intoxicated with success to retract its encroachments, or commercial avarice to relax its pretensions. The little you now have will soon be claimed, and what you have already yielded, will furnish the pretext to enforce your compliance; you will not even be remunerated by profit for your disgrace. It is not a time when submission is entitled to moderation, or concessions insure forbearance. Our agriculture must continue as it now is until some new direction be given to the destructive tempest, which renders it almost impossible to navigate the ocean. I know that the operation of our measures is strong, that every man must feel them more or less, and the plainest calculations cannot quiet the restlessness of pecuniary embarrassment. But, sir, while I candidly believe the members of this House feel their full share of the public pressure, (that at least is my case,) and are honestly governed by what they believe the interest of the country, I cannot but rely upon the patriot-

ism of the people. Let gentlemen, therefore, who disapprove of this system, come forward and say what they think best to be done. They owe it to themselves, and their constituents, and they cannot withhold their counsels without violating a sacred duty they are pledged to perform. Let them do this instead of dividing and distracting the Government, and weakening the nation; they are Americans, and ought not to sacrifice the national rights to the pride of party. As to the embargo, show me something better, and I will retract like an honest man, and adopt it. I do not consider myself precluded from a choice of measures because I once voted for it. There is no object to which I stand pledged but the safety of the nation, and no system but that which will most certainly promote it.

My colleague has said we are called on by every sense of duty we owe to ourselves and country to unite and annoy our enemies, and make the strongest possible impression upon them. I agree with him. It is time to retaliate the aggression and injuries of which we have been so long the victims. This is the only way to change their temper, by retorting the evils of their own injustice; some foreign magic must have withered his brain, and that man must be under the influence of foreign Governments who will not go all lengths to support the honor of the nation. It is to be regretted our harmony has been disturbed by the introduction of subjects not connected with the existing state of things, or calculated to meet future difficulties. Union would be more promoted by looking prospectively. As to those measures alluded to by gentlemen as the cause of our present difficulties, they passed before I had a seat on this floor, and without any participation of mine. Can there exist a doubt that the crisis has arrived when we must take care of ourselves, and keep to ourselves? Every mode of insult to the nation has been tried, and even your public Ministers have come in for their full share of neglect. As to keeping them any longer in Europe to be writing notes and papers, it is out of the question; for one I am prepared to go along with my country and share its fate. I shall vote for the first and third resolutions, because we cannot without dishonor submit to the flagrant violation of our neutral rights, and because we should be prepared to defend them. The second, excluding armed vessels, shall also have my approbation. I am willing to place the English and French upon the same ground. Their conduct has forfeited all claim upon us to the hospitality and protection of our waters. I am disposed to exclude the productions of both, and cut off all intercourse until they are disposed to renew it upon terms of equality. As for this measure injuring England more than France, we cannot help that; but it ought to be recollected that it has not been long since we were told by the British themselves, all their efforts to injure France were vain, while she enjoyed the benefit of the American commerce.

The third resolution, in the following words, having been read:

"*Resolved*, That measures ought to be immediately taken for placing the country in a more complete state of defence."

Mr. Randolph said he supposed that this was a resolution to which there might probably be but little opposition; but at the same time he, for one, should like to know what were the details connected with it.

The Chairman asked if the gentleman from Virginia wished to hear the report read?

Mr. Randolph.—Very far from it, sir.

Mr. Nicholas said, as the chairman of the committee was not present, and he felt at all times disposed to give any information in his power, he would state what he knew on the subject. The situation of the United States being at this time critical, and as it was possible if not probable that war would ensue, Mr. N. said it had been his opinion, and that of the select committee, that we should be prepared for it. It had been doubted by the committee whether this subject came properly within their province; but it had been the opinion of the majority that it would be proper for them to express their sentiments on the subject; with an idea that if the House should concur, the resolution might be referred to another committee, whose business it would be to procure such details from the departments as would enable them to make the proper arrangements for carrying the wish of the House into effect.

The resolution was agreed to, *nem. con.*

The Committee then rose and reported the resolutions to the House.

The House proceeded to consider the said report at the Clerk's table: Whereupon the first resolution contained therein being again read, a motion was made by Mr. Dana, to amend the same, by inserting between the words "submit to," and the words "the late edicts of Great Britain and France," the following words, "abandon the navigation of the ocean in consequence of:" and on the question, that the House do agree to the said amendment, it passed in the negative—yeas 26, nays 96, as follows:

Yeas—John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and Killian K. Van Rensselaer.

Nays—Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes,

Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pensylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Allen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Mr. Dana spoke against the propriety of introducing the resolution, but did not oppose its passage.

Mr. Taylor replied.

Mr. D. R. Williams called for a division of the question, so as to express the sense of the House as to the edicts of each belligerent, separately.

Mr. Mosely said, he should, at this time, make a very few remarks only, as applicable exclusively to the resolution.

He observed, that it appeared to him very singular and extraordinary that, at this period, the House should be presented with the abstract proposition contained in the resolution, that the United States cannot, without the sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France.

Sir, said he, the obnoxious edicts alluded to in this resolution were as well known and understood months prior to the close of the last session of Congress, as they are now.

Why then should it now, for the first time, be thought requisite to make this declaration. If such a declaration could be deemed necessary to show our spirit it certainly seemed to him to come with a very awkward grace at this time of day.

But he considered the resolution itself as rather a harmless thing. It may admit of various constructions. At all events, he said he perceived nothing very alarming in it. It can "break no man's leg, nor pick no man's pocket." He presumed it was not intended or calculated to expose the nation to the waste of much blood or treasure, from any hostile resistance to their edicts which was to result from the adoption of this resolution.

Indeed, said he, if this resolution were to be presented to the public, disconnected with the reasoning in the report, and with no explanation of its meaning; it would, as has been remarked, be regarded by a great proportion of the people as a pledge for the repeal of the embargo laws.

These laws, by compelling them to abandon the ocean, they consider as producing that very submission and sacrifice of the rights, honor, and independence of the nation which this resolution disavows.

Instead of viewing their present situation in the light of a dignified retirement, as some gentlemen are pleased to term it, they do conceive it as a dastardly relinquishment of their incontestable rights. But those who voted for the embargo laws, and who are still for continuing them, it is to be presumed, entertain no such ideas. Finding, however, that others do, and that such sentiments are continually becoming more prevalent, it was perhaps thought prudent and proper to have a general declaration of this sort, as explanatory of their own views of their own measures. If this be all, Mr. M. said, he certainly felt disposed, on all occasions, to gratify gentlemen whenever it could be done without injurious consequences. His greatest objection, he said, was an apprehension that we should diminish our own dignity, and expose ourselves to ridicule, by saying so much and doing so little. He feared that foreign nations would begin to conclude, that they had nothing to apprehend from us, but proclamations, paper resolutions, abstract propositions, and menaces without meaning. However, he said, he believed, when called upon, he should give his vote in favor of the resolution.

Mr. Gardenier said that he should probably, on the present question, be in a very small minority; and this being the case, he felt an unwillingness to vote, without at the same time asserting the principle on which he opposed it. He was opposed to it for two reasons; first, because it was legislating on an abstract proposition, resolving a certain thing which could not be disputed; and secondly, because no definite consequence was to result from the adoption of it. One gentleman, said he, asserts that the adoption of this resolution, if followed by any consequence, will be followed by a repeal of the embargo. Another gentleman considers the adoption of the resolution as pledging the House and nation to the approbation and continuance of this same embargo law. Then it is legislating on words without signification, entering into a resolution which subjects us to no specific course after it is passed, binds us to nothing; for one gentleman can vote for this resolution, because in consequence of it he considers the House bound to repeal the embargo. Let the members of this House look for one moment to the ridiculous consequence of voting upon an abstract proposition which is followed by no consequence, which decides no question, which ties us down to no course of proceeding. No individual commits himself on any point in controversy by voting on this resolution. Therefore, Mr. G. said it was an idle and useless proposition. It appeared to him to be below the dignity of the House to vote for or against it; and if he knew any way in which the question could consistently be evaded, he should pursue that course in preference to the vote which he felt himself obliged to give. In the view in which he considered this resolution, he could not see how men, legislating for the good of the nation, could bring themselves seriously to vote for such a proposition. It is not

only idle, said he. but in my mind it is not asserting the dignity of this House, and of the nation, to pass a resolution expressed in the terms in which this is expressed. "*Resolved*. That the United States cannot, without a sacrifice of their rights, honor, and independence, submit." The United States cannot submit to anything, sir; the moment we submit, that moment we have no more rights, honor, and independence. I had thought, as an American citizen, that to submit in any case was to relinquish those peculiar privileges which distinguish the citizens of the United States from all others; I should, therefore, as soon think of bringing forward a resolution for the adoption of this House that it is a relinquishment of our rights and independence to submit at all, as that it is such a sacrifice to submit to the edicts mentioned in the resolution. The proposition then amounts to this: that for the United States to submit is to sacrifice their independence. And who disputes it? No one. In this view of the subject, therefore, the adoption of this resolution would seem to imply a doubt whether this nation has shown a disposition to resist the aggression of foreign Powers. If the fact were really so, if we had been in the habit of submitting to insults and aggression, at any rate I would not wound the feelings of this injured people so much as to pass a resolution which should imply that it had been the case; for if any possible practical utility can result from the adoption of this resolution, it would be this and this only: that inasmuch as our conduct hitherto had been calculated to impress foreign nations with an opinion that we would submit, it has become necessary to declare that we would not submit. Now, is this country placed in such a situation, either by the conduct of the Administration or its opponents, that a new declaration of independence has become necessary? Has the spirit of '76 travelled back so far as that it is now necessary to declare that we are independent? If this were seriously a matter of doubt, in such a case I might be inclined to adopt such a resolution as this. But I do not think so. The spirit of independence is as broad awake as ever it was; it is as warm and glowing as it was at the battle of Bunker's Hill; and, therefore, certain as I am of this, I am not prepared to give my assent to such a proposition; because I think its adoption calculated to carry with it an expression of doubt as to the matter which it resolves to be true. When the Declaration of Independence was made in '76, we were not, immediately antecedent to that period, independent. That the character of this nation might be justly estimated, it became necessary that a declaration of independence should be made. That was made; and ever since that time it has been unnecessary to declare that it did exist. I see nothing in the temper of the people at this time which is calculated to make me fear that they mean to relinquish their independence. I will say that in neither of the great parties in the country is there any disposition to relinquish it. In the party which I oppose, I do not believe that there exists any design to surrender our independence, although I believe their measures destructive to the interests of the nation; and in the party to which I belong, (and the being attached to it is a circumstance in which I feel more pride than in any other,) I am certain that no such disposition exists. There is no necessity, therefore, for passing this resolution. I would not hold out to foreign nations that any circumstance had occurred which rendered it necessary to declare that we are an independent nation; for that is the pith of the proposition.

Four other members rising in favor of the previous question, it was put in this form—"Shall the main question be now put?" and carried—ayes 55.

Mr. Rhea rising to speak at this time, and an objection being made by some gentlemen on the ground of order.

The Speaker declared it his individual opinion that debate was inadmissible after an affirmative decision of the previous question; but that the House had at the last session overruled his opinion, and he felt himself obliged to yield to their decision.

Mr. D. R. Williams appealed from this decision, permitting debate after a decision of the previous question, on the ground that it was contrary to the rules of the House.

Much debate took place on this appeal, and Mr. Randolph called for the yeas and nays on it.

Before they were taken, however, a motion was made to adjourn, and carried.

Friday, December 2.

Another member to wit: Evan Alexander, from North Carolina, appeared and took his seat in the House.

Mr. Lewis, from the Committee for the District of Columbia, to whom was referred, on the sixteenth ultimo, a petition of sundry inhabitants of the City of Washington, presented on the tenth of November, one thousand eight hundred and seven, reported a bill to incorporate a company for opening the canal in the City of Washington; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was recommitted, on the twenty-second ultimo, a bill authorizing the President to employ twelve additional revenue cutters, reported an amendatory bill, authorizing the President to employ an additional number of revenue cutters; which was read twice and committed to a Committee of the whole House tomorrow.

Mr. Jedediah K. Smith presented a petition of Samuel Morey, of the State of New Hampshire, praying that the patent heretofore granted to the petitioner for sundry improvements made by him on steam engines, may be extended to such farther time as Congress in their wisdom may deem proper.—Referred to Mr. Jedediah K. Smith, Mr. Upham, Mr. Matthias Richards, Mr. Goodwyn, and Mr. Holland; to examine and report their opinion thereupon to the House.

The Speaker presented to the House sundry proceedings of the Grand Jury for the county of St. Clair, in the Indiana Territory, at a term of the Circuit Court held in the month of October last, stating certain grievances to which the inhabitants of the said county have been and are now subjected from the connexion subsisting with the country lying eastward of the river Wabash; and praying such relief in the premises as to the wisdom and justice of Congress shall seem meet.—The proceedings were read, and ordered to lie on the table.

A Message, received yesterday, from the President of the United States, was read, transmitting a report from the Surveyor of the Public Buildings, of the progress made on them during the last season, of their present state, of the expenditures incurred, and of those which may be requisite for their farther prosecution.—Ordered to lie on the table.

FOREIGN RELATIONS.

The House resumed the consideration of the question on an appeal from the decision of the Chair which was depending yesterday at the time of adjournment: Whereupon, the said decision being again read in the words following, to wit:

"That, conformably to the determination of the House on the fifteenth of December last, it did not preclude debate on the main question."

And on the question, "Is the said decision of the Chair correct?" it was resolved in the affirmative—yeas 101, nays 18, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, William W. Bibb, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Walter Jones, Thomas Kenan, Philip B. Key, Joseph Lewis jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, John Russell, Benjamin Say, Samuel Shaw, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Nathan Wilson.

Nays—Willis Alston, jun., Burwell Bassett, William Blackledge, George W. Campbell, Richard Cutts, James Fisk, Nathaniel Macon, Josiah Masters, Roger Nelson, John Porter, John Rhea of Tennessee, Samuel Riker, Ebenezer Seaver, Clement Storer, John Taylor, Jesse Wharton, David R. Williams, and Richard Winn.

The question then recurring, that the House do agree to so much of the first resolution reported from the Committee of the whole House, as is contained in the first member thereof, in the words following, to wit:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain:"

Mr. Rhea made a few remarks in support of it.

Mr. Upham made a few observations, going to show that any gentleman might vote for or against this resolution, under whatever interpretation he pleased; giving to the terms of it whatever construction should best suit his ideas.

Mr. Jackson, of Virginia said, that the importance of this subject had been acknowledged by all the gentlemen who had addressed the Committee of the Whole; they had admitted that this was a crisis which called for all the information, talent, and decision of the nation, which, unfortunately for its best interests, were divided into parties and subdivided, so as materially to affect that strength which ought to be united. The course of discussion which had been pursued, necessarily resulted from the nature of the subject, our foreign relations; everything connected with them came before the House in some shape or other. And although the time of the House might be employed on some things unnecessarily, according to his conception it would be well employed in defending measures which had been condemned with a view to prejudice the public mind; for it was not with the hope of changing the conviction of any member of the House, but for influencing the people, that they had been thus condemned. And as some gentlemen had taken views of our situation which were conceived by him to be incorrect, disingenuous, and improper, he thought it due to himself, to the majority with whom he was associated, and the people, to state the grounds on which they acted, according to his conception.

We are scarcely permitted to touch the threshold of this investigation, said Mr. J., when we are called upon to take care how we act; insurrection is threatened, and an attempt is made to influence the House by representations of hostility to the Government, in the Eastern people, which only pervades the minds of those who represent them. I know that watchfulness is characteristic of a republican form of Government; it is the grand sentinel of the system; and I should regret to see the disposition to watch over and animadvert on the measures of the Administration, lulled into a listless security. But it is not that watchfulness, disgracing the authors of misrepresentations which have extended to every hamlet and fireside in the country, that is proper, but a candid examination of both sides of the question. *Audi alteram partem*, is a precept founded on

justice and reason, and necessary to a correct decision. Misrepresentations have gone forth to every quarter of the Union, and charges, reiterated in some instances on this floor, have operated on the public mind, so as to excite unnecessary, unjust, and unreasonable jealousies against the Government. Party spirit, the bane of free governments, a monstrous excrescence growing out of liberty, and threatening even liberty itself with destruction, still exists in our country, and after the unsuccessful experiment of seven years has been made, it is in vain to expect to disarm it of its antipathies and its malice. Its great maxim seems to be that the end will justify the means; and if it can attain its end by the most dishonorable means, that they are justifiable. To this source in a great measure may be ascribed the difficulties this nation has to encounter, and to this source, foreign nations are unfortunately too much in the habit of looking; to our opposition prints and our opposition men, England looks for support, and from them an idea has gone abroad that the insurrections of the Vermontese and the opposition in the Northeast would overturn the constituted authorities; and, if not by the regular process of election, by revolution itself, a change would be made in the politics of those who administer the Government of the United States. We know that it is the wish of each of the belligerents, who have swallowed up in the vortex of their interminable disputes all the nations of the world but the United States, to unite us in their cause. Each one wishes to form more intimate connexion with us than those we have with its enemy. This disposition is natural; for when we look into private life, we see individuals endeavoring to enlist those who have no concern in the dispute among their partisans in their personal contests. Besides this wish, common to both the belligerents, a spirit of monopoly and jealousy of our commercial greatness has seized upon the Government and people of one of them. It is evident from the conduct of Great Britain for many years past, that she cannot consent to submit to the idea that the United States shall be reaping the rich harvest of their neutrality, while her thousand ships are scouring every sea and driving everything from its surface. The commercial spirit of the people of the United States has been the cause of that jealousy; that spirit which in its infancy was so eloquently portrayed by Edmund Burke, which has been so essentially fostered by the measures of our Government, has grown with our growth, and strengthened with our strength. Our hardy adventurous seamen have prosecuted commerce in every sea, and reaped the most advantageous harvests appertaining to it. Therefore it is natural to suppose that with the jealousy excited by our successful competition, and a knowledge of her supremacy on the ocean, Great Britain, who wields its trident, should be disposed that we should bow to its haughty mistress; and though we have not succumbed, every right appertaining to us as a neutral nation has been assailed in turn. Let us look at the injuries practised by Great Britain, in relation to their effects upon the United States in their national and neutral character; and first with reference to those effects on ourselves. Our citizens have been impressed, under a pretext that they were British subjects; they have been deprived of their liberty, seized and carried from their country, compelled to endure an arduous service, and to fight against nations with whom we were at peace. The colonial trade, which tended to enrich our merchants, and from which we derived a revenue of a million of dollars per annum, was next assailed by them, on the principle that they had a right to prohibit a trade with enemies' colonies not permitted in time of peace. This attempt to destroy our commerce was enforced by an arbitrary and tyrannical interpolation of new principles into the law of nations, giving efficacy to the spirit which contemplates the pressure of its rival in every quarter. We find that spirit in other outrages, in relation to blockades notified to us, made only on paper, enforced solely towards neutrals, and which never existed in reality: thereby cutting off trade with places which, by the laws of nations, except actually blockaded or invested, we have a right to carry on. By the order of June, 1805, a very essential branch of our commerce was likewise cut off, and our vessels were captured, although returning with innocent cargoes, which were not liable to seizure, upon the pretext that they previously had been employed in a trade with contraband articles. British outrages have been committed not only on the high seas, but in our own harbors. The case of Pierce, in the harbor of New York, is not forgotten by you, sir, or by the United States. An American citizen, pursuing his lawful commerce within our own waters and exclusive jurisdiction, had his vessel fired upon, and he was killed. The case of the Cambrian was one of the same character; there the commanding officer declared that he claimed jurisdiction in our waters within the length of his buoys, and there impressed our seamen, in defiance of the laws of hospitality and the laws of nations. We find the exercise of similar pretensions in the case of the Impetueux, a vessel belonging to a belligerent, stranded on the coast of North Carolina, which, though by the laws of nations exempt from attack, because within the jurisdiction of a third and neutral party, was destroyed by British vessels. By the Order of January, 1807, restraining the trade of the United States, from one port to another port of the same, or another belligerent enemy, a profitable branch of our trade was annihilated. In addition to these, the orders of November 11, 1807, amount to a declaration, in effect, that we shall not sail on the ocean without carrying our produce first to Great Britain, there paying a duty, and receiving a license to carry it to its place of final destination. The attack on the Chesapeake was, at the time of the commission of the outrage, deemed by all parties, if not disavowed, a just cause of war, and one whereat the public indignation could scarcely be appeased without a resort to war. The invitation to violate our embargo laws, touched upon by my colleague

(Mr. BURWELL) yesterday, connected with all those acts which I have recited, manifests a determination on the part of Great Britain, that our pride shall be humbled, the commerce which we have enjoyed shall be destroyed; that we shall bow to the supremacy of her thousand ships, and that we shall not sail on the ocean without her permission.

How is it when we cross over the water and look at France? We find by the proclamation of General Ferrand, an attempt made to regulate our trade to St. Domingo, inconsistent with our rights. The Berlin decree, declaring the British islands in a state of blockade, although ineffectual because she had not the power of executing it, was not less outrageous than many of the acts to which I have referred of the British Government. The Milan decree, which may be considered as a supplement to the British orders, has endeavored to extend the principle and to render more efficient the measures of destruction which are aimed by both the belligerents against our commerce. A decree is also said to have passed at Bayonne, by which France attempts to execute the embargo laws by seizing those American vessels which have not returned home, and is of the same character with the others. The burning our vessels is among the most flagitious of the whole, for which no apology can be offered consistent with reason and justice, and for which no apology has been attempted but the impracticability of keeping them in possession from the superior naval force of Great Britain.

But we were told the other day that a recapitulation of the injuries which we have received served but to blazon the dishonor of the country. It is proper that they should be recurred to, because they are the groundwork of our proceedings, and it impossible to keep them out of view, although the recital of them may tend to irritate and wound the feelings. But the reproach comes illy from those who say that our Government is chargeable with all these misfortunes, and are not attributable to the acts of our enemies, for so we may call them (although not declared enemies) who trample on our rights, add confiscation to insult, and murder to both. And how is this assertion proven? Why, we are told by Mr. RANDOLPH, that, in 1805, when the Kempers were taken from our territory by American citizens, we had submitted to the hostile tread of a foreign nation; that our character has declined abroad ever since; and that we ought to have gone to war at this time. What was the case of the Kempers? As well as I recollect it was this: These persons had committed an outrage within the Spanish territories. They were either Spanish subjects or American citizens; they took refuge within the American territory, and were seized by American citizens and negroes, carried out of our limits, and delivered up to the Spaniards. And was this cause of war? Is it from such cases as this that attacks from Europe have been encouraged? Should this nation have gone to war for this act? No, sir; for the nation or individual who is alive to the insults of the weak and pusillanimous, always have, and my life on it, always will shrink from a contest with the powerful and the brave, and expose themselves to the imputation of cowardice. The act was disavowed; Governor Grand Pré denied that it had been done with his cognizance. I recollect seeing an account in the public papers during the last summer, that some officer of the United States had pursued deserters from one of the gunboats in the Mississippi within the Spanish lines, there seized upon the individuals himself, and brought them within our jurisdiction, and retained them in custody. Is there not a wide difference between this act, committed in a foreign territory by our own officers, and the one committed in our territory by individuals instigated by foreigners? And if there were no difference, would this be considered by the Spanish Government as cause of war against us? Would our Government hesitate to disavow the act? Certainly not, as we do not claim the right of invading a foreign territory for the purpose of seizing deserters; and would the unauthorized act of one of our officers be cause of war against us? No, sir. Then as certainly it would not be cause of war by us, unless indeed we act upon the principle that where the enemy is weak and pusillanimous we must take upon ourselves airs of resistance; and when he is great and powerful we must shrink from the conflict. I therefore do not admit that a failure to make war for this individual offence was a submission or a cause of the declension of our character abroad. If it has declined at all, it is in consequence of the unjust attacks made on this Government and on the majority of this House and the nation by enemies in our own country. The nation which goes to war for an *ignis fatuus* offence, will not be followed in it by the people. They will understand the causes of the contest; and when they find their Government right and their adversary wrong, then they will rally around the public functionaries; and I believe that all honest and virtuous citizens of the country who understand the causes of our present difficulty, though many are deluded and imposed on, will rally round their Government at this time.

Not content, however, with saying that the affair of the Kempers has been a cause of disgrace to the nation, the same gentleman has told us that the non-importation law produced our difficulties; that he prophesied the consequences of it, and his prophecy has become history. I shall refer to documents which come in such a shape and from such a source as with the gentleman will be unquestionable; and I will attempt to prove from them that he is mistaken. Mr. Monroe, in his letter of March 31, 1806, says:

"From what I can discern, I think that there is much cause to believe that Mr. Fox has the best disposition to settle our differences on just principles, but it must be recollected that some other of the members of the Cabinet have not always thought with him on such topics. On the most deliberate reflection, I am convinced that too much reliance ought not to be placed on these favorable appearances, and that there

is cause to fear that if the Congress should separate without adopting a system of coercive policy calculated to meet the most unfavorable result, their forbearance may contribute to the disappointment of our reasonable expectations. By this, however, I do not wish to imply that measures of the kind alluded to should be carried into prompt execution. I mean only that the attitude should be taken, but its operation be suspended by suitable powers to the President, till he shall be duly notified that the negotiation has failed. Such a suspension will be deemed a sufficient mark of respect to those in the Ministry who are disposed to a fair accommodation, and the attitude will, in my opinion, tend to aid their councils in producing that effect."

I suppose, therefore, sir, that the non-importation law is not, in whole or in part, the cause to which any of our embarrassments are to be ascribed, because the then Minister of the United States, who, with the gentleman making the charge, is high authority, residing on the spot, witnessing the career of the administration even of Mr. Fox, advised the adoption of the measure; and it was precisely pursuant to such advice that some measure ought to be adopted, that the non-importation law was passed. Then, with regard to the dispositions manifested by the British Government in relation to it, we have the evidence of the same gentleman in his letter of May 17, 1806—

"That of the whole the measure is considered by the Government papers, on account of the distant period at which it does commence, rather as a pacific than as a hostile one. I persuade myself that the present Ministry will see in the circumstance of delay a strong proof of the disposition of the United States not only to preserve the relations of peace with Great Britain, but of their confidence that the Ministry is animated with the same desire. I cannot help remarking likewise the fact, that this paper was sent me immediately after the passage of the bill was known. It furnishes a strong presumption, that the Government papers judge correctly of the sentiments of the Government on that point. It may be inferred that a knowledge of the passage of the bill hastened the communication to me."

Here we not only find it a measure which the Minister deems correct, but we find that it is not deemed improper or hostile, and is considered as a proof of a pacific disposition. I will not admit for a moment that this measure is the Pandora's box from which have flowed the evils which beset this country, but rather that there is a fixed disposition in the Government of Great Britain to cramp the commercial spirit of this people, and to make them bow to the mistress of the ocean. In Mr. Monroe's letter of the 9th of June, 1806, we have further evidence of this. In a conversation which took place between him and Mr. Fox—

"In speaking of the non-importation act, he expressed his regret that it had passed. He said that it had the air of a menace, and that it was not agreeable to do things by compulsion. I reminded him how long we had complained of injuries which his Government had not attempted to justify—injuries which were not imaginary or perspective, but real and severe, which affected equally the honor and the interest of the United States. I added that under such circumstances his Government had no right to complain of the act referred to. I assured him, however, that I was of opinion, if the Ministry had not changed, that a bill of a very different import would have been adopted; that I had reason to believe that the tone of our Government, and of the Congress, had been essentially moderated by the information which I had given of his assurances that our differences should be settled amicably, and on just principles; that the act which had passed in consequence of that information was little more than a declaration to the citizens of the United States that the object would be duly attended to."

It was such a declaration, sir, as was produced by the exigency of the times, when our tables were covered with petitions from the mercantile interest, demanding redress. Mr. Monroe continues:

"I observed that he must be sensible, after the subject had been taken up by Congress, as it was before the change of the Ministry was known, that it was impossible for that body to dismiss it without some expression of the rights of the United States in the question in dispute, without exposing itself to the charge of having abandoned them. He seemed finally to admit that the Congress could not well have avoided doing something in the business, and that the measure which had been adopted ought to be considered as a moderate one."

When we have such testimony as this, why will gentlemen persist in saying that our embarrassments are attributable to the passage of the non-importation act?

But it is said that our negotiations in Europe have been paralyzed by extraordinary missions; that when our affairs might have been well settled, we had hung our disputes up in chancery by them; that the negotiation in Spain particularly was paralyzed by the mission of Mr. Bowdoin. This is a new charge; notwithstanding the number which we have had from the same quarter heretofore, this was not one of the catalogue of offences. But this declaration comes with an ill grace from gentlemen who have declared that there was no Spain; that there were no longer Pyrenees; France had swallowed up all, and if so, an extraordinary mission to Spain could be of no importance, she being under the influence of the tyrant of the Continent. But the old worn-out story has been touched upon, that Mr. Monroe might have settled our differences with the Ministry of Mr. Fox, but for the extraordinary mission. Sir, if Mr. Fox or the British Ministry had been disposed to settle the difficulties with this country on amicable terms, there was time enough for it; and if those difficulties had been settled, inasmuch as the law of nations has been trampled under foot by Great Britain, and the treaty of 1800 by France, it does not follow that an hundred treaties would have restrained their licentious invasions of right. But let us recur to facts. The documents before me will prove the reverse of the assertion; and from the same source when I have proved that the non-importation act was not the cause of our present difficulties, I will prove that Mr. Fox, with the best intentions, was incapable of entering into any

stipulations with our Minister, being overruled by his colleagues in the Ministry. Let us recollect under what circumstances he came into office. His great talents had been arrayed against Mr. Pitt, who was the favorite of the King, and whom Mr. Fox and his party drove from power. He was brought in, in opposition to the will of the monarch, being forced upon him by the nation; and if he were not, he was prevented from acting according to the disposition which he felt. On a reference to the documents it will be found that he came into office on the 12th of February, from which time to the 31st of May, when information of the extraordinary mission arrived in England, was a period of near four months; and was a longer time than was necessary for settling differences with our Minister and entering into a treaty which could have been discussed and concluded in a few weeks. If it was not, it might well be said that our national affairs were hung up in a Court of Chancery, where discussion might be protracted *ad infinitum*, and a decision postponed to the end of time.

We are informed, by the letter of Mr. Monroe of the 12th of February, that "as soon as Mr. Fox 'took possession of his office, he requested an in-'terview with the foreign Ministers, which took 'place yesterday." After detailing a part of their conversation, Mr. Monroe says:

"I could not avoid intimating to him that the friendly disposition which our Government had shown, had been most ungenerously requited by his; that it seemed as if it had pursued a just and friendly conduct towards the United States, till the moment that the new coalition was formed, and gave the present blow when the prospect was favorable to success, and kept the business in suspense to see the result of affairs on the Continent and in the United States. He heard me with much attention and apparent interest, intimated that he had been accused of being too friendly to America, and when I spoke of the treaty with Russia, he observed that he had thought that the arrangement made by it was a good one, though I did not understand him as pledging himself by the remark to its conditions. I requested that he would make himself master, as soon as in his power, of the correspondence between Lord Mulgrave and myself, and give me an interview, which he promised. I am happy to add, on a view of all circumstances, that I think the prospect of arranging our affairs with this Government, especially that one which respects the trade with the colonies of its enemies, on satisfactory terms, a very favorable one. It is certain that nothing more favorable to such a result was, or could reasonably have been expected from the first interview with the present Minister."

Here we find that the disposition which characterized him while in the opposition had not deserted Mr. Fox when in power, and he intimated to our Minister that he had been accused of too friendly feelings to this country.

On the 31st of March, Mr. Monroe writes that Mr. Fox gives him reason to expect that the condemnation of American vessels, which was then very frequent, owing to the resuscitation of the rule of 1756, would be suspended. In the same letter Mr. Monroe says: "From what I can 'discern, I think there is the best reason to be-'lieve that Mr. Fox has the best disposition to 'settle our differences on just principles, but it 'must be recollected that some other members of 'the Cabinet have not always thought with him 'on such topics. On the most deliberate reflec-'tion, I am convinced that too much reliance 'ought not to be placed on these favorable ap-'pearances," &c. Here we have still further proof of the disposition of Mr. Fox to settle the affairs of this country, and of the impracticability of doing it because he was overruled by the Cabinet. Pursuing the subject further, we find the same ideas introduced into his letter of April 3, 1806.

"How the Cabinet is disposed in this question, it is not in my power to state. Some of its members are known to have differed with Mr. Fox in respect to the policy of Great Britain towards the United States on former occasions, and in similar cases. It is possible that the spirit of conciliation on which the Ministry is formed may be felt in the present one. Every view, however, which I have been able to take of the subject, confirms me in the justice of the remarks which were communicated to you in my last of the 31st ultimo."

We are told in one of the letters which I have read, that Mr. Fox intimated that he would give orders to suspend the condemnation of American vessels. On the 18th of April, we find this had not been done, and although assurances had been given, the hostile acts were continued, as his influence had not been sufficient to procure a suspension of them. Mr. Monroe writes on the 18th of April that Mr. Fox had the day before said that he was essentially ready to proceed in the discussion of the subjects of difference.

"Some remarks of his having led the conversation to the merits of the principal topic, I told him that he must leave us in the enjoyment of the trade in question, and pay us for the property taken. To the first proposition he immediately assented. To the second, he said there would be objections. He added that he had taken steps to prohibit the further condemnation of our ships and cargoes, as I had desired, of which he intended to have informed me by note, but had been prevented by other business; he had no objection, however, still to do it."

In his letter of the 20th of April, Mr. Monroe says, "the prohibition mentioned in my letter of 'the 18th is to be extended to the seizure as 'well as the condemnation of our vessels, of 'which he is to give me an official note in a day 'or two." On the 28th of April, Mr. Fox, although he had stated on the 20th that he had taken steps to prohibit further seizures, said that such orders had not been issued; that in truth to issue them would be to give up the point in negotiation. What does this prove? Not that Mr. Fox would be guilty of sanctioning such an unpardonable libel on his own character, by equivocations in this way and doing nothing, but that he was controlled by his associates in the Administration. On the 28th of April, Mr. Monroe says:

"You will observe that Mr. Fox insisted in the late interview on restricting the trade with enemies' colo-

nies in a greater degree than he had done in the preceding one. I am convinced that this was produced by the Cabinet deliberations on the subject, for I am strong in the opinion, that if left to himself, he would meet in arrangements which would place the whole business, and indeed all our relations, on the most broad and liberal basis, in a firm belief that, by so doing, he would advance the best interests of his country. But he has to consult and accommodate with others, some of whom may perhaps not entertain in all respects the same sentiments, or be equally prepared to encounter, in a new scheme of policy, ancient and deep-rooted prejudices."

On the 17th of May we find the following:

"After my interview with Mr. Fox, on the 25th ultimo, I waited a fortnight without hearing from him. This new instance of delay surprised me, because he had shown a sensibility to the former one, and did not seem aware of the necessity of adding to it."

Thus this friendly Ministry, with Mr. Fox at its head, although Mr. Monroe had given an opinion, from the intimations of Mr. Fox, that everything would be amicably settled, on the 16th of May had done nothing towards it, but we find the blockade of the coast, from the Elbe to Brest inclusive, notified to Mr. Monroe on that day. Heretofore assurances of friendship had not been wanting, and now we find them verified by the blockade of a coast of a thousand miles, which all the ships of war of Great Britain are scarcely competent to blockade in an effectual manner. Here comes proof to put assertion to the blush. In his letter of the 20th of May, Mr. M. says:

"With respect to the delay to which I am exposed, it is utterly out of my power to explain to you the cause. I have no reason to change the opinion which I have heretofore expressed of Mr. Fox's disposition on the subject, though I have had no late communication with him."

Talk of the extraordinary mission suspending negotiation, sir, when it is proven that it had been suspended from the 12th of April to the 20th of May!

"His present reserve is unfavorable, but it may be accounted for, and on principles which are quite natural, and therefore presumable. He may have experienced more difficulties in the Cabinet than he had expected. Many of the members may be indisposed to an arrangement on such terms as can be accepted, and most of them willing to postpone any decision, until the result of the proceedings in Congress is known."

Then, in his letter of the 9th of June, Mr. Monroe writes word that accounts were received on the 31st of May, that the President and Senate had adopted the measure of a special mission. The negotiation had previously been suspended by the impossibility of producing a consentaneous disposition in the Ministry with whom Mr. Fox was associated, and by whom he was overruled. I must therefore conclude that the charge is equally incorrect in relation to the failure of the negotiation, as I have proved it to be futile as to the hostile tread of our territory; that neither the consequences ascribed to the one or the other were at all attributable to our Government, but to a persevering disposition of a part of the British nation, not to permit our rights to be exercised or acknowledged on the high road of nations.

Sir, the effect of these decrees and measures, which I have noticed in the course of my observations, has been to sweep our commerce from the ocean, and even from the seashore, because there the commerce of the United States has been attacked, or if permitted to be carried on, it is only on conditions which every man in this House, every American, must spurn with indignation. What! shall we pay *tribute* for permission to sail on the ocean? The idea is too preposterous to be combated. Montgomery, Mercer, and Warren, and a host of worthies, who bled for the attainment of our independence, died in vain—WASHINGTON and his compatriots, who, at the expense of toil and bloodshed in the field, aided by our Solomons in the Cabinet, established our independence, fought to little purpose, if, after the lapse of a short period of thirty years, we can consent to pay tribute for the liberty of exercising an undeniable right. But I have as yet considered these measures, these encroachments of the belligerents, only with reference to their effects on ourselves. I will now consider them with reference to violations of neutral right affecting each other.

First, let us consider the measures of Great Britain. The impressments of our seamen, a topic on which I can never think with coolness or without sensations which confound my judgment, are not to be considered injurious only in reference to us. They have been injurious to the enemies of Great Britain, because they have tended to maintain the naval superiority of that nation which has kept all the Powers of Europe in check, and dictated maritime law to all nations, and would have been just ground of complaint by France against us if we had acquiesced in them. The vexation of the colonial trade; what is it? I have merely glanced at it, because I was aware that if I had extended my remarks I should have destroyed the patience which I fear I have already almost exhausted. The colonial trade was one which enabled the enemies of Great Britain to subsist, and conveyed the produce of the enemy's colony to the mother country. France would then have had great right to complain if we had acquiesced in the destruction of this trade, because France recognised its legality in the war which gave rise to the celebrated rule of 1756. A vessel during that war was captured by a British cruiser, recaptured by the French, and brought into port—the recaptors claiming salvage. The vessel and cargo were discharged by the French courts, which decreed the salvage was not due, because the capture was illegal, and the Admiralty Court of Great Britain would have released the vessel and cargo. Surely, then, they would have cause to complain if we had acquiesced in that infraction of our commercial rights. On the subject of blockades, if we had submitted, France might have complained with much greater right. The

Government of Great Britain has declared whole Continents in a state of blockade; to use the diplomatic language of their orders, they tell us that "they must be considered as in a state of rigid blockade," although perhaps the notification was made without a vessel to annoy the entrance of the ports, and under a total impossibility of annoying it within the limits marked out. The law restricting our commerce with unblockaded ports was also a violation of the law of nations. In the case of the Cambrian, the commander of which vessel has to be sure been punished by his Government with promotion, there was also a cause of complaint if acquiesced in, because it is actually prohibited by the law of nations that a belligerent shall increase his force within the territory of a neutral State. The order of January, 1807, restricting the trade from one port to another of a belligerent Power, was also injurious to France, and of which she would have had good cause of complaint against the United States if we had acquiesced in it. All these are so many violations of neutral rights and national law injurious to France, and all but the last preceded the Berlin decree, and the last was before the operation of it.

In what point of view are the decrees of France to be estimated in relation to Great Britain? The Berlin decree was mere *brutum fulmen*, and I will take British authority and prove that her own vessels could not venture to sea. The Berlin decree in part was no cause of just complaint, because it related to municipal regulations which do not interfere with the acknowledged rights of neutrals. The Milan decree was very hard on paper, but we are told, and it is verified by experience, that Great Britain yields nothing to the thunders of that artillery, it passes by like an idle wind which she regards not. But I acquiesce with pleasure in the declaration that both France and Britain are regardless of justice when opposed to the exercise of the power of prostrating our rights.

How are the decrees of both belligerents considered with reference to an acquiescence by us? There never was a more base libel than the insinuation of acquiescence by us in the edicts of either. A recurrence to the documents will prove it. The United States have never acquiesced in any violation by either of the belligerents. But it is admitted by the minority that enough has been said as to Great Britain though not as to France; that there has been an acquiescence in French usurpations; and indeed it has been asserted, with a temerity not to be passed over with impunity, that there has not only been an acquiescence in the decrees, but a disposition to obey the commands of the French Emperor. It is true that there has not been as much said or written in relation to France as to Great Britain, because the injuries committed by the latter exceed those of the former tenfold. So far from admitting that there has been an acquiescence in the conduct of the conqueror of Europe and tyrant of France, a recurrence to the documents will prove that measures of greater vigor have been taken in relation to him than in relation to the tyrant of the sea; that the language and instructions of the Government have partaken of this character; and that it has manifested more sensibility to the injuries committed by France, than to those committed by Great Britain. When the Berlin decree was issued, Mr. Armstrong wrote to M. Decres immediately for an explanation of it. It has been objected that although the explanations given by that Minister, were satisfactory, if he were the proper organ of the Government, he was not the person of whom to ask them, that the Minister of Foreign Affairs was the proper person. But surely the individual to whom the execution of the decree was confided must be considered as the proper person to give explanations concerning its import. But we have proof from Mr. Champagny, the successor of Talleyrand, that Decres was the proper organ, and that he was to be consulted. Champagny, in his letter of August, 1807, says that "as the execution of the maritime measures 'indicated by the imperial decree of the 21st No-'vember, 1806, rests naturally with his Excellency 'the Minister of Marine, and that moreover he 'has already had the honor of addressing you 'some first observations on the application of that 'decree, I transmitted without delay your letter." Thus the Minister of Foreign Relations, to whom it is said that our Envoy at Paris should have addressed his note, and from whom alone he should have received them, referred him to the Minister of Marine for the proper explanations. So that the utmost diligence was manifested by the representative of this nation at the Court of France, in obtaining proper explanations in relation to the construction of the decree; and not only the explanation was satisfactory, but, what was more important, the practice under it was satisfactory also, as it corresponded with the explanation given. When our vessels were burnt at sea, an outrage so scandalous as to destroy the pretensions to civilization of the nation authorizing it, a special remonstrance was directed against the injurious procedure. When the offensive note of Mr. Champagny was presented, Mr. Armstrong was specially directed to remonstrate against it; and he did remonstrate in such terms as were consistent with the dignity and honor of this nation. But when the infamous rider attached to the famous treaty was presented, there was no remonstrance directed, although that rider, with other communications, from the same source, are equally as offensive and equally obnoxious and repugnant to every American feeling as the insulting language of Champagny himself. Let us compare them, and see if I am not justified by facts in the conclusion which I draw. Champagny says—

"In the situation in which England has placed the Continent, especially since her decrees of the 11th November, His Majesty has no doubt of a declaration of war against her by the United States: whatever transient sacrifices war may occasion, they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle, and the anarchy which that Government wishes to establish on the seas. If it be useful and honorable for all nations to cause the

true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of those violations. War exists then in fact between England and the United States; and His Majesty considers it as declared from the day on which England published her decrees. In that persuasion, His Majesty, ready to consider the United States as associated with the cause of all the Powers, who have to defend themselves against England, has not taken any definitive measure towards the American vessels which may have been brought into our ports; he has ordered that they should remain sequestered, until a decision may be had thereon, according to the disposition which shall have been expressed by the Government of the United States."

This language is justly offensive, insulting, and inadmissible, but not more so than the justly offensive, insulting, and inadmissible notes to which I will refer. What is their language?

"The undersigned cannot, therefore, believe, that the enemy will ever seriously attempt to enforce such a system. If he should, they are confident that the good sense of the American Government will perceive the fatal consequences of such pretensions to neutral commerce, and that its spirit and regard to national honor will prevent its acquiescence in such palpable violations of its rights, and injurious encroachments on its interests.

"The undersigned, considering that the distance of the American Government renders any immediate explanation on this subject impossible, and animated by a desire of forwarding the beneficial work in which they are engaged, are authorized by His Majesty to conclude the treaty without delay. They proceed to the signature under the full persuasion that before the treaty shall be returned from America with the ratification of the United States, the enemy will either have formally abandoned or tacitly relinquished his unjust pretensions, or that the Government of the United States, by its conduct or assurances, will have given security"—[security to whom?] "to His Majesty, that it will not submit to such innovations in the established system of maritime law; and the undersigned have presented this note from an anxious wish that it should be clearly understood on both sides, that without such an abandonment on the part of the enemy, or such assurances or such conduct on the part of the United States, His Majesty will not consider himself bound by the present signature of his Commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy."

The one of these Powers says that she considers war as declared; that the United States cannot submit to such sacrifices, and therefore war is declared. The other says that if we acquiesce—if we are not guided by spirit and national honor—if we do not give security to His Majesty, by our conduct or assurances, that we will not acquiesce, he wishes it clearly to be understood by both sides, that His Majesty would not be bound or precluded by the (rejected) treaty from chastising us in turn. This language, so insulting, is offered to a dignified, free, and independent nation. It is not less offensive than the language of their Minister here. What says he?

"I am charged by His Majesty to express to the Government of the United States His Majesty's perfect confidence in their good sense and firmness in resisting the unjust pretensions contained in the decree issued by the French Government at Berlin, on the 21st November, which, if suffered to take effect, must prove so destructive to the commerce of all neutral nations.

"His Majesty, therefore, with that forbearance and moderation which have at all times distinguished his conduct, has determined, for the present, to confine himself to the exercise of the power given him by his decided naval superiority, in such a manner only as is authorized by the acknowledged principles of the law of nations, and has issued an order for preventing all commerce from port to port of his enemies, comprehending in this order, not only the ports of France, but those of other nations, as, either in alliance with France or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

"His Majesty feels an entire confidence that the moderation and justice of this conduct will be duly appreciated by the United States, and has charged me to express to their Government, in the strongest terms, the regret he has experienced in being thus compelled, in his own defence, to act in a manner which must prove in some degree embarrassing to the commerce of neutral nations, and his sincere desire to avoid any stronger measures; to which, however, if the injustice and aggression of his enemies should not be resisted by those nations, whose rights and interests are invaded by so flagrant a violation of all public law, it may be ultimately necessary for the King to have recourse."

He confides in our good sense! Is it not insulting to us to say so? Has he any right to dictate to us what course we shall pursue? It is this which constitutes the essence of the insult in the note of Champagny, in the rider to the treaty, and in this instance also. Well, sir, we did not give those assurances to His Majesty; and on the 23d of February, 1808, we are informed by His Majesty's Minister here, that

"His Majesty has been induced hitherto to forbear recurring to measures of this nature by the expectation that the Governments of the neutral States, who have been the objects of the French decrees, would have been awakened to a just sense of what they owe to their interests and own rights, and would have interposed with effect, either to prevent the execution of the French decrees, or to procure their abrogation.

"But His Majesty having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures, &c.

"Such a measure the maritime power of Great Britain would have enabled His Majesty to enforce; nor would those nations which have acquiesced, without effectual remonstrance, in the French decree of blockade, have derived any right from the more perfect execution of a corresponding determination on the part of His Majesty, to complain of His Majesty's enforcing that measure which the enemy has executed imperfectly only, from the want of the means of execution.

"His Majesty, however, actuated by the same sentiments of moderation by which His Majesty's conduct has been uniformly governed, has been desirous of alleviating as much as possible the inconveniences necessarily brought upon neutral nations by a state of things so unfavorable to the commercial intercourse of the world.

"The relaxations must be considered as most peculiarly favorable to the particular interests of the United States.

"Another most important relaxation of the principles upon which His Majesty's orders proceed, is that which licenses the importation of all flour and meal, and all grains, tobacco, and other articles, the produce of the soil of America, with the exception of cotton, through the ports of His Majesty's dominions, into those of his enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which His Majesty has deprived his measure of its most efficacious and hurtful operation against the enemy, through motives of consideration for the interests of America."

The same insulting and insidious language which is contained in the note of Mr. Canning to Mr. Pinkney! He regrets that we have not given security for our good behaviour, and that His Majesty is compelled to chastise us for it; and adds that these modifications must be considered as peculiarly favorable to the United States, being made wholly through motives of consideration for the interests of America. These notes are as offensive and insulting as the note of Champagny, which cannot be exceeded, and can never be submitted to.

But there is another point of view in which these orders should be examined—in relation to the professed object of retaliating on us. And I protest against the pretensions of one belligerent to retaliate on us for injuries inflicted by another belligerent. The practice, if submitted to, would prostrate the rights of this country. In war, retaliation may be proper between the parties to it, on the perpetrators of such outrages as the murders of Ismael and Prague, where a victorious General entered towns which had bravely opposed him, and put all the inhabitants to the sword. It might have been proper in the war in which we opposed His Majesty, who has always manifested such extreme sympathy for us, when we were treated as rebels, confined in prison-ships, and denied the right of prisoners of war, because we ungratefully revolted from the mother country. In such cases retaliation may be proper; it brings nations to a sense of their duty and interests. But to say that because one nation strikes at the rights of this country, and we cannot effectually resist the blow, that another nation shall be permitted to strike us also, is a principle which I hope will never be treated with complaisance, but always spurned with indignation. Although it is inadmissible, it is in consonance with the practice of the belligerents in the present war, who seem to have said, "Let 'us attack all the world but each other; let the 'war be carried on through neutrals, but let us, 'as to each other, cry, hands off! and this is a 'war which we may carry on *ad infinitum*." Retaliation also implies a prior wrong, and Great Britain should be silent on the subject. If she looks at the impressment of our seamen, restrictions on the colonial trade, blockades, the order of June, the case at New York, where she increased her force within our waters, the case of the Impetueux, all which took place before the Berlin decree, her pretension of retaliation is destroyed; and if retaliation be admissible at all, it must be by her enemy, and not by her. What is the pretext on which she assumes the right of retaliation? Look at the famous rider, and you will find it; there it is claimed on the ground, first, of an execution by France of her threats; and, secondly, an acquiescence in them by us. But the order of January, 1807, professedly in retaliation, was issued before either took place.

I have said that the order of January, 1807, was issued before any execution of the threats of the French Government, and before any acquiescence in such execution by the United States, and consequently inadmissible even on the British principle. A recurrence to dates will prove that no execution of the Berlin decree was known to Great Britain at the time that the notorious Orders in Council were issued. On the 7th of January, 1807, Mr. Armstrong writes that a modification favorable to the United States had taken place. On the 17th, he speaks of an injurious construction which he had heard of; on the 24th of September he states that he knew that an injurious construction was about to take place; on the 17th of October, he writes that this construction was certainly to take place; and in November, 1807, he heard of the decree in the case of the Horizon, and on the 12th remonstrated against it. No execution of the decree was known to the British Government at the time of issuing the Orders in Council, nor to Mr. Armstrong, but for a few days antecedent to the orders. But, independent of this, it was proven on the floor of Parliament that no condemnation was known to have taken place prior to them. It seemed to be an object with the Ministry to prove that the execution of the decree was known in England; but no such proof was produced. It was proved by the evidence of their most celebrated merchants that no such case had been known to them. But even if France had intended to execute it, it was an idle menace, because she had no ships of war on the ocean, and could not even go from one port to another of the Continent without skulking along shore to avoid meeting vessels of her enemy, and Great Britain is dishonored by attacking us on account of it. She knew very well that our trade had been carried on without the least interruption, notwithstanding the decree. The absurdity of retaliating upon a threat was ably exposed by Lord Erskine. He said if the moon were to be declared in a state of blockade, it would be necessary, according to the practice of his Majesty's Ministers, to have the whole board of astronomers convened to react on her satellites. Suppose the Emperor of China, whose policy forbids external commerce, and who has no ships, were to declare the whole European

Continent in a state of blockade, would it be required by his Britannic Majesty, from his sympathy for our interests, that we should go on a Quixotical expedition to China to compel him to repeal the decree? It would be equally as absurd as if the moon being declared in a state of blockade, we should be required to resist the declaration.

But gentlemen in this House again charge us with blazoning our dishonor by a repetition of the injuries we have received, notwithstanding the same gentlemen attribute every misfortune and encroachment on our rights to our own Government alone. I have endeavored to show, indeed I have shown it by a recurrence to documents which prove it, that the fault is not attributable to our Government, but to the hostile disposition of the belligerents. But it is said that Bonaparte is extremely hostile to us, as if he alone entertained feelings of hostility; that he has declared to our Minister, that we must be either his allies or his enemies. I have never seen the proofs of such a declaration, nor heard of it in such a way as to entitle it to credit. I never heard it suggested except in paragraphs of newspapers attributed to members of this House, which I am convinced are libels, because it is not true, that he or his Ministers have ever uttered such a threat to General Armstrong; but even if it were true, would it amount to more than the hostile acts, acts of war committed by him and the other belligerent, such as murdering our citizens, cutting off our trade, seizing and burning our vessels? No doubt they are both hostile to us. But it is said we know the wishes of the one belligerent, and the mandate of the other. I have no doubt as to what are the wishes of Britain; but I know not what is the mandate of the Emperor of France. I have heard of threats attributed to him which I trust he dare not utter to our Minister, such as a declaration that we should take the attitude of allies or enemies, that we should do the one or the other. I hope that if our Government would not recall the Minister in such a case, he would not submit to the disgrace of remaining there a day longer. But even were such the fact, it would not increase the proofs of the hostile disposition of the Emperor. Can it be doubted that Great Britain has the same hostile disposition? Look at her conduct to this country in her taxing us; look at the other more conclusive and unquestionable infraction of our rights, which was remarked upon by a gentleman who usually sits before me, when our doors were closed; look at the hissings at the London Tavern, when the corrupted pensioners of St. Stephens and the whole Ministry were assembled: the President and the United States were given as a toast and hissed with indignation; the clamor was so great, that Sir Francis Baring, for the purpose of resisting the popular obloquy, found it necessary to write a letter to the editor of a public paper, apologizing for having toasted the American Government and its President. If it had been done at a Bacchanalian revel, such as I have heard has taken place in this country, at which "success to the British navy" and "His Majesty's arms," and "damnation to democracy" were drank among the toasts, I should have paid no regard to it, although, as it is represented, honorable members of this House might have been among the guests bidden to the feast. But when it occurs at a patriotic feast, where the Ministry of Great Britain are present, nay even gave it, and their indignation such as to require an apology for having proposed the toast, it does present itself in a very unquestionable shape, as proof of hostility to this country. Does not the affair of the Chesapeake prove it also? Surely it does. And because we have taken an attitude of precaution, and said, forasmuch as we have been wantonly assailed by a highway robber, we shut our doors and not open them to admit him and his whole gang, we hear the cry of French party, that "the finger of Napoleon is in this thing;" "you do not act from a spontaneous influence; you are sacrificing your rights to Napoleon." Sir, this cry is raised by British partisans, whose disposition is to sacrifice our rights at the shrine of Great Britain. Do the republicans of the United States vindicate the conduct of France? Do they palliate it? No, sir; not one of them. One universal burst of indignation has expressed their sensations at her conduct. With the minority, the few, not the people, for I beg to be understood as making a pointed distinction between those knowing ones at the head of a faction and those on whom they operate—the people, notwithstanding they have acted in hostility to the true interests of the country, are in my opinion still virtuous, they have been misled by the aid of ancient prejudices, deep-rooted and difficult to be eradicated, whether they relate to religion, politics, or anything else. How does the account stand with the few, I ask, in relation to the vindication of England? Look at the publications in Boston, the cradle of the Revolution. There the attack on the Chesapeake was vindicated and justified, although Mr. Canning and the whole British nation disavowed the act. And what is this ascribable to? I beg gentlemen to be cautious how they talk of French partisans. It will, as the gentleman from Massachusetts (Mr. Bacon) has said, expose them to an insinuation—nay more, proofs are not wanting—of an undue predilection for the enemy of France and the enemy of this country. Have we not lately seen it published in Eastern papers, that we have no cause of complaint against Great Britain? Yes, sir, the Pickerings of the nation have said it, if not in terms, in effect; and it is this which had an influence on the foreign relations of this country. The pamphlet (Hints to both Parties) referred to yesterday by my friend and colleague, (Mr. Burwell,) speaks of the necessity of perseverance in the British system, because of the probability of an insurrection in the North, and that, like Paul's empire, wrested from him by assassins, everything will be laid at the feet of Great Britain. What are these ideas produced by? By such productions as Pickering's letter, and a letter which lately appeared in the Newburyport Herald, purporting to be from a

member of Congress. When we look at this famous letter of the 16th of February, which included every offence committed by France, the recital of which gentlemen sicken at the idea of, we are told that the immediate if not the only object in calling out the militia was to excite a war pulse, for Great Britain has done us "no essential injury." Most magnanimous mother! We never can discharge the obligation of gratitude which we owe her "thousand ships." What, sir! Can we doubt the effect of such productions in Europe? The fact of its passing through eight editions in London, proves the effect of these charges of a hostile disposition, an effort on the part of the President "to excite a war pulse," unjust resentment, a war without necessity, and the keeping the Orders of Council, and almost everything relating to Great Britain wholly out of view. The British Government is told from no informal source, by the opinion (official I may say) of a man high in the estimation of his party, that the President wishes to keep up resentment against Great Britain, "by exciting new resentments and cherishing old prejudices." I beg gentlemen to be careful how they urge a charge of foreign influence when there are such damning evidences to stare them in the face in proof of their own predilections. Notwithstanding all this, I am not willing to admit there is so much depravity and corruption in this nation, as to produce such a partiality in any portion of the country for Great Britain as the majority have been most falsely charged with entertaining for France.

But we are told that "punctilio" alone prevents a settlement of our differences with England. This is contained in an extract of a letter from a member of Congress, to a gentleman of Newburyport, and thus the people are deluded. Punctilio is the only cause of dispute! These falsehoods produce the arrogance and hostility of Great Britain to us, because she believes that we are a rope of sand; that the North is in a state of insurrection and the South falling off. And if these ideas were realized it would not be astonishing; because to a high-minded yeomanry, such as the great mass of the people of the North and East, it is natural to suppose that such statements as have been made will excite resentments against the Government. It is not in the power of every man to read all the productions of the times; and if he does, they do not make that impression upon him which they do upon statesmen whose duty it is to examine minutely; and therefore, they do not know that every effort has been made to settle our differences with Great Britain; and believe the statement when they are told that punctilio only prevents a settlement. What is the idea naturally excited in England by this language? Why, as Mr. Marriot's pamphlet says, "Let us hold out: our friends will soon rise into power, and thus we shall gain a complete victory." The successful invasion of France or the decapitation of the despot of Europe would not to the British Ministry and its friends be a more desirable event than the overthrow of the Republican party in the United States. They are blinded to their true interests, and hold out, in their injurious conduct to us, with the hope of producing such an event. I wish the practice of judging of us by looking to the opposition, were abandoned in England, and the Government of that country would then be convinced that the people of this have no interest foreign to that of their Government, nor the Government any interest but that of the people, and a wish to do them all justice; that neither the Government nor the people are disposed to surrender their rights or tremble at their threats; and that they have hitherto been deceived by misrepresentations of our dispositions. To these we may attribue the insolence of Mr. Canning's late note, not much less insolent than those to which I have already referred. I will read a single paragraph from it.

"His Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as as a measure of hostility, he would gladly have facilitated its removal as a measure of inconvenient restriction on the American people."

Kind, philanthropic souls! They have great charity for us; they would forgive us all our sins of hostility, proved by their friend's (Pickering's) letter, which passed through eight editions; but they regret that they cannot remove an inconvenient restriction on us, though they would be very glad to do so. The cry of French influence recoils on its authors. Sir, if there be any foreign influence, it is British; but I am unwilling to believe that there is either. I should not have indulged myself in this insinuation, were it not that I every day see some communication justifying it; and I would not, perhaps, have troubled the House with any remarks at this time, were it not from an intimation which I have received from a meeting of my constituents, asking that we should treat with both belligerents without favor or affection to either! I despise the Governments of both nations from my soul. Although at no remote period my ancestors came from England, I think alike of the despoiler of Europe, the usurper of Spain, the great tyrant of the land, and of the robber of the Spanish frigates in time of peace, the destroyer of Copenhagen, and the murderer of its helpless women and children. I have no confidence in either. These are times in which we ought to speak out. It is time that the people should know that we have nothing to expect from either belligerent; negotiation has been spun finer than the cotton can be which is to pass through British ports and pay a transit duty. I know it is impolitic and unworthy of the magnanimity of the Representative of a free people to abuse foreign Governments when the times do not call for decision; but we cannot be guilty of treason to our own people, because our remarks wound the feelings of our enemies.

I have said that I have no sympathy for either of the belligerents. For their Governments I feel equal hatred, indignation, and resentment; and will submit to accommodation with neither

till the injuries committed on the rights of my country are atoned for. Yet it is true that Great Britain has done, and will continue to do us, most harm, and in that proportion I feel my enmity to her increased. Bonaparte, whenever it is in his power, seizes our vessels. His Majesty retaliates because we have not given security for our good behaviour, such as is asked of a malefactor released from confinement for a bailable offence. But it is said that punctilio prevents a settlement of our differences. Why, then, if that be the case, let us give it up. It is shameful, scandalous, and unworthy of a free people, whom we should misrepresent if we stood on punctilio. Is a determination to protect our citizens punctilio? I have always understood that the object of associations for self-government was to preserve the personal rights of the individuals composing it, in comparison with which property is as nothing. I will not say when our citizens are torn from their families and compelled to fight the battles of a foreign nation, that it is mere punctilio. Is the carrying trade punctilio? Let us look at the language of gentlemen themselves on this subject, some of whom are now accusing us of punctilio. [Mr. Jackson here quoted a passage from a memorial from the merchants of the town of Boston, presented two years ago, remonstrating warmly against the captures by Great Britain of the vessels of the United States employed in the carrying trade.]

Is this, then, a matter of punctilio? We were asked by the gentleman from Connecticut to ingraft an amendment on this resolution, saying, that we will not abandon the navigation of the ocean; and are told that punctilio only precludes us from submitting to navigate the ocean as Great Britain pleases. Was the affair of the Chesapeake punctilio? Was the murder of Pierce a mere matter of punctilio? Was the jurisdiction of the officer in the harbor of New York within the length of his buoys a mere matter of punctilio? Is everything in dispute punctilio? The payment of tribute?—this is a little more punctilious than any other; yet our refusal to submit to the dishonor and disgrace of it is but a matter of punctilio. I hope in God there will be a punctilious resistance, so long as the American name exists, to the payment of tribute. The resignation of our independence is punctilio, and the threepenny tax on tea, which kindled a flame that burst the shackles of tyranny, was all punctilio too, sir!

The embargo was produced by this punctilious spirit of avoiding dishonor and disgrace, and of avoiding the payment of tribute, when ruin and tribute were assailing us under the decrees and orders of the great land mammoth and the shark of the ocean. It is denied that the British orders induced the embargo. What has that to do with the question? Whether they led to the embargo or not is immaterial, for the contention for that point is an admission of the fact that they would have justified it. The effect of the embargo was to bring home our citizens from abroad. Unfortunately some have disgraced themselves so much as to receive British licenses. By calling those home who were abroad, and retaining those who were here, till they could launch on the ocean again without danger of confiscation and ruin, and what is worse than all, of compulsion to pay tribute, we were not at all dishonored. It may be likened to the case of an unarmed man who is among his enemies. He retires home to associate with him his friends, arming himself and launching forth in resistance of the infraction of his rights. The time is not yet come for us to make a sally. It is due to the spirit of this people that every effort should first be made to preserve peace. The Governments of Europe, whether ruled by monarchs or despots, wage war when they please; the people march to war without inquiring why or wherefore, and imagine that, in so doing, they display their patriotism. But that ignoble spirit does not pervade this country, and thank God that it does not. The people will inquire and examine, also; they will believe that it is no dishonor to retire from the scene where they cannot carry on their usual occupation, and refuse to go to war till every preliminary step is taken. It is no disgrace to say that unprepared we cannot fight both Great Britain and France. We are appealing to the justice and interests of those nations. It is to be hoped that their eyes will at length be opened to their dictates. Thus far the appeal has been in vain, and trade could only have been carried on in its accustomed channels under submission to pay tribute.

But it is denied that this refusal to carry on trade will have any beneficial effect at all, and it is said that it is withdrawing from the contest; that it is an abandonment of our rights; that Great Britain was struggling for the trade of the world, and we have relinquished it to her. What does this trade consist in, sir? The trade with us is cut off, and consequently, through us, with her enemies. She may trade to some of her own dependencies and back again, and to Spain and Portugal, if they are not yet overwhelmed by the victorious arms of the usurper; and to that extent only can she go. But gentlemen say, remove the embargo and all will be well—we can trade. Sir, honest men are restrained from trading by respect for their own and their country's honor; and it is our duty to restrain those who disregard all such considerations. Shall we submit and trade? Is trade to be purchased on such terms as these? Were these sentiments fostered for a moment during the period of our Revolution? No, sir. If the fathers of the Revolution, many of whom are still living, had sat them down and calculated the profit and loss in a pecuniary view of resisting the threepenny tax on tea, they would have lost the opportunity of performing those glorious exploits which are recorded in the page of history, and gave birth to a nation.

But it is said by gentlemen, that we may trade to the West Indies, and a proposition to that effect was laid on the table by a gentleman from North Carolina, now absent from his seat, (Mr. Sawyer.) Apropos, comes intimation that the trade is blockaded by an order, unquestionably issued

under the circumstances referred to by my colleague yesterday, under an expectation that the embargo would be raised, and our commerce be flowing into those ports.

Others say, let us trade to Spain. Spain may be, and in all human probability is, by this time, a conquered country; for whether one party or the other prevails, the Spanish kingdom loses its independence. Look at the late capitulation between the British and French in Portugal. It was not a surrender made to the Portuguese, for whom the British were nominally fighting, but to the British themselves. They came not as allies, but as conquerors; each party is contending for the supremacy, and manifests a disposition to maintain it when acquired. But gentlemen say, let us carry on a trade to aid the Spanish patriots; let us extend to those struggling for liberty the same assistance which we sought for in the struggle for our independence. I warn gentlemen against the imposition. The Spaniards are fighting for a monarch who has transferred them to another, like a flock of sheep. There is a little patriotism to be sure in fighting for a King of their own choice; but it is not a patriotism to enlist the sensibilities of such a people as this in their favor. They are fighting for one King against another; and though I participate in the feeling which others profess, and wish that they should have a choice of despots, yet I will not interfere in any manner between Great Britain and France, who are contending for the empire there. If we were to trade to Spain, it would be the *ne plus ultra* allowed by Great Britain, who would there receive our domestic produce, and furnish her manufacturers in return. Remember that we are contesting her monopoly of the trade of the world, and there we should surrender it. The principle would hold good if the trade were confined to the West Indies. Great Britain would there receive the products of this country, and we hers in return. We might as well permit them to take our produce at the mouth of the Chesapeake; and, indeed, it would not be a great extension of the principle contended for, if we were to allow her to establish a custom-house, and appoint collectors of duty in every seaport town in the Union.

By continuing the embargo, we can prepare to defend our towns. The fires lighted up in Copenhagen are scarcely extinguished; they are yet glowing before us, in imagination at least; and we ought to recollect that, if we do not submit, it is war; if we do submit, it is tribute. And, if we have war, our towns will share the fate of fortified Copenhagen, unless we strengthen and fortify them. First, let us prepare to defend ourselves. Gentlemen say, defence is not resistance. Let us prepare to defend ourselves, sir, and then we will be better able to resist and attack our enemies.

But we are told that the system is ruinous. If we become bankrupts in money, sir, we shall be sound in honor; and if we carry on trade without adopting stronger measures, we shall be bankrupts in fortune and reputation also. We have been told of the condition of the country; that it is deplorable; and have been warned, inasmuch as there was a rising against the excise laws, to guard against the consequences arising from the embargo laws; and, in depicting the various distresses of the country, it is said (by Mr. Randolph) that there is no sale for tobacco or cotton. What say the cotton planters, than whom none are more interested in foreign commerce? I may venture to assert that they are unanimously unwilling to place their bales of cotton in one scale and national honor in the other. They are unwilling to put interest, sordid interest, in competition with the national independence, which would be sacrificed by the payment of tribute. This tobacco business and insurrection among the planters, reminds me of the humorous letter of Samson to Lord Spencer, requesting him to send over an hundred thousand pounds, for the purpose of exciting a civil war, ravaging the tobacco country, and destroying the plantations with fire and tow, to be called the Segar war, and, if he did not succeed, it would end in *smoke*. This idea is not more ridiculous than that the tobacco planters will rise in insurrection on account of the low price of that article, when they know that their whole market, to any extent, is cut off by the Orders in Council. Will gentlemen say that we shall carry our tobacco to England, there pay a duty, and then carry it to France, and fight the legions of Bonaparte to compel him to receive it? If we are to have a war with France, I hope it will not be a war of that kind.

A doubt has been raised as to the constitutionality of the measure; the power of Congress to interdict trade is denied, because it is alleged that our form of Government grew out of commerce. I have always understood that the Constitution was adopted for the purpose, as it imports, of establishing Union, for promoting the commerce, defence, and general welfare, and if, for these nobler purposes, foreign commerce be suspended for a season, I trust that it will not be considered as violating the principles of that Constitution.

A charge has been uttered in anonymous publications in newspapers, as well as in the famous letter of Pickering to which I have alluded, of a hostility to commerce in the Southern States. I, for one, protest against this declaration. I do not know where that individual is that is opposed to foreign commerce? Where are the Southern or Western people who are opposed to commerce or navigation in our own vessels, navigated by our own seamen, and owned wholly by our own citizens? The insinuation is unjust. There never was a question brought before this House affecting the commercial rights, in which the Southern and Western people have not strenuously supported them. It has never been objected to me by my constituents, that I voted for building seventy-fours and frigates, and for fortifying our seaport towns; and this has afforded me an opportunity of ascertaining that my constituents are not hostile to commerce.

But we are told that the Eastern people are

peculiarly affected by our measures, and that they will not submit to them. What, sir, is the present subject of dispute, which has involved the United States in difficulties? Foreign commerce altogether. Who has it? The Eastern people—they have it all. The Southern people have but little navigation, and care for little more in relation to it than the raising their staple commodities, permitting their brethren of the East to carry them to market. And because we would not give up their commercial rights, and have adopted measures for asserting them, we are charged with an hostility to, and abandonment of, commerce. The charge comes with very little grace indeed from gentlemen who say that our present difficulties have grown out of a pertinacious adherence to every principle of commercial right. If principle were not concerned, we, the Southern people, might say it is immaterial to us who carries our tobacco, cotton, &c.; but we are contending for principle, for the interest of our brethren of the East, and we will not desert them, though we are threatened with being deserted by them. We will disbelieve the assertions of the leaders of faction, and hope that the disposition does not exist, although attempts are made to excite it, as manifested by handbills published there. Were it not for principle we would not care anything about it; but acquiescence would resemble the case of a farmer's stealing his neighbor's wagon and destroying his team, and saying no one but himself should carry his produce to market. We grow—they carry. Who is injured most by the suspension of commerce, the grower or the carrier? The former. It is true that as their ships are lying at the wharves, rotting as we are told, and our farms do not rot, they feel it a little more severely than we do. But it is a time when all should sacrifice a little for the public good.

But if we are wrong, what shall we do? All who condemn the course are silent as to what ought to be done. Every quack condemns the prescriptions of the physician, and tells you all is wrong. When pressed for his *projet*, he shrugs up his shoulders and is silent. Is this the course of patriotism? The patient he tells you is treated improperly. All is wrong, but he will not tell you what is right. If that patriotism pervades their breasts, which one would suppose from hearing their language, we expect from them as Americans and friends, in the plenitude of their wisdom, to tell us what is to be done. We say our measures are right, and as they condemn them, they should tell us what they will do. Surely they do not mean to submit. Gentlemen escape by saying all is wrong, and they have an advantage in so doing. If measures prove abortive, they may say I told you so; if they prove right they are silent; their admonitions did no harm. This conduct may be politic, but it is not patriotic.

But, say gentlemen, will you abandon commerce? The refusal of the House to accept the amendment of the gentleman from Connecticut, (Mr. Dana,) may be represented to the people as evidence of an intention to abandon commerce. I will not abandon commerce. I will only suspend it for a time; I will make our laws operate uniformly, and not permit a few worthless individuals to make fortunes at the expense of the community, by the evasions of them. Cut off all intercourse; increase our force. It would be madness to rush into the contest unarmed, unprepared, and vulnerable at all points. Take every step short of war, march up to the threshold, and if possible accomplish our purpose by pacific means, before we pass it. We need not fear the legions of Bonaparte, or the minions of George III. We are not now subject to the temptations of exclusive privileges offered to his Majesty's dutiful and loyal subjects, or the proscriptions exempting our patriots from the pardon offered. When convinced that everything has been done that can be done, the people will rally around us as one man; and whether for defence or offence, will present a phalanx irresistible and unconquerable. I will consent to withdraw the embargo as to either, on a withdrawal of his decrees, and to issue letters of marque and reprisal against the other. Arming our merchant vessels would be war in disguise. I would not wage war and then declare it. If we are to have war, I wish to have it openly in the face of day, and not secretly, and in the night, assailing the enemy without notice, when he suspects no danger. I would not make war except it were declared, according to the provisions of the Constitution.

But a gentleman asks why do not we act, and not spend our time in talking. I know, sir, that much time has been occupied to-day to little purpose; the remark made by the gentleman from Virginia, yesterday, (Mr. Randolph,) that he has done but little good, may apply to me. But this observation of the waste of time comes with an ill grace from him, after having occupied two or three days of your time this session, with motions, to violate the confidence reposed in us by the President, and two or three hours more on a question of order. The gentleman says he has done no good; but he has done much harm, sir, by a condemnation of the measures adopted, and throwing all the blame on our own Government, instead of considering what the good of the country now requires.

Gentlemen have protested against the invocation of the spirit of '76. I wish it would appear and purge the body politic of tories and British influence. I wish the line of demarcation to be drawn, that we may ascertain who is for his country, and who is against his country; and I regret that the noble spirit which operated like enchantment, and conjured up a pretence for plunging us into a war with France, after the famous X Y Z negotiation, does not exist, when just cause excites it, and give efficacy and sanction to the principle contended for then, which I hope will be our motto now—*Millions for defence, and not a cent for tribute.*

Mr. Lyon spoke about ten minutes in reply; when a motion was made to adjourn, and carried, at about four o'clock.

Saturday, December 3.

FOREIGN RELATIONS.

The unfinished business of yesterday being under consideration; and the question pending on the first resolution reported by the committee on our foreign relations—

Mr. Dawson said, during the very lengthy discussion, which took place in the Committee of the Whole, on this resolution, and which, very unexpectedly to me, has been renewed in the House, I have indulged that disposition which I generally feel, to be silent; and have attended to the observations of other gentlemen with patience—I wish I could add with pleasure. Many of them have been pertinent, pointed, and ingenious, but, I think, ill-timed.

Sir, at a time like this, when danger threatens our country from various quarters; when our rights and independence have been violated, and our demands for justice answered by new insults and injuries; and when it is admitted by most gentlemen, who have spoken, that the crisis has arrived when we should act as well as speak, and prepare efficient measures to meet impending dangers,—at such a time, I say, I did little expect that we should have spent a whole week in discussing a declaratory resolution, in support of which I did believe that every American voice, heart, and hand, would have united; that, forgetting local and personal prejudices, we should have come forward with a solemn and unanimous declaration, "that we will not submit to the unlawful edicts of France or Great Britain," or any other earthly Power.

Sir, had I been on the select committee who made the report on the table, I do not know that I should have recommended that resolution, because I might have thought it unnecessary; but, as it has been brought forward, and as it gives testimony to foreign nations of our determination to maintain and to vindicate our rights, which have been too often violated, and appears to me to be an invitation to us all to join in the support of those measures, which a majority shall think proper to adopt, it has my hearty concurrence. What those measures shall be, I will not now determine; when they shall be presented, I shall, by the permission of the House, give my sentiments on each, and all of them collectively. At present, I will say, that my impressions are in favor of adhering to the system which we adopted at the last session, for enforcing it with the utmost rigor, and for backing it with measures of a stronger character. If, however, on candid investigation, I shall be convinced that these impressions are wrong, I shall most readily relinquish them, and advocate that system best calculated to secure the honor, interest, and independence of the country; at all events, I shall be found among the foremost in "placing the country in a more complete state of defence," and, if necessary, of offence. This has been my policy for the last five years, and God knows I have no cause to change it.

At present, I hope that we shall take the question on this declaration, and proceed to do something.

I have another reason for wishing this resolution to pass without delay. The question, and the only question, before the House is, "whether we can submit to the edicts of Great Britain and France;" (for the embargo, about which we have heard so much, is not even recommended by the select committee;) and on this question the Representatives of the people have been deliberating for a whole week. What effect, I ask you, sir, is this calculated to have on those who do not see or hear what course our debates have taken? and what effect is it calculated to have on foreign nations, when our deeds are frequently misunderstood, and more frequently misrepresented? A very bad one, I fear. I have another and third reason for wishing this resolution to pass. A rumor has gone abroad, unfounded I hope, that there are two parties in this country, the one under French, the other under British influence. This resolution is calculated to do away that impression, and, backed by the measures which I expect it will be, totally annihilate it, and convince the world that we are a united people, determined and able to oppose any nation which dares to violate our rights; that, while we respect the rights of others, we will defend our own.

If other gentlemen view this resolution as I do, I hope they will permit the question to be taken, and the several resolutions to be referred, whereby we may be able to do something; and action, in my judgment, will have more effect than all our tardy negotiations, declarations, or all the eloquence of this House.

Mr. Montgomery said, he could have wished very much that no discussion should have taken place on the first resolution. He considered it a declaration by this House, in behalf of the United States, that the edicts were prostrations of national rights, honor, and independence, and a solemn pledge of resistance. His own idea had been that it would have comported more with the respect due to the nation, that a silent vote should have been taken upon it; but, as discussion had been provoked, it must be met. Being a member of the committee which brought in the report, he could not, under the circumstances, reconcile it to his feelings to give a silent vote.

The proposition before the House, said he, is called, and may by many be considered as an abstract proposition. In general, I am averse to abstract legislation, because it leaves the House in precisely the same situation as it found it. But there are instances in which the urgency of the case requires a departure from the general rule. And if there ever was an occasion in which this was proper, the present furnishes an example, France, applied to for redress of grievances committed on you, scorns you, and gives no answer. England has given an answer, and in it utterly refuses to do you justice. We may be considered now as on the very verge of war. Is not this, then, one of the occasions which loudly calls for such a declaration as this? Again, an abstract proposition may contain a great leading principle which shall mark the character of the times. We find, in 1774, when our ancestors were oppressed

and attempted to be reduced to slavery, that they came forward before the people, and it was not considered at that time improper to make a declaration similar to the present. In page 78 of the Journals of the Congress of 1774, we find this declaration:

[Mr. M. here quoted the declaration of our rights made at that time.]

Thus we find when our ancestors were oppressed by England, and on the verge of a war, they thought it proper and expedient, and not derogatory to the dignity of the nation, that there should be a declaration marking the character of the times. It is important in another view, that there should be something of this kind. Misrepresentations of the most atrocious sort have gone abroad, and it is important that they should be put down. To prove that such misrepresentations exist here, and in England, it is only necessary to mention that a libellous pamphlet, Pickering's letter, went through eight editions in England, one in Scotland, and one in Ireland. From these circumstances, it is highly proper that these things should be met and put down by a plain statement of facts.

But, sir, we have been accused of wasting public time. This accusation comes ungraciously from a quarter, which, it will be recollected, last week occupied the House three days—on what? On a question which involved in it a violation of national confidence. If we divide the waste of time among us all, we shall find that that gentleman has had his full proportion.

This report has been said to consist of episode, prologue, and epilogue; and the committee have been attacked from various quarters. It ought to be recollected by gentlemen that others in the House have feelings as well as themselves. The gentleman from Virginia tells us, that the report contains nothing, and has sagaciously discovered that no bill can be bottomed on the first resolution; and another gentleman from Massachusetts (Mr. Quincy) styles the report loathsome and disgraceful. When the subject was referred to the committee they acted on it in the manner which their duty required, and made such a report as they thought proper, to which no ill language can attach disgrace. I therefore hope and expect that the gentleman will not persist in the words he has used, but retract them, from the respect which he owes to the House and to the committee. If the expression be persisted in, however, I must say, as one of the committee, that such language is indecorous and unmanly, and does not comport with the manners of a gentleman.

The gentleman from Massachusetts, a few days ago, by his magic powers, transported us to British ground, and told us the embargo must be repealed; that the people would not submit to it; that it was impossible to continue it longer. He stated, too, and went into a long calculation to prove it, that the people of the United States had not firmness to bear the embargo. Is this language novel? Look at British Ministerial papers and pamphlets, and it is no more a novelty; it is the very language of British papers ingrafted into Tory papers here. But the gentleman and the English nation, too, will be satisfied that the people of the United States will bear any state of things rather than slavery and submission. The Ministry of Britain also will know it.

But, says the gentleman, there was no such word in all the year 1776 as embargo. What do we find, sir, when we examine the Journals of Congress in 1774, as was done by my worthy friend from Massachusetts? We find that Congress did adopt a non-importation and a non-exportation law in 1774; in 1775 they were not repealed; and in 1776 they were in full force and operation; and no exportation took place unless by special grant of Congress. The gentleman says there was no such word as embargo in 1776. There was not, sir; but still the embargo system was in full operation.

But, the gentleman warns us not to invoke the spirit of 1776. He says, it is to be put out of the debate, together with the word tribute. What may be called the spirit of 1776, sir? The spirit of a Washington. What is the spirit of which the gentleman talked so much, the other day, as existing in the Eastern States? It may be called a Pickering spirit. The former was that which animated the heroes of 1774, 1775, 1776—which inspired the Councils of the nation with zeal in their country's service, and achieved our independence. What is this spurious Pickering spirit? It is a spirit emanating from delusion, dissimulation, disappointed ambition, and gross, palpable, and execrable misrepresentations. What does it lead to? Patriotism? I deny it. To regular government, or union? I deny it.

[Mr. Montgomery was here called to order by Mr. Blackledge; and the Speaker observed that it was desirable that the gentleman should avoid personal applications of his remarks.]

Mr. M. continued.—I am under the direction of the Chair; the situation of the country, the situation in which we are placed by the operation of this pernicious spirit must be my apology for transgressing the rules of the House. But the spirit of 1776 is that which I hope at this particular crisis every man will feel; it creates unanimity and harmony. We ought to scout everything which looks like disunion and dismemberment. The gentleman warns us against calling up the spirit of 1776. As I understood the language which fell from him, it amounted simply to this: In the times preceding 1776, England passed certain statutes, which were considered oppressive, and encroaching on our rights, and the people resisted them. In 1807 a law was passed by the Government of the Union, which the people of the Eastern States, by the agency of misrepresentation and falsehood, have been taught to believe oppressive on them, and that they will, therefore, resist it. The spirit which these misrepresentations have produced may be settled disaffection, which, in fact, is Toryism, sir; and the disaffected are Tories. Gentlemen who say that the embargo is a violation of their rights, and that they will resist it, are styled abroad as

the partisans of that spirit, which I am forbidden by the Speaker to name; and, it is considered in England, that in this country there are but the two parties, that which now supports the Administration, and that which I have named.

It is to be regretted that such a state of things exists, but that it does exist appears from the avowed sentiments of gentlemen on this floor. Why are you told that if you continue the embargo the people will resist it? Why are you told that it cannot be enforced? Why is this language used? In terrorem, I suppose; and insurrection is predicted as the consequence. But we live under a Government of laws, sir, and the laws are our sovereigns. If those persons, then, are the wealthy class of citizens, which it is given us to understand they are, will it not be highly important for these gentlemen, before they violate the laws of their country and create a state of anarchy, to pause? But, if they persist in a violation of the laws, if their sails are bent, or their anchor atrip, they must go, but they must abide by the consequences.

But, says the gentlemen, you must not name the word tribute; you must put that, too, out of the argument. Why? Because it is impracticable that you should pay tribute; because you must first go to England, and the very going there prohibits you from going to France. Facts speak louder than forty thousand such declarations as these. Is it not ascertained that there are American vessels now in the very act of infamously paying tribute to England? The fact is incontrovertible. An instance has lately occurred of enforcing this tribute. The brig Sophia, pursuing a fair voyage. She was met and forced, by a British frigate, to go to some port in England—for what? For trial for evading the British edicts? No; she was carried by force into England, and compelled to pay tribute, and for no other purpose. She then pursued her voyage to the town of Baltimore, and thousands of the patriotic inhabitants, indignant at the disgrace, got the cargo, on which the tribute had been paid, and consigned it to the flames. This was not the act of a lawless mob, but of freemen indignant at paying tribute, and among them were intermingled a great number of Revolutionary patriots.

From the communications from the Executive, during the past and present session, it appears that everything to be expected from England is at an end. Opposed to redress of any kind, the only wish of France is, that we should declare war against England. What is the intimation which we have received from England? Simply this: She says, we have obtained the conquest of the ocean, and we have a right to it, and everything which you enjoy there shall be through special favor. Again, England says that her decrees are retaliatory, and being so, she cannot recede from them, because if she does, it would be a concession to France. Here, then, is our exact situation: France will not repeal her edicts, and England will not repeal hers unless France sets the example. We are brought to a crisis. Negotiation is at an end. When the embargo was laid, negotiation was still pending, there was still some glimmering of hope of accommodation, which is now all but extinguished. We have acted a fair, candid, and upright part to both; we have offered to both to withdraw our embargo, as related to them, and keeping it on as related to the enemy, if they would withdraw their orders. Both have rejected the offer. It is incumbent on the nation, then, now to pursue a firm, decided, and steady course, having partialities neither for the one nor the other; and we must not be driven from our course by any language held out here to awe us.

In conclusion, I will only observe, with respect to the proposition before us, that it had my hearty assent in the committee, and shall receive my decided voice when I am called upon to vote on it.

Mr. Mumford said, he agreed most cordially with the gentleman from Maryland, who had just sat down; he was decidedly in favor of real American measures. He hoped the time had now arrived when all would unite in defence of those principles of independence, and assert our rights; he coincided in sentiment with that gentleman in taking real American ground. He said that having been born in this land of liberty, and having early learned to appreciate its value, under the auspices of a man whom his country delighted to honor—who was one of the brightest ornaments of human nature, and whose name would be held in grateful remembrance as long as the art of printing shall endure—he was accustomed to act and think for himself; he ever had and would freely express his humble opinions and maintain those independent Republican principles, he had uniformly avowed. He had no predilections for either Great Britain or France; his predilections were in favor of his own country, in preference to all others. He could not have any for either of the belligerents; the rulers of the ocean had caused his father to be burned out of house and home, for his attachment to Revolutionary principles, and had since robbed his children of ninety thousand dollars. How does the account stand, said he, with the ruler of the land? I hold in my hand documents from France, certified by the American Consul, which will show that he has sequestered of my property upward of fifty thousand dollars; and, on a late application to the Emperor, to have that property as well as a very large amount belonging to other Americans, in a like predicament, restored, we were informed that the decision of that question was put off for the present; and, on comparing notes with the merchants, in different parts of the United States, it will appear that the sequestration of American property by the Governments, under the control of the French Emperor, would likely exceed twelve millions of dollars; and all the merchants' correspondents in France agree in stating that the restoration of their property depends upon what course our Government will pursue. They say, if you will join them, your property will be restored to you. For my part, sir, I will not only sacrifice my fifty thousand

dollars, but my all, sooner than submit to the mandates of any foreign Power on earth.

Mr. M. said, that the whole catalogue of wrongs and aggressions from the two great belligerents, which had been officially communicated to them, and which had been since so emphatically described by the gentleman from Kentucky on his left, (Mr. JOHNSON) had filled his mind with indignation; and, if he knew the character of his countrymen, and he thought he did, they would all say, sooner perish the United States than submit to the mandates of any foreign Government on earth. But, while he would take a decided stand as it regarded those two great belligerents, he could not see any good reason why we should not cultivate a friendship with those who had shown a disposition to receive us on friendly terms. He had not heard it said that such a measure would compromit the nation's honor, and he was incapable of advocating any measure that he thought would derogate in the least from the honor of his country. Then, why not relieve our citizens? And, if it should be deemed advisable, authorize them to arm in defence of their commerce as our ancestors did in 1776, and leave it to their ingenuity, and they will find a market for the whole surplus productions of our soil?

He had no objections to the first, nor to the last resolutions of the committee; they had in Committee, and did here, meet his entire concurrence, as well as the first member of the second resolution, excluding from our waters all armed ships of the belligerents having decrees or orders against our commerce; but, he was not so well satisfied with the last member of the second resolution; it was, in his humble opinion, approaching closely upon a declaration of war, and he doubted whether it was now the proper time for it. Whenever that time shall come when we have no other alternative and must have recourse to the dernier resort of nations, he now repeated what he had before said, that he would not shrink from the contest; and he hoped, in the meanwhile, all the vulnerable points in every part of the Union would be placed in a complete posture of defence.

I have said he, long entertained doubts about the policy of entangling ourselves in alliances with the Old World. France and Great Britain have, for ages, waged a war of extermination. It is very true they have, every now and then, made a truce, but such are their prejudices and irreconcilable enmity toward each other, that, among the variety of their contradictions, they even invite the winds of the heavens to grind their food in opposite directions. And shall we enlist not only our passions and prejudices but those of our posterity in their disputes and quarrels whenever they choose to go to war? He hoped not, and he was inclined to let them fight their own battles in their own way, and we would assert our just rights in our own way.

We represent a thinking nation, slow to anger, but jealous of their rights. Let us take care not to infringe upon their inestimable privileges. This is a Government of laws, and they must be obeyed; our very existence depends upon the faithful execution of those laws, but they should be reasonable. If they bear hard upon any of our citizens, they have the undoubted Constitutional right to petition against their grievances. The laws can only be repealed or amended in a Constitutional manner, and, from the virtue already displayed by the American people, I doubt not that they will persevere unto the end.

Mr. NELSON said, he had long remained silent on this question, and had intended still to remain so; but arguments had been used so extremely improper, in his opinion, that he considered it a duty which he owed to himself and to his constituents to make a reply to them.

It has been said, observed Mr. N., that the first resolution is an abstract proposition, and totally unnecessary to be acted on. I deny the assertion, and maintain this doctrine—that it is necessary, if we mean to preserve our rights and liberties, that we should, from time to time, recur back to first principles. Since the year '76 great changes have taken place in this country. A spirit of commerce, of self-aggrandizement—a spirit of avarice, has seized upon the great body of the people of this country; so much so, that the original principle on which the Government is founded, is, in a great measure, neglected; and, therefore, I say, that there should be some public expression of the sentiments of the nation. In this country we have now no other mode of expressing our sentiments on any subject than by resolution. In England and other countries under a monarchical Government, whenever a communication is made by the King, an answer is returned by the Parliament, in which a general expression of the public sentiment is contained. Here we receive all communications from the Executive in writing; no answer is returned; the subjects embraced by the Message are divided between the different committees; and no expression of the opinion of the Legislature can be obtained but in this way—by resolution. I therefore contend that it is not only proper and correct, but highly necessary that this resolution, the first, should be passed.

I am extremely sorry to find in different parts of this House so much warmth of expression, when the times call for a very different course of proceeding. To me it seems highly improper, because my opinion differs from that of another gentleman, that I should make use of harsh if not indecorous language toward him. How are we situated at this time, sir? We are said to be on the very verge of a war. Nay it is doubtful whether we are not at war. With whom? With two of the greatest nations in the world. Is this, then, a time for violent language? Far from it. I wish there was a spirit of conciliation in the House. I would permit to others the free exercise and expression of their opinion, and I hope they will have the same charity for me. I wish that irritating language should be done away. This is not a question whether one party or another should be uppermost, but it is a great national question, in which I hope every party will

unite; and, with these wishes, I could not help regretting when a gentleman from the Eastern country told us that our laws could not be executed. I do not believe that the gentleman is correct. I trust in God that the laws can be executed, that there is patriotism enough to insure their execution. And if doses of warm water will not bring the opponents of the execution of the laws to their senses, the other part of Sangrado's prescription must be tried. I should be sorry to see blood spilt in this way, sir; but it is necessary that the laws should be executed; and if they cannot be enforced in one way they must be in another. When, however, I hear one gentleman from Massachusetts (Mr. QUINCY) say that the laws cannot be executed, and another (Mr. BACON) say differently, my opinion is in an equilibrium, balanced between the two; and I fancy that it would be the best way to say that both are a little mistaken. I believe that the Eastern people have as much patriotism as the Southern; that they can support their rights I well know, and have not a doubt that they will. If any portion of the people should attempt to prevent the execution of the laws, I trust there is power enough to put them down. The people of their own neighborhood will take care and see the laws properly executed.

This question has been strangely argued, and in discussing it gentlemen have strayed widely from the point, and myself as much as any; but I considered myself justifiable from the example set me by others. I have not wisdom enough to say what is the wisest course to pursue. I am not attached to any particular course, although the embargo has always appeared to me to be the best. If any gentleman will propose any other course, which he can satisfy me will be more beneficial to the people at large, I shall be willing to adopt it; and I do not think that the gentlemen show much patriotism, when they undertake, because, they say they are in the minority, to carp at the plans of the majority, and refuse to offer one themselves. I think, at this time, they should come forward with a plan; and I declare to God if any gentleman brings forward a plan, which will properly supersede this, I will adopt it without looking from what quarter it comes. As to nice calculation, we have had it over and over again, and I think it as useless for a man to get up and recapitulate for two or three hours, what had been so often said, as it is to spend the same time in argument to prove the truth of a proposition which no man denies.

Mr. MACON said, before the question was taken, he wished to make a few observations, in doing which he would endeavor to follow the advice of the gentleman from Maryland (Mr. NELSON) who had just sat down; neither to repeat what others had said, nor to make a long speech. He felt no disposition to fatigue the House or to tire himself.

Mr. M. said he had, stated when he introduced several resolutions some days past, that there were but three alternatives—submission to the edicts of the two belligerents who had injured us—war—or a continuance of the embargo. If there were any other he had not discovered it, nor had any one yet told the House of another; but if any other productive of the same ends should be offered, that would be more satisfactory to others, he was not so much attached to the embargo as to prevent his voting for that.

Do we know, said Mr. M., that we have a single friend in the civilized world? We have not Hannibal at the gate; but Rome and Carthage have both declared against us. Upon our own means alone we must depend, and if properly managed, they are equal to the crisis.

The second resolution reported by the committee, Mr. M. said, was in substance the same with two that he had moved. On this subject he had reflected much, not only since his arrival here, but while at home. On the subject of the embargo, he had endeavored to ascertain the opinion of well informed merchants and navigators, not of one political party, but of both. The result of the inquiry was that the embargo was a wise measure, and it was considered by some to have saved to the United States fifty thousand sailors and fifty millions of property. This was the smallest number of either which had been mentioned to him, and was not considered too high.

If you raise the embargo, said Mr. M., what will you do? Submission is out of the question; and there is no proposition for war on your table. This is a proof that all consider our present situation better than actual war; and in my opinion, the embargo, aided by the second resolution which proposes a non-intercourse, will produce all the effects which can be desired by us on the two great belligerent nations. The second resolution proposes to put both these nations on the same footing. In their conduct to us there is not much, if any difference. Great Britain impresses our seamen and attacked the Chesapeake frigate, and France pays no regard to the treaty which now exists between the two countries. In everything else I consider them as acting towards us alike, and at all times on the same principles. At this moment we have a law prohibiting the importation of certain goods from Great Britain, and the armed ships of that nation are prohibited by proclamation from coming into our waters. Adopt the resolution and you place the two nations on the same footing, and if one or both shall not like the situation, they know how to get out of it. We only want them to act justly towards us, and nothing more.

When gentlemen talk of trading to this or that place under present circumstances, they seem to forget the omnipotence of the English fleet, and that to carry on their desired trade, they must fight their way through that fleet. Permit me, sir, to add a few words as to war with both nations. Both have long endeavored to get us into the war on their side, and if we now go to war with both, it will be only a nominal war with France, while it will be an actual war with England; and so long as the British fleet prevents a French vessel from sailing on the ocean, so long the war will be only nominal with France, because we shall never

meet. This, to my mind is an additional reason, to induce us to try the embargo some time longer. To me it is clear as noon-day, that you cannot trade except to Great Britain and her dependencies without fighting your way through her fleet. I have another reason for wishing to try the embargo some time longer, and to have it amended in such manner as to prevent evasion. It is this; that from the earliest age of our country, we have believed that by withholding our supplies and withdrawing from the ocean for awhile, we could bring the most powerful European nation to fair terms. The experiment is now making, and I am desirous that it should be fairly made; that if it succeed we shall know the value of the measure and if it fail, hereafter we may not depend on it.

Some gentlemen, living not very far from me, have advanced opinions on the subject of the carrying trade, against which I now, as I always have done, whenever I have heard them advanced, protest. I am now willing, and always was willing to go as far as any member of the House in the protection of the trade which fairly grew out of the agriculture and fisheries of the United States. I never will consent to risk the best interest of the nation, for a trade which we can carry on, only when Europe is at war. I do not hesitate to maintain this at this time, notwithstanding the cry, that a part of the United States are not only willing to cramp trade but to destroy it. A recurrence to the laws will show the great encouragement which has been given to it. Is the drawback nothing? Are the discriminating duties nothing? Besides these, many other things have been done for trade. Attempt to repeal only one of them, and you will immediately produce a ferment among the merchants. Ask the sailor too, who is brought home by the Government, if nothing has been done for him?

The uncommon state, in which Europe has been placed by the last and the present war, ought to make us at least cautious, not to enter into war with France and England, provided we can by just means keep out of it. There is no visible object for which they are contending, unless it be for the mastery of Europe. They have by some means or other involved every nation in Europe in their wars and quarrels, and have nearly ruined and destroyed all of them. When gentlemen speak of the evils which we suffer, not I say in consequence of the embargo, but of their wicked orders and decrees, let them compare our situation, and that too as bad as they declare it, with that of any nation which has gone into the war, and they will find that we have cause to rejoice. Compare it with that of Sweden, who has not suffered so much as many others, and they must be satisfied that our situation is far better than that of the Swedes. We have enough of the necessaries of life to make us content, and there is no nation in the world, at this time, that enjoys more of the luxuries of Europe and of the East and West Indies than we do; in a word, none that enjoys more of the good things of this world.

We have heard as much said about the possibility of a trade to Spain, to Portugal, to the West Indies, and to South America, as if that trade was fairly open to us and perfectly secure. But when you compare this with what the gentleman from New York (Mr. MUMFORD) told us about the French officer, and the dispositions of the people of Orleans (and I regret he mentioned them, because they have no delegate here,) your attention will be drawn from this possible trade, to the troops in Nova Scotia and Jamaica; I will not hazard a conjecture as to their destination, but I will say we ought not to forget them. When I was up before I mentioned the spirit of '76. A gentleman from Massachusetts (Mr. QUINCY) has since made many remarks on that spirit, but as he has already been satisfactorily answered by others, I shall only add, that it was a spirit of firmness, a spirit of perseverance, a spirit determined not to surrender the rights of the nation, and further, that it was a pacific spirit; having told the world, that the United States were independent, it only required of Great Britain to withdraw her troops and do us justice.

Gentlemen seem from their arguments to suppose, that only one part of the Union is interested on this subject. It is a subject, sir, in which the whole nation has a common interest. Foreign nations undertake to dictate to you, and to tax you, and yet only one part of the people interested! The same gentleman from Massachusetts seemed to consider it a question of trade. Be it so, for the sake of argument. Then he fully proved to my mind, that if the embargo was off, we should have little or no trade, because he says there is no danger of your paying tribute to England, for this plain reason, that if you go there, you cannot go thence to France or her dependencies, without your property being confiscated. Then, sir, carry all the produce of this nation to England, without the right to go elsewhere for a market, and you instantly glut that market; and experience has taught us, that under such circumstances, the price would scarcely pay the charges and duties. Let it not be forgotten that when we had a sort of war with France, the price of tobacco fell to almost nothing, compared to that which it bore before.

I speak of tobacco, because I am better acquainted with the price of that than any other article which we export. Before the war it was ten dollars per hundred at Petersburg, in Virginia, and in great demand; and before the war ended, it was not more than three dollars at the same place, and not in demand. The true cause of this fall in the price, was understood to be, that all the British markets were completely glutted, and that there was great difficulty in getting it to a market on the Continent of Europe. How has this same article been affected at the same place by the embargo? When it was laid, the price there did not exceed four and a half dollars, and it has not been less than three since. This, to my mind fully proves, that the embargo has not injured the price of it, whatever the orders and decrees of France and England may have done. No one can doubt, that if you were to raise the embargo, the first cargoes to Great Britain would command a good price; but the moment the market was glutted, it would scarcely pay the charges.

If I understand the gentleman from Massachusetts rightly, he said, that when I introduced the resolutions, I spoke with uncommon zeal, [Mr. QUINCY explained. He had said the gentleman had spoken with a zeal which did him honor.] Sir, permit me to assure that gentleman, that it was with no other zeal than for the welfare of our common country.

The gentleman from Virginia (Mr. RANDOLPH) used an argument against the embargo, and the plan now proposed, which to my mind was conclusive in favor of both. I thank him for it, because it is a better one than had occurred to me. He asked, who could have supposed that the two great conflicting interests of the nation, the agricultural and the commercial, would have united to suppress all trade? Can there be a stronger evidence of the correctness of the measure, than the union of these great conflicting interests in support of it? Would they join to support a measure which injured them both? No, sir, it was the interest of both that united them. An attempt has been made to compare the plan before you to the Chinese policy. No man in the nation can, it seems to me, seriously believe that we intend to introduce such a system; but, I will ask, would not a Chinese policy have been better for some of the nations of Europe, than the policy which they have pursued? Would it not have been better for Prussia?

In the part which I have taken in the whole of this business, if I know my own heart, there has been nothing of party in it. I have been willing from the first to discuss the question in any shape, in which any member might wish to have it discussed; and I differ very much from the gentleman from Virginia, (Mr. DAWSON,) who has expressed a desire to have the question immediately taken. I hope that every member who wishes to give his sentiments, will be heard patiently; and if any one should be desirous of speaking more than once, he will have my consent to speak twenty times, if he desires it. If the embargo has produced no good, and is now only producing evil, it ought to be repealed. But I firmly believe that it has produced much good, and if the laws be properly amended, that it will produce all the good that ever was expected from it; for I cannot believe, notwithstanding the opinion of the gentleman from Massachusetts, that any respectable man will be found violating the laws of his country.

If you raise the embargo, where will you trade? You cannot calculate on trading with Spain and Portugal, and their dependencies, without the consent of Great Britain? For, notwithstanding they are contending for their independence, it is with the aid of England; and without that aid, they could not do much, because they could not get all the supplies that they stand in need of. It is not material to me, in the present question, for what Spain and Portugal are contending; but so far as they are contending for self-government, I wish them success. It is not in their power, with France on one side and Great Britain on the other, to afford us commerce on any just terms.

I agree with the gentleman that in a state of war, some of the seaport towns will suffer more than the interior country; but it is equally true that they will have all the advantages resulting from the expenditure of the public money, by which they will be enabled to speculate with profit on the country.

There is but one way when bad laws are passed, to have them altered, and that is by elections. They are the only correctives not only against them, but against every abuse of power. These have lately taken place, and so far as I am acquainted they terminated favorably to the embargo; in some districts it was made a question but without effect, in others, where a change had taken place, it is not pretended that the embargo had much effect, probably none.

It appears to me that there never was a time in which it was more necessary than the present, practically to observe one of the admonitions printed on the old Continental money—*United we stand, divided we fall.* Nothing but a strict attention to this can secure our rights; it will, as formerly, secure to us all that we ought in justice to expect. If, on a fair experiment, the proposed plan does not produce the desired effect, and I then have a seat in the National Legislature, I will go as far as any member in adopting such measures, as shall be best calculated to enforce our national rights.

I have nothing more to say; I have expressed my ideas in a very desultory manner, just as they have occurred. I did not expect to address you to day. I have endeavored to do that which I promised; not to repeat what others have said, and though I have tired myself, I hope I have not fatigued the House.

Mr. RANDOLPH.—It has been considered by every member, I believe, who has spoken on this subject, that the great question of our foreign relations is now before the House; not, sir, that this or that particular resolution is the subject-matter of our discussion, but that the ultimate course to be pursued by this country with respect to foreign Powers, is the point to be debated. It is, I conceive, not an unfavorable circumstance that this view of the question should have been taken; because, if not taken here and now, where, I beseech you, could it have been taken at all? The subject of our foreign relations has been referred to a committee, who have brought in a report. If we were to confine the discussion to the minute details of this report, to the mere naked question presented to us, where is the subject of our foreign relations to be discussed generally? So far as this particular question (which is but of little magnitude, though made a matter of much importance by gentlemen calling for the previous question and raising questions of order on it) is concerned, I feel myself scarcely interested in the decision. But I do feel myself interested to a degree which it is impossible for me to express, as to the course which this House will take on the subject ultimately. I think we

are standing on the brink and verge of ruin. I address myself to this House; my observations are not intended for persons without these walls; they are addressed to the sober understanding of gentlemen who may chance to hear them.

In the few desultory observations which I threw out the other day, (more in the nature of heads of discourse, than regular connected argument,) I touched on one question on which I ask the patience of the House to hear me again. It is this: Wherefore was the Constitution of the United States created? Out of what did it grow? From what stock does the great mass of powers possessed by the Federal Government spring? From relations of peace and of war; from intercourse with foreign States; from commerce. It was more immediately the regulation of commerce which gave birth to this Constitution. It was not contemplated at that time that this nation should ever pursue that which, in my opinion, has been properly called a Chinese policy. It was as well known to the nation then as it is now, that by the revenue derived from commerce alone could the General Government be enabled to perfect its engagements, to keep the public faith, to provide for the general welfare and public safety. For this purpose the Constitution was adopted. I cannot help casting back my mind to the time when the adoption of that Constitution was agitated in the Convention of Virginia. I at this time tremble at the recollection of the predictions made in that body, when I think I can see their fulfilment near at hand. It was at that time foretold by the greatest statesman—if not the greatest statesman, the greatest orator that America ever knew, that if the time should ever come when the State and Federal Governments should have to be supported by revenue derived from direct taxation, the existence of the one or the other must be destroyed. An attempt to feel the public pulse on this subject, a mere attempt at experiment to collect a beggarly revenue of one or two millions, has already put down a former Administration. We are now called upon to resolve that we will have no connexion of import or export with the rest of mankind; to substitute this measure for war, for defence, for offence. What will be the inevitable result? Are we prepared to violate the public faith; to issue continental money again to pay the expenses of the Government? I know the case is provided for by the Constitution—but what are Constitutions themselves in the mighty concussions of parties? Are we prepared for this state of things? I have the honor to belong to an important committee raised on the question, what shall we do with our surplus revenue; with the surplus revenue of a nation which neither buys nor sells; of a nation whose revenue is derived from duties on tonnage and imposts, and which is without import and without export. Sir, I hope to be excused, if, in the course of the observations which I make to you, I should not follow the example set me by my worthy friend from North Carolina, (Mr. Macon.) I feel myself too deeply interested to express myself with that method and precision, which is much to be desired, but cannot be attained at least by me. It does appear to me, sir, that the final extinction of the governments of these States is at hand. If we are to have no connexion with foreign nations, no Ministers abroad, none from other Powers residing with us, no trade, no relations of peace or of war, (for this state of non-intercourse contemplates neither the one nor the other,) where was the use of the General Government? It will no longer answer the purposes for which it was instituted. I hope I may not be misunderstood; nothing is further from my anticipation than the destruction of the General Government. My fear is that it will swallow up the governments of the States. I see by a late publication that the person who is perhaps to wield the destinies of this nation, has long thought that the governments of the States ought not to exist. Take this fact with another fact: that a question is pending before a committee of this House whether the powers of the General Government shall not be enlarged so as to narrow down still further the powers of the governments of the States. My fear is that the strength, grandeur, and magnificence of this Government will swallow up the power of the States. I have no hesitation in saying that the State which I represent cannot, by all the taxes which can be so squeezed out of her, yield her quota to the support of the General Government by direct taxation. What do you infer from this, sir? Is the General Government going to take the attitude of a State in the interior? Ask your greatest statesmen; ask the Secretary of the Treasury, out of what this Government grows. He will tell you, out of our foreign relations. It grows out of our power to supervise the concerns of this, with the Sovereigns of other nations. The moment we disrobe ourselves of this general power, and the Government of the United States employs itself in matters of mere local and interior regulation; in laying out and cutting canals, and building bridges, the governments of the States are expunged—from that moment they cease to exist. The people will ask themselves this question: Since the Government of the United States has nothing to do with foreign relations, and we have no money to pay for the support of two Governments, where is the necessity of having two separate Governments directed to the same objects? This is my fear, and it is a fear which I feel it my duty to express.

No, sir; two Governments, each of them depending for support on one and the same people, and that support derived from direct taxation, cannot exist in this country. It is as much as the people of the country in which I live can do; I will go further, and say, it is more than they can now do to pay their contributions to the State treasury. They look forward to something like a restoration of the ancient state of things for their ability to do that, and to fulfil their engagements with one another.

My friend from North Carolina (Mr. Macon)

has said that this idea of coercing the nations of Europe by refusing to have intercourse with them, is as old as the Revolution. I wish to ask my friend from North Carolina, and other gentlemen who hear me, if the course to be pursued by us, a free, sovereign, and independent nation, for the purpose of coercing all the rest of the world, is that which it became the Colonies to take in order to coerce the mother country, possessing the monopoly of their commerce. Sir, I feel that it is impossible for me; the intimations which I have from within of my own weakness convince me that it is impossible for me to go over the ground which I intended to occupy in this discussion. I must throw out my ideas rather by way of inuendo than in any regular system. Is this nation, I ask, to pursue that course, in order to coerce all the nations of the world, which might have been a proper weapon for the coercion of the mother country who held the exclusive monopoly of our commerce? There is no analogy between the state of the rest of the world then and now, or between that of these United States then and now—between the relative situations of the parties, one of which undertakes to act on the other by this new-invented political machine. What is now the state of Spanish and Portugeese America, and what was it then? Totally changed. What is our condition? Entirely altered. We have now to fulfil the engagements which we have made—to pay the price of our independence. We were then free from debt, at least from public debt; and we freed ourselves from private debt by a confiscation of what we owed across the water. We might then do without revenue, because we had not the purposes to which revenue must necessarily be applied. With your marine, with your army, with your palaces on this hill and on that, a profuse expenditure of money in at least every civil department of the Government—and here let me not be understood as making charges against those who have now the conduct of the public affairs; it is an excrescence, an abuse growing out of such Governments as this—will you, with all these objects of expenditure, dispense with your revenue? If not, whence is it to be derived, if you declare that you will not suffer your produce to go abroad, nor hold any intercourse with the rest of the world? You must look at home for it; there is nothing left but direct taxation and excise duties.

I confess for one that I was mortified at seeing the proceedings of the first Continental Congress resorted to, to justify the proceedings of independent America. In the year 1774, when we were provinces, loyal and submissive petitions were addressed to His Majesty, and addresses made to the people of Great Britain, Ireland, and Jamaica, one of which was read by the gentleman from Massachusetts, (Mr. Bacon,) in his place. There the old Congress say to the people of Jamaica, you have nothing more to do than to convert a little sugar land into provision ground, and our measures will not hurt you in the least; and this, sir, was introduced to show our power of affecting the West India islands, by withholding our supplies. We know that the West India planters have already profited of the advice we gave them in 1774. [Here Mr. Bacon asked leave to explain]—Mr. Randolph said that he yielded the floor with pleasure to the gentleman from Massachusetts, for he found himself scarce able to proceed, and but that he thought he perceived in the House a disposition to force the question—[Here Mr. Randolph was interrupted by Mr. Love, who said that with the consent of the gentleman from Virginia he would move to adjourn, which was agreed to.]

The consideration of the unfinished business being resumed, on Monday, the Speaker said that the gentleman from Virginia was entitled to the floor. After a short pause—

Mr. Randolph rose and observed that it would argue a decree of insensibility, which he trusted was wholly foreign from his nature, were he not penetrated with the polite deference paid to him by the House on Saturday last. He was sincerely grateful for that instance of their liberal and generous attention, but he feared he had exposed them to needless trouble—that the same incapacity which prevented him from going on then, still existed in a degree that would disable him from doing to the subject even that feeble justice which his powers in their best state might have enabled him to render it.

He entered into a recapitulation of some of his former remarks, he considered the country as standing in an awful and momentous condition; that we were about to make a virtual sacrifice of that very independence, which in words we propose to assert, and stood on the verge of a mighty revolution in our own political institutions. In this apprehension he might be mistaken, he hoped in God he was; but if he did not conscientiously entertain it, he would not obtrude himself upon their attention. The powers of the General Government growing out of foreign relations and out of commerce, when these were cut off, and the source from which alone revenue was derived, dried up, the General Government must act on the citizen through the medium of excise and direct taxation. The burden of this Government and that of the State Governments would be beyond the capacity of our citizens to bear, The necessary effect must be the doing away the State Governments, and directing the operation of the General Government to matters of municipal and local concern. Was he not justified in drawing these conclusions from past experience and from circumstances within the knowledge of every man who heard him? Was it not proposed at that very moment to extend the sphere of action of the General Government at the expense of the State Governments; was it not then a question whether the power of the State Governments should be materially diminished and that of the General Government proportionably augmented? Unquestionably it was. The Federal Government might be (he did not aver that it was not) eminently calculated for Federal purposes, but considered as a consolidated Govern-

ment it was highly objectionable. He could not but feel alarmed when he saw that the person who was to preside over our future destines had been from the very beginning of the Federal Constitution inimical to the existence of the State Governments. He was impressed with the deepest apprehension for the existence of these institutions. His fears might be unfounded, but they were sincere.

He must again repeat his regret, that the only system of coercion upon Europe, generally, which the wisdom of that House had been able to discover, was that system which, in a state of colonial weakness and dependence thirty-four years ago, we were obliged to have recourse to in order to obtain a boon from the mother country. They had heard much in that debate of the spirit of '76 What was that spirit. It was this—"touch the soil and you touch the life-blood of every man upon it." And yet, sir, this soil has been violated without exciting scarcely a sensation in the heart which pulsates here and distributes life and heat to every extremity of the body politic. Let us not talk of the spirit of '76, if this be the only demonstration which we can give of that spirit being alive. We were not up to the colonial spirit of 1774-5. The old Congress at the very moment when they asked for justice had taken more vigorous measures to enforce and secure it, than the United States had yet done. Long before their Declaration of Independence, Montgomery had bled under the walls of Quebec.

But what was our present system of coercion? One which told Europe in the plainest language, attested by solemn public acts of the individual States, that its first operation on ourselves was such as obliged us to shut up our courts of justice. That sort of popularity derived to a great national measure from suspending the execution of justice between man and man, from the virtual exoneration of men from the payment of their just and lawful debts, was a species of popularity which he never wished to see in this country. A system which was compelled to resort to such means for its support might well be said, in the new-fangled language of the times, to go to the demoralization of society, to strike at the very root of common honesty. This new-invented system of coercion which was to bring all Europe to our feet, had gone across the Atlantic, accompanied with declarations of Georgia and Virginia, (and their example promised to be generally followed,) that the distress occasioned by it among ourselves was such as to render it immediately necessary to obstruct the natural course of the great stream of justice. What kind of respect would the belligerents pay to a measure whose operation we confessed to be thus destructive to ourselves? It would, if persevered in, end not only in shutting up the courts of justice, but the exchequer also. It was not possible to derive from any source but commerce, a revenue adequate to the support of the General Government. The State Governments were supported generally by direct taxes, but if the supply from commerce be taken away, the General Government must resort to the same mode of taxation; and what would be the consequence? A conflict between the sheriff and the marshal for the property of the citizen, and when that was exhausted, for his person; which, he supposed, like the child in the judgment of Solomon, must be divided between the two claimants. This was a state of things which could not long exist. He asked gentlemen to calculate the indispensable annual revenue required for the support of this Government, and then say whether they can derive it from direct taxation and excises, to say nothing of the sums necessary for the support of the State institutions. If the operation of our embargo abroad was such as it had been at home, it might well have been boasted of as a measure of coercion. He would have been the last man to have denied its efficacy, or to have wished its repeal, if he could see it bringing such distress on Great Britain, as that the Court of King's Bench should be compelled to suspend its proceedings, whilst her every source of revenue was at the same time cut off. But when he saw its actual operation upon us, and its operation on our enemies, on France and Great Britain, at least questionable, if not altogether imaginary, he could not consent to continue it at such an expense of privation as the people must incur in consequence of it.

It had unfortunately happened that during the whole course of the discussion there had been an extreme want of precision with respect to the object in view. They had had enough, and more than enough, of the aggressions of foreign Powers. They did not want a history of the disease, but the remedy to be indicated. Not a word had been uttered that went to show that a suspension of intercourse with the belligerents, would have any effectual operation on them. His friend from North Carolina (Mr. Macon) had indeed told them that if we ventured to sea, if we meant to have any sort of foreign commerce, we must be prepared to contend with the British navy—that our foreign commerce was dependent on the will of England, and therefore we must do it away altogether. To what would this lead? Suppose the belligerents to interrupt our coasting trade—to capture our vessels bound from Charleston to New York. Must we therefore prohibit it? Suppose a British fleet lying in Hampton Roads, and the communication between Norfolk and Baltimore enjoyed purely by sufferance. Should we pass a law to prevent Deagle's packet from clearing out for Baltimore, by way of remedy for the mischief, and style it a system of coercion and retaliation. Would any man dream of coercing the enemy by such a device? This mode of cutting our throats to save our lives, Mr. R. could not understand. To what extent did the argument go? Fully to this—that in proportion as the belligerents pressed upon us we must recede—and so promptly and rapidly too as never to come in contact with them. This was certainly an admirable recipe for avoiding war; one by which the swiftfooted Achilles himself might have kept out of the combat, since he had only to take his distance from the enemy and keep it.

He did not expect to have heard, because any branch of our commerce was annoyed by the belligerents, that we should therefore annoy it ourselves to a yet greater degree; that because it was liable to partial attack, we should annihilate it.

With his friend from Georgia (Mr. Troup) he was not willing to kneel at the footstool of the throne of the Gallic or British Sovereign and beg for commerce. He considered this observation as rather unfortunate for the argument of his friend from Georgia. If it applied anywhere it must be to our own proposition to raise the embargo if Great Britain would withdraw her Orders in Council. It was somewhat curious that gentlemen should have exhausted their lungs, as well as their ingenuity, in portraying the humiliating situation in which commerce was placed previous to the embargo, when we had offered to raise the embargo, and put the trade of the United States on that very footing which it had been said no American would accept. There appeared to have been a very gross mistake amongst the members of that body in relation to the causes out of which the embargo grew. In order to ascertain the point, he would call for the reading of the President's Message recommending the measure. [It was read by the Clerk—as follows.]

To the Senate and House of Representatives of the United States:

The communications now made showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent Powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our own vessels from the ports of the United States. Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

Dec., 1807. TH. JEFFERSON.

Mr. R. proceeded—The House could not fail to recollect that "the communications then made" consisted of information from Paris that the Berlin decree was executed to the full extent of the letter of it, and the proclamation of the British King calling home his native subjects, of which we had not an official copy, but one cut out of a newspaper. The Orders of Council, although in existence, were not known even unofficially, or the House would have been apprized of them. To offer to withdraw the embargo, then, on the withdrawal of the Orders in Council, was to acknowledge, if not that the measure was laid without cause, at least that that state of commerce was desirable on our part, which had been described on that floor as the most degrading and injurious that could be conceived. It was to leave our resources (our seamen, especially, about whom so much had been said) exposed to the very dangers against which the embargo had been adopted to guard.

[Here Mr. Randolph observed, that he really felt a physical incapacity to present his ideas on the subject in a condensed, and he feared he might add an intelligible form. He had never when attempting to address the Chair labored under it in an equal degree. He asked the indulgence of the House for the length and want of connexion of his remarks.]

But it had been said since the belligerents would not consent to give their aid in ridding us of the embargo, we must pass stronger laws to enforce it, and cut off all intercourse with them. There was a wide difference between an open and hostile resistance to a law, and a clandestine evasion of it. The powers of the Government were unquestionably adequate to suppress the first, and he would be among the foremost to direct the sword of justice against that man, who should openly put the laws of his country at defiance—but it was not in the power of the Government to prevent clandestine evasions, and when he heard intimations of an intention to cut off the coasting trade, and river navigation, by way of enforcing the embargo, he was seized with horror and consternation. But the embargo had kept up the price of produce. This one of its merits was matter of very late and prodigious discovery. To what was the embargo price of tobacco owing? To the home consumption?—Certainly not. To men of capital investing their money in it by way of speculation, calculating on a great profit when the embargo shall be raised. As to the embargo price of flour—to what was that to be ascribed? Not to the consumption at home, but to the fact that the flour, the embargo laws to the contrary notwithstanding, had found its way out of the country—and for whose benefit? The growers were choused out of fifty per cent. of the produce of their land and labor to make fortunes for dishonest daring mercantile adventurers, who bought at home at half price and sold abroad for three or four prices. Was such a state of things desirable? That our sole measure of action against the belligerents should only react upon ourselves and amongst ourselves with peculiar, nay, almost exclusive severity on the honest part of the community, while the dishonest were reaping enormous profit from it? Was it to be expected that the honest men of the country would bear such a system when they should come to understand it? They would not—they would (as they had done before) change their Representatives, if they would not change the law. It was not the Shylocks of this country (as his friend from Georgia supposed) who were opposed to the embargo. As far as his knowledge went, men of that character were among its most distinguished advocates—and wherefore? The nominal market price of almost every article, except those from which the landed interest drew their supplies, had either remained stationary or had increased. Produce was down, land and slaves fallen—everything except the product of the land and labor of the country was either up to the old rate, or has risen to an alarming height. What was the consequence? That Shylock, with one dollar, with a single ducat, can now make as great a profit out of the suffer-

ing planter, can purchase as much actual property, as before he could with two. The value of his commodity—money—was doubled, that of his neighbor sunk in the same proportion; could that be displeasing to him? And accordingly in Virginia the dealers in deeds of trust and mortgages and your five per cent. per month men were warm advocates of the embargo. They either had money, or could get it by bank accommodation, and thus (to use a vulgar but expressive phrase) could shave their neighbors on their own terms, and get rich to an incalculable extent.

There was another and important view of this subject. No sooner did the resolution for cutting off all intercourse with the two great belligerents pass through the Committee of the whole House, than the vast capital which exists principally to the North and East, set itself in motion. This fluid, which in a healthy state of the system had been employed in the great and salutary work of circulation, had been pent up in the body politic until it had acquired an acrimonious quality. It had hitherto been active in carrying off our redundant products and bringing back such as we wanted in exchange; but the embargo denying it a free vent, it had become morbid by stagnation and was corroding the system which it had once nourished and exhilarated. Immediately on the passage of that resolution the spirit of monopoly stalked abroad—the great capitalists had dashed into the market and purchased up every article which nature and habit have rendered necessary to us—they had bought up salt, dry goods, everything that they could lay their hands upon, gutting the very shops of the petty retailers. At whose cost are they to be reimbursed? At the cost of the public—of the great consuming body. If things were restored to the old channel, the loss, if any, would fall upon those best able to bear it, upon the men of great capital; although it would not be difficult to show that, in such a case, they might re-export their purchases at a profit. If the system were continued it must grind the people down to a state of the most abject poverty and depression. It was a system which might suit Asiatics, but was never adapted to the American spirit. It might do for the Chinese, but, even granting it to be the best policy eventually for us, no man who pretended to the character of a practical statesman would attempt to make a total change of the habits of a nation in one night. Great changes to be beneficial must be gradual, not forced upon the people. Nature might be coaxed, but she would not be coerced with impunity.

His friend and colleague (Mr. BURWELL) had said that to express the pressure of the embargo on ourselves was to encourage the enemy, inciting him as it were to persevere in his measure. He had compared our situation to that of a besieged town, and asked, if we ought to apprize the besiegers that we were nearly out of provisions, that we could not hold out another week? Mr. RANDOLPH accepted the comparison. Under such circumstances suppose a council of war to be held, he would not hesitate to say to his compatriots and fellow-soldiers that it was better to perish in a glorious sally, than die by inches in the trenches of disease and famine. He should not be deterred by the fear that the enemy would take advantage of their deliberations. In the present case they had the most authentic intelligence of our real situation—it was upon record in acts of assembly of States the most zealous in support of Administration, and in the proposals of Government itself. He feared that without some change the public spirit would become so completely broken, so entirely paralyzed, that we might almost as well be overrun by an enemy as reduced to so torpid and degraded a condition.

The capital, which we would not suffer to employ itself in a natural and salutary direction, had, to use the expression, turned its arms against the State. It was engaged in mononolizing salt and every article of the first necessity, to be resold at the most exorbitant advance, because we would not suffer it to take our cotton, tobacco, fish, &c. abroad, and bring us returns for it at the most reasonable rate. During the whole discussion it appeared, that gentlemen had indulged themselves in begging the question. As a planter he could not conceive how he husbanded his own resources by suffering his crop to perish on his hands, instead of paying his debts or purchasing necessaries with its proceeds; nor how he assisted the belligerents by exchanging one superfluity for another—for the wines and brandies of France, for example. How did we impair the resources of the European Powers or aid our own by the destruction of the whole product of our country? But to return to the effect of the embargo on the price of produce, which had nearly escaped him. His friend from Carolina (Mr. MACON) had said, that if all our produce were pent up in England, the price would be lower even than it then was. Was there any necessity for its being pent up in Great Britain? Could gentlemen devise no other vent for it? Was it not notorious that Sweden, an independent Kingdom, having no orders or decrees against us, was open to its reception? and was it not equally well known that if we could get our produce to Gottenburg, that it would find its way to the rest of the Continent, as heretofore it had done from Hamburg and Bremen? There was a common sense view of this subject, that settled the question. When it is understood out of the House that the embargo is to be continued, produce falls—with a whisper that it is to be taken off, produce rises. The mere motion of a colleague (Mr. SAWYER) of his friend from Carolina to open a trade to the West Indies, had a sensible effect on the Baltimore market. There was not a merchant who would not give more for a barrel of flour, or a hogshead of tobacco, on condition that the embargo was to be raised. To contend, then, that the embargo kept up the price of produce was absurd. Go into the market, and the theory vanished when you come to purchase. It was in vain to oppose argument, however ingenious, against fact and experience. It was matter of notoriety—let us not attempt to cheat ourselves in this thing. Produce was bought with no other view than to its exportation. Prohibition of export could not

enhance its price. If this position be not true words had lost their meaning.

During the course of the debate, recurrence had been had to past transactions. For one he could have wished that they might have been passed over in silence, but the state of affairs at present seemed to render it almost impossible. He begged gentlemen to carry back their minds to the time when the right of deposite at New Orleans was arbitrarily suspended. It was a time of general peace in Europe. The nation committing the wrong was the known ally of France—identified, he might say, with her. What did we do? Did we declare independence? Did we assert our rights in one resolution, and in another immediately forbid their exercise? No—we declared in a prompt and spirited manner that we were willing to view the aggression as the unauthorized act of an individual, that we would apply to his Government for redress; but we pledged ourselves to maintain at every hazard our right of navigation through the Mississippi, as established by existing treaties and the laws of nations and of nature. With this declaration in his hand our Minister went abroad. It was made when Europe was at peace, and when, for aught we knew, the whole combined force of France and Spain, unshackled by the British navy, would be brought to bear upon us. We gained our point, and more than gained it. If we had met with a denial of justice, no doubt remained of the alternative. He knew too well the temper of the House at that day not to feel assured that we should have taken redress into our own hands; and had we spent fifteen millions of money to acquire the possession of both banks of the Mississippi, but five short years ago, and shall we now be the first to shut it up? Even the Spaniards had not carried their audacity so far. They did not require us to come to, and give bond and security that our property should not be carried out of the river—they only disputed our right to deposite it on their own territory; and had we spent fifteeen millions for the sovereignty of that river merely to deprive our citizens of the right to use it, when we would not submit for a moment to its suspension by those who rightfully held both banks of it? It was to our vigorous proceedings at that day, that we were indebted for the possession of Louisiana. It was in that fatal session of 1805-'6, that the policy of yielding to anything that might come in the shape of insult and aggression was commenced. The result was then foretold. It has happened. What was then prophecy is now history. We are completely entangled in the web of our own irresolute, hesitating policy. The Gordian knot cannot be untied. It must be cut. We must cut the Lilliputian fetters which have so long bound us to the earth.

Mr. R. hoped his friend from North Carolina would consider the notice which he had taken of his arguments only as an evidence of the profound respect and veneration in which he held the qualities of his heart and understanding. His friend had requested the House to take warning by the fate of the Powers of Europe, and, with an infelicity which he could not have expected from a man of his sagacity, had held up Prussia as an example—herself the victim of a short-sighted, timid, temporizing policy. She might have saved Europe. She consented to become the pander of French ambition and she has received her reward; that reward which awaits all who descend to act the same ignoble, loathsome and detestable part. No more of Prussia, sir—*veluti in speculo*—in the fate of Prussia, as in a mirror, we may see our own, if once we consent to be governed by Prussian Councils.

On the subject of our trade there was one plain and obvious answer to every man who objected to raising the embargo as the commencement of a struggle for our indubitable maritime rights. It was this; that those who were most to be affected by it—the merchants, excepting a few—for example, those who have vessels out and take care that they shall never come in, and who, whilst the great mass of our tonnage is rotting in our ports, are themselves receiving an enormous premium, which the competition of that tonnage would deprive them of; and those who have in the country an immense stock of foreign goods, the price of which they now must raise three or four hundred per cent., and thus make them nabobs at the expense of the community; excepting these, the merchants are willing to run the risk; and if we do not choose to protect them, at least we may leave them and the insurance offices to settle the business between themselves. If we will not engage to protect them, let us not incapacitate them by way of apology for not protecting them. They tell us that they can find ways and means to get rid of our produce and get a better price for it, if we will permit them. It is then their affair. But gentlemen say that by the captures at sea we shall be immediately involved in war. Well—do not gentlemen tell us that we are now at war? Was not this one of their war measures—part of their great system of coercion? And yet to avoid this war, in which we are actually involved, we are to do—What? Show our heels to the enemy and our indignant fronts to our own helpless citizens. It was high time that the vigor of this Government (if any it have; and he believed it had more than any-in the world) should be displayed on some other theatre than our own country, and on some other objects than our own citizens. It was indeed time that this vigor should be husbanded for the aggressors on our rights, and not that the whole vial of our wrath should be poured out on the heads of our own unoffending people. Let gentlemen take into consideration the condition of the country—the Eastern States particularly. Had they no pity? No compassion upon the distresses of those people, and in fact upon the privations and sufferings of the whole mass of our society? Was all their force and energy to be exerted only upon ourselves? Or shall we determine that, inasmuch as foreign nations will not do us justice, to the best of our ability, so help us God! we will do justice to ourselves?

His friend from Virginia (Mr. BURWELL) had

told the House that there was a very strong interest in Great Britain in favor of making war upon us. We know that the naval, the West India, and East India interests are so disposed—that would have been a good reason for treating when it it was in our power—but shall we therefore now give up the ground? Because a portion of her subjects are hostilely disposed towards us, shall we put on an aspect precisely pacific in proportion to the airs which they may assume? We knew that France was disposed to make war upon us; that nothing but the ocean, interposed as a non-conductor between us, prevented her—that she had injured us to the extent of her ability. Should we therefore propitiate the resentment of her monarch by a sacrifice of our rights? It was a doctrine which he never expected to have heard on the floor of the American House of Representatives. The cup of patience was exhausted. We had drained the chalice of humiliation to the dregs. If instead of asserting our rights against the aggressors we were determined to forego them forever, instead of re-enacting the Declaration of Independence, let us expunge it from the statute book, and agree to hold a middle rank in the scale of beings between the nations of Europe and the aboriginal savages. Indeed there was not an Indian tribe, however reduced, that would unresistingly suffer what we had endured. There was not a man that ever wore a string of wampum, even if he were the last of his tribe, who would not consider himself disgraced by such submission. The time for temporizing had gone by—this is the time for acting. If we would not act, let us not in one breath assert our rights and in the next resign them, and punish whomsoever shall trespass against that determination. The nation was undone. It could not exist under such a system. Shall we come out with a fine, vaporing, flourishing resolution about honor and independence, and sneak out of it by forbidding our citizens to do that which we declare every man of them is entitled of right to do? Shall we turn our face from the enemy, and put on the angry frown of vindictive cowardice towards our own people? Show him the man who dare not resent an insult, who shrinks from his adversary in public, and he would show you a tyrant in his family. In proportion as his courage sinks where there is danger, so does it rise where there is none—in every respect the reverse of the man of real honor and real spirit. Such he hoped they would not make their model. But why did he thus idly waste his strength in a vain attempt to express the few confused and scattered ideas floating in his mind. He would recall the attention of the House to matter of sober and melancholy fact—the condition of the people. What was it? In Virginia the September frost had destroyed nearly half the crop, and the embargo half the value of the remainder; debts pressing on the planter and taxes to pay. But perhaps gentlemen might ask, will you go to war—will you lay a land tax? He would not, for one, add to the burden on the citizen—but he would scuffle for commerce as the only means of relieving him, the only chance for revenue. He would make the struggle, and if we could not maintain our rights, in the worst event, we would but resort to what was now proposed to be done in the first instance.

Mr. R. approved the first member of the second resolution which went to exclude ships of war from our ports. It wore an aspect of impartiality, although one of the belligerents, it was well known, would be little affected by it. The second member of the resolution was objectionable to him, not only as operating exclusively on one of them, and in a manner meeting the views of the other, but because he was for opening our ports to the products of both, and of the whole world, at once to supply ourselves with necessaries, and the means of revenue. Our merchants believe that, if let alone, they could by their enterprise carry on a lucrative trade, and get us a better price for our produce. He was at least willing to indulge them in the experiment. He could not see the grounds upon which gentlemen refused their assent. If it failed, they were not obliged to be answerable for its failure; but so long as Government tied their hands, it was responsible for the consequences. Let them go. In short, if we would not maintain them in the exercise of their indisputable rights, at least let us not forbid them from attempting to use them. If the law will not protect your person when you pass your foot over your threshold, let it not therefore confine you close prisoner in your own house.

Monday, December 5.

FOREIGN RELATIONS.

The unfinished business of Saturday last being the report of the committee on our foreign relations, was taken up.

Mr. Randolph spoke about an hour and a half, in continuation of his observations of Saturday, as given entire in preceding pages.

Mr. Love addressed the Chair as follows: I rise under circumstances of extreme discouragement to address you, sir, while the sound of a voice which never fails to interest in a superior degree still vibrates on my ear.

Any man whom I have ever yet seen stand on the floor of a deliberative body, who should be compelled to follow the gentlemen last up would, I confess, sir, have occasion for a great share of the politeness and condescension of his audience. It is because I so highly honor that disposition to indulgence, which this body has so often manifested, that I have now determined to obey the impulse of duty, at the hazard of, and while I feel myself transported beyond the restraint of personal considerations.

In the observations which I contemplate offering to the House, it shall be my endeavor to limit myself as much as possible to those important topics of discussion actually before us; and while I cannot consent to consider anything properly admissible in argument, which does not relate to the great questions presented us by the report and

resolution, I shall be excused in expressing my regret that the members of the committee which has led us to the view of this vast and extensive field of political survey, have hitherto refrained from a presentation of their statements in support of the measures which they recommend to our adoption.

The report must ever be acknowledged on all sides as a most able and correct exposition of the real situation in which the United States stand in relation to foreign nations; nor do I, sir, consider the conclusions drawn by the committee as less entitled to the unqualified approbation of every American. I lament that it has not been the pleasure of the House to consider them both in a connected point of view, the latter as the natural and apt consequence of the former; and that a disposition has been evidenced even in the friends of this connected system still more effectually to disjoint it, by dividing the question on the first resolution. This seems indeed to be a kind of parliamentary mode, too fashionable with some gentlemen of this House. It has certainly however relieved the debate from some embarrassment, when gentlemen who argue in opposition to the measures recommended have at length given some character to their arguments; for although the gentleman last up, did a few days ago very much insist on the entire futility of the first resolution then, as now, the subject of debate, he to-day is willing to admit that he discerns in the measure consequences of the utmost and most substantial importance to our country.

The leading position stated in the report has certainly a strong claim, if true, on the serious attention of this House, and of the nation; it is, that "those principles recognised by the civilized 'world under the name of laws of nations, which 'heretofore controlled belligerent Powers, regulated the duties of neutrals, and protected their 'rights, are now avowedly disregarded or forgotten by Great Britain and France. Each of these 'two nations capture and condemn all American 'vessels trading with her enemies or her enemies' 'allies, and every European Power having become 'a party in the contest, the whole of our commerce with Europe and European colonies becomes liable to capture by either one or the other." Is this statement founded in fact, sir? Has the able illustration which follows it been contradicted? No sir, no part of the vast accumulation of injury exhibited in support of this assertion of the committee, has any gentleman ventured to deny. Sir, it is a fact, that the Milan decree of December 17, 1807, was, as in its terms it purports to be, a complete rejoinder to the orders of the British Government, closing every point of commercial right contended for by neutrals; in technical language it tendered an issue, which, for us it seems, has been too fatally accepted by the opposite party.

Permit me, sir, to occupy a small portion of the time of this House, in placing in as obvious a point of view as I am able, the effects upon our prosperity of those injurious violations of rights. This has indeed been already done by other gentlemen most ably, and I shall now only so far concisely notice the subject, as may be necessary to the introduction of my argument. It was true, indeed, that antecedent to the late blockade of some of the West India islands, which we have seen advertised by a British admiral, there was left to us a few of the crumbs of commerce, not, however, worth picking up; but in the present complete state of exclusion, either positive or virtual, there is nothing left for the commercial enterprise of this country, but certain loss and destruction, should it be permitted to venture on the seas. France, as active as the crippled state of her marine will allow her to be, consigns to the flames our vessels if met with on the ocean, and truly, in the spirit of that retaliation which both nations avow as the rule of their conduct, thus destroys our vessels lest they should fall into the hands of her enemy. Even as the Briton served the Dane, so has the American to a lesser extent suffered under the most outrageous and aggravating system of violence which has ever disgraced the annals of civilization. It is admitted on all hands, that unless the produce of our soil can find its way to the continent of Europe, it is in vain that the raisers of it may expect a price adequate even to its freight across the ocean. It is therefore only urged, sir, either from a want of consideration, or from a disposition to delude and deceive the people of the United States (that part of them I mean who are not conversant in commercial affairs) that it is insisted that the tobacco, and other heavy articles of our produce, may still be transported with any chance of profit to any part of Europe. If to England, it has been ably shown that the superabundant supply would so far overstock that market as to reduce it below the price of its freight, even if it could be insured against French risks; but if bound directly to France, it is proved to us, sir, not by speeches in Parliament, or ministerial pamphlets, but by the examination on oath of men all their lives conversant in trade, that the risk is considered as equal to ninety per cent. since the emanation of the British orders of blockade of November the 11th, 1807. To go directly to France or the ports of the Continent under her control, is out of the question. England has forbidden it, and she has the physical means, the mechanical force which carries her orders against us into effect to almost an absolute certainty.

The only practical course left open for our commerce is a transportation of its articles in the first place to England, and then, sir, we are condescendingly told, and it is said to be yielded, as a mitigated measure of strict justice on the part of His Britannic Majesty, that we may, on the payment of a tax and an acknowledgment of his right to tribute, proceed to a nation where we might find a demand for our products. Let us suppose then, that there is an American who could be found base enough, in the pursuit of gain, thus to make a formal unqualified surrender of everything which pertains to the honor and dignity of his country. He pays a tax to England, and under the royal license he departs from the British port

into which he has been forced. No difficulty will follow with such men, I know, sir, in using the arts of fraud, perjury, and corruption, to put on the false show of having made a direct voyage. Indeed, the mean spirit which could stoop to dishonor the flag of its country, is in my opinion past other censure. He arrives in a continental port, and under the mask of deception, puts off his polluted wares; he receives in return a cargo of the products of the country which has afforded a high price for his tobacco, or other article of American growth; he takes a clearance for the United States, but again when at sea, upon the calculation of ninety per cent. against his safe return to America, he is compelled again to visit and pay his tribute to England; independent of the disgraceful surrender of the sovereignty of his nation. Where are the profits, which under such circumstances could insure to the agriculturist a price equal to the freight even of the article? The estimate of taxes has been already made by other gentlemen, who have had the patience or curiosity to make a calculation on the subject, and it has been proved, that on the score of profit, no inducement would be offered for such a prostitution of character.

Thus, sir, we find that such has been the actual state of all our commerce in the products of our country, ever since the British and French decrees have been in operation, that neither the fair and honorable conduct of the American merchant, nor yet the mean and corrupt submission of those who would barter for gain all sense of the independence and dignity of their country, would secure a price for our commodities. No doubt can exist on the mind of any man who will take a candid view of the real situation in which our external commerce was placed by the conduct of the belligerents, but that the embargo has from a particular operation, and the state of sentiment among our merchants, had the effect of keeping up the prices of our produce, beyond what they would have been, had we permitted our commerce to be exposed to the capture of foreign nations.

I have been compelled to take this short notice of the situation of things produced by the British orders of November 11, 1807. And, before I proceed, give me leave to say that to my astonishment I have heard the gentleman from Virginia, last up (Mr. Randolph,) assert more than once on this floor, that this state of things was not known to us, and that we were not informed of the British Orders in Council at the time the embargo was laid. It is a fact, sir, that those orders were understood at that time, or might have been so by every gentleman in Congress; for, by a recurrence to a newspaper (the National Intelligencer) printed in this city, on the 18th of December—the day I believe on which we received the President's Message—it will be found, that in no less than three extracts from British papers, two I think from London, and one from Liverpool, those orders were said to have issued on the day they are now found to bear date, and their import and effect are as well defined in those publications as I believe they have since any where been. The paper I allude to was read by gentlemen of every description of political opinion, and indeed by those of no description, if we have such in Congress, and I recollect some gentleman did in debate urge the weight of this intelligence. I well remember, that many, and myself among others, did insist on the probability of those retaliatory measures on the part of England, as soon as it was known there that France meant to act on the decree of November, 1806, against American commerce; but I do not pretend to say that the gentleman heard this, or any other argument used on that occasion.

It appears to me, sir, far from improbable that our Government might have information at that time, although not of so authentic a nature, or perhaps of too delicate a one to disclose it, that the British orders would certainly issue; when we recollect that our Minister who had been resident at London, and at his own request had returned, did actually leave England from the 10th to the 14th, I believe, of November, and was on the 18th of December, either at this place, or somewhere in the United States, where he had an opportunity of corresponding with the members of the Government, I think the probability of a pretty certain intimation of their existence, very much enhanced.

The debate on the subject of the embargo, I have always considered, sir, as disorderly in the present discussion. The time will come when it will probably not be so; it will then be in time to see whether this measure has had its expected effect; but I have felt myself compelled to notice so much of the statement of the gentleman last up, lest false impressions might be made on the minds of others, as to the whole ground which influenced the measure. The Message, and so much of the documents accompanying it, as the reading of has been called for, I also admit were important in forming a decision, but I do not acquiesce under the charges so often here and elsewhere repeated, that this House was solely governed by the reasons assigned in the Message for the measure.

I beg the pardon of the House for having suffered myself to be led from the subject of discussion before us. I shall now proceed to consider the system of measures recommended by the committee; it is time indeed, I admit, to adopt some course which shall be strongly calculated to produce an effect on our enemies; and whatever may be the construction put by different persons on the character of the embargo, and whether that was a measure of coercion or otherwise, I do not hesitate to avow that we should now pursue a course of policy avowedly retaliatory, having reprisal for its direct object. Neither our interests nor our honor permit us longer to hesitate. The measures indicated by the second resolution, are in my opinion wisely designed, and eminently calculated for this purpose. Even the gentleman from Virginia sees in them a strong and energetic character; they are indeed of a distinct description from the embargo. That was perhaps a

measure of a mixed character, intended for immediate self-preservation, and with a probable ulterior design of coercion on our enemies. The one of those effects has been realized to a most salutary extent. The other I believe, sir, would have been so, had not the means of counteraction, which have been so painfully and so often dwelt on, been resorted to, by the unprincipled part of the mercantile community, often in combination, I believe, with a foreign Power.

If Mr. Canning is correct in the assertion contained in his letter of the 23d September, that the ruin of the commercial prosperity of Great Britain must annihilate her existence, the contemplated inhibition of commerce with that kingdom will have a direct effect, and act coercively upon her. When we reflect upon the situation of Europe, and find that there remains no place of importance to which England can export the articles of her manufactures, upon which her people depend for subsistence and life; and when we recollect that from the estimates before us, since the occlusion of British goods from the European continent, the importations to this country have increased in one year fifty per cent., the effect of a total non-importation cannot be misapprehended. It must, it will, retort upon her the most aggravating part of her system of outrage on this country; it will affect her interior relations, as she has attempted to affect ours.

I hazard nothing, sir, by asserting that whatever may be the result, the measure is calculated to have a most powerful effect, on both France and England.

But, were it not a call which the honor and independence of our country has made on us, to offer some means of retaliation and reprisal, it must be notorious to every man of reflection, that the safety of our own country, and its real resources call for an immediate suspension of intercourse. I have shown that so long as the present state of things continues in Europe, it is impossible the heavy articles of our produce can find a competent market. If the manufactures, however of those countries are continued to be imported, our merchants will continue to make remittances. Those remittances can be in nothing but money, and thus we shall be drained of the little specie which, under the disadvantages of our commerce, has yet been left among us; our own safety, therefore, not less than the desire which must actuate the bosom of every American, prompts the contemplated measure.

It is not to principles of reasoning alone, however strong and imposing they are, that we may resort for the support of the course recommended. There is an example, sir, an illustrious one, one which I trust will ever be of high authority on this floor; it is the example of the House of Representatives of the session of 1793-4. Then, as now, harassed by a superior naval Power, and our produce alike intercepted by the hostile grasp of an European nation, a non-importation law was determined on by a great majority of the popular branch of the Government; the resolution of Mr. Clark was introduced and supported by names of the highest authority in this country. We find among them a Madison, a Dearborn, and others, some of whom I have now the honor to stand on this floor with, and to think, and, I trust, to act with, on this subject. Had the measure, at that day, been carried into effect, as was the wish of this branch of the Government, we should not now be obliged to detail the humiliating insults and injuries we have received. The adherence to that system of policy would have taught our enemies that we did not prize their gold more than our own independence—another course was, however, pursued which has never failed to produce vexation and loss upon the community.

Sir, in recurring to transactions of former times, would it not have been more profitable to us, as well as more laudable for the gentleman last up, (Mr. Randolph,) to have searched for an example, somewhat applicable to the present great crisis, rather than industriously hunting up fanciful charges against the man who has so lately triumphed in the hearts of the people? I had hoped the occasion had now passed by, when a resort to such attempts would be thought necessary. Indeed, sir, it was little to be expected that any gentleman would, at a period even less ominous than the present, have made before this body another charge against a man high in office, unless it was grounded on something better than a production ushered on the community under an anonymous authority, and the strongest suspicion of falsehood. The source of this production is supposed to be understood, and give me leave to ask of gentlemen who act upon it, as the ground of crimination, whether it is intended by the author that he should have another appeal to the people? Sir, the people have at this day decided. What is next to be done? And how many cruisers against reputation are we now to have fitted out in this House?

The gentleman has indulged himself by repeating to this House some of the predictions of a very great man who was a member of the Virginia Convention, which ratified the United States Constitution. Great, sir, as were the talents of the deceased patriot alluded to, his foresight had not enabled him to look forward to a crisis like the present. He has indeed expressed an opinion, that America would never have anything to fear from Europe; that as to dangers from that quarter, we might go to sleep, were the emphatic expressions of this most eloquent man. Had his capacious mind comprehended a state of things like the present, it is obvious, we should not have seen him so zealous in opposing the new system of Union. Had he been able to foretell that in twenty years from the time he urged this argument, against the increase of power in the federative Government, the state of Europe could be so completely changed, that a single monarch was to wield the empire of the Continent, while Great Britain was at the same time to command an entire and undisputed sovereignty over all the seas of the world—he would not willingly have afforded an argument to be used, when these evils are realized against America, in order to

destroy the union of her councils, or impair the confidence in her rulers, much less indeed for the purposes of deterring, by the fear of pecuniary expenditure, this nation from submitting again to be taxed by Great Britain. If I have truly learned the character of that great man, he was among the first to resist the right of taxation from England. Could he have lived to behold this day, when his arguments are quoted for the purpose of paralyzing our resistance against her renewed attempts of taxation, by forcing our vessels into British ports, there to pay a tax on the products of our soil, how extreme would have been his anguish!

But, sir, to return to the subject of discussion. Considering the course recommended by the committee as it must be, and ought to be avowed to be, adopted for the direct purposes of coercion and serious action upon the interests of our commercial enemies, I would not determine to carry it into immediate and unconditional effect, if any hope still remained of amicable adjustment; but where can such a hope be supposed to exist? The two great belligerents, each propose a relaxation only in case their enemy should do so. Let us examine, then, what are the hopes of relaxation from either?

As to France, if the doctrine of the British Minister be correct, and England is vitally dependent on commerce, this is the very state of things most to be desired by France; the campaigns of 1805 and 1806, were not more fatal to the Governments of the coalition, than the maritime campaign Great Britain is now waging against commercial rights is fatal to herself, and must be ultimately triumphant to her enemy.

As to England, such has been her conduct, and so many impediments has she heaped in the way of adjustment, that although ruin and destruction should be yawning to receive her, it seems extravagant to hope for a voluntary restoration of our rights.

The considerations which forbid the hope of a change as to England, independent of her positive refusal, are numerous. In the first place, sir, it is proven by the conduct and declarations of her own Cabinet, that the evils we now suffer from her are the result of a system, long meditated and now matured, for the monopoly of the commerce of the world. We need no other proof of this than the incautious mode of reasoning adopted by Mr. Canning, in defence of the conduct of his Government, on the ground of French aggressions. In his letter to Mr. Pinkney of the 23d September, 1808, he tells us, that "the mitigated 'measure of retaliation announced by His Majesty 'in the Orders in Council of the seventh of January, and the further extension of that measure, '(by the Orders in Council of November, which 'he calls an extension in operation, but not in 'principle, of the orders of 7th of January) are 'founded on the right of retaliation." If this be the case, sir, and those two orders are indeed of such kindred principle, I would ask of the British Minister, how the order of May, 1806, is to be applied? The order of blockade of the Continent from Brest to the Elbe, from the Bay of Biscay to the North Sea, of which our Minister resident at London was notified on the 16th of May, 1806, is in its terms and principles precisely similar to that of January 7th, 1807. It has in it these words, "and the said coasts, rivers, and ports, are, and must be considered as blockaded." An exception is then extended to neutral vessels, not ladened with goods, the property of the enemies of Britain; subject however to the following provision: "Pro-'vided, the said ships and vessels so approaching 'and entering." (except as to the ports from Ostend to the river Seine, which are declared in a rigorous state of blockade,) "shall not have been 'laden at any port belonging to or in the posses-'sion of any of His Majesty's enemies, and that 'the said ships so sailing from the said rivers and 'ports (except as aforesaid) shall not be destined to 'any port belonging to, or in the possession of any 'of His Majesty's enemies." Here then, sir, we find the commencement of the principle now said to have been adopted, in retaliation of the Orders of France of the 21st November following. The proclamation of May, 1806, and the Orders of January, 1807, are the same in terms, both but parts of that system of monopoly which Great Britain has so obviously determined to enforce. Let us hear no more then, sir, of His Majesty's retaliation in his just defence. It is not pretended by Mr. Canning, or any one for him on this side the water, that France had commenced her present career of aggression by blockade, prior to May 1806. The truth is, sir, and it did not require a warning voice from the other side of the water to inform us of it, that Great Britain is determined to make, if she can, all nations tributary to her maritime greatness. From the time of the Revolution, this policy has been decided on by the British Cabinet, and it has accordingly made itself appear, whenever an apt occasion has called for it. Let us attend for a moment to the course she has pursued. The doctrines of Sheffield were about to be enforced upon us, and were indeed in actual operation, when the renovated union of the States, under the new Constitution, gave us sufficient strength, and enabled us to afford sufficient security to mercantile enterprise to counteract them, and to defeat the hopes of supplanting us, in our natural share of commerce. But soon an occasion offered, when America might, in the opinion of the British Cabinet, be again reduced to a colonial system of commerce; and in March, 1793, we find, from the collection of State papers of that date, that Great Britain had entered into a confederation with Russia, to prohibit the exports of neutral produce to France. This determination was followed up by the British orders of June and November, 1793. I do not wish, sir, by tracing so far back the system of aggression on the part of England, to go in pursuit of an inquiry, futile indeed at this day, as to the priority of aggression from France or England; but I mean, by noting at different periods the same appearance of hostility to the maritime rights of this country, to show that it has been the effect of system and design, and not of accident or justifiable necessity, as now contended.

We have already seen how the system of aggression of 1793 was checked; in 1799 the same disposition we find renewed in the British Cabinet; and by authority emanating from the King, a principle is attempted to be enforced, which was to destroy the neutral rights of America. Several condemnations had taken place in her maritime courts, when on the representation of our Minister the attempt was again relinquished, and in April, 1801, the most formal recognition of our rights officially made.

Sir, it may be useful to pause, and compare those times with the present. In 1798 and 1799, differences as now existing between the French and American Governments, Great Britain is anxious to force us into the war, by distressing our commerce and sowing the seeds of discontent among our citizens. In 1801, when there was a most decisive expression of the public will in favor of the independent rights of this country, when an Administration was introduced into this Government which it was known would neither be driven or persuaded to compromit its interests, the hopes which were raised of success in the British Cabinet were again dissipated, and they hasten to renounce the principles they acted on. Let the history of that time be now a useful lesson to us; if hopes of a division and a strong British interest in this country have been falsely cherished, let them now be dissipated by the vast preponderancy which has not ceased to increase, and has so lately, on so warmly contested an occasion, been amply manifested to the world. In 1805, Britain resumed the maritime principle she had formerly abdicated in 1801. The cases of the Essex, the Enoch, and the Mars, were signals to their cruisers; as the correspondence laid on our tables last Spring informs us, our commerce was swept from the ocean in the little space of a few weeks. When the gentleman from Massachusetts (Mr. Quincy) tells us of the effects of an embargo for twelve months, and goes on to estimate the cost, why has he forgotten that in one fortnight our commerce suffered more from the injuries of a foreign Power than, by a measure calculated to prevent a repetition of that injury, it could suffer from many years operation?

But, sir, we have reason to fear, that not even the renewed evidences of union which have lately been exhibited in this country, can now have the effect of averting the evils of this threatened maritime tyranny. And another cause to destroy our hopes of accommodation exists in what we hear of the necessities of England. Great indeed they must be, if the accounts of her own writers are correct, and more perhaps than the plunder of the world can satisfy. If instead of twenty millions of annual supply, as was required at the commencement of the war of 1793, she now requires an annual supply of about fifty millions to carry on her contest with the Continent, and if instead of a permanent debt requiring the payment of an annual interest of fourteen or sixteen millions of pounds sterling, her permanent debt is so magnified as to require an annual supply for the discharge of interest alone, of thirty-five or forty millions of pounds sterling, we may indeed conceive something of the necessities of that Kingdom, and find in other considerations, independent of a natural jealousy and hatred towards us, sufficient ground for her piratical exactions. If the commerce of all the nations of the world is to be made to pay tribute to her superior naval strength, and thus feed the monster that devours them; if America is indignantly to subscribe her quota of immense taxation to support entire the vast expense of this dominion claimed over all the waters of the earth, I confess it is possible the grand plan of universal monopoly may succeed, and the countless accumulation of the British national debt will form no obstacle to her grandeur, or the ease and happiness of her people. But this is a question which addresses itself to the honor, to the patriotism, and the virtue of every American. On this question, I believe, sir, there is no division among us; we all profess to emulate the genuine spirit of 1776.

I fear, indeed, there are other obstacles to fair and honorable adjustment with England, which will be difficult to overcome. Many are the items of injury which we have been baffled in all our attempts to obtain redress for.

The article of impressment stands in importance at the head of the list; it is a claim too degrading to freemen, too insulting to the sovereignty of this nation, ever to lose sight of. I hope for the honor of our country that we shall never yield the right of civility to a nation who attempts to enforce it on us; it was properly made the condition precedent to any treaty our agents at the British Court were authorized to form; nor, sir, should we be content with a supposed relaxation of the practice so long as the principle is claimed. We have, indeed, a noted evidence of relaxation in this practice in the famous note of November 8, 1806, so much relied on by our Ministers in London, but in which experience has shown no faith could be placed; for by a recurrence to the document with which we have been furnished very lately on the subject of impressments, we find that from the date of that note to the time when it was probable the rejection of the treaty was known in England, a number of our citizens, equal to any number in the like length of time in any former period, were subjected to impressment into the British service. Indeed, for my own part, sir, I never could construe that note to mean even an insinuation that the practice was to be desisted from, but rather a new avowal of the principles of it.

Another item in our accounts, which must have an honorable adjustment before a pacific understanding can ever return, is the outrage committed on our sovereignty by the attack on the Chesapeake. Whatever the apologists of England may say, no American will venture to pronounce, in the candor of his mind, that our claims to satisfaction have not been completely sustained on our part, and most shamefully and dishonorably evaded by England. Sir, it is no secret now, and I dare say it has been avowed at St. James's, that the person sent here for the pur-

pose of making satisfaction to this nation, was neither authorized or intended to heal the wound the feelings of America had sustained. Who is there, on this or the other side of the Atlantic, who has ever heard what were the specific propositions of redress intended to be made? There may be some who hear me, who know more of the secrets of foreign Governments than I do, who could tell us what that person came to this country for. From everything I have seen or heard, if I was asked to-day what he had come for, I know of no answer I dare give. Perhaps he came, sir, to learn us the art of bowing, to teach us kindly something of the *etiquette* of a European Court. He has, indeed, attended our national levee, and, after presenting himself to the presiding personage, turned upon the surrounding crowd, has taken this man by the elbow, to that he has whispered, and with a third may perhaps have transacted some little matter of business, and in due time, seeming to protest, with an *honi soit qui mal y pense*, has taken his leave.

There are other subjects of minor importance, for the settlement of which we have a right to look. Neither the fair principles of our commerce, as connected with the colonial trade, have been adjusted, or compensation for the losses we have sustained by depredations on our property on the seas, been made.

But, were these questions of claim settled, or did they not exist, we have, I fear, too satisfactory evidence of the determined hostility of the British King, to permit us to hope that we can longer avoid measures of a strong character and quality, such as I admit those under consideration to be. For this ground of support to the measures recommended, I refer, with indignation, to the proclamation of the British King issued some time in the last Spring. Sir, in my estimation, it is scarcely possible to conceive of an act of hostility more insulting, or of a character more obviously inimical than that instruction published in our gazettes, in which the British King has proclaimed immunity to the violators of our embargo laws. Has he not thus, in open, flagrant, and the most undistinguished terms, offered rewards for insurrection among the people of the United States, erected the standard of rebellion for them? Has he not appointed, as the rendezvous of American treason, the quarter-decks of his navy? And is it, sir, for George III, or his minions, to encourage in the people of the United States a disobedience of the laws they themselves have made? For him who once endeavored to command obedience to laws, in making which they had no participation? It might, indeed, have been expected that, before His Majesty had attempted this insidious act against our interior peace, he would have recollected his cause, or only ostensible cause, of the war of 1793, against France. France, he said, had attempted to alienate the obedience of his people, and stir up insurrection; if this was true, it would have been certainly a just and indispensable cause of war. Where a man is attacked by conspiracies and combinations, carried on with his own domestics, it is time to defend himself; and, sir, if ever there was a time, in my opinion, when a call of this body would have justified an order to repel insult and injury, it was when our Government was informed of this insidious attempt upon our internal peace and safety.

The conduct of the Court party in Great Britain, however evincive of hatred to us, is what we have no right to complain of. Let them stimulate their own nation by what false means their Ministry may think fit, either in or out of Parliament, to a spirit of hostility against us; they have a right to do so; and it is for us to watch the working of that sort of machinery, and be prepared to meet its stroke. Of hostilities, so strongly indicated in that way, I therefore say nothing, except that, as a new evidence of a determined spirit of war, they ought to warn us of our situation.

Among the last, and surely not the least of the indignities offered to the Government and people of this country, Mr. Canning's letter to Mr. Pinkney, of the 23d of September, is certainly to be ranked. It could not, indeed, have been expected, sir, in candor, after the earnest and honorable endeavors of our Government to reconcile our disputes with England, that we should be told, by an official character of that kingdom, that we had entered into the universal combination against His Majesty. That this echo of a miserable party, I do not mean that party composed of a respectable body of American politicians, (of them I will not doubt the integrity, nor can their patriotism be questioned:) but, sir, I speak of a *party*—an unprincipled foreign faction—which had fixed a mercenary interest among us. It is the spirit of this poor, contemptible, and already dreadfully appalled set of miserable miscreants, on whom the patriotism of the country is frowning indignantly at this moment, of which I speak, when I say a British Minister has dared to return the echo of French influence upon our Government itself; and has told us, in a tone of insolent exultation over what he falsely supposed a state of division among us, that there was a universal combination against His Majesty, and that our embargo did come in aid of France, when, if her measures could have succeeded at all, this interposition of the American Government would have most effectually contributed to its success.

I have thus, sir, in the most concise manner I was able, without taking the wide range the subject would have justified, endeavored to show the little probability that exists, without resorting to the strong measures contained in the resolutions before us, ever to effect an adjustment of our differences. The interest of France, perhaps her disposition—the disposition of the King of England, and a false calculation of his interests—the systems in which both these Governments seem to be unchangeably fixed, require the measures proposed. I believe those measures to be ten times better calculated, for all the purposes of any annoyance we are capable of, than war would be, if formally declared, and at the same time, however inconvenient to ourselves, less so than war.

I therefore am willing to consider the second resolution as proper to be adopted in its broadest terms, and as intended for a retaliation of injury, we ought to adopt a part of the measures of reprisal.

At the same time, sir, let it be understood, by the modification which a select committee may make on the subject of importation, what is to be the permanent, as well as the temporary plan. Let it be understood to what articles prohibitions or prohibitory duties are, as an ultimate regulation, to extend. Nor, sir, would I hesitate to discourage the immense importations in times of pacific intercourse which have, and ever will, so long as they remain unrestricted, drain our country of its real riches, and make an unprofitable barter of our valuable exports, for the luxuries which enervate, while they impoverish us by throwing an immense balance of trade against America.

These, sir, are the ideas which appeared to me to be applicable to this subject. When we come to consider the question of the embargo alone, it will then be in time to make the inquiry, whether the barren kingdom of Sweden, which the gentleman from Virginia (Mr. Randolph) had said, was open to our commerce, would form a sufficient vent for our vast products, to authorize a hope of benefit to us, from permitting our vessels to go there. I believe, however, it will be found, that so small is the consumption of the produce of our agriculturists, hunters, or fishermen, that a single warehouse of an American exporter would be more than sufficient to glut her; and as to the idea of the gentleman, that through Sweden we can get to the Continent with our freights, I ask if he has not heard that the navy of Great Britain infests the seas of the north as well as the south of Europe; that her ships cover the Baltic, and surround the coast of Sweden and Denmark? Will England allow us to go to the Continent, and thus directly and effectually evade her blockake? No, sir; nor is there a hole or corner of the waters of the earth, through which we can now creep to a competent market. Sir, whatever may be the views of aggrandizement which merchants might have on this subject, they would find themselves mistaken. They may, indeed, in the vast labyrinth of orders, decrees, and regulations, perceive some crooked course to steal along with a disgraceful smuggled trade, but I can, with confidence, tell the gentleman from New York (Mr. Mumford) that, if once we open our ports by a general regulation, while the orders of France and England continue, this commerce will no longer enjoy immunity from the permission even of a foreign nation; when our property shall again be fully exposed upon the sea, a general grasp will be made at it; is not the enemy now hovering round you, the hungry birds of prey? Let, then, the gentleman send again his vessels to sea, and he will find only an addition to his great and heavy losses, already stated to be sustained, by the tyranny of France and England. The scene will again shift when our property is put afloat to so great an amount as it would be, and capture and condemnation would succeed to fraud and connivance. Sir, it is time to think more of resistance, and less of refinements in the acts of submission. I hope we shall have the question, and that I shall have the pardon of the House for having contributed to-day to delay it.

The House adjourned, without taking a question, at 3 o'clock.

Tuesday, December 6.

Ordered, That the Message from the President of the United States, communicating a report from the Surveyor of the Public Buildings in the City of Washington, which was read and ordered to lie on the table on the second instant, be referred to the Committee for the District of Columbia.

Mr. Smilie presented a petition of Edward Livingston, of the Territory of Orleans, stating his claim to the lots or parcels of land called the "Batture," in the vicinity of the city of New Orleans and praying that the title in fee simple to the said lots or parcels of land, may be confirmed to the petitioner, or such other relief afforded in the premises as to the wisdom and justice of Congress shall seem meet.

Mr. G. W. Campbell presented petitions from sundry citizens of the Territory of Orleans, in opposition to the prayer of the foregoing petition, and suggesting that the right to the said lots or parcels of land hath not been relinquished by the former Sovereigns of the country, but is now vested by the act of cession in the Government of the United States, and that it would contribute to the benefit of the petitioners and others, to preserve the Batture as a common, open and unbuilt upon by any person or persons claiming the same.

The said petitions were read, and severally referred to the Attorney General, with instructions to examine the same, and report his opinion thereupon to the House.

FOREIGN RELATIONS.

The report of the Committee on Foreign Relations being again before the House, and the question still on the first resolution—

Mr. Gholson said: Mr. Speaker, were I to yield to my embarrassment on the present occasion, I should not trespass on your indulgence. But when I reflect upon the great national importance of the question now before the House, and upon the high responsibility which its decision must attach to me as one of the Representatives of the people; I am impelled, from considerations of duty, to assign to you the reasons by which I am influenced.

It has been said, sir, with great truth, that the present is an extraordinary crisis. It seems indeed to have been reserved for the age in which we live, to witness a combination of political events unparalleled in the annals of time. Almost the whole civilized world has been within a few years convulsed by wars, battles, and conquests. Kingdoms and empires have been revolutionized; and we behold a vast continent assuming a new aspect under a new dynasty. Those laws which from time immemorial have prescribed and limit-

ed the conduct of nations, are now contemptuously prostrated, innocent neutrality is banished from the ocean, and we hear a grim tyrant asserting himself the sovereign of the seas. Thus the most essential part of the globe is attempted to be partitioned between two domineering rival belligerents. Sir, it would have been a subject of the sincerest felicitation if our happy country could have been exempt from this universal concussion. But we are fated to share evils in the production of which we have had no participation. In inquiring, Mr. Speaker, into the causes of these evils and the policy by which we are to be extricated from them, I am conscious of two things—of my utter incompetency to the elucidation of so great a subject, and of the unavoidable necessity of touching upon ground already occupied by gentlemen who have preceded me in this debate.

When, sir, I recur to the resolutions reported by the Committee of Exterior Relations, I find one which proposes resistance to the edicts of Great Britain and France; and another which recommends a system of non-intercourse between the United States and those countries.

In hearing the first resolution treated as an abstract proposition, my astonishment has been not a little excited. I have always understood an abstract proposition to be the assertion of some general principle without any specific application. Here is a distinct position with a direct reference to particular orders and decrees. The resolution therefore is itself specific and appropriate, to use the apt terms of the gentleman from Connecticut (Mr. Dana.) But before we can determine upon the propriety or impropriety of the resolutions, to me it appears indispensable that we should examine attentively and minutely, not only the situation of this country in relation to France and Britain, but also the injuries and aggressions they have committed upon our neutral rights.

In doing this I regret extremely that I shall wound the delicate taste and exquisite sensibility of my learned colleague (Mr. Randolph) who addressed you yesterday. I shall take no pleasure in the retrospection which seems so much to disgust that gentleman; but I do not know how else to find justification for the measures we, I trust, shall pursue, and to expose the profligacy of our enemies. The regular discussion of the first resolution would seem naturally to lead us to a review of the edicts of Great Britain and France. When we say, we will not submit to their edicts, it cannot be amiss, although I acknowledge, sir, the undertaking is an unpleasant one, to inquire into the nature and extent of those edicts. I therefore will endeavor, within as narrow limits as possible, to exhibit to the view of the indignant American the various wanton aggressions which have been committed by both these Powers upon his commercial rights. And, sir, whenever we look for the chief source of our difficulties, we must turn towards Great Britain. Then let us examine the principal items in her account.

On 8th June, 1793, the British Government issued an Order of Council to stop and detain for condemnation vessels laden with corn, flour, or meal, and bound to France, whose people were then almost in the act of starving, and of course we were deprived of an excellent market for those articles.

On 6th November, 1793, an order issued to stop and detain ships laden with the produce of, or carrying provisions to, the colonies of France.

On 21st March, 1799, she issued a proclamation declaring the United Provinces in a state of blockade, and thereby excluding neutral commerce without any actual investment.

On 16th May, 1806, a proclamation declaring the blockade of the coast from the Elbe to Brest, inclusive.

On 7th January, 1807, an order prohibiting neutral vessels from trading from one port to another of the enemy or his allies.

On 11th May, 1807, a proclamation declaring the blockade of the coast between the Elbe, Weser, and Ems.

On 11th May, 1807, a proclamation declaring the blockade of the Dardanelles and Smyrna.

In October, 1807, a proclamation, ordering British officers to impress from American vessels all such of their crews as might be taken *or mistaken* for British subjects.

On 11th November, 1807, Orders in Council were issued interdicting all neutral commerce to any port of Europe from which the British flag was excluded; directing that neutrals should trade to such ports only, under British license and with British clearances—that all ships destined before the issuing of the orders to any of the said ports, should go into a British port, and that all vessels having "certificates of origin" should be lawful prize.

On 11th November, 1807, an Order in Council was issued, declaring void the legal transfer of vessels from the enemies of Britain, to neutrals or others.

In 1808, various acts of Parliament have been passed, carrying the orders of the 11th of November, 1807, into execution. They impose a specific tax on a variety of articles of American merchandise allowed to be re-exported to the continent of Europe, for example, on tobacco, 12*s.* 6*d.* sterling per cwt.; on indigo, 2*s.* per lb.; pork, 17*s.* 6*d.* per cwt.; cotton, 9*d.* per lb.; and on all other articles not enumerated in the act, a duty of forty per cent. is exacted on re-exportation.

On 8th January, 1808, a proclamation issued declaring the blockade of Carthagena, Cadiz, and St. Lucar, and all the ports between the first and last of these places.

In the Autumn of 1808, in order that plunder might commence from the very moment of the expected repeal of the embargo, the French West India islands were declared in a state of blockade.

I will forbear, sir, at this time from commenting on the habitual impressment of American citizens, by Great Britain; the illegal condemnation of American vessels under what they call the rule of 1756; the spurious blockades of British commanders, and the consequent spoliations on our commerce. Nor will I detain the House by relating the story of Captain Bradley, commander of the Cambrian, who in the face of the

city of New York, and in contempt of the civil authority of the United States, dragged your citizens into slavish captivity. The case too of the British ship Leander may remain untold—the enormity of that transaction is written in indelible characters, with the blood of our countrymen. The invitation of the British Ministry to your merchants to violate the embargo, and the burning of a friendly ship of war (the Impetueux) in your own waters, are circumstances too light to be noticed. I feel no disposition, either, to portray the affair of the Chesapeake. The ghost of the murdered are yet unavenged for that horrid and perfidious deed!

I will now advert, sir, to the principal injuries committed by France on the neutral commerce of the United States. They consist in the execution of three decrees, to wit:

The Berlin decree of the 21st November, 1806, declaring the British islands in a state of blockade, and that no vessel having been at or coming directly from England or her colonies, shall enter at a French port.

The Milan decree of the 17th December, 1807, declaring lawful prize every vessel that has suffered the visit of an English vessel, submitted to an English voyage, or paid duty to the English Government; and also, every vessel coming from the ports of England and her colonies.

The Bayonne decree of April, 1808, which subjects, as it is said, and I believe not doubted, all American vessels found upon the high seas since the embargo, to capture and confiscation.

Here, Mr. Speaker, I will end the black catalogue of iniquitous outrages and restrictions upon neutral commerce—restrictions which are acknowledged to depend for their support upon no other ground than that of retaliation. Whilst I protest against the principle of retaliating upon an enemy through the medium of a friend, yet these orders and decrees have no claim even to that principle. Because France and Britain both agree that the right of retaliation does not accrue before the neutral has acquiesced in the aggressions of the enemy. We have never acquiesced in the aggressions of either, and therefore, upon their own reasoning, ought not to be liable to the operation of the principle for which they unjustly contend. But, sir, can we quit this subject without looking more particularly at the consequences which result from this series of injuries?

In reviewing the conduct of Great Britain towards this country, we perceive a continuation of encroachments, designed only for the utter destruction of our commerce. This disposition is manifest in every order and proclamation she has issued since the year 1793. If this were not her object, why such a continued system of illegitimate blockades? Why so many vexatious restrictions upon neutral trade, tending to destroy competition on our part in the continental markets? I might trace the scheme a little further back and ask, whence the outrages? the orders of June and November, 1793, which produced Jay's treaty? A treaty which I am sorry to say, did not guarantee to us mutual and reciprocal rights, and which was no sooner ratified than violated by British perfidy. But, sir, I will not speak of trivial matters like these; they are of no consequence when we reflect upon other topics. The pretended blockade of almost every port upon the Baltic; the blockade of the eastern and southern coasts of the North Sea, unaccompanied by any naval force; the nominal investment of the ports on the south of the British channel, and on the European coast of the Mediterranean sea; the occlusion of the Black Sea, by the blockade of the Dardanelles and Smyrna, and in fine the blockade of all the places from the Straits of Gibraltar to the Arctic Ocean, are acts which, notwithstanding their unexampled enormity in themselves, sink into perfect insignificance, when we consider the base attempts meditated by the orders of November, 1807, and the consequent statutes of Parliament, to reduce this country again to a state of colonial slavery! Sir, at the very thought of these infamous orders and acts of the British Government, I feel emotions of indignation and contempt, to repress which would be dishonorable. What, sir? American vessels to be arrested in a lawful commerce, upon "the highway of nations;" to be forcibly carried into British ports and there either condemned, or else compelled before they can prosecute their voyage to take British clearances and pay a British tax! And if the owner of the cargo shall be unable to pay the amount of tax, he has the consolation left him of seeing his property burnt! Sooner would I see every vessel and every atom of our surplus produce make one general conflagration in our own country. For what purpose was the Revolution, in which the blood and treasure of our ancestors were the price of independence, if we are now to be taxed by Britain? The highest authority in the Union cannot constitutionally tax the exports, which are in part the products of the labor of the American people; yet the British Government has presumptuously undertaken to do it. I, sir, for one must protest against anything like submission to this conduct. But let us see what we should get by submission. So far from gaining, it will be easy to demonstrate, that if we were to submit, we should be only remunerated with disgrace and ruin.

I will take the ground of the gentlemen in the opposition. The embargo shall be repealed and our trade renewed, subject to the existing orders and decrees of Great Britain and France. What will be the consequences? We are told that we need not trade to France and Britain, and thereby involve ourselves in a disgraceful acquiescence in their edicts; and it seems admitted that on account of the ascendency of the British navy, we cannot visit the ports of that part of Europe which is under the dominion of Napoleon. But, say gentlemen, we may trade to Sweden, and our produce will find its way to the rest of the Continent. This doctrine is chimerical in the extreme. What amount have you heretofore annually exported to Sweden? To the value only of about $50,000; and the truth is, that there is very little market in that country for American articles. Can it, therefore, be seriously believed that there is to be

such an instantaneous translation of capital to Sweden; and that she is suddenly to become so commercial as to afford an entrepot for the whole of our commerce? Will Stockholm and Gottenburg furnish you a market for more than one hundred millions of merchandise? The idea is entirely delusive. Admitting, however, we were to carry on a commerce of this sort, I will ask if it would not be complete submission to Great Britain? Would it not be confining ourselves to the humble, pitiful course she has been pleased to chalk out for us? It certainly would. No, sir, if we trade at all (unless we were to trade in armed ships, the propriety whereof it is not my present purpose to examine) we must go through British ports, and subject to the orders and acts of Britain. Her navy is sufficient either to capture vessels going to the Continent contrary to the Orders of Council, or otherwise to compel such vessels to pass through her ports. Then it seems clear, if the embargo were at this time removed, we should be compelled to trade with or through Great Britain, or else our vessels and property would be subject to confiscation. I will, therefore, proceed to count the effects of such an intercourse.

In the first place, that a commerce of this sort would be a complete abandonment of every principle of national honor, cannot be denied; unless it be contended that to obey the mandates of, and pay tribute to, another Government would not be dishonorable. But we will for a while dispense with the question of national disgrace, and calculate the profit and loss. In this estimate it will be easy to prove, that by a commerce subject to the Orders of Council and such as is contemplated by some gentlemen, we should annually pay an actual and unconstitutional tax into the British treasury, of more than twice the amount of our own revenue. Upon the articles of cotton and tobacco only, we should be compelled to pay a tax of upwards of seven millions of dollars, according to the rates imposed by the late acts of Parliament. We export annually, 62,000,000 lbs. of cotton, all of which would go to or through Britain for a market, because our cotton is not wanted at any of the uninterdicted places. It appears from documents published in Great Britain (and the correctness of which, I believe, cannot be questioned) that she does not consume more than one half of our cotton. She is stated to have manufactured, per annum, before the orders of November, American cotton to the value of about 3,900,000*l.* sterling, which sum would purchase at the English prices, but one half of our exports of that article. Hence, the residue of 32,000,000 lbs., in passing through England to some other maket, would be subject to the tax levied by Parliament of 9*d.* sterling per pound. This duty on 32,000,000 lbs. will amount to $5,333,333 33 cents.

We export 85,000 hogsheads of tobacco. Admit, what is a large allowance, that 10,000 hogsheads would be sent to Sweden and other uninterdicted ports, and that 15,000 hogsheads, one-fifth of the remaining 75,000, will be consumed in Britain; then we should by the Orders of the Council, and acts of Parliament, pay a tax at the rate of 12*s.* 6*d.* sterling per cwt. on 60,000 hogsheads which would pass through England to a market. This tax, admitting each hogshead to weigh only 1,200 lbs., would amount to $2,000,000, which added to the cotton tax, will give you the sum of $7,333,333 33.

Upon recurring to the act of Parliament carrying into effect the orders of November, it will be found that all such articles as are specified in the act and subjected to particular stated taxation per lb., cwt., bbl., &c., pay about forty per cent. on their value. This position is confirmed by the fact that on all articles not enumerated, forty per cent. is the duty imposed. Now let us see what this duty of forty per cent. will produce on the remainder of our exports, tobacco and cotton being excepted.

From the report of the Secretary of the Treasury for the year 1807, it seems that the total amount of our exports for that year was $108,343,150. From this amount I will deduct the exports to Great Britain, the exports to places not interdicted by the Orders in Council, and the value of the cotton and tobacco, the tax on which is already calculated, and then the balance will be the sum on which the transit duty of forty per cent. will be paid.

Total amount of exports - - -		$108,343,150
Deduct exports to Britain, per Secretary's report -	$31,015,623	
Do. exports to places not interdicted by Orders in Council, amounting, per Secretary's report, to not quite - - - -	7,000,000	
Deduct one half the value of cotton, and four-fifths the value of tobacco exported, amounting per the Secretary's report, to - -	11,679,333	
		49,694,956
Balance subject to duty on re-exportation - - - - - - -		$58,648,194
On which calculate tax of 40 per cent. and it will amount to - - -		$23,459,266 70
To which add tax on tobacco and cotton - - - - - - -		7,333,333 33
Making the sum of - - -		$30,792,600 03

Thus, Mr. Speaker, it most manifestly appears that in the prosecution of a trade subject to the existing restrictions we should be compelled to pay a tax of upwards of $30,000,000 per annum to England, for the exercise of our natural and unequivocal right to navigate the ocean. But can any one believe that a commerce oppressed in this manner would be profitable. What is the opinion of the most eminent and respectable merchants in both Britain and America on this point? They tell you that after the cargo has paid import duty, a tax for clearance, export duty, the expenses of separate shipments, first to England, and

then to the place of consumption, together with all the charges attending such circuity, the exporter will be found in debt, and that such a trade will not pay costs. No, sir, if you resume your trade upon these conditions you will barter national honor for inevitable bankruptcy and ruin.

I trust, Mr. Speaker, I have succeeded in showing that a commerce of this sort would involve in it the basest submission, mercantile ruin, and the payment of millions of tribute. I will now proceed to inquire what effects a system of non-intercourse with the two great belligerents would produce on them and on ourselves.

As to France, since the embargo, has already cut off communication from this country to that, and inasmuch as the superiority of the British navy prohibits adventures from France to America, it is true a non-intercourse law in its operation will be but little more than nominal so far as it respects France. But as France has injured us, although I acknowledge her aggressions bear no parrallelism with those of England, yet I am in favor of expressing, either by a suspension of intercourse or in any other way, the resentment of the nation for such aggressions; and when the injuries of France shall equal the injuries of Britain, I will go the same length for redress against the one as against the other.

But, sir, a non-intercourse measure will be attended with very different consequences, in relation to Great Britain. If such a measure were rigorously executed in this country, what effects would it produce in the first place upon the British manufactories? Five-eighths of the cotton manufactured in Britain, both for home consumption and for exportation, are carried from America. This important fact is proved by the import and export statements published in that country. How then is Britain to be supplied with that necessary article, without which her cotton manufactures must cease? The remaining three-eighths of cotton which she gets from other countries will not, I presume, more than clothe her own people, and of course there will be nothing left for exportation. It is idle to talk of supplies from Africa and South America, where there is scarcely any cotton raised.

From whence is Great Britain supplied with the essential articles of grain and meal, pot and pearl ashes, pitch, tar, turpentine, flax and linseed, and wool? More than two-thirds of the total amount of these articles consumed by her, she receives from the United States.

The loss of revenue, sir, which England must experience by non-intercourse with this country will be enormous, and would be felt by her at this time with peculiar severity. She would also dislike to see London no more the banking place for American merchants, and would feel the loss of a balance of trade in her favor, of upwards of five millions sterling annually, and which is so much boasted of by her merchants upon the exchange. But, Mr. Speaker, the greatest injury to which Britain will be subjected is that which will result from the non-importation part of the system, from the entire exclusion of all her surplus manufactures from the American market. She is at this time almost shut out from the continent of Europe, and if her dealings with her customers in this country are cut off, what sale will she be able to make of her merchandise? Such a state of things, sir, must inevitably tend to the universal impoverishment of Great Britain, and may bring her perhaps to a sense of justice.

The evils and privations which we ourselves shall experience from a system of non-intercourse are, I acknowledge, much to be regretted, but from the nature of the times they are unavoidable. That there is now and will be a diminution of circulating medium, I am ready to admit. That the sources of the revenue will likewise be in a great measure dried up is equally true. But, sir, I contend that these inconveniences are alike inevitable whether we have embargo or not. Would war have bettered our situation in these respects? Would such a trade as has been mentioned by gentlemen, or a trade trammelled by the existing belligerent restrictions, fill your public coffers and enrich your citizens? It has been shown clearly it would only reward you with dishonor.

But, Mr. Speaker, if we have privations to encounter, we have already received incalculable benefits from the embargo, and shall, I have no doubt, derive many advantages in a political point of view from a suspension of imports. The embargo has saved from seizure and confiscation more than one hundred millions of American property, and has rescued from foreign imprisonment thousands of American citizens. Non-intercourse will still protect our property and citizens until we can acquire other means of protection. It will render the country more independent by encouraging internal manufactures. We have ample means of support at home, and should therefore avoid an habitual dependence on others for many of the comforts of life. Non-intercourse will moreover promote frugality and economy by banishing foreign superfluities—and here Mr. Speaker, I will notice one circumstance, which is entitled to great weight. We export necessaries to Great Britain, we get in return, from that country, but little else than luxuries

But, sir, if we should be compelled by the injustice of our adversaries to persevere for any time in this policy, our fellow-citizens of the East, who have been accustomed to employment at sea, may become manufacturers for their agricultural brethren of the South, and in return may procure such necessary supplies as they may wish. Thus that traffic which has been carried on between New and Old England may be converted into a new channel of beneficial commerce between the Eastern and Southern States. Our own manufactures will by these means soon fill our storehouses, give activity to capital, and restore the circulation of money. The grower of cotton too will be benefited by finding a market for that article.

By prohibiting, sir, the importation of all foreign liquors, the corn and wheat farmer might also be greatly relieved, notwithstanding the embargo. We import annually $16,096,613 worth of liquors, to make which, or their substitutes, would require

the distillation of five millions of bushels of grain; we only export about seven millions of bushels, so that we should find at home by a disuse of foreign spirits, a market for five-sevenths of our surplus grain.

It is asked, Mr. Speaker, whether the embargo is to be perpetual? and the General Government is charged with the design of annihilating commerce. I wish, sir, to give to the embargo, or rather to a non-intercourse policy, which I should have preferred in the first instance to an embargo, a fair experiment; and if, after the rigid enforcement of its provisions, for a reasonable time, it be found ineffectual, then the magnanimity of Congress will require that some other expedient be adopted in its stead. So far from a perpetual embargo, which I believe is not thought of by any one, I would resume the commerce of the country the very moment it can be done with safety or credit to ourselves, or as soon as we can acquire strength to protect our rights upon the ocean. But I am opposed to having any course of conduct dictated by the avarice and cupidity of merchants; but for whose shameful violations of the embargo that measure would, in all probability before this, have produced the end for which it was intended. If there are merchants who suffer more than the rest of the community, I am sorry for it. There is, however, one consolation left them; they can, while prevented by the exigencies of the country from pursuing their ordinary profession, betake themselves to the loom or plough—occupations as respectable as they do now, or can follow. And, sir, if many of those powder-headed gentry who infest your towns, and sap their very existence out of the honest planter, were under the necessity of resorting to some laborious avocation for a livelihood, society would sustain no injury from it.

To the charge that Congress or the Government meditate the destruction of commerce, I answer that such an accusation is totally unfounded, and therefore I positively deny it—I deny it, because it is contradicted by the whole course and tenor of Congressional and Executive proceedings; Congress have uniformly devoted more attention and given more encouragement to commerce alone than to every other object of national jurisdiction collectively.

It has been said that the Eastern States only suffer by the embargo; and the tonnage of Massachusetts has been compared to that of Virginia as five to one. When we look at the estimates of domestic exports, we find that the principal amount is composed of articles the exclusive production of the Southern States. The proper and actual exports of all New England do not equal those of Virginia alone. I wish to make no comparisons; they have not been introduced by me. If, notwithstanding, we are driven into acts of this sort, the Eastern people, in a commercial point of view, are principally the carriers for the Southern; and the present suspension is only a suspension of their carrying trade. But, sir, we are all one political family, and no matter what part enjoys most the benefits of commerce. I am willing to go any length, within the resources of the nation, for its maintenance and protection. If embargo and non-intercourse shall be found inefficient restraints on our adversaries, to insure us justice, I will unite in making the last appeal of nations.

Permit me, now, Mr. Speaker, to occupy a few moments of your attention in noticing some of the arguments advanced by my colleague, (Mr. Randolph)—a gentleman of whose talents and patriotism I have long entertained the most exalted opinion, but with whom it is my lot to differ. That gentleman has asked, for what purposes was the General Government created? He has told us that commercial regulations were the objects of its organization. The authors of the Constitution inform us that that instrument was ordained "in order to form a more perfect union, establish 'justice, insure domestic tranquillity, provide for 'the common defence, promote the general wel-'fare, and secure the blessings of liberty to our-'selves and our posterity." The regulation of commerce is not stated as a specific object of the compact of the States; and, although it is very justly enumerated amongst the powers of Congress, and is certainly highly entitled to their consideration, yet there are other duties enjoined on Congress which are paramount even to the protection of commerce.

The gentleman has discovered great solicitude about State rights, and affirms that the man who is likely to wield the destinies of the United States has long thought the State sovereignties ought not to exist. He asks, also, if it is not now proposed to extend the powers of the General Government, at the expense of the State governments?

What connexion can exist between this latter question and the subject now before us, I am unable to perceive. I shall have no objection to meet the question, when that part of the President's Message to which the gentleman alludes shall come fairly before the House. Were I, however to express an opinion, it would be, that, instead of attempting to excite distrust and apprehensions respecting the present Executive, sentiments of gratitude should be inculcated for the innumerable political blessings which the people of these States have experienced at the hands of the best Administration which the world has ever seen.

In regard, sir, to the charge against "the man who is about to wield the destinies of the Union," I will only remark, that I felt not a little astonishment at hearing my worthy colleague make a newspaper publication, evidently intended for electioneering purposes, the basis of so serious an accusation before this body. The very circumstances under which the publication of Judge Yates' notes has been made, prove that it deserves no sort of credit. Would it not have been more patriotic and honorable to have exhibited the charges contained in that publication at a time which would have afforded an opportunity for their investigation before the decision of the Presidential election? If it were necessary, upon this charge, I would refer to the archives of Virginia, for the year 1799, where would be found the most

signal testimony in behalf of the illustrious person to whom allusion has been made. But his character is fortified by too many distingushed deeds of patriotism to suffer by such an assault.

Mr. Speaker, there is one part of the gentleman's argument which I know not how he can justify. It is that in which he accuses the Americans with cowardice, asserting that we "will show our heels to the enemy."

[Here Mr. Randolph explained, and observed that he had not made use of the words in that sense; that he had intended to use them only hypothetically, and did not insinuate that the Americans were deficient in bravery.]

Mr. Gholson proceeded. I am happy at the explanation of my colleague. It is very far from my intention to misrepresent him. My inference was from the words as I had noted them. I however will add, that the Americans will be ever ready to repair with enthusiasm to the standard of their country, when its liberty shall be assailed.

The gentleman reminds us that we have engagements to fulfil; that you cannot dispense with your revenue; and that Sweden is still free to your ships. I hold the public engagements to be sacred, but, if the imposts are not to be dispensed with, I should be glad if that enlightened gentleman would show how the income resulting from them can be continued. Would war, sir, have supplied you with funds, or would the Exchequer find resources in a trade with Sweden? I repeat, again, that the idea of Sweden's furnishing a market for our produce is perfectly visionary. A poor, barren, frigid climate, more the resort of wolves and birds of prey, than of commerce!

The same honorable gentleman has said that property has fallen to nothing, and that the present system will end in the demoralization of the people. I affirm, sir, that if the embargo had not been laid, the prices of produce (which always regulate the value of property) would not have been better than they are now. Our produce in our warehouses is worth something, but, devoted to seizure and confiscation, would be worth nothing, except to our adversaries. Were prices better during our differences with England in 1793, and with France in 1799, than at present? At the former period, tobacco was not higher than two dollars and fifty-three cents; and at the latter, I believe, not more than four dollars per hundred weight. As to the demoralizing tendencies of the embargo, I must be permitted to observe, that, if the habits of frugality and economy which it has produced; if the banishment of luxuries, and consequently in some degree of vice from the nation, will demoralize the people; then that deplorable effect may justly be attributed to the present system.

I have now, Mr. Speaker, concluded the remarks which I intended to make. I am very sensible that I may have taken an incorrect view of this all-important subject. I know, even those who are infinitely my superiors in political science do frequently err. We may say, *humanum est errare.* When I shall be convinced that I am in error, I shall have no hesitation in acknowledging it, and in contributing my feeble support to another and better system. My deepest solicitude is to pursue that course which shall redound most to the honor and welfare of my country.

Mr. G. W. Campbell said it might have been expected that he should before this time have risen to notice some of the objections made to this resolution and the report of the committee on foreign relations, in order to rescue them from the unqualified and general, though in some instances, very weak and inconsistent censures attempted to be thrown upon them. He had hitherto waited patiently to hear some of those gentlemen who oppose the report state some specific ground of objection, either to the principles assumed in it, to the facts therein stated, to the reasoning upon those principles and facts, or to the conclusions drawn from them. He had expected when gentlemen so very liberally censured the report, that they would at least fix on some definite objections as the foundations of those censures, that were capable of being comprehended, of becoming the subject of investigation, and receiving some specific answer. He had, however, waited in vain. We have heard some general objections taken, but gentlemen have not attempted to deny a single principle assumed in the report; nor to show the incorrectness of a single statement of facts made in it; nor have they yet ventured to deny any part of the reasoning, or to dispute the correctness of the conclusions deduced therefrom. The gentleman from Massachusetts, (Mr. Quincy,) who bestows his censures so very liberally, and in terms so very elegant and peculiar to himself, has not pointed to a single part of the report to which he objected in particular. His censures were general and indefinite, and, it might be added, most of them inconsistent and incomprehensible. Some of his objections will be noticed, so far as they relate to the subject under discussion; others of them are of a character not to be noticed for the purpose of investigation. They ought not to stain the page of debate; if noticed at all, it will be only for the purpose of showing that they are totally inapplicable to the subject, and that the public may see the wretched shifts to which gentlemen are put to support their opposition.

Sir, after the House has been nearly two weeks engaged in a discussion in which gentlemen have indulged themselves in such a range that the subject which produced it is almost entirely lost sight of, it is high time to bring our minds back to the real question, which we are about to decide. The debate seems, indeed, to have had no bounds assigned to it; every subject of domestic as well as foreign affairs has been embraced by it. This desultory kind of declamatory discussion, censuring every measure, either adopted or proposed, without offering any substitute, can only be designed for the popular ear, to amuse the public mind, and divert it from perceiving the real course which gentlemen are pursuing, and to cover the abject submission to which that course would lead. The public must see that those gentlemen in the opposition can have no other object

in view in exaggerating the distresses of this country under the embargo, in calling it submission, in painting in the highest colors the unavenged wrongs of this country, without proposing any measure of redress, but to turn away the public attention from the real causes of our present difficulties, and prevent the people from perceiving the gulf of disgrace into which the course pursued by those very gentlemen would plunge the nation. These gentlemen must be sensible, that to do nothing but remove the embargo, would be submission of the most humble kind; and, in order to conceal the deformity of such a proposition, they seem desirous to anticipate the public sentiment, and make an impression abroad that the measures pursued by your Government, which were charged, last session, as likely to produce war, are now submission, mere submission, and nothing else. They tell the people, "Your rights are sacrificed by those whom you have intrusted to manage your affairs; everything is going wrong; turn them out and put us (the minority) in power, and we will heal all your wounds; we will set all things right." What other object than this can be ascribed to those speeches we have heard. I have, sir, been unintentionally hurried into these remarks, which have carried me, in some degree, away from the course I meant to pursue. I will return to the subject immediately before you. I cannot, however, avoid first expressing my astonishment at the line of conduct pursued by the gentleman from Virginia, (Mr. RANDOLPH.) He favored us with two eloquent speeches of some length, partaking in a great degree of a war spirit, and breathing great indignation at foreign aggressions, and censuring temporizing, submissive conduct at home. Much of these speeches amused us, and some parts of them I was really happy to hear, as I was thereby induced to believe, that he was about to assume, with us, a higher ground than that we had hitherto occupied; but when I heard the gentleman descend from the climax to which he had arisen, of avenging his country's wrongs, as it would seem, to the very bathos of doing nothing, worse than nothing, of taking off the embargo, and trading with Great Britain, thereby submitting to her orders, I was, sir, astonished; my very blood chilled in my veins, and so must that of every American who heard him—[Mr. RANDOLPH said that was not his ground.] I will state, said Mr. C., what the gentleman said, and what I considered his ground. If I misunderstood him, I am willing to be corrected. He said, "Will you go to war? will you increase the taxes? No," the gentleman answers—"I will not increase the taxes, I am for opening your trade with both those Powers"—meaning as I understood him, Great Britain and France. If I am not correct in this statement of what he said, I am always willing to have any explanation which any gentleman wishes to make as to facts. [Mr. RANDOLPH.—Does it become me to correct that gentleman? Does it become me, after the very candid ascription of motive which he has made, which was as foreign from myself as others, that I should explain what I did say?] Mr. CAMPBELL said, he had given the floor in order to permit the gentleman to state or explain what he had said, not to argue the point. [Mr. RANDOLPH.—The gentleman has abdicated the floor; sir, he has surrendered it to me, and, under the correction of the Chair, I will keep it. I deny that the ground which I am charged with having taken is my ground. It has been put under me by another. It is not improbable, sir, under the circumstances under which I addressed you yesterday, that I may not have at all times, in every sentence, in every minute particular, expressed myself with great precision. But certainly this House, and every one who heard me, must know, that I did not take the ground of submission to the two belligerents, or of trading with them on their own terms.]

Mr. CAMPBELL.—We are now precisely where we were before the gentleman explained. The words which I have stated as having been used by him are not denied, and they justify the statement I have made. I feel no disposition to distort or exaggerate anything that gentlemen say; nor to ascribe to them motives different from those by which they are actuated, or other objects than those they really have in view; but I must be permitted to make such deductions from plain and explicit language as it will fairly warrant. Now, to open your ports and trade with both those Powers, without adopting any other measure, under existing circumstances, I consider a direct and unconditional submission; hence I feel myself strictly authorized by the gentleman's language to say, that the course suggested by him would be the most humble of all submissions, and without even an apology for national disgrace. And what object can gentlemen have in view in making speeches that breathe the spirit of resistance and war, and at the same time refusing to take a single measure calculated to vindicate the injured rights of their country; telling you in plain terms they will do nothing, unless indeed it be to conceal from the public eye the humiliating condition to which their course would bring the nation? I can see none. These are my deductions from what has been said on this floor. The gentleman from Virginia (Mr. RANDOLPH) says his plan was not submission. If so, it is extremely easy, sir, for that gentleman, who every one knows can express his sentiments as clearly and distinctly as any man in the nation, (and in saying this I am not paying any compliment to the gentleman,) it is very easy for him, sir, to tell us precisely what is his plan, what are his objects. But, sir, I will pursue this part of the subject no further at this time, but return to the course I proposed to pursue, and, in the first place, notice some of the objections made to this report.

The House must excuse the want of methodical arrangement in the remarks which I may make. It will probably be impracticable, if not totally impossible, in noticing the inconsistent, and, in many instances, contradictory objections, made to the measure before you, to pursue any regular system.

The style of the report, and the mode in which

the subject is treated, which seem to be particularly objectionable to the gentleman from Virginia, for he says it is not served up with such exquisite taste as it might be, will not be examined here. The report is before the public, who will decide no doubt impartially on those points. In their decision I shall very willingly acquiesce. These objections, however, whether well or ill founded, cannot affect the substance of the report. This will rest on its own merits. The facts stated in it are supported by documents, the truth of which will not be denied. The principles assumed are such as I presume it would not suit gentlemen to deny before the American people; they have not denied them. These, together with the reasoning upon them, and the conclusions drawn therefrom, are calculated to show the unprovoked wrongs, and to vindicate the injured rights of the people of this country; it may not, therefore, answer the purpose gentlemen have in view, to deny these directly, or to specify the particular part to which they are so much opposed. They have hitherto declined doing this, and have contented themselves with making vague and general objections to the whole measure, and, at the same time, they tell you, with one exception only, that they will vote for the resolution, while they consume the time of the House in arguing against it. Gentlemen tell you the first resolution under consideration is perfectly useless; that it is so clear it cannot be disputed; and yet, sir, we have not been able to get a question upon it for ten days. Some say they have no objections to it; others do not like it, but still they will not vote against it. One gentleman (Mr. GARDENIER) considered it so extremely clear, so self-evident, that he must vote against it. That is, he must, in order to show his consistency, record his vote against a proposition that was too self-evident to be denied. This kind of logic is to me incomprehensible. The gentleman says, we cannot, or ought not, to submit to anything. He will, therefore, vote against the resolution declaring that we cannot, &c., submit to the edicts of Great Britain and France; the effect of his vote therefore, must be, that we can and will submit to those edicts; as the negative must be the converse of the positive, and all this because the question is too clear to admit of doubt. Yes, sir, because the sun shines into your Chamber at noon day, that no reasoning can be necessary to establish the fact; the gentleman will tell you that it is so self-evident, that he must solemnly affirm, by his vote, that it does not shine at all. I shall not pretend to answer this kind of reasoning.

Some gentlemen object to this resolution on the ground that it is an abstract proposition, and that no bill is to be founded upon it. It has been correctly stated by the gentleman from Virginia, (Mr. GHOLSON,) that it is not, strictly speaking, an abstract proposition. It is, in fact, expressing the sense of the House on the subject of submission as applied to the existing state of things; it may contain an acknowledged truth, but that is applied to the present state of our foreign relations, and so far it is specific. But suppose it were as abstract as gentlemen choose to consider it, still it would be parliamentary, and perfectly consistent with the practice and usages of deliberative bodies, and of this House to adopt it. I need not remind the House of the case when the right of deposite at New Orleans was interrupted. A declaration was then made, asserting our right to the navigation of the river Mississippi, and to the privileges consequent of that right, and our determination to maintain that right and those privileges unimpaired. What is the case now? The privilege of carrying your produce to its usual market is interdicted, and you are called on to declare that you will not submit to this infraction of your rights. I wish the gentleman to point out the difference in principle between declaring that you will not submit to an interruption of the right of deposite for your produce, as was the case at New Orleans, and a declaration that you will not submit to the interdiction of the right of carrying your produce to market, which is the present case. In the one case, the right of deposite is interrupted; in the other, the right of transit or of pursuing your lawful commerce, is interdicted; the principle in both cases is precisely the same. Many other instances of a similar nature might be introduced, if thought necessary, to show that this course is perfectly consistent with parliamentary usage. But I had supposed, sir, the few remarks I made when this subject was first taken up, would have prevented, or at least rendered unnecessary, the objections taken to this resolution. It was then stated to the House as a proposition so clear and self-evident, that I could scarcely bring myself to think it necessary. That it was fixed upon as a rallying point at which all would unite, and short of which no one would wish to stop, and it was supposed no objections would be made to it. It was not proposed as a measure upon which a bill or law was to be founded, and the objections taken on this ground are futile beyond description. It was intended, and will have the effect of showing to the American people who are willing to maintain their rights against foreign aggressions, and who are prepared and willing to submit tamely to those aggressions, and to admit that those edicts, violating your commercial and neutral rights, are perfectly correct, and therefore ought not to be resisted. The vote on this resolution may determine this point. Those who vote against the principle contained in the resolution, to wit: that we cannot submit to those edicts, must of necessity vote in favor of its opposite or contrary, that we can and will submit to them. There is no middle course between the negative and the positive, that I am acquainted with, that will enable gentlemen to vote against this resolution, and yet evade voting for submission to the edicts of Great Britain and France.

The gentleman from Virginia reminds us that we have been four weeks in session, being the fourth part of the time assigned by the Constitution for our deliberation and inquiries—what have we done? What progress has been made in public business? I regret the loss of time, sir, as much as any gentleman; but when we are re-

minded of its rapid progress, and that we have not improved it, it would seem reasonable that those who complain should inform us what we ought, in their opinion, to have done, what they themselves have done, or what they would wish to do.

If they would point out the course they wish to pursue, we might possibly go with them, and thus hasten the progress of public business. None of the gentlemen has explicitly stated his plan. So far as they have divulged their project, it amounts to unconditional submission, that would plunge the nation into an abyss of disgrace. You are told to retrace your steps; to abandon the only measure for resisting foreign aggressions to which you have resorted; to acknowledge your error; that is, to announce to the world that we were totally wrong in opposing the Orders in Council of His Most Gracious Majesty, King George III, and the decrees of the Great Emperor of the French; and that we are willing to remove the embargo, and take just what little commerce they are pleased to assign us. If this be the gentleman's plan, I beg leave to enter my protest against it, and to declare that it never shall, with my consent, stain the page of your Journal.

Being in some measure called upon by the gentleman from Virginia, to explain some pretended inconsistency he has discovered in this report, I shall briefly notice some of the objections he has made to it. I could have wished that he had specified his objections so as to be capable of becoming the subject of investigation, that their merits might be ascertained, and that they might be susceptible of a specific answer. He has not done so; his censures and objections are vague and in general terms, not definite, nor, indeed, consistent or distinctly comprehensible. He says you must have something better than this report to extricate you from your present difficulties, but he does not tell you what that must be; nor does he offer any substitute for it. He observes that reports of committees, and correspondences of Ministers, and instructions of Secretaries of State, will not protect your rights or secure your independence; and seems to regret that the Secretary of State can write so well, because he says, whilst you have the best of the argument, you have the worst of the battle. I do not, sir, perceive any force of reasoning in all this, nor can I comprehend what object the gentleman had in view, unless it be to make known to the public his disapprobation of everything that was done, without assigning even a plausible reason for it. Certainly, our having the best of the argument cannot be the cause of our having the worst of the battle; and if we have, as he says, the worst of the battle, it could be no consolation to us to have also the worst of the argument, nor would this better our situation. Why the gentleman should seem to regret that your statesmen can so successfully show the justice of your cause, is indeed incomprehensible; as it never can, by any possibility, add to the number of aggressions committed on your rights. They would remain the same, whether the subjects of them were well or illy discussed. It may be thought by some, but surely, I trust, not by that gentleman, a most unfortunate circumstance, that Mr. Madison can write so well, as it has thrown the diplomatic corps of George III in the back-ground; for, with all their Court intrigue and diplomatic address, they have certainly been foiled in the late discussions. It cannot, however, be pretended, that this brought the nation into its present difficulties.

With regard to the first resolution, now under discussion, the objections taken to it by the gentleman are extremely inconsistent, and some of them appear to me in direct contradiction to each other. He first says, "the resolution is weak, feeble, and useless;" and in another part of his speech, he asks, "whether this resolution is intended as a declaration of war." How the gentleman can consider the same resolution feeble, and therefore useless, and also as a declaration of war, is to me incomprehensible. But this kind of reasoning is in perfect consistency with the course pursued by gentlemen for the last two or three years. We were told last year that the embargo was war against Great Britain; now, we are told by the same men, that it is submission to her. In 1805, we were told the non-importation act was war, in the strongest terms, against the same Power; you were told that, by it, you were about to put the match to the train which would explode throughout the United States; you are now told that with the non-importation act commenced your career of submission. Surely, sir, what was war in 1805 and 1806, cannot since have become submission; nor can what was war in 1807, be now turned into submission. The gentleman, with all his eloquence, will not be able to reconcile to the people of the United States such inconsistencies, or induce them to believe in them.

The gentleman asked for some explanation respecting what he considered an inconsistency or anachronism in the report. I presume he must have been mistaken in the dates to which he alluded, or he would not have made this inquiry, as nothing is necessary to show that there is no inconsistency in that part of the report to which he alluded, but to examine and understand it.

The paragraphs which the gentleman read are these: The first in the fifth page of the report:

"The Milan decree of 1807 can still less rest for its defence on the supposed acquiescence of the United States in the British Orders of the preceding month, since those Orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree."

The other paragraph was in the eighth and ninth pages:

"This, (the instruction of the Council of Prizes, &c.) was received on the —— day of December; and a copy of the decision in the case of the Horizon, having at the same time reached Government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French Decrees, and recommended the embargo, which was accordingly laid on the 22d of December, 1807; at which time it was well understood, in this country, that the British Orders of Council, of

November preceding, had issued, although they were not officially communicated to our Government."

Now, sir, the statements here made, are, that, at the date of the Milan decree, the Orders of Council of 11th of November, were not known in America, and that when the embargo was laid, it was well understood that they had issued. The Milan decree is dated on the 17th of December, 1807, the embargo was laid on the 22d of that month—five days afterward. The assertion, therefore, in the report is, that those Orders of Council were not known here to have issued on the seventeenth day of December, but that, on the 22d of that month, it was well understood they had issued. This is perfectly consistent, involves no anachronism, and was in fact the case, as I shall show the House. It may, however, be proper here to observe that, in such a document as that now before you, it would not have been correct to state that those orders were known here, so as to require, on our part, any measure of resistance to be taken in regard to them, in order to avoid a charge of acquiescence in them being made by a third Power, until they were officially communicated to our Government. This is the ground taken in the report. It states that "the Milan decree of 1807, can still less rest for its defence on the supposed acquiescence of the United States in the British orders of the preceding month," &c.; and to prove, beyond a doubt, that France had no such pretext to justify her decree, we say that, so far from having acquiesced in those orders, they were not even known here at that time. The knowledge of them here meant would properly be considered that which would result from an official communication of them to the Government. This might, with propriety, be considered the meaning of the report, and in that sense we were not made acquainted with the orders until the 23d of February, 1808, when they were officially communicated by Mr. Erskine. But, in the present instance, it is not necessary to resort to this construction to justify the statement in the report. For, according to the ordinary meaning of the term, the existence of those orders was not known to us (at least to me) on the 17th of December, 1807, and it was known to us, though not officially, on the 22d of that month. To show this, I beg leave to read to the House a short paragraph from a paper printed in this city, the National Intelligencer, of the 18th December, 1807, stated to be taken from a London print, it is as follows:

"A proclamation is now, we understand, in readiness for His Majesty's signature, declaring France and the whole of her vassal kingdoms in a state of siege, and prohibiting all intercourse with her or them, all entrance of vessels into their or her harbors, except of such as have cleared last from a British port, either home or foreign."

This is the first information, as far as known, received here, of the existence of those orders, and proves the correctness of the statement in the report—it being subsequent to the 17th, and previous to the 22d of December, 1807. This paragraph also fully answers another objection taken by the same gentleman to a statement in the report. He told you that, although it was asserted in the ninth page of the report, at the time the embargo was laid, it was generally understood here, the Orders of Council had issued, yet that in fact the British proclamation respecting seamen, and the injurious construction given the Berlin decree, were the real causes of laying the embargo, and that the Orders of Council did not constitute any part of the ground of this measure. We assert that the existence of these orders was known here, though not officially, when the embargo was laid. This fact is proved beyond a doubt by the paragraph which I have just read to the House, which shows that, on the 18th December, four days before the law passed, the information alluded to was published in this city.

This is the knowledge of those orders, alluded to in the report, which, connected with the note of the British Commissioners, annexed to the famous treaty of Mr. Monroe, so often noticed in this House, was, in my mind, conclusive evidence that the Orders in Council had issued, or at least were prepared to be issued. That note declared, in express terms, that if France did carry into execution the Berlin decree, &c., and if neutral nations did not effectually resist such execution, His Majesty might probably be compelled to adopt measures of retaliation, &c. We were apprized that the execution of the Berlin decree had been determined upon and carried into effect; we were, therefore, authorized to conclude that the British Government would carry into effect the threatened measures of retaliation; and we were further informed by the public prints of that country, as already shown, that such orders were actually in a state of preparation, and about to be officially published. What stronger proof could be required of the existence of those orders? I cannot judge of the motives which actuated other gentlemen, or of the grounds upon which they voted for the embargo. For myself, I can say that this information, in regard to those orders, had with me considerable weight, and when connected with the note alluded to, did induce me to vote precisely in the same manner I would have done if the Orders in Council had been officially laid on your table.

We are told, by the gentleman from Virginia, that we ought to have more of action and less of argument. This kind of memento has been so often repeated in this House, showing not what you ought to do, but that you ought to do something, that it has become the stale phrase in every one's mouth. It is a sufficient answer to those who use it, to ask them, as already, what they have done, or what they wish to do, to relieve the nation from its present difficult situation? They cry out, all is wrong; but not one of them tells you what would be right. They insist you are lost in a wilderness of difficulties; but they do not even point to the way that will lead you out. It is, sir, much easier to find fault with existing measures, than to propose such as would be better, in their stead. So long as human nature is

so much under the control of capricious passions, and the malignant spleen of disappointed ambition, the most correct measures that can be devised will be censured, cavilled at, and found fault with, by certain men. We now call upon those gentlemen who exclaim against everything that has been done, or proposed to be done, to give us their project; to tell the nation what they would do, what plan they wish to follow. Until they do this, the public must and will consider their objections as unfounded, and as being the mere offspring of a captious disposition, or rancorous spleen. I do not wish to be understood as impeaching the motives of those gentlemen; they may possibly think their conduct is correct; but their object cannot well be mistaken. It is evidently an effort of the outs to get in. The common cry is, that everything is going wrong—the measures of the present Administration have brought you into all your difficulties—have brought you to the verge of ruin—there must be a change of measures to save you! What conclusion is to be drawn from all this? Why, sir, it is plainly this: That those gentlemen call on the people to turn out those who now manage their public affairs, and put them in. They say, "all is going wrong," and may plainly be understood to mean, "put us in, and all will go right—we will not tell you what course we will adopt until we are in the full possession of power; we will then tell you what we will do." Yes, sir; and what would they do? The same they did before, no doubt. They would tighten the cords upon the people, and make them more submissive to their superiors; they would have a strong Government, possessing much energy, supported by navies, armies, and hosts of civil officers. But there would be no surplus money in your Treasury. Instead of this, you would have direct taxes and excise laws to keep the people in order and give your Government energy. This appears to me to be fairly deducible from the conduct of those gentlemen.

It is not my intention, in the remarks which I shall make at this time, to take up the whole subject of the report. I shall notice some of the objections made to the several resolutions; and when I come to observe upon the general subject, shall confine myself principally to the first part of the report, which regards the aggressions committed on our rights by foreign nations, and on which the second resolution is founded; and also notice the nature of the measures we have already adopted in consequence of those aggressions.

It has been stated that the first resolution is unnecessary and useless; that the second is submission, as it gives up all your trade, when only a part of it is affected by the edicts of the belligerents; and the third is said to be like the first, useless, as it only speaks of defence, &c. The objections to the first resolution have already been noticed, and may be adverted to again in another place. Those made to the second will be substantially answered, in the remarks that will be made in regard to the embargo, to show that it was not submission, and, of course, that this step, which is pursuing the same course, and may be considered as an extension of the same measure, cannot be submission. The objection to the third resolution, that it only proposes to prepare for defence, would naturally induce a belief that the gentleman who made it (Mr. Randolph) wished us to prepare for, and adopt measures of offence. Such, however, does not seem to be the case—if it were, offence or war is one of the alternatives presented in the report, and would meet the gentleman's wishes; but he seems disposed to do nothing, as far as we can understand him, but take off the embargo and open a trade with those Powers, which, in my view, is abject submission, and nothing else. But, sir, if we prepare for defence, do we not, at the same time, prepare for offence? Is it usual or proper for a nation to declare that she is making preparations in order to make war on another nation? Is there to be found an instance of such an extraordinary and impolitic declaration? No, sir, there is not; until she is prepared to make war, she will not announce to her enemy that she intends to do so. Preparations for defence are calculated also for, and of the same nature with those used in offence. They are made for defence, but, should the occasion require it, they are used for both, for offence as well as defence. We do not wish for war—it is our interest as well as our desire to avoid it—we are threatened from abroad—we determine to make the necessary preparation for defence; and, should such a state of things occur as may require it, we can and will use them also for the purpose of offence. But it is, indeed, extraordinary that the objection should come in this shape, from a gentleman who proposes no measure himself, and is opposed to every one that has been suggested. He is against raising an army, against continuing the embargo, against a non-intercourse, objects to preparations for defence; and it may be asked, what is he for? The answer may be, submission. There is no other inference can be drawn from such conduct.

At the same time, sir, you are told, that the submissive, temporizing, missionary policy pursued by your Government has brought the nation to the brink of ruin. These general and unqualified assertions, without any reason given to support them, do not merit, and, indeed, cannot receive any other answer than a general and direct denial, until some proof be given of the facts alleged. It cannot be expected that we will go into proof, to controvert every vague assertion made on this floor. That the Government has used every means in its power to keep the nation out of difficulties; that it has pursued an impartial, firm, and dignified line of conduct toward foreign Powers; and that it has resorted to every honorable expedient, and used every power with which it was vested, to extricate the nation from its present difficulties, brought on by foreign aggressions, will not be denied by any one who examines and understands the whole grounds of the late negotiations, who gives reason fair play, and is not blinded by prejudice, or deluded by party considerations. The official documents relative to

those negotiations are now before the public, and those whom they will not convince of the correctness as well as the impartiality of the conduct of our Government, would not be persuaded by any argument that could be advanced on this floor. No; they would not believe an angel, though he should come down from Heaven, to sound these truths in their ears.

The same gentleman (Mr. R.) has asserted on this floor, in opposition to a statement made in the report, that an answer has been received from France, which is sufficient to satisfy every one who has seen or heard it. On what authority he founds this assertion, I cannot pretend to say. I have attended to the documents laid before Congress this session, both public and private; and I feel myself authorized to state expressly, that no answer has been received from France on the point in question; that is, on the proposition under the authority of the law of last session, relative to withdrawing her decrees. In support of this you have the Message of the President; and Mr. Armstrong's last letter, bearing date the 28th of August last, in the public documents, shows that, so far from France having given a final answer, that he did not even renew the discussion on this subject with that Government, as he was authorized to do; and there is no document laid before this House which will show that any such answer has been received. I will not at present pursue these objections further. What has been already said is sufficient to show that they are rather the offspring of a spirit of opposition than founded on any substantial grounds of either fact or reasoning.

I shall now briefly notice the report itself, for the purpose of presenting the House with that view of such parts of it as relates to the question really before them, as I entertain, and which may possibly assist us in forming a correct opinion on the subject. The report may be considered as consisting of two parts. The first relates to, and states the injuries we have received; the aggressions committed on our commercial and neutral rights by foreign nations, and on this is founded the first resolution. The second part relates to the measures to be pursued, in order to resist those aggressions, and on this are founded the second and third resolutions. The first part is that which is immediately before the House. In it are briefly stated the orders and proclamations of Great Britain and the decrees of France, which infract and violate the lawful commerce and neutral rights of this country. Those edicts of the belligerents, and the manner in which they have been adopted and executed, are considered as aggressions of the most aggravating kind, and involving the best rights and dearest interests of the United States. Taken in the aggregate, they are considered and stated to amount to a maritime war against this country. They are also stated to be unprovoked and unauthorized on the part of both those nations, by any act on our part, of injury to either, or of voluntary acquiescence in the unjust violations on our rights by the one to the prejudice of the other. Hence it is concluded and insisted, that this nation ought not and cannot, consistently with its true interest and honor, submit to those aggressions; but is bound in duty and justice to itself to resist and oppose them. There can be no ground that would justify a nation (having the power) in not repelling, or at least resisting, an injury received, except such injury be of so little importance as not sensibly to affect its interest, and therefore not to merit public notice, or unless it be authorized or justified by the previous conduct of such injured nation. Neither of these is the case in the present instance. No one pretends to say that the aggressions committed on our rights are trivial or unimportant; on the contrary, they are admitted to be of the most enormous kind; and it cannot with truth be pretended that there has been any act on our part that could, in justice, either provoke or authorize them. With this view of the subject the first resolution was presented to the House, in order to ascertain if there was any difference of opinion respecting the fact that those edicts of the belligerents, were a violation of the rights of this country, and ought not to be submitted to—to see if there was any one who would justify them, who would tell the American people that they must submit to the regulations of a foreign Power; and also to give the nation a solemn pledge that this House was determined not to abandon its best interests. Sir, it was supposed that no doubt could exist on this part of the subject. No one has been hardy enough to deny the violations committed on our rights by the edicts of the belligerent Powers. No one has denied the enormity and injustice of those violations, nor has it yet been asserted, on this floor, that they were provoked or authorized by any act on the part of this Government. Under what pretext, therefore, can gentlemen refuse to resist them? Why hesitate to vote for this resolution? Why detain the House debating it for ten days? Do they mean to justify those aggressions? to submit to them tamely? to acknowledge the right those Powers have to give laws to the people of this country? If so, let us know it; it is high time the public should be informed of it. Those, however, who admit the proceedings of the belligerent Powers to be violations of our rights, as stated in the first part of the report, (and the correctness of that statement has not been brought in question,) will not hesitate to vote for this resolution. They will not hesitate to declare that they will not abandon the best rights of the people, that they will not submit to foreign aggressions.

When this is once determined, the question of submission will be at rest. The resolution to resist will have been taken, and the next inquiry will be in relation to the measures of resistance most proper to be adopted. This part of the subject, as already noticed, constituting the second part of the report, and giving origin to the second and third resolutions, will come more properly in discussion when those resolutions are immediately before the House. I shall not, therefore, at this time enter at large into the discussion of this

part of the subject. But, as gentlemen who have gone before me, have introduced into this discussion the measures pursued by the Government for some time past, and have in particular attacked the conduct of the majority in laying the embargo, I shall find it necessary to notice some of their arguments, on this part of the subject, in order to rescue that measure from the very unjust odium attempted to be thrown upon it. Gentlemen ascribe all your difficulties and misfortunes to the embargo; they say it has destroyed your commerce, and brought the nation to the verge of ruin; that it is submission; that you might have considerable trade, if it were not for the embargo, and that, therefore, it ought to be repealed, &c. By way of answering these arguments, and, in order to lay before the House as briefly as possible the view which I entertain of that measure, I shall endeavor to show—

1. That it was not the embargo, but the Orders in Council of Great Britain, and the decrees of France, which destroyed your commerce, produced the pressure that is now so much complained of, and placed this country in its present critical situation.

2. That the embargo was not submission to those Powers; that it was taking a firm and dignified stand in opposition to their aggressions and in vindication of our rights.

I shall also attempt to show, in the third place, that when the embargo was laid any other measure that could have been adopted, except war, would have been submission to one or both of those Powers. And, further, in the fourth place, that if you had not laid the embargo, but had even submitted to those aggressions, the trade you could have enjoyed, subject to those restrictions, would be of little or no real value in the great scale of national commerce, could scarcely claim any serious notice, and could not possibly be considered an adequate compensation for national degradation and dishonor.

With regard to the first point proposed to be shown, that it was not the embargo but the orders of Great Britain and decrees of France, which destroyed your commerce and placed the nation in its present critical situation, it may be necessary, in order to remove the delusion which has prevailed on this subject, to notice the condition in which those orders and decrees had placed your commerce previous to laying the embargo. For want of attending to this circumstance, the public mind has been imposed upon. It has been erroneously represented that you could have enjoyed commerce to a considerable extent if it were not for the embargo, that it alone has destroyed your trade, and brought the nation to the verge of ruin; and this impression, aided by repeated misrepresentations, has been attempted to be fastened on the public mind, contrary to the real truth and state of the case. It is high time this delusion should be removed. Sir, it must and will dissipate when the people are correctly informed of the real source from which spring all the difficulties and cause of privations they now experience; when they are convinced that, in the orders of Great Britain and decrees of France, is to be found the real cause of all these difficulties; when they clearly perceive that those orders and decrees had opened a gulf to swallow up all your commerce; that the embargo intervened as a shield and saved it from certain destruction, and, at the same time, saved the nation from the bloody scenes of war: when the people are convinced of this, as they undoubtedly will be so soon as they are correctly informed on the subject, they will then cease to be deluded and led astray by misrepresentations; they will see the measure in its proper point of view, and duly appreciate the conduct of their Government.

Sir, what was the situation of your commerce when the embargo was laid? By the orders of Great Britain you were prohibited from going to any country on the Continent of Europe, except Sweden—the poor, barren country of Sweden, as it is emphatically called by an English writer, to which country you export about $56,000 worth of your own domestic produce. You were not permitted to export thither the produce or manufacture of any other country. Of course this was all the trade left open to this country by those orders on the Continent of Europe. If you carried on any other trade to Europe, it must be directly with or through a British port. In order to show the correctness of this statement, and also to show what was considered in England the operation of those Orders in Council, and in what condition they placed the commerce of this country with Europe, I will refer to the production of a late writer of the first respectability, whose authority, for the purpose I have in view, will not be denied. I mean Mr. Baring's pamphlet on the subject of these orders. In the 12th page of which is stated what was considered there as the practical construction of them.

"All trade directly from America to every port and country of Europe at war with Great Britain, or from which the British flag is excluded, is totally prohibited. In this general prohibition every port of Europe, with exception at present of Sweden, is included, and no distinction whatever is made between the domestic produce of America, and that of the colonies re-exported from thence."

"The trade from America to the colonies of all nations remains unaltered by the present orders. America may export the produce of her own country, but that of no other, directly to Sweden.

"With the above exception, all articles, whether of domestic or colonial produce, exported by America to Europe, must be landed in this country, from whence it is intended to permit them re-exportation under such regulations as may hereafter be determined.

"By these regulations, it is understood that duties are to be imposed on all articles so re-exported, &c.

"Any vessel, the cargo whereof shall be accompanied with certificates of French consuls abroad of its origin, shall, together with the cargo, be liable to seizure and condemnation," &c.

Thus, sir, we see that according to the construction given those orders, by the English themselves, (for this Mr. Baring was a member of Parliament,) at the time the embargo was laid, your commerce was prohibited from every country on the Continent of Europe, except Sweden alone, poor and barren in trade as already stated, to which your trade, as has been observed, is of no importance, being confined to your own produce, of which you send there only about the value of $56,000; an amount too inconsiderable to deserve material notice in the great scale of American commerce. On the other hand you were, by the decrees of France, prohibited from trading to Great Britain, or to any other country occupied by British troops. About this time it is believed there were British troops in occupation of Sweden; if so, you were totally excluded, and shut out from all Europe; there was not a single port to which you could go with safety. But, sir, it is altogether immaterial for my purpose, whether Sweden was occupied by British troops or not; the trade with her is not worth naming, and would afford no sufficient inducement to keep open a commerce that would probably involve the destruction of a hundred times its value of your property under one pretext or other; and would also compromit your honor and independence as a nation; for if you voluntarily surrendered all your trade as far as forbidden by Great Britain and France, and continued the small precarious scraps, if any, that they chose to assign you, you at once acknowledged their right to regulate your trade at their own pleasure, and in fact to give laws to this country. If this view of the subject be correct, and I call on gentlemen, if they deny it, to show the contrary, what trade could you have pursued or enjoyed when the embargo was laid? Your trade with all Europe was totally cut off, as has been already shown, (that with Sweden whether permitted or not would not sensibly affect the general result,) your only trade that remained was that with the colonies. Let us inquire what this trade would be. With the British colonies you have no permanent trade; she never opens the ports of her colonies to your ships, except when forced by necessity to do so. Your whole trade, then, to the colonies would have been in domestic produce only somewhat more than $6,000,000 worth. This would have been all the trade you could carry on; your trade with those colonies in foreign articles would cease, because you could not procure the foreign goods that constituted that branch of trade. When, therefore, the embargo was laid, your whole commerce, amounting to more than $108,000,000 of exports, was liable to capture and confiscation, except the small amount of somewhat more than $6,000,000. When your trade was in this situation, when those orders and decrees were about to sweep your commerce from the ocean, the embargo was laid, and like a shield intervened and saved it from certain destruction. Yes, sir, I venture to affirm, without the hazard of a contradiction from any well informed merchant of candor, as my information is derived from the most respectable authority, that the embargo has saved the American people more than $100,000,000, that would, if it had not been laid, most undoubtedly have fallen into the hands of the belligerent Powers. No man will be so wild as to say that those Powers, after solemnly declaring that they would capture your vessels, trading to their enemies, would, notwithstanding, refrain from taking them if they came in their way. There is not the slightest pretext for this; there was then no security for your commerce, but to withdraw it from the ocean. This was done, and it has been saved. The edicts of the belligerents left no alternative with your Government, but to leave your commerce to be entirely destroyed, or retain it within your own limits—the latter was resorted to, and was rendered indispensable by the conduct of those Powers. There is not, therefore, any foundation in fact for the assertion that the embargo destroyed your trade; the contrary is shown beyond a doubt. Yet, sir, unfounded as this assertion is, it has been industriously circulated throughout the nation; has imposed upon and deluded many honest, well meaning men, and aided by constant misrepresentations, equally unfounded, which are constantly spread from one end of the Union to the other by the opponents and enemies of the present Government, has been made the hobby-horse upon which they have indulged the hope for the last year of riding into power. In this hope, however, they may probably be disappointed. So soon as the people are correctly informed, the delusion which has been produced by misrepresentation will vanish and disappear. [Mr. Southard here observed, that as the gentleman who was speaking appeared somewhat exhausted, and was not probably near the conclusion of his remarks, and it being now a late hour, he would, with his consent, move to adjourn, which was agreed to.]

On the next day, [December 7.] Mr. Campbell said when he closed the remarks which he had the honor of making on yesterday, he had just submitted to the House some observations with the view of showing that it was not the embargo that destroyed our commerce, or brought on the nation the pressure which is now so sensibly felt, and so much complained of. I had stated to the House, said he, that the orders of Great Britain, and the decrees of France, were the real cause of all the difficulties which are now experienced by this country. That they, and not the embargo, had cut up your trade by the very roots, and rendered a total suspension for a time indispensable for its salvation from inevitable destruction. This is a truth supported by facts that cannot be denied; remove the embargo, and you expose your trade, naked and defenceless, to certain destruction—the same that would have taken place if it had not been laid. Fortunately for the merchants, (but unfortunately it would seem for the Government, if the misrepresentations that are circulated abroad should be believed,) your commerce did not feel the destructive scourge that was prepared for it. The embargo intervened and saved it from the devouring jaws of the great Leviathan of the ocean that were already open to receive it. If the embargo had been postponed a few weeks longer, until your trade

had felt a partial destruction, until a few hundred more of your ships had been swept from the ocean, and condemned by Great Britain and France under their orders and decrees, your merchants and the people of the United States generally would have been more sensible of the salutary effects of this measure in saving the property of the nation. They would then have been convinced of the real cause of the present suspension of trade, and ascribe it to its true source, the edicts of the belligerent Powers. They would have seen that nearly all their property on the ocean was seized and sequestered or condemned by those Powers, and that the residue, if it had been suffered to go out, would have shared the same fate. That this would have been the case there can be no doubt. It is proved by the fact, that of the vessels that left this country for Europe, shortly before the embargo, scarcely one arrived safe at their intended market. A fact of the strongest kind in support of this position is well known, and has already been stated; that of nine vessels that went out of one of the Eastern ports, immediately previous to the embargo, not one of them arrived safe at the place of destination. It is a fair calculation, that if your commerce generally had been permitted to go on the ocean, it would have shared the same fate. Hence the conclusion is inevitable that this measure, so far from destroying your trade, has saved it from certain destruction.

Entertaining this view of the subject, and being convinced of its correctness, I confess I have been much astonished that it has been so often repeated in this House, and also in the party prints in different parts of the country, that the embargo has brought the nation to the verge of ruin! when it is undoubtedly true, that if it had not been laid, property to a vast amount, which is now within the country, and in your own possession, would have been captured, condemned, and added to the resources of your enemies. You would have been stripped, I may say robbed, of more than one hundred millions of property, and that would have been added to the common stock or funds of Great Britain and France. This is precisely the situation in which you would have been placed by the edicts of the belligerents, if the embargo had not been laid. Will gentlemen say that this would be a more desirable situation than you are in at present? Will they say that your own people being deprived of their property, while it is thrown into the hands of their enemies, would render their condition more eligible, relieve their distresses, or add to the money in your Treasury? Is it better, sir, that Great Britain should have the greater part of your vessels and merchandise, and a great proportion of your seamen; and make use of them against you, whenever the occasion should occur, than that they should remain in the country in your own possession, and add to the resources of the nation? There can be no doubt on this subject; no one will assert this. I might pursue the inquiry further. Is it not better and much more honorable for this country that your produce should even rot in your warehouses, than it should be enjoyed by your enemies, and used by them for your destruction? The people of America cannot entertain a doubt on this point. If they know what is the fact, that there was no alternative but either to leave it in their warehouses to rot, or throw it into the hands of their enemies, they would not hesitate to say with one voice, "we will suffer it 'to moulder and rot in our warehouses rather than 'supply our enemies with it to our own destruc-'tion." This is the precise question which was presented when the embargo was laid, and which is still to be decided. That those Powers would have captured all your property which they could find upon the ocean cannot be doubted by any one who has attended to their conduct, and is in any degree acquainted with their proceedings.

It may not be improper here to notice some particular instances in the conduct of those Powers on this occasion, in order to ascertain whether we had anything to expect from their friendship or justice; whether on the contrary they did not seem to prepare deliberate plans to entrap and destroy your commerce.

It will be recollected that Great Britain, in the famous note of reservation, which was annexed to Monroe's Treaty (so often noticed here) lately rejected by our Government, expressly stated, that "if, however, the enemy should carry these 'threats (meaning the Berlin decree) into execu-'tion, and if neutral nations (contrary to all ex-'pectation) should acquiesce in such usurpation, 'His Majesty might probably be compelled, how-'ever reluctantly, to retaliate in his just defence, 'and to adopt, in regard to the commerce of neu-'tral nations with his enemies, the same measures 'which those nations shall have permitted to be 'enforced against their commerce with his sub-'jects." From this it appears that the two requisites necessary in the opinion of the British Ministry themselves to justify retaliation, are the execution of the decree and the acquiescence of neutral nations in such execution. This note was calculated to lull into security the people of America, and induce them to believe there was no danger to be apprehended from Great Britain, unless France should carry her decrees into execution, and there should also be an acquiescence on the part of this country. But what was the result? After this public declaration, without waiting to ascertain either of these facts, without knowing whether France would execute her decree, or the United States acquiesce therein—nay, in less than eight days after such declaration Great Britain issued her retaliating orders of the 7th January, 1807, which, contrary to the acknowledged law of nations, and in direct violation of the note that had been officially communicated, declared as good prize vessels of the United States sailing from the ports of one belligerent to a port of another belligerent. This was spreading a net, in which would probably be taken a great part of your commerce then afloat upon the ocean.

In the next place, a Minister Extraordinary, Mr. Rose, was sent to this country, to adjust existing differences between the two nations; it was announced that he was the messenger of peace; this was also calculated to quiet the apprehensions of your people, to lull into security the councils of your nation, and produce an impression that nothing hostile or unfriendly was intended by that Government. He gave you no information respecting the existence or intended publication of any orders violating your commerce; mark the result. At the very time he left England, those Orders in Council of the 11th November, 1807, had issued, and another scheme was thereby laid, more deep and much more extensive than the former, to sweep the whole of your commerce from the ocean, and put an end at once to all rivalship of British trade by that of America. Can the object of this measure be mistaken or misunderstood? Will gentlemen close their eyes against the strongest proof? This Minister Extraordinary did not mention those orders to your Government; he did not even know of their existence, as was pretended; yet they had actually issued before he left that country. A fact may be mentioned here, which I have received from such authority as induces me to believe it, that may throw some light on this subject, and show the effects it was there expected the measure would have. Bets were offered in England immediately after those orders issued, that in a few months the United States would not possess one hundred merchant vessels; so confident they were that their plan was so well laid, that they would sweep from the ocean the whole commerce of the United States! And it was not so important to Great Britain, whether this was effected by herself or by France, so as it was done. Her great object was to destroy your commercial importance; if she effected that, she gained the great point she had in view. Again, it so happened, that in some parts of this country there was a great outcry made against the embargo; misrepresentations were numerous, and industriously circulated, (principally by the enemies of this country and the friends of England,) and its pressure on the people was exaggerated, and its evils highly colored, beyond all reason, and without the least regard to truth. These misrepresentations and false coloring of facts reached England, and there probably gained some credit. That Government was induced to believe that when Congress met, they must and would remove the embargo. The session had hardly opened, the members had scarcely taken their seats, when this great Leviathan of the ocean, hungry for the prey, of which she had been deprived by the embargo, again opened her avaricious jaws to engulf your defenceless commerce the moment it floated upon the seas. But unfortunately for her, (though fortunately for your own merchants,) she was again disappointed. She had declared the French West India islands in a state of blockade about the time the session commenced, in order to be prepared, in case the embargo was removed, to seize and destroy your trade whenever it was committed to the ocean; and had your embargo been taken off, every ship which would have left this country would, undoubtedly, under one pretext or other, have fallen a prey to British cruisers. These are three honorable instances of British consistency, friendship, and candor. I have thought proper to notice them to the House, to show that we have nothing to hope from the friendship of Great Britain, who has now the entire command of the seas. That, so far from having any disposition to favor us, she has deliberately laid one plan after another to seize your vessels and destroy your trade; so that if your commerce had been permitted to go out, it would most undoubtedly have been annihilated. Further, sir, experience has proved that almost the whole of the vessels that went out about that time, and shortly before, have either been seized and condemned, or made to pay tribute by Great Britain, or sequestered, or condemned by France. If your trade had generally gone out, it must, therefore, all have shared the same fate. And yet, sir, you are told that, by laying the embargo, and saving your commerce from certain destruction, you have brought this country to the verge of ruin.

From this view of the subject I feel myself authorized to say, that the embargo when it was laid, was not only a wise and proper, but also a fortunate measure. This has been proved by events which afterwards took place, that could not have been foreseen, in their full extent, or in all the points of view in which they afterwards presented themselves. The result has shown it to have been more important, as well as more fortunate, than it could fairly have been estimated at the time it was imposed. How long it may be proper to persevere in the embargo, in preference to war, is a question of quite a different nature; a question which I do not intend at this time to investigate. But, sir, if gentlemen consider the embargo, aided by a non-intercourse law as proposed, inefficient and too weak a measure, the committee, whose report is now under consideration, has presented to the House another alternative—war. If gentlemen prefer this course, and are willing to adopt it, let them come forward and say so; we have not said that we will not join them in it; we have not said that we will not go every length to vindicate the injured rights of our country. Let the gentlemen therefore declare to the nation the ground they are willing to take to resist aggressions.

I propose to show that the embargo, when laid, was not submission to those Powers, (as has been asserted and often repeated;) that it was taking a firm and dignified ground in opposition to their aggressions and in vindication of our rights.

Nothing could give the least appearance of plausibility to the assertion, that the embargo was submission, but the situation in which we were placed, in regard to the two great belligerent Powers, who were at war with each other, rendering it necessary that we should resist both at at the same time. When the measure is considered, as it certainly ought to be, as applied to each of them separately and distinctly; and as if adopted and operating first against one alone,

in consequence of its conduct towards us, and then against the other in like manner; its true character will be manifested, and no doubt can exist on the subject. First, then, as it regards France; by her decrees she declares, you shall not trade to Great Britain or any of her dependencies. To resist this aggression on our rights, we say to France, "you have violated our lawful commerce, we will therefore shut up our ports as to you. If you do not permit us to trade with other nations on fair terms, we will not trade with you at all; we will keep our commerce at home, and show you and the world, that we can do better without your manufactures, than you can subsist without our produce, so essential to your support." Surely, sir, this cannot be called submission to France—and although not a hostile measure, it is a measure of firm and decided resistance. In the first place you save your own trade from threatened destruction, you deprive her of supplies, and the advantages she derived from your commerce; and next you say to her, "although we have not as large a navy, or as many soldiers to fight as you have, yet we will be independent; we will remain within our own limits, live on our own productions, and protect our own soil; we will not hold intercourse with you on your own terms, nor submit to go to those ports only which you point out, and to no others."

On the other hand, apply the measure to Great Britain. She, by her Orders in Council, has declared "you shall not trade with France or with any of her dependencies," that is, "you shall not sail to a single port on the Continent of Europe, (except perhaps those of Sweden,) if you do, my cruisers are authorized to seize you and carry you into my ports, where you shall either be condemned, or made to pay a tribute, a heavy tax for license to go, where you will most undoubtedly be condemned for having such license." To this outrageous aggression on their best rights, the United States have said—in the first place, "we will cut off our export trade from you altogether; if you do not suffer us to trade with other nations on fair terms, we will not trade with you at all. We know we have not a navy to protect our commerce against your thousand ships of war, upon the ocean; we will therefore withdraw our commerce from that element, and retain it within our own limits; you shall not receive supplies from us, or be furnished with our produce. We will, in the next place, cut off all intercourse with you, until you agree to do us justice; you will feel much more sensibly the loss of our trade, than we shall the loss of your custom." This sir, is not submission. It is a firm and manly resistance though not of a hostile nature, and the only measure that could at the time have been adopted consistent with the honor and interest of the nation. We do not pretend to have as many ships of war as Great Britain, to protect our commerce on the ocean; we do not wish to have them; such an establishment would be inconsistent with the genius of our Government; but we do know that our produce, being the necessaries of life, is much more important to her than her gaudy fabrics are to us; that the balance of her trade with us is nearly twenty millions annually in her favor; that we receive of her manufactures annually, about twelve millions sterling, nearly equal to sixty millions of dollars, being about one-third of her whole exports; and knowing these facts, we must know, that by a suspension of our commerce with her, she must be a loser in proportion to the advantages she usually derived from it. We have a right fairly to conclude that a nation will do what is best for her own interest, and what will most promote the benefit of her people. If Great Britain is blind to, and regardless of the best interests of her people, it is no proof that our measures are not correct, or that they were not the best for this country that could at the time have been adopted.

It is however said, sir, that this measure is an abandonment of commerce. I do not profess to have any practical knowledge in commercial matters, but I apprehend it will not be difficult to show, without much of such knowledge, that this assertion is totally fallacious and unfounded. That, on the contrary, the measures pursued by Government have been taken in support of the commercial rights of this country, and are persevered in to maintain the same unimpaired. What occasioned the passage of the non-importation act? The numerous petitions of your merchants, complaining of aggressions committed on your trade by Great Britain, and violations of your neutral rights on the ocean. They alone complained in this case—and they were principally interested. The Government attended to their complaints—a stand was made in favor of commerce—a step was taken to maintain and vindicate the mercantile interest of the nation. The measure taken pledged the Government at once to support those commercial and neutral rights which we claimed as an independent nation. Was this abandoning commerce? It was not, sir. Again, who were likely to suffer most by the orders of Great Britain and the decrees of France? Certainly the merchants, whose property was exposed to ruin, almost inevitable. It is true the other classes of society would feel the effects of those foreign aggressions sensibly; but it would only be through the merchants, who would suffer first and most materially. This produced the embargo, in order to save the property of your merchants, and maintain unimpaired the commercial rights of the country. In this instance the nation gave another pledge not to suffer those rights to be encroached upon, and hazarded all the consequences of throwing back as it were on the hands of the farmers their produce, to remain dormant, or be sold for very low prices—of having the sources from which their revenue was chiefly derived, in a great degree dried up, rather than see those rights trampled upon and the vital principles of the mercantile interest openly violated; and yet we are told that in all this we are abandoning commerce. It is scarcely possible to believe, that gentlemen who have any tolerable knowledge of the substantial and real interests of commerce in a national point of view, can be serious in making those assertions—or, if they are, they must be blinded by prejudice or deluded by mistaken views of the subject. What would be the consequences of pursuing your trade under the restrictions imposed upon it by foreign Powers? It would be acknowledging the right those Powers had to regulate and circumscribe your commerce at pleasure—to cut it up by piece-meal, until you were stripped of the whole of it. I say, sir, this would be abandoning commerce, and they must be totally ignorant of the great principles of national commerce, or inimical to them, who wish to pursue this course. Yet, sir, it is the course insisted upon by those who pretend to be the advocates of commerce. They say, although Great Britain has cut off your trade with France and the Continent, and France has interdicted your trade to Great Britain, there is still some trade left, which you might enjoy. This would be submitting to the right which Great Britain and France claim, to fix the precise places to which we shall be permitted to go. You agree not to go to France because Great Britain has so required. You do not go to Great Britain because France has so directed—but you go to some of the islands because both have permitted it. This would be submission to both those Powers, and that of the meanest kind; and it would also be surrendering at once the vital principles of the great commercial interests of this country.

If you relinquish your commerce by piece-meal, as the belligerents choose alternately to interdict it, will it not soon be wholly destroyed? For they have as good a right to cut off our trade with the whole world, as with that part of it from which they have already interdicted it. There can be no difference. The Government of this country has considered our commercial rights as forming our whole or aggregate system, which, as a free nation, we had a right to enjoy; and have determined not to surrender any part of these rights—not to suffer any encroachments upon them, to rally round and maintain them unimpaired, to enjoy the whole as a free people, or not enjoy them at all. For there is no ground upon which you could surrender any part of those rights that would not equally justify the surrender of the whole. In this view I understand this subject; and those who oppose the present measure, must be considered as willing to surrender a portion of those rights—to submit to foreign aggressions—in order to be permitted to pursue the scanty trade that may be left them at the pleasure of those Powers. This ought to be known. The people should be informed that in this way a portion of their best rights is proposed to be surrendered, and probably forever abandoned. I am not, sir, for giving up any portion of our rights—I am not for abandoning commerce—I consider the measures we have adopted a stand made in support of commerce. I am not for retracing our steps; if we must move, I am for advancing. So far as commerce is consistent with the great interests of agriculture, so far I am willing to go in support of it; but when it is attempted to oppress or sacrifice the agricultural interest of the whole country, in order to extend commerce beyond its natural bounds, or when those two interests come in collision, the one with the other, I shall consider it my duty to support the interests of agriculture in opposition to that of commerce. It may be proper here to remark, that there is not the slightest pretext for the allegation that we are about to pursue a Chinese policy, or that the embargo is to be perpetual. These are the mere chimeras of a feverish imagination, or the alarm-cries of those whose constant endeavor has been to misrepresent in order to mislead the public mind. The committee have presented to the House two alternatives, the one is a continuation of the suspension of commerce for a season, the other is war. If the time has not yet arrived to resort to the last alternative to obtain justice, persevere for a time in the embargo; but if you do, strengthen its ties, and execute its provisions, and do not permit a few of the most corrupt and degenerate individuals in society to enrich themselves at the expense not only of the honest part of the community, but of the dearest and best rights of the nation.

I come now to show in the third place, that any other course which could have been pursued when the embargo was laid, would be war or submission. If you attempted to trade to those places from which you were prohibited by the edicts of the belligerents, you came in direct collision with them; your vessels were of course captured and condemned, and this must produce war. If you traded to those places only to which you were permitted to go by those edicts, (the only remaining course that could be pursued,) it was submission to both those Powers. Many of the remarks already made in showing that the embargo was not submission, are applicable to this point, and sufficiently support it; a few additional observations only will be made. Suppose you were to pursue such trade as was left unrestricted by those edicts, what would be its extent, and what its character? You were totally excluded from Europe, as already shown, except that you might possibly carry your own produce, but that of no other country, to Sweden, amounting as already stated only to about fifty-six thousand dollars, and this very doubtful. But suppose you were suffered to go there unmolested, what would, what ought the world to say of your conduct? That you were the submissive, humble slave of Great Britain and France; that you obeyed their edicts, and submitted to trade to the precise country to which they permitted you, and surrendered up all the rest of your commerce at their pleasure. Each of those Powers may, with equal justice, prevent you from exercising any other of your rights appertaining to a free people, as to say, that you shall not trade with certain ports or places not under its control. In going to that precise place to which they permit you, and to no other, you submit to both, and you acknowledge their right to give you laws. Yet this is the only course proposed to be pursued by those gentlemen, and it would reduce the nation to a state of foreign vassalage. Gentlemen have said

that the West India islands are not included in those edicts, and that you might carry on a commerce with them. This trade, sir, falls under all the objections just stated, and would be pursuing as humble a course as trading to Sweden alone. But what is the situation of this trade to the islands? Great Britain does not permit any regular trade with her West India colonies; you are never suffered to go there, except when she is forced by necessity, by scarcity, to open her ports for your produce, and then it is under such restrictions that her own merchants derive the greater part of the benefits from the trade. The British orders, according to their general tenor, include the other West India islands, but His Majesty, as a matter of favor, is graciously pleased to permit you for the present to carry on your trade with them. This is announced officially to your Government by Mr. Erskine, in the same note by which he communicated those orders. There it is stated expressly that His Majesty might justly exclude you from all the colonies of France and her allies, but that through favor, as a matter of mere grace, your trade to them was left open. He would not press too severely on you at once, lest the spirit of the nation might be roused into indignation, and they should determine to avenge at once these aggressions and insults; (and it is hoped the day of retribution may not be far distant.) He chose, in order to soften the measure, to suffer this small portion of your trade, not exceeding seven millions of dollars, as shall be shown hereafter, to be carried on, but under his express permission, which he might withdraw at pleasure. This is the trade which the nation has been told might still be pursued; and these are the terms on which it would be enjoyed. Is there, sir, a soul that warms an American breast so degraded as to be willing to accept of such a boon upon such conditions? I had supposed there was not? I had supposed that every American would recoil with indignation from such a proposition; but in this I was mistaken. A proposition made by a gentleman from Massachusetts, (Mr. LIVERMORE,) during the last session, had for its object expressly to pursue such part of your commerce as Great Britain had assigned you, by her orders, and no more, and to relinquish all she had prohibited.

A gentleman from Maryland, (Mr. KEY,) in a long speech, recommended, and strongly advocated the same measure in substance. He told you your fish would be carried to one market, and your produce to another, to a considerable amount, without being exposed to danger from those edicts; and how did this appear? Because Great Britain had permitted you to go to those places, he would therefore carry on so much commerce as she was pleased to permit, and by which she might conceive herself likely to be benefited, and abandon the rest. If His Majesty, George the Third, had an advocate on this floor, whose business it was to carry into effect his Orders in Council, he could have proposed no measure more effectual for that purpose than this would have been. Nothing could more completely execute those orders, than confining your trade to those ports, and within the precise circle which these orders prescribe. It is acknowledging, what I am told, some British agents and advocates in this country avow, that Great Britain has conquered the ocean, and has therefore a right to regulate commerce upon it as she pleases. We have been told something about pursuing a Chinese policy; but I venture to affirm that this would be the most effectual mode to destroy your foreign commerce, and establish this kind of policy. If you acknowledge the supremacy of Great Britain, the right she has to limit, circumscribe, and regulate your commerce, when, and how she pleases, you at once sap the vital principles of foreign commerce, and necessarily lay the foundation for a Chinese policy. If, to-day, she cuts off all your trade, except to the West India islands, in a few days, months, or years, she may on the same principle cut you off from them also. This might probably open the eyes of those who are most deeply interested in commerce; and I cannot help feeling the strongest conviction, that if the merchants in the Eastern States saw this subject in its true light, they would be amongst the first to support at every hazard the measures already adopted and proposed. They are deeply interested in preserving unimpaired foreign commerce in its full extent. In the bold and daring violations of it by those orders and decrees, they must see a fatal blow aimed at its vital principles; which, if submitted to, may be repeated, and finally complete its total destruction. They are therefore now seriously called upon to determine whether, in order to avoid this catastrophe, and maintain unimpaired the great principles of national commerce, they will not rally round their Government, who have put everything to hazard for this important object, and support not only the embargo and non-intercourse, so long as the same are thought proper and necessary, but also war with all its calamities, should that be the result. If they do not act thus, through whatever delusion it may be, they will most certainly repent when they are undeceived, for they must and will be convinced, in a short time, that the real objects of those measures, and of the Government in adopting them, were, and still are, the protection of national commerce; and that the effects of the course proposed by the opposition party would be to sap its very foundations, to endanger its existence, to surrender the fairest portions of it to Great Britain, and fritter it away to a mere skeleton—a name without substance. If gentlemen interested in commerce will persevere in this course, let them beware of, and be prepared to abide by, the consequences.

I come now to show, as I proposed, in the fourth place, that if you even submitted to carry on the miserable pittance of commerce that was left you, and which could be enjoyed if the embargo had not been laid, it would only amount to a mere trifle, not sufficient to merit any serious notice, and could not be considered as any compensation for national degradation and dishonor.

You were shut out from the continent of Europe. I will not mention again your trade to Sweden; she is now a mere speck in the political horizon, and scarcely known in the political world. The conditions upon which you would obtain permission to trade to any other place on the Continent, are too degrading to be passed in review here. I will not go through the odious task, for the purpose of exciting your indignation, of repeating the tribute or tax imposed on your commerce, and even on your own produce in British ports, in order to obtain a license to carry it elsewhere; I will not rouse indignant feelings, by telling the people of this country that they may send their cotton to the Continent, by carrying it first to Great Britain, and there paying a duty of 17 cts. per lb. on it, and receiving a license, as a badge of vassalage to George III, which would certainly procure its condemnation at any port on the Continent to which it could go. Nor will I enter into a calculation of the duty to be paid on that portion of your produce consumed in Great Britain, after it is forced into her ports; neither shall I pursue the regulations by which you are compelled to take your cotton and other articles out of the warehouses for the purpose of home consumption on payment of duties, unless exported within fifteen months after you have been compelled to carry them there by their cruisers; and in case your cotton will not sell for a sufficient price to pay the charges and duties, you are graciously permitted to burn or otherwise destroy it, in order to avoid paying duties. These odious impositions need not be announced to the American people, to rouse resentment already sufficiently excited; but in order to show what trade you could pursue, subject to those humiliating restrictions of the belligerents already mentioned, I have made out, though with some reluctance, as I do not conceive the question before you to depend on calculations, a brief statement of your commerce with those countries and places to which you were permitted to go. This statement, taken from official documents, will present the House with the amount of trade during the last year, ending the 30th of September 1807, to the respective countries and places to which which we were permitted to go by the orders of Great Britain, and were not prevented from going by the decrees of France.

A statement of the countries, and value of domestic produce exported.

Turkey, Barbary, Africa, China, South seas, and Northwest coast of America -	$180,286
Not interdicted by France, and permitted by Great Britain:	
Spanish colonies - - - - -	2,817,344
French colonies - - - - -	3,046,763
Dutch East Indies - - - - -	79,880
	$6,424,273

If we should add to these the colonies of Sweden and Portugal, though they would, most probably, be considered as subject to those edicts, the amount would be—

Colonies of Sweden - - - -	416,509
Colonies of Portugal - - - -	570,303
	$7,411,085
And if to this be added our exports to Sweden herself - - - - -	56,187
The amount will be - - - -	$7,467,272

The whole trade, therefore, that could be pursued by the special permission of Great Britain, and not interdicted by France, when the embargo was laid, would be less than seven million and a half of dollars, out of more than one hundred and eight and one-third millions, the amount of your foreign trade for the same year. This, sir, is a correct statement, and cannot be controverted by any authentic documents; and it will show how falacious the statements were, which a gentleman from Maryland (Mr. KEY) made at the close of last session, and which were calculated to impose on the public mind. I know, sir, we exported during the period mentioned, to the same countries, foreign produce and manufactures to the amount of about sixteen millions and a half of dollars; but this cannot be included in the commerce we could pursue; because we could not procure the articles which constituted this branch of our exports, being prohibited from going to those countries where they could be obtained. It is proper here also to remark, that your imports from the same countries are less than your exports, which can be shown from the most correct information on the subject. But, whatever they may have been, they must in such case depend entirely on your exports, as they would depend on the means you had to pay for them. We could not, therefore, export from those countries more than they received from us, because we would not possess the means to pay for such overplus. This leaves the estimate precisely as already stated, and confines the amount of commerce you could pursue to the sum before stated, of about seven and a half millions, out of one hundred and eight and one-third millions of dollars, the amount of your lawful commerce. And this paltry, inconsiderable portion of your trade, which would be entirely confined to a few particular States of the Union, you are seriously called upon to pursue, at the expense of, and to accept as the price for, national degradation and dishonor; and it has also been used as the stalking-horse to divert the public mind (which would always decide correctly, if properly informed) from the real situation in which their commerce was placed by the conduct of the belligerent Powers. And we are now told, because we did not sell our honor, our independence, our birth-right, for this petty morsel of (commercial) bread, we have brought the nation to the verge of ruin.

But some gentlemen have said, there are countries which have not passed any orders or decrees violating your lawful commerce, you ought to force a trade with them, notwithstanding you are prohibited from going to them by edicts of the belligerents. This is the only other propo-

sition suggested of opening a trade, and, at first view, possesses some plausibility. The objections to this course, however, are insurmountable. It is not pretended such trade could be pursued without arming. If you arm your merchant vessels, with authority to capture, it is immediate war with the belligerents. If you arm them only for defence, you expose them to almost certain destruction, without the chance to reimburse the loss by retaliating on their enemies. For they would not generally be attacked except by vessels of superior force, to which their resistance would be ineffectual—and they would not be authorized to attack in their turn, and by way of retaliation, vessels of inferior force. This would, therefore, lead directly to a war of depredation on your commerce, in which it would be exposed to inevitable ruin, and in which your merchants would certainly have everything to lose and nothing to gain.

But suppose you were to pursue this trade in opposition to those insuperable objections, its amount would be so inconsiderable as to afford the country no sensible relief; it would not claim the public attention, and could in no point of view be considered as any compensation for the hazard you would incur of a ruinous and predatory war. I have made another brief statement from authentic sources, to show the value of this trade to the respective countries, that had not, on the 22d December, 1807, passed edicts violating our commerce. This statement relates to the exports of the year ending the 30th September, 1807.

DOMESTIC PRODUCE.

Countries.	*Exported.*
Russia	$78 850
Sweden	56.157
Colonies of Sweden	416.509
Portugal	829.313
Colonies of Portugal	570.303
Turkey and Barbary	12.878
African western coast	369.724
China	74,022
South Sea and Northwest coast of America	14.162
In all	2.422 918

These are all the countries which, at the time the embargo was laid, had not passed orders or decrees violating your lawful commerce, and with which you had carried on any trade. Hamburg and Germany are not mentioned, being in possession of France. The whole amount of the commerce that could be carried on with those countries therefore, is as stated less than two millions and a half of dollars. For it must be confined to the exports of your own produce. I know there has been exported to the same countries, of foreign produce, during the same period, about $3.361.917. But this amount cannot be taken into the calculation, for the reason already given relative to the former statement, that we could not obtain the foreign goods which used to supply this branch of trade. It is also to be remarked here that our imports would be governed by our exports, and would exceed them for want of means to pay for the surplus. But some gentlemen have lately said you can now go on the same terms to Spain and her colonies. There is no sufficient ground to believe that the ports of Spain are open to us; so far as she is controlled by France, her former decrees are still in force, and so far as she is governed by the new Order that has lately arisen there, the Juntas, we have no assurance whatever from them on the subject; and what is still more important, our vessels sequestered in their ports have not yet been released. But suppose you could now go to Spain and her countries, your exports to them in domestic produce are short of four millions of dollars; so that the whole trade you could pursue even at this time on the most extended plan proposed, and at the hazard of fighting the navy and privateers of Great Britain, as well as those of France, would be less than six and a half millions of dollars; which certainly would not, even if we were to be guided by mercenary views—which I hope will never control the councils of this nation, when its best interests and rights are at stake—be any adequate object for national humility and disgrace, or even for the danger to which you would expose your commerce, of becoming a sure and easy prey to the cruisers of both those Powers.

But it is difficult to comprehend what precise object gentlemen have in view, on the subject of arming for defence. No specific proposition has been brought forward for arming your merchant vessels, that designated what gentlemen meant by the term, or what authority they contemplated giving them. To send out your commerce without arming, would be submission of the meanest and most humble kind. If you permit them to arm, what is the consequence? If they are authorized to capture vessels belonging to the belligerents, this is war at once, and ought to be understood; and if gentlemen are serious in the determination to go to war, let them say so, and we may probably join them. But if you do not authorize your merchantmen to capture, you send out your commerce to become a prey to both Great Britain and France, you expose your merchants to be plundered without a chance to retaliate. This would result in the destruction of your commerce, and would be almost as degrading to the nation as unconditional submission.

I have presented those statements which I have made, in relation to the amount of commerce that could be enjoyed according to any plan suggested, and the probable result of pursuing any such commerce, not so much with the expectation of being able to give the House much new information, as with the view to correct misrepresentations which have been made on this floor, and have gone abroad on this subject. I shall compress the additional remarks I have to make within as narrow a compass as may be in my power. It was observed in regard to the embargo, that it has been approved of by France, and not complained of by Great Britain. This is a question which I feel no disposition to examine in this place. Whether this assertion be correct or not, I should presume could not affect the decision of the question before you. If it be correct, however, if those Powers are satisfied with the embargo, it proves beyond a doubt that those who announced it as a war measure last year were totally mistaken, and that all their objections to it on that ground (and that was the principal ground on which it was then opposed) were altogether unfounded; this it would seem might silence them on this subject. But it may be proper to observe that those Powers have no right to object to it, however hard it may press upon them. It is a municipal regulation, a measure we have an undoubted right to adopt, without being considered just cause of complaint to any foreign nation. But, sir, so far as regards the fact as stated, I am not disposed to believe it; there is no substantial proof to support it. The best information shows the embargo has made a very serious impression on the people of Great Britain, and has had a powerful effect there, though it may not have produced the desired result. Facts speak a stronger language than anything in official letters from Secretaries, or announced in newspapers. The insurrections of the starving mechanics, the high price of provisions, the alarms throughout that whole country on account of apprehended famine, are strong proofs of the operation of the embargo. But if it did not produce the effects in that country which might have been expected, we cannot be responsible for that. We are not accountable for the conduct of foreign nations; and the circumstance of their not feeling a measure as strongly as might have been expected, is no sufficient reason why we should not persevere in it, if it is a wise and proper measure, productive of good effects at home. It has certainly saved our property, and hitherto kept us free from the calamities of war. If it has not, however, produced all the good effects that were expected, there are many strong reasons which can be assigned for it, that could not have been foreseen and were not within the control of those who passed it; among these may be mentioned the numerous evasions of it in certain parts of the Union, which were shamefully countenanced by many whose standing in society gave just grounds to expect from them a different line of conduct. By these means the measure was deprived of much of its coercive efficacy; many of the most corrupt and profligate characters enriched themselves at the expense of the honest part of society, and at the same time to the great benefit of the enemies of their country. In saying this I do not mean to apply the remark to any general section of the country, but to the individuals concerned in the violations of the law, and those who encouraged or countenanced them; their conduct will stain their characters and names with reproach for ages to come. It is a kind of treason against the State, of the most insidious and dangerous kind; like murder produced by poison, it corrodes the vitals of the body politic in so secret a manner that the perpetrator most generally evades the punishment his crime so justly deserves. Such characters, and those who countenance them, ought to be detected if possible, and severely punished; they ought to be marked as enemies to their country; in particular they ought to be distinguished as enemies to the commercial interest of the nation; having, at the expense of the honest merchant, aided those who have endeavored to extinguish the vital principles of your commerce. They have robbed their own country to befriend and support its enemies; and so in effect do all those who at this awful crisis oppose and revile their own Government, and justify or excuse the aggressions of foreign Powers. But let them remember the day of retribution is probably near at hand, when they may have to account for their conduct in a summary way; when they must determine to which side they belong, to America or Great Britain; when they must take their stand in the ranks of their own country or declare for its enemies. The time must soon arrive when this distinction will be made, and then, I trust, it will appear who are the real friends of their country, and who are rotten-hearted foreigners.

Other circumstances contributed, no doubt, very much to prevent the embargo from producing that effect on foreign nations which might have been expected; of these may be noticed the numerous misrepresentations that were industriously disseminated abroad in regard both to the pressure of it on the people here, and to their disposition to submit to and support the measure. Its pressure was exaggerated, and painted in the most extravagant colors, without regard to truth; the spirit of the people was misrepresented, as being in general hostile to the law, and disposed to resist its execution; when, in fact, the discontents were confined to a very small section of the Union, and excited there by the leaders of a small faction, many of whom are evidently the agents or warmest friends of Great Britain, and all of whom are the bitter enemies of their own Government, and have for years opposed every measure calculated to promote the interest of this country. Your public prints teemed with falsehoods, and misstatements on this subject; insurrections were announced in some quarters of the Union as likely to take place, and dreadful distress stated to prevail everywhere. These groundless misrepresentations, circulated for party purposes alone, went abroad, and had, no doubt, considerable influence on the conduct of foreign nations; they gave credit to them, and were induced to believe that the people of this country would not endure a continuance of the embargo; that they would soon force the Government to repeal it. Those Powers, encouraged by such publications, determined, notwithstanding they were sorely pressed by the embargo, to persevere in their aggressions, under the hope that we would not long continue this measure, and that we would ultimately submit to their terms. To this shameful conduct of a portion of your own people, sir, this country owes, in a great degree, the continuance of its present difficulties, and the inefficacy of the embargo. The great outcry

made with regard to the distress and pressure produced by this measure at home, is in a considerable degree unfounded; your people do not suffer in any part of the Union for want of the necessaries of life; they have a superabundance of them; there is no such thing as suffering for want known in this country; there is only a temporary pause in the rapid acquisition of wealth; a cessation of profits only. I do not mean to be understood to say that the American people do not feel the embargo; I know they do feel it sensibly; and they must have expected to feel any measure that would be likely to press hard on those who violate their rights. But the great difference between its effects on us, and on them, is this: among our people it occasions a superabundance of all the necessaries of life, and the only ground of complaint is, the want of a market for the surplus; while their people suffer and complain aloud for want of enough of the necessaries of life, essential for their subsistence, and which they cannot obtain from any other quarter. No one will hesitate on deciding whose situation is most eligible, and least to be complained of, that of those who have too much, or of those who have not enough to subsist upon. Another reason may also be assigned, why we could not anticipate the precise effect of the embargo on foreign Powers; we could not foresee that the Governments of those Powers would not regard the distress and sufferings of their people; that France would suffer her West India colonies to be almost desolated with famine, and to be compelled to apply to their inveterate enemy, to save them from actual starvation rather than revoke her decrees; nor could we know that the Government of Great Britain would be regardless of the complaints and representations of her manufacturers, and a respectable portion of her merchants; that it would lend a deaf ear to the hungry cries of the starving mechanics, and silence their just and loud complaints with the thunder of their murdering guns, and quench their hunger with a shower of balls instead of bread. We cannot be culpable for not anticipating such events.

It has been said by the gentleman from Massachusetts, (Mr. Quincy,) that the people of New England will descend upon the ocean; that they will not bear this measure. If this be intended as a threat; if the gentleman meant that the people of New England are determined to resist the laws of the Union, let him say so; let us know it, and we will act accordingly. [Mr. Quincy said, he did not mean or think that they would resist the laws.] Mr. Campbell continued: I am happy to hear the gentleman explain his expressions in the manner he has done; it will render unnecessary some remarks I intended to make on that point. I hope, sir, these people will not oppose the laws of their country. I feel a confidence that the genius of liberty has not deserted New England, and that a large majority of the people there would rally round the standard of their Government when the occasion required it. From the best information I have been able to obtain, the people of one of those States, (I mean Connecticut,) which has generally differed in political sentiments from the present Administration, still retain the spirit of independence, and a sense of the value of their Constitution and civil liberties, and would be among the first to put down any open opposition to the laws; to crush in embryo the demon of insurrection. This, sir, I hope is true; it breathes the surviving of the spirit of seventy-six; it is highly honorable to those people; it proves them to be honest in their sentiments and good citizens. While the laws passed by a Constitutional majority are in force, they will support them; still they may justly claim the right, if they do not think them wholesome, to disapprove of them, and use all Constitutional means to procure their repeal. I would, sir, still indulge a strong hope that a large majority of the people of the very State from which the gentleman (Mr. Quincy) comes, would, when called upon, support the laws of their country, and punish the lawless wretches who dare openly set up the standard of opposition. If gentlemen acknowledge that this is the case, I trust we shall not again hear the language of menace on this floor. On this subject I concur perfectly in sentiment with the gentleman from Virginia, (Mr. Randolph,) that if any portion of the people oppose a public law, they must be reduced to submission, and I would be among the first to compel obedience to it; and I would, also, as stated by the gentleman from Maryland, (Mr. Nelson,) if the disease required bleeding, use the lancet, and that promptly too. Yes, sir, whoever would attempt to raise the standard of insurrection, should be made a public example of, as the enemy to independence and civil liberty; as the agent or tool of a foreign Power.

It has been repeatedly said, the people of New England will not bear this measure; that there will be a separation of the States. Such sentiments cannot be entertained or countenanced by any true American—by any friend to his country. They may be cherished by the agents and tools of Great Britain; by the enemies of our Constitution and independence, and by them alone. A separation of this Union, sir, can never be contemplated or countenanced by any portion of the people, even of New England, who are real Americans. Such a disposition can only exist among a few unprincipled and restless spirits, who, regardless of the general good, wish to become the petty tyrants of the people in that quarter, to lord it over them, make them groan under heavy taxes, and finally strip them of their liberty and independence; and, probably, to render their object more certain, would throw themselves under the fostering care of Great Britain, and become openly, what they now are secretly, her very minions and humble tools.

To enable them to effect this object, they may endeavor, under false pretences, to spirit up the people there to a severance of the Union, in order to withdraw them from the protection of the General Government and Constitution, which guaranties to every State a republican form of government, and is to the people their strong shield

against tyranny and oppression. To this group, however, this little insignificant group alone, must be confined any intention or disposition whatever to oppose the laws or sever the Union. The great body of the real Americans of New England, who descended from the illustrious heroes of 1776, and who hold dear the liberty and independence for which their fathers fought and bled, will not endeavor to stab the very vitals of their own country; they will not enlist under foreign banners; they will not, in the day of danger, be arrayed against their country; they will be found in the ranks, who dare to fight and shed their best blood for their country. But if the people of that quarter were to consider this proposition of a separation from the Union correctly, even in a pecuniary point of view, and as regards their own interest alone, they must reject it without hesitation. A great proportion, at least four-fifths, of the shipping of New England, find employment in carrying to market the produce of the Middle, Southern, and Western States. The whole produce of their own soil does not exceed in value seven or eight millions of dollars, out of forty-eight millions exported by the United States, while the single article of cotton, in the Southern and Western States, exceeds in value fourteen millions of dollars. They are, therefore, the mere carriers for the Middle and Southern States. Cut off their connexion and commerce with them, and where would they find employment for their immense tonnage of which they so much boast? What would become of it? Where would they get employment for their seamen? Their ships would rot at their wharves, or float empty upon the ocean; they could not furnish them with cargoes, and their boasted commerce would soon dwindle away into a mere trifle compared with its present flourishing condition. Have gentlemen who make these insinuations about a separation of New England from the Union, seriously considered the subject in these points of view, and fairly weighed the consequences? If they have not, it is high time they should. These remarks are made to show that New England cannot possibly have any interest in such a measure; that, on the contrary, it would be ruinous to the best interests of the people, and cannot, therefore, unless they are totally deluded, be countenanced by them.

It is with some reluctance I come to notice some remarks made by a gentleman from Massachusetts, (Mr. Quincy,) with respect to the report under consideration; that abstract legislation generally proceeds from ignorance, or wickedness, or—[Mr. Quincy requested to explain; he said his remarks were intended to apply to the doctrines recommended, and not to the style of the report or the committee who made it.] Mr. C. proceeded—I shall, sir, generally be willing to take gentlemen's explanations of the meaning of what they have said. I had intended to make some observations in answer to the remarks of the gentleman on this point, as I understood them, as relating to the report; but, as it is now stated, they were not intended to apply to the committee or the report itself, I shall omit those remarks and say nothing on that point. The gentleman, however, in another place, observed, that the principles contained in the report were loathsome. I do not, sir, profess to comprehend his meaning very distinctly when he applies the term loathsome to the principles of the report. A principle may be incorrect, or improper, to be supported, but how it can be loathsome, is not very obvious. [Mr. Quincy said he had alluded to the course, not the principles.] I will take the gentleman's explanation, said (Mr. Campbell,) though I took his words down as I have stated them; the course proposed is loathsome; this amounts to the same thing; the course proposed is founded on the principles assumed, and the facts stated in the report, and consists of the resolutions annexed thereto. How these can be called loathsome, is rather difficult to comprehend. But it seems there was a loathing produced; perhaps the appetite was vicious, and not the food presented impure or unwholesome; or, are we to understand that the resolution before you, which has been called weak, and so self-evident as not to admit of a doubt, has become so strong as to operate on the gentleman's delicate political stomach as an emetic, and occasion the discharge of that envenomed gall of rancorous enmity to the Government, which seems to exist in such abundance and which is so liberally bestowed on most occasions by that gentleman and others? Should this be the case, the result may be a favorable one, and less of these bitter invectives may be expected for the future than has been usual. But those kinds of objections to the report must arise from one of two causes; either from defects in the report itself, or from a bluntness of mental optics in those who make the objections, if indeed they are sincere. The report, however, is now before the public, and they will decide, and no doubt correctly, to which of these causes we ought to ascribe all the unqualified censures we have heard against it. I shall willingly acquiesce in their decision. It may not be improper here to remark, that notwithstanding the hard names by which the gentleman has called the principles of this report, he has not ventured to deny the correctness of one of them; he has not denied the aggressions therein stated to have been committed on our rights by the belligerents, nor has he attempted to show that there is any other course which we could pursue, better calculated to resist those aggressions than that presented in the report. This renders it unnecessary for me, at this time, to enter into a further investigation of this part of the subject. When gentlemen specify their objections to the course we propose, or present us with their project, we shall endeavor to answer the one and examine the other.

Gentlemen appear so anxious and determined to produce, if possible, a conviction among the people, that they are oppressed by the embargo; that no matter what question is before the House, their constant theme is the pressure of the embargo, the distress it produces, and the ruin it will bring on the country. This mournful tale is re-

peated on every occasion, and painted in the highest and most extravagant colors. One gentleman, (Mr. RANDOLPH,) at the close of one of those exaggerated representations, inquires what he shall do with his third crop of tobacco? The answer to this will equally apply to many other inquiries of a similar nature, made during this discussion. What would he do with it if the embargo was at this moment removed? You could not send it to the Continent, because you are prohibited by the British Orders in Council. If you should even submit to Great Britain, and, at the expense of national disgrace, send your tobacco there, she consumes less than 10,000 hogsheads of it out of about 90,000, which is annually exported, and the price that could be obtained for that portion at a market so glutted, would not pay the freight. What, then, would you do with it, supposing the embargo was off? The same you do now; keep it in your warehouses until there is a market open for it. The gentleman intimated you might carry it to Sweden, and find a market for it at Gottenburg, and that it would find its way from thence to the Continent; on what ground this last assertion is made, I cannot comprehend. It is well known that Sweden is at war with Russia, and it may be said with all the Powers on the Continent; that she has no communications with them, and that all their ports are shut against her. Produce of any kind could not, therefore, find its way to the continent of Europe through her ports; and she herself consumes but a very small quantity of tobacco. Taking off the embargo, therefore, would not furnish a market for this article; until the Orders of Council are revoked, you can have no market for tobacco.

But another ground has been taken and much relied upon, that the Treasury is drained by the operation of the embargo, and the sources of your revenue dried up. This argument, like most others which have been made against this measure, rests entirely upon ascribing effects to the wrong cause. They ascribe to the embargo what is really produced by the orders and decrees of the belligerents; and all that has been already said to show that those orders and decrees, and not the embargo, destroyed your commerce, will apply in this case, and show that they, in fact, and not the embargo, drained your Treasury, and dried up the sources of your revenue. For it is certain, that so long as your revenue depends upon your commerce, whatever destroys your commerce, of course, cuts up your revenue. It has already been shown, that if your commerce went upon the ocean, it would be captured; and it surely cannot be pretended that the capture of your vessels and property by Great Britain would increase the receipts in your Treasury, or open for you new sources of revenue. It must be much better to have your Treasury empty and your property at home, than to be deprived of the latter and have the former drained; nor can it be pretended that, for the sake of a commerce worth only three, or even six, millions of dollars, you ought to surrender your best rights, or hazard the calamities of a predatory war on your own merchants. The revenue to be raised from such a commerce would be inconsiderable, and I trust that, on a question involving the independence of our country, we shall not be governed by mercenary views alone, or by the effect it may have on our finances. If the only inquiry was, how we should replenish the Treasury, the case would be different; the effect of measures on the Treasury ought to be the principal point to be ascertained. But at such a crisis as the present, the questions of maintaining your independence and increasing your revenue, ought to be kept separate and distinct. You ought to protect and preserve unimpaired the rights of your people, whatever the effect on the Treasury might be. So long as the people have their property and rights secure, and are independent, you are safe; a rich people and an empty treasury, is much better than a poor people and an overflowing treasury. They will always support their Government so long as it acts correctly. Should direct taxes become necessary, they will cheerfully pay them, because they would be on their own account and for their own interest—though there is no ground to believe that such will be the case; and it is chimerical, it is a mere slander upon the good sense of the people, to suppose that such a measure would either produce a separation of the Union, or lead to a consolidation of the State authorities into the General Government. There can be no pretext for such alarms. But, sir, the Treasury is at this time more abundantly filled than it has been at any former period, and there are reasonable grounds to expect we shall be able to replenish it before it is entirely exhausted. But surely the nerves of gentlemen must be of a very delicate texture when they tremble so much for the fate of the nation, because our revenue may not have been as productive the present year as it was the last. There can be no good ground for such extraordinary palpitations on this subject. The American people will always furnish the means to maintain their rights and support their Government, if those means are properly applied.

I shall close the remarks I have to make at present on this subject, by calling on those gentlemen who oppose the present course, to give us the plan they wish to pursue, and let us know the grounds upon which they act. Do they deny the aggressions stated to have been committed on our commerce and neutral rights by the belligerents? If they do, let them inform us which of those Powers they consider justifiable in her conduct. If, on the contrary, they do not; if they admit those aggressions were committed on our rights, are they willing to resist them? Are they determined to vindicate the rights and independence of their country? If they are we wish to know in what manner. If they are not willing to pursue the measures of resistance we propose, of a total interdiction of intercourse with those Powers, will they assume a higher ground? Will they prefer war? If they do, this is one of the alternatives presented in the report. We wish to know what measures they are willing to adopt for the safety of the nation. The crisis is awful. The time has come to unite the people of America; we join issue with the gentlemen as to temporizing policy; we are for decisive measures; we have not, we will not, now temporize. We say there is no middle course. We are, in the first place, for cutting off all intercourse with those Powers who trample upon our rights. If that will not prove effectual, we say take the last alternative, war, with all its calamities, rather than submission or national degradation. This is the time for every man to take his stand in the ranks on one side or the other. There can no longer be but two denominations of characters in this country—friends and foes. Dangers thicken around, and threaten us from abroad; it is therefore high time for domestic differences to cease. The period has arrived at which every man in the nation must be called upon to rally round the standard of American freedom; when he must declare whether he will be for his country, or against his country; whether he will be an American or a traitor!

When Mr. CAMPBELL had concluded, the House adjourned.

WEDNESDAY, December 7.

Mr. SAY presented memorials from sundry late officers in the Pennsylvania line of the Revolutionary army, stating that, from the peculiar circumstances of the memorialists, they have been compelled to dispose of the certificates of pay and commutation granted them for military services rendered to the United States; and praying such relief in the premises as to the wisdom and justice of Congress shall seem meet.

Mr. WHARTON presented a petition from sundry late officers of the Massachusetts, Pennsylvania, Maryland, Virginia, and North Carolina lines of the said Revolutionary army, to the like effect.

The said memorials and petition were read, and ordered to lie on the table.

Mr. DURELL moved that the House do come to the following resolution:

Resolved, That it be the duty of the Clerk of this House to furnish the Representatives in Congress from each State in the Union, for the time being, and the Delegates from each of the Territories thereof, with one copy of every public document, including the laws and journals printed by order of the House, to be by them transmitted to the principal seminary of learning in each State and Territory, respectively.

The resolution was read, and, on motion of Mr. BACON, ordered to lie on the table.

FOREIGN RELATIONS.

The House then resumed the consideration of the first member of the first resolution reported on Thursday last, from the Committee of the Whole, which was depending yesterday at the time of adjournment, in the words following, to wit:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain."

Mr. G. W. CAMPBELL concluded his observations of yesterday, as given entire in preceding pages.

Mr. QUINCY.—Mr. Speaker, I offer myself to the view of this House with very sensible embarrassment, in attempting to follow the honorable gentleman from Tennessee, (Mr. CAMPBELL)—a gentleman who holds so distinguished a station on this floor, through thy blessing, Mr. Speaker, on his talents and industry. I place myself with much reluctance in competition with this, our great political Æneas, an illustrious leader of antiquity, whom, in his present relations, and in his present objects, the gentleman from Tennessee not a little resembles; since, in order to evade the ruin impending over our cities—taking my honorable colleague (Mr. BACON) by one hand, and the honorable gentleman from Maryland (Mr. MONTGOMERY by the other, (little Iülus and wife Creusa)—he is posting away into the woods with Father Anchises and all the household gods.

When I had the honor of addressing this House a few days ago, I touched this famous report of our Committee of Foreign Relations perhaps a little too carelessly; perhaps I handled it a little too roughly, considering its tender age, and the manifest delicacy of its constitution. But, sir, I had no idea of affecting very exquisitely the sensibilities of any gentleman. I thought that this was a common report of one of our ordinary committees, which I had a right to canvass or to slight, to applaud or to censure, without raising any extraordinary concern, either here or elsewhere. But, from the general excitement which my inconsiderate treatment of this subject occasions, I fear that I have been mistaken. This can be no mortal fabric, Mr. Speaker. This must be that image which fell down from Jupiter, present or future. Surely, nothing but a being of celestial origin would raise such a tumult in minds tempered like those which lead the destinies of this House. Sir, I thought that this report had been a common piece of wood—*inutile lignum*—just such a piece of wood as any day-laborer might have hewed out in an hour, had he health and a hatchet. But it seems that our honorable chairman of the Committee of Foreign Relations, *maluit esse Deum*. Well, sir, I have no objections. If the workmen will, a god it shall be. I only wish, that when gentlemen bring their sacred things upon this floor, that they would blow a trumpet before them, as the heathens do, on such occasions, to the end that all true believers may prepare themselves to adore and tremble, and that all unbelievers may turn aside, and not disturb their devotions.

I assure gentlemen that I meant to commit no sacrilege. I had no intention, sir, of canvassing very strictly this report. I supposed, that when it had been published and circulated, it had answered all the purposes of its authors, and I felt no disposition to interfere with them. But the House is my witness that I am compelled, by the clamor raised on all sides by the friends of the Administration, to descend to particulars, and to examine it somewhat minutely.

My honorable colleague (Mr. Bacon) was pleased the other day to assert:—— Sir, in referring to his observations, on a former occasion, I beg the House not to imagine that I am about to follow him. No, sir; I will neither follow nor imitate him. I hang upon no man's skirts; I run barking at no man's heel. I canvass principles and measures solely with a view to the great interests of my country. The idea of personal victory is lost in the total absorption of sense and mind in the impending consequences.—I say he was pleased to assert that I had dealt in general allegations against this report, without pointing out any particular objection. And the honorable chairman (Mr. Campbell) has reiterated the charge. Both have treated this alleged omission with no little asperity. Yet, sir, it is very remarkable, that, so far from dealing in general allegations, I explicitly stated my objections. The alternatives presented by the report—war or suspension of our rights, and the recommendation of the latter, rather than take the risk of the former, I expressly censured. I went further. I compared these alternatives with an extract from an address made by the first Continental Congress to the inhabitants of Great Britain, and attempted to show, by way of contrast, what I thought the disgraceful spirit of the report. Yet, these gentlemen complain that I dealt in general allegations. Before I close, sir, they will have, I hope, no reason to repeat such objections. I trust I shall be particular, to their content.

Before entering upon an examination of this report, it may be useful to recollect how it originated. By the third section of the second article of the Constitution, it is declared that the President of the United States "shall, from time to 'time, give to Congress information of the state 'of the Union, and recommend to their consideration such measures as he shall judge necessary 'and expedient." It is, then, the duty of the President to recommend such measures as in his judgment Congress ought to adopt. A great crisis is impending over our country. It is a time of alarm and peril and distress. How has the President performed this Constitutional duty? Why, after recapitulating, in a formal Message, our dangers and his trials, he expresses his confidence that we shall, "with an unerring regard to the essential 'rights and interests of the nation, weigh and 'compare the painful alternatives, out of which a 'choice is to be made," and that "the alternative 'chosen will be maintained with fortitude and 'patriotism." In this way our Chief Magistrate performs his duty. A storm is approaching; the captain calls his choice hands upon deck; leaves the rudder swinging, and sets the crew to scuffle about *alternatives!* This Message, pregnant with nondescript alternatives, is received by this House. And what do we? Why, constitute a great Committee of Foreign Relations, and, lest they should not have their attention completely occupied by the pressing exigencies of those with France and Great Britain, they are endowed with the whole mass—British, Spanish, and French; Barbary Powers and Indian neighbors. And what does this committee do? Why, after seven days' solemn conclave, they present to this House an illustrious report, loaded with alternatives—nothing but alternatives. The cold meat of the Palace is hashed and served up to us, piping hot, from our committee room.

In considering this report, I shall pay no attention to either its beginning or its conclusion. The former consists of shavings from old documents, and the latter of birdlime for new converts. The twelfth page is the heart of this report; that I mean to canvass. And I do assert, that there is not one of all the principal positions contained in it which is true, in the sense and to the extent assumed by the committee. Let us examine each, separately:

"Your committee can perceive no other alternative but abject and degrading submission, war with both nations, or a continuance and enforcement of the present suspension of our commerce."

Here is a tri-forked alternative. Let us consider each branch, and see if either be true, in the sense assumed by the committee. The first—"abject and degrading submission"—takes two things for granted: that trading, pending the edicts of France and Great Britain, is submission; and next that it is submission, in its nature, abject and degrading. Neither is true. It is not submission to trade, pending those edicts, because they do not command you to trade; they command you *not* to trade. When you refuse to trade, you submit; not when you carry on that trade, as far as you can, which they prohibit. Again, it is not true that such trading is abject and disgraceful, and that, too, upon the principles avowed by the advocates of this report. Trading, while these edicts are suspended over our commerce, is submission, say they, because we have not physical force to resist the power of these belligerents; of course, if we trade, we must submit to these restrictions, not having power to evade or break through them. Now, admit, for the sake of argument, (what however in fact I deny,) that the belligerents have the power to carry into effect their decrees so perfectly; that, by reason of the orders of Great Britain, we are physically disabled from going to France; and that, by the edicts of France, we are in like manner disabled from going to Great Britain. If such be our case, in relation to these Powers, the question is, whether submitting to exercise all the trade which remains to us, notwithstanding these edicts, is "abject and degrading."

In the first place, I observe, that submission is not, to beings constituted as we are, always "abject and degrading." We submit to the decrees of Providence—to the laws of our nature. Absolute weakness submits to absolute power; and there is nothing in such submission shameful or degrading. It is no dishonor for finite not to contend with infinite. There is no loss of reputation, if creatures, such as men, perform not impossibilities. If then it be true, in the sense asserted by some of the advocates of this report, that it is physically impossible for us to trade with France and Great Britain and their dependencies, by reason of these edicts, still there is nothing "abject or degrading" in carrying on such trade as these edicts leave open to us, let it be never so small or so trifling; which, however, it might be easily shown, as it has been, that it is neither the one nor the other. Sir, in this point of view, it is no more disgraceful for us to trade to Sweden, to China, to the Northwest coast, or to Spain and her dependencies—not one of which countries is now included in those edicts—than it is disgraceful for us to walk, because we are unable to fly; no more than it is shameful for man to use and enjoy the surface of this globe, because he has not at his command the whole circle of nature, and cannot range at will over all the glorious spheres which constitute the universe.

The gentleman from Tennessee (Mr. Campbell) called upon us just now to tell him what was disgraceful submission, if carrying on commerce under these restrictions was not such submission. I will tell that gentleman. That submission is "abject and disgraceful" which yields to the decrees of frail and feeble power, as though they were irresistible; which takes counsel of fear, and weighs not our comparative force; which abandons the whole, at a summons to deliver up a part; which makes the will of others the measure of rights, which God and nature not only have constituted eternal and unalienable, but have also endued us with ample means to maintain.

My argument on this clause of the report of the committee may be presented in this form: either the United States have or they have not physical ability to carry on commerce in defiance of the edicts of both or of either of these nations. If we have not physical ability to carry on the trade which they prohibit, then it is no disgrace to exercise that commerce which these irresistible decrees permit. If we have such physical ability, then, to the degree in which we abandon that commerce which we have power to carry on, is our submission, "abject and disgraceful." It is yielding without a struggle; it is sacrificing our rights, not because we have not force, but because we have not spirit to maintain them. It is in this point of view that I am disgusted with this report. It abjures what it recommends; it declaims, in heroics, against submission, and proposes, in creeping prose, a tame and servile subserviency.

It cannot be concealed, let gentlemen try as much as they will, that we can trade, not only with one, but with both these belligerents, notwithstanding these restrictive decrees. The risk to Great Britain against French capture scarcely amounts to two per cent.; that to France against Great Britain is unquestionably much greater. But, what is that to us? It is not our fault, if the power of Britain on the ocean is superior to that of Bonaparte. It is equal and exact justice between both nations for us to trade with both, as far as it is in our power. Great as the power of Britain is on the ocean, the enterprise and intrepidity of our merchants are more than a match for it. They will get your products to the Continent in spite of her navy. But, suppose they do not; suppose they fail, and are captured in the attempt; what is that to us? After we have given them full notice of all their dangers, and perfect warning, either of our inability or of our determination not to protect them, if they take the risk, it is at their peril. And, upon whom does the loss fall? As it does now, through the operation of your embargo, on the planter, on the farmer, on the mechanic, on the day-laborer? No, sir; on the insurer—on the capitalist—on those who, in the full exercise of their intelligence, apprized of all the circumstances, are willing to take the hazard for the sake of the profit.

I will illustrate my general idea by a supposition. There are two avenues to the ocean from the harbor of New York—by the Narrows, and through Long Island Sound. Suppose the fleets, both of France and Great Britain, should block up the Narrows, so that to pass them would be physically impossible, in the relative state of our naval force. Will gentlemen seriously contend that there would be anything "abject or disgraceful," if the people of New York should submit to carry on their trade through the Sound? Would the remedy for this interference with our rights be abandoning the ocean altogether? Again; suppose, that instead of both nations blockading the same point, each should station its force at a different one—France at the mouth of the Sound, Britain at the Narrows. In such case, would staying at home, and refusing any more to go upon the sea, be an exercise of independence in the citizens of New York? Great philosophers may call it "dignified retirement," if they will. I call it, and I am mistaken if the people would not call it, "base and abject submission." Sir, what in such a case would be true honor? Why, to consider well which adversary is the weakest, and cut our way to our rights through the path which he obstructs. Having removed the smaller impediment, we should return with courage, strengthened by trial and animated by success, to the relief of our rights, from the pressure of the strongest assailant. But, all this is war; and war is never to be incurred. If this be the national principle, avow it; tell your merchants you will not protect them; but, for Heaven's sake, do not deny them the power of relieving their own and the nation's burdens, by the exercise of their own ingenuity. Sir, impassable as the barriers offered by these edicts are in the estimation of members on this floor, the merchants abroad do not estimate them as insurmountable. Their anxiety to risk their property, in defiance of them, is full evidence of this. The great danger to mercantile ingenuity is internal envy—the corrosion of weakness or prejudice. Its external hazard is ever infinitely smaller. That practical intelligence which this class of men possesses, beyond any other in the community, excited by self-interest—the strongest of human passions—is too elastic to be confined by the limits of exterior human powers, however great or uncommon. Build a Chinese wall, and the wit of your merchants, if permitted freely to operate, will break through it, or overleap it, or undercreep it.

—— "mille adde catenas
"Effugiet tamen, hæc sceleratus vincula Proteus.

The second branch of the alternatives under

consideration is equally deceptive—"War with both nations." Can this ever be an alternative? Did you ever read in history, can you conceive in fancy, a war with two nations, each of whom is at war with the other, without an union with one against the other immediately resulting? It cannot exist in nature. The very idea is absurd. It never can be an alternative, whether we shall fight two nations each hostile to the other. But it may be, and if we are to fight at all, it is a very serious question, which of the two we are to select as an adversary. As to the third branch of these celebrated alternatives, "a continuance and enforcement of the present system of commerce," I need not spend time to show that this does not include all the alternatives which exist under this head—since the committee immediately admit, that there does exist another alternative, "partial repeal," about which they proceed to reason.

The report proceeds. "The first" (abject and degrading submission) "cannot require any discussion." Certainly not. Submission of that quality which the committee assume, and with the epithets of which they choose to invest it, can never require discussion at any time. But, whether trading under these orders and decrees, be such submission, whether we are not competent to resist them in part, if not in whole, without a total abandonment of the exercise of all our maritime rights, the comparative effects of the edicts of each upon our commerce, and the means we possess to influence or control either, are all fair and proper subjects of discussion; some of which the committee have wholly neglected and none of which have they examined, as the House had a right to expect.

The committee proceed "to dissipate the illusion" that there is any "middle course," and to reassert the position before examined, that "there is no other alternative than war with both nations, or a continuance of the present system." This position they undertake to support by two assertions. First, that "war with one of the belligerents only, would be submission to the edicts and will of the other." Second, that "repeal in whole or in part of the embargo, must necessarily be war or submission."

As to the first assertion, it is a miserable fallacy, confounding coincidence of interest with subjection of will; things in their nature palpably distinct. A man may do what another wills, nay, what he commands, and not act in submission to his will, or in obedience to his command. Our interest or duty may coincide with the line of conduct another presumes to prescribe. Shall we vindicate our independence at the expense of our social or moral obligations? I exemplify my idea in this way. Two bullies beset your door, from which there are but two avenues. One of them forbids you to go by the left, the other forbids you to go by the right avenue. Each is willing that you should pass by the way which he permits. In such case, what will you do? Will you keep house forever, rather than make choice of the path through which you will resume your external rights? You cannot go both ways at once, you must make your election. Yet, in making such election, you must necessarily coincide with the wishes and act according to the commands of one of the bullies. Yet who, before this committee, ever thought an election of one of two inevitable courses, made under such circumstances, "abject and degrading submission" to the will of either of the assailants? The second assertion, that "repeal in whole or in part of the embargo must necessarily be war or submission," the committee proceed to maintain by several subsidiary assertions. First—"a general repeal without arming would be submission to both nations." So far from this being true, the reverse is the fact; it would be submission to neither. Great Britain does not say, "you shall trade with me." France does not say "you shall trade with me." If this was the language of their edicts, there might be some color for the assertion of the committee, that if we trade with either we submit. The edicts of each declare you shall not trade with my adversary. Our servile knee-crooking embargo, says, "you shall, therefore, not trade." Can any submission be more palpable, more "abject, more disgraceful?" A general repeal without arming, would be only an exercise of our natural rights, under the protection of our mercantile ingenuity, and not under that of physical power. Whether our merchants shall arm or not, is a question of political expediency and of relative force. It may be very true that we can fight our way to neither country, and yet it may be also very true, that we may carry on a very important commerce with both. The strength of the national arm may not be equal to contend with either, and yet the wit of our merchants may be over-match for the edicts of all. The question of arming or not arming, has reference only to the mode in which we shall best enjoy our rights, and not at all to the quality of the act of trading during these edicts. To exercise commerce is our absolute right. If we arm, we may possibly extend the field beyond that which mere ingenuity would open to us. Whether the extension thus acquired be worthy of the risk and expense is a fair question. But, decide it either way, how is trading as far as we have ability, made less abject than not trading at all?

I come to the second subsidiary assertion. "A 'general repeal and arming of merchant vessels, 'would be war with both, and war of the worst 'kind, suffering the enemies to plunder us, with-'out retaliation upon them.'"

I have before exposed the absurdity of a war with two belligerents, each hostile to the other. It cannot be true therefore, that "a general repeal and arming our merchant vessels," would be such a war. Neither if war resulted, would it be "war of the worst kind." In my humble apprehension, a war, in which our enemies are permitted to plunder us, and our merchants not permitted to defend their property, is somewhat worse than a war like this; in which, with arms in their hands, our brave seamen might sometimes prove too strong for their piratical assailants. By the whole amount of property, which we might be able to preserve, by these means, would such a war be

better than that in which we are now engaged. For the committee assure us, that the aggressions, to which we are subject, "are to all intents and purposes a maritime war, waged with both nations against the United States."

The last assertion of the committee, in this most masterly page is, that "a partial repeal must, 'from the situation of Europe, necessarily, be ac-'tual submission to one of the aggressors, and 'war with the other." In the name of common sense, how can this be true? The trade to Sweden, to Spain, to China, is not now affected by the orders or decrees of either belligerent. How is it submission, then, to these orders for us to trade to Gottenburg, when neither France nor Britain command, nor prohibit it? Of what consequence is it to us, what way the Gottenburg merchant disposes of our products, after he has paid us our price? I am not about to deny that a trade to Gottenburg would defeat the purpose of coercing Great Britain, through the want of our supplies, but I reason on the report upon its avowed principles. If gentlemen adhere to their system, as a means of coercion, let the Administration avow it as such, and support the system, by arguments such as their friends use every day on this floor. Let them avow, as those friends do, that this is our mode of hostility against Great Britain. That it is better than "ball and gunpowder." Let them show that the means are adequate to the end; let them exhibit to us, beyond the term of all this suffering, a happy salvation, and a glorious victory, and the people may then submit to it, even without murmur. But while the Administration support their system only as a municipal regulation, as a means of safety and preservation, those who canvass their principle are not called upon to contest with them on ground, which not only they do not take, but which, officially, they disavow. As partial repeal would not be submission to either, so, also, it would not be war with either. A trade to Sweden would not be war with Great Britain, that nation is her ally, and she permits it. Nor with France, though Sweden is her enemy, she does not prohibit it. Ah! but say the committee, "a 'measure which would supply exclusively one of 'the belligerents, would be war with the other." This is the State secret; this is the master-key to the whole policy. You must not only do what the letter of these orders prohibits, but you must not sin against the spirit of them. The great purpose is, to prevent your product from getting to our enemy, and to effect this you must not only so act as to obey the terms of the decrees, but keeping the great purpose of them always in sight, you must extend their construction to cases which they cannot, by any rule of reason, be made to include.

Sir, I have done with this report. I would not have submitted to the task of canvassing it, if gentlemen had not thrown the gauntlet with the air of sturdy defiance. I willingly leave to this House and the nation to decide whether the position I took in the commencement of my argument is not maintained; that there is not one of the principal positions contained in the 12th page, the heart of this report, which is true, in the sense and to the extent assumed by the committee.

It was under these general impressions that I used the word "loathsome," which has so often been repeated. Sir, it may not have been a well chosen word. It was that which happened to come to hand first. I meant to express my disgust at what appeared to me a mass of bold assumptions, and of illy cemented sophisms.

I said, also, that "the spirit which it breathed was disgraceful." Sir, I meant no reflection upon the committee. Honest men and wise men may mistake the character of the spirit, which they recommend, or by which they are actuated. When called upon to reason concerning that which, by adoption, is to become identified with the national character, I am bound to speak of it as it appears to my vision. I may be mistaken. Yet, I ask the question: is not the spirit which it breathes disgraceful? Is it not disgraceful to abandon the exercise of all our commercial rights, because our rivals interfere with a part; not only to refrain from exercising that trade which they prohibit, but for fear of giving offence, to decline that which they permit? Is it not disgraceful, after inflammatory recapitulation of insults, and plunderings, and burnings, and confiscations, and murders, and actual war made upon us, to talk of nothing but alternatives, of general declarations, of still longer suspension of our rights, and retreating farther out of "harm's way?" If this course be adopted by my country, I hope I am in error concerning its real character. But to my sense, this whole report is nothing else than a recommendation to us of the abandonment of our essential rights and apologies for doing it.

Before I sit down, I feel myself compelled to notice some observations which have been made in different quarters of this House on the remarks which, at an early stage of this debate, I had the honor of submitting to its consideration. My honorable colleague (Mr. Bacon) was pleased to represent me as appealing to the people over the heads of the whole Government, against the authority of a law which had not only the sanction of all the legislative branches of the Government, but also of the Judiciary. Sir, I made no such appeal. I did not so much as threaten it. I admitted, expressly, the binding authority of the law. But I claim a right, which I ever will claim, and ever will exercise, to urge, on this floor, my opinion of the unconstitutionality of a law, and my reasons for that opinion, as a valid ground for its repeal. Sir, I will not only do this, I will do more. If a law be, in my apprehension, dangerous in its principles, ruinous in its consequences, above all, if it be unconstitutional, I will not fail in every fair and honorable way to awaken the people to a sense of their peril; and to quicken them, by the exercise of their Constitutional privileges, to vindicate themselves and their posterity from ruin.

My honorable colleague (Mr. Bacon) was also pleased to refer to me, "as a man of divisions and distinctions, waging war with adverbs, and deal-

ing in figures." Sir, I am sorry that my honorable colleague should stoop "from his pride of place," at such humble game as my poor style presents to him. Certainly, Mr. Speaker, I cannot but confess that, "deeming high" of the station which I hold; standing, as it were, in the awful presence of an assembled people, I am more than ordinarily anxious, on all occasions, to select the best thoughts in my narrow storehouse, and to adapt to them the most appropriate dress in my intellectual wardrobe. I know not whether, on this account, I am justly obnoxious to the asperity of my honorable colleague. But, on the subject of figures, sir, this I know, and cannot refrain from assuring this House that, as on the one hand, I shall, to the extent of my humble talents, always be ambitious, and never cease striving to make a decent figure on this floor; so, on the other, I never can be ambitious, but, on the contrary, shall ever strive chiefly to avoid cutting a figure like my honorable colleague.

The gentleman from Georgia, (Mr. Troup,) the other day, told this House that, if commerce were permitted, such was the state of our foreign relations, none but bankrupts would carry on trade. Sir, the honorable gentleman has not attained correct information in this particular. I do not believe that I state anything above the real fact, when I say that, on the day this Legislature assembled, one hundred vessels, at least, were lying in the different ports and harbors of New England loaded, riding at single anchor, ready and anxious for nothing so much as for your leave to depart. Certainly, this does not look much like any doubt that a field of advantageous commerce would open, if you would unbar the door to your citizens. That this was the case in Massachusetts I know. Before I left that part of the country, I had several applications from men, who stated that they had property in such situations, and soliciting me to give them the earliest information of your probable policy. The men so applying, I can assure the House, were not bankrupts; but intelligent merchants, shrewd to perceive their true interests; keen to pursue them. The same honorable gentleman was also pleased to speak of "a paltry trade in potash and codfish," and to refer to me as the Representative of men who raised "beef and pork, and butter and cheese, and potatoes and cabbages." Well, sir, I confess the fact. I am the Representative, in part, of men, the products of whose industry are beef and pork, and butter and cheese, and potatoes and cabbages. And let me tell that honorable gentleman, that I would not yield the honor of representing such men, to be the Representative of all the growers of cotton and rice, and tobacco and indigo, in the whole world. Sir, the men whom I represent, not only raise those humble articles, but they do it with the labor of their own hands, with the sweat of their own brows. And by this, their habitual mode of hardy industry, they acquire a vigor of nerve, a strength of muscle, and spirit of intelligence, somewhat characteristic. And let me say to that honorable gentleman, that the men of whom I speak will not, at his call, nor at the invitation of any man or set of men from his quarter of the Union, undertake to "drive one another into the ocean." But, on the contrary, whenever they once realize that their rights are invaded, they will unite, like a band of brothers, and drive their enemies there.

The honorable gentleman from Kentucky, (Mr. Johnson,) speaking of the embargo, said, that this was the kind of conflict which our fathers waged; and my honorable colleague (Mr. Bacon) made a poor attempt to confound this policy with the non-intercourse and non-importation agreement of 1774 and 1775. Sir, nothing can be more dissimilar. The non-intercourse and non-importation agreement of that period, so far from destroying commerce, fostered and encouraged it. The trade with Great Britain was indeed voluntarily obstructed, but the enterprise of our merchants found a new incentive in the commerce with all the other nations of the globe, which succeeded immediately on our escape from the monopoly of the mother country. Our navigation was never suspended. The field of commerce at that period, so far from being blasted by pestiferous regulations, was extended by the effect of the restrictions adopted.

But let us grant all that they assert. Admit, for the sake of argument, that the embargo, which restrains us now from communication with all the world, is precisely synonymous with that non-intercourse and non-importation which restrained us then from Great Britain. Suppose the war, which we now wage with that nation, is in every respect the same as that which our fathers waged with her in 1774 and 1775. Have we from the effects of their trial any lively hope of success in our present attempt? Did our fathers either effect a change in her injurious policy or prevent a war by non-intercourse? Sir, they did neither the one nor the other. Her policy was never changed until she had been beaten on our soil, in an eight years' war. Our fathers never relied upon non-intercourse and non-importation as measures of hostile coercion. They placed their dependence upon them solely as means of pacific influence among the people of that nation. The relation in which this country stood at that time with regard to Great Britain, gave a weight and a potency to those measures then, which in our present relation to her, we can neither hope nor imagine possible. At that time we were her Colonies, a part of her family. Our prosperity was essentially hers. So it was avowed in this country. So it was admitted in Great Britain. Every refusal of intercourse which had a tendency to show the importance of these then colonies to the parent country, of the part to the whole, was a natural and a wise means of giving weight to our remonstrances. We pretended not to control, but to influence, by making her feel our importance. In this attempt we excited no national pride, on the other side of the Atlantic. Our success was no national degradation, for the more we developed our resources and relative weight, the more we discovered the strength and resources of the British power. We

were then component parts of it. All the measures of the Colonies, antecedent to the Declaration of Independence, had this principle for their basis. As such, non-importation and non-intercourse were adopted in this country. As such, they met the co-operation of the patriots of Great Britain, who deemed themselves deviating from none of their national duties, when they avowed themselves the allies of American patriots, to drive through the influence of the loss of our trade, the ministry from their places, or their measures. Those patriots did co-operate with our fathers, and that openly, in exciting discontent, under the effect of our non-intercourse agreements. In so doing, they failed in none of their obligations to their sovereign. In no nation, can it ever be a failure of duty to maintain that the safety of the whole depends on preserving its due weight to every part. Yet, notwithstanding the natural and little suspicious use of these instruments of influence, notwithstanding the zeal of the American people coincided with the views of Congress, and a mighty party existed in Great Britain, openly leagued, with our fathers, to give weight and effect to their measures, they did not effect the purposes, for which they were put into operation. The British policy was not abandoned. War was not prevented. How then can any encouragement be drawn from that precedent, to support us under the privations of the present system of commercial suspension? Can any nation admit that the trade of another is so important to her welfare, as that on its being withdrawn, any obnoxious policy must be abandoned, without at the same time admitting that she is no longer independent? Sir, I could indeed wish that it were in our power to regulate not only Great Britain, but the whole world, by opening or closing our ports. It would be a glorious thing for our country to possess such a mighty weapon of defence. But, acting in a public capacity, with the high responsibilities resulting from the great interests, dependant upon my decision, I cannot yield to the wishes of love-sick patriots, or the visions of teeming enthusiasts; I must see the adequacy of means to their ends. I must see, not merely that it is very desirable that Great Britain should be brought to our feet, by this embargo, but that there is some likelihood of such a consequence to the measure, before I can concur in that universal distress and ruin, which, if much longer continued, will inevitably result from it. Since, then, every dictate of sense and reflection convinces me of the utter futility of this system, as a means of coercion, on Great Britain, I shall not hesitate to urge its abandonment. No, sir, not even although, like others, I should be assailed by all the terrors of the outcry of British influence.

Really, Mr. Speaker, I know not how to express the shame and disgust with which I am filled, when I hear language of this kind cast out upon this floor, and thrown in the faces of men, standing justly on no mean height in the confidence of their countrymen. Sir, I did, indeed, know that such vulgar aspersions were circulating among the lower passions of our nature. I knew that such vile substances were ever tempering between the paws of some printer's devil. I knew that foul exhalations like these daily rose in our cities, and crept along the ground, just as high as the spirits of lampblack and saline oil could elevate; falling, soon, by native baseness, into oblivion, in the jakes. I knew, too, that this species of party insinuation was a mighty engine, in this quarter of the country, on an election day, played off from the top of a stump, or the top of a hogshead, while the gin circulated, while barbacue was roasting; in those happy, fraternal associations and consociations, when those who speak, utter without responsibility, and those who listen, hear without scrutiny. But little did I think, that such odious shapes would dare to obtrude themselves, on this national floor, among honorable men;—the select representatives, the confidential agents of a wise, a thoughtful and a virtuous people. I want language to express my contempt and indignation at the sight.

So far as respects the attempt which has been made to cast such aspersions on that part of the country which I have the honor to represent, I beg this honorable House to understand, that so long as they, who circulate such insinuations, deal only in generals and touch not particulars, they may gain among the ignorant and the stupid a vacant and a staring audience. But when once these suggestions are brought to bear upon those individuals, who in New England have naturally the confidence of their countrymen, there is no power in these calumnies. The men who now lead the influences of that country, and in whose councils the people on the day when the tempest shall come will seek refuge, are men whose stake is in the soil, whose interests are identified with those of the mass of their brethren, whose private lives and public sacrifices present a never failing antidote to the poison of malicious invectives. On such men, sir, party spirit may indeed cast its odious filth, but there is a polish in their virtues, to which no such slime can adhere. They are owners of the soil; real yeomanry; many of them men who led in the councils of our country in the dark day which preceded the national independence; many of them men, who, like my honorable friend from Connecticut on my left, (Mr. Tallmadge,) stood foremost on the perilous edge of battle; making their breasts in the day of danger a bulwark for their country. True it is, Mr. Speaker, there is another and a much more numerous class, composed of such as through defect of age can claim no share in the glories of our Revolution; such as have not yet been blest with the happy opportunity of "playing the man" for their country; generous sons of illustrious sires; men, not to be deterred from fulfilling the high obligations they owe to this people by the sight of foul and offensive weapons. Men who, with little experience of their own to boast, will fly to the tombs of their fathers, and questioning, concerning their duties, the spirit which hovers there, will no more shrink from maintaining their native rights, through fear of the sharpness of malevolent tongues, than they will, if put to the

trial, shrink from defending them through fear of the sharpness of their enemies' swords.

When Mr. Quincy had concluded, the House adjourned without taking a question.

THURSDAY, December 8.

On motion of Mr. Newton, that the unfinished business of yesterday, depending at the time of adjournment, do lie on the table; and that the House do now resolve itself into a Committee of the Whole on the amendatory bill authorizing the President to employ an additional number of revenue cutters: and the question being taken thereupon, it was resolved in the affirmative.

The House accordingly resolved itself into the said Committee; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

FOREIGN RELATIONS.

The House then resumed the consideration of the first member of the first resolution reported on Thursday last from the Committee of the Whole, which was depending yesterday at the time of adjournment, in the words following, to wit:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain."

Mr. Key said that it was with much regret that he had seen the course which the debate on the first resolution had taken; as the propositions contained in that resolution met his entire and full approbation, he could have wished that instead of the discussion which had taken place, a silent, dignified vote, the spontaneous effect of feeling and judgment, had at once passed. It would have been a better course, would have had a better effect, and kept the American mind from the impression which the protraction of the discussion must have occasioned, when taken in connexion with the subject. A view however of the embargo had been gone into in respect to its past effects at home and its probable future effects at home and abroad. As that course had been adopted, he said he should find an apology, for the time which he should occupy, in the present eventful crisis, and the interest it universally excited.

I did myself believe (said Mr. Key) that the first resolution was an abstract proposition, and I still think so, although gentlemen consider it special, but surely a special proposition may be an abstract one. That which I consider an abstract proposition, is one out of which no future legislative proceedings can grow; but I agree that the crisis well warrants an expression of the public voice.

I shall take up the report and resolutions as a system, not with a view to condemn the report at all, for I take it as gentlemen wish it to be considered. I understand the gentleman from Massachusetts (Mr. Bacon) as stating that the committee on our foreign relations had said nothing of the embargo. It was not necessary, Mr. Speaker, that they should, for the embargo law continues in operation until repealed. But surely it must be recollected that the Committee on Foreign Relations in their resolutions seem to consider the system which they recommend, as including a continuance of the embargo; and I trust I meet the committee on fair and firm ground, when I consider their assent to be implied to the continuance of the embargo, and that it is their opinion that the measures which they recommend, united with the embargo, form an efficient system proper for the American people to adopt at this time. I shall necessarily therefore endeavor to answer gentlemen who have considered the embargo as a wise measure for the American people; that they are competent to bear it; and that it will, if guarded more sedulously, yet work out the political salvation of our land.

That the embargo is a measure severely felt by our country at large, and by some portions of it to a very eminent degree, cannot be denied. I did not expect to hear its effects contradicted; but they have been in some measure softened by the honorable chairman of the committee. I think the pressure of this measure great, and in some places requiring all the exertion of patriotism to support it. And as a proof of it, the members on this floor from different parts of the Union have only contended which section suffered most. A member from Massachusetts, (Mr. Quincy,) because he conceives that thirty millions of dollars have been lost to the Eastern country by the measure, hence concludes that the Eastern country suffers most. The gentlemen from the Southern country say that they raise seventy millions of pounds of cotton, of which but ten millions are consumed at home, and the whole of the residue remains on hand; and that having seven-tenths of their produce unsold, conceive that they most sensibly feel the weight of this affliction in their country. A member from Virginia (Mr. Randolph) will not yield the palm of oppression to either. "I live (said the gentleman) in the centre 'of the tobacco country, whether you draw the line 'from East to West, or from North to South. We 'are not less pressed than others, for we have no 'vent for this article so obnoxious in itself, but 'which the taste of mankind has rendered neces-'sary." Now, with great deference to all these gentlemen, I say that my country suffers most. The Southern country possesses its staples, which but remain on hand; their value only diminished by the non-export. Tobacco and cotton may be preserved without material injury for a length of time. We know that at the close of the Revolutionary war tobacco bore a greater price than previous to its commencement, and amply remunerated the holders. But I represent an agricultural country. What can resuscitate wheat devoured by the fly? What restore flour soured in the barrel? Our produce perishes, the subject is destroyed. So far therefore as I represent an extensive and fertile farming district, I will not yield the palm of pressure to the cotton and tobacco country. So great has been the feeling of the people that it has wrought a wondrous change in the State which I have the honor to represent;

not in men who are either deluded or deceived, as intimated by the gentleman from Tennessee, (Mr. Campbell,) but men who, by the pressure of the embargo itself, have been driven to reflection, and by reflection removed the film from their eyes, and thereby seen their true interests more distinctly. In the course of the last Winter, the Legislature of the State of Maryland, believing that the Orders in Council justified the embargo, and that it was a wise measure, approved of it. Succeeding elections have taken place, and the present House of Representatives tells you that it is most ruinous and oppressive. Such certainly are its effects in the State of Maryland; and I should illy represent my own district, if I did not so declare. Gentlemen will say that I should rather be pleased with the change than regret it; but, so help me God, Mr. Speaker, I am much less anxious what description of citizens administers the affairs of the country, than that they should be well administered; that it should protect the liberty, give to labor its just reward, and promote the happiness and prosperity of the citizens.

But it is alleged, by the honorable chairman of the committee, (Mr. Campbell,) that this is a delusion; that the people do not comprehend the subject; for that it is the Orders in Council which have produced our embarrassments, and not the embargo. Here then, sir, I am precisely at issue with that learned and honorable gentleman. I contend that the pressure on the people is caused by the embargo, and not by the Orders in Council. However speculative theorists may reason, there is proof abroad, and stubborn facts to contradict their reasoning. Test the market from Boston to Savannah, as to the price which you may get at ninety days credit, the embargo being continued, or on condition that the embargo be repealed in thirty days. Is there no difference in the price under these circumstances? I know well from experience, and the whole country knows, that if the embargo be now taken off, the price of every species of produce will rise fifty per cent. The depreciation in price then flows from the embargo. Remove it and they will give you more; keep it on and they will give you less. These are stubborn facts, and every man who has gone to the market will attest their correctness. You may reason as you please; but there is not a farmer that can be reasoned out of his senses, especially when they are sharpened a little by necessity. I hold these facts to be more conclusive than any abstract reasoning to prove that the embargo does work a diminution in the value of the articles which we have for sale. If this be the case, it results, sir, that we must ascribe to the operation of that measure the loss our country now so greatly feels. Our citizens are not so uninformed as the gentleman from Tennessee imagines. He thinks, and I agree with him, that the public voice will be generally right when the people are well informed. They have seen all the official communications which have been published, and are competent to judge whether the Orders in Council justified the embargo, and whether, if the embargo had not been laid, they would have wrought that effect which we now so sensibly feel. Instead of being deluded, sir, their eyes are opened, and the film removed; and they see that the embargo was not justified by necessity, and as far as their opinion has been expressed, that it was impolitic and unwise.

The gentleman seems to think that the country cannot feel much because it feeds well; but we may feel and feed at the same time. It is plenty that we complain of. Our surplus is touched by this torpedo, the embargo, and is thereby rendered useless. But gentlemen say that if the embargo were now taken off, we could not trade; and a calculation has been entered into by the gentleman from Tennessee in opposition to one made by me at the last session. I have not seen my calculation for months, sir; it is before the public—the gentleman's statement will go to the same tribunal, and I am willing to commit my slender reputation to the country for the accuracy of mine, and let the people judge between us. The gentleman tells you that we have no commerce to resort to which would be either safe or profitable. It is strange we cannot confide the decision of this question to commercial men—for what commercial man would undertake a voyage which shall be attended with certain ruin? I had thought that men of great experience and information, and whose knowledge was sharpened by interest, might be safely confided in. But merchants, whose habits of life have led them to calculate, whose information extends to every part of the world, are not to be trusted with the prosecution of their own interest, but we must kindly take it in hand for them! Sir, I contend that commerce had better be left free for merchants to find a market, which every one knows they would do, from their eagerness now to ship. If they could not export with safety, or profit, they would lay a voluntary embargo, ten thousand times better than a coercive one; the very necessity of coercion shows that our merchants would sail, were it not for the embargo. I contend that the embargo is ruinous and oppressive. Need I say anything further on the subject? Look at the country. The courts of justice shut in one of the Southern States; executions suspended in a State contiguous to this; and Maryland reduced to the same necessity, from the circumstance of there being no market for our produce. So great is the pressure that the people have it not in their power to pay their ordinary debts; and how eloquent is the fact that in a moment of peace (for certainly there is not war) we are compelled to arrest the current of justice. The legislative acts depict the situation of the country more strikingly than volumes of argument. The State Legislatures know the inability of their citizens to pay, and hold out a kind hand to assist them.

In point of revenue how does it work? The honorable chairman of the committee, (Mr. Campbell,) in a speech of great learning and investigation, told us that the Treasury never was more full. I wish the documents were before the House to convince us of it. But did an atom of it flow

in from the operation of the embargo? If there be such a surplus, it only shows the beneficial operation of the system pursued anterior to the embargo. What is to fill your Treasury now, if the people cannot sell their produce? What will in this case become of your source of wealth in the Western country? The people can neither buy lands, nor buying, pay for them. Where is the impost duty, which has supported the Government, and sunk to a considerable degree the national debt? The moment you prevent all importation, there is an utter extinction of impost revenue; and at home a physical inability to produce any from the people at large. We are a rich country, abounding in the necessaries of life; we have money's worth, but no money. Nor can our people by any practical means raise money to defray the expenses of State Governments, much more of that of the United States. I am in the country, sir; I cannot collect my rents, my neighbors cannot sell wheat or tobacco. All is stopped. I ask then what physical ability we have to discharge the State taxes, or any other? We have no other way of getting money but through the sale of our produce. Gentlemen say that our revenue would fall just as short, supposing the embargo to be raised. That is begging the question, sir. They assume that for a truth which they ought to prove in the first instance. Leave commerce open, and you will soon have money in return for our produce, or that which will procure it. Revenue is the life of Government, and let me suppose gentlemen to be sitting here thirteen months hence, on the first of January, 1810. Where is your revenue then to come from? You have dried up every source of the national wealth. What must you do? Either borrow or raise money by direct taxation. There is no doubt what must be resorted to; and it was touched with great ability, though slightly touched, by the gentleman from Virginia (Mr. Randolph) as to the consequences which must grow out of such a system as direct taxation. This species of taxation is not consonant to the genius of the country, to the habits of our people—it comes too close to the pocket of the agriculturist, and is besides a source of revenue which ought to belong exclusively to the States. I hold it as a political truism, that upon the sovereignty and independence of each State, as guarantied by the Constitution, do our liberties depend. I know that some of the ablest men in America opposed the adoption of the Federal Constitution on this ground: that the General Government being raised and supported on external matters only, if the time should ever arrive at which foreign commerce should cease, and internal taxes be resorted to, that great would be the conflict between the officers of the State and General Governments, which would ultimately end in the prostration of State rights. Gentlemen call the embargo, in silken phrase, a temporay suspension of commerce. I will call it by its own name; it is better known to the people by it. I contend that the embargo now laid is a perpetual embargo; and no member of this House can constitutionally say it is otherwise; for the immediate Representatives of the people have so played the game as to leave the winning trump out of their own hands, and must now have a coincidence in opinion both of the Senate and of the President of the United States to effect its repeal. If the whole of this body were to consent to a repeal, and a majority of the Senate, yet the President might resist them both. Is there any limitation to the law on the statute book? No; but there is a power given to the President to suspend it in the whole or in part, in the event of certain contingencies. Have those contingencies happened? Are they likely to happen? No, sir; and these are the views which I take of the subject. America, anxious to get rid of this burden, has proffered to take it off, if either of the two belligerents would relax their edicts in our favor in relation to such one, keeping it on in relation to the other. What says the sarcastic British Minister? Why, sir, that they have no cause of complaint; that it was laid by the President as a precautionary measure; and they were told by our Minister that it was not to be considered as a hostile measure. What says France? She gives us no answer, say gentlemen. Aye, sir—and is that true? Have we indeed received no answer? I think we have one that wounds our feelings as deeply as the answer of Mr. Canning. It is the situation of our Minister abroad, who says he dare not ask for an answer, because the asking it might be injurious to our cause. What, have we a Minister abroad, and is he afraid or unwilling to make a proposition to the Government where he is resident? Surely, sir, that state of things furnishes as definite an answer as any that could could be given. We have no hopes that either will remove its edicts. Sir, I consider the embargo as a premium to the commerce of Great Britain. Gentlemen say that she is a great Power, a jealous Power, and possessed of a monopolizing spirit. If these views be correct, by annihilating our commerce, do we not yield the seas to her, and hold out an inducement to her forever to continue her orders in force? What prospect is there that the embargo will be removed? It cannot now be got rid of by a vote of this House. We are saddled with it. If we cast our eyes to proceedings elsewhere constitutionally held on the same subject, we shall find that it is to remain still farther to oppress and burden the people of this country with increased rigor.

As a measure of finance it has laid the axe to the root. The tree is down that bore the golden fruit, and will not again grow till we ease ourselves of this measure. In a fiscal point of view I cannot then for my life think it a wise or provident measure. But as a preparation for war, it is still worse; because it produces a deficiency of that out of which war alone cannot be sustained. Instead of having money for your surplus produce, it rots upon your hands; instead of receiving a regular revenue, we have arrested its course, and dried up the very source of the fountain. As to preparation at home, which is the only preparation contemplated to make, what or whom is it against? Against France? She cannot come

here. Or against England, who, with the monopoly of commerce which you leave her to enjoy, has no object further to annoy you? I believe, as a preparation for war, the best expedient would be to get as much money as we could, to send out our surplus produce and bring back the supplies necessary for an army if to be raised at all—to arm and discipline the militia. A raising of the embargo would be a preparation for war—it would bring us articles of the first necessity for our surplus. But on a continuation of the embargo, things must progress from bad to worse.

Another thing, sir; I do not now mean to take a Constitutional view of the subject—but will not gentlemen pause and reflect on the continuance of the embargo? It is well known that the General Government grew out of a spirit of compromise. The great authors of that instrument were well acquainted with the term embargo. A temporary embargo, for the purpose of sending out a squadron or concealing an equipment, was well understood. But I ask every one who hears me, if a question had been agitated in convention to give Congress a power to lay an embargo for one or two years, if the Eastern or commercial States would have agreed to it? Does any man believe it? No man who knows the country can believe it. With what sedulous anxiety did they say, in a negative provision of the Constitution, that Congress should not lay an export duty! You are prohibited the minor power of taxing exports, and yet you stop exports altogether for an indefinite term. It is utterly inconceivable, that the States interested in commerce should have given their assent to any such powers so self-destructive. If they had given them, they ought to be most clear; not by implication, but most manifest. The exercise of powers counteracting principles most dear to every part of the community, ought to be assumed with the utmost caution. Under that view, except the measure be most wise in itself, and its effects most clear, the Government ought not to continue the embargo. But why is it to be continued? We have taken some view of its effects at home. Let us see what effects may be expected to be produced by it abroad. An honorable gentleman told us an hundred millions were saved by laying the embargo, a sum nearly equal to the whole exports of the United States for one year, excluding the capital employed. The first two or three seizures of vessels, sir, would have sent an alarm abroad, and the danger been so imminent, they would have voluntarily retired from destruction. There are no reasonable data from which to infer that one hundred millions of our property could at any one time have fallen a prey. Some few vessels might have been taken, but the rest would have escaped the grasp of the Power which harassed them.

I will now examine the character of this measure; for upon my word, sir, it seems a political non-descript, though we feel its effects so severely. The President tells you it is a measure of precaution only; and yet we are told by the gentlemen that it is a species of war, which America can best use to coerce the two greatest Powers on the earth, commanding land and sea, to truckle at our feet. I know not how gentlemen can place our connexion with foreign nations in such a predicament; whilst the President officially holds out to the world that the embargo was a peaceful measure, gentlemen now say that it is a coercive one, a sort of quasi war. I recollect a gentleman at the last session making an estimate of the West Indies being worth an hundred millions to Britain, and predicting that before the measure was ninety days known in the West Indies, it would bring that nation to our feet, that it would act as a great political lever, resting its fulcrum on Jamaica, and move all Europe to our wishes. Double the number of days have elapsed, and they hold out insulting language. How then can we trust to the future predictions of gentlemen? Their error arises from a want of knowledge of the country; a little experience is worth all the theory in the world. In the years 1774–'5, an honorable feeling adopted a non-exportation and non-importation agreement, more faithfully executed by patriotism than any law since made or enacted; for every family refused to use an article which was not raised within the bosom of its own country. Did it produce starvation in the West Indies? No, sir; the politicians of that day did not so calculate. They knew the resources of those islands, and told them that if they would convert a part of their sugar plantations into cornfields, they would not suffer. We are now in the habit of overvaluing ourselves and undervaluing our enemies. Come the day when it will, we shall have no ignoble foes to meet.

In the Revolutionary war how did England stand—how her islands? For several years she was at war with America, with Holland, with Spain, with France, whose fleets in the East and West Indies were often equal, sometimes superior to her own, and an armed neutrality in the North—during this period a French fleet blockaded the Chesapeake, and aided the capture of Cornwallis, and threatened the British islands—but how was this conflict with the world sustained? Were the islands starved during these years? did they fall? No, sir; the British nation braved the storm, and was only conquered by her sons—America was victorious and independent; but Europe retired discomfited. Sir, America can again prove victorious, but it must be by other measures than embargoes—destructive only at home and without effect abroad.

It is said that one reason why the embargo has not pressed so hard on Great Britain as it might, is, that it has not been so tightly drawn as it may be; that our citizens have evaded it. And, sir, if I have any geographical knowledge of the country, tighten the cords as you may by revenue cutters and gunboats on the seaboard, and collectors and military on land, they will escape both. Interest, ever alert, will avail itself of our extensive coast and elude the law.

But, gentlemen say they are not accountable for the failure in England, from another cause—

the language of the public papers and pamphlets of the anti-embargoists. The enemy, we are told, has been induced to hold out under the idea that America will yield. Sir, would Great Britain rely for her oracles on the newspapers or pamphlets of this country? Have those causes wrought on her a perseverance in her measures? I wonder, sir, that in the anxiety to find causes, gentlemen never cast their eyes to official documents—to a very important State paper issued on this side the Atlantic—saying that the marshals and civil force were not adequate to enforce the embargo. When the President's Proclamation arrived in England, no doubt could have remained of the effect of the embargo. Another public record accompanied it—an act of one of the States arresting executions for debt during the continuance of the embargo, and for six months afterwards. With these public documents before them, the British nation would be more apt to judge, and more correctly judge, of the internal situation of the country, than from all the periodical publications of the day put together. Pamphlets also have been written in this country, of which it is said the British Ministry have availed themselves, to induce this people to believe that the United States are not capable of suffering. I believe we are. The people of America are as patriotic as any on earth, and will respect the laws, and must be made to respect them. They will obey them from principle; they must be made to obey them if they do not; for, while a law is in existence, it must be enforced. But I am somewhat surprised that gentlemen who talk of opposition publications in this country, as influencing England, should derive all their political data from British newspaper publications or opposition pamphlets. British opposition papers and pamphlets are with them the best things in the world; but nothing said here must be regarded there as correct. Even Mr. Baring has been quoted, who is a commission merchant, to the greatest extent perhaps known in the world. The Louisiana purchase of fifteen millions was nothing to him as a commission merchant. The next writer referred to, is Mr. Brougham, brought before Parliament, to assert the rights of a body of merchants confined almost exclusively to the Continental trade. He came forward on their account, and the fact was demonstrated, notwithstanding his exertions, that the Orders in Council did not, but the prior French decrees did, curtail that commerce. So the majority thought and acted on that supposition. If the continuance of the embargo, then, does not produce a change in the policy of Great Britain, by its operation on the West Indies, if they resort to documents in this country, or even to speeches on this floor, they will probably continue the conflict of suffering as long as we are able to endure it, and continue our measures. For my opinion is, sir, that the extent of our seaboard affords such opportunities for evasion, that, unless we station cutters within hail of each other, on our whole coast, they will not be competent to carry our laws into effect. It will be benefiting the British colonies at the expense of our own country.

The continuance of our measures may be productive of another consequence, attended with more serious mischief than all others together—the diversion of trade from us to other channels. Look at both sides of the case. If Great Britain holds on, (and my predictions are not fulfilled, or she will persevere,) she will look for other sources of supply, that, in the event of a war, she may not be essentially injured. She will endeavor to arrange her sources of supply, so that no one nation refusing to deal with her shall have it in their power materially to impair her interests. As to cotton, large quantities of this article were formerly drawn from the West Indies. The destruction of the sugar estates in St. Domingo gave a new direction to cultivation. They ceased to grow in many of the West India islands that article which they formerly had raised to a considerable extent, (cotton,) and which, if the increased labor employed in the sugar estates, now adequate to the supply of Europe, be not profitable, they will again cultivate. The Brazils will assist to take a sufficient quantity for consumption, (and, as well as my memory serves me, they produce seventy or eighty thousand bags annually:) and South America will add her supplies. I grant that we can now undersell these countries; but I beg gentlemen to pause before they drive England into a change of commercial habits, which in the hour of future peace may never be fully restored, and thus inflict deep and lasting wounds upon our prosperity. Sir, we are told that we are to produce great effects by the continuance of the embargo and non-intercourse with this nation. Do gentlemen who were in the majority on the subject of the embargo when laid (for I was anxious then that at least foreign nations might come and give us what we wanted in exchange for our product) recollect their argument against permitting foreign vessels to come and take our produce; that it was privilege all on one side; that it would be nominal to France, while England would be the sole carrier? Now, sir, as to the non-intercourse system—how does that operate? France has no commerce—cannot come here—and therefore is not injured by her exclusion from our ports. It operates solely on England. If the argument was then correct, to avoid the measure because it operated to the sole benefit of England, what shall we think of the non-intercourse measure which operates solely against her? In a commercial view, therefore, and in point of interest, this country will be deeply benefited by a removal of the embargo.

But, gentlemen say that the honor of the country is at stake; that a removal of the embargo would be submission to Great Britain, and submission to France. How is our honor affected by removing it? We say we will not trade—with whom? With them alone? No, sir; the embargo says we will not trade with anybody. All nations, when they find it convenient, can pocket their honor for profit. What is it we do for a license to go into the Mediterranean? Do we not pay an annual tribute to Algiers for liberty to navigate the sea safer from its corsairs? Have we

not an undoubted right to navigate the Mediterranean? Surely; and yet we pay annually a tribute for permission to do it—and why? Because the happiness and interest of the nation are promoted by it. In a monarchy, the Prince leads his subjects to war for the honor of his mistress, or to avenge a petty insult. But, what best consults the honor of a Republican Government? Those measures which maintain the independence, promote the interest, and secure the happiness of the individuals composing it. And that is the true line of honor which, if pursued, shall bring with it the greatest benefits to the people at large. I do not know, sir, strictly speaking, whether the destruction of any commercial right is destructive to the independence of the country; for a nation may exist independent, and the happiness of the people be secured, without commerce. So, that the violation of commercial rights does not destroy our independence. I acknowledge that it would affect the sovereignty of the country, and retard its prosperity. But, are not the measures which have been adopted, submission? No train of argument can make more clear the fact, that, withdrawing from the ocean for a time is an abandonment, instead of an assertion, of our rights. Nay, I think I have the authority of the committee for it; for I speak of submission as applicable to the measure recommended by the committee. They say, that "a permanent suspension of commerce, 'after repeated and unavailing efforts to obtain 'peace, would not properly be resistance; it would 'be withdrawing from the contest, and abandoning our indisputable right freely to navigate the 'ocean." If a permanent embargo, after repeated offers of peace, would not properly be resistance, but an abandonment of our rights, is not a temporary embargo—and this has been a year continued—an abandonment for the time? Unquestionably it is. So long as it continues, it does abandon our rights. And now I will show that it is submission, and not resistance. I maintain that the embargo, aided by the second and third resolutions of the committee, does complete an abandonment of our maritime rights, and is a submission to the orders and decrees.

Of what nature are the rights in contest? They are maritime rights, and not territorial; and, to be used, must be exercised exterior to the limits of our territory. Whatever measures are confined within our territorial limits, is not an assertion or enjoyment of our exterior rights. Their enjoyment must be abroad, consisting of the actual use of them. If, then, all our measures be confined within our jurisdictional limits, they cannot amount to an enjoyment of the rights exterior to those limits. I will illustrate this, to every man's comprehension. There is a street in Georgetown, through which every one has a right to pass—it is a highway. A merchant, with whom I have dealt for many years, because I purchase some articles of another merchant, says I shall not go through that street. I cross over, and his enemy says I shall not pass by him. I retire home and call a consultation of my friends. I tell them that I have entered into resolutions, first, that, to submit to this will be an abandonment of my right to pass and repass. Well, what then say my friends? Why, I declare I will neither go nor send to either of their houses—have no intercourse with them. Well, what then? Why, I will buy a broadsword and pair of pistols, and lock my door and stay at home. And do I enjoy my right of walking the street by making myself a prisoner? Surely not, sir. Now, this is precisely our case, under these resolutions. We say, that to submit, would be a wound on our honor and independence. We call a consultation. What is the result of it? We say we will have no intercourse with the nations injuring us, nor with any other; and, lastly, that we will arm and defend ourselves at home. And, I ask, is this resistance? Is it an enjoyment of our rights, or a direct, full submission? Is it not an abandonment of those rights to which we are entitled?

It has been said, that the little portion of commerce which would remain unaffected by the belligerent edicts, would belong to us as a boon from England, were we to prosecute it. I do not understand it in this light. Our right to navigate the ocean is inherent, and belongs to us as a part of our sovereignty; but, when interdicted from any one place, if we go to another, we certainly do not accept that commerce as a boon. I might as well say, if a man interdicted me from going down one street in Georgetown, that I accept a boon from him in going down another. This is certainly not the case. The trading to these places is exercising our original right, not interfered with; and, so far as those orders and decrees do not operate, we could carry on a legitimate trade, flowing from our indisputable right, as a sovereign nation, to navigate the ocean. It does seem to me then, sir, that the residue of our trade might be carried on without submitting to the belligerent edicts. But, an honorable gentleman (Mr. G. W. CAMPBELL) asked me, yesterday, if we were to permit our enemies to take any part, whether they would not take the remainder? This, like the horse's tail in Horace, would be plucked, hair by hair, till it was all out. True, sir, this might possibly happen. But, what have we done? Why, we have cut the tail off, for fear all the hair should be taken out. We have ourselves destroyed all that portion of our trade which the belligerents have not interdicted.

Taking the whole into view, then, I think that the continuance of the embargo, as an assertion of our rights, is not an efficient mode of resistance.

But gentlemen say, in a crisis like the present, when each individual ought to contribute his mite, it is very easy to find fault; and they ask for a substitute. I want no substitute. Take off the embargo. That is what I want. But when called upon in this manner, I cannot help looking around me to the source whence I expected higher and better information. The crisis is awful. We are brought into it by the means recommended by the head of our foreign relations. I think the President advised the embargo. If he did not, he certainly advised the gunboats and the additional military force. In these minor measures, which

have been in their consequences so interesting, there was no want of advice or responsibility. Why then, in this awful crisis, shall we not look to the same quarter? The responsibility is left on us. We anti-embargoists show that things would not have been thus, had our advice been taken; and, not being taken, we have little encouragement to give more. Our advice is on the journals. We said, let us have what commerce we can get, and bring home returns to stimulate our industry. I believe the declarations of gentlemen when they say that they are friendly to commerce; but their fondness for it is the embrace of death. They say they will protect it; but it is strange that they should begin to protect it by abolishing it. I contend that their measures have not answered the purposes of protection, but on the contrary they have been prejudicial to it; and I trust in their candor that they will join us in giving elasticity to commerce, and removing this pressure. The interests of commerce and agriculture are identified; whenever one increases, the other extends. They progress *pari passu*. Look at your mercantile towns; and wherever you find one, like a pebble thrown into water, its influence extends in a circle more or less remotely, over the whole surface. Gentlemen from the agricultural country vote to support commerce, because it increases the value of their own product; they are not so disinterested as they suppose, and I believe the best way is to consider the two inseparable. As I am at present disposed, could I not obtain a total repeal, I would prefer a resolution laid on the table by a gentleman (Mr. MUMFORD) from one of the largest commercial cities in the Union, and who must be supposed to know the opinion of commercial men. I can scarcely with my knowledge or understanding point out anything; but if I have not capacity to be one of the *ins*, I can readily perceive whether the present system be adequate or not. I would let our vessels go out armed for resistance; and if they were interfered with, I would make the dernier appeal. We are able and willing to resist; and when the moment arrives, there will be but one heart and hand throughout the whole Union. All will be American—all united for the protection of their dearest rights and interests.

Mr. LYON opposed the report in a speech of an hour.

Mr. DESHA said he had been particularly attentive to the whole of the debates during the very lengthy discussion of this important subject, and, said he, I am at a loss how to understand gentlemen, or what to conclude from their observations. Am I to conclude that they are really Americans in principle? I wish to do so; and I hope they are; but it appears somewhat doubtful, or they would not tamely give up the honor of their country by submitting to French decrees and British Orders in Council—that is, by warmly advocating the repeal of the embargo, without proposing something as a substitute. Do gentlemen mean an abject acquiescence to those iniquitous decrees and Orders in Council? Do gentlemen mean that that liberty and independence that was obtained through the valorous exertions of our ancestors, should be wrested from our hands without a murmur—that independence, in the obtaining of which so much virtue was displayed, and so much blood was shed? Do they mean that it should be relinquished to our former masters without a struggle? Gentlemen assign as a reason why the embargo should be removed, its inefficacy—that it has not answered the contemplated purpose. I acknowledge that as a measure of coercion it has not come entirely up to my expectations. It has not been as efficient as I expected it would have been. But what are the reasons why it has not fully come up to the expectations of its supporters, as a measure of coercion? The reasons are obvious to every man who is not inimical to the principles of our Government, and who is not prejudiced against the present Administration. Was it not for want of unanimity in support of the measure? Was it not in consequence of its having been wantonly, shamefully, and infamously violated? and perhaps winked at by some who are inimical to the principles of our Government; but who have had address and ingenuity sufficient to procure themselves to be appointed to office, and in which situation they have obtained a certain influence, and by misrepresentations as well as clamorous exertions have, in many instances, led the unwary astray, and caused the measure to become unpopular in some parts of the country? By improper represensations and fallacious statements of certain prints, apparently, and I might add, undoubtedly, hostile to civil liberty and free Government, and advocates of British policy; by the baneful opposition of British agents and partisans, together with refugees or old tories, who still recollect their former abject standing, and who have never forgiven the American independence, and who, in all probability, are doing all in their power at this time to assist their master George the Third in bringing about colonization and vassalage in this happy land—by keeping up party spirit to such a height, that the tyrant of the ocean was led to believe that he had a most powerful British party in the bosom of our country—and that, by an extraordinary opposition made to the embargo, we would become restless, and could not adhere to a suspension of commerce—consequently would have to relax, and fall into paying tribute, under the Orders of Council, to that corrupt Government, Britain. These are part of the reasons why the embargo, as a measure of coercion, has not proved completely efficacious; and had it not been for this kind of conduct, our enemies would have been brought to a sense of justice, an amicable adjustment of differences would have taken place. By this iniquitous conduct they have tried to wrest from the hands of Government an engine, the best calculated of all others that could have been imagined, to coerce our enemies into a sense of justice, and bring about reciprocity of commerce, that most desirable object, a system of all others the best suited to the peaceful genius of our Government. But if it has not been entirely efficacious as a measure of coercion, it has been particularly serviceable in many instances—by keeping us out of war, which is at all times to be deprecated by civilized men, by preserving our citizens from becoming victims of British tyranny on board their war ships, and securing an immense amount of American property, that was sailing on the ocean, supposed to amount in value to between sixty and a hundred million of dollars, the principal part of which would inevitably have fallen into the voracious jaws of the monster of the deep, or into the iron grasp of the tyrant Napoleon—by which, if we are involved in war, we have preserved the leading sinews, wealth; and above all, for preventing us from becoming tributary to those piratical depredators, whose inevitable determination is to monopolize the whole trade of the world, by which they rob us of our inherent rights. If gentlemen had come forward with propositions to adopt anything as a substitute for the embargo, that would have prevented us from the degradation of submission, or from falling into the hands of those monsters of iniquity, they no doubt would have met with support. The friends of this measure are not so particularly attached to it, but what they would willingly exchange it for one that was less sorely felt, less oppressive, and one that would preserve national honor, and bring about a redress of grievances; as it was with extreme regret, that they had to resort to the measure of the embargo, and which could only be warranted by the necessity of the case. I am as anxious for the repeal of the embargo, as any gentleman in this House, or perhaps any man on the continent, whenever it can be done consistent with the honor and welfare of the nation. The citizens of Kentucky, whom I have the honor to represent, feel its effects in common with their fellow men throughout the continent; but their patriotism is such that they bear it with cheerfulness, and magnanimity, and very justly consider it as a preventive of greater evils. I think that a retrograde step at this time would have the appearance of acquiescence, and be calculated to mark the Government with pusillanimity; therefore I deprecate war, believing as I do, that in a Government constructed like ours, war ought to be the last alternative, so as to preserve national honor. As such it would perhaps be advisable to adopt something like the second resolution that is under consideration, which, in addition to the embargo, would amount to a complete non-intercourse—which if systematically adhered to must produce the desired effect. If it should not, it will at least give time to make preparations for a more energetic appeal, which may probably have to be the result. But let it not be understood, because I am for avoiding war, as long as it can be avoided upon honorable terms, that I am against going to war when it becomes actually necessary. No, sir, my life and my property are at all times at my country's command, and I feel no hesitation in saying that the citizens of Kentucky, whom I have the honor to represent, would step forward with alacrity, and defend with bravery that independence in which they glory, and in the obtaining of which some of the best blood of their ancestors was spilt; for the degradation of tribute they would spurn with manly indignation. I would even agree to go further. From my present impression, I would agree to a recall of our Ministers from both England and France, and to a discharge of theirs; and have no intercourse with the principal belligerents until they learned to respect our rights as an independent nation, and laid aside that dictatorial conduct which has for years been characteristic of those European despots; for I am almost certain, under existing circumstances, that our Ministers in neither England nor France can do us any possible service, and that their Ministers here can, and in all probability do a great deal of harm, by fomenting division and keeping up party spirit, at a time, too, when unanimity is of the utmost consequence.

As to our commerce being driven from the ocean, I am not disposed to take a lengthy retrospect, or to examine minutely in order to discover which of our enemies, England or France, was the first aggressor; it is sufficient for me that both France and England have done nearly all in their power to harass and oppress us in every imaginable way. I am not the apologist of either France or England. I am an American in principle, and I trust whenever it is thought necessary to call my energies into action I shall prove myself to be such, by defending and protecting the rights and independence of my own country, from any encroachments, let them come from what quarter they may. By those iniquitous decrees of France, all vessels bound to or from England are deemed lawful prize, and if spoken by an English ship they were condemned in the prize courts of France. When a ship arrived in any of the French ports, bribery and corruption was practised; in order to succeed in her condemnation a separate examination of the crew would be resorted to, as to the events that happened on the voyage; offers made of one-third of the ship and lading as their portion of the prize money, if they would give information of their vessel having touched at any of the ports of England, or that any English cruiser had visited her on the voyage. Consequently, by the French decrees, all property afloat belonging to the Americans was liable to seizure and condemnation. Are gentlemen, possessing the feelings of Americans, prepared to submit to such degradation? Are they prepared to say the embargo shall be raised, while our commerce is subjected to this kind of depredation? I trust not.

As respects the British Orders in Council, all American vessels bound to French ports, or to any of the allies of the French, are considered good prize in the courts of Britain. England says you must not carry on any trade to any of the places that I have interdicted, without obtaining my leave—pay me a duty, and then you shall be permitted to go to any port—by paying me a tribute you may trade to any port you please. Degrading to freemen! Britain in her goodness says, you shall have the liberty to bring flour from the United States of America to England, land it, and re-export it, by paying two dollars on every barrel into my coffers. On cotton, which is cer-

tainly a very important article, a duty is charged on its exportation of about nine pence per pound sterling; nearly equal to the full value of that article in the parts of America, where is is raised, exclusive of the import duty, which is two pence in the pound. Therefore, if our traders wish to go to the Continent of Europe, the condition is, a tribute must be paid nearly equal to the value of the cargo, exclusive of the insurance and risk. If I mistake not, about two-thirds of the cotton exported from this country is made use of in England; on the balance a tribute must be paid of about nine pence sterling per pound, which is about twenty millions of pounds—on a calculation the sums will be found to be enormous—purely for the liberty of selling cotton; as also high and oppressive duties on other articles. If these impositions are submitted to, I pronounce your liberties gone—irretrievably lost—a blot made in the American political character, never to be obliterated. No man possessing an American heart will submit to the degradation of paying tribute to any nation on earth, nor suffer the freemen of America to be taxed without their consent. Will gentlemen say the embargo law must be repealed, and suffer our commerce to flow in its usual channel, while the decrees of France and the British Orders in Council are enforced, by which they would not only be liable to seizure and condemnation, but what is more degrading, pay a tribute of many millions of dollars annually, too degrading to be thought of with patience? We received liberty in its purity from our heroic ancestors—it is a duty incumbent on us to transmit it to posterity unsullied, or perish in the undertaking.

But, sir, it has been said that the people of the East would not bear the continuance of the embargo any longer—that they would force their way in trade; hinting, I presume, that they would openly rebel against your laws if they were not allowed to pursue their usual course in commerce, by which they subscribe to those nefarious Orders in Council, which is tribute of the most degrading kind. Who are these people of the East that have the hardihood to insinuate anything like rebellion against the laws of the land, or that would wish to degrade themselves so far as to pay tribute? It cannot be the descendants of the heroes of '76, that bravely stepped forth and fought against a tyrant for liberty! It cannot be the descendants of those brave fellows that struggled on the brow of Bunker's Hill for independence! No. It must be the descendants of refugees or old tories, or otherwise it must be British agents or partisans; for no man possessing the feeling that an American ought to feel, would throw out such threats, or degrade himself by coming under tribute. If patriotism has left the land of freedom—if it has taken its flight from the mild and peaceful shores of Columbia—if foreign influence and corruption has extended itself so far that the people are disposed to rebel against the Government of their country—if the dissemination of foreign gold has had the baneful effect of suppressing all noble and patriotic sentiments, it is indeed time that foreign intercourse should cease. If the spirit of commercial speculation and cupidity had surmounted all patriotism, it is time that more energetic measures should be resorted to, in order that the chaff might be separated from the wheat; in a word, that traitors might be known.

Mr. Nelson said it was with very considerable reluctance that he rose to make a few remarks on this subject, after the very lengthy and very eloquent discourse of the gentleman from Maryland, (Mr. Key.) I did not intend, said he, to have troubled the House upon this question; but as I am a man who generally speaks off hand, it is necessary for me to answer the arguments of any gentleman promptly, if I intend to do it at all. For this reason I rise to do away some false impressions which may have been made by the gentleman's eloquence on the House, and on the by-standers, in the galleries, for I must say that his speech was better calculated for the galleries than for the sober members of this House. The gentleman commenced his argument with stating, what I do not believe, with due submission, is true in point of fact, that, although at their last session, the Legislature of Maryland passed resolutions approving the embargo, yet another election having taken place, the present Legislature have passed contrary resolutions.

Mr. Key said he had spoken of the House of Representatives of Maryland, and not of the Legislature.

Mr. Nelson said the House of Representatives have, to be sure, passed resolutions bottomed on the same principles as those on which the gentleman himself has spoken, and which I have heard echoed in the electioneering campaign from almost every stump in the district in which I live. Whilst the gentleman was on this subject, I wish he had told us of the philipic these resolutions got from the Senate of Maryland. The fact is not, as I understood the gentleman to say, that the Legislature of Maryland have passed resolutions disapproving the measures of the Government. But the gentleman intimates that the politics of Maryland have undergone a great change, and that the party formerly uppermost, is now under. Sir, the question which turned out the old members of the Legislature in the county where I live, was not the embargo system, but a question as to a State law. The militia system was the stumbling-block which caused many of the old members to be turned out, and thus the opposite party got the ascendency in one branch of the Legislature of Maryland. But, since that election, another has taken place for members of Congress; and how has that turned out? Why, sir, that gentleman and two other anti-embargoists are elected, whilst six men, who have always approved of it, are also returned; making six to three. Does this prove a change? No, sir. But we have had another election since that. Out of eleven electors, nine men are returned as elected who have approved this system of measures. Does this prove that the embargo was the cause of the change of the politics of the Maryland Legislature? I think not, sir.

But the gentleman has said that the embargo,

and not the Orders in Council and decrees, has destroyed the commerce of this country. I do not know, after all the arguments which I have heard, if the gentleman listened with the same attention as I did, how he could make such an assertion. When our ports are blockaded, and all the world is against us, so that, if the embargo was raised, we could go nowhere with perfect freedom, can gentlemen say that the embargo has ruined our commerce? Is it not these acts which have shut us out from a market? The gentleman says we may trade to England. Yes, sir, we may, provided we will pay all such duties as she chooses, and go nowhere else. And would not the doing this place us in precisely the same situation as we were in before the Revolution? England says we may trade with her, paying heavy import and export duties, but says we shall go nowhere else. If you go anywhere else, she says you shall go by England, take a license, and pay a duty, and then you may trade. Is it to be supposed that the people of the United States will agree to this? Are they reduced to that situation, that they will become the vassals of a foreign Power—for what? Why, sir, for the prosecution of a trade with that foreign Power, who, if her present impositions be submitted to, may cut up our trade in any manner she pleases; for, through our trade, she will raise a revenue to almost an equal amount with the value of your whole produce carried hence. She levies a higher tribute on some articles than the article itself is worth, and this trade the gentleman wants to pursue. He wants no substitute; "take off the embargo," says he, "and let us trade." Sir, if we could trade upon equal terms, I, too, should say, "take off the embargo, and let us trade." But if we cannot trade, except under the license of a foreign Power, I say it would be ruinous to us. And has it come to this, for all the arguments go to this, that the American people, for the sake of pounds, shillings, and pence, for the sake of hoarding up a few pence, are to give up their independence, and become vassals of England and France? I hear nothing from the gentleman about the *honor* of the nation. It would appear as if gentlemen on the other side of the House are willing to sell their country if they can put money in their pocket. Take off the embargo, they cry—for what? money. Pay tribute—for what? money. Surrender your independence—for what? all for money, sir. I trust the people have a different feeling from these gentlemen. The people love money, sir; but they love liberty and independence much better. If money had been the sole object, the Revolution would never have happened; and if that be our sole object now, the blood spilt and money spent in our Revolution was all in vain. But the gentleman says, that our honor is not concerned; that Republics have none; that their honor is to pursue that course by which they can make the most money.

Mr. Key said, that he did not say that the honor of the nation was money; but that the line of conduct was most honorable which best secured the happiness and independence of the people.

Mr. Nelson.—I ask pardon of the gentleman, if I misrepresented him; because the gentleman's argument was quite vulnerable enough, without my making it more so than it really was. I did understand the gentleman to say, and had he not contradicted me, should still believe so, that the honor of the Republic is precisely that which brings the most riches to the nation. But I ask, whether the line of conduct recommended by that gentleman be such a one as would be proper to secure and take care of the independence of the people? Is it to secure the independence of the people, to suffer a foreign nation to impose upon them any terms which it thinks proper? Is it for the honor or happiness of this nation that we should again pass under the yoke of Great Britain? Is it for the honor of the nation to remove the embargo, without taking any other measure, and to bear with every indignity? No, sir; and yet the gentleman tells you, "take off the embargo, I want no substitute." I did not suppose, sir, that gentlemen who oppose our measures (for I have great charity for them) would openly tell us to take off the embargo, and trade as foreign nations choose to dictate.

But the gentleman talks about the pressure of the embargo. That it does press hard is beyond doubt. It is an evil thing in itself; something like the dose a doctor gives us; it is a disagreeable thing in itself, but it cures your complaint. Thus the embargo is a disagreeable thing; but if we swallow it, however disagreeable, it may bring the political body to health. The gentleman gilds the pill he would give us; but it is a slow poison that would creep upon us, and bring on a distemper heretofore unknown to us, that sooner or later would carry us to the grave. We take off the embargo, and trade on their terms; what will be the consequence? Will they not forever hereafter compel us to trade as they please? Unquestionably. And is it not better to submit to some inconveniences, eventually to insure a free trade?

The gentleman says that, if produce be offered for sale, on condition that the embargo be raised, it will bring a higher price than if on a certainty that the embargo is to be continued. No doubt, sir, when the embargo is taken off, a momentary spur will be given to exportation; but how long will it continue? It will last but a very few weeks. Produce will soon be reduced to its proper level in the market. Take flour, for instance, the principal article raised for exportation in the gentleman's district and mine. It would rise, on a removal of the embargo, to ten or twelve dollars; and how long would that price last? It would be a thing of a day, and to the people who live in our districts of no sort of consequence; it would be of no benefit but to those who have flour at the market; to the merchants who have bought it up at a low price. Before the honest farmer can bring his produce to market, the great price will be all over; and though no embargo affects it, will be down to its present price, of four or five dollars; so that, although a removal of the embargo would reduce the price of produce at first,

I cannot see how gentlemen would make that an argument for taking off the embargo. If the gentleman can show that the price will continue, and that we can traffic without dishonor, then, sir, would I cordially join hands with him, to take off the embargo.

But the gentleman says, that the pressure is so very great that some of the States have passed laws for suspending executions. I know not what has been done in other States on this subject, nor what has been done in my own. If the gentleman has any information on the subject, I should like to hear it. A bill was before the House of Delegates for that purpose, but I did trust in God that it would be unanimously rejected. That such a law would pass in Maryland I never had an idea, because it is totally unnecessary. There are fewer men confined in jail for debt on this day than there ever were before for sixteen years that I have been in the practice of the law in that State. No man has gone to jail but those who, to use an emphatic expression, have *broken into jail*, who were too idle to work to pay their debts; who would get a friend to put them into jail, if they could get no other; and who stay there awhile, and then come out new men. This being the case, there can be no reason for shutting the courts of justice there.

On the subject of revenue, I can only say that, at present, there appears to be no deficiency of money in the Treasury. It is very certain that, if this embargo and non-intercourse system be continued long, our Treasury will run short, and we shall have no means of filling it but by loans or direct taxation. But I trust and hope that before the money already in the Treasury is fairly expended, if we pursue our object, we shall get over our embarrassments. Rather than pursue this subject much further, I would not only arm our merchantmen at sea, but our citizens on the land, and march to the North and East, and see if we could not do them some injury in return for all that we have received from them, even if we should do ourselves no good by it. It would do me some good to be able to do them some injury. I confess I do not like this Quaker policy. If one man slaps another's face, the other ought to knock him down; and I hope this will be our policy.

But the gentleman says, that the President recommended this measure to Congress as a measure of precaution. I do believe that, at the time the embargo was laid, it was done as a measure of precaution, and the President viewed it in that light. After its having answered every purpose as a measure of precaution, I am for continuing it as a measure of coercion. For, whatever gentlemen say about turning sugar plantations into cotton-fields, if the embargo be rigidly enforced, that we shall distress the West Indies very considerably, I do believe. I am unwilling to involve this country in a war if I can avoid it, but I am still more unwilling to take off the embargo and embrace the proposition of my colleague; for I have no idea of a free trade being permitted to us. In any country a war is to be deprecated; in this country particularly, where everything depends on the will of the people, we ought to be well aware that war meets the approbation of the people. We might make many declarations of war without effect, unless the people follow us. We try every method to obtain honorable peace; and if we do not succeed, the people will go with us heart and hand to war.

I shall enter into no calculations on this subject, sir. When the great question is presented to us whether we will submit or maintain our independence, we must determine either to do one or the other: that nation is not independent which carries on trade subject to the will of any other Power. Then, to my mind, the only question is, shall we defend ourselves, or shall we submit? And on that question I will make no calculations. If a man submits, of what use are calculations of money, for it may be drawn from him at the pleasure of his master? Let us have as much trade as we may, if we can only carry it on as others please, we need not calculate about money. We shall be poor, indeed; and, having lost our independence, we shall not even have money in return for it. But this nation will not submit, sir, nor will any man, who is a real American, advocate such a doctrine.

As to the embargo, Mr. N. said, he was not wedded to it. If any better system were devised, he would give up the present system and embrace the better one, let it come whence it would.

The House adjourned without taking a question.

FRIDAY, December 9.

Mr. LEWIS presented a petition of the President and Directors of the Washington Bridge Company, praying a revision and amendment of an act passed at the last session of Congress, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia."—Referred to the Committee for the District of Columbia.

Mr. JEREMIAH MORROW, from the Committee on the Public Lands, presented a bill to revive and continue the authority of the Commissioners of Kaskaskia; which was read twice, and committed to a Committee of the Whole on Monday next.

An engrossed bill to authorize the President to employ an additional number of revenue cutters was read a third time: Whereupon, a motion was made by Mr. DURELL that the said bill be recommitted to the Committee of Commerce and Manufactures, farther to consider and report thereon to the House: it passed in the negative.

The main question was then taken, that the said bill do pass, and resolved in the affirmative—yeas 90, nays 26, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

NAYS—John Campbell, Martin Chittenden, John Culpeper, John Davenport, jun., James Elliot, William Ely, Barent Gardenier, William Hoge, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, Jonathan O. Mosely, Timothy Pitkin, jun., John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, David R. Williams, and Nathan Wilson.

Resolved, That the title be, "An act to authorize the President to employ an additional number of revenue cutters."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act farther to amend the judicial system of the United States;" to which they desire the concurrence of this House.

FOREIGN AFFAIRS.

The House resumed the consideration of the unfinished business depending yesterday at the time of adjournment—the report of the committee still under consideration.

Mr. D. R. WILLIAMS said: It has become very fashionable to apologize to you, sir, for every trespass which a gentleman contemplates making on the patience of the House, and I do not know but in ordinary cases it may be very proper; but the present question is certainly such an one, as exempts every gentleman from the necessity of making any apology whatever. I shall offer none, and for the additional reason, that I have given to every member who has spoken the utmost of my attention.

Upon this question, which presents itself in every point of view too clear to admit of a single doubt; equally unsusceptible of sophistical perversion or misrepresentation; a question which involves a political truism, and which is undenied; a debate has grown out of it, embracing the whole foreign relations of this country. I shall not attempt to follow the gentlemen in the course which they have pursued, but will confine my observations to a justification of the embargo, and to the proof, that the orders and decrees of the belligerents, and not the embargo, as was said by the gentleman from Maryland, (Mr. KEY,) have produced the present embarrasments. Bad as our situation was at the close of the last session, it has now become infinitely worse. The offer to suspend the embargo laws, for a suspension of the Orders in Council, made in a sincere spirit of conciliation, has been contemptuously rejected, those orders justified, and an extension of their operation threatened: this is a state of things insufferable. At a crisis of this sort, the importance of which every gentleman acknowledges, I deem it proper that every man who feels an ardent love of country should come forward to save that country, to rescue his sinking parent from the jaws of pollution. The effort should be, who shall render our common country the most good; who will be foremost in the ranks; we should not shrink behind the irresponsible stand of doing nothing, ready to raise ourselves upon the mistakes of others; perhaps, the virtuous misfortunes of our political brothers. I am willing to take my share of the responsibility of asserting the wisdom of the original imposition of the embargo, and the correctness of its present and future continuance. Gentlemen have been frequently called upon, while they make vehement declamation against the embargo, to say what they wish in its stead; they declare the utmost hostility to the measure, and yet they offer no substitute. Can they for one moment forget, that upon this question, as upon every other national subject, we must all hang together or be hung separate! It inevitably follows from the organization of our Government, that this is the fact.

I consider the original imposition of the embargo as wise in a precautionary point of view; and notwithstanding all that has been said, and eloquently said, by the gentleman from Maryland (Mr. KEY,) I believe it was called for by the most imperious public necessity. Every one must know, that had it not been for the embargo, millions of property, and (what is worse) thousands of our seamen, must have fallen a sacrifice to the cupidity of belligerent cruisers. No need of calculations on this subject—I shall not stop to enter into one. I appeal to the common sense of the nation and of this House, whether or not, the orders and decrees were calculated to have swept from the ocean all our floating property and seamen. But, no, say gentlemen, the seamen are not saved; and here we are amused with the old story, new vamped, of the fishermen running away. The seamen gone, sir! This is a libel on their generous and patriotic natures. Where are they gone? Every man, who ventures such an allegation, is bound to prove it; because it is, if true, susceptible of proof. Surely, sir, the assertion, or even proof, that British or other foreign seamen have left your service, does not establish that American seamen have deserted their country. The British seamen gone! I am glad of it, sir. I wish there had never been one in our service; and if there is an American tar, who would, in the hour of peril, desert his country, that he would

go also. The thing is impossible, sir; every vessel which has sailed from the United States since the imposition of the embargo, has passed under such a peculiar review, before the officers of the revenue, that had any number of American seamen shipped themselves, proofs of their departure might, and certainly would, have been had. Read the intelligence from Nova Scotia; it informs us that none but English sailors have arrived there. I call upon gentlemen then to show how, where, and when an American seaman has left his country, except in the pursuit of his ordinary vocation.

If the gentleman from Maryland (Mr. KEY) will apply to his political—I beg pardon—to his mercantile barometer, the insurance offices, he would find that, after the operation of the Orders in Council was known, insurance could not have been effected at Baltimore to the continent of Europe for 5 per cent., and not at London, on American property, for 90 guineas per cent. The proof of this is before me. Does not this prove that so much danger existed on the ocean that it was next to impossible to pass without seizure and condemnation? And surely he will not contend that this advance of premium was caused by the embargo? If the embargo then has saved anything to the country—and that it has there can be no doubt—exactly in the proportion that it has saved property and seamen to you, it has lessened the ability of the enemy to make war upon you, and, what is primarily important, lessened the temptation to war. The rich plunder of your inoffensive and enlarged commerce, must inevitably have gone to swell the coffers which are to support the sinews of war against you. The reaction thus caused by the embargo, is in your favor, precisely to the amount of property and men which it has saved to you from your enemies.

But we are told that the enterprising merchant is deprived of an opportunity—of what? Of ruining himself and sacrificing the industry of others. Has any capitalist said he would venture out in the present tempest which blackens the ocean? No, sir, they are your dashing merchants; speculators, who, having nothing to lose, and everything to gain, would launch headlong on the ocean, regardless of consequences. No commerce can be now carried on, other than that which is subservient to the Orders in Council. I appeal to the gentleman from Rhode Island (Mr. JACKSON)—no man is better informed on this subject—would he venture his property on the ocean in a trade contravening those orders? I would ask him further, would Brown and Ives, merchants, as remarkable for their prudence as for their enterprise, and for their capital as either; would they send their vessels to the Continent of Europe? I believe their opinion would corroborate the opinion of Mr. Gray.

The mercantile distresses have been described, with every possible exaggeration, as insufferable. The real distress, sir, is quite sufficient, without any undue coloring. I regret extremely, indeed, sir, from my heart and soul, I lament that the embargo should be considered as falling heavier on the merchant than on the planter. If I know my own heart, I would share with them to the last loaf. But compare their situation now with what it would have been, if their whole property had been swept away. Compare their present situation with that which must have been the necessary consequence of the seizure of all the floating, registered tonnage of the United States, and which would have happened, but for the embargo. Their vessels are now in safety; if the embargo had not been laid they would have lost both vessel and cargo. They must have either imposed an embargo on themselves, or exposed their capital to total destruction.

Another reason why I approve of the embargo, and which, really to my mind, is a very consolatory reason, is, it has at least preserved us thus far from bloodshed. I am one of those who believe the miseries of this life are sufficiently numerous and pressing without increasing either their number or pungency by the calamities inseparable from war. If we had put the question to every man in the nation, the head of a family, whether we should go to war, or lay an embargo, (the only choice we had,) nineteen out of twenty would have voted for the embargo. I believe, sir, the people of the United States confiding their honor and national character to your guardianship, would this day decide the same question in the same way. The people have nothing to gain by war, nothing by bloodshed; but they have everything to lose. From this reason results another, equally satisfactory; we are still free from an alliance with either of the belligerents. Upon a loss of peace inevitably follows an alliance with one of these two Powers. I would rather stake the fate of the nation on a war with both, than ally with either. No, sir, I never will consent to rush into the polluted, detestable, distempered embraces of the whore of England, nor truckle at the footstool of the Gallic Emperor.

But the embargo has failed, it has been triumphantly asserted on one side of the House, and echoed along the vaulted dome from the other. If it has, it is no cause of triumph; no, indeed, sir; but it is a cause of melancholy feelings to every true patriot, to every man who does not rejoice in the wrongs of his country. Why has the measure failed of expected success? The gentleman from Maryland (Mr. KEY) used an argument incomprehensible to me, as an argument in his favor; on my side it is indeed invincible. He has established, it was the evasions of the laws which prevented their being effectual. He tells you that certain evaders of the laws have so risen up in opposition to them, that the President of the United States was obliged to issue his Proclamation in April last; that this proclamation told the British Cabinet the people had rebelled against the embargo—but I will pass over the subject; it imposes silence on me, because it must speak daggers to the hearts of some men.

My friend from Virginia (Mr. RANDOLPH) urged one argument against the embargo, which, to be sure, is a most serious one. He asked if we were prepared to violate the public faith? I hope not, sir. I beg to be excused for asking him (for I

know he scorns submission as much as any man) if submission will pay the public debt? To that gentleman's acute and comprehensive mind, the deleterious consequences of the present system of the belligerents to our interests, must be glowing, self-evident. He will see that their present measures carry destruction to the most valuable interests, and are subversive of the most sacred rights of the people; and if they are submitted to, everything dear to an American must be afflicted with the slow, lingering, but certain approaches of consumption. I had rather go off at once. I have no opinion of a lingering death. Rather than the nation should be made to take this yoke, if so superlative a curse can be in store for us, may the hand of Heaven first annihilate that which cannot be nurtured into honor. I had much rather all should perish in one glorious conflict, than submit to this, so vile a system.

But we are told, that the embargo itself is submission. Indeed, sir! Then with all my heart, I would tear it from the statute book, and leave a black page where it stood. Is the embargo submission? By whom is it so called? By gentlemen who are for active offence? Do these gentlemen come forward and tell you that the embargo is submission? No such thing, sir. My memory deceives me, if any man who voted for the embargo thinks it submission. They are the original opponents of the embargo who call it submission, and who, while they charge you with the intention, are by every act and deed practising it themselves. It is incorrect, sir. Every gentleman who has spoken, and who has told you that the embargo is submission, has acknowledged the truth of the resolution under consideration; it has not been denied by a single individual. Suppose then we were to change its phraseology, and make it the preamble to a resolution for repealing the embargo, it will then read: whereas "the United States cannot without a sacrifice of 'their rights, honor, and independence, submit to 'the late edicts of Great Britain." Therefore resolved, that the embargo be repealed, and commerce with Great Britain permitted. Do these two declarations hang together, sir? That, because we cannot submit to the edicts of the belligerents, we will therefore open a free trade with them? The first part of the proposition is true, no man has denied it; the addition which I have made to it then, is the discordant part, and proves the embargo is not submission. I wish to know of gentlemen, whether trading with the belligerents, under their present restrictions on commerce, would not be submission? Certainly, sir. Is then a refraining from so doing, submission? In a word, is resistance submission? Was the embargo principle considered submission in the days of the stamp act? Did the nation call it submission when it was enacted under General Washington? Was it so considered by the Republicans, when resorted to for redress against the primary violations in 1793? Or was it ever contended that had not the embargo been raised, the terms of Jay's treaty would have been worse? Do gentlemen of the "old school" undertake to say that the Father of their Country submitted then to George III? I hope not, sir. If the embargo was not submission under George Washington, it is not under Thomas Jefferson. Again, I ask, were the principles of the embargo submission in 1774–'5–'6? But it has been replied, it is not meet that the remedies of that day should be applied to the present case. Why not, sir? The disease was the same; and lest gentlemen have forgotten what it was, I will tell them how the old Congress described it: "You exercised unbounded 'sovereignty over the sea, you named the ports 'and nations to which alone our merchandise 'should be carried, and with whom alone we should 'trade." Draw the parallel, sir, and if the remedy of that period will not suit the present crisis, let us look out for others. I will not stop here; I am willing to go further; I would carry fire and sword into the enemy's quarters; but I would first exhaust every means to preserve peace.

You will excuse me, sir, for giving an opinion in this place, which, perhaps, some gentlemen may think, does not result from the subject immediately before us. I will tell you what description of people in the United States are most anxious that the embargo should not be repealed. It is a new sect, sir, sprung up among us—ultra-federalists. They are the persons, in my belief, who are most desirous the embargo should be continued. They see that upon its removal a war with Great Britain follows. An alliance with her is the object nearest their hearts—not a resistance of the wrongs and insults practised by her. If this embargo be submission, if non-intercourse be submission, if a prompt preparation for war be submission, I ask them what is it to sit still and do nothing? Do you mean to submit? Come out and tell the nation whether you will or will not resist the Orders in Council—let us know it—it is desirable that we should know it—it will conduce to the public weal.

I, for one, sir, will vote to continue the embargo, because I do still consider it a coercive measure—as the most deadly weapon we can use against Great Britain. I am induced to consider it so, when I take a view of what is the nature of our products—what is the nature of her exports and imports—what is the nature of her wants, and what her capacity and means of supply. Look at the West Indies, where the embargo has a decided ascendency over every other measure you can adopt. You will find that her colonial and navigation system has, in that quarter, never been maintained since the Revolution. Perhaps I ought, in presuming to speak further about the West Indies, to apologize to the gentleman from Maryland, (Mr. KEY,) not indeed for his very courtly conduct, because if a man is ignorant, he does not like to be told of it. The gentleman will be pleased to pardon me, if I blunder on in my ignorant way, and talk a little more of that part of the world. [Mr. KEY explained that he had not intended any reference to the gentleman from South Carolina in his remarks.] I am extremely obliged to the gentleman for his explanation. Entertaining great respect for his talents, I am happy to find, upon

such authority, the charge is neither applicable nor intended. The colonial system has been always regarded as essential to all the vital interests of Great Britain. Every relaxation of that system has excited murmurs and great discontent in the mother country, and yet they have been constantly produced by the wants of the colonies. Would they have been permitted in favor of the United States, could those wants be supplied from any other quarter? I must contend, then, that their profitable existence depends upon an intercourse with the United States, notwithstanding everything which has been said to the contrary. I do not mean to involve the idea of absolute starvation; much less to insinuate that the embargo is so coercive as to humble Great Britain at our feet; far from it—but I do say, from the nature of their products, their profitable existence depends upon us. There are not contained within the whole British Empire at this time, whatever there may have been previous to the American Revolution, supplies for the home and colonial consumption. Will gentlemen tell us from whence they are to procure the principal articles of provisions and lumber? I might rest the argument in safety on these articles alone; these are essential, and of our produce. All the evasions of the embargo have been made with a view to that supply; enforce it, and from whence will they procure the article of lumber? It bears a higher price and is more scarce in Great Britain, even in ordinary times, than in the West Indies. The opinion that Nova Scotia and Canada were adequate to that supply, has been long since abandoned. The articles of their produce require a constant supply of our materials, some of them cannot be procured from any other part of the world; of the lumber received, we have heretofore furnished ninety-nine parts out of one hundred. But we are told they can raise corn. Who denies it? I will grant to gentlemen all they ask on that point, and add, too, that their corn is actually more valuable per bushel than that of this country; but when their labor and industry is directed to that object, what becomes of their cotton, sugar, and coffee cultivation? What becomes of the immense revenues derived from those sources? Gentlemen must not forget that at least one-third of her revenue accruing from commerce, is derived from the West India trade alone. I do not know that I should be wrong, if I were to say from sugar and coffee only. If you drive them to the cultivation of corn for subsistence, they must necessarily abandon the cultivation of their most valuable staples. And do gentlemen believe Great Britain is willing to sacrifice all these considerations to a refusal to do you justice? We do not require justice, for all we ask of her is to abstain from plundering us. We say to her "hands off;" we wish not to come into collision with you; let us alone. These sacrifices will not be much longer hazarded, unless indeed she is deluded into a belief that she has sufficient influence, in this country, to excite disaffection and insurrection, and thereby remove the cause of pressure.

Another objection with me to removing the embargo, is, it will betray a timid, wavering, indecisive policy. If you will study the sentiments contained in Mr. Canning's note, you will find they afford a lesson of instruction, which you ought to learn and practise upon. "To this uni-'versal combination His Majesty has opposed a 'temperate, but a determined retaliation upon the 'enemy; trusting, that a firm resistance would 'defeat their project; but knowing that the smallest 'concession would infallibly encourage a persevе-'rance in it." I beg the House to draw instruction from this otherwise detestable paper—it preaches a doctrine to which I hope we shall become proselytes. A steady perseverance in our measures will assist us, almost as much as the strength of them.

I conceive the supplies necessary for the maintenance of the war with Spain and Portugal will fairly come into the calculation. It has become the duty and interest of Great Britain to maintain the cause of Spain and Portugal—she has made it so. Where will those supplies be drawn from? Does she produce them at home? Certainly not; for it cannot be forgotten that the average importation of flour alone at Liverpool is ninety thousand barrels annually. The Baltic is closed against her. The demand must be great; for Spain and Portugal in times of peace have regularly imported grain for their own consumption. And here I will observe, there is no attribute in my nature which induces me to take sides with those who contend for a choice of masters. So far as they are fighting for the right of self-government, God send them speed: but at this peculiar crisis I think it extremely important that our sympathies should not be enlisted on the side of either of the contending parties. I would, therefore, from Spain and Portugal withhold our supplies, because through them we coerce Great Britain.

But that pressure which Great Britain feels most, is most alive to, is at home. The last crop is short, and injured in harvesting; wheat is fourteen shillings the bushel, and rising. Her millions of poor must be supplied with bread, and what has become almost equally important, she must furnish employment to her laborers and manufacturers. Where can the necessary supply of cotton be procured? For, thank God! while we are making a sacrifice of that article, it goes to the injury of Great Britain, who oppresses us, and whose present importation is not equal to one-half her ordinary consumption. If the manufacturer is to be thrown out of employ, till that raw material which is now the hypothesis of the day, is produced from Africa, the ministry who are the cause of it will not long rule the destinies of that nation. No, sir, I am not alarmed about supplies of cotton from Africa. Nor am I to be frightened out of the embargo by a fear of being supplanted in the market, from that quarter; they must be but little read indeed in political economy, who can dread a competition with barbarians, in the cultivation of the earth.

Another strong inducement with this House to

continue and enforce the embargo, is, that while it presses those who injure us, it preserves the nation in peace. I see no other honorable course in which peace can be maintained. Take whatever other project has been hinted at, and war inevitably results. While we can procrastinate the miseries of war, I am for procrastinating; we thereby gain the additional advantage of waiting the events in Europe. The true interests of this country can be found only in peace. Among many other important considerations, remember, that moment you go to war, you may bid adieu to every prospect of discharging the national debt. The present war of all others should be avoided; being without an object, no man can conjecture its termination; for as was most correctly observed by my friend. (Mr. Macon.) the belligerents fight everybody but one another. Every object for which the war was originally begun and continued to 1806, has since that time become extinct. The rupture in the negotiations of that day was made not on points affecting directly the British interest, but grew out of the indirect concern she felt in maintaining those urged by Russia, which Power, having since declared war against Great Britain, has obliterated the then only existing object of the war. Embark in it when you please, it will not procure you indemnity for the past; and your security for the future must ultimately depend on the same promises, which you can obtain by peaceable means. I have no disposition, sir, to hazard the interest of my country in a conflict so undefined, so interminable!

But, say gentlemen, it is certainly not submission to trade to those ports which the edicts of the belligerents have not prohibited us from trading with. Granted—I will not enter into a calculation on the subject, as to how much importance the trade would be of to us. The chairman of the Committee of Ways and Means has told you it would be contemptible in amount; but, sir, I say this, because I consider it expedient to continue the embargo, to withhold our supplies from those who need them, I will not permit you to go to those countries. Repeal the embargo in part! No, sir. Give merchants one single spot anywhere out of the jurisdiction of your own country, as large as the square of this House, and they would carry away the whole of our surplus produce. Give them a little island on which to place the fulcrum of their lever, and Archimedes like, they will move your whole trade. Let them go to Demarara, to Gottenburg, or any other burg, and it is to the whole world. But the trade to Spain and Portugal has been held up as highly profitable to the merchants of the United States. The gentlemen who venture this opinion have not, perhaps, considered the subject with all the attention it is entitled to. It appears to me to be demonstrable from the documents, and the knowledge of circumstances which we possess, that Great Britain, with the extension of plunder the Orders in Council warranted, is not satisfied. She was not content that she had laid a snare whereby she intercepted our whole commerce to Europe. She then permitted us (no doubt from extreme moderation,) to trade with the French colonies, taking care, at the same time, to force a direction of that trade in a channel which could not fail to yield a tributary supply to her exchequer. She has now interdicted, by orders secretly issued, that commerce also. The language of Cochrane's proclamation cannot be misunderstood. What a harvest he would have reaped from the robbery of your merchantmen, had the embargo been raised, as was expected by the British Cabinet, at the commencement of the session. The Orders in Council would have taken all your property going to continental Europe, and those of the Admiralty would have swept the West India traders. I believe the idea of enjoying a free trade to Spain and Portugal is altogether illusory. Mr. Canning has told us, not *in totidum verbis*, but certainly in effect, that we should be permitted to trade with those countries, only under the Orders in Council. In answer to the proposition made by Mr. Pinkney to suspend the embargo as to Great Britain, for a suspension of the Orders in Council as to the United States, the British Minister replied in the most peremptory manner possible. Here let me observe, that had that suspension been agreed to, the embargo would have co-operated with the Orders in Council against France. It would have been even much more efficacious than those orders, inasmuch as our own regulations would have interdicted all commerce with France. The professed object of the Orders in Council, retaliation on the enemy, cannot therefore be real—they originated, as they have been executed, in a spirit of deadly hostility against us. That the operation of those orders would be extended to Spain and Portugal, should the embargo be repealed in part, I infer from this positive assertion of the British Secretary. "It 'is not improbable, indeed, that some alterations 'may be made in the Orders in Council, as they 'are at present framed; alterations calculated 'not to abate their spirit or impair their principle, 'but to adapt them more exactly to the different 'state of things which has fortunately grown up 'in Europe, and to combine all practicable relief 'to neutrals with a more severe pressure upon 'the enemy." Here is not only a denial of suspension, but a threat, that alterations will be made (no doubt in tender mercy to us,) not to abate their spirit, but to adapt their operation more extensively to our ruin. What is the state of things alluded to? Let every gentleman who seeks after truth, candidly inquire for himself, what is the state of things which Mr Canning considers has so fortunately grown up in Europe. Can it be anything but the revolutions in Spain and Portugal? If the Orders in Council are not to be impaired, but their operation rendered more applicable to the present state of things, *a fortiori*, you are to be cut off from the south of Europe, in the same manner as you are from France and her dependencies. And are you ready to repeal the embargo under such a threat as this? This note, sir, is sarcastic to the last degree; in it I read insult added to the atrocious injuries my country has received; there is but one part of it

which can be looked at with patience, and that is the valuable admonition I have read.

Some gentlemen have gone into a discussion of the propriety of encouraging manufactures in this country. I heard with regret the observations of the gentleman from Virginia, on this subject. I will be excused by him for offering my protest against those sentiments. I am for no high protecting duties in favor of any description of men in this country. Extending to him the equal protection of the law, I am for keeping the manufacturer on the same footing with the agriculturist. Under such a system, they will increase precisely in that proportion which will essentially advance the public good. So far as your revenue system has protected the interests of your merchants, I am sincerely rejoiced; but I can consent to no additional imposition of duty, by way of bounty to one description of persons, at the expense of another, equally meritorious. I deplore most sincerely the situation into which the unprecedented state of the world has thrown the merchant. A gentleman from Massachusetts has said, they feel all the sensibility for the mercantile interest, which we feel for a certain species of property in the Southern States. This appeal is understood, and I well remember, that some of their representation were among the first who felt for our distressing situation, while discussing the bill to prohibit the importation of slaves. I feel all the sympathy for that interest now, which was felt for us then; but I ask if it is not sound policy to encourage the patriotism of our merchants to support still longer the sacrifices, which the public exigencies call for, with spirit and resolution? If they should suffer most from our present situation, it is for their immediate advantage that we are contending. I must be allowed in continuation to say, that, although I do not profess to be one of the exclusive protectors of commerce, I am as willing to defend certain rights of the merchant, as the rights of the planter. Thus far I will go; I will assist in directing the physical strength of the nation to the protection of that commerce which properly grows out of the produce of the soil; but no further. Nor am I therefore disposed to limit the scene of his enterprise. Go up to Mocha, through the Dardanelles, into the South seas. Search for gums, skins, and gold, where and when you please; but take care, it shall be at your own risk. If you get into broils and quarrels, do not call upon me, to leave my plough in the field, where I am toiling for the bread my children must eat, or starve, to fight your battles.

It has been generally circulated throughout the Eastern States, in extracts of letters, said to be from members of Congress, (and which I am certainly sorry for, because it has excited jealousies, which I wish to see allayed,) that the Southern States are inimical to commerce. So far as South Carolina is concerned in the general implication, I do pronounce this a gross slander, an abominable falsehood, be the authors whom they may. The State of South Carolina is now making a most magnanimous sacrifice for commercial rights.

Will gentlemen be surprised when I tell them, South Carolina is interested, by the suspension of our trade, in the article of cotton alone, to an amount greater than the whole revenue of the United States? We do make a sacrifice, sir; I wish it could be consummated. I should rejoice to see this day all our surplus cotton, rice, flour and tobacco burnt. Much better would it be to destroy it ourselves, than to pay a tribute on it to any foreign Power. Such a national offering, caused by the cupidity and oppression of Great Britain, would convince her, she could not humble the spirit of freemen. From the nature of her products, the people of South Carolina can have no interest unconnected and at variance with commerce. They feel for the pressure on Boston, as much as for that on Charleston, and they have given proofs of that feeling. Upon a mere calculation of dollars and cents—I do from my soul abhor such a calculation where national rights are concerned—if South Carolina could thus stoop to calculate, she would see that she has no interest in this question—upon a calculation of dollars and cents, which I repeat, I protest against, it is perfectly immaterial to her whether her cotton, rice, and tobacco, go to Europe in English or American vessels. No, sir, she spurned a system which would export her produce at the expense of the American merchant, who ought to be her carrier. When a motion was made last winter for that kind of embargo, which the gentleman from Maryland (Mr. KEY) was in favor of; for he says he gave his advice to do that very thing, which if adopted would cut up the navigation interest most completely, (an embargo on our ships and vessels only;) South Carolina could have put money in her pocket, (another favorite idea with the gentleman,) by selling her produce to foreigners at enormous prices; her representatives here unanimously voted against the proposition; and her Legislature, with a magnanimity I wish to see imitated throughout the United States, applauded that vote—they too said they would unanimously support the embargo, at the expense of their lives and fortunes. She did not want an embargo on our ships, and not on produce. No, sir; she knows we are linked together by one common chain—break it where you will, it dissolves the tie of union. She feels, sir, a stroke inflicted on Massachusetts, with the same spirit of resistance that she would one on Georgia. The Legislature, the representatives of a people with whom the love of country is indigenous, told you unanimously, that they would support the measures of the General Government. Thank God, that I am the Representative of such a State, and that its representatives would not accept of a commerce, even at the advice of the gentleman from Maryland, which would profit themselves at the expense of their Eastern brethren. Feeling these sentiments, I cannot but say, in contradiction to what fell from the gentleman from Virginia, (Mr. GHOLSON,) I should deplore that state of things which offers to the merchant the lamentable alternative, beggary or the plough. I would say to the merchant, in the sincerity of

my heart, bear this pressure with manly fortitude, if the embargo fails of expected benefit, we will avenge your cause. I do say so, and believe the nation will maintain the assertion.

It is with reluctance I feel compelled, before I resume my seat, to make a few observations in reply to what fell from the gentleman from Maryland (Mr. KEY) yesterday. The gentleman commenced his address by contradicting the statements made by a gentleman from Massachusetts, and my worthy friends from Virginia and Georgia (Messrs. RANDOLPH and TROUP.) He told you their districts could not feel the embargo most, as it was in his the sufferings were most severe. I shall not waste the time of the House by an inquiry into the truth of this assertion; nor, sir, will I enter into a competition of this sort. I aim at a distinction far more glorious. The State I represent in part, bears the embargo the best. This it is my pride to boast of. There, sir, there are no murmurs, no discontent at the exertions of Government to preserve the rights of the nation. And as long as respect for the honor, and a hope of the salvation of the country exists, so long will they bear it, press as hard as it may.

The gentleman told you, in speaking of the Maryland elections, that the film is removed from the eyes of the people, and that in discerning their true interests, they saw it was the embargo, and not the Orders in Council, which oppresses them. He must feel confident indeed in the knowledge that he is two years in advance of his constituents, or he would not have ventured such an assertion. [Mr. KEY explained that he had said the film was removed, and the people saw that their distress arose more from the embargo than from the Orders in Council.] Mr. WILLIAMS continued: I have no intention to misrepresent the gentleman, but I understood him to say that the Orders in Council did not affect the continental market, but the Berlin decree; that the embargo caused all the pressure at home; that the Orders in Council had no part in producing that measure, and therefore I infer as his opinion, that the Orders in Council have not injured us. [Mr. KEY said that the few observations which he had made on this subject, were in reply to the gentleman from Tennessee, (Mr. G. W. CAMPBELL,) that the people should be no longer deluded. In answer to this Mr K., said he had observed that the people were not deluded—that the film was removed from their eyes, and that he then had gone on to show that the depression of produce arose from the embargo. But that he never had meant to say that the Berlin decree and Orders in Council were not injurious, because they lopped off a large portion of our commerce.]

I understood the gentleman to say (observed Mr. W.,) that it was very strange we would not trust our merchants upon the subject of the embargo, who were the best judges. I wish to represent the gentlemen's sentiments correctly, and shall not consider him impolite, if I have mistated him, should he again stop me. Why, sir, is it strange? Are the merchants the guardians of the public honor? This I conceive to be the peculiar province of Congress, because to it alone has the Constitution confided the power to declare war. Will the gentleman trust the merchants with the guardianship of his own honor? No, sir, he chooses to protect it himself. And would he advise the nation to pursue a course disgraceful, and to which he would not expose himself? I will not trust the merchants in this case, nor any other class of men; not being responsible for the national character, they will trade anywhere, without regard to principle. So true is this, Dessalines felt no uneasiness when informed of the law prohibiting all intercourse with St. Domingo; he replied, "hang up a bag of coffee in hell, and the American merchant will go after it." I am not sure that, in the evasions of the embargo, some of them have not already approached near its verge: certain I am, that, in a fair commerce, such is the enterprise and perseverance of their character, they will drive their trade as far as it can be driven. No, sir, I will not trust the merchant now, because he would do the very thing which the gentleman seems to wish, trade under the Orders in Council.

The embargo should be removed, because, says the gentleman, it has operated as a bounty to the British trade. I should be disposed to doubt this, if for no other reason than a knowledge of who advocates its removal. Before the embargo was laid, agricultural labor in the British West India islands, particularly on sugar estates, could scarcely support itself. I refer the gentleman to the documents printed by order of Parliament, and the memorials of the agent of Jamaica. He will find that the planters are in a distressed situation, not from their failure in the cultivation of the soil, but from the enormous duties on their produce in the mother country. Are the extravagant prices of articles of the first necessity, superadded to their former embarrassments, to operate as a bounty on their trade? I should be extremely gratified if the gentleman will inform us, what would have been the amount of bounty on the trade, if evasions of the embargo had not taken place. If the price of flour has been sixty dollars per barrel, and other articles in proportion, what would have been the price, had there been no evasions of the law? They could not have been procured at all: and yet we are told the embargo is a bounty on British trade! When the gentleman was, I had like to have said, justifying the Orders in Council, he should have favored us with a vindication of the *smuggling* proclamation also. Such a degree of corruption and of immorality never before, in any one paper, disgraced a civilized nation. The citizens of a country, at peace and in amity, enticed to evade their own laws! Is such an act calculated to induce the belief that the embargo operates as a bounty on British trade?

I shall not enter upon another question stirred by the gentleman, the constitutionality of the embargo law; the subject has become so stale, that even he could scarcely make it interesting. It has been laid asleep—a solemn adjudication has taken place and put it at rest. But the gentleman will excuse me for observing, he made a most un-

fortunate allusion in the course of his argument. He said it was strange that, not having the power delegated to us to tax exports, we should undertake to prohibit them. The Orders in Council, which if the gentleman did not justify, he was certainly very tender of, do exercise that very power of taxing our exports, which by the Constitution we are prohibited, and that too when they are destined to a government equally sovereign and independent with that of Great Britain.

We have been referred by the gentleman to the history of the Revolution, and after a kind of encomium on the resources of Great Britain, the triumphs of her navy and her present imperious attitude, he demanded to know if we can expect she will yield to us now, when during the Revolution she maintained a war against the whole world, at the same time that she kept us at bay seven years and succeeded with every nation but her own sons—will she truckle at our feet now? The gentleman knows we do not seek to make her truckle at our feet; we wish her no injury; we ask of her no boon whatever; we only entreat her to let us alone; to abstain from wanton, unprovoked acts of oppression. What is the object of this language? Is it to tell us she never will redress our wrongs; or is it to divert us from a prosecution of our rights? The contest was very different with her at that time, from what it is now. She then contended against the dismemberment of her Empire. Will the gentleman say she values the principles of her Orders in Council, as she did the sovereignty of her colonies? What will the gentleman discover, by examining the history of the period he referred to? England, at that time, when France, Spain, Holland, and the United States, were opposed to her, when the armed neutrality in the north of Europe assailed her, when all these brought the principle of embargo to bear upon her, was nearer ruin than she ever was before or since. I refer him to Playfair's tables for the year 1781; there he will find the very principle proven, for which we are now contending. Does Great Britain now prize the plunder of your merchantmen, the impressment of your seamen, insult to your national flag, as much as she did the sovereignty of the soil? Certainly not; and yet she must, precisely the same, or she will not hold out now as she did then. When I recollect that her necessary annual expenditure is greater than the gross rent of all the landed property in her kingdom; that the armed neutrality affected her so materially, that the same principle is brought into operation again; that by withholding our custom, our supplies, our raw materials, we must necessarily destroy a large portion of her revenue, I cannot but hope, she will see her own interest in redressing our injuries. This is all we contend for, allow the experiment to be made; if not, at least propose some better remedy.

But said the gentleman, at the close of the Revolutionary war, we alone triumphed over the arms of Great Britain; defeat befell all the rest of the world. I will not contest that point with him, as he is old enough to speak from experience. We were informed by the gentleman, that it was the Berlin decree, and not the Orders in Council, had destroyed our trade to the Continent of Europe. Here too we are directly at points.—The gentleman has not made himself master of his case, or has totally mistaken his evidence. I hold a document in my hand which, perhaps, the gentleman may object to, as coming from the opposition party in Great Britain; it is the depositions of sundry merchants of great wealth and respectability, taken before the British House of Lords, on the subject of the Orders in Council. Here Mr. W., read from the depositions the following questions and answers:

"If the American embargo were removed, and the Orders in Council still continued in force, in that case would the witness resume his shipments?

"To a very small amount.

"For what reason?

"Because I do conceive, that there would be such great impediments, indeed a total annihilation of trade from the United States of America to the Continent of Europe, that I could not expect to receive any returns for the goods I sent out; and another reason would be, my apprehension that a war between the United States and this country would be the consequence of those Orders in Council.

"What is the reason that the Orders in Council prevent the witness sending our cotton goods in ships in ballast?

"I believe I stated my apprehension that they might produce a war between the two countries; another reason was, I could not expect to get remittances, and a total annihilation of the trade between the United States of America and the Continent of Europe, from whence a great part of my remittances must be derived.

"If the American embargo in general were taken off, and the Orders in Council to be continued, would his trade in that case revive?

"I certainly should feel no inducement to export goods to America while the orders continued.

"Why not?

"I should apprehend that hostilities between this country and America would be the consequence of continuing the Orders in Council.

"Would the Orders in Council have any other effect as to discouraging the trade?

"They would have considerable effect in regard to our remittances.

"In what manner?

"By bringing all the produce of America to this country, they must occasion such a vast glut in the market, that the produce would be worth little or nothing.

"In what degree would it affect the dealers in those commodities brought to this country, as to their remittances to this country?

"The consequence I apprehend would be, that great part of the bills must go back protested; because the produce, for which the bills are drawn, would sell for scarcely the value of the freight and charges.

"Does the witness conceive, from his knowledge of the American trade, that if the whole of the American produce, which according to an average of years had been carried to the Continent of Europe, and to Great Britain, was now to be imported into Great Britain alone, and the Orders in Council to continue; whether it would be possible to export from Great Britain to the Continent, so much of the American produce as should prevent a glut of the American produce remaining in the market?

"I think it would be impossible.

"Have you lately written to your correspondents in America respecting shipments of American produce to this country?

"I have.

"To what effect have you so written?

"I have written that in case of submission to these Orders of Council, in case such a thing should take place, to suspend all operations.

"Did you give this advice to your American correspondents, upon the supposition that America would acquiesce in the Orders in Council?

"Certainly not, I stated it as a thing by no means likely; but, as there is nothing impossible in this world, that if it were so, not to move; that in case they were acquiesced in, not to attempt any business.

Considering (continued Mr. W.) these are the sentiments (delivered under the sacred obligation of an oath) of that very description of men, who the gentleman believes are the best judges and ought to be trusted, I am warranted in saying, they prove his position wholly unfounded. The gentleman's project last year was to lay the embargo on our ships and vessels, and to dispose of our produce, the effect of which would have been destruction to our own vessels, constant encouragement to those of Great Britain. I beg him to remember, that if two or three years hence, he should not stand as high with the American merchants as he could wish, it may be fairly attributed to this friendly protection of their immediate interests, which he would have extended to them.

The gentleman was equally unfortunate in saying, the destruction of St. Domingo had caused such a demand for sugar, that the cultivation of cotton in the British West India islands had been abandoned; he is not well versed on the subject, the fact not being as he has stated it. However great an impetus the destruction of St. Domingo may have given to the cultivation of sugar and coffee, in the British West Indies, it certainly had no effect in any way on that of cotton, the quantity of that article formerly exported from thence being too small to have any influence whatever. Our cotton will never be supplanted from that quarter. Could the sugar estates be converted to cotton plantations, so depressed has been their situation, that conversion would have been long since effected. Nor, sir, is it true, that the cultivation of cotton in the British West India islands has been abandoned; on the contrary, it has been regular though slow in its increase, compared with that of coffee. Crops of that kind are frequently precarious, owing to a natural enemy of the plant in those islands, and therefore the cultivation has not kept pace with the demand.

I heard the gentleman with pain and mortification, I repeat it, with pain and mortification I heard him declare that nations like individuals should pocket their honor for money. The act is base in an individual, in a nation infinitely worse. The gentleman was corrected by his colleague (Mr. Nelson) on this subject. He evidently, to my apprehension, expressed an opinion, that money was to be preferred to honor. He told us that honor in arbitrary governments was identified with the monarch, who went to war for his mistress; that in republics honor consisted in the opportunities afforded to acquire wealth, and by way of illustration said, we pocketed our honor for money in paying tribute to the Barbary Powers, for the security of a paltry trade. Does the gentleman mean to assimilate a tribute exacted by Great Britain with that paid to Algiers? Or does he mean to be understood as advising us, because we purchase peace with barbarians, involving no honorable consideration, to barter for a pecuniary reward, with Great Britain, our rights, our honor, and our independence? Detestable as this inference is, it results from his arguments. Repeal the embargo, throw open your trade to Great Britain; you can put money in your pocket by it. I want no substitute. Sir, if my tongue was in the thunder's mouth, then with a passion would I shake the world and cry out treason! This abandonment of our rights, this sacrifice of our independence I most solemnly abjure. Astonished indeed am I, that a gentleman so eloquent, so well qualified to uphold the honor and dignity of his country, should so abandon them! Is it possible such doctrine should be advocated on the floor of Congress? Has it come to this? Was it for this the martyrs of the Revolution died? Is this great Continent and the free millions who inhabit it, again to become appendages of the British Crown? Shall it again be held in its orbit by the attractive, the corruptive influence of the petty island of Great Britain? No. Sooner may you expect the sun with all the planetary system will rush from their shining spheres, to gravitate round a pebble. Remember, sir, it is no longer a contest singly about the carrying trade, or the impressment of seamen, or the insult to the national flag, but all united with the rights and attributes of sovereignty, even to the violation of the good old United States. You stand on the verge of destruction, one step, one movement backwards will stamp your character with indelible disgrace. You must now determine whether you will maintain the high station among nations, to which the virtues, the spirit of the people have elevated you, or sink into tributary vassalage and colonization. By all your rights, your duties, your awful responsibility, I charge you "choose ye this day whom ye will serve; but as for me and my house, we will serve the Lord."

Mr. Culpeper spoke in opposition to the report.

Mr. Cook moved to adjourn. Mr. J. G. Jackson called for the yeas and nays on the motion; but a sufficient number did not rise to justify the taking them. Motion to adjourn, negatived. Mr. Cook renewed the motion, observing that he had some remarks to make, which might occupy the House some time.—Carried, 54 to 50, and the House adjourned.

Saturday, December 10.

Mr. Lewis, from the Committee for the District of Columbia, presented a bill supplementary

to the act, entitled "An act for the establishment of a Turnpike Company in the county of Alexandria, in the District of Columbia;" which was read twice, and committed to a Committee of the Whole on Monday next.

The bill sent from the Senate, entitled "An act further to amend the judicial system of the United States," was read twice, and committed to Mr. Marion, Mr. Holland, and Mr. Kelly, to consider and report thereon to the House.

Mr. Nelson, from the committee appointed the eleventh ultimo, on so much of the Message from the President of the United States as relates to the Military and Naval Establishments, presented a bill authorizing the appointment and employment of an additional number of navy officers, seamen, and marines; which was read twice and committed to a Committee of the Whole on Monday next.

FOREIGN RELATIONS.

The House again proceeded to the consideration of the first resolution of the report made by the Committee of Foreign Relations.

Mr. Cook addressed the House at considerable length.

Mr. R. Jackson said: Mr. Speaker, not having been in the habit of public speaking, it is with great diffidence I rise, to make any observations on the resolutions now under consideration, after so much has been said upon the subject. But, sir, knowing the deep stake that the portion of citizens which I have the honor to represent, and the United States at large, have in the present embarrassed state of our political affairs, was I to remain silent, sir, I should feel as if I was guilty of treachery to their interests. I shall not attempt to follow gentlemen in their arguments who have gone before me in the debate, but confine myself to making such observations on the resolutions and the state of our political affairs, as appear to me to be necessary and proper. By the first resolution we are called upon to declare "that the United States cannot, without a sacrifice of their rights, honor and independence, submit to the late edicts of Great Britain and France." Why we are called upon to make this declaration, I cannot conceive. I do not see the use of it, unless it is considered by the committee as a kind of test act, which they think ought to be administered to every member of the House, to ascertain whether they are of sound principles or not. I do not like such abstract propositions, I think them useless, as nothing can come from them in a legislative way; no bill can be formed from it; however I do not see anything at present to prevent me from voting for it. By the second resolution we are called upon to declare "that it is expedient to prohibit, by law, the admission into the ports and harbors of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerents having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce, or manufacture of the dominions of any of the said Powers, or imported from any place in the possession of either.

Here, sir, I shall take the liberty to dissent from the committee, for I do not think it to be expedient to join them in such a resolution as this. For I would ask, what are we to promise to ourselves from such a system as this; what will be the probable effects of it? Will it compel the great belligerent Powers to do us justice for past injuries and secure us for the future? If I thought it would, I would most cheerfully vote for it. But, sir, I have no reason to suppose it will, for we have now had considerable experimental knowledge of the effects of the embargo system, both as it respects ourselves and foreign Powers, and we have found from experience, that, as a coercive measure, it has had no effect. It has not compelled France or England to do us justice, or to rescind their unlawful edicts and decrees, issued against neutral commerce. And those nations having now experienced the effects of the embargo for nearly one year, whatever alarm it might have given them, when first laid on, that alarm has ceased. And we have it from high authority, that France cares nothing about it, and that in England, owing to the great events now passing in Europe, it is forgotten. And shall we still, with all this information and experience, adhere to this system, and still think we can legislate France and England into a committance to do us justice, and bring them to the bar of justice in this way? Far be it from me to censure any one, for the part they have taken in endeavoring to maintain the rights of our country, and giving security to the interest of our citizens. But, sir, I think, in the business of legislation, that the same line of conduct ought to be pursued, that we would pursue in the common and ordinary proceedings of life; for should any of us undertake to do anything, suppose it be to get a vessel afloat that had been stranded, and the means employed were totally inadequate to its accomplishment, should we not abandon those means and try some other? We have tried the embargo, and found it altogether ineffectual, and we have no reason to suppose, that by a further continuance of it, it will answer any of the purposes for which it was intended.

I will now take some view, as it appears to me, of what has been, and will be the effect of the embargo, if continued, as it respects ourselves. The burden of it has already been very great, on a large proportion of our citizens. It has been grievous, and very sore. For how otherwise can it be, when we consider, that all the navigation business, from one end to the other of these United States, is totally stopped, excepting a small remnant of our coasting trade, and that remnant under very great embarrassments; and all that numerous class of our citizens, dependent on commerce, deprived of their usual means of gaining a livelihood, and in consequence thereof, thousands of them have been obliged to live on their former earnings, and consume that little property they had? treasured up for their future support and if

the embargo is continued, the inevitable consequence must be, bankruptcy to many of our merchants, and absolute distress, misery, and want, to a large proportion of our citizens, who live in the seaport towns, and great embarrassments to all classes of citizens throughout our country. And if this system is continued, we must incur the hazard of having civil commotions in our country, for experience has proved, that when great distress prevails among the people, and that distress arises from political measures, which the people are divided in sentiment upon, the hazard is very great that civil commotions will take place. Some gentlemen have undertaken to show how much we have already lost by the embargo. But I shall not go into any calculation of this sort, for I am convinced that it defies calculation; it is impossible to follow it into all its turnings and windings. It is enough for me to know that the loss is immense, and that we have received such a shock by it, that it will require a long time to come, to recover from it. Gentlemen have also endeavored to point out such parts of the Union, as they think are suffering the most by the embargo. There is no doubt but that it does bear harder upon some portions than on others, and that it is unequal in its operation. But, sir, my idea is, that it bears the hardest upon that part of our citizens, where they are the most dependent on commerce for their living; and this being the case, in nearly as great a degree, perhaps, with the citizens of Rhode Island as in any part of the Union, it follows that my constituents are suffering as much as any portion of the United States.

But, sir, its pressure is upon the whole country, and it carries misery throughout our land; and if continued, the distress occasioned by it must still be much greater than it has been, and will become intolerable in some parts of the Union, and the consequences may be dreadful to the nation. And as to its effects on France or England, for myself, I am of opinion, that the Emperor of France and King of Italy is well pleased with it, for, as it is observed by Mr. Canning, "it certainly comes in aid" of his grand design, of destroying the commerce of the English, and trying to give that nation the consumption of the purse; and, until he is satisfied with that speculation, he will wish us to keep on the embargo. And since Spain and Portugal have refused any longer to be under the control of Bonaparte, and have bid him and all his hosts defiance, and have connected themselves with the English, I believe the English care nothing about the embargo, but would give us their free leave to keep it on forever; for, sir, it gives the greatest activity to their colonies of Canada and Nova Scotia, and must be the means of increasing their settlements with astonishing rapidity. Experience has already proved to them, that their colonies in the West Indies can be maintained without us, and Spain and Portugal and their colonies having become open to them, to vend their manufactures, and with what can be smuggled into the Continent and into our country, in spite of all the laws that can be made against it, will furnish them market enough; and our navigation being all laid up, and out of the way, their ships will obtain great freights from Spain and Portugal to the colonies, and from the colonies back to the mother country; and in consequence of our retiring into a state of dignified retirement, as it has been called, they will have nearly the whole trade of the world, in their own hands. And it appears to me, sir, in every point of view that I can place the subject, if we continue the embargo, it will operate to distress ourselves an hundred times more than it will any body else. I will now, as I have heard the call so frequently made, that, if you do not like this system, point out a better, and if it appears so, we will adopt it—I will therefore, point out, what appears to me, a better line of conduct for the United States to pursue, and if I am so unfortunate as not to find a man in this House of my opinion, I cannot help it, for I feel myself constrained, from a sense of duty to my suffering constituents, to inform this House and the nation, that I wash my hands of it, and protest against it. I therefore, sir, with great deference to superior abilities, propose that the law imposing an embargo on all ships and vessels of the United States, and all the laws supplementary thereto, be immediately repealed, and that we authorize our merchants to arm their vessels, under proper regulations, in defence of our legitimate and lawful commerce; that the Government from time to time afford the commerce of the country such protection as may be found necessary and prudent. If this was done, I have no doubt but that the citizens of the United States would soon be relieved from their present embarrassments and distress. This, sir, would produce a circulation in the body politic, our planters and farmers would immediately find a sale for their surplus produce, our merchants would find employ for their vessels, and all that numerous class of citizens who have heretofore been engaged in the active and busy scenes of commerce, would again find employ in our seaports. In lieu of beholding dismantled ships covered with boards and mats, we should see in them spars and rigging aloft, and the ports whitened with their sails, and again hear the cheering sound of industry. But it has been said that if the embargo was removed and our merchants should send their vessels to sea, most of the property would be taken by one or other of the great belligerent Powers, and thus be lost to our country; and that we have so little trade left that it is not worth our notice. But let us examine this, and see if it be so. Could we not, sir, in the present state of the world, trade to England, Scotland, and Ireland, to Sweden, Spain and Portugal, to some of the islands in the Mediterranean, and some of the Turkish ports on that sea; to nearly all the ports in the East and West Indies, to both sides of the continent of South America, and some other places, and have the obstruction occasioned by the embargo laws removed from our own coast? Is all this trade of no importance to trading people? Gentlemen have gone into statements to show, from our former trade, how

much of our domestic produce could be exported to the different part of the world, under the present embarrassments, occasioned by the great belligerent Powers; but for myself I put no confidence in such statements. I consider trade may in some measure be compared to water; if the channel it has been used to run in becomes obstructed, it will find new channels to vent itself in. For instance, sir, suppose we should adopt the resolution offered by the gentleman from New York, (Mr. MUMFORD.) He mentioned that we could trade to the little Swedish island of St. Bartholomews, in the West Indies. Now suppose we should look over our former exports to this island in any one year, what should we find the amount to be? I do not know, sir, perhaps one hundred thousand dollars, but double, triple it if you please, and what comparison would it bear with the amount that would be shipped there, under his system? Would it not immediately become a distributing point for the whole of the West India islands, and the amount increased to an astonishing degree, when compared with what used to be exported there? And so it would be in other parts of the world. The articles will go where they are wanted, in a greater or less degree; and if they cannot be carried directly, they will find their way in an indirect manner. And as to the danger of the property being captured and confiscated, I think our merchants and underwriters are the most competent to judge of that. They do not wish the Government to become guardians for them in this respect. All they wish for Government to do, is to let them manage their own affairs in their own way; and the Government to afford the commerce of the country as much protection as shall be for the real interest of the whole nation. Have we not seen, in the Summer past, with what eagerness the merchants in the United States availed themselves of the special permission granted to fit their vessels in ballast, and go abroad to collect debts? And was not every old and obsolete claim hunted up, that existed in the country, to make out the amount necessary to avail themselves of this permission? Is not this proof that the merchants did not consider the risk very great? And was not several hundred sail of vessels fitted out under this permission; and have they not nearly all returned back to the United States in safety? Many of these vessels were insured to the West Indies, out and home, at premiums of about eight and nine per cent., and this in the midst of the hurricane season. This proves that the underwriters did not estimate the political risk at more than two or three per cent., for the natural perils in time of profound peace would be considered equal to six per cent. And the calculation of the underwriters has proved correct, for they have made money by the business. And was our embargo removed, I am of opinion, that the premiums of insurance would not be more than six or seven per cent. to any port in Great Britain, and about the same to Spain and Portugal. This, if correct, proves that the political risk is not considered to be very great by those who are the best judges of it. But, sir, it appears to me, there are many gentlemen in this House who think it will not do to trade, until all political risk is removed out of the way. If we wait for this, we shall never trade any more, for the natural perils of traversing the ocean always exist, and always remain nearly the same, allowing for the variation of the seasons. And the political perils always exist, but they vary according to the state of political affairs among the nations of the world. But, sir, I have repeatedly heard it said, and the same thing is expressed in the report of the committee, that our situation is such, that we have no other alternative than a war, with both Great Britain and France, submission, or a total suspension of our commerce.

The committee have sir, after a long statement, brought our affairs up to this point, and I do not like any of the alternatives, out of which they say we must make a choice, for I do not believe that we are reduced to this dilemma; and I will not agree to go to war with both England and France, nor will I agree to submit, or to totally suspend our commerce. But I will agree to give our merchants liberty to arm their vessels, under proper regulations, in defence of our legitimate commerce, and leave it to them to send their vessels for trade where they please; and if any of them are so unwise as to trust their property to France, or to any ports in Europe where the French control, let them fight their way there if they choose. I see no other course, sir, that we can pursue, that will be so much for the interest and honor of our country, as the one pointed out. The American people are a cool, calculating people, and know what is best for their interest, as well if not better than any nation upon earth, and I have no idea that they will support the Government in a ruinous war with England, under the present existing circumstances, nor in measures depriving them of all trade and commerce.

Mr. MUMFORD then offered a few observations in answer to the remarks of Mr. GHOLSON of Virginia. During the discussion, six different motions were made for an adjournment, the last of which, offered by Mr. GARDENIER, was carried—yeas 58, nays 48.

MONDAY, December 12.

Mr. MUMFORD presented a memorial of the surviving officers of the late Revolutionary Army and Navy of the State of New York, praying that they may receive the difference of the interest of six per cent. on their final settlement certificates for the years 1782 and 1783, and on the commutation certificates from the 1st of January, 1784, to the 1st of January, 1791, which were funded at three per cent.; also, ten years' interest upon one-third of the principal of their respective final settlement and commutation notes, which constituted the six per cent. deferred stock.

EXECUTIVE DOCUMENTS.

Mr. RANDOLPH observed that it was not without some embarrassment that he rose to submit a motion to the House, not because he conceived

that there was anything improper in the motion itself—far otherwise—but because he was not perfectly sure whether, previous to making it, he ought not to request the galleries of the House to be cleared. But, inasmuch as the motion itself could convey nothing to the spectators in the galleries which would be improper to disclose, and it would be competent for the Chair to decide whether the discussion (if any should arise) ought to be carried on with closed doors or not, perhaps it would be better, in the first instance, to submit the motion with the doors open, because he knew what sensations the closing the doors of the House frequently excited. The public had already seen, by the supplemental journal of proceedings with closed doors, the fate of several motions made in order to give publicity to several communications from our Ministers abroad. They had also seen, he presumed, because he had seen in the public newspapers, a letter purporting to be written by a member of this House, (Mr. SAWYER,) containing what was stated to be a disclosure of those despatches in substance. It could not be forgotten that, during the discussion of propositions to give publicity to those communications, gentlemen, one in particular from Massachusetts, had conceived that nothing could be more unhappy than to give, substantially, their contents; that it would be infinitely better, in fact, to publish them *verbatim*, than to give what each individual might choose to call their substance. And Mr. R. said it was well known that his worthy friend from North Carolina, (Mr. MACON,) though zealous for their publication, had voted against giving permission to any individual to make public what he thought to be their substance.

It was with extreme reluctance, Mr. R. said, that he had drawn into question the name of any member of this House, particularly of one who was not present. He said he had deferred the motion which he was about to submit, in hopes that the gentleman whose name had been used by the public papers would be present to inform the House whether his name had been properly used by the public papers or not. He wished not to be understood as vouching for the proof of the fact; but the impression on the public mind was the same from that letter as if it had actually been written by the member in question; and it must be well known to every member of this House—and that, as far as it went, was a proof that it had not been written by the gentleman in question—that the letter did not contain, substantially, the amount of the despatches. He said he perceived in that printed letter that an important letter of General Armstrong, he thought of the 22d of February, was not alluded to at all. He thought it important not only that the public should see what the members themselves had seen, that they should know what they knew, but that they should be apprized of what, in his opinion, was not of much less consequence, of what the House did not know. For this purpose, he said, he would again submit a motion to the House which had been once rejected, upon ground which, in his opinion, could not at this moment have weight, since the principal objection consisted in the impropriety of permitting anything purporting to be the contents of the communications to be known, on account of the misrepresentation to which they might be liable.

Mr. RANDOLPH then offered the following resolution:

Resolved, That the injunction of secrecy imposed on the communication from our respective Ministers at Paris and London, which accompanied the President's Message of the 8th instant, be taken off, with the exception of the extract of a letter from General Armstrong to the Secretary of State, dated Paris, December 27th, 1807.

The SPEAKER observed that, in his opinion, the rules of the House required that this resolution should be considered with closed doors.

On motion of Mr. RANDOLPH, the galleries were accordingly cleared, and so remained for about an hour and an half, when they were again opened. Whilst the doors were closed, the question on Mr. RANDOLPH's motion was taken, after debate, by yeas and nays, as follows:

YEAS—Burwell Bassett, Epaphroditus Champion, Martin Chittenden, John Culpeper, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, James M. Garnett, Edwin Gray, John Harris, William Hoge, Richard Jackson, Robert Jenkins, James Kelly, Thomas Kenan, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Josiah Masters, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Russell, Samuel Smith, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams—42.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn—81.

And the doors being now opened, a message

from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Andrew Joseph Villard;" to which they desire the concurrence of this House.

FOREIGN RELATIONS.

The report of the Committee on our Foreign Relations being still under consideration—

Mr. GARDENIER commenced a speech against the measures of the present Administration generally, and the embargo in particular. When he had been speaking about an hour—

Mr. UPHAM observed that the usual hour of adjournment (about half past two o'clock) had arrived, and the gentleman appeared not to have nearly finished. He therefore moved to adjourn.

Mr. GARDENIER giving way for the purpose of permitting a question to be taken on the motion, Mr. J. JACKSON called for the yeas and nays on it, giving as a reason his desire that the public should know who were willing to protract public business thus. The motion for adjournment was negatived—yeas 47, nays 65.

After Mr. GARDENIER had spoken about twenty minutes longer—

Mr. QUINCY observed that the gentleman from New York appeared to be much exhausted, and renewed the motion for adjournment.—Carried—yeas 67.

TUESDAY, December 13.

On motion of Mr. THOMAS,

Resolved, That a committee be appointed to inquire into the expediency of dividing the Indiana Territory; and that they have leave to report by bill or otherwise.

Ordered, That Mr. THOMAS, Mr. KENAN, Mr. BASSETT, Mr. TAGGART, and Mr. SMILIE, be appointed a committee pursuant to the said resolution.

On motion of Mr. THOMAS, the resolutions of the House of Representatives of the Indiana Territory, which were read and ordered to lie on the table on the fourteenth ultimo, were referred to the select committee last appointed.

Mr. MARION, from the committee to whom was referred, on the tenth instant, the bill sent from the Senate, entitled "An act further to amend the Judicial System of the United States," reported the bill to the House without amendment: Whereupon the bill was committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act for the relief of Andrew Joseph Villard," was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. ALEXANDER,

Resolved, That a committee be appointed to inquire whether any, and, if any, what farther provision ought to be made by law, prescribing the manner in which the public acts, records, and judicial proceedings, of one State, shall be proved and given in evidence in another State, and the effect thereof; and that they have leave to report by bill or otherwise.

Ordered, That Mr. ALEXANDER, Mr. DAVID R. WILLIAMS, Mr. JOHN G. JACKSON, Mr. KEY, and Mr. QUINCY, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplemental to an act entitled 'An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes;" also, a bill, entitled "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall;" to which they desire the concurrence of this House.

FOREIGN RELATIONS.

The report of the Committee on Foreign Relations still under consideration—

Mr. GARDENIER occupied the floor, in continuation of his observations of yesterday, for four hours.

The following is Mr. GARDENIER'S speech entire:

Mr. Speaker, I had intended to defer the delivery of my sentiments upon the second resolution, until that resolution should come before the House. But the course which the debate has taken, has produced a change in my original intention.

That the first resolution is an unnecessary one, because no clear, definite, practical results can flow from it, appears to me self-evident. Are the people of this country suspected of an intention to abandon their rights or their independence? Indeed, sir, they are not. Why then is it, that we are called upon to make a new declaration of independence? Or was the Administration conducted in such a manner as to make the firmness and patriotism of the nation itself doubted abroad? Even I, sir, who am not suspected of a blind confidence in our rulers, will not advance such a charge.

The true question is not, Is the matter expressed in this abstract proposition true? But, Is it necessary that a resolution containing it should be passed by this House? I agree with the gentleman from Tennessee (Mr. CAMPBELL) that it would be no less ridiculous to pass this resolution than to pass one that the sun shines. Allowing both to be true, both are equally unnecessary to be imbodied in a resolution of this House. Begin this system of abstract legislation, and where are you to stop? Sir, it partakes too much of the character of disturbed, revolutionary times. To such a blasphemous height was this notion of voting abstract propositions or declarations, or truisms (call them what you will) carried at one time in France, that their Convention very gravely decreed "that there was a God!" This was a self-evident truth; and being so could not become more so by being decreed. And if the edicts of Great Britain and France go to the destruction of our "rights, honor, and independence," our voting that such is their operation, makes it neither more nor less true.

But, it is said, a select committee have placed the resolution before us, and we are bound to vote

whether the assertions it contains are true or false. Why, sir, if I should offer a resolution that at this moment the sun shines, and some one should second me, would it be contended that this House ought gravely to proceed to the question? and if any member should say, "I vote against this resolution because it is too true to be made more so; and because, therefore, I think it unnecessary to be passed," that he, sir, should be considered blind?

Again, gentlemen, some too with whom I am in the habit of acting, say, at the worst, the resolution is harmless—it ties you down to no specific course, and therefore you may as well vote for it; that to vote against it, will afford a handle against our popularity—that the resolution itself is an artful one—a trap set to catch the Federalists, as it will hold them up to suspicion, if they vote against it—for the vote will appear upon the Journals, when the argument is not to be found there. Well, sir, if it be in truth a trap to catch poor Federalism in, I, for one, sir, am willing to be caught. I never deceived the people whom I have the honor to represent, either by giving a vote to the propriety of which my judgment was opposed, or by professing opinions which I did not entertain; and, sir, I trust in God, I never shall. The applause of my constituents is dear to me. But I would rather strive to deserve it—than, not deserving, to receive it. Yes, sir, my course shall be always a plain one—a straightforward course. I have not acquired the confidence of my constituents by increasing their delusions. I have always labored to disperse them. At my first election to this House, a decided majority of them were opposed to my politics. The thought has often distressed me. But the cause of that distress exists no longer. And, therefore, sir, I will go on discharging my duty with the most scrupulous obedience to my judgment, and where the weight of a hair ought to turn the scale, it shall turn it.

But if I had no other objection against this abstract, "harmless" resolution, there is one which would be decisive: I would reject it on account of "the company it keeps." The committee, for reasons which I shall not stop to disclose, have thought it important to introduce this, by way of propping the second one. That second one, sir, the undoubted object and inevitable tendency of which my whole soul recoils from, which I abhor and deprecate, as fatal to the prosperity and happiness of my country—as the grave of its honor—and I fear I do not go too far when I add, of its independence! that resolution is not alone submission to France; but, under the pretence of resisting her infractions of the laws of nations, her violations of the sacred rights of hospitality, her laughing to scorn the obligation of treaties—it makes us submit to all—to encourage a perseverance in all. Nay, sir, it throws the whole weight of our power into her scale, and we become not only the passive, but, to the whole extent of our means, the active instruments of that policy which we affect to abhor. This, sir, unhappily, is capable of the most clear demonstration; and, in the proper place, it shall appear so. I enter now upon the discussion of the second resolution. And although I am aware how little professions of sincerity and embarrassment are generally regarded; and, indeed, how little they ought to be regarded, yet I cannot approach this awful subject without declaring that I feel as if I was about to enter the sanctuary of our country's independence; and I tremble with the same fearful distrust of my powers, the same distressing perplexity which would embarrass me if I had entered the labyrinth in which was concealed the secret of that country's honor, prosperity, and glory. I do feel, sir, that we should enter upon the discussion of this question divested of all the prejudices and passion of party—no less than all foreign predilections and animosities—with clean hearts, sir; yes, hearts seven times purified, to prepare them for the discharge of the sacred, the holy duties of this awful crisis. He who can come to this debate with other motives than to save his country, placed as it is on the brink of a dreadful precipice, deserves to be heard nowhere but in the cells of the Inquisition. The sound of his voice should never be suffered to pollute the Hall of the Representatives of the American people. But he who, thinking that he has traced the causes and the progress of our misfortunes, and that he may, perhaps, point the nation to a path which may lead it back to the prosperous position it has been made to abandon, would be a traitor to the State, if any considerations could keep him silent.

In my view, sir, we have gone on so long in error—our affairs have been suffered to run on, year after year, into so much confusion, that it is not easy to say what should be done. But if it is magnanimous to retract error, certainly it is only the performance of a sacred duty, which their servants owe the people, to abandon a system which has produced only disappointment and disasters hitherto, and promises only ruin and disgrace in future.

The time, sir, has been, when the Government was respected at home and abroad, when the people were prosperous and happy, when the political body was in high, in vigorous health; when America rejoiced in the fulness of her glory, and the whole extent of the United States presented a scene unknown in any other country, in any other age. Behold now the mournful contrast, the sad reverse! We are "indeed fallen, fallen from our high estate!" The nation is sick—sick at heart. We are called upon to apply a remedy; and none will answer which shall not be effectual. No quack prescriptions will answer now. And the cure, to be effectual, must not persevere in a course which has not only produced no good, nor promises any; but which has brought the patient (if I may use the figure of the gentleman from Maryland, Mr. NELSON) to his present forlorn condition. Such a perseverance may seem to argue great hardihood, or, if you please, spirit; but, after all, it is nothing but the desperate frenzy of a losing, half-ruined gamester.

It becomes, therefore, at last, indispensable to

take a retrospective view of our affairs. And if, in taking this view, we should find the cause of our disasters, we must not fear to contemplate it, to hold it up; and, having grown wise by experience, we must not be prevented by false pride, from profiting by it; we must not shrink from the exercise of a virtue because it is also an imperious duty. And I hope that no gentleman who hears me is unwilling to sacrifice the popularity of the Administration to the salvation of the country.

Permit me then, sir, to go back to that period in our history which immediately preceded the adoption of our present form of Government. What was then our condition? The people were poor—for there was no commerce to assist agriculture—there was no revenue for general objects. Many States were hardly able to collect enough for State purposes. And, of course, there was no such thing as public credit, although there was an immense floating debt. We had no reputation abroad—there was no confidence even at home. But, sir, we had a Washington, and we had the pupils of Washington, men whom he knew to be faithful, in the Cabinet, for he had found them faithful in the darkest stages of the Revolution. The nation, happily, had not been deluded—they knew their friends by their deeds—they had not yet yielded to the sweet fascination of the seductive popular declamations of these latter times. Men were known by what they did, not by what they said. These men, sir, had the sagacity to discover the secret springs of our prosperity and happiness and glory. And they were able to strike them with a powerful hand, and with a powerful hand they did strike them; and, instantly, as if by enchantment, the scene changed. Suddenly, agriculture raised her drooping head, for commerce beckoned her to prosperity. Your people began to pay their debts and to become rich. Public credit was restored; the Treasury began to fill readily. Sources of revenue were explored, certain of continually increasing, equally certain of being never exhausted, except by folly and madness. Indeed, sir, so perfect was the financial machinery that it admitted of no improvement. It required no more skill in the successors of the illustrious Hamilton to make this instrument "discourse most excellent music," than it would a child to play a hand-organ. An end was put to our Indian wars; our Algerine captives were redeemed—our reputation was established abroad, and the United States assumed their just rank among the nations of the earth! This was, indeed, a work worthy of the illustrious patriots who achieved it. It was the result of that profound practical wisdom, which, never yielding to the deception of brilliant theory, saw the public interest, with a clear eye, and pursued it with a firm and steady step; and it was no wonder that it was successful. Let me add, too, that all this was accomplished without taxation being felt by the people.

But this great prosperity was not without interruption. It received a stroke, sir, deep and dangerous, and almost mortal, from the tremendous system of spoliations commenced by Great Britain in 1793. Misfortunes cast themselves across the path of nations as well as individuals. They are often unavoidable, and no nation can hope to be always exempt from them. The wisdom of the human mind is displayed in putting an end to them in private affairs, and in public that statesman only is great who can overcome and disperse them, who, though he cannot avert the bolt, can prevent the ruin it threatens. At the period of which I speak, we had such statesmen. Yes, sir, the alarm was depicted on every countenance—though the nation staggered to its centre under the severity of the blow it had received, yet was the Administration equal to the dreadful emergency—it had brought the nation into existence and prosperity, and it was equal to the preservation of both. And they showed it, not by venting their rage in idle reproaches, but by applying efficient remedies to the diseases of the country.

Let it be remembered that justice was to be obtained from Great Britain; from that Power which is now represented and held up to our indignation as "proud, unprincipled, imperious, and tyrannical;" and which certainly was at least as much so then; for then she had on her side all Europe engaged in combination against France, and France was alone as England is now. In short, she was then on the continent of Europe what France is now. Yet, from this same country, did our Government succeed in obtaining not only reparation for the spoliations committed, but a surrender of the Western posts also. I repeat, sir, all this was accomplished when Great Britain was not less imperious in disposition, but more formidable in power than she is now. And surely all this ought to appear strange and wonderful indeed to those who have been deluded into the idea that, when Great Britain was struggling, gasping for existence, the same thing was impossible: that has with ease, and under more inauspicious circumstances, been accomplished, which the men now in power pretend they have attempted in vain. Still, strange as it may seem to them, it is is a fact—it is history. Well, sir, how was this miracle brought about? By a process very plain and simple. The Administration was sincerely desirous of peace; and, that single object in their eye, they exerted their abilities to obtain it, and consequently did obtain it. The instructions of the Minister breathed a desire of peace—of reconciliation upon terms compatible with the honor of both nations. The Administration did not send with their Minister a non-importation act, a proclamation, or a permanent embargo, by way of exhibiting their love of peace. The refinement in diplomacy which sends with the negotiator a new cause of quarrel for the purpose of accelerating the adjustment of an old one, was not yet invented. No, sir, Mr. Jay, (and the name of that stern, inflexible patriot and Republican, I always repeat with delight and veneration, because he is a patriot and a Republican)—

[Here Mr. Upham took the advantage of a pause made by Mr. G. to observe that, as the gentleman appeared considerably exhausted &c., he

would move an adjournment, which was taken by ayes and noes, and lost—ayes 47, noes 65—Mr. G. voting in the affirmative.]

Mr. G. continued.—Mr. Jay had no disposition to bully the British Government into justice; he had no objection that they should have all the merit of returning voluntarily to a sense of justice, provided his country might have the benefit of substantial reparation. The stern sage of the Revolution became the courteous Ambassador, and, appealing "to the justice and magnanimity of His Britannic Majesty," he demanded redress and he obtained it. The British Government saw that ours was sincerely disposed to be at peace with them, and, pursuing the natural direction of their interests, there was no difficulty in making peace. Our plundered merchants were compensated—paid, sir, *bona fide*. We did not purchase redress; we did not pay for the surrender of the Western posts, which were our right, and out of the purchase money indemnify a portion of our own citizens. No; the payment was to all; and in right old-fashioned "British gold," all counted down on the nail. I wish that I could, with equal truth, say the same thing of more modern treaties.

And now, sir, compensation being made by Great Britain for the spoliations on our commerce, the Western posts being surrendered, a commercial treaty being established, the dark cloud which obscured our prospects being dispersed, the sun of our prosperity once more burst forth in all its radiance, and again all was well.

I care not what were the objections of the day, begotten in the brain of faction, and cherished in mobs; under the treaty we were prosperous and happy, and that one fact is enough for me. Bad as the treaty was represented to be, and the worst feature of it most probably was, that it was a British Treaty—bad as it was, the continuance of its existence has been precisely coextensive with the progress of our prosperity—it made our people rich and happy; and, bad as it was, they would have cause to rejoice indeed if the present Administration had furnished them with just such another.

France saw with uneasiness the return of a good understanding between America and Great Britain. And she, in her turn, let loose her plunderers upon our commerce. Again, the wisdom of our Government was called into action, and again it produced the most happy result. What did they do? An embassy was despatched to France, redress was demanded, but the Ministers were not received, nor could be, till a *douceur*—a tribute—was paid. From a nation which returned such an answer, redress could not be expected; and there was an end of negotiation. Britain and France had acted toward us with equal injustice—the disposition of our Government, its desire of peace, was the same with both. Its conduct was the same to both, but France would not even hear our demands. The American Government were at no loss how to act. The case was a plain one. One nation robs another—that other demands reparation—prevarication is the reply. It requires no skill to see, in such a case, that, to coax the offender into reparation is impossible. Accordingly, our Government did not hesitate as to the course it should pursue; they did not wait to be spurred on by any Government to an assertion of their rights; they would not leave it one moment doubtful whether they had the disposition and the courage to assert them. They proceeded immediately to annul the French Treaty, to pass non-intercourse laws; they built ships of war, and sent them upon the ocean, to protect our commerce. They were not so obstinate but that they could receive instruction, even from the author of the "Notes on Virginia," who, in that work, so judiciously recommends a navy. Our little armament picked up the French cruisers, great and small; the coast, the sea, was soon cleared of them. And our commerce again visited every clime in safety.

I will here remark, sir, that, during all this time, the staple commodities (particularly of the Northern States) suffered no diminution, but an increase in price. Well, sir, France very soon discovered that she had nothing to gain, and we nothing to lose by such a state of things. Even then, when she had some naval power, she discovered this. She was, therefore, very soon disposed to change it. A treaty was patched up, in the end, and something like the appearance of redress provided for.

Now, sir, for the result. A former Administration were able to settle our differences with Great Britain, although she governed all Europe, although she was unjust haughty, and imperious. Now the same thing is said to be impossible! A former Administration were able, after a fair negotiation had failed, to bring France, who had then some maritime power, on her marrowbones. And now, when she has none, again the same thing is impossible! How happens all this? Sir, I am afraid your Administration have committed most capital mistakes. They have been unwilling to learn wisdom from the experience and success of their predecessors. I do fear, and I shall be obliged to prove, that, on the one hand, they have been actuated by, certainly they have never (following the example of a former Administration) manifested a sincere disposition to accommodate our difficulties with Great Britain. And, on the other hand, they have in no instance shown to France that bold front which, in more unpromising times, brought the terrible Republic to her senses. These two errors, these wilful, wanton aberrations from established policy, are the true causes of all our misfortunes. It is owing to them that we have, if we believe the Administration sincere, two enemies who are already at war with each other, and we, the only instance of the kind, since the creation of the world, are to step out a third and distinct belligerent, a sort of Ishmaelite belligerent; our hand against every nation, and every nation's hand against us. We are in a situation which defies hope, one in which we have but a single miserable consolation, that though it promises nothing but ruin, yet it is so ridiculous, so ludicrous, that we can but smile at it.

These remarks are extorted from me a little out of their order. I return to the period of the restoration of peace between the United States and France.

The Administration now (1801) passed into the hands of other men. They received a country, rich, prosperous, and increasing in prosperity. A people contented and happy; or discontented only with those who had been the authors of their prosperity. They received a Treasury full and overflowing, giving a vigor and a spring to public credit, almost unknown before, and to the reputation of the country a dignity unsullied; they found us in peace and friendship with all nations, our commerce whitening every sea, and rewarding agriculture for all its industry, and every one sitting in peace, under his own vine and fig tree. Our country presented to the animated philanthropist one uninterrupted display of liberty, of gaiety, and of felicity. Oh! happy, happy period of our history—never, never, I fear to return. And, if ever truth dropped from the lips of man, it was when the nation was declared to be in "the full tide of successful experiment." Never were the destinies of a nation in more wonderful prosperity committed to men. That prosperity had been acquired at a price no less unparalleled, at the expense of the destruction and disgrace of those whose wisdom and energy had produced it.

The new men, sir, were not required to bring order out of confusion; that had been done already.

They were not called upon to lay the deep and strong foundations of national prosperity and happiness; that had been done already.

They were not enjoined to "multiply" the talents committed to their stewardship; that was unnecessary—they were merely commanded to preserve them undiminished.

They were not required to create a paradise—but to keep uninjured that which was committed to their guardianship.

They promised, indeed; they were so rash, in the fulness of their exultation, as to promise to do more; but folly alone could believe them; and for breaking this promise I forgive them, for to do more was impossible. And if they had but preserved unimpaired, if they had not totally destroyed the inestimable treasures intrusted to them, I would have endeavored to overcome my resentment, my indignation, and my despair.

In performance of their lofty promises, in disregard of sacred duties, what have they done? In what condition do they leave the country, which, eight years since, "in the full tide of successful experiment," fell into their hands? They present to us, sir, the gloomy reverse of all it was. The people discontented and distressed—all becoming daily more and more poor—except, indeed, that class of rich speculators, whose wealth and whose hearts enabled them to prey upon the wants of their countrymen. The despair and dismay of 1786 are returned! The prosperity of twenty years is annihilated at one stroke! The sources of revenue are dried up. The Treasury, indeed, may be now full—but it must continually diminish—and, without its usual supply, it must soon be empty. We have still some credit. But how long, sir, can that be maintained, when it is known that we have no longer the means, allowing us to possess the disposition, to fulfil our pecuniary engagements? When you cannot collect a cent upon imposts, and dare not lay a direct tax, how far you will be able to obtain money on loan, is, to say the least of it, very questionable. But, I will hasten to finish the contrast I was about to make. Commerce, sir, has perished, and agriculture lies dead at her side—for these twin-sisters must flourish or die together. No nation in the world is our friend—our paradise is becoming a wilderness; our soil is stained with the blood of our own citizens; and we look around us, in vain, for one solitary benefit to compensate us for all the dreadful effects of the present system.

Perhaps, sir, I may be answered: "Though all you have said be true, though our former prosperity exists no longer, it is ungenerous, it is unjust to impute the change to the agency of the Administration. What has happened could not be prevented." Though such a rebuke were reasonable, I will still insist that the Administration, if they deserve no censure, are certainly entitled to no praise, and can ask for no confidence. If they have not been the authors of the public calamities, they have not, like their predecessors, discovered the ability to prevent them from coming thick upon us. If their hearts are honest, their heads have not discovered much soundness. No set of men, however ignorant, however stupid, could have placed the country in a worse or a more deplorable situation. The truth is plain and palpable. Judging of the wisdom of the Administration by the result of its measures, I cannot sing praises to them for their skill and ingenuity in diplomacy. No, sir; I delight in that diplomacy which makes the poor rich; which makes industry prosperous; which spreads contentment through the land, and happiness among the people. I delight in the diplomacy, whose skill and wisdom can be read in the countenance of my countrymen, and makes the face of my country the evidence of its prosperity. I like not, I abhor that diplomatic skill which can be found only in a book! which has produced nothing but calamity, and whose praise is written in the blood of my countrymen.

But, sir, how happens it that we still remain under the distresses occasioned by the belligerents? Is there, indeed, a physical impossibility of removing them? From Great Britain, and that, too, when she had the whole Continent on her side, we could once obtain justice, not only for the past, but security for the future. From France, too, we could once obtain justice, but now we can gain justice from neither. What change, sir, has occurred in the state of things to produce this strange impossibility? Our commerce is more an object to Great Britain now, than it was formerly—and France can oppose to us no resistance on the ocean. And yet no remedy can be found for our calamities! Sir, I will not be the dupe of this miserable artifice. What has been done once can be done again by employing the same means.

The Administration have committed greater errors. They have conducted all their affairs in such a style as to leave Great Britain no room to doubt that, when they asked for peace, they wanted it not. To this cause may be traced all our difficulties, so far as they proceed from that Power. As it regards France, I fear that they have not acted the proper, the manly part. In short, sir, they have not pursued toward England the policy which saved us in 1795, nor toward France the policy which was successfully opposed to French rapacity and French obstinacy in '93.

I think an error was committed, when, affecting to desire an amicable arrangement with Great Britain, instead of treating with her as a nation not to be intimidated, much less bullied, the non-importation act was passed. For, sir, if she was so proud, so haughty, so imperious, as some gentlemen delight to describe her, then to bring her to justice by assuming an attitude of menace, was evidently impossible. When, therefore, you passed the non-importation act, under a pretence that it would be a successful auxiliary to friendly negotiation, what could you expect but to alarm the pride, and the haughtiness, and imperiousness of that nation? And, doing that, how could you expect an amicable result? No, sir, it was not, and it could not be expected. You obtained a treaty indeed—but it was from a Fox Ministry. Yet such as it was, it was not so good as a Jay's Treaty, and the Executive rejected it without so much as laying it before the Senate.

In support of the embargo system, gentlemen say, if we suffer our commerce to go on the ocean, or wherever it goes, it will be crippled either by France or Great Britain. Although this is not true in the extent laid down, yet it will hold tolerably true as respects the European seas. From what gentlemen are pleased to represent as the impossibility of sailing the ocean with safety, results (say they) the propriety and necessity of the embargo system. And they say, it is not the embargo, but the decrees and orders which are the true cause of all we suffer; that the embargo, so far from being the cause of, was devised as a remedy for the evils we endure. Well, sir, for the sake of the argument, be it as they say. Has the embargo answered? Is there any probability, the slightest indication, that it will answer? Has it operated, to any perceptible extent, except upon ourselves, during the twelvemonth it has been in existence? If, then, neither the remembrance of the past, nor the prospect of the future, gives the least encouragement to hope, why will gentlemen persist in the system? And that too, sir, at an expense to their own country, so enormous in amount? Will they go on obstinately amid all the discontents, or clamors (as gentlemen in very anti-Republican language, call the voice of the people) in the Eastern and Northern States? And that from mere obstinacy—an obstinacy not encouraged by the least glimmering of hope? If I could be pointed to a single fact, produced by the operation of the embargo, which would prove that it had any other effect on the disposition of Great Britain than to irritate—or any other on France than to please, than to encourage her to a perseverance in that system of injustice, which we pretend to oppose, but to the policy of which we give all our support with an infatuated wilfulness, and which, therefore, increases the hostility Great Britain has felt from the measure—if they could show me, sir, that the embargo will bring either to terms, I would abandon the opposition at once, and come heart and hand into the support of your measures. The other day, the gentleman from South Carolina (Mr. Williams) almost persuaded me that it ought to operate upon Great Britain; but I looked and I found it did not, and I was convinced it would not.

But, have gentlemen reflected that, if all the evils were drawn from Pandora's box, to vex Great Britain, you could have hit on none so well calculated to call out all her resistance, and all her obstinacy, as this same expedient, the embargo! If she yields to us, under the pressure of such a system, she discloses to us the secret of her independence! Sir, the embargo is war; it was intended as such against Great Britain. And she understands its meaning and its character too well for us to disguise it, under a pretence of its being a mere precautionary municipal measure. Its efficacy as a coercive measure has been too often and too loudly boasted of in this House, to make its real object a secret to her. Nay, in so far as the great and prominent feature of war is coercion; in so far as war is always intended to make the adversary yield that which he will not yield voluntarily; in so far, are the embargo and the non-importation act, WAR. Each was intended to coerce Great Britain to yield to us points, which it had been ascertained she would not yield voluntarily. It was a system of coercion, a new-fangled sort of philosophical experimental war; novel, to be sure, in its character, but, to all substantial purposes, war. Instead of bloodshed, there was to be ink shed—instead of bayonets, pens—instead of the bloody arena, huge sheets of paper! Whenever Great Britain shall yield to the coercion of the non-importation, embargo, or non-intercourse system, she virtually tells the people of the United States "we are in your 'power whenever you choose to make a claim 'upon us, whether just or unjust, threaten us with 'an embargo and a non-intercourse, and you bring 'us to your feet." Does any gentlemen believe, even allowing the pressure of the embargo to be great upon her, that she can yield, that she can afford to yield? That she can admit that we have her always perfectly in our power? Sooner would she give up in battle—sooner would she see her soldiers retreating before our bayonets; sooner would she see her armies perish under our valor, than acknowledge herself the slave of this magic wand. Her children might grow to be men, and she might try the fortune of another day; the hair of Samson might grow on again, and his strength be renewed; but in yielding to the chance of the embargo, she places her exist-

ence in our hands, and becomes dependent upon our will for the existence of her sovereignty. Sir, the King of England cannot, he dare not yield to our embargo.

But, sir, he has not told us that he considers our embargo hostile to him; nor has our Government ever told him that it was; such a declaration has never been put to paper. No, sir, when you look into the correspondence, it would seem that the embargo was never intended as a coercive measure, nor even understood so by Great Britain. Everything on both sides is conceived in a sincere spirit of "friendship." Our non-importation act, our proclamation, our embargo, are all acts of friendship and kindness toward Great Britain, for aught we find there. And Great Britain issues her Orders in Council in a reciprocating spirit of amity toward us. She is not offended with our non-importation act, nor our embargo. Not at all. Her orders are not intended to harm us. She means nothing in the world, but simply to retaliate upon France—and she is sorry that almost the whole force of the blow falls upon us, but it is unavoidable. She, by the laws of nations, has as perfect a right to retaliate upon France as we have to make our innocent municipal regulations—and she is full as sorry that her retaliation system should wound us, as we are that our municipal regulations should incommode her. Sir, this diplomatic hypocrisy (began, I acknowledge, by us) is intolerable. Sir, there is not one word of truth in the whole of it, from beginning to end. The plain state of the case is this: Anterior to the non-importation act, the British Treaty had expired—there were points of dispute, particularly concerning the impressment of seamen, which could not be adjusted, to the satisfaction of our Government. In this state of things, either we ought to have gone to war, or we ought not. If we had intended to do so, stronger measures should have been resorted to than a non-importation act. If we had not intended to do so, the act should never have been passed. Those who passed it could have but one of two objects in view; either to coerce Great Britain to the terms we demanded—or, by vexing and irritating her, to raise up in due time an unnecessary fictitious quarrel, which (as this country is known to be extremely sensitive of British aggression) might ultimately end in a real old-fashioned war. No men could have been so weak as to calculate upon the first result. As to the other, the wisdom of the calculation is pretty strongly proved by the situation in which we now find ourselves. Sir, this is the whole mystery—and it must be explored—it must be exposed. We must understand the real character of our controversy with Great Britain—the real character, intent, and aim of the different measures adopted by us and by her, before we can hope to heal the wounds our peace has received, or to restore the prosperity we have been unnecessarily made to abandon. I know, sir, how difficult it is to overcome matured opinions or inveterate prejudices; and I know, too, that, at this time, the individual who shall venture to lay open "the bare and rotten policy" of the time, makes himself the butt of party rancor, and strips himself to the unsparing "lacerations of the press." But these are considerations too feeble to deter me from my duty.

[Mr. G. appearing much exhausted, and Mr. Quincy having intimated to the House, that Mr. G. suffered under a pain in the side, moved for an adjournment. The Speaker inquired whether Mr. G. yielded the floor? Mr. G. replied, he had himself little inclination to continue his remarks, but the House appeared so eager to hear him, (a laugh,) he hardly knew what answer to make. However, he said, he would give the floor. The House then adjourned.]

The object, sir, of our present deliberations is, or ought to be, to relieve our country from the distresses under which it groans; to do this, we should be prepared to legislate with a single eye to the welfare and happiness of the nation. It is of the first necessity that we should deliberate with calmness, if we mean to apply an effectual remedy to the diseases of the State. In the remarks which I had the honor to make yesterday, I was constrained to draw a contrast between the measures and prosperity of former times and those of the present times. Under circumstances of the same character, we were formerly able to overcome our misfortunes. Now we are not. And I did this for the purpose of impressing upon the House an opinion, that if the Administration had practised upon the principles of their predecessors, all had been well; or, that if retracing their steps, or relinquishing the path of error and misfortune, they would still be the learners of wisdom and experience, it would not even now be too late to retrieve the affairs of the country. If I know my own heart, I did not make the comparison from any invidious purposes; but merely to turn the minds of gentlemen back to former times; that they might reflect upon the perils and calamities of those times, and the means by which an end was put to them; but in doing this, I could not avoid paying the tribute of deserved praise and of sincere gratitude to the men under whose agency we prospered abundantly. In contrasting the conduct of the present with that of the former Administration, I meant to subserve no purposes of party. Nay, sir, I could have much desired to have been spared the necessity of presenting that contrast before the nation. I could have wished to have avoided these references, lest I might excite party feeling in others; lest I might appear to be governed by them myself. But truth could not be attained by any other course, and I have been compelled to take it.

It will be remembered that I have spoken merely with regard to the exterior relations of the country. I have not forgotten that the men then in power were accused of being enemies of liberty, friends of monarchy, and all that. I shall not go out of my way to expose these accusations, sir, because they have nothing to do with the subject I am examining. The positions I would establish, are these: The former Administration conducted wisely, and their perfect and

entire success proves it. The men now in power have departed from the path which, as experience demonstrates, led to success. They have spurned the wisdom of experience; they have not conducted wisely, and their defeat, the misfortunes and the distresses of the country prove it. We must abandon the present disastrous and ruinous system, therefore, and return to the old one, if we are sincerely disposed to restore the nation to prosperity.

Sir, the former Administration sought honorable accommodation with Great Britain with so much sincerity, with such a single eye to that object, that they were accused, even when Washington was at their head, of undue partiality to Great Britain; but success was the consequence. That charge has never been brought against its present rulers, and never will. Happy would it have been for our country, if they had not always exhausted their ingenuity in multiplying obstacles against the adjustment of the difficulties between us and England.

If foreign nations have an interest in cultivating friendship with the United States, it is, because that friendship is in some respect or other advantageous to them? And on what account, sir, is our friendship advantageous to them. On account, I answer, of our commerce. Well, sir, Great Britain exists by commerce, and the benefit of ours she cannot have, unless we are in a state of friendship. Her interest, then, (and no one doubts she is much governed by that) will always induce her to seek that friendship for the sake of that commerce. Indeed, sir, the very laying of your embargo was on the ground that your commerce was essential to the existence of Great Britain. She will, therefore, on the one hand not throw it away lightly. But on the other, she will not purchase it with disgrace; she will not sacrifice her independence to obtain it. And this our Administration knew very well; and on the knowledge of this I fear they have acted. Sir, the gentlemen from the Eastern States have told you, and I have no doubt told you truly of the dreadful condition of the people in that section of the United States. Those from the South have represented to you the deplorable condition of the tobacco, and rice, and cotton countries. Nor have those of the Middle States been wanting in lively descriptions of the sufferings of their constituents. And the gentleman from South Carolina (Mr. Williams) has, with great ability, depicted the distresses of the people of England; all resulting from the suspension of our commerce. Now, sir, what does all this prove? Why, simply this: that if both countries suffer so much from this suspension of our commerce, both are deeply interested in its restoration; and, of course, that the present state of things is an unnatural one, growing out of artificial causes; and, for that reason, a state of things which wise and honest men could easily change. It was from this very cause that it was so easily changed in former times. And on account of differences growing out of the commercial spirit of the two nations, and the animosity which the Revolutionary war had called forth, we are now engaged in a contest in which each is to evince his fortitude by depriving himself of the mutual benefits resulting from an amicable intercourse; and if neither is to give out before he feels it impossible to exist without the other, there will never be an end of the contest. We know that this country can hold out forever, and we ought to know that Great Britain can do the same; and must, sir, if from no other consideration, yet from this, that we must not be encouraged in the notion that she cannot exist without us.

I have intimated my opinion, sir, that Great Britain has all along been induced to believe, that it was the policy of our Administration to be in dispute with her, and that they have been only solicitous to veil their true object from the American people. Such, sir, is my own opinion, and therefore I will not hesitate to declare it. I shall give my reasons for it, and if I am incorrect, shall be extremely pleased to see my arguments refuted—for I entreat gentlemen to be assured that I am not more desirous of affording light to them than I am to receive it from them.

The proof in support of my position, derived from the correspondence on the affair of the Chesapeake, is to my mind conclusive. The people of the United States, viewing it as the authorized act of the British Government, broke forth into the most ardent execrations. There was not a heart, sir, which did not feel all that the warmest could feel. What has become of the spirit of that period? Whither has it fled? And why has it subsided? Why are its murmurings heard no where but in the war speeches of gentlemen on this floor? Sir, the reason is very simple. When remonstrances upon the subject were made to the British Government, and indeed before that, they abandoned the principle upon which alone the outrage, if it had been authorized, could have proceeded. Nay, they declared, unasked, unsolicited, that the principle had never been contended for by them. There was, therefore, no danger of a repetition of the outrage, and our people settled down into quiet, from a sense of security.

But let us review the negotiations to which the event itself gave birth, for we can derive from them a perfect knowledge of the temper and character of our Government.

The first intimation received in England of this unfortunate occurrence, was by the English Government itself; and before our Minister knew anything of it, Mr. Canning gave him the information in a manner evincing the most friendly disposition, and the most perfect willingness to make the most ample reparation. I do not desire to be understood to say, that the British entertain any friendship for us, sir. They have little cause for that, for friendship to be friendship must be mutual. But a sense of interest must always induce them to desire an immediate commercial intercourse with us.

To minds which are not wholly poisoned—to those who do not believe that all virtue and patriotism consists in utterly hating Great Britain,

as to believe he can do no right, even when her interest should induce her; to all candid men, sir, it must be plain, that at the outset, at least, the British Minister did all that we could have expected or desired.

Mr. Monroe, in a note dated July 29, not having then heard from his Government, tells Mr. Canning, that "by accounts which are entitled to 'full confidence, it appears that the Leopard attacked the Chesapeake, with a view to assert and 'enforce the unfounded and the most unjustifiable 'pretension to search for deserters." And after detailing the circumstances, and though he reminds Mr. Canning of "other examples of great indignity and outrage," he goes on to say, very properly and very honestly, "but it is improper to mingle them with the present more serious cause of complaint." He then proceeds to demand a frank disavowal of the principle and the punishment of the officer. On the third of August, Mr. Canning replies, that "His Majesty 'neither does nor has, at any time, maintained 'the pretension of a right to search ships of war 'in the national service of any State, for deserters." And that, if the attack "shall appear to have 'rested on the simple and unqualified assertion of 'that pretension, His Majesty has no difficulty in 'disavowing that, and will have no difficulty in 'manifesting his displeasure at the conduct of his 'officers." And then he concludes with agreeing with Mr. Monroe, that other causes of complaint should not be involved in the present question, regretting that allusions should be made to them at all.

Both Ministers then harmonized in the opinion that the subject of the outrage should, in the negotiation, be kept as single, as in its indignity and enormity, it was solitary; and if it had been so kept single, if other topics of complaint had not been "mingled" with it, by our Administration, to prevent adjustment, ample reparation, I have no doubt, would long ago have been received for it. Sir, let me entreat gentlemen to look at this part of the correspondence once more. Mr. Monroe calls on the British Government for a disavowal. There is not a moment's hesitation in making it. Not only the act itself was at once disavowed, but the declaration was spontaneously made, that the pretension never existed. Even Mr. Monroe himself, in his letter to the Secretary of State, of the 4th of August, says that Mr. Canning's reply "may be considered as conceding essentially the point desired." Let it be remembered that, as yet, Mr. Monroe has received no instructions from our Executive on this subject. And if ever man felt a confidence and a pleasure at the certain prospect of healing the wounds his country's honor had received, and of dissipating the gloomy apprehensions which he well knew disturbed and kindled to wrath his high-minded countrymen, our Minister at London was the man; but he was ignorant of the subtle policy of the Cabinet at home, as he was confounded at the intelligence contained in Mr. Canning's note of the 8th of August. He is in that note, and it would seem, for the first time, informed of the proclamation prohibiting British armed vessels from entering our ports. And Mr. Canning very properly requests to be informed "whether it is 'the intention of the Government of the United 'States to carry into effect the measures stated 'in the proclamation of the President, without 'requiring or waiting for an explanation on the 'part of the British Government with respect to 'the late unfortunate affair upon which the determination to resort to these measures is professed 'to be founded."

This question, sir, though very pithy, is one which the proclamation would necessarily draw out. Its plain English is this: "Do you mean to ask for reparation, or do you mean to take reparation into your own hands by this retaliating measure? Do you mean to rely upon the disposition of this Government to do you justice (and which you know them to have declared unasked) or do you mean to force us to do you justice? We do justice sometimes, but never on compulsion." The point of this inquiry Mr. Monroe evaded, by saying that he had no information from his Government on the subject. He, it seems, did not exactly comprehend the object of the inquiry, for in another letter to the Secretary of State, of August 14th, he could not conceive "why it should be made, if some unfriendly measure, such as an embargo, was not intended." In that letter, also, as well as in the one of August 4th, he speaks of the existence of a strong war party in England, and he was therefore—peace being really and truly his object—induced to adopt the most pacific course possible

The 7th of September put an end to all Mr. Monroe's dreams. He had now received instructions from his Government. If the information of the President's proclamation had shaken his hopes of success, these instructions extinguished them. The application for redress came to England not only with an offensive proclamation on its back, but encumbered with a condition that that redress should not be received unless the subject of impressments was arranged at the same time. A subject, sir, which years had been wasted in vain attempts to arrange. Hear the Secretary himself, and let gentlemen say whether such satisfaction was either reasonably to be demanded, or expected. If they say it was, they say more in favor of the desire of Great Britain to do us justice than I shall ever do. Before I proceed, let me cast one glance more at this proclamation. Could it form, could it be intended to form, part of a specific, sincere system of gaining reparation? No. It was creating a new ground of dispute, instead of leaving the old one single. If the Cabinet had intended to pursue pacific measures, they should have pursued them and them only; or, if coercive, the latter alone. A system partly pacific and partly hostile, is always a miserable one. It is always wise to get rid of one quarrel before you create another. One is enough at one time, and he who is ever getting into new quarrels, by way of accommodating old ones, may be as certain as our Administration are, of never coming to a friendly conclusion about any. But

he who loads his demands of reparation as the Secretary did, cannot but pant for ill success. The Secretary, in his letter to Mr. Monroe of July 6th, 1807, instructs him to insist on a "formal disavowal of the deed and restoration of the 'four seamen to the ship from whence they were 'taken, as things of course and indispensable. 'As a security for the future, an entire abolition 'of impressments from vessels under the flag of 'the United States, if not already arranged, is 'also to make an indispensable part of the satisfaction!" That is, another and a distinct matter, already proved, incapable of arrangement, must be first adjusted before he would condescend to receive satisfaction for the specific outrage on the Chesapeake; and not only must that matter be first adjusted, but in the very words of the Secretary, "it must be on terms compatible with the instructions" formerly given on the subject. We will not receive satisfaction for this horrible outrage, unless our own terms be yielded us in relation to another very difficult point "as part." It was a strange idea, sir—"as part, an indispensable part, of that satisfaction."

On such terms, I venture to assert no compromise was, because none could possibly be expected. I will now put a question to gentlemen. When Mr. Monroe was instructed by the Cabinet to make the adjustment of the subject of impressments "an indispensable part of the satisfaction," for the attack on the Chesapeake, could it be done with any other expectation, any other view, than that the reparation affected to be pursued should never come at them? Conceding, for the sake of argument, that the terms demanded by our Government in relation to impressments were just, had it not been proved that, on these terms, an adjustment could not be effected? Mr. Monroe, previous to the receipt of his instructions, had paved the way for almost certain redress for the outrage on the Chesapeake. But our Cabinet well knew, that so surely as the water flows down the stream, so surely could the affair of the Chesapeake never be settled by the mode they pursued. No, sir, there never was, and I am afraid never will be, a sincere desire in the Administration, for anything but difficulty and dispute and war with England. But for this, not only the unfortunate affair of the Chesapeake, but every other matter in controversy might long ago have been settled, much to the satisfaction and more to the prosperity of both countries.

I cannot but compassionate Mr. Monroe for the situation in which he was now placed. Our poor Minister having pursued a plain and certain policy—having gained the assent of the British Minister to his opinion that this affair should be kept single—was suddenly obliged to eat his words; he was obliged not only to mingle other matters with this all-important affair, but to mingle with it one which his own experience convinced him placed adjustment utterly beyond the reach of hope.

I am now, sir, safe in advancing as an incontrovertible fact, that before the proclamation was known in England, the Government of that country had shown every disposition to do us justice, at least in the affair of the Chesapeake. They had declared themselves innocent of all participation in the act; they had promised the punishment of the officer; or, in more courtly language, "His Majesty's displeasure." But the proclamation arrives. Immediately the tone is changed. You have taken (say they) reparation into your own hands. You have studied to prevent the people of your country from seeing that we are capable of doing justice voluntarily. We will not make the reparation, before this proclamation, which we consider a hostile act, is taken off. But in that case we will give the most ample satisfaction.

The Secretary is a wise man. He had very distinctly foreseen that on the proclamation the negotiation would split. But the Secretary is moreover a prudent and a provident man, and therefore, lest the desire of peace and commercial intercourse with this country which its interest dictates to England, might induce the Ministry to disregard this obstruction to reparation, he, to be more secure, fortified himself with another which could not be possibly overcome:—"The matter of impressments must be settled beforehand." That he knew to be impossible. Less prudence, however, would have been sufficient. For although Mr. Canning, in his letter to Mr. Monroe, of September 23, 1807, says, that "it is a 'matter of regret that you should have been instructed to annex to the demand of reparation 'for the attack of the Leopard upon the Chesapeake, any proposition whatever respecting the 'search for British seamen in merchant vessels; 'a subject which is wholly unconnected with the 'case of the Leopard and the Chesapeake, and 'which can only tend to complicate and embarrass a discussion, in itself of sufficient difficulty 'and importance;" although in his letter of the 29th of the same month, he says that the British Government "is willing to look to one subject only, the late aggression, and to provide for it;" yet it is evident from the instructions given to Mr. Rose, that the proclamation would of itself have been a sufficient obstruction to the approach of reparation.

Although Great Britain appears to have been determined not to do even justice, while there was any appearance of her having been forced to it, yet she sent a special Minister to this country to offer atonement. That Minister, soon after his arrival, had an interview with Mr. Madison, in which he stated to the Secretary, that he was "expressly precluded by his instructions from entering upon any negotiation for the adjustment of 'the differences arising from the encounter of His 'Majesty's ship Leopard and the frigate of the 'United States the Chesapeake, as long as the 'proclamation should be in force."

Previous to the actual arrival of Mr. Rose, it had been understood here that he was coming out as a special Envoy, for the express and sole purpose of making satisfaction for the outrage committed in our waters. If I am incorrect, sir, in this assertion, I hope some gentleman will set

me right, for I desire to travel along the great highway of truth and fact. Under a knowledge of this fact, then, the President recommended the laying of an embargo, ostensibly for the purpose "of keeping in safety our essential resources," but in reality, as in the course of the discussion of the embargo bill has been asserted by our embargo gentleman from Virginia and another from Pennsylvania, to operate on Great Britain. And Mr. Rose, on his arrival, was actually cheered by this new evidence of the sincere desire (I believe that is the slang, sir) of our Administration to restore and cultivate the friendly relations so important to both countries! Our Cabinet seems to have been afraid that the proclamation and the demand concerning impressments, with the affair of the Chesapeake, would not be a sufficient protection against Mr. Rose's importunities to give us reparation. To be perfectly secure, therefore, they barricaded themselves by this omnipotent embargo. And now I have no doubt Mr. Madison thought that if the special Envoy could force his satisfaction upon the Administration, in spite of all these fortifications, the very deuce must be in it. Mr. Rose then arrives—makes the disclosure of his instructions which I have already mentioned, and of which he reminds Mr. Madison in his letter of January 20, 1808. Withdraw your proclamation, so that the reparation we make (such is the substance of the offer) may have all the merit of being voluntary, and I promise you the reparation shall be unobjectionable. But while that proclamation continues in force, the dignity of my Government forbids a disclosure of what that reparation shall consist of. Mr. Madison having now ascertained with precision the instructions which tied down the special Envoy to a defined and prescribed course from which he could not depart, assumes all at once the appearance of great mildness, and abandons the high tone, comes down from his lofty demands, and says that the adjustment of the subject of impressment shall not form "part, an indispensable part of the satisfaction"—nay, he is so little obstinate even about the proclamation, that in his reply of the 8th of March, he says that the President, "adhering to the moderation by which he 'has been invariably guided, and anxious to rescue the two nations from the circumstances under which an abortive issue to your mission necessarily places them, has authorized me in the 'event of your disclosing the terms of reparation 'which you believe will be satisfactory, and on 'its appearance that they are so, to consider this 'evidence of the justice of His Britannic Majesty 'as a pledge for an effectual interposition with 'respect to all the abuses against which the proclamation was meant to provide, and to proceed 'to concert with you a revocation of that act 'bearing the same date with the act of reparation to which the United States are entitled." This was diplomatic skill indeed! If you, Mr. Rose, will do what we very well know you cannot do, we will abandon our high ground. Only be so good as to perform impossibilities—do what you yourself told us you are forbidden to do—and we will complete the miracle by giving fact in evidence to prove our desire of being in amity with your country. Who after this very ingenious and honest offer of our Cabinet will dare to question its sincerity? Who will dare to deny that they sought, since they proved their desire to obtain, satisfaction by pursuing a course so well calculated to obtain it! Alas! sir, all that can be said of it is, that they kept their original object steadily in view; but the frankness with which Mr. Rose had communicated his instructions, enabled them to make a very specious offer, and which was only made with a view to their own popularity. For however plausible the offer might be, it was no less certain of being unproductive of good, than their former extravagant conduct had been. They were still secured as effectually as ever against the intrusion of reparation.

But it has been said there was a point of honor involved in the question. If that has indeed been so, the case would be varied. But let us examine it, and I venture to assert there was no such thing in it.

The Secretary, in his letter of the 6th of June, already referred to, has said the proclamation was a mere matter of precaution, and could not be considered as a hostile act. And he tells Mr. Monroe, "the scope of the proclamation will sig-'nify to you, that the President has yielded to the 'presumption, that the hostile act of the British 'commander did not pursue the intention of his 'Government." These, let it be remembered, are Mr. Madison's own words. At the outset then, he, as well as the President, did not believe the attack on the Chesapeake pursued the intentions of the British Government. And believing it did not, the proclamation could never have been justified as a hostile act. It could be defended only on the ground of its being a precautionary one. And on that ground, as has been seen, Mr. Madison did place it in this letter of June 6th. I will not at this time say, sir, whether the issuing the proclamation for the purpose of preserving tranquillity in the ports and harbors of the United States, was a necessary, or a political step; I will not stop now to examine whether this was the real or the ostensible motive. But I will prove that the keeping in force that proclamation, if it was in truth merely a measure of precaution, was, after the disclosure of Mr. Rose's instructions, the height of folly, to say nothing worse of it.

The President was willing to withdraw the proclamation, if Mr. Rose would disclose what were the terms of reparation he was instructed to offer, and if those terms should be satisfactory, in that case such disclosure of such satisfactory terms would be a pledge given by Great Britain that there should be no recurrence of abuses—and, then, the withdrawing of the proclamation and the act of reparation should bear one date. No, sir, in all this time from June 6, 1807, to March 5, 1808, the proclamation had been represented and justified by our Government, on the mere plea that it was necessary as a precaution-

ary measure—that it was necessary to the maintenance of the tranquillity and security of our harbors. Whenever, therefore, the danger in this respect ceased, the cause of the proclamation ceased; and, of course, the proclamation itself might well cease too. Whether it should continue or not, was not a point of honor; it was a point of calculation merely; and therefore ought to have been continued or discontinued, as upon sound calculations one course or the other should promise most advantage. But surely no point of honor was to be preserved by keeping it on, nor was to be sacrificed by taking it off. Before I looked into the correspondence, I had given into the general idea that the Government had acted right; for I had understood that they persisted in the proclamation, because in some way or other (I had like most others not understood how) their honor or that of the nation required it. But a calm examination, in which I did not permit my feelings to run away with my judgment, has completely convinced me that there is certainly no point of honor in the matter. When Mr. Rose, therefore, disclosed his instructions, which prevented him from negotiating while the proclamation was in force, the only question to be decided by our Cabinet was, will the withdrawing it be more dangerous to our harbors than advantageous in promoting a restoration of harmony? Is it, on calculation, best to withdraw it? It does appear to me, sir, that the question admitted of no doubt. The proclamation at the outset possessed no magic force; it could not keep a fleet out of our harbors. Whether, therefore, it was in existence or not, the physical power of the interdicted ships to enter remained precisely the same. Our vessels might have been attacked, and our defenceless seaport towns might have been battered down about our ears with the same facility as if the proclamation had never been issued.

But the departure of the squadron which annoyed us was prior to—certainly cotemporary with—the arrival of Mr. Rose in this country. There were during the winter no other British vessels off our coast. If, then, the proclamation could by some secret charm keep out of the harbors vessels on the coast, yet as none were on the coast, its suspension for a few days could work no practical mischief. And there could, therefore, be no substantial argument, if in truth it was what the Secretary himself declares, "a mere measure of precaution," in favor of keeping it on, as an obstruction to that satisfactory reparation which Mr. Rose declared himself ready to make as soon as it was removed. It follows, therefore, inevitably, either that the Administration has deceived the nation as to the cause and object of the proclamation; or that, if in this respect they have spoken the truth, their calculations have been silly and whimsical. Whatever be the truth, the wound our country's honor has received from this outrageous attack has been suffered to fester till it has grown old, and seems now as incurable, as it is unhealed.

I will present this subject in another view. If the proclamation had been withdrawn, Mr. Rose was to have disclosed the terms of reparation. Suppose in that event that these terms had not been satisfactory. The proclamation might have been suspended for perhaps three days. And will any one say that the suspension of this wonder-working instrument for three days would have endangered the tranquillity of our ports and harbors? For gentlemen will see, that as soon as the reparation was decided to be unsatisfactory, the proclamation might have been revived.

I will detain the House, sir, but little longer on this subject. This matter has presented itself to my mind so clear, that I have had little difficulty in presenting it in a strong light before the House. And when gentlemen come to answer me, and I hope they will, I entreat them to answer these arguments. I have endeavored to convey them in as plain a manner as I could, for I wish to see them refuted, if they are false. I acknowledge my obligations to the House for hearing me so patiently. I know, sir, a great many fine things may be said about honor, and independence, and all that. But if gentlemen answer me, I must beg them to forego the temptation of these brilliant topics, and to answer my arguments.

If the honor of the country, sir, had required an adherence to the proclamation, I should have been among the last to condemn the Administration. But the Secretary himself yielded this ground when he declared the proclamation to be a mere measure of precaution. And if there was after that any point of honor in the case, it was not by persisting in a course which could be productive of no good.

But the voice of the country, sir, has decided that Great Britain has done all that could be expected of her to repair the injury committed by the Leopard. And it is therefore in vain to attempt to raise a war spirit by empty declamations on that topic.

Sir, that the British Ministry and the British nation are at this moment unfriendly to the United States, I will not deny, for I do not doubt it. It would be strange, indeed, if it were otherwise. Our people, sir, nay, even the members of this House, have had their ears so dinned with the cry of British enmity, that we have at length so acted as to make enemies of those who at first felt no hostility towards us. It was impossible they should feel any. As well might the merchant be the enemy of his best customer. But let gentlemen lay their hand upon their hearts; let the people of this country look into their own bosoms and say whether they find there no feeling of enmity towards Great Britain—no relics of ancient animosity—nothing of that scrutinizing, unforgiving, jealous hostility, which they have been working into a belief that Great Britain feels towards us. After such a great revolution as that which has been accomplished in this country, during which the leading statesmen found it essential to success to keep the public exasperation at the highest point possible, it is not to be wondered at that much of the old feeling should remain; but it will be most sincerely

to be deplored, if this feeling should overcome the good sense of the nation.

I will not deny, nor am I surprised, that Great Britain is now endeavoring to do us all the harm in her power short of commencing actual war upon us. Nor can I bring my mind to believe that retaliation upon France was either the sole or the principal cause of her Orders in Council. She knew these orders must, and I cannot doubt but she intended they should, operate principally upon this country. And I will go farther, sir; I will say that in issuing them she has done no more than what our Administration has made her do, and is delighted at her having done, because it brings them so much nearer to the accomplishment of their favorite object—a war with Great Britain!

Sir, I am not surprised at seeing Great Britain attempting to do us harm. That attempt is the natural result of our own system. The French decrees were not the cause of, but merely a plausible pretext for it. By passing the non-importation act, the Government commenced a system of commercial warfare against Great Britain. They meant by it to make her do that which without compulsion she was unwilling to do. What is the reply? A counteracting measure of commercial warfare. The matter of impressments and the carrying trade could not be settled to our satisfaction. Great Britain would not do us justice willingly. We meant then to coerce her to our terms; and accordingly the non-importation act was passed. If not for the purpose of coercion, for what purpose was it passed, sir? And having passed, what was Great Britain to do? Either on the one hand to say, this talisman is irresistible, and therefore I yield to its power; or, on the other, I cannot yield to it. But if you can pass non-importation acts, I can reply to them by Orders in Council; if you can injure my manufactures and commerce (and you certainly can) I can suppress your trade. Sir, resistance to the measure by which we attempted to coerce necessarily produced these consequences. And "the desire of His Majesty to do all in his power to restore to the commerce of the United States its wonted activity," expressed so sarcastically in Mr. Canning's letter, was merely a better way of telling us that His Majesty was playing our own game back upon us; that he could make his paper-shot tell as distinctly as we could ours, and rather more so. Yes, sir, it will not, it cannot be denied that the non-importation act was a hostile one, because intended for coercion. The British Government always viewed it so. And my position is, that ever since the passage of that act we have been at war with her—not the old-fashioned sort of war, but a new-fangled, philosophical kind of commercial war! We thought we played a strong card, and now we are outrageous because our antagonist has been able to play above us! Great Britain, it turns out, is not only able to resist the force of your system, but to make you feel the distresses incident to a reaction of that system. With the experience of its effect it ought instantly to be abandoned. It originated in passion, miscalculation, and imbecility, and should not be pursued. We were in affluence and prosperity when it commenced. Where are we now?

A gentleman from Maryland (Mr. K.) has taken great pains to prove that the embargo is the cause of the present low price of produce. Another gentleman from South Carolina (Mr. Williams) has asserted no less stoutly, that the Orders in Council are the true cause. If the last assertion be correct, it is a very unfortunate one for the policy of the embargo system; for, sir, it yields the ground to the adversary—it acknowledges that she has the best of the battle—that she has beat us at our own weapons. And yet instead of discontinuing the "unprofitable contest," we are called upon to plunge deeper and deeper into it. I have been astonished to find those gentlemen, who talk so much of the patriotism of our own people, unwilling to believe that there is patriotism in Great Britain too. If we are willing to bear, so are they. If we would sacrifice everything to our country, so would they too, whenever it becomes a question which shall hold out longest. And, sir, it has come to this already. Much spirit and acrimony is mixed with the contest. Put the case to an Englishman, Will you, to regain the American commerce, confess that that commerce is essential to your existence? Will you consent that, yielding to the embargo and non-importation and non-intercourse system, your Government shall accede to demands which otherwise they would not accede to? What would one of those Englishmen, of whose pride and haughtiness we have heard so much on this floor, say to it? Well, sir, if you cannot then bend the English Government to your terms, and if, instead of making their people your instruments to act upon the Government, you excite an unconquerable spirit of resistance even in them, how is the embargo to be operative? How can you hope that it will bring your enemy at your feet? And if it did not in the end produce this effect, all your sufferings under this delightful experiment will have been to no purpose.

Let me detain the House one moment to inquire what is the character of the war, which is now carried on in Europe? It is on one side a war for conquest, for universal dominion—on the other for self preservation. At the commencement of the French Revolution it had the same character. France fought for self preservation; the combined Powers for conquest. But the parties have changed sides. I take a delight, sir, in remembering that the same feelings which governed me then I yet preserve. I wish neither Power to be able to break down the other. I fear the power of either, when the other shall have been broken down. Therefore, and not because I think more justice or kindness is to be expected from one than the other, I cannot but hope that Great Britain may maintain her ground. Yes, sir, that country is indeed the barrier between Bonaparte and universal empire, not because her morals have undergone any change for the better

since she combined her force with the Powers of the Continent; but from necessity, from fortune of war. And she is the only Power which can hope successfully to resist the strides of France. She is the defence of the world! Not because she cares much about the world, but because, in defending herself, she necessarily protects all others, who stand behind her. They cannot be reached, until she is first broken down. But that done, the power of France overwhelms the universe. And, sir, should we be then more safe than we are now? Should we be then more safe when the tiger of the land shall mount the shark of the ocean, and having swept the sea, assail our shores with a rapacity unsatiated and an ambition incapable of repose? Let it not be believed. The only Republic which has escaped the fury of him who has subverted the Republics of all countries, even of his own, the ruins of which are the basis of his imperial throne!—No, sir—indeed we could hardly escape the Great Destroyer. I rely much on the patriotism, the bravery, and the perseverance of my countrymen; but I hope they may never be under the necessity of meeting Napoleon, when, having broken down Britain, he is borne upon her navy to the shores of our own country.

But I have been drawn insensibly from my course. It is a war of ambition. And what is the part which we take in it? Have we, sir, not thrown in our whole weight to aid and render effectual the pressure by which France meant to crush her enemy? Have we not done all that we could, when English commerce was excluded from the continent of Europe, to exclude it from the United States also? Napoleon, finding that he could not conquer England by force, had resorted to the expedient of closing up the world against her commerce—well knowing that commerce was her life-blood. The continent of Europe was subject to his nod. No potentate dared to disobey. America was still open, and still free; and we closed America too. America subserved to the utmost extent of her means the French policy! We did all that France, knowing our means, could have reasonably asked; for we did all we could to destroy the commerce of England, although in doing it we sacrificed the prosperity of our country! We passed the embargo act—an act which all the enemies of Great Britain rejoice in—which the French Minister eulogizes and Napoleon applauds. If we intended to aid France, we could have done no more than we have done. If we meant to coerce Britain to our own terms, we have exhausted our means in a single effort.

But what have we done to bring France to justice, to coerce her? What strong measure has been adopted to compel her to rescind her decrees? At the outset, was a single step of dignified and imposing character taken? But gentleman say, the decrees were not immediately enforced, they were not immediately acted upon; and there was no cause either for resentment or alarm. Because the Orders in Council were expected from Great Britain, the embargo was necessary; and this makes no little figure in the list of arguments in its support. But the French decrees, though promulgated, were to be considered as a mere joke until they were acted upon! Let me remind gentlemen of the alien law. That, though an act of their own Government—though never acted upon, was long a topic of most brilliant declamation. And those whom that law terrified almost into madness, were perfectly tranquil under a decree violating not only the laws of nations, but the more sacred obligation of treaty. But the Administration, forsooth, flattered itself the decree of Berlin would never be enforced—that it had issued only in sport, and was as harmless as any of our paper-shot! Little could they know of Napoleon who thought so, and little could they wish to know of him. The nation was made to look on with composure; the edge of its indignation was taken off, and the good understanding between the two Republics continued. An embargo on the trade to France was not thought of; our merchants were not even warned of their danger. But at length the decree, and more than the decree of Berlin, was enforced. English Orders in Council were expected—but what they would be no one could exactly tell. Instantly, however, appears the necessity of an embargo—an embargo to coerce England, as was at the time declared on this floor. And not until this session has it been thought expedient to let off some hard words at France—for words is all we have used towards her—throughout there is manifested an anxious solicitude to conciliate France on the one hand, and on the other to irritate and render incurable the wounds we have received from Britain.

You passed the embargo to bring Britain to your feet. The praises of this legislative charm were rung through the country; its magical power was the topic of every Administration print, and for a while the people believed. The "*credo quia impossibile est*," was never more devoutly acted upon. But twelve months have elapsed, and what has it produced? The mountain has been in labor, and I look in vain even for the mouse. The embargo, however, being passed, did the Administration wait until Great Britain cast herself at their feet imploring relief from the pressure of this intolerable measure? No, sir, after some time, a little time, too, wondering why she did not begin to groan under the burden, the Administration (taking them at their own word) sent a messenger to England to inquire if she was not pretty well tired of the embargo? that if she was, they were. If you will quit we will, was the purport of the message. And what was the result of this wise project? What might have been expected. The authors of this irresistibly coercive measure, did play their parts most clumsily. The British Minister could not doubt they were coming to, and no man in his situation would have thought differently. If the offer made to Great Britain was fairly and sincerely made, its rejection only proves that a more miserable plan of coercion than the embargo could not have been devised. And, sir

highly praised as this specific has been, I much doubt whether the prayer of the petitions on your table would not have been complied with, if the Administration could have done so without acknowledging their folly, and sacrificing their popularity.

But as to the proposition, and to speak of it in the sober sadness it deserves. What answer did it receive? Your Minister was told, that if the Orders in Council should be revoked, it would appear to the world as if the British Government had, by the embargo, been forced to abandon them. We cannot, therefore, consent. Since we have gone on so far, we will show to France and to you that we cannot, we do not, even fear to be subdued in this way; the experiment may be as properly made now as at any time, and you may make it till you are satisfied of its inefficacy.

If, sir, our Administration had been sincerely disposed for peace, and acting wisely, had rescinded the proclamation, and repealed the embargo and non-importation acts, and then said now do us justice, the interest which Great Britain, as well as this country, has in the restoration of amicable commercial intercourse, would have left no chance for refusal. And if she had refused, the American people would have rallied round their Government; and I know, sir, that that portion of them with whom I act, forgetting how they had been persecuted, would have sacrificed their resentment at the shrine of their country's independence.

Sir, is it not true that the national animosity towards Great Britain has been so much nourished in this country that it is a test of patriotism even with the Administration? It could not, therefore, be reasonably expected that the British Ministry could have any confidence in mere intimations of returning good will. Nor could any safe calculation be made on the impartiality or spirit of an Administration which had discovered no indignation at the Berlin decree, whose entire resentment has been directed to one of the belligerents only, while its co-operation with the other was manifest and intended to be decisive.

That such were throughout the real feelings of the British Government—nay, that such is the fact, can hardly be doubted by any one who will peruse dispassionately Mr. Canning's letter to Mr. Pinkney of September 23. "If," says he, "the embargo is considered a measure of hostility, His Majesty cannot consent to buy it off." He could not consistently with diplomatic decorum tell Mr. Pinkney in plain terms: Your Government has all along attempted to deceive, when they represented this as a mere municipal regulation, for municipal purposes; although he might have brought the speeches of the members of this House in support of the position. But his putting the case even hypothetically, lets you at once into the knowledge of his opinions concerning the motives and the temper of our Government. And he fastens upon them the charge of duplicity, with great civility indeed, but most tragically, by putting the case the other way. "If, as it has more generally been represented by the Government of the United States, it is only to be considered as an innocent municipal regulation, which affects none but the United States themselves; and in which no foreign State has any concern, His Majesty does not conceive that he has the right or the pretension to make any complaint of it, and he has made none. But in *this* light there appears not only no necessity, but no assignable relation, between the repeal by the United States of a voluntary self-restriction, and the surrender by His Majesty of his right of retaliation against his enemies." Probably I shall not make Mr. Canning's meaning more plain, but it is important that his true meaning should be correctly understood.

If your embargo is hostile, inasmuch as it is designed to be coercive, then we will not "buy it off;" you may make the experiment of its efficacy thoroughly.

If it is "an innocent municipal regulation" merely, for mere municipal domestic purposes as to yourselves, and which was never intended to operate upon us, what "reciprocity" is there in offering that if we will give up our retaliation on the enemy, you will give up a measure which you say does not concern us? But your very offer could go only on the ground that your embargo was injurious to us, that you so considered and from the first intended it, and hence it results that you always misrepresented its real character. We are brought, therefore to the first point. Your very proposal leaves no doubt that as it is now, so it was at first, a measure of coercion. And if was so intended originally, we consider it of the first importance to our country, that the futility of this notion of coercing us by this kind of war in disguise—this commercial war, should be proved—for then it will never be repeated. Though we can stand it, yet it is injurious to us. The greater, therefore, is the wisdom of that policy which determines us to give your system, since it is commenced, a complete trial. For if it fail, as fail it must, we need never apprehend a repetition of it; for the repetition, though not ruinous, must be always inconvenient and unprofitable to us.

If gentlemen will accompany me a little further in this letter, the truth will be still more evident.

"The Government (adds Mr. C.) of the United States is not to be misinformed." (that is they know very well, and always did know very well.) "that the Berlin decree was the practical commencement of an attempt not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her existence through the ruin of her commercial prosperity. They know that in this attempt almost all the Powers of the European Continent have been compelled, more or less, to co-operate." I entreat gentlemen to attend to what follows—"And your Government know that the American embargo, though most assuredly not intended for that end, by some unfortunate concurrence of circumstances, without any hostile intentions; (Sir, the sarcasm is most severe.) "the American embargo did come in aid of the blockade of the European Continent, precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would have contributed to its success." If I might be indulged once more in a paraphrase, I would represent Mr. Canning as saying: "Your Government knows that the embargo did come in aid of the system by which France meant to destroy us. Allowing your Cabinet intellect, and allowing they knew what they were about, we must suppose they intended to aid France in her plan to destroy us. And we are the more certain of this, because the embargo was passed at a moment, when if the French plan could have succeeded at all, your 'interposition' would have given us the finishing blow.

Such sir, is the plain English of Mr. Canning's letter; such too, is the real truth; and it is time, high time, that the people of the United States should understand that the enmity is not exclusively on the side of Great Britain. It is all important that they should know that under the plausible pretext of an embargo, "an innocent municipal regulation," their rulers seized upon a critical moment to press upon Great Britain in the only manner they could, and at a time when their hostility would have been effectual, most probably, if the Spanish revolution had not intervened. If we have cause of complaint, as certainly we have, they have much greater. If we have cause to complain of the violence and injustice of their naval commanders—if our resentment has been inflamed to madness by the attack on the Chesapeake, and the murder of Pierce—they can owe us little kindness, when they know that our Government threw at a critical turn, their whole weight into the scale of France.

The whole of this very masterly letter of Mr. Canning is entitled to most attentive perusal. It is a key which opens to us the secret of the strange and mysterious situation into which we have been brought. It should be carefully read, and that again and again.

I will conclude, however, by soliciting your attention particularly to that part of it in which he says, with a liberality that does him honor, and a sincerity which I cannot doubt, because it is clearly true, on the one hand, "the prosperity of America is essential to the prosperity of Great Britain." And therefore, on the other, "the strength and power of Great Britain are not for herself only, but for the world." This, though it has not always been, is now certainly true.

Looking to the future, he observes, "When those adjustments shall take place, to which, though unfortunately not practicable at this moment, nor under the conditions prescribed to Mr. Pinkney, the undersigned nevertheless confidently looks forward, it will perhaps be no insecure pledge for the continuance of the good understanding between the two countries, that they will have learnt duly to appreciate each other's friendship, and that it will not hereafter be imputed to Great Britain, either on the one hand that she envies American industry, as prejudicial to British commerce; nor on the other hand, that she is compelled to court an intercourse with America, as absolutely necessary to her own existence. His Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity. And if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it, as a measure of hostility, he would gladly have facilitated its removal."

One more translation of this diplomatic language, and I have done with the letter. I understand Mr. Canning as saying, at some period or other, our disputes will be settled; your people will then be convinced, that if they can injure us in one way, we can injure them as much in another—that it is as impossible that we should regret your prosperity, as it is that a merchant should repine at the wealth of a planter, fond of luxury, and his constant customer. But, on the other hand, you will not again undertake to quarrel with us under the idea that we cannot live without you. Still we are willing to acknowledge, that your commerce with us is extremely desirable; and therefore if you will enable us, by relinquishing your coercive system, to restore the intercourse between us without our appearing to have yielded to that system, "without our appearing to deprecate it as a measure of hostility," we will make any sacrifice. Relinquish your plan and you shall hear no more of our Orders in Council.

Yes, sir! I do not doubt and I confess I am surprised any one should doubt of the real cause of our difficulties with Great Britain. As our coercion system produced her resistance and retaliation, so would the abandonment of it restore that commercial intercourse which is so inseparably connected with our prosperity. And Mr. Canning gives the assurance of it in terms as unquivocal, as under all the circumstances could be possibly expected, or reasonably desired.

I have said before, and I repeat it again—valuable, important, as our commerce indisputably is to Great Britain, on account of that very value and importance, her Ministry cannot and dare not suffer the present experiment to terminate in a conviction, or even a doubt, of its being essential to her existence. If I am understood, sir, there cannot but be an end of the hope of coercing Great Britain to terms, in this way, until she is no longer able to resist us, and she passes under the dominion of France. And then our condition will be fearful indeed! If you cannot count fairly on the success of the experiment, on the one hand, and if on the other that state of things which alone can bring success may plunge us in overwhelming ruin, our whole system ought to be abandoned.

"The new state of things which has arisen in Europe," the revolution in Spain, has had a most unfortunate effect on the success of the embargo experiment, inasmuch as it has enabled Great

Britain to incorporate, to identify herself with the Spanish people, and that in both hemispheres. And, sir, that which she has gained, not only enables her to bear up under our embargo, but much of it which we might have had is probably lost to us forever. Sir, I should have risked much, to secure the friendship of that nation at this time. If, as a freeman, and the Representative of a free people, I had been inaccessible to the sympathies which all such should feel, for a people deceived and betrayed, rising at length in their might and opposing their whole undivided force, with one great and noble and simultaneous impulse, to resist the subjugation attempted by a foreign tyrant; if I could without emotion have witnessed the march of the gloomy host, to "victory or death;" if without concern I could have seen millions of my fellow-beings, with unbroken firmness, and an unwavering desperation, "struggling in the storms of fate;" yet at least I should not have been induced by any considerations to have abandoned the interest of my own country, when the support of those patriotic heroes was so intimately connected with that interest. But, sir, it has so happened, that from the same cause which makes us mourn our departed prosperity, we have suffered England to unite herself with the hardy yeomanry of Spain, and to oppose, perhaps for the last time, a bold and formidable front, to the overwhelming power of the conqueror of Europe. If fortunately, sir, instead of following up commercial experiment, we had set our trade at liberty, and, by sending supplies to Spain, had done all we could to assist in her enfranchisement by enabling her to hold out in her great and noble and glorious purpose; if we had availed ourselves of this auspicious moment, to fasten ourselves upon the affections of an honest and faithful people; not only would our immediate prosperity have been advanced, but we should have bound them to us in a bond of union, strengthened and sanctified by the awful circumstances under which it was formed. Recur, sir, to the services, the assistance which the ill-fated monarch of France rendered us in the Revolution. What have been their effects upon this people? So great, sir, that the gratitude they excited has been transferred from our benefactor to his murderers!—Because they were Frenchmen! And not even yet, sir, has the sentiment ceased to operate upon the American mind. If then, instead of permitting Great Britain to go on without a competitor, "stealing the hearts of the people" of Spain, we had extended to them all the friendly offices in our power; if we had shown an anxiety to make up in the desire of doing what we lacked in the ability, the name of an American might have sounded in Spain like that of brother on this great Continent. We should have formed a union, founded on the sincerity of fraternal attachment, which would almost have made us one people. But if Spain be able to resist, we have lost an opportunity which will never recur. If her restoration to independence shall give to her people any new sentiment towards us, it will not be that of gratitude. For, judging of the feelings of the nation by the apparent indifference of the Administration, and the language of its immediate partisans—ignorant that there was in the country a humbled and persecuted band, who loved their own independence too much not to wish it to every brave and virtuous people—they will perhaps never be persuaded that there existed here anything but ill will towards them. The unhappy consequences of such an opinion it is unnecessary to expatiate upon.

But a gentleman from Georgia, (Mr. Troup,) in the course of his observations the other day, remarked that, perhaps, at the very moment he was addressing you, the people of Spain might be imploring mercy at the feet of the conqueror. This presents us with another view of the subject; but a view which ought to have more imperiously coerced our Government to the course which they have neglected. Well, sir, let us suppose it. After resisting, till their means of resistance have perished—their countrymen cut up, and murdered, and destroyed—the remnant of the people of Spain receive the yoke. Suppose the triumph of insatiable ambition complete. Behold Joseph Napoleon, after having marched from Bayonne to Madrid, over the dead bodies of the Spaniards, amid the groans and the shrieks and the execration and the despair of the widows and orphans, behold him seated at length, all over covered with human gore, on the throne of Spain. And what then? Can you doubt that the colonies in South America will be from that moment independent? Or do gentlemen know so little of human nature, so little of Spanish character, as to think it possible that the inhabitants of Spanish America will rush forward to kiss the sceptre which has no ornament but the blood of their brethren? That they will be eager to pollute themselves with the horrible embraces of the murderers of their kindred? No, sir, it is impossible.

The moment, then, that Spain is conquered, her provinces on this continent become independent—and, as things have been managed, under the guarantee, and in the most cordial alliance with Great Britain. We shall have in them, of consequence, hostile and dangerous neighbors; while Great Britain will monopolize their trade, and if our present difficulties continue, perpetually instigate them to hostility against us. All this might have been prevented, if, in relation to Spain only, our Government had pursued the proper course. The merchants applied for leave to resume their commerce with Spain, but a deaf ear was turned to them. Disposed as Great Britain is to do us "harm," she may yet make use of the Spaniards on this continent for that purpose. And though these Spaniards have been long considered as contemptible, let it be remembered that a nation is always regenerated by a revolution. It assumes in such cases always a new and elevated and fearful character. Let us then beware how we make enemies of this people. Let us do all we can to conciliate their friendship. It is not perhaps even now too late to retrieve the advantages the Administration have overlooked. A change of conduct may regain us the affections and friendship which have been unnecessarily lost. And this, sir, is to be more desired, when we look forward to what is likely to be the situation of the European Continent if Spain is conquered. It will then be subject to the will and despotism of Napoleon. It will groan beneath that iron sceptre, in the circuit of whose influence no virtue can live, and every effort of liberty is idle. The seat of empire is from that moment transferred from Europe to this continent. There ignorance, and poverty, and hopeless vassalage will draw on a monotonous existence; or if ever they rise, it will be to be crushed by the irresistible hand of power. Europe, impoverished by its long continued wars, and the frequent insurrections to which it will be subject, will no longer be able to cultivate the arts of peace. It will be here then, on this regenerated continent, they may hope to find repose and protection. Let us not sacrifice the bright prospects before us to a visionary experiment.

It is time, sir, that we should retrace our steps. The course we have been running has produced no good; it certainly can produce none. Yet it seems, instead of going back, we are perpetually urged forward. This great measure which was to have restored, secured, and extended our commerce, has entirely destroyed it. Satisfied as the Administration are of its inefficacy, they seem determined to follow it up by a non-intercourse; and that, sir, that is to do wonders indeed! Why will gentlemen suffer themselves to be deceived? The embargo when it had been twelve months in operation was itself a non-intercourse to all substantial purposes; for it is very evident that if we cannot send anything out of the country, we can pay for nothing which is brought into it. The non-intercourse is the old thing after all. It is the old shoe new-vamped.

Sir, my heart bleeds for my poor country, when I see gentlemen determined to persist in this pernicious course—not a beam of hope brightens the prospect. All is darkness and ruin and misery before us. Is it possible we are going on in this way? that we are not to abandon our feeble system till Great Britain yields? It does indeed seem so, sir; for we have been told by a gentleman that when the embargo was laid on, Government did, by doing it, give a pledge to the nation that they would persevere until the ends intended were answered. If, sir, the embargo was such a pledge, the passing of this bill will be a new pledge to the same effect. I warn gentlemen, therefore, to be cautious. If the course they are pursuing be indeed a wrong one, promising no happy result, let them bear in mind, the farther they proceed the more difficult will be their return.

The gentlemen who opposed the system now in operation, have been called upon by the majority to say which would they do—they have been asked for their substitute for the embargo. And I confess I have been somewhat surprised to perceive a little embarrassment in giving the answer. As a Representative of the people, sir, I consider it my duty, as well as my right, to answer the question. And if the Administration should, in doing what I shall advise, retrieve the good opinion of the people, I will not regret it. What, say the majority to us, what would you do? What would you have us do? I will tell them, sir, what they should do. I will not withhold my feeble aid from them in their distress, I should not think it manly, fair, or humane to do so. We are all embarked in the same ship, and must sink or swim together; and although I am but a green hand, and before the mast, I will do all in my power to keep the vessel from going down. What would you have us do? say gentlemen. Sir, I would have them undo all they have done. Yes, sir, all—and at one smack! I would return to the policy of Washington. I would cut up this embargo system, root and branch. If this prescription be not followed soon, it will be too late. We shall be in a condition in which we shall be able to take no medicine whatever. I know, sir, I am prescribing a bitter pill for the Administration—but it is the only one that will answer. Let them take it therefore, and it will soon work miracles for the good of the country. Instead of going on accumulating the obstacles to accommodation with Great Britain, let us act an open part. Apply the sponge to your embargo, and proclamation, and non-importation; and I will venture to say there are no difficulties between us which honest men could not settle in three hours. Restore us to the policy of the great Father of his Country. We have had enough of theory and experiment and whim. Let us at last have a little old-fashioned practical wisdom.

But gentlemen say this would be submission. How submission? Because we have at last found out that by our system of commercial warfare we cannot coerce Great Britain, is an abandonment of that system submission? God help us, sir, if such positions require argument to refute them. No, sir; if, under the operation of our system Great Britain yields, she submits. And can we expect that she will do what we will not? Let us at length open our eyes to the truth. It is not submission to abandon an inefficacious project. Let us discard our prejudices. Hatred and love render men equally unfit to pursue wise counsels. If Great Britain was to come to your terms in consequence of the embargo, what would you say? that the embargo had done it! And if the embargo had done it, would the submission not be on her part? Under the pretence that we will not submit, considering submission scandalous, we are made to suppose our own conduct very fair, and kind, and generous, when we ask others to do what we shudder at. There is no disgrace in giving up an impracticable project; and "it is noble even to fail in great attempts." Let the Administration have the credit of having failed in the great attempt of coercing Great Britain by an embargo—for a great attempt it certainly was. But as it has failed, there can be no justification for persisting

in it; else that which was a charming speculation at the outset, will in the end degenerate into downright obstinacy.

Repeal the embargo and non-importation acts, rescind the proclamation, and send these resolutions out of the House, and we shall have a chance at least for peace—for a restoration of the general prosperity. The Orders in Council will not, cannot be persisted in, when you go to the source of your misfortunes—when you lay aside the miserable project of coercing Great Britain by an embargo—when, by resisting the French edicts, you show a determination to defend your rights against the real, because the first aggressor.

Before I sit down I beg leave to call the attention of the House to the course which is meditated to bring France to justice. The second of these resolutions discovers the manner in which it is to be done. But, sir, will France feel the effects of this measure; will she be even displeased at it? Indeed she will not. It will press upon England only. And in the same proportion that it is more powerful than the embargo, in the same proportion will it please, because it will accord with the policy of Napoleon Bonaparte. And in the face of the world you have already received the plaudits of Napoleon Bonaparte for your embargo. Can that, then, be called resistance to the injustice of a foreign Power, which, if she could dictate your course, she would order to be done? Sir, I am at a loss for words to express my astonishment at hearing that very conduct which France wishes us to pursue, to aid her in her projects upon England, called resistance! Gentlemen are eloquent enough when they speak of French injustice and perfidy; but not one of them has ventured to show how the embargo has, or the non-intercourse will operate upon her. The first resolution, indeed, says, that we will not submit to France; but the second, which is to show the kind of resistance we are to make use of, absolutely pledges the nation to that course which France particularly desires! She praised you for imposing the embargo; and if non-intercourse be stronger than embargo, so much the more will your praise be increased. Nay, I should not wonder if you should be rewarded by a volume of French poetry, in praise of your wisdom, virtue, and sincerity. Certainly it will be deserved. Sir, let us not be trifled with in this manner. Let us no longer be dealt with thus unfairly. Do we, by the adoption of these resolutions, resist Great Britain and France? No, sir, they know we do not; and therefore I will not put my trust in the deceivers, who "keep the word of promise to our ear, but break it to our hope." The conduct pursued towards France I will not call submission; that word does not describe its character. It is much worse than submission. We have all along aided her. We are about to aid her by the very measure which is called resistance to her. Is this conduct calculated to coerce France to justice? Sir, it would be insulting to the House to waste words on this subject—I say words—because the absurdity of the proposition is too palpable to admit of argument.

When I pointed out to gentlemen in conversation, the impropriety of professing to resist France, when we have really become her auxiliaries; they have answered, that it cannot be helped. It is calculated they say to strike upon England, and if the lash be not quite long enough to reach France, we cannot help it; that is not their fault. But I entreat them to reflect that the more they wound England, the more do they make it the policy of France to resist; and that if they wish really to have the edicts of both annulled, they do not come a step nearer their object—for whatever England loses by our system, France gains. In a state of war the loss of the one party is the gain of the other. Thus, though we may injure Britain, her sufferings will not tell for us; but for France, we do all we can; but we gain nothing by it. We "rob Peter to pay Paul."

Sir, by embarking against England at this time, we can promise ourselves no good. If we fail, all will agree that our condition will be deplorable. But if we succeed, we are ruined! Our only safety will be in defeat. I have already proved that England cannot, dare not acknowledge the efficacy of any commercial coercion. You have seen enough to know that she cannot yield to you, until she becomes incapable of resistance. Then she falls—into whose hands? Ours? No, sir; into the hands of France. She will cease to exist as a nation; and will you then turn round and fight France? For what? To compel her to let you trade with England, when there is no England to trade with. Your utmost success gives England to France, and you have gained nothing. The whole naval and military establishment of Europe is then at the disposal of Bonaparte. You will indeed have mounted the tiger upon the back of the shark for your own destruction. Yes, sir, your animosity may be gratified by overwhelming the Philistines in one general destruction; but remember you must yourselves be crushed in the ruins of the Pagan temples.

I could have wished that it had so happened that the policy of Washington, in 1794, had been the policy of the last year. I would now implore the House and the Administration to return to it. No beam of hope can cheer us in going forward. Peace cannot be attained by the present course, on the contrary it must lead us to open war. It is not dishonorable to retrace our steps. No country will dispute our pride; we have displayed enough of that; let us at length be persuaded that prudence and wisdom are not the lowest of national virtues; and that prosperity, liberty, and happiness, are not the lowest of national objects.

I have not addressed you, sir, on this occasion because I wished to wound the sensibility of those who are opposed to me in political opinions. I have believed that the present course could bring us to no result but that of disappointment and disgrace, and perhaps ruin; and I have been compelled to give my reasons for the belief. If the past has been indeed wrong, let us not obstinately plunge on in our error. It is honorable to abandon error. I conjure gentlemen to pause one moment before they proceed, that they may attentively survey the present and the future. The path of happiness from which we have strayed may be easily regained; and God grant we may have the magnanimity to return to it.

Mr. Findley spoke for twenty minutes in reply.

The first resolution, contained in the following words, was divided, so as to take the question first on the part in italic:

"Resolved, *That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain*—and France."

The question was then taken on the first clause of this resolution, and carried—yeas 136, nays 2, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Barent Gardenier, and William Hoge.

The question being about to be put on the remaining part of the resolution, viz: on the words "and France"—

Mr. Randolph inquired whether it was in order to put a question on these words, as they expressed no definite meaning, containing of themselves no specific proposition to which a response of ay or no could be made?

The Speaker declared that it was in order.

Mr. Randolph appealed from this decision, and called for the yeas and nays on the appeal; alleging, as a reason for making it, that no resolution or motion could be divided, except where the sense naturally divided it; and the words "and France," taken separately, contained no proposition which could either be affirmed or denied.

Much desultory debate took place on the appeal from the Speaker's decision; when

Mr. Gholson appealed from the decision of the Speaker, permitting the appeal by Mr. Randolph after a question had been taken (on the first clause of the resolution) under the decision appealed from.

The question was then taken on the motion of Mr. Gholson, viz: "Is the decision of the Speaker, permitting an appeal, correct?" It was determined in the negative—ayes 16; and thus the question of order was decided.

The question then recurred on the second member of the first resolution; and the same being taken, it was resolved in the affirmative—yeas 113, nays 2, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Davenport, junior, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, junior, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, John Rea of Pensylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Samuel Taggart, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Barent Gardenier, and William Hoge.

The main question was then taken that the House do agree to the said first resolution as reported from the Committee of the Whole, in the words following, to wit:

"*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the edicts of Great Britain and France:"

And resolved in the affirmative—yeas 118, nays 2, as follows:

Yeas—Ryan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Barent Gardenier, and William Hoge.

Wednesday, December 14.

A Message, received from the President of the United States on the thirteenth instant, was read, transmitting a report of the Commissioners appointed under the act of March 29th, 1806, concerning a road from Cumberland to Ohio, being a statement of the proceedings under the act, since their last report communicated to Congress. —Referred to Messrs. Jeremiah Morrow, John G. Jackson, Lloyd, Lyon, and Rea of Pennsylvania.

The bill from the Senate, entitled "An act supplemental to an act, entitled 'An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes,'" was read twice, and committed to the Committee of the whole House to-morrow.

The bill sent from the Senate, entitled "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall," was read twice, and committed to the Committee on Post Offices and Post Roads.

The House proceeded to consider the second resolution reported by the select committee appointed on that part of the President's Message, at the commencement of the present session, which relates to our foreign relations, and to which the Committee of the Whole reported their agreement on the first instant; which said second resolution is contained in the words following, to wit:

"*Resolved*, That it is expedient to prohibit, by law, the admission, into the ports of the United States, of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and, also, the importation of any goods, wares, or merchandise, the growth, produce, or manufacture, of the dominions of any of the said Powers, or imported from any place in the possession of either."

Mr. Milnor opposed the resolution in a speech of about an hour; and Mr. Fisk supported it in a speech of an hour and a half; when the House adjourned, without taking the question.

Thursday, December 15.

Mr. Lewis, from the Committee on the District of Columbia, presented a bill authorizing a lottery to raise a sum of money for the purpose of building a church in the town of Alexandria, in the District of Columbia, for the use of the Episcopal Congregation in the said town; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. Jesse B. Thomas,

Resolved, That a committee be appointed to inquire into the expediency of extending the right of suffrage in the Indiana Territory; and that the said committee have leave to report thereon by bill or otherwise.

Ordered, That Messrs. Thomas, Culpeper, Goodwyn, Blake, and Sloan, be appointed a committee, pursuant to the said resolution.

Mr. Thomas presented to the House sundry resolutions of the Legislative Council of the Indiana Territory, relative to an extension of the right of suffrage therein; which were read, and, together with such parts of the resolutions of the House of Representatives of that Territory, presented on the fourteenth ultimo, as relate to the same subject, referred to the select committee last appointed,

Mr. Lewis presented to the House a representation from Samuel H. Smith, Robert Brent, and Thomas Corcoran, a committee appointed by the Levy Court of the county of Washington, in the District of Columbia, praying that the said Levy Court may be vested with full power to lay out and repair public roads, and to erect and repair bridges in the said county, under such conditions as the wisdom of Congress shall seem meet.

The said representation was read, and, together with a copy of certain proceedings of the Levy Court aforesaid, referred to the Committee for the District of Columbia.

Mr. L. also presented a petition of the Vestry of the Protestant Episcopal Church in the City of Washington, praying that the petitioners may be authorized by law, to raise, by way of lottery, a sum not exceeding eight thousand dollars, for the purpose of finishing the building of a church in the said city, and the payment of debts already incurred on account of the same.—Referred to the Committee for the District of Columbia.

Mr. Eppes presented to the House certain returns or statements relative to the amount of free male inhabitants, and the number of votes taken at elections held in the counties of Randolph and St Clair, in the Territory of Indiana, together with the depositions of sundry persons in that Territory, relative thereto; which were referred to the committee appointed, on the thirteenth instant, "to inquire into the expediency of dividing the Indiana Territory."

On motion of Mr. Johnson, the letter and representation of Thomas Paine, presented on the fourth of February last, was referred to the Committee of Claims.

FOREIGN RELATIONS.

The House resumed the consideration of the second resolution reported from the Committee of the Whole on the first instant, which was depending yesterday at the time of adjournment.

Mr. Upham spoke against it for about three quarters of an hour. The following is the concluding portion of his speech, being all which the compiler has been able to recover.

This embargo system, said Mr. U., will indeed destroy our commerce, as far as it can be done by human laws. And this I verily believe to have been the object of those who projected and recommended this system. Yes, sir, I do believe that the object of those who projected and recommended this system was, and now is, to annihilate your active commerce—to form this into a Chinese country. How far and to how many they have exposed "the whole ground," I will not pretend to say. The object, in their view, was unquestionably a laudable one. They undoubtedly had in view the permanent happiness of their country. This, sir, I am bound to suppose—for I must not, I do not call in question their motives. They considered, that the seeds of war between this and the other nations of the earth, were sown on the ocean—that the foundations of all our national conflicts were laid in the prosecution of commerce; that such was the relative situation of this country, separated from the great belligerent Powers of the world by the Atlantic ocean, that it was scarcely possible for us to be involved in war, if we should adopt and scrupulously preserve the scheme of "a dignified retirement,"—a terrapin system—if we should draw and keep ourselves within our shell.

The projectors of this system, although they might be fully sensible of the advantage of commerce, in raising a revenue and in enriching the nation, yet they might be convinced, that its disadvantage, as a source of war, was far greater. They might calculate upon a ten years' war, say once in fifty years. They might place the advantage of commerce to its credit, and the disadvantage of war, as a consequence of commerce, to its *debit*, and make up very honestly a footing against it. However fallacious and utopian, and indeed ridiculous this sort of calculation may appear to me, I am convinced of its being very honestly adopted by those who recommended the embargo system, under the present reign of political philosophy or philosophical policy.

I am, sir, induced to believe, that the real object of those who projected and recommended this system, was to destroy our commerce, because they must have had some object, and it could not have been intended as a precautionary measure, so far as it respects any apprehensions from the British Orders in Council—for they were not known in this country to exist at the time the President recommended the first embargo law, the 18th of December, 1807, nor when the law was passed, the 22d of the same December. I say, sir, in the face of the House and in the face of the nation, that the British Orders in Council were not known in this country to exist when the first embargo law was passed. I say so, because I attended, with much interest, to the whole of the debate upon the passage of the law, and the orders were not once mentioned. If the advocates of this law had known of the existence of the British orders, we should surely have heard of them on this floor. If they had been known to the President, his knowledge, in some form or shape, would have found its way within these walls.

The object then of this measure was not precautionary, so far as it respects anything to be apprehended from the British Orders in Council. And as to the decrees of France, nothing, as I have before suggested, very serious, was to be feared from them. So long as England with her navy was at war with France, it certainly would not have been thought necessary to lay a general embargo as a precautionary measure against the decrees of the latter, whatever might be considered prudent in case a permanent peace should take place between these nations—an event which will happen when—and not before—the millenium shall commence. As to any expectation of coercing to terms by the embargo, those two great belligerent Powers, or either of them, who have so long maintained the balance of power among all the Powers of the earth, the expectation never could have been entertained by any rational man. No, sir, the real object was neither precaution nor coercion, in my belief. It was to destroy our active commerce—to form this country into a China.

Again, sir, if the measure was intended solely as a precautionary measure, why make it permanent? Why not a temporary embargo upon your ships and vessels? An honorable gentleman from New York, (Mr. Mumford,) I very well recollect, moved an amendment so that the law should be temporary and not perpetual. He moved an

amendment so as to limit the embargo to sixty days. But his amendment was lost. Nothing but a general and perpetual embargo would do.

I ask again, sir, if "the act was a measure of precaution only, called for by the occasion," why make the law perpetual, instead of temporary? If it was "strictly a measure of precaution, required by the dangers incident to external commerce," why was not the amendment offered by the gentleman from New York (Mr. MUMFORD) adopted?

As further evidence, Mr. Speaker, that the embargo, was intended as a permanent measure—a measure to destroy commerce—I will refer you to the answer of the President of the United States, to the Legislature of the State of New Hampshire. With your leave, sir, I will read an extract from this answer speaking of the embargo: "It gave us time to make a last appeal to the 'reason and reputation of nations. In the mean-'while, I see with satisfaction that this mea-'sure of self-denial is approved and supported by 'the great body of real citizens; that they meet 'with cheerfulness the temporary privations it 'occasions, and are preparing with spirit to pro-'vide for themselves those comforts and conve-'niences of life, for which it would be unwise ever 'more to resort to distant countries."

Now, sir, this can be understood but one way. It admits of no comment. It speaks for itself. "I see with satisfaction" that "the great body of 'real citizens are preparing with spirit to provide 'for themselves those comforts and conveniences 'of life, for which it would be unwise ever more 'to resort to distant countries."

But, Mr Speaker, the persisting still in this system, and we perceive by the President's Message at the commencement of the present session of Congress that he does persist in it, is enough of itself to convince me that the object is the annihilation of your commerce. Yes, sir, it is conclusive and irresistible evidence to my mind.

There never was before, sir, a general and perpetual embargo laid in any country from the beginning of the world. There was never an embargo before, general or special, perpetual or temporary, continued for the length of time our own has been continued. It is almost a year since the law imposing this embargo was enacted. And, sir, it is not to be repealed. The system is to be persisted in. It is to be executed more vigorously. Sir, can any person doubt of its object?

However, Mr. Speaker, commerce in this country cannot be destroyed by human laws. No, sir, the commerce of this country cannot be annihilated by your embargo laws. These laws will be evaded; they will be violated; they are in derogation of the common and national rights of the citizens. The suspension of commerce and navigation is so at variance with all the feelings, the customs and habits and interest of the people of the Northern States, that they will evade, they will hazard the penalties, and violate your laws suspending the means of their existence. They will consider that to do it is no *malum in se*, but merely *malum prohibitum*. It is time to speak out; these laws cannot be permanently enforced.

I will not say as my honorable colleague, who sits before me, (Mr. QUINCY,) has said, however true I believe it to be, I will not say, that you may as well enact and execute laws to control and counteract the laws of nature, to control the elements of Heaven. That you may as well make and enforce laws to prevent the flowing of the water, the circulation of the air, &c. But this I will say, sir, that you may as well, by your laws, induce the people of New England to abandon forever their springs and their wells as to abandon forever the ocean. You may as well attempt to deprive them of the use of their fresh as of their salt waters. They have been as long and as constantly in the use of the latter as of the former. Yes, sir, you may rely upon it, you may as well coerce by law the people of New England to abandon permanently the use of their springs and their wells in their ordinary culinary concerns, as to coerce them by law permanently to abandon the use of the ocean. Why, sir, they have been constantly in the use of this common and national privilege ever since their ancestors landed on the shores of Plymouth. The ancestors of the people of New England early employed themselves in fishing, and transported their fish, with their lumber, to the West Indies, which were settled before that country, and there exchanged them for the "comforts and conveniences of life."—Their posterity has ever since been extending their commerce, "it has grown with their growth and strengthened with their strength." No, sir, they cannot—they will not give it up.

But it is said, sir, to give up this embargo system, is submission—disgraceful submission.

The whole state of our foreign relations seems to be brought by your committee on so much of the President's Message as respects those relations to a sort of *triplebranch* alternative—submission, embargo, or war with both nations. As to war with both nations at the same time, while those nations are engaged in an inveterate and deadly war with each other—this has been set in its proper ridiculous point of light by other gentlemen. I shall say nothing about it. Its total impracticability has been sufficiently illustrated.

But for my life, I cannot distinguish between the embargo and submission. I cannot see how gentlemen conjure with the embargo so as to make it other than submission.

A gentleman from Virginia, who spoke early on this subject, (Mr. CLOPTON,) observed, that to navigate the ocean and pursue our commerce as pointed out by the belligerent nations, in their orders and decrees, would unquestionably be submission abject submission; but to relinquish navigation, and to give up entirely our commerce, in consequence of these orders and decrees, is no submission at all. Now, sir, I do not understand this. My neighbor orders me to build and repair the fences around my farm in a certain way; in some places, he directs me to erect walls, in others, to make what we in our country call Virginia fence. He also prescribes in what manner I shall till and cultivate my farm, and with what seeds I shall sow and plant it. Now, according to this gentleman from Virginia, if I follow the orders and the directions of my neighbor, it is submission; but if, in consequence of his interference in my concerns, by his commands and directions, I repair and build no fences at all around my farm and forbear to put any seeds into my ground or to till or cultivate my farm in any way—if in consequence of his orders I permit my farm to go into decay and my lands to lie fallow and common—if, indeed, I abandon my farm altogether with all its profits, this forsooth is no submission!

Again, Mr. Speaker, what is the subject-matter of all our controversy, with France and England? Surely it will be agreed, that the subject-matter of all our difficulties with these nations relates to our rights to navigate the ocean and carry on our commerce. They say the ocean must be navigated by us under certain restraints, and that our commerce must be managed under certain limitations and conditions. We say these limitations and restraints are contrary to the laws and usages of nations. All agree, at least in their speeches on this floor, that the use of the ocean, that our commerce, is of the utmost importance to us—that our seamen are employed by it, fed they and their families are by it, fed and clothed and made happy; that our citizens are enriched and our national exchequer caused to overflow. Now, sir, what can we do? Why, sir, by our embargo laws, we abandon the ocean and give up our commerce, and still talk about embargo or submission. By the embargo we submit to yield up all our rights on the ocean, and still present to the nation the alternative of embargo or submission. In consequence of the British orders and French decrees, we abandon all our rights on the ocean, everything in dispute, and in the same breath we say—we vote—we gravely and solemnly resolve, we cannot, without a sacrifice of our rights, our honor, and our independence, submit to these same orders and decrees.

But, Mr. Speaker, gentlemen ask us for a substitute. They inquire what measure is to be adopted, if the embargo is to be given up. Why, sir, I think we are on sure ground as to that. There is no hazard. The country cannot be in a worse situation than it now is, borne down and groaning under the present system. We are, sir, committing a national suicide.

To inquire for a substitute, is like a man in the very act of committing suicide asking in what other way he shall preserve his life. Yes, sir, like a man in the very act of cutting his own throat, upon being solicited to desist, inquiring in what manner than by cutting his throat he can save his life.

I have done, Mr. Speaker. As I am convinced that your embargo has not answered and will not answer any of the avowed purposes of its advocates; as it oppresses no nation but our own; as its object, in fact, is to destroy our own active commerce; as to continue it is infinitely greater and more disgraceful submission, than to repeal it, I hope most earnestly it will be repealed.

Mr. LIVERMORE followed in opposition to the resolution, in a speech of about an hour.

Mr. BOYD spoke in support of it, for about twenty minutes.

Mr. TAYLOR followed, on the same side, in a speech of about an hour.

Mr. COOK spoke a few minutes, in explanation of his former remarks.

A motion was made to adjourn, and negatived—54 to 49.

Mr. PITKIN said, that he wished to deliver his sentiments on this important subject, and did not wish to commence at this late hour; and renewed the motion to adjourn; which was carried—57 to 51.

FRIDAY, December 16.

Mr. LEWIS, from the Committee for the District of Columbia, presented a bill supplementary to the act, entitled "An act to amend the charter of Alexandria;" which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. JOHN MONTGOMERY, from the committee appointed, on the 15th ultimo, "to inquire if any, and what, compensation ought to be made to Captain Pike, and his companions, for their services in exploring the Mississippi river, in their late expedition to the sources of the Osage, Arkansas, and La Platte rivers, together with their tour through New Spain, made a report thereon; which was referred to a Committee of the Whole on Tuesday next.

Mr. JOHN MONTGOMERY, from the same committee, presented a bill making compensation to Captain Zebulon M. Pike and his companions; which was read twice, and committed to the Committee of the Whole last appointed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report, and sundry statements marked A, B, C, and D, prepared in pursuance of the "Act supplementary to the act, entitled 'An act to establish the Treasury Department;" which were referred to the Committee of Ways and Means, and two thousand copies of the report, and three hundred copies of the letter and statements accompanying the same, ordered to be printed for the use of the members.

Mr. THOMAS presented a petition of sundry inhabitants of Knox county, in the Indiana Territory, in opposition to the prayer of petitions of the inhabitants of the counties of Randolph and St. Clair, presented on the 6th of April last, for a division of the said Territory into two separate governments.—Referred to the committee appointed, the 13th instant, on the expediency of dividing the Indiana Territory.

On a motion made by Mr. GARDENIER, that when this House adjourns, it will adjourn to meet on Monday next; the question was taken thereupon, and passed in the negative—yeas 43, nays 58, as follows:

YEAS—Evan Alexander, William W. Bibb, John Campbell, Martin Chittenden, John Davenport, jr., William Ely, John W. Eppes, Barent Gardenier, Francis Gardner, James M. Garnett, William Hoge, David Holmes, Richard Jackson, Robert Jenkins, Walter

Jones, James Kelly, Philip B. Key, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Robert Marion, William Milnor, Thos. Newton, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Jacob Richards, Benjamin Say, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, John Taylor, George M. Troup, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Lemuel J. Alston, David Bard, Joseph Barker, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Dawson, Joseph Desha, James Fisk, Meshack Franklin, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, Benjamin Howard, Daniel Ilsley, Richard M. Johnson, John Lambert, John Love, Wm. McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Russel, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Clement Storer, Peter Swart, Jesse Wharton, and Robert Whitehill.

The House resumed the consideration of the second resolution reported from the Committee of the Whole, on the 1st instant, which was depending yesterday at the time of adjournment.

Mr. NEWTON supported the resolution and the report generally in a speech of about two hours and a half; when the House adjourned.

SATURDAY, December 17.

On a motion made by Mr. ALEXANDER WILSON, that the House do now adjourn until Monday morning, 11 o'clock, the question was taken thereupon, and passed in the negative—yeas 5, nays 39, as follows:

YEAS—Abram Trigg, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and Alexander Wilson.

NAYS—Willis Alston, jun., Joseph Barker, William W. Bibb, John Blake, jun., William Butler, Joseph Calhoun, John Clopton, John Culpeper, James Fisk, Meshack Franklin, Francis Gardner, Edwin Gray, Isaiah L. Green, John Harris, William Helms, Daniel Ilsley, Thomas Kenan, John Lambert, Nathaniel Macon, William Milnor, Daniel Montgomery, jun., Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Timothy Pitkin, jun., Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Ebenezer Seaver, Jedediah K. Smith, John Smith, Clement Storer, Benjamin Tallmadge, John Taylor, John Thompson, Geo. M. Troup, James I. Van Alen, and Robert Whitehill.

It having appeared by the foregoing vote, that a quorum, consisting of a majority of the whole number of members, was not present, a motion was made by Mr. VAN CORTLANDT, that the SPEAKER be requested to direct the Doorkeeper to send for absent members, for the purpose of forming a quorum to proceed on the business before the House; and the question being taken thereupon, it passed in the negative—yeas 9, nays 50, as follows:

YEAS—John Davenport, jun., David Holmes, Robert Jenkins, Edward St. Loe Livermore, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Alexander Wilson, and Richard Winn.

NAYS—Willis Alston, jun., Joseph Barker, William W. Bibb, William Blackledge, John Blake, jun., William Butler, Joseph Calhoun, John Clopton, John Culpeper, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Edwin Gray, Isaiah L. Green, John Harris, Reuben Humpheys, Daniel Ilsley, John Lambert, Nathaniel Macon, William Milnor, Daniel Montgomery, jun., Nicholas R. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thos. Newton, Timothy Pitkin, jun., Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, James Sloan, Jedediah K. Smith, Samuel Smith, Clement Storer, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Robert Whitehill, David R. Williams, and Nathan Wilson.

A sufficient number of members to form a quorum having appeared, and taken their seats in the House, Mr. LEWIS, from the Committee for the District of Columbia, presented a bill supplementary to an act, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia;" which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for arming, manning, and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States;" to which they desire the concurrence of this House.

NATURALIZATION LAWS.

Mr. BURWELL reported a bill to establish an uniform rule of naturalization throughout the United States. He observed, that it would be recollected that he had suggested a modification in this bill, but the committee had not been able to concur in opinion on the subject, and he reported the bill in the same form as it was proposed last session, intending to propose his modification in Committee of the Whole.

The bill was twice read, and referred to a Committee of the Whole, and made the order of the day for Monday three weeks.

IMPORTATION OF SALT.

Mr. LIVERMORE said, that from information received from various parts of the United States, it appeared that the article of salt, so essential for public support, was very scarce, and had risen in his country 100 per cent. that is, to two dollars per bushel. He was, therefore, induced to offer the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of permitting certain vessels to depart from the ports and harbors of the United States for the purpose of importing salt; and that they have leave to report by bill or otherwise.

The House agreed to consider the resolution—58 to 25.

Mr. CUTTS said, that he observed by a paper containing the price current, that the price was but 6*s.* 6*d.* per bushel.

Mr. BACON said, that as this was a subject on which an instantaneous decision should not be made, he should move that it lie on the table.

Mr. LIVERMORE said that the price of this article was rapidly rising, and it was extremely desirous that vessels should be permitted to go to Turk's island for the purpose of bringing in salt.

The motion that it lie on the table was carried—ayes 51.

FOREIGN RELATIONS.

The unfinished business of yesterday was taken up—the question being on the following resolution:

Resolved, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers, having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce, or manufacture of the dominions of any of the said Powers, or imported from any place in the possession of either.

Mr. RHEA of Tennessee supported the resolution in a speech of near two hours.

Mr. TAGGART said: Mr. Speaker, not being much in the habit of addressing this House, I feel a degree of diffidence on the present occasion. But as I have listened with patience and attention to the lengthy discussion which has taken place, and as the subject itself is all-important, embracing nothing less than the dearest interest of the nation, and perhaps involving in its consequences the existence of our independence itself, I shall make no apology for obtruding some observations on the House even at this late stage of the debate.

As I find that gentlemen have not strictly confined themselves to the positions contained in the resolutions on which we are called to vote; nor to the report of the Committee on Foreign Relations, on which these resolutions are predicated; but have extended their views to the whole subject of our foreign relations, I shall beg the indulgence of the House, while I attempt to pursue the same course. Indeed it seems to me proper that the debate should take this direction; for, if I understand the reasoning of the Committee of Foreign Relations, the adoption of these resolutions is connected with, and come in aid of the present system, now in operation; I mean the embargo.

Some gentlemen, who have preceded me, have observed that they did not enter on the discussion expecting to effect any alteration in the sentiments of a single individual in the House; intimating, as I understood them, that the discussion was rather designed for the public than for the House of Representatives. At this late hour of the debate, and after the lengthy and brilliant display both of eloquence and argument, which has been made, and which has, probably, had but little effect in altering opinions already formed, it would be a piece of vanity which I should not wish to possess, should I address you with any such expectation. But as I shall probably record my name in a small minority, on the several questions which will be taken, and as that portion of the community which I represent has the same stake at issue with their fellow-citizens in the decision of the present question, some explanation of the reasons of my conduct may be due to them.

While I express my dissent, *in toto*, from the course which has been pursued, and which it still appears to be the determination to follow, and enter my solemn protest against all responsibility for the consequences, I shall probably decline the call often made upon the minority, by members in the majority, to submit resolutions, propositions, or measures, which in our opinions ought to be pursued in preference to the present. It must be familiar to the recollection of gentlemen that during the last session of Congress, when the subject of the embargo was under consideration, propositions submitted by the minority were uniformly refused so much as a consideration by the House. This gives but poor encouragement for the submission of any propositions at present.

I shall not take up the time of the House by entering into an historical detail of the wrongs and injuries we have received from the different belligerents, from time to time. This has been repeatedly done in the course of the debate. The injuries, particularly of one of the belligerents, have been descanted upon with all the glow of the most impassioned eloquence, and the whole catalogue of the aggressions of many years have been collected into a focus, for the present occasion. We have not only had the full catalogue of actual wrongs enumerated, but to these have been added a great number of intentional injuries, and we have ventured to penetrate into her views and motives, not only in what she has actually done, but in what, it has been discovered some how or other, that she intended to do. The injuries of the other Power have been commented upon more briefly, but some pretty strong lines of the picture have been exhibited to view. Could we by the aid of a magical wand, or in some other way, transport the rulers of Great Britain into our galleries, to hear our debates, in which they might have all their political sins brought to their remembrance, possibly it might bring them to repentance, and we might see the end of our difficulties. Could Bonaparte, and a few of his Princes, Dukes, and Ministers of State, be made of the party, it might be worth while to fill up the strong outlines which have been given, with the proper coloring, if any hope existed that it might have a similar effect. But all this would have but little to do with the discussion of the subject now before the House. The inquiry now is, not what injuries we have received from one or both the belligerents, from time to time, but what measures are proper for us to adopt in the present cri-

sis, in order to secure our liberties and independence, and guard our maritime and commercial rights, against the present and future encroachments of both.

Nor shall I inquire, with metaphysical nicety, which of the belligerents has done us the greatest injury, or whose conduct has been the most outrageous—that of Great Britain, in throwing such obstacles in the way of our trade to France and those European nations which are in alliance with her, by her Orders in Council, as, taken in connexion with the French decrees, amount to a prohibition of all trade to that part of the continent of Europe which is under her control, while the colonies are left open; or that of France, who interdicts all commerce with Great Britain and her dependencies, and declares an American vessel which had been so much as visited, or even spoken to by a British cruiser, to be a good prize, and the ship denationalized; and in the execution of her decrees, takes, sequesters, and confiscates our vessels and cargoes, or scuttles and burns them on the high seas. I think it must be allowed that there is a shade of difference, at least in the manner in which the two nations execute their systems of aggressions. Great Britain is, I believe, not in the habit of confiscating vessels under her Orders of Council; at least, I have heard of but few complaints on that subject. Nor will it be necessary to inquire which of the belligerents has done us the most actual harm. It is readily granted that Great Britain, on account of her maritime superiority is capable of doing us the most injury in that part in which we are the most vulnerable. I am however far from submitting to the accuracy of the calculation of gentlemen who tell us of the almost countless millions she would put into her own coffers, as a tax upon the industry of the United States, in consequence of her Orders of Council. These calculations are bottomed upon the supposition, that sales, as extensively as formerly, might be made on the continent of Europe, after paying the tax or tribute imposed by the orders. But is this the fact? I believe not. Independent of the Orders in Council, the French decrees amount to a virtual prohibition of all commerce to France and her dependencies; for what prudent merchant would send a cargo to France, and what insurance company would underwrite one, liable to confiscation on all the arbitrary, captious constructions of these decrees, and subject to all the vexatious proceedings under them? These decrees, as fortified by the Orders in Council, amount rather to a prohibition of this commerce, than a tax upon it. A gentleman from South Carolina (Mr. Williams) asked the question some days since of a gentleman from Rhode Island, (Mr. R. Jackson,) at what rate of premiums a vessel could now be insured to France, subject to the risk of the British Orders in Council. Meaning, as I supposed, to convey this idea, that the whole risk was owing to the Orders in Council. But, if it can be ascertained what the rate of insurance would be if the orders should be repealed, while the orders continued in force, only between that and the present rate, whatever it may be, would be justly chargeable to the Orders in Council. But Great Britain imposes a tax or tribute on cargoes coming from France and her dependencies, and bound to the United States. Admitted; but few or no vessels can enter during the continuance of the present system: certainly few will come out. Consequently no great sums could come into the British coffers. But in certain cases we are permitted to burn our property. I have no knowledge of this fact, only what is obtained from statements on this floor. Admitting it to be correct, it certainly must be much worse than any of the proceedings of France. The one gives us the trouble and pain of burning our own property; the other, in her superior kindness, takes that trouble off our hands, and kindly burns it herself.

I shall also waive, as foreign to the present discussion, any inquiry whether our Administration has or has not discovered any undue partialities for or against either of the belligerents, contrary to that rigid impartiality towards nations at war, which is the true policy of neutrals. Much has been said about a French party and a British party in America. I would fondly indulge the hope that we all belong to an American party; for whatever may be our party bickerings at home, I think we can, at present, have but few motives to attach us to the conduct of either nation, as it respects us. As it respects the cause for which the two nations are contending with each other, there may be an honest preference. But a man who would cherish an attachment to any foreign nation, to the prejudice of his own country, is one with whom I have no fellowship; and I would be loth to impute such a predilection to any gentleman of this House. But as these things do not bear particularly on our present subject, and would lead to a wide field of unprofitable discussion, I shall leave them.

My remaining observations shall be directed to the system which has been adopted with a view to extricate us out of the difficulties in which we have been involved, by the clashing interests of the different belligerents. As a permanent part of the system, we are stared in front with the embargo. I will not call it *Monstrum horrendum, informe, ingens, cui lumen ademptum;* I will call it by its own proper name—*Embargo*—that all-powerful engine of bloodless war, as it has been called, which was to coerce the nations of Europe into an acquiescence in our demands. This embargo we are now told is almost forgotten in Europe, at least all attention to it is said to be absorbed by the superior glare of passing events. But, my word for it, half a century will not obliterate the remembrance of it in America. It is true, none of the resolutions proposed by the committee, at the close of their report, makes express mention of the existing embargo. But, in the reasoning of the committee, this is mentioned as one of the evils out of which we have to make a choice; for it seems, we have only a choice of evils, and the resolutions seem to be intended further to fortify the measure.

After the lengthy discussions which have already taken place, it will be almost impossible, in directing my observations to this subject, to avoid repeating some observations already advanced. Here I must claim the indulgence granted to others.

In adverting to the subject of the embargo, I shall consider it—1st. In respect to its constitutionality; 2d. In respect to its expediency and utility, or the probability of its producing upon foreign nations any of the coercive effects contemplated.

As it respects the constitutionality of the embargo, I am sensible that I tread on very tender, delicate ground. I shall, therefore, endeavor to step over it lightly. I am sensible that I shall be met in the threshold with the opinions of our courts of law, some of which have decided the embargo to be Constitutional. I have a high veneration for judicial decisions, and am always disposed to bow before them with becoming reverence. Perhaps a perusal of the reasonings on which these decisions were founded, would remove my objections. But never having had that opportunity, and knowing that such decisions are not always infallible, for this plain reason, that they oftentimes clash with each other; knowing also, that such decisions, even with regard to your embargo laws, are not always relied on as the true construction, but a different cause has been adopted for carrying their provisions into execution; I hope I shall be permitted to express my doubts of the constitutionality of a law imposing a permanent embargo. In what clause of the Constitution is this delegation of such a power to the Congress of the United States, either expressed or implied? Here it will be perhaps necessary to beg pardon of some gentlemen for using the term "permanent embargo." But I cannot retract it. I know that several gentlemen who voted in favor of the law, have declared, on the floor of this House, that they had no idea of an embargo as a permanent measure. So far as it respects their own intentions, I am bound to give full faith and credit to the declarations of gentlemen. But supposing that every member of the House was to express individually on the floor that such was his intentions, would that alter the nature of the law? I believe not. I have very little acquaintance with the modes of procedure in courts of justice; therefore I hope that, in what I am about to state, professional men will set me right, if I am incorrect. But I take it to be a maxim of jurisprudence that, in the decision of important causes, resort must be had to the best evidence the nature of the case admits. An affidavit is considered as an inferior kind of evidence to that of a witness examined in open court. There are many cases in which affidavits cannot be admitted, particularly in criminal cases, where life or limb is at hazard. But the evidence of a solemn, public, regularly authenticated record, is superior to parole testimony, and cannot be shaken by it, because it is a higher and more conclusive kind of evidence. Among all public records, none can claim a higher authority than the statute book of the United States. Appealing thus to your statute book, Mr. Speaker, as to evidence of the highest kind, and finding no clause in the law itself which indicates that it will expire by its own limitation, as is the case of temporary laws, I think I am authorized to denominate it a permanent embargo. By this I do not mean that it is irrepealable, or like the laws of the Medes and Persians which alter not. The repeal of it, however, is not within the control of this House, even although an unanimous vote should be in favor of the measure, and the circumstance may occur that it cannot be repealed by both branches, without the concurrence of two-thirds of each in favor of the measure.

In the eighth section of the first article of the Constitution, power is given to Congress to regulate commerce with foreign nations, between the several States, and with the Indian tribes. In the ninth section of the same article, Congress is expressly prohibited from laying a duty or tax upon the exports of any State. And in the tenth amendment to that instrument, which has been ratified by the several States so as to become part of the Constitution, we find it stated, that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved by it, to the States respectively, or to the people. Congress may regulate commerce. If a power to interdict or annihilate commerce, is a necessary appendage to the power of regulation, then, it must be confessed that Congress possess that power. But, Mr. Speaker, supposing you should hand your watch to a proper artisan, in order to have it regulated, and he should dash it to pieces in your presence, would you call this regulating? I believe not. But might he not plead in his justification the construction put upon the power vested in Congress, by the Constitution, to regulate commerce? Supposing the affair did not proceed that length. Supposing he only removed the mainspring, and laid it aside, to consume with filth and rust, and told you that he would replace it again, and reduce all the wheels into order, so as to make it an excellent watch, on the happening of certain events entirely without his own control; would that be considered as a legitimate appendage to his power of regulating? I believe not. But could he not prove that he possessed this right, by the construction put upon the Constitution of the United States? Congress is expressly prohibited by the Constitution from laying a duty upon exports, to the amount of so much as one single cent. Can it be supposed that the same instrument containing that prohibition should, upon any principles of fair construction, authorize the total interdiction of exports? Supposing that an express article for the purpose of empowering Congress to interdict all foreign commerce, say for one, two, or three years, or permanently, had been agitated in the Convention which framed the Constitution; can it be supposed that that body, tremblingly alive to all encroachments, either upon personal liberty or State rights, would have ac-

ceded to such an article? No, it would have been spurned with contempt, as containing, not the mere germ, but the very quintessence of despotism; and no idea was, I trust, then entertained by what far-fetched construction, a justification of such a measure would be attempted hereafter. What would be thought of an interdict upon agriculture? Would any person suppose that Congress possess legitimate powers to say to the inhabitants of any one district, you shall hereafter abstain, either permanently or during the pleasure of the Government, from plowing, sowing, reaping, &c. Is there any person who would attempt to justify the issuing of such a mandate on Constitutional grounds? I believe not. But commercial pursuits are equally lawful and laudable with agriculture, and the merchant is equally entitled to the fostering care of Government with the man who cultivates the soil. Nay, were it not for a market for surplus produce, and for the reception of such articles in return as are furnished by the merchant, where would be the prosperity of agriculture itself? The farmer would be deprived of the most powerful stimulus to industry. A controversy between the merchant and the agriculturist would, pretty much, resemble the controversy in the fable between the hands and the feet on one side, and the belly on the other. Withdraw the support from the latter and all the members will languish.

But waiving any further consideration of the constitutionality of the embargo, I take it for granted that it is, on all hands, allowed to be a great evil in itself. It can only be endured in the expectation that it will be the means of procuring some great future good, or for the sake of avoiding a still greater impending evil. I shall not consider its comparatively greater pressure upon one part of the United States than another. I shall make no comparison between Northern, Southern, or Middle States. All I believe find its pressure to be sufficiently hard. I shall not pretend to say that it bears harder on that section of the country which I have the honor to represent, than it does upon other parts. I believe it does not. Although it is very sensibly felt, yet, in a district inhabited principally by farmers, settled on small plantations, enjoying a tolerably fruitful soil, which yields a competency to the hand of industry, and where domestic manufactures are probably as far advanced as in most places, we can bear it as long as our neighbors. I presume it is much more distressing on our seaboard. I wish to consider it as affecting the whole, and there are two points of view in which it presents itself:

1st. As a measure of precaution as it respects ourselves.

2d. As a measure of coercion in respect to the different belligerents against whom we have causes of complaint.

In both these points of view I shall attempt to consider it. As a precautionary measure, we are told that it has preserved our ships and seamen, and an immense property, which I think the chairman of the Committee on our Foreign Relations estimated at upwards of one hundred millions, that would otherwise have fallen into the hands of the enemy.

As it respects our ships, if their laying at our wharves at the annual loss of seven or eight millions, the estimated amount of freight alone, while the decay is quite as great, probably greater, than if they were wafted over every part of the Union, can with propriety be called preservation—so far as the loss by capture would have been greater than that occasioned by their present inaction and decay, their preservation may be ascribed to the embargo.

As it respects the preservation of our seamen, I doubt the fact whether they may be at all considered as preserved by this measure. Our seamen have disappeared; and it is the opinion of men possessing favorable opportunities for information, that if the embargo was now raised it would be with the greatest difficulty that seamen could be found to man half our ships. Not only have British seamen, who were cloaked under fraudulent American protections, deserted our shores, but many Americans have migrated with them. The correctness of this fact I find disputed, particularly by a gentleman from South Carolina, (Mr. Williams,) who has made a very high encomium on the patriotism of American seamen. They are now, says the gentleman, in the bosom of their country; the moment their services are wanted, they will flock to your shores. No doubt, some are in this situation. But I seriously doubt, whether their number would be sufficient to answer any sudden emergency. Many of our seamen have no other means of subsistence than the ocean, and, having always been accustomed to that mode of life, are unfit for any other species of industry. You may as well change a carpenter into a watchmaker, as transform a sailor into a cultivator of the soil. Deprived of their customary means of support by an exclusion from the ocean, they have no alternative left, but either to beg or commit depredations on the property of others. Their spirits are too high to brook the first, and their honesty proof against the last. I make no doubt but the patriotism of American seamen is equal to that of any other seamen in the world. But *sine Cerere et Baccho friget Venus*, saith the poet. Put this into plain, homely English, and apply it to patriotism, i. e. without something to eat and drink, aye, and something for clothing too, patriotism will soon cool. Mere patriotism will be found worse than *soup maigre*, or water gruel, to satisfy the cravings of hunger, nor will it clothe the naked. It will not transform your sailors into chameleons, and enable them to live upon air. It is not then justly a matter of wonder, if many of our seamen—deprived of subsistence by the operation of your laws, in the only way in which they have been accustomed to obtain it, should seek that employment and support in a foreign country, of which they are unjustly deprived in their own; the whole weight of their patriotism to the contrary notwithstanding. Our system is at least of this advantage to the British nation: they obtain our seamen without either the trou-

ble or odium of impressment. I will suppose the patriotism of the gentleman from South Carolina equally warm, equally glowing with that of any other gentlemen in this House, perhaps in this nation. But supposing Government should interdict the only occupation by which he could gain a subsistence, and by an act, of which he could neither see the necessity, the justice, nor the policy, reduce him to the situation of making the choice between begging and emigration; his love of country would cool. And as I find he sometimes quotes scripture, I shall take the liberty of suggesting a passage which would, in such a state of things, probably occur to his mind: "if they persecute you in one city, flee to another."

As to property supposed to have been saved by this precautionary measure. This has been, I believe, stated by the chairman of the Committee on Foreign Relations to amount to more than one hundred millions, equal to the total of our exports of both foreign and domestic articles for one year. But predictions, permit me to say, of what might have happened in a different state of things, are but little to be regarded. That property to a limited amount may have been saved, I do not dispute. But so far as we can ground our calculations on matter of fact, the amount is greatly overrated, probably one thousand per cent., or it may be more. Our valuable India ships which were at sea, and exposed to the ravages both of the British Orders of Council and the French decrees have, I believe, escaped capture, and returned in safety, as well as many other ships of different descriptions, and many that chose not to return, in order to keep out of the clutches of the embargo, still navigate the ocean in safety. But, as their safety will be ascribed to their sailing under odious and detestable British licenses, I shall leave them out of the account, and mention another description of ships. I mean such as have sailed by special permission of the President of the United States. I have heard no particular complaint of vessels of this description, and if the business had not been found to be profitable, so much eagerness to obtain these permissions would not have been discovered. So far are we, therefore, from having saved property and shipping to immense amounts by our embargo, that I think it quite problematical whether, had commerce been permitted to take its usual course, the United States would not have been richer at this moment than they are by the course we have adopted; the whole amount of captures to the contrary notwithstanding.

As a measure of coercion, which, as appeared from the declarations of the advocates of the law, was intended to operate principally against Great Britain, I think it must by this time have spent its force, and has completely failed. It appears that we have entirely overrated our importance both to Europe and the West Indies, and that the idea of starving them into a disposition to respect our rights, is wholly visionary. We were to starve the West Indies, raise insurrections among the British manufacturers, and to compel them to grant us peace on our own terms, and also to compel France to rescind her obnoxious decrees. But after a whole year's painful experience—I say painful, on our part—what has it done? Has it starved the poorest negro on the poorest plantation in the West Indies? Has it extorted a single concession from either of the belligerents? If you cannot starve a man to death, or at least bend him to your will in one year, I shall not hesitate to pronounce that man to be ever hereafter proof against starvation. What do the belligerents do? After tendering the offer of repealing the embargo to the British Government, as an equivalent for its rescinding the Orders of Council, what are we told? The sarcastic British Secretary tells us, it is a mere municipal regulation of your own, in which we have no right to interfere, nor have we made any complaint. He tells us "that 'His Majesty would not hesitate to contribute, 'in any manner in his power, to restore the commerce of the United States to its wonted activity; and if it was possible to make any sacrifice 'for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he 'would gladly have facilitated its removal as a 'measure of inconvenient restriction to the 'American people." Whatever may be our opinion of the pity expressed, all must, I believe, feel the force of the sarcasm.

From France, it is said, we have received no answer to a similar proposal. That we have received no direct or explicit answer to a communication made on that subject to the French Government, by our Minister at Paris, is readily admitted, and that for the best of all possible reasons. I do not find, from any document in the possession of the House, that any such direct application has ever been made. But that we have received such a virtual answer as must carry conviction to every mind so forcible that he who runs may read, is, I think, evident from the general complexion of the correspondence of our Minister at Paris, particularly from his letter of August 28, 1808, printed in our public documents. If from the knowledge he had of the temper of that Court, he either dared not make the application direct, or was fully persuaded that to make it would be not only fruitless but injurious, no further answer was necessary.

Other evidence is also before the nation, which clearly shows the light in which our embargo is viewed by the Emperor Napoleon. Newspaper evidence, it is true; but evidence, the authenticity of which has not, that I know of, been called in question. I allude to the report of one of the Ministers of State, whether of exterior relations, war, marine, or finance, I do not now recollect, in which he compliments our dignified retirement by means of our embargo, in a manner rather warmer, and manifesting greater interest than I would wish to see in the agent of a foreign Government. Had the embargo been a measure which His Imperial Majesty Napoleon wished to have removed, because disagreeable to him, what Minister is there under his control who dare to make such a report? No, it rather appears that

he views it as a measure not at all hostile to his views, but as calculated to aid his system of humbling the naval pride, and destroying the commercial superiority of Great Britain. Bring up the non-intercourse to the aid of the embargo, and we more fully meet the wishes of Napoleon, and second, in the only way, perhaps, within our power, his views of universal domination. If the embargo, then, during the space of one whole year, in which it has been in operation, and in which it must have spent its principal force, as it respects foreign nations, has had no coercive effect upon either of the belligerents, what prospect is there that it will have any such effect in future?

But, say gentlemen, this effect has been hitherto defeated by evasions of the law, by which partial supplies have gone out, and by the clamor which has been raised against it by a factious, discontented minority. Only let us persevere with steadiness, and make it manifest to the nations of Europe that we will adhere to our system, and enforce it with such strictness as to prevent evasions in future, and those who have injured us will yet be compelled to abandon the ground they have taken. Foreign nations have, hitherto, flattered themselves that the United States would relax, therefore they have persevered. As soon as they are convinced of their mistake they will recede. Here let us notice the consistency of gentlemen. Onewhile the opposers of the embargo are a very small, a very inconsiderable minority. Nineteen out of twenty at least were, last winter, stated to be in favor of the measure. Strange, that such a small, inconsiderable minority, and those, of course, composed of the most worthless part of the community, should all at once become so powerful and influential as to defeat the effect which the wise measures of Government were calculated to have upon foreign nations. There is the proclamation of the President of the United States, stating that, at an early date, the ordinary proceedings of our courts of justice were insufficient to carry the law into effect. The proceedings in the Legislatures of several States, some in stopping, and others in attempting to stop suits at law for the collection of debts, on account of the pressure occasioned by the embargo. Have we any such evidence as these that the measure bears hard upon foreign nations? No doubt your embargo laws have been evaded to a certain extent. Probably they will continue to be evaded, in spite of all the vigilance of Government. Probably the loudest declaimers in favor of the system have had their full share in these evasions. Perhaps these statutes may be carried into complete effect; but, perhaps, it cannot be done without the prostration of your liberties. It is impossible to impress upon the minds of the people at large that the same degree of moral turpitude is attached to the violation of such laws as your embargo, which they feel at the violating of statutes which, by the common consent of mankind, are at all times and in every change of circumstances, calculated for the well-being of society. In proportion as penalties are multiplied, and increase in severity, public pity towards the sufferer will be excited, and indignation will be roused against the law itself.

Need I remind gentlemen of the majority, of the sedition law? Whenever a crisis arrives in which the good sense of the virtuous part of the community is not sufficient to aid the civil power in the execution of your laws, and it is found necessary to have recourse to the military, I shall tremble for the liberty of my country. I hope that, so long as the law is in force, it will be executed, and will be productive of no convulsion. But, should it be necessary to resort to a military force to execute our laws, in our Republican Government, it would much abate the pleasure and pride which I feel in being a citizen of a free country. Nothing can, in my opinion, have a greater tendency to defeat the effect of your laws upon foreign nations, and impress upon them the belief that we cannot long submit to them, than a knowledge of the means to which it is found necessary to resort in order to carry them into execution. The execution of your laws has already been written in blood, and it is probable that it must soon be stained with a deeper crimson die. This blood will call for vengeance somewhere. From the measure still contemplated to carry them into effect, I turn with horror. Look at the bill on your table, now pending before the Senate; look at the letter from the Secretary of the Treasury, proposing ways and means for their more complete execution with the whole apparatus of gunboats, revenue cutters, standing troops, &c. Foreign nations are well acquainted with the nature and genius of our Government, as well as with the attachment of our citizens to personal liberty. It is not, therefore, to be wondered at if they should harbor an opinion, that a system savoring so strongly of despotism could not long be submitted to by a free people.

But while we think it strange that foreign nations should be so unwise as to calculate on our receding, let us reverse the picture, and see upon what kind of evidence it is on which we calculate that the pressure of our embargo will be so great as to compel them to abandon their orders and decrees. A speech made in favor of a petition against the Orders in Council; a pamphlet, written by a popular opposition member of Parliament, deeply concerned in the American commerce and funds; extracts of private letters from several places in Great Britain; paragraphs of news, stating some advance in the price of cotton, or that flour is high in some part of the West India islands, or the account of an insurrection of a score or dozen weavers in Manchester, are caught with avidity and considered as evidences strong as proofs from Holy Writ that Great Britain cannot much longer adhere to her orders, although, perhaps, a fair balance might be struck confronting letter against letter, pamphlet against pamphlet. Does this appear anything like evidence on the subject? But, of late, we are told of the failure of the crop of wheat in Great Britain, and this, it is thought, will work wonders in

our favor. On this subject, I allude to no secret communications submitted to Congress. I shall be cautious how I tread on that ground; I allude to news communicated in some of our public prints, and verbal information received from a gentleman of this District, who spent the principal part of the last Summer in Great Britain. Other gentlemen have received letters from correspondents, perhaps equally well informed, of a different complexion. Perhaps both accounts may be correct, so far as they go. It is by no means uncommon for crops to fail partially in some districts in a country, and be abundant in others. But, admitting the report of a failure to be true, in the fullest extent, would the repeal of our embargo grant them such relief that, in order to obtain it, they would be compelled to relinquish what was viewed to be a great national measure? By a statement to which I have had access, and which I believe to be mainly accurate, I find that the greatest exportation of wheat and flour from the United States, amounted, in one year, to within a fraction of one hundred and sixty-eight million pounds of flour. The population of Great Britain and Ireland, including the navy, is estimated at about sixteen and a half millions of souls. Allowing one pound of flour per diem to each person, the whole quantity we could export would afford a supply of bread but for little more than ten days. Considering the necessary waste in that article, this would not be an extravagant allowance. How great a relief from the horrors of famine would a supply of bread for ten or eleven days afford? Twenty or thirty days, at short allowance, would make up the balance. Such are our means of coercion in the article of flour.

I will now go upon the supposition that our embargo is about to be carried into complete effect, and that we can shut ourselves up so close, that no article whatsoever can escape from our ports. Let us inquire whether there would then be a probability that it would have the coercive effect contemplated? I go upon the supposition that firmness in favor of a system is equal on both sides of the water. This comparison will render its coercive effect problematical at least. In our embargo system it is necessary to keep in view two things—its action upon the different belligerents, and its reaction upon ourselves. I think it to be a sound position that the European world, taken in connexion with the West Indies, must be of more consequence to the United States than the United States can be to any one European nation. There is no one nation but what can do better without us and our commerce than we can do without the whole commercial world. Of course the reaction of our embargo upon ourselves must be stronger than its action upon any other nation. Supposing it, then, to act upon any one European nation, say either France or Great Britain, with five degrees of force, and react upon ourselves with twenty degrees, instead of humbling other nations, and bringing them to our feet—if you choose that phrase—we will teach them to do without us, and must, in the end, shrink from the unequal contest. The gentleman from South Carolina (Mr. WILLIAMS) has said, not that the existence of the West Indies, (for it appears that, after a year's experience, the idea of absolute starving is pretty much given up,) but the profitable existence of the West Indies, as it respects Europe, depends upon supplies produced from this country, and he has instanced the article of lumber, an article of indispensable necessity to the West India planter. As the West Indies have been in the habit of obtaining supplies from this country, no doubt but a temporary inconvenience is felt; but the bitterness of this, I should suppose, to be in a great measure past. Is there no other country from which these articles for the West India market can be procured? May not the hitherto but partially explored forests of Canada and Nova Scotia afford, at least, a partial supply? Where is the vast Continent of America subject to Spain, many parts of which are so contiguous to the West Indies? Does that country contain no forests affording lumber? As the soil of that country is fertile, and the climate adapted to the raising of a great variety of productions, nothing is wanting to that country but industry and more extended cultivation, to enable it to supplant us entirely in the business of furnishing supplies for the West Indies, and that want the continuation of our embargo will supply with rapidity. But the gentleman says that he would rather burn all the surplus cotton, rice, flour, tobacco, &c., than export it during the present state of things; and that such a measure, by showing we were determined to persevere at every hazard, would soon bring the belligerents to their senses. I admire the spirit of the gentleman, without subscribing to the correctness of the opinion. In some cases it is a good rule for a man to judge another by himself. When that gentleman feels a spirit spurning at coercion glowing in his breast, it will, I should think, lead him to suppose that a similar spirit, spurning indignantly at our coercive system, may glow in the breasts of the inhabitants of that country, which is the land of our forefathers' sepulchres. If, then, a determination to submit to partial and temporary inconveniences rather than be coerced to abandon measures, which either a sound or mistaken policy has led them to adopt, be equally strong in the inhabitants of both countries, and the embargo system reacts upon ourselves with much more force than it acts upon either of the nations we would wish to affect by it, we must be the principal sufferers in this kind of warfare. So far am I from believing that we can coerce either Great Britain or France by our embargo, it is my decided opinion that, if we keep it on until either one or both these nations become our humble petitioners to remove it, we will keep it on forever. Great Britain, in particular, might then calculate on enjoying the commerce of the world unrivalled.

Having examined what consequences may reasonably be expected from our embargo as a measure to coerce foreign nations, it is time now to take a glance at some of its most obvious effects

upon ourselves, especially if its duration should be much longer protracted. And here permit me to consider what I view to be its bearing, not merely on our present but our future commerce. At present we see it prostrated, and the danger is that it will be destroyed, past all hope of revival. Another gentleman from South Carolina (Mr. Taylor) has represented the embargo to be an act of kindness to our merchants, in preserving them from destruction. Congress has acted toward them the part of a kind, indulgent parent, in preserving them from ruin. I believe that gentleman to be a friend to the mercantile interests of the country. He is incapable of uttering a sentiment of that kind, which he does not feel. But I fear that, in this instance, his tenderness for merchants and commerce will prove too much like the kindness of the ape for her young, who, out of mere tenderness and affection, squeezes them to death. In one point of view, commerce may be compared to a virtuous young lady whose esteem may be acquired and preserved by kindness and attention, but when once her esteem is forfeited and her confidence lost by improper treatment, it can hardly be regained. The American commerce, although very extensive, yet, as to age, is but in its infancy. Handle it a little roughly, and it may be banished forever from our shores; for when once it is directed to other channels, it may be impossible to bring it back to its old course. The history of commerce, since its revival in Europe, is in point. We have seen Florence, Venice, Antwerp, Brussels, and other places in the Netherlands, in their turn, the emporiums of foreign commerce. More lately Holland, and still later Great Britain, have been places where commerce was most flourishing, but we do not find that when once commerce had forsaken or been driven from a place, that it has ever returned.

Were it not that gentlemen appear to have so great an aversion to reckoning by dollars and cents, I would also make an observation or two upon its consequences with respect to our revenue. This has, however, been done some time ago, in a manner, which, to me, appeared unanswerable by the gentleman from Virginia, (Mr. Randolph.) Indeed, I have heard no sober answer attempted, but abundance of declamation about patriotism, love of country, as superior to all calculations, spirit of 1776, &c. But, would it not be well enough, here, instead of all this unmeaning declamation, to have a little cool matter-of-fact calculation. However the contempt of dollars and cents may be a popular theme for declamation, yet, in a national point, they will be found to be far from so unimportant as they are represented. We are said to be on the eve of a war. I fear this may soon prove to be our real situation. Are we to suppose that patriotism, or the spirit of 1776, so much talked of, of late, will raise, clothe, march, and support an army? Or can the wheels of Government be kept in motion without the aid of dollars and cents? Where shall we get a supply in future, if the embargo is to be continued, and followed up with the proposed non-intercourse? There was something observed by the gentleman from South Carolina, (Mr. Williams,) which I did not hear, and therefore only know, by report, about the extent to which our embargo, by cutting off supplies from the West Indies, would affect the British revenue, which, I understand, he estimated at one third of the whole amount. This, he considered as a pressure she was ill able to support, and would probably oblige her to relax her orders. That it would affect the British revenue to half that amount, remains to be proved. But can the gentlemen tell to what an extent a continued suspension of commerce would affect the revenue of the United States? More than one-third, more than two-thirds, and, I believe, more than four-fifths. But, we have fourteen millions in the Treasury. Very well; a full Treasury is a very good thing. But, how long will that sum carry on a war, and defray the other necessary expenses of Government? We are playing the part of the boy in the fable, who had the hen that laid the golden eggs. We have got golden eggs in our Treasury, but, with some want of foresight, we are strangling the hen that lays them from day to day. Shall we resort to direct taxes? The experiment has been tried, with what success is familiar to the House. But we must be sensible that, if obliged to resort to that expedient, during the continuance of the embargo, it must be under circumstances much more disadvantageous than formerly; for, during the entire suspension of foreign commerce, which is the only channel through which we are furnished with a circulating medium, where is the farmer or planter, who has no market for his surplus produce, to obtain money to pay his taxes? and the very name of loans has of late been so very odious that no man, I conclude, would think of applying to that resource. And even this resource would soon be dried up by a continued embargo, for where will be the funds to support public credit, in order to facilitate the procuring of loans?

Let us next view the consequences of the system as it respects our liberties. In no way are the liberties of a people more endangered than by clothing a Chief Magistrate with new, unusual, or unconstitutional powers. Here I am far from intending any reflection, either upon our present Chief Magistrate, or upon the present Secretary of State, who is I suppose the Chief Magistrate elect. I only observe, that the more popular a Chief Magistrate is, the more dangerous it is to invest him with unusual powers. A precedent naturally grows out of it, and power once delegated, is with difficulty resumed; and that which was at first a temporary benefit becomes at last an incurable evil. Such were the consequences of the Roman Dictatorship. When Cincinnatus was brought from his plow to be invested with the office of Dictator, and returned to his plow again after he performed the requisite service for his country, the Romans experienced no inconvenience. But under a Sylla, a Marius, a Pompey, and a Cæsar, the city, as well as the fairest provinces of the republic, were deluged in blood,

shed in civil wars; multitudes of the most distinguished citizens destroyed by proscriptions and massacres, and a set of monsters, under the name of Emperors, successively swayed the sceptre over a degraded and enslaved people. Another instance we have in point of Gustavus Vasa, or Gustavus the First, of Sweden. He was the Washington of Sweden, who, after delivering his country from a most cruel bondage and vassalage to Denmark, was constituted first Administrator, and afterwards King of Sweden, and at length clothed with almost unlimited power. The virtuous Gustavus was the father of his people. The Swedes were happy under his government. But his son, clothed with the same authority, proved an odious tyrant. It will not be a sufficient pledge to assure us that we are out of danger, to say that we are under a government of laws and not of men; for if I am to lose life, liberty, or property unjustly, it makes but little difference to me whether it is by the mandate of a Nero, or the law of a Draco.

But it is said by gentlemen, that if the embargo were now removed, our trade is so restricted by the belligerents that it could amount to little or nothing. We cannot go to France. There is no place to which we can go without being interdicted, either by the decrees of the one, or the orders of the other. This was some time ago particularly insisted upon by the Committee of Foreign Relations. But the observations of a gentleman from Virginia (Mr. Newton) are more fresh in my recollection. He in a very particular and elaborate manner, took all our commerce, one piece after another, and filtered it all away to nothing, proving that we had no commerce at all left which deserved the name, which we could pursue, even if the embargo were taken off. This is a pitiful and degraded situation; and, because we cannot go everywhere, we submit to the degradation and say we will go nowhere. I shall not attempt to follow the gentleman through his minute and elaborate investigation of the annihilation of our commerce. I shall barely observe that if his view is a just one, it contains one of the most powerful arguments which could be advanced for the repeal of the embargo. If we have no commerce, why keep a law in force to restrain it, which requires so much irritation? Our merchants are generally so eagle-eyed in what respects their own interest, that if they can find no commerce worth pursuing they will embargo themselves. Why not suffer them to manage their own affairs in their own way? Why pass one law after another fortified with such extraordinary provisions, to embargo that which is said to have no existence? There seems to be a manifest absurdity in this kind of legislation. I am far from believing this view of the state of our commerce to be a just one. I believe that we have much profitable commerce left, and commercial men would soon explore important channels. I felt the justice of a remark made some days ago by a gentleman from Rhode Island, (Mr. Jackson,) that commerce was like water, which, if left to seek its own course, would find its level, and if left to regulate itself, articles would always find their way to places where they were wanted for consumption. And it is the opinion of commercial men of good information, that, were it not for the existing embargo, although our commerce would not flourish as it had done during the wars in Europe, we might still have as much as during a time of profound peace. May not commerce be compared to water in another respect; that when forced by violence to seek a new channel, it is with difficulty induced back again to its old course? This is an object worthy of the attention of the cotton planter in particular—a staple which is most unquestionably the most valuable to the cultivator of all our American exports. Were cotton produced nowhere but in the United States, we might easily starve the market. But, as it is the natural production both of Asia, Africa, and South America, as well as the West Indies, by withholding these supplies, which lie perishing on our hands, we encourage the cultivation in other countries, and teach the consumers to explore new channels for a supply. In this way a market may be irrecoverably lost.

But in this case we must go to Great Britain or France, and that would be degrading submission; it would be base and dishonorable. I confess I have not at all that nice sense of honor which some gentlemen speak of; nor can I see either degradation or submission in some things which so sensibly injure their feelings. I have often heard it as a maxim, that there is no friendship in trade. So fully am I impressed with its truth, that were your embargo law removed—for I would not violate that—and we not in actual hostility, had I on hand a cargo of rice, cotton, flour, or tobacco, I should have no scruple in selling it either to an Englishman or a Frenchman at a fair and honorable price; I should consider myself as doing him no particular favor, much less as submitting to him at all.

Although none of the resolutions presented for our acceptance by the Committee of Foreign Relations refers, in express terms, to the embargo, yet I considered myself as not materially deviating from the subject before the House, in being thus particular in taking notice of it, because the resolutions, particularly the second, form a part of the same system; and, because, in the dilemma in which we are placed, in the opinion of the committee, this is one of the evils out of which we are necessitated to make a choice—for it seems we have only a choice of evils. War with both nations, submission, or a continuance of the present suspension of commerce; and the second resolution in particular is to come in, in aid of the existing embargo.

A tame submission is justly considered as out of the question—a measure which nobody advocates. War with both nations, or with any two nations animated with sentiments of the most deadly hostility against each other, is a novel kind of warfare, and I am apt to think an absolute new thing under the sun, the discovery of which has been reserved for the Committee of Foreign Relations. A menacing attitude may

perhaps be kept up against two nations at war with each other; or, two nations at actual war may make peace, and then unite to give us a drubbing. But while they continue to be at war with each other, let us be ever so fond of fighting, we cannot be at war with both if we try. No, the moment a war takes place with one, we are virtually, if not actually, in alliance with the other. Make war with Great Britain—attempt the reduction of Canada, for instance, and Bonaparte will immediately tender you the homage of his high consideration, and will praise your spirit as warmly as he now eulogizes your dignified retirement. And although, on account of the incivility of the British fleet, he may not be able to send an army to your assistance, yet if one of your ships can fight its way to his shores, she may do it in safety, with the hazard of either sequestration or capture. And on the other hand, grant letters of marque and reprisal against France, and you will find no more trouble from the British Orders of Council.

With respect to the resolutions presented by the Committee of Foreign Relations, I considered that one which has already passed, as of little importance, either one way or the other. Considered as a kind of political test, I felt no very stong objection against taking it, although I considered the question whether the United States were, and of right ought to be, free, sovereign, and independent States, to have been long since decided and not to be brought into question at this time. I find, however, a degree of importance attached to it, in the opinion of some gentlemen, which, had I contemplated at the time, my vote would perhaps have been different. As the second resolution is evidently connected with the embargo, I am of course opposed to it. But notwithstanding the lengthy discussion which has taken place, I am not yet convinced that the first resolution is not at war with the second, and with the whole system we have adopted, and seem still determined to pursue. How is it that the orders of Great Britain and the decrees of France affect us? They affect our maritime rights. Our liberties on the ocean are restricted to a certain extent. And to show to Great Britain, France, and all the world, that we will not submit to these encroachments, we abandon the ocean altogether, and do even more than they require—a new way of showing our spirit, to be sure, but bearing no resemblance to the spirit of '76.

But say gentlemen, we do not submit. The embargo is resistance. Great Britain says you must trade with me. We resist. France says you must trade we me. We resist, and say we will trade with neither of you. This I conceive to be not true in fact. Neither France nor Great Britain says you must trade with me. They only give us liberty to do as we please. But, admitting there was a command, our embargo and non-intercourse is a submission to it, as far as the nature of the case admits. We submit, partly to the one, and partly to the other; and, between both, our submission is complete, for we submit to each of the belligerents, so far as submission to the one is not inconsistent with a similar submission to the other. Certainly our non-intercourse with Britain is submission to France, and our non-intercourse with France is submission to Britain; and that, to make the most of our embargo, it is, according to the view given of it by its advocates, half the one and one half the other.

But what shall be done, is the question? Shall we go to war? I answer yes, in the last resort, if no other mode can be found to extricate us out of our present difficulties, and maintain our independence—and if there is any prospect that the object in pursuit can be obtained by going to war. I am not however convinced that a war with either, much less with both nations, would be the result of an abandonment of our present system. In the year 1793 Great Britain commenced extensive depredations on our commerce. An attempt was made to resort to a war of commercial restrictions. A non-intercourse act was in considerable forwardness, but without any of these coercive measures actually in force, an attempt was made at negotiation. It proved successful, without the aid of either non-importation, embargo, or hostile proclamations. But to aid it, preparations were made for war, and the energies of the nation were called into operation. A treaty was the consequence, which, although not satisfactory to all in some of its provisions, yet, while it was in force, we have prospered under its operation, in a manner beyond all former example, I understand this treaty might have been renewed, but the offer was declined. I do not say that this backwardness on our part has been any cause of our present difficulties with that nation. In the years 1797 and 1798, France commenced most extensive depredations on our commerce, in direct violation of her treaty with us, and rejected our messengers of peace with contempt. We passed a non-intercourse law, but we did not rest here. We called forth the resources of the nation, and prepared for events. Partial hostilities were commenced; but firmness, on the one hand, and conciliation on the other, were again crowned with success. At the present time a serious misunderstanding has taken place between the United States and two foreign nations. The one has, in a most wanton, shameful, and unprovoked manner, violated her treaty with us—the other, with whom we have no commercial treaty, interrupts our lawful commerce, in such a manner as, it is said, violates the law of nations. We have commenced negotiations, with the aid of commercial coercive restrictions. We have taken the olive branch in one hand, and we have elevated our scourge, such as it is, with the other. We have assumed a menacing attitude, and have uttered many high-sounding words. This mode of negotiation has been, for a considerable time, in the full tide of, I cannnot say very, successful experiment. We have had such a fair trial of its efficacy, that I think it is high time it was abandoned. If the measure be a wise one, and in certain cases powerful, the United States have been peculiarly unfortunate, either in the time of its application, or in selecting the subjects on which it was to operate.

In the year 1805, Great Britain either adopted or revived certain regulations which were very injurious to the commerce of the United States. Our table was loaded with petitions from the commercial cities of the Union. Our Minister abroad remonstrated, and as a remedy for the evil, and to show our resentment of the injury, as well as to aid negotiation, we passed the non-importation law. Before that law was passed, at least before the passage of it was known in Europe, the orders were relaxed, and captures discontinued; and the causes of complaint in some measure removed. So that the non-importation law had no other effect than to embarrass our Ministers in arranging matters in dispute.

Equally unfortunate was the time of sending back the rejected treaty. Whether it was or was not as good a treaty as we had a right to expect, I pretend not to say. Probably it was as good as could be obtained—but whether it was or was not, the time of sending it back was peculiarly unfortunate, for the purpose of obtaining any amelioration. The Ministry under whose auspices it had been negotiated were now no longer in power, and the new Ministry were supposed to be less disposed than their predecessors to make concessions to the United States. Though willing to ratify the original treaty, yet they declined making any alteration. A similar fatality has attended our embargo system, considered as a coercive measure against Great Britain. At the time when our law was passed the pressure upon that nation in Europe was great. The coalition among the Northern Powers was completely dissolved, and she was left to contend single-handed against almost the whole European world. It was thought that this state of things, in connexion with our embargo, would make so great a pressure, that she must yield to what we conceived to be our just demands. Indeed it was predicted, with confidence, that in the course of a few months at furthest she must fall under the power of the conqueror of Europe, and, in this way, we were to obtain relief from all our maritime embarrassments. An event unlooked for, which, however it may affect our contest with the nations of Europe, yet will, I hope, prove most favorable to the cause of humanity, has, in a great measure removed that pressure for the present. By the late opening made in Europe, and the access thereby gained to the American continent, she has probably gained as much as she would lose by the annihilation of her commerce with the United States. It is time that we abandon this inefficient system—inefficient as it respects other nations, and ruinous to ourselves. If we are to have war, as seems to be the opinion of gentlemen, let us prepare for it; but if there is any hope from negotiation, let us attempt it without having recourse to those factitious aids which must ever be embarrassing in negotiating with a high spirited people; and let us not direct the energy of the nation, the boasted spirit of '76, of which we hear so much, to the sole purpose of harassing our own citizens.

Whether we are in that situation that would be now prudent to go to war, I shall not decide, as that is not a question now before the House. A wise man in ancient times has said, with good advice make war. I shall only mention two or three cases in which I would not go to war: I would not go to war without a great and important object, the attainment of which was our undoubted right; I would not go to war for any object, however important it might be, as long as there was a prospect of obtaining it in any other way; I would not go to war, unless there was a well grounded probability of obtaining the object in view by war. Nor would I go to war merely for a point of honor, where everything pertaining to national prosperity and safety might be obtained without. It is true, nations may do like individuals. A man conceives himself to be insulted. He challenges the man who insults him—they meet, and he receives a wound which disables him during the remainder of his life. But he saves his honor. So a nation may go to war for a point of honor, and, as the fate of war is uncertain, may receive a severe drubbing. But national honor is saved. Like the gallant Francis, King of France, who when he was defeated and taken prisoner in the fatal battle of Pavia, by his enemy and rival, Charles the Fifth, when he saw that all was lost, wrote, upon the field of battle, this laconic epistle to the Queen Regent: "*Madam, we have lost all but our honor.*" The American people would, I trust, wish to avoid such a war as this. And I think they will not long assert their rights, only by abandoning them. But although deeply interested in peace, as being the true interest of our country, and always ready to welcome the returning prospect of its continuance with heartfelt satisfaction, yet, if after all endeavors to preserve it shall prove fruitless, they should in the end be compelled to engage in a just and necessary war, no doubt the American people would meet it with firmness.

Mr. Randolph moved to adjourn, alleging as a reason for the motion the situation in which the House found itself, many members being absent.

The question on adjournment was taken by yeas and nays, and negatived—ayes 42, nays 68, as follows:

Yeas—Evan Alexander, Joseph Barker, John Campbell, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., Daniel M. Durell, James Elliot, Francis Gardner, Edwin Gray, John Harris, William Hoge, Reuben Humphreys, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jun., Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jun., John Randolph, John Rhea of Tennessee, John Russell, James Sloan, Richard Stanford, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

Nays—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Bur-

well, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Heister, Wm. Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, James I. Van Alen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alex. Wilson, Nathan Wilson, and Richard Winn.

A division of the question on the resolution depending before the House was then called for by Mr. David R. Williams: Whereupon, so much of the said resolution being read, as is contained in the words following, to wit:

Resolved, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States;

A motion was made by Mr. Van Horn to amend the original resolution as reported from the Committee of the Whole House, by striking out, after the words "goods, wares, or merchandise," the following words: "the growth, produce, or manufacture of the dominions of any of the said Powers:" and by adding, to the end of the said resolution, the following words:

"And that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several supplementary acts thereto, be repealed, so far as to allow the ships and vessels belonging to, and wholly navigated by, citizens of the United States, to depart with their cargoes for places not in the possession of any of the said belligerent Powers; and that the citizens of the United States be authorized to arm and equip their merchant vessels, and repel by force any assault or hostility which shall be made or committed by any vessel belonging to any of the said Powers, and may subdue and capture the same; and may retake any vessel, owned as aforesaid, which may have been captured by any vessel belonging to any of the said Powers."

A question of order was then moved by Mr. D. R. Williams, whether the said motion of Mr. Van Horn, as a substitute for a member of the said original resolution, was admissible according to the standing rules and orders of the House.

The Speaker decided, as his opinion, that the said proposed amendment was in order, as not being a substitute for the member of the original resolution proposed to be stricken out:

Whereupon, the question was taken that the House do agree to the proposed amendment for striking out the words as before recited, and passed in the negative.

The question then recurred on the amendment proposed by Mr. Van Horn: when a motion was made by Mr. Upham that the House do now adjourn; and the question being put thereupon, it passed in the negative—yeas 45, nays 69, as follows:

Yeas—Evan Alexander, William W. Bibb, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, Francis Gardner, Edwin Gray, John Harris, William Hoge, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, junior, Josiah Quincy, John Randolph, James Sloan, John Smith, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, David R. Williams, and Nathan Wilson.

Nays—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barent Gardenier, Thos. Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, William McCreery, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, John Taylor, James I. Van Alen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

A division of the question was then called for on the amendment proposed by Mr. Van Horn, from the commencement thereof and ending at the word "repealed," in the third line of the said amendment: And the question to agree to the said division of the proposed amendment being stated from the Chair, Mr. Van Horn withdrew the said amendment from the Clerk's table.

A motion was then made by Mr. Lewis that the House do now adjourn, and the question being taken thereupon, it passed in the negative—yeas 18, nays 69, as follows:

Yeas—William W. Bibb, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, William Ely, Francis Gardner, Edwin Gray, John Harris, William Hoge, Reuben Humphreys, Richard Jackson, Robert Jenkins, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Daniel Montgomery, jr., Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, James Sloan, John Smith, Samuel

Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, and Nathan Wilson.

Nays—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

A motion was made, by Mr. Lewis, to amend the original resolution depending before the House, by adding to the end thereof the following words:

"And, also, that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, with all acts supplementary thereto, be repealed."

A question of order was moved by Mr. Macon, whether an amendment containing the substance of a proposed resolution referred to a Committee of the Whole House, and made the order for a certain day, can be received as an amendment to the resolution under consideration, embracing a distinct subject. Whereupon Mr. Speaker decided, as his opinion, that the proposed amendment could not be received, unless the Committee of the Whole House was discharged from the consideration of a resolution moved by Mr. Chittenden on the tenth ultimo, and several subsequent resolutions proposed, and referred to the same Committee of the Whole House.

From which decision of the Chair, an appeal was made by Mr. Stanford; and, on the question, "Is the said decision of the Chair correct?" it was resolved in the affirmative—yeas 86, nays 32, as follows:

Yeas—Willis Alston, jr., Ezekiel Bacon, Davrd Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Evan Alexander, Lemuel J. Alston, Burwell Bassett, John Campbell, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., James Elliot, William Ely, Francis Gardner, Thomas Gholson, jr., John Harris, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Russell, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, and Killian K. Van Rensselaer.

A motion was then made, by Mr. Lewis, to amend the original resolution under consideration, by adding to the end thereof the following words:

"Add, also, that the act approved on the twelfth of March, one thousand eight hundred and eight, entitled 'An act in addition to the act, entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' be repealed on the first day of January next."

A question of order was moved by Mr. Smilie, whether, according to the standing rules and orders, the said proposed amendment could be received and acted upon by the House. Whereupon, Mr. Speaker decided, as his opinion, that it was not in order, as it partially embraced the substance of a proposed resolution already referred to a Committee of the whole House, and not considered or reported on by the said Committee to the House.

From which decision of the Chair, an appeal was made to the House by Mr. Lewis; and, on the question, "Is the said decision of the Chair correct?" it was resolved in the affirmative—yeas 84, nays 31, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow,

John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Evan Alexander, Burwell Bassett, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Francis Gardner, Thomas Gholson, jr., Edwin Gray, John Harris, Richard Jackson, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Russell, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, and Killian K. Van Rensselaer.

The question then recurring on the first member of the original resolution, as proposed to be divided on a motion of Mr. D. R. Williams, and hereinbefore recited a division of the question on the first said member of the resolution was called for by Mr. Gardenier, from the commencement of the same to the words "Great Britain," as contained in the words following, to wit:

"*Resolved*, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain."

Mr. Gardenier spoke half an hour in explanation of his reasons for taking the question separately as to Great Britain and France.

The question being taken that the House do agree to the same, it was resolved in the affirmative—yeas 92, nays 29, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwin, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nath'l Macon, Robert Marion, Wm. McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, Geo. M. Troup, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, Edwin Gray, John Harris, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and Killian K. Van Rensselaer.

A farther division of the question was moved by Mr. Elliot, on the said first member of the resolution, on the words "or France," immediately following the words "Great Britain," hereinbefore recited: And the question being put thereupon, it was resolved in the affirmative—yeas 97, nays 24, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, Wm. Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Evan Alexander, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., William Ely, John Harris, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, jun., William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and Killian K. Van Rensselaer.

And on the question that the House do agree to the second member of the said second resolution, contained in the words following, to wit:

"Or to any other of the belligerent Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States,"

It was resolved in the affirmative—yeas 96, nays 26, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, Wm. McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Evan Alexander, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., Jas. Elliot, William Ely, Barent Gardenier, John Harris, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, jun., William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and Killian K. Van Rensselaer.

The question then being on the residue of the said resolution contained in the following words:

"And, also, the importation of any goods, wares, or merchandise, the growth, produce, or manufacture, of the dominions of any of the said Powers, or imported from any place in the possession of either."

Mr. Randolph moved to adjourn—ayes 46.

Mr. R. then spoke for about two hours and a half against the resolution.

The question was then taken, and resolved in the affirmative—yeas 82, nays 36, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., Jas. Elliot, William Ely, Barent Gardenier, John Harris, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and Nathan Wilson.

The main question was then taken that the House do agree to the said second resolution, as reported from the Committee of the Whole House, and resolved in the affirmative—yeas 84, nays 30, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Jonn Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Jas. Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thos. Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., Jas. Elliot, William Ely, Barent Gardenier, John Harris, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, L. B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez

Upham, Philip Van Cortlandt, and Killian K. Van Rensselaer.

And on the question that the House do concur with the Committee of the Whole in their agreement to the third resolution, in the words following, to wit:

Resolved, That measures ought to be immediately taken for placing the country in a more complete state of defence:

It was unanimously resolved in the affirmative.

On motion of Mr. George W. Campbell,

Ordered, That the second resolution be referred to the committee appointed on so much of the Message from the President of the United States, at the commencement of the present session, as respects our relations with foreign Powers, with leave to report thereon by way of bill, or bills.

On motion of Mr. George W. Campbell,

Ordered, That the third resolution be referred to the committee appointed, on the 8th ultimo, on so much of the said Message from the President of the United States as relates to the Military and Naval Establishments, with leave to report thereon by bill, or bills.

Monday, December 19.

Mr. Holmes, from the Committee of Claims, presented a bill for the relief of Augustin Serry; which was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. Pitkin,

Resolved, That the Committee of Claims be instructed to inquire whether any, and, if any, what, alterations are necessary to be made in the laws relative to placing on the pension list those persons who have been wounded in the line of their duty, in the service of the United States, since the Revolutionary war; and to report thereon by bill, or otherwise.

The bill sent from the Senate, entitled "An act to provide for arming, manning, and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States," was read twice, and committed to the Committee of the Whole, to whom was referred, on the 10th instant, a bill authorizing the appointment and employment of an additional number of Navy officers, seamen, and marines.

The House resolved itself into a Committee of the Whole on the bill authorizing the payment of certain pensions by the Secretary of War, at the seat of Government. The bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to amend the judicial system of the United States. [The bill goes to authorize the circuit judge to hold district courts, where, from sickness or other cause, the district judge is unable to discharge his duties, and makes the justice of the Supreme Court the judge of competency in the district judge.]

Mr. Livermore said such a provision appeared necessary, but he thought there was something wrong in vesting the power of determining on the competency of the district judge in this way. He, therefore, moved that the Committee rise, with a view, if it prevailed, to move for a recommitment of the bill.

This course was objected to by Messrs. D. R. Williams, Taylor, and Marion, and supported by Messrs. Ely, Gholson, and the mover. The Committee rose, were refused leave to sit again, and the bill was referred to a select committee.

Mr. Dana presented a letter from the Society of United Brethren for propagating the Gospel, accompanying a donation of their works, which was read.

MIRANDA'S EXPEDITION.

Mr. Love called for the order of the day on the report of the committee on the subject of the thirty-six persons confined in Carthagena, South America. The following is the resolution reported by the committee:

Resolved, That the President of the United States be *requested to adopt the most immediate and efficacious means in his power to obtain* from the Viceroy of Grenada, in South America, or other proper authority, the liberation of thirty-six American citizens, condemned on a charge of piracy, and now held in slavery in the vaults of St. Clara, in Carthagena, and that the sum of —— dollars be appropriated to that purpose.

Mr. D. R. Williams moved to postpone the consideration of the subject indefinitely. Negatived—50 to 36.

The House then went into a Committee of the Whole on the subject—39 to 33.

Mr. Love moved to amend the resolution by striking out the words in italics, and inserting "authorized to request."—Carried, ayes 54.

Those gentlemen who supported this resolution in the debate were Messrs. Love, Lyon, Bacon, Nelson, Sloan, and Wilbour. Those who opposed it were Messrs. D. R. Williams, Taylor, Smilie, Macon, and Southard.

The gentlemen who opposed the resolution, among other objections, contended that an agreement to the resolution would but involve the Government in difficulty without answering any good purpose; that it would in fact be aiding the attempt of a certain party to prove that the General Government had some connexion with this expedition originally, which it certainly had not; that the facts set forth in the petition were wholly unsupported by evidence; that these persons had engaged themselves in a foreign service; that they had become weary of the privileges of freemen, and had entered into a hostile expedition against a foreign country, and, in so doing, had been taken, condemned for piracy, and immured as a punishment for that offence; that the British Government, having been at the bottom of this business, was the proper power to release these persons, and indeed had applied to the Spanish commander for the purpose; that even were the

United States bound by the laws of justice or humanity to intercede for these persons, they knew not to whom to make application, and would probably meet with a refusal, perhaps a rude one, if any judgment could be formed from the present situation of our affairs with Spain; that if gentlemen wished for objects on which to exercise their humanity, they might find them in the lacerated backs of our impressed seamen, without extending it to criminals. In reply to an observation of Mr. Lyon, that if we did not get these men Great Britain would do so, and employ them to extend her naval force, Mr. Macon replied, if she did, she was welcome to keep them; but she was in the habit of supplying her navy with seamen from our vessels, without the trouble which the acquisition of these men might occasion her.

In reply to these objections, and in support of the resolution, the humanity of the House was strongly appealed to. It was urged that the Government could in no wise be involved by an appeal to the generosity of the provincial government; that these men had not wilfully committed piracy, but had been deluded under various pretences to join the expedition; that they had joined it under a belief that they were entering into the service of the United States; that, even admitting them to have been indiscreetly led to join the enterprise, knowing it to be destined for a foreign service, yet, that they had been sufficiently punished by the penalty they had already undergone; that it was wholly immaterial what inference any persons might draw from the conduct of the United States in this respect, as to their concern with the original expedition; that such considerations should have no weight with the House; that if these poor fellows were guilty, they had repented of it; and Mr. Nelson quoted on this point the Scriptures, to show that there should be more joy over one sinner that repenteth than over ninety and nine who have no need of repentance. In reply to an intimation that it was not even ascertained that they were American citizens, Mr. Bacon observed that one of them had been born in the same town in which he was, and was of a reputable family.

The resolution was negatived by the Committee—49 to 31.

The Committee rose and reported the resolution, which report the House agreed now to consider—ayes 57.

Mr. Lyon moved to adjourn—ayes 34.

Mr. Fisk called for the yeas and nays on concurrence with the Committee.

Mr. Gardner moved to adjourn—ayes 34.

The question of concurrence with the Committee in their disagreement to the resolution, was decided by yeas and nays, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, Joseph Desha, John W. Eppes, William Findley, Thomas Gholson, jr., Peterson Goodwyn, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Walter Jones, John Lambert, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, John Taylor, Robert Whitehill, D. R. Williams, and Alexander Wilson—50.

Nays—Ezekiel Bacon, William W. Bibb, John Blake, jr., Martin Chittenden, John Clopton, John Culpeper, James Elliot, James Fisk, Francis Gardner, Isaiah L. Green, John Harris, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, William Kirkpatrick, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, John Montgomery, Gurdon S. Mumford, Timothy Pitkin, jr., Samuel Riker, John Russell, Benjamin Say, James Sloan, Lewis B. Sturges, Abram Trigg, Jabez Upham, James I. Van Alen, Archibald Van Horn, and Isaac Wilbour—34.

On motion, the House adjourned.

Tuesday, December 20.

A new member, to wit: Joseph Story, returned to serve in this House, as a member for the State of Massachusetts, in the room of Jacob Crowninshield, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

An engrossed bill authorizing the payment of certain pensions by the Secretary of War, at the seat of Government, was read the third time, and passed.

Mr. Alexander, from the committee appointed on the thirteenth instant, presented a bill prescribing the effect of records of judgment or decrees of courts of one State in another State; which was read twice, and committed to a Committee of the Whole on Thursday next.

Mr. Nelson, from the committee appointed on the twenty-eighth ultimo, presented a bill for the relief of the infirm, disabled, and superannuated officers and soldiers of the late and of the present Army of the United States; which was read twice, and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of certain persons therein mentioned. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for continuing for a further time the authority of the Commissioners of Kaskaskia. The bill being gone through, the Committee rose and reported the bill, which was ordered to be engrossed for a third reading to-morrow.

The bill authorizing the division and subdivision of squares and lots in the City of Washington; and the bill for the relief of sundry citizens of Knox county, Kentucky, having gone through the Committee of the Whole, were ordered to be engrossed for a third reading.

Mr. Dana said, as it was probable that the situation of the revenue might require the consideration of the House during this session, it would be acceptable to the members of the House to have as ample information on the subject as could be conveniently obtained. From this and other considerations, he was induced to offer the following resolution:

"*Resolved*, That the Secretary of the Treasury be directed to lay before the House a general statement of the sums annually received at the Treasury of the United States since the commencement of the proceedings under the Constitution, exhibiting distinctly the proceeds of the customs, internal revenue, loans, and miscellaneous receipts for each year, with the amount of the respective branches of the customs, and the charges thereon."

The resolution was agreed to.

Mr. Poindexter, after a few prefatory remarks, offered the following resolution:

"*Resolved*, That the select committee to whom was referred a bill from the Senate 'further to amend the judicial system of the United States,' be instructed to inquire into the expediency of extending jurisdiction to the superior courts of the several Territories of the United States in which a district court has not been established, for the trial of treason, and other offences committed against the laws of the United States within the limits of the said Territories, and to empower said courts to pronounce such judgment or sentence on conviction of the offender or offenders, as the law directs."

The resolution was agreed to.

THE EMBARGO.

A motion was made by Mr. Chittenden that the House do now resolve itself into a Committee of the Whole on a resolution proposed by him, the tenth ultimo, for a repeal of the several acts laying an embargo on all ships and vessels in the ports and harbors of the United States; and the question being taken thereupon, it passed in the negative—yeas 49, nays 64, as follows:

Yeas—Evan Alexander, Burwell Bassett, Thomas Blount, John Boyle, John Campbell, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, John W. Eppes, Barent Gardenier, Edwin Gray, John Harris, William Helms, David Holmes, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, Nathaniel Macon, Robert Marion, William Milnor, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Timothy Pitkin, jr., Josiah Quincy, John Rhea of Tennessee, Jacob Richards, John Russell, James Sloan, Samuel Smith, Richard Stanford, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, Jabez Upham, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, and David R. Williams.

Nays—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, John Blake, jr., Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Daniel M. Durell, William Findley, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, Benjamin Howard, Reuben Humphreys, Richard M. Johnson, Thomas Kenan, John Love, William McCreery, Daniel Montgomery, jr., John Montgomery, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, Matthias Richards, Samuel Riker, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Joseph Story, Peter Swart, John Thompson, George M. Troup, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

POST ROADS.

Mr. Stanford moved the following resolution, observing that he thought it important at this particular juncture in our affairs, that some provision should be made to establish a communication by mail between the seat of the General and State Governments, as direct, certain, and expeditious as possible. This not being the case at present, his object was to instruct the proper committee to make the necessary inquiry:

"*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a mail stage from Fayetteville, in North Carolina, to Cheraw court-house, Camden, Columbia, Augusta, and Milledgeville, in Georgia, and that they report by bill or otherwise."

The resolution was agreed to.

REVENUE BONDS.

On motion of Mr. Newton, the House resolved itself into a Committee of the Whole, on the bill from the Senate supplemental to an act for extending the terms of credit on revenue bonds in certain cases.

This bill provides that the payment of all bonds given subsequent to the date of the act, to which this is a supplement, for duties on coffee, sugar, &c., imported into the United States, and for duties on other importations of the same articles, shall be suspended during the continuance of the embargo.

Mr. Newton proposed an amendment to the bill excepting from its scope those articles imported by *permission*, (conformably to the supplementary embargo law,) in payment for debts due from foreign countries.—Agreed to.

Mr. Newton proposed a new section to the bill for refunding such of the above duties as have already been paid into the Treasury, subject to repayment, however, on the same conditions as other duties of the same description.

Some desultory discussion took place on this amendment; and a motion was made that the Committee rise to give time for further consideration of the subject, and carried; and the bill was recommitted to the Committee of Commerce and Manufactures.

NAVIGATION LAWS.

Mr. Dana observed that he had a few days ago submitted a resolution for authorizing the owners of merchant vessels permitted to arm to associate for common defence; which had been referred to the Committee of the Whole, to whom was referred the motion to repeal the embargo. Mr. D. observed that vessels engaged in certain trades, as in the East India trade, were already permitted to arm. He wished that a general law should be passed authorizing the owners of such vessels to associate for common defence, to keep off pirates in time of peace, or belligerent assault in time of war. It was a resolution wholly unconnected with the repeal of the embargo; he therefore moved that the Committee of the Whole be discharged from the further consideration of the resolution.—Agreed to, and referred to Messrs. Dana, Quincy, McCreery, Mumford, and Say.

On motion, the House adjourned.

Wednesday, December 21.

Mr. Thomas presented to the House certain proceedings of the grand jury of the county of Randolph, in the Indiana Territory, at a circuit court held in and for the said county, in the month of November last, stating the hardships and inconveniences to which the persons composing the said grand jury, and other inhabitants of the county aforesaid, have been and are now subjected, in consequence of their connexion with the people situated in that part of the Territory eastward of the river Wabash, and praying such relief in the premises as to the wisdom of Congress shall seem meet.—Referred to the committee appointed, the thirteenth instant, to inquire into the expediency of dividing the Indiana Territory.

On motion of Mr. Barker,

Resolved, That the Committee of Commerce and Manufactures be directed to inquire whether any alteration or amendment of an act passed last session of Congress, entitled "An act for erecting a light-house on the south side of the island Sapelo, and for placing buoys and beacons in several places," be necessary, in order that said act may comport with the several petitions, on which said act was grounded, and report such an amendatory bill as may be necessary.

Mr. Story presented several petitions on different subjects. Amongst them was one from the inhabitants of Marblehead, praying further bounty on their fish. In introducing this petition, Mr. S. read a letter from the petitioners to him enclosing the petition. He moved the reference of the petition to the Committee of Ways and Means.—Agreed to.

Mr. D. R. Williams expressed his satisfaction at the letter just read; and observed that he was rejoiced to hear that their fish was not *all spoiled* with keeping, as had been so often predicted and asserted.

An engrossed bill to revive and continue the authority of the Commissioners of Kaskaskia, was read the third time, and passed.

An engrossed bill authorizing the proprietors of squares and lots in the City of Washington to have the same subdivided, and admitted to record, was read the third time, and passed.

An engrossed bill for the relief of certain persons therein mentioned was read the third time.

Resolved, That the said bill do pass, and that the title be, "An act for the relief of William White, and others."

CAPTAIN PIKE'S EXPEDITION.

On motion of Mr. J. Montgomery, the House resolved itself into a Committee of the Whole, on the bill making compensation to Z. M. Pike and his companions.

[The first section of this bill grants to Captain Pike and his companions a certain quantity of land. The second section allows them double pay during the time they were engaged in exploring the Western country.]

Mr. Stanford moved to strike out the first section of the bill; which was negatived—53 to 38.

The second section was stricken out—42 to 35.

A considerable debate took place on this bill, in which Messrs. Montgomery, Lyon, and Alexander, supported the bill; and Messrs. Macon, Durell, Stanford, and Tallmadge, opposed it.

The bill being gone through, was reported to the House.

Thursday, December 22.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto;" to which they desire the concurrence of this House.

Mr. Lewis, from the Committee for the District of Columbia, presented a bill authorizing a lottery to raise a sum of money for the purpose of finishing a church in the City of Washington, in the District of Columbia, for the use of the Episcopal Congregation in the said city; which was read twice, and committed to a Committee of the Whole on Friday next—48 to 35.

FOREIGN LICENSES.

Mr. Newton reported a bill "to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabilities, any citizen of the United States taking a license from any foreign Power to navigate the ocean, or to trade with any other foreign and independent Power."

[The first section of this bill provides that every ship or vessel which sailed for a foreign port or place on or before the —— day of —— 180 , shall, in case such ship or vessel shall not return to some port or place on or before the —— day of —— 1809, forfeit and lose all the benefits and privileges appertaining to a ship or vessel of the United States, &c.; provided, such vessel be not detained by capture or by an embargo, and when so detained shall return so soon as released.

The second section provides, that if any citizen of the United States shall solicit, take, accept, or use, or suffer any person acting under his or her

authority to solicit, take, accept, or use a license or permission procured from any foreign Power whatsoever for his or her vessel to pass to, or trade with, any foreign and independent Power, such person shall be considered as having committed a high offence; for the commission of which he or she shall forfeit the right and privilege of owning or navigating ever afterwards any vessel pursuant to the laws of the United States. This section to commence and be in operation from and after the —— day of —— 1809.]

The bill was twice read and referred to a Committee of the Whole.

Mr. GARDNER, after a few prefatory observations, in which he stated his wish to obtain a direct decision on the question of the embargo, and his anxiety and that of his constituents, that it should be repealed, and that the parting word from his neighbors was, "for God's sake take off the embargo before you return," proposed the following resolution:

Resolved, That the acts laying an embargo on all the ships and vessels within the ports and harbors of the United States, and the several acts supplementary thereto, be repealed on the first of February next.

The SPEAKER declared this motion to be out of order, as a similar motion was already before a Committee of the Whole.

ENFORCING THE EMBARGO.

A bill from the Senate for enforcing and making effectual the embargo laws, was read the first time.

It was then read the second time—ayes 79—and referred to a Committee of the Whole.

On the question, for what day it should be the order, Monday, the most distant day, was negatived—55 to 47.

To-morrow and Saturday were then named. [The question must, by the rules of the House, be taken on the most distant day.]

Mr. QUINCY called for the yeas and nays on the question whether it should be postponed till Saturday.

On this motion a short but warm discussion arose, in which Messrs. SMILIE, EPPES, and BACON, opposed the postponement, as it would serve no purpose but to delay enforcing the measure; and Messrs. GARDENIER, ELLIOT, QUINCY, LIVERMORE, SLOAN, LYON, MACON, and DANA, supported the postponement till Saturday, in order to give time for full consideration and examination of the bill. Messrs. GARDENIER, ELLIOT, QUINCY, LIVERMORE, LYON, and SLOAN, denounced the principles of the bill itself.

It was made the order of the day for Saturday in preference to Monday—61 to 58, as follows:

YEAS—Evan Alexander, Jos. Barker, John Blake, jr., John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, Isaiah L. Green, John Harris, William Helms, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, William Milnor, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Russell, James Sloan, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Joseph Story, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Isaac Wilbour, David R. Williams, and Nathan Wilson.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, Wm. Findley, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, John Heister, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, William McCreery, Daniel Montgomery, jr., John Montgomery, Thomas Moore, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Clement Storer, John Taylor, George M. Troup, Robert Whitehill, and Richard Winn.

SEAMEN AND MARINES.

On motion of Mr. NELSON, the House resolved itself into a Committee of the Whole on the bill authorizing the President of the United States to employ an additional number of seamen and marines. To the same Committee was referred the bill from the Senate to fit out all the frigates, &c.

Mr. NELSON stated that the President had already authority to fit out the vessels of the United States, but was authorized to employ but 1,425 seamen. It was now proposed to fit out 171 gunboats and ten small vessels of war, for which purpose 2,000 seamen and marines and proportionate midshipmen and corporals were wanted.

Mr. STORY moved that the present bill lie on the table in order to take up the bill from the Senate; which was negatived—53 to 38.

Mr. NEWTON moved to insert 4,440 seamen, wishing at this time to strengthen the Executive arm, to give authority to employ all our vessels; which was negatived—yeas 36.

It was agreed to insert 2,000—yeas 71.

The principle of the bill was supported by Messrs. VARNUM, NEWTON, NELSON, and STORY, and opposed by Messrs. MACON, HOLLAND, and D. R. WILLIAMS.

It was urged on the one hand that the nation should be placed in a complete state of defence, and all the active force of the nation be called into action; and on the other, in addition to the general arguments against a naval force, that the present embargo and non-intercourse system was at variance with a system of active preparation; that if one be adopted, the other is unnecessary.

The blank for the appropriation was filled with $1,649,895 98.

The Committee rose and reported the bill, and obtained leave to sit again on the bill from the Senate—yeas 61.

FRIDAY, December 23.

An engrossed bill authorizing the appointment and employment of an additional number of navy officers, seamen, and marines, was read the third time, and passed.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill authorizing the issuing of debentures in certain cases; which was read twice and committed to a Committee of the Whole on Tuesday next.

DOMESTIC SALT.

Mr. BURWELL offered the following resolution:

Resolved, That it is expedient to inquire into the extent to which the article of salt is or can be supplied from the salt establishments within the United States; and that effectual means be immediately taken to procure a supply equal to our consumption.

Mr. B. observed that it would be perceived by the House that the object which he had in view was to inquire into the capacity of the United States to produce an article of our consumption so essential that it could not be dispensed with. He believed it to be a fact that in some parts of the United States salt existed to a great extent; that in the Western country there were saline springs which produced better salt than that imported. In the State of New York, particularly, he had been informed that salt was sold at those salines at one dollar per. bbl. of five bushels. The reason why so much had been heretofore imported was, that vessels going to Liverpool with our heavy produce, brought back salt as ballast. He did not believe that the scarcity of this article, spoken of by the gentleman from Massachusetts (Mr. LIVERMORE,) the other day, did exist. The quantity in the country was found by the speculators far to exceed that spoken of; and the ascertaining this fact had arrested their operations—salt having fallen in Baltimore to 80 or 85 cents a bushel.

The resolution was adopted, and it was ordered that the committee to be appointed do consist of seven members.

A motion was made by Mr. GARDENIER, that the House do reconsider their vote, directing that the committee appointed, pursuant to the foregoing resolution, shall consist of seven members; and the question being taken thereupon, it was resolved in the affirmative.

A motion was then made by Mr. GARDENIER, that the committee on the said resolution do consist of seventeen members: and the question being put thereupon, it was resolved in the affirmative. And Mr. BURWELL, Mr. KIRKPATRICK, Mr. LIVERMORE, Mr. BLACKLEDGE, Mr. JACOB RICHARDS, Mr. MOSELY, Mr. LAMBERT, Mr. NICHOLAS R. MOORE, Mr. STORER, Mr. JEREMIAH MORROW, Mr. TROUP, Mr. LEMUEL J. ALSTON, Mr. HOWARD, Mr. SAMUEL SMITH, Mr. WHARTON, Mr. WILBOUR, and Mr. SHAW, were appointed a committee, pursuant thereto.

A motion was made by Mr. GARDNER, that the resolution proposed by Mr. LIVERMORE, on the seventeenth instant, for the purpose of granting permission to certain vessels to "clear out and depart from the ports and harbors of the United States for the purpose of importing salt," be referred to the committee last appointed: and the question being taken thereupon, it passed in the negative.

The said proposed resolution was then again read at the Clerk's table, and agreed to by the House, in the words following, to wit:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of allowing certain vessels to clear out and depart from the ports and harbors of the United States, for the purpose of importing salt; and that they report thereon by bill, or otherwise.

SEAMEN AND MARINES.

The House proceeded to consider the amendments reported on the twenty-second instant, from the Committee of the Whole, to the bill, entitled "An act authorizing the appointment and employment of an additional number of Navy officers, seamen, and marines," which lay on the table: Whereupon, the second amendment, to fill up the blank in the eighth line of the bill with the words, "thousand," was, on the question put thereupon, agreed to by the House—yeas 77, nays 29, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Joseph Barker, Burwell Bassett, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, John Culpeper, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John Heister, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, William Blackledge, John Blake, jr., John Campbell, Epaphroditus Champion, John Davenport jr., Josiah Deane, Barent Gardenier, Francis Gardner, Isaiah L. Green, William Helms, Richard Jackson, Robert Jenkins, Joseph Lewis, jun, Edward Lloyd, Nathaniel Macon, William Milnor, Jonathan O. Mosely, Thomas Newton, Timothy Pitkin, jun., Richard Stanford, William Stedman, Joseph

Story, Lewis B. Sturges, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Archibald Van Horn, and David R. Williams.

The other amendments reported from the Committee of the Whole being twice read, were, on the question severally put thereupon, agreed to by the House.

A new section to the bill was offered by Mr. STORY, authorizing the President to hire sundry vessels to enforce the embargo and revenue laws, and appropriating money for the purpose.

The SPEAKER said it could not be in order, as all bills having appropriations of money must previously be discussed in Committee of the Whole.

Mr. STORY withdrew the amendment, observing that on reflection, his object could be met by the bill on the subject from the Senate.

Mr. D. R. WILLIAMS made a few observations in opposition to the bill; stating that the idea of naval defence was ridiculous and futile. If gentlemen were for war, he would go with them with all his soul at the proper time; but did not like these half measures. If the House went on in this extravagant manner it would lead the country to ruin. Loans would have to be resorted to, and they would then be able to continue the embargo, which, if persisted in sternly, he believed would obtain for us better terms than could be had after the most triumphant war that gentlemen could imagine.

The yeas and nays were taken on engrossing the bill for a third reading, and carried—yeas 93, nays 17, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, Jas. Fisk, Meshack Franklin, Barent Gardenier, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Joseph Story, Lewis B. Sturges, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, James Holland, Richard Jackson, Joseph Lewis, jun., Nathaniel Macon, Josiah Masters, Jonathan O. Mosely, Timothy Pitkin, jr., Samuel Smith, Richard Stanford, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, and David R. Williams.

DANIEL COTTON.

The House resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of Daniel Cotton.

[This is a case in which the petitioner's vessel was chartered by the United States to go to Tunis. Whilst there, she was compelled to go on a voyage by the Bey, (under the authority of the existing treaty with the United States, which permits the Bey to use any merchant vessel of the United States paying therefor a *reasonable* compensation,) who paid a certain sum for the charter, but not the amount which the service was worth. The petitioner claims the balance from the United States, as he undertook the voyage without a knowledge of, or previous to, the existence of the treaty, and was compelled under that treaty to proceed on a voyage for the Bey, at a loss to himself.]

The report was, after considerable discussion, agreed to, 63 to 30. The Committee reported their agreement to the House, who concurred in it, and the resolution was referred to the Committee of Claims, with instructions to bring in a bill.

FOREIGN RELATIONS.

The following Message was received from the President of the United States:

To the House of Representatives of the United States:

According to the request of the House of Representatives, in their resolution of November eleventh, that copies should be laid before them of all acts, decrees, orders, and proclamations, affecting the commercial rights of neutral nations, issued or enacted by Great Britain and France, or any other belligerent Power, since the year one thousand seven hundred and ninety-one, and also of an act placing the commerce of America in English ports, upon the footing of the most favored nation, I now transmit them a report of the Secretary of State, of such of them as have been attainable in the Department of State, and are supposed to have entered into the views of the House of Representatives.

TH. JEFFERSON.

DECEMBER 23, 1808.

The Message, together with the report of the Secretary of State which accompanied the same, were read; the reading of the remainder of the documents accompanying the said Message was called for by Mr. RHEA, of Tennessee, and objection being made thereto by Mr. NEWTON, the question was taken, "Shall the residue of the said documents be now read?" and passed in the negative.

A motion was made by Mr. ALEXANDER, that the said Message and documents do lie on the table; and the question being put thereupon, it passed in the negative.

Ordered, That five thousand copies of the same be printed for the use of the members of this House.

On motion, the House adjourned.

MONDAY, December 26.

Mr. HOLMES, from the Committee of Claims, presented a bill for the relief of Daniel Cotton; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. THOMAS, from the committee appointed, on the fifteenth instant, "to inquire into the expediency of extending the right of suffrage in the Indiana Territory," presented a bill extending the right of suffrage in the Indiana Territory, and for other purposes; which was read twice, and committed to a Committee of the Whole on Thursday next.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the estimates of appropriations for the service of the year 1809; also, a statement of the receipts and expenditures of the United States, for the year ending the 30th of September, 1808; which were read and referred to the Committee of Ways and Means.

Mr. BARKER presented a representation of sundry inhabitants of Hanover, in the county of Plymouth, and State of Massachusetts, stating that the late appointment of Electors of President and Vice President of the United States, by the Legislature of that State, is irregular and unconstitutional, in consequence of the failure of the said Legislature to lay the same before the Governor of the State for his approbation, as the law thereof directs; and praying that the Congress of the United States, when the Electoral votes are opened and counted, will take the subject into their consideration, and prevent the establishment of so dangerous a precedent.—Ordered to lie on the table.

On motion of Mr. WHARTON,

Ordered, That the several memorials of the officers of the late Revolutionary army, presented to this House the first, seventh, and twelfth inst., be referred to Messrs. WHARTON, SEAVER, HELMS, J. MORROW, JOHN CAMPBELL, STANFORD, THOMAS MOORE, HEISTER, and WINN.

Mr. STORY offered the following resolution:

Resolved, That a committee be appointed to consider whether any, and, if any, what amendments are necessary to the act, entitled "An act for the punishment of certain crimes against the United States," with liberty to report by bill or otherwise.

Mr. STANFORD inquiring as to the precise object of this resolution,

Mr. STORY replied, that his object was merely to define certain crimes now loosely defined, and to provide a punishment for some crimes now committed with impunity.

The resolution was adopted—ayes 65.

Messrs. STORY, DANA, NELSON, TROUP, and J. G. JACKSON, form the committee.

Mr. G. W. CAMPBELL, from the Committee of Ways and Means, presented a bill to continue in force, for a further time, the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" which was read twice, and committed to a Committee of the whole House to-morrow.

ENFORCING THE EMBARGO.

The order of the day on the bill for enforcing and making more effectual the act laying the embargo, and the several acts supplementary thereto, being called for—

Mr. NEWTON observed that he wished to expedite the passage of the bill, and, as amendments were contemplated to it, he moved that the Committee of the Whole be discharged from the bill, and that it be referred to a select committee.

After a short discussion, the motion was negatived—ayes 34.

The House then resolved itself into a Committee of the Whole on the bill.

Mr. ELLIOT moved to strike out the first section, and spoke at length in support of the motion, when the Committee rose without having come to any decision—ayes 53.

Mr. FISK wished leave to sit again to be refused, in order to refer the bill to a select committee. But the Committee obtained leave to sit again—32 to 42.

ADDITIONAL MILITARY FORCE.

Mr. NELSON from the committee to whom was referred so much of the Message of the President of the United States as relates to the Military and Naval Establishments, and to whom was referred on the 17th inst. a resolution for placing the country in a more complete state of defence, submitted the following resolution, in part:

Resolved, That it is expedient immediately to raise, arm, and equip fifty thousand volunteers, to serve for the term of two years.

The following is annexed to the report:

"Will it not be advisable to propose raising fifty thousand volunteers, to be engaged for two years, and to serve, if required for actual service, any proportion of the term, not exceeding twelve months, within the term for which they shall be engaged! each non-commissioned officer, musician, and private, to receive ten dollars bounty, and each commissioned officer to receive one month's pay when appointed; and the whole to receive pay and rations when attending musters, as well as when in actual service; the non-commissioned officers, musicians, and privates, to be armed and equipped by the public, and to receive a uniform coat, vest, one pair of pantaloons, hat, two shirts, one pair of shoes, and a blanket; and if called into actual service for any term over three months, to receive other articles of clothing in proportion to the term of service, not exceeding in the whole (including those first received) what are allowed to the soldiers in the regular army for one year. The whole to be mustered and exercised in companies four days within the two first months after being engaged, and six days in each succeeding year, and to meet and encamp in their respective States and Territories, thirty days in each year; no man to be enlisted into any company, whose place of residence shall not be within a reasonable distance from the company parade to which he shall belong.

"A suitable number of Inspectors to be appointed by the President of the United States, to direct and inspect the exercise of the troops when encamped, and to give directions for the drilling and exercise of the companies, and to direct and receive all returns, muster and pay rolls, to be transmitted to an Adjutant and Inspector General (to be appointed by the President of

the United States) who shall give general instructions to all sub-Inspectors, for the drilling, exercise, discipline, and police of the volunteers when not in actual service. The officers to be appointed and commissioned by the President of the United States. The proposed corps to include as many of the volunteers who have offered their services under the act of 24th February, 1807, as shall engage in the volunteer army now proposed. The whole to consist of forty-four thousand infantry, three thousand artillery, and three thousand riflemen, to be organized into companies of one hundred each, including officers, regiments of one thousand, brigades of five thousand, and divisions of ten thousand each, to have the usual staff, including Surgeons and Mates; the Surgeons and Mates to attend the annual encampment and actual service, and to receive pay only for their actual services, at the same rate is allowed to Regimental Surgeons and Mates in the other corps of the Army:

		Pay per month.		
5	Major Generals -	$166	830	
10	Brigadier Generals -	104	1,040	
50	Colonels - -	75	3,750	
50	Lieutenant Colonels	60	3,000	
50	Majors - - -	50	2,500	
500	Captains - -	40	20,000	
500	Lieutenants - -	30	15,000	
500	Ensigns - -	20	10,000	
50	Surgeons - -	45	2,250	
50	Surgeons' Mates -	30	1,500	
				59,870
2,000	Sergeants - -	8	16,000	
2,000	Corporals - -	7	14,000	
1,000	Musicians - -	6	6,000	
43,500	Privates - - -	5	217,500	
				253,500
	Per month -			313,370
2½ months' pay for the commissioned officers - - - - - -				$134,707 50
1½ months' pay for the non-commissioned officers, musicians, and privates - -				316,875 00
1½ months' subsistence of the commissioned officers, at 20 cents per ration -				35,587 50
1½ months' subsistence of the non-commissioned officers, &c., at 15 cents per ration - - - - - - -				272,812 50
Clothing for non-commissioned officers, &c., at $44 each - - - -				679,000 00
Bounty for non-commissioned officers, at $10 each - - - - - -				485,000 00
Tents and contingent expenses per year -				160,000 00
				2,083,982 50
The first year's expense will be - -				2,100,000 00
The second year will be - - -				800,000 00
				2,900,000 00

Referred to a Committee of the Whole.

NON-INTERCOURSE.

Mr. G. W. Campbell, from the Committee on our Foreign Relations, to whom was referred the resolution lately passed by this House on the subject, reported a bill to interdict commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes.—Twice read, and referred to a Committee of the Whole on Wednesday next.

[The following are the prominent features of the non-intercourse bill:

Exclusion from the harbors and waters of the United States and Territories thereof, of all public ships and vessels belonging to Great Britain or France, or to any other belligerent Power or Powers having in force orders, decrees, edicts, or laws, violating the lawful commerce or neutral rights of the United States, excepting vessels forced in by stress of weather, pursuit of an enemy, such as are charged with despatches, or business from their Governments, or packets having no cargo nor merchandise on board. The President is authorized to expel by force all such vessels as contravene this regulation. A penalty not exceeding ten thousand dollars, nor less than one hundred dollars, and imprisonment for not less than one month, and not more than one year, upon all persons affording assistance to vessels entering contrary to the law, excepting in case of piloting them out of the jurisdiction of the United States. Authority to seize and condemn, after a certain day, all vessels and their cargoes, bearing the French or English flag, or owned in whole or in part by any citizen or subject of either, which may enter the ports, &c., of the United States, &c., excepting only vessels expressly hired to convey despatches, such as put in through distress, or are chased in by an enemy. Prohibits, after a certain day, the importation of any goods or merchandise, the produce or manufacture of Great Britain or France, or their dependencies, either directly or indirectly, from any country whatever. The forfeiture and payment of treble value by the owners of any goods so prohibited, attempted to be introduced into the United States on board of any ship, vessel, boat, raft, or carriage, which shall receive prohibited goods on board, knowing them to be such, and the owner and master mulcted in treble the value of the articles. Provision that, if Great Britain or France revoke or modify their orders or decrees so as to render our commerce sufficiently safe, in the opinion of the President of the United States, of which revocation or modification, he shall give public notice by proclamation, the operation of this act and of the embargo acts, shall, so far as relates to the nations in amity with her, and having no orders, decrees, or edicts in force, violating the lawful commerce and neutral rights of the United States, forthwith cease and determine; without, however, any remission of previous fines and forfeitures. Vessels bound to any foreign port or place with which intercourse shall have been thus restored, are to give bond and approved security, in six times the value of such vessel and cargo, not to proceed to any foreign port, nor trade with any country other than those with which commercial intercourse shall have been thus permitted. The President vested with power to extend the provisions of the bill to any nations having in force edicts, &c., such as those of Great Britain and France; and all the penalties, &c., of the bill, made applicable to them.]

Tuesday, December 27.

Mr. Dana, from the committee to whom was referred, on the twenty-third ultimo, the petition of Edward Beaumont, presented a bill for the relief of Edward Beaumont; which was read twice, and referred to the Committee of the Whole to-morrow.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting the annual statement of the district tonnage of the United States, on the 31st of December, 1807; which were read, and ordered to lie on the table.

The Speaker also laid before the House another letter from the Secretary of the Treasury, transmitting a statement of goods, wares, and merchandise, exported from the United States, nominally, during one year prior to the first of October, 1808, but in fact, during the three last months of the year 1807; which were read, and ordered to lie on the table.

The letter is as follows:

Treasury Department, *Dec.* 26, 1808.

Sir: I have the honor to transmit herewith a statement of goods, wares, and merchandise, exported from the United States nominally during the year prior to the first day of October, 1808; but, in fact, during the three last months of the year 1807, subsequent exportations having been prevented by the embargo.

The goods, wares, and merchandise of domestic growth or manufacture, included in the statements, are estimated at - - - - - - -	$9,433,546
And those of foreign growth and manufacture at - - - - - - -	12,997,414
Amounting together to - - - -	22,430,960

The articles of foreign growth or manufacture may be arranged under the following heads, viz:

Produce of the sea - - -			$822,000
" " forest - - -			1,930,000
" " agriculture - -			6,716,000
" " manufactures -			344,000
Uncertain - - - - -			112,000
			9,924,000

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

The Hon. the Speaker *of the House of Reps.*

The bill for the continuation of the Mediterranian fund having been reported, Mr. Tallmadge moved to postpone the bill for a fortnight.

Messrs. Tallmadge and Lyon supported the motion, objecting to laying this duty in this form, as the object for which it was intended, by the title of the bill, no longer required this revenue. No objection was made to laying the duty, but to laying it in this form, distinct from the general increase of duties proposed by the Secretary of the Treasury; which subject would no doubt soon be reported on by the Committee of Ways and Means.

Messrs. Campbell and Alston supported the bill, and opposed the motion for postponement, on the ground that a postponement would be equivalent to a rejection, the present law expiring on the first of next month, and that this fund was well understood in the nation under the name of the Mediterranean Fund, and there was therefore no reason to change the name. It seemed to be similar to an objection to a man, however estimable, because his name did not please the ear.

The motion for postponement was negatived, ayes 16; and the bill ordered to a third reading to-day.

PAYMENT OF WITNESSES.

Mr. John G. Jackson, from the committee to whom was referred, on the twenty-first ultimo, the petition of Return Jonathan Meigs, and others, made a report thereon; which was read, and referred to a Committee of the whole House on Monday next.

The report is as follows:

The petitioners state that they attended the court of the United States for the District of Virginia, as witnesses, in behalf of the United States, on the trial of Aaron Burr for treason, in the Summer of the year 1807; that they travelled from great and remote distances; and that their attendance had been uncommonly long; that an absence from their homes at that busy season of the year had been severely injurious to them; and that the allowance made by law was insufficient to defray the necessary expenses; and therefore they pray an additional compensation

In ordinary cases, the committee would be unwilling to sanction any innovation upon the general law relating to the compensation of witnesses attending the courts of the United States; but, in every point of view, whether as it regards the crimes charged upon the accused, the extensive theatre which they embraced, the number of witnesses drawn from the most remote parts of the United States, or the length of time consumed in the trial, as well as the manner of conducting it, this was a most extraordinary one.

In ordinary cases the witnesses live in the vicinity of the courts, and are not exposed to heavy sacrifices in attending them. In this case they are compelled to travel great distances, varying from four hundred to one thousand three hundred miles. The committee conceive that the principle is universally correct, that the personal services of no man shall be compulsorily required without a reasonable compensation given to him; and, therefore, that these witnesses are entitled to it. They have been, however, not only compelled to give their attendance without such compensation, but to expend their own money likewise.

In looking over the laws giving compensation to witnesses, the committee find that those who attended the impeachment of Judge Chase before the Senate were allowed three dollars per diem for their attendance, and twelve-and-a-half cents a mile for travelling to the place of trial, and the same for returning. If a departure from the rule fixing the allowance to witnesses was proper in that case, it is equally so in this, as the distance which the witnesses on the trial of Burr had to travel was further, their attendance was longer, and the expenses incurred by them necessarily as great. The *venire* summoned from the county of Wood, a distance of 400 miles from Richmond, have also asked a further compensation, and the committee see no just cause of discrimination between them and the witnesses. They therefore recommend that a further compensation be allowed to the witnesses and *venire men* who

attended the trial of Aaron Burr for treason before the Circuit Court of the United States for the Virginia district; and, in pursuance of that recommendation, they ask leave to report a bill for that purpose.

Mr. Jackson, from the committee, then presented a bill giving a further compensation to the witnesses and venire who attended the trial of Aaron Burr before the Circuit Court of the United States for the District of Virginia; which was read twice, and committed to a Committee of the Whole on Monday next.

ENFORCING THE EMBARGO.

Mr. Jackson moved that the Committee of the Whole be discharged from further consideration of the bill for enforcing the embargo, with a view to refer it to a select committee, to make amendments wished by its friends, which could not be made without difficulty in Committee of the Whole.

Mr. Sloan proceeded to speak upon the merits of the bill, when he was called to order. Mr. S. said, that if he was not in order, he would make a motion which would supersede the one now under consideration, and entitle him to proceed. He then made a motion to postpone the subject indefinitely, which, although questioned by several members, was declared by the Speaker to be in order, and Mr. Sloan proceeded, as follows:

Mr. Speaker: I have observed, that since printers have become so numerous in these United States, they are obliged to adopt new modes of publication, in order to obtain ready sale for their innumerable productions. They frequently hand out long histories in short numbers—for instance, a history that in one volume would cost five dollars, has much readier sale in twenty numbers, at twenty-five cents apiece. And, as appears from the progress already made, it is pretty well ascertained that the embargo will occupy the greatest part, if not the whole time, of the present session. If a majority of the House is determined to keep the people in their present state of suffering and suspense until Spring, the least they can do during the dreary scenes of Winter, will be to continue diverting them with eloquent speeches, of all sorts and sizes, from fifteen minutes to four hours long. But, knowing that mankind is fond of variety, and believing that my worthy friends in the majority will have the hardest task they ever undertook to keep the people of these United States in a tolerable good humor, with the embargo on their backs, till next March; although I do not perfectly agree with them, I cannot give them up as lost, but, like a faithful friend, mean to stand by them to the last gasp, striving, if possible, to get them out of the horrible pit into which they have fallen, before they perish.

Under these impressions, Mr. Speaker, I shall proceed to offer my second number, which I thought of doing several days ago, but delayed it in consequence of a declaration of my worthy friend from Virginia, (Mr. Newton,) which rejoiced my heart more than all the eloquent speeches I have heard this session: it was, that we (the minority) knew that the embargo was never intended as a permanent measure; and that they (the majority) did not intend to keep it on long, or words to that effect. In this declaration, from so high authority, I reposed full faith and confidence, and suspended offering my second number, in hopes of seeing the wish nearest my heart of all sublunary objects accomplished, in the removal of the greatest evil which in my opinion these United States ever experienced since the Revolutionary war—I mean the embargo. But I have hitherto waited in vain, and must now beg the favor of my worthy friend, the next time he obliges the House with hearing the sound of his pleasing voice—which I, for one, shall hear with great delight—to release my mind from suspense, by giving us the proper definition of the word *experiment*, and also what he meant by the embargo not remaining long; whether he meant a few days, or a few weeks, months, or years. For, permit me to remind my friend, that if, instead of being in his present honorable station, receiving six dollars per day, as he did previous to the embargo, and still does, he was placed in the situation of thousands at this time in these United States, whose sole dependence for support is their daily labor, and who, by that measure, having been deprived of employment twelve months, now at the commencement of Winter look forward with the dreadful apprehension, that ere the return of vernal bloom, their tender children may ask bread, and they have none to give, he would consider one day longer than now he does a month.

Mr. Speaker, I have committed the purport of this second number to writing, for two reasons—first, to lessen the labor of our stenographers, and secondly, because, after having so long followed those learned and eloquent members that have preceded me, in their sublime and almost superhuman flights of imagination, it would be difficult, if not impossible, for them instantly to descend to my humble sphere, without, in their rapid descent, falling far below it. Hence, I was apprehensive they would dress my bantling in coarser clothes than it merits; and every member on this floor knows that it is needless. Yet, I am not disposed to read it; for I have long believed that both religious and political sermons lose much of their force by reading. But, before I proceed further, I will publish my text, which, although very short, (consisting of but one word,) conveys a dreadful sound to many thousands of suffering American citizens—"EMBARGO." I will not repeat it; it has become very familiar, and I fear very pleasing, to many who receive six dollars per day for sitting a few hours in this splendid Hall *talking* about it; but, very different is the situation of many of our constituents *suffering* under it.

Before I left home I expected that one of the first pages of our journal would have contained a declaration, that this word was proved by experience to be uncanonical, and therefore ordered to be expunged from our political bible; but, alas! how grievously am I disappointed in beholding so great a number of our learned Rabbins, introducing Latin quotations, and perhaps Greek and Hebrew, for I understand none of

them, and adducing testimony brought from every habitable part of the globe to prove that it is not barely canonical, but that on our strict obedience depends our political salvation, and that all who differ in opinion are dangerous heretics. It will be remembered that my surprise and disappointment was so great, that I remained silent longer than Job's three friends did in days of yore. We read that, in consequence of the grievous sufferings of their friend, they sat silent and astonished seven days. I sat silent much longer, until compelled by an imperious sense of duty to plead the cause of the poor and needy, and exert my feeble powers in behalf of the sinking liberties of my country.

Mr. Speaker, last session my principal text was, Removal of the seat of Government, and for the same reason that embargo is at this time; because it was then, in my opinion, the greatest evil these United States suffered—the Embargo is now. And as every wise and just Legislature will first attend to the greatest grievances of their constituents, I must for the present suspend my exertions to remove the seat of Government, and apply them to the embargo. In doing which, I shall not impeach the motives of those who ingrafted into our Constitution the plan of a district ten miles square for a seat of Government; nor of those who carried that plan into execution; nor yet (God forbid! for I was one) of those who passed our first three embargo laws. I will admit that their intentions were good—that their motives were pure. But what has been the consequence? Why experience, that only sure (may I not say infallible?) teacher, has incontestably proved that the principle upon which the ten miles square is founded, is totally repugnant to republicanism and the liberties of a free and independent nation; that whatever its nominal title may be, however artfully disguised, its essence and effect is monarchical, spreading its baneful influence from Georgia to Maine. So has the embargo. They are twin sisters, in proportion to their power, and equally destructive to the lasting interest, peace, and prosperity of these United States, with this difference only, that the latter is more rapid in her movements, and consequently her baneful effects at present are more sensibly felt. Well, now let me ask what must be done? Must these pernicious plans be supported and continued perpetually, because they originated in pure motives? Does not common sense, reason, and justice answer no? The consummate folly of weak and vicious Legislatures has ever appeared most obvious, in the continuation and rigid enforcement of their own oppressive laws; and, *vice versa*, the wisdom of virtuous Legislatures, in testing their laws by experience, and speedily repealing all that were oppressive to the people.

Mr. Speaker, I shall now ask the indulgence of the House in some observations upon arguments of members who have preceded me, in favor of the continuation of the embargo laws; in doing which I shall not pursue them through the deserts of Arabia, or the scorching sands of Lybia; I will not travel with them, either by land or water, from the torrid to the frigid zone; I will not, after exploring the known, make a futile attempt to explore the unknown parts of the universe, in quest of evidence to support our cause. No; that would be a tacit acknowledgment that it was as bad as theirs, insupportable by domestic, plain, and self-evident facts.

The principal object we now have in view is, to use a military phrase, to bring the artillery of divers members that have preceded me to bear upon themselves, which—if it should bear hard, let them remember that they have provoked the attack—and to show that some of the evidence adduced by them is conclusive against the continuance of the embargo laws.

The first I shall notice is my friend from Tennessee, (Mr. Rhea,) who spoke next after me, soon after the commencement of this discussion. He observed that no distinction ought to be made between rich and poor. I perfectly agree with him, and only ask him to reduce his excellent Christian precepts to practice; that while he sits in this splendid hall, receiving six dollars per day, secure from the piercing blasts of winter, far removed from the hapless habitation of want, where poverty dwells, or even from the apprehension of the plaintive cries of a bosom friend asking bread for her tender offspring where there is none to give, he will abstain from making or continuing in force laws not barely oppressing the poor, but totally depriving them of their wonted means of subsistence—yea, cutting off from them their whole staff and stay of bread.

The next observations I shall notice, fell from my young friend from Virginia, (Mr. Gholson,) who is certainly entitled to the thanks of this House, and of the United States generally, but more particularly of the merchants, seamen, and fishermen of the Middle and Eastern States. These classes he has laid under so heavy a debt of gratitude, that I fear they never will be able fully to discharge it. I mean his great condescension in setting his prolific genius to work to devise some means to relieve them from their present suffering situation. Being a great friend to home manufactures, I gave particular attention to this truly patriotic and benevolent plan: which was, if I understood correctly, to turn the merchants and their clerks, with their powdered heads, out of the counting-houses, and set them to ploughing, and the seamen and fishermen to spinning cotton—a plan worthy of the author! But I hope my friend will consider it a token of my respect, if I present for his consideration a reversal of his plan; that is, to order the seamen (whose hands have been used to handling the tarry ropes) to the plough, and the other trifling powder-headed gentry to spinning cotton, as more congenial to their former habits. One more token of my respect, and then I will for the present take leave of my friend from Virginia: that is, that notwithstanding his plan is well adapted to the meridian of a Government where slavery and unconditional submission is the order of the day, he will do well to consider before he pro-

ceeds to enforce his plan, whether it will suit the meridian of a Government whose citizens have not been theoretically, but practically free, and long inured to employment of their own choice.

Mr. Speaker, I shall now proceed to some observations of my friend from Georgia, (Mr. TROUP.) but must ask his pardon for not placing him first in the list of the three first mighty men, that have appeared advocates for the embargo; to this station he is, in my opinion, justly entitled, for the clear, positive, and unequivocal manner in which he informed the members of this House *from whom* they had nothing to fear, and *to whom* they might safely look up for example. This information, I trust, will be duly appreciated, kept in remembrance, and so strictly attended to, as to prevent the necessity of a repetition. The language, if I understood him correctly, was to the following effect: that we had nothing to fear from the anti-embargo men, they were too base and insignificant; that he would not appeal to the anti-embargo New Englanders, the merest Shylocks, the depraved of the cities, and the ignorant of the country, who would sacrifice the honor and independence of the nation for a little trade in codfish and potash, but to the people of Virginia, too honorable to have been corrupted, and too enlightened to be duped.

Mr. Speaker, as this gentleman has been indulged with liberty to inform the members of this House, and through them the people of the United States generally, who he would not appeal to for example, and who he would, I ask the same indulgence, with this exception only: I ask not liberty to make invidious distinctions between States; I ask not liberty to mention the names of any of them. No; this has never been my practice on this floor, and I trust never will. None more than myself regret being laid under the imperious necessity, in support of justice, liberty, and the inherent rights of man, to say that I will never appeal or look up for example to any State government, under which 346,968 human souls are kept in a state of perpetual bondage, and used as an article of traffic, in common with a bale of goods or a beast of the field. I will never hold up as an example any Government, where the choicest of all earthly blessings, "liberty," is extended only to a chosen few, and withheld from the many; where a great majority of those *called* freemen, who are compelled in case of war to risk their lives in support of the property of the rich, are denied a voice in making the law that so compels them, or any others. I will never look up for a model of political justice to a State boasting of twenty-two Representatives on this floor, who, nevertheless, at a late general contested election, probably took between twenty and twenty-five thousand votes: when on a similar occasion a State sending but six Representatives, took upwards of thirty-two thousand. And, finally, until I am convinced that a radical and complete reformation has taken place, (which God in mercy grant may soon be the case,) I will never look for example to a State which the wise and enlightened author of the Notes on Virginia described as follows: "In this State alone, did 'there exist so little virtue, that fear was to be 'fixed in the hearts of the people, and to become 'the motive of their exertions, and the principle 'of their government."

No, Mr. Speaker, were I to hold up as an example any State government, it should be one where every man who pays tax for the support of Government, and is called upon when necessary to risk his life in defence thereof, has an equal voice in deciding who shall make the laws that govern him; where the power of the poor man to guard his ewe lamb, is equal to that of the rich over his flock; to a State who, having but eighteen Representatives on this floor, can nevertheless boast of 111,000 free and independent voters. Not to a State where, if the Declaration of Independence is read at all, it is regarded only as a pleasant song, as sounding brass, or a tinkling cymbal; but to a State where this heaven-born language is reduced to practice: "We hold these truths to be self-evident, that God hath created all men equal, that he hath endowed them with certain unalienable rights, among which are life, liberty, and the pursuit of happiness." Ever bearing in mind, that not the *hearers* but the *doers* of the law are to be justified thereby.

I will now, with permission of the House, take some notice of my friend from Maryland, (Mr. NELSON,) who, since the commencement of this discussion, has twice favored us with the sound of his *feeble* voice. He will pardon my freedom in applying to him the appellation of *friend*, after charging me with the capital crime of having turned my coat—that is to say, I have not always voted with the majority. But really, Mr. Speaker, if I had turned my coat as often as that gentleman has changed his plan of operation, within these three or four years past, it would, by this time, make a very ragged appearance. I am told he is a militia officer. God grant that I may never be a soldier under him; for, at this time of life, he would soon harass me to death with marching and countermarching. But, he has exultingly reprobated the Quakers' principle. This I consider an act of supererogation. For my own part, I am free to acknowledge, that, since my acquaintance with his *honor*, I have never discovered anything, either in his precepts or practice, that would subject him to the charge of even the least tincture of Quakerism, or of any other religious society. I hope, in thus candidly exonerating my friend from the horrid sin of Quakerism, I may not be considered as derogating in the least degree from his religion, his piety, or his virtue. He may, for anything that I know, have as large a store as any man, and keep it concealed, from the purest motives—that is, a fear that it might be contaminated by exposure to the vulgar throng. But I will for the present drop religious topics, and observe, that the first time my attention was arrested by my friend's *feeble* voice, his sentiments at first were perfectly in unison with my own. If I understood him correctly, he informed the House that he had heard so many wrong things he could no longer keep silence, and reprobated

irritating language, or pointed allusions to particular members. A blessed state of mind, indeed! I will not hurt his feelings by styling this Quaker doctrine, but give it the name of good Christian doctrine, tending to promote love and harmony. But, alas! how short were the pleasing sensations I at first enjoyed. For, lo! those mild accents, and that *harmonious* voice, I was hearing with so great delight, suddenly became rough and sonorous, his visage fierce, and aspect alarming to weak nerves; and in a tone similar (as I suppose) to that in which he gives orders to his soldiers, when on duty, proposed adopting Sangrado's plan, of *blood letting!* Thus, suddenly transported from the temple of reason to the field of Mars, I was at first much alarmed, not knowing how soon the plan was to be carried into execution upon us poor anti-embargo men; but after coolly reflecting upon the subject a few minutes, my fears abated, and a comfortable hope arose, that my friend really meant no more than to cool the political fever, by taking some blood from the left arm, which I feel disposed to acquiesce in, provided he will step forward, strip up his sleeve, and undergo the first operation.

But, Mr. Speaker, the next time he rose, his sympathetic conciliatory plans were all laid aside—the maladies of the body politic were all to be healed by antipathy—the embargo, like tartar emetic, although producing very disagreeable sensations, would eventually have a beneficial effect—his martial, heroic spirit rose to such a height, that in case a person only gave him a gentle pat on the cheek, he, without any further ceremony, was to be knocked down. Wonderful change, thought I, how great the contrast between this plan, and that of running away over the mountains! Hail Columbia happy land! the valor of whose patriotic sons increases in proportion to the magnitude of impending danger! I congratulate my country on the return of this heroic spirit, believing that if the embargo is continued twelve months longer, it will require at least one hundred thousand such heroes to enforce it. One observation more, which I hope that gentleman will consider as a token of real friendship. Although I am no military man, I have long made human nature my study; the result of which is, that the frozen regions of the North, the residence of many of those renegade anti-embargo men, would not agree with his constitution; but that a mild and Southern climate is more congenial to his health, and will probably be a means of continuing his valiant acts and useful labors longer in his native soil.

Mr. Speaker, notwithstanding the risk of a declaration that Sloanism is worse than Burrism; that I am influenced by Pickering's spirit, and like the Tories of '76, ought to be put out of the protection of the law; I shall briefly notice some observations of another member from Maryland (Mr. J. MONTGOMERY) whom I have the honor to sit near. I say briefly, because my general rule is to notice observations of members according to their merits. I will not say that that member's voice is as strong and terrible as Kouli Kahn's; nor will I say, that if he had the same power, he would be as cruel and tyrannical a despot; but I will say, that if I understand his language, it is calculated for the meridian of slavery, and better adapted to the command of a Persian army, or to coerce a horde of slaves, groaning under an inhuman, tyrannical master, than to unite together, as a band of brothers, engaged in supporting the sacred cause of liberty the free and independent citizens of these United States. I will at present take my leave of him, with a caution that he will probably at this time reject and despise; but which eventually he will regret he had not timely attended to. "Let him who thinks he stands strong, take heed lest he fall!"

Mr. Speaker, I shall next proceed to notice some remarks made by my worthy friend from Vermont, (Mr. FISK.) who sits near me; not for the purpose of opposing them generally—to the greater part I could freely say Amen—but in the construction he puts upon my text *embargo*, we widely differ. He tells us he cares not how much England and France suffer—agreed; but my opinion is, that where England and France suffer one grain by our embargo, we suffer a pound. Yea, I am fully convinced, that the British Ministry has so high an opinion of the benefit of our embargo to that nation, that, if paying the whole expense of our General Government for seven years would purchase a continuance thereof for that time, they would gladly do it. But my friend has adduced a very appropriate metaphor to convey his ideas; he says the embargo is used by one party to ride the other down—granted. The plan has succeeded and progressed with a rapidity unparalleled in any former contest between political parties. This old embargo horse, instead of becoming more gentle and safe to his riders, grows daily more refractory and dangerous; at the last starting place he threw many of his riders, and was within a hair breadth of throwing many more; whereas, the young anti-embargo colt becomes more docile, increases rapidly in strength and beauty, is very sure footed, and promises fair to be a very safe and pleasant hack. In fact, from the present prospect, there is no reason to doubt but that this old embargo horse will, at the next starting place, throw a majority of his riders, and the young anti-embargo colt take another set of horsemen, and carry them safely on their political journey. I will now first take leave of my worthy young friend for the present, earnestly entreating him to depend no longer upon his activity or the excellence of his horsemanship, but instantly dismount that horrid old embargo horse, which alone can prevent a dangerous fall, and mount the beautiful anti-embargo colt, where he may ride safely.

Mr. Speaker, the esteem I ever had since my acquaintance with my two worthy friends from South Carolina, (Messrs. D. R. WILLIAMS and TAYLOR.) who have spoken upon this subject, induces me at this time to make honorable mention of them; my reason for mentioning them jointly is, that a fact stated by one of them, has, in my

opinion, completely removed all the objections of the other.

Some of the observations of my friend who spoke last, I shall first notice: As a proof that the embargo has not injured us, he alleges that there has yet been but few failures—granted. Neither does one winter produce many deaths in a farmer's stock of cattle; but, were the great Author of Nature to reverse its usual course, (as we do by continuing the embargo,) and join two winters together, many would die, and those that survived be reduced to extreme poverty.

Again, if I understood him correctly, he told us he wanted to be *spiteful* to France and England. Why, really, Mr. Speaker, I could look with complaisance upon my worthy friend returning spite for spite upon those oppressive nations, until he had paid them their principal and compound interest, if he could do it in such a manner as not to spite and injure the citizens of these United States most. The residue of my friend's observations, stripped of the flowers of eloquence, in which he presented to the House a pledge of his patriotism, and which, when necessary, I have no doubt he will completely reduce to practice, went to show that, in case the embargo was raised, as far as respected those ports not included in the British Orders of Council, or French decrees, it would only open for our produce so contracted a market, as would be worse than our present situation. To this opinion I will oppose the positive declaration of his colleague, (Mr. WILLIAMS,) that if we open a trade to a spot no larger than the floor of this Hall, it would, in fact, be opening to all the world, by which means the whole of our produce would find a market. Mr. Speaker, in this opinion I perfectly agree with my worthy friend—I rejoiced to hear him make it, hoping it will soon be realized—believing it would be more beneficial to the citizens of these United States to have their surplus produce conveyed through such a channel, even if some went to their enemies, to those who are in want, and their money, and such produce as we want, returned, than to have it collected together and burned.

As my friend has adduced a very appropriate text from the Old Testament, I will call his attention to two from the New, which, when he has considered collectively, I hope will change his opinion into perfect unison with my own. The first is a command to feed our enemies, and the second to do unto others as we would they should do unto us. When my worthy friend (whose honest integrity I have ever highly approved) shall have duly considered and determined to reduce those excellent precepts to practice, then I shall be happy to join with him in his pious determination—that let others do what they may, we, and our houses, will serve the Lord!

Mr. Speaker, two declarations made by the chairman of the Committee of Foreign Relations (Mr. G. W. CAMPBELL) remain yet to be noticed. My reason for deferring them to the last, was my doubts (which still remain) of being able to express my sentiments with that moderation and charity of which that gentleman's language appeared to me totally void, but which I consider as essentially necessary, to promote harmony amongst members, and support the dignity of the House.

The first declaration was, "that the opposers of 'the embargo had no other object in view, but to 'cover the shameful submission they wished to 'reduce the United States to." The second, that "their language means to put the present domi-'nant party down and put us in, and then we will 'tell you what we will do;" and then proceeds to answer for them, "that they would do as they had once done before—draw the cords tighter."

Mr. Speaker, that gentleman's conduct, although supported by the irresistible and overwhelming majority with which, at present, he acts, shall not divest my bosom of that charity for him, which his language evinces he has not for me. I wish to cherish that most excellent of Christian virtues, *charity*, which beareth all things, and which hopeth all things. I hope and trust that it will ever abound in my bosom as at present; hoping that the day is not far distant when my friend from Tennessee, and the party, in whose front rank he now stands, will be convinced that not our plan, but their's is calculated to bring these United States into a state of shameful submission. Yes, Mr. Speaker, I trust I shall prove, before I sit down, that it has already done it.

To the second charge, that "the language of the anti-embargo men is, put us in power;" I answer, they need not even ask it. Let that gentleman and his party persist in their present plan; let them pass additional laws to enforce more rigorously the present; let them raise troops ostensibly for the purpose of repelling invading foes; but as no such foes can be found, and as the people would complain of the expense of an army doing nothing, let their artillery be turned against those wretched, renegade, base anti-embargo men, who durst to complain of their suffering under those laws; let every bay and inlet, from one end to the other of our extensive coast, be safely guarded by gunboats and revenue cutters; let a cordon of regular troops encircle round these United States, and the territories thereof, in such manner that not a single evasion of those celebrated patriotic embargo laws could possibly take place; let this plan be completely carried into execution and continued twelve months. In that case, unless a law should be passed, depriving the anti-embargo men of their right of suffrage, (which would be as just and Constitutional as the one under consideration,) I undertake, as positively as that gentleman, to predict, that if any of the present overwhelming majority should retain a seat in the twelfth Congress, they would be reduced to a more trivial and insignificant minority than that upon which, from his high and exalted seat, he now looks down! Yes, Mr. Speaker, I repeat it, the present minority need not ask to be put in power; the electors would need no further stimulus than the pressure of

those laws to bring them to a poll. They would look as anxiously for the election day as the poor slaves under the Jewish law did for the year of Jubilee.

I shall ask the indulgence of the House but a few minutes longer to some general remarks on the effect of the embargo laws, and of the bill under consideration, to which I am impelled by the sacred impulse of my conscience—by my firm attachment to our present Administration, and by my duty, as a Representative of the people, to preserve inviolably their rights—to say, God in his infinite mercy grant it may never be passed into a law. No, Mr. Speaker, in my opinion we have passed too many laws on this subject already. Passing the resolutions reported by our Committee on Foreign Relations, has, in the few days that have elapsed, transferred an immense sum of money from the industrious yeomanry of the country to idle speculators and stock jobbers of both town and country. Is not this fact known to many members on this floor? Do they not know that domestic produce has fallen one-half, and even at that reduced price there is little or no sale for it; and that foreign articles have risen in the same proportion; and that in consequence thereof, in various parts of the Union, where, until the commencement of this session, the embargo, if not approved, was borne with patience, the people now cry with one voice, "we can bear 'it no longer—give us anything that the wisdom 'of Congress can devise rather than the em-'bargo!" But I have frequently been asked, if these be facts, why do not the people petition? The reason is obvious. The Federalists have petioned; what has been the answer? Why they are enemies to our Administration, who wish to involve us in war with France, and an alliance with England. Nay, farther, is not every member on this floor, who has exercised his own judgment as a free and independent Representative of the people, if in but a single instance that judgment runs counter to the will of the majority, denounced as an apostate?

Is this question asked with a view of exciting jealousy, or deceiving the people? No, Mr. Speaker, to undeceive them, to lay before them a true statement of the conduct of their Representatives. I speak experimentally. I speak to a free and enlightened people, who want nothing but true information to induce them to act right. Is there a man in these United States, that, in proportion to his station, has spent more time and money to bring about a change in favor of democracy, and when brought about to support it, than I have? If there be, let him come forward and show it. Have I deviated from those principles? If there be a citizen in these United States that durst to make such a charge, let him come forward and substantiate it. But what has been the consequence? Last session I opposed the famous, or rather infamous court martial bill—a bill that I now suppose was intended as the first chapter of a statute book, in which the present bill under consideration was to have been the second. That horrid attempt to lay the foundation of a military despotism failed; and I pray God the second may also.

But my observations upon that bill were, by some who occupy the front rank in the majority, held up to public scorn, as being my maiden Federal speech. Why really, Mr. Speaker, if the motives of the Federalists are as pure as those which dictated that speech, I do not consider the charge dishonorable. I also brought forward a resolution, for the purpose of removing the greatest evil under which the people of these United States groaned—to erase from our statute books, a principle repugnant to republicanism and self-government—to destroy in its infancy a young vulture, whose nature is such that it cannot be nourished and raised to maturity upon any other food but the vitals of liberty—I mean the removal of the Seat of Government. This conduct, by another member in the front rank, was publicly, on the floor of the House, declared to be worse than the conduct of the arch traitor, Burr. That is to say, that barely an attempt to prevent the rights and liberties of the people from being swallowed up and totally absorbed in the vortex of this masked monarchy, contrary to the will of the chosen few, who either do at present, or hope in future, to live upon its munificence—is a crime of deeper die, than the highest grade in our statute book, high treason.

Mr. Speaker, sensible that I have trespassed long upon the indulgence of the Committee, I will hasten to a conclusion, first observing, that I have no language capable of fully expressing my regret and sorrow, in beholding Congress at this time endeavoring, when the session is nearly half gone, to pass a law to enforce more rigorously divers laws already passed—the futility of which is, in my opinion, self evident; the loss and burden they inflict upon the people, intolerable—their present and future effect, if continued, more injurious to the interest, peace, and happiness of these United States, than any that have been passed since we were an independent nation. Upon the bill now under consideration, I shall at present only say, that if it is passed into a law—to prevent unnecessary expense in printing, and to render it more easily understood, especially by the poor, ignorant, despicable, renegade, anti-embargo men, upon whom it is intended to operate—I hope it will be curtailed, as it is evident the whole purport could be comprised in a few words to the following effect: "That whereas we repose full faith and confidence in the wisdom, integrity, and ability of the President of the United States, to enforce the embargo laws; and also to issue from time to time, and to enforce such edicts as he shall think proper, we hereby authorize and empower him so to do." But I will not yet despair; I will yet fondly hope, that although this bill has passed one branch of the Legislature by a great majority, that the immediate representatives of the people will never sanction a bill, compared with which the alien and sedition laws were humane and just. But should my hopes be blasted in a majority of this House giving it their sanction, I will still hope that the wise and justly cele-

brated author of the Notes on Virginia will not, in advanced age, (as Solomon did in the days of yore) tarnish and cast a gloomy shade over that wisdom that shone so conspicuous in his meridian days, by placing his signature to such a bill. With that respect due to his superior station, I must request the favor of him first to look over his *Notes*, and particularly attend to the following sentence: "Our interest is to throw open the 'doors of commerce, and to knock off all its shackles, giving perfect freedom to all persons, for the 'vent of whatever they may choose to bring into 'our ports, and asking the same in theirs. The 'actual habits of our countrymen attach them to 'commerce. They will exercise it for them-'selves." I will read it again, because it is a language worthy of the Chief Magistrate of a great and independent nation—it is worthy of the attention of the Representatives of a great agricultural and commercial people. We have been frequently called upon for a plan—here is the principle of a plan in a few words, the best adapted to the real interest of this nation, that ever has or ever can be introduced. Would, to God, that instead of prowling over non-intercourse resolutions and straining every nerve to devise means to enforce laws, which twelve months' experience has incontestably proved are not only inadequate to the end proposed, but, by their long continuance, become ruinous to the interest, peace, and happiness of the nation, we had adopted the foregoing principle of our worthy Chief Magistrate, the production of his penetrating genius, when at meridian height, agreeably to the resolution offered by my worthy friend from New York, (Mr. Mumford.)

But we are told, that adopting this plan would be submission to England—the reverse is the fact; it would disonerate us from the degraded state of submission in which we now stand. I say degraded state, which, with permission of the House, I will prove, I trust, to the satisfaction and full conviction of every impartial mind. It is incontestably proved by reference to official documents now before the public. First, we have demanded the restoration of our impressed seamen, and to coerce Great Britain into a compliance with that, demand we passed a non-importation law; secondly we rejected a treaty, as I have understood, because that demand was not fully complied with. And thirdly, in consequence of the horrid outrage committed upon the frigate Chesapeake, our President having issued a proclamation prohibiting all British armed vessels from entering our ports, refused to revoke that proclamation, until reparation was made, or at least until a plan was proposed by the British Envoy, which should be considered adequate to the purpose. Let these facts be contrasted with the offer made by our President (which was laid before this House in his public Message) to the British Cabinet, that upon the simple revocation of their Orders of Council our embargo should be raised—so far as respected that nation. No condition annexed of returning our seamen, or making reparation for the outrage upon the Chesapeake! Can any rational being, can any man possessed of common sense, and not perfectly blinded by partiality, misunderstand this language? No, Mr. Speaker, it is too plain—so plain, that he who runs may read, and clearly understand. What is its genuine meaning? Why, when stripped of its deceptive covering, and exposed in its real form, it will read thus: "We are convinced, by woful experience, that our coercive plans are futile—that they rebound back upon our citizens, with redoubled force; that therefore, we are now willing, if you will be graciously pleased to grant us liberty to renew our former trade with you, even under all the embarrassments of which we have so long, and so loudly complained; the murder of Pierce, and the outrage upon our national ship to the contrary notwithstanding."

I will not long detain the House with commenting upon the answer returned, but briefly observe, that it was less insulting, and more humane and sympathising than might have been expected from that haughty nation. The purport may be comprised in a few words, to this effect: "We are sorry for the suffering of your citizens, produced by your own imprudent conduct; and would gladly relieve them, were it in our power, consistent with our national honor and dignity; but as that cannot be done, we must, for the present, leave you to devise means for yourselves, to release your citizens from their present increasing distress and truly deplorable situation." The foregoing is not a picture too highly colored. Would to God, for the sake of my suffering country, that it was. But alas! it is life—it is the original—it is a statement of facts contained in official documents gone out to the public, and therefore can neither be controverted nor recalled.

Mr. Speaker, in this deplorable situation, let me earnestly call the attention of the immediate Representatives of the people, to a serious and all important question; a question on which, in my opinion, not only the present, but future union, peace, strength, and prosperity of these United States must depend. Shall the laws passed last session, that have become so distressing to the people, not only be continued, but more rigorously enforced? Will our Government continue the futile attempt, to compel a great number of our hardy, brave, and patriotic citizens to abandon habits which our worthy President (in the quotation before adduced) admits to be impossible? I will repeat it; "the actual habits of our countrymen attach them to commerce. They will exercise it for themselves." Must those brave citizens be driven to acts of despair or desperation, either to abandon their country, or to evade laws under which they are unable to live? Must their petitions and memorials be treated as the product of enemies to Government, as British partisans, and discontented insignificant malcontents, who deserve no further notice than to have their clamors silenced by the strong arm of Government, and their pretended wants supplied by the application of sharp pointed bayonets? I pray the majority of this House seriously to consider the inevitable consequence of persisting in this line of conduct. I pray them not barely to pause and reflect upon past conduct, but immediately reduce to practice the excellent

precept of our President, contained in his first inaugural speech, "hasten to retrace your steps;" and instead of passing additional laws which will require an additional military force to execute them, and consequently add to the number of those whose affections are already alienated from our Government, repeal those already passed, so far at least as to open trade to all Powers and places that have heretofore traded with us upon terms of reciprocity. This would evince to the world, that we are really a just nation, desirous of doing unto all men, as we would they should do unto us. This would not only release us from our present degraded situation as it respects our external relations, but what is infinitely more consequential, it would restore confidence in our Government, and peace and harmony among our citizens. Let the merchants of our Middle and Northern States, whose harbors will ere long be bound in Winter's icy chains, enjoy by anticipation the pleasing prospect of beholding, as soon as they are dissolved, their canvass again spread to waft their merchandise to a foreign port, hoping to receive in return their usual profits. Let the farmers also, through the dreary scenes of Winter, enjoy the cheering hope, that upon the return of Sol's prolific rays, calling from earth's fertile womb her innumerable productions, he may find a usual market for his produce on hand, and a pleasing stimulus to renew cultivation of the earth to produce more. Thus would joy and gladness of heart again sparkle in each eye, and sit smiling on every countenance. Thus would the inestimable blessings of peace be heightened into raptures of delight. Love and harmony would pervade the great mass of our citizens, and unite them together in such a manner that in case any of the tyrants of the old world should invade our peaceful and happy land, they would soon repent of their temerity—they would soon be convinced that the conquest of a free and united people, governed by just and equitable laws of their own making, was a chimera of the brain that can never be realized. Such a line of conduct would add more to the strength and prosperity of these United States than ten thousand celebrated, patriotic, flaming blood-letting speeches delivered on this floor.

Is there an American citizen, possessed of common sense, who is not desirous to see so beneficial and lovely a scene realized? Is there a Representative of the people, who would not cheerfully give his vote to produce (may I not say to restore?) such a rational millenium, in our once happy land? And, *vice versa*, is there a true-hearted American citizen, whose blood is not chilled in his veins, in reflecting upon the horrible prospect of military mercenaries, with the point of the bayonet, enforcing laws contrary to the habits of a great number of our citizens, and ruinous to the interest, peace and happiness of a great majority of the people of these United States! Let me indulge the cheering hope, that notwithstanding the present prospect, there never will be found a majority of the immediate Representatives of the people, who will vote in favor of continuing and enforcing such oppressve laws.

Mr. Speaker, having in my plain and unlearned manner discharged that duty which I owe to my constituents, in opposing a system which I consider not only injurious to their interests, but aiming a deadly blow at the union, interest, peace, and independence of that beloved country that gave me birth; before I sit down, I have another duty to discharge; first, to return a tribute of humble gratitude to the Great Preserver of men, who, having led and fed me all my life long, still graciously continues to me, at this advanced age, bodily and mental powers to discharge my duty as above-mentioned—and, secondly, to acknowledge the patient indulgence of this House. And as it will probably be among the last public acts that will evince to the world, the continuation and prevalence, of one of those powerful ruling passions that has long pervaded my breast—I mean love of my country—I embrace this opportunity to declare, that instead of declining in proportion to my bodily powers, it increases with the increase of years, and becomes more animated and vigorous in proportion to the number of days now behind me, as far beyond my reach as those before the flood. Hence I conclude it will continue to increase, the few remaining days that may be allotted to me in a state of mutability; and that, when the number of my days are fulfilled, and this feeble frame engaged in that war from which there is no discharge, this ruling passion will remain strong in death—and the language of a celebrated poet addressing his friends, may with propriety be adopted:

"In that dread moment, as in all the past,
'O! save my country, Heaven!' may be my last."

After Mr. Sloan had concluded, the question was taken on his motion, and rejected.

Some discussion ensued upon the motion of Mr. J. G. Jackson to discharge the Committee.

Mr. Nelson made some observations in reply to the remarks against the bill, supporting the reference to a select committee. He denied the assertions that it contained anything so hostile to the liberties of the people and so subversive of their rights, as had been represented. It was his belief that no power would be given by the contemplated law, even in its present form, to executive officers greater than our revenue laws at this time invest them with. Gentlemen would find (he said) upon investigation, that collectors then possessed powers as extensive as any delegated by the bill. One thing, Mr. N. could not help admiring. The astonishing change which had been produced in gentlemen who opposed the bill; and who were formerly not so conspicuous for their anxiety and watchfulness over the rights of the people. The embargo had been said to produce miracles, and after this, he should firmly believe the assertion. When he heard certain members so loud in defence of the people's privileges, he began to feel more faith in the accounts of miracles which had been handed down to us. The embargo having wrought this wonderful change would be attended with at least one good effect.

He believed he should be a better Christian for it all the days of his life.

M. TALLMADGE said, that on *ordinary* occasions he was disposed to send bills to select committees for amendment; but on *extraordinary* occasions, he preferred discussing them fully in the House, and if they were found to be dangerous in principle, and very defective in detail, their further progress ought to be arrested. Of this description and character did he deem the bill now under debate. Sir, said Mr. T., if I rightly understand the provisions of this bill, I shall declare that it is fraught with more danger to the liberties and privileges of the people of this country, than any other that has yet been offered to the consideration of Congress.

When I first read the report of the Secretary of the Treasury, to which the bill owes its origin, I did then think it to be an *exotic plant*, not congenial to our American soil, and fondly hoped and believed that neither branch of the Legislature would sanction it. To my astonishment, Mr. Speaker, the Senate have sent to us a bill, into which are ingrafted all the dangerous principles contained in that report. On this general view of the subject (or if I deem it incorrect to go minutely in all the details of the bill, on the present motion) I have no hesitation in pronouncing the bill so radically and vitally defective, both in principle and in all its provisions, that it is utterly incapable of amendment. It is therefore wholly useless to send it to a select committee. Let it be discussed here openly before the nation, and if advocates can be found hardy enough to avow such sentiments, publicly, let them appear, that we may meet them fairly on this floor. It is time that the people of this country should know who the men are that have not only palsied their lawful exertions by a perpetual embargo, but would now jeopardize their dearest rights, to enforce that destructive measure. However much I may respect the other co-ordinate branch of the Government, I cannot consent from motives of delicacy or complaisance to barter away any of the rights of our constituents. This House cannot have forgotten the late attack upon the liberties of the people of this country, by a bill sent from that honorable body, suspending the writ of *habeas corpus*. And how was it treated by the immediate Representatives of the people? You well remember, sir, that it was rejected in this House, almost by unanimous consent. I view the bill now under consideration infinitely more dangerous to the liberties of this country, than the bill to which I have referred. If this bill should unfortunately pass into a law, then will this country literally be subjected to the will of a *dictator*; yes, sir, and one of the worst stamp, for he will be a *military dictator*.

Although I ought not to be surprised that the friends of the embargo should wish by all legal and constitutional means to enforce the observance of those laws, yet I stand perfectly astonished when I see gentlemen ready to surrender the rights of the citizen, to the enforcement of an obnoxious law. At a single stroke you prostrate the civil power and make it completely subservient to military force.

Who can read the provisions of this most extraordinary bill, and notice the heavy and excessive bonds required in the second section, where the owner, consignee, or factor, with the master of every ship or vessel, must give bonds to the amount of six times the amount of the vessel and her cargo, that the embargo laws shall not be violated, without plainly discovering that even the coasting trade must thereby be almost annihilated. I have no belief that one of those captains who usually carry on the coasting trade, could procure sureties for such a bond; more especially when it is provided by the seventh section of the same bill, that neither capture, distress, nor any other accident whatever, (the loss of the vessel at sea excepted,) shall be a plea to mitigate the penalties of such bond, but the whole, with all costs, must be paid by the defendant.

If we turn to the ninth and tenth sections of this bill, we shall find that no man's store or even house is secure from search by our custom-house officers. If the collector of any port chooses to suspect that you have specie in your desk, intended for exportation, by this law you authorize him to make forcible entry and to carry it off; nor can you obtain it again until bond with sufficient sureties shall be given for the landing and delivery of the same, in some place in the United States, whence, in the opinion of the collector, there shall be no danger of a removal. All this high-handed proceeding is to be justified by secret orders to be issued from the President of the United States, whose irresponsible mandates the collectors are bound to obey.

But the most alarming power contained in this bill, and which fills my mind with horror and dismay, is found in the eleventh section. By the provisions of this section, the President of the United States is armed with all the land or naval forces, as well as all the militia of the United States, to enforce the due observance of the embargo laws, which tremendous power he may delegate to whomsoever he pleases. I call on gentlemen solemnly to pause before they place such unlimited power in the hands of the Executive, for the purpose of enforcing a favorite measure. I can scarcely believe my own senses when I read that section of the bill which is now before me, and consider it as having already received the sanction of one branch of the Government, and as sent to this House for concurrence. I really have not words to express my regret and astonishment that such a principle should ever have been sanctioned by either branch of this Government. With the gentleman from New York, (Mr. GARDENIER,) I can say that I think the bill deserves a public execution, and I wish to give it one openly, in the face of day, before the nation. I want no select committee to inform my judgment on this head, for I am fully persuaded, that however nice the cookery may be made, that dish can never suit my palate. I know full well the meaning and extent of this tremendous power, and never will I consent to array the military and naval

force of my country against my fellow-citizens, before the milder measures of legal process shall have been tried and found ineffectual. When a country has become base enough to submit to such measures, it proves one of two things incontrovertibly to my mind,—either that their rulers, through ignorance or wickedness, enact laws so offensive to the people that they cannot be executed in the ordinary manner; or that the people themselves have become indifferent to their condition and ripe for ruin. This I am persuaded is not the condition of the people of the United States, for whom, I humbly trust, Heaven has in store many and peculiar blessings.

I should mourn over the departed glory of my country (to achieve whose independence my feeble but faithful services were afforded) if I could believe the great body of its citizens were willing to submit to such base degradation. It is enough to submit to the despotism of the sword when it shall be forced upon us; for Heaven's sake let us not court it by a public law.

The gentleman from Maryland (Mr. NELSON) has asserted on this floor, that every provision in this bill is recognised by the revenue laws of the United States, and then very sneeringly adds, that those laws were passed by federal men, under a federal administration. I admit that the revenue system was enacted by federal men, and the wisdom of those measures is fully sanctioned by a long period of unexampled prosperity and commercial importance. But I utterly deny that the present bill is supported, or its principles recognised by the revenue laws of the United States. In my judgment there may be found more anti-republican tendencies in one section of this bill, than can be selected from the whole revenue system of the United States, consisting of one hundred and twelve sections. I call upon any gentleman upon this floor to point out such principles in our revenue laws, as those contained in the few sections I have already quoted. Sir, they are not to be found there, to disgrace the pages of that system, nor to dishonor its authors.

The same gentleman affects to believe that the days for working miracles have again returned, inasmuch as federal men have now become the friends of the people. That class of men with whom I have the honor to act, never trumpeted their own praise in every corner of the streets, nor claimed, like some others, the exclusive privilege of being the friends of the people. They have uniformly pursued that system of policy which their great head, the immortal WASHINGTON, taught, and they left their principles and conduct to be tested by the result. When the blessings of the embargo shall be a little more fully experienced, and especially if the bill now on your table should be enacted into a law, with all its detestable features about it, the people must probably begin to feel the burden that will oppress them, and most probably will determine without the aid of miracles, who has been the authors of their accumulated distresses.

The gentleman from Maryland, (Mr. NELSON) with peculiar felicity, seems to apply the terms *rascals* and *scoundrels*, to all the violators of his favorite system, the embargo. I am truly sorry that such harsh and unworthy expressions should be uttered within these walls; for really I cannot suppose it to be consonant with the decorum of debate. But it may be well to remind that gentleman that the most honorable men in the community, to whom I know he would be unwilling to apply those odious epithets, may, by the provisions of this bill, very innocently incur the penalties attached to the violation of the embargo.

Mr. Speaker, I have no hesitation in declaring to this honorable House, that I am seriously alarmed for the present condition of our country, and am very solemnly impressed with the aspect of our public affairs. While I fully believe that a great portion of our constituents view the embargo system as impolitic and ruinous in the extreme, my apprehensions for the future peace and tranquillity of this country are greatly awakened when I perceive such a pertinacious adherence to such high-handed measures as are contained in this bill. A general dislike to any law, by the great mass of the people for whose benefit it perports to be enacted, is always good ground for its repeal; and gentlemen will do well to consider how far such severe privation can be carried before open opposition is excited.

I trust I shall never attempt an alteration of measures by exciting the fears of this honorable House; but if the warning voice of our illustriours founder cautioned his countrymen against every attempt to sever the union of these States, I pray gentlemen to remember that a system of so much severity, pursued with such unyielding perseverance, may produce evils which every friend to his country would deprecate. With such solemn apprehensions upon my mind, I am prepared to vote directly upon the merits of the bill now before us, and shall rejoice to see it consigned to political perdition.

Mr. MASTERS said this bill carried the stamp of despotism and degradation; it was wide from the path prescribed by duty and honor, and was the offspring of unsettled theory and unthinking policy.

If great and unusual exertions are necessary in the present crisis, can you, by your present measures, disappoint the hopes of the belligerents? You unnerve your own strength, and you will cripple the country at no distant period. The real foundation of the strength of a nation is spirit, pride, and resources; you disarm their courage, distract their efforts, and destroy their resources. Your measures are not guided by the great maxims of sound policy.

The gentleman from North Carolina (Mr. ALSTON) considers the bill not only beneficial, but perfect; and says no member has presumed to point out any defect in form or principle, even in a single section of the bill.

I beg the indulgence of the House, while I attempt to point out some of the dangerous principles and consequences contained in this bill. By the latter part of the second section, your collector may grant permission to ship any cargo to any port within the United States, or may refuse

such permission, at his discretion. In fact, you give to your collector the power of regulating your coasting trade. I will pass over the third, fourth and fifth sections, which are far from being unexceptionable. The sixth section relates principally to the registering and sale of ships and vessels, by which you compel the seller to give enormous heavy bonds, you unwarrantably interfere in the contracts of your citizens, and compel the seller to become *particeps criminis* with a third person over whom he has no control. In short you prohibit the owners of this sort of property from making any transfer, however fair and honest.

In the seventh section, when a bond shall be given to the United States, that the cargo of a vessel shall be relanded in some port of the United States, the parties to such bond shall produce a certificate, from the proper officer, of the relanding of the same in two and four months. On failure whereof the bond shall be put in suit, and expressly direct judgment shall be issued against the defendant, unless there is proof of the relanding or loss of the vessel at sea. Sir, you interfere with the business of your fair judiciary, and in the same clause you forbid the capture or distress of the vessel, or any other accident whatever, (however true and without fraud,) to be admitted as evidence in defence of the suit.

The very essence of private right is attacked and defeated. You dissolve all established principles, and will overthrow the fabric of society, which time has just reared. You derange the order of things, and produce confusion and destruction, with the derangement of property. An overbearing and unthinking majority has often produced confusion and calamity in Government; this confusion and calamity will be increased by this law. These dangers may be obviated, by adopting a course of measures suited to our national circumstances and particular energies of the country.

The ninth section of the bill authorizes the collectors to take into their custody specie, or any article of domestic growth, produce, or manufacture, deposited in unusual places or in unusual quantities, or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently on their way towards the territories of a foreign nation or the vicinity thereof.

Sir, the extraordinary and wanton grant of illegal power in this section, and other parts of the bill, admits of no justification, nor even palliation. The farmers, by mere ignorance and inadvertency, may be subjected to the severest penalties for things done in common, ordinary and necessary management of their business. Your collectors are to be armed with unlimited power to search from the closet of the farmer to his wagon or cart. Every man's house is liable to be suspected, visited, and ransacked; as well in the night as day time, and your citizens intimidated by a troop of armed men and custom-house officers; without inquiring into the truth; without information upon oath, and without a warrant. Yes, sir, it is left to the mere arbitrary discretion of a custom-house officer, to search for, and seize the property of your citizens.

If your power was not bounded by the Constitution, you ought to be bounded by your moderation and equity, and by the trust reposed in you by society, and by the laws of God and nature. You take from your citizens that great privilege which they had under the law, that their houses cannot be searched without a warrant and information upon oath. This is not an abstract or speculative notion, but has been the mode of practice in all times and in all nations that ever saw the light of liberty, or lived under the empire of laws. When you extend the vexatious power of your officers to invade private property, the irresistible law of self-defence operates against you; and the fundamental principles of the Constitution shake under your hands. I deem this bill to be an intolerable oppression, affecting private property, and destructive of the peace and quiet of private families.

In all Governments power is liable to be abused. When a Legislature grants power to individuals that power ought to be limited and defined. This bill gives arbitrary and despotic power, uncontradicted and without limitation.

In every Government resides some where absolute and unlimited authority; in this country that authority is vested in the people. In extreme cases it is justifiable for the people collectively to interfere. This is the greatest and most perilous responsibility in conscience and in duty to all who act or advise in it; pregnant as it is with danger and confusion, you must not harass and use your citizens with arbitrary power and arbitrary force, unknown in a free Government. Bad laws must be maintained by force—good laws need no force.

It is strange to reflect that in a country which has liberty for its principle, arbitrary and absolute power should be granted to your collectors over the persons and property of your citizens.

If a collector takes a dislike, however whimsical, however unjust, to an innocent citizen, he may reduce him to the state of a dependent slave, before he can obtain redress.

It is said the printed bill in my hands is different from the bill before the House. There is no material alteration in form or substance.

The tenth section of the bill declares that the powers given to the collectors shall be exercised in conformity to such general rules and instructions as the President may prescribe; and that the collectors shall not be liable to any action, suit, or judgment on account of any detention, or for having taken any articles into their custody.

I cannot but be most seriously alarmed at a stretch of power, so wide, so unnecessary, and so unconstitutional. This clause gives a power dangerous in its consequences, which ought not to be trusted with any man, whatsoever. The shackles of restriction are always necessary to confine the hands of tyranny, and shorten the strides of ambition. You indemnify your collector for any wrong or injury he may commit; he will triumph over a citizen whom he has made a victim, and

stalk about in open and insolent defiance of all the fundamental principles of liberty and law.

I believe it will be admitted that one of the great ends of our sitting here, is to take care not only of the liberties and properties of the people in general, but of every man, and every set of men. You have the means in your hands, by the natural operation of the Government, of preventing abuses, and securing a due attention to the interests and feelings of every part of the community. This bill will expose us to the confusion and misery of contending divisions, and produce debility in the nation, and insure success in favor of your opponents. Mankind in general are the same; act from the same principles, and fall by the same temptations. It is to be regretted, that the reason of man is not always sufficient for the government of man; she often gives her empire to the passions and to party, and renders it difficult to foresee the evils sufficiently timely to prevent the mischief.

The 11th section of this bill gives power to the President, or such other person as he shall empower for that purpose, to enforce your embargo laws by military power. There are but two ways of fixing the badge of slavery upon a free people; by military force or by encroachments on their liberty; both are contemplated in this bill. For God's sake, is this the doctrine of the Constitution? Is this doctrine that Americans will swallow? Can it go down? If we fall under the shade of this power, this law; that sleep may end in death. I implore gentlemen, if they have any affection for their country, or regard for the liberties of their posterity, not to attempt to govern a free people by a military force. The thought of putting it to trial strikes me with horror. Let us not drive our citizens to despair—the despair of a brave people turns to courage, that courage once exerted your Government is at an end. Sir, our all is at stake; our Constitution is giving way. The principles and maxims of this bill are more adapted to Turkish government than the American Republic, and it will stand upon record as an evidence to future generations of our weakness and folly.

It is with the most deliberate and solemn conviction I oppose this bill. When any dangerous innovation threatens us, it is the duty of every American to be vigilant and check it wherever it is found. Of the Constitution we cannot be too sparing or abstemious, it has cost much, and it is worth more than it has cost, and without it everything else will be of little value. Slices of the Constitution are the last things I will give away; nor will I maim it to gratify any party, or to justify any measure. I will keep it strait laced. This is the contest between liberty and tyranny, between oppression and free government.

If you progress in your present system, it will be necessary to have a standing army to protect you against the resentment of the people, who will see the nature and true cause of the distemper. If you stand in your senses, you cannot, as members of civil society, wish this bill to pass. You will do well to reflect what consequences may result from it to yourselves and the nation. I do verily believe, from the true temper of the American people, this bill will rouse the spirit of the nation. Are you aware how general opposition will become, which, from the times in which we stand, it is neither wise nor honest to provoke? Indeed I am amazed that these considerations make no impression on this House. It is not common sense, but downright madness to follow your wild principles.

How long are the American people to continue the passive victims of the embargo? When the nation begins more seriously to feel the evils, their national revenge will be sharpened by the smart; and if you pass this bill, you will bring down their vengeance against you, which will hurl you down into that detestable and abominable place where the worm never dies and the fire is not quenched.

We are waging war against the public opinion. The voice of the nation is against the proceedings of Government, and this system is not the system of the people. Your measures are not warranted by the sound maxims of government, nor the examples drawn from the history of the world. You, by an extension of power, urge the punishment of offences, of which you yourselves have been the tempters.

This state of things cannot long remain as they are. Commercial jealousy is roused and will increase; and without an united interest in commerce, in a commercial country, our political confederacy will receive many shocks and a separation of interest will threaten a separation of connexion, endanger the Union, and shake the Constitution to its centre; which every honest American must shudder to look at.

The last Congress rejected a bill to suspend the *habeas corpus*, as an infringement on public liberty, with marked contempt. How much more necessary is it to show your decided disapprobation of this extraordinary bill? Let it not be sheltered behind a secret committee.

The motion was further opposed by Messrs. Gardner, Gardenier, Lyon, and Quincy; and supported by Messrs. Bacon, Jackson, Alston, Macon, Southard, and Eppes.

Mr. Randolph said that he should be for the reference to a select committee, but thought it best to give them some instructions as to what amendments were to be made—this would be best done by first debating the provisions of the bill in the House.

The question on discharging the Committee from the consideration of the bill, was taken and carried—yeas 70.

The bill was then referred to a select committee, consisting of Mr. John G. Jackson, Mr. Macon, Mr. Findley, Mr. Story, Mr. Southard, Mr. Bibb, and Mr. Howard.

Wednesday, December 28.

Mr. Love, from the committee appointed, the eighth instant, on the petition of John Strother, and to whom were also referred, at sundry times,

other petitions upon the subject of claims against the United States which are barred by the statutes of limitation; presented a bill making provision for the discharge of certain unsatisfied claims against the United States; which was read twice, and committed to a Committee of the Whole on Friday next.

An engrossed bill to continue in force, for a further time, the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill for the relief of Augustin Serry. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill supplementary to the act of last session for extending the terms of credit on revenue bonds. The amendments reported by the Committee of Commerce and Manufactures having been agreed to, the Committee rose and reported the bill, which was ordered to be read a third time to day; and it was accordingly read a third time and passed.

Mr. John G. Jackson, from the committee to whom was yesterday referred the bill sent from the Senate, entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto," made a report thereon; which was read, and, together with the said bill, committed to a Committee of the Whole on Friday next—37 to 36.

ANDREW J. VILLARD.

The bill from the Senate for the relief of A. J. Villard went through a Committee of the Whole, and was ordered to be engrossed for a third reading. The bill was then read a third time. [It contemplates the giving to Mr. Villard one thousand dollars for an improvement in the mode of mounting cannon.]

Messrs. Tallmadge, Pitkin, Quincy, Ely, Alexander, and Rhea, opposed the bill, on the ground that the invention would be inoperative in practice; and even if not, that it was invented by a person in the employ of the United States, whose duty it was to make all the improvement he could. Messrs. Newton, Taylor, and Smilie, supported the bill, on the ground that it was extremely useful, was now actually in practice, and would be advantageous to the service of the United States.

The bill was passed—yeas 55, nays 44, as follows:

Yeas—Samuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, John Culpeper, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Thomas Gholson, jun., Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, Daniel Ilsley, John G. Jackson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Love, Robert Marion, William McCreery, John Montgomery, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, Jacob Richards, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Richard Stanford, John Taylor, John Thompson, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, William Blackledge, William A. Burwell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Davenport, jun., James Elliot, William Ely, Meshack Franklin, Barent Gardenier, Francis Gardner, Charles Goldsborough, Edwin Gray, Richard Jackson, Robert Jenkins, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, Daniel Montgomery, jun., Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, jun., John Pugh, Josiah Quincy, John Rhea of Tennessee, Matthias Richards, Samuel Riker, James Sloan, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Robert Whitehill, and Nathan Wilson.

A motion was made by Mr. Quincy to amend the title of the said bill to read in the words following, to wit: "An act to reward Andrew Joseph Villard for certain extra services and expenses:" And on the question that the title be so amended? it passed in the negative—yeas 25, nays 59, as follows:

Yeas—Evan Alexander, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, Barent Gardenier, Francis Gardner, Charles Goldsborough, Richard Jackson, Robert Jenkins, James Kelly, Edward St. Loe Livermore, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Rhea of Tennessee, Samuel Smith, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Jabez Upham, and Philip Van Cortlandt.

Nays—Lemuel J. Alston, Willis Alston, jun., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Walter Jones, Thomas Kenan, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Thomas Moore, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, John Porter, John Pugh, Jacob Richards, Matthias Richards, Samuel Riker, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, James I. Van Alen, Isaac Wilbour, and Alexander Wilson.

Resolved, That the title be, "An act for the relief of Andrew Joseph Villard."

Thursday, December 29.

An engrossed bill for the relief of Augustin Serry was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing the President to employ an additional number of revenue cutters," with several amendments; to which they desire the concurrence of this House.

On motion of Mr. Blount,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of continuing in force the act, entitled "An act for the establishment of trading-houses with the Indian tribes;" and also to inquire whether any, and, if any, what, amendment is necessary to the same.

FOREIGN LICENSES.

The House resolved itself into a Committee of the Whole on the bill for compelling vessels now abroad to return home, and for preventing any citizen of the United States from taking from a foreign Power a license to trade, &c.

Various amendments were made to the detail of the bill. The second section, which is intended to prevent vessels from navigating under a foreign license, was amended, on motion of Mr. Story, so as to make the act a misdemeanor, to declare the vessel so offending to be forfeited, and to impose a penalty on the offender of a sum not exceeding $10,000. The 1st of October was fixed as the day after which this section should take effect.

The Committee then rose and reported the bill as amended.

The House having taken up the report of the Committee of the Whole—

Mr. Bacon wished the amendments to be negatived, as he thought the first section of the bill (for compelling vessels now out to return home) looked to a continuance of the embargo for a longer period than he wished to contemplate. The second section he was decidedly in favor of.

Mr. Newton said, if the House were in favor of the first section, he thought they should not be prevented from voting for it because it might be made use of for electioneering purposes.

Mr. Durell declared himself opposed to the whole bill. If it was a part of a system, he wished to see the whole of it. It appeared to him to be the sauce introduced before the meat.

Mr. Story coincided with his colleague (Mr. Bacon) in wishing the first section to be stricken out. He feared that an impression would be made on the public mind that it was intended to continue the embargo as long as the time allowed by this section (eighteen months) for vessels beyond the Cape of Good Hope to return. He was not prepared at this moment to say what vote he might give on the further continuance of the embargo; but he was prepared to say that for eighteen months longer it would not be the policy, or redound to the honor of the United States to continue it. It was a system which operated indirectly on the belligerents. After every means had been exhausted to preserve peace, (as was now nearly the case,) he wished to see the nation assume the same attitude, assert the same principles, and maintain the same character which marked our forefathers—the same which marked them in 1776, and vindicate our rights with honorable and open warfare. For this reason he was opposed to the first section of the bill, because it might convey an impression which, for, one he was not willing to sanction. He did not consider the bill as connected with the embargo. The second section was one, he said, which every man possessing the feelings of an American ought to vote for; for the orders and decrees, to submit to which the House had declared would be an abandonment of our rights, had closed every avenue of commerce. America was not destined to depend for the exercise of her maritime rights on the smiles or frowns of any foreign nation. She was destined to enjoy a free commerce, and not to take, as a boon, a license to pursue that trade which she claimed as a right of nature; and the second section of this bill was to prevent a few, who had forfeited all title to the honorable name of Americans, by accepting foreign licenses to trade, from disgracing the character of the United States. He could wish that the first section should be negatived, that Congress might not appear to have legislated on an existing fact; that nothing might be left on record to hand down to posterity the fact that, in the short period of thirty years from the declaration of our independence, there had been Americans willing to surrender it. He wished the principle of the second section to be permanent and co-existent with the Constitution.

Mr. S. considered the embargo as having been a wise measure; that it had answered all the purposes of precaution; but the time would soon arrive when it must either be effectual or when its effect as a coercive measure might be doubted. He wished to do nothing which should hold out an idea that the embargo would be continued for any great length of time longer. The language made use of for party purposes, which had penetrated into every hovel and been repeated at every fire-side in the country, in relation to the embargo, was, that it was intended to put the Northern States at the feet of the Southern; that the North was to be crushed and rendered subservient to the interests of the South. Mr. S. did not believe a word of it. He had always found the Southern gentlemen friends to our commercial rights, and their friendship was on record on the Journals of the House. What was the embargo? A stand for commerce—a measure arising from a desire that our merchants might enjoy the benefits, and the Northern section of the Union pursue the fair commerce designed for them by Providence; that it might not be exposed to a gradual consumption and wasting away by the belligerent edicts. And it was because he believed this, that he did not wish the first section to afford ground for a renewal of this clamor.

Mr. Taylor declared his opinion to be in perfect consonance with that of the gentleman from Massachusetts in regard to the continuance of the embargo. He said, that before the expiration of eighteen months, he also should be prepared to

engage in open and honorable warfare, if the embargo did not in a reasonable time procure a redress of our grievances. A period long short of eighteen months would have exhausted the patience of the nation and tested the efficacy of the measure. Mr. T. said that there were now no vessels of the United States abroad which had not already incurred the penalties of this act by taking out a license. If they had not, they would soon fall into the clutches of the belligerents. So that, in fact, the first section was a work of supererogation. The second section should be adopted independently of the embargo or any other measure. Indeed, gentlemen who had voted in favor of the resolution expressive of a determination to resist the belligerent edicts, could not consistently vote against this section, for it went to resist one of the most odious parts of an edict of one of the belligerents—that part which requires our vessels to take out licenses in order to pursue their fair commerce.

Mr. DANIELL expressed himself decidedly in favor of the principle, but did not like legislating by piece-meal, passing a section to-day and a section to-morrow—a law to-day and a law to-morrow. He wished to see it connected with a general plan of resistance.

Mr. NEWTON had no idea, by the first section of this bill, to pledge the House to the continuance of the embargo for eighteen months. He considered it no pledge to continue it for even six or eight months. If the embargo did not operate as a coercive measure, he was prepared to take that attitude which should by force secure to us that justice we had hitherto in vain attempted to procure in another mode. If the European nations did not meet us in a short time, as they ought to do, in amicable arrangements, he was prepared to "cry havoc, and let loose the dogs of war." As he had no very particular partiality for the first section, in order to accommodate the gentleman from Massachusetts, he would now withdraw his support of it.

Mr. MASTERS thought the first section of the bill was perfectly proper, and not at all indicative of an intention to continue the embargo, when compared with the amendatory embargo law, manning gunboats, &c., which would seem to leave no doubt on the subject.

Mr. MACON opposed the first section, but supported the second.

Mr. TROUP considered the first section superfluous; for our vessels could not now continue abroad except they traded under foreign licenses.

Mr. GARDNER defended the people of the Eastern States from insinuations against their patriotism, and used some arguments to show that the angry passions should not be excited in the House, but rather allayed.

Mr. SLOAN said he understood some gentlemen to consider the present bill as connected with the embargo; that being the case, he had done with it. It was sufficient for him to know that anything had connexion with the embargo to induce him to reject it.

The House struck out the first section—yeas 73.

Mr. D. R. WILLIAMS said he had just come in, and wished to understand the grounds on which the decision of the House had just now been made.

Mr. MACON made a motion that the further consideration of the subject lie on the table, to give time for deliberation; which motion, however, he afterwards withdrew; and

Mr. JACKSON moved to reconsider the vote just taken.

This motion was supported by Messrs. MACON, MASTERS, JACKSON, and HOLLAND, and opposed by Messrs. STORY and RHEA.

Mr. GARDENIER made a speech of half an hour in favor of reconsideration.

When he concluded, a quorum not being present, the House adjourned—yeas 41, at near five o'clock.

FRIDAY, December 30.

Another member, to wit: NICHOLAS VAN DYKE, from Delaware, appeared, and took his seat in the House.

A Message was received from the President of the United States, communicating, at the request of the Governor, the Senate, and House of Representatives, of the Commonwealth of Pennsylvania, certain resolutions, entered into by the said Senate and House of Representatives, and approved by the Governor on the 23d instant. The resolutions are as follow:

Whereas the situation of the United States in relation to foreign Powers, is eminently critical, and calls for all their energies, unanimity, and patriotism to preserve those rights, and that independence for which our fathers fought and conquered: And whereas, in such times, it is the duty of the constituted authorities to aid the common cause of our country, by declaring anew their devotion to the principles of the Declaration of Independence. Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, That we have the fullest confidence in the wisdom, the patriotism, and the integrity of the administration of the General Government, and that we pledge ourselves to co-operate with them to the fullest extent of our power in all measures which may be deemed expedient to maintain our national honor and national rights.

Resolved, That we consider the embargo as a wise, pacific, and patriotic measure, called for by the best interest of the nation, and well calculated to induce an observance of our national rights, without a resort to the horrors and desolations of war, so repugnant to the feelings of humanity and the principles of free Government.

Resolved, That, as the ocean is the common highway of nations, and as this Commonwealth is deeply interested in the preservation of its freedom, should those painful measures not produce the desired effect, we are firmly determined to unite our efforts with those of the General Government in the maintenance of its rights.

Resolved, That the Governor of this Commonwealth be requested to forward copies of the foregoing resolutions to the President of the United States, with a request that they may be communicated by him to the Congress of the United States.

Approved, December 23, 1808.

SIMON SNYDER.

The said Message and resolutions were read, and ordered to lie on the table.

Another Message was received from the President of the United States, communicating a letter from Governor Claiborne, on the subject of a small tribe of Alabama Indians, on the Western side of the Mississippi, consisting of about a dozen families.

The said Message was read, and, together with the letter accompanying the same, referred to the Committee on the Public Lands.

On motion of Mr. NEWTON,

Resolved, That the Committee on Post Offices and Post Roads be, and they are hereby, instructed to bring in a bill to permit the franking of the Message of the President of the United States of the 23d of December, 1808, and the documents accompanying the same, and such other documents as may be communicated by the President of the United States, from time to time, to both Houses of Congress.

Mr. QUINCY presented a petition of sundry mariners, late masters and mates of vessels belonging to the port of Portland, in the District of Maine, praying that some measures may be adopted by the General Government for their assistance and support, they being deprived of their usual means of obtaining a livelihood, by the operation of the various acts laying an embargo within the United States.—Referred to the Committee of Ways and Means.

Mr. HELMS, from the committee appointed, presented a bill authorizing the discharge of John Heard from his imprisonment; which was read twice, and committed to a Committee of the Whole on Tuesday next.

On motion of Mr. WHARTON,

Resolved, That a committee be appointed for the purpose of considering whether any, and, if any, what amendments are necessary to be made to the act of Congress, entitled "An act to amend the act, entitled 'An act establishing Circuit Courts and abridging the jurisdiction of the District Courts of the Districts of Kentucky, Tennessee, and Ohio,'" passed the 22d day of March, 1808; and that they have leave to report by bill, or otherwise.

Ordered, That Messrs. WHARTON, BOYLE, and JEREMIAH MORROW, be appointed a committee, pursuant to the said resolution.

The amendments proposed by the Senate to the bill, entitled "An act to authorize the President to employ an additional number of revenue cutters" were read, and ordered to lie on the table.

On motion of Mr. NELSON,

Ordered, That the further consideration of the bill to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabilities, any citizen of the United States taking a license from any foreign Power, to navigate the ocean, or to trade with any foreign and independent Power, which was yesterday depending at the time of adjournment, be postponed until Monday next.

Mr. RHEA, of Tennessee, from the Committee on Post Offices and Post Roads, in pursuance of a resolution this day agreed to by the House, presented a bill to authorize the transmission of certain documents, by the mail, free of postage; which was read the first and second time. A motion was then made by Mr. STANFORD that the bill be committed to a Committee of the Whole; and the question being taken thereupon, it passed in the negative. The bill was then ordered to be engrossed, and read the third time this day.

ADDITIONAL MILITARY FORCE.

The House resolved itself into a Committee of the Whole on the following resolution, reported by the committee, to whom was referred the resolution for placing the country in a more complete state of defence:

Resolved, That it is expedient immediately to raise, arm, and equip, fifty thousand volunteers, to serve for the term of two years.

The resolution having been read—

Mr. NELSON said that the House had, a few days ago, unanimously adopted a resolution for placing the country in a more complete state of defence. The danger and probability of war appeared to thicken upon us every day; and, unless preparation were made, we should be taken in a situation not advantageous to the country. He thought it extremely doubtful whether a law on this subject could be presented to the House, and the details so made up as to meet the opinion of a majority, and the bill go through the other branch of the Legislature, and receive the sanction of the President, before a blow would be struck against us. At least it was highly probable that, before the volunteers could be put in motion, this would have taken place. True it was, that, on a sudden attack, the militia might be competent to repel it. But, if anything like fixed hostile operation should take place, it would be necessary to have some men whose term of service would be more extensive than that of the militia. For, however great the patriotism of the people, and he believed they had more than any in the world, it was well known that many of them had it not in their power to leave their families for any great length of time. He hoped and trusted that the resolution would meet with no opposition from any quarter. He had framed it in as broad a manner as possible, in order to obviate the necessity of entering into any discussion of the detail of the bill at this time.

The Committee rose, and reported the resolution to the House.

Mr. PITKIN required the yeas and nays on the question of concurrence by the House.

Mr. GARDENIER then rose.—He said he was surprised that this resolution had passed through the Committee of the Whole without opposition. He had hoped that some other gentlemen would have called for the reasons which induced the report of the committee. It was proposed by this resolution to raise a standing army in time of peace; a force, which, to his mind, was unnecessary on the one hand and frightful on the other. Was it the object of Government to plunge us into a war? Was a declaration of war

intended? If we were to be put into a state of actual old-fashioned war, he should wish, for one, to have the fact in the first place ascertained. If war was determined on, however unnecessary and unjust such a war may be, the interest of the country demanded that, in such a case, they should take care that the country should not suffer. He said, he was not prepared to pledge himself, in the present state of the nation, that he would go to war; and at any rate, before war was declared, he would not give his sanction to raising a force, the destination of which he did not understand, and could not calculate upon. Fifty thousand men at an expense to this nation for two years of $2,900,000! Why, said he, I was told last year that the system on which we were entering, the embargo system, was to prevent war; that war was the most dreadful calamity which could befall a nation. I did not want to be told that in order to know it. But this dreadful evil of war was to be averted by laying an embargo that would bring the belligerents at our feet; that would perform a great cure for all the disorders of the State, or miseries of the country. But now it appeared that the embargo system was to be abandoned, and war to be commenced in its place. Is it intended by this report to say that the embargo has utterly failed of its purpose, as was predicted by those who opposed it? Is it to be relinquished, because it is, in its operation, futile; because it has proved that those who commenced it were not capable of calculating the effects to be produced by it? Whenever the embargo question is brought up, in a direct proposition, it is smothered; and when attempted to be introduced in an amendment to any other question before the House, it is declared out of order; and yet a system is here to be introduced, which, if it prove anything, proves that the embargo system is wholly futile in its operation. Do gentlemen mean that the embargo system will do no longer? Let us go on regularly to repeal it, then, that we and the nation may understand it. If the embargo be this grand preventive against war, which it is all along cried up to be, and which opinion has been the means of gaining it that languid and sickly support which it has received from some portions of the country; if it is to be continued as a coercive measure, then, sir, I do insist that, raising a military force of fifty thousand men is unnecessary. If the embargo be coercive, the raising fifty thousand men for coercion is unnecessary. The two different systems are incompatible. If we have embargo, let us have wholly embargo; if war, wholly war. If we are to have peace, the raising of troops is wholly unnecessary, especially with our present limited resources. I wish not to see those measures, which a declaration of war only would warrant, adopted before that attitude is taken. I have no idea of having these chains wound round me, round this House, round the nation; and I trust the nation will entertain the same opinion.

A gentleman from Massachusetts (Mr. Story) said yesterday, if I understood him, that the embargo had failed, so far as to its coercive character. Is it the sense of the House that it should be repealed? Is it the sense of the House, as the gentleman from Massachusetts also intimated as his opinion, that there should be a declaration of war? If so, it might be proper to raise an army. But I have no disposition to raise an army until there be war.

There had been a time, said Mr. G., when the raising twelve thousand men was considered and held out, by many honest politicians, as a measure dangerous to the independence of the States and to the rights of the people individually. Last year six thousand men had been raised, and now fifty thousand more were called for. He had thought that, in this country, no standing armies should be raised in time of peace; that there was a sacred injunction in the Constitution forbidding it. Perhaps he did not correctly understand the subject; this might not be a standing army, because its term of service was limited to two years; but it might be extended two or ten years more. He put the question to gentlemen whether, in a state of peace, under the operation of that very system which had been represented as a substitute for war, it would be proper to raise this force? He could not reconcile it with a due estimate of the interests of the country on the one hand, or the sacred injunctions of the Constitution on the other, to raise an army to such an extent. An army is to be raised; the mode in which it is to be employed is uncertain. The twelve thousand men, which he had before mentioned, was a body which could not be employed to the detriment of the liberties of the country; for almost every section could raise a force to resist such an army if an attempt had been made by it to destroy their liberties. We had another security, too, against this force being used to a bad purpose. At the head of this army had been the great hero of the Revolution, and also the man who had, next to him, done more for the prosperity of the country than any other, under whose luminous and creative mind the resources of the whole country had been brought into action, and spread an universal brilliancy over the nation instead of that gloom and poverty which had preceded his influence in the United States. This army, so small, and under such commanders, threatened not the public liberty. Yet there had been men zealous and eager that none, the slightest occasion, should be given for any one to suppose that they were about, by military force, to invade the liberties of the country, who had seen horrors in this small army, which they could scarcely find words to depict. Where were these men, he asked, now that an army of more than four times the number was about to be raised; when those two heroes were departed to the silent tomb; when other commanders were to have the direction of this military force? Where were the men who had been struck with this patriotic alarm? Why were not their voices raised now, when a force was offered to be raised, which, if employed to overturn the liberties of the people, could not be resisted, but would spread itself over the country and stifle the efforts of patriotism?

To which, if resistance should be made, either the country must be put under military despotism, or the struggle would cost the country all it had acquired since the Revolution, and the citizens would have to wade knee-deep in blood to preserve that liberty which they gained by the glorious struggle of the Revolution. Are we more safe now, said he, with an army of fifty thousand men, under our present commanders, than we were with twelve thousand men under Washington and Hamilton? I could wish to believe that we were. But, I have not that faith which blinds my judgment and destroys my recollection. No, sir, indeed I have not; I cannot extinguish from my memory that, in one section of this country, the liberty of the citizen, the judicial power which should be inviolable, and the sacred right of habeas corpus, perished at the touch of military power. I do not believe the country safe under this army; I do not believe the persons of the members of this House are safe under it; and I would protest against it at the hazard of my head. Such are my own feelings, and I could wish, and I would strive, if I knew the way to the hearts of men, to recall the feelings of '98 and '99. Or, is it true in all cases, even with the warmest patriotism, that *tempora mutantur, et nos mutamur cum illis?* Perhaps, however, I may not see clearly; some argument may be found in favor of this proposition.

What course, he asked, was to be given to this army? Was a state of war expected between this country and France? There was now no point at which we could come in contact with her. Formerly, when the French Government had a despotic influence over that of Spain, the Spaniards on our Western frontier could have been set in motion against us; but now we had nothing to fear in that respect. Were we to have war with Great Britain? Was that at length determined on? Had it been settled out of doors that we were to have war, and were the House now called upon to vote what could only be a legitimate consequence of a declaration of war? This army must be intended to be employed out of the country; for to self-defence the militia were surely competent. Was this nation to go to war with Great Britain and Spain? Was this force to be employed against Canada, or in giving legitimate form to the Burr project? Was it to go to Mexico? Mr. G. said his mind had been struck with a kind of horror which he could not express at this projected army, and he could not sit still, and give a silent vote when a project which he believed to carry with it so many mischiefs, perhaps such utter ruin, was set on foot.

He did not believe, he said, that the public liberty would be more safe in the hands of those who now directed the public concerns, than it had been formerly in the hands of other rulers. There was a fact which filled his mind with alarm communicated to him, and that years ago, by a man whose mind was as pure as that of any human being that ever existed—a fact concerning the opinions as to what ought to have been the form of Government, and as to the theories of the gentleman who was most probably to be high in power in this country, which had made such an impression on him that he could not but at this moment view this project with increased horror and dread. He would, however, say no more of that at present; but, in his plain and humble conception, the public liberty was in danger; and here within these walls, within this sanctuary of American independence, it was that the public liberty was to be saved. It was here, by recurring to first principles, to that great principle, that free States should be jealous of military power, that he looked for its salvation. At a time when, under pretence of enforcing the embargo, an unconstitutional power was proposed to be placed in the hands of Executive officers, when an arbitrary power was to be exercised on mere suspicion, when with all this was combined a strong and overwhelming military force, he could not at such a period be silent. Yes, sir, I do in my soul and conscience believe that if ever there was a time when we should make a solemn pause and look around us, and survey our condition with a cool and calculating eye, this is the period; and I for one have not hesitated to give the alarm. I would place myself here, upon the ramparts of the Constitution, and give the alarm to the country. I would place myself here on the signal-tower of the public liberty, and sound the tocsin of alarm to the nation. We can lose nothing by being jealous; by withdrawing enormous power from Executive agents. By a contrary conduct we may lose everything sacred without a hope of regaining it.

Mr. Eppes said there was no man who regretted more than himself that, at a period when the safety, honor, and independence of this country were assailed by external danger; when, under the pressure of a measure resorted to under circumstances of the most urgent necessity, the citizens of this country had manifested a feeling calculated to excite sensations here and elsewhere; that such a period should be seized by gentlemen not to exert their talents in steering the national bark through the billows by which it was surrounded, but in endeavoring to thwart every measure proposed. The gentleman from New York has told us that he will sound the tocsin of alarm to the people. And what is the project of the gentleman himself? Why, he has told you on a former day, openly, honestly, and fairly, that he is for a war with France; he is willing to pocket all the injuries which we have received from Great Britain, and to go to war with France. In vain would the gentleman sound the tocsin of alarm, if this is his project. The people of the United States would not go with him. It is not the sentiment of any portion of our citizens, except of the old Tories of our Revolution. He would not be followed by the American people in taking to his bosom a nation which has murdered your citizens, and making war upon a nation which has pillaged your commerce. I cannot reconcile the project with my ideas of moral principle. He would not be fol-

lowed by the Federalists. I cannot believe that those who walked in procession after the body of the murdered Pierce, could stamp on themselves the character of base hypocrisy by taking to their bosom the nation which committed the outrage, while the blood of Pierce, and a host of other injuries more degrading, remain yet unatoned for. All our injuries remain unredressed; not the smallest apology has been made, but the feelings of the country not only disregarded, but insulted by new acts of violence and injustice. The gentleman's project to save the honor of the nation is submission to England and war with France. I pronounce with confidence it is not the sentiment of the American people. The gentleman from New York has taken occasion to introduce the name of Washington. The sentiments which that gentleman has expressed were never those of Washington. He never would have been willing to put chains on his country, to consent to a shackled commerce; to allow foreign nations to say to his country, thus far you shall go and no farther. This is not the spirit of Washington; it is not the spirit which produced our Revolution; opposition to tyrants, and a manly assertion of our rights at every hazard, gave us our rank as an independent nation. The same spirit still pervades our country, and I trust it will ever remain. It never, however, has been the policy of this Government to rush rashly into war. The history of our country under former Administrations demonstrates this fact; and under the Administration of Washington, as well as under every other, we have borne with patience degrading insult and injury. As to the great regard of former Administrations for the personal rights of the citizen on which the gentleman has dwelt, I shall not go into that part of the subject. In laying an embargo, even in the time of Washington, a short resolution was passed in which the power was vested, and the execution left, to the Executive. This was thought at that time very Constitutional and proper, no doubt, by the Federalists. We, however, can frame no Constitutional law on this subject, although they could very constitutionally adopt the old maxim, "So I will it," and enforce their system. While, however, I am not disposed to excite unpleasant sensations by bringing into view acts of former Administrations, I believe that a statement of the course pursued under General Washington and Mr. Adams, as to foreign nations, will show that it never has been our policy to plunge rashly into war. I beg leave to read on this subject an extract from a speech delivered in 1803:

"Our differences with Great Britain were coeval with the Treaty of Peace. The detention of the Western posts was a direct violation of that treaty; it diverted a considerable portion of the fur trade from the United States, and disabled us from bridling the hostile Indians, which was a source of immense injury. This evil continued for twelve years, under every circumstance of aggravation and insult. British soldiers issued from those forts into parts of our territory, where we exercised jurisdiction, and seized the persons of deserters without the aid or sanction of the authorities of the country, and these possessions served as asylums for the savages who were in hostile array against us, and as storehouses and magazines to supply them with arms, ammunition, and provisions. The seat of Government of Upper Canada was also held for a time at Niagara, in the State of New York, an indignity of the most marked character. Many thousands of negroes were also carried off in violation of the treaty, and a very serious injury was thereby inflicted on the agricultural pursuits of the Southern citizens.

"It is well known that we were engaged in a bloody and expensive war with several of the Indian tribes; that two of our armies had been routed by them, and that we were finally compelled to make great efforts to turn the tide of victory. These Indians were encouraged and aided by the emissaries of Great Britain; British subjects were seen disguised fighting in their ranks, and British agents were known to furnish them with provisions and the implements of war. The Governor General of Canada, a highly confidential and distinguished officer, delivered a speech to the Seven Nations of Lower Canada, exciting them to enmity against this country; but in order to furnish the savages at war with sufficient aid, a detachment of British troops penetrated into our territory, and erected a fort on the Miami river. Here the Indians, dispersed and defeated by Wayne, took refuge, and were protected under the muzzle of British cannon. A violation of territory is one of the most flagrant injuries which can be offered to a nation, and would in most cases justify an immediate resort to arms, because in most cases essential to self-defence. Not content with exciting the savages of America against us, Great Britain extended her hostility to the Eastern Hemisphere, and let loose the barbarians of Africa upon us. A war existed at that time between Portugal and Algiers. The former blocked up the mouth of the Straits by her superior naval force, and prevented the pirates from a communication with the Atlantic. Portugal has been for a long time subservient to the views of Great Britain. A peace was effected through the mediation of the latter. Our unprotected merchantmen were then exposed, without defence, to the piracies of Algiers. Thus, in three-quarters of the globe, we at one time felt the effects of British enmity. In the meantime our commerce in every sea was exposed to her rapacity. All France was declared in a state of siege, and the conveyance of provisions expressly interdicted to neutrals. Paper blockades were substituted for actual ones, and the staple commodities of our country lay perishing in our storehouses, or were captured on the ocean, and diverted from the lawful proprietors. Our seamen were pressed wherever found. Our protections were a subject of derision, and opposition to the imperious mandates of their haughty tyrants was punished by famine or by stripes, by imprisonment or by the gibbet. To complete the full measure of our wrongs, the November orders of 1793 were issued; our ships were swept from the ocean, as if by the operation of enchantment; hundreds of them were captured; almost all our merchants were greatly injured, and many of them reduced to extreme poverty. These proceedings, without even a pretext, without the forms of justice, without the semblance of equity, were calculated to inflame every American feeling, and to nerve every American arm. Negotiation was, however, pursued; an envoy *extraordinary*, in every sense of the word, was sent to

demand redress, and a Treaty of Amity, Commerce, and Navigation, was formed and ratified. These events took place under the Administration of Washington. The Spanish Treaty, concluded on the 27th of October, 1795, stipulated for a settlement of boundaries, and an an adjustment of spoliations on commerce, and contained a declaration of the free navigation of the Mississippi, and a grant of the privilege of deposite at New Orleans. This treaty for more than two years afterwards was not executed on the part of Spain. In January, 1798, a report was made to Mr. Adams, by Mr. Secretary Pickering, and submitted to Congress, which charged Spain with retaining her troops and garrisons within the United States, with evading to run the boundary line, with stopping, controlling, and regulating the passage of our citizens on the Mississippi, and with sending emissaries among the Indians residing within our territories, in violation of the treaty and the relations of amity. Here, then, a treaty securing the important benefit of deposite, was in a state of inexecution for a long period. Our citizens were also interrupted in the free navigation of the Mississippi, and other aggressions, affecting our territorial rights, and our internal peace, were superadded."

"An amicable explanation was had with Spain, and our wrongs were satisfactorily redressed. This took place in the Administration of Mr. Adams, and when most of the honorable gentlemen who support this war resolution, except such as were dangling in the Courts of Europe, held prominent stations in the councils of the country.

"Our differences with France were of a more serious nature, and of a longer duration. They commenced in the Administration of General Washington, and were adjusted in that of his successor. Great and enormous depredations were committed upon our commerce by France, and our merchants were fraudulently robbed of compensation for provisions supplied her in the hour of distress. The treaty and consular convention were violated. The right of embassy—a sacred right—respected even by the ferocious savage, was wantonly trampled upon; and the representative of our national sovereignty was refused a reception, and ignominiously ordered out of France. A fresh attempt at negotiation was made; three Ministers were sent, armed with all the powers, and clothed with all the honors of diplomacy. They were also refused a hearing, and were forced to leave the country without experiencing the forms of common civility. The treaty was then annulled, and reprisals directed; and when the honorable gentlemen and their friends, then in power, had worked up the passions of the nation to the highest pitch of exasperation; when war, bloody war, was expected from all quarters; when the war-worn soldiers of the Revolution were girding on their swords, and preparing to stand between their country and the danger that menaced her, the scene suddenly changed; the black cloud passed away; and we again beheld three Ministers at Paris extending the olive-branch, burying all animosities, and returning with a treaty of "firm, inviolable, and universal peace, and true and sincere friendship."

I have read this statement, sir, (said Mr. Eppes) because it is the deliberate and grave statement of a man arrived at that period of life, when he is not so much under the influence of passion. It is a statement of facts, which if made by myself might be attributed to party feeling. It proves that it never has been the policy of this nation lightly to embark in war. And however the gentleman from New York and myself may differ in other respects, we unite in this: that no evil is so great as war, except a surrender of our independence; nothing short of an attack on which should induce any nation to resort to this alternative, injurious to every nation, but particularly so to ours.

So far then as we have progressed in our present situation, so far as the course pursued was calculated to preserve peace, it was a course which justice and humanity dictated, and which has been approved by the nation. But is there never to be an end to the sufferance of a nation? Is there no time when we shall act? The idea of a permanent embargo—and when on this part of the subject, I shall perhaps be told, as another gentleman was yesterday, that my observations resemble more the slang of an ale-house than the debate of a deliberative body—this idea, I observe is to be found only in the speeches of those who opposed the measure. Such an idea cannot be inferred from the conduct of members of this House, or from anything else which has occurred. It proceeds only from men who, from the first moment the measure was laid on your table, endeavored to place it in the most odious colors. Immediately after the measure was adopted last winter, what takes place, sir? A man distinguished by the favor of the people, a man advanced in years, the very man who in 1798, kept back the despatches from Mr. Adams, and had almost plunged us into a war with France by this act, what does he do? In 1808, he displays the same spirit of hostility to France, which he manifested in 1798; writes a letter in which he attributes the embargo to French influence, to the mandates of Bonaparte. [Mr. Gardenier requested the gentleman from Virginia to name him.] Mr. Eppes. "General" Pickering. [It appeared to be doubted whether Mr. Eppes was in order. Mr. Smilie said that if the gentleman from New York was permitted to criminate his own Government, a reply ought certainly to be allowed.] Mr. Eppes continued. I wish it to be understood by the Speaker and the House, that I hold myself responsible to any man who is injured by my observations. No circumstance shall deter me from expressing the truth in relation to our affairs. It is time that the nation should see the strange union of sentiment between gentlemen in opposition and that Government which has injured us most. I am responsible for my assertions. I have a right to discharge my duty in that way which I please, and in that way I will. I then say this letter proceeded from the man who in 1798 was willing, was anxious to involve the United States in a war with France. There was a party in this country in favor of it; and if correctly informed, the man who wrote this famous letter is at the head of that very party; a party connected and known under the name of the Essex Junto. This was the first stroke at the embargo; and what took place afterwards? I regret that a gentleman from Massachusetts (Mr. Livermore) is not in

his place, whose speech, as delivered to his constituents, was sent here some weeks before our last adjournment, said to have been delivered to the inhabitants of his district, in which he declared that Southern members of influence in the Republican party here had openly declared to him their hostility to commerce! The gentleman has had the candor to declare that he did not make to his constituents such a statement; but sir, it was circulated as his speech, immediately previous to the election, and although the gentleman never made such a speech, many people in Massachusetts believed that he had not only made the speech, but that it was a deliberate expression of his sentiments. These things justify the statement of the gentleman from Massachusetts, (Mr. Story,) that misrepresentations have been spread amongst the people. The Federal printers have united in giving currency to these misrepresentations. They have even made speeches for members of Congress; they have made them accuse the majority of Congress of being under French influence. A sentiment of this sort has been given in a speech of the gentleman from New York, (Mr. Gardenier,) though it is denied.

[Mr. Gardenier said he never had expressed such an opinion; the speech which he had seen printed had not conveyed that idea. He never intended to express such an idea; for, however he differed in opinion with gentlemen, he never had the slightest suspicion that gentlemen were governed by dishonest motives. He should hold up their course as pernicious to the nation, and never would cease to do so, thus performing a Constitutional right, and a duty from which he would never shrink.]

It never has been my habit, continued Mr. Eppes, to attribute to gentlemen improper motives; I never have done so, but the course which has been pursued will give weight to the opinion already entertained in Great Britain that we are a divided people—that we are divided in opinion on what the gentleman from New York himself has called a self-evident proposition—that the belligerent decrees cannot be submitted to without a surrender of our rights, independence, and honor. Are we to be surprised that the people of Massachusetts, or of any other part of the United States, are agitated when they find men so enlightened as their Representatives in Congress telling them that this is to be a permanent system? Do gentlemen really believe that it is our intention to abide by the embargo until our injuries are redressed, be that soon or late? Do they believe that the embargo is all that is to be opposed to insult, injury, and blows? Do they believe that we are destitute of sense? I for one unequivocally deny that I ever had such an idea, or any person with whom I ever conversed on the subject, except the gentlemen who opposed it, to whom it was convenient to represent it as a permanent measure. And whatever gentlemen may say on other subjects, they will do me the justice to say that at the last session I told them my opinion, that the period would arrive when the embargo would be removed; and that when it was, there was no other course than war, open and direct, or submission. I defy gentlemen anywhere to find the embargo considered as a permanent measure, but in their own speeches and the prints of their party.

The circumstances which produced the embargo are well known; but the misfortune is that gentlemen will not state the question fairly, but cover it under a heap of lumber, calculated to conceal from the people the real question. Let the question be fairly put, and there is not a man in America (always excepting old tories) who would not say that they will resist. What is the real state of our affairs—and I will not stop here to discuss who began first? If we mean to assert and maintain our rights, it is totally immaterial to us who commenced, though on this subject I might refer gentlemen to the letter of Mr. Hammond in 1793, in which he takes the ground now maintained, and asserts the right of Great Britain to blockade the whole of France. The statement of our situation is simply this: Great Britain says if you go to France or her dependencies without a license from her, your property shall be liable to seizure and condemnation. France says if you have visited Britain, or been visited by a Briton, your vessels shall be liable to seizure and confiscation. Now take the dependencies and allies of France and England, and what remains? Your commerce is as completely blockaded by these decrees, as the port of Boston was in the Revolutionary war; and when gentlemen come forward and tell you that your ships are rotting in your ports, and the country suffering, and attribute this to the embargo, is it fair? Is it manly? Is it not an assertion materially variant from our present situation? I call upon any man, federalist, quid, or of what denomination he may be, to answer whether these decrees have not destroyed our commerce; and yet the destruction is imputed to the embargo. At the time the embargo was laid, our exports amounted to one hundred and eight millions annually. Taking all the countries with whom we could trade, throwing Great Britain out of the question, with whom I contend that no man can be willing to trade under existing circumstances, and our whole commerce does not amount to seven millions and a half—a commerce not equal to one half of the exports from Massachusetts alone; and give Massachusetts her relative share of one-fifth of this seven millions of commerce, and this is all she can have to support her seamen, to enrich her merchants, whom the embargo is said to have destroyed. This is the real situation of the country. Do the people of the Eastern portion of it know it? No, sir, it is kept from them; they cannot find it in the speeches of their Representatives. No, sir; there, it is all embargo, the favorite hobby-horse of Federalism.

Having thus attempted to show that it was not my intention when the embargo was laid, to consider it as a permanent measure, I will proceed to state some circumstances which have rendered this measure less operative than it would otherwise have been. The embargo had two objects,

to gather in our capital, and to withhold supplies from our enemies. The first object has been completely answered, and there is not a period at which it would be more necessary to adhere to it than at the present moment. To withhold supplies from our enemies is now more important than ever. The nation must be put in a state to meet war.

It is in vain for gentlemen to attempt to delude the people. The decrees of England and France must be withdrawn, or we must fight; it cannot be avoided. We have declared we will not submit, and there is no species of effectual resistance but war.

We have a right to carry our produce to every place on the globe whose municipal regulations do not forbid it. France has a right to interdict our trade with herself, but none to interdict it with her enemy. Great Britain has a right to exclude us from her ports, but none to compel us to go there. What other course, I ask, can the United States take but war, or submission to these decrees? Let gentlemen examine the various proposals brought forward. It is immaterial whether we pass a law that we will reduce our trade to the places left by the decrees, or suffer it to be so reduced by the decrees themselves. In either case we submit; we allow foreign nations to fix the amount of our commerce, to destroy the fruits of our industry, and legislate for us.

Now, sir, I do not believe that there is a native American in any part of the United States who is disposed to submit; and I rejoice that in this House there is no division of sentiment. Gentlemen have publicly declared that they will not submit. In what form then will they resist? We have tried paper long enough. It is time either to exert the energies of the nation, or to give up our rights and again become the colonies of Great Britain. I am not for that. I have no other interest than that in land, by the produce of which I live. I would sooner let it go in the general wreck of my country than surrender those rights which are so important to the nation, and which our fathers purchased with their best blood. I am not for disgracing our ancestors who fled from oppression abroad; I am not for proving ourselves a base degenerate offspring. We possess a country of two thousand miles extent, a population of six millions of souls, and six hundred thousand men fit to bear arms. If with this we cannot preserve our independence, we deserve to be kicked out of the territories neck and heels by those Powers whom we have suffered to trample on our maritime rights.

In the course of my remarks, I have noticed the strange union of sentiment between gentlemen in the opposition and the British Ministry, on the subject of the embargo.

On this subject I will read an extract of a Ministerial pamphlet:

"Providence has ordained that nations, as well as individuals, should, in a certain degree, be dependent on each other; and the inhabitants of no country can be debarred from their accustomed commercial communications without being deprived of many advantages and enjoyments. Society being thus constituted, the Government that attacks the comfort and happiness of the people, by prohibiting this intercourse, alienates their affections, and consequently holds its authority by a very precarious tenure. When the late Emperor Paul entered into the confederacy against Great Britain, his subjects were at once reduced to severe and general distress. Their hemp, their flax, their tallow, their ashes, their iron, their timber, all their great staple commodities, for the sale of which they depended on British purchasers, were left a dead weight upon their hands. If the produce of the land becomes of no value, the landlord may apply to his tenant for rent in vain. If the vassal can procure no employment, he can pay nothing to his lord. Thus the nobles, whose revenue is derived from the rent of their estates, and the labor of their vassals, found themselves involved in the calamity of their inferiors; and were led by common interest to attempt that revolution which cost the Emperor his crown and his life.

"If any further elucidation of the principle to which this event is ascribed were wanting, it promises to be found in the United States of America, where the cultivators of the soil are deprived of the fruits of their labors, and the merchants of their commercial gains, by the present embargo. This forced state of things cannot be of long continuance. Already have the Vermontese set the constituted authorities at defiance, and persist in carrying on their trade with the Canadians across Lake Champlain, while the Northern States manifest strong symptoms of discontent."

Perhaps I ought to apologize to the Representatives from the State of Vermont for reading a clause speaking particularly of that State, but I assure the gentlemen that it is not my wish to bring the attention of the House to circumstances which have passed there. I view them with that deep regret with which I shall ever view a similar state of things in any portion of the country. I regret that any portion of the people of this country, however they may feel, should not manifest their feeling in that form prescribed by the Constitution and the laws.—We are told by this pamphlet, of true British origin, that the United States cannot stand this measure; and what are we told on this floor? "You cannot stand it; you are committing suicide on yourselves." All this goes to Great Britain; what I say never will reach it. All there seen of it will be a garbled statement in a Federal paper, which I could cover with my thumb, and that will be sent to Great Britain. Through this corrupted source their information is derived, and they know nothing of the real situation of American feeling, or of the American character. And is the Government to blame, when I declare to God that I have seen speeches attributed to me which I have never made—the most shameful misrepresentation made by men brought here, not for the purpose of reporting our proceedings to the nation, but for supporting party purposes. Gentlemen tell us we cannot stand a permanent embargo. We never intended it. Gentlemen well know that the rights of the nation cannot be abandoned without a struggle. The only ques-

tion is when to commence it. Our resources will soon be at our command. Means of resistance are provided, and the period must soon arrive when nothing will be wanting but spirit on the part of the Representatives to use them. The people are with you; you have their support. Nothing can forfeit it but abandoning their rights. If by war only they can be maintained, the people will meet it with firmness. I never had any other feeling, but that these decrees must be withdrawn, or we must resort to war. I said so last year; I spoke it openly. My sentiments are known to the people I represent. They unite in that sentiment. It is the undivided sentiment of the State in which I live.

It has been said that the Southern people wish to destroy commerce. I will ask gentlemen what but commerce has produced our present difficulties? If I had consulted my interest only, of what importance to me was the carrying trade? None, sir; but it was, it ever will be of infinite importance to me to support the principles of our Constitution. What are these principles? Equal and exact justice to every class of our citizens. United for common protection and for the general safety, the rights of no one class can be abandoned. The merchant has as good a right to protection in the use of his ship as the farmer in the use of his plough. I said so in 1805, and I say so still. Our situation, however, is now changed; it is no longer a commercial question; the late decrees and orders make a direct attack on the sovereignty of the nation; it is no longer a question whether we will trade, but whether we will maintain or surrender our independence. The embargo at the time it was adopted, was, I believe, the best measure which could have been resorted to. Its operation was defeated partly by the misrepresentations of which I have spoken. While on this subject I will ask attention to another point, which I had nearly omitted. I have said something about Tories. I wish it to be understood, that I mean no gentleman in this House. I meant to state that the Tory principle had manifested itself in a portion of this country, and that it was that principle, in union with the agents and acts of the British Government, which produced the evasions of our law. Your towns swarm with these British agents, who send to their friends, what is essential to their prosperity, in violation of your law. Nay, sir, toryism in this country has, in one case, assumed a sort of official form. I refer to the proceedings of the Essex Junto. I hold them in my hand, and I will read a resolution from them. These patriots say—

"As to the Orders of Council. It will be recollected that these orders, bearing date 11th November, 1807, were occasioned by the decree of the French Emperor, dated November, 1806, declaring all the British dominions in a state of blockade. Great Britain may think these orders completely justified by the *lex talionis*, (law of retaliation.) There is no reason to consider them as originating from a disposition hostile to this country, and they ought not to be so considered. It is notorious that she could, according to known law and usage, plead the actual blockade, by her navy, of all the principal ports under the power of France."

Now, sir, this I say is a rank Tory principle; and it is immaterial what may be the professions of men. The man who can say in the present situation of our country, that the conduct of Great Britain towards us is justified by the *lex talionis*, or by any other law, is a Tory. It is in vain for people in any portion of the Union to make professions of patriotism, when they come forward, and by a public act say, that we have no cause of complaint against Great Britain. I wish gentlemen correctly to understand me. If the British nation would come forward and make reparation for the insults offered in our ports and waters, she would stand with me on equal ground with France. But when I recollect that, instead of tendering reparation for the most humiliating insults and injuries, she sent here a legalized spy to insult us with insolent demands, I cannot consider, in point of injury done to this country, these two foreign nations as equal in the honorable career of injustice and violence towards us. Let Great Britain redress these injuries, and I would as soon tender the hand of reconciliation to her as to France.

I believe the principles of both are infamous. That in a contest for the empire of the world they regard only their own aggrandizement. It is the duty of the United States to take a firm and manly attitude, and oppose both; to maintain the independence of the nation, and spurn a foreign yoke. You must assert your rights; they cannot be maintained without men. The independence of our country is an object before which all differences as to the internal administration of our affairs should sink. This is a period when all honest men have a common interest. It is a period in which all party feelings should be sacrificed at the shrine of our country's good. It is a period when Federalists ought to forget that they have lost the helm of State, when the old Tories dispersed through our country should forget that we have acquired independence, and when all honest men should unite to maintain those rights which are the birthright of an American.

Mr. QUINCY.—I agree with the gentleman from Virginia, (Mr. EPPES,) that the present is a period in which it becomes the members of this Legislature to maintain their independence and not to shrink from responsibility. I agree, that it is a time in which all men in places of trust should weigh well the principles by which they are actuated, and the ends at which they aim; and that they should mark both so distinctly as that they may be fully understood by the people. But I hope it is not, and that there never will be a time in which it becomes the duty of any man or set of men, on this floor, under pretence of national exigencies, to concur in an infringement of the limits of the Constitution. I trust it is not a time for a member of such a Legislature as this, thoughtlessly to strengthen hands which already hold powers inconsistent with civil liberty, by a surrender of authority, especially intrusted to us

by the people, into the exclusive possession of another department of the Government.

The gentleman from Virginia (Mr. EPPES) alleges that the men whom he calls Federalists have, for party purposes, represented the embargo as a permanent measure. He disclaims such an idea, both on his own account and on that of a majority of this House. On this head, I am ready to maintain that the embargo law, as it was originally passed, was an abuse of the powers vested in this branch of the Legislature, and as it has been subsequently enforced by supplementary laws, is a manifest violation of the Constitution, and an assumption of powers vested in the States; and that, until I have some satisfaction on these points, I am not disposed to pass a law for raising such an additional military force as this bill contemplates.

Concerning the permanency of the embargo, about which so much wire-drawing ingenuity has been exercised, this I assert, that, so far as relates to the powers of this House, the embargo is permanent. That control over commerce, which the Constitution has vested in us, we have transferred to the Executive. Whether the people shall ever enjoy any commerce again, or whether we shall ever have any power in its regulation, depends not upon the will of this House, but upon the will of the President and of twelve members of the Senate. The manner in which the powers vested in this branch of the Legislature has been exercised, I hesitate not to declare a flagrant abuse of those powers and a violation of the most acknowledged safeguards of civil liberty.

Sir, what is the relation in which this House, in the eye of the Constitution, stands to the people? Is it not composed of men, emanating from the mass of the community? Are not our interests peculiarly identified with theirs? Is not this the place in which the people have a right naturally to look for the strongest struggle for our Constitutional privileges, and the last surrender of them unconditionally to the Executive? Is not the power to regulate commerce one of the most important of all the trusts reposed in us by the people? Yet, how have we exercised this most interesting power? Why, sir, we have so exercised it as not only to annihilate commerce, for the present, but so as that we can never, hereafter, have any commerce to regulate until the President and twelve Senators permit. Gentlemen when pressed upon the Constitutional point resulting from the permanent nature of this embargo, repel it as the gentleman from Virginia (Mr. EPPES) did just now, by a broad denial. "It is not permanent," say they. "It was never intended to be permanent." Yet it has every feature of permanency. It is impossible for terms to give it a more unlimited duration. With respect to intentions, the President and Senate have a right to speak on that subject. They have power to permit commerce again to be prosecuted, or to continue its prohibition. But, what right have we to talk in this manner? I know that we every day amuse ourselves in making some law about commerce. Sir, this is permitted. It is a part of the delusion by which we practise upon the people, and perhaps upon ourselves. While engaged in debate, we feel as if the power to regulate commerce was yet in this House. But, put this matter to the test; pass a law to-morrow unanimously repealing the embargo; let two-thirds of the Senate concur; let the President and twelve men determine not to repeal; I ask, is there any power in this House to prevent them from continuing this embargo forever? The fact is undeniable. Let the President and twelve men obstinately persist in adherence to this measure, and, in spite of the intentions of this House, the people can alone again obtain their commerce by a revolution. It follows, from what I have stated, that those may well enough talk about what they intend, who have the power of fulfilling their intentions; but, on that subject, it becomes the members of this House to be silent, since that power which we once possessed, has, by our own act, departed. So far as this House can ever hereafter enjoy the opportunity of again regulating commerce, it depends not upon the gift it received from the people, but upon the restoration to us of that power, which, the people having intrusted to our care, we have without limitation transferred to the Executive.

Yes, sir; the people once had a commerce. Once this House possessed the power to regulate it. Of all the grants in the Constitution, perhaps this was most highly prized by the people. It was truly the apple of their eye. To their concern for it, the Constitution almost owes its existence. They brought this, the object of their choice affections, and delivered it to the custody of this House, as a tender parent would deliver the hope of his declining years, with a trembling solicitude in its selected guardians. And how have we conducted in this sacred trust? Why, delivered it over to the care of twelve dry-nurses, concerning whose tempers we know nothing, for whose intentions we cannot vouch, and who, for anything we know, may, some of them, have an interest in destroying it.

Yes, sir, the people did intrust us with that great power—the regulation of commerce. It was their most precious jewel; richer than all the mines of Peru and Golconda. But we have sported with it, as though it were common dust. With a thoughtless indifference, in the dead of night, not under the cover of the cheering pinions of our eagle, but under the mortal shade of the bat's wing, we surrendered this rich deposite. It is gone; and we have nothing else to do than to beg back, at the footstool of the Executive, the people's patrimony. Sir, I know the answer which will, and it is the only one which can be given: "There is no fear of an improper use of this power by the President and Senate; there is no danger in trusting this most excellent man." Why, sir, this is the very slave's gibberish. What other reason could the cross-legged Turk, or the cringing Parisian, give for that implicit confidence they yield to their Sovereigns, except that it is impossible they should abuse their power?

The state of things I mention does not terminate in mere verbal precision or constructive distinctions. The very continuance of the measure, has, in my opinion, its root in the situation which results from this, as I deem it, abuse of our Constitutional powers. Does any man believe that, if the embargo had been originally limited, a bill continuing it could now be passed through all the branches? I know that gentlemen who originally voted for this embargo, and probably will for the enforcement of it, have urged the situation of this House, in relation to it, as a reason for further adherence. "It is a measure of the Executive," say they. "Suppose this House should pass a law repealing it? Should he negative, what effect would result but to show distracted councils? In the present situation of our country, nothing is so desirable as unanimity." I know that, substantially, such arguments have been urged.

Mr. J. G. JACKSON wished the gentleman to name the persons to whom he alluded.

Mr. QUINCY said that he did not deem himself bound to state names connected with facts, by which he had acquired the knowledge of particular dispositions in the House. It was enough for him to state them, and to leave the nation to judge if there were, under the circumstances, anything improbable or unnatural in them.

Mr. NICHOLAS called the gentleman from Massachusetts to order. He regretted to say that, throughout the whole session, there had been a total departure from the idea which he had of order. When it was attempted to palm upon those with whom he acted opinions which all those with whom he must disclaim, he was compelled to object to the disorderly course pursued.

Mr. QUINCY said that he had no intention to palm upon any gentlemen sentiments which they disavowed. He did not suppose that the gentlemen who entertained such sentiments would disavow them. He said he certainly should not mention names. He did not think that the argument derived any strength from the fact that such expressions had been used, by any gentleman. They are natural and inevitable from the situation in which gentlemen are placed in relation to the Executive. Men, willing to take off the embargo, yet not willing to counteract the system of the President, were necessitated to adopt such reasoning as this. It was unavoidable when they came to reflect upon the powers which remained to this House in relation to the repeal of this law.

Mr. NICHOLAS required that the gentleman should observe order.

Mr. J. W. CAMPBELL said that, as the gentleman had made a reflection on members in the majority, he must be permitted to observe, that he utterly disclaimed any such opinion as the gentleman had indiscriminately charged upon the majority.

Mr. QUINCY said that he had made no such indiscriminate charge on the majority. An attempt had been made to give the discussion a turn which he neither anticipated nor intended. I understand, said Mr. Q., the cause of this interruption. It is not the fact intimated, but the force of the argument stated, which startles gentlemen from their seats. They like not to hear the truth elucidated, concerning their abuse of power, intrusted to them by the people. In reply to the gentleman from Virginia. (Mr. EPPES.) who alleged that, for party purposes, the embargo had been represented permanent, I undertook to show that, so far as respects this House, it was, to all intents, permanent. This is the insupportable position. The embargo——

Mr. J. G. JACKSON called Mr. QUINCY to order. This disorder, he said, had progressed too long. There had not only been disorder on the floor of the House, but in the galleries, and from British subjects, too, which had interrupted the gentleman from Virginia, (Mr. EPPES,) while he had been speaking, a few moments ago. It was not in order to discuss the subject of the embargo on this question. Everything which presented itself to the House was made a question of embargo. It was the watchword of the day.

The SPEAKER requested Mr. QUINCY to take his seat, and asked Mr. JACKSON to put down in writing the words to which he objected.

Mr. JACKSON said he could not specify particular words to which he had objected, unless, indeed, he were to include the gentleman's whole speech. He wished, however, to know of the Speaker, Is it in order, on a question for raising volunteer troops, to discuss the constitutionality of the embargo?

The SPEAKER observed that a very wide range had been taken in debate, and that, excluding personal matter, the gentleman was in order to reply to observations to other gentlemen.

Mr. QUINCY said that he had been drawn unexpectedly into this course of debate, by following the gentleman from Virginia, (Mr. EPPES.) He said he wished to lay before the House and the nation——

Mr. EPPES said that he had said nothing concerning the supplementary embargo law now before the House, which he conceived the gentleman was about to introduce into the discussion. He hoped the gentleman would suspend his observations upon the subject until it came before the House. When, notwithstanding all the clamor on the subject, it would be found that there was not a provision contained in it which was not to be found in the present revenue laws.

Mr. QUINCY said he was not about to bring the supplementary embargo bill into debate. The gentleman had asserted that the embargo law was not permanent; that the Constitution had not been violated. He had taken the gentleman upon that ground. And the course of his observations had been to prove that the embargo was permanent, so far as respected the powers of this House to repeal, and that the Constitution had been violated.

Mr. EPPES said that he had not said that the Constitution had not been violated.

Mr. QUINCY said that he had no particular inclination to speak at that moment, and if gentlemen did not wish to hear——

Mr. EPPES said he had no objection to hear the gentleman state any violations of the Constitution, and he should take the privilege of a member to answer them, if they were plausible.

Mr. MASTERS made some observations upon the point of order; and as the House was rather in a state of agitation, moved to adjourn. Mr. QUINCY having given way for the purpose; negatived—ayes 22.

Mr. QUINCY.—Notwithstanding all the interruptions I have experienced, my observations have been perfectly in order. The reason I am opposed to the resolution, is, that the force proposed to be raised is, in my opinion, intended not to meet a foreign enemy, but to enforce the embargo laws. Now, is it not the most pertinent and strongest of all arguments against the adoption of such a resolution, to prove that the powers of the Executive, in these respects, already transcend the limits of the Constitution, and that these laws, proposed to be thus enforced, are open violations of it? Considering, however, the temper of the House, I shall limit myself to the statement and elucidation of a single position. And the argument I shall offer will be only in outline. I will not enter into the wide field which the greatness of the question naturally opens. I know that, as soon as my position is stated, gentlemen advocating the present measures will be ready to exclaim, it is a small objection. But I warn gentlemen, that, small as it may appear to them, if the principle receive the sanction of the people and the support of the State Legislatures, there is an end of this destructive system of embargo.

The position I take, and which I mean to maintain, is, that those provisions of the embargo laws which assume to regulate the coasting trade between ports and ports of the same State, are gross invasions of the rights of the States, and palpable grasps of power beyond the limits of the Constitution. I ask the attention of the House to a very short argument upon this subject. I present it, not by way of crimination, but as worthy of its consideration and examination. I feel no passions on the question. If any have been exhibited by me they were caught at the flame enkindled by the gentleman from Virginia, (Mr. EPPES.)

The powers granted to Congress, in relation to commerce, are contained in the eighth section of the first article of the Constitution, in these words:

"The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

The particular power to which I object as being assumed, if granted at all, is contained within the terms "commerce among the several States." In reference to which, I ask this question. Can the grant of a power to regulate commerce among the States, by any fair construction, be made to include a power to regulate commerce within a State? It is a simple question. The strength and certainty of the conclusion results from its simplicity. There is no need of any refined argument to arrive at conviction. It is a plain appeal to the common sense of the people. To that common sense, which, on most practical subjects, is a much surer guide than all the reasoning of the learned. It is scarcely possible there can be but one answer to this question. To bring the subject more directly into the course of the reasonings of common life, suppose that ten householders who live in a neighborhood should agree upon a tribunal which should possess powers to regulate commerce or intercourse among their houses; could such an authority be fairly extended to the regulation of the intercourse of the members of their families within their respective houses? Under a grant of power like this, would such a tribunal have the right to regulate the intercourse between room and room within each dwelling-house? It is impossible. Nothing can be plainer. The General Government has no color for interference with the interior commerce of each State, let it be carried on by water or by land. The regulation of the commerce between ports and ports of the same State belongs exclusively to the States respectively.

In further support of this position, a strong argument results from the ninth section of the first article:

"No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

In this clause of the Constitution the people restrict the general power over commerce granted to Congress. And to what objects do these restrictions apply? To exports from a State; to preferences of the ports of one State over those of another; to vessels bound to or from one State in another. Not one word of restriction of the powers of Congress touching that great portion of commerce between ports and ports of the same State. Now, can anything be more conclusive that the general power of regulating commerce did not, in the opinion of the people, include the right to regulate commerce between ports and ports of the same State, than this fact, that they have not thought it necessary even to enumerate it among these restrictions? If it were included in the grant of the general power, can a reason be shown why it was not, as well as others, included within these restrictions? That it is not provided for among these restrictions, is perfect conviction, to my mind, that it was never included in the general power. A contrary doctrine leads to this monstrous absurdity, that Congress, which, in consequence of these Constitutional restrictions, can neither grant any preference to the ports of one State over those of another State, nor oblige vessels to enter, clear, or pay duties when bound to or from the ports of one State in another, yet that it may grant preferences to the ports of one State over ports in the same State, and may oblige vessels to enter, clear, and pay duties, when bound

from port to port within the same State. This enormous consequence is inevitable. The conclusion, therefore, to my mind, is perfectly clear, that the reason why the people did not restrict the abuse of this species of power was, that the power itself was not granted to Congress.

I shall state only one other corroborative argument, drawn from another part of the Constitution. By the second clause of the tenth section and first article, it is provided that, "no State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary, for executing its inspection laws," &c. Now, can it for one moment be admitted that, in consequence of this restriction, the individual States are prohibited from laying transit duties on articles passing from port to port within their State limits? Can the States lay no toll upon ferries across their rivers; no tax upon vessels plying up and down their rivers, or across their bays? May not the State of New York impose a duty upon vessels going from Hudson or Albany to New York? Yet, if it be true that the general power of regulating commerce among the States, includes the power of regulating commerce between ports and ports of the same State, all this great branch of State prerogative is absolutely gone from the individual States. A construction of the Constitution, in which, if realized by the people, and the Legislature of the States, in all its consequences, they never can acquiesce. The language of this clause is in strict consonance with that construction of the Constitution, for which I contend. It strongly and conclusively, to my mind, implies that the general power does not include the power to regulate commerce between ports and ports of the same State. The language of this clause is, "no State shall lay any imposts or duties on imports or exports." These terms "imports and exports" are exclusively appropriate to duties upon goods, passing into a State or passing out of a State, and can never be made, by any fair construction, to extend to duties upon goods passing wholly within the limits of a State. On goods in this situation—that is, on goods passing between ports and ports of the same State, the individual States have, notwithstanding this restriction in the Constitution, the power to lay transit duties. Of consequence the regulation of this branch of trade is not included in the grant to Congress of the general power over commerce among the States.

This is the point of view which I take in this matter, of the limits of the Constitution. On this ground it is, that I asserted that the rights of the States have been invaded in your embargo laws, and that this Legislature has grasped a power not given to it by the Constitution. And, so far as the liberties of this people are dependent upon the preservation of the State and National authorities, in their respective orbits, I hesitate not to declare the embargo laws a manifest infringement of those liberties.

On a question of this magnitude, I cannot condescend to inquire whether, in the early revenue laws, any regulations were made affecting this particular branch of trade? A practice in direct violation of the Constitution can have no binding force. Violations of the Constitution, touching only a few solitary individuals, small in amount, or in inconvenience, may, for a long period, be submitted to without a struggle or a murmur. When the extension of the principle begins to affect whole classes of the community, the interest of the nation claims a solemn and satisfactory decision. The truth is, I can find but a single attempt, in all your revenue laws, contrary to the construction for which I contend. In the case of carrying distilled spirits or imported goods of a specified amount from port to port within a State, the master is obliged to make a manifest and take an oath that the duties have been paid. The infringement of the Constitution was, in this instance, and in its immediate consequences, so trifling that it has passed without notice, and been submitted to without a question. But, surely, on the silent acquiescence of the people in such a practice as this, can never be built the fabric of so enormous a power as your embargo laws attempt to exercise.

Gentlemen say the embargo is brought into view on all occasions. Certainly, sir, it is connected with nearly all national questions. I have no objection to voting for fifty thousand men, if I can be informed to what use they are to be applied. Let me only understand the system proposed. Is it intended to repeal the embargo, and go to war? Or are those men only intended to enforce it? If the former, I have no objection to any requisite army. If the latter, I am in direct hostility to this proposition. Deeming the embargo laws unconstitutional, and powers vested in the Executive which ought never to have passed out of the possession of this House, I will never acquiesce in augmentation of the military, until I am satisfied that the system is not to support by it still further the violations of this Constitution.

Mr. Macon said that he was opposed to this resolution in its present form. He did not know that men might not be necessary; but he wished them, if regular troops, or of whatever kind, to be distinguished by their proper name. He moved to strike out the words "fifty thousand," so as to leave the resolution blank.

Negatived—47 to 47; the Speaker declaring himself in the negative.

Mr. Macon also moved to strike out "two," the term of service for which the troops were to be raised. Carried—52 to 49:

The question on the resolution was then decided by yeas and nays—yeas 76, nays 34, as follows:

Yeas—Evan Alexander, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, junior, Isaiah L. Green, John Harris, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, Daniel Montgomery, jun., John Montgomery, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, Clement Storer, Joseph Story, Peter Swart, John Taylor, Abram Trigg, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Culpeper, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, Barent Gardenier, Charles Goldsborough, Edwin Gray, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, junior, Josiah Quincy, John Russell, James Sloan, John Smith, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, and David R. Williams.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee on the Military and Naval Establishments do prepare and bring in the same.

Saturday, December 31.

An engrossed bill to authorize the transmission of certain documents by the mail, free of postage, was read the third time, and passed.

Mr. Macon, one of the members for the State of North Carolina, presented to the House sundry resolutions of the Legislature of the said State, relative to the present state of affairs between the United States and the belligerent Powers of Europe, and expressive of their determination to support such measures as Congress in their wisdom may adopt for the honor, safety, and independence, of the United States.—Ordered to lie on the table.

Mr. Wharton, from the committee appointed on the thirteenth instant, presented a bill supplementary to the act, entitled "An act to amend an act, entitled 'An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts of Kentucky, Tennessee, and Ohio;" which was read twice and committed to a Committee of the Whole on Monday next.

Mr. Dana, from the committee appointed on the twentieth instant, presented a bill concerning associations for the security of navigation; which was read twice, and committed to a Committee of the Whole on Monday next.

The House took up for consideration the amendment of the Senate to the bill for employing additional revenue cutters. The amendment proposes to strike out "twelve," and insert "three." After some observations from Messrs. Newton, Taylor, and Story, the House refused to concur—yeas 76.

DISABLED SOLDIERS.

Mr. Nelson observed that this was the last day of the year 1808. For many years past our old soldiers had been applying for relief. He thought it would be a meritorious thing to begin the new year with a just and generous act. He therefore asked for the order of the day on the bill for the relief of the infirm, disabled, and superannuated officers and soldiers of the Revolutionary Army and of the present Army of the United States.

[This bill contemplates the establishment of an invalid corps.]

The bill was taken up, went through a Committee of the Whole without an objection, and was reported to the House. Several amendments were then made to the bill.

After considerable discussion on the details, in which no hostility appeared to be expressed to the principles of the bill, a motion made by Mr. Blount to recommit it for the purpose of adjusting the details, was carried—58 to 25.

NON-INTERCOURSE.

Mr. Rhea, of Tennessee, said he intended to offer a resolution for consideration, but he thought it might be proper to make some preliminary observations. Since the commencement of this session of Congress, said Mr. R., several resolutions respecting the commerce of the United States have been submitted to the consideration of this House. These several resolutions contain separate and distinct points of commercial regulation. They have no common centre to which they all may gravitate. They have no common governing principle of discrimination. All foreign nations, favorable or unfavorable, are equally involved. The second resolution reported by the Committee on Foreign Relations, embraces a principle deserving consideration; it is expressed in the words following: "having 'in force orders or decrees violating the lawful 'commerce and neutral rights of the United 'States." This is the grand discriminating principle to which all commercial regulations of the United States ought to gravitate as a common centre. All commercial nations are individuals of the same family, and, that peace might be preserved, it is greatly to be desired that they had a system of commercial law providing for the common interest and reciprocal benefit of all. The commerce of a nation consists of two parts: exportation and importation. These two ought, in their relation to foreign nations, to be commensurate. If any nation or nations, unmindful of friendly and mutually beneficial commercial intercourse, will make restrictions violating the lawful commerce and rights of any other commercial nation, what commercial regulations soever the injured nation may think proper to make ought not, in justice, to affect commercial intercourse with any nation or nations other than that one or those who have begun and do persevere in the work of commercial rapacity and destruction. The orders and decrees of Great Britain and France violate the lawful commerce and

neutral rights of the United States. Any regulations or restrictions made by the United States to save their commerce from destruction, and to meet the operation of the same orders and decrees, and of all such orders or decrees of any other Power, ought, in justice, to be commensurate, equally extensive, and to comprehend all nations having in force such orders or decrees.

The resolution which I intend to submit, said Mr. R., has in view to establish a principle of discrimination just in itself and universally reciprocal. If there be any sovereign, independent Power, nation, or people, who has not, or may not have in force orders or decrees violating the lawful commerce and rights of the United States, that Sovereign, independent Power, nation, or people, ought not to be included and comprehended in any such commercial regulation adopted by the United States. That Power, nation, or people, if any such there be, or hereafter shall be—being an individual of the great commercial family—has a right to the benefit and advantage of commercial intercourse with the United States; and the United States have an equal right of a free, unmolested, commercial intercourse with such Power, nation, or people, which other nations, at war with each other, have a right to interrupt by retaliating orders or decrees.

Mr. R. then offered the following resolution, which was referred to the Committee of the Whole to which the non-importation bill is rereferred:

Resolved, That it is expedient to interdict, by law, all commercial intercourse between the United States and Great Britain and France and their dependencies, and all other Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States."

DIVISION OF THE INDIANA TERRITORY.

Mr. THOMAS, from the committee appointed on the thirteenth instant, to inquire into the expediency of dividing the Indiana Territory, made a report thereon; which was read, and committed to a Committee of the Whole on Monday next. The report is as follows:

That, by the fifth article of the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio, it is stipulated that there shall be formed in the said Territory no less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established, as follows:

The Western State shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincennes, due north, to the Territorial line between the United States and Canada, and by the said Territorial line to the Lake of the Woods and Mississippi.

The middle State shall be bounded by the said direct line, the Wabash, from Post Vincennes, to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said Territorial line, and by the said Territorial line.

The Eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said Territorial line: *Provided, however*, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent constitution and State government: *Provided*, the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there shall be a less number of free inhabitants in the State than sixty thousand.

By the aforesaid article, it appears to your committee that the line fixed as the boundary of the States to be formed in the Indiana Territory is unalterable, unless by common consent; that the line of demarcation, which the Wabash affords between the eastern and western portion of said Territory, added to the wide extent of wilderness country which separates the population in each, constitute reasons in favor of a division, founded on the soundest policy, and conformable with the natural situation of the country. The vast distance from the settlements of the Wabash to the present seat of Territorial government, renders the administration of justice burdensome and expensive to them in the highest degree. The superior courts of the Territory are, by law, established at Vincennes; at which place suitors, residing in every part of the Territory, are compelled to attend with their witnesses, which, to those who reside west of the Wabash, amounts almost to a total denial of justice. The great difficulty of travelling through an extensive and loathsome wilderness, the want of food and other necessary accommodations on the road, often presents an insurmountable barrier to the attendance of witnesses; and, even when their attendance is obtained, the accumulated expense of prosecuting suits where the evidence is at so remote a distance, is a cause of much embarrassment to a due and impartial distribution of justice, and a proper execution of the laws for the redress of private wrongs.

In addition to the above considerations, your committee conceive that the scattered situation of the settlements over this extensive Territory cannot fail to enervate the powers of the Executive, and render it almost impossible to keep that part of the Government in order.

It further appears to your committee, that a division of the said Territory will become a matter of right under the aforesaid article of the ordinance, whenever the General Government shall establish therein a State government; and the numerous inconveniences which would be removed by an immediate separation, would have a direct tendency to encourage and accelerate migration to each district, and thereby give additional strength and security to those outposts of the United States, exposed to the inroads of a savage neighbor, on whose friendly dispositions no permanent reliance can be placed.

Your committee have no certain data on which to ascertain the number of inhabitants in each section of the Territory; but, from the most accurate information they are enabled to collect, it appears that west of the Wabash there are about the number of eleven thousand, and east of said river about the number of seventeen thousand, and that the population of each section is in a state of rapid increase.

Your committee, after maturely considering this subject, are of opinion that there exists but one objection to the establishment of a separate Territorial government west of the river Wabash, and that objection is based on the additional expense which would, in consequence thereof, be incurred by the Government of the United States. But, it is also worthy of observation, that the increased value of the public lands in each district, arising from the public institutions which would be permanently fixed in each, to comport with the convenience of the inhabitants, and the augmentation of emigrants, all of whom must become immediate purchasers of these lands, would far exceed the amount of expenditure produced by the contemplated temporary government.

And your committee, being convinced that it is the wish of a large majority of the citizens of the said Territory that a separation thereof should take place, deem it always just and wise policy to grant to every portion of the people of the Union that form of government which is the object of their wishes, when not incompatible with the Constitution of the United States, nor subversive of their allegiance to the national sovereignty.

Your committee, therefore, respectfully submit the following resolution:

Resolved, That it is expedient to divide the Indiana Territory, and to establish a separate Territorial government west of the river Wabash, agreeably to the ordinance for the government of the Territory of the United States Northwest of the river Ohio, passed on the 13th day of July, 1787.

Mr. THOMAS, from the same committee, presented a bill for dividing the Indiana Territory into two separate governments; which was read twice and committed to a Committee of the Whole on Monday next.

A motion was made by Mr. WINN, that when this House adjourns, it will adjourn until Tuesday morning eleven o'clock: And the question being taken thereupon, it was resolved in the affirmative—yeas 60, nays 45.

TUESDAY, January 3, 1809.

MILITIA SYSTEM.

Mr. MACON from the Committee on so much of the Message of the President of the United States as relates to the amendment of the militia laws of the United States, reported that having carefully examined the system they are of opinion that no amendment is necessary.

The House having agreed to consider the report, Mr. MACON observed that he had not concurred in opinion with the committee, and therefore intended to make a motion to commit the report with special instructions to report a bill for classing and arming the militia. If the report were to be agreed to, it would foreclose any proposition on the subject during the session. The plan which he would propose for classing the militia would not go to destroy the present organization of the militia; but merely to class them according to age, so that young men should first be called into service. It was a rare thing that old men and young men accorded well together. Old men could not bear fatigue as well as young men. He wished not to see fathers and their sons in the ranks together. He believed that were such a plan to be adopted, from thirty to forty thousand men would annually be added to the lists; the arming of whom would cost from four to five hundred thousand dollars annually. In the course of four or five years all the men in the first class would be armed for duty, and be competent to repel any enemy. It was the only mode which united great utility with great economy. He had before him a statement made the last year by a gentleman from Virginia (Mr. CLAY.) The observations of that gentleman, he said, were well remembered by the House, and he could add nothing to them. They proved that a large corps would always be ready for service, and that the number would daily increase. Having premised thus much, he offered the following resolution:

Resolved, That the report, &c., be recommitted to the select committee, and that they be instructed to report a bill to class the militia according to age, and to provide for arming such as may hereafter be placed on the militia list at the public expense.

Mr. D. R. WILLIAMS hoped no objection would be made to this resolution; for its adoption would commit no gentleman on the principle involved in it.

Mr. DESHA wished a division of the resolution, as he was opposed to the first and in favor of the second clause.

A motion was now made to refer the report to a Committee of the Whole, and carried. Some debate took place on this motion, in which Messrs. LYON, MACON, NELSON and CLAY, appeared to be in favor of the principle, and Messrs. STURGES, DURELL, and TALLMADGE, against it. It was made the order of the day for to-morrow.

ENFORCING THE EMBARGO.

On motion of Mr. JACKSON, the House resolved itself into a Committee of the Whole, 52 to 39, on the bill from the Senate for enforcing and making more effectual the several embargo laws, with the amendments reported by a select committee of this House.

The amendments reported by the select committee were severally agreed to.

Mr. VAN CORTLANDT, after a few prefatory observations, expressive of an opinion that the embargo should be repealed so soon as could be consistently with the passing other acts, and giving equal notice to all our merchants, offered the following, as a new section to the bill:

"*And be it further enacted*, That the said act entitled 'An act laying an embargo on all ships and vessels within the ports and harbors of the United States,' and the several acts supplementary thereto, be repealed from and after the fourth day of March next."

The CHAIRMAN observed, that although he individually believed this motion to be in order, the House had twice successively decided a similar proposition to be out of order the other day, be-

cause the subject was already before a special Committee of the Whole; and he felt himself bound to abide by their decision.

Mr. GARDENIER appealed from the decision of the Chair.

The Committee confirmed the decision of the Chair.

A motion was made by Mr. ELLIOT that the Committee rise and report progress.—Negatived.

Mr. JACKSON moved that the Committee rise and report the bill as amended.

Mr. ELLIOT commenced a continuation of his speech which he commenced a few days ago. After Mr. ELLIOT had spoken about five minutes, it appearing that a quorum was not present—

Mr. DANA suggested the propriety of the Committee's rising and reporting "that there was no quorum."

Mr. MACON had no wish to sit here whilst gentlemen were gone to their dinners; and moved that the Committee rise and report progress.

Mr. MOSELY said it was an old maxim that "*dulce et decorum est pro patria mori*;" but he had no idea of starving to death for it.

The Committee rose, ayes 60, and the House adjourned.

WEDNESDAY, January 4.

Mr. LEWIS, from the Committee for the District of Columbia, presented a bill conferring certain power, relative to roads and bridges, on the Levy Court for the county of Washington, in the District of Columbia; which was read twice, and committed to a Committee of the Whole on Friday next.

A message from the Senate informed the House that the Senate have agreed to the amendments proposed by this House to the bill, entitled "An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes," with amendments; to which they desire the concurrence of this House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, and marines," with amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers," with amendments; to which they desire the concurrence of this House.

PUBLIC LANDS.

Mr. BOYLE offered the following resolution, observing that the subject had been before the House several times, but a solemn decision had never been had on the subject, and those who had witnessed the mode of disposing of land on credit, had seen the ill effects of the present system:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of reducing the price of public lands, and abolishing the credit on sales thereof; and that they have leave to report by bill or otherwise.

The resolution was agreed to.

DISTRESSED SEAMEN.

Mr. NEWTON offered a resolution, directing the Committee of Commerce and Manufactures to inquire into the propriety of providing for the relief of distressed and disabled seamen.

Mr. N. stated that he had been induced to propose the resolution from the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, *Dec.* 20, 1808.

SIR: Whilst the fund for supporting sick and disabled seamen has, during this year, been considerably diminished, the expenses are actually increasing. For the fund, consisting of the deduction of twenty cents per month from the wages of seamen, must necessarily decrease in the same ratio as the number of seamen actually employed; and, on the other hand, the number itself of those who are confined at home and deprived of employment, produces an increase of applications for relief.

All that had, by frugality in the expenditure, been saved during the former years, will be inadequate to supply the deficiency of the ensuing year, unless orders be immediately given to reduce, by some general and harsh rules, the number of persons heretofore admitted. I cannot believe that this would be consistent with the intention of the Legislature, and think it my duty to state the facts, in order that a proper remedy may be applied.

Upon due consideration of the subject, it appears to me that the most simple and equitable plan would be to appropriate for the year 1809, in aid of the fund, an additional sum of about two hundred thousand dollars; such sum to be applied as the fund itself, under the general directions of the President, but to be expended in the several ports in proportion to the amount actually collected in each on that account during the year 1807, and to be applicable to the relief, not only of sick and disabled, but also of *distressed* seamen.

I am, very respectfully, sir, your obedient servant,
ALBERT GALLATIN.

T. NEWTON, Esq., *Chairman of the Committee of Commerce and Manufactures.*

The resolution was agreed to without opposition.

NAVAL ESTABLISHMENT.

Mr. STORY said that if the House did not wish to be considered as slumbering at their posts, it was proper that they should, after determining that they would not submit to the orders and decrees of the belligerents, adopt some efficient system of warfare, if war must be the result. On this point he was decidedly of opinion that we could carry on operations to great advantage on the ocean. He held in his hand a resolution for inquiring into the propriety of augmenting our naval force, which he submitted to the consideration of the House:

Resolved, That the committee to whom was referred so much of the Message of the President of the United States as relates to our Military and Naval Establishments, be instructed to inquire into the expediency of increasing our Naval Establishment, and that they have leave to report by bill or otherwise.

Mr. D. R. WILLIAMS asked of the gentleman, against whom was this force to be applied? He presumed, as the gentleman appeared to have his mind so fully made up on the subject, that he had made the necessary calculations, and would favor the House with them. For his part, Mr. W. said, if we were to go to war to-morrow, he would not vote a single additional floating gun. What had been the consequence of augmentations of naval force in other countries? Were they not perpetually augmenting the British navy? The Ministry would give but a small premium to insure the gentleman's augmentation, should it be made, a safe berth in their ports. Did the gentleman wish to follow the example of Denmark, and have our towns Copenhagened?

Mr. GARDNER observed that a bill for putting our present Navy into service was already before the House. He should prefer first acting on that, and therefore moved that this resolution lie on the table.

Mr. STORY hoped this course would not be given to his motion; for it might be perfectly proper not to order the whole naval force to be put into actual service, and yet it might be very proper to prepare an additional naval force. We were not at present at war, but we soon might be. The gentleman from South Carolina had supposed that any augmentation of our naval force must fall a sacrifice to the British navy. Mr. S. said he could not so much doubt the courage or character of his countrymen, as to feel as the gentleman did. I was born among the hardy sons of the ocean. They will never be guilty of a dereliction of their duty or their country's rights. They never will submit. If Great Britain ever obtains possession of our present little establishment, it must be at an expense of the best blood of the country, and after a struggle which would call for more of her strength than she had ever found necessary for an European enemy. He said he did not wish our naval force to be increased for offensive measures; but it had appeared to him, that the only force which could effectually protect our seacoast was a naval force. He wished a few vessels of war to co-operate with our fortifications. Such a force, too, with the known bravery of American seamen, would carry dismay wherever it went. The passage of this resolution would not decide the principle; it was barely for inquiry. Would not gentlemen inquire whether an increase of the naval force might not be proper? Would they hold out the language that they would permit the scene of the Chesapeake to be acted over again with impunity? That they would still remain on land? Mr. S. said he could not believe that the gentleman from South Carolina wished to see this game played again. He hoped that we would prepare a force to protect us against every foe. The naval establishments of European nations must be always maintained at an expense double of the proportionate expense which would be incurred in this country. He asked the gentleman from South Carolina if we had fifty fast sailing frigates, whether the British nation would send an armament sufficiently powerful to endanger them? Mr. S. said that we knew perfectly well the importance which they attach to their naval establishment. The thunder which rolled over their heads in terror was only that from floating batteries on the water. Believing that whenever we have war it must be carried on at sea as well as on land, he was in favor of increasing our naval force.

Mr. D. R. WILLIAMS said that the gentleman must excuse him for saying that he had pursued the Eastern mode of propounding other questions instead of answering those which had been put to him. He said he had meant no reflection on the hardy sons of Neptune; he believed them to be as courageous as the gentleman had represented them. The gentleman talks of fifty fast sailing frigates; is it possible that any man in the nation can suppose that its safety depends upon fifty fast sailing frigates? They must, if sent out, either carry orders not to fight, or become what the Chesapeake has been—a disgrace to us. I feel regret that such is our situation, and I have no other consolation than the state of the nation. Yes, sir, it is a mortification to me that the British Minister here has said, and perhaps to members of this House, that if fifty sail of the line were built they would soon be taken from us. We cannot command resources for such establishments. Will gentlemen consider that our greatest annual revenue never amounted to seventeen millions of dollars? I ask, then, where are we to get money for the support of such immense establishments. Mr. W. said it was on the shore that he would risk the salvation of his country; and of an invading foe there would not, he trusted, a single man escape to tell the fate of his comrades. Indeed he should tremble for his country, if he thought its salvation depended on floating batteries.

Mr. NICHOLAS said there appeared to be a difference of opinion among gentlemen as to the mode of preparing for action. It was unquestionably necessary, he observed, that the House should come to some decision on the subject. Gentlemen who were in favor of naval force, when that question was fairly decided in the negative, would no doubt give up all idea of that force, and join those in the majority in voting for that force which they deemed necessary. I do not, will not believe, said Mr. N., that a difference of opinion as to the species of preparation to be made will prevent us from making any. Until some decision be made we shall be perpetually embarrassed in this way. I have not made up my opinion on this subject; but I am inclined to believe that in the event of a war we can do but little on water. I think it important, however, that the thing should be settled and not procrastinated. This question should be met and decided. I do not believe I say too much when I say that I believe war to be inevitable. I say this upon the presumption that I am warranted in believing that it is the determination of this

House and the nation to resist, as long as a man remains of us, the edicts of Great Britain and France. Having made this determination, what is our duty under the present aspect of our affairs, when it does not appear that either of these nations will recede? To prepare to meet the crisis as men determined to resist effectually. Shall we do this as long as we divide as to the *means* to be employed? We shall not, sir. Mr. N. expressed a hope that gentlemen who thought land force the best, would, if it should not be agreed to by a majority, consent to employ naval force; and that, under similar circumstances, those in favor of naval force would consent to employ land forces. It was of the utmost importance that they should come to an understanding on the subject. If out-voted in the force which was best in his opinion, he would cordially assist in preparing the other species. He said he was for offence, not for defence merely, when thus vitally assailed. He hoped the House would at once settle the mode, and commence the work of preparation.

Mr. Lyon said that it was well known that he had never been inimical to a naval force. The rule which he had laid down to himself had been to give a great share of the revenue derived from commerce to the protection of commerce. He had never entertained the idea of manning a fleet for the purpose of defying Great Britain on the ocean. He had wished to give that share of the proceeds of the commerce of the nation to its protection which should be deemed necessary. He said that sending out a navy with a view to meet that of Great Britain on the ocean, would indeed be a Quixotic expedition. He had always thought that this nation would be justifiable alone in defensive war. He would forever maintain the right to govern ourselves on land, and on the ocean too, if he thought there was any probability of succeeding in such a contest. He censured the propensity displayed by gentlemen for making partial preparations, and wished to see a whole system at once.

The question on ordering Mr. Story's proposition to lie on the table was carried—47 to 38.

THE EMBARGO.

Mr. Van Cortlandt observed that it was impossible for the House to get along with business until the question of repeal or continuance of the embargo was decided. He, therefore, called for the order of the day on Mr. Chittenden's resolution for the immediate repeal of the embargo.

Mr. Bacon made a motion which superseded this motion, viz: to discharge the Committee of the Whole from the further consideration of it, and to refer it to the Committee of the Whole to whom was referred the bill on the subject of non-intercourse.

After a debate of near three hours, this motion was negatived—yeas 23, nays 91.

The debate was desultory in the extreme, including questions of order, &c., and the decision of the question appeared to involve no principle. Messrs. Gardner, Dana, Chittenden, Quincy, Upham, Lyon, Sloan, and Masters, appeared to be in favor of the adoption of Mr. Chittenden's resolution; and Messrs. J. G. Jackson, D. R. Williams, Bacon, Geo. W. Campbell, Smilie, Alexander, Story, Bibb, Holland, and Eppes, opposed it.

The House then resolved itself into a Committee of the Whole, on motion of Mr. Van Cortlandt—yeas 62, nays 49—on the resolution of Mr. Chittenden, in the following words:

Resolved, That the act passed at the last session of Congress, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary and additional thereto, ought to be immediately repealed.

Mr. Van Cortlandt moved to strike out the word "immediately," and insert, "from and after the 4th day of March next."

Mr. Eppes called for the division of the question, so as to take it first on striking out the word "immediately." And the question having been so taken, was negatived—ayes 36. The motion to insert, of course, fell with the motion to strike out. And the question on the resolution having been stated,

Mr. Livermore said, he was agreeably disappointed in seeing this subject taken up, and was not therefore as ready to meet it as he might be. He then commenced an argument on the constitutionality of the embargo. The origin of the Federal compact was chiefly the want of some general power to regulate commerce. There had, however, he contended, been no delegation by the Constitution of a power to lay an embargo; consequently, the exercise of it was an assumption of power not warranted by the Constitution. The Convention, he said, could have had no idea that they were raising a power to destroy the very object for the preservation of which they were associated.

After Mr. L. had been speaking about ten minutes,

Mr. Gholson asked if the gentleman would not prefer being heard to-morrow?

Mr. Livermore answered that he should.

A motion was made that the Committee rise, and report progress; which, however, was soon changed to a motion to report the fact that there was not a quorum present.

The motion for rising was supported by Messrs. Cook, Dana, Quincy, Elliot, and Lyon, on the ground that time was not allowed for discussion; that it was late in the day, and no gentleman could be heard to advantage at this hour. It was opposed by Messrs. Macon, Blackledge, Alston, and D. R. Williams, for the reason, that, as they had consented to go into Committee on the subject, they wished an immediate decision; that the subject had already been amply discussed, and a protraction of debate now would but keep the people in suspense.

The Committee rose, but could not report, a quorum not being present.

A motion was then made to adjourn, and carried—yeas 40, nays 38—a quorum being present

at the vote, several members having, whilst the yeas and nays were calling, come into the House from the lobby and elsewhere.

Thursday, January 5.

Mr. Van Dyke presented a memorial of sundry late officers in the Delaware line of the late Revolutionary army, in behalf of themselves and others, praying that such further compensation may be granted to the memorialists, for their respective services in the capacity aforesaid, as shall be equivalent to an allowance of half-pay for life; or that such other relief may be afforded in the premises as to the wisdom and justice of Congress shall seem meet.—Referred to the committee appointed the 26th ultimo on the memorials of sundry other late officers of the said Revolutionary army.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanied with sundry statements made in conformity to the several provisions of the laws providing for the sale of public lands south of the State of Tennessee; which were read, and referred to the Committee on the Public Lands.

Mr. Lewis, from the Committee for the District of Columbia, presented a bill supplementary to the act, entitled "An act to amend the charter of Georgetown;" which was read twice, and committed to a Committee of the Whole on Monday next

Mr. Newton, from the Committee of Commerce and Manufactures, presented a bill for the relief of sick, disabled, and distressed seamen; which was read, and referred to a Committee of the Whole to-morrow.

Mr. Nelson, from the committee appointed on so much of the Message from the President of the United States, at the commencement of the present session, as relates to the Military and Naval Establishments, presented a bill authorizing the appointment of a Superintendent of Ordnance; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Findley, from the Commitee of Elections, to whom it was referred to examine the certificates of election or other credentials of several new members returned to serve in this House, in the room of others who are deceased, or have resigned their seats, made a report thereupon; which he delivered in at the Clerk's table, where the same was read, and is as follows:

"On examining the certificates and credentials of Joseph Story, returned for the State of Massachusetts, in the room of Jacob Crowninshield, deceased; of Richard Jackson, returned for the State of Rhode Island, in the room of Nehemiah Knight, deceased; of Samuel Shaw, returned for the State of Vermont, to serve in the room of James Witherell, who has resigned his seat; of Nathan Wilson, returned for the State of New York, in the room of David Thomas, appointed Treasurer of that State; of Benjamin Say, returned for the State of Pennsylvania, in the room of Joseph Clay, who has resigned his seat; of Thomas Gholson, jr., returned for the State of Virginia, in the room of John Claiborne, deceased; and of Jesse B. Thomas, elected a delegate for the Territory of Indiana, by the Legislature thereof, to serve in the second session of the tenth Congress, in the room of Benjamin Parke, appointed a judge of the superior court of that Territory—report

"That the certificates and other credentials of the elections and returns of Joseph Story, for the State of Massachusetts; Samuel Shaw, for the State of Vermont; Richard Jackson, for the State of Rhode Island; Nathan Wilson, for the State of New York; Benjamin Say, for the State of Pennsylvania; Thomas Gholson, jun., for the State of Virginia; and Jesse B. Thomas, for the Territory of Indiana—are sufficient to entitle them to seats in this House."

Ordered, That the said report do lie on the table.

Mr. Bassett, Chairman of the Committee of the Whole House, to whom was referred a resolution proposed by Mr. Chittenden, in the following words: "*Resolved*, That the act passed at the last session of Congress, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary and additional thereto, ought to be immediately repealed;" also, sundry other resolutions subsequently proposed, and petitions presented, to the House, touching the same subject—reported that the Committee had, yesterday, according to order, had the said resolutions and petitions under consideration; and in the course of the discussion, the Committee found themselves without a quorum, and thereby dissolved. Whereupon,

Ordered, That the said proposed resolutions, together with the petitions presented, touching the subject aforesaid, do lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Augustin Serry," with an amendment; to which they desire the concurrence of this House.

ENFORCING THE EMBARGO.

On motion of Mr. Nicholas, the House resolved itself into a Committee of the Whole, on the bill for enforcing the embargo, and the several acts supplementary thereto.

Mr. Elliot said he should commence where he left off the day before yesterday, and proceed in the discussion with all the spirit consistent with coolness. He went almost through the bill section by section, commenting at length upon them. To every section he stated specific objections. Before he concluded his remarks, however, the Chairman observed that the gentleman could not object to sections which had been amended, as they could not, according to the rules of the House, be struck out; and there was now no motion for the Committee to rise. And Mr. E. closed his remarks, with an intimation that he would renew them at a future stage of the business.

The Committee then rose and reported the bill.

The amendments having been gone through,

Mr. Eppes offered a new section to the bill repealing so much of the supplementary act of March 12th last, as empowers the President to permit vessels to depart from the United States to bring in property. This power, he said, was

not necessary, whatever it might have been, and had been made a pretext for evasions.—Agreed to without opposition.

Mr. Pitkin moved to strike out of the 9th section the words in *italic* in the following:

"That the collectors of all the districts, &c., shall be authorized to seize produce, &c., whenever there is reason to believe that they are intended for exportation, *or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently, on their way towards the territories of a foreign nation, or the vicinity thereof, or towards a place where such articles are intended to be exported.*"

He believed that it gave a despotic power to collectors, with military force, to arrest any property going out of the country—to take even a trunk of a citizen, which might have money in it, going from one part of the country to any place where it might probably be exported. This power to seize property in any vessels, carts, sleighs, &c., "apparently on their way towards the territories of a foreign nation," was arbitrary and despotic. Not a cart, he said, could travel northwardly but was going *towards* the territories of a foreign nation, but would be subject to this despotic power, &c. No similar power had ever been given by any law passed in this country or any other. A man could not carry his wheat to market, if the mill lay in a direction towards a foreign country, without being liable to seizure. The fourth article of the amendments to the Constitution, says, "the right of the peo-'ple to be secured in their persons, houses, papers, 'and effects, against unreasonable searches and 'seizures, shall not be violated, and no warrants 'shall issue, but upon probable cause, supported 'by oath or affirmation, and particularly describ-'ing the place to be searched, and the persons or 'things to be seized." What was "unreasonable seizure?" If this power to seize, authorized by the bill, were not unreasonable, he could not see what was. Was not this a violation of this article of the Constitution? In article fifth, no man "shall be compelled in any criminal case to be 'witness against himself, nor be deprived of life, 'liberty, or property, without due process of law." If deprived of his property in this way, was it not, he asked, taking his property without due process of law? If the article of the Constitution meant anything, the bill proposed a violation of it. Mr. P. also adverted to the novelty, if not unconstitutionality, of giving to maritime courts jurisdiction over occurrences taking place on the land. He feared for the consequences of the thing, if the law was enforced. Whilst gentlemen took measures professedly for defending our rights on the ocean, he begged them to take care not to destroy them on the land. The bill was to maintain our right to sail without impediment from either of the belligerents; and for this purpose they were about to destroy the rights for which we had even fought and bled. Thinking thus, he felt himself bound to move the amendment, though he feared it would not be agreed to, for he perceived that this bill was promptly to pass by an overwhelming majority. He did not believe that this bill was necessary to enforce the embargo; and if it was, it was one of the strongest arguments against the embargo itself.

Mr. Basset observed that all the arguments of the gentleman had been directed against the word "towards." The striking out "towards," and inserting "to," would obviate his objections.—Gentlemen talked of arbitrary measures. Did gentlemen suppose that the power here given to collectors was any way as arbitrary as must exist in military officers in case of war? The advocates of the embargo had adopted that measure as a lesser evil to avoid war. Was it arbitrary to keep produce at home and to compel those who had not the fear of God before their eyes and love of country in their hearts, to respect the laws of their country? Surely not; it was but justice. Was not the design to make laws operate equally, both honorable and laudable? Surely it was. What was so arbitrary in the bill? The objections seemed so changeable, so Proteus-like, that they could not be ascertained. It was altogether destructive of republicanism to say that we could not enforce or support our laws. Laws might be partially evaded; but they must be rendered generally effectual, and that was the object of this bill.

Mr. Eppes said that if he coincided in opinion with the gentleman from Connecticut on the subject of the bill, he should unquestionably vote against it; but he could not believe that it either violated the Constitution or established a new jurisdiction. He was well convinced that if the gentleman from Connecticut would attend to our revenue laws, he would find infinitely greater powers had been given by them. In almost the first revenue law which had been passed under this Constitution, importation by land had been wholly prohibited; and he asked the attention of the House to the terms of the law, because it proved that our revenue officers had exercised jurisdiction on land as well as on water. He read the 70th section of the "act to provide more ef-'fectually for the collection of duies imposed by 'law on goods, wares, and merchandise, imported 'into the United States, and on the tonnage of 'ships and vessels," as follows:

"That no goods, wares, or merchandise, of foreign growth or manufacture, subject to the payment of duties, shall be brought into the United States from any foreign port or place in any other manner than by sea, nor in any ship or vessel of less than thirty tons burden, except within the district of Louisville, nor shall be landed or unladen at any other place than is by this act directed, under the penalty of seizure and forfeiture of all such vessels, and of the goods, wares, or merchandise, brought in, landed or unladen, in any other manner. And all goods, wares, and merchandise, brought into the United States by land, contrary to this act, shall be forfeited, together with the carriages, horses, and oxen, that shall be employed in conveying the same; provided nothing herein shall be construed to extend to household furniture and clothing, belonging to any person or persons actually removing into any part of the United States, for the purpose of becoming an inhabitant or inhabitants thereof."

This principle, Mr. Eppes said, was precisely the same with that now proposed. The section was not now in force, but other provisions were substituted in its place. Mr. E. quoted several other parts of laws, in which was given to the collectors a power to search all rafts, boats, carriages, and to stop them when suspected, &c., and in which vessels going from one port to another, of the same State, were compelled to take clearances, or give bond and security, &c.; and persons carrying property, even overland, were required to give security. And yet, said Mr. E., when we now propose to give the same power in the very same words, we are told that we are violating the Constitution and destroying the rights of the citizen! The Constitution, he said, had wisely provided that the citizen should be secure in his person and property. But if a man's property were to be found under such circumstances as to authorize a belief that he intended to violate a law of the United States, was it an infraction of the right of the citizen to compel him to give bond that he will not? The very gentlemen themselves who raised this outcry, had passed laws stronger than this. He was against the amendment proposed, because it authorized no seizures in any situation in which property would not be liable to seizure for infraction of the present revenue laws.

Mr. Dana could not subscribe to the opinion of the gentleman from Virginia, that the principles of this bill were recognised in the revenue laws. He said he would enter into no examination of the question, whether an embargo, laid indefinitely without limitation of time, was Constitutional or not? But he objected to this part of the bill, that it authorized the officers of the United States to seize property to which the United States had no claim. In every case where property became forfeited in consequence of a contravention of the law, that property might, without violating general principles, be seized by the officers acting for the public. The act of seizure brings it before the court, and, if ascertained to be forfeited, it is immediately liable to confiscation. This was not the case in the present bill, for the person whose property was seized was permitted to have it again on giving security for its value. The very idea of a man's regaining his property on giving security was incompatible with the seizure of goods as forfeited. The suspicion of an intent to evade the law could be no ground for seizure. In the case of the revenue laws, the very fact of goods being found within the lines, not having paid duty, was, *ipso facto*, evidence of their being forfeited, transferred the property to the use of the United States, and made it liable to seizure. On this ground, therefore, he thought the part which was moved to be stricken out was wholly unwarranted.

Mr. D. R. Williams suggested a modification of the amendment, which, he believed, would satisfy the fastidiousness (for so he was compelled to call it) of the gentleman from Connecticut. He observed that it used to be penal for a man even to move any part of his property after sun-down, and yet he believed that none of the distress had been felt from that law which gentlemen seemed to apprehend from this law.

Mr. Livermore thought this section, and, indeed, the whole bill, could not be understood by gentlemen, or there could be no difference of opinion on the subject. The bill, indeed, had been very essentially altered since it came from the Senate; for, before it was amended, it contained a provision by which a collector, who had any particular hatred to any man, might go with a band of soldiers and seize his property.

Mr. Eppes denied that the bill had contained any such provision.

Mr. Livermore said that the collector was authorized to seize property when he believed it intended for exportation, not confining the right of seizure to any particular limits, were it not for the amendment made by the House. If money had been accumulated in a bank, Mr. L. said that it might have been seized under a pretence of a suspicion that it was intended for exportation. And, as the bill now stood, suppose a man travelling from this place to Baltimore, which is an exporting place, having with him in his carriage or vehicle a sum of money, it would be in the power of any person to seize it, saying that it was intended for exportation, and keep it until he had been able to procure security for its retention in the United States. What would be the consequence if this power should be tyrannically exercised? Why, the revenue officer might be sued for damages, &c. Mr. L. made some observations on the subject of the process in this case, &c. He considered this bill as vesting arbitrary powers in the Executive, and oppressive to the citizen. This, he said, was the way in which all countries had lost their liberties, by gradual assumptions and delegations of powers. Rome had not established a dictatorship in a day; gradual approaches were always made to despotism. He said he should vote against the amendment and against the bill, because he did believe, if passed, that it would be subversive of the liberties of the people of the United States.

Mr. Eppes said, that the gentleman from Massachusests must have lately taken a trip to the island of Tribnia, described by Dean Swift, and received some instructions from the artists who were so dexterous in finding out hidden meanings in words, for instance, that a flock of geese signified a Senate, a buzzard a Prime Minister, &c., because he had given meanings to the bill which could not be justified by the language of the bill, or fairly inferred from it. The bill as sent from the Senate, Mr. E. said, did not authorize any such seizure; and he asked the gentleman from Massachusetts, as a lawyer, whether any collector would dare to violate the Constitution by attempting to search a house without a warrant? The gentleman knew that he could not; that law could not give such a power. The gentleman had told them that Roman liberty had not been destroyed at once. If they looked into Roman history they would find that Rome was once saved by the braying of an ass; that the

cackling of geese once saved the Capitol; that the conspiracy of Catiline had been betrayed by a woman. These were remarkable circumstances, but had no more connexion with the question than the gentleman's case of the dictatorship. Mr. E. said when he saw gentlemen supporting objections, like the gentleman from Conpecticut, (Mr. PITKIN,) he could meet and respect them, but when he heard a gentleman say that, by the bill, an officer could violate a private sanctuary; when he looked into the law, and found no such provision, he could not treat his observations with attention.

Mr. LIVERMORE said, that the gentleman could not have understood him as alluding to the bill as it now stood, but as it had come from the Senate. The gentleman had asked him, as a lawyer, whether a man could enter a house without a warrant, and seize property? He could not, by virtue of a law, and why? Because the Constitution would prevent him. But this did not take away the impropriety of passing such a law. He did not believe that the courts of justice had become so corrupt, or would display such a vile submission to any authority as to submit to carry into effect a law which was unconstitutional. He said that he attributed no wrong intention to gentlemen; but he conceived it possible that their feelings might hide from them the true construction of the law. He warned gentlemen against it. Gentlemen might talk about asses and geese, for he supposed the gentleman meant to be severe upon him; if so, he would return the compliment.

Mr. EPPES said, he had not applied the observation to any one; if there was any application in the case, the gentleman had certainly taken it to himself.

Mr. LIVERMORE said, he had expressed no opinions but such as were founded on mature reflection.

After some remarks, in explanation, from Mr. DANA,

The question on Mr. PITKIN's amendment was taken, and it was negatived—yeas 41, nays 51, as follows:

YEAS—Ezekiel Bacon, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, junior, Daniel M. Durell, James Elliot, Barent Gardenier, Francis Gardner, Charles Goldsborough, John Harris, Robert Jenkins, Joseph Lewis, junior, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Wilson Cary Nicholas, Timothy Pitkin, junior, Josiah Quincy, John Rhea of Tennessee, John Russell, Richard Stanford, Clement Storer, Joseph Story, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Thompson, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Killian K. Van Rensselaer, Jesse Wharton, David R. Williams, and Nathan Wilson.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Joseph Barker, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, junior, Isaiah L. Green, John Heister, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Walter Jones, John Lambert, Daniel Montgomery, junior, Nicholas R. Moore, John Morrow, Roger Nelson, Thomas Newton, John Porter, John Pugh, John Rea of Pennsylvania, Matthias Richards, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, John Taylor, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, and Alexander Wilson.

Mr. STURGES moved to amend the last section by striking out the term of limitation of the law to the duration of the embargo, and inserting as the period to which this bill should expire, "the first day of June next."

Mr. G. W. CAMPBELL observed that although he was decidedly opposed to this motion, he wished it not to be understood that, long before the first of June, he might not be willing to adopt a stronger measure, if no change of our situation took place.

The question was then taken on striking out the words in the bill, to make room for the amendments, and lost—yeas 27, nays 75, as follows:

YEAS—Epaphroditus Champion, Orchard Cook, John Culpeper, Samuel W. Dana, James Elliot, William Ely, Barent Gardenier, Francis Gardner, Charles Goldsborough, John Harris, Richard Jackson, Robert Jenkins, Joseph Lewis, junior, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, junior, Josiah Quincy, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, and Killian K. Van Rensselaer.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, John Lambert, Nathaniel Macon, Robert Marion, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholos, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Joseph Story, John Taylor, John Thompson, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

Mr. STURGES's amendment, of course, fell with it.

Mr. STURGES then offered the following, as a new section to the bill:

"*And be it further enacted*, That this act, and the act laying an embargo, and the laws supplementary to it, be repealed on the fourth of March next."

Mr. COOK moved to adjourn—ayes 26.

Mr. BLOUNT said he was not prepared to say that there might not be a time when the embargo ought to be removed, even if our difficulties were not removed; but he was certain that, whenever it was removed, some other measure must be adopted. He moved, as an amendment to the gentleman's motion, the following: "and 'that, from and after the fourth day of March 'next, it shall be lawful for the President of the 'United States to issue letters of marque and re-'prisal to such citizens of the United States as 'shall apply for them against the nations having 'edicts in force violating the lawful commerce 'of the United States."

Mr. LIVERMORE said, it was true that the Congress of the United States had the power of declaring war; but he did not know that they could delegate the power to the President of the United States. He said he was not surprised at it; for they seemed to have arrived at a period when they should choose a Dictator, and vest him with the power of life and death.

Mr. EPPES said that the gentleman from North Carolina had expressed clearly his idea; that he was not prepared to vote on the amendment of Mr. STURGES, and merely meant to express his idea that, if the embargo was taken off at this moment, letters of marque ought to be granted. In this opinion Mr. E. coincided with him exactly. The gentleman from Massachusetts (Mr. LIVERMORE) did not pretend to say that Congress had not the power to issue letters of marque and reprisal. Who, then, said he, is to sign them? Our Speaker? No, sir; most probably the Executive, to whom the gentleman is so tender of granting power. I shall vote for the amendment of the gentleman from North Carolina, but do not consider it as pledging me to vote for the whole section of the gentleman from Connecticut, (Mr. STURGES,) as proposed to be amended; though I will not say that on the fourth of March it might not be proper to do so.

Mr. BLOUNT said, I rise to correct an impression which seems to exist in the minds of some gentlemen, that I am desirous of going immediately to war. I can truly say, that no man in this House is less desirous of going to war at this time than I am. In voting for the embargo, I was actuated by a desire to avert that evil; and I have and shall continue to vote for its continuance, because I still believe it will avert it, if, indeed, it be avertible. I introduced the amendment to the amendment now under consideration to show my opinion that the injuries we have received cannot be submitted to, and that if the embargo is abandoned before those injuries are redressed, we must necessarily resort to war. I shall vote for the amendment and against the section as amended.

He then amended his amendment by inserting the words "and neutral rights" after the word "commerce."

Mr. DAVID R. WILLIAMS said it was very easy to discover what was the object of the gentleman from Connecticut—to call the yeas and nays, on one question or other, till the empty seats on his side of the House were filled, and then they would not get the question. He was sorry that the gentleman from North Carolina had made an object so unimportant as important as he did. He really wished that he would withdraw his amendment. Every consideration of policy was against its being decided to-night.

Mr. STURGES assured the gentleman from South Carolina that he had no chicanery in his nature; his only object was to obtain a direct decision of the question. He disclaimed the motive attributed to him.

Mr. J. G. JACKSON said, if the gentleman from Connecticut intended to vote for his own amendment, he must certainly vote for that of the gentleman from North Carolina.

Mr. BLOUNT withdrew his amendment, with a declaration that, if Mr. STURGES's amendment were adopted, he should move it as a new section.

After some observations from Mr. QUINCY in favor of, and Mr. MACON against the new section proposed—

Mr. CULPEPER moved to adjourn—yeas 25, nays 68.

Mr. G. W. CAMPBELL opposed the resolution, in a speech of a few minutes.

Mr. DANA spoke about an hour in favor of it.

Mr. MACON spoke in reply for half an hour.

Mr. LYON spoke in favor of the amendments about twenty minutes.

Mr. SMILIE spoke in reply about the same time.

Mr. STANFORD moved to adjourn—yeas 26.

Mr. LIVERMORE spoke in favor of the amendment, and in reply to Mr. SMILIE, about twenty minutes.

Mr. MASTERS.—Mr. Speaker, I perceive that the friends of the embargo are all mustered and marshalled for duty this night. They make so fine an appearance, there is no doubt of victory on their side. Nevertheless, I am determined to raise my arm and my voice against it, and in favor of the repeal. I hope the debate will be continued with all the temper and impartiality that the importance of the subject requires. I do not wish to speak disrespectfully of the measure, but must beg the indulgence of speaking to it with freedom.

We are again called upon for a substitute for the embargo. There are but three ways to be pursued: repeal your embargo laws in the whole, repeal them in part, or make war. The substitute I propose, is, to repeal the embargo laws as to those Powers who are friendly, and suffer your vessels to arm on the defensive. This course has this pre-eminent recommendation, of avoiding the supposed submission on the one hand, and the calamities and horrors of war, with all its attendant miseries on the other.

Let it be recollected, that this course will enable us, in some degree, to increase our commercial resources. Open trade with those countries who are friendly will lead to enterprise far more extensive than we can foresee, and far beyond our

depth. If this course is viewed with calm, dispassionate, and sober investigation, I yet hope it will be adopted by the House.

Commerce is blended with our customs and manners, and is our right. Let it not be swept away, and a Chinese policy substituted in its place. Because Great Britain and France insult you, are you to prohibit all intercourse with the rest of the world? Commerce is one of the blessings which flows from a good government; which opens the way to many other improvements—to the introduction of arts, of industry, of all the virtues and sweets of civil life. Can industry, can wealth, can civilization, increase among the great bulk of the people, without commerce? If you repeal the embargo in part, it will open our markets, and give the merchants the use of their capital, and considerably increase the strength of the country, by diffusing the gold and silver of Mexico. It will give life to the operation of commerce and all the improvements of agriculture, and, above all other considerations, it will give quiet and internal repose.

The legal power of government is the *guardian* of all privileges and rights: that *guardian* cannot be supported without the respect and reverence of the people. Allegiance is tied to protection: if you deprive the citizens of the benefit of protection, you dissolve their allegiance.

One of the greatest advantages upon which our public welfare and strength particularly depend, is the union of the States, and a spirit of concord. The embargo has a strong and manifest tendency to break the ties of mutual interest which bind and knit us together, and to raise animosities, jealousies, and deadly feuds. Follow not a delusion that may lead to destruction. Do not drive your citizens to madness by your ill-timed measures. Do not quarrel with yourselves.

All classes of men are subordinate to the great laws of society—to the good order, the peace and safety of the country. You must however remember that your power ought not to be exercised to the grievous inconvenience and detriment of the public. Despotic power, in matters of high government to the people, is oppression—is tyranny—wherever it exists. True liberty and good government are inseparably connected. Anarchy is not liberty; despotism is not government. It is in dispensing justice—in protecting the rights and redressing the wrongs of the people—that republican authority best appears to the citizen, and excites his veneration and esteem. When relieved by its care and protected by its power, peace and security will follow.

The coercive and Chinese doctrine of the embargo is false, shallow, and more absurd than the most pestilent theories that were ever engendered by the confused imagination of man—is hostile to the real interest of this country, to national and individual prosperity—and has become one of the greatest scourges this country ever was oppressed with. It was founded on erroneous principles, which is a sufficient reason for its repeal. The idea of coercion is the most contemptible idea that ever entered into the head of man. We have the best of experience to show how feeble the embargo is, and how inadequate in practice to the great object of coercion.

In contemplating on your embargo and non-intercourse as coercive weapons; the trade of Great Britain to extensive colonies; to Spain and Portugal, with Spanish and Portuguese America; the successes of the British naval force over every sea; the general increase of their power and the extension of their commerce, are events which must be taken into consideration.

Great Britain says you shall not trade to France, and France says you shall not trade to Great Britain. We say, agreed, and pawn our commerce to fulfil the promise. This withdrawing from the ocean is a criminal surrender of our national honor; it is in reality a disgraceful, base, and abject surrender of that rank which we are entitled to among nations. A right to navigate the ocean, and open our ports for exports, is a sentiment in the heart of every American—a law beyond any statute.

Can any man, looking at human nature as it is, contend that your laws cannot be evaded? Will you keep open the door to inroads, to clamor, to evasion of the law, under the false and imposing color of coercion? It often happens that one error in government begets another. If you continue your system, you add error to error. Your measures will give joy to Great Britain and France; and your late election has terminated according to their views and interests. Great Britain and France will soon know that we have got under the same Administration for four years to come, that have for four years back submitted to all the insults, aggressions, and indignities, that they could heap upon us—an Administration that often made great blusterings, but never dared venture anything but proclamations. Although I respect the Executive and his Administration for their pure intentions to preserve neutrality and the blessings of peace, I believe, instead of building imaginary castles, it would have been more wise in due season to have fortified our ports and harbors, and built heavy ships of war. Can we expect that our embargo and non-intercourse will be regarded any more than our gunboats and paper threats? Can we gain satisfaction, as to any one point, by our system? No, sir. The belligerents will expect us to continue our paper warfare and negotiations, and in the meantime encroach upon our rights, and keep us from the ocean, by our submission.

Let gentlemen say what they will, no oratory can persuade me that your paper war, your gunboat war, your embargo war, will not be defeated. Repeal your embargo in whole, or in part, and have an armed commerce. It is my earnest wish that this amendment should be confirmed with the most marked and decided approbation of every member.

Are all our advantages which may be derived from the export of our produce; are all our advantages to be derived from an increase of national wealth, to be retarded by a continuance of the embargo, and by the distractions and divisions of party—by the blind zeal and frenzy of prejudice?

Every one who reflects upon all the circumstances of our situation, I trust, will agree to decide this amendment free from resentment and agitation, uninfluenced by prejudices, and uninfluenced by the passions on account of British aggressions.

It becomes the duty of every member of this House to unite their aid and assistance to give stability and security to some system. It appears to me the middle course is the most wise. If there is anything which should appear defective, it will become, in consequence, a duty to point out that defect, so that it may be remedied.

The gentleman from Tennessee (Mr. Campbell) tells us, "The embargo is the only efficient measure we have taken; and if it does not soon answer the purpose, we must have war." Heaven forbid, that the fatal alternative should be decided in favor of that gentleman, or in favor of his embargo! The honorable gentleman appears to go upon the idea that there is an unalterable enmity between Great Britain and the United States; which is to suppose an eternal malice in the original frame of man, and that there can be no such thing as a friendly intercourse between the two nations.

The gentleman's position, then, will bring us to war. Will you pluck the gilded feathers and olive branch of peace from the American eagle, which may gripe and pierce with her talons the liberties of this country? Before wise and good men draw the sword, they consider whether the war in which they are going to engage be practicable or necessary, and what they are going to get. We have so little to get and so much to lose by a war, that nothing but the last necessity can induce me to abandon pacific measures, which ought to be the object of this commercial and agricultural country. A few years more of tranquillity, with our various climate and rich soil, will render the United States the most envied spot in the world, if we are not embargoed, and embargoed to destruction.

The belligerents refuse to rescind their edicts. This can be no reason for our declaring war, unless we have a chance, at least, of obtaining by war what we demand. If we go to war against them without any such chance, we shall forfeit all pretence to the character of being a wise and cautious people. I will go as far as any member in defensive measures, and preparation to meet future events. I hold it a sound maxim, in times like the present, to be prepared for war.

If you go to war with both belligerents, the collision will be with Great Britain; and the consequence will be, that France and America will be united in the same object. Although this Government and nation may not intend it, such will be the eventual operation. The *Emperor of France* has always destroyed his best friends. If you associate with France, this Republic is pawned to French influence. If ever our unthinking policy—the overbearing power of prejudice and passion—shall produce that fatal consequence, the melancholy moment will be too late to be perceived and remedied. Such are my sentiments. I am not afraid to avow them in the presence of the nation, who, I am proud to say, is not poisoned by the stream of French perfidy, whose friendship touches only to blight and destroy every Government.

[Mr. Masters proceeded to show that the object of the Emperor of France was universal conquest, and how he obtained his power in the French revolution, in order to prove the dangerous consequences of an association; when

The Speaker remarked that the question was not war, and declared him out of order. To which

Mr. Masters replied, if he could not have his own way in the debate, Mr. Speaker might decide the question before the House himself, and he should not appeal from the decision.]

Mr. Elliot rose and commenced a speech in favor of the resolution. Before he had been speaking many minutes, he was called to order by Mr. J. G. Jackson.

The Speaker decided that he was not in order.

Mr. Gardenier appealed from his decision, which was confirmed by a large majority.

Mr. Elliot proceeded in reading through the documents communicated this session. He was repeatedly called to order, but the Speaker uniformly decided that, if the gentleman chose to make any pamphlet or book a part of his speech, keeping to the question, he had a right to do so. He was afterward called to order by the Speaker, when giving an account of his political life, and the regret he felt at some votes which he had given. He concluded his remarks a little after twelve o'clock.

The Clerk then proceeded to call the yeas and nays on the amendment. After the first member on the list had answered, a member rising to speak,

The Speaker observed that it was not in order to debate the question, after the first member called had answered.

Mr. Randolph appealed from his decision, affirming, at the same time, that the member who had answered was not in his seat at the time.

After some little altercation, the Speaker's decision was confirmed by the House—yeas 99, nays 10, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Davenport, jun., Joseph Desha, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Charles Goldsborough, Isaiah L. Green, John Harris, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson,

Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Joseph Story, Peter Swart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, Joseph Lewis, junior, Edward St. Loe Livermore, Matthew Lyon, Josiah Quincy, John Randolph, and Lewis B. Sturges.

The question was then finally taken on Mr. STURGES's amendment—yeas 35, nays 81, as follows:

YEAS—Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, and Killian K. Van Rensselaer.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, junior, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Joseph Story, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

The question recurring on the bill's going to a third reading—

Mr. STURGES said: Mr. Speaker, it is with extreme regret that I rise to trouble the House at this late hour of the night. Gentlemen will bear me witness that I rarely take up the time upon subjects which come under our consideration. Sir, I am willing, generally, to sit silent, and hear those who are in the habit of discussing questions; and my principal ambition as a member of this House, is, to give a correct vote.

Of so interesting a nature, however, in my apprehension, are many of the provisions of this bill, as respects the civil rights of the citizen, that I feel it my duty to state my objections before it passes, and I also know this is the case with several of my friends. Sir, owing to a decision of the chairman of the Committee of the Whole, when this bill was before that Committee, we have had no opportunity to do this. I do, with the most perfect sincerity, assure gentlemen of the majority—if I know my own heart and the disposition of my friends—there is no desire to protract this debate unreasonably, or to keep gentlemen here to an unseasonable hour of the night. I hope we shall be indulged with another day before the final vote is taken. I, therefore, move that the House now adjourn, and call for the yeas and nays upon this question.

The yeas and nays were accordingly taken, and it was decided in the negative—yeas 35, nays 79, as follows:

YEAS—Evan Alexander, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, junior, James Elliot, William Ely, Francis Gardner, Charles Goldsborough, Edwin Gray, John Harris, Richard Jackson, Robert Jenkins, Philip B. Key, Joseph Lewis, junior, Edward St. Loe Livermore, Matthew Lyon, John Morrow, Jonathan O. Mosely, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John Russell, James Sloan, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, and Killian K. Van Rensselaer.

NAYS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, James M. Garnett, Thomas Gholson, junior, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, junior, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Clement Storer, Joseph Story, John Taylor, Geo. M. Troup, James I. Van Alen, Philip Van Cortlandt, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

The former question again having been stated by the Speaker, Mr. STURGES rose and addressed the Chair, as follows:

Mr. Speaker, I hope and trust it will never be recorded upon the journals of this House that permission is granted to read this bill a third time. Sir, if this bill shall pass into a law, your coasting trade will thereby be rendered worthless. If the powers and authorities proposed by this bill to be vested in the President of the United States and the collectors, shall be vested in them, your coasting trade will not only be rendered worthless, but will, in all probability, be entirely destroyed. If this bill shall pass, your Constitution will thereby be violated. If it shall go into operation, according to its letter and spirit, the civil liberties of this people will be prostrated; the chains of slavery will be rivetted upon them, so far as the enacting of bills, and an attempt to execute those of such a character, can produce those effects.

At this late hour, I shall not detain the House by reading to them, at large, the very objectionable sections of this bill. I shall endeavor, faithfully, to present a correct summary of them, so far as it is necessary for the argument I propose to offer; and if I am incorrect, I hope gentlemen will point out to me my mistakes or omissions.

I say, sir, the second, third, and fourth sections of this bill, will not only render the coasting trade not worth pursuing, but will totally annihilate it. What is the purport of them? The second and fourth sections provide, that no specie or goods, wares, or merchandise, either of domestic or foreign growth, produce, or manufacture, shall be put on board any ship, vessel, or boat of any description whatever, except by permission of the collector, and under the inspection of the proper revenue officer; nor then, unless a bond has been given by the owner, &c., to the amount of six times the value of the vessel and cargo; nor then, in case the collector shall think there is an intention to evade the embargo laws, except on board of vessels employed in bays, rivers, sounds, or lakes; nor in vessels of the latter description, unless a general permission is granted to them by virtue of directions and instructions from the President; nor then, if the collector shall suppose there is danger of evading said laws; nor then, unless a bond has been given by the owner, &c., to the amount of three hundred dollars for each ton of the vessel. So that, these two sections put it in the power of the President and collectors to stop this trade entirely. Indeed, in the last resort, it vests this power solely in the collectors; for finally, they are, at their discretion, to say and determine, as respects both description of coasters, whether there is an intention of evading these laws. But the third section may, in some of our large seaports, be still more oppressive. This section provides, that the owner, &c., of any ship, vessel, &c., as described in the second section, which may, at the time when notice of this act shall be received, &c., be laden in whole or in part, shall, on notice given by the collector, either discharge such cargo within ten days, or give bond for the discharge of the same within three days, on penalty of forfeiting the vessel and cargo; and the collectors may order the discharge of such vessels; for the same causes, they may refuse permission to load as mentioned in the preceding section. Sir, I am credibly informed, there are some instances now in New York where rich and valuable cargoes are deposited in vessels lying in that port for safe-keeping, instead of putting them into warehouses, and that such cargoes and vessels are worth $250,000. If, according to the requirement of this section, the collector shall order such cargoes to be relanded, the bond which must be given will amount to a million and a half of dollars. No merchant can procure a bond to such an amount, or if he could, no man will ask his neighbors to lend his name as surety for such a sum. A common coaster of ninety tons, employed only in bays, rivers, &c., will be obliged to procure bonds to the amount of $27,000. Sir, these requisitions will be intolerably oppressive upon the merchant. If you really mean to destroy the coasting trade, do it directly—say it explicitly—do not effect, in this disguised manner, what you know that you cannot consistently with the Constitution. Sir, you cannot, without a violation of the Constitutional rights of the people, prevent them from carrying their property from one to another part of the same State, or from one State to another State, by water, any more than you can by land. But, Mr. Speaker, I do consider these oppressive encroachments upon the rights of property as of minor consideration; as nothing, compared with the provisions of some other sections of this bill. I refer to the ninth, tenth, and eleventh. By these the collector shall, under such instructions and regulations of the President as he shall receive, with the aid of military force, seize any specie, produce, &c., when he has reason to believe that they are intended for exportation, or they are in any manner apparently on their way towards the territories of a foreign nation, or the vicinity thereof; and the collectors are also empowered to hold and detain them, by the same military force, until bonds shall be given to land or deliver them where the collectors shall direct, at any place from "whence" there is no danger, in the opinion of the collector, of their being exported. There is no limitation, sir, to the most wanton exercise or abuse of his discretion. He may, with military force, stop any wagon, cart, sleigh, or any other carriage, apparently on their way to a foreign country, or the vicinity thereof. And, however wanton, abusive, or tortuous, may be his conduct in the exercise of this discretion, if a suit be brought against him, acting in pursuance of his instructions, he may plead the general issue, and give this act and said instructions in evidence, as his justification and defence. And the only remedy or relief the person aggrieved has, is to petition the district judge, who is to hear and adjudge the case summarily, and who may order a restoration of the property upon certain conditions, or if he decrees against the petitioner, the collector shall be entitled to treble costs. Sir, in my apprehension, a more hideous exhibition of military despotism was never witnessed in any country, than will be if these provisions shall be

carried into operation. The military power in array against the civil—in opposition to the usual remedy provided for the injured citizen. The collector is bound to act under such instructions as he shall receive from the President. Are these instructions to be public or private? There is nothing in the bill which determines this question. It is presumable, as heretofore, they are to be private; in his pocket, known only to himself. Let me put the question to gentlemen. What may be the consequence? A collector comes with or without his military force, he shows no warrant; no instructions; he attempts to seize the property of a citizen; the citizen knows not whether the collector acts by virtue of authority; the man whose property is thus attempted to be seized, defends; where is the law which would condemn him for any unhappy consequences which might ensue for his exercising the rights of a freeman, being ignorant whether the collector has such an authority or not?

By the ninth section, the collector is not to permit articles, which he shall seize, to be removed until bond with sufficient security shall be given for the landing or delivery of the same in some place in the States, whence, in the opinion of the collector, there shall be no danger of their being exported. By this section an owner of property may be obliged to remove his property fifty miles, or any other distance, as the collector shall direct, from a seaport into the interior. A person who has, for instance, a thousand bushels of wheat or salt lying in New York may be obliged to remove them to Albany.

For all these acts of the collector, however wanton and vexatious, I have said the collector is to be completely justified. The tenth section provides that, if the collector is sued, he may plead the general issue, and give this act and instructions, &c., of the President, in evidence for his justification and defence. When I first read this clause, although this phraseology is peculiar to this bill, I was inclined to believe it meant nothing more than to save the collector the necessity of pleading specially. But, sir, the provision that the aggrieved complaining party may petition the district judge, convinces me that the fair construction of it is, that the plaintiff is not, under any circumstances, however aggravated, to take anything by his suit. This opinion is confirmed by adverting to the letter of the Secretary of the Treasury to the chairman of the committee of the Senate, which letter was the foundation of this bill. The Secretary says "vexatious suits 'are brought against collectors, which not only 'perplex faithful officers, but have the effect of 'intimidating others, and prevent energetic per-'formances of their duties. The only provisions 'which have occurred to me on that subject are 'to enable the collectors who may be sued, always 'to remove the cause before a court of the United 'States." &c. The fact then, is, the citizen is to be deprived of his remedy before a court and jury of his State against a collector, however wantonly he may abuse his authority. Sir, these instructions from the President, which are to avail the collectors, essentially amount to a power in the President to dispense with the laws and the regular administration of justice in the respective States. You cannot, without a violation of the Constitution of the United States, deprive the citizen of his remedy before a court and jury of his State against a collector or any other officer of the United States, any more than you can against any other private citizen. If he brings his action of trespass or trover against a collector, the defendant must be answerable in damages, unless he can show probable cause. It will be the right and duty of the State courts to disregard this provision of your bill. Even in England, sir, (whose Government gentlemen are so much in the habit of execrating,) the principle is the same. For several centuries no such dispensing power has been recognised to be vested in the King. There, also, a revenue officer is as much liable to a person aggrieved as any private man, unless he can show probable cause for the seizure.

Sir, these seizures in carts, wagons, sleighs, or any other carriage, without warrant and without being obliged to show probable cause, and without oath or affirmation, are expressly contrary to the fourth article of the amendments to the Constitution, which says: "The right of the people 'to be secure in their persons, houses, papers, and 'effects, against unreasonable searches and sei-'zures, shall not be violated; and no warrant shall 'issue, but upon probable cause, supported by 'oath or affirmation, and particularly describing 'the place to be searched and the persons or things 'to be seized." Again, sir, this bill will be unconstitutional, in that it authorizes the employment of the militia and other military force, by the President and his subordinate agents, before any insurrection or opposition to law has taken place. It is inconsistent with the principles of this Government to attempt, in the first instance, to execute laws, except through the mild medium of the civil power.

The first article, eighth section, and fourteenth paragraph of the Constitution of the United States, provides, that "Congress may provide by 'law for calling forth the militia to execute the 'laws of the Union, suppress insurrections, and 'repel invasions." In conformity to the meaning and spirit of this provision, it is enacted by a law of the United States, passed the 28th February, 1795, that wherever an opposition to your laws cannot be suppressed by the ordinary course of justice, or by the powers vested in the marshals by that act, then, and then only, the President may call forth the militia for that purpose.

Mr. Speaker, I am bold to say, this bill cannot be executed. I pray I may not be misunderstood in this remark. Do I mean, sir, that there will be insurrections? No, sir, I trust and hope not. Sir, I shall conceive it my duty to be one of the first to discountenance and discourage them. The opposition to this bill will be peaceable, and, from its being peaceable, it will be irresistible. The public opinion will be against it, and you cannot execute a statute in a free country where the public opinion is against it. It has been often said, that this is a strong Government. I hope, sir, there is sufficient strength in this Government to carry into execution all Constitutional laws. But, sir, upon what does the strength of this Government depend? It consists in the good opinion, the attachment, and affections of the people; and note, sir, what I say, it will be a delicate experiment to try its strength in any other way.

I challenge a justification of the principles of this bill from its friends. There is nothing similar in your revenue laws, which the honorable gentleman from Virginia (Mr. EPPES) read today. I have not had time since to look at them, but my honorable colleague (Mr. DANA) has satisfactorily, to my mind, answered the observations of that gentleman. Sir, I shall detain the House no longer. I do hope and trust that there is sufficient virtue and patriotism to prevent the passage of this bill. If I should be disappointed, and it should go into operation, according to my apprehensions, it will be in vain hereafter to talk of civil liberty.

Mr. SLOAN.—Mr. Speaker, I trust my uniform conduct, since I have been a member of this House, will exonerate me from the charge of taking up time unnecessarily, for the purpose of making long speeches. No, Mr. Speaker; I have heretofore been, and still am, governed by a sense of duty, and nothing short of an imperious sense of duty could induce me to rise at this late hour to express, in a few words, my abhorrence of the principle of the bill under consideration, which it is evident a majority of this House are determined to pass before they adjourn. So imperious is my present sense of duty, that not even the charge of being "an old tory,"—a refugee—a British agent—or under "the influence of British gold," [alluding to a declaration of Mr. SMILIE'S, that the opposers of the embargo laws were composed of such characters,] can deter me from opposing this bill, which I consider as aiming a deadly blow at the liberty of my country, and the inherent and inalienable rights of my fellow-citizens, which I am determined to support, not only on this floor, but in all places, even to my latest breath. Before I proceed further, I think it my duty to say that I trust there are not two members within these walls capable of such language, or making so indiscriminate or unjust a charge as the one before mentioned, but that, with a single exception, I consider myself surrounded by gentlemen!

Mr. Speaker, the few days' delay in calling up this bill produced in my mind a comfortable hope that its advocates would have permitted it to perish in its embryon state, from a conviction that it is not only amphibious, but must, if brought to life and raised to maturity, be a mongrel, unnatural monster, boasting itself of being the offspring of liberty, whereas its nature and effect is entirely despotic and tyrannical. I cannot better express my detestation of the bill under consideration than by citing the language of a member in the minority, (Mr. LIVINGSTON,) when, under a former Administration, the alien law was passed—he declared that the mode of deciding the guilt or innocence of an accused person by ordeal or battle, practised formerly by those nations which we term tyrannical and barbarous, compared with that law, was humane and just. Mr. Speaker, that law, compared with the present bill under consideration, was, in my opinion, humane and just; and, in its probable effects upon the people of the United States, not more in comparison than a drop to the ocean. That law the President was under no obligation to execute; nor have I ever heard of its being executed in a single instance. This bill, if passed into a law, and the embargo is continued, I conceive the President will consider it his duty to enforce, in which case, our boasted civil liberty will be at an end, and a military despotism be raised upon its ruins!

I am grieved to see a determination in a majority of this House, instead of relieving the distress and sufferings of the people, to pass a law to silence their complaints with sharp pointed bayonets, and these under the direction of even a deputy collector, to whom a latitude as wide as his own opinion is given.

The introduction of this bill, and the dreadful apprehension of its being passed into a law, and rigorously enjoined, has brought me, by anticipation, into a state similar to one in days of old, (Jeremiah) who, when mourning for the deplorable situation to which the folly of his people had reduced themselves, sought for some case similar, whereby he might comfort them. For a case similar to the present, in modern history, I have sought in vain; howbeit, in ancient history, 10th chapter of the 2d book of Chronicles, I find a case so perfectly applicable, as, in my opinion, to merit the serious attention of this House. There we find recorded that the children of Israel, conceiving themselves aggrieved by the heavy burdens laid on them by Solomon in his latter days, applied to his son to ease them, in which case they would serve him. This his old experienced counsellors advised him to do; but those who were young and inexperienced advised him to answer them roughly, whose counsel he followed, returning for answer, that his little finger should be thicker than his father's loins; and whereas his father had chastised them with whips, he would chastise them with scorpions. Last session we passed laws which have become too grievous for the people to bear; they have petitioned, and are anxiously looking to this session to remove that grievous burden; but, instead thereof, the bill about to be passed contemplates laying it heavier on. The application is too plain to need any elucidation, further than to remind the advocates of this bill that like causes ever have, and consequently ever will, produce like effects!

Mr. LIVERMORE said: Mr. Speaker, it is with extreme reluctance that I rise to make any observations at this late, or rather early hour, [two o'clock, a. m.] and it is at all times a most unpleasant undertaking to make an address to those who appear to have prejudged the cause. But such is the importance of the occasion, and such the extraordinary nature of the bill about to be

passed, that I am not at liberty to sit still. It is my indispensable duty to expose its enormities, and some of the fatal consequences which must result to our country, should it become a law. As I wish not unnecessarily to detain the House, and am desirous of a patient and candid hearing, I shall endeavor to condense my argument, and consume as little time as the nature of the case will admit.

It is a duty I owe to my constituents, to the part of the country I represent, to the Constitution, and civil liberty, to oppose the passage of this bill, and declare its enormities.

I do not pretend to possess more patriotism, or a greater love for my country than other gentlemen; but at least I think I may safely contend to have as much as those gentlemen who have declared that this bill contains no despotic or unconstitutional principles; nor contained such, as it came from the Senate, and before it was amended.

Gentlemen have seemed alarmed at perceiving the despotic principles contained in this bill opposed from the quarter whence the opposition came. Upon another occasion, an honorable gentleman declared it was "a miracle," and that "he was almost persuaded to become a Christian."

But it is not by declarations like these, nor by angry invectives against any men, that we wish or expect to prevail, but by cool and dispassionate argument, addressed to the reason and understandings of gentlemen, and by pointing out the evils attendant upon measures, that we expect to avert them.

I agree that it is high time the people of the United States explicitly knew what is to be their fate, and what they are to expect from Congress at their present session. Is the embargo to be continued? Is the Chinese, or Terrapin system, as it is called, to be enforced? And is commerce to be destroyed and wholly given up? The bill now under consideration, if it passes into a law, will establish the fact beyond all controversy. It is so effectual in its provisions, every avenue is so completely guarded, that if it can be obeyed and carried into effect in the manner contemplated, no man can ever leave the United States and return into it again with any degree of safety, and we should be in a short time, as to the rest of the world, completely isolated. Even the domestic commerce of the United States is laid under such restraints and embarrassments, is so much dependent on the will of a dictator, or those whom he may appoint to distribute his favors, that none but favorites can, with any degree of convenience, continue in its prosecution.

In order that this system may be established and enforced beyond all possibility of evasion, the most arbitrary, despotic powers, are confided to the dictator, that can well be given, except as to corporal punishment. Private rights are to be disregarded, private property invaded, the Constitution is to be prostrated, and liberty annihilated! These are very serious considerations, and lead to a variety of inquiries. Let us analyze this bill, and understand its true import and signification; and then consider whether we are prepared to pass it; whether we are ready to sacrifice all we hold dear in society to gratify a vain desire of obtaining an object, in which we have no rational prospect of success; and from which, after another twelvemonth's labor and sufferings, we shall be as distant as when we began.

Upon examining the first section of this bill, it will be found that no property whatever can be transported out of the United States, either by sea or land, of the most trifling value, without subjecting the owner to heavy penalties. The clothing in his trunk or portmanteau, or the money in his purse, to defray his expenses, would subject him to prosecution. Even the intention is made criminal, and a man is liable to suffer for an inchoate act. This system puts an end to all foreign commerce, or at least suspends it for an unlimited time, which amounts to the same thing. For, if nothing can be carried out, it follows that nothing can be brought in; as we cannot rationally suppose that foreigners will bring us their produce gratis. Here let us pause, and inquire whether Congress have the authority to act thus. The physical power they may have, but the legitimate right is of a very different nature. As I cannot find the power delegated by the Constitution, I am disposed to deny the authority. It is a fundamental axiom of the Government of our country, that all power is derivative, and alone proceeds from the people, and what they have not given, either expressly or by necessary implication, as expressive of their will and intention, is retained by them. This principle is expressly recognised and established by the ninth and tenth articles of the amendments of the Constitution.

I was proceeding last evening (when I was interrupted for want of a quorum) in an argument against the authority contended for, and will not now detain the House by a repetition of what I then advanced. [Mr. L.'s argument upon that occasion is here inserted.] It has already been stated by an honorable member, that the origin of the Federal Constitution was commerce, our relations with foreign nations, or the rights of making war and peace, and treaties, and the debts of the United States, and revenue; it might be added, the relation of each State with the others. And the Government was accordingly made, or intended to be, a federative government, and not a consolidated one, by vesting all legislative powers in the government of the Union. There is not a line or sentence in the Constitution of the United States, which manifests an intention of giving any other powers than those necessary for effectuating the objects I have mentioned.

The letter of the 17th September, 1787, signed by General WASHINGTON, as President of the Convention, is undeniable proof of this fact. He says: "The friends of our country have long seen 'and desired that the power of making war, and 'peace, and treaties; that of levying money and 'regulating commerce, and correspondent executive and judicial authorities, should be fully and 'effectually vested in the General Government of 'the Union"—and the Federal Constitution was made in conformity to these principles. The

eighth section of that instrument designates the powers of Congress, and the third article gives them an authority "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The seventeenth article of the same section gives the power of making laws necessary and proper for carrying into execution this power, and the other powers given in that section, and other powers vested in the Government of the United States. These are all the powers vested in Congress by the Constitution relative to commerce.

From reading the Constitution, and attentively considering the articles to which I have referred, no man can possibly conceive that the people, when delegating the power to Congress of regulating commerce with foreign nations, contemplated a state of things in which Congress would undertake to prohibit commerce altogether. We therefore cannot rationally expect to find an express negative upon this head; but the fifth article is strongly an implied negative to the principle; it reads thus: "No duty shall be laid upon articles exported from any State." Congress, therefore, have not the power of laying a duty of one cent upon articles exported, yet, by this bill, a right is assumed of prohibiting the exportation altogether. Congress cannot lay a duty of one cent per bale upon cotton exported, but it is contended that Congress can prohibit the exportation of cotton. This appears to be a very unfair way of depriving people of their rights. It is a method of reasoning neither just nor conclusive. "There is," says Lord Bacon, "no torture more intolerable than the torture of laws"—and so to torture them as to make the people express a grant of power which they never intended, is palpably unjust. As it cannot be contended that the people, in adopting the Constitution, contemplated vesting in Congress the right of prohibiting foreign commerce, or the exportation of articles both by sea and land, inasmuch as it would be the right of destroying the very objects of their association, and of the particular rights and interests of those associated, and as it is expressly laid down that the powers not given are reserved; the inquiry is, by what rule can Congress assume the right? The rule must be this, that it is thought expedient because of the expectation of beneficial results. It is conjectured that the United States may be greatly benefited, and that by these measures we may acquire or obtain satisfaction for injuries we have sustained, and security for rights of which we are deprived. But the argument of expediency, when we are inquiring into Constitutional powers, is wholly inadmissible; for, to admit this argument for one moment, there would be an end of delegation of power or derivative authority, an end to written constitutions and limitation of Government; it would at once be resolved into expediency, discretion, and will. For the same power which to-day can say, you shall not export articles, because we wish to deprive certain nations of the benefit of receiving them, may say to-morrow, you shall not grow tobacco, cotton, or wheat—you shall not catch fish, lest the articles may fall into the hands of those we wish to coerce; by the same rule which you say that we shall not sail ships, you may say, we shall not build them.

By the same rule which you say, we shall not export our produce to countries in amity or at war with us, you may say we shall not raise the produce, or manufacture the articles we wish to export, or even raise or manufacture articles for the sustenance of ourselves and families; and, with like propriety, might the rule be extended to every transaction of human life.

If you can adopt the rule of expediency for your guide, you have passed the Rubicon, and, like Cæsar, assumed the disposal of the liberties of your country.

And there appears to be no more propriety in contending for this power, than there would be under the eighth article of this section, that Congress have a right to prohibit authors and inventors of science and useful arts from exercising their faculties, on the ground that they have the power of securing to them the right of their writings and discourses; or, under the fifteenth article, which gives the authority for regulating the militia, they should undertake to abolish the militia of each State. It may be observed here, that the same rule applies to the commerce between the States, and if Congress have the authority to destroy foreign commerce, they have the right of preventing its being pursued between the different States. The idea that the people would intentionally delegate this power to Congress, is contrary to every principle of reason, and that they have done so without knowing it, is contrary to every principle of volition; and to construe their grant to mean what they never intended, is contrary to every principle of honesty and justice. The Constitution is in the place of divine command, and we have no power to enlarge, or circumscribe it in the least particle, though we might entertain the most serious opinion that infinite benefits might redound to our constituents had we but the power of doing them all the good our benevolence might dictate.

If further evidence is necessary of the power intended by the people to be delegated, and the old law maxim of "what does not appear does not exist," is insufficient, we may with propriety consider, what could have been the opinion of the people of different States in the Union, as resulting from their peculiar circumstances and local situation, at the time of adopting the Constitution. Upon a former occasion I took a view of the benefits arising from commerce—that all our pleasures and conveniences, as well as power and riches, were in a great measure derived from commerce. And that, both in sickness and health, we felt the benign influence of her bounty. That all countries and climates, earth and seas, things animate and inanimate, vegetable and fossil, are made subservient to man through the means of commerce.

Not only our bodily enjoyments are dependent upon commerce, but our mental improvements also. The philosopher in his closet, the farmer

or planter upon his estate, the herdsman and mechanic, the fisherman and adventurous mariner, derive their advantages from the same source, and are alike benefited with the merchant in his counting-house. The sciences are cultivated, the mind is enlarged and improved, the manners are softened and polished, and man, from a rude, uncomfortable, unenlightened animal, becomes a cultivated, social and useful being, acquiring and receiving happiness himself, and communicating it to others. By commerce, a country grows rich and powerful; and, without it, would remain indigent and weak, and even become so, in a short period, by altogether divesting itself of it, though ever so rich at the commencement.

History affords us the most striking illustrations of these positions; of countries whose Government might be said to balance the world, and whose importance grew out of commerce, and was lost by its decline. But let us turn our attention to objects with which we are more immediately conversant. I mean the affairs of our own nation. What was the situation of the people of this country in 1787? A poor, defenceless, bankrupt, and impotent people, without the ability to discharge our public or private debts, and scarcely possessing strength enough to support a war with either the Algerines or Indians. But, by adopting our present happy Constitution, (for it has hitherto afforded us the means of obtaining happiness,) and by pursuing an advantageous commerce, under the auspices of a Government of men who well considered its inestimable advantages, we, in the short period of twenty years, have arisen to an astonishing degree of wealth, and, if it had been so directed, correspondent power.

Acknowledged to be the second commercial nation in the world, and with most unbounded prospects of future wealth and happiness—what a strange reverse does the prospect of our affairs now present? Like a man inebriated with success, a check in his career drives him to commit suicide. The sages who formed the Constitution, and the people who adopted it, (at least a part of them,) well understood this subject, and have so expressed their sentiments.

It is, therefore, morally certain, that they did not contemplate a situation of affairs in which Congress would deliberate upon the necessity of destroying that commerce which was a principal cause of their association to regulate, and from which they expected to derive the means of relieving themselves from their embarrassments, and, as the event has shown, they did not miscalculate. If, therefore, they did not think of it, it certainly follows, that they did not intend to invest Congress with the power, and consequently have not given it to them, and the most favorable point of view in which the subject can be placed by the gentlemen who contend for the principle, is, that it is a case omitted, and was not thought of, and this is sufficient to support my argument.

It has been said that the embargo is not to be perpetual; that we do not intend it shall be so. I know not what is a perpetual law, if the embargo laws are not. Their duration depends upon no event; neither is any period limited for their expiration. They are perpetual as to our power, and that should be our only consideration, in this respect, in passing a law. The question should be, is this act such as we wish perpetual? If it is not, we betray the trust reposed in us by the Constitution, in making it so beyond the power of our control. It is not for us to say that the law may be repealed if the Senate and President consent. The Constitution has made the different branches of the Legislature checks upon each other, and we are destroying these Constitutional checks by placing one branch at the mercy of the other: and it would be a poor apology to say, we had a confidence in the other branch, having once parted with our power over the subject, it is gone from us forever; every law is perpetual whose limitation is not in some way expressed in the act.

I shall be told that there has been a judicial decision in favor of the constitutionality of the law; that a district judge, after solemn argument, has judicially given an opinion. I respect the gentleman who gives the opinion, but I by no means subscribe to the correctness of the opinion given. Perhaps in his situation, as an admiralty judge of inferior jurisdiction, it was the correct course to execute the law, and leave it to the highest tribunal to decide upon the important question of its constitutionality, and it might have been as well if he had gone no further. But, in my situation, I take still higher ground; and although a decision of the Supreme Court would be a sufficient rule as a citizen for me to regulate my conduct as to the force and effect of the law, yet, as a legislator, I must judge for myself whether the Constitution has given me the power to act or legislate upon the subject. I altogether condemn that sophistical way of reasoning by which a man derives power to himself, or pretends to derive it, by alleging it is the appendage of power specially granted, or arises by implication from those granted; because he convinces himself by a fanciful argument it would be better for the people if it were so, when, at the same time, it appears that the grantor could not have had the case in view, but rather a case directly the contrary. If it would be fraudulent so to construe the power of attorney of an individual, what must be the case of the substitutes of the people in misconstruing the instrument of their authority, when the dearest rights of their constituents are implicated? I feel no hesitation in saying, that had this thing been contemplated by the people, or the system that is now endeavoring to be established, there never would have been a union of the States by civil compact; and I am compelled to say, I dread the consequences of a continuation of this pernicious system.

But it has been endeavored to maintain the doctrine upon the principle that Congress have the power of making war and peace. It is presumed that a discreet use will be made of this power, and when we are at war with any nation,

commerce, of course, with that nation will cease, or be interdicted during the continuance of the war; and Congress may interdict commerce with a particular nation, which is a species of war. But preventing the citizens from exporting their produce to nations in amity, was never contemplated. It is totally a different case. But, the question has been asked, has not Congress the right to declare war against all the world? And this is the amount of the present bill. Our nation is to become like the Ishmaelites of old—"our hand against every man, and every man's hand against us." So absurd a thing was never contemplated by the framers of the Constitution.

It is so extreme a case that it is ridiculous to ask the question, and so is the absurdity of the idea of our carrying on war with two nations at the same time, who are waging the most destructive war against each other. Would there not be danger, or cause to apprehend that they might cease their strife for a while, and turn their destructive arms against our defenceless coast, and make us severely pay for our folly and temerity?

While I am upon this subject, I cannot help expressing my dissatisfaction upon the information given us by the documents communicated by the President, relative to the offer which was said to have been made to the British Government, to raise the embargo as to them, provided they would revoke the orders of the 7th of January, and 11th of November, as to us. It seems very strange that the British Government should not agree to a proposition of this nature, and so reasonable in itself—for, this must have been the necessary consequence of such an agreement, either that France must instantly have revoked her blockading decrees against England, or we must have had a war with France. To suppose, therefore, that England did not wish our friendship to them, and hostility to their enemies, is next to impossible with me, and, of itself, leads to a doubt of the reality.

But, upon a fair examination, the authority given to Mr. Pinkney does not appear to be adequate to making the agreement, and that he could not have done so, except he should also assume authority by implication. In Mr. Madison's letter to Mr. Pinkney, of the 30th of April last, he is told that, "should the British Government take this course, he may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the embargo laws."

Mr. Pinkney, in his letter to Mr. Madison of the 4th of August, says, "that in an interview of the 29th of June, (that is, with Mr. Canning,) he soon found it necessary to throw out an intimation, that the powers vested in the President by Congress, to suspend the embargo act and its supplements, would be exercised as it regarded Great Britain, if their orders were repealed as regarded us." Mr. Pinkney, as an honest man, must have communicated what his powers were, and that he was not instructed absolutely to make this agreement. Mr. Pinkney in his letter to Mr. Canning, of the 23d of August, says, "that he had the honor of stating that it was the intention of the President, in case Great Britain repealed her orders, &c., to suspend the embargo, and was authorized to give this assurance in the most formal manner." We have already noticed what the authority was. For my own part, I cannot conceive the necessity of proceeding in this way in so important a concern; and why authority was not given, in the first instance, to make a direct and positive offer, and demand a categorical answer, whether the Government would agree to the proposal, I am at a loss to conjecture. It seems as if we could not have the whole of the correspondence before us, and as if something had been kept back. To me the affair is inexplicable. I must, therefore, leave it to gentlemen who better comprehend it, and proceed to the further examination of the subject before us.

It has been said that every principle in this bill has heretofore been enacted by Congress, and that precedents may be shown to this effect. In all doubtful questions, precedents are entitled to consideration, but then we ought to be certain the precedent applies to the case; but, if I feel no doubt upon the point, the precedent can have no weight with me either way, and it certainly can be no excuse for us that a former Congress have exceeded their authority. As I feel no doubt of the correctness of my argument, it is not very necessary to consider the cases which are supposed to maintain the doctrine; but, even here, I am willing to meet the objection.

The first case is the embargo of 1794. An embargo, as it has ever been understood in the law of nations, is the preventing in time of war, for a short period, the sailing of vessels from a port or ports, that information might not be communicated to an enemy, and thereby the object of an expedition be defeated. And also, (as it is practised in some countries,) for the purpose of manning a fleet. In the case of 1794, our shores were infested with privateers and armed vessels, capturing the vessels of our citizens even in the mouths of our harbors. The embargo was laid by a resolution for thirty days, and afterwards renewed for thirty more, but raised before the expiration of the time, and when it was supposed our people were sufficiently warned of their danger, and prepared to meet it. By a temporary law, the President was authorized to lay an embargo for a limited time in the recess of Congress, should a like necessity require it.

This case was very dissimilar to the present system. It was merely a momentary measure of precaution. It was not perpetual. Neither branch had divested itself of the power of revocation. It was not intended to destroy our commerce, or prevent, for an unlimited time, the exportation or importation of all merchandise. As it had been practised in time of war by nations, to lay an embargo in the way I have mentioned, Congress might suppose that this power was contemplated to be granted by the Constitution, in granting the powers of war and peace. But it will readily be seen, that as this system of destroying commerce had never occurred in the world, and, as I have

before shown, was so contrary to the principles and objects of the association of the people, it could not, in like manner, be said to be granted, being in its nature a very different thing.

But whether the embargo of '94 can be justified in consonance with the principles I have laid down, I am not anxious to inquire. The event was at a season of the year when its operation was not very injurious, and being limited, there was not much complaint against it, and the apparent necessity seemed a justification. But, if Congress exceeded their powers at that time, it is no justification of the present bill.

The question has been asked, where does the power reside if Congress do not possess it? The answer is, with the people, from whom all power emanates; and I will venture to predict they will never relinquish it. Should the question be proposed at any time, their answer would be very prompt. But, gentlemen have said that the people have expressed their approbation of the system by their elections. This opinion I believe incorrect. Two very powerful and influential States, Massachusetts and Connecticut, have, by their Legislatures, explicitly avowed their decided disapprobation; and the Legislature of Massachusetts have requested their Representatives in Congress to use their influence to obtain a repeal of the embargo laws. This request, of itself, has great weight with me, though it is true it is conformable to my previous opinion.

New Hampshire, and Rhode Island, and Vermont, if the elections are fair *criteria*, have expressed their disapprobation of the embargo system; and the last elections of Representatives in Vermont are incontrovertible proof of the assertion that the elections would have been very different in the United States but for the belief that the embargo was to be immediately raised.

People are very apt to believe the thing they wish, and the rumors which ran through the United States convinced them that their wishes would be shortly realized. The letter, first published in Richmond, which appeared to have the stamp of authority, was printed in almost every paper in the United States; reports, said to come from officers of Government, of high standing, were industriously circulated; all parties appeared to agree in the necessity and belief that the embargo would be raised immediately upon the meeting of Congress, if not suspended before. In this situation the election came on, and the people were asked, will you turn out your old friends and elect others on account of the embargo, which will be immediately raised? The answer was, no! Other gentlemen will form their own opinions, but to me the conclusion is irresistible, that many gentlemen owe their election to these circumstances; and, in this view, I contend that the elections afford no favorable proof of the popularity of the embargo. This question of power ought to be settled by the people, and I make no doubt that the Constitution will receive amendment upon this head.

The second section of this bill establishes a principle which must ever be abominable in a free government, a system of partiality and corruption. This is contrary to the spirit of the Constitution, which is, that government was not instituted for any man or body of men, but for the general good. Here power is given to the President and his collector to determine who shall carry on the remnant of trade which, under all the restrictions, is left us—the coasting trade. This is, from port to port in the same State, or from ports in different States. The whole rests in the will and discretion of the President, who may issue his instructions to the collectors, and from them there is no appeal. It has the appearance as if party politics were to be the criterion of the rights of trade. It cannot be pretended that the Constitution contemplates such unjust and arbitrary distinctions. Then where, or from whence, is the authority derived for the exercise of such invidious distinctions? The consequence must be the detestation of the Government, and animosity among the people. It would be placing a good man, who may chance to be a collector, in a delicate situation, and a bad man where he might exercise the most arbitrary tyrannical powers.

This is not merely a speculative opinion. We have already had some practical knowledge upon the subject.

The sixth section establishes a new and strange principle in law, a principle of vicarious punishment, or of punishing one man for the offence of another. But this is not the extent of the mischief. It seems a refinement in cruelty. There are men who have vested the principal part of their property in shipping. By the embargo they have been so long deprived of the use of their property that they are almost reduced to beggary. To relieve their necessities they may wish to sell their vessels; but the provisions of this section will render it impossible to do it with any degree of safety, for the seller may be answerable for an offence committed by the real owner, whose name does not appear upon the register, enrollment, or license; and this, together with the enormous bonds of three hundred dollars per ton of the vessel, which must be given upon the transfer, would be almost a certain means of preventing a sale. But the principles contained in the 9th, 10th, and 11th sections of the bill are infinitely more destructive to liberty, and direct violations of the Constitution.

It is provided by the 4th article of the amendments to the Constitution, that "the right of the 'people to be secure in their houses, papers, and 'effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall 'issue but upon probable cause, supported by oath 'or affirmation, and particularly describing the 'place to be searched, and the persons or things to 'be seized." This is the people's Magna Charta, whereby they have declared certain rights inviolate. It seems as if the framers of this article foresaw a time, when the passions of those in power might cause them to overleap all bounds, and, from some strange causes, an attempt might be made at the destruction of men by an attack on, or an improper and unreasonable interference

with their private property. The same principle is established in the constitution of most of the States; at least, I find it in nine of them.

These principles are also laid down in the constitution of most of the States: that standing armies are dangerous to liberty; that the military shall be subordinate to the civil power. It appears that the people, ever jealous of their rights and liberties, have endeavored to secure them by every possible restriction. They have been aware of the causes which have deprived other nations of their freedom, and have endeavored to guard against the evils; and I think they will frown upon every encroachment. I hope they will not have cause to reflect that they did not consider that their constitutions were to be administered by men, who might put a different construction upon their words from what they intended, and that, in the sequel, they would meet the same fate they appeared to deplore. But, should the present bill pass into a law, their fancied barriers which they have enacted, are completely broken down, and their constitution, in this respect, becomes but a dead letter. To suppress insurrections or forcible opposition to the due execution of the law, a resort may be had to the military; but to use the bayonet in the first instance, to execute the laws, is a power not vested in Congress, and whenever exercised, it must be upon the ruins of liberty.

In order to make myself the more intelligible, I will state certain cases, in which despotism will appear in most glaring colors, and will then prove, by this bill, that such cases may exist, and the law will be such as to authorize them. Gentlemen may say, they are cases not likely to happen; it is not what we intend by passing the bill; we have too great a confidence in our Executive to believe in the dangers you apprehend, or that the power will be improperly exercised. I should answer that it would not be the first time that too great confidence placed in man has led to the destruction of the liberties of the people, and it would be but a poor excuse to say that we placed the power where we did not believe it would be misused. The ancient Romans did not think, when they created Julius Cæsar perpetual Dictator, that they had placed power in the hands of one who would misuse it, any more than Congress apprehend danger from the present President, or his successor. There was no man more accomplished than Cæsar, or who possessed a greater share of popular talents. He, like Absalom of old, "stole away the hearts of the people," but all historians agree that here commenced the destruction of Roman liberty. It should be our only inquiry, May the powers granted be used for unconstitutional or tyrannical purposes? and not whether the agent is so pure, just, and honest, that he will not make an improper use of them.

The cases which I shall state may, at first view, strike gentlemen as extravagant, and not likely to happen; but let them consider whether the power is given by this bill, and then whether, in the present state of this country, they are not something more than barely possible, and do not approach even to probability. For instance, a man in Vermont has a wagon loaded with flour, which he intends to carry to market to pay his debts or supply the necessities of his family. The collector or person empowered by the President seizes it, and will not permit it to be removed until bond shall be given for the delivery of it at some place directly opposite to where it was intended to be carried, and to any distance the arbitrary agent may choose, if within the United States. He has the power to do this, and cannot be called to an account, or punished for his misdoings. For, if the wagon is going in a northerly direction, it is "apparently on the way towards the territories of a foreign nation"—I take the words of the bill;—if it is going East, West, or South, it is "apparently on the way" to Boston, New York, or some other place, where the officer seizing may say, "It is intended for exportation;" and of this, of course, he must be the judge. And the same may be said as to the place where the articles are to be delivered, if within the United States. And he may employ such part of the land and naval forces, or of the militia, as he may judge necessary, for taking into custody, guarding, and keeping the articles seized. The same may be done to the owner of a load of tobacco going to Richmond to market, or of a boat-load of cotton transporting to Savannah.

I will state another case. A gentleman—an honorable Senator, if you please—is travelling to Baltimore, from this city, and has in his trunk a sum of money. The President or collector may send a file of soldiers and stop him, and seize the money, and not permit it to be removed until bond shall be given to deposite it in the Washington Bank; (the stockholders of many banks in the United States would be delighted to have an agent with this power;) and this bill completely gives the authority. For, the gentleman having put his specie on board his vehicle, (whatever it may be,) and being apparently on his way to a place where exports have been made, and (if report says true) with great success during the embargo, the act gives the full power to commit this enormity, and no one can call the perpetrator to account; and the remedy proposed by the amendment, which virtually takes away a man's common-law right, is an insult to the sufferer, rather than a redress for the injury.

Let not gentlemen imagine that these are cases not likely to happen. Man is a creature of a variety of passions, and there are none more powerful and prevalent than those of avarice and malice. Money may be extorted for favors granted, or the vengeance of the adversary may be wreaked upon an innocent man, who, by this bill, will be deprived of the power of resistance, or of recovering redress.

It has been contended that the principle of seizure contained in this bill is supported in precedent by the sixty-eighth section of the collection law. This section authorizes the collector (not a military band) to enter on board a vessel and seize goods liable to forfeiture for a breach of the law, in not having paid or secured to be paid the duties

upon the goods, or for other causes of forfeiture mentioned in the law. And if they should have cause to suspect a concealment thereof in any particular dwelling-house, store, building, or other place, upon proper application, upon oath, to any justice of the peace, be entitled to a warrant to enter such house, and in the day time only search for such goods, and seize and secure the same for trial; and all such goods so found, on which the duties shall not have been paid, or secured to be paid, shall be forfeited.

It is to me astonishing that any gentleman can suppose this a precedent in point to support this bill. It shows how far our failings may mislead us in the direction of our understandings.

The case contemplated in the collection law necessarily supposes an offence committed, which is by landing or concealing the goods, not having paid or secured to be paid the duties on them; and for this offence the goods are forfeited; and, if so, there can be no just cause of complaint for their seizure; and the officer must be cautious that he is correct in this, or has just cause for seizure, for otherwise a jury of his country would teach him to respect the private rights of his neighbors. But, the ingenuity of the committee in this amendment is very great. They have found it necessary—a thing never dreamt of by the honorable Senate—to declare an offence, and then a forfeiture of the goods, to justify a seizure to hold for trial. But, to support the case as parallel, let us consider the offence created.

By the amendment, the offence created is this: putting on board a vessel or carriage goods or specie with *intent* to export, &c. If it should be left simply here, I apprehend the law would have very little operation either way. For, if (as upon common principles) the person seizing must prove the *intent* to export, for his justification, there would be but few seizures, as the remedy which the law would give would be sufficient to awe the collector. But, in order to obviate this difficulty attending the seizing of a man's property, the other amendment is introduced, which is of as arbitrary a nature as could well be expected. The district judge is to decide in a summary way the question, and a man is to be deprived of his common-law rights; and the inestimable trial by jury, which the Constitution has guarantied, is to be done away, and the person who dares to complain shall be adjudged to pay treble costs. This is the fair construction and intention of the bill; and although our courts of law may not consent to have the Constitution trodden under foot, yet this is no apology for the bill.

The act of the 5th June, 1794, is also mentioned. This authorizes the President to make use of military force, if necessary, for preventing the fitting out and arming vessels in the ports and harbors of the United States, and to take possession of any such ship or vessel and her prizes, and to compel the departure of foreign ships and vessels, which by the laws of nations and treaties of the United States ought not to remain. But this power cannot be exercised till after process, issuing out of some court in the United States, shall have been disobeyed or resisted. This act is founded upon the principle that the civil power must be resisted before the military can be called to aid, and is in strict conformity with the Constitution.

The fifth section of the act of the 3d of March, 1805, for preserving peace within the ports and harbors of the United States, is also mentioned. This gives power to compel foreign armed vessels to depart the United States. If foreign armed vessels must be compelled to depart, it must be by military force.

The act of the 3d March, 1807, authorizes the removal by the marshal, without suit or judgment, of persons who are in possession of lands claimed by the United States. I think this act cannot be justified upon principles of reason and natural law, but it by no means comes up to the principle contended for in this bill. The marshal is to remove without process—without an inquest of office, or any judicial decision—and the President is the sole judge. But it is not to be done by a military force. And although it may operate very inconveniently and oppressively, yet in any cases likely to happen it cannot prove so injurious.

There has been some contest in this House on the question, which part of the country suffers most by the embargo? This is not an essential point to be decided; it is sufficient that all parts suffer grievously by its pressure. But, should this system be continued, it is certain our cities must be wholly ruined, and our ship-holders lose their all. Though the farmer must be greatly distressed, yet he has still some chance of supporting his family upon his farm; but the naked walls of a city house would afford little more consolation to the impoverished owner than the walls of a prison. It has been said that there would be no danger of people's suffering through want in this land of plenty—let them move into the country, and cultivate the soil. I cannot subscribe to the humanity of the act of compelling people to desert their habitations in town to cultivate the soil. Little is it imagined what infinite distress such a cruel necessity must occasion. The country gentlemen must pardon us who live in towns, if we cannot comprehend their policy. They inform us that their object is kindness towards us; that they wish to preserve our property by measures which we are convinced go to the destruction of it. We are also told there would be no trade for you, should we suffer your ships to leave their ports. Then, why this great solicitude to prevent their sailing? The thing would work its own cure, if left to regulate itself. The merchant would find out whether he could prosecute a safe and beneficial trade, and the underwriter would regulate the amount of the risk; and it ought to be left to the people to have dominion over their own property. The calculations which have been made to show how little trade could be prosecuted are very fallacious. If we have forty-eight or fifty millions of domestic produce and manufactures to export, the articles would find a way to a market, and the consumer must ultimately pay the expense. There is another consideration of very great importance

to every part of the United States—as well those who have articles to export, as those who make a profit by the exportation. All the articles of exportation in this country may with equal facility be raised in other countries, where the business is as well understood; and there is no preceptor equal to that of necessity. Let the cotton planter, the rice, indigo, and those who make tobacco, as well as those who grow wheat, and the grazier, look well to this. They have put their customers to school, and a fatal lesson for them they may learn. Necessity may compel them to learn a new course of trade, but, when learnt, it may take the same necessity to cause them to retrace their steps. The West India islands may be as well supplied by Spanish America and the British colonies with lumber, beef, corn, and fish, and with wheat from Sicily and Africa; and the immense quantity of cotton which may be imported from Brazil and the East Indies ought to fill the mind of a cotton planter with fearful apprehensions; and as to tobacco, it is indigenous to all soils and climates.

What a singular change there has been in the world in the course of little more than a twelvemonth. Britain and the United States possessed then almost exclusively the commerce of the ocean, but the United States have shut themselves up in their shell, and magnanimously yielded their share to the Spaniards and Portuguese. A commerce which produced a revenue of upwards of sixteen and a half millions of dollars, and employed nearly twelve hundred thousand tons of shipping, and upwards of one hundred thousand seamen, is presented to them gratis. It is true, our commerce has been subject to interruptions and spoliations; but the losses, when compared to the profits, have been much smaller than gentlemen imagine. If the embargo cannot be enforced without the aid of the military, this alone ought to be a sufficient inducement to repeal the law; for nothing can be more calamitous to mankind than a military despotism! It is absolutely time this *terrapin* system was abandoned; it ought to be given up as a bad job. I do not believe it has been productive of any good, and I am morally certain it cannot now produce any. The idea of making war, or of coercing a foreign nation by destroying our own commerce, has ever appeared to me the most fallacious that could well be conceived. All the evidence we have upon the subject, proves to my mind, most clearly, that we have greatly overrated our means of coercion; that in France it is not felt, and in England it is forgotten. This I believe to be the opinion of sensible men. The idea of coercing England, because of a short crop of wheat and scarcity of cotton, is very ridiculous. A man who reasons from premises of no better foundation, I cannot help imagining, must have motives which I do not comprehend. Neither do I believe in the subjugation of Spain by the vast armies pouring in upon them. I entertain no doubt that a very profitable trade may be carried on with that gallant nation; and I confess I do not feel so cold-blooded towards them as not to wish them success in their glorious undertaking. I should wish the embargo off, for this reason among others, that our citizens might have an opportunity of affording them some assistance, and thus pay, in part, a debt of gratitude—of all others the most congenial to a generous mind. The argument that we had better suffer our ships to rot at the wharves, and our produce to perish on our hands, rather than carry it abroad, for fear we should overstock the market and reduce the price, I should expect from a school-boy rather than a politician. We are distressing our citizens, impoverishing our country, destroying our revenue, ruining our commerce, shutting our bowels of compassion against a noble, valiant nation, struggling for liberty and independence, closing the temples of justice in State after State, introducing arbitrary principles of government and military despotism, corrupting the morals of the people, violating the Constitution in its most essential principles—and for what? In the pursuit of a phantom. We might as well imitate the celebrated Knight of La Mancha—arm, *cap à pie*, and attack a wind-mill. Should we continue this course year after year we may bring on in the youth of our Government decrepit old age, and by this improper abstinence emaciate and waste the body politic, until we produce a dissolution of all its members, and still be as far from the end proposed as when we began.

It has been said—and there is great propriety in the observation—that in times of difficulty and danger we ought to rally round our Government. Every man will acknowledge the justice of the maxim; and I believe there are no people more patriotic, and who will more ready rally round their Government, in a just cause, than the people east of the Hudson; and there are no people who better understand their rights, or that are more tenacious of them. And they are too independent to give their approbation of a measure of which their consciences do not approve. A majority of them, at least, think their rights invaded by the embargo system, and wish a change. They cannot see into the policy or necessity of the measure; they think it will destroy their country, and be the means of infinite distress. The arbitrary principles introduced to support it fill their minds with alarming apprehensions. They express their sentiments freely upon it, as they have a most undoubted right to do. The most that can be said by gentlemen who differ from them in opinion, is, that they are in an error. If they are in an error, it should be shown by cool, dispassionate argument, and not by intemperate invective—by an address to their reason and understanding. And gentlemen will consider that this is the only method to convince and conciliate. We are called upon for a substitute for the embargo. The answer is, that the proper substitute for a bad measure (especially an unconstitutional one) is a repeal of it. When other measures are proposed by the Executive, or by order of this House, it will be the duty of gentlemen to give them a fair and attentive consideration, and to act according to the conviction of their understanding. But I know of no rule which makes it expedient for the minority to introduce propositions of this nature, which with propriety

ought to come from the Executive, or at least be produced by the authority of the House, which the minority cannot be supposed to possess. It is their right and incumbent duty to make such objections as appear to them well founded against any measure proposed, and for the House to judge of their reasons and arguments, which, to understand, must be done with a spirit of candor.

Mr. MOSELY.—Mr. Speaker, in addressing the House at this time I shall not profess, as several gentlemen who have preceded me have done, that I am impelled solely by a sense of duty. In addition to this, sir, I can hardly reconcile it to a sense of civility and the claims of humanity to remain silent, when I perceive so many gentlemen around me apparently gaping for arguments.

But, sir, if I mistake in this particular, the time I must consider as peculiarly propitious. After a continued confinement for more than sixteen hours within the walls of the Capitol, (it being now past three in the morning,) and without any prospect of a speedy release, I think gentlemen may probably begin to have a more feeling sense than they have before experienced of the effects of a permanent embargo.

It is to be expected that gentlemen who have been uniformly opposed to the whole system of embargo will be against any acts that can be proposed for the purpose of enforcing it. But if such acts must be passed, it is not only the privilege but comports with the duty of every one to use his endeavor to have them as unexceptionable as possible—to see that they are not unnecessarily oppressive; and above all, that they do not infringe upon the Constitutional right of the citizen.

Sir, what acts, and how many it may be necessary to pass in order to enforce obedience to this measure, remains yet to be determined. Since the first embargo act was passed, no less than three supplementary acts have been added prior to the one now before us. Still the embargo is violated, and violated to such a degree, say its advocates, as to prevent all the good effects that had been anticipated from it, and which it must otherwise have produced.

Sir, the practicability of carrying the measure into execution was a point that ought maturely to have been considered before it was enacted. For, even admitting (what I never believed) that the embargo might have produced all the wonderful effects that were predicted by its authors—provided it could have been enforced; yet, if this was incompatible with the nature of things—if such was the geographical situation of our country—such the habits, dispositions, and interests of our citizens, that obedience to it was not rationally to be expected, unless enforced by the most rigorous and oppressive measures, (as was urged among other reasons by gentlemen opposed to the act,) it furnished good ground of objection, in the first instance, against passing it, and must operate with increased force against its continuance, as this fact becomes more confirmed by experience.

Sir, in vain do you extend your penalties and multiply your statutes. The more arbitrary and oppressive you make them, the more obnoxious they will become, and the more difficult it will be to carry them into execution. In one point of view, Mr. Speaker, I cannot but regard the present bill with some degree of complacency, notwithstanding its odious and detestable features. I do consider this bill as containing more conclusive arguments against the continuance of the embargo than any which have been offered upon this floor—and I have listened with pleasure to many very able and eloquent ones. This is, indeed, full of *argumentum ad hominem*. This, sir, presents to the people arguments which they must both understand and feel. If it has come to this, either that your embargo system must be abandoned and given up, or enforced by such acts as this; the people, I presume, will not be long in deciding the question. Why, sir, even the good people of Connecticut, who have been so highly complimented for their obedience to the laws, could hardly be expected to submit patiently to the arbitrary and vexatious provisions of this bill.

And here, sir, whilst it is upon my mind, I must beg leave to express my acknowledgment to the honorable gentleman from Tennessee (Mr. G. W. CAMPBELL) for the encomium which he has been pleased to bestow upon the State of Connecticut, from which I am a representative. That gentleman observed that the State of Connecticut, although distinguished for its general disapprobation of the measures of the present Administration, was no less so for its uniform obedience to the laws, not only of its own, but of the General Government. The remark was particularly grateful, because I believe it to be just, and because it is so rare that this State receives anything like commendation from the quarter from whence it came. I have sometimes heard gentlemen on that side express a benevolent concern lest the liberties of the State should be lost for the want of a written constitution, or by the overwhelming influence of the clergy. But this is the first time that I have ever heard even one of its *steady habits* commended within the walls of this House.

But it cannot escape the discernment of that and every gentleman acquainted with the human character, that the same honorable and intelligent spirit, which ordinarily induces a prompt and principled obedience to the acts of Government, is not easily to be subdued or controlled, when once roused to resistance by such as may be deemed unconstitutional or too oppressive to be borne. Sir, the free and enlightened citizens of that or any other State, are not, I presume, yet prepared to bend their necks to the yoke of military despotism.

I had contemplated, Mr. Speaker, making some more specific objections to what I consider the most exceptionable and dangerous provisions of this bill. But I shall not at this time attempt it. And I feel the less disposition to do it, as the different sections of the bill have been so ably and particularly commented upon by several gentlemen who preceded me. If what has already been urged is not sufficient to satisfy this House of the extreme impolicy and injustice of passing this bill, I certainly should despair of doing it. It does appear to me that it has been clearly shown that this bill goes to subject our coasting trade to restrictions not only vexatious but ruinous. To expose the persons and property of our citizens to innumerable insults and injuries, while it deprives them of the ordinary means of redress; to render the civil subordinate to the military power; and, in fine, to a violation of some of the most sacred principles of the Constitution.

But, say gentlemen, if the embargo is to be continued, it must, at all events, be enforced; and the moment the embargo ceases you must have war. I know that we were informed at an early period of the session by our Committee of Foreign relations that we had no alternative but embargo or war, for of submission I shall say nothing. Too much has already been said upon that subject. Sir, I consider it as a cause of very deep regret that we should be reduced to this deplorable dilemma—that we must either have a war with both the belligerents, or a continuance of the present system.

But when I found further, by that report, that the policy pointed out was to persist in the embargo until its inefficiency should be fully proved—and that the evidence of this fact was daily accumulating, none could deny—it really reminded me of the sage advice which I once knew very generally given: that of two evils, it was best to choose them both, and then you would be sure to have the right.

But I would ask gentlemen who are continually proclaiming that war or embargo are our only alternatives, whether, in case we should not be able to accomplish our wishes, and bring our enemies to terms in that way, we are again to have recourse to embargo? Yes, I am answered by an honorable gentleman, (Mr. CLAY,) from Virginia. Very well, sir, then I understand the system, and I imagine by the time we shall have rung the changes of embargo and war and war and embargo for ten or fifteen years, whatever our wise politicians and philosophers may think, our poets and bards will at least have done singing "*Hail Columbia, happy land!*" But, sir, I do not believe in the necessity of either of these alternatives. War may be held up *in terrorem* to reconcile the people to a continuance of the embargo; and this, I have the charity to believe, is all that is meant, by the constant clamor which is made upon that subject.

I have always cherished a belief that, although in the extraordinary conflict in which Great Britain has been engaged—a conflict, as she says, for her existence—she may have been too regardless of our rights as a neutral nation, and has, doubtless, done us many wrongs, yet that an amicable and honorable adjustment might have been had of all our differences. The door of conciliation is still open, and it is no less for her interest to be on friendly terms with us than it is for ours to be at peace with her.

As to France, we have little to fear from her in the present state of things. And whether we are at war or peace with her will make no difference in her treatment of us. When she is disposed to take our property, and can lay her hands upon it, a pretext will not be wanting. The most solemn treaties, we have ample proof, afford no security.

Sir, I believe that the embargo might be taken off without necessarily involving us in a war, or subjecting us to dishonor.

That we might have some commerce which would not be affected either by the British Orders in Council or the French Decrees, is not denied. With respect to the extent of this commerce, there exists a difference of opinion. But I am persuaded it would be much more considerable than many gentlemen are willing to concede. At all events, I am disposed to make the experiment. I am at least for giving the nation a breathing spell. Instead of adding another link to the chain, I am for breaking the shackles which we have already imposed upon our commerce. Our affairs, I have no doubt, would soon assume a very different aspect. Our enterprising citizens would extend the commerce of our country far beyond our present expectations; and through the channel of that commerce our revenue would again be revived. The body politic would be invigorated, individual industry encouraged, and the nation in some degree restored to its former prosperous and flourishing state. But so long as you continue this deadly embargo, so long you can expect nothing but an increase of the distresses and complaints of your citizens. And this may not be all. It becomes gentlemen who appear so zealously determined to pass and enforce the provisions of this bill, well to consider the hazardous experiment they are about making, lest the blow which they are aiming at the liberties of a generous and enlightened people should recoil upon their own head, and, instead of producing the submission which is expected, should prostrate the power of the Administration.

Mr. GARDENIER opposed the bill.

Mr. DANA moved to strike out the 11th section, as follows:

"*And be it further enacted*, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces or militia of the United States, or of the Territories thereof, as may be judged necessary in conformity with the provisions of this and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody, any ship or vessel, or of taking into custody and guarding any specie, or articles of domestic growth, produce, or manufacture; and, also, for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same:"

And on the question to agree to the amendment, it passed in the negative—yeas 31, nays 70, as follows:

YEAS—Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Daven-

port, jun., William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, John Harris, Richard Jackson, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, and Killian K. Van Rensselaer.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, James Holland, David Holmes, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, Robert Marion, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Richard Stanford, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

Mr. UPHAM moved to adjourn—yeas 28.

Messrs. GARDNER and VAN DYKE opposed the bill.

Four o'clock.—Question on its going to a third reading decided—yeas 73, nays 29, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Geo. W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Richard Stanford, Clement Storer, Joseph Story, John Taylor, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, John Harris, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, and Killian K. Van Rensselaer.

On the question when it should be read a third time, Messrs. QUINCY, UPHAM, LYON, GARDENIER, ALEXANDER, and DANA, spoke in favor of Saturday, and Messrs. NELSON and TAYLOR for this day.

Mr. QUINCY called for the yeas and nays on the motion for Saturday. Motion lost—yeas 35, nays 68, as follows:

YEAS—Evan Alexander, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, John Harris, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, John Morrow, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, and Killian K. Van Rensselaer.

NAYS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Geo. W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, Wm. Kirkpatrick, John Lambert, Robert Marion, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

Half past 5 o'clock.—Bill read the third time. On the question, "Shall the bill pass?" Mr. STEDMAN called for the yeas and nays.

After some observations from Messrs. MASTERS and EPPES, the question was taken—yeas 71, nays 32, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jun., Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, Wil-

liam Kirkpatrick, John Lambert, Nathaniel Macon, Robert Marion, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, John Smilie, J. K. Smith, John Smith, Clement Storer, Joseph Story, John Taylor, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Charles Goldsborough, John Harris, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, and Killian K. Van Rensselaer.

And the House adjourned, a little after daylight, till Saturday.

SATURDAY, January 7.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes;" also, a bill, entitled "An act to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire;" to which bills, respectively, the Senate desire the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a statement of the sums annually received at the Treasury of the United States since the commencement of proceedings under the Constitution; and also a statement exhibiting the annual amount of the respective branches of the customs, and the charges thereon, in pursuance of a resolution of this House of the twentieth ultimo; which were read, and ordered to lie on the table.

A message was received from the President of the United States, transmitting a statement of the works of defence which it has been thought necessary to provide, in the first instance, for the security of our seaports, towns, and harbors, and of the progress towards their completion. The Message and a report from the Secretary of War on the subject of fortifications, which accompanied the same, were read, and referred to the committee appointed the eleventh of November last, on so much of the Message from the President of the United States, at the commencement of the present session, as relates to the Military and Naval Establishments.

The SPEAKER laid before the House a letter from the Secretary of the Treasury accompanying his report on the petition of Mary Miller and Anne Hampton, referred to him by order of the House, on the thirtieth ultimo; which were read, and referred to the Committee of Ways and Means.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers;" Whereupon,

Resolved, That this House do agree to the said amendments.

MILITARY OFFICERS.

Mr. VAN DYKE observed that, as an increase of our military force seemed to be contemplated, it would, no doubt, be desirable to have all information on the subject, and for this purpose he offered the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House a list of the names and number of officers, and the number of non-commissioned officers, musicians, and privates, belonging to each of the regiments of the United States, noting the number now wanting to complete the same; and also a list of the names and number of officers appointed under an act of the last session, entitled "An act to raise, for a limited time, an additional military force," and the number of men that have been enlisted pursuant to the provision of said act.

It was suggested by Messrs. W. ALSTON, EPPES, GEORGE W. CAMPBELL, FINDLEY, DAWSON, and RHEA of Tennessee, that all the information the gentleman wished might be had by him on application to the Department of War; and that an official statement would answer no other good purpose than to expose to our enemies an exact statement of the amount, and precise nature of our regular force. Such a thing was said to be unprecedented, as an official list of the names of all the officers of a nation having been thus communicated to foreign Powers.

The resolution was disagreed to by the House.

EXTRA SESSION OF CONGRESS.

Mr. SMILIE offered the following resolution:

"*Resolved*, That a committee be appointed to inquire into the propriety of providing by law for the meeting of Congress at an earlier period than the first Monday in December next, with leave to report by bill, or otherwise."

On this motion a debate of three hours took place. Of this debate we can give no more than sufficient to mark its spirit.

Mr. SMILIE observed that, on reflection, every gentleman must be convinced that both our internal and external situation rendered it proper that Congress should be convened earlier than the usual time.

Mr. MACON said that, as the Constitution had given to the President a power to call Congress whenever he should judge it expedient, and as the President would have a full knowledge of the state of our foreign relations, he was willing to leave the power with him, believing that, if necessary, he would not fail to exercise it. He was

also opposed to adopting this resolution at this time, because, in six weeks hence, it would be time enough to propose it.

Mr. Southard observed that the resolution but proposed an inquiry, and no one would commit himself, by voting for it, to vote for an earlier meeting than usual.

Mr. Durell was opposed to this resolution; for he had no idea of closing the session, without taking further steps in regard to our foreign relations.

Mr. Holland thought the resolution wholly premature.

Mr. Tallmadge was also opposed to the resolution. He conceived that the House had better proceed in the business which lay before them. When they had progressed farther, they might be much better able to decide this question.

Mr. Nicholas said that, if, instead of a resolution, this was a bill on its third reading, he was ready to vote for it. He lamented that the term of service of the present Congress expired as early as the fourth day of March. He wished it to meet as soon after as practicable. He alluded to the State of Tennessee's not choosing its Representatives in Congress before August. He said it would be an embarrassing thing to convene Congress before the Governor of that State could convene the Legislature, to provide for an earlier election, and supply the representation of that important State. Admit that the present Congress were to declare war, no gentleman would deny that Congress ought to convene earlier than usual. If it were not done this session, he would, long before the first of December, give his vote for changing the attitude of the nation. The experiment which we were now making would have been continued as far as justifiable before that time. He said he would not trust the discretion of any one man, under these circumstances, to convene Congress; though he had as much confidence in the person whose duty it would be, as any one man ought to have in another.

Mr. Dana said he had not the slightest suspicion of any intention in the present Congress to declare war. Even the inhabitants of Bedlam would refuse to concur in such a project. He really had no idea of it. He wished the country not to be continually alarmed by these war speeches. Keep out of war if you can, said he; if not, go into it; do not look at it, and proclaim it as so horrible a thing. He was in favor of this resolution, because it was for an inquiry; and he might possibly vote for the bill when reported.

Mr. D. R. Williams opposed the resolution. Every circumstance, he said, showed that Great Britain predicated her measures on an idea of our want of stability. He wished not to accomplish her expectations by an early session. If the extra session were proposed with a view to war, it was extremely injudicious; if with a view to the repeal of the embargo, it was equally injurious, as it indicated to our enemies the period at which one measure should commence, or the other cease. He wished to hold on to the embargo; he had no doubt of its proving effectual. If any change of our situation should take place, the Constitution had vested in the head of our foreign relations a power to call Congress.

Mr. Story had no idea of the resolution producing the effect anticipated by Mr. Williams. He would be the last man to doubt the ability or integrity of the Administration; but why throw the responsibility on his shoulders? Why shrink from it themselves? When they alone were vested with the power to declare war, why not listen to the warning voice of Providence, attend at their posts, and prepare a whole system which should call for the active co-operation of the people? Did Congress mean to say that the embargo should be co-existent with the Orders in Council? that it was to endure forever? He trusted and believed that this was not the sentiment of any gentleman who occupied a seat on this floor. The time was fast approaching when this measure must give way to one of a more energetic character. And he distinctly understood that it was contemplated that Congress should convene at an early period for discussing this subject. Was Great Britain so totally unacquainted with the subject as not to know that this body had the power to declare war? Certainly not. So far, then, as the call of an extra session could influence Great Britain and France, it would go far to convince them that submission would not be the course of men whose hearts were in their country, and who had their country in their hearts. Mr. S. made some remarks, tending to show that the councils of the mother country were not guided by the cool dictates of reason. When Great Britain lost, as a great statesman had observed, "the brightest jewel of the British Crown," the helm of State was under the guide of an able ministry, but who took council of their passions rather than of their reason. No dependence was, therefore, to be placed on her sense of justice or interest. We must resort at last, to the *ultima ratio regum*, and we ought to prepare for it.

Mr. Bibb wished foreign nations to know that, unless they changed their measures, we would adopt some other measure. He wished the resolution to be adopted, that the people of the United States might know that the time was not far distant when a change of measures would take place.

Mr. G. W. Campbell was in favor of the resolution. He wished the nation to understand that its Representatives would meet here at an early period; that they would meet the day of danger, and be ready to take stronger measures. He cared not how soon foreign nations knew it. It was high time that they should know it. Mr. C. adverted to Mr. Dana's observations, in relation to the madness of the idea of the present Congress declaring war. He observed that the gentleman had but a few days ago voted, that the nation could not submit to the edicts of the belligerents. The gentleman had also expressed an opinion, that the attack on the Chesapeake was cause of war. He could not, therefore, suppose that to resist by war these accumulated injuries would appear strange to the gentleman.

Mr. Troup was in favor of the resolution. He regretted not any effect it would have on foreign nations. If Great Britain had rather have war than embargo, said he, let her have it; and let her see that we can be as formidable to her, as an adversary in war, as we are as a rival in peace.

Mr. Bacon supported the resolution. He said he had given votes at the present session which he should have given with reluctance, but for the belief that an extra session would take place; and measures were now pending before the House, for which he should vote with reluctance, but under this expectation.

Mr. Eppes said he was not for adhering to the embargo until December; he did not believe that it would comport with the honor or interest of the United States to adhere to it so long. He had declared by his vote that he would not repeal the embargo on the fourth of March, and he was still of the same opinion. But long before the first of December, he said, he should be prepared to substitute another measure in its place.

Mr. J. Jackson expressed nearly the same sentiments as Mr. Eppes. He did not know whether it would be proper to continue the embargo longer than the first of June.

Mr. Dana observed, that this nation would never go to war, except the objects for which it went to war were distinctly marked and defined; because a war would not otherwise be popular: and a war declared by this Government, to be effectual, must be followed by the general sense of the people. Mr. D. examined some of the points in controversy, and made some observations in relation to the principle, that the American flag should protect all persons sailing under it.

Mr. Alexander moved that the resolution lie on the table.

Mr. Taylor was in favor of the resolution. The invasion of Canada could not be authorized without an extra session, nor regular force sufficient for offensive operations be organized. The object for which the nation might now justly go to war was sufficiently defined. The gentleman himself (Mr. Dana) had, by his vote, declared it, and the nation had followed their Representatives in the declaration.

Mr. Nicholas said he had thought, and still believed, the embargo to have been the best measure which could have been adopted. It had answered every purpose as a precautionary measure; and he believed it would have operated coercively on the principal aggressor on our rights, and in saying so he had no fear of being accused of undue partiality, if every man in the nation had been faithful to his country, and had it not been for circumstances which we could not control. Those who had violated the embargo, those who had encouraged violations of it, he said, were responsible for its failure, if it did fail; those who told the people that it was to subserve the interests of the South; that it was intended to destroy commerce and promote manufactures. Nothing but extreme ignorance could have produced such an idea; for manufactures neither did nor could exist to any extent in the country whose interests were said to have been intended to be promoted. He thought that Congress ought to meet about the 15th of May or 1st of June; that the embargo ought to be continued until the country was in a state of defence, and until means of offence were at hand.

The question on the resolution's lying on the table was negatived—ayes 19. The question on the resolution was carried—62 to 21.

Monday, January 9.

Another member, to wit: John Rowan, from Kentucky, appeared, and took his seat in the House.

On motion of Mr. Story,

Resolved, That the Committee on Post Offices and Post Roads be instructed to report a bill to this House, authorizing the transmission, by mail, free of postage, of the President's Message of the twenty-third of December last past, and the documents accompanying the same, which have been printed by the Senate and House of Representatives.

On motion of Mr. G. W. Campbell,

Ordered, That the Committee of Ways and Means, to whom was referred, on the thirtieth of December last, a petition of sundry mariners, late masters and mates of vessels belonging to the port of Portland, in the district of Maine, be discharged from the consideration of the same.

Mr. Lewis presented a petition of Marsham Waring, and others, inhabitants of the District of Columbia, praying that all executions which have been or may be awarded against the petitioners and other inhabitants of the said District, may be stayed during the continuance of the embargo and non-intercourse laws of the United States; or, that such other relief may be afforded in the premises as to the wisdom and justice of Congress shall seem meet.—Referred to the Committee for the District of Columbia.

Mr. Nelson, from the committee to whom was recommitted the bill for the relief of the infirm, disabled, and superannuated officers and soldiers of the late and present Army of the United States, reported several amendments thereto; which were read, and ordered to lie on the table.

The House proceeded to consider the amendment of the Senate to the second amendment proposed by this House to the bill sent from the Senate, entitled "An act supplemental to an act, entitled 'An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes:" Whereupon,

Resolved, That this House do agree to the said amendment to the amendment.

NAVIGATION LAWS.

Mr. Dana said that, by the present laws of the United States, it was not necessary that an American vessel should carry a single American seaman. His object was to make some provision directly for the interest of American seamen, and which might incidentally contribute to their protection at sea. He wished to make it the inter-

est of American merchants to employ American seamen. And, with these views, he offered the following resolution:

Resolved, That, for the benefit of the seamen of the United States, it is proper to make provision that American registered vessels, after a time to be limited by law, shall not continue to enjoy the benefits and privileges of American vessels, unless some of the mariners on board the same shall be citizens of the United States.

Mr. D. observed that, during the present suspension of navigation, it might be proper to adopt regulations of a permanent nature, to go into effect whenever it was resumed. He moved a reference of the resolution to a select committee, with liberty to report by bill or otherwise.

On the suggestion of Mr. D. R. Williams, with the consent of Mr. Dana, the resolution was ordered to lie on the table.

Mr. Dana then observed that he wished to ascertain the whole number of naturalized seamen in the United States. He believed that, in the annual returns of seamen registered, a distinction was made between native and naturalized seamen. He conceived, therefore, that the following resolution would enable him to attain his object:

Resolved, That the Secretary of State be directed to lay before this House a statement of the whole number of persons born in foreign countries, and legally admitted citizens of the United States by naturalization, who have been registered as American seamen and returned as such to the Department of State, according to the lists collected by the collectors of the customs, in pursuance of the law relative to the relief and protection of American seamen.

The resolution was agreed to.

NAVAL ESTABLISHMENT.

The amendments of the Senate to the bill sent from the House for employing an additional number of seamen and marines, were taken up. [The amendments propose the immediate arming, manning, &c., all the armed vessels of the United States.]

Mr. G. W. Campbell expressed a hope that the House would disagree to the amendments. The President was already authorized by law to fit out these vessels, whenever, in his opinion, the public service should require it; and the expense which would attend them was a sufficient argument against it, if no urgent occasion existed for their service, which he believed did not.

Mr. Story entertained a very different opinion from that of the gentleman from Tennessee. In case of war there must be some ships of war of one kind or other; and it would take six months at least to prepare all our ships for service. At present they were rotting in the docks. If it were never intended to use them, it would be better to burn them at once than to suffer them to remain in their present situation. He believed if out at sea they might be useful and would be well employed. Why keep them up at this place, whence they could not get out of the river perhaps in three weeks or a month? He believed that a naval force would form the most effectual protection to our seaports that could be devised. Part of our little navy was suffered to rot in the docks, and the other part was scarcely able to keep the ocean. Could not a single foreign frigate enter almost any of our harbors now and batter down our towns? Could not even a single gunboat sweep some of them? Mr. S. said he could not conceive why gentlemen should wish to paralyze the strength of the nation by keeping back our naval force, and now in particular, when many of our native seamen (and he was sorry to say that from his own knowledge he spoke it) were starving in our ports. Mr. S. enumerated some of the advantages which this country possessed in relation to naval force. For every ship which we employed on our coasts, he said, any foreign nation must incur a double expense to be able to cope with us. The truth was, that gentlemen well versed in the subject, had calculated that it would require, for a fleet competent to resist such a naval force as the United States might without difficulty provide, four or five hundred transport ships to supply them with provisions, the expense of which alone would be formidable as a coercive argument to Great Britain. He wished it to be shown, however small our naval force, that we do not undervalue it, or underrate the courage and ability of our seamen.

Mr. Cook followed Mr. Story on the same side of the question. He compared the nation to a fortress on which an attack was made, and the garrison of which, instead of guarding the portal, ran upon the battlements to secure every small aperture. He thought their attention should first be directed to the gates, and that a naval force would be the most efficient defence for our ports.

Mr. D. R. Williams called for the yeas and nays on the amendments.

Mr. Smilie said that raising a naval force for the purpose of resisting Great Britain, would be attacking her on her strong ground. If we were to have a war with her on the ocean, it could only be carried on by distressing her trade. Neither did he believe that these vessels of war would be of any effect as a defence. They did not constitute the defence on which he would rely. If we had a navy, it would form the strongest temptation for attack upon our ports and harbors. If Denmark had possessed no navy, Copenhagen would never have been attacked. The only way in which we could carry on a war on the ocean to advantage, Mr. S. said, would be by our enterprising citizens, giving them sufficient encouragement. Were we to employ a naval force in case of war, it would but furnish our enemy with an addition to her navy. He hoped the House would disagree to the amendments of the Senate and appoint a committee of conference.

Mr. Dana said that the amendments sent from the Senate presented a question of no small importance to the nation. Without expressing any opinion on the question, it appeared to him to be at least of sufficient importance to be discussed in Committee of the Whole. Coming from the other branch of the Legislature, and being so interesting to the nation, he wished that it might

be discussed fairly and fully; and, therefore, moved a reference to a Committee of the Whole.

Messrs. Dana, Tallmadge, and Story, urged a reference to a Committee of the Whole, on account of the great importance of the subject, on which a full discussion would be proper; and Messrs. Macon, G. W. Campbell, and Holland, opposed it, because the seamen proposed by the original bill were now wanted, and the subject of the amendment was already referred to a Committee of the Whole in a distinct bill. Motion lost, 58 to 55.

Mr. Macon observed, that the immediate expense of this arrangement, if agreed to, would be at least five or six millions of dollars, and but four hundred thousand were appropriated by the bill. When he compared this bill with the report of a select committee made to the House of Representatives, he said he was astonished. A part of that report was a letter from the Secretary of the Navy, in which the very number (two thousand) contained in the bill as it went from this House, was desired. Mr. M. adverted to the observation of Mr. Story, that it would cost Great Britain as much to keep one frigate as it would cost us to keep two. He thought the expense would be about equal. The expense of the transportation of provisions would be counterbalanced by the difference of expense between the pay of the British and American seamen, the latter being double of the former generally. He objected to this bill from the Senate because no estimate accompanied it. He thought they would go far enough if they gave the departments all that they asked. This House had indeed as much right to judge of the force requisite, as any other department; but he did not wish to be called upon to supply a deficit in the appropriation, which never failed to occur even in the ordinary appropriations for the Navy Department. Give the four hundred thousand dollars asked for, and the deficit in the appropriation will be at least ten times the amount of the sum appropriated.

Mr. Cook contended strenuously in favor of a naval force. He detailed the advantages which would accrue to the nation from a few fast sailing frigates. He said they were essentially necessary to defence. He expatiated on the difficulty with which any foreign Power could maintain a force on our coast.

Mr. Holland did not profess to have much knowledge on this subject, but he said it did not require much to overthrow the arguments of gentlemen on the subject. What defence a few frigates would be to the extensive coast of this country, he could not understand. There certainly never had been a time when this country should rely on a maritime force as a sufficient protection. Indeed, he said, if we had fifteen or twenty or more sail-of-the-line, he should hesitate much before he would go to war with Great Britain, because these would undoubtedly be lost. Our power of coercion was not on the ocean. Great Britain had possessions on this Continent which were valuable to her; they were in the power of the United States, and the way to coerce her to respect our rights on water would be attacking them on land. He said, he certainly did not undervalue the disposition and prowess of our seamen; and it was because he valued them, that he did not wish them to go into an unequal contest, in which they must certainly yield. Gentlemen might understand naval matters; but it was no reason that they should therefore understand the efficiency of a naval force. There was sufficient evidence in history to warn the United States against it.

Mr. Dawson moved that the bill should lie on the table till the amendments of the Senate could be printed. Motion lost—yeas 40, nays 78, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, William W. Bibb, William Blackledge, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., John Dawson, William Ely, Meshack Franklin, Barent Gardenier, Charles Goldsborough, Isaiah L. Green, John Harris, William Helms, Reuben Humphreys, Richard Jackson, Philip B. Key, Joseph Lewis, junior, William McCreery, Jonathan O. Mosely, Roger Nelson, Jacob Richards, Samuel Riker, John Rowan, John Russell, Samuel Shaw, James Sloan, Joseph Story, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, and Daniel C. Verplanck.

Nays—Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, James Fisk, Francis Gardner, James M. Garnett, Thomas Gholson, jr., James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, D. Montgomery, jr., John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Lemuel Sawyer, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, John Taylor, Abram Trigg, George M. Troup, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Nathan Wilson.

Mr. Troup said he rose but for the purpose of stating facts which struck him as being applicable to the subject before the House. He referred chiefly to an extract of a letter written to himself and published in the paper of to-day. [Mr. T. then read the extract which appeared in the National Intelligencer on the 9th instant.] In addition to these facts, letters had been received, in the course of this morning, containing further particulars, which he begged leave to state to the House. After the officer (commander of a British armed vessel) had been forced on board his vessel, and

while lying in our waters and within our jurisdiction; he had fired several shots at pilot-boats, passing and repassing, had been very abusive, and threatened the town with what he called vengeance; and, in addition to these facts, letters had reached Savannah from Liverpool, giving satisfactory information that vessels of fifteen or twenty guns had been fitted out for the purpose of forcing a cotton trade with South Carolina and Georgia. This information, Mr. T. said, came from unquestionable authority. And it was because he was unwilling that the people of this country should longer submit to the abuse of British naval officers; because he was unwilling that they should be exposed to the insolence of every British commissioned puppy who chose to insult us; because he was unwilling that armed vessels should force a cotton trade, when every man knew that nine-tenths of the people of Georgia would treat as traitors the violators of the embargo; it was for this reason that he was disposed to vote for the amendments from the Senate. The great objection which had been taken to them was the expense which they would produce. Economy, Mr. T. said, was a good thing in time of peace; but if this contracted spirit of economy predominated in our war councils, if we were forced into a war, so help him God, he would rather at once tamely submit our honor and independence than maintain them in this economical way. If we went to war, we ought not to adopt little measures for the purpose of executing them with little means; neither should we refuse to adopt great measures, because they could not be executed but with great means. It was very true that, in war as well as in peace, calculation to a certain extent was necessary; but, if they once resolved on an object, it must be executed at whatever expense. He was no advocate for standing armies or navies, generally speaking; but, in discharging his duties here, he must be governed by the circumstances of every case which presented itself for his decision, and then ask himself, Is it wise, politic, and prudent, to do this or omit that? He said he would never go back to yesterday to discover what he had then said or done, in order to ascertain what he should now do or say. Political conduct must depend on circumstances. What was right yesterday might be wrong to-day. Nay, what was right at the moment he rose to address the House, might, ere this, be palpably wrong. Conduct depended on events, which depended on the folly or caprice of men; and, as they changed, events would change. It might have been a good doctrine long ago that this country ought to have a navy competent to cope with a detachment of the British navy; it might have been good doctrine then, but was shocking doctrine now.

At that time England had to contend with the navies of Russia, Denmark, France, Holland, Spain &c. Now England was sole mistress of the ocean. To fight her ship to ship and man to man, and it was impossible that gentlemen could think of fighting her otherwise, if they fought her at all, we must build up a huge navy at an immense expense. We must determine to become less agricultural and more commercial; to incur a debt of five hundred or a thousand million of dollars, and all the loans and taxes attendant on such a system, and all the corruption attendant on them. He should as soon think of embarking an hundred thousand men for the purpose of attacking France at her threshold, as of building so many ships to oppose the British navy. It was out of the question; no rational man could think of it. But that was not now the question. It was, whether we would call into actual service the little navy we possessed. It was not even a question whether we would have a navy at all or not. If that were the question, he would not hesitate to say that even our present political condition required a navy to a certain extent, to protect our commerce against the Barbary Powers in peace, and in time of war for convoys to our merchantmen. He only meant a few fast sailing frigates, such a navy as we have at present, for the purpose of harassing the commerce of our enemies also. He therefore thought our present naval force ought to be put in service. As far as the appropriation ($400,000) would go, it would be employed; but if Congress should hereafter see cause to countermand or delay the preparation, they would have it in their power to do so by refusing a further appropriation.

Mr. D. R. WILLIAMS said it was his misfortune to differ with gentlemen upon all points on the subject of the navy. He was opposed to it from stem to stern; and gentlemen who attempted to argue in favor of it as a matter of necessity, involved themselves in absurdities, they were not aware of. When money had been appropriated for fortifications, there had been no intimation that it would be necessary to prop them up with a naval force. If our towns could not be defended by fortifications, he asked, would ten frigates defend them? The gentleman from Massachusetts (Mr. STORY) had even gone so far as to say that a single gunboat could sweep one-half of our harbors. If a single gunboat could now sweep most of our harbors, Mr. W. said he should like to know what eleven hundred and thirty vessels of war could do, even when opposed by our whole force of ten frigates! The gentleman from Massachusetts had said it would be cheaper to keep these vessels in actual service than in their present situation. Mr. W. said he supposed that the gentlemen meant that they would rot faster in their present situation than if they were at sea. He said he was for keeping them where they were, and would rather contribute to place them in a situation where they would rot faster. Mr. W. combated the arguments that employing the navy would afford relief to our seamen, and that the maintaining a navy on our coast would be more expensive to an European Power than the support of a larger naval force by us. And he said we should never be able to man any considerable fleet except the Constitution were amended to permit impressments, following the example of Great Britain.

The gentleman from Massachusetts (Mr. STORY) had said that except we begun with this bill, and got his fast sailing frigates, we should never regain our rights. If that were really the case, Mr. W. said he was ready to abandon them. He considered that the sort of maintenance of our rights adverted to by the gentlemen from Massachusetts, would be destructive to those rights. Gentlemen must have forgotten that when Hamburg was in the greatest state of prosperity, she did not possess even a single gunboat. Why! there was not wealth enough in this whole nation, if every one were to carry his all, thus to maintain our rights against the navy of Great Britain. If we were carried into a war, and everything really seemed to be tending that way, we must rely upon the enterprise of our citizens; and that, when set at liberty, would be found more desperate than the navy of any country. When we arrived at the end of the Revolutionary war we had but one frigate, and the best thing we ever did was to give that one away. The State of South Carolina had not yet got clear of the curse. She embarked one frigate in the general struggle, and she had not rid herself of the debts incurred by it yet. Private enterprise must be depended upon. The people from the Eastward had shown in the last war what they would do. When vessels were loaded with sugar they would fight like bull-dogs for it. He recollected a story, he said, of one of our privateers being beat off by a Jamaicaman, whom they attacked. The captain not liking to lose the prize, and finding his crew disheartened, told them she was full of sugar. "Is she?" said they "by G—d let us at them again." They scarcely ever failed in their enterprises.

In allusion to the case at Savannah, Mr. W. regretted that an insult should be offered to the people of the country. The insult at Savannah had by this time been redressed, he had no doubt. He had no information to induce him to believe so, but the knowledge that the sloop of war Hornet was stationed off Charleston, and of course cruised near the place. The Hornet was perfectly adequate to drive any vessel of twenty guns out of our waters. She was one of the best vessels of the United States, and as well officered as any. [Mr. TROUP observed that the Hornet was off Charleston. Now, he wanted a frigate at Savannah.] Mr. W. said that Savannah was the very place where gunboats would be perfectly effectual. He meant to make no reflection against the proposer of the gunboat system, but he did against those who had only given one-half of the system, and omitted the other—the marine militia. And now, when an attack was menaced at Savannah, gentlemen wanted a frigate! If nine-tenths of the people were opposed to the evasions of the embargo law, Mr. W. said it would not be evaded. The evaders would be considered as traitors—as the worst of traitors. As to preparing a force for the protection of navigation, the gentleman from Georgia must well know that the whole revenue of the United States would not be competent to maintain a sufficient number of vessels to convoy our merchantmen.

Mr. W. concluded by saying, that he wished the nation to be protected, and its wrongs to be redressed; but when he reflected that at Castine the soil had been most abominably violated, he could not view the insults in our waters as being equal to it; for, said he, touch the soil and you touch the life-blood of every man in it.

Mr. DURELL considered the present subject as one of the most important which had been introduced at this session. It would indeed be difficult to reason gentlemen into a modification of a principle to which they were opposed throughout; but he trusted that this House was not generally so disposed. He believed that a large majority of the House were at the present moment in favor of embargo or war, because the House had been so distinctly told by a committee on our foreign relations, that there was no alternative but submission; and almost every gentleman who had the honor of a seat within these walls, had committed himself on the subject, either to persevere in the embargo, or to resort to war. What would be the object of a war? Not the right of the soil, not our territorial limits, but the right of navigating the ocean. Were we to redress those wrongs, those commercial injuries, on the land? Not altogether, he conceived. Would it be good policy, he asked, to let our means of carrying on war on the ocean rot in our docks, and not make use of them? These vessels would also be useful as a defence. Why then should they not be manned and put in readiness for service? It was said that we could not cope with the British navy. Mr. D. said this argument proved too much, if it proved anything. If he did not feel perfectly comfortable in a cold day, should he therefore divest himself of all clothing? Why send out the sloop of war Hornet, alluded to by the gentleman last up—why rely upon it for redressing the insult at Savannah, if naval force was useless? It was no reason, because Great Britain had more vessels than we, that we should not use what we had. Indeed those gentlemen who objected to naval force, appeared to be mostly from the interior, and of course could not properly estimate its value.

Mr. SAWYER was wholly opposed to the amendments from the Senate. The objection to this particular increase of naval force on the score of expense, was not to be disregarded. He called the attention of gentlemen to the state of the Treasury. The expense of this system would be three millions; and when this sum was added to other sums which would be requisite if measures now pending were adopted, it would render it necessary for Congress now to borrow money on the credit of posterity. The expedient of direct taxation would not be resorted to. It had already been the death-blow to the political existence of one administration. This Government, he said, was founded on public opinion, and whenever the approbation of the people was withdrawn, from whatever cause, the whole superstructure must fall.

Mr. S. dwelt at some length on the disadvantage of loans. He said, if this nation was destined to raise a navy for the protection of com

merce, it should have begun earlier, in the year 1793, when such outrageous violations had been committed on our commerce. The expense of such an establishment would have far exceeded the amount in value of captures made since that period. He concluded, from a number of observations which he made on this subject, that, on the score of the protection of trade, it would not be proper to fit out a navy. This proposition, he said, was the mere entering wedge. The system was either unnecessary, or would be wholly futile in practice. Our seamen would cost us at least double of what is the expense of her seamen to Great Britain; and it required her utmost exertions to pay the interest of the enormous debt with which her unwieldy navy had saddled her. He therefore certainly thought that an attempt to justify it on the score of profit would not succeed. He deprecated the extension of Executive patronage, which would result from an increase of the Naval Establishment. Need he go back, he asked, to the time when the black cockade was necessary, in some parts of the country, to secure a man from insult from the officers of the navy? He wished to limit the Executive patronage; to adhere closely to the maxims of our forefathers. By sending out a navy, too, he said, we should volunteer to support the ascendency of the British navy; become the mere jackals of the British lion. Mr. S. went at some length into an examination of the former Administration in relation to a navy. There was nothing, he observed, in the nature of our Government, or of our foreign relations, to require a navy. If we could not carry on foreign commerce without a navy, he wished to have less of it and more of internal commerce, of that commerce which the natural advantages of the country would support between different parts of it. If we were to build a navy for the protection of foreign commerce, we should throw away our natural advantages for the sake of artificial ones. He was in favor of the embargo at present. There was more virtue in our barrels of flour as to coercion than in all the guns of our navy; and we had lately given our adversaries a supplementary broadside, which he hoped would tell well. Mr. S. stated the origin and progress of navies at some length, commencing with the Republic of Genoa. Our chief reliance as to defence must be on our militia. So little did Great Britain now rely on her navy for defence of her soil, that she had called upon every man in the country to be at his post, if danger came. Other nations might be justified in supporting a naval force, because they had colonies separated from them by the sea, with whom they were obliged to have means of intercourse, but we had not that apology for a navy. Mr. S. concluded his observations, after speaking near an hour, not, he said, that he had gone through the subject; but, as it was late in the day, he yielded the floor to some other gentleman.

Mr. J. G. JACKSON said, that gentlemen should not be influenced, in discussing the present question, by a belief that they were now discussing the propriety of raising a naval force for offensive purposes. This was not the question. It was only whether, at this crisis, the House would employ a little force for the purpose of resisting attacks made on our territory at home. The gentleman from South Carolina (Mr. WILLIAMS) had said that an attack on the soil touched the life-blood of every man in it. Yes, Mr. J. said, it did; whether the invasion was on our jurisdiction, on land or water, it touched equally the life-blood of the nation. He would as soon resist an attack on our territorial jurisdiction on sea as on land. It made no difference with him whether a foreign frigate came up to the piles of Potomac bridge and fired over into the town, or whether its crew came on shore and assaulted us with the bayonet. The territory, he said, was equally invaded in either case. Were we not to resist Great Britain because of her 1,130 sail of armed vessels? This would amount to a declaration that we must succumb to her, because she could at any time send a squadron sufficient to destroy our naval force at a single blow. This was the tendency of the argument. Mr. J. said it would be more honorable to fight, while a single gun could be fired, notwithstanding her overwhelming force. This mode of reasoning had a tendency to destroy the spirit of the people. He would never consent to crouch before we were conquered; this was not the course of our Revolutionary patriots, and he trusted it was one which we should not follow. He would rather, like the heroic band of Leonidas, perish in the combat, although the force of the enemy was irresistible, than acknowledge that we would submit. This naval force was not, however, intended to cope with the navy of Great Britain, but to chastise the petty pirates who trespassed on our jurisdiction; pirates, he called them, because the British Government had not sanctioned their acts. It had not justified the murder of Pierce, or asserted the right of jurisdiction claimed by an officer within the length of his buoys, &c., because, if she had, it would have then been war. For this reason he wished our little pigmy force to be sent on the ocean, notwithstanding the giant navy of Great Britain. Some gentlemen had opposed this on the score of expense. Our most valuable treasure, Mr. J. said, was honor; and the House had almost unanimously declared that it could not submit without a sacrifice of that honor.

A motion was now made to adjourn, and carried —47 to 29.

TUESDAY, January 10.

The bill sent from the Senate, entitled "An act making a further appropriation towards completing the two wings of the Capitol at the City of Washington, and for other purposes," was read twice and committed to a Committee of the Whole on Monday next.

Mr. NICHOLAS presented a petition of sundry officers of the Virginia line of the late Revolutionary army, praying that such compensation may be made as may be equivalent to the respective services and losses of the petitioners, in the

capacity aforesaid.—Referred to the committee appointed, the twenty-sixth ultimo, on the memorials and petitions of the late officers of the said Revolutionary army.

The bill sent from the Senate, entitled "An act to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and insure against loss by fire," was read twice and committed to a Committee of the Whole tomorrow.

On motion of Mr. NELSON,

Ordered, That the amendments reported, yesterday, from the select committee to whom was recommitted the bill for the relief of the infirm, disabled, and superannuated officers and soldiers of the late and of the present army of the United States, which lay on the table, be committed, together with the bill, to a Committee of the Whole on Wednesday next.

Mr. RHEA, of Tennessee, from the Committee on Post Offices and Post Roads, presented a bill to authorize the transportation of certain documents, by mail, free of postage; which was read three times and passed.

The SPEAKER presented to the House a representation of sundry inhabitants of Townsend, in the county of Middlesex, and State of Massachusetts, stating certain objections to the manner of appointing Electors for President and Vice-President of the United States, by the Senate and House of Representatives of the said State of Massachusetts; and praying the interference of the powers vested by the Constitution in the two Houses of Congress, to prevent the establishment of a precedent which, in their opinion, will have a dangerous tendency; which was ordered to lie on the table.

On motion of Mr. DANA,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of amending the law relative to bonds which may be required for enrolled or licensed vessels of the United States, with leave to report by bill or otherwise.

The House proceeded to consider a resolution proposed, yesterday, by Mr. DANA, and ordered to lie on the table; the same being amended to read as follows:

Resolved, That, for the benefit of the seamen of the United States, it is proper to make provision that registered ships and vessels, after a time to be limited by law, shall not continue to enjoy the benefits and privileges appertaining to ships or vessels of the United States, unless a certain proportion of the mariners on board the same shall be citizens of the United States.

Ordered, That the said resolution be referred to Messrs. DANA, DAVID R. WILLIAMS, QUINCY, MUMFORD, and MCCREERY, with leave to report thereon by bill, or bills, or otherwise.

Mr. LEWIS presented a petition of the Pastor and Committee of the Presbyterian Congregation, in the town of Alexandria, in behalf of themselves and others, praying that an act of Congress may be passed for incorporating the congregation aforesaid, under such terms and provisions as to the wisdom of Congress shall seem meet.—Referred to the Committee for the District of Columbia.

On motion of Mr. VAN HORN,

Resolved, That the Committee for the District of Columbia be instructed to inquire what amendments are necessary in the act concerning the District of Columbia.

NAVAL ESTABLISHMENT.

The House resumed the consideration of the amendments proposed by the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines." The first amendment, which was depending yesterday, at the time of adjournment, being again read—

Mr. LYON was in favor of the amendment because it proposed an appropriation of a less sum of money than that sent from this House; and it would require the Executive to call upon the next House of Representatives for further appropriation, before it could be carried into effect, and the subject would then be completely in the power of the House.

Mr. UPHAM was against the amendment. He was as much desirous of relieving our seamen as any gentleman; but, if there was no occasion for the employment of a naval force, he would not vote for it merely to employ idle and starving men. He considered this amendment as a part of the great system for enforcing the embargo, for destroying commerce instead of protecting it. He considered the first embargo perpetual, and Nos. 1, 2, 3, and 4, for carrying it into effect, of the same nature; and the law lately passed, more unconstitutional than any. He considered it the worst law ever passed under the Constitution.

[The SPEAKER here called Mr. UPHAM to order, as wandering from the subject under debate.]

Mr. J. MONTGOMERY observed that the phraseology of the law was different from any other law on this subject.

Mr. UPHAM observed that he had not relinquished the floor. He considered the last embargo law as more unconstitutional than any other. [Mr. U. was called to order by Mr. JACKSON on the same grounds as by the Speaker.] Mr. U. said that he went on the ground that the law was unconstitutional, and that this bill was to enforce it. [The Speaker permitting Mr. U. to proceed, Mr. JACKSON appealed from the decision of the Chair. This mode of discussion was not in order. He did not, however persist in his appeal.] Mr. U. proceeded in explanation of his remarks. Mr. U. made further remarks on the law passed a few days ago, which, he said, he considered an unconstitutional law; that it laid the axe at the root of civil liberty, and, therefore, he would not consent to vote for this bill for enforcing it. Believing the embargo laws to be unconstitutional, and this bill intended to enforce them, he therefore would not vote for it.

Mr. MONTGOMERY offered an amendment to the amendment of the Senate, making it discretionary with the Executive to arm, fit, and send out the frigates, &c.

Mr. LOVE observed that the adoption of the amendment would render it difficult to ascertain the appropriation which would be necessary for the object.

Mr. DAWSON observed that a law already in force, contained precisely the same power as proposed by the amendment of the gentleman from Maryland.

Mr. G. W. CAMPBELL observed that the adoption of the amendment would not preclude the President from putting the frigates in service immediately, if required. He was willing to adopt the amendment, because a doubt seemed to exist whether the Executive now possessed the power of calling the frigates into service. Without the amendment just proposed, he could not vote for the amendment of the Senate.

Mr. COOK hoped it would not be adopted, because it would divest the bill of the little energy it possessed, and would render it nugatory.

Mr. NEWTON observed that he represented a part of the country where, in case of war, an attack would probably first be made. To the defence of this town, (Norfolk,) a few frigates would be of great service. It was the opinion, he said, of the best informed men that a few frigates, combined with natural advantages, would prevent the town from suffering from attack by sea. Mr. N. believed that the President would consider himself equally bound, whether the amendment were adopted or not, if the bill, as amended, should pass. He adverted to the argument of expense, which, he said, should be of no weight. Mr. N. was proceeding in commenting on the measures of the preceding Administration, in respect to naval force, when he was called to order by the Speaker. He said that this was not a system for enforcing the embargo. It was necessary to order our frigates from the Eastern Branch to the ocean, to protect our coasts from insult. He alluded to the affair lately taken place at Savannah, and observed that, to repel this species of marauding, the Navy of the United States ought to be at the disposal of the President. If they were to decide on incurring an expense which he considered necessary for preparation for war, it might be a means of preventing war; it would convince the nations of Europe, that we were determined effectually to resist; would tell them that if they wished to resume relations of amity with us, they must make overtures, which, when made by us, had been so insultingly received. From what he could understand, the people of the United States looked to Congress for vigorous measures, and if such were not taken, would be grievously disappointed. We, said Mr. N., are the first whom the storm of war would reach; we, (his constituents,) are to be the first sufferers, and we only ask of the Congress of the United States to enable us to make a glorious defence.

Mr. DANA said he should think it rather more expedient for the Congress of the United States to decide this question. Which ever way the President should decide, he might act wrong, in the opinion of those particularly attached to him; and to those who were not, might afford grounds for censure. He thought it proper that the new President of the United States, be he whom he might, should come into office under favorable circumstances in relation to public opinion. He alluded to the difference of opinion, in different parts of the Union, on the subject of naval establishments. It had been supposed by some gentlemen that there might be occasion for this force in May or June. He said it would require considerable time to furnish all the sails, rigging, &c., for a vessel of war, at this place especially; and, if these vessels were necessary, it would be more correct that the House should decide this question, and not throw it on the President. How the amendment of the Senate ought to be decided, he did not say.

The amendment of Mr. MONTGOMERY was negatived, yeas 30.

Mr. TALLMADGE, circumstanced as he was in relation to the bill, could not vote for the amendment of the Senate. Strongly in favor of having the frigates removed from this place to some place where they might be efficient, he wished a bill for that purpose to pass. This had been his uniform opinion. An inducement with him to vote for this bill, Mr. T. said, was the present situation of the seamen of the United States. But, when he considered that we had upwards of one hundred and seventy gunboats—so great a proportion of this ineffieacious mode of defence—he could not, in conscience, vote for it, nor ever would. He spoke in a qualified sense; for, in all shallow waters, he would give to gentlemen, as far as his vote would go, the whole number they wanted. But, when he saw that this was to be the great naval preparation, he could not sanction it. He therefore moved to strike out "and gunboats."

Mr. G. W. CAMPBELL hoped the House would not agree to the amendment, because it must directly tie the hands of the Executive from employing the gunboats at all.

Mr. TALLMADGE said that was not his object. Wherever they could be effectual, he was willing to employ them.

Mr. NEWTON was of the same opinion with the gentleman from Tennessee. Gunboats were an excellent defence for rivers, and for co-operation with fortifications. They were never intended for sea, but to be used in smooth water. Let it be recollected, said Mr. N., that no man can say how long we shall have peace. Gentlemen from every quarter had declared that war must take place, if reparation for our injuries were not made. Recollect that the majority is responsible for the situation of the country, and that it is our duty to avert the impending storm. Were they not to do it, he said, they would subject themselves to the imputation of neglecting their country.

Mr. DANA was opposed to officering, manning, and employing, as soon as may be, all the gunboats. He was willing that they should be ready, however; for, in smooth waters and rivers, they might be effectual. But, as to their service at

sea, when they attempted to seize vessels violating the embargo, they were cause of mirth; for, of everything which swam on the water they were the laziest. Really, one of these boats chasing a fast sailing vessel, was something like a snail chasing a Virginia race horse. Mr. D. was willing that all of them should be ready for service, but he was opposed to officering them; for, of all places in which you can put a young officer, they are the worst. It was not a situation in which they would acquire that habit of command and respectable deportment which was necessary for the respectability of our Navy. Placed in a situation in which every coaster laughs at him, and the ungainly thing on which he is fixed, it certainly is not calculated to improve an officer. Old officers might do well on board these vessels; but consider the severe trial to which you put a young man, with no superior over him, in those boats. Mr. D. dwelt at some length on the disadvantage to officers, &c., from being placed on board gunboats. If the gunboats were ready for service, there would be no difficulty in detaching a sufficient number of seamen and volunteers to man them, on any emergency. Even of volunteers, there was no necessity that they should be constantly employed. If you send gunboats to enforce embargo laws, you must get revenue cutters to tow them along. They are perfect floating batteries; and, as to expense, they were the most expensive species of naval force. Mr. D. believed that the law of last session authorized the fitting out the gunboats when public service required; and, if their employment became necessary, it would not need the sanction of this law

Mr. G. W. CAMPBELL always understood that the law already gave the same power in relation to the gunboats as to the frigates, and no other.

Mr. COOK observed that, after so strong a vote for building gunboats he should scarcely expect the House would refuse to man them; for, of what use would they be, except they were manned?

The question on striking out the word "gunboats" was taken by yeas and nays, and negatived—yeas 28, nays 93, as follows:

YEAS—Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., William Ely, Francis Gardner, James M. Garnett, Charles Goldsborough, William Helms, Richard Jackson, Philip B. Key, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Jonathan O. Mosely, Timothy Pitkin, jr., John Rowan, John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, Wm. Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Orchard Cook, John Culpeper, Richard Cutts, John Dawson, Joseph Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Edwin Gray, Isaiah L. Green, John Harris, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Thomas Kenan, William Kirkpatrick, John Lambert, Edward Lloyd, John Love, Robert Marion, Josiah Masters, William M'Creery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

The question recurring on the amendment from the Senate,

Mr. DANA said he was placed in a situation in which he approved one part of the proposition presented to him, and disapproved of another. He felt considerable hesitation in equipping the frigates, because of the use to which they might be applied by the Executive, viz: to enforce the embargo laws; to enforce which, in this manner, he did not believe would redound to the credit of the United States, because he did not believe that the effects would be produced by it which gentlemen contemplated. Much greater danger there was of a violation of the rights of the people in executing the embargo laws on land than on water; and when command was vested in inferior officers, much greater tyranny and insolence was to be expected than from superior and responsible officers. Employing frigates for the execution of the embargo laws was the least unconstitutional and the least objectionable of any mode. He felt a regret that these laws should be executed by the navy. He feared that the navy might be associated in idea with the laws which they enforced, and thus give a prejudice against naval force. But, nevertheless, he thought the propriety of employing responsible officers overbalanced this consideration. Another reason why he was in favor of equipping the frigates, was, because it would take some time to prepare them, and if a meeting of Congress took place in May or June, it might be expected that the embargo would be removed, and then all the frigates would probably be put in service, before which time, if now ordered, they could not be prepared. They had been lying at the navy yard here, to rot and be repaired, to be repaired and rot again. Mr. D. observed that, in fresh water, decay took place more rapidly than in salt water; he wished to send them to their natural element; it would be conducive to their health and long existence. Another reason, he stated, why he should vote for the bill: there was an idea amongst some gentlemen, that there was a probability of war. He had no idea of Congress, this session, declaring war, because they had made no preparation for

it. And if we were to make war, he conceived that we should not do it like privates, but like officers; that it should not be a strife of children, but of men, and that preparation should be made for it. Whenever we had war, it must be for maritime and not territorial rights; and he had no idea of abandoning the very ground for which we contended. He was therefore willing to place our frigates on the sea-coast. It was a very different question from that of the establishment of a large navy. Had gentlemen considered the importance of a naval force on our coast? Had they considered the propriety of having a force sufficient to repel insults in our harbors? Mr. D. adverted to the superior advantages of our naval situation over that of other nations which could send a force on our coasts. He had said that he had no idea of our declaring war; neither had he any idea of any of the nations of Europe declaring war against us. Not a corporal's guard could Great Britain send here, without sacrificing objects on which her interest and honor depended; and the Emperor of France, whilst collecting a force to resist the troops of Great Britain in Spain, would he abandon his conquests and the pretensions of his family, to send a force here, when such numerous battalions could be arrayed against them? Another thing; the seasons were against their sending a force here for several months. War therefore was not to be expected this session, except, as had been said, it was a paper war, another supplemental broadside, as a gentleman had observed; but that species of war, Mr. D. said, he did not take into the question. If we were to have war, he wished a unanimity of sentiment to attend it, without which it would be ineffectual. When this unanimity, the result of the exercise of judgment by free and unbiassed minds, existed, we need fear no enemy. This could not exist when the people were called upon to be friends, whilst gentlemen took the attitude of enemies; when they were called upon to be friends with an insinuation that they were traitors in their hearts. He wished this language to be expelled from our councils. Whatever difference of opinion might exist on local concerns, with respect to foreign nations, he thought we ought to show that we are all ready to maintain the cause of the country; and to insinuate a doubt of this conveyed a reproach. And men long habituated to reproach, did not feel that impulse to honorable effort which those felt who were not accustomed to it. He then adverted to the circumstance of one of the greatest military commanders of antiquity having selected a regiment or battalion whose fidelity or courage he had doubted, and placed them in a conspicuous place on the field of battle, appearing to place confidence in them, and thus insuring their good conduct. Mr. D. held up this example to the attention of gentlemen. He concluded, by saying that, because he wished to call into action all the resources of the country, though opposed to a part of this amendment from the Senate, (that part relating to gunboats,) he thought it his duty to vote for the amendment.

Mr. SLOAN intimated that he should vote for this amendment, to get our frigates from the sickly situation in which they were now placed; to get them out of this state of embargo, and to restore them to health and freedom.

The question on the amendment of the Senate was then decided in the affirmative—yeas 64, nays 59, as follows:

YEAS—Ezekiel Bacon, Joseph Barker, Burwell Bassett, John Blake, jr., Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Daniel M. Durell, James Elliot, William Findley, James Fisk, Francis Gardner, Thomas Gholson, jr., Charles Goldsborough, Isaiah L. Green, John Harris, William Helms, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., Samuel Riker, John Russell, Ebenezer Seaver, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, and Nathan Wilson.

NAYS—Evan Alexander, Willis Alston, jr., David Bard, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, G. W. Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, John Davenport, jr., Joseph Desha, William Ely, John W. Eppes, Meshack Franklin, James M. Garnett, Edwin Gray, John Heister, James Holland, Benjamin Howard, Richard Jackson, Richard M. Johnson, Edward Lloyd, Nathaniel Macon, Robert Marion, William Milnor, Daniel Montgomery, jr., Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Rowan, Lemuel Sawyer, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Samuel Taggart Benjamin Tallmadge, John Taylor, Abram Trigg, Jabez Upham, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

Mr. G. W. CAMPBELL called for the yeas and nays on the next amendment, relative to the number of seamen, &c.

Mr. D. R. WILLIAMS said he would give all his earthly goods, if the last vote could be recalled; for he valued property and life less than the liberties of the country, which he believed would be destroyed by the consequence of that vote. He believed that they had pronounced against a man whom he had always censured, when he thought he had acted improperly, but who had done great and important services to the country—the President of the United States—a censure which he did not merit. What was this force for? Those who were desirous of war were perfectly consistent in voting for it; but for those who wished for peace, it was the worst thing that could have happened. The first thing done by this navy would be to search out a British frigate, and revenge the outrage on the Chesapeake. But a short time would elapse before it would involve us in war. He hoped a disagreement to the present amendment would take place, so as to defeat the object of the bill; he hoped so, because he was zealous to preserve peace.

Mr. NELSON said, that he was one of the minority on the question just taken; he wished that the decision had been different; but the decision having been made, he should vote for all the other amendments to the bill, because he conceived it a necessary consequence of having adopted the first.

Mr. MASTERS said that, if justice were not done to this nation, we ought to go to war, and to be prepared for it. He thought there could have been no difference of opinion on that point. The only question had been, whether the embargo was the proper measure. The moment that Great Britain laid a tax on us, if not withdrawn, it was a cause of war. He had never entertained a different opinion. He then went into examination of the propriety of possessing some frigates, and declared himself much pleased at the vote just taken.

Mr. DANA had no idea of throwing a censure on the President of the United States, by voting for this bill. Congress had the power to raise and support armies and navies; and it had been doubted whether any discretion should ever be given to the Executive on the subject. He had thought that a discretion might be given, but in this case he had thought it proper that Congress should exercise this right. He understood this force was to be employed in our waters; and if foreign nations did come into our waters and insult our national sovereignty, he said he should wish to teach them to respect it. He had no idea of causing war; he wished to preserve peace; but was peace the yielding to violations of jurisdiction, and to insults in our own waters? and was a resistance of these war? No; it was the exercise of the natural right of all animated nature to resist, when injured, and could not be called war, in the general sense of the word. If the defence of our clear and indisputable rights was to be war, let it be war; for they must be maintained.

Mr. GHOLSON said he had hardly expected that a question once decided, would be again discussed. For the vote which he had given, he was accountable to his constituents and to his conscience, and not accountable to any honorable gentleman on this floor for it. From the commencement of our Government to the present day, he said, our coast had been infested with cruisers and plundering pirates; and it was with a design to drive off these that he had given this vote.

Mr. G. W. CAMPBELL wished it to be understood that he should vote against this amendment. He believed the vote just taken to be unprecedented, of its own kind; no such thing as that amendment could be found on the statute book; it was giving power without means to carry it into effect; he considered it a dead letter, when connected with the small appropriation for the object, and should vote against the other amendments. They had heretofore given a discretionary power to call out the frigates, but now they had passed a peremptory order that they should be put in service. He regretted that the vote had passed; and believed that before one month had elapsed many gentlemen who had voted for it would wish that they had not given the vote. It would produce a sentiment abroad that we were to have a maritime war, and would thus delude the people. They would say, if we are to have four or five thousand seamen, and only nine thousand men on land, it must be intended to carry on a maritime war. Mr. C. said he was willing to meet any event, if war did become necessary; but he did not wish to provoke it. Gentlemen have said that we have been insulted; but they would not say that our whole force would be competent to meet a single squadron of the British navy. The expense ought not to be overlooked—an expense of four millions; some gentlemen said six. It would be two millions in addition to what it would have been but for the amendments, without an atom of additional security to be derived from the money expended. He was willing to afford any assistance to American seamen in distress; but not to employ them because idle, when he believed their employment would be productive of mischief. He trusted until some way of filling the Treasury was discovered, that they would not totally empty it.

Mr. J. G. JACKSON said he had incurred the censure of the House for calling gentlemen to order, for whom he had high respect, during this session. After the example of this day it was time to desist, when, after a principle was solemnly adopted, gentlemen were permitted again to debate it. It was said that the adoption of the amendment was disrespectful to the President of the United States. Mr. J. said he had the highest respect for this venerable sage. This principle of Executive confidence was repugnant to the principle of the Constitution. With this House was vested the power of war or peace, of raising armies and navies, and of levying taxes, and with them properly rested the responsibility of employing the naval force. At a time when the President had been charged with wishing to excite a war pulse, he would of necessity be guarded in his expressions on the subject; and he had not expressly recommended any particular species of preparations. Gentlemen had said that they were desirous of peace. Mr. J. said that peace was already destroyed; and he said that he could not consent to cry out peace, peace, when there was no peace. What was the case which lately occurred at Savannah? But he did not conceive that we should rush into war, without giving an opportunity for procuring peace. Because we prepared for defence, did we invite war? No; and were we to be prevented from protecting our waters, from the fear of exciting sensations in a foreign government? He trusted not. This House had declared that it would not submit; and a permanent abandonment of the ocean would be submission. Our natural rights

were to be protected at all hazards, and at every expense. He understood the question very differently from the gentleman from Tennessee. He did not believe that the President of the United States possessed the power to employ all our vessels. There was such a law; but the number of seamen to be employed was limited. It was impossible that the President of the United States could carry the law into effect, and of course the power was nugatory without men and money. He had no idea in voting for this amendment that it involved war, or that it would delude the people into the idea that we meant to carry on a maritime war. If we went to war, he hoped we should adopt measures more efficient. He approved the sentiments of the gentleman from Connecticut, (Mr. DANA,) and when gentlemen came out in this way, he was willing to do away distinctions of federalism and republicanism, and hail them as whigs, as Americans, as friends to their country. Mr. J. entered into an examination of the necessity of a small naval force, and urged several arguments in favor of its efficacy as a defence.

Mr. SLOAN professed himself highly gratified at the vote which had just taken place, and he was at the same time as much in favor of peace as any gentleman. This measure had been looked for from sections of the country which must suffer in case of war. He thought it would tend more to harmonize than any measure adopted at this session. He rejoiced that the wishes of the people would be gratified by a removal of these frigates from this place, where they had been rotting so long.

Mr. MACON expressed his surprise at the change which appeared to have taken place in the House, within a few days. The current had set in favor of the embargo a short time ago, but its course was turned, and it was for war. He was for holding to the present measures as long as we could. He cautioned gentlemen against measures which would provoke war; and intimated as his belief, from the vote just given, that it would take place in three months. It was yet time for gentlemen to prevent it, by withholding the sinews of the Navy, by disagreeing to the remaining amendments proposed by the Senate. Send out the Navy in its present disposition, said he, and you send it to war. He had been afraid, from the commencement of the session, that we should have war; and war would assuredly follow the going out of these frigates. Did he not appreciate the character of the American seamen, their courage and spirit, he should not fear war from it. He could not account for the change which had taken place in the House within a few days. Whence this leaning to war? Nothing new had occurred that he knew of but the trifling case at Savannah. He knew that for years past we had had cause of war. Not a year since the commencement of the French revolution, in which we might not with good reason have declared war. But he wished a fair experiment of the embargo first. If we were to go to war there was no man in the nation who could foretell its result. He was not surprised that the gentleman from Connecticut should be against the embargo, because he had been so from the first. He would hold on to the embargo as long as he could. He thought he sufficiently understood the interests of the people whom he represented, and of the United States generally, to know that they would suffer by war. When he had said that the attack on the Chesapeake was as much cause of war as the attack on Copenhagen, the changes had been rung through the nation on his words. He was not in favor of war. He was surprised to hear gentlemen saying that the people would not bear the embargo; and that the friends of the measure were yielding to this impression. Come the day when it would, they would find war no slight matter. Gentlemen talked about sending these vessels out to protect trade. If sent out they would fight. He could not see what good ten frigates were to do as a defence. He had always feared that we should have a fleet; and he said no nation could maintain a navy and live well. Liberty was of no value if it was only tongue liberty; and a navy would soon strip the citizen of his property, and leave him but the liberty of speech. He had been in hopes that the country would not have followed the track of Europe. He hoped this Navy policy might not eventually change the form of our Government. Take this bill, said he, with the fifty thousand men proposed—call them what you will—they are not militia—and see what it looks like. With respect to supporting our sailors, was there not now, he asked, a bill before the House for appropriating a sum of money for supporting them? When he compared the number of seamen proposed to be employed with the actual number in the United States, he had no idea that the bill was intended to relieve them. No. It squinted at war. He was not for any of these war measures till it was ascertained that the embargo did not produce an effect. This measure had occasioned less inconvenience than any great national measure could, and had been productive of more benefit by saving property, &c., than any other would have been. Give foreign nations time and time again to reflect on proposals for peace, said he, before you launch into war. He thought, with the gentleman from South Carolina, that the agreement to the amendment was a reflection on the President. This was not the proper place for him to say what he thought of that man; but the censure was undeserved. The gentleman from Virginia (Mr. JACKSON) says, that Congress alone has the power to declare war. The President also has a share in the power, and it cannot be declared without his concurrence. Mr. M. referred to the section of the Constitution which says that every order, resolution, act, &c., shall be presented to the President for his approbation. The very next section declared that Congress shall have power to declare war, raise armies, &c., &c., and would any man say that they had the power to do it without the consent of the President? No, sir. [Mr. J. G. JACKSON said that the gentleman wholly misunderstood him. He had no idea that the consent of the President was not necessary.] Mr. M. then observed that the pain he felt in his breast prevented him from proceeding further.

Mr. TAYLOR said as this was a very important question and one which the House had entered into, he should conceive that they wished to come to a conclusion, and would not therefore occupy much of their time. He did not believe with the gentleman from Maryland (Mr. NELSON) that it was his duty, because the first amendment was adopted, to adopt the remainder. He protested against the doctrine. He believed that it was in the power of the majority to negative any amendment. The amendment of the Senate contemplated an increase of expense at least double that contemplated by the bill as sent from this House, and yet the Senate had stricken out the sum adequate for one half the actual number now contemplated, and inserted $400,000! He could not understand a system wich authorized double the force proposed by the bill sent from this House, and for which it appropriated but one-half the sum. There must be some mode of calculation in that honorable body which he did not understand.

The town is besieged; and instead of taking the system of defence into our closet and examining it, we are to take it in a speech as we can catch it, without having it upon paper to judge of it. It ought to have been upon our tables weeks ago. He would say what he thought of it. It was leading to the abandonment of our most efficient force for our weakest—to the abandonment of the embargo for a naval war. If we were to have war, this was not to be the whole force employed. This sum of $400,000 could deceive no one. With the money necessary for four thousand additional seamen an army of thirty thousand men could be paid who would sweep the Canadas in a year. A landsman, he had heard said, cost the United States $130 annually, whilst a mariner cost $1100, seven and a third times as much. The House had been told that the nation must contend for its rights on the element where we must enjoy them. In the language of the great Chatham, France was conquered in America. Great Britain has been conquered in America, and may be conquered on *terra firma* again. He said, instead of launching a navy on the ocean, he would advance to the Gibraltar of America, possess ourselves of it, and take from Great Britain her only depot on the American continent. He would force her whole commerce on the northern continent of America to pass under our cannons' mouth. He believed that it would be an extravagance to appropriate this money for a small naval force, when with it we could sweep the enemy from our northern frontier altogether. He wished not to be considered as an advocate of either mode. He was for an adherence to the embargo. If that were given up, he was for putting our resources to the best possible use for the defence of the country, and he was not for launching into an element where our enemy must be master. He believed if we were to have war on the ocean, that we should do more mischief by individual enterprise, by seizing a straggler here and a straggler there, plundering a squadron here and a squadron there, than by any regular force of the United States. With respect to invasion of our territory, he had understood that gunboats co-operating with fortifications were competent to the defence of our harbors. Now it seemed that they could not drive out a picaroon. And would any one say that this immense appropriation for gunboats would have been made under an expectation that they would supersede the necessity of frigates? He said he should not himself have voted for the gunboats if he had supposed that the House would have refused the other part of the system—the marine militia. He adverted to the refusal of the proposition to erect dry docks, and the subsequent proposition for a marine militia. He concluded by observing that he conceived that the tenor of the amendment went to cast a censure on the President, to dishonor that sage whom gentlemen affected to revere.

An adjournment was called for, and carried.

WEDNESDAY, January 11.

On motion of Mr. RHEA, of Tennessee, that the House do come to the following resolution:

Resolved, That a resolution of this House of the ninth of January, one thousand eight hundred and nine, "directing the Secretary of State to lay before this House a statement of the whole number of persons born in foreign countries, and legally admitted citizens of the United States by naturalization, who have been registered as American seamen, and returned as such to the Department of State, according to the lists transmitted by the collectors of the customs, in pursuance of the law relative to the relief and protection of American seamen," be, and the same is hereby, rescinded.

The resolution was read, and ordered to lie on the table.

On motion of Mr. DAWSON, the House proceeded to consider a resolution proposed by him, and ordered to lie on the table, on the thirtieth ultimo; and the same being again read, was, on the question put thereupon, agreed to by the House, as follows:

Resolved, That the Committee of Commerce and Manufactures be directed to inquire into the expediency of removing the Collector's Office from the port of Tappahannock to that of Fredericksburg, in the State of Virginia; with leave to report by bill or otherwise.

Mr. SMILIE, from the committee appointed on the seventh instant, presented a bill to alter the time for the next meeting of Congress; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. NELSON, from the committee appointed on so much of the Message from the President of the United States, at the commencement of the present session of Congress, as relates to the Military and Naval Establishments, presented a bill supplementary to the act, entitled "An act for

the establishing and organizing a Marine corps;" which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. NELSON, from the same committee, presented, a bill providing an additional military force; which was read twice, and committed to a Committee of the Whole on Friday next.

NAVAL ESTABLISHMENT.

The House resumed the consideration of the amendments proposed by the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of Navy officers, seamen, and marines."

Mr. TROUP said he regretted exceedingly that he was under the necessity of again troubling the House, but he felt himself bound, in some measure to state more particularly his reasons for voting for the bill, and to reply to some cogent objections made from a quarter of the House which he much respected. He stated anew the reasons which he had given why the United States should have a small naval force. He thought it indispensable at this time to man and equip our little Navy, not for the one or the other general reason in its favor which he before stated, but to protect from violence and insult the territory of the United States; that territory which gentlemen in this House were so fond of calling the territory of the good old United States—he meant the marine league from the shore—as sacred and inviolable as any spot of earth within our limits. It was for the purpose of protecting this part of our territory, for removing those cruisers which are competent to blockade the mouth of our rivers, that he wished this Navy to be equipped. Gentlemen said the gunboats were competent to the protection of our harbors. Mr. T. acknowledged it; he said he did believe that the invention of man never devised a more competent system than gunboats, co-operating with fortifications, for the protection of our ports and harbors, but they were calculated to act only on shoals and in smooth waters. They were not fit for any other species of service; they could not stand the winds and waves, the billows and the tempests. And notwithstanding our ports and harbors might be well defended by these gunboats, they were not competent to the purpose for which these frigates were to be manned, to prevent blockades of our own waters. He said he had expected, when gentlemen had solemnly resolved not to submit, that they had a serious determination to execute their resolve; and when they solemnly and unanimously resolved to place the country in a posture of defence, that they had seriously determined to do so. For his own part he said he had been as seriously determined upon both, as he ever was upon anything in his life. And when gentlemen said they would not submit, what did they mean by it? Merely that they would not submit to the orders and decrees of the belligerents, or that they would not submit to violence and insults in their own waters? And when they said they would place the nation in a state of defence, did they only mean to hold the militia in requisition? The militia were already in requisition, and were always subject to it. No, indeed; he had expected a very different species of defence; a defence calculated to meet a decisive and active hostility on the part of a great foreign enemy. He had understood that an army was to be raised, not only sufficient for the protection of our own territories, but sufficient to carry war into the territories of our enemy. He had expected, at least, that our little Navy would have been equipped—for, if you determine to change your present system of measures, how would you get along? Suppose you determine to go to war, you must determine at the same time to have a *war commerce*, to open a free trade with those nations with whom you shall be at peace—and how will you effect it? In your present situation it would be impossible, for these twenty-gun frigates as completely blockade the mouths of your rivers as the most formidable navy on the face of the globe could. Your commerce cannot move, if they choose to prevent it. Suppose you were to raise the embargo and adopt a non-intercourse with the belligerents; with what effect could you, under the present circumstances of the nation, give such liberty to commerce, when the mouths of your rivers are blockaded, much more effectually than they ever were by your embargo laws? Whether, then, you contemplate raising the embargo and adopting a non-intercourse, or war, a small naval force is absolutely indispensable. Mr. T. said he had to lament what had fallen from an honorable friend of his from South Carolina (Mr. D. R. WILLIAMS.) That gentleman, not many weeks ago, with a manly and dignified eloquence, which charmed almost every man who had heard him, scouted a principle which he had but yesterday adopted to all intents, and in all its bearings, viz: that interest was honor, and honor was interest; and that this country could have no provocative to war, and must, at all hazards, be preserved in a state of peace.

Mr. WILLIAMS said he held no such sentiments; if, in his agitation at the vote which had taken place, he had expressed such, he solemnly revoked them.

Mr. TROUP observed that he had understood the gentleman to declare that he was determined to adhere to the system of the embargo as a permanent measure of offence and defence, and from this expression he had drawn the deduction.

Mr. WILLIAMS disclaimed the idea of a perpetual embargo.

Mr. TROUP explained what he had said when up before on the subject of economy. He had spoken of war measures, which, when adopted, the old peace principle, that standing navies, and armies, and funding systems, were great evils, should be discarded. He had spoken of a liberal policy as preferable to that puerile, petty, contemptible, narrow economy, whose means and ends were both calculated and measured by popularity; and he added that whenever this nation was driven into a war, and the great principles of its action were determined on the question of popularity or unpopularity, we should come out of the war with dishonor, disgrace, and ruin.

Mr. SAWYER resumed the observations which he commenced on Monday. On the subject of the Naval Establishment, he said that this system had introduced into our laws a long list of capital crimes heretofore unknown to us, and perfectly incompatible with civil liberty. He disliked the absolute despotism exercised by naval commanders, who feasted in their cabins like bashaws, with their bands of music to entertain them the while, and twenty or thirty men employed for no other purpose than to fiddle and pipe to the crew, at a pay of twenty dollars per month each perhaps. Were these men intended to charm the enemy, as Orpheus of old? [Mr. S. was here reminded by the SPEAKER that he was wandering from the question.] Mr. S. said he presumed, that if he was at liberty to prove the system wrong in whole, he was at liberty to prove it wrong in any part. He did not believe that this naval force would add to the strength of the country, but rather weaken it. The strength of the country depended more on internal improvement and union among the people. Twenty odd millions of dollars, at least, had been expended on this system, and no improvement was visible from it. Suppose this money had been employed in facilitating communication through the country. This mode of expenditure would have been more conducive to the public interest than that of supporting the robust crews of the frigates in idleness. He hoped that Congress would, like the prodigal son, return home and sin no more; that after they had corrected their error in respect to this species of force, they would not again encourage it. Mr. S. spoke of the danger to be apprehended from such a system. Did any one ever hear of a navy taking part with the people against despotism? On the contrary, they were always ready to assist it, for the spirits of the crews were always broken down by severe discipline. He had just as great objections to navies as to standing armies; and, for the same reasons, was against both.

A gentleman had said that we ought to avenge the violations of our jurisdiction. Mr. S. said he agreed with him; he was willing to go to war for them. But because the injuries were committed on the ocean, was it any reason that we should go to war there? So far from wiping off the stain on our honor by this means, Mr. S. said we should make it the more indelible. Should we, single handed, when all the world had fled before the leviathan of the deep, sally out and defy her to combat? He was for meeting her on *terra firma;* for using the energies of the country, and in that manner which our situation required. Suppose France had exhausted herself in keeping up a navy, what would have been her situation at this time? Would she have been mistress of the Continent? No; she would have sunk into absolute insignificance. Mr. S. said that he was for raising the standard of his country, for enlisting every man who would come forward, and for making an irruption into Canada. The blood of Pierce could be as well avenged, and the manes of the slaughtered seamen of the Chesapeake as well appeased, under the walls of Quebec as on the seacoast. It had excited his astonishment that Great Britain could have persevered in her unjust conduct so long when it was in our power to sweep her from the continent. If this bill were to pass, it would afford her a proof of the weakness of our policy, which he hoped never to see given. Did gentlemen mean to multiply the odium of the affair of the Chesapeake by increasing the quantum of the means of national disgrace? He said he would ask gentlemen if one frigate brought so much disgrace, how much would fifteen bring? Gentlemen had said that Great Britain could send but a small force on our coast. Mr. S. said that she would always send enough for us. He concluded by observing that he derived some consolation from the circumstance that the terms of this bill were not absolutely imperative; and he had too much confidence in our excellent Chief Magistrate to believe that he would ever carry the power into effect.

Mr. D. R. WILLIAMS moved to commit the bill with the amendments to a Committee of the Whole. His object was to obtain a reconsideration of all the amendments. He felt a conviction on his mind that the House, having had time to consider the tendency of the vote of yesterday, would agree to rescind it. He wished no national measure to be adopted at this session with a poor, paltry majority of five. The nation, he said, was not to be got along in this way. He said when he had risen yesterday, he had felt an agony of soul which he could not repress or express. He, with his friend from North Carolina (Mr. MACON) was willing to have adhered to the embargo till the last of September, or till its effect was clearly ascertained. And when the vote of yesterday was taken, he had thought he saw war, with all its ruinous consequences, stalking over this once happy land. Under this embarrassment he said he had addressed the Speaker, and appeared to have been misunderstood by the gentleman from Georgia. He wished the bill to be recommitted, because he understood that a part of the seamen were considered as immediately necessary for the public service; he wished not to delay their employment by a discussion of the merits of a naval establishment—for no man opposed to the bill would, he presumed, permit it to pass till he had exerted himself to his utmost to prevent it.

Mr. W. ALSTON was in favor of the motion for commitment. The sum appropriated by this House for the smaller object had been stricken out by the Senate, and a sum inserted for the larger, which would scarcely be sufficient to open a rendezvous for enlisting men; if it were not enlarged, the bill would be a nullity.

Mr. DANA said it was his opinion, if a question had been unexpectedly taken, that it did not establish the point in question. He was, therefore, in favor of a commitment, in order to accommodate gentlemen. Mr. D. replied in a humorous man-

ner to Mr. SAWYER's observations on the subject of the music on board the navy; saying that indeed it was true that they had drums and bells on board of a frigate, and even silver whistles for the boatswain's mates. The seamen were such strange creatures, too, that they would despise an officer who would not make himself be obeyed within the fair limits of his authority. And this subordination, he said, was necessary. The seaman was subordinate to the midshipman, who was subordinate to the lieutenant, the lieutenant to the captain, who was subordinate to the commodore, who was under the direction of the Secretary of the Navy, who acted under the Executive; and thus the Executive held the whole, and wielded it at his pleasure for the execution of the law and the general maintenance of public right. He was willing to have the bill committed, but not for the sake of altering the appropriation; for the bill only settled the principle, and the appropriation was for commencing the work.

Mr. BACON said if the nation was really hungry after debate, or thirsting for long speeches, he should have no objection to go into Committee of the Whole; but, believing this not to be the case, he should object to it, because it could answer no purpose but delay.

Mr. FISK was in favor of the House taking the responsibility of this matter upon itself, and not for throwing it on the President's shoulders. He wished this force to repel infractions of our laws and rights. Armed ships, in violation of our laws, were now carrying on trade within our waters; and information was received that armed vessels were coming on our coast to force a trade. Was this to be permitted? Of what efficacy were our embargo laws, if armed vessels were to come and go when they pleased? What, he asked, could we get by persevering in a system which was thus rendered of no effect but to injure the honest part of the community? He said he wished to treat such violators of the laws as pirates. Unless such a measure was adopted, our embargo laws would be of no effect. It would answer no good purpose to go into Committee of the Whole on the bill; for the object of the motion was to defeat the bill. The bill rested on this basis—would they or would they not take measures at this time to meet the crisis, or would they rely wholly on the embargo? This was in fact the true question. The passage of this bill would give of this species of force no more than its due proportion. Mr. F. said he was no friend to standing armies or navies, but, in legislating, judgment must be guided by circumstances. It had been said that the sending out our frigates to sea would produce war; that the spirit of our officers was such that they would engage. He hoped they would not, at the same time that he believed they would resist all encroachments on our rights. Decatur had been at sea for many months with a frigate, and no such consequence had been produced. Mr. F. replied to the observations of Mr. SAWYER, in relation to the conduct of captains; and concluded with some general arguments in favor of naval force.

Mr. ALEXANDER was in favor of going into a committee, and was opposed to the amendments of the Senate. He said, if we were to have war, the ocean was not the theatre on which we should attack Great Britain. It was in another quarter. The course which had been adopted by the Administration, and wisely adhered to, he wished first to have a fair experiment. Though he was a friend to the embargo, he did not think that it should be continued for a long time. As long as a hope of adjustment remained, he did not wish to make preparations for war.

Mr. BURWELL hoped that, after a majority appeared to be in favor of the principle, no gentleman would delay the adoption of the other amendments of the Senate. He said he had no idea that any gentleman had been taken by surprise in the vote he had given. The observation of Mr. WILLIAMS, about a bare majority of five, Mr. B. said was not correct. A majority must always prevail. He was opposed to going into a Committe of the Whole.

Mr. KEY said, he was not surprised that gentlemen who were wholly opposed to the bill, should wish to have it recommitted. The amendments of the Senate presented but one question to his mind; whether it would be proper, in the present situation of our country, to arm those vessels which we have. He was a little surprised that gentlemen should hesitate, after what had been so often said on this floor. He recollected that those who a few weeks ago had spoken in favor of a middle course, were treated almost as enemies to their country; it was even said that every man was an enemy to his country, who was not in favor of a continuance of the embargo, or war.

Gentlemen had said that the line should be drawn, that the distinction should be made between friend and foe. And now, when a defensive measure was brought into consideration, how stood it? It was no quixotic idea of a navy to meet the mistress of the ocean on her own ground. That, said he, is not the question. Let us not be deceived by the idea. The solitary question is, whether, when our ships are lying in our waters, we shall man and equip them—for what? For the protection and defence of our *homes*. We have information that the proclamation of the President of the United States has been violated, and even at this moment may be violated. The lion is bearded in his den—the eagle strangled on its perch. It was for the purpose of compelling foreign nations to respect our rights within our jurisdictional limits, that he would give this additional quota of naval force. He was among the number of those who thought that if our frigates, instead of laying in our docks, had been heretofore sent out, no instance of such hostility would ever have taken place. In one case alone had these violations appeared to have been premeditated, when there was a fleet in the mouth of the river watching the motions of the Leopard, and ready to insure success to her. All other instances had been insulated. Gentlemen had said that they would not provoke war. Mr. K. said neither would he. But was

honorable defence of our rights war? Far from it. To be prepared for war was one of the best preventives of war. Weakness invited, strength repelled insult and injury. He was, therefore, for arming those vessels which we have, and sending them out, but not for building others. This was very different from an attempt to protect foreign commerce in this way, which he hoped never would be made. The marine league on the coast was as inviolable as the soil. From headland to headland of the coast, and all the water within this line, had always been considered as part of the territory; and he contended, politically speaking, that an insult on our sovereignty there was as great as if the forces of a foreign Power were to land on our shores, come up to our houses, and murder and plunder the inhabitants. If we had a force upon the water, did any man believe that a single ship of twenty guns, commanded by a lieutenant, would have come within the limits of the harbor of Savannah, and fired a gun? No. Within these limits he would not permit insults on our sovereignty, and therefore wished these vessels to be sent out. His idea was that this force, as an auxiliary to gunboats, whether further to enforce the embargo, or to protect our territorial limits, ought to be given to the President of the United States. One gentleman had said, let us try the present system until September. What then? When all chance of negotiation had ceased, in what situation should we be placed? Unarmed, the vessels rotting, and not ready for any service. We should be better employed in placing ourselves in such a situation that if war be inevitable, we may better and more firmly resist it. We are a peaceable nation, and I hope we may have peace yet; but a preparation for war will guaranty peace. A man has two neighbors hostile to him; he would not go to attack them, but the moment they put their foot over his threshold would repel them with force, and chastise them, if in his power. This is the case of this nation, and I would employ the means which God has given us to repel invaders of our territory, whether maritime or territorial. Mr. K. said he could not agree to refer the subject to a Committee of the Whole, for the proposition was so simple that it would be a waste of time longer to detain the House on the subject. He said he had voted for the gunboat system, not that he was in favor of it, but because it was a defensive measure, in what he thought a difficult crisis. He thought war now still more probable, and if it were, he said, sound policy, and a regard for the destinies of the country, dictated that we should be prepared, and not let the enemy come upon us without resistance.

Mr. EPPES said he should vote for a commitment, in conformity with the vote which he had yesterday given against the amendment. When this subject had been presented to the House, he had not then or now attached to it that importance which gentlemen appeared to give it. Many questions had been brought to bear on it which were not now connected with it. It was not now a question whether we should commence a naval system. Whilst the House had been amused with an examination of the whole naval system, the only question was, whether, in the present situation of our affairs, it would be proper to employ 6,000 or 4,000 seamen, the difference between the bill as sent from this House and as received from the Senate being two thousand seamen. The principal objection to the bill in its present form was the manner in which it had been introduced into the House. We received a bill from the Senate, which is now before a committee of this House; whilst this is under consideration, another bill of the same nature is sent to us, and we are called upon to vote blindfolded, without a single estimate or designation of the object for which this force is to be raised. If convinced that 6,000 seamen were necessary, Mr. E. said he would as soon vote for them as for 6,000 troops. But before he incurred an expense of six millions of dollars, for he averred that this would be the consequence of passing the bill, he must be convinced that it was not only necessary that the bill should pass, but that it should pass immediately; and at the same time totally disclaimed any intention of submitting to insults within our waters. The zeal which gentlemen had now displayed would have been better shown in the case of the Chesapeake. Why did they not then drive the British squadron out of our waters? This affair, however, had blown over, and now, when a twenty-gun vessel went to Savannah, the House was called upon to employ all our vessels to drive it out! Our Executive, he said, was now by law authorized to employ all the armed vessels, and if, with the 2,000 additional seamen granted by this House, he could not drive these vessels out of our waters, he could not do it with all our armed vessels. Mr. E. said he should vote for commitment, because it would enable him again to vote on the amendment of the Senate. He disclaimed all the doctrine which had been laid down in respect to navies. Whenever we had war, he said he would employ those armed vessels which we have, he would send them out to sea, and if they should be taken or destroyed, let them go. He had rather they should be destroyed contending for our rights, than suffered to rot in this place. It might be proper here to observe something respecting the situation of the frigates. If gentlemen would come forward with a call for an official statement of their situation, whether they were more rotten now than they would be with their complement of seamen sailing along the coast, he believed it would be found that this was not the fact. Ordinary merchant vessels were kept in good condition at an expense of about ten per cent. per annum, and he believed not more had been employed on the frigates, and that all but two of them could be prepared for service in a short time. Mr. E. also objected to the amendments from the Senate, because they were at variance with the measures which the House had adopted. He was for adhering to the embargo yet a while longer. He believed it more for

the interest of the nation to husband its resources, than to squander them on an object which could produce no real good. What was to be done with all these frigates? Were they merely to sail along the coast? No; and he knew not in what gentleman would employ them. He was for waiting until the period arrived at which they might be of service; he was, therefore, opposed to the amendments of the Senate. He disclaimed permitting them to rot, when there was an occasion for their actual service; but he was not for sending out these vessels to force a war, before a single soldier was ready to march where they ought. So soon as our troops were ready to send to Canada, he was ready to send out the frigates. Whenever it appeared that we were ready to resort to war, Mr. E. said, he should be as ready to employ all the energies of the nation as any man.

Mr. JOHNSON expressed his pleasure at perceiving that the arguments in favor of and against this bill proceeded from the heart, and were not the bickerings of party. He was not disposed, however, to pass a law making it imperative on the President to employ our naval force; he could not see that it would be necessary for defence, because Congress would have authorized the President, independently of the amendments of the Senate, to employ 171 gunboats, and ten small armed vessels, whilst the fortifications of our harbors were progressing with all the rapidity which the season would permit. For enforcing the embargo they were not necessary, because the President was already authorized to employ twelve additional revenue cutters, and to hire thirty other vessels, if necessary. They were not necessary for the protection of commerce either; for what protection would ten frigates afford to the vast tonnage of the United States against the great navies of Europe?

Mr. J. said that Congress had already induced the nation to believe that they would not take off the embargo during the present session, but that it might be removed in May or June. Mr. J. said the people would draw this conclusion from the decision of the House on the amendments offered for enforcing the embargo. And, if the House had determined not to strike a blow at this session, was not the proposition now before the House directly in the teeth of the system which they had determined to adopt? He said it was known to many members of the House, and he was not ashamed to avow it on this floor, that if the majority had thought proper to abandon the embargo system, he had been prepared to take other measures. But he took it for granted, from the sentiments of a majority of the House as expressed by their vote, that it would not be repealed at their present session. Will you, then, now take offensive measures? said he. No; for you have determined to enforce the embargo. For offence, indeed! Mr. J. said that he considered this naval force inadequate, incompetent, and inefficient. Whenever there was war on water, he conceived that it must be carried on by private armed vessels; and, whenever we did wage war, it must be as much on land as possible. Gentlemen spoke lightly of economy. Mr. J. said, he would venture to say that rational economy would be necessary to carry the nation through the storm, even with the aid of loans and taxes. He thought it proper that the two thousand seamen proposed to be given by the bill as sent from this House, should be authorized, for the purpose of more strongly fortifying New Orleans, which was the outlet to the whole Western country; and he thought it more expedient to keep in the Treasury the money which the bill from the Senate proposed to expend.

Mr. DURELL professed his astonishment at the opposition made by gentlemen in the minority to the prompt passage of the bill, for he had always understood it to be the duty of the minority to yield to the majority, when its will was fairly expressed. Some of these frigates, he said, were so far gone that they would soon be not worth repairing, and that was one reason why they should be immediately put in a state of preparation. The gentleman from Kentucky wanted two thousand seamen, to go to one place to the Southwest. Mr. D. said he wanted two thousand, to go to the East. He did not consider this proposition as at all premature. Was this House to come to a declaration of war before it could be induced to pass this bill? Gentlemen had said, that, if the embargo did not produce an alteration in our situation before September, they would abandon it, and take a measure more coercive. Supposing this to be the case, in what situation would the nation find itself? Completely unprepared. The preparation for defence belongs to us, said Mr. D.; the direction of it when prepared, is reposed in the Executive. He said that gentlemen seemed to think that these vessels could be prepared for sea in four and twenty hours. Not so; it would require three or four months, if ample appropriations were made, to prepare them for sea. It would be two months before a single frigate could get out of the capes of Virginia.

Mr. TAYLOR said he agreed with his colleague, (Mr. D. R. WILLIAMS,) that any important measure taken by this House, ought to be adopted by something like an imposing majority. In addition to this idea, he said, he would call the attention of the House to what he alleged yesterday, and neither denied then nor now, that that Department of our Government which was responsible for the execution of all laws, and for keeping the nation in a state of peace—in terms as clearly to be understood as if conveyed in a formal Message for the purpose—had declared that it did not want this additional force. He thought it fair to conclude that a difference of opinion existed on this subject in the three great Departments of the Government. Even if the principle were not, in itself, all important, Mr. T. said, it would seem to him that the extraordinary situation in which we were placed, would require that this subject should have a full discussion. And, besides, said he, it seems to me to be a duty which we owe to ourselves, that the honorable

body which sent us these amendments, should not, in this way, force upon us a measure, when they have already, in the usual course of business, presented the same measure to our consideration which has been referred to a Committee of the Whole. It was all important, he said, in a matter of such magnitude, that all branches of the Government should move hand in hand. There had been no estimate of the expenses of this thing. He asked if there would not be a propriety, if it was the conviction of this House and the other branches of the Government that these vessels should be put in service, in directing the Secretary of the Treasury, or the Committee of Ways and Means, to find out a source from which those expenses were to be raised, and in inquiring whether the nation must not again resort to eight per cent. loans for the support of this establishment.

He believed, that this proposition, if meant to enforce the embargo, was leading to an abandonment of the embargo system. This was clear to his mind; for if the nation were once convinced that the expense of this system was as great as the expense of an actual war would be, there was no doubt what would be the voice of the nation. The embargo would be abandoned, and war adopted in its stead. If we were to have peace, as he had heard from all the gentlemen who were in favor of the amendments from the Senate, then he would say, notwithstanding all the disregard to popularity which gentlemen might profess, the incurring the expense of fitting out all this navy, of retaining a regular army of 10,000 men and a provisional army of 50,000 men, who were to be clothed, and fed, and paid from time to time, and which, disguise it as they would, was but a standing army of 50,000 men on furlough—the expense necessary for carrying on such a system as this, would bring gentlemen, whether they would or not, to think of the popularity of the measure. Why was not this measure carried into effect at the last session of Congress? Was it that Great Britain had discovered a greater disposition to yield her Orders in Council than she did now? Mr. T. said, the nation stood in the same situation now as it did then, except that the breaking up of the negotiation with Mr. Rose, at the last session, seemed to give the atmosphere more of hostility and war, than at any time during the present session. When the affair of the Chesapeake had been recent, and a mockery of discussion had taken place on it, why had not this measure from the Senate, the members of which held their seats for the term of six years, and were secure in their seats for two, four and six years, been adopted then? Mr. T. recalled to the recollection of the House, the circumstances which had broken down the former Administration, amongst the most prominent of which was the establishment of a Navy. The fact was, he said, that no Administration, even if composed of Adamites, Pickeronians, Jeffersonians, and Madisonians, all combined to assist one another, could uphold this navy system in time of peace. The common sense of the nation would frown them down. He said he was willing that the next Administration should have fair play. There seemed to be a disposition to identify the future Administration with the present—he liked it the better for it—the future Administration would then be opposed to having this millstone swung round its neck, for the present Executive had given an intimation as plainly as he could that he wanted not this force. He wished every President to have fair play, and where his patriotism was undisputed, that he should not have measures forced upon him, which he did not desire. Mr. T. said, he had not expected to hear from the gentleman from Maryland, (Mr. KEY,) who last year voted for gunboats as auxiliaries to fortifications, that he now wanted frigates as auxiliaries to gunboats. Next, 74-gun ships would be wanted as auxiliaries to frigates, till they got to ships of 120 guns, as auxiliaries to gunboats! The example of former nations, he said, ought to impress gentlemen with the importance of this subject. Gentlemen had said, that the marine league from our shore had been violated; and so Mr. T. said, that of France had constantly been, except where her batteries had driven them away. But had France sent out frigates for *guarda costas*? No; with all the revenue which she had at command, she had considered the naval system as a system of profusion, of throwing away money. And when the few frigates which she possessed had escaped from her harbors, had they hugged along the coast? No; for that was the place of greatest danger; they had ran on in the night time till they got off from their own coast for safety. And if we were to send out frigates he hoped they would not be *guarda costas*, but go off to some distance, and play hide-and-seek with the enemy, and not stay in the very place where they would be sought for.

Mr. NEWTON said he was willing to support on his shoulders all the odium which the adoption of this measure would excite. Instead of a millstone hung around the next President's neck, it would be a buoy to support him. If any effect was produced on the popular feeling, it would be against those who refused to adopt the measure. In case of an attack anywhere, would not every man who refused to send out this force, be censured for having done so? Surely he would. Those who are opposed to us, said Mr. N., who say that we are in possession of power and abuse it, will justly come forward and say that the helm of State ought to be wrested from our hands, because we shall have left the nation exposed to the insults of a foreign Power. When the subject presented itself thus, he said it had an awful bearing. There was no fear of war from sending out our navy. Was the power of peace or war placed in the hands of a naval commander? No. Gentlemen had said that the Decaturs of the nation would be seeking opportunities to wipe away the disgrace of the affair of the Chesapeake. Did gentlemen recollect that Decatur and the Chesapeake had been out some time on the coast? There was no fear of their precipitating the nation into war. But it was said that the President

did not want this force, because he had not required it. Mr. N. called upon gentlemen to recollect that the President had at the opening of the session devolved upon Congress the work of preparation. He quoted the President's message to show that he had not said what should or should not be done, but that the representatives of the nation, coming from the midst of the people, were the best judges of what ought to be done. Mr. N. said no man within these walls or in the United States had more respect for the President of the United States than himself. As much as he respected that man for his eminent services, the reward of which he trusted he would receive, and that his retirement would be as honorable as that of any statesman or patriot that ever lived, yet, if he differed in opinion with this exalted character, he said he should consider it his duty to pursue the dictates of his judgment. If this bill were not passed, he conceived that the President, seeing from the debates of Congress the disposition of a considerable portion of the representatives of the nation, and those from the parts most exposed to foreign attack, would immediately order all the naval force to be put into requisition. Impressed as he was with the necessity of this measure, and not seeing any good which could result from the recommitment of the bill, he should adhere to the vote which he had given; and particularly as he considered that the safety of the United States required the passage of the bill.

And the question on recommitting the bill being now taken, it passed in the negative—yeas 58, nays 59, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., David Bard, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Geo. W. Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, Joseph Desha, William Ely, John W. Eppes, Meshack Franklin, Barent Gardenier, Thomas Gholson, jun., Edwin Gray, William Hoge, James Holland, Benjamin Howard, Richard Jackson, Richard M. Johnson, Nathaniel Macon, Robert Marion, Daniel Montgomery, junior, Thomas Moore, Jeremiah Morrow, John Morrow, Timothy Pickin, jun., John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Samuel Taggart, John Taylor, John Thompson, Abram Trigg, Jabez Upham, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, Burwell Bassett, J. Blake, jun., Matthew Clay, John Clopton, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Daniel M. Durell, James Elliot, William Findley, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, John Harris, William Helms, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Walter Jones, James Kelly, Philip B. Key, John Lambert, Edward St. Loe Livermore, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, Jedediah K. Smith, Clement Storer, Lewis B. Sturges, Peter Swart, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, and Nathan Wilson.

An adjournment was called for, and carried.

THURSDAY, January 12.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to an act, entitled 'An act more effectually to provide for the national defence by establishing a uniform militia throughout the United States;" to which they desire the concurrence of this House.

NAVAL ESTABLISHMENT.

The House resumed the consideration of the amendments proposed by the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines:" Whereupon, the second amendment of the Senate to the said bill, which was depending yesterday at the time of adjournment, being again read at the Clerk's table, and farther debate arising thereon, a motion was made by Mr. JOHN MONTGOMERY, that the said amendments of the Senate, together with the bill, be recommitted to the consideration of a Committee of the whole House: And the question being taken thereupon, it was resolved in the affirmative—yeas 69, nays 53, as follows:

YEAS—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Martin Chittenden, John Clopton, John Culpeper, Richard Cutts, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jun., Edwin Gray, John Heister, William Hoge, James Holland, Benjamin Howard, Richard Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thos. Newbold, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Ebenezer Seaver, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, Abram Trigg, Jabez Upham, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, John Blake, junior, Matthew Clay, Samuel W. Dana, John Davenport, jun., John Dawson, Daniel M. Durell, William Ely, James Fisk, Francis Gardner, James M. Garnett, Charles Goldsborough, Isaiah L. Green, John Harris, William Helms, David Holmes, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, Josiah Quincy, Samuel Riker, John Rowan, John Russell, Samuel Shaw, James Sloan, Jedediah K. Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Nathan Wilson.

Resolved, That the said bill and amendments be made the order of the day for to-morrow.

An adjournment was then called for, and carried.

FRIDAY, January 13.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a statement exhibiting the amount of duties and drawbacks on goods, wares, and merchandise, imported into the United States, and exported therefrom, during the years 1805, 1806, and 1807, inclusive, prepared in pursuance of a resolution of this House of the third of March, 1797; which were read, and ordered to lie on the table.

Mr. MUMFORD presented memorials of the surviving officers of the late Revolutionary army and navy of the State of New York, respectively stating their claims to the interest on final settlement certificates for pay, and on commutation certificates; also, the interest upon one-third of the principal of their respective final settlement certificates and commutation certificates, from the periods or dates therein mentioned.—Referred to the committee appointed, on the twenty-sixth ultimo, on the memorials of sundry late officers of the Revolutionary army.

A Message was received from the President of the United States, transmitting the account of the fund established for defraying the contingent expenses of Government, for the year 1808. [Of the twenty thousand dollars appropriated for that purpose, two thousand dollars were deposited in the hands of the Attorney General of the United States, to pay expenses incident to the prosecution of Aaron Burr and his accomplices, for treason and misdemeanors alleged to have been committed by them; nine hundred and ninety dollars were paid to the order of Governor Williams, on the same account; and the balance of seventeen thousand and ten dollars remains in the Treasury unexpended.]

Ordered to lie on the table.

Mr. LEWIS, from the Committee for the District of Columbia, presented a bill to incorporate the Trustees of the Presbyterian Church in the town of Alexandria; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. NELSON presented a memorial of sundry late officers of the Revolutionary army, residing within the State of Maryland, praying that they may receive an allowance of half-pay for life, in consideration of the respective services rendered by the memorialists in the capacity aforesaid, in lieu of the commutation of five years full pay, which had been accepted by the officers of the said Revolutionary army, at the close of the war with Great Britain, as an equivalent for the said half-pay.—Referred to the committee appointed, the twenty-sixth ultimo, on the memorials of sundry late officers of the said Revolutionary army.

The bill sent from the Senate, entitled "An act supplementary to an act, entitled 'An act more effectually to provide for the national defence, by establishing a uniform militia throughout the United States," was read twice, and committed to the committee appointed, the eleventh of November last, on so much of the Message from the President of the United States, at the commencement of the present session of Congress, as relates to the Military and Naval Establishments, to consider and report thereon to the House.

Mr. POINDEXTER, from the committee appointed on the twenty-seventh ultimo, presented a bill for the relief of Alexander Baillie; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. GEORGE W. CAMPBELL, from the Committee of Ways and Means, presented a bill for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. G. W. CAMPBELL presented two memorials, on the subject of the batture at New Orleans, which were referred.

IMPORTATION OF SALT.

Mr. BURWELL, from the committee appointed to inquire into the propriety of providing for a supply of salt, reported, in part, a bill authorizing the President of the United States to permit vessels to depart from the ports and harbors of the United States for the purpose of bringing in salt; which was twice read, and committed.

The following letter from the Secretary of the Treasury was also laid before the House:

TREASURY DEPARTMENT,
January 7, 1809.

SIR: I had the honor to receive your letter of the 27th ult. requesting such information as I may possess respecting the means of obtaining immediate and permanent supplies of salt from the establishments of the United States.

The annexed statement A shows the annual consumption of imported salt for each of the calendar years 1802 and 1807, after deducting the quantities used for the cod fishery, and also for pickled fish and salted provisions exported from the United States.

The annual average is almost three millions of bushels, weighing each 56 pounds, equal to 75,000 tons, and requiring in fact 125,000 tons of shipping for its importation. It must also be observed that the deductions above mentioned being calculated by the allowances on fishery and drawbacks; and the allowance being in fact greater than the amount of duty on salt employed in the cod fishery, the quantity of imported salt actually consumed in the United States is greater than appears by the statement.

The statement B is intended to show the gross

amount of salt annually imported for the years 1802 and 1807, and the countries from which imported. The manner in which the accounts are kept at the Treasury has rendered it more convenient to give the amount in this instance for the years ending the 30th September than for calendar years.

It will be perceived by the statement A, that the domestic establishments have not increased, even in the same ratio as the population of the United States, for the average of their consumption of imported salt is greater for the last than for the first years of the statement. Considering also the regularity of the importations, and the well known fact that the article has been principally imported as ballast from England, there is reason to believe that the quantity of salt now in the country is very inadequate to the supply of the present year; and I am confident that there can be no reasonable expectation of the deficiency being supplied for that year from internal resources.

I am, therefore, clearly of opinion, that every encouragement should be given to immediate importations, and that measures should at the same time be adopted for the purpose of insuring for the succeeding years a supply from domestic establishments.

The only means of promoting immediate importations appear to be: 1st, either to except salt from the operation of the non-intercourse act, or to put off the general operation of that act till the first of July next; which last alternative appears in every respect the most eligible. 2d. To authorize the President to permit American vessels to proceed, during the continuance of the embargo, to such foreign ports as may be designated by law, for the sole purpose of bringing in cargoes of salt.

The internal resources must be drawn from either the salt springs in the various parts of the Western States, from the Onondago springs in the State of New York, or from the Atlantic shores.

The high price of salt in the Western States does not arise from the actual expense incurred in manufacturing the article, for it does not cost more than seventy-five cents per bushel at the Indiana or Wabash Saline, and yet its market price has not been less than two dollars. It follows, that the price is kept up by reason of the quantity made being much less than the actual demand, and therefore that no considerable addition can be expected from the quantity—none certainly beyond the wants of that part of the country.

The quantity of salt made at the Onondago springs may certainly be considerably increased. I have been informed that about 300,000 bushels are now annually made, and that the amount might, perhaps, be increased to 600,000. On that subject, however, I cannot form a positive opinion, but am satisfied that the most sanguine calculations fall very short of the annual consumption of the United States, and that the principal resource to be relied on is the increase of establishments on the seashore. These may be multiplied in numerous places from Massachusetts to Georgia; and although the repeal of the law laying a duty on importation has checked their progress, experience has proven that capital may be advantageously employed in that manufacture. I think that nothing more is necessary to induce, at present, the application of a capital sufficient in a short time to produce an adequate supply than the certainty of not being ruined by the competition of large importations at reduced prices. But it is doubtful whether it would be most eligible to effect that object by a bounty on the domestic manufacture, or by a renewal of the duty on the importation, to take place after the first of January 1810, and to continue for —— years. A combination of both would perhaps be best calculated to insure success, and also most equitable. But a duty on importation alone is the easiest to execute, and is not liable to any Constitutional objections.

The encouragement thus given to domestic establishments may indeed, during the number of years to which the duty or bounty would be limited, increase the price of salt. But that temporary inconvenience should be cheerfully submitted to, if an adequate supply of that necessary article may thereby be ever after insured on reasonable terms, and from internal resources not liable to be affected by war or by any other interruption of commerce. I have the honor to be, &c.

ALBERT GALLATIN.

Hon. W. A. BURWELL, *Chairman &c.*

NAVAL ESTABLISHMENT.

The House resolved itself into a Committee of the Whole, on the amendments of the Senate to the bill for employing seamen and marines.

Mr. J. MONTGOMERY moved to strike out the first amendment of the Senate requiring the President to cause to be manned and employed all the armed vessels and gunboats of the United States, and insert a provision, leaving it discretionary with the President to employ them whenever in his opinion the public service may require it.

A division of the question was called for, so as to take it first on striking out the words in the amendment of the Senate.

On this motion a desultory debate of three or four hours took place, in which Messrs. J. G. JACKSON, G. W. CAMPBELL, SLOAN, SMILIE, SOUTHARD, BACON, GARDNER, GHOLSON, DAWSON, NEWTON, LLOYD, MOSELY, LOVE, LYON, and VAN DYKE partook.

The motion to strike out was carried, 53 to 42; and the motion to insert negatived, 55 to 47.

It was understood that this vote destroyed the first amendment in Committee of the Whole; but that the House might disagree to the report of the Committee.

The question was taken separately on each of the other amendments from the Senate, (for adding to the number of midshipmen, corporals, seamen, and marines,) and carried by majorities of four, five and six votes.

The Committee then rose and reported to the House their disagreement to the first amendment of the Senate, and their agreement to the remainder. And the House adjourned.

SATURDAY, January 14.

The House proceeded to consider the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," together with the amendments proposed by the Senate thereto: Whereupon, a motion was made by Mr. NICHOLAS that the further consideration of the said bill and amendments be postponed until Monday next. And the question being put thereupon, it was resolved in the affirmative.

DISTRESSED SEAMEN.

The House resolved itself into a Committee of the Whole on the bill for the relief of sick, disabled, and distressed seamen.

The blank for the sum to be appropriated for the purpose was filled with $200,000—sixty-eight rising in the affirmative. The Committee rose and reported the bill. The question on concurrence with the Committee in filling the blank, having been stated—

Mr. BURWELL said he should vote against this, because he did not consider this class of the community as particularly entitled to relief from the Government; and even if it were proper, there was no security in the bill that the money would be properly applied. He did not believe that there was any such distress among the seamen as represented.

Mr. NEWTON explained that the Secretary of the Treasury had the direction of the fund for the relief of distressed and disabled seamen, which had heretofore been supplied from a tax on their wages. This fund was now exhausted; and the Secretary of the Treasury said, if money were not appropriated, the doors of the hospitals must be closed against them, an office which the Secretary did not wish to perform. He had, therefore, recommended an appropriation of $200,000 for their relief. Mr. N. then stated the peculiar hardships attached to the seaman's situation, &c.

Mr. HOLLAND considered this a novel measure. The seamen who were in distress, he conceived, entitled to relief from the respective States in which they might be, who were bound to support their poor. Indeed this money could not be applied to the use of the embargoed seamen generally, because it was only for the relief of those who were subject to the municipal regulations of the State in which they may be.

Mr. QUINCY observed that the fund for the support of distressed seamen had heretofore been derived from a tax on the wages of the seamen. This fund, which had heretofore been sufficient, having been destroyed by the suspension of commerce, he asked whether the General Government was not pledged to do something for these men, who would not have suffered but for its measures?

Mr. SMILIE was in favor of the bill. The funds heretofore established for the relief of our seamen had been destroyed by a measure which had been deemed necessary for the good of the country, and he thought assistance ought to be given to them. Mr. S. called for the reading of the Secretary of the Treasury's report on the subject.

Mr. TALLMADGE said that every gentleman who attended to the reasoning of the report of the Secretary of the Treasury, could not fail to be convinced of the rectitude of his statement, and the conclusion which he had drawn from it. The General Government had destroyed the service by which the seamen had heretofore been supported; in doing which they had thrown a burden on the community in the same ratio as the service had been destroyed. The Secretary of the Treasury had fairly and candidly told the House that the fund for the support of the distressed seamen was destroyed. What should be done? Should nothing be apportioned from the funds of this Government to support the establishment? He hoped and trusted that there would. For the information of the gentleman from Virginia, (Mr. BURWELL,) who did not know that this class of men was more distressed than any other, Mr. T. said he would mention that he had letters from different parts of the Union, particularly from Philadelphia, from one of the most respectable merchants in that city, informing him that the merchants had formed a fund for the relief of these persons, which had been exhausted, the seamen being in the greatest distress, without a stick of wood in the severe weather even to cook their victuals, and requesting him as a member of the General Government to exert himself for their relief. Mr. T. said he would venture to declare that this was the case in all the ports of the United States, and he thought it most unquestionably became the Government to grant some sort of relief to these citizens. He believed that the appropriation proposed was proper, and that less than that would be too little for the purpose.

Mr. D. R. WILLIAMS thought the object of the bill very laudable, but he wished a modification of the principle. He was willing to advance the $200,000, subject to be refunded from the funds hereafter to be received for the support of this establishment. He thought this amendment would be highly proper, because, from a document in his hands, he found that the funds of the establishment for the relief of sick and disabled seamen, had always been more than sufficient for its support. In June, 1802, the balance of the fund was $76,188; in 1803, the balance was $67,443. This showed that the funds arising out of the twenty-cents-a-month-tax on the seamen's wages, was more than adequate for the purposes for which it had been established, and that the fund would hereafter be able to refund to the Government the moneys now about to be appropriated. Considering the commercial prosperity of this Government since 1803, it was fairly presumable, that at the time of the imposition of the embargo, the balance on hand was greater than at the former period. Under this view of the subject, though he had not the slightest wish to delay the bill, he moved that it lie on the table until an amendment could be prepared.

Mr. NEWTON said that the fund heretofore derived from the tax on seamen, had not been more than adequate to their support. In the town in which he lived, persons had not been admitted into the hospital who were acknowledged to be entitled to relief. In consequence of the construction put upon the law, a great many of the very people who had paid twenty cents a month out of their wages had been thrown upon the community as paupers, and supported by the community at large.

Mr. D. R. WILLIAMS replied that the result of the amendment which he contemplated would

be, that if there never was a balance in the funds the moneys appropriated would never be repaid.

Mr. STORY deprecated the delay which would result from the bill lying upon the table. The means of supporting this fund were destroyed by a law of the United States, and he thought that the General Government should, by giving an aid to it, supply the deficiency. He represented the peculiarity of the seaman's general character; having no thought for to-morrow, when deprived of his monthly pay, he was of course subjected to distress. In the protection of the general rights of the community, the General Government had been compelled to subject the seamen to a particular calamity. He, therefore, thought that an additional aid for the support of the sick and disabled should be afforded by Congress.

Mr. D. R. WILLIAMS withdrew his motion for postponement, with a view of moving an amendment.

Further debate took place on this subject, in which Messrs. SLOAN, ALEXANDER, QUINCY, STORY, SMILIE, NEWTON, and D. R. WILLIAMS, advocated the principle of the bill, and Messrs. HOLLAND, BOYD, GARDENIER, and MACON, opposed it. Mr. GARDENIER started a Constitutional objection to the bill; he said that there was no power given under the Constitution by which either House of Congress could be converted into an alms-house; it was assuming the exercise of the legislative powers of the States, which had never even been proposed to be given to the General Government. He said he thought he saw a disposition in a certain part of the Government to encroach upon the rights of the States; and in however pleasing forms those encroachments were dressed, they ought to be guarded against. To this it was replied by Messrs. QUINCY and STORY that, as, under the sanction of a law of the United States, hospitals had been erected, and they labored under a temporary embarrassment, it was in the power of the General Government to afford them temporary assistance. If the General Government had a right to establish marine hospitals, (which question had been settled and acted upon for many years,) and the funds for their support should fail, it was in the power of Congress, under the general clause of the Constitution, to provide temporary funds for their support.

The question on inserting $200,000 was taken by yeas and nays, and carried—Yeas 69, nays 37, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., John Boyle, Epaphroditus Champion, Martin Chittenden, John Culpeper, Richard Cutts, John Davenport, jun., Josiah Deane, Daniel M. Durell, William Findley, James Fisk, Francis Gardner, Isaiah L. Green, Wm. Helms, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, John Lambert, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Josiah Quincy, Jacob Richards, Samuel Riker, John Russell, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, William Stedman, Clement Storer, Joseph Story, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, James I. Van Alen, Daniel C. Verplanck, Isaac Wilbour, David R. Williams, Nathan Wilson, and Richard Winn.

NAYS—Lemuel J. Alston, David Bard, Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Joseph Desha, James Elliot, John W. Eppes, Meshack Franklin, Barent Gardenier, Thomas Gholson, jun., Charles Goldsborough, John Heister, William Hoge, James Holland, Joseph Lewis, jun., John Love, Nathaniel Macon, Daniel Montgomery, jun., Thomas Moore, Thomas Newbold, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Rowan, Samuel Smith, Richard Stanford, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Robert Whitehill.

Mr. D. R. WILLIAMS moved to add to the clause making the appropriation the following words: "And that the same shall be refunded into the Treasury of the United States out of such sums as may accrue to the fund for the relief of disabled seamen." This amendment was modified, on the suggestion of Mr. QUINCY, by adding to it the words: "At such times and in such manner as may not defeat the general purposes for which such fund was established." The amendment, as modified, was agreed to.

Mr. STEDMAN moved to add to the bill the following sentence, which he conceived would make the bill conform to the Secretary of the Treasury's letter on the subject: "And shall be expended therein in proportion to the amount collected in each (port,) on account of the fund for the relief of sick and disabled seamen during the year 1807." This was objected to by Messrs. MACON, D. R. WILLIAMS, and NEWTON, who declared that it would defeat the object of the bill, and if adopted would compel many to vote against the bill. Mr. STEDMAN, desirous that the bill should pass, withdrew his amendment.

And on the question, "Shall the bill be engrossed for a third reading?" there were in favor of it 54—against it 24.

The bill was ordered to be read a third time on Monday.

MONDAY, January 16.

Mr. VAN HORN presented a memorial of sundry inhabitants and proprietors of lots or parcels of land, in Georgetown and its vicinity, in the Territory of Columbia, stating certain objections to the provisions contained in a bill now depending before the House, supplementary to the act, entitled "An act to amend the charter of Georgetown;" and praying that the said bill may be revised and amended in such manner, previous to its passage into a law, as to the wisdom of Congress shall appear best calculated to promote the convenience and benefit of the memorialists, and others.—Referred to the Committee of the Whole to whom was committed, on the fifth instant, the bill supplementary to the act, entitled "An act to amend the charter of Georgetown."

The bill for the relief of Edward Beamont, now imprisoned for the sum of four hundred dollars, due as a penalty to the United States, went through the Committee of the Whole, was reported to the House, and ordered to be engrossed for a third reading.

DISTRESSED SEAMEN.

An engrossed bill for the relief of sick, disabled, and distressed seamen, was read the third time; and on the question that the same do pass, it was resolved in the affirmative—yeas 66, nays 30, as follows:

YEAS—Evan Alexander, Willis Alston, jun., Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jun., John Boyle, George W. Campbell, John Culpeper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Daniel M. Durell, William Ely, Francis Gardner, John Harris, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, John Lambert, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Timothy Pitkin, jun., John Porter, Jacob Richards, Samuel Riker, John Russell, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, John Smith, William Stedman, Clement Storer, Joseph Story, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, Philip Van Cortlandt, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Nathan Wilson, and Richard Winn.

NAYS—Lemuel J. Alston, David Bard, Adam Boyd, Robert Brown, William A. Burwell, John W. Eppes, Meshack Franklin, James M. Garnett, Thomas Gholson, jun., Edwin Gray, John Heister, William Hoge, Thomas Kenan, Edward Lloyd, John Love, Nathaniel Macon, Daniel Montgomery, jun., John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Rowan, Samuel Smith, Richard Stanford, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Whitehill, and Alexander Wilson.

INDIANA TERRITORY.

On motion of Mr. THOMAS, the House resolved itself into a Committee of the Whole on the bill for the division of the Indiana Territory. The blanks in the bill were filled, and it was reported to the House.

[The bill, as reported, provides that after the 1st day of March next, all that part of the Indiana Territory which lies west of the Wabash river, and a direct line drawn from the said Wabash river and Post Vincennes, due north to the Territorial line between the United States and Canada, shall, for the purpose of temporary government, constitute a separate Territory to be called Illinois, and that until otherwise ordered by the Legislature of the said Illinois Territory, Kaskaskia, on the Mississippi, shall be the seat of Government of the Territory.]

The bill was ordered to be engrossed for a third reading without a division.

NAVAL ESTABLISHMENT.

The House resumed the consideration of the amendments proposed by the Senate to the bill, entitled "An act authorizing the appointment and employment of an additional number of Navy officers, seamen, and marines:" Whereupon, the first amendment, to which the Committee of the Whole reported their disagreement on the thirteenth instant, being again read at the Clerk's table, in the words following, to wit:

"Section one, line two. After the word 'assembled,' insert, 'That there be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, and gunboats: That the President of the United States be authorized and empowered to cause the frigates and armed vessels, so soon as they can be prepared for actual service, respectively, to be stationed at such ports and places on the seacoast, as he may deem most expedient; or to cruise on any part of the coast of the United States, or territories thereof, and:"

Mr. MILNOR explained the reasons why he should now vote differently from his vote on a former occasion. He wished that the House would not concur with the Committee of the Whole in their disagreement to the first amendment.

Mr. STURGES assigned the reasons for his vote in a speech of about twenty minutes.

Mr. STORY made a speech of about an hour and a quarter, in favor of the amendments from the Senate.

Mr. RHEA, of Tennessee, spoke about five minutes against them.

Mr. D. R. WILLIAMS replied to Mr. STORY in a speech of an hour.

Mr. SMILIE spoke on the same side for about fifteen minutes.

Messrs. BACON, LYON, and DURELL, each spoke a short time in favor of the amendments from the Senate.

The question was then taken on concurring with the Committee of the Whole in their disagreement to the first amendment of the Senate, and carried—yeas 68, nays 55, as follows:

YEAS—Evan Alexander, Willis Alston, jun., David Bard, Burwell Bassett, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Martin Chittenden, John Clopton, John Culpeper, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, Barent Gardenier, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, John Heister, William Hoge, James Holland, Benjamin Howard, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, Edward Lloyd, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jun., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob

Richards, Matthias Richards, Ebenezer Seaver, Dennis Smelt, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, Jabez Upham, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, John Blake, jun., Matthew Clay, Richard Cutts, Samuel W. Dana, John Davenport, jun., John Dawson, Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Francis Gardner, Charles Goldsborough, Isaiah L. Green, John Harris, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Walter Jones, James Kelly, Philip B. Key, Joseph Lewis, junior, Edward St. Loe Livermore, Matthew Lyon, Josiah Masters, William Milnor, John Montgomery, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Rowan, John Russell, Samuel Shaw, James Sloan, Jedediah K. Smith, William Stedman, Clement Storer, Joseph Story, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Thompson, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, and Killian K. Van Rensselaer.

The question was then taken that the House do concur with the Committee of the Whole in their agreement to the second amendment, and resolved in the affirmative.

The third amendment, to which the Committee of the Whole House also reported their agreement, was again read, in the words following, to wit:

"Section one, line five. Strike out, '*two thousand seamen*,' and insert 'four thousand four hundred and forty-seven able seamen, ordinary seamen, and boys."

The question was then taken that the House do concur with the Committee of the Whole in their agreement to the same, and passed in the negative—yeas 41, nays 73, as follows:

YEAS—Burwell Bassett, John Clopton, Samuel W. Dana, John Dawson, Daniel M. Durell, James Fisk, Thomas Gholson, jun., Charles Goldsborough, Isaiah L. Green, John Harris, David Holmes, Daniel Ilsley, John G. Jackson, Robert Jenkins, Thomas Kenan, William Kirkpatrick, Matthew Lyon, Wm. McCreery, William Manor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., Samuel Riker, Ebenezer Seaver, Samuel Shaw, Jedediah K. Smith, John Smith, William Stedman, Clement Storer, Joseph Story, Peter Swart, James I. Van Alen, Nicholas Van Dyke, Archibald Van Horn, Daniel C. Verplanck, and Isaac Wilbour.

NAYS—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, David Bard, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Martin Chittenden, Matthew Clay, John Culpeper, Richard Cutts, Josiah Deane, Joseph Desha, Jas. Elliot, Wm. Ely, John W. Eppes, Wm. Findley, Meshack Franklin, B. Gardenier, Francis Gardner, Peterson Goodwyn, Edwin Gray, John Heister, William Hoge, James Holland, Benjamin Howard, Reuben Humphreys, Richard M. Johnson, John Lambert, Joseph Lewis, jr., Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, Daniel Montgomery, junior, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, John Rowan, John Russell, James Sloan, Dennis Smelt, John Smilie, Samuel Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, Philip Van Cortlandt, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

The fourth and fifth amendments of the Senate to the said bill, were then again read, and, upon the question severally put thereupon, disagreed to by the House.

The title, as amended by the Senate, was then read, in the words following, to wit:

"An act for manning, arming, and equipping, for immediate service, all the public ships of war, vessels, and gunboats of the United States:"

And, on the question that the title be so amended, it passed in the negative.

A motion was then made by Mr. BASSETT that the House do reconsider their vote of concurrence with the Committee of the Whole in their agreement to the second of the said amendments; and, on the question for reconsideration, it was resolved in the affirmative.

The question was then taken that the House do concur with the Committee of the Whole in their agreement to the said amendment, and passed in the negative.

TUESDAY, January 17.

An engrossed bill for the relief of Edward Beamont was read the third time, and passed.

A message from the Senate informed the House that the Senate insist on their amendments disagreed to by this House to the bill, entitled "An act authorizing the appointment and employment of an additional number of Navy officers, seamen, and marines," and desire a conference with this House on the subject-matter of the said amendments; to which conference the Senate have appointed managers on their part.

FOREIGN RELATIONS.

A Message was received from the President of the United States, communicating certain letters which passed between the British Secretary of State, Mr. Canning, and Mr. Pinkney, our Minister Plenipotentiary at London.

The Message and accompanying papers having been read—

Mr. BURWELL moved that 5,000 copies of the Message and documents be printed. He said, while up, he could not refrain from expressing his regret that the Executive had not taken a different course to counteract the effect of Mr. Canning's letter than the one which he had chosen. It was impossible that any new evidence should have been wanting to prove that our Government had acted with justice and moderation. But it is so perfectly plain that we are waging a war of honor and candor against treachery and intrigue, that it is surprising that a stop has not been put

to it. Why is it that our presses are teeming with treachery? A regular system is going on to overthrow the Government. How is it that men high in the Government say that no formal offer was made to Great Britain to repeal our embargo on the revocation of her Orders in Council, when there are documents before us proving directly the contrary? Yet, sir, it was asserted, by men high in office in this country, that our Minister had acted only in his individual capacity long before this British Minister's letter was published. But what does this singular letter amount to? Mr. Canning wishes to prove that the offer to repeal the embargo was made in an unofficial manner, when there is a formal letter from himself in answer to the official note of Mr. Pinkney, making the proposition as from his Government. Why did not Mr. Canning meet him? This letter of his is but a continuation of that infamous system of misleading the people of this country which has been so long persisted in. Recollect the speech of Mr. Canning on the floor of Parliament on the 24th day of June last. Sir, I am sorry to mention this subject here, but when I see the rights of my country insulted, and public sensibility worked upon as it has been, I cannot restrain my feelings. It is time to put a stop to this underhanded system. Can it be forgotten what were the sentiments of the people of America when the famous Genet commenced his appeal from the President, who properly put a stop to it? Why does Canning contend that the Orders in Council were not known to us at the time that the embargo was laid? It is to meet the feelings of the country, and to support views taken in this nation. I hope that 5,000 copies will be printed, and that this is the last time we shall be under the necessity of counteracting these insidious appeals to the people.

Mr. NICHOLAS observed, that the letters which had just been read furnished another evidence of the fidelity and ability of the public servants; and another signal to warn the people of this country of the danger which hangs over them, to show that the British Government is in a course of intrigue for the purpose of separating the people from their Government. I want no other evidence of this than the letter of Mr. Canning, which has just been read. How did that letter get into the papers of the United States. It must have been sent here by the British Government—for what purpose? It is an appeal by the Government of Great Britain to the people of America. On what ground is this appeal made? On the ground of justice, of truth, or of sincerity? Neither, sir; it is for the purpose of deceiving the people of this country with the most ungentlemanly and unmanly misrepresentations. God forbid that I should believe that Great Britain has many adherents in this country; but that she has some, this business is to my mind full demonstration. How is this production received? How is it ushered into the public view? Have the printers who first gave it publicity shown even a common impartiality between their own Government and that of a foreign nation? Have they shown a desire to hear what their Government could say? Can these men be Americans? No, sir; they are British partisans, pleading the cause of the British Government against their own. Mr. N. said, he had before him a paper called the *Boston Centinel*, containing some comments on Mr. Canning's letter. [Mr. N. here quoted some passages from these comments, stating this letter of Mr. Canning's to be evidence of a partiality in the Government of the United States to France, &c.] This is an American print, said Mr. N., and this letter is exultingly given to the American people as tending to show that their Government has practised a deception upon them.

Mr. TROUP said, he believed that the publication of this letter was intended by the British Government to influence the people; and in order that the whole truth might be widely disseminated, he moved that ten thousand copies be printed.

Mr. GARDENIER concurred most heartily in the motion for printing, and also in the proposition for the largest number of copies. Assuredly if there was a matter upon which it was important that the people of the United States should be correctly informed, it was the subject which the message of this morning placed before the House. I for one, he said, cannot help regretting deeply that the public confidence in the administration of the Government should have been so shaken by some cause or other, as that gentlemen of the first respectability and no common influence in this House, should be driven to the necessity of combatting on this floor the ebullitions of the editor of a newspaper. Are these publications of newspapers the topics fit for discussion in the House of Representatives of the United States? Is it come to this, sir, that a Representative of the people, to protect his Government from public odium, thinks it necessary to array the Representatives of the nation against the humble editors of a newspaper? I feel humiliated that the affairs of this country should be brought into such a condition that it should be necessary that the editor of a newspaper, for the first time, should be refuted by a member of this House in his place. I had thought that these ebullitions passed by the Government as an idle wind which it heeded not. But if the Government is brought, either by its own weakness or the machinations of a foreign nation, to such a situation that it cannot stand a paragraph in a newspaper, it is brought to a low pass indeed. But the remarks of this editor have been introduced into the House. I do not wish at this time to go over the ground and admit or deny the proposition which he conceives he has established. But I regret that this humble editor should have been made the subject of such severe remark, not only because I wish that he should have been unnoticed in this House, but because I confess that in the material matter of fact, I can see nothing of harm which this poor editor has done. He has printed the letter of Mr. Canning to Mr. Pinkney; and it appears that he has published a document which the Administration had not thought proper to communicate, but which

was genuine and true. From these facts, now established beyond controversy, this editor has undertaken, for the amusement and instruction of his readers, to make certain comments which appear to his mind proper. If the fact be as the editor has stated it, his comments are of no importance, especially at this moment, when newspapers on both sides have given themselves up to such misrepresentations. Whether his inferences be correctly drawn or not, is matter for the people to decide. Those remarks are but reflections upon a document which on all hands is conceded to be matter of fact—and why should gentlemen be alarmed if his inferences be absurd or ridiculous? If the integrity of the Administration opposes that impenetrable shield to the shafts of its enemies which it always should do, whence this alarm? I am fearful that the gentleman from Virginia, (Mr. NICHOLAS,) whose known prudence and good sense I cannot avoid respecting, saw something more in all this than the mere usual efforts of the editor of a newspaper; and in the same proportion as he attaches importance to them will the people do the same. It is unfortunate for the Administration that this course has been pursued; it will awaken remark and mischievous curiosity among the people. Probably if mention had not been made of it, it might have passed without notice; but now I fear that suspicions will be entertained which but for this mode might never have been excited by the editor of a newspaper. After all I must confess that I do not find a great deal of fault with this editor of a newspaper for the publication of a document; and his remarks are out of the question. The people of the United States cannot know too much. However the Administration may have thought it of little importance to communicate the documents heretofore, yet it can do no harm to the good sense of the people to read all that has passed. I see no danger in it; and whether it comes from the Cabinet of Great Britain or from our own, I have that confidence in the people of the United States, that I am willing to trust them with it. If circumstances throw no blame on the Administration, they need not fear it. I am for publishing the whole because I am desirous that the people should know everything, and shall always be thankful that a necessity (for whatever reason) does exist for informing them. And if I have cause of regret on this subject, it is not from the same source as that expressed by the gentleman from Virginia. My regret is that this communication should not have been made before this time, and that the necessity of making these documents public should in this manner have been brought about. As a Representative of the American people I feel humbled by this; and whatever importance may be attached to it, am sorry that the Administration has not heretofore seen the necessity of laying before the public everything relating to their proposition to repeal the embargo; for the whole argument in favor of the continuation of the embargo has turned very much on the rejection by the British Government of our candid offer. It is of importance that the people should be apprized of everything connected with that matter, because it is the pivot on which the embargo has turned; and I regret exceedingly that the President of the United States should not have seen the importance of making these documents public hitherto—that he should have seen it only when one of the letters was published. If I understand the message of to day, the reason why this communication is made, is, that Mr. Canning's letter is calculated to make an impression unfavorable to the character of the Government, and the answer is necessary to set them right. It would have been a much better reason for communicating it heretofore, that the people ought to be fully informed. I know not whether the strongest sensation of regret which I feel is, that it has not before been made public by the Administration, or that this House should be made the organ of communication, for the purpose of preserving to it the confidence of the people. Let gentlemen remember that as long as the liberty of the press exists, it will be licentious; that as long as the Republic exists, there will be parties, those in power and those out. It is to be expected that they will assail each other frequently, ungenerously, and with much calumny; and Administrations may again fall as they have fallen. It is one of the evils attending the invaluable liberty of the press. If the printers publish untruth, I have no objection to punish them, but I do not like these denunciations of a printer, who will laugh at them. He does not care; he will acquire new vigor, and those who participate in his sentiments will like him much better for the publicity given to his name.

Mr. LOVE said, as he presumed from his observations that the gentleman from New York was not in the House when the message was read, he rose to state that the answer of Mr. Pinkney was not in the possession of the Government when the formal correspondence on the subject was published. Whether or not it was correct to notice newspaper effusions on the floor, it was certainly quite as correct for one gentleman to comment upon them as for another to rise in their defence. The statement which he had seen in the newspapers was not correct, and could only be intended for deception and to mislead the people at this critical moment.

Mr. MACON said, notwithstanding the licentiousness of newspaper editors, he was against any law for curbing them. Let them run their whole length, said he, I only ask the liberty of buying such of their papers as I like. As long as the press is free, newspapers will make their own comments; and a great many will make those which I do not approve. But it is really to be regretted that I do not know a paper in the United States that takes up both sides. I wish there was such a one. On the subject of this message, to be serious, it strikes me in a different point of view from that in which it has appeared to any other gentleman. Compare the fact of the extraordinary mode of publication of Mr. Canning's letter in New York, (some say in Boston) with

several late transactions, as the invitations of our citizens to violate our laws, the vessels on our coast forcing a trade, &c., and I can consider them in no other light than as appeals to the people of this country by the British Ministry. Instead of alienating the affections of this people from their Government, it will more strongly attach them to it. That Great Britain should address this runaway proclamation to our people, is not surprising. We are a people made up of emigrants and descendants from different nations, and there are some men amongst us who are not as virtuous as a Cato or Aristides. This circumstance will induce European Governments always to make attempts of this sort. Mr. Canning's letter has struck me in a curious point of view, compared with the documents heretofore communicated. At one time he wants conversations, and at another time written communications. The letter read to-day completely satisfies my mind on this subject. At the very time that this letter of the British Minister is published at Boston, a public armed ship appeared on the coast of Georgia, cruising after cotton. Sir, nothing can be stronger evidence to me of the efficiency of the measures which this nation has taken in relation to Europe, than a fair examination of the conduct of Great Britain towards us since. Why the proclamation encouraging evasions of our laws? Why these publications? Why the ship or ships on the coast of Georgia, sir? Facts speak stronger than words, the efficacy of our measures. Can it be possible that a proclamation inviting violations of our laws would be issued, that armed ships would be sent on smuggling expeditions on our coast by any civilized nation which did not feel our measures? The worst Government that ever existed, as well as the worst man that ever existed, is desirous of maintaining a good character with the world. This proclamation was not issued whilst we had anything left afloat. When they cannot plunder you, they will harbor your runaways. That is the plain English of it, sir. On the subject of the embargo, as it has become fashionable, I will state my impressions of circumstances as they existed at the time of its passage. As well as I recollect, there were reports in circulation, that the British Orders in Council had issued. I cared not for it. I was satisfied that they would be, if they were not, issued, and under that impression I voted for the embargo. I am glad, sir, that we had sagacity sufficient to be so quick upon their heels that they caught no plunder by their orders. I must here say, because it is my opinion, that the Administration have not acted in respect to the embargo as they should have done, because they offered that to Great Britain which they did not offer to France. Instead of partiality to France, sir, the documents prove they have displayed a partiality to Great Britain. I would have offered the same to both, although Great Britain is our greatest tormentor, because she has a navy, whilst the other has not. The gentleman from New York (Mr. GARDENIER) seems to think that it is necessary to publish these documents in order to strengthen the Administration. I much doubt, sir, (and it is well known that on a difference of opinion with the Administration I have come out and opposed them with as much zeal as any man in this House) if you ever have another Administration in these times of confusion, which will go out as popular as this. Every new Administration will naturally carry with it some men who are willing to sing hosannas to the powers that be, to pay their devotions to the rising sun. This will always happen; but no Administration going out will be as popular as the present.

Sir, I care not with what view these documents were sent to us—I am glad they are come. But I believe that the gentleman from New York is mistaken in one statement he made—that this was the first time that a newspaper had ever been commented on in the House of Representatives! I have seen a paper called the Aurora, repeatedly brought into this House, and commented on to prove the necessity of passing a sedition law. Perhaps there are some gentlemen in the House who may recollect the circumstance. [Mr. GARDENIER said that this was before his time.] With the gentleman from New York, sir, I am willing to trust the people; and I believe truth wants but half fair play to prevail, for I have seen her prevail when she could not speak—when she had a padlock on her mouth. Truth will prevail, and it is the interest of every Administration that acts honestly to publish all. I should wish to see the Administration of this Government lay aside the practice of giving a little at a time, and come out at once and say, I wish to do this; and then, if we will not consent to do it, there is an end of it. With respect to our Government playing cunning against any other Government, it is idle: it can never do good whilst they have untold millions of secret service money against our single cent. I should therefore wish that foreign nations had no Ministers here, nor we any there. Instead of giving Ministers nine thousand dollars to go there, I would rather give them fifty thousand to come home. I wish the whole proceedings of our Administration to be at the door of every man in the nation; that every man should have a copy for himself, for his wife, for each of his children, and indeed for all his household. Had this been done heretofore, the present crisis would have been nothing like what it is. They would there have seen truth, and facts precisely as they exist, neither curtailed or exaggerated by this or that party paper.

Mr. BACON said, that he rose merely to correct an error of statement into which the gentleman from North Carolina (Mr. MACON) had fallen, as to the source from which the first publication of the British Minister had originated. The gentleman had attributed it to a New York paper. This Mr. B. believed was incorrect. Being desirous, if either honor or censure could be attached to any American press, from the circumstance of its being considered the official organ of a foreign Government, that it should lie at the right door, he thought it proper to state, that the first appearance

of that letter was, as he understood, in a paper called the "New England Palladium," printed in Boston. There was one other fact which he mentioned with some regret, it was this; that by some unfortunate concurrence of circumstances, assuredly without any improper intention, the printers of this paper had been by the Legislature of Massachusetts in the course of the present year, designated as the printers of their public acts, and their paper was a sort of State Gazette. On this unlucky coincidence, it would be as painful to him as it might be indecorous to indulge in any comments. From the known patriotism of that honorable Legislature, however, there could be no doubt that if they should perceive any sort of incorrectness in the conduct of their subordinate agents, if it should strike them as an incongruity that their servants should appear to be acting in a double capacity, they would so manifest their sense on the subject as should best accord with their views of propriety, and their feelings of national honor.

Mr. Fisk thanked the gentleman from New York for his compliment to the people of New England on their "mischievous curiosity." The gentleman seems to suppose, said Mr. F., that it would have been more proper for the President of the United States to have communicated these documents for the purpose of giving a correct view of our affairs, than for any other reason. I would ask the gentleman to point out what different view the present letter of Mr. Canning, published first at Boston, has given, from the documents which have heretofore been published? Certainly none, sir. The only inference to be drawn from it, is the insincerity or intrigue of the British Government; for, if the fact was, that Mr. Canning did not accept the offer of Mr. Pinkney, because it appeared to be unauthorized, how happened it that Mr. Canning forgot to state it in his official, formal letter, instead of those reasons which he has given for the rejection of the proposal? The gentleman regrets that newspapers, or their editors, should be noticed here. It is not from a disposition to give them importance beyond their merits; but we discover something from their publications, and it is for that that they are noticed—to show that there is an intrigue carrying on in this country; that the British Government is endeavoring to divide the people—to separate them from their Government through the means of the press. In the course of this session, sir, many insinuations against our own Government have been thrown out on this floor. My colleague (Mr. Elliot) made one the other night, in the course of a long speech, which I cannot now notice.

Mr. Gardenier called Mr. Fisk to order, for alluding to an argument which the gentleman (Mr. Elliot) was prevented from making, by a decision of the Speaker that it was out of order.

Mr. Fisk said he alluded not to what his colleague had meant to say, but to what he did say. Mr. F. said he had merely risen to ask, if the gentleman from New York considered his insinuations to be true, that he would show to the House how or wherein they were true. He hoped the documents would be printed, and sincerely joined with the gentleman from North Carolina in wishing a universal diffusion of information.

Mr. Taylor observed, that, although not opposed to printing a very considerable number of the documents sent to the House, yet in themselves he did not give them that importance which some gentlemen were pleased to give them. And he confessed, that, when a gentleman had handed him a paper containing the famous letter of Mr. Canning, he had concluded, from the paper itself, and the pitiful and pimping manner in which it was ushered into view, that it was a forgery. What is it? said Mr. T. A relation of conversations on particular topics, in which the writer himself assisted—not with a view, it seems, of bringing them to an issue by conversation, for he required that these conversations should be considered as nothing, by demanding that his propositions should be made in writing. They were brought forward in writing by our Minister. The authority of his Government for them was vouched to the British Minister; and of that proposition, a rejection in the most insulting terms was returned by Mr. Canning to our Minister. And now, sir, the public mind here is to be misled by a relation of a conversation which took place at several meetings by this very polite gentleman, who has been convicted by a whole nation of falsehood, by observing, in June, that no remonstrance had been made by this Government against the Orders in Council. The fact is, that the Orders in Council will not bear examination. For the honor of the House I assert it, no gentleman has come forward on this floor and vindicated the Orders in Council. And yet the public mind, it is supposed, can be led from this great subject, in which the honor and independence of the nation are concerned—that the people are to be deceived by a tea-table talk of Mr. Canning! I could not have supposed that a man of his wit could have been concerned in so weak a project—he could not have been concerned in it. Since the effort has been made by some incendiary, let us pour upon this pitiful scintilla—this small spark of wickedness—the overwhelming torrent of conviction to the public mind, which is contained in Mr. Pinkney's answer to that letter. But we read eternally in the newspapers of a partiality to France in this Government. Why, sir, the very circumstance of this letter being withheld from Congress by the Administration is a proof of a disposition in the Government not to put at hazard our present relations (precarious as they are) with Great Britain. The letter of Mr. Canning ought to have been, as it was, withheld till the answer was received—and why? Because, the broad calumny which is uttered against this nation, in this cowardly manner, when the whole truth in Mr. Pinkney's letter comes out, is found to allude to newspapers, the very things we have been talking of. Taken unexplained, I ask whether it would not have set in flames the people of this nation? Read this clause:

"You gave me, on that account, the most satisfactory proof that such misrepresentation did not originate

with you, by communicating to me that part of your despatch in which the conferences particularly referred to were related correctly. But this very circumstance, which establishes your personal claim to entire confidence, proves at the same time that a faithful report of a conference on your part is not a security against its misrepresentation."

As the thing stands unexplained, who are the persons supposed to be capable of making misrepresentations? The Government, sir. The Administration has had in this instance to suppress feelings in which, had the letter been published, all the honest part of the community would have participated, till the explanation came. As this explanation has come, it does show that the persons alluded to as capable of making misrepresentations are the editors of newspapers. I do not, with the gentleman from New York, regret the particular notice taken of the editor of a newspaper on this subject, because the article alluded to bears a peculiar character. It does not proceed from the fumes of the cauldron or the paws of little devils, alluded to the other day (by Mr. Quincy.) No, sir; an arch fiend had a hand in it—whether on this or the other side of the Atlantic, I care not. It is an appeal to the people of this country, made in favor of the British Government against our own.

Mr. Key said that he would give his hearty vote for printing the greatest number of copies proposed; for he did conceive that the American people ought to have full information, and that the antidote should accompany the poison. I consider the late publication, said he, as the most direct and insidious attempt of a foreign Government to take advantage of and influence the parties in this country, and that too by dishonorable means. The paper alluded to could only have been in possession of our own Administration or of the British Government. It came not from us; it must have proceeded from the other—and from what view? Had fair information been the object, the letter of Mr. Pinkney in reply would also have been made public, that one might have been confronted with the other. If it proceeded from that quarter, the separation of the reply from the letter, is evincive of the attempt to impose on the people. I consider it an attempt to set the people at variance with their Government, and an insolent attempt of a foreign nation to interfere in our affairs, in three points of view. First. Mr. Pinkney is expressly exonerated from the charge of misrepresentation; but no man can understand it otherwise than as having allusion to the Executive of the country—an insinuation which there is no proof to support, and in support of which none can be adduced. Whatever difference of political opinion may exist between us on some points, I respect the Administration on the whole, and every honest man of every political opinion must side with me. Secondly. There is an insinuation that the President of the United States had only permitted our Minister at London individually, not formally, to make a proposition on the subject of the embargo. This is unfounded in fact, because the documents before the House prove to the contrary. Thirdly. A question is raised whether actual knowledge of the Orders in Council of November, was in possession of our Government at the time of the laying the embargo, which Mr. Pinkney has fully explained, that the American papers showed that it was well known before the passage of the embargo that such would probably be the measures adopted by the British Government. It is upon these three great questions, that this letter is insidiously calculated to delude the American people. I, think therefore, as ample publicity should be given to the truth as may be. However we may differ as to internal regulations, I hope we shall feel as husband and wife, who, however they jar, will not suffer the interference of a third person. In case of such interference, I trust we shall always be ready to rally around the constituted authorities, as protecting the true interests of the country.

Mr. Cook said that these documents showed, that, instead of being more favorable to France than Great Britain, (as had been said for party purposes,) our Administration had been far less favorable to France than Great Britain, and less favorable than they ought to have been. I shall never feel cordial, said he, in going to war with France, until we make to her the same liberal offer which we have made to Great Britain, and it shall be refused. The publication of this memorable letter of Mr. Canning's is but another attempt to mislead the people, and rob the Executive of their just confidence. The letter itself is of little consequence. It appears that the conduct of the President has been perfectly correct. It would have caused a false impression had Mr. C.'s letter been published before Mr. Pinkney's answer was received. Mr. Canning, however, acting with less candor than the President of the United States, has thought fit to publish one without the other; and therefore I wish the reply to be circulated fully.

Mr. Lyon considered the documents of very little importance, conveying no new information; but made some observations on the mode of printing them.

Mr. Story said he was sorry to rise, because the patience of the House must be exhausted; but it was a duty incumbent on him to take the floor. This is not a new occasion, said he. More than once in twenty years, the same attempt has been made by foreign intrigue; and when the attempt has been made, there was scarcely a man in America but considered it insidious and disgraceful. Like the gentleman from New York, it was before my time; but I gathered the feelings of the moment, and held sacred the same feelings as were avowed by the Father of his Country. Whatever may be our political differences, sir, it is incumbent on all of us to frown indignantly on any foreign Government, that should attempt to influence the people. The publication of garbled and mutilated documents, purporting to be real correspondence between one country and another, has been a means used to lead the public mind into a state of distempered jealousy, and array the citizen against his country. It has

been too long the case in Europe. Whenever the sword has been drawn, corruption has preceded it; and when I find the same means used to detach the people of this country from their Government by similar attempts, I cannot repress my contempt of them. It is not any importance which I attach to Mr. Canning's letter that excites my indignation, because the very letter compared with his formal answer to Mr. Pinkney's note, is a complete answer to itself; for, in the documents long ago published, we find an offer in the most formal manner, by Mr. Pinkney, to repeal the embargo as related to Great Britain on the suspension of the Orders in Council; and Mr. Canning in his formal reply has not even intimated the least suspicion that the offer was not the open act of the American Government. Mr. P. with his usual candor, exhibited his own instructions to satisfy Mr. Canning not only that this offer was made by the authority of the Government, but that it was made in the spirit of conciliation and sincerity. And by this letter a new feature is exhibited, for the purpose, almost avowed, of dissolving the Union. I regret to see that our miserable little differences have induced foreign nations to tamper with us; that they have dared to believe that we are not intelligent enough to know our own rights. I regret that our divisions have been such as to induce a foreign nation thus to present a picture to the world of what she believed our real state. It is proved too truly that our own conduct has lessened us in the opinion of foreign nations, has induced them to believe that we are a divided people; it is proved too truly that they have thought the American nation either corrupted with luxury or overawed by the iron hand of despotism, and that they have not strength for a moment to sustain their political structure. The letter of Mr. Canning but for this would not have been published in the Eastern part of this country, to foment those divisions produced by existing circumstances. Sir, I cannot but notice the honorable conduct of the gentleman from Maryland, (Mr. Key,) who, though opposed in political opinion to the present Administration, has shown himself to be a real friend to his country. If the same spirit which he has manifested, was exhibited throughout our country, instead of dissensions on this floor, at this moment an attempt was made by a foreign nation to injure our rights, our differences on minor points would dissolve into air. It is not necessary for me to state, because the gentleman from Maryland has clearly shown, the reason of the publication of that letter. As one, sir, I do know that it was not only understood that the Orders in Council were about to issue, but that, before I heard of the embargo, I had seen letters and newspapers which informed that these orders were signed in the Cabinet, though not published to the world. In respect to Mr. Canning's saying that the offer to repeal the embargo was not authorized, the despatches laid on our table, at the commencement of the session, show to the contrary; and his own formal letter is a denial of the insinuation in the letter to-day communicated. Why then was this letter published in this extraordinary manner? To add to the divisions and lessen the confidence of the people in their Government; to enable Great Britain to take advantage of these divisions and resume her dominion over the Northern States. With this view of the subject, I cannot but conceive that this letter is but a part of a system which has for its object the degradation of our country. I trust we shall on this occasion unite; that we shall not allow any foreign Minister to believe that he can publish *ex parte* statements of, or garbled extracts of official correspondence; that divided as we may be on other subjects, we are united in a determination to support our rights.

Mr. Gardenier said, by this time the editor of the Columbian Centinel must be pretty well mauled. The fact is, said he, as regards myself, that I have never read with attention the documents said to be official; and therefore unfortunately am not in a situation to determine whether in this respect our Administration is to blame or not. I am one of those men who cannot comprehend all the details of such a negotiation at first glance. I do not believe that knowledge is to be attained by so rapid a progress. Therefore, I shall not at present follow other gentlemen in their verdict of acquittal. I hope to be able to do it. A gentleman from Vermont (Mr. Fisk) appeared to be offended at my imputing mischievous curiosity to the people of New England. If the gentleman supposes that I mean any harm to the people of New England, he is mistaken. It is not necessary for me to take up any time of the House in expatiating on the respect which I have for the people of New England. New England was the cradle of American liberty. Sir, it was there the Revolution commenced. From that same quarter I apprehend that the same spirit will again arise. A light appears first in the East, which I hope soon to see break forth into the most perfect day. The gentleman from Vermont, after this declaration, I hope will not impute to me any disrespect to the people of New England. They will not submit either to the insolence or injustice of foreign nations, or to any other. Nature intended them for a great and happy people. The gentleman from Vermont has misunderstood me in one thing. I did not say that Mr. Canning's letter contained any view of the subject not heretofore given; and therefore have no occasion to answer his question.

The question on printing the documents was then taken, and five thousand copies ordered to be printed.

An engrossed bill for dividing the Indiana Territory into two separate governments was read the third time: Whereupon, a motion was made by Mr. Bibb that the said bill do lie on the table. And, debate arising thereon, an adjournment was called for, and carried.

Wednesday, January 18.

Mr. Kelly, from the committee appointed on the 21st of December last, presented a bill for the relief of Jacob Barnitz; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Blount, from the committee appointed on so much of the Message from the President of the United States, at the commencement of the session, as relates to the erection of fortifications for the security of our seaport towns and harbors, presented a bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States; and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet; which was read twice, and committed to a Committee of the Whole tomorrow.

Mr. Lewis, from the Committee for the District of Columbia, to whom was referred, on the fifteenth ultimo, a petition of sundry inhabitants of the counties of Alexandria and Washington, in the said District, presented a bill to authorize the making of a turnpike road from Mason's causeway to Alexandria; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. Marion, from the committee to whom was recommitted, on the 19th of December last, the bill sent from the Senate, entitled "An act further to amend the Judicial System of the United States," reported their agreement to the same, with an amendment; which was read, and, together with the said bill, committed to a Committee of the Whole on Saturday next.

DIVISION OF INDIANA TERRITORY.

The House proceeded to take into further consideration an engrossed bill for dividing the Indiana Territory into two separate governments.

Messrs. Thomas, Sloan, Lyon, and W. Alston, supported the bill; and Messrs. Macon, Eppes, and J. G. Jackson, opposed it.

The arguments in favor of the bill, generally, were: That the line of demarcation which the Wabash affords between the Eastern and Western portions of said Territory, added to the wide extent of wilderness country, which separates the population in each, constitute reasons in favor of a division founded on the soundest policy, and conformable with the natural situation of the country; that the vast distance from the settlements west of the Wabash to the present Territorial government, renders the administration of justice burdensome and expensive in the highest degree, amounting almost to a denial of justice; that the scattered situation of the settlements over this extensive country enervates the power of the Executive, and renders it almost impossible to keep that part of the government in order; that the division of the Territory is a matter of right under the ordinance, and the inconveniences to be removed by an immediate separation would encourage the speedy population of the Territory; that there are about 28,000 inhabitants in the Territory of Indiana, and 2,700 souls between the ages of 16 and 21, in that part proposed to be constituted a new Territory; that there can be no objection to the proposition but the expense, which it was expected would be fully compensated to the United States by the increased value of public lands in each district.

The arguments against the bill, generally, were: That this bill proposed to multiply officers without any advantage proposed from it, which was contrary to republican principles; that the expense to the United States for this new government would be $6,950 yearly, when the people to be governed amounted to but 2,700, between the age of 16 to 21, the whole population of the Territory proposed to be divided containing but 28,000 souls; that the City of Washington contained at least as many as the portion proposed to be erected into a new Territory, and the District of Columbia as many as the whole Territory, and it would certainly excite some surprise, if Congress were to erect two Territorial governments in the District, one on one side the Potomac, and one on the other; that this proceeding might be very convenient to the men who should be appointed governors and judges, but for no other good purpose; that there was no other part of the United States in which the same inconvenience was not felt as that complained of by the inhabitants of Indiana Territory, whose situation was very different from that of the Michigan Territory; that there were many places in different States whence the people had to go two or three hundred miles to the courts; that a compliance with this petition would but serve to foster their factions, and produce more petitions.

On the passage of the above bill there were for it 69, against it 37, as follows:

Yeas—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, John Blake, jr., John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, John Culpeper, Josiah Deane, Joseph Desha, James Elliot, Barent Gardenier, Francis Gardner, Edwin Gray, Isaiah L. Green, John Heister, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Richard M. Johnson, Thomas Kenan, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thos. Newton, John Porter, Josiah Quincy, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Peter Swart, Samuel Taggart, John Thompson, Abram Trigg, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Lemuel J. Alston, David Bard, Thos. Blount, Adam Boyd, William A. Burwell, Matthew Clay, John Clopton, Richard Cutts, Samuel W. Dana, John Davenport, jr., William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, John G. Jackson, Walter Jones, Philip B. Key, John Lambert, Nathaniel Macon, Robert Marion, John Morrow, Roger Nelson, Thomas Newbold, John Pugh,

John Rhea of Tennessee, Ebenezer Seaver, Clement Storer, Benjamin Tallmadge, John Taylor, Philip Van Cortlandt, Daniel C. Verplanck, Robert Whitehill, and David R. Williams.

Resolved, That the title be, "An act for dividing the Indiana Territory into two separate governments."

NAVAL ESTABLISHMENT.

The House proceeded to consider the message received yesterday from the Senate, by their Secretary, insisting on their amendments disagreed to by this House to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines;" and desiring a conference with this House on the subject-matter of the said amendments: Whereupon, a motion was made by Mr. Newton that this House do insist on their disagreement to all the amendments insisted on by the Senate to the said bill. And the question being taken thereupon, it was resolved in the affirmative—yeas 67, nays 53, as follows:

Yeas—Willis Alston, jr., David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Epaphroditus Champion, Martin Chittenden, John Clopton, John Culpeper, Joseph Desha, John W. Eppes, James Fisk, Meshack Franklin, Barent Gardenier, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John Heister, William Hoge, James Holland, Benjamin Howard, Richard M. Johnson, Thomas Kenan, John Lambert, Edward Lloyd, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr., Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, John Porter, John Pugh, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Samuel Taggart, John Taylor, Jabez Upham, Isaac Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Wynn.

Nays—Ezekiel Bacon, Burwell Bassett, Matthew Clay, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Daniel M. Durell, James Elliot, William Ely, William Findley, Francis Gardner, Isaiah L. Green, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Walter Jones, Philip B. Key, William Kirkpatrick, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, John Montgomery, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Wilson C. Nicholas, Timothy Pitkin, jr., Josiah Quincy, Samuel Riker, John Rowan, Samuel Shaw, James Sloan, William Stedman, Clement Storer, Joseph Story, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, and Nathan Wilson.

On motion of Mr. Newton,

Resolved, That this House do agree to the conference desired by the Senate on the subject-matter of the amendments depending between the two Houses to the said bill; and that Mr. Macon, Mr. Smilie, and Mr. Upham, be appointed managers on the part of this House.

And on motion, the House adjourned until to-morrow.

Thursday, January 19.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of certain Alabama Indians;" to which they desire the concurrence of this House.

The Speaker laid before the House a letter from the Secretary of War, accompanying his report, and sundry documents in relation to invalid pensioners of the United States, transmitted in pursuance of the third and fifth sections of "An act to provide for persons who were disabled by known wounds received in the Revolutionary war;" which were read, and referred to the Committee of Claims.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, to whom were referred, during the present session, the petitions of sundry inhabitants of the State of Ohio, praying a remission of the forfeitures accruing on the instalments due on the purchase money for lands purchased of the United States, and the allowance of further time for the payment of the principal, made a report thereon; which was read, and referred to the Committee of the whole House, to whom was committed, on the twenty-third of November last, a report of the Committee on the Public Lands on a memorial of the House of Representatives of the Mississippi Territory.

Mr. Jeremiah Morrow, from the same committee, presented a bill to alter the terms of sale of the public lands of the United States, and for other purposes; which was read twice, and committed to the Committee of the Whole last mentioned.

Mr. Lewis presented a memorial of sundry inhabitants of the county of Washington, in the Territory of Columbia, praying a repeal of the fourth section of a law of Congress, entitled "An act concerning the District of Columbia."—Referred to the Committee for the District of Columbia.

Mr. Marion, from the committee who were instructed, by a resolution of the House, of the twentieth of December last, "to inquire into the expediency of extending jurisdiction to the superior courts of the several Territories of the United States, in which a district court has not been established for the trial of treason, and other offences committed against the laws of the United States, within the limits of the said Territories; and to empower said courts to pronounce such judgment or sentence on conviction of the offender or offenders, as the law directs;" presented a bill extending jurisdiction, in certain cases, to the Territorial courts, and for other purposes; which was read twice, and committed to a Committee of the Whole on Monday next.

EXTRA SESSION.

On motion of Mr. Smilie the House resolved itself into a Committee of the Whole on the bill to alter the time of the next meeting of Congress.

Mr. J. G. Jackson moved to strike out the "fourth" Monday in May, and insert the "last," stating as a reason, that as the Virginia elections took place in April, the Representatives could not arrive here in time.

Mr. Macon wished a division of the question so as first to strike out, with a view to insert "September," instead of May. The motion to strike out was negatived—62 to 35. It was supposed that this question tried the principle of the bill.

The Committee rose and reported the bill.

Mr. D. R. Williams moved to strike out May for the purpose of inserting "September."

Mr. Milnor hoped the motion would not be agreed to. If the new Congress could commence its session on the 4th day of March next, he said he should think it extremely proper that it should do so. And, if he could think that the majority would fix an earlier day than the fourth Monday of May for the meeting, he should vote for the present motion. He agreed with gentlemen that this was a momentous crisis; that the country was in a situation of extreme difficulty and danger. It appeared to him, therefore, that Congress, who were the guardians of the public welfare; to whom were confided the destinies of the nation, so far as the nation could control them, should be constantly in session, till a more favorable state of affairs took place. It was possible, but was it probable that any event would occur to alter our situation for the better? There was no hope that the belligerents would recede from their injurious restrictions on our commerce. It was not probable that anything would occur which would do away the necessity of an extra session. The present Congress having determined to persevere in the embargo and the present system of measures a while longer, the peace and welfare of the country required that a different system should be adopted. The present had been sufficiently tested, and would never produce those effects anticipated from it. It was proper that an early opportunity should be given to the next Congress to approve the present system, or give it up and adopt some other in its stead.

Mr. D. R. Williams said he was opposed to Congress coming here at the time proposed. Why should they come here then? He wished some one to answer, and let him understand why they were coming. In his opinion there was every possible objection to such a procedure. On the fourth day of March, a new President comes into power. Is it not presumable that the President would choose to have some communication with our Ministers abroad before the meeting of Congress? Could any man say that it was not proper that he should have it? Mr. W. said he hoped that the President would send special messengers, unfashionable as that policy was. If you are willing to wait for a declaration of war till the fourth Monday in May, will there be any necessity of declaring it before the first Monday in June or July? You have suffered the public mind to assuage in its resentment, and I very much doubt, that before a full experiment be made of the embargo, it will be wholly allayed. It has been said through the nation, and indeed avowed on this floor, that the Administration does not wish for peace. Having failed to take hold of the affair of the Chesapeake for a declaration of war, you have nothing now to give the people that interest which I hope they always will have in a declaration of war. Suppose you were to send special Ministers, and they were to be treated as our Ministers to France were under a former Administration, would not this treatment make every man in the nation rally around you? Would it not prove beyond doubt that the Administration was sincere in its wishes for peace? Undoubtedly it would. Why are your Ministers now loitering in foreign Courts? With a hope of accommodation, sir. I would send other Ministers there, and if they failed of immediate accommodation, would order them all home. If they are compelled to return, you will have the whole nation with you, which you must have when you go to war.

Mr. J. G. Jackson replied to Mr. Williams. The gentleman had asked emphatically why Congress should convene here in May. Occurrences of every day, said Mr. J., are presenting themselves in such a way as to render it highly important and necessary that some other ground should be taken. Are we to adhere to the embargo forever, sir? I have said, and again say, that a total abandonment of the ocean would be submission. I think, by passing this bill, we give the nation a pledge that it shall be the *ne plus ultra*, which shall give to foreign nations time to revise their conduct towards us, and will give them time to consider whether or not they will have war with us. The gentleman wants a special mission. Sir, are we to continue in this state any longer? Shall negotiation be spun out further? No man can doubt the capacity of our Ministers abroad, and their disposition to represent their Government correctly. The doors are shut in the face of our Minister at the Court of St. James, and worse than shut at the Court of St. Cloud—for, from the latter, contemptuous silence is all the anwer we have received, if indeed silence can convey an answer. Are we to renew negotiation, then, when every circumstance manifests that it would be useless? Need I refer to what took place the other day—I allude to the publication of a letter by Mr. Canning, in a highly exceptionable manner, through Federal presses, or presses more devoted to the interests of that country than any other? One universal burst of indignation accompanied the publication of that letter in this House. And are we, under such circumstances, to renew negotiation by extra missions? I conceive that the cup of negotiation and conciliation is exhausted to the dregs, and that we should but further degrade ourselves by sending further extra missions. It has been stated to me that a proposition had actually been re-

duced to writing by a member of this House the other day for sending away foreign Ministers and calling our Ministers home; and I am sorry that the proposition was not offered to the House, for, under present circumstances, it might not have been improper to have adopted it. The gentleman asks if the Government has in its power any thing to rouse the people? There is no occasion for it, sir; they impel us towards war; we can scarcely keep them out of it; we can scarcely maintain our course a moment. Nothing but a disposition to confide in the constituted authorities prevents them from expressing their inclination more loudly. Passing over everything else, are not the orders and decrees sufficient to induce the nation to impel us to take the attitude of war, if the time was proper for it? The best answer to the gentleman's question may be found in the vote of this House, which has unanimously declared, with an exception of but two members, and those two I understand to be opposed to the declaration because it was a self-evident proposition, that we cannot submit to these edicts without a sacrifice of our rights, honor, and independence. And are these to be sacrificed without first struggling to maintain them? I trust not.

Mr. Smith said, if there were no other reason, the present suspension of commerce, and discontents at home, were sufficient reasons for calling Congress earlier than the first Monday in December. When the new Administration should come into office, it was proper that they should have an opportunity of meeting Congress as early as possible. It was his opinion that, at the next session, a change of measures would take place What would be the substitute for the present measure he could not say; but, at this time, he must say that he could see no way of avoiding war. With regard to extra missions, he really had no idea of a measure of that kind. If there should be any other means to secure the interest and honor of the nation but war, he hoped in God that it would be adopted, but he did not now see any such prospect.

Mr. Rhea, of Tennessee, said it was of no importance in the consideration of the present question what the next Administration should think or do. He wished that there could be an understanding with foreign nations for our good, but he much doubted such a result. He would not undertake to say whether war, or what other measure, ought to be adopted at the extra session; but, it was his opinion, that Congress ought to meet, and he should vote against every proposition going to defeat the object of the bill. Although this nation had not immediately retaliated the attack on the Chesapeake, would any man rise on this floor and say that the act of dishonor was done away because the House refused immediately to avenge it? He believed not; and, as long as it remained unatoned, it was cause for this nation to act. The only question for the House now to determine was this: Are there reasons to induce gentlemen to believe that a meeting of Congress is necessary on the fourth Monday of May next? As it appeared to him that such reasons did exist, he said he was bound on his responsibility to vote for the bill.

Mr. Durell asked if gentlemen meant to continue the embargo forever? He believed somewhat in the doctrine that an explosion might take place under it in a certain portion of the country. Gentlemen said an extra session was, therefore, necessary to save the nation. Mr. D. asked, if the nation was to be saved by long speeches? He had seen almost two whole sessions of Congress pass away; the one of six months, the other of three, and the nation in the same situation still, and still told, in long stories, from day to day, that it was in a critical situation. He had no idea that the nation was to be saved by much speaking. He did firmly believe, that more than forty-eight hours would not be necessary to pass all laws to meet the impending crisis. If a declaration of war was thought proper, this would be sufficient time for it; if an extraordinary mission, as suggested by the gentleman from South Carolina, forty-eight hours would be time enough for the House to decide on recommending it. The present was a state of suspense, from which the nation ought to be removed, and he was unwilling to prolong this state by the passage of the bill.

Mr. D. R. Williams said that the observations of gentlemen themselves were the landmarks by which he would steer. Gentlemen had said that they would wait under all these accumulated injuries, the weight of which Mr. W. acknowledged, till the fourth Monday in May. Now, he said, he wished to wait a little longer, that the Executive might, if he chose, take advantage of the interval. He said he had alluded to the case of the Chesapeake as an eminent illustration of the desire of the Executive for peace; though he should not trespass upon truth if he said that the affair of the Chesapeake rested not now as it had done. Admitting that we had ample cause for war, what did gentlemen propose to gain by postponing it? The gentleman from Virginia, (Mr. Jackson,) had said that the nation was pushing them to war. Mr. W. asked if there was a petition on the table to that purport from any portion of the United States? No, really; whilst a large portion of the people, the South almost unanimously, had expressed a wish that the Government should adhere to the embargo, till it produced an effect, or its capacity to produce the effect was disproved. You are like to be driven out of the embargo by war? asked Mr. W.; why, sir, look at the sensation in New England and New York, and talk about going to war, when you cannot maintain an embargo! There is a large portion of the people of New England, who, through misrepresentations and the efforts of your enemies have been taught to believe that your Administration has not sought for peace. Could any man have the hardihood to say so, after another special mission had failed? Certainly not; and it is no treason to mention it, although gentlemen should not like it. If you do not adopt war before the fourth Monday in May, will the nation be ruined if you postpone it still further? How could gentlemen

denounce the course which he recommended, when it was now pursued? For a vessel was now advertised, he observed, to go on public business to Great Britain and France, and new despatches were going, he supposed. Even if war was determined on, would there be anything inconsistent, anything degrading, in giving to foreign nations yet another chance to do us justice? Mr. W. said he would do everything he could, in an honorable manner, to prevent war. He believed that the men who wished to prevent war were quite as patriotic as those who appeared desirous of promoting it. He felt more satisfaction in seeing the poor emigrant or exile from the troubles of Europe sitting peaceably and in comfort at his fireside or cabin door, than in hearing of the most splendid victories. When the last step to preserve peace had failed, then would he be willing to rouse the people to mount the Capitol and sound the tocsin—but not till then. He was for giving a fair opportunity to hear from Europe; for if Congress met in May, there would yet be a foreign messenger abroad; and waiting his arrival, they would do nothing.

Mr. Burwell said he was one of those who would vote for an earlier meeting of Congress than usual. In Great Britain, in whose government there were some features approximating to ours, there was always an uneasiness, lest the Parliament should not meet often enough. Whence could be the objection to Congress meeting at an earlier day? If the public sentiment was not then prepared for war, it would not be adopted. It appeared to him that an early session, instead of producing mischief, would essentially contribute to tranquillize the minds of the people. If peace was attainable, we must have peace; but if not, we have no choice but war. The gentleman from South Carolina suggests the propriety of sending a special mission said Mr. B. Let me ask him, if Administration should not take this course, whether it would not be perfectly proper that Congress should be in session? Certainly it would. With respect to a special mission, Mr. B. said he was perfectly at a loss to conceive what could be the nature of any proposition which could be made to Great Britain. A proposition had already been made to her, in effect, to go to war with her against France, and insultingly refused; for no other interpretation could be made of the offer to suspend the embargo, if she would rescind her Orders in Council, except Mr. Canning chose to misunderstand everything that could be said. Unless gentlemen would point out some new proposition, which could be made to Great Britain or France, he could not see the propriety of the course recommended. As to the continuance of the embargo, Mr. B. said it seemed to be perfectly well understood by every man, that when the Government determined on that course, it did not determine to persevere in it eternally. If it could be made manifest to him that any particular favorable consequence would be produced by postponing the session beyond the fourth Monday in May, he might be induced to accede to it. As to the disposition of the Administration to preserve peace, could the gentleman conceive it possible to remove the impressions of those who were determined not to be convinced? This nation had sued for peace, but in vain; they had offered to give up almost everything in contest, if Great Britain would yield a thing which neither Mr. Canning nor any other member of the British Government ever said they had a right to do, and which was only justified on the ground of necessity. There was therefore no plausibility in the assertion that peace had not been earnestly sought for.

Mr. G. W. Campbell said that if nothing occurred between this time and the time proposed by the bill for the next meeting of Congress, which would particularly render a change necessary, he was yet of opinion that it would be then necessary to change our situation; for this reason: that at that period, time sufficient would have elapsed to give us information as to what ground Great Britain would take, after she had heard of the position which Congress had maintained. After that ground was taken, Congress would know how to act. I never voted for the embargo as a permanent measure, said Mr. C., nor did I ever use an expression which would authorize such a supposition; nor do I suppose that any other gentleman entertained such an idea. As to a special mission, I should as soon think of sending a special messenger to the moon as to Great Britain or to France, for the cup of humiliation is exhausted already, and I will never put it in their power to offer us another cup.

The gentleman from South Carolina asked why our Ministers still continued at those Courts. Though I have no objection that the gentleman should animadvert on this topic, it is not a question for our determination; but I think it proper that as long as we can maintain our situation, intercourse may remain open. At the moment when we determine on war only ought we to recall our Ministers. We are told, sir, that we cannot carry the people with us into war; that we must do something to excite them. This looks something like the doctrine of European countries. I believe that the people have trodden the same course that we have in everything which has taken place, and are as capable of determining on the propriety of the course which we pursue as we are ourselves. I believe that no impulse is necessary to be given to the people. If we act correctly, there is no doubt that the people will support our conduct. With respect to the affair of the Chesapeake, which has been alluded to, it was not, in my mind a proper occasion for war. If it was so, I cannot really comprehend why we are told that it is necessary to do something to excite the people to go to war. If we were to send a Minister, what could he do but repeat the same course? There seems to be an idea entertained by some gentlemen, sir, which I wish to disavow. The change of President about to take place, appears to be considered as the commencement of a new dynasty. The change of that officer cannot affect our general relations, for it is the people and not the President

who are to point out the proper course to be pursued.

Mr. Macon said he had not intended to have said anything, but that the gentleman from Virginia (Mr. Bunwell) had broached a doctrine which he did not approve—that this Government was like that of Great Britain.

Mr. Bunwell explained that he had said that the Governments were, in some of their features, alike.

Mr. Macon said that the reason of the fear in Great Britain that the Parliament would not meet often enough, was extremely obvious. The only voice which the people had was in the House of Commons; and they wanted them to be always in session, to keep the King and nobility off from them. In Great Britain the King dissolved Parliament at his pleasure. Here, he said, there was no power to dissolve Congress. Indeed, there was no similarity in the two Governments. He said he had no fear of any mischief being done by Congress meeting earlier; but he was opposed to their meeting earlier, because they would do more good by staying away. Could any man say what would take place between this day and the third of March? And yet the House were now called on to determine on an extra session. He was for giving such time, after the deliberations of the present session closed, as that Great Britain might see what we had done, and consider whether she would retract or go to war, for if she did not retract, war must be the consequence. Mr. M. said he would give every opportunity for peace; he would not be for hurrying the matter. He had no opinion that Congress being in session would have any effect on the people. The cry of an intention to destroy commerce was not to make him do a single thing which he would not otherwise do. No man can believe that we who raise produce should wish it to lie on our hands, as is now our situation. It is maritime rights for which we contend. For these we planters are making sacrifices, and we know it. As to the grower it is immaterial in point of interest into what ship or wagon his produce goes; but he is contending for the interests of his mercantile brethren. A great deal has been said about repealing the embargo to put an end to discontents. Let gentlemen beware of it, lest in trying to please everybody, they please nobody. Let us do what is right, that is the only ground for us to take. Whenever we begin to temporize, that principle is abandoned. I disagree with the gentleman from Tennessee as to the expediency of continuing the embargo; I do not believe that it would be inexpedient to try it beyond May. I believe we ought to try it beyond September. This is my opinion. What effect do gentlemen expect that the embargo will have had in May? Not more than at this moment. While every day from that time till September, it will be more and more effectual. I never voted for it as a permanent measure; but my opinion was, as I stated it, that it might be necessary to hold on to it for one, two, or three years. I might be wrong, but this was my opinion then, and I have not changed it. As to an extra session, I have never thought of it; but I am willing to leave it to the Executive. It has been so suddenly suggested, however, that I would not undertake to decide positively on the subject. I should rather incline to let them send to us now; we have sent to them long enough. As to the people being tired of the embargo, whenever they want war in preference to it, they will send their petitions here to that effect. When gentlemen from the Eastern States say, that the people there are tired of it, perhaps they speak correctly. As to all the talk of insurrections and divisions, it has no effect on me. When the sedition law was passed under the former Administration, it was said that the people would not bear it. I thought then as now, that the elections would show their disapprobation, and that they would manifest it in that way alone. When the people are tired of the embargo, as a means of preserving peace, they will tell you so, and say, "Give us war!" But none have said so; and yet, sir, I know well that myself and some others are blamed for our adherence to this measure. I can only say, that it is an honest adherence. I do believe that the continuance of that measure, with the addition of a bill now on your table, (non-intercourse bill,) is the best thing you can do; and if I thought that Congress would declare war in May, I should be much more averse to meeting then than I am now; but I do not believe it will. Put the question to every man in the nation, War or embargo? The certainty of that alternative would make them more favorable to the embargo than they are now. I should not be surprised that the opposition to the embargo would themselves wish it to be continued a little while longer. I agree with gentlemen that the people will point out what should be done. Do not declare war before you adjourn, and I have no fear of your doing it when you meet again. Let each man put the question to his neighbor, whether he will have war or embargo, and there is no doubt but he will answer in favor of the latter. I agree with the gentleman from Tennessee, that the new Administration should not be considered as a new dynasty. But when new politics come into office, it is something like it; and we have seen it in our days. But, believe me, sir, in my opinion, there is no danger of insurrection in any part of this happy country.

Mr. Sloan was against the passage of the bill, because it would keep the people in suspense—a state which he himself did not like. He had expected that when we met here, the embargo would have been repealed. He wanted to know whether the embargo was to remain until September? He would not, however gloomy the prospect, forego the hope that Congress would relieve the people from the burden which they could not bear. Any man might see what would be the effect of this law. Congress would meet in May, and would continue the measure a little, and a little longer, and eventually rise without removing it. He wished once again to restore the smiles of content to this once happy land, and to do it without an extra session.

Mr. Quincy.—Mr. Speaker, if the bill under consideration had no other aspect on the fates of this country than its terms indicate, I should have continued silent. If the question upon it involved no other consequences than those of personal inconvenience to us and of expense to the public, I would not now ask the indulgence of the House. But I deem this bill to be a materially component part of that system of commercial restriction under which the best hopes of this nation are oppressed. I consider this measure as intended to induce this people still longer to endure patiently the embargo, and all the evils which it brings in its train, by exciting and fostering in them delusive expectations. A great crisis is, to all human appearance, advancing upon our country. Gentlemen may attempt to conceal it from the nation, perhaps from themselves, but every step they take has an influence upon that crisis; and, small as they may deem the decision on this bill, in its effects it will be among the most important of any of the acts of this session.

It is very painful to me, Mr. Speaker, to be compelled to place my opposition to this bill on ground resulting from the conduct of the Administration of this nation. I say, sir, this is very painful to me, because I have no personal animosity to any individual of that Administration. Nor, if I know myself, am I induced to this opposition from any party motive. But, sir, acting in a public capacity, and reasoning concerning events as they occur, with reference to the high duties of my station, I shall not, when I arrive, in my conception, at a just conclusion, shrink from any proper responsibility, in spreading that conclusion before this House and nation. One thing I shall hope, and certainly shall deserve from the friends of the Administration—the acknowledgment that I shall aim no insidious blow. It shall be made openly, distinctly, in the daylight. Be it strong, or be it weak, I invite those friends to parry it. If they are successful, I shall rejoice in it not less than they.

This is the position in relation to the conduct of Administration which I take, and on which I rest my opposition to this bill: That this House when it passed the embargo law was under a deception touching the motives of Administration, in recommending that measure—that it has been, in adopting that measure, instrumental in deceiving this people as to the motives which induced that law; that if it passes this bill, it will again act under a deception touching those motives, and again be instrumental, unwarily and unwillingly, as I believe, in deceiving this people, in relation to them. I think I have stated my ground of opposition so clearly as to admit of no misconception. And I invite gentlemen to meet me candidly on it. When I speak of deception, I beg gentlemen not to misunderstand me. I will be as just to Administration as I mean to be true and fearless in the performance of my duty to this people. By this term I do not mean any moral obliquity, any direct falsehood or palpable misrepresentation. But I intend by it political deception. That species of cunning, not uncommon among politicians, which Lord Bacon calls "left-handed wisdom." This is exhibited, when ostensible and popular motives are presented as inducements to a particular line of conduct, and the real and critical ones are kept behind the curtain. This is practised when those who have obtained an influence over others, troll them by the means of fair promises upon trundles in a downhill path, and so are enabled gradually to shove them, by gentle motions, farther than at first they had any intention to go. We witness this species of political deception, when we see men meshed in the toils of a complicated policy, and then dragged whithersoever their leaders will, through sheer shame, at breaking the cords of that net in which they have suffered themselves incautiously to be entangled.

In support of my first position—that this House, when it passed the embargo law was under a deception, touching the motives of Administration, I shall ask the House to recollect as far as possible all the motives which induced it to pass the embargo law, and then I will attempt to show that the motives of Administration were different, in kind or in degree, from those which operated on this floor. I will recapitulate them as distinctly as possible, excluding no one which I have any reason to think had an influence in the House, imputing none which did not exist. One motive was the preservation of our resources—that is, the saving of our seamen and navigation. This was the ostensible and popular motive—that avowed by Administration. Another motive was, that many thought war was inevitable, and that embargo would give an opportunity to prepare for it. Again. Some thought that it would have a good effect on the negotiation then daily expected, and frighten Mr. Rose. Again. Others supposed that it would straiten Great Britain at a moment the most favorable to make her feel the importance of the United States. The system of commercial pressure was in full operation in Europe, and should this country complete the circle of compression, they thought that it would be impossible for her not to yield to our pretensions. Again. Some thought that the French Emperor was contending for maritime rights, and that it was time for us to co-operate. [Here Messrs. Smilie and Eppes required of Mr. Quincy to know to whom he had allusion.] I am surprised, said Mr. Q. to hear that question asked by the gentleman from Pennsylvania. If, however, it be denied as a motive, I have no objection to withdraw it. What I am now doing ought to excite no passion. I am not about to question the motives of this House. I am only recapitulating all those which there is every reason to believe existed. If any gentlemen say a particular one did not exist, for the present argument I reject it. My present object only is to be complete in my enumeration, in order to make more forcible the bearing of my principal argument, that it does not include those which principally had an influence with Administration in recommending the measure. I do not recollect but two other motives besides those already mentioned.

Some voted for this embargo, because they thought this House ought to do something, and they did not know what else to do. Others intimated that it might have an effect to injure France in the few West India possessions which remained to her. But this was urged so faintly, and with such little show of reason, that I doubt if it were an influential motive with any man. The preceding enumeration includes all the motives, as I believe, either urged on this floor or in any way, silently, operative in producing that measure. Now I do not think I state my position too strongly when I say that not a man in this House deemed the embargo intended chiefly as a measure of coercion on Great Britain; that it was to be made permanent at all hazards, until it had effected that object; and that nothing else effectual was to be done for the support of our maritime rights. If any individual was influenced by such motives, certainly they were not those of a majority of this House. Now, sir, on my conscience, I do believe that these were the motives and intentions of Administration when they recommended the embargo to the adoption of this House. Sir, I believe these continue to be still their motives and intentions. And if this were fairly understood by the people to be the fact, I do not believe that they would countenance the continuance of such an oppressive measure, for such a purpose, without better assurance than has ever yet been given to them, that, by adherence to this policy, the great and real object of it will be effected.

The proposition which I undertake to maintain consists of three particulars. First. That it was, and is, the intention of Administration to coerce Great Britain by the embargo, and that this, and not precaution, is, and was, the principal object of the policy. Second. That it was, and is intended to persevere in this measure until it effect, if possible, the proposed object. Third. That it was and is the intention of Administration to do nothing else effectual in support of our maritime rights.

Having in my mind a perfect conviction of the truth of every one of these propositions, I should be false to myself and to my country, at such a crisis as this, if I did not state that conviction to this House, and through it to my fellow-citizens. I shall not, however, take refuge in mere declaration of individual opinion, or content myself simply with assertions. I shall state the grounds and the reasonings, by which I arrive at this result. I invite gentlemen to reply to them, in the spirit in which they are offered. Not with the design of awakening any personal or party passion, but to fulfil the high duties, which, according to my apprehension of them, I owe to this people.

When we attempt to penetrate into the intentions of men, we are all sensible how thick and mysterious is that veil, which, by the law of our nature, is spread over them. At times it is scarcely permitted to an individual to be absolutely certain of his own motives. But when the question is concerning the purposes of others, experience daily tells how hard a task it is to descend into the hidden recesses of the mind, and pluck intentions from that granite cell, in which they delight to inerust themselves.

The only mode of discovery is to consider language and conduct, in their relation to the real and avowed object, and thence to conclude, as fairly as we can, which is the one, and which the other. This course I shall adopt. If there be anything fallacious, let the friends of Administration oppose it.

When I state that precaution was not, but that coercion on Great Britain was the principal motive with Administration in advising the embargo, I do not mean to aver that precaution did not enter into the view, but only that it was a minor consideration, and did by no means bear so great a proportion in producing that policy, in the Cabinet, as it did before the world. This will appear presently. That the principal object of the embargo policy was coercion on Great Britain, I conclude from the language of the friends of Administration, in this country, and the language which the Minister of Administration was directed to hold across the Atlantic, as also from their subsequent conduct. Here all the leading calculations had relation to coercion.

The dependence of Great Britain upon her manufactures, and their dependence upon us for supply and consumption—the greatness of her debt—her solitary state, engaged with a world in arms—the fortunes and the power of the French Emperor—the certain effect of the commercial prohibitions of combined Europe upon her maritime power; such were the uniform considerations in support of this policy, adduced by the friends of Administration on this floor, or in this nation.

There, on the contrary, the considerations urged as the motive for it were altogether different. Let us recur to the language which our Minister was directed to hold to the Court of Great Britain, on this subject. The Secretary of State, in his letter of the 23d of December, 1807, to Mr. Pinkney, thus dictates to him the course he is to pursue in impressing on the British Cabinet the objects of the embargo:

"I avail myself of the opportunity, to enclose you a copy of a Message from the President to Congress, and their act in pursuance of it, laying an embargo on our vessels and exports. The policy and causes of the measure are explained in the Message itself. But it may be proper to authorize you to assure the British Government, as has been just expressed to its Minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting or leading to hostility, with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries."

Here our Administration expressly declare that "the policy and causes of the measure are explained in the Message itself." And in that Message the "dangers with which our vessels, our seamen, and merchandise, are threatened," and "the great importance of keeping in safety these essential resources," are the sole causes enumerated as explanatory of that policy.

At the Court of Great Britain, then our Minister was directed to represent this measure as merely intended to save our essential resources. But the Administration were not content with the direct assertion of this motive, they abjure anyother. They expressly direct our Minister "to assure the British Government that the act is a measure of precaution only," and "that it opposes no obstacle whatever, to amicable negotiations between the two countries." Here then the friends of Administration, speaking, as is well known, its language, allege, in this country, that the embargo is a measure of coercion, and that if persisted in vigorously, it will reduce Great Britain to our terms. Whereas the Minister of the United States, speaking also the language of Administration, is directed, unequivocally, to deny all this in Great Britain and to exclude the idea of coercion, by declaring it to be a measure of precaution only. Certainly never was there a policy more perfectly characteristic. It is precisely that policy which one deeply skilled in the knowledge of the human character, described as "a language official and a language confidential." A language for the ear of the American people. An opposite for the ear of the British Cabinet. If this had been, as the Minister of the United States was directed to assure the British Cabinet, "a measure of precaution only," why were the friends of Administration permitted to advocate it as a measure of coercion? Why is it continued after all pretence of precaution has ceased? Did not Administration know that if it were supported here, on the ground of coercion, that this fact would necessarily be understood in Great Britain, and that it must form "an obstacle to negotiation," notwithstanding all their declarations? If therefore it had been truly "a measure of precaution only," would not Administration have been the first to have counteracted such an opinion, and not permitted it to have gained any ground here or elsewhere? Yet they countenance this opinion in America, at the moment they are denying it in Great Britain. And why? The reason is obvious, and is conclusive in support of the position, that it was at first, as it is now, simply a measure of coercion. The mode adopted by Administration is the only one they could adopt, with any hope of success, in case the object was coercion, and the very mode they would avoid, had it been really precaution. There is not an individual in the United States, so much of a child, as not to know that the argument of precaution was good only for ninety, or at farthest an hundred and twenty days. After our ships and seamen were in port, which within that time would have been principally the case, the reason of precaution was at an end—upon the principle that the self-interest and intelligence of the merchant and navigator, are the best guides and patrons of their own concerns; and that the stake which society has in the property of the citizen, is better secured by his own knowledge and activity than by any general regulations whatsoever. It was necessary, therefore, in the United States, to resort early to the idea of coercion, and to press it vigorously; otherwise, the people of America could not be induced to endurance beyond the time when the reason of precaution had ceased. In America, therefore, it was coercion; but in Great Britain the state of things was altogether the reverse. Administration knew perfectly well, not only from the character of the British nation, but, also, from the most common principles of human nature, that once present this embargo to it as a measure of coercion, to compel it to adopt or retract any principle of adopted policy, and there was an end of negotiation. It would have been like laying a drawn sword upon the table, and declaring, "yield us what we demand, or we will push it to the hilt in your vitals." In such case, it was perfectly apparent that there could be received, from an independent nation, but one answer: "Take away your sword; withdraw your menace; while these continue, we listen to nothing!" Aware of this inevitable consequence, Administration not only aver that it is precaution, but, even condescend to deny it is anything else, by declaring that it is this, and this only. Thus, in Great Britain, precaution was the veil under which a sword was passed into her side. But, in the United States, coercion was the palatable liquor with which Administration softened and gargled the passage, while it thrust, at the point of the bayonet, the bitter pill of embargo down the throats of the American people. It is this variation of the avowed motive, to suit the unquestionable diversity of the state of things in this country and Great Britain, combined with the fact that the embargo is continued long after the plea of precaution has ceased to be effectual, that produces a perfect conviction in my mind that precaution was little more than the pretext, and that coercion was, in fact, the principal purpose of the policy. Indeed, how is it possible to conclude otherwise, when the very mode of argument adopted in each country was the only one that could have made coercion successful, and the very one which would have been avoided, if precaution had been the real and only motive? I cheerfully submit the correctness of this conclusion to the consideration of the people.

I come, now, to my second proposition. That it was the intention of Administration to persevere in this measure of embargo, until it should effect, if possible, the proposed object, and, as I believe, at all hazard. The evidence of this intention, I gather not only from the subsequent perseverance in this system—in spite of the cries of distress heard in one quarter of the Union, and the dangers, not to be concealed, resulting from an adherence to it—but, from the very tenor of the law; from its original form and feature. If this had been, as it was asserted by Administration, originally a measure of precaution only, there was every reason why it should be limited, and none why its duration should be unlimited. A limited embargo was conformable to precedent, in this country. It was conformable to practice,

in others. There was less question of its Constitutionality; and, certainly, much less reason to be jealous of it as a transfer of power to the Executive. The question of precaution having reference to the interests of the merchant, and of the other classes of the community, was, naturally, one which the members of this House, emanating directly from the people, were best qualified to decide, and was the last which they ought, or would, in such case, have submitted to the entire control of another branch of the Legislature. But as, notwithstanding assertions, it was, in fact, a measure of coercion, a very different principle operated in its formation. It was to be used as a weapon against Great Britain. If drawn against her, it was necessary to be put into such a situation as most certainly to effect its purpose. If drawn it was not to be sheathed, until this had been done, or, until it had reached the marrow and vitals of the enemy. But, with such a purpose, a limited embargo would have been a nerveless weapon. At every term of its limitation, it would have been under the control of this House; a body deeply responsible to the people, liable intimately to be affected by their feelings and passions. These would have immediately operated upon this House, which never could have been brought to continue the measure one moment longer than it was for the interest, and consentaneous to the wishes of the mass of their fellow-citizens. But, if the intention was to keep, if possible, these restrictions upon the people until they effected their object, at all hazards, then no other course could be adopted but that of an unlimited embargo. The whole commercial power given to us by the Constitution was thus transferred, absolutely, to the President and twelve men in the other branch of the Legislature—men, from their situation and their tenure of office, not so likely to be affected by the interests of the people, or so able to sympathize with them as the members of this House. If it were intended, then, to keep this instrument of coercion aloof from the influence of the people, so that it might be maintained long after they had ceased to approbate it; this was the only course which could be adopted. This House could not be trusted with the power of re-enacting it. The weapon would be shortened and weakened, if it remained in our control. But, in the exclusive possession of the President and twelve men, its whole force might be wielded with the greatest possible efficacy. It is from this feature of the embargo law, reconcileable to no other intention than to persevere in it, aloof from the people's sufferings, until it had effected, if possible, its object, as well as from the actual obstinacy of adherence, after the most manifest symptoms of discontent in the commercial States, that I draw the conclusion that such was the original determination of Administration. And not only so, but I am perfectly of opinion that such is still their intention, and that, if the people will bear it, this embargo will be continued, not only until next May, but until next September. Yes, sir, to next May twelve months. Having this conviction, a sense of duty obliges me to declare it and thus to state the reasons of it.

I come now to my third position. Not only that embargo was resorted to as a means of coercion, but that, from the first, it was never intended by Administration to do anything else effectual, for the support of our maritime rights. Sir I am sick, sick to loathing, of this eternal clamor of "war, war, war," which has been kept up, almost incessantly on this floor, now for more than two years. Sir, if I can help it, the old women of this country shall not be frightened in this way any longer. I have been, a long time, a close observer of what has been done and said by the majority of this House, and for one, I am satisfied that no insult, however gross, offered to us by either France or Great Britain, could force this majority into the declaration of war. To use a strong, but common expression, it could not be kicked into such a declaration by either nation. Letters are read from the British Minister. Passions are excited by his sarcasms. Men get up and recapitulate insults. They rise and exclaim, "perfidy," "robbery," "falsehood," "murder."

"Unpacking hearts with words,
And fall a cursing, like a very drab, a scullion!"

Sir, is this the way to maintain national honor or dignity? Is it the way to respect abroad or at home? Is the perpetual recapitulation of wrongs the ready path to redress, or even the means to keep alive a just sense of them in our minds? Are those sensibilities likely to remain for a long time very keen, which are kept constantly under the lash of the tongue?

The grounds on which I conclude that it was the intention of Administration to do nothing else effectual in support of our maritime rights, are these: that, if it had ever been contemplated to fight for them, less would have been said about war, and more preparation made for it. The observation is common, and just as true of collective bodies of men as of individuals, that those fight the best who make the least noise upon the subject. The man of determined character shows his strength in his muscles, in the attitude he assumes, in the dignified position in which he places himself. Just so is it with men determined to maintain the rights and honor of the nation. They consider the nature of the exigency, the power of the nation with which they are likely to involve their country—what preparations are necessary to its ultimate success. They do not content themselves with evaporating words of passion. They look to the end, and devise and put in train such means as are suited to a safe and honorable issue. This conduct speaks more terribly than any words to the fears of foreign nations. And as to our citizens, they find in it an assurance which can be given them by no enumeration of wrongs, however accurate or eloquent. But it is not merely by what has been said, but by what has been done, that my mind is satisfied that Administration never seriously contemplated a war with any nation under heaven. That all this clamor so ostentatiously raised,

and all this detail of the horrors of war, are nothing else than the machinery by which it is intended to keep this people quiet, through apprehension of a worse state, under their most oppressive evil, the embargo. We have been told, from Divine authority, "by their deeds, ye shall know them." The rule is just as true in relation to professors in politics, as to professors in religion. I ask, sir, what has this majority done during the two years past, in every moment of which the people have been kept under almost a daily anticipation of war, towards an effectual maintenance of their rights? Why; we have built 170 gunboats. We have in requisition one hundred thousand militia. Are either of these intended to fight Great Britain, or competent to maintain our maritime rights? But, we have an army of five thousand men. And how have you appointed officers to that army? Have you done it in a manner to create that sentiment of unanimity so necessary to be inspired, if your intention be to fight, seriously, a foreign enemy? In the last session, when the proposal to raise that army was before the House, no cry was so universal as that of union. Well, sir; and how did those gentlemen, whose sentiments usually coincide with mine, act upon that occasion? Did we make a party question of it? No. It was supported, very generally, by us. Now, upon what principle have you conducted in your appointment of officers to that army? As though you wished to unite every heart and hand in the nation in opposition to a foreign enemy? No. But as though you had no other project than to reward political adherents, or to enforce the embargo laws. I mean not, unjustly, to charge any member of the Administration; but, I am obliged to state that I have satisfactory evidence to my mind, that it has been established as a principle by the Secretary at War, not to appoint any man to a command in that army who was not an open partisan of the existing Administration. If I am in an error, appoint a committee of inquiry, and I will be the happiest, if it be proved, to acknowledge it. [Mr. Love asked if Mr. Quincy was in order? Mr. Speaker conceived he was not.] Mr. Q. continued: I am performing what I deem a great duty, and, if the connexion between this topic and the subject before the House be denied. I am prepared to establish it. I am contending that if the purpose, for which this army was raised, were to meet a foreign enemy, this principle would never have been adopted in the appointment of officers. I do not believe the fact I state will be denied; but, if it should be, it is easily to be ascertained by comparing the applications for appointments to those offices, with the list of those appointments. Now, sir, if the intention were to unite the nation, as one man, against a foreign enemy, is not this the last policy which any Administration ought ever to have adopted? Of all engines, is not a party army the most dreadful and detestable? Is it not the most likely to awaken suspicion, and to sow discontent rather than concord? This is one reason on which I rest my opinion that it was not the intention to go to war, or they would have adopted a principle more harmonizing in relation to the organization of that army.

Again, sir, you talk of going to war against Great Britain, with, I believe, only one frigate, and five sloops of war, in commission! And yet you have not the resolution to meet the expense of the paltry, little navy, which is rotting in the Potomac. Already we have heard it rung on this floor, that if we fit out that little navy our Treasury will be emptied. If you had ever a serious intention of going to war, would you have frittered down the resources of this nation, in the manner we witness? You go to war, with all the revenue to be derived from commerce annihilated; and possessing no other resource than loans or direct or other internal taxes? You! a party that rose into power by declaiming against direct taxes and loans? Do you hope to make the people of this country, much more foreign nations, believe that such is your intention when you have reduced your revenue to such a condition? [Mr. G. W. Campbell asked the gentleman, if he could tell how much money there was now in the Treasury. Mr. Quincy continued.] My memory has not, at present at command the precise sum, but perhaps twelve or thirteen millions of dollars charged with the expenses and appropriations for the year. But what is this? Make any material preparation for such a war, as you must wage, if you engage with either of the European Powers, and your whole Treasury is exhausted. I am not now examining the present state of our finances. But I would address myself to men of sense, and ask them to examine the adequacy of our revenues, in their future product, to the inevitable exigencies of war. Sir, you have no other resources, commerce being gone, than loans or internal taxes. Great Britain and France know this fact as well as you. Nothing can be conducted in such a country as ours, without public notoriety. The general resources of our country are as well known in Europe as they are here. But we are about to raise an army of fifty thousand volunteers. For what purpose? I have heard gentlemen say "we can invade Canada." But, sir, does not all the world, as well as you, know that Great Britain holds, as it were, a pledge for Canada? And one sufficient to induce you to refrain from such a project, when you begin seriously to weigh all the consequences of such invasion? I mean that pledge which results from the defenceless state of your seaport towns. For what purpose would you attack Canada.? For territory? No. You have enough of that. Do you want citizen refugees? No. You would be willing to dispense with them. Do you want plunder? This is the only hope an invasion of Canada can offer you. And is it not very doubtful whether she could not, in one month, destroy more property on your seaboard, than you can acquire by the most successful invasion of that Province? Sir, in this state of things, I cannot hear such perpetual outcries about war, without declaring my opinion concerning them.

When I say, sir, that this Administration could

not be induced into a war, I mean by its own self-motion. War may—I will not assert that it will not come. But such a state, Administration do not contemplate, nor are they prepared for it. On the contrary, I do believe that the very tendency of all imbecile measures is to bring on the very event their advisers deprecate. Well did the gentleman from Georgia (Mr. TROUP) warn you the other day, not to get into war. He told you it was the design of the Federalists to lead you into that state, in order that they might get your places. Now I agree with the gentleman, that if, by your measures, you get this country into a war, that you will lose your places. But I do not agree that in such case the Federalists would get them. No, sir. The course of affairs, in popular revolutions, proceeds not from bad to better, but from bad to worse. After Condorcet and Brissot, came Danton and Robespierre. Well may gentlemen dread, on account of their places, being involved in war. For let the people once begin to look on the state of the country, with that anxiety which the actual perception of present danger never fails to awaken; let them realize the exigencies, which that state involves, and compare with them your preparations for it; let them see an army, in which perhaps a full half of your citizens cannot confide; a small navy, rendered less by natural decay, and even the few ships we have, not in a state to give battle; our Treasury exhausted, as it will soon be, and all the ordinary sources of commercial supply dried away; and they will hurl you from your seats, with as a little remorse, with as much indifference, as a mischievous boy would slight so many blind and trembling kittens, six to a litter, into a horse-pond. Yes, sir, be assured that war is the termination of your political power, unless you have prescience to prepare an effectual force, worthy of this nation, worthy of either adversary you may elect to engage. But, remember, you must rely upon something else than the paltry surpluses of your Treasury, which, in fact, in one year will not exist; upon something else than loans or direct taxes.

This bill, I consider as a continuation of the same deception as to the motive, as that which operated in the passage of the original embargo law. If we pass it, I fear we shall again be instrumental in deceiving this people. The effect of this bill, whatever may be its avowed design, is calculated to soothe the people, impatient under the embargo, until the spring elections are passed, and until the first session of the State Legislatures are finished. By a new session of the next Congress, in May, the people are to be led to hope that next May will bring them relief. But let the embargo be kept on until May, and as the honorable gentleman from North Carolina (Mr. MACON) told you, very ingenuously, it will then be found necessary to keep it on until September; and perhaps for another year. This is the keystone of the whole policy of this bill, as I apprehend. If it be your real intention to remove this embargo after May, why do you not adopt a provision similar to that proposed the other day, by the gentleman from Connecticut (Mr. STURGES) and annex it to this bill? Why not limit the continuance of the embargo law, until next June? And thereby leave the new Congress free, relative to this measure, from the power of the Executive. Give the people a pledge that the embargo shall be removed at a limited time. At least, put it into the power of your successors, by refusing to re-enact the law, to control the Executive's will. This pledge the people have a right to claim, if it be your real purpose to abandon the measure after May. If, however, this be not your policy, avow your intentions. Tell the people at once, that it is a power of coercion, in which you mean to persevere, until it has effected its object. Show them the reasons on which you rely that it will be successful. Perhaps they will consent to endure it. But with the present state of things they cannot, they ought not to be satisfied. At least get back, by limiting the present law, your commercial power, which you have absolutely surrendered to the President and twelve men. Permit your successors to be as independent of the Executive, in continuing this system, as you were when you consented to adopt it.

The only consistent advocates of the embargo system are such gentlemen as those from North and South Carolina, (Messrs. MACON and D. R. WILLIAMS.) and they are opposed to this bill. They tell you that this is an effectual weapon against Great Britain, and believing this, as they do, they say truly that a session in May will evidence timidity, and defeat the effect of the weapon. You ought to take one or the other ground decidedly. Either you still confide in its efficacy, or you begin to doubt of it. If the former, show your confidence to be rational, and leave the weapon to have its full operation, not unnerved by the hope of a May session. If the latter, either repeal it instantly, or give the people an assurance that it will be done in May. The course you are pursuing has no other tendency than to excite suspicions, to agitate and embarrass.

I ask gentlemen to consider what will be their situation in May. Will you be in a better condition to go to war then, than you are now? No. You will be in a worse. You will be more embarrassed—you will have less revenue. You will have more discontent. Your efficient force will not be materially greater. Will you have more encouragement then to strike at the Canadas than exists at present; and what other point of attack have you on Great Britain? Will you be a whit more inclined in May or June to remove the embargo than you are at this moment? No. It will be stepping back then just as it is now. That dreadful thought will be, I fear, sufficient to induce then as now adherence to the measure six months longer. And, after abundance of war speeches, Congress will rise and leave that measure bending down the people until next December.

Sir, these are the general reasons which I have to urge against the adoption of this bill. In what I have said my only view has been to exhibit to

this House and nation the real motives which, as I apprehend, caused the original imposition of the embargo, and which still operate in support of this bill. I do not believe that it is the intention of a majority of this House, at present, to continue this system after May. But I do believe that it is the intention of Administration. My design has been to recall the recollection of gentlemen to the difference between the arguments now urged for its continuance, and the official reasons at first given for its adoption. And I would warn them that if they mean to gain credit with the people for the intention of repealing the embargo in May, they will not obtain it, if they leave the next Congress at the mercy of the Executive, by rising without affixing some limitation to it.

Mr. EPPES said that he had no hope, at this late hour of the day, after the House had been so long amused with an eloquent oration, abounding with tropes, figures, and well turned periods, that he could offer anything calculated to interest or amuse them. I cannot, however, said he, suppress the sentiment I feel at hearing a gentleman, in the present situation of his country, attempt to place in a degraded point of view the resources of the nation, and level exclusively at the Administration of his own Government, that asperity which ought to be confined to the belligerent nations. To a man who knew nothing of the foreign relations of this country, it would appear, from the speech of the gentleman from Massachusetts, that peace, prosperity, and every other blessing, would attend the removal of the embargo. No person, from his speech, could suppose that the sovereignty and independence of this nation was in danger from the atrocious and unprincipled conduct of foreign nations. The embargo is the cause of all our difficulties! Nothing but a removal of the embargo is necessary to re-establish the unrivalled prosperity of the nation! This measure is represented as having originated in political deception; as having been supported on grounds not only extraordinary but unprincipled. Even the present bill is represented as a new species of political deception, intended to deceive and mislead the people. The speech of the gentleman himself is nothing more than political delusion; an old story dressed up in a new garb, and ushered into the world at the present moment, for the purpose of meeting the present state of things in Massachusetts. It is intended to produce an effect on the Legislature of that State, and on the approaching elections. The speech is certainly not made on the bill before the House. It can have no object but to increase the irritation already produced in that portion of the Union by misrepresentations. The gentleman has said, I am sick to loathing, at hearing the constant cry of war, war, war. I, said Mr. E., am sick to loathing, at hearing the constant cry of embargo, embargo, embargo. I am sick to loathing, when I find a representative of this nation callous to the wrongs of his country; when I hear him holding out to foreign nations the idea that we cannot be driven into war; that we are incapable of making it. What has the gentleman told you? you cannot carry the nation into war; you have neither resources nor men; will this country resort to direct taxes or loans? Will the party that came into power by opposing direct taxes and loans, resort to them? They cannot; whenever they do they must go out. It was neither direct taxes or loans, which lost to the Federal party the confidence of the people. The prodigal expenditure of public money, which produced the necessity of taxes and loans, deprived them of the public confidence. The Republican party came in as the friends of a proper and a niggardly system of economy; on the ground of attachment to the rights of the nation individually and collectively; neither the people or the party will shrink from that species of expense which is necessary to maintain the independence and rights of the nation. That species of niggardly economy, which could put money in competition with the independence of the nation, I for one disclaim. It would be disclaimed by the whole of the Republican party. By a judicious management of our funds we have acquired credit, that is equal to our wants; we can command without difficulty and without taxes, whatever sum may be necessary to assert and maintain our rights; when the period of difficulty shall have passed, it can be discharged honestly, as our debts heretofore contracted have been, without new taxes or burdens on the people. We possess a credit superior to that of any other nation, and we deserve it. The gentleman, in speaking of his political opponents, has said, by their deeds shall you know them. Apply this principle to the ground taken by the gentleman. Will you, says he, with 170 gunboats fight Great Britain? Will you march into Canada and take possession of her territories? They have it in their power to punish your rashness; they will destroy your seaport towns. This is the language of an American Representative, when this nation is assailed by foreign danger; make war, and punishment awaits you; you have no army; no effective militia; no resources; you mean not to assert the rights of the nation; your object is political deception. These observations are not less extraordinary than the ground on which the gentleman attempts to convince the people, that we have no intention to maintain their rights by any course but the embargo. The army, he has told you, has been officered exclusively by persons of a particular political sentiment. This he considers as a proof that the army is not intended to fight foreign nations; he has understood from authority, which he cannot doubt, that no Federalist was to be appointed to the new army; that this was a correct principle, I have no doubt. The old army is almost exclusively officered by Federalists; the appointment of Republicans exclusively to the new one, will still leave to the Federalists more than their relative share of these appointments. Even if this was not the case, I should consider the principle correct. I have never on this subject disguised my sentiments; I ever have been, and I ever will be, opposed to the appointment of Federalists.

But, sir, the gentleman has told us you have

not even spirit enough to fit out and send to sea your navy, reduced as it is. Does the gentleman mean to rest the rights of the nation on the frigates and public armed vessels? Does he expect that, with our naval force, our rights can be maintained on the ocean against Great Britain? I should despair, indeed, if, on this element alone, Great Britain was to be assailed, and with this force. Her commerce, in the event of war, must be assailed by employing our commercial capital in privateering. We are capable of assailing her in this way in every place where her canvass floats. It will afford an honorable and profitable occupation to our seamen; it will be a field to exercise their courage, enterprise, and patriotism. It is in our power, if war shall be resorted to, to assail with effect her possessions near us; to cut off this resource for the supply of her islands; to increase the distance between us, and destroy the pretext for her armed vessels hovering on our coasts; to prevent, in future, the disgrace of being insulted in our ports; of having her officers enjoying hospitality in our ports at night, and going out the next morning to rob and murder our citizens. We can take possession of her territories here, and, if future events shall justify that course, we can take possession of the Floridas also, and prevent the danger of future collision with foreign nations. The gentleman from Massachusetts has brought into this discussion what he calls the reasons for laying the embargo, and has attempted to show that the real grounds of the measure have not been avowed by the Administration. He draws this conclusion from the arguments used on this floor in support of the measure. 1. That it would preserve our commercial capital. 2. That it would prevent immediate war. 3. That it would coerce Great Britain. 4. That it would have a good effect on Mr. Rose's negotiation. 5. That Bonaparte was asserting the maritime rights of the world, and that it would go in aid of that assertion. That the embargo did preserve from ruin our commercial capital, and that it did prevent war, are facts admitted by all unprejudiced men; that it produced great sensibility and alarm on the part of the British Ministry, we know. The inducement held out to our citizens to violate the laws of their country proves it. When did the British Ministry lose this sensibility? When it was discovered that, by means of their agents and subjects here, the law could be evaded. As to the operation of the embargo on the negotiation of Mr. Rose, this is entirely new to me. It is the first time I have ever heard this assigned as one of the grounds on which it was supported. As to the mission of Mr. Rose, it was a mere political juggle on the part of the British Ministry. It was intended to palsy the feeling of the nation as to the outrage on the Chesapeake; it produced that effect. The fifth ground, as to Bonaparte, I understand the gentleman from Massachusetts to have withdrawn. If the gentleman has withdrawn it, I will forbear to remark on it.

Mr. QUINCY explained, and said he withdrew it.

Mr. EPPES continued.—I am really glad the gentleman has done so. I should, indeed, have been sorry that any gentleman, who has a reputation to support, should have urged in a new form a charge so often refuted.

Mr. QUINCY did not know that it had been refuted.

Mr. EPPES called him to order, and proceeded. From the grounds taken, as the gentleman from Massachusetts informs us, in debate on the embargo, he infers that the Administration, in recommending the embargo as a precautionary measure, practised political deception. That it was intended by the Administration, first as a measure of coercion exclusively on Great Britain, secondly to keep it on at all hazards, and thirdly, to do nothing else. The gentleman tells us this measure was represented to the British Government as a precautionary measure only; that if it had been presented as a measure of coercion, negotiation would have been at an end. How does it happen that negotiation has totally failed notwithstanding the measure was presented to the view of the British Government as a precautionary measure only? Did the British Ministry possess information in which they had more confidence, tending to prove that this representation of the measure was only political deception? As to the second and third points, that the Administration was to adhere to the embargo at all hazards, and to do nothing else, it is a mere naked assertion, totally unsupported by the course which has been adopted. For what purpose did we, during the last session, raise troops? Why have we doubled our seamen and marines? Why have we made large appropriations for fortifications? For what purpose are we about to raise more troops? The gentleman says, to enforce the embargo at the point of the bayonet. All this preparation is designed only for enforcing the embargo. Really, I have too much respect for the understanding of the gentleman to believe that this is seriously his opinion. The gentleman has told us that those who talk most about fighting are least disposed for war. What are we to think of those who, in the present situation of their country, can find no theme on which to exercise their eloquence but the embargo? I cannot believe such men very zealous to maintain the rights of their country. Why does not the gentleman come forward and give us an exposition of the decrees and orders? Let him do this and give the people an opportunity of deciding whether the decrees and orders, or political deception and the embargo, produced our present distress and difficulties. What is the practical operation of these decrees and orders? A planter in Virginia wishes to send tobacco to the continent of Europe; what must he do? Send it first to a British port, pay a tax, and obtain a permission from His Majesty to ship his own produce. Suppose an inhabitant of the State of Massachusetts wishes to send fish to Spain, or to any other part of the continent of Europe? Why he must first go to a British port ask permission of His Majesty and pay for the permission. Will any gentleman venture to deny that this is the practical operation of the Orders

in Council? Will the gentleman from Massachusetts tell the people of this country they cannot, must not fight for this; that they have no resources? The gentleman from Massachusetts could not maintain this ground before the people in any portion of this country. The rankest Tory in our country would blush to take such ground. He would be scouted by honest men.

Mr. E. concluded with saying, that the general scope of the argument of the gentleman went to show that the embargo was to be a permanent measure. Conscious that such a view was entirely erroneous, calculated to deceive and mislead the people, he had obeyed the impulse of his feelings, and confined his observations to the speech of the gentleman instead of discussing the bill before the House.

Mr. J. G. JACKSON, after a few words in explanation to Mr. D. R. WILLIAMS on the subject of an extraordinary mission, said the gentleman had urged that such a measure (an extraordinary mission) would give a refutation to the calumny now circulating that the Administration was not ardently desirous of peace. Has it not been denied, said Mr. J., notwithstanding the official documents to the contrary, that no proposition to suspend the embargo has been officially made to Great Britain? When men have the hardihood to say these things, is it not in vain to attempt to induce them to believe anything? If one arose from the dead, they would not believe. A stronger illustration of this appears in the conduct of the member from Massachusetts (Mr. QUINCY;) and in passing from the gentleman from South Carolina, to whose patriotism and honorable sense of what is due to his country, I cannot but testify my respect, it is with extreme regret that I turn to another quarter, which, in every point of view, presents the direct reverse of his character. The gentleman from Massachusetts (Mr. QUINCY) sat out by declaring that the object of Congress was to continue the embargo, and to induce the people to bear with it, under a belief that measures would be adopted which the House had not in contemplation. Are we to infer from the gentleman's speech, sir, that he feels great hostility to the adoption of any measure which shall diminish the public sensibility? If any inference can be drawn from his language, it is irresistible that he would be mortified if any measure should be adopted which would allay the fermentation which such speeches and such men have produced. The gentleman says a great crisis is about to take place, and by deceiving the people, by passing this bill, it is intended to prevent it. What does this crisis mean, sir? Hostility to the laws. Have we not heard from gentlemen (Mr. LLOYD it is supposed) living in the quarter from which the member comes, that the fermentations will be manifested there first by the public meetings, next by resolutions of the State Legislature, and lastly by taking some undefined course to resist the laws? And is averting such a crisis as this the effect which the gentleman so much deprecates? Is it because it has a tendency to avert such calamities, that he is against it? Would he be delighted with all the horrors which disunion and civil war can produce? If we are to infer anything from the observations of the gentleman, it is that such a state of things would be most pleasing to him. He says this House has acted under a deception as to the motives with which the embargo was laid. This is, to say the least of it, not very courtly language; and if I animadvert on it in a style which may not be pleasing to the gentleman, he must charge it to himself. Does he mean to convey an idea that the members of this House are the dupes of Executive or any other influence? That they are to be gulled by misinterpretations of the Executive views? The imputation is unworthy of the gentleman. He may be the victim of the prejudices and views of his own party, though I should least suspect him of being duped by them, who appears to be one of their leaders. I trust that this House will always act according to its own sense of propriety; and I know it is without reason that the insinuation is made that we wish to deceive the people. It is the gentleman and his friends that deceive them. Has anything been concealed from the people? Have we not always explicitly declared what our views and intentions were? The whole tenor of the conduct of this Administration pronounces emphatically the character of falsehood on the assertion. This political deception, which the gentleman imagines we have acted under, only exists in the heated imagination of an infuriated partisan, disposed to sacrifice everything to attain his object.

The ostensible motives for laying the embargo were the real ones; there was never any inconsistency between the real and alleged motives. And I will here observe, that I make a wide distinction between the motives which lead to the adoption of a measure, and those which require its continuance. They were purely precautionary in the first instance. The reasons avowed by its friends for the passage of the embargo, originally, he asserts, were to preserve our seamen and vessels—to frighten Mr. Rose—to compel Great Britain to yield to the coalesced Powers—to join the coalition against England—to do something, not knowing what—whilst it seems that others, though but few, might have calculated upon its effect on France. And, upon this ground, the gentlemen charges the Administration with duplicity. Look at the facts assumed by him, and see whether they exist in reality, or, if they do, whether they warrant the inferences drawn from them. One ground, he says, was to preserve our seamen and vessels. This is undoubtedly correct. Another ground, he asserts, was to frighten Mr. Rose. Was that a moving consideration? Certainly not, sir. I will not credit it, unless I hear it from a source more entitled to credit. Every man must know, that ever heard anything of British diplomacy, that their Ministers, when they leave home, come handcuffed, manacled, and tongue-tied with instructions, which they cannot shape conformably to posterior circumstances. In illustration of this, I recollect an anecdote of a British Minister at Paris, who, being asked to go to the theatre,

declined the invitation, alleging the necessity of waiting until he could dispatch a courier to London to obtain leave from his Government. No one entertained so futile an idea, as that Mr. Rose would be frightened with the embargo. That ground, therefore, is incorrect.

Another motive assigned, the gentleman says, was, that it would compel Great Britain to yield. Some gentlemen have taken the ground, sir, (and I believe it to be correct,) that Great Britain will be materially operated on by withdrawing from her the supplies necessary for her subsistence, and the raw materials indispensable to her manufactories. But, because this calculation has entered into the arguments for the continuance of the embargo, is it to be asserted that it was a principal motive for the original imposition of that measure? The members who voted for the embargo saw that our property and resources were involved in irretrievable ruin, unless they were snatched from the danger. It is the course of wisdom to observe precaution; and, in doing so, it is not necessary to inquire into the latent consequences, but merely into the immediate effects, of the measure. And they were not to be deterred from it by an idea that it might affect the nations which had compelled us to adopt it.

Another object of this measure, he alleges, was to coalesce with France in resisting the British Orders in Council. How does this comport with the assertion that we did not know of the orders when the embargo was laid? The two assertions are at variance; they will not hold together; they are not consistent with each other, and neither of them is consistent with truth; because the existence of the orders was so well known that the substance of them was given in a paper in this city (the National Intelligencer) on the 18th of December, expounding the intention of them more effectually than any man could do from their context; for, as Mr. Baring said, on the floor of the House of Commons, "For a guinea, any English lawyer would give opposite opinions on its clauses, so capable were they of misconstruction." The imputation, as a motive for the embargo, of an intention to join the coalition against France, is a most dastardly attack on the majority, and on the Administration. They do not hold a language official, and a language confidential. This nation would not have so long been blind to it, had such a time-serving policy guided its actions. We have too much reliance on the good sense of the people to support ourselves on imposture—on a flagitious dereliction of principle. If we were to unite with France or any other nation, it would, I hope, be done in the face of the world. Were it to be attempted clandestinely, I should be the last to follow in the wake.

How have subsequent events justified this charge? Why, sir, a proposition was made to England to take sides with her against France, to repeal the embargo in relation to her, if she would repeal her Orders in Council, so far as they affected us. And what would be the direct result of such a measure if France persisted in her decrees? Hostilities against France and alliance with Great Britain—allowing the latter all the benefit of our trade, and cutting off all communication with her enemy. The idea does not comport with the fact; and no man who will give his judgment time to operate on his passions will dare to hazard such an assertion.

But there were others, the gentleman says, who wished to do something and did not know what, and therefore voted for the embargo. Is this amongst the charges brought forward to prove that a language official and a language confidential has been held by the Administration? This class of men cannot be aiding in the deception the gentleman speaks of; for men too ignorant to understand, must be too weak to be trusted with the designs of those who wish to use them. Is the Executive responsible for the motives of every man on this floor, who chanced to vote in conformity with his recommendation? The supposition is derogatory to the character of the people, and the expression of it is an intolerable insult. We act from our own impulse alone, sir; and there cannot be a stronger illustration of this fact than the vote the other day on the subject of the Navy, when the House is so equally divided; and the gentleman's political friends divided too on the question in the first instance; however, after they had permitted their passions to cool, in a day or two, they wheeled about and advocated the bill. I voted throughout on the same side, although I almost distrusted my judgment from finding myself in such bad company. The votes on this bill, I say, prove the futility of the idea that the Executive is responsible for the acts of the majority or their arguments.

I have now very cursorily noticed the gentleman's proofs in support of his charges. If fully examined, they would prove to be *vox et preterea nihil*.

He also says that it was determined by the Administration to keep on the embargo, and to do nothing else effectual. Sir, the acts of the Government prove that it was resolved to take grounds which would enable it to resist the attacks which might be made on us. A million of dollars was appropriated for fortifications at the last session, a much larger sum than was ever appropriated at any one time before; in addition to this, appropriations for gunboats, men, &c., were made. How is the assertion that the embargo was intended to be permanent, justified? If that had been the design of the Administration, would not the instructions given to our Ministers immediately after the adjournment of Congress have been of a very different nature? Four days only had elapsed after the adjournment, before the President manifested a prompt attention to the subject, and a determination to avail himself of the authority vested in him by law. Are we to be told after this, sir, that the embargo was intended to be a permanent measure? That it was to be continued as a means of coercion, and of coercion only? No, sir; for this proposition, the rejection of which stamps on the British Government the crime of insincerity, was made immediately after Congress rose. Need I read the

instructions and the formal offer made in consequence of them? Every one has seen both. And I will again tell the gentleman from South Carolina (Mr. D. R. WILLIAMS) that he cannot expect to convince the misguided people of this country, who are worked upon by partisans, after an attempt has been made in the face of the documents to prove that it was an inofficial proposition made by our Minister in London, and which the British Government did not accept of, because it might implicate the Minister with his Government, for doing an act which he was not authorized to do.

Mr. J. G. JACKSON here giving way for the purpose, a motion was made to adjourn, and carried.

FRIDAY, January 20.

EXTRA SESSION.

The House resumed the consideration of the bill to alter the time for the next meeting of Congress: Whereupon, the motion made yesterday by Mr. DAVID R. WILLIAMS, to amend the bill by striking out the words "fourth Monday of May," which was depending at the time of adjournment, was renewed.

Mr. J. G. JACKSON resumed his observations. After discussing the circumstances urged by the gentleman as tending to prove that the Administration has been guilty of inconsistency, which I noticed yesterday, and which I trust it was unnecessary for me to have noticed, because the acts of the Executive stamp on the assertion its proper character, the gentleman from Massachusetts says that he collected his idea that the ostensible were not the real causes of the embargo, from the difference of the language held here and in Great Britain, where it was required that it should not be considered as a measure of hostility; that such a threat as we now utter would be laying a naked sword upon the table when making our proposition, and would have been rejected with disdain, had not duplicity characterized the conduct of the Government towards that nation. It never has been supported on this floor as a hostile measure, but as a precautionary and coercive one; and cannot the gentleman distinguish between hostility and coercion? Was the non-importation law considered as a hostile act? No, sir; yet it was enacted as a coercive or restrictive measure. But no man, except one whose imagination has misled his judgment, can conceive that the embargo was a hostile act. It was never supported as one, and on that ground, if on no other, the gentleman's premises are uprooted, and his whole superstructure overturned. *Now* the gentleman says the language is different. I have shown that the language is not different. But if it were, it would prove that there was no preconcert in the thing, and would falsify one of the gentleman's charges, viz: that there was a design to foist this measure upon the public, under auspices different from those avowed. The embargo may be continued for one cause, though it was not laid for that cause; and because some gentlemen say that it will have a coercive effect, does it follow that it was laid for that purpose alone? Certainly not; its adoption may be for one motive, and its continuance for another, and yet gentlemen advocating both be perfectly consistent. I think it would be monstrous to make the gentleman's party responsible for everything he says, and not more so to make him responsible for all that is said on his side of the question. It cannot be that the Executive is responsible for what I say to-day, or what I said yesterday, or for what any gentleman on the same side with myself may have said at any time whatever. Why, then, urge the language used on this floor as certain proofs? All the positive good which the embargo had in contemplation it is said has been attained, viz: the preserving our ships and seamen from capture. If removed without substituting any other measure, what would be the necessary consequence? All would be let loose to destruction. And is this the policy which ought to characterize the measures of this nation? If this act, against which all the arguments and artillery of gentlemen are pointed, was to be removed without a substitute, the inevitable effect would be, that we must either submit to trade as the edicts of the belligerents direct, or have our property captured.

But the gentleman says, that a "language official and a language confidential" have been held. This is not a new charge, sir. The gentleman has not even the credit of inventing it. It has been often made without a shadow of truth. The gentleman has not attempted to substantiate it. Let him show wherein it is true; he is defied to do so.

But it seems that it is intended to keep on this embargo system, until it is effectual, at all hazards. How does he support his assertion, sir? Not by the language of any gentleman here; for no gentleman, however enthusiastic in its favor, has ventured so to support it. If the language used on this floor be good for one purpose, it is good for another. If it be good to prove that the secret motives of the Executive in recommending the embargo were different from the avowed one, it must be good to prove the contrary of the gentleman's assertions. Does he mean to charge the members of the House with duplicity? I presume not. Well, sir, have not gentlemen of the majority on this floor admitted that the embargo cannot, and ought not to be persisted in, for any great length of time? It would heretofore have had its effect, but for the villany of the dishonest part of the community, as was properly observed by the gentleman from North Carolina, (Mr. MACON,) who is one of its most strenuous advocates, and he limits its duration to September as the longest practicable time. The majority, however, generally say, that the embargo will have had its effect by May or June next. The gentleman says, if it were intended as a precautionary measure only—if it was not to be perpetual—it ought to have been limited in its operation to a given day; and that the House by negativing a proposition to that effect, had declared that they would keep it on. If it were

limited, it would afford a premium to our enemies to persevere until that time, and an opportunity to men like the gentleman from Massachusetts to defeat all our measures. The gentleman from Massachusetts has made half a dozen speeches at this session of the same tenor with that of yesterday, and the omission to notice them has been more from a desire to get on with the public business, than a wish to avoid the weight of his arguments, which he says we wince from. Yes, sir, its limitation would have been a premium to our enemy to hold on, and men like him, to prevent a substitute; and our commerce, when let loose, would have been swept from the ocean by the great "bulwark," which protects us from the gigantic power of France. But, says the gentlemen, "By their deeds shall ye know them;" and in the same breath tells us, that the majority of the House could not be *kicked* into a war. Apply this maxim to the gentleman from Massachusetts. I feel reluctant to express my sentiments on this subject. If I did, I would say that the conduct of the gentleman induces a belief that he would be delighted to see the Constitution burned at the point of the bayonet, and the Union torn asunder by civil dissension. By their deeds shall ye know them; is it fair, then, to judge of gentlemen by their defamatory speeches and disorganizing sentiments? The House cannot be *kicked* into a war! Is this language fit for the Representative Chamber of this nation? He demands what was the motive for raising the Army of last session. If the gentleman will recur to the speeches on this subject, he will find an able elucidation of the causes for it, made by a gentleman from Kentucky, (Mr. HOWARD,) who is not often in the habit of delivering his sentiments on this floor. The causes for it were found in the situation of the Western country; in the great extent of our frontier, covered with savages, amongst whom British agents had been stirring up dissatisfaction, with the hope of inducing them to take up the tomahawk and sacrifice our brethren; they were found in the necessity of garrisoning our posts on the frontier, and a thousand other considerations. The motive then was good, and ample cause existed for raising this force. But we are told that if war abroad had been contemplated, the Army would not have been officered as it has been. Does the gentleman mean to reflect on the bravery of the men appointed to command, or to presume that they will not maintain the rights of this country as bravely as his political friends? I cannot conceive for what other purpose the insinuation was made. I can answer the gentleman why I conceive that it ought to have been officered as it was. If, in this time of great peril, gentlemen will maintain an hostility against the Administration and laws of their country in the manner in which the gentleman from Massachusetts does, they deserve not the confidence of the Government. I would as soon desire his Britannic Majesty to send over some of his liege subjects to command our army.

But the gentleman says that this House has not even spirit enough to fit out our little navy. The answer to this I leave to some one in the majority; for I was unfortunate enough to be in the minority. As to *spirit*, sir, there are many individuals in that majority who would make him shrink from the contest until pale fear divested him of the lion's skin with which he adorns himself. He says we have sacrificed our revenue. Let loose our ships to-morrow, and our vessels and seamen sail to certain ruin, to conflagration on the one hand, and confiscation on the other. It will be impossible then to avoid capture. And will this state of things fill the coffers of the country? We are told, however, that Great Britain holds a pledge in the defenceless state of our seaport towns for any damage we can do to her, if we go to war. Is it not a fair inference from the arguments of the gentleman that he would therefore recommend a base and dishonorable submission? Certainly it is, because it tends to this: that we cannot raise a force competent to cope with the gigantic power of Great Britain.

But, sir, we are told that we have a partisan army. And what kind of an army should we have? Would you have our lukewarm, indifferent, or deadly foes hoisted into office, looking for the downfall of those who appoint them? Are these the men to be employed? Surely not, sir. What kind of an army had we in the Revolution? Was not that a party army—a band of patriots? When we have war, sir, it ought to be carried on by such partisan soldiers. I have no idea of confiding the defence of this nation to men who merely hire themselves to be shot at. With such men I would not risk the destinies of the nation. But we are told by the gentleman that we have no effective militia. Is this true, or is it a libel? My life on it, if the times demand it, the gentleman will find the militia strong enough to put down that gentleman and his Essex Junto faction. If they dare to rebel, as they have worse than insinuated, the militia of his own State would be more than adequate to all the purposes of putting down so puny a faction.

But, says the gentleman, the only object of this bill is to quiet the Legislatures of the several States, and to influence the Spring elections, to prevent resistance. This is not the first time that I have heard language on this floor, which in former times would be deemed treasonable. It is treason, sir. There is no such motive. If this people think proper to pursue any course, they will do so, and will not be turned aside from it, because factious demagogues cannot be quieted with office; and I have shown the impropriety of giving it to them. I should have no kind of objection, if things were driven to that excess, to let them excite rebellion, and have them punished as traitors.

If there was no deception in this thing, the gentleman says that the embargo would have been limited. If a limitation were now to be affixed to the duration of the embargo, and the member from Massachusetts alone was not deprived of the gift of speech, no measure would be substituted for the maintenance of our rights. He would day and night eke out the time until it was too late to substitute any measure. The gentleman wants a pledge from this corrupted House and Executive, who avow one thing and mean another, who sell their country to the usurper of Europe! What pledges can be valuable from such a source? Sir, the pledges of the sincerity and pacific disposition of the Administration may be found in the public documents. If they are not sufficient to satisfy the gentleman, the voice of an angel from Heaven would be of no avail. The amount of the gentleman's whole attempt was to prove that we were so base and corrupted as to be unworthy of credit. And if the embargo were limited now, he would tell the people that we are still false to them; that we are affrighted by "the light rising in the East," which is so soon "to break forth into the most perfect day." The gentleman would ride down that hobby-horse as he has rode down the other.

A day or two ago the gentleman remarked that we were reduced to a situation similar to that of the turbanned Turk or cross-kneed Frenchman; that we have confided the power of regulating commerce to the Executive, and ten or twelve Senators. Why did not the gentleman urge this wondrous argument against the resolution that we could not submit to the orders and decrees? For if we have no power to resist, it would have been a good argument against declaring that we would not submit. But I feel convinced that when the great interests of the country require it, whilst we have such men in our councils they will act in concert, whether to resist foreign aggressors or domestic insurgents. What would a stranger say at hearing the debate which has taken place on this question, if he had not previously been apprized of the subject before you? He could not have supposed that the House were discussing a proposition to meet at an earlier day than that fixed by the Constitution, but a resolution to impeach the Executive or a majority of the House. He could not have supposed otherwise from the gentleman's speech or from my answer to it, for I have followed him step by step. He rises, he tells you, in behalf of this people. If he is the champion of the people; if he is to be the sentinel to sound the tocsin of alarm from the Constitutional watch-tower, God help this people. He was silent as to the letter published the other day by the British Government; this he might have said, in the spirit of this proposition, is evidence of the propriety of changing our measures. An appeal has been made by the British Government to the people of this country. Need I say, sir, that no persons had copies of this paper but our Government, the British Government, our Minister there, and their Minister here? Our Government has not caused the publication; theirs must have done it. And the gentleman might have said, inasmuch as it was an attempt to react the scenes of Genet, it was necessary that the Legislature should be in session to counteract it. Sir, what would have been his language if M. Champagny had published such a letter in such a way? Would he have been silent in that case? No, sir; my life on it, he would be among the first to maintain the rights and honor of the nation, which are thus insidiously assailed by the British Government. We ought to know how this letter became public; and if some gentleman whose age and experience would justify a proposition of that kind, were to rise in his place and ask that the Executive should be requested to ascertain in what manner it came into the public prints; and, if through the British Ministry, request that their Minister should be sent off, I should vote for it. The gentleman finds nothing to blame in the conduct of foreign nations, but, like a viper, turns and wounds the vitals of his own country, satisfied if he can only let loose the torrent of defamation, daily uttered in this House, contrary to every parliamentary rule, against an Executive, whose acts ought to have induced all his former enemies to say "he has disappointed our expectations, and proved himself the supporter of that Declaration of Independence which was given to the world from his pen." I pronounce it a cowardly abuse of the privileges of this House, of which I should never avail myself under any circumstances whatever, to cover with its shield attacks on the honor of the President in every way unjustifiable. If the President has been guilty of crimes let him be impeached, not accused, tried, and condemned by the same individual in the same breath. What would be said, and I beg the attention of the House to the similarity of the cases, if the Senate should be charged with such baseness by any member of the House. The Speaker would put him down. And what would be said if the President were to avail himself of the opportunity afforded by the press or his official messages to promulgate an attack on this House, accusing it of duplicity and subserviency to the views of a foreign Government? One universal display of indignation would manifest the feelings of the House; every member of it would rise at once to address you on the subject. And is the Executive on all occasions to be accused of the crime—a crime which would eternally disgrace any man—of being false to the people who have confided in him? This course is not less disgraceful or unparliamentary, than if we were to accuse the other House of similar conduct; and it is high time that a stop should be put to it.

But the gentleman said, sir, that he did not mean to charge the Executive with moral turpitude, but with political imposture. Is this the morality of the gentleman? Treason against the people is no crime! Such a doctrine, sir, is base and detestable. Does the gentleman act on this logic? Has he made it the basis on which the superstructure of his arguments is erected? Pardon me, sir, when I say that I fear he has. The highest crime in this nation is treason. The Constitution says it shall consist only in levying war, and adhering to our enemies. And even

this is but a *political* crime. What was the crime of Aaron Burr? He did not put any one to death; he only attempted to turn the arms of his deluded followers against the Government of his country; his objects were political merely. And this we are told is not an immoral act. Are these the steady habits of New England? I hope not. But the gentleman says he should be false to the people if he did not hold up his voice. In what does falsehood to the people consist? Is it not in uttering false accusations and false charges? In the days of Rome, Catiline stood forth avowedly the champion of the people. He sometimes aped the virtues and morality of Cato, and then played Catiline; for in all ages an affected passion for the rights of the people has been the pretext for committing the most abominable crimes.

The President has been accused on this floor of falsehood, also. I do not recollect whether it was in the gentleman's catalogue of "*political deception*" of yesterday. In the message at the close of the late session the President says: "The papers which I lay before you embrace all the communications written and verbal from the French Government, respecting the general relations between the two countries, which have been transmitted through our Minister there, or through any other accredited channel since the last session of Congress." Notwithstanding this solemn asseveration that the papers then communicated contained all the information he had received, gentlemen say that the President has asserted a falsehood; that a letter of December the first had been received, and justify the charge on a supposition arising from dates merely. Why, sir, it is no secret that this letter was delivered by the Minister to Mr. Patterson, and by him to Mr. Rittenhouse, at Amsterdam, and that gentleman did not reach this country until May, so that its receipt was subsequent to the adjournment of Congress. But if Mr. Armstrong were to swear to this, and Mr. Rittenhouse, the Secretary of State, and his chief clerk to affirm it, gentlemen would say it was all falsehood still; after daring to dispute the solemn assertion of the President, they would say it was merely a tale conjured up to meet circumstances. This letter, notwithstanding all the noise, gives no new light, adds no new information.

But, sir, we have been told that the President and Government have acted with duplicity; that they have connived at the idea of joining France in opposition to England; and a paragraph in the letter of Mr. Armstrong to Mr. Champagny, urging the rescinding of her edicts, is seized as proof, strong as holy writ, that the President has arranged a plan for uniting us with France. If the optics of the gentleman who made this assertion were as keen on one side as the other, if he were not as blind as the kittens alluded to by his friend from Massachusetts, he would find precisely the same language used in the communications to England. The same arguments were addressed to the understandings or interests of both.

Upon the whole, sir, I must conclude that the observations of the gentleman from Massachusetts (Mr. Quincy) were made for the purpose of alarming, distracting, and dividing this nation, of uprooting everything like social happiness. I will not suffer the mantle of charity longer to cover such men, the veil of deception should be pierced and torn off, that they may stand naked before this people covered only with disgrace—not shame. No, sir, I have no such hope. The African visage was never suffused with a blush. There can be no blushes on the cheeks of those who commit the unworthy act of uttering dishonorable, false charges, and protecting themselves under the privileges of this House. Neither is there hope of reformation. Nero never repented. The melody of music produced by the bow which he drew across the strings of his fine toned instrument, was not half so harmonious to his ears as the crackling fires of Rome, the crash of its falling towers, the cries of its women and children, and the universal ruin of his country. There have been more Neroes than one. The example of Rome is not single. And while all good men are striving to heal the wounds of party, and unite this country at a time when the whole world is in hostility against it, in comparison with whom our population and resources are nothing, except as they depend on the virtue and spirit of the men yet surviving, and the sons of those who have departed, who aided in the achievement of the independence of this nation, while all their efforts are directed day and night to relieve their suffering country, the midnight lamp sheds its pale light on the black compositions of a few restless spirits, who strive to distract the Eastern people. Is this the patriotism which the gentleman professes? I presume, that, after the rage of party has subsided, the people will discover the imposture and chastise the impostors. This is the time to forget party feelings; and yet gentlemen resort to every petty circumstance, and because it authorized an inference in opposition to direct facts, endeavor to excite them—they would tumble the Executive from the height which he properly occupies into the dust, down to a level with themselves. It is time not only to forget party feelings, but to cease treasonable opposition. And as to those who pursue the course which I have described, whether out of this House or in it, I would say to the American people, in a voice which could be heard in every corner of the congregated assembly: Risk not your peace or safety for them—they are enemies of your peace—they have conspired against your safety—cast them from you—*hostes humani generis*—let the mark of infamy be stamped upon their foreheads, so that all who see them may execrate them.

The question was now taken on the motion of Mr. D. R. Williams to strike out the words "fourth Monday in May," and lost.

Mr. Bacon said, that on a former day he had felt himself called upon to make some remarks in reply to his colleague, who addressed the House yesterday. The task was not then a pleasant one.

In his subsequent remarks a few days since, the gentleman took occasion to tell me, very courteously, that I had been barking at his heels, and that he would not pursue my course. Though these sort of personal collisions are extremely disagreeable, yet his observations will not deter me from following that course, which my duty may dictate. As Representatives from the same State, I have since endeavored to avoid all needless collisions, with a gentleman standing in such a relation with myself, and should not again have placed myself in opposition to him, but for the extraordinary remarks which fell from him yesterday, to which, sir, I consider it my duty, however painful, to address some observations to you in reply. It was the temper of his remarks, their tendency if not their design, the peculiar time, and the temper of the people in one section of the Union, that impressed my mind with peculiar regret at the ground which he thought proper to assume. As to the temper of his remarks, I need not exhibit it any further to the House, it has been sufficiently noticed; as to their tendency it cannot be mistaken; there is something, however, more particularly striking as to the time. What are the circumstances under which they were offered? What are the circumstances in which this House has found itself for some time past?

Sir, for some days we have had a general aspect of union in the House—a considerable harmony of parties. A number of questions have been taken that savored very little of party feelings, and the political atmosphere had subsided into a state of much apparent tranquillity, until agitated by the thunder of the gentleman. Was not this a desirable prospect? I confess, for one, sir, that I have seldom found an occasion on which I more congratulated myself; but, it would seem as though my colleague feared that this state of things might conduct us and the nation to some happy result. Did he, therefore, think it necessary that a firebrand should be thrown on this floor, to excite agitation in the House, and alarm, division, and discord, among the people? I hope the gentleman had no such intention; but that such was the tendency of his remarks, no one can differ with me in believing. As to the time and occasion which he chose, it is well known, as the gentleman observed, that the Legislatures of many of the States are about to assemble. Yes, sir, they are; and amongst others, that of the State which the gentleman and myself have the honor to represent, about the time that the speech of my honorable colleague will arrive there. The temper of that portion of the Union is already sufficiently excited. That they have already manifested strong symptoms of disaffection—that they have heretofore given intimations of violent measures—cannot be concealed. Did the gentleman fear that they would not be sufficiently agitated—that they would not at once be ripe for the most desperate measures? Did he fear, that, unless he added a little fuel to the flame, it would not burst out with sufficient fury to produce his favorite crisis? Did he fear that this portentous crisis, of which he spoke in an oracular tone, would not arrive with sufficient celerity? I call it *his* favorite crisis, because one of his arguments in opposition to the bill, was, that he feared it was calculated to allay the passions of the people, and defeat the arrival of this crisis. Am I, therefore, incorrect in supposing that he hails the prospect of it as a desirable event? Certainly I think that the conclusion cannot be mistaken. What was to be the precise nature of this crisis, my colleague did not exactly explain to us. I know not, distinctly, by what means it is to be produced, or what are its ultimate objects. For one, sir, I deprecate it: it will probably be a crisis of disunion. I dread it, and will use all means in my power to prevent it. I will do everything to satisfy those mistaken men who may be seduced to engage in it, that they are embarking in a cause of peril. Did I not do all in my power to avert it, I should not hold myself blameless; but, after doing this, I will do no more. Let it come when it will, or let consequences be what they may, I will not betray the trust reposed in me, as the Representative of a brave and independent people, by sacrificing the rights and interests of a great nation to the clamors of faction, or the fury of a misguided few. The gentleman told us, some days ago, that he was born a free man, and would die so, or perish in the attempt. Sir, I was born as free, though perhaps not so high, as that gentleman. I represent a people as free as the constituents of that gentleman, and who, though not perhaps "fed as well," can endure not only "the Winter's cold," but can meet tempests, storms, and commotions, as undauntedly as they. This is a state of things which they will be the last to provoke; but, let it come when it may, they will not turn their backs to it. Let not the gentleman talk or think too lightly of it: whenever it comes, it will be no common crisis. Who will first be buried in the ruins of such a day, no man can predict. I again warn the gentleman, by the deep pledges which he holds in the integrity and peace of this Union, not wantonly to provoke its dissolution. He ought to consider that those who promote it may, in all probability, be the first to suffer in the general wreck of the times. He spoke to you of the men who, upon the ruins of a political convulsion, would not assume the reins of power; that it would not be the Federalists of the present day, nor would it be the present political majority, the transition in such cases being always from bad to worse; that the Condorcets and Brissotts were always followed by the Dantons and Robespierres. No, sir, I agree with my colleague, that, upon the consummation of such a crisis, Federalism cannot expect to guide the destinies of this country. There is another illustrious example, in the bloody annals of the Revolution to which he alluded, from which he would do well to derive a lesson of warning and instruction. The celebrated, the notorious Philip d'Egalité, *ci-devant* Duke of Orleans, had, like the gentleman, a deep stake in the common interests of his country, and in its tranquillity. He was a man of noble extraction and commanding rank, but, envying the higher fortunes of the monarch, and wishing to be greater than the Throne, he became an ac-

complice with those who overturned the Throne itself, and was, with his fortunes, buried in its ruins! No, sir, upon the ruins of a disjointed Confederacy, a far different set of men than the common Federalists of this day will preside over the destinies of this nation. Whatever share Federalism may have had in producing this state of things, or however she may have contributed her aid to it, she will be remembered by her masters only to be disgraced and despised. The most that she can aspire to will be a hope that from her higher ranks may be selected the Viceroy to govern his country—in the name of a Viceroy over him on the other side of the Atlantic. She can, at best, aspire to nothing higher than becoming the tool and minion of a foreign despot. It is impossible it should be otherwise. It will be utterly out of the power of any domestic usurper, without foreign aid, to wield the sceptre which grows out of a state of civil discord and commotion, brought about through the agency of a foreign Power. It would be struck from his hands by the indignant arm of an incensed people faster than he could recover it. The gentleman's address had, to me, a meaning most solemn and portentous, taken in connexion with the times and circumstances under which it was delivered. But, what are the mighty means by which this crisis is to be produced, and what is the powerful lever by which these commotions are to be raised? The old, stale topic of a perpetual embargo! Like the gentleman from Virginia, I nauseate the subject. The idea of a permanent embargo is worn out, and I thought had by this time been discarded from the mind of every man, both in this House and in the nation. I am not about to enter upon a wire-drawn argument to show, either from the particular terms of the law or the general construction of language, whether it is so or not. These views have been long since exhausted. What, then, are the new arguments, never before produced, which are now offered by the gentleman, to prove that such must have been the original policy of the law? It is, that it was recommended by the Executive as a precautionary measure, while it was supported by some members on this floor as a coercive one.

On this point let me bring to the notice of the gentleman the temporary embargo of 1794, recommended, as I have always understood, by General Washington, and held out to foreign nations as a mere measure of precaution, to secure our vessels and our merchandise from belligerent aggressions and plunder. But how was it supported in this House? It was supported as the present law has also sometimes been, as a measure of coercive policy. We have but few of the debates which took place on the former occasion, to revert to, but I have in my hand the speech of a gentleman of distinguished talents, and a predecessor of mine, who then had a seat in this House, giving his views of that measure. [Mr. BACON here read the following paragraph from the speech of Mr. SEDGWICK, on his introducing a resolution empowering the President to lay an embargo on the 12th day of March, 1794:

"The reasons on which this idea of an embargo 'were founded, are that Great Britain cannot supply her West Indies, except from the United 'States. If this is in any degree true in peaceable 'times, how much more forcibly must it operate 'now! They have a considerable military force 'there to feed; in truth, without supplies from this 'country, they must inevitably abandon a project, 'with them a favorite one, the conquest of the 'French West Indies. In this situation of affairs 'he believed it would be found proper to put into 'the hands of the President a power to lay this 'embargo, and in a moment to prevent all sup-'plies going to the West Indies."

The sentiments, continued Mr. B., here advanced, prove that the idea of an embargo in this country being considered as a measure of coercive policy in respect to foreign nations, to Great Britain in particular, is not a novel one—that it is no fanciful notion of the present day, but owes its origin to the politicians of the old school. I have introduced them, however, more particularly to show that the auspices under which this measure of embargo was introduced and recommended to the nation, and the views with which it was supported, were the same now as in 1794—that they were both precautionary and coercive; and will the gentleman say that President Washington or the Congress of 1794, were, as he asserts we are, instrumental in deceiving the nation? and yet his argument will equally apply to both cases.

But the gentleman affects to consider our neglect in providing general efficient means of hostility, as a certain indication that we have no idea of interposing any other measures of resistance to the violations of our rights than the embargo, and says that we have not even sufficient spirit to fit out our little navy. On this head I can answer only for one, and can say with truth, that I have been ready, at least to an equal extent with my colleague, to lend my support to every measure either of defence or offence which has been proposed to us. As to the navy, every one knows that it has not been anything like a party question, and that the two principal parties which usually appear in this House have been nearly equally divided upon it. The fact is, that the apparent tardiness of our proceeding on this point has been occasioned more by a difference of opinion as to what were the most appropriate means of national defence, than by any doubt whether the essential rights of the nation should be decided in that mode which should ultimately be thought to be upon the whole the most expedient and efficient. Another consideration has undoubtedly had its influence in deterring the Government from launching into those extensive measures of hostile preparation which have perhaps been too long delayed. There can be no question that the most ardent desire of the Government has been for the preservation of peace, if it could in any consistency with the national rights and honor be preserved; and in proportion as this desire has been ardent, no doubt we have flattered ourselves with the expectation that it might yet

be preserved. Perhaps this reliance has already been cherished too long—and as the storm thickens around us, and the political horizon assumes a more threatening aspect, we are now progressing more rapidly in the preparations for a system different from that which has until this time been pursued, and in this work we may very properly call upon gentlemen of all political parties to unite their efforts, and contribute whatever they can to the defence of their country. It is said that the army which was provided for at our last session has been organized upon party principles, and officered generally from one political sect, and that such an army cannot be intended for defence against foreign aggressions, but must be solely for domestic purposes. As to the fact which the gentleman mentions, I know nothing about it. For myself, I can truly say, that on the subject of appointment to office generally in a Government like ours, my general opinions have heretofore been more liberal than would probably be esteemed orthodox by almost any political party in this country, certainly much more so than was practised upon by the political friends of my colleague when they presided in our public councils. As there are certainly a great number of men who differ from the present majority in their political sentiments, upon whom I could place the utmost reliance if called to defend their country, I would never consent that the single sin of Federalism should be deemed sufficient to exclude them from all participation in either civil or military offices. But if the gentleman in one part of his speech yesterday intended to give us a sample of those men in whose behalf he complained, on account of their exclusion from military commands, it is certainly no subject of my regret that such exclusion has been thought proper by the head of that department. Sir, was it a patriotic effort on the part of the gentleman to endeavor in that public manner to chill the spirit of the nation, and to discourage them from the assertion of their just rights, by disparaging our resources, undervaluing our means of annoyance to our enemies, and proclaiming, in the face of the world, our vulnerable points and most defenceless positions; and at the same time magnifying the power of a foreign nation, and declaring that she held against us those pledges for our good behaviour which we could not put at risk without the most imminent hazard and destruction to ourselves? Sir, when I heard the gentleman avowing to the world sentiments of this sort, my heart sunk within me, especially when I saw full in his eye a protégé of the Minister of his Britannic Majesty, rioting no doubt upon the charms of his eloquence, and receiving it with those kind of sensations so natural to the human heart, when the pride of the country to whose fortunes we are attached is the subject of eulogy. I trust that these are not the national feelings or sentiments of the great body of those with whom the gentleman is generally associated in his political conduct. If they are, they could indeed hardly be relied upon to lead our armies to the field of battle—and those would be but poor defenders of their country who declared at the outset that it was utterly incapable of defence.

We are pressed by the gentleman to answer, why, if we have any intention of defending our rights by any other means than the embargo, we do not now give a pledge to the nation of our intention to abandon it at some limited period, and resort to some other system if justice is not previously done us. This is perhaps a reasonable question, and I feel for my part no hesitation in answering it. It is probably recollected that I had some time since declared to the House an opinion that in the present circumstances of the country it was the duty of the Government to fix upon a definite period, beyond which an adherence to our present position should not be maintained, and with that view I moved at that time that the resolution for repealing the embargo laws, which had been moved in the early part of the session by a gentleman from Vermont, should be referred to the Committee of the Whole, who had under consideration the subject of a non-intercourse with Great Britain and France, with a view that it might be considered in connexion with that or some other measure as a substitute upon its removal. In that motion, however, I met with but little encouragement on any side of the House. It would perhaps be desirable that the proposition for limiting the continuance of our present system should come from some other quarter—but if it should not, I shall feel no hesitation in offering it at an early day, and placing the time of it at no very distant period. If there were no other considerations in favor of such a measure, it is perhaps due to the feelings of that portion of our citizens who by such addresses to their passions and their prejudices as we yesterday heard from my colleague have been induced to believe that this was a system of perpetual exclusion from the ocean, and a permanent abandonment of commercial enterprise; and who, acting under that palpable delusion, may, by the artifices of desperate partisans and designing leaders, be led into acts of insubordination, involved in crimes, which, under the influence of correct information, they would deprecate and shudder at. Though it is more especially the province of my colleague to consider seriously upon whose head the blood of such of our fellow-citizens may in a good measure rest, yet I feel it a duty to do what lies in my power to undeceive them. In the furtherance of this desirable object, I have reason to believe that a large majority of the House will unite, and having done this I will consent to do no more. Let the crisis talked of by the gentleman come when it will, it is our duty to meet it; let its consequences rest upon those by whose misrepresentations and instigations it has been promoted and encouraged.

Mr. QUINCY.—Mr. Speaker, I feel myself necessitated to make a very few remarks, in consequence of the observations which have fallen from various gentlemen. Certainly, sir, I did expect that the course of my former argument would expose me to some animadversion. In great and critical periods of society, such as is the present,

nothing else can be anticipated. In performing the duty which my station, in my apprehension, made incumbent, my first concern was to satisfy myself that the ground I was about to occupy was solid. Whether it would provoke asperity in reply was a secondary consideration in comparison with the inquiry, whether it would bear the scrutinizing eye of the mass of my fellow-citizens, particularly of men of reflection, judgment, and information; of that class of men which always, in a country like this, will sooner or later take the guidance of public opinion. Having satisfied myself that the principal ground of my argument was solid, my next care was to mark it out so distinctly that it could not be mistaken. Yet those who have undertaken to reply to me, my colleague (Mr. Bacon) perhaps excepted, have scarcely noticed the general bearing of my argument, and have contented themselves with inveighing against what, as they suggest, are my motives, or in refuting remarks merely incidental, and illustrative of my leading propositions. Thus the gentleman from Virginia (Mr. Eppes) has undertaken to deny that all the motives which I recapitulated were operative in passing the embargo, and, as an evidence of this, to assert that some of them were never urged at the time of passing that law, as reasons for its adoption. Sir, I took occasion, in the course of my first argument, expressly to declare, that in the enumeration of motives I was making, it was not my purpose to call those motives in question, nor yet to confine myself to those which were expressly urged in debate, but to group all, which there was any reason to believe did exist, together, so as to make the conclusion more striking and satisfactory, that they did not include those which, I undertook to show, were the causes of the recommendation of that measure by Administration. The bearing of my argument, to which this recapitulation of motives was only subsidiary, was to show that embargo, with intention to coerce Great Britain, to adhere to it until it attained its purpose, and to do nothing else effectual, were not the motives of this House. This was the first branch of my argument. My second, and principal, was to show that those were the motives of Administration. In executing this last part of my task, I stated that it was my perfect conviction, that such motives did prevail with the Administration. But I did not rest satisfied with mere assertion. I stated the grounds of my conviction. I drew my conclusions concerning the motives of public men from the undeniable course of their public acts. Whether the arguments then urged were sufficient to justify such a conviction, is a question referred to the decision of my fellow-citizens. From that tribunal I shall not shrink, and before it I am not afraid to meet any or all my political opponents. To these arguments, certainly neither personal, nor in any respect unparliamentary, what has been the reply? Why, sir, "false"—"malicious"—"defamatory"—"cowardly, base detraction"—"dastardly act"—"old tory"—"friend to Great Britain"—"Nero"—"Essex Junto," and such like. Really, Mr. Speaker, I have no means of reply to such arguments as these. Absolutely, through defect of my education, I can make no answer to them. I never studied in the school of the scavenger; I never took out degrees at the oyster bench; I never sat down at the feet of fish-women, as though they were so many she-Gamaliels, for the purpose of teaching my gall to flow through the channels of their boisterous Billingsgate. The gentlemen who resort to such weapons have all the advantage of me. If they think that their cause or their argument gain anything by the use of such opprobrious expressions, they have perfect liberty to adopt them. I have one consolation, that, so far as respects this House, what I urged, and what they replied, have both been in its presence, and I fear not to stand a comparison with them, as it respects either matter or manner, in the judgment even of their friends. I have another consolation, that my argument and their answers will each be presented, I trust fairly, to the scrutiny of our fellow-citizens. Before them we shall all be appreciated, sooner or later, for what intellectually and morally we are worth. For myself, I wish never to be appreciated above my true estimate, and I fear not, that I shall, for any great length of time, stand below it. With respect to the Administration, sir, I intimated no motive without stating the facts out of which my conclusions grew. Beyond the limit of these facts, and the extent of those conclusions, I pressed none of my observations. As far as this, I had not only a right, but it was my duty to advance. If gentlemen expect to prevent investigations of public men and public measures, conducted on such principles, by personal invectives, the nature and tendency of which are too obvious to be misunderstood, so far as respects myself individually, they have mistaken their weapons and their antagonist. It is a choice satisfaction of my mind, that it is not in the power of any individual, however malignant, (should such a character ever appear on this floor,) long to injure the reputation of any one whose private or public life does not co-operate with their malevolent intentions: and I assure the gentleman from Virginia, (Mr. Jackson,) and every gentleman who has spoken, that I shall never be a half-worker with them, probably in anything, but certainly not in the attempt to injure my own character. The sting of satire is in the truth of remark. The keenness of asperity is in the justness of the application. Where these fail, the sped arrow cuts the air harmless.

It is not my intention long to detain the House in the remarks I have to offer. Towards those who have attempted to treat me with personal severity, I feel no passion. If their cause need such auxiliaries, I can only pity them, and rejoice that such a cause is not mine. My honorable colleague, (Mr. Bacon,) in commenting upon my remarks concerning the disposition of this House to go to war, was pleased to represent me as disparaging the resources of my country, and as speaking as if we could not maintain a contest with France or Great Britain; or, if occasion called, with both of them together. Certainly,

such was neither my intention nor the tendency of my remarks. I was speaking of the disposition of the majority of this House, as evidenced by their language and preparations, and not at all concerning the resources of this country when efficiently called into action. It appeared to me, from all the observations I could make, and so appearing, I thought it was my duty to state it to the people, that all the clamor about war, so ostentatiously made upon this floor, was nothing else than a mean used to induce the mass of our fellow-citizens, through dread of the horrors of war, to endure still longer the embargo; that a continuance of this measure was the unalterable determination of Administration, and that all the application of our resources, and all the apparent preparation was directed either to cover that determination, or to fortify that measure. This was the leading position which I took, and attempted to maintain. When I hear men talk about going to war with three millions of dollars in the Treasury—[Mr. G. W. Campbell said there were sixteen millions in the Treasury.] Yes, sir, there are sixteen millions in the Treasury, and the Secretary of the Treasury tells you, that thirteen millions out of these sixteen, are already pledged, for the expenses of the year, for the appropriations already made, and for the usual annual estimates. Now, if a man, at the beginning of a year, has sixteen millions in his pocket, and has already undertaken to pay, in the course of it, thirteen millions, I do humbly conceive that he has but three millions upon which he can rely to meet any extraordinary expenditure. Indeed this is the express declaration of the Secretary of the Treasury, who tells us in so many words, that there is "a surplus only of three millions of dollars for defraying all the expenses incident to a state of actual war, or of preparations for war." Now, when I see only these three millions effective, in your Treasury, all your revenue from commerce gone, no preparations for loans, no plan devised, or pretended to be in train, to obtain new sources of revenue, how is it possible that I can believe that it is in the contemplation of this House to plunge into war? I cannot believe it, nor refrain from stating this impression to the people, that all this clamor about war is a pretence, under which, and under the fears which war naturally excites, to rivet this destructive embargo upon the country. How is it possible to read the annual report of the Secretary of the Treasury and not inevitably reach that conclusion? In his annual report that officer tells us expressly, that "if, however, the embargo and 'non-intercourse are to have equal continuance 'with the belligerent edicts, indefinite as that is; 'if it be determined to rely exclusively on that 'measure, and, at all events, not to risk a war on 'account of those aggressions, preparations for war 'will become useless, and the extraordinary expenses need not be incurred. In that case, the 'expenditure for the year 1809 ought not to exceed the sum of thirteen millions of dollars, 'which, as has been stated, is requisite for the 'support of the present establishment." And again: "It is certainly only with a view to war, 'either immediate or contemplated, that it will 'become necessary to resort, at least to any considerable extent, to extraordinary sources of supply." Now, sir, when a most influential officer of this Government, no less than the head of the Treasury, expressly tells us as he does, that "in 'case of war, new resources, to an amount yet unascertained, must be resorted to;" when he also tells us, that "if non-intercourse and embargo are 'to have an indefinite continuance, it will not 'become necessary to resort, at least to any considerable extent, to extraordinary sources of supply; such resort being only necessary in case of 'war, immediate, or contemplated;" and when this House do not provide any new resources, either of loans or revenues; when it leaves the Treasury in that state in which the Secretary tells us it may be left, in case indefinite non-intercourse and embargo are resolved upon, and precisely in that state in which the same Secretary tells us it must not be left, in case war be the determination; how is it possible that any other conclusion can be imagined than this, that war is not, but that an indefinite embargo is, contemplated? Sir, these are conclusions concerning intentions from public documents compared with public conduct. If gentlemen choose to fly into a passion on every such exposition, all I can say is, that I shall not follow their example, nor be deterred by their exhibition of wounded feelings, from performing an official duty. An attempt has been made to pervert an observation of mine so as to imply a doubt of the courage of the officers appointed to the new Army. Nothing could be more unfounded than such an attempt. Concerning few of those appointments do I know anything; and of those few officers with whom I have personal acquaintance, there are some in the propriety of whose appointment I certainly concur. The only tendency of my argument was to show that a party army, whose officers were exclusively taken from a prevailing sect, was not likely to produce that union to which gentlemen so anxiously invited. If a foreign war was seriously contemplated, the necessity of an union among all parties, would induce naturally, as I thought, a different course of conduct. Such a course as, by practically removing party distinctions, would unite all in that common confidence which is the only assurance of strength and vigor in hostile operations. When I found the principle of party exclusion adopted as the rule of appointments, the conclusion I drew from the fact was, that the Army was destined only to effect party purposes, and not at all to meet a common enemy—for, with all the prejudices which exist against Federal men, as they are called, there is no need of argument to convince even the majority of this House that they are, in general, men, who, when their country is in danger, will be found and will be trusted, in the front ranks of our armies.

The gentleman from Virginia (Mr. Jackson) asked if I intended to represent this House as the dupe of the Executive. Certainly I drew no con-

clusion of that kind. this House, I confess I my opinion. To my descript. It acts, and forms all the operations and yet, judging from cannot refrain from political questions are other than on this floor. ed, that it was wholly tions on the House.] I have not a right to people to make reflections peal from his decision. it was not within the rules of Parliamentary proceeding to permit a gentleman on the floor to accuse the House of improper motives.] I am saying nothing about motives. In reply to a gentleman, who asks how I intended to represent the House, I am only about to describe what I know concerning it, and to show how I arrived at the conclusion, that great political questions were settled somewhere else, other than on this floor. The fact to which I allude happened on the day when the enforcing embargo law passed. On that day, before the House was called into a Committee of the Whole upon the bill, I was informed that it had been resolved somewhere, I know not where, nor by whom, that the House should be called into Committee of the Whole immediately upon that bill—that it was to be passed in one day through all the remaining stages—that the bill was then actually engrossed, or engrossing, and that after it was so passed, a bill was to be proposed and passed for calling an extraordinary session of Congress in May next. This was stated to me, previous to the going into Committee of the Whole on the enforcing embargo bill, as the course settled. Well—what happened? Why, agreeably to the information I had received, we were immediately called into a Committee of the Whole, on the bill. We did pass it, through all the remaining stages at one session, notwithstanding the multitude of its provisions, the greatness of the principle and consequences it involved. So far my previous information proved correct. It will also be recollected, that in the course of the nocturnal session on that bill, the gentleman from Pennsylvania (Mr. Smilie) did state it as his intention to bring forward a bill for a meeting of Congress in May, and accordingly, the next day he introduced the motion, which was the foundation of the present bill. Thus again my previous information was proved by the event accurate. The minuteness of this prophecy, and the precision of its fulfillment, satisfies my mind of the correctness of the opinion before stated, that although we debate great questions on this floor, that they are sometimes, at least, settled somewhere else. A circumstance strongly corroborative of this opinion is a fact, which happened in the debate on motion for the committee of inquiry, which preceded this bill. The idea of a session in May, was strongly opposed by the gentleman from South Carolina (Mr. D. R. Williams.) In reply to whom, my

But, sir, with respect to I know not how to express mind, it is a political non- reasons, and votes, and performs of an animated being, my own perceptions, I concluding that all great settled somewhere else. [The Speaker remarkimproper to make reflecIf the Speaker means that state facts, and leave the ons upon them, I must ap- [The Speaker said that colleague (Mr. Bacon) expressed his surprise at his opposition, and said expressly, "that he had 'given some votes, in the understanding that 'there was to be an extra session in May; that, 'if there was not, all he could say, for one, was, 'that he was taken in." [Mr. Bacon said, that he meant only to be understood as having given such votes, from his own impression that there would be an extra session, and not intending to express any previous agreement.] If such were the intention of my colleague, I do not wish to avail myself of the peculiarity of the expression. At the time of his uttering it, I did consider it as a strong corroborative circumstance of the fact, that all the proceedings concerning the enforcing embargo law and the new session had been arranged somewhere else, previous to their being brought into debate on this floor. Indeed, how is it possible for any man to believe otherwise, when he considers, and not only the previous information received, which could hardly have been so minutely fulfilled, unless such previous agreement subsisted, and also, when he considers the rapid and unexampled manner, in which it was pressed through all its stages, notwithstanding all the violence of the opposition, and the solid arguments urged against its principles?

While on this topic, I cannot refrain from observing on a remark made by the gentleman from South Carolina, (Mr. D. R. Williams.) He said the minority had no right to complain of the manner in which the enforcing embargo law was passed, inasmuch as that they had suffered it to go through the Committee of the Whole without a single observation. In reply, I must declare that I do complain that our privileges were violated. I maintain that it is a right which belongs to every member of this House to have a fair and suitable opportunity of debating every question of great national importance; that, unless he has previous notice, that it is the intention of the majority to deviate from the usual course of business, he has a right to choose that stage of the bill in which he conceives his objections to it can be most forcibly urged. Upon the question of engrossment, or upon that of the final passage, he has a right to have a fair opportunity to be heard; for, at these stages, the great principles of the bill can be the most advantageously discussed. Now, we had not such an opportunity upon either the engrossment or final passage of the enforcing embargo law. In this instance I do not hesitate to say, that the rights of the members of this House, and, through them, the rights of this people, were grossly violated. Who could have possibly imagined that a bill of the length and importance of the enforcing embargo law, considering also the state of feeling manifested in some parts of the country in relation to that subject, could have been permitted to go from a Committee of the Whole, through its final passage, at one sitting? Upon that law I was extremely anxious to have expressed my sentiments. I had taken occasion, when the resolution for the raising of fifty thousand volunteers was under debate, to state a Constitutional objection to the previous supplement-

ary embargo laws, to which I could find, in my mind, no answer. I had hoped some gentleman would have condescended to reply to that objection, but no notice had been taken, except by the gentleman from Virginia, (Mr. Eppes,) who only asserted that similar powers to those to which I had objected, had been exercised under preceding Administrations.

Mr. Eppes inquired whether Mr. Quincy was in order to discuss a bill which was already passed, under a question like that now before the House.

The Speaker decided that he was.

Mr. Eppes appealed from his decision.

Mr. D. R. Williams wished that the gentleman from Massachusetts might be permitted to go on; and said he, if there be not talent enough in the House to refute his arguments, in the name of God, let us stand convicted.

Mr. Eppes withdrew his appeal.

Mr. Gardenier asked whether it was consistent with the rules of the House that, when the Speaker had decided a question of order, and an appeal had been made from his decision on the application of any gentleman, the member appealing had a right to withdraw his appeal?

The Speaker said that, according to usual parliamentary proceedings, it was correct.

Mr. Quincy continued.—I did not intend to argue the unconstitutionality of the enforcing embargo law. I was only illustrating my sense of the violation of the rights of the members on that occasion, by showing that I had been precluded from urging the objections I was prepared to offer against it through the lateness of the hour and the utter incompetency of all, after the fatigue of eighteen hours uninterrupted session, either to hear or to speak upon any subject. The Constitutional objections to that bill were great, and, as I believe, unanswerable. The haste with which it was passed, and the little opportunity given for discussion of its principles, were little adapted to satisfy the public that the bill would bear a thorough examination. The connexion of these observations with the bill under debate, is intimate and palpable. The reasons I urge against this bill are, that by providing for a meeting of Congress in May, without providing a limitation of the embargo law, you, in fact, leave the next Congress in the same bonds to the Executive power, in which this House at present stands; that, if it be your real intention to raise the embargo after May, as this extra session seems intended to intimate to the people, you ought at once to limit it, otherwise the people ought not to be satisfied; but to examine into the Constitutional objections to those laws: if these appear to the people and to the State Legislatures as they do to my mind, it is their duty—to do what? To rise in insurrection? No, sir. To break the bonds of union? No, sir; but to take the Constitution, that great charter of their liberties, into their consideration, and to strengthen and support its principles by vindicating them from violation. Do gentlemen really think it "treason" to invite intelligent men, the natural guardians of their own and of the people's rights, to take your laws and bring them to the touchstone of the Constitution? We have gained little by our independence, if this liberty belong not to us. Sir, we perform a high and imperious duty, when those who believe that the Constitution is violated, say to the people that such is their opinion, and call them to an examination of your laws with that reference. All we say to them is, put not off this inquiry until June, under the apprehension the embargo will then be removed. Look to your rights; if they are violated, remonstrate. Maintain the only bond of your union, the Constitution; let it not be broken for the purpose of making of its commercial power an instrument of hostility; for such a purpose the commercial power was never granted. Gentlemen strive to represent those who use this language as hostile to the Union: nothing can be less founded in truth. Hostility it may be to the principles of an Administration which, for the sake of maintaining a favorite system, seem to value as nothing all those Constitutional principles which the wisdom of our fathers erected as barriers round our liberties. Suppose the present or any future Congress to pass any law, not only manifestly unconstitutional, but so oppressive upon the mass of the people that it is impossible to wait upon the slow processes of the Judiciary. The case may certainly be supposed. I ask, what is the remedy? Can there be any other than Constitutional remonstrance? And how can this be effected but by calling the people to examine their rights, and the alleged invasion of them? With respect to the feelings and sentiments relative to those laws in the part of the country which I represent, I do not believe that this House realizes the nature and extent of them. The doubt concerning their constitutionality is not confined to men of one particular party. I have reason to believe that a very great number of the intelligent men who are supposed to differ from me in political sentiments, do agree in questioning their validity. I feel, as strongly as my colleague, (Mr. Bacon,) the hazardous nature of the present crisis. A course of events is advancing upon us, which, I fear no human power can control; and in what it will terminate certainly no human foresight can tell. But this crisis is not to be evaded by tampering with it, nor by obstinate adherence to the system which is the origin of this excitement. Let this scheme of coercion be abdicated—if it be necessary, go to war—let Government designate the nation with whom we are to fight, show the justice and policy of hostilities, and bring the resources of the nation into operation.

But I conjure gentlemen not to sport with the present state of things. I know there does exist in the majority of this House, an honest mistake concerning the sentiments of the people in the Eastern States. It is thought that discontent with the embargo arises solely from party opposition. Let me assure gentlemen the case is far otherwise. On this account have I spoken; gentlemen think that the hope of a session in May will give content to that people. Be assured it will not; they have too deep and universal an interest in this

subject to be deluded into a postponement of the consideration of their Constitutional rights. If Congress rise without limiting the embargo, they will not have reason to expect its repeal in May, nor will they act on that expectation. When the session in May arrives, there will be nothing to choose between but the old alternatives, embargo or war; and an attempt will be made to continue the present system six months longer. Now, I do not believe it is within the physical power of New England to endure it for that period.

Mr. D. R. WILLIAMS said he rose to make a few observations in relation to his individual conduct on the subject of the supplementary embargo law, as the gentleman had said that his rights, and through him the rights of the people, had been violated. The gentlemen seemed to charge the majority of the House, (said Mr. W.,) and me as one of that majority, as having had an understanding out of doors that we would pass the bill through at one session. [Mr. QUINCY said that he had not considered the gentleman as one of the majority.] I am very glad that the gentleman exempts me; but in justice to the majority with whom I acted, I feel myself compelled to make a few remarks. That gentleman ought to be the last man in this House to make the accusation which he has made. The gentleman himself has commenced the custom of introducing private conversations before you, Mr. Speaker, and therefore I may be permitted to refer to them. The gentleman did a few days ago, at the fireside, advocate the English parliamentary mode of proceeding; and declared that we must adopt the plan of fixing a day for taking the question, and sitting it out. Now, sir, when the gentleman advocates that practice, how can he say that his rights are injured? So far as I know anything about that question, I do believe that there was no understanding. If you will cast your mind back to the day previous to the day's session referred to, a celebrated motion of a gentleman from Vermont (Mr. CHITTENDEN) to repeal the embargo laws was moved for, and it was agreed to take it up. When we got into a Committee of the Whole, sir, we could not do anything; we were compelled to dissolve the Committee; we could not keep a quorum to do the thing which we had taken the yeas and nays seven different times to get at. What next, sir? Did not gentlemen on the opposite side come here the next day with a perfect willingness to sit out the question. I never heard a whisper of sitting out the question till that kind of conduct was adopted which was calculated to teach the majority how to act. Gentlemen in the minority all went to dinner, leaving one gentleman behind them to call for the yeas and nays and make motions till they came back. They really forced us to it, sir. They made their preparations; and accordingly they had everything here necessary to support them through this fiery trial. They had all the good things of this life brought here for their suppers. When that course of proceeding was adopted, there was a kind of instantaneous determination of the majority of the House to take the question. The first man who suggested the idea to me was a gentleman who was disposed not to sit it out. And what is this mighty charge which the gentleman has made? That the bill was passed through the House at one session. I deny it, sir. The bill had been before you many days. It was discussed one entire day in Committee of the Whole, and recommitted. The amendments reported by the select committee lay on the table at least three days; and the question would not then have been taken but for the determination of the opponents of the bill that the question should not be taken. I speak what every gentleman must be sensible is true. And yet, sir, the nation is to be told that its dearest rights were violated by passing through a bill at one session. You know, Mr. Speaker, that such is not the fact; that the bill had been under discussion several days, and the subject of it for many weeks. It is still more strange that these sort of objections should come from a quarter of the House which believes that the interest of the nation would be promoted by the adoption of the parliamentary practice. No gentleman opened his lips to discuss the provisions of the bill where they ought to have been discussed, in Committee of the Whole. The passage of it in one session is made such a monstrous bugbear, when not one syllable was said against it in Committee of the Whole! There was a propriety—I may say an imperious necessity that the bill should be passed as expeditiously as possible, resulting from the circumstance that in none of the preceding supplementary acts was there a provision requiring certain vessels sailing coastwise to give bond. The omission, though glaring, was not perceived when the last supplementary bill passed. If you will call upon the Secretary of the Treasury, he will inform you that we were losing from twenty to thirty vessels a week in consequence of this single loophole. This was an imperious reason why the House should act on the subject immediately; and when the House met that morning there was no disposition to force a question on it had not gentlemen in the opposition prepared themselves for a long session. Why, sir, the night before, when the Committee of the Whole on the celebrated resolution of a gentleman from Vermont was broken up for want of a quorum, as I was going home, I met some of the gentlemen in the minority coming back—"What, (said one,) have you adjourned? we have been home, and bracing up; we have had plenty of good wine, and were going back to sit you out." And now, forsooth, the gentlemen accuse us of precipitation!

Mr. J. G. JACKSON said he rose to notice some of the observations made by the gentleman from Massachusetts to-day, which were calculated to do away the highly reprehensible remarks he made on yesterday. Yet notwithstanding the avowed object, he had indulged himself in further animadversions, and added to that feeling which had been so unjustifiably excited. The gentleman commenced by asking whether the ground which he occupied was solid; whether it

would bear the scrutinizing eye of reflection. And what was his ground, sir? It was this: that the House had acted under a deception, touching the motives of the Administration in recommending the embargo. Sir, I answer, that the ground is not solid; it is a quagmire, in which every plunge he makes sinks him still deeper, until he is swallowed up with ignominy, exciting no compassion for his fate; and yet he complains of the severity of the style with which his remarks were treated. Sir, it was proper that so infamous a charge, coming from a quarter like that, where submission to everything, and resistance to nothing is characteristic, should be repelled in the way it was; it was too gross a censure, too flagitious a libel to pass with impunity, notwithstanding it was uttered in this sanctuary, whose security the gentleman has carefully availed himself of, and which he interposes as a shield to his dastardly attacks. We were imposed upon, he alleges, touching the motives of Administration, and were instrumental in deceiving the people; and yet, tools and sycophants that we are, he will not rest until he drags us before the nation, and exposes us to its vengeance. When to all this abuse it is added, that we are caught in the toils of a narrow policy which we persist in from mere shame—that we wanted to frighten Mr. Rose—cast ourselves into the arms of Bonaparte—join the coalition against England. When such accusations are made here, and gentlemen feel wounded at the unjust imputations, I ask, sir, ought they not to inflict a little wholesome chastisement on the author by casting the foul charges back in the teeth of him who made them? If any gentleman thinks it no insult to be accused of political imposture, avowing ostensible motives inconsistent with the real ones, I am proud to differ from him. I have this morning endeavored to show that the charges were false, and whether I have succeeded or not I am willing to leave to others; I heartily join in the appeal to their decision. But the gentleman says, the "bearing" of his argument was not noticed by any one except his colleague. The answer of his honorable colleague was confined exclusively to the tendency of such revolutionizing, heart-burning appeals to the people, having for their object hostile opposition to the laws enacted by this Government. Thus, sir, by this confession his motives are exposed to the world, for that was the "bearing" which the gentleman from Massachusetts (Mr. BACON) so eloquently noticed. The gentleman talked of "Billingsgate;" and pray, sir, if it does not consist in abusing the President of the United States under the privileges of this House, accusing him of duplicity, political perfidy, and falsehood, in what does it consist? The gentleman himself indulged in an "ale-house slang," derogatory to the dignity of this House; for the Executive of this nation, as such, is entitled to respect, and it is scandalous here, covered by the canopy of the Constitution, to assail his reputation, accuse, try, condemn, and execute it in one breath. But the gentleman says he shrinks not from comparison with any one. Sir, most certainly he can lose nothing on comparison with any man; notwithstanding he would gain much by comparing him with a gentleman. He has made attacks on the Executive and this House which I have endeavored to prove were unfounded. A formal deliberate preconcerted speech of two hours length was made by the member, predicated solely on the basis that this House had been deceived themselves, and had deceived the people, and were attempting still further to practise deception. Can the reputation of a man who does these things in times like this, in times of great and accumulating peril, be injured by anything that can be added to what himself has said? I think not. The member says the sting of his remark is truth. It is that that wounds, and, because of it, he feels pity for us. Sir, I do not even feel pity for him. I feel contempt, sheer contempt, and nothing more. His remarks have no sting, sir; they cannot wound. The shafts of his malice are blunt; they will not penetrate; they fall harmless at the feet of those against whom they are pointed; they are steeped in falsehood; they have no sting; there is no truth in them. We have been accused of raising a cry of war—talking about going to war—and, that all is imposture; and the liberty of replying to such charges is denied us. Sir, we are bound to support the Constitution; and are told that, regardless of our oaths, we violate it by raising an army to provide places for our partisans, or to put down our opponents by intimidation; and, in the next breath, we are entreated to avoid passion. And is this no cause of anger? A great complaint is made by him at the passing of the last embargo law at one sitting. And for this, the people are to be excited. We are now in the third month of the session, and on every question except motions to adjourn, that admit not of debate, the embargo system has been thrust into discussion. "Embargo" has been bandied from one side of the House to the other, to and fro, until every gentleman was tired of the game; and because we did not eke out a few weeks more in talking, another cry is raised. Sir, I heard the member from Massachusetts, a few days before the law passed, observe in private conversation—for it seems to be in order now to refer to it—that we could not get on with business unless we adopted the rule in the British Parliament, of discussing subjects on the day fixed for them, and deciding them that night; and, from other remarks then made by him, I did, indeed, believe he was an American in heart and sentiment But I was much mistaken, sir. When I see Members sounding false alarms of danger, for the purpose of promoting seditious oppositions, inflammatory resolutions, legislative excitements, and open rebellion, and while driving in this wicked career, covering themselves with the mantle of the fair fame of our beloved WASHINGTON—prostituting all his patriotism, and his virtues, to the vile purposes of their aggrandizement, I am struck with wonder and astonishment. When I mark their course, and remember the salutary advice of his excellent valedictory—from

which I will read some extracts—the enormity of their crime, and their barefaced effrontery, become more conspicuous. I wish I dared trespass upon the patience of the House by reading the whole, for it is peculiarly applicable to the times:

"The unity of government which constitutes you one people, is, also, now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence; the support of your tranquillity at home, your peace abroad; of your safety, of your prosperity, of that very liberty which you so highly prize. But, as it is easy to foresee that from different causes, and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively, though often covertly and insidiously directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immoveable attachment to it; accustoming yourselves to think and speak of it as the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whoever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts."

I can almost imagine that I see the shade of this hero, indignantly frowning on that attempt which is so much deprecated by him.

"The name of American, which belongs to you, in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together; the independence and liberty you possess are the work of joint councils, and joint efforts, of common dangers, sufferings, and successes.

"But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of country finds the most commanding motives for carefully guarding and preserving the union of the whole.

"The North, in an unrestrained intercourse with the South, protected by the equal laws of a common Government, finds, in the productions of the latter, great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South, in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The West derives from the East supplies requisite to its growth and comfort: And what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connexion with any foreign Power, must be intrinsically precarious.

"In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other."

The Union is threatened with a separation. The handbills struck off and circulated throughout New England are calculated for that purpose. Indeed so daring have the faction become, that in New York, or Philadelphia, a handbill was posted up advising—"The Potomac the boundary—the Negro States by themselves!"

"These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common Government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case, were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue of the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

"In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—Northern and Southern—Atlantic and Western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heartburnings which spring from these misrepresentations—they tend to render alien to each other those who ought to be bound together by fraternal affection."

Have you not seen an attempt made by a Senator of the United States, (Mr. Pickering,) in a public letter addressed to the Legislature of his State, to impress the idea that the Southern people are inimical to commerce?

"To the efficacy and permanency of your Union, a Government for the whole is indispensable. No alliances, however strict, between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution and Government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This Government—the offspring of our own choice; uninfluenced and unawed; adopted upon full investigation and mature deliberation; completely free, in its principles; in the distribution of its powers, uniting security with energy; and containing, within itself, a provision for its own amendment—has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political system is, the right of the people to make and to alter their constitutions of government. But, the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, presupposes the duty of every individual to obey the established government."

The majority must govern, sir, or there is an end of Republican Government in this country; and despotism, under the garb of monarchy, or whatever other name it may assume, will occupy its stead.

"All obstructions to the execution of the laws"—let the member and his Massachusetts Legislature take this to themselves—"all obstructions to the execution of the laws; all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party—often a small, but artful and enterprising minority of the community—and, according to the alternate triumphs of different parties, to make the public Administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common councils, and modified by mutual interests.

"However combinations or associations of the above description may now and then answer popular ends, they are likely in the course of time and things to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government—destroying, afterwards, the very engines which have lifted them to unjust dominion.

"Towards the preservation of your Government, and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext.

"I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party, generally. It serves always to distract the public councils, and enfeeble the public Administration. It agitates the community with ill-founded jealousies and false alarms: kindles the animosity of one part against another; foments, occasionally, riot and insurrection. *It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself, through the channels of party passions.* Thus, the policy and the will of one country are subjected to the policy and will of another."

The door is opened in Boston, sir, otherwise the appeal of a foreign Power would not have found its way there. Why was it sent there? Because it is the focus of faction, and from thence the firebrands of discord will be scattered into every quarter of the country. The speeches of the member will hold the match to the combustible materials which have been heaped up there, and the heartfelt satisfaction will be his, that he put the torch to the pile which is to consume the Constitution of this Union.

The whole of this excellent letter of the venerated Washington comes directly in contact with the course now pursued. Unfounded jealousies are excited, false insinuations are made against the Government, and yet, the men pursuing this *holy* vocation profess to be treading in the footsteps of Washington! Repeal the embargo, they cry, and trade. As to national honor, it is but a name—an empty sound. The love of country does not warm their bosoms. Liberty—and at the sound of liberty the blood beats high in the veins of every virtuous American—has no charms for them. Gold is the god they worship, and they would wallow in the mire of debasement to extract one grain from its filthy sands. The remarks of such men as the member from Massachusetts deserve that all the thunders of this nation's wrath should burst upon their heads. They should be riven by the lightnings of public indignation, and be blasted forever.

Mr. G. W. Campbell said that it was with some embarrassment he rose to address the House on this occasion; as the duty he owed to himself and to his country would impel him to notice some remarks made by the gentleman from Massachusetts (Mr. Quincy) calculated to excite sensations which ought not to be indulged in this House, and to extort replies that may encroach on that decorum which ought to be observed on this floor, ought not to be violated even in the presence of this respectable audience;—remarks, said he, which are not founded on facts, or supported by any sound argument, which must be the effusion of a disordered brain, or malignant heart, which admit of no serious investigation, and do not merit and cannot receive any other reply than a direct and positive denial, accompanied with that contempt which such misrepresentations justly deserve. The gentleman told you, when he had found some explanation of what he had said necessary, that he had not alluded to particular facts, but meant to bring together a group of motives, by which he conceived the Administration and the majority of this House, as I understood him, to be governed. This group of motives must be the gentleman's own impressions, and not being derived from facts, as he admits, must be considered as the offspring either of ignorance, or what is more probable, of a deliberate and malicious preconcerted plan to usher forth those misrepresentations, knowing them to be without foundation, at this critical moment, for the express purpose of deluding the public mind. Take the gentleman on his own ground and this must be the conclusion. He did not allude to facts, and

yet he pretends to give the motives by which Government and the majority are actuated. He says the majority have acted under a deception—the Administration had other motives than those avowed. He advances no proof to support these assertions. The result must, therefore, be such as has been stated—a deliberate scheme to mislead the public opinion on those subjects—to make an impression abroad that the majority of this House have been guided in their proceedings like automatons—that they are not governed by their own judgments, and do not act from the convictions of their own minds, but are directed by some invisible hand, some unseen influence, which, though alluded to, he dare not name. These are in substance the infamous and unfounded insinuations made by that gentleman. I care not how he may attempt to envelop them in dubious language, or attempt to fritter them away by explanations. The turpitude of heart that produced them, remains the same. If the gentleman had come forward openly, and told this House that the members composing the majority had no sentiments of their own; that possibly they do not mean to destroy their country (as he has been pleased to admit) but are made to do so by the direction of some other controlling power, I should then think he might have some claim to candor, that possibly he believed what he said, and was ready to hazard not only his reputation, but also his feelings (if indeed he has any, of which I now entertain some doubt) and even his person in what he had asserted. [Mr. Quincy wished to explain.] I wish no explanation from the gentleman, said Mr. C., after what he has already said, and the frequent samples of explanations he has heretofore given. There is no other member in the House, sir, to whom I would not concede the floor for the purpose of explanation; but there is a point beyond which, so long as I have a seat in this House, I will not suffer my feelings to be injured, nor my motives to be impeached with impunity.

I did, sir, not hear all the remarks made by the gentleman on yesterday, and I shall only notice such of those as I did hear, as he seemed to consider of most importance, in order to add my evidence to what has already been said by others on this subject, to show that they are destitute of the slightest foundation in fact. It would not be difficult to prove, from circumstances, that they are a fabrication of misrepresentations, prepared at this moment for the express purpose of influencing certain elections which are to take place during the ensuing spring, in the quarter from which that gentleman comes. Hence he thinks, in order to cover his own views, he will be the first to cry out "the object of the majority is to influence these elections." But the gentleman's veil is too thin, it cannot conceal his designs; they are distinctly seen through it. The object is, at the hazard of everything, to deceive and mislead the honest part of society in that quarter, to promote the views of a certain faction or party there, who are evidently sworn enemies to the Government of this country—who are connected directly or indirectly with a foreign Power, that of Great Britain, and who use every means in their power to support her interest and increase her influence in this country, at the hazard and expense of the dearest rights and best interests of this nation. That such a party exists cannot now be doubted (and the gentleman from Massachusetts resides in the midst of it) who consider their fate intimately connected with that of Great Britain—who seem to have congenial sympathies with her—feel her success as their glory, and would consider her fall as their destruction—who use all the means in their power to excite her to a perseverance in her destructive measures against this country, and prevent her, if possible, from yielding or accommodating existing differences with your Government—who become desperate in proportion as the prospect of accommodation seems to approach, and represent to her in the strongest colors, their dangers in such an event—that if she settles her differences with you at at this time, without making you first yield to her terms, they, as her party in this country, sink into obscurity and contempt forever. Hence their desperate exertions to convince Great Britain that this country cannot long persevere in her present measures. Proofs could be adduced to support this statement, that must produce conviction in every discerning mind. I shall instance one fact, which of itself is conclusive on this point. The late publication of the famous letter from Mr. Canning to Mr. Pinkney. This insidious production, which has been substantially contradicted by Mr. Pinkney's answer, was ushered into the public prints by that faction, for the purpose of making false impressions on the minds of the American people, favorable to the views of Great Britain. And yet, sir, we are told by the gentleman, that the members of this House were blustering and scolding about the letter of a British Minister. [Mr. Quincy said he did not refer to that letter.] I am certainly willing, said Mr. C., that the gentleman should deny what he said, though I wish for no explanation from him. I certainly understood him as referring to this letter. [Mr. Quincy said he alluded to another letter.] I will, said Mr. C., state the gentleman's words, and the House will judge whether this was not the very letter he alluded to, however he may chose now to change the reference. He said "that this House was scolding and blustering about a letter of the British Minister." The letter now in question had a few days ago been laid before this House, and some spirited animadversions were made upon it by several members; no other letter of a British Minister had been noticed in the House, to my knowledge, for some time; to my mind, therefore, the inference was inevitable, that this was the letter alluded to. And how the gentleman could introduce or mean any other is to me incomprehensible. However, the fact of the letter having been published is the same, whether he alluded to it or not, and will equally answer my purpose. It was an official letter, and must have been obtained either from the British Minister or from your own Government. It is known

to every one it was not obtained from the latter; it must, therefore, have been furnished by the former. It was first published in Boston, accompanied by comments calculated to inflame the minds of the American people against their own Government, at a time when our public affairs were in the most critical situation. This single fact is sufficient to prove the existence of this party, and their connexion with, and anxious desire to support the views of the British Cabinet. It may be proper, sir, that I should state here, that in speaking of this faction or party, who are a disgrace to the American character, I do not mean to include all those called Federalists. No, sir, there are many of them for whom I have the highest respect, believing them real friends to their country. There are many members in this House for whose character I entertain the highest esteem, from a conviction that they act from pure motives; but there are some who do not come within this description.

But, sir, to return for a moment to the gentleman's remarks. He told you this House passed the embargo law under a deception, as to the motives that induced the measure to be recommended to the Executive. This old and hackneyed charge, already refuted and contradicted time after time, I did not expect would again be brought before the House. But it is now renewed, though destitute of the slightest foundation, for the express purpose of giving a new impulse to misrepresentations, in the quarter from which that gentleman comes. There is no man can with truth deny, that when the embargo law was passed, this House had all the information on the subject the Government possessed, and could not, therefore, act under a deception. The motives alleged for its passage were the real motives, and there is not a single fact can be adduced to show that there was any other object in view than those avowed. It was adopted first as a measure of precaution to save our property and seamen. It was relied on also as a coercive measure, in regard to the belligerents, so far as depriving them of our supplies would operate in that way, and was so stated by many members on this floor during the passage of the law, but was not considered as a hostile measure: and the belligerents had no right to view it in that light, as we have an undoubted right to regulate our own commerce or abandon it altogether, without giving just cause of war to any nation. How the gentleman, therefore, without the shadow of proof, could bring forward such serious charges, is more than extraordinary; and indeed it does appear to argue a degree of arrogance little becoming the character of an honorable member of the National Legislature, to assert, as has been done, that a large majority of Congress have acted under a deception, have been led as it were blindfold, to give their assent to the measures that have been adopted for more than a year; as if no one had penetration enough to perceive the real motives that guided our councils but this gentleman alone. This opinion he will probably be permitted to enjoy, without a single rival on earth.

You are next told by the same gentleman, that the object of the majority in laying the embargo by a law unlimited in its duration, was to vest the whole power of regulating commerce in the hands of the President; and he says, if it was intended to coerce, to reach the vitals of Great Britain, it was proper to do so. On this latter point indeed, the gentleman seems to feel very sensibly; to be tremblingly alive to the slightest pressure that may be made on his innocent and unoffending friend, Great Britain; as if, when you coerced her, you pressed on his interest in the tenderest point; and when you "reached her vitals," you touched his heart's blood. It was, therefore, wrong, in his opinion, to adopt any measure that would bear hard on her interest. This doctrine may suit the people that gentleman represents, those called the Essex Junto, but it will not be relished by the great body of the American people. No, sir, they will hear it with that indignation it so justly merits. A very slight attention to facts will show the majority had no such object in view in laying the embargo, as that so untruly ascribed to them by the gentleman, of placing the whole power in the hands of the Executive. The first proposition made by the majority was to lay the embargo, by a joint resolution, as had formerly been done, which would, it is presumed, have left the power in the two Houses to rescind it at pleasure. This mode was opposed by the gentlemen on the other side of the House, by that gentleman and his political friends; and to accommodate those opposed to this mode, a law was substituted in its place. This proves that the majority had no disposition whatever to vest the power in the hands of the President, and that this charge, like many others, is without the slightest foundation in truth.

But the gentleman says that he formerly urged an argument against the constitutionality of the embargo laws, viz: "that you cannot repeal them 'without the consent of the President, if there be 'twelve members of the Senate against such re-'peal—that is, that the President and twelve 'members of the Senate may prevent their re-'peal"—which argument, he says, has not been answered. I believe, sir, it has not been even noticed, much less answered, and it would still remain unnoticed by me, if the gentleman did not seem to attach so much importance to it, that possibly some might conclude that there was some weight in the objection. I did not, sir, indeed suppose that any gentleman, however conceited he might feel, could seriously think that the members of this House were obliged to answer, and enter into a logical discussion of every quibble, however silly, he might choose to start. The argument deemed so important by the gentleman has not been urged, or even mentioned, so far as I recollect, by any other of his own party. It has not been thought worthy of notice by the newspapers of the same party. It has, therefore, justly been considered by the majority as not meriting an answer, and passed in silence, as many other unmeaning quibbles from the same quarter, dubbed with the name of arguments, have been.

Every man of ordinary understanding, and possessed of any information, must know, that the embargo law is on the same footing in regard to its repeal, with every other law. You cannot repeal or pass any law without the assent of the President, unless two-thirds of both Houses concur. The same objection, therefore, made to the embargo law being unlimited in its duration, would equally apply to every other law that it might be thought any event would ever render expedient to repeal. According to the gentleman's doctrine, all your laws ought to be limited in their duration, lest the President, or two-thirds of the Senate, would not agree to repeal them. This absurdity, to which the gentleman's argument would lead, was seen by every one who examined the subject, and an answer was therefore considered totally superfluous. But, sir, what foundation is there for all this jealousy with regard to the President's giving his assent to an act repealing the embargo laws? Is there any part of his conduct hitherto calculated to induce a belief that he would refuse his approbation to an act passed by both Houses of Congress? Is it candid or liberal at this time to argue, because he has the power to refuse his assent, that he would, on such occasion, exercise that power, when he never has, during the whole course of his Administration, now near a close, in any one instance, done so? Does it not prove the weakness of the cause which gentlemen advocate; the wretched shifts to which they are put for what they call arguments; and the futility, and even absurdity, of the objections they make? It certainly does; and further, tends strongly to prove, that there is some object at the bottom of all this different from those avowed; it seems to cry aloud, "there is something rotten in the state of Denmark."

Another charge is brought forward, sir, which would be a very serious one if true, that when the army of six thousand men was authorized to be raised, your Administration did not design them to fight foreign nations, but your own citizens, that they were intended only to enforce the embargo, though the contrary was avowed. There is something in this charge so insidious, and I might add, so base and malignant, that it must be considered as springing from the same disorganizing and malicious disposition which actuates that party, or rather faction, to which I have already alluded; and stimulates them to issue forth one false statement after another in continued succession, in order to keep up the public delusion in that quarter, and effect, at the expense of truth and every principle of justice, their electioneering purposes. These attempts hitherto, there is reason to believe, were likely to fail. The publication of official documents and State papers, from time to time, refuted their misrepresentations, and were likely to confound all their exertions to mislead the people, who began to see clearly that their Government was not affected by any foreign influence; that they acted solely with a single view to the interests of their own country. Opposed by truths too powerful to resist, the party resort to this as the forlorn hope, as the last desperate effort, to support their nefarious schemes. When the national councils were making preparations to resist foreign aggressions of every kind, from whatever nation they might proceed, there were no means left them to carry on their system of delusion, but to tell the people, (in the very face of the clearest proofs to the contrary,) those preparations are not made against your enemies, but against yourselves. This charge must be too absurd to gain credit with any man whose mind has not been already poisoned against the truth. There is scarcely a child in the nation, who can read, possessed of so little sense and information as to believe it. There is no doubt the Government would use all the proper means in their power to preserve peace with foreign nations, if it could be done consistent with the interest and honor of this country. They can have no wish for war. But, at the present crisis, it is certainly necessary to be prepared for it, in case it should become inevitable. For this purpose, those troops were authorized to be raised to resist foreign aggression, not to enforce the embargo. The idea of using them to enforce the embargo laws—though it would have been a proper object—could not, at the time, have been entertained by any one. It was not then supposed there was any portion of the American people so corrupt, so totally lost to all sense of the duty they owe the nation, as to evade, much less openly oppose, the execution of the laws of the Union. It could not, therefore, have been thought necessary to provide for such a case. The assertion is indeed so destitute of the slightest foundation, that it would be surprising, if anything from that quarter could now surprise us, that it should be uttered on this floor.

But what reason does the gentleman assign for entertaining this opinion—one as extraordinary as it is futile. He says no Federalists are appointed to offices in this new army, and therefore he concludes, that their only object is to enforce the embargo. Though the statement as to appointments is not true in fact to the extent asserted, yet, if it were, how could it prove the gentleman's position? Did he mean to insinuate that all the Federalists would oppose the execution of the embargo laws during the time they remained in force, and on that account are not to be trusted as officers? I trust he did not; and I presume such is not the fact. I have reason to believe that there are many Federalists, who, though opposed to these laws, would aid in carrying them into complete execution so long as they continue to be the laws of the Union. Or, did the gentleman wish to be understood as saying that there were none but Federalists who could be intrusted to fight foreign nations? Hardy as that gentleman appears to be, and vain of his own importance, he could scarcely, I presume, utter such a sentiment without blushing. But, sir, could he suppose the Government would appoint the apologists of British outrage and aggression to defend their country against her armies? Certainly he could not, and the nation would not sanction such conduct. But the gentleman intimates that this House

might have acted under honest motives, but the Administration did not mean to make war with foreign nations. Need he be told that the Executive cannot make war; that Congress alone is competent to declare it? Surely, I presume, he need not. And with what pretext, therefore, can he bring this charge against the President? The only object must be to cover himself from the imputation of charging the several members of this House, directly, with acting from improper motives, which charge, in fact, he does make indirectly. Many on this floor have declared, if the belligerents would not do us justice, they were determined to meet war with all its calamities, and that, in a very short time, rather than submit to their unjust edicts. The gentleman asserts that the majority are determined not to go to war. This is charging them with duplicity, with being actuated by motives different from those they avow. Such charge is unfounded and illiberal, and so far as it was intended to apply to me, is totally untrue, and one which, out of the sanctuary of these walls, neither that gentleman nor any other should make with impunity.

But it is further said, you have not spirit enough to fit out your small navy. Here we have a proof of what that gentleman means by spirit. He estimates it in proportion to the amount of money you appropriate. This it seems with him is the only test of true spirit. With regard to what most other men would call spirit, I presume, the gentleman may satisfy himself on a proper occasion, that almost any one of the minority possesses a sufficient degree of it to meet any demand he may make—though they will not contend with him on the score of that kind of spirit, which consists alone in appropriating money for unnecessary and useless purposes. [Mr. LYON wished to interrupt Mr. CAMPBELL, apparently for the purpose of calling him to order.] Sir, said Mr. CAMPBELL, there are certain persons who are entirely too low to be noticed, and are therefore secure. The remark in regard to not fitting out the whole Navy, when properly understood, has no weight or tendency whatever to prove the charge, that the majority have no intention to go to war, should the interest of their country require it. Those of the majority who opposed fitting out the whole Navy, did so because they were of opinion it would not constitute any substantial or efficient means of defending the country or annoying an enemy. They did not think a navy ought to be relied on for protection or offence. They therefore considered the large appropriation of money necessary for fitting out the whole Navy as a useless waste of our resources, which would add little or nothing to our security, or means of actual resistance, and which resources ought to be applied to other objects better calculated to prepare the nation, for both defensive and offensive measures, should the occasion require them. It was not therefore in any point of view an evidence of their indisposition to meet war, or make it if necessary, but related solely to the means by which they conceived it could most effectually be carried on.

Another ground is equally futile and destitute of foundation. He asks, when you have reduced your resources, and destroyed your revenue, will you go to war? He must have forgotten, that in the very breath before he had complained, because you did not expend millions on the Navy; now he says you have exhausted your resources. This is proof of the gentleman's consistency. But I might call on him to show a single instance in which, during the present Administration, the resources of the nation have been unnecessarily laid out—he could point out none—on the contrary, they have been husbanded by them most carefully, and, in consequence of their economical management, there is at this time more money in your Treasury, than ever there has been at any preceding period. On the first of this month there was in the Treasury sixteen million of dollars, which is amply sufficient to meet all expenditures authorized for the present year, and still leave a considerable balance in the Treasury to meet those of the ensuing year, together with the amount of revenue that shall during that period be received. Hence it is manifest, this allegation of your having exhausted your resources, is destitute of the slightest foundation in fact.

There was another remark made by that gentleman, which is only noticed because it shows a degree of assumed self-importance, and even insolence, which would hardly be expected from any gentleman, even though he affected to be the hero of the *Essex Junto*: With a kind of pantomimical exhibition, which is often performed on this floor, (I presume for our amusement,) he observed, "I cannot suffer any longer, the cry of war to go abroad." How, sir, did he suppose he could prevent it? Could he imagine even for a moment, in the midst of all his apparent mental delirium, that he had any control over the members composing the majority of this House? Such remarks can only expose the extreme weakness, or arrogance of those who make them, and will be treated by all who hear them with that indignant contempt which they so justly merit. Pursuing the same course of misrepresentation, it is further said, that this bill is a continuation of the system of deception of the Administration, intended to operate on the elections in the Spring. I must conclude, (which I regret very much to be under the necessity of doing,) there is more corruption and turpitude in the part of the country from which that gentleman comes, than in any with which I have ever been acquainted. He must in this instance judge of others by himself; for, as he adduces no facts to support his assertion, he must speak from a knowledge of what would, in similar circumstances, be his own views, and those of his political friends. There is no other ground upon which to account for this assertion—unless indeed you ascribe it to motives still more base, if possible. He produces no proofs to support his allegation; he must therefore, draw his inferences from analogy. He determines what objects he and his friends would have in view, and what course they would pursue in a similar case; and very sagaciously concludes, the majority of

this House are actuated by like motives, and would act accordingly. In this conclusion he has been egregiously mistaken. There is not, I trust, among the majority, a single individual actuated by such unworthy motives; they have no other objects in view but those they avow—the charge is a base and unfounded slander, for which its author, if rules of decorum were duly regarded, would justly merit and receive the decided and public censure of this House. This course must and soon will be resorted to, and can alone prevent the necessity of replying to remarks, which are disgusting in the highest degree to every one who hears them—it alone will prevent introducing on this floor the language of Billingsgate, or the courtly style of the oyster bench, as has been done by the same gentleman. He observed the language used by some gentlemen who answered him, resembled that of Billingsgate, and that he never sat down with fishermen, or took degrees at an oyster bench. If he has not yet, sir, taken his degrees, I have no doubt, he soon will receive that honor, with universal consent—for he certainly has been a very apt scholar, and must have made great proficiency in the acquisition of their sentiments, as well as their language. He has given proofs of it on this floor, exceeding anything of the kind ever before produced in a respectable deliberative body. He said you could not kick the majority of this House into war! This language is too disgraceful to merit notice—in the manner it was applied, it is below the style of a common alehouse, and will fix a stain on the character of its author, which all the evasions and hypocritical explanations to which he may resort cannot remove for years to come.

But, sir, we cannot help inquiring what has at this time produced all these unfounded charges? And we are impelled to conclude, they are the result of a preconcerted plan, as has been already noticed, to continue the delusion in the public opinion to the Eastward, so as to influence the ensuing elections in that quarter. On their success in this effort rest all the hopes of the party. In the late elections, with the aid of intrigue and misrepresentations, they succeeded beyond the general expectations, and far beyond their own. Since that time a number of the false statements which supported their cause have been completely refuted by the publication of official documents—they seem to consider their cause as likely to be desperate—they can no longer persuade the people, that the embargo was intended as a war measure—that your councils are guided by French influence—that you are willing to submit to all foreign aggressions, and that the embargo was to be permanent. All these absurd tales have had their round, and are now no longer believed by any man of sense. The last struggle, the forlorn hope now, is to persuade the people you are not serious, you are not in earnest in your preparations to defend their rights and avenge their wrongs. They hope by impressing on their minds this barefaced falsehood, to be able still to lead them in the paths of error—they tremble for the fate of their party—they perceive clearly that Great Britain is pressed severely by the embargo, and is likely to discover her error in giving credit to the false statements she received from them respecting the people of this country, and in all probability is on the very point of accommodating her differences with your Government. In this they see a death blow to the existence of the party in this country, and they use every means in their power to prevent such event. Hence their unremitted exertions to excite domestic disturbances, insurrections, and rebellion in the Eastern States, with the hope thereby to commit the people decisively on their side of the question, and particularly to persuade Great Britain she has a strong party here on her side, and thereby induce her to persevere in her aggressions, and prevent her from doing justice to this country. With her they are willing to rise or fall, and they know should our differences with foreign nations be adjusted without disgracing our country, they vanish forever as a party. Such means pursued to effect such objects, will draw down on their authors the just indignation of the American people; charges so serious, and at the same time so groundless, made against the Representatives of the nation at this important crisis, ought to be exposed and repelled by every member of the majority on this floor—and as one, I deem it my duty to pronounce them, in the face of this nation and of the world, so far as they were intended to apply to me, to be slanderous and malicious falsehoods.

Mr. Gardenier said he would not have again spoken in support of the bill; but, he said, the freedom of debate had been violated in the House. A gentleman from Massachusetts (Mr. Quincy) had exercised a Constitutional privilege in expressing his sentiments; and he had been answered in a manner calculated to wound his feelings as much as language could do it. He considered the purport of such language to be either, that a man must submit to disgrace, or an appeal to cold iron. [He was twice called to order by Mr. Fisk; the Speaker decided each time that it was improper to refer to personal combat.] Mr. G. expressed his horror of the use of abusive language. He said that, although the gentleman from Massachusetts (Mr. Quincy) came from a country where the term cowardice was not known, yet it was equally disgraceful to resort to a certain mode of resenting injuries practised in other States. He hoped irritating language would, in future, be dropped.

Mr. Quincy said he should not have again risen in this debate, did not the observations of the gentleman from New York (Mr. Gardenier) in a manner compel some explanation. The interest he has been pleased to express on account of the language which has been addressed to me, said Mr. Q., is very natural to a gentleman in his situation, and entitles him to my gratitude. But the course of my education has inculcated other sentiments, and instilled different feelings. I have been taught that the just pride of life is only attained by acquiring real honor among honorable men; and that this can only be effected by an undeviating course of public and private conduct,

directed by sound principle, and terminating, when its marks and limits are fully understood, in a fulfillment of duty. Such a course I have attempted to pursue in this debate, though it has been my lot to be mistaken or misrepresented by almost every gentleman who has undertaken to reply to me. Towards neither of those who have seen fit to resort to such opprobrious language can I feel any resentment; they are welcome to all the advantages they can derive from it.

It is my fortune—perhaps in the opinion of some it is my misfortune, to represent, not only a great, a wise, a powerful, an intelligent, but what, in that country, is valued more than all, a religious people. Gentlemen very well understand, when they use terms in debate to which the customs of this part of the country admit of but one species of reply, that such a resort is altogether prohibited by the sentiment of that part to which I belong. They know that, so far from being honor, it is a disgrace, in my country, to avenge wrongs of words in the way which is here, in a manner necessary; and that a successful issue, in such a mode of vengeance, would there terminate the hopes, as well of political as of private honor of any man who, at my period of life, should adopt it. And I shall not, in order to gain the temporary applause of men whom I cannot respect, forfeit the esteem of those whose good opinion is, in this life, the most precious reward. This is my situation; I am sent here by such constituents to support their interests and maintain their rights, according to my apprehension of them. My duty in these respects I shall fulfil; nor shall I be deterred from performing it, by the asperities or the violence of any friends of the present, or any future Executive, of any, or all the royal cousins.

My argument, such as it was, will be laid, I trust, fairly before the people; whether I have passed the boundary of parliamentary duty or decorum I cheerfully refer to their judgment. The observations made in reply have been one tissue of mistakes. I ought to have interrupted each gentleman at least twenty times; but if gentlemen cannot, or will not, understand the bearing of an argument, it does not become me to be perpetually correcting them. If they insist upon dressing up, in their own way, their rag-babies, and will shake and beat them about for their own amusement, it is not for me to interfere. Certainly, I do believe with the gentleman from New York, (Mr. Gardenier,) that the privileges of this House have been violated. The ground which I took was perfectly parliamentary—I openly disclaimed, in the outset, all personalities; I canvassed only public men, and attempted to reason concerning their intentions from their public conduct alone. With respect to the motives of this House in passing the embargo, what I said upon that point was expressly stated as being, not intended to criminate, or even directly to attribute, but only as a mere recapitulation of all the motives which had ever been suggested as existing; and this was done solely to support my main argument, that none of these did include those motives which, as I undertook to show, did operate with the Executive. Whenever what I then urged shall be before the public, the correctness of this statement will be apparent. This is not "explaining away," sir. Gentlemen will not take the trouble to understand the bearing of an argument; they sit and note down some independent sentence which strikes their ear; they seize upon scraps which are, perhaps, only subsidiary or illustrative to the general scope of the reasoning; on these they fix, and these they rend, as though they had in their grasp the substance of what was urged.

However, it was not my intention to enter even thus far into additional elucidations of this kind. Knowing the solid ground on which I stand, I have little solicitude concerning the effect of the observations of these gentlemen; the force of their weapon, if it have any, will only be felt in its recoil on themselves; for I have this great consolation, in the certainty, that, where I am known, nothing *those* gentlemen can say will injure me; and also in the further belief, that the effect will not be greater where *they* are known.

No other amendment being offered to the bill, it was ordered to be engrossed for a third reading. The bill being brought in engrossed, a motion was made that the same be read the third time to-morrow: and the question being put thereupon, it passed in the negative.

A motion was then made by Mr. Smilie, that the bill be now read the third time: and the question being taken thereupon, it was resolved in the affirmative.

The said bill was, accordingly, read the third time: Whereupon, Mr. Speaker stated the question from the Chair, that the same do pass? And, the question being taken, it was resolved in the affirmative—yeas 80, nays 26, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, William W. Bibb, John Blake, jr., Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Epaphroditus Champion, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Ely, John W. Eppes, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Thomas Gholson, jr., Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., John Love, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, Clement Storer, Samuel Taggart, John Taylor, James I. Van Allen, Archibald Van Horn, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

Nays—Burwell Bassett, William Blackledge, Thos. Blount, Martin Chittenden, Matthew Clay, John Dav-

emport, jr., Meshack Franklin, Edwin Gray, Richard Jackson, James Kelly, Matthew Lyon, Nathaniel Macon, Josiah Quincy, John Randolph, John Rowan, James Sloan, Richard Stanford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Jesse Wharton, and David R. Williams.

Adjourned to Monday.

MONDAY, January 23.

Mr. MACON, from the managers appointed on the part of this House to attend a conference with the Senate on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," reported that they had met the managers on the part of the Senate, and conferred freely on the disagreeing votes of the two Houses; but come to no agreement thereupon.

Mr. LEWIS, from the Committee for the District of Columbia, presented a bill respecting executions for small debts in the county of Washington, in the District of Columbia; which was read twice and committed to a Committee of the Whole on Wednesday next.

Mr. HOLMES, from the Committee of Claims, presented a bill for the relief of Isaac Briggs; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. FISK, from the committee appointed the fifteenth of November last, presented a bill for altering the times and places for holding the Circuit Court of the United States within the District of Vermont; which was read twice and committed to a Committee of the Whole on Wednesday next.

The SPEAKER presented to the House a petition, in the French language, from sundry inhabitants of Soussignes, in the Territory of Michigan, praying that such measures may be adopted, as Congress in their wisdom may deem proper, for causing a number of copies of the laws of the United States, particularly such of the said laws as relate to the Michigan Territory, to be printed in the French language, for the convenience and benefit of the petitioners, and other inhabitants of that Territory.—Referred to Mr. WHARTON, Mr. MUMFORD, and Mr. KEY; to examine and report their opinion thereupon to the House.

Mr. JEREMIAH MORROW, from the Committee on the Public Lands, presented a bill concerning claims to lands in the Mississippi Territory, granted by the British Government of West Florida; which was read twice and committed to a Committee of the Whole on Thursday next.

ADDITIONAL MILITARY FORCE.

The House went into Committee of the Whole on the bill providing for the increase of the Military Establishment. The bill contemplates the raising of 50,000 volunteers.

On the motion of Mr. NELSON, the first blank was so filled as to limit the term of service to two years.

The Committee rose and reported the bill with the amendments.

The House immediately took up the report, and after some observations in opposition to the bill, from Mr MILNOR, the question on engrossing the bill for a third reading. was taken by yeas and nays and carried—yeas 72, nays 45, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thos. Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rhea of Tennessee, Jacob Richards, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Peter Swart, John Taylor, Abram Trigg, George M. Troup, James I. Van Alen, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Joseph Barker, William Blackledge, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Culpeper, Samuel W. Dana, John Davenport, jun., Jas. Elliot, William Ely, James M. Garnett, Charles Goldsborough, Edwin Gray, John Harris, John Heister, William Hoge, Daniel Ilsley, Richard Jackson Robert Jenkins, Joseph Lewis, jun., Matthew Lyon, Nathaniel Macon, William Milnor, Daniel Montgomery, jun., Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Jesse Wharton, Robert Whitehill, and David R. Williams.

On the motion that the bill be ordered for a third reading to-morrow.

Mr. D. R. WILLIAMS wished that it might be postponed until the course which was to be pursued should be determined. He alluded to a declaration that was made some days since by Mr. BACON, that he would bring forward a motion for the repeal of the embargo, at a certain period. Mr. W. wished to have the question settled before this additional force should be voted.

Mr. NELSON could not consent to a postponement. He thought the country ought to be put into an immediate state of defence, and it would be unwise to repeal the embargo until that was done. He apprehended no danger to the liberties of the people from the increased force of the United States. From what he had seen of the militia, he did not believe them sufficiently disciplined to be so immediately effective.

Mr. TALLMADGE thought the bill of more importance in respect to the interest of the people

than the gentleman from Maryland (Mr. NELSON) seemed to imagine. He therefore moved that it should be ordered to a third reading on this day week, that gentlemen might have time to consider the bill in all its bearings.

Mr. BACON wished for an intermediate period. He said he should not shrink from the duty which he had assigned himself, in bringing forward a resolution for the repeal of the embargo at no distant period.

Mr. DESHA moved that the bill be read a third time on Thursday next.

Mr. D. R. WILLIAMS thought if war measures were resolved upon, the nation should know it. If war was the object of the present bill it was deceiving the people.

Mr. NELSON made some remarks in support of the bill, and of a third reading to-morrow.

Mr. LYON wished the longest period named might prevail. He wanted even to look over a book of speeches, in which he found certain principles in direct hostility to the present bill maintained by the gentleman who now fills the Chair and the celebrated personage who is at present at the head of the Treasury.—He wanted to show the Republicans what they themselves had said upon the subject. He called these men time servers, whose principles altered to suit the times.

Mr. NICHOLAS supported the bill, not on the ground of its contemplating the raising of more militia or volunteers, but as an army of defence.

Mr. GARDENIER moved that the third reading of the bill should be postponed until the 22d of February next. Mr. G. took a wide view, in a speech of about an hour, of the affairs of the country, and of the present system of measures, and hoped that gentlemen, if they would not consent to go back, would at least consent to make a short pause, and allow time to have a complete knowledge of the state of the nation before they should pass the present bill.

Mr. MACON replied at length to Mr. GARDENIER, defending the embargo and the other measures of the Government.

Mr. J. G. JACKSON also spoke at length in reply to Mr. GARDENIER.

The question was then taken by yeas and nays, on the motion of Mr. GARDENIER, and lost—yeas 16, nays 65, as follows:

YEAS—Epaphroditus Champion, Martin Chittenden, Barent Gardenier, William Hoge, Richard Jackson, Robert Jenkins, Matthew Lyon, William Milnor, Jonathan O. Mosely, John Russell, James Sloan, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Jabez Upham, and Archibald Van Horn.

NAYS—Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Jas. Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Clement Storer, John Taylor, James I. Van Alen, Isaac Wilbour, David R. Williams, and Alexander Wilson.

A motion was made by Mr. TALLMADGE, that the said bill be read the time on Monday next: and the question being put thereupon, it passed in the negative.

A motion was then made by Mr. NELSON, that the said bill be read the third time on Wednesday next: and the question being taken thereupon, it was resolved in the affirmative.

And on motion, the House adjourned until to-morrow.

TUESDAY, January 24.

The SPEAKER laid before the House a letter from the Secretary of the Navy, accompanied with a report of the Commissioners of the Navy Pension Fund, and sundry statements marked A, B, C, D, and E, prepared in pursuance of the "Act for the better government of the Navy of the United States; which were read, and ordered to lie on the table.

Mr. SAY presented a petition of the President and Managers of the Susquehanna and Tioga Turnpike Road Company, praying that the Secretary of the Treasury, for and on behalf of the United States, may be authorized to subscribe for such a number of shares of the stock of the said company, as to the wisdom of Congress shall seem meet.—Referred to the committee appointed, the eleventh of November last, on so much of the Message of the President of the United States at the commencement of the present session, as relates to the disposition of the surplusses of our revenue in the improvement of roads, canals, rivers, and education; to examine and report their opinion thereupon to the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to the act, entitled 'An act to amend the act, entitled 'An act establishing Circuit Courts and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio:" also, a bill, entitled "An act making appropriations to complete the fortification, commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet;" to which bills, respectively, they desire the concurrence of this House. The Senate adhere to their amendments to the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," to their disagreement to which this House hath insisted.

FORTIFICATIONS.

The House resolved itself into a Committee of the Whole on the bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet.

Mr. Blount moved to fill the blank for the sum with $450,000, and read the following estimate of the sums necessary for completing the fortifications in each State for the ensuing year:

For the several works at and near N. Orleans	$36,000
For do. in the State of Georgia - - -	60,000
For do. in the State of South Carolina - -	30,000
For do. in the State of North Carolina - -	16,000
For do. in the State of Virginia - - -	28,000
For do. in the State of Maryland - - -	15,000
For do. in the State of Delaware - - -	18,000
For do. in the State of Pennsylvania - -	5,000
For do. in the State of New Jersey - -	14,000
For do. in the State of New York - - -	165,000
For do. in the State of Connecticut - -	24,000
For do. in the State of Rhode Island - -	8,000
For do. in the State of Massach'ts and Maine	25,000
For do. in the State of New Hampshire -	4,000
Total - - - - - - -	$448,000

The motion was agreed to, without a division.

Mr. Van Dyke moved to insert, at the end of the section which provides for completing the works already commenced, the words, "and for erecting such other fortifications as may be deemed necessary."—Agreed to, without a division.

Mr. Goldsborough moved to strike out of the bill the words, "exclusive of the contemplated line of blocks and chains across the harbor of New York," and insert a proviso that no part of the money appropriated by this bill should be employed in that mode of defence, and that the materials provided for it should be sold, and the proceeds of the sale be appropriated to other fortifications. This motion was opposed by Messrs. Burwell and Blount, and afterwards withdrawn.

A motion was made by Mr. Macon, to strike out the second section of the bill, (respecting the canal of Carondelet.) This motion was superseded by a motion of Mr. Dana for the Committee to rise, in order to recommit the bill; on which motion, a debate took place of two or three hours in length, turning principally on the question of the propriety of that mode of defending New Orleans. Motion to rise lost—47 to 40. Motion to strike out the second section lost—55 to 40.

The blank in the second section was filled with $25,000.

Mr. Newton moved a new section, to authorize the President of the United States to cause a survey of the land lying between the head of the Eastern branch of Elizabeth and Lynnhaven rivers, to ascertain the practicability of cutting a canal across.—Negatived, ayes 10.

The Committee rose, and reported the bill as amended, which was ordered to be engrossed for a third reading.

PREPARATION FOR WAR.

Mr. Nicholas said, that there never was a period in any country which more required the union and exertion of all its citizens to extricate it from its difficulties, than the situation of this country required at the present time. The two most powerful nations of the world, said he, are in a state of war against this country. Their aggressions against us have been continued for twelve months, whilst we have used every honorable means in our power to avoid war. I have repeatedly declared my determination never to submit to the wrongs received; that when the embargo failed, we must resort to the valor and patriotism of our citizens. Sir, we have too much reason to believe that the moment is at hand when nothing else can extricate us from our difficulties. My attention has been particularly called to the necessity of measures of the sort I am about to propose, from the opposition made to the preparation for war by gentlemen who rely mostly upon the embargo as a coercive measure, and declare, that as long as it continues, no preparation should be made with a view to a state of war. If the country remains in a situation unprepared to meet war, until the period when every man would be satisfied that the embargo ought to be raised, we shall be compelled to continue it six, eight, or ten months longer, till we can prepare for actual war. But, sir, in our preparations, mere defence should not be the sole object. We are the injured party in the contest. This state of things imposes upon us the necessity of being prepared to prosecute the war; because, if we seek redress for injury, the mere *defence* of the country will not answer the purpose; and therefore there is the greater necessity for extensive preparation. After these observations, Mr. N. offered the following resolution, which he moved to refer to a Committee of the Whole:

Resolved, As the opinion of this House, that the United States ought not to delay beyond the —— day of —— to repeal the embargo laws, and to resume, maintain, and defend the navigation of the high seas against any nation or nations having in force edicts, orders, or decrees, violating the lawful commerce and neutral rights of the United States.

After a few observations from Mr. Dana, expressive of a wish to see a whole system, and the object of the preparation for war precisely defined, expressing at the same time a desire to give the subject an early consideration, the resolution was made the order of the day for Monday next, in preference to to-day—53 to 45.

Wednesday, January 25.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanying certain papers exhibiting the instructions which have been transmitted by him to the Collectors of the Revenue and other officers of the United States, in relation to the act laying an embargo upon all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto; also, the names and

places of residence of certain persons who have been detected in violating the embargo laws, prepared in pursuance of a resolution of this House of the fourteenth of November last.

The said letter was read, and, together with the papers transmitted therewith, ordered to lie on the table.

Mr. Burwell presented a memorial of the President, Managers, and Company, of the Philadelphia, Brandywine, and New London Turnpike Road, praying the aid and patronage of Congress, to enable the said company to open and complete a road from the city of Philadelphia, by Chadd's Ford, on Brandywine, and New London Cross-Roads, to the line of the State of Pennsylvania, in a direction towards the city of Baltimore.—Referred to the committee appointed the eleventh of November last, on so much of the Message from the President of the United States, at the commencement of the present session, as relates to the disposition of the surplusses of our revenue in the improvement of roads, canals, rivers, and education.

On motion of Mr. Clopton, that a petition of sundry British merchants, and others, subjects of His Britannic Majesty, presented on the twenty-first of December, one thousand eight hundred and four, and praying "that the power and authority granted by law to the Federal Circuit Courts, may be extended to the trial and determination of '*all causes arising under treaties*,' or to causes where an alien is a party, in which the matter in dispute, exclusive of costs, is under the sum of five hundred dollars; or that such other tribunal may be established for the trial and determination of the said causes as to the wisdom of Congress shall seem meet," be referred to the consideration of a select committee.

Mr. C. stated that, in making this motion, he was far from having any desire that the prayer of the petition should be granted; on the contrary, he was very much opposed to it, but that he made the motion solely to comply with the solicitation of an agent of the petitioners, residing in the district he represented, who had earnestly requested him to call the subject into view, and endeavor to obtain a final decision by the House. Motion for reference lost—ayes 33. The petition was laid on the table.

COLLECTORSHIP OF BOSTON.

Mr. Quincy.—Mr. Speaker, I rise to perform a great duty; but one imperiously demanded, as I apprehend, by my station, and by the knowledge of facts which I have in possession. By the second section of the first article of the Constitution, this House have "the sole power of impeachment."

This duty, always painful, it must perform, if occasion calls for it. And every member who has reason to believe that a high crime or misdemeanor has been committed, is bound to state that opinion to the House, and to move such an inquiry as the nature of the supposed offence demands.

Of all the duties of the Executive Magistrate of this nation, that in relation to the filling of important public offices is the most critical, the most likely to be abused, and the one which this House ought most scrupulously to watch; because these appointments are the avenues of corrupt influence; and, of all species, perhaps, that is the most dangerous which keeps men, then acting in high official stations, subject to such an influence by not only the actual perception of the profit of the places which they hold, but by the assurance of further lucrative advancement, in case of continued fidelity to him who holds the distribution of offices. Under this aspect, sir, I do not hesitate to declare my opinion, that a high misdemeanor has been committed against this nation, concerning which it is the bounden duty of this House to inquire, and either to remove the ground of suspicion, or establish the fact before the world. This is the charge which I expect to substantiate: That the collectorship of the port of Boston and Charlestown, being a place of great trust and importance, and also of ample emolument, has been now for more than two years, kept, in a manner, vacant, and ever since left in the condition of a sinecure, in the hands of the then incumbent, after the Executive had full information of the fact, for the purpose of keeping the said office in reserve for Henry Dearborn, long a member of the present Administration, then and now Secretary of War.

The facts I expect and am prepared to prove are:

First. That, in November, 1806, Benjamin Lincoln, Esq., collector of that port, did write to the President of the United States, stating his infirmities and advanced years, and asking leave to resign at the end of that year.

Second. That he did receive an answer from the President, in December following, expressing a high sense of his Revolutionary services, and requesting him to give him a little longer time to look out for a suitable character to fill the said office, and limiting the time to the last of March then following, viz: March, 1807, "beyond which he assured him he should not be detained." That General Lincoln, in reply, consented to continue until the last of the said March.

Third. That no appointment in March was made, and that General Lincoln did, on the 30th of September, 1807, write to the President stating his infirmities, and total inability to perform the duties of his office, and again requested to be relieved from his office, at farthest, by the end of that year; that to this he never received any answer.

Fourth. That he has been continued through another year, without any reason assigned for such continuance, in a situation totally unable to perform any of its duties; so much so, that he has not been in the town of Boston since June last.

So far the facts are to be proved, as I have reason to believe, in a court of law. The next fact, I have no doubt, will be made out perfectly to the satisfaction of the House and nation.

Fifth. That this office has been thus kept, in

effect vacant, for more than two years, for the purpose of gratifying a favorite of the Executive, Henry Dearborn, Secretary of War, by that appointment, and that for him it has been, in this manner, reserved.

I need not use any arguments to show that these facts, if they be proved, constitute, to say the least, a high misdemeanor, into which this House ought to inquire, and to take such course thereupon as to its wisdom shall seem expedient, under the high duties imposed upon it by the Constitution.

I am instantly impelled to this duty by a paragraph in a paper, the National Intelligencer, of this day, which I now hold in my hand. In this paper, Major General Benjamin Lincoln, one of the chief glories of our Revolution—a hero, the halting victim of war—his body all seamed and scarred with wounds gotten in the cause of his country, now on the brink of the grave, his laurels never yet tarnished; and though the aged root is descending into the tomb, yet their leaves upturn to the eye of a youthful green, and shed all around a celestial fragrance—This hero, the companion, the beloved friend of WASHINGTON, is stigmatized as "a Federalist, whom the forbearance of the Administration has long retained in office, in opposition to the wishes of a respectable class of the community." I have not language to express my indignation. And I am quickened to a duty which I had before made some preparation to perform. I therefore move the following resolutions:

Resolved, That the President of the United States be requested to lay before this House all correspondences touching the offers to resign and the resignation of his office, by Benjamin Lincoln, Esq., late collector of the port of Boston and Charlestown.

Resolved, That a committee be appointed to inquire into the causes which prevented the acceptance of the resignation of Benjamin Lincoln, late collector of the port of Boston and Charlestown, in the years 1806 and 1807, and into the reasons which have occasioned a postponement of the appointment of a successor, and that they report the result of such inquiry to the House.

The House agreed to consider the resolutions—yeas 93, nays 24, as follows:

YEAS—Willis Alston, junior, Ezekiel Bacon, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, Joseph Calhoun, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Robert Jenkins, James Kelly, Joseph Lewis, junior, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Benjamin Say, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, David R. Williams, and Nathan Wilson.

NAYS—Lemuel J. Alston, David Bard, Joseph Barker, Burwell Bassett, Adam Boyd, William Butler, Meshack Franklin, William Helms, John G. Jackson, Daniel Ilsley, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, Nicholas R. Moore, Roger Nelson, John Pugh, John Rhea of Tennessee, Lemuel Sawyer, Samuel Shaw, Dennis Smelt, Jedediah K. Smith, Alexander Wilson, and Richard Winn.

Mr. QUINCY moved that they should lie on the table until to-morrow, and be printed.

Mr. GHOLSON said, he hoped that they would neither lie on the table nor be printed. He acknowledged that the present attempt had excited his astonishment more than anything which had occurred during the session. He could scarcely credit his hearing, when a member rose and moved to institute an inquiry with a view to impeachment on a subject like this. What was the charge? Was it a charge of mal-administration? Was it any charge which would authorize the course pursued? Was it alleged that the duties of collector had not been faithfully performed? Nothing of this had been urged. But the President had not appointed a person to fill the office of collector. Mr. G. said that the late collector had only resigned within a day or two, and there had been, therefore, no vacancy to be filled. The former collector had an undoubted right to resign whenever he thought fit, and had not resigned. Why, then, this ridiculous proposition? If the collector had resigned, the President would have been compelled to fill the office, but this was not the fact. He hoped, therefore, the resolutions would receive an immediate rejection.

Mr. BURWELL said he partook of the surprise of his colleague at the resolutions just submitted. He knew of but one parallel to it, in the history of impeachments, and that would be found in Gulliver's Travels. The recollection of gentlemen would save him the trouble of specifying the particulars of that case. The gentleman wanted an inquiry into the reason why the President did not wish to accept the resignation of Mr. Lincoln. How would a committee of this House proceed in this inquiry? They must either go to the President and ask him the motives of his conduct, or they must have some other mode of penetrating his motives. After the handsome panegyric of the gentleman on the late collector, Mr. B. asked how he could come forward and impeach the President for keeping in office a man whose merits transcended all description? It appeared to him, from the speech of the gentleman, that he had been long in possession

of these facts. The paper of this morning certainly could not have gone to Boston and returned since its publication. The gentleman must, therefore, have been previously possessed of this information; and why, if it was so very important, had it not been previously brought forward? As to the subject of this appointment being destined for any particular person, Mr. B. observed, that the President, if he had any such intention, certainly had not communicated it to the gentleman from Massachusetts. The gentleman's statement, in this respect, must therefore be mere inference and conjecture; and however the gentleman's passions had been influenced by a paragraph in a newspaper, his ideas thus excited could not have an influence on the judgment of those who were not under the same irritation. If the gentleman from Massachusetts wished to conduct an inquiry to any result, he ought to show that the misconduct of the officer in question had produced effects which ought to have compelled the President to remove him. If the gentleman would show that the revenue had been defrauded, or the laws evaded through negligence, or by his connivance, and that the President, having knowledge of such facts, had refused to remove him, there might be some ground for the resolution.

Mr. LOVE asked of the gentleman from Massachusetts when the late collector actually resigned, and whether the gentleman knew of any misconduct of the officer alluded to? If so, whether this had been within the knowledge of the President of the United States?

Mr. QUINCY said, whether it was or was not an offence to keep in an office, the salary of which is five thousand dollars a year, a man who had declared his inability to execute it, was for the House to determine. The charge which he made was simply this: that an officer had been compensated for doing no services, and kept in a situation the duties of which he was unable to perform. It was an offence that so great an office as the collector of Boston should be kept in this position; the United States paying to an individual 5,000 dollars a year for inadequate services, contrary to the express wish of the gentleman himself, who, ever since June, had not been in the town of Boston; and, of consequence, the execution of the duties of the office had been totally dependent on one individual, the deputy collector. You send a law on, said Mr. Q., to be executed, and by one individual. The deputy says he will not act; the collector is unable to act, and the consequence is, that the law is not executed. In answer to the question whether the country has suffered, I will state a fact; the deputy collector of that port had a right to resign his office to the collector; and, if the collector had been an efficient man, there would have been no difficulty; but, because he was not efficient, the law is not in a state of execution. I take this position, because the facts which I have stated can be proved. Whether the House will or will not agree to these resolutions, is no concern of mine; nor, if gentlemen choose to utter any abuse, do I regard it; I stand before this nation, and fear not to do my duty.

Messrs. JOHNSON, W. ALSTON, D. R. WILLIAMS, JOHN G. JACKSON, DANA, MCCREERY, RHEA, MACON, BIBB. SOUTHARD, MASTERS, FISK, SLOAN, ROWAN, and KEY, followed Mr. QUINCY in debate, all of whom differed with Mr. QUINCY as to the propriety of adopting the resolutions. The reasons assigned by gentlemen were various, but generally to this effect: that it would be indecorous, if not beyond the power of this House, to call upon the President of the United States for his private correspondence with any individual, without doing which it would appear that none of the facts could be established; that were the facts established, and the charges maintained, they constituted no crime or misdemeanor, and it was said by some gentlemen, no ground for reprehension; that, in constituting no crime or misdemeanor, it was not a matter coming within the cognizance of the House, or on which an impeachment could be grounded; and being a matter on which the House had no Constitutional power to act, it was also a matter into which it was not their province to inquire.

Mr. BACON said, that whatever might been his feelings on the subject-matter of these resolutions at the moment when they were first propounded to the House in so menacing a style by the honorable mover, yet, from the course of reflection which had since taken place in his mind, as well as from a view of the reception which the resolutions had since met with on all sides of the House, the feelings which their extraordinary nature were at first calculated to excite, had in his bosom totally changed. He really thought that the gentleman, by the indiscreet course which he had taken on the occasion, had reduced himself to a condition in which he was an object of sensations very different from those of resentment. For himself, he now harbored no other passions in relation to him than those of sympathy. It was now very evident that his ill advised zeal had led him into a labyrinth, where his own political friends could not consent to follow him. From the first moment when the proposition was submitted, he had not entertained a doubt that such must be the result; he had too high an opinion of the honorable sentiment and correct principles which he must presume would ever govern a large portion of the minority of that House, to suppose that they would conduct otherwise. It was now clear that the mover of these resolutions having been for some time past plunging on from one degree of extravagance to another, had at last brought himself to a point where he must either stop, or travel by himself.

What is really the sum and substance of this mighty accusation which is brought up as a solemn ground of impeachment against the Chief Magistrate of our country, even according to the gentleman's own showing? It is not even that he refused to receive the resignation of a public officer, because it is not until within a few days that it has been specifically tendered; this is a thing which is always within the power of that

officer to do, and whatever might be the inclination of the President, he could not refuse it. It is only, then, that the President had persuaded the Collector of Boston to delay the period of his actual resignation, and to continue in the occupation of his office for a longer time than he was desirous of doing, in order that it might afterwards be conferred upon another person to whom it was not then convenient to receive it, or whose services were then needed in another capacity. Well, sir, allow all these facts, of which, however, as a public man I can know nothing, to be true in their full extent, what is there reprehensible in it? and who has been injured by the procedure? Not General Lincoln certainly, for he had it in his power at any moment to retire by an actual resignation. It is not alleged that during the two years for which the office is said to have been thus held, the public service has suffered, either by unfaithful or negligent performance of duties attached to it; this is not even pretended. But when pressed on this point, which the gentleman appeared to feel fully the force of, he brings forward the circumstance of the present state of inexecution in which our laws are placed by General Lincoln's resignation, and that of his deputy, to prove that the public service has in this way suffered, and adds that this state of things might have been prevented had General Lincoln's place been early supplied. Now the same gentleman had long since told the House, that it was utterly out of the power of the Government to carry our laws into execution by any human means whatever, and to-day we are told that this inexecution in the port of Boston is attributable to the want of an earlier appointment of a collector; it is for the gentleman to get along with these paradoxes, no one else can. But there is something in the circumstances of these sudden resignations, given in at a critical moment, which bespeak a preconcerted and systematic design to defeat the operation of our laws, embarrass the Government, and prostrate the national honor at the feet of faction and anarchy. Another instance of the same character has just been mentioned by a gentleman from South Carolina, and is perhaps to be followed up by all your revenue officers of the same description of politics with the late Collector of Boston; and thus in a moment is the authority of our laws trodden down, and their obligations sported with, by men who have long been standing evidences of the toleration and moderation of the Government, and who have lived upon its particular bounties; to me, sir, conduct of this sort speaks a language which it is impossible to mistake, and excites emotions which it is perhaps better to repress.

Sir, the name of General Lincoln would not by me have been wantonly dragged into this debate, nor should I have presumed to sport with any animadversions upon the conduct of a man venerable for his years, and respectable for his Revolutionary services and achievements, had he not have suffered himself, as is manifest from his own connivance at least, to have been ushered into this House, through the indiscreet zeal of his own unlucky friends, as the weapon by which they would annoy the Chief Magistrate of our country. Far be it from me to indulge in regard to such a character any reproachful epithets, or any language which the disparity of our age and standing would render indecorous and improper. But there are some circumstances growing out of the disclosure which has to-day been laid before the House by my colleague, which it is impossible to overlook, or to contemplate with entire apathy.

What are the facts as stated by the gentleman himself? That General Lincoln, though well known to have been utterly opposed to the present Chief Magistrate in his political sentiments and conduct, has through the liberality of the Government—perhaps no more than its justice—been permitted for these eight years past to continue in the possession of a most honorable and responsible office, and in the reception of its great emoluments to the tune of five thousand dollars a year, and that in opposition to the wishes of the political friends of the Executive; and what according to the gentleman's statement is a still greater stretch of indulgence, that for nearly two years he has even been suffered to retain it as a sinecure, without the performance of its ordinary duties; and for all this liberality and all this indulgence, what is the requital which that officer and his friends return to the Government? The one furnishes to the other that sort of evidence by which it is vainly hoped that this very indulgence may be turned as a weapon against his benefactor, and be made the ground of a public accusation. As to this fact it is not possible I should be mistaken; for though it is not stated by my colleague that the evidence which he has adduced has been put into his hands by General Lincoln, yet it must be evident that the letters which passed on this subject between himself and the Executive, and which the gentleman states are in his hands, could only have been furnished, either directly or indirectly, by General Lincoln himself. What a picture does this statement present! A man who for a long period of years has lived upon the liberality of the Government; who, by the favors that he has been permitted to enjoy from the bounty of the nation, has amassed a liberal fortune, deserts its service and abandons his post at a most critical and important moment, and then to avert from himself the public censure and indignation, turns and endeavors to wound the hand that has fed him, and raised him from penury and want to affluence and ease! Throwing for a moment out of view the utter futility of the charges as they are attempted to be laid, there is something in the means by which they have been got up, that is too utterly revolting to every honorable sentiment of the heart to allow one to think of it with composure. The public feelings cannot with impunity be thus wantonly sported with, nor can the public indignation by any stratagems of this sort be diverted from its proper object. It will fasten upon those, and those alone, who, by a precipitate and probably preconcerted abandonment of duty

at a critical moment, have suffered the Government of their country to be set at defiance, and the authority of the nation defeated and trampled upon.

In reply to the observation of various gentlemen against his proposition—

Mr. QUINCY observed that neither the asperity of his political opponents, nor the disagreement of his political friends, would change his mind on a subject which he had well considered. If he was in error concerning the charge, or rather allegation, which he had made, he was willing to stand before the nation alone in support of it. It gave him no sort of pain or anxiety. Mr. Q. replied to several incidental observations made by gentlemen in the course of the debate, but which are not noticed in the course of the preceding sketch. In relation to the execution of the late embargo law, he said that the deputy collector had not dared to execute the law, not from any insurrection or disobedience to the laws, but from a determination in the community to bring the laws of the United States, where he hoped the people of this country always would bring the laws, to the decision of the judiciary. In particular cases, said Mr. Q., gentlemen whose vessels were loaded with property to the amount of perhaps eighty or ninety thousand dollars, were called upon by your laws either to give bond in six times the amount of the cargo, or to unload their vessels. They refuse to unload; the collector breaks open the hatches and takes possession of the property; and as soon as that is done, he must give bond in the State courts to the amount of $180,000, or double the amount of the property seized. This is a civil right of the citizen. The instant your officer begins to execute that law, before one day is at an end, he will have been obliged to give bond in a million of dollars, or to have gone to jail. The deputy collector, therefore, could not put at hazard the whole hopes of himself and his family by executing a law which brought him into such obvious danger. Gentleman say that I admitted that this law *might have been* executed. That was not the bearing of my expression. It was, that if the law could have been executed, the head of the office, if an efficient man, would have been competent to execute it; but not when that head is an individual who is absolutely from infirmity confined to his house, and almost to his bed. The misfortune is that there is not now a responsible officer to execute your laws; and it is this which has led to the present motion. Mr. Q. said that, convinced that it was proper that an inquiry should be made, notwithstanding gentlemen near him had asked him to withdraw his resolution, although alone he should wish a question to be taken on it. He denied that General Lincoln had been kept in office as a reward for his Revolutionary services; and, if it were so, the Executive had no right to gratify any man by a sinecure at the expense of the public interest. The facts which he had stated, if the House would go into a committee of inquiry, he could prove. He said he had not, as suggested by his colleague, received his information from General Lincoln, and this was all that he would state on that point. Mr. Q. said his observations had been attributed to a design to excite New England. He said New England was in a state of excitement under the operation of the embargo laws—laws which some of the wisest men and best patriots in the country deemed unconstitutional, and so much so that they could not submit to them. This was the general sentiment. Suppose it to be the case that this House should ever pass an unconstitutional law, what must be the course of the people? They could pursue no other mode than a Constitutional remonstrance; and if that failed, he said they had no other resource than a Constitutional resistance. He hoped that course would not be taken, because he hoped the Government would see the evil of its ways, and the incorrectness of the principle on which it acted. He maintained the correctness of the ground that, when a law is passed by which in the opinion of the people their interests are entirely destroyed, the law could not be enforced. His motives being as he had stated them, he had wished to lay the subject before the nation. This House, he said, was the guardian of the rights of the citizens, and had a right to inquire into the manner in which offices were filled. And though he might be alone in this opinion, deeming it his duty to make the inquiry, he said he should not withdraw the motion.

The question on the passage of the resolution (Mr. QUINCY having withdrawn his motion that it lie on the table) was taken by yeas and nays—yeas 1, nays 117, as follows:

YEA—Josiah Quincy.

NAYS—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, Epaphroditus Champion, Matthew Clay, John Clopton, Orchard Cook, John Culpeper, Richard Cutts, John Davenport, junior, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Ely, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, junior, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, junior, John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Benjamin Say, Ebenezer Sea-

ver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

And so the said proposed resolutions were rejected.

THURSDAY, January 26.

On motion of Mr. POINDEXTER, that the House do come to the following resolutions:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing a Land Office for the sale of the lands of the United States east of the Red river, and west of the Mississippi, in the Territory of Orleans; and that they have leave to report thereon by bill, or otherwise.

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of granting the right of pre-emption, in certain cases, to actual settlers in the Territory of Orleans; and that they have leave to report by bill, or otherwise.

And the said proposed resolutions being read, a motion was made by Mr. RANDOLPH that the same do lie on the table. And the question being put thereupon, it was resolved in the affirmative.

On motion of Mr. RANDOLPH,

Ordered, That the committee appointed, the eleventh of November last, on so much of the Message from the President of the United States as relates to the disposition of the surplusses of our revenue in the improvement of roads, canals, rivers, and education, be discharged from the consideration of the petition and memorial of the President and Managers of the Susquehanna and Tioga Turnpike Road Company, and of the President, Managers, and Company, of the Philadelphia, Brandywine, and New London Turnpike Road, presented to this House on the twenty-fourth and twenty-fifth instant, be discharged from the consideration thereof; and that the said petition and memorial be referred to Mr. SAY, Mr. MARION, Mr. DANA, Mr. HOWARD, and Mr. JEDEDIAH K. SMITH; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. LEWIS, from the Committee for the District of Columbia, presented a bill respecting the Circuit and District Courts of the District of Columbia; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. GEORGE W. CAMPBELL, from the Committee of Ways and Means, presented a bill making appropriations for the support of Government, during the year one thousand eight hundred and nine; which was read twice, and committed to a Committee of the Whole on Monday next.

The House proceeded to reconsider the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," together with the amendments adhered to by the Senate to the said bill: Whereupon, a motion was made by Mr. MACON that the said bill, with the amendments, do lie on the table. And the question being put thereupon, it was resolved in the affirmative.

CATAWBA AND WATEREE RIVERS.

Mr. MARION, from the committee to whom was referred, on the fourteenth of November last, a petition of the company for opening the navigation of the Catawba and Wateree rivers, signed by J. F. Grimke, their President, made a report thereon; which was read, and ordered to lie on the table.

The report is as follows:

"That the President of said company, in behalf of himself and the rest of the proprietors, states, that the present stockholders, convinced of the great advantages that would result from removing the obstructions in the Wateree and Catawba rivers, did, several years ago, become proprietors of the original shares; that they have already expended considerable sums on the said rivers, and are annually expending more in the prosecution of the work; but, from the extent of the river, the number of obstructions, and the small association of persons at present engaged in the undertaking, there is little prospect that they would be able, with their own resources, to remove the obstructions to navigation for many years to come. To aid them in the completion of their work, he prays that Congress would authorize the Secretary of the Treasury to purchase, for the use of the United States, all the vacant shares of the company, (which are about a moiety of the whole number,) or such part of them as Congress may deem expedient.

"Although the committee are fully convinced that the improvement of the navigation of the said river would be of vast importance and utility to the inhabitants of a considerable portion of the States of North and South Carolina and Tennessee, who would thereby be enabled to transport the productions of their farms, by inland navigation, to Charleston; and that the armory and arsenal of the United States, established at Rocky Mount, on the Catawba river, would also be considerably benefitted by the opening of that river; yet, from the present state of our finances, and the critical situation of our country in relation to foreign Governments, they are of opinion that it would be unadvisable to apply any public money, at this time, to internal improvements of this kind. Under these impressions the committee recommend the following resolution:

"*Resolved*, That it is inexpedient to grant, at present, the prayer of the memorialists."

NAVAL ESTABLISHMENT.

On motion of Mr. NELSON, the House went into a Committee of the Whole on the bill from the Senate, authorizing the President to man, arm, and equip for immediate service, all the public ships of war, vessels, and gunboats belonging to the United States.

On motion of Mr. DAWSON, the first section was so amended as to authorize the President to fit out only four of the frigates, the United States, the Essex, the John Adams, and the President, and to order them to stations upon the coast.

Some other amendments were proposed and agreed to; one of these limits the additional number of officers to eight hundred, and another authorizes the employment of three thousand able bodied seamen, marines, and boys.

The Committee rose, and reported the bill with the amendments; which were agreed to by the House.

On the motion of Mr. BASSETT, the title of the bill was altered, so as to read, "A bill authorizing the employment of an additional naval force."

Mr. D. R. WILLIAMS moved to amend the bill by adding the following clause: *Provided*, That this act shall not be construed to authorize the President to employ any greater number of vessels than in his opinion the public service shall at any time demand.

Mr. W.'s object in moving this amendment was to leave it discretionary with the President to employ any of the vessels as long as the public service required them, and to avoid the probability of incurring an useless expense. It had been fashionable, during the session, to legislate upon probabilities; some provision ought therefore to be made to discharge these vessels, should circumstances occur to render their services unnecessary.

Messrs. GHOLSON and LYON spoke against the amendment.

Mr. COOK was surprised that motions should be brought forward at this time to fatigue and tire the House out of the adoption of the bill, and made some remarks in opposition to the amendment.

Mr. D. R. WILLIAMS observed that, with all due deference to the honorable member from Massachusetts, he would move as many amendments as he pleased, and at what time he pleased. He believed that the bill involved a question material to the vital interests of the nation. His colleague (Mr. TAYLOR) had said that this was not a time to be obstinate or particular; but he thought of all periods this was one when every man ought to be particular as far as regarded expenditures of money. Mr. W. hoped these were not intended to enforce the embargo. If they were, he was entirely off. From what had occurred, he believed that this law could not now be effectually maintained, and he was one of those who would be willing to repeal it at this time. He never could consent to thrust the law down the throats of the people of Masssachusetts at the point of the bayonet; and as to the purposes of war, the English had one hundred vessels which could singly beat the whole of the frigates, or certainly any two of them. The reasons which he understood the managers on the part of the Senate had assigned for wishing the passage of this bill were three. The first of them was, that they wanted a pledge from this House that it was willing to come forward to defend the nation. Another was, that these were necessary to aid the gunboats in their operations; and a third, that men could not be got to enlist for the service of the gunboats, and that to remedy this evil, they might be enlisted to man the frigates, and afterwards transferred. He objected to these reasons in toto. As to the first of them, he expressed his astonishment that a pledge should be required of the House by the other branch of the Legislature, that it was willing to contribute towards the defence of the nation. In relation to the second reason, he considered it futile. He knew, indeed, that Commodore Preble had said that gunboats could not fight to advantage without the aid of a battery; but he conceived the land batteries were sufficient. To have batteries on land and frigates too, he believed every naval gentleman would consider as ridiculous. When we first had frigates, it was said they were 74's in disguise; that they would be a match for an hostile 74, or at any rate, a ship of 64 guns; now it appears that a ship of the largest description could beat two, probably four, of them. After this was ascertained, gunboats were built to act in co-operation with batteries on land; they were to do everything; to be much better than frigates; now it seems the gunboats are fit for nothing, unless they can be aided by these frigates; and after a while we shall be called upon to vote for 74's to help them! Mr. W. could see nothing but endless waste in this system, if it was to be pursued. He had two objections to the third reason, "that men could not be enlisted for the gunboats, and that they might be obtained for enlistments for the frigates, and then be transferred." The first objection was, that he did not believe the fact as represented; the second, that if it were true, he could not consent to the artifice of entrapping a free people in the way proposed. Mr. W. made some other observations in support of his amendment, and in opposition to the bill in its original form.

Mr. NELSON did not, like his friend from South Carolina, (Mr. D. R. WILLIAMS,) think this a time when men should be particular as to expenditures of money. He was not for vesting this discretionary power in the hands of the President; not that he doubted the duty being faithfully discharged, but he thought it their duty not to throw the responsibility of the House upon the President. Much too as he might respect the judgment of any President, he was not at all times willing for the House to give up their opinion to that officer. He asked of what use the frigates were in their present situation? they were lying in the Potomac, a mere sinking fund. They had better be done without, if they were never to be called into actual service. He acknowledged that he believed it would be the better course, at the present time, to remove the embargo, and of consequence war must be substituted, for he hoped there was not a creeping thing on the face of the earth that would think of submission. In the event of war, letters of marque would be issued, and the frigates would be useful, not only as rallying points for our privateers, but in many other respects.

Mr. TAYLOR made a few remarks in support of the amendment of his colleague, (Mr. D. R. WILLIAMS.)

Mr. W. Alston spoke some minutes in opposition to the amendment.

Mr. Cook again advocated the passage of the bill as it stood; and expressed his astonishment at the contradictory doctrines held forth by the supporters of the amendment.

Mr. Epps stated that he conceived this bill to be the compromise offered by the Senate on the subject which had been in agitation between the two Houses, and he hoped the House would consent to take this middle ground. He did not believe that the vessels were intended to enforce the embargo laws; nor did he fear that the New England States would rise in opposition to the laws. He would not, however, if the good of the country required it, shrink from the discharge of his duty in enforcing the laws, and he was sorry to hear his friend from South Carolina (Mr. Williams) declare that he was ready to give up the embargo, because a few factious individuals and editors of Federal newspapers represented it as impossible to be enforced.

Mr. D. R. Williams was sorry that he had fallen under the censure of a gentleman standing so high as the gentleman from Massachusetts (Mr. Cook) did; and occupying so conspicuous a station as he did for his talents, learning, and eloquence! No other member would have stooped to such humble game. One remark he would just make for his use, which was, that "to the jaundiced eye all things seem yellow."

Mr. Cook supposed that the gentleman from South Carolina must have a great opinion of his transcendant abilities, or he would not so often *entertain* the House with his speeches. The gentleman had resorted to personalities, which had not been provoked. The remarks which Mr. C. had formerly made having been confined to principles, and as the member from South Carolina must meet with the disapprobation of all who heard him, he would leave him to their censure.

Mr. D. R. Williams replied, that if anything he had said had wounded the gentleman's feelings, he would retract it all, and allow that he *had neither talents, learning, nor eloquence!*

The question was then taken by yeas and nays on Mr. Williams's amendment, and lost—yeas 39, nays 78, as follows:

Yeas—Evan Alexander, Willis Alston, jun., William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Culpeper, Joseph Desha, Peterson Goodwyn, Edwin Gray, John Heister, Thomas Kenan, Robert Marion, Josiah Masters, Daniel Montgomery, jr., Jeremiah Morrow, John Morrow, John Porter, John Pugh, John Rea of Pennsylvania, Jacob Richards, Samuel Sawyer, Samuel Shaw, Samuel Smith, Henry Southard, Richard Stanford, John Taylor Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, David R. Williams, and Alexander Wilson.

Nays—Samuel J. Alston, Ezekiel Bacon, David Bard, Burwell Bassett, John Blake, jun., John Campbell, John Clopton, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, jun., John Dawson, Josiah Deane, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Thomas Gholson, jun., Charles Goldsborough, Isaiah L. Green, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, John Love, Matthew Lyon, Nathaniel Macon, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Benjamin Say, Ebenezer Seaver, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, William Stedman, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Isaac Wilbour, Nathan Wilson, and Richard Winn.

On the question to engross the bill with the amendments for a third reading, Mr. Macon rose and spoke about half an hour against the bill, opposing it on the ground that he considered it as the foundation of a navy; and stating, that if war should ensue, he would be willing to lend the frigates to any set of men to privateer with.

After some remarks from Mr. Lyon in support of the bill, it was ordered to a third reading to-morrow.

The House adjourned.

Friday, January 27.

The Speaker laid before the House a letter from the Secretary of the Treasury, enclosing the copy of a letter to him from the Register of the Treasury, correcting an error to the amount of fifty-four thousand eight hundred and twenty dollars and eighteen cents, in the statement of receipts into the Treasury of the United States, for the year 1807, transmitted in pursuance of a resolution of this House of the twentieth of December last; which were read, and ordered to lie on the table.

An engrossed bill making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Missisippi the canal of Carondelet, was read the third time, and passed.

Mr. Findley presented a petition of sundry inhabitants of Westmoreland county, in the State of Pennsylvania, stating certain inconveniences and hardships to which the petitioners and others have been, and are now subjected, in consequence of the operations of the several laws laying an embargo on all ships and vessels in the ports and harbors of the United States, and praying that the same may be repealed whenever, in the judgment of Congress, it may be expedient to adopt that measure.

The said petition was received, and ordered to lie on the table.

DEFENSIVE MARITIME WAR.

Mr. Bacon said that he was particularly induced, by a consideration of the sentiments contained in the memorial which had just been read, to offer to the House a resolution touching the subject of our maritime rights, and the mode in which it behooved the nation to vindicate their exercise against belligerent aggressions. He had been much gratified that a gentleman from Virginia (Mr. Nicholas) had already laid upon the table a resolution pointing to a speedy termination of the embargo laws, coupled with a general declaration of our determination to resume, maintain, and vindicate our rights to the free navigation of the ocean. That resolution was, however, altogether general and unspecific as to the manner in which this right should be vindicated, or the means by which it should be maintained. It was probably purposely, and undoubtedly very properly, propounded in that general shape, with a view of inducing the offer of such specific propositions as might suggest themselves to gentlemen having in view the same general object. He apprehended, however, that when they came to go into Committee on that resolution, it would be found difficult to make it the object of distinct and intelligible discussion, since it pointed to no definite means by which our rights were to be maintained, or our navigation defended from violence. He had hoped that some other gentleman would, before this, have presented some distinct proposition of this sort to the House, and had waited some days with such an expectation. Having, however, been disappointed in this, he could no longer refrain from the exercise of a duty, which he rose with great diffidence to discharge. The resolution which he was about to submit was by no means in discordance with that of the gentleman from Virginia. It was merely a specification of some, at least, of the means by which the general object of that gentleman might perhaps be attained. And, in offering it, he wished not to be understood as definitively pledged to the particular course which the resolution points to. So far from being pertinaciously wedded to it, he was ready to give his unbiassed attention to any other project which other gentlemen may see fit to propose. That there are great difficulties to be encountered in every view which can be taken of our present situation, is sufficiently obvious, and it is therefore with more than ordinary diffidence that I venture to lay before the House the following resolution:

Resolved, That provision ought to be made, by law, from and after the —— day of —— next, for authorizing the commanders and crews of merchant vessels of the United States, owned wholly by a citizen or citizens thereof, to oppose and defend against any search, restraint, or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid, by the commander or crew of any armed vessel sailing under French or British colors, or acting, or pretending to act, by or under the authority of the French or British Governments; and to repel by force any assault or hostility which shall be made or committed on the part of such French or British vessel pursuing such attempt, and to subdue and capture the same, and to retake any vessel owned as aforesaid, which may have been captured by any vessel sailing under French or British colors, or acting, or pretending to act, by or under authority from the French or British Governments.

In addition to the general observations made before he offered the resolution, Mr. B. said that he would barely remark that, as to the general principle which it contained, he presumed that it would by no one be mistaken for submission to the belligerent claims which had been levelled against our maritime rights; it authorized resistance against their aggressions in the most direct and unqualified terms. He might be asked if it was war. He felt no hesitation in saying that it was defensive war, and strictly and wholly defensive as it respected ourselves and our neutral rights. As to foreign nations, they were at liberty to take it as they pleased, and might make their election in respect to the manner in which they would meet that state of things which might grow out of it. We claimed nothing of them but the fair exercise of our rights, and if they still chose to interrupt us in it, on them be the consequences—what those consequences should be, it might be for this nation hereafter to say.

To the general principle of the resolution, Mr. B. said that there could be, as he apprehended, but one objection any way plausible. It was, that it authorized resistance to all search whatever, by the cruisers of the two great belligerents. It was, to be sure, an acknowledged principle of the general law of nations that neutral vessels were bound to submit to search by the cruisers of belligerents for certain specified purposes—for instance, to examine whether the neutral had on board articles contraband of war, to prevent her entering a port actually invested, &c. And so long as belligerents acted upon this principle, and limited their principles and practices of visitation and search within the acknowledged rules, neutrals were unquestionably bound to submit to it. But when the former claimed to extend this right to an almost unlimited extent, and through it to enforce claims utterly unknown to the law of nations, and inconsistent with the sovereignty of neutral States, it might be very questionable whether the limited right itself was not forfeited; and whether it could be at all consistent with the safety of the neutral to suffer it. That such is the actual state of things in relation to American rights on the ocean is obvious. Neither Great Britain or France even pretend that their extensive searches and seizures of our vessels are justified by the law of nations; it is avowed to be a mere system of vindictive retaliation upon each other, through us. And shall they pretend to hold us to a punctilious observance of all the ceremonial rites of that law, which they both habitually disregard, and avowedly set at defiance as respects us? From such a state of things we might say, as France did to us some years since, and we may say it with much more justice, "that we can find only a real disadvantage." And we might almost be justified in assuming towards

both those Powers the ground which one of them assumed towards the other, and to tell them plainly that, against nations which thus set at defiance all principles of national rights, and forget all the maxims of public law, "what can be done but to forget them for an instant one-self." Mr. B. said he did not feel himself exclusively pledged to this particular course; but as he thought it was time for some system to be progressing, he wished this resolution to be considered by the House, and put in possession of the Committee of the Whole, who had under consideration the resolution for repealing the embargo and resuming the navigation of the ocean.

Mr. DANA said he acknowledged that this resolution did not look like submission. He rejoiced that the gentleman from Massachusetts had brought forward a resolution which looked something like advancing like men of business. He did not know that he should vote precisely for this proposition, but it was one which would not terminate in words or in "retirement." When they came to examine this subject, it would be found, perhaps, that they approached a question of peculiar character; that it might be difficult to draw a line of distinction between a state of positive war, in which we encounter the enemy at all points, and defensive war—a state in which we seek security for the future, without endeavoring to compel indemnity for the past. Perhaps, said he, when we approach the subject more closely, it may be proper to make a discrimination on this subject, which has very generally been kept out of sight in the course of our discussions, viz: between a war in which the employment of force is strictly defensive, and a war in which it is vindictive. I will not at this time express an opinion on the subject of the resolution; but I rose to express my satisfaction, and make my acknowledgment to the gentleman for the proposition, which seems to contemplate beginning a course of doing something.

The resolution was referred to the same Committee of the Whole, to whom was referred Mr. NICHOLAS's resolution.

NAVAL ESTABLISHMENT.

The bill sent from the Senate, entitled "An act to provide for arming, manning, and fitting out for immediate service, all the public ships of war, vessels, and gunboats, of the United States," together with the amendments agreed to yesterday, was read the third time: and, on the question that the same do pass, it was resolved in the affirmative—yeas 102, nays 23, as follows:

YEAS—Evan Alexander, Willis Alston, junior, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, junior, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, Samuel W. Dana, John Davenport, junior, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, junior, Charles Goldsborough, Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, Thomas Kenan, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Thos. Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, John Pugh, Josiah Quincy, John Rhea of Tennessee, Jacob Richards, Samuel Riker, John Rowan, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Dani. C. Verplanck, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Adam Boyd, Robert Brown, Epaphroditus Champion, Martin Chittenden, John Culpeper, Jas. M. Garnett, Edwin Gray, John Heister, Wm. Hoge, James Holland, Nathaniel Macon, Daniel Montgomery, junior, Jeremiah Morrow, John Randolph, John Rea of Pennsylvania, Lemuel Sawyer, Samuel Smith, Richard Stanford, Abram Trigg, Jabez Upham, Jesse Wharton, Robert Whitehill, and David R. Williams.

Resolved, that the title be, "An act authorizing the employment of an additional naval force."

ADDITIONAL MILITARY FORCE.

An engrossed bill providing an additional military force was read the third time, and the question being on its passage—

Mr. TALLMADGE moved the postponement of the bill indefinitely.

Mr. TALLMADGE said it was a very unpleasant circumstance to rise and address a deliberative assembly, when the subject was an unpleasant one; but, after the observations which had fallen from some gentlemen in the majority, charging the minority with a systematic determination to oppose and retard all the measures of the Administration, it required some effort of the mind to undertake the task. Nothing but an imperious sense of duty, and regard for the rights of his constituents and his country, which he could not sacrifice, induced him to trouble the House with his objections to the bill now under consideration. Sir, said Mr. T., in the discharge of this duty, while I confine myself within the rules of decorum in debate, I hold myself responsible only to my country, to my conscience, and to my God.

In relation to the subject now under consideration, I hope this honorable House will do me the justice to acknowledge that, on every question which has been brought forward since I have been honored with a seat on this floor, the object of which was to protect and defend our common country, my vote and exertions have been in favor of such measures. One solitary instance do I except from the general rule, which relates to

gunboats; and of these I have long entertained such a contemptible opinion, that I have felt constrained to withhold my vote from giving to them such liberal support. This frank declaration, I hope, will shield me from the reproach of wishing to thwart the measures of the Administration, or to throw any obstacles in the way of its operations.

When I addressed this House on a former occasion, and moved a postponement of the consideration of this bill for one week, I did it, not because I wished time to consider its provisions, for I did then believe that I had pretty thoroughly examined it, and understood what would be its general bearings and effects; but I requested a postponement, that its final passage might be delayed until certain propositions should be made, which a gentleman from Massachusetts (Mr. BACON) informed the House he expected to offer to their consideration, and until the policy which this country was to pursue, should be more distinctly marked out by the Government. If the present system of measures is still to be persisted in, and the embargo to be continued as the grand restorative specific, I then thought, and still hope, the House will not consider the army now proposed to be raised as at all necessary, and, of course, that we shall unite in rejecting the bill. In the observations which I then made, I thought I was explicit, but, from the remarks which have been made by gentlemen in reply, I find I was misunderstood.

When we examine this bill, as predicated upon the recommendation of the Secretary of War, we must be at a loss to conjecture how it should assume its present shape. In the report of that officer, which was printed and laid upon our tables, it will be found that he recommends the plan of engaging fifty thousand volunteers; but this bill proposes raising an army of fifty thousand men. Yes, sir, I repeat it; if you pass this bill, you sanction the enlistment, organization, and equipment, of an army of fifty thousand men, all the officers of which are to be appointed and commissioned by the President of the United States. Being a member of the committee who reported this bill, it may be inquired why I did not object to its provisions before it came to this House. Sir, I never saw the bill before it was printed and laid on our tables. In saying this, I impute no blame to the chairman of our committee, (Mr. NELSON,) who very possibly may have directed notice to be given me, and, for aught I know, I may have been engaged with some other committee. I mention this that I may not be suspected of taking any undue advantage to attack and defeat the bill, when I could have suggested provisions to its framers, which would have rendered it less liable to exception.

However defective this bill may be in some of its important provisions, I know full well that it cannot be amended in its present stage, and on the motion which I have had the honor to make. We must therefore discuss it as it is presented to us, purporting to be a bill authorizing the President of the United States to appoint five major generals, ten brigadier generals, arming and equipping forty-four regiments of infantry, three regiments of riflemen, and three regiments of light artillery, of ten companies each, with the field, staff, and commissioned officers, necessary completely to organize this corps. In thus spreading before the House the principles and provisions of this bill, I call on gentlemen to pause and reflect before they adopt them. Are gentlemen aware of the immense expense which will be incurred by raising this body of troops? It may be objected, that this monstrous military force is to be under pay only while it is kept in actual service. But it ought to be remembered that, as soon as the officers are appointed and the troops are enlisted, it becomes a positive army, liable to do duty twelve months out of two years, wherever the President of the United States shall direct. Give me leave once more to call the attention of the House to the report of the Secretary of War, which, for some reason or other, he did not think proper to assign, but which I know he presented to the committee. In this report, the head of the War Department estimates the expense of fifty thousand volunteers, to be encamped only thirty days in the year, at two millions one hundred thousand dollars. I have made a calculation on this subject, and am convinced that, to provide for this army only one year, we must pay fifteen millions of dollars. Sir, the history of our Revolutionary war exhibits no example of this sort. We have at this moment, probably, about ten thousand troops in the field. To these may be added one hundred thousand militia lately put in requisition by the President of the United States, and now we are called upon to add fifty thousand regularly enlisted troops to the number.

Indeed, Mr. Speaker, I think it behooves us to consider well what we are about, before we proceed one step further. I know very well, and I trust, I shall always venerate the sentiment, that money is nothing when put in competition with national honor, liberty, and independence; but every one will allow that this subject is worthy of peculiar consideration at this time, more especially when, by means of the embargo, the streams of national wealth are dried up. This principle, sir, becomes all important to us, the Representatives of a free Republican Government, who ought not to lay heavy and oppressive burdens on our constituents without the most urgent necessity.

Having taken this general view of the structure, provision, and expense arising out of this bill, I will now ask the indulgence of the House, while I endeavor to lay before them the causes which induce, and the probable result and consequences which will ensue from calling such a body of troops, as this bill contemplates, into the field. That I may be the more distinctly understood I, will arrange the remarks which I propose further to make on this interesting subject, under four general heads, and I beg the attention of this honorable House while I endeavor to elucidate the follow inquiries.

1st. At whose request is this army to be engaged?

2d. What is its use and destination?

3d. What objects are to be obtained by it?

4th. What are our means to accomplish these ends?

These are questions which I deem of importance to be fully settled, before we proceed to adopt the bill now under consideration; and I hope gentlemen will give them a patient and candid examination. Perhaps the honorable Chairman who reported this bill, or some other gentleman, will be able to answer them to the satisfaction of the House. It will be fortunate if this should be the case, that we may cheerfully unite in the necessary measures of defence, and proceed with a zeal becoming a good cause, which will insure a successful termination.

I make the first inquiry. At whose request is this army to be raised? I presume every gentleman will allow that the President of the United States is the Constitutional organ by whom communications are to be made to Congress. Indeed it becomes a part of his bounden duty under the Constitution "to give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." Has he made any communication to Congress intimating that such a force as this bill contemplates, would be necessary? Will gentlemen turn to the President's Message, delivered at the opening of the session, and see whether anything of this sort is there communicated? I have examined that document with critical attention, and can find nothing in it which will even justify this measure. I venture to say there is not a sentence in that communication on which this bill could be predicated. I know that this Message was dissected in due form, by some able political operator, and that several committees were raised on different portions of it; and although I had the honor to belong to that committee appointed on so much of the President's Message as relates to our Military and Naval Establishments, I have searched in vain for that part of it upon which the appointment of any such committee could be founded; excepting indeed a paragraph respecting the one hundred thousand militia which were voted at the last session, and which the President had not called into service. Now, sir, if there has nothing occurred of so alarming a nature as to justify the imbodying of this detachment of militia, I cannot perceive whence the necessity arises for calling into actual service so strong a detachment of military force, or what can justify this House in adopting a measure so strong and at the same time so alarming.

Again, since the President has made no request for this immense force in time of peace, there seems to be a sort of indelicacy in the attempt thus to palm upon him, as Commander-in-Chief, an army of this magnitude without intimating its destination or use. Will any gentleman in his place inform this House (since the President, who is the only responsible character to give us the information, has not done it) that these troops are really wanted? I have before remarked that the Secretary at War has laid before us a plan to raise fifty thousand volunteers, but nothing appears in it to justify the raising of the corps proposed by this bill. Whenever volunteers have been called for by the Government, they have turned out with alacrity and zeal, officered and accoutred for service; nor can it be supposed that there is less patriotism reigning in the bosoms of our citizens at the present day than heretofore.

If the Government has any serious intention to bring a band of volunteer yeomanry into the field, of purely American character, the provisions of this bill cannot fail to defeat such intention. Depriving the troops of the accustomed privilege to serve under their own officers, will not only retard the business of engaging the men, but will have a strong tendency to make the service suspicious.

I come now to the second inquiry. What is the use and destination of this army? Inasmuch as we have no information on this head from the Executive department, I inquire, with deep solicitude, of the majority of this House, (inasmuch as they hold the destinies of our country at this portentous day,) where is this force to be directed? Against what enemy, visible or invisible, is this army of freemen to be prepared to act? Indeed, Mr. Speaker, this duty becomes so imperious upon this House, and so important to our constituents, that, without some definite information on this point, I know not how we can proceed. Since the present session commenced, we have been passing laws and adopting measures of the most serious and important consequence to this country, and, I am constrained to say, with less consideration, I fear, than the solemnity and importance of their nature seemed to demand. We are now called upon to pass a bill, placing in the hands of the Executive one of the most tremendous weapons which Government can yield. For my own part, I can discover but two objects which can be in view, in framing this present bill. This force, when raised, must be directed against an enemy, or it must be pointed against ourselves. In other words, it must be calculated to repel foreign aggression, or to enforce obedience to our laws. If it is to be employed against an enemy, it will surely become important to know specifically who that enemy is. And it is a fact somewhat singular, that, to this day, with all the noise and bluster about war, we have never been distinctly told the enemy whom we have to encounter. It is true, indeed, our Committee on Foreign Relations told us, as one alternative, that we must have a war with Great Britain and France at the same time. This affords no definite object, but it directs the attention at least towards two powerful and warlike nations, engaged in the most deadly hostility against each other. Could that committee have been in earnest, or can this House support the sentiment, when they decided the point that war must be waged with two nations contending at the same time with each other? The mode of such a warfare, (provided the three Powers should come into conflict at the same time, either by land or sea,) I humbly conceive would baffle the united wisdom of that sagacious committee, and is too ridiculous to be discussed in this House. Let us, then, inquire what are our chances for war with either of these nations, separately. Do gentlemen contemplate crossing the Atlantic to attack France, and thereby oblige Bonaparte to revoke his decrees? I presume not. Can any one say that he expects an invasion from that quarter? His want of a navy gives you the answer to this question. As to an invasion of Great Britain, or any of her West India possessions, her superior naval force fully protects her; and the experience which she derived in the late Revolutionary war will teach her not to waste her armies in so fruitless an experiment, as again to send troops to our shores. I will reserve for the next head of inquiry what may relate to conquest in our own vicinity, and remark, that, inasmuch as foreign conquest and domestic invasion must be alike improbable, I can see no use for which these troops can be wanted, but to enforce obedience to our laws. And can it be possible, Mr. Speaker, that we have come to this solemn and awful condition, that a large army must be engaged to command obedience from our citizens, at the point of the bayonet! Forbid it, Heaven! I hope and trust the state of things does not at present require it. Rather would I hope that our fears and our apprehensions greatly exceed the fact.

I know that the Committee on Foreign Relations have very gravely submitted to us three alternatives—submission, embargo, or war. By a solemn vote of this House, you have decided on the first; and, therefore, submission is out of the question. The next alternative was, the continuance of the embargo, and to this the Legislature have determined to adhere. It will not be amiss, here, to inquire what have been some of the most prominent effects resulting from our late law, "more effectually to enforce the embargo." It has been customary to drag this measure into every debate, but I trust the House will do me the justice to acknowledge that I have but rarely rung that unpleasant charge in their ears. But, in the consideration of our general policy, it is almost impossible to keep so important a measure out of view, and especially when apprehensions are entertained that the provisions of this bill have an important bearing on that question. After all the predictions which were made on the wonderful efficacy of the embargo, it has been found that it has not answered the expectations of its friends. From its frequent violations and evasions, it has been deemed necessary more rigidly to enforce it, and the late law which has passed for this purpose has excited the most serious alarm. When that law was before this House, those of us who honestly believed some of its provisions were unconstitutional, and most of its requisitions and penalties very severe, did not fail to state them to the House. They did not omit to caution gentlemen against adopting such oppressive measures, and to intimate their own apprehensions as to the effects which might be produced on the nation. Apprehensions were even entertained that in certain portions of the Union the laws relating to the embargo would not be executed, inasmuch as the habits and pursuits of the people were against the measure, and their sufferings had become intolerable. The total inefficacy of that measure, as coercive upon our enemies, was discovered, and the people perceiving no good to result from it, and nothing but positive ruin before them, it was feared that they would no longer submit to its pressure. These declarations were not then credited by a majority of this House, and now, what is the fact? Your law, in many places, has become a mere dead letter. Am I stating the case too strongly when I make this declaration? I trust not. I am apprehensive that some gentlemen who hear me are so unacquainted with the character, habits, and manners, of our Northern and Eastern inhabitants, that they may suppose I exhibit the picture in too strong and lively colors. Having resided in New England from my youth, I think I cannot mistake the character of that people; and I believe I hazard nothing when I assert, that, as to the great body of that people, your embargo laws have had all the effects which can be expected from them. The same sentiment is progressing to the South, and nothing but a hope that the hour of their relief is near keeps them from acts of opposition. In making these remarks, Mr. Speaker, I do not intimate that rebellion or direct repugnance to lawful authority will be countenanced in New England. I have too high an opinion of their intelligence, love of order, and regard for the Constitution and laws of the land, to believe anything like this will take place. But, knowing their rights, they will guard them with the most scrupulous jealousy. No people are more obedient to the law, and none more ready to seek redress for injuries under the guardian protection of the law and the Constitution. Should the General Government at any time oppress them, they will not fly in the face of the law, and excite insurrection and revolt, but they will seek redress and protection under the government of the States, solemnly guarantied by the General Government. Those State prerogatives, which they never have surrendered, are the strong barriers against the powers and usurpations of the General Government, and on these the duration of this Government must in a great measure depend.

Here Mr. NICHOLAS called Mr. TALLMADGE to order, as having understood him to say there was no disposition in the General Government to save the people from oppression, and that the State Legislatures ought to protect their citizens against the authority of the General Government.

Mr. TALLMADGE explained. He maintained that he had advanced no such sentiments as had been imputed to him. He was only stating a possible case, and thence inferring the right of the citizen.

Mr. NICHOLAS withdrew his call, and the SPEAKER requested Mr. TALLMADGE to proceed.

Mr. TALLMADGE continued. I was about to state, when I was interrupted, that, if the General Government should pass unconstitutional and oppressive laws, (which, Heaven forbid!) depriving the citizen of his rights, by resorting to the Constitution and laws of the State, he would find redress;

and on this I consider our safety materially to depend. In fact, sir, the existence of the one is so deeply interwoven with the prosperity of the other, that without the continuance of your State governments, in full energy and power, the General Government must inevitably fall. To obtain and secure this [illegible] inheritance, I have passed through a long and bloody Revolution. To enjoy the blessings of a good Government, under a Federal Constitution, I put everything at my command at hazard; and all my services have been employed to defend and establish the liberties of my country. I humbly trust it will not now be supposed that I should rejoice to see the Constitution prostrated, which was the consummation of our independence, and the order and harmony of the Union subverted by anarchy and rebellion. After this declaration, I hope the honorable gentleman from Virginia (Mr. NICHOLAS) will have no doubts respecting my political creed.

Mr. Speaker, I have been insensibly led off from the course which I marked out for myself by this unexpected interruption, but will now resume my original design.

Every gentleman within the sound of my voice will delight to cherish that commendable jealousy which freemen exhibit when troops are raised and quartered among them in time of peace. Can I not impress a belief on this House that many portions of our country are seriously alarmed, on receiving information that this bill was about to be brought forward? Is it not enough that the late enforcing embargo law should have excited so much sensibility, that another, not less alarming, should be brought to its final passage in this House? I deem it my duty to spread before the Representatives of the people their apprehensions as well as their sufferings. When we see those primary assemblies begin to give the watchword, be assured that they consider danger to be near. In some town and country meetings we find resolutions have been adopted, and as if grieved and disheartened by neglect, they forbear to ask redress at your hands, and determine to look to their State Governments for relief. Nay, further, where your late embargo law has been put in execution, the interference of legal State process has been resorted to, to save the citizens from ruin. The necessary tendency of this course is to bring the General and State Governments into collision, the fatal consequences of which need not be pointed out. If, however, such a monstrous military force shall at any time become necessary to force the obedience to any law, this argument alone should satisfy our rulers that all is not right, and that it is high time to pause if not to repeal.

Having attempted to demonstrate to this House that the army contemplated by this bill, cannot be wanted for foreign aggression, or to repel domestic invasion—and ardently hoping that it is not intended to enforce the embargo laws, I cannot believe that there exists any sufficient cause for passing the bill now before the House. I know full well that we have been shamefully treated and our rights have been grossly violated by both the belligerent nations across the Atlantic; nor will I attempt in any measure to justify or palliate those wrongs. Having expressed my sentiments on this subject on a former occasion, I will not detain the House to repeat them again. The important question arising out of this condition, is, how shall we obtain the most effectual redress? This brings me to the third head of my inquiries.

What objects are to be obtained by this armament?

If war is the real object, I would observe that its principles should be well defined: its ends must be probable of accomplishment; it must be manifestly just; and above all, it must be approbated by the people. I have before said that in foreign conquest we have nothing to gain. Let us briefly imagine what can be done nearer home. Canada is the first object worthy of attack, if we should commence a war with Great Britain. Some gentlemen who have advocated this sentiment in this House, appear to me to speak of it as if it would be a piece of amusement, a mere pastime; or at any rate an achievement which could be easily effected. But, sir, a project of this sort should be examined with great coolness and deliberation. Gentlemen should look at it with a scrutinizing military eye. Have you any documents to show the regular military force in the province of Canada, and the present state of their fortifications? Can any gentleman tell me the provisions there deposited in case of a siege? You well remember, Mr. Speaker, the failure of an expedition into Canada during the Revolutionary war, and the unfortunate issue of an attack upon the city of Quebec. Every gentleman on this floor must be acquainted with the history of those events; and if at that period our enterprise proved so unsuccessful, it should not be rashly undertaken now, when every preparation for defence is doubled, and perhaps to fourfold. If I know anything of that province, the regular troops for its defence may be estimated at about 10,000 men, and the city of Quebec at this time is completely fortified. I am not about to say that the capture of those parts and the reduction of that province could not be effected by the United States; but I do say that it would not be found so easy of accomplishment as some gentlemen seem to imagine; and when effected would but poorly repay us for all our expense of blood and treasure. A possibility, however, that we might not succeed, should make us cautious how we provoke a war in which no durable good can be promised, and which may terminate in disgrace.

But admit, for argument sake, that we should be successful, and the Province of Canada should change masters, is it an acquisition worth the price which we should probably pay for it? What advantages would result from such an event to the United States? Most assuredly we have no occasion for any increase of territory, and from such an heterogeneous mass of population, I very much question whether our Republican Government would be much strengthened. In addition to this, we must take into the account that this

province, having long been held by a military Government, could never be preserved by us but by a large standing army. This engine of despotism should never be introduced into a free, Republican Government, except on the most urgent occasion, and as speedily as possible should return to the walks of civil life. If, therefore, the acquisition of this province cannot be justified in a political view, surely the prospect of plunder, or the gratifying of the passion of revenge, will never induce a magnanimous people to make war. All the reasons which can be urged in favor of such an expedition are at variance with the fundamental principles of our Republican institutions, and of course ought to be discountenanced when it is not engaged in from the most urgent necessity, in defence of our country's rights. The same remarks which have been submitted against an expedition into Canada for the purpose of conquest, will apply with double force respecting Halifax. In the former case, troops might be taken to the scene of action without much naval force; in the latter, the attempt would be futile without a superior fleet. In every light, therefore, in which the subject has been presented to my mind, I cannot perceive that the substantial interests of our country would be promoted by commencing war for such a purpose. Nations, more than individuals, ought to take counsel of reason, and not from passion; the latter of which, from some inflammatory speeches delivered on this floor, some might conclude we were about to pursue.

Again, one prominent object to be obtained by a dispute with Great Britain, is the freedom of the seas, and that free ships shall make free goods. Is there a man within these walls who believes that we can oblige Great Britain to concede this point? Whether it be right or wrong is not the question, but whether the United States have power to coerce and establish that principle.

Sir, if the whole force contemplated by this bill should be raised, and Canada with all its dependencies should be taken, do gentlemen seriously believe that our maritime rights would thereby be secured, and Great Britain obliged to yield what we may consider her unjust usurpations? If I know anything of the policy which governs that nation, I think it would not. Although I never would sumbit by acknowledging that to be just which militates against national honor and moral right, yet sound policy may sometimes dictate an endurance of smaller evils for a time, rather than expose a nation to the calamities of war, a fortunate issue to which cannot insure the blessings for which you contend. Suppose that, after a contest of six, eight, or ten years, a peace could be obtained, and by treaty all should be yielded that we contend for. Experience has fully demonstrated that when the most solemn treaties interfere with the ambitious views of a potent nation, they are considered as having no binding force. During the present contest between Great Britain and France, the most solemn stipulations by treaties, and the long settled principles acknowledged by the law of nations, have been violated without any apology, and treated with contempt. From this view of the subject, therefore, I think it clearly follows that a war cannot be justified, and of course the troops proposed to be raised by this bill are unnecessary. If gentlemen are correct in their opinions respecting the policy of this Government, then indeed, whenever a treaty is infracted, or any foreign regulation is adopted by which our commerce shall be restricted, we must be doomed to pass over the same ground again. Non-importation, embargo, and non-intercourse laws must be passed; and in attempting to starve our enemy, we shall go far towards ruining ourselves. Although it may be foreign to the present question to go into an examination of our foreign commerce, yet I cannot forbear to remark, in opposition to many statements which have been made on this floor, that the amount of all British manufactures imported into this country, for our own consumption, does not exceed $25,000,000, which is about one-tenth of all the exports of goods manufactured in Great Britain. Having found out other resources from whence the raw materials for her manufactures can be obtained, and sufficient demands for all her goods, she must look on with a sort of laughing indifference at our new invented mode of national suicide.

The next point in my division of this subject is to inquire what are our means to accomplish this object? In a Government like ours, professing to have no secrets, the resources which we can command and our general policy are almost as well known to foreign nations as to ourselves. I trust I shall, therefore, not be accused of exposing the secrets of the Government when I state my full conviction that we have not the means necessary to carry on a bold and efficient war. As I have before stated, so I am fully convinced that the people would make astonishing exertions, and all reasonable sacrifices, when great emergencies occur; and especially when called upon in defence of their dearest rights. But when they shall be invited to support measures so expensive as the one now under consideration, it becomes necessary for the Representatives of the people to reflect whether it is such an one as they will cheerfully support. By examining the report of the Secretary of the Treasury, it will be seen that we have but about three millions of unappropriated revenue; and one important lesson is taught by that report, of which this House will do well to take notice, that a rigid perseverance in the system of embargo will dry up the principal streams by which the national Treasury was supplied. Sir, the destruction of our commerce is necessarily followed, under our present system of finance, by national poverty and distress. For more than thirteen months we have been in the full tide of experiment on a system which not only discourages the laudable enterprise of our most industrious citizens, but strikes at the very root of our fiscal arrangements. What a solemn spectacle, Mr. Speaker, do we exhibit to the world at this day! A great commercial people, and second to but one nation on the globe,

retiring from the ocean, by the pursuits of which our wealth and importance was increasing with every passing gale; coercing this abandonment, by the most severe laws, and maintaining them at an enormous expense; and when this novel experiment has failed to produce the benefits and blessings which its advocates and friends predicted, we are called upon to prepare for war. Yes, sir, when the very sinews of war have been thus broken or destroyed, and poverty and disgrace stare us in the face, we are presented with a Military Establishment which might make an opulent nation groan. To what sources can you resort to support this heavy expense? Loans and taxes are the dernier resort: and are the gentlemen now in power ready to adopt this system, for the purpose of carrying on a war—a system, too, which, in better days, they scouted as ruinous to this country? They surely cannot have forgotten the complaints which were then made against such a system, inasmuch as to these may be attributed their present elevation to power. If taxes should be resorted to, being deprived of the benefits of commerce, the merchant and the farmer have nothing to pay. Loans may answer a temporary call, but without any means to discharge them, these must necessarily fail. During the late Revolutionary war, these were carried to their utmost extent, and to this day we feel their effects. However willing our constituents may be to discharge that debt, which was the price of our independence, it behooves us well to consider how we increase their burdens. I have not the smallest doubt but the people of America would support almost any burdens which the Legislature might impose, to maintain the legitimate principles of our Constitution and Government; but the means and the end must be satisfactorily exhibited to their view. The question is not whether you will borrow money, but whether the object for which it is wanted is of such primary importance as to justify the measure. Let the safety, the honor, and the liberties of our country be at stake, and every honest man in the community will support you in their defence, and with one heart bid you God speed.

Sir, in making these remarks upon the bill now under consideration, I wish not to be understood as considering war the greatest calamity that possibly can befall us. National dishonor and disgrace—mean and abject submission, bring with them a train of evils more injurious to the community, than war with all its horrors. If I understand gentlemen on the subject of submission, I cannot fully accord in the doctrines which they advance. To oppose such a system as this, would argue neither wisdom nor courage. The duties imposed on neutral commerce by the British Orders in Council, may be highly injurious and oppressive; but will a war against that nation, with all our means of annoyance, induce her to change her course, during the present contest, or secure to us the rights which we claim? Much has been said respecting the duty which she lays on our exports to the European continent, as even more oppressive than a tax collected in our own ports. To this I cannot subscribe, although I detest the principle, and deprecate the evils which result from it.

Suppose the Dey of Algiers had the unlimited control of the Straits of Gibraltar, and demanded a toll of every ship or vessel that passed into the Mediterranean sea, as Denmark has long done at the Sound. Although this is a duty or toll, yet the merchant calculates the profits of his voyage into the Baltic or Mediterranean seas, with the encumbrance of this duty, and pursues or omits it, as his views of advantage shall dictate. But gentlemen say, our vessels are forced into British ports by their armed cruisers, contrary to their inclinations. This, probably, arises out of the state of her contest with France; for, while each is bent on the destruction of the other, both are determined that our commerce shall not be carried on but for their individual benefit, to the ruin of the enemy. While Great Britain imposes a duty, France burns or confiscates the whole. In this situation, are we to submit? I answer, no. A question of policy is here to be settled, whether a commerce thus fettered and thus obstructed, is worthy of our pursuit? And, although it may be restricted as to some particular place or country, still the wants and privations of one port will be supplied by the surplus productions of another. I have made these remarks, Mr. Speaker, to prove the impolicy of a favorite measure of the Government, which, in its operation, severely bears upon the honest exertions of our citizens, and utterly disqualifies our country from carrying on a war.

Some gentlemen seem to imagine that this Government is almost omnipotent. A republican Government is undoubtedly the most potent, for all the purposes of protection and defence, of any Government on earth. But, to answer this end, it must rest on public opinion, and be approbated by the citizens at large, whose love of order and the Constitution will induce them to support its measures. When the public sentiment can thus be insensibly borne along with the operations of the Government, the impression is irresistible. Let the most despotic Power on earth, the French Emperor, for instance, attempt to enforce a particular measure; he takes with him his legions, and obedience for a time is complete. But, when his myrmidons are removed, the former state of things is restored, and his authority is disregarded. But the laws of a free, republican Government, are enforced by the cheerful acquiescence of all its citizens.

In addition to the four principal objections which I have stated to this bill, I have another which relates to our militia establishments, and which its provisions, I think, will very materially affect. No explicit provision is made with respect to the mode of obtaining recruits—whether when so engaged they are to be excused from militia duty or not—whether the officers of the militia would be received if they should tender their services with their men, and by what tenure the troops will be held to perform service. I know that a certain bounty is to be paid, and clothing to be furnished, and public arms to be supplied;

but when this expense is incurred, how are these straggling recruits to be collected from the various parts of this extensive country, to attend on days for exercise, and appointed periods for encampment? If martial law is to be enforced against every delinquent, I fear a gallows would be erected in every county through the Union. According to this bill, encampments are to be made in every State and Territory, the evil effects of which I am convinced will be felt, not only by those who may enter upon this new military career, but also by all the adjacent country.

When I contemplate the military preparations which have already been sanctioned by this Government, consisting of regular troops, and the militia put in requisition by the President of the United States, while the country is in a state of profound peace, I am led very seriously to pause and look about me. If this bill should pass, (and from the strong support it has hitherto received we have but too much reason to fear it,) you will have placed under the immediate control of the Executive about one hundred and sixty thousand men. Truly, Mr. Speaker, this sounds almost too high for a Republican Government, and not being accustomed to such a display of military force, I am free to declare my apprehensions and alarm. My fears are by no means diminished when I consider that these very troops may be employed to enforce the embargo, than which nothing could more thoroughly alarm the minds of our citizens. Although the funeral of this wonderful magician, in some parts of our country, is said to have gone by, yet in this day of new things, I fear something may arise from its ashes equally disgusting. Should your non-intercourse bill be advocated with as much zeal as was the embargo, it may be matured and in full vigor before the end of the coming week, and needing the assistance of this establishment to enforce it. Having no desire to see our civil laws enforced at the point of the bayonet, I do in this public manner protest against this measure as unwise, and not called for by the urgency of the occasion.

Thus, Mr. Speaker, I have endeavored to lay before this honorable House some of the most prominent features of this bill, and have considered it both in relation to peace and war, as highly objectionable. If I have been correctly understood I shall be glad, and will thank any gentleman to obviate and remove my objections, if they are not well founded.

Ever since the publication of that famous report, made by our Committee of Foreign Relations, the majority of this House, and I may add a considerable portion of the body politic, seem to have adopted the same course of reasoning, and come to the same result. Submission, embargo, or war, have been the alternatives proposed, and those who have dared to question this political creed, like heretics of old, have been proscribed. Not being soundly orthodox in modern politics, I dislike the whole. The first I absolutely reject—the second I wish to have removed, and the third I hope to avoid. Like a medical prescription, however unpleasant to the palate, I would try to swallow the potion, if I could discover any possible good to result from it. When I hear gentlemen very gravely declare on this floor, that they are nearly prepared to exchange the embargo for war, I am almost induced to doubt my own understanding. What, sir, will you first paralyze the energies of the nation, and then call on the people to go to war? This illusion must be dissipated. What would be thought of a physician who should tell his patient, "if you should choose to get up from a bed of sickness, you must submit to have a limb amputated, although not necessary to your recovery?" Sir, he would be considered a madman; and though a person might consent to such an operation, if it became really necessary, yet on the doctrine of alternatives, thus presented, he would reject it

Mr. Speaker, this nation is sick, dangerously sick, and the relief is in our power. For several years past we have been trying experiments, and have left the path of sound experience. As many wise men predicted, when this system was adopted, we have got almost to the precipice from which one fatal experiment more may plunge us into ruin. As soon as we began to vary from that course of policy which Washington pointed out, our political hemisphere was darkened, and collisions with foreign nations ensued. Our first resort was to a non-importation law; but as this did not work a cure of the evil, the embargo was determined on as the infallible remedy. This experiment also failing, we are now comforted with the belief that a non-intercourse may perhaps effect the purpose, and if that should fail, we are promised the blessings of war, preparatory to which, this bill for raising an army is offered for adoption. Indeed some gentlemen have claimed a sort of pledge from this House that we will go to war (about the first of June next I believe) before they will consent to repeal the embargo laws. This pledge is too great, and this reasoning too profound for me. May God deliver us from such a restorative system as this!

If there ever was a time demanding serious deliberation, it is the present. We ought to pause and examine well our ground before we proceed one step further. From the ray of light which I discover in our eastern horizon, I am induced to hope that a brighter day may succeed. To effect this, I hesitate not to say we must retrace our steps and materially alter our political course. Let not gentlemen startle at this idea; it is a subject fit only for great minds to contemplate, and for honest men to accomplish. Our system of depletion and self-punishment must be given up; and an honorable, equal, and dignified policy towards foreign nations must form the basis of our negotiations, and we may hope for success. Our situation, though hazardous, is not hopeless; and if the beacons which have been erected should not be totally mistaken, those who may soon take the helm of state cannot fail to pursue a different course.

A few words more, and I have done. The Union of these States appears to me so important to the peace, prosperity, and protection of all its

parts, that I cannot express my regret when I hear the sentiment avowed, that a separation must take place. I think such a project ought not to be familiarized even in idea, and everything tending to irritation should be discouraged. Degrading distinctions and odious epithets, applied to any portion of our citizens, cannot be justified. When the gentleman from Pennsylvania (Mr. SMILIE) denominated those who opposed the embargo, old tories, British agents, or corrupted by British gold, he surely must have forgotten that some of the first men in the nation, and native Americans too, believe that measure to be unwise, and even unconstitutional. Some of our State Legislatures have also ventured to question the policy of this law, and even the power delegated to the General Government to enact it.

I consider it no compliment to be told, as we frequently are by the gentlemen in the majority, that the Federal Republicans are as honest and as patriotic as any other part of the community. It is to be presumed we all have the same end in view, the good of our common country; but we have different ways of pursuing it. We are all embarked on board the same national ship, and must swim or sink together. Our united efforts are needed at this perilous crisis to preserve our national and State prerogatives distinct and entire. By the blessing of God on our faithful exertions, the Constitution and Government may be preserved; and the people, under a wise Administration, will be prosperous and happy. Notwithstanding some gentlemen on this floor, from the peculiar ardency of their spirits, and an honorable indignation at the authors of our wrongs, may urge us to war, I am opposed to such a measure at the present time, and therefore hope the motion which I have had the honor to make will prevail.

Mr. LYON followed on the same side in a speech of an hour, when the House adjourned without taking a question.

SATURDAY, January 28.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a report and statement prepared in obedience to the provisions of "An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain roads, and for other purposes;" which were read and ordered to lie on the table.

The bill sent from the Senate, entitled "An act for the relief of certain Alabama Indians," was read twice and committed to the Committee on the Public Lands, to consider and report thereon to the House.

The bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act to amend the act, entitled 'An act establishing Circuit Courts and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio,'" was read three times and passed.

On motion of Mr. WHARTON,

Ordered, That the Committee of the Whole House to whom was committed, on the thirty-first ultimo, the bill supplementary to the act, entitled "An act to amend an act entitled 'An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts of the districts of Kentucky, Tennessee, and Ohio,'" be discharged from the consideration of the same.

ADDITIONAL MILITARY FORCE.

The House resumed the consideration of the engrossed bill providing an additional military force—Mr. TALLMADGE'S motion for indefinite postponement depending.

Mr. TAYLOR said: I am against the motion for a postponement of the consideration of the present bill indefinitely, because I believe the situation of the nation to be now such, that a further postponement of measures calculated for the defence of the country, would be little short of an abandonment of the interests and honor of this people. I do suppose, sir, that it is the opinion of a majority of this House, that the system of resistance to foreign aggression upon the ocean by a retirement from it, is to be given up. It will be recollected, that at the last session, I expressed my belief, that whenever the Legislature found this system to fail of its intended effects, they would, in a reasonable time, abandon it. I then believed that it was the best calculated of any measure which could be adopted to strike home to that nation which has done us the most harm; and although I still believe it to be the best system we could rely upon, yet, as it has met with resistance in its execution from a portion of our own people, rather than enforce it at the point of the bayonet and the expense of the blood of our own citizens, I would be willing to give it up. In speaking of resistance to our laws, I would not be understood as meaning to imply that there has been open rebellion. I mean that Constitutional resistance which has been manifested to the Eastward; that judicial resistance which has induced many to believe that the system would be better abandoned than to run the risk of producing more serious evils. I believe, Mr. Speaker, that these appeals from the laws have not been found to be general throughout the United States, yet they will have all the effect upon foreign nations as if such appeals had been universal. I allude to the transactions in the town of Boston—to the resignation of the collector of that port—and I may add, that of the collector of the port of Providence, with the occurrences which have taken place in the harbor of New York. To all these I may add the circumstance of the British armed vessels which have appeared on our Southern coast, for the purpose of forcing a trade in cotton. In this state of things, I do believe that the time when it would be proper to remove the embargo has arrived; in fact, I consider it, as to its effects, as removed already.

Thus, sir, the consideration of the alternatives proposed to the nation at the commencement of the session again recurs, to wit, embargo, submission, or war. The solemn vote which has been taken upon this subject, at an early period, to say nothing else, puts submission entirely out of the

question, and it seems now to be the general opinion that the embargo is to be given up. The last, then, is all which is left to us.

Having got thus far, I will endeavor to answer a remark made some time since by a gentleman from Virginia in relation to this subject; and I am glad the gentleman left the difficult question of tribute to be digested by those in opposition to the Administration. I have heard, sir, the very language of Mr. Canning introduced upon this floor, to prove that Great Britain had a right to retaliate upon France by resorting to the measure, which I trust will always be considered as obnoxious to the rights and independence of this country. But a minute's examination of the most common mind in the United States will expose the fallacy of the doctrine. An argument used by the gentleman from Connecticut (Mr. TALLMADGE) was, that the tax levied by Great Britain could not be held as being a tribute, for we were not obliged to pay it if we did not choose; that it was a mere matter of calculation as to interest, and nothing more. It is strange, indeed, that thirty years of residence in a land of liberty, and of devotion to its service, should have put such an argument into that gentleman's mouth. This, sir, was the very principle against which, in the difficult times of our Revolution, that gentleman so ably fought. If I were disposed to follow the gentleman from Kentucky, (Mr. LYON,) and to erect on my desk files of newspapers, I could, by a recurrence to those of that day, prove that this was the very language made use of by Lord North in the British Parliament. In speaking of the tax upon tea, this was his very position, that the Americans were not obliged to pay it, unless they chose to do so. But, sir, are we now to drink this bitter cup? I trust not. This question has all the original force which it had under the Administration of Lord North. An American vessel, trading up the Mediterranean, is arrested by a British cruiser at the pillars of Hercules, and carried back to Great Britain to pay the tax levied by the Orders in Council; and is this a free choice left to us? Are we at liberty to pay, or omit to do it? No, sir. The ocean has been assimilated by some gentlemen to a cornfield, in which the American merchant reaps a glorious harvest. Well, sir, suppose one in private life was to shut up the gate which led to his neighbor's cornfield, and tell him that, unless he would pay a certain toll, he should not pass. Would any man in this country submit to it? Most assuredly not. And will the New Englanders, to whom the ocean is "an inheritance," consent to have it wrested from them by the impositions of Great Britain, and agree to pay them for a license to make use of their own undisputed rights? I do not think they will.

The fact is, the Orders of Council cannot be defended. They have, in this point of view, been but slightly touched upon, and the truth is, that they cannot be otherwise than slightly touched upon. It is a subject which, at once, goes to the heart and the feelings of every American, and it would be in vain that any one would attempt to persuade the people of this country that the Orders in Council can, in a single point of view, be justified with regard to us.

Great complaint has been made that abuse has been poured out by the friends of the Administration against the conduct of Great Britain, while they say nothing about the unfriendly and unjustifiable treatment we have received from France. In relation to this I would premise, that as to intention, I believe these Powers to be alike; they are equally willing to injure us, as their interests or caprice may demand. But Great Britain has had a greater opportunity to make us feel her enmity than the other, by having the command of the ocean. From this circumstance arises the reason of the animadversions against the conduct of England; and France, not having ships, has not been in a situation to molest our commerce, or to intercept our trade. This fact will not be denied. A gentleman from Rhode Island, (Mr. R. JACKSON,) when asked by my colleague, (Mr. D. R. WILLIAMS,) in debate, whether the insurance office to which he belongs, in Providence, would insure a vessel to the Continent, declined answering, or declared that he did not know whether it would. But it would not be done. The risk is equal to the whole value of the cargo, and the books of the gentleman's house would show it. That gentleman has declared that there was, on the contrary, but little risk in going to Great Britain, for there could be no fear of interruptions from France, her naval force being annihilated. It has been proved, that the risk to France, or to any part of the Continent, amounts to at least ninety per cent. By statements of rates of insurances in England and elsewhere, the political risk to the Continent will amount to the sum I have stated. Thus the reason of the complaints against England is manifest. She has had the greater opportunity, and has therefore done us the most injury, though I would be clearly understood as thinking both the aggressing nations upon an equality as to intention.

Upon the talk of war, it has been asked how can we fight both nations. Sir, I can understand this subject perfectly well. I perceive very clearly before me two of the pillars which support the splendid dome under which we are assembled; but it would be very plain, that if I set my back against one of the two, I could only behold the other. This is the case with gentlemen when they lean their backs against the pillar, Great Britain. It is evident that, in speaking of war, they cannot see England and France together; they can alone discern France. In addition to the objection of not being able to fight both nations, another has been brought forward to the raising of the Army, to wit: that it must be intended to enforce the embargo laws. For my part, sir, I will unequivocally declare, that I would never consent to the employment of a single regular soldier for the enforcement of any law, nor for that of the embargo. Now, if there be not virtue enough in the country to see the laws respected, if the militia of the different States are inade-

quate to this purpose, I would not employ a single regular to do it. I do not believe that the troops contemplated to be raised by this bill are intended for the purpose of enforcing the embargo; nor would I vote for its passage if I could persuade myself that this was to be its object. But it has been said, that if you put yourself in a situation to commence hostilities, you will go to war. I will also unequivocally declare, that this is my object. What have we done, sir? We have sent missions to Europe; we have sued for reparation; and, instead of receiving redress, wrongs have accumulated upon us. Does this look like a disposition to do us justice? We have been driven into our present situation by foreign outrage; and, after they have thus received from us notice of our intention, should they not retract, I am willing to strike a blow, and a blow, at the same time, which I believe will be felt.

Gentlemen have asked if we can obtain redress by going to war and taking Canada? Yes, sir, we can do it by taking Canada. It was a declaration of a great English statesman, "that Great Britain conquered France in America;" and was not England once conquered in America? She was, and may again be here conquered. We are not able to contend with her upon her own element; but upon that where we can attack her with advantage, the land, we must hope for success. I would not take the enraged bull by the horns, but in that part whereby I would stand the best chance of worrying him to death.

A great deal of recrimination has been used upon this floor to prove that the Southern States are inimical to commerce. This is to say that they have neither sense or policy, nor can understand their own interests. The subject has been so often brought up, and so frequently answered, that I am almost ashamed now to mention it. It cannot be supposed that the Southern States would wilfully seek their own destruction; that they would commit a *felo de se* upon their own wealth. No, sir! the Southern States rather deserve the thanks than recriminations at the hands of those who accuse us. What has been the situation of these States? They could have had their produce carried by foreign vessels; they had in this respect every thing which they could wish, and if they had followed a selfish policy, instead of making a common cause with the commercial States, they would, in this state of things, have left them to contend alone, and have taken the British carrier. What was the reason we did not? Because we felt that we were a nation, united by the indissoluble bonds of friendship and common interests. We thought that we were made for each other, associated for mutual protection, and as much bound together as were our first parents, Adam and Eve. We did not think upon the little embarrassments which might result to us, when we knew that we had brothers who were feeling the lash of the cat-o'-nine-tails, at the gangways of British men of war. We had no property afloat that would induce us to come forward with a non-importation law which was to affect us more than it could our Eastern brethren. No, sir, it was for their interest that we consented to the law. We afterwards adopted the embargo system, and this affects the planting and farming interest as much, to say the least of it, as it does the commercial. And for whom was all this done? For those who are now the foremost to accuse us of hostility to their welfare. It was not for our own immediate interest, and if we had not now national feelings which get the better of the disgusts such accusations are calculated to excite, we would go back to the situation which we have left, and allow the British vessels upon our coast that monopoly of trade they so much desire. But we will go yet further than we have done, and sooner than yield up commerce, we will give another pledge for its maintenance and defence. We are ready to risk the property and blood of our citizens in behalf of the rights of our commercial brethren. To show that I am in earnest, I will, as one, not only risk my property, but my life, in defence of the commercial rights of my country; and it is for this purpose that I advocate the passage of the present bill. It is time that this nation should look to itself for redress, and not to the justice of European nations. We must now depend upon ourselves alone, and we should be prepared manfully to meet the event.

I will say, however, that the war, if we should have one, must be at the door, and be upon the responsibility of those people who have denied to us the use of the first system which had been adopted by the nation. Those who have refused us a fair trial of the embargo, at their door be the responsibility of any other resort. The unbiassed judgment of future times will decide upon the motives which have actuated us, and instead of looking upon this as an attempt to destroy commerce, posterity will regard it as a noble effort of patriotism for its maintenance, and as one which, if persisted in, would have secured our right more effectually than could have been done by the most brilliant military achievement. But it was not allowed to us to prove the experiment, which, in all human probability, would have put into our hands the weapon whereby we would be enabled always successfully to combat the European Powers; and having done this, I hope we will meet a firm support in the only system which is yet left for us to pursue.

Sir, we must recall the energies of the nation. Gentlemen forget that this is precisely the point which was in dispute at the commencement of the Revolution. We are told that we will have to borrow money, and that we will plunge the nation into debt. Do we not, sir, almost adore the name of WASHINGTON and his glorious compatriots? They left us a national debt, and yet we thank them; we feel towards them unbounded gratitude, and can we suppose that posterity will be less virtuous than we have been? I do not believe that they will. They would also thank us, and feel for us an equal gratitude.

I cannot believe that these men are in all respects regular troops, but I think that there are features in the bill which our habits incline us

always to look upon with jealousy. But these men are only to be called from their usual occupations for a short time in each year, and their partialities as well as friendships, with the great mass of the citizens, would render them less to be feared than a body of standing troops. It has been thought necessary to have a body of this kind, which, though not composed of regulars, might serve all the purposes for which such an army could be wanted. It is true the Constitution allows us to call upon the militia for the public defence, but it prohibits the marching of them out of the limits of the United States. The men proposed to be raised by this bill can answer every purpose of a regular army; and I will state, in alluding to this subject, that I am looking upon the taking of Canada in the event of a war. I confess that I regard the possessions of the British in North America, as of much more consequence than seems to be supposed by the gentleman from Connecticut, (Mr. TALLMADGE.) In one point of view, the possession of Canada would preclude all that facility of smuggling which has been laid hold of since the laying of the embargo. The shortening of the line would, for the future, in a great measure prevent this. But when we consider that, by means of the footing in Canada, Great Britain has it in her power always to interfere with our Indian neighbors, and to invite them to turn their arms against us, it is of the greatest importance to prevent her from having an influence so dangerous to our peace and safety. An objection to the possession of Canada by the United States has been, that it will lead to an incorporation of the inhabitants of that province with our own citizens. Sir, I can see no good objection to such an incorporation, and I would fear no bad effects from it.

I believe that the United States must have the coast of Halifax if they mean to feel as an independent and sovereign nation. We must have that point if we ever mean to have a security for our West India trade; and it is as necessary to us as Gibraltar is to the British. All our vessels, when they proceed to the West Indies, pass directly by the mouth of Halifax, and are at the mercy of the British cruisers. If we are to become a naval nation, we will want that position, and we should have it. It is a point from which we could at any time sweep the whole commerce of Europe in these seas. But you are told that Great Britain will have a pledge for the restoration of this territory. Well, sir, and does it not behoove us to have a pledge also? It certainly does. I do not, however, so readily believe that she could have a pledge. New Orleans has been hinted at as being the most likely place at which she would aim; but the dispositions which will be made there, and the increase of force that will no doubt be assigned to it, must render that port impregnable.

The gentleman from Connecticut says, that we will have always to keep on foot immense armies to retain Canada after we should have taken it. What, sir, is the reason that we have not had to maintain an army to preserve New York, or any other place which we have wrested out of the hands of the British? I do believe that if we had Canada, the virtue of the citizens, as has been heretofore the case, would secure to us its possession.

Mr. T. concluded by observing, that the Southern people had a common interest with the Eastern. If the country should fall through foreign influence, we are willing to go all lengths with them. Should the country triumph, we will rejoice with them. In prosperity we will participate the blessings of union and peace, and if we fall, we shall share an equal fate. I, therefore, hope that this bill will not be postponed, but that it will be adopted by a large majority of the House.

Mr. PITKIN.—The subject now before us, Mr. Speaker, is of more importance to this nation than any that has presented itself since I have had the honor of a seat on this floor; and I can assure you, I never rose to address the House when I felt as much embarrassed as I do at the present moment, an embarrassment arising not only from the magnitude of the subjects which are brought into discussion, but from a consciousness of my inability to do them justice. Believing, however, as I do, that the course of measures which is now pursuing, (and of which the raising a regular army of fifty thousand men, as contemplated by the bill now under consideration, is a prominent feature,) will lead this nation to inevitable ruin; believing that not only the present, but the future happiness of this country does, in a great degree, depend on the fate of this bill, I cannot resist the impulse of duty which I feel, to use my feeble efforts to arrest its progress. Being one of a small minority, which has been so often proscribed, and whose views and whose motives have been so often questioned, and made the subject of obloquy and reproach, I can scarcely expect that anything I can offer will even attract the attention of a majority of the members of this House, much less influence their decision. I will, however, beg their indulgence, while I call their attention to the objects for which this army is to be raised.

The Committee of Foreign Relations have told us that we must have either embargo or war; in raising this military force, therefore, it is believed gentlemen can have but one of those two objects in view, either to enforce the embargo laws at the point of the bayonet, or to carry on a defensive or offensive war. I can never, sir, give my consent to the measure for the first of these objects. I have never believed that the embargo, as a measure of coercion on foreign nations, if ever so strictly enforced, would produce the effects which have been contemplated. Did I believe otherwise, did I concur in opinion with the gentleman from South Carolina, (Mr. TAYLOR,) that the embargo was a war, more warlike than war itself, as he has expressed himself; did I believe that, by withdrawing ourselves from the ocean for a short time, we could ever traverse it in every direction, without fear of interruption from the insults and aggressions of the belligerents; could I believe that it was the political philosopher's-

stone, which, by its gentle touch, would turn all our national wrongs into national rights, I would hail it with joy as the harbinger of a perpetual peace, and would even be willing that it should be enforced by military power.

But, sir, not being satisfied that these objects can be attained by the embargo, I cannot consent that it shall be enforced in a manner which can only bring distress and ruin upon ourselves.

The advocates of this novel mode of warfare under the name of coercion, have urged that it will seriously affect Great Britain in three ways, and thereby compel her to do us justice. First, by depriving her of the necessaries of life, such as provisions, for which she is dependent upon us. Second, by depriving her of many raw materials, necessary for her manufactures, and particularly cotton, and also of naval stores and lumber, all of which, it is said, she can now obtain from no other country but this. Third, that as her manufactures are now excluded from the continent of Europe, by excluding them from the United States also, her manufactories, on which her national existence depends, must fall.

Will gentlemen pardon me if I examine this subject a little in detail? In doing this, I hope that no one will consider that it is my intention, much less my wish to depreciate the value of the commerce of this country. No, sir; our commerce is highly valuable not only to ourselves, but to foreign nations, and particularly Great Britain; my only object is, to show, in the present state of the world, that we have overrated it as a measure of coercion. It is said that the British West Indies are absolutely dependent upon us for provisions and for lumber, &c. There is no doubt but that the United States, from their local situation, from the nature of their productions, and from the superior industry and enterprise of their citizens, are able to afford supplies to the West India islands at a cheaper rate than any other country. But, does it follow that they cannot obtain them from any other quarter? Corn, and other articles of provision, can be raised in the islands themselves; and large supplies of lumber can be obtained from the British provinces of Canada and Nova Scotia. During the last Summer they were in part supplied from the Spanish Main with live stock, which they had heretofore received principally from New England, and at a much cheaper rate than they obtained them from us. With respect to lumber, I have been informed, and I believe the information to be correct, that during the last Summer a single contract was entered into in Canada to supply lumber, to the amount of half a million sterling; and I do know that many of our citizens have gone into that province for the express purpose of obtaining that article.

In order to show the importance of the West Indies to the mother country, it has been stated that a large proportion of the revenue of Great Britain arises from duties on articles of West India produce, and particularly on sugar and coffee; and, as I have understood from a gentleman from South Carolina, (Mr. DAVID R. WILLIAMS,) to the amount of about one-third of her revenue.

[Here Mr. WILLIAMS explained, and stated that he only said it amounted to one-third of the customs.]

Mr. P. continued.—I will not undertake to state the amount of the revenue arising from the customs, as they are called; they may amount to fifteen or twenty millions. But, sir, the duties arising from imposts from the West Indies, constitute but a small part of the whole revenue of the British empire.

The duty on sugar constitutes nearly the whole of the revenue from West India articles, in the year 1805, viz: - - - - £2,772,498

From this is to be deducted for drawbacks - - -	£236,521	
For bounties on the exportation of refined sugars -	807,405	
		1,629,572
Leaving only - - -		1,042,926

as net revenue; so that the whole amount of duties during that year, from the West Indies, could not be much more than one-twentieth part of the whole revenue of Great Britain; as the whole of her revenue, for three or four years past, has not been less than about thirty-five or forty millions sterling per annum.

The truth is, sir, that a much larger proportion of our revenue is derived from duties on articles imported from the British West Indies, than that of Great Britain; for, on an average of the years 1802, 1803, and 1804, the duties on rum and sugar from that island amounted to $1,456,000, being about one-eighth of the whole of our revenue during these years.

But, it is said, Great Britain herself will and does, in part, now very sensibly feel the want of our provisions, and particularly breadstuffs; the prices current of Liverpool have been quoted to prove the scarcity of wheat in that country. Are gentlemen now to be informed that Great Britain does not now depend on us for her breadstuffs, and that very little is exported there even in times of very great scarcity? Indeed, sir, the whole of our exports of wheat and flour would, comparatively, add very little to her stock. For, on examination, it will be found that, on an average of the years 1804, 1805, 1806, and 1807, we exported only 5,874,321 bushels of wheat in the whole, calculating five bushels to a barrel of flour. The most able calculations I have seen, and particularly those made by Mr. Chalmers, make the total consumption in England and Wales as follows:

Bread corn, 9,339,000 quarters, or 74,440,000 bushels. Corn made into liquors, 4,665,000 quarters, or 37,320,000 bushels. So that the whole of our supply would add but about one-twentieth part to the whole of their consumption. The idea of starving, or even, in any great degree, distressing a nation that commands the ocean, by withholding our supplies of provisions, has alway

appeared to me chimerical, and, from the experiment which has now been made, must be abandoned. It is asked, however, where Great Britain will obtain a supply of naval stores, so absolutely necessary for the maintenance and support of her fleets?

It can only be necessary, sir, to look into the exports to Sweden, to find where she can obtain an abundant supply of tar and turpentine. During the year 1804, 100,200 barrels of ship articles were exported from the port of Stockholm alone, a quantity, it is believed, larger than was ever exported from the United States in one year. But a small part of this went to the ports of Great Britain; she will now, however, be able to obtain the whole quantity which may be exported from that kingdom.

But, it is said, she can obtain her supply of cotton from no other quarter than the United States; and that, of course, most of her cotton manufactories might stop, and thousands of her manufacturers be reduced to beggary. Let me ask gentlemen where she obtained this article before it was cultivated in the United States? In the year 1799, she imported cotton to the amount at least of 40,000,000 lbs. In the year 1800 there was imported into England and Scotland 54,000,000 lbs. of the same article. During the former of these years, the United States exported but 9,232,283, and, in the last, but 17,789,803, to all parts of the world. In 1805, 248,799 bales of cotton were imported, about one-half of which came from the United States. In consequence of the increased cultivation of this article in the Southern States, for six or eight years past, we have supplied Great Britain with about one-half of the cotton which she has consumed in her manufactories, and her supply from other quarters has diminished. The quantity which is now annually consumed, in her manufactories, may be estimated at about 60,000,000 lbs. There is no doubt, that, by cutting off one-half of her supply at once, a temporary scarcity may prevail; it would be, however, but temporary. She will soon be able to make up the deficiency from other quarters. That I am not incorrect in this particular, will gentlemen suffer me to turn their attention to a statement made on this subject by an eminent merchant in London, Mr. Alexander Baring, whose name has been often mentioned in this House, and whose opinions and statements are justly entitled to much weight and credit.

In his pamphlet on the subject of the Orders in Council, he states the quantity of cotton imported into the ports of London, Liverpool, and Glasgow, from different parts of the world, in the year 1807, to be 282,667 bags; and of this 171,267 were from the United States, and only 18,981 from the Brazils. He also states, that the usual quantity annually imported from the Brazils and into Portugal, is 140,000 bags of 110 lbs. each. The whole of the cotton from the Brazils will now go to England. If, then, we add this quantity to that imported in the year 1807, from all other parts of the world, except the United States, the amount will stand thus:

	Lbs.
From the British West Indies - -	8,690,700
Colonies conquered from the Dutch -	13,095,300
East Indies - - - - - -	3,422,700
All other parts (except the United States, Portugal, and Brazils) -	2,517,000
From the Brazils, 140,000 bales of 110 lbs. - - - - - - -	15,400,000
Making - - -	53,125,700

It will be observed that this is but the usual and ordinary quantity that is raised and imported from these countries, and that it can, in a single season, be increased so as to make up the deficiency from the United States. Indeed, sir, Mr. Baring himself, who is opposed to the Orders in Council, (and thinks them highly prejudicial to the interest of Great Britain,) in the same pamphlet, says, after speaking of the importation of cotton from the different parts of the world:

"There certainly can, in no event, be any apprehension of want of cotton; no article is more generally or more easily produced in all warm climates; the increased cultivation in the United States, proves that it can be afforded there at the cheapest rate, and we cannot procure it with more advantage than from a country which takes the same article back in a manufactured state, probably to the full value of the raw material which she furnishes."

But it is said that we take and consume so large a proportion of her manufactures, that, if deprived of our market in this respect, she must feel it so sensibly as to compel her to yield to us those rights which we demand. To prove this, gentlemen from different quarters of the House have stated that we take and receive her manufactures to the amount of one-third of all her exports. I understood this to have been stated by the chairman of the Committee on Foreign Relations, (Mr. G. W. CAMPBELL.) This statement, I apprehend, is incorrect, more especially if it is intended to satisfy and convince this House and the nation, that the United States consume so large a proportion of British manufactures. Gentlemen may, perhaps, have been led into this error by not attending to the distinction between what is called the official value and the real or estimated value of the exports of that country. The official value, it is well known, is taken from the custom-house books, according to a rate or valuation fixed more than a century ago; it is, of course, now far less than the real value. The official value, however, is the one which is generally quoted, in books, giving an account of British exports.

No one has stated the amount of the exports of that country, except the gentleman from Kentucky, (Mr. JOHNSON,) who, if I do not misrecollect, stated it to be thirty-seven millions sterling. This is more than the official value, and much less than the real value, according to the accounts which I have seen.

During the year ending on the 5th day of January, 1808, the official value of British exports was £26,993,129 sterling, but the real value was £48,500,483 sterling, or about $218,000,000. This

is taken from an account laid before Parliament, and, I presume, may be considered as correct. The amount of exports for the year ending on the 5th day of January, 1807, I have only seen in a newspaper; I will not, therefore, vouch for its correctness. It is there stated to be £33,447,590 sterling. I presume official value, the real value of which might be nearly double, £60,000,000 sterling. It is difficult to ascertain, with precision, the amount of British manufactures which the United States consume annually, as a very large proportion which they import are again exported to the West Indies, to South America, and other parts of the world.

From a report, however, made to this House by the Secretary of the Treasury, in 1806, relative to our commerce with Great Britain during the years 1802, 1803, and 1804, we can form an estimate not far from the truth. By this report it appears that the average amount of the annual import during that year was estimated at $27,400,000, in British manufactures. These consisted principally of goods paying ad valorem duties. That, during those years, we exported merchandise, paying ad valorem duties, to the average value of $9,772,000. A part of the merchandise thus exported came from other countries, but it is believed not more than one-quarter part, which would leave for our own consumption, annually, during these three years, about $20,000,000 of British merchandise, which is but about one-tenth part of the amount of all the exports of that country. During the years 1806 and 1807, it is true, our imports of British goods have amounted to between forty and fifty million of dollars, consisting principally of those which pay ad valorem duties; but, during the year 1806, we exported the same kind of goods to the amount of $18,571,477, and, in the year 1807, similar goods to the amount of $18,564,507, of which, in 1807, $9,870,753 were exported to the Spanish West Indies and American colonies; so that a great proportion of British manufactures, which, for some years past, we have imported, have been continually destined for a foreign market and not for home consumption, and of which we have been the carriers, and received the profits. But, since the embargo and the Spanish revolution, these goods, instead of finding their way to foreign markets through the United States and through the medium of our vessels, find their way to the same markets in British bottoms.

I have thought proper, sir, to make these statements and remarks not for the purpose of showing that the trade of the United States is not highly beneficial to Great Britain, but to show that it had been overrated by many gentlemen on this floor as a measure of coercion; and, for the purpose of exculpating myself and my constituents, from the charge of an unreasonable opposition to a measure which we have never believed would produce any salutary effects.

Will gentlemen permit me in the next place to inquire whether the embargo, even if followed by a non-intercourse, will coerce France to rescind her obnoxious decrees? And here I beg leave to observe that "the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas," mentioned in the Message of the President, which recommended the embargo, could not arise from the execution of the decrees of France against the United States on the ocean, for it is well known that she was incapable of executing them on that element. Suppose, sir, the Emperor of China, at one of his palaces at Pekin, or some of his Tartar provinces, beyond the Chinese wall, should issue his decree declaring the islands and dominions of Great Britain in a state of blockade, and that all our vessels found going to or from there, or loaded with their products, should be good prize? Under such a decree our vessels would be liable to condemnation, if taken in violating it; but the difficulty would be, the Emperor of China has it not in his power to take them.

The power of the Emperor of France to enforce his decrees on the high seas is nearly as inefficient as that of the Chinese Emperor. For further proof of this, let me refer gentlemen to the statements and opinions of members of the Administration, contained in the documents now on our table. The Secretary of State, in his letter to Mr. Armstrong, of February 8, 1808, speaks of the attempt of the French Government to enforce its decrees on the high seas as "an empty menace." The Secretary of the Treasury also says in his annual report:

"It may, indeed, be admitted that the decrees of France can be enforced only in her own territories, and in those of her allies; that, however efficient in preventing any commerce between the United States and themselves, those decrees cannot materially affect that between her enemies and the United States, and may, therefore, in that respect, be disregarded."

These documents, sir, prove, to my mind, that it was the wish and intention of the French Government that the United States should make common cause with them and the continent of Europe, in a commercial warfare against Great Britain, in support of what are called maritime rights. I trust, however, the House will not understand me as saying that our Government laid the embargo in compliance with these wishes and determinations. I have introduced them for the purpose of showing that a continuance of the embargo, though enforced by an army of fifty thousand men, would not compel or induce Bonaparte to rescind his decrees.

Our Minister at London, Mr. Pinkney, in his letter to Mr. Canning, of October 10, 1808, speaking of the intercourse between Great Britain and the United States, also says, "That the edicts of France could not prevent that intercourse, even if France should adhere to them;" and "that the power of France upon the seas, was, in no degree, adequate to such a purpose."

If anything else were wanting to prove that our commerce is in very little danger from these decrees, let me refer the House to another document furnished us from the Senate; by which it appears that out of five hundred and ninety-four

vessels which sailed from our ports in the course of the last Summer, under special permission from the President, the most of them have returned in safety, though liable to be captured and condemned under these edicts. It is also well known, that many of these vessels obtained insurances against French captures under these decrees, for the moderate premium of five or six per cent.

But, sir, a perseverance in the embargo system, so far from compelling Bonaparte to rescind his decrees, will induce him to continue them; for, so far as this restriction on our commerce operates against Great Britain, it meets with his entire approbation. Nay, sir, I will go farther, and say, that in September, 1807, he extended the operation of the decrees against the United States on the high seas, and seized and held in sequestration the property of our citizens in his ports, for the express purpose of compelling us to take a part with him and the whole continent of Europe, in a commercial warfare against Great Britain. I will prove this, sir, from the documents on your table; and for this purpose let me in the first place call the attention of the House to a letter from M. Champagny to General Armstrong, dated at Milan, November 24, 1808, and which accompanied the President's Message, at the opening of the present session.

After speaking of "the reclamations," as he calls them, on our part, against the execution of the decrees, the injuries the United States had received from England, and the inconveniences which our citizens experienced from the new and extended operation of their edicts, M. Champagny says:

"But it is not to France. It is to England, that these inconveniences to individuals ought to be imputed. She it is who has given the example of measures unjust, illegal, and infringing on the sovereignty of nations. To oblige her to renounce them, it has become necessary to combat her with her own arms: in violating the rights of all nations, she has united them all, by a common interest, and it is for them to have recourse to force against her; to forbid her the search (*la visite*) of their vessels; the taking away of their crews; and to declare themselves against measures which wound their dignity and their independence. The unjust pretensions of England will be kept up as long as those whose rights she violates, are silent; and what Government has had more to complain of against her, than the United States! All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the Government of the United States, after complaining in vain of the injustice and violations of England, took, with the whole Continent, the part of guaranteeing itself therefrom. England has introduced into the maritime war, an entire disregard for the rights of nations; it is only in forcing her to a peace that it is possible to recover them. On this point the interest of all nations is the same. All have their honor and their independence to defend."

I would here observe, sir, that this letter appears to be written as an answer to one of General Armstrong, of November 12, of the same month, in which, in a very spirited manner, he remonstrated against the decrees of the Council of Prizes, in the case of the Horizon—and also in answer to other remonstrances, which our Minister has made against the seizure of the property of our citizens in the ports of France. The Horizon, it is well known, was shipwrecked on the coast of France, and in that event was entitled to the rights of hospitality, even from an enemy. Notwithstanding, she was seized, and that part of her cargo at least, which consisted of British manufactures, was condemned under the 5th article of the decree of November 21, 1808. At the same time, other property, to a large amount, belonging to our citizens, in the different ports of France and her dependencies, was seized and held in sequestration. And what, sir, does M. Champagny tell our Minister? He says, "all the difficulties which have given rise to your reclamations, sir, would be removed with ease," &c. What were the difficulties of which our Minister and our Government had complained, or to use the French style, had given rise to our reclamations? Why, sir, the very condemnation in the case of the Horizon, and the numerous seizures of our property in their ports. And what was the condition upon which these difficulties "would be removed with ease?" It was simply this—"if the Government 'of the United States, after complaining in vain 'of the injustice and violations of England, took 'with the whole Continent the part of guaran-'teeing itself therefrom."

The language of the French Minister is too plain to be mistaken. He tells us, in substance, that his master has seized the property of our citizens, and will proceed to a condemnation of it, unless the United States will join him and the Continent, in a commercial warfare against Great Britain. To prove, sir, what was the part which the French Government wished us to take with the Continent, it is only necessary for us to go back to the time when the Treaty of Tilsit was entered into between the Emperors of France and Russia, in June or July, 1807. It has always been said, and I have no doubt of the truth of it, that by a secret article of this treaty the Emperor of Russia had agreed to join the French Emperor, in excluding British commerce from his dominions. It was in pursuance of this agreement, no doubt, that on the 26th of October, 1807, the Emperor of Russia issued his manifesto, prohibiting all intercourse with Great Britain, until the principles of the old armed neutrality should be recognised and acknowledged.

Immediately after the Treaty of Tilsit, in which (as Don Pedro Cevallos, in his exposition, says) "the destiny of the world seemed to be decided in his favor," on his return to Paris in August, Bonaparte had come to a determination that as he had settled the affairs of the belligerents, except England, to *his mind*, he would settle those of neutrals in the same way, and he had also resolved to form an union of all commercial States against Great Britain, and that there should no longer be any neutrals—[Mr. PITKIN was here interrupted and asked what proof he had of this.] If I were permitted, sir, to put my finger on certain documents, I could prove it satisfactorily. [Mr. LOVE here interrupted Mr. PITKIN, and de-

nied that there were any such documents in the possession of the House.] We have, Mr. Speaker, I know, documents that are public, and also those which are confidential; and according to the rules of the House, it is perhaps improper to refer to those, which they have thought it necessary to keep from the public eye. They cannot, therefore, be read in public, and indeed I know not whether they are now in the possession of the House. But, sir, I know their contents, as well as the gentleman from Virginia. I had the same information, however, from a gentleman who was in Paris, in August, 1807, and I do not hesitate to say, that I have no doubt of the truth of it. But, sir, the subsequent conduct of the French Government proves it beyond controversy; for very soon after this treaty, a new and extended construction is given to the decrees, by the express direction of the Emperor himself. On the 18th September, Regnier, Grand Judge, is directed to declare, that as there is no exception in the decree, there is no ground to make any in the execution of it. And when, on the 24th of the same month, our Minister at Paris remonstrated against this new and extended construction, and asks an explanation of his Majesty's views in relation to this subject, as it respected the United States, he is answered by M. Champagny, on the 7th of October, that "the decree of blockade has been now 'issued eleven months. The principal Powers of 'Europe, far from protesting against its provisions, 'have adopted them. They have perceived that 'its extension must be complete, to render it more 'effectual, and it has seemed easy to reconcile 'these measures with the observance of treaties, 'especially at a time when the infraction by Eng-'land, of the rights of all maritime Powers, render 'their interest common, and tend to unite them 'in support of the same cause."

These documents, sir, prove, to my mind, that it was the wish and determination of the French Government, that the United States should make common cause with them and the continent of Europe, in a commercial warfare, against Great Britain, in support of what is called maritime rights. I trust, however, the House will not understand me as saying, that our Government laid the embargo in compliance with these wishes and determination. I have introduced them for the purpose of showing, that a continuance of the embargo, though enforced by an army of fifty thousand men, would not compel or induce Bonaparte to rescind his decrees.

If anything else were wanting to convince us that the embargo restrictions still meets the approbation of the French Government, I would refer to the late address of Bonaparte to the Legislative body, immediately after his return from Erfurth, in which he says, "The United States 'of America have preferred to renounce commerce and the sea, rather than acknowledge the 'slavery of them." But more particularly would I call the attention of the House and the nation, to a document lately published in this country, which, in French, is called an exposé, lately addressed by Mr. Cretet, Minister of the Interior, to the Ligislative body. After speaking of the war with Great Britain, he says "the war will 'henceforth consist in repelling from all points 'the English commerce, and employing the means 'calculated to promote that end. France has 'energetically concurred in the exclusion of the 'monopoly of commerce; she has resigned her-'self to privations which long habits must have 'rendered more painful. Some branches of her 'agriculture and her industry have suffered, and 'still suffer, but the prosperity of the great body 'of the people is not affected; she is familiarized 'with that transitory state, the duration of which 'she beholds without fear. The allies of France 'and the United States sacrifice, like her, and 'with a resolution equally generous, their private 'conveniences."

After this, sir, it must be impossible for any man to believe that a further continuance of the embargo, even aided by a non-intercourse, will operate as a measure of coercion on France, so as to compel her to change her mode of warfare against her enemy. No, sir, these restrictions on our commerce, so far as they operate to injure the commerce of Great Britain, do really co-operate with the French decrees, the object of which is to destroy Great Britain, by the ruin of her commerce; and without which restrictions, those very decrees would have a much more limited effect. It is on this account, that our embargo system is borne so patiently by Bonaparte, and even receives his benedictions and that of his Ministers.

But, sir, if this army of fifty thousand men is not wanted for the purpose of enforcing the embargo laws, it must be raised for the purpose of war, either defensive or offensive.

No gentleman has stated that we are in any danger of an invasion; it cannot be pretended that there is any prospect of an attack by land. Should such an attack be made, should hostile footsteps again tread our shores, there would be but one opinion as to the course to be pursued. Such attacks are to be repelled at every risk, and at every hazard. This number of troops, therefore, can only be wanted for an offensive war; indeed some gentlemen have repeatedly stated on this floor, that war was inevitable, and have likewise stated, that, as we are the injured party, it must be an offensive war. And here I beg leave to call the attention of the House to a report of the committee in respect to our foreign relations, and which was made for the purpose of pointing out the course the United States ought to pursue, with respect to foreign nations. This report states that we have but three alternatives: "submission, war with both nations, or a con-'tinuance and enforcement of the present suspen-'sion of commerce." They say, "The first can-'not require any discussion. But the pressure of 'the embargo, so sensibly felt, and the calamities 'inseparable from a state of war, naturally create 'a wish that some middle course might be dis-'covered, which should avoid the evils of both, 'and not be inconsistent with the national honor 'and independence. That illusion might be dis-

'sipated; and it is necessary that the people of 'the United States should fully understand the 'situation in which they are placed. There is 'no other alternative but war, with both nations, 'or a continuance of the present system."

Indeed, Mr. Speaker, is this the situation of the people of the United States? Is there no middle course, no middle path, in which we can any longer pursue "the noiseless tenor of our way?" Could the committee present us with nothing better than such dreadful alternatives? If so, we have but Scylla on one side, and Charybdis on the other, and no middle passage through which we can steer our political ship. We must inevitably be dashed to pieces, on the rocks of embargo and non-intercourse, or be swallowed up in the whirlpool of European conflicts. If this is the situation of the people of the United States, dreadful and calamitous is their situation. I had, sir, hoped, fondly hoped, nay, believed, that Heaven had in store many, very many blessings yet to come for the people of this country. But, if they have no other prospects than those presented to them by this committee, I have hoped and believed in vain.

The committee, indeed, in another part of the same report, say: "The present unsettled state of 'the world, the extraordinary situation in which 'the United States are placed, and the necessity, 'if war be resorted to, of making it at the same 'time against both nations, and these the two most 'powerful of the world, are the principal causes of 'hesitation." The present state of the world is, indeed, sir, unsettled; and when it will be again settled, is known to Omniscience alone. War with both nations, and those the two most powerful of the world! Let me ask the committee what nation has any efficient power except England and France, and their allies and dependencies? Sir, there is none. War, therefore, with those nations, is war with the whole world.

Europe at this moment, sir, presents a spectacle of which history records no parallel. When the Roman Empire, enervated by luxury, was overrun by the northern nations, and the fairest portion of Europe was taken possession of by its savage, but bold invaders, it was parcelled out among the rival chieftains, who achieved the conquest. No single individual, either at that time or since, has ever had the supreme control over this part of the world. The power of Charlemagne, in the zenith of his glory, was nothing in comparison with that of the present autocrat of the continent of Europe. I am lost in astonishment, when I reflect on the enormous and unequalled power now possessed by the Emperor of France, and the rapidity with which that power has been acquired.

The minor kingdoms of Europe, as well as newly made kingdoms, have been parcelled out among the different branches of his family, almost without a struggle; and the fate of the larger kingdoms and empires has been decided by single battle. The battle of Austerlitz, sir, brought the proud house of Austria at the feet of the French Emperor; the battle of Jena annihilated the house of Brandenburgh; that of Friedland, compelled the Emperor of the North to crouch at the feet of the conquerer; the house of Braganza, in Europe, was annihilated by a single word; and what, let me ask, has become of the Spanish part of the house of Bourbon? Their fate is but too well known; they are prisoners, state prisoners in France; and much I fear, the fate of the people of that unfortunate country, will also soon be but too well known; I fear even while I am now speaking, they may be the victims of the vassals of the usurper.

When I reflect on the events, which have, and are now taking place in Spain, I cannot but feel emotions, which I am unable to express. From the time when the infamous Godoy, the Prince of Peace, was elevated to power, and French influence governed in the national councils of that country, some of her best and wisest men, and particularly old Count Florida Blanca, (who, in the cabinet at least, was the Washington of Spain) were banished from Court, and have ever since lived in obscurity in the distant provinces, until the present revolution has called them into notice. During the reign of the Prince of Peace, the King of Spain has been the friend and ally of the Emperor of France. And how, sir, has this friend and ally been treated? In the first place, a large part of his western empire was demanded of him; Louisiana was ceded to France, and which we now possess (in part at least) at the expense of fifteen millions; the mines of Mexico and Peru were next demanded; the rich products of these mines were poured into the national coffers of France with a liberal, nay, with a bountiful hand; not yet satisfied, some of the best of the Spanish troops were required to fight the battles of the Emperor in the north—sixteen thousand of the most gallant troops were immediately furnished. Not contented with all these, the Emperor, at last, demands the Crown and Kingdom itself. After having enticed the old King and his son Ferdinand to place themselves in his power at Bayonne, he then compelled them to sign an act of reunciation of their Crown and Kingdom in his favor, but not until after (as Cevallos, who was on the spot, says) the Emperor in his last conference with Ferdinand, said to His Majesty, "Prince, you have only to choose between cession and death." Mr. Speaker, by this act of renunciation, the Spanish part of this western quarter of the world is now claimed by the Emperor of France, and if he should conquer Old Spain and get quiet possession of this part of America, (and it is not in our power to prevent it,) the United States are gone.

Is it possible, sir, that the Committee of Foreign Relations, is it possible that this House can seriously think of plunging the United States into a war with two nations who are at war with each other, the one of which commands the land, and the other the ocean? Will this country, as yet, comparatively speaking, in a state of infancy, certainly not advanced beyond a state of adolescence, be able to meet the shock of such a war? Sir, a war with both nations is out of the question;

when we have once entered into this interminable conflict, which is now convulsing the world, we shall soon be compelled to take part with one or the other of the belligerents; and of course a connexion or alliance must be formed with the nation with which we take a part. For myself, sir, I want alliances with neither—and I hope the fate of other nations will teach the people of this country to avoid a course which may lead them to inevitable destruction.

Will gentlemen suffer me to detain them a few moments longer, while I inquire what are the precise objects of this war? and whether there is a probability of our being able to obtain those objects by a war? It is said generally, for our maritime rights. It cannot surely be for the principle that free ships make free goods (as a gentleman from Massachusetts, [Mr. BACON] has hinted)—I understood that this has been relinquished by the present, as well as by the former Administrations. Neither do I believe it can be for what is called the colonial trade, or reparation for the attack on the Chesapeake. And as to the right of impressment of British seamen on board of our merchant vessels, which has hitherto been made the principal subject of dispute between this country and Great Britain, and an express relinquishment of which has been made a *sine qua non* of a commercial treaty, if I am able to understand the views of our Administration, this point has been given up, at least, for the present. It is well known that the proclamation of the King, of the date I believe of the 14th of October, 1807, recalling all British seamen from foreign employment, was laid before Congress, by the President, when the laying of the embargo was recommended; and that one object of the embargo was to coerce Great Britain to relinquish this right of impressment of her subjects from our merchant vessels.

When our Government, therefore, offered Great Britain to repeal the embargo on her rescinding her Orders in Council, I consider that they had come to a determination that our vessels might navigate the ocean, notwithstanding the right of impressment had not been relinquished, and that of course they would not go to war, in order to obtain that object. If this be true, the sole object of the war must be the orders and decrees of the belligerents. And hence, sir, the question is not, whether a war, according to the known laws of nations, would not be just against both these nations from whom we have received so many injuries. There is no doubt, that for several years past, we have had what may be called just causes of war against them both. But the question is, whether in the present unsettled state of the world (as the committee say) it is a wise, prudent, or politic measure; and whether there is a probability that we should thereby attain the objects we wish? Shall we obtain either indemnity for the past, or security for the future? The old law of nations is very little regarded by either of the belligerents. France says that England in her mode of warfare regards no laws, and therefore she is obliged "to forget them, and even for an instant to forget herself," and therefore issues her decrees. On the contrary, England says, that France is carrying on an unparalleled mode of warfare against her, and she is obliged "to retort on her enemies themselves, the consequence of their own violence and injustice." Both ground their proceedings on the principle of necessity and self-defence. Now, sir, if it were possible for us, who are the only neutral nation in the world, to stop the wild career of these mighty belligerents, and to compel them to obey the law of nations, as it has hitherto been acknowledged, and to do us justice, I should be willing to do this, even at the expense of a war. But will any gentleman say, after a long and expensive war, we should be able to obtain such terms as would secure us in our neutral rights hereafter? Could we expect that France would stipulate with us, that if ever she should again attempt to ruin her enemy, by destroying her commerce, that she would not issue decrees similar to those of Berlin, Milan, and Bayonne? And if she should so stipulate, what security should we have that these stipulations would not be broken, whenever imperious majesty should require it? And, on the contrary, would England agree by treaty, that in case France should ever commence a commercial warfare against her, that she would not retaliate by similar Orders in Council? And if she would, could we depend on a faithful performance of such a treaty? No sir, we could not. It is said, that we could take Canada and Nova Scotia, and hold them at least as pledges. I have not a doubt, that we might take these provinces, but (as my colleague [Mr. TALLMADGE] who is a much better judge than I am, says) it must be at a vast expense of men and money. But, sir, while we are attacking the extremities of the British Empire, our enemies may perhaps be attacking the very vitals of our country. It will be in their power to lay our cities, our towns along the seacoast, under contribution, and I fear in ashes. I do not know that this would be the case but I fear it would be in their power to do it. But, sir, I do not want Canada, as an accession of territory; and it will be difficult, I apprehend, to persuade the citizens of Connecticut, at least, to leave their smiling villages along the coast, exposed to the ravages of an enemy, and risk their lives in the woods and wilds of Canada and Nova Scotia. Supposing we should obtain them by conquest, would we by this obtain a security for the future, against the infraction of our maritime rights? I do not believe it. It is very questionable whether these provinces are of much real benefit to the British Empire; the ordinary annual expense of the civil and military government there, is about one million of dollars. The King undoubtedly considers this province as a part of his Empire, much in the same manner as he does a gem of minor brilliancy in his crown, which he would not have plucked from it by force; but when once gone, the crown would not be much less brilliant or the less valuable.

When I consider, sir, the prosperity which this country has experienced for fifteen years past, the accumulation of wealth, not only in our cities and towns, but in every village, during this period, and the general happiness we have enjoyed—and this notwithstanding the many injuries and losses our citizens have sustained from the aggressions of both the belligerents, I cannot consent to exchange this situation for the miseries and calamities of war, without a certain prospect of some permanent future good.

It may perhaps, by some, be considered as agreeable to the laws of honor and chivalry, to attack the world in arms, without a prospect of success; but, sir, I will never consent to place my country in such a situation, in which we can only say, as Francis the First did, after the battle of Pavia, "all is lost but honor."

I had intended, sir, to have touched upon some other topics, to have pursued the hint thrown out by the gentleman from South Carolina, (Mr. D. R. WILLIAMS.) that there was yet a hope that some arrangement of our difficulties might still be made, which should continue, at least, until this mighty conflict in Europe was over. But, sir, my strength is nearly gone, and I am sure the patience of the House must be quite exhausted. I will conclude, therefore, by expressing my most earnest hope that the bill may not pass, but be postponed indefinitely.

When Mr. P. had concluded, the House adjourned without taking any question.

MONDAY, January 30.

Mr. NELSON, from the committee to whom was referred, on the eleventh of November last, so much of the Message from the President of the United States, at the commencement of the present session of Congress, as relates to the Military and Naval Establishments, to whom was committed, on the thirteenth instant, a bill sent from the Senate, entitled "An act supplementary to an act entitled 'An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States,'" reported, that the committee had had the said bill under consideration, and directed him to report the same to the House, without amendment: whereupon, the said bill was committed to a Committee of the whole House to-morrow.

Mr. HOLMES, from the Committee of Claims, to whom were referred, on the nineteenth instant, a letter and report from the Secretary of War, with sundry accompanying documents, presented a bill concerning invalid pensioners; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to prohibit, in certain cases, the entry of foreign vessels into the ports and harbors of the United States; which was read twice and committed to a Committee of the Whole on Wednesday next.

A Message was received from the President of the United States, transmitting a letter recently received from our Minister at the Court of St. James, covering one to him from the British Secretary of State, with his reply, being a sequel to the correspondence which accompanied the Message to both Houses, of the seventeenth instant. The Message, and the papers transmitted therewith, were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Postmaster General of the United States, accompanying his reports respecting unproductive routes and public contracts; which were read, and referred to the Committee on Post Offices and Post Roads.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to extend the time for making payment for the public lands of the United States;" to which they desire the concurrence of this House.

The House resumed the consideration of an engrossed bill providing an additional military force, which was depending on Saturday last, at the time of adjournment: Whereupon, a motion was made by Mr. DAVID R. WILLIAMS, that the said bill do lie on the table: and the question being taken thereupon, it was resolved in the affirmative.

PREPARATION FOR WAR.

The House resolved itself into a Committee of the Whole on the resolution submitted by Mr. NICHOLAS a few days ago, in the following words:

Resolved, As the opinion of this House, that the United States ought not to delay beyond the —— day of ——, to repeal the embargo laws, and to resume, maintain, and defend the navigation of the high seas, against any nation, or nations, having in force edicts, orders, or decrees, violating the lawful commerce and neutral rights of the United States.

Mr. MILNOR moved for a division of the resolution so as to take the question first on repealing the embargo, and moved to fill the blank with the fourth day of March.

Mr. RANDOLPH said he had risen for the same purpose as the gentleman from Pennsylvania, and he submitted to the Committee whether, if the embargo laws were to be repealed, it should not be done with all possible speed. His sources of information, he said, were neither very numerous, nor, possibly, very correct; but he did understand it to be a fact, that, in certain parts of the Eastern States, the embargo was daily and hourly, in the broad glare of daylight, not evaded, but disregarded; that sleighs to an immense number were daily passing from the United States into Canada, laden not only with the product of that part of the Union bordering on Canada, but, also, with the product of the Southern States, which was carried, by a long and expensive carriage, from the Atlantic States to Montreal, for exportation.

There were two points of view, in which, Mr. R. said, it appeared to him that if this law was to be repealed at all, it ought to be done with all possible expedition. The first was, that those persons in our own country who had set the law at defiance, who had been guilty of the most incivic conduct, should not reap the exclusive benefit of the commerce carried on. The other rea-

son was, that it was well known that the St. Lawrence was frozen up, and would remain frozen long after our own waters were open. Adventurers, lured by the hope of great profit, had, at a vast expense, transported products not the growth of that part of the country, into Canada, knowing that the plan of embargo, if continued, would amply repay the extra expense of carrying it. This produce, Mr. R. said, to an immense amount, was deposited, as he understood, at Montreal, for the purpose of exporting it as soon as the ice broke up; and he presumed it was already paid for in British gold, or commodities of some sort. And this, he said, was one of the ways in which he should have no objection to finger some of their gold, viz: by getting to market before them, underselling, and forestalling them, which might easily be done from the expense of the transportation by land. He submitted it, therefore, to the gentleman from Pennsylvania, whether, if the Committee determined to repeal the embargo, it should not be as soon as possible? if immediately removed, it must shake, and severely too, the capitalists of Canada; but, if the removal was procrastinated, they would reap the profits, whilst we should carry our produce to a market already glutted, or, if not glutted, considerably supplied. When the resolution came before the House, if the Committee of the Whole agreed to it, he said he should certainly move the earliest day possible for the removal of the embargo.

Mr. MILNOR said the gentleman from Virginia must be fully persuaded that he was as willing to get rid of the embargo as the gentleman himself could possibly be, for he had been opposed to the embargo system from the first day the original embargo law was passed. He said he had moved to fill the blank with the 4th day of March, for several considerations. The resolution contemplated a repeal of the embargo at a future day, and not at the present day; and, from conversation which he had held with gentlemen heretofore friendly to the embargo, and now disposed to remove it, he had supposed that an earlier day would not be agreed to. One other consideration, he said, had considerable influence with him. At present, there was a natural embargo on a considerable number of the ports of the United States. By the fourth day of March, it was pretty certain that nature would have repealed that embargo. To place the merchants upon an equality, he had supposed, he said, that it would be proper to fix a day for the removal of the embargo which would give to all equal advantages.

Mr. SLOAN gave one reason, in addition to those urged by the gentleman from Virginia, why the embargo should be speedily repealed. It was a fact known to many members on the floor, that large speculations had been made in consequence of a belief that the embargo would be continued for a great while. Articles of foreign produce, which, though not absolutely necessary, had become necessary by habit, were up to an extravagant price. An early removal of the embargo would tend to remove the sufferings of the honest part of the community, in consequence of the high price of these commodities.

Mr. NICHOLAS, who had been absent when the subject was taken up, wished to modify his resolution. This being considered out of order, Mr. N. moved to amend the resolution under consideration by striking out the whole of it after the word "Resolved," and inserting the following:

Resolved, As the opinion of this House, that the United States ought not to delay beyond the —— day of ——, to resume, maintain, and defend the navigation of the high seas; and, that provision ought to be made by law for repealing, on the —— day of ——, the several embargo laws, and for authorizing, at the same time, letters of marque and reprisal against Great Britain and France; provided, on that day, their orders or edicts violating the lawful commerce and neutral rights of the United States shall be in force, or against either of those nations having in force such orders or edicts.

Mr. LYON opposed the striking out the substance of the original motion, under the idea that it would deprive the House of an opportunity of taking a direct vote on the repeal of the embargo.

Mr. NICHOLAS said that the object of both resolutions was the same. The object of the resolution first proposed was, to repeal the embargo laws, to assert, and prepare to enforce our rights. The only object in proposing the amendment was, to bring the subject to a close, in one way or other. It had been said that the other resolution was not specific enough; that it could not be understood; that it would take up much time of the House, and when it came before a committee to draft a bill in pursuance of it, their construction of its terms might differ from that of the House, and the whole subject must be gone over again. He wished the question to be decided, and that the whole nation should know, as soon as possible, what was to be done. Gentlemen who thought that we ought to take a determined stand against encroachments on our rights, he said, would vote with him; gentlemen of a contrary opinion would vote against him.

Mr. DANA said he was for striking out the words of the original resolution, because he did not wish to vote on them, scarcely knowing what construction to put upon them himself, or what constuctions others would put upon any vote which he might give on them. The resolution as it originally stood, he said, did not contain an affirmative proposition, but a sort of compound negative one. It declared that "the United States ought not, beyond the —— day, of —— to delay repealing the embargo." Now, any gentleman who might wish it to be repealed to-day, would be clearly of opinion that it ought not to be delayed for six months or a year. So that a vote on the resolution, supposing the —— day of June to be inserted as the day beyond which repeal ought not be delayed, would give no definite idea of the sentiments of any gentleman who should vote for it. He was, therefore, really obliged to the gentleman that he had brought forward a resolution which he could understand, and which had a specific practical bearing. As it respected the character of the proposition, it was a declaration of war hypothetically. He could not express an opinion on the substitute proposed, but would vote to strike out the original words, because they were liable to a diversity of construction.

The House agreed to strike out the substance of the first resolution.

A division of the substitute offered by Mr. NICHOLAS was called for, so as to take the question first on the question of repealing the embargo laws.

Mr. NICHOLAS moved to fill the blank in the substitute with the first day of June; Mr. MILNOR named the fourth day of March, and Mr. D. R. WILLIAMS named the fifteenth day of February.

Mr. RANDOLPH moved to strike out the words "the —— day of ——" for the purpose of inserting "forthwith."—Motion to strike out lost by a considerable majority.

The question recurring on filling the blank with the first day of June—

Mr. RANDOLPH, as the gentleman, the mover of the resolution, (Mr. NICHOLAS) was not present when he had given the reasons why he thought, if the embargo was to be repealed, it should be removed immediately, repeated them. He wished our own citizens to reap some advantage from an early repeal. Or were we, he asked, by a singular fatality in all our measures, only to injure ourselves, and benefit our adversaries, and the most dishonest part of our own community?

Mr. DANA was opposed to a continuance of the embargo until the first of June. Since it had been generally understood through the country that the embargo was to be further continued, many capitalists had forestalled the markets, so as to secure to themselves a monopoly of the foreign articles of the greatest necessity, thereby to command an excessive profit at the expense of the distressed part of the community. As respected them, Mr. D. said, that he had not a wish that the duration of the embargo should be protracted, that they might realize their gains, and make poor men their prey; and if there were any description of our citizens whom he could wish to be injured by a removal of the embargo, these would certainly be the persons. There was another reason why he did not wish the embargo to continue so long. However important it was that the general authority of the Government should be maintained as respected these States, was it not known that the reins of Government, from their extreme tension, were failing in the hands of the Administration? Were not their acts placed at defiance, especially since the passage of the last act for enforcing the embargo? Look at the whole northern frontier, said he; recollect the facility of transportation on the ice and snow. Recollect with what facility in this season the produce and lumber, &c., will pass from Vermont into the British provinces. As respected the whole of that frontier, Mr. D. said, it would be in vain to attempt to enforce the embargo laws. The mound was already broken down which retained our produce; and it was to be feared that the whole would soon be swept away. The question which now offered itself to the consideration of the House was this, and it was requisite that it should be decided promptly: whether, if the acts of Government were set at defiance, the authority of the Government should be sustained or not? If the acts of the Government were placed at defiance, Congress had but to decide instantly to enforce them by arms, or to abolish them. Did they mean to hesitate between advancing and retiring? If you mean to retire, do it whilst you can; whilst it will seem to be an attention to the wishes and sufferings of the community, instead of giving those who set your laws at defiance, the signal of your defeat, and the evidence of their triumph. Mr. D. asked if gentlemen had estimated what would take place between this day and the first day of June? Did they conceive the force that it would be necessary to employ to enforce the laws? Before they decided that point it would be well to pause. Did gentlemen recollect how much danger menaced the sentiment of attachment to their country, when foreign indulgences (as the liberty of trading derived from the contiguity of the British provinces) are given to the citizens of any portion of a country which refuses to allow them those privileges? Need I remind gentlemen of a circumstance illustrative of my idea? When the navigation of the Mississippi was at the command of the Spaniards, before the treaty of San Lorenzo was carried into effect, recollect the opportunity which that state of things gave to the agents of the Spanish Government, for making attempts to detach the Western States from the Union. How far they succeeded I do not undertake to say; but the fact is well known, that some men of considerable distinction were so far drawn aside from their attachment to the Union as to give countenance to the intrigue; and the fact having come to light, the public authority of one of the States (Kentucky) have undertaken the examination and investigation of the subject. I speak of this not as a reproach, but as an illustration of the temptation which is offered to any portion of the people, having an outlet through a river in the possession of a foreign Power, which is denied them by their own Government. I will not pursue the object, sir; for it is unpleasant to dwell on subjects which may even tend to jeopardize the Union. But I deem it useless to rely on the patriotism of the people, when the Government forgets the cement of patriotism. What is country? That portion of the globe where we have friends, freedom, and protection. It is the reciprocation of good offices, which is the cement of private friendship. It is the reciprocation of protection and support between the Government and individual—a reciprocation of benefits, which is the cement of allegiance. But, sir, when the power of the Government is exerted merely to check the ordinary industry of the community, when the people feel the power of their Government in being blockaded in port by it, instead of being protected

against blockade by an enemy, what must be their feeling? Patriotism is too precious a feeling to make many experiments upon it. Really, sir, I should not wish to know, in relation to many of my fellow-citizens, what would be the extreme point to which their patriotism could be stretched. There appears to be reason to apprehend that the reins of Government are already falling in the hands of Government. I should, therefore, wish my countrymen to be no longer exposed to being alienated from their Government, and that the Government should not be placed in a situation to have its acts set at defiance.

Mr. TROUP observed that he could not see the propriety or expediency of fixing on a day beyond the adjournment of the present Congress, on which this change of measures should take place. What would be the effect of it? It could be considered in no other point of view than as a declaration of war, to be binding on the next Congress. The mere declaration could not be considered as adding coercion to our measures; for whatever honor foreign nations might possess, (and he believed they possessed little indeed of that,) they certainly did possess courage, and were not to be *frightened* into an accommodation with us by such a threat. But the measure was not obligatory and binding on the next Congress, even admitting that it should be composed of the identical individuals who composed the present Congress. There was no authority in the Constitution by which we could bind them, unless indeed this declaration involved a matter of contract. And to be sure, he said, it might be considered in some sort a matter of contract; a political contract of a singular quality—a contract between this great Government and an unruly faction in New England, which threatened opposition to the laws, and was breaking out into rebellion. Yes, sir, said Mr. T., you come out with a solemn measure, and tell them if they will forbear to rebel until the first day of June next, you will agree to issue letters of marque. It is an invasion even of the powers of the next Congress, supposing it to be composed of the same men as constitute the present Congress, to bind them to declare war, not under the circumstances then existing, but under those which existed at the time you were pleased to enter into this declaration. But not only will this measure not be obligatory, but it is very possible that the next Congress may be as different in its composition from the present, as the present Congress is from the Junto of Spain, or the British Parliament. In every point of view, therefore, Mr. T. said, he conceived it a futile proposition.

Mr. MILNOR was opposed to postponing the repeal of the embargo till the first day of June; for which he assigned the same reason which he gave before for proposing the fourth day of March. If it was so extremely oppressive as to excite discontent and rebellion, its extremely unfavorable effects to ourselves would be a sufficient reason for its repeal. Mr. M. said, that although he would fix a day for the repeal of the embargo, he could not carry his civility to the belligerents so far as to give them notice on what day we would commence war against them. Were we in such a situation that we could instantly bid defiance to Great Britain? When war comes, said he, it will be proper to consider whether it be politic, proper, and necessary? If it be politic, and the nation cannot continue out of it without a sacrifice of its honor, then let us have it, and not take it in this manner, declaring to the belligerents that if they do not come forward on a certain day we will commence hostilities against them. The next Congress will be better able to decide what will be proper on the first day of June than we can now do; and if we are not instantly to go to war, it will be decorous, wise, and right in us to let the question rest till the next Congress come here in the end of May, and leave the responsibility with them.

Mr. D. R. WILLIAMS said if ever a man's mind was embarrassed on a topic on which he had to legislate, he confessed that his was. He saw a measure and a system which he thought susceptible of the clearest demonstration to be more warlike than war itself, a system which preserved this nation in peace and happiness, about to be abandoned, and for the causes which had been assigned. When the late intelligence had reached him from the northeast, he said, it had borne a character most distressful to every man who valued the integrity of the Government. It appeared to him to be of such a character as not to leave a doubt as to what course should be pursued. There could be but two courses, either to extend the strong arm of Government, or to abandon the law. Under that impression, (said Mr. W.,) choosing not to enforce the law with the bayonet, I thought it proper to acknowledge to the House that I was ready to abandon the embargo. I did talk about insurgency and rebellion too, sir; and the reproof which I received from the gentleman from Kentucky (Mr. ROWAN) was correct; that the best way to drive people into rebellion is to accuse them of it. Perhaps, sir, I ought to apologize to the gentleman from Virginia (Mr. NICHOLAS) for calling up this subject, when the resolution was proposed by him, and he was not disposed to call it up. I applied to him to call it up, and understood that it would be disagreeable to him on account of his indisposition. But I felt myself obliged to call it up, and not to permit such a proposition to lie on the table beyond the moment when I could get to act on it. Like the gentlemen from Pennsylvania and Georgia I am disposed that we should act for ourselves and not for the next Congress. To me, sir, the embargo always appeared a blessing to this country. True, it has always operated to prevent us from making money, but that was all that was injurious in its operation; and, sir, I was so much of a fool, had so little knowledge of human nature, as to believe that there was patriotism enough, love of country enough, pride enough in the nation, to induce its freemen to be willing to abstain from making money, for the good of the nation. I have been

egregiously mistaken, sir; I thought I was legislating for freemen who value their rights; that, whilst they were the only people in the world trusted with arms to defend themselves, they would have scorned to take money for the prostitution of their country. I did not think there was a man in the nation who would act the part of a pimp to his mother. It has been so, however; and dreadful, cruel, must be the torments of those who have been accessary to it.

[Mr. WILLIAMS here went at considerable length into an examination of the arguments of Mr. PITKIN, on Saturday last, in reply to a former speech of Mr. W. on the subject of the embargo.]

We have but small choice of courses to pursue, said Mr. WILLIAMS. One course is to admit foreign vessels into our ports as long as the embargo continues. Now, though I do believe that we should be perfectly justifiable in enforcing the embargo and suffering foreign vessels to come and take away our produce, as a punishment to a certain class of men in the country for their treasonable conduct; yet, sir, legislating for a whole nation, not for any particular class, I cannot consent to that.

Another course is that recommended by a gentleman from New York, (Mr. GARDENIER,) to go back and undo all you have done. Will you tread back your steps and go back with him to Jay's Treaty? I have no hesitation in saying that, if we were even placed in the situation in which we then were, I would not accept of it. That treaty carried a feature in it which ought to have damned it at the first view. It took property from one portion of the community to pay for advantages to the other. Yes, sir, it did. You know that a solemn stipulation was made in a treaty of peace, to pay us for the property which they had stolen from us; and you and the House know it was treated away to secure commercial advantages; and yet, thank God, the Southern States did not rise in rebellion against it.

We must select either a continuance of the embargo or war, sir. If ever there were a number of men in this world who had the destinies of a nation in their grasp, the oppositionists to the embargo have that high power. There cannot be a doubt, if excitement had not been made, or if after it was made it had been allayed by those who excited it—and, sir, I have no wish now to excite a disagreeable sensation in the breast of any man; for I have said enough on this head heretofore—if they would now attempt to allay the fervor instead of increasing it, that it would be put down; and if put down, there cannot be a doubt but we should be preserved in peace, and gain stipulations of peace honorable to our country. For God's sake, let me conjure gentlemen not to forget that we have a country. If they repeal the embargo they must support war, because their character—yes, sir, their character as men loving their country is at stake. Will you drive us to a repeal of the embargo, and make no resistance? Are you ready to lie down quietly under the impositions laid upon you? You have driven us from the embargo. The excitements in the East render it necessary that we should enforce the embargo with the bayonet or repeal it. I will repeal it—and I could weep over it more than over a lost child. If you do not resist, you are no longer a nation—you dare not call yourself so—you are the merest vassals conceivable. Sir, if gentlemen will not support us in a war, and I give fair notice that if we take off the embargo I am for war—they must support it, or they will sink the character of the nation. If they will support neither war or embargo, if they destroy the effect of both, I ask you, sir, does not the prostitution of the character of the country lie at their doors? If they mean submission, I will thank them to say so. It somehow or other happens that Republicans are thought to be friendly to France, and Federalists to Great Britain. I believe neither imputation to be correct to the extent to which it is carried. But it is a fact that the British ear is open to that side of the question sooner than to us. Now, sir, I appeal to the minority, who hold the destinies of the nation in their grasp, for they can enforce embargo without the bayonet—I beg them, if they will not declare war, that they will do the best they can for their country. If avarice has so seized on our hearts, as to take away wholly the love of country, (and assuredly it has if we submit) for God's sake let me entreat gentlemen to make the best terms they can for us, to secure the kind protection of the British Government for us—to procure us the miserable boon that the tax on us may be collected here without compelling us to go to Britain to pay it. Sir, the blood which runs through my veins, tells me I was not born to be a British subject; it tells me that the opposition to us must have sucked the same milk—that we are of the same family. Then let us with one heart and hand take hold of war. But, says the gentleman from Connecticut, (Mr. TALLMADGE,) what will you gain by it? It is not money, sir, I want. You lose money by a war, but you gain your rights; you gain the chance of dying honorably in your country's defence instead of submitting, without resistance, and that will be a consolation to thousands, if their country is to be disgraced. Yes, sir, solemn as the reflection is, if we take off the embargo I am for war, and I hope the whole House will be for it. It is true that it brings along with it miseries without number. You will see fear, despair, and all the family of distresses, driving ruthlessly over the country. But it will be infinitely less of suffering to die in defence of the country than to live in bondage. I will not submit. I will plunge into the gulf, and I hope every man will follow me, when we have lost our mantle of peace, the embargo.

Mr. DANA thought it proper, if gentlemen talked of dying for their country, that they should die usefully; for, really, the mere dying could be of no service whatever to the country. He said he was not disposed, at this time, to go into a discussion of the embargo subject generally, but he would state one general position, viz: that the existing policy is a novelty in the history of human

society. From the earliest period of time, Mr. D. said, there were no proofs that the system ever did, or ever could produce the events which gentlemen prophesied. When, then, this was an utter novelty on earth, when gentlemen proposed a course never known to savage or civilized life, were they not bound, specifically, to state facts incontestable in support of it? And what, said Mr. D., have they done? Avowed a general, broad, political faith, and wholesale predictions that it will produce an effect, in defiance of all experience. And, am I bound to say, when gentlemen come forward thus, that the plan will succeed? The thing is against you, sir. No ardor of patriotism, intrepidity of courage, or excess of devotion, could make it effectual. He said that the contest was so unequal, in the nature of things, that the United States could not succeed in it. Nothing but superhuman aid could make it succeed. When gentlemen came to examine into facts, it would be found that they omitted to examine the bearing of the thing, in general, or in detail. When had any officer of the Government, or any member of either House of Congress, undertaken to give a view of the relative dependence of the countries of the world upon each other? As far as commerce is essential to the existence of Great Britain, said Mr. D., even now she has the whole world before her. As far as commerce is essential to our existence, the whole world is shut to us by the embargo. Even say that Britain loses one-fourth of her revenue, we lose the whole of ours. They lose a part, but a moderate part, indeed, of their commerce, whilst we lose the whole. The embargo cannot succeed, in the nature of things; and, I am not astonished that you do not find it, in any of the diplomatic correspondence, stated as a measure of coercion, because it would be no easy matter to prove it to be so. What are you to operate on foreign Governments by this measure? Famine and insurrection are to be your chosen troops, your auxiliaries to overturn their systems. You assail them by famine, which is to call up insurrection. This is, I think, the language of the advocates of the embargo. And, can I wonder that it is never spoken of in our official diplomatic correspondence as a measure of hostility? Mr. D. said it was unfortunate that the embargo had ever been laid, and peculiarly unfortunate that it had been continued. Did not gentlemen already say that a faction, a miserable faction, put the Government at defiance? Were the reins of Government held by such trembling hands? If rebellion exists, said he, do you hesitate a moment to give orders to your battalions to march and put it down? If you will not to do this, at once repeal the statutes which give offence. [Mr. Bassett asked to whom they gave offence?] I am speaking of the obnoxious statutes which are put at defiance, said Mr. D. For what possible use can they be longer continued?

Mr. D. said he had thought that the days of ancient chivalry had not returned yet. Time had been when the champions of old had been accustomed to have fetes and tournaments, and fix days of battle for each other, sometimes an hundred on each side. This was a species of private war; a splendid display of personal courage. But, to talk of one nation giving a day to another to meet it in battle, was a thing which, he said, he had not expected to see in these days. Did gentlemen expect, after Great Britain and France had been wading through blood for years past, that they would be awed into a compliance with our wishes? With whomsoever we fought, Mr. D. said, we should find no contemptible foe. The bravest of our troops might say, when they had been victorious, that it was an honor to be victorious over such men as those. This belligerent hypothesis, said Mr. D.; this contingent declaration of war; this verbal fighting, without actual preparation, will produce little effect. Foreign nations cannot then concede what we demand, without appearing to deprecate our anger; and they will scarcely do that. But, the question is not, now, which nation is wrong, Great Britain or France; but, what will be the most serviceable to my country? The motion under consideration does not seem to promise any beneficial effect, and therefore, I shall vote against it.

Mr. Randolph said that this was certainly a question of no ordinary magnitude, and he had understood, from the most direct source of information, that the gentleman who had brought forward this motion, (Mr. Nicholas.) was extremely indisposed. He could wish, for one, to hear what the gentleman had to say in support of his motion, and with that view moved that the Committee now rise. Carried.

Tuesday, January 31.

Mr. Mumford presented memorials and remonstrances of the citizens of the first, second, and fifth wards of the city of New York, at meetings held by the said citizens, respectively stating certain hardships and inconveniences to which the memorialists and other inhabitants of the said city and State have been, and are now subjected, in consequence of the operation of a late act of Congress more effectually to enforce the several embargo laws of the United States; and praying, for the reasons therein set forth, an immediate repeal of the said act.—Referred to the Committee of the Whole on the resolutions proposed by Mr. Nicholas and Mr. Bacon, on the twenty-fourth and twenty-seventh instant.

Mr. Bassett, one of the members for the State of Virginia, presented to the House certain papers in relation to a violation of the several laws laying an embargo upon all ships and vessels in the ports and harbors of the United States, alleged to have been committed by the officers and crew of the schooner Caroline, of Norfolk, and owned by Daniel Sanford and John Hipkins, formerly trading under the copartnership of Buller Cocke and Daniel Sanford; which were read, and ordered to lie on the table.

On motion of Mr. Blount, that the farther consideration of a bill sent from the Senate, entitled "An act making appropriations to complete the

fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet," be postponed indefinitely; and the question being put thereon, it was resolved in the affirmative.

On motion of Mr. Bassett, that the farther consideration of the bill, entitled "An act authorizing the appointment and employment of an additional number of navy officers, seamen, and marines," together with the amendments of the Senate thereto, be postponed indefinitely: the question was taken thereupon, and resolved in the affirmative.

The bill sent from the Senate, entitled "An act to extend the time for making payment for the public lands of the United States," was read twice and committed to a Committee of the Whole to whom was referred, on the twenty-third of November last, a report of the Committee on the Public Lands, made the twenty-first of the same month, on a memorial of the House of Representatives of the Mississippi Territory.

PUBLIC LANDS.

On motion of Mr. Poindexter, the House proceeded to consider two resolutions proposed by him, which were read and ordered to lie on the table on the twenty-sixth instant; and the same being again read, in the words following, to wit:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing a land office for the sale of the lands of the United States, east of the Red river, and west of the Mississippi, in the Territory of Orleans; and that they have leave to report thereon by bill or otherwise.

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of granting the right of pre-emption, in certain cases, to actual settlers in the Territory of Orleans; and that they have leave to report thereon by bill, or otherwise.

A division of the question thereon was called for by Mr. Bassett; whereupon, the question being taken that the House do agree to the first resolution, as originally proposed, it was resolved in the affirmative.

The second resolution was, on the question put thereupon, agreed to by the House.

PRESIDENTIAL ELECTION.

Messrs. Varnum, Seaver, Cook, Ilsley, Barker, Cutts, and Green, presented petitions from various towns in the State of Massachusetts, remonstrating against the mode in which the late election of Electors was conducted in that State.

Mr. Cutts moved, as the time was fast approaching when it would be necessary to decide on the subject of these petitions, a reference of all the petitions on this subject to a joint committee of the two Houses; which was withdrawn to make way for a resolution to the same effect offered by Mr. Bacon, which was agreed to in the following words:

"*Resolved*, That a committee on the part of this House, jointly, with such as the honorable Senate may join, be appointed for the purpose of taking into consideration the several memorials from sundry of the citizens of the State of Massachusetts, remonstrating against the mode in which the appointment of Electors for President and Vice President has been proceeded to on the part of the Legislature of said State, as irregular and unconstitutional; and praying for the interference of the Senate and House of Representatives of the United States, for the purpose of preventing the establishment of so dangerous a precedent; and that said committee do examine the matter of said memorials, and report their opinion thereupon to both Houses.

"*Ordered*, That the Clerk of this House do carry to the Senate the several memorials abovementioned, and desire their concurrence in the aforesaid resolution."

Ordered, That the said proposed resolution and order do lie on the table.

PREPARATION FOR WAR.

The House again went into Committee of the Whole on Mr. Nicholas's resolution; and the question pending being on a motion to insert in the blank, the first day of June—

Mr. Key hoped the blank in the resolution would not be filled with the first day of June next, because the circumstances of the country required the embargo to be earlier repealed, or such measures to be taken as would enforce its due execution. Before the first day of June arrives, said he, on which it is proposed to remove the embargo, four months would intervene; during which time, if the same opposition to the East which existed now should still prevail, the country would be in a very extraordinary situation. If we continue the law, I shall be among those who would rigidly enforce it, for I have no idea of being dictated to by any section of the Union. But, as I believe, from the accounts which are received, that we cannot enforce it without a measure much worse in its effects than the consequences which might be supposed to result from taking it off earlier, I should, therefore, be in favor of the earliest day possible. We ought not to resort to an exertion of the authority of this nation for four months, nor to continue the measure so long as to exite that sentiment which will certainly follow the enforcement of that measure, except some great advantage be expected from it, if continued for that time. There was another reason why, he said, an earlier day should be fixed. If the House should not think proper to take off the embargo during this session, a new representation would have met here nine days previous to the day mentioned. The present Congress ought to leave the next Congress free to act, with more information than this Congress could possess, because they would have it in their power to avail themselves of the intermediate information. As to that part of the proposition which related to the repeal of the embargo, therefore, the day proposed was too distant. As to the remainder of the proposition, which, he presumed, was to be taken in continuity with the former, it was still worse. It was giving notice to the belligerents, of a disposition, within a particular period, to do what it is not in our power to perform; because, the functions of this House ceasing before that period, the right of determining the

course to be pursued, depended on the decision of the new representation. It was impossible, he said, to anticipate the line of conduct which would then be pursued. If the embargo be not removed before the close of the present session, he hoped, at least, that the blank would be filled with the day anterior to the next meeting of Congress. He called upon gentlemen to know whether they would keep it on without enforcing it; and, he asked, whether an enforcement for four months was worth the advantages which gentlemen supposed its continuance would afford? He hoped that the blank would not be filled as proposed.

Mr. DURELL hoped that the blank would not be filled with the first day of June. If the measure of embargo was to be changed for another, he said he saw no reason why the change should be procrastinated. He hoped it would take place at so early a period as would give an equal chance to all the ports in the country. We have heard much, said he, on this floor, in relation to the opposition, in a certain section of the Union, to the embargo laws. I think many observations have been made on this floor, in relation to the embargo laws, which cannot be justified by facts. I have been utterly astonished at a declaration in a newspaper, ("The Monitor,") of this morning, viz: "The majority of the members of the Eastern 'delegation in Congress, have openly asserted 'that no laws passed by the General Government 'will be deemed obligatory by their constituents, 'if they should interfere with their local pursuits 'and advantages. They publicly consider the 'embargo law as a dead letter," &c. Now, sir, I wholly and utterly disavow such an opinion; and, I think that a printer in the District of Columbia should not be permitted to make such statements, when unwarranted by facts.

The majority of the New England delegation have not stated on this floor that no laws passed by the General Government will be obligatory, if conflicting with their local advantages. It is a scandalous libel on that majority. By letters I learn that the late supplementary embargo law is not generally approved; that some few have gone so far as to pronounce it unconstitutional. But that a majority of the people possess the sentiments ascribed to them in this paper is wholly false and untrue. Declarations of this sort have a pernicious effect on the community. As respects the State which I in part represent, (New Hampshire,) there is no opposition to the embargo laws. Not a petition has been presented to either branch of the National Legislature for the repeal of those laws, or expressing any sentiment in relation to them, although they suffer as much as their neighbors in Massachusetts. The people (the Republicans at least) are, if I know anything of their sentiments, perfectly satisfied with the law; they have gone with the Government from first to last. Is it justifiable then, sir, that a printer in the District of Columbia should say that the people of New England will oppose your laws? It is unjustifiable and abominable.

Mr. RHEA, of Tennessee.—With more embarrassment of mind I attempt to make some observations on the subject before the Committee, than at any time heretofore, when I have had the honor of submitting any observations on any subject, during the present session of Congress. The reason is, that it is not determined what measure shall be substituted for the embargo, if it shall be raised.

It affords me great pleasure to hear the gentleman from New Hampshire, (Mr. DURELL) so positively contradicting an assertion which he read from a newspaper. What the gentleman said ought to be taken for a good omen, portending that the few citizens in the Eastern States who have been disposed, somehow or other, not to pay proper respect to the embargo laws, are returning to the practice of those principles of correctness on which the safety of this nation must depend. This is in unison with my own opinion respecting the citizens of that section of the Union. Notwithstanding all that has been said about insurrection and opposition to the laws, so as to endanger the United States, I cannot induce myself to consider it in a serious point of view; positive facts must be proved to me, before my belief of such things shall be had. My confidence in the great body of citizens of the Eastern States is not done away, and I believe there is in the same States a sufficient quantity of force to suppress any attempts which might be made against the Union. And when it comes to the point, there is reason to believe that patriotism similar to that which influenced the Western States in the case of Burr, will also influence our brothers of the Eastern. My vote in this case shall not be influenced, nor is it influenced, by anything that has been said to be done respecting the embargo laws in any of the Eastern States; all such influence is disavowed by me. In this case and every other my vote shall be given according to my understanding what is the real interest, and will best promote the honor, rights, and independence of the United States.

Mr. R. said, that for some days he had been of the opinion that a commercial non-intercourse between the United States and Great Britain and France, and their dependencies, and all other Powers having in force orders and decrees violating the lawful commerce and neutral rights of the United States, might have been the most proper measure to have been adopted in the then state of things, in place of the embargo; and that under that non intercourse the United States, some time longer, might have glided along. But, in the language of the gentleman from Connecticut, "the burying hath gone by;" the opportunity for that system it is apprehended is lost. Let it be observed that a commercial non-intercourse system, is not a system of submission to the edicts of either Great Britain or France. Great Britain does not command the United States, to abandon the ocean, or not to trade with her; no such thing. Great Britain declares her ports open to the vessels and produce of the United States; either for internal consumption, so far as it is necessary to supply her market, or for exportation.

Great Britain declares that for that liberty, tribute or duty, call it what you will, must be paid. France does not command the United States to abandon the ocean, or not to trade with her. France declares American vessels, which have been visited by British armed vessels, or have been in British ports, or have British merchandise on board, or British licenses to trade, shall be subject to capture and condemnation. Certainly then the opinion, that a commercial non-intercourse between the United States and Great Britain and France, and their dependencies, and all other Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States, would be submission to Great Britain or France, is not well founded.

Great respect ought to be paid to the observations of the gentleman from Virginia (Mr. RANDOLPH) who was of opinion that the embargo ought to be raised forthwith. There can be no doubt that, if the embargo laws are forthwith repealed, the great quantity of produce, which is said to have passed into Canada, being there detained for sometime by the ice, for that reason may not get to market as soon as other produce shipped from the United States. Notwithstanding the force of these observations, they do not contain sufficient reason to repeal the embargo laws so soon. Let it be considered that the ports of Baltimore and Philadelphia are by the rigor of the winter now blocked up, and probably will continue for some time. In that condition may several other ports in the United States be; if then the embargo laws are forthwith repealed, you will give a decided advantage to those ports which are open or continue always to be so, either in the Southern or Eastern States. This would be partial and unfair, and in operation unjust. If the embargo is raised, let it be at a day so distant, at least, that the merchants in every part of the United States may have notice; not only so, but that the day on which the embargo shall be raised, may be so distant, that there may be every reason to conclude that the natural frozen embargo which now exists shall also be taken off from every port in the United States. If the merchants are to start their vessels, as for a race, let them all have opportunity of a fair start, and let not some of them have time to run over half the course before others of them can get away from the starting place.

I will vote (said Mr. R.) to fill up the blank with the words "the first day of June," for reasons to me equally cogent. The embargo has now continued for more than twelve months, and the great body of the citizens have, with true magnanimity and patriotic love of country, bore up under and supported it, notwithstanding its accompanying privations. An embargo of the same nature and extent, in all probability, would, in the term of six months, have shaken any other maritime nation to its centre. It was left and remained for the sovereign people of the United States in their neutral capacity to manifest to all other nations an hitherto unexperienced firmness under an embargo of such duration and extent. This embargo, and the firmness with which it was supported, will be a grand landmark to future generations by which to steer their political course.

Mr. R. said, it had been his opinion, that the embargo, if it had been universally regarded with that respect which it ought to have been, would have operated as an impenetrable wall of defence to the United States, until those days of trouble, in which nations in Europe appear to be executing vengeance on each other, had passed over. It certainly would have had that effect, if patriotism and love of country had universally prevailed over love of money. The United States are a new nation, composed either originally or personally, of emigrants from almost every European nation. This nation does not owe its origin to any one European nation, and neither of these nations has any right, for that cause, to claim or demand any peculiar favor. The United States are three thousand miles distant, far removed in the depths of the wilderness, from the bloody wars of Europe; it might therefore have been most proper, and most consistent with their safety to have been contented at home, and patiently endured the privation of foreign superfluities, even without the constraint of an embargo, for some time longer, and if possible, until those days of European affliction had passed over.

There is now on hand, it is presumed, a vast quantity of produce. The agricultural interest has, to its great disadvantage, endured for a sufficient length of time, the great depression in the price of produce; if then the embargo is designed to be raised in time for the produce to get to market, it ought not to be delayed until the first of June. On the fourth day of March next let the embargo be raised. There will be sufficient time for the merchants in every part of the United States to be informed of that event. On that day, there is reason to believe, the natural embargo by freezing, which now exists, will be taken off. On the 4th day of March next, another Administration will come into power, and it may be most proper and convenient that that Administration shall commence its career with a new order of things. The United States have abstained from navigating the ocean a considerable length of time; lest, then, it may be believed that there is an intention to abandon it altogether, on the fourth day of March next let the navigation of the ocean be resumed, and on that day and forever after let the United States assert and maintain their right to navigate the ocean, the great common and highway of nations, freely and agreeably to the laws of public reason.

When I contemplate, said Mr. R., the great danger to which the seafaring citizens and commerce of the United States will be exposed on the ocean, it is with great reluctance indeed I agree to raise the embargo. Great Britain with steady policy, for centuries past, has been endeavoring to acquire the dominion of the ocean and monopoly of commerce. To these two idols, dominion of the ocean and monopoly of commerce, an immense profusion of human blood has been poured out in libation, and the com-

merce of every maritime nation has been sacrificed. Great Britain after various efforts and struggles, has at last acquired the favorite object; in other words, has by main force seized upon and usurped the dominion of the ocean, the common property of all nations, and by her laws has virtually declared that no nation shall buy or sell unless the property or merchandise shall be stamped with her mark. The decrees of France are also arrayed against the commerce of the United States, and threaten destruction to every part of it that shall come within their grasp. In this state of things, if the embargo be raised, there can be but one opinion as to merchant vessels, and that is, that if they may be designated to put to sea, they shall be authorized, in the first instance, to arm. On the subject of war, nothing hitherto has by me been said. I desire to avoid war if possible, and therefore will not take war into consideration at this time, and why shall the United States forbear longer than the fourth of March next to resume the navigation of the ocean? Has not all negotiation with Great Britain and France failed? With Great Britain it has run down to a mere dispute about words. It appears by the late despatches from the Minister of the United States in Great Britain, that the question of negotiation now is, whether such words were spoken, and if spoken, with what understanding; this certainly is descending into the abyss of humiliation. I cannot forbear, said Mr. R., expressing a wish that our Ministers were on their way home, although they might experience severe weather on their passage.

We have been told that the British fleet is a barrier; it is admitted that it is a barrier—a barrier against the freedom of the ocean, against the freedom of commerce, and against the commercial rights of nations.

We have been told that Great Britain is fighting for her existence; in what manner does that respect the United States? The United States cannot be charged with the cause of her quarrel. But Great Britain is contending against a Power who appears to desire the dominion of the continent of Europe. Let it be so, that will not avail, or help the position; some of the greatest, best, most honorable, and patriotic men of Great Britain, have said, that if the power of France has arrived to transcendent greatness, Great Britain may thank herself for pushing France to that state of greatness. Let Great Britain restore the many thousand seamen, citizens of the United States, whom she holds in slavery, to their country. Let Great Britain indemnify for the many millions worth of property of citizens of the United States, by her unjustly captured and condemned. Let Great Britain rescind and repeal all her edicts, proclamations, and laws, which, violate the lawful commerce and rights of the United States. Let Great Britain declare that the ocean shall be free, and that the commerce of the United States shall travel unmolested on the highway of nations. Let Great Britain make reparation for the many violations of the sovereignty of the United States; and after these things are all performed, and justice done to the United States, then let gentlemen tell us that Great Britain is fighting for her existence.

There was a time when Great Britain had it in her power to have conciliated and secured to herself the friendship and affection of the United States; a time when, after the fire of the Revolutionary war had been extinguished, the United States were blooming into commercial existence, then was the time for Great Britain to have taken the Hercules in her arms, and to have cherished him as a brother; by so doing she might have had a brother, indeed, who would have stood by her in the day of trouble. On the contrary, Great Britain has been studiously, anxiously, and industriously careful to alienate the friendship and affections of the United States. Let the whole conduct of Great Britain towards the United States, since the treaty of peace, be attended to, and then let the unimpassioned and impartial observer say whether Great Britain has not been industriously careful to alienate the friendship and affection of the United States, from herself.

Let the impartial witness judge in this cause, and he will pronounce sentence against Great Britain. Great Britain, by violence, has rent asunder those bonds of social friendship which might have connected her and the United States forever. But, sir, we are asked, why shall we arm? Who is our enemy? These questions may be answered, by asking two other questions, viz: Why shall we not arm? Who is our friend? Sir, it appears as if the whole world was arrayed against the United States. Let any gentleman take the map of the world, and put his finger on the spot, designating the place, where dwells a nation the avowed friend of the United States. It will give me great pleasure indeed, to be so informed. And here, said Mr. R., I will take the liberty to observe, that it is time, and it is right, for the United States to look over the world, and if possible, ascertain the fact, whether there be that nation; and if that nation can be found, I shall have no hesitation to take him in my arms, to call him friend and brother, and to make with him a treaty of everlasting amity, love, and friendship.

Mr. Cook.—Mr. Chairman, I am opposed to filling the blank for repealing the embargo on the first day of June next, and to issue letters of marque and reprisal at that time; because, sir, this is a Government of the people, and their voice is not at present for war. You have too long interposed the embargo as a shield to our citizens against British depredations; they have lost their war pulse; they must again suffer, to again wind them up their former spirit. This being a Government of, and from the people, whose servants we are, it is our duty to advance their interests and to enforce the general will of the nation. Not, sir, that the embargo laws cannot be executed by the arm of this Government. I unhesitatingly declare that this Government can be supported; and your laws can by the strong arm of Government be enforced. But, sir, is it true policy to enforce these laws? I do presume it is not, as it may produce a civil war, the worst of all wars. The embargo has been sufficiently tried, and the experiment has proved that it is not sufficiently coercive to induce the belligerents to abandon their orders and decrees. Why then continue it to the injury of our own citizens, and especially those who are our best citizens, our friends, who are most disposed to support the Administration and our laws?

Sir, I lament that the public sentiment and opinion on the subject of foreign aggressions is different in the different sections of our country. The South say embargo or war; and the North and East say, no embargo, no war. I applaud the resentment of the people of the South, and highly revere their high sense of honor. I lament that this difference of opinion exists; yet, as it does exist, we must take things as they are, and legislate accordingly. The genius and duty of Republican Governments is to make laws to suit the people, and not to attempt to make the people suit the laws. In monarchies the people are drilled to suit the laws flowing from the despot; but this never should be attempted in a Republican Government, the strength of which is the love and attachment of the citizens. Sir, you cannot make war which will promise a successful issue whilst the country is disunited. The people must with one voice unitedly call for war from every section and village of our country. Then indeed we may venture on war. The people must urge us into war; we cannot drive them into a successful contest. No, sir, you know the attempt is futile, is idle. Sir, as I consider myself a representative of the people, I view it as my duty at this eventful moment to make known to you what I do conceive to be (not the universal) but the general opinion and wishes of your citizens of all politics in the Northern States. I will not be answerable for the correctness of these opinions and wishes of the people. No, sir, I could in some instances wish they were more consistent and less governed by the cupidity of gain. Yet, sir, their opinions arise from their local situation. The nature of man is the same everywhere; surrounded by the same objects, their opinions, sentiments, and conduct will be the same. Place the people of the South in the same situation, and surrounded by the same temptations, and pressed with the same losses, and their conduct would be the same as those of the North. Sir, from the communications I have received from the North, and from other sources of information, I believe that I shall be able to state their opinions and some of the reasons on which their opinions are founded. To comply with their wishes, we must repeal the embargo laws at as early a day as will comport with justice to all the merchants of our country. Let all have an equal chance to be first in the foreign market, and perhaps the first of March will be as early a day as will comport with this necessary provision. As a substitute for the embargo, *they mean not submission.* Their voice is, "arm in defence of natural and national rights." They wish for liberty to arm and defend against an infraction of our indisputable rights on the ocean. This defensive arming they wish to see regulated in such manner as shall preserve peace if possible, and to do away (as far as is honorable and politic) every unnecessary cause of collision with foreign Powers. To do this, will it not be wise, considering France and England as equally offending us, to put our relations with them on exactly the same basis? Inhibit by law the exportation of all contraband goods from our country, and permit none but real citizens of the United States to navigate the vessels of the United States.

These restrictions, which indeed would not injure our fair trade, but would expel from our country the demoralizing dregs of jails and men-of-war, would serve in a great measure to prevent collisions, and to secure to our own citizens the reward of their own enterprise. To resist in such a manner as to induce a change in our favor, let us increase, and perhaps double the duties on all importations from the offending Powers, and reduce the duties on goods from other quarters.

These, and other retaliatory measures, may be adopted, expressly, to be only contemporaneous with the present piratical systems of the Europeans. And, sir, if laws be necessary to prevent our citizens from selling themselves for slaves, by the purchase of British licenses, enact laws the most penal, and even the most sanguinary against such traitors to their country's rights.

Our merchants, whose all may be the forfeiture of a much longer continuance of the embargo, or a declaration of war, lament that the violators of our maritime rights, their allies and satellites, constitute almost all the commercial world with whom they have been dealing. They therefore deprecate all measures tending to a war with so many nations, as utterly destructive to trade. At least they pray for a suspension of the calamities of war, until the course of events may justify us in choosing a single enemy to contend with; at present so equal are the Emperor and the King in the trade of plunder, that no selection can be made; for it would be absurd to aid one for the same abuses which induce us to fight the other.

Sir, I know some would resort to non-intercourse; but if we do, I fear that the same spirit which has defeated the embargo, will defeat the laws of non-intercourse, and we should be obliged soon to repeal them also. The spirit of trade is active and ever busy, and it must have vent. The late forbearance of Great Britain has increased the clamor for a renewal of trade, and for a speedy repeal of the embargo. You know, sir, that of about five hundred and ninety vessels which sailed since the embargo, by permission, only eight or ten have been captured. This affected forbearance of the British may lead to more numerous captures, when we generally resume the use of the ocean. Our merchants may again experience their treachery; and nothing short of a renewal of British spoliation will again drive the New England merchants to the feet of Government, with tenders of lives and fortunes

for the support of war. If our vessels are permitted to arm and defend rights wholly indisputable, it cannot be called *submission*, for it is its entire opposite. But I have already declared, that a further continuance of the embargo, now its coercive effects are despaired of by seven-eighths of this House, will be submission.

Nor are we any way answerable for the consequences to either of the offending Powers; they deserve nothing but war from us; yet if the policy we may adopt should press harder on one than on the other, if we study nothing but our own interest, wholly disregardful of them, we must be exonerated from the reproaches of the candid. I wish Americans would look more at home, and less to foreign nations, for motives of Government.

Sir, it is said, that by filling the blank with the first day of June, with the substitute of letters of marque and reprisal, we should thereby hold out a threat which might induce a recession of orders and decrees. As war would inevitably be the consequence of a persistance, I believe that such a threat would have a directly contrary effect; and as I am averse from an expensive war, which neither promises us honor or riches, so am I against continuing the embargo until that time.

Sir, I hope I shall not be misunderstood. I speak of opinions and sentiments not as I wish they were, but as they really are. Reflections from gentlemen of the South, against the commercial and gain-loving sentiments of the North, will only serve to disunite, at a time when the chain of our Union ought to be brightened.

Sir, all such reflections, all rantings, asperities, and personalities, should be carefully avoided by the real friends of the Union. We from the North fight our enemies, but we reason with our friends. We conclude that a man has either lost or expended all his reason, when he attacks the person of his opponent instead of his arguments, and we carefully distinguish between the calm voice of reason, and the rant of passion and prejudice. I trust we shall here unite and save our country.

Mr. EPPES said he understood that the only question at present was, with what day the blank in the resolution should be filled. It was not his intention on this question to enter into the merits of the proposition. But as his friend (Mr. NICHOLAS) who offered the resolution was not in his place, and he found no gentleman had attempted to assign any reasons in favor of the day which he had proposed, Mr. E. said he would offer a few observations in support of that day. In the course which I pursue on this floor, said Mr. E., I am not to be driven from that line of conduct which I consider best, by the feeling of any portion of the people of this country; and while I will ever manifest a proper respect for the opinions of men in any portion of the country, I will never shrink from that course which I consider calculated to promote the interest of the great body of the people. I have no apprehensions, whatever course be taken, that we have anything to fear from insurrection and rebellion, and I believe that the people of the Eastern country, when they see the charges made against them, on this floor and elsewhere, will feel no other sentiment than indignation, that men can rise and denounce them, not only as likely to rebel, but as actually in a state of rebellion. I ask gentlemen who believe that the people either are or will be in a state of rebellion, to produce the evidence in support of the charge. Do you know, sir, that force has been opposed to the execution of your laws in any portion of this country? If the people in any portion of it have raised the standard of rebellion, if men as enlightened as the Americans really cannot bear the laws of their own Government, I ask gentlemen to point out the particular cases which justify the assertion. I believe that no such opposition does exist; and I express with confidence, if any such does exist, that we have no information of any kind which can be relied on on that point. It does not appear to me that the feeling which has been manifested in regard to this measure, affords any just ground on which to legislate. We are to consider what course is best calculated to promote the interest of the country, and that course we ought to pursue. If men in any section of the Union will oppose the laws of their country, we have force enough to put them down; and I will never shrink from using it. This much I say, at this time, because the opposition to the laws was the first ground taken in opposition to the first day of June. Another ground is, that the fixing on that day will interfere with the rights of those who succeed us. I do not consider this to be the case. We were called here to exercise our judgment as to the good of the people. The Legislature can never die; and when the next Congress meet, if any circumstances shall have occurred which shall induce them to change the course contemplated, our acts will not at all affect the course which they may think proper to pursue. I believe, sir, that every member in the House will do me the justice to say that I never have concealed my opinion of the situation of the country. It must be granted that our situation is serious; that it ever will be serious when a free people are placed in such a situation that they must either abandon their rights or enforce them by physical strength.

It has been said that war is not the greatest evil which could occur. Sir, I consider it the greatest evil which could befall our country, except a surrender of our rights or independence, and that I believe to be a greater evil, because there is nothing in this world worth preserving, if we lose our freedom and independence. But if this country is to adopt the principles of the wandering Jews of Europe, if we are to suffer ourselves to be stripped and robbed without resistance, and obtain our livelihood by mean or dishonest practices, it is proper that we should put ourselves under the care of some European Power, for the protection of those rights which we have not the spirit to defend. If we postpone the repeal till the first of June we shall have an opportunity of again hearing from the different Powers of Europe, and of knowing what may be the operation of the public despatches. We shall know whether they will withdraw their orders and decrees, or whether appeal to arms. I have always thought that when the embargo should be removed, war must be the result; and if I am disposed to postpone for a period an event which will always be awful to a country like this, gentlemen will do me the justice to believe, that I am not less willing than themselves to maintain the rights of the country. It will give us one more chance for peace; and notwithstanding the opinions which have been expressed, I declare to God that I am anxious for peace. But when the question is between peace and a surrender of our rights as a nation, I am in favor of war. I am willing to take this one chance of peace, and for that reason I am willing to postpone the period of issuing letters of marque and reprisal, till the first of June. I have another reason. When this nation tries its strength, I am not willing that it should do it unprepared. I have no idea that war can be carried on without men. How are you to fight, sir? Are you to arm your merchant vessels—to let your vessels sail with all their canvass stretched, to British ports, to take licenses, pay tribute, and disgrace their country? The arming your merchant vessels will have the appearance of resisting taxation without doing it. What would be the consequence of our vessels going out armed for their protection? You might as well nail your embargo law to their masts, and suppose it will protect the merchant vessels, as to think of doing it by arming them. The situation of the world forbids the idea that we can force a trade against Great Britain. We must raise men and prepare to attack her where she is vulnerable; and when we have done this we may remain quiet, till it is time to commence operations. Another objection has been made to inserting so late a day as the first day of June. It is this: that we give notice to the belligerents, that on a certain day we mean to make war upon them. When we come to examine this objection, sir, it is nothing. Have not gentlemen declared in their places that Congress is to be convened to exchange war for embargo? Have they not made preparation for an extra session for the purpose? The British and French Government are as well convinced of our determination, as they can be by any resolution we may pass. It cannot be an offence, therefore, for the postponment till that day is evidence of a desire for peace. We have withdrawn from the ocean our commercial capital, and fifty thousand citizen mariners, from a desire for peace. Whenever then the embargo be repealed, it is war, if the obnoxious edicts be not repealed; and I am willing to postpone this change a few months, that we may not disgrace ourselves to the world, and make ourselves ridiculous at home, by going to war without men. And while I make this declaration I wish gentlemen distinctly to understand me, that I never will submit to the edicts of the belligerents; and also, that I will forever vote against the removal of the embargo during a continuance of the belligerent edicts, unless those who wish to remove it will substitute war for it. And this determination I will maintain, even if it drive the whole country to rebellion. Even if driven from my seat at the point of the bayonet, I never will surrender the rights of my country by a removal of the embargo without an efficient substitute.

Mr. J. G. JACKSON said, that the mode of filling this blank must depend most materially on the course which the House should think proper to pursue. He said, he should be governed much in the vote which he should give by the supposition that the course would be such as should be consistent with the honor and dignity of the nation. He hoped gentlemen would not be diverted from the course which was proper by this or that publication, in any newspaper; that they would never vary their course in conformity with the suggestions of others, nor deviate from the course which they pursued, because newspapers had proposed a contrary one. I, said Mr. J., will not be influenced by newspaper publications, because our affairs are too important for us to suffer ourselves to be influenced by their attacks on the House, or on the Government; neither will I be influenced by a fear of exciting insurrection if our measures be not abandoned, believing that our course is correct, and that it is indispensable to maintain our course at all hazards, even at the point of the bayonet. And I beg of gentlemen not to be diverted from what has been declared the only course of honor and propriety, by the intimidating threats or inflammatory resolutions of a few popular meetings. I am convinced that the great mass of this people will pursue such a course, as will convince those opposed to the laws in force, that, if constitutionally enacted, they shall be enforced till they be constitutionally changed; and if we do subserve the views of those who are determined to put down the laws at al hazards, and change our course, we deserve not to remain in the councils of the nation, we ought to be supplanted by men who will do what is right, regardless of the consequences. If our measures be right, the people will support us; and if wrong, the elections will produce a change in the policy of the national Councils—a pacific one, not forced upon us at the point of the bayonet. I am of opinion that the first of June is the proper time with which to fill the blank in the resolution before you, for many substantial reasons, most of which have been urged by my friend, who last addressed you. It will be recollected that our last accounts from Europe are only down to the first of December. Important events are taking place there, having relation to our affairs, by the pressure of the belligerents upon each other, and perhaps upon ourselves. I know that an idea was advanced, and it could not have escaped the recollection of gentlemen, in the letter read yesterday, (Mr. Canning's answer to Mr. Pinkney,) that this Government had been influenced in its conduct towards Great Britain, by its negotiations with France. The Ministry of the former has been induced to believe the false charges originated from prostituted presses here, and wafted across the Atlantic, that there is a design in this Government to subserve the views of France, to

coincide in the views of the French Emperor. I believe, sir, that the perusal of the documents laid before the House at the commencement of the session, will induce them to entertain a different opinion. What would be said, were we to let loose our vessels to-morrow, with letters of marque and reprisal, if, before they were well launched on the ocean, the winds of March should waft to us a vessel bearing the olive branch in her prow? We should justly be accused of precipitation, for not giving time to the nations of Europe to consider what course they shall pursue towards us. It will be seen that my argument is predicated on the idea that war must follow a removal of the embargo. I cannot suppose, after an almost unanimous vote of this House, that they could not submit without a sacrifice of their rights, honor, and independence, that they will submit. I conceive that letters of marque and reprisal must unquestionably follow a removal of the embargo, because any other course would virtually amount to submission. Arming our vessels cannot possibly have any good effect. What would be the consequence of such a measure? We admit the right of search for contraband of war; and to resist it would be an act of war or piracy. If a belligerent vessel meets one of ours armed for neutral trade, and discovers that it is of inferior force, resistance would be ineffectual, and would completely seal the destruction of the vessel. If the force of our vessel were superior, which would not be the case perhaps one time out of ten, the cruiser would sheer off till it were reinforced with the assistance of another; arming our merchant vessels would produce no good effect then, and we must issue letters of marque and reprisal, if we would not submit. But, gentlemen say, let us fix on an earlier day, that we may catch the Northern speculators. The national net must not be spread and drawn, sir, for such petty purposes as crushing a few dishonest men, who in the pursuit of money have prostituted the honor of the country as far as depended upon a rigorous execution of its laws. If we listen to such policy, we shall change our opinions every day, as much as if we listened to newspaper abuse from that quarter. I concur heartily in saying that it would not be a threat to either nation to declare that the embargo shall be repealed, and letters of marque and reprisal issued. It will be a lure to both. Neither nation can consider it as a threat to itself, but to its enemy. And if they should choose to consider it as a threat, it has been said frequently, that another course could not be pursued; for were we to make this declaration with closed doors, many instances have proved that the precaution would be ineffectual. The declaration by the act for an extra session, that the month of June will be the limitation to the embargo, was as effectually notifying Great Britain that we would pursue a different course, as if we were now formally to declare it. I am therefore of opinion that the change of measures should not take place till the first of June; the interval between this time and that will give an opportunity to the European Powers to say whether they will have war with us or do us justice; and as no man there has pretended to defend either the orders or decrees, on the ground of right or the laws of nations, I hope they will show that they have yet a little justice left—for they must see that the imputation that this Government is yielding to the influence of France, or that it is hostile to England, is the most shameless falsehood that can be conceived. The offer to repeal the embargo as to Great Britain if she would repeal her Orders in Council, was an offer to take sides with Great Britain. I hope that they will be convinced that it is their interest to change their policy towards us; I trust that their people will, as they have done heretofore, change their Ministry for the purpose of changing their measures. They will have seen that we ask but half justice at their hands; that the embargo law is but continued for the purpose of avoiding war with them; that we are willing to rescind our embargo if they will withdraw their orders, leaving to friendly adjustment the affair of the Chesapeake, and a thousand other acts, each of which might be cause for war. I think that I understood the gentleman from Massachusetts (Mr. COOK) to say, that the course which he suggested was not perhaps correct; but that the people pressed it upon him. Sir, I hope the House will not, like the gentleman from Massachusetts, be influenced by such considerations to do that which their judgment tells them is not correct; but will pursue the line of their duty, without being diverted from it by the wishes of any particular class of people.

Mr. NELSON said he rose to make a few, and very few, observations on this subject. Two or three different days had been mentioned with which to fill the blank. He had heard no reason which satisfied his mind that the period should be postponed until the first day of June. He said he was sorry that the resolutions had been introduced into the House. He knew not whether it was not proposed to give up the best system that could be adopted, to take up another which was totally untried. He objected to the introduction of the resolution, upon two grounds, one of which had been given as a reason for introducing the resolution, viz: that the embargo is at this time a dead letter, and could not be executed. I believe, said Mr. N., that it is not reduced to the situation of a dead letter yet; and I believe that it can be enforced without bloodshed, and that the honor of the Government is as much at stake on that point as on any point in contest with foreign nations. What is our situation, sir, according to the arguments of gentlemen? A law has been passed by the General Government, within its Constitutional power, which is acquiesced in by nineteen-twentieths of the people. But the remaining portion, perhaps not so large a portion as one-twentieth, have made opposition to it—have made a noise and clamor against it—and now we are called upon to give it up. The next general law we pass may operate severely on the Southern States; the people may make a noise; the walls of Charleston may be covered with cannon, and noisy demagogues may run up and down the streets, haranguing the people, and we might repeal it. The next law might operate on the people of the Western country. They might, perhaps, follow the precious example of the Eastern people, brush up their rifles, tell us this is a hard law, and therefore we must repeal it. Is this Government? Is a Government of this kind worthy of support? Away with it, sir, and let the people form a Government which is worthy of support, a Government which is capable of supporting itself: it is not come to this, sir; it is all mere idle declamation. If we adhere to our system, there is no doubt that it can be carried into effect. The fifty thousand volunteers which have been decried as intended to enforce the embargo laws, were never calculated on for that purpose. No, sir; the people there are as strong as anywhere; and if it be necessary to put down a few traitors, the people of the country can do it. It is not necessary to march men from one State to another to put down rebellion or insurrection; the people will put it down. Every man of reflection in the Northeast would reason with himself in this way: "What are these people about to do? They are about to overturn all law, by undertaking to decide the constitutionality of laws which are undisputed by the proper authority. If these things are acquiesced in, what becomes of my property, which is only secured to me by law? If the people can put down one law, they have the same right to put down another." Would not every man of property, of rationality, argue thus? Surely he would; for that man must be a madman who would wish to see any law put down in this way. So long as a law is unrepealed, it is the law of the land; and while it is, every man will say it ought to be carried into effect until it is constitutionally repealed. Then, I ask, whether we are about to give up this system to do one of two things, viz: either to submit to Great Britain and France, or to enter into war? There is not an individual in the nation who would agree to submit. What will be the consequence of war, and what its results? No one can tell. Will it bring money into our pockets? I fear not. Will it redound to our honor? I fear not. Will it procure us the object we aim at? I fear not. What is there of the belligerents that we can get at? We can affect but one; all her territory on this Continent may be got. Is it worth retaining when in our possession? I believe not. Submission is out of the question; and however I deprecate war, I had rather go into it at once, than to repeal the embargo, and do nothing else; for, if we wage another war for seven years, and are unsuccessful, we can do no worse than submit at last. It is better to submit after resisting, than to submit without resistance. As a man acts a more honorable part who resists an insult, than the man who will take offence at nothing. We had better have our houses and property burnt forever, and involve ourselves in a national debt for ages, than submit to the belligerents. We are in a dangerous situation, such as we were never in before. And I will ask another question. What reason have we to believe that those who will not support the embargo because it operates on a foreign nation, will go to war with us against that nation? Why, sir, when those people oppose our laws, constitutionally enacted, the evil is great; but if we enter into a war, and they will not go with us, but directly or indirectly aid the enemy, will not our situation be worse? Those very men who set your laws at defiance, if you go to war, will be against you. But let what will come, whatever may happen, is better than submission. If we give up the embargo system, the sooner we go into the other the better. Two reasons have been given why the repeal of the embargo should be postponed until the first day of June. It is said that, by so doing, we shall have time to raise men.

Sir, at the last session a law passed for raising troops. We find it not easy to get troops in this country, where the wages of the laborer are so high, and of the soldier so low. It is not to be expected that a man who can get ten dollars a month, be well fed, and sleep under a good cover, will put himself under the power of any officer, who has absolute sway over him, for five dollars a month, when he must sleep in the open air, and undergo all the hardships incidental to a state of war. Added to this, a man who enlists for a soldier is liable to have his brains blown out, and that is generally considered as an inconvenient circumstance, sir. Our soldiers, therefore, are generally enlisted from amongst that class who are too idle to work for their livelihood. There are not, thank God, a great many of that class of men in society; and there not being a great many, is the reason why recruiting goes on so slowly in this country. Between this day and the first of June you would scarcely be able to raise three thousand men. And would these men, in that time, be better soldiers than so many militia? No, sir; time and discipline alone can make soldiers. Raise men now, and by June they will know but very little more of discipline than our militia. If then, men could not be raised, or, if raised, could not be disciplined before the first of June, this argument in favor of postponing the repeal of the embargo until that time is done away. Another argument in favor of the first day of June is, that we will take the last chance of peace. I am tired of this, sir. We have taken at least thirty chances of this kind. If we must go to war at last, it would have been vastly better that we had gone to war immediately after the attack on the Chesapeake. It is taking a chance in a lottery which consists entirely of blanks and no prizes. In order to prevent our striking them the first blow on the first of June, either of the belligerents may strike us before that time. They will know that we cannot strike until the first day of June, and they may therefore take the first day of May. If the embargo is to be given up, I do not care how soon, if it be to-morrow. And I beg the House to understand me; I never will let go the embargo, unless, on the very same day on which we let go the embargo, we draw the sword.

I shall vote for that part of the resolution relating to a repeal of the embargo, because I do not wish to check the wishes of the House on the subject; for, when the embargo is taken off, it should be done with a unanimous vote. As to the second part of the proposition, I shall also vote for drawing the sword; but, if I should be in the minority on that, when the subject comes into the House, I shall vote against every part of the proposition.

Mr. Gardenier said that it seemed that the House was on the eve of commencing a new experiment; that they had declined the favorite one, which was promised to be so very effectual, the efficiency of which it had at one time been considered stupid for any man to doubt; that they were about to lay that by—and for once, he said, it seemed that he was likely to be in the majority. He was happy to compliment the wisdom of the House on the occasion. He was, however, unfortunately one of those whose confidence in the authors of experiments in this country had not been at all increased by the issue of that experiment which had been thirteen months in coming to an issue. He said he must therefore be permitted to doubt of any proposed experiment. In respect to the present proposition, sir, said he, I feel myself, as it were, walking in the dark, with a blind guide. Therefore I must exercise the humble privilege of judging for myself, of endeavoring to feel out for myself my own way, to the great conclusion. I have, however, made one reflection, on what I have heard on this subject—that on this occasion we are not overwhelmed with a profusion of promises of any good effect to be derived from the measure proposed. It appears to me, and I take it as a happy omen, that no gentleman has ventured to say that war would obtain the objects for which alone war ought to be waged. I recollect, sir, that you were told, when the embargo was laid, that it would have the best effect. There were many who believed it; a majority of this House believed it. And for myself, when I looked whence this encouragement, this prophecy proceeded, I was almost inclined to doubt whether it would not work well. But now no one appears to believe that the proposed measure will bring us to any issue whatever, to any determination of the distresses of the country; and yet, because it is spirited, brave and manly, we are to plunge the nation into a war, and sacrifice all that the embargo has left us. No one tells you that such a course would be productive of any advantage. I cannot go into a measure, sir, from which even the friends of it do not hope any good. I do not like fighting merely for the sake of fighting, when there is no object in view. It is exhausting the nation when it is growing to be powerful. I will engage in no Quixotic expeditions. I will go to fight no windmills. I will, as was said by a gentleman from Kentucky, (Mr. Lyon,) who says many sensible things in this House, sir, let the nation grow. The nation has not arrived to that state of manhood in which it can claim superiority. If the policy of the present day be pursued, it will be a ricketty infant; it may be a spunky spiteful child, but will have no strength, and will never command respect. I therefore say again, with the gentleman from Kentucky, let the nation grow; let that be the policy of the Government, and we shall be respectable for that policy. Everything which derogates from our strength, tends to render us unimportant as a nation.

It is with sensations of the deepest regret that I have heard gentlemen on this floor make use so frequently of the term rebellion, and apply it to a portion of the country in which, I venture to say, no spirit of rebellion exists. If the consciousness of their rights, and, among those rights, of the right of pursuing their own happiness, be rebellion, you have rebellion enough in that country, sir. Have we come to this already, that when a people are ground down into dust, when all their fair prospect of prosperity is blasted, when they have no hope even for existence, when the comforts of life are even taken away from them, when they experience nothing but suffering—when such a people, convinced (as I think all reasonable people must be convinced) that this is to produce no good purpose, rise up and say that they cannot consent to be martyred thus, that it shall be called rebellion? It is too much for human nature; they have borne sufferings of a most unexampled character for months, but, in hopes that the speculations of our political theorists might be realized, they have submitted to them, and vented their dispositions only in memorials to the President before the commencement of Congress, for they conceived that when Congress met there could be no doubt of their being relieved. When Congress met nothing was done. What would you have of freemen? They have intelligence; the very form of our Government supposes that they have intelligence, and that they are capable of judging of their own interest. This people, so intelligent, so wise, (and after this at least I hope I shall be considered as a good Republican,) see with a great many others, that this embargo, however, it may operate on one of the belligerents—I believe it is not pretended that it operates on the other—cannot possibly operate to such an extent on the former as to bring that nation to terms. Then, say they, all this excessive suffering to which we are subjected, is to no purpose; we must still go on supporting this state of things, without being encouraged by the slightest glimmering of hope. Can you ask it, sir? Can you expect it? Recollect that if on the one hand the Government is entitled to respect, there is a people for whose benefit that Government was instituted; and it cannot be expected, whatever may be said here, when the Government does not do good for them, that they will say that they will support it. No people ever did say so. You are too theoretic; you cannot expect it. But to call this decision of the people, to whom it rightfully belongs to make it—to call this decision, when expressed in the deep-toned language of indignant patriotism, rebellion—sir, I cannot find a word to express my ideas at hearing the majesty of the people assailed in this way; and, as a Representative of the people, I will not endure it; it is abominable.

But, how do gentlemen make out rebellion in this case? Does any gentleman suppose the town meetings in New England are to rise up and make rebellion or unregulated resistance to the laws? Indeed, let me assure gentlemen that there is not the slightest ground for apprehension of this kind. You must recollect, sir, that the General Government was originally formed by free and independent States; and when the causes which produced the Union ceased, it is not to be wondered at that the Union should cease with it. And it is the duty of this body to take care that the causes which produced it shall be kept in full and complete existence. It is by employing proper means only that you can ever hope to produce a desired effect. The Government was instituted for certain purposes: when those purposes cease, the Government must cease also. All free people know this: history is full of examples of it. Instead, then, of telling the people that they are in a state of rebellion, make your laws such that they will like them—as that they shall be happy under them—and then, sir, you never need talk to the people from this House. You have evidence of it under the present Administration. The people felt obliged to it that they were happy, because the sun shone upon them, but the system pursued is at an end, because it was not calculated for the storm and tempest: it could not endure turbulent times. Because it has fallen to pieces, the Administration has become more unpopular. The President himself has said, that when laws please the people, they will rally round the standard of the law. It would seem, sir, as if a degree of pleasure was felt by some gentlemen in the House, in supposing the people of the East and North to be a people inclined to be restless. Suppose that the people of the South could not believe that the embargo would answer the purpose for which it was designed; suppose that they were satisfied that it would bring them to no happy result; is there that disposition in the people of the South that they would sit quiet and bless the hand that put these useless burdens upon them? Is that the character of the South? I have a much better opinion of the people of the South than to believe it. If, notwithstanding, the embargo has produced no effect, their great confidence induces them to go on supporting this thing, they act very patriotically in so doing. The North and East oppose it from motives equally patriotic; and it is strange to me, that, as to that point, thirteen months should not have brought all men to the same mind. When the people of the South, under a former Administration, felt themselves aggrieved; when they thought that the public liberty was in danger; when they were told that the alien and sedition laws were about to ruin them; did they sit still under them? Was there a quiet submission to the Government? No, sir; the Legislature of the State of Virginia did what they thought to be their duty: they thought themselves right and the Government wrong, and took a great and commanding stand for the liberty (as they thought) of Virginia. Why should not Massachusetts, too, take the same stand, when she thinks herself about to be destroyed; not because she differs with you on mere points of theory; it is their very bread which is attempted to be taken from the people there, without which they cannot enjoy the liberty of the press and speech—a pressure infinitely more severe than that caused by the alien and sedition laws. And I am rather surprised that gentlemen, whose hearts no doubt glowed with patriotism when they saw their own State take a stand, cannot endure the same stand when taken by another State.

I do not make these remarks by way of casting a reflection on the State of Virginia; I do it to show that human nature is the same throughout the United States. Make your people believe that they are imposed upon and suffering without cause, and they will every where manifest the same disposition. Let the people of the South be but once convinced, as the people of the North are, that this embargo is but a weak and feeble expedient, and they will join the people of the North against it. But it seems that in one point at least gentlemen show a proper practical disposition, and I give them most sincere thanks for it. They start at last at pursuing a system which might in the end produce consequences which I tremble to think of. But it seems at last that the embargo is to be repealed, and, in behalf of the suffering country which I in part represent, I give gentlemen my most sincere thanks for it. But I beg of them, having made up their minds to relieve us from one calamity, that they will not in the manner of doing it bring a still greater calamity upon us; that they will not, when we ask them for bread, give us a stone. The resolution, taken altogether, is no removal of the embargo. It is a continuance of the embargo in its worst shape, in its most distressing form; though I believe, if gentlemen who are disposed to relieve us from the embargo could see the substitute for it in the same light in which it appears to my mind, that there would be no difficulty in rejecting the latter part of the amendment, proposing the issuing of letters of marque and reprisal. In that case vessels may go out; but where will they go? You will in that case be at war with both France and Great Britain. Is there any one that believes that we can enjoy any commerce under such a state of things? Do you affect to tell us that we shall be restored to the navigation of the ocean, and at the same time create dangers which did not exist before, by adopting such measures as will utterly prevent the practical enjoyment of liberty? You tell a merchant to go out to sea, and there he will be captured. It is trifling with the impatience of the people, trifling with their interests; it is giving them nothing. It is strange, sir, that the Government of the United States, when there was little real danger in navigating the ocean, should have thought it necessary for the purpose of "keeping in safety our essential resources" to lay an embargo; and that when they have by their measures made a safe navigation so impracticable that scarcely one in twenty can escape the clutches of the enemy, they should say to the merchants "now you may go." Depend

upon it, sir, that you cannot deceive the people of the commercial States in this way. If you would comply with their requests, and obviate the further progress of the ruin which like a blast has spread over them, restore them their commerce. They will thank you. You will strengthen the bonds of union, which should never be relaxed. Let them be the bonds of a great and high-spirited people, and they will endure forever. But do not give them this boon, which, in the moment of giving it, you prevent them from enjoying. An act which shall say that the embargo shall be repealed by prohibiting commerce more effectually by another mode than the embargo could do, will not and ought not to satisfy the people. There is nothing in it. I protest to you, sir, that I feel no little affliction that, at a moment when I thought that there was a probability that the embargo was to be removed, the liberty of the seas should be wholly taken away by the proposed system, which will produce war with Great Britain. The only difference between the two systems is, that now you enforce the embargo, and if this resolution take effect, Great Britain will enforce it for you. The impossibility of carrying on a practical navigation will be precisely what it was before. I do not know, in point of expense, that it might not be better that Britain should keep on the embargo than that we should do it ourselves. If blood is to be spilt in keeping on the embargo, I had rather it should be British blood than American. Let us know what we have to depend on, sir. If you mean to repeal the embargo, do repeal it. But remember that if in doing it you do not restore us the use of the ocean, you do not repeal it for that purpose for which its repeal is necessary. Remember that, sir; and let your acts be such as shall spread harmony and happiness through the country. But the people are too wise to suppose that any sincere disposition exists to restore commerce, when you yourselves say that it shall be at an end in the same breath that you profess to restore its wonted activity.

I was in hopes, when the first resolution on this subject was proposed by the gentleman from Virginia, that some compassion was to be manifested to the people of the East, but that hope declined with that day's sun. The same system is still to be persevered in. Can gentlemen hope that they can restore the confidence of the people by this sort of conduct? Let the Government either enforce the embargo, or remove it. Let them either permit our citizens to go on the ocean, or let them say that they shall not go on it. Let not gentlemen suppose that the people of the East will take such a present as that proposed. They will, by-and-by, shrink from your presents, and will not touch them. We beg for nothing but to be dealt fairly with, to be told, in plain terms, what you will do. If you do that which is right, and go to work and restore the prosperity of the country, we will join with you heart and hand; but we are not to be brought into unanimity, because a course is pursued which all reflection tells us is visionary. I was pleased yesterday, sir, with the impassioned eloquence of the gentleman from South Carolina, (Mr. D. R. WILLIAMS,) as honest a man as God ever formed. He told us, if we removed the embargo, we must go to war. It is in vain for gentlemen to expect us to go to war, when we can see no object for war. We value too highly, for that, the prosperity of our people, their wives and children. We go amongst them and see their situation, they are a people fond of money, if you please; and when we find that a man can support life comfortably, we think there is really more honor in seeing the families in our cottages well fed and decently clothed, than in sending them out to fight, when no man can tell what it is for. It is not so spirited, sir, but there is much more happiness in it. When I have done my duty in keeping the people in a state of happiness, I can go home and place my head on my pillow with a safe conscience; but I should not, if I were to plunge this country into a war which, on the one hand, is unnecessary, and on the other, can produce no good. If we even have real ground for going to war with Great Britain and France, if, by going to war, we could only be worsted, I would smother my resentment a while, and do as boys at school often do, wait till I am big enough to fight. I would, at least, have the instinctive wisdom of children. I know not what to add on this subject. My mind is exceedingly distressed by the course which it strikes me is now contemplated. I wish to see gentlemen less theoretical and more practical; to see them abandon theory, and consider for a while the means of promoting the plain honest comforts of the people.

Mr. DANA said, he rose at this time, principally, to protest, in the name of the people of the State of Connecticut, against the supposition that it could be necessary for them, for a moment, to vindicate their character against any insinuation of the editor of a newspaper, printed at the seat of Government, however the editor might suppose it to be gratifying to those whom he wished to please. When gentlemen talk of New England, said Mr. D., and of Connecticut, as comprised in it, I would observe one thing; that the people of Connecticut have confided the management of their affairs here, to their Representatives in Congress; that they are not in the habit of petitioning this House. If they wish laws repealed, they do not address memorials to you on the subject; but if you believe, because they do not, that they approve of the laws, you are totally ignorant of the country. Whatever may be imagined about that State's being managed in a peculiar way, you know but very little about the people, if you imagine that they are not actuated by sentiments of liberty, if you imagine that the sentiment of liberty is not one of the most inextinguishable, or that their attachment to Republican principles is not of the strongest cast. Their love of liberty is characterized by a high and sacred regard to order. The liberty which they wish is a rational liberty, one in which wisdom and justice reign supreme, which secures to every man his right, and protects every man against aggression.

As to the idea of a rebellion in the northern

portion of the Union, I say that no such thing exists. I have heard it spoken of as if there did. It is strange that gentlemen can hesitate one moment if they believe that rebellion exists. If it does, let not one day pass over before you array your battalions and order them forward. If you will not do this, you are bound not to consider any agitation as rebellion. If it be rebellion you do not do your duty if you do not suppress it. You are compelled to decide whether you will denominate it rebellion or dissatisfaction. If it be rebellion, crush it. If it be only an expression of dissatisfaction at your measures, respect it. Gentlemen speak very freely of that country; they cannot touch it too lightly, especially when they speak of the bayonet as applied to it. Sir, gentlemen must beware how they touch on this topic, especially when it is viewed as arraying one great portion of the Union against another, especially when you load with terms of opprobrium a large portion of the Union, when it is represented as being the hot-bed of faction, as the nursery of toryism, as the residence of "British agents and persons corrupted with British gold." When gentlemen talk on this subject, let them recollect one thing. The inhabitants of that part of the country are not ignorant of their own strength; and no threat of vengeance will make them obey you for a moment. It is a moral force, and that only, which controls them. Of one thing, sir, gentlemen cannot be ignorant, neither are we. The physical strength of the different portions of the Union, is not according to the ratio of representation on the floor of this House. When, therefore, gentlemen talk of engaging the authority of the Government, let them appeal to sentiments more worthy, more honorable; and when we talk of our acts, let us recollect that a power superior to ourselves has set limits to our authority, and said, "thus far shall you go, and no further." [Mr. EPPES asked to whom the gentleman particularly referred in the observations which he made.] Mr. DANA said, he did recollect particularly, but he was remarking on the general current of observations, which had been made in the House for two or three months past. He could only say, that though he felt the observations at the time, he had not particularly noted by whom they were made, and they had left only a general impression. And there is one other thing, said he, which I have felt very strongly—the habit or example of denouncing, of covering with terms of opprobrium a portion of the people of the United States, who may not approve all the measures of the Government. I have felt these things because they are grossly misconstrued as an encouragement to that ferocious yell of denunciation, to that savage war whoop of vengeance which is excited out of this House in certain portions of the Union. It is of the utmost moment that that spirit should be repressed in various parts of the country. If in the moment of peril instead of arraying on this floor the petty passions of party, we were to combine to suppress it, we should more consult the interests of our country.

A committee appointed to consider our foreign relations, has presented us three alternatives—submission, embargo, or war with Great Britain and France. They conceive it to be necessary to take one of these. For myself, sir, I declare that I do not wish to take either. As to war with Great Britain and France, I should wish to delay that till I could understand how it was to be made. As to this going to war with two nations at war with each other, I should like first to make some inquiry on the subject. I wish to know if any gentleman of military talents has drawn up any system of fighting three armies together. One against two on the same side, is no new thing, sir; but three against each other is a perfect novelty. I really do not know they could draw up their troops in order of battle, supposing three armies to meet. They could not be drawn up in parallel lines, for each army must be opposed to two others. It is a sort of prismatic or triangular thing; for I cannot take three lines and form a square of them, or any other regular body. How would they form a line of reserve? The only way that I could think of arranging an army on this principle, was to draw up the three armies in a triangular form, the angles at 120 degrees, the whole making 360 degrees, or a whole circle; but in this case you must keep them there, not let them move, or you destroy the principle. This is a new thing which I wish to have explained. It is not the old-fashioned way of fighting at all, nor was it ever known in ancient or modern war. When we go to sea, how will the system stand? Three frigates, British, French, and American, all at war with each other, meet. Now if any two of them were on the same side I could understand it; but I cannot understand this. I have read an account of an English ship-of-the-line going out and running between two enemies' ships-of-the-line in the night, and a heavy fire commencing on each side, backing with considerable address, and leaving them to fire on each other. But really, sir, I cannot imagine how ships of three belligerents are to go to work. They cannot lay along side, forward, or aft; and yet I do not mean to deny that this thing cannot be done. For myself I have no suspicion that any man who has nautical skill enough to command a frigate, or any man who can give the order of battle for a brigade, could think of engaging at the same time with two enemies. If on this principle you go to war, therefore, you must trust the command to persons totally unworthy of command.

Mr. EPPES.—I am glad that the gentleman from Connecticut has exhausted in debate the feelings with which he commenced; that he has concluded his remarks in perfect good humor I have no doubt. His dissertation on triangles, although ingenious enough, does not appear to me entirely new. The gentleman might add much to his stock of information on the uses of the triangle by perusing a luminous pamphlet recently printed on this subject, called the "Trial of Alexander Whistelo." It is a book containing much curious learning, and I am certain the gen-

tleman from Connecticut will receive amusement and instruction from its perusal. I regret extremely some of the observations which have fallen from the gentleman, and am happy that he did not intend to apply any part of them to me. I disclaim having ever reflected on the people of any part of the United States. When, on a former day, in debate, I declared that the tory principle had assumed in this country an official form, I referred to a sentiment which I read from the Essex resolutions, containing what I at that time considered, and still consider, a tory principle.

We are told that we are now about to abandon the embargo and make a new experiment. What is the new experiment? Letters of marque and reprisal. The trial of force after every other remedy has failed is not a new experiment. It always has been, and ever will be the last resort in contests between nations. When every other mode of adjusting a difference has failed there is nothing left but to give up the contest or fight. Sir, from the period at which the United States, under the auspices of the Federal Government assumed its rank among the independent nations of the earth, we have been the object of suspicion and jealousy to the present great belligerent nations of Europe. Attached to peace, and anxious to preserve it, all our efforts have been directed to this object. Our habits are not warlike. The glory of conquest and the splendor of conquerors, are spectacles unknown to this happy country. The sympathy excited in this country towards France by the American Revolution, first roused the jealousy of Great Britain. To this jealous feeling we may attribute many of the wrongs inflicted on us by Great Britain from the year 1783 to the year 1795, when our differences were adjusted by treaty. The conclusion of this treaty roused the jealousy of France. The sympathy produced by the American Revolution had been weakened by time, and was totally lost during the sanguinary period of the French Revolution. From the conclusion of the treaty with Great Britain our peace with France was in danger. Various acts of injustice and violence, on the part of that Government, brought us almost into a state of actual war. Our differences were adjusted by treaty; but the suspicion and jealousy of both these Powers remain. To that unfounded suspicion and jealousy we owe many of our present difficulties. The demon of jealousy alone could induce either of these Powers to believe that this nation is disposed to attach its destinies either to France or Great Britain. Nothing will satisfy Great Britain but involving us in her contest with France; nothing will satisfy France but involving us in her contest with Great Britain. Everything short of this is represented by each as partiality towards her enemy. Each Power, on the pretext of our being partial to the other, has offered us injuries, to which we must either oppose effectual resistance, or surrender our independence. Shall we fold our arms and sit down content under all the wrongs that we have received, or shall we try our strength? It is no longer a political delusion. We are about to remove the embargo. This precautionary measure is to be abandoned; our vessels are no longer to be chained to the docks; they are to be employed on the ocean, and American seamen will find active employment in avenging the wrongs and vindicating the rights of their country. In this important object I had hoped we should all unite. It seems, however, that this new experiment of fighting is considered rather worse than the embargo. I have been astonished to hear gentlemen get up and speak on the old worn-out subject of the embargo. They tell us that the people must find their way to the ocean. Can they go on it without arms? Take letters of marque—fight your way? No, this is war; it will prevent their going on the ocean at all. It will wholly destroy commerce. Nothing but resistance to Great Britain and France, effectual resistance, can ever restore commerce. It is gone, and with it agriculture, if these decrees and orders are not opposed by all the energies of the nation.

What is our present situation? It is not my intention to occupy the time of the House in reading documents; from these documents I consider as established, beyond a possibility of denial, the following positions:

1. That Great Britain has violated our territory, murdered our citizens, committed enormous depredations on our commerce, impressed our seamen, excluded from market seventy millions of dollars of our exports, and subjected to tribute, to the following amount, the great staples of our country, viz: tobacco, three dollars per 100 lbs.; cotton, sixteen cents per pound; corn, sixteen cents per bushel; flour, two dollars per barrel; fish, ninety cents per 100 lbs.; pork, six dollars and eighty-six cents per barrel; beef, three dollars and thirty-three cents per barrel.

2. That France has violated her treaty, committed enormous depredations on our commerce, burnt our vessels on the high seas, subjected them to capture for causes over which we have no control, and subjected to capture our commerce with Britain, its islands and dependencies, amounting to thirty-three millions of dollars.

3. That both these Powers have attempted to mark out the course which the United States ought to pursue towards its enemy; and, under the pretext of retaliating on us for supposed submission, have carried their injustice and violence so far as to leave to the United States no commerce which can be pursued with safety or honor.

4. That negotiation has been tried with both these Powers in every possible form, and has failed.

Will any gentleman come forward and deny any one of these positions? He cannot. Documents on the table demonstrate their truth. These injuries cannot be submitted to. They must be resisted. The last appeal to the justice of these nations has been made. Whenever the embargo is removed we must fight. Whether we fight on the triangle, the square, or the form called rough roll and tumble, I care not. Fight we must, unless we are destitute of principle and of courage.

I would not submit without a struggle to the unjust pretensions of either of these Powers. The causes which produced the American Revolution were trifling compared with the present monstrous pretensions of the belligerents.

Will the people, who spurned a paltry tax on tea, when united under the same Government with Great Britain, submit to a tax on the most valuable staples of their country, and hold the right to carry them to market at the will of a foreign Power? It is impossible; our ancestors gave up a country affording everything to gratify avarice and pride. They placed themselves under the goddess of liberty, in a forest filled with howling savages, and destitute of the comforts of life. Shall we, the descendants of that people, shrink from maintaining our independence? Shall we, to avoid the evil of war, take the greatest of all evils, a base submission to foreign Powers?

We are told that the alien and sedition laws, which called forth all the energies of Virginia, were mere *sauce* compared with the embargo. They were bitter pills, never to be swallowed; they were clear, open, and manifest violations of the Constitution, and the reasoning of the committee of the Virginia Legislature against these laws remains unanswered to this day. Whenever the people of Massachusetts, or any other State, shall come forward and show me that a law is unconstitutional, and in the same firm and Constitutional form, and that I have violated their rights, I am willing to retrace my steps. But when they tell me that they cannot live but by a base submission to a foreign Power, I will say to them "starve." Whenever the people of this country cannot live without crouching to a foreign Power, let them starve. I cannot consent to surrender, as a dessert, or for a whole dinner, the rights of this country.

We are told we cannot maintain our rights; that we must grow before we fight. We cannot grow under base submission to foreign despotism. Look at the history of the world, and see whether any nation has grown up under oppression. It is tyranny which produces ill-formed and ricketty children, and not an adherence to the rights of men. But the gentleman from New York has told us that this attempt to assert the rights of the nation by war, is worse than insult! I have shown you, sir, that the people are excluded from the ocean by the decrees of Great Britain and France, and if we raise the embargo, war must be the consequence. Why, sir, if we take off from the list of places to which we usually trade, those places affected by the decrees and orders, we have, as has been repeatedly shown, but a commerce of seven millions and a half. Will you take this? If you do and prohibit intercourse with the places affected by the decrees, it is submission.

Take the second project which has been offered, viz: to arm our merchant vessels, and allow them to trade. If our differences were with France alone, this would be an effectual and honorable provision. We could force a trade against France. Our situation would permit it. But will any gentleman say that we can carry tobacco, or rice, or cotton, or fish, to market on the Continent of Europe, and protect it with cannon against Great Britain? No, sir; arming the merchant vessels will give only a commerce with Great Britain. It is consigning to individuals the destinies of the nation. Issuing letters of marque and reprisal is a fair, manly, and open resistance on the part of the nation. It will afford to our citizens a chance to get back some of the property of which they have been plundered. It will give neither Power a monopoly of our commerce. We can assail both belligerents and fight them both at triangles, squares, or oblongs, or in every possible form in which we can meet with them. If our arms can be employed with effect on water, our vessels must not be encumbered with cargoes. Letters of marque and reprisal will be effectual resistance to both these Powers—arming our merchant vessels is not resistance in the present state of the world. It can be followed only with disgrace to the nation and ruin to the individual. It will give to Great Britain the exclusive monopoly of our commerce and destroy the value of all the great staples of our country. Having already stated to the House once to-day the reasons why I think that the embargo should not be continued beyond the first day of June, I shall trespass no longer on your attention.

Wednesday, February 1.

On motion of Mr. Burwell, that the House do come to the following resolution:

Resolved, That the Clerk of this House be instructed to furnish the Librarian of Congress with two complete sets of all documents laid before Congress at each session:

The resolution was ordered to lie on the table.

Mr. Holmes, from the Committee of Claims, to whom was referred, on the fifteenth of December last, a letter and representation of Thomas Paine, presented to this House on the fourth of February, one thousand eight hundred and eight, made a report thereon; which was read, and ordered to lie on tbe table.

PREPARATION FOR WAR.

The House again went into Committee of the Whole on Mr. Nicholas and Mr. Bacon's resolutions—the proposition for filling the blank with the first day of June being still under consideration.

Mr. Bacon said, that perhaps the almost interminable debates to which this subject of embargo in whatever shape it was presented to us always gives rise, might justly be esteemed not the least amongst those many inconveniences which were imputed to it. Sure he was, that it was by no means an evil so entirely imaginary as were many of those which both in and out of this House had been laid to its charge. It had cost us a most vehement and impassioned debate to get into it; had been the theme of an almost perpetual debate during its continuance, and it now seemed that we could get out of it only by the same course. For himself he should have been

willing to have met the present question by a silent vote, if a similar disposition had been generally evinced on either side of the House.

From present appearances, said Mr. B., I am sorry to be obliged to realize, that in my vote on both parts of the resolution under consideration, I shall probably be compelled to differ with many, though I trust not a majority of those with whom it has usually been my pleasure and my pride to unite on most questions of a public nature. In the observations which have fallen from some of those gentlemen, there has appeared to me to have been intermingled at least some indirect thrusts at those of us who on this question might be thought disposed to differ with them in opinion, in relation to the propositions now pending before us. This is a state of things which it was perhaps very natural to expect, and we may probably as well now as ever give a free vent to those transient feelings which it is calculated to excite, and settle the account at the outset.

On this head it was intimated yesterday by a gentleman from Virginia (Mr. Jackson) that the popular clamors which were at present so loud in some quarters of our country might perhaps deter some gentlemen from adhering to that course of policy to which they might otherwise assent; cautioning them at the same time that they might be hurled from their seats by the people, if through a defect of the nerves they should shrink from a rigid performance of that duty which the crisis called upon them to perform. Mr. Chairman, with respect to political nerves, we have probably, most of us, as good an opinion of the strength of our own as they deserve; but to judge of this particular working upon the system of others, is at once a difficult and delicate undertaking. So much does the nervous system vary, according to the different habits and constitution of politicians, that it is impossible precisely to ascertain its operation, or the different results to which it sometimes conducts us. With some, it undoubtedly operates to create a sort of instinctive horror at the prospect of popular disapprobation, and a peculiar sensibility to popular clamor. With others, its tendency is to foster a confirmed repugnance against differing, in any essential point, from those enlightened few whose opinions we have been habituated to reverence, and whose general principles we have been accustomed to respect. Its influence upon our public conduct should, unquestionably, in both respects, be sedulously guarded against. For if, in one case, it degrades the legislator into the variable and unstable demagogue, in the other, it sinks him into the levee politician, or the accommodating courtier. For one I can truly declare, that I know of no public situation in which the firmness of the nerves can be so severely tested, as that in which we are forced to differ from the opinions of those in whom we are accustomed to confide as politicians, and sincerely to respect as men. My present situation enables me to speak with a most feeling sense of the truth of this remark. But, as on the one hand, I feel it my duty not to be driven, or, as the expression has been, not to be kicked into any course which I cannot approve, by the rudeness of my political adversaries, so, on the other, would I be careful not to be seduced into it by any overweening deference to the opinions of my friends, however respectable in their private characters, or exalted in their public standing.

With respect to the present question, Mr. B. said, he was compelled, from the best consideration which he could bestow upon it, to differ from the very respectable mover of the resolution on both parts of his proposition; on the first, as to the time at which he proposed to give it effect, and on the second, as to the extent of the measure itself. The proposition now was, to fill the blank with the first day of June. So far as this applies to the repeal of the embargo, what beneficial ends can be answered by deferring it to so late a period? There were certainly many positive benefits to be calculated upon from its early repeal; amongst these, was the consideration that it would more effectually quiet those public jealousies and discontents which had been so assiduously excited and promoted in some parts of the Union. Most of these, to be sure, he well knew to be unreasonable and unfounded; many of them, he had no doubt, were wicked and perverse. Still, if by any measure, not otherwise exceptionable, they could be effectually allayed, it was certainly not an undesirable object. It surely could not be sound policy, by adhering to this system beyond the measure of absolute necessity, to risk in the hands of any faction which might be disposed to wield it, an instrument by which they may endanger the Union of our country, and raise themselves to power on the ruins of liberty and the Constitution. There were many other advantages, in a commercial view, which we should derive from a speedy repeal, and which would be very much lost by deferring it to so distant a period; these had been urged by others, and he would not enlarge upon them.

What, then, are the advantages expected to be derived from a protraction of this measure four months longer? As to any coercive operation which it may have upon foreign nations, when the utmost period of its continuance is once declared by law, no gentleman expects anything of that sort from it—from the moment that a limitation is fixed, its coercive force is allowed to be gone. It is only, then, as a measure calculated for the preservation of peace with foreign Powers, that the protraction of its repeal for so long a period can be thought desirable. That this is an object of the highest moment, and for the attainment of which we should cheerfully submit to very great sacrifices, cannot be denied; it is for this, and this alone, that we have so long consented to them; but, as we may sometimes even buy gold too dear, so the chance of an honorable peace, and, under the present aspects, it is at best but a chance, may be purchased too high. It will be too high if it even expose to hazard and interruption the continuance of our internal union and our national tranquillity. Sir, when I speak of an interruption of tranquillity, I beg not to be

understood as being intimidated myself, or impressing others with any apprehensions of domestic insurrection, or, as it has been denominated sometimes on this floor, rebellion against your laws in any part of this nation.

Though no such idea can be entertained by those of us who are well acquainted with the people of New England, yet in justice to those gentlemen from other quarters, who have in their remarks here alluded to such a state of things, I must say that the outrageous and intemperate language which is daily held forth in most of the principal papers of a certain character in that section of the country, and the direct and open justification of forcible resistance to our laws, which they frequently inculcate, have an inevitable tendency to create in the minds of the public here, a belief that New England is vast verging to such a lamentable and disgraceful state. Sir, I have said heretofore, and shall continue to say, that all such suggestions, from whatever quarter they may come, are a libel upon the good people of New England; and however much disposed the conductors or patrons of these prostituted papers may be to plunge their fellow-citizens into acts of insubordination and open resistance to the laws of the nation, they will never succeed. The known and established character of that people is a sure pledge of their incapacity to be driven into any such desperate attempts by the arts of a few ambitious and infatuated partisans, and for the subserviency only of their selfish purposes. It is not therefore from the fear of having to meet any such state of things that I should be desirous of shaping any public measure. But there may perhaps arise a state of public feeling, through the influence of prejudice and delusions, which, though very far from either open resistance or insurrection against law, may yet be very different from that state of public tranquillity and national union which at a period of threatened hostility from foreign Powers, it is extremely desirable to cherish and preserve, when it can be done without the sacrifice of any material object on the part of the nation; and as no material object can in my view be calculated upon by a continuation of the embargo to the first day of June, which we shall not be at least as likely to attain by placing it at an earlier day, I cannot but allow some weight to the consideration which I have alluded to. If by means of the embargo we are to obtain our object with foreign Powers, of which we are not without hope, it has probably before this time had its effect, and if not, no effect can be hoped from it after its limitation shall be known, whether the period of its repeal be fixed either one month or three months distant.

So much, sir, as to the day with which it is proposed to fill the blanks, so far as it applies to that part of the resolution touching the repeal of the embargo laws. As it affects that part of it which goes to authorize general reprisals against either or both of the aggressing nations, I would remark, that even were I satisfied with the character of the measure proposed, in the present peculiar state of our affairs, I could by no means consent to this mode of taking it. In every point of view, the policy of declaring offensive war against any nation four months in advance, is to me wholly objectionable. In the first place, it is taking upon ourselves to judge of the fitness of a measure at a future time, which our successors in the next Congress can, when the time arrives, determine the expediency of, under all the circumstances which may then present themselves to them, much better than we can; and it ought to be remembered, that if the contest is then entered upon, it is our successors, and not we, who have got to carry the country through the struggle.

It is further objectionable, as its effect must be to throw the advantage of the game out of our hands and into those of our adversary; and after being formally notified, that we are determined to strike on the first of June, and not before, they must be poor calculators indeed, if they do not take advantage of us and strike first. Such a step is also eminently calculated to defeat the very object which is usually and principally intended by the measure of reprisals; which object is, as I have ever understood, to enable the citizens of an injured country to indemnify themselves for the losses which they may have sustained through the aggressions of the injuring country, or those of its subjects, out of the property and effects of the latter wherever found. It ought, therefore, from its very nature and objects, to be an operation of the moment. The blow should be struck at once, while the effects of the adversary are within our reach; but by giving public notice of our intention so long before hand, can anything else be expected than that the latter will either withdraw his property, or so protect and secure it, that the great object of our reprisals will be in a great measure defeated? Surely not.

But, in addition to these objections, as to the time proposed for the execution of this measure, I am by no means convinced that the measure itself is the next best which can be presented to us, by which to resist the aggressions of our adversaries, upon removing the embargo. It has very often been urged upon us, that the idea of a war on our part with two nations, each of whom was at the same time at war with the other, was utterly absurd and impracticable, and could not be seriously thought of; that the difficulties of such a state of things were great and serious, as it related to a direct offensive war, could not be doubted, though no one could say that the situation of a nation might not be such as to render it her duty to meet and risk it, at every hazard. At any rate, the objection to it could only be considered as having any force when applied to an offensive state of hostilities. As to defensive resistance, or a war of defence merely, it could surely be no objection to it, that it would have to be exercised against two or more nations, who might be aggressing upon either our territorial or maritime rights. These it would be our duty at all hazards to defend, as well as they could, should they be assailed by all the nations of Christendom. If all the warring tribes of savages beyond the Mississippi should

at once invade our territory, in different directions, we must meet them; and whether we fought by any rules of either ancient or modern warfare or not, repel them by our utmost means. Our maritime rights might not be capable of the same effectual defence, but, if attacked, we must resist and defend them, in some shape or other, be the assailants as numerous as they might. Such is, in some measure, the peculiarity of our present situation, and it furnished a weighty consideration why we should avoid waging an offensive war as long as possible, seeing that we could not well select our single adversary, with honor to ourselves, or without seeming to do it by compulsion of the other. But this furnished no reason why we should not resist, defensively, the aggressions of both, in the manner proposed in the resolution which I had the honor a few days since to lay on the table, and which is now regularly before this Committee. It is in fact for the reasons before suggested, that I should prefer this as the first step to hostilities, and the next best mode of interposing our resistance to our enemies. Another reason is, that it affords us another and a much more probable chance of escaping an open and general war, the calamities of which have been so feelingly described; the horrors of which, at this extraordinary period, no tongue perhaps can describe, and the end of which no man can, with any precision, calculate. If we at once issue general reprisals, (which is only another name for direct war,) the die is from this moment cast, the last hope of peace is fled, and we have nothing to do but to make the best of the contest we can. On the other hand, if we take the intermediate step—authorize defensive resistance and special reprisals, only when first assailed—we do not thereby put both the belligerent Powers up to their mettle, and place them on that point of pride from which they may fancy they cannot, consistent with their honor, recede. Such will not be the situation in which a measure of mere defensive hostilities will place the relations between us. So far from it, that, if we are at liberty to entertain any hope of a returning sense of justice from either of them, it may, I flatter myself, be calculated upon from a course of this sort. From which of them it should first be expected, it is impossible to undertake to calculate. In relation to what may be expected from one of them, no one can perhaps conjecture. But I will say, that if those who govern the Councils of Great Britain are not yet utterly overcome with a spirit of madness and infatuation, they must recede from the execution of the system which they have levelled against us, when they see that after so long a forbearance we are at length determined to risk open collisions, if they see fit to force them upon us any further. Should they then recede, there can be little doubt that France will do the same in a very short period. But, if she shall not, I think that I may safely pledge myself (for all those at least with whom I have usually acted) that they will unite as one in avenging, in the best practicable mode, those outrages upon the national honor, interest, and independence, which we have unanimously declared are not to be submitted to from any Power on earth; and which (whatever may be pretended by Great Britain) this Government has always been ready and anxious to vindicate our country against, could we have been suffered to do it with honor to ourselves, and without a seeming compulsion at least on her part towards us. The fact is, that as it respects both those Powers, their conduct has on both sides, hitherto been so utterly wanton, capricious, and thwarting towards us, that they have contrived (in the expressive language of our Minister at the Court of Great Britain) to embarrass, perplex, and confound all those measures of resistance to the aggressions of either, which they have been continually requiring us to take against each other. We choose not to take measures any more than "to give reasons upon compulsion," and we will not so take them. We will, however, I trust, defend ourselves against the depredations of both; and if they both, or either, choose to persevere in the execution of their lawless aggressions, we shall, it is hoped, become more united in our determination and our efforts to vindicate our rights, if they shall continue to be assailed.

At any rate, I am for leaving it to the wisdom of the ensuing Congress, which is to meet at an early day, to determine upon that position which the nation shall take in relation to such a state of things as may grow out of the course which I propose. They may very probably choose to enter a step further into the contest, should no accommodation of our difficulties be effected before they shall assemble. As one of that body, I shall not, at present, any further pledge myself to what extent I would then go for the protection of commercial rights, and for the interests of commercial men. After the sample which they have too generally afforded of their principles, and the treatment which this Government have received for the difficulties in which they have involved themselves, at their request, and in the vindication of those interests which these men claim as peculiarly their own, it is to be hoped every future Administration will very cautiously commit the fortunes of the country at their instigation. Like most of the members on this floor, I represent only an agricultural population. That people, though having no peculiar interest in the pursuit of foreign commerce, have been willing, hitherto, to contribute their most effectual aid in assisting their commercial brethren in maintaining their peculiar rights. But, after what has so lately passed on the part of these gentlemen, I should hardly advise my constituents that it was their duty not only to insist upon fighting all the world for the assertion of commercial rights, but even to fight the merchants themselves, as it seems they must, in order to make them also fight for their own interests. In the management and regulation of the concerns of these people, there really appears to be something which renders it at least unsafe for a legislator to pledge himself to anything specific in their behalf. In regard to the noble animal who traverses the land or roams in the forest, there is something steady upon which we may

with some safety calculate; but with respect to the wayward motions and tortuous windings of the slimy and slippery eel, who squirms in the ocean, it is impossible to calculate where or how we may best lay hold of him, or the most effectually regulate his course. On all these points, without pledging ourselves any further, I am disposed to leave it to the wisdom of our successors to put the nation in such an attitude as the circumstances then presenting shall render it most expedient.

Mr. Troup said, he wished to postpone the consideration of this subject, for, the more he reflected the more strongly was he confirmed in the opinion that, if the resolutions were adopted in any shape, they could only operate as an empty menace on foreign nations. It would not be a binding declaration on the next Congress, and could only be considered, in relation to foreign nations, as a dishonorable concession. Under what circumstances, said he, were these resolutions brought into the House? The House has solemnly resolved not to submit: has resolved to place the country in a posture of defence; has resolved on a further execution of the embargo laws; it has passed a bill for an extra session of Congress in June; and yet, having done all these acts, the course of measures is suddenly changed, and under what circumstances? Why, sir, at a moment when we are threatened with internal commotion, after gentlemen on the opposite side of the House have told you that you would not go into a war, however seriously you threatened it; after you have been told that your resolutions were nothing but paper resolutions; after gentlemen have told you that your embargo laws could not and would not be executed; we hear of insurrections in the Eastern section of the Union; we hear of what is called Constitutional opposition to the laws, of Constitutional and unconstitutional bodies for the express purpose of declaring the unconstitutionality of the laws and encouraging violent resistance and opposition to them; and yet, sir, you determine to repeal your embargo. It is not, therefore, at the foreign hostility with which we are menaced, nor yet the disturbance of domestic tranquillity with which we are threatened, that I feel the least uneasiness. I am only seriously concerned for fear that this yielding, this concession (if it be only conjectured to be a concession) to a domestic faction of any description, will end in the destruction of our Constitution and the ruin of your Government. It will be evident and incontestable, and it must grieve any man to think of it who values the liberties of his country, that your Constitution is not strong enough to stand the rude shock of faction. Gentlemen will not give themselves time to think seriously, sir. They will not divest themselves of local feeling as they ought to do. I am ready to acknowledge that this Government has been heretofore wisely administered; it has exclusively governed by the mild virtues—prudence, moderation, clemency, forbearance, and economy. These are the principles which have heretofore characterized your Administration; but, as your condition changes, will not the principles of your Government change also? When you are threatened with foreign and domestic war, does it not become you to put away your peace principles and put on the habiliments of war? In such case, will not firmness and decision of action and liberality in the expenditure of public money characterize your conduct. Certainly. If you are threatened with war, at home and abroad, the best mode of avoiding both is a vigorous repression of opposition at home, and a direct resistance of hostility from abroad. If gentlemen consider this Government in the nature of it to be a weak Government, they are mistaken. It is the strongest Government on earth both for peace or for war. The great fundamental principle on which all political institutions are built is that of obedience to law: it is the fundamental principle of your Government that the will of the majority shall govern; and that this will, when expressed, shall be executed, even at the expense of all the minority who stand up in opposition to the law, is as fundamental a principle as any. And, if the Executive fail in the execution of the law, he fails in his duty to his country. He never will fail, I am sure, and the execution of the law, I will leave to him. If he wants the ways and means give it to him; but be it your province to make the law and his to execute it. And if rebellion actually existed, it would not be for you to look to it. It ought to have no effect on your deliberations any further than you are concerned in granting ways and means for the energetic execution of the laws. I speak with deference on this subject, sir, when I recommend any specific course to be adopted in preference to any other mode; but it appears to me to adhere to the course heretofore marked out by yourselves—to go on in the course of right and justice and policy, without turning to the right or left to inquire who approves or disapproves. It is not possible that you can consent to exchange your course for the purpose of avoiding the clamor of a party. It would be the height of extravagance and folly in us to proceed in such a manner as to forfeit the esteem of a large portion of the people to oblige a minority. If nine-tenths of the people are ready to enforce a measure, you will not abandon it because one-tenth threaten to rebel against it. And what better pledge could you give of your determination to raise the embargo on the first of June than the act for an extra session, accompanied with the declarations which were made on its passage? These are the reasons—and, sir, I am sorry to make such desultory observations on so important a subject—why I would determine to continue in the old course till June, to make preparations for war in the meantime, and in June to declare that war under all the circumstances of the times.

Mr. Burwell said, as he intended to vote to fill the blank in the resolution with the first of June, he thought it proper to make some remarks on the policy which would govern his vote, and the effects which he conceived it would produce. With respect to the embargo laws, said Mr. B., I always have understood that they were to cease

in the Spring or early in the Summer. From that fact having been understood, the observation of my friend from Georgia, that we are compelled, by the state of things in the Eastern country, to take off the embargo, does not apply. The course now proposed would be pursued if those circumstances had not produced anxiety. I perfectly agree with the gentleman from Georgia that it would be improper for this House to give up a wise and just measure, because an opposition to it exists in any particular portion of the country. But, sir, the embargo will certainly produce no effect as a coercive measure as soon as it is understood that the opposition to it has become so serious as to endanger the public tranquillity. Where we enter into a contest with the Governments of Europe, which consists in patience and forbearance, it is not to be expected, when they find that a change of things is probable, that they will not persevere. They will hold out when they conceive that the measures of the Government will be changed. Nothing is, to my mind, more clear than that this will be the effect produced on foreign Governments, and that its coercive effect can only be calculated on while we have union in its support. It is a fact, owing to certain things, which have taken place in a part of the United States, that its beneficial effects have, in a great measure, been destroyed by evasions which have heretofore taken place, and which will again take place, where the people are disposed to connive at violations of the law. The effect of the measure must be destroyed, unless the Government take measures to enforce it. If the House give a pledge that it shall expire at a certain time, I feel satisfied that every man will sit down quietly and encourage the execution of the law. As to violations of the law, produced from actual suffering or pressure, I cannot bring my mind to a belief of it. I believe that the uneasiness in the Eastern country proceeds entirely from an idea that the embargo originated in an intention to destroy commerce, and to favor one foreign nation in preference to another; and that, if they had not their feelings excited by this perversion of fact, they would bear the measure as well as other citizens. This has produced this restlessness; and when a course is pursued which will do away the anxiety on this subject, I believe they will bear the measure with patience. As I am decidedly of opinion that, when the embargo ceases, if the causes which produced it do not cease, this nation must go to war, not in defence of petty commercial rights, but of rights which involve the sovereignty of the nation, I am disposed to put off the period at which it shall commence, that we may have another opportunity to appeal to the interests (not to the justice) of the belligerents, which, in my opinion, will produce a beneficial effect. What will be the effect of passing the latter part of the resolution offered by my colleague? Why, that if the orders and decrees be not withdrawn before a certain day, letters of marque and reprisal will be issued against both belligerents, or against the one which perseveres. How will this affect our disputes abroad? If France recedes from her decrees, and Great Britain rescinds her orders, of course, we shall then be at peace with both. Suppose France were to refuse, and Great Britain were to think proper to withdraw her Orders in Council, what would then be the state of things? You stand involved in a war with France, because you have pledged yourself, and you are the only branch of the Government who can make such a pledge. Mr. Canning, in his letter of the 23d of September, seems to have founded an objection to a proposition made by Mr. Pinkney, because he did not make it directly and officially from his Government, but as an expression of his opinion, that it would be agreed to by his Government. I repeat, then, that if this House will take the ground proposed, the assurance is strong that they will withdraw their Orders in Council; they certainly will, if they choose to see the United States involved in the prosecution of the war against France. I submit it to gentlemen whether it be not of sufficient importance that we should bear this embargo till the first of June, to leave to the Governmeat power to make that sort of offer, and present that result to the European belligerents. Our Administration has heretofore had no power to make such a pledge; but if the measures of Congress would authorize the President to make such an offer of alternatives, I think it would produce an adjustment.

But it is objected to as pledging the next Congress, as passing a law now to govern them when they meet. If anything should happen between now and the next meeting of Congress, would it not be perfectly competent to them to repeal the law in whole or in part? Nothing can be more clear or evident than that you will not embarrass the succeeding Congress or mark out for them a course which they will be compelled to pursue. I should be the last man in this House who would intimate anything like a new proposition to either of the belligerents, were it not for the last letter of Mr. Canning, in which he expresses a hope to Mr. Pinkney, that they shall still be able to settle the differences between the two nations on amicable terms. When they express a desire of that kind, I should always be ready to meet them. Whether the desire be sincere or not, it is not for me to say; but I am disposed to accommodate them with an opportunity of proving their sincerity. It would unite us; and this state of things, in my opinion, aided by the events taking place in Europe, will induce them to accommodate with us. Everybody knows how the hopes of the British Government and people were elated by the events taking place in Spain. In proportion as their hopes from that quarter diminish, they will feel more disposed to enjoy that commerce which they have lost by their own imprudence and illiberality. It is objected that, by this course, you will apprize the belligerents of the time when you will commence hostilities, and, by that means, will enable them to benefit of your intended measures of hostility. But, sir, it is well known that it was expressly understood that Congress is to meet here in May; and that whenever the measure of embargo is removed, some stand will be taken to avenge the injuries of this country. I will ask, if the act for an extra session is not evidence sufficiently strong of this determination? But, how could you surprise them, sir? They have no property in this country, for they have already withdrawn it. Their merchantmen are generally armed, and commence operations when you may, you will find no material change in the preparations of the belligerents.

The proposition of the gentleman from Massachusetts for arming our merchant vessels, and permitting them to wage a defensive warfare, appears to me to be the most unfortunate of all courses, if you mean seriously to defend your maritime rights. If you permit your merchant vessels to arm, they will all go out incapable of resistance; and even if they are bound to some neutral port, if any occurrence shall take place which shall compel you to involve yourself in war, the whole of your property abroad is within the reach of the British navy, and she might take a step to secure the whole floating property of the United States. That war will be the consequence, I cannot doubt, and you will commence it under every disadvantage. After your property is taken, you will fight in vain for its recovery. I think that we should either defend these rights, or give them up. If we maintain them, let us rely upon our own resources, and upon our own exertions. This will completely defeat one motive for laying the embargo, which has so far secured our property and rendered us invulnerable to the attacks of the enemy.

A gentleman from New York, (Mr. Gardenier,) who spoke on the subject yesterday, observed that you were about to take a course to deceive the people; that you were about but to continue the embargo under a different name. Now I am much mistaken, sir, if that be a fair inference from the state of things which would exist even in case of a war with Great Britain. Is it not known by every gentleman that we had a commerce even during the Revolutionary war? To be sure it was not as extensive or as lucrative as in a state of peace. But can any gentleman believe now, when our enterprise is at least as great and our opportunity greater, that our merchants could not carry on commerce better than they could then? Certainly. Nothwithstanding all the exertions of Great Britain in guarding your coast you may carry on commerce. But what does that argument amount to? Does the gentleman from New York wish, because a particular portion of the country could carry on a lucrative commerce, notwithstanding the Orders in Council, by selling their product in the British markets, that the whole interest of every other section of the Union should be given up? Are the great interests of the country to be completely given up, because one class of people would receive relief from it? Of what consequence is it to us to cultivate the soil, if we are restricted to a particular market, which, it has been shown, does not consume one-seventh of our product? Is this the policy which gentlemen think we ought to pursue? As for legislating for a particular section of the Union, the doctrine is so novel, so inconsistent with the very object of Government, that I am astonished that any gentleman on this floor should advance opinions of this sort. If we are to yield to these Orders in Council, to permit the external commerce of the United States to be taxed by Great Britain, let us go the whole length. It is not to be expected that those regulations which now exist to favor the carrying trade of a particular class of the people can be persevered in, if we are obliged by them to submit to taxation. If we are forced to submit, at least let us have our produce carried to market as cheap as we can, and not in addition to foreign taxes pay a tax at home, by way of bounty to the shipping of the Eastern States.

It has been asked by some gentlemen, what are you going to war for? A gentleman from Connecticut asks if you are going to war for the principle that free ships make free goods? Is that a candid question, sir? The United States have given up that principle as far back as Jay's Treaty. It was abandoned in the correspondence of the Secretary of State with Genet in 1794. How then can the gentleman justify it to himself in holding out to the nation that we are going to war for a principle formally abdicated? I put it to the gentleman, whether the cause of quarrel between us should be made to rest on a principle not at all in contest? Another gentleman from Connecticut says he will go as far as any gentleman in defending the honor of his country. I have no doubt of it, sir; for the gentleman by an honorable service in the Revolutionary war has already proved it. No doubt, if the gentleman from Connecticut could, like myself, believe that the independence of the nation is prostrated if we submit to these edicts, he would be as little disposed to submit to them as I am. But, sir, when he placed the question on commercial ground altogether, and left it to the calculation of the merchant whether he would pay taxes or not, I am not surprised that we differ. It is no new thing to differ about the seat of honor. But I cannot bring myself to believe that the affairs of this nation are totally absorbed in the interest of the merchant. It is immaterial to the merchant what is his situation. The risk is always added to the value of the merchandise in the sale, and subtracted in the purchase; it is always so managed as to give the merchant a profit in the end. If the whole commerce of the United States was restricted to a traffic between Philadelphia and New Orleans or Mobile, the merchant would find his profit in carrying on that commerce. But that is not a reason why the agricultural part of the community should be rendered subservient to the commercial, or that we should be saddled with a system which will be ruinous to agriculture forever, because merchants cannot now make money. I conceive the interest of agriculture to be materially connected with that of commerce—I mean free, unrestricted commerce; but I do not conceive that

it will be promoted by permitting the merchant to trade, and submitting agriculture to ruinous taxation.

Another question has been asked by the other side of the House, which deserves some answer. It is asked, what we should gain by a war with Great Britain. I do not expect, sir, that we should destroy the British navy, or invade the island of Great Britain. But we shall be very fortunate if by war we save our honor, our standing as a free nation. Let us not submit, and lose everything in a pecuniary point of view, and our honor besides; for that must be the consequence of submission. We shall be in a worse situation than Francis, after the battle of Pavia, everything will be lost. But gentlemen say, why go to war, when you have no way of operating on the belligerents? Because we will not submit to an abandonment of our rights. I do contend that we have the means. The gentleman from Connecticut (Mr. Pitkin) used a strong argument the other day to prove it. He said that your embargo, so far as it operated on the British West Indies, was a nullity, because Canada and Nova Scotia furnish them with everything they want; that the British northern provinces were the means of feeding the West India islands, notwithstanding your regulations. Now, if by getting possession of Canada, you could in that way affect other possessions and interests of Great Britain, it is important to have possession of it. The gentleman from Connecticut gave strong reasons why we ought to dispossess Great Britain of Canada, proving how we could in that way operate on her interests. It is well known, too, that the possession of that Government gives her an opportunity to operate against you, to excite not only the Indians out of our limits to direct warfare if necessary, but by merchandise and intrigue, to excite them within our own country. And though I would not risk the peace of the country to free us from evils of that kind, yet if we were forced into war, by more irresistible causes, I should certainly consider this collateral advantage gained by it important. Have we not already seen the peace and internal tranquillity of the country disturbed by their influence amongst the Indians? Certainly we have, and I wish to see an end to it.

There is another reason, sir, why the United States should view with extreme uneasiness the proximity of that country in possession of a foreign Power. It gives them means of interfering in our political concerns; and, as has been said in another part of this building, they have exerted those means in our country. To them is owing the unfortunate belief in a part of this country, that the majority of this House is actuated by improper motives. The expulsion of the British from Canada has always been deemed an object of first importance to the peace of the United States, and their security against the inroads of an enemy; however for party purposes its importance may be now depreciated. [See Journals of old Congress, June 1775, and Washington's instructions to Arnold,—*Marshall's Life of Washington, page* 315.] And, sir, whilst on this subject, I will observe, that when I hear gentlemen on the other side of the House complain of their motives being assailed, I am tempted to ask them why they are not more tender of our motives? Can they point out any individuals in the majority who are not as firmly bound to their country's good by the ties of kindred, property, and everything dear to man, as they are? I presume not; and whilst they exclaim against irritation, why do they not observe the course which they recommend to us, toward their political opponents, men who have as strong claims to courage or to patriotism as themselves? What have we been told by gentlemen on the opposition side of the House, who have charged you so repeatedly with a desire to involve the nation in a war with Great Britain? Why, sir, that you could not be driven into a war. Was it to have been expected, that after all the irritation and all the sensibility produced in certain sections of the Union by a charge that you were endeavoring to plunge the people into war with Great Britain, that a declaration of this kind would be made? I confess I was not prepared for it. Is the House disposed to verify the prediction of the gentleman from Massachusetts, that we "cannot be *kicked* into a war with Great Britain," or with any other nation? This is assigning the nation a low station in the ranks of honor; they are put out of them altogether. For I do from my soul believe that the course proposed in the resolution, if adopted, will terminate in a settlement of our differences with Great Britain; and in the present course of the world, when we have received from France so little justice and liberality, we are only restrained from renewing intercourse with Great Britain, because a renewal, under present circumstances, would not comport with our honor, certainly not with our interest. If she would enable us to renew our intercourse with her on terms which would not disgrace an independent nation, I would certainly renew intercourse with her; but I cannot do it with a nation which affects to treat us as one of her acknowledged colonies. The gentleman from Connecticut, (Mr. Pitkin,) who spoke of this subject a few days ago, furnished, I think, one of the strongest reasons why we should not for a moment admit the plea of retaliation in justification of the British orders. He told you, supposing the Emperor of China were to issue a decree declaring the British islands in a state of blockade, it would be a mere nullity. The argument is correct. And I ask in return, whether a menace so perfectly empty, so merely *brutum fulmen*, (to use an expression of a gentleman from Maryland, Mr. Key,) would justify so ruinous a retaliation as that adopted by Great Britain? It has been said that the French decree of Berlin was not of more effect than a similar decree of the Emperor of China would be. If this be the fact, and I do not contest it, how is it possible that the British Government could justify the right for that reason to take a measure so ruinous to this country? The gentleman went

on to quote the opinion of the Secretary of State and others, to prove that his position in relation to the harmlessness of the French decree is correct. I admit it, sir; and it furnishes the strongest possible reason why the claim of Great Britain should not be acquiesced in, and proves to my mind that the pretence of the necessity of retaliating was an insincere and artful profession intended to gull us, and disguise her own injustice.

The gentleman from Connecticut (Mr. Pitkin) gave us a most glowing description of the power of France; told us that all the world was prostrate at her feet, and Spain was about to be overrun by her arms. Sir, if I am not much mistaken in the view which I have taken on the subject, France is weaker now than she was before the Spanish revolution; nor, if she succeeds in the conquest of Spain, do I believe that she will be more powerful, because she formerly not only actually commanded that Government, but the Spanish colonies. The French have not received from the Spanish colonies in South America less than from twenty to thirty millions of dollars annually. As for Portugal, she was under the necessity of purchasing her neutrality at the price of six millions of dollars annually. France has lost not only that, but the Portuguese colonies also; and if we judge of the importance of these colonies by the measures pursued in England to get their commerce, we should be induced to suppose that the resources of France are seriously impaired by losing them. But granting all the gentleman's premises, what does his argument amount to? Is there any man who doubts the disposition of France to use all the influence in her power over us? Is there any doubt that if we were near France we should be attempted to be reduced under her dominion? There can be no doubt of it. We have seen such a system pursued to her neighbors, that no man can doubt it. Is not the happiness of this people sufficient to tempt this conqueror in the fulness of his power to blot from the history of the world an example which must set in the most odious colors the present situation and past history of France? There can be no doubt that every European Government must feel a hostility to this Government. It is a standing reproach to their policy, and a dangerous example to their people; though I fear, sir, that scarcely one-tenth of the population of the extensive continent of Europe know that such a continent as this exists. Yet the existence of this Government operates to produce jealousy and alarm in those Governments. Admit, I repeat, that France is so powerful, are we in any danger from France? I believe not. How could she operate on you? What has become of her West India islands? Has she been able to preserve even those from the hands of her enemy? She has not secured them, and can it be believed that she could transport a force here? I beg gentlemen to put this question to themselves: Is it possible to believe that if there was any effort made in France to attack us, we should not with one heart and hand unite against her? If there be a gentleman who feels a doubt, his reason must be under the dominion of a suspicion I do not envy, and which I should be sorry to feel for any portion of the people of my country. If this country should be engaged in a contest with France at this time, what would be the consequence of our relative situation? Every one knows that our population is increasing so rapidly as will soon give us a force sufficient to resist any effort, even the combined efforts of all Europe.

Here the gentleman's argument comes properly into view. He considers the safety of the United States as depending on the British navy, which presents a barrier to the transportation of French troops. Admit for a moment that our security against invasion does, in some degree, depend on the British navy. Does that operate as a reason why we should not resist that nation when attacked in a vital manner? Certainly not. Have we any object in view in resisting British aggression which will weaken the naval force of Great Britain? I believe not. There is not a principle which we ask of her that can affect her prosperity or interests, unless it be to make her regorge the revenue she has collected from our commerce. And are gentlemen willing to contribute to the support of the British navy, by submitting to fiscal regulations of this sort? Certainly not. Admitting, then, that the British navy is the barrier between us and France, our wishes do not go to impair the strength of her navy. They will add an additional strength to it, by giving her markets of infinite importance, and give her supplies, which will increase rather than depreciate her system of defence. But let us admit, for a moment, that the effect of our opposition to the extortion of Great Britain would be to destroy or weaken her navy. Is it possible that gentlemen could, to avoid a contingent evil from a foreign nation which injures us, consent to sacrifice the independence of our nation, and submit to present, for fear of future domination? No, sir. You would have nothing worth keeping if you lost your independence. Then let us maintain it as long as we have the means. But why should gentlemen urge that argument upon you—an argument intended to prevent anything like resistance to Great Britain at the very moment when they tell you that a war with her would be ruinous to you? They laugh at the idea of affecting Great Britain, and say she will crush you in a moment; and yet you are called upon not to resist her, lest, by so doing, you overturn or jeopardize her at pleasure, and destroy the barrier between you and France. I ask gentlemen if these arguments do not destroy each other? I really have listened to arguments of this sort with astonishment; that gentlemen, in one breath, should say that you can do nothing to injure Great Britain, and, in the next breath, caution you against proceeding in your operations against her, lest you should create a degree of pressure which shall destroy that invincible Power whom you cannot touch. But it has appeared to

me that this very argument which has had a great deal of weight in the nation; which has cooled many who would be disposed under other views of the subject, to defend the rights of the nation, is utterly out of the question. The gentleman says, that commercial restriction is useless; that if you prevent foreign nations from coming to your custom-house, they will smuggle. Sir, the only means by which Great Britain can be vitally attacked or destroyed, is by this sort of regulation, which the gentleman says is nothing. The mode in which the commerce of Great Britain is attacked on the continent of Europe, is by excluding her commerce from the ports of that country. If so—and the gentleman says it is harmless—how is the existence of Great Britain endangered by this formidable combination on the Continent? And yet, sir, I understood that to be the drift of the gentleman's whole argument. As for the commercial resources, capital, and money, which that nation has to sustain itself against any other nation, nothing is more clear to me than that she possesses them now as much as ever she did. I consider her more safe, infinitely more safe, than she ever has been; that she is in no sort of danger. That argument may be retorted on me, and I may be asked why would I contend with a nation which I admit to be so strong. I shall certainly admit that we could not destroy the British navy, or coerce her to any terms that would be degrading to herself; nor would I ever wish it. While I feel for the honor of my own Government, I should never wish that any Government should commit its rights to any demand of the United States.

The gentleman from Connecticut, (Mr. Dana,) yesterday seemed to be much at a loss to conceive how the United States could enter into the triple war. The gentleman placed the subject in a laughable point of view, and I was certainly amused by his wit, though not convinced by his arguments. But, sir, if we were to commence hostilities against both these nations, would any man believe that the war against both would continue for any length of time? Certainly not; there can be no doubt that one of them would meet you on such terms as to enable you to carry on the combat against the other till your rights were acknowledged. The gentleman ought to have recollected, when he combatted this idea of fighting neutrally, that it originated on that side of the House. What has been the complaint on that side of the House? Why that we did not maintain our neutrality by making our commercial measures operate with strict impartiality against both of the belligerents. If our measures operate equally on both, it will have proved that we were not more hostile to one than to the other, and thus one strong source of objection to our measures will be removed.

I do call upon gentlemen on the other side of the House most seriously to consider this proposition, and to view it in the aspect in which I have presented it. If I know myself I am sincerely anxious to preserve peace with both these belligerents. I do believe that the result which I have mentioned would follow the course proposed to the House; that if France would recede from her decrees your peace would be settled with both; that England would then revoke her orders of course, as the only ground on which she has ever placed them would be removed. If France refuses, it will enable the British Government to accommodate with you, to make you her friend, and throw you in the scale against her enemy. If gentlemen view the subject as I do, they will conceive that there is but one course proper to be pursued; to persevere in the embargo till this intelligence of our determination can have reached Europe, and an answer be received. For, if you take off the embargo to-morrow, whether the House determine to defend its rights by defensive war, or enforce them by offensive war, the effect which I propose will be destroyed; because, if you take off the embargo, I shall be egregiously mistaken if we are not involved in war in six weeks or two months, and a war too in which you will lose all your property on the seas at one sweep. I think, therefore, that gentlemen seriously disposed to cultivate peace with those nations will enforce the embargo; for, if it be not enforced, I too shall be for taking it off. The state of things in Europe now is particularly favorable to this appeal; and I am convinced that such is the respect which gentlemen owe to the people whom they represent, some course must be taken to support our rights, and not by submission endanger the peace and independence of this country forever. I have expressed my views, sir, of the subject. The House will decide for themselves, and take the course which they think best. If they determine to take off the embargo on the 15th February, or any other day before the first of June, however I may lament it, I will co-operate in taking other measures.

Mr. Van Dyke.—I am in favor of that part of the resolution now under consideration, which relates to the repeal of the embargo. It is probably known to most gentlemen in the House that I was not originally an advocate for the system of retiring from the ocean. It so happened that I was not present when the vote on the first embargo law was taken, and of course the Journals do not record my disapprobation of the measure; but I do not hesitate to declare that such a law, without any limitation as to its duration, would never have been sanctioned by my voice. However, after Congress, in their wisdom, had adopted it, my sincere wish was that it should receive a fair and satisfactory experiment, and I was willing to give my support to the full and honest execution of the measure, in the hope that some good might result from it. To me and to my constituents it would have been grateful if our wrongs could have been redressed, and our rights secured by a plan of operation so pacific. To the proposition, therefore, submitted at the last session for amending the original law, on the ground that such amendment was necessary to insure a fair trial of the experiment, I did not oppose my vote.

During the present session, there has been introduced into this House from the Senate, and passed, a bill, for enforcing the embargo, many provisions of which, in my opinion, far exceeded the limits of our Constitutional powers, and against which I was obliged by a sense of duty to raise my feeble voice. That bill, however, was approved by a majority, and is now in operation, and under these circumstances it is submitted to the wisdom of Congress to decide whether the system shall be continued, or repealed on the first day of June next, or at an earlier period. From the best consideration which I have been able to give the subject, I am satisfied that a postponement of its repeal until the first day of June next will be opposed to the best interests of the nation. I am not going upon the principle that any part of the Union is in a state of rebellion, as some gentlemen have intimated, nor upon the ground that it will be necessary to send an armed force to shed the blood of our brethren, in order to execute the law, (as some seem to apprehend,) but upon the broad principle that the embargo system has effected all the good that its warmest friends can ever rationally expect to reap from it. That its pressure upon the people of the United States is unequal and partial; that the hope of coercing the belligerents by it is vain; and that its further continuance will operate wholly to the injury and oppression of our own citizens. Sir, if we credit intelligence stated by gentlemen on this floor to be received, as well from the Southern as from the Northern and Eastern sections of the Union, we cannot doubt that the measure has already become so extremely unpopular, that the law is eluded and violated in such a manner, that our produce is daily exported, and the nation whom you expected to coerce and bring to your feet by the embargo is, in despite of all your vigilance and all your penalties, reaping at this moment a rich harvest from your commerce, by the agency of many of your own citizens. In truth, sir, if we look at home, we see the honest, the conscientious man, who obeys the law, suffering a very heavy loss, while the man who disregards and violates it, cannot fail to be rewarded with a rapid increase of wealth. If we extend our view across the Atlantic, we find the Emperor of France applauds our magnanimity in abandoning the ocean, and Great Britain laughs at the imbecility of the measure. My judgment therefore tells me that it is time to remove such a system; and I should cheerfully concur in a proposition for its immediate repeal; but as that course does not meet the sentiment of the majority, I am compelled to choose between the first day of June and fourth of March. The same reasons which weigh in favor of an immediate repeal, will induce me to give my vote for the earliest day that is proposed.

I must now claim the indulgence of the committee while I examine the second branch of the resolution, proposing to issue letters of marque and reprisal against Britain and France on the first day of June next, unless they revoke their orders and decrees. This proposition involves a question still more deeply interesting to the nation than that which I have just noticed; a question of no less magnitude than that of peace or war. No honorable gentleman will deny that issuing letters of marque and reprisal is an unequivocal act of hostility, leading directly to war, and usually its immediate precursor. This is extremely different from authorizing our merchants to arm their vessels and defend themselves when engaged in lawful commerce, against the unjust attacks or illegal restraints of the belligerents, for it is the employment of a hostile force, with express authority from the Government to capture and make prize of any property of those nations that may happen to come within the power of the person bearing such a commission. It is in effect tantamount to a declaration of war, and will never be adopted by prudent statesmen, unless they are prepared to meet the last appeal, for you have no reason to calculate upon the forbearance of your opponents, a moment after they are apprized of your taking such a course. If actual war is resolved on, I should deem it much more politic to begin seriously that active, efficient preparation which ought to precede it, and when we are ready for the contest, tell the nation and the world, that war exists, and thus let every man in the country know what he has to depend upon.

What is our present condition? Without an army; without ships; with a scanty supply of ordnance and military stores; our cities and towns, on the seaboard, naked and unprotected, and the National Treasury all but empty. Will it be wise, will it be prudent in this situation, on the first day of February, to give formal notice to your adversaries, the two greatest Powers upon earth, that you mean to go to war with them on the first day of June next? Sir, we ought to calculate well the effect of such a proceeding; for in my view it is placing the nation in the worst possible situation. This Congress will be dissolved on the fourth of March; you can take no further warlike measure from that day, until the next Congress shall assemble late in May, and in the mean time your enemy, apprized of your intention, is invited by the certain prospect of gaining an advantage, to make the first stroke. The course is equally novel and extraordinary. You are bound; but your adversary is free to act whenever his inclination or interest may dictate. You will place everything at hazard without the possibility of reaping any benefit, for I cannot believe that such a threat will aid negotiation, by alarming the belligerents, or that they will be inclined to lend a more favorable ear to our just remonstances, under the influence of such a measure. Sir, the question is not whether we have just cause of war against those nations; for every American will agree that the conduct of both has long furnished ample cause for an appeal to arms; but the true question is, whether, having so long forborne, it will be most advisable at this moment to declare our intention to wage war at a future day? In my opinion we shall act more like wise politicians, by not making such declaration at present, and by leaving our suc-

cessors at liberty to act in May next, as their wisdom and judgment shall direct, from a full view of our foreign relations, as they may then exist.

When the subject of war is presented for deliberation, it cannot be improper to inquire a little more particularly into the state of our foreign relations than has yet been done, in the discussion which has taken place. We have become so habituated to rail against the French Decrees and British Orders, violating our lawful commerce and neutral rights, that we seem in a great measure to have lost sight of our situation with respect to the belligerents, prior to the adoption of those unjust measures, under the immediate pressure of which we are now suffering. The history of those decrees and orders is concise and easily understood. With France we were at peace, and our commercial rights were guaranteed by a solemn treaty, in full force, when His Imperial and Royal Majesty, trampling under foot the law of nations, and setting at defiance the national compact, undertook by his famous Berlin Decree of 21st November, 1806, "to declare the British islands in a state of blockade," "to prohibit all commerce and correspondence 'with them," and "to make all merchandise be-'longing to England or coming from its manu-'factories and colonies lawful prize." Thus attacked, Britain claims the right of retaliation against her enemy, and by her Orders in Council undertakes to counteract his decrees; and thus, although each declares that the blow is aimed only at the enemy, our rights as a neutral nation are violated and our commerce is destroyed; and we are brought into a state of collision with both belligerents. In this situation it seems natural to review the diplomatic scenes which were acting between the British Government and the Administration of this country, prior to the date of the Berlin Decree, and impartially to consider whether we have not omitted to take advantage of the most favorable moment for adjusting many important subjects of negotiation, or committed some errors which now tend to increase our difficulties and embarrassments with that Government, and whether there was no honorable course by which we might have avoided the present collision. Such a review, when taken with candor, may be useful, and cannot, I trust, produce any evil consequence in our foreign relations.

With a sincere desire of ascertaining truth on this point, I have bestowed some attention upon the documents which the President was pleased to lay before us during the last session, and which we are to presume contain a correct and authentic history of those transactions. I have not examined them with a jaundiced eye, nor shall I attempt in any point to magnify or extenuate the facts that have presented themselves to my mind, as worthy of the attention of the Committee, in connexion with the subject of our foreign relations. The motives of the Executive make no part of this inquiry; it is the public act, and the consequences flowing from such act, to which as statesmen we should direct our eyes.

As infallibility is not an attribute of our nature, I shall certainly not surpass the limits of my representative duty, when I state that it is not only possible, but very probable, that our Administration may have committed some errors, and if we look carefully into those documents, perhaps we may discover that a part of our embarrassments are the consequence of such errors. In adverting to the facts to which I refer, I shall, to avoid any mistake of language or sentiment, read a few extracts from the documents themselves.

It will be recollected by the Committee that the Treaty of 1794, with Great Britain, so far as it relates to commerce, expired on the first day of October, 1803, by which the commercial intercourse of the two countries was left to the regulations which the parties separately might think fit to establish. On the fifth of January succeeding we find a letter addressed by the Secretary of State to Mr. Monroe, our then Minister at London, accompanied by the plan of a convention between the United States and Great Britain. On 5th March, 1804, we read the extract of a letter in which the Secretary, after noticing the expiration of the commercial part of the Treaty of 1794, and making some observations on the state of commerce between the two countries, proceeds in these words: "These observations are 'made not with a view to any negotiation what-'ever, leading at the present moment to a treaty 'on those or any other commercial points," &c.; as a reason for not pressing which the particularly delicate situation of Great Britain at that critical moment is assigned. From this letter, I understand the Executive forbade our Minister from negotiating any treaty until further orders; and it is not discoverable that any other communication was made upon the subject until the sixth of March, 1805; under which date we find the extract of a letter from the Secretary containing these words: "The experience of every day 'shows more and more the obligation on both 'sides to enter seriously on the means of guarding 'the harmony of the two countries," &c. By this letter an injunction is laid on Mr. Monroe to enter seriously upon the subject of negotiation, and we find Mr. Monroe did accordingly engage seriously in that important trust. By adverting to a letter from him of date April 5th, 1804, we discover that, at the first interview between Lord Hawkesbury and himself, his Lordship "went so far as to express a wish that the principles of our Treaty of 1794 might be adopted in the proposed convention, where they applied;" but Mr. Monroe "gave him to understand he could not, according to his instructions, accede to the idea." In perusing the next document, Mr. Monroe's letter of 7th August, in the same year, we are expressly informed that Lord Harrowby unequivocally offered to renew the Treaty of 1794. What says that letter?

"He asked how far it would be agreeable to our Government to stipulate that the Treaty of 1794 should remain in force until two years should expire after the conclusion of the present war? I told his Lordship that I had no power to agree to such a proposal."

As the negotiation proceeded, and it was discovered that obstacles and difficulties more serious than had been at first apprehended arose, we discover that the British Commissioners, in August, 1806, repeat the offer which had been previously made, for, in the letter of Messrs. Monroe and Pinkney, dated September 11, in that year, they state in these words:

"In the course of this conference Lord Auckland renewed a proposal which he had glanced at in our first interview, that the Treaty of 1794 should be made the basis of the present negotiation."

This was rejected. I am, therefore, authorized to assume the fact that, during the negotiation, an explicit offer was repeatedly made by the British Government to renew the Treaty of 1794, and that offer was as often rejected by our Executive; and we may well pause and consider whether in rejecting that, without being sure of making another at least as good, a very serious mistake has not been committed? What were the insurmountable objections to that treaty, which induced the Executive to put everything at stake between the two countries rather than continue it during the war in Europe? It is true, the claim of the British Government to take British seamen and deserters from our merchant vessels is not abandoned by that treaty; but the renewal of it did not prevent us from pressing that subject by negotiation, for we shall see, in the further examination of the documents, that the British Commissioners were willing to proceed with the discussion of a plan which should have for its object satisfactory regulations effectually to secure American seamen. Had our experience of the operation of that treaty alarmed us? Was our country ruined, or in danger of being ruined by it? No, sir; we reaped many and important advantages from it; and our country flourished beyond all example. Let experience, the only true test of merit, answer. If we look back to the years 1793–'94, we shall discover that our country was then threatened with war; the treaty was formed, and, notwithstanding all the noise and clamor against it, which assailed the Administration, the wisdom of the Senate and the intelligence and firmness of WASHINGTON secured to the people, by its adoption, many years of unparalleled prosperity and happiness. Yes, sir, under the auspices of that treaty were laid, by the Father of his Country, the foundations of the Temple of Peace, which was erected by his patriotic hands, and whose magnificent dome was supported by the sound pillars of national faith. At its entrance were seen the cheering emblems of plenty; and within you beheld the Genius of Liberty, in majesty, dignity, and resistless power, guarding the choicest gift of Heaven to a free people, "the Constitution," yet unviolated by the ruffian hand of military force. In this fair temple the arts and sciences, commerce and agriculture greeted each other, and worshipped in harmony together. Thus stood the splendid edifice, surrounded by a band of brothers, united by mutual confidence and affection, the pride and glory of America, exciting the admiration and commanding the respect of the world. Under the protecting influence of that treaty commerce unfurled her sails in every quarter of the globe, and brought to our shores the rich reward of industry and enterprise. Agriculture flourished, giving a happier aspect to our country by its progress in improvement. Then, indeed, the husbandman hailed with joy his golden harvest; for each succeeding harvest insured to him a golden reward for his labor. Individual wealth increased, and the national treasure was greatly augmented. Is the picture, which I have drawn, too highly colored? I believe not; consult the history of those times, and you will be convinced that all those advantages were enjoyed by this happy country under that treaty, and it is not less evident that those blessings have been gradually disappearing ever since the day that it expired. Mark the contrast which the history of this day presents, and judge whether very serious consequences have not followed from the refusal to renew that treaty. What is our present situation? You behold commerce palsied, agriculture drooping, distress and ruin stalking over the land, and civil discord raising her fiery head, more terrific than all the hosts of Europe. The foundations of the Temple of Peace are sapped, the building totters on the brink of destruction, and, from the present prospect, I shall think the nation fortunate, if we can save the Constitution from being buried under its ruins.

It is true that, in a certain event, the refusal to renew the Treaty of 1794 would not have been injurious to the nation; that is, if the Executive had succeeded in making a more beneficial bargain; but in this, unfortunately, his hope and expectation failed. I grant you, sir, that no preceding Administration ever enjoyed so promising a season for favorable negotiation; for, sir, we had the opportunity of addressing the ear of the patriotic Mr. Fox, united with a Ministry of similar political sentiments, composing just such a cabinet as we should have elected to treat with; a Ministry who, Mr. Monroe and Mr. Pinkney inform you in every letter, profess the most friendly disposition, and are sincerely desirous to settle all matters in difference between the two countries upon fair and just principles. The opportunity, I repeat, was the most auspicious; the prospect the most flattering that we ever enjoyed for such a purpose. Let us trace from the same authentic source the history, the progress, and the issue of the business.

It is well known to every man in the nation that ever since the acknowledgment of our independence, our Government has, at every opportunity, pressed upon the cabinet of Great Britain the abandonment of a practice which is certainly embarrassing to our commerce, and from its abuse has been in many cases extremely injurious to our own citizens. I mean the right which that Government claims of taking from the merchant vessels of other nations British seamen and deserters, and which has always been tenaciously insisted upon by Great Britain on the ground as she alleges of self preservation. It is true that

during the present Administration, in the year 1802, Mr. King, our then Minister at London, succeeded so far as to obtain a relinquishment of the practice on the high seas, but could not obtain an extension of it to the narrow seas, and of course the project of arrangement then failed. This fact is stated in the letter of the Secretary of State of 3d February, 1807. By recurring to the instruction sent to Mr. Monroe for opening a negotiation with the British Cabinet in 1804, the first and most prominent feature is the same long controverted point, which is not to be made the subject of regulation or arrangement, for the broad principle of that Government, abandoning altogether the right of taking even her own seamen or deserters from our merchant vessels, is insisted on as the great ultimatum or *sine qua non* of any treaty. I agree, sir, that if this point could have been obtained, it would have been a very brilliant victory in the field of negotiation, at which the nation would have rejoiced, and with which no man would have been more gratified than myself. But such a victory was not to be expected. For the correspondence of your Ministers inform you, that notwithstanding all their exertions and their skill to gain that point, they found it beyond the reach of negotiation, and they disclose to you the reason which is frankly avowed by the British Cabinet, and which is stated in the letter of Messrs Monroe and Pinkney of November 11, 1806, in these words: "At 'our meeting the next day the British Commissioners stated, explicitly, but in a very conciliating manner, that it was not in their power 'to adopt an article in the spirit of our project; 'that the Board of Admiralty had been consulted 'on the subject as had also been the Crown officers 'in Doctors' Commons, who all united without exception in the opinion that the right of their Government in the case in question was well founded, and ought not to be relinquished. They 'added, that under such circumstances the relinquishment of it was a measure which the Government could not adopt without taking on itself 'a responsibility which no Ministry would be 'willing to meet, however pressing the emergency might be." The result, sir, is known; an informal arrangement was made, by which our Commissioners say, "we place the business 'almost, if not altogether, on as good a footing as 'we should have done by treaty, had the project 'which we offered them been adopted." This informal arrangement on the subject of impressment being thus made, a treaty is concluded and signed by our Commissioners, 31st December, 1806, and transmitted to the President with their explanatory letter of January 3d, 1807. In that letter our Commissioners again speak of the informal arrangement for the protection of our seamen, and declare their opinion, 'that although the British 'Government did not feel itself at liberty to relinquish formally its claim to search our merchant vessels for British seamen, its practice 'would nevertheless be essentially, if not completely abandoned."

These, sir, are the observations of our own Ministers, from which it is plainly to be inferred, that no talents, no exertion of diplomatic skill, no ingenuity of argument whatever, could induce the British Government to submit to an abandonment of their claim. It is the same answer which has been invariably given to all our applications on that subject. That Government always declares its willingness to enter into any regulations for the full and effectual security of our seamen, but at the same time candidly informs you that no Ministry could survive the surrender to you of the principle or right of taking their own; and of this our Administration have for a number of years had pretty strong evidence, derived from actual experiment. The treaty thus concluded, and thus explained by our Commissioners, is received by the President, examined and rejected, because the claim of impressment is not formally relinquished, and because in other particulars it does not come up to his sanguine expectations. Sir, in the observations which accompany its return to our Commissioners, it is acknowledged that "the change 'made by the third article in the provisions of 'the Treaty of 1794, relative to the British possessions in India," is not as favorable as it stood in that treaty. By referring to the explanatory letter of our Commissioners, we discover why that change was made; because the British Government will not consent to grant us in the new treaty as favorable terms of trading to their India possessions as we enjoyed under the Treaty of 1794, which they had so repeatedly offered to renew. This is full and satisfactory evidence that, after rejecting the Treaty of 1794, our Administration have not been able to make as good a bargain in a very important point, the India trade, even under circumstances most propitiously favoring their attempts.

Does the Executive charge our Ministers with a want of skill, exertion, or fidelity, in the discharge of their important trust? No, sir; read his declaration in the letter which the Secretary addressed to them on returning the treaty: "The 'President has seen in your exertions to accomplish the great objects of your instructions ample 'proofs of that zeal and patriotism in which he 'confided, and feels deep regret that your success 'has not corresponded with the reasonableness of 'your propositions and the ability with which they 'were supported." And yet in the same letter we find again expressed the fixed determination of the President "to decline any arrangement, formal or informal, which does not comprise a pro'vision against impressments from American ves'sels on the high seas." Thus repeating and insisting upon that point as the ultimatum in any treaty arrangement.

In this manner the Treaty of 1806 was rejected by the President, without condescending to advise with his great Constitutional Council. What would have been the result of the negotiation had the treaty been submitted to the consideration of the Senate it is impossible to divine; whether the united wisdom of the President and Senate would have been able to effect such a compromise

and arrangement of the points in controversy as to be mutually satisfactory must remain forever unknown; but one fact may be assumed, that the advice of the Senate upon a subject so deeply interesting to the people, could not have placed the nation in a situation more embarrassing than our present. The history of the ratification of the Treaty of 1794 furnishes an example of the suspension of an objectionable article and the acquiescence of Great Britain in the adoption of the residue, and shows that a spirit of conciliation in that instance produced the happiest result. But if the great ultimatum broadly insisted upon by our Executive, be adhered to, probably no Administration can ever make a treaty with that nation. The British Government tells you that it cannot surrender the point in controversy without endangering its very existence, and that no Ministry can abandon it in the latitude that we require. How then can you calculate upon better success while that Government is able to defend itself? Can you rationally expect more than what is offered? "to adopt some liberal and 'equitable plan for reconciling the exercise of 'what that Government deems a right essential 'to its existence with the just claims of the United States and for removing from it all cause of 'complaint and irritation." The object which we have in view is the security and protection of our own citizens; this it is the duty of our Government most strenuously to insist upon, and if negotiation will not effect it, an appeal may safely be made to the spirit and feeling of the nation to defend it. But if that object can be obtained by honorable negotiation, I am much deceived if the people will consent to stake their peace and happiness in a contest to protect British seamen and British deserters, who may be employed on board our merchant vessels on the high seas. But, sir, was the security and protection of our own seamen abandoned by our Ministers in the late negotiation? If we credit them, they never lost sight of that object. It is true there appears no stipulation in the treaty upon that point, because they were bound by their instructions not to treat formally, but on the principle of an unqualified abandonment by the British Government. But the explanatory letter of our Ministers and the subsequent letter of Mr. Monroe of 28th February, 1808, gives us reason to believe that the arrangement was at least worthy of experiment; especially as that point (as well as our claim for illegal captures) was left open to future discussion, and was placed, as Mr. Monroe informs, upon such a footing as to give our Government the command of the subject. His words are these: "We were there'fore decidedly of the opinion that the paper of 'the British Commissioners placed the interest 'of impressment on ground which it was both 'safe and honorable for the United States to admit; that in short it gave their government the 'command of the subject for every necessary 'and useful purpose." If his opinion be correct; if that question was placed upon ground both safe and honorable, and left in such a situation that our Government had the command of the subject, would not such an arrangement be satisfactory to the nation? Would it not have been wise at least to try whether the practice would correspond with the theory? In my opinion, sir, it did merit the united deliberation of the Senate and President before the determination was taken to reject that treaty, and attempt to renew negotiation upon points so long and so ably discussed. The issue of the affair corroborates this opinion, for when the treaty was returned, a change of Ministry having taken place, so far from acceding to the proposition of proceeding again to discuss the points to which the President objected, Mr. Canning readily acquiesces in the rejection, and informs us, that as we had not accepted the convention, the whole subject must be resumed when leisure may permit. It therefore yet remains uncertain whether a more favorable treaty will ever be obtained.

But, sir, suppose either the Treaty of 1794 had been renewed or the late negotiation had been conducted to an amicable issue, and we had with promptness and energy resisted the Berlin decree, which outraged the law of nations and trampled upon a solemn treaty, is it probable that our country would, at this time, have been reduced to the dilemma stated in the report of your committee, of submitting to a ruinous embargo, or waging war with two powerful nations? Sir, in my opinion, we should not have been engaged in war with either, for the mode of resisting that decree was plain and easy, by authorizing your merchantmen to arm and resist any unlawful attacks upon your commerce. This plan would have prevented war, and protected our lawful trade, without embarrassing our Government, or compelling it to take part with either of the belligerents.

From this review of the history of our negotiation since 1803, it appears to me that we have committed errors of no small importance as they regarded the interest of the nation. Should the Orders in Council be repealed to-morrow, our commercial intercourse with Britain would be in the same situation as in 1804, and the whole ground of negotiation must be again travelled over. Connected as we are by commerce with Great Britain, it is impossible for us to continue friends long without some commercial regulations; the sources of controversy are too numerous; the points of collision are too prominent. Such is our situation with respect to that Government—and what is the remedy prescribed by our political doctors? Nothing less than war. Yes, sir, we are called upon to indulge our passions and resentment in idle menaces, by declaring to-day that we will go to war in June next. I hope, however, while we indulge our feelings, we shall not forget our want of preparation, or lose sight of the principles of our Government. Ours, sir, is a peace Government, and is not well calculated for offensive war. Its spirit, like the benign spirit of Christianity, breathes peace and good will to all men. Whenever the occasion for trying its energies may happen, it will be found weak or strong, according to circumstances.

I will illustrate my idea. In a war of defence against [illegible] force of the nation will be spontaneously exerted, and every man becoming identified with the Government, the impulse will be irresistible, and we shall then want only a skilful commander-in-chief, to direct with judgment the physical force of an united people. In a war of enterprise or offence, our Government will be weak, unless the cause of war addresses itself strongly to the feelings of the great majority of the people, and the necessity of it to vindicate the essential rights and honor of the nation is plainly discerned; and for this obvious reason, you cannot raise a regiment, or man a gunboat, without voluntary enlistment, or provide money, (the very sinews of war,) without the consent of a majority of the people, expressed by their Representatives. Before we declare war, or adopt a measure which leads directly to that event, we ought to be well assured that the great majority of the nation are ready and willing to unite in the contest; a fact of which, at present, I really entertain strong doubts, excited by the language of memorials on your table, and information daily received from different parts of the Union. I know we can conceal our errors from the view of the people for a season by a declaration of war. The still small voice in which they address the understanding will be unheard amid the din of arms, or drowned amidst the groans of the hapless victims of war. They will be lost in the blaze of our burning villages, or obscured by clouds of smoke ascending from the funeral piles of our devoted cities. But let me ask this House, or rather let me ask the nation, whether they are prepared to bring their peace, their happiness, their treasure, and their blood, and present them all as an offering to atone for the errors of the Administration? Will nothing less than such a sacrifice expiate those errors? I trust some other equally honorable and infinitely less costly will yet be found. Sir, I am convinced that no honorable gentleman within these walls would advocate war to cover those errors, and therefore I cannot impute to any one such a motive.

Perhaps, sir, when I state my unwillingness at this moment to declare war against Great Britain and France, or to adopt the plan of marque and reprisal, I shall be asked if I mean to submit to their unjust orders and decrees? I answer no. I hope the idea of submission has never been entertained in this House. I trust, sir, that the term "submission" is not found in the vocabulary of an American statesman. It is true that the Committee of Foreign Relations, in a detailed report, after reciting our wrongs, has informed us that we have only to choose submission, embargo, or war with both nations. With all due deference to the superior judgment of that honorable committee, I must beg leave to enter my protest against their inference; and as they have given us the premises, I shall probably be pardoned, if I venture to consult my own understanding and draw my own conclusions. I cannot perceive how it can well be called submission for our merchants if they please to trade with Great Britain or France, or any other part of the world, notwithstanding those orders and decrees.

By submission, is understood the doing under coercion that which is commanded, or the refraining from doing that which is forbidden. France says, we shall not trade with Great Britain, and Britain, in return, says, we shall not trade with France.

The whole tenor of the orders and decrees, as applicable to this question, is negative or prohibitory. If, then, our merchants being at liberty to stay at home, or to go to France, do actually go there, that act is clearly not submission to the decree of the Emperor, and being contrary to the British orders, certainly is not submission to them. And, on the other hand, the voluntary trade to Great Britain is not produced by the British orders, and is against the French decree; and equally clear it is, that our trade to India, Spain, Portugal, and many other places, might be carried on without the least imputation of submitting to the will of the belligerents. As to embargo, that, in my view, savors more strongly of submission; the nation, however, is weary of it, and I trust the wisdom of Congress will grant them seasonable relief from its pressure, without adopting the third alternative insisted on by the committee.

If the embargo is raised on the 4th of March, its full force will, by that time, be felt by the belligerents, and they may probably then be inclined to do us justice, and our trade be permitted to resume its natural channels. The British Government, moved by the impulse of its own interest, and taught, by our patriotic submission to embargo for fifteen months, to appreciate the value of our friendship and commerce, may yet listen to the voice of reason, and yield to an honorable adjustment of our differences; and of such a disposition. Mr. Canning's last letter gives a pledge. As we have forborne so long, and endured so much to preserve our young and growing nation from being drawn into the vortex of European wars, I hope we shall not close the door of negotiation at this moment, but leave the succeeding President at liberty to use such means as his wisdom and patriotism may suggest to secure the rights and honor of his country. The object is at least worth the experiment. Should he succeed in the attempt, his reward will be great—no less than the grateful applause of his fellow-citizens. I would, therefore, do no act which may tend to increase the difficulties with which the interesting subject of our foreign relations is already embarrassed. Sir, a very important consequence will, in any event, result from this course—for, if justice is denied us, the nation will be convinced that war is necessary. It will tend to harmonize the public sentiment, and unite all in the common cause. For my constituents I can answer with confidence, that whenever Congress shall declare that war is necessary to protect our rights, or vindicate our national honor, they will rally around the standard of the Government, and present their breasts as a bulwark for their country. The report of the committee to which I have referred, speaks of war with both the belligerents; this proposition has more of sound than substance; it deserves some attention, and a few remarks will show its fallacy. No man will say that we can come into contact with France, and perhaps that is for us a most fortunate circumstance. As it regards her, therefore, the declaration of war would be merely nominal. But with Great Britain we might have a real and a serious warfare. Mark the consequence. The Emperor, by his decrees, wishes to reduce Britain by cutting off her commerce. We declare war against Britain, and thus the object which he aimed at will be accomplished. Do you doubt, sir, after reading Mr. Champagny's letter, in which the Emperor not only tells us we ought to go to war with Great Britain, but even ventures to declare war for us, that such a state would be extremely gratifying to him? Sir, we know well that such is his wish, and it becomes us to act with caution and circumspection; but we may be taken in his toils. From every view, therefore, which I can take of the subject, my mind is fully convinced that we ought not, at this time, to adopt the second branch of the resolution.

When Mr. VAN DYKE had concluded—

Mr. DAWSON moved to postpone the farther consideration of the subject indefinitely. The House adjourned without coming to a decision on the motion.

THURSDAY, February 2.

On motion of Mr. BURWELL, the House proceeded to consider a resolution proposed by him, and ordered to lie on the table, on the first instant; and the same being amended on the several motions of Mr. MACON and Mr. MARION, to read as follows:

Resolved, That the Clerk of this House be instructed to furnish the Librarian of Congress with two complete sets of the Journals and all Documents and Reports laid before Congress at each session:

A motion was made by Mr. DURELL, farther to amend the said resolution, by adding, to the end thereof, the words following: "and to transmit to the Secretary of each of the States in the Union, and of the Territories thereof, one such set for the use of said States and Territories, respectively."

And on the question that the House do agree to the said proposed amendment, it passed in the negative.

A motion was then made by Mr. STANFORD, that the said resolution, as amended, and herein before recited, be referred to a select committee, to consider and report thereon to the House: and the question being put thereupon, it was resolved in the affirmative.

Ordered, That Mr. BURWELL, Mr. STANFORD, and Mr. ELY, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations to complete the fortifications commenced for the security of the [illegible] port towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi the canal of Carondelet," with an amendment; to which they desire the concurrence of this House. The Senate have also passed a bill, entitled "An act to provide for the incorporation of religious societies in the District of Columbia;" to which they desire the concurrence of this House.

PRESIDENTIAL ELECTION.

Mr. BACON called for the consideration of the resolution offered by him on Monday, for appointing a joint committee to examine the subject of the petitions against the mode in which the late election of Electors of President and Vice President of the United States, by the Legislature of the State of Massachusetts, was conducted.

Mr. RANDOLPH wished the resolution to lie on the table, that the members of the House might have an opportunity to take it into their most serious consideration. He said it appeared to him that, under color of a redress of grievances, the resolution might go in a very alarming and dangerous manner to enlarge the sphere of action of the General Government, at the expense of the dearest rights of the States. In what manner, asked he, is the General Government constituted? We, as one of the branches of the Legislature, are unquestionably the judges of our own qualifications and returns. The Senate, the other branch of the Legislature, is in like manner the judge, without appeal, of the qualifications of its own members. But with respect to the appointment of President—on whom is that authority devolved in the first instance? On the Electors, who are to all intents and purposes, according to my apprehension, as much the judges of their own qualifications as we are of ours; and it appears to me as competent to the people of any part of this country, to prefer a petition to the Electoral College to set aside the returns of any members of Congress, as to prefer petitions to this House to set aside the qualifications of Electors. True it is, sir, that for the convenience of the thing, and also for the prevention of cabals and intrigue—such, however, was the intention of this provision; how far it has answered that purpose is another question—the Electors assemble in separate divisions in the respective States; but they are to be considered, to all intents and purposes, as a body of men equal in number to the Senate and House of Representatives, charged with the election of the President and Vice President of the United States, and judges in the last resort of their own qualifications and returns. If not, they are a mere nullity. Sir, when I rose I had no intention of saying thus much on the subject; I did not dream that it would be called up, and, to be candid, I did not know that the resolution was on the table. The manner of doing business in the House is so strange and anomalous, that it is impossible for any person to know what will be the subject of debate on any particular day. But it

is perfectly in my recollection, and, sir, it must be in yours, the extreme sensation which was produced in this House and throughout the Union by a bill introduced into the other House by a member from Pennsylvania (Mr. Ross) touching the election of President and Vice President of the United States. This is a delicate subject; one which it is agreed on all hands there is no occasion to touch. The election is not only undisputed but indisputable. The Constitution has said that each State is entitled to a number of Electors equal to the number of its Senators and Representatives, who shall be appointed in such manner as the Legislatures shall prescribe; and if we attempt to put our hands on this power, we might as well, in my apprehension, arrogate to ourselves the appointment of President and Vice President. If we do away the decision of the Electoral body, which is as independent of us as we are of them, the Constitution is in my opinion verging to its dissolution.

Mr. Bacon said he certainly should consent that the resolution should lie on the table. He said he was himself by no means certain that this House or both Houses had the power of acting on the subject; but he thought it an attention due to the memorials to give them a reference to a select committee. He did not wish to commit himself or the House on the subject, for, he repeated, he was by no means certain of the propriety of the proceeding.

The resolution was ordered to lie on the table.

REPEAL OF THE EMBARGO.

The Speaker declared the motion pending (for indefinite postponement) when the House yesterday adjourned to be out of order.

The House then went into Committee of the Whole on Mr. Nicholas's resolution for repealing the embargo, and issuing letters of marque and reprisal, on the —— day of ——. The question pending on filling the blank with the first day of June, the fourth day of March, or the fifteenth of February.

Mr. W. Alston said that for himself he would prefer the course which the gentleman from Georgia (Mr. Troup) had pointed out; and, if the gentleman from Delaware had not declared that he wished the embargo to be removed, he should have inferred that also to be his idea, because he had set out with declaring that he had wished that the embargo laws should have a fair experiment. And Mr. A. asked the gentleman and the House whether they had received a fair experiment? Certainly not; for the violations had been such heretofore that the embargo had not by any means had that experiment which it ought to have had. No one could tell what would be its effects if it were permitted to have that trial which the honorable gentleman from Delaware wished it to have had. Mr. A. could not decide how to fill up the blank in the part of the resolution under consideration, until he knew what other measure was to be adopted in place of the embargo. If we were to have war, he cared not whether it was declared to-morrow, or in March or in June. If further time was to be allowed for negotiation, he thought that things had better remain as they were, more especially as there was now a probability that the embargo would be carried into effect. Notwithstanding the frequent assertions which he had heard, he believed there was no such thing as rebellion in Massachusetts. He believed from his heart that the good sense of the people of that State would carry the laws into execution. If things should be left as they now stood, our enemies would not officially know what the Government intended to do; though they might judge for themselves by declarations made on the floor, which he hoped to see substantiated by action when the proper time came.

Mr. Tallmadge said that it did appear to him that the nation was placed in such a position that it became imperiously the duty of this Committee to decide some very important question relative to the embargo. I am sorry, said he, that the gentleman who introduced the resolution (Mr. Nicholas) is unable to attend, from indisposition, and to maintain and defend the principles of his resolution; and I am glad that the resolution is so worded as to admit of a division as to the two great questions of a continuance of the embargo and a commencement of hostilities, so that they may be distinctly presented to the minds of the members of this House. I am very free to declare as to the first question, which is the only one now pending, that my mind is completely made up; and although I should rather fill the blank for the time of its repeal with the word "immediately," yet I am perfectly willing to meet gentlemen who wish for the longest period, on the middle ground, and fix on the fourth of March for its repeal. I do conceive it to be a duty highly incumbent on this Committee to decide this question emphatically and at once; and there are several reasons which I will offer to the House, which have induced me to form this opinion. The first reason is a respect for ourselves and for the Government of the United States. What will be the opinion of our constituents, when they see resolutions offered to repeal the embargo, postponed from day to day, without obtaining a decision on them; and, after that, when they see a resolution offered for repealing the embargo, annexed to which is a proposition tantamount to a declaration of war? I am afraid that the people will think either that we do not understand the business for which we came here, or that our conduct amounts to direct trifling. I am, therefore, for deciding the question abstractedly whether we will repeal the embargo or not. When that question is once decided, the people will know what to depend upon. When, sir, I review the present condition of this country I feel alarmed. We all must read the public papers and know the events now daily occurring, some of which cannot have escaped your observation. Into one of the Northern States (Vermont) the President sent his proclamation in April last, making it known that combinations were forming, and an

insurrection about to take place, and calling upon all officers civil and military to aid in suppressing the same. The grand jury of one of the counties in that State have really made a presentment of it as a grievance, although the proclamation has not been specially named. This must be disagreeable to every gentleman on this floor, and is one of the evils which I wish to remedy. To me it appears to be a serious circumstance that the measures of the Government should be thus treated, and it is a state of things which I would take all proper measures to avoid. Another circumstance I will mention: Since the passage of the last supplementary embargo law, the Governor of the State of Rhode Island directed some of the military officers to call out a portion of the military force. Several companies were accordingly called out, and when they came upon the ground they determined that they would not obey the instructions of a revenue officer. They did not refuse to obey their own officers, but they said they knew no such officer over them as a revenue officer. This is another disagreeable circumstance, and I am very unwilling to see the laws in such a situation that either civil or military officers shall refuse to execute them with impunity. In another State, the large and respectable State of Massachusetts, the citizens, where they have felt the effects of the last embargo law bearing hard upon them, have resorted to the law of the State under which they live to obtain redress. The consequence is, sir, that your revenue officers are, from the nature of the case, unable to execute your laws. Such heavy bonds are required of them by the State courts, that they cannot readily procure them, and must decline the execution of the law or go to prison. This is another evil which I am anxious to see remedied, and therefore I do not wish a law of the United States to remain in this situation.

I have another reason which induces me to urge a speedy decision. I wish to see an end put to all speculations arising out of the laws or proceedings of this Government? What will be the effect of the resolution on the table? I will venture to predict that the price of articles proper for export will be raised ten, twenty, or even fifty per cent., under a belief that the embargo will be raised. What will be the effect of postponing the repeal until the period proposed? That speculation will be prolonged, and I wish to see an end to it.

I have another reason, sir: I feel unwilling that the dignity of this nation should be prostrated in the view of foreign Governments. We seem to be resolving and re-resolving without doing anything, until we become indeed the laughing-stock of the European world. I wish to see the Government respected at home and abroad. For these reasons I am for filling the blank with the earliest period, but am willing to compound with gentlemen, and take the fourth of March as a middle day.

Mr. Southard commenced his observations by referring to the sad spectacle which the gentleman from Connecticut (Mr. Tallmadge) who had preceded him had given of the state of the nation, which, if true, must cast an everlasting stigma upon this country, which had been boasted of for its independence and forbearance. Obedience to the laws was characteristic of a good citizen, and to this principle he believed it was always safe to appeal first. Now had this been so strongly evinced as was desirable to the northward? It was true that there were a number of petitions on the table for the repeal of the embargo laws, but there was very little evidence that they waited for the desirable redress. If he was not much misinformed, very great pains had been taken in the New England States to sour and irritate the minds of the inhabitants against the embargo system of laws, particularly by gentlemen of the law; and circular letters had been sent from town to town to inflame the people on a subject with which they were perhaps but too little acquainted of the real causes for which the restrictions were laid on commerce, having been concealed from them as much as possible.

The proposition now under consideration is very important indeed. The subject to which it relates has produced more agitation in the nation, and occasioned more debate and discussion in this House, than any subject I have ever seen brought before the National Legislature since I have had the honor of a seat in it. It has always been an unpleasant and disagreeble subject to act upon, and a hard and difficult question for me to decide, and therefore I have generally given what is called a silent vote. I have voted in favor of the embargo with reluctance; but the measure was imperiously called for by the situation of our country, and the disposition of the belligerent nations of Europe. I voted for it on three accounts: First, to secure the property of the United States, against the depredations of the rulers of the ocean. Necessity seemed to impose those restraints upon us, even though they were irksome; but however irksome, they ought to be preferred to the prostration of our national rights and interest to the decrees of the belligerents. Secondly, I voted for it as the best measure which I could perceive our Government had in its power to preserve peace, and to use against those nations who had deprived other nations as well as ours of their property, their rights, and their Government. From such nations I wish to withdraw as much as possible all connexion, lest they might injure us as they have all others that have been connected with them. Thirdly, I thought that by such a disseverment our manufactures might be the more encouraged, and thus our true independence be rendered more firm. This advantage I considered of great importance, and such circumstances, if no other, might promote the growth of so desirable an object, without which we can never be said to be truly independent.

Mr. S. expressed himself decidedly a friend to commerce, but at the same time did not believe that the existence of the country depended, as had been said, solely upon commerce. He would venture to say, that if this country would maintain

its independence, in fact as well as in name, it must resort to manufactures. This doctrine would by some be considered as treason against England, and importing merchants; but it was nevertheless true. We cannot, said he, have a stronger evidence of this fact, and of the necessity of encouraging our own manufactures, than by a circumstance which took place about two years since. The President of the United States had entered into a contract with a person for a supply of thirty thousand stand of arms, which were to be shipped from Holland. The Emperor of France, being informed of this contract, immediately prevented the shipment of the arms. We were disappointed—but this proved to be a fortunate circumstance. The Government was convinced of the necessity of manufacturing in our own country this important article. I hold it to be a correct principle, that this country should manufacture for itself every necessary of life. The bowels of the earth are full of riches, and the face of the country abounds with every raw material, sufficient not only for the necessaries, but also for the luxuries of life.

The seed is sown—the germ is already sprung. By means of the embargo we shall reap a permanent good. Many infant manufactories are already established throughout the country, and are rapidly progressing to perfection. Another great advantage will arise by inducing domestic industry. Families will provide themselves with the necessaries and conveniencies of life, which heretofore they have procured at a great expense, and which manufactures he believed would render the country more independent of foreign nations than anything else which could be devised.

Mr. S. had some faint hope that the embargo would have operated as a coercive measure upon the belligerents. But in this hope he was in some measure disappointed, because either the law was not observed, or not enforced. He solemnly believed that the law would have answered every valuable purpose for which it was intended, if it had been obeyed. He blamed members of this House, as well as other persons, for the long continuance of this measure. There have been written, not only during the last, but also during the present session, seditious and inflammatory letters, calculated and intended to excite the people to rise in opposition to the law; and, at the same time giving encouragement to the belligerents to continue their destructive measures towards us.

He was persuaded that, if members had acted as good citizens, the embargo laws would have been repealed six months after their passage. Mr. S. believed that, various as were the views and calculations of gentlemen who advocated, or voted for the embargo, and of the effects which it would produce on ourselves, and upon the Powers against whose injustice and avarice it was intended to guard us, no man of sense, he was confident, ever believed the measure was intended to be permanent; but only as a temporary and precautionary means, whereby to save our property and seamen from the depredations of those Powers whose only rule of right is the extent of their power, and who regard neither the laws of justice, nor of nations. The doctrine of necessity, which they so strenuously advocate, to which no bounds can be prescribed, is plead by them to justify the greatest enormities.

Notwithstanding all that had been said and written against the embargo, Mr. S. did not regret that he gave his vote in its favor. It had produced much good; it had saved to the country an immense amount of property; and, so far, it had preserved us from war. The principal difference of opinion in that House appeared to be in this, whether the blank should be filled with the first day of June, or fourth day of March next. He was in favor of the latter day, and was ready to join a majority of the House in such other measures as should better secure and maintain the honor and independence of the country.

The opponents of the embargo have told the House a great deal of the unparalleled sufferings which this measure has produced. Can this be a correct representation of facts? No, sir, it cannot be. The ruin and distress which gentlemen say this measure has inflicted upon the people of the Eastern States, has again and again been depicted by them, in such strong and glowing colors that all the sufferings of the Revolutionary war, all the sufferings of our impressed seamen on board British ships of war, from the year 1794 to the present day, have been lost, and swallowed up in this ideal mass of misery. And, sir, it is only ideal, when contrasted with the sufferings endured during a seven years' war; or, the sufferings of our impressed seamen, groaning under the lash of a tyrant, who has deprived them of liberty, and of every comfort of life. Our slaves are infinitely better circumstanced than these men. I would ask what has become of the spirit of sympathy which appeared to actuate gentlemen who used to describe the real sufferings of our seamen in such impassioned language? We were then told that every wave and wind that crossed the Atlantic, wafted the groans of our fellow-citizens into the bosom of their native country. Their tongues are now mute, or employed only to traduce the Government.

There are members on this floor, said Mr. S., who have seen more real suffering in one day, than what could possibly be produced by the restriction on trade since the passage of the law so much complained of. For one, I have seen towns and villages wrapped in flames; the country desolated; helpless women and children turned out of their houses by the near approach of a cruel and vindictive enemy—and fleeing for their lives, destitute of every comfort; men slaughtered in defence of their natural rights, property, and families; and yet, we are to believe, that a partial privation of a few of the luxuries of life, is more ruinous and destructive than all the calamities of war. The whole blame which our situation produces is thrown on our Government, while all the injuries which we have sustained from foreign nations, are covered under a mass of prejudice against the Administration. The injustice of one of one of the belligerents is either wholly

overlooked, or palliated, while every supposed error of our Government is exaggerated. The gentleman from New York, (Mr. Gardenier,) calls for a free trade. "Give to us," said he, "a right to the ocean." Why does he demand of this House a free commerce? Let him turn to the orders and decrees, and see whether it can be obtained. But, these destructive measures of the belligerents are considered by some members as mere trifles—innocent things—growing out of mere necessity. However innocent and harmless some gentlemen may consider these orders and decrees, the belligerents consider them as very ruinous to neutral commerce. Mr. S. referred to the letter from Champagny to Mr. Armstrong, and read a paragraph from the letter of Mr. Erskine to Mr. Madison, of the 12th March, 1807, in the following words: "But, though this right 'of retaliation would unquestionably accrue to 'His Majesty, yet His Majesty is unwilling, except in the last extremity, to have recourse to 'measures which must prove so distressing to all 'nations not engaged in the war with France."

Mr. S. lamented that members of Congress, to whom were confided the best and dearest interests of the country, were found palliating the impositions of foreign Powers, that they might thereby inflict the deeper wounds on their own Government. Restore, said the gentleman from New York, the confidence of the people in their Government. Mr. S. despaired of so desirable an object ever being accomplished whilst there were in the national councils men leagued with the British Cabinet, and hireling printers laboring with all their might to detach the people from the Government. This, sir, is no new thing, said he. Look back for more than seven years and you will find a systematic opposition against the Administration. With them, nothing is right; everything is wrong; every act of consequence has been denounced; great pains taken in various parts of the Union to stir up the people to opposition; the laws represented as unconstitutional, cruel, and oppressive.

The same gentleman from New York, now declares against war, and paints its horrors in the most glowing colors. I also, said Mr. S., deprecate war. Let not him that putteth on the harness boast, but him that taketh it off. It is not long since that gentleman told this House and the nation, "that the salvation of this country depended on war"—"Ally yourself with England and declare war against France." Sir, for one, I differ with that gentleman. Ally yourself with either of these Powers and on the day you sign such alliance, you sign the death-warrant of the liberties of this country. It would be infinitely better to fight these Powers single handed than to be allied with either; because when you had fought by yourself, you may negotiate by yourself and make peace without asking leave of your ally. What has become, asked Mr. S., of all those nations who have allied themselves with Great Britain, or been subsidized by her? British gold has corrupted and ruined almost all the nations of Europe. She has destroyed their commerce, and France has deprived them of their liberty.

The gentleman from New York regretted that hard words should have been used by the majority, calculated to wound the feelings of the minority. Can the gentleman imagine that the majority have no feelings—the Government no sensibility? Who first began to use hard words and opprobrious language, but the minority? Let me, said Mr. S., remind those gentlemen of an old adage—let those who live in glass houses beware how they throw stones. In order to relieve this country from its present embarrassments, we are called upon to retrace our steps, to turn back to the policy of a former administration, and undo all we have done. Sir, should the gentleman himself take a sober review of the measures pursued and the cruel and unjust policy adopted in those happy days of which he speaks, the recollection of the actual situation of our country might cause a blush—but I forbear to pursue so disagreeable a subject. It was said that there ought to be more time given in order to favor nogotiation. If it was probable that by that day they could be effected by negotiation, it would be best to take the most distant day; but I believe there is but little prospect at present of our differences being settled by treaty. Be that as it may, as soon as you pass the resolution now on your table, the embargo laws will cease to have any effect on foreign nations, and will only operate to the injury of our citizens. If the embargo laws are to be repealed, so as to take effect either in March or June, the earliest day will be the best. It will afford sufficient time to the honest and virtuous citizen, who has obeyed your laws, to be ready to take advantage of foreign markets as soon as the man whose cupidity has induced him to prepare to violate every sacred obligation which he owes to society.

Mr. S. said that under existing circumstances he had but very little hope or expectation that much advantage would be derived from commerce, and he feared some men might be base enough to pay tribute, or sail under British license. Perhaps, sir, said he, I may be too much prejudiced against such license and protection, owing to what took place, somewhat of a similar nature, during the Revolutionary war with Great Britain. Was there an instance of a man who went voluntarily into the enemies' lines and took his Majesty's protection, who has not proved an injury to his country? The man who, for the sake of gain, would pay tribute to a foreign Government, ought forever to lose the protection of his own.

He thought it his duty to make these observations in vindication of his own conduct in voting for the embargo law, and also in support of the Government, against which the tongue of calumny had been so long aimed. If these laws are repealed, he hoped and trusted that others would be substituted in their stead better calculated to maintain the independence of the United States.

With respect to a resort to war as a remedy for

the evils experienced at present, Mr. S. would only observe that war was in itself so great an evil that the United States had wisely considered peace and an honest neutrality as the best foundation of their general policy. It was not for him to say, under what degree of aggravated injuries and sufferings, a departure from such policy would become a duty. The most pacific nation on earth might find itself compelled to exchange for the calamities of war, the greater distresses of longer forbearance. Should imperious circumstances require the United States to enter into war to defend and maintain their liberties, Mr. S. pledged his life that his fellow-citizens of New Jersey would cheerfully rally round the standard of their Government, and, as in 1776, rather see their hills and their plains smoking with the blood of her sons, than tamely submit to the dictates of France, or degradingly pay tribute to England.

Mr. Upham said a few words expressive of astonishment that the gentleman from New Jersey (Mr. Southard) should have taken exception at the statement of facts made by his colleague (Mr. Tallmadge) in relation to the execution of the embargo laws, and the impression which they produced in some parts of the country. So far from producing irritation in the House, Mr. U. conceived it to be the bounden duty of every man who knew of such facts to state them to the House. He was surprised that gentlemen should object to hearing facts.

Mr. Durell said, although in forming an opinion upon the subject more immediately under discussion, it may not be necessary to go over the whole field of argument in relation to the great questions of war or embargo, yet there is such a connexion between these subjects and the question of filling the blank in the resolution upon your table, that I must beg the indulgence of the Committee while I enter into such a view of the case as seems to be necessary, in order to understand the precise point of the question before us.

The resolution upon your table proposes a repeal of the embargo, and hostilities against Great Britain and France. There appears to be a strong sentiment in favor of the first proposition, viz: a repeal of the embargo. And if the sentiment in favor of war is not so strong, it is not for the want of provocation—this, God knows, we have in abundance—but because war would be putting too much at hazard, and at best, would be assuming a new and positive evil, for no better reason than to get rid of an old one, although of a negative and very doubtful quality. To exchange the embargo for war would (to indulge in the homely style of our forefathers) be but stepping out of the frying-pan into the fire. However, sir, if war is to be substituted for the embargo, and is to begin where that ends, then in filling the blank upon your table, the question, instead of being, when shall the embargo be raised? should be, when shall hostilities be commenced? The former, considered singly, and unconnected with the latter, would be of very little moment—in settling it we should merely take into view the convenience of our merchants in the several seaports in the Union; but in considering the latter we should exclusively calculate upon the convenience of the State. The precise time for removing the embargo, in this case, is merged in that when it would be most proper to commence hostilities. The one may be done at almost any time without much hazard, but the other requires great deliberation, and should not be adventured upon too precipitately—surely not till we are prepared for it. If then war must begin where embargo ends, the question is not when shall embargo end, but, when shall war begin.

There are two reasons why war should be postponed to the longest day that has been mentioned; first that we might be the better prepared to meet it; and secondly, to give us further chance for negotiation.

Sir, we propose commencing hostilities against two of the most warlike and powerful nations the world has ever witnessed in arms. With no less than the master of the continent of Europe, and the mistress of the ocean. And are we prepared to meet the shock? I am aware it may be said—indeed, it already has been said—that a war with France would be merely nominal. But, are your strong points fortified in a manner to resist the attacks, even of Britain, from the side of the ocean, with her thousand ships of war? Or are you exposed, from Maine to Georgia, not only to the thunder of her ships-of-the-line, but, even to the pitiless peltings of her vile picaroons?

Again. It is understood, sir, that despatches from your Government are on the point of sailing for your Ministers at Paris and London. It is also rumored, that a further attempt at adjustment is to be tried, by a new offer to negotiate; and, for my part, I have no objection to this ultimatum of experiment, this last appeal to interest, (for reason and justice are quite out of the question,) before there is an appeal to the sword. I should have said, "*ultima ratio regum*," for that, I think, sir, is the courtly phrase with politicians; and, although the success of this new overture will, probably, depend upon the mere chances of the war upon the Continent, yet, I am willing that the last chapter of accidents should be turned over leaf by leaf, so long as there is the chance of an issue in our favor. Thus much. I have thought it my duty to say, in favor of putting far away the evil day. But, if war is to commence so early as June, I must confess there are very strong reasons why it should begin at an earlier period.

Any measure we may adopt which will carry with it a repeal of the embargo, would, in a very great degree, relieve the public anxiety. The people have so long complained of restrictions imposed by the embargo, that, like one laboring under the hysterics, from an imaginary, they have fallen into a real disorder; from which, nothing will restore them but an entirely new course of regimen. And, whenever this new course should be administered, the body politic has so long labored under this disease that it would cheerfully submit to any other course the Government may choose to prescribe. I do not,

myself, consider this as a very overwhelming argument, yet, when we reflect that ours is peculiarly a Government of the people, made by themselves, and for their sole use and benefit, and that we, their Representatives, have been selected by them to execute their will, it cannot be considered as a very weak one. On the whole, it appears to me that the very caprices of the people must sometimes be gratified, even at the expense of their interest. They appear very solicitous to barter away the embargo for something else, and, for one, I am for gratifying them, even if this something else were to be an immediate declaration of war.

Again sir, if you go to war, your object, at least in part, is, indemnity for the past; and where is this to be found? Not entirely upon the ocean. It is true, you will harass and cut up the enemies' commerce; but, as this is to be done chiefly by privateers, the booty acquired will not belong to the Government, but to private individuals, whose valor has wrested it from the foe. This indemnity, then, must be sought, not upon the ocean, but upon the plains of Quebec, and at Halifax; in Canada, and Nova Scotia; in the fisheries of Newfoundland, and the rich soil and extensive forests bordering upon the lakes; and the St. Lawrence, whose ample waters are destined, one day, to waft the fruits of American enterprise and industry, from their very sources, to the ocean. If, then, Canada is to be attacked, your operations ought not to be delayed till June, because this would be giving the enemy time to fortify and intrench himself, as well as to receive reinforcements from Europe. The plan, sir, should be no sooner conceived than the blow should be struck, if you intend to conquer; but, if you intend to be foiled, and put to an unnecessary expense and delay, then take care to notify the world of your intentions; but be sure not to commence your operations till June, that the enemy may be on his guard.

Again, to delay hostilities till June, would protract the war at least a year, because it would then be too late to collect your army, march to Canada, make the necessary dispositions, conquer and garrison the country, and bring back the residue of your troops before the commencement of the inclement season. In this case you would be obliged to winter in the country, which, already desolated by the scourge of war, could afford you but very scanty supplies; and, if unsuccessful in the onset, you must either return to the States without effecting anything, or winter in the country, in the face of the enemy, under every disadvantage, both of shelter and climate.

On the whole, sir, if we must have war, between this and the first of June, and one of its objects is the conquest of Canada, it is high time we set ourselves about it in good earnest; and, in my opinion, the sooner the better.

Thus far, in considering this subject, I have supposed that war must necessarily and immediately follow a removal of the embargo. But, sir, there are many, very many, within these walls, and who belong to this Committee, who cannot persuade themselves that war must necessarily be substituted for embargo. And if a measure so distressing, even to the victorious, can be honorably avoided, who is there in this honorable Assembly who will raise his voice in favor of a state of things so disastrous, I might say fatal, to society as war? Here then, Mr. Chairman, a very important question presents itself. Can the embargo be raised, consistently with the national honor and interest, without the hard necessity of recurring to war as a substitute? Let us examine this question fairly, and with candor, for, of all others, it is of the first importance to this nation.

In the discussion of this part of the subject, I shall be obliged to indulge in a wider range than I at first had intended. In order, sir, to cure a disease, it is often necessary to know its origin and causes; combat and subdue the cause, and the effect ceases, of course. The first inquiry, then, should be, what were the causes which produced the embargo? To this question, sir, I answer, without the fear of contradiction from any man; the British Orders in Council of November 11, 1807, and the French decree of November, 1806, or rather the practice under it, which began about the time the British Orders first made their appearance. I am aware that the British Orders had not been officially notified to the American Government, at the moment of laying the embargo; but the substance of them had appeared in the newspapers, and were publicly read in this Hall, a day or two before the President's Message recommending that measure was sent to the House; and although we might not know the precise details of those orders at the time of passing the embargo law, yet we knew enough of them to be satisfied that they were intended to fatten the British navy upon the ruin and spoils of American commerce. The orders of Britain and the decrees of France, then, were the true causes of laying the embargo; and to these edicts the nation must not, cannot, submit. Sir, we, its Representatives, in behalf of the people, have already pledged ourselves that we will not submit. This, then, is an axiom, a first principle, that the orders of Britain and the decrees of France cannot, and will not, be acquiesced in.

The bearing of those edicts, in relation to the American commerce, being anticipated by the embargo, their deleterious effects have hitherto, in a great measure, been prevented. Our object, then, in selecting a substitute should be, to adopt such measures as will meet them full in the face, and thereby prevent them from operating injuriously in future. Raise your embargo, and the bearing of those edicts upon your commerce must be prospective, and if we are to content ourselves for the present with security for the future, it will be sufficient, if your substitute has a prospective bearing too, capable of resisting the orders and decrees henceforward, and of preventing them from operating injuriously in future.

War, sir, in order to be justifiable, is always retrospective as well as prospective in its objects; it seeks indemnity for the past, as well as security

for the future; and however Governments may pretend they are justifiable in making an unprovoked attack, for the purpose of averting a distant, and of course uncertain evil, as was the case with Great Britain in her assault upon Denmark, yet I think no nation can be justified in commencing hostilities, unless those hostilities are grounded upon injuries already received, for which it is intended by the war to seek indemnity. Let us, for a moment, examine the ground we have already taken in relation to the orders and decrees.

In pursuance of a law of the last Congress, the President of the United States did, some time in the month of June, propose to the British Cabinet to suspend the embargo, as to them, on condition that the Orders in Council should be rescinded as to us. This proposition did not consider indemnity for the numerous injuries we have received at the hands of the British nation, as a *sine qua non* to a repeal of the embargo; but, on the contrary, it was a consent, on our part, to waive all considerations of indemnity for the past, until a season more propitious for negotiation should present itself, and to content ourselves with a bare removal of the Orders in Council, as a pledge both of security for the future, and indemnity for the past.

On this point, then, the Government seems to be committed, for its language has been, give us a pledge of security for the future, and we consent to waive indemnity for the past until a more favorable and propitious moment for negotiation. As this friendly proposition was rejected by the British Cabinet, I acknowledge we are under no obligation to it to pursue a course which would have the same result of that proposal, had it been acceded to by Great Britain; yet, if that proposition was wise, and we can attain the end proposed by it, without recurring to the dreadful calamities of war, it is unquestionably our interest and our duty to do so.

The grand consideration, then, is to find a substitute for the embargo, which will meet the future operations of the orders and decrees full in the face, and will either secure us against their effects, or reduce the belligerents to the necessity of becoming aggressors anew. Such a course must assuredly be preferable to direct hostilities, because it would give you a chance of avoiding hostilities altogether; and because, if hostilities must follow, you will throw upon your enemy the odium of being the aggressor. Sir, I would not be understood as insinuating that Great Britain and France are not already the aggressors, but I am looking forward to a state of things subsequent to a repeal of the embargo. If, then, we are willing to postpone a consideration of the past to a season better adapted to a friendly discussion of the points in difference, and to regulate their conduct solely with a view to the future, then, I say, if we should be so unfortunate as to come again into collision with the belligerents, it will be all-important to us, that we should throw upon them the odium of aggression. It is to this source alone we are to look for that spirit of union and manly resentment necessary to carry a Government like ours through a war successfully. It has been said, on a former occasion, that Kings go to war to gratify a favorite, or a mistress. This, thank God, is not the case with Republicans, who have no favorites but their country, nor mistresses but the laws. Republicans are rarely so intemperate as "to seek a quarrel in the cannon's mouth." They never go to war until the general sentiment, roused by some flagrant act of injustice against the State, demands it; and even then, if their resentment be suffered a little to cool, there is no way of bringing the public pulse back again to a war pitch but by new aggressions from the side of the enemy. We all know we have ample cause of war with Great Britain; and there was a time when the people of the United States, would, to a man, have dared every danger to meet it; but their resentments have been suffered to cool, and instead of making it a point of honor, they now consider it as a matter of deliberate calculation. If we have war, we all wish that war to be successful; but, in order to be successful, we must be united, and we shall not be united until we have received new indignities. But, it will be asked, What is this new course, this grand specific? I answer, to arm against the illegal and obnoxious orders and decrees of the belligerents. But, say gentlemen, will you arm against the British navy? Sir, I would arm against her tyrannical orders (not against her navy) for the purpose of bringing the subject fairly at issue. The project of arming against France no one will treat as chimerical; all sides of the House, and especially our friends in the opposition, suppose we are a full match for her upon the ocean. France, then, we may lay quite out of the reckoning. Thus, having happily got rid of France, we have only to contend with the navy of Britain; and how is this to be done? Sir, I have already observed that the object was not to fight the British navy, but to oppose the Orders in Council, and in such way as to bring their bearing upon our commerce fairly at issue. Let, then, your merchants arm in their own defence, and if they are suffered to proceed without molestation, (and verily, sir, I am almost ready to persuade myself they would be,) well; but, if they are captured and condemned, then we are at war; and, England being again the aggressor, the war will be popular. Either alternative would be preferable to the present state of things, and there could be no possibility of avoiding both of them. One or the other must be our condition immediately upon a removal of the embargo.

If, sir, I could persuade gentlemen to go with me in the belief that a state of things such as I have described would immediately follow removal of the embargo, no considerations could induce me to suppose they would hesitate for a moment to adopt the system I have proposed. A fear of having the reputation of abandoning a measure which had been unsuccessful could have no weight with the good sense and patriotism of this honorable body, if such an aspersion should

be attempted; but as there could be no possibility of succeeding in the attempt, there can be no reason for alarm from that quarter. Let us examine this part of the subject a little more minutely, that we may not mistake its consequences.

If your merchants go out armed, and suffered to proceed to their ports of destination without being molested, we shall be perfectly secure both in point of interest and practical reputation, also; for who, in this case, would have the presumption to say, the embargo was not the cause of this security? Had not the embargo been laid, the edicts in question would not have been enforced, and your commerce would have been swept away. One hundred millions would have been sacrificed to glut the avarice of Britain or France. The embargo, then, will have saved this immense property to its rightful owners, and have given it a permanent security. But, sir, if your property should be arrested and condemned, what better evidence could you have of the importance of the embargo? This state of things would clearly demonstrate that it had not only saved your property from the devouring grasp of the belligerents, but had also hitherto preserved you from war. This state of things would also confute the arguments of our opponents, who have contended that there was no sort of danger in resuming the navigation of the high seas. All their logic upon this subject would be overthrown in an instant. The people would be satisfied that the Government was correct, and that themselves had been led into an error by the clamor of demagogues, and the sophistry of such as make a point of railing at every act of your Government. And what is more, sir, the spirit of impatience, too often manifested against the necessary restraints of the law, would give way to a just and fiery indignation against those freebooters who again had dared to rob you upon the common highway of nations.

Sir, we have been told by a gentleman from Virginia, (Mr. Burwell,) that the embargo being a measure of precaution, by letting out your merchants before you are prepared to protect them by war, would be counteracting the principle you had assumed. This opposition must have been predicated on the idea that the property over which the precaution had been exercised, belongs to the State. Indeed, it belongs to the nation, or rather to the individuals who compose it, and, in this point of view alone, has the Government a right, under the Constitution, to exercise this sort of protection over it; but even this ceases the moment the property is in safety. The Government, then, has done its duty; like a faithful monitor it has given the warning, after which the individual should be left to manage his own property agreeable to his own discretion, unless weighty reasons of State should induce the Government to control him. So that, as a precaution operating solely with a view of securing the property of individuals from sudden danger, the Government has nothing farther to do with it. Again, the same gentleman has told us, if you will raise the embargo, you would have war in less than six weeks. This, sir, would be bringing the thing to a point; it would unite the nation, and is precisely what we want.

These remarks, sir, have appeared to me to be pertinent to the subject before us. If, therefore, the principle of arming is to be adopted in filling the blank upon your table, we need not at all be governed by a consideration of war. All, then, that is necessary, is to consult the general convenience of our mercantile brethren. It will be recollected that some of our principal seaports are, at this moment, embargoed by the frost; such as Philadelphia, Baltimore, and Alexandria; and will probably remain so until the first of March. It would be unfair, then, to raise the embargo at a moment when the merchants of those cities could not find their way to the ocean. And, indeed, were it otherwise, some little time should be allowed in order that the citizens from one extremity of the Union to the other, might have an equal opportunity of finding a good market.

On the whole, I am of opinion that the fourth of March will be as generally accommodating as any other period that has been mentioned, and shall therefore vote for filling the blank with that day.

Mr. Gholson said, he considered the time at which the change of measures should take place to be equally important with the resolution itself. Not one month ago, said he, the House voted by a very audible and distinct majority that the embargo should be enforced and carried into effect, as the best policy to relieve the nation from the difficulties under which it labors. I have, therefore, felt a degree of surprise at hearing gentlemen who voted in the affirmative then, advocating now a sudden departure from the measure. Is not the consistency and dignity of the House involved in filling up the blank? Will the House of Representatives act like a parcel of school-boys? Determined to enforce the law, and then, without the happening of any circumstances to induce a change, suddenly depart from the measure they determine to enforce! Unless I was very much deceived, I heard all the friends of the present policy declare that their object was, that the measure should receive a fair experiment. If not, for what reason was the act for enforcing the embargo passed? For passing that act, Congress have been censured. The Federalists throughout the Union have denounced us for giving to custom-houses so much of what they call Legislative discretion. I ask them, again and again, was all this for nothing? If it is to be abdicated the fifteenth of this month, I do protest that the passage of the supplementary embargo law was a rash, hasty, and inconsiderate deed, unworthy of this Assembly. Whilst it was the opinion of most of the friends of the present system, and mine, distinctly expressed on a former occasion, that the embargo should have a fair trial; that it should be carried into execution, and that, for that purpose, the President should possess all the energies of the State; I wish it to be understood that I was not in favor of a protracted embargo, after the

period should have arrived which would prove it to be inefficient, or after an act of even half justice to us. Let me ask, then, whether the first of June is more than a reasonable period? Will gentlemen say that five months' embargo (for, till the first of January it was little more than nominal, being daily violated) is more than a reasonable experiment? I humbly conceive not. A law has lately been passed requiring the National Councils to assemble on the fourth Monday in May. Now, upon a change of policy, (for it appears to be contemplated that we should have war of some kind; when a transition is made from a calm and pacific to a warlike attitude,) it will very possibly produce some convulsion that will render it necessary that Congress should be here. For what should Congress convene here, but to take advantage of circumstances as they may arise? I want not Congress to be here, if we are to take war on or before the fourth day of March. But, being in session, and a change of policy not taking place till after they meet, they will have it in their power to take advantage of any change in our relations. Another circumstance operates on my mind. If, as is generally expected, war must ensue a repeal of the embargo, I ask gentlemen whether we are at this time prepared for war? And I will refer the House to arguments already advanced on this subject. Have we an army already prepared? Would you expect to conduct a war with militia? On the contrary, are you certain that the militia are constitutionally qualified to embark in that kind of war in which we should, in all probability, be involved? It is a serious question, sir, whether the militia can be carried without the limits of the United States. There is another reason which weighs powerfully with me: it is a respect for the character of the Government itself. Your law has been wantonly and traitorously set at defiance. The hardy arm of rebellion has been raised against you. Amidst the feuds of the East, the law has been silent. I would sooner see the country spill its best blood than I would yield to turbulence and faction the dominion of the law, and, with it, the very existence of your Government. Although my own constituents suffer as much as any other, they wait patiently under the laws which they partake in forming.

What an example will it be for future times, if an inconsiderable portion of your citizens are permitted to rise in opposition to the laws which are fairly and constitutionally enacted? If measures the most important be put at defiance by factious individuals, goaded on by avarice or worse passions, your Constitution is not worth having. I have already remarked that I consider it necessary, for the sake of consistency, putting aside motives of policy, that the embargo should be protracted at least till June. There is another consideration which perhaps is more powerful than all. It has been well said on both sides of the House that ours is a peaceable nation; that for it we would sacrifice any other considerations, than those of national honor. I hope the time never will arrive when we sacrifice national character for peace. Although the Governments which have injured us have manifested little disposition to do us justice, I am willing, nay, I am anxious, whatever may be said of the cup of humiliation or of paper wars, to have another chance for the renewal of intercourse.

I have understood from the public prints that Government vessels are about to leave this country for France and Great Britain. If these nations are apprized that we are determined beyond a particular period no longer to endure their aggressions against us, that our forbearance will speedily have an end, they may give to the differences between us a more attentive consideration. Perhaps each may think it better to do us justice than that we shall be added to the list of their enemies. I attempt not to say, sir, that I have any confidence that such will be the case; but as there is at least a hope of it, I am willing to protract this measure till the first of June, that, if a disposition to friendly accommodation exists, we may avail ourselves of it. I suppose none of us would have an objection to peace with Great Britain, although I view her as our grand, natural and determined enemy—if she will respect our neutrality, there is not much doubt as to the other nation; it will be their interest to do so.

Sir, I have heard many arguments advanced at different times by a gentleman from New York, at which I have been astonished, particularly at his apologizing for those who violate our laws. He was told in debate that they could not consent to the present measure; that they could not endure it; that it could not be expected of them. When we hear language like this in this Hall, we are no longer astonished at circumstances which have occurred. Shall it be told to any portion of the people of the United States from this Hall, that the people will not consent to a law; that they will not endure it, and that it cannot be expected of them? If they cannot consent, I see no other inference but they may rebel. And is it not a doctrine which should be advocated by every one friendly to the Constitution, that every portion of the people ought to acquiesce in those rules of conduct in the enactment of which they have themselves participated? I should be very glad that gentlemen who hold and openly avow such doctrines, would reconsider their observations, and if compatible with their ideas of propriety would hereafter abstain from such excitements. Upon a calm and dispassionate review of such expressions, gentlemen must, and I am sure will feel sensible of their mischievous tendency, and I hope will cheerfully revoke them. But the gentleman from Connecticut (Mr. DANA) has introduced the example of Virginia as standing out in opposition to the sedition act. Sir, there never was a more splendid and memorable triumph of law over public feeling than in the trial of Callender. There, where every one around the court execrated the law, we saw its authority supported. The statute said that what was published was illegal and seditious, and the judge declared the law to be Constitutional. What did the people of Virginia do? They saw one of their citizens go into a dungeon by virtue of an act which they deemed

to be oppressive and contrary to the spirit of the Constitution. They disdained to oppose the execution of a law Constitutionally passed, and declared by the judicial authority to be Constitutional.

When the vote was taken upon the resolution of the Committee of Exterior Relations which said that we could not consistently with our national dignity submit to the edicts of the belligerents, and the gentleman from New York answered in the negative, I thought he believed it to be a truism, but because it was an abstract proposition voted against it. Now I know not what to think, because he has admonished the House, if the embargo be repealed, not to bring on greater grievances. If we are to repeal the embargo and not to take any stronger measure, I beg of that honorable gentleman to point out what we are to do? If we take off the embargo and oppose nothing between us and taxation, we are to submit; and this doctrine tends to the most unequivocal and unconditional submission; and so far as gentlemen contend for the repeal of the embargo unconditionally, and the adoption of no other measure, do we hear downright and base submission advocated on this floor. I do not say that gentlemen mean to submit; but to me it is as clear as day, that the doctrine leads to a downright submission.

When the gentleman from Delaware (Mr. VAN DYKE) entered into a prolix review of the conduct of the Executive for the last five years, I did expect that the Chairman would have called him to order; but such a latitude has been throughout the session tolerated in discussion, that in future I shall scarcely expect any gentleman on any subject to be called to order. Sir, it would only require a very concise examination of the gentleman's doctrine to demonstrate most clearly that to admit his conclusions he must admit premises to which the people of the United States will never consent. You must in fact admit the British doctrines of impressments itself. He says that in January, 1804, the project of a treaty was transmitted from the Department of State to the Commissioner of the United States in London; that, although it was known to the American Government that the principle of impressment would never be abandoned, yet subsequently, in 1807, the same concession from Great Britain was insisted on as a *sine qua non* in negotiation. Now, sir, the gentleman and I are at issue as to the principle. If we had not a right at any time to deny the principle that Great Britain may impress American seamen when she pleases, the gentleman may be correct. [Mr. VAN DYKE said he had spoken only of the impressment of British seamen.] Mr. G. observed, that as he conceived this subject to have no relation to the question before the House, he would not persist in the discussion of it; but that, take it as the gentleman pleased, his argument was founded altogether on the surrender on our part of the right of impressment to Great Britain. A right which the American people will never recognise.

Mr. DANA rose with a view that his vote might not be misunderstood, that he might not be supposed in voting for repealing the embargo on the first part of the proposition, to pledge himself as to any other measure. The only pledge for him, then, to give as a member of the House, was the fact, that a public trust was committed to him by freemen; and in executing the trust according to his best judgment, his mind should be left free as the air, with respect to any ulterior question. This however he was ready to say—if the alternatives presented to the House were to be only those stated in the report of the Committee of Foreign Relations—national occlusion, or national submission, or national war with the belligerent world, he was for neither of them. It was enough for him then, to say, that he did not agree to either of those propositions.

With respect to the general idea of going to war, I have had some doubts at least whether we should go to war very soon with France and Great Britain; for if it be difficult to fight one of those Powers, it must be peculiarly difficult to fight them both. Before we go to war, I have been of opinion that those charged with the affairs of the nation, or at least some of the leaders, must make one discovery. It is this—before we go to war we should be prepared for it. To go to war before being prepared for it would not become us as officers of the public, although an ardor of zeal even without preparation might be well enough for mere recruits. Before going to war, a number of things might be convenient for waging it to advantage; such as a military chest, because it is necessary to have some money, as well for the pay of troops as for various other expenditures, known to be requisite for the advantageous conduct of a war. Men, too, may be wanted. In case of undertaking an expedition to Halifax, I have thought that it might be proper to consider whether we should go by land or by water. If by water, I have rather supposed that we should not go in gunboats. If by land, I have been disposed to consider the distance, and to estimate how many leagues of forest in the province of New Brunswick would intervene, which have not been traversed by any considerable body of men, or in which a horse-track or foot-path could scarcely be found.

In travelling with an army, it might be proper to consider how long a time it would require to make a road through such a forest, and whether it was not probable that all the men who might be employed in cutting it would be cut to pieces before they could cut through the road. Baggage, and some provisions, too, must be transported; for, really, soldiers are such beings that they cannot live without eating. And I have been disposed to inquire, in case of undertaking to march through that province a military force, with baggage, provisions, military stores, wagons, field artillery, and battering cannon, what length of time would be requisite for an army of the best spirit, under commanders of the greatest talents, to accomplish it? Canada has also been mentioned; but the season for striking a blow there has certainly passed away during the embargo. The

spirit of hostility which existed between the Northern parts of the nation and Canada is diminished. The boundary line is imaginary, passed daily by those who are in the habit of performing offices of friendship towards each other, or of transacting business; and thus the spirit of hostility is allayed. And, however once the inhabitants of Canada might have wished to be under the Government of the United States, that wish has ceased. For, however much we may extol the protection of the embargo, those who a year since perhaps were friendly to you, would now not accept your protection. For, whilst they pay but small or no taxes there, and enjoy various privileges of freemen, they will not take your taxes, and receive no privilege with them. If you were to go to war now, you would find that the zeal of the inhabitants of the United States, as to marching into Canada, is very much diminished. And, sir, when we come to consider the subject, the idea of marching to attack a foreign territory is not congenial with the habits of this country. How much would the invasion of Canada cost you? You would want an operating army of at least 25,000 well-disciplined men. Are you ready to appropriate ten millions of dollars for raising and supporting troops? With respect to marching the militia into Canada, you might order them, but I do not believe they will go, because I do not believe that the militia can be constitutionally required to march beyond the frontier. I do not believe that you can make a law requiring the march. For such reasons, among others, I think that you will not soon go to war; especially as you cannot seriously think of going to war merely for the sake of fighting, when there is no prospect of success. When you talk about going to war without any systematic plan, it is to be regarded as merely theoretic.

On the question of enforcing the statutes of embargo, I shall not enter into a particular examination of the subject; but I agree with the gentleman from Virginia, (Mr. Gholson,) that if there be a rebellion against the laws, you ought to crush it. If you know of the existence of rebellion, put it down, or you are unworthy to hold the reins of empire. If you do not put it down, cease to call it rebellion. Take either alternative. What has been the doctrine of every Administration? That insurrection should be put down, if necessary, by arms. Was it not on the anniversary of the battle of Lexington, on the 19th April, 1808, that the President of the United States issued his Proclamation for quelling an insurrection near Lake Champlain? This, to be sure, was so small an insurrection or commotion that it was not seen by any one on the spot. Congress was then in session, and no information on the subject was laid before us. Indeed, I believe the Proclamation only states a probability of an insurrection. Now, it has been stated on the floor of Congress that there is rebellion in the land. And here, let me ask, what was intended or predicted by advocates of the embargo, as to the effects on a foreign country? Was it not this: that it would produce such effects, relative to some of the foreign Powers, as to cause insurrections against Government, and thus compel an accession to your terms? The policy of your embargo was a policy of insurrection. And are you disposed to say that the bitter chalice of trouble, which was prepared for a foreign Government, is already commended to the lips of our own Administration? Are they even now drinking the ingredients which they had compounded for others?

Gentlemen should, in some degree, be cautious as to the language which they use on this floor. When animadversions are here made upon the people for want of patriotism, do such reproaches become this House? Can the history of the world exhibit the example of a free and active people bearing so long, and with so much patience, measures which affect them so severely—which produce so much suffering? And are we so little acquainted with human nature, that we expect our acts of Government to be enforced by patriotism alone?

In a population of six million of whites, are there to be none but patriots? More especially when many men in the country have but recently come into it. Do you expect all the people, without any exception, to be patriots? Do your Constitution and laws suppose this? If so, for what cause is the Executive Magistrate authorized to display the sword? No, sir; they have not been weak enough to trust to patriotism alone; they were more wise. Some persons may have felt indifference with respect to the policy of embargo; and some from principle, whatever they might think of the policy, would abstain from violating it. Some may have evaded it with impunity, while they were urged by the pressure of want on the one hand, and by the hope of profit on the other. Have you trusted to patriotism altogether? Wherefore, then, have your statutes been passed with such rigorous punishments? You might trust to the patriotism of a majority of the community; you might trust to the sentiments of the great mass of men who are interested in maintaining the rights of property, person, and character. But you may always expect there will be some bad men who will evade or violate the laws, although clearly Constitutional; and those you should calculate to put down.

Some questions, however, have arisen in relation to this subject, of a very serious and interesting nature. Perhaps the House might not be willing to hear me express all the sentiments which are familiar to my own reflection. Perhaps, too, my expressions might be liable to misconstruction, which, on such a subject, I should by no means wish. On one point, however, which has reference to the idea of the secession of any State from the Union, or a dismemberment of the Union, perhaps I ought to say something. All this doctrine, for myself, I utterly disclaim. The achievement of the independence of the thirteen original States, and the establishment of the Constitution, under which they are united, are connected with too many precious, too many proud recollections, to permit a man easily to think of realizing a dismemberment of the Union so

achieved and so established. Whatever diversity of opinion, whatever rivalry of States, whatever jealousy of State ambition may exist, still one sentiment is to be recollected, and it is one on which, when I mention it, I need make no comment. The distinguished, the illustrious patriot, whose memory is cherished in the Northern portion of this Union, with a veneration next to idolatry, was a gentleman of Virginia. Independently of all those recollections which apply strongly to the heart, and which must so interest all honorable minds as not to be driven from them by any diversity of political opinion, for, among gentlemen, there are some sentiments of honor always recollected in relation to each other; independently of these, there are considerations so strongly applying to what I deem the interest of the State from which I am a Representative, against a separation of the States, and such is my confidence in the good sense, the strong practical intelligence, and the sound principles of my constituents, that, were every State near it to solicit a separation from the present Union, and desire the concurrence of Connecticut, supporting it with all the talents which those States possess, I do believe that, even myself, with my single talent, however small, could prevent the acceding to the proposition supposed. A reason for this opinion is, that, from the habit of education together, and my knowledge of the consequent uniformity of sentiment, I am very confident, on mature reflection, with respect to a subject of this nature, the people of Connecticut would generally adopt the same conclusion with myself. And, in saying this, sir, I request to be understood as relying not on any imaginary potency of my talent, but on the prevalent power of truth.

Yet, sir, be pleased to recollect that this Government, according to Constitutional principles, is not a consolidated Government. I have heard, in the course of the present session, an argument against the embargo as being a consolidating measure; and reference was made to the language of a celebrated orator of Virginia, (now deceased,) as to the danger of consolidation. Since that time, I have been almost astonished at the change produced in my own opinion; for the argument which then seemed to have more of eloquence and fertility of mind than of real solidity, the argument which then seemed but specious, has since appeared to be hardened into solidity by measures which have been adopted. It is well known that this is a Government of limited powers; when the members of the Government act without Constitutional authority, they act as unauthorized individuals. In case of questions arising, whether our acts are Constitutional or not, some, perhaps, might say that our decision should be regarded as infallible. But the Constitution does not proceed upon the supposition of the infallibility of Congress, or upon the supposition of Executive infallibility. The question, remains, with respect to our acts, whether others may not rightfully decide as to their constitutionality. Every member of Government, who is sworn to support the Constitution, has to perform his public trust according to what he believes to be the true construction of the rule of duty to which he is bound by oath. According to this principle, judges have doubted the constitutionality of legislative acts, and have considered themselves not bound to give effect to any legislative provision when clearly unconstitutional.

The elective franchise is of great use as well to prevent the adoption of unconstitutional measures, as to guard against the abuse of powers unquestionably delegated by the Constitution. If, however, unconstitutional acts be adopted, are they not acts of usurpation? Such acts, whether adopted from patriotic motives, or otherwise, are not in pursuance of the trust committed to the Government; and the members of independent authorities, who are sworn expressly to support the Constitution, are not to be considered as sworn to give effect to such measures. When, therefore, a deliberative body is called upon to act in aid of the statutes not Constitutional, they are at liberty to refuse. Thus the judges of courts of the United States are considered as not bound to afford any agency or aid toward carrying into effect a legislative provision, which is unconstitutional. The Legislatures of individual States are also deliberative bodies. And some acts might be required from them for giving complete effect to some of the acts of Congress. I will cite an example. The act relative to the militia could not be carried into its intended effect without some legislative provisions on the part of the State Governments. Such provisions have been made, and the act has gone into general operation. But if any State Legislature had believed the act to be unconstitutional, would it have been their duty to comply with its unconstitutional provisions? One State, I think, did omit, for a time, to pass any act conformable to that act of Congress, although not from doubts about constitutionality, but from some other cause. I consider, therefore, that the State Legislatures, whose members are sworn to support the Constitution, may refuse assistance, aid, or co-operation, as to an act of Congress which they sincerely believe to be unconstitutional. And one step, further, I think, may be admitted. They may refuse the co-operation of persons holding offices as agents under the State; for the agency of such persons is the agency of a part of the State itself.

If we admit all these principles, gentlemen need not suppose that they in the least endanger the Constitution of the Union; not in the least, sir. But, if measures were pursued tending to alienate large portions of the people by giving effect to unconstitutional principles, this might expose the Union to the hazard of division, or to the hazard of being consolidated by arbitrary power into one Government. The Legislatures of individual States have motives of policy and interest to decide in favor of acts of the General Government, because it is a common cause to maintain legislative authority. Of consequence, when a question is raised by a respectable portion of the community as to the constitutionality of a statute, it should be regarded as warning the

General Government to review the subject with serious deliberation.

Perhaps gentlemen are not perfectly acquainted with the nature of some proceedings which have taken place in the Commonwealth of Massachusetts, or with the nature of their town meetings. Those primary assemblies of the people exhibit the great force of the principles of free Government. They are bodies legally constituted, with the power of making local regulations, and of imposing taxes upon themselves; they are meetings convened in strict form of law, as much so as when the President of the United States issues his Proclamation for a meeting of Congress. When assembled they proceed to choose a person to preside in a manner as conformable to law as the choice of Speaker of this House; and order may be maintained there with as absolute certainty as it is here, for the officer who presides may require the assistance of peace officers. In those places, their military men assemble; the men and officers there meet on even floor, and deliberate freely. Thus the meetings may exhibit what is resolved upon by the mass of fighting men. They are assemblies to which the people are perfectly accustomed, to which all legally qualified to vote are admitted, and in which they all may express their sentiments on their common concerns. They are seen proceeding with much deliberation and with much caution to judge and decide on what they believe to be proper for them according to the Constitutional law of the land. Instead of thinking them scarcely worthy of notice they should rather be regarded with peculiar attention.

Much has been said as to the example of Virginia in relation to a trial under the statute of the United States, called the sedition act. That was a case, sir, in which a statute could not go into effect but through the medium of a court. The court gave its aid, pronouncing the act in question to be Constitutional. If, however, an act were never to come before the court, and the State officers were called upon to execute it, it would present a very different case. There was an insurrection of unauthorized individuals in Pennsylvania against a law of the United States which was certainly Constitutional. I recollect that much was heard from Virginia about the trial alluded to. Resolutions and addresses of the Virginia Legislature were passed about legislative or judicial usurpation.

Mr. Gholson asked leave to correct Mr. Dana as to facts. The resolutions of the Legislature of Virginia were antecedent to the trial of Callender.

Mr. Dana would mention some other trials for supposed libels or sedition. There is a case now coming up to the Supreme Court of the United States. It is the case of a prosecution at common law for supposed libel, or sedition, or slander, instituted before a circuit court of the United States, conducted by an officer appointed by the present President of the United States. There have been instituted before the circuit court of the United States in the district of Connecticut, within about three or four years past, seven or eight prosecutions at common law for libellous publications, or seditious or slanderous words against either the President or Congress, or some portion of the Government of the United States. Some of the prosecutions have been attempted to be carried at common law beyond anything contained in that sedition act of which so much has been said. These are facts well known. The district attorney of the United States has conducted the prosecutions. To be sure, no persons have ever been punished under them, because it always so happened that there has been some error in the business, some defect of skill or attention in the attempt to bring up the question which it was wished to have decided by jury. I do not mean to charge the public prosecutor with purposely leaving a deficiency in these cases so as to liberate the persons prosecuted. You may judge of the nature of the prosecutions, when I observe that a judge of the highest court of law has been prosecuted in the name of the United States for a supposed libel—a man eminent for his personal worth, professional talents, and literary acquirements. One of our most distinguished clergymen has been indicted, and another clerical gentleman has, I think, been committed to prison. Two or three of the editors of newspapers have also been indicted. All these prosecutions have been had in a court of the United States. Yet the people had made no noise whatever about them abroad They suppose that the influence of the Executive administration of the United States, however great, was directed against that small State; but they have never complained to the other States, or asked aid of any other State about the affair. The judges of the court have both been appointed by the present Administration; they are, however, of distinguished professional talents, and I recollect no reproach cast upon them as to any decision in these prosecutions, even by those more opposed to them with respect to political opinion. The Lieutenant Governor of the State has been arraigned before the same circuit court. Although it was painful to see the second magistrate of the State subjected to such a prosecution, and although it was felt as an insult upon the State, yet, for this, no opprobrium was cast on the court. The prosecution was ultimately abandoned—unquestionably, it could not be sustained where law and justice were respected. When gentlemen say so much of one prosecution in Virginia under the sedition act, they are desired to reflect that the small State of Connecticut has borne all these prosecutions. It is a State which never has given a President to the United States, and perhaps never will. The prosecution now pending at common law for supposed libel or sedition, is suffered to proceed without disturbance.

When Mr. Dana had concluded, the question was taken on filling the blank with the first day of June, and negatived—73 to 40. The Committee then rose, without taking any other question, 58 to 56, and had leave to sit again.

And on motion the House adjourned.

Friday, February 3.

The Speaker laid before the House a letter from the Governor of the State of Pennsylvania, accompanied with such returns as have been transmitted to him, of the election of members to serve in this House from the said State, for the term of two years, commencing the fourth of March next; also, the copy of a proclamation issued by the said Governor, relative thereto; which was read, and, together with the said returns and proclamation, ordered to lie on the table.

The Speaker laid before the House a letter from the Secretary of War, accompanying his report on the petition of William McLaland, referred to him by order of the House, on the thirteenth ultimo; which were read, and ordered to be referred to the Committee of Claims.

The Speaker presented to the House a memorial of sundry citizens of the county of Harrison, in the Indiana Territory, praying, for the reasons therein set forth, that the ordinance of Congress for the government of the said Territory, passed on the 13th of July, 1787, may be so revised and amended as to vest in the people of that Territory the power of electing their delegate in this House, for the same term of time, in the same manner, and by the same persons who elect the members in the House of Representatives for the Indiana Territory.—Referred to the Committee of the Whole to whom was committed on the twenty-sixth of December last, a bill extending the right of suffrage in the Indiana Territory, and for other purposes.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company;" to which they desire the concurrence of this House. The Senate have passed a resolution for the appointment of a committee on their part, jointly, with such committee as may be appointed on the part of this House, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and for regulating the time, place, and manner of administering the oath of office to the President;" to which they desire the concurrence of this House.

Mr. Van Dyke, after presenting a memorial on the subject, offered the following resolution:

Resolved, That the Secretary of War be directed to inquire and report to this House whether it be expedient to erect at or near Wilmington, at or near Newcastle, at or near Port Penn, in the county of Newcastle, and at or near Lewis, in the county of Sussex, in the State of Delaware, one or more batteries or fortifications, for the protection of the said towns, and the country adjacent. And, in case he be of opinion that it is expedient to erect such batteries or fortifications, that he report whether any, and what, additional appropriations be necessary for the purpose.

The resolution was supported by Messrs. Van Dyke, Pitkin, and Lyon, on the ground that it was only intended to bring the subject before the Department of War, that it might receive the attention of the proper officers; and opposed by Messrs. Macon, D. R. Williams, and Blount, because it was unusual to act on the subject of fortifications specially, as the subject had been always considered as a national one—the execution of the law on the subject resting solely with the Executive officers. The resolution was negatived—ayes 23.

THOMAS PAINE'S PETITION.

Mr. Lyon rose and observed that he had seen in a morning paper, that the Committee of Claims had reported that Thomas Paine should have leave to withdraw his petition; and, on examination, he had found that that report was ordered to lie on the Clerk's table, without the usual order for printing the memorial and the accompanying documents. I confess, said Mr. L., I was astonished at the report. Shall it be said of this nation that Thomas Paine, the man to whom this nation is indebted for its independence more than to any living being; that its Legislature has been memorialized by this same Thomas Paine, intimating that he is in want, and that he is willing to accept of pecuniary aid on account of those inestimable services rendered the American people, when they were growing into a nation—shall it be said of this nation that they are as ungrateful to their benefactor as the Romans were to their Belisarius! I did not rise, sir, to express my feelings on this subject. I must reserve myself for a more proper opportunity, when I shall move, if no other gentleman does it, that the report of the Committee of Claims be recommitted, with instructions to that committee to report their opinion of what the justice and the honor of the nation requires to be done for Thomas Paine. In order to prepare the mind of the House for this question, I move that the report of that committee, together with the accompanying documents, be printed. Motion carried—ayes 58, nays 19.

DISBURSEMENT OF PUBLIC MONEYS.

Mr. Randolph said, he rose for the purpose of making a motion which he had expected and wished should have come from some other quarter; but he said he could not reconcile it to himself to be wanting in what he conceived to be his duty as a member of the House, in the hope that that duty would be more zealously performed by others, especially when he perceived no prospect of its being, in relation to this particular object, performed at all. I believe, sir, said Mr. R., it will not be a new thing to you to be told that rumor—and something more than rumor, too—has gone abroad respecting the application of public moneys. Among the duties—and among the rights, too—of this House, there is perhaps none so important as the control which it constitutionally possesses over the public purse. To what purpose is that control? The mere form of appropriating public money, unless this House rigorously examine into the application of the money thus appropriated; unless the House examine if the amount of appropriation is exceeded by the expenditure; or if it be misapplied, that is, if money

appropriated for one object be expended for another; unless we do this, sir, our control over the public purse is a mere name—an empty shadow. I now rise, not only for the purpose of asserting this right on the part of the House, and exercising what I conceive to be my duty to it and to the people whom I represent, but also for the purpose of vindicating, in the only way in which it can be vindicated, the reputation of the Government under which we live—I mean the Administration. Whenever charges are brought against any Administration, the only way in which they can be repelled, is by a frank, full, and impartial inquiry into the matter constituting those charges. This is the only mode in which the honor of any Administration, in a Government like ours, can be vindicated. You must well recollect, sir, that in the first session of the sixth Congress of the United States—a period, sir, to which I delight to recur; it gives me pleasure to look back upon it as the era of a glorious reformation—an act was passed fixing the Military Peace Establishment of the United States. The fourth section of this act establishes the pay of the officers, non-commissioned officers, and privates. I will read it:

"That the monthly pay of the officers, non-commissioned officers, musicians, and privates, be as follows, to wit: To the brigadier general, two hundred and twenty-five dollars, which shall be his full and entire compensation, without a right to demand or receive any rations, forage, travelling expenses, or other perquisite or emolument whatever, except such stationery as may be requisite for the use of his department," &c.

Never, perhaps, sir, were the words of a statute more explicit; and no one on this floor knows better than yourself why it was made thus explicit. It is said, (with what degree of truth remains for us now to investigate,) that, in the teeth of that statute, advances—and to a considerable amount beyond the emoluments thus provided by law, have been made by the War Department to the brigadier general. There is not a single department of this Government—not a man in the Administration—against whom I would credit a charge of this sort with greater diffidence than against the Secretary of War; so long have I been acquainted with his economy, regularity, and strict attention to keep the expenditure of his department within the annual appropriation made by this House. But this very circumstance—the high reputation of this officer for regularity and punctuality, renders his claim to investigation into this rumor but the more strong, and unites his interest with that of the American people and the duty of this House to induce the passage of the resolution which I now submit:

Resolved, That a committee be appointed to inquire whether any advances of money have been made to the Commander-in-Chief of the Army, by the Department of War, contrary to law; and, if any, to what amount.

The resolution was adopted without debate—ayes 25—and Messrs Randolph, Smilie, John Montgomery, Taylor, and Johnson, were appointed the committee.

REPEAL OF THE EMBARGO.

Mr. D. R. Williams moved that the House again resolve itself into a Committee of the Whole on Mr. Nicholas's resolution.

Mr. Troup moved to postpone the further consideration of the subject indefinitely. [This motion was understood to contemplate putting the subject completely at rest.] Mr. Troup's motion was negatived—yeas 26, nays 93, as follows:

Yeas—Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, Thomas Blount, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, John Dawson, Josiah Deane, Meshack Franklin, James Holland, John G. Jackson, William Kirkpatrick, Nathaniel Macon, John Morrow, John Porter, Benjamin Say, Ebenezer Seaver, John Smilie, Richard Stanford, John Taylor, George M. Troup, Jesse Wharton, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, John Blake, jr., Adam Boyd, John Boyle, Robert Brown, William A. Burwell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Richard Cutts, John Davenport, jr., Joseph Desha, Daniel M. Durell, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, Walter Jones, James Kelly, Thos. Kenan, Philip B. Key, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Pugh, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Samuel Shaw, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, Samuel Smith, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, and Nathan Wilson.

The House then resolved itself into a Committee of the Whole on the subject.

The question being now on filling the blank in the resolution for repealing the embargo and issuing letters of marque and reprisal with the "fourth day of March"—

Mr. Moseley said he did not rise to detain the Committee with many remarks at this time. He could not but express the gratification he felt at the vote given in the Committee against filling the blank with so distant a day as the first of June. He said he should be in favor of the earliest day. Having begun a good work, he hoped they would go on with it; and, for himself, he could truly say, that every step they proceeded in it, he should go on rejoicing.

It did appear to him that the same reasons

which induced gentlemen to consent to a repeal of the embargo at all must operate in favor of a speedy repeal. One powerful reason, and which he should suppose of itself sufficient, was, the multiplied evasions of the embargo acts, in defiance of every effort to enforce them. It is said by some that they are violated only by the worthless and unprincipled part of the community. If this be the fact, so much the worse. It proves, only, that some adventurers are growing rich by their transgressions of the embargo acts, while the regular and fair traders are suffering by their obedience to them.

On the subject of the violation of the embargo acts, he thought gentlemen had been in the habit of imputing the blame rather too much to the people of the Northern and Eastern States. Some gentlemen have seemed disposed to confine this charge almost exclusively to what they are pleased to term the Old Tories and Federalists of the North. They may, perhaps, be worse in theory; but, if reliance is to be placed upon statements which have been made, they are not much worse in practice than the Young Tories and Democrats of the South. These at least, it appears, are apt scholars; who, according to their opportunities, have not been behind their brethren in the North. The truth is, the violations of the embargo acts are not confined to any particular section of the country, or to any political party. They are known to be so general, and so numerous, as to render the embargo utterly nugatory and inefficacious, even in the estimation of those who have been most partial to it; and, if the remark made by his honorable colleague, (Mr. Tallmadge,) "that the funeral of the embargo had already gone by," might not, by some, be considered as strictly correct, he would venture to assert that it could not long survive. It was, now, literally "dying of the doctor." The last prescriptions of its physicians had proved too powerful. They have had a most unfavorable operation. Some gentlemen imagine that a slight inflammation only has been excited, and that a little phlebotomy would at once allay it. He apprehended there would be greater difficulties in applying this remedy than gentlemen were aware of. But, as it might not be perfectly pleasant, nor, perhaps, proper, in this place, to dilate upon this subject, he should dismiss it. He could not, however, help noticing a remark of an honorable gentleman from Virginia, (Mr. Gholson,) that sooner than he would be deterred from enforcing these laws, "he would drench the nation in blood." Surely, the gentleman could not be serious in this declaration. Would he, or would any gentleman professing an attachment to a republican form of Government, a government of laws founded on the affections of the people, wish to have recourse to such an expedient as this, to embrace obedience to odious and unpopular measure?

But some gentlemen, who declare that they are not disposed to proceed to extremities and to attempt compelling obedience to the embargo acts at the point of the bayonet appear to be grieved and almost offended that the people, and especially the commercial class, should be so blind to their own interest. They declare that all they have done has been from motives the most friendly to commerce, and that hereafter they never would lift a finger for its protection.

He could not doubt the sincerity of their declaration; but in the opinion of those most interested they had taken rather a singular and unfortunate way of showing their friendship; and provided they should ever feel their affections for commerce rising again, he hoped they would not give her such another fraternal embrace as entirely to stop her breath; to stagnate her blood, and absolutely to kill her out of kindness.

Mr. M. said, now he was up, he would make a single remark upon the second branch of this resolution, authorizing letters of marque and reprisal. He should be utterly opposed to this, because he considered it as equivalent to a declaration of war, and he was by no means prepared to give his sanction to any hostile measures at this time. Before we resolve to rush into a war we ought coolly and dispassionately to consider the policy of such a step, to weigh well the probable advantages, our capacity of carrying it on with success, and the prospect of unanimity in the nation. He did not believe that a war at this time would be proper.

As to the embargo it had been fully tried. Experience had clearly evinced its impolicy and inefficacy. The nation were sick of it. And he considered that the most imperious reasons must present themselves to the minds of gentlemen in favor of an immediate repeal. Its longer continuance, he contended, could produce no possible good, and might be attended with the most calamitous consequences.

He hoped, therefore, that the embargo would be repealed without adopting the second clause of the resolution. What had already been done he had no doubt had excited the most pleasing hopes and joyful anticipations in the nation. Let us not disappoint them—let us not dash from their lips the cup of bliss which we have held out to them, unless they will receive it from our hands mixed with an ingredient, deadly and destructive!

The question was now taken on filling the blank with the fourth day of March, carried ayes 70.

The question then being about to be put on that clause of the resolution contemplating the repeal of the embargo—

Mr. Randolph said, that he had voted against filling the blank in the resolution with the 4th day of March because, if possible, he could have wished an earlier day; reserving however, in his own mind the right, when the question should come before the House, of agreeing to that day, if an earlier could not be obtained. He hoped, and the prospect which presented itself that morning gave him good cause to hope, that the committee would agree to that member of the resolution which was then before them. For some time past he had been an inactive, though not an inattentive observer of the proceedings of Congress. He did not know whether he ought not to rejoice at the physical incapacity which had

prevented him from taking a part in those proceedings. They had been such as (until now) to fill his mind with great apprehension and alarm, because they had hitherto indicated a great want of concern, not to say disunion, somewhere. He would have deemed it one of the most calamitous events that could have befallen the country, if, after the progress which had been made in the consideration of the motion of the gentleman from Virginia (Mr. Nicholas) the House could, that day, have refused further to consider it. And wherefore should he so have deemed it? Because it would have indicated not merely a want of concert and of union in the Cabinet and Councils of our country, but he feared it might have led to a state of things which he would not then attempt to anticipate. The plain, broad, open road for every Government to pursue was that of common sense and decision—common sense in theory; decision in execution. If, as they had been told, there existed dissatisfaction, murmuring, discontent; a spirit, if not of insurrection, at least leading to insurrection against the laws; wisdom and policy required either a prompt subdual of that spirit, or an immediate yielding to it—one, or the other. It was the halting between these extremes, an oscillating, hesitating, temporizing, tampering, patching-up policy, that brought ruin on every nation, so situated. The history of our own Revolution taught this. The conduct of the British Ministry to the American colonies, he supposed, would have impressed this principle on the mind of every man. What was that conduct? Marked by a spirit of irritation and indecision. While we were irritated on the one hand, we were uncontrolled by power on the other, and, after years of excitement and ill-blood, the event is known to all. He therefore congratulated the House and the nation that this system—if system it could be called—was about to be given up; that the hopes, the wishes, the fears, every strong passion of the public, were no longer to be sported with, that the example of Lord North was not so soon to be lost upon us. Sir, said he, if my voice will permit me, I will state another subject of congratulation to you and the Committee. It is, that during this period of general distraction—I hope no gentleman will attach any bad, or wrong sense to the word, but that it will be taken (as I utter it) to mean a difference, a contrariety of views and opinions—there being hitherto perhaps no ten men to be found in this House who could agree upon any affirmative proposition—amidst this public distraction, it is a subject of consolation to me that we have not, as yet, compromitted the safety of the State; that during this long and tedious political malady under which we have been—and not without some shadow of reason—so extremely peevish and fretful, the body politic has sustained perhaps no radical injury; and that, now, by a happy determination to the surface, the disease is likely to be wholly thrown off.

By some it might be thought that in the wide, and perhaps wild range, which he should take upon the subject, he was violating the rules and orders of the House. On this subject he must be permitted to say that there was not a single question; not even that of filling a blank in the resolution under consideration, that did not involve every foreign, and he might almost say every domestic relation of this Union. It was impossible to discuss a subject of that great and momentous national importance with the dry minuteness of a special pleader—not to travel out of the record, or to be tied down to the matter contained in the declaration. And permit me, sir, said Mr. R. to add that so long as I escape the correction of the Chair, I shall feel myself at liberty to proceed, whatsoever may be the opinions as to order of other gentlemen.

There are occasions in which to speak of any man to his face in a certain strain, ought to be reprobated and stamped as the vilest adulation; but there are other occasions in which not so to speak, to restrain the feelings of a full and overflowing heart, subjects perhaps to colder, but far bitterer censure. I shall dismiss this topic, then, by saying, that you, sir, have not so long presided in this assembly, with so much reputation to yourself and benefit to the State, to be now schooled in your duty by the youngling of yesterday. And I say it, because a Chairman of this Committee would certainly very grossly depart from rule and order were he to rise to vindicate his conduct in this assembly, from any argument of it by a member.

In the train of argument which he should pursue, Mr. R. really did not think it at all necessary, with his friend from South Carolina, (Mr. D. R. Williams,) or the learned gentleman from Connecticut (Mr. Pitkin,) to go into a minute calculation on the subject of the revenue or debt of Great Britain, or of the gross products of duties derived by her from the importation of West India commodities. Such calculations ought not to enter into any determination of that House; for, however he might be made to appear on paper, and whatever might have been said on the subject from the days of David Hume, and Dr. Price, to the present hour, the continental enemy of that Power had, for at least half a century, been deceived in his reckoning as to her time of bankruptcy. That subject had baffled all the calculation of political economists. And really, sir, said Mr. R., it is hardly worth our while, after Bonaparte, like Canute of old, has set down on the seashore at Boulogne, vainly waiting for the great tide of British wealth to recede, to take measures, here, bottomed upon calculations of her being unable to carry on the war for want of capacity to raise the supplies. It is a well established fact that the gross revenue of that Kingdom was for the year 1807 (exclusive of loans and the revenue derived from Ireland) sixty millions sterling; and that collected at an expense of £4 5*s.* per cent. This is answer enough to us, on the subject of her being unable to carry on the war for want of resources, particularly when we look back to our own revenue, the expense at which it is collected—and more especially when we look at the proposition of our Chancellor of the Exchequer, the Secretary of the Treasury, to carry on the war (should we engage in one) with loans, exclusively. It is an ample, a redundant answer. Shall we calculate upon the failure, for want of revenue, of a nation whose annual loans bear so small a proportion to her whole receipt, (in the year which I have quoted, about a fourth,) whilst we ourselves are told that loans must constitute nearly the whole of our revenue? There, then, can be no doubt that this subject not only ought not to enter into our views upon the great question of war, but perhaps had better not be stirred at all; that our measures ought to be taken in reference to our own capacity and disposition for exertions, and not grounded on flattering, perhaps delusive hopes, of our adversary's weakness. Another point it might be as well, in passing, to notice—the small proportion which the customs bear to the revenue of that State, and that proportion decreasing, although their aggregate amount be actually increasing; whilst the revenue from internal sources has been rapidly increasing every year, as well in proportion to the whole receipt as in aggregate amount.

But, sir, said Mr. Randolph, amidst the various causes which I find for felicitating you and the nation, the recent change in the aspect of our affairs is not the least—that we are at last to settle upon some system; and I listened, I confess, with very great pleasure the other day, to the gentleman from Massachusetts (Mr. Bacon) and my worthy colleague, (Mr. Burwell,) although perhaps I may not have exactly agreed with either, certainly not with both of them. I listened to them because they held out to us the prospect of a happy termination of the present state of things—a state of things, which, after the vote of yesterday and to-day, I might almost be tempted to pronounce cannot last beyond the fourth of March. A great deal had been said about the patriotism of the country under the operation of this system. In Mr. R.'s opinion never did any people exhibit so striking an instance of patriotism as the people of the United States had done since December, 1807. He believed that their patriotism had in that period been put to a test more severe than during the Revolutionary war; because whatever of suffering the people then felt, they saw that it was inflicted by the immediate hand of the enemy; and it operated only to goad to a still higher pitch their fury against that enemy. But in this case, (whether right or wrong was perfectly immaterial,) the system had been such as to impress a great portion of the public with the opinion that their sufferings proceeded from the Government, and it ought not to be a matter of surprise that the popularity of the Government should have been diminished. It called for the exercise, by all classes and descriptions of men, of the rarest virtues—patience, forbearance, self-denial, and long suffering without repining. It presupposed the existence of a state of society in which there was no occasion for government itself. Was it wonderful that those who could not see wisdom in the measure should murmur, when suffering under it?—that men not strictly conscientious should violate its provisions?—that under the severity of its operation the Administration should lose somewhat of their former popularity? Mr. R. was not, never had been, and he trusted never would be, in the habit of paying compliments to men who have much at their disposal, but he would declare his belief that the popularity of no man whom God ever made could have endured the test which that of the present President of the United States had not merely endured, but gone through with victory. There could not have been so strong a proof of the deep-seated love, and unqualified approbation of that man as his having been politically able to support the weight of that experiment. It was a trophy of which he never could be divested, let him die when he would—whatsoever might be the course of his future life. Yes, sir, said Mr. R., after the vote of this committee, I do consider the embargo as substantially repealed. It is something like a vote of credit; it has not gone through all the forms of law, but no banker would hesitate to advance money upon it. Gentlemen shake their heads, sir, and heads of such weight, too, that I despair of shaking them myself. I had supposed that the embargo was all but repealed; in point of fact I believe that it is already repealed. A member of this House has cited the embargo as a strong proof of the stamina of this infant Hercules, who had been so long able to bear what would have crushed, as he says, any other nation in six months. I believe, sir, that it would have crushed the popularity of any Ministry of any other nation than this in less than six months, supposing that nation to have half the pretensions to freedom that we have. He remembered to have read a great while ago in an extremely beautiful epic poem that the natives of Chili, when they threw off the Spanish yoke, proposed to choose their captain by this test: A very heavy beam of wood was produced, and he who could support it on his shoulders the longest time was to be selected as their general. One of the chiefs stood under the burden such an amazing number of hours, that they were like never to come to a conclusion, and (if he remembered rightly) they had to abandon their experiment. Whatsoever proof we had given of our wisdom, we had indubitably borne away the palm of bodily strength, anything in the observations of a gentleman from New York (Mr. Gardenier) about our being puny and ricketty, to the contrary notwithstanding; and Mr. R. hoped we should give perhaps not quite so strong a proof of our wisdom, by throwing the beam off from our shoulders, now that we had ascertained our strength by the experiment.

But it was asked, what substitute would he propose for the embargo. None. He hoped he would not be misapprehended. Considering the embargo in its operation as mischievous, and even ruinous, it would be droll indeed if he should require a *substitute* for an evil that he proposed to get rid of. Shall a man refuse to be cured of a cancer unless you will provide him with a *substitute?* But if he were asked what the nation

is to do after repealing the embargo? his answer was ready. To be sure, sir, said he, it is a very old one, and therefore may not take with the fashions of the day; but in matters of policy, old systems which have been sifted and tried by experience, are not in my judgment the worst, and the longer tried, perhaps, the better. So far, therefore, from its being an objection with me that a proposition is old and trite, it is a recommendation; as it is precisely the reverse with respect to new projects, however ingenious, however calculated to catch or dazzle the eye, like the room in which we sit, where I at this moment discern the fissures which perhaps are to reduce us to the situation of poor Lenthall. We had as well stick to our old apartment, (I do not mean the library,) where we had every convenience and comfort, and saved our money.

The diseases of this State took their rise, I repeat it again and again, in the years 1805–6. We were then a flourishing, united, and happy people. The Government permitted itself, a majority of this House permitted themselves, and I believe they now sorely repent of it, sir, indeed some of them have told me so, to be urged by mercantile clamor and cupidity into collision with powerful European States. From that day we have been going on from bad to worse, until we have arrived at this superlative state, which can no longer be borne, for which a remedy must be found, gentle if you will, alterative if you please, but at any rate a remedy, however desperate. That which I would now propose is what I had the honor of proposing at the last session of Congress, and I think of mentioning more than once, on Sunday morning, the 18th of December last; a remedy which, without pledging the State, without mortgaging every foot of land in the country for the protection of the mercantile flag in the most remote seas, would permit our merchants to protect themselves, if they pleased, and if not, stay at home, at their option. This was my opinion as far back as 1805–6, and I think it will be found, although not in detail, in a report made during that session of Congress, which proposed raising a military force for the purpose of commanding within the United States obedience to the laws, not from ourselves, but a foreign Power. And here suffer me to say that I really think we are coming back again slowly—for large bodies (even such as move in ellipsis) move slowly—after having been long in aphelion, we are returning back to the daylight of those good old republican principles of which, as I think, and as I would endeavor to show, if it could answer any good purpose, we have too long lost sight. And after being for years one of the proscribed and denounced, I am not without a saving hope that I shall die in the *faith*, whether I die in the church or not. I am induced to this belief, principally, from perceiving that scarcely a sentiment is contained—I beg pardon of the Committee for this egotism—I believe if it be warranted in any human being, I might fairly challenge a right to it now—scarcely a sentiment is expressed in either of those speeches of which I was the author, (unfortunately as it would seem,) that I have not heard, during the present session of Congress, from lips the most orthodox in this House. They amounted to this: "Before you begin this contest, count the cost; calculate your means of annoyance as well as of resistance; your enemy (if she become such) is all powerful at sea; if she strikes, you will feel; bring matters to extremity and you will have to recede—not from your *claims*, but from the ocean." All this and more I have heard urged, not only by the Chairman of the Committee of the whole House, but repeatedly by other gentlemen nearly as orthodox as himself on various questions, the navy bill in particular, and I hope to hear sentiments of the same sort when the other bill (army bill) is taken up, which was put down in order to act on the present subject. The embargo, and the course pursued by the Administration generally, have, during this session, been defended and eulogized on positions admitted on all hands to be indisputably true, but which it was criminal in me to advance three years ago. "Then, it was little short of treason to magnify, as it was said, the resources of our rival, and depreciate those of our own country; now, it is madness not to perceive our inability to cope with her on the ocean"—the theatre of our wrongs, where redress, to be effectual, must be obtained. Was it not wiser to make a just estimate of our strength, or even to underrate it a little, before plunging into a conflict, than afterwards have to abate from our sanguine, overcharged expectations? We suffered ourselves to be driven, step by step, by mercantile clamor, into a situation which has raised (whether rightfully or not) more clamor, from the same parties too, than all the foreign injuries about which they beset the Government. I now, therefore, propose that they be restored to that situation which, according to their own showing, is so enviable a one, and against the evils of which I hope they will never again have the hardihood to complain to this House, or apply for means of redress. It will therefore at once be perceived, that I am not friendly to that part of the resolution from which my worthy colleague on my left (Mr. Burwell) anticipates so much benefit, and for the plainest of all reasons, because I do not conceive a *threat* to be the best means of patching up a reconciliation (and as such a hope has been expressed from that quarter, I may be at liberty to name it) between two parties who look at each other already perhaps with too jealous an eye; and for another reason: because I do not choose to put out a distant threat, to the execution of which either the capacity or disposition of the country may be doubted. Sir, we have dealt in the minatory sort of traffic long enough, and I have no disposition to be any longer laughed at. We began with the non-importation law. That was undoubtedly a threat, for a power was given to suspend it, in case our terms were complied with. Next came the embargo; that too was to be suspended in case—and so forth. Now we are called upon to hang by a single hair over

the head of the belligerents the sword of Damocles, to be cut some time in June next. It is all a threat, sir, and as such, must have a bad operation on any negotiation, which Government in its wisdom may think fit to commence (and we have had an intimation of that sort) for the purpose of settling our differences. Nay more, it is *war* to commence in June next, and really, to my apprehension, we might as well make a declaration of war to take effect in the next century, as in June next. I speak as to the power of this House, as well as to the policy of the thing.

"Will you then submit?" say gentlemen. "Have you not recorded a vote that you will not submit?" Unquestionably I have, and I will not submit. What is submission, and what resistance? By submission I understood either a formal renunciation of the thing in dispute, or a passive acquiescence in the claims of your adversary. When you say that you will not submit, what do you mean? That you will make the best resistance that you can. And when we have made this determination, we come to the great question of expediency, as to what is that best resistance? Now if you permit the merchantmen to arm in their defence *instanter*, and not tell the British Ministry that you mean to arm next year, and go out and fight the English and French, until they revoke their orders and decrees, what follows? Why, sir, you not only make resistance, but you do it in the most honorable, manly, and effectual way, and therefore in the way leading most directly to a restoration of peace—not to a good understanding, for that I fear we shall never have, but to your system, Mr. Chairman, of "hands off." Can Great Britain undertake for a moment to consider *that* as war upon her, which she requires of us to do, in order to maintain our fair neutrality, viz: to resist the decrees of Berlin, Milan, Bayonne, or anywhere else, non-resistance to which is the plea for her Orders in Council? What offence can it be to her? None, sir; and yet to all the practical, beneficial effects of war, such a system would be as efficient as any you can devise—as war itself. Can France, although indeed there be a sort of system within a system there, which I do not very well understand—can France say that your resistance to what she calls the tyranny of the seas, justifies her in taking any hostile steps against you, supposing it to be in her power? Unquestionably not. France claims the power to issue certain decrees, on the ground of England's having usurped the empire of the ocean. You resist that usurpation. Those decrees, then, are not in any respect applicable to you; for I understand your non-resistance to be the sole *alleged* cause of those decrees. England retaliates the system—why? Because, as she says, you do not resist it. France issues her decrees because you do not resist (as she alleges) the British orders—England issues her orders because you do not resist the French decrees. Now, I would resist both, and if either construe that resistance (which they have both called upon you to make) into war, and do notwithstanding capture your armed ships, why then, sir, you have nothing left but to annoy them by every means in your power. It will be they who make the war and not yourself; and that circumstance will unite every heart and hand throughout the country in your cause. But, sir, I believe (although I have not so much confidence as some gentlemen have in the wisdom of those nations) that they have rather too much good sense thus to act—thus to drive you into the arms of the other party.

Let your merchants, then, go and arm in defence of their lawful trade against French decrees, British Orders in Council, and anything else of a similar stamp, and let the nation which by force shall attempt to execute them, know that it is war. Your resistance, according to their own showing, is lawful—they have called for it—the withholding it has been the pretext for their aggressions—and the first gun fired on you, when so resisting, is actual, flagrant, maritime war. You then throw the *onus* on them. You show the people that it was not within the power of human wisdom to have devised a mode of keeping out of war with them—that the very proofs which they required of our fair neutrality (resistance to each other's monstrous pretensions) have provoked their hostility—that there was no alternative but war or embargo—and who knows, sir, but the embargo may thereby become so popular a measure that we may put it on never to be pulled off again; that, like our winding-sheet, we shall be buried in it.

To the course which I propose, one of the strangest objections has been taken that human ingenuity could have devised: "that if you authorize the merchant vessels to arm and make resistance, they will not arm;" (which proves that there is no occasion for arming of any sort) —"or, that they will arm and yet go to England and take license—pay tribute." If a reason of this kind is to govern us, as we have fitted out the navy the best use that I know for it will be to fight the merchantmen, to make them fight the French and English. Suppose you issue letters of marque and reprisal, or declare war and commission privateers—the same thing may be said, that they will not fight; that they will go to London with cotton, and pay tribute. You must then invent some mode of making them fight. Sir, there is no mode of making men fight against their will; there has been none yet ever devised, nor ever will be. Do gentlemen know so little of mankind; are they so ignorant of the character and composition of that mixed assemblage, a nation; so little read in the history of our Revolution, as not to know that when the crisis—(Sir, this is a poor worn-out word, I hope to be pardoned for using it, it shall be the last time) was over, the American patriots began to trade with the British at New York, and elsewhere? It is an established fact that they engaged in what was well known as the London trade, men, too, who fought and bled and gained renown in the battles of their country. No sooner was all prospect of subjugation over—they did not wait for

preliminary articles of peace—than they traded with the English; and they will do it now, even if you go to war, except it be a part of the system that they shall not trade at all, not even among themselves. Another strange objection is made to this system. It it said that American vessels will go to St. Bartholomew's or Gottenburg—no matter where, for all they want is an entrepôt, no matter who the buyers or sellers—that at this place of deposit your produce will be lodged—that the English will buy it—that France having no navy, will come in for no part of the trade, and that, therefore, it will operate partially against her. We have carried our ideas of impartiality to a strange length, sir. We must fight impartially and trade ditto. But the substance of the objection is this, that because one of your enemies, against whom you are making resistance (such as it is) has not a powerful navy to take her share of your trade from neutral ports, you ought not to trade at all. If France were our friend, ally, benefactor, gentlemen could state this and it might have some weight. But to offer it as a reason for abstaining from all trade, that a Power, assumed to be your enemy, and against whom you profess to make such resistance, lamenting that it is in your power to do so little—"wish very much, sir, that Florida belonged to her, or that she had some province on our frontier—very sorry indeed, that she presents no vulnerable point to us, but that is not our fault"—that we should abstain from all trade because this Power cannot reap an advantage from it, is a novel argument, indeed. So be it. It then seems, sir, that by a strange derangement of intellect, by some strange sort of logic, which I do not understand, and hope I never shall—when you are reduced to such a situation in which you cannot injure a powerful foe, you are bound to render her all the benefit you can; and her not receiving her full and impartial share of all the benefits which may incidentally accrue from any of your measures, taken purely with a view to your own advantage, is to be a good and valid reason why you should forego those measures! That you must continue to suffer, because, if you get relief one of your greatest foes will derive no benefit from it! This cannot be too much insisted on; it should, if possible, be driven into the skull of every head in the country.

But this plan, it seems, does not suit the ideas of some gentlemen who think very highly of the point of honor, who think that we must fight; that we must draw a little blood from the sword arm to gratify this punctilious itching; that one of two courses must be taken; either that we must set too to drawing it from our own citizens, or march forthwith to Canada. This, sir, was the only part, as I could apprehend it, of my worthy colleague's argument the other day, that did not precisely suit my conception of the true interests of the country; and if he would permit me, I would observe that supposing his statement to be true, he did most unquestionably demonstrate that the embargo would have been a wise, an efficient, and salutary measure by way of rider to the reduction of Canada; that if we had first of all overrun Canada, stormed Quebec, reduced the provinces of Nova Scotia and Brunswick, and then laid an embargo, it would have had a very salutary operation. Having however thus unluckily put the cart before the horse, the embargo before the conquest of Canada, before we go to mending the broken gear and making preparation for a new set out, a little rest, and some consideration, would not be amiss. I am willing to take up some of the ideas, I could almost say all, which fell from the gentleman from Massachusetts and my colleague. [Mr. Burwell said that Mr. R. had misunderstood his argument he presumed. I endeavored (said Mr. B.) to give my opinion that it would not be proper to go to war to take possession of Canada; but if we were forced to go to war, there are other considerations connected with the means of coercing the enemy to do us justice which would make it expedient to take the British provinces: and my argument in relation to Canada was in reply to an observation of a gentleman from Connecticut, that Canada had obviated much of the effect of our embargo; if so, it would be important, were we to go to war, that we should take possession of it, though I do not precisely admit his position.] My colleague (said Mr. Randolph) is mistaken. I think I have not misunderstood him, even though his argument was addressed to the gentleman from Connecticut, by way of reply. The embargo has not been operative, through the intervention of Canada. Whether by furnishing supplies of her own production as the instrument of drawing them from us, is immaterial—Canada is the cause. The embargo would have operated, it is said, but for the British having possession of Canada. Therefore, sir, the taking of Canada ought (by the statement) to have preceded the embargo, as I trust in God it will precede the next that is laid. But, sir, why take Canada now, when my colleague tells you, and when other gentlemen tell you, that there is a prospect of re-adjustment; and when at least, it is demonstrable that the sort of resistance which I propose, viz: the arming of our merchantmen in their own defence, is the kind of resistance not only best calculated to meet the evil against which we would guard, but presents the best possible chance of a re-adjustment of our differences? For if we say, that, at any future day, in case the belligerents do not come to our terms, we will let fall on their heads letters of marque and reprisal, as you said by your suspension of the non-importation act, and offer to suspend the embargo, you may be sure that such a plan will not procure accommodation, if that be your object. If you injure a man and he exercises his rights as a man, and defends himself without overstepping the bounds of defence so as to make him the aggressing party, it is much more easy for you to come to an accommodation than if he were to say to you, "I will on such a day do so and so, if you do not retract." He puts it out of your power to make an apology, when he says that he will fight you on such a day if you do not render him justice. That is not the

way that tends to an honorable adjustment of the dispute, or an honorable termination on the field of battle. In fact it has too much the air of a bravado; and as we have been suspected, I hope unjustly, of going into this sort of thing on former occasions, of going at least as far in words as in acts, it will be best to content ourselves with the exercise of our rights on the ocean. Their orders and decrees conflict with those rights. We will resist them, not going beyond our rights as acknowledged by the laws of nations and even by themselves. If they use force against us in the exercise of those rights, we are at war to all intents and purposes, and they put us at war. This course would be calculated to produce the result which I have no doubt my colleague has as much at heart as myself. And it is not strange that a difference of opinion should exist in the unsettled state of mind in which we have been for some time past—for if such has not been our situation, how comes it that we have done nothing? Or, if we have, that we have but rescinded to-day what we did yesterday, and to-morrow will perhaps undo what we are doing to-day?

I need not speak of the navy bill, sir; the history of that transaction is impressed much more strongly on your memory than it is on mine. I might mention another bill. I think it was between twelve and one o'clock on Saturday and Sunday, the 17th or 18th of December, that, on the plea that we were sleeping on our posts, on the plea of urgency, the House was forced into a vote on a report of a memorable and honorable committee, (of foreign relations,) which subject in the shape of a bill has dosed very quietly on your table from that day to this—I speak of the non-intercourse. It was an expression used by gentlemen that we had been sleeping on our posts; and, therefore, it was necessary that we should sit up one night for the public good. There are constitutions in this House which have not yet recovered from the shock of that night's session. The non-intercourse, the navy bill, the supplementary embargo bill—and how the latter passed is really a curiosity, a novelty in legislation. The bill came from the Senate—it came from a quarter, sir, from whence, God be praised, we have had all our strong doses, under all Administrations—the alien and sedition laws, the suspension of the habeas corpus, the new treason bill, the last supplementary embargo bill, ay, sir, and the first embargo bill too; they all came from the same mint, and I liked none of them—and in my capacity as a freeman and a legislator, representing a free and enlightened people, I shall here and elsewhere, without any sort of reserve, speak of them as I think they merit; extenuating nothing and setting down naught in malice. The bill came to us then from the Senate on Thursday the 22d of December, and was proposed to be made the order of the day for the next day, Friday, and for Saturday—both days were named. Some gentlemen craved only till Monday to consider the numerous and important provisions of such a bill, and nearly the whole day was consumed in debate whether the bill should be the order of the day for Monday or Saturday. Saturday was carried; the delay till Monday being somewhat sternly refused; even the postponement to Saturday was with difficulty obtained. On Friday this House, having consumed the whole of the preceding day in debating that important point, adjourned over to Monday, that very day to which they had refused to postpone the bill, it being, like the report of the committee to which I have just alluded, a matter of such urgency that it could not be delayed. Monday came, and a motion was made by one of the friends of the bill to discharge the Committee of the whole House from its farther consideration. It was rejected, and the House went into a committee on it. Next day a similar motion was made and carried, and the bill was referred to a select committee, who reported on the following morning (Wednesday.) The bill, with their amendments, was again referred to a Committee of the whole House, and made the order of the day for Friday; and the week passed off without any further mention of this urgent business. On Saturday, the last day of the year, the House adjourned over to meet on Tuesday the 3d of January. Tuesday came and the consideration of the bill was at length resumed; but, there not being a quorum, the House adjourned by a vote of 60 to 10. The next day the unfinished business, as it is called, was asked for; but by a strange sort of decision, which I do not pretend to understand, it was determined, by a formal vote too, that there was a nice distinction somewhere, between business unfinished and unfinished business—and lo! what does the House but take up the proposition of a gentleman from Vermont to repeal the embargo. Although they had been bolstering up the embargo before, buttressing it, as many intelligent and honest men believe, at the expense of the best principles of the Constitution, they now took up the resolution for repealing the embargo. What happened that night, God knows—but the next day the bill was resumed, urgency again decreed, and it was driven, Jehu-like, through the House, through all its stages, from a committee to its third reading and final passage. I, who have scarcely been able to hold up my head since the night when that report was so vehemently passed which has slept so soundly ever since, came to the House at 9 or 10 o'clock with the hope, if not of speaking, at least of exercising my right of suffrage. But somewhere between four and five o'clock in the morning I was compelled to leave it; and at breakfast, about two in the afternoon on that day, I heard that the bill was passed—you know how, sir. Mr. R. said, he mentioned this thing not with the slightest view of creating unpleasant sensations in the bosom of any human being—nothing was further from his mind—but to prevent, if possible, the recurrence of a similar circumstance; and to do more—to show, that after all their vibrations and legislative contortions, they had come back to the proposal laid on the table almost the first day of the session to repeal the embargo; and he did most cordially congratulate every man in the House upon this event,

except those gentlemen who considered the embargo a political panacea, which no circumstances, whatsoever be the consequence, should ever induce us to give up. He trusted that they were few, and though he had such confidence in some of them that he believed nothing would change their opinion, he hoped that this few were daily and hourly diminishing.

To get back, in his rambling way, to this decisive stroke—not now, but some time or other—of going to war, of taking Canada. It would be a sort of deed of trust from the body politic—an instrument with which I am sorry to say, that we gentlemen from the South are but too well acquainted—a deceitful present relief at the expense of a certain but remote evil; we may invert the telescope from its true position and the evil lessens to our view—but the day must come when that pledge must be redeemed—and indeed whatever cause he might have as an individual, he should not like to give bond and security to fight next year. He might in the mean time undergo a great revolution of opinion; he might change his religion, perhaps turn Quaker—and really if he were to change at all, he believed he could not do better—for theirs was a system of order, industry, charity, and peace—of comfort and affluence too, very good things in their way.

He was against plunging in this dashing way into war; because there was a possibility, to say no more of it, and his colleague (Mr. Burwell) seemed to think, a pretty good hope, that we might get out of the scrape without a war, provided we would take his prescription. He felt the more and more indisposed to war, and should every day while he lived, when he looked at certain consequences and reflected on certain doctrines which had grown too familar, in his apprehension, to the minds of that House. We too had a navy. It had cost us near twenty-three millions of dollars, about ten millions of which had been spent by the former Administration. It had cost us a great deal more than Louisiana; and he ventured to say that none but those gentlemen who viewed Louisiana (as he did the embargo) as a positive evil, would consider our navy of as much importance to us as the navigation of the Mississippi. The cost is tremendous for a machine which, if they adopted his colleague's (Mr. Nicholas's) proposition, must be enlarged, repaired, beautified, and built up on an extended scale. It was more unfortunate that we had paid so much for the cost of a machine rusting all the time in idleness. We might then calculate from this fact what this cost would be, provided the House adopted the resolution of the gentleman from Virginia, in its broad form, the most dangerous ever presented in that House—and pledged the nation to the maritime defence of commerce. From the commencement of the present Administration to the present day, a principle so abhorrent to his mind, so dangerous to the liberties of this country, had never been proposed to Congress. It contemplates a pledge of every drop of blood, of every shilling of money, to the maritime protection of commerce. *Est modus in rebus.* He was not willing on one day to lay the axe to the neck of commerce, to decollate her—and the next day to decollate himself, to commit suicide for the sake of commerce. If commerce could not take care of itself, it was not worth caring for. But after all that had been said on the subject of a navy, properly so called, ships and seamen would somehow or other work out their own salvation. A great many of them may be destroyed, but the rest would make such profitable voyages as to induce others to run the same risk. He looked at this proposition, therefore, with affright. We had a Navy Department, to which, *ex officio*, profusion and expense were incidental. It was an establishment of the worst kind—an establishment of disbursement alone, without a shadow of benefit—an establishment which, as managed by us, was a mere running sore in the body politic. If he were an Englishman or a Hollander, which thank God he was not, he would advocate a navy. As an American, at this time of the day, at least, he was against it, for the plainest of all reasons—that it was not suited to the time and our circumstances, and let gentlemen say what they will, these must have their weight. And what had been heard on that floor, coming not from men of doubtful principles, but from good Republicans, as they are called, both navy and anti-navy men? Why, first, that in the distribution of the powers of Government the Executive share is too small—next, that the Government lacks energy; that if we cannot enforce a law, however arbitrary and unconstitutional, not only at the expense of a limb of the body politic, but of the very trunk itself—"Away with such a Government—it wants energy and force; give us one that has some strength." Gentlemen want it to be magnificent, strong, able to crush all opposition, to destroy the States. What next have we heard? "That the Executive patronage is, as it were, the Presidential 'property, and that he possesses the right to do 'with it as he pleases;" instead of considering it a trust placed in his hand, as it is even in limited monarchies, to be exercised under sound discretion and a high responsibility for the general good.

When these doctrines are broached in Congress, sir, by men calling themselves Republicans, and deemed as such, I am compelled to recollect the times, the energetic times, as they were called, when the Constitution was trampled under foot; when some men dared to risk the sentence, "that the parchment had better be burnt." I am unwilling to see such principles govern, let who will be at the head of affairs; and, therefore, I am unwilling to give my assent to the resolution of the gentleman from Virginia, (Mr. Nicholas,) which has been, with his characteristic humanity, charitably adopted by my colleague, (Mr. Burwell,) for, in truth, it was thrown an orphan on the wide world by its parent. I do not say that the time may not, or even that it will not, come when it will be necessary to strike at Quebec; but I am unwilling to do it now, when there remains one chance to this nation of preserving the

blessings of peace; for, if we have a war of that sort, commissaries and contractors may fatten, but the public will be impoverished; and scarce any man who has not a fat contract, or a snug office, will be enabled to pay his taxes and maintain his family in the way they have been accustomed to.

But that is not all, sir. If we plunge at this moment into war—for to my mind there is really not one atom of difference, if we are to go to war, between this day and the first of June—who can say how or when the war shall end? And, with an empty exchequer—for to all practical purposes the exchequer is empty—with a revenue depending wholly on loans, would it be very astonishing if the same causes which overthrew the most powerful monarchy in Europe, should shake a little our own confederated Republic? That our present form of Government should be destroyed by the same causes which unquestionably did destroy our late government under the Confederation? The Government of France—a populous country as we all know, rich in internal resources almost beyond imagination—was blest or cursed, as you please, by a Minister who determined to carry on a war without taxes—loans were to supply all deficiencies. The experiment ended in the subversion of the Government. I believe that no man can doubt, if the ways and means could have been raised in 1788, that the French Revolution would never have taken place. Shall we then unnecessarily (and I speak of it in this point of view only) expose our Government to such shocks? I hope not. If they come, I am for meeting them manfully. In that event, I would hope that instead of destroying—for we ought always to hope for the safety of the Republic, however destitute of ground for it—it will nerve and toughen our manhood; that it will chastise our pampered—arrogance, I was going to say; that it will operate, as in one point of view I am willing to allow that the embargo may have operated, to bring old-fashioned homespun principles, as well as garments, into notice, to repress the rage of speculation, and reduce our bloated luxury; in fact, to give us something more of a national character. In that point of view I am willing to allow that even the embargo has not been without its salutary effect.

There is another reason why I am unwilling to take the attitude recommended to us by the gentleman from Virginia, and by my worthy colleague. I have seen in this House a proposition to give efficiency to the militia; to arm them; to make them what they ought to be—but what I fear they are not—an adequate and competent national defence, "damned with faint praise," and a little paltry, beggarly appropriation, of $200,000 voted for that object. And but name a regular force, sir; strike but the naval chord, or standing army, call them volunteers or what you will, the sound vibrates to your heart; you loose the purse strings, and pour forth the national treasure without counting it. When I hear principles advocated against which I always did and always will protest, and when I see the policy of this House so variant from what I conceive it ought to be, I am induced to take one more possibility, another chance of avoiding immediate war; and, therefore, when that part of the resolution comes up which proposes the issuing letters of marque and reprisal, I shall move you so to amend it as to change it from its present portentous and dismaying aspect, as a solemn pledge from this nation for the maritime protection of commerce in every sea, to what I conceive it ought to be—an authority to our merchants to arm and defend themselves, and resist (not submit to) those decrees and Orders in Council, which we have declared we will resist; in other words, that we will not submit to. There are a great variety of opinions as to what will be the eventual consequence; no man can precisely see the issue; but, to my judgment, it is the most promising plan that has been suggested. Its immediate consequence will be, that your merchants will go out armed, and, if captured, the bile and rancor of which we have heard so much, instead of being vented in sputtering and spiteful resolutions against their own Government, will be poured forth upon the aggressor. It will perhaps restore the Government to its accustomed popularity. If the merchant feels, he will know from whom—for, will he dare to come back and say that you ought to have kept on the embargo? No, sir; you will have permitted him to go out with his eyes open; the Government will have washed its hands of the thing. The merchants will become, what they ought to be, the carriers of your produce, the great machinery for transporting your commodities, instead of being a kind of political caballers. Let them go the counting-house, and they will have enough to do; give them employment, and you get rid of their complaints. If we take this step, it is not possible that Mr. Canning—even *he*—I beg his pardon—I would not speak harshly of any man behind his back, much less of one that is three thousand miles off—that a British Minister could have the face to construe this resistance into a just cause of war on their part. Commerce will protect itself, and peace, I trust, will be the result.

When Mr. Randolph had concluded, the question was taken on the clause, and carried, ayes 76.

The question being stated on the second clause of the resolution, viz: that part which relates to issuing letters of marque and reprisal,

Mr. Randolph moved to strike out that part of the resolution, and insert after the words "and at the same time" the words "to authorize the merchant vessels of the United States owned wholly by citizens of the United States to arm and defend against any armed vessels sailing under the British or French flag, so long as their orders or decrees are unrevoked.

Mr. Key, after stating the importance of the alternatives presented to the decision of the Committee by this motion for amendment, moved that the Committee now rise, to give time for mature deliberation.—Agreed to without debate.

And on motion, the House adjourned until to-morrow.

SATURDAY, February 4.

The SPEAKER laid before the House a letter from the Secretary of State, accompanied with his report, exhibiting a statement of the whole number of persons born in foreign countries, and legally admitted citizens of the United States by naturalization, who have been registered as American seamen, and returned as such to the Department of State, according to the lists transmitted by the Collectors of the Customs, in pursuance of the law relative "to the relief and protection of American seamen," transmitted in obedience to a resolution of this House, of the ninth ultimo; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, accompanied with a supplementary report and sundry documents in relation to invalid pensioners; which were read, and ordered to be referred to the Committee of Claims.

Mr. HOLMES from the Committee of Claims, presented a bill for the relief of John N. Stout; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. LIVERMORE presented memorials of sundry inhabitants of the county of Essex, in the State of Massachusetts, whose names are thereunto subscribed, respectively praying for the reasons therein set forth, that the several laws of Congress laying and enforcing an embargo on all ships and vessels in the ports and harbors of the United States may be repealed; and that the system of just, equal, and liberal policy, which heretofore, in the opinion of the memorialists, was calculated to promote the honor, dignity, and general welfare of the Union, may be restored.—Referred to the Committee of the Whole on the resolution proposed by Mr. NICHOLAS, and Mr. BACON, on the twenty-fourth and twenty-seventh ultimo.

The House proceeded to consider the resolution of the Senate, of the third instant, for the appointment of a committee on their part, jointly with such committee as may be appointed on the part of this House, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons who shall be elected of their election; and to regulate the time, place, and manner of administering the oath of office to the President: Whereupon.

Resolved, That this House doth agree to the said resolution; and that Mr. NICHOLAS, Mr. BROWN, and Mr. CUTTS, be appointed a committee on the part of this House, pursuant thereto.

The bill sent from the Senate, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company," was read twice and committed to a Committee of the Whole on Monday next.

The SPEAKER laid before the House a report of the Commissioners of the Sinking Fund, accompanied with sundry documents and statements, exhibiting the measures authorized by the board, subsequent to their report, dated the fifth of February one thousand eight hundred and eight; which were read, and ordered to lie on the table.

RELIGIOUS SOCIETIES.

A bill from the Senate for the incorporation of religious societies in the District of Columbia having been read,

Mr. W. ALSTON moved to reject it.

The motion was supported by Mr. ALSTON and Mr. RHEA, of Tennessee, on the ground that it bore the appearance of commencing an established religion in this country, which was repugnant to the principles of the Constitution; and that the State should not intermeddle with the church; the two, church and State, being wholly distinct.

The motion was opposed by Messrs. DAVENPORT, LEWIS, VAN HORN, DANA, TALLMADGE, GARDENIER, and MACON, for the reason that the House had heretofore incorporated turnpike and library companies, and it was hoped that the House would not show so much disrespect to religion as to reject it on its first appearance in the House; and that, even if the bill were not perfect, it might be amended before it was passed; that it was but a decent attention to the people of the District of Columbia, to consider the bill, for their petitions were too much disregarded.

Mr. W. ALSTON finally withdrew his motion, and the bill was read a second time, and ordered to be read a third time.

REPEAL OF THE EMBARGO.

The House again resolved itself into a Committee of the Whole on Mr. NICHOLAS's resolution; the question pending being on Mr. RANDOLPH's motion to amend it—

Mr. KEY said he had never risen under more embarrassment to addres a public body than he now did; for there never was presented to him to act upon before, a subject of so momentous a nature—a subject which involved in its discussion and effects, certainly the best and dearest interests of the country. It seems, (said he,) if I correctly understood the proceedings of yesterday, that a large majority of this House is determined to repeal the embargo, but that a great diversity of opinion exists as to the measure which is proper to be adopted on its repeal. I confess, sir, I feel gratified in observing that diversity of opinion; for, in the collision of contrary sentiment, much good may elicit, when every individual offers to the House his candid views of the subject. And I see in that diversity of sentiment, sir, a pledge of strong attachment to the interests of the country, influencing every member to consult his own breast as to those measures which shall best promote our interest, when the embargo shall be removed. Various propositions have been submitted to the Committee; but before I examine them I would ask every member of this honorable body, to consult himself to see what is the end proposed, and to consider the means to attain that end. Is the end war? Is it to compel France to respect her treaty with us; or to coerce Great Britain to make one? Certainly not. These ideas have not been advanced on this floor. What then do gentlemen contemplate as the end proposed? I hope it is this: that the nation shall be placed, in relation to foreign Powers, in the same

situation in which it stood, anterior to the passage of the orders and decrees. I wish the ground I mean to occupy in argument, to be distinctly comprehended; and I wish gentlemen would deeply reflect if, on raising the embargo, they mean to place themselves in the same position in which they stood, anterior to the causes which produced the embargo. If this be the end, if this is the object, let the wisdom of this House devise the means most suitable to the accomplishment of that end. It is in vain to call our attention to the course to be pursued, unless we see, and feel, and examine its adequacy to the end proposed. Every honorable member will make up his own mind as to his object; and then consider as to the means necessary to effect it. Some gentlemen talk of war. High and honorable minds, spurning the insults done to the nation, bring into public discussion those feelings so much to be estimated in private life, but which, influencing our passions, to a great degree impair our judgments; for however the finer feelings may be the ornament of private life, in legislation the cool exercise of sound reason is more to be desired. A nation's honor is a nation's happiness. Government was instituted for the happiness of the people, and those measures are most wise, and most honorable, which best promote and secure it. I shall not speak of war with respect to all those calamities usually consequent on it, for, if we are driven into it by imperious necessity, I know that we have firmness enough to breast it, to meet the shock as men ought—but I will make some observations on it, to show gentlemen why I think that the first proposition ought not to prevail as part of our system; and especially as growing out of the feelings which have been expressed.

A large army has been spoken of. If our object be the protection of maritime rights, and securing the enjoyment of the ocean, I ask gentlemen if raising a body of fifty thousand men well armed and well disciplined is a measure which in itself can in any means insure that object? But, say gentlemen, we can take Canada, and injure one of our enemies by conquering New Brunswick and Nova Scotia. And, I ask, what then? Gratify gentlemen to the extent of their wishes; place Canada in our possession; place Halifax in our possession—won, if won, at great cost; and kept, if to be retained, at incessant and heavy expense—grant all this, I ask gentlemen will it further the object they have in view? Can a single ship, if the whole continent was in our possession, reach an European port in more safety than she now can? Are the means proportioned to that end? I think not. If we are to seize hold of this lever as a political engine to operate on one of our enemies, we must first see the cost, the probability of success, and the certainty of effect when the success is achieved. In defensive war I would compute no cost. If invasion hovered on our shores I would never calculate. Our altars and our fire-sides must be defended; and the last cent and last drop of blood in the country be cheerfully expended. Not so of offensive war; when it is not for the defence of our altars and our fire-sides, I would calculate with the precision and coolness of a counting-house. The nation ought to know the cost; we ought to see the object, and, when accomplished, a reasonable ground of belief that it will insure the end designed. If all America was consolidated into one great Power, with all the legions of Napoleon and the funds of France, we should still be, as Napoleon now is, incapable of getting from our own shores. I speak of the means proposed in relation to the end, viz: to protect and enforce our maritime rights. I cannot therefore consent to means inadequate and irrelevant to the end, and which we have not the physical force to accomplish. I know the power of this country; I believe it is competent to the reduction of the British provinces. I have very little doubt of it. But if conquered, in what state will they be placed in relation to us? As conquered provinces. Have we a Constitutional right so to hold them? Are they to be incorporated as States? No gentleman wishes or entertains that idea. They will only be held as a stake for the purpose of inducing Great Britain to do justice to us. Would the conquest of those territories have such effect on Great Britain that it would induce her to surrender rights which she deems essential to her existence? She would suffer her provinces to perish before she would abandon maritime claims of such moment. Sir, the possession of those provinces could not in my mind operate as a lever, for what man would not part with a member when his life is at stake? What nation would not lop off an extremity before she would sacrifice a principle which she holds as incorporated with her existence? I ask gentlemen, therefore, if the conquest of these countries will more than *probably* produce the effect which they anticipate. Possibly it may not produce that effect? And shall we encounter war for a probable or possible result? For, whatever these provinces might have been to Britain, such has been the singular and rapid succession of events in Europe, that she seems to have received her prosperity and safety from the hand of her most deadly enemy. The attack of Bonaparte on Portugal has so connected her with the Brazils, and his assault on Spain has so identified her with South America, that, whether she be successful or not, Britain finds an indemnity, more than tenfold for what she would lose by our capture of her Northern provinces; she will have derived it too from a source which never meant to confer prosperity on her—from her most inveterate enemy. A gentleman from Virginia, (Mr. BURWELL,) in a very strong argument (though I differ from him in his conclusions) delivered in a manner the most gentlemanly and decorous to the House and himself, did admit that Great Britain never before stood so high and firm as she does now. The avenues opened to her on the Southern continent will tend very much to the furtherance and increase of her force. And so standing, we ought not to wage offensive war against that country and her provinces in America, unless gentlemen can demonstrate to us that it is our interest to risk their conquest,

and when we have expended vast sums in that conquest, to hold them as provinces or to incorporate them as States; unless indeed we consider them as a pledge for her better behaviour—a pledge which she will never redeem if she holds to those principles, which all believe she will never abandon. One great right in contest, which we are told by her Ministers that she never will cede, is the right to search American vessels for British seamen. Does any rational politician believe that if she considers that practice connected with her existence, she will abandon it to recover out of our hands those provinces which at any moment we can attain? Surely not, sir—the war will be of a different cast. I do therefore suppose that a measure of this nature, until war becomes necessary and indispensable, ought not to be attempted.

There are other causes which should make this nation pause and reflect, before it attempts offensive war. We are an agricultural people, a peaceful people. The bond of our union was mutual defence. We are not constituted with active powers for offensive operations; but we are all-powerful for defensive measures. In a state of war, armies will become necessary; and even when necessary, they are always dangerous to republics. Their shield and safety is a well regulated militia. I have no doubt, if war is declared, that we shall raise a great force; and if we do, it is war that will jeopardize the independence of the several States. Their security ever exists on a militia officered as the Constitution provides, by themselves; because such a body feels local State attachments, and does not look up to the General Government for protection and patronage. An army so constructed only binds more firmly the Republic; but a standing army for offensive war goes to shake our republican institutions. I have lately seen, what does in my mind excite some jealousy on these subjects, not from any general view of the departments of our Government, but in a measure emanating from one department. It shows, if danger is to arise, it is not from the States, but from the General Government, and not to the General Government from the States. By the Constitution a State can raise no army or navy, and has no protection but the militia, officered by itself—and yet, sir, I have seen a letter from the Secretary of War to the Chief Magistrates of the different States, not infringing the letter but the spirit of the Constitution, by prescribing to those Governors what officers in the late call for their quota of militia they shall select. It would properly be the duty of that department to say what number of the militia should form the quota of each State; and I trust our Governors have sufficient respect for their States and the Union to select officers most competent to command them, without being schooled as to the manner of selection, suggested to them in terms highly exceptionable, as printed in the circulars said to have been addressed to the Executives of the different States:—"They will be careful in their selection of officers, to take such as can be confided in for all purposes." I do not say that improper purposes were intended. Let not gentlemen misunderstand me. I say that the Department of War has no right to interfere in any manner with the selection of officers of the militia, which is exclusively confided to the State Executives, who are competent at all times to do their duty.

Another evil grows out of war and a standing army: a vast patronage is placed at the disposition of one man, and I would not, but in a case of absolute imperious necessity, trust any man, even the humblest in society, with the command and patronage of fifty thousand men; a power which in republics should never be vested in any man but when war is indispensable, when it is forced upon us. Ambition is awakened by the means of carrying it into effect. The instrument suggests its own use; and ambition, once awakened, like jealousy, makes the food it feeds on. Iron and stone are two of the most inert and quiescent substances in nature—harmless asunder, but bring them in contact, and the collision elicits fire. So the heart of man and power, are safe when separate, but when united, power is abused by almost as unerring a law of nature as fire is produced from the collision of flint and steel. This state of things, this danger, invariably grows out of placing power in the hands of one man, of which examples may readily be cited from ancient and modern times. When Cæsar invaded Gaul, when Napoleon was at the military school, in Paris, when Cromwell petitioned Charles for liberty to come to America—these men, in their wanton dreams, never dreamt of the guilty and giddy heights to which their ambition ascended. Power was at hand; they seized the ready instrument, a standiag army, and history in blood has recorded the consequences.

Suppose a state of things to have occurred in 1802, similar to the present—war not forced upon us, but fifty thousand men raised, the officers appointed by the President. How would the destinies of the nation have been wielded, if Providence had taken the President from us? Who would have wielded that force? Aaron Burr—and does any man believe, if that force had been at his disposal, that he would not have crimsoned the Presidential chair with the best blood of the country before he would have left it? I mean no imputation on the present or the future President; I do not believe that we are in military danger from either. But the country that acts wisely will never place in any hands, but in extreme cases, power of such magnitude; and I believe it is a maxim consecrated by ages "that the people 'are never in so much danger as when power is 'placed in the hands of those of whom they have 'no suspicion." Take history through and you will find it so. But although, in the hands of the gentleman now in office or his successor, this power might not be abused—and I mean not to impute to them motives which I am sure they do not possess—but a few lives intervene between them and some one, we know not whom. How he would wield that force none of us can say. I am confident when Burr was elected to the Vice-Presidency by a Constitutional majority of votes, no man then dreamt how he would have abused the power, had death removed the President. My argument then is this: that except in a moment of extremity it is not wise for a Republican Government to resort to raising an army, because the possession of power begets a disposition to abuse it, which otherwise might never have existed. I would not go to war, therefore, unless the nation could be satisfied of the certainty of success, and of the effect of such success on such end as they proposed to attain. I am confident, if we had conquered the British provinces and had now imbodied an army of fifty thousand men, it would in no degree insure to us the free navigation of the ocean. I have made these observations, because to my mind they have weight in rejecting the second part of the first proposition, which is war—I mean the granting of letters of marque and reprisal. It is not general or perfect war, but it is war as far as it goes, and is usually the forerunner and precursor of immediate war. If then that state of things which may endanger our Republican institutions is not forced upon us, I would avoid every measure leading to war until it was indispensable. I say nothing of the horrors of it which desolate all Europe. We are as yet a peaceful and as yet a happy people, and I am sure we all feel the strongest desire to add to that happiness. That can be best secured by continuing at peace, certainly not by waging offensive war. Gentlemen may think, sir, that I mean to submit. I do not—I mean to chalk out a plan precisely commensurate with the causes of offence. We are not now on a general question of peace or war; but as to what measure shall be adopted on the removal of the embargo to obviate those effects against which, it is said, the embargo was intended to secure us. Why was the embargo laid? I do not speak of its effects. Out of what occasion did it grow? Consult the Executive Message recommending it. From the decrees of France and Orders in Council of Great Britain. Was it not to obviate the inconveniences resulting from those measures that the embargo was advised and laid? Remove the embargo then, and what measure do you want? A measure precisely commensurate with the cause for which you laid the embargo—a measure to resist those decrees and Orders in Council, and place us in the relative situation in which we stood before its adoption. Am I correct in saying that the embargo was not intended or recommended as a war measure? If it was in part an expedient to retaliate on foreign nations for their decrees and Orders in Council, raise the embargo, because it is found to be inadequate to the end. And what should you substitute in the place of it? A line of conduct commensurate with the causes which produced that measure. The ground I mean to occupy is this: that we are not now debating a measure for the redress of all former evils or injuries which have been heaped upon us by those Governments. I do not so understand it; perhaps I am wrong. I ask gentlemen to weigh what I have said, and to say whether, if we remove the embargo, the substitute ought not to be a measure of resistance commensurate with the injury. I am with great candor and sincerity delivering the little all of my mind on this occasion. I ask it to be fairly understood and distinctly viewed, and I would then ask whether the plan which I shall mark out, instead of continuing the embargo, be not the proper substitute, if a substitute must be had? The British have claimed the right of searching our vessels for British seamen. This claim has been the subject of treaty negotiation time after time; it was made the *sine qua non* of a treaty. The British Ministry told you that the nation could not come up to the mark, but that they would make the operation of the principle as little oppressive in practice as they could. Grant for argument sake that this arrangement was not as satisfactory as it ought to have been. Do gentlemen mean to adopt a measure to meet that? If so, it must be war and interminable war; for they say they will not abandon it, and we say we will insist on it. I want that, and all other questions to be left open as before, for, although our commerce was greatly oppressed under that practice, still it flourished; our country prospered and grew in strength and riches.

The second proposition under consideration, offered by the gentleman from Massachusetts, (Mr. BACON) goes too far. I grant that it is not up to the war point; but it goes too far from the line of discrimination which I make; because it authorizes the resistance of violations of our general neutral rights claimed on our part to be exempted from, and on the part of the British to be enforced. It is interfering with the state of things which existed between the two countries before the decrees and Orders in Council. I want gentlemen to repeal the embargo because it is not efficacious, and to adopt a measure (if any is to be adopted) which shall be precisely commensurate with it. The honorable gentleman from Massachusetts, though not up to the war mark, is too far from the ground which I occupy, that is, to place this country in the same situation in respect to its foreign relations in which it stood when the decrees and orders were passed, to resist which or to cause which to be repealed the embargo was laid. Take it off, then, and take a substitute which shall be coequal with it. I have not heard you called upon to take off the embargo, and adopt a measure to remedy all the evils occurring before it; we should by this get into a state of things which would be war. The House will pause, reflect, ask themselves the point they mean to go back to, and whenever they have made up their minds on that point, accordingly as they determine, they will be for war, or arming our merchant ships, to resist seizure, or any search growing out of the decrees and orders. This is the line of distinction which I take. It is not hard to be drawn; we know the diplomatic battle-ground antecedent to the orders and decrees. Leave it open to negotiation. Restore us to our ancient state of things. If we were not happy with many rights violated, it was at least more satisfactory than our present

situation. And this is precisely what the President recommended—for our Minister was authorized to offer to England a repeal of the embargo, on rescinding her Orders in Council, and this was to produce the anti-embargo state of things. The proposition offered by the honorable gentleman from Virginia (Mr. Randolph) yesterday, with a slight amendment, will meet my idea. I do not ask gentlemen to submit when they take off the embargo. They have told the nation that they will not submit—to what? To general violations of our rights? No, sir. The report of our Committee of Foreign Relations was predicated wholly on the decrees and Orders in Council, and they saw no alternative but submission to them, war, or embargo. These are the alternatives growing out of the state of our foreign relations, in the opinion of the committee. I would not keep on the embargo, or declare war; neither would I submit, because if anything is to be done I would arm our vessels to resist any attempt at search under those orders. I ask gentlemen if this be not an efficacious plan—to arm for the purpose of resisting those decrees and those orders, to cause which to be removed was the reason why they laid the embargo? I do not understand the embargo as having been laid on the principle that it was to coerce England to abandon the right to the impressment of our seamen. I do not understand it as having been laid to produce reparation for the attack on the Chesapeake. All these were conspiring causes which might have led to the laying of it, but they were not avowedly by this measure intended to be redressed. Does any man believe that the embargo was laid to continue till Great Britain should formally abandon the right of impressing her own seamen? The orders and decrees not being repealed by the agency of the embargo, gentlemen say we will not submit to them. Granted; I do not mean it. I mean to resist in terms those decrees, and I mean to make my resistance precisely commensurate with the objects which that measure was destined to attain. I want the substitute, if we are to have one, to go as far and no farther; and in so doing and going no farther, I believe we shall act wisely. I think peace may grow out of it; and we shall be restored to that state of things which may probably—I wish to God I could say certainly—at no distant day induce a settlement of our differences. If we go to war on any other grounds, we say that we will fight Great Britain till she comes to our terms. Sir, gentlemen will pause, will consult their pillow, before they go so far; they will leave the door to negotiation open. To me this seems an honorable plan and a fair course, calculated to restore our country to peace within, I trust to happiness also, and to a fair adjustment of our other differences. I have listened with great attention to every observation on this subject which has fallen from every member on the floor, and have said nothing. But I should be wanting in duty to my country and respect to myself if I did not, with as much perspicuity as I could, simply submit to the judgment of this House those propositions which would in my mind conduct us to the most desired issue—I mean the most probable one which would accomplish our end. I do hope and trust, if the embargo, as a measure of coercion, was laid for the purpose of meeting the decrees and orders, that gentlemen will vote for the repeal of the embargo, and that they will be satisfied with adopting the motion which I have proposed to substitute—unless indeed, finding the inefficiency of the measure, they will concur in an unconditional repeal, and make another effort at negotiation, unfettered by acts that diminish the prospect of success.

Mr. Milnor congratulated the House on the vote of yesterday. He hailed it, and the nation would hail it, as the harbinger of a new day. He received it as a proof of the patriotism of the majority of this House, who, seeing the nation severely oppressed by a measure which was adopted as an experiment, and which had failed in its object, had come to a resolution to relieve the nation from its further pressure. I confess, however, said Mr. M., that the second part of the proposition now before you has, to my mind, an aspect of a highly alarming character. If I correctly understand it, it leads the nation to direct and open warfare; and, indeed, the gentleman who offered the resolution so explained it. Viewing it in this light, I can never give my consent to it, until I am convinced that the nation is brought into that situation, that there is no other mode of saving its honor than by a resort to war. Believing, as I do, that this is not the case at present, I wish to offer a few observations to the Committee, as the ground upon which I shall oppose the second part of the resolution, and of course why I am in favor of striking it out, for the purpose of introducing an amendment. When a nation is about to involve itself in war, it appears to me that it should not only be convinced that the ground of war is a just one, but that the end proposed to be attained by war is probably within its reach. As to the first point, I have no hesitation in saying that the two great belligerents of Europe have given us ample and repeated causes for war. On that ground, therefore, I should feel no hesitation in going with gentlemen in favor of this proposition, did I believe that the policy of this nation warranted it, and that the end proposed would be, in this manner, attained. It is proper, however, to ask ourselves in what way we are to operate on the belligerents in order to produce the desired effect. It has been said by gentlemen who appear to be ready for the adoption of this proposition, that we can attack and take Canada and Nova Scotia; and that such a measure would be severely felt by Great Britain. That we are competent to take Canada I have no doubt; but I am so far from believing that the conquest of Nova Scotia would be an easy task, that I do not think it is in the power of this nation to accomplish it, unless we could first procure to ourselves an ascendency on the ocean. That does not appear to be probable at this time. I am therefore persuaded that our only operation in that quarter would be the taking of Canada. The gentleman last up (Mr. Key) has shown very

clearly that the conquest of Canada, and the securing of that conquest, would cost more than it would be worth; and that it would not be efficient for the object for which we should attempt it. I believe that experience, in a little time, would teach Great Britain that the loss of Canada would be, in fact, an immaterial loss to her empire. But, in another point of view, this conquest might have a very injurious effect on our affairs. At present, there can be no doubt but the people of Great Britain are much divided in opinion in respect to their hostile measures against our neutral rights. I do not believe that the people of that nation can be unanimous in a measure which the Ministry themselves do not justify as a right, but as a measure of necessary retaliation upon their enemy. If, in order to redress ourselves, we make an attack upon a part of the British Empire and dismember it, we at once arouse the pride of the people, induce them to attach themselves to their Government, to justify their measures of retaliation upon us, and thus, in all probability, prolong the contest, and perpetuate those measures of which we complain. In what other way could we operate on Great Britain in such a manner as to make any great impression on her? I know that it is the belief of some persons that we could, by fitting out privateers, so harass her commerce as to make a very serious impression on her, and at the same time indemnify our merchants for their losses in the contest. I confess that I have not full faith in this part of the experiment. I believe we should find that the impression to be made on her commerce in this way would not be anything equal to what was made by us during our Revolutionary war. At that time the system of convoys was not carried to the extent that it now is; at that time the merchant ships frequently crossed the ocean singly, or in companies of two or three together, and therefore it was in the power of our privateers to capture and bring in many of them. Few are now permitted to sail singly; they generally go under the protection of strong convoys. I believe, therefore, that it would soon be found that privateering would be an extremely unprofitable business. If, then, we could not make a serious impression, by our efforts either on land or water, I would ask in what way are we likely to accomplish the object in view? To carry on a war against us, it appears to me that Great Britain would be put to very little additional expense. She has been obliged to resort to every means of offence and defence against her European enemies; and the very weapons which she makes use of against them she could, in part, turn against us, without adding anything to her expenditure. Thus, while she can carry on the war with facility against us, it will be far different with us. By going to war we deprive ourselves of almost all the commerce of the world; we deprive ourselves of the opportunity of deriving revenue from those sources from which we have hitherto received it; and, at the same time, reduce our citizens to such a situation of distress and privation as to render them wholly unable to bear the burden of internal taxes which must be resorted to, to raise the necessary supplies. I believe that, in a war of defence, for the protection of the soil, this country is invulnerable; I believe that there is no sacrifice which would not be cheerfully offered up by our fellow-citizens in support of such a war; there the hands and the hearts of the people would be with you; but when we are called upon to enter into a war of offence for the attainment and security of certain ends, which there is by no means a certainty of attaining; a war, of which it is impossible to foresee the consequences or to fix the probable period of its termination; it is putting the happiness and safety of our country too much at risk to plunge into such a war. You may involve the nation in such a war, and when they find themselves engaged in it, they will feel bound to carry it on; but I venture to predict that the Administration, or the majority, which involves the nation in such a war, will not long exist. The nation is not prepared for war. It has been justly observed, sir, that the nation is yet in a state of infancy; it is growing fast, and if nothing to impede its growth or destroy its strength be done at this day, it will soon assume the form and vigor of manhood; it will soon arrive at that masculine state, that it will be able not only to repel aggressions, but to chastise the aggressors. I have already stated that, in a just and necessary war, a war which is no longer to be avoided without a sacrifice of national honor and national rights, I shall be as ready to engage as any man in the nation; but I do not believe we are yet reduced to that situation; and when I view the critical situation of the European world engaged in a most sanguinary conflict, and then turn my eyes to the peaceful and happy situation of my own country, I cannot consent to engage her rashly in the doubtful contest.

The report of the committee on our foreign relations states three alternatives, out of which it is said we must take a choice; these are, embargo, war, or submission. The last is rejected by every man. It would seem, then, that there is only a choice between embargo and war. If the arguments of gentlemen in the minority had been attended to, if they had been coolly and carefully weighed and examined, I think it would have been seen that there was another course, a path by which we could travel in safety, which, while it would lead us from embargo, would avoid war. This path has been repeatedly pointed out to you before this day; and has been now again repeated by the gentleman from Maryland, (Mr. Key.) It is this: repeal your embargo, and suffer your merchants to arm their ships in their own defence, to resist the violation of our lawful commerce. I would not grant them letters of marque and reprisal, because that would be war, but I would authorize them, in every case, to resist unlawful seizures and detentions. If I have any idea of what would be the true course of policy for this Government to pursue, this is that course. If I have a right understanding of what is truly meant by the terms submission and resistance, I most certainly think the proposition I have made

is essentially resistance; that sort of resistance which our country is capable of making, and which would show to the enemy that we would not submit to their unjust orders and decrees. I shall not now enter into an argument to show that the embargo is submission; that has been sufficiently done on a former occasion. I never did believe that the embargo would have a coercive effect on either of the belligerents. Entertaining this opinion, when I saw the nation retiring from the ocean, in order to avoid the effects of the injurious orders and decrees of other Powers, in compliance, as it were, with their mandates, it appeared to me as the most complete, not to say disgraceful, submission.

A gentleman from South Carolina, (Mr. D. R. Williams.) addressed you a few days ago, sir, and told you that he considered the minority as holding the destinies of the nation; that it was in their power to regulate the course hereafter to be pursued. I confess that, when the gentleman made that observation, it excited some surprise as well as pleasure in my mind. I felt happy in the momentary idea, that I might, perhaps, be instrumental in so directing the course of this nation, that we might at once avoid Scylla and Charybdis. I could not, however, distinctly understand the gentleman's meaning in the declaration which he made. He did not tell us in what way the minority possessed the power which he spoke of; he did not explain himself sufficiently to show that the minority do indeed hold the destinies of the nation in their hands. Sir, the destinies of the nation, so far as human power extends, are and must be in the hands of the majority; they are responsible to the nation for the course which shall be pursued, and it is not in their power by any legerdemain to shift that responsibility from their shoulders to those of the minority. I believe that, so far as the power of the minority extends, they would use it to direct the course of the nation in such a manner as to promote its peace, happiness, and lasting prosperity; and could they, indeed, guide its destinies, they would, on the one hand, spurn the idea of submitting the rights and independence of the nation, while, on the other, they would, if possible, avoid involving their country in a calamitous and ruinous war.

There is one point of view in which this subject has passed over my mind, and on which I feel extreme delicacy in expressing myself, because I do not know how far it may be allowable for me to touch on a topic, into which I do not wish to enter improperly, but which is so important that I have never lost sight of it when considering this subject. As the resolution is penned, it contemplates a hostile resistance to both belligerents; an offensive war against them. Its object has been so explained by the gentleman who brought it forward. I endeavored to show, when I first rose, how far we might operate against Great Britain in an offensive war. Can we act with any great effect upon France? Have we those means of operating upon her by war, so as to induce her to rescind her decrees? I confess I have never yet been able to see where she is vulnerable to attack from us, or how she is to make an attack on us. She has no possessions on this continent, nor any commerce on the ocean. To me it appears that, although we ostensibly make a declaration of war against both belligerents, the contest, in reality, will be but with one. When we shall have entered into this contest, we shall find that, with Great Britain, we shall have an active conflict, with France a mere war of words; with her, action cannot take place. After we shall have been engaged in the contest for a short time, having received many severe and bloody blows from Great Britain, the irritation of the nation would be excited to the highest possible degree, and of course the disposition to continue the war with her would be greatly increased. On the part of France no such circumstances could occur. Having felt no serious effects from her hostility, we should have no strong incentive, arising from suffering, to continue a war with her. The higher the irritation was excited against the one, the more it would be allayed towards the other.

The Emperor of the French, seeing one of the fondest objects of his solicitude accomplished, that of inducing America to follow the example of the European nations, by engaging in the war against Great Britain; seeing us engaged in a contest from which we cannot withdraw, without dishonor and disgrace, will come to an accommodation with us. I know not what other gentlemen may think of such a result as this, but I confess that I do not wish to see it. Sir, I dread that man's friendship infinitely more than his enmity; that kind of friendship, I mean, which would connect us with him as his allies; I shrink from it with horror. Where is the nation which has accepted of his friendship, that is not now his vassal? Perhaps there is one solitary instance to the contrary; Russia may be an exception, thanks to her power. But, excepting this, where is the nation to whom he has extended his friendly hand, that its touch, more deleterious in its effects than the poisonous effluvia of the bohon upas, has not quickly withered their liberties? Believing that all the professions of this man, about the freedom of the seas, are insincere and hollow; that he has no more regard for the freedom of the seas than for the liberty of the land. I have no desire to join him in the contest. Were we now to humble Great Britain, to get possession of her fleet, and to rule ever Europe, is there any gentlemen in this Committee who can persuade himself, for an instant, that he would respect the liberty of the seas? If any gentleman, with all the experience which we have had of the conduct of that man, can persuade himself of such a result, I should pity his head while I did justice to his heart. I have no doubt, in case the event alluded to takes place, that we shall have the highest professions of friendship; not only professions, sir, but acts. No doubt but he would be generous enough to loan us money, and officers and men to carry on his war. He lent them to Spain, sir; he sent his officers and his legions into her empire for her protection; and when he had got them placed at the proper points, he then did as, in every other instance he had done where he had the power; he told them they were no longer free, that Spain was no longer a nation; that they must accept of a new master. I have not the least doubt but he would pursue the same course with us, if he had the opportunity. He would not only lend us the means of subjugating us, but, in his gracious condescension, I have no doubt but he would also lend us a royal brother to rule over us, to ameliorate our condition.

Gentlemen may suppose, sir, that these are mere fanciful ideas, which we are in no danger of realizing. I hope, indeed, we shall not realize them; and that, in order, to escape a result so calamitous, we shall avoid the ensnaring friendship of that man. Viewing the present disastrous situation of the world; seeing the whole of Europe groaning under the miseries of war and desolation; engaged in a contest, to the termination of which no man can look with any certainty, I am anxiously desirous of preserving my country from its vortex. Whether the Committee shall be of opinion with me that the dangers I have pointed out are to be apprehended or not, yet the calamities and disasters of war are so great, that we ought to pause and to ask ourselves, what is its object, and what will be the probable result? Is there any probability that, by entering into a war at this time, with both France and Great Britain, we can accomplish the object we have in view? Can we so act upon them as to compel them to indemnify us for the past, or to respect our rights for the future? I have endeavored to show, sir, what I conscientiously believe, that we cannot. Impressed with this firm conviction, I trust that the good sense of this Committee will induce them, before they try the last awful resort, to use every honorable expedient for the preservation of peace.

I shall be in favor of striking out the words of the resolution which relate to granting letters of marque and reprisal; but I do not very well like the amendment offered by the honorable gentleman from Virginia, (Mr. Randolph,) in lieu of them. I had drawn up an amendment which I had wished to have proposed; and, for the information of the Committee, I will read it. It is to follow the word "authorizing," in the resolution, and is in these words:

"Under suitable regulations and restrictions, to be provided by law, the citizens of the United States to arm their ships, for their own defence, against illegal seizures and detentions when engaged in lawful commerce."

The difference between the amendment under consideration, and that which I propose, consists in this: that the former points to an opposition to all searches or seizures as long as the orders and decrees are in existence; the latter to an opposition to seizures and detentions under those orders and decrees, contrary to the laws of nations. Now, there are certain rights of belligerents as well as of neutrals on the ocean, to which I think it proper that all nations should submit. There are certain clear and defined laws of nations, which, for the sake of preserving peace, we ought to adhere to. It is true that the orders and decrees, of which we complain, violate neutral rights, and trample upon those principles which ought to be held sacred: but I do not think that a departure from justice on their part, would make it good policy in us to follow their example; I am not willing, because they violate neutral rights, that we should resist acknowledged belligerent rights. It is always a maxim with me to leave my enemy in the wrong; and I hold it to be a correct principle in national as well as individual concerns. By so doing you have a decided advantage over him, and, in his moments of reflection, if he has any, he will discover your superiority over him, and will feel a disposition to do you justice, in order to be on an equality with you.

As the measure for which the substitute is proposed, has been brought forward, not in opposition to the acknowledged rights of nations, but only to their unjust orders and decrees, I should wish whatever substitute we adopt to have the same tendency; that it should be opposed to all illegal seizures and detentions, but not to those searches admitted by the general law of nations. I wish, in the measures that we adopt, that we may be careful not to extend the ground of collision; I wish our measures to be confined within such bounds, that it shall not create a jealousy on their part, that we mean to contend, at this particular time, for things which we have not heretofore contended for, things which we know they will not concede. It is in this view of the subject that I prefer the amendment, which I have read, to that offered by the gentleman from Virginia. The resolution is only the foundation of a bill into which all the necessary restrictions and regulations may be introduced. It will be necessary, if we permit our merchants to arm, to place them under proper restrictions, or the nation might be involved in a war by the acts of individuals. If the amendment should take place, it will be an evidence to the belligerents that we are peaceably disposed; that, while we are determined not to surrender our rights, we are anxious for an amicable adjustment with them upon honorable terms. I believe that this will have a better effect in inducing them to repeal their unjust edicts, than all the open and avowed hostility which we can make against them. I trust that until every honorable means of preserving peace have been exhausted, until we are convinced that there is no other way of preserving our national honor and independence, that a majority of this Committee and of Congress will not be disposed to rush madly into a ruinous and destructive war.

Mr. D. R. Williams said, he hoped that the House would do him the justice to believe, for he had given many proofs of it, that although he had talked much about war lately, he felt just as strong an aversion against going to war, while peace can be preserved without disgrace, as any man could do. The gentleman from Pennsylvania (Mr. Milnor) cannot feel more than I do on

the subject of foreign relations, except in one particular point of view—that submission to the edicts of Great Britain and France, seems to him less heinous, less dreadful to the national interests than it does to me. The gentleman has read to you an amendment, which he would propose. What was its tendency? To permit your merchantmen to pay the tribute *armed*, rather than defenceless, as if the mere permission to arm could vary the terms or the operation of the belligerent edicts. Were you not told by him that he most sincerely believed that by war, or by any measure which you could adopt, Great Britain would not be induced to repeal her Orders in Council? And yet he attempted to persuade you, it is expedient to depend upon the very feeblest effort that can be made, as resistance, when in the same breath, he declared the whole energies of the nation, exerted in open war, would be inadequate. In advocating the repeal of the embargo, then, he must be for submission. The gentleman shakes his head. Sir, I wish he would be so good as to tell us, if not submission, what it is he is for?

Mr. Milnor said that he would not submit. He had endeavored to show that the course which he proposed to pursue would not be submission. If he had failed to convince the gentleman from South Carolina of it, it was not his fault; but while he believed that such a measure would be more essential resistance than the embargo, he should give it preference. To satisfy the gentleman from South Carolina on the subject of submission to tribute, he could observe, that he was ready to adopt any measure which the gentleman could point out, to prevent the payment of tribute.

Mr. Williams said that he was much obliged to the gentleman, and would, in three words, tell him how to avoid paying a tribute—continue the embargo. For the gentleman and the minority to help him, who seem willing to accept of what he could not but consider a tributary commerce, can—the embargo repealed—devise no mode of preventing the payment of the tribute by our merchantmen short of war.

To my plain understanding, sir, the amendment, as proposed, ends in this: That our vessels bound to England will, if they make any show of resistance, do it by *Quaker* guns. Every gentleman, in the least acquainted with maritime phrases, understands the term; while, on the contrary, if they do resist, it will only be to involve you in a war with France—an inducement, I believe, with many of its advocates for supporting it. We have now arrived at a period when the sentiments of every member should be explicitly known. That moment you put the country in a situation which subjects its commerce to tribute, I am for war with Great Britain, because any course short of war makes you tributary to her.

Some days since, I declared to the minority—it was in the sincerity of my heart I spoke—that they could save the country from its present dreadful situation. They know that they have produced a state of things that must not be suffered to exist. They have reduced us to the alternative of enforcing the law by physical force, or of repealing it. That they still possess the power to put down the effervescence they have excited, I cannot doubt; for while the inhabitants of the South are forming patriotic associations to enforce the law, some in the North, so excited, are exerting themselves to prevent its execution. I called upon them then, I entreat them now, to remember what are the dearest interests of their country—to put down the opposition to the law. By silencing it what will they do? Endear themselves to the nation—merit its thanks—save the Government without the aid of the bayonet from the disgrace of imbecility—and, in so doing, must necessarily save the character of the nation from the black stain incident to foreign taxation, and from sinking into the lowest state of degradation. This idea of tribute, of again becoming British colonies, I cannot think, much less speak of, with patience. I will begin in another place—of the embargo. Upon this subject gentlemen exert themselves, because they are interested in decrying it; for, when it was originally imposed, they told you that it would be ineffectual, and we all know some of them have done everything that could be considered necessary to realize the prophecy. Passing over the original causes altogether, subsequent events show, that the measure was wise. They wish now to induce the people to believe that it was not wise, not necessary, because in driving us from it, they drive us into war; and if the removal of it be followed by war, no matter in what way, gentlemen feel that they must take the responsibility of it to themselves. Sir, they have told us, in substance—for the open avowal would not do—that we were the basest creatures in the world; that we have neither virtue nor energy to direct the energies of the nation; that we imposed the embargo in subservience to France; and, unfounded as the accusation is, it has been the cry from one end of the country to the other. Now, sir, we approach the period when, from the excitement in the East, war may be preferable. What is the consequence? Why, sir, the very men who taxed you with base submission, with supererogation in submission, who vapored about national honor, and the maintenance of maritime rights, now warn you not to plunge the nation into war! And, in order to alarm and prevent you from defending the rights of the nation by arms, dilate upon the monstrous power of the belligerents opposed to you. The gentlemen have surely forgotten, that, when one of these very Powers was mistress of this country, of whose ablest Minister it has been truly said, that with one hand he smote the Bourbon on his throne, and in the other wielded the democracy of England, we fought with, and conquered our independence from her. Are we to be now told, if we are driven into a war, that we cannot resist her? The gentleman from Pennsylvania (Mr. Milnor) told you, that you cannot now get rid of the Orders in Council even by war; while you were yet in the gristle, you conquered from Great Britain the sovereignty of the soil we live on; and, lest this observation should be

insufficient, you are conjured by others not to go to war, because the Executive has been wrong. Gentlemen entertain, at least detain, us, by reading the documents, hour after hour, to prove it. For God's sake, sir, supposing the Executive has been wrong from first to last, is this a reason why they will not resist foreign taxation? You are taxed more heavily by Great Britain than her own colonies are, or than you are by your own Government; you are in a much worse situation as to the exportation of the produce of your own soil, under the operation of the Orders in Council, than the island of Jamaica, and I can prove it if gentlemen deny it. The produce of that island, it is true, is necessarily constrained to be first deposited in Great Britain; but all the surplus of that produce is free to be exported thence, and entitled to drawback. Is it so with yours? No, sir, the great staple of the country, cotton, worth more than any two others, is coerced into England, and absolutely prohibited from exportation altogether. You are to raise cotton, to carry it to the British isle, and no where else. What does this amount to? Anything short of a positive assumption of the sovereignty of the soil? I heard a gentleman before me, (Mr. Randolph,) with a patriotism and warmth of eloquence which fired my bosom, exclaim against the violation of our territory in 1805. Touch the soil, said he, and you touch the life-blood of every man on it. What is your situation now? Every square foot of cultivated land in the country is laid under contribution, and gentlemen very coolly say they will repeal the embargo, and will not go to war under such circumstances until it is forced upon them. They want *cause* of war. Yes, sir, this is a truth, and take notice of it, that the British colonial system only requires the importation of colonial produce into the mother country. Your produce is placed in the same situation, with this addition: coerced into her ports, you are prohibited from re-exporting one great article, cotton, and on other articles duties of 40 and 50 per cent. are imposed on their re-exportation. And why, sir? They tell you that you must carry your cotton there, because they want it. What does Mr. Erskine tell you is the cause of the regulation in relation to cotton? Why, sir, he told you insultingly that you must look to the prosperous state of the French manufactures for the cause. And yet gentlemen want cause of war; they cannot in this see anything distressful to the country or disgraceful to its character.

I think, sir, that the best course which we can pursue would be to say nothing at all about the repeal of the embargo. And if gentlemen will do so, we may chance to have an accommodation of all our differences, because then an opportunity will be given to the Executive, which he will not otherwise have, to attempt an accommodation. It was considered a kind of treason here the other day when I spoke of an extra mission; but it is a very fashionable idea all over the House now. Even the worthy gentleman from Virginia before me (Mr. Randolph) has no objection to one more chance for accommodation. Now, if gentlemen will not go to war with us, and really they talk as if they will not, let them adhere to the embargo and give a chance for negotiation. Let us have this one other chance for an honorable accommodation.

I do really believe, sir, that war is preferable to submission. I have been educated in this kind of opinion, and I canot give it up promptly. But it is unnecessary, say gentlemen; you can gain nothing by it. Suppose you had made this calculation during the Revolutionary war; suppose, Mr. Chairman, that you (Mr. Macon) had been thinking of what you could make instead of marching to South Carolina, and losing your all in the common cause—where would you have been now? Would you ever have been Speaker of the House of Representatives of the United States? Would any of these gentlemen have the honor of seats here? And shall we abandon them now without an exertion?

We are told that we must not go to war, because of the monstrous disproportion between our revenue and that of the British Government. Did not the disproportion exist in a greater degree during the Revolutionary war, when we were without a Government? Yes, sir; but you had that in abundance, in which I fear we are very deficient now—patriotism. You conquered the soil then without revenue—and will you stop to calculate what is the proportion of your revenue to that of Great Britain when she is bringing you to a worse state than you were in before you became free? For it is a fact that the state in which we are placed if we trade under the Orders in Council, is much worse than that which you, Mr. Chairman, assisted to redeem us from. One, certainly not the least of the attributes of sovereignty, is the power to lay taxes and consequently to repeal them—here is a tax imposed upon you without your consent—can you get it off? No, says the gentleman from Pennsylvania (Mr. Milnor.) Then, sir, we should abdicate the Government. You are taxed without your knowledge, against your consent. We cannot get it removed, says the gentleman. I do not believe it, sir; I would bury the last man in the country before I would accede to it.

A gentleman from New York, (Mr. Gardenier) says he wishes the nation to grow. I too wish it, if it could be allowed to grow in honor, in virtue, in patriotism; but if not, I would not desire it should "start a peg." Stop where you are, with honor, rather than grow in disgrace. I wish not to see the nation, to use the converse of his metaphor, like a great booby who has been told by his mother, "don't fight Billy till you grow big," and then he won't fight in defence of his own person; every little fellow in the street spurns him. The gentleman says, we may be a spunky, though a ricketty set of little fellows. Sir, I had rather be small, than a coward; a ricketty freeman, with one hand and one arm, than a slave with the handsomest appearance possible. The plain question presented for your determination is this; will you live slaves or die freemen? It is easy of solution; you can't find an American in

the nation, so lost to honor, to feeling, as not to say, "I will not live a slave." And why not improve the opportunity to wipe off this stain? No, says the gentleman from Maryland, (Mr. Key,) there is reason to fear the Commander-in-Chief may be dangerous, an ambitious man, and overturn the Constitution. What, sir, can place us in a worse situation than we are now in? Suppose an army of fifty thousand men raised, with a Chief at its head, disposed to sacrifice our liberties, would you prefer that every attribute of sovereignty shall be blasted by Britain, rather than take the risk of having an ambitious General to resist her? If the Constitution is made of such brittle stuff as not to stand a single war; if it is only to be preserved by submission to foreign taxation, I shall very soon lose all solicitude for its preservation. The gentleman also talked about the dangers avoided by the development of Burr's real character, as if a foreign was to be preferred to a domestic tyrant. If I could choose in such a case, I would rather take my chance with the latter than the former; indeed, much rather have a sovereign from among our own native blood royal, than from the royal family of England. You know, sir, they are not apt to be overburdened with a certain commodity, considered essential to good Government in this country.

Do not shackle us with war measures, let the nation grow, says the gentleman from New York, (Mr. Gardenier.) I am much mistaken, sir, if the gentleman himself was not the first who declared for war. I am positive he told you, months since, he was for a declaration of war against France; but now, Great Britain is the subject, he cries, don't shackle us with war measures. Can he have forgot his own description of the ambition and resources of Bonaparte? Has he forgot the picture which his friend from Connecticut (Mr. Pitkin) drew of the colossal power of Napoleon? The gentleman dwelt upon it so long, he really appeared towards the close, to be under an apprehension of its extension even over us. He ought certainly to remember this is the man who has truly smote the Bourbons, has humbled the proud house of Austria, has crushed the power of Prussia, and who has vanquished even the "heroic, the gallant Alexander." Declare war against France, said the gentleman yesterday; do not shackle us with war measures, to day! Sir, when the gentlemen on the other side begin to fear the power of Britain, or to tremble at the extension of Bonaparte's, they pay marked homage to the wisdom of the embargo measure, for it alone has preserved us from collisions with both these mighty nations.

Every gentleman who has spoken on the opposite side, has declared that the French edicts are inoperative, are empty menaces; they have supposed, they have proven their position, by the premiums of insurance; and are we, therefore, because they are inoperative, to declare war against her? The orders of Great Britain, but for the embargo, would be operative, would have intereepted all your commerce, and yet we must pay her! Gentlemen say we cannot come into contact with France, her decrees are inoperative, therefore, we must fight her; while Great Britain, who does come into collision with you, who attempts to blast your character, to sap your most vital interests, who has imposed tribute on you, must be propitiated by money, must be paid! How does this sound, sir? Not very spirited; what is it in reality? Contemptible cowardice. My ideas of honor, of national rights and justice, revolt at this thing. The gentleman from New York, I recollect, some time since declaimed with a pathos that moved my soul, when we were about to determine the order of the day of the supplemental embargo bill, "give us but one day's liberty," said he—

> "A day, an hour of virtuous liberty,
> "Is worth a whole eternity of bondage."

And it is true, sir. What does he now say? Virtually, that he will submit; that he will consent, for a humble commerce, circumscribed and regulated by Great Britain, to pay tribute to her. The gentleman's passions were excited; he could see nothing but slavery under the operation of a law of his own country; but when the Orders in Council are under consideration, he is off; and not he alone, but many of the opposers of the embargo.

The gentleman from Connecticut, a Revolutionary character. (Mr. Tallmadge.) called upon us the other day to repeal the embargo, and to take a stand calculated to maintain the honor and dignity of the nation, but was extremely cautious not to say what that stand is; and really, if his stand is not bettter calculated to maintain the rights of the nation, than his reasons are forcible for the repeal, they will be poorly maintained indeed. He offered you three, and but three reasons for the repeal. I very much doubt whether the gentleman will be willing to recognise them for his own when he hears them repeated; certainly much abler arguments are to be expected from a Representative from the State of Connecticut, which having been steady in its habits, must have, by this time, if we are to believe the slang of former days, monopolized all the "virtue and talents of her neighbors." 1. Because a grand jury of Vermont had some time ago presented the proclamation of the President, issued in April last. This presentment of the grand jury, if it ever had been a reason, which I deny, for repealing the embargo, has lost that character, being at least neutralized, by presentments of an opposite cast—I question whether five gentlemen in the House ever heard of it before. 2. That the militia, perhaps of Providence, (Rhode Island,) had disobeyed the orders of the Governor. I am happy to say the alarms, which had been excited in my mind, relative to the state of public mind there, were much greater than the case authorized. As to the particular case alluded to, I am informed by authority, to my mind perfectly conclusive, that although the militia did not carry into execution the orders issued by the proper

authority, it was not that kind of disobedience, if it can be termed disobedience at all, to which anything reprehensible can be attached; they were paraded, the vessel which it was intended they should detain, was beyond their reach. Is this a reason, sir, for repealing the embargo? So far from its showing a spirit of resistance, it is a proof that the law even there does govern. 3. That the collectors will be thrown into jail, inasmuch as they will be required, under the operation of State laws, to give bond for damages to so large an amount that sureties cannot be obtained. As to this objection, it is equally futile with the others. Let the whole machinery of State law be directed to this point, I believe Mr. Gallatin may, as it were with a single stroke of his pen, put it down completely. However large the bail required may be, if the Secretary of the Treasury orders the deposite of public money to be removed from one bank to another, that bank which secures the deposites will furnish the collector's security. I am not to be understood that this has been done, but calculating on the sagacity and fidelity of the Secretary of the Treasury, I have no doubt it will be done, when necessary. It is not certain, far otherwise, that there will be such a necessity—but happen when it may, the same spirit which has excited so much sensation in the East—mercantile cupidity—money will furnish the remedy. Bad indeed, sir, must be that cause which can be sustained by no better arguments than these. The gentleman from Connecticut should abandon it.

My worthy friend from Virginia (Mr. Randolph) urged yesterday, as a reason why you should not go to war, that you will thereby pledge every shilling and the last drop of blood in the nation, for the maintenance of maritime rights in every sea. If we go to war, certainly I should be for asserting those rights everywhere, but—[Mr. Randolph said he had objected to adopting the resolution of the gentleman from Virginia (Mr. Nicholas) as being that pledge.] That is not all which I understand by it, said Mr. W. I consider the resolution tantamount to a declaration of war and shall vote for it, at least so much of it as relates to letters of marque and reprisal; not for the maintenance of maritime rights in every sea only, but for the preservation of sovereignty on the land. If the objection to leaving commerce to protect itself, by means of armed merchantmen, rested only where the gentleman placed it, I could accede to his amendment; for merchants do not deserve more, if so much, as any other class in the community, that the whole national resources should be pledged for the maintenance of their individual benefit; but while my friend and myself are unwilling to do this, assuredly we ought not to say, they alone shall fight the nation's battles. Adopt the amendment, and you thereby declare maritime rights shall not be defended by Government, and yet in the same declaration you make that very interest sustain the whole national cause—if any fighting is done, it is to be done by those very merchants whom you resolve not to protect. Sir, I cannot consent to such a project. I wish to see the Government and not the individual alone embarked in the cause—for one I never will consent to pin my safety and the rights of the people of the United States on the sleeves of the merchants only.

But my friend started another objection to the embargo, which he says is not applicable to his plan—viz: that he was tired of new experiments—that he liked a project the better for being old and true—well sifted; so do I sir; but I should be very glad to know if his proposition be not a bran new one. I profess to be as little read in maritime, or national, or indeed any other law as any man, and therefore it may not be surprising if I am mistaken in the matter of fact, but certainly, I never heard of such a system of warfare before; nor do I believe such an one ever has existed. No, sir; I never have heard of the permission being granted to merchants to resist seizures without the right of reprisal. But the gentleman from Maryland (Mr. Key) has carried this doctrine to a much more refined distinction. He would allow the merchants to resist co-extensive with the Orders of Council only in defence of their lawful trade; but the dispute must not be widened and, therefore, they must only resist such attacks as are made under the orders and edicts. Under this system a corps of lawyers will become as necessary to a merchantman as their cables and anchors. I understood the gentleman to take great pains to satisfy us that we ought not to broach any subject of dispute, we should not widen the breach, and therefore, we should authorize no resistance to the exercise of power, claimed by the belligerents, though in contest previous to those orders and decrees—and this, sir, is the kind of resistance we are to make against the impressment of seamen; for the recovery of indemnity for spoliated commerce; insulted, tarnished honor! Sir, it is time we should assume, if it is not in our natures, nerve enough to decide whether we will go to war or submit; if you submit, for one, I declare I had much rather do it without arming your merchantmen with wooden swords and Quaker guns, when destined to be the prey of either Great Britain or France. Let the people understand—they do from the Delaware, South and West—that the tax is not on our maritime rights alone, but that it affects deeply the agricultural products of the whole nation; that there is not a square foot of this country but is in some measure laid under contribution; that the soil is violated; and depend upon it, sir, this new, puny kind of war will not be approbated by them.

The gentleman from Pennsylvania (Mr. Milnor) did that which is very common in the House, attempted to follow suit to my friend from Virginia. He would congratulate the nation on the prospect before it. I do with sincerity join the gentleman from Virginia, in congratulations, that during these times of oscillation the character of the nation is not yet compromitted—I hope we may be able to do so, with as much truth, a month hence. This congratulation was worthy of the

gentleman, but that of (Mr. Milnor) was of a very different kind. He would congratulate the nation on the prospect of removing the embargo. Depend upon it, sir, if the embargo is repealed and you take no better means of asserting the rights of the nation than this amendment, it will be no cause of satisfaction to any of us—it will be a just cause for bitter lamentations to the nation. Nation, did I say! It will be out of the question to talk about the nation—you are about to become a *no* nation. You may keep up all this gaudy paraphernalia of sovereignty, this solemn mockery of independence; but if you do not give this torpedo, embargo, a chance to explode in the heart of Great Britain, and will not go to war, you are ruined; you may talk of liberty, but what is it, when encumbered and borne down by foreign taxation! No, sir, we are again becoming British provinces, and therefore, it is that I choose war rather than this proposition, so inadequate, so illy calculated to sustain the pressure of the times.

The Committee rose, without deciding the question, and obtained leave to sit again.

Monday, February 6.

Mr. Burwell, from the committee to whom was referred, on the second instant, a resolution relative to certain sets of journals, documents, and reports, to be deposited in the Library of Congress made a report thereon; which was read and considered; Whereupon

Resolved, That the Clerk of this House be directed to furnish the Library of Congress with two complete sets of the journals, and of all printed reports and public documents laid before Congress, or either House, at each session.

Mr. Gardner presented a petition of the inhabitants of Packersfield, in the State of New Hampshire, praying that the several acts laying an embargo on all ships and vessels in the ports and harbors of the United States, and more effectually to enforce the same, may be repealed, whenever, in the judgment of Congress, it may be expedient to adopt that measure.

Mr. Mumford presented a memorial of the citizens of the third and eighth wards of the city of New York, to the like effect.

The said petition and memorial were referred to the Committee of the whole House on the resolutions proposed by Mr. Nicholas and Mr. Bacon, the twenty-fourth and twenty-seventh ultimo.

Mr. Burwell presented to the House a memorial of Samuel Briscoe and others, Commissioners appointed by a law enacted at the last session of the General Assembly of Maryland, to receive subscriptions for stock in the Susquehanna Bridge Company, praying the aid and patronage of Congress to enable the said company to effect the object therein specified.

Mr. Burwell also presented to the House an attested copy of a late law passed by the General Assembly of Maryland, entitled "An act to incorporate a company for the purpose of building a bridge over the Susquehanna."

The said memorial and act were ordered to lie on the table.

PRESIDENTIAL ELECTION.

Several petitions having been presented, in addition to those heretofore stated, against the mode in which the late election in the State of Massachusetts was conducted—

Mr. Bacon offered the following resolution:

Resolved, That the Clerk of this House do carry to the Senate the several memorials from sundry citizens of the State of Massachusetts, remonstrating against the mode in which the appointment of Electors for President and Vice President has been proceeded to on the part of the Senate and House of Representatives of said State, as irregular and unconstitutional, and praying for the interference of the Senate and House of Representatives of the United States, *for the purpose of preventing the establishment of so dangerous a precedent.*"

Mr. J. G. Jackson said he saw no objection to the resolution, or even to going farther than it proposed. The Constitution had declared that the election of Electors in each State should be held in such manner as the Legislature should direct; and, he said, he never could consent to the doctrine that any set of men, without the authority of law, could make an election of Electors. He believed that the case was not provided for; and as the present case could not vary the general result of the Presidential election, gentlemen appeared not to be disposed to interfere in it. But, he hoped it would operate on the House to induce them to consider the propriety of providing some mode of hereafter distinguishing between legal, and illegal or surreptitious elections.

Mr. Van Horn moved to strike out the words in *italic*, as he understood them as commiting the House to express an opinion on the subject of the petitions. Motion lost—yeas 18.

Mr. Rowan was opposed to the resolution. He contended, that the Constitution having provided that each State shall choose, in such a manner as the Legislature shall direct, a number of Electors equal to the number of their Senators and Representatives, it was improper that this House should interfere in it. Why might it not as well interfere in the election of Senators? He said that Congress certainly did not possess a superintending power over the acts of the States in general cases; if they did in this particular instance, he wished it to be shown. He thought that an interference by Congress, would be an assumption of power on their part forming a dangerous precedent. The House was called upon to say that the Legislature of the State of Massachusetts had improperly directed the manner of election. Was Congress to form for the States a model of the manner in which they should direct their elections to be held? Congress had no power to act on the subject. Why, then, send the memorials to the Senate? He said he was against taking any order in relation to them. In his opinion, it was improper to give the petitions a place on the files of the House, because they related to a subject on which the

House had not the power to legislate. Although it was a general principle that all petitions should be heard, this rule certainly did not include petitions on local matters, or State concerns, on which the House had no jurisdiction. It seemed to him improper, therefore, that the petitions should have been received; but, having been received, he wished them to lie on the table.

Mr. Bacon observed that the adoption of the resolution would not commit the House at all. He was aware that there was a difficulty in acting on this subject, and he only wished to give an intimation to the Senate that such petitions had been received. It was but decorous to the petitioners that their petitions should be brought into view; though, Mr. B. said, with the gentleman from Kentucky, he doubted whether anything could be done for them.

The resolution was agreed to—yeas 51, nays 24.

REPEAL OF THE EMBARGO.

The following resolutions were offered by Mr. Durell on Saturday, and referred to the Committee of the Whole on the resolutions of Mr. Nicholas and Mr. Bacon:

Resolved, That the United States will consider any capture and condemnation of merchant vessels of the United States, owned wholly by a citizen or citizens thereof, and engaged in lawful commerce, by an armed vessel sailing under a belligerent flag, and acting by and under authority of orders, decrees, or edicts violating the lawful commerce or neutral rights of the United States, as a declaration of war on the part of that Government to which said belligerent flag shall belong, and in whose courts such condemnation shall be had.

Resolved, That the President of the United States, on being satisfactorily informed of such capture and condemnation, as aforesaid, be requested, forthwith, to recall from such belligerent State, by and under whose authority such capture and condemnation shall be made, such resident Minister or Ministers of the United States as may reside at the Government thereof.

The House again resolved itself into a Committee of the Whole on the resolutions offered by Mr. Nicholas, Mr. Bacon, and Mr. Durell.

The amendment offered to Mr. Nicholas's resolution by Mr. Randolph, in the following words, being under consideration: "To authorize the 'merchant vessels of the United States, owned 'wholly by citizens of the United States, to arm 'and defend themselves against any armed vessels 'sailing under the British or French flag, so long 'as their orders or decrees remain unrevoked:"

Mr. J. G. Jackson rose and addressed the Chair as follows:

Mr. Chairman: The questions before the Committee most assuredly involve the destinies of this nation, its honor, and most essential interests. We have arrived at a crisis, solemn and portentous, which no human wisdom could foresee, no prudence avert. The injustice of foreign nations has increased with their knowledge of our pacific dispositions, until, driven to the wall, it behooves us to make a stand in defence of our country, its liberties, and its rights. I could not have supposed that, at such a period, with the full lights before gentlemen, they would have mistaken the source of our calamities, and, shutting their eyes against the attacks of our enemies, have found nothing to condemn but their own Government; and least of all did I expect it from the gentleman from Delaware, whose candor I had highly appreciated; nor am I now willing to accuse him of a want of candor, although his statements are partial, and his conclusions incorrect, but rather attribute it to that unfortunate imperfection of our nature which presents subjects to our minds in a form most congenial to our feelings. Looking at one side only, we are blind to the evidences on the other; and hence, often with the most upright intentions, we condemn measures which all honest men should approve.

The gentleman from Delaware set out with declaring that the Administration were the source from whence all our embarrassments have flowed. And how did he prove it, sir? Why, by recurring to the volume of documents published at the last session of Congress, upon which the nation has emphatically pronounced its judgment of approval. I am surprised that it escaped the sagacity of the gentleman, that in that volume we have official information that those embarrassments owe their origin principally to the hostile spirit predominant in Great Britain against us. Mr. Monroe, in his letter concerning the Chesapeake, (Doc. No. 1, p. 20, communicated last Winter,) states:

"Such is the state of this country [Great Britain] at the present crisis, that it is impossible to foresee what will be its conduct towards the United States. There has been at all times, since the commencement of the present war, a strong party here for extending its ravages to them. This party is combined of the shipowners, the navy, the East and West India merchants, and certain political characters of great consideration in the State. So powerful is this combination, that nothing can be obtained of the Government, on any point, but what may be extorted by necessity," &c.

The same evidence of hostility occurs again, in page 23 of the same document. Mr. Monroe observes;

"By Mr. Canning's queries, in his last note, I was led to consider it as preparatory to an embargo on American vessels, and intended to found some measure, on my reply, of an unfriendly nature, as most of the gazettes had recommended, and the public mind seemed to be essentially prepared for it."

In Mr. Monroe's valedictory letter, (Doc. No. 4, p. 44) he states:

"Great Britain was resolved to yield no ground which she could avoid, and evidently prepared to hazard war, rather than yield much."

I prefer relying on the testimony of Mr. Monroe, rather than on the unequivocal acts of a hostile character committed by Great Britain, because Mr. Monroe has been considered better authority with certain gentlemen than his Government itself; and the facility of explanations, disavowals, and all that, do away the force of measures which may be taken towards us, in the estimation of men who always attempt to put their Government in the wrong. This gentleman it is, who tells us that

the ship-owners, the navy, the East and West India merchants, and certain political characters of great consideration in the State, are for war with us; that the gazettes had recommended, and the public mind were prepared, for hostile measures; that they would yield nothing that was not extorted, and risk a war rather than yield much. And pray, sir, who are the characters described by him? Why, the whole ruling interest in that nation. When such language is addressed to the American people, and they contemplate what are the claims of their Government—what has been its forbearance; how just are its pretensions, and how hostile those of Great Britain—I am filled with surprise unutterable that their ignorance can be so far counted on by men among us as to expect credit for their charges that we are hostile to Great Britain; that we are enforcing unjust demands; and that we are in the wrong! The gentleman from Delaware accuses the Government of neglecting our interests—of omitting to treat with Great Britain in time. We know, sir, by painful experience, that treaties are a poor barrier against belligerent encroachment; and whilst we observe them with good faith, they are wantonly violated by others. We have now a treaty with Great Britain, consisting of ten articles. They are to be perpetual, and the first of them declares, that "there shall be a firm, inviolable, and universal peace, and a true and sincere friendship" between them and us. Notwithstanding which, they have violated our peace, and trampled upon all the ties of friendship. Treaties, therefore, are nothing—the laws of nations are nothing, also.

But sir, there was no neglect on our part to make a new treaty; for the moment the Treaty of '94 was loosened from around our neck, where it had hung like a millstone, offers were made—measures were taken to enter into stipulations with them; and the gentleman, aware of his mistake, changed his ground, by asserting that the Executive took a position in relation to seamen, which they knew would not, and could not be conceded by the British Government. Sir, the reverse is the fact; and as mine is a matter-of-fact argument, as the principles I assume can be substantiated, I will adduce my proofs, for with intelligent men, they are worth all the declamation of the most eloquent orators. The position I take is this—the Executive had the best reasons for believing that Great Britain would give up her claim to the right of impressment. In No. 2, page 20, it is stated an arrangement had been made with Mr. King, to give it up, and the only obstacle was an exception of the "narrow seas." No. 3. page 32, the same fact occurs. In 1802 Lord Hawkesbury agreed with Mr. King "to prohibit impressments altogether on the high seas." In page 5 of No. 3, it is repeated; then surely it was reasonable to believe that Great Britain would relinquish it entirely, when she had offered to relinquish it upon the "high seas." In February 1806, page 112 of No. 2, Mr. Monroe informs Mr. Fox, that he had presented the subject to his predecessor, Lord Hawkesbury, and after referring to his instances, he adds: "I think myself perfectly correct in stating that nothing occurred in our conferences to justify an inference that he thought them unreasonable. They were postponed from time to time, at his instance, and finally transferred to Lord Harrowby, his successor." Page 80 of No. 3, we find that Lord Vincent entertained the subject in August 1806. Page 84, Mr. Fox expresses his solicitude to make such arrangements as will "render perpetual a system of mutual friendship." Page 93, Messrs. Monroe and Pinkney state that Lords Holland and Auckland "were diligently and anxiously employed in endeavors to devise an arrangement which should be convenient and honorable to us, and at the same time free from improper hazard to Great Britain;" and in page 109, the same gentlemen inform their Government that "to (their) original project thus amended, the British Commissioners seemed to give their assent." In No. 1, page 41, even Mr. Canning, the redoubtable and polite Mr. Canning, condecends to admit that "at a proper time Great Britain may be ready to entertain it." Away then with the idle charge that the Executive were insincere, and have proved it, by urging a point which they knew never would be, and never could be conceded; for all the Administrations of England professed a willingness to remedy the evil. One of them proposed to enter into an agreement to do it partially, and Mr. Canning himself, at "a proper time," will listen to you. After disposing of this serious charge, I come to the merits of the question. Was the ground taken by us concerning seamen, proper? Did the honor and rights of the nation require it?

In considering this important subject I will examine,

1st. The practice of impressments, and the right to exercise it.

2d. Shall it be tolerated? can it be submitted to?

3d. The propositions made by us to Great Britain in relation to it.

4th. The formal arrangement.

Upon the first point, I will call the attention of the Committee to the volume of documents pointing out the practice and its injustice. Nothing that I can add would shed light upon it; the hand of a master is seen in the able elucidation, which no one who deserves the name of freeman can read, without feeling honest, honorable indignation; and resolve that he will rally round the constituted authorities to resist the usurpation. Sir, I intended to read to the Committee the luminous letter of Mr. Madison, in pages 14, 15, 16, 17, 18, and 19, of No. 2, of the documents, but I perceive that I shall be drawn into a much more lengthy discussion than I intended, and shall occupy more time than I ought. I will therefore omit reading it. It is, or ought to be, in the hands of every man, and is doubtless recollected by all; he speaks of the sacred regard in which property found on the high seas is held by all nations; that no matter how manifest the presumption is, that it is liable to seizure; no matter how inconsiderable the value, or flagitious the conduct of its possessor, it is carried before a legal tribunal, and a regular trial is had; but the great and paramount question of allegiance is decided in an instant, by an interested commander, who wants sailors; and every brave fine-looking fellow, who speaks the same language, and has the same complexion of a British subject, notwithstanding the most conclusive proofs that he is an American citizen, is *mistaken* for a British seaman, because he is able to endure the service; nay more, so flagrant have the outrages been, that Danes, Swedes, Germans, and even negroes, who could not be mistaken, have been forcibly impressed and carried off; thereby, as it respected our citizen, whose farm is the sea, cutting him off from his most tender connexions; exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers.

Passing from the consideration of Mr. Madison's letter, I will recur to what Mr. Monroe says, for his authority seems to be conclusive. No. 2, page 104. Mr. Monroe, in a remonstrance to the British Government, remarks, "The rights of the United States have been so long trampled under foot, and the feelings of humanity so often outraged, that the astonished world may begin to doubt, whether the patience with which these injuries have been borne ought to be attributed to generous or unworthy motives; whether the United States merit the rank to which in other respects they are justly entitled, or have already in the very morn of their political career lost their energy, and become degenerate." [Mr. JACKSON referred also to Mr. Monroe's letter to Mr. Canning, pages 27 and 28 of No. 1, to Messrs. Monroe and Pinkney's letter to the same, in page 207, of No. 3, which he read—in which they enforce the arguments of Mr. Madison, by pointing out the degradation and abuses resulting from the practice of impressments. Mr. J. then proceeded.] I ask sir, by what authority they claim the right of entering our vessels to impress the seamen found on board? The vessel bearing the flag of the nation is the national territory; the flag gives protection to the crew; and no Power can violate the flag without invading the sovereignty of the nation, or seize upon the crew without, *ipso facto*, committing an act of hostility.

This leads me to consider the second point—shall impressments be tolerated? The gentleman might have spared himself the trouble of proving that the Government had determined to resist it, and to make its relinquishment the *sine qua non* of a treaty. It was truly observed by Mr. Madison, that it was of primary importance in the estimation of Congress and of the nation; and that they never would consent to surrender the principle. I well recollect, and so must you, Mr. Chairman, that although it did not occupy a distinguished station in the memorials of the merchants, presented to Congress in 1805-'6, who then pledged their lives and fortunes to support the Government in the maintenance of their rights, it was nevertheless considered of paramount interest, and entered deeply into the views and policy of that period. The gentleman from Delaware has spoken of the happy prospects of our country in times past; that the arts and sciences, commerce, and agriculture, smiled upon us; and we were blest with their bounteous munificence. Yes, sir, they have smiled, indeed, for never were a people more truly the worshippers of them—but if we were so degenerate as to abandon our brave sons, the virtuous, hardy seamen, who unfurl our sails, and carry the American flag into every sea, they would start from their sculptured places over the entrance into this magnificent hall, and, frowning like a Medusa's head upon them, would turn the apostates from liberty into stones. No, sir, the brave tars, whose lives are at their country's call, and who constitute its sole defence at sea, where our rights are most liable to invasion, never shall, with my consent, be denied that correspondent protection which is the promised equivalent for allegiance. The rights of our citizens are the same at sea as on land, and their seizure by a foreign nation is as inadmissible in the one case as the other. Whilst we are a nation, and claim the attributes of independence, I for one will never consent that our flag shall wave unfurled over authorized disgrace, humiliating like that; rather would I launch everything we possess upon the ocean—let the political ship buffet it with the winds and the waves; and when unable to outride the storm, nail the flag to the main-mast—make one last, mighty struggle—and if all will not avail, rather than survive our lost honor, go down to the bottom all together, amidst the shouts of liberty, or death!

It was understood that Great Britain complained of illicit practices in relation to her seamen, as affording an apology for her usurpation; and I will now consider the propositions made by us to Great Britain. In discussing them I shall show,

1st. What we required.

2d. What we offered in lieu of the asserted right.

We required, see page 5 of No. 2 [Here Mr. J. read the article offered in the instructions of Mr. Madison, which requires an exemption of all persons upon the high seas from seizure, when found on board of our vessels, excepting such persons as are "liable to be taken according to the laws of nations," also page 5 of No. 3, in which the same requisition is repeated. Mr. J. proceeded,] I have already shown that it was a just demand.

2d. We offered to Great Britain as an equivalent—[Mr. JACKSON read the various offers made to the British Government—No. 2, pages 8, 9 and 10. No. 3. pages 62. 63. No. 3, page 103—ditto, page 109—and remarked upon them, particularly the last; whereby the American Government offers to bind itself to make penal laws for punishing commanders who receive British seamen on board, and "make it the duty of the Government to restore them;" referring also to the statement there of Messrs. Monroe and Pinkney, alleging, that "to (their) original project, thus amended, the British Government seemed to give their assent"—he contended it proved a degree of insincerity on the part of the British Cabinet, totally

inconsistent with the honorable frankness of our own.—Mr. J. proceeded.] I have made a candid summary of these offers; and on recurring to them I feel the mingled emotions of shame and indignation, when I see men wishing to put their Government "in the wrong." Sir, we offered to Great Britain,

1st. To afford no refuge or protection to British seamen.

2d To deliver them up if they took refuge among us.

3d. To make laws for restoring them.

4th. To aid in searching for, seizing, and restoring them.

5th. To keep them in our prisons when requested.

6th. To prohibit our citizens from carrying them off.

7th. To prohibit their employment.

8th. To make penal laws for punishing their employers.

9th. To make it our duty to restore them.

10th. To extend the foregoing provisions, not only to deserters, but all seafaring people.

What more could have been asked, required, or given, than is contained in these offers? Nothing more—unless, indeed, they had asked our independence, and, yielding to the requisition, we had given it. Sir, we do not want the British seamen, even when they are naturalized. If the unfortunate inhabitants of Europe, escaping from the tyranny of the old world, and panting after their long lost liberty, fly to the more hospitable regions of the new, I am willing, on their compliance with our naturalization laws, to receive them into the American family, to let them partake of the blessings we enjoy, whilst they remain among us; but I would prohibit their departure from this country, or, if they went off, refuse them our protection. If they are dissatisfied with their situation on the land, I would say to them, "your allegiance is still claimed by your parent country; we will not risk our peace for you out of our territorial limits; if you pass beyond them, you cease to be an American citizen." I would go further, and prohibit them from owning American registered vessels. Sir, those who come here in search of an asylum, go into the country; they pursue agriculture, or the mechanic arts—they are valuable men, and virtuous citizens; but the mongrels who infest the seaport towns, wear your privileges as a cloak to hide their foreign connexions—they are wolves in sheep's clothing—British merchants, under American colors; they interrupt your happiness, and endanger your safety.

I come now to the informal arrangement made with the British Ministers, which it has been alleged secured our seamen against impressments. What was it? See No. 3, p. 117 and 118—"His 'Majesty's Government has not felt itself prepared to disclaim, or derogate from a right which 'has ever been maintained, &c., and actuated by 'an earnest desire to remove every cause of dissatisfaction, has directed his Majesty's Ministers 'to give to Messrs. Monroe and Pinkney the 'most positive assurances that instructions have been given, and shall be repeated and enforced, 'for the observance of the greatest caution in the 'impressing of British seamen." Our Ministers honestly believed that the assurance was to import something; but they were deceived, as I shall presently show. It did not escape the penetration of our Secretary, that no security was thereby afforded—he construed it as it was intended by the British Government. In his letter to Messrs. Monroe and Pinkney, page 32 of No. 3, he remarks,—the security is "that instructions 'have been given, and will be repeated, for enforcing the greatest precaution, &c. If the future 'instructions are to be repetitions of the past, we 'well know the inefficacy of them. Any instructions which are to answer the purpose, must 'differ essentially from the past, both in their tenor and their sanctions." His exposition was the correct one. The objections he took are conclusive; they contain the *multum in parvo*. The construction given by our Ministers is to be found in No. 3, page 138–9, wherein they state, "our 'opinion is, that the practice would be essentially, 'if not completely, abandoned. That opinion 'has been since confirmed by frequent conferences 'on the subject with the British Commissioners, 'who have repeatedly assured us, that in their 'judgment we were made as secure against the 'exercise of their pretension by the policy which 'their Government had adopted, in regard to that 'very delicate and important question, as we could 'have been made by treaty." Again, in page 178 No. 3—"It was their idea that by discontinuing the practice in the mode proposed by them, &c. the United States would in the interim enjoy the security they sought." In their letter to Mr. Canning, page, 208 of No. 3, referring to the informal arrangement, they state, that as "an effectual equivalent for the forbearance of the practice" the informal understanding was, that "its practical effect would remove the vexation complained of." Mr. Monroe, in his letter No. 4, pages 4, 5, 6, 7, 8, 9, even goes further—he contends "that it contained a concession in (our) favor, favorable to our interest." [Mr. J. read those passages at length, and referred particularly to page 7, wherein Mr. Monroe says]—"I mean however 'distinctly to state, that it was understood that 'the practice heretofore pursued should be abandoned, and that no impressment should be made 'on the high seas," excepting in cases like one put to him, wherein he supposes a merchant vessel laying in the Tagus, and the desertion of seamen from a British ship of war to the merchant vessel, that there it would be reasonable, "and to such cases it was understood that the practice should in future be confined." Our Ministers were mistaken—for the obvious import of the words in the British note is (if it meant anything) a complete recognition of the right, which we deny; and a mere promise to exercise it cautiously. But, sir, I stand upon firmer ground than the exposition of our Government and the fair meaning of the note. I have British authority for saying that they were mistaken; and I will bring before the Committee a most important

document, which, to my extreme surprise, has never been fully presented to the American people; for, although one or two of the public prints have glanced at it, and I believe have given a summary of it—notwithstanding its intimate bearing upon this interesting subject, it has not been republished. I refer to the official documents communicated to Parliament by Mr. Canning in February last, and printed by their order. On receiving the note of Messrs. Monroe and Pinkney, dated the 24th July, 1807, wherein they state that the practice of impressments was to be discontinued, Mr. Canning wrote the next day to Lords Holland and Auckland the following letter:

Letter from Mr. Secretary Canning to Lords Holland and Auckland, dated July 25, 1807.

Foreign Office, *July* 25th 1807.

My Lords: I have the honor to enclose to your Lordships, the copies of a note which I have received from Mr. Monroe and Mr. Pinkney, and of the several documents that accompanied it. I submit these papers to the consideration of your Lordships, for the purpose of calling your attention to that passage of the note which refers to a suggestion on the part of his Majesty's Commissioners, on the subject of the impressment of seamen from on board of American ships. It is extremely desirable that His Majesty's Government should have the fullest information on this important point; and I have to request, that your Lordships will be pleased to state to me, whether the representation contained in this part of the note of the American Commissioners be accurate; and whether your Lordships signfied any such acquiescence as is there described in the implied, "Informal understanding, respecting the 'forbearance to be observed by the British cruisers, in 'regard to the practice of impressment of seamen on 'board of American vessels."

I have the honor to be, &c.

GEORGE CANNING.

Rt. Hon. Lord Holland and Lord Auckland.

To which they returned the following answer, dated July 28, 1807:

Letter from Lords Holland and Auckland to Mr. Secretary Canning, dated July 28, 1807.

Sir: We have received the honor of your letter, with its several enclosures, and are desirous to give the fullest information in our power respecting any part of our late negotiation with the Commissioners of the United States. We have accordingly applied our attention to that passage of the note delivered to you by Mr. Monroe and Mr. Pinkney, which states that "soon after the suspension of the negotiations, it was suggested by His Majesty's Commissioners that, if the topic relative to impressment should be expressly reserved for future conventional arrangement, and a pledge given to the United States for resuming the consideration of it at a convenient season, with that view; and that if, in the mean time, such an informal understanding should be substituted, as, in its practical effect, would remove the vexation complained of, it might, perhaps, be yet possible to conduct the negotiation to a result which would not be unacceptable to the respective Governments. And, in pursuance of this suggestion, the British Commissioners presented their official note of the 8th day of November last."

It appears to us that the several parts of this statement, taken with the context, have all the accuracy, and honorable and right meaning which we experienced in the whole negotiation.

When the American Commissioners speak of "such an informal understanding to be substituted, as would, in its practical effect, remove the vexation complained of," they do not mean, and certainly His Majesty's Commissioners never meant, that there should be a forbearance or suspension or discontinuance of the practice and exercise of the impressment of British seamen. On the contrary, they proceed to say that, "pursuant to the suggestion of the British Commissioners, the official note of the 8th of November was presented." To that note we beg leave to refer.

We considered that note, and still consider it, as pledging His Majesty's Government to give instructions to British cruisers, "to be very cautious in the exercise of the right of impressing British seamen, to take the strictest care to preserve the citizens of the United States from molestation or injury, and to redress any grievances which might be sustained by them."

When the negotiation proceeded, after our delivery of that note, we thought, and still think, that the treaty which we signed—omitting the point of impressment, and several other points afterwards included in the proposed additional articles—was, in itself, complete and unconditional, and subject to no reservation on either part, except that which was expressed in our second note of the 30th of December, on the signature of the treaty.

If circumstances had not taken place, which made it our duty to suspend the signing of the additional articles, and which eventually discontinued the negotiation in our hands, we should have considered ourselves as bound to advert, *bona fide*, to the further pledge contained in our official note of the 8th of November. We mean that paragraph which states, "that no recent cases of complaint have occurred, respecting the exercise of the right of impressment, and that no probable inconvenience can result from the postponement of an article, subject to so many difficulties; still, that His Majesty's Commissioners are instructed to entertain the discussion of any plan that can be devised to secure the interests of both States, without any injury to rights to which they are respectively attached." The obvious sense of this paragraph, and the forms and substance of the completed treaty, and the proposed additional articles, appear to us to leave no doubt relative to the mutual understanding and views of those who were employed in a negotiation of such importance to their respective countries.

We have the honor to be, &c.

VASSAL HOLLAND.
AUCKLAND.

Right Hon. George Canning.

But Mr. Canning was not satisfied with this explicit assurance, and, to place the question beyond all doubt, or more, perhaps, with a view to injure the British negotiators, he wrote them a second letter, dated 6th August, 1807.

Letter from Mr. Secretary Canning to Lords Holland and Auckland, dated August 6, 1807.

My Lords: In acknowledging the receipt of the letter which your Lordships have done me the honor to address to me, in answer to mine of the 25th ultimo, I am sorry to have occasion to trouble your Lordships with any further inquiry; but I am sure that your Lordships will feel that the point most immedi-

ately in question, respecting the impressment of British seamen from American ships, is one of such essential importance, at the present moment, as to make it necessary for me to ascertain, with as much accuracy as possible, what has really passed between your Lordships and the American Commissioners upon this subject.

I understood the American Commissioners to say that, in addition to whatever passed in writing between you, they received from your Lordships an informal assurance of something that "should, in its practical effect, remove the grievance complained of." By "the grievance complained of," I understood the Commissioners to mean the practice of impressment itself, not any abuses of that practice.

Your Lordships deny that any forbearance was promised, "in the sense of any suspension or discontinuance of the practice," and your Lordships refer to your note of the 8th of November, as containing the correct statement of what you communicated to the American Commissioners.

The note of the 8th of November certainly promises forbearance in the practice, but not a discontinuance of the practice of impressment.

I am therefore under the necessity of requesting your Lordships to have the goodness to state to me whether the note of the 8th of November does, according to your Lordships' recollection and belief, contain the whole of what was promised or held out by your Lordships to the American Commissioners upon this point?

Whether whatever else passed (if anything else did pass) in conversation, was in strict conformity to that note; implying no further concession or forbearance, on the part of Great Britain, and authorizing no further expectation on the part of the United States?

If this be so, it does appear to me that the American Commissioners have misconceived the effect of your Lordships' communication to them; and must have represented it to their Government as implying a much larger concession than was in fact in your Lordships' contemplation.

I have the honor to be, &c.

GEORGE CANNING.

Rt. Hon. Lords Holland and Auckland.

To this letter they returned the subjoined answer, August 10, 1807.

Letter from Lords Holland and Auckland to Mr. Secretary Canning, dated August 10, 1807.

Sir: In answer to your letter of the 6th instant, we have the honor to repeat our former assurances that it is our desire, as it is our duty, to give you every possible information respecting the negotiation with the American Commissioners, which His Majesty was lately pleased to entrust to us.

As the points in which our answer to your letter of the 25th ultimo has not appeared to you sufficiently clear and satisfactory, we must again refer you to our official note, of the 8th of November last, as containing a full and authentic statement of what was settled between us and the American Commissioners, with regard to the impressment of British seamen from on board of American ships. That note was delivered after many fruitless conferences held for the purpose of devising some expedient that might reconcile the interests and pretensions of both nations on this important point. But finding, after much careful consideration of the different plans proposed to us, that the difficulties which stood in the way of any final and permanent adjustment were at that time insurmountable, we were compelled to rest satisfied with the temporary and imperfect arrangement, which our note of the 8th of November promised to afford. We certainly did not then understand, nor do we now understand that, by that note, we pledged our Government to abstain in future from the practice of impressing British seamen from American vessels. We certainly, however, did mean to pledge the British Government to make its cruisers observe the utmost caution, moderation, and forbearance, in the exercise of that practice; but we never either expressed or implied that they were to desist from taking British seamen from American merchant ships. We farther engaged, that our Government would be at all times ready to take into its serious consideration any proposal made to it by the American Government, for the recovery of deserters from the British Navy, who take refuge in the American territory or on board of American ships, without having recourse to the means which are at present resorted to for that purpose.

Whatever passed in conversation was, we conceive, in strict conformity to that note, and implied no farther concession nor forbearance, on the part of Great Britain, than extreme caution and moderation in the exercise of the right, which alone, without any discontinuance, much less renunciation of the practice, we expressed our confident hope would be sufficient to prevent such inconveniences and outrages as the American Commissioners represented, and contended, had frequently arisen from it.

We have the honor to be, &c.

VASSAL HOLLAND.
AUCKLAND.

Right Hon. George Canning.

Nothing can be more explicit, and prove the mistake of our Ministers more unequivocally; nay, more, the Commissioners say, "the treaty was in 'itself complete and unconditional, and subject 'to no reservation on either part, except what was 'expressed in the note of the 30th of December," wherein Great Britain reserved the right, notwithstanding the treaty, to chastise us if we did not resist France, in the way and manner which she might prescribe; and Mr. Canning echoes the same sentiments. The information he obtained, was a prelude to his note, in reply to Messrs. Monroe and Pinkney, of the 22d of October, 1807. See page 224, of No. 3; therein Mr. C. states: "The 'treaty was considered, by those who signed it, 'as a complete and perfect instrument. No en-'gagements were ever entered into, on the part 'of His Majesty, as connected with the treaty, 'except such as appear upon the face of it." And he adds, that, with respect to impressments, it "must be understood to have had in view the re-'newal of such discussions, not as forming any 'part of the treaty then signed." I will not conceal my surprise, sir, at finding Mr. Monroe, who doubtless knew of the correspondence, and received the foregoing answer, persisting in his constructions, and urging upon the nation that it was understood, "that no impressment should be made upon the high seas." The gentleman quoted the documents to prove that the Government were satisfied with the exertions of our Ministers.

No doubt they were—I believe every man in the nation was satisfied with their exertions; for I take a wide distinction between their exertions and their acts; and I wish not to be misunderstood in doing so. I give them credit for great talents and patriotism, pressed, as they were, by the convulsions in Europe, and the solicitude to settle our disputes; they assumed a latitude of discretion consistent with the genius of our Government, and its honorable conduct in the turmoils of diplomacy. European Ministers march by the plumb-line and square, of their limited instructions; whilst ours, having a wide latitude, may honestly transcend thir bounds. We, however, at a distance from the scene, can look more calmly at the passing events there, and refuse to shift our course, because of their supposed importance. I think they were mistaken, in making a treaty in express violation of their instructions; and I think they also erred, in exciting a hope that they had agreed, (see page 119, of No. 3,) on that day, "to conclude a treaty on all the points which had formed the object of their negotiation." I well recollect the pleasure that was excited here, when this information reached us; for it was communicated forthwith by a special message. But do I therefore doubt of their exertions? Assuredly not; I will be just to them, while I am performing my duty to my country. Sir, I am in the performance of a great duty. The awful situation of this nation, on the verge of war on the one hand, and the abyss of dishonor and destruction on the other, demands, at our hands, that no unjust charge shall be suffered to go out to the people, without its antidote; it is right that they should see and know what their Government has done to preserve peace; the grounds upon which our claims have been rested; and the offers which have been made. Mr. Monroe has complained, but I think it was without just cause; for who is most in fault, the Government, in conforming to their instructions, or he, in departing from them?

The gentleman from Delaware accuses the Administration of inconsistency, in offering to place our whole relations upon an informal arrangement, after having rejected the treaty with the informal arrangement concerning seamen: and Mr. Monroe's letter (Doc. No. 4, p. 14) is referred to, urging the same charge. Sir, I make a most material distinction between placing the whole relations upon an informal understanding, and treating away everything we had to give, while the essential equivalents were merely informally reserved. In the former case, we should retain what we had to offer—the *quid pro quo*—and in the latter, success could not be expected by us, as no indulgence could be tendered to induce a relaxation on the part of Great Britain. But, I contend that Mr. Monroe is mistaken in what he asserts relative to this subject. Mr. Madison's letter of the 20th May, 1807, states explicitly that "The President is constrained to decline any 'arrangement, formal or informal, which does not 'comprise a provision against impressments from 'American vessels." The gentleman from Delaware says, Great Britain never will abandon the practice of impressment; she would rather go to war. Mr. Monroe says the same; for "the navy and country are opposed to it." And in Doc. No. 4, p. 11, he says Great Britain will not treat, unless the non-importation law is thereby repealed.

Doc. No. 3, p. 139—They would not indemnify us for seizures, in violation of the law of nations.

Same, p. 123—The East India Company will not give up anything in relation to the trade to the East Indies.

Same, p. 129—The West India merchants will not permit us to trade, under any restrictions, to the West Indies.

Same, p. 132—They would not agree to any definition, by treaty, concerning blockades.

Same, p. 134—They would not permit us to enjoy the colonial trade, unless it was embarrassed by circuitous voyages and taxation.

Doc. No. 2, p. 6—They would not regulate the right of search by any reasonable stipulations.

Doc. No. 4, p. 144—And they would rather fight us, than yield much.

Pray, Mr. Chairman, what are the claims of the American Government, and what are the points of collision or importance, to be considered in treating with Great Britain? Expressly those, and those alone, which have just been recapitulated; all of which are resisted; and we are officially informed they would rather have war with us than yield either. Gracious God! Are we a nation? Have we not already become base and degenerate in the very morn of our political existence, and unworthy of the liberty so dearly purchased? Why would we treat with any nation? I suppose, sir, that we may receive indemnity for the past and security for the future; and, regardless of both, with a rod suspended over our heads, we treat; and, tremble with pale fear; sacrificing all—obtaining neither. We give up everything—we receive nothing—with a knowledge, too, derived from the pages of experience, that the nation that consents to the surrender of one right, thereby invites attacks upon those remaining. The gentleman from Delaware says, we might have continued the Treaty of 1794, and avoided the embarrassments we are subjected to. The Treaty of 1794 has already passed the ordeal of public opinion. The Republicans of this country condemned it then, and few of them, I presume, would applaud it now.

But I will take a cursory view of that treaty, to see if it contained any security against those embarrassments, and if it is such an one as can be accepted.

The first ten articles are declared perpetual and irrevocable, and it is unnecessary to give any analysis of them.

The eleventh is a mere preamble to the commercial articles.

The twelfth article was rejected. It related to the West India trade.

The thirteenth permitted a trade to the British East Indies, embarrassed with restrictions incompatible with a liberal policy. It required that we should bring their products to the United States.

The coasting trade was disallowed, and our citizens were not permitted to settle or reside there, or go into the interior.

The fourteenth opened all our ports to British subjects and British vessels, and permitted the residence of merchants. In this article, there was no real reciprocity. We were allowed to enjoy the like privileges in their European possessions only, where the balance of trade is greatly against us—whither we carry our raw materials and the necessaries of life, and receive in return their manufactures, after they have received the final finish of the artist. It was foreseen how injurious the residence of their merchants would be. The effects are still severely felt, for a great portion of the capital in this country is British, and all its weight is thrown into the enemy's scale against us.

The 15th provides that no prohibition shall be imposed on the exportation or importation of any articles that do not extend to all nations. Thus, if an equivalent were given by any other nation for certain commercial privileges, which may often occur in a young nation like this—as in the purchase of territory, &c., Great Britain became, *ipso facto*, entitled to them; whereas she having a redundant population and undergoing no change, and, permit me to add, never granting any indulgence in her European possessions to any, was sure to profit by it, while we gained nothing.

The 16th permits the residence of Consuls—theirs in all our seaports—ours in Great Britain and Ireland only.

The 17th stipulates for captures in cases where there is a just suspicion of having enemies' property on board—this sanction to seizures on suspicion is objectionable, because the captors have so strong an interest to suspect, that they will not, living as they do upon plunder, have virtue sufficient to resist the bribe.

The 18th relates to contraband, and comprehends timber, hemp, plank, &c., which ought to be excluded from the list, upon every principle of right and justice. This is not all; it expresses that there is a difficulty in deciding in what cases provisions and other articles are contraband. It would be difficult, indeed, to decide the affirmative—but there never should have been a difficulty allowed to exist in so clear and palpable a case; and a case, too, of such immense interest to this nation, whereby Great Britain could with a single fiat cut off our great staples, "our provisions and other articles," from their market. The stipulation that they shall pay the full value for them in cases of seizure is a flimsy security. Where? at what place is the value to be ascertained? None is mentioned; of course, then, at the British ports, already glutted with our produce, being made the emporium of our commerce. A more pernicious and anti-neutral article could not have been devised; and, immediately succeeding the seizure of our provision-vessels by the Orders of 1793, it gave a sanction to the principle, that Great Britain, when commanding the ocean, may starve other nations into submission.

The 19th article relates to privateers. The objection, and a serious one, too, to this article, is, that they are not sufficiently restrained.

The 20th relates to the punishment of piracy—not objectionable.

The 21st prohibits individuals from committing acts of hostility—not objectionable either.

The 22d prohibits reprisals until justice is refused, and unreasonable delay—the only objection to this is, that the time is too indefinite; and, as we shall always be the complaining party, we have a right to expect prompt reparation.

The 23d article throws open all our ports to their armed vessels, and declares that those insulting the officers shall be punished—it further provides for our admission and stay until time to refit, when driven in by the dangers of the seas into their prohibited ports; let it be recollected that none of ours are prohibited—all are open to them. But to this article there are other insuperable objections. While the British navy have the right to enter our ports without limitation as to numbers; they hold us as much in their power as Bonaparte does Prussia, when his armies occupy all their strong fortresses, and their weak ones too—we are bound to punish the citizen who insults the British officer; and why not punish the officer, too, who insults the citizen? We have an awful lesson on this score in the murder of Pierce—the affair of the Cambrian, and many others—they were punished by promotion.

The 24th prohibits the arming of privateers—no objection to it.

The 25th. This article permits their vessels to enter with their prizes wherever they please; exempts them from search or duties, and prohibits the like permission to any other nation—this is a most unneutral and partial stipulation.

The 26th provides that, in case of war, the merchants may remain as long as they please among us, to carry on trade. Sir, to this there are two strong objections. 1st. They are a curse to us in time of peace, and they would be far worse in a period of war—spies upon us, and moneyed spies too; their whole wealth and power would be brought to bear upon our people for the purpose of corrupting them. 2d. I will ever maintain the position that private property is no more justly liable to seizure at sea than on land; and, unless they would refrain from taking ours at sea, I would retaliate by sequestering theirs on land.

The 27th requires that fugitives shall be delivered up. Under this article, Jonathan Robbins was offered up, and sacrificed.

The 28th relates to the limitation of the articles; the first ten to be permanent, the others to be in force until two years after the signature of preliminary articles of peace. This being the import of the treaty, and the effect of all the articles, which I have separately considered, lest it might be supposed that those omitted contained something favorable, I ask any candid man, if it ought again to be renewed? And, if it were, wherein is to be "indemnity or security?" The good, if any, were contained in the first ten articles, and they were executed, except so far as relates to their permanency. They, indeed, contained much good; and one article, relating to the Western posts, swallowed up all that were obnoxious. You must recollect, Mr. Chairman, with what eloquence and effect that consideration was pressed upon Congress; gentlemen who never saw an Indian, all at once felt uncommon sympathy for us Western people; they painted, in vivid colors, the relentless barbarity of the savages, who waged a war of extermination against us; no age, no sex, no condition, exempting any from the indiscriminate murder of all; led on, too, by British officers, fighting in their ranks and commanding the expeditions—deriving supplies and protection from these posts, and stimulated there, to lay our country waste, and cut off its scattered population. It contemplated a lottery provision, too, for indemnity; five Commissioners were to be appointed; two by Great Britain, and two by the President, and if they could not agree upon the fifth, lots were to be cast. Well, sir, the British Commissioners decided against our merchants, the American ones in their favor; they could not agree upon the fifth, and accordingly drew lots, "and the lot fell upon Jonah;" we got the Commissioner, and our merchants were paid for unlawful spoliations. We had, to be sure, a hard bargain for this favor, as we engaged to pay the old British debts, due from individuals, to an enormous amount; but, through the provident management of the present Administration, we commuted them for a gross sum of £600,000 sterling.

Let it be recollected, sir, that we were then in the gristle; now we are hardened into the bone of manhood; and what might have been a good treaty then, while our resources and industry were merely unfolding themselves, would be a bad one now, that we are a great, free, and powerful nation. Such as I have rapidly reviewed them, are some of the inherent objections to the Treaty of 1794. It has many sins of omission to answer for. It contained no provision concerning impressments. The West Indies were shut to us. There was no regulation about the colonial trade, and nothing concerning blockades.

Well, sir, the Administration has been accused of error in refusing to accept the Treaty of 1806. It is worse than the former; and proceeding with my first design to make this a matter of fact argument, I will take a review of that treaty also.

1st. The first article, like that of the Treaty of 1794, stipulates that there shall be a firm, inviolable peace, and a true and sincere friendship. As the article in the Treaty of 1794 was still in force, this was superfluous, unless, indeed, that Great Britain, having often violated it, was willing to give a new proof of friendly dispositions, which her conduct rendered necessary.

Article 2d renews the ten permanent articles of the Treaty of 1794, by way of brightening the chain of our recollection.

Article 3d regulates our trade to the East Indies, and is materially worse than that of 1794: by it we are confined to a direct trade from the United States to them, and directly from them to the United States. The great value of that trade, as regulated by the Treaty of 1794, consisted in carrying the produce of the United States to a market in Europe, receiving specie and other articles of traffic there, and going thence to the East Indies; thereby deriving all the benefits accruing from double freights and double profits. The same benefits resulted from the traffic on the return voyages. Under this article the trade would drain the country of specie, as with specie principally is it carried on. It, like the Treaty of 1794, prohibits our citizens from settling or residing there, and from going into the interior.

Article 4th relates to the trade with the United States and Europe—all our States and Territories are thrown open for Europe alone; it is precisely similar to the 14th article of the Treaty of 1794, and the objections urged to that, apply to it.

Article 5th is like the 15th of the Treaty of 1794. It repeals our non-importation act, and prohibits all other restrictive measures, which it may be politic to enact hereafter. There is no reciprocity in it; we are not a manufacturing people, and, through restrictions upon manufactures, we wield a potent engine—and the power of discriminating ought not to be relinquished.

Article 6th declares that the subject of intercourse with the West Indies shall be postponed. Sir, they cannot subsist without the supplies received from us; and yet they will not allow us to trade thither, at a time when every port we own is thrown open to them.

Article 7th relates to Consuls, and is similar to the 16th in the Treaty of 1794—the same objections apply to it; their Consuls are allowed to reside at any of our ports—ours are confined to Europe, and excluded from the East and West Indies, and all other places.

Article 8th concerns captures on just suspicion of being enemy's property. It is similar to the 17th of the Treaty of 1794, and liable to all the objections urged in relation to it.

Article 9th is on the subject of contraband, and includes timber, hemp, plank, &c., which should have been exempted, after the example of the Russian Treaty; and, being the growth and produce of our country, such exemption was the more important to us.

Article 10th relates to the notification of blockades; the definition of them, which we are so much interested in, and had pressed so strenuously, being totally omitted. A provision on this subject acquired fresh importance every day; we had witnessed the most alarming innovations upon the established definitions in the laws of nations—insomuch that paper blockades were substituted for real ones, and whole islands, kingdoms, and continents, were declared to be blockaded, when the combined fleets of Europe could not effect it.

Article 11th is on the subject of the colonial trade; the restraints upon it are incompatible with the character of independence, and, at first view, the mind is struck with the outrageous attempt of Great Britain to dictate to us in what manner we

shall trade with the possessions of an independent nation, and how we shall be permitted to trade with her enemies. The regulation is a humiliating one; for by it Great Britain assumes the prerogative of directing to what extent at least it shall be taxed by us. 1st. If we trade in the productions or manufactures of Europe, destined for the West Indies, they are to be first brought here and subjected to a duty of at least one per cent. before they can be carried there. If we desire to carry the productions of the colonies to Europe, they must be first brought here, and a like duty of two per cent. imposed. I am aware that to this it has been answered we derive a revenue from the traffic; but, sir, I am not for collecting a revenue from our citizens at foreign dictation—besides, the double voyages and expenses so enhance the price, that we cannot compete in the market with the British productions; and it operates as a bounty to that amount on them.

Article 12th concerns maritime jurisdiction, but within the defined limits permits the right of search, to see if the vessel belongs to an enemy. Within our jurisdictional limits we must maintain exclusive jurisdiction, or fritter away our independence—within them it is a universally acknowledged principle, that the national sovereignty is as complete at sea as on land: nay, so inviolable is that sovereignty, that even enemy's vessels are exempt from attack and capture. It is true, that in the case of the Impetueux, Great Britain trampled upon the law of nations; but it is not the less obligatory, although we submitted to the degradation of its violation. Once allow the right of search for the purpose expressed, and the most alarming abuses will follow. In this article there is no provision against hovering around our ports, and taking stations there, to surprise and vex our inward and outward bound trade—a provision of indispensable necessity, taught us by the melancholy lessons at New York; for that important place has been effectually blockaded by British vessels. Our jurisdiction must be complete and exclusive.

Art. 13th regulates the right of search: it is to be exercised as favorably as the course of the war may permit, observing as much as possible the principles of the law of nations. This is a latitude, boundless as the universe; it is completely undefined; it is a mockery of our understandings. Great Britain may give new aspects to the war every day, and being sole judge of the favorable course which the war may permit, will riot upon our rights. It acknowledges the justice of, nay, sanctions a departure from the law of nations: better, therefore, be without the article entirely. Every man who has attended to the history of our humiliations at sea, must recollect the many complaints of abuses in relation to the right of search. Instead of keeping at a proper distance, and limiting the number allowed to visit our merchant vessel, for the purpose of examining her character and lading, our captain is ordered with his papers to come on board of the British ship, launched in his crazy boat upon a boisterous sea, at the imminent danger of his life, and there saluted with the most abusive, ungentlemanly language. It further relates to judgments in prize-cases and to restitution for unlawful captures: a copy of the sentence and proceedings of the admiralty courts shall be given, if required. Sir, it should have gone further, and compelled the admiralty judge to have stated the grounds of his opinion. Let it be recollected that the court is an *ex parte* one: we have no security for its integrity, and the abuses committed by them are alarming. Their forms of judgments are, "condemned as enemy's property, or otherwise"—and our courts, where cases depending upon those decisions have come before them, decide that the decree is conclusive, unless there is error apparent on the face of it. Indeed, I believe they go further, and condescend to be the mere registers of the British Admiralty edicts. How can an error in the opinion of the judge appear when he condemns on the ground of "enemy's property, or otherwise?" There is an extreme necessity for some checks. Sir William Scott, judge of the High Court of Admiralty, who has assumed to himself the high character of impartial expounder of the law of nations, for all nations, with all his great talents, has been unable to reconcile his inconsistent, time-serving, varying decisions; and, failing in that, has been at length compelled to take refuge under the orders of the British Privy Council: the laws of nations, of reason, morality, and everything else, being disregarded. Sir, there is no provision for a *bona fide* restitution; and in proof of the abuses practised, I will state a case which occurred last summer: A vessel belonging to an American merchant was dispatched in ballast to Guadaloupe, under a permission from the President, to collect a debt due to him there. Being prohibited by the embargo laws from carrying any lading, the owner drew bills upon his debtors, and not being able to obtain specie, or perhaps desiring to import some of the productions of the island into the United States, as he lawfully might, he received sugar, &c., in discharge of the debt. On the return voyage, the vessel was captured and carried into Antigua, and libelled there. The judge was disposed at first to condemn the property under the order of June; but finding a better expedient, he determined that it must be enemy's property, as there was no cargo to purchase it with; and inasmuch as drawing bills might be converted to the fraudulent cover of enemy's property, he determined it was enemy's property, and condemned it. Well, sir, although the cargo was worth, and would have sold here for $12,000, by being exposed to sale in a glutted market it brought only $3,400. The costs of prosecuting the claim, in the vice admiralty court, were $1,000; and it was admitted on all hands, that the expenses of appeal would be $2,000 more. Although it was most certain that the decree would be reversed, it was equally so that nothing would be restored but the proceeds of the sale: so that after succeeding, our citizen would lose his property, and $400 into the bargain. Suppose a vessel captured merely for

the spoil, carried into and sold at St. John's, where there are no bidders able to exceed $150; and in such case restitution of the proceeds (which is the universal rule) were decreed—what is the effect? Invitation to plunder, although they have sufficient already. Sir, I am for exposing their judges by making them expose themselves; and for breaking the chains of vassalage, which our judges have put on thereby. Such a provision would effect the object.

The 14th article relates to piracy.

The 15th prohibits citizens from joining others in hostility.

The 16th prohibits reprisals until complaint is made, and unreasonable delay; it is similar to the 22d of '94.

The 17th, like the 23d of the Treaty of '94, admits all their armed vessels into our ports, and requires the punishment of those insulting their officers. I will not repeat the objections already urged, when discussing the 23d article.

Art. 18th relates to arming, in the ports of the two nations.

Art. 19th provides for the admission of their privateers, with their prizes, whenever they please. I wish not to be misunderstood, in discussing this treaty, as intimating that the provisions are not reciprocal upon paper; what I contend is, that there is none in reality. We are a peace-loving nation. Great Britain loves war. We preserve peace if possible. Great Britain prefers war to peace. We have, comparatively, no navy. Great Britain has "1,000 ships of war." This article farther provides, that the privateers of the enemies of Great Britain shall not be allowed to enter with their prizes; but if forced in by necessity, we shall be compelled to hasten their departure; and that hereafter we will not make a treaty inconsistent with these provisions. Such a stipulation in time of war, is a gross departure from neutrality; which consists, in preserving a strict impartiality between the belligerents—granting no advantage to either, (that is not reciprocal,) to the detriment of the other: and it cannot fail to embarrass us in future; for, in this particular at least, every nation entering into treaties with us, and indeed without them, has a right to expect that we will admit them upon the terms of the most favored nation.

Art. 20th, like the 26th in the old treaty, permits the merchants to reside here, trade &c., during a war with us. What I urged against the 26th article need not therefore be repeated. I have, however, an additional objection to this; it provides that if their merchants are suspected they may be warned to go off, and shall even after such warning be allowed to remain twelve months in the country. I want none of their merchants here, and I do not wish any of ours to reside in Great Britain.

Art. 21st, like the 27th, is for delivering up fugitives from justice.

The 22d, shipwreck.

The 23d requires that, in future, Great Britain shall receive all the benefits of the most favored nation. We, sir, are shut out from British colonies: and let me suppose that France and Spain should open theirs by treaty, in consideration of some commercial privilege—that Spain should cede Florida, and stipulate in the treaty for the reservation of some indulgence—shall Great Britain instantly without any equivalent enjoy the like benefits? Its operation necessarily is to prevent us from making a bargain; and let it be kept in mind, that Great Britain cannot enlarge her European possessions; that her system in them is unchangeable, and no inducements can be offered to vary it.

The 24th article concerns the slave trade.

The 25th provides a reservation that no treaties in existence shall be contravened.

Such is the substance of this famous treaty: let any gentleman examine it impartially—let him consider the objectionable tendency of the articles, and above all, the total absence of any provision securing us, and I fear not that his decision will support his Government, in the ground it has taken. If the Treaty of 1794 had much to answer for the crime of omission, this has much indeed; for they far transcend the former.

Upon the great points of difficulty and collision, no provision was made: we treated away all we had to give, and trusted to chance and fate for our security. By the treaty all our ports were opened, all our laws restricting British commerce, British ships, &c., were repealed.

Upon the great point of impressment, the treaty was silent.

The West Indies were shut upon us.

The East Indies more than half closed beyond what they were in 1794.

There was no provision for indemnification: there too, the treaty was silent—and silence upon that point is, in effect, a total abandonment of it. The Treaty of 1794 contained such a provision, and so did the treaty with France. It has been most uncandidly asserted, that we, in the treaty with France, promised to pay our citizens with our own money. It was a wise provision in the Louisiana convention, that a part of the purchase money should be applied to the indemnification of our citizens; the price was not thereby augmented one cent, and all candid men acknowledged that it was a good bargain; the island of New Orleans, alone, being worth more than the sum given for all Louisiana, with its countless millions of acres.

There was no provision against a British export duty, whereby they tax us to a large amount, and we by our Constitution are prohibited from retaliating.

No provision against illegal blockades.

And none for permitting the residence of our Consuls at any of their possessions except in Europe.

In a word, there was no indemnity for the past, no security for the future.

But, sir, there was a sting affixed to it more poisonous than the adder's. I allude to the infamous rider, in No. 3, page 163, which Lords Holland and Auckland say was the only condition or reservation annexed to the treaty. It declares—if France should attempt to execute the Berlin decree, "they are confident the good sense of the

'American Government will perceive the fatal consequence of such pretensions to neutral commerce, and that its spirit and regard for national honor will prevent its acquiescence." But if the enemy executes his threats and neutral nations acquiesce, Great Britain may be compelled to retaliate, and pursue the same measure towards neutrals that France practises. They proceed to sign the treaty in the persuasion that before its return from America the enemy will have formally relinquished his pretentions, or that the United States "by its conduct or assurances will have given security to His Majesty that it will not submit;" and they add, that the note is presented to let us know that without such abandonment, (a formal one too) or such assurances or conduct on our part, the treaty shall not be binding, or Great Britain restrained "from adopting such measures as (to her) may seem necessary for counteracting the designs of the enemy." Upon a former occasion I dwelt upon this subject, and it would be inadmissible to reconsider it at length; but I acknowledge that it would fill me with shame and anguish, if this nation could stoop to the degradation of sanctioning such an outrage upon its honor and its rights, by accepting a treaty to which it was affixed. They confide in our good sense—our spirit and regard to honor; are persuaded we cannot and will not submit; and require that we, by our conduct and assurances, will have given security to His Majesty that we will not. If, however, regardless of our national honor, &c., we do submit and will not give security, they will treat us as we allow France to threaten or treat us. Away with the treaty and the rider too!

Our Ministers had the meekness to inform Mr. Canning, page 221, that he ought to be satisfied with our conduct; for that the French Minister had assured ours, that the decree should not infringe our treaty or our rights, and that we had witnessed a practice conformable to the assurance. This was on the 18th of October, 1807, almost one year after the Berlin decree. Well, sir, on the 22d of October, Mr. Canning wrote his answer, in which, although he does not deny that the decree had not been enforced, he informs our Ministers that he is not satisfied that the American Government has taken such effectual steps as to do away the reservation contained in the note accompanying the treaty. He, as was to be expected, rejected the humble security we had to offer—nothing but unqualified war at the direction of Great Britain would satisfy him. If war be proper, do let us consult our people in making it.

The gentleman from Delaware complained that this treaty was returned without being submitted by the President to the Senate. Who is responsible for the formation of treaties, and for them when formed? The President; and is it reasonable that he should incur such responsibility, where the treaty was not only disapproved of by him, but was made in express violation of his instructions? Should he deliberate on accepting the treaty with its insulting supplement? I have examined, and I trust with candor, the treaties of 1794 and 1806, and shown that neither would comport with the just claims of the United States.

The gentleman asks, has not an error been committed in relation to them? I answer, no; and further, I will say, that neither would have prevented the wrongs we endure; the first (unexpired) article in the Treaty of 1794 promises a firm and inviolable peace, and true and sincere friendship: repeated acts of war have been committed upon us, and sincere friendship has been substituted by the blackest perfidy. France is accused of violating her treaty, as if it were more criminal to do so, than to break the moral law of nations. France has violated both, and so has Great Britain; the only difference consists in this, that Great Britain has done so much more frequently, and more injuriously, than France has.

The gentlemen ask, (Mr. VAN DYKE and Mr. KEY,) will we go to war for British seamen? I put it to them as liberal men: is it not unfair to ask the question? They know well what has been offered on that score; I have made a summary of the offers to-day: it is certainly attempting a very unfair diversion of the public mind to suggest such an inquiry. Other gentlemen (Mr. DANA, &c.) ask will we go to war for the right of free ships to make free goods? This is equally uncandid; for it must be known, that however desirable to us, we never have asserted the principle so as to make its recognition an indispensable condition.

Will you go to war (the gentlemen ask) for the right of search? Sir, both are given up in admitting search for enemies' property; and the latter particularly in the project of a treaty sent to Mr. Monroe by Mr. Madison. See No. 2, p. 7.—Article 3 relates to the right of search, and proposes to regulate the practice.—Article 11 allows the taking of enemies; and No. 3, p. 7, gives up the point of free ships make free goods. The right of search necessarily results from acknowledged principles in the laws of nations. The question of contraband implies it; going to blockaded ports, and seizing persons in the military service of an enemy on board, imply it also.

The gentleman asserts all our embarrassments arise from refusing to be searched for British seamen. I ask him as a man of honor, pledged not to harbor the servants or secrete the property of his neighbor in his house, whether he would submit to have it searched by day or night; and without suspicion, (for being bound by honor and by compact it would be insulting him to suspect him,) or without authority, permit the neighbor wantonly to enter into his rooms, open all his trunks, desks, &c., to satisfy himself that no fraud had been committed, knowing too, that being in want of his purse, and having power to do so, he would carry it off? I can answer for him that he would not.

The same gentleman asserts that if we go to war, it will be for the subject of impressments. There can be no doubt that we ought to make

war rather than submit on this point; but it is not now the question of immediate collision: it is merged in the murders of the Chesapeake, and they are merged in the Orders of Council—in the avowed attempt to *tax us*. What are the causes of complaint? Impressments, spoliations, the case of the Cambrian, the murder of Pierce, the Chesapeake, blockades, colonial trade, orders of June, January, November, and every other month in the calendar: each one has given rise to some outrage. Invitations to our citizens to violate our laws, and go to sea without papers, thereby inviting to piracy in its true definition, and taxing us—demanding *tribute*. Are not these sufficient causes of war? God knows, if we want a justification in the eyes of all men for going to war, it is to be found abundantly in them. The single case of Pierce was held sufficient; his murdered body was carried through New York by the exasperated citizens; the Federalists were vieing with the Republicans in expressions of indignation; Mr. King was at their head, and he is still a favorite, as the votes recently given by them for President and Vice President will show. All our difficulties, it is said, would have been avoided, if the Treaty of 1806 had been accepted. This treaty was to cure the *king's evil* or the evils of the King; it was to avert all our difficulties, although many of them preceded it, and were unatoned for thereby. No, sir; all of them were omitted or sanctioned by the treaty and its rider. We cannot get the subject resumed, says the gentleman, and it is evident, that it was the best bargain attainable. To my mind it is proof of hostility the most deadly; and as for the bargain it never could be worse. Well, sir, what shall we do? What, it is asked, will be the object of war? I answer *resistance*. I will resist while there is one man living to aid me; it will be more honorable to die in the contest than to crouch beneath the lash that penetrates to our vitals: we shall thereby avoid a lingering death, for death is inevitable if we submit.

The gentleman (Mr. KEY) asks if we mean to fight France, to coerce a respect for her treaty, to compel Great Britain to make one? On this score there is no difference; both have violated their treaties with us, and trampled upon our rights. If we fight them, it will be to resist their attacks upon us.

I am not for dividing and subdividing the injuries done us, throwing the gauntlet and fighting for the case of the Chesapeake to-day, and after the battle is over, challenging them anew and fighting about the Orders of Council to-morrow. I prefer throwing all the injuries into one account, and fighting to resist and redress them in the lump.

With great exultation it is asked, what will be the effect of war upon Great Britain? what profit will result to us? A nation like us will never make war for the *profits* of it; we profit more from peace. Not so with Great Britain; her foreign wars are highly beneficial to the Government; they keep the people united, their minds engaged, and inattentive to the crying corruption of their Ministry. When we go to war, no mercenary calculation of dollars and cents will weigh down the scale; it will be a question of country, of liberty, and independence. But, sir, we can injure Great Britain, and also remove a cause from which much evil is to be apprehended. We can take Canada, and thereby put down the hostile spirit of the Indians, to whom the war-belt has been sent from Canada some time since, with an invitation to them to take up the tomahawk against us, in the event of a war with Great Britain. We should be able to subdue the war spirit which so much predominates in savage man. This would be doing much for their happiness, and the future peace of our country. Besides this, we should harass their commerce by our privateers, whose profits would excite a sufficient spirit of adventure to go upon the ocean in search of prey; and, above all, we should avoid a pusillanimous, dishonorable, and degrading submission. This, in my opinion, will be gaining much. War has been painted in glowing colors; it is a great calamity to any nation; it is the greatest calamity that ever infatuated man devised to scourge the world. But great as it is, to us submission would be greater. The gentleman from Maryland deprecates the consequences of trusting an army of 50,000 in the hands of any man, lest such an one as Burr, seated at the helm, should crimson the Presidential chair, and deluge the country in blood. How, and of what materials would this army be composed? Of men, sir, fighting for their families, their altars, and their firesides—for the liberty consecrated by the blood of their fathers. It would contain some of the best blood in this nation, and you might as well suppose that they would tear up the foundations of the earth, as become mercenaries. Sir, even at hearing the din of war as it rumbles across the horizon, you already find them entering your service. There are many men who would not accept the command of your forces on a peace establishment, that would draw their swords, and put on the habiliments of war in subordinate stations, in the hour of danger. Look over the list of your military officers, and ask yourselves whether the colonels, majors, captains, and subordinate officers you find there, would prostitute the liberties of their country, and cut asunder every tender ligament that binds them to it, to serve the designs of any ambitious, designing man?—It is impossible. There are men on that list of the most unquestionable patriotism, public and private virtue; and in talents, inferior to none on this floor. Such men cannot be led into, or excited to partake of, the scheme. We are not *yet* in such a state of degradation and meanness, too often produced by *love of money*, as to submit to the ambitious projects of a Bonaparte, who could wield the nation in his right arm, and smite its liberties with his left. All these injurious consequences, however, in their fullest extent, are predicted, as if we were unworthy of trusting ourselves. Instances have been given from des-

potic States of a daring leader's usurping the government. They do not apply to us; the purse and the sword are wielded by Congress; we hold the purse-strings, the sinews of war; and we thereby have in sufficient check any ambitious projector. The gentleman from Maryland complains of an usurpation already, and argues from it that worse is to follow! and pray hear his charge: "The Secretary at War, in communicating the orders of the President to call out the 100,000 militia, requests the Governors to be careful in selecting *fit and proper persons*." *Risum teneatis.* Why, in truth, it is a high misdemeanor, and no doubt will be duly considered upon the trial of that gentleman before the Senate, where it appears he has been *impeached*. The gentleman from Delaware warns us to avoid war; for in the midst of arms the still voice of reason is not heard. We have reasoned long enough; everything that appertains to the reasoning faculties of man has been tried; we have the better of the argument, as our enemies admit, and we do not propose to go to war for the purpose of old-fashioned reasoning. Force is the only expedient that can produce reason with such nations as we have to deal with. I am for no more "supplemental broadsides." There is more energy and weight, in the diplomatic correspondence, through the mouths of our cannon. The gentleman from Delaware asks, will the nation give its blood to blot out the errors of the Administration? Sir, the people of this country have too much good sense to believe that errors exist, when it is not in the power of ingenious and able opponents to point them out. I defy them to do it. There is no point upon which I, humble as my talents may be, would be afraid to meet them before the nation. The gentleman begs the question, we are not disposed to hide errors, or palliate them. If they exist, we shall be happy to discover them; and I assure gentlemen, that wheresoever they may be found, we will endeavor to apply the proper and Constitutional corrective. The gentleman warns us to "put the enemy in the wrong." Who, I pray you, are in the wrong, ourselves or the enemy? They have put themselves in the wrong. What, sir! does the gentleman mean to defend the murders of Pierce and the Chesapeake, the orders——

[Mr. VAN DYKE explained: He had not intended to convey the idea that Great Britain was justified, but merely that we should put her in the wrong upon every point.]

Mr. JACKSON proceeded.—I accept the gentleman's explanation with great pleasure. Sir, we have put the enemy in the wrong on all points. The gentleman from Maryland says, that we will fight for our altars and our firesides; besides them, all is calculation. I differ with him. The murders at sea, of Pierce, and of the Chesapeake; the invasion of our maritime jurisdiction; the impressment of seamen, and subjecting our exports to pay tribute, are not questions of calculation; they are questions of sovereignty and of independence, and existence itself; we must fight, rather than submit to them. We, by our Constitution, are prohibited from taxing exports; Great Britain asserts the right, and has taxed them, and I would resist that alone, at all hazards. The two gentlemen say Great Britain will not relinquish impressments, as by them alone she supports her navy, and it is a vital principle to her. And we are to submit, forsooth, because it keeps up her omnipotence at sea, to a measure that grinds this nation to powder, and stabs us to the vitals? The gentleman asks, will we not submit to a cutting off a member to save the body? I answer no; I will not submit to the amputation by Great Britain. I will not sacrifice all the members to preserve a lifeless political trunk. If the legs, arms, ears, and nose are cut off, and the head, too, I am incapable of perceiving the use or value of the body; and submission to Great Britain will be a sacrifice of all these. I have read of a great general—I believe it was Cæsar—who directed his soldiers to aim their weapons at the faces of the enemy's army, because, being handsome men, and more attached to their beauty than their country, they would surrender rather than lose it. But, by the gentleman's system, the body is the only desirable place; do not touch that, and the members—eyes, head, and all, may be quietly destroyed.

The gentlemen have urged that notwithstanding impressments, &c., we have flourished. Sir, if we made it merely a question of dollars and cents, perhaps we might flourish under the Orders in Council—but, let me ask, do not our national and personal rights transcend in value all such calculations? Are our liberty and independence worth nothing? Gentlemen say, we are all powerful for defence—we wish for no more than to defend our just rights—we are not aiming at conquest, and for defence we will be mighty indeed, in a war against those who dare to assail us. Gentlemen ask us to convince the people that war is necessary and they will act with spirit and vigor, but not till then. This is true, sir; but by what means are they to be convinced, if they are still incredulous? Those who do not discover the necessity of maintaining our rights, and that we have been deeply injured, must be as callous to feeling as the miserable poltroon who, on being forcibly thrust out of doors, at length discovered that his presence was disagreeable. It is true, as the gentleman states, that the genius of our Government leads to peace; but it is honorable peace alone that can be fostered by them; they will prefer war to disgrace, cost what it may. Peace is the sheet anchor of our prosperity; but if forced into war we will be terrible as the tigress robbed of her whelps. With much preparation and deliberation the gentlemen have announced to us their system—one is for trying the pen first and then the sword. Why, sir, we have already tried this war of goose quills long enough; and if we repeat the warfare I should not be surprised at hearing the whole feathered tribe squalling and squeaking like the British merchants and some of our own too, when a bristle belonging to them is touched; they squeak from one end of the nation to the other, and although they make a great cry

we get but little wool. Sir the spirit of the nation has almost been destroyed by this goose-quill warfare—I beg pardon of the people, it is the spirit of this House I mean; we write reports, resolutions, bills, &c., we talk and write much about them, until all our spirit evaporates. Not so with the people; we have indeed for some time been lulling them into a fatal security; they have been dozing over our lethargy; but I trust that like a sleeping lion the nation will awake and rise up in its full strength and vigor to assert and maintain its rights. The other gentleman (Mr. KEY) is for letting loose these embargoed ships, permit them again to navigate the ocean, and resist by force all search for unlawful purposes. How is the lawfulness of the intended search to be foreseen? While the gentleman was speaking I could not refrain from asking how he would discriminate—I was anxious to know how an ingenious gentleman could manage the subject: he said he would tell me, but he failed to attempt it. The right of search is an acknowledged right, resistance to it is war, or piracy; for instance, (as stated in my previous examination) to ascertain the character of the vessel and cargo. Well, sir, a British ship meets one of your vessels with the intention of enforcing the British orders, but the commander does not order his trumpeter to proclaim it at the mast-head; he comes alongside, and orders the captain with his papers on board; unless, out of courtesy, he boards the American vessel. After getting possession of his vessel, the American learns that the object is unlawful, but his vessel is captured; and then, and not till then, he is permitted to resist. Why, sir, resistance comes too late, and ever will, unless we suppose that an intuitive knowledge pervades the navigators of the ocean. The gentleman wishes to leave the door of reconciliation open a little longer. Sir, I wish not to be misunderstood by gentlemen. Although I can see no possible good that can result from further negotiation, I am for a little longer delay. I prefer letting the goose-quills lay idle for a season, and the cannon too—although, as I have remarked, war is not such a dreadful expedient to me, as some gentlemen would represent it; and unless we receive redress, I, for one, will say it must be resorted to. I am at present opposed to granting letters of marque and reprisal. If we send out privateers, they will make war; and if we allow our merchants to arm, they will make it also—or if they do not use their guns until they are searched for unlawful purposes, they will be captured, guns and all. If they resist a search, they become the aggressor, and a species of war ensues. It is said that Mr. Canning's last letter proves their sincere desire for peace—proof was indeed necessary; but I would rather rely upon their acts, than their professions. In my opinion this last letter is not less hostile than the former ones. It persists in the unmanly insinuation that we have acted with duplicity, and made our communications with the British Government dependent upon our relations with France. He has said, to be sure, it would be gratifying to him to settle all differences with Mr. Pinkney. Perhaps he deemed it politic to hold such language. We, however, must appreciate it according to the actual state of things. I know that I may be asked why, under all these unpropitious appearances abroad, and unfavorable circumstances at home, delay any longer? Why, sir, notwithstanding my want of confidence in their friendly dispositions, I am still willing to await the events of a few fleeting months. As to any inherent regard for our rights, I put it out of the question. I look to more powerful causes—to the occurrences in Spain, and the British disasters there—for there can be no question that their armies have been cut off, unless, as at Dunkirk, they have ran away; and that their dependence was upon their heels, there can be but little doubt, when we look at the map, and examine their marches, in a line parallel to the seacoast, instead of advancing by the side of the patriots, and upon the frontiers of Spain, disputing the passes through which the enemy had to enter into the country. The British nation are a high-spirited people, and they will illy brook the disgrace of *running*, or (if their armies were compelled to fight) of *being cut off*. Either alternative is ruin to the ministry. When we look at the sensibility excited by the convention in Portugal, we can have little doubt of the effects of the expedition in Spain. About the same time the communications made to Congress will have reached them. They will put down the slanders there, that we were for submitting to France; they will show the liberal offer made by us to Great Britain; an offer in effect, to join England against France, by trading with England, and resisting France; and the insolent rejection of the offer. All these concurrent circumstances will crush the ministry, or compel them to relax towards us, and come to an accommodation. Wise politicians yield something to circumstances and appearances; and if we disregard them now, after waiting with so much patience, and at a great sacrifice, for so long a time, we could not well answer it to the nation if we rushed into war, if, as is probable, the olive branch is crossing the Atlantic to us.

As to fighting France it is idle; we can't get there, and they can't come here, and their ships are swept from the ocean. I will not join gentlemen in their project of fighting France, and submitting to Great Britain; I am for fighting the enemy who has done us most wrong. The injuries committed by England exceed those by France an hundred fold. While Great Britain kicks us on the highway, robs and insults us, we pocket the affront; but if France, like a man on horseback, happens to approach us near enough to spatter the mud upon us, and dashes on in full speed; after getting out of sight we offer battle, and taking courage from our security we look big and brave. Upon my soul I believe that one of the members of this House (Mr. QUINCY) would have nerve enough for such a daring. I am against arming our merchant vessels unless we make war; for on the day they sail the peace of the nation is gone; they have the power of making war transferred to them, and they may wage

it against whomsoever they please. I am for keeping off the evil day as long as possible, and for pursuing the advice of the good old Laertes to his son, "Beware of entrance in a quarrel, but being in, be firm and thy enemy will beware of thee." I am not for *immediate* war; but let me entreat gentlemen not to abandon the ground we have taken, at a time too when the people from almost every quarter of the Union are pledging themselves to support it. There are a few factious spirits to be sure, who clamor against our measures; they have clamored at all times; their *approbation* is not desirable: *it* alone would unhinge the affections of the people in a great degree; but the majority who approbate our course is great indeed. For myself, I will yield to the majority, do what they may. I will, as far as I can, resist those measures which I deem unwise and impolitic, but my resistance shall be confined within the Constitutional limits, and I will be ready at all times to coerce others to respect them. If the majority will give up the embargo without substituting war, and thereby submit, however much I deprecate such a surrender of principle, I must acquiesce. One argument urged with much effect, though certainly of no intrinsic weight, is, that we must remove the embargo, or the merchants will do it for us. Sir, on the day we yield to the menaces of a faction our Constitution is not worth a straw. If you sacrifice this measure to a faction in the East, you must sacrifice another to a faction in the West; for the moment you buy off one faction you offer a premium to another. Need I refer to particulars? Look at your public lands; there are men daring enough already to assert that selling them is unjust, and that it would be cheaper to take them without buying. If one great principle is to be sacrificed to the merchants, why not for the agriculturists also? If the merchants triumph over us, I give notice that so far as depends upon me they shall take the consequence, and the seamen too. I will jeopardize the peace of the nation no more for them.

Upon a view of our foreign relations I find that these same merchants first stimulated us to assert their rights, and they are now the first to complain; for, happen what may, they are always the complainants. They clamored about the colonial trade—look at the Boston memorial written by the very party who have accused their Government of improper conduct for insisting on it. We, after having incurred the censure of our constituents for expenditures of money, &c. for their protection, find them the first to turn against us, because we do not obey their clamors in all things. If they drive the Government into submission, I give notice, let them abide the consequences; if they expect protection let them stay at home; I am unwilling to jeopardize our peace for them again. What will gentlemen give us as a substitute for the embargo? I hope they intend to save appearances at least, and pass a non-intercourse. Remove the embargo without it, and allow the arming of merchants, and my life on it they will fight their way into the tributary ports of Great Britain. Sir, I do not consider this to be a mercantile question merely; it is certainly more an agricultural, or rather a national one. The merchant will have his profits on the produce, no matter whether the prices be great or small; and the depression of the price is a loss to the farmer. Our produce will not bear the tax—flour at two dollars per barrel and other articles in proportion. But if this view be fallacious, it is still a national question—as a nation we are bound to protect our citizens in the exercise of their lawful pursuits. If the merchants be attacked, give them protection; they, as an integral part of the nation, ought to be protected; it is our duty to watch over their rights; let us then preserve them from destruction. I never will consent, if they are mindful of their duty, to give them up; and I will not abandon those measures which we have taken, merely to gratify the factious spirit which pervades New England. I am sorry to see so many of my friends yielding to their clamors, (which we need not fear,) as by yielding they add fuel to the flame. If our manufacturers were attacked *en masse*, who would say it is no concern of ours; let them defend themselves? Whenever we lose sight of the principle I contend for, the same argument will apply to the great landed interest of the nation. I am for considering the various portions of our citizens as embarked on one plank, to sink or swim together.

The resistance in New England, it is said, is justified by the example in Virginia. I am proud to see gentlemen willing to cling to her example—for, in 1798, when the resolutions of Virginia were transmitted to the East, the Legislatures would not treat them with decency. They resolved that the measures of Virginia were a gross usurpation, and deserving marked reprehension. And what did Virginia resolve? That the Constitution had been violated, and that the States who were parties to the compact be invited to co-operate in Constitutional efforts to procure a repeal of the obnoxious laws? And what followed? In the capital of Virginia the sedition law was executed; the authorities of the nation had declared it binding, and no man raised his hand to resist it. In New England, a quarter too where the States were denied the right to concert Constitutional measures to repeal the sedition and alien laws, opposition is organized in town meetings, and in the State Legislature, to resist the laws by force, and to punish those who attempt to execute them; and this is "the land of steady habits." There can be no doubt that the States who are parties to the compact can interpose, and by uniting their efforts, procure a repeal of laws violating the compact; but the course of wisdom is to do so calmly and dispassionately, as we proposed, not by a seditious and rebellious resistance.

But to return to the subject before the Committee. By arming and going out without authority to capture the enemy, our property will be first sacrificed; the enemy will be enriched; and we shall fight to see if we shall keep it: whereas, fighting being inevitable, I am for it while we are whole and strong; sending out the produce invites attack; there are many hungry

vultures ready to pounce upon it and ruin will follow. These bristled merchants will then deafen you with their cries, and utter their complaints to the nation against you for so unwisely managing its concerns as to remove the embargo, and thereby admit a diminution of danger. The great drift of gentlemen seems to be attacking the Administration, and artfully evading the question. This is uncandid and incorrect; let censure be applied where it is due—but on all occasions, whether right or wrong, to attack the Government for the purpose of saddling it with our misfortunes, and to shield the oppressors, is so inconsistent that it astonishes me to find it persisted in. If they had been so long successful with their deluded followers, I would apply the fable of the shepherd's boy to them—"when the wolf comes you will not be believed."

Sir, this measure which you are about to abandon, (let me repeat it,) has passed in review before the American people—your course has received their decided sanction, as has been evinced by their recent vote in the election of President; they will act with firmness if we do our duty; and although the wisdom of our plans is doubted by some honest men, it will yet work well—right, like justice, though you trample upon it, will survive the shock, and ultimately triumph. The picture of war has a tendency to enslave us—there was a time when it was thought wise to risk a war for independence; I hope we will risk it again for its maintenance.

I have hunted gentlemen from their lurking places—I have exposed the deformity of the treaty which they say should have been accepted by us; and I trust have proven that, like laudanum, if it eased the pain it would be by producing stupor; by lulling the nation to sleep—the sleep of death to your liberties and independence. Sir, I have discussed this subject of great interest, not unmindful of the argument of gentlemen, that repealing the embargo, and permitting the merchants to be scourged, will unite us—much as I love unanimity I cannot purchase it at so dear a price. If the merchants rush into destruction the nation must feel it—the merchants and the farmers too, will feel it, more severely than the embargo; for then, instead of a part of our property and produce rotting on our hands, the whole must be irretrievably lost.

When Mr. JACKSON had concluded the Committee rose and had leave to sit again.

TUESDAY, February 7.

Mr. MACON presented a petition of sundry inhabitants of Washington county, in the Mississippi Territory, praying that a right of pre-emption may be granted to the petitioners and other actual settlers within the said Territory; also, that a free navigation of the river Mobile may be secured, so as to prevent the payment by citizens of the United States, or the Territories thereof, of foreign duties on goods, wares, and merchandise, imported into, and exported from, the said river, and passing by the port of Mobile.

The said petition was read, and so much thereof as relates to the right of pre-emption to lands within the said Territory, was referred to the Committee on the Public Lands; and such other parts of the said petition as relate to a free navigation of the river Mobile, was referred to the Secretary of State, with instruction to examine and report his opinion thereupon to the House.

Mr. POINDEXTER presented a petition of sundry inhabitants on Tombigbee river, in the Mississippi Territory, praying that the right of pre-emption granted to actual settlers on public lands situated on the west side of the Tombigbee river, may be extended to actual settlers on the east side of the same.

The said petitions were read, and referred to the Committee on the Public Lands.

Mr. NICHOLAS, from the committee appointed, the fourth instant, on the part of this House, jointly, with a committee appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election; and to regulate the time, place, and manner of administering the oath of office to the President, made a report, in part, thereupon; which he delivered in at the Clerk's table, where the same was twice read, and agreed to by the House, as follows:

Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday next, at twelve o'clock; that two persons be appointed tellers, on the part of this House, to make a list of the votes, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President; and, together with a list of votes, be entered on the Journals of the two Houses.

Ordered, That Mr. NICHOLAS and Mr. VAN DYKE be appointed tellers on the part of this House, pursuant to the foregoing resolution; and that the Clerk of this House do acquaint the Senate therewith.

On motion of Mr. BURWELL,

Resolved, That a petition of the Commissioners of the Susquehanna Bridge Company, together with the attested copy of a late act passed by the General Assembly of Maryland, presented on the sixth instant, be referred to Mr. SAY, Mr. MARION, Mr. DANA, Mr. HOWARD, and Mr. JEDEDIAH K. SMITH, a committee, appointed the twenty-sixth ultimo, and to whom were referred the memorials of the President and Managers of the Susquehanna and Tioga Turnpike Road Company, and of the President, Managers, and Company, of the Philadelphia, Brandywine, and New London Turnpike Roads.

A message from the Senate informed the House that the Senate have agreed to the report, in part, of the joint committee of the two Houses appointed "to ascertain and report a mode of examining the votes for President and Vice President of the United States, and notifying the persons elected

of their election; and to regulate the time, place and manner of administering the oath of office to the President;" and have appointed Mr. Smith, of Maryland, a teller of the votes, on their part.

REPEAL OF THE EMBARGO.

The House resolved itself into a Committee of the Whole, 53 to 51, on the resolution on the subject of the state of our foreign relations. Mr. Randolph's amendment yet under consideration.

Messrs. Sloan and Cook advocated the amendment.

Mr. Lyon said, on an occasion so all-important as the present, on a motion in which is seriously involved nothing less than the peace of this once happy country, I will make no apology to gentlemen when I ask their attention to those observations which I mean to make relative to peace and war, as well as the present state of our country. And although I do not rise to debate the propriety or impropriety of the embargo, I hope to be allowed to name it. It seems no subject can be, or has been, debated in this House, without the mention of that hateful word embargo. The embargo has, like other things, had its day; I believe, with the gentleman from Connecticut, that the burial is gone by; the vote taken in the Committee—76 to 40—in favor of taking it off on the fourth of March, is accepted by the people of the United States as a sure pledge of their redemption from that growth-destroying monster. I do not believe with the gentleman from South Carolina, (Mr. D. R. Williams) that it is in the power of the Eastern members in the minority to patch up the ruined popularity of the embargo in that portion of the nation. I am too well acquainted with the Eastern people to believe that a single town who have acted on the subject could be persuaded to alter their opinion or their course by every argument in favor of the measure that have been made use of by the majority, if they were enforced by all the influence of the minority; but I think gentlemen in the minority ought to be excused from laboring in this cause until their own understanding is convinced. It is no disparagement to the Eastern Representatives to say that they have left many, very many men, at least equal to themselves in information and patriotism at home, whose eyes are steadily at this moment fixed on the proceedings in this House. These people have never been made to believe that some foreign nation would make war upon us if we did not lay an embargo; or if we should raise it when laid. I know, sir, this has been the effect of the clamor which has been raised (that we must have war or embargo) in some other parts of the nation, and as no nation now threatens us with war, I can see no necessity of going to war at present, unless it is for the honor of those who have told the nation we must have war or embargo. When Dean Swift was very sick, and his servants were mourning about him, he observed to a friend, you see how the poor creatures love me, they do not want to spare me, but they have prophesied that I must die; notwithstanding all their love for me, I believe they would rather I should die than they should turn out false prophets. So it seems to be with some gentlemen; they are good patriots, they love their country most fervently, but they have said we must have war or embargo; embargo is gone, and war we are to have, it seems, merely because they have said so. When they see their favorite embargo is run down, a measure in itself preposterous and self-destroying only, they seem to think the national honor pledged for war, and war the nation must have. When I hear honor so much talked of on this occasion, it makes me think of Paddy's honor. Paddy had sworn by the hill of Hoath, by the holy fathers, and by all the saints in the red leather calendar, that he had no hand, act, or part, in stealing the woman's poker; but when she came to touch his honor, Paddy says, woman there is your poker. So gentlemen, tenacious of the national honor, of which they are more tender than their lives, and the lives and property of their fellow-citizens, say, since we have promised you war, war you shall have, although it is a war destitute of every kind of hope except that of dying honorably. The gentleman from South Carolina seemed to promise himself an honorable death in the struggle he wished to commence, although, as I understood him, he did not even presume to promise that his country or its liberties should exist one moment after his exit. This kind of honor too much resembles that described by Shakspeare's Falstaff, who says, "What is honor? A word. What is that word? Honor. What is that honor? Air. Who hath it? He that died on Wednesday."

After all this talk about honor, let me tell gentlemen that true honor consists in acting wisely; wisdom and virtue are synonymous. So said the wisest man.

The question is not now, as has been said, whether we will live slaves or die free. No, sir, the question is, will you fight on the ocean with a Power vastly superior to yourselves for the command of that ocean, so that you can send your cotton and your tobacco, as well as the sugar and coffee your merchants can obtain in the West Indies, free of restraint to any part of the world where you think you can get most for them, or will you content yourselves with that use of the ocean which your relative strength and importance as a nation entitle you to expect? Two great belligerent Powers, two thousand years older than us, yet not quite so much before us in point of power, attempt to restrain us in the use of what we call the great high road of nations. One of those nations says, she has, at immense expense, turnpiked this high road; that she has driven robbers and nearly all her enemies from it; that she keeps a guard upon it for the defence of those of her nation that travel on it. She says the road shall be free for our national vessels, and if our merchants choose to go and come to and from their country, it shall be free for them; she says it shall be free for them to pass and repass to the countries of her friends, and to those who are not her enemies, as well as to the colonial dominions of her enemies; but if our merchants use the road to carry their merchandise to her enemies, they shall pay toll. The other nation says, if you do pay toll, or even if those toll takers speak to you on this road, although it be ever so much against your will, you shall be confiscated, you shall lose all your property the moment you touch at my ports, or the ports of any of my vassals, and my power reaches over almost the whole European continent. Thus, sir, it is impossible to pay this toll or tribute so much talked of; no man would be such a fool as to pay for leave to carry his property to certain confiscation; and if it could be paid, and the goods sold to answer the merchant's purpose, according to our own established doctrine, that the consumer pays all, this tribute would not be upon us, but on the European purchaser. We have, for thirteen months past, said that we would not submit to this treatment, and while we cried out that we would not submit, we have been guilty of the meanest kind of submission, by not only abandoning this great road, but we have nearly destroyed all the roads and passways in our own nation. We have carried this thing so far that no man who has not powerful friends, or favor at Court, can pass on our common national roads, although intended by nature and designated by compact, to be common to all our fellow-citizens. Well, sir, it is now found that all this has done nothing towards obtaining for us a concession that we may freely use the great high road as we please, and that our abandoning it, and spoiling all our domestic roads, is spoiling our own growth, doing ourselves more harm than it is doing everybody else, and the true question now is, what is the wisest course to pursue. War! war! seems to be the cry, but this cry, sir, comes mostly from gentlemen who know little about war, who can promise nothing but honorable death as the conclusion of the war they contemplate. As much averse as I am to war and carnage, I confess my own sense of the injury offered to this country is such, that if I could promise myself and the people I have the honor to represent, a profitable conclusion of a war now to be commenced, and that we could, in any reasonable time, obtain the perfect free use of this road, and have it guarantied to us, I should be inclined to join in this war; but alas, sir, this is not the case; although, in a defensive war, we are I hope unconquerable, the power and strength of this nation compared to the two we are threatening, is totally inadequate to waging offensive war. I know it may be said, and I believe with truth, too, that we shall have but one of those nations to contend with, namely England, if we go to war, and that Bonaparte will give us every assistance in his power; yet I am not to be persuaded, that with our means we can do her so much harm as she can do us. We can, it is true, take from her all the valuable part of Canada with but little expense; we could have obtained possession of Montreal within one month from this day, if ten thousand Vermonters had been noticed timely of their permission to take it; this, to be sure, would be a considerable injury to England, but, without Quebec, it could be of little use to us, we can raise no revenue from Canada, unless the navigation of the St. Lawrence is open to us; we would not allow the peaceable, unresisting inhabitants of that country to be sacked and plundered; no, this is inconsistent with modern, civilized warfare, and we are an honorable nation; and if that country should be sacked, the produce would not go into our Treasury. True, we would, by taking Montreal, which would be a judicious step in case of a necessary war, secure the allegiance of the Northern Indians and obtain a good frontier; yet, as to an increase of the revenue, or the real strength of the nation, nothing could be gained without Quebec. We have a right to calculate upon finding more disaffected persons in Canada than persons well affected to our Government, and we should be obliged to keep a standing army there of from five to ten thousand men for the safety of the country. As to Quebec, I think it is out of our power to take it; it is a second Gibraltar. When it was not half fortified the British force could not have taken it had they been without a fleet to cut off the communication with the mother country; this being effectually done, and Wolfe cutting off their communication between the city and the country, there was nothing left for Montcalm but to come out on to Abram's plain and fight, or stay in the fort and starve; he chose the former, and Quebec fell. We may expect to take it when we can invest it in the same manner, and not before. It will be a long time before we can attack it in this way if our growth destroying projects should be continued. With Canada I am perfectly well acquainted; with Nova Scotia I am acquainted only by such historical and geographical sketches as have come in my way; but it seems to me there is little to gain there without we had a fleet to support an attack upon Halifax. I remember the fate of the Penobscot expedition very well. I apprehend there would be danger that an attack upon Halifax would turn out in much the same manner as that on Penobscot, and I believe it would be thought best to let that place alone if we were really at war. It may be said, sir, that we have another way to injure our British enemies—we can privateer against them. Yes, sir, we can privateer upon them; but they can privateer upon us too; this is a play that two sides can employ themselves at; it is a play that the British have got their hands in at; their ships that come where we can get at them, are nearly all armed, and their trade is generally convoyed. No doubt our privateers will take many of theirs; will this fill the national coffers, while their privateers and their ships of war take perhaps more than an equal number of ours? Besides this, their ships of war, if they let our great towns alone, may find a great deal of land privateering to do in our little unprotected seaboard towns and villages and their vicinity. Notwithstanding the many millions laid out in fortifying New York, Charleston, &c., the people of those cities may in their turn be glad to take the advice of a gentleman from Maryland and fly to the mountains for safety. This

is a subject I do not like to dwell on, but I may be allowed to say the British politician must know that his nation, while she holds the best part of Canada on the courtesy of this Government, feels herself assured of that courtesy by the power she has of annoying our seacoast. Suppose, sir, it would turn out otherwise than I predict, and we should be able to take Halifax and Quebec; we must have men to garrison them. Where have we men for this purpose, beside all that will be wanted for the defence of the coast three or four thousand miles in extent? Whence shall we get money to pay them? If you succeed in attempting to squeeze out of your bankers more than enough to carry on two years of war, their paper will become like our old continental money for want of means of redemption. Your embargo has nearly drained your Treasury, and has had a considerable effect on the banks; the connexion you will have formed with your ally, Bonaparte, will entitle him to offer to garrison those places. You cannot refuse so kind an offer; that moment he has foothold here we are lost. I might pursue this subject further, but it is too disgusting to me. I cannot suffer my mind to dwell on even the dangers of the downfall of my country, the destruction of our Constitution and our Government in this way. No. If you must have war, which can have no object probable to be obtained, I will look for an end to it in another way. There is certainly a very great share of the sensible people of this nation who deplore this proposed war as much as I do. As the depredation, the expense, and the national debt that must be occasioned by it increases, they will be heard too by the great body of the people, who will put the concerns of the nation into hands that will sincerely desire peace, and will be obliged to make it on terms no better, perhaps worse than can now be had. I am not insensible to the impatience and indignation with which some gentlemen listen to my *peace* talk; but, sir, it is a duty I owe to the nation to speak out my mind. On a great occasion like the present I should like to hear every member of this House speak his sentiments. Now is the time to count the cost; for want of counting the cost in the outset of a project many a fine estate has been lost. Ardent young men are not apt to see the difficulties with which their projects are attended. When they have an enterprise before them, they are apt to think all difficulties can be surmounted by courage. Many a battle has been lost where great courage has been displayed, merely on account of the General's reckoning without his host, belittling the difficulties he had to encounter, and thinking too lightly of the power and strength of his enemy. Anybody that talks at all can cry out war, but it requires the united wisdom of the sages to carry it on with a prospect of success. I ask, have we union among ourselves? Have we confidence in one another? The majority says "No!" This nation can make war when it pleases; but we must have the consent of our enemy and our ally to make peace, as well as that of this nation, and I would lay an equal bet, if it were proper to do it here, that six months after a war is commenced we shall be allied to Bonaparte. I repeat it, sir, now is the time to count the cost; to pause and count the cost. I know a little of what war means. Although I had not the honor of bearing a conspicuous part in that war which gave this country liberty, although I had the mortification, very unjustly, to receive a stab in my reputation in that war, a stab which would have put almost any other man down, I acted an humble, though perhaps a useful part, in that war from the first to the last of it. I was a private soldier in one of those companies called "minute men," who first took up arms in defence of the cause of American liberty, and with my gun on my shoulder marched to take Ticonderoga under the command of Ethan Allen. This was the first offensive war waged by Americans. My humble career ended in the capacity of a militia colonel, commanding in the neighborhood of an exposed frontier, in defence of which, seven years' toil and danger has made an indelible impression on my mind, and has made me to know something of the value of peace; too much to trifle it away on a slight occasion. I never again wish to hear of, much less to see the smoking ruins of our once happy villages, where half-naked women and children shall be assembled to take a last warm at the remaining brand of their late habitation, the father and the husband either murdered or carried into a hopeless captivity. Personal dangers, personal toil, hunger, and cold, are comforts compared to such feelings as these sights produce, yet they are but the common fortune and lot of war. But we are told, sir, that we are called upon to fight at this time for our independence, that our all is at stake as much now as it was in 1775, 1776, and 1777, and that patriotism has deserted our bosoms if we do not rise and challenge our enemies, or put ourselves in battle array. It is no such thing, sir. If Britain was to tell us now, (instead of telling us that their fleets had put them in possession of greater rights on the ocean than ours had us,) that their Parliament had a right to bind us in all cases whatsoever; that she would appoint Governors over our States, who should be above our laws and abrogate them at pleasure; that she would send to this country, and fetch away for trial such of our citizens as her Government should please to call traitors—should she, I say, land troops in Boston to enforce her edicts, and should her troops move again towards Lexington to carry away or destroy our military stores, and again commence the spilling of American blood on their march, I would myself, old as I am, do as I did before, take my gun on my shoulder and march to Ticonderoga, to wrest it from the British veterans, if any Ticonderoga there was as near me as it then was. I had but two children then, whose slavery I dreaded; I have more than thirty children and grand children now to be alarmed for, and my zeal to defend their liberties is (although my power is not) proportionably increased. Were this the case now there would be no want of patriotism. No, sir, every heart would beat to the

sound of the drum; the American people would not wait for the thundering eloquence of the gentleman from South Carolina to wake them up. It would be found, then, that those troublesome yankees, instead of being complained of by the embargo men, their fellow-citizens, would be giving cause of complaint to their country's enemies; but, sir, I must beg the gentleman's pardon when I tell him that, with all his rhetoric and his logic, he cannot persuade me that our independence is at all in question.

Really, sir, suppose gentlemen could have their way about going to war now, and England, having no occasion to employ a man or a ship more on account of warring with us while she wars with France, should take it in her head to keep up with us a long, moderate, and teasing war. What would we have now to induce them to peace? The patriots and philanthropists of that country formerly persuaded the nation and the Government, that American commerce, flowing into the lap of England, would compensate for American independence, this brought about our peace at that time; but, sir, can we have a party in England who will plead for us in this manner now? have we not stopped their mouths by our constant threatening in one way or other, that we will withhold all our commerce from them; that we will injure ourselves to injure them; that we will have manufactures of our own, and be independent of them? Much has been said about the merchants of this country two or three years ago covering your tables with petitions, stating the hardship they suffered by being denied the right by England of carrying on in one way or other the commerce between the French and Spanish colonies and the mother country. What was the consequence? Why we first narrowed the limits of the commerce they had left, and then inhibited the whole, for fourteen or fifteen months, and now, as if to punish these impudent merchants for their interference, they are treated like a patient who has been dosed with warm water until his strength as well as his faith in the doctor is nearly exhausted; the doctor cries out to him, "Bleed, bleed, or die!" So the merchants are told to bleed; they are told that their vessels shall be kept rotting in port, unless they agree to take letters of marque, and make war for us. Ill-fated merchants! we were told about a year ago by a learned gentleman, that there never ought one of them to have a seat on this floor. I should myself care but little about these merchants if it was not that they are the real servants and agents of the farmers and the planters. If they could make a war of their own, a merchant's war, and not trouble the nation with it, I should not be quite so averse to war, but that they should be forced to engage to make war, and that a national war too, before they can have their ships unshackled, is rather too much, especially as I have not learned that one merchant has yet asked the favor of a letter of marque and reprisal. After glancing on the hard case of the merchants, permit me to say, sir, it looks like adding insult to injury for the embargo gentlemen to express so much pity for the poor American sailors. It is too late in the day, sir, for those gentlemen to make much out of that fellow feeling and sympathy their speeches express for this neglected class of their fellow men. The seamen who have been driven into foreign service to earn a livelihood, have a right to say these are crocodile tears, and those who have been starving at home have found, by sad experience, that all the fine speeches of the embargo gentlemen have not made their pot boil.

The gentleman from South Carolina has told us that the destinies of this nation are in the hands of the minority. I wish it were true, sir; the minority are composed of about half the number of the majority; it is my opinion, that if they had the destinies of the nation in their hands for half as long a term as the majority has held the people embargoed, they would, instead of war, give the nation peace on terms that would be to the satisfaction of nearly the whole of the American people; a peace that would suffer the nation to grow a while longer. There is, sir, another set of gentlemen in this House, consisting of about one third, who really hold the destinies of the nation in their hand; to them I look for peace. The gentlemen I mean are those that have not by war speeches committed themselves; that have coolly listened, and steadily kept the fate of the nation before them. Should they, or a majority of them, hold their hand on the helm of State at this time, and keep the political ship from bilging on the rocks among which she seems now to be embargoed, they will deserve the blessings of their country, they will, ere long, enjoy the heartfelt applause of a grateful nation, their children, and their children's children, will bless them, and feel proud of the blessings heaped on them by others, their progeny will thank God that they have the honor of being descended from men who have deserved so well of their country. "Blessed are the peacemakers, (said the King of 'Peace,) for they shall be called the children of 'God. When men shall revile you and say all 'manner of evil things of you, rejoice, and be 'exceeding glad, for your reward is in Heaven." Blessed, I say, will be they who preserve the peace of this nation and suffer it to grow. Let it grow, I say, in strength, in power, in wisdom, and in virtue.

Mr. Chairman, soon after I came to Congress last year, when yourself and other gentlemen said we were in a kind of war with the British, I offered a resolution for holding British property in the funds, and British debts in the hands and names they then stood in; for this I am charged with having been a favorer of war. Although I have a right, in common with others, to change my opinions, I do not claim to exercise that right on this occasion. I was equally a friend to peace, then as now, but until the disavowal of the British Government of the attack on the Chesapeake, I saw no chance to avoid war, especially as the temper of this nation was up on the occasion; thinking, as I shall always think, that it is best when we have war to do our enemy all the harm

we can, I brought forward the proposition, not as a war measure, or as a measure of provocation, but as a measure of precaution, which would have saved, if adopted, more than thirty millions of dollars in a state ready for sequestration in case of war which is now transferred out of the reach of the Government. In case of peace, the owners could not be injured by my proposition, as their property remained in their own hands for them.

For the reasons I have mentioned, and for the sake of humanity and the growth of our country, I hope the motion for striking out will prevail. I should then be willing to adopt, not the proposition of the gentleman from Virginia; that is too much like threatening for my mind in the present state of things; but that of the gentleman from Pennsylvania on this side of the House. (Mr. Milnor.) Something has been said about a special mission; to this I have no objection, provided that mission can move unclogged with embargoes, non-importation acts, non-intercourse acts, and threatening army bills. We have tried negotiation backed with a non-importation act, and at the advice of the negotiator, withdrew this backing. Negotiation then produced us a treaty. I need not repeat the fate of that treaty. If we now send a mission unshackled, we may possibly again get an offer of as good a treaty. A gentleman from Virginia has taken some pains to prove to you that there is a powerful party in England who wish for war; I believe him; there is no doubt of a party there who wish for war with this country—a strong party, who would be profited by it. Then why will you forward their views by your threats, and your attempts at coercion, while you wish to treat? No conduct can be more preposterous.

There are only two wise courses to pursue with regard to England; one is, to reason with them, and obtain and receive such concessions from them as you can persuade them will comport with their interest, and be quiet with that, letting this nation grow. The other course is, to have no more concern with them than is absolutely necessary. Let the system you adopt with regard to our concerns with them be of a permanent nature, and such as our own people will approve of, and can forever bear; such as they will consider consistent with their permanent interest; and in this way let the British know that they must eventually be losers by their rigid, harsh, and unneighborly conduct towards this nation. Neither of these courses have been pursued; you have kept the nation embargoed now near fourteen months, while you have allowed the British to bring here not only toys and gewgaws to a vast amount, to be paid for in cash, while our own produce has been perishing on our hands; but you have allowed them to bring their cotton goods also, subject only to the usual duties, to the great discouragement of your own infant manufacturers, who would, with proper encouragement, make up for our own consumption a large share of that staple article, to get a free sale for which in every part of the world, a great share of this bluster is made. No, sir, the people do not hear of an additional duty, pledged for fourteen or twenty years on any article which we have been in the habit of receiving from England, and can very well be manufactured here, and the manufacturer live by it, if the importation was discouraged by duties. No, sir, while your embargo has depressed those manufacturers who were in the habit of making hats, shoes, saddlery, pleasure carriages, household furniture, and other articles for exportation, other manufacturers have received no permanent encouragement. The embargo was to remedy every evil, to cure every disease. This done, our commerce with Britain was to be revived with renewed vigor; but the embargo has done nothing abroad; our Government nothing at home. How can such an improvident Government expect to retain the confidence of an enlightened people? They have discouraged those manufacturers who labor to produce articles for exportation; they have looked on with apathy while their policy has ruined many, impoverished and divided the people, and brought the nation to the humble posture of borrowers to meet the common expenditure. I must say as I think, sir, that to this unaccountable apathy, this listlessness, to the deficiency of those in whom unbounded confidence has been placed, in the knowledge of the human heart, the wants and ways, the habits and propensities of the American people, to incapacity in them to discern the real and true relative station and importance of this young nation compared with the nations it is proposed to contend with, and with the rest of the world, together with a propensity to man worship in minds that ought to be above such idolatry, nearly all our present difficulties as well as the depressed state of the nation is to be attributed.

We have a Constitution which provides for the meeting of 142 members in this House, and 34 in another, to consult for the common good and provide for the safety of this nation: we may talk here, here we may vote, here we may meet to collect a majority to order the registering of the decrees of a sort of jacobin club called a caucus, who hold their midnight convocations to consult not the good or the safety of the nation—no, that could be best done here. No, sir, it seems it is to consult what can be done to save the party—not the Old Republican party of 1798—no, that party is broken down. I don't hear that yourself (Mr. Macon) and many others of that Old Republican party meet in those caucuses, those nightly meetings: it is it seems the embargo party who meet in the Senate rooms under pretence of consulting and devising means for the national benefit, yet in their discussions they cannot avoid dwelling upon the dangerous situation of their party: it was in the great or little caucuses that this war-whoop commenced; it was there discussed and recommended as a party-saving measure. It seems as if we are in future to look for all national measures to be first canvassed in those midnight meetings by those self-created caucus gentry: it seems that every measure proposed for national benefit, however

applicable to the state of this nation, is to be scouted out of this House at the first glance, merely because it is not the child of this caucus; our work is thus to be laid out for us in the midnight caucuses, and we are to be called upon to be present while these measures receive a vote of sanction in this House, which is in future to act the part of Bonaparte's mock Parliament. We are to meet to-morrow here to attend the registering of the election of a caucus President; we are to have a caucus army, I understand, a caucus non-intercourse, a caucus loan of ten millions, equal to the whole capital of the Bank of the United States.

When I passed through Virginia coming here I was very much insulted because I said the embargo had brought our coffers so low, that, notwithstanding the boasted state of our Treasury, we should be obliged next year to borrow. Notwithstanding all the boasting of an overflowing Treasury, and the appointment of a committee to devise means to dispose of its redundance, we, it seems, are to have the registering of a caucus mandate for this ten million loan. There is, sir, a caucus newspaper in this city. I do not read it, but it seems that it circulates the caucus bulletin or general orders. While gentlemen were at their caucus devotions last evening, I happened to pick up a New York paper, and there I had before me in an extract from this caucus paper the whole work of that caucus pointed out by one of its organs in their paper. Action, energy, decision, promptitude, confidence in one another, confidence in the leaders, union, energy, war, preparation for war, vigor, more embargo, armies, navies, and above all, loans and money are called for; and all this, not to save the nation, but the embargo party. All these subjects, I understand, have been discussed in the caucuses. On Saturday night the prevailing opinion of the caucus was, that immediate war and a revival of the embargo would save the party: last night's caucus softened down the term of immediate war; they would try letters of marque; preparations by armies and loans prevailed. How vilely is the understanding of the American people insulted! their patriotism is appealed to by asking them, will they consent to pay tribute in a case where it is impossible that any man, even without a drop of American blood, would be fool enough to pay it; while a self-created caucus, composed of a few of their Representatives, has the hardihood to propose a loan that would make them pay a substantial and annual tribute of about half a million of dollars, mostly to foreigners, for the purpose of fighting about this nominal tribute; which search for it as sedulously as you please, you can no more overtake it than you can a jack-o'-lantern.

The question was taken on striking out so much of Mr. Nicholas's resolution as relates to issuing letters of marque and reprisal; there were for striking out 57, against it 39—majority 16; so that the next question is on inserting the substitute offered by Mr. Randolph; on whose motion the Committee now rose, 56 to 37.—Adjourned.

Wednesday, February 8.

Mr. John G. Jackson presented a petition of sundry citizens of Brooke county, in the State of Virginia, praying that the road commenced and laid out from the river Potomac to the Ohio river, may pass through the town of Washington, and thence to Charleston, on the river Ohio, for the reasons therein specified.—Referred to the Committee appointed, the fourteenth of December last, on a Message from the President of the United States, transmitting a supplementary report of the Commissioners appointed under the act of Congress of the twenty-ninth of March, one thousand eight hundred and six, concerning a road from Cumberland to Ohio.

On motion Mr. Holmes,

Ordered, That the Committee of Claims, to whom were referred on the fourth instant, a letter from the Secretary of War, accompanied with a supplementary report and sundry documents in relation to invalid pensioners, be discharged from the consideration thereof; and that the said letter, report, and documents, be referred to the Committee of the whole House to whom was committed, on the thirtieth ultimo, a bill concerning invalid pensioners.

ELECTORAL VOTES.

Mr. Nicholas offered the following order:

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in opening the certificates and counting the votes of the Electors of the several States, in the choice of a President and Vice President of the United States, in pursuance of the resolutions of the two Houses of Congress of the 7th instant; and that the Clerk of the House do go with the said message.

Mr. Randolph said it had sometimes been the case, he did not say it had been the practice, that this House had met the other branch of the Legislature in their Chamber, for the purpose of counting the votes; in which cases, very properly indeed, this House being in the Chamber of the Senate, the President of that body had taken the chair. Mr. R. said he now understood that it was proposed, without any vote of this House for the purpose, that the President of the Senate was to take the chair of this House; that the Speaker was to leave the chair, to make way for the President of another body. To this, he, for one, could never consent. I conceive, said he, that such a proceeding would derogate, very materially, from the dignity, if not from the rights of this body. I can never consent, Mr. Speaker, that any other person than yourself, or the Chairman of the Committee of the whole House, should take the chair, except by a vote of the House. I hope, therefore, that this matter may be well understood. I conceive it to be a respect which we owe to ourselves, and to the people, whose immediate representatives we are, never to suffer, by a sort of prescriptive right, the privileges of this House to be in any wise diminished, or its dignity to fade before that of any other assembly of men whatever.

Mr. Nicholas said he was as unwilling as any

other gentleman to surrender the privileges of the House. When assembled as the House of Representatives, he agreed that none but the Speaker should take the chair; but, on the occasion of counting out the votes, he did not consider the House of Representatives to be formed as a distinct body. In meeting on this occasion, he said, it always had been usual, since the establishment of the Government, for the Vice President of the United States, or the President *pro tempore* of the Senate, to take the chair. There was, also, a propriety in this course, because, by the Constitution, the Vice President is to open the votes. For twenty years the practice had been that the President of the Senate presided in joint meeting.

Mr. J. G. Jackson spoke a few words on the same side as Mr. Nicholas, and Mr. Lyon replied to him.

Mr. Nicholas moved, in order to do away any difficulty in this case, that when the members of the Senate were introduced, the Speaker should relinquish the chair to the President of the Senate.

Mr. Davenport supported this motion. He had no doubt of the propriety of the President of the Senate presiding at a joint meeting, more especially, as he was the person designated by the Constitution for counting out the votes.

Mr. Randolph said that if this course were taken, the Senate ought to be notified of this act of courtesy on the part of the House; if not, it might appear that the President of the Senate took the chair as a matter of right. He said he knew that, to many persons, matters of this sort appeared to be of minute importance, but in everything touching the privileges of this House, as it regarded the claims of the other co-ordinate branches of the Government, he would stickle for the ninth part of a hair. It was well known that, in England, the privileges of the Commons had been gained inch by inch from the Kings and Nobles by a steady perseverance; and that man must have very little knowledge of mankind, indeed, who was not persuaded that those privileges might be lost, as they were gained, by gradual and imperceptible encroachment on the one hand, and tacit yielding on the other. This was not a matter of great consequence in itself; but power always begot power. It was like money, he said; any man could make money who had money. So any man, or body of men, who had power, could extend it. I have no objection, said Mr. R., very far from it, to the Constitutional exercise of the powers and privileges of the Senate. Let their President count the votes sir; there is a very good chair for him in which the Clerk now sits. But, on what principle is he to come into the House with a consciousness that he has a right to throw you out of the chair, sir, and take possession of it? I have no idea of suffering a man to come through those folding doors with such a sentiment. If he comes into this House, he comes from courtesy, and cannot assume your chair, Mr. Speaker, as a matter of right, but as a favor. And, if the President of the Senate takes possession of your chair as a favor, it ought to be announced to the Senate as such; for, the mere vote on our side amounts to nothing, provided that he, and the body over whom he presides, come into this House under the knowledge, (without an intimation from us,) that you are to leave your chair, and he is to take possession of it.

Mr. Smilie observed that there was no fear of the privileges of this body being encroached upon by any other, for there was a written Constitution, prescribing the powers of each body; and, at the same time, that it was proper to be careful of their own rights, he said the House should be careful not to infringe on the rights of the other body. In respect to this question, there was a case in point. In one instance while Congress sat at Philadelphia, the Senate had come into the Representatives' Chamber to count out the votes, and the President of the Senate had taken the chair as a matter of right. We, said, Mr. S., are sitting as a convention of the two Houses, for a special purpose, viz: to count out the votes. Who is properly the presiding officer in this case? Unquestionably the officer directed by the Constitution to open the votes. And I consider the Speaker of the House, on this occasion, as acting in the same capacity as any other member of the House.

After some further observations on the subject, from Messrs. Masters, Lyon, and Macon, the motion of Mr. Nicholas was agreed to—yeas 98.

Mr. Randolph then moved that the Senate be acquainted, by message, of this arrangement. Agreed to—yeas 73.

The resolution first offered by Mr. Nicholas was then agreed to.

On the suggestion of Mr. Van Dyke, it was agreed that the members should receive the Senate standing and uncovered.

The time for counting the votes having arrived, the members of the Senate, preceded by their Sergeant-at-Arms, entered the Representatives' Chamber, Mr. Milledge, the President *pro tempore*, took the Speaker's chair, and the members took their seats on the right hand of the chair. The tellers were ranged in front, and the Clerks of each House on the right and left of the tellers. The President of the Senate opened the electoral returns, one copy of which was handed to the teller of the Senate, Mr. S. Smith, who read it; the tellers of the House, Messrs. Nicholas and Van Dyke, comparing the duplicate returns handed to them.

When this business, which occupied about two hours, was concluded, the tellers handed their report to the President of the Convention, who was proceeding to read it, when

Mr. Hillhouse observed that the returns from one of the States appeared to be defective, the Governor's certificate not being attached to it. He thought that this might be as proper a time to notice it as any.

Nothing farther being said on the subject, however, the President of the Senate read the following statement of the votes, as reported by the tellers:

States.	For President.			For Vice President.				
	James Madison.	George Clinton.	C. C. Pinckney.	George Clinton.	James Madison.	James Monroe.	John Langdon.	Rufus King.
New Hampshire	–	–	7	–	–	–	–	7
Massachusetts	–	–	19	–	–	–	–	19
Rhode Island	–	–	4	–	–	–	–	4
Connecticut	–	–	9	–	–	–	–	9
Vermont	6	–	–	–	–	–	6	
New York	13	6	–	13	3	3		
New Jersey	8	–	–	8				
Pennsylvania	20	–	–	20				
Delaware	–	–	3	–	–	–	–	3
Maryland	9	–	2	9	–	–	–	2
Virginia	24	–	–	24				
North Carolina	11	–	3	11	–	–	–	3
South Carolina	10	–	–	10				
Georgia	6	–	–	6				
Kentucky*	7	–	–	7				
Tennessee	5	–	–	5				
Ohio	3	–	–	–	–	–	3	
Totals	122	6	47	113	3	3	9	47

Recapitulation of the votes of the Electors for President of the United States.

James Madison	122
Charles C. Pinckney	47
George Clinton	6
Total	175

For Vice President of the United States.

George Clinton	113
Rufus King	47
John Langdon	9
James Madison	3
James Monroe	3
Total	175

The President of the Senate, pursuant to the joint resolution of the two Houses of the 7th instant, then announced the state of the votes to both Houses of Congress, and declared "That 'James Madison was duly elected President of 'the United States, for four years, to commence 'on the fourth day of March next; and that 'George Clinton was duly elected Vice President of the United States, for the like term of 'four years, to commence on the said fourth day 'of March next."

The members of the Senate then retired in the same order in which they entered.

After the conclusion of the business of the joint meeting, the Speaker resumed the chair, and the House came to order.

Mr. J. G. Jackson offered a resolution for a total non-intercourse between this country and Great Britain, and France, and for excluding from our waters all armed vessels, with a view to have it referred to the Committee on Mr. Nicholas's resolution.

The Speaker having declared the motion for commitment to be in order,

Mr. Randolph appealed from the decision, on the ground that a few days ago the House had decided that a resolution could not be considered when the precise subject of the resolution was already before a Committee of the Whole; and that the decision was variant from the former decision of the Speaker.

After some observations from various gentlemen on the point of order, Mr. Jackson withdrew his motion, and the House adjourned.

Thursday, February 9.

Mr. Macon moved to amend the Journal of yesterday's proceedings, by inserting the letter of Mr. Walton, the Elector from the State of Kentucky, who did not attend to give his vote, stating the reason thereof. He stated his object to be to state on the Journal the reason why one vote was deficient from the State of Kentucky, that it might serve as a precedent on similar occasions. For, if hereafter, in consequence of the sickness or inability to attend of any one or more Electors, there should be a tie between any two candidates for the Presidency, it would be made a matter of question whether their votes, although unable to attend at the time, ought not to be counted.

Some discussion took place on this point, it being contended by some gentlemen that the House had no concern with the causes why any vote was not received, but merely to count those which came to hand. And that if it was intended to fix a precedent to govern future proceeding on this subject, it ought to be done with great deliberation.

Mr. Macon's motion was negatived, ayes 20.

NON-INTERCOURSE.

Mr. Taylor said it would be recollected that, in the course of the public business of this session, a resolution reported by a committee on our foreign relations arising out of a motion of a member from North Carolina, for the purpose of interdicting commercial intercourse with such belligerents as had in force decrees or edicts against the lawful commerce of the United States, had been agreed to and referred to the same committee, who had reported a bill for non-intercourse. This bill in fact however comprised but one half of the whole subject embraced by the words "non-intercourse." The bill as reported to this House provided for the non-importation of the goods, wares, and merchandise, the growth and manufacture of these particular countries. That (said he) may be readily accounted for, from the circumstance that the House was then actually engaged in passing a law for the enforcement of the embargo, the committee therefore having only in view the other part of the question, so as to com-

* One of the votes of Kentucky lost from the non-attendance of one of the Electors.

plete a non-intercourse. After that bill was reported, a gentleman from Tennessee (Mr. Rhea) in order that the whole might be incorporated into one, offered a resolution for that purpose. I did think it unnecessary at that time; but as the course of business seems to look towards a repeal of the embargo, in order that the whole subject of non-intercourse may be incorporated in the bill before the House, I move that the Committee of the Whole be discharged from the consideration of the bill, and that it may be referred to a committee, in order that it may be made in fact what the title imports it to be, completely, a bill for non-intercourse between this country and those nations having in force decrees affecting our neutral rights.

The Committee of the Whole was discharged from the further consideration of the bill, ayes 72.

A motion having been made that this bill be referred to the Committee of the Whole on Mr. Nicholas's resolution, was negatived, 56 to 43.

It was then moved to refer the bill to the committee who reported it, and carried, 61 to 41.

Much desultory debate took place on these motions, in which Messrs. Sloan, D. R. Williams, Upham, Macon, Dana, Eppes, Taylor, Nicholas, Van Horn, and Smilie, partook.

Mr. W. Alston moved that the committee which now has under consideration the resolutions offered by Messrs. Nicholas, Bacon, and Durell, be discharged from the further consideration of them, and that they be referred to the same committee to whom the non-intercourse bill was just referred.

Mr. Dawson seconded the motion, and Messrs. Smilie, Love, Holland, and Rhea, supported it; and Messrs. Dana, Randolph, Milnor, Gardenier, and Macon, opposed it.

The question was taken on discharging the committee from the further consideration of them at half-past 5 o'clock—yeas 65, nays 55, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., David Bard, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, William A. Burwell, Wm. Butler, Jos. Calhoun, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, John Smith, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, and Alexander Wilson.

Nays—Ezekiel Bacon, Burwell Bassett, John Blake, jr., Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, William Hoge, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Jedediah K. Smith, Samuel Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

Mr. W. Alston then moved to commit the resolutions to the committee to whom the bill on the subject of non-intercourse was referred.

This motion was opposed by Messrs. Randolph, Lyon, Van Horn, Bacon, Gardenier, Quincy, and Milnor; and supported by Messrs. Taylor, W. Alston, and Holland.

The motion was carried by yeas and nays—55 to 36, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jr., David Bard, William Blackledge, Thomas Blount, Adam Boyd, William Butler, Joseph Calhoun, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thos. Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, James I. Van Alen, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

Nays—Ezekiel Bacon, Martin Chittenden, John Davenport, jr., William Ely, Barent Gardenier, Francis Gardner, Edwin Gray, John Harris, William Hoge, Daniel Ilsley, Richard Jackson, Robert Jenkins, Joseph Lewis, jr., Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, Samuel Riker, John Russel, James Sloan, Samuel Smith, Richard Stanford, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, and David R. Williams.

Mr. Van Alen moved to refer to the same committee a resolution offered by Mr. Mumford at the commencement of the session for a partial repeal of the embargo; but the House adjourned before a question could be taken.

The effect of the votes of this day, is to refer to the Committee on Foreign Relations, composed of Messrs. G. W. Campbell, Nicholas, Bacon, Taylor, Fisk, J. Montgomery, Mumford, Champion, and Porter, the several propositions for the repeal of the embargo, for arming the merchant vessels, for non-intercourse, for excluding

armed vessels from our waters, and for declaring the first capture made in violation of the neutral rights of the United States to be a declaration of war, &c., with leave to report by bill.

The chief argument in favor of this general reference was, that these propositions might be merged in one bill which should present a general system, and thus render less complicated the proceedings of the House on these resolutions. The main arguments against it were, that it would destroy all that had already been done in Committee of the Whole, and probably present a system at length to the House which would not be approved, and thus produce no other effect at this late period of the session than to protract discussion; and also, that it would encourage that speculation now going on in the mercantile towns, and be ruinous to many men of moderate capitals who had embarked their all in the purchase of produce, in the certainty that the embargo would be raised on the 4th of March.

Friday, February 10.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, presented a bill for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants reported by the Land Commissioners as antedated, and for other purposes; which was read twice and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to incorporate a company for opening the canal in the City of Washington;" to which they desire the concurrence of this House.

Mr. Newton, from the Committee of Commerce and Manufactures, presented, a bill authorizing the Accounting officers of the Treasury Department to give credit to certain collectors of the Customs, for allowances paid by them to the owners and crews of fishing vessels; which was read twice and committed to a Committee of the Whole to-morrow.

On a motion made by Mr. Dana, that the following be added as a new rule to the standing rules and orders of the House, to wit:

"The Speaker may admit within the Hall such Judicial officers of the United States, or either of them, as he may judge proper, and such gentlemen as have been members of either House of Congress:"

The rule was read, and ordered to lie on the table.

Mr. Poindexter observed, that at present the courts of the Territories have no jurisdiction to try offenders against the laws of the United States. That in the Territory which he had the honor to represent, and probably in other Territories, violations of the embargo laws had taken place and would again take place; and that as the law stood they might take place with impunity, the Territorial courts having no jurisdiction to punish the offenders. He therefore moved for the order of the day on the bill for extending jurisdiction to the Territorial courts. The House refused to take it up, ayes 27.

On motion of Mr. W. Alston, the House resolved itself into a Committee of the Whole, on the bill making appropriation for the support of Government for the year 1809. The bill having been gone through, and the blanks filled with the various sums reported by the Treasury Department, the Committee rose and reported the bill, which was ordered to be engrossed for a third reading.

No division took place on any appropriation but one of five thousand dollars towards completing the Orleans road; which was opposed by Messrs. Gardner, Gardenier, and Upham, and supported by Messrs. W. Alston, Eppes, Desha, Bibb, and J. G. Jackson, and carried 52 to 19.

NAVIGATION LAWS.

The House then resolved itself into a Committee of the Whole, 43 to 30, on the bill reported by Mr. Dana concerning associations for the security of navigation.

[The bill provides, "That in cases wherein the armament of merchant vessels for defence may be allowed by *any* law *of the United States*, it shall be lawful for citizens of the United States to agree, that any ships or vessels by them owned shall sail in concert and be associated for mutual assistance and protection in any voyage or voyages not contrary to law, and during any time or times which may be designated by instrument in writing duly executed by the owners or their authorized agents. The stipulations of the parties contained in such instrument may extend to the equipment and force of the vessels respectively, the relative authority of the masters or commanders, the appointment of places and times of rendezvous and sailing, the regulation of signals, the direction of the general course of the voyage or voyages, the orders to be observed in cases of separation or danger, and the making of arragements for conducting and managing the respective vessels as may be most effectual for assistance in any case of peril or misfortune, and for protecting all or any of them against forcible seizure or annoyance: Provided, That no such agreement or stipulation shall contravene any instructions or orders issued according to law by the President of the United States. That the respective ships or vessels shall be holden for the stipulations contained in any such instrument concerning them, and shall accordingly be chargeable for such compensation or indemnity as may be justly required on account of any failure to perform the same, as well as for satisfying any reasonable claim of contribution on account of loss or damage incurred in pursuance thereof. The rates of contribution to be so made shall be apportioned to and among the respective vessels, as the parties may have consented and declared by such instrument, or, in failure of such declaration, the apportionment of the same shall be adjusted by the competent court," &c.]

The words in *italic* in the above were inserted by amendment, on motion of Mr. J. G. Jackson.

In explaining the operation of the provisions of this bill—

Mr. Dana said that it did not propose to change the state of our foreign relations with respect to any Power whatever; it decided nothing respecting the cases in which merchant vessels might be permitted to arm for their defence, but proceeded on the supposition that there might be cases in which arming the merchant vessels of the United States should be authorized by law. The object of the bill was to make such arming efficacious, by combining different vessels, that they might act together; the importance of concert being well known to every person who had attended to the difficulty of attaining any point by individual and unconnected efforts. It was well known that, for some trades, vessels were now permitted to arm; and if with respect to the great Powers of the civilized world the United States were to permit their vessels to arm, the bill would equally apply to associations for defence against them as against any other enemy. Such association might now take place by compact where vessels were permitted to arm, which however could be obligatory on the owner only. The object of the bill was, that the vessels engaged might be pledged for the performance of the compact.

Some desultory discussion took place on the details of the bill, in which Messrs. Dana, Love, Burwell, D. R. Williams, Smilie, and Bassett, partook. Messrs. Eppes and Bassett appeared to be opposed to the principle of the bill, the objection to which appeared to be that it sanctioned armaments by individuals larger than the Government itself chose to support, and that the Government might be deemed in some sort pledged to a responsibility for their acts.

The Committee rose and reported the bill, which was ordered to a third reading, and the House adjourned.

Saturday, February 11.

On motion of Mr. Jeremiah Morrow,

Ordered, That the Message from the President of the United States, of the 19th February, 1808, communicating an additional report of the proceedings of the Commissioners appointed under "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," be referred to the committee appointed, on the 14th of December last, on a Message from the President of the United States relative to the same object.

A bill from the Senate to incorporate a company for opening a canal in the City of Washington was twice read, and, on motion of Mr. Van Horn, was ordered to be read a third time to-day—55 to 29. The bill was read a third time, and passed.

The bill concerning associations for the security of navigation being about to be read a third time, was, on motion of Mr. Eppes, with the assent of Mr. Dana, postponed till Monday, on the ground that it had not received that mature consideration by the House to which the importance of the subject entitled it.

The bill making appropriations for the support of Government, for the year 1809, was read a third time, and passed.

Mr. Love, after a few prefatory remarks, offered the following resolution, which was referred to a select committee, with leave to report by bill, or otherwise:

Resolved, That the laws of the several States shall be regarded as the rules of proceeding on judgments and executions in the Courts of the United States, except where the laws of the United States shall otherwise provide.

On motion of Mr. Jerem'h Morrow, the House resolved itself into a Committee of the Whole, on the bill from the Senate for extending the terms of payment for public lands. The bill being gone through, it was reported to the House, and ordered to a third reading.

On motion of Mr. D. R. Williams, the House proceeded to consider an additional rule to the standing rules and orders of the House, proposed yesterday by Mr. Dana; and the same being again read, was, on the question put thereupon, agreed to by the House, as follows:

"The Speaker may admit within the Hall such Judicial officers of the United States, or either of them, as he may judge proper, and such gentlemen as have been members of either House of Congress."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to authorize the making of a turnpike road from Mason's Causeway to Alexandria; to which, they desire the concurrence of this House.

NON-INTERCOURSE.

Mr. Nicholas, from the Committee of Foreign Relations, (Mr. G. W. Campbell being detained from his seat by illness,) reported a bill interdicting commercial intercourse between the United States and Great Britain and France, and for other purposes. The bill was twice read, and referred to a Committee of the Whole on Tuesday next.

[This bill provides for a repeal of the embargo, except so far as relates to Great Britain and France, on the 4th day of March next, repealing almost entirely the provisions of the embargo laws affecting the coasting trade, and for a total non-importation from Great Britain and France, to commence on the 20th of May. It also excludes from the waters of the United States all armed vessels, after the 4th of March next.]

Monday, February 13.

The bill sent from the Senate, entitled "An act to authorize the making of a turnpike road from Mason's Causeway to Alexandria," was read twice, and committed to the Committee for the District of Columbia, to consider and report thereon to the House.

Mr. Milnor presented a petition of sundry freeholders and proprietors of land in that part of the county of Alexandria, in the Territory of Columbia, which is situate between the towns of Alexandria and Georgetown, stating that they have been informed an application to Congress has been lately made for opening a new road through the lands of the petitioners, between the town of Alexandria and Georgetown ferry; and praying that the prayer of any petition or petitions for that object may not be granted.—Referred to the Committee for the District of Columbia.

On a motion, made by Mr. Masters, that the House do now adjourn, the question was taken thereupon, and decided in the negative—yeas 24, nays 54.

The House resolved itself into a Committee of the Whole on the bill for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the Land Commissioners as antedated, and for other purposes. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The bill sent from the Senate, entitled "An act to extend the time for making payment for the public lands of the United States," together with the amendments agreed to on Saturday last, was read the third time. Whereupon, the bill, as amended, was recommitted to a Committee of the Whole to-morrow.

An engrossed bill concerning associations for the security of navigation was read the third time, and recommitted to a Committee of the Whole to-day.

The House resolved itself into a Committee of the Whole on the bill for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place; and, after some time spent therein, Mr. Speaker resumed the Chair, and Mr. Masters reported that the Committee had had the said bill under consideration, and, in the course of the discussion, the Committee found themselves without a quorum, and thereby dissolved.

The House resolved itself into a Committee of the Whole on the bill extending the right of suffrage to the Indiana Territory, and for other purposes. The bill was reported with an amendment; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

On motion of Mr. Marion,

Ordered, That the bill for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place, be committed to a Committee of the Whole to-morrow.

DANIEL COTTON.

The House resolved itself into a Committee of the Whole on the bill for the relief of Daniel Cotton. The bill was reported without amendment. The bill was then read the third time, and passed—yeas 58, nays 36, as follows:

Yeas—Lemuel J. Alston, Joseph Barker, John Boyle, Robert Brown, Epaphroditus Champion, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Isaiah L. Green, William Helms, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Josiah Masters, William McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Timothy Pitkin, jr., Samuel Riker, John Rowan, Lem'l Sawyer, James Sloan, John Smilie, Richard Stanford, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Alexander Wilson, and Nathan Wilson.

Nays—Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, William A. Burwell, Joseph Calhoun, Martin Chittenden, Matthew Clay, John Clopton, Joseph Desha, Thomas Gholson, jr., Peterson Goodwyn, John Heister, William Hoge, James Holland, David Holmes, Richard Jackson, John Lambert, Nathaniel Macon, Robert Marion, Daniel Montgomery, jr. Thomas Newbold, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benj'n Say, Dennis Smelt, Jedediah K. Smith, Henry Southard, John Taylor, Robert Whitehill, and Isaac Wilbour.

Tuesday, February 14.

An engrossed bill extending the right of suffrage in the Indiana Territory, and for other purposes, was read the third time, and passed.

An engrossed bill for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the Land Commissioners as antedated, and for other purposes, was read the third time. Whereupon, a motion was made by Mr. Rowan, that the further consideration thereof be postponed indefinitely. And the question being taken thereupon, it was decided in the negative.

A motion was made by Mr. Ely, that the said bill be recommitted to the consideration of a Committee of the Whole House. And the question being put thereupon, it was decided in the negative.

A motion was made by Mr. Bibb, that the fourth and fifth sections of the bill be recommitted to the Committee on the Public Lands, further to consider the same, and report to the House. And the question being taken thereupon, it was decided in the negative.

Resolved, That the said bill do pass, and that the title be, "An act for the disposal of certain tracts of land, claimed under Spanish grants, reported by the Land Commissioners as antedated, and for other purposes."

Mr. Love, from the committee appointed on the 11th instant, presented a bill to regulate process, in certain cases, in the Courts of the United States; which was read twice, and committed to a Committee of the Whole to morrow.

ADDITIONAL DUTIES.

The House resolved itself into a Committee of the Whole on the bill for imposing additional

duties on all goods, wares, and merchandise, imported into the United States.

[This bill provides "that an additional duty of —— per centum on the permanent duties now imposed by law, upon goods, wares, and merchandise, imported into the United States from foreign ports or places, shall be laid, levied and collected upon all goods, wares, and merchandise, which shall, after the thirty-first day of January, 1809, be imported into the United States from any foreign port or place; *and a farther addition of ten per centum shall be made to the said additional duty, in respect to all goods, wares, and merchandise, imported in ships or vessels not of the United States*: and the duties imposed by this act shall be levied and collected in the same manner, and under the same regulations, mode of security, and time of payment, respectively, as are already prescribed by law, in relation to the duties now in force on the importation of articles imported from any foreign port or place. That this act shall continue in force until the first day of April, 1810, and no longer: Provided, that the additional duties laid by this act, shall be collected on such goods, wares, and merchandise, as shall have been imported previous to the said day."]

Mr. W. ALSTON, in the absence of Mr. G. W. CAMPBELL, the Chairman of the Committee of Ways and Means, moved to fill the blank in the bill with the words seventy-five, stating that the opinions of the members of the Committee had varied as to the proportion with which to fill the blanks, some being for one hundred, some for fifty; and seventy-five had been taken as the average.

The motion to fill the blank with "seventy-five" was negatived, 51 to 37; and "fifty" agreed upon, 59 to 30.

The words in *italic* in the above were struck out on motion of Mr. W. ALSTON.

The words "and allowances as to drawback," between the word "regulations" and "mode of," were inserted on motion of the same gentleman, security, &c.

A motion was made by Mr. MILNOR to strike out the first section of the bill, which gave rise to considerable debate; but was withdrawn by Mr. M., who moved that the Committee rise, with a view to recommit the bill. Motion negatived.

In the course of the debate, Messrs. MILNOR, LLOYD, TALLMADGE, SLOAN and QUINCY, opposed the principle of the bill, on the ground that the House had not before them any specified information on which to act; that the duties on imported goods were already very high; that an increase of them would encourage evasions of the revenue laws, by throwing out great temptations to smugglers; that the bill imposed additional duties indiscriminately on all articles imported, whilst the House, however it might tax some articles, should avoid burdening those articles used almost exclusively by the poorer classes of the people; that the tax, if raised as proposed, would operate as a complete prohibition of the importation of some articles; that an additional duty would increase the value of goods now in the hands of monopolizers, and excite discontent in a part of the community; and, finally, that if the measure was proper in itself, it was at this time premature, the House not having decided what course of policy it would pursue.

Messrs. W. ALSTON, FISK, SMILIE, TAYLOR, EPPES, and RHEA, supported the bill. They remarked that those who were opposed to supporting the Government would undoubtedly vote against any proposition for raising revenue; that besides producing revenue, the bill would encourage our own manufactures, and thus render us more independent of foreign nations; that this measure had been proposed at the last session, though not acted on, and was therefore not a sudden proposition; that if the proportion proposed were too large, the Committee might refuse it and agree to a smaller; that it would be impossible at this late period of the session to form a new tariff of duties discriminating between the increase of duty on different articles imported; that, even supposing there were a difference of opinion as to the mode of laying the duty, the time for the Spring importations was nearly arrived, and by delaying the passage of the bill beyond the present session the benefits of it would be lost; that a bill for imposing discriminating duties would be wholly different from this, and could not be got through the House during the present session.

Messrs. LYON, BACON, COOK, and BURWELL, were in favor of the object of the bill, but wished it to be so amended as to discriminate between the articles on which the duty was to be laid, excepting from it those of the first necessity.

Mr. D. R. WILLIAMS wished to impose the additional duty exclusively on goods imported from England and France; and thus make the increase of duty a measure to operate on foreign nations as well as to produce revenue to the United States.

The bill having been gone through and a motion having been made that the Committee report the bill—

Mr. D. R. WILLIAMS moved to amend the bill by inserting after the words "goods, wares, and merchandise," in the beginning of the bill, the words "the produce or manufacture of Great Britain and France, and the colonies of either." Mr. W. said it would be perceived that this motion proposed wholly to change the aspect of the bill; and as it was late in the day, he moved that the Committee rise, to give time for reflection on it.

The Committee then rose, reported progress, and obtained leave to sit again.

WEDNESDAY, February 15.

Mr. LEWIS, from the Committee on the District of Columbia, to whom was committed, on the thirteenth instant, a bill sent from the Senate, entitled "An act to authorize the making of a turnpike road from Mason's causeway to Alexandria,"

reported the bill without amendment: Whereupon, a motion was made by Mr. VAN HORN that the bill be now read the third time. And the question being put thereupon, it passed in the negative. The bill was then committed to a Committee of the whole House to-morrow.

Mr. WILLIS ALSTON, from the Committee of Ways and Means, presented a bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine; which was read twice, and committed to a Committee of the Whole on Friday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the support of Government, during the year one thousand eight hundred and nine," with an amendment; to which they desire the concurrence of this House. The Senate have passed a resolution for the appointment of a committee, on their part, jointly, with such committee as may be appointed on the part of this House, to consider whether any, and, if any, what measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the fourth day of March next, to report by bill or otherwise; to which they desire the concurrence of this House.

NON-INTERCOURSE.

On motion of Mr. NICHOLAS, the House resolved itself into a Committee of the Whole on the bill for interdicting commercial intercourse between the United States and Great Britain and France, and for other purposes.

Mr. MILNOR moved to strike out the first section of the bill, with a view to try the principle of the non-intercourse system. In support of this motion, he alleged the impossibility of carrying the system into effect; for he conceived that the embargo had been ineffectual from the impossibility of carrying it into complete effect, and the proposed system would be as difficult to enforce. He thought that it would be impossible to carry a non-intercourse system into effect, as long as vessels were permitted to go to sea. He had many other objections to this bill, among which were these: that, although it raised the embargo only in part, the permission to vessels to go out, would render the provision for a partial embargo nugatory; that, if the bill were to pass in its present shape, it was to be doubted whether any revenue officer of the United States would understand the duty enjoined on him by it; that a time only two days previous to the meeting of the next Congress was fixed upon as the day on which the non-importation should go into operation, and thus the bill appeared to manifest a distrust of that Congress, who certainly would be more competent than the present Congress to decide on its propriety at that time; that a non-intercourse between these countries, would but compel our citizens to pay a double freight to and from the entrepôt, without producing any other effect than injuring our own citizens; that goods from these countries, although their importation were interdicted by law, would be introduced nevertheless; that the extent of the territory and seacoast of the United States was so great that all efforts to interdict the importation of goods must be ineffectual, for they would be introduced contrary to law; thus depriving the United States of the revenue which would be derived from them, if their importation were permitted by law. Rather than accept this system, Mr. M. thought it would be better that this country should remain yet longer under the pressure of the embargo, which he had no doubt must be repealed early in the next session.

Mr. QUINCY entered at considerable length into an examination of the system of coercion on foreign nations, by means of commercial restrictions. The idea of the efficacy of this system, he traced to a deeper root than any Administration under this Government. It was an error of the American people, originating in a period antecedent to the Revolution; it grew out of our colonial regulations. It began to be a favorite belief with the people, antecedent to the year 1760, and was then fostered by the patriots of that day, the idea being also encouraged by the patriots of England. Mr. Q. entered into a comparative statement of the exports from and imports to Great Britain from America at two different periods, viz: the nine years preceding the year 1775, and the nine years succeeding it, with a view to show that the average imports into Great Britain from all the world, during the nine years' peace with this country, amounted to but about one-thirteenth more than the average imports during the same period of war; and the exports diminished, nearly in the same proportion. From his statements on this head and a comparison of the present relative situation of the two countries, Mr. Q. drew the inference that this supposed means of coercing the European Powers, did not exist. He deemed it peculiarly unfortunate that a confidence in this power of coercion had so long existed, as it had prevented the United States from making preparations which they otherwise might have made. He hoped the idea would now cease. In relation to our present situation, he recommended a plain remedy, comprised in two words: "Follow nature." What did she first dictate for remedying any complaint? The removal of all obstructions on her operations. Mr. Q., therefore, recommended the removal of the embargo, the repeal of the non-importation act, and the abandonment of the non-intercourse system. He wished "peace, if possible; if war, union in that war;" for this reason, he wished a negotiation to be opened unshackled with those impediments to it which now existed. As long as they remained, the people in the portion of country whence he came, would not deem an unsuccessful attempt at negotiation to be cause for war; if they were moved, and an earnest attempt at negotiation was made, unimpeded with these restrictions, and should not meet with success, they would join

heartily in a war. They would not, however, go to war to contest the rights of Great Britain to search American vessels for British seamen; for it was a general opinion with them that if American seamen were encouraged, there would be no occasion for the employment of foreign seamen. A removal of the embargo, without adopting any other measure, until the event of negotiation had been tried, Mr. Q. said, would, first, prevent any collision with the belligerents which might tend to embarrass negotiation; and, secondly, would give an opportunity to the country to ascertain what would be the practical operation of these orders and decrees, on our commerce; and give an opportunity to the next Congress to shape its measures according to their actual effect. If commerce did not suffer, the knowledge of this fact would supersede the necessity of any other measure, and peace would follow of course; if, on the contrary, a general sweep was made of all the property afloat, it would unite all parties in a war. Mr. Q. concluded a speech of two hours in length, by lamenting the state of the country, and invoking the spirit which "rides the whirlwind and directs the storm," to guide the nation to a happy result.

Mr. Nicholas replied to the observations of Mr. Quincy on the subject of the legal opposition to the embargo laws in Massachusetts. He said, if the laws of the nation were to be resisted in the manner in which he lamented to say that he saw it contempl ted in one part of the community, it became the duty of this Legislature to meet it; it was not compatible with their duty to shrink from it. He could not consent that thirteen or fourteen States should submit to one. As men vested with certain powers by the Constitution, Congress could not transfer the powers to any State Legislature, or to any town. In relation to negotiating with measures of coercion in existence, Mr. N. asked, when did the violations of our rights commence? So long ago that the precise time could not be fixed. When did our coercive measures commence? In 1806. Mr. N. noticed the negotiators during whose Ministry abroad these injuries had commenced, and continued. Mr. King, Mr. Monroe, and Mr. Pinkney, all honorable men, had successively represented the United States in Great Britain. And could anything be gathered from anything they had ever written or said, to induce a belief that this Government had not acted with sincerity? There was the most conclusive evidence to the contrary. Mr. N. said, he would ask nothing of Great Britain or France that would tend to sacrifice their honor; and he wished, when gentlemen dwelt so much on the regard of foreign nations for their national character, that they would respect a little the characterof our own country.

Mr. D. R. Williams said he had been decidedly in favor of issuing letters of marque and reprisal at once; he believed it would have cut off all that fungus matter now deteriorating the body politic—for the people of New England were as patriotic as any, and when the choice was between their own and a foreign country, they would cling to their own. It was the hot-bed politicians who stirred them up; and it was necessary to do something promptly to put an end to their intrigues. Mr. W. disliked the non-intercourse system throughout. If he could not get war, or a continuance of the embargo, he wished, inasmuch as Great Britain and France had each interdicted us from going to the other, to declare that neither their armed nor unarmed ships should contaminate our waters. This was a system which required no exertion of patriotism to carry into effect, which could excite no animosities between the North and South. In relation to the non-intercourse, he believed that it could not be enforced, and used a variety of arguments to show that it could not. If it could be enforced, he believed it would be prodigiously partial. If the embargo was to be taken off, and war not to be substituted; if the nation was to submit, he wished to do it profitably. If the embargo were raised as to a single spot, it was raised entirely to all effectual purposes. Then, let your vessels go, said he, without let or hindrance; let them go and be burnt; your merchants will then feel that the embargo was a shield spread over them, and will come back to your protection, like the prodigal son, and unite like brethren in the common cause. Mr. W. said, his plan was to interdict the entrance of our ports to belligerent vessels, armed or unarmed, and lay a tax of fifty per centum on their manufactures. Great Britain must, then, either go to war or treat with us. If she was inclined to go to war in preference to revoking her Orders in Council, let her do so. But he was inclined to believe that she would treat. If she seized our vessels, however, the effect would be inevitable. Division amongst us would be done away, all would unite heart and hand in war. Mr. W. replied to a number of the observations of Mr. Quincy, particularly in relation to his position that all obstructions ought to be removed with a view to negotiation. He asked, what security had the United States, if they did all this, if they submitted to such abject humiliation, that Great Britain would treat? Was it to be expected that she would treat more liberally with us, when we solicited as slaves, than she would while we magnanimously contended for our rights? The gentleman from Massachusetts, when repeating his creed, had forgotten a part, viz: "Unfurl the banners of the Republic against the imperial standard!" This would complete a project he had lately seen proposed from the East; and, as to its application, coinciding with the wishes over the water, would be just such a project as Mr. Canning might dictate. "Revoke your proclamation, remove the embargo," and "unfurl the republican banners against the imperial standard." Mr. W. concluded a speech of an hour and a half in length, with giving notice that he should move to amend the bill, when the present motion was decided, by striking out all that part of it relating to non-intercourse, and inserting a provision interdicting the entrance of our harbors to any vessel of Great Britain and France, and imposing an additional duty on all goods imported from those countries.

When Mr. W. concluded, the Committee rose, and obtained leave to sit again.

The Senate's amendment to the bill making appropriations for the support of Government during the year 1809, was committed to a Committee of the Whole, who reported their agreement to the same, and it was concurred in by the House.

Thursday, February 16.

The House proceeded to consider the resolution of the Senate, of the fifteenth instant, for the appointment of a committee on their part, jointly, with such committee as may be appointed on the part of this House, "to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the President of the United States, for the term commencing the fourth day of March next, to report by bill, or otherwise:" Whereupon

Resolved, That this House do agree to the said resolution; and that Mr. Bassett, Mr. David R. Williams, Mr. Daniel Montgomery, jun., Mr. Sturges, and Mr. Van Alen, be appointed a committee on the part of this House, pursuant thereto.

Mr. Jeremiah Morrow, from the committee appointed on the fourteenth of December last, presented a bill in addition to the "Act to regulate the laying out and making a road from Cumberland in the State of Maryland to the State of Ohio;" which was read twice, and committed to a Committee of the Whole on Monday next.

ADDITIONAL DUTIES.

The House resolved itself into a Committee of the Whole, on the bill for imposing additional duties on all the goods, wares, and merchandise, imported into the United States.

The bill was amended so as to take effect "from and after the passage thereof."

The proposition offered by Mr. D. R. Williams when the bill was before under consideration was withdrawn.

Mr. Cook renewed the proposition, viz: to confine the duties to be increased, to goods imported from Great Britain and France, and the colonies of either; and spoke an hour and a half in support of his motion, and in opposition to the non-intercourse system. He was in favor of discriminating duties, because he was opposed to the non-intercourse, which he considered the best means of depressing our navigating interest and advancing that of Britain; because the produce of the United States would be carried to some place of depôt in the vicinity, and thence be carried to Europe in British bottoms, while a large proportion of American shipping would be inactive. He thought that, under the arming system, we could trade with at least as much honor and with much more profit than under the non-intercourse system. He contended that the non-intercourse system was precisely calculated to destroy that moral principle which had heretofore so strictly enforced our revenue laws; that the system of restriction was partial, operating so equally on the people of the South, that no individuals particularly suffered from it, while in the North and East individuals were ruined by it, and thus a general distress produced; that it would be the most discouraging act to the mercantile interest, ever passed by the Government, for it would throw the trade in all the produce kept in the country by the embargo into foreign hands at the expense of the American merchant; that the system could not be enforced with so extensive a frontier and seacoast as we possess; that it was a measure calculated to produce irritation on foreign nations, without having the least coercive effect; that it was a political suicide, without the consolation of company in it. Mr. C. was, with his constituents, in favor of further negotiation, and a firm assertion of our rights, which, if refused to be acknowledged, he would maintain. It was high time to abandon visionary schemes and impracticable projets, and to pass good, plain, common sense laws. He believed that this discrimination of duties and arming our merchant vessels would be such a law. He spoke more than an hour and a half.

Mr. C.'s motion was negatived by a very large majority. The Committee then rose, and reported the bill.

The amendments made in Committee of the Whole were severally agreed to by the House; and, on the question that the bill be engrossed for a third reading, Mr. Livermore called for the yeas and nays. There were for it 85, against it 27, as follows:

Yeas—Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Taylor, Jacob Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Nathan Wilson, and Richard Winn.

Nays—Ezekiel Bacon, Martin Chittenden, Orchard Cook, John Culpeper, John Davenport, junior, James Elliot, William Ely, Francis Gardner, John Harris,

William Hoge, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Quincy, John Russell, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, and Killian K. Van Rensselaer.

Ordered, That the said bill be read the third time this day.

NON-INTERCOURSE.

The House again resolved itself into a Committee of the Whole, on the bill for interdicting commercial intercourse.

Mr. MILNOR's motion for striking out the first section being under consideration—

Mr. NICHOLAS rose and addressed the Chair as follows:

Mr. Chairman: I shall not conceal or disguise my opinion; it has been and continues to be, that when the embargo shall cease, war will be the only proper and honorable course for this country to pursue, if reparation shall not have been made for the injuries we have received. Under this conviction, I proposed a resolution limiting the duration of the embargo, and authorizing, at the same time, the issuing of letters of marque and reprisal. I trust, sir, I shall be pardoned for expressing the deep regret and affliction I feel for the failure of a measure so important in my judgment, to the best interests of my country. I voted for the embargo as a precautionary and as a coercive measure. In its first character, its wisdom must be admitted by all. Its effects as a coercive measure would, I believe, have been equally certain, if the misconduct of some of our own people, and the revolution in Spain, had not impeded its action. Unless we were determined to persevere in our claims for redress, and to assert our rights, the embargo, even as a measure of precaution, was unnecessary. It gave no protection to our property abroad, it gave it no security on its way home, it only preserved it after its return. When the injuries of which we complain were inflicted, our choice was between submission and resistance. We determined to resist, and commenced our resistance by laying an embargo, with the hope that it might of itself induce the belligerents to do us justice; and if this expectation were disappointed, that we might prepare for war, by preserving in our own possession our essential resources—men and money. If resistance was not our determination, I do not hesitate to say, that the embargo was unwise and unnecessary. If we intended ultimately to abandon our rights without another effort, we should have suffered less both in reputation and in property, by immediate submission, than by now receding from the ground we have taken. I do not believe that a single supporter of the embargo looked to it as the last resort of this country. For myself, I disclaim the impression, and declare that I was ready to abandon it for war, when its primary objects should be attained, and its coercive power fairly tested. I have stated that I considered the return of our citizens, the security of our property, and the employment of time in preparation for war, as the great and more certain effects of the embargo. All these advantages we have derived from it. I believe it is time to change our measures, and to place our future reliance upon Providence, and upon the energies and valor of our citizens. Upon this point, however, I think with a minority. There has been a vote of this House against immediate war. Under these circumstances what ought I to do? I must either vote against every expedient which falls short of what I deem the most proper course, or assent to that which accords most with what I think right. If it were my individual concern, I should certainly rely upon my own judgment: but when everything dear to my country is at stake, I cannot justify to myself a pertinacious adherence to a proposition already rejected by a great majority, which would hazard the loss of a measure, the best, in my opinion, that can be obtained. After having offered what I thought the best, and seen it rejected, I think with the gentleman from South Carolina, that I am at liberty, and that it is my duty, to unite with others in support of attainable measures which appear to me to be conducive to the interest of the country. The bill upon your table appears to me to be such a measure. It maintains our attitude towards the belligerents better than any measure which I have heard proposed, and if it be not the most effectual resistance, at least, it is not submission. It continues our solemn protest against their violations of our rights; it takes new, and in some respects, stronger grounds against them. It excludes from our waters, ports, and harbors, all their vessels, public and private; it excludes from our country all their products and manufactures; and forbids our citizens to debase and degrade their country by a commercial intercourse which would stain and pollute them with the payment of an ignominious tribute to a foreign nation. It reserves the great question to be decided by the next Congress, which will be informed of the wishes of the American people; who can best determine how far they will submit to have their rights trampled on, at the will and pleasure of foreign nations. By keeping the question open for their discussion, I have the utmost confidence that our rights, honor, and independence, will be maintained. The gentleman from Pennsylvania asked yesterday, why not repeal the embargo laws, and provide for the enforcement of this system by a new law? In addition to the reasons I have stated, I will mention another, which has great weight. We are told that one of the States of this Union is about to pass a law, imposing penalties on persons employed in the execution of those laws, within that State. I will never consent, under these circumstances, to adopt any measure which might wear the aspect of yielding to a threat like this. No man laments more sincerely than I do, that the Legislature of any State should take such a step, but I think it of the utmost importance that the Government of the United States should maintain its authority, and that it should be ascertained whether its measures may at any time be embarrassed by the Legislatures of one or more States, or its laws annulled by their authority. Such could not, I believe, have been the impression either of the people or of the States when the General Government was formed; and if this conduct be persevered in or submitted to, it will, in effect, supersede the Government, and must speedily terminate in its dissolution. I hope and trust that the wisdom and patriotism of the Legislature of Massachusetts will not permit such a law to be enacted. Otherwise, I do not doubt that the people at the Spring elections, will choose men solicitous to heal, by every means within their power, the wounds inflicted on the Constitution. It is a painful duty to notice this subject. I have ever been devoted to the Union of the States. I would cherish and support it at every hazard, and would sacrifice to its preservation everything but the rights and liberties of one section, in compliance to the wishes of another. On such conditions it would be vassalage, not union. To yield in the present instance, would be yielding the Government to a minority. It is not practicable, however, to act upon the subject during the present session, nor do I wish it. I have the utmost confidence in the people of Massachusetts, and have no doubt but that their good sense will apply the proper corrective. If they do not, it will then remain for the other States, after giving to the subject the solemn and deliberate consideration which it merits, to decide whether they have a Government or not, whether it is compatible with their happiness and interests to preserve a Government whose acts are binding on them only who are willing to obey them; whether they will submit that the public officers of the United States shall be punished for the faithful performances of their duty.

I have confined my observations within as narrow limits as possible. It is not now necessary to speak of our injuries, of the necessity of resistance, nor even of the superior advantages of any particular mode of resistance; for it is, I believe, a very prevalent opinion in this House, as well as with the nation, that we have already deliberated enough, and that it is incumbent on us to act. I will, therefore, very briefly notice some objections I have heard to the bill. It is urged that our products will find their way to Great Britain and France, but certainly to Great Britain, by circuitous routes, and that we shall derive less profit from them on that account, than if a direct intercourse were permitted. This cannot be denied, nor is there a man who would not prefer a free trade with the whole world, if it could be enjoyed upon equal and honorable terms, to a commerce so limited and shackled as ours is at this time by the belligerent edicts. The question is not how we can most advantageously avail ourselves of a momentary commerce, but how we can assert the national sovereignty, and best secure the permanent interests of the United States. No gentleman, I presume, will contend that it is better for us to permit a disgraceful intercourse with any nation, than to endure a temporary privation, until we can trade on fair and honorable terms. Gentlemen cannot delude themselves with any expectation of advantage from the commerce now allowed to us. The two most valuable products of this country must ruin and beggar those interested in their culture—I mean cotton and tobacco. It is well known that the quantity of tobacco annually produced, is fully equal to the annual consumption, and that we have now two crops on hand; while the edicts of Great Britain and France are continued, it would be folly to cultivate this plant, and it is more or less true of every other product of our soil. If we were at war with these nations, our products would reach them through the same circuitous channels into which they will be forced by this law, but certainly that consideration would not be deemed a good argument for permitting direct intercourse with our enemies. As to the difficulty of excluding their products and manufactures, it is very possible that we may not be able to do it entirely, but I am satisfied that we shall do it essentially. The great avenue through which British goods can be most easily smuggled into this country is Canada, and that, I doubt not, will soon be closed if the edicts be not rescinded. The present state of things cannot long continue; I have no hesitation in saying that it ought not, and that the next Congress must either abandon the contest, or resort to more effectual means for the maintenance of our rights than commercial restrictions and prohibitions. The gentleman from South Carolina, whose eloquence I admire, and whose patriotism I honor, speaks of this measure as submission, and considers that which he proposed as resistance—not indeed as the measure of his choice, but as the one which is the next to it in his estimation. It must be obvious to the House, and I am sure it will be equally so to the gentleman himself, that if his system would be resistance, the course indicated by the bill has in that view superior merit. The gentleman acknowledges the principal advantage of his plan to consist in this, that it would deprive British vessels of the transport of our produce; if it can be shown that this object will be accomplished more effectually by the bill in its present form than by the proposed alteration, it is fair to expect for it his support. If his plan were adopted, Great Britain would regain her full share of the transport of our produce by augmenting the duties in favor of her own bottoms to an amount that would be an indemnity for a short voyage, by opening the port of Halifax, and another port at St. Mary's, to our vessels, and all that would then remain to our own vessels would be the profits of the coasting trade from our harbors to those ports of deposite. If I believed this course the most honorable and effectual mode of resisting, I would willingly embrace it; but, sir, I can never consent to any plan by which a direct commercial intercourse is to be produced between this country and Great Britain and France, while their edicts continue in force. Nor will I ever abandon the hope and belief that my countrymen possess the manly spirit of independence, the honorable pride and character which will disdain to

barter for gold, or for a miserable fragment of commerce, those rights which were purchased by the valor and the blood of their fathers.

The question was taken on striking out the first section of the bill and negatived—yeas 24.

The House proceeded in the consideration of the bill. The period after which the entrance of vessels should be prohibited into our waters being under consideration—

Mr. NICHOLAS named the 20th of May. As the vessels coming in after the time fixed on were to be subject to condemnation, he thought it would be to the honor of the nation to give reasonable notice of the regulation.

Mr. LYON named the first of June, as being after the next meeting of Congress.

Mr. FISK hoped neither day would be agreed to. He was not for giving to England any longer notice of our regulations than she gave of the Orders in Council, viz: from the 11th of November to the 12th of January. He therefore named the 20th day of April.

The question on the first day of June was negatived—59 to 41.

The 20th of May was agreed to—80 to 24.

The fourth section having been read (prohibiting the importation of French or British goods.)

Mr. D. R. WILLIAMS moved to strike it out, and insert in lieu of it a provision for imposing a discriminating duty of 50 per cent. on all former duties, on goods, &c., imported from Great Britain or France or the colonies of either. Mr. W. made a number of remarks in support of his motion. His motion was predicated on a total repeal of the embargo. He said, to his extreme mortification (for he had not expected it) he had just learned that the Governor of the State of Connecticut had refused to execute the injunctions of the President made in pursuance of a law of the United States. If the embargo could not be executed, he contended that certainly a non-intercourse could not.

Mr. DANA inquired of the gentleman from South Carolina in what particular instance the Governor of Connecticut had refused to execute the directions of the President?

Mr. D. R. WILLIAMS replied that he had heard that he had refused to comply with the letter from the Secretary at War, written in conformity with the order of the President of the United States, requesting the Governors of the States to appoint an officer to superintend the militia, who was to be called upon to assist in the execution of the embargo laws. The Governor, he understood, had refused to execute it.

Mr. DANA said he had inquired, because he wished to know, whether the Governor had refused to do any act which the laws or Constitution of the United States gave the President power to require of him. If in a case where neither the law or Constitution authorized it, the President of the United States had applied to the Governor as a gentleman of rank or authority in the country, requesting him to do any act, it was certainly at his option to do it or not, as he chose.

The Committee rose, on motion of Mr. TAYLOR, and obtained leave to sit again.

ADDITIONAL DUTIES.

An engrossed bill for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place, was read the third time: Whereupon, the question was stated from the Chair, that the same do pass?

It was opposed by Messrs. DANA, MACON, VAN HORN, LYON, COOK, MILNOR, and SLOAN, and supported by Messrs. W. ALSTON and J. G. JACKSON. It was passed by yeas and nays—67 to 26, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, William A. Burwell, William Butler, Matthew Clay, John Clopton, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, Robert Marion, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, John Taylor, John Thompson, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAYS—Ezekiel Bacon, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, John Harris, William Hoge, Richard Jackson, Robert Jenkins, Edward St. Loe Livermore, Matthew Lyon, Nathaniel Macon, William Milnor, Josiah Quincy, John Russell, James Sloan, Richard Stanford, Philip Van Cortlandt, Archibald Van Horn, and Killian K. Van Rensselaer.

Resolved, That the title be, "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place."

FRIDAY, February 17.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill supplemental to the act, entitled "An act for establishing trading houses with the Indian tribes;" which was read twice and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing an augmentation of the marine corps;" to which they desire the concurrence of this House.

NON-INTERCOURSE.

The House again resolved itself into a Committee of the Whole on the bill interdicting commercial intercourse.

Mr. D. R. WILLIAMS's motion of yesterday being yet under consideration, viz: to strike out the fourth section of the bill and insert in lieu of it a provision for laying a discriminating duty of 50 per cent. on all former duties on goods imported from Great Britain and France—

Mr. LOVE called for a division of the question, so as to take it first on striking out the section.

Mr. LOVE offered a number of arguments in opposition to the motion of Mr. WILLIAMS. He wished to retaliate the belligerent systems as much as possible, by repealing drawbacks on goods imported from those countries; for although we cannot lay export duties, the repeal of drawbacks would have the same operation. As a permanent peace system he had no objection to adopt some such provision as that proposed by Mr. WILLIAMS, but as a substitute for non-intercourse he could not accept it.

Mr. TAYLOR next spoke for near an hour in support of Mr. WILLIAMS's amendment. He had been decisively in favor of issuing letters of marque and reprisal immediately on a removal of the embargo. He was totally opposed to the present bill. The House had been charged with passing too many supplementary (embargo) laws for the purpose of resisting foreign aggression; this bill, Mr. T. said, might be considered "a supplementary bill for carrying into effect the British Orders in Council"—for it gave the monopoly of our commerce to the British nation, under the name of an interdiction of all commerce with her. This however could not be the object of the amendment under consideration, which he liked better than the bill, though he did not pledge himself to vote for either. Mr. T. gave notice, in the course of his speech, that when this bill came into the House (now in Committee) he should move a proposition for immediately issuing letters of marque and reprisal against Great Britain, in order to enter his vote at least in favor of it.

Mr. BIBB next took the floor. He accorded perfectly with the sentiments expressed by Mr. TAYLOR. He looked at the bill on the table with humiliation and astonishment; for he considered it as involving a submission to the belligerent edicts. He was in favor of a further continuance of the embargo, at least until June. If the embargo was repealed he was for war; and in that war he had no idea of entering into a triple contest—an idea which he treated as absurd. He was for choosing his enemy, and felt no hesitation in saying, that he should be for declaring war against that enemy whom we could reach, and who had injured us most. He thought that the people of the United States ought to hurl from their seats in this House, every man who had originally voted for the embargo, and should now vote for a removal of it without any efficient substitute—and he believed they would do it. Although opposed to any half-way measure, he preferred the amendment under consideration to the original bill, and should therefore vote for it.

Mr. TROUP said, that the sentiments which had fallen from the two gentlemen last up were in perfect coincidence with his own. He was wholly opposed to the bill, and gave reasons for that opposition. He commented upon Mr. QUINCY's *projet* of yesterday. The gentleman really appears to be gifted with the spirit of prophecy, said Mr. T.—an excellent modern prophet. Modern prophets are distinguished from the ancients, sir, only as being instrumental in verifying their own predictions. The gentleman told you some time ago that you could not stand to your embargo—I believe he went so far as to say that you dare not; he threatened you with rebellion if you did. Well, sir, it seems you cannot stand to it. When he was last up (yesterday,) he gave you a *projet;* his style to be sure was not so imperious as it usually is; but recollect the embellishment of the "black cloud" and the "tempest" which accompanied it, and it will become imperative. If he talks much more about his "black cloud," sir, I am afraid you will come into all his measures, repeal all you have done, and make humble supplication at the footstool of His Britannic Majesty for peace. In another part of his observations, Mr. T. said, What is your situation now, sir? No man could say it with more regret or more pain than myself, but I do it from a sense of high and indispensable duty—pressed without by a foreign enemy, and with boldness by a domestic faction within, perhaps stimulated by the gold of that enemy, the great Legislature of the Union is yielding to the pressure of a faction and counteracting everything, even the interest and certainly the wishes of a great majority of the American people—distracting the public mind with a variety of propositions undigested and almost without object. Mr. T. condemned the proposed non-intercourse system as submission, without even money in return for it.

Mr. D. R. WILLIAMS expressed his surprise that no gentleman attempted to defend the bill or oppose his amendment, which he supported. In point of revenue his amendment would secure some, whilst the bill as it stood would destroy three-fourths of the revenue of the United States, and raise the price of foreign articles to the consumer, without a possibility of carrying it into effect, so as to exclude foreign goods. Although wholly opposed to anything else than war or embargo, believing anything else to be submission, he had offered his amendment as the least of the two evils; for he believed that it would embrace at least profitable submission. I am for war, said he, the people south of the Delaware are for war; but you have been humbled into an acknowledgment of the truth of the declaration, that you cannot be kicked into a war, because the Eastern people will not follow you.

Mr. W. ALSTON observed, that he thought that the amendment under consideration proposed a system which would be at least as difficult to execute as a non-intercourse. He was himself in favor of a continuation of the embargo; but as a majority seemed to be disposed partially to repeal it, he was willing to take the non-intercourse system till the next meeting of Congress. He thought it probable that Great Britain might retaliate the system of increasing the duties; and that it would be better at once to interdict intercourse.

Mr. Love replied, to Mr. Williams.—He considered the non-intercourse as having more of resistance in it, by avoiding any connexion with those nations which had injured us, than the proposition of the gentleman from South Carolina. It had been objected to the bill that it was a threat. Mr. L thought no language or measure could be too strong; and he had no objection to the measure being considered in that light. He had been in favor of war whenever the embargo should be removed, unless our injuries were redressed; but as a majority was not in favor of that, he would take the next strongest measure he could get.

Messrs. Milnor, Lyon, and Cook, also spoke in favor of the amendment offered by Mr. Williams.

Mr. Milnor suggested the repeal of the non-intercourse act also, as a measure inefficient in itself, being daily evaded.

The question was then taken on striking out the fourth section in order to insert Mr. David R. Williams's amendment; which was negatived, 53 to 47.

Some further progress was made in the bill; when the Committee rose and obtained leave to sit again, and the House adjourned.

Saturday, February 18.

Another member, to wit: Marmaduke Williams, from North Carolina, appeared and took his seat in the House.

On motion of Mr. Smilie,

Ordered, That until the end of the present session, the daily hour of meeting shall be ten o'clock; and should a quorum not appear, the names of the members shall be called, and those present noted in the journal of each day.

The bill sent from the Senate, entitled "An act authorizing an augmentation of the Marine Corps," was read twice and committed to a Committee of the Whole on Monday next.

Mr. Dana, from the committee appointed on the twentieth of December last, presented a bill for the benefit of seamen of the United States; which was read twice and committed to a Committee of the Whole on Tuesday next.

The Speaker laid before the House a letter from Thomas P. Cope, offering to the acceptance of Congress in behalf of the American Convention for promoting the abolition of slavery and improving the condition of the Africans, lately assembled in the city of Philadelphia, a book, entitled "Clarkson's History of Slavery," which is requested to be deposited in the Library of Congress. The said letter was read; whereupon, a motion was made by Mr. Milnor, that the House do come to the following resolution:

Resolved, That the Speaker be requested to acknowledge the receipt and acceptance of "Clarkson's History of Slavery," presented by the American Convention for promoting the abolition of slavery, and improving the condition of the Africans; and that the said work be deposited in the Library.

And the question being put thereupon, it was resolved in the affirmative—64 to 16.

NON-INTERCOURSE.

The House again resolved itself into a Committee of the Whole, on the bill interdicting commercial intercourse, &c.

The Chairman proceeded in reading the bill.

The twelfth section having been read, which provides for a repeal of the embargo, excepting as relates to Great Britain and France—

Mr. Clopton said: Mr. Chairman, being one of those, who are not willing to exchange the embargo for the system of non-intercourse now proposed, I move you to strike out this section of the bill. In making this motion, sir, I cannot say that I entertain much hope of success, although indeed I do sincerely wish that the motion may prevail. It has been uniformly my opinion, sir, and still is, that the embargo ought to be adhered to until a majority of the great body of the people of the United States should prefer war itself to a longer continuance of it. I cannot perceive any middle course between those two alternatives, which can truly maintain the honor of the nation; and shall this nation descend from that ground to any degree of submission, either openly or covertly, to any nation on earth? God forbid, sir. Forbid it everything that is dear and valuable to us as members of a free and independent nation!

It has been frequently suggested that the nation has become restless under the embargo; and some gentlemen have spoken as if they thought that the people were generally anxious for a removal of it at any rate. Sir, that is by no means my opinion. I have no reason to believe that the people of this country in general would prefer a removal of it without some efficient substitute—that they would prefer a removal of it with such a substitute as the one now proposed. On the contrary, is there not more reason to believe that a large majority would prefer a longer continuance of the embargo, rather than such a substitute? that they would prefer this measure to be superadded to the embargo? I think it is much more probable: and I acknowledge for one, sir, that I should rejoice to see such a course taken at this time—a course, which in the early part of the session I fondly expected would be taken.

The same argument, Mr. Chairman, which has been principally urged against a continuance of the embargo system, entire, may be urged more forcibly against the proposed non-intercourse system. I mean the abuses or evasions of it. If evasions of the embargo laws cannot be prevented, much less can evasions of the non-intercourse be prevented. They cannot, sir, and I apprehend a great many may ensue immediately after much of our property has been taken. Sir, if we go to war—if we are to bring on a war, let us not do it by first throwing such advantages into the enemy's hands. Let it commence with activity, and as much advantage as possible on our own side, whenever it shall commence. Let us keep our property within our own ports until we are ready to go to war.

In considering this subject, Mr. Chairman, I am naturally led to reflect on the most prominent

feature of the Administration of our own Government respecting the belligerent nations, as being connected with the embargo in its origin, and as showing the policy of its continuance heretofore.

Long indeed has our country sought the establishment of neutrality, but sought it honorably. The great and prominent object with the United States, as to their exterior relations, always has been to maintain peace—but to maintain it honorably and consistently with the rights of the nation. In pursuit of this object Great Britain will receive the principal benefit of the trade, notwithstanding the prohibitions of this bill. If American vessels are permitted to go out at all, most of them will go, if not to British ports, to some particular ports, as has been observed, from whence Great Britain will finally receive their cargoes; and in a short time, perhaps, upon cheaper terms than they could be obtained for in our own ports; and I do not know what is to secure them from capture when bound to other ports, if they fall in with British cruisers, unless indeed they should go into British ports, pay the detestable tribute and accept licenses; and the law will be abundantly evaded by smuggling into the country articles of British manufacture—and no doubt, many of French manufacture too. Besides, sir, the consequence of this measure very probably will be war at last, and at no distant period; a war, too, which will commence under great disadvantages to our own country.

In this situation of things, Mr. Chairman, under this accumulation of injuries, the measure of embargo was resorted to—a measure having in view a counteraction to the whole system of aggression carried on against the United States—a measure which has been pursued as a means of bringing about a relinquishment of that atrocious system on the part of the belligerents, and a redress of injuries inflicted on us, together with the preservation of peace. This measure has been thus far pursued for these great purposes; and it has been patiently borne with to this day, by the nation at large, the partial discontents which have appeared in some particular parts of the country only excepted. The nation at large has cheerfully acquiesced in the privations, the inconveniences, and the difficulties incident to such a state of things. It has exhibited a memorable example of self-denial in sustaining this situation, with a view to obtain redress of wrongs and recognition of its maritime rights, without a sacrifice of peace. With this object, fair and honorable negotiation has been resorted to from time to time for a series of years. By this means redress of wrongs has been repeatedly sought, and sought in vain. By this means the Government of the United States has exercised itself to procure relinquishment of outrages and violation of our neutral rights; but as often have all its efforts proved unavailing. No wrong redressed—no cessation of outrage yet appeared: on the contrary more numerous and more aggravated ones followed in quick succession. A long series of injurious acts, the offspring of new and (if possible) more atrocious principles than what constituted the pretended ground of former outrages, were pressed with accumulating weight into the train of former outrages, insomuch that those which followed after, taken along with those which had preceded, made up a combined system which threatened to sweep from the ocean almost every particle of canvass, and all the floating property of this great Republic.

These, sir, are the objects for which this measure has been thus far and so patiently pursued. Great and momentous objects, and worthy of a great and magnanimous nation! Why, then, should it be now determined at all events to abandon this measure? Why should it be so determined, at a period of all others most propitious to the embargo, if continued and executed—a period, of all others, I think, best calculated to give it effect by this House manifesting a firm disposition to adhere to it? For, sir, I consider this as the most critical period, which could possibly arrive, as to the real effect of the embargo. I consider it as the most important period, at which the conduct of this House might render that measure effectually coercive, if it ever can be made so at all—and why, sir, do I think so? Because, in the first place, I conceive it cannot even be a question whether the British Government has not calculated on the discontents, which appeared in some particular parts of the Union, so as to derive at least some expectation therefrom that those discontents might make such impression on Congress as to induce them to raise the embargo in the course of this session. Those discontents, no doubt, excited grateful expectations of its removal. It is perfectly natural to suppose that such events taking place in any part of this country must have produced calculations of that sort. I cannot but believe, sir, that they have looked forward to the period of this session, with anxious solicitude, to mark the temper of Congress in relation to this very interesting subject; and, as they must have presumed that Congress could not view such serious events with indifference, some expectation that the effect might be so strong as to induce a repeal of the system could scarcely fail to be the conclusion. Such conclusion was to be expected, even if the extent of dissatisfaction had been fairly reported to them—even had it been in no degree misrepresented. But, sir, there are a thousand chances to one that the reports, which conveyed the information to that country, greatly exaggerated the facts—that the picture was drawn in much stronger colors than were consistent with the real truth—that the instances of discontent were stated not only to have been deeper in their nature than they really were, but that a much larger number of persons had partaken of it than really did—that a spirit of disaffection had spread itself far and wide. Not a shadow of doubt rests on my mind, sir, that, in all respects whatever, the unpleasant occurrences to which I have alluded, were greatly magnified. With these circumstances others have combined to render the embargo inefficacious as yet, or at least to prevent it from having its full effect. It is to be recollected, sir, that very soon after the

law laying an embargo was passed efforts were made to render it unpopular and to excite dissatisfaction. Dissatisfactions were not only excited; but many unprincipled persons found means to evade the law and make exportations contrary to its provisions. Under a combination of circumstances, then, so encouraging to the hopes of the British Government as those must have appeared to them, the continuance of their Orders in Council until the temper of Congress, during this session, could be known to them, is not much to be wondered at. The hope of ultimate success in rendering our commerce tributary to them, which those circumstances, no doubt, contributed not a little to inspire, with such a Government, was of itself sufficient ground to induce a continuance of those orders. Long experience of British policy, which the United States have had, justifies this opinion. Long experience of a systematic design in that Government to shackle our commerce and subject it to their arbitrary restrictions, leaves no room to doubt of their disposition to pursue that design until the conduct of this Government should convince them of its total inefficacy to produce the object sought for. The slightest prospect of succeeding in their design, however delusive that prospect might be, keeps up their hopes until the delusion vanishes. It remains, then, for the Congress of the United States, at this very interesting crisis, to dispel that delusion by a firm adherence to this measure, and thus to disperse every gleam of hope which may have resulted from the circumstances of discontent which had appeared, and the evasions of the law which took place in the country. At this truly critical period, to which their anxious attention has been directed, let this body manifest an inflexible perseverance, and demonstrate to them that all their hopes, founded on those or any other circumstances, are vain indeed. Let it be demonstrated to them that this Government cannot only resolve upon, and carry into effect, measures of energy, though attended with inconveniences and difficulties, but that it can pursue such measures so long as they shall be deemed expedient for the object in view. Let every declaration and every conception concerning the American character, as a nation, in respect to its cherishing an overweening attachment to gain, so as to be willing to submit to indignities for the sake of it, be completely falsified. Let it be demonstrated, beyond a possibility of doubt, that there exists not in the great body of the people of this country any love of gain comparable to the love of real national independence and freedom; that this love of national independence and freedom animates the true American soul far beyond any other sentiment, and that, in support of it, the greatest sacrifices of interest are cheerfully acquiesced in. But, sir, what will be the inference drawn from this measure proposing a repeal of the embargo, as it does, after it shall have been adopted. Will it not justify assertions, that this Government has not stability or firmness enough to carry into effect energetic measures, or such as check the current of wealth for any considerable time from flowing into the country? Such assertions, or assertions to that effect, have, I believe, been frequently made; and they have been often repelled by words as slanderous reproaches on the Government. Sir, let us not take from them the demerit of being slanderous, by affording any ground for the justification. But I fear, sir, I greatly fear, that a repeal of the embargo laws, as now proposed, will go far towards justifying such assertions.

This measure, it seems, is contemplated under a belief that the embargo cannot operate as a coercion on the belligerents, because they have not yet rescinded their orders or decrees. Sir, I apprehend the principal reason why such effect has not been yet produced, at least as to one of them, is, that it has not yet had time enough to produce that effect, or, at least, that much of the time which has elapsed since the embargo was laid has been attended with circumstances unfavorable to the production of such effect; so that, although the pressure of the embargo might have been ever so severe, it would nevertheless have been borne with under the expectation that the measure would soon be abandoned—under the expectation that the discontents which have been manifested, and the evasions of the law which have taken place, would induce a repeal of the system. That they have felt, and severely felt, its pressure, I do not know that there is any room to doubt. But it was to be expected that the British Government, particularly, would feel much, and bear much, before they would rescind their orders, while flattered with any prospect of a removal of the pressure. But take away that prospect, which a firm adherence to, and a strict execution of, the measure would do; and then the pressure would not only have its full weight, but would immediately begin to produce the desired effect. The numerous privations produced, and which would be produced, by the embargo, would then be seriously considered. When every ground of expectation that this Government contemplated a repeal of the embargo laws at any definite period should be taken away, they would then reflect on the consequences; they would discover the expediency of making different calculations from those which they had before made. They would not then calculate between the supposition of vast advantages resulting to themselves from a removal of the embargo, together with a subjection of our commerce to their arbitrary restrictions on the one hand, and on the other hand, the mere temporary privations to be sustained by them while it should be continued; because there would then be no ground for such supposition. But their calculations would be founded on a view of what, most likely, would be the losses accruing to them from a continued real non-intercourse with this country, which there would be if this section of the bill should be stricken out, and some other sections of it should be passed, compared with the benefits to be derived from a free and unrestrained commerce with it. The question of interest would be shifted, and placed upon different ground.

They would then be brought to decide whether their interest would be promoted in a greater degree by having no trade at all with this country, than it would be promoted by a free and liberal trade without interruption to its commercial rights as a neutral nation. Sir, if the firmness, the decision, and perseverance of this House, were to be such as to convince them that they are to choose between these two alternatives, could they hesitate long after such conviction? Could they hesitate in preferring our trade and relinquishing their impositions on it, when thus convinced that it was by no other means to be obtained? Sir, does not every degree of probability lie on this side of the question? Really I cannot perceive any room to doubt it. What, then, ought we to do, but to persevere in this measure? Sir, I wish it could be continued some time longer. Let us rigidly persevere in it as the best course which the Government can yet pursue; and let us not doubt of its ultimate success.

At any rate, sir, let the embargo continue as it is, until the next meeting of Congress in May; and let that Congress determine as to a repeal of it, according to the then existing state of the public mind, the circumstances of the country, and the then conduct of the belligerents. By that time events may take place in Europe, which may materially influence the conduct of at least one of them. By or before that time, the fate of Spain very probably will be decided; and if Bonaparte should have succeeded in fixing his brother on the throne of that Kingdom, the resources of which Great Britain would be deprived by that event, would certainly affect her in a considerable degree; and such privations would, doubtless, have a correspondent influence on her conduct.

In support of the position which has been advanced, that the embargo cannot coerce Great Britain, it seems to be apprehended that sufficient resources from other quarters would be drawn in to her aid; that the supplies which she had heretofore derived from this country, would be obtained from other countries; and thus the effect of the embargo, as to her, would be defeated.

Sir, if gentlemen will recur to the orders of the British King, to the commanders of his ships of war and privateers, directing them not to "interrupt any neutral vessel laden with lumber and 'provisions, and going to any of his colonies, 'islands, or settlements, in the West Indies or 'South America, to whomsoever the property may 'appear to belong, and notwithstanding such ves'sel may not have regular clearances and docu'ments on board," I think, sir, they will perceive unquestionable evidence that, so early as April, 1808, when those orders were issued, they must have felt the want of our trade in provisions and lumber to those places; and had it nor been for the discontents which, soon after that time, become known to them, and the scandalous evasions of the law which took place, I have no doubt but that, before this time, the Orders in Council would have been revoked; had the law not been so much defeated in its operation by worthless unprincipled men, who, regardless of all the sacred ties of duty to their country, seized the moment of rapid progression to wealth, accepted the infamous royal invitation to violate the solemn laws of their country, and, under the shameful protection thus held out, conveyed to them such supplies as not only enabled them to hold out longer, but encouraged them to hope that the system would soon be abandoned altogether as impracticable, and an export trade allowed from this country, under the restrictions which they had imposed on it.

There is another circumstance of recent date which I would also notice. What, sir, are we to think of the late famous, or rather infamous, letter of Mr. Canning, misrepresenting Mr. Pinkney's communication to him, relative to the proposal of the President, to suspend the operation of the embargo as to British ports, on that Government rescinding its Orders in Council? For what purpose could that letter have been written and published, as it was, unaccompanied with Mr. Pinkney's answer, in the very section of the country where discontent most prevailed? Was it not intended to inflame that discontent, and increase the clamors against the embargo? Indeed, sir, I must believe that such was the design, as well as to foment disaffection to the Government. If so, what could have been the inducement to it, but a strong desire in the British Government that the embargo should be removed? And what could produce such desire but its pressure?

This circumstance, sir, and the orders of the King, encouraging Americans to violate the embargo laws, are both, to my mind, irrefragable evidence of that pressure, which evidence has been frequently corroborated by subsequent information; and, whatever may have been said to the contrary, or whatever may be conceived to the contrary, the embargo, if continued and enforced, must be very distressing to Great Britain. Withhold from her supplies of raw materials for her manufactures, particularly cotton, naval stores, timber, and other materials suitable for naval purposes; and from their West India possessions, withhold supplies of provisions and lumber, and I cannot conceive how she could sustain such privations much longer. The French dependencies in the West Indies would also be greatly distressed for want of supplies of provisions, and, therefore, a continuance and enforcement of the embargo would be severely felt there.

But the greatest objection to a continuance of the embargo, seems to arise from apprehensions that it cannot be enforced. Sir, the evasions which took place previous to the last act passed on the subject, were supposed to have proceeded from defects in the laws passed at the former session of Congress. But, is nothing to be expected from that last act? It has been in existence but little more than a month, and has not had time enough yet to operate in any material degree. It is presumable that, if continued in force, it will be more efficacious than the former one.

But, sir, is there no such thing as patriotism in

those parts of the country where evasions of the law have taken place? Has that sacred principle fled away entirely from those places? I cannot believe it, sir; I cannot, indeed. I cannot abandon the idea of patriotism in those parts of the country. I cannot abandon the hope that there is yet patriotism enough to carry the laws into effect. Nor can I, for one, sir, consent to abandon the ground solemnly taken by the Government, merely to appease the clamors, or to gratify the avarice of a set of individuals, whose numbers can bear but a very small proportion to the community at large.

I have made these observations, Mr. Chairman, under an impression, that it was my duty to do so, at this very critical and momentous period, on a subject of such vast magnitude as the one now under consideration. Believing, as I do, most sincerely, that the proper course still to be pursued, is the one I have advocated, I should have been guilty of a dereliction of that duty, had I refrained from expressing to the Committee the sentiments I have expressed. Sir, it is not an opinion of the present moment, or one which has arisen from any late occurrence. It is an opinion which I brought with me when I came to this place, and I have uniformly retained the same opinion to this day.

Much has been said concerning the last act passed for enforcing the embargo. It has been frequently denounced as unconstitutional. Sir, that act was passed by a very large majority; and, for one amongst those who voted for it, I can truly say, that I never should have given my vote for it, if I had not believed it to be within the legitimate powers, the Constitutional authority of Congress to pass it. I am far from believing that it merits the denunciations which have been lavished on it. I consider it as strictly within the limits of the powers vested by the Constitution in this body. If I had, at any period since the passage of the act, been convinced that I had been in error, and that the passage of it was not authorized by the Constitution, I should freely and candidly acknowledge it. It never was my disposition, sir, to resort to rigorous measures in any cases where the objects of them were attainable without such. I truly lamented, and do lament the occasion which produced that act; but I considered it to be of vast importance, as far as possible, to prevent evasions of the embargo system.

This is a period of our political existence, Mr. Chairman, which renders firmness in the Councils of the Nation peculiarly requisite. The crisis is vastly momentous and trying, and attended with circumstances, both from within and from without, which strongly call for decision in the Legislature. The existence of the Government seems almost to depend upon their firmness and decision. Whilst the members of this body respect the rights of individuals, let them consider the consequence of being driven from a measure of great importance by the conduct of a small part of the community. It is the duty of each part equally to respect and obey the laws; and if apprehension of the consequence of a faction, clamoring against the acts of the Government, should deter it from pursuing its course, such would be an alarming manifestation of its weakness. Sir, I fear for the Government, almost to trembling. I feel emotions which I cannot express. It is at a point of awful trial and responsibility. The system, which, it appears, is about to be abandoned, will be exchanged for a miserable one, which, on our return to our homes, will not draw on us many smiles.

The motion of Mr. CLOPTON was negatived, 59 to 35.

Mr. MILNOR moved to amend the same section so as to strike out the exception, and making the repeal of the embargo total.

Mr. VARNUM supported this motion. If the non-intercourse system was to prevail, he thought it made much more intelligible to the revenue officers by repealing the embargo laws, and enacting the non-intercourse as a new system throughout. He spoke in favor of the repeal of the embargo laws, stating the evasions which had taken place, and that these evasions had not been confined to any particular section of the Union. He observed that a partial repeal of the embargo would destroy all the coercive effects of the measure, inasmuch as produce would be let out, and would find its way to every quarter of the world. Mr. V. observed that were the amendment agreed to, he should be ready to go with gentlemen in any other practicable measure which they would select for maintaining our rights.

The motion of Mr. MILNOR was negatived, 57 to 53.

The question having been put that the Committee rise and report the bill—

Mr. GARDENIER rose in opposition to it. He lamented the situation of the country, which he depicted as gloomy in the extreme. If the measures now contemplated, and apparently about to be adopted, were persisted in, the country must be utterly ruined. He conceived that the measures of interdiction could not operate on France, unless to make her rejoice. There is, therefore, said he in the introduction of the words "and France" into our resolutions and statutes, a cruel and solemn mockery; for my abhorrence of which, I can find no expression. Words might disguise the substance, but it was right to rise superior to them when it was ascertained that the effect of the system was to support Bonaparte in that system of commercial warfare by which alone he could ever hope to destroy England, who was, at this moment, the only barrier between him and the dominion of the whole earth. Mr. G. said that the great cause of complaint now against England was the Orders in Council. He thought it unfortunaate that such was the irritation in this House on the subject, that they had never received that serious consideration to which they were entitled. He entered into an examination of the Orders in Council, which he believed, and went into an argument to prove, that Great Britain had the right to issue. He contended that, during the existence of the Berlin decree, the United States

could not, with honor, have traded to France, and thus, that the Orders in Council only declared that the United States should not do that which they could not do, because they could not honorably do it. He did not say that the orders were lawful, or that they were not infringements of our rights as a neutral nation, as it might offend the prejudices of the House. But I may be permitted to say, observed he, that if they were unlawful, I have proved that they are not hurtful; that the British Orders in Council only supplied to that which our sense of honor would lead us to do, their sanction.

In regard to the subject of tribute, Mr. G. said that previous to the British Orders, we could not trade, honorably, to France; and, therefore, this paying tribute for going to a place where we could not go was merely ideal. If you have got to that pitch, said he, that after such a decree you could trade to France, it would be a disgrace, and you could not be more disgraced by touching at a British port to commence it. I think it perfectly fair in Great Britain that, if you were determined to disgrace yourselves, she should say you should first touch at that island. Mr. G. again dwelt at great length on the power of the Gallic Emperor, and insinuated that this bill would meet his wishes. He wished to know why, in this House, there were no expressions of abhorrence of that Power which had destroyed all the nations of the earth. Although I do not believe in French influence, said he, yet there is, in this House, an animosity to, and hatred of Great Britain, that makes us go into French measures by repulsion as effectually as it could do by attraction. Considering Great Britain as the only barrier between us and universal dominion, he asked gentlemen whether it would not be good policy—considering too, that we had very little, if any, cause of quarrel with Great Britain—to preserve the barrier as it was, instead of attempting to weaken or destroy it, and overwhelm ourselves in its ruin? Mr. G. next turned his attention to the bill before the House, which he conceived to be a weak and imbecile measure. He said that it savored more of an expedient to serve appearances, to keep the public on tip-toe, than to subserve the essential interests of the nation.

Mr. VARNUM replied to some of the observations of Mr. GARDENIER, whose sentiments and premises he believed to be erroneous, and therefore, his conclusions were incorrect. He spoke of the various proclamations of blockade by Great Britain, preceding the Berlin decree, which were at least as good ground for retaliation by France, as the French decree was for retaliation by Great Britain. As to having no cause of quarrel against Great Britain, Mr. V. expressed his astonishment at hearing such sentiments avowed by any gentleman on this floor, and protested against it. He believed it to be the determination of the Governments of Europe to press us, until we should yet be compelled to take the last resort, however desirous we might be to avoid it.

Mr. BURWELL called the attention of Mr. GARDENIER to a speech which he made a few weeks ago, in which he expressly admitted that the Orders in Council were not intended to retaliate on France, but, under cover of such retaliation, to retaliate on the United States for the non-importation law. He suggested to him that there was an evident inconsistency in his remarks at the two different times. Mr. B. entered at some length into a view of the orders and decrees in reply to Mr. GARDENIER. He regretted to hear in the debates of the House so much of foreign countries and so little of our own. If there was anything in the world that could give him sincere pleasure, it would be the union of all parties in the great work of resistance to foreign oppression; that all should be American in language and sentiment as well as in name. Divided as the nation now was, it was as feeble as if there was not a man in the country. As long as they legislated on suspicion of one another it was impossible they should prosper. Mr. B. said, that the bill now under consideration was not palatable to him, though he liked it better than any of the amendments which had been offered.

Mr. MASTERS commented with some severity on the observations of Mr. GARDENIER. He rebuked him for his defence of the British Orders in Council, which he had never expected to have heard attempted to be justified on the floor of Congress. Mr. M. was not partial to the bill.

The Committee then rose and reported the bill; and the House adjourned without considering the report.

MONDAY, February 20.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to remove the office of collector from Tappahannock to Fredericksburg, and to make Tappahannock a port of delivery, and, also, to abolish the offices of surveyor at Fredericksburg, in Virginia, and at St. Mary's, in Maryland; and to establish a light-house at the entrance of Bayou St. John; which was read twice, and committed to a Committee of the Whole to-morrow.

The House proceeded to consider the amendments reported on Saturday last from the Committee of the Whole to the bill to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes; and the same being twice read at the Clerk's table, were, on the question severally put thereupon, agreed to by the House.

Ordered, That the said bill, with the amendments, do lie on the table.

The House resolved itself into a Committee of the Whole on the bill concerning invalid pensioners. The bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

On a motion made by Mr. ELY, the House proceeded to reconsider the first amendment reported from the Committee of the Whole to the said bill, and the same being amended, was, on the

question put thereupon, agreed to by the House. The bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplementary to the act, entitled 'An act for the better government of the Navy of the United States;" to which they desire the concurrence of this House.

NON-INTERCOURSE.

The House took up the report of the Committee of the Whole on the bill interdicting commercial intercourse, &c.

Mr. Masters proposed a new section to the bill, declaring that the bill shall be in force till the end of the next session of Congress, and no longer; and that the embargo shall be repealed at that time.

On the suggestion of Mr. Randolph, Mr. M. withdrew his motion for a time; and Mr. R. moved to strike out so much of the 12th section of the bill as makes exceptions to the general removal of the embargo.

Mr. Bibb made a motion which superseded Mr. Randolph's, viz: to strike out the whole section, so as to keep on the embargo in its present situation.

Mr. Randolph hoped the House would not go directly to this subject by the means proposed by his friend from Georgia; for, if he understood the motion, it went to prevent the repeal of the embargo either in whole or in part. As it was his object not to repeal the embargo partially, but *in toto*, Mr. R. said he could not vote for the motion of his friend from Georgia, and hoped, therefore, that it would not prevail. At the same time, said Mr. R., it would be no very great stretch of candor to allow that if this House do repeal the embargo in any degree, it would comport more with its dignity and reputation, as well as with the interest of the nation, to repeal it *in toto*, than in this sort of way. I believe that even what is termed a *partial repeal* of the embargo, will, to the interest of the nation, be a most important measure, whatsoever bearing it may have on the reputation of the Legislature of the United States; but, if we mean to preserve at once our own credit and to consult the good of the Union, we ought to repeal the embargo in words as well as in fact, totally—and, indeed, let not the words of the wisest man under the sun ever again be quoted to prove that there is nothing new under the sun. Unquestionably a partial repeal of an embargo is a new thing under the sun in legislation. A partial repeal of an embargo! What is an embargo, sir? An inhibition of vessels going from a particular port or from all the ports of a nation. It is limited to a single port, as Bordeaux, or to a whole empire. But a *partial embargo* is such a thing as verily, I think, never was heard of. An embargo is a prohibition of every vessel from sailing; and here is a permission to any vessel to sail. Look at your embargo laws. Have they any reference to the place of destination of a vessel? No, sir; you might as well undertake partially to pull the House over your heads as partially to repeal an embargo. The embargo, with all its supplements—God knows how many, but this litter of misshapen cubs is sufficient to exhaust their original parent—these laws refer to the act of sailing from the United States to any port of a belligerent or of a neutral, if, indeed, he could find such an animal in political zoology. If we repeal any part of an embargo, we repeal it, in point of fact and practice, altogether. If it were consistent with the gravity of this dignified Assembly, I would say that this bill reminds me of the ingenious project of a citizen of Virginia—a naturalized one—and (strange as it may appear when the story is told) not an Irishman, to let off his gun by degrees—when that scheme was mentioned, it was due to the nation to state that he was not a native—by gently pulling the trigger, he proposed to let off his gun by degrees. This project is precisely such an one—a twin brother. If, sir, you are not able, without any partial repeal of the embargo, with all your penalties and gunboats, to keep the people from going where they will with their cotton, fish, &c., can you expect to prevent them from doing so when you let them go out? Is it in your power to direct their course after they cross the Gulf Stream? Is there any magic in your laws to control them when out of your jurisdiction? If they are not interrupted by the physical force of some belligerent nation, they will, free as the wind that blows, go where they list; and really I consider this as one of the idlest propositions ever submitted to a deliberative Assembly. A partial repeal of the embargo! If it be partially repealed, very well—half a loaf is better than no bread, especially when the grant of half the loaf gives possession of the other half also. If the House choose to proceed in this way, it is not for an anti-embargo man, it may be said, to object anything against it.

In the course of the remarks which I shall offer to your consideration, sir, I shall not think it at all necessary to take notice of the very——I will not give a character to the observations made by the gentleman from New York, (Mr. Gardenier,) on Saturday last. Sir, I was surprised, for one, I confess, that gentlemen who seemed extremely opposed to the sentiments which fell from that gentleman were not willing at the same time to give him an opportunity of continuing them. I cannot conceive anything that could be said by a gentleman in what is called the majority of this House which could have half so strong an effect in favor of their measures as what had fallen from the gentleman from New York against them. I should not—really I should not—think it necessary to notice them in any way were it not that I looked at the gentleman from New York at that moment with the sort of sensation which we feel in beholding a sprightly child meddling with edged tools, every moment expecting (what actually happened) that he will cut his fingers. There are circumstances under which a man would not

like to see an adversary placed. The gentleman has powers, and of no ordinary cast; and he has certainly given to the House a strong proof of his candor, whatever it may have been of his discretion. He unburdened himself without reserve; but I do believe—I certainly hope—that there is not another gentleman in the House who takes the same view of the subject which that gentleman has taken. And, sir, the gentleman's friends (if any he have, and I have no right to presume that he has none, but the contrary) will do well to keep such dangerous implements out of his way for the future. At the same time, I am very far from impeaching the correctness of the gentleman's motives. His conduct appeared to me the effect of youthful inexperience; and I have no doubt that when he has attained a greater knowledge of the world, and a greater knowledge (I am sorry to say it) of the rights and interests of his own country, his error will be corrected.

But, sir, to come to the point, which is the repeal of the embargo. No question can exist, it would appear to me, in the mind of any practical man, that the embargo must be repealed; and this vote for a partial repeal of the embargo is a proof that there exists a conviction in this House that some way or other the embargo must be gotten rid of. I look upon the embargo as the most fatal measure that ever happened to this country—as the most calamitous event. On account of pecuniary loss? No. Great as that is, I do not view it so on that account. On account of the vexations to which our citizens have been exposed under it, not only from officers of Government, but from their fellow-citizens—from one another—tearing one another to pieces in the courts, where they were open, and unable to satisfy each other's just demands? Not, sir, on that account. Suppose we had answered, in November last, the almost unanimous expectation of America, how different would have been the result! But, by that blind perseverance in this most unfortunate measure, we have lifted the veil which concealed our weakness—we have exposed our imbecility. The veil of the temple of the Constitution is rent in twain; the nakedness of the fathers of the country has been exposed to their unnatural, impious children. That is our situation. You never can redeem it. The Constitution has received a wound that ages cannot heal. But, if we had only come up to the expectation of our suffering people—if we had been content with a twelvemonth's embargo, instead of an embargo *ad eternum*, the nation would have obeyed, would have been united.

Gentlemen may say what they will; they may declaim as much as they please about the vices of the people; but their virtue has stood a test which that of no other country on earth ever did or ever will stand; but, sir, hope delayed maketh the heart sick; and the heart trifled with under such circumstances has nothing left but desperation. The consequences we all know. We are marked, not merely to Europe, but to ourselves, as a divided people, imbecile, distracted—and why? Were we a divided people eighteen months ago? We were not, sir; we were strong in the sentiment of obedience to the laws; that sentiment which constitutes the vital principle of every Government pretending to be free, was not nearly defunct; it was in its full force; and when you see that sentiment destroyed, you may prate about vice and immorality—its destruction can come from but one source—unwise counsels. Want of wisdom, or virtue, or of both, in the councils of the nation, alone can produce such an effect on a people like ourselves; and, in my opinion, it is something to our honor that it took a longer period of suffering than any man could have anticipated, before that spirit was in the least impaired in any part of the community. But, sir, in our measures throwing away the operation of moral causes and relying wholly on physical force, on main strength, which we had not, we have prostrated the majesty of the laws, and I fear shall hand over to the successor of the present President of the United States a broken sceptre. I believe it is no secret that that gentleman is not among the first of my political favorites—but, do every man justice, sir—in the situation in which we abandon this Government to him, he will deserve immortal honor if he steer the nation through the peril which surrounds it; more especially, if you give it to him clogged with your embargo systems. He will have a task to perform as great as human strength is competent to execute; and if he does it even not very well, he ought to have the credit. The arduous duties of the station—I speak of the officer, not of the man—ought to be weighed.

On the subject of the embargo, sir. I have always understood it, like a vessel for holding liquor, to derive all its value from its tightness; and whenever you begin to drill holes in the bottom, no matter of what diameter, it is good for nothing. We have trusted our most precious interests in this leaky vessel; and now, by way of amendment, we are going to bore additional holes in this machine, which, like a cask, derives all its value, if it have any, from being water-tight. From some notion of honor or dignity, quite incomprehensible to me, we are to stick to this thing; it is to be hung around our necks, or to be trailed after us like a canister tied to the tail of a miserable persecuted dog. This is not all; we are not content to lift the covering which hid, I will not say our nakedness, but we are, I fear, breaking up from the very foundation every principle and maxim of policy which governed the country from the institution of the Federal Constitution to the present moment. I listened the other day with very great pleasure to the remarks of my worthy colleague, (Mr. Burwell,) made in his usual plain, sensible manner, and to some of them I subscribe; but, in the extent to which they were carried by him, I could by no means agree to them. I understand my colleague to be divided between two opposite and contradictory sentiments, which conflict very much with each other—a desire to protect trade and our maritime rights on the ocean, and a desire to put down trade for the purpose of fostering our manufactures at home; and, until the period when trade

shall be so curtailed that we shall be compelled to manufacture for ourselves, he considers that we shall not be independent. If we are to be governed by this policy, there was no occasion for a Constitution or Federal Government; for we might have set up our spinning-wheels and prevented the importation of foreign goods without the Constitution. But the object of the Constitution was to regulate commerce, and to do more, to draw a revenue from trade, which from trade alone could be drawn, for paying the debts and providing for the common defence and general welfare of the Union. But now it seems all this is to be set aside. We are to go upon an opposite policy—to give up the duty on imports and tonnage, and rely altogether on excises and direct taxes. I defy the ingenuity of man to devise any other mode of collecting a revenue than by imposts, excise, or direct tax. If we give up imposts, we have nothing left but internal and direct taxes. Cast back your mind, sir, to the time when the present Administration came into office, and see what was its policy. To rely wholly on impost, to abolish internal taxes, not certainly to burn our fingers with a land tax; though it may not be improper to observe, that a great part of the proceeds of the internal and direct taxes was brought into the Treasury after the 3d of March, 1801—that, however, was not our fault. We set our faces—for, sir, when I speak of the good old times of 1802-'3, &c., I will say *we*—we set our faces against the internal taxes. Why did we so? From their oppression on the people, and operation on the revenue of the States; from the vast patronage and number of officers which they gave rise to; because the impost was the cheapest tax in collection, least oppressive in its operation, and least injurious to the States. Are we now to turn completely round, to give up imposts, and go back to internal taxes? I am very far from being an enemy to domestic manufactures; but if they do not thrive at present, we cannot make them. There is something ungrateful in the soil, ungenial in the climate—the tree will not grow at all if it does not thrive apace under present circumstances.

One thing, sir, I am very free to allow: that, do what we will, we never can expect (neither do I know that it is desirable) to enjoy as great a degree of foreign trade as we did enjoy at the time we took the humor of quarrelling with our bread and butter, and going into the system which has led to our present condition. As long as we carried her manufactures to France, and the Continent generally, Great Britain connived at our trading there; and why? Because she drew an advantage from it. But the moment that France said that her products should not be imported in your ships, she had no idea of your going on in this way with your one million two hundred thousand tons of shipping, without producing her something, unless she drew a benefit from it. I do not think it necessary to say that she acted wrongfully and hurtfully—the question is, the remedy. If a man knocks you down, you do not require to be told that he has broken the peace. The question is, how will you get reparation?

Whilst noticing the observations of my worthy colleague and friend, permit me to say that I differ from him in two material points. In the first place, the explanation given by the Minister of Marine of the Berlin decree was not a satisfactory one, because the Minister himself declared that he had no authority for giving it. My colleague seems to think that that put off, a mere evasion of the French Government—for it is very easy for a minister of foreign affairs to evade an answer, if you will put up with one from an unauthorized person—was a satisfactory explanation of the Berlin decree. It was not; not only, as it turned out, that the French Government did not so consider it; but that the officer, in giving the explanation, declared that it was no explanation at all, inasmuch as he had no authority to give it. I cannot help thinking that there must have been an application to the officer who had authority to give one; but as I have seen no such correspondence, I cannot determine anything on this point. Whilst on the subject of our foreign correspondence, I think it extremely unfortunate that the motions which I made in the early part of the session for giving publicity to a part of that correspondence did not prevail—not more for the purpose of showing the public what we had, than what we had not. For example, I believe it is generally supposed that the overture made by our Government to the Government of France, on the subject of the decrees, is contained in that correspondence. What does the President say:

"The instructions to our Ministers, with respect to the different belligerents, were necessarily modified with reference to their different circumstances, and to the condition annexed by law to the Executive power of suspension requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge, therefore, of a suspension of the embargo as to her in case of such repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between this other and the United States."

We are then told that the offer was made to Great Britain to repeal the embargo, in relation to her, in case she revoked her Orders in Council. The reasons are assigned why this offer was not made to France; but what offer was made to France we know not. And I think it proper to state this, because I perceive that there is a general impression abroad that it is contained in the private communications made to us. It is not. As to offering to France to repeal the embargo as to her, if she would revoke her decrees, it would have been a strange proceeding, indeed. France wanted the embargo; and to take from her what she wanted, as an inducement to do what she did not like, would be curious, indeed. If we had have offered to continue the embargo, it might, indeed, have been an inducement to her. I therefore differ from my friend from North Carolina,

(Mr. MACON.) I think it wise that the offer was not made. At the same time, I should like to know what offer was made.

Mr. BLACKLEDGE said, if the gentleman would turn to pages 20 and 21 of the document he held in his hand, he would find the offer made to France.

Mr. RANDOLPH.—I believe I have read the papers, sir. This, by the way—I am extremely obliged to my friend from North Carolina—I remember him at college. He was a very expert mathematician, and doubtless is so still. But, although I am but a poor scholar, I have a small smattering in political algebra, and should have no great difficulty in proceeding from known to unknown things, if I had the necessary data. With the aid of X, Y, or Z, we might perhaps get at it—letters, I believe, which generally designate unknown quantities.

In another instance I differ from my good friend and colleague—in relation to the note accompanying the treaty negotiated by Messrs. Monroe and Pinkney. That note certainly, sir, made no part of the treaty negotiated by our Ministers with the British Commissioners. If the treaty had been ratified, that note would have made no part of it. But, sir, when we take into view who the persons were with whom that treaty was negotiated—that very (now) minority, in Parliament, who are so often quoted in support of our rights, and who really appear to have acted towards this country in as strong a spirit of conciliation as any Ministry that has ever existed, or probably ever will exist in England—I take this note as a sort of *caveat*, in a different point of view from my friend from Virginia. I take it rather as a mark of good faith than of the contrary; for, if you make a treaty with your adversary, and he points out (previous to your ratification of it) circumstances under which he must be compelled to violate it, he acts more like a man of honor than if he had waited till the circumstances occurred, and then have broken it, and assigned the very causes for so doing which he had in contemplation when it was agreed upon. Is it not better and fairer to make such a declaration in the first instance, than to keep it back as a mental reservation? Undoubtedly it is. There is another circumstance, applying not to this note, but to that informal understanding respecting impressment, which I wish we had accepted. It is this: that treaties, any more than embargo laws, have no talismanic powers—no magic virtues—which prevent them from being violated. And if we cannot trust to the honor of a party, we cannot trust, with one jot more of wisdom, to their hand and seal. In society, you trust a man of whose honor you are doubtful, under his hand and seal; because, if he depart from his engagements, there is a power to compel his performance. The reason why you take bond of a man in whom you have confidence, is, that he may die; but bodies politic never die. But, if there could be a man who was immortal, and over whom no civil power had control, surely if you could not trust to his honor, you could not to his bond. And there is said to be a species of honor among a class of people (with whom, thank God! I have no acquaintance) more binding on them than even the laws of God or men. I believe we should have an equal chance in trusting to the faith of the British or any other Government in an informal arrangement, as in trusting to any other security whatever. These things being premised, sir, let me say a little on the subject of the offer to repeal the embargo, and other subjects which preceded the proposition. One of the principal objections urged by me on the night when the first embargo bill passed, was, that hitherto the people had been obedient to the laws—not in the sense of not making insurrection against the laws—I mean voluntary obedience, from the heart as well as the hand. The character of a smuggler was disreputable on the exchange and in the coffee-house: this is an honorable trait in the character of our merchants. I anticipated from the embargo that we should put men to a school of smuggling *out*, and, after the embargo was repealed, they would keep their hand in by smuggling *in*; more especially, as, after having put them apprentices to the business, we have given them an additional premium of 50 per cent. lest they should not set up for themselves in it. We have given them a stock—lent them a lift. I was going to say that I am surprised, but I am not, cannot, be surprised. *Nil admirari* is a maxim which every man conversant in politics must sooner or later subscribe to. The demon of infatuation—unless indeed I am mad, and perhaps I am; for they say that the difference between a madman and other people is, that the madman thinks all the rest of the world is mad, and they know *him* to be mad—the demon of infatuation must have come over this House, before it could consent to pursue its late and (I am sorry to say it) its present policy. You want revenue. Let us take the thing the regular way. The cart before the horse—that is the style of driving now—you lay double duties, and then interdict commerce, and that is the way we are to get revenue! A rumor has been brought into the House this morning that the British Orders in Council are rescinded, and a treaty made. Under any circumstances I should rejoice at this intelligence, but more especially under the present; for, send but a copy of the Journal of this session across the Atlantic, and you may whistle for a treaty with any nation of the earth—even with the Barbary Powers, unless you bribe them to it—except you grease the fists of their Bashaw well with money.

Here a member from New York, near Mr. RANDOLPH, said the news was false—that the *Union* had not arrived at New York, as was reported in the morning.

Mr. RANDOLPH.—I am told, sir, that the report is unfounded—that the *Union* has not arrived. The *Union* has not indeed arrived, sir, nor ever will arrive, unless we change our measures, and give up this system of vibration from point to point—this wonderful discovery of partially repealing an embargo. But, sir, on the subject of this double-duty bill, (as it is called, though improperly,) I believe it is only 50 per cent. now; in May, I suppose, we shall have another 50. Suppose a rich merchant, such as my friend from Georgia (Mr

TROUP) spoke of the other day—Mr. Gray, of Salem, for instance, to have a seat on this floor; who could he vote on such a bill? Voting for it, when he has millions of dollars worth of foreign goods in his warehouses, he must vote to put into his pocket a per centage on those goods equal to the tax imposed. I have no acquaintance with that gentleman; I am told (and it costs me nothing to believe it) that he is a very good man. Except he were a very bad man, he could not have the face to get up here and put 50,000 or 100,000 dollars into his own pocket, without rendering to the public one atom of service. One of the great and crying grievances of the British nation, though they have not advanced at quite as rapid a pace as we have begun to do in raising the customs, is, that every additional excise on malt, for instance, if you please, was so much money at an instant put into the hands of the great capitalists who had large stocks on hand; thus securing, by an ingenious species of bribery, all the weight of those capitalists on the side of the Ministry, at the expense of the great consuming body politic; and thus, by a strange and wonderful political invention, establishing the position (paradoxical, yet true) that, in proportion as you raise taxes, you acquire the power to raise them. In other operations there is friction, or resistance of the atmosphere—something to weaken them—but in this you embody all the capitalists at every turn of the screw, and acquire new power to increase its force. Every revolution of it goes to render the rich richer than they were, and the poor still more wretched. This has caused the yeomanry of that country, in some districts, almost to disappear. Under the operation of such a system, they are swallowed up in two classes—the overgrown rich and the miserably poor. The middle class—that great staff and stay of the community—falls into the one or the other of these descriptions, until it wholly disappears in the ruin of the State. In our wisdom, do we recollect that there is now a supply in this country of some articles—perhaps a seven-years' supply—brought in with a view to exportation, and entitled to drawback—of coffee, for instance, of sugar, and all those articles which pay a high specific duty? Of India goods and dry goods, all of which pay an ad valorem duty, there is an immense supply. We lay a tax of 50 per cent. on the existing duties. One of two things must happen; either that the non-intercourse law will give us some trade, or that it will destroy all trade. If it destroys trade, you give so much money out of the pocket of the consuming public to the great capitalists, and that is all the operation of it. You give a handsome bonus, as the Ministry of Great Britain do on loans to the Barings, or whoever are the favorite bankers of the day, but get nothing in return for it, and here it ends. But gentlemen say, sir, that we shall have this circuitous trade, as I remarked three or four years ago; that you will go to some neutral island, as you did in the last war to St. Eustatia, and give a *joe* for a striped blanket. Yes, sir; and we are to do it now—to go to a neutral island, and there make sale of your produce—for whose profit? Who will get the freight? The nation who has the command of the ocean. You will sell cheaper and buy dearer. You are there to get British manufactures. I have no more doubt of it, and that Cognac brandy will still be drank here, your embargo and non-intercourse to the contrary notwithstanding, than that we breathe the vital air; and that we are to get them too at double freight, insurance and commissions, and under the additional duty of 50 per cent. besides. And do you expect that you can compete with those merchants who have goods here? No, sir. You must then wait, sir. This circuitous trade will come when the price shall have been such as to enable foreign supplies, with the additional duty on them, to compete in the market. If I had four or five millions of pounds of coffee or sugar, sir, I do not know what weight it might have on my vote, but I should not think myself a good juror. If neither the people nor the Government of the United States chose to challenge me, I should except to myself; I should say that I was not a good juror, and quit my seat. There are merchants in this country—not one or two, but many—who have from half a million to several millions of foreign dutiable articles, which were brought into this country in the direct way, paying only the old impost; and if you expect that your new importations, forbidden by the letter of the law, under double charges and additional duties, will compete with these supplies, you must be totally in an error: they cannot do it.

To what point have we got, sir? When General WASHINGTON first set up this Government, if I may say so, for if he had never existed I believe the Government never would—in what situation were the poor old Congress? Instead of such palaces as this, paying at the rate of twenty-five thousand dollars a year (the amount of our contingent expenses) for candle-ends and cheese-parings, they had not money to go to market—they were literally paupers. When General WASHINGTON came to the Government, the first year's revenue was *four* millions. Let any gentleman compare the revenue of the eight years of General WASHINGTON's Administration with that of the eight years, ending the third of March next. The difference is enormous. Whence is this great revenue derived? From duties on imports and tonnage. You sanctioned this system; you tore down all the system of internal taxation with a glorious and strong hand—thank God, I assisted in the work, and shall not soon assist to build it up again—you kept up the imposts until your revenue exceeded sixteen millions of dollars a year. This Government began a poor people, with a beggarly exchequer; but we have long been wallowing in wealth; we have been boasting of our millions in the Treasury, besides the payment of former loans. We have got into a habit of expense—and with nations, as individuals, custom is second nature. We have become, in many branches of our expenditure, profuse and extravagant to an alarming degree. Our clerks in the departments have higher salaries than Governors or Judges in respectable States—look at

this edifice, too, and the money spent on this ill-thriven brat, the Territory of Columbia. When I see my friend from South Carolina, (Mr. D. R. WILLIAMS.) an apt illustration presents itself. The people of South Carolina and Georgia have, for years, become enormously rich from the culture of cotton. Suppose a projector were to tell them they had better cultivate flax; they would say that they had thriven by cotton, and having thereby accumulated many surplus dollars which they could not get rid of without going every summer to Ballstown Springs, and other watering places, they would stick to the culture of cotton. This was our situation; and now, it seems, we have found, not only that General WASHINGTON was wrong in his system, but that we who continued it were wrong; that everything done in the first years of our Administration was wrong; for if we were not wrong, it would be wrong now to lay internal taxes. And if we become what my friend from Virginia wishes to see us, living wholly within ourselves, without trade, in the name of God, how is money to be raised but by internal taxes? We cannot otherwise procure it—we must send a gauger into every man's house. Be it so, but I do not wish to see it—I had rather adhere to the old system.

Yes, sir, we are departing from our first principle, which was to derive revenue from commerce. Yes, sir, we are killing the golden goose like the foolish boy in the fable; and, hereafter, like Venice, Genoa, and other Republics, which have been once rich, great, and powerful, the only vestige of our departed splendor may soon only be found in such edifices as this—palaces of marble, imperial edifices, the astonishment of the world; but poverty, misery, and want, inhabiting within them. No man, if travellers are to be believed, can avoid being struck with the contrast in the places to which I have alluded between their ancient splendor, the monuments of which are stable as the foundations of the earth, and their present wretched, impoverished condition. Yes, sir, we shall have rags and ruffles—tawdry poverty—shabby gentility, of all things on earth the most mean and repulsive; a situation which will but illy comport with our present luxurious and expensive habits.

But, sir, it seems that to repeal this embargo wholly would be to descend from our dignity. The committee of exterior relations told us as much at the beginning of the session. I will thank any gentleman, who has it, for a copy of the report. The report being handed to him by a member, Mr. R. quoted the following passage:

"There is no other alternative than war with both nations, or a continuance of the present system. For war with one of the belligerents only would be submission to the edicts and will of the other; and a repeal in whole or in part of the embargo must necessarily be war or submission. A general repeal, without arming, would be submission to both nations. A general repeal and arming of our merchant vessels would be war with both, and war of the worst kind, suffering the enemies to plunder us without retaliation upon them. A partial repeal—"

The very proposition, as I understand it, which I wish to get rid of. It is not necessary for me to read the whole of the committee's reasoning on this subject, more especially as I do not, never did, nor ever shall subscribe to it—*nullius addictus jurare in verba*—"a partial repeal must, from 'the situation of Europe, necessarily be actual sub-'mission to one of the aggressors, and war with 'the other." It seems that we are neither to have war with both nations nor a continuance of the present system; which will bring the Committee into a dilemma—but as to *me*, (I speak in the singular,) my withers are unwrung. Suppose, sir, that, instead of this indecisive state of acting, this House had, at the commencement of the present session, repealed the embargo, and armed in our defence *instanter*—what would have been the consequence? That you must have had at this moment, whilst I am speaking, war with both nations, or an accommodation with one, and war with the other, or an accommodation with both; and I believe that the last would have ensued.

Will gentlemen hint, that arming the merchantmen is not a dignified resistance, and that the embargo, or this wretched thing, is? What is the embargo? It compels your own produce to die on your hands. It has been said, that our merchants would go to England and pay tribute. The embargo is tribute, and of the most destructive sort. It leaves your own produce to perish—to rot—permitting your adversary to throw in her own goods to any amount, and saddle you with a debt which you will be able to pay no one. Two years' importations are to be met with one year's crop. This is a tribute, sir. I am against any tribute; but if we must pay it, I had rather pay it with a full pocket than one nearly empty. A system of resistance to the belligerents, by arming and defending yourself, is paying tribute; but going out under this bill to London, and taking a license, is not tribute. Going to St. Bartholomew's, and disposing of your produce to British capitalists for what you can get, is not paying tribute; but actual fighting is paying tribute. That is all right, sir; for we ought to have a new nomenclature; everything is left-handed. The political heart is in the wrong place, where the mock-doctor placed it in the play. This bill, however, is at least as much resistance as the embargo, and more so: for the embargo runs you in debt, destroys your produce, and levies a contribution on you to an amount which cannot be calculated.

I shall conclude what I have to say on this subject, with remarking, that if we do not repeal the embargo, or do something speedily, we are accessory (innocently, I hope) to one of the vilest species of swindling that ever existed in any country. I speak from correct mercantile information, of the most respectable kind. Before the proposition was made by the gentleman from Virginia, (Mr. NICHOLAS,) to repeal the embargo, the public expectation, though not high, was at a sort of regulated standard, tolerably steady, looking forward to a repeal at some time or other. The motion of the gentleman from Virginia—and I beg you, sir, to recollect from whom it came, the influ-

ence of that gentleman, and his supposed acquaintance and high credit with the Administration—made the prices of commodities start, in a night, like mushrooms: sales were made to a great amount; when, on a sudden, as if by the stroke of a torpedo, the proceedings of this House are benumbed. The Committee of the Whole, after the vote to repeal the embargo, is discharged, a recommitment takes place, and what is the result? The mercantile barometer not only went down, but did not stop at the point at which it was before; it fell even lower than ever. It now is fluctuating a little, but is not up to the point at which it stood when the motion was originally made. Now, suppose a man in the secret, when that motion was made, had sold out, perhaps, to the amount of half a million, at an advance of from 25 to 33⅓ per cent.; a few days afterwards he would be able to buy the same commodity at perhaps a price as much below par as he sold it above—making a difference of from 50 to 66⅔ per cent. Should such gambling be encouraged? The people want to know what way we are going—whether North or South, East or West. If they could guess, within five points of the political compass, (and I doubt whether we can within fifteen,) they would be satisfied: they will know what they have to depend on. For, whether we take off the embargo *in toto*, or partially remove it in *law*, and wholly, in point of *fact*; or whether we shall go to war, or have a non-importation, with double duties on importation to procure a revenue, is not more material than that they should know what we are going to do. And whatever it is, let us do it with all possible expedition. Let us decide; for there are now but a very few days to the end of our political life: and, really, with this sort of management, I am not without my fears that the session will be spun out without doing anything, and the embargo will be wholly kept on till the fourth Monday of May.

Mr. G. W. Campbell said he felt himself compelled very reluctantly to state to the House a few of those reasons which would influence him to vote for striking out the 12th section of the bill, and those dependent upon it. The present temper of the House affords, indeed, but little encouragement (said Mr. C.) to say a single word on the subject. It would seem from what has taken place while other gentlemen have been up on this subject, as if every member of the majority had made up his opinion, and felt an indisposition to hear the question examined. This however cannot justify me in omitting a duty I deem important. I hope also I shall find some excuse for the short time I may occupy, in the circumstance, that it has not been in my power for sometime to attend the House, and have not therefore had the benefit of the discussion that has taken place on this subject. And this may be one cause of the great surprise I feel at finding the House at this moment occupying a ground so different from that they occupied a few weeks ago. It may be if I had witnessed the several steps taken in the progress to the present stage of the business my astonishment might be less, but I do not believe my approbation of the present measure would be greater. If, in any remarks I may make, my surprise at and opposition to this measure should be expressed in terms that may be thought by some either too harsh or too strong, I trust it will be ascribed to the proper cause, and not to any design to wound the feelings or impeach the motives of any gentleman. I deem it however my duty to state as explicitly as in my power to my constituents and the nation the view I entertain of the subject; and as consistency is, in my opinion, of some importance in every pursuit of life, and much more so in legislation than in any other, I consider it necessary to endeavor to show that my conduct in voting against the proposed measure of a partial repeal of the embargo is consistent with the course I have heretofore pursued and the opinions I have expressed. If I could do this without at the same time exposing what appears to me inconsistent in the conduct of some other members of this House, for whom I entertain the highest respect, it would give me much pleasure; but this may not probably be in my power; for really it appears to me, sir, from the observations I have made during the few hours I have lately been able to attend the House, that something like enchantment had entered these walls and thrown its influence over some of the members of the House, of which they are sensible, but the effects of which they do not wish to be removed, as if there was something delicious in the delusion they would not willingly part from.

The state of my health will not permit me to discuss at length the merits of this measure. I shall only be enabled to state some of the more prominent reasons that induced me to vote for the motion. I have not, as already stated, heard all the arguments of gentlemen on this subject. I shall not, therefore, attempt to answer those of any gentleman in particular, but only present the House with the view I entertain of the subject. If, in doing this, I should repeat arguments advanced by other gentlemen, as probably will be the case, I shall find an excuse in the reasons already given.

I am in favor of the non-intercourse law now before you, and always have been, as connected with the embargo; believing those combined measures would constitute a strong and energetic system that would operate most powerfully on the interest of your adversaries, and maintain the rights, the character, and honor, of your own country. But I am opposed to a repeal of the embargo, either wholly or partially, unless you take a measure at least equally strong in its place. This was my opinion since the commencement of the session, and I had fondly indulged the hope until very lately it was the opinion of a large majority of the House. It is my opinion that, under existing circumstances, the best interests of the nation, as well as its honor and character abroad, require the embargo to be continued until the time arrives, at which it will be necessary and proper to take, in its place, a stronger ground, a more efficient measure of re-

sistance, which, in my view, must be war alone. I need hardly repeat what I have already stated on this floor, that it has always been my opinion, the moment you retrace your steps, or abandon the ground you have taken by a retrograde motion, you sink the character, and give a vital blow to the honor of the nation. You have assumed a certain stand; if you retreat, you acknowledge at least a partial victory gained by the enemy, without striking a single stroke, and fix a stain on the reputation of your country that years of valorous exertions, and the blood of thousands of your brave citizens, will hardly efface. I cannot believe the public sentiment will justify such a measure; and in less than six months, the members of this House will be convinced they have mistaken the present disposition and wishes of the American people, if they suppose, as has been suggested, they would wish the embargo removed without substituting a measure at least equally strong in its place. I have always considered it a slander upon the people to assert they were unwilling to suffer any privations, or meet even all the calamities of war, to maintain their rights and independence. But, at this time, a continuance of the embargo, strengthened by a non-intercourse, until the extra session in May, would, in my opinion, best promote the real interests of this country, according to every view that can be taken of the subject. I consider the present the most critical moment that has occurred for a long time; and the chances for a general peace in Europe greater than at any period since the commencement of the war. It is also the most likely to produce an accommodation between this country and the belligerent Powers. If the subject were pursued, these points could be established beyond a reasonable doubt. It cannot be denied that Great Britain feels your embargo at this time much more severely than at any former period—that its pressure is increased at this moment almost a thousand fold. She is shut out from the Continent, whence she can receive no supplies, and where she cannot find a market for her manufactures. For fourteen months she has been substantially deprived of supplies from this country, whatever may be said respecting the evasion of the embargo. Every circumstance conspires to make it her interest as well as her duty to adjust her differences with your Government. Your own people have endured the pressure of the measure during the same time, and have suffered almost all the difficulties they would have to bear until a fair and full experiment of the measure was made. For I am and always have been of opinion, if you persevered in the embargo system until the next session of Congress in May, it would not be for the interest, or consistent with the honor of the nation longer to continue it. During that session an honorable peace, securing our rights, or actual war, must probably result from the present state of things. You have but two or three months longer to persevere in your measure to make the experiment complete. By that time the result of the war with Spain must be known—the final result of the negotiations between the great belligerents will also be ascertained. Those Powers will have taken their ground; if they do not withdraw their destructive edicts before that time, I would say, (what the whole nation would I presume support,) "it is in vain to wait longer relying on those measures;" I would risk all the calamities of war, rather than longer submit to foreign aggressions. But to repeal the embargo at this time, is to expose to all the hazard of capture the property that has been saved by it for fourteen months, and for the preservation of which it was laid and borne by your people during that time; and which will in all probability be swept from the ocean by the cruisers of the belligerents.

If those Powers would have taken your vessels when the embargo was laid, what is there to prevent them from taking them now? I have heard of no change in their measures, or in their disposition towards us; no such thing is pretended. I know of no protection we can now afford our commerce that we could not then have given. If it is proper the embargo should now be only partial, it certainly ought to have been so laid originally. The reverse of this must also be true; which is the proposition intended to be established; that if sound policy required the embargo originally to be general, which seems to be acknowledged by all those who voted for it, it ought still to continue so; and, as no change of circumstances has taken place, there is nothing to justify a change of measures. I am not for war at this time, or at any time, if it could be avoided; but I would, at this moment, vote for war against one or both of those Powers, rather than for a partial or total repeal of the embargo, or any measure whatever, that would degrade the nation. I am opposed to a partial repeal of the embargo, the question now before the House, because it is, in the first place, surrendering the ground you have taken. It, also, in my opinion, amounts substantially to submission to both Powers, and, in fact and practice, is submission to one—Great Britain. The ground on which you resisted those Powers, was, that as they had cut off your trade from Europe, you would cut off their supplies from America. There was no other ground on which the measure would be supposed to operate coercively. By the proposed partial repeal of the embargo, you furnish Great Britain with all the supplies she may want from you, at her own price, as there will be little or no competition in the market; and, in addition, you deprive your own merchants of the benefit of carrying your produce the greater part of the voyage, and throw it into the hands of those of Great Britain. You say to your own citizens, you shall not carry your produce directly to Great Britain, but you may go to Bartholomews, or to Lisbon, unless it be in the possession of France, which however is very probable, or to Gottenberg, if not in a similar situation, and there deposit your produce, to remain unsold, as there will be no other demand for it until Great Britain shall receive it at her own prices. She will only have to wait until the

market is glutted, which will be the case in a few weeks, to get it at a price less than first cost. I must ask of the House to be indulged in reading, in support of this statement, part of a report made by the Committee on Foreign Relations, to this House, some time ago, which contains my sentiments, and which I wish to be considered as part of my reasoning on this subject. It begins on the twelfth page of the report:

"A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other. The last position is the only one on which there can be any doubt; and it will be most satisfactorily demonstrated by selecting, among the several modifications which might be suggested, that which may on first view appear the least exceptionable; a proposition to repeal the embargo, so far as relates to those Powers which have not passed, or do not execute, any decrees injurious to the neutral rights of the United States.

"It is said that the adoption of that proposition would restore our commerce with the native Powers of Asia and Africa, and with Spain, Portugal, Sweden, and Russia. Let this be taken for granted, although the precise line of conduct now pursued by most of those nations in relation to the United States, is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of the domestic produce of the United States, during the year ending the 30th September, 1807, amounted to $48,700,000, and that the portion exported to the countries above enumerated, falls short of seven millions; an amount too inconsiderable, when compared with the bulk of our exports to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

"But the true effect of the proposition would be to open an indirect trade with Great Britain, which through St. Bartholomew's and Havana, Lisbon, Cadiz, or Gottenburg, would receive, at prices reduced by glutted markets, and for want of competition, all the provisions, naval stores, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favorable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenor of her orders, interrupt our scanty commerce with Russia, and, occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant. Nor can it be doubted that a measure which would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then, at least, have the advantage of a direct market with the consumer. But the proposition can only be defended on the ground that France is the only aggressor, and that, having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified as well as more advantageous course, openly to join England, and to make war against France. The object would be clearly understood, an ally would be obtained, and the means of submission might be better palliated."

These were sentiments presented to the House about three months ago, as having been agreed to by all the members of the committee who report them except two, and considered in a great degree as the prevalent opinion of a great majority of the House. How the gentlemen have found it convenient since to change their opinions, especially those who agreed to that report, is not for me to say. What circumstances have since taken place to justify a change, are wholly unknown to me. But as I cannot reconcile it to myself to change my opinion without some reason for it, and believing what was then for the interest of my country is still so, I must entertain the same opinions now I did then; and cannot justify myself to the nation in shifting my ground, when no change of circumstances has taken place to authorize it, and saying that what was then considered dishonorable, is now become honorable and proper. You will observe, sir, that when the report of the Committee of Foreign Relations, together with the resolution accompanying the same, were presented, in which it was stated that there was no alternative but a continuance and enforcement of the present suspension of commerce, meaning the embargo, to be aided by a non-intercourse or war, it never entered the head of any man as far as is known that the non-intercourse was to be considered a substitute for the embargo. And, with all due deference to the opinions of gentlemen, I can see as much reason in asserting that night is a substitute for day, as that a non-intercourse or non-importation, as proposed, is a substitute for the embargo. I have another reason which operates with me to vote against a partial repeal of the embargo. The present state of things renders it more than probable, that we shall soon have to enter the lists of war with one or both of the belligerent Powers. Your great and powerful enemy, Great Britain, has now within your territory property to the value of about twenty millions sterling. By this very measure you open a door to her to get home all her property, and in those very articles, too, which she most wants for her manufactures, and for supplies of provisions. In case, therefore, you go to war, you, by this means, deprive yourself of the strongest hold you could have upon your enemy. Yes, sir, you do this at the very point of time when that Power which has, for years, been committing every species of depredation on you, is evidently on the tenterhook of suffering, and probably, on the point of relinquishing, as necessary to her own interest, that unjust system which you have long been contesting. At this important moment you step forward, and, instead of holding out till the result is known, you throw into her lap all she can require; you give her your trade and surrender your neutral rights and character. This will most indubitably be the result of this measure, and I might defy its friends to show that it would produce any other. At the very time when your own people are rallying round the standard of their Government; when they are about to shake off that timidity, that alarm, that restless disposition which the first pressure occasioned by the suspension of commerce naturally produced; when they are, in almost every quarter of the Union, declaring their determination, and solemnly pledging themselves to support your measures, to maintain the embargo or go to war, if necessary; to do anything but submit—at that very moment, instead of being invited by a similar patriotic enthusiasm to throw yourselves in front, and to lead them on to the honorable contest, you abandon the ground you have already occupied, you check their generous enthusiasm, and leave them the mortification of seeing their country disgraced, and their best interests sacrificed by a timid, temporizing policy, that must, if persevered in, ruin the nation. The people already feel the reproach your measure will draw down upon them from foreign nations, they tell you, in the strongest terms, that you have deserted your former ground, which they were ready and willing to support; and they will, sir, shortly tell you so, in a tone that will make many of the advocates of this famous non-descript measure tremble in their political seats. Sir, I once before stated on this floor, when I had no idea that I should ever have to oppose a measure of this kind, supported by those who appear now to be its friends, that such would be the very measure your bitterest enemy, Great Britain, would wish you to adopt; that, if she had an agent on this floor, she could not present to this House a measure better calculated to answer her purposes, and to carry into effect her Orders in Council. I am still of the same opinion, for her navy will prevent, in a great degree, all trade to France, and thus throw into her hands all your produce, all the supplies she wants, through the medium of depots, more advantageous to her and more ruinous to you than if she had a direct trade with you. I cannot, sir, change my opinion of the measure demanded by the true interest of this country on account of the yell of insurrection, rebellion, or severance of the States, however loudly vociferated in certain quarters of the Union. I cannot, on this account, see our relations with foreign Powers in a different point of view from that which they before presented to me; they still appear to me the same.

There is another reason which powerfully operates with me to oppose this part of the bill, and one which I conceive to be of much importance, though not equal to that which I have stated. It is this: that though you relieve your enemy, you do not furnish any substantial relief to your own people. No, sir; I am convinced that, in less than three months from this day, should this measure succeed, produce will sink below the price which it now bears, or has borne for the last year. There are but few places to which you can go, and those will naturally become glutted for want of competition; and, in a short time, the prices will not pay the original cost. It will, therefore, afford no substantial relief. The relief, too, which it may afford will be partial, confined to certain portions of the Union, and not equally beneficial to the whole. Tobacco will find no market; cotton a temporary market only—for, although Great Britain will receive it, yet, as we have more on hand than she will immediately want, or can make use of, and as we cannot go to France, and our trade to the Continent will undoubtedly be interrupted by Great Britain, she has nothing to do but wait a few days, weeks, or months, and buy it at her own price.

Another ground has some weight on my mind, and I conceive ought to have some weight with every member of this House. I do believe this measure, unless considered by Great Britain as a favor to her, unless she believes you have at last seen the propriety of taking part with her in the contest against France, will produce war, and that of the most disastrous kind, upon your own commerce. So soon as your immense commercial property is again afloat on the ocean, your enemies, who have told you from time to time that your measures were of a hostile nature, will find it convenient to consider the course you are now to take as sufficient cause of war, and will, under this or some other pretext, sweep your property from the ocean, and this you cannot prevent; you have not the means of protecting your commerce, and what is still more provoking, this will take place after you have imposed, for more than a year, a severe pressure on the people, for the express purpose of preserving your trade from precisely such a fate as I think it will share. You have heretofore saved your property and seamen by the embargo. This is not denied by any human being of common sense and candor. I conceive you are now about to throw at the mercy of Great Britain your whole commerce and seamen that have been so long preserved from her grasp. This appears a strong reason against rescinding the embargo, more especially as it will afford your own people no substantial relief, who must still sustain the pressure of low prices and markets for their produce.

There is another reason that operates conclusively with me to oppose the repeal of the embargo: there is no adequate substitute proposed in its place. You are told indeed by some gentlemen that the non-intercourse is a complete substitute for it, and a more efficient measure. I could hardly believe, if I had not heard the assertion made, that any man who had reflected on the subject would hazard such an opinion. The non-intercourse, or rather non-importation, deprives your enemies only of a market for their manufactures. It cannot, therefore, produce any immediate effect. Great Britain sends you her goods in semi-annual exportations; she could not of course feel its effects sensibly in less than six months or a year. On the other hand, the embargo deprives her of supplies—of the provisions necessary for the support of her people, and the raw materials necessary for her manufactures. The loss of these she would certainly feel much more sensibly than the want of a market for her goods. Besides, the embargo has been pressing severely upon her more than a year, and its effects are at this time most seriously felt through all her dominions. To say, therefore, that the non-importation is a complete substitute for, or is as strong a measure as the embargo, appears

to me as absurd as to assert that midnight darkness is as bright as the noonday sun. There is one other circumstance which would seem to put this point beyond all doubt. The embargo is to be repealed on the 4th of March, the non-intercourse or non-importation is not to take effect until the 20th of May, of course there is a chasm between the termination of the one and the commencement of the other of more than two months; during this time it will not be pretended there is any substitute whatever for the embargo, unless gentlemen can fancy the shade of the non-intercourse will anticipate its real existence and fill up the chasm. During this period, then, there is neither embargo nor non-intercourse, nor even the pretext of a substitute of any kind; it is a void to be filled up with the offering of humble submission and national degredation. Again: it appears to be a very general opinion that during the next session, if justice be not done us by the belligerents, war must be the result; that it would not comport with the interest, the honor, or independence of the nation longer to endure aggressions. The non-intercourse expires at the end of the session; its duration cannot, as now limited, exceed a few weeks; its life and death might be announced almost by the same *toll*. With what pretext, then, gentlemen can consider it a substitute for the embargo, or calculate on its coercive operations, is difficult to conceive.

There is another ground of objection to this measure which has been noticed by the gentleman from South Carolina, (Mr. D. R. Williams,) and urged with considerable force, which is this: That putting the non-intercourse in place of the embargo, relieves one part of the Union, and imposes the pressure upon the other part. The embargo operates equally in a great degree on the different parts of the Union. The non-intercourse would press most severely on the Southern and Western States, who depend chiefly on the immediate exchange of their productions for foreign goods, and would throw almost the whole commerce of the nation into the hands of the Eastern States, without competition, and also add a premium on their manufactures at the expense of the agricultural interest to the South and West. Foreign goods being excluded, the manufacturing States would furnish the rest of the Union with their manufactured goods at their own prices. Hence the non-intercourse would operate partially against the Southern and Western, and completely in favor of the Eastern States, and hence the most cogent reasons I have yet discovered why the Eastern gentlemen are almost to a man in favor of it. I shall always feel disposed to support measures that operate as equally as possible on the different parts of the Union, but shall deem it my duty to oppose such as operate partially; and shall feel it more particularly my duty to resist such when their effects are against the interest of those I have the honor to represent. I had supposed a correct view of the effects of this measure would have been conclusive with every member from the Southern and Western States to vote against it. I will briefly notice here a proposition as connected with this subject, which has been frequently mentioned in discussion, as well as in private, as a substitute for the embargo, which is, to authorize your merchant vessels to arm for defence against the belligerent Powers. This appears to me a novel, weak, and undignified measure. It would afford no substantial protection to your commerce, might irritate, but could not sensibly injure your enemies, and being unknown to the law of nations in the shape proposed to be adopted, would at least have the appearance, if no more, of injustice. It is believed to be unprecedented in the annals of nations to authorize merchant vessels to arm for defence against the public ships of civilized Powers in whose Governments there is ground to place confidence. You arm against pirates as you do against robbers, because you have no confidence in their justice, or regard for the common rights of society, and feel no security even in their promised friendship.

When, therefore, you authorize your merchant vessels to arm against Great Britain and France, you announce to the world that they are in your estimation *pirates*, worse than the Barbary Powers; you treat them as such, and avow your want of confidence in their Governments, laws, and treaties; in fact it would amount to a declaration that you would have no treaties with them. How those Powers would act on such an occasion I shall not pretend to say.

If your merchant vessels were merely permitted to arm without any express authority from Government, they would be considered as pirates, and treated as such by every Power with whose cruisers they came in collision. If on the other hand you give them express authority to arm, they carry your flag; they are under your protection, and you will be responsible for their conduct; you will have to account for their acts, and they will undoubtedly involve you in war. These reasons appeared to me to be so conclusive against adopting this measure, that it was matter of some surprise to hear it so often noticed with approbation in private conversations, as well as on this floor.

It has been said in support of the proposition, that on a former occasion in this Government you passed a law authorizing merchant vessels to arm against France. I shall not at this time investigate this subject at any considerable length, but will only refer the House to the laws passed at that time respecting it; and gentlemen will see that so far from arming our merchant vessels alone for the protection of commerce, it was a regular system of war commenced and carried into effect by several laws, all passed in a few days. The system of arming our merchant vessels alone was never calculated on as a separate measure, and could not have been intended to be carried into practice, without authorized war, and reference to the laws themselves will prove this. The first law passed at that time on the subject bears date the 28th of May, 1798; it authorized

the President of the United States "to instruct 'and direct the commanders of the armed vessels 'belonging to the United States to seize, take, and 'bring into any port of the United States, to be proceeded against according to the laws of nations, 'any such armed vessel which shall have committed, or which shall be found hovering on the 'coast of the United States, for the purpose of 'committing depredations on the vessels belonging to citizens thereof; and also to retake any 'ship or vessel of any citizen or citizens of the 'United States, which may have been captured 'by any such armed vessels." The next law which passed on the 20th of June, 1798, is the law alluded to, authorizing merchant vessels to "oppose and defend against any search, restraint, or 'seizure, which shall be attempted upon such vessel or upon any other vessel owned as aforesaid, 'by the commander or crew of any armed vessel 'sailing under French colors, or acting, or pretending to act, by or under the authority of the 'French Republic; and to repel by force any assault or hostility which shall be made or committed on the part of such French or pretended 'French vessel pursuing such attempt, and may 'subdue and capture the same; and may also retake any vessel owned as aforesaid, which may 'have been captured," &c.

What was the result of this law? Before your merchant vessels could arm and be prepared for sea, before this measure, so extraordinary in itself, if considered separately, could be carried into effect, or practised upon, on the 9th of July following, only fourteen days after its adoption, a law was passed, evidently a part of the same system and most probably before the Legislature at the same time, authorizing the President of the United States to instruct the commanders of the public armed vessels of the United States to subdue, seize, and take armed French vessels, &c., wherever found, &c., and also to grant to the owners of private armed ships and vessels of the United States who shall make application therefor, special commissions, &c., authorizing them to subdue, seize, and capture, armed French vessels, &c., in the same manner as the public armed vessels of the United States may be by law, &c. This was in substance and effect issuing letters of marque and reprisal.

[Mr. Randolph asked leave to explain—Mr. Campbell gave way. Mr. Randolph: As the gentleman who has just given way to me was not in the House at the time that some observations were made by myself on this subject, I could not suppose that he had alluded to them. They were made in reply to my friend from South Carolina (Mr. D. R. Williams.) Unquestionably the gentleman is totally mistaken in the view which he has taken of the proposition, if he refers to that made by myself for arming our merchantmen. And certainly it is not matter of surprise that he should be so mistaken, as he is mistaken as to the operation of this bill. He says the non-intercourse will not take place till next Summer, though the fact is directly the reverse; and he is equally mistaken as to the operation of that law, which he says granted letters of marque and reprisal, which authorized the capture of armed vessels only, and not of unarmed vessels. I have nothing more to say at this time.]

Mr. Campbell said, he really did not perceive the necessity there was for the gentlemen to say anything on the present occasion; for he did not hear the observations he had made on this subject when formerly before the House; and did not allude to him at all. In regard to mistakes, said Mr. C., I presume the gentlemen attends more to those of others, than to his own. The time proposed for the non-intercourse to commerce, is stated in the bill, which is on every man's table; and is the 20th of May. There could therefore be no mistake on this point. I did not even know the gentlemen had made such proposition as he states in regard to permitting merchant vessels to arm, and I could scarcely believe any one would seriously risk his reputation in making such. I merely noticed the proposition as it has been frequently mentioned in discussion and in conversation. The laws which I quoted are precisely as I have stated them; there was no mistake whatever made in regard to them, and the gentleman can point out none. And in order to show the House that in this respect the gentleman himself must have been mistaken, I will turn to the laws and read those parts to which I before alluded.

[Here Mr. Campbell read the laws before quoted].

The House must now perceive those laws were correctly stated. They authorized the capture of all armed French vessels, by the public and private armed vessels of the United States. With regard to the practical construction given to the terms "letters of marque and reprisal," very little will be found on the subject in the writings of the best jurists, with which we are acquainted. The meaning of the terms themselves would enable us to form a pretty correct idea of the authority they would give—and the authority to capture armed vessels is as much within their meaning, and has I presume been always so considered until this time, as the authority to capture unarmed vessels. Letters of marque and reprisal might include the authority to capture either vessels of the one or both descriptions. The authority however given by the law in question was to capture all French armed vessels, public as well as private, and clearly proves the position I have taken, that the object was open war with France; that there was no intention of relying on arming your merchant vessels for the defence of commerce, without war; that when Government authorized their merchant vessels to arm for defence, they did it as a part of a system of open war, which was then in a state of preparation, and immediately afterwards carried into effect. In this they acted consistently with the practice heretofore of civilized nations. And it is believed no instance can be adduced of one civilized nation's authorizing her merchant vessels to arm for defence against the public vessels of another civilized nation, with whom the former was at the time on terms of peace.

It was not my intention, sir, to have detained the House so long. To their indulgence I owe an acknowledgment. I will close the remarks I have to make, by briefly repeating—that believing, as I do, that the proposed partial repeal of the embargo will be abandoning the ground of resistance to foreign aggressions we have taken, will degrade the honor and character of the nation—will not afford any substantial relief to your own people; that you adopt no real substitute in its place—that it will favor the views of your enemies at home and abroad, whilst it will disappoint and damp the spirits of your best friends, and incur the disapprobation of a great majority of the American people; and also in addition to all this it will most probably produce a war of depredation in which your commerce will become an easy and sure prey to your enemies; believing all this I am decidedly opposed to it, and shall vote in favor of the motion to strike out the section. Should this motion not prevail, as will probably be the case, I will not at present declare what my vote may be on the final passage of the bill. It sometimes becomes necessary to make a choice, though it will be a very reluctant duty, between evils; we are compelled to take the less in order to avoid the greater. This may probably be such a case.

Mr. Macon said that there was not a clearer proposition under the sun, than that the embargo had been and was still the shield of our safety. In the early part of the session he had stated his impression that there were but three alternatives, to go to war, continue the embargo, or to submit. He was still of the same opinion, and thought it demonstrable that every proposition made, which had for its object the removal of the embargo, was either war or submission.

Take off the embargo, said he, in any way you please, if the orders and decrees remain in force, and where can you go? Only into trouble. The embargo did and does prevent Great Britain from getting your property under the Orders in Council. The merchants of this country, when orders were issued by Great Britain, which did not go half so far as at present, forced upon you the prohibitory law. I did not wish it. I thought the measure was unwise. At that time the Chesapeake had not been attacked. Those decrees had not been issued, which now make me wish to continue the embargo for a longer time. I would try it till September. I have stated before to the House, that if we went into the war we should be thrown on the side of France—I hope not into her arms, for I want no entangling alliances, nor treaties, more than we are compelled to make. Suppose you repeal the embargo, and in order to go to France, first go to England and pay her what duty she chooses to exact. Would not that be submission? Suppose you refuse to trade with France in consequence of the Orders in Council—would not that be submission? Both these cases would to my mind be submission; and that all the evils imputed to the embargo are chargeable to the decrees and orders, I believe, as I do that this measure has saved you from their nefarious doings. Let your merchants out, and, no matter where they go, the whole system is at an end. The merchants will trade to England. Let it be recollected that Mr. Erskine, in one of his letters to Mr. Madison, stated that the object of the duty on cotton was to prevent the manufactures of France from rivalling the manufactures of Great Britain. Do you expect then, that Great Britain will let the cotton go free? No, sir. How is it with another article—tobacco? I talk about these articles, sir, because they are the product of my constituents, by the culture of which they live. Of this article Great Britain consumes about one-seventh of our whole export; France two-fifths. Upon this two-fifths of our whole export, a tax of three dollars per hundred weight is imposed, almost equal to its whole current value in this country. Sir, I was opposed to the 50 per cent. additional duty bill; but when that duty on imports is compared with the duty which Great Britain lays on our exports, which we have not the power to tax at all, the duty sinks to nothing. We are contending for our existence as a nation. It has been said, a thousand times said, in this House, that tribute ought to be put out of the question. Sir, suppose this tax had been laid on the tonnage of our vessels, instead of the product of the soil, should we have been told not to repeat the word tribute so often? You might as well ask the people of this country to rescind the Declaration of Independence, as to ask them to permit their property to be taxed as a foreign Government pleases. Whenever gentlemen talk about taxes, and can coolly see a foreign nation tax this community more than the General and State Governments united, I scarcely know how to express my wonder at their apathy. The taxes laid by Great Britain on the soil amount to more than the taxes laid in this nation by corporations, towns, State and General Governments, all put together.

If your merchants go out under this bill, in my opinion they will evade it in the way in which Great Britain has evaded the French law; and there is no way to keep out of war, and at the same time avoid paying tribute, if the embargo be thus repealed. I had rather have British custom-house officers here at once, and be done with it. Reverse this thing for a moment. Suppose that the United States and Spain were at war, and the United States were to say that Great Britain should carry nothing to or from the Spanish colonies without coming here and paying an enormous tax on it—we should be thought mad. But this is just a parallel case with our present situation. You are compelled to carry all your produce to Great Britain; and, if you do not there sell it, to purchase a license to export it. Nothing can be more true than what has been several times said, that if we go to war with France, we need not pay any tribute. But, sir, were we to go to war with France, thus to avoid that duty, it would be the basest submission, and you had better go and pay it at once.

A thousand contradictory things have been conjured up in the course of this debate. At one

time you are told that Great Britain does not value Canada or you. At another moment, in the fertility of gentlemen's imaginations, cotton and tobacco spring up there, like mushrooms, in a night. If you then talk about taking it, you are told that you will catch a tartar. Let foreign nations respect our rights and we will not concern ourselves with them. If we yield now, they will trample us to death.

Upon this subject, too, it is said by some gentlemen, "let commerce take care of itself." If this be proper, why are the same gentlemen the most strenuous supporters of a navy? If commerce is to protect itself, what is a navy to be sent out for? The commercial part of the nation ought to consider itself as linked with every other part. If commercial men have grown rich from the product of the soil and the labor of the agriculturist, is it fair and honorable for these men to want to destroy that which has given them wealth—I mean the agriculture of the country? Surely not; but it unfortunately happens that it is nevertheless true that the heaviest of these foreign taxes are imposed upon that part of the nation which the gentleman from Connecticut told us the other day has not the greatest portion of physical force. The amount of trade or commerce carried on would be the same, tax or no tax, but the price of the produce of the country would be less, and especially that part of it which can be carried but to one market.

I agree with the gentleman from Massachusetts (Mr. Quincy) in many points which he took the other day—that we should not fight Great Britain because she takes her own seamen from our ships. If she would take only her own and let ours alone I should be content. Notwithstanding all the distress under which gentlemen appear to labor on the subject of a treaty, I have no doubt that if we were to spend less upon treaties, and regulate our commercial affairs more by law, we should find it to our advantage. With whom should we treat? With France and Great Britain, the two most powerful nations in the world, who pay no respect to treaties longer than it suits their own convenience? I would restrict them by navigation laws as they restrict us. That is a sort of system which you can continue, sir. Without saying that our exports are of more value to them than theirs are to us, admit that they are but equally valuable, and we may retort their own doings upon them.

Much has been said about the amendatory embargo law. I have no fear but it will be enforced. It is not to be expected that you will not find smugglers under that as under every other law. I do not believe a word about any State's undertaking to set the law at defiance. I have no such expectation; and I go upon the idea that whatever is for the good of the whole all will obey. Make an experiment under the law. Recollect a case in what are called the *hard times*, sir, when a great portion of the nation thought the sedition law unconstitutional. The judges decided to the contrary, and the law was enforced. And, talking of hard times, there are several in this House who can better tell what they were than myself, yet I saw enough of them, and felt a little, too, though not as highly honored as some others, who were thrown into jail under the law. The highest honor decreed to me was to have the rogues' march played under my windows. Now I have heard of no personal injury or insult to any members of Congress in the present "hard times." To the hardship of former times many worthy characters, and the records of those days, will bear testimony.

I will here state a fact which did not occur to me till I saw it in another place, in one of the most luminous speeches I ever heard or read. When the attack on the Chesapeake was made, every one applauded the measure (the proclamation) adopted by the President. I came to this place, sir, at the subsequent session a little too full of a vindictive spirit, and others perhaps partook of the same feeling. This feeling continued for some time; and the first word I heard in reprobation of the proclamation was after the British Envoy had been here some time. I speak of a fact which is unquestionable.

The gentleman from Massachusetts, in the conclusion of his speech, uttered an expression, in which I hope he was mistaken, viz., that "his arguments or impressions might be attributed by some to foreign influence." I hope he is mistaken. Nothing can be so grating to an American as to suppose that his arguments may be attributed to that source. I speak of it from a degree of experience; for in the "hard times" it has been attached to me. There is no man to whom foreign partialities have been imputed, that cannot feel the impression the charge makes upon a mind purely American. Every one recollects the time when opposition to every measure of the Administration was attributed to French influence. Though I have felt it, I never believed that those amongst whom I was born and raised would give credit to the charge.

It has been said, and great pains have been taken to establish the fact, that the embargo bears harder upon the Eastern than upon the Southern country. The reverse appears to me to be the fact. Upon the towns it may bear harder than upon the country; but take the nation at large, and the embargo, if gentlemen persist in charging all our evils on the embargo, bears harder on the South than on the East. We lose the capital of the trade, whilst they lose but the profits to be made upon the export and import. Can the profits be equal to the capital? Certainly not.

My perseverance in this embargo system may be deemed to be a little fool-hardy; but we are called upon to retire before we are routed. I have no fear of being routed. We cannot retire without disgrace under this non-intercourse bill. Take off the embargo, and we have no alternative but war. Arming merchantmen, issuing letters of marque, &c., all this is fighting. I am not for it if we can avoid it. The country is not ruined as has been said. Our property is safe at home. We have not now to negotiate with France and Great Britain for indemnity for the plunder

they would have made but for the embargo. I had rather have my little property in this situation, embargoed at home, than have to depend upon negotiation to procure compensation for it when captured. True it is Great Britain once agreed to pay you for spoliations, and so far acknowledged some such thing as the law of nations; but I doubt whether she will do it again. How did it happen? You agreed to pay her the amount of it and more too. France too agreed to pay for spoliations; but how? You bought Louisiana, and she gave you credit for the amount due to you. She has no Louisiana now to sell you, nor has England. All the property taken from you would be clear loss.

The gentleman from Massachusetts told us, some time ago, to take care of his constituents. This is the desire of every man. The gentleman must agree that the articles of tobacco and cotton, without anything else, are equal to the lumber which he talked about. As to his idea of the fertility of the land and riches of the inhabitants of the Southern country, he is wholly mistaken. On the rivers there is some such thing; but in the upper part of the State in which I live, the greatest equality of property exists. These men bear with their present situation, because they see that there is no other alternative than war, and they had rather bear it than go to war. I do not believe that any one of the Southern States has more than three banks, whilst in the Northern States there are from twenty to forty of one kind or other in each State.

The letters read by the gentleman from Georgia (Mr. Troup) the other day, had the same effect upon my mind which they appeared to have upon his. I have no doubt that some part of our cotton has been carried away; but it is but a small portion of the necessary quantity. As to making cotton in France, as a gentleman from Connecticut attempted to prove from a French author, I have no fear of that. I never had a good opinion of theoretical agriculture; and on hearing that book read, I admire it the less. I have no more fear of cotton being raised in France, especially if they take the author's advice as to the mode of doing it, where they have not spare ground to make tobacco, than I have of its being raised in Canada. And really, sir, as to the Barbary Powers making cotton for the European market, I should as soon expect the Cherokee, with his wallet of corn, to travel from his native soil to Roanoke to sell it.

A quotation was made by a gentleman from Virginia (Mr. Randolph) the other day, from the language of, perhaps, the most eloquent man in the Virginia Convention, for considering the Federal Constitution. I could name a man not quite so eloquent but quite as great a man, one of whose objections to the Constitution was, that you would be taxed by those who had no fellow-feeling for you. Great and prescient as he was, he never dreamed of Great Britain again attempting to tax us. Has Great Britain any fellow-feeling for you? No, sir; she and France have, and will continue to have, a hatred for you so long as you continue *free*. We are here struggling with this embargo, getting out of it one way or the other, and told that the laws are set at defiance. The bones of our Revolutionary soldiers are scarcely buried—and are we, their descendants, already threatening the Union with discord; tearing characters to pieces, as though the American character was worth nothing? In the city of New York, but the last year, one of the most solemn processions took place which was ever witnessed in the country, to bury the bleached bones of our patriots. And, gracious God! are they so soon to be forgotten? I hope not, sir; that we shall pursue our course with firmness, and not be turned from it by threats, come from whence they will; that we shall not repeal the embargo by passing this bill.

Mr. Holland followed on the same side of the question. He had originally voted against the embargo, because he believed it premature; but he was decidedly of opinion that, when it was imposed, some time would be necessary to try its effects as a coercive measure. He believed that the United States generally sacrificed at least enough of their happiness to the commercial interest; but having taken this ground, he wished to maintain it. And although he was not inclined to favor exclusively external commerce, yet in favor of our indisputable rights on the ocean, he would go to war when efforts of peace failed. He was in favor, therefore, of a further continuance of the embargo, and replied to many arguments against it. He lamented the propensity that existed among gentlemen, because they could not obtain a favorite object in life, to set their faces against everything else. Thus, one gentleman in the other branch of the Legislature, because he had been removed from office some years ago, thought everything had since gone wrong. One in this House might think the same, because he had not been able to obtain an office; another, because he could not move the seat of Government, &c. Mr. H. said he firmly believed, nevertheless, that it was happy for the United States that the one was removed, another disappointed in an office, and that the seat of Government was in its old place. The reasons operating with those gentlemen had no effect on him. He was for pursuing a direct course and adhering to the embargo, until its effect was fully tested. Mr. H. spoke about an hour.

Mr. Winn moved to postpone the further consideration of the subject. Negatived.

On motion of Mr. Taylor, the House adjourned about four o'clock, without taking a question.

Tuesday, February 21.

The bill sent from the Senate, entitled "An act supplemental to the act, entitled 'An act for the better government of the Navy of the United States,'" was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, to whom was committed, on the twenty-eighth ultimo, a bill sent from the

Senate, entitled "An act for the relief of certain Alabama Indians, reported their agreement to the same, with an amendment; which was twice read, and agreed to by the House,

Ordered, That the said amendment be engrossed, and, together with the bill, be read the third time to-morrow.

An engrossed bill concerning invalid pensioners was read the third time: Whereupon, a motion being made by Mr. Holmes that the said bill do lie on the table, it was resolved in the affirmative.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the Land Commissioners as antedated, and for other purposes," with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act making provision for the further accommodation of the household of the President of the United States;" also, a bill, entled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" to which bills, respectively, they desire the concurrence of this House.

NON-INTERCOURSE.

Mr. Bibb moved to postpone the further consideration of the unfinished business till to-morrow. A similar bill was before the Senate, which, he believed, would be more generally satisfactory than the bill now before the House, and which would, probably, soon be received. The question now pending was not lightly to be decided; for it was known what effect a mere decision in Committee of the Whole on a part of a resolution had lately produced. The House would be better prepared to vote on it when they had the whole ground before them.

Mr. Lloyd objected to this procedure as unworthy of the dignity of the House. This House had no right to know what was doing in the Senate, except, indeed, it was to be guided in its proceedings by what the Senate should choose to do. For one, he said, he would not be led by the nose by the Senate or any other department of the Government.

Messrs. Lyon, Durell, Bacon, and Gardner, also opposed postponement; Mr. Bibb advocated it.

The question being now taken on the motion for postponement, it was negatived—yeas 38, nays 72, as follows:

Yeas—David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, John Dawson, Josiah Deane, Joseph Desha, James Fisk, Peterson Goodwyn, William Helms, James Holland, David Holmes, Richard M. Johnson, Thomas Kenan, John Love, Nathaniel Macon, Thomas Newton, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Lemuel Sawyer, Benjamin Say, Samuel Shaw, John Smilie, John Taylor, John M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, and Marmaduke Williams.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, Joseph Barker, John Blake, junior, John Boyle, William A. Burwell, Martin Chittenden, John Culpeper, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Francis Gardner, James M. Garnett, Thomas Gholson, junior, Isaiah L. Green, John Harris, John Heister, William Hoge, Benjamin Howard, Reuben Humphreys, Daniel Isley, Richard Jackson, Robert Jenkins, James Kelly, John Lambert, Joseph Lewis, jun., Edward Lloyd, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery, junior, John Montgomery, Thos. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Thomas Newbold, Wilson C. Nicholas, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Russell, James Sloan, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, David R. Williams, Alexander Wilson, and Nathan Wilson.

The House then resumed the consideration of the said bill: Whereupon, a motion made by Mr. Bibb, which was depending yesterday at the time of adjournment, further to amend the bill by striking out the twelfth section thereof, being revived, the said section was again read at the Clerk's table, in the words following, to wit:

"Sec. 12. *And be it further enacted*, That so much of the act 'laying an embargo on all ships and vessels in the ports and harbors of the United States,' and of the several acts supplementary thereto, as forbids the departure of vessels owned by citizens of the United States, and the exportation of domestic and foreign merchandise to any foreign port or place, other than Great Britain or France, or their colonies, or dependencies, or places in the actual possession of either, be, and the same is hereby, repealed, after the fourth day of March: *Provided*, That all penalties and forfeitures which shall have been previously incurred by virtue of the said acts as is repealed by this act; or which have been, or may hereafter be, incurred by virtue of the said act, on account of any infraction of so much of the said acts as is not repealed by this act, shall be recovered and distributed in like manner as if the said acts had continued in full force and virtue."

Mr. Culpeper.—Mr. Speaker: As it is my misfortune very frequently to vote in the minority, and I may be equally unfortunate in my vote on the present occasion, I rise to offer to the House some of the reasons which will govern me in the course I expect to pursue on this subject. I voted against the amendment proposed by the gentleman from Pennsylvania, (Mr. Milnor,) and I expect to vote against the amendment proposed by the gentleman from Georgia, (Mr. Bibb,) with a design to vote for the amendment of the gentleman from South Carolina (Mr. Williams) and the second amendment of the gentleman from Pennsylvania (Mr. Milnor.) I intend to vote for the bill under consideration, and desire it may

be so modified as to prevent, if possible, the ruin and disgrace of my country.

I do not expect to vote for this bill for its intrinsic merit, for I am not very well pleased with the system; but I have long thought, and I yet think, if the several acts laying an embargo on all ships and vessels in the ports and harbors of the United States are never repealed until we are all pleased with what gentlemen call a substitute for the embargo, my country will be ruined under the operation of this measure, which so much resembles Fielding's clock—it never can operate as a measure of coercion upon the European Powers; he describes the clock as most exquisitely formed in all its parts, but for the want of conformity in the several parts to each other it could not be put in motion. Just so is your embargo, though its advocates represent it as a political machine calculated to preserve the honor and interests of the country, for want of conformity to the habits of the American people and to the present situation of the country it cannot be executed to advantage. And as we differ in political sentiment, and no doubt, honestly differ, I deem a spirit of conciliation absolutely necessary for the preservation of the country. I feel willing to meet gentlemen who differ from me in sentiment, whenever I discover a disposition in them to do so too. And I think it is time to join and adopt that plan which will be least offensive to any portion of the American people, or their representatives. Under these impressions I expect to vote for this bill, as preferable to your embargo system. If the amendments proposed by the gentlemen from South Carolina and Pennsylvania are adopted, I believe we shall derive some benefit from this system. And should it fail in producing the expected good, it certainly will be productive of less evil than the embargo; it will partially restore our almost ruined commerce. For, however gentlemen may differ from me on this subject of commerce, I consider it a great excitement to industry; a source from which the rich derive most of their opulence, and the poor derive many of the necessaries of life; and gentlemen all acknowledge it to be the source from which we derive the whole of our revenue. To prove these positions, I will call the attention of the House to the commercial prosperity of the nation under the operation of the Treaty of '94, called Jay's Treaty. This treaty has been represented as ruinous and disgraceful. Such were the clamors against it, that I confess I disapproved of it at first; but under its operation we were a happy and a prosperous people. By reference to the several reports of the Secretary of the Treasury, I perceive our customs arising from imposts and tonnage during the four years prior to the adoption of that treaty averaged, $4,224,728, and our customs arising from the same source, the first four years under the operation of the treaty, averaged $9,720,198, and the last four years averaged $12,340,491; and our exports increased in the same proportion—and we increased as fast in individual as national wealth. Yes, sir, under the operation of that treaty, our farmers were induced to cultivate the soil, and their industry was well rewarded; our seamen employed in navigating the ocean, and our canvass whitened every sea. United at home and respected abroad, we held the second rank among the commercial nations of the earth. But these privileges, though great, were trifling when compared with such as were to be procured by a new system, and when in 1804, Lord Harrowby, the then British Minister, proposed to renew that treaty, it was rejected. In 1806, a partial non-importation act was passed to exclude many articles of British manufacture from our ports—this was to compel the British lion to admit the American eagle to an equal participation in what gentlemen call the great highway of nations. When this plan, so promising in theory, failed in practice, an embargo was added—this was to compel not only the Government of England, but the enlightened Government of France to yield to us, in a state of dignified retirement, what they refused to grant us while pursuing our usual course of honest industry. Sir, what has been the consequence? What have we gained by this method of dignified resistance? I am certain if the citizens of the United States were to be consulted, and were to compare the political blessings we enjoyed under the treaty, with this political (what shall I call it?) curse, to which we have been exposed under the operation of the embargo system—they would not hesitate a minute, but would decide in favor of such a treaty.

But we are told, by the committee of exterior relations, we must have abject and degrading submission or war with both England and France, or a continuance and enforcement of the embargo, or present suspension of commerce. And as the first cannot require any discussion, and the pressure of the embargo is so sensibly felt that the country cannot or will not much longer submit to the privations of this system, gentlemen exclaim what is to be done? Has the nation no honor to maintain? Yes, sir, I hope she has; I hope we will still retain some of our national honor, but I trust in God, we never shall make another attempt to maintain our honor by abandoning our rights. I shall perhaps be told we have not abandoned our rights; this system is not an abandonment, but a suspension of our rights. Be it so, Mr. Speaker, for although I conscientiously consider it an abandonment of our rights, I believe the advocates of the measure consider it only as a suspension. God grant that their expectations in this may be realized; but I fear it will happen otherwise. But gentlemen exclaim, how are we to avoid degrading submission? I hope, sir, we shall abandon or modify this system, and resume the navigation of the ocean, and convince the world we do not intend to abandon our rights.

I am as anxious to maintain the honor of the nation as any gentlemen on this floor; but I subscribe to the position, that, in an agricultural and commercial Republic, honor and interest are convertible terms. I believe, sir, that our honor is our interest, and our interest is our honor. I am

confirmed in this belief by gentlemen who profess to differ from me upon this subject. Sir, our actions outweigh our words, and while gentlemen from the South and West, whose constituents are cultivators of the soil, exclaim against a repeal of the embargo as disgraceful, they say the duty demanded by the British Government must be paid by the growers of produce, and that the carriers will receive full freight; and gentlemen from the North and East, whose constituents are many of them commercial, others seafaring men, urge the repeal of the embargo, because it deprives their constituents of commercial and nautical profits. These arguments prove to me that different habits and pursuits produce diversity of sentiments; but that we all consider honor and interest convertible terms. But I for one disclaim any share in that honor, which is contrary to our interest; nor do I wish to see our national concerns governed by the laws of chivalry, and see nations like imprudent individuals, destroying each other without the prospect of gaining anything but a premature and inconsiderate death.

But gentlemen inquire, do you not prefer war to disgraceful submission? Yes, sir, I do prefer war to submission—but I ever have preferred, and yet prefer a candid, a full, and friendly explanation, to the honor of dying like Abner, as a fool dieth. For these reasons, I am for another attempt at negotiation. And as this attempt, however honest and sincere it may be on our part, may fail, I am for adopting some method to unite the American people. And although this bill, should the amendments proposed by the gentleman from South Carolina and the gentleman from Pennsylvania be adopted, is not just what I prefer, for I am decidedly in favor of repealing the whole embargo and non-importation system, and for permitting our merchants to arm in their own defence; it is the best terms I expect to get, and I am for accepting of it. And should the attempt at negotiation fail, and it prove necessary, I would then prepare in earnest for war; I would proceed to vindicate the honor of the nation and repel force by force. Then, sir, we shall have nothing to fear. The brave but peaceable citizens of the United States, when convinced of the justice and necessity of such a war, will unite as a band of brothers, not to support the embargo party nor the Federal party, but as free Americans to vindicate the honor of the nation, and maintain our rights, and transmit to posterity the rights and privileges which our fathers fought and bled to procure for us. But they are not so fond of war as to prefer that course, when they understand that these privileges could have been secured by a treaty. Believing this to be the desire and the interest of my constituents, and of the majority of the citizens of every portion of the Union, I am for pursuing this course. I am for making this bill as perfect as possible, in order to satisfy the citizens in every portion of the Union. Some gentlemen represent it as disgraceful to yield to the clamors or murmurings of the people. But I consider it the duty of the Representatives to repeal a law whenever it is known to be contrary to the wishes of the people. But gentlemen tell us this system is not displeasing to the people, that notwithstanding all that has been said upon the subject they do not believe it—they do not believe the people disapprove of the embargo. Sir, unbelief has ruined many, and I do awfully fear it will be our ruin. I am certain it will, if we persist much longer in it.

Mr. Bibb observed that, whatever should be the decision of the House, he should obtain one object; he should obtain the names of those who, in the commencement of the session, told the House that the proposition now under consideration was the most dishonorable that could be proposed, and would now vote in favor of it.

Mr. W. Alston said, notwithstanding the threat of the gentleman from Georgia, he should vote against his motion. He had a right, as well as the gentleman from Georgia, to judge of the nature of the proposition submitted to him. Every one who voted on the report of that committee, did not adopt its reasoning, and might have voted in whatever way he deemed proper, without consulting their explanation of it. He believed the nation looked forward to a modification of the embargo, and he should therefore vote for the bill.

Mr. Love opposed the motion to strike out the twelfth section. He thought it premature, at least, as there were considerable amendments contemplated to the bill. Mr. L. took an extensive range of argument to show that if the embargo system was repealed the non-intercourse would be the best substitute; that the effects of it would be felt by our enemies, perhaps in a greater degree than the embargo, especially after it was understood, in foreign nations, that the execution of the laws was opposed, even under the sanction of State authority; that the mode of treating infractions of our laws, as it respected our citizens, was a different thing, and he hoped would meet with proper attention. He thought the system to be substituted would probably bring our differences with foreign Governments to an issue of some kind, if the provisions were such as he wished. It was certainly desirable that a termination of some kind should be had to those differences. The honor and independence of the United States required it. Mr. L. replied to observations which had been made of the great power and revenues of England, by stating that the United States were better able now to meet the power of England, if war was to be resorted to, than in the year 1776, when the same causes of war existed, as at present, and when the resources of America were literally nothing. Mr. L. regretted the motion had now been made, as he feared it was calculated to make another false impression on the people of the United States; and, although he should vote against the motion, he should not consider it as committing himself on the final question.

Mr. Cook was against the motion. He considered the embargo as a measure which, in its friendship for commerce, was destroying it by

grasping it too tight. He wished its grasp to be loosened.

Mr. G. W. Campbell next took the floor. He was in favor of the motion under consideration He said he was surprised at the change which a few weeks, during which he had been absent from indisposition, had produced on the minds of the members of the House. It seemed as if some enchantment had spread itself over them, which they perceived, and yet did not wish to remove. He urged many reasons against a repeal of the embargo, and against the bill proposed. But a few weeks ago, the House decided in favor of a continuance of the present system as the only means of honorably avoiding a war; and some of the very same gentlemen were now about to adopt a measure, which the report of the Committee on Foreign Relations had declared to be submission, viz: a partial repeal of the embargo. A removal of the embargo would render our property liable to capture, and give an opportunity to British subjects to take from the country in the manner most advantageous to themselves, twenty millions of property, which would otherwise be in the power of the United States in case of war, which was at least probable. It was a measure which would relieve our adversary without benefiting our own citizens in the slightest degree. Mr. C. expressed his astonishment how gentlemen, whom he perceived supporting this bill, could reconcile it with consistency to do so, when no change of circumstances had taken place, which could authorize a change in their opinions. Mr. C. also noticed the system of arming our merchant vessels, which he pronounced to be novel and futile. He did not state how he might vote on the bill when on its final passage.

Mr. Randolph replied to some of the observations of Mr. Campbell on the subject of the arming system, and in relation to consistency.

Mr. Rhea, of Tennessee, replied to some of the remarks of Mr. Campbell, and defended himself, as one who voted on the report of the Committee of Foreign Relations, from the charge of inconsistency. He was in favor of the present bill, and in voting for it should not change his ground. He thought that this bill was what the embargo ought to have been in the beginning. In commenting on Mr. Campbell's observation in relation to the property in this country, he said, that when we went to war for a moral right, he would not say that twenty millions of private property in this country should be taken possession of by us.

The question was then taken on Mr. Bibb's motion, and negatived—yeas 39, nays 84, as follows:

Yeas—David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Josiah Deane, Joseph Desha, Meshack Franklin, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, Nathaniel Macon, Robert Marion, John Montgomery, Jeremiah Morrow, John Morrow, Thomas Newbold, John Porter, John Rea of Pennsylvania, Benjamin Say, John Smilie, Richard Stanford, John Taylor, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, and David R. Williams.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Joseph Barker, John Blake, jr., Adam Boyd, Robert Brown, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, junior, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Francis Gardner, Jas. M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, Reuben Humphreys, Daniel Ilsley, Robert Jenkins, Walter Jones, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Josiah Masters, Wiliam McCreery, William Milnor, Daniel Montgomery, jr., Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Pugh, Josiah Quincy, John Randolph, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, James Sloan, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Nathan Wilson.

Mr. Randolph moved to strike out of the twelfth section the exceptions to the general removal of the embargo.

Mr. R. supported the motion on the ground of the expediency, for general reasons, of a total repeal of the embargo. And, in addition to the general reasons in favor of a repeal, he observed that although the embargo was to be but partially repealed, in point of practice, no attention would be paid to the remaining part of it. He deprecated the fostering in the people of this country, the sentiment which existed in almost every other country than ours, that obedience was due to the laws so long as the whip of the executioner was flourished over the head, and no longer.

Mr. Bacon was in favor of the motion, because he wished, by so doing, to make way for the amendment of a gentleman from South Carolina, (Mr. D. R. Williams.) for imposing additional discriminating duties, &c. If the non-intercourse system was to be adopted, Mr. B. was also in favor of repealing the provisions of the embargo laws, and enacting others which should be more intelligible to the revenue officers, than as it would be, were it not repealed.

Mr. Quincy advocated the motion from the total impossibility of enforcing the embargo, after the fourth of March, in some parts of the country, particularly in the district of Maine.

Mr. Macon said he cared but little about this question, for the die was cast when the House decided partially to repeal the embargo. He never had an idea, however, that the law could not be enforced; for, if it had been repealed on that

ground, any large State would hereafter have it in its power to procure the repeal of any law which it conceived to militate against its interests. He declared that, notwithstanding all that had been said to the contrary, he would maintain that the embargo had never brought an evil on this country.

Mr. Nicholas said that if the embargo were to be repealed, in order to erect the non-intercourse system on its own basis, provisions nearly similar to those contemplated to be retained in force would be necessary. As to yielding to resistance to the laws, if it was to take place, let it come. It was time for the people to know whether they had a Government or not.

Mr. Alexander gave the reasons why he should vote in the affirmative on this motion, declaring that he was not influenced to do so by any opposition to the laws, in any quarter of the Union.

Mr. Smilie had been in favor of the embargo, which he had considered the only means of preserving us from war; and, as it was determined to repeal the embargo and not go to war, he was in favor of non-intercourse; and he said that the system of non-intercourse was not such a weak or novel system as had been represented. He quoted the instance in which it was adopted in the year 1775, and agreed to in 1793, though not put in practice, because the President ordered a special mission. Amongst the votes in favor of the measure at that day were enrolled some of the most respectable names to be found in American history. What were the causes which had produced a change in the minds of members of the House, in relation to the embargo system, Mr. S. said he did not know; but certain it was, that the threats of some gentlemen from the East had influenced in bringing it about. Mr. S. censured an insinuation made by Mr. Dana a few days ago, on the subject of the relative physical strength of the North and South, as improper to be used on the floor, and unfounded in fact; for the States of Pennsylvania, New Jersey, and New York, contained a population one-seventh greater than that of all the New England States together.

Mr. Randolph supported the measure on the ground that as the law now stood, compounded with the five supplementary embargo laws, it would be almost unintelligible to the revenue officers. He expatiated at some length on this point. If you will have a system of non-intercourse, said he, enact it; but let us, for God's sake, sing a requiem to the ashes of the embargo; let not our successors have to take up the doleful ditty where we left off.

Mr. Key followed on the same side of the question. He was happy to find that the doctrine which at the commencement of the session was almost heretical, was now becoming orthodox. He was not without hopes that, if he maintained his ground, he should soon be found in the right church, preaching sound and saving doctrine. Mr. K. said that the provision of the bill by which the commencement of the non-importation was fixed for the 20th of May was evidence that it could be still further postponed. If we can rock our honor asleep till the 20th of May, said he, could it not be cradled a little longer for the public good? Mr. K. appeared to be wholly opposed to the non-intercourse system.

Mr. W. Alston observed, in the course of some observations in reply to Mr. Key, that there were some gentlemen whom no system that ever was invented would suit. As to political doctrines, said Mr. A., God forbid that I should ever see the day when the doctrines of that gentleman will become orthodox.

The question on Mr. Randolph's motion was then negatived—yeas 47, nays 75, as follows:

Yeas—Evan Alexander, Ezekiel Bacon, Joseph Barker, William W. Bibb, William Blackledge, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., James Elliot, William Ely, Barent Gardenier, Francis Gardner, Jas. M. Garnett, John Harris, William Hoge, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Josiah Quincy, John Randolph, John Rowan, John Russell, James Sloan, Samuel Smith, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

Nays—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Meshack Franklin, Thos. Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, Jas. Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Nathan Wilson.

Mr. Gholson moved to strike out "the fourth of March," the day at which the partial repeal of the embargo is to take date, and insert the "first of June." Having before given his sentiments on this subject, and so much having been said on it, Mr. G. said he would now add nothing.

The House adjourned before the question could be taken.

Wednesday, February 22.

On a motion made by Mr. Holmes that an engrossed bill concerning invalid pensioners, which was read the third time yesterday, and ordered to

lie on the table, be recommitted to the consideration of a Committee of the whole House, it was resolved in the affirmative, and the bill was made the order of the day for this day.

The bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown,'" was read twice and committed to a Committee of the Whole to morrow.

The bill sent from the Senate, entitled "An act making provision for the further accommodation of the household of the President of the United States," was read twice and committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read twice and committed to a Committee of the Whole this day.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act freeing from postage all letters and packets to Thomas Jefferson;" also, a bill, entitled "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown;" to which bills, respectively, they desire the concurrence of this House;

The bill sent from the Senate, entitled "An act freeing from postage all letters and packets to Thomas Jefferson," was read three times and passed.

The bill sent from the Senate, entitled "An act for the relief of certain Alabama Indians," together with the amendment agreed to yesterday, was read the third time, and passed.

EXPENDITURE OF PUBLIC MONEYS.

Mr. Randolph, from the committee appointed to inquire whether any advances had been made by the War Department to the Commander-in-Chief, contrary to law, and to what amount, stated to the House that the committee had received from the office of the Accountant of the War Department a number of documents, which they had directed him to present to the House as their report.

The documents were read, and a motion made to print them was agreed to.

On the question how many should be printed, a desultory conversation of near three hours took place, not confined to the question before the House, but touching somewhat the subject of the legality or illegality of the advances made.

Questions were severally taken on printing 5,000, 1,200, 1,000, 900, and 600 copies, and negatived by large majorities. The usual number were ordered to be printed.

NON-INTERCOURSE.

The bill from the Senate for interdicting commercial intercourse between the United States and Great Britain and France, and for other purposes, was twice read, referred to a Committee of the Whole, and made the order of the day for this day.

The unfinished business of yesterday (the non-intercourse bill of this House) was ordered to lie on the table, 64 to 35.

And the House resolved itself into a Committee of the Whole, yeas 65, on the bill from the Senate for interdicting commercial intercourse, &c.

Mr. Masters moved to strike out of the 11th section, the words "and to cause to be issued under suitable pledges and precautions, letters of marque and reprisal against the nation thereafter continuing in force its unlawful edicts against the commerce of the United States."

Mr. Milnor supported the motion on the ground that the Constitution of the United States provided that Congress alone should have the power to declare war, and this bill, by giving the President a discretion to judge when that war should commence, transferred the power to him. Could it be supposed that if it was not proper now to go to war, it would be proper before the next meeting of Congress? Certainly not. And if not, should the President of the United States have the power of declaring war before that time? It was giving a pledge to one nation that if she would withdraw her decrees, we would take part with her in the war against the other, without giving the other a chance to withdraw hers, and thus prevent war; and he was, therefore, opposed to it, because it tended to promote war.

Mr. Livermore also contended that the part proposed to be struck out was unconstitutional. The power of Congress could not be delegated to the President or any other person. They might as well delegate to the President power to make or revoke all laws. The bill did not contemplate a legislative act for issuing letters of marque or reprisal against a particular enemy, but gave a power to the President to choose with which of the belligerents he would take sides and against which he would declare war. If the nation was in favor of war, this was not the proper way to make it. He conceived that if they passed this bill their constituents would tell them that they were traitors to the Constitution; that they had betrayed the trust reposed in them. There was a time when he should have been astonished to see such a bill as this come from the Senate; but the age of miracles was not passed. He should scarcely now be surprised at anything which could be proposed. Its passage would be a precedent which would redound to the everlasting disgrace of the Congress of the United States. He said also that it was a clause which he conceived would shake the Government of the United States to its foundation. He only considered it in a Constitutional point of view; as to its inexpediency, that was a minor consideration when put in competition with its unconstitutionality.

Mr. Lyon followed on the same side and on the same grounds as Messrs. Milnor and Livermore. He believed that the people did not wish for war. No men wished for it but those who wished offices or some other benefit from it. He wished the nation to be permitted to grow. He knew of no mode by which this nation could more effectually be plunged into war with Great

Britain and alliance with France, than by this provision of the bill. Although Mr. L. did not like the embargo, because he considered it ruinous to the people, he would rather continue it for seven years than to plunge into war.

Mr. Holland spoke in reply to the preceding gentleman. He was astonished that gentlemen should declare every proposition the worst that ever was made. A short time ago gentlemen would rather have war than the embargo. But this bill neither was a declaration of war, nor a discretion to the President to make it. It authorized the President, at the moment of one of those Powers withdrawing its orders or decrees, to issue letters of marque and reprisal. It conferred no legislative power on the Executive. The event was fixed on the happening of which being made known to the President, he should forthwith issue letters of marque and reprisal. The bill obviated the great objection which had been made to war, viz: that it must be a war against two nations. Now this bill gave choice to those nations which would make herself our enemy; and it would be equally the interest of both to withdraw its decrees or orders, and place the United States at war with the other. He had no idea of consulting the interests of those nations more than our own; and if it was ascertained that those nations were determined to continue their orders and decrees, no gentleman in the House would say that this nation should not resist them, except perhaps the gentleman from New York (Mr. Gardenier) or the gentleman from Kentucky (Mr. Lyon.)

The Committee then rose, and on the question that it have leave to sit again, it was, after debate, granted.

Thursday, February 23.

A motion was made by Mr. Rhea, of Tennessee, that the House do come to the following resolution:

Resolved, That an order of this House of the 18th instant, directing "that, until the end of the present session, the daily hour of meeting shall be ten o'clock, and should a quorum not appear, the names of the members shall be called, and those present noted in the Journal of each day," be rescinded.

The resolution was read and ordered to lie on the table.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants reported by the Land Commissioners as antedated, and for other purposes:" Whereupon.

Resolved, That this House doth agree to the first, second, and third amendments.

Resolved, That this House doth agree to the fourth and last amendments of the Senate to the said bill; and that the title be, "An act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants reported by the Land Commissioners as antedated and to confirm the claims of Abraham Ellis and Daniel Harregal."

INVALID PENSIONERS.

The House resolved itself into a Committee of the Whole on an engrossed bill concerning invalid pensioners; and, after some time spent therein, the Committee rose and reported an amendment thereto. The House then proceeded to consider the bill: Whereupon, the amendment reported thereto from the Committee of the Whole House, to strike out the fourth section, in the words following, to wit:

"Sec. 4. *And be it further enacted*, That every person who has been or shall be admitted to a pension under the provision of the aforesaid act of the tenth of April, one thousand eight hundred and six, shall be entitled to receive a sum equal to the aggregate amount of such pension, calculated from the time when the disability, in consequence of which it was granted, was incurred, to the time of his admission on the pension list"—

being twice read at the Clerk's table, the question was taken that the House do concur with the Committee of the whole House in their agreement to the said amendment, and passed in the negative—yeas 48, nays 50, as follows:

Yeas—Willis Alston, jr., David Bard, Joseph Barker, John Blake, jr., Adam Boyd, John Boyle, William Butler, John Davenport, jr., Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, John Lambert, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jr., Jeremiah Morrow, John Morrow, Thomas Newbold, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Richard Stanford, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, Abram Trigg, George M. Troup, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, David R. Williams, and Alexander Wilson.

Nays—Evan Alexander, Lemuel J. Alston, Ezekiel Bacon, William W. Bibb, William Blackledge, Thos. Blount, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, John Culpeper, Josiah Deane, James Elliot, William Ely, William Findley, James Fisk, Francis Gardner, James M. Garnett, William Hoge, Benjamin Howard, Richard Jackson, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward Lloyd, John Love, Matthew Lyon, William Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, John Randolph, Samuel Riker, Jedediah K. Smith, John Smith, Samuel Smith, William Stedman, Lewis B. Sturges, Peter Swart, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Marmaduke Williams, and Nathan Wilson.

The bill was then read the third time: Whereupon, a motion was made by Mr. Holland, that the bill be recommitted to the consideration of a Committee of the whole House: and the question being put thereupon, it was resolved in the affirmative.

NON-INTERCOURSE.

The House went into a Committee of the Whole, on the bill from the Senate for interdicting commercial intercourse, &c. Mr. Masters's motion for striking out part of the eleventh section being yet under consideration.

Mr. J. G. Jackson moved to strike out the whole of the section preceding the proviso, for the purpose of inserting the following amendment:

"If after Great Britain or France shall revoke such of their orders or decrees, laws, or edicts, as violate the lawful commerce and neutral rights of the United States, of which revocation the President of the United States shall give public notice by proclamation fixing the time, which shall be at the expiration of fifty days from the date thereof, when the operation of this act and also of the act laying an embargo, &c. shall cease and determine; and the President of the United States shall at the expiration of the time limited in the said proclamation issue letters of marque and reprisal against the nation which shall continue in force its unlawful edicts against the commerce of the United States."

The reason he assigned for it was not a hostility to the principle, but that, as the section now stood, it gave the President a discretionary power to judge of the time at which the commerce of the United States would be safe enough to warrant the withdrawing the embargo as relates to either Power, &c.

Mr. Randolph called for a division of the question on striking out, so as to take the question distinctly on striking out the two clauses of the section.

The question was taken on striking out the first clause of the section, and negatived, 52 to 47.

The question then recurring on striking out the second clause, being precisely the motion of Mr. Masters,

Mr. Dana objected to the clause for a variety of reasons, because it delegated to the President power which belonged to Congress only, by making him judge of what "pledges and precautions" were "suitable;" that it authorized the employment of private force in a case in which the public force was not to be employed, which is a novelty; it contemplated not actual war but invited individual enterprise; it was therefore a mere menace, going upon the principle that private vessels might be authorized to make reprisals where the public force was not presumed to be employed; it was therefore a measure unworthy of the Government, and unknown in the history of nations. The construction of the section too was singular, and he was astonished that such a bill should come from the Senate. It made no regulation as to what disposition should be made of the property captured by these vessels, whether declared good prize or not, &c. It was a mere vague proposition, and unworthy of the Government, as it proposed war by individuals while the nation shrunk from the contest. He objected also to the condition on which letters of marque were to be issued—that on one nation's ceasing to wrong us, we should agree to fight another. He objected to it too, because it transferred to the President a legislative power, by making the issuing letters of marque dependent on the events which in the opinion of the President should render the commerce of the United States sufficiently safe, &c.

Mr. J. G. Jackson renewed his motion to strike out the whole section, except the enacting clause. He acknowledged the justice of the arguments of the gentleman from Connecticut; but as a session of Congress would intervene, the objection to the defect in detail would fall to the ground. The amendment which he intended to offer, would remove the remainder of the gentleman's objections.

Mr. Randolph called for a division of the motion at the same point as before. He said if the Senate had erred, the error was not to be remedied by the proposition submitted to the House. It was only putting a tortoise under the elephant; for the system would be liable to precisely the same objections as the clause proposed to be amended. Mr. R. went into an examination of the amendment which Mr. Jackson read, to show that this was the case. It was in fact the same point now which the House had under consideration a few days ago—a declaration of war *in futuro*, leaving it to chance as to whom and how war was to be declared; with a mental reservation at the same time, that all this was mere pen, ink, and paper. It was complying with the object of those very belligerents whom it proposed to resist, viz: involving us in the war—setting the nation up to the highest bidder, the kindest keeper. Was this dignity? Was this the spirit of '76? He described this bill from the Senate as a new alternative, never discovered by the Committee of Foreign Relations, who had some time ago presented three of them to the House. He spoke of the proceedings of the present session. It has been said (observed Mr. R.) that this House has been acting under a panic; and allusion has been made to a particular quarter of the Union as the cause of that panic. I trust, sir, that the members of this House will think it more honorable to themselves, if they are to be influenced by fear, and I hope they are not, to yield to the wishes of a great and respectable portion of the Union, than, after having expressed a disposition to gratify that section, to be whipped in by an editorial paragraphist. It has been truly said that the Government of France was destroyed by the Parliaments putting the galleries in the place of the house, by legislating under the hisses or applauses of the galleries. This was a horrible state of things. But if any body of men is to legislate under hissings, where is the difference, whether they come from the galleries, or, from really the most worthless part of the community? Whether from an individual who arrogates to himself not merely the right, which as an individual and freeman he has of judging of the conduct of this House, but of prescribing what it should do? And when, sir, I indulge in these observations I feel a repugnance at comparing such an audience as I see around me to persons of that description. The foreign difficulties in which we are now involved, Mr. R. attributed to our own oversight; to the rejection of a treaty which might have been formed. The renewal of Mr. Jay's treaty, or the acceptance of that negotiated by Mr. Monroe, would, he conceived, have placed the United States in a situation far preferable to that in which it now found itself. But, instead of that, our Government had searched the volumes of Puffendorf, Marten, Vattel, &c., and produced whole volumes of diplomatic correspondence. He said he could almost wish that the curate and barber would come into the library and make a bonfire of all the rubbish which had led us to this windmill expedition. With regard to our domestic difficulties, Mr. R. conceived that they were all of our own creation; that they had been produced by ill-judged conduct. He compared the present and late situation of this country with that of Great Britain under the administration of Lord North. He said Congress were not now, like Macbeth, in a situation where to go on was as easy as to retreat. He expatiated on their present difficulty; and condemned the policy which had prevented the House from agreeing to the proposition of Mr. Chittenden, to repeal the embargo at the commencement of the present session. If they now intended to modify the embargo at all, he begged of gentlemen, for God's sake, for the love of country, taking warning by the past errors of their former masters, (the Ministry of Lord North,) not to retain one iota of that obnoxious principle which had put this continent in an uproar. Rather than continue it, he would join any man in war, however averse he might be to war. And he was opposed to war; but, put the embargo in one scale and war in the other, he would take war—and why? Because foreign war was better than domestic war. He said that this nation could not go to war with a formidable minority against it. The bill before the Committee might bring on war, though it was not intended. Yes, sir, said he, it may bring us to fighting and to disgrace; it is something like dressing ourselves up in a dough-face and winding-sheet to frighten others, who may blow our brains out at the moment we suppose them in the height of their terror.

Mr. J. G. Jackson observed that it was his opinion that it would be more to the honor of the nation to persevere in the embargo until they went to war; but the majority of the House appeared to be of opinion that neither course was proper. That being the case, he was willing to make the ground as tenable as he could, so as to avoid downright submission. He replied to various observations made by gentlemen who had spoken on the subject. In relation to domestic difficulties, he should be as little influenced by attacks through newspapers, as by popular meetings, enlisting the people with arms in their hands, in opposition to the Government. In relation to the treaty negotiated by Messrs. Monroe and Pinkney, he said that the rider attached to that treaty gave a license to the British Government to pursue the very course which now produced our difficulties, and Mr. Canning maintained that to have been the construction of it. Mr. J. said that he was not yet prepared for burning the law of nations, and substituting force for law. As to violations of the embargo or of the proposed system, he observed that all laws restraining the actions of men would be more or less evaded; this, therefore, could be no argument against any law proposed; the same objection would lie against a law for the punishment of murder. Mr. J. spoke for about half an hour.

The question was then taken on striking out the first clause of the section, and negatived—56 to 48.

The question recurring on Mr. Masters's motion for striking out the remainder of the section, relating to letters of marque and reprisal,

Mr. Lyon spoke in favor of striking out the clause.

Mr. D. R. Williams, viewing this section as a measure contemplating further negotiation, was wholly opposed to it. It said to Britain, "we will dismiss every other cause of quarrel with you, if you will revoke your Orders in Council." It told our poor sailors, incarcerated in their "floating hells," that we were ready to abandon them. The surrender to her of the right of impressment, and of even other rights previously in contest, was offered as the purchase-money for the revocation of the Orders in Council; and he blushed for his country, that such a proposition should be seriously entertained in this House. He would declare war to-morrow most heartily. He would vote for a section for immediately issuing letters of marque and reprisal, but he would not barter away our rights for the revocation of the Orders in Council. If we were to submit, he wished to do it in that way which should carry so much destruction into the families of those who cried out so loudly for the repeal of the embargo, that they would rally round the Government in support of the country's rights.

Mr. Epps, too, was of opinion that there was no honorable course left for this country but embargo or war; but a majority of the House having overruled his opinion, he must acquiesce in their decision. But he could not consent to adopt the measure proposed by this section, which, under whatever aspect he could view it, appeared calculated to produce no effect but disgrace and ruin to the country. It could only be used in one of two ways, either as an instrument of negotiation or as a measure of war. Mr. E. used some arguments to show that, as an instrument of negotiation, proposing to each Power to pass over all former injuries if it would withdraw its last infraction of our rights, and, besides so doing, to go to war with its enemy; whatever might be the result, it could produce nothing but ruin and disgrace. It reminded him of a physician painted blind, with a club in his hands, his patient on one side and the disease on the other; striking at random on each side, he killed the one to which chance directed the first blow. And as a measure of coercion, what was it? Not old-fashioned downright war, but war depending on a contingency. It was a golden apple held up to the belligerents to be adjudged to the swiftest in receding. Upon the humor or whim of Talleyrand or Canning, when they received the proposal, aris-

ing perhaps from an undigested dinner, was to depend our war with either France or England; and we are to present ourselves as a courtesan to the polluted embraces of England, or be fixed on the imperial car, in either case bribing France or England by going to war with the enemy of the one which should be the first to embrace our offer. Whichever should accept it, disgrace and ruin must be the result. Rome, at one time, was said to want nothing but a bidder; but Rome had its age of virtue. Mr. E. said that it seemed as if we, in our very infancy, had all the degeneracy of the latter days of old Rome. If there was not firmness enough to take a manly attitude, he hoped the House would not take this thing as a substitute for it.

Mr. Fisk was against striking out this clause. After some remarks in reply to Messrs. Randolph and Lyon, he said that he regretted exceedingly the situation in which the House was placed; that this clause should be stricken out—for it would be virtually saying that they meant to take no honorable ground, that they would submit. He believed that temporizing would ruin the nation. As to opposition of the people in the East to war on any terms, he said that, excepting a few who had been opposed to the Revolution, and who still longed for British dominion, there were not many who would not join their Government in a war against either Great Britain or France for the maintenance of our just rights.

The question was then taken on striking out that part of the bill from the Senate relating to letters of marque and reprisal, and carried—ayes 72.

Mr. D. R. Williams then proposed his amendment for substituting a discriminating duty of —— per cent. as a substitute for the non-importation from Great Britain and France.

The Committee immediately rose, without taking a question, and obtained leave to sit again.

Friday, February 24.

On a motion made by Mr. Rhea, of Tennessee, that the House do now proceed to consider a resolution proposed by him yesterday, and ordered to lie on the table, in the words following, to wit:

Resolved, That an order of this House of the eighteenth instant, directing "that, until the end of the present session, the daily hour of meeting shall be ten o'clock; and should a quorum not appear, the names of the members shall be called, and those present noted in the Journal of each day," be rescinded:

The question was taken thereupon, and passed in the negative.

NON-INTERCOURSE.

The House went again into Committee of the Whole, on the bill from the Senate for interdicting commercial intercourse, &c. Mr. D. R. Williams's amendment being under consideration, viz: to strike out that part of the law relating to non-importation, and insert a provision for discriminating duties—

Mr. D. R. Williams rose to rescue himself from an imputation of intending directly to harass the bill by this amendment, because he intended eventually to vote against it. He solemnly abjured any such an intention. Any member who would at this time make such a motion, with a view to embarrass the proceedings of the House, would deserve a halter. Perceiving that a large majority of this House was determined to repeal the embargo, and not to fight, he had been induced to offer to the House that, which, to his understanding, appeared the best plan that had been presented. Mr. W. offered many reasons against the non-intercourse bill; amongst others, that, instead of being coercive, it would operate as a premium to the navigating interest of Great Britain; that two years' continuance of it would be worth millions to Great Britain; that it also injured the agricultural interest of this country, laying additional obstructions on the sale of its produce; that it seemed as though, lest the people should believe the embargo was a wise measure, they were about to pursue the very course which would prevent the people from receiving a conviction of its protecting policy. The course which he proposed would at least prevent this evil, by practically demonstrating to the people the effect of the Orders in Council and Decrees, which were the causes of the embargo.

Mr. Sloan regretted that this deceptive measure was proposed, nominally contemplating a repeal of the embargo, but which would produce little or no benefit. He described the body politic to be laboring under a disorder, as an individual with a dreadful cancer. When he beheld the situation of this distressed country, he felt it his duty again to address the House, and call their attention to the remedy. Instead of the inveterate passion for war with the belligerents, which existed in a part of the House, he recommended another species of war—a war against the passions—in which, though no friend to war, he had no objection to engage as a volunteer. He agreed with the gentleman from South Carolina, that, if this bill passed, it would be just what the Court of Great Britain would wish. Mr. S. said he should proceed in his remarks without any fear of falling under the late substitute for common law, viz: *tar and feathers*—even though he was promised "a full suit of homespun from head to foot," by some heroes of Philadelphia, and although he was well acquainted with the power and disposition of the Executives of some States to screen offenders from punishment. Mr. S. stated various objections to the bill. If it were continued long, there would be no occasion for employing a committee to inquire what disposition should be made of the surplus money in the Treasury. He was in favor of Mr. Williams's amendment, as tending to increase revenue, to promote union, and secure the happiness of the United States.

Mr. Lyon also spoke against the non-intercourse system, and in favor of Mr. Williams's amendment, at some length. Mr. L. was opposed to the bill, as tending to destroy revenue and navigation. He never had wanted a substitute for the embargo—one evil for another. But, rather than continue the embargo, he would take such a modification of this bill as that proposed by Mr. Williams, or even the bill itself. The former plan might be operative on Great Britan, whilst the non-intercourse would be wholly inefficient.

Mr. Taylor next spoke on the subject. He considered the bill upon the table not to have the merit of resistance. It was submission to trade in the track pointed out by the Orders in Council. And yet, gentlemen said they would not submit. Could gentlemen so deceive themselves as not to see that they were in fact submitting to the British Orders in Council? It was a surrender of the navigation of the world to Great Britain; it made her the carrier of our produce. That this was the effect, could not be concealed. It was wonderful that, like the ostrich, hiding its head, and supposing its whole body out of sight, gentlemen should thrust their heads into a bunch of brambles, and suppose that they hid the effect of this system. Gentlemen said that they would not legalize a trade to Great Britain under the Orders in Council, at the same time that they authorize a trade with her through the depôts, the circuity of the voyage only tending to the benefit of Great Britain, by giving to her the carriage of our produce. Might not Sweden and Spain too want a little profit, since monopoly was the order of the day, and impose duties at the entrepôts? It was a great objection to this system, too, that it could not be maintained; and he called upon the House not to take a position like this, which their successors might be obliged to abandon with disgrace. France and England could see, as well as ourselves, that the system could not be maintained; and if they should accumulate injuries on our heads, the sinews of war being relaxed, we should not be in a situation effectually to resist. It was also throwing all advantages into the hands of Britain, whilst France was deprived of any portion—being submission to the one and opposition to the other. The exclusion from French ports, too, would be severely felt by the planters of cotton; for, besides the loss of a market for such a proportion of the crop, the glutting of the British market with so large a surplus would depreciate its value enormously. He called upon gentlemen not at this time to give a monopoly to Britain at our own expense. Desirous to do equal justice to both nations, as we would not fight them, and to do equal justice also to ourselves, and not to follow the very meanderings of the Orders in Council, he was opposed to the bill. He also objected to the phraseology of the bill: "Great Britain and France and their *dependencies*." Who was to judge what nations were *dependencies?*—whether the term included Holland, Spain, and Portugal? In relation to Mr. Williams's amendment, he considered it to be one which the United States could stand by—which would increase our revenue, and have some effect also on the interests of the belligerents. It would be better than any other system proposed as a measure of resistance—would benefit our merchants, and enrich the Treasury.

Mr. Gardner was apprehensive that the remainder of the session would be consumed in debating this bill, and that Congress would separate without removing the embargo at all. The consequence of such a procedure he deprecated. He had been in hopes, that when the embargo was repealed, if a substitute was considered necessary, it might be a measure which would benefit the country, and not be equally obnoxious with the embargo. He deprecated the effects produced by these laws on the people, and the consequence which must result from a further continuance of them. He described the New England States. He concluded his observations by reading an extract from the Inaugural Speech of the present President of the United States, the sentiments contained in which he fully approved.

Mr. Gholson said that the bill on the table was not a favorite plan with him; but, as he should probably vote for it, he wished to rescue it from some of the imputations cast on it. Both the gentlemen from South Carolina (Mr. Taylor and Mr. D. R. Williams) had advocated the resolution reported by the Committee of Foreign Relations, proposing this very plan. As to the argument that this bill operated to carry into effect the Orders in Council, the same objection might in the same manner be made to the embargo system, of which both those gentlemen were strenuous supporters. This argument, therefore, had no weight. He denied that we submitted to British taxation by this bill. For, supposing our produce to go to the entrepôt, the British capitalist there, purchasing it, would have to pay in Great Britain the tax on our produce destined for the Continent, instead of our paying it. In this way, therefore, we did not as directly come under the operation of the Orders in Council, as by trading direct to Great Britain. Was there any American who would be willing to resume our usual intercourse with the belligerents, while all the black catalogue of our injuries were unatoned? Surely not; and yet, this appeared to be contemplated by the amendment of the gentleman from South Carolina. The discriminating duty would affect not the belligerents, but our own citizens; it would fall wholly upon the consumers of our imports. Sooner than trade thus, he would make a bonfire of all our produce, as the gentleman himself had before proposed in an eloquent speech. It would also be a direct submission to trade under the Orders in Council: it could not be denied. Commerce must at some time be resumed. If we were to have war, we must have some commerce. Let gentlemen point out a system by which commerce could more honorably be pursued, in the present convulsive state of the world, than it could under the proposed law; for, as it had been observed, in the course of the debate, it was easier to find fault with a system than to invent one.

Mr. D. R. Williams rose to rescue himself from any imputation of inconsistency. He had been extremely happy when the gentleman rose to hear him avow his intention of rescuing the bill from some of the imputations cast on it, for really it was somewhat necessary, as no reasons had yet been offered in favor of the bill. But he

denied that the gentleman had succeeded in his efforts. The resolution for non-intercourse, which had been adopted at the commencement of the session, had been intended to go in aid of the embargo; it did not contemplate a repeal of the embargo as this bill did, and there was, therefore, no inconsistency in voting for that resolution and against this bill. As to the additional duty being a burden, if the law passed as it now stood and was executed, it deprived the people of the article altogether; if not executed, the premium to the smuggler would amount, in some cases, to 500 per cent. instead of 50 or 25 per cent. And unquestionably it could not be executed; for, notwithstanding the existence of actual war between Great Britain and France, and all the revenue officers and military force of both, the British market had always been supplied with French claret and Spanish wool. The gentleman from Virginia had endeavored to saddle him and his friend (Mr. Taylor) with inconsistency because he could not defend the bill—for it could not be defended.

Mr. Bacon, however he might be prepared to urge arguments against the bill, said he could not in charity push the argument any further upon gentlemen; for no gentleman had attempted to defend it except the gentleman from Virginia, (Mr. Gholson,) who, with the characteristic gallantry of a young and active soldier, had done the best he could for it. Mr. B., however, only rose, as he had been alluded to as having an amendment in his possession, to read it to the House. Mr. B. read the following section as an amendment, which, in connexion with other sections containing details, he intended to propose if Mr. Williams's amendment should be carried:

"*And be it further enacted*, That the commander and crew of any merchant vessel of the United States, owned and navigated wholly by a citizen or citizens thereof, may oppose and defend against any unlawful restraint or seizure not authorized by the customary and acknowledged law of nations, which shall be attempted upon such vessel, or upon any other vessel armed and navigated as aforesaid, by the commander or crew of any foreign armed vessel, and may repel by force any assault or hostility which shall be made or committed on the part of such foreign armed vessel pursuing such attempt, and may subdue and capture the same; and may also retake any vessel owned and navigated as aforesaid, which may have been captured contrary to the customary and acknowledged laws of nations, by any foreign armed vessel."

Mr. B. observed, however, even if the bill should not be amended, he should vote for it, chiefly because the term of its duration was limited, and it might produce a little good.

Mr. J. G. Jackson conceived that the expedient proposed was even worse than the non-intercourse bill. He rose, however, to expose the evil tendency of the amendment suggested by Mr. Bacon, which contemplated giving to merchants the power to choose what attacks or seizures they chose to consider unlawful, and thus involve the United States with whom they chose. He warned gentlemen against adopting it. If war was to be made, let it be declared according to the Constitution.

Mr. Williams's motion was then negatived, 51 to 50.

Mr. Cook renewed the motion to strike out the same part of the bill, for the purpose of inserting an amendment for arming our merchant vessels as a substitute for it. In support of his motion, Mr. C. urged a number of arguments. He was opposed to the non-intercourse system. There was no fear of the arming system driving the nation into war; for, whatever acts should be committed by our armed vessels, would be the acts of individuals and not of the nation. He had heard from parts of the Union, from people not to be interested in or injured by such a course, cries for war, war, war! At whose expense? Not at theirs, but of those on the margin of the ocean, who all wished for peace. Mr. C. again deprecated the continuance of the embargo, and expressed his concurrence in opinion with Mr. Randolph, that our Administration was pursuing a course somewhat similar to that of Lord North under the British Government. The course which he proposed would promote union, and again unite a divided people. The following is the amendment which Mr. C. proposed to insert:

"*And be it further enacted*, That, from and after the twentieth day of May next, the merchant vessels owned wholly by a citizen or citizens of the United States, and navigated wholly by citizens of the United States, and not in any part laden with goods contraband of war, and not bound to any port or place actually blockaded and invested, and pursuing a commerce permitted by the laws of the United States, may be armed and equipped, and may defend their neutral rights, by resisting the late decrees of France and orders of Great Britain, which violate the long established rights of neutrality; and may repel by force any assault or hostility which shall be made or committed on the part of any French or British vessel of war, in pursuance of such decrees or orders; and to subdue and capture the same; and to retake any vessel of the United States, owned, navigated, ladened, and bound as aforesaid, which may have been captured pursuant to such decrees or orders by any vessel sailing under French or British colors, and acting or pretending to act by or under authority of such decrees or orders from the French or British Governments."

Mr. Holland thought it would be better at once to withdraw all our measures, to undo everything that had been done, than to adopt the gentleman's amendment. Of all others the system of arming our merchant vessels was the most futile that could be conceived. The merchants would again come forward and call upon the Government to take up the cause. And was the Government again to be duped by them? No; for if the Government had done wrong, in his opinion it was by going too far for the support of commerce; and their efforts were rewarded by the exclamations of the same people, who, by their cries, had induced the Government so to do. Sooner than again attempt to protect them, if they deserted their own cause, he would leave commerce and the rights of the seas to the mercy

of the winds and waves. He would repeal all our discriminating duties and drawbacks, that the merchants should be hereafter precisely on the same footing as foreign merchants.

The question was then taken on Mr. Cook's motion and negatived, 50 to 45.

Mr. Marion moved to amend the bill by striking out the fourth day of March, and inserting the fifteenth day of March, as the day on which the partial repeal of the embargo should take date, and thus to place all the ports in the Union on an equality—negatived by 56 to 45.

The bill was then read through.

Mr. D. R. Williams inquired whether the bill extending credit on revenue bonds, the continuance of which depends on the continuance of the embargo, would be continued after the passage of this law.

Mr. Nicholas said he could only state his individual opinion that it would be still in force.

Mr. D. R. Williams asked whether it had been considered expedient by the Committee on Foreign Relations that that bill should continue in force hereafter?

Mr. Nicholas replied that the committee had not had the subject under consideration.

The Committee then rose and reported the bill as amended.

Mr. W. Alston hoped that the House would not now consider the report, but take up the appropriation bill for the navy.

The House agreed, however, now to consider the report—yeas 60.

The amendment made in the Committee, by striking out all that part of the bill relating to letters of marque and reprisal, being read, was concurred in—yeas 74, nays 33, as follows:

Yeas—Evan Alexander, Willis Alston, jr., Ezekiel Bacon, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, William Butler, Epaphroditus Champion, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Meshack Franklin, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, John Harris, William Helms, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Walter Jones, James Kelly, Thomas Kenan, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William Milnor, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, John Pugh, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, James Sloan, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, and Nathan Wilson.

Nays—David Bard, Burwell Bassett, John Boyle, Robert Brown, Joseph Calhoun, Matthew Clay, Richard Cutts, Josiah Deane, Joseph Desha, James Fisk, Isaiah L. Green, James Holland, David Holmes, Richard M. Johnson, John Love, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, John Smilie, John Smith, John Taylor, Alexander Wilson, and Richard Winn.

Mr. Gholson moved to strike out the fourth day of March and insert the twentieth of May, as the time at which the partial repeal of the embargo should take date. He said he had taken this day in preference to the first day of June, which he had before moved, because it would give an indubitable pledge to the people that the repeal should take place, by fixing on a period anterior to the convocation of the next Congress for the commencement of the operation of the law. If the non-intercourse system was to be a substitute for the embargo, why should there be an interval from the fourth of March till the twentieth of May? It was a recession for such a time from our ground, without any interposing measure. He called upon gentlemen to show to him that it was not receding, that it was not submission.

Mr. Lyon said, that the nation was tired enough of the embargo, and he hoped that they would not continue it any longer.

Mr. Boyd rose to observe to those within his hearing, that he was not willing to submit to the dictates of Great Britain or France, nor of any gentleman on the floor, and that he despised denunciations, come whence they would.

Mr. Macon moved to strike out all that part of the bill relating to the repeal of the embargo, which motion superseded that of Mr. Gholson.

The question was then taken on Mr. Macon's motion and decided in the affirmative—yeas 33, nays 82, as follows:

Yeas—David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Joseph Calhoun, Matthew Clay, Josiah Deane, Joseph Desha, Meshack Franklin, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, Nathaniel Macon, Robert Marion, John Montgomery, Thomas Newbold, John Porter, John Rea of Pennsylvania, Jacob Richards, Benjamin Say, John Smilie, Richard Stanford, John Taylor, George M. Troup, Daniel C. Verplanck, Robert Whitehill, David R. Williams, and Richard Winn.

Nays—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, Joseph Barker, John Blake, jun., Adam Boyd, Robert Brown, William Butler, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, Walter Jones, James Kelly, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Nicholas R. Moore, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas

Newton, Wilson C. Nicholas, Josiah Quincy, John Randolph, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Ebenezer Seaver, James Sloan, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, Marmaduke Williams, and Nathan Wilson.

The question recurring on Mr. Gholson's motion, a division of the question was called for, so as to take the question first on striking out the words, "fourth of March."

Messrs. Mason, J. G. Jackson, and Troup, advocated a protraction of the date. It would be the greatest injustice to the ports at a distance from the seat of Government, not to give notice of the passage of the law, and was in the face of the provision of the Constitution, which required equal privileges to every port. Messrs. Masters, Randolph, and Quincy, contended for an early or immediate repeal, on the ground that the embargo was originally laid without notice: that if our produce was exported, it ought to be exported immediately; and that the people of Canada, or the smugglers of Amelia island or elsewhere, should not have an opportunity to take advantage of the honest part of our citizens.

The question on striking out was negatived, yeas 47, nays 66, as follows:

Yeas—Evan Alexander, Willis Alston, jun., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William Butler, Joseph Calhoun, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Love, Nathaniel Macon, Robert Marion, John Montgomery, Thomas Moore, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Pennsylvania, John Rhea of Tennessee, Benjamin Say, John Smilie, Samuel Smith, Richard Stanford, John Taylor, George M. Troup, Robert Whitehill, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson.

Nays—Ezekiel Bacon, Joseph Barker, John Blake, jun., Adam Boyd, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, William Findley, James Fisk, Barent Gardenier, Francis Gardner, James M. Garnett, Isaiah L. Green, John Harris, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, John Pugh, Josiah Quincy, John Randolph, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russel, Lemuel Sawyer, James Sloan, Jedediah K. Smith, John Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Nathan Wilson.

Mr. J. G. Jackson moved to strike out that part of the bill, giving the President power to raise the embargo whenever the decrees of the belligerents are so modified as to render the commerce of the United States sufficiently safe; to make way for the amendment, which he yesterday offered, authorizing the President to issue letters of marque and reprisal against the Power retaining in force orders and decrees whenever the other shall revoke its edicts. He observed that there could be no doubt that gentlemen would agree to strike out this clause, whether they agree to insert the substitute or not; for almost every member who had voted for striking out the clause relating to letters of marque and reprisal, had assigned as one great reason that it gave the President a Legislative power, by making him judge of the events which might call into action that provision of the law. The same objection certainly attached to that part of the section which he now proposed to strike out.

The following is Mr. J.'s amendment: To strike out, after the words, "And be it further enacted," in the first line of the eleventh section, as amended by the House, the following words:

"That the President of the United States be and he hereby is authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation: after which the trade of the United States suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing:"

And to insert, in lieu thereof, the words following, to wit:

"That in case either Great Britain or France shall revoke her edicts alleged to have been made in retaliation of the edicts of the other Powers, and violating the lawful commerce and neutral rights of the United States, the operation of this act, and also of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall cease in relation to the nation so revoking, at the expiration of twenty days, to be computed from the date of the notice of such revocation to be given by Proclamation of the President of the United States; and letters of marque and reprisal shall, at the same time, be issued against the nation which shall continue in force its unlawful edicts, violating the lawful commerce and neutral rights of the United States."

The House adjourned, 60 to 35, without taking a question.

Saturday, February 25.

On motion of Mr. Willis Alston it was agreed that the bill sent from the Senate, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," together with the amendments agreed and proposed thereto, do lie on the table.

NAVY AND ARMY APPROPRIATIONS.

The House resolved itself into a Committee of the Whole on the bill for amending the acts establishing the War and Naval Departments, and making an appropriation for the support of the Military and Naval Establishments for the year 1809.

Amongst other appropriations proposed by the bill is one for fortifications, in addition to the sum already appropriated at this session. Mr. Alston proposed to appropriate one million of dollars. It was observed by Mr. Blount that all the money had been already appropriated which was required by the Department of War. The appropriation was supported by Messrs. W. Alston, Van Cortlandt, Cook, Masters, Troup, Nicholas, and Smilie, and opposed by Messrs. Blount, Stanford, Boyd, and D. R. Williams.

The arguments in favor of this appropriation were the importance of permanent defence; the defenceless state of many ports, particularly of New York, which was the pride and boast of the State; the probability of war, which appeared now only to be delayed on our part from the defenceless state of the seaports; that if war was now to take place, the people of the cities must fly to the mountains; that it might be sufficient to complete them all, and would be the last appropriation asked for.

The arguments against it were: that as much had been appropriated as could be expended with ordinary exertions; that the House appeared to be taking a course of recession, instead of resistance, and there was, therefore, no extraordinary appropriation for fortifications against attack necessary; that there were about 700,000 dollars liable to expenditure for this object previous to the next session of Congress; that even were twenty millions appropriated, there was no evidence that New York could be sufficiently fortified, or that gentlemen would be satisfied; that war was not delayed by the defenceless state of the seaports, but by the indisposition of mercantile men to go to war against foreign taxation on the produce of the soil—if it had been on ships or the shipping interest they would have been clamorous for war.

The Committee agreed to insert one million of dollars, by a majority of eleven votes. The bill being gone through, the Committee rose and reported it.

The question on the appropriation of one million of dollars for fortifications was taken, and decided in the affirmative—yeas 61, nays 45, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, William Blackledge, John Blake, jr., John Boyle, Epaphroditus Champion, Martin Chittenden, Orchard Cook, Richard Cutts, John Davenport jr., John Dawson, James Elliot, William Ely, William Findley, Francis Gardner, John Harris, William Helms, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, James Kelly, Joseph Lewis, jun., Edward St. Loe Livermore, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, Samuel Riker, John Rowan, John Russell, James Sloan, John Smilie, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, and Nathan Wilson.

Nays—David Bard, Joseph Barker, William W. Bibb, Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Culpeper, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Hoge, James Holland, Thomas Kenan, John Lambert, Edward Lloyd, Nathaniel Macon, Robert Marion, Jeremiah Morrow, John Morrow, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Jedediah K. Smith, John Smith, Richard Stanford, John Taylor, Robert Whitehill, David R. Williams, Marmaduke Williams, and Alexander Wilson.

The appropriation of $445,000 for repairing the frigates was objected to by Mr. Macon, but concurred in—ayes 63.

Mr. Blount moved to amend the section appropriating for fortifications, by striking out the words "in addition to," and inserting "including," so as to *include* in the appropriation the sum of $450,000 already appropriated, instead of adding one million to that sum. He afterwards withdrew this motion, and moved an amendment, so as to authorize the contemplated line of blocks and chains across the harbor of New York. He did this to ascertain the sense of the House on this point, for he should have the same objection to this appropriation if that were the object of it. A sufficient number of members not rising to give the yeas and nays on this question, Mr. Blount withdrew the motion and renewed his former motion; which was negatived—yeas 49, nays 62, as follows:

Yeas—David Bard, Jos. Barker, Burwell Bassett, William W. Bibb, William Blackledge, Thos. Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Culpeper, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Hoge, James Holland, Thomas Kenan, John Lambert, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Jeremiah Morrow, John Morrow, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, John Taylor, Robert Whitehill, David R. Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, John Blake, jr., John Boyle, Epaphroditus Champion, Martin Chittenden, Orchard Cook, Richard Cutts, John Davenport, jr., John Dawson, James Elliot, William Ely, William Findley, Francis Gardner, John Harris, Wm. Helms,

David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Joseph Lewis, jr., Edward St. Loe Livermore, Josiah Masters, William McCreery, Wm. Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, Samuel Riker, John Rowan, John Russell, James Sloan, John Smilie, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, Marmaduke Williams, and Nathan Wilson.

No other amendment being offered, the bill, and the amendments agreed to, were ordered to be engrossed, and read the third time on Monday next.

NON-INTERCOURSE.

The House resumed the consideration of the unfinished business of yesterday.

Mr. J. G. Jackson withdrew his motion of yesterday with a view to offer another in place of it, which looked more like a manly stand. He said that the amendment proposed was no offer made to either Power to take sides with the other. There was nothing like threat in the proposition, any more than in the resolutions submitted to the House some time since. It would be a warning to the merchants under what peril they would go out, which they would not otherwise conceive, reposing in false security on this bill. He would not go precipitately into war, for he had the best reason to believe that Great Britain would be disposed to listen to the dictates of justice towards us, but if she did not, he was for immediate war. The amendment now proposed by Mr. Jackson is as follows:

"Sec. 19. *And be it further enacted*, That after demand made and refused on the part of His Britannic Majesty to *withdraw his decrees and orders infringing the local commerce of* the United States, the President of the United States shall be authorized and required to employ such a portion of the volunteer militia of the United States, not exceeding —— thousand, and of the regular troops, as may be necessary to take possession of the territories of His Britannic Majesty, bordering on the United States, and to hold the same, and to instruct the commanders of the public armed vessels which are or shall be employed in the service of the United States to subdue, seize, and take any armed or unarmed British vessel on the high seas or elsewhere; and such captured vessel, with her apparel, guns and appurtenances, and the goods or effects which shall be found on board the same, being British property, shall be brought within some port of the United States, and shall be duly proceeded against and condemned, as forfeited, and shall accrue and be distributed as by law is or shall be provided respecting the captures which shall be made by the public armed vessels of the United States.

"Sec. 20. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized and required, after demand and refusal as aforesaid, to grant to the owners of private armed vessels of the United States who shall make application therefor, special commissions, in the form which he shall direct, and under the seal of the United States; and such private armed vessels, when duly commissioned as aforesaid, shall have the same license and authority for the subduing, seizing, and capturing any armed or unarmed British vessel, and for the recapture of the vessels, goods, and effects of the United States, as the public armed vessels of the United States may by law have; and shall be, in like manner, subject to such instructions as shall be ordered by the President of the United States for the regulation of their conduct. And the commissions which shall be granted, shall be revocable at the pleasure of the President of the United States.

"Sec. 21. *And be it further enacted*, That after demand made, and refusal on the part of the Emperor of France to withdraw his decrees and orders infringing the lawful commerce of the United States, the President of the United States shall be authorized and required to instruct the commanders of the public armed vessels, which are or shall be employed in the service of the United States, to subdue, seize, and take any armed or unarmed French vessel on the high seas, or elsewhere, and such captured vessel, with her apparel, guns, and appurtenances, and the goods or effects which shall be found on board the same, being French property, shall be brought within some port of the United States, and shall be duly proceeded against and condemned as directed, and shall accrue and be distributed as by law is or shall be provided respecting the capture which shall be made by the public armed vessels of the United States.

Sec. 22. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized and required, after demand made and refusal aforesaid, to grant to the owners of private armed ships and vessels of the United States who shall make application therefor, special commissions in the form which he shall direct, and under the seal of the United States; and such private armed vessel, when duly commissioned as aforesaid, shall have the same license and authority for the subduing, seizing, and capturing any armed or unarmed French vessel, and for the recapture of the vessels, goods, and effects of the people of the United States, as the public armed vessels of the United States may by law have, and shall be in like manner subject to such instructions as shall be ordered by the President of the United States for the regulation of their conduct; and the commissions which shall be granted as aforesaid shall be revocable at the pleasure of the President of the United States."

Mr. Eppes said that this was a proposition which he hoped might unite all parties in the House. It authorized the President to demand the recall of the injurious acts of the belligerents, and on a refusal it declared that we would use all the force which we possess against the decrees and orders, which, under whatever aspect they could be viewed, were calculated to produce total ruin to all the great interests of the country. The bill under consideration, he feared, would afford no relief to the Southern country—their produce would still be lying on their hands. And indeed, take three dollars a hundred from the price of tobacco, (as the Orders in Council do,) and the cultivation of it is out of the question. If we allowed Great Britain to say that we shall

not trade without coming and paying her a tax, where would be the limit to her extortion? If we were such dastardly wretches as to permit her to tax at will the great staples of the country, could it be supposed that she would ever allow us hereafter even to be the carriers of our own produce? Whatever present relief the bill might afford to the shipping interest, ruin would ultimately fall on every man who had anything at stake in the country. If we took no means to resist taxation he should be compelled to believe that what had been said was correct: that "*the majority cannot be kicked into a war.*" And if some such measure as that proposed was not adopted, the assertion would stand as a damnable record to future ages. If we should hereafter be refractory, a foreign nation ought therefore not to send troops but men armed with whips to scourge us into obedience. He concluded by saying that he hoped the House would agree to postpone the consideration of the subject until Monday, that the amendments might be printed.

Mr. Bassett also expressed his approbation of the proposition. There must be one of two intentions in the House, either to glide smoothly down the current of submission or take a higher ground, which must be war. Could it be believed that, if Great Britain maintained her system of excluding our commerce from the ocean, or subjecting it to heavy taxation, war was not inevitable? No man could conceal this fact from himself or from the nation.

Mr. D. R. Williams wished to offer an amendment to the amendment, for the purpose of ascertaining the sense of the House on the subject of fighting. For this purpose he moved so to amend the bill as to authorize the President forthwith to use the public force, &c.

Mr. Masters opposed the postponement; he hoped the business would be finally concluded to-night.

The question being taken by yeas and nays on Mr. Eppes's motion for the postponement of the further consideration of the subject till Monday, there were for it 60, against it 60, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, John Love, Nathaniel Macon, Robert Marion, John Montgomery, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, John Smith, Richard Stanford, John Taylor, George M. Troup, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Ezekiel Bacon, Joseph Barker, John Blake, junior, Adam Boyd, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, Edwin Gray, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Josiah Masters, William Milnor, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Jedediah K. Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, and Nathan Wilson.

The House being equally divided, the Speaker decided in the negative.

Mr. J. G. Jackson wished to postpone the consideration of this amendment, so as not to delay the progress of the bill. The Speaker declared that a part of a subject before the House could not be postponed.

Mr. D. R. Williams rejoiced in the opportunity of registering his vote for war. He observed that the embargo must be considered as perfectly failing except as the precursor of war. We had a much greater hold now on the belligerents than we should ever have again. We had changed the balance of the ledger completely during the embargo. They had before an immense property of ours in their hands; we now had of theirs. Permit the embargo to be removed, and they would again have the same hold on us, and we should not go to war next session. Rather than give them notice that we meant to make war upon them at a certain time, he would seize all their citizens and set them to work on our fortifications—act the Algerine to them. Their Governments played the Algerine on us, and would not we do the same to them? He would seize everything but the funds. If the House could abandon our rights in this manner, when every square foot of our ground was laid under contribution, they deserved to be scoffed at by the world.

Mr. Gardenier declared the amendment offered by Mr. J. G. Jackson, to be unconstitutional; because the power of declaring war belonged to Congress, and was a power which they could not delegate.

The question being about to be put on Mr. Williams's amendment, a division of the question was called for, so as to take it first on striking out.

Mr. Randolph observed, that he should vote for striking out, to destroy the hypothetical character of the proposition. If we were to have war at all, it ought to be direct.

Mr. Eppes observed that the proposition of Mr. Jackson was not contingent, but complete. It authorized the President to say to each nation, "withdraw your orders or decrees." If not, it was war, and immediate war. Means for it were

at hand; and nothing was wanting but spirit on the part of the House to use them.

Mr. Lyon was in favor of striking out. If we were to have war, he wanted to have the first blow.

The question on striking out a part of Mr. Jackson's motion, to make way for Mr. Williams's amendment was negatived—yeas 36, nays 67, as follows:

Yeas—Evan Alexander, Ezekiel Bacon, William W. Bibb, John Blake, jun., John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, John Culpeper, Josiah Deane, Daniel M. Durell, James Elliot, William Ely, Francis Gardner, John Harris, William Helms, William Hoge, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, William McCreery, William Milnor, John Montgomery, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, Samuel Shaw, Jedediah K. Smith, Richard Stanford, William Stedman, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Abram Trigg, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, David R. Williams, and Nathan Wilson.

Nays—Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Richard Cutts, Samuel W. Dana, John Davenport, jun., John Dawson, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Barent Gardenier, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, Thomas Kenan, John Love, Robert Marion, Josiah Masters, Nicholas R. Moore, Thomas Moore, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Clement Storer, Lewis B. Sturges, John Taylor, John Thompson, George M. Troup, Jabez Upham, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Mr. Jackson renewed his motion for postponement—for it, 61; against it, 61. Another count being called—for it, 64; against it, 62. Another count being called for, tellers were named by the Speaker, who reported that there were—for it, 63; against it, 63.

Mr. Burwell moved that the bill lie on the table—for it 64, against it 63.

The Speaker observed, that the subject had been so long under debate, and so many questions had been taken on it, that he felt compelled, by duty, to vote in the negative. So the motion was lost—yeas 64, nays 64, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, junior, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Love, Nathaniel Macon, Robert Marion, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Benj'n Say, Ebenezer Seaver, Samuel Shaw, John Smilie, John Smith, Samuel Smith, Richard Stanford, John Taylor, George M. Troup, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Ezekiel Bacon, Joseph Barker, John Blake, jun., Adam Boyd, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jun., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, Francis Gardner, James M. Garnett, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, Wm. McCreery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Jedediah K. Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Mr. G. W. Campbell moved an adjournment; which was decided in the negative—yeas 57, nays 70, as follows:

Yeas—Lemuel J. Alston, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thos. Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Love, Nathaniel Macon, Robert Marion, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, John Smilie, John Smith, John Taylor, George M. Troup, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Evan Alexander, Willis Alston, junior, Ezekiel Bacon, Joseph Barker, John Blake, jun., Adam Boyd, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, junior, Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, James M. Garnett, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Samuel Shaw, James Sloan, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, and Nathan Wilson.

Mr. D. R. Williams moved to strike out the words in italic. in Mr. Jackson's motion, and insert "*to adjust the disputes with the.*" For the motion—yeas 25, nays 95, as follows:

Yeas—Evan Alexander, Willis Alston, jun., William W. Bibb, William Blackledge, Joseph Calhoun, Matthew Clay, Richard Cutts, Josiah Deane, Jas. Fisk, Thomas Kenan, Nathaniel Macon, John Montgomery, Thomas Moore, Thomas Newbold, John Porter, Ebenezer Seaver, Samuel Shaw, Jedediah K. Smith, Richard Stanford, Abram Trigg, George M. Troup, Daniel C. Verplanck, David R. Williams, Marmaduke Williams, and Richard Winn.

Nays—Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, junior, Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, junior, John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, James Kelly, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, John Love, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, Benjamin Say, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Isaac Wilbour, and Nathan Wilson.

Mr. J. Montgomery moved to adjourn; which was negatived—yeas 50, nays 70, as follows:

Yeas—Evan Alexander, Willis Alston, jun., Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Love, Nathaniel Macon, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Benjamin Say, Ebenezer Seaver, John Smith, John Taylor, George M. Troup, Robert Whitehill, David R. Williams, and Marmaduke Williams.

Nays—Ezekiel Bacon, Joseph Barker, John Blake, junior, Adam Boyd, John Campbell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, junior, Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, William McCreery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Rowan, John Russell, Lemuel Sawyer, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, and Nathan Wilson.

So much of the said amendment proposed by Mr. John G. Jackson, as is contained in the first section thereof, being modified by the mover, by inserting, after the words, "President of the United States shall be authorized," the words, "and required:" And, on the question that the House do agree to the said proposed section, as so modified, it passed in the negative—yeas 48, nays 74, as follows:

Yeas—Willis Alston, junior, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, Thomas Gholson, junior, Peterson Goodwyn, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, John Love, John Montgomery, Jeremiah Morrow, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, John Taylor, George M. Troup, Robert Whitehill, Marmaduke Williams, and Richard Winn.

Nays—Evan Alexander, Ezekiel Bacon, Joseph Barker, John Blake, junior, Adam Boyd, John Camp-

bell, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, Wm. Findley, Barent Gardenier, Francis Gardner, James M. Garnett, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, Nicholas R. Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Rowan, John Russell, James Sloan, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Isaac Wilbour, David R. Williams, Alexander Wilson, and Nathan Wilson.

The question was then stated from the Chair, that the House do agree to the second section contained in the amendment of Mr. John G. Jackson, to be inserted as the twentieth section of the bill: Whereupon, Mr. Jackson withdrew from the table so much of the said amendment as is contained in the second, third, and fourth sections thereof, proposed to be the twentieth, twenty-first, and twenty-second, of the bill.

A motion was made by Mr. Blount farther to amend the bill, by inserting a new section next after the eighteenth section, as the nineteenth section of the bill, in the words following, to wit:

"*And be it further enacted*, That, if any vessel rightfully bearing the flag of the United States, regularly cleared out, according to law, and owned by a citizen or citizens of the United States, shall, upon the high seas, engaged in a lawful commerce, be captured under authority of Great Britain or France, in a manner not warranted by the acknowledged laws of nations, such capture shall be considered an unequivocal act of war, against the United States, and the President of the United States, upon the receipt of satisfactory proof of that fact, shall cause letters of marque and reprisal to be forthwith issued against the nation or nations by virtue of whose orders, edicts, or decrees, such capture shall have been committed, subject to the restrictions and conditions which were contained in the act passed upon the ninth day of July, one thousand seven hundred and ninety-eight, entitled 'An act further to protect the commerce of the United States."

And on the question that the House do agree to the said proposed amendment, it passed in the negative—yeas 49, nays 73, as follows:

Yeas—Evan Alexander, David Bard, Burwell Bassett, John Blake, junior, Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Josiah Deane, Joseph Desha, John W. Eppes, Meshack Franklin, Thomas Gholson, jr., Isaiah L. Green, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thos. Kenan, William Kirkpatrick, John Love, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, John Taylor, George M. Troup, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, jr., Ezekiel Bacon, William W. Bibb, William Blackledge, Adam Boyd, William A. Burwell, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., John Dawson, Daniel M. Durell, James Elliot, William Ely, William Findley, Barent Gardenier, Francis Gardner, James M. Garnett, Peterson Goodwyn, Edwin Gray, John Harris, John Heister, William Helms, William Hoge, James Holland, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, Thomas Moore, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, John Randolph, Samuel Riker, John Rowan, John Russell, James Sloan, Samuel Smith, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, and Nathan Wilson.

A motion was then made by Mr. Macon, farther to amend the bill, by striking out in the eleventh section, after the words "United States," the following words:

"Be, and he hereby is, authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed, with the nation so doing; and to cause to be issued, under suitable pledges and precautions, letters of marque and reprisal against the nation thereafter continuing in force its unlawful edicts against the commerce of the United States: *Provided*, That all penalties and forfeitures which shall have been previously incurred by virtue of this, or any other act, the operation of which shall so cease and determine, shall be recovered and distributed in like manner, as if the same had continued in full force and virtue; and vessels bound thereafter to any foreign port or place with which commercial intercourse shall by virtue of this section be again permitted, shall give bond to the United States, with approved security, in double the value of the vessel and cargo, that they shall not proceed to any foreign port, nor trade with any country other than those with which commercial intercourse shall have been or may be permitted by this act:"

And the question being put thereupon, it passed in the negative—ayes 24.

A motion was made by Mr. J. G. Jackson, to amend the eleventh section of the bill, by striking out, in the second line thereof, the words, "so revoke or modify her edicts as that they shall cease to violate;" and inserting, in lieu thereof, the words, "modifying her edicts which violate:"

And, on the question that the House do agree to the amendment, it passed in the negative—yeas 31, nays 91, as follows:

Yeas—Willis Alston, jr., David Bard, Burwell Bassett, Thomas Blount, Robert Brown, Joseph Calhoun, Richard Cutts, John W. Eppes, James Fisk, Meshack Franklin, Isaiah L. Green, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, John Love, Nathaniel Macon, John Montgomery, Thomas Moore, John Morrow, Thomas Newton, John Rea of Pennsylvania, John Rhea of Tennessee, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, Richard Stanford, John Taylor, Robert Whitehill and Richard Winn.

Nays—Evan Alexander, Ezekiel Bacon, William W. Bibb, William Blackledge, John Blake, jr., Adam Boyd, John Boyle, William A. Burwell, William Butler, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, John Harris, John Heister, William Helms, William Hoge, James Holland, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, Wm. McCreery, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Wilson C. Nicholas, John Porter, John Pugh, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Rowan, John Russel, Lemuel Sawyer, Benjamin Say, James Sloan, John Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, David R. Williams, Marmaduke Williams, Alexander Wilson, and Nathan Wilson.

A motion was made by Mr. Eppes, farther to amend the bill, by striking out, in the fourth and fifth lines of the seventeenth section of the engrossed bill, the words, "so much of the said acts as is repealed by this act, or which have been, or may hereafter be, incurred by virtue of the said acts, on account of any infraction of so much of the said acts as is not repealed by this act;" and inserting, in lieu thereof, the words, "the said acts repealed by this act."

And the question being taken thereupon, it passed in the negative—yeas 50, nays 70, as follows:

Yeas—Evan Alexander, David Bard, Burwell Bassett, William Blackledge, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, junior, Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, John Taylor, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

Nays—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, William W. Bibb, John Blake, jun., Adam Boyd, John Campbell, Epaphroditus Champion, Matthew Clay, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, jun., James Elliot, William Ely, James Fisk, Barent Gardenier, Francis Gardner, James M. Garnett, Jahn Harris, John Heister, William Helms, William Hoge, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thos. Newton, Josiah Quincy, John Randolph, Samuel Riker, John Russell, James Sloan, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benj. Tallmadge, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, David R. Williams, Marmaduke Williams, and Nathan Wilson.

A motion was made by Mr. Bibb, farther to amend the bill by striking out next after the words "repealed after the," in the third line of the twelfth section of the engrossed bill, the word "fourth," and inserting, in lieu thereof, the word "fifteenth:" Whereupon, a division of the question on the proposed amendment was called for by Mr. Gardner: and, on the question that the House do agree to the first member thereof for striking out the word "fourth," it was resolved in the affirmative—yeas 59, nays 56, as follows:

Yeas—Evan Alexander, Willis Alston, junior, David Bard, William W. Bibb, William Blackledge, Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, junior, Peterson Goodwyn, Isaiah L. Green, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Randolph, John Rea of Pa., John Rhea of Tenn., Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, John Smith, Samuel Smith, Richard Stanford, John Taylor, George M. Troup, Jesse Wharton, Robert Whitehill, David R. Williams, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Ezekiel Bacon, Joseph Barker, Burwell Bassett, John Blake, junior, Adam Boyd, Epaphroditus Champion, Orchard Cook, John Culpeper, Samuel W. Dana, John Davenport, junior, Daniel M. Durell, Jas.

Elliot, William Ely, Francis Gardner, James M. Garnett, John Harris, John Heister, William Helms, William Hoge, Daniel Ilsley, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, junior, Edward St. Loe Livermore, Edward Lloyd, Matthew Lyon, Josiah Masters, William M'Creery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Josiah Quincy, Matthias Richards, Samuel Riker, John Rowan, John Russell, James Sloan, Jedediah K. Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Nathan Wilson.

On the question that the House do agree to the second member of the said amendment, to insert the word "fifteenth," in lieu of the word "fourth," so stricken out, it was resolved in the affirmative—yeas 86, nays 30, as follows:

Nays—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Matthew Clay, John Culpeper, Richard Cutts, John Davenport, jr., Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, William Hoge, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Thomas Kenan, Philip B. Key, John Lambert, Edward Lloyd, John Love, Matthew Lyon, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newton, Wilson C. Nicholas, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, Samuel Shaw, John Smilie, J. K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Philip Van Cortlandt, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and Alexander Wilson.

Yeas—Joseph Barker, Thomas Blount, Orchard Cook, Samuel W. Dana, John Dawson, Barent Gardenier, Thomas Gholson, jun., John Heister, James Holland, James Kelly, William Kirkpatrick, Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, William McCreery, William Milnor, John Morrow, Gurdon S. Mumford, Josiah Quincy, Benjamin Say, James Sloan, William Stedman, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, David R. Williams, and Richard Winn.

A motion being then made by Mr. Randolph further to amend the said twelfth section of the bill, by striking out immediately after the word "March," in the fourth line, the word "next," and inserting, in lieu thereof, the words "one thousand eight hundred and nine," the said proposition of amendment was superseded by a motion made by Mr. Macon, further to amend the said twelfth section, by striking out in the third and fourth lines thereof, as amended by the House, the words, "fifteenth day of March," and inserting, in lieu thereof, the words, "first day of September:" And on the question that the House do agree to the amendment proposed by Mr. Macon, it passed in the negative.

The question then recurred on the amendment moved by Mr. Randolph; and the question being taken that the House do agree to the same, it was resolved in the affirmative.

A motion was made by Mr. Wharton further to amend the bill by striking out, in the second and third lines of the nineteenth section, the following words, "and that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be, and the same are hereby, repealed, from and after the end of the next session of Congress:" And the question being put thereupon, it passed in the negative.

A motion was then made by Mr. John G. Jackson further to amend the bill, by striking out, in the first line of the said nineteenth section, the words, "end of the next session of Congress:" And the question being put thereupon, it passed in the negative. And the bill being further amended, it was ordered that the amendments agreed to be engrossed, and, together with the bill, be read the third time on Monday next.

Monday, February 27.

On motion of Mr. McCreery,

Resolved, That a committee be appointed to inquire into the expediency of prohibiting, by law, for a limited time, the exportation of arms, ammunition, canvass, and cordage; and that they have leave to report by bill or otherwise.

Messrs. McCreery, Quincy, and Mumford, were appointed a committee pursuant to the said resolution.

Mr. J. K. Smith, from the committee appointed on the second instant, presented a bill to extend to Amos Whittemore and William Whittemore, jun., the patent right to a machine for manufacturing cotton and wool cards; which was read twice. Whereupon, the House proceeded to the consideration thereof; and the blank therein being filled up at the Clerk's table, with the word "fourteen," it was ordered that the said bill, with the amendment, be engrossed, and read the third time to-morrow.

Mr. Rhea, of Tennessee, from the Committee on Post Offices and Post Roads, presented a bill to alter and establish certain post roads; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. McCreery reported a bill prohibiting, for a limited time, the exportation of arms, ammunition, canvass, cordage, and hemp, and for encouraging the importation thereof.—Read twice, and referred to a Committee of the Whole.

[This bill prohibits the exportation from the United States, or any territories thereof, of any cannon, muskets, pistols, bayonets, swords, cutlasses, musket balls, lead, bombs, grenadoes, gunpowder, sulphur, or saltpetre, canvass, or sailduck, of any description commonly used for ships or vessels, cordage, cables, tarred or untarred yarns, made of hemp; seine, sail, or sewing twine, and sheet copper, till the end of the next session. It also provides, that all brass cannon, muskets and firelocks, with bayonets suited to the same, pistols, swords, and cutlasses, which shall be imported into the United States from any foreign country, within the term of one year from and after the passing of this act, be free of duty.]

Mr. Holmes, from the Committee of Claims, to whom were referred, on the ninth ultimo, a petition of Beniot Schweighauser, by John Mason, his attorney, and sundry documents accompanying the same, presented a bill to authorize the proper accounting officers of the Treasury to settle the account of the legal representatives of John Daniel Schweighauser; which was read twice, and committed to a Committee of the Whole to-morrow.

On a motion made by Mr. Blount, that the House do come to the following resolution:

Resolved, That the committee to whom was referred so much of the Message of the President as relates to the Military and Naval Establishments, be instructed to inquire into the expediency of increasing the bounty now allowed by law to recruits in the military service.

The question was taken that the House do agree to the proposed resolution, and it passed in the negative.

A Message was received from the President of the United States, transmitting a statement of the militia of the United States, according to the latest returns received by the Department of War. The Message was read, and, together with the return transmitted therewith.—Laid on the table.

Mr. Nelson presented a memorial of sundry inhabitants of Frederick county, in the State of Maryland, stating their disapprobation of the edicts and decrees issued against the commercial intercourse and neutral rights of the United States by certain belligerent Powers; and pledging themselves to support, with their lives, fortunes, and sacred honor, all such measures as the wisdom of Congress may adopt for the safety and prosperity of the Union.—Laid on the table.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanied with his report on the petition of Daniel Jennings, collector of the internal revenue of the United States in the District of Ohio, referred to him by order of the House, on the fourteenth of April last; which were read, and ordered to lie on the table.

An engrossed bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a resolution for the appointment of three members on their part, who, with three members of the House of Representatives, to be appointed a committee on the part of this House, shall have the application of the money appropriated by the "Act making a further appropriation for the support of a library," passed the twenty-first of February, one thousand eight hundred and six; to which they desire the concurrence of this House.

Massachusetts Memorial.

The Speaker laid before the House a memorial received from the Legislature of the State of Massachusetts, complaining of the measures of the Government, particularly of the embargo laws, and declaring their opinion that the last supplementary embargo law is unconstitutional. On motion of Mr. Fisk it was referred to a select committee—ayes 83. The reason which he assigned for the motion was, that the memorial, coming from a respectable State, deserved a particular consideration.

Mr. Quincy moved that the memorial be printed. On this motion some debate took place. Mr. Q. and other gentlemen observed, that they only wished the same respect to be paid by the House to this memorial as was paid to the resolutions of Pennsylvania and North Carolina.

Mr. Durell, and others, observed that this memorial was committed to a committee, and those resolutions were not; and, therefore, was treated with more attention.

Mr. Newton read the answer of the Legislature of Massachusetts to the Virginia resolutions on the subject of the alien and sedition laws, to show how the sentiments of a Federal Legislature then were warped by a Federal Legislature now, to answer party purposes. This answer denies wholly the right of any State to controvert the laws of the General Government, or to declare them unconstitutional.

Mr. Quincy said that the right of a Legislature to comment on the measures of the Government could not be questioned, when it was secured by the Constitution to every individual; and that the sentiments contained in the memorial just presented were not inconsistent with those expressed in the paper read by Mr. Newton.

Mr. Troup said he would be willing to treat this memorial with respect, but not with *peculiar* respect. He cited the instance in which a memorial of the Legislature of Georgia on the subject of a proposed infraction of her territorial rights by the United States was neither referred or printed.

Mr. Livermore denied that the Legislature of Massachusetts had expressed any disorganizing sentiments; they only supported the rights of the States, strengthening instead of weakening the whole machine by preserving a part in its proper operation.

Mr. Bacon observed that he should enrol his nay in the vote for printing, without the least fear of being accused of disrespect for the State that he represented—for, however he might respect the Legislature or the State, he could not show his respect for it by giving its memorial a course

different from that pursued in relation to petitions or memorials from other portions of the people; and it was already referred to a respectable committee of the House.

Mr. Newton observed, that when the committee reported on the memorial, he should be willing to print the memorial and report on it; at the same time he should move to print the answer of the same Legislature to the Virginia resolutions on the subject of the alien and sedition laws, and then it would be the Legislature of Massachusetts castigating the Legislature of Massachusetts.

Mr. Quincy said that this memorial contained the opinion of a large commercial State, and was entitled, therefore, to the attention of the House. If not printed now, a report would probably not be made on it this session, and it would not be printed.

Mr. Holland observed, that as to its containing information, there was not a new idea contained in the memorial; not one which the gentleman himself had not favored the House with during the session, and some of them in the very words of the gentleman himself.

Mr. Rowan conceived that the remonstrance of a State was entitled to no particular preference over that of any other memorial from any particular portion of the people; and that the proper course would be to let the remonstrance lie on the table, as the subject of it was now under consideration. If an answer was to be given to it, the Legislature might answer that answer. and there would be no end to the correspondence. Mr. R. moved to reconsider the vote for the reference to a select committee.

Mr. Quincy withdrew his motion for printing, to permit the question to be taken on reconsidering the vote for reference.

Messrs. Sawyer, Macon, and Taylor, advocated reconsideration. The vote was reconsidered—ayes 84.

Mr. Fisk again supported his motion. He wished not, by a silent disposition of the memorial, to sanction its statements, wholly erroneous, or treat it with contempt.

Mr. Rowan said that he had no idea of doing either; but an answer could only produce irritation, which he was desirous to avoid. It would be true magnanimity, even if the House believed it not to be correct, to pass it over in silence.

The motion to commit was negatived—ayes 20.

Mr. Quincy renewed his motion that the remonstrance be printed. Negatived—noes 53.

NON-INTERCOURSE.

The bill from the Senate for interdicting commercial intercourse between the United States and Great Britain and France, and their dependencies, was read the third time. And, on the question, "Shall the bill pass as amended?"

Mr. Milnor said that the passage of this bill would be a novelty in legislation, for he believed it had not a friend in the House. He was at a loss what to think of it. He said he should be obliged to gentlemen who were in favor of the bill to explain to him how much of the embargo was to be retained by it, and how much to be removed.

Mr. M. thought that the offensive part of the embargo laws was to be retained by it. The bill was objectionable, too, because it enacted as a substitute for the embargo, a non-intercourse system, which was not to commence until two days previous to the next session of Congress, and was to expire with that session. It would scarcely have gone into operation before it would cease by the limitation of the law. He could not conceive for what purpose the non-intercourse system was to be enacted, if it was to have an end so soon. He had no doubt that those gentlemen who voted for this measure now, and who were to be in the next Congress, would be then told that they had by that vote pledged themselves not to suffer the embargo to be removed without an efficient substitute. For one, he said he could not consent to take this measure in lieu of the embargo, because it was inefficient for the purposes of coercion; because it could not be carried into execution; because it would prevent our usual intercourse without excluding foreign goods, as they would be smuggled in; because some of the manufactures of Great Britain had become necessary to us by habit, and could not be procured elsewhere now. He did not view this system as a permanent measure. He believed that the gentlemen of this House generally perceived and knew that this measure could have but little operation. It seemed as if the House must have something to satisfy themselves that they were not taking off the embargo without some efficient measure; it was but a rattle to please children. In short, the bill under consideration was so very objectionable, the provisions so obscure and extremely difficult to understand, our citizens would be so much at a loss under it to know what were their rights and what were not, that he could not vote for the bill. If gentlemen would come forward and explain the bill, convince him that the obnoxious parts of the embargo laws were to be repealed by it, he might be induced to vote for it. As it was, he must vote against it.

Mr. Dawson said, that at the last session, when he had given a vote in favor of the embargo law, he had been well aware that it would subject our citizens to many and great inconveniences; that all would be called on to sacrifice to the public good. Relying on the virtue and patriotism of this people, he had believed it would be borne with patience, from a conviction that it was adopted from necessity, produced by the injuries done to us by other nations, and calculated to secure the independence of the country. Under this impression he said he had voted for the measure; and, at the same time that he gave that vote, he had made a solemn pledge to himself, his country, and his God, that he never would revoke it till we took some measure to defend our rights. Such, in his opinion, the bill now before the House was not. He considered it a weak, wretched expedient, and he could not bring himself to vote for it; although, in voting against it, he regretted differing in opinion with many whom

he esteemed, and was as much disposed to relieve our citizens as any man could be.

Mr. Cook said, in voting for the bill, he should merely take it as a choice of evils.

Mr. Randolph spoke near an hour in opposition to the bill. He objected to the principle as well as the details of the bill.

Mr. Sloan declared that his friends from Pennsylvania and Virginia, (Messrs. Milnor and Randolph,) could not detest the bill more than he did; and yet he should vote for it for this reason, that the people, as well as himself, were so heartily tired of the embargo that they would be glad to get anything else in place of it. Another reason was, that it contained a limitation to the embargo laws, and he hoped that the embargo would expire at the time limited, never again to be resuscitated; that it would be *dead, dead, dead.*

The question on the passage of the bill was then decided—yeas 81, nays 40, as follows:

Yeas—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, Joseph Barker, John Blake, jun., Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, John Culpeper, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, Jas. Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, Walter Jones, Thomas Kenan, Philip B. Key, John Lambert, Joseph Lewis, jun., Edward Lloyd, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Saml. Riker, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Clement Storer, Peter Swart, John Thompson, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, Marmaduke Williams, Alexander Wilson and Nathan Wilson.

Nays—David Bard, Burwell Bassett, William W. Bibb, William Blackledge, Thomas Blount, Joseph Calhoun, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Samuel W. Dana, John Davenport, jun., John Dawson, James Elliot, William Ely, Barent Gardenier, Francis Gardner, William Hoge, Richard Jackson, James Kelly, Wm. Kirkpatrick, Nathaniel Macon, William Milnor, Jonathan O. Mosely, Thomas Newbold, John Porter, Josiah Quincy, John Randolph, John Rowan, Richard Stanford, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, Abram Trigg, George M. Troup, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, and Robert Whitehill.

[Absent from the city—Messrs. D. Montgomery, Carlton, Chandler, Clinton, Cobb, Pitkin, Story, and D. R. Williams—8. In the city, but not present at the vote, being absent from illness or other causes—Messrs. G. W. Campbell, Clopton, Gray, Cook, J. G. Jackson, Jenkins, Livermore, Jeremiah Morrow, Sawyer, Taggart, and Winn—11.]

Tuesday, February 28.

On a motion, made by Mr. Dana, that the House do come to the following resolution:

Resolved, That it is proper to make provision, by law, to allow merchant vessels of the United States to be armed for defence in voyages to ports of Europe, or the West Indies, or Atlantic coast of America, and, accordingly, to furnish the documentary evidence which may be proper, in any such case, to manifest the defensive character of the armament allowed, and, at the same time, by law to require securities for the vessels respectively, that they will not proceed to any port known to be actually blockaded, nor carry articles contraband of war to the dominions of a belligerent Power, nor violate the laws or treaties of the United States, or the rules of public law by them acknowledged, but will observe the instructions which may be given by the President of the United States for preventing all such violations, and that due satisfaction shall be made for all damages and injuries, if any should be committed contrary to the tenor thereof:

The resolution was read, and ordered to lie on the table.

The House then proceeded to consider the bill to authorize the Collector of Baltimore, on certain conditions, to register anew the ship Thomas. Whereupon, a motion was made by Mr. Holland that the further consideration thereof be postponed indefinitely. And the question being put thereupon, it passed in the negative. The bill was then committed to a Committee of the Whole to-morrow.

An engrossed bill to extend to Amos Whittemore and William Whittemore, junior, the patent right to a machine for manufacturing cotton and wool cards, was read the third time, and then passed—55 to 18.

The House proceeded to consider the resolution received from the Senate, on the twenty-seventh instant, for the appointment of a Joint Committee of the two Houses, for the purpose expressed in an act passed the twenty-first of February, one thousand eight hundred and six, entitled "An act making a further appropriation for the support of a library." Whereupon,

Resolved, That this House doth agree to the said resolution; and that Messrs. Nicholas, Say, and Dana, be appointed a committee on the part of this House pursuant thereto.

SHIP THOMAS.

Mr. Newton, from the Committee of Commerce and Manufactures, to whom was referred, on the sixteenth of November last, a petition of the President and Directors of the Maine Bank, at Portland, in the District of Maine, presented, according to order, a bill to authorize the Collector of Baltimore, on certain conditions, to register anew the ship Thomas; which was read twice. Whereupon, a motion was made by Mr. Blackledge that the House do now adjourn: And the question being taken thereupon, it passed in the negative—yeas 2, nays 85, as follows:

Yeas—Matthew Lyon, and Nathaniel Macon.

Nays—Joseph Barker, William W. Bibb, William Blackledge, John Blake, junior, Adam Boyd, John

Boyle, Robert Brown, William Butler, John Campbell, Martin Chittenden, John Culpeper, Richard Cutts, John Davenport, junior, John Dawson, Josiah Deane, James Elliot, William Ely, James Fisk, Meshack Franklin, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, R. M. Johnson, Walter Jones, James Kelly, Thos. Kenan, John Lambert, Joseph Lewis, junior, John Love, Robert Marion, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, Lemuel Sawyer, Benjamin Say, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, John Taylor, John Thompson, George M. Troup, Jabez Upham, Philip Van Cortlandt, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Jesse Wharton, Robt. Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

INVALID PENSIONERS.

The House resolved itself into a Committee of the Whole on the bill concerning invalid pensioners.

A motion was made by Mr. HOLMES to strike out the fourth section of the bill, which authorizes the payment of the aggregate amount of the arrearages of pensions, from the time their disability was incurred, to all persons entitled to pensions.—Carried.

A motion was made by Mr. MACON, and carried, to strike out of the bill the third section, which allows pensions to all persons in any manner incurring disability during the Revolutionary war, whether by voluntary expeditions, or otherwise.

A motion was made by Mr. BLACKLEDGE to insert an amendment providing for the payment to all persons placed on the pension list since the first of January, 1796, of the aggregate amount of arrearages for ten years preceding.—Negatived.

The Committee rose, and reported the bill as amended.

The House concurred in striking out the third section, 47 to 30.

Mr. RANDOLPH, who originally moved the fourth section, called for the yeas and nays on concurrence with the Committee in striking out the section.

Mr. ROWAN spoke at length in support of the section, which he conceived to be imperiously called for, both by justice and policy. The money due to our soldiers was a just debt, to which it did not become the Government to plead the statute of limitation.

Mr. RANDOLPH also spoke at large in explanation of his reasons for offering the amendment, and in support of it. The claims of the persons placed on the pension list had been rigidly scrutinized, and payment of them could not in justice be refused, unless from inability of the Government to pay them.

The question on concurrence was decided in the affirmative—yeas 53, nays 32, as follows:

YEAS—Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, John Blake, jun., Thos. Blount, John Boyle, William A. Burwell, William Butler, Martin Chittenden, John Culpeper, Joseph Desha, Daniel M. Durell, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, Thomas Kenan, Nathaniel Macon, Robert Marion, Josiah Masters, Wm. McCreery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Richard Stanford, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, Jesse Wharton, Robert Whitehill, and Alexander Wilson.

NAYS—William Blackledge, Joseph Calhoun, John Campbell, Epaphroditus Champion, Matthew Clay, John Davenport, jun., John Dawson, Francis Gardner, John Harris, William Hoge, Benjamin Howard, Richard Jackson, Robert Jenkins, Richard M. Johnson, James Kelly, John Lambert, Matthew Lyon, William Milnor, Jonathan O. Mosely, Roger Nelson, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, John Randolph, John Rowan, Dennis Smelt, Samuel Smith, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, and Marmaduke Williams.

So the section was struck out.

Mr. BLACKLEDGE renewed the motion which he made in Committee of the Whole, and spoke at length in support of it.

The motion was negatived by yeas and nays, by a large majority.

The bill was then ordered to a third reading, and subsequently passed, *nem. con.*

PRESIDENT'S HOUSE.

The House then resolved itself into a Committee of the Whole on the bill making further provision for the accommodation of the household of the President of the United States. The bill being gone through, was reported to the House, and ordered to be read a third time today. It was then read a third time, and passed—yeas 78, nays 11, as follows:

YEAS—Willis Alston, jr., David Bard, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jun., Thomas Blount, John Boyle, William Butler, Joseph Calhoun, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, William Findley, Meshack Franklin, Francis Gardner, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Harris, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, Richard Jackson, Richard M. Johnson, Walter Jones, James Kelly, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter,

John Pugh, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Rowan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Richard Stanford, William Stedman, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, James I. Van Alen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, and Marmaduke Williams.

NAYS—Robert Brown, William A. Burwell, William Hoge, Nathaniel Macon, Thomas Newbold, John Randolph, John Russell, Ebenezer Seaver, James Sloan, Isaac Wilbour, and Richard Winn.

HEMP, CORDAGE, ARMS, &c.

The House resolved itself into a Committee of the Whole on the bill prohibiting for a limited time the exportation of arms, ammunition, canvass, cordage, and hemp, and for encouraging the importation thereof.

Mr. RANDOLPH moved to strike out the first section of the bill, which motion he supported on the ground of its inexpediency, as tending to throw a damp on the culture of hemp in the country, and on the ground of its unconstitutionality—the Constitution not having expressly delegated to Congress the power of prohibiting exports, and having prohibited Congress from taxing them, thereby impliedly denying Congress the power to prohibit exportation.

Mr. MCCREERY stated, in support of the bill, that the United States were in the habit of importing annually twelve millions of pounds of hemp, and great quantities of canvass, a great part of which was bought up to export for the British Navy; and, from the frequency of this practice, it was expected that there would not be sufficient left in the country for home consumption.

Messrs. QUINCY, ELY, LYON, and ROWAN, opposed the bill, observing that, as to prohibiting the export of arms, there could be no occasion for that part of the bill, as arms of every kind bore now a higher price in this country than elsewhere; that the passage of the bill would depress the culture of hemp as well as manufacture of cordage; that the United States already had a sufficiency of naval stores; that a restriction of this kind would only enable the merchant to purchase these articles at a lower price, at the expense of the growers of hemp, and manufacturers.

Mr. SLOAN was opposed to the bill because he disliked the general principle of restricting trade. The single reason that the bill partook somewhat of the nature of a partial embargo, was sufficient to induce him to reject it.

The first section was then struck out—yeas 54, nays 26.

The Committee rose and reported their disagreement to the House, who concurred in it—yeas 54.

Mr. VAN HORN wished to retain the last section of the bill, for importing arms free of duty.

Mr. QUINCY observed that more could be manufactured in the United States than could possibly be wanted.

The whole bill was then negatived.

WEDNESDAY, March 1.

The bill sent from the Senate, entitled "An act making further provision for the Corps of Engineers," was read twice and committed to a Committee of the Whole this day.

The House resolved itself into a Committee of the Whole on the bill supplemental to the act, entitled "An act for establishing trading-houses with the Indian tribes. The bill was reported with two amendments thereto; which were twice read, and, on the question severally put thereupon, agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time today.

On motion of Mr. JOHN G. JACKSON,

Ordered, That the Committee of the Whole to whom was committed, on the thirty-first of January last, a bill sent from the Senate, entitled "An act to extend the time for making payment for the public lands of the United States," be discharged from proceeding therein; and that the said bill be taken up for consideration in the House.

The House, accordingly, proceeded to consider the bill at the Clerk's table: Whereupon, the bill was read the third time and passed.

An engrossed bill supplemental to the act, entitled "An act for establishing trading-houses with the Indian tribes," was read the third time, and passed.

The bill for the relief of Jacob Barnitz went through a Committee of the Whole, was reported to the House, and ordered to a third reading. It was subsequently read a third time and passed.

A message from the Senate, informed the House that the Senate have passed a bill, entitled "An act farther to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments;" to which they desire the concurrence of this House.

PUBLIC BUILDINGS.

The House resolved itself into Committee of the Whole, 52 to 24, on the bill from the Senate, making further appropriations for completing the two wings of the Capitol, in the City of Washington, and for other purposes.

Mr. W. ALSTON said that he wished to withhold any appropriation but for the accommodation of the Senate. Such extravagance and waste had characterized the progress in the buildings, that, as long as the present Superintendent remained in office, he would not vote a cent further appropriation. He moved to strike out every item in the bill but that for the accommodation of the Senate.

Mr. LEWIS objected to the motion. He called for the reading of the report of the Surveyor of Public Buildings on the subject.

Messrs. ALSTON, SLOAN, SMILIE, and STANFORD, advocated the motion, and Messrs. MACON, NELSON, J. G. JACKSON, and LYON, opposed it on the ground that the buildings, having been commenced, ought to be finished.

The motion for striking out the appropriation

for the Representatives' Chamber, was negatived. 44 to 31.

The Committee then refused to strike out any part of the bill.

The Committee then rose and reported the bill, which was ordered to be read a third time to-day.

The bill being about to be read a third time,

Mr. Culpeper moved that the bill be recommitted for the purpose of striking out the items before moved to be stricken out. Motion negatived, ayes 9.

The bill was then read a third time and passed—yeas 67, nays 21, as follows:

Yeas—Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, Burwell Bassett, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, John Campbell, Epaphroditus Champion, Richard Cutts, John Davenport, jr., John Dawson, Joseph Desha, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, John G. Jackson, Richard M. Johnson, James Kelly, Philip B. Key, William Kirkpatrick, John Lambert, Joseph Lewis, jr., John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Samuel Riker, John Rowan, John Russell, Benjamin, Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Jabez Upham, James I. Van Allen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Marmaduke Williams, Alexander Wilson, and Nathan Wilson.

Nays—Willis Alston, jr., Robert Brown, Joseph Calhoun, Matthew Clay, John Culpeper, Francis Gardner, John Heister, William Milnor, Josiah Quincy, John Randolph, Matthias Richards, Lemuel Sawyer, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Peter Swart, Robert Whitehill, and Isaac Wilbour.

COURTS OF THE UNITED STATES.

The House resolved itself into a Committee of the Whole, 40 to 31, on the bill supplementary to an act for establishing the Courts of the United States. [The bill proposes an alteration in the time or manner of holding the courts of South Carolina.]

Mr. Love proposed an amendment to the bill, declaring that the laws of the several States shall be the rules of proceeding in all judicial proceedings in the Courts of the United States, provided that it shall not affect any process on behalf of the United States.

Messrs. Taylor and Kelly objected to the introduction of a general provision, embracing such an important principle, into a law for a special purpose—a principle, too, the propriety of which was at least questionable.

Mr. Love advocated his motion. He adverted to the laws passed in different States for suspending executions for a time. He did not express an opinion on the principle of suspension; but whatever might be his opinion of the principle, he wished it to be extended to the Federal Courts in those States, for the sake of equality and consistency in judicial proceedings.

Mr. Love's motion was negatived by a considerable majority.

The Committee rose and reported the bill.

Mr. Love renewed the motion which be made in Committee.

Mr. Gholson advocated the motion at some length, and went into an examination of the laws of the United States on the subject of judicial process and of the decisions under them, particularly of a late decision of the Chief Justice, that the law of a State (Virginia) for suspending executions should not be the rule of proceeding for a Federal Court, whilst all other State laws not contravening the laws or Constitution of the United States were binding on it.

Mr. Dana moved to strike out the provision excepting from the operation of the amendment all process in behalf of the United States.—Ayes 30, noes 50.

Mr. M. Clay conceived the decision of the judge mentioned by Mr. Gholson to have been erroneous; and all that was asked was that the decision should be reversed by an explanation of the meaning of the law of the United States; that a judge should not have it in his power to put up the law with one hand and put it down with the other. Under this decision, a merchant to whom money was due in the State in which he resided, had nothing to do but to assign the debt to some one in a neighboring State, and there bring suit on it, and evade the law of the State. The foreigner too had advantages over the citizen of a State, as he could recover debts and obtain execution on the judgment, when the citizen was denied the right.

Mr. Gardenier offered an amendment to Mr. Love's motion, to this effect: "that no citizen of one State which had passed no law for suspending executions should be prevented from obtaining money in a State where such laws had been passed." For it would be unjust to enable the citizens of one State (as Virginia) to refuse payment while their neighbors in another State (as Massachusetts) were compelled to make payment.

Mr Rowan opposed Mr. Love's amendment, as going to approve the different laws on the subject of suspension of six or seven different States. He thought there was no occasion for the amendment; for by it the House would sweep from the judicial code the laws already existing on this subject—and he deprecated all innovations of the judicial system, where the necessity for amendment was not decidedly apparent.

Mr. Gardenier's motion was negatived by a large majority.

Mr. Love's motion was then negatived—yeas 25, nays 67, as follows:

Yeas—Willis Alston, junior, Burwell Bassett, William Blackledge, Thomas Blount, William A. Burwell, William Butler, Matthew Clay, Josiah Deane, John W. Eppes, James M. Garnett, Thomas Gholson, jun., Peterson Goodwyn, David Holmes, John G. Jackson, Walter Jones, Joseph Lewis, junior, John Love, John Montgomery, John Morrow, Thomas Newton, Wilson C. Nicholas, Jedediah K. Smith, Henry Southard, Richard Stanford, and Alexander Wilson.

Nays—Lemuel J. Alston, Ezekiel Bacon, Joseph Barker, John Blake, jr., John Boyle, Joseph Calhoun, Epaphroditus Champion, Richard Cutts, Joseph Desha, James Elliot, William Ely, William Findley, Meshack Franklin, Barent Gardenier, Isaiah L. Green, John Heister, William Helms, James Holland, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard Jackson, Richard M. Johnson, James Kelly, John Lambert, Matthew Lyon, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, John Porter, John Pugh, Josiah Quincy, John Randolph, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Benjamin Say, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Whitehill, Isaac Wilbour, and Nathan Wilson.

No other amendment being offered to the bill, it was ordered that the amendments agreed to, be engrossed, and, together with the bill, be read the third time this day. The bill was subsequently passed.

The House resolved itself into a Committee of the whole House, 38 to 36, on the bill for incorporating a company for making a turnpike road from Georgetown to Alexandria. After a long time spent in committee in discussing the details of the bill, about 6 o'clock, after being in session eight hours, a quorum not being present, the Committee was dissolved; and the House adjourned.

Thursday, March 2.

The Speaker laid before the House a letter signed "James Madison," stating, that he proposes to take the oath which the Constitution prescribes to the President of the United States, before he enters on the execution of his office, on Saturday, the fourth instant, at twelve o'clock, in the Representatives' Chamber.—Read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning invalid pensioners," with an amendment; to which they desire the concurrence of this House. Also, the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine," with several amendments; to which they desire the concurrence of this House.

ALEXANDRIA TURNPIKE,

The House proceeded to take into consideration the bill sent from the Senate, entitled "An act to authorize the making of a turnpike road from Mason's Causeway to Alexandria:" Whereupon, a motion was made by Mr. Tallmadge, that the further consideration of the said bill be postponed indefinitely: And the question being put thereupon, it passed in the negative.

A motion was made by Mr. Lewis, that the bill be recommitted to the consideration of a Committee of the Whole House: And the question being put thereupon, it passed in the negative—yeas 35, nays 57, as follows:

Yeas—Ezekiel Bacon, Burwell Bassett, Epaphroditus Champion, Matthew Clay, John Culpeper, Daniel M. Durell, William Ely, John W. Eppes, James Fisk, Francis Gardner, Thomas Gholson, jr., Edwin Gray, Benjamin Howard, Reuben Humphreys, Richard Jackson, Walter Jones, Joseph Lewis, jr., Matthew Lyon, Nathaniel Macon, Josiah Masters, William Milnor, Nicholas R. Moore, John Morrow, Gurdon S. Mumford, Josiah Quincy, John Rowan, John Russell, Jedediah K. Smith, Clement Storer, Peter Swart, John Thompson, Abram Trigg, Jabez Upham, James I. Van Alen, and Richard Winn.

Nays—Lemuel J. Alston, Willis Alston, jr., David Bard, Joseph Barker, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Martin Chittenden, Richard Cutts, John Davenport, jr., John Dawson, Joseph Desha, Meshack Franklin, Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, James Holland, David Holmes, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, Jeremiah Morrow, Roger Nelson, Thomas Newton, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Riker, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, John Taylor, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, and Nathan Wilson.

A motion was then made by Mr. Lewis to amend the bill, by inserting after the word "the," in the twenty-ninth line of the seventh section, the words "county of Alexandria, in the:" And the question being put thereupon, it passed in the negative—yeas 34, nays 60, as follows:

Yeas—Ezekiel Bacon, Burwell Bassett, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, John Culpeper, James Fisk, Francis Gardner, Peterson Goodwyn, David Holmes, Joseph Lewis, jun., John Love, Matthew Lyon, Nathaniel Macon, Robert Marion, William Milnor, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Thomas Newton, Josiah Quincy, John Rowan, John Russell, James Sloan, Samuel Smith, Clement Storer, Peter Swart, Benjamin Tallmadge, John Taylor, John Thompson, James I. Van Alen, Nicholas Van Dyke, and Alexander Wilson.

Nays—Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Joseph Barker, William W. Bibb, John Blake, jun., Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Richard Cutts, John Davenport, jun., John Dawson, Josiah Deane, Joseph Desha, James Elliot, William Findley, Meshack Franklin, Barent Gardenier, James M. Garnett, Edwin Gray, Issiah L. Green, John Harris, William Helms, James Holland, John G. Jackson, Robert Jenkins, William Kirkpatrick, John Lambert, Josiah Masters, William

McCreery, John Montgomery, Roger Nelson, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Samuel Taggart, Abram Trigg, George M. Troup, Philip Van Cortlandt, Archibald Van Horn, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Nathan Wilson, and Richard Winn.

Sundry other propositions of amendment to the bill were then moved by Mr. Lewis and Mr. Macon, which being severally twice read, were, on the question put thereupon, disagreed to by the House. No other amendment being offered, it was ordered that the said bill be read the third time to-day.

Mr. Holmes, from the Committee of Claims, presented a bill for the relief of William Hastings; which was read twice, and committed to a Committee of the Whole this day.

ARMY AND NAVY APPROPRIATIONS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine:" Whereupon, the first of the said amendments, to strike out from the word "assembled," in the second line of the first section, to the word "that," in the first line of the sixth section, being read as contained in the words following, to wit:

"That all warrants drawn by either of the Secretaries of the Treasury, of War, and of the Navy, upon the Treasurer of the United States, shall specify the particular appropriation or appropriations, to which the same should be charged: The moneys paid by virtue of such warrants shall, in conformity therewith, be charged to such appropriation or appropriations, in the books kept in the office of the Comptroller of the Treasury, in the case of warrants drawn by the Secretary of the Treasury; and, in the books of the Accountants of the War or Navy Department, respectively, in the case of warrants drawn by the Secretary of War, or by the Secretary of the Navy; and the officers, agents, or other persons, who may be receivers of public moneys, shall render distinct accounts of the application of such moneys, according to the appropriation or appropriations under which the same shall have been drawn; nor shall any credit be allowed to either of them except for expenses authorized by law, and for the amount appropriated for the same: *Provided, nevertheless*, That, during the recess of Congress, the President of the United States may, and he is hereby authorized, on the application of the Secretary of the proper Department, and not otherwise, direct, if in his opinion necessary for the public service, that a portion of the moneys appropriated for a particular branch of expenditure in that Department, be applied to another branch of expenditure in the same Department; in which case, a special account of the moneys thus transferred, and of their application, shall be laid before Congress during the first week of their next ensuing session.

"Sec. 2. *And be it further enacted*, That it shall be the duty of the Comptroller of the Treasury, in every case where in his opinion farther delays would be injurious to the United States, and he is hereby authorized, to direct the Auditor of the Treasury, and the Accountants of the War and Navy Departments, at any time, forthwith to audit and settle any particular account which the said officers may be respectively authorized to audit and settle, and to report such settlement for his revision and final decision. And the said Comptroller shall also lay an annual statement before Congress, of the accounts in either of the Treasury, War, or Navy Departments, which may have remained more than three years unsettled, or on which balances appear to have been due more than three years, together with a statement of the causes which have prevented the settlement of the accounts, or the recovery of the balances, due to the United States.

"Sec. 3. *And be it further enacted*, That exclusively of the Purveyor of Public Supplies, Paymasters of the Army, Pursers of the Navy, Military Agents, and other officers already authorized by law, no other permanent agents shall be appointed either for the purpose of making contracts, or for the purchase of supplies in any other manner, or for the disbursement of moneys for the use of the Military Establishment, or of the Navy of the United States, but such as shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President may, and he is hereby authorized, in the recess of the Senate, to appoint all or any of such agents, which appointments shall be submitted to the Senate at the next session, for their advice and consent; and the President of the United States is hereby authorized, until otherwise provided by law, to fix the number and compensations of such agents: *Provided, however*, That their number shall not exceed eight in the whole: *And provided, also*, That the compensation allowed to either shall not exceed one per centum on the public moneys disbursed by him, nor in any instance the compensation allowed by law to the Purveyor of Public Supplies.

"Sec. 4. *And be it further enacted*, That every such agent as may be appointed by virtue of the next preceding section, and every Purser of the Navy shall give bond, with one or more sufficient sureties, in such sums as the President of the United States may direct, for the faithful discharge of the trust reposed in him, and the Paymaster of the Army, the Military Agents, the Purveyor of Public Supplies, the Pursers of the Navy, and the agents appointed by virtue of the preceding section shall, whenever practicable, keep the public moneys in their hands in some incorporated banks to be designated for that purpose by the President of the United States, and shall make monthly returns in such form as may be prescribed by the Treasury Department, of the moneys received and expended during the preceding month, and of the unexpended balance in their hands.

"Sec. 5. *And be it further enacted*, That all purchases and contracts for supplies or services which are or may, according to law, be made by, or under the direction of either the Secretary of the Treasury, the Secretary of War, or the Secretary of the Navy, shall be made either by open purchase, or by previously advertising for proposals respecting the same, and shall be previously authorized or subsequently approved by the President of the United States: And an annual statement of all such contracts and purchases, and also

of the expenditure of the moneys appropriated for the contingent expenses of the Military Establishment, for the contingent expenses of the Navy of the United States, and for the discharge of miscellaneous claims, not otherwise provided for and paid at the Treasury, shall be laid before Congress at the beginning of each year by the Secretary of the proper Department.

"Sec. 6. *And be it further enacted.*"

The question was taken that the House do agree to the said first amendment of the Senate to the bill, and it passed in the negative—yeas 3, nays 73, as follows:

Yeas—Josiah Masters, Wilson Cary Nicholas, and Josiah Quincy.

Nays—Evan Alexander, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, John Blake, junior, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Orchard Cook, John Culpeper, Richard Cutts, John Dawson, Joseph Desha, James Elliot, John W. Eppes, William Findley, James Fisk, Francis Gardner, Thos. Gholson, junior, Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, John Lambert, Matthew Lyon, Nathaniel Macon, Robert Marion, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, Samuel Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, Abram Trigg, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Marmaduke Williams, and Alexander Wilson.

The second amendment of the Senate to the bill, being to strike out in the thirteenth line of the sixth section, the words "*one hundred and fifty*," and insert, in lieu thereof, the words "seventy-five," was, on the question put thereupon, agreed to by the House.

The third amendment of the Senate, to strike out in the twenty-third and twenty-fourth lines of the said sixth section of the bill, the words following, to wit: "*For the fortifications of ports and harbors, in addition to the sums appropriated for that purpose, one million of dollars*," being twice read at the Clerk's table, the question was taken that the House do agree to the said amendment, and resolved in the affirmative—yeas 48, nays 30, as follows:

Yeas—Evan Alexander, Willis Alston, jun., David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Culpeper, Richard Cutts, Joseph Desha, James Fisk, Thomas Gholson, junior, Peterson Goodwyn, Isaiah L. Green, John Heister, James Holland, Richard M. Johnson, Walter Jones, John Lambert, Nathaniel Macon, Robert Marion, Wm. Milnor, Nicholas R. Moore, Jeremiah Morrow, John Morrow, John Randolph, John Rea of Pennsylvania, Jacob Richards, Matthias Richards, Ebenezer Seaver, Samuel Shaw, Jedediah K. Smith, Samuel Smith, Richard Stanford, John Taylor, Abram Trigg, Archibald Van Horn, Jesse Wharton, Robert Whitehill, Marmaduke Williams, Alexander Wilson, and Richard Winn.

Nays—Ezekiel Bacon, John Blake, junior, Orchard Cook, John Dawson, Daniel M. Durell, James Elliot, John W. Eppes, William Findley, Francis Gardner, William Helms, David Holmes, Benjamin Howard, John G. Jackson, Matthew Lyon, Josiah Masters, William McCreery, John Montgomery, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Rea of Tennessee, Samuel Riker, James Sloan, John Smilie, Henry Southard, Clement Storer, Lewis B. Sturges, James I. Van Alen, and Daniel C. Verplanck.

The fourth amendment of the Senate, affecting the title of the bill so as to read, "An act making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine," was, on the question put thereupon, disagreed to by the House.

DISBURSEMENT OF PUBLIC MONEYS.

The bill from the Senate further to amend the several acts for the establishment of the War and Navy Departments, having been read a first time,

Mr. W. Alston moved that it be rejected. The bill which had been sent from this House contained nearly the same provisions as this, but much more effectual. When the appropriations for the ensuing year had been under consideration before the Committee of Ways and Means, they had unanimously agreed that it would be proper to add to the bill regulations to guard the expenditure of the public money. That great abuses had grown out the misapplication of public money no one would deny; the facts stared every man in the face. The practice had been, when money had been appropriated for the War and Navy Departments, instead of drawing it out of the Treasury by warrants for each specific purpose, to draw it out by millions. The statement of the Secretary of the Navy, in opposition to the bill as it went from this House, was not sufficient ground to induce the House to reverse its decision; and he was authorized to state from the Secretary of the Treasury that the difficulties stated against the proposed plan did not exist; that the forms for carrying into effect the bill were already provided.

Mr. Love thought the motion of Mr. Alston at least an impolitic one, as it might, if successful, jeopardize the passage of the appropriation bill, to which provisions of nearly a similar nature had been attached and sent to the Senate. There were indeed some little differences, none he believed in any important principles, between the bill which had passed this House and that sent from the Senate. The few alterations he thought absolutely necessary, and he was surprised to hear the gentleman speak of the statement sent from the Secretary of the Navy, and printed for the use of the House, as erroneous, without any attempt to specify its defects. The gentleman had relied on the authority of the Secretary of the Treasury, and however he might concur in

an opinion, as to the financial talents of that gentleman, he could not consent that the Secretary who had made the statement on this occasion, had discovered less ability, or knowledge of the duties of his office.

Mr. Newton suggested the propriety of permitting the bill to lie on the table till the decision of the Senate on the bill which went from this House was known.

Mr. Taylor hoped the bill would be rejected. Now was the time to make a stand in support of the bill sent from this House. The clauses on the subject of the expenditure of public money had been properly annexed to the bill, and he believed that they could be passed; for the Senate he believed would not take upon themselves to push the House from its ground as they had in the case of the famous navy bill during the present session. It had always appeared to him that this Government ought to have some pinnacle whence the people and every member of the House should take a complete view of the whole expenditure of the nation. The Secretary of the Treasury had that commanding view as to the receipts; but he had not the same complete and ample view of the moneys paid from the Treasury. Eight years ago it had been reported, very unfairly perhaps as respected some individuals, who were stated as debtors in the report of the Committee of Investigation, that there had been much misapplication of the public money. From what had it arisen? For the want of that measure which had passed a few days ago in this House without a dissenting voice. The bill as sent from this House was recurring to the good advice given eight years ago, that it was necessary not only that they should be economical in the expenditure of the public money, but that the appropriations should be specifically applied. It was calculated to prevent the agents of the departments from turning over immense sums of the public money at the rate of three per cent. per month. He wished to have some department to be amenable for all the expenditures of the Government; and he would rather, in fact, lose the appropriation bill than agree to strike out the sections sent from this House.

The bill was then rejected, 51 to 26.

FOREIGN LICENSES.

The House took up for consideration the bill for disfranchising vessels of the United States, navigating under foreign licenses.

The first section of the bill, which it will be recollected, calls home all vessels which went out previous to the embargo, &c., had been struck out the last time the bill was under consideration.

Mr. Jackson moved an amendment subjecting persons convicted of accepting, using, or conniving at the use of a foreign license to fine or imprisonment. This amendment was modified on motion of Mr. Newton, so as to disqualify any person so convicted from holding any office of trust or profit under the United States.

Mr. Burwell observed that he should consider this more as a paper law than an effectual one; but should feel himself bound, by voting for the bill, to enter his solemn protest against so shameful a practice. Mr. B. objected to the principle of expatriation as a punishment, doubting whether Congress had a right to exercise it. As to preventing vessels from sailing under British licenses, he doubted the practicability of preventing it. There were no doubt enough of those licenses in the hands of her public or private agents; and proof of the fact could scarcely ever be obtained, from the privacy under which they were procured, and the discretion with which they would be used. He should, however, vote for such a law as this, were it only to enter a record on their journals against the practice. He conceived, however, that before the next session the Orders in Council rendering such licenses necessary to trade would be better understood, and the people of the Union more strongly united against them; and special laws against particular cases under them would be unnecessary.

Mr. J. G. Jackson was not disposed lightly to commit the House on the subject of expatriation; but there was unquestionably a difference between expatriation and disqualification for office. He produced precedent in support of the amendment proposed. Mr. J. regretted that this practice could not be prevented, from the Proteus-like character of some merchants; and deplored the necessity which would compel them to place a law for preventing this disgraceful practice on the statute book. He believed that there was not a single member of the House who was not willing to punish those who violated the honor of the country by accepting foreign licenses.

Mr. Lyon said he could see no necessity for such a law, because it would be impossible to carry it into effect; and because it was an *ex post facto* law, operating on persons now abroad, who could have no knowledge of such a law or of an intention to pass it. It was legislating to no other purpose than to show that they had the power to legislate.

Mr. Quincy suggested the propriety of postponing the consideration of this subject till the next session, when the evil would be better understood and a remedy could be more easily provided. It would be in the power of any person, this bill to the contrary notwithstanding, by a short residence in some foreign port to deprive himself of the character of a citizen of the United States and thereby evade the law.

Mr. J. G. Jackson observed that no bill which could be passed could constitutionally have a retrospective effect; and, therefore, if we were to wait till the evil had extended, it would be too late to provide a preventive.

Mr. Bacon was by no means certain that this law would prevent the practice of accepting foreign licenses to trade; but he should vote for the bill principally as entering a protest against the right of any foreign nation to regulate or embarrass our trade.

Mr. Lyon spoke at some length against the bill.

Mr. Fisk replied to Mr. Lyon. He had not thought that there was an American who, avowing himself to be such, would consent that our citizens should disgrace themselves by this practice. It was necessary to pass this bill if it were only to express the sentiments of the nation on the subject. If no notice were to be taken of it, there would appear to be an acquiescence in the practice by the United States.

Mr. J. G. Jackson's motion was carried 67 to 6. The bill was then ordered to a third reading.

Friday, March 3.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the balances which are charged on the books of the Treasury for advances made prior to the thirtieth day of June, one thousand eight hundred and eight, prepared in pursuance of a resolution of this House, of the twentieth of April last; which were read, and ordered to lie on the table.

The Committee of the Whole on the bill sent from the Senate, entitled "An act to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire," were discharged from the further consideration of the said bill.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act concerning invalid pensioners:" Whereupon,

Resolved, That this House doth agree to the said amendment.

The House proceeded to consider the bill sent from the Senate, entitled "An act to authorize the Marine Insurance Company of Alexandria to alter their style and firm, and to insure against loss by fire:" Whereupon, the question being taken that the said bill be now read the third time, it passed in the negative.

The order of the day, for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to provide for the incorporation of religious societies in the District of Columbia," being called for, a motion was made by Mr. Nelson that the said order of the day be postponed indefinitely: And the question being put thereupon, it was resolved in the affirmative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act providing for the promulgation of certain laws in the Territory of Michigan;" to which they desire the concurrence of this House.

The House resumed the consideration of the bill to authorize the making a turnpike road from Mason's Causeway to Alexandria.

Mr. Gholson's motion for indefinite postponement, was negatived—ayes 9.

Mr. Lewis moved that it be referred to a Committee of the whole House; negatived—ayes 5. The bill was then passed—ayes 59, noes 12.

FOREIGN LICENSES.

An engrossed bill to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabilities, any citizen of the United States taking a license from any foreign Power to navigate the ocean, or to trade with any other foreign and independent Power, was read the third time: And, on the question, that the same do pass, it was resolved in the affirmative—yeas 73, nays 16, as follows:

Yeas—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, Joseph Calhoun, John Culpeper, Richard Cutts, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, James M. Garnett, Thomas Gholson, jr., Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, William Kirkpatrick, John Lambert, Robert Marion, Josiah Masters, William McCreery, John Montgomery, Nicholas R. Moore, Thomas Moore, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Samuel Riker, Ebenezer Seaver, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, and Richard Winn.

Nays—Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, Barent Gardenier, Francis Gardner, Robert Jenkins, Joseph Lewis, junior, William Milnor, James Sloan, William Stedman, Lewis B. Sturges, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, and Killian K. Van Rensselaer.

DELAWARE CANAL.

The order of the day on the bill authorizing the grant of a certain quantity of public land, for stock in the Delaware and Chesapeake Canal Company, was called for by Mr. Newton.

Mr. Eppes observed that, at this late period of the session, the House could not be prepared to consider a bill which not only involved a great grant of property of the United States, but a Constitutional question. He therefore moved to postpone it indefinitely.

Mr. Newton observed that the principle was not new, and the Constitutional question, if any, had been decided long ago; for the United States had taken stock in the Bank of the United States and in other institutions. He wished the bill to be taken up.

Mr. Eppes confessed he was astonished that any gentleman should oppose the motion which he proposed. Did gentlemen suppose that the property of the nation was to be voted away, and that neither the Representatives nor the people should understand the principle on which it was voted? And was the House to establish the principle that Congress were to become land-jobbers or speculators in public stock? He had no doubt that the Delaware Canal was a proper object for the public attention; and if the Constitu-

tion could be amended and money could be appropriated for that object, he said, he should as soon vote it to the Delaware Canal as to any other object of the kind, but not for that object singly. When the subject was taken up, every question, on a similar object, should be passed in review. He really hoped that gentlemen would not, on the present occasion, insist on passing a bill which had never yet been before a committee of this House. He hoped that this would not be made the first instance in which a bill of this importance had been passed at the last day of the session, and at the moment of the dissolution of Congress.

Mr. Stanford was opposed to the motion for postponement. He was not in favor of this bill as a local question, but from general principle. When the gentleman said that this was a new subject, let it be remembered that, in case of the Cumberland road, this very principle was recognised; it having commenced with the proceeds of the public lands, and this very session the House had appropriated money for nearly a similar object, the canal of Carondelet. This was as good a time to commence the system of improvement as any other. It was also connected with internal defence. If war should follow our present measures, this bill might and would contribute essentially to the common good. The object was not new, for a similar bill had been before the House one or two sessions ago; nor did he know that there was anything proposed by the bill which militated against the Constitution of the United States.

The bill was postponed indefinitely—ayes 42, noes 31.

MILITARY ACADEMY.

Mr. Nelson called for the order of the day, on the bill making further provision for the corps of engineers, (to remove the Military Academy to the seat of Government.)

Mr. Masters moved to postpone the subject indefinitely, and gave his reasons in favor of it, viz: That West Point was a much more eligible situation; that it would be expensive to the United States to remove the institution, and, after it was removed, to provide buildings for its accommodation; and that private property had been embarked in the settlement at West Point, which would be injured by the removal.

Mr. Lewis opposed the motion, urging in support of the bill the advantages which would arise from this institution being at the seat of Government, and, being a national institution, the propriety of its being under the immediate superintendence of the head of the War Department.

Mr. Livermore supported the motion, on account of the lateness of the session, and from a belief that, if taken up, it would consume the whole of the session.

Mr. J. G. Jackson observed that there was no bill before the House more important than this; and it was a single question, on which every member, probably, had made up his mind.

The question on indefinite postponement was carried—ayes 49, noes 34.

MARINE CORPS.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate for increasing the Marine Corps.

Mr. Macon moved to amend the bill by striking out that part which authorizes the appointment of the Major; for, he said, there was no occasion for field officers in this corps, as they would never go on board a ship.

Mr. Nelson opposed the motion, as he considered the appointment necessary for the organization of a Marine Corps, and as necessary to induce young men of spirit and enterprise to enter the corps—the prospect of promotion being an inducement. Motion negatived.

An amendment was moved to make all future enlistments for the term of five years. Carried.

The Committee rose and reported the bill as amended.

Mr. Macon renewed his motion for striking out "one Major."

Mr. Burwell supported the motion. He wished that the bill could have been rejected. He was not one of those who believed if this nation went to war for maritime rights, that it was to be carried on by large frigates, but by small vessels and individual enterprise; and was, therefore, not for increasing this corps.

Mr. Masters quoted a report from the Navy Department, on the subject of the Marine Corps. It would be remarked that the Marine Corps were calculated to act as infantry when on shore, and that an additional number were particularly wanted for New Orleans, as well as for service on board the gunboats.

Mr. Macon's motion was negatived—ayes 41, noes 32. And the bill was ordered to a third reading—ayes 43, noes 29.

ARMY AND NAVY APPROPRIATIONS.

A message was received from the Senate informing the House that they insisted on their amendments to the bill from this House, supplementary to the acts for the establishment of the War and Navy Departments, and making appropriations for the support of the Military and Naval Establishments for the year 1809. [Their amendment was to strike out the five sections regulating the mode of expenditure and appropriation of the public money in the War and Navy Departments.]

The question having been put, "Will this House recede from its refusal to concur in the amendments?"

Mr. J. G. Jackson remarked that this was an important bill, and however he was in favor of the part proposed by the Senate to be stricken out, he hoped that the House would not defeat the bill by adhering.

Mr. W. Alston hoped that the House would not recede. Painful as it would be, he would rather see the bill fall altogether. The mode in which these provisions had been affixed to the bill was not unusual; and he produced a precedent in support of it. To the principle there could be no objection.

Mr. Gholson said, he thought it was too late in the session to commence a new controversy with the Senate; and as it was agreed, on all hands, that part of the bill was certainly necessary, and the other part might be postponed without injury to the State, he was in favor of recession.

Mr. Macon said that, on this subject, there could be but one question, Were the sections which the Senate had stricken out, proper to be passed into a law, or were they not? That was the only question to be decided. He hoped the House would not sacrifice the principle to accommodation.

Mr. Smilie hoped the House would not give way; they were now struggling for the protection of the public money. He said he would adhere and throw the responsibility of losing the whole appropriation bill on the Senate. If they chose to account to the people for the consequences of the failure of the bill, let them do so.

The question was then taken on receding, by yeas and nays, and decided in the negative—yeas 37, nays 55, as follows:

Yeas—Ezekiel Bacon, John Blake, jr., Adam Boyd, Epaphroditus Champion, Martin Chittenden, Richard Cutts, Thomas Gholson, jr., David Holmes, Reuben Humphreys, John G. Jackson, Robert Jenkins, James Kelly, Joseph Lewis, jr., Edward St. Loe Livermore, John Love, Josiah Masters, William McCreery, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, Samuel Shaw, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Benj. Tallmadge, John Thompson, James I. Van Alen, Philip Van Cortlandt, Isaac Wilbour, Alexander Wilson, and Nathan Wilson.

Nays—Lemuel J. Alston, Willis Alston, jr., Joseph Barker, Burwell Bassett, William W. Bibb, Thomas Blount, John Boyle, Robert Brown, William A. Burwell, John Dawson, Joseph Desha, William Ely, John W. Eppes, William Findley, James Fisk, Barent Gardenier, Francis Gardner, Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, James Holland, Benjamin Howard, Richard M. Johnson, Walter Jones, John Lambert, Matthew Lyon, Nathaniel Macon, Robert Marion, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Rowan, John Russell, Ebenezer Seaver, John Smilie, Samuel Smith, Richard Stanford, John Taylor, Abram Trigg, George M. Troup, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, and Marmaduke Williams.

It was then moved, by Mr. W. Alston, that the House *insist* on the bill as it now stands.—Carried, 55 to 19.

It was then moved to appoint conferees, to confer with such gentlemen as may be appointed by the Senate, on the subject of the above bill.—Carried. And Messrs. Willis Alston, Eppes, and Smilie, were appointed on the part of the House.

On motion of Mr. N. R. Moore, the usual resolution was adopted, directing the Clerk of the House to advertise and contract for printing, stationery, &c., for the next Congress.

MARINE CORPS.

The bill sent from the Senate, entitled "An act authorizing an augmentation of the Marine Corps," together with the amendment agreed to this day, was read the third time. And, on the question that the same do pass, it was resolved in the affirmative—yeas 54, nays 28, as follows:

Yeas—Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, Adam Boyd, Martin Chittenden, Richard Cutts, John Dawson, William Ely, John W. Eppes, William Findley, Francis Gardner, Isaiah L. Green, John Harris, David Holmes, Daniel Ilsley, Robert Jenkins, James Kelly, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, John Love, Matthew Lyon, Robert Marion, Josiah Masters, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Josiah Quincy, John Rowan, John Russell, Samuel Shaw, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, John Thompson, James I. Van Alen, Nicholas Van Dyke, Archibald Van Horn, Nathan Wilson, and Richard Winn.

Nays—Willis Alston, jr., William W. Bibb, Thomas Blount, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Daniel M. Durell, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John Heister, James Holland, Walter Jones, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Smilie, Samuel Smith, Richard Stanford, Abram Trigg, Jesse Wharton, Robert Whitehill, and Marmaduke Williams.

The House resolved itself into a Committee of the Whole, on the bill for the relief of William Hastings; and, after some time spent therein, the bill was reported with an amendment thereto, which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time this day.

The House adjourned until five o'clock, P. M.

Evening Session—Five o'clock.

An engrossed bill for the relief of William Hastings was read the third time, and passed.

A message from the Senate informed the House that the Senate agree to the conference desired by this House, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year 1809;" and have appointed managers at the said conference, on their part.

On motion of Mr. Lewis, the House resolved itself into a Committee of the Whole—44 to 35—on the bill from the Senate to amend the charter of Georgetown. The Committee rose, without coming to a decision, and were refused leave to sit again.

Mr. Jackson moved to reconsider the vote of

this House this morning, refusing a third reading to the bill to alter the style and title of the Marine Insurance Company of Alexandria.—Negatived, 54 to 27.

Mr. LEWIS making another motion to take up the bill for amending the charter of Georgetown,

Mr. J. G. JACKSON moved to postpone it indefinitely.—Motion lost, 56 to 30.

Mr. LEWIS's motion was then carried, and the bill ordered to a third reading—55 to 16. It was afterwards read a third time, and passed.

Resolved, That the Committee of Accounts be authorized to settle and adjust the accounts of Thomas Claxton, junior, and James Claxton, for their services during the present session, and allow them a sum out of the contingent fund of this House, not exceeding one hundred dollars each.

Resolved, That the Clerk of this House is hereby authorized and directed to pay out of the contingent fund, to Elexius Spalding, John Philips, Richard Stewart, John B. Boarman, and George Cooper, each fifty dollars, for extra services performed during the present session.

The bill sent from the Senate, entitled "An act providing for the promulgation of certain laws in the Territory of Michigan," was read twice, and the farther consideration thereof postponed indefinitely.

A message from the Senate informed the House that the Senate have disagreed to the amendment proposed by this House to the bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act to amend the charter of Georgetown."

The order of the day, for the House to resolve itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act for the better Government of the Navy of the United States," being called for, a motion was made by Mr. JOHN G. JACKSON that the said order of the day be postponed indefinitely, and resolved in the affirmative.

The House proceeded to consider their amendment disagreed to by the Senate to the bill from the Senate, entitled "An act supplementary to the act, entitled "An act to amend the charter of Georgetown:" Whereupon, a motion was made by Mr. LEWIS, that the House do recede from their said amendment; and the same being received, and under debate, a motion was made by Mr. WILLIS ALSTON, that the further consideration of the said bill and amendment be postponed indefinitely: and the question being taken thereupon, it passed in the negative. And on the question that the House do agree to the motion made by Mr. LEWIS, as hereinbefore recited, it was resolved in the affirmative.

On motion of Mr. WILLIS ALSTON,

Ordered, That the bill, entitled "An act concerning associations for the security of navigation;" also, the bill providing an additional military force, which originated in this House, and are now depending and undecided upon, do lie on the table.

ACCOUNTS OF GENERAL WILKINSON.

Mr. RANDOLPH said it would be recollected by the House that a committee was appointed some time ago, for the purpose of inquiring whether any advances of money had been made by the War Department contrary to law, and, if any, to what amount; it would also be recollected that, during the discussion on printing the documents, he had stated in his place, that, if no other gentleman did, he would bring forward a motion in relation to that subject. Conceiving it to be his duty so to do, he now rose for the purpose of redeeming the pledge which he had given to the House. He had been extremely reluctant to bring forward a motion on this subject, because he knew it might be said, and truly, that there was no time for the House to examine the documents during the present session. He was well aware of that objection, and, therefore, should not go into that examination, but should restrict his motion to so limited an extent, that it would be impossible for any man, as he believed, to deny its truth; it would be impossible for any man to complain that any difficulty existed as to a ready comprehension and prompt decision upon it; it was restricted only to a single case. If the House adopted the motion, it would then be for them to declare what should grow out of it. Mr. R. said he believed that it was understood in Great Britain that a dissolution of Parliament did not affect an impeachment—that the impeachment did not abate by the dissolution; and it belonged to the wisdom of the House, after the resolution was decided, to say what should be done with it. He wished it to be distinctly understood that he made his motion to redeem a pledge given to the House; and that there was not a man in the United States, however limited his capacity, that would not be able to discern its truth or falsehood. It did not rest upon involved accounts or points of law, but upon the plainest and most luminous propositions which could be offered to the human mind, the truth or falsehood of which would at once appear.

On the 16th of March, 1802, an act passed, fixing the Military Peace Establishment of the United States. By that act it was provided, "that the 'monthly pay of the officers, non-commissioned 'officers, musicians, and privates, be as follows, 'to wit: to the brigadier general, two hundred 'and twenty-five dollars, which shall be his full 'and entire compensation, without a right to demand or receive any rations, forage, travelling 'expenses, or other perquisite or emolument whatsoever, except such stationery as may be requisite for the use of his department." This is the law of the land, said he, in relation to this officer. The law then goes on to state what shall be the pay of other officers, non-commissioned officers, and privates; the fifth section apportions the rations to the different grades of officers, and allows "to the commanding officers of each separate post, 'such additional number of rations as the President of the United States shall, from time to 'time, direct, having respect to the special circumstances of each post." I beg the House to attend that the words are, "such additional number of rations;" and yet it is in proof before the House, that Brigadier General Wilkinson has received a considerable sum of money, to wit: $1,433 16, for *thirty-six* extra rations per day, whilst commanding at Natchitoches and at New Orleans. Whilst at the latter place, he has also received an allowance of $600 for "quarters, stabling," &c., said allowance, both as relates to rations and quarters, being prohibited by the law of the land. I know that the allowance has been made under very high authority, no less than that of the Attorney General of the United States—under the sanction of no less an opinion than his.

Mr. R. said it did not behoove him to enter into a contest with gentlemen learned in the law, as to the exposition of the law, much less with the Attorney General, in a case susceptible of being so put that a difference of opinion might arise under it. But where the case was such, that a difference of opinion could not take place if the terms of the law were attended to, he should, with great deference, as a representative of the people, not only think himself entitled to decide between that people and the Administration for them, but that he was solemnly bound by duty to express such an opinion. And he felt himself warranted in what he said, by perceiving that the Attorney General, in giving that opinion, had not correctly apprehended, because he had not correctly stated, the law. It has been said that Homer himself sometimes nodded; and a person even of first abilities and legal research, pressed by a multitude of business, might make an oversight—inasmuch as, in the Attorney General's opinion, the word "*additional*," preceding the word "rations" in the law, was omitted. The Attorney General acknowledged the force of the fourth section of the law, cutting off the Commander-in-Chief from any other emoluments; but said, "To put a just 'interpretation on any clause contained in a statute, you must look beyond the insulated section. 'The entire act must be taken into view, and such 'a construction formed as will give effect to every 'part." Mr. R. further quoted the *printed* document—"The allowance made to General Wilkinson, is not in his capacity of brigadier general, 'but in his quality of commander of a separate 'post. By the fifth section of the act above-mentioned, the President is authorized to allow the 'commanders of separate posts such *additional* 'number of rations as he may, from time to time, 'think proper to direct, having respect to the special circumstances of each post." Now surely the force of this term "*additional*" must have been overlooked by the Attorney General in this particular case. To a man to whom rations are allowed by law, you may allow additional rations; but can you allow additional rations to a man who is expressly prohibited from receiving any? Can you allow additional anything to a man whose compensation is fixed by law, and who is precluded, in the act itself, from receiving any farther compensation? To inferior officers commanding at separate posts, additional rations were by the law contemplated to be allowed, and for a reason explained in the act itself; but it would be recollected that the Commander-in-Chief always had a separate command. The law contemplated that, by having a separate command, (incidental things as to inferior officers, but inseparable as to the Commander-in-Chief,) they might be compelled to entertain company, and go into expenses which their pay would not warrant; and, therefore, in such cases, additional rations had been allowed. If my construction of the law be not correct, said he, words have lost their meaning, terms have no longer any signification, and we legislate to no purpose whatever. And the force of this thing will be made more apparent when we come to consider, that it is stated by the Accountant of the War Department that Colonels Cushing and Freeman received "*additional* rations," agreeably to law, for commanding at New Orleans and Natchitoches, for the same period of time for which an allowance was made to the Commander-in-Chief at the same places. So that, even if his construction was incorrect, if *white* conveyed the idea of *black*, if *right* was *wrong*, if "*additional*" signified *subtractional*, still the law had been completely executed, *quo ad hoc*, the moment the President had authorized additional rations to Colonels Cushing and Freeman, for commanding at New Orleans and Natchitoches.

These were things which he thought it his duty to state to the House. If they were not true, if they were not as evident as the lights burning before his eyes, then the House would say so—would deny the fact. I could go on further, said he, and state a great many other illegal grants equally clear with this. I will state one more. It is to be found in these documents. To be sure it is a petty affair, and one which I would not have brought before this House if I were not impelled by a sense of duty. It is an allowance of $47 41 for part pay, subsistence, and forage, from the 16th of March, 1802, to the 31st of May, following. Made how? "By an arrangement of the War Department." Now, on the 16th of March, a law was passed, which took effect as a law of the land from the time the President signed it; and if the President could have defeated the operation of the law till the 31st of May, 1802, he could defeat it altogether. It is the boast of a free government, that law, and not the discretion of men, is to govern; and the highest officer of this Government is as strictly amenable to law as the meanest member of society, in the eye of the law, and, *in foro conscientiæ*, more so; because they must be presumed to know the law, although the lower orders may not. If there be one proposition in the world clearer than another, it is the proposition which I am about to submit to the consideration of the House. I know the lateness of the session, and the House will appreciate the motives by which I am actuated; if not, it is my misfortune, but not my fault. I should be sorry to labor under the censure of the House; but if I incur it in the discharge of my duty, I shall bear it with equanimity—I trust, as becomes a man. I therefore move as follows:

Resolved, That the allowance of one thousand four hundred and thirty-three dollars and sixteen cents, for

"thirty-six extra rations per day," made by the Department of War to Brigadier General Wilkinson, at Natchitoches, from the 13th to the 30th of September, 1806, and from the 1st of October to the 11th of November in the same year, and whilst commanding at New Orleans, from 12th November, 1806, to 24th November, 1807; and of six hundred dollars for "quarters, stables," &c., at the same place, is contrary to law, the said allowance being expressly prohibited by the act passed the 16th day of March, 1802, entitled "An act fixing the Military Peace Establishment of the United States."

The House agreed now to consider the resolution—54 to 43.

Mr. Randolph said it would be recollected that he had said the Attorney General had misapprehended, because he had misstated, the law on the subject of the Military Peace Establishment; and yet, when he came to read his opinion as *printed*, he found to his very great surprise and embarassment, that the law was correctly quoted. He would state how it happened. In the tenth page of the printed report, fifth paragraph and fourth line, the word "additional," preceding the words "number of rations," will be found, but ought not to be, because it is not in the Attorney General's official report. It was omitted, and Mr. R. said he wished to state how it got in. When the copy of the Attorney General's opinion had been put into his hands, he had perceived the difference between the opinion and the law as it now stood, and with his pen had marked the omission as a guide to himself, and the printer had inserted it in the printed copy; and thus, Mr. R. said, when he read the printed report to the House, he was astonished that it did not tally with his conception. This being a palpable error, every gentleman who had the report, and those who published it, ought to omit the word "additional." This would show to the House, he hoped, that it was not very unreasonable in him to differ on this occasion with a gentleman of the Attorney General's erudition, as he had so far misunderstood the law.

Mr. J. G. Jackson moved that the resolution lie on the table. He said it would be unnecessary for him to state, that at this late period of the session it would be impossible to give to the resolution that consideration to which it was entitled. As it was announced by the mover of the resolution, said he, and as I find by the printed statement, of which I was really never possessed before this evening, the Attorney General has given, in his official capacity, an opinion that the allowance was just and proper; and that in pursuance of such opinion the amount charged was allowed. What is the House about to do? What are they asked to do? Even admitting that there was no difficulty on the subject that a person of the high responsibility of the Attorney General had not given an opinion, they are called upon to decide that the construction given by one of the departments to their law is an incorrect one. To make such a declaration would be an encroachment on the other parts of the Government. It would be the essence of despotism to enact laws, and after they have been construed by the proper tribunals, to say that that construction is erroneous. I incline to the opinion that the decision has been incorrect, but deny the authority of this House to reverse the decision. It is a fundamental principle of free governments that the powers of the several Departments shall be separate and distinct. The Legislature enacts; the Judiciary expounds; but it would be as improper for us to expound as for the judges to enact laws. We have witnessed already the impropriety of legislative exposition of laws. It is almost six years since I brought before the House the question respecting the construction of a contract—though I did not wish to have involved that question—between the United States and the State of Ohio, in relation to lands of the United States exempt from taxation by that State. The contract declared that five per cent. of the net proceeds arising from the sales of lands should be applied to roads. The Legislature of Ohio, in accepting the proposition, inserted a provision that three per cent. should be applied, under the direction of the Legislature, in opening roads in the State. The House of Representatives, when the bill was before them contemplating the appropriation of five per cent., solemnly declared that only two per cent. was applicable. The Legislature of Ohio unanimously declared that five per cent. was proper; and Mr. Breckenridge, then Senator from the State of Kentucky, afterwards Attorney General of the United States, (I quote him as high authority,) was of opinion that the decision of this House was incorrect. What does this amount to? That it is extremely dangerous for the Legislature of a country to give an exposition of its own laws. With regard to the word "additional," I should rather presume that the Attorney General in his original opinion, must have inserted it; for on recurring to the letter of the Secretary of War, we find that he says, in the 5th section, &c., the President is authorized to allow the commanding officers of posts such additional number of rations as he shall deem proper. Mr. J. said he could not perceive that any good could flow from the adoption of this proposition at this or any other time. If it was intended to effect anything by legislative construction of the law, it would be inefficacious, because it could only be done by prospective construction. Impeachment of the Secretary of War could not be intended, because he acted correctly from the opinion of the Attorney General; nor of the Attorney General, because, if wrong, he had not so acted corruptly, but from a mere error of opinion. For these reasons, and believing it impossible to act on the subject with that deliberation which it required, Mr. J. wished the resolution to lie on the table.

Mr. Randolph said the House would act on the resolution as in its judgment and wisdom it should think fit, and as a sense of duty and respect to its character and the interests of the public should dictate. He had discharged his duty. But before I sit down, said he, permit me to observe, that to presume the existence of a word, in the official letter which the House have proof,

the letter being before them, never was in the letter, is one of the highest stretches of presumption that man ever attained. I know that the word was not in the letter. I pledge my reputation on the fact; and I think that the reputation of the Attorney General as a lawyer is sustained by the words being omitted in the letter. I have seen the letter on file; there is no such word in the letter.

On what ground, sir, did I rest this motion? On the ground of oversight in the Attorney General in giving the opinion, inasmuch as this important word "additional" is omitted in that opinion. But, if you put that word in the opinion, do you not see that, instead of involving oversight, you involve deliberate perversion of law? Do gentlemen call themselves friends of the gentleman, and contend that this word must have been inserted? We have heard of the people being their own worst enemies; it very often happens that a man's friends are his worst enemies. The omission of this word "additional" might—I charge no improper motives—have proceeded from hurry of business; we are all liable to oversights. But it is said that we cannot construe our own laws, except by enacting new ones. Then, sir, I hope we shall not enact new laws, if, when broken through, our remedy is to re-enact them. This is indeed a grand discovery. Can you expect the new law to be adhered to, when the old one is with impunity to be departed from? Unquestionably you cannot. The law, it seems, must be construed by the proper tribunal—and which is the proper tribunal to try anything touching the malversion of public money, but this House? Can you bring it before a judicial tribunal? You cannot. Well, sir, suppose, when Mr. Whitbread brought forward his motion in the House of Commons that certain uses and abuses of public money were contrary to law, he had been met at the threshold by such an objection? We should have heard, and correctly too, of corruption and ministerial intrigue. Mr. Pitt was then in office, and Mr. Melville his bosom friend, his coadjutor in public life; but he had too high a reputation for his own fame, for his own reputation, for that glory which was the first, the last and only object of his life, to make such objection. I have stated the circumstances under which the balance is due. This matter is important to the people—into whose bosom we are about to return, to account for our stewardship—who are not to be put off on questions of money, by questions of order and opinions of high authority—who, over matters of money, will cavil to the ninth part of a hair. If gentlemen think this course will suit them, if they wish to attach what I call this foul stain to the Administration, they shall have my aid in doing it. On them will rest the responsibility. Having done my duty I shall submit, as behooves me to submit. I do not appear here as a partisan I appear here in the legal and Constitutional exercise of my Representative duties. I have exercised my duty; the House will do theirs, in the manner which to their wisdom shall seem fit.

Mr. Holland said that it was with a wish to preserve the honor and dignity of this House that he rose to make a few remarks. He thought that both would be compromitted by the adoption of the resolution under consideration. A committee had been appointed to examine into this subject, and the gentleman from Virginia was the chairman. It would seem proper that that committee should have made a specific report on the subject. Wherefore had they not done it, and why was this motion brought forward at eight or nine o'clock on the last night of the session, and of the existence of the present Congress? Was it for the purpose of forcing the House into a vote of this kind without consideration? If that committee had done their duty, they would certainly have favored the House with a detailed report. The committee had not thought proper to do so, and, therefore, the gentleman from Virginia had presented this resolution. Mr. H. said, that no person could be prepared to decide on the propriety or impropriety of the opinion of the Attorney General. For what purpose, said he, can this resolution be brought forward? Suppose this House were to resolve that the opinion of the Attorney General was incorrect, what good purpose would it answer? Would it bring back into the Treasury the money improperly applied? No. Is it consistent with the dignity of the House to pass an opinion on the subject? It is the duty of this House to make laws, and of another tribunal to decide on the laws when made; and if an incorrect decision be made, the person making it is liable to be impeached, and this House is the organ for that purpose. Why was not the matter brought forward properly? The Attorney General is an officer constitutionally appointed to give his opinion touching any matter of doubt in the Departments of the Government. But have we that right? No; our province is to make laws, and if our officers violate them, they may be impeached in a proper manner. The gentleman from Virginia says, that he has discharged his duty. I very much doubt it, sir. He has done more than his duty; he has brought forward a proposition when it is impossible to deliberate on it. He has done what cannot be supported. I hope the resolution will lie on the table.

Mr. Nelson said as to himself he cared not whether the resolution was ordered to lie on the table, or whether a question was immediately taken on it. He was ready for either question. One reason, however, why he should vote for it to lie on the table, was, that it was very late in the session, that the House was exceedingly fatigued, that a great number of members who would probably throw considerable light on this subject were now absent from the House; and were he now to vote for its lying on the table it would be from that consideration. He did not agree with any gentleman who supposed that this resolution had been brought forward from improper motives. He had no hesitation in declaring his sentiments explicitly on that head. Sorry as he was to differ with the gentleman from Vir-

ginia on points of this magnitude, yet, upon this subject, he had no hesitation as to the vote which he should ultimately give. I will ask, in the first place, (said Mr. N.) at what does this resolution aim? It is a bare and naked resolution declaring, as the opinion of this House, that certain opinions of the Attorney General are contrary to law. Is it intended to affect General Wilkinson, the late Secretary of War, or the Attorney General? I cannot see the object; whether it points at the one or the other, or at all, is totally immaterial. I do not rise in my place, at this time of night, as the partisan of the one or the other. I disclaim any such motive. I rise because I believe if we pass the resolution it will violate the fundamental principle of the American Constitution; that it will be more dangerous, and be attended with more evil consequences, than Burr's or any other conspiracy. If a precedent of this kind be once set, it leads immediately to the most positive and absolute despotism. The Constitution of the United States has wisely said, that the different departments of the Government shall be separate and distinct. To Congress, it has given the power of passing laws; to the Executive, the power of carrying them into execution. To the Judiciary, it has given the great and important power of expounding laws passed by Congress—and can it for a moment be said in a free country that we will take away the power from the Judiciary? That we will pass a law to-day, and to-morrow come forward, and, with a bare resolution of one House, say that the law was improperly expounded? Do we mean on one day to pass laws, and on the next day to expound them? If we consider this question in a less important point of view, we shall find this mode of doing business is equally productive of injustice. General Wilkinson, it is said, has improperly received a certain sum; and the gentleman says, that there is no mode of getting it back again. I deny it, sir; the action lies for the recovery, and, on the trial of that, the judges will decide the construction of the law.

Mr. RANDOLPH said, that the gentleman from Maryland, for the exercise of whose candor towards his motives he ought to be obliged, had certainly misstated his argument. He only asked of the gentleman the exercise of the same candor to his argument as he had displayed to his motives. He had not said that judgment could not be had against a public defaulter—far from it—but he did say that as to mismanagement or misapplication of public money, this House was the only tribunal.

Mr. NELSON said he was sorry if he had misstated the gentleman's argument. That certainly had not been his object. He was glad that he and the gentleman from Virginia agreed in one thing, viz: that if the money had been improperly paid out of the Treasury, General Wilkinson was responsible for it. Neither the opinion of the Attorney General, or a resolution of the House of Representatives, were conclusive as to what law was. The only authority which could properly decide on the propriety of the exposition of the law, was the Supreme Court of the United States. Now, suppose an action to be brought against General Wilkinson. Were the House about to prejudge this question? Were they about to create a bias on the minds of the judges? Was the Judiciary to be alarmed because the popular branch of the Legislature had given an opinion on the subject? He had too much confidence in the Judiciary to believe that would be the case; for he believed that they would say that the attempt of Congress to expound the law was futile. Mr. N. said he heard himself admonished by his friends around him, that he was extending his remarks to too great a length for the lateness of the hour. He concluded his observations by expressing his regret at seeing this proposition brought forward at a time and in a manner which precluded a full discussion of it.

Mr. ROWAN thought the present a question worthy of all the time which had been consumed in discussing it; and if the doctrine advanced were true, then were secrets disclosed in the operation of this Government which were not before known. The Constitution provided that no money should be drawn out of the Treasury contrary to law, but now it seemed that the officers might draw money on the opinion of the Attorney General. A sum of money might be wanted, and no law might be passed for the purpose. The President having a right to appoint an Attorney General, his opinion might be procured in favor of the application of the money. He was sorry that so much consequence had on this occasion been given to the opinion of the Attorney General. This officer was not known in this question, not being known to the Constitution. He was an officer created by law, to be consulted on legal questions by the officers of Government, in order to give them confidence in the execution of the laws; but at their risk they then performed their duty, his sanction not exempting them from responsibility. Here was an innovation on the Constitution: the opinion of an officer not known to the Constitution was brought in to screen a misapplication of public money. Had he assumed the judicial power? And were the Representatives of the people to be restrained from making inquiry because he had done so? Gentlemen had said that it was the province of the Judiciary to expound the law, and that an action might be brought for the recovery of the money misapplied. And was the House to be satisfied with this remedy? It was not the mere money which was the object of attention. Should the refunding of the money screen the officer who had violated his trust? A question of this kind should not be passed over out of delicacy to individuals. In proportion to their elevation were officers secure from accusation, because they were approached in such stations with reluctance, and never upon light grounds. This circumstance was sufficient security against light imputation. But, admit the plea of delicacy, and they would be sheltered from all inquiry. Whoever had the money of the nation in custody might then dispose of it as

he pleased, because to request him to account for it would be a matter of high delicacy. The argument that by passing this resolution they would prejudge the question, was not sound. The resolution might be amended, so as to appoint a committee of inquiry, upon whose report the House might or might not proceed. The idea that appropriation laws were necessary to be expounded, he said, was inconsistent with the nature of our Government. They should be explicit, and intelligible to the meanest capacity. But if a doubt should arise as to the construction of the law, it should be laid before the House by the President, whose duty it was to lay before Congress from time to time such subjects as he should deem proper for their consideration. Three or four opinions of the Attorney General had lately crept into the history of this country. The opinion of the Attorney General had been sent to the House on the subject of the claim of Beaumarchais without their requisition of it, and in other cases it had been allowed great weight. He thought the nation should put its veto upon the influence of the opinions of the Attorney General, as related to the duties of the great departments of the Government. Mr. R. said, if he understood the duty of the Attorney General, it was to prosecute suits in the courts of the nation in behalf of the United States, and to secure their great interests, but not to give an opinion on points which the heads of departments should propose, and under the authority of his opinion to screen them from the scrutiny or censure of the people. He would not give the nation reason to suppose that the Legislature lent the smallest sanction to a proceeding of this kind, and therefore he thought the resolution should be immediately acted on. It had been said that this proposition involved the character of the persons concerned. Mr. R. said that malfeasance would never be alleged without involving character, and according to the doctrine laid down, public officers had a license to do what they pleased. The argument that the resolution involved the character of General Wilkinson was nothing; that character was out of the question; it had been too long in the public reach to be sullied by anything which could be done in this House. The people never looked *to* whom money is paid, but *by* whom it is paid. The responsibility of the departments is involved. If they would give money to the officer, it was well understood that he would spend it. It was an error of the Department of War. He regretted that this proposition had come forward at so late a period of the session, but why it had done so the gentleman from Virginia had explained. He had rather that the subject should not have come before the House, than that it should have been dismissed lightly; for there had scarcely been so important a question before the House during the present session. It connected itself with the vitals of the Government. Say at once, said Mr. R., when you make a law for the appropriation of public money, that you have no power to inquire into its application, that the subject shall not be approached, from delicacy or the fear of prejudging it, and you immediately make the heads of departments despots. A few thousand dollars compared with principle is nothing—a correct decision is worth millions. If the House were to refuse to permit the resolution to lie on the table, it might be amended. If it be thought proper, Mr. R. said, he was prepared to vote for a committee of inquiry, not as to the man or men who had received the money, but as to those who had paid it. He did not say that there was any criminality in the case, but malignity and error in this case were the same; for malconduct would always clothe itself in the garb of the latter, were it to be admitted as a plea in excuse. Upon this subject there should be the utmost rigor of scrutiny. It was lamentable, if the opinion of the Attorney General was to rule the whole Government, that from so young an institution as this Government so perfect an excrescence had grown out. It was no excuse for a man who had the custody of the public money, that he had obeyed the Executive direction in applying it improperly.

Mr. J. G. JACKSON said he rose now merely to read a section of a law; for gentlemen had repeatedly said that the opinion of the Attorney General was not known to the law in such a case as the present, and that it was improperly foisted in: "There shall also be appointed a meet per-'son, learned in the law, to act as Attorney Gen-'eral for the United States, who shall be sworn 'or affirmed to a faithful execution of his office; 'whose duty it shall be to prosecute and con-'duct all suits in the Supreme Court in which 'the United States shall be concerned, and to 'give his advice and opinion upon questions of 'law when required by the President of the Uni-'ted States, or when requested by any of the 'heads of departments, touching any matters 'that may concern the departments, and shall 'receive such compensation for his services as 'shall by law be provided." Mr. J. said he was not about to enter into any examination of the vulnerable arguments of gentlemen, because he was aware of the lateness of the hour, (nine o'clock;) but he would remark upon the observation that his presumption was erroneous, that he found that the original letter of the Attorney General was not on the files of the House, but merely a copy of it; and on the remark that a man might lead his friend into difficulty, he would observe that he was *Amicus Socratis, sed magis amicus veritatis.* He must also be permitted to observe, that "error and malignity" were not to be considered in the same light.

Mr. ROWAN said, he contended that, in money matters and high offices, error was no more pardonable than malignity. So far as the Attorney General was mentioned, in the law just quoted, upon a sound construction, he could only be considered as authorized to give an opinion not as a shield but as a guide to the Department, and not to be less responsible on that account. If the Executive doubted on any point, he might avail himself of the opinion of the Attorney General;

but he was not an officer intended to stand over the Executive, and screen him from public opinion.

Mr. Gardenier had no hesitation in declaring his opinion that the money in question had been illegally, palpably illegally, paid; to prove which he used arguments at some length to the same effect as those of Mr. Randolph and Mr. Rowan. When Mr. G. had been speaking about twenty minutes,

Mr. Randolph asked leave to interrupt him. He said he certainly meant no disrespect to the gentleman from New York or to the House. He had thought that the motion was so clear a proposition that no debate would arise on it. If the debate progressed so as to delay public business, which was urgent, he must withdraw the proposition.

Mr. Gardenier declined permitting Mr. Randolph to withdraw his resolution, until he had concluded his observations. He spoke about ten minutes longer.

When he concluded, after a few words from Mr. Alexander, the question was taken on the resolution lying on the table, and carried—ayes 65.

Mr. Randolph asked leave to lay another resolution on the table along side of the former, and laid on the table the following resolution:

Resolved, That an advance of pay for the months of March, April, and May, and a further advance of pay for the months of June, July, August, September, October, and November, in 1809, has been made by the Department of War, to Brigadier General Wilkinson, and that when the said advances were made, the said Brigadier General Wilkinson stood indebted in a large amount to the United States, on the books of the Accountant of the War Department, and that the said advances of pay were contrary to law.

Mr. Randolph moved that the first resolution be printed.—Carried, 44 to 42.

Mr. R. then moved that the second resolution be printed.—Negatived, 40 to 38.

WAR AND NAVY DEPARTMENTS.

A bill was received from the Senate further to amend the bill for the establishment of the Treasury, War, and Navy Departments.

Mr. W. Alston stated this bill to be the result of the conference between the two Houses, and to be nearly the same as the five sections of the other bill in contest between the two Houses.

The bill was three times read and passed without opposition.

Mr. W. Alston, from the Committee of Conference, then moved that the House recede from its refusal to accept the amendments of the Senate to the bill "further to amend the several acts for the establishment of the War and Navy Departments, and making an appropriation," &c. The House then agreed to the amendment of the Senate for striking out the five first sections.

ADJOURNMENT.

A message was received from the Senate, stating that they had appointed a committee in conjunction with such committee as should be appointed by the House, to wait on the President of the United States, and inform him that they had concluded the business pending before them, and were ready to adjourn. A committee was appointed on the part of this House to join the committee of the Senate.

Mr. Smilie offered the following resolution:

Resolved, That the thanks of this House be presented to Joseph B. Varnum, in testimony of their approbation of his conduct in the discharge of the arduous and important duties assigned to him whilst in the Chair.

Mr. Rowan moved that it be postponed indefinitely. Messrs. Rowan and Lyon supported the motion; and Messrs. Eppes and Jackson opposed it.

The motion was afterwards withdrawn, and the resolution passed, 68 to 9, as follows:

Yeas—Evan Alexander, Willis Alston, Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, John Blake, jun., Thomas Blount, John Boyle, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, John G. Jackson, Richard Jackson, Richard M. Johnson, William Kirkpatrick, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Ebenezer Seaver, Samuel Shaw, John Smilie, Jedediah K. Smith, Clement Storer, Peter Swart, John Taylor, James I. Van Alen, Philip Van Cortlandt, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, Marmaduke Williams, Alexander Wilson, and Nathan Wilson.

Nays—John Campbell, Francis Gardner, James M. Garnett, Joseph Lewis, jun., Matthew Lyon, Josiah Masters, John Rowan, Richard Stanford, and Killian K. Van Rensselaer.

At the request of Mr. Barent Gardenier, the House excused him from voting on the question.

The Speaker returned his acknowledgments to the House for this tribute of their approbation, as follows:

Gentlemen of the House of Representatives:

The kind expression of your approbation of my conduct, in the discharge of the duties which you have been pleased to assign me as Speaker of the House, affords me that consolation which an approving conscience alone can surpass. You will please, gentlemen, to accept my thanks for the liberality and candor which you have uniformly manifested towards me: and be assured, that the friendly aid which I have experienced from you in the discharge of my official duty, has made a deep impression on the affections of my heart, which length of time cannot eradicate.

Mr. Cutts, from the committee appointed to wait on the President, reported that they had performed that duty, and that the President had informed them that he had no further communication to make.

And the House adjourned *sine die*.

SUPPLEMENTAL SPEECHES.

Mr. HILLHOUSE'S SPEECH,

delivered in the Senate of the United States, December 2, 1808. (*ante*, page 230,) on the resolution to repeal the Embargo, in answer to Mr. Giles's second Speech, delivered the same day.

Mr. President: Having already occupied so much of the time of the Senate, (to whom my acknowledgments are due for the candid attention with which they have heard me,) I shall not now trespass on their patience by again going into the argument at large, in answer to the remarks of the gentleman from Virginia, (Mr. Giles,) upon what has been said by the gentleman from Massachusetts (Mr. Pickering) and myself. The answer to those remarks will be found in the statements and observations already submitted to the consideration of the Senate. Such of the gentleman's remarks as consist merely in *peremptory* denials or *positive* declarations as to the questions of public concernment, and are unsupported by a statement of facts or reasons, merit no reply, and will receive none from me. On two points, only, shall I remark—the resolution of the Senate in 1806, and the British Orders in Council, as connected with the act of Parliament laying the duties complained of. The resolution is in these words:

"*Resolved*, That the President of the United States be requested to demand the restoration of the property of the citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and the indemnification of such American citizens for the losses and damages sustained by these captures and condemnations; and to enter into such arrangements with the British Government, on this and other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interest of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiations, that justice to which they are entitled."

This, says the gentleman from Virginia, was in the nature of an instruction to the President of the United States—so understood by the Senate at the time—that the flag of the United States should protect all persons on board American vessels. He therefore could do no otherwise than make it an *ultimatum*. This is the apology, and the only apology, offered by the gentleman for the President's having made it a positive article of his instructions. It cannot be justified to the nation, that it should be made an *ultimatum*, after it had been ascertained that the point would not be conceded by the British Government, and thereby hazard the peace, and the then prosperous commerce of our country, upon a vain attempt to secure foreigners, and most of them British subjects, on board American vessels, from impressment. That Great Britain or any other nation should be allowed to impress real American seamen, was a point that could not be yielded. But, far different is the President's claim, that the American flag should protect all persons sailing under it. The resolution is before the Senate. It speaks no such language, and did not warrant the risking of the peace and prosperity of the nation on such an *ultimatum*. The resolution, among other causes of difference, mentions that of the "impressment of American seamen" as a subject of "amicable negotiation." There is not the most remote intimation that it was the wish of the Senate that the United States should set up the lofty pretension that the American merchant flag should protect all persons sailing under it—a pretension which we had not one line-of-battle ship to enforce. I cannot find in the resolution an expression of the opinion of the Senate that any point of difference should be made an *ultimatum*. The whole was left open to amicable negotiation and arrangement. This would have accorded with the wise policy which was adopted in 1794, and was successful. That such was not my understanding of the resolution, as the gentleman from Virginia now contends for, he must be satisfied when I remind him of what took place three or four days before the late rejected treaty (or rather a copy of it) reached this city; when that gentleman declared, that, if the treaty did not contain a positive stipulation that the American flag should protect all persons sailing under it, and in every sea, it would be sent back. I replied, "then the treaty will be sent back;" for, it had been ascertained, to my satisfaction, that Great Britain would not agree to such a stipulation, until she was prepared to surrender her fleet, and yield up her naval superiority. Knowing that gentleman to be in the confidence of the President, I was astonished to hear the declaration; and then, for the first time, suspected that any such instructions could have been given. Had the question been put to the Senate, or the American people, Will you risk your best interests, and even your honor and independence, (which we are now told are at stake,) in an attempt to protect foreigners on board American vessels from impressment—those very foreigners whom the Administration now have it in contemplation to exclude altogether from our service? What answer would have been given? I leave every man possessing real patriotism and truly American feelings to give the answer. It is well known that a copy only of the treaty reached this city on the 3d of March, 1807—the day Congress closed their session—which copy was shown to the President; and on the evening of the same day he announced, not to the Senate, but to some individuals of that body, that the treaty would not be submitted to the Senate. At this time the original treaty, and the despatches from our Minister which accompanied the same, and explained its various provisions, had not reached our shores; for, on my arrival at New York, on my way to

Connecticut, from the seat of Government, which I left on the 4th of March, I found Mr. Purviance, a special messenger, had just arrived there with the treaty and despatches for our Government. It was impossible, therefore, that the President should have formed any correct opinion of its merits. Not finding the proposed stipulation respecting the American flag, he decided (according to the prediction of the gentleman from Virginia) against it.

Though it was matter of great convenience to our merchants to employ foreigners to aid in carrying on their extensive and profitable commerce, yet it was not an object of such importance as that it would be wise to jeopardize that very commerce, and other important interests, merely to protect these foreigners from impressment. As to real American seamen, the British Government never claimed the right of impressing them. The only difficulty has been to devise some mode of discriminating American from British seamen. Had we not persisted in our claim that the American flag should protect all seamen, there is little doubt but that some mode would have been found out to make the discrimination, and have prevented many of the evils we have suffered from the impressment of American seamen.

It appears, from the documents communicated the last session, that the same ultimatum was contained in the instructions of 1804,* which will account for the failure of the negotiations which have been carrying on for so many years. And is it not to be lamented that our having demanded an ultimatum which it was well known would not be granted, has given to the whole negotiation an air of insincerity? It is so much the interest of Great Britain, and nations are usually governed by their interests, to be at peace with the United States, that I cannot but entertain a hope that, if a negotiation was commenced and conducted with the same spirit, and with that liberal policy which governed in the negotiation of 1794, it would have a like successful termination.

A few remarks on the subject of the British Orders in Council, and the act of Parliament, shall close my observations. The gentleman from Virginia asks, in emphatic language, Are you prepared to submit to an act of Parliament imposing a tax? Are you prepared to pay tribute to, and be colonized by, Great Britain? I answer No. I will never voluntarily yield what we waged war and encountered all the difficulties of a Revolution to obtain. Whenever there is an attempt by Great Britain, or any other nation, to impose those evils upon us, I shall be prepared to apply the proper remedy. But an embargo is not that remedy. I can never consent to inflict stripes on our backs for the faults of others.

To make myself understood, let me put a plain case or two: Supposing Orders in Council were to issue, declaring it lawful to carry on a free trade from Boston to Alexandria, are we to abandon that trade through fear that we should be thought to submit to British orders? British Orders in Council granting us permission to trade where we had a previous right, would be futile, and ought not to prevent our pursuing our trade upon the ground of our ancient right. So our carrying on trade with all such places as we have heretofore been accustomed to trade with, though they may come within the purview of the British orders, might be carried on without submission, without disgrace.

Suppose another case, that Orders in Council should prohibit a direct trade between Boston and Alexandria, and subject all vessels to capture and condemnation that did not first touch at Halifax, pay duty, and take a license; at the same time an act of Parliament should pass, laying an export duty of ten per cent. on all exports from Halifax? Of what should we have a right to complain? Surely not of the act of Parliament; that would be a mere municipal regulation, laying a duty on exports, which Parliament might have a right to do, though, by the Constitution of the United States, it is forbidden to Congress. As well might Great Britain complain of the drawback duty of three per cent. laid on her products when exported from the United States. What we should have a right to complain of, what we should complain of, would be the Orders in Council, as a gross violation of our rights, and a most unwarrantable encroachment upon our sovereignty and independence, to which we could not submit without dishonor, which ought and must be resisted. Let me ask, would it be proper, in the proposed case, for the purpose of avoiding submission and a surrender of our independence, to lay an embargo on the ports of Boston and Alexandria, and thereby not only cut off their trade with each other, but with all the world? I should call this submission: the most tame, dishonorable, cowardly submission.

Mr. President, "submission" is a word I utterly discard. It is a word not to be found in the political dictionary of New England. It is because I am not for submission; it is because I am for preserving our independence and honor, that I am for repealing the embargo.

* *Articles of instructions from the President of the United States, to Mr. Monroe, January 5th*, 1804.

First Proposal.—"No person whatever shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the public or private armed ships belonging to, or in the service of the other, unless such person be, at the time, in the military service of an enemy of such other party."

Second and Ultimatum.—"No seaman, seafaring, or other person shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel, belonging to the citizens or subjects of one of the parties, by the public or private armed ships, belonging to, or in the service of the other party, and strict and effectual orders shall be given for the due observance of this engagement; but it is to be understood that this article shall not exempt any person on board the ships of either of the parties, from being taken therefrom by the other party, in case where they may be liable to be so taken according to the laws of nations, which liability, however, shall not be construed to extend in any case to seamen, or seafaring persons, being actually part of the crew of such vessel in which they may be, nor to persons of any description passing from one port to another port of either of the parties."

In the Instructions of May 7, 1806.

Ultimatum.—"No seaman, nor seafaring person, shall, upon the high seas, and without the jurisdiction of either party, be demanded, or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships or men of war belonging to, or in the service of the other party; and strict orders shall be given for the due observance of this engagement."

Mr. POPE'S SPEECH,

Delivered in the Senate of the United States, December 2, 1808, on the resolution to repeal the Embargo.—[*Ante*, page 230.]

Mr. President: With the indulgence of the Senate, I will endeavor to give a satisfactory answer to those objections to this bill, which, in the view of the gentleman from Connecticut (Mr. Hillhouse) and the gentleman from Massachusetts (Mr. Pickering) appear so formidable. It is unfortunate for the present Administration, that, in the opinion of its opponents, it always has either too much or too little energy, and that it cannot fix on that precise quantum which will suit them. The degree of energy to be exerted in any government must very much depend on the difficulties it has to encounter in the enforcement of its authority. The propriety and necessity of passing this bill ought to be determined by the experience of the last year, and existing facts. I cannot avoid expressing my surprise at the hostility of these gentlemen to this measure, after having told us that the opposition to the embargo was great in the Eastern section of the Union, and that we could not rely on the patriotism of the people to carry it into effect. I am the more surprised at the hostility of the gentleman from Connecticut, (Mr. Hillhouse,) when I recollect the measure pursued by his very Democratic State during our Revolutionary war to prevent illicit trade with the British army—at that time the power of punishing offences of that description belonged exclusively to the State governments. I think the gentleman informed us, that the State of Connecticut had a prison about forty feet under ground, and every man who was detected in carrying on any unlawful intercourse with the enemy was tried by a court martial, and sent to "hell." It is strange, indeed, after this example of severity, which appears to have had that gentleman's approbation, to hear him declaim with such vehemence against the bill under consideration; which, so far from containing any provisions for sending the violators of the embargo to the infernal world, has nothing in it touching life or liberty, and in all cases where property is concerned, the owner, before he can be deprived of it, is entitled to a fair and open trial by a court and jury.

In every government a power to declare the national will, as well as to execute it, rests somewhere; the great characteristic which marks the difference between this Government and despotism is, that in a despotism, the despot declares the national will, and with a military force always at his command he executes it, and these acts of sovereignty he performs without consulting the people and without responsibility. In a Republic, such as this, every exercise of power may be said to flow from the people, and every public functionary is responsible to them for his conduct. The people, by their Representatives, pronounce their will, and by an Executive chosen for a short period by themselves, they execute it; but in order the better to prevent oppression and guard the rights of citizens, they have secured to every man whose life, liberty, or property, may be affected by the operations of the Government, a judicial trial. In a despotism, the people neither participate in expressing the public will or in deciding on the manner in which or the purposes for which a military force shall be called forth. Here, sir, the public will is not only declared by the people through their Representatives, but the Executive department is only permitted to use the physical strength of the country in the manner and for the purposes they may direct. In every Government, however, there is a power lodged somewhere to exert the physical energy of the nation, when the public welfare or the public safety requires it. By the Constitution of the United States certain powers are delegated to Congress, to which is added an express authority to make all laws which shall be necessary and proper to carry into execution these powers, and all others, vested by the Constitution in the Government of the United States, or in any department or officer thereof, and the people, in the abundance of their caution, have inserted in that instrument certain restrictions or limitations on the powers of the General Government, in the nature of a bill of rights. Three questions, therefore, seem to present themselves for our consideration. First, whether Congress has power to lay an embargo? Secondly, whether the means furnished by this bill are necessary to carry that power into execution; and thirdly, whether it violates any of the prohibitory articles of the Constitution? It is contended that Congress has no power to lay an embargo, because it must be exercised under the power to regulate commerce with foreign nations; and that the embargo, instead of regulating, destroys commerce. To this, it might be sufficient to answer, that the embargo secures our commercial property from the avaricious grasp of the belligerents, and prevents our commerce from being regulated by Great Britain. But, sir, I shall not enter into a discussion on this question. I will content myself with calling to my aid the decisions of Congress during General Washington's Administration, their decision at the last session, and that of the judiciary, all supported by the voice of the people. Upon these decisions I rely with more confidence, than any reasoning I am capable of offering to the Senate; it is a question worthy of consideration, whether a construction so often

given to the Constitution, and so long acquiesced in, ought now to be disturbed.

That the means provided by this bill are necessary to carry the embargo into effect, is hardly denied by the gentlemen opposed to it—upon their representations of the opposition to this system, and the difficulty of enforcing it, this measure may be safely rested. If then we have power to lay an embargo, and this measure is necessary to enforce it, it follows, that it is our duty to pass the bill, unless we are forbidden by some part of the Constitution. If that instrument contains any such prohibition, I have not been able to discover it, and I believe I may with confidence challenge gentlemen to point it out.

Permit me, now, Mr. President, to examine more particularly the several sections of this bill, against which the arguments of the gentlemen have been particularly directed. The objections made to the second section, are entirely obviated by a proviso at the end of it, which secures small vessels from the embarrassments which gentlemen appear to apprehend. They have declaimed at great length against that part of the seventh section, which declares that neither capture, distress, or any other accident, whatever, shall be pleaded or given in evidence. To determine the propriety and necessity of this provision, we must contrast it with the law as it now stands, and endeavor to ascertain from which the greatest inconveniences will result. In every prosecution under the existing laws, if the accused can prove that he was captured, or driven into a foreign port, by contrary winds or other accident, he must be acquitted, although the capture is generally produced by a secret understanding between the captor and the captured. I appeal to the candor of the gentlemen themselves, who are better informed on this subject than I am, whether in one case of an hundred, where these excuses are made, they are founded in truth. Experience has proved the importance of this provision; it is one of the most valuable in the bill; without it, no conviction under our embargo system will be had. The power given to the Secretary of the Treasury to relieve in cases of evident hardship, is all that can or ought to be required. If there is any appearance of severity in this bill, we ought to be reconciled to it, because we know it cannot be dispensed with; there is no danger, however, of its being executed with undue rigor; we have not heard any complaint of a rigid exercise of the discretionary powers, heretofore vested in that department. There is a mildness and humanity in the American character that revolts at the exaction of severe, cruel justice; and when we consider that every man in our Government is in some degree responsible to public sentiment, we ought not to doubt, but that in every case of hardship which is clearly made out, the proper department will extend appropriate relief. The great complaint in this country, Mr. President, is not of the severity of our laws, but that they are not executed; that too much impunity is afforded to guilt. Indeed it has become a reproach to our laws and our Government.

The ninth section has been denounced with great vehemence. It authorizes the collectors to "seize money or property, found on board any ves-'sel, boat, or watercraft, when there is reason to 'believe that they are intended for exportation, or 'when in vessels, carts, &c., or in any manner ap-'parently on their way towards the territories of a 'foreign nation, or the vicinity thereof, or towards 'a place whence such articles are intended to be 'exported, and not to permit such articles to be re-'moved until bond with sufficient sureties shall 'have been given for the landing or delivery of the 'same, in some of the United States, whence in the 'opinion of the collector, there shall not be any dan-'ger of such articles being exported." Is this a new principle in our code? To prove that it is not, I will call the attention of the Senate to a section of the revenue laws. [Here Mr. P. read a section, which declares that if spirits shall be removed from a distillery, contrary to law, the ship or vessel, wagon, cart &c., in which it may be found, together with the oxen, horses, &c., shall be forfeited and liable to seizure by the revenue officers.] I will not take up the time of the Senate in reading other parts of the revenue laws; the same principle pervades the whole.

But, sir, it was unnecessary for me to appeal to precedents, so numerous in our revenue code, to support this part of the bill. It is bottomed upon a principle which has been recognised and acted upon, from time immemorial, and is familiar to every one, that it is better by precautionary measures to prevent offences, than to punish the offenders after they are perpetrated. Upon this principle a man who has been guilty of no crime, but whose conduct has afforded probable cause for believing he intends to commit one, is liable to be arrested and committed, until he gives sureties of the peace, or for his good behaviour. The gentlemen, to give more plausibility to their arguments, have asserted that a power is given to the collectors to break open dwelling-houses. I protest against any such construction, and I call upon them to point out the sentence, or even the word which will justify it. They have attempted to make an impression that the collectors would not be liable for improper conduct. This suggestion is unfounded. If a collector, without reason, or, to use a technical phrase, without probable cause, should be guilty of any act of oppression or extortion, he would be liable to a suit, and there is no part of the bill which would shelter him. Gentlemen pretend to be alarmed at the tenth section, by which it is enacted that "the 'powers given to the collectors by this or any other 'act respecting the embargo, to refuse permission 'to load vessels, &c., shall be exercised in con-'formity with such instructions as the President 'may give, and such general rules in pursuance of 'the powers aforesaid; which instructions and 'general rules the collector shall be bound to obey; 'and if any action or suit be brought against any 'collector, or other person acting under the direc-'tions of, and in pursuance of this act, he may 'plead the general issue, and give this act and the 'instructions and regulations of the President in

'evidence for his justification and defence." It is contended that this section makes the rules and instructions of the President paramount to the law. In this they are mistaken. In an action brought against a collector, if he should rely on the rules and instructions of the President, it will be the duty of the court to decide whether they are made in pursuance of the powers given by the embargo laws; and if the court should be of opinion that they are not authorized by law, they will not justify the collector. This principle, I am informed, has been already settled by the Judiciary and Congress. A suit was brought against an officer of the United States for some act done under the orders of the late President, and on the trial he relied on the instructions of the President for his justification, but the court determined that they were not warranted by law, and a verdict and judgment passed against him for a considerable sum in damages, which was paid out of the public Treasury, pursuant to an act of Congress. It has been the practice, heretofore, for the Secretary of the Treasury to give such instructions to the officers of the revenue, and, by a section of one of the revenue laws, the officers of the revenue cutters are made officers of the customs, and are expressly required to perform the duties enjoined by the Secretary of the Treasury. The reasons urged by gentlemen with so much force against giving discretionary powers to the collectors, and the dangers to be apprehended from their abuse of them, induced me, as one of the committee, to give my assent to this section. The propriety and necessity of it must be obvious to every impartial man upon a moment's consideration. In order to regulate and control the coasting trade, so as to prevent violations of the embargo, it has been found necessary to give the President and collectors some discretionary powers, the exercise of which ought to be governed by uniform rules in the different ports and harbors of the United States, and upon the high responsibility of the President. He is supreme executive officer of the Government, immediately responsible to Congress and the nation for the proper discharge of the executive functions; the collectors are his deputies, they emanate from him, and are under his control. I was, in the language of the gentleman, unwilling to make every collector a little, irresponsible despot, but deemed it more safe to subject them to the orders of the President, and thereby to render him responsible for the due exercise of the powers vested in the executive department. No part of this bill will warrant the assertion that the President is authorized to transcend the law or Constitution of the country. I disclaim such a principle. I have ever thought that Government the best, in which no man is superior to the law; and I advocate this bill for the purpose of carrying this principle into practical operation. I wish to arm the Government with sufficient energy to make every one bow before the majesty of the laws.

The last section objected to is the eleventh, which authorizes "the President, or such person 'as he shall have empowered for that purpose, to 'employ such part of the land or naval forces, or 'militia of the United States, or of the Territories 'thereof, as may be judged necessary to enforce 'the several embargo laws." This, we are told, establishes a military despotism. I hope to be one of the last men, in this country, to advocate a military despotism. If I could believe that this bill would produce such a state of things, it would not only cease to have my support, but meet with my most unqualified reprobation. But, sir, with whatever warmth gentlemen may bestow such epithets upon it, and sound the tocsin of alarm to the people that their liberties are in danger, whatever efforts they may make to inflame the public mind against this measure, when the good sense of the nation shall pass on it, they will be convinced that all their declamation is but empty sound. This part of the bill is not only warranted by an express grant of power in the Constitution, which declares that Congress shall provide for calling forth the militia to execute the laws of the land, suppress insurrections, and repel invasions, but, by numerous precedents, established under every administration of this Government. In addition to those read by the gentleman from Virginia, (Mr. GILES,) I will read the seventh section of an act, passed the 5th day of June, 1794, during General WASHINGTON's administration, which is strictly analogous to the eleventh section of this bill.

Mr. POPE here read the 7th section of the act before alluded to, which is in the following words:

"*And be it further enacted and declared*, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise, shall be begun or set on foot, contrary to the prohibitions and provisions of this act; and in any case of the capture of a ship or vessel, within the jurisdiction or protection of the United States, as above defined; and in any case in which any process out of any court of the United States shall be disobeyed or resisted by any person or persons, having the custody of any vessel of war, cruiser or other armed vessel of any foreign Prince or State; in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be judged necessary for the purpose of taking possession of and detaining such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibition and penalties of this act, and to the restoring such prize or prizes, in the cases in which restoration shall have been adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise, from the territories of the United States, against the territories or dominions of a foreign Prince or State, with whom the United States are at peace."

Here, said Mr. P., a power is given to the President, or such person as he shall have empowered for that purpose, to call forth the military strength of the country for several purposes, and among others to prevent the carrying on any mil-

itary expedition or enterprise, from the territories of the United States, against the territories or dominions of a foreign Prince or State, with whom the United States were at peace. A power which may be exercised as well on the land, in the interior, as on our coasts and in our ports and harbors, and without a warrant or other process from any court or judicial officer. It is proper to remark that this act of 1794 was not a temporary law; it is still in force, and makes a part of our permanent statutory code. The bill before us is to expire with the embargo. All legislation of this kind, Mr. President, ought to arise out of facts, and be the result of evident necessity. The American people were unwilling to entrust to the Executive the power of employing the physical force of the nation at pleasure, or in any manner his discretion or whim might direct. No, sir, they have wisely vested in Congress the power of providing in what manner and for what purposes it shall be called forth. It cannot, I think, be seriously contended that this section violates the Constitution. The question is, does the crisis demand it? To prove that the public good and the character of the Government require it, I need only refer to the circumstances and facts disclosed by the gentlemen opposed to it. They complain of our allusions to the people of the Eastern States. If, in our remarks, we have pointed to them, more particularly than to the people in other quarters of the Union, it has been owing to the representations of the gentlemen themselves. I appeal to you, Mr. President, and every member of the Senate, whether we have not had intimations on this floor, from those gentlemen, that there was danger of insurrection, rebellion, and violent opposition to the embargo laws, in the Eastern section of the Union. I believe, sir, the friends of the embargo have expressed as much confidence in the republicanism and love of country of the Eastern people, as in any other part of the nation. If they have been slandered, these gentlemen have slandered them. If, in the discussion of the embargo, our attention has been particularly directed to that quarter, it has not been the result of any individual distinction, but of causes and circumstances which must strike every man at the first view. It ought to be recollected that our Eastern and Northern frontier is bordered by British provinces, that Halifax is in the neighborhood of Maine, and, therefore, that quarter presents greater facilities for violating the embargo than any other.

The gentleman from Massachusetts informs us that the embargo has been violated in the Southern States, as well as the Eastern States. This is probably true. While the embargo continues, I wish it to operate equally on every part of the community. I do not think, however, that the proof the gentleman has adduced is very conclusive evidence of the fact he wishes to establish by it. He has read a passage from a newspaper, stating that a vessel had arrived in the West Indies from some port in Virginia, and another from Baltimore. Does it follow, that, because they cleared out from some Southern ports, that they belonged to those States? About one-third of the shipping of the United States belongs to Massachusetts, and a number of her vessels are, I believe, employed in the coasting trade, and those vessels which the gentleman has alluded to, may as well have belonged to the Eastern as the Southern people. The fact is immaterial. These newspapers, read by the gentleman, display one fact, perhaps of some importance. They state the price of flour in the West India islands to be thirty dollars per barrel. If this be true, I must question the correctness of public opinion respecting the violations of the embargo. If there is such a scarcity of flour in these islands as to raise the price to thirty or forty dollars per barrel, it is pretty strong evidence that it has not been evaded to the extent generally supposed. The gentleman discovered a degree of displeasure at the remark of the gentleman from Virginia, that the violations of the embargo have been produced by British influence. The feelings of no gentleman ought to have been wounded by it, especially after the explanation which was given. The observations of the gentleman from Virginia certainly did not authorize the inference which appears to have been drawn from them. But, sir, I have never heard a doubt expressed of the existence of such an influence. Is it not notorious that there are in our seaports a number of British subjects, merchants, agents, and contractors for the British navy? I believe there is, at this time, in the town of Alexandria, a contractor for the Jamaica squadron. The contiguity of their Northern possessions and West India islands, enables the British Government, with the aid of persons of the description I have mentioned, and that portion of our own people who are so lost to a sense of that duty which every citizen of a free Republic owes to his Government as to be tempted to become instruments in their hands, to exercise a degree of influence in procuring violations of our embargo, which requires all the vigilance and energy of the Government to resist. Between these violations of the embargo and the Government, issue is now made up, and it remains with Congress to decide which shall triumph. Shall we, by withholding the means necessary to enforce the laws, permit them to be trampled on, and the Government set at defiance? I hope not, sir. We are called on, not only by our most sacred duties as legislators, but by the nation, and especially that portion of it who have faithfully regarded our embargo, to compel obedience from those whose patriotism and virtue cannot be appealed to. I do not contend that the Constitution should be violated to support the embargo system, but that we ought to use such Constitutional means as will be adequate to attain the end in view.

It is worthy of remark, that the powers given by this bill will not be exercised in the interior of our country, but on our frontiers, and in our ports and harbors. Our Government, having intercourse with foreign nations, must give their officers, appointed to execute the laws regulating that intercourse, and to collect the revenue growing

out of it, the powers contemplated by this bill; and the laws of every country against smuggling would be nugatory and idle, without a power in the revenue officers to seize those articles upon which the laws operate, whether they are attempted to be smuggled out of, or into the country. The gentleman from Connecticut, (Mr. HILLHOUSE,) has expressed his astonishment that we should be so blinded by our zeal for this measure; we are equally so at the length to which his hostility to it carries him.

It was not to have been expected, Mr. President, that the general policy of the embargo would have been drawn into debate on this bill. We are again told, as on a former occasion, that the embargo is submission. If this be true, it is strange, indeed, that every British agent, and every friend of Great Britain in this country, should be so violently opposed to it. Their hostility to this system induces me to believe they do not consider it submission, and that it is not viewed in that light by the British Government. It is not the policy or the will of that Government that we should discontinue our foreign intercourse. Has she commanded us to withdraw from the ocean? No, sir; the will of Great Britain, is that we should remove our embargo, and trade, not as an independent nation, but upon her terms, and according to the rules and regulations she has prescribed; our embargo is, at least, a refusal to carry on commerce pursuant to her orders, and must, therefore, be considered resistance, and not submission to her will. We are reminded of the opposition to former Administrations. I was not on the political theatre at the periods to which the gentlemen have alluded, and shall not attempt, here, to discuss the topics which those times furnished.

Whatever may have been heretofore the bias of national feeling, or national prejudice, or of political parties, in relation to France and Great Britain, no friend of his country could have anticipated, that at a moment when both those nations should make war upon us, that we should be a divided people. The gentleman from Massachusetts again tells us, that in our system we are precisely conforming to the views of the French Emperor, and closes his remarks on this point, with an assurance that he does not mean to attribute to us any improper motives. We ought not perhaps to doubt the gentleman's veracity. I feel no disposition to detain the Senate, at this late hour, with recriminations. Permit me, however, to expose the glaring inconsistencies of gentlemen on this subject. Great efforts have been made to prove that the embargo is designed to be a permanent measure, and to meet the wishes of France; and yet we are told in the debate in the resolution to repeal the embargo, by the gentleman from Delaware, (Mr. WHITE), equally opposed to it with the gentleman last up, that the President was tired of the embargo last Spring, and in order to get clear of it, he proposed to Mr. Canning, the British Minister, to remove it, as to Great Britain, provided she would rescind her Orders in Council as to the United States. Mr. Canning's answer seems to have wounded the American pride and sensibility of that gentleman. He discovered a degree of indignation upon reading it, that did him honor. I believe he almost regretted that an opportunity had been afforded to Mr. Canning to treat our Government with such sarcastic insolence and contempt, after our Government has, in the opinion of gentlemen, almost humiliated itself to procure an honorable intercourse with Great Britain. What would the gentleman from Massachusetts have us to do? Why, sir, I infer from what he has said, that he would declare war against France, remove the embargo, and trade with Great Britain. To open our ports to that Government under existing circumstances, while her orders are in force against us, without any reparation or atonement for the many injuries, indignities, and insults she has heaped upon us, would be too disgraceful and degrading for the independent spirit of America. Mr. President, we have been injured and insulted by both France and Great Britain, and it would in my opinion be dishonorable to declare for either against the other, without some concession, some satisfactory atonement. To induce us to pursue the course he has recommended, the gentleman, as on a former occasion, has endeavored to excite our alarm by telling us that Bonaparte is aiming at universal dominion, and that if Great Britain should be conquered, America will fall a prey to his ambition. He might as well tell me of events that are to happen after the day of judgment. He must be a visionary statesman indeed, who would be influenced by dangers and consequences so remote and chimerical as those which appear to haunt that gentleman's imagination. I will never sacrifice the great interest of my country to gratify a vindictive spirit against any nation. I shall be ready to consent to renew our commercial intercourse with Great Britain, so soon as it can be done on terms which this people can accept. We have been assured by gentlemen that Great Britain understands her interests, and is governed by it; if so, and our friendship is necessary to enable her to stand against the conqueror of Europe, she will have it, because she can always command our friendship by conducting towards us with justice and moderation. The door of conciliation has ever been open to her, and is still open—it has never been shut by our Government.

I am really at a loss, Mr. President, to account for the inconsistencies of gentlemen in their arguments against the embargo; by one, we are told that the President was tired of it long since, and therefore solicited Mr. Canning to help him to take it off; by others, it is contended that it is a permanent measure, and resorted to for the destruction of commerce. In the debate on the resolution to repeal the embargo, the gentleman labored to prove that the embargo was submission, and not resistance to the belligerents, that it would not coerce, but benefit Great Britain; and in the same breath, it was insinuated to be a measure of conformity to French policy. All these positions cannot be correct. If it be a measure of hostility to Great Britain, it cannot be submission; if it

is submission to Great Britain, and she is benefited by it, it could not have resulted from any concert with France. If, however, the fears of the gentleman from Massachusetts are well founded, that, if Great Britain should be crushed by the colossal power of France, we are gone, and that, therefore, our weight ought to be thrown into the scale of Great Britain, to enable her to maintain her independence; and if it be true, as the gentleman contends, that our embargo does not coerce, but subserve, the interest of England, it follows, from his own premises, that our measures are not hostile to her, and that, for our own preservation, we ought to continue our embargo to strengthen Great Britain.

Gentlemen contend that it is not fair, that the friends of the embargo have no right to call on them for a substitute. I cannot, for my part, imagine upon what ground they can refuse to offer it, if they have any. We all admit that the belligerents are committing depredations upon us, that they are in fact making war against us, and that we ought not to submit, but resist. The only question, then, is, what is the most honorable and efficient mode of resistance? We have resorted to the embargo. If gentlemen opposed to this believe there is any other better measure of resistance, it is certainly their duty to propose it. Would they substitute war? If they would, I could flatter myself with union in support of war against the belligerents. I incline to believe I should consent to accept their substitute. War cannot be their object, because they ridicule the idea of war with both belligerents as quixotic; this sentiment has been frequently expressed by gentlemen in debate, and with great apparent consequence. After all the consideration I have been able to bestow on the subject, I cannot view the project of making war with France and Great Britain in that absurd and ridiculous light in which the gentlemen endeavor to exhibit it. It may appear rather extraordinary that two nations at war with each other should both make war upon us; but, sir, I cannot imagine how it can be considered absurd for us to resist both by war; indeed, it seems to me extraordinary and quixotic that we should not. The gentlemen admit that, if one nation commits acts of hostility upon us, war with that nation would be proper and necessary; but if two nations make war against us at the same time, and they happen to be at war with each other, war, on our part, against both, would be absurd and ridiculous, because there would be great difficulty in fighting a three-sided or triangular battle. This is a kind of reasoning to me perfectly novel; it proves that the more enemies we have, the less resistance we ought to make. I should suppose the reverse of this to be correct. I can tell the gentleman from Connecticut, that the idea of three belligerents, which he thinks so ridiculous and absurd, has been often realized in the country I represent. Before Kentucky was settled by the whites, it was a great common, kept as a hunting-ground for the use of the Indian nations, and, by a general consent or law among them, no settlement was to be made upon it. When it was seized by the whites, they were treated as common enemies by the surrounding savage tribes; and it frequently happened that different tribes, at the same time that they waged war with each other, carried on war against the whites. If the gentleman from Connecticut had been in our country at an early period, and told the people if one Indian nation made war upon them they ought to fight, but if two nations at war with each other committed hostilities upon them, that then it would be ridiculous and quixotic for them to fight both, I imagine they would have considered the gentleman's notions very ridiculous and quixotic, indeed. The opinions of gentlemen on this subject appear to arise from possible difficulties, which might occur in possible, but very improbable cases, which they have imagined. Suppose, says the gentleman from Connecticut, (Mr. HILLHOUSE,) after we declare war against Great Britain and France, that three frigates should meet on the high seas, one belonging to each belligerent, how would this singular battle be conducted? I will not attempt to solve the difficulties with which a case of such peculiarity might be attended, in any other way than by supposing another equally as likely to have happenod, but which never did happen. Suppose, sir, that, before the close of the Indian war, two parties of Indians of different tribes who were at war with each other, and a party of whites had met in the wilderness, how would these gentlemen have acted in a situation so rare and embarrassing? I shall not take up your time, sir, in making conjectures so improbable.

The facts alleged by the gentlemen themselves, show that this three-sided figure cannot occur on the ocean. They tell us that France has no naval force to make war on that element; and that Great Britain, with her thousand ships, has drawn a line between us and the continent of Europe. It appears to me remarkable that such practical matter-of-fact statesmen as these gentlemen profess to be, should be influenced by such far-fetched possibilities. If, however, their opinion be correct, that it would be unwise and impolitic to substitute war with both belligerents for the embargo, it follows, as a necessary consequence, that it must be continued until a selection can, with honor, be made.

What, Mr. President, is our situation? France has interdicted our trade with Great Britain, and Great Britain has interdicted our trade to France and the Powers under her control, in many articles, the production of our own soil—cotton she has virtually prohibited altogether. The dispute between us and the belligerents is not about the carrying trade, but whether we shall be permitted to carry our surplus produce to foreign markets? The privilege of carrying our cotton to market, is one in which, not only the growers themselves are interested, but one which concerns every part of the nation. The exportation of flour from the United States has not increased since the year 1793, although it is very certain hat a much larger quantity is now made, than

at that period. This must be owing to the increased consumption of that article in our own country. The high price given for cotton since that time has induced the Southern people to employ the whole of their capital in the culture of that article, and purchase flour and other articles, for their own consumption, from the people of the Middle, Eastern, and Western States. The growth of our commercial and manufacturing towns, the increase of our shipping, and consequent demand for sea stores, have occasioned a greater consumption of flour than formerly. In those parts of the country where cotton is the chief article of culture, the people of other parts find a market for their horses, a large portion of their manufactures, flour, and other surplus productions; and the ship-owners find employment in carrying our cotton to foreign markets. Indeed sir, cotton has become the great staple of our export trade. It has been for some years the principal stimulus to every branch of industry in our country. We export annually upwards of sixty millions of pounds of cotton, a little more than half of which is used in Great Britain, the residue on the continent of Europe. If we remove the embargo while the British orders are in force, the whole of it must be carried to England; there would then be nearly thirty millions of pounds in the English market more than the demand. Have gentlemen calculated the influence which this surplus quantity would have on the price? But, sir, the prospect is still worse, if we are to credit the statement of these gentlemen. They have informed us that Great Britain is now receiving large quantities of cotton from Brazil, Spanish America, Africa, and the East Indies; and that she is not dependent on us for a supply. The necessity, therefore, of resisting the British orders, and forcing our way to those markets where there is a demand for the article, must be evident to every one who will consider the subject. It is not the cause of the cotton States merely, but of every part of the Union. I believe it will be found, upon an attentive examination, that these States are more united by interest, and that the good of the whole is more intimately connected with the interest of every part than superficial thinkers are disposed to believe. I cannot view the British orders merely as a temporary measure of retaliation on France. I fear they have originated in a policy of a more permanent character. I suspect Great Britain has in view to cripple the United States as her rival in commerce, and to prevent the Powers on the Continent from rivalling her in manufactures. The first she expects to accomplish by contracting the circle of our commercial enterprise; the second, by depriving the continental Powers of the raw materials, and preventing them from sending their manufactures to distant markets, and thereby increasing the demand in those markets for her own manufactures. If my suspicions are well founded, that her orders are the offspring of a permanent policy, I fear that, although our non-intercourse system may severely affect her interest, she will be very reluctant to change her course, and that the American people will be compelled to vindicate their rights by their arms. Within a few months, as soon as we can be prepared to strike a blow, we must exchange our present attitude for one of a military character. Millions for defence, not a cent for tribute! has run through the public prints for two years past, and, however it may have been misapplied, I confess I like the sentiment. I hope it is deeply engraven upon the heart of every American.

I could not, Mr. President, at this late hour, trespass on the indulgence of the Senate in noticing all the observations of the gentlemen opposed to this bill. I have contented myself by answering their most prominent objections to it, and am now ready to give my vote for the passage of the bill.

SUPPLEMENTAL JOURNAL

Of such proceedings as, during the time they were depending, were ordered to be kept secret, and respecting which the injunction of secrecy was afterwards removed by order of the House.

TUESDAY, November 8, 1808.

The House being cleared of all persons, except the members and the Clerk, a confidential Message was received from the President of the United States, by Mr. Coles, his Secretary, who delivered in the same, and then withdrew.

WEDNESDAY, November 9.

The House being cleared of all persons, except the members and the Clerk, proceeded in the reading of the confidential Message from the President of the United States, and the accompanying documents, received on the eighth instant, and went through the same.

The said Message is in the following, words to wit:

To the Senate and House of Representatives of the United States:

The documents communicated with my public Message of this day, contain such portions of the correspondences, therein referred to, of the Ministers of the United States at Paris and London, as relate to the present state of affairs between those Governments and the United States, and as may be made public. I now communicate, confidentially, such supplementary portions of the same correspondence as I deem improper for publication, yet necessary to convey to Congress full information on a subject of their deliberations so interesting to our country. TH. JEFFERSON.

NOVEMBER 8, 1808.

Ordered, That the said Message and documents do lie on the table.

WEDNESDAY, November 23.

The House being cleared of all persons, excepting the members and the Clerk, a motion was made by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy, so far as it relates to the substance of the communications from our respective Ministers at Paris and London, which accompanied the President's Message of the eighth instant, be taken off:

And on the question that the House do now proceed to take the said proposed resolution into consideration, it was resolved in the affirmative—yeas 113, nays 1, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes William Findley, James Fisk, Meshack Franklin, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, William Hoge, James Holland, David Holmes, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Walter Jones, William Kirkpatrick, John Lambert, Edward St. Loe Livermore, Edward Lloyd, John Love, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, William Milnor, Daniel Montgomery jun., John Montgomery, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, Nathan Wilson, and Richard Winn.

NAY—Adam Boyd.

Mr. RANDOLPH then modified his resolution so as to read as follows:

Resolved, That the injunction of secrecy imposed on the communication from our respective Ministers at Paris and London, which accompanied the President's Message of the eighth instant, be taken off, with the exception of the extract of a letter from General Armstrong to the Secretary of State, dated Paris, December twenty-seventh, one thousand eight hundred and seven.

And on the question that the House do agree to the same, it passed in the negative—yeas 31, nays 82, as follows:

YEAS—John Campbell, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., Daniel M. Durell, William Ely, James M. Garnett, Edwin Gray, John Harris, William Hoge, Richard Jackson, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Josiah Masters, William Milnor, John Morrow, Jonathan O. Mosely, Roger Nelson, Josiah Quincy, John Randolph, John Russell, Samuel Shaw, William Stedman, Lewis B. Sturges, Abram Trigg, Jabez Upham, Killian K. Van Rensselaer, David R. Williams, and Nathan Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Clopton, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, John W. Eppes, William Findley, Jas. Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, Jas. Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Walter Jones, William Kirkpatrick, John Lambert, Robert Marion, William McCreery, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Porter, John Rea of Pennsylvanina, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

Another motion was then made by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy so far as it relates to the substance of the communications from our respective Ministers at Paris and London, which accompanied the President's Message of the eighth instant be taken off.

And on the question that the House do now proceed to take the same into consideration, an adjournment was called for, and carried, and then the House adjourned until to-morrow morning, eleven o'clock.

THURSDAY, November 24.

The House being cleared of all persons, except the members and the Clerk, and the resolution proposed by Mr. RANDOLPH, which was depending yesterday, at the time of adjournment, being again read, in the words following, to wit:

Resolved, That the injunction of secrecy, so far as it relates to the substance of the communications from our respective Ministers at Paris and London, which accompanied the President's Message of the 8th instant, be taken off, with the exception of the extract of a letter from General Armstrong to the Secretary of State, dated Paris, December twenty-seventh, one thousand eight hundred and seven.

The question was taken that the House do now proceed to the farther consideration of the same, and resolved in the affirmative.

Mr. RANDOLPH, then, with the consent of the House, withdrew the said resolution from the Clerk's table; whereupon, a motion was made by Mr. MACON that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the communications from the President, from our respective Ministers at Paris and London, be taken off, and that the same be published, with the exception of the extract of a letter from General Armstrong to the Secretary of State, dated Paris, twenty-seventh of December, one thousand eight hundred and seven.

And on the question that the House do agree to the same, it passed in the negative—yeas 29, nays 82, as follows:

YEAS—John Campbell, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., Daniel M. Durell, William Ely, James M. Garnett, Edwin Gray, John Harris, William Hoge, Richard Jackson, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Josiah Masters, John Morrow, Jonathan O. Mosely, Roger Nelson, Josiah Quincy, John Randolph, John Russell, Samuel Shaw, William Stedman, Lewis B. Sturges, Abram Trigg, Jabez Upham, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, John Culpeper, Richard Cutts, Samuel W. Dana, John Dawson, Josiah Deane, Joseph Desha, James Elliot, John W. Eppes, William Findley, James Fisk, Meshack Franklin, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, John Lambert, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Timothy Pitkin, jr., John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, George M. Troup, James I. Van Alen, Archibald Van Horn, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Nathan Wilson, and Richard Winn.

A motion was then made by Mr. RANDOLPH, that the House do come to the following resolution:

Resolved, That the injunction of secrecy, so far as it relates to the substance of the communications from our respective Ministers at Paris and London, which accompanied the President's Message of the eighth instant, be taken off, with the exception of the extract of a letter from General Armstrong to the Secretary of State, dated Paris, December twenty-seventh, one thousand eight hundred and seven:

And the question being taken thereupon, it passed in the negative—yeas 39, nays 67, as follows:

YEAS—John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, Barent Gardenier, James M. Garnett, Edwin Gray, John Harris, William Hoge, Richard Jackson, Robert Jenkins, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Robert Marion, Josiah Masters, Wm. Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Russell, Richard Stanford, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, David R. Williams, and Nathan Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William Blackledge, John Blake, jr., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Findley, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, William Helms, James Holland, Reuben Humphreys, Daniel Ilsley, John G. Jackson, John Lambert, Nathaniel Macon, William McCreery, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Wilson C. Nicholas, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Clement Storer, John Taylor, John Thompson, Abram Trigg, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, and Richard Winn.

FRIDAY, November 25.

The House being cleared of all persons, except the members and the Clerk, a motion was made by Mr. RANDOLPH, that the House do come to the following resolution:

"That the Secret Journal be published,"

The question was taken that the House do now proceed to consider the said proposed resolution, and was resolved in the affirmative—yeas 101, nays 16, as follows:

YEAS—Willis Alston, jr., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., John Boyle, Robert Brown, William Butler, Joseph Calhoun, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Samuel W. Dana, John Davenport, jr., John Dawson, Joseph Desha, Daniel M. Durell, James Elliot, William Ely, John W. Eppes, James Fisk, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John Harris, William Hoge, James Holland, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, John Lambert, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, Dennis Smelt, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, John

Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, David R. Williams, Alexander Wilson, and Nathan Wilson.

NAYS—Lemuel J. Alston, David Bard, Thomas Blount, Adam Boyd, Orchard Cook, Richard Cutts, Josiah Deane, William Findley, Isaiah L. Green, John Heister, William Helms, Reuben Humphreys, Wilson C. Nicholas, John Smilie, Robert Whitehill, and Richard Winn.

The question was then taken that the House do agree to the said resolution, and resolved in the affirmative—yeas 95, nays 23, as follows:

YEAS—Willis Alston, jun., Ezekiel Bacon, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jr., William A. Burwell, John Campbell, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, John Culpeper, Richard Cutts, Samuel W. Dana, John Davenport, jr., John Dawson, Joseph Desha, James Elliot, William Ely, John W. Eppes, Meshack Franklin, Barent Gardenier, Francis Gardner, James M. Garnett, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John Harris, William Hoge, David Holmes, Benjamin Howard, Daniel Ilsley, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, Joseph Lewis, junior, Edward St. Loe Livermore, Edward Lloyd, Nathaniel Macon, Robert Marion, Josiah Masters, William McCreery, Daniel Montgomery, jun., John Montgomery, Jeremiah Morrow, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, John Russell, Benjamin Say, Samuel Shaw, James Sloan, Jedediah K. Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, Clement Storer, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Thompson, Abram Trigg, George M. Troup, Jabez Upham, James I. Van Alen, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, Daniel C. Verplanck, Jesse Wharton, Isaac Wilbour, David R. Williams, Alexander Wilson, and Nathan Wilson.

NAYS—Lemuel J. Alston, David Bard, Thos. Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, Orchard Cook, Josiah Deane, Daniel M. Durell, William Findley, Isaiah L. Green, John Heister, William Helms, James Holland, Wilson C. Nicholas, Ebenezer Seaver, Dennis Smelt, John Smilie, John Taylor, Robert Whitehill, and Richard Winn.

A motion was made by Mr. D. R. WILLIAMS, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the letters and extracts from our Ministers at Paris and London, accompanying the Message of the President of the United States of the eighth instant, except the letter of Mr. Armstrong, of the twenty-seventh of December, one thousand eight hundred and seven, and the words contained in the parenthesis of Mr. Pinkney's letter of the twenty-sixth of January, one thousand eight hundred and eight, be removed.

The question was taken that the House agree to the said proposed resolution, and passed in the negative—yeas 43, nays 72, as follows:

YEAS—Burwell Bassett, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jr., Daniel M. Durell, James Elliot, William Ely, James Fisk, Barent Gardenier, James M. Garnett, Edwin Gray, John Harris, William Hoge, Richard Jackson, Joseph Lewis, jr., Edward St. Loe Livermore, Edward Loyd, Nathaniel Macon, Josiah Masters, John Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Timothy Pitkin, junior, Josiah Quincy, John Randolph, Samuel Riker, John Russell, Samuel Shaw, Samuel Smith, William Stedman, Lewis B. Sturges, Peter Swart, Benjamin Tallmadge, Abram Trigg, Jabez Upham, Philip Van Cortlandt, Archibald Van Horn, Killian K. Van Rensselaer, and David R. Williams.

NAYS—Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, David Bard, Joseph Barker, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Orchard Cook, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, William Findley, Meshack Franklin, Francis Gardner, Thomas Gholson, jr., Peterson Goodwyn, Isaiah L. Green, John Heister, Wm. Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, William Kirkpatrick, John Lambert, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jr., John Montgomery, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Benjamin Say, Ebenezer Seaver, James Sloan, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, George M. Troup, James I. Van Alen, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Winn.

On motion of Mr. MACON,

Ordered, That the Secret Journal of this day be published.

APPENDIX

TO THE HISTORY OF THE TENTH CONGRESS.

[SECOND SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

GREAT BRITAIN.

[Communicated to Congress, November 8, 1808, January 17 and 30, 1809, and June 16, 1809.]

To the Senate and House of Representatives of the United States:

I communicate to Congress certain letters which passed between Mr. Canning, the British Secretary of State, and Mr. Pinkney, our Minister Plenipotentiary at London. When the documents concerning the relations between the United States and Great Britain were laid before Congress, at the commencement of the session, the answer of Mr. Pinkney to the letter of Mr. Canning had not been received, and a communication of the latter alone would have accorded neither with propriety nor the wishes of Mr. Pinkney. When that answer afterwards arrived, it was considered that as what had passed in conversation had been superseded by the written and formal correspondence on the subject, the variance in the statements of what had verbally passed was not of sufficient importance to be made the matter of a distinct and special communication; the letter of Mr. Canning, however, having lately appeared in print, unaccompanied by that of Mr. Pinkney in reply, and having a tendency to make impressions not warranted by the statements of Mr. Pinkney, it has become proper that the whole should be brought into public view.

TH. JEFFERSON.

JANUARY 17, 1809.

To the Senate and House of Representatives of the United States:

I transmit to Congress a letter recently received from our Minister at the Court of St. James, covering one to him from the British Secretary of State, with his reply. These are communicated, as forming a sequel to the correspondence which accompanied my Message to both Houses of the 17th instant.

TH. JEFFERSON.

JANUARY 30, 1809.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 13th instant, I transmit extracts from letters from Mr. Pinkney to the Secretary of State, accompanied by letters and communications to him, from the British Secretary of State for the Foreign Department; all of which have been received here since the last session of Congress.

To these documents are added a communication just made by Mr. Erskine to the Secretary of State, and his answer.*

JAMES MADISON.

JUNE 15, 1809.

Extract—The Secretary of State to Mr. Pinkney, Minister of the United States at London.

DEPARTMENT OF STATE, *March* 8, 1808.

Having just learned that the present mail will arrive at New York in time for the British packet, I avail myself of the opportunity of forwarding your commission and letters of credence, as successor to Mr. Monroe, in the legation at London.

Since my last, which went by Mr. Nourse, in a despatch vessel, bound first to L'Orient, and then to Falmouth, I have received your communications of the 23d November, and of — December. These, with a representation from General Armstrong to the French Government on the subject of the decree of Berlin, as expounded and enforced in the case of the ship Horizon, were thought by the President to throw so much light on the course likely to be pursued by Great Britain and France in relation to the United States, that he had the documents confidentially laid before Congress.

Mr. Erskine has made a written communication on the subject of the British orders. I shall answer him as soon as the very urgent business on hand will permit.

Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *March* 22, 1808.

My last bore date the 8th instant, and went by the British packet. It acknowledged your letter of November 23d, and — December. I have since received those referred to in the latter, and, also, that of January 26, which came to hand last evening.

I cannot enclose my answer to Mr. Erskine's communication of the British orders; the unceasing pressure of other matters, on a state of health still feeble, having thus far delayed it. You will anticipate the complexion which will

* These documents are annexed to those communicated the 23d May, 1808.

necessarily be given to it by the character of measures, not only violating our rights, and stabbing our interests, but superadding, under the name of indulgences, a blow at our national independence, and a mockery of our understandings.

Extract—Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *April* 4, 1808.

SIR: My last was of March 22, and went under the care of Mr. Rose. I now forward printed copies of the correspondence with him on the subject of his mission, and of the antecedent documents, relating to the case of the Chesapeake. As soon as the voluminous residue of the communications made to Congress issues from the press, it shall also be forwarded. You will find that they include certain documents relating to France, which were thought proper for the knowledge of Congress at the present crisis.

To those communications I add copies of Mr. Erskine's letter to me on the subject of the British decrees of November last, and of my answer. And that you may have a view of the ground which has been taken with respect to the French decree of November, 1806, and to the judicial exposition in the case of the Horizon, giving to it an illegal operation against the United States, I enclose copies of two letters to General Armstrong on those subjects.

The President made to Congress, a few days ago, other communications relating to the present crisis with Great Britain and France, among which were Mr. Erskine's letter, now enclosed, and a letter from Mr. Champagny to General Armstrong, explaining the course meditated by the French Government with respect to the commerce of the United States. These being excepted from the confidential character attached to the others, have been published, and will be found among the printed enclosures. Your letter of February 26 was enclosed in the communication to Congress, but not in the exception.

The conduct of the two great contending nations towards this country, as it will now appear to it, and to the world, fully displays their mutual efforts to draw the United States into a war with their adversary. The efforts on both sides are too little disguised to be worthy the discernment of either, and are addressed, moreover, to motives which prove great ignorance of the character of the United States, and, indeed, of human nature.

From the posture in which Mr. Rose's final reply to the compromise proposed to him placed the question of adjustment in the case of the Chesapeake, it remains with the British Government to resume it, if adjustment be their object. Whether a tender of reparation will be made here, or to you, will also lie on that side. It will certainly be most becoming that Government, under all circumstances, to make the reparation here; and this course might, of right, be insisted on by this Government. The President, nevertheless, in the liberal spirit which always governs him, authorizes you to accept the reparation, provided it be tendered spontaneously, be charged with no condition, unless it be that, on the receipt of the act of reparation here, the proclamation of July 2d shall be revoked; and provided the reparation shall add to the disavowal of the attack on the Chesapeake an express engagement that the seamen retained shall be immediately restored, and that the guilty officer experience an exemplary punishment. The reparation will be the more satisfactory, and not exceed a just expectation, if the restoration of the seamen be made to the very ship from which they were wrested, and if provision be made for the wounded survivors, and for the families of those who lost their lives by the attack.

I must repeat, however, that it is considered entirely proper that the reparation should be offered here, rather than in London; and it is only in the event of a decided repugnance in the British Government to make it through a functionary here, that you are to accept it there.

The answer to Mr. Erskine's letter on the British orders will furnish the grounds to be taken in your communications with his Government on that subject. If the Cabinet can be brought to view the orders in their true light, a revocation of the whole of them cannot fail to take place, unless they mean to violate every maxim of justice, or are fixed in hostile purposes against the United States. In not regarding the orders, indeed, as acts of hostility, and in trusting for redress to the motives and the means to which they have appealed, the United States have given the most signal proof of their love of peace, and of their desire to avoid an interruption of it with the British nation.

Still, it is to be understood, that whilst the insult offered in the attack on the American frigate remains unexpiated, you are not to pledge, or commit your Government to consider a recall of the orders as a ground on which a removal of the existing restrictions on the commerce of the United States with Great Britain may be justly expected.

The two letters to General Armstrong of 22d May, 1807, and February 8, 1808, are proofs of the sincerity and impartiality with which the President has proceeded in relation to the belligerent parties, and may, perhaps, assist you in repressing unjust suspicions imbibed by the British Cabinet. It would be happy for all parties, the belligerent as well as the United States, if truth could, in this case, be made to prevail, and if the retaliating rivalship of the former against the latter could be converted into an emulation, as politic as it would be magnanimous in both, to take the lead in a fair, lawful, and conciliatory course towards a nation which has done no wrong to either. Should the experiment be made on either side, it would probably be followed on the other, and it could never happen that the side first doing justice would suffer on that account.

In the present state of our relations to Great Britain, it would be premature to mark out the course to be pursued with respect to further negotiations on other topics than those above noticed. You are authorized, however, to continue your

interpositions in behalf of our impressed or detained seamen; and, in the event of a repeal of the British orders, and of satisfactory pledges for repairing the aggression on the Chesapeake, to enter into informal arrangements for abolishing impressments altogether, and mutually discontinuing to receive the seamen of each other into either military or merchant service, conformably to the instructions on this point transmitted by Mr. Purviance.

You will find, by a passage in Mr. Rose's reply of March 17, that the British Government does not maintain the principle that the obligation of the United States extends beyond the discharge of deserters from their public service; and, by an order of the Navy Department here, already carried into execution, of which a copy is enclosed, that it has lately been decided that no foreign seamen, whether deserters or not, shall serve on board our ships of war. The principles respectively manifested by these documents ought to facilitate such an adjustment as is contended for by the United States.

Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *April* 30, 1808.

My last was of the 4th instant, and went by a British packet from New York. I now forward a copy of it. Congress ended their session on the night of the 25th instant. The series of newspapers herewith sent affords a view of their proceedings subsequent to the communications last made to you. Some other points are included, which throw light on the workings of public opinion and the state of public affairs.

You will find that the critical posture of our foreign relations has produced provisions of different kinds for our greater security, and particularly that no pains have been spared to stop every leak by which the effect of the embargo laws might be diminished. I refer you also to the report made to the Senate, by a committee on the documents relating to the affair of the Chesapeake, and on the letters of Mr. Champagny and Mr. Erskine; and indicating the spirit which may be expected to influence the future policy of this country, if kept under the excitement resulting from the system now pursued against it.

You will observe, at the same time, that whilst a determination is sufficiently evinced against a dishonorable acquiesence in the despotic edicts enforced on the high seas, the United States are ready to resume their export trade, as soon as the aggressions on it shall cease; and that, in a hope that this might happen during the recess of Congress, the President is authorized, in such an event, to suspend, in whole or in part, the several embargo laws.

The conditions on which the authority is to be exercised appeal equally to the justice and policy of the two great belligerent Powers, which are now emulating each other in a violation of both. The President counts on your endeavors to give to this appeal all the effect possible with the British Government. General Armstrong will be doing the same with that of France. The relation in which a revocation of its unjust decrees by either will place the United States to the other is obvious, and ought to be a motive to the measure, proportioned to the desire which has been manifested by each to produce collision between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should the French Government revoke so much of its decrees as violate our neutral rights, or give explanations and assurances having the like effect, and entitling it, therefore, to a removal of the embargo as it applies to France, it will be impossible to view a perseverance of Great Britain in her retaliating orders in any other light than that of war, without even the pretext now assumed by her.

In order to entitle the British Government to a discontinuance of the embargo, as it applies to Great Britain, it is evident that all its decrees, as well those of January, 1807, as of November, 1807, ought to be rescinded, as they apply to the United States, and this is the rather to be looked for from the present Administration, as it has so strenuously contended that the decrees of both dates were founded on the same principles and directed to the same object.

Should the British Government take this course, you may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the embargo laws. Should the orders be rescinded in part only, it must be left to his free judgment to decide on the case. In either event, you will lose no time in transmitting the information to this Department, and to General Armstrong, and, particularly, in the event of such a course being taken by the British Government as will render a suspension of the embargo certain or probable, it will be proper for you to make the communication, by a courier, to General Armstrong, to whom a correspondent instruction will be given; and, to provide a special conveyance for it hither, unless British arrangements shall present an opportunity equally certain and expeditious.

Extract—Mr. Pinkney to Mr. Madison.

LONDON, *May* 9, 1808.

I had a conversation with Mr. Canning on Friday last, in consequence of the arrival of the Osage.

As it was obviously expected that I should seek an interview with him, I sent to Downing street on the 5th with that object. He had been indisposed, and was not at his office; but, in answer to a note which I sent him in the evening, he asked to see me next day at his house in Bruton street.

The Osage had for some time been looked for with considerable anxiety, and the Government had apparently anticipated a communication (and perhaps a proposal) of some importance from me, as soon as my despatches should be received. As I had, in fact, no communication to make, it seem-

ed to be proper that I should render the disappointment of as little moment as possible, by the manner of announcing it, without, however, putting anything to hazard by an indiscreet manifestation of unnecessary solicitude.

The little which I supposed it requisite to say on this occasion appeared to be very well received; and, if any disagreeable impression was left on the mind of Mr. Canning, it certainly was not visible. A feeling of regret was perhaps perceptible, and a hope was intimated that the time was not far distant, when I should be enabled to do what at present was out of my power; but nothing occurred which could be construed into a symptom of impatience, jealousy, or dissatisfaction. There was, undoubtedly, no real ground for anything of the sort; but it was, notwithstanding, quite possible that the importance, which it had become a habit to attach to the arrival of the Osage, from circumstances principally accidental, might have produced a disposition to think otherwise.

I thought it advisable to make use of this opportunity (although the topic was, in many views, more delicate than it had been) to suggest the propriety of yielding, as the moment was sufficiently favorable to such a course, upon the subject of the late Orders in Council, of which I had seen nothing to change my original opinion. There was reason to apprehend, however, that it might be worse than useless to press the suggestion upon my own authority merely, while I could say nothing of the French decrees; and, accordingly, I forbore to do so.

An idea has evidently gone forth, since the Osage arrived, founded upon rumors of a doubtful description, that our relations with France have grown to be extremely precarious, and that we are consequently about to come to an understanding of a very friendly kind with Great Britain. It is not improbable that the Government has, in some degree at least, adopted this idea.

I have the honor to enclose the copy of a notification, recently received from Mr. Canning, of the blockade of Copenhagen and of the other ports of the island of Zealand, which I have caused to be communicated in the usual manner to our Consuls and citizens.

There being no particular inducement for detaining the Osage, Lieutenant Lewis, who will be charged with my letters, will leave town the day after to-morrow; and the ship will sail as soon after he reaches Falmouth as possible.

[Referred to in Mr. Pinkney's despatch, May 8, 1808.]

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *May* 4, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's command to acquaint Mr. Pinkney, that His Majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprize the American Consuls and merchants residing in England, that the entrances of all the ports above mentioned are and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Extract—Mr. Pinkney to the Secretary of State.

LONDON, *June* 5, 1808.

I have the honor to acknowledge the receipt of your letter of the 4th of April, by Mr. Bethune, together with the printed and other copies of papers mentioned in it.

I am to have an interview with Mr. Canning in a few days, (which he will agree to consider extra official,) in the course of which I intend to press, by every argument in my power, the propriety of their abandoning immediately their Orders in Council, and of proposing in America (the only becoming course, as you very properly suggest,) reparation for the outrage on the Chesapeake. I shall for obvious reasons do this, informally, as my own act.

Your unanswerable reply to Mr. Erskine's letter of the 23d February has left nothing to be urged against the Orders in Council upon the score of right; and there may be room to hope that the effect, which that reply can hardly have failed to produce upon Ministers, as well by its tone as by its reasoning, will, if followed up, become, under actual circumstances, decisive. The discussion, which Mr. Rose's preliminary in the affair of the Chesapeake has undergone, gives encouragement to an expectation that this Government will not now be backward to relinquish it, and to renew their overture of satisfaction in a way more consistent with reason, and more likely to produce a just and honorable result.

You may be assured that I will not commit our Government by anything I shall do or say, and that, if I cannot make things better than they are, I will not make them worse.

My view of the course which our honor and our interests have required, and still require, is, as you know, in precise conformity with that of the President; but if it were otherwise, I should make his view, and not my own, the rule of my conduct.

Extract—Mr. Madison to Mr. Pinkney.

LONDON, *June* 29, 1808.

I had a long interview this morning with Mr. Canning, which has given me hopes that the object mentioned in your letter of the 30th of April, (a duplicate by the packet, for the St. Michael has not yet arrived.) may be accomplished, if I should authorize the expectation which the same letter suggests. Some days must elapse, however, before I can speak with anything like certainty on this subject. The St. Michael will probably have arrived before that time, and will furnish me with an opportunity of giving you not only the result but the details of what has passed and may yet occur. I beg you, in the mean time, to be assured that the most effectual care shall be taken to put nothing to hazard, and to avoid an improper commitment of our Government.

I was questioned on the affair of the Chesapeake. There seems to be a disposition here to consider the *amende honorable* as already made, and, in a great degree, at least, by Mr. Rose's mission; but I am strongly inclined to think that it will not be at all difficult to induce them to renew their overture in the same manner, on terms more conformable with the view which you very justly take of this interesting subject. I was told (it was not said officially) that the persons taken out of the Chesapeake would be readily restored. The punishment of the officer (otherwise than by his recall, which has been done) will, perhaps, form the greatest embarrassment; but I will endeavor to ascertain, informally, what will be done on that and every other part of the case. My sole object will be, of course, to lead them, as occasion offers, (as far as in my power,) to do what they ought, in the way most for our honor. I can the more properly do this now, as Mr. Canning has himself proposed the subject to me, as intimated above.

Extract—Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *July* 18, 1808.

SIR: Your communications by Lieutenant Lewis were safely delivered on the evening of the 8th instant. As it had been calculated that the interval between the return of Mr. Rose, and the departure of Lieutenant Lewis, would give sufficient time to the British Government to decide on the course required by the posture in which the affair of the Chesapeake was left, its silence to you on that subject could not fail to excite the particular attention of the President: and the appearance is rendered the more unfavorable, by the like silence, as we learn from Mr. Erskine, of the despatches brought to him by the packet which left England, and arrived at New York, at nearly the same time with the Osage. I have intimated to Mr. Erskine the impressions made by this reserve, without, however, concealing our hope that the delay does not imply a final purpose of withholding reparation, and that the next communications from London will be of a different import. They must at least ascertain the real views of the British Government on this interesting subject.

There was certainly no just ground for Mr. Canning to expect any particular communications from you on the arrival of the Osage, unless they should have grown out of such accounts from France as would second our demands of justice from Great Britain, particularly the revocation of her Orders in Council; and in imparting to him what you did in that quarter, every proof of candor was given which the occasion admitted. If Mr. Canning was disappointed because he did not receive fresh complaints against the Orders in Council, he ought to have recollected that you had sufficiently dwelt on their offensive features in the first instance; and that, as he had chosen to make the formal communication of them to this Government through another channel, it was through that channel rather than through you that answers to it would be most regularly given.

The communications and instructions forwarded by Mr. Purviance, who was a passenger in the St. Michael, will enable you to bring the British Government to a fair issue on the subject of its orders. If it has nothing more in view than it is willing to avow, it cannot refuse to concur in an arrangement rescinding on her part the Orders in Council, and on ours the embargo. If France should concur in a like arrangement, the state of things will be restored which is the alleged object of the orders. If France does not concur, the orders will be better enforced by the continuance of the embargo against her than they are by the British fleets and cruisers; and, in the mean time, all the benefits of our trade will be thrown into the lap of Great Britain. It will be difficult, therefore, to conceive any motive in Great Britain to reject the offer which you will have made, other than the hope of inducing, on the part of France, a perseverance in her irritating policy toward the United States, and on the part of the latter hostile resentments against it.

If the British Government should have elected the more wise and more worthy course of meeting the overture of the President in the spirit which dictated it, it is to be hoped that measures will have been taken in concert with you, and through its Minister here, for hastening as much as possible the renewal of the intercourse which the orders and the embargo have suspended; and thereby smoothing the way for other salutary adjustments.

It appears that the British Government, not satisfied with the general blockade by her orders of November 11, has superadded a particular blockade, or rather a diplomatic notification of an intended one, of Copenhagen, and the other ports in the island of Zealand; that is to say, a strict and legal blockade of the whole island. The island cannot be much less than two hundred miles in its outline, and is described as abounding in inlets. It is not probable, therefore, if it be possible, that a blockade, within the true definition, should be carried into effect. And as all defective blockades, whether so in the disproportion of force to the object, or in the mode of notification, will authorize fair claims of indemnification, it is the more necessary that guarded answers should be given in such cases as heretofore suggested.

Since the British order of —— evidently inviting our citizens to violate the laws of our country, by patronizing on the high seas their vessels destitute of registers and other necessary papers, and therefore necessarily smugglers if not pirates,

the circular letter of Mr. Huskisson has made its appearance, in which the United States are named as alone within the purview of the order. A more extraordinary experiment is, perhaps, not to be found in the annals of modern transactions. It is levelled, moreover, against a nation towards which friendship is professed, as well as against a law the justice and validity of which is not contested; and it sets the odious example, in the face of the world, directly in opposition to all the principles which the British Government has been proclaiming to it. What becomes of the charge against the United States for receiving British subjects who leave their own country, contrary to their allegiance? What would be the charge against them if they were, by proclamation, to invite British subjects, those too expressly and particularly prohibited from leaving their country, to elude the prohibition; or to tempt, by interested inducements, a smuggling violation or evasion of laws, on which Great Britain founds so material a part of her national policy? In the midst of so many more important topics of dissatisfaction, this may not be worth a formal representation. But it will not be amiss to let that Government understand the light in which the proceeding is regarded by this. I have already touched on it to Mr. Erskine, with an intimation that I should not omit in it my observations to you.

The French decree, said to have been issued at Bayonne, has not yet reached this country. Such a decree, at such a time, has a serious aspect on the relations of the two countries, and will form a heavy item in our demands of redress. It is much to be regretted, at the same time, that any of our vessels, by neglecting to return home, and conforming to the arbitrary regulations of one belligerent, should expose themselves to the arbitrary proceedings of another. So strong and general an indignation seems particularly to prevail here against the Americans in Europe, who are trading under British licenses, and thereby sacrificing, as far as they can, the independence of their country, as well as frustrating the laws which were intended to guard American vessels and mariners from the dangers incident to foreign commerce, that their continuance in that career ought to be frowned upon, and their return home promoted in every proper manner. It appears, by information from our Consul at Tangier, that great numbers of our vessels are engaged in a trade between Great Britain and Spanish ports, under licenses from the former, and that the experiment proves as unsuccessful as it is dishonorable; the greater part of them being either arrested in port, or by French and Spanish cruisers.

Extract—Mr. Pinkney to Mr. Madison.

LONDON, *August* 4, 1808.

The St. Michael arrived at Falmouth, on Thursday the 14th of last month, after a passage of eight days from L'Orient. Captain Kenyon delivered me on Wednesday the 20th, (upon my arrival in town from Brighton, where I had been for a short time on account of my health,) your letters of the 30th April, and your private letter of the 1st of May, together with newspapers, printed copies of the embargo act, and its supplements, and of papers laid before Congress at their last session. Mr. Hall brought me a letter from General Armstrong of the 26th of June, (of which I send an extract,) and Mr. Upson brought me a private letter from him, with the following postscript of the 1st of July: "An order has been received from Bayonne to condemn eight other of our ships."

On Friday, the 22d of July, I had an interview with Mr. Canning, and renewed my efforts to obtain a revocation of the British orders of January and November, 1807, and of the other orders dependent upon them. I have already informed you, in my private letter of the 29th of June, that, on the morning of its date, I had a long conversation with Mr. Canning, which had rendered it somewhat probable that the object mentioned in your letter of the 30th of April,) of which I had received a duplicate by the packet,) would be accomplished, if I should authorize the expectation which that letter suggests, but that some days must elapse before I could speak with any thing like certainty on the subject; and I have mentioned in another private letter (of the 10th of July) that it was understood between Mr. Canning and myself that another interview should take place soon after the prorogation of Parliament. In effect, however, Mr. Canning was not prepared to see me again, until the 22d of July, after I had been recalled to London by the arrival of the St. Michael, and had, in consequence, reminded him of our arrangement by a private note.

In the interview of the 29th of June, I soon found it necessary to throw out an intimation that the power vested in the President by Congress, to suspend the embargo act and its supplements, would be exercised, as regarded Great Britain, if their orders were repealed as regarded the United States. To have urged the revocation upon the mere ground of strict policy, or of general right, and there to have left the subject, when I was authorized to have placed it upon grounds infinitely stronger, would have been, as it appeared to me, to stop short of my duty. Your letters to Mr. Erskine (which Mr. Canning has read and considered) had exhausted the first of these grounds; and endless discussions here, in every variety of form, in and out of Parliament, had exhausted the second. There was, besides, no objection of any force to my availing myself, without delay, of the powerful inducements which the intimation in question was likely to furnish to Great Britain to abandon her late system; and it seemed to be certain that, by delaying to present these inducements to Mr. Canning's consideration, I should not only lose much time, but finally give to my conduct a disingenuous air, which, while it must be foreign to the views and sentiments of the President, could hardly fail to make a very unfavorable impression upon the minds of Mr. Canning and his colleagues. I thought, moreover, that if I should reserve the suggestion for a late stage of our discussions, it would be made to wear the appearance of a concession reluctantly extorted, rather than of, what it was, the spontaneous result of the characteristic frankness and honorable policy of our Government.

The intimation once made, a complete development of its natural consequences, if properly acted upon, followed of course; and, taking advantage of the latitude afforded by the informal nature of a mere conversation, I endeavored to make that development as strong an appeal as, consistently with truth and honor, I could (and there was no necessity to do more) to the justice and the prudence of this Government.

It was not possible, however, that Mr. Canning could require to be assisted by my explanations. It was plain, upon their own principles, that they could not equitably persevere in their Orders in Council, upon the foundation of an imputed acquiescence, on our part, in French invasions of our neutral rights, when it was become (if it was not always) apparent that this imputation was completely and in all respects an error; when it was manifest that these orders, by letting loose upon our rights a more destructive and offensive persecution than it was in the power of France to maintain, interposed between us and France, furnished answers to our remonstrances against her decrees and pretexts for those decrees, and stood in the way of that very resistance which Great Britain affected to inculcate, as a duty, at the moment when she was taking the most effectual measures to embarrass and confound it; and when it was also manifest that a revocation of those orders would, if not attended or followed by a revocation of the decrees of France, place us at issue with that Power, and result in a precise opposition, by the United States, to such parts of the anti-commercial edicts as it became us to repel.

In a prudential view, my explanations seemed still less to be required. Nothing could be more clear than that, if Great Britain revoked her orders, and entitled herself to a suspension of the embargo, her object, (if it were anything short of the establishment and practical support of an exclusive dominion over the seas) must, in some mode or other, be accomplished, whether France followed her example or not. In the first case, the avowed purpose of the British orders would be fulfilled, and commerce would resume its accustomed prosperity and expansion. In the last, the just resistance of the United States (more efficacious than that of the British orders) to French irregularities and aggressions, would be left to its fair operation, (and it was impossible to mistake the consequences,) while the commercial intercourse between the United States and Great Britain, being revived, would open the way for a return to good understanding, and, in the end, for an adjustment of all their differences.

On the 29th of July I met Mr. Canning again, and was soon apprized that our discussions, if continued at all, must take a new form.

These, and many other reflections of a similar tendency, which I forbear to repeat, could not have escaped the penetration of Mr. Canning, if they had not been suggested to him in considerable detail. But whatever might be their influence upon his mind, he certainly did not pronounce any opinion; and what he said consisted principally of inquiries, with a view to a more accurate comprehension of my purpose. He asked if I thought of taking a more formal course than I was now pursuing; but immediately remarked that he presumed I did not, for that the course I had adopted was undoubtedly well suited to the occasion. I told him that I was so entirely persuaded that the freedom of conversation was so much better adapted to the nature of our subject, and so much more likely to conduct us to a beneficial result, than the constraint and formality of written communication, which usually grew into protracted discussion, and always produced embarrassment when there was anything of delicacy in the topics, that I had not intended to present any note.

This interview (in the progress of which other points were incidentally touched upon) did not authorize any very confident opinion that Mr. Canning approved of what had been suggested to him; and still less could it warrant any anticipation of the final opinion of his Government. But the manner in which my communication was received, and the readiness shown by Mr. Canning to proceed in the mode which was peculiarly favorable to my object, connected with the reasonableness of the object itself, induced me to think it rather probable that the issue would be satisfactory.

The interview of the 22d of July was far from producing anything of an unpromising complexion. I urged again much of what had been said at the last conference, and suggested such further considerations as had since occurred to me in support of my demand. Mr. Canning was still much more reserved than I had hoped to find him, after so much time had been taken for deliberation; but, from all that passed, I was more than ever inclined to believe that the orders would be relinquished. He seemed now to be extremely desirous of ascertaining whether I was authorized and disposed, with a view to a final arrangement, to present what I had suggested, as to the suspension of the embargo, in a more precise shape. I told him, after some conversation upon this point, that, although I would prefer that course which was the least formal, yet, if everything should be first matured, I might be able to combine, with a written demand that their orders should be repealed, such an assurance as I had already mentioned, that the embargo would be suspended; but that I would consider of this with reference to the manner and terms. He then observed, that I would perhaps allow him a little time to reflect whether he would put me to the necessity of presenting such a paper; and, upon my assenting to this, he said that he would give me another appointment towards the end of the following week. As I was on the point of leav-

ing him, he asked me if I would endeavor to prepare, before the next interview, such a note as we had talked of; but he had scarcely made this proposal before he added, "but you will, doubtless, desire first to know what are our ideas and intentions upon the whole subject."

On the 29th of July I met Mr. Canning again, and was soon apprized that our discussions, if continued, must take a new form. He began by inquiring if I had received any intelligence of a late affair on the Lakes, which had caused great alarm and anxiety among the British traders, and of which an account had just been put into his hands. He then read, very rapidly, from a letter, apparently written in Canada, a complaint of an attack upon some British boats, in violation of the third article of the Treaty of 1794, and observed that this was the more to be regretted, as it followed some recent misunderstandings in the Bay of Passamaquoddy. I told him that I had no intelligence, official or private, of these transactions, which he would perceive took place upon our borders, at a great distance from the seat of Government, and that of course I could only express my conviction that the Government of the United States would disavow whatever was improper in the conduct of its agents, and would in other respects act as good faith and honor required.

This matter being disposed of, Mr. Canning said that he had thought long and anxiously upon what I had suggested to him at our late conferences; that the subject had at first struck him as much more simple and free from difficulty than upon careful examination it was found to be; that, in the actual state of the world, it behooved both him and me to move in this affair with every possible degree of circumspection, an intimation which he did not explain; that, without some explicit proposal on my part, in writing, upon which the British Government could deliberate and act, nothing could be done; and, finally, that he must leave me to consult my own discretion whether I would make such a proposal.

I answered that, with such a previous understanding between us as I had counted upon, I should feel no objection to take occasion to say, in an official note requiring the revocation of their Orders in Council, that the orders being rescinded as to us, it was the intention of the President to suspend the embargo as to Great Britain; but that I expected to be told, before my note was presented, what would be the reply to it, and what its consequences in every direction; and that I could not conjecture, if it was really meant to acquiesce in my demand, (the exact nature of it being, in point of fact, understood by this Government just as well as if it had been made in writing,) or if more time than had already been afforded was required for deliberation, why it was necessary that I should, in the last case, take the step in question at all, or, in the first case, without being frankly apprized of the effect it would produce.

Mr. Canning replied that my wish in this particular could not be acceded to; that, if I presented a note, they must be left at perfect liberty to decide upon what it proposed; that he could not give me even an intimation of the probable consequences of it; and, in a word, that he would neither invite nor discourage such a proceeding. He observed, too, that there were some points belonging to the subject which it was necessary to discuss in writing; that my suggestions implied that the embargo was produced by the British Orders in Council; that this could not be admitted; and that there were other questions incident to these two measures, with the examination of which it was proper to begin upon an occasion like the present. I remarked, in answer, that, with an actual result in view, and with a wish to arrive at that result without delay, nothing could be worse imagined than to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree; that if I were compelled to frame my note, with a knowledge that it was to provoke argument, instead of leading at this momentous crisis to a salutary change in the state of the world, he must be conscious that I, too, must argue, and that I could not justify it to my Government to abstain from a complete assertion of all its pretensions, and a full exposure of the true character of those acts of which it complained as illegal and unjust. And where would this end? To what wholesome consequence could it lead?

My remaks having no effect, I made a further slight attempt to ascertain the reception which my note would meet with, if I should determine to present one. This attempt failed; but I believed it to be apparent that, if any other consequence than mere discussion should follow the receipt of my note, it would be at a great distance.

At the close of the conference I observed, that, as the footing upon which this interview had placed this subject made delay of no importance, I should take time to prepare such further proceeding as might appear to me to be required by the occasion.

I ought to mention that I give you in this letter the substance only of the conversation which it states, and that there was nothing in any degree unfriendly in the language or manner of Mr. Canning. I need not say that I thought it my duty to adopt the same tone and manner.

My desire to send a duplicate of this hasty letter by the packet induces me to defer, until another opportunity, all reflections upon the turn which this affair has taken.

As there is now no occasion for detaining the St. Michael, she will be dispatched immediately for L'Orient.

[Referred to and enclosed in Mr. Pinkney's letter of August 4.]

Extract—General Armstrong to Mr. Pinkney.

PARIS, *June* 26, 1808.

The St. Michael arrived at L'Orient on the 1st instant, and the Government messenger at Paris on the 8th. A passport for the vessel to Falmouth, and thence to L'Orient again, was immediately requested, but one in this form could only be granted by order of the Emperor, and this was not given until the 18th. These circumstances will account for the long detention of your despatches. We have reason to regret that the views of our Government, founded on the justice and wisdom of the belligerent Powers, are so little likely to succeed. Attempts of this character made here (and they have not been unfrequent) have hitherto done no good; nay, the repetition of these may be fairly presumed to have done mischief, inasmuch as it has tended to establish a creed, that words, in some form or other, are the only means we have to employ. The French Council of Prizes, which is, I am told, as like the English Court of Admiralty as one egg is like another, has lately begun its career of condemnation. Between the 1st and 15th instant, five cases have been decided, and I am assured that orders have been received from Bayonne for condemning all American cases "*en bloc*." What has suspended the axe since the 15th, we can but conjecture. It may be presumed that the reflections of the Spanish junta on the political and other relations subsisting between Spain and the United States, through the medium of the colonies, may have produced this pause. That it is not owing to any conquest which good principles have obtained over bad ones, is certain. Are things any better on your side the channel? &c.

Mr. Pinkney to Mr. Madison.

LONDON, *September* 6, 1808.

I have an opportunity of writing by Mr. Bethune, who leaves town to-morrow for Falmouth, to embark for the United States in the British packet, and I cannot omit to take advantage of it, although I have still nothing conclusive to communicate.

The Hope arrived off Falmouth and landed Mr. Atwater on the 16th of last month, and immediately proceeded on her voyage to Havre, with a fair wind. Mr. Atwater arrived in London on the 20th, in the evening, and delivered your letter of the 18th of July.

My public letter of the 4th of August will have apprized you of the footing on which my different interviews with Mr. Canning left the subject of the British Orders in Council, and my private letter of the 2d of that month will have made you acquainted with my intention to present, in an official note, what I had ineffectually suggested in conference.

To such a course there could not, even in the first instance, have been any other objection than that it was calculated to lead to discussion rather than to adjustment; but whatever might be its tendency, it is certain that I could have no inducement to resort to it, until it was indicated by Mr. Canning as indispensable, nor any motive to decline it afterwards.

At our last interview, and not before, it was unexpectedly found that it was in that mode only that I could obtain a knowledge of the light in which this Government thought fit to view the overture I had been directed to make to it, and I determined, in consequence, to lay before it, in writing, the intention of the President, with the same frankness which had characterized my verbal communications.

I have now the honor to transmit a copy of the note, which, in conformity with that determination, I delivered in person to Mr. Canning, on the 26th of last month, a few days after its date. To this note no answer has yet been returned, but it is to be presumed that it will not be much longer withheld.

You will perceive that some time had elapsed after I had sent off my despatches by the St. Michael (the 8th of August) before my note was presented. The truth is, that I had employed a part of that time in framing a note of great length, which, when nearly completed, I thought it prudent to abandon, in favor of one that held out fewer invitations to unprofitable discussions, which, although I would not shun them if pressed upon me, I did not suppose it proper that I should seek.

I believed, too, that a little delay on my part would be far from being disadvantageous. There would still be sufficient time for obtaining a final answer to my proposal, in season for the meeting of Congress; and as the temper of this Government, so far as it had been tried, had not appeared to be favorable to my purpose, I believed that I should act in the spirit of my instructions, and consult the honor of my Government, by avoiding, under such circumstances, the appearance of urgency and precipitation.

Upon the terms or general plan of my note it is not, I hope, necessary to remark. You will discover that it was prepared under a persuasion that, whatever might be its effect, it was infinitely better to make it as conciliatory as, without a sacrifice of principle or national dignity, was possible.

The topics to be embraced by it were such as did not demand, but rather forbade, minute expositions. While it was difficult to urge, in their full force, without seeming to aim at exciting a disposition unfriendly to the object of my instructions, all the considerations which justified the United States in remonstrating against the British orders, it was yet more difficult, without a degree of harshness scarcely suited to the occasion, and without also the hazard of indiscretion, to display in detail the signal injustice and impolicy of persevering in them, after what I had proposed. This could be done, and had been done, in conversation; but it did not, upon trial, appear to be equally practicable in the more formal and measured proceedings which I was now called upon to adopt.

I considered, besides, that an overture so highly advantageous to Great Britain, which the United States were not bound to make by any obligations of equity, although it was wise to make it, did not require, with any view to the

character of my country, or even to the success of the overture itself, to be again recommended by an anxious repetition of arguments already fully understood.

As soon as my note was prepared, I called at the Foreign Office to arrange an interview with Mr. Canning, for the purpose of enabling me to accompany the delivery of it with a communication which I deemed important, as well as of affording him an opportunity of asking and receiving such explanations as he might desire. The interview took place on the 26th of August.

It had occurred to me that it would be proper (and could not be injurious) to read to Mr. Canning, from your letter to me of the 18th of July, a brief summary of the instructions under which I was acting. This had not been requested, but it could not be unacceptable, and it was, besides, well calculated to do justice to the liberal sentiments by which my instructions had been dictated, as well as to give weight to my efforts in the execution of them.

I was led, by the reading of these passages, (without having originally intended it,) into a more extensive explanation than I had before attempted of the influence which the proposal of my Government would have, in truth, as well as in the judgment of the world, upon the supposed justice of their new system, as it affected the United States. To that explanation, with the particulars of which I will not, and indeed, for want of time, cannot, at present trouble you, I added a concise recapitulation of some of the prudential considerations which had been so often pressed before, and there I left the subject.

I am, &c.,

WM. PINKNEY.

[Enclosed in the preceding despatch.]

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,
August 23, 1808.

SIR: I have had the honor, in consequence of the orders of the President, to recall your attention, in the course of several recent interviews, to the British Orders in Council of the 7th of January, and 11th of November, 1807, and to the various other orders founded upon or in execution of them, and I now take the liberty to renew, in the mode which I have understood to be indispensable, my instances on that subject.

I need scarcely remind you, sir, that the Government of the United States has never ceased to consider these orders as violating its rights, and affecting most destructively its interests, upon grounds wholly inadmissible, both in principle and fact.

The letters of Mr. Madison to Mr. Erskine, of the 20th and 29th of March, 1807, produced by the official communication of that Minister of the order of the 7th of January, and the answer of Mr. Madison of the 25th of March, 1808, to a like communication of the orders of the 11th of November, contained the most direct remonstrances against the system which these orders introduce and execute, and expressed the confident expectation of the President that it would not be persisted in.

That expectation has not yet been fulfilled, but it has, notwithstanding, not been relinquished. The President is still persuaded that its accomplishment will result from a careful review by His Majesty's Government, made in the spirit of moderation and equity, of the facts and considerations which belong to the occasion.

It is not my purpose to recapitulate in this note the statements and reasonings contained in the above-mentioned letters of Mr. Madison in support of the claims of the Government of the United States, that the British orders be revoked. I content myself with referring to those letters for proofs, which it is not necessary to repeat, and for arguments which I could not hope to improve.

But there are explanations which those letters do not contain, and which it is proper for me now to make. Even these, however, may be very briefly given, since you have already been made acquainted, in our late conversations, with all their bearings and details.

These explanations go to show that, while every motive of justice conspires to produce a disposition to recall the orders of which my Government complains, it is become apparent that even their professed object will be best attained by their revocation.

I have the honor to state to you, sir, that it was the intention of the President, in case Great Britain repealed her orders as regarded the United States, to exercise the power vested in him by the act of the last session of Congress, entitled "An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several supplementary acts thereto," by suspending the embargo law and its supplements as regards Great Britain.

I am authorized to give you this assurance in the most formal manner; and I trust that, upon impartial inquiry, it will be found to leave no inducement to perseverance in the British orders, while it creates the most powerful inducements of equity and policy to abandon them.

On the score of justice, it does not seem possible to mistake the footing upon which this overture places the subject, and I venture to believe that in any other view there is as little room for doubt.

If, as I propose, your orders should be rescinded as to the United States, and our embargo rescinded as to Great Britain, the effect of these concurrent acts will be, that the commercial intercourse of the two countries will be immediately resumed; while, if France should adhere to maxims and conduct derogatory to the neutral rights of the United States, the embargo, continuing as to her, will take the place of your orders, and lead, with an efficacy not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them.

On the other hand, if France should concur in respecting those rights, and commerce should

thus regain its fair immunities, and the law of nations its just dominion, all the alleged purposes of the British orders will have been at once fulfilled.

If I forbear to pursue these ideas through all the illustrations of which they are susceptible, it is because the personal conferences to which I have before alluded, as well as the obvious nature of the ideas themselves, render it unnecessary.

I cannot conclude this note without expressing my sincere wish that what I have now suggested, in conformity with the liberal sentiments and enlightened views of the President, may contribute, not only to remove the more immediate obstacles to the ordinary intercourse of trade between your country and mine, in a manner consistent with the honor of both, but to prepare the way for a satisfactory adjustment of every question important to their future friendship.

I have the honor to be, &c.,

WILLIAM PINKNEY.

Right Hon. GEORGE CANNING, *&c.*

Extract—Mr. Pinkney to Mr. Madison.

LONDON, *September* 21, 1808.

DEAR SIR: The Hope arrived at Cowes, from France, on the 13th instant.

Not having heard from Mr. Canning, although he returned to London on the 16th, I called again yesterday at Downing street, and was assured that the answer to my note would be sent to-night, or early to-morrow morning. Mr. Atwater will of course be able to leave town on Friday, and embark on Saturday, with a copy of it.

I have been told, since the arrival of the last British packet, (but do not believe it,) that there is more probability than I had anticipated that the late events in Spain and Portugal (which ought not to be considered as deciding anything) will have an effect on public opinion in America against the continuance of the embargo, and favorable to all the purposes of Great Britain. If this were true, I should think that it was deeply to be lamented. I may misunderstand the subject, but I cannot persuade myself that anything that has happened on this side the Atlantic ought to induce us to retreat in any degree from our present system.

If we should resolve to trade with Spain and Portugal (Great Britain and France persisting in their orders and decrees) in any way to which Great Britain would not object, we must suspend the embargo as to those countries only, or as to those countries and Great Britain, or we must repeal it altogether.

The temptation to the first of these courses is, even in a commercial sense, inconsiderable; the objections to it endless. The object to be gained (if no more was gained than ought to be gained) would be trifling. There could, indeed, be no gain. An inadequate market, redundantly supplied, would be more injurious than no market at all. It would be a lure to destruction, and nothing more.

A suspension of the embargo so limited in its nature as this would be, (supposing it to be in fact what it would be in form,) would have a most unequal and invidious operation in the different quarters of the Union, of which the various commodities would not, in the ports of Portugal and Spain, be in equal demand. A war with France would be inevitable, and such a war, so produced, from which we could not hope to derive either honor or advantage, would place us at the mercy of Great Britain, and, on that account, would in the end do more to cripple and humble us than any disaster that could otherwise befall us.

The actual state of Spain and Portugal, is, moreover, not to be relied upon. My first opinion on that subject remains; but even the most sanguine will admit that there is great room for doubt. The Emperor of France is evidently collecting a mighty force for the reduction of Spain, and Portugal must share its fate. And even if that force should be destined (as some suppose) first to contend with Austria, the speedy subjugation of Spain is not the less certain. If France should succeed, Spain and Portugal would again fall under the British orders of November, as well as under the operation of the French decrees. Our cargoes would scarcely have forced their way to the ocean in search of this boasted market before they would be once more in a state of prohibition; and we should, in the mean time, have incurred the scandal of suffering an improvident thirst of gain to seduce us from our principles into a dilemma presenting no alternative but loss, in all the senses of that word.

But it is not even certain what Great Britain would herself finally say to such a partial suspension of the embargo. She would doubtless, at first, approve of it; but her ultimate course, (especially if war between France and the United States were not the immediate consequence, or if the measure were eventually less beneficial to herself than might be supposed at the outset,) ought not to be trusted. That she would approve at first is hardly to be questioned; and the considerations upon which she would do so are precisely those which should dissuade us from it. Some of these are—the aid it would afford to her allies, as well as to her own troops co-operating with them, and its consequent tendency to destroy everything like system in our conduct; its tendency to embroil us with France; its tendency to induce us, by overstocking a limited market, to make our commodities of no value, to dissipate our capital, to ruin our merchants without benefiting our agriculture, to destroy our infant manufactures without benefiting our commerce; its tendency to habituate us to a trammeled trade, and to fit us for acquiescence in a maritime despotism. But there are other reasons. Our trade with Spain and Portugal, while it lasted, would be a circuitous trade with Great Britain and her colonies, for their benefit; our productions would be carried in the first instance to Spain and Portugal, would be bought there for British account, and would find their way to the West Indies, or centre here, as British convenience might require;

and thus, in effect, the embargo would be removed as to Britain, while it continued as to France, and we professed to continue it as to both. And if any profits should arise from this sordid traffic, they would become a fund to enable us to import into the United States, directly or indirectly, the manufactures of Great Britain, and thus relieve her in another way, while her orders would prevent us from receiving the commodities of her enemy. It would be far better openly to take off the embargo as to Great Britain, than, while affecting to continue it as to that Power, to do what must rescue her completely (and that, too, without advantage to ourselves) from the pressure of it, at the same time that it would promote her views against France in Portugal and Spain.

As to withdrawing the embargo from Great Britain as well as Spain and Portugal, while the British orders are unrepealed, the objections to that course are just as strong now as they were four months ago. The change in Spain and Portugal (if it were even likely to last) cannot touch the principle of the embargo as regards Great Britain, who reasserts her orders of November in the very explanations of the 4th of July, under which we must trade with those countries if we trade with them at all. If we include Great Britain in the suspension, and exclude France, we do now what we have declined to do before, for the sake of delusive commerce, which may perish before it can be enjoyed, and cannot, in any event, be enjoyed with credit, with advantage, or even with safety. We take part at once with Great Britain against France, at a time the least suited that could be imagined to such a determination; at a time when it might be said that we were emboldened by French reverses to do what before we could not resolve upon, or were tempted by the prospect of a scanty profit, exaggerated by our cupidity and impatience, to forget what was due to consistency, to character, to permanent prosperity. We sanction, too, the maritime pretensions which insult and injure us. We throw ourselves, bound hand and foot, upon the generosity of a Government that has hitherto refused us justice, and all this when the affair of the Chesapeake and a host of other wrongs are unredressed, and when Great Britain has just rejected an overture which she must have accepted with eagerness if her views were not such as it became us to suspect and guard against.

To repeal the embargo altogether would be preferable to either of the other courses, but would, notwithstanding, be so fatal to us, in all respects, that we should long feel the wound it would inflict, unless, indeed, some other expedient, as strong at least, and as efficacious in all its bearings, can (as I fear it cannot) be substituted in its place.

War would seem to be the unavoidable result of such a step. If our commerce should not flourish in consequence of this measure, nothing would be gained by it but dishonor; and how it could be carried on to any valuable purpose it would be difficult to show. If our commerce should flourish in spite of French and British edicts and the miserable state of the world, in spite of war with France, if that should happen it would, I doubt not, be assailed in some other form. The spirit of monopoly has seized the people and Government of this country. We shall not, under any circumstances, be tolerated as rivals in navigation and trade. It is in vain to hope that Great Britain will voluntarily foster the naval means of the United States. Even as allies we should be subjects of jealousy. It would be endless to enumerate in detail the evils which would cling to us in this new career of vassalage and meanness, and tedious to pursue our backward course to the extinction of that very trade to which we had sacrificed everything else.

On the other hand, if we persevere, we must gain our purpose at last. By complying with the little policy of the moment, we shall be lost. By a great and systematic adherence to principle, we shall find the end of our difficulties.

The embargo, and the loss of our trade, are deeply felt here, and will be felt with more severity every day. The wheat harvest is likely to be alarmingly short, and the state of the Continent will augment the evil. The discontents among their manufacturers are only quieted for the moment by temporary causes. Cotton is rising, and will soon be scarce. Unfavorable events on the Continent will subdue the temper, unfriendly to wisdom and justice, which now prevails here. But, above all, the world will, I trust, be convinced that our firmness is not to be shaken. Our measures have not been without effect. They have not been decisive, because we have not been thought capable of persevering in self-denial, if that can be called *self-denial* which is no more than prudent abstinence from destruction and dishonor.

I ought to mention that I have been told by a most respectable American merchant here, that large quantities of such woollen cloths as are prohibited by our non-importation act have been and continue to be sent to Canada, with the view of being smuggled into the United States.

I need not tell you that I am not induced to trouble you with my hasty reflections because I think you stand in need of them. I give them merely because I believe that you are entitled to know the impressions which a public servant on this side of the water receives from a view of our situation.

P. S. September 24.—Mr. Canning's answer, received last night, confirms all my late anticipations. It is a little extraordinary that, if a written proposal was required from me with the idle motive mentioned in the accompanying paper, no such motive was suggested at the time, and even that other motives were suggested. The fact probably is, that they wished to evade the overture, and hoped that it would not be formally made. Being made, it was difficult to dispose of it, and hence the delay.

Mr. Pinkney to Mr. Madison.

LONDON, *September* 24, 1808.

SIR: I am now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August. This answer was accompanied by a letter, of which also a copy is enclosed, recapitulating what Mr. Canning supposes to be "the substance of what has passed between us at our several interviews, previous to the presentation of my official letter."

To the accompanying paper I think it indispensable that I should reply without delay, supporting with politeness, but with firmness, the statements which I have already had the honor to make to you of the conversations in question, and correcting some errors upon points which Mr. Canning has thought fit to introduce into his letter, but which I had not supposed it necessary to mention in detail in my despatches.

I shall not detain Mr. Atwater with a view to this reply, but will take care to forward a copy of it by an early conveyance. My official note, and the answer to it, being perfectly explicit, Mr. Canning's misapprehensions (for such they are) of previous verbal communications can scarcely be very important in a public view; but it is, nevertheless, of some consequence, that, whatever may be the object of his statement, I should not make myself a party to its inaccuracies by even a tacit admission of them.

I do not perceive that a formal reply to the more official paper can now be of any advantage, but I shall probably take occasion to combine with my reply to the one paper some observations upon the other.

I regret extremely that the views which I have been instructed to lay before this Government have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light the just and liberal sentiments by which our Government is animated, and, in other respects, to be useful and honorable to our country.

I have the honor to be, &c.,

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of September 24.]

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *Sept.* 23, 1808.

SIR: In laying before the King your letter of the 23d of August, and in communicating to you the enclosed answer which I have received His Majesty's commands to return to it, I confess that I feel some little embarrassment from the repeated references which your letter contains to what has passed between us in conversation—an embarrassment arising, in no degree, as you are perfectly aware, from any feeling of distrust in you, personally, but from a recollection of the misrepresentation, which took place in America, of former conferences between us. You gave me, on that occasion, the most satisfactory proof that such misrepresentation did not originate with you, by communicating to me that part of your despatch in which the conferences particularly referred to were related, and related correctly; but this very circumstance, while it establishes your personal claim to entire confidence, proves, at the same time, that a faithful report of a conference on your part is not a security against its misrepresentation. It was for that reason principally, that, after hearing with the most respectful attention all that you had to state to me verbally on the subject of the present overture, I felt myself under the necessity of requiring, as "indispensable," a written communication upon the subject. It is for that reason, also, that as, in your written communication, you refer me to our late conversations for the "bearings and details" of your proposal, I feel it necessary to recapitulate, as shortly as I can, what I conceive to have passed in those conversations beyond what I find recorded in your letter.

The principal points in which the suggestions brought forward by you in personal conference appear to me to have differed, in some degree, from the proposal now stated by you in writing, are two: the first, that, in conversation, the proposal itself was not distinctly stated as an overture authorized by your Government; the second, that the beneficial consequences likely to result to this country from the acceptance of that proposal, were "pursued" through more ample "illustrations."

In the first of our conferences, I understood you to say little more, on the authority of your Government, than that you were instructed to remonstrate against the Orders in Council of the 7th of January, and of the 11th of November, 1807, but to add, as from yourself, an expression of your own conviction that, if those orders were repealed, the President of the United States would suspend the embargo with respect to Great Britain. Upon the consequences of such a suspension of the embargo, while it would still continue to be in force against France, you expatiated largely; still speaking, however, as I understood, your own individual sentiments. It was suggested by you that America, in that case, would probably arm her merchant ships against the aggressions of France, an expedient to which, you observed, it would be perfectly idle to resort against Great Britain. The collision of armed vessels would probably produce war, and the United States would thus be brought into the very situation in which we must wish to place them, that of hostility to France, and virtual, if not formal alliance with Great Britain.

In our second conference you repeated and enforced these arguments, calculated to induce the British Government to consent to the repeal of the Orders in Council; and, in this conference, though not stating yourself to be authorized by your Government formally to offer the suspension of the embargo as an immediate consequence of that repeal, yet you did profess (as I understood you) a readiness to take upon yourself to make that offer, provided that I would give you beforehand an unofficial assurance that, coupled with that offer so made, the demand of the repeal of the Orders in Council of January and November, 1807, would be favorably received. I, of course, declined to give any such previous assurance; but as you appeared to attach great importance to this suggestion, and as I was led to think that

a compliance with it might relieve you from a difficulty in executing the instructions of your Government, I consented to take a few days to consider of it, and to reserve my definitive answer until I should see you again.

I never doubted, in my own mind, as to the inexpediency and impropriety of encouraging you to take an unauthorized step, by an unofficial promise that it should be well received. But, in a matter of such delicacy, I was desirous of either confirming or correcting my own opinion by the opinions of others. The result was, that, in a third interview, which took place shortly after the second, I had the honor to inform you, that, after the most mature deliberation, I found it impossible to yield to your suggestion; and that it therefore remained for you to frame your proposition according to the instructions of your Government, or to your own unbiassed discretion.

My own share in these several conferences, beyond what is implied in the above statement, was very small. I have, as you know, always rather wished to refer the argumentative discussion of the subject of the Orders in Council to the official correspondence I have more than once been taught to expect you to open upon it, than to engage with you in a verbal controversy, which, if confined to ourselves, would be useless; if afterwards to be reduced into writing for the purpose of being communicated to our respective Governments, superfluous.

But to the representations which you have repeatedly made against the Orders in Council of January and November, as "violating the rights of the United States, and affecting most destructively their best interests, upon grounds wholly inadmissible, both in principle and in fact," I have uniformly maintained the "unquestionable right" of His Majesty to "resort to the fullest measures of retaliation, in consequence of the unparalleled aggression of the enemy, and to retort upon that enemy the evils of his own injustice;" and have uniformly contended that, "if third parties suffer from those measures, the demand of reparation must be made to that Power which first violates the established usages of war and the rights of neutral States."

There was, indeed, one point, upon which I was particularly anxious to receive precise information, and upon which, from your candor and frankness, I was fortunate enough to obtain it. The connecting together, in your proposed overture, the suspension of the embargo and the repeal of the Orders in Council, (as well those of November as the preceding one of the 7th of January,) might appear to imply that the embargo had been the immediate consequence of these orders; and I was therefore desirous to ascertain whether, in fact, the Orders in Council of November had been known to the Government of the United States, previously to the Message of the President proposing the embargo, so as to be a moving consideration to that Message. I had the satisfaction to learn from you, sir, that such was not the fact; that rumors, indeed might have reached America of some measure of further retaliation being in the contemplation of the British Government; that perhaps, (as I understood you,) some more severe and sweeping measure might have been expected, but that of the Orders in Council of the 11th of November as having been actually issued, there was no certain knowledge in America, or at least none in the possession of the American Government, at the time of proposing the embargo.

Such, sir, is, according to the best of my recollection, correctly the substance of what has passed between us at our several interviews, previous to the presentation of your official letter; and such I have represented to have been the substance of what passed on these several occasions, in the report of our conferences which it has been my duty to make to the King.

If, in this recapitulation, there is anything mistaken, or anything omitted, you will do me the justice to believe the error unintentional, and you may rely on my readiness to set it right.

I have the honor to be,

GEORGE CANNING.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *Sept.* 23, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, had the honor to receive the official letter addressed to him by Mr. Pinkney, Minister Plenipotentiary of the United States, respecting the Orders in Council issued by His Majesty on the 7th January and 11th November, 1807.

He has laid that letter before the King; and he is commanded to assure Mr. Pinkney that the answer to the proposal, which Mr. Pinkney was instructed to bring forward, has been deferred only in the hope that the renewed application, which was understood to have been recently made by the Government of the United States to that of France, might, in the new state of things which has arisen in Europe, have met with such a reception in France as would have rendered the compliance of His Majesty with that proposal consistent, as much with His Majesty's own dignity, and with the interests of his people, as it would have been with His Majesty's disposition towards the United States.

Unhappily, there is now no longer any reason to believe that such a hope is likely to be realized, and the undersigned is, therefore, commanded to communicate to Mr. Pinkney the decision which, under the circumstances as they stand, His Majesty feels himself compelled, however unwillingly, to adopt.

The mitigated measure of retaliation, announced by His Majesty in the Order in Council of the 7th January, and the further extension of that measure (an extension in operation, but not in principle) by the Orders in Council of November. were founded (as has been already repeatedly avowed by His Majesty) on the "unquestionable right of His Majesty to retort upon the enemy the evils of his own injustice;" and upon the consideration, that "if third parties incidentally suffered by these retaliatory measures, they were to seek their redress from the Power by whose original aggression that retaliation was occasioned."

His Majesty sees nothing in the embargo laid on by the President of the United States of America, which varies this original and simple state of the question.

If considered as a measure of impartial hostility against both belligerents, the embargo appears to His Majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong. And His Majesty cannot consent to buy off that hostility, which America ought not to have extended to him, at the expense of a concession made, not to America, but to France.

If, as it has more generally been represented by the Government of the United States, the embargo is only to be considered as an innocent municipal regulation, which affects none but the United States themselves, and with which no foreign State has any concern; viewed in this light, His Majesty does not conceive that he has the right, or the pretension, to make any complaint of it, and he has made none. But, in this light, there appears not only no reciprocity, but no assignable relation, between the repeal, by the United States, of a measure of voluntary self restriction, and surrender, by His Majesty, of his right of retaliation against his enemies.

The Government of the United States is not now to be informed that the Berlin decree of November 21st, 1806, was the practical commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that, in this attempt, almost all the Powers of the European continent have been compelled, more or less, to co-operate; and that the American embargo, though most assuredly not intended to that end, (for America can have no real interest in the subversion of the British power, and her rulers are too enlightened to act from any impulse, against the real interests of their country,) but, by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the "blockade of the European continent," precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would most effectually have contributed to its success.

To this universal combination His Majesty has opposed a temperate but a determined retaliation upon the enemy; trusting that a firm resistance would defeat this project, but knowing that the smallest concession would infallibly encourage a perseverance in it.

The struggle has been viewed by other Powers, not without an apprehension that it might be fatal to this country. The British Government has not disguised from itself that the trial of such an experiment might be arduous and long, though it has never doubted of the final issue. But if that issue, such as the British Government confidently anticipated, has providentially arrived much sooner than could even have been hoped; if "the blockade of the Continent," as it has been triumphantly styled by the enemy, is raised even before it had been well established; and if that system, of which extent and continuity were the vital principles, is broken up into fragments utterly harmless and contemptible; it is nevertheless important, in the highest degree, to the reputation of this country, (a reputation which constitutes great part of her power,) that this disappointment of the hopes of her enemies should not have been purchased by any concession; that not a doubt should remain to distant times of her determination and of her ability to have continued her resistance; and that no step, which could even mistakenly be construed into concession, should be taken on her part, while the smallest link of the confederacy remains undissolved, or while it can be a question whether the plan devised for her destruction has, or has not, either completely failed, or been unequivocally abandoned.

These considerations compel His Majesty to adhere to the principles on which the Orders in Council of the 7th of January, and the 11th of November, are founded, so long as France adheres to that system, by which His Majesty's retaliatory measures were occasioned and justified.

It is not improbable, indeed, that some alterations may be made in the Orders in Council, as they are at present framed; alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals, with a more severe pressure upon the enemy.

But of alterations to be made with this view only, it would be uncandid to take any advantage in the present discussion; however, it might be hoped that in their practical effect they might prove beneficial to America, provided the operation of the embargo were not to prevent her from reaping that benefit.

It remains for the undersigned to take notice of the last paragraph of Mr. Pinkney's letter. There cannot exist, on the part of Mr. Pinkney, a stronger wish than there does on that of the undersigned and of the British Government, for the adjustment of all the differences subsisting between the two countries.

His Majesty has no other disposition than to cultivate the most friendly intercourse with the United States.

The undersigned is persuaded that Mr. Pinkney would be one of the last to imagine, what is often idly asserted, that the depression of any other country is necessary or serviceable to the prosperity of this. The prosperity of America is essentially the prosperity of Great Britain; and the strength and power of Great Britain are not for herself only, but for the world. When those adjustments shall take place, to which, though unfortunately not practicable at this moment, nor under the conditions prescribed by Mr. Pinkney, the undersigned nevertheless confidently looks

forward, it will perhaps be no insecure pledge for the continuance of the good understanding between the two countries, that they will have learned duly to appreciate each other's friendship; and that it will not hereafter be imputed to Great Britain, either on the one hand that she envies American industry as prejudicial to British commerce, or on the other hand that she is compelled to court an intercourse with America as absolutely necessary to her own existence.

His Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction upon the American people.

The undersigned is commanded, in conclusion, to observe, that nothing is said in Mr. Pinkney's letter of any intention to repeal the proclamation by which the ships of war of Great Britain are interdicted from all those rights of hospitality in the ports of the United States which are freely allowed to the ships of His Majesty's enemies.

The continuance of an interdiction, which, under such circumstances, amounts so nearly to direct hostility, after the willingness professed and the attempt made by His Majesty to remove the cause on which that measure had been originally founded, would afford but an inauspicious omen for the commencement of a system of mutual conciliation; and the omission of any notice of that measure, in the proposal which Mr. Pinkney has been instructed to bring forward, would have been of itself a material defect in the overture of the President.

But the undersigned is commanded no further to dwell upon this subject than for the purpose of assuring Mr. Pinkney that on this, and every other point in discussion between the two Governments, His Majesty earnestly desires the restoration of a perfect good understanding, and that His Majesty would decline no measure for the attainment of that object which should be compatible with his own honor and just rights and with the interests of his people.

The undersigned requests Mr. Pinkney will accept the assurances of his high consideration.

GEORGE CANNING.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,
September 24, 1808.

SIR: I have the honor to acknowledge the receipt of your answer to my official note of the 23d of last month, relative to the British Orders in Council of January and November, 1807, together with a statement of "the substance of what has passed between us at our several interviews, previous to the presentation of that note."

I shall lose no time in transmitting to my Government copies of both these papers, upon the last of which I will take the liberty in the course of a few days to trouble you with some observations.

I have the honor to be, &c.

WILLIAM PINKNEY.

Right Hon. GEORGE CANNING.

Mr. Pinkney to Mr. Madison.

LONDON, *October* 11, 1808.

SIR: I have the honor to transmit, enclosed, a copy of my reply to Mr. Canning's letter to me of the 23d of last month, accompanying his official answer of the same date to my note of the 23d of August. I have the honor to be, &c.

WILLIAM PINKNEY.

Hon. JAMES MADISON.

[Alluded to in the above letter of Mr. Pinkney.]

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,
October 10, 1808.

SIR: If my reply to the letter which you did me the honor to address to me on the 23d of last month should be of greater length than the occasion may be thought to require, you will I am sure impute it to its real cause—an earnest desire on my part, arising from a feeling of sincere respect for you, that the statement which I am to give of facts deemed by you to be important, should be full as well as accurate.

I will not fatigue you, sir, with assurances that no person could be less disposed than I am to find fault with the object of your letter, which appears to be to guard against all misrepresentation of "what has passed in our late interviews beyond what you find recorded in my note." You have told me that I have personally no concern in that object, and I did not require to be told that my Government has as little. I understand, indeed, that the circumstance which has suggested a peculiar motive for this proceeding was one of those newspaper misrepresentations which every day produces where the press is free—which find no credit, and beget no consequence—and for which it is greatly to be feared your expedient will provide no remedy. Of my conduct, when that circumstance occurred, in giving you unsolicited proofs that I had transmitted to Mr. Secretary Madison a faithful report of our conferences, mistaken by public rumor or private conjecture, it is not necessary for me to speak; for you have yourself done justice to it.

The motive to which I am indebted for the honor of your letter appears to have been instrumental in producing another effect, equally unexceptionable. But you will allow me to say, that, until the receipt of that letter, I had not been apprized, by the slightest intimation, that it was in any degree owing to such a cause that you declined, on the part of His Majesty's Government, after two conferences, in which I had been suffered if not encouraged to unfold myself, individually as well as officially, at great length and with perfect frankness to give an answer to my verbal overture.

At our first interview, (on the 29th of June,)

verbal communication was not discountenanced, but commended: for, after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added that you presumed I did not, for that the course I had adopted was well suited to the occasion. My reply was, in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview, (on the 22d of July,) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable as a preparatory course; and it was not until the third interview (on the 29th of July) that it was rejected as inadmissible. But even then I was not told, and had not the smallest suspicion, that this rejection was to be ascribed, either wholly or partially, to the motive which your letter has since announced to me. That this motive had, nevertheless, all the influence now imputed to it I am entirely confident, and I take notice of it only because, as I have not mentioned it to my Government in my official account of our conferences, I can no otherwise justify the omission, either to it or to you, than by showing that I had, in truth, no knowledge of the fact when that account was transmitted.

I may take occasion to set forth, in the present letter, the import of all that can be material of our several conversations, according to my recollection of them; but there are some points to which I ought to pay a more particular attention, because you have thought them entitled to it; although I should myself, perhaps, have been inclined to think that they had lost much of their importance by the presentation of my note and the receipt of your written answer; both of which are perfectly intelligible, upon these points at least, without the aid of the conferences that preceded them.

You observe, that "the principal points in which the suggestions brought forward by me, in personal conference, appear to you to have differed in some degree from the proposal stated by me in writing, are two: the first, that in conversation the proposal itself was not distinctly stated as an overture authorized by my Government; the second, that the beneficial consequences, likely to result to this country from the acceptance of that proposal, were "pursued" through more ample "illustrations."

With regard to the first of these supposed differences, I feel persuaded, sir, that upon further recollection, it will occur to you, that, at our first conference, I told you explicitly that the substance of what I then suggested, (that is to say, that your orders being repealed as to us, we would suspend the embargo as to Great Britain,) was from my Government; but that the manner of conducting and illustrating the subject, upon which I had no precise orders, was my own. I even repeated to you the words of my instructions as they were upon my memory; and I did not understand, either then or afterwards, that there was any doubt as to their existence or their sufficiency, or any desire to have a more exact and formal communication of them while the result of our discussions was distant and uncertain. I said, undoubtedly, that I had been directed to require the revocation of the British Orders in Council; but I said also that, although the Government of the United States still supposed itself to be authorized to expect their repeal upon the ground of right as it existed from the first, (a subject, however, which I informed you I did not wish at that time to agitate,) I was, notwithstanding, empowered to give you the above-mentioned assurances, which would, as I presumed, hold out inducements to Great Britain, as well on the score of policy as on that of justice, to fulfil that expectation. I should scarcely have undertaken to offer such assurances as from myself, or upon my own "conviction" that the President would act in conformity with them. And I should still less (if that were possible) have ventured to ask of you that you would make them, in that form, the subject of repeated conferences, and even of reference to others, as placing the question of a recall or continuance of the Orders in Council upon new grounds of prudence and equity.

If it is merely intended (as I doubt not it is) to say that I did not make, or declare my intention to make, my overture in writing, before I had endeavored to prepare for it by personal explanations such a reception as I felt it deserved, and before I could ascertain what shape would it be most proper to give to it, or how it would be met by this Government, nothing can be more correct.

It was my sincere wish that my proposal, which I believed to be advantageous to Great Britain, as well as honorable to the United States, should be accepted; and accordingly I preferred a mode of proceeding, which, while it was calculated to avoid unprofitable discussions upon topics of some delicacy and great difficulty, would furnish opportunities for frank and friendly communication upon all the bearings of my proposal, and lead to the result at which I aimed, if that result should be practicable in such way as upon mature reflection, and after a liberal interchange of sentiments, should be found to be most for the honor of our respective Governments. These views were laid before you without reserve, and seemed to be approved; and I confess to you, sir, that when I was afterwards informed that, if I would obtain an answer to my overture, I must make it in writing, and that I must not look for any previous intimation of the nature of that answer, I did not allow myself any longer to anticipate with much confidence such an issue as I desired.

The second difference which your letter supposes to exist between my note and verbal suggestions cannot, I think, in any view, be very material. I will say something upon it, however.

My note declares, that, if I forbear to pursue certain ideas through all the illustrations of which they are susceptible, it is because our personal

conferences, as well as the obvious nature of the ideas themselves, render it unnecessary. This implies, undoubtedly, that more had been said in our conferences, explanatory of these ideas, than is to be found in the note itself; and that implication can scarcely be otherwise than true, if I "expatiated largely," as you very justly say I did, "upon the consequences of a suspension of the embargo as to Great Britain, while it still continued to be enforced against France."

The general idea to which the note refers, is, that justice and interest conspired to recommend that you should take advantage of my proposal. The particular positions are, that, if your orders and our embargo should be rescinded in the manner suggested, our commercial intercourse would be immediately revived; that, if France followed your example, and retracted her decrees, the avowed purpose of your orders would be accomplished; that, if France refused to retract, the American embargo, continuing as to her, would occupy the place of your orders, and perform their office even better than they could perform it themselves, without any of the disadvantages inseparable from such a system.

It is certain that in our conversations I endeavored to prove that these general and particular notions were founded in truth, by a variety of arguments thrown out in a very desultory way with more zeal than precision, and with that entire freedom which unlimited confidence in your candor, and a firm opinion that the views of my Government would derive new titles to respect from a full examination, were calculated to produce.

I should not deal ingenuously with you, sir, if I were to pretend that I think myself able to recapitulate these disjointed arguments as they were actually delivered; and I am quite sure that I shall consult your gratification, as well as my own credit, by declining such an undertaking. But I think I can state, in a condensed form, what I intended you should understand; and I presume that what I did say was not very wide of my real impressions.

Upon the footing on which my overture would place the justice of the British orders, I did not go into much detail at any one of the three interviews mentioned in your letter. But, combining my unconnected and occasional observations on that point, as they were made at different times, and more especially as they were afterwards given and enlarged upon when I had the honor to see you on the 26th of August, (of which, however, it is proper to say I have only a very scanty memorandum,) their import will not perhaps be found to be much, if at all, mistaken in such parts of the following statement as relate to that branch of the subject.

I meant to suggest, then, that upon your own principles it would be extremely difficult to decline my proposal; that your orders inculcate, as the duty of neutral nations, resistance to the maritime decrees of France, as overturning the public law of the world, and professedly rely upon that duty, and an imputed abandonment of it, for their inducement and their justification; that, of these orders, that of the 7th of January, 1807, (of which the subsequent orders of November are said, in your official reply to my note of the 23d of August, to be only an extension, "an extension in operation, not in principle,") was promulgated and carried into effect a few weeks only after the Berlin decree had made its appearance, when the American Government could not possibly know that such a decree existed, when there had been no attempt to enforce it, and when it had become probable that it would not be enforced at all to the prejudice of neutral rights; that the other orders were issued before the American Government, with reference to any practical violation of its rights, by an attempt to execute the Berlin decree in a sense different from the stipulations of the treaty subsisting between the United States and France, and from the explanations given to General Armstrong by the French Minister of Marine, and afterwards impliedly confirmed by General Champagny, as well as by a correspondent practice, had any sufficient opportunity of opposing that decree, otherwise than it did oppose it; that your orders, thus proceeding upon an assumed acquiescence not existing in fact, retaliated a thousand-fold, through the rights of the United States, wrongs rather threatened than felt, which you were not authorized to presume the United States would not themselves repel, as their honor and their interests required; that orders, so issued, were, to say the least of them, an unseasonable interposition between the injuring and the injured party, in a way the most fatal to the latter; that, by taking justice into your own hands, before you were entitled to do so, at the expense of everything like neutral rights, and even at the expense of other rights, justly the objects of yet greater sensibility, and by inflicting upon neutral nations, or rather upon the United States, the only neutral nation, injuries infinitely more severe and extensive than it was in the power of France to inflict, you embarrassed and confounded, and rendered impracticable, that very resistance which you demanded of us; that my proposal destroyed all imaginable motives for continuing, whatever might have been the motives for adopting, this new scheme of warfare; that it enabled you to withdraw, with dignity, and even with advantage, what should not have come between France and us; that its necessary tendency was to place us at issue with that Power, or, in other words, in the precise situation in which you have maintained we ought to be placed, if it should persist in obnoxious edicts; that the continuance of our embargo, so modified, would be at least equivalent to your orders, for that, in their most efficient state, your orders could do no more, as regards the United States, than cut off their trade with France, and the countries connected with her, and that our embargo remaining as to France and those countries, would do exactly the same; that if the two courses were barely, or even nearly, upon a level, in point of expediency, Great Britain ought to be forward to adopt that which was consistent with the rights, and respect-

ful to the feelings, of others; that my proposal, however, had powerful recommendations, which the Orders in Council had not; that it would reestablish, without the hazard of any disadvantage, before new habits had rendered it difficult if not impossible, a traffic which nourished your most essential manufactures, and various other important sources of your prosperity; that it would not only restore a connexion, valuable in all its views, but prepare the way for the return of mutual kindness, for adjustments greatly to be desired, and, in a word, for all those consequences which follow in the train of magnanimity and conciliation, associated with prudence and justice.

Among the observations intended to illustrate my opinion of the certain, probable, and possible effects of the concurrent acts which my proposal had in view, were those to which you alluded in the sixth paragraph of your letter. Having stated that renewed commercial intercourse between Great Britain and the United States would be the first effect, I remarked, in the progress of the conversation, that the edicts of France could not prevent that intercourse, even if France should adhere to them; although Great Britain, by her superior naval means, might be able to prevent the converse of it; that the power of France upon the seas was in no degree adequate to such a purpose, and, if it were otherwise, that it was not to be supposed that the United States, resuming their lawful commerce with this country, after a recall of the British Orders in Council, would take no measures against systematic interruptions of that commerce by force and violence, if such should be attempted.

If, when I was honored with the different interviews before mentioned, I had been able to conjecture the nature of the arguments which were to have influence against my proposal, as I now find them stated in your answer to my note, I should have ventured to suggest, in addition to the remarks actually submitted to your consideration, that, if "the blockade of the European continent," by France and the Powers subservient to or in combination with her, to which your orders, as "a temperate but determined retaliation," were opposed, has been "raised even before it had been well established," and if "that system," so opposed, "of which extent and continuity were the vital principles, has been broken up into fragments utterly harmless and contemptible," there seems scarcely to be left, in your own view of the subject, any intelligible justification for perseverance in such of the retaliatory measures of Great Britain as operate through the acknowledged rights of a Power, confessedly no party to that combination, and ready to fulfil her fair neutral obligations if you will suffer her to do so. Under such circumstances, to abandon, what it is admitted to have lost, its own legitimate object, is not "concession;" it is simple justice. To France, indeed, it might be concession. But it is not France, it is the Government of America, neither subservient to France nor combined with France, a third party whose rights and interests your orders deeply affect, without any adequate necessity, according to your own showing, that requires their recall; and that, too, upon terms, which cannot but promote the declared purposes of these orders, if any remain to be promoted. I say "without any adequate necessity according to your own showing;" for I am persuaded, sir, you do not mean to tell us, as upon a hasty persual of your answer to my note might be imagined, that those rights and interests are to be set at naught, "lest a doubt should remain to distant times of the determination and the ability of Great Britain to have continued her resistance," or that your orders may, indefinitely, give a new law to the ocean, lest the motive to their repeal should be mistaken by your enemy. If this might, indeed, be so, you will, perhaps, permit me to say, that, highly as we may be disposed to prize the firm attitude and vast means of your country, at this eventful moment, it would possibly suggest to some minds a reluctant doubt on the subject of your observation, "that the strength and power of Great Britain are not for herself only, but for the world."

I might also have been led to intimate that my proposal could apparently lose nothing by admitting, that, "by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of "the before-mentioned" blockade of the European continent, precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would most effectually have contributed to its success." Yet, I should probably have thought myself bound to remind you, that, whatever may be the truth of this speculation, the same embargo withheld our tonnage and productions from that communication with the colonies of your enemies and with the European continent, which you had asserted your right to prevent; which, as a direct communication (with the Continent,) you had in fact prohibited; which, even through the British ports, or in other qualified forms, you had professed to tolerate, not as that which could be claimed, but as an indulgence that could at any time be withdrawn; which, as a traffic for the United States to engage in, you had at least discouraged, not only by checks and difficulties in the way of its prosecution, but by manifesting your intentions to mould it into all shapes which the belligerent, fiscal, or other peculiar policy of Great Britain might require, and to subject it to the exclusive jurisdiction of her municipal code, armed with all the prerogatives of that universal law to which nations are accustomed to look for the rights of neutral commerce.

In giving an account of our second conference you say "that, though not stating myself to be authorized by my Government formally to offer the suspension of the embargo as an immediate repeal of the Orders in Council, yet I did profess my readiness to take upon myself to make that offer, provided that you would give me beforehand an unofficial assurance that, coupled with that offer so made, the demand of the repeal of the orders would be favorably received; but you,

of course, declined to give any such previous assurance; but, as I appeared to attach great importance to this suggestion, and you were led to think that a compliance with it might relieve me from a difficulty in executing the instructions of my Government, you consented to take a few days to consider of it, and to reserve your definitive answer until you should see me again." You then observe that you never doubted, in your own mind, as to the inexpediency and impropriety of encouraging me to take an unauthorized step, by an unofficial promise that it should be well received. I am sure you did not, sir; but I must take the liberty to say that I am equally sure that I never thought of asking you to give me encouragement to take an unauthorized step of any kind. I am, indeed, truly mortified that my conduct has appeared to you in that light; and I should not be readily conspired, if I did not reflect that, in condescending to listen, even for a moment, to what must have struck you as an irregularity, as vain and nugatory in its purpose as reprehensible in its principle, you must at least have given me credit for good intentions, and for a strong desire, sincerely felt, although erroneously obeyed, that our countries should find themselves in that relative position which suits the interests and tends to the happiness of both.

When I professed a readiness to make my proposal in writing, it was, as you state, provisionally; but I did not intimate that I was acting without authority, nor did I comprehend that such was, as I now know it to have been, your impression. The provisional nature of my offer arose out of circumstances, and was afterwards pressed upon conviction that, if it was meant to adopt the views of the President, nothing more could be necessary. I understood you to be desirous of ascertaining whether I was empowered and disposed, with a view to a final arrangement, to present what I had suggested, in a written form, as an overture originating with my Government. I said, of course, that, everything being first matured, a note should be presented, but that I would, with your permission, take a little time to consider of the manner and terms. I did not at that time suppose that we were conversing about a written proposal which was to be made only to be rejected, or even for the purpose of deliberation; and consequently, in professing my willingness to make it as soon as we were prepared for it, I presumed that I had done all that you desired. And I was confirmed in this opinion, not only by your saying nothing, as I supposed, to the contrary, but by your requesting me, as I was about to leave the room, to employ myself, before the next interview, upon such a note as we had been talking of; and then retracting that request, by observing, that I would doubtless first desire to know what were your ideas and intentions upon the subject of it, with which I was given to understand I should be made acquainted at another conference.

At the third interview, after speaking of a transaction upon the Lakes, of which your traders complained, and of another occurrence in the bay of Passamaquoddy, you observed, that you had thought long and anxiously upon what I had suggested to you; that the subject had at first struck you as being much more simple than upon careful examination it had been found to be; that, in the actual state of the world, it behooved both you and me to move in this affair with every possible degree of circumspection; that, without some explicit proposal on my part, in writing, upon which the British Government could deliberate and act, nothing could be done; and, finally, that you must leave me to consult my own discretion whether I would make such a proposal.

It appeared to me that, if this determination should be persisted in, my overture was not likely to be successful; and I urged, accordingly, the propriety of going on in a course which would lead us to a better issue. That course was, that we should understand one another as to our respective views, and that a concise note, which I had in fact prepared since the last meeting, should then be presented and acted upon. You informed me that my wish in this particular could not be acceded to; that, if I presented a note, you must be left at perfect liberty to decide upon what it proposed; that you could not give me even an intimation of the probable consequences of it; and, in a word, that you would neither invite nor discourage such a proceeding. You added that there were some points belonging to the subject which it would be proper to discuss in writing, one of which was the connexion between our embargo and your orders of November, supposed to be implied by my proposal. I remarked that, with an actual result in view, and with a wish to arrive at that result without delay, it could not be advisable to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree, and that, if I were to frame my note, with a knowledge that it was to provoke argument, instead of leading at this crisis to a salutary change in the state of the world, you must be conscious that I too must argue. And where would this end? To what wholesome consequences would it conduct us? At the close of the interview I observed that, as the footing upon which the subject was now placed made delay of no importance, I should take time to prepare such further proceeding as the occasion required.

On the 26th of August I had the honor to see you again, and, after entering more at large than I had before believed to be proper into a consideration of the effect of my proposal on the equity of adhering to your Orders in Council, and, after reading to you parts of my instructions, I delivered an official note, in which the proposal was made in the form required.

Something was said at this interview of the affair of the Chesapeake, and the President's proclamation, which it is not, I presume, necessary to repeat. It will be sufficient to state, that you asked me what was to be done with these subjects? And that my reply was, that they had no connexion with the present; but that I could say, with confidence, that my Government had every

disposition to attend to them, with a view to such an adjustment as would be honorable to both parties. I did not suppose that it was expected (for you did not intimate such an expectation) that renewed negotiation upon these points should, as well as the repeal, upon terms, of your Orders in Council, be invited by a formal overture from the Government of America.

I will not trouble you with many observations more.

You state in your letter that "there was one point upon which you were particularly anxious to receive precise information, and upon which, from my candor and frankness, you were fortunate enough to obtain it." This was, "whether in fact the Orders in Council of November had been known to the Government of the United States previously to the Message of the President proposing the embargo, so as to be a moving consideration to that Message?" I quote this passage principally that I may recall to your recollection that my suggestions upon the subject of it were not made officially, or as being authorized or furnished by any communication from my Government, or in answer to any direct inquiries on your part. They were very briefly made near the close, as I think, of our third interview, in consequence of your intimation, (intended, perhaps, to amount to an inquiry,) that my proposal implied that the embargo had been produced by the orders of November; to which you added that this could not be admitted, and, (as I comprehended what you said,) that it even required to be made the subject of some notice or discussion in writing, as intimately connected with my proposal, if it should be brought forward in that shape; and I understood you to assign this as one of the reasons why a written overture was indispensable. In replying to that intimation, and the remarks which followed it, I professed to speak, as I did in fact speak, from general information only, and disclaimed, as it was my duty to do, all authority to say more upon the nature and origin of the embargo than I had some time before communicated to you, in obedience to the orders of the President. The purpose of my observations was chiefly to show that there was no inducement for embarking in formal discussions upon this point; and I assured you that it was not in my power, either as respected instructions from my Government, or knowledge of facts, to do so. My opinion was, and I spoke accordingly, that it was one of those questions which might be left completely at rest, without the least injury to the wisdom or the justice of our conclusions upon the great object of our conferences. There could be no objection, however, to my giving you on this head such conjectural information as I was able; on the contrary, by fully disclosing to you my own materials for forming an opinion upon it, you would be enabled more distinctly to see that I could take no part in any discussion which you might propose to apply to it. And I could not but be assured that any anxiety you might feel to obtain a knowledge of the facts in question sprung from considerations which had every claim to my respect; for I knew that your mind was far above the reach of prejudice, which would ascribe the American embargo to participation in the councils or views of your adversary, or of any foreign Power whatsoever.

My suggestions were to the following effect: that I believed that no copy of your orders of November had arrived in the United States, at the date of the President's Message; that a recent change in the conduct of France to our prejudice did appear to be known; that intelligence had been received, and a belief entertained, of your intention to adopt some further measure, as a measure of retaliation against France, by which our commerce and our rights would be affected; that there was reason to conclude that you had actually adopted such a measure; that (as I collected from American newspapers) this had appeared from private letters and the newspapers of this country, received in the United States some days before the Message of the President, and probably known to the Government; that, in a word, various information concurred to show that our trade was likely to be assailed by the combined efforts of both of the belligerent parties; and that the embargo was a measure of wise and peaceful precaution, adopted under this view of reasonably anticipated peril.

You observe, in another part of your letter, that you have always rather wished to refer the argumentative discussion of the subject of the Orders in Council to the official correspondence which you have more than once been taught to expect me to open upon it. If I should object to any part of this statement, of which the substance is undoubtedly correct, it would be the words "more than once." Your wish has also appeared to be such as you now represent it, and you had reason to expect that I would commence a written discussion of the orders of November soon after their publication. I had told you that I should do so, and you had said that there could be no objection to it. But you were afterwards informed that, upon reflection, I had determined to leave the subject where it was, until I should know the pleasure of my Government.

The orders had been officially communicated, not to me, but to Mr. Madison, through the British Minister at Washington. It seemed, therefore, to be proper, (unless my instructions should make it otherwise,) that the view which the Government of the United States took of them should find its way to you through the same channel; and, accordingly, the letters of Mr. Madison, to which I have referred in my note of the 23d of August, did open at great length a discussion, which I could have no inducement to shun, although I did not continue to think myself authorized to commence it.

It only remains to add, that your share in our several conversations was, what you represent it to have been, not considerable; and that your manner, although reserved, was, as it always is, perfectly friendly.

I need not say that if, in this letter, written under the influence of sincere concern, the pro-

posal I had the honor to lay before you has been unsuccessful, anything is to be found which you could wish to be otherwise than it is, I shall be the first to regret that I have not been able to do justice to my own feelings and intentions.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Madison.

LONDON, *Nov.* 25, 1808.

SIR: I have the honor to send enclosed a copy of a letter, received last night from Mr. Canning, in answer to my letter to him of the 10th of last month.

The tone of this letter renders it impossible to reply to it with a view to a discussion of what it contains; although it is not without further inadvertences as to facts, and many of the observations are open to exception. I intend, however, to combine, with an acknowledgment of the receipt of it, two short explanations. The first will relate to the new and extraordinary conjecture, which it intimates, that my authority was contingent; and the second will remind Mr. Canning that my letter of the 10th of October does not, as he imagines, leave unexplained the remark that "the provisional nature of my offer to make my proposal in writing arose out of circumstances;" but, on the contrary, that the explanation immediately follows the remark.

The Union is not yet returned from France. Lieutenant Gibbon arrived in London more than three weeks ago, and delivered your letter of the 9th of September, with duplicates of papers in the case of the Little William, and copies of letters which lately passed between the Department of State and Mr. Erskine.

I have the honor to be, &c.

WILLIAM PINKNEY.

HON. JAMES MADISON.

[Referred to in the preceding despatch.]

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *Nov.* 22, 1808.

SIR: I regret exceedingly that an unusual and uninterrupting pressure of official business has prevented me from finding an earlier opportunity to reply to your letter of the 10th of last month.

The observations which I have to offer upon some parts of that letter are not, indeed of such a nature, as to make it matter of any great importance whether you receive them a week sooner or later; as they refer less to any point of public interest to our two Governments than to what has passed personally between ourselves.

But I should have been much mortified if you could have been led to believe me deficient in attention to you; the manner as well as the substance of the communication, which I have had the honor to receive from you, entitling it to the most prompt and candid consideration. Your understanding of the motives which induced me to accompany my official note of the 23d September with my letter of the same date, is so far imperfect, as that you seem to imagine that the wish to guard against misrepresentation was the only motive which induced me to write that letter, and that, from that motive alone, I should, in any case, have troubled you with it. Whereas, I must have expressed myself very incorrectly indeed, if I did not convey to you the assurance, that if what had passed between us in conversation had not been referred to by you in your official letter of the 23d August, I certainly should not have thought it necessary or proper to preserve any written record of your verbal communications, which I understood at the time to be confidential, and which I certainly was so far from attempting or intending to "discountenance," that I have no doubt but I expressed myself (as you say I did) in favor of "the course which you adopted, as well suited to the occasion." But you state, at the same time, most correctly, that it was as a preparatory course, that I understood and encouraged this verbal and confidential communication. I never did nor could understand it as being intended to supersede or supply the place of an official overture. I never did nor could suppose that the overture of your Government, and the answer of the British Government to it, were intended to be intrusted solely to our recollections. Accordingly, when the period arrived at which you appeared to be prepared to bring forward an official proposal, I did, no doubt, express my expectation that I should receive that proposal in writing.

It is highly probable that I did not (as you say I did not) assign to you, as the motive of the wish which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones; because that consideration is sufficiently obvious, and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specific motive to be necessary, to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would, and such must be, the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations.

In framing your note, I did not pretend to anticipate how much of what had been stated by you in our several conferences you would think it proper to repeat in writing. But whatever the tenor of your note had been, I should have felt it right to conform strictly to it, in the official answer, avoiding any reference to any part of your verbal communications, except such as, by repeating them in writing, I should see that it was your intention to record as official.

I confess, however, I was not prepared for the mixed course which you actually did adopt, I am persuaded, (I am sincerely persuaded,) without any intention of creating embarrassment—that of referring generally to what had passed in our conferences, as illustrative of your official proposition, and as tending to support and recommend it, but without specifying the particular points to which such reference was intended to apply; a

course which appeared at first sight to leave me no choice, except between the two alternatives of either recapitulating the whole of what you had stated in conversation for the purpose of comprehending it in the answer, or of confining myself to your written note, at the hazard of being suspected of suppressing the most material part of your statement.

The expedient to which I had recourse, of accompanying my official note with a separate letter, stating, to the best of my recollection, the substance of what I had heard from you in conversation, appeared to me, after much deliberation, to be the most respectful to you.

Such having been the motives which dictated my letter, I cannot regret that it was written, since it has produced, at a period so little distant from the transaction itself, an opportunity of comparing the impressions left on our minds, respectively, of what passed in our several conferences, and of correcting any erroneous impression on either side.

There are two points in which our recollections do appear to differ in some degree.

The first relates to the authority which you had, and that which I understood you to state yourself to have, at the time of our first conference, for bringing forward a direct overture, in the name of your Government; the second to the expectation which I stated myself to have entertained "more than once," of your opening an official correspondence on the subject of the Orders in Council.

With respect to the first point, you will give me credit, when I assure you that my understanding of what was said by you, not only in the first, but in our second conference, was precisely what I stated it to be in my letter; and you will, I hope, forgive me, if, after the most attentive perusal of your letter of the 10th October, and after a careful comparison of different passages in it, while I am compelled, by your assurance, to acknowledge that I must have misapprehended you, I find grounds in your statement to excuse, if not to account for, my misapprehension.

According to your recollection, you told me explicitly, in our first conference, "that the substance of what you then suggested, that is to say, that our orders being repealed, as to the United States, the United States would suspend the embargo as to Great Britain," was from your Government; "that the manner of conducting and illustrating the subject (upon which you had no precise orders) was your own," and you even quoted part of your instructions to me which was to that effect.

In a subsequent paragraph, you state that "nothing can be more correct than my apprehension that you did not make, nor profess to intend making, an overture in writing, before you had endeavored to prepare for it such a reception as you felt it deserved, and before you could ascertain what shape it would be most proper to give to that overture, and how it would be met by the British Government."

And in another part of your letter, you admit that "when you expressed your readiness to make your proposal in writing, it was (as I have stated) provisionally;" and you inform me that "the provisional nature of your offer arose out of circumstances:" the nature of which circumstances you do not explain, nor have I any right to require such an explanation.

But, comparing these several statements together; seeing that, in our first interview, you declared no intention of making a proposal in writing; that, in our second interview, (a month or five weeks afterward) you described that intention as "provisional" and contingent; and protesting at the same time (as I do in the most solemn manner) that I cannot find any trace in my memory of any communication whatever of any part of your instructions communicated to me as such; seeing also, that, whatever might be the nature and extent of your instructions from the President of the United States as to the substance of the overture to be made to the British Government, the manner, the time, and the conditions of that overture were evidently considered by you as left to your own discretion; it surely may be pardonable in me to have mistaken (as I most unquestionably must have done,) the precise limits at which the authority of your Government ended and your own discretion began, and to have imagined (which I very innocently did) that a proposition, over which you appeared to have a power so nearly absolute, was a proposition in a great measure of your own suggestion. I do not mean that I supposed you to bring forward such a measure without reference to the knowledge which you must of course have had of the general feeling, disposition, and intentions of your Government, but without its specific instructions for that purpose at that time.

In attributing to you this exercise of judgment, in addition to many others, which it is confessed you were at liberty to exercise, I really intended to convey no imputation disrespectful to you; I can conceive abundance of cases in which it would have been not only excusable but highly meritorious.

My mistake, at least, was a very harmless one, as, whether the fact were that you had no precise authority to give in an official proposal, or that you had such an authority, but subject to contingencies which had not occurred, the practical result must be of necessity the same.

What these contingencies might be, it is not for me to inquire; but if they were of the nature of which I now cannot but conjecture they may have been; if the overture which you were authorized to make to the British Government was to be shaped and timed according to the result of any other overture to any other Government, I am then at once able to account for all those appearances which misled me into a belief of the want of a precise authority on your part. This consideration leads me to the other point, on which alone there appears a difference between us upon any matter of fact, but a difference by no means so wide as it appears. Admitting the general correctness of my statement of the expectation

which I was taught to entertain of a written communication from you, on the subject of the Orders in Council, you add, that it was, however, only in November last, and immediately after the publication of the Orders in Council, that you had directly announced to me your intention of opening a correspondence upon them—an intention, from which you afterward desisted, "until you should receive the pleasure of your Government." The correctness of this statement I do not dispute; but you, I am sure, will agree with me, sir, in recollecting how many times, "more than once," since the period of that first intention of yours being announced and withdrawn, my expectations that you were about to "receive the pleasure of your Government" upon this subject have been excited by the notification in America, and the destination hither of ships employed by the United States, as it was generally supposed, for the special purpose of conveying representations or proposals from the American Government to the Governments of France and Great Britain, upon the subject of their respective maritime decrees and orders.

Such was the universal belief both in America and in England, upon the arrival of the Osage, upon that of the Hope, of the St. Michael, and of another vessel named, I think, the Union. I have certainly no right to affirm that you shared in the expectation which so universally prevailed; I have no right to say that the Government of the United States designedly created that expectation; but that it did prevail, and that I very sincerely believed it to be well founded, you, I think, must do me the justice to recollect, as, in one instance, at least, that of the Osage, so strong was my persuasion that you must have received instructions from your Government, that I took the liberty of sending to you to inquire whether you had not some communication to make to me, and received for answer that you had none.

It is to these missions that I particularly referred, when I said that I had "more than once expected you to open a correspondence with me upon the subject of the Orders in Council." This expectation it was that alone prevented me sending instructions to Mr. Erskine to reply to the note addressed to him by Mr. Madison on the 25th of March, in answer to that note of Mr. Erskine's in which he communicated the Orders in Council, and in allusion to these missions, particularly to that of the Osage; and to the expectation, which had been founded here upon the return here of that vessel after its voyage to France, it was, that I made that declaration in Parliament, which, I see, has been the subject of some misapprehension (I will not say misrepresentation) in America; that, "since the termination of Mr. Rose's mission, the American Government had not made any communication here, in the shape of remonstrance, or in a tone of irritation." I am not aware, sir, that there is any other part of your letter which requires that I should trouble you with many observations.

Your report of your answer to the inquiry, which I took the liberty of making "whether the Orders in Council of November were known to the Government of the United States previously to the Message of the President proposing the embargo, was to be a moving consideration to that Message," does not appear to differ in any material degree from my statement of it. That your answer to such an inquiry was official, or authorized by your Government, I did not assert nor presume. I have already said that it was not till you had, in your official letter of the 23d of August, referred to what passed in conversation, that I should have thought any such reference allowable on my part; and, even then, the generality of your reference precluded me from judging correctly how much of what you had stated in conversation was from official authority, how much from your own personal information or opinion.

You inform me that your answer to this question was of the latter description only; but, even if it were only from your individual authority, it was very material and highly gratifying to learn that the embargo, which had been sometimes represented, both here and in America, as the direct and immediate consequence of the Orders in Council of November, and as produced solely by them, was, in your opinion, "a measure of precaution against reasonably anticipated peril."

The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion. I cannot conclude it, however, without adverting very shortly to that part of your letter in which you argue that the failure of France, in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliatory system of Great Britain. This impotency of the enemy to carry his projects of violence and injustice into execution might, with more propriety, be pleaded with him as a motive for withdrawing decrees at once so indefensible and so little efficacious for their purpose, than represented as creating an obligation upon Great Britain to desist from those measures of defensive retaliation which those decrees have necessarily occasioned. If the foundation of the retaliating system of Great Britain was (as we contend it to have been) originally just, that system will be justifiably continued in force, not so long only as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned; and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from it, while the enemy's original provocation remains unrepealed, might lead to false conclusions as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that Power to resort to the same system on any future occasion; a result which, not Great Britain alone, but all commercial nations are deeply interested in preventing. I have now, sir, only to express my sense of the candor and liberality with which this discussion has been conducted on your part, and my acknowledgments for the justice which you render to my disposition to treat you, at all times, with reciprocal respect, and to listen to you with the attention to which, personally, as well as officially, you have every claim.

I cannot forego the hope that it may yet fall to our lot to be instrumental in the renewal of that good understanding between our two Governments, which is as congenial to the feelings as it is essential to the interests of both countries; which nothing but the forced and unnatural state of the world could have interrupted; and which there is, on the part of the British Government, the most anxious and unabated desire to restore.

I have the honor to be. &c.,

GEORGE CANNING.

Mr. Pinkney to Mr. Madison.

LONDON, *December* 3, 1808.

SIR: I have the honor to send, enclosed, a copy of my reply to Mr. Canning's letter to me of the 22d ultimo. A copy of the letter, to which it is an answer, was transmitted a few days since by the British packet, and a duplicate has been sent to Liverpool.

The Union is not yet arrived from France, and we have no intelligence of her.

I have the honor to be, &c.,

WILLIAM PINKNEY.

Hon. JAMES MADISON.

[Enclosed in Mr. Pinkney's despatch of December 3.]

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE.
November 28, 1808.

SIR: I have had the honor to receive your letter of the 22d instant, and to transmit a copy of it to my Government.

Without desiring to protract a discussion, in the conduct of which neither your sincerity nor mine will, I feel assured, be doubted by any one, I may be permitted to say, that the authority under which I acted in our late communications was not contingent, as you now appear to conjecture, and that the remark contained in my letter of the 10th of October, "that the provisional nature of my offer to make my proposal in writing arose out of circumstances," will be found explained, in the same letter, by passages which immediately follow the remark.

I have said, in my letter of the 10th of October, that "I had no precise instructions as to the manner of conducting and illustrating the subject confided to my management;" but you will suffer me to enter my friendly protest against all suppositions that the overture was left to my own discretion; that I had a power "nearly absolute" over it, or that it was, "in a great measure, of my own suggestion."

I will trouble you no further, sir, on this occasion, than to assure you that nothing could give me more sincere pleasure than to see fulfilled the hope which you express, that it may yet fall to our lot to be instrumental in the renewal of good understanding between our two Governments.

I have the honor to be, &c.,

WILLIAM PINKNEY.

Right Hon. GEORGE CANNING.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *Dec.* 24, 1808.

SIR: In my official note of the 23d September, I stated to you the probability that some alterations might be made in the Orders in Council, with a view to adapt their operation more exactly to the altered state of Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy.

As this statement was, however, only incidental, and as I at the same time disclaimed any intention of taking advantage of such proposed alterations in the discussions then pending between us, seeing that, if made, they would not be founded on the admission of any of the principles for which you were contending, it was, perhaps, not necessary that I should trouble you with any further communication upon this subject. But the order, of which I have the honor to enclose a copy, having been passed by His Majesty in Council on Wednesday last, I am desirous, previous to its actual publication, of explaining to you the grounds on which the more extended alterations which were in contemplation have been suspended.

It was intended to relax, in a certain degree, the regulations of the Orders in Council, with respect to such of the Powers in hostility with His Majesty as were not, or should not place themselves, in a state of hostility with Spain; but at the same time that this relaxation was extended to other Powers, to prohibit absolutely, by strict, rigorous, and unmitigated blockade, all intercourse whatever with France.

The adoption by these Powers, who were to have been the objects of such relaxations, of the views and projects of France with respect to Spain, does away all assignable ground of distinction between France and these Powers; and that part, therefore, of the intended alterations does not take place.

The alterations contained in the enclosed Orders in Council stand upon a separate ground, and, as I have more than once understood from you that the part of the Orders in Council which this order goes to mitigate is that which was felt most sorely by the United States, I have great pleasure in being authorized to communicate it to you.

I have the honor to be, &c.,

GEORGE CANNING.

WILLIAM PINKNEY, Esq.

[Order in Council, enclosed in Mr. Canning's letter of December 24.]

His Majesty, in virtue of the powers reserved to him, by two certain acts passed in the forty-eighth year of His Majesty's reign, the one entitled "An act for granting to His Majesty, until

the end of the next session of Parliament, duties of customs on the goods, wares, and merchandises therein enumerated, in furtherance of the provisions of certain Orders in Council;" the other entitled "An act for granting to His Majesty, until the end of the next session of Parliament, certain duties, on the exportation from Ireland, of goods, wares, and merchandise therein enumerated," is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that the operation of the aforesaid acts be suspended, as to any duties on exportation, granted by the said acts, so far as relates to articles being the growth, produce, or manufacture of any country, for the time being, in amity with His Majesty, and from the ports of which the British flag is not excluded, imported direct from such country into any port or place of the United Kingdom, either in British ships or in ships of the country of which such articles are the growth, produce, or manufacture.

And His Majesty is further pleased, with the advice aforesaid, to order, and it is hereby ordered, that the said duties on exportation be suspended, as to all goods, wares, or merchandise, which have been or may be condemned as prize, until further order shall be made therein.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,
December 28, 1808.

SIR: I have had the honor to receive your letter of the 24th instant, communicating an order passed by His Majesty in Council on Wednesday last, and have transmitted copies of these papers to my Government.

It is perfectly true, as the concluding paragraph of your letter supposes me to believe, that the United States have viewed with great sensibility the pretension of this Government (which, as a pretension, the present order plainly reasserts, without much, if at all, modifying its practical effect) to levy imposts upon their commerce outward and inward, which the Orders in Council of the last year were to constrain to pass through British ports.

But it is equally true, that my Government has constantly protested against the entire system with which that pretension was connected, and has, in consequence, required the repeal, not the modification, of the British Orders in Council.

I have the honor to be, &c.,

WILLIAM PINKNEY.

Extract—Mr. Pinkney to the Secretary of State.

LONDON, *March* 10, 1809.

I have received from Mr. Canning a notification of blockade, of which a copy is enclosed.

[Referred to in Mr. Pinkney's despatch of March 10, 1809.]

FOREIGN OFFICE, *March* 8, 1809.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade of the isles of Mauritius and Bourbon; Mr. Pinkney is, therefore, requested to apprize the American Consuls and merchants residing in England, that the isles above mentioned are, and must be considered as being in a state of blockade, and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Extract—Mr. Pinkney to Mr. Smith.

LONDON, *May* 1, 1809.

I had the honor to receive, on the 25th of March, the letter of your predecessor of the 10th of February; and, on the 15th of last month, Lieutenant Reed delivered to me your letter of the 15th of March.

Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday, the 17th of April.

At the close of the conference, he told me that my communications were such as would require reflection, and would naturally make him anxious to see me again; and that he would fix as early a day as possible, and give me notice.

Our next interview took place on the 27th of April.

Mr. Canning read the new Order in Council, and then proceeded very briefly to suggest the practical alterations which it would introduce.

I thought I should best discharge my duty by forbearing useless discussion, and by receiving it as it was offered, but without making myself a party to it, an actual improvement, capable of future extension, under the auspices of just and friendly sentiments and enlightened policy.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *April* 30, 1809.

SIR: When I had the honor to transmit to you, on the 24th of December last, the Orders in Council passed on the 21st of that month, I referred to that passage of my official note of the 23d of September, 1808, in which I stated to you that "it is not improbable, indeed, that some alterations may be made in the Orders in Council, as they are at present framed—alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy;" and, I at the same time explained to you the grounds on which the design of the larger alterations which had been in contemplation in

September was for the time laid aside. By the Order of Council which I have now the honor to enclose to you, that design, as explained in my official note of September 23, is fully carried into execution. I have the honor to be, &c.

GEORGE CANNING.

At the Court at the Queen's Palace, the 26th of April, 1809; Present, the King's Most Excellent Majesty in Council.

Whereas, His Majesty, by his Order in Council of the 11th of November, 1807, was pleased, for the reasons assigned therein, to order that, "all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe from which, although not at war with His Majesty, the British flag is excluded, and all ports or places, in the colonies belonging to His Majesty's enemies, should, from henceforth, be subject to the same restrictions in point of trade and navigation as if the same were actually blockaded in the most strict and rigorous manner;" and, also, to prohibit "all trade in articles which are the produce or manufactures of the said countries or colonies;" and whereas, His Majesty, having been nevertheless desirous not to subject those countries which were in alliance or in amity with His Majesty to any greater inconvenience than was absolutely inseparable from carrying into effect His Majesty's just determination to counteract the designs of his enemies, did make certain exceptions and modifications expressed in the said order of the 11th of November, and in certain subsequent orders of the 25th of November, declaratory of the aforesaid order of the 11th of November, and of the 18th of December, 1807, and the 30th of March, 1808:

And whereas, in consequence of divers events which have taken place since the date of the first-mentioned order, affecting the relations between Great Britain and the territories of other Powers, it is expedient that sundry parts and provisions of the said orders should be altered or revoked:

His Majesty is, therefore, pleased, by and with the advice of his Privy Council, to revoke and annul the said several orders, except as hereinafter expressed; and so much of the said several orders, except as aforesaid, is hereby revoked accordingly. And His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all ports and places as far north as the river Ems, inclusively, under the Government styling itself the Kingdom of Holland, and all ports and places under the Government of France, together with the colonies, plantations, and settlements in the possession of those Governments, respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro, inclusively, shall continue, and be subject to the same restrictions, in point of trade and navigation, without any exception, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner; and that every vessel trading from and to the said countries or colonies, plantations, or settlements, together with all goods and merchandise on board, shall be condemned as prize to the captors.

And His Majesty is further pleased to order, and it is hereby ordered, that this order shall have effect from the day of the date thereof with respect to any ship, together with its cargo, which may be captured subsequent to such day, on any voyage which is and shall be rendered legal by this order, although such voyage, at the time of the commencement of the same, was unlawful, and prohibited under the said former orders; and such ships, upon being brought in, shall be released accordingly; and with respect to all ships, together with their cargoes, which may be captured in any voyage which was permitted under the exceptions of the orders above mentioned, but which is not permitted according to the provisions of this order; and it is hereby ordered, that such ships and their cargoes shall not be liable to condemnation, unless they shall have received actual notice of the present order before such capture, or, in default of such notice, until after the expiration of the like intervals, from the date of this order, as were allowed for constructive notice in the orders of 25th November, 1807, and the 18th of May, 1808, and the several places and latitudes therein specified.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and Judges of the Courts of Vice-admiralty, are to give the necessary directions herein as to them may respectively appertain.

STEPHEN COTTRELL.

FRANCE.

[Communicated to Congress, November 8, 1808.]

To the Senate and House of Representatives of the United States:

The documents communicated with my public Message of this day contain such portions of the correspondence therein referred to of the Ministers of the United States at Paris and London, as relate to the present state of affairs between those Governments and the United States, and as may be made public. I now communicate, confidentially, such supplementary portions of the same correspondences as I deem improper for publication, yet necessary to convey to Congress full information on a subject of their deliberations so interesting to our country.

TH. JEFFERSON.

NOVEMBER 8, 1808.

Extract—Mr. Madison, Secretary of State, to General Armstrong, Minister Plenipotentiary of the United States at Paris.

DEPARTMENT OF STATE, *May* 22, 1807.

SIR: The two last letters received from you were of December 24, and January 16.

The decree of November 21, communicated in the first, had previously reached us, and had excited apprehensions which were repressed only by the inarticulate import of its articles, and the presumption that it would be executed in a sense not inconsistent with the respect due the treaty between France and the United States. The explanations given you by the Minister of Marine were seen by the President with much pleasure, and it only remains to learn that they have been confirmed by the express authority of the Emperor. We are the more anxious for this information, as it will fortify the remonstrances which have been presented at London against the British order of January 7th. Should it, contrary to expectation, turn out that the French decree was meant, and is to operate according to the latitude of its terms, you will, of course, have made the proper representations, grounded as well on the principles of public law, as on the express stipulations of the convention of 1800. Nothing, besides, could be more preposterous than to blend with an appeal to neutral rights and neutral nations, a gross infraction of the former, and outrage on the sentiments of the latter, unless it be to invite a species of contest on the high seas, in which the adversary has every possible advantage. But, on the more probable supposition that the decree will not be unfavorably expounded, it will be still necessary to press on the French Government a dispatch of such orders to their cruisers in every quarter, as will prevent a construction of the decree favorable to their licentious cupidity. The moment your letter was received, the answer of the French Minister of Marine to your note was communicated to General Turreau, with a call on him to transmit it immediately to the French Governors in the West Indies. This he readily engaged to do. But, notwithstanding this precaution, there are proofs that the West India privateers have, under color of the edict, committed depredations which will constitute just claims of redress from their Government.

Mr. Erving has forwarded a Spanish decree also, avowedly pursuing the example and the views of the French Emperor. The terms of this decree are even more vague, or rather more broad, than those of the prototype; and if not speedily recalled or corrected, will doubtless extend the scene of spoliations already begun in that quarter; and, of course, thicken the cloud that hangs over the amity of the two nations.

Extract—Mr. Armstrong to Mr. Monroe.

PARIS, *July* 7, 1807.

SIR: The accounts you have had of recent captures made by French privateers of American vessels, under cover of the decree of November last, are not correct; at least, if such captures have been made, I know nothing of them; the only captures I have at any time heard of were those made from Porto Ferrajo. They are by no means of recent date, and have all (I believe,) been redressed by the Council of Prizes. Two of these cases, to which I attended personally, received decisions equally favorable and prompt; interest and damages were given to the plaintiffs, and I know not why decisions equally favorable should not have been given in the other cases. I have within a week been informed by Mr. Erving that he had reason to believe that a French privateer, then in a port of Spain, had plundered American ships, either going to or coming from England, of dry goods to the amount of three hundred dollars. Before anything could be done in Spain for the recovery of these goods, the ship went to sea, and professedly for the purpose of returning to the port of her armament. Believing her to have arrived there, I put all the evidence I possessed before M. Decrès, who closes his answer with the following assurance. "Your Excellency may be assured that, as far as it depends on me, the captains of these vessels, or their owners, shall obtain, if there is ground for it, a prompt and full reparation." I quote this to show you that there is no disposition in the Minister of this Government to sanction or protect such enterprises upon our commerce. From the uses you may be able to make of the facts, and their relation to your question generally, I subjoin a brief exposition of the construction now given to the November decree. It was, you know, admitted by both ministerial and judicial authorities, that this decree did not infract the provisions of the treaty of 1800, between the United States and France. Still it was contended that vessels of the United States, coming from any port of Great Britain, since the date of the edict, could not be admitted to entry in the ports of France. This rule, without some qualifications, was likely to become mischievous, and I accordingly obtained the following modifications of it, and hope to obtain a further modification, which will render it perfectly harmless. These changes took place as circumstances rose to produce them; for though the necessity for them was both foreseen and represented, it was only upon real, not upon hypothetical cases, that the ministers of His Majesty were willing to act.

1. Vessels leaving ports of the United States before a knowledge of the arrêt had been promulgated there, are not subject to the rule.

2. Vessels not coming directly from a British to a French port are not subject to the rule.

3. The cargoes of vessels coming directly from a British to a French port, and offered for entry, on proof that the touching of the ship in England, &c., was involuntary, are put in depôt or sequestration, until His Majesty shall have decided on the sufficiency of the proof offered, or they are at once given up to the consignees on their giving security to abide the decision which shall be ultimately taken by the Emperor in their respective cases. The vessels can go out freely, and without impediment of any kind. The former rule, of which this is an amelioration, was, that ships as well as cargoes, coming under this description, should be sequestered, &c. The further alteration which I have asked is, the establishment of some principle which shall regulate the kind and degree of proof required with respect

to the alleged application of a *force majeure*, &c.; my own opinion is, that this may best be found in the greater or less correspondence which shall exist between the cargo when shipped in America, and when arrived here. If the correspondence be complete, the evidence ought to be considered as complete also, that they were not in Great Britain for the purposes of commerce; and, not being there for these purposes, the inference is fair, that their going there at all was involuntary. This is a rule the Ministers will consent to; whether His Majesty will do so also will be known in a few days. He is expected here about the beginning of August.

Mr. Armstrong to Mr. Madison.

PARIS, *August* 3, 1807.

SIR: We had yesterday our first audience of the Emperor since his return to Paris. Happening to stand near the Minister of Denmark, I overheard His Majesty say to that Minister, "So, M. Baron, the Baltic has been violated." The Minister's answer was not audible to me, nor did it appear to have been satisfactory to the Emperor, who repeated, in a tone of voice somewhat raised and peremptory, "But, sir, the Baltic has been violated." From Mr. Deyer he passed to myself and others, and lastly to the Ambassador of Portugal, to whom, it is said, he read a very severe lecture on the conduct of his Court. These circumstances go far to justify the whispers that begin to circulate, that an army is organizing to the south for the purpose of taking possession of Portugal, and another to the north for a similar purpose with regard to Denmark; and, generally, that having settled the business of belligerents, with the exception of England, very much to his own liking, he is now on the point of settling that of neutrals in the same way. It was, perhaps, under the influence of this suggestion, that Mr. Deyer, taking me aside, inquired whether any application had been made to me with regard to the projected union of all the commercial States against Great Britain, and on my answering in the negative, he replied, "You are much favored, but it will not last." I give you this detail, not from any importance it has in itself, but from the circumstance of its containing all that I have yet heard in relation to a project highly interesting to the United States, and of which you ought to be immediately apprized.

August 9. Not a syllable has yet been mentioned with regard to the projected union, &c. As far as I can learn, they are satisfied that the course we are pursuing is honest to ourselves, and not dishonest to either of the belligerents.

August 15. We had this morning an audience of the Emperor. The seizure of Copenhagen by the British gave room for a new conversation with the Minister of Denmark, in the course of which he stated the British force to have been but ten or twelve thousand men; demanded what had become of the Prince Regent, and asked why the Government had not defended the city? As in the former audience from Baron Deyer he came directly to me, and, after some questions merely personal, he adverted to the outrage committed by the Leopard on the Chesapeake. "This," said he, "is abominable; they have pretended hitherto to visit merchantmen, and that they had a right to do so; but they, even they, have set up no such pretensions with respect to armed ships. They would now arrange it by giving up a right or usage which never existed; but they will arrange it; they are afraid to go to war with your country."

I have the honor to be, sir, your most obedient servant,

JOHN ARMSTRONG.

Mr. MADISON.

Mr. Armstrong to Mr. Champagny.

PARIS, *August* 9, 1807.

SIR: Your Excellency is not unapprized that soon after the promulgation of the imperial decree of the 2d of November last, one of similar character and injunctions was issued by the Prince of Peace, in behalf of His Catholic Majesty. Under this order, sundry vessels belonging to the citizens of the United States have been captured on the high seas, brought into the ports of Spain, and are now before the Court of Admiralty for examination. To this brief statement I subjoin an extract from a letter of the 27th ultimo, from the Chargé des Affaires of the United States at Madrid, which will show your Excellency that the fate of these vessels will depend, not on the construction which might be given to the Spanish decree by the Spanish tribunals, but on the practice which shall have been established by France, under her decree of November last; and that Prince Massirano has accordingly been directed to ask from your Excellency such exposition of that decree, and of the practice under it, as shall regulate on this head, the conduct of Spanish courts and cruisers towards neutral commerce in general. Assured, as I feel myself, that this exposition, whenever given, will not be less friendly and liberal than that already found in the decisions of His Imperial Majesty's Council of Prizes, and correspondence of his Minister of Marine, viz: that the provisions of the decree in question do not infract any of the rights of commerce stipulated by treaty between France and the United States; it is incumbent on me to pray your Excellency, that it (the exposition required) be given as expeditiously as possible, to the end that the legitimate commerce of the United States be relieved from all further annoyance growing out of the doubtful meaning and operation of the Spanish decree aforesaid.

Your Excellency will permit me to avail myself of this occasion to recall to your attention the subject of my letter of the 26th of June last. I learn from Antwerp that the cargoes mentioned in that letter are yet under sequestration, and that considerable loss, as well by diminution of price in the articles, as by accumulation of interest and charges, has been already incurred.

Your Excellency will do me the honor to accept the assurances of my profound respect.

JOHN ARMSTRONG.

His Excellency the PRINCE OF BENEVENTO.

Mr. Champagny to Mr. Armstrong.

AUGUST 21, 1807.

SIR: I have received the letter which you did me the honor of addressing me on the 9th of this month, relative to American vessels carried into ports of Spain, in consequence of the measures taken by that Power against the English commerce, in imitation of France.

As the execution of the maritime measures indicated by the imperial decree of the 21st of November, 1806, rests naturally with his Excellency, the Minister of Marine, and that, moreover, he has already had the honor of addressing you some first observations on the application of that decree, I transmitted without delay your letter, and asked from him the new explanations which you might desire. When they shall have been forwarded to me, I will have the honor of informing you of them.

Accept the assurance of my high consideration,

CHAMPAGNY.

His Excellency Gen. ARMSTRONG.

Mr. Armstrong to the French Minister of Exterior Relations.

PARIS, *September* 24, 1807.

SIR: I have this moment learned that a new and extended construction, highly injurious to the commerce of the United States, was about to be given to the imperial decree of the 21st of November last. It is therefore incumbent upon me to ask from your Excellency an explanation of His Majesty's views in relation to this subject, and, particularly, whether it be His Majesty's intention, in any degree, to infract the obligations of the treaty now subsisting between the United States and the French Empire?

I pray your Excellency, &c.,

JOHN ARMSTRONG.

M. Regnier to the Procureur General of the Council of Prizes.

PARIS, *September* 18, 1807.

I have submitted, sir, to His Majesty the Emperor and King, the doubts of his Excellency the Minister of Marine and Colonies on the extent of some of the provisions of the imperial decree of November 21, 1806, which has declared the British islands in a state of blockade. The following are the intentions of His Majesty on the points in question:

1. Can armed vessels, under the imperial decree of the 21st of November last, seize, in neutral vessels, either English property or merchandise proceeding from the manufactures of the English territories?

His Majesty notifies me, that since he had not thought proper to express any exception in his decree, there is no ground to make any in the execution, with respect to anything whatsoever.

2. His Majesty has not decided the question, whether French armed vessels may possess themselves of neutral vessels going to or from England, although they have no English merchandise on board.

3. On the question whether French armed vessels are subject to the deduction ordered by the sixth article of the decree of November 21, His Majesty has declared that the provision of that article was not susceptible of any restriction; that is to say, that the deduction must take effect on the proceeds of all confiscations of merchandise and property which have been or may be pronounced in execution of the decree, without regard to the place of seizure or character of the captors.

You will be so good, sir, as to notify these decisions to the Council of Prizes, to have them entered in the registers, and to acknowledge the receipt of my letter. Accept, &c.

The Grand Judge, Minister of Justice,

REGNIER.

Mr. Champagny to Mr. Armstrong.

FONTAINEBLEAU, *October* 7, 1807.

SIR: You did me the honor on the 24th of September, to request me to send you some explanations as to the execution of the decree of blockade of the British islands as to vessels of the United States.

The provisions of all the regulations and treaties relative to a state of blockade have appeared applicable to the existing circumstance; and it results, from the explanations which have been addressed to me by the Imperial Procureur General of the Council of Prizes, that His Majesty has considered every neutral vessel going from English ports, with cargoes of English merchandise, or of English origin, as lawfully seizable by French armed vessels.

The decree of blockade has been now issued eleven months; the principal Powers of Europe, far from protesting against its provisions, have adopted them. They have perceived that its execution must be complete to render it more effectual, and it has seemed easy to reconcile these measures with the observance of treaties, especially at a time when the infractions by England of the rights of all maritime Powers render their interest common, and tend to unite them in support of the same cause. Accept, &c.

CHAMPAGNY.

Mr. Armstrong to Mr. Madison.

PARIS, *November* 12, 1807.

SIR: It was not till yesterday that I received from Mr. Skipwith a copy of the decree of the Council of Prizes in the case of the Horizon. This is the first unfriendly decision of that body, under the arrêt of the 21st of November, 1806. In this case, and on the petition of the defendant, the Court has recommended the restitution of the whole cargo. I did not however think proper to join in asking, as a favor, what I believed myself entitled to as a right. I subjoin a copy of my note to the Minister of Foreign Affairs, and am, sir, your most obedient and very humble servant,

JOHN ARMSTRONG.

[Enclosed in Mr. Armstrong's letter of November 12.]

Mr. Armstrong to Mr. Champagny.

PARIS, *November* 12, 1807.

SIR: The document to which these observations are prefixed will inform your Excellency that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by His Majesty's officers, and adjudged by his Council of Prizes as follows, viz: "Our Council puts at liberty the American vessel, the Horizon, shipwrecked the 30th of May last, near Morlaix; and, consequently, orders that the amount arising from the sale legally made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom-house shall have been acknowledged not to proceed from English manufactures, nor from English territory, shall be restored to Captain McClure, without deducting any other expenses than those relative to the sale; and with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from manufactures, or English territory, by virtue of the fifth article of the decree of the 21st of November, 1806, they shall be confiscated for the use of the State; the whole to be sold by the forms prescribed in the regulations; and the application of the product to be made in conformity to the arrangements of the said decree, deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the Captain shall receive the notification of the present decision."

The reasons upon which this decision are founded are at once so new and so alarming to the present friendly relations of the two Powers, that I cannot but discuss them with a freedom in some degree proportioned to my sense of their novelty and importance.

"Considering," says the Council, "first, that the neutrality of the ship and cargo was sufficiently established, the whole ought to be restored, (agreeably to the provisions of the convention of the 30th of September, 1800,) provided no merchandise of English origin had been found in her, and, of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission that the ship was found within the rules prescribed by the Convention of 1800; that, according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your Excellency did me the honor to write to me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be effected; they no doubt fully existed, and yet exist, in His Majesty's good pleasure; and taking for granted this fact, I saw in the opinion nothing but proofs of friendly dispositions and pledges that these were not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority, and the consolations derived from it, is this recent act of the Council of Prizes! an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments; and which, of course, draws after it considerations the most serious to the Government of the United States.

The second reason of the Council is, "that the decree declaring (British) merchandise good prize had principally in view captures made on the high seas; but that the question, whether shipwrecked goods ought to be restored or confiscated, having always been judged under the fourteenth article of the regulation of the 26th of July, 1778, and, according to their character, (which might have rendered lawful, or have even commanded their seizure at sea,) there is no room to introduce, in this case, any new distinction which, however philanthropic it may appear, has not as yet been adopted as a rule by any maritime nation."

The doctrine resisted in this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to His Majesty's Council of Prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision they restored an enemy's ship, (the Diana,) on the single reason, that "she had been compelled to enter a French port by stress of weather." "I should equally fail," says the Attorney General, "in respect to myself and to the Council, before whom I have the honor to represent the Government, were I not to maintain a principle consecrated by our laws, and by those of all nations. In all circumstances, let the loyalty of the French Government serve as the basis of your decisions. Prove yourselves at once generous and just; your enemies will know and respect your magnanimity." Such was the principle adopted by the Council in the year 1800, and in the case of an enemy's ship; yet we are now told that this very principle, so honorable to the Court, to the nation, and to human nature, is utterly unknown to all maritime people. And on what occasion do we hear this? When an enemy's ship is again thrown on the French coast? No; it has been reserved for the wreck of a neutral and a friendly vessel—for a ship of the United States! It is not denied that, had this ship escaped the rocks and made the port of Morlaix, the only inhospitality to which she would have been exposed, (under the most rigorous interpretation of the law in question,) would have been that of being ordered again to sea.

Has, then, the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? and is this among the principles which the defender of maritime rights means to consecrate by his power and his wisdom? It is impossible!

The third reason of the Council is, "that the application of the fifth article aforesaid, in as far as it concerns the Americans and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his Excellency, the Grand Judge, concerning the primitive intention of the sovereign."

This reason will be found to be substantially answered in my reply to reason No. 5 of the Council. It will be seen that the opinion given here, that "the application of article fifth of the imperial decree, to American commerce, is the result of the general expressions of that very article," was not the opinion of the Council on the 5th of March last, when they judged the case of the Hibernia. They then declared, *in totidem verbis*, that the decree "said nothing of its own influence on the convention of 1800," between the United States and France.

The fourth reason of the Council is, "that the expedition in question having certainly been made with full knowledge of the said decree, no objection can be drawn, with any propriety, from the general rules forbidding a retrospective action, nor, even in this particular case, from the posterior date of the act in which the Sovereign decides the question; since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an anterior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point and the declaration of an anterior and positive rule. This distinction cannot be maintained; for, if the rule had been positive, there would have been no occasion for the declaration. Neither the Minister of Marine, nor the Council of Prizes, could have had any doubts on the subject; the execution of the decree would have been prompt and peremptory; nor would a second act on the part of His Majesty, after the lapse of twelve months, have been necessary to give operation to the first. Need I appeal to your Excellency's memory for the facts on which these remarks turn? You know that doubts did exist. You know that there was, under them, much hesitation in pronouncing. You know that, as late as the ninth of August, I sought an explanation of the decree in question; and that even then your Excellency (who was surely a competent and legitimate organ of His Majesty) did not think yourself prepared to give it. The conclusion is inevitable. His Majesty's answer, transmitted to the Court of Prizes on the 18th of September last, through the medium of the Grand Judge, was in the nature of an interpretation, and, being so, could not, without possessing a retroactive quality, apply to events many months anterior in date to itself.

The fifth reason of the Council, and the last which enters into my present view of the subject, is, "that, though one of the principal agents of His Majesty had given a contrary opinion, of which the Council had at no period partaken, this opinion being that of an individual, could not, whatever consideration its author may merit, balance the formal declaration given in the name of His Majesty himself; and that, if the communication of this opinion had, as is alleged, given room to and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of His Majesty, in a case in which the confiscation is entirely to the advantage of the State, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it."

It would appear from this paragraph that, not finding it easy to untie the knot, the Council had determined to cut it. Pressed by the fact that an interpretation of the decree had been given by a Minister of His Majesty, specially charged with its execution, they would now escape from this fact, and from the conclusions to which it evidently leads, by alleging, 1st. That at no time had the Council partaken of the opinion given by the Minister; and 2d. That this opinion, being that of an individual, could not possess either the force or the authority of one truly ministerial.

It appears to me, as I think it will appear to your Excellency, that the Council have, in these statements, been less correct than is usual to them on similar occasions. If, as they now assert, they have never partaken of the Minister's opinion; if they have never even hesitated on the question, whether the decree of November did or did not derogate from the Treaty of 1800, why, I ask, suspend the American cases generally; or why decide as they did in the case of the Hibernia? If I mistake not, we find in this case the recognition of the very principle laid down by the Minister of Marine. That officer says: "In my opinion, the November decree does not work any change in the rules at present observed with respect to neutral commerce, and, consequently, none in the convention of the 8th Vendemiaire, year nine." And what says the Council? "Admitting that this part of the cargo (the rum and ginger,) was of British origin, the dispositions of the November decree, [which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year nine,] evidently cannot be applied to a ship leaving America on the 6th of the same month of November; and, of course, cannot have authorized her capture in the moment she was entering the neutral port of her destination." We have here three distinct grounds of exemption from the effects of the November decree:

1st. The entire silence of that decree, with regard to its own influence over the convention of 1800.

2d. The early period at which the ship left the United States; and

3d. The neutral character of the port to which she was destined. If such, sir, were the principles admitted by the Council on the 25th of March last, with what correctness can it be now said, "that at no period have they partaken of the opinion of the Minister?"

The second fact asserted by the Council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was private, not public; or, in other words, that it was the interpretation of the *man*, not that of the Minister, and, as such, cannot outweigh the more recent declaration coming directing from His Majesty himself.

On the comparative weight of those declarations I shall say nothing, nor shall I do more to repel the first part of the insinuation, (that the Minister's declaration was that only of the individual,) than to submit to your Excellency my letter of the 20th of December, 1806, claiming from that Minister an official interpretation of the decree in question, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your Excellency, who, as late as the 21st of August last, considered the Minister of Marine as the natural organ of His Majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the Council of Prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting that His Majesty may be moved to set aside the decision in question, on the ground of error in the opinion of the Council.

If, in support of this conclusion, I have drawn no arguments from the Treaty of 1800, nor from the laws of nations, your Excellency will not be at a loss to assign to this omission its true cause. It would surely have been a useless formality to appeal to authorities, not only practically, but even professedly extinct. In the letter of the Minister of Justice of the 18th of September, we are told by His Majesty himself, that, "since he had not judged proper to make any exception in the letter of his decree, there was no room to make any in its execution;" and in the report of your Excellency's predecessor, of the 20th of November, 1806, we have these memorable words:

"England has declared these places blockaded, before which she had not a single ship of war.

"She has done more, for she has declared in a state of blockade places which all her assembled forces were incapable of blockading—immense coasts and a vast empire.

"Afterwards, drawing from a chimerical right, and from an assumed fact, the consequence that she might justly make her prey of everything going to the places laid under interdiction by a simple declaration of the British Admiralty, and of everything arising therefrom, and carrying this doctrine into effect, she has alarmed neutral navigators, and driven them to a distance from ports whither their interests attracted them, and which the laws of nations authorized them to frequent.

"Thus it is, that she has turned to her own profit, and to the detriment of Europe, but more particularly of France, the audacity with which she mocks at all rights, and insults even reason itself.

"Against a Power which forgets to such a pitch all ideas of justice and all humane sentiments, what can be done but to forget them for an instant one's self?"

Words cannot go further to show the extinguished authority, in the one case, of the treaty subsisting between the United States and His Imperial Majesty, and, in the other, of the law of nations; to appeal to them, therefore, would be literally appealing to the dead. Accept, sir, &c.,

JOHN ARMSTRONG.

The Minister *of Foreign Relations.*

Mr. Armstrong to Mr. Madison.

Paris, *December* 1, 1807.

Sir: I have this moment received a letter from His Majesty's Minister of Foreign Relations, of which I subjoin a copy; and am, sir, with very high consideration, your most obedient and most humble servant,

JOHN ARMSTRONG.

[Enclosed in the above.]

Mr. Champagny to General Armstrong.

Milan, *November* 24, 1807.

Sir: The execution of the measures taken against the English commerce has frequently caused reclamations on your part. The intention of His Majesty, without doubt, is, that every particular abuse may be repressed; but the Federal Government cannot make any complaint against the measures themselves; and while the United States allow that their vessels may be visited by England, that she may drag them into her ports and turn them from their destination; while they do not oblige England to respect their flag and the merchandise which it covers; while they permit that Power to apply to them the absurd rules of blockade which it has set up, with the view of injuring France; they bind themselves, by that tolerance towards England, to allow also the application of the measures of reprisals which France is obliged to employ against her. His Majesty regrets, without doubt, to have been forced to recur to such measures. He knows all that the commercial classes may have to suffer in consequence of them, particularly those who, having habitual relations with England, using a common language, and often mixing their interests, might more frequently occasion an apprehension of some commercial connivance with the English, inasmuch as they would have greater facilities in covering it. This circumstance made it necessary to use towards them precautions more exact, and an unceasing watchfulness, in order not to be exposed to abuses which might result from a less constant vigilance. But it is not to

France, it is to England, that these inconveniences to individuals ought to be imputed. She it is who has given the example of measures unjust and illegal, and infringing on the sovereignty of nations. To oblige her to renounce them, it has become necessary to combat her with her own arms; in violating the rights of all nations she has united them all by a common interest; and it is for them to have recourse to force against her, to forbid her the search (*la visite*) of their vessels, the taking away of their crews, and to declare themselves against measures which wound their dignity and their independence. The unjust pretensions of England will be kept up as long as those whose rights she violates are silent; and what Government has had more to complain of against her than the United States? All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the Government of the United States, after complaining in vain of the injustice and violations of England, took with the whole Continent the part of guaranteying itself therefrom. England has introduced into the maritime war an entire disregard for the rights of nations; it is only in forcing her to a peace that it is possible to recover them. On this point the interest of all nations is the same; all have their honor and their independence to defend. Accept, sir, &c.

CHAMPAGNY.

Mr. Armstrong to Mr. Madison.

PARIS, *December* 27, 1807.

SIR: I forward by Mr. McElhonny a copy of a second and very extraordinary decree of this Government with regard to neutral commerce. Whether it be meant to stimulate Great Britain to the commission of new outrages, or to quicken us in repelling those she has already committed, the policy is equally unwise, and so decidedly so, that I know not a single man of consideration who approves of it. It is, however, not less true that it is as difficult to find one who will hazard an objection to it. T********d, who in this way is permitted to go further than any other person, dare not avow his opinion of it, nor (bad as he thinks it) will he do more than state that the present moment would appear to dictate some modifications. To this point he stands engaged to go, and I wait the result with much anxiety. The Emperor is expected here on the last day of the month.

I have the honor to be, with very great respect, sir, your most obedient and humble servant,

JOHN ARMSTRONG.

P. S.—As Mr. Lee thinks it probable that both the copies of my despatch of the 15th November are taken to England, I send a third copy of it with this. There is no longer a doubt that the Emperor wished to get hold of the royal family of Portugal. There is a degree of wickedness that makes even scoundrels honest. This is verified in the conduct of Aranjo. In every other act of his life he betrayed his master; in this he served, and perhaps saved him. The assailant confided to him his whole secret, and, abandoned as he was, he could not lend himself to its execution.

I have seen a letter from the Minister of Marine, in which he says, "The vessels of friendly and allied Powers now in the ports of the empire shall not be permitted to depart until further orders." The professed object of this measure is "to prevent their falling into the hands of the enemy;" the real object to induce the British to arrest all such vessels [of ours] as may be within their grasp. Thus the two rivals are to go on endeavoring which can most outrage law and justice. The letter above-mentioned was written to the Minister of Denmark. A similar notice has not yet been sent to me. It is, therefore, possible that His Majesty's care is restricted to vessels of Powers both friendly and allied; that it is a squeeze purely fraternal. If so, we may escape for this time. I state this, however, as a thing barely possible.

I am, sir, with very high consideration, your most obedient servant,

JOHN ARMSTRONG.

Extract.—Mr. Armstrong to Mr. Madison.

PARIS, *January* 22, 1808.

The conjecture offered in my last letter with regard to the embargo of our vessels, turns out to be correct; the order was intended to be confined to the vessels of friendly and allied Powers, or Powers having both these characters. The word neutral crept into it merely by mistake. An extract from the Minister's letter to me on this subject is as follows, to wit: "No order has been given to retain neutral vessels in the ports of the empire; and as soon as I knew of the error committed in this respect, I hastened to correct it, and to notify expressly that neutral vessels, and particularly those of the United States, should enjoy an entire freedom." I subjoin, also, a copy of a letter in answer to the remonstrances I have made against the new arrêt of the 17th of December last; by this you will see that the captures under this decree, like those under that of November, 1806, are in the nature of detention, and that, in the contingency of an exclusion of British commerce from the United States, the ships and cargoes will be immediately released. I expect, from one moment to another, the Emperor's orders for immediately raising all the sequestrations which have taken place under the November decree.

[Referred to in Mr. Armstrong's despatch of January 22, 1808.]

Translation of a letter from Mr. Champagny to General Armstrong, dated

PARIS. *January* 15, 1808.

SIR: The different notes which you have done me the honor to address to me have been laid before His Majesty.

The proceedings of England towards all Governments are so contrary to the law of nations, and all the rules constantly observed even among enemies, that no recourse against this Power is

any longer to be found in the ordinary means of repression. In order to annoy her, it is become necessary to turn against her the arms which she makes use of herself; and, if transient inconveniences result therefrom, it is to her alone that they are to be imputed. Since England respects no laws, how could they be respected with regard to her? The maritime laws which she violates, ought they still to be a protection to her? And if some Powers tolerate the infractions committed on their independence, could they have the right to require that France alone should restrain herself within limits which her enemy has every where overleaped?

The United States, more than any other Power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of their flag, nay, against that of their territory and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th November have made a fresh attack on their commerce and on their navigation, as they have done on those of all other Powers.

In the situation in which England has placed the Continent, especially since her decrees of the 11th November, His Majesty has no doubt of a declaration of war against her by the United States, whatever transient sacrifices war may occasion; they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle and the anarchy which that Government wishes to establish on the seas. If it be useful and honorable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of these violations. War exists, then, in fact, between England and the United States; and His Majesty considers it as declared from the day on which England published her decrees. In that persuasion, His Majesty, ready to consider the United States as associated with the cause of all the Powers who have to defend themselves against England, has not taken any definitive measures towards the American vessels which may have been brought into our ports; he has ordered that they should remain sequestered until a decision may be had thereon, according to the disposition which shall have been expressed by the Government of the United States.

Extract—Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, *Feb.* 8, 1808.

Your letters and communications by Doctor Bullus were duly delivered on the 14th day of December; the same conveyance brought a copy of the sentence pronounced by the French Prize Court in the case of the Horizon, giving a judicial effect to the decree of November 21, 1806, as expounded in the answer of Mr. Champagny to your letter of the 12th November, 1807.

Whilst the French Government did not avow or enforce a meaning of the decree of November, 1806, in relation to the United States extending its purview beyond the municipal limits, it could not, in strictness, be regarded as an infraction either of our neutral or conventional rights; and, consequently, did not authorize more than a demand of seasonable explanations of its doubtful import, or friendly expostulations with respect to the rigor and suddenness of its innovations.

The case is now essentially changed. A construction of the decree is avowed and executed, which violates as well the positive stipulations of the convention of September 30, 1800, as the incontestable principles of public law. And the President charges you to superadd, to whatever representations you may have previously made, a formal remonstrance, in such terms as may be best calculated either to obtain a recall of the illegal measure, so far as it relates to the United States, or to have the effect of leaving in full force all the rights accruing to them from a failure to do so.

That the execution of local laws against foreign nations on the high seas is a violation of the rights of the former and the freedom of the latter, will probably not be questioned. A contrary principle would in fact imply the same exclusive dominion over the entire ocean as is enjoyed within the limits of the local sovereignty, and a degradation of every other nation from its common rights and equal rank.

If it be contended that the decree, as a retaliation on the other belligerent, at the expense of neutral nations, is justified by a culpable acquiescence in the prior measures of that belligerent operating through neutrals, you will be able to deny such acquiescence; and to urge moreover that on every supposition the retaliating measure could not be justly enforced in relation to neutrals, without allowing them at least a reasonable time for choosing between due measures against the prior wrong, and an acquiescence in both. The copy of the representations to the British Government, through its Minister here, on the subject of its orders of January, 1807, will at once disprove an acquiescence on the part of the United States, and explain the grounds on which the late extension of the French decree of November, 1806, is an object of just remonstrance.

The conduct of the French Government in giving this extended operation to its decree, and indeed in issuing one with such an apparent or doubtful import against the rights of the sea, is the more extraordinary, inasmuch as the inability to enforce it on that element exhibited the measure in the light of an empty menace, at the same time that it afforded pretexts to her enemy for severe retaliations, for which ample means are found in her naval superiority.

The accumulated dangers to which the illegal proceedings of the belligerent nations have subjected the commerce and navigation of the United States, have at length induced Congress to resort to an embargo on our own vessels, as a measure best fitted for the crisis—being an effectual security for our mercantile property and mariners now

at home and daily arriving, and at the same time neither a measure nor just cause of war. Copies of this act were soon after its passage transmitted to Mr. Pinkney, with an authority to assure the British Government that it was to be viewed in this light, and that it was not meant to be the slightest impediment to amicable negotiations with foreign Governments. He was requested to avail himself of an opportunity of communicating to you and Mr. Erving this view of the subject, and I hope that you will have been thence enabled to present it to the French Government. Not relying however on that indirect opportunity, I send by this another copy of the act, with an instruction from the President that you make it the subject of such explanations as will guard against any misconception of the policy which led to it. It is strictly a measure of precaution, required by the dangers incident to external commerce, and, being indiscriminate in its terms and operation towards all nations, can give no just offence to any. The duration of the act is not fixed by itself, and will consequently depend on a continuance or cessation of its causes in a degree sufficient, in the judgment of the Legislature, to induce or forbid its repeal. It may be hoped that the inconveniences felt from it by the belligerent nations may lead to a change of conduct which imposed the inconveniences of it on ourselves. France herself will be a sufferer, and some of her allies far more so. It will be very agreeable to find in that consideration, and still more in her sense of justice, a sufficient motive to an early manifestation of the respect due to our commercial rights. The example would be worthy of the professions which he makes to the world on this subject.

February 18. Since the above was written I have been under a degree of indisposition, which has suspended the proposed continuation of it, and which now will oblige me to be very brief; the more so, as the vessel has been some days detained, which was engaged for the special purpose of conveying public despatches and private letters to Europe.

The delay has enabled me to inform you that Mr. Erksine, a few days ago, communicated, by instructions from his Government, its late decrees of November 11th, and those forming a sequel to them. The communication was accompanied with assurances that much regret was felt by His Britannic Majesty at the necessity which the conduct of his enemy had created for measures so embarrassing to neutral commerce, and that His Majesty would readily follow an example of relinquishing such a course, or even of making relaxations *pari passu* with his enemy.

Whether these intimations have any reference to the distinction between such parts of the French decree as operate municipally on shore, and such as, operating on the high seas, violate the rights of neutrals, or to a distinction between the former restriction and the late extension of the decree with respect to the United States, Mr. Erskine did not seem authorized to say. The probability is that neither of these distinctions entered into the views of the British Cabinet. But it is certainly neither less the duty nor the true policy of the Emperor of the French so to vary his decree as to make it consistent with the rights of neutrals, and the freedom of the seas, and particularly with his positive stipulations to the United States. This may be the more reasonably expected, as nothing can be more clear, as has been already observed, than that the effect of the decree, as far as it can be carried into effect, would not be sensibly diminished by abolishing its operation beyond the limits of the territorial sovereignty.

In remonstrating against the injustice and illegality of the French decree, I am aware that you may be reminded of antecedent injuries to France and her allies through British violations of neutral commerce. The fact cannot be denied, and may be urged with great force, in our remonstrances against the orders to which Great Britain has given a retaliating character, since the French decree might on the same ground be pronounced a retaliation on the preceding conduct of Great Britain. But ought the legitimate commerce of neutrals to be thus the victim and the sport of belligerents contesting with each other the priority of their destructive innovations, and, without leaving either of them to neutrals, even the opportunity or the time for disproving that culpable acquiescence which is made the pretext by both for the wrongs done to them? And I must repeat that, apart from all questions of this nature, the French decree, or at least the illegal extensions of it to the United States, remain chargeable with all the impolicy which has been pointed out.

I find by accounts from Hamburg, Bremen, Holland, and Leghorn, that the trade and property of our citizens have been much vexed by regulations subaltern to those of the original decree of November 21, 1806. How far the complaints are founded on proceedings violating our public rights, or on such as are unfriendly and inequitable towards our citizens who have placed their property within those jurisdictions, you will be able to decide better than we can do at this distance; and the President refers to your own judgment the kind of representation to the French Government which those and other analogous cases may require.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *February* 17, 1808.

Enclosed is a copy of the answer from the Minister of Marine, to my letter of the 13th instant, in relation to the sale of a part of the cargo of the ship James Adams. It would now appear, that the promises of forbearance made by another Department are applicable only to vessels sequestered in the ports, and not to such as have been captured at sea.

Extract—Minister of Marine to General Armstrong.

FIFTH DIVISION OF PRIZES.

Paris, February 15, 1808.

I observe to you, moreover, the question now is, not as to a vessel sequestered in port, but as to a prize made at sea, and seized for a contravention of the decree of the 17th December last; that the provisional sale ordered on account of the "average" is for the interest as well of the captured as of the captors, and that it is directed according to the case provided for by the regulation of the 2d Prairial, 11th year.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *February* 22, 1808.

Mr. Patterson offers so good a conveyance that I cannot but employ it. Nothing has occurred here since the date of my public despatches, (the 17th instant,) to give to our business an aspect more favorable than it then had; but, on the other hand, I have come at the knowledge of two facts, which I think sufficiently show the decided character of the Emperor's policy with regard to us. these are—1. That, in a Council of Administration held a few days past, when it was proposed to modify the operation of the decrees of November, 1806, and December, 1807, (though the proposition was supported by the whole weight of the Council,) he became highly indignant, and declared that these decrees should suffer no change, and that the Americans should be compelled to take the positive character, either of allies or of enemies. 2. That, on the 27th of January last, twelve days after Mr. Champagny's written assurances that these decrees should work no change in the property sequestered until our discussions with England were brought to a close, and seven days before he repeated to me verbally these very assurances, the Emperor had, by a special decision, confiscated two of our ships and their cargoes, (the Julius Henry and Juniatta,*) for want merely of a document, not required by any law or usage of the commerce in which they had been engaged. This act was taken, as I am informed, on a general report of sequestered cases. amounting to one hundred and sixty, and which, at present prices, will yield upwards of one hundred millions of francs—a sum, the magnitude of which alone renders hopeless all attempts at saving it. Danes, Portuguese, and Americans, will be the principal sufferers.

If I am right in supposing that the Emperor has definitively taken his ground, I cannot be wrong in concluding that you will immediately take yours.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *March* 9, 1808.

The conversation alluded to in the copy of the letter of —— did not take place till the 8th instant, when the Emperor declared. that if means could be found to make an exception to the operation of the November decree, such exception should have his consent.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *March* 15, 1808.

I stated in my last letter the substance of a declaration made by the Emperor, viz: that if means could be found to except American property from the operation of the decree of November, 1806, without infringing the principles of the decrees, he would immediately make the exception. No time was lost in communicating this declaration to me; and I was invited to point out the means it required, and assured that they should be immediately submitted to His Majesty. Little as I liked the proposition, and much as I doubt the sincerity of the declaration out of which it grew, I could not refuse any agency of mine in rescuing so much of the American property sequestered in the ports of France as should come within this new rule. I accordingly wrote the note, (a copy of which is subjoined to this letter,) pointing out, in a few words, the property to which that rule would apply. This note was put into the Emperor's hand by the Prince of Benevento, who, though six days have now elapsed, has not yet received an answer.

[Note referred to in the extract from Mr. Armstrong's letter of the 15th March, 1808.]

The imperial decree of November, 1806, contains no authority to sequester the cargoes of neutral vessels touching at English ports, and subsequently coming into those of France, excepting in cases in which the captains or supercargoes may have made false declarations. The penalty provided by that decree for offences other than those of false declarations is immediate departure from the empire; and as in these cases no false declarations have been made, nor are alleged to have been made, so no penalty, other than that of departure from the empire, can be legally inflicted.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *April* 5, 1808,

I received the despatches you did me the honor to address to me by Mr. Lewis, on the 26th ultimo.

Though I had complained often and earnestly of both the principles and operation of the Emperor's decrees of November, 1806, and December, 1807, (having written at least twenty notes on the different cases which have arisen under them,) yet, as the President's orders were express, that, on receipt of your letter, I should superadd, to whatever representations might have been previously made, a formal remonstrance against those decrees, I did not lose a moment in writing and presenting the enclosed note; the terms of which will, I hope, appear to be such as were proper or necessary to the case, and calculated either to obtain a recall of the illegal measures, or to leave in full force the rights accruing to the United States from a failure on the part of France to recall them. To this note I have not yet received an answer, nor have I reason to expect one soon, as the Emperor has left Paris, (it is said for Spain,) and had, at no time before he set out, indicated any alteration in the views which originally produced the decrees in question.

Mr. Pinkney found means (in the return to the Continent of M. D'Alopeus) to communicate the President's views on the subject of the general embargo, and particularly the desire he had that

* These cases have been referred to the Grand Judge.

it should not be considered as a measure of hostility against any foreign nation. Some explanations of this kind, were, perhaps, necessary in England, where, from the misrepresentations of our own people, the character of the policy was likely to be misunderstood; but as neither the same nor any other reason existed for making them here, none have been offered.

Mr. Armstrong to Mr. Champagny.

PARIS, *April* 2, 1808.

SIR: Having submitted to the Government of the United States copies of the imperial decrees of the 21st of November, 1806, and 17th December, 1807, and of the expositions which your Excellency has been pleased, at different times, to give of them, I have recently received the instructions of the President to remonstrate against both the provisions and operation of the said decrees, on the ground of their infracting, as well the positive stipulations of a particular treaty, as the incontestable principles of public law.

In discharging this duty, your Excellency will permit me to call to your remembrance the twelfth and fourteenth articles of the treaty made between the United States and France, on the 30th of September, 1800. These articles provide—

1st. That "it shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass not only directly from the places and ports of the enemy aforesaid to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be or be not under the jurisdiction of the same Power, unless such ports or places shall be actually blockaded, besieged, or invested."

2d. That "vessels sailing for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place, but they shall not be detained, nor any part of their cargo (not contraband) confiscated, unless, after notice of such blockade or investment, they shall again attempt to enter; but they shall be permitted to go to any other port or place they shall think proper."

3d. That "free ships shall give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either; contraband goods being always excepted."

These stipulations are not more clear in themselves, nor of more indisputable application and authority in the present case, than the injunctions of public law by which they were enforced, viz: That local regulations (excepting by virtue of convention) cannot apply to foreign nations on the high seas, without violating the rights of the one, and the freedom of the other; that blockades can only exist when places are so infested that no serious attempt can be made to approach them without exposing the parties making them to imminent danger; that merchant vessels may be visited without any degradation to the flag of the nation to which they belong, &c. But why multiply proofs of a position which is not denied? Does not the official report of your enlightened predecessor of the 21st of November, 1806, admit the illegitimacy of the original decree? Does it not expressly say, that the doctrines of blockade introduced by England are monstrous and indefensible? and that the practice, like the doctrine, is a mockery of right, and an insult upon reason? After strictures so severe, because so just, what can be said for the policy of France, which differs in nothing from that of England? Has your Excellency attempted to defend either the theory or the practice of this policy, on the ground of its conformity to the principles of public law? Or have you done more at any time, or on any occasion, than to seek a justification for it on the bare suggestion that the United States have acquiesced in the measures of England? And how has even this suggestion been maintained? By an exposition of the wrongs inflicted on American commerce! and which have been notoriously practised by all the belligerents in turn. Have not the ships of the United States been encountered by all? Have they not been turned from their original destination? Have they not been dragged into foreign ports for adjudication? Have they not, in several instances, been burnt on the high seas? Is not the argument, founded on this state of things, equally good for either, or for all the belligerents? And can France derive from it rights which do not equally accrue to her enemies? There is, however, another and a better answer to this suggestion, which your Excellency has already seen in the letter I had the honor of writing to you on the 16th of February last, viz: that the suggestion is neither well nor plausibly founded; and that the United States neither have submitted, nor will submit, to the usurpations of Great Britain nor to those of any other nation.

Accept, sir, &c.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *April* 12, 1808.

I have detained Mr. Lewis here till to-day, on the supposition that my letter of the 2d instant would be answered. This was, however, a mere accommodation to forms, as the absence of the Emperor and the Minister of Foreign Relations rendered this supposition highly improbable. There being then no public reason for Mr. Lewis's longer stay in Paris, and the permission to the Osage to prosecute her voyage to England not including one to return to France, I have thought it best that we should embark with such despatches as were ready, proceed to Falmouth in England, and thence, after receiving Mr. Pinkney's orders, return with all possible expedition to the United States. He has accordingly been instructed to this effect.

Extract—Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, *May* 2, 1808.

Since my last, of which Lieutenant Lewis was the bearer, I have received your several letters of the 27th of December, 22d January, 15th and 17th of February, with their respective enclosures.

That of the 15th of January, from Mr. Champagny to you, has, as you will see by the papers herewith sent, produced the sensations here which the spirit and style of it were calculated to excite in minds alive to the interests and honor of the nation. To present to the United States the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honorable nation can be guided; and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and course of proceeding, had the air at least of an assumed authority, not less irritating to the public feelings. In these lights the President makes it your duty to present to the French Government the contents of Mr. Champagny's letter; taking care, as your discretion will doubtless suggest, that while you make that Government sensible of the offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them; and for a decision here on any reply which may be of a different character.

Congress closed their session on the 25th ultimo. For a general view of their proceedings, I refer to the series of newspapers heretofore and now forwarded, and to other prints which are added. Among their acts of chief importance is that which vests in the President an authority to suspend, in whole or in part, the embargo laws.

The conditions on which the suspending authority is to be exercised will engage your particular attention. They appeal equally to the justice and the policy of the two great belligerent Powers now emulating each other in violations of both. The President counts on your best endeavors to give to this appeal all the effect possible with the French Government. Mr. Pinkney will be doing the same with that of Great Britain. The relation in which a recall of its retaliating decrees by either Power will place the United States to the other, is obvious, and ought to be a motive to the measure proportioned to the desire which has been manifested by each to produce collisions between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should wiser councils or increasing distresses induce Great Britain to revoke her impolitic orders against neutral commerce, and thereby prepare the way for the removal of the embargo, as it applies to her, France could not persist in the illegal part of her decrees, if she does not mean to force a contest with the United States. On the other hand, should she set the example of revocation, Great Britain would be obliged, either by following it to restore to France the full benefit of neutral trade, which she needs, or, by persevering in her obnoxious orders after the pretext for them had ceased, to render collisions with the United States inevitable.

In every point of view, therefore, it is so clearly the sound policy of France to rescind so much at least of her decrees as trespass on neutral rights, and particularly to be the first in taking the retrograde step, that it cannot be unreasonable to expect that it will be immediately taken.

The repeal of her decrees is more to be expected, above all, if Great Britain should repeal, or be likely to repeal, hers, as the plan of the original decree at Berlin did not extend to a violation of the freedom of the seas, and was restricted to a municipal operation for nearly an entire year, notwithstanding the illegal British orders of January, 1807, and as a return of France to that restricted scope of her plan would so immaterially diminish its operation against the British commerce; that operation being so completely in the power of France on land, and so little in her power on the high seas.

But although we cannot of right demand from France more than a repeal of so much of her decrees as violate the freedom of the seas, and a great point will be gained by a repeal of that part of them, yet, as it may not have the effect of inducing a repeal of the whole illegal system of the British Government, which may seek pretexts or plead a necessity for counteracting the unprecedented and formidable mode of warfare practised against her, it will be desirable that as little room as possible should be left for this remaining danger to the tranquil enjoyment of our commercial rights.

In whatever degree the French Government may be led to change its system, you will lose no time in transmitting the information to this Department and to Mr. Pinkney, and by hired conveyances, if necessary. A correspondent instruction is given to Mr. Pinkney.

It is of the greater importance that you should receive from each other the earliest notice of any relaxations, as each Government is under a pledge to follow such an example by the other. And it is not of less importance that the President or Congress should be acquainted with the facts, that the proceedings here may be accommodated to them.

That you may know the grounds on which the British orders of November have been arranged by this Government, I enclose a copy of the answer to Mr. Erskine's note communicating them, a copy of the note being also enclosed.

The other documents communicated will put you in full possession of the relations of the United States with Great Britain, as resulting from the issue of our general negotiations, and from that of the mission of Mr. Rose.

This despatch is forwarded by Mr. Baker, who takes his passage from Baltimore in a vessel engaged, as was the Osage which sailed from New York, for the special purpose of public and mercantile correspondences with Europe. She will proceed in the first instance to L'Orient, where she will leave Mr. Baker, and thence proceed with despatches for Mr. Pinkney to Falmouth, where she will remain a few days to receive communications from him; she will then return to L'Orient, in order to bring back Mr. Baker, with your communications.

Extract—Mr. Armstrong to Mr. Madison.

PARIS, *June* 25, 1808.

SIR: The St. Michael arrived at L'Orient on the 1st instant, and, like the Osage, was immediately put under sequestration. It was not until the 8th that Mr. Baker arrived here.

The remonstrance ordered, with respect to the terms of Mr. Champagny's letter of the 15th of January, shall be executed the moment the Prince of Benevento returns from Valençay, and I hope in a way which, while it makes the French Government sensible of the offensiveness of those terms, will not obstruct the road to friendly and respectful explanations on its part.

To give this a chance of finding Mr. Livingston at Bordeaux, I must close it here.

With high respect, &c.

Mr. Armstrong to Mr. Madison.

PARIS, *July* 18, 1808.

SIR: I avail myself of the detention of the Arcturus, to transmit copies of two letters which I have written to M. de Champagny: the one in execution of the President's orders with regard to the offensive terms employed by that Minister in his note of the 15th of January last; the other demanding from him, on the part of his Government, an avowal or disavowal of the conduct of Rear Admiral Baudin in burning or otherwise destroying, on the high seas, four American ships and their cargoes.

I have the honor to be, &c.,

JOHN ARMSTRONG.

[Referred to in Mr. Armstrong's despatch of the 18th of July.]

Mr. Armstrong to Mr. Champagny.]

PARIS, *July* 10, 1808.

SIR: Your Excellency will see by the enclosed extracts from two letters which His Majesty's Minister of Marine has done me the honor to address to me on the 18th of April and 13th of June last, that the property taken from the four American ships destroyed by Rear Admiral Baudin has been placed under the jurisdiction of the Imperial Council of Prizes, to be judged by it, as a case of ordinary capture.

To your Excellency it will be unnecessary to remark that, whatever may be the decision of the Council in relation to the merchandise which has been saved, the case presents a question of much higher import, and entirely beyond the jurisdiction of a maritime court, viz: the kind and degree of reparation which shall be due for the ships and merchandise which have been destroyed. And, by way of opening this subject, your Excellency will permit me to ask whether His Majesty's Government does or does not justify the conduct of Rear Admiral Baudin in burning or otherwise destroying, on the high seas, the ships and merchandise of a neutral and friendly Power? I pray your Excellency, &c.,

JOHN ARMSTRONG.

M. CHAMPAGNY.

[Referred to in Mr. Armstrong's letter of July 18.]

Extract—Mr. Armstrong to Mr. Champagny.

PARIS, *July* 4, 1808.

SIR: It has been made the duty of the undersigned to bring to the view of the French Government an official note addressed to him, on the 15th of January last, by His Majesty's Minister of Exterior Relations, and which, in the opinion of the President, is calculated to derogate from the rights of the United States as an independent nation. The note is in the following words, viz:

(See Mr. Champagny's letter of the 15th of January, 1808, *ante* page 1668.)

On this note the undersigned would remark—

1st. That the United States have a right to elect their own policy with regard to England, as they have with regard to France, and that it is only while they continue to exercise this right, without suffering any degree of restraint from either Power, that they can maintain the independent relation in which they stand to both; whence, it follows, that, to have pronounced, in the peremptory tone of the preceding note, the effects which the measures of the British Government ought to have produced on their counsels and conduct, was a language less adapted to accomplish its own object than to offend against the respect due from one independent nation to another; and,

2d. That the alternative to be found in the last paragraph, and which leaves the United States to choose between an acquiescence in the views of France against Great Britain, and a confiscation of all American property sequestered by order of His Imperial Majesty, is equally offensive to both Governments; to France, as it would impute to her a proposition founded in wrong to individuals; and to the United States, as it would imply on their part a subjection to pecuniary interests totally inconsistent with their principles, and highly dishonorable to their character.

His Excellency will be persuaded that the President, in directing the undersigned to make this representation, had no object in view beyond that of seeking an explanation, which cannot but tend to promote the harmony of the two Powers.

The Minister Plenipotentiary of the United States, JOHN ARMSTRONG.

Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, *July* 21, 1808.

SIR: Herewith you will receive a copy of the papers relating to one of the vessels which were destroyed at sea by the French frigates returning from the West Indies. I observe that, in your letter to Mr. Champagny of the 2d of April, you have incidentally noticed this occurrence. If ample reparation should not have been made to the sufferers, the President thinks it proper that, as their cases become authenticated, you should present them in terms which may awaken the French Government to the nature of the injury, and the demands of justice. The burning of neutral vessels detained on the high seas is the most distressing of all the modes by which belligerents exert force contrary to right, and, in proportion as it is destitute of apology, ought at least to be the promptitude and amplitude of the redress.

If it be contended that the destruction in these cases proceeded solely from the danger that otherwise intelligence might reach a pursuing or hovering force, it may be answered, that, if such a plea were of greater avail, it would only disprove an hostility of intention, without diminishing the obligation to indemnify, on the most liberal scale, the injured individuals. It may be added that, if the outrage on the individuals was not meant as an hostility towards their nation, the latter might justly expect a tender of such explanations as would leave no doubt on this subject. I have the honor to be, &c.,

JAMES MADISON.

Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, *July* 22, 1808.

Your despatches by Lieutenant Lewis were delivered on the 8th instant.

It is regretted that the interval between his arrival and the date of your letter to Mr. Champagny, during which I presume some verbal intercommunication must have taken place, had produced no indication of a favorable change in the views of the French Government with respect to its decrees; and still more that, instead of an early and favorable answer to your letter, it should have been followed by such a decree as is reported to have been issued on the 22d of April, at Bayonne. The decree has not yet reached the United States, and therefore its precise import cannot be ascertained. But if it should be, as it is represented, a sweeping stroke at all American vessels on the high seas, it will not only extend our demands of reparation, but is rendered the more ominous with respect to the temper and views of the Emperor towards the United States by the date of the measure.

The arrival of Mr. Baker with my letter of May 2, of which a copy is herewith sent, will have enabled you to resume the subject of the decrees, with the fairest opportunity that could be given to the French Government for a change of the unjust and unwise course which has been pursued; and I assure myself that you will not have failed to turn the communications with which you are furnished to the best account. If France does not wish to throw the United States into the war against her, for which it is impossible to find a rational or plausible inducement, she ought not to hesitate a moment in revoking at least so much of her decrees as violate the rights of the sea, and furnish to her adversary the pretext for his retaliating measures. It would seem as if the Imperial Cabinet had never paid sufficient attention to the smallness of the sacrifice which a repeal of that portion of its system would involve, if an act of justice is to be called a sacrifice.

The information by the return of the Osage from England is not more satisfactory than that from France. Nothing was said on the subject of the Chesapeake, nor anything done or promised as to the Orders in Council. It is probable that further accounts from the United States were waited for, and that the arrival of the St. Michael will have led to a manifestation of the real views of that Government on those and other subjects. In the meantime, it cannot be doubted that hopes were cherished there of some events in this country favorable to the policy of the orders, and particularly that the offensive language and proceedings of France would bring on a hostile resistance from the United States; in which case the British Government would be able to mould everything to its satisfaction. There is much reason to believe that, if the British Government should not concur in a mutual abolition of the orders and of the embargo, it will result from an unwillingness to set an example which might be followed, and might, consequently, put an end to the irritating career of her enemy, on which the calculation is built. Might not use be made of this view of the matter in those frank and friendly conversations which sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed without descending from the necessary level? In every view, it is evidently proper, as far as respect to the national honor will allow, to avoid a style of procedure which might co-operate with the policy of the British Government, by stimulating the passions of the French.

Extract of a letter from General Armstrong to the Secretary of State.

PARIS, *July* 26, 1808.

SIR: It would have given me the highest pleasure to have drawn from this Government such explanations on the general subject of our differences with them as would have met the friendly and equitable views of the United States; but I owe it, as well to you as to myself, to declare that every attempt for that purpose hitherto made has failed, and under circumstances which by no means indicate any change in their aspect for the better. With very high consideration, I am, &c.

JOHN ARMSTRONG.

JAMES MADISON, Esq.

Extract—Mr. Armstrong to the Secretary of State.

PARIS, *August* 7, 1808.

I wrote a few lines to you yesterday. Two weeks have gone by without any new condemnation. My remonstrances continue to be unanswered.

P. S. I enclose a copy of my note of yesterday to M. de Champagny.

JOHN ARMSTRONG.

[Referred to and enclosed in Mr. Armstrong's despatch of August 7, 1808.]

Extract—Mr. Armstrong to Mr. Champagny.

PARIS, *August* 6, 1808.

Mr. Armstrong presents his compliments to M. de Champagny, and begs leave to inform him that, having for some months past made trial of the artificial waters of Rivoli without any useful effect, his physician has prescribed for him those of Bourbon l'Archambault. Should M. de Champagny have any communication to make to Mr. Armstrong, he will be pleased to address them as usual to the Hotel de Légation Américaine, Rue Vaugirard, No. 100, whence they will be regularly and promptly transmitted to Bourbon.

On leaving Paris, Mr. Armstrong thinks proper to express his regrets that the political relations of the two Powers should continue to wear an aspect less auspicious to their future good understanding than is wished for by those who are the friends of both.

That His Majesty has a right to make such municipal regulations as he may deem proper, with regard to foreign commerce, neither is, nor has been, denied: for example, he may forbid the entry into the ports of France of American ships which have touched in England, or been destined to England; and he may either sequester or confiscate such vessels of the United States as shall infract these laws, after due promulgation and notice thereof; but beyond this the United States hope and believe that His Majesty will not go.

M. de Champagny will not fail to seize the distinction which these remarks present, between the authority of municipal regulations and that of public law; and will decide whether it does or does not offer a ground on which the good understanding, so long and so usefully maintained between the United States and France, may be preserved, and a degree of intercourse between them renewed, which shall have the effect of reanimating their former industry.

Does His Majesty fear that the balance of trade, arising from this renewed industry, would go to the advantage of England? Means are certainly not wanting to prevent this consequence. Would it not be entirely avoided by making it a condition of the commerce in question, that all ships leaving France shall take (in some article or articles of their produce or manufacture) the full amount of the cargoes they bring hither?

Ships sailing under this regulation would or would not go voluntarily to England. If they went voluntarily, it would only be because that country afforded the best markets for the productions of France; in which case the habitual results would be entirely changed, and England, ceasing to receive a balance for her manufactures, would begin to pay one to the United States on the productions of France. Could France wish a state of commerce more prosperous than this?

If, on the other hand, the American ships did not go voluntarily to England, but were captured and sent in for adjudication, it may be fairly presumed that the United States could no longer hesitate about becoming a party to the war against England.

Thus, in either case, the interests of His Majesty would be directly advanced by the measure: in the one, the wants of France and her colonies would be not only regularly supplied, but she would herself become an entrepôt for the supply of the Continent; in the other, the wishes of His Majesty, as expressed in February last, would be directly promoted.

Mr. Armstrong has the honor of renewing to M. de Champagny the assurances of his very high consideration.

JOHN ARMSTRONG.

Extract—Mr. Armstrong to Mr. Madison.

BOURBON L'ARCHAMBAULT,
August 28, 1808.

Since my arrival at this place, I have been honored by the receipt of your despatch of the 21st ultimo, and would immediately return to Paris to renew my discussions with M. de Champagny, either personally, as you suggest, or by writing, had I not the most solemn conviction that any new experiment, made at the present moment, in either form, and of official character, would certainly be useless, and probably injurious.

JOHN ARMSTRONG.

(Confidential.)

Extract—General Armstrong to Mr. Madison.

BOURBON L'ARCHAMBAULT,
August 30, 1808.

We have somewhat overrated our means of coercing the two great belligerents to a course of justice. The embargo is a measure calculated, above any other, to keep us whole and keep us in peace; but, beyond this, you must not count upon it. Here it is not felt, and in England (in the midst of the more recent and interesting events of the day) it is forgotten.

I hope that, unless France shall do us justice, we will raise the embargo, and make in its stead the experiment of an armed commerce. Should she adhere to her wicked and foolish measures, we ought not to content ourselves with doing this; there is much, very much besides that we can do, and we ought not to omit doing all we can, because it is believed here that we cannot do much, and even that we will not do what we have the power of doing.

JOHN ARMSTRONG.

GREAT BRITAIN, FRANCE, AND SPAIN.

[Communicated to Congress, December 28, 1808.]

To the Senate of the United States:

According to the request of the Senate, in their resolution of November 14, that copies should be laid before them of all the orders and decrees of the belligerent Powers of Europe, passed since 1791, affecting the commercial rights of the United States, I now transmit to them a report of the Secretary of State of such of them as have been attainable in the Department of State, and are supposed to have entered into the views of the Senate.

TH. JEFFERSON.

DECEMBER 23, 1808.

DEPARTMENT OF STATE, *Dec.* 21, 1808.

The Secretary of State, in pursuance of the resolution of the Senate of the 14th of November, respectfully reports to the President of the United States copies of such belligerent acts, decrees, orders, and proclamations, as affect neutral rights of commerce, and as have been attainable in the Department of State, with the exception, however, of sundry acts, particularly blockades, of doubtful import or inferior importance, which it was supposed would have inconveniently extended the delay and the size of the report.

JAMES MADISON.

I. *The Acts, Orders in Council, &c. of Great Britain.*

March 25, 1793. Extract from the Russian Treaty.

May 25, 1793. Extract from the Spanish.

July 14, 1793. Extract from the Prussian.

August 30, 1793. Extract from the Austrian.

June 8, 1793. Additional instructions with respect to corn, meal, &c.

November 6, 1793. Detention of neutral vessels, laden with French colonial productions, &c.

January 8, 1794. Revocation of the last order, and the enactment of other regulations.

January 25, 1798. Revocation of the last one, and the enactment of new regulations.

March 22, 1799. Blockade of all the ports of Holland.

November 27, 1799. Suspension of the blockade of Holland.

June 24, 1803. Direct trade between neutrals and the colonies of enemies not to be interrupted, unless, upon the outward voyage, contraband supplies shall have been furnished by the neutrals.

April 12, 1804. Instructions concerning blockades, communicated by Mr. Merry.

April 12, 1804. Conversion of the siege of Curaçon into a blockade.

August 9, 1804. Blockade of Fécamp, &c.

August 17, 1805. Direct trade with enemy's colonies subjected to restrictions, &c.

April 8, 1806. Blockade of the Ems, Weser, &c.

May 16, 1806. Blockade from the Elbe to Brest.

September 25, 1806. Discontinuance of the last blockade in part.

January 7, 1807. Interdiction of the trade, from port to port, of France.

June 26, 1807. Blockade of the Ems, &c.

October 16, 1807. Proclamation recalling seamen.

November 11, 1807. Three Orders in Council.

November 25, 1807. Six Orders in Council.

January 2, 1808. Blockade of Carthagena, &c.

March 28, 1808. Act of Parliament for carrying Orders of Council into effect.

April 11, 1808. Order in Council permitting neutral vessels, without papers, to carry supplies to the West Indies.

April 14, 1808. Act of Parliament prohibiting exportation of cotton, wool, &c.

April 14, 1808. Act of Parliament making valid certain Orders in Council.

May 4, 1808. Blockade of Copenhagen and of the island of Zealand.

June 23, 1808. Act of Parliament regulating trade between the United States and Great Britain.

October 14, 1808. Admiral Cochrane's blockade of French Leeward islands.

Extract from a Convention between His Britannic Majesty and the Empress of Russia, signed at London, the 25th of March, 1793.

ART. 3. Their said Majesties reciprocally engage to shut all their ports against French ships; not to permit the exportation, in any case, from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

ART. 4. Their Majesties engage to unite all their efforts to prevent other Powers, not implicated in this war, from giving, on this occasion of common concern to every civilized State, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea, or in the ports of France.

Extract from a treaty between His Britannic Majesty and the King of Spain, signed at Aranjuez, the 25th of May, 1793.

ART. 4. Their said Majesties engage reciprocally to shut their ports against French vessels; not to permit that there shall, in any case, be exported from their ports for France either warlike or naval stores, or wheat, or other grains, salted meat, or other provisions: and to take every other measure in their power to distress the trade of France, and reduce her by that means to just conditions of peace.

ART. 5. Their said Majesties also engage, the present war being generally interesting to every civilized State, to unite all their efforts in order to prevent those Powers which do not take part

In the said war, from affording, in consequence of their neutrality, any protection, direct or indirect, on the seas or in the ports of France, to the commerce and property of the French.

Extract from a convention between His Britannic Majesty and the King of Prussia, signed at the camp before Mayence, the 14th July, 1793.

ART. 3. The high contracting parties have already taken the resolution to shut all their ports against French ships, and not to permit the exportation in any cases, from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions; they reciprocally engage to continue those measures, and promise to employ all other means which shall be in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

ART. 4. Their Majesties engage to unite all their efforts to prevent, on this occasion of common concern to every civilized State, other Powers, not implicated in the war, from giving, in consequence of their neutrality, any protection whatever, directly or indirectly, to the commerce or property of the French, on the sea, or in the ports of France.

Extract from a convention between the Emperor of Austria and His Britannic Majesty, signed at London, the 30th August, 1793.

ART. 2. Their said Majesties reciprocally engage to shut their ports against French vessels, not to permit, in any instance, warlike or naval stores, corn, grain, salted meat, or other provisions, to be exported from their said ports for France, and to take all other means in their power to annoy the commerce of France, and thereby to reduce her to just conditions of peace.

ART. 3. Their Majesties engage to unite all their efforts to prevent other Powers, who shall not take part in this war, from giving, on this occasion of common interest to every civilized State, any protection whatever, direct or indirect, in consequence of their neutrality, to the commerce or the property of the French, at sea or in the ports of France.

GEORGE R.

Additional instructions to the commanders of His Majesty's ships of war and privateers that have or may have letters of marque against France. Given at our Court at St. James's, the eighth day of June, 1793, and in the thirty-third year of our reign.

1st. That it shall be lawful to stop and detain all vessels laden wholly or in part with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as shall be most convenient, in order that such corn, meal, or flour, may be purchased on behalf of His Majesty's Government, and the ships released after such purchase, and after a due allowance for freight; or that the masters of such ships, on giving due security, to be approved by the Court of Admiralty, be permitted to proceed to dispose of their cargoes of corn, meal, or flour, in the ports of any country in amity with His Majesty.

2d. That it shall be lawful for the commanders of His Majesty's ships of war and privateers, that have or may have letters of marque against France, to seize all ships, whatever be their cargoes, that shall be found attempting to enter any blockaded port, and to send the same for condemnation, together with their cargoes, except the ships of Denmark and Sweden, which shall be prevented from entering on the first attempt, but on the second shall be sent in for condemnation likewise.

3d. That in case His Majesty shall declare any port to be blockaded, the commanders of His Majesty's ships of war and privateers that have or may have letters of marque against France, are hereby enjoined, if they meet with ships at sea, which appear from their papers to be destined to such blockaded port, but to have sailed from the ports of their respective countries before the declaration of the blockade shall have arrived there, to advertise them thereof, and to admonish them to go to other ports; but they are not to molest them afterward, unless it shall appear that they have continued their course with intent to enter the blockaded port, in which case they shall be subject to capture and condemnation: as shall likewise all ships wheresoever found, that shall appear to have sailed from their ports, bound to any port which His Majesty shall have declared to be blockaded, after such declaration shall have been known in the country from which they sailed; and all ships which, in the course of the voyage, shall have received notice of the blockade in any manner, and yet shall have pursued their course with intent to enter the same.

GEORGE R.—Additional instruction to the commanders of all our ships of war and privateers that have or may have letters of marque against France. Given at our Court at St. James's, the sixth day of November, 1793, and in the thirty-fourth year of our reign.

That they shall stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and shall bring the same, with their cargoes, to legal adjudication in our Courts of Admiralty.

By His Majesty's command:

H. DUNDAS.

GEORGE R.—Instructions to the commanders of our ships of war and privateers that have or may have letters of marque against France. Given at our Court at St. James's, the eighth day of January, 1794.

Whereas, by our former instruction to the commanders of our ships of war and privateers, dated the 6th day of November, 1793, we signified that they should stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and should bring the same, with their cargoes, to legal adjudication: We are pleased to revoke the said instruction, and, in lieu thereof, we have thought fit to issue these, our instructions, to be duly observed by the commanders of all our ships of war and privateers that have or may have letters of marque against France:

1. That they shall bring in, for lawful adjudication, all vessels, with their cargoes, that are laden with goods the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe.

2. That they shall bring in, for lawful adjudication, all ships, with their cargoes, that are laden with goods the produce of the said islands, the property of which goods shall belong to the subjects of France, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands that is or shall be blockaded by the arms of His Majesty or his allies, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the eighth day of June, 1793.

4. That they should seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, be proceeded against, according to the rules of nations.

GEORGE R.—Instructions to the commanders of our ships of war and privateers that have or may have letters of marque against France, Spain, or the United Provinces. Given at our Court at St. James's, the 25th day of January, 1798, in the thirty-eighth year of our reign.

Whereas, by our former instructions to the commanders of our ships of war and privateers, dated 8th January, 1794, we signified that they should bring in, for lawful adjudication, all vessels, with their cargoes, that were laden with goods the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe; and likewise all ships, with their cargoes, that were laden with goods the produce of the said islands, the property of which goods should belong to the subjects of France, to whatsoever ports the same might be bound; and that they should seize all ships that should be found attempting to enter any port of the said islands that was or should be blockaded by the arms of His Majesty or his allies, and should send them in, with their cargoes, for adjudication; and, also, all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and should send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, might be proceeded against, according to the law of nations: And whereas, in consideration of the present state of the commerce of this country, as well as that of neutral countries, it is expedient to revoke the said instructions, we are pleased hereby to revoke the same; and, in lieu thereof, we have thought fit to issue these our instructions, to be observed from henceforth by the commanders of all our ships of war and privateers that have or may have letters of marque against France, Spain, and the United Provinces.

1. That they shall bring in, for lawful adjudication, all vessels, with their cargoes, that are laden with goods the produce of any island or settlement belonging to France, Spain, or the United Provinces, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of this kingdom, nor a port of that country to which such ships, being neutral ships, shall belong.

2. That they shall bring in, for lawful adjudication, all ships, with their cargoes, that are laden with goods the produce of the said islands or settlements, the property of which goods shall belong to subjects of France, Spain, or the United Provinces, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands or settlements that is or shall be blockaded by the arms of His Majesty, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June 1793.

4. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands or settlements, and shall send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, may be proceeded against, according to the rules of the law of nations. By His Majesty's command:

PORTLAND.

Lord Grenville to Mr. King.

DOWNING STREET, *March* 22, 1799.

The undersigned, Secretary of State of His Britannic Majesty, has received His Majesty's commands to acquaint Mr. King, Minister Plenipotentiary of the United States of America, that the King, judging it expedient to avail himself of the superiority of his naval forces for the defence of his dominions, has signified his commands to the Lords Commissioners of the Admiralty to cause the most rigorous blockade to be established at the entrance of all the ports of Holland, which will be maintained and enforced in the strictest manner, according to the usages of war acknowledged and observed in similar cases.

Mr. King is therefore requested to apprize the American Consuls and merchants residing in England that the above-mentioned ports of the United Provinces are, and must be considered as being in a state of blockade, and that from this time no neutral vessel can be suffered to enter them, upon any consideration, or under any pretence whatsoever; and that all the measures authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers will henceforth be adopted and executed with respect to vessels destined for the said ports, as shall attempt to enter them after this notice.

Lord Grenville to Mr. King.

The undersigned, Secretary of State, has received His Majesty's command to inform Mr. King that His Majesty has judged it expedient to suspend for the present the blockade of all the ports in the United Provinces, which was established by His Majesty's orders,* and which was announced to Mr. King by the undersigned, in his note dated March 22d last.

GRENVILLE.

Additional instructions by the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.

The right honorable Lord Pelham, one of His Majesty's principal Secretaries of State, having transmitted us, as additional instructions, under His Majesty's signet and sign manual, dated the 24th June, 1803, as follows:

To the Commanders of His Majesty's ships of war and privateers.

In consideration of the present state of commerce, we are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel which shall be carrying on trade directly between the colonies of enemies, and the neutral country, to which the vessel belongs, and laden with the property of inhabitants of such neutral country; provided, that such neutral vessels shall not be supplying, nor shall have, on the outward voyage, supplied the enemy with any articles contraband of war, and shall not be trading with any blockaded port.

By His Majesty's command:

PELHAM.

To the Judge of the Vice Admiralty Court of the Island of Ceylon.

We send you herewith a printed copy of the said additional instructions for your information and guidance, dated 13th July, 1803.

[Signed by the Lords of the Admiralty.]

Mr. Merry to Mr. Madison.

WASHINGTON, *April* 12, 1804.

Mr. Thornton not having failed to transmit to His Majesty's Government an account of the representation which you were pleased to address to him under date of the 27th October, last year, respecting the blockade of the islands of Martinique and Guadaloupe, it is with great satisfaction, sir, that I have just received His Majesty's commands, signified to me by his principal Secretary of State for Foreign Affairs, under date of the 6th January last, to communicate to you the instructions which have, in consequence of your representation, been sent to Commodore Hood, and to the Judges of the Vice Admiralty Courts in the West Indies.

I have, accordingly, the honor to transmit to you, sir, enclosed, the copy of a letter from Sir Evan Nepean, Secretary to the Board of Admiralty, to Mr. Hammond, His Majesty's Under Secretary of State for Foreign Affairs, specifying the nature of the instructions which have been given.

His Majesty's Government doubt not that the promptitude which has been manifested in redressing the grievance complained of by the Government of the United States, will be considered by the latter as an additional evidence of His Majesty's constant and sincere desire to remove any ground of misunderstanding that could have a tendency to interrupt the harmony which so happily subsists between this Government and that of the United States.

I have the honor to be, &c.

ANTHONY MERRY.

ADMIRALTY OFFICE, *January* 5, 1804.

SIR: Having communicated to the Lords of the Admiralty, Lord Hawkesbury's letter of the 22d ultimo, enclosing the copy of a despatch which his Lordship has received from Mr. Thornton. His Majesty's Chargé d'Affaires in America, on the subject of the blockade of the islands of Martinique and Guadaloupe, together with the report of the Advocate General:

Thereupon, I have their Lordships' commands to acquaint you, for his Lordship's information, that they have sent orders to Commodore Hood not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them, and that they have also sent the necessary directions on the subject to the Judges of the Vice Admiralty Courts in the West Indies and America.

I am, &c. EVAN NEPEAN.

GEORGE HAMMOND, Esq.

Mr. Merry to Mr. Madison.

WASHINGTON, *April* 12, 1804.

SIR: I have the honor to acquaint you that I have just received a letter from Rear Admiral Sir John Duckworth, Commander-in-Chief of His Majesty's squadron at Jamacia, dated 2d of last month, in which he desires me to communicate to the Government of the United States that he has found it expedient for His Majesty's service to convert the siege, which he lately attempted, of Curaçoa, into a blockade of that island.

I cannot doubt, sir, that this blockade will be conducted conformably to the instructions which, as I have had the honor to acquaint you in another letter of this date, have been recently sent on this subject to the Commander-in-Chief of His Majesty's forces, and to the Judges of the Vice Admiralty Courts, in the West Indies, should the smallness of the Island of Curaçoa still render necessary any distinction of the investment being confined to particular ports.

I have the honor to be, &c.

ANT. MERRY.

JAMES MADISON, Esq.

*Supposed to be those of November 27, 1799.

Circular from Lord Harrowby to the Ministers of the neutral nations residing in London, communicated to Colonel Monroe.

DOWNING STREET, *August* 9, 1804.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King has judged it expedient (for the protection of his subjects and the annoyance of his enemies) to establish the most rigorous blockade at the entrances of the ports of Fécamp, St. Valery-aux-Caux, Dieppe, Treport, the Somme, Etaples, Boulogne, Calais, Gravelines, Dunkirk, Nieuport, and Ostend, and to maintain and enforce the same in the strictest manner, according to the usages of war acknowledged in similar cases. Mr. Monroe is therefore requested to apprize the American Consuls and merchants residing in England, that the entrances of the above-mentioned ports are, and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c.

HARROWBY.

GEORGE R.

To our Courts of Admiralty, and to the Commanders of our ships of war and privateers. Given at our Court at St. James's, the 17th day of August, 1805, in the 45th year of our reign.

We are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel, which shall be carrying on trade directly from the colonies of the enemy to the ports of this Kingdom, and laden solely with the property of inhabitants of the neutral country to which the ship belongs; provided such neutral ship has already cleared out, or shall clear out, from such colony, prior to the 1st day of November next, and shall not have supplied the enemy with any articles contraband of war on the outward voyage, and shall not have entered or be coming from any blockaded port. And in case any neutral vessel, trading as aforesaid, hath been, or shall be detained or brought before any of our Courts of Admiralty, it is our will and pleasure that such ships, together with their cargoes, be forthwith liberated.

By His Majesty's command:

HAWKESBURY.

Mr. Fox to Mr. Monroe.

DOWNING STREET, *April* 8, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that, in consequence of His Majesty the King of Prussia having taken possession of various parts of the Electorate of Hanover, and other dominions belonging to His Majesty, in a forcible and hostile manner; and having also notified, that all British ships be excluded from the ports of the Prussian dominions, and from certain other ports in the north of Europe, and not suffered to enter or trade therewith, in violation of the just rights and interests of His Majesty and his dominions, and contrary to the established law and practice of nations in amity with each other: His Majesty has judged it expedient to establish the most rigorous blockade at the entrance of the Ems, the Weser, the Elbe, and the Trave, and to maintain and enforce the same in the strictest manner, according to the usages of war, acknowledged and allowed in similar cases.

Mr. Monroe is therefore requested to apprize the American Consuls and merchants residing in England, that the entrances of the above-mentioned rivers are and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockades after this notice.

The undersigned requests Mr. Monroe to accept the assurance of his high consideration.

C. J. FOX.

Mr. Fox to Mr. Monroe.

DOWNING STREET, *May* 16, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct that the necessary measures should be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive; and the said coast, rivers, and ports are and must be considered as blockaded; but that His Majesty is pleased to declare that such blockade shall not extend to prevent neutral ships and vessels, laden with goods not being the property of His Majesty's enemies, and not being contraband of war, from approaching the said rivers and ports (save and except the coast, rivers, and ports from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued,) provided the said ships and vessels so approaching and entering (except as aforesaid) shall not have been laden at any port belonging to or in the possession of any of His Majesty's enemies; and that the said ships and vessels so sailing from the said rivers and ports (except as aforesaid) shall not be destined to any port belonging to or in the possession of any of His Majesty's enemies, nor have previously broken the blockade.

Mr. Monroe is therefore requested to apprize the American Consuls and merchants residing in England, that the coast, rivers, and ports above mentioned, must be considered as being in a state of blockade, and that from this time all the measures

authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c.

C. J. FOX.

Lord Howick to Mr. Monroe.

DOWNING STREET, *Sept.* 25, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King having been pleased, on the 16th of May last, to cause it to be signified that he had directed the necessary measures to be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive, His Majesty is now pleased to declare, that so much of such blockade as extended from the river Elbe to the river Ems, both inclusive, is for the present discontinued; and that, from the date hereof, the navigation of the coast, rivers, and ports, from the river Elbe to the river Ems, both inclusive, is as free as if such blockade had not taken place.

The undersigned requests Mr. Monroe to accept the assurances, &c.

HOWICK.

At a Court at the Queen's Palace, the 7th of January, 1807: Present the King's Most Excellent Majesty in Council.

Whereas the French Government has issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with His Majesty's dominions, and also to prevent such nations from trading with any other country in any articles the growth, produce, or manufacture of His Majesty's dominions; and whereas the said Government has also taken upon itself to declare all His Majesty's dominions to be in a state of blockade, at the time when the fleets of France and her allies are themselves confined within their own ports by the superior valor and discipline of the British navy; and whereas such attempts, on the part of the enemy, would give to His Majesty an unquestionable right of retaliation, and would warrant His Majesty in enforcing the same prohibition of all commerce with France, which that Power vainly hopes to effect against the commerce of His Majesty's subjects, a prohibition which the superiority of His Majesty's naval forces might enable him to support by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous; and whereas His Majesty, though unwilling to follow the example of his enemies by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade, yet feels himself bound, by due regard to the just defence of the rights and interests of his people not to suffer such measures to be taken by the enemy, without taking some steps on his part to restrain this violence, and to retort upon them the evils of their own injustice; His Majesty is thereupon pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that no vessels shall be permitted to trade from one port to another, both which ports shall belong to or be in the possession of France or her allies, or shall be so far under their control as that British vessels may not trade freely thereat; and the commanders of His Majesty's ships of war and privateers shall be, and are hereby, instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port; and any vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this His Majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and together with her cargo shall be condemned as lawful prize; and His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty, and the Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

Extract of a letter from the honorable David M. Erskine, Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty, to the Secretary of State of the United States.

PHILADELPHIA, *June* 26, 1807.

I have the honor to inform you that His Majesty has judged it expedient to re-establish the most rigorous blockade at the entrances of the rivers Ems, Weser, and Elbe, inclusive, in consequence of the present position of the enemy upon the Continent, which enables him to command the navigation of those rivers.

BY THE KING.—A Proclamation for recalling and prohibiting British seamen from serving foreign Princes and States.

GEORGE R.

Whereas, it hath been represented to us, that great numbers of mariners and seafaring men, our natural born subjects, have been enticed to enter into the service of foreign States, and are now actually serving as well on board the ships of war belonging to the said foreign States, as on board the merchant vessels belonging to their subjects, notwithstanding our former proclamation recalling them, contrary to the duty and allegiance which our said subjects owe unto us, and to the great disservice of their native country; we have, therefore, thought it necessary, at the present moment, when our Kingdom is menaced and endangered, and when the maritime rights on which its power and greatness do mainly depend, are disputed and called in question, to publish, by and with the advice of our Privy Council, this our royal proclamation: We do hereby strictly charge and command all masters of ships, pilots, mariners, shipwrights, and other seafaring men, being

our natural born subjects, who may have been enticed into the pay or service of any foreign State, or do serve in any foreign ship or vessel, that forthwith they, and every one of them, do, (according to their bounden duty and allegiance, and in consideration that their native country hath need of all their services,) withdraw themselves, and depart from, and quit such foreign service, and do return home to their native country; or do enter on board such of our ships of war as they may chance to fall in with, either on the high seas, or in any rivers, waters, havens, roads, ports or places whatsoever or wheresoever.

And for the better execution of the purposes of this our royal proclamation, we do authorize and command all captains, masters, and others, commanding our ships and vessels of war, to stop and make stay of all and every such person or persons (being our natural born subjects) as shall endeavor to transport or enter themselves into the service of any foreign State, contrary to the intent and command of this our royal proclamation, and to seize upon, take, and bring away all such persons as aforesaid, who shall be found to be employed or serving in any foreign merchant ship or vessel as aforesaid; but we do strictly enjoin all such captains, masters, and others, that they do permit no man to go on board such ships and vessels belonging to States at amity with us, for the purpose of so seizing upon, taking, and bringing away such persons aforesaid, for whose discreet and orderly demeanor the said captains cannot answer; and that they do take especial care that no unnecessary violence be ever done or offered to the vessel, or to the remainder of the crew, from out of which such persons shall be taken.

And in case of their receiving information of any such person or persons being employed, or serving on board of any ship of war belonging to such foreign State at amity with us, we do authorize and command our captains, masters, and others commanding our ships of war, to require of the captain or commander of such foreign ship of war, that he do forthwith release and discharge such person or persons, being our natural born subject or subjects; and if such release and discharge shall be refused, then to transmit information of such refusal to the commander-in-chief of the squadron, under whose orders such captain or commander shall be then serving; which information the said commander-in-chief is hereby strictly directed and enjoined to transmit, with the least possible delay, to our Minister residing at the seat of Government of that State to which the said foreign ship of war shall belong, or to our Lord High Admiral, or Lords Commissioners of the Admiralty, for the time being, in order that we, being apprized of such proceeding, may forthwith direct the necessary steps to be taken for obtaining redress from the Government to which such foreign ship of war shall belong, for the injury done to us by the unwarranted detention of our natural born subjects in the service of a foreign State.

And whereas, it hath been further represented unto us, that divers mariners and seafaring men, our natural born subjects, have been induced to accept letters of naturalization, or certificates of citizenship, from foreign States, and have been taught to believe that, by such letters or certificates they are discharged from that duty of allegiance which, as our natural born subjects, they owe to us: Now we do hereby warn all such mariners, seafaring men, and others, our natural born subjects, that no such letters of naturalization, or certificate of citizenship, do or can in any manner divest our natural born subjects of the allegiance, or in any degree alter the duty which they owe to us, their lawful Sovereign. But in consideration of the error into which such mariners and seafaring men as aforesaid may have been led, we do hereby publish and declare our free pardon to all such, our subjects, who, repenting of the delusion under which they have acted, shall immediately, upon knowledge of this our royal proclamation, withdraw themselves from foreign service, and return to their allegiance to us; and we do declare that all such, our subjects, who shall continue in the service of foreign States, in disregard and contempt of this our royal proclamation, will not only incur our just displeasure, but are liable to be proceeded against for such contempt, and shall be proceeded against accordingly; and we do hereby declare, that if any such masters of ships, pilots, mariners, seamen, shipwrights, and other seafaring men, (being our natural born subjects,) shall be taken in any foreign service by the Algerines, or other Barbary Powers, and carried into slavery, they shall not be reclaimed by us as subjects of Great Britain.

And we do hereby notify that all such, our subjects, as aforesaid, who have voluntarily entered, or shall enter, or voluntarily continue to serve, on board of any ships of war belonging to any foreign State at enmity with us, are and will be guilty of high treason; and we do, by this our royal proclamation, declare that they shall be punished with the utmost severity of the law.

Given at our Court at the Queen's Palace, the sixteenth day of October, one thousand eight hundred and seven, and in the forty-seventh year of our reign. God save the King.

At the Court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas certain orders, establishing an unprecedented system of warfare against this Kingdom, and aimed especially at the destruction of its commerce and resources, were, sometime since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with His Majesty's dominions:

And whereas, by the same order, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize:"

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give, effect to such orders:

And whereas His Majesty's order of the 7th of January last has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigor:

And whereas His Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power which the exertions and valor of his people have, under the blessing of Providence, enabled him to establish and maintain; and the maintenance of which is not more essential to the safety and prosperity of His Majesty's dominions, than it is to the protection of such States as still retain their independence, and to the general intercourse and happiness of mankind:

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe, from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded by His Majesty's naval forces, in the most strict and rigorous manner: And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries or colonies, shall be captured and condemned as prize to the captors.

But, although His Majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions with respect to all the countries and colonies of his enemies, without exception or qualification, yet His Majesty being, nevertheless, desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrrying into effect His Majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice; and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply, and even to leave open, for the present, such trade with His Majesty's enemies as shall be carried on directly with the ports of His Majesty's dominions, or of his allies, in the manner hereinafter mentioned:

His Majesty is, therefore, pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation any vessel, or the cargo of any vessel, belonging to any country not declared by this order to be subjected to the restrictions incident to a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in His Majesty's colonies, under circumstances in which such trade, from such free ports, is permitted, direct to some port or place in the colonies of His Majesty's enemies, or from those colonies direct to the country to which such vessel belongs, or to some free port in His Majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall have cleared out under such regulations as His Majesty may think fit to prescribe, and shall be proceeding direct from some port or place in this Kingdom, or from Gibraltar, or Malta, or from any port belonging to His Majesty's allies, to the port specified in her clearance; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall be coming from any port or place in Europe which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to His Majesty, and which shall be on her voyage direct thereto; but these exceptions are not to be understood as exempting from capture or confiscation any vessel or goods which shall be liable thereto in respect of having entered or departed from any port or place actually blockaded by His Majesty's squadrons or ships of war, or for being enemy's property, or for any other cause than the contravention of this present order.

And the commanders of His Majesty's ships of war and privateers, and other vessels acting under His Majesty's commission, shall be, and are hereby, instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with His Majesty, or to any port or place from which the British flag, as aforesaid, is excluded, or to any colony belonging to His Majesty's enemies, and which shall not have cleared out as is hereinbefore allowed, to discontinue her voyage, and to proceed to some port or place in this Kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this His Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries not engaged in the war have acquiesced in these orders of France, prohibiting all trade in any articles the produce or manufacture of His Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons, styling themselves commercial agents of the enemy, resident at neutral ports, certain documents, termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of His Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this Kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it:

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this His Majesty's order, at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf, any such document was put on board.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas articles of the growth and manufacture of foreign countries cannot by law be imported into this country, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an order in Council specially authorizing the same:

His Majesty, taking into consideration the order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance, or at amity with His Majesty, may be permitted to import into this country articles of the produce or manufacture of countries at war with His Majesty:

His Majesty, by and with the advice of his Privy Council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandise, specified and included in the schedule of an act, passed in the forty-third year of his present Majesty's reign, entitled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place belonging to any State not at amity with His Majesty, in ships belonging to any State at amity with His Majesty, subject to the payment of such duties, and liable to such drawbacks, as are now established by law upon the importation of the said goods, wares, or merchandise, in ships navigated according to law; and with respect to such of the said goods, wares, and merchandise as are authorized to be warehoused under the provisions of an act passed in the forty-third year of his present Majesty's reign, entitled "An act for permitting certain goods imported into Great Britain to be secured in warehouses without payment of duty," subject to all the regulations of the said last mentioned act; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered that the same shall be reported for exportation to any country in amity or alliance with His Majesty.

And His Majesty is further pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United Kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or to any port at amity with His Majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, (which certificate the said collectors and comptrollers of the customs are hereby authorized and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid, and that they were permitted to sail from such port under the regulations which His Majesty has been pleased to establish in respect to such vessels; but in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar, or Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to

be specified in such clearance; and, with respect to the last mentioned articles, to export the same to such ports, and under such conditions and regulations only, as His Majesty, by any license to be granted for that purpose, may direct.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Courts of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas the sale of ships by a belligerent to a neutral is considered by France to be illegal:

And whereas a great part of the shipping of France and her allies has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals:

And whereas it is fully justifiable to adopt the same rule, in this respect, towards the enemy, which is applied by the enemy to this country:

His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that, in future, the sale to a neutral of any vessel belonging to His Majesty's enemies shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel; and all vessels now belonging, or which shall hereafter belong, to any enemy of His Majesty, notwithstanding any sale, or pretended sale, to a neutral, after a reasonable time shall have elapsed for receiving information of this His Majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas it has been represented that it would be expedient to fix certain periods, at which it shall be deemed that a reasonable time shall have elapsed for receiving information, at different places, of His Majesty's order in Council of the 11th of November instant, respecting the trade with His Majesty's enemies, and in their produce and manufactures: His Majesty taking the same into consideration, and being desirous to obviate any difficulties that may arise in respect thereto, and also to allow ample time for the said order being known to all persons who may be affected thereby, is pleased, by and with the advice of his Privy Council, to order and declare, and it is hereby ordered and declared, that information of the said order of the 11th of November instant shall be taken, and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, namely:

Ports and places within the Baltic; December 21, 1807.

Other ports and places to the northward of Amsterdam; December 11, 1807.

From Amsterdam to Ushant; December 4, 1807.

From Ushant to Cape Finisterre; December, 8, 1807.

From Cape Finisterre to Gibraltar, inclusive; December 13, 1807.

Madeira; December 13, 1807.

Ports and places within the Straits of Gibraltar, to Sicily, and Malta, and the west coast of Italy inclusive; January 1, 1808.

All other ports and places in the Mediterranean beyond Sicily and Malta; January 20, 1808.

Ports and places beyond the Dardanelles; February 1, 1808.

Any part of the north and western coast of Africa, or the islands adjacent, except Madeira; January 11, 1808.

The United States, and British possessions in North America and the West Indies; January 20, 1808.

Cape of Good Hope, and east coast of South America; March 1, 1808.

India; May 1; 1808.

China, and the coast of South America; June 1, 1808.

And every vessel sailing on or after those days, from those places, respectively, shall be deemed and taken to have received notice of the aforesaid order; and it is further ordered, that, if any vessel shall sail within twenty days after the periods above assigned, respectively, from any of the said places, in contravention of the said order of the 11th of November instant, and shall be detained as prize on account thereof, or shall arrive at any port in this Kingdom, destined to some port or place within the restriction of the said order, and proof shall be made to the satisfaction of the Court of Admiralty, in which such vessel shall be proceeded against, in case the same shall be brought in as prize, that the loading of the said vessel had commenced before the said periods, and before information of the said order had actually been received at the port of shipment, the said vessel, together with the goods so laden, shall be restored to the owner or owners thereof, and shall be permitted to proceed on her voyage in such manner as if such vessel had sailed before the day so specified as aforesaid; and it is further ordered, that no proof shall be admitted, or be gone into, for the purpose of showing that information of the said order of the 11th of November instant had not been received at the said places, respectively, at the several periods before assigned; and the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty, and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas His Majesty, by his Order in Council, dated 11th November instant, respecting the trade to be carried on with His Majesty's enemies, was pleased to exempt from the restrictions of the said order, all vessels which shall have cleared out from any port or place in this Kingdom, under such regulations as His Majesty may think fit to prescribe, and shall be proceeding direct to the ports specified in the respective clearances; His Majesty, taking into consideration the expediency of making such regulations, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all vessels, belonging to countries not at war with His Majesty, shall be permitted to lade in any port of the United Kingdom any goods being the produce or manufacture of His Majesty's dominions, or East India goods, or prize goods, (all such goods being lawfully imported,) and to clear out with, and freely to convey the same, to any port or place in any colony in the West Indies or America, belonging to His Majesty's enemies, such port or place not being in a state of actual blockade, subject to the payment of such duties as may at the time when any such vessels may be cleared out be due by law on the exportation of any such goods, or in respect of the same being destined to the ports of the colonies belonging to His Majesty's enemies, and likewise to lade, clear out with, and convey, as aforesaid, any articles of foreign produce or manufacture, which shall have been lawfully imported into this Kingdom, provided His Majesty's license shall have been previously obtained for so conveying such foreign produce or manufactures: and it is further ordered, that any vessel, belonging as aforesaid, shall be permitted to lade in any port of the United Kingdom any goods, not being naval or military stores, which shall be of the growth, produce, or manufacture of this Kingdom, or which shall have been lawfully imported, (save and except foreign sugar, coffee, wine, brandy, snuff, and cotton,) and to clear out with, and freely to convey the same to any port, to be specified in the clearance, not being in a state of actual blockade, although the same shall be under the restrictions of the said order; and likewise to lade, clear out, and convey foreign sugar, coffee, wine, brandy, snuff, and cotton, which shall have been lawfully imported, provided His Majesty's license shall have been previously obtained for the exportation and conveyance thereof: and it is hereby further ordered, that no vessel shall be permitted to clear out from any port or place in this Kingdom to any port or place of any country subjected to the restrictions of the said order, with any goods which shall have been laden (after notice of the said order) on board the vessel which shall have imported the same into this Kingdom, without having first duly entered and landed the same in some port or place in this Kingdom; and that no vessel shall be permitted to clear out from any port or place in this Kingdom, to any port or place whatever, with any goods the produce or manufacture of any country subject to the restrictions of the said order, which shall have been laden after notice, as aforesaid, on board the vessel importing the same, without having so duly entered and landed the same; or any goods whatever which shall have been laden after such notice in the vessel importing the same, in any port or place of any country subjected to the restrictions of the said order, without having so duly entered and landed the same in some port or place in this Kingdom, except the cargo shall consist wholly of flour, meal, grain, or any article or articles the produce of the soil of some country which is not subjected to the restrictions of the said order, except cotton, and which shall have been imported in an unmanufactured state direct from such country into this Kingdom, in a vessel belonging to the country from which such goods have been brought, and in which the same were grown and produced.

And it is further ordered, that any vessel belonging to any country not at war with His Majesty may clear out from Guernsey, Jersey, or Man, to any port or place under the restrictions of the said order, which shall be specified in the clearance, not being in a state of actual blockade, with such articles only, not being naval or military stores, as shall have been legally imported into such islands respectively from any port or place in this Kingdom direct; and with respect to all such articles as may have been imported into the said islands, respectively, from any port or place under the restrictions of the said order, it shall not be permitted to any vessel to clear out with the same from any of the said islands, except to some port or place in this Kingdom; and the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas His Majesty, by his Order in Council, dated the 11th of November instant, respecting the trade to be carried on with His Majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels belonging to any country not at war with His Majesty, together with their cargo, which shall be coming from any port or place in Europe which is declared in the said order to be subject to the re-

strictions incident to a state of blockade, direct to some port or place in Europe belonging to His Majesty; and, also, all vessels which shall be cleared out from Gibraltar or Malta, under such regulations as His Majesty may think fit to prescribe, and which shall be proceeding direct to the ports specified in their respective clearances:

And whereas it is expedient to encourage the trade from Gibraltar and Malta to countries under the restrictions of the said order, subject to regulations to be made in respect thereto; His Majesty is therefore pleased to prescribe the following regulations in regard to such trade accordingly, and by and with the advice of his Privy Council, to order, and it is hereby ordered, that all sorts of flour and meal, and all sorts of grain, tobacco, and any other article in an unmanufactured state, being the growth and produce of any country not being subjected by the said order to the restrictions incident to a state of blockade, except cotton, and naval and military stores, which shall have been imported into Gibraltar or Malta direct from the country where the same were grown and produced, shall, without any license, be permitted to be cleared out to any port or place not being in a state of actual blockade, without the same being compelled to be landed; but neither the said article of cotton, however imported, nor any article which is not the growth, produce, or manufacture of this Kingdom, or which has not been imported in a British ship, or from this Kingdom direct, (except fish,) and which shall have been laden at the port of original shipment after the period directed by an order of this date to be taken as the time at which notice of the said order of the 11th of November shall be considered as having been received at such port of shipment, shall be permitted to be exported from Gibraltar or Malta, except to some port or place in this Kingdom; and all other articles of the growth, produce, and manufacture of this Kingdom, or which shall have been imported into Gibraltar or Malta in a British ship, or from some port or place in this Kingdom, together with the article of fish, however imported, may be exported to any ports or places in the Mediterranean, or Portugal, under such license only as is hereinafter directed to be granted by the Governor of Gibraltar and Malta respectively.

And it is hereby further ordered, that licenses be granted by the Governors, Lieutenant Governors, or other persons having the chief civil command at Gibraltar or at Malta, respectively, but in His Majesty's name, to such person or persons as the said Governors, Lieutenant Governors, or persons having the chief civil command, shall think fit, allowing such person or persons to export from Gibraltar direct to any port in the Mediterranean, or to any port of Portugal, or to any port of Spain without the Mediterranean, not further north than Cape Finisterre, and from Malta direct to any port being within the Mediterranean, with any article of the produce or manufacture of His Majesty's dominions, and any article which shall have been imported into Gibraltar or Malta from this Kingdom, to whomsoever such articles shall appear to belong, (not being naval or military stores,) in any vessel belonging to any country not at war with His Majesty, or in any vessel not exceeding one hundred tons burden, and being unarmed, belonging to the country to which such vessel shall be cleared out and going; and also to import in any such vessel or vessels, as aforesaid, from any port within the Mediterranean, to Gibraltar or Malta, or from any port in Portugal or Spain, as aforesaid, to Gibraltar; such port and such destination respectively to be specified in such license, any articles of merchandise whatsoever, and to whomsoever the same may appear to belong; such articles to be specified in the bill of lading of such vessel, subject, however, to such further regulations and restrictions, with respect to all or any of the said articles so to be imported or exported, as may be inserted in the said licenses by the Governors, Lieutenant Governors, or other persons having the chief civil command at Gibraltar or Malta, for the time being, respectively, as to them shall from time to time seem fit and expedient.

And it is further ordered, that in every such license shall be inserted the names and residence of the person or persons to whom it shall be granted, the articles, and their quantities permitted to be exported, the name and description of the vessel, and of the master thereof, the port to which the vessel shall be allowed to go, which shall be some port not under actual blockade; and that no license so to be granted shall continue in force for longer than two months from its date, nor for more than one voyage; nor any such license be granted, or acknowledged to be valid if granted, to permit the clearance of any vessel to any port which shall be actually blockaded by any naval force of His Majesty or of his allies.

And it is further ordered, that the commanders of His Majesty's ships of war and privateers, and all others whom it may concern, shall suffer every such vessel sailing conformably to the permission given by this order, or having any license as aforesaid, to pass and repass direct between Gibraltar or Malta, and such port as shall be specified in the license, in such manner, and under such terms, regulations, and restrictions, as shall be expressed therein.

And it is further ordered, that, in case any vessel so sailing as aforesaid, for which any such licenses as aforesaid shall have been granted, and which shall be proceeding direct upon her said voyage, shall be detained and brought in for legal adjudication, such vessel, with her cargo, shall be forthwith released by the Court of Admiralty or Vice Admiralty in which proceeding shall be commenced, upon proof being made that the parties had duly conformed to the terms, regulations, and restrictions of the said license; the proof of such conformity to lie upon the person or persons claiming the benefit of this order, or obtaining or using such license, or claiming the benefit thereof.

And it is hereby further ordered, that no vessel belonging to any State on the coast of Barbary shall be prevented from sailing with any articles of the growth or produce of such State, from any

port or place in such State, to any port or place in the Mediterranean or Portugal, such port or place not being actually blockaded by some naval force belonging to His Majesty or his allies, without being obliged to touch at Gibraltar or Malta.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

Whereas His Majesty, by his Order in Council of the 11th of November instant, was pleased to order and declare that all trade in articles which are of the produce or manufacture of the countries and colonies mentioned in the said order, shall be deemed and considered to be unlawful, (except as is therein excepted;) His Majesty, by and with the advice of his Privy Council, is pleased to order and declare, and it is hereby ordered and declared, that nothing in the said order contained shall extend to subject to capture and confiscation any articles of the produce and manufacture of the said countries and colonies laden on board British ships, which would not have been subject to capture and confiscation if such order had not been made.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

His Majesty, taking into consideration the circumstances under which Prussia and Lubeck have been compelled to shut their ports against British ships and goods, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all ships and goods belonging to Prussia which may have been seized subsequently to His Majesty's order of the nineteenth of November, one thousand eight hundred and six, and are now detained in the ports of this Kingdom or elsewhere, and all ships and goods belonging to inhabitants of Lubeck, which are so detained, shall be restored upon being pronounced by the High Court of Admiralty, or any Court of Vice Admiralty in which they have been, or may be, proceeded against, to belong to subjects and inhabitants of Prussia or Lubeck, and not otherwise liable to confiscation; and that such ships and goods shall be permitted to proceed to any neutral port, or to the port to which they respectively belong: and it is further ordered, that the ships and goods belonging to Prussia or Lubeck shall not, until further orders, be liable to detention, provided such ships and goods shall be trading to and from any port of this Kingdom, or between neutral port and neutral port, or from any port of His Majesty's allies, and proceeding direct to the port specified in their respective clearances.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in Council.

His Majesty, taking into consideration the circumstances under which Portugal has been compelled to shut her ports against the ships and goods of His Majesty's subjects, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all ships and goods belonging to Portugal, which have been and are now detained in the ports of this Kingdom or elsewhere, shall be restored, upon being pronounced by the High Court of Admiralty, or by the Court of Vice Admiralty, in which proceedings may have been or shall be commenced, to belong to subjects and inhabitants of Portugal, and not otherwise liable to confiscation; and that the said ships and goods shall be permitted to proceed to any neutral port, or to Portugal: and it is further ordered, that the ships and goods belonging to Portugal shall not, until further orders, be liable to detention; provided such ships and goods shall be trading to or from any port of this Kingdom, or to and from Gibraltar or Malta, and proceeding direct to the port specified in their clearance, or between neutral port and neutral port, or between Portugal and the ports of her own colonies, or from any port of His Majesty's allies, and proceeding direct to the ports specified in their respective clearances; provided such ports shall not be at the time in a state of actual blockade: and it is further ordered, that the ships of Portugal shall not be considered as entitled, under any treaty between His Majesty and Portugal, to protect any goods laden therein which may be otherwise subject to confiscation.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

Circular.

FOREIGN OFFICE, *January* 8, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade at the entrances of the ports of Carthagena, Cadiz, and St. Lucar, and of all the intermediate ports, situated and lying between the ports of Carthagena and St. Lucar. Mr. Pinkney is, therefore, requested to apprize the American Consuls and merchants residing in England, that the entrances of all the ports above-mentioned are, and must be considered as being in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

GEORGE CANNING.

WILLIAM PINKNEY, Esq. &c.

Anno Quadragesimo Octavo Georgii III, Regis. Cap. XXVI.

An Act for granting to His Majesty, until the end of the next session of Parliament, duties of customs on the goods, wares, and merchandise therein enumerated, in furtherance of the provisions of certain Orders in Council.—March 28, 1808.

MOST GRACIOUS SOVEREIGN:

Whereas measures which have been taken by Powers at war with your Majesty, prohibiting, in violation of the law of nations, all intercourse with this Kingdom, and all trade in any articles of its growth or manufacture, have rendered it necessary for your Majesty to issue Orders in Council to counteract the disadvantages which were thereby imposed upon the trade of your Majesty's subjects, and to retaliate upon the enemy the evils which he intended to inflict upon this Kingdom; and whereas it is expedient and necessary, in order effectually to accomplish the object of such orders, that duties of customs should be granted upon certain goods exported from Great Britain: we, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, do most humbly beseech your Majesty that it may be enacted:

And be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, there shall be raised, levied, collected, and paid, unto His Majesty, his heirs, and successors, upon all goods, wares, and merchandise, enumerated, or described in the tables A, B, and C, annexed to this act, exported from Great Britain, the several duties of customs, as the same are respectively described and set forth in figures in the said tables.

And be it further enacted, That the duties granted and imposed by this act, and made payable according to the weight, tale, gauge, measure, or value of any goods, wares, or merchandise, charged with such duties, shall be charged and payable upon any greater or less weight, number, quantity, or value thereof than the weight, number, quantity, or value, particularly inserted, described, and set forth in the tables hereunto annexed, marked A, B, and C, in proportion to the actual weight, number, quantity, or value of such goods, wares, or merchandise.

And be it further enacted, That where any goods, wares, and merchandise, which are allowed to be, or shall have been, warehoused or otherwise secured at the time of the importation thereof, without payment of the duties due thereon, shall be taken out, or entered inwards for home consumption, and the duties of customs and excise then due thereon shall have been paid, and the same shall afterwards be entered for exportation; then, and in every such case, the duties of customs by this act imposed shall be paid on the exportation of the said goods, wares, and merchandise, notwithstanding the payment of any drawbacks to which the exporter thereof may, in such case, under any law or laws then in force, be entitled.

And whereas, by an Order in Council, dated the twenty-fifth of November, one thousand eight hundred and seven, it was ordered and declared that information of a certain other Order in Council, of the eleventh of November, one thousand eight hundred and seven, should be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, namely: ports and places within the Baltic, on the twenty-first of December, one thousand eight hundred and seven; other ports and places to the northward of Amsterdam, on the eleventh of December, one thousand eight hundred and seven; from Amsterdam to Ushant, on the fourth of December, one thousand eight hundred and seven; from Ushant to Cape Finisterre, on the eighth of December, one thousand eight hundred and seven; from Cape Finisterre to Gibraltar, inclusive, on the thirtieth of December, one thousand eight hundred and seven; Madeira, the thirteenth of December, one thousand eight hundred and seven; ports and places within the Straits of Gibraltar to Sicily and Malta, and the west coasts of Italy, inclusive, on the 1st of January, one thousand eight hundred and eight; all other ports and places in the Mediterranean beyond Sicily and Malta, on the twentieth of January, one thousand eight hundred and eight; ports and places beyond the Dardanelles, on the first of February, one thousand eight hundred and eight; any part of the north and western coast of Africa, or the islands adjacent, except Madeira, on the eleventh of January, one thousand eight hundred and eight; the United States and British possessions in North America and the West Indies, on the twentieth of January, one thousand eight hundred and eight; Cape of Good Hope and the east coast of South America, on the first of March, one thousand eight hundred and eight; India, on the first of May, one thousand eight hundred and eight; China and the coast of South America, on the first of June, one thousand eight hundred and eight: *Be it therefore enacted*, That nothing in this act contained shall extend to prevent any vessel which shall have sailed from any such port or place before the period above specified as aforesaid, and which shall have been brought into or shall have come into any port in Great Britain under any warning given in pursuance of any of the said Orders in Council, from proceeding on her voyage to any port or place whatever, without entering or landing any part of her cargo in Great Britain, (except cotton wool, or yarn, or Jesuit's bark,) and without the payment of any duty granted by this act upon any part of the cargo (except cotton wool, or yarn, or Jesuit's bark;) *Provided, always*, That, if the port or place to which such vessel shall proceed shall belong to a country in amity with His Majesty, and from which the British flag is not excluded, such vessel shall, in that case, be permitted to proceed, without being compelled to land any part of her cargo, or to pay any duty imposed by this act, in respect of the same.

Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act any goods, wares, or merchandise (except cotton wool, or yarn, and Jesuit's bark) imported into Great Britain in any vessel, under any license bearing date before the 11th day of November last, or in any vessel which shall have been cleared out from the port or place from which such goods, wares, or merchandise, were imported before the period in this act specified, as to such port or place, as the period at which the said Orders in Council shall be taken and held to have been received, in any cases in which the said goods, wares, or merchandise, shall, upon their importation, have been or shall be warehoused for exportation only.

Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act any goods, wares, or merchandise, on the exportation from Great Britain, (except cotton wool, or yarn, or Jesuit's bark,) which shall have been, or shall be, imported into Great Britain prior to the first day of June, one thousand eight hundred and eight, from any free port in any of His Majesty's plantations in the West Indies, or any other port or place, under any license from the Governor of any of His Majesty's plantations duly authorized for that purpose, bearing date prior to the twenty-first day of January last, in case such goods, wares, or merchandise, shall, on their importation into Great Britain, have been or shall be warehoused for exportation only.

Provided, also, and be it further enacted, That no goods, wares, or merchandise, described in the said tables A and B, of the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain by license, in return for goods exported to the said island, bearing date prior to the fifth of February, one thousand eight hundred and eight, and which shall have been or shall be warehoused for exportation, shall be liable, on the exportation thereof, to any of the duties of customs granted by this act; and all such goods, wares, and merchandise, the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain under any license bearing date subsequently to the said fifth day of February, shall, upon the exportation thereof, from Great Britain, be chargeable with and subject and liable to one-half part only of the duties of customs granted by this act upon goods, wares, and merchandise of the like description, upon their exportation from Great Britain.

And be it further enacted, That all goods, wares, and merchandise, which have been or may be condemned as prize, shall, on the exportation thereof from Great Britain, be charged with and subject and liable to the duties by this act imposed on the exportation of the like goods, wares, or merchandise respectively, any law, custom, or usage to the contrary, notwithstanding: *Provided, always*, That nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares, or merchandise (except cotton wool, or yarn, or Jesuit's bark) which shall have been or shall be brought into any port in Great Britain for adjudication before the passing of this act, whether the same shall have been or shall be subsequently restored or condemned as prize.

And be it further enacted, That the duties of customs described and set forth in figures in the said tables hereunto annexed, marked A, B, and C, on the several goods, wares, and merchandise, specified therein, shall be paid to the proper officer authorized to receive the duties of customs on goods, wares, and merchandise imported into Great Britain, and may and shall respectively be managed, ascertained, raised, levied, collected, answered, paid, and recovered, except where any alteration is expressly made by this act, in such and the like manner, and by the same means, ways, or methods, as former duties of customs upon goods, wares, or merchandise, in general, and also by any such special means, ways, or methods, respectively, as former duties of customs upon goods, wares, or merchandise, of the same sorts or kinds, were or might be managed, ascertained, raised, levied, collected, answered, paid, and recovered,; and the goods, wares, or merchandise, whereon duties of customs are by this act charged, as the same are respectively inserted, described, and set forth in the said tables, upon exportation thereof from Great Britain, shall be and the same are hereby made subject and liable to all and every the conditions, regulations, securities, rules, restrictions, seizures, and forfeitures, to which goods, wares, or merchandise, in general, and also all and every the special conditions, rules, regulations, restrictions, seizures, sales, and forfeitures, respectively, to which the like goods, wares, or merchandise were subject and liable by any act or acts of Parliament in force on and immediately before the passing of this act, respecting the revenue of customs, except where any alteration is expressly made by

this act; and all pains, penalties, fines, and forfeitures, of whatever nature or kind the same may be, as well pains of death as others, for any offence whatever committed against or in breach of any act or acts of Parliament in force on or immediately before the passing of this act, made for securing the revenue of customs, or for the regulation or improvement thereof, and the several clauses, powers, provisoes, and directions contained in any such act or acts, shall (unless where expressly altered by this act) extend to, and be respectively applied, practised, and put in execution, in respect of the several duties of customs hereby charged, in as full and ample a manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisoes, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act, and made part thereof.

And be it further enacted, That in all cases where, by the said tables, the duties of custom by this act imposed upon the exportation of goods, wares, and merchandise, from Great Britain, are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be considered as the same shall be at the port of exportation, without any deduction or abatement whatever; and such value shall be ascertained by the declaration of the exporter or proprietor of such goods, wares, or merchandise, or his known agent, in the manner and form, and under all the rules, regulations, and restrictions, and subject to the same forfeitures and penalties, as are prescribed and directed for ascertaining and collecting the duties to be paid upon goods, wares, and merchandise, according to the value thereof, by an act passed in the twenty-seventh year of the reign of his present Majesty, entitled, "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the public revenue, for permitting the importation of certain goods, wares, and merchandise, the produce or manufacture of the European dominions of the French King, into this Kingdom, and for applying certain unclaimed moneys remaining in the exchequer for the payment of annuities on lives to the reduction of the national debt;" and in case any goods, wares, or merchandise, chargeable with any such duty by this act, according to value, shall not be valued according to the true price or value thereof, and according to the true intent and meaning of this act, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained; and the said goods, wares, and merchandise, shall be dealt with, and the proper officers of the customs shall proceed, with relation to the said goods, wares, and merchandise, so detained, in every respect in the manner prescribed in such case by the said recited act.

And be it further enacted, That in case any goods, wares, or merchandise, upon which duties of custom are hereby imposed, shall be detained by any officer of the customs, on account of the same not being valued according to the true and real value thereof, and according to the true intent and meaning of this act, it shall be lawful for the Commissioners of His Majesty's customs in England and Scotland, respectively, for the time being, or any three or more of them, respectively, upon proof being made to their satisfaction that no fraud was intended, to direct the entry to be amended, upon such terms and conditions as, under the circumstances of the case, shall appear to the said commissioners of the customs in England and Scotland, respectively, to be reasonable, and as they shall think fit to direct: *Provided always*, That, if the importer, exporter, or proprietor of such goods, wares, or merchandise, shall accept the terms or conditions prescribed by the said commissioners of customs, respectively, such importer, exporter, or proprietor shall not have or be entitled to any recompense or damage on account of the detention of such goods, wares, or merchandise, or have or maintain any action whatever for the same; any law, custom, or usage to the contrary, notwithstanding.

And be it further enacted, That such of the duties of customs, by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the commissioners of the customs in England for the time being; and such thereof as shall arise in that part of Great Britain called Scotland, shall be under the management of the commissioners of the customs in Scotland for the time being.

And be it further enacted, That in case the whole or any part of the cargo of any vessel, which shall arrive in any port of Great Britain, shall consist of any goods, wares, or merchandise whatever, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, such vessel shall forthwith proceed to the port of London, where all such goods, wares, and merchandise shall be landed, lodged, and secured, under His Majesty's lock, in some of the warehouses belonging to the said United Company, at the expense of the proprietors of such goods, wares, and merchandise, and be there examined, and an account taken thereof by the proper officers of the customs and of the excise, in cases where that revenue is concerned, and such goods, wares, and merchandise shall remain so secured until the exportation thereof; and, before any such goods, wares, and merchandise shall be taken out of such warehouse for the purpose of exportation, the several duties of customs, as the same are described and set forth in figures in the table hereunto annexed, marked C, shall be first paid to the proper officer of the customs; and in those cases in the said table, marked C, where the duties to be paid on the exportation of any such goods, wares, and merchandise, shall not be charged according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the proprietor, or his known agent, in the manner and form, and under the rules, regulations, and restrictions,

and subject to the same forfeitures and penalties as are prescribed and imposed for ascertaining and collecting duties to be paid according to the value thereof, by the said recited act passed in the twenty-seventh year of his present Majesty; and, in case any such goods, wares, or merchandise shall not be valued according to the true and real value thereof, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained, and the said goods, wares, and merchandise, shall be dealt with, and the proper officers of the customs shall proceed, in the manner prescribed in such case by the said recited act: *Provided, always*, That such goods, wares, or merchandise, so detained (cotton wool excepted) shall be sold only for the purpose of being exported from Great Britain, any law, custom, or usage, to the contrary notwithstanding: *Provided, also*, That, in case any part of the cargo of any such ship or vessel, so consisting in part of East Indian goods, wares, or merchandise, as aforesaid, shall consist of goods, wares, or merchandise, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, such last-mentioned goods, wares, and merchandise, shall be duly entered, either to be secured or lodged in warehouses, according to the rules, regulations, and restrictions, of an act passed in the forty-third year of his present Majesty, entitled "An act for permitting certain goods imported into Great Britain to be secured in warehouse without payment of duty;" and of a certain other act, passed in the forty-fifth year of his present Majesty, entitled "An act to authorize the Lords Commissioners of the Treasury to permit certain articles to be warehoused in different ports in Great Britain, upon giving security for the payment of duties upon the articles therein mentioned;" and of a certain other act, passed in the forty-sixth year of his said Majesty, entitled "An act to extend the provisions of an act made in the forty-third year of his present Majesty, for permitting certain articles to be warehoused in Great Britain, to other articles not therein mentioned, and to alter the condition of the bond directed to be given by an act of the twenty-fourth year of his present Majesty, by the masters and owners of vessels and boats licensed by the Lords of the Admiralty, provided such goods, wares, and merchandise, by law, may be lodged or secured; otherwise, the full duties of customs and of excise, (in cases where any such duties are payable on such goods, wares, and merchandise,) due thereon, shall be paid to the proper officers of the customs and excise; and all such goods, wares, and merchandise, so brought into the port of London, shall, on the exportation thereof, be charged with the duties due and payable by this act on any such goods, wares, and merchandise, respectively, as the same are described and set forth in the tables hereunto annexed, marked A and B, as the case may be."

Provided, always, and be it further enacted, That, if it shall appear to the satisfaction of the collector and comptroller of the customs of any port in Great Britain, by the report of any vessel which shall arrive at such port with any cargo, part whereof shall consist of goods, wares, or merchandise, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, that such goods, wares, and merchandise, do not exceed in value one-fourth part of the whole value of the cargo of such vessel, then, and in such case, it shall be lawful for the owner, consignee, or captain of such vessel, after giving such security as shall be directed by the commissioners of the customs in England and Scotland, respectively, or any three of them, for the due conveyance of such goods, wares, and merchandise, as aforesaid to the port of London, there to be warehoused as aforesaid, and not before, to land the cargo of such vessel at the port of her arrival, except such goods, wares, and merchandise, as aforesaid, and either to cause such goods, wares, and merchandise, to be conveyed in the same ship to the port of London, or to cause the same to be transhipped, in order to be conveyed to the said port, upon the said security, and under such regulations and restrictions for securing the conveying the same to the said port, as shall be directed by the commissioners of the customs in England and Scotland respectively.

Provided always, and be it further enacted, That the proprietor or proprietors of any goods, wares, or merchandise, brought into Great Britain, may, if he or they shall be so disposed, instead of paying the full duties of customs and excise due and payable thereon, secure or lodge in warehouses, approved by the commissioners of the customs of England or Scotland, respectively, without payment of duty in the first instance, any goods, wares, and merchandise, which, by virtue of any law in force at the time of passing this act, are allowed to be so secured and warehoused, under the conditions and regulations of the said recited acts passed in the forty-third, forty-fifth, and forty-sixth years of his present Majesty, respectively; and all such goods, wares, and merchandise, so warehoused, on which the full duties of customs and excise shall have been paid, shall, on the exportation thereof, be subject and liable to, and be charged with the duties of customs imposed by this act, as inserted and set forth in the tables hereunto annexed, as the case may be.

Provided always, and be it further enacted, That it shall be lawful for the commissioners of customs, or any three or more of them, upon the request of the owner, proprietor, or consignee of any goods, wares, or merchandise warehoused, to destroy the same, in such a manner as they shall respectively direct, without payment of duty, and upon payment only of any charges and expenses thereon.

And be it further enacted, That the importers, proprietors, or consignees of any goods, wares, or merchandises, which shall have been lodged in warehouses, or otherwise secured, according to the directions of the said recited act passed in the forty-third year of his present Majesty, or any other act of Parliament, by virtue and under the

authority of which any such goods, wares, or merchandise, shall have been so lodged or secured, shall, within fifteen calendar months, to be computed from the day on which such importers, proprietors, or consignees of such goods, wares, or merchandise, shall have made their first entry thereof, clear and take from and out of such warehouses or places, respectively, all such goods, wares, and merchandise, either for the purpose of being exported according to the directions of this act, on payment of the duties hereby imposed, or to be used or consumed in Great Britain: *Provided always*, That such goods, wares, and merchandise, may legally be taken out for that purpose, on payment of the full duties of customs and excise that are or may be due or payable thereon at the time the same are so taken out; and in case any such importers, proprietors, or consignees, shall fail or neglect so to do, it shall be lawful for the commissioners of the customs in England or Scotland, respectively, to cause all such goods, wares, or merchandise, to be publicly sold or exposed to sale; and, after such sale, the produce thereof shall first be applied to or towards the payment of the freight, primage, and charges of warehouse room, and other charges that shall arise thereon, next to the duties of customs and excise, and the overplus (if any) shall be paid the proprietor or other persons authorized to receive the same: *Provided always*, That in case any goods, wares, or merchandise, so remaining and directed to be sold, shall be of the growth produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, or any goods, wares, and merchandise, which shall be prohibited to be used or consumed in Great Britain, then, and in such case, all such goods, wares, or merchandise, shall be sold only for the purpose of being exported, and not on any pretence whatever to be used or consumed in Great Britain: *Provided*, That no such goods, wares, or merchandise, shall be sold, unless a price can be obtained for the same equal, at least, to the full amount of all duties of customs and excise, charged and chargeable thereon, together with the expenses; but if such price cannot be obtained, then, and in such case, all such goods, wares, or merchandise, shall be effectually destroyed by and in the presence of the proper officers of the customs, and also the officers of the excise, in case any duties of excise are payable thereon, who are hereby respectively authorized and required to destroy the same accordingly; and the proprietor or owner of such goods, wares, and merchandise, shall have no claim, either in law or equity, to the value of such goods, wares, or merchandise, or any part thereof, so destroyed as aforesaid, any law, custom, or usage, to the contrary, notwithstanding: *Provided always*, That all such goods, wares, and merchandise, may be re-exported to the country from which they were brought, or to the country from which the vessel in which such goods, wares, or merchandise, were imported shall belong, or shall have belonged, without payment only of such warehouse or port duties as shall have become due thereon: *Provided*, That the British flag shall not, at the time of such re-exportation, be excluded from such country respectively.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties imposed by this act on any goods, wares, or merchandise whatever, that shall be exported from Great Britain to that part of the United Kingdom called Ireland, or any goods, wares, or merchandise, the growth, produce, or manufacture of Ireland, having been imported from thence directly to Great Britain, on the exportation thereof to any country whatever.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties by this act imposed on the exportation of any flour, or meal, or articles not being either in the whole or in any part manufactured, being of the growth or produce of any State in Europe or America in amity with His Majesty, and imported in any ship belonging to such State, or in any British ship navigated according to law directly from any such State, except coffee, sugar, pimento, cocoa-nuts, hides, tallow, oil, and cotton wool, or yarn, or Jesuit's bark.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act any goods, wares, or merchandise, of the growth, produce, or manufacture of any British colony, plantation, or settlement in Africa or America, which shall have been imported directly from such colony, plantation, or settlement, respectively, and exported to any port or place whatever.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act any goods, wares, or merchandise, that shall have been imported by the United Company of Merchants of England trading to the East Indies, or by any subjects of His Majesty trading within the limits of the charter of the said company, with their license, upon the exportation of such goods, wares, or merchandise, from Great Britain to any port or places whatever.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duty by this act imposed on any wine, spirits, or tobacco, which shall be shipped for the use of His Majesty's army or navy; but such wine, spirits, or tobacco, shall be subject and liable to all and every the rules, regulations, and conditions, limitations, securities, penalties, and forfeitures, to which such articles so shipped would have been subject and liable if this act had not been made.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties by this act imposed any goods, wares, or merchandise, exported from Great Britain to the Isle of

Man, by virtue and under the authority of any license which the Commissioners of His Majesty's Customs in England or Scotland, or any three or more of them, respectively, are, or may be, by law, authorized and empowered to grant.

Provided always, and be it further enacted, That the duties by this act imposed on goods, wares, and merchandise, exported from Great Britain, shall not be charged, or payable on any goods, wares, or merchandise, not manufactured, either in the whole or in part, nor upon any wine, or any article of provision, (spirits excepted,) exported to any British colony, plantation, or settlement, in Africa or America, or to any British settlement within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, anything in this act to the contrary notwithstanding.

And be it further enacted, That no ship or vessel of the United States of America which shall enter any port in Great Britain or Ireland, in consequence of her having been warned not to proceed to a blockaded port under His Majesty's Order in Council of the eleventh of November, one thousand eight hundred and seven, shall be liable to be charged with the duty of two shillings a ton of the burden of any ship or vessel belonging to the inhabitants of the said United States, imposed by an act of the thirty-seventh year of His Majesty's reign which has been continued and revived by several subsequent acts.

Provided always, and be it further enacted, That nothing herein contained shall extend to affect or take away any of the rights or privileges of the West India Dock Company, of the London Dock Company, or of the East India Dock Company.

And be it further enacted, That the duties granted and imposed by this act shall continue in force until the end of the next session of Parliament, unless His Majesty, by his Order in Council, shall think fit to suspend or reduce the same, or any part thereof.

Provided always, and be it further enacted, That it shall be lawful for His Majesty, at any time, by Order in Council, to suspend the operation of this act as to any duties, or proportion, or part of any duties, granted by this act, in respect of any country for the time being in amity with His Majesty, and to allow the exportation to any such country, so in amity with His Majesty as aforesaid, of any goods, wares, and merchandise, made subject by this act to any duties on exportation, without the payment of such duties, upon such terms and conditions, and subject to such restrictions, as to His Majesty may seem fit.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to prevent His Majesty from prohibiting the exportation of any articles, matters, or things, to any country or place from which the British flag is excluded, in any case in which it would have been lawful for His Majesty to prohibit such exportation if this act had not passed.

Provided always, and be it further enacted, That the duties imposed by an act, passed in the forty-third year of his present Majesty's reign, entitled An act for granting to His Majesty, during the present war, and until the ratification of a definitive treaty of peace, additional duties on the importation and exportation of certain goods, wares and merchandise, and on the tonnage of ships and vessels in Great Britain; on certain goods, wares, and merchandise therein enumerated and described, and which, by another act passed in the forty-third year of his present Majesty's reign, entitled An act for permitting certain goods imported into Great Britain to be secured in warehouse without payment of duty, were directed to be paid on all such goods, wares, and merchandise, sugar excepted, which should be exported from the warehouses or places in which such goods, wares, and merchandise had been lodged or secured, under the directions of the said last recited act, shall not be due or payable on any such goods, wares, and merchandise so exported, on which other duties are charged, according to the table marked A, hereunto annexed; but that the duties on any such goods, wares, and merchandise, as set forth in the said table, shall, during the continuance of such duties, be instead and in lieu of the duties charged and imposed thereon by the said two last recited acts passed in the forty-third year of his present Majesty's reign.

And be it further enacted, That all the moneys arising from the duties of custom by this act imposed, the necessary charge of raising and accounting for the same excepted, shall, from time to time, be paid into the receipt of His Majesty's Exchequer at Westminster, distinctly and apart from all other branches of the public revenue; and that there shall be provided and kept in the office of the auditor of the said receipt of exchequer a book, or books, in which all the moneys arising from the said duties, and paid into the said receipt, as aforesaid, shall be entered separate and apart from all other moneys paid and payable to His Majesty, his heirs and successors, upon any account whatever; and the said moneys paid in as aforesaid, into the receipt of His Majesty's exchequer, shall from time to time, as the same shall be paid into the said receipt, be issued and applied to such services as shall then have been voted by the Commons of the United Kingdom of Great Britain and Ireland in this present session of Parliament, for the service of the year one thousand eight hundred and eight, or shall be voted by the said Commons for the service of any subsequent year.

And be it further enacted, That if any action or suit shall be brought or commenced against any person or persons for anything done in pursuance of this act, or of any order in council referred to in this act, such action or suit shall be commenced within three calendar months next after the fact committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and

give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant or defendants in any such action or suit, or if the plaintiffs shall be nonsuited, or discontinue his or their action or suit after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same, as any defendant has in other cases to recover costs by law.

And be it further enacted, That this act may be varied, altered, or repealed, by any act or acts to be made in this present session of Parliament.

Tables to which this act refers.

A.

A table of duties of customs, payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, not being imported by the United Company of Merchants of England trading to the East Indies, (which, on importation, are allowed to be secured under the regulations of 43 Geo. III, cap. 132; 45 Geo. III, cap. 87; and 46 Geo. III, cap. 137, without payment of the duties due thereon,) and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty. £	s.	d.
Arabic, gum.—See Gum.			
Barilla, the cwt.	0	10	0
Bark, viz: Jesuit's bark, or Cortex Peruvianus, the pound	0	6	0
Bowsprits.—See Masts, in Wood.			
Brandy.—See Spirits.			
Buffalo hides.—See Hides.			
Bull hides.—See Hides.			
Cochineal, the pound	0	7	0
Cocoa nuts, the cwt.	1	0	0
Coffee, the cwt.	1	8	0
Cortex Peruvianus.—See Bark.			
Cotton wool.—See Wool.			
Cotton yarn.—See Yarn.			
Cow hides.—See Hides.			
Currants, the cwt.	0	9	0
Denia raisins.—See Raisins.			
Faro raisins.—See Raisins.			
Figs, the cwt.	0	7	0
Fir timber.—See Timber, in Wood.			
Geneva.—See Spirits.			
Ginger, the cwt.	0	7	0
Gum, viz:			
Arabic, the cwt.	0	10	0
Senega, the cwt.	0	10	0
Hemp, rough, or undressed, the cwt.	0	15	0
Hides, viz: Buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide	0	3	0
Jalap, the pound	0	6	0
Jesuit's bark.—See Bark.			
Indigo, the pound	0	2	0
Iron, in bars, the ton, containing 20 cwt.	3	0	0
Kelp, the ton, containing 20 cwt.	4	0	0
Lexia raisins.—See Raisins.			
Lipari raisins.—See Raisins.			
Mahogany.—See Wood.			
Manna, the pound	0	0	6

Articles.	Duty. £	s.	d.
Masts.—See Wood.			
Molasses, the cwt.	0	5	0
Oak timber.—See Timber, in Wood.			
Oars.—See Wood.			
Oil, viz:			
Ordinary oil of olives, the ton, containing 252 gallons	10	10	0
Salad oil, the gallon	0	1	0
Ox hides.—See Hides.			
Pimento, the pound	0	0	2
Pitch, the last, containing 12 barrels, each barrel not exceeding 31½ gallons	0	4	4
Prize goods, viz: Goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table, for every £100 of the value thereof	20	0	0
Prohibited goods, viz: Goods, wares, or merchandise, not being of the growth, produce, or manufacture, of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, for every £100 of the value thereof	20	0	0
Quicksilver, the pound	0	1	0
Raisins, viz:			
Belvidere raisins, the cwt.	0	4	6
Denia raisins, the cwt.	0	4	0
Faro raisins, the cwt.	0	4	6
Lexia raisins, the cwt.	0	4	6
Lipari raisins, the cwt.	0	4	6
Smyrna raisins, the cwt.	0	5	0
Of the sun, the cwt.	0	9	4
Not otherwise enumerated or described, the cwt.	0	4	0
Raw silk.—See Silk.			
Rhubarb, the pound	0	2	0
Rice, the cwt.	0	2	0
Rosin, the cwt.	0	0	9
Rum.—See Spirits.			
Saffron, the pound	0	3	0
Salad oil.—See Oil.			
Senna, the pound	0	0	6
Silk, viz:			
Raw silk, the pound	0	2	6
Thrown silk, the pound	0	4	0
Waste silk, the pound	0	0	6
Smalts, the pound	0	0	8
Smyrna raisins.—See Raisins.			
Spirits, viz:			
Brandy, single, the gallon	0	0	8
Above proof, the gallon	0	1	4
Geneva, single, the gallon	0	0	8
Above proof, the gallon	0	1	4
Rum, single, the gallon	0	0	8
Above proof, the gallon	0	1	4
Of any other kind, single, the gallon	0	0	8
Above proof, the gallon	0	1	4
Sugar, viz:			
Brown or Muscovado, the cwt.	0	10	0
White or clayed, the cwt.	0	14	0
Tallow, the cwt.	0	7	0
Tar, the last, containing 12 barrels; each barrel not exceeding 31½ gallons	0	4	4

Articles.	Duty. £	s.	d.
Timber.—See Wood.			
Tobacco, the pound	0	0	1½
Turpentine, common, the cwt.	0	3	6
Waste silk.—See Silk.			
Wine, of all sorts, the ton, containing 252 gallons	6	0	0
Wood, viz:			
Mahogany, the ton, containing 20 cwt.	1	0	0
Masts, yards, and bowsprits, viz: Six inches in diameter, and under eight inches the piece	0	5	0
Eight inches in diameter, and under twelve inches the piece	0	10	0
Twelve inches in diameter, or upwards, the load, containing fifty cubic feet	1	7	0
Oars, the 120	2	0	0
Timber of all sorts, the load, containing fifty cubic feet	1	7	0
Wool, viz: Cotton wool of all sorts, the pound	0	0	9
Yards.—See Masts, in Wood.			
Yarn, viz: Cotton yarn, the pound	0	2	0
All other goods, wares, and merchandise, having been, or which are allowed to be, secured under the regulations of the 43 Geo. III, cap. 132; 45 Geo. III, cap. 87; and 46 Geo. III, cap. 137, for every £100 of the produce or amount of the duties of customs, chargeable on the importation thereof, by 43 Geo. III, cap. 68	40	0	0

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

B.

A table of duties of customs payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, (not being allowed to be secured under the regulations of the 43 Geo. III, cap. 132; 45 Geo. III, cap. 87; and 46 Geo. III, cap. 137, without payment of the duties due thereon,) not having been imported by the United Company of Merchants of England trading to the East Indies, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty. £	s.	d.
Anchors, for every £100 of the value	40	0	0
Annatto, the cwt.	2	8	4
Argol, the cwt.	0	5	0
Ashes, viz: pot and pearl ashes the cwt.	0	10	0
Bark, viz: oak bark, the cwt.	0	2	6
Barley.—See Corn.			
Beans.—See Corn.			
Beef, salted, the cwt.	0	15	0
Beer or bigg.—See Corn.			
Bread or biscuit, the cwt.	0	4	0
Butter, the cwt.	1	0	0
Cables, the cwt.	0	18	0
Cassia lignea, the pound	0	6	0
Cheese, the cwt.	0	15	0
Cochineal dust, the pound	0	3	6
Copper, viz: copper in bricks, rose copper cast copper, and copper in plates, the cwt.	2	0	0

Articles.	Duty. £	s.	d.
Cordage, the cwt.	0	18	0
Corn, viz:			
wheat, the quarter	0	10	0
rye, the quarter	0	5	0
pease, the quarter	0	5	0
beans, the quarter	0	5	0
barley, the quarter	0	5	0
beer or bigg, the quarter	0	5	0
oats, the quarter	0	5	0
wheatmeal and flour, the cwt.	0	5	0
Indian corn, or maize, the quarter	0	5	0
oatmeal, the boll containing 140 pounds avoirdupois or 128 pounds Scotch troy	0	5	0
Fish, viz:			
stock fish, the 120	0	2	6
not otherwise enumerated or described the cwt.	0	4	0
Flax, rough or undressed, the cwt.	0	15	0
Flaxseed or linseed.—See Seed.			
Galls, the cwt.	1	0	0
Granilla, the pound	0	5	0
Indian corn, or maize.—See Corn.			
Iron, viz: pig iron, the ton, containing 20 cwt.	1	10	0
Isinglass, the cwt	5	0	0
Lemons, the 1000	1	0	0
Linseed.—See Seed.			
Madder, viz:			
mull, the cwt.	0	1	3
root, the cwt.	0	12	0
of any other sort, the cwt.	0	10	0
Oak bark.—See Bark.			
Oakum, the cwt.	0	4	0
Oatmeal.—See Corn.			
Oats.—See Corn.			
Oils, viz: seed oil of all sorts, the ton, containing 252 gallons	10	10	0
Oranges, the 1000	1	0	0
Peas.—See Corn.			
Pig iron.—See Iron.			
Pork, the cwt.	0	17	6
Prize goods, viz: goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table—for every £100 of the value thereof	20	0	0
Rye.—See Corn.			
Safflower, the cwt.	1	0	0
Salt, the bushel, containing 56 pounds	0	2	0
Saltpetre, the cwt.	1	8	0
Seed, viz: linseed or flaxseed, the bushel	0	1	6
Seed oil.—See Oil.			
Spanish wool.—See Wool.			
Tow, the cwt.	0	5	0
Valonia, the cwt.	0	5	0
Verdigris, viz:			
common, the pound	0	0	6
crystallized, the pound	0	1	0
Wheat.—See Corn.			
Wheatmeal and flour.—See Corn.			
Wool, viz: Spanish wool, the cwt.	5	0	0
Yarn, viz: raw linen yarn made of flax, the cwt.	0	10	0

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

C.

A table of duties of customs payable on the exportation of goods, wares, and merchandise, being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not having been imported by the said Company, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty. £	s.	d.
Annatto, the cwt.	4	0	0
Arabic gum.—See Gum.			
Arrack.—See Spirits.			
Bandanna handkerchiefs.—See Handkerchiefs.			
Barilla, the cwt.	0	8	0
Bark, viz: Jesuit's bark, or Cortex Peruvianus, the pound	0	6	0
Brandy.—See Spirits.			
Buffalo, hides.—See Hides.			
Bull hides.—See Hides.			
Calicoes, viz:			
white, whether plain, flowered, or stitched, for every £100 of the value	25	0	0
printed, painted, stained, or dyed, for every £100 of the value	25	0	0
Cassia lignea, the pound	0	6	0
China ware, or earthen ware, for every £100 of the value	25	0	0
Cinnamon, the pound	0	6	0
Cloves, the pound	0	3	0
Cochineal, the pound	0	7	0
Cochineal dust, the pound	0	3	6
Cocoanuts, the cwt.	1	0	0
Coffee, the cwt.	1	8	0
Copper, viz: copper in bricks, rose copper, cast copper, and copper in plates, the cwt.	2	0	0
Cortex Peruvianus.—See Jesuit's bark.			
Cotton manufactures, not otherwise enumerated or described, for every £100 of the value	25	0	0
Cotton wool.—See Wool.			
Cotton Yarn.—See Yarn.			
Cow hides.—See Hides.			
Dimity, viz: plain white Dimity, for every £100 of the value	25	0	0
Earthenware.—See China ware.			
Flax, rough or undressed, the cwt.	0	10	0
Galls, the cwt.	1	5	0
Ginger, the cwt.	0	7	0
Granilla, the pound	0	5	0
Gum, viz:			
Arabic, the cwt.	0	10	0
Senega, the cwt.	0	10	0
Handkerchiefs of silk, printed, painted, stained, or dyed, each	0	1	6
Hemp, rough or undressed, or any other vegetable substance of the nature and quality of undressed hemp, and applicable to the same purpose, the cwt.	0	15	0
Hides, viz: buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide	0	3	0

Articles.	Duty.		
Jesuit's bark.—See Bark.			
Indigo, the pound	0	2	0
Mace, the pound	0	8	0
Madder root, the cwt.	0	15	0
Manna, the pound	0	0	6
Molasses, the cwt.	0	5	0
Muslins, plain, for every £100 of the value	25	0	0
Nankeen cloths, for every £100 of the value	25	0	0
Nutmegs, the pound	0	5	0
Oil, viz:			
of cinnamon, the ounce	0	2	0
of cloves, the ounce	0	2	0
of mace, the ounce	0	5	0
of nutmegs, the ounce	0	4	0
Ox hides.—See Hides.			
Pepper, the pound	0	0	3
Prize goods, viz: goods, wares, or merchandise, taken and condemned as prize, being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, and not particularly enumerated or charged with duty in this table, for every £100 of the value thereof	20	0	0
Quicksilver, the pound	0	1	0
Raw silk.—See Silk.			
Rhubarb, the pound	0	2	0
Rice, the cwt.	0	2	0
Rum.—See Spirits.			
Safflower, the cwt.	1	7	0
Saffron, the pound	0	3	0
Saltpetre, the cwt.	1	8	0
Senna, the pound	0	0	6
Senega gum.—See Gum.			
Silk, viz:			
handkerchiefs.—See Handkerchiefs.			
raw silk, the pound	0	2	6
waste silk, the pound	0	0	6
Spirits, viz:			
arrack, single, the gallon	0	1	0
arrack, double, the gallon	0	2	0
brandy, single, the gallon	0	0	8
brandy, double the gallon	0	1	4
rum, single, the gallon	0	0	8
rum, double, the gallon	0	1	4
of any other kind, single, the gallon	0	1	4
Sugar, viz: brown or Muscovado, the cwt.	0	10	0
White or clayed the cwt.	0	14	0
Tea, viz: black, the pound	0	1	0
Green, the pound	0	2	0
Tobacco, the pound	0	0	1½
Waste silk.—See Silk.			
Wool, viz: cotton wool, the pound	0	0	9
Yarn, viz: cotton yarn, the pound	0	2	0
Goods, wares, or merchandise, not particularly enumerated or described in this table being prohibited to be worn, used, or consumed in Great Britain, for every £100 of the value	25	0	0
All goods, wares and merchandise, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not particularly enumerated or described in this table, and not having been imported by the said Company, for every £100 of the produce and amount of those duties of customs imposed by the 43d Geo. III, cap. 68, on such goods, wares or merchandise, respectively, when imported by the said company, which are due and payable when the same are taken out of the warehouse for the purpose of being used or consumed in Great Britain	40	0	0

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

GEORGE R—Instructions to the commanders of our ships of war and privateers. Given at Windsor, the 11th day of April, 1808, in the forty-eighth year of our reign.

Our will and pleasure is, that you do not interrupt any neutral vessel laden with lumber and provisions, and going to any of our colonies, islands, or settlements, in the West Indies or South America, to whomsoever the property may appear to belong, and notwithstanding such vessel may not have regular clearances and documents on board; and in case any vessel shall be met with, and being on her due course to the alleged port of destination, an endorsement shall be made on one or more of the principal papers of such vessels, specifying the destination alleged, and the place where the vessel was so visited. And in case any vessel so laden shall arrive and deliver her cargo at any of our colonies, islands, or settlements aforesaid, such vessel shall be permitted to receive her freight, and to depart, either in ballast, or with any goods that may be legally exported in such vessel, and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place; and a passport for such vessel shall be granted to the vessel by the governor, or other person having the chief civil command of such colony, island, or settlement. G. R.

Anno Quadragesimo Octavo Georgii III. Regis, Cap. XXXIV.

An act to prohibit, until the end of the next session of Parliament, the exportation of cotton wool from Great Britain.—14th April, 1808.

Whereas it is expedient to prohibit, for a limited time, the exportation of cotton wool from Great Britain, except in the manner hereinafter mentioned: *Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual, and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, That, from and after the passing of this act, no person or persons whatever shall, directly or indirectly, export, carry, or convey, or cause or procure to be exported, carried, or conveyed out of or from any port or place in Great Britain, or shall load or lay on board, or cause or procure to be laden or laid on board, in any ship, or other vessel or boat, any cotton wool, in order to be carried, exported, or conveyed out of any such port or place, except to Ireland, and also except as hereinafter is provided.

2. *Provided always, and be it further enacted*, That it shall be lawful for His Majesty, by any license under his royal sign-manual, to authorize any person to export from Great Britain, for his or their own account, or for account of any subject or subjects of any State in amity with His Majesty, any cotton wool, under such regulations, restrictions, and securities, as may be specified in the said license.

3. *And be it further enacted*, That all cotton wool, which shall be so exported, carried, or conveyed in or laid on board any ship, or other vessel or boat, in order to be exported, carried, or conveyed out of Great Britain, contrary to this act, shall be forfeited; and that every offender therein shall forfeit also the sum of forty shillings for every pound weight of such cotton wool which shall be so exported, carried, or conveyed on board any ship, or vessel or boat, in order to be exported, carried, or conveyed out of Great Britain; and also the ship, vessel, or boat, wherein the same shall be exported, or in or upon which the same shall be laden or laid, in order to be exported, together with her guns, furniture, ammunition, tackle, and apparel, shall be forfeited; and the same respectively may be seized by any officer or officers of the customs.

4. *Provided always, and be it further enacted*, That nothing in this act contained shall extend to prevent any cotton wool being carried coastwise upon any certificate which shall be directed to be given by the commissioner of the customs in that behalf.

5. *And be it further enacted*, That all penalties and forfeitures created and incurred by this act shall and may be sued for, prosecuted, recovered, and disposed of, in such manner, and by such ways, means, and methods, as any penalties incurred on any goods, ships, or vessels, forfeited for any offence against the customs, may now be legally sued for, prosecuted, recovered, and disposed of; and the officer or officers concerned in seizures or prosecutions under this act, shall be entitled to and receive such share of the produce arising from the seizures as they are now by law entitled to, upon prosecution of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty, or composition paid for any offence against this act, as they are now by any law or regulation entitled to upon prosecution for pecuniary penalties.

6. *And be it further enacted*, That all personal actions and suits, indictments, informations, and all prosecutions and proceedings whatsoever, which have been, or shall hereafter be prosecuted or commenced against any person or persons, for having refused to receive any entry or entries for the exportation of any cotton wool, or to clear out any ship or vessel laden with cotton wool intended to be exported before the passing of this act, are and shall be discharged and made void

by virtue of this act; and that if any action or suit shall be prosecuted or commenced against any person or persons, for or by reason of any such act, matter, or thing, he, she, or they may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff or plaintiffs, in any action or suit so to be prosecuted or commenced, shall become nonsuit, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against such plaintiff or plaintiffs, the defendant or defendants shall recover his, her, or their double costs, for which he, she, or they shall have the like remedy as in cases where the costs by law are given to the defendant.

7. *And be it further enacted*, That this act may be altered, amended, or repealed by any act or acts to be made in this present session of Parliament.

8. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Parliament.

Anno Quadragesimo Octavo Georgii III. Regis, Cap. XXXVII.

An act for making valid certain Orders in Council, and warrants of the Commissioners of the Treasury, for the entry and warehousing of certain goods imported in neutral vessels, and for indemnifying all persons concerned therein; for the remitting of forfeitures in certain cases; and for enabling His Majesty to allow, during the continuance of hostilities, and until two months after the commencement of the next session of Parliament, the importation of goods from countries from which the British flag is excluded, in any vessels whatever. [April 14, 1808.]

Whereas several neutral vessels, bound to ports on the continent of Europe from which the British flag has been excluded, have arrived in the ports of the United Kingdom, having been warned or brought into such ports in consequence of His Majesty's Orders in Council for that purpose, and parts of the cargoes of such vessels have been admitted to entry for home consumption, or warehoused for exportation; and other parts of such cargoes, consisting of goods the growth, produce, or manufacture of countries within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not imported by the said company, have been warehoused for exportation only: And whereas, in consequence of the late events in Portugal, wine and other commodities have been brought from the dominions of the Crown of Portugal in vessels not owned and navigated according to law, and have been admitted to entry or warehoused in the same manner, and subject to the same duties only, as if the same had been imported in British built vessels, owned and navigated according to law: And whereas such goods have been so entered and warehoused, in obedience to Orders of Council and warrants of the commissioners of His Majesty's treasury, which it has been deemed expedient under the circumstances to issue for such purposes; which orders and warrants, and the proceedings thereupon, were not authorized by law; but it is expedient, under the circumstances, that the same should be authorized by act of Parliament; and it is also expedient that the importation of goods from countries from which the British flag is excluded shall be allowed for a limited time in any vessels:

1. *Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, That all such importations, admissions to entry, warehousing for home consumption or for exportation, and securing in warehouses goods of the produce or manufacture of places within the limits of the charter granted to the East India Company for exportation only; and also all importations and admissions to entry, and warehousing of goods and commodities from the dominions of the Crown of Portugal, which have been made as aforesaid, before the passing of this act, whether under Orders in Council or by warrants of the commissioners of the treasury, shall be deemed and taken to be good in law; and all persons concerned in advising, issuing, or carrying the same into execution shall be, and are, hereby indemnified accordingly; anything in any act of Parliament to the contrary notwithstanding; and no vessels, goods, or commodities, which have been admitted to entry, or imported, or warehoused, or secured, under any such order or warrant, shall be subject to any forfeiture, or the owner thereof be subject to any penalty by reason thereof.

2. *And be it further enacted*, That it shall be lawful for the importers, proprietors, or consignees of any goods or commodities that may have been, or which shall be, brought into any port of the United Kingdom, in any ship or vessel which shall have come in, in consequence of any warning under the said Orders in Council, or in any ship or vessel which shall have sailed from any port or place within the respective limits enumerated in His Majesty's Order in Council of the twenty-fifth day of November, one thousand eight hundred and seven, before the respective days specified in the said order, on or after which days the vessels sailing from such ports or places are to be deemed to have received notice of the aforesaid order of the eleventh day of November, one thousand eight hundred and seven, duly to enter and land any such goods or commodities, either for the purpose of securing the same in warehouses for exportation, or on payment of the full duties of customs and excise due thereon, as the case may warrant; and that no ship or vessel so arriving as aforesaid shall be liable to forfeiture, or the owners or proprietors thereof to any penalty, by reason of such ship or vessel not being built, owned, or navigated according to law, or not being in any other respect legally authorized to import into this Kingdom the goods or commodities of which the cargo shall consist; nor shall any goods or commodities, being part of the cargo of any such ship or vessel so brought in as aforesaid, be liable to forfeiture, or the owners thereof to any penalty, by reason of any such

goods or commodities being in packages not allowed by law, or for being in any other manner prohibited to be imported into this kingdom, any law, custom, or usage, to the contrary notwithstanding.

3. *And be it further enacted*, That it shall be lawful for His Majesty, by Order in Council, or license, and in Ireland for the Lord Lieutenant, or other Chief Governor, or Governors, and the Privy Council of Ireland, by Order in Council, or license, when and as often as the same shall be judged expedient, to permit, during the continuance of hostilities, and until two months after the commencement of the next session of Parliament, any such goods, wares, or merchandise, as shall be specified in such Order in Council, or license, to be imported into any port of Great Britain or Ireland, respectively, from any port or place from which the British flag is excluded, in any ship or vessel belonging to any country, whether in amity with His Majesty or not; any law in force in the United Kingdom, or in Great Britain, or Ireland, respectively, to the contrary in anywise notwithstanding.

4. *Provided always*, That nothing herein contained shall extend, or be construed to extend, to exempt from seizure any goods or commodities which shall be unshipped, or attempted to be unshipped, for the purpose of being illegally conveyed on shore, or before due entry shall have been made thereof.

5. *And be it further enacted*, That this act may be altered, amended, or repealed, by any act or acts to be passed in this session of Parliament.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *May* 4, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's command to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and of all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprize the American consuls and merchants residing in England, that the entrances of all the ports above mentioned are, and must be considered as being, in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

Anno Quadragesimo Octavo Georgii III. Regis, Cap. LXXXV.

An Act to regulate the trade between Great Britain and the United States of America until the end of the next session of Parliament. [June 23, 1808.]

Whereas it is expedient to permit goods, wares, and merchandise, being of the growth, produce, and manufacture of the United States of America, to be imported directly from thence into Great Britain, in British or American ships or vessels, subject to such duties only as are payable on the like commodities when imported from other foreign countries; may it therefore please your Majesty, that it may be enacted:

And be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the end of the present session of Parliament, it shall and may be lawful for any person or persons to import into Great Britain directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated, and registered according to law, or in ships or vessels built in countries belonging to the United States of America, or any of them, or in ships or vessels taken by any of the ships or vessels of war belonging to the Government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the Government of the said United States, and condemned as lawful prize in any Court of Admiralty of the said United States, of which condemnation proof shall be given to the Commissioners of His Majesty's customs, or any four or more of them, in England or Scotland, respectively, and owned by the subjects of the said United States, or any of them, and whereof the master and three-fourths of the mariners at least are subjects of the said United States, any goods, wares, or merchandise, the growth, production, and manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations hereinafter mentioned; any law, custom, or usage, to the contrary in anywise notwithstanding.

2. *And be it further enacted*, That all such goods, wares, and merchandise, imported into Great Britain, either in such ships or vessels, or in British built ships or vessels, owned, navigated, and registered according to law, shall and may be entered and landed, upon payment of such duties of customs and excise, and no higher, except as hereinafter is provided, as are payable on goods, wares, and merchandise of the like denomination or description, upon their importation into Great Britain from any foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different foreign countries, then upon payment of the lowest duties which by law are now required to be paid on the importation of any such goods, wares, or merchandise from any other foreign country: *Provided always*, That where any goods, wares, or merchandise, are imported from the said United States, in any ship or vessel not being British built, owned, navigated, and registered according to law, such goods, wares, and merchandise shall be subject and liable to the

duties due and payable on similar articles when so imported from any other foreign country.

3. *And be it further enacted*, That any tobacco, being the growth or production of any of the territories of the United States of America, may be imported into Great Britain in British or American ships or vessels, owned and navigated as hereinbefore required, upon payment of the same duties of customs and excise as are now paid on tobacco imported by British subjects from any British colony or plantation in America; and that any snuff, being the production and manufacture of any of the said territories, may be imported into Great Britain in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of Europe, imported from Europe, is subject to, and may be warehoused and again exported. such tobacco and snuff to be subject respectively, nevertheless, to all and singular the regulations, restrictions, penalties, and forfeitures, relating to the importation and exportation thereof, or in any other respect relating thereto, of an act made and passed in the twenty-ninth year of the reign of his present Majesty, entitled "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and of another act, passed in the thirtieth year of his present Majesty's reign, entitled "An act to explain and amend an act made in the last session of Parliament, entitled 'An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof, or of any other act since made relating thereto:'" *Provided always*, That such tobacco shall be accompanied by a manifest, as by law required.

4. *And be it further enacted*, That all goods, wares, and merchandise, so imported from the United States of America, shall, upon the exportation thereof from Great Britain, be entitled to the same drawbacks as are by law allowed upon the exportation of goods, wares, and merchandise of the like denomination and description when exported from Great Britain; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares, and merchandise exported from Great Britain to the territories of the said United States, or any of them, as are allowed by law upon the exportation of goods, wares, or merchandise of the like denomination or description, to any of the islands, plantations, or colonies, belonging to the Crown of Great Britain, in America: *Provided always*, That nothing in this act contained shall extend, or be construed to extend, to repeal, or in anywise to alter, the duties of package, scavage, balliage, or portage, or any other duties payable to the mayor, commonalty, and citizens of the city of London, or to the Lord Mayor of the said city for the time being, or to any other city or town corporate within the Kingdom of Great Britain, or to repeal or in anywise to alter any special privilege or exemption to which any person or persons, bodies politic or corporate, is or are now entitled by law; but the same shall be continued as heretofore.

5. *And be it further enacted*, That the duties of customs and excise upon, for, and in respect of any goods, wares, and merchandise, imported into Great Britain from the said United States, by virtue and under the authority of this act, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated, and applied, in such and the like manner, and in or by any or either of the means, ways, or methods, by which the duties of customs and excise, and drawbacks of duties of customs and excise upon goods, wares, or merchandise of the same sorts or kinds respectively imported from or exported to any other foreign country were or might be managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated, and applied, and the goods, wares, or merchandise, so by this act respectively made liable to the payment of or chargeable with duties of customs and excise, or so entitled to drawback of duties of customs and excise, upon the importation thereof into, or exportation thereof from Great Britain, or on any other account whatever, shall be, and the same are hereby, made subject and liable to all and every the conditions, regulations, rules, restrictions, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures, respectively, to which the like goods, wares, or merchandise respectively were subject and liable by any act or acts of Parliament in force on and immediately before the passing of this act, respecting the revenues of customs and excise; and all and every pain, penalty, fine, or forfeiture, of any nature or kind whatever, for any offence whatever committed against or in breach of any act or acts of Parliament in force on and immediately before the passing of this act, made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained, shall, and are hereby, directed and declared to extend to, and shall be respectively applied, practised, and put in execution for, and in respect of, the several duties of customs and excise and drawbacks of duties of customs and excise, hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act.

6. *Provided always, and be it enacted*, That it shall and may be lawful for His Majesty, by and with the advice of his Privy Council, by any Order in Council, or by any proclamation made for that purpose, to cause the provisions of this act to be suspended for such time as His Majesty, his heirs, and successors, may deem expedient and necessary; anything in this act to the contrary notwithstanding.

7. *And be it further enacted*, That this act shall continue in force to the end of the next session of Parliament.

By the Honorable Sir Alexander Cochrane, K. B., Rear Admiral of the Red, and Commander-in-chief of His Majesty's ships and vessels employed and to be employed at Barbadoes, the Leeward Islands, &c.

Whereas an intimation has been received from the right honorable Lord Viscount Castlereagh, one of His Majesty's principal Secretaries of State, that the strictest naval blockade is to be established over the leeward French Caribbean islands; the several captains, commanders, and commanding officers under my orders, are hereby authorized and directed to stop all neutral vessels destined for any of the ports of the said islands; and if they shall appear to be ignorant of the existence of the blockade, and have no enemy's property on board, the masters of such neutral vessels shall be apprized thereof, and warned not to proceed to such ports, and a notice written to that effect upon one or more of the principal ship's papers.

But if a neutral vessel shall appear to be so warned, or to be otherwise informed of the existence of the blockade, or to have sailed from her last clearing port after it may be reasonably supposed that this notification might have been made public there, and yet be found attempting or intending to enter either of the ports of the said islands, such vessel shall be seized and sent into port for legal adjudication. And with respect to neutral vessels coming out of said ports, having any colonial produce, goods, or merchandise on board, appearing to have been laden after knowledge of the blockade, such vessels shall, in like manner, be seized and sent in for legal adjudication.

Given on board the Belleisle, Carlisle bay, Barbadoes, October 14, 1808.

ALEXANDER COCHRANE.

By command of the Rear-Admiral:

JOHN S. TRACEY.

II.—*The Decrees of France.*

1793, May 9. Authorizes French vessels to arrest and bring into the ports of the Republic vessels laden with provisions destined for an enemy port.

1793, May 23. Exempts American vessels from the operation of the decree of the 9th.

1793, May 28. Suspends the decree of the 23d of May.

1793, July 1. The decree of the 23d again enforced.

1793, July 27. The decree of the 23d of May repealed, and that of the 9th of May enforced.

1794, November 18, (25th Brumaire 3d year.) General regulations; the most important is, that merchandise belonging to the enemy is made liable to seizure in neutral vessels, until the enemy shall exempt from seizure French merchandise similarly situated.

1795, January 3, (14th Nivose, 3d year.) Repeals the fifth article of the above, and exempts enemy goods from capture in neutral vessels.

1796, July 2, (14th Messidor, 4th year.) The French will treat neutral nations as they suffer themselves to be treated by the English.

1797, March 2, (17th Ventose, 5th year.) Enemy's property in neutral vessels liable to confiscation; makes necessary rôles d'équipages.

1798, January 18, (29th Nivose, 6th year.) The character of vessels to be determined by that of their cargoes.

1799, March 18, (28th Ventose, 7th year.) Explains the fourth article of the decree of the 2d of March. 1797.

1799, October 29, (8th Brumaire, 7th year.) Neutrals found on board enemy vessels liable to be treated as pirates.

1799, November 14, (24th Brumaire, 7th year.) Suspends the operation of the above decree of the 29th of October.

1800, December 13, (23d Frimaire, 8th year.) Repeals the first article of the law of the (29th Nivose, 6th year,) 18th January, 1798.

1800, December 19, (29th Frimaire, 8th year.) Enforces the regulations of the 26th of July, 1778.

1806, November 21. Berlin decree.

1807, December 17. Milan decree.

1808, April 17. Bayonne decree.

Copy of the decree of the National Convention of the 9th of May, 1793, 2d year of the Republic of France.

The National Convention, after having heard the report of their Marine Committee; considering that the flag of the neutral Powers is not respected by the enemies of France; that two cargoes of flour arrived at Falmouth in Anglo-American vessels, and purchased before the war for the service of the marine of France, have been detained in England by the Government, who would not pay for them, except at a price below that at which flour had been sold:

That a vessel from Papenburg, called the Therisia, commanded by Captain Hendrick Kob, laden with divers effects belonging to Frenchmen, has been conducted to Dover, the 2d of March last, by an English cutter:

That a privateer of the same nation has carried into the same port of Dover, the 18th of the same month, the Danish ship Mercury, Christianlund, Captain Freuchen, expedited from Dunkirk on the 17th with a cargo of wheat for Bordeaux:

That the ship John, Captain Shkleley, laden with near six thousand quintals of American wheat, bound from Falmouth to St. Malo, has been taken by an English frigate, and conducted to Guernsey, where the agents of the Government have simply promised to pay the value of the cargo because it was not on account of the French:

That one hundred and one French passengers of different professions, embarked at Cadiz, by order of the Spanish Minister, in a Genoese ship, called the Providence, Captain Ambrose Briasco, bound to Bayonne, have been shamefully pillaged by the crew of an English privateer:

That the divers reports which are successively made by the maritime cities of the Republic an-

nounce that these same acts of inhumanity and injustice are daily multiplied and repeated with impunity throughout the seas:

That, under such circumstances, all the rights of nations being violated, the French people are no longer permitted to fulfil towards the neutral Powers in general, the vows which they have so often manifested, and which they will constantly make for the full and entire liberty of commerce and navigation, decrees as follows:

ART. 1. The French ships of war and privateers may arrest and bring into the ports of the Republic, the neutral vessels which shall be laden wholly, or in part, either with articles of provision belonging to neutral nations, and destined for an enemy's port, or with merchandises belonging to an enemy.

ART. 2. The merchandise belonging to an enemy shall be declared good prize, and confiscated to the profit of the captors; the articles of provisions belonging to neutral nations, and laden for an enemy's port, shall be paid for according to their value in the place to which they were destined.

ART. 3. In all cases the neutral vessels shall be released as soon as the unlading of the articles of provision arrested, or of the merchandises seized, shall have been effected. The freight thereof shall be paid at the rate which shall have been stipulated by the persons who shipped them. A just indemnification shall be allowed, in proportion to their detention, by the tribunals who are to have cognizance of the validity of the prizes.

ART. 4. These tribunals shall be bound to transmit, three days after their decision, a copy of the inventory of the said articles of provision or merchandise, to the Minister of Marine, and another to the Minister for Foreign Affairs.

ART. 5. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect as soon as the enemy Powers shall have declared free and not seizable, although destined for the ports of the Republic, the articles of provision belonging to neutral nations, and the merchandises laden in neutral vessels, and belonging to the Government or citizens of France.

Decree of the National Convention of the 23d May, which declares that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May.

The National Convention, after having heard the report of their Committee of Public Safety, wishing to maintain the union established between the French Republic and the United States of America, decree that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May, conformably to the sixteenth article of the treaty concluded on the 16th February, 1778.

True copy: LE BRUN.

[NOTE. It appears that, on the 28th of May, the Convention passed a decree, which so far repealed that of the 23d May, as to place in a state of provisional sequestration the property seized under the decree of the 9th May. No copy of this decree of the 28th May is to be found in the Department of State.]

Copy of the decree of the National Convention of the 1st July, 1793, second year of the French Republic, which exempts from the dispositions of the decree of the 9th May, 1793, the vessels of the United States.

The Convention, after having heard the report of the Committee of Public Safety, wishing to maintain the union established between the French Republic and the United States of America, decrees that the vessels of the United States are not comprised in the dispositions of the decree of the 9th of May, conformably to the sixteenth article of the treaty concluded the 6th of February, 1778.

Certified conformably to the original:

DEFORGUE.

[NOTE. It appears that, on the 27th of July, the Convention again put in force the decree of the 9th May; but no copy of the act by which this was done is to be found in the Department of State.]

Extract from the Register of Arrêts of the Committee of Public Safety, Finance, and Supplies.

25TH BRUMAIRE, 3*d year of the Republic*, (*November* 18, 1794.)

The Committee of Public Safety, Commerce, and Supplies, order as follows:

ART. 1. The vessels of the United States of America, and those of other neutral Powers, shall be permitted to enter the ports of the Republic and retire from them when they please; nor shall it be permitted to any constituted authority to retard their departure, or to oblige the captains to sell their cargoes against their will.

ART. 2. When the captains or owners of neutral vessels are disposed to sell their cargoes to the public, they shall be paid for them according to the bargain which they make.

ART. 3. It is enjoined to all the commandants of naval armanents, fleets, divisions, and squadrons of the Republic, to respect and cause to be respected, upon their responsibility, in favor of the neutral and allied Powers, the rights of nations and the stipulations of treaties, conforming themselves strictly to the terms of the decree of the Convention of the 27th July, 1793.

ART 4. In consequence, they are expressly prohibited from turning these vessels from their course; taking from on board of them their captains, sailors, or passengers, other than soldiers or sailors actually in the service of an enemy Power, or of seizing the effects or merchandise which shall be found in them.

ART. 5. Are excepted from the prohibition contained in the preceding article—

1. Merchandises belonging to the enemies of the Republic, until such enemy Powers shall have declared that the merchandises of the French shall be free on board neutral vessels.

2. Such merchandises of the neutral Powers, also, as are deemed contraband of war, and under which are comprised all arms, instruments, and munitions of war, and every kind of merchandise and other effects destined for an enemy's port actually seized or blockaded.

[Articles 6, 7, 8, and 9, regulate the manner of proceeding where neutral vessels are brought in, upon a presumption of having enemy's goods on board.]

ART. 10. The Commission of Marine shall present, without delay, a statement of the individuals, born subjects of the Powers with whom the Republic is at war, who were taken before the present day upon neutral vessels, that particular arrêts may be taken in each case.

ART. 11. The indemnities which are due to the captains of neutral Powers who were detained by an embargo at Bordeaux, shall be liquidated without delay by the Commission of Marine and Colonies, conformable to an arrêt of the Committee of Public Safety of the 17th Germinal; and this commission shall render an account, in the course of ten days, of the actual state of these demands.

ART. 12. The Commission of Marine is specially charged to receive and adjust the accounts which shall be presented to it by an agent of the United States, for such supplies as the Americans have furnished to the administration of St. Domingo; and it shall take the necessary measures to procure to the parties interested the most prompt justice, and shall also present to the Committees of Public Safety, of Finance, Commerce, and Supples, the result of its operations in these respects.

ART. 13. The Commission of Foreign Relations is instructed to deliver a copy of this arrêt to the Minister Plenipotentiary of the United States of America, in answer to his memorial of the 9th Fructidor (September 3) last.

THURIOT,
MERLIN,
CAMBACERES, &c.

Extract from the Register of Arrêts of the Committee of Public Safety, of the 14th Nivose, 3d year of the Republic (3d January, 1795.)

The Committee of Public Safety, considering that, by the twenty-third article of the Treaty Commerce between France and the United States of America, bearing date on the 6th of February, 1778, it is agreed:

1. That the people of France and America may navigate reciprocally, in complete safety, with their vessels, and without exception as to the owners of the merchandise charged upon such vessels, or as to the ports from whence they come, and although the Power for which they may be destined be actually at war, or become afterwards the enemy of the one or the other contracting party; that they may equally navigate in full safety with their vessels and merchandise, and frequent the places, ports, and harbors of the enemies of both nations, or of either, and carry on trade, not only from the port of an enemy to that of a neutral Power, but also from different ports of the same enemy.

2. That free vessels shall make free goods, and that anything shall be considered as free which shall be found on board the vesels of either contracting nation, although it belong, in whole or in part, to the enemies of either the one or the other; contraband always excepted.

3. That the same liberty shall be extended to those who are are found on board free vessels, although they be the enemies of either the one or the other contracting nation; and in consequence, that such persons shall not be taken from such vessels, unless they be soldiers in the actual service of the enemy.

Considering that the crimes of England, having given to the war of despotism against liberty a character of injustice and atrocity without example in the annals of mankind, the National Convention found itself obliged, in using the right of reprisal, to decree, on the 9th of May, 1793, that the vessels of war and cruisers of the Republic might take and conduct into the ports of France such vessels of the neutral Powers as they should find charged, in whole or in part, with provisions belonging either to such Powers or the enemies of France. Soon afterwards, however, and on the 1st July, 1793, the Convention restored in full vigor the dispositions of the treaty abovementioned of the 6th of February, 1778, but which were again revoked by a decree of the 27th of the same month, in respect to provisions and merchandises belonging to an enemy; upon which latter ground it has stood since, leaving the provisions and merchandises of neutral Powers, in such vessels, free. In regard to which the French Government has not to reproach itself with having waited, to show itself just and loyal, that the Cabinet of London might revoke, as it did a long time afterwards, the order given by it the preceding year to seize all neutral vessels carrying provisions or merchandises into France.

Considering that since, and notwithstanding the notoriety with which this Cabinet continues to insult and violate the rights of neutral nations, by causing their vessels, charged with merchandise, destined for the ports of France, to be seized, yet the National Convention has enjoined it, by the seventh article of the law of the 13th of this month, upon all officers, civil and military, strictly to observe, in all their dispositions, the treaties which unite France with the neutral Powers of the ancient continent, as likewise with the United States of America, declaring all articles of a contrary import in any other law to be absolutely null and void.

Fully, therefore, to cary into effect the said law, according to its true intent and meaning, it is hereby ordered:

ART. 1. The Commission of Marine and of the Colonies shall notify, without delay, to all the commanders of armed vessels, divisions, and squadrons, the article above-mentioned of the law of the 13th of this month; and, in consequence, that they are to consider the fifth article of the

arrêt of the 25th Brumaire last, which authorized the seizure of merchandises belonging to an enemy that shall have declared French property on board such vessels free, as now null and void.

ART. 2. The merchandises called contraband, though belonging to a neutral Power, shall continue subject to seizure.

ART. 3. All arms, instruments, and munitions of war, of every kind, horses, and their equipage, and all kind of merchandises, and other effects, destined for an enemy's port actually blockaded or besieged, shall be deemed contraband of war.

CAMBACERES,
CARNOT,
PRIEUR,
A. DUMONT,
CHAZAL,
MARET,
PELET.

Decree of the Executive Directory on the conduct of the flag of the French Republic towards neutral vessels, 14th Messidor, 4th year (2d July, 1796.)

The Executive Directory, considering that, if it belongs to French loyalty to respect the treaties or conventions which assure to neutral or friendly Powers the commercial advantages, of which the result ought to be common to the contracting Powers, these same advantages, if they are turned to the benefit of our enemies, either through the feebleness of our allies or of neutrals, through fear, from views of interest, or from any other motive, would provoke, indeed, the inexecution of the articles by which they should be stipulated, decree what follows:

It shall be notified, without delay, to all the neutral or allied Powers, that the flag of the French Republic shall be used against neutral vessels, be it for the purpose of confiscation, search, or detention, (*visite ou prehension*) in the same manner that they suffer the English to use theirs in regard thereto.

The Minister of Foreign Relations is charged with the execution of the present decree, which shall not be printed.

Decree of the Executive Directory concerning the navigation of neutral vessels, loaded with merchandise belonging to the enemies of the Republic, and the judgments on the trials relative to the validity of maritime prizes. 12th Ventose, 5th year, (2d March, 1797.)

The Executive Directory, having examined the law of the 9th May, 1793, which, forasmuch as the flag of neutral Powers not being respected by the enemies of the French Republic, and all the laws of nations being violated to her prejudice, it is no longer permitted to the French people to fulfil towards these Powers, in general, the wish which it has so often manifested, and which it will constantly form, for the full and entire liberty of commerce and of navigation, orders, among other things:

1. That the French vessels of war and privateers may stop and carry into the ports of the Republic neutral vessels, which may be found loaded entirely or in part with merchandise belonging to the enemy.

2. That the merchandise belonging to the enemy shall be declared good prize, and confiscated for the benefit of the captors.

3. That, in all cases, the neutral vessels shall be released the moment the unloading of the merchandise seized shall have been effected; that the freight shall be paid at the rates which shall have been stipulated by the freighters, and a just indemnity shall be allowed for their detention by the tribunals whose duty it may be to take cognizance of the validity of the prizes.

4. That these tribunals shall moreover be bound to transmit, three days after their judgment, a copy of the inventory of the merchandise to the Minister of Marine, and another copy to the Minister of Foreign Affairs.

5. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have its effect when the enemy Powers shall have declared free and not seizable, though destined for the ports of the Republic, the merchandise loaded on board neutral vessels, which shall belong to the French Government or its citizens.

Having likewise examined the law of the 27th July, 1793, which, in maintaining that of the 9th May preceding, here above recited, orders that it should have its full and entire execution, and that, in consequence, all other regulations which may be contrary to it are and remain repealed—a repeal which evidently comprehends the law, of the 1st of the same month of July, by which the vessels of the United States of America had been excepted from the law of the 9th May, in conformity to the fifteenth article of the treaty of the 6th February, 1778.

Having also examined the seventh article of the law of the 13th Nivose, 3d year, (3d January, 1795,) which enjoins on all the agents of the Republic; on all the commandants of the armed force; on the officers, civil and military; to cause to be respected and observed, in all their arrangements, the treaties which unite France to the neutral Powers of the ancient Continent, and to the United States of America; and adds that no blow shall be aimed at those treaties, and that all regulations which may be contrary to them are annulled; considering that this last law does not derogate from that of the 9th May, 1793, save only in favor of those neutral Powers whose treaties actually subsisting with the French Republic are contrary to its regulations; that, consequently, it is important for the information, as well of the commandants of the armed force of the Republic, and of the vessels commissioned by it, as of the tribunals charged with deciding on the validity of the prizes, to take measures for preventing either that it should be supposed that treaties existed which never were made, or that treaties concluded for a limited time which is expired should be considered as still being in force, or that those which have been modified since their formation should be considered as yet requiring a literal execution;

that, to this last description belongs particularly the Treaty of Amity and Commerce concluded the 6th February, 1778, between France and the United States of America; that, in effect, by the second article of this treaty, France and the United States of America mutually engage not to grant any particular favor to other nations, in relation to commerce and navigation, which does not become forthwith common to the other party; and that it is added by the same article, that this other party shall enjoy the favor gratuitously, if the grant is gratuitous, or on making the same compensation if the grant is conditional; that thus the provisions stipulated in favor of England by the Treaty of Amity, Commerce, and Navigation, concluded at London, 19th November, 1794, between that Power and the United States of America, are considered to have been in behalf of the French Republic itself; and in consequence modifying, in the points where they differed, the treaty concluded the 6th February, 1778; that it is agreeably to these provisions that the French Government has declared, by its decrees of the 14th and 28th Messidor, 4th year, (2d and 16th July, 1796,) as it is likewise forced to do at present, that it will use the just measures of reciprocation which it had a right to exercise in that respect, in everything which has a relation to the circumstances of the war, as also to the political, commercial, and maritime interests of the French Republic; that, consequently, it is necessary to settle, by reconciling the treaties of the 6th February, 1778, and 19th November, 1794, every doubt as to the case where this right of reciprocation ought to be exercised:

Considering that there have been quite lately raised, as to the manner of stating the proofs of property in the ships and merchandise pretended to belong to neutrals, doubts and controversies which never would have taken place if the provisions of the ancient regulations relative to this business had been better known; that it consequently is of importance to recite these provisions, and to cause to be executed the fifth article of the law of the 14th February, 1793, which has maintained them:

After having heard the Ministers of Justice, of the Marine, and of the Colonies, decrees what follows:

ART. 1. The Commissioners of the Executive Directory, near the civil tribunals of the Departments, shall take care that, on the trials as to the validity of maritime prizes, no judgment shall be founded on the seventh article of the law of the 13th Nivose, 3d year, (2d January, 1795,) unless the Minister of Justice be previously consulted, in conformity to the third article of the law of the 8th Floréal, 4th year, (27th April, 1796,) relative to the treaties in virtue of which some neutrals might pretend to withdraw themselves, by means of the first of these laws, from the execution of that of the 9th May, 1793.

ART. 2. The Minister of Justice will consequently examine if the treaties appealed to still remain in force, or whether they have been modified since their adoption. He shall be furnished, for this purpose, by the Minister of Exterior Relations, with all the information (*renseignments*) of which he shall be in want, and he shall refer the same to the Executive Directory, as is prescribed by the law of the 8th Floreal, 4th year, (27th April, 1796.)

ART. 3. The Executive Directory reminds all French citizens that the treaty entered into on the 6th February, 1778, between France and the United States of America, has been, from the terms of its second article, in strict right (*de plein droit*) modified by that which was entered into in London, on the 19th November, 1794, between the United States of America and England. In consequence, agreeably to the seventeenth article of the treaty of London of the 19th November, 1794, all merchandise belonging to an enemy, or not sufficiently proven to be neutral, loaded under the American flag, shall be confiscated; but the vessel on board of which it shall have been found shall be released and returned to the proprietor. It is enjoined on the Commissioners of the Executive Directory to cause to be accelerated, by all means in their power, the judgment on the trials which shall take place, either in relation to the validity of the capture of the cargo, or in relation to freight and demurrage, (*surestaries.*)

ART. 4. Agreeably to the eighteenth article of the Treaty of London of the 19th November, 1794, there shall be added the following articles to those declared contraband by the twenty-fourth article of the treaty of the 6th February, 1778, viz: wood for ship building, pitch, tar, and rosin, copper in sheets, canvass, hemp, and cordage, and everything that serves, directly or indirectly, for the armament and equipment of vessels, except unwrought iron and fir-plank. These several articles shall be confiscated whenever they shall be destined, or when it is attempted to carry them, to the enemy.

ART. 5. Agreeably to the twenty-first article of the Treaty of London of the 19th November, 1794, every individual known to be American, who holds a commission given by the enemies of France, as also every mariner of that nation making a part of the crew of private or public ships (*navires ou vaisseaux*) of the enemy, shall be, from that act alone, declared a pirate, and treated as such, without allowing him, in any case, to show that he had been forced by violence, menaces, or otherwise.

ART. 6. In conformity to the law of the 14th February, 1793, the regulations of the 21st October, 1744, and of the 26th July, 1778, as to the manner of proving the right of property in neutral ships and merchandise, shall be executed, according to their form and tenor.

In consequence, every American vessel shall be a good prize which has not on board a list of the crew, (*rôle d'équipage,*) in proper form, such as is prescribed by the model annexed to the treaty of the 6th February, 1778; a compliance with which is ordered by the twenty-fifth and twenty-seventh articles of the same treaty.

ART. 7. It is enjoined on the Commissioners of the Executive Directory to call the severity of the tribunals to the fraudulent manœuvres of

every ship-owner calling himself a neutral American, or other, on board a vessel in which shall be found, as has frequently been done during the present war, either maritime papers (*papiers de mer*) in blank, though signed and sealed, or papers, in form of letters, containing the signatures of individuals, in blank; or of double passports or sea-letters, which indicate different destinations to the vessel; or double invoices, bills of lading, or any other ship papers, which assign to the whole or to a part of the same merchandise different proprietors or different destinations.

ART. 8. From the regulations of the present decree, that of the 9th Frimaire last, (29th November, 1795,) concerning the freights and demurrage, is referred to what relates to the demurrage only.

The present decree shall be inserted in the bulletin of the laws. The Ministers of the Marine and of the Colonies, of Justice, and of Foreign Relations, are charged with its execution—each one in what concerns him.

Law which determines the character of vessels from their cargo, especially those laden with English merchandise.

29TH NIVOSE, 6TH YEAR,
(*18th January*, 1798.)

After having heard the report of a special commission on the message of the Executive Directory of the 15th Nivose, relative to English merchandise; considering that the interest of the Republic requires the most prompt measures against all vessels which shall be loaded with it:

ART. 1. The character of vessels, in what concerns their quality as neutral or enemy, shall be decided by their cargo. In consequence, every vessel found at sea laden in whole or in part with merchandise coming (*provenant*) from England or her possessions, shall be declared good prize, whoever may be the proprietors of these productions or merchandise.

ART. 2. Every foreign vessel which shall, during her voyage, have entered a port of England, shall not be admitted into a port of the French Republic, save only when there is a necessity for her entering (*de relâche,*) in which case she shall be bound to leave the said port so soon as the cause of her entering it (*de sa relâche*) shall have ceased.

Decree of the Executive Directory, in explanation of that of the 12th Ventose, 5th year, (2d March, 1797,) concerning the navigation of neutral vessels, of the 28th Ventose, 7th year, (18th March, 1799.)

The Executive Directory having examined its decree of the 12th Ventose, 5th year, (2d March, 1797,) concerning the navigation of neutral vessels, loaded with merchandise belonging to the enemies of the Republic, and the judgment on the trials as to the validity of maritime prizes; considering that the fourth article of that decree, in what relates to the *rôles d'équipages* with which neutral vessels ought to be furnished, has had improper interpretations, so far as concerns the *rôles d'équipages* of American vessels, and that it is time to do away the obstacles resulting therefrom to the navigation of the vessels of that nation.

After having heard the Minister of Exterior Relations and the Minister of Justice declare that, by the fourth article of the said decree, it was not understood that the navigation of American vessels, relatively to the form of their *rôles d'équipages*, was subjected to other conditions than those imposed on all neutrals by the twelfth article of the ordinance of 1744, and by the ninth article of the 26th July, 1778.

The Ministers of the Marine and of Justice, each in what concerns him, are charged with the execution of the present decree, which shall be inserted in the bulletin of laws.

Decree of the Executive Directory as to those who compose the crews of the vessels of the enemies of France, 8th Brumaire, seventh year, (October 29, 1799.)

The Executive Directory, on the report of the Minister of Exterior Relations, considering that the squadrons, privateers, and vessels of England and Russia are in part manned by foreigners; considering that this violation is a manifest abuse of the law of nations, and that the Powers of Europe have not taken any measures to stop it, decree:

ART. 1. Every person, native (*ou originaire*) of friendly countries allied to the French Republic, or neutral, holding a commission given by the enemies of France, or making part of the crews of the vessels of war or other enemy vessels, shall, for that act alone, be declared a pirate, and treated as such, without being allowed in any case to allege that he was forced by violence, menaces, or otherwise.

ART. 2. The Executive Directory of the Batavian, Ligurian, Cisalpine, and Roman Republics, shall be informed of this measure.

ART. 3. The provisions contained in the first article shall be notified to the Powers neutral or allied to the French Republic.

Decree of the French Republic on the mode of executing its decrees of the 8th Brumaire, 7th year, (29th October, 1799,) concerning those who compose the crews of enemy vessels, 24th Brumaire, 7th year, (14th November, 1799.)

ART. 1. In execution of the third article of the decree of the Executive Directory of the 8th of this month, the allied or neutral Powers shall be invited to take the necessary measures for recalling, within a time which shall be fixed, those mariners of their respective nations, actually embarked on board the vessels of war or other vessels belonging to England.

ART. 2. The Ambassadors, Ministers, and Envoys of the Republic near the respective Powers shall receive particular instructions on this subject.

ART. 3. The period of the execution of the decree of the 8th Brumaire shall be determined by a subsequent decree.

ART. 4. The Minister of Exterior Relations is charged to make arrangements with the Minister of Marine and the Colonies for the execution of the present decree.

Law which repeals the first article of that of 29th Nivose, 6th year, (18th January, 1798,) relative to maritime cruising.

ARTICLE 1. The first article of the law of the 29th Nivose, 6th year, (18th January, 1798,) relative to maritime cruising, is repealed.

The Consuls of the Republic order that the above law shall be published and executed, and that the seal of the Republic shall be affixed to it.

Done at the National Palace of the Consuls of the Republic, the 23d Frimaire, 8th year, (13th December, 1800) of the Republic.

ROGER DUCOS,
SIEYES,
BONAPARTE.

Decree of the Consuls of the Republic which puts in force the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, 29th Frimaire, 8th year,) 19th December, 1800.)

The Consuls having examined the law of the 23d Frimaire, 8th year, (13th December, 1800,) which repeals the first article of the law of the 25th Nivose, 6th year, (14th January, 1798,) relative to maritime cruising; considering that the repeal of that law necessarily renews that state of the law antecedently existing:

That this, as fixed by the ordinance of the 26th July, 1778, is considered the most proper to conciliate the interests of the Republic with the rights of neutral Powers; wishing to prevent, on the part of the French or neutral owners, (*armateurs,*) errors or interpretations which shall counteract the views under which the law of the 29th Nivose, 6th year, (18th January, 1798,) has been repealed, decree what follows:

ART. 1. The regulations prescribed by the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, shall be strictly observed by all those to whom they shall be applicable; but, in case of a contravention on their part, they are to suffer the confiscations and condemnations in damages fixed on by the said ordinance and the laws.

ART. 2. The Ministers of Justice, of the Marine, of Exterior Relations, and of the Finances, are charged, each one in what concerns him, with the execution of the present decree, which shall be inserted in the bulletin of the laws.

The Consuls of the Republic:

BONAPARTE,
SIEYES,
ROGER DUCOS.

IMPERIAL CAMP, BERLIN,
November 21, 1806.

Napoleon, Emperor of the French and King of Italy, considering:

1. That England does not admit the right of nations as universally acknowledged by all civilized people;

2. That she declares as an enemy every individual belonging to an enemy State, and, in consequence, makes prisoners of war, not only the crews of armed vessels, but also of merchant vessels, and even the supercargoes of the same;

3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy State;

4. That she extends to ports not fortified, to harbors and mouths of rivers, the right of blockade, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports;

5. That she declares blockaded, places before which she has not a single vessel of war, although a place ought not to be considered blockaded but when it is so invested as that no approach to it can be made without imminent hazard; that she declares even places blockaded which her united forces would be incapable of doing, such as entire coasts, and a whole empire;

6. That this unequalled abuse of the right of blockade has no other object than to interrupt the communications of different nations, and to extend the commerce and industry of England upon the ruin of those of the Continent;

7. That this being the evident design of England, whoever deals on the Continent in English merchandise favors that design and becomes an accomplice;

8. That this conduct in England (worthy only of the first ages of barbarism,) has benefited her, to the detriment of other nations;

9. That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice and every liberal sentiment (the result of civilization among men) are disregarded;

We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the Empire, until England has acknowledged that the rights of war are the same on the land as at sea; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.

Imperial Decree of the 21st November, 1806.

ART. 1. The British islands are declared in a state of blockade.

ART. 2. All commerce and correspondence with the British islands are prohibited. In consequence, letters or packets addressed either to England, to an Englishman, or in the English language, shall not pass through the post office, and shall be seized.

Art. 3. Every subject of England, of what rank and condition soever, who shall be found in the countries occupied by our troops, or by those of our allies, shall be made a prisoner of war.

Art. 4. All magazines, merchandise, or property whatsoever belonging to a subject of England, shall be declared lawful prize.

Art. 5. The trade in English merchandise is forbidden. All merchandise belonging to England, or coming from its manufactories and colonies, is declared lawful prize.

Art. 6. One-half of the proceeds of the confiscation of the merchandise, and property declared good prize by the preceding articles, shall be applied to indemnify the merchants for the losses which they have suffered by the capture of merchant vessels by English cruisers.

Art. 7. No vessel coming directly from England, or from the English colonies, or having been there since the publication of the present decree, shall be received in any port.

Art. 8. Every vessel contravening the above clause, by means of a false declaration, shall be seized, and the vessel and cargo confiscated as if they were English property.

Art. 9. Our Tribunal of Prizes at Paris is charged with the definitive adjudication of all controversies which may arise within our Empire, or in the countries occupied by the French army, relative to the execution of the present decree. Our Tribunal of Prizes at Milan shall be charged with the definitive adjudication of the said controversies, which may arise within the extent of our Kingdom of Italy.

Art. 10. The present decree shall be communicated by our Minister of Exterior Relations to the Kings of Spain, of Naples, of Holland, of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and the barbarism of the English maritime laws.

Our Ministers of Exterior Relations, of War, of Marine, of Finances, of Police, and our Postmasters General, are charged each in what concerns him with the execution of the present decree.

Paris, *December* 26.

Imperial Decree.—Rejoinder to His Britannic Majesty's Order in Council of the 11th of November, 1807.

At our Royal Palace at Milan, *December* 17, 1807.

Napoleon, Emperor of the French, King of Italy, and Protector of the Rhenish Confederation:

Observing the measures adopted by the British Government, on the 11th November last, by which vessels belonging to neutral, friendly, or even Powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British Legislature:

Observing that, by these acts, the British Government denationalizes ships of every nation in Europe; that it is not competent for any Government to detract from its own independence and rights, all the Sovereigns of Europe having in trust the sovereignties and independence of the flag; that if, by an unpardonable weakness, and which in the eyes of posterity would be an indelible stain, if such a tyranny was allowed to be established into principles, consecrated by usage, the English would avail themselves of it to assert it as a right, as they have availed themselves of the tolerance of Government to establish the infamous principle that the flag of a nation does not cover goods and to have to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every State; we have decreed and do decree as follows:

Art. 1. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or shall have paid any tax whatsoever to the English Government, is thereby, and for that alone, declared to be denationalized, to have forfeited the protection of its King, and to have become English property.

Art. 2. Whether the ships thus denationalized by the arbitrary measures of the English Government enter into our ports, or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prize.

Art. 3. The British islands are declared to be in a state of blockade, both by land and sea. Every ship, of whatever nation, or whatsoever the nature of its cargo may so be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to the English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree, and may be captured by our ships of war, or our privateers, and adjudged to the captor.

Art. 4. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English Government to respect their flag. They shall continue to be rigorously in force as long as that Government does not return to the principle of the law of nations, which regulates the relations of civilized States in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honor.

All our Ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

NAPOLEON.

By order of the Emperor:

H. B. MARET, *Secretary of State.*

Extract of a letter from General Armstrong to the Secretary of State, dated

Paris, *April* 23, 1808.

Orders were given on the 17th instant, and received yesterday at the imperial custom-house here, "to seize all American vessels now in the ports of France, or which may come into them hereafter."

April 25, 1808.

Postscript.—I have this moment received the following explanation of the above-mentioned order, viz: That it directs the seizure of vessels coming into ports of France after its own date, "because no vessel of the United States can now navigate the seas, without infracting a law of the said States, and thus furnishing a presumption that they do so on British account, or in British connexion."

[The above extracts contain the only authentic information received at the Department of State relative to the Bayonne decree.]

Decrees of the French Agents in the West Indies.

1797. August 1.—Making horses contraband.

1797. February 1.—Authorizes the capture of neutral vessels bound to certain West India islands.

1797. November 27.—Authorizes the capture of American vessels going to, or coming from, English ports.

1805. February 5.—Declares that all persons found on board vessels bound to, or coming from, any ports in Hispaniola, occupied by the rebels, shall suffer death.

Extract from the registers of the special agency of the Executive Directory to the Windward Islands.

The Special Agents of the Executive Directory to the Windward Islands:

Considering that the laws, as well ancient as modern, forbid neutrals to carry the enemy contraband or prohibited merchandises;

Considering, that notwithstanding the complaints of the Minister Plenipotentiary of the French Republic near the United States of North America, of which he has informed us by his letter of the 2d July, 1796; those States, and especially Virginia, have fitted out vessels, loaded with horses, for the English;

Decree, that from this day forward, all vessels loaded with merchandises, designated by the name of contraband, as arms, instruments, munitions of war, of what kind soever, horses and their furniture, shall be stopped by the ships of war and privateers, to be seized and confiscated for the benefit of the captors.

At Basseterre, Guadaloupe, *Aug.* 1, 1796.

Signed on the register,

VICTOR HUGUES.
LEBAS.

Compared with the register:

VAUCHELET, *Secretary of the Agency.*

DECREE.

The Special Agents of the Executive Directory to the Windward Islands:

Considering that the ports of the Windward and Leeward islands, as well as those of Demarara, Essequibo, and Berbice, delivered up to the English, occupied and defended by emigrants, are in a state of regular siege, and not entitled to the same advantages as the ports of the different English colonies, possessed by that Power before the war, or to other rights;

Considering that it is against every principle to treat a horde of insurgents, destitute of country, without government, and without a flag, with the same respect as civilized nations preserve towards each other during a war;

Considering that, by the authentic acts which are in our possession, it is proved that the divers places of the colonies delivered up to the English by the rebel Frenchmen and Batavians, no more belong to the British Government than La Vendee, in which the English Ministry had, in like manner, mercenary troops under pay; some regiments clad in the same uniform as those of England; considering that, in virtue of the second article of the Treaty of Alliance, concluded at Paris on the 6th of February, 1778, between the United States and France, the former Power engaged to defend the American possessions in case of war; and that the Government and the commerce of the United States have strangely abused the forbearance of the Republic of France, in turning to its injury the favors granted to them of trading in all the ports of the French colonies;

That, by permitting neutral vessels any longer to carry provisions of war and of subsistence to men evidently in a state of rebellion, would be to prolong civil war, and the calamities and crimes following therefrom, decree as follows:

Art. 1. The ships of the Republic and French privateers are authorized to capture and conduct into the ports of the Republic, neutral vessels destined for the Windward and Leeward islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are Martinico, St. Lucia, Tobago, Demarara, Berbice, Essequibo; and at the Leeward, Port-au-Prince, St. Marks l'Archaye, and Jeremie.

Art. 2. Every armed vessel, having a commission from either of the said ports, shall be reputed a pirate, and the crews adjudged and punished as such.

Art. 3. The vessels and cargoes described in the first and second articles are declared good prize, and shall be sold for the benefit of the captors.

Art. 4. Every captured vessel, which shall have cleared out, under the vague denomination of West Indies, is comprehended in the first and second articles.

Art. 5. The decree of the 4th of last Nivose, in pursuance of the resolution of the Executive Directory of the 14th Messidor, fourth year, shall be executed till further orders, as far as shall not be contravened by the present decree.

This decree shall be printed, transcribed in the register of the criminal and commercial tribunals, sent to all the French colonial ports, read, published, and posted up, wherever it may be necessary. It shall be notified officially to the neutral Governments of St. Croix, St. Thomas, and St. Bartholomew's.

Enjoining the criminal and commercial tribunals of Guadaloupe, their delegates in the different French colonies and elsewhere, the Rear-Admiral Commandant on the West India station, and the head of the Administration, to aid in executing the present decree, each in his respective department.

Done at Basseterre, island of Guadaloupe, the 13th of Pluviose, 5th year (February 1, 1797) of the French Republic, one and indivisible.

VICTOR HUGUES.
LEBAS.

Extract from the Register of the Resolves of the Commission delegated by the French Government to the Leeward Islands:

The Commission resolves, that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony American vessels bound to English ports, or coming from the said ports.

The vessels which are already taken, or shall be hereafter, shall remain in the ports of the colony until it shall be otherwise ordered.

At the Cape, the 7th Frimaire. (27th November, 1797,) in the fifth year of the French Republic, one and indivisible.

Signed in the record of the process verbal.

LEBLANC, *President.*
SANTHONAX, } *Commis-*
RAIMOND, } *sioners.*
PASCAL, *Sec'y General.*

A true copy:
The Secretary General of the Commission,
PASCAL.

L. Ferrand, General of Brigade, Commander-in-Chief of St. Domingo, acting as Captain General, and a member of the Legion of Honor.

Experience has, for too much time, taught the General that all kind of regard and modification towards those scoundrels who maintain the rebellion in Hispaniola, by furnishing everything necessary to the rebels, against the will and approbation of their respective Governments, and who, by those acts of cupidity, dishonor the flags they sail under; and finding the necessity of putting a stop to rapacity, and to treat them as pirates, has proclaimed and proclaims:

Art. 1. All individuals whomsoever found on board of any vessel or vessels, allies, or neutrals, bound to any ports in Hispaniola occupied by the rebels, shall suffer death.

Those found on board of any vessel, allies, or neutrals, coming out of any ports in Hispaniola occupied by the rebels, on board of allies or neutrals, shall suffer death.

Art. 2. The General informs, that all prisoners made in those different cases shall be brought into one of the ports of Hispaniola occupied by the French, to be tried by military commission, which is to pronounce sentence.

Art. 3. This proclamation shall be put into execution on the 1st Floréal, (21st April;) and, until that time, all the preceding proclamations, in order to prevent all kinds of communication with the coast of Hispaniola occupied by the rebels, shall be strictly executed.

Art. 4. Of this present proclamation, registered at the colonial inspection, one hundred copies are printed, published, and posted up in all the chief places around the east part of Hispaniola, and all necessary steps shall be taken to its publicity in all the islands and continent of America.

Done at the headquarters of the General of St. Domingo, the 16th Pluviose, year the 13th, (5th February, 1805.)

The General Commander-in-Chief, acting as Captain General, and member of the Legion of Honor.
L. FERRAND.

III.—*Decrees of Spain.*

1800. February 15.—Blockade of Gibraltar.
1807. February 19.—In imitation of the Berlin decree.
1808. January 3.—In imitation of the Milan decree.

Copy of a letter from the Secretary of State of His Catholic Majesty to the Minister Plenipotentiary of the United States at Madrid.

Aranjuez, *February* 15, 1800.

Sir: The King, wishing to lessen as much as possible the evils resulting to the nation from the scandalous traffic which many of his subjects carry on with Gibraltar by means of neutral vessels, and making use of just reprisals against the enemies of his Crown, who have declared the ports of Cadiz and St. Lucar de Barrameda blockaded, His Majesty has thought proper to declare that, from this day, he should consider Gibraltar as blockaded; and that, under this view, all captures of neutral vessels going to the said place should be held as legitimate; for which purpose, and that ignorance may not be pleaded, His Majesty has commanded me to communicate this declaration for the information and government of your Court.

I place myself at your disposition, and pray God to preserve your life many years.

M. LUIS DE URQUEJO.

[Translation.]

Aranjuez, *February* 19, 1807.

By the greatest outrage against humanity and against policy, Spain was forced by Great Britain to take part in the present war. This Power has exercised over the sea and over the commerce of the world an exclusive dominion. Her numerous factories, disseminated through all countries, are like sponges which imbibe the riches of those

countries, without leaving them more than the appearances of mercantile liberty. From this maritime and commercial despotism England derives immense resources for carrying on a war whose object is to destroy the commerce which belongs to each State from its industry and situation. Experience has proven that the morality of the British Cabinet has no hesitation as to the means, so long as they lead to the accomplishment of its designs; and whilst this Power can continue to enjoy the fruits of its immense traffic, humanity will groan under the weight of a desolating war. To put an end to this, and to attain a solid peace, the Emperor of the French and King of Italy issued a decree on the 21st of November last, in which, adopting the principle of reprisals, the blockade of the British isles is determined on; and his Ambassador, his Excellency Francis de Beauharnois, Grand Dignitary of the Order of the Iron Crown, of the Legion of Honor, &c., having communicated this decree to the King our master, and His Majesty being desirous to co-operate by means sanctioned by the rights of reciprocity, has been pleased to authorize His Most Serene Highness the Prince Generalissimo of the Marine to issue a circular of the following tenor:

As soon as England committed the horrible outrage of intercepting the vessels of the royal marine, insidiously violating the good faith with which peace assures individual property and the rights of nations, His Majesty considered himself in a state of war with that Power, although his royal soul suspended the promulgation of the manifesto, until he saw the atrocity committed by its seamen sanctioned by the Government of London. From that time, and without the necessity of warning the inhabitants of these Kingdoms of the circumspection with which they ought to conduct themselves towards those of a country which disregards the sacred laws of property and the rights of nations, His Majesty made known to his subjects the state of war in which he found himself with that nation. All trade, all commerce, is prohibited in such a situation, and no sentiments ought to be entertained towards such an enemy which are not dictated by honor, avoiding all intercourse which might be considered as the vital effect of avarice, operating on the subjects of a nation, which degrades itself in them. His Majesty is well persuaded that such sentiments of honor are rooted in the hearts of his beloved subjects; but he does not choose, on that account, to allow the smallest indulgence to the violators of the law, nor permit that, through their ignorance, they should be taken by surprise, authorizing me by these presents to declare that all English property will be confiscated whenever it is found on board a vessel, although a neutral, if the consignment belongs to Spanish individuals. So, likewise, will be confiscated all merchandise which may be met with, although it may be in neutral vessels, whenever it is destined for the ports of England or her isles. And, finally, His Majesty, conforming himself to the ideas of his ally the Emperor of the French, declares in his States the same law which, from principles of reciprocity and suitable respect, His Imperial Majesty promulgated under date of the 21st of November, 1806.

The execution of this determination of His Majesty belongs to the chiefs of provinces, of departments, and of vessels (*baxeles;*) and, communicating it to them in the name of His Majesty, I hope they will leave no room for his royal displeasure.

God preserve you many years.

THE PRINCE OF MARINE.

His Majesty has been pleased to issue the following Royal Decree:

January 3, 1808.

The abominable outrage committed by the English vessels of war in the year 1804, by the express order of their Government, on four frigates of my royal navy, which, navigating under the full security of peace, were iniquitously surprised, attacked, and captured, determined me to break off all connexion with the British Cabinet, and to consider myself in a state of war with a Power which had so unjustly violated the laws of nations and of humanity.

An aggression so atrocious gave me a sufficient motive to break all those ties which unite one nation to another, even if I had not considered what I owed to myself and to the honor and glory of my Crown, and of my beloved subjects. Two years of war had passed without producing, on the part of Great Britain, a diminution of her pride, or a renunciation of the unjust domination which she exercised over the sea; on the contrary, confounding her friends with her enemies and with neutrals, she has manifested her decided will to treat all with the same tyranny. Under these considerations, I determined, in February of the last year, conforming myself to the wise measures adopted by my intimate ally the Emperor of the French and King of Italy, to declare, as I did declare, the British isles in a state of blockade, to see if, by this step, I could convince the British Cabinet that it ought to renounce its unjust domination over the sea, and resolve on making a solid and durable peace. Far from this; not only has it rejected the propositions which have been made to it on the part of my intimate ally the Emperor of the French and King of Italy, as well those made by himself as those made through the medium of several Powers, friends of England; but, having committed the greatest atrocity and piracy, in the scandalous attack on the city and port of Copenhagen, it has thrown off the mask in such a way that no one can doubt that its insatiable ambition aspires to the exclusive commerce and navigation of every sea. Nothing proves it more than the measures which it has just adopted, under date of the 11th November last, not only declaring all the coasts of France, of Spain, of their allies, and those occupied by the arms of the one or the other Power, in a state of blockade, but subjecting the vessels of neutral Powers, friends, and even allies of England, not only to be searched by English

cruisers, but likewise to touch, contrary to their will, at an English port, and also subjecting them to the arbitrary payment of a certain per centage on their cargoes, as may be determined by the English Legislature. Authorized, then, by the just right of reciprocity, to take those measures which may seem to me proper to prevent the abuse which the British Cabinet is making of its forces with respect to the neutral flag, and to see if, in this way, a renunciation of so unjust a tyranny can be obtained, I have come to the determination to adopt, and I will that there be adopted in all my dominions, the same measures which my intimate ally, the Emperor of the French and King of Italy, has adopted; and they are as follows:

Considering that, by the act abovementioned of the 11th November last, the British Cabinet has *denationalized* the vessels of all the nations of Europe, and that it is not at the discretion of any Government to accommodate (*transiger*) as to its independence and its rights, all the sovereigns of Europe being guarantees of the sovereignty and of the independence of their flags; and that, if, through an unpardonable weakness, which would be an indelible stain in the eyes of posterity, such tyranny should be suffered to be laid down as a principle, and consecrated by use, the English would take it as granted to establish it as a right, in the same way that they have availed themselves of the tolerance of Governments to establish the infamous principle that the flag does not cover the merchandise, and to give to its right of blockade an arbitrary extension aimed at the sovereignty of all States, I have decreed, and do decree as follows:

ART. 1. Every vessel, of whatever nation she may be, which may have been visited (*visitado*) by an English ship, or may have submitted to touch at a port of England, or may have paid any duty to the English Government, is, from that act, declared to be denationalized, loses the protection of its flag, and makes itself English property.

ART. 2. The vessels so denationalized by the arbitrary measures of the British Government, whether they enter into our ports, or enter those of our allies, or whether they fall into the possession of our ships of war or our privateers, are good and valid prize.

ART. 3. The British isles are declared in a state of blockade, as well by sea as by land. Every vessel, of whatever nation she may be, whatever may be her cargo, dispatched (*expedido*) from the ports of England, or of the English colonies, or from the countries occupied by the English troops, will be a good prize, as contravening this decree, will be liable to capture by our ships of war or by our privateers, and will be adjudged to the captor.

These measures, which are nothing more than a just reciprocation of the barbarous system adopted by the English Government, which assimilates its legislation to that of Algiers, will cease to have effect on all those nations who know how to oblige the English Government to respect their flag, and will continue in full force until the English Government return to the adoption of those principles of the law of nations which establish the relations of civilized States in time of war.

The dispositions of the present decree will be revoked and have no effect so soon as the English Government shall have returned to the adoption of those principles of the law of nations, which are equally those of justice and of honor.

You will keep this in mind, and communicate it to those to whom belongs its execution.

Signed with the royal hand of His Majesty a Aranjuez, on the 3d of January, 1808.

PEDRO CEVALLOS.

STATE OF THE FINANCES.

[Communicated to the Senate, Dec. 16, 1808.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

The net revenue arising from duties on merchandise and tonnage, which accrued during the year 1806, amounted to - - -	$16,615,430
And that which accrued during the year 1807 amounted, as will appear by the statement A, to - - -	16,059,924
The same revenue, after deducting that portion which arose from the duty on salt, and from the additional duties constituting the Mediterranean fund, amounted, during the year 1806, to - - - -	14,848,784
And during the year 1807, to - -	14,375,855

But it is ascertained that the net revenue which accrued during the three first quarters of the year 1808, did not exceed eight millions of dollars, and is daily decreasing.

The statement B exhibits in detail the several species of merchandise, and other sources, from which that revenue was collected during the year 1807.

It appears by the statement C, that the sales of the public lands have, during the year, ending the 30th September, 1808, amounted to about 200,000 acres; and the payments by purchasers to near $550,000. The proceeds of sales in the Mississippi Territory, being, after deducting the surveying and other incidental expenses, appropriated, in the first place, to the payment of a sum of $1,250,000, to the State of Georgia, are distinctly stated.

It appears, by the statement D, that the payments on account of the principal of the public debt have, during the same period, amounted to only $2,335,000. But the payments from the Treasury, for the annual reimbursment of the six per cent. and deferred stocks, and for the final reimbursement of the eight per cent. stock, will (exclusively of a sum of $730,000, already in the hands of the Treasurer, as agent for the Commissioners of the Sinking Fund) amount, during the last quarter of this year, to $5,376,000; making the total of public debt reimbursed, from the 1st of April, 1801, to the first of January, 1809, about thirty-three millions six hundred thousand dollars, exclusive of more than six millions, paid during the same period, in conformity with the provisions of the treaty and convention with Great Britain, and of the Louisiana convention.

The public debt will, on the 1st day of January, 1809, amount to $56,647,663; consisting of the following items:

Old six per cent. stock, nominal amount $20,706,603 22, unredeemed - - - - -	$11,919,877 57	
Deferred stock, nominal amount $11,717,476, 92, unredeemed -	9,386,627 08	
New six per cent. stock, exchanged at par for old six and deferred	5,993,343 50	
New six per cent. stock, arising from conversion of three per cent. stock, at 65 new six, for 100 three per cent. stock -	1,859.770 70	
1796, six per cent. stock - -	80.000 00	
Louisiana do. - - -	11,250,000 00	
Total six per cent. stock - -	$40,489.618 85	
Three per cent. stock - -	16,158,044 42	
	$56,647,663 27	

The interest on the whole debt, and the annual reimbursment on the six per cent. and deferred stocks, will, for the ensuing year, amount to $4,226,000, leaving, in order to complete the annual appropriation of $8,000,000, a sum of $3,774,000, applicable to the reimbursment of the new exchanged six per cent. stock. The whole of that and of the other new six per cent., arising from the conversion of three per cent. stock, amounting together to $7,853,000, would thus be reimbursed within two years. And after the 1st day of January, 1811, the whole annual amount payable on account of interest and annual reimbursement, could not, during the seven ensuing years, exceed $3,756,000. But, under existing circumstances, it is believed that the reimbursement of that new six per cent. stock will be nominal, and must be effected by incurring a new debt, to an equal amount.

The actual receipts into the Treasury, during the year ending on the 30th September, 1808, as they principally arose from the revenue accrued during the preceding year, (and the payments on account of drawback having been diminished by the embargo,) have been greater than those of any preceding year, and amounted to $17,952,419 90

And the specie in the Treasury, on 1st October, 1807, amounted to - - - - - - -	8,529,573 08
Making together - - -	$26,481,992 98

The disbursements, during the same period, have amounted to $12,635,275 46; consisting of the following items:

Civil department, and miscellaneous expenses - - - -	$1,258,967 18
Foreign intercourse, and payment of American claims, assumed by the Louisiana convention -	406,499 37
Military and Indian departments, including fortifications and the expenses of the new army -	3,023,759 55
Naval Department, including the appropriation of $677,064 47, to cover the deficit of the preceding year - - - - - - -	2,257,064 47
Public debt, principal and interest (the greater part of the payments for the year 1808 falling, as already stated, in the last quarter) have amounted only to - -	5,688,984 89
	12,635,275 46
Leaving a balance in the Treasury on the 30th September, 1808, of	13,846,717 52
	$26,481.992 98

The cash in the hands of collectors and receivers, and the outstanding revenue bonds, which will almost altogether fall due prior to the first of January, 1810, may, after deducting the debentures yet unpaid, and the expenses of collection, be estimated to have amounted, on the 30th September, 1808, to - - - - $10,500,000

Making, together with the balance in the Treasury on that day, of -	13,846,000
An aggregate of - - - -	$24,346,000
Although the expenses of the present quarter cannot at present be precisely ascertained, they will not, including the reimbursement of $5,376,000, on account of the principal of the public debt, exceed - -	8,346,000
Leaving, on the 1st day of January, 1809, a sum of - - - -	$16,000,000

Sixteen millions of dollars, in cash or bonds, payable during the year 1809, and applicable to the expenses of that year. It is presumed that the receipts arising from importations and payments for lands, subsequent to the 30th September, 1808, will not be greater than the deductions on account of bad debts, and of the extension of credit on certain articles.

The expenses of the year 1809 would, according to the appropriations already made, and to the usual annual estimates, amount to thirteen millions of dollars, consisting of the following items:

1. Civil list and miscellaneous expenses - - - - - - -	$900,000
2. Foreign intercourse - - -	200,000

3. Grants by Congress, and other miscellaneous unforeseen demands -	150,000
4. Military and Indian Departments,	2,736 000
5. Naval Department - - -	1,014,000
6. Annual appropriation for the public debt - - - - - -	8,000,000
	$13,000,000

Leaving a surplus of only three millions of dollars for defraying all the expenses for fortifications, military stores, increase of the army and navy, or otherwise incident to a state of actual war, or of preparations for war.

The annual appropriation on account of the public debt, amounting to eight millions, and the interest for the year 1809, being less than three millions of dollars, an authority to borrow five millions would only create a new debt equal to the principal of old debt reimbursed during that year, and appears sufficient to provide for any deficiency arising from extraordinary expenses which may be thus authorized by Congress.

It thus appears, that, notwithstanding the general warfare of the belligerent Powers against neutral nations, and the consequent suspension of commerce which took place in the latter end of the year 1807, and notwithstanding the increased rate of expenditure naturally arising from that state of things, the ordinary revenue will have been sufficient to defray all the expenses of the years 1808 and 1809, including, for 1808, a reimbursement of debt exceeding six millions of dollars, and without making any addition to that debt in 1809. The measures necessary to be adopted, in order to make a timely provision for the service of the ensuing years, depend on the course which the United States will pursue in relation to foreign aggressions. And that being yet unascertained, it becomes necessary to examine the several alternatives left to the choice of Congress.

Either the navigation of the ocean will be abandoned by the United States, or it will be resumed.

The first supposition is that of a continuance of the embargo of the vessels of the United States, and admits of two alternatives:

1. Either a provision, generally forbidding exportations, may continue to make part of the system, in which case importations, whether expressly interdicted or not, must, for want of means of payment, be also discontinued.

2. Or exportations and corresponding importations may be permitted in foreign vessels.

The second supposition also offers two, and only two alternatives. It may, indeed, be admitted, that the decrees of France can be enforced only in her own territories, and in those of her allies; that, however efficient in preventing any commerce between the United States and herself, those decrees cannot materially affect that between her enemies and the United States; and may, therefore, in that respect, be disregarded. But Great Britain having the means of enforcing her orders on the ocean, the navigation of that element cannot be resumed without encountering those orders; and they must either be submitted to or resisted. There can be no middle way between the two courses.

3. Either America must accept the portion of commerce allotted to her by the British edicts, and abandon all that is forbidden—and it is not material whether this be done by legal provisions, limiting the commerce of the United States to the permitted places—or by acquiescing in the capture of vessels stepping beyond the prescribed bounds.

4. Or the nation must oppose force to the execution of the orders of England; and this, however done, and by whatever name called, will be war.

Of those four alternatives, the second and third differ neither in principle nor in their effect on the revenue. As both plans consist in permitting partial exportations and importations, it must be acknowledged that, objectionable as that course may be in other respects, if considered merely in relation to the fiscal concerns of the Union, it will, for the moment, be attended with less difficulties than either the present system or war. For, however narrow the limits to which, on that plan, the exportations and importations of the United States may be reduced, yet there will still be some commerce, and some revenue arising from commerce. And, as in pursuing that humble path, means of defence will become unnecessary, as there will be no occasion for either an army or a navy, it is believed that there would be no difficulty in reducing the public expenditures to a rate corresponding with the fragments of impost which might still be collected. If that course be adopted, no other provision seems necessary than an immediate reduction of expenses.

The system now in force, and war, however dissimilar in some respects, are both considered as resistance. Nor is it believed that their effect on national wealth and public revenue would be materially different. In either case, a portion, and a portion only, of the national industry and capital, heretofore employed in the production, transportation, and exchange of agricultural products, or in the foreign carrying trade, can immediately be diverted to other objects. In case of a continuance of the embargo and non-exportation, either a less quantity of commodities must be produced, or a portion will accumulate until the freedom of commerce shall be restored. In case of war, that surplus will be exported; and although a part must be lost by capture, a portion of the returns will be received. If the embargo and suspension of commerce shall be continued, the revenue arising from commerce will, in a short time, entirely disappear. In case of war, some part of that revenue will remain; but it will be absorbed by the increase of public expenditure. In either case, new resources, to an amount yet unascertained, must be resorted to. But the assertion that that amount will be nearly the same, in either of the two alternatives of embargo or war, is correct only on the supposition that the embargo and non-exportation are, after a certain time, to be superseded by war, unless foreign aggression shall cease; and that rendering therefore preparations for war necessary, they require a rate of expenditure far beyond that of a peace establishment.

If, however, the embargo and non-intercourse are to have equal continuance with the belligerent edicts, indefinite as that is; if it be determined to rely exclusively on that measure, and, at all events, not to risk a war on account of those aggressions; preparations for war will become useless, and the extraordinary expenses need not be incurred. In that case, the expenditure for the year 1809 ought not to exceed the sum of thirteen millions of dollars, which, as has been stated, is requisite for the support of the present establishment. And this would leave for the service of the year 1810, the above-mentioned surplus of three millions, and the proposed loan of five millions, which, together, would be sufficient to defray the Peace Establishment, and to pay the interest on the public debt during that year. Thus two years more would be provided for, without either increasing the public debt or laying any new taxes. It is certainly only with a view to war, either immediate or contemplated, that it will become necessary to resort, at least to any considerable extent, to extraordinary sources of supply.

Legitimate resources can be derived only from loans or taxes; and the reasons which induce a belief that loans should be principally relied on in case of war, were stated in the annual report of last year. That opinion has been corroborated by every subsequent view which has been taken of the subject, as well as by the present situation of the country. The embargo has brought into, and kept in the United States, almost all the floating property of the nation. And whilst the depreciated value of domestic products increases the difficulty of raising a considerable revenue by internal taxes, at no former time has there been so much specie, so much redundant unemployed capital, in the country. The high price of public stocks, and, indeed, of all species of stocks, the reduction of the public debt, the unimpaired credit of the General Government, and the large amount of existing bank stock in the United States, leave no doubt of the practicability of obtaining the necessary loans on reasonable terms.

The geographical situation of the United States, their history since the Revolution, and, above all, present events, remove every apprehension of frequent wars. It may, therefore, be confidently expected, that a revenue derived solely from duties on importations, though necessarily impaired by war, will always be amply sufficient, during long intervals of peace, not only to defray current expenses, but also to reimburse the debt contracted during the few periods of war.

No internal taxes, either direct or indirect, are therefore, contemplated, even in the case of hostilities carried on against the two great belligerent Powers. Exclusively of the authority which must, from time to time, be given to borrow the sums required, (always providing for the reimbursement of such loans within limited periods,) and of a due economy in the several branches of expenditure, nothing more appears necessary than such modifications, and increase of the duties on importations, as are naturally suggested by existing circumstances.

1. Although importations have already considerably diminished, and may, under the system now in force, shortly be altogether discontinued, no reasonable objection is perceived against an increase of duties on such as may still take place. Had the duties been doubled on the 1st of January 1808, as was then suggested, in case of war, the receipts into the Treasury, during that and the ensuing year, would have been increased nine or ten millions of dollars. Those articles of most universal consumption, on which an increase of duty would be inconvenient, are generally either free of duty or abundant.

It is, therefore, proposed, that not only the Mediterranean duties, which will expire on the 1st day of January next, should be continued, but that all the existing duties should be doubled on importations, subsequent to that day.

2. The present system of drawbacks also appears susceptible of modifications. The propriety of continuing generally that provision of the embargo laws, which allows a drawback on articles exported more than one year after they have been imported, is doubtful. A modification might check speculations and monopolies. The diminution of importations has afforded sufficient profits on most of the articles which had been imported; and a provision which would have a tendency to bring into market, and to lessen the price of those articles, would be generally beneficial.

3. The causes which induced the adoption of a partial non-importation act, have ceased to exist. The object then in view, has merged into a far more important one. The selection of interdicted articles was founded on the possibility of obtaining them in other countries than England, and does not agree with existing circumstances. The act producing now no other effect than to increase the temptations, and to produce habits of smuggling, impairs and injures the revenue. A general non-intercourse with that country would supersede that partial measure, and might be executed with greater facility. And, it is believed that, under every event, its repeal will be beneficial, and that a permanent increase of duties on articles selected with the view to those which may be manufactured in the United States, would be preferable.

4. It is believed that the present system of accountability of the military and naval establishment, may be rendered more prompt and direct, and is susceptible of improvements, which, without embarrassing the public service, will have a tendency more effectually to check any abuses by subordinate agents. Provisions to that effect are rendered more necessary by the probable increase of expense in those departments.

All which is respectfully submitted

ALBERT GALLATIN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Dec. 10th*, 1808.

SINKING FUND.

[Communicated to the Senate, February 6, 1809.]

WASHINGTON, *Feb.* 4, 1809.

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of the 5th of February, 1808, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the third day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

J. MILLEDGE, *Pres. Sen., pro tem.*
A. GALLATIN, *Sec'ry Treasury.*
C. A. RODNEY, *Attorney General.*

Hon. PRESIDENT *of the Senate.*

TREASURY DEPARTMENT,
February 3, 1809.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund—

That the balance remaining unexpended at the close of the year 1806, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - - - $1,886,358 10

Together with the disbursements made during the year 1807, out of the Treasury, on account of the principal and interest of the public debt, which disbursements, as appears by the statement C, annexed to the last annual report, amounted to - - 6,347,465 84

And with a further sum, arising from a profit on the remittances from America to Europe, purchased in the year 1807, which profit, as appears by the statement D, annexed to the last annual report, amounted to - - - - - - - 9,427 58

And amounting, altogether, to - - $8,243,251 52

Have been accounted for in the following manner:

1. There was repaid into the Treasury, during the year 1807, on account of the principal of protested bills of exchange, of moneys heretofore advanced for the payment of interest and reimbursement of the funded domestic debt, and of moneys advanced for the purchase of stock, as appears by the statement B, annexed to the last annual report - - - - - - $61,189 66

2. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, viz:

1. Paid in reimbursement of the principal of the debt - $3,727,168 97
2. Paid on account of the interest and charges on the same 3,634,174 80 — 7,361,343 77
3. The balance remaining unexpended at the close of the year 1807, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - - 820,718 09

$8,243,251 52

That, during the year 1808, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

1. On account of the reimbursement and interest of the domestic debt - - - - $9,405,621 29
2. On account of the domestic unfunded debt - - - - - 49 20
3. On account of the principal and interest of the foreign debt, and of the interest on the Louisiana stock, and on exchange and converted stocks, payable in Europe - - - 924,343 11

Amounting, altogether, as will appear by the annexed list of warrants C, to - - - - - - - $10,330,013 60

Which disbursements were made out of the following funds, viz:

1. From the balance remaining unexpended at the end of the year 1807, of the annual appropriation of eight millions of dollars for that year, which was paid at the Treasury, out of the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels, and which balance, as stated in the last annual report, amounted to - - - - - $711,529 81
2. From the funds constituting the annual appropriation of eight millions of dollars, for 1808, viz:

From the fund arising from the interest on the debt transferred to the Commissioners of the Sinking Fund, as per statement I $1,035,928 93

From the funds arising from the sale of public lands, being the amount paid into the Treasury from the 1st of October, 1807, to 30th September, 1808, as per statement K - 600,508 29

From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of vessels - - 6,364,462 78

Amounting, altogether, to - - - - 8,000,000 00

3. From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of ships or vessels, advanced in part, and on account of the annual appropriation for the year 1809 - - - - 1,547,301 48
4. From repayments into the Treasury, on account of remittances purchased for providing for the foreign debt, and of advances made to Commissioners of Loans, and agents for the purchase of stock, as will appear by the statement E, viz:

Repayment of principal advanced from the Treasury - $68,795 11
Damages and interest recovered - - 2,366 70 — 71,161 81

5. From the moneys appropriated by law, for paying commissions to agents employed in the purchase of remittances, for the Dutch debt, (the commissions, for the purchase of remittances on account of interest on Louisiana stock, and on exchanged and converted stocks, payable in Europe, having been paid out of the annual appropriation of eight millions of dollars,) being the amount paid at the Treasury, during the year 1808, for that object, as will appear by the statement C - - - 20 50

10,330,013 60

That the abovementioned disbursements, together with the above stated balance, which remained unexpended at the close of the year 1807, of 820,718 09

Amounting altogether, to - - - 11,150,731 69

Will be accounted for in the next annual report, in conformity with the accounts which shall then have been rendered to the Treasury Department.

That, in the meanwhile, the manner in which the said sum has been applied is estimated as follows:

1. The repayments into the Treasury, on account of principal, have, during the year 1808, amounted, as by the above mentioned statement E, to - 68,795 11
2. The sums actually applied, during the year 1808, to the principal and interest of the public debt, are estimated as follows:

1st. Paid in reimbursement of the principal of the public debt - - - $6,986,963 40
2d. Paid on account of interest and charges on the same - - 3,434,531 09 — 10,421,494 49

As will appear by the estimate F.

3. The balance which remained unexpended at the close of the year 1808, and applicable to payments falling due after that year, is estimated, as per estimate G, at - - - - 660,442 09

$11,150,731 69

That, in conformity with the proceedings and resolutions of the Commissioners of the Sinking Fund, of the 23d of March, 1807, a copy whereof, marked M, was annexed to the last annual report, a further sum of eight per cent. stock was purchased during the year 1808, amounting to $190,000, for $193,100 specie, as will appear by the statement L.

That, in pursuance of the act of February 11, 1807, books were opened on the 1st day of July, 1807, at the several loan offices, and at the Treasury, and continued open until the 17th day of March, 1808, for the reception of subscriptions of the old six per cent., deferred, and three per cent. stocks, and the issue of new six per cent. stocks in lieu thereof, and agents were appointed to receive subscriptions of the same at London and Amsterdam, pursuant to the fourth section of the said act.

That the amount of old stocks surrendered, and new stocks issued, in consequence of these subscriptions, is exhibited in the annexed statement M, by which it appears that there were surrendered—

Certificates of old six per cent. stock, of the nominal amount of - - - - - - $7,435,767 61
Certificates of deferred six per cent. stock, of the nominal amount of - 1,940,672 01
In lieu of which certificates of exchanged stock for the unredeemed amount of the said certificates of old six per cent. and deferred stocks, were issued, amounting to - - 6,294,051 12
And there were surrendered certificates of three per cent. stock, amounting to - - - - - - - 2,861,309 15
In lieu of which certificates of converted stock were issued, amounting to 1,859,850 70

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, to the 31st of December, 1808, including the sum of $272 35, transferred in the year 1808, in payment for public lands.

All which is respectfully submitted.

ALBERT GALLATIN,
Secretary of the Treasury.

[The tables are omitted.]

ACCOUNTABILITY IN THE NAVY DEPARTMENT.

[Communicated to the Senate, February 25, 1809.]

Mr. GILES communicated the following letter and statement from the Secretary of the Navy:

February 25, 1809.

SIR: The enclosed is a hasty sketch of the ideas suggested to me in reading the bill before the Senate entitled "A bill further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments."

Respectfully, R. SMITH.

Warrants drawn by the Secretary of the Navy upon the Treasurer of the United States, do, at this time, and for many years have, specified the particular appropriation or appropriations to which the same should be charged. This is the established usage of the Navy Department, and there are to it but a few exceptions, in cases of

inevitable necessity, wherein bills have been drawn to defray contingent expenses, incurred on a distant station.

The moneys paid by virtue of such warrants, are charged in the books of the Accountant of the Navy, in such manner and form as the Treasury Department have, and from to time may prescribe, the Accountant of the Navy having ever considered himself, as to the forms of keeping his accounts, altogether under the controlling superintendency of the Treasury Department.

It is, at present, the duty of all navy agents to make their requisitions upon the Navy Department, for moneys, agreeably to the specifications of the appropriation law, and to render, monthly, distinct accounts of the application of all moneys, according to the appropriation or appropriations under which the same shall have been drawn. Papers A and B are copies of the instructions to the navy agents, upon this subject.

In this first section, I find the following provision: "Nor shall any credit be allowed to either of them, (agents,) except for expenses authorized by law, and for the amount appropriated for the same." Under such restrictions, no agent would make a purchase, or indeed, incur any expense, without having money in hand to meet it, because he could not know the exact state of the appropriation out of which such expense was to be paid; or, if he knew the unexpended balance of each appropriation, he could not know what dispositions the Department might have made respecting such balances; he would, therefore, never make a purchase without having in hand money of the appropriation under which such purchase would fall. What would be the effect?

Suppose, in time of war, a public vessel should arrive at any port distant from the seat of Government, viz: New Orleans; should be in want of repairs and supplies, and should be on important service, which requires her departure from such port with the least possible delay; her commander calls upon the agent for the requisite supplies, which amount to $2,000 worth of provisions and $3,000 of repairs: the agent has in hand, money enough for the repairs, but not for the provisions, he must then write to the Secretary of the Navy for money for the provisions, and before he gets an answer from the Secretary, three months may have expired. In this case, the vessel would be detained three months for want of provisions; and, if the agent should have a balance of $5,000 in his hands, out of any other appropriation than that of provisions, it would not prevent the detention of the vessel: for, if he applied any part of that $5,000 to the purchase of provisions, he could not be allowed credit for such purchase. The agent could not, in this case, or in any other, negotiate a bill on the Department, because he would never know the exact state of the appropriations.

Would it be possible for the Secretary of the Navy to keep the agents precisely informed as to the actual balances on hand, of each and every appropriation; or could he convey such information in any useful degree? Although he might direct, daily, returns of each and every warrant, upon each and every appropriation, to be made to the agents, still, before such returns could reach them, and particularly those at a distance, the balances would be considerably reduced by the daily drafts upon them, and might, possibly, be exhausted.

If it were possible to convey such information as would enable the agents to ascertain the exact balances on any day of the year, this would not remove the objection stated. No agent could tell, without previous instructions from the Secretary of the Navy, how far he could safely draw upon such balances, as he could not possibly know what other agents might have drawn for. Suppose a balance of $40,000, on account of repairs, and that the agents at New York, Norfolk, Charleston, and New Orleans, know of this balance; that, at each of these places, there are one or more vessels requiring repairs; how can each agent know what the others may want? No one of them can judge; they will, therefore, all write for instructions to the Secretary of the Navy, and wait to receive them before they commence the requisite repairs. Under the provisions of this section, it would be the duty of the Secretary of the Navy to instruct the agents to this effect.

Such instructions, as to public vessels on foreign stations, would, in a still greater degree, impede the public service. Such a vessel might be detained in port six months, at an expense of $50,000, for want of $6,000, for provisions and repairs, as the agent would not undertake to make an advance for the Government to such an amount; because, if he did, and should happen to exceed the appropriation, he would not have credit for the same.

The provision in the latter part of this section, which authorizes the President, "during the recess of Congress," on the application of the Secretary, and not otherwise, to direct "a portion of the moneys appropriated for a particular branch of expenditure, to be applied to another branch of expenditure, in the same department" would not remove these difficulties. This provision would be found a deception, in practice; it would not enable an agent to make such application of moneys, without a previous special instruction from the Secretary of the Navy. Hence, "the public service would be nearly as much impeded" with, as without this provision. The agents would not presume upon the sanction of the President, and draw on the Department; that would be applying the money before the President is consulted; whereas, the President can only sanction such application before it is made. He has not power to do it afterwards. But, if this objection could be removed, it might happen that the bill would arrive at the seat of Government, not "in the recess," but during the session of Congress; in such case, the President would have no right to give his sanction. What, then, would be the consequence? The bill is drawn payable at sight; the appropriation on which it is drawn is insufficient to pay it; it cannot, therefore, be paid; the holder protests the bill, and resorts to the

drawer for payment of principal, interest, costs, and damages.

The provisions of the second section may be useful. It may be proper, however, for me to observe, that I know of no "injurious delays," on the part of the Accountant of the Navy, in the settlement of accounts.

As to the provisions of the third section, not knowing how many agents the War Department will require, I can form no opinion as to the number that may remain to the Navy Department. I would only respectfully submit to the consideration of Congress, whether the number of essential agents of one Department should, at all, be affected by the number that may be deemed necessary to a distant Department of the Government. Under the limitations contemplated, serious injuries to the public service might, and probably would happen. A public vessel might, by stress of weather, or any other cause, be compelled to put into a port where there is no agent. The commanding officer, in such case, would not undertake to purchase supplies himself; he knows nothing about the state of the appropriations, and would not choose to put to hazard all his pay, probably all his fortune. He must write to the Secretary of the Navy for instructions; and hence would result injuries, necessarily produced by such unavoidable delays, and by the appointment of some temporary agent, who would, probably, be ignorant of his duties.

The Navy Department has, hitherto, distributed the advantages of public expenditures, so that every part of the Union has participated. Under the provisions of this section, those advantages would be monopolized by the towns in which the Department would have agents. In these towns all purchases would be made.

With respect to the provisions of the fourth section, it is proper, and it is at present prescribed by law, that the Comptroller of the Treasury shall give instructions to the Accountant of the Navy, as to the forms of rendering accounts, and as to his giving such forms to the navy officers and agents; and this, I presume, is the intention of this section. It is not, I trust, intended, that such forms shall be sent directly from the Treasury Department to agents of the Navy Department.

The fifth section provides, that "no purchase or contract for supplies or services, shall be made without the President's approbation," &c.

Is a piece of kentlege to be purchased, the President must previously approve the purchase; is a laborer or a seaman to be hired, the President must previously approve the hiring. What does the duty of approving or disapproving a purchase imply? It implies a knowledge of the quality, value, use, and quantity required, of each and every article, the purchase of which is to be approved or disapproved. If such knowledge is not possessed, the duty cannot be properly performed.

But, independently of the impropriety—the unfitness of imposing such duties upon the First Magistrate of the nation—what would be the effect in practice? In some few cases, it might be partially done; in most cases it would occasion great losses and delays. In cases of purchases at the seat of Government, it might be partially done; but, in purchases required at distant ports, it would, obviously, produce great delays. Suppose a public vessel is at Gibraltar, and requires supplies; not a single purchase could be made without the previous approbation of the President; and, indeed, under the provisions of this section, not a man could be entered, to supply the place of one that might have deserted, or died, or have been killed in action.

The President, it is provided, may approve, either before or after the purchase, &c. This subsequent approbation of the President, to purchases, &c., will not be considered as a matter of course; he will exercise his judgment, and approve or reject, as it shall dictate. Who, then, would make a purchase, at the hazard, 1st, of losing the whole amount, because there might not be funds; 2d, of having his purchases disapproved by the President? No agent could, especially at a distance, make a condition with the vender, that, if the President did not approve the purchase, the articles should be returned to him without any compensation; because no person would sell under such circumstances.

I take this occasion to suggest for consideration, whether it would not be an improvement of the present system, if the several Departments of the Government were, by law, required to make to Congress annual reports of the expenditures of the respective Departments, so that Congress might see, whether, in any case, they varied in object, or transcended in amount, the estimates upon which the appropriations are founded; and, if they did, that a satisfactory explanation might be therefor made.

A.—*Circular to the Navy Agents.*

NAVY DEPARTMENT, *March* 9, 1803.

The appropriation law of the present year, changing the classifications made by the law of the last year, renders it necessary that you should receive additional instructions, as to your future conduct, in making requisitions, and in the manner of expending them.

The law of the present year appropriates—

For the pay and subsistence of the officers and pay of the seamen - - - -	$283 993 00
For provisions - - - - -	157,360 20
For medicines, instruments and hospital stores, and all expenses on account of the sick - - - -	7,700 00
For the purchase of ordnance and other military stores - - -	15,000 00
For repairs of vessels, store rent, and other contingent expenses -	182,000 00
For timber, ordnance, and other materials for 74 gun ships, and transportation - - - - -	114,425 00
For the erection of sheds and navy yards, including docks and other improvements, the pay of superintendents, storekeepers, clerks, and laborers - - - - - -	48,741 87

There are other appropriations, which, however, either relate to the Marine Corps, or are for deficiencies in the appropriations for 1802, for objects which are comprehended under the above heads.

I have commenced, and shall progress, in the expenditures, under the determination not to exceed either of the particular sums appropriated. I cannot, therefore, lay my injunctions on you in terms too forcible, to be extremely particular in designating, in your requisition, the objects upon which the expenditures are to be made, that we may, at all times, be able to ascertain under what heads of appropriation to make remittances. It will also be expected, that you will always give a prospective detail of the expenditures as they are contemplated; that we may make remittances with a full understanding of the objects for which they are made, and thus be enabled to avail ourselves, if necessary, of the whole sums appropriated, without exceeding either in the expenditures.

In your letters of requisition, you will be pleased to exclude all matter irrelative to the requisition. Sould it be necessary to write to the Department on other points at the same time that you write for a remittance, be pleased to communicate them in a separate letter.

We shall pay no money upon your requisitions unless made in conformity to the preceding arrangements, and I confidently rely upon your exertions to enable me to carry these arrangements into complete effect.

The Accountant of the Navy will give you instructions as to expenditures.

I am, respectfully, sir, R. SMITH.

B.

NAVY DEPARTMENT, *Accountant's Office.*

SIR: the system adopted at this office for arranging the expenditures of the Department, requires that the several objects and expenditures should be kept separate and distinct, as they fall under the following heads, viz:

Pay of the Navy, &c.
Provisions.
Hospital.
Contingent.
Ordnance.
Navy yards and docks.
Pay of superintendents, storekeepers, &c.
Gunboats.

The first of these heads will embrace all payments made on account of the pay or subsistence of officers, or the pay of seamen.

The second will include all payments for, or on account of, provisions.

The third, all medicines, instruments, and hospital stores.

The fourth, all expenditures, of whatever nature, on account of repairs to vessels, and, indeed, all other expenses not falling under any of the other specific heads.

The fifth, all ordnance or military stores purchased for, or on account of the Navy.

The sixth, all expenses, of whatever nature, incurred in the improvement of the navy yards, docks, and wharves.

The seventh, the salaries and wages of superintendents, storekeepers, &c.

The eighth, all expenses, of whatever nature, incurred in building and equipping gunboats.

The form herewith transmitted, is framed on the principles of this system, agreeably to which, you will render your accounts to this office, monthly. It may also be necessary to observe, that it will be proper to accompany your summary statement by abstracts for expenditures on account of each vessel, or other specific object, extending in your summary, in one line, the aggregate amount expended on the particular object. And further, that, as the commanding officers are held responsible for regulating all expenses on account of the vessel under their immediate command, no supplies can be furnished but by the direction, or with the concurrence in writing of the officer commanding; and, in all cases where articles are delivered, or services of any kind rendered to a vessel, it will be the duty of the commanding officer to receipt for the articles, and to certify that the services were rendered; and this evidence, in addition to bills with receipts, stating the amount paid for all expenditures whatever on account of the vessel, will be necessary, to entitle you to credit at this office. And for all expenditures, of whatever nature, bills and receipts will be required. It, also, may not be unnecessary to observe, that all receipts must be signed by the person entitled to receive, and that the receipt of one person for another will not be admitted, unless accompanied by an order in writing.

No payments or advances are to be made to any officer of the Navy, on account of pay, &c., unless particularly instructed from this Department.

Herewith, you will also receive a form for the return of public stores. The object of this return is, to exhibit a clear and distinct view of the number, quality, and value of the articles purchased, and not immediately expended or delivered; and, also, those received from agents, or vessels of war, arranged in appropriate columns. Quarterly returns of these accounts will be made to this office, exhibiting the number, quantity, and value of the several articles on hand at the beginning of the quarter, the articles purchased within the quarter, and, also, those received from other navy agents or vessels of war, as well, also, those that may be delivered within the quarter, thereby showing the balance of articles remaining on hand at the end of the quarter. Vouchers for all deliveries must also accompany the return.

Respectfully, I am, &c.

NAVY DEPARTMENT, *Accountant's Office, February* 24, 1809.

The foregoing is a copy of instructions that issue from this office to the navy agents, in relation to the manner of keeping and exhibiting

their accounts, varying the heads of expenditure from time to time, as it may be necessary, to correspond with the specific appropriations.

This system it was thought advisable, by this Department, to adopt, in the year, 1803, and it has been pursued ever since. Antecedent to that time, the accounts were kept under heads of expenditure, according to instructions from the Comptroller of the Treasury, without regarding the specific heads of appropriation.

THOMAS TURNER, *Accountant.*

THE EMBARGO.

[Communicated to the House, Feb. 6, 1809.]

To the Honorable Senate and House of Representatives of the United States in Congress assembled, the memorial and remonstrance of a meeting of citizens of the third ward of the city of New York, assembled in pursuance of public notice, respectfully showeth:

That, in the exercise of the undoubted right of freemen, your memorialists approach the Legislature of the Union, to remonstrate against certain provisions of the late act for enforcing the embargo. At the same time, your memorialists offer to Congress a solemn assurance of their readiness to defend the rights of their country, not only against subjugation from abroad, but against usurpation and despotism at home. They are firmly attached to the Constitution and Union of these United States; and whenever no other alternative shall remain, they will be ready to vindicate, in arms, the cause of their country and of its liberties.

Until now, it has been the boast of those who love this country and its political institutions, that we have a Government of laws, not of men; that our citizens are liable to punishment only upon judicial conviction of offences, not on suspicion; that no person can be deprived of life, liberty, or property, without due process of law; that the right of being secure against unreasonable searches, cannot be violated; that warrants cannot issue but upon probable cause, supported by oath or affirmation; and as the great bulwark of defence for all these rights, that the trial by jury shall be preserved. If principles, in their nature so original, and so necessarily interwoven with the fabric of every free Government, can need a formal sanction, it will be found in the letter of the fourth, fifth, and seventh amendments to the Constitution, and in the spirit of every part of that instrument.

In the act against which your memorialists remonstrate, they see direct and palpable violations of these principles, in the following, among other particulars:

That, by this act, a citizen may be deprived of his property without process of law:

That, by this act, a citizen may be deprived of his property at the caprice of individuals, not only when innocent of any offence, but of the intent to commit any:

That, by this act, a citizen may be deprived of his property without an offence committed, without proof, without trial, without judgment, without the benefit of a legal appeal against the injustice, and without remedy:

That, by this act, our property is subjected to instructions from the President, which may be kept secret; which may be different for different classes of men; which may proceed from misinformation, or worse causes; and which may be partial, arbitrary, and oppressive:

That, by this act, our property is placed under the discretion of officers of the revenue, with more than judicial powers, who, yet, are not sworn as judges, nor liable to impeachment as such; nor independent in office, nor presumed to be learned in the laws, nor bound to examine facts, or hear the accused:

That, by this act, our property is subjected to seizures, which may proceed, not only from mistake or false information, but from private malice, party animosity, or other corrupt motives:

That, by this act, the military power is introduced into the execution of municipal law before any resistance made, and when there is neither rebellion, war, nor danger of invasion:

That, by this act, we are subjected to vexatious searches and intrusions, without probable cause supported by oath or affirmation:

That, by this act, belief of guilt is taken for guilt itself, and, without the forms of law, is punished accordingly:

That, by this act, we are subjected to secret and odious inquisitions, inasmuch as, when informed against, we have no means of knowing the accusation, or of being confronted with the witnesses, or of having a public trial:

That, by this act, new conditions are annexed to bonds already given, and some of these conditions impossible to be performed:

That this act appears intended to bar the legal remedies for seizures, and other wrongs which may be most oppressive; and, instead of the law of the land, our undoubted and hitherto undisputed birthright, it refers us, for redress, to a petition, a summary hearing, and the final discretion of a district judge:

That, by this act, the Legislative, Judicial, and Executive powers, are vested in one man; which is despotism.

The intention of your memorialists has been to confine themselves, in this remonstrance, chiefly to the objections of unconstitutionality; but they presume to notice some of the other particulars in which they conceive the act to be oppressive to the citizens, and dangerous to public liberty.

The excessive security required for vessels and cargoes, (being six times their value,) is productive of various vexations and oppressions upon almost every class of the community. Upon the small trader and boatman, when unable to find security, the act operates as a total prohibition of the use of his property. It increases the expenses and risks of those engaged in transportation; it thus diminishes competition and supplies; and, without benefitting the farmer, enhances the

prices of fuel and provisions in the cities, at a time, in other respects, sufficiently calamitous.

The great number and amount of bonds will also involve almost the whole mercantile community in responsibilities to Government, to an amount equal to that of their property, and perhaps superior. In case of suits, therefore, it may be impossible for them to procure competent bail; and thus the liberty of a great portion of the citizens may be held at the mercy of the prosecuting officers of Government.

Another effect, not less to be deplored, is, that this act, like all arbitrary powers, is calculated to infest society with spies and informers. It will multiply fees, and the exactions of office, encourage prosecutions, and enrich a host, not only of spies and informers, but of collectors, surveyors, tide-waiters, and other custom house officers, district attorneys, marshals, clerks, and their subordinate agents, who will fatten upon the public distress.

If another case was wanting to show the possible oppressions and despotic tendencies of the act, we might notice its application to our own city.

The city of New York receives its supplies of provisions and necessaries by boats and water craft. By this act, those vessels must have a general or special permission, which the collectors may refuse, for certain reasons, and the President may direct them to refuse without any reason whatever. We presume New York is the only city on earth, where, according to a public and formal law, the people may be starved at the mere will of a single individual.

Such an act is not more a violation of the express words, and whole scope of our written Constitution, than it is an attack upon those fundamental principles of civil liberty, which, anterior to all charters of rights and powers, form the basis of every social compact.

But the alarm which these provisions are calculated to inspire, is, if possible, increased, when we find the act defended on the recent precedent exhibited at New Orleans. If, indeed, this act shall as soon be made the precedent for another similar step, there may be scarcely time for the people to awaken, before the name of American liberty will be remembered only as a dream.

The occasion does not require your memorialists to discuss the delicate question, how far, in all cases, the application and effect of laws may be Constitutionally subjected to the instructions of Executive officers; but we can readily discern an extreme case when this cannot be done. No law could give the President power to issue instructions for taking our lives by military execution, without offence, accusation, proof, trial, or sentence, upon the collector's mere belief of our intention to violate the embargo. Yet liberty and property are guarded by sanctions as strong as life, and the violation of one is no more a wound to the Constitution than of the other.

To hardships, deprivations, and oppressions, such as this act may impose, it scarcely can be expected that the freemen of this country will submit.

They can never submit to military government:

They can never surrender the trial by jury:

They can never consent to hold their property subject to the arbitrary control of any man.

They can never surrender those other essential rights of freemen which are guarantied by the State and General Constitutions, which their fathers fought to maintain, and which, when the occasion calls for it, they will also know how to defend.

Remote as we are from the seat of the General Government, we well know that Congress and the Executive have been assailed and deceived by interested individuals and intriguers for office. Such persons are seeking a momentary profit in measures which may ruin their country. Nor can the suggestion, that these are the opinions of a factious few, or of party animosity, be otherwise than injurious. It cannot long be concealed, that, in this and the neighboring States, the act has excited a spirit which is rapidly uniting all real friends of the country in a common sentiment of disapprobation. We deplore the fact, that Congress should remain ignorant of the strength of this sentiment, or be regardless of its expressions. We solemnly forewarn our Government of the dangers which may ensue from an attempt to array its powers against the rights of the citizens, or to enforce an act which can never be executed against the will of a free people.

And we respectfully pray Congress that the act aforesaid may be immediately repealed.

Signed, on behalf of themselves, and of the citizens assembled, by

J. LITTLE, *Chairman*,
E. DUNSCOMB, *Secretary*.

CLAIM OF THOMAS PAINE.

[Communicated to the House, February 1, 1809.]

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Thomas Paine, made the following report:

The memorialist states, that, in the beginning of February, 1781, he sailed from Boston in the frigate Alliance, with Colonel Laurens, who was appointed by Congress to negotiate a loan with the French Government, for the benefit of the United States; that he aided in effecting the important object of this mission, and thus voluntarily rendered an essential service to the country, for which he has received no compensation. This memorial was presented to Congress at their last session, unaccompanied with any evidence in support of the statement of facts. The Committee of Claims, to whom it was then referred, endeavored to procure, from proper sources, such information as would guide them in making an equitable decision upon the case. The Journals of Congress, under the former Confederation, were diligently examined, but nothing was therein found tending to show that Mr. Paine was in any manner connected with the mission of Colonel Laurens. It appears that, on the 18th day of October, 1783, two resolutions were adopted in favor of Major Jackson: one for defraying certain expenses incident to the mission, the other allowing him $1,450 as a full compensation for his services, while acting as secretary to Colonel Laurens. A letter from the Vice President, in answer to one addressed to him by the Chairman of the Committee of Claims, is herewith presented. It will be observed, that the statement of this gentleman is from information, and not from his own knowledge. That Mr. Paine embarked with Colonel Laurens from the United States for France may be admitted; but it does not appear that he was employed by the Government, or even solicited by any officer thereof to aid in the accomplishment of the object of the mission with which Colonel Laurens was intrusted, or that he took any part whatever, after his arrival in France, in forwarding the negotiation; your Committee are, therefore, of opinion that the memorialist has not established the fact of his having rendered the service for which he asks to be compensated.

On the 26th of August, 1785, Congress, by a resolution, declared that Thomas Paine was entitled to a liberal gratification from the United States for his unsolicited and continued labors in explaining and enforcing the principles of the late Revolution; and, on the 3d of October following, the Board of Treasury were directed to take order for paying Mr. Paine three thousand dollars, for the considerations mentioned in the above resolution. This sum, it appears, Mr. Paine received on the 11th October, 1785. That Mr. Paine rendered great and eminent services to the United States, during their struggle for liberty and independence, cannot be doubted by any person acquainted with his labors in the cause, and attached to the principles of the contest. Whether he has been generously requited by his country for his meritorious exertions, is a question not submitted to your Committee, or within their province to decide.

The following resolution is offered to the House:

Resolved, That Thomas Paine have leave to withdraw his memorial, and the papers accompanying the same.

NEW YORK, *February*, 14, 1808.

Citizen Representatives: In my memorial to Congress of the 21st of January, I spoke of a resolve of the old Congress of three thousand dollars to me, and said that the resolve had relation to a matter it did not express; that Elbridge Gerry was chairman of the committee that brought in that resolve; and that if Congress referred the memorial to a committee, I would write to that committee, and inform them of the particulars of it. It has relation to my conduct in the affair of Silas Dean and Beaumarchais. The case is as follows:

When I was appointed secretary to the Committee of Foreign Affairs, all the papers of the secret committee, none of which had been seen by Congress, came into my hands. I saw, by the correspondence of that committee with persons in Europe, particularly with Arthur Lee, that the stores which Silas Dean and Beaumarchais pretended they had purchased were a present from the Court of France, and came out of the King's arsenals. But, as this was prior to the alliance, and while the English ambassador (Stormont) was at Paris, the Court of France wished it not to be known, and therefore proposed that "a small quantity of tobacco, or some other produce, should be sent to the Cape (Cape François) to give it the air of a mercantile transaction, repeating over and over again that it was for a cover only, and not for payment, as the whole remittance was gratuitous." (See Arthur Lee's letters to the secret committee; see also Benjamin Franklin's.)

Knowing these things, and seeing that the public were deceived and imposed upon by the pretensions of Dean, I took the subject up, and published three pieces in Dunlap's Philadelphia paper, headed with the title of "Common Sense to the Public on Mr. Dean's affairs." John Jay was then President of Congress, Mr. Laurens having resigned in disgust.

After the third piece appeared, I received an order, dated Congress, and signed John Jay, that "Thomas Paine do attend at the bar of this House immediately;" which I did.

Mr. Jay took up a newspaper, and said, "Here is Mr. Dunlap's paper of December 29. In it is a piece entitled 'Common Sense to the Public on Mr. Dean's affairs;' I am directed by Congress to ask you if you are the author." "Yes, sir, I am the author of that piece." Mr. Jay put the same question on the other two pieces, and received the same answer. He then said, you may withdraw.

As soon as I was gone, John Penn, of North Carolina, moved that "Thomas Paine be discharged from the office of secretary of the Committee for Foreign Affairs," and prating Gouverneur Morris seconded the motion; but it was lost when put to the vote, the States being equally divided. I then wrote to Congress, requesting a hearing, and Mr. Laurens made a motion for that purpose, which was negatived. The next day I sent in my resignation, saying, that "as I cannot, consistently with my character as a freeman, submit to be censured unheard, therefore, to preserve that character and maintain that right, I think it my duty to resign the office of secretary to the Committee for Foreign Affairs, and I do hereby resign the same."

After this I lived as well as I could, hiring myself as a clerk to Owen Biddle, of Philadelphia, till the Legislature of Pennsylvania appointed me clerk of the General Assembly. But I still went on with my publications on Dean's affairs, till the fraud became so obvious, that Congress were ashamed of supporting him, and he absconded. He went from Philadelphia to Virginia, and took shipping for France, and got over to England, where he died. Doctor Cutting told me he took poison. Gouverneur Morris, by way of making apology for his conduct in that affair, said to me, after my return from France with Colonel Laurens, "Well! we were all duped, and I among the rest."

As the salary I had as secretary to the Committee of Foreign Affairs was but small, being only $800 a year, and as that had been fretted down by the depreciation to less than a fifth of its nominal value, I wrote to Congress, then sitting at New York, (it was after the war,) to make up the depreciation of my salary, and also for some incidental expenses I had been at. This letter was referred to a committee, of which Elbridge Gerry was chairman.

Mr. Gerry then came to me, and said that the committee had consulted on the subject, and they intended to bring in a handsome report, but that they thought it best not to take any notice of your letter or make any reference to Dean's affair or your salary. They will indemnify you, said he, without it. The case is, there are some motions on the Journal of Congress, for censuring you with respect to Dean's affair, which cannot now be recalled, because they have been printed. Therefore, we will bring in a report that will supersede them, without mentioning the purport of your letter.

This, citizen representatives, is an explanation of the resolve of the old Congress. It was an indemnity to me for some injustice done me, for Congress had acted dishonorably to me. However, I prevented Dean's fraudulent demand being paid, and so far the country is obliged to me; but I became the victim of my integrity.

I preferred stating this explanation to the committee rather than to make it public in my memorial to Congress. THOMAS PAINE.

NEW YORK, PARTITION ST., No. 63,
February 28, 1808.

SIR: I addressed a memorial to Congress dated January 21, which was presented by George Clinton, junior, and referred to the Committee of Claims. As soon as I knew to what committee it was referred, I wrote to that committee, and informed them of the particulars respecting a vote of the old Congress of $3,000 to me, as I mentioned I would do in my memorial; since which I have heard nothing of the memorial or of any proceedings upon it.

It will be convenient to me to know what Congress will decide on, because, it will determine me whether, after so many years of generous services, and that in the most perilous times, and after seventy years of age, I shall continue in this country, or offer my services to some other country. It will not be to England, unless there should be a revolution.

My request to you is, that you will call on the Committee of Claims to bring in their report, and that Congress would decide upon it. I shall then know what to do.

Yours, in friendship,

THOMAS PAINE.

The Hon. SPEAKER *House of Reps.*

NEW YORK, *March* 7, 1808.

SIR: I wrote you a week ago, prior to the date of this letter, respecting my memorial to Congress, but I have not yet seen an account of any proceedings upon it.

I know not who the Committee of Claims are, but if they are men of younger standing than "the times that tried men's souls," and, consequently, too young to know what the condition of the country was at the time I published *Common Sense*, (for I do not believe independence would have been declared had it not been for the effect of that work,) they are not capable of judging of the whole of the services of Thomas Paine. The President and Vice President can give you information on those subjects, so also can Mr. Smilie, who was a member of the Pennsylvania Legislature at the times I am speaking of. He knows the inconveniences I was often put to, for the old Congress treated me with ingratitude, they seemed to be disgusted at my popularity, and acted towards me as a rival instead of a friend.

The explanation I sent to the committee respecting a resolve of the old Congress while they sat at New York should be known to Congress, but it seems to me that the committee keep everything to themselves, and do nothing. If my memorial was referred to the Committee of Claims, for the purpose of losing it, it is unmanly policy. After so many years of service my heart grows cold towards America.

Yours, in friendship,

THOMAS PAINE.

Hon. SPEAKER *of the House of Reps.*

P. S. I repeat my request, that you would call on the Committee of Claims to bring in their report, and that Congress would decide upon it.

SENATE CHAMBER, *March* 23, 1808.

SIR: From the information I received at the time, I have reason to believe that Mr. Paine accompanied Colonel Laurens on his mission to France, in the course of our Revolutionary war, for the purpose of negotiating a loan, and that he acted as his secretary on that occasion; but although I have no doubt of the truth of this fact, I cannot assert it from my own actual knowledge.

I am, with great respect, your most obedient servant, GEORGE CLINTON.

DAVID HOLMES, Esquire.

CUMBERLAND ROAD.

[Communicated to Congress, February 17, 1808.]

To the Senate and House of Representatives of the United States:

I now transmit to both Houses of Congress a report of the Commissioners appointed under the act of March 29, 1806, concerning a road from Cumberland to Ohio, being a statement of the proceedings under the said act, since their last report communicated to Congress, in order that Congress may be enabled to adopt such further measures as may be proper under existing circumstances. TH. JEFFERSON.

DECEMBER 13, 1808.

AUGUST 30, 1808.

The undersigned, two of the Commissioners under the law to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, report to the President of the United States, that, having in May last resumed the duties assigned them, they have extended the location of the route to the Ohio river, which, with the other parts heretofore reported, completes the location, grading, and marking the whole route from Cumberland to the river Ohio, agreeably to the plat, course, and distances thereof, which accompany this report.

The first report of the Commissioners on this subject states the reasons and necessity for adopting, as a crossing place on the Ohio river, a point opposite the lower end of Wheelen island. On approaching the Ohio with the location, it was found that this point could be reached on a route somewhat shorter than by passing through the town of Wheelen. It was, however, also ascertained that the portage between the Monongahela and the Ohio rivers would not be lengthened by passing through the town which lies on the east bank of the Ohio, and affords as eligible a port for embarkation as the lower point. In consideration whereof, and that many important advantages would be presented to emigrants, traders, and others, in a choice of supplies of boats, stores, and other accommodations along the shore through the town a mile in length, which could not be otherwise as conveniently obtained, and that as the grounds on the town route, being level nearly the whole way, held a decided preference, the Commissioners were of opinion that the town route was entitled to a preference, inasmuch as it was best calculated to secure public benefit, and guard against private injuries.

In reporting the parts which require the most immediate amelioration, the Commissioners have to state that the part from Brownsville to the Ohio, like the other part of the route reported, occupies but little of the old road; that it passes through a country formed wholly of hills and hollows, more irregular in their bearings, and, consequently, rendering the location more difficult and tedious than that heretofore reported, and confining the route, in many places, to the sides of hills which, from necessity, were crossed obliquely.

From these circumstances, and that of the rough, stony state of the more level parts in the mountains, it is not supposed that the balance of the funds appropriated will be adequate to the expense of rendering the whole way barely passable, and much less to make it conveniently so; neither is it believed that a road on these sideling grounds, barely of sufficient width to pass a wagon, would remain passable half a year without the precaution of well-secured conduits, which an uncovered road of common width will not admit. If this opinion should lead to a question, how the present roads through that country are kept in passable order, the fact of their direction being principally adapted to the crossing of the hills nearly at right angles, or along their tops over the centre of all the knobs, to save the necessity of digging, will furnish the answer; while, at the same time, it accounts for the steepness of the hills on these roads, and the great difficulty and sufferings experienced in passing them. Under all the existing circumstances relative to the application of the remaining funds, the Commissioners are impressed with a belief that, instead of using the money towards making the whole way merely passable, the improvement of a few difficult places, which, in that way, may be rendered useful to the intercourse on the roads now in use, would be much more advisable, as much more benefit would result from it.

Among those places which, in the opinion of the Commissioners, have the highest claim to immediate attention, are the crossing of the mouth of Dunlap's creek, between Brownsville and Bridgeport, and the crossing of Wheelen creek, between the town and the lower point of the island. At both these creeks bridges are much wanted. The next object is what is called the Dug hill, near the town of Wheelen, where considerable difficulty and hazard is encountered for want of a safe pass across that hill.

As bridges built with wood, when supported by stone pillars and abutments, and judiciously constructed and secured from the weather, may answer every purpose for many years, it is conceived that the combination of economy and usefulness in this sort of bridge will recommend their adoption for the present.

From a rough estimate of the probable expense of these ameliorations, it is supposed that for a bridge over Dunlap's creek, $2,500, and over Wheelen creek, $4,000 may suffice, with the voluntary aid which will be afforded by the inhabitants of the respective places; and that $1,500 may be usefully and effectually applied in cutting and forming a secure and easy pass over Wheelen hill. It is suggested for consideration, whether the most eligible application of any surplus fund would be in making and perfecting as much road, by way of sample, as it is competent to, near Cumberland, or where the Virginia line intersects the western route at Gwynn's tavern.

It is found that, from Cumberland to Brownsville, there is an abundance of stone, in convenient situations, for the purposes of bridges and covering the road. The grounds from Brownsville to Wheelen are not so conveniently stored, but afford very ample supplies.

The object of this establishment being to afford safety and facility in the intercourse upon it, the Commissioners trust it will not be deemed presumptuous in them to suggest their ideas of the mode of making the road best calculated to accomplish this important object, and which the peculiarity of the grounds seem to require.

The law directs the whole width of the road to be sixty-six feet. Although it is essential to a great highway to have sufficient space for the admission of sun and air, it is not supposed to be intended that the whole breadth should be reduced to a form passable with wagons or other

carriages, or even single horse. It is thought that forty feet, and not less, will be amply sufficient for this great thoroughfare; twenty feet of which to be covered one foot deep at least, with broken stone, so reduced as to pass through a gauge ring of three inches diameter; the covered part to be in the centre of the forty feet, with cross conduits at suitable distances, well paved and arched; ten feet on each side of the covered part to be level crosswise of the road, except only such inclination as may be necessary to prevent water from lying on the uncovered part. Stone arches are deemed the most eligible mode of bridging all the streams on the way, except the two creeks already mentioned, and the Big and Little Youghagana, where wooden bridges are for the present thought most advisable; and except also the Monongahela river, the size of which, and the high floods which frequently fill and partially overflow its banks, render the bridging of that stream a work of too much magnitude to encourage the attempt at this time, but present no unusual impediments in the way of ferries.

The instructions from the President, under date of the 6th of August, not having come to hand before finishing the work, and leaving that part of the country, the Commissioners have to state, that a short time before the completion of the route now reported, they were informed by several of the inhabitants, in behalf of the town of Washington, in Pennsylvania, that a route had been carefully run, graded, &c., at private expense, from Brownsville, through that town nearly to Wheelen, which would be found but little, if any, longer than the route laid off by the Commissioners; and was stated to be capable of very great improvement under the superior skill of the Commissioners; that it commanded a variety of advantages, which, it was believed, would give it a preference; all which was so confidently asserted, that although the Commissioners were convinced, from the knowledge they then possessed of the geographical situation of the town of Washington, that some mistake must have taken place in the representation of the distance on that route, yet, in order to gratify the solicitude of those interested, and to ascertain to them the merits of their claims, as far as a view and comparison of measurement and local advantages could effect it, the Commissioners were induced to make that view and measurement on their return from Wheelen; which being done, that route appeared upwards of four miles longer than the route located by the Commissioners; and after deducting one mile for improvement, being the utmost it appeared capable of, there remained a difference of upwards of three miles against the Washington route.

It was well known to the Commissioners, that the distance from Brownsville to Short creek was less than to Wheelen, and that to Charlestown was still less than to Short creek; but knowing also that Wheelen lay one degree north of West from Brownsville, and north of a straight line from the latter place to Chilicothe, Vincennes, and St. Lewis, or even to the centre of the State of Ohio, they could not prefer points still more north, which would consequently increase the angle at the Ohio, and necessarily the distance in passing west from Brownsville; and if Wheelen, Short creek, and Charlestown, had been on an equality in all other respects, the circumstance of Wheelen being a point of more useful navigation for the boats of traders or emigrants at low water, could not have escaped the attention of the Commissioners in deciding on the point best entitled, in all respects, to a preference.

The undersigned have to regret the absence of their colleague, Joseph Kerr, whose domestic concerns would not dispense with his personal attention, by which they were deprived of the benefit of his co-operation, and consequently taxed with a larger share of the duties. All which is respectfully submitted.

ELIE WILLIAMS.
THOMAS MOORE.

CAPTAIN PIKE AND COMPANIONS.

[Communicated to the House, December 16, 1808.]

Mr. John Montgomery, from the committee, to whom was referred the resolution to inquire whether any, and, if any, what compensation ought to be made to Captain Zebulon M. Pike, and his companions, for their services in exploring the Mississippi river, in their late expedition to the sources of the Osage, Arkansas, and La Platte rivers, and in their tour through New Spain, made the following report:

That it appears by the documents accompanying this report, that the objects of each of the exploring expeditions, together with the instructions for executing them, were communicated to, and approved by, the President of the United States; that the conduct of Captain Pike, in each of the expeditions, also met with the approbation of the President, and that the information obtained and communicated to the Executive on the subjects of his instructions, and particularly in relation to the sources of the Mississippi, and the natives in that quarter, and the country generally, as well on the Upper Mississippi, as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source, and the country adjacent, is highly interesting in a political, geographical, and historical view; and that although no special encouragement was given to the individuals who performed these laborious and dangerous expeditions, yet it was but reasonable for them, should they fortunately succeed in the objects, to expect some reward from Government; that the zeal, perseverance, and intelligence of Captain Pike, as commander, has been meritorious, and the conduct of the individuals generally who composed the parties respectively, has been faithful, and the exertions arduous. The committee, therefore, are of opinion, that compensation ought to be made by law to Captain Pike and his companions.

Documents.

War Department, *Dec.* 7, 1808.

Sir: I herewith enclose copies of the instructions to Lieutenant Pike, for the government of his conduct on the two exploring expeditions alluded to in your letter, and likewise lists of the names of the men composing those parties. You will perceive that the instructions were given by General Wilkinson; the object, however, of each party, together with the instructions, were communicated to, and approved by, the President of the United States.

Although no special encouragement was given to the individuals who performed these laborious and dangerous expeditions, yet it was but reasonable for them, should they fortunately succeed in their objects, to expect a liberal reward from the Government; and as there can be no reasonable doubt of the zeal, perseverance, and intelligence, of the commander, or of the faithful conduct and arduous exertions of the individuals generally, composing the respective parties, it may, I trust, be presumed, that no objection will be opposed to a reasonable compensation for such meritorious services.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Hon. J. Montgomery, *Chairman, &c.*

Headquarters, St. Louis,
July 30, 1805.

Sir: Having completed your equipments, you are to proceed up the Mississippi with all possible diligence, taking the following instructions for your general government, which are to yield to your discretion in all cases of exigency.

You will please to take the course of the river, and calculate distances by time, noting rivers, creeks, highways, prairies, islands, rapids, shoals, mines, quarries, timber, water, soil, Indian villages and settlements, in a diary to comprehend reflections on the winds and weather.

It is interesting to Government to be informed of the population and residence of the several Indian nations, of the quantity and species of skins and furs they barter per annum, and their relative price to goods; of the tracts of country on which they generally make their hunts, and the people with whom they trade.

You will please to examine strictly for an intermediate point, between this place and Prairie des Chiens, suitable for a military post, and also on the Wisconsin, near its mouth, for a similar establishment, and will obtain the consent of the Indians for their erection, informing them that they are intended to increase their trade, and ameliorate their condition.

You will proceed to ascend the main branch of the river until you reach the source of it, or the season may forbid your further progress without endangering your return before the waters are frozen up.

You will endeavor to ascertain the latitude of the most remarkable places in your route, with the extent of the navigation, and the direction of the different rivers which fall into the Mississippi, and you will not fail to procure specimens of whatever you may find curious in the mineral, vegetable, and animal kingdoms, to be rendered at this place.

In your course you are to spare no pains to conciliate the Indians, and to attach them to the United States, and you may invite the great chiefs of such distant nations, as have not been at this place, to pay me a visit.

Your own good sense will regulate the consumption of your provisions, and direct the distribution of the trifling presents which you may carry with you, particularly your flags.

I wish you a speedy, pleasant, and safe tour, and am, sir, with sentiments of respect and esteem, your obedient servant,

JAMES WILKINSON.

P. S. In addition to the preceding orders, you will be pleased to obtain permission from the Indians who claim the ground, for the erection of military posts and trading-houses, at the mouth of the river St. Pierre, the Falls of St. Anthony, and every other critical point which may fall under your observation; these permissions to be granted in formal conferences, regularly recorded, and the ground marked off.

J. W.

Lieut. Z. M. Pike,
1st regiment infantry.

St. Louis, *June* 24, 1806.

Sir: You are to proceed without delay to the cantonment on the Missouri, where you are to embark the late Osage captives, and the deputation recently returned from Washington, with their presents and baggage, and are to transport the whole up the Missouri and Osage rivers, to the town of the Grand Osage.

The safe delivery of this charge at the point of destination constitutes the primary object of your expedition, and, therefore, you are to move with such caution as may prevent surprise from any hostile band, and are to repel with your utmost force any outrage which may be attempted.

Having safely deposited your passengers and their property, you are to turn your attention to the accomplishment of a permanent peace between the Canzes and Osage nations, for which purpose you must effect a meeting between the head chiefs of those nations, and are to employ such arguments, deduced from their own obvious interests, as well as the inclinations, desires, and commands, of the President of the United States, as may facilitate your purpose, and accomplish the end.

A third object of considerable magnitude will then claim your consideration; it is to effect an interview and establish a good understanding with the Yau-e-taus, T-e-taus or Commanches;

for this purpose you must interest Whitehair of the Grand Osage, with whom, and a suitable deputation, you will visit the Panis Republique, where you may find interpreters and inform yourself of the most feasible plan by which to bring the Commanches to a conference. Should you succeed in this attempt, and no pains must be spared to effect it, you will endeavor to make peace between that distant, powerful nation, and the nations which inhabit the country between us and them, particularly the Osage; and finally you will endeavor to induce eight or ten of their distinguished chiefs to make a visit to the seat of Government next September, and you may attach to this deputation four or five Panis, and the same number of Canzes chiefs. As your interview with the Commanches will probably lead you to the head branches of the Arkansas and Red rivers, you may find yourself approximated to the settlements of New Mexico; and, therefore, it will be necessary you should move with great circumspection, to keep clear of any hunting or reconnoitring parties from that province, and to prevent alarm or offence, because the affairs of Spain and the United States appear to be on the point of amicable adjustment, and, moreover, it is the desire of the President to cultivate friendship and harmonious intercourse with all the nations of the earth, particularly our nearest neighbors, the Spaniards.

In the course of your tour you are to remark particularly upon the geographical structure, the natural history, and population of the country through which you may pass, taking particular care to collect and preserve specimens of everything curious in the mineral or botanical worlds, which can be preserved and are portable. Let your courses be regulated by your compass, and your distances by your watch, to be noted in a field-book; and I would advise you, when circumstances permit, to protract and lay down, in a separate book, the march of the day at every evening's halt.

The instruments which I have furnished will enable you to ascertain the variation of the magnetic needle and latitude with exactness, and at every remarkable point. I wish you to employ your telescope in observing the eclipses of Jupiter's satellites, having previously regulated and adjusted your watch by your quadrant, taking care to note with great nicety the periods of the immersion and emersion of the eclipsed satellite. These observations may enable us after your return, by application to the appropriate tables, which I cannot now furnish you, to ascertain the longitude.

It is an object of much interest with the Executive to ascertain the direction, extent, and navigation, of the Arkansas and Red rivers; as far, therefore, as may be compatible with these instructions, and practicable to the means you may command, I wish you to carry your views to those subjects; and, should circumstances conspire to favor the enterprise, you may detach a party, with a few Osages, to descend the Arkansas, under the orders of Lieutenant Wilkinson or Sergeant Ballinger, properly instructed and equipped, to take the courses and distances, to remark on the soil, timber, &c., and to note the tributary streams. This party will, after reaching our post on the Arkansas, descend to Fort Adams, and there wait further orders. And you, yourself, may descend the Red river, accompanied by a party of the most respectable Commanches to the post of Nachitoches, and there receive further orders.

To disburse your necessary expenses, and to aid your negotiation, you are herewith furnished with $600 worth of goods, for the appropriation of which you are to render a strict account, vouched by documents to be attested by one of your party.

Wishing you a safe and successful expedition, I am, sir, with much respect and esteem, your very obedient servant,

J. WILKINSON.

Lieut. Z. M. PIKE.

CANTONMENT MISSOURI, *July* 12, 1806.

SIR: The health of the Osages being now generally restored, and all hopes of a speedy recovery of their prisoners, from the hands of the Pottawatamies, being at an end, they have become desirous to commence their journey from their villages; you are, therefore, to proceed to-morrow.

In addition to the instructions given to you on the 24th ultimo, I must require you to have the talks under cover, delivered to Whitehair and the Grand Peste, the chief of the Osage band, which is settled on the waters of the Arkansas, together with the belts which accompany them; you will also receive herewith a small belt for the Panis, and a large one for the Tei-tans or Commanches.

Should you find it necessary you are to give orders to Mongraine, the resident interpreter at the Grand Osage, to attend you.

I beg you to take measures for the security and safe return of your boats from the Grand Osage to this place.

Doctor Robinson will accompany you as a volunteer; he will be furnished with medicines, and for the accommodation which you give him he is bound to attend your sick.

Should you discover any unlicensed traders in your route, or any person from this Territory, or from the United States, without a proper license or passport, you are to arrest such person or persons, and dispose of their property as the law directs.

My confidence in your caution and discretion has prevented my urging you to be vigilant in guarding against the stratagems and treachery of the Indians; holding yourself above alarm or surprise, the composition of your party, though it be small, will secure to you the respect of a host of untutored savages.

You are to communicate from the Grand Osage, and from every other practicable point, directly to the Secretary of War, transmitting your letters to this place, under cover, to the commanding officer, or by any more convenient route.

I wish you health, and successful and honorable expedition, and am yours with friendship,

JAMES WILKINSON.

Lieut. Z. M. PIKE.

WAR DEPARTMENT, *Feb.* 24, 1808.

SIR. In answer to your letter of the 22d instant, I can with pleasure observe, that although the two exploring expeditions you have performed were not previously ordered by the President of the United States, there were frequent communications on the subject of each, between General Wilkinson and this Department; of which the President of the United States was, from time to time, acquainted; and it will be no more than what justice requires to say that your conduct, in each of those expeditions, met the approbation of the President; and that the information you obtained and communicated to the Executive, in relation to the source of the Mississippi and the natives in that quarter, and the country generally, as well on the Upper Mississippi as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source and country adjacent, has been considered highly interesting in a political, geographical, and historical view. And you may rest assured that your services are held in high estimation by the President of the United States; and if any opinion of my own can afford you any satisfaction, I very frankly declare that I consider the public much indebted to you for the enterprising, persevering, and judicious manner in which you have performed them.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Captain Z. M. PIKE.

Return of persons employed on a tour of discovery and exploration to the source of the Mississippi, in the years 1805 and 1806.

Lieutenant, Z. M. Pike; Interpreter, Pierre Rosseau; Sergeant, Henry Kennerman; Corporals, William E. Meek, and Samuel Bradley.

Privates.—Jeremiah Jackson, John Boley, John Brown, Jacob Carter, Thomas Dougherty, William Gorden, Solomon Huddleston, John Mountjoy, Theodore Miller, Hugh Menaugh, Alexander Roy, John Sparks, Patrick Smith, Freegift Stoute, Peter Brauden, David Owings, David Weeply.

This party left St. Louis on the 9th of August, 1805, but had been detached for that duty from the 1st of July. They returned the 30th of April, 1806; from which time until the 15th of July, I was preparing for the second expedition to the westward; which consisted of the following persons, to wit:

Captain Z. M. Pike, Lieutenant James B. Wilkinson,* Doctor John H. Robinson, Sergeants, Joseph Ballenger,* William E. Meek,† and Corporal Jeremiah Jackson.†

Privates.—John Boley,* Henry Kennerman, Samuel Bradley,* John Brown, Jacob Carter,† Thomas Dougherty,† William Gorden, Solomon Huddleston,* Theodore Miller,† Hugh Menaugh, John Mountjoy,† Alexander Roy, John Sparks,† Patrick Smith,† Freegift Stoute, John Wilson.*

Interpreter, Barony Vasquez.†

The balance arrived at Natchitoches, on or about the 1st of July, 1807. But it may probably be better to leave the whole time undefined, to be regulated by the honorable Secretary of War.

Z. M. PIKE, *Major.*

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*Those thus marked descended the Arkansas river, and arrived at New Orleans some time about the —— of February, 1807. †Those thus marked are still detained in New Spain.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE SECOND SESSION OF THE TENTH CONGRESS, BEGUN AND HELD AT THE CITY OF WASHINGTON, NOVEMBER 7, 1808.

An Act to authorize the transportation of a certain Message of the President of the United States, and documents accompanying the same.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Members of Congress and Delegates from the several Territories of the United States be, and they are hereby, authorized to transmit by mail, free of postage, the Message of the President of the United States, of the eighth day of November, in the year one thousand eight hundred and eight, and documents accompanying the same, printed by order of the Senate, and by order of the House of Representatives, to any post office within the United States, and Territories thereof, to which they may respectively direct, any law to the contrary notwithstanding.

J. B. VARNUM,
Speaker of the House of Representatives.
GEO. CLINTON,
Vice President of the United States, and President of the Senate.

Approved, November 18, 1808.
TH. JEFFERSON.

An Act authorizing the President of the United States to employ an additional number of revenue cutters.

Be it enacted, &c., That the President of the United States be, and he is hereby, empowered to procure so many revenue cutters, not exceeding twelve, as may be necessary for the public service, the expense whereof shall be paid out of the product of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

Approved, January 6, 1809.

An Act authorizing the payment of certain pensions by the Secretary of War at the seat of Government.

Be it enacted, &c., That every pension or arrearage of pension that shall be due on the third day of March, one thousand eight hundred and nine, or that may thereafter become due to any officer or soldier residing in either of the United States, or the Territories thereof, in which there hath not been appointed an agent for the payment of pensions, shall be paid at the seat of the Government of the United States, by the Secretary of the War Department. and the name of the pensioner shall, on his application to the Secretary of War, be transferred from the books of the State in which it was originally enregistered to a register, to be opened for that purpose, at the War Office of the United States.

Approved, January 7, 1809.

An Act to enforce and make more effectual an act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United State," and the several acts supplementary thereto.

Be it enacted, &c., That, if any person or persons shall put, place, or load, on board any ship, vessel, boat, or water craft, or into any cart, wagon, sled, or other carriage or vehicle, with or without wheels, any specie, goods, wares, or merchandise, with intent to export, transport or convey the same without the United States or the Territories thereof, to any foreign place, kingdom or country, or with intent to convey the same on board any foreign ship or vessel within or without the limits of the United States, or with the intent in any other manner to evade the acts to which this act is a supplement, all such specie, goods, wares, and merchandise, and also the ship, vessel, boat, water craft, cart, wagon, sled, or other carriage or vehicle, on board, or in which the same may be so put, placed, or loaded, as aforesaid, shall be forfeited, and the person or persons so putting, placing, or loading, the same as aforesaid, and also the aiders and abettors therein, shall, upon conviction, be adjudged guilty of a high misdemeanor, and fined a sum by the court before which the conviction is had, equal to four times the value of such specie, goods, wares, and merchandise: *Provided, however,* That this section shall not be construed to extend to any person or persons, not being the owner or owners of such specie, goods, wares, or merchandise, who shall first inform and make complaint to the collector of the district of any such offence committed within the same district; and any informer or informers, not being the owner or owners as aforesaid, upon conviction of the offenders, shall be entitled to one-half of the fine aforesaid, when the same shall be received by the United States, and shall be entitled to a certificate for that purpose from the court before whom the conviction shall be had.

SEC. 2. *And be it further enacted,* That it shall not be lawful to put on board any ship, vessel, or boat, of any description whatever, any specie or goods, wares, or merchandise, either of domestic or foreign growth, produce, or manufacture, and the same is hereby prohibited, unless a permit,

particularly stating the articles thus to be laden, shall have been previously obtained from the collector of the district, in which such ship, vessel, or boat may then be, or from a revenue officer, specially authorized by the collector to grant such permits; nor unless the lading shall be made under the inspection of the proper revenue officers, nor unless the owner or owners, consignee or factor of such ship, vessel, or boat, shall, with the master, have given bond with one or more sureties to the United States, in a sum six times the value of the vessel and cargo, that the vessel shall not leave the port without a clearance, nor shall, when leaving the port, proceed to a foreign port or place, nor shall put any article on board of any other vessel; and that the whole cargo shall be relanded either in the port where the vessel may then be, or in such other port of the United States as shall be designated in the clearance. And it shall be lawful for the collectors of the customs to refuse permission to put any cargo on board any such ship, vessel, or boat, whenever, in their opinion, there is an intention to violate the embargo, or whenever they shall have received instructions to that effect by direction of the President of the United States: *Provided*, That nothing contained in this section shall be construed to extend to any ship, vessel, or boat, uniformly employed in the navigation only of bays, sounds, rivers, and lakes, within the jurisdiction of the United States, which shall have obtained a general permission, agreeably to the provisions in the fourth section of this act.

Sec. 3. *And be it further enacted*, That the owner or owners, consignee or factor, of any ship, vessel, or boat, as described in the preceding section, which may, at the time when notice of this act shall be received at the several custom-houses respectively, be laden in whole or in part, shall, on notice given by the collector, either discharge such cargo or give bond for the same, in the manner and on the conditions mentioned in the preceding section; and, if the cargo shall not be discharged within ten days or the bond given within three days after such notice, the ship, vessel, or boat and cargo, shall be wholly forfeited. But the collectors are hereby authorized to order or to cause the cargoes of such vessels to be discharged for the same causes as they may refuse permission to put any cargo on board of vessels not yet laden in whole or in part. And they are likewise authorized, in the meanwhile, and until the cargoes shall have been discharged, or bonds given, as the case may be, to take possession of such vessels, and to take such other measures as may be necessary to prevent their departure.

Sec. 4. *And be it further enacted*, That the collectors of the customs be, and they are hereby, authorized to grant, under such general instructions as the President of the United States may give to that effect, a general permission to ships, vessels, or boats, whose employment has uniformly been confined to the navigation of bays, sounds, rivers, or lakes, within the jurisdiction of the United States, when it can be done without danger of the embargo being violated, to take on board at any time such articles of domestic or foreign growth as may be designated in such general permission or permissions, bond with one or more sureties being previously given to the United States by the owner, owners, consignee, or factors of such ship, vessel, or boat, and by the master thereof, in an amount equal to three hundred dollars for each ton of the said vessel, that such vessel shall not, during the time limited in the condition of the bond, depart from any district of the United States, without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure a manifest of the whole cargo on board, that the said vessel shall not, during the time abovementioned, proceed to any other port than that mentioned in her clearance, or put any article on board of any other vessel, or be employed in any foreign trade; and, that on every voyage or trip, the whole of the cargo shall be landed in a port of the United States within the bay, sound, rivers, or lakes, to which the navigation of such vessel is confined.

Sec. 5. *And be it further enacted*, That, if any ship, vessel, or boat, not having received a general permission, and a general bond not having been first given in the manner provided for in the next preceding section, shall take on board any specie, or any goods, wares, or merchandise, either of foreign or domestic growth, produce, or manufacture, contrary to the provisions of the second section of this act, such ship, vessel, or boat, together with the specie, and goods, wares, or merchandise, shall be wholly forfeited; and the owner, or owners, agent, freighter, or factors, master, or commander of such ship, vessel, or boat, shall, moreover, severally forfeit and pay a sum equal to the value of the ship, vessel, or boat, and of the cargo put on board the same.

Sec. 6. *And be it further enacted*, That the person or persons whose names do or may appear as owner or owners of any ship or vessel, either on the certificate of registry, enrollment, or license, of any such ship, or vessel, or, if neither registered nor licensed, on the last clearance or custom-house document issued before the passing of this act, for such ship or vessel, shall be reputed as the true owner or owners of such ship, or vessel, and be liable to the payment of all penalties which may be incurred by the owners of such ship, or vessel, by reason of any violation of any of the provisions of this act, or of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or of any of the acts supplementary thereto, by such ship or vessel: *Provided, always*, That nothing in this section contained shall be construed to release any other person or persons from the payment of any penalty incurred by virtue of any of the acts aforesaid. And in case of any new register or license being granted during the continuance of the said acts, or, in case of the sale of any ship or vessel neither registered nor licensed, a bond with one or more sureties to the United States, shall, previous to the granting any such new register or license, or to recognising the sale of such vessel, not registered or licensed, be required by the collector, in an amount equal to three hundred dollars for each ton of such ship, or vessel, that such ship, or vessel, shall not, during the continuance of the acts laying an embargo on all ships and vessels in the ports and harbors of the United States, contravene or infringe any of the provisions of the said acts: *Provided*, That nothing herein contained, shall be construed to extend to the owner, or owners, of any ship, or vessel, who shall have made a *bona fide* sale of such ship, or vessel, in any port or harbor of the United States, before notice of this act, at such port or harbor, respectively; nor to the owner, or owners, of any ship or vessel, in any foreign port or place, who shall have made a *bona fide* sale thereof, before notice of this act: *And provided, also*, That such bond shall not release the owners and master of such ship, or vessel, or any other person, from the obligation of giving every other bond required by this act or by any of the acts aforesaid.

Sec. 7. *And be it further enacted*, That in all cases where, either under this act, or under the act laying an embargo on all ships or vessels in the ports and harbors of the United States, or under any of the acts supplementary thereto, a bond has been or shall be given to the United States, with condition that certain goods, wares, and merchandise, or the cargo of a vessel, shall be relanded in some port of the United States, the party or parties to such bond shall, within two months after the date of the same, (unless in the case of a voyage from New Orleans to an Atlantic port or from an Atlantic port to New Orleans, in either of which cases, four months shall as heretofore be allowed,) produce to the collector of the port from which the vessel had been cleared with such goods, wares, merchandise, or cargo, a certificate of the relanding of the same from the collector of the proper port; on failure whereof, the bond shall be put in suit; and in every such suit, as well as in every suit instituted on a bond given for a voyage from or to New Orleans, judgment shall be given against the defendant or defendants, unless proof shall be given of such relanding, or of loss of the vessel at sea. But neither capture, distress, or any other accident whatever, shall be pleaded or given in evidence in any such suit, unless such capture shall be expressly proved to have been hostile, and such distress or accident caused by no negligence or deviation, nor unless such vessel shall have been from the commencement of the voyage wholly navigated by a master, mate or mates, mariners and crew, all of whom shall be citizens of the United States; nor unless such mate or mates, mariners and crew, shall, all, if living, (and the proof of their death shall lie on the defendant,) be produced on the trial, and sworn as competent witnesses; nor unless such master, mate or mates, mariners and crew, shall have signed a shipping paper in due form of law, and a copy thereof, designating specially the master, mate or mates, mariners and crew, and their permanent place of residence, shall have been lodged with the collector of the port, to whom the bond aforesaid shall have been given, before the commencement of the voyage, and subscribed and sworn to by the master before such collector; and any master who shall falsely, wilfully, and corruptly swear as to the facts contained in such copy, shall, on conviction, suffer the pains and penalties of perjury. And in every suit instituted on a bond, given as aforesaid, the defendants shall pay all costs, if they shall not, within the limited time, have produced the certificate of relanding to the collector of the proper port.

Sec. 8. *And be it further enacted*, That no registered or sea-letter vessel, although in ballast, shall receive a clearance, or be permitted to depart from any port of the United States, unless the same bond shall have been previously given, which is required from vessels licensed for the coasting trade, before they are allowed to depart. And if any such ship or vessel shall depart without bond having been given as aforesaid, the said ship or vessel shall be forfeited; and the owner, owners, agent, consignee, factor, and master or commander, of such ship or vessel, as well as any other person concerned in such prohibited departure, shall be liable to the same penalties imposed by law in the case of vessels licensed for the coasting trade departing, without bond having been given, or without clearance, as aforesaid.

Sec. 9. *And be it further enacted*, That the collectors of all the districts of the United States shall, and they are hereby, authorized to take into their custody, specie or any articles of domestic growth, produce, or manufacture, found on board of any ship or vessel, boat, or other water-craft, when there is reason to believe that they are intended for exportation, or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently on their way toward the territories of a foreign nation, or the vicinity thereof, or toward a place whence such articles are intended to be exported; and not to permit such articles to be removed, until bond with sufficient sureties shall have been given for the landing or delivery of the same in some place of the United States, whence, in the opinion of the collector, there shall not be any danger of such articles being exported.

Sec. 10. *And be it further enacted*, That the powers given to the collectors, either by this or any other act respecting the embargo, to refuse permission to put any cargo on board any vessel, boat, or other water-craft, to detain any vessel, or to take into their custody any articles for the purpose of preventing violations of the embargo, shall be exercised in conformity with such instructions as the President may give, and such general rules as he may prescribe for that purpose, made in pursuance of the powers aforesaid; which instructions and general rules the collectors shall be bound to obey: And if any action or suit be brought against any collector or other person acting under the directions of, and in pursuance of this act, he may plead the general issue, and give this act and the instructions and regulations of the President in evidence, for his justification and

defence. And any person aggrieved by the acts of any collector, in either of the cases aforesaid, may file his petition before the district court of the district wherein the collector resides, stating the facts of his case, and thereupon, after due notice given to the district attorney and the collector, the said court may summarily hear and adjudge thereupon, as law and justice may require; and the judgment of said court, and the reason and facts whereon it is grounded, shall be filed among the records of said court; and if restoration of the property detained or taken in custody, or permission to load as aforesaid, shall be decreed, it shall be upon the party's giving such bond with sureties as is or shall be required to be taken in similar cases by the collector, and not otherwise; but if the said court shall adjudge against such petition, the collector shall be entitled to treble costs, which shall be taxed for him, and execution awarded accordingly by the court.

Sec. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces, or militia, of the United States, or of the territories thereof, as may be judged necessary, in conformity with the provisions of this and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody any ship or vessel, or of taking into custody and guarding any specie, or articles of domestic growth, produce, or manufacture, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons, resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same.

Sec. 12. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, unless hereinbefore otherwise directed, and all penalties and forfeitures incurred by force of the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," or by virtue of the several acts supplementary thereto, may be prosecuted, sued for, and recovered by action of debt, or by indictment or information, any law, usage, or custom to the contrary notwithstanding; and if recovered in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, entitled "An act for the government of the Navy of the United States," and if otherwise, shall be distributed, and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act, entitled "An act to provide for mitigating or remitting forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," passed the third day of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh of February, one thousand eight hundred; and any officer or other person entitled to a part or share of any of the fines, penalties, or forfeitures aforesaid, may, if necessary, be a witness on the trial, therefor, but in such case he shall not receive any part or share of the said fine, penalty, or forfeiture, but the part or share to which he would otherwise be entitled shall revert to the United States.

Sec. 13. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to hire, arm, and employ thirty vessels, not exceeding in tonnage one hundred and thirty tons each, belonging to citizens of the United States, and so many seamen as shall be necessary to man the same, for immediate service, in enforcing the laws of the United States on the seacoast thereof, and to dismiss the same from service, whenever he shall deem the same expedient: *Provided, however*, That such hiring, arming, and employment, shall not be for a term exceeding one year. And the said ships or vessels, when so hired and armed, shall be employed under the direction of the Secretary of the Treasury.

Sec. 14. *And be it further enacted*, That the powers given to the President of the United States by the seventh section of the act of March the twelfth, one thousand eight hundred and eight, to grant permission to citizens having property of value in places without the jurisdiction of the United States, to dispatch vessels for the same, shall henceforth cease.

Sec. 15. *And be it further enacted*, That this act shall be in force from and after the passing thereof, during the continuance of the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and no longer.

Approved, January 9, 1809.

An Act to revive and continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Be it enacted, &c., That so much of the act, passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, (and which was revived and continued in force, for the time therein mentioned, by an act, entitled "An act to revive and continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," passed the nineteenth day of January, one thousand eight hundred and eight) be, and the same hereby is, revived and continued in force until the first day of January, one thousand eight hundred and ten: *Provided, however*, That

the additional duty laid by the said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, January 10, 1809.

An Act authorizing the proprietors of squares and lots, in the City of Washington, to have the same subdivided and admitted to record.

Be it enacted, &c., That whenever the proprietor of any square or lot, in the City of Washington, shall deem it necessary to subdivide such square or lot into convenient building lots, pieces, or portions, for sale and occupancy, and alleys for their accommodation, he may cause a plat of the same to be made, on which shall be expressed the dimensions and length of all the lines of such portions as are necessary for defining and laying off the same on the ground, and may certify such subdivision under his hand and seal, in the presence of two or more credible witnesses, upon the same plat, or on a paper or parchment attached thereto.

Sec. 2. *And be it further enacted*, That, at the request of the said proprietor, the surveyor of the city shall examine whether the lots, pieces, or parcels, into which any square or lot may be subdivided as aforesaid, agree in dimensions with the whole of the square or lot so intended to be subdivided, and whether the dimensions expressed on the plat of subdivision, be the true dimensions of the part so expressed; and if upon such examination, he shall find the plat correct, he shall certify the same under his hand and seal, with such remarks as appear to him necessary for the further illustration thereof, and record the said plat, as examined, in a book or books, to be kept by him for that purpose.

Sec. 3. *And be it further enacted*, That when such subdivision of any square or lot shall be so certified, examined, and recorded, the purchaser of any part thereof, or any person interested therein, may refer to the said plat and record for description, in the same manner as to squares and lots divided between the Commissioners and original proprietors; and the ways, alleys, or passages, laid out or expressed on such plat of subdivision, shall be and remain to the public, or subject to the uses declared by the person making such subdivision, at all times under the same police regulations as the alleys laid off by the Commissioners on division with the proprietors.

Sec. 4. *And be it further enacted*, That whenever the surveyor of the said city shall lay off any lot therein, or any of the parts into which a square or lot may be subdivided as aforesaid, he shall measure the whole of that front of the square on which such lot or part lies; and if, on such admeasurement, the whole front of the square exceeds or falls short of the aggregate of the fronts of the lots on that side of the square, as the same are recorded, he shall apportion such excess, or deficiency, among the lots or pieces on that front, agreeably to their respective dimensions. Whenever, on such admeasurement, the wall of a house previously erected by any proprietor, shall appear to stand on the adjoining lot of any other person in part less than seven inches in width thereon, such wall shall be considered as standing altogether on the land of such proprietor, who shall pay to the owner of the lot on which the wall may stand, a reasonable price for the ground so occupied, to be decided by arbitrators, or a jury, as the parties interested may agree; but if the wall of any house, already erected, cover seven inches or more in width of the adjoining lot, it shall be deemed a party wall, according to the regulations for building in said city, as promulgated by the President of the United States, and the ground so occupied, more than seven inches in width, shall be paid for as above. Which fact the surveyor shall ascertain and certify, and put on record at the request and expense of any person interested therein.

Sec. 5. *And be it further enacted*, That it shall be the duty of the surveyor to attend, when requested, and examine the foundation or walls of any house to be erected, when the same shall be level with the street or surface of the ground, for the purpose of adjusting the line of the front of such building to the line of the street, and correctly placing the party wall on the line of division between that and the adjoining lot; and his certificate of the fact shall be admitted as evidence, and binding on the parties interested.

Sec. 6. *And be it further enacted*, That the surveyor shall be authorized to receive from the persons for whom he shall perform the services required by this act, the fees following, that is to say: For examining the plat and calculations of any subdivision of a square or lot, twelve and a half cents for each of the lots or portions into which it may be subdivided: *Provided*, That no more shall be paid for the lots in one square than one dollar and fifty cents; for examining any building and giving the certificate required by the fifth section of this act, and recording the same, one dollar and fifty cents; for recording any division or subdivision of any square or lots, for transcripts from records, and for searches in his office, the same fees that have heretofore been paid to the clerk of the county: *Provided*, That they do not in any case exceed the fee hereby allowed for examination.

Sec. 7. *And be it further enacted*, That all records of the division of squares and lots heretofore made between the public and original proprietors, or which are authorized by this act, shall be kept in the office of the surveyor of the city; and all transcripts therefrom, certified by him, shall be evidence equally valid with certified transcripts from the keeper of the office for recording deeds for the conveyance of land in the county of Washington.

Sec. 8. *And be it further enacted*, That whenever the President of the United States shall deem it necessary to subdivide any square or lot belonging to the United States, within the City of Washington, which may not have been reserved for public purposes, into convenient build-

ing lots, pieces, or portions, for sale and occupancy, and alleys, for their accommodation, he may cause a plat to be made by the surveyor of the city in the manner prescribed in the first section of this act, which plat shall be recorded by the said surveyor, and the provisions of this act shall extend to the lots, pieces, and parcels of ground contained in such plat as fully as to subdivisions made by individual proprietors.

Sec. 9. *And be it further enacted*, That the surveyor of the City of Washington, before entering upon the discharge of the duties required of him by this act, shall take an oath or affirmation before the mayor of the City of Washington, that he will faithfully and impartially perform the duties hereinbefore required of him.

Approved, January 12, 1809.

An Act supplemental to an act, entitled "An act for extending the terms of credit on revenue bonds in certain cases, and for other purposes."

Be it enacted, &c., That the payment of all bonds given, subsequent to the date of the act to which this act is a supplement, for duties on coffee, sugar, pepper, indigo, cocoa, and wine, paying a duty of twenty-three cents per gallon, and which remain unpaid, or for the same articles which may arrive hereafter in any of the ports of the United States, and whilst the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," shall continue in force, may be suspended, subject however in all respects to the conditions and provisions made und provided in the act of the tenth of March, one thousand eight hundred and eight, to which this act is a supplement: *Provided*, That nothing herein contained shall be construed to extend to importations made in vessels dispatched under permissions granted by the President of the United States in pursuance of powers in him vested by the seventh section of the act, entitled "An act in addition to the act entitled 'An act supplementary to the act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States."

Sec. 2. *And be it further enacted*, That if the amount of any bond given for the payment of duties on the importation of coffee, sugar, pepper, indigo, cocoa, or wine, paying a duty of twenty-three cents per gallon, made subsequent to the passage of the act to which this is a supplement, and which bond would by virtue of this act have been entitled to an extension of credit, shall have been previously paid, the money so paid shall, by the proper collector, be refunded to the person or persons who shall have paid the same, or to his, her, or their agent or agents, on his or their giving a bond with sureties, in the same manner and on the same terms, conditions, and restrictions, and on a compliance of the person or persons receiving the indulgence hereby granted, with all the provisions of the act to which this is a supplement.

Approved, January 12, 1809.

An Act to alter the time for the next meeting of Congress.

Be it enacted, &c., That, after the adjournment of the present session, the next meeting of Congress shall be on the fourth Monday of May next.

Approved, January 30, 1809.

An Act authorizing the employment of an additional Naval force,

Be it enacted, &c., That, in addition to the frigates now employed in actual service, there be fitted out, officered and manned, as soon as may be, the four following frigates, to wit: the United States, Essex, John Adams, and President; and moreover the President of the United States is hereby authorized and empowered to equip, man, and employ, in actual service, so many of the public armed vessels, now laid up in ordinary, and gunboats, as in his judgment the public service may require; and to cause the frigates, and other armed vessels, when prepared for actual service, respectively, to be stationed at such ports and places on the seacoast as he may deem most expedient, or to cruise on any part of the coast of the United States or the territories thereof.

Sec. 2. *And be it further enacted*, That, for the purpose of carrying the foregoing provision into immediate effect, the President of the United States be, and he is hereby, authorized and empowered, in addition to the number of petty officers, able seamen, ordinary seamen, and boys, at present authorized by law, to appoint, and cause to be engaged and employed as soon as may be, three hundred midshipmen, three thousand six hundred able seamen, ordinary seamen, and boys, who shall be engaged to serve for a period not exceeding two years; but the President may discharge the same sooner, if in his judgment their service may be dispensed with. And to satisfy the necessary expenditures to be incurred therein, a sum not exceeding four hundred thousand dollars, be, and the same is hereby, appropriated, and shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, January 31, 1809.

An Act for dividing the Indiana Territory into two separate Governments.

Be it enacted, &c., That, from and after the first day of March next, all that part of the Indiana Territory which lies west of the Wabash river, and a direct line drawn from the said Wabash river and Post Vincennes, due north to the territorial line between the United States and Canada, shall, for the purpose of temporary government, constitute a separate Territory, and be called Illinois.

Sec. 2. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the Territory of the United States Northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the Territory Northwest of the river Ohio;" and the inhabitants thereof shall be entitled to, and enjoy all and singular the rights, privileges, and advantages, granted and secured to the people of the Territory of the United States Northwest of the river Ohio, by the said ordinance.

Sec. 3. *And be it further enacted*, That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid, and the laws of the United States, have been provided and established for similar officers in the Indiana Territory. And the duties and emoluments of Superintendent of Indian Affairs shall be united with those of Governor: *Provided*, That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized, and their commissions shall continue in force until the end of the next session of Congress.

Sec. 4. *And be it further enacted*, That so much of the ordinance for the government of the Territory of the United States Northwest of the Ohio river, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall be in force, and operate in the Illinois Territory, whenever satisfactory evidence shall be given to the Governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided*, That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the General Assembly shall not be less than seven, nor more than nine, to be apportioned by the Governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

Sec. 5. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the Illinois Territory, from and after the aforesaid first day of March next.

Sec. 6. *And be it further enacted*, That all suits, process, and proceedings, which, on the first day of March next, shall be pending in the court of any county which shall be included within the said Territory of Illinois, and also all suits, process, and proceedings, which, on the said first day of March next, shall be pending in the general court of the Indiana Territory, in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Illinois aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

Sec. 7. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent the collection of taxes which may, on the first day of March next, be due to the Indiana Territory on lands lying in the said Territory of Illinois.

Sec. 8. *And be it further enacted*, That until it shall be otherwise ordered by the Legislature of the said Illinois Territory, Kaskaskia, on the Mississippi river, shall be the seat of government for the said Illinois Territory.

Approved, February 3, 1809.

An Act supplementary to the act, entitled "An act to amend the act, entitled 'An act establishing Circuit Courts, and abridging the jurisdiction of the District Courts of the Districts of Kentucky, Tennessee, and Ohio."

Be it enacted, &c., That in all actions or suits that were pending in the circuit courts of the United States for the district of Tennessee, established by an act entitled "An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," in which any judgment or decree was rendered, or any sentence passed previous to the passage of the act, entitled "An act to amend the act, entitled 'An act establishing circuit courts, and abridging the jurisdiction of the district courts of the districts of Kentucky, Tennessee, and Ohio," the clerk of the circuit court of the United States for the district of East Tennessee be, and he is hereby, authorized and directed to issue executions, and all other process necessary for carrying the same into complete effect, in the same manner as if the said last mentioned act had not passed; which executions and other process shall be directed to the marshal of either of the districts of East or West Tennessee, in which the party against whom the same shall issue may reside, or his property may be found, who shall execute and return the same in like manner he would have done if the act to which this is a supplement had not passed, and shall receive the same fees as are by law allowed for similar services in other cases.

Sec. 2. *And be it further enacted*, That the next session of the district court of the United States, for the district of Kentucky, shall be holden on the second Monday in May next, and that the session of the said court heretofore holden on the first Monday in June, annually, shall thereafter be holden annually on the second Monday in May.

Sec. 3. *And be it further enacted*, That all writs and process, which shall have been issued, or may hereafter issue, and all recognisances returnable, and all suits and other proceedings of what nature or kind soever, which have been

continued to the said district court on the first Monday in June next, from the last December term, shall be returned and held continued to the said second Monday in May next.

Approved, February 4, 1809.

An Act making appropriations to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to defray the expense of deepening and extending to the river Mississippi, the canal of Carondelet.

Be it enacted, &c., That, for the purpose of completing the fortifications commenced for the security of the seaport towns and harbors of the United States, and Territories thereof, exclusive of the contemplated line of blocks and chains across the harbor of New York, there be, and hereby is, appropriated the sum of four hundred and fifty thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause the canal of Carondelet, leading from Lake Pontchartrain, by way of the bayou St. John, to the city of New Orleans, to be extended to the river Mississippi, and made sufficiently deep throughout to admit an easy and safe passage to gunboats, if, upon survey thereof, he shall be convinced that the same is practicable, and will conduce to the more effectual defence of said city; and that, for the purpose of defraying the expense thereof, there be and hereby is appropriated the sum of twenty-five thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 10, 1809.

An Act to revive and continue, for a further time, the authority of the Commissioners of Kaskaskia.

Be it enacted, &c., That the powers heretofore vested in the register and receiver of public moneys for the district of Kaskaskia be, and the same are hereby revived; and the said register and receiver shall be allowed until the first day of January next to complete the investigation of claims to land in said district. They shall have full power to revise any of their former decisions, and also the same power and authority in relation to claims to land in the village of Peoria; notices of which have heretofore been filed, as they have in relation to other claims in the said district. And the said register and receiver, and the clerk of the board, shall each be allowed an additional compensation of five hundred dollars, in full for his services in relation to such claims.

Approved, February 15, 1809.

An Act to incorporate a company for opening the canal in the City of Washington.

Be it enacted, &c., That Robert Brent, Samuel N. Smallwood, Daniel Carroll of Duddington, John Law, William Brent, Frederick May, Elias B. Caldwell, James D. Barry, Griffith Coombe, and George Blagden, or any five of them, be, and they are hereby, appointed commissioners to open, or cause to be opened, a book for receiving and entering subscriptions for raising a capital stock not exceeding one hundred thousand dollars, in shares of one hundred dollars each, for the purpose of opening the canal to communicate from the Potomac river to the Eastern Branch thereof, through a part of the City of Washington, and that one month's notice be given in one of the newspapers printed in Washington, Georgetown, and Alexandria, of the time and place of opening the said subscription book, and that the same be kept open until the sum of forty thousand dollars be subscribed: *Provided*, That no subscription shall be received unless the sum of ten dollars be paid into the hands of the persons authorized to receive the same, on each share subscribed for.

Sec. 2. *And be it further enacted*, That, as soon as the aforesaid sum of forty thousand dollars be subscribed, the said commissioners, or any five of them, shall call a meeting of the stockholders at the City of Washington, by advertisement in one of the newspapers printed in Washington, Georgetown, and Alexandria, appointing a fit and convenient time and place of meeting; and the said stockholders shall proceed in person, or by proxy, to the election, by ballot, of a president and six directors for conducting the undertaking, and managing the business of the company, for and during the term of one year from the time of their appointment.

Sec. 3. *And be it further enacted*, That the said stockholders and their successors, from the time of the said first meeting, shall be, and they are hereby declared to be, incorporated by the name of the "Washington Canal Company," and by that name may sue and be sued, implead and be impleaded, answer and be answered, and may make all necessary by-laws and regulations for the proper management of the business of the company: *Provided*, That the same be not contrary to the laws of the United States, or the laws in force in the District of Columbia.

Sec. 4. *And be it further enacted*, That the said president and directors shall continue in office one year from the time of their election, and the directors may fill any vacancy which may happen in their own body during the term for which they were elected; and in case of the death, resignation, or disqualification, of the president, they may elect a president to serve for the residue of the term. And the said stockholders, in one year after the day on which the election of president and directors shall be first made, and on the same day in every year thereafter, (except the same shall happen on Sunday, in that case on the day succeeding,) shall elect, by ballot, from among the stockholders, one person as president, and six persons as directors; and the president and directors, for the time being, shall give public notice in one of the newspapers printed in Washington, Georgetown, and Alexandria, for a new election, at least ten days previous to the expiration of the time for which they were elected; and each stockholder shall be allowed one vote for every share by him or her held at the time in said company;

and any stockholder, by a written authority, under his or her hand, and executed in the presence of two witnesses, may depute any other stockholder to vote and act as proxy for him or her at any general meeting.

Sec. 5. *And be it further enacted*, That the said president and directors, so elected, and their successors, shall be, and they are hereby, authorized and empowered to agree with any person or persons, on behalf of said company, to cut the canal, as laid down on the plan of the City of Washington, erect such locks, and perform such other works, as they shall judge necessary for opening the canal aforesaid, and the forks thereof; and out of the moneys arising from subscriptions, wharfage, and tolls, to pay for the same; and to repair and improve the said canal, locks, and other works necessary thereto, and to defray all incidental charges, and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to settle their respective wages.

Sec. 6. *And be it further enacted*, That the treasurer of the said company shall, before he acts as such, give bond to the company in such penalty, and with such security, as the said president and directors shall direct, conditioned for the faithful performance of the duties of his office.

Sec. 7. *And be it further enacted*, That the said president and directors, so elected, and their successors, shall have full power and authority to demand and receive of the stockholders, in equal proportions, the remaining nine-tenths of the shares, from time to time, as they shall judge necessary; and if any of the stockholders shall neglect or refuse to pay their proportions, within one month after the same shall have been ordered, the share or shares of such defaulter shall be forfeited: *Provided*, That notice shall be given, by advertisement, in one of the newspapers printed in Washington, Georgetown, and Alexandria, of the time when the same shall be ordered to be paid.

Sec. 8. *And be it further enacted*, That the said company shall not begin to collect wharfage or tolls, until the canal is made navigable for boats and scows drawing three feet water to pass through the same, from the Potomac river to the Eastern Branch thereof: and if at any time the said canal shall become obstructed, so that boats and scows drawing three feet water cannot pass through the same, from the Potomac river, to the Eastern Branch thereof, it shall not be lawful for the said company to collect any wharfage or tolls, until such obstruction shall have been removed.

Sec. 9. *And be it further enacted*, That every president and director, before he acts as such, shall take an oath or affirmation that he will well and faithfully discharge the duties of his office; and any four of the directors, with the president, shall constitute a quorum for transacting any business of the company.

Sec. 10. *And be it further enacted*, That the shares in the said company shall be deemed personal and not real property, and transferable in such manner as the company shall direct, and that the shares held by any individual shall be liable to be attached or taken by fieri facias, to satisfy the debts due from any such individual, in like manner as other personal property may be.

Sec. 11. *And be it further enacted*, That there shall be a general meeting of the stockholders on the first Monday in June, and the first Monday in December, in every year, in the City of Washington, to which meeting the president and directors shall make a report, and render distinct and just accounts of all their proceedings; and on finding them justly and fairly stated, the stockholders then present or a majority of them, shall give a certificate thereof; and at such half yearly general meetings, after leaving in the hands of the treasurer such sum as shall be judged necessary for repairs, improvements, or contingent charges, an equal dividend of all the net profits arising from the wharfage and tolls hereby granted shall be ordered, and made to and among all the stockholders of the said company, in proportion to their several shares: *Provided*, That if the net profits shall, in any year, exceed fifteen per centum on the sum actually expended by the said company, in opening the said canal, and completing the same, the fifteen per centum only of the net profits shall be divided among the stockholders, and the excess shall be paid to the Mayor and City Council of the City of Washington, for the use of the said city.

Sec. 12. *And be it further enacted*, That, for and in consideration of the expenses the said stockholders shall incur in cutting the canal, erecting locks, and in maintaining and keeping the same in repair, and in the enlargement and improvement of the same, the said company is hereby authorized to collect on all articles and materials landed on each side of the canal, from on board any boat or scow, or placed on either side of the said canal, for the purpose of being taken therefrom by any boat or scow, according to such rates as the president and directors may, from time to time, by their by-laws, order and direct: *Provided*, That the said rates shall, at no time hereafter, and in no particular, exceed the rates which are, or may be, established by the owners of wharves in the City of Washington. And it shall and may be lawful for the said company to demand and receive, at the most convenient place, for all articles carried through the said canal, tolls not exceeding the following rates, that is to say: for each unloaded boat or scow, twenty-five cents; for each barrel of flour, two cents; for each barrel of beef or pork, two cents; for each barrel of whiskey or brandy, three cents; for each hogshead or pipe, six cents; and upon all other articles, packages, and commodities, one-sixth part of the amount of tolls allowed by law to be received by the Potomac Company, at the Great Falls of the river Potomac. And the said company shall also have the exclusive right to establish a packet-boat or boats upon the said canal for carrying passengers, and no other packet-boat or boats, but such as are established or permitted by them, shall be allowed to carry passengers through the same for hire.

Sec. 13. *Provided always, and be it further en-*

acted, That all public property shall pass through the said canal free of toll, and also, that in case the said canal and one of the forks thereof shall not be completed within the term of seven years from the passage of this act, in such manner as to admit boats and scows drawing three feet water to pass through the same, that the said canal shall revert to the United States, and all right and authority hereby granted to the said company shall cease and determine.

SEC. 14. *And be it further enacted*, That the said company shall, from time to time, whenever the Mayor and City Council shall order and direct, suffer bridges to be erected across the canal, and shall suffer the same when erected to be repaired: *Provided*, That every bridge so erected, shall be at least six feet above high water mark.

SEC. 15. *And be it further enacted*, That the President and Directors of said company, after the said canal shall be opened and made passable for boats and scows drawing three feet of water, shall annually, in the month of January, lay before the Congress of the United States, a just and true account of their receipts and expenditures, with a statement of the clear profits thereof.

Approved, February 16, 1809.

An Act making appropriations for the support of Government during the year one thousand eight hundred and nine.

Be it enacted, &c., That for the expenditure of the civil list in the present year, including the contingent expenses of the several Departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expenses of intercourse with foreign nations; for the support of lighthouses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands; and for satisfying certain miscellaneous claims; the following sums be, and the same hereby are, respectively appropriated, that it to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand, four hundred and twenty-five dollars.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, twenty-eight thousand dollars.

For all contingent expenses of the library of Congress, and for the librarian's allowance for the year one thousand eight hundred and nine, eight hundred dollars.

For compensation to the President and Vice-President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, including the sum of one thousand dollars for compensations to his clerks, in addition to the sum allowed by the act of the twenty-first day of April, one thousand eight hundred and six, thirteen thousand five hundred and sixty dollars.

For the incidental and contingent expenses of the said department, four thousand two hundred dollars.

For printing and distributing the laws of the second session of the tenth Congress, and printing the laws in newspapers, eight thousand two hundred and fifty dollars.

For special messengers charged with despatches, two thousand dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including the sum of one thousand dollars, for clerk hire, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, sixteen thousand seven hundred dollars.

For the expense of translating foreign languages, allowance to the person employed in transmitting passports and sea-letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, including the sum of one thousand six hundred and thirty-nine dollars, for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, fourteen thousand six hundred and sixteen dollars.

For expense of stationery, printing and incidental and contingent expenses of the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks and persons employed in his office, sixteen thousand and fifty-two dollars and two cents.

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars.

For fuel, and other contingent and incidental expenses of the Treasury Department, four thousand dollars.

For defraying the expense of printing and stating the public accounts for the year one thousand eight hundred and nine, one thousand two hundred dollars.

For the purchase of books, maps and charts, for

the use of the Treasury Department, four hundred dollars.

For compensation to a Superintendent employed to secure the buildings and records of the Treasury Department, during the year one thousand eight hundred and nine, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to the clerks employed in the Paymaster's office, two thousand eight hundred dollars.

For contingent expenses in the said office, two hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent and fuel for the said office, including the sum of five hundred dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty first of April, one thousand eight hundred and six, five thousand one hundred dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand eight hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the said office, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, ten thousand four hundred and ten dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including the sum of one thousand five hundred and forty-five dollars, for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, sixteen thousand dollars.

For expense of fuel, candles, house rent for the messenger, stationery, chests, &c., pertaining to the Postmaster General's office, two thousand five hundred dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the several Commissioners of Loans, and for allowances to certain loan officers, in lieu of clerk hire, and to defray the authorized expense of the several loan offices, fifteen thousand dollars.

For compensation to the Surveyor General and his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of the State of Tennessee, clerks employed in his office, and for stationery, and other contingencies, three thousand two hundred dollars.

For compensation to the officers of the Mint:

The Director, two thousand dollars;

The Treasurer, twelve hundred dollars;

The Assayer, fifteen hundred dollars;

The Chief Coiner, fifteen hundred dollars;

The Melter and Refiner, fifteen hundred dollars;

The Engraver, twelve hundred dollars;

One clerk, at seven hundred dollars;

And two clerks, at five hundred dollars each, one thousand dollars.

For wages to the persons employed in the different branches of melting, coining, carpenters' millwrights' and smiths' work, including the sum of one thousand dollars per annum, allowed to an assistant coiner and die-forger, who also oversees the execution of the iron-work, and of six hundred dollars per annum, allowed to an assistant engraver, eight thousand five hundred dollars.

For repairs of furnaces, cast-rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, three thousand two hundred dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, thirteen thousand dollars.

For incidental and contingent expenses of the executive officers of the said Territory, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Mississippi Territory, seven thousand eight hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Indiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses, of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses, of the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses, of the said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Illinois Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, two thousand dollars.

For additional compensation to the clerks in the several Departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding, for each Department respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," thirteen thousand two hundred and sixty-nine dollars and thirty-three cents.

For compensation, granted by law, to the Chief Justice, the Associate Judges, and District Judges, of the United States, including the chief justice and two associate judges for the District of Columbia, to the Attorney General and to the district judge of the Territory of Orleans, fifty-nine thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensations granted to the Marshals for the Districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky, Ohio, East and West Tennessee, and Orleans, including the compensation allowed to the Marshals of New Jersey and North Carolina, for the three last quarters of the year one thousand eight hundred and eight, by the act of the twenty-fifth of February, one thousand eight hundred and eight, two thousand six hundred and fifty dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts, of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe-keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late Government, nine hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and nine, to the fourth day of March, one thousand eight hundred and ten, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stakeages of channels, bars, and shoals, and certain contingent expenses, seventy-nine thousand and thirty-nine dollars and forty cents.

For erecting two light-houses on Long Island Sound, one on Watchhill point, and the other on Sand's or Watch point, the following sums, that it is to say: the sum of two thousand six hundred and thirty-seven dollars and fifty cents, balance of a former appropriation for these objects carried to the "surplus fund," and the further sum of five thousand seven hundred dollars, in addition to the appropriations heretofore made for the same objects.

For placing buoys and beacons on or near the shoals and rocks in the channel leading into the harbor of Salem, in the State of Massachusetts, in addition to the sums heretofore appropriated for that purpose, sixty-seven dollars and twenty-nine cents.

For rebuilding two light-houses on Plumb Island, in the State of Massachusetts, ten thousand dollars.

For defraying the expenses of surveying the public land, within the several Territories of the United States, eighteen thousand two hundred and forty dollars.

For expenses of the boards formed in the Territories of Orleans and Louisiana, for investigating and adjusting titles and claims to land, in addition to the sum heretofore appropriated for that object, ten thousand dollars.

For the expense of taking the second Census of the United States, being the balance of a former appropriation for that object, and carried to the surplus fund, thirteen thousand eight hundred and ninety dollars and ninety-six cents.

For the expense of returning the votes of President and Vice President of the United States, for the term commencing on the fourth day of March, one thousand eight hundred and nine, one thousand five hundred and ninety-three dollars.

For expenses of intercourse with foreign nations, thirty-three thousand and fifty dollars.

For the contingent expenses of intercourse with foreign nations, seventy-five thousand dollars.

For the expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the contingent expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the relief and protection of distressed American seamen, five thousand dollars.

For the expenses of prosecuting claims in relation to captures, six thousand dollars.

For defraying the expenses of regulating, laying out, and making a road from Cumberland, in the State of Maryland, to the State of Ohio, agreeably to an act of Congress, passed the twenty-ninth day of March, one thousand eight hundred and six, the balance of a former appropriation made by the aforesaid act, for that object, having been carried to the surplus fund, sixteen thousand and seventy-five dollars and fifteen cents.

For defraying the expense of opening a road from the frontier of Georgia, on the route from Athens to New Orleans, till the same intersects the thirty-first degree of north latitude, agreeably to an act of Congress, passed on the twenty-first day of April, one thousand eight hundred and six, the balance of a former appropriation for that object having been carried to the surplus fund, two thousand four hundred dollars, and a further sum of five thousand dollars, in addition to the sums heretofore appropriated for that object.

For defraying the expense of opening a road or roads through the territory lately ceded by the Indians to the United States, from the Mississippi to the Ohio, and to the former Indian boundary line, which was established by the Treaty of Greenville, agreeably to the last above recited act; the balance of a former appropriation made for that object having been carried to the surplus fund, one thousand eight hundred dollars and forty-eight cents.

For defraying the expense of opening a road from Nashville, in the State of Tennessee, to Natchez, in the Mississippi Territory, agreeably to the aforesaid act of the twenty-first day of April, one thousand eight hundred and six, the balance of a former appropriation for that object having been carried to the surplus fund, three thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted, in due course of settlement, at the Treasury, four thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 17, 1809.

An Act extending the right of suffrage in the Indiana Territory, and for other purposes.

Be it enacted, &c., That the citizens of the Indiana Territory entitled to vote for Representatives to the General Assembly thereof, shall, at the time of electing their Representatives to the said General Assembly, also elect one Delegate from the said Territory to the Congress of the United States, who shall possess the same powers heretofore granted to the Delegates from the several Territories of the United States, anything in the ordinance for the government of the said Territory to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That the sheriffs of the several counties, which now are, or may hereafter be established in the said Territory, respectively, shall, within forty days next after an election for a Delegate to Congress transmit to the Secretary of the Territory a certified copy of the returns from the several townships in their counties respectively. And it shall be the duty of the Governor, for the time being, to give to the person having the greatest number of votes, a certificate of his election.

Sec. 3. *And be it further enacted*, That, so soon as the Governor of the said Territory shall divide the same into five districts, the citizens thereof entitled to vote for Representatives to the said General Assembly, shall, in each of the said districts, elect one member of the Legislative Council, who shall possess the same powers heretofore granted to the Legislative Council in the said Territory, and shall hold their offices four years, and no longer; anything in the ordinance for the government of the said Territory to the contrary notwithstanding.

Sec. 4. *And be it further enacted*, That the General Assembly of the said Territory shall have power to apportion the Representatives of the several counties therein, or which may hereafter be established therein, according to the number of free white male inhabitants above the age of twenty-one years, in such counties; *Provided*, that there be not more than twelve, nor less than nine, of the whole number of Representatives, any act or acts to the contrary notwithstanding, until there shall be six thousand free male white inhabitants, above the age of twenty-one years, in said Territory; after which time, the number of Representatives shall be regulated agreeably to the ordinance for the government thereof.

Approved, February 27, 1809.

An Act freeing from postage all letters and packets to Thomas Jefferson.

Be it enacted, &c., That all letters and packets to Thomas Jefferson, now President of the United States, after the expiration of his term of office and during his life, shall be carried by the mail, free of postage.

Approved, February 28, 1809.

An Act for the disposal of certain tracts of land in the Mississippi Territory, claimed under Spanish grants, reported by the Land Commissioners as antedated, and to confirm the claims of Abraham Ellis and Daniel Harregal.

Be it enacted, &c., That the several tracts of land in the Mississippi Territory, the titles to which have been derived under Spanish claims, and which have been disallowed by the Boards of Commissioners east and west of Pearl river, on suspicion of the grants, warrants, or orders of survey, on which the claims are grounded, being antedated, or otherwise fraudulent, and which are embraced in the report of the said Boards of Commissioners, laid before Congress, agreeably to the third section of an act, entitled, "An act supplementary to the act, entitled an act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," shall be, and the same are hereby directed to be sold, in the same manner, at the same price, and on the same terms and conditions as have been, or may be by law provided for the sale of the other public lands in the said Territory; and any person or persons claiming under a Spanish grant, warrant, or order of survey, as aforesaid, shall be entitled to institute, in the highest court of law or equity in the said Territory, his or their suit or action for the recovery of the tract or tracts so claimed as aforesaid: *Provided*, such claimant or claimants shall institute his or their suit or action within the term of one year from and after the tract or tracts so claimed shall have been sold by the United States; or, in case the same is now inhabited and cultivated in virtue of a pre-emption right, within one year from

and after the passing of this act; and if any person or persons, claiming lands as aforesaid, shall fail or neglect to commence or institute his or their suit or action, in the manner, and within the time prescribed by this section, or shall be nonsuit, or discontinue the same, his or their right to commence such suit or action, in any court whatsoever, shall be forever barred and foreclosed.

SEC. 2. *And be it further enacted*, That if the person or persons claiming under such grant, warrant, or order of survey, shall make it appear to the satisfaction of the court before whom such suit or action shall be pending, that the tract of land therein specified was actually surveyed prior to the twenty-seventh day of October, one thousand seven hundred and ninety-five, then, and in that case, the same shall be deemed and held to be good and valid to all intents and purposes, anything in this act to the contrary notwithstanding. But in case the claimant or claimants shall fail to prove the tract or tracts of land so claimed, to have been actually surveyed prior to the twenty-seventh day of October, one thousand seven hundred and ninety-five, or, in case the same shall appear to be otherwise fraudulent or illegal, the grant, warrant, or order of survey, granted by the Spanish Government, as aforesaid, by virtue of which such tract or tracts of land may be claimed, shall be, and the same is hereby declared, null and void, to all intents and purposes, and shall not be read in evidence against any claim or certificate of pre-emption, derived from the United States.

SEC. 3. *And be it further enacted*, That it shall be lawful, in the trial of such suit or action, for either party to introduce parole evidence, for the purpose of supporting or invalidating the grant, warrant, or order of survey, as aforesaid; and the judgment, sentence, or decree of the said highest court of law or equity, in the cases aforesaid, shall be final and conclusive between the parties, and may be plead in bar to any subsequent suit or action brought in the same, or any other court, for the recovery of the same land, or any part thereof.

SEC. 4. *And be it further enacted*, That Abraham Ellis be, and he is hereby, confirmed in a tract of land, granted by the British government of West Florida to Stephen Jordan, containing the quantity of two hundred acres, lying on the waters of Boyd's creek, according to the metes and bounds of said tract of land set forth in the plat thereof made by the Surveyor General of said province of West Florida; and that the amount of money which the said Ellis may have been compelled to pay to the receiver of public moneys west of Pearl river, in the Mississippi Territory, for said tract of land, be refunded to him by the receiver aforesaid.

SEC. 5. *And be it further enacted*, That Daniel Harregal be, and he is hereby, confirmed in his title in fee simple to the tract of land whereon he resides, containing the quantity of five hundred and fifty acres, agreeably to a plat thereof filed with the Register of the land office, west of Pearl river, in the Mississippi Territory.

Approved, February 28, 1809.

An act for the relief of certain Alabama and Wyandot Indians.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be surveyed and designated, by proper metes and bounds, a tract of land, not exceeding two thousand five hundred acres, out of any lands of the United States, lying in the Territory of Orleans, and west of the river Mississippi; and, by lease, vest the said tract of land in a certain tribe of Alabama Indians, and their descendants, for the term of fifty years. *Provided, nevertheless*, That it shall not be lawful for the said tribe of Indians to transfer or assign their interest in the said land, and every such transfer or assignment shall be null and void: *And provided, also*, That, if the said tribe of Indians shall remove from the said tract of land, their interest in and to the same shall henceforth cease and determine.

SEC. 2. *And be it further enacted*, That there shall be designated, under the direction of the Secretary of the Treasury, two tracts of land in the Michigan Territory, one including the village called Brownstown, and the other, the village called Maguaga, in the possession of the Wyandot tribe of Indians, containing in the whole not more than five thousand acres; which two tracts of land shall be reserved for the use of the said Wyandots, and their descendants, and be secured to them in the same manner, and on the same terms and conditions, as is provided in relation to the Alabama Indians by the first section of this act.

Approved, February 28, 1809.

An Act to interdict commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes.

Be it enacted, &c., That, from and after the passage of this act, the entrance of the harbors and waters of the United States, and of the Territories thereof, be, and the same is hereby, interdicted to all public ships and vessels belonging to Great Britain or France, excepting vessels only which may be forced in by distress, or which are charged with despatches or business from the Government to which they belong, and also packets having no cargo or merchandise on board. And if any public ship or vessel as aforesaid, not being included in the exception above mentioned, shall enter any harbors or waters within the jurisdiction of the United States, or of the Territories thereof, it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces, or of the militia of the United States, or the Territories thereof, as he shall deem necessary, to compel such ship or vessel to depart.

SEC. 2. *And be it further enacted*, That it shall not be lawful for any citizen or citizens of the United States, or the Territories thereof, nor for any person or persons residing or being in the same, to have any intercourse with, or to afford any aid or supplies to any public ship or vessel as

aforesaid, which shall, contrary to the provisions of this act, have entered any harbor or waters within the jurisdiction of the United States, or the Territories thereof; and if any person shall, contrary to the provisions of this act, have any intercourse with such ship or vessel, or shall afford any aid to such ship or vessel, either in repairing the said vessel, or in furnishing her, her officers and crew, with supplies of any kind, or in any manner whatever, or if any pilot or other person shall assist in navigating or piloting such ship or vessel, unless it be for the purpose of carrying her beyond the limits and jurisdiction of the United States, every person so offending shall forfeit and pay a sum not less than one hundred dollars, nor exceeding ten thousand dollars; and shall also be imprisoned for a term not less than one month, nor more than one year.

SEC. 3. *And be it further enacted*, That, from and after the twentieth day of May next, the entrance of the harbors and waters of the United States and the Territories thereof, be, and the same is hereby, interdicted to all ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either; vessels hired, chartered, or employed, by the Government of either country, for the sole purpose of carrying letters or despatches, and also vessels forced in by distress, or by the dangers of the sea, only excepted. And if any ship or vessel sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either, and not excepted as aforesaid, shall, after the said twentieth day of May next, arrive, either with or without a cargo, within the limits of the United States, or of the Territories thereof, such ship or vessel, together with the cargo, if any, which may be found on board, shall be forfeited, and may be seized and condemned in any court of the United States, or the Territories thereof, having competent jurisdiction; and all and every act and acts heretofore passed, which shall be within the purview of this act, shall be, and the same are hereby, repealed.

SEC. 4. *And be it further enacted*, That, from and after the twentieth day of May next, it shall not be lawful to import into the United States, or the Territories thereof, any goods, wares, or merchandise whatever, from any port or place, situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, nor from any port or place situated in France, or in any of her colonies or dependencies, nor from any port or place in the actual possession of either Great Britain or France. Nor shall it be lawful to import into the United States, or the Territories thereof, from any foreign port or place whatever, any goods, wares, or merchandise whatever, being of the growth, produce, or manufacture, of France, or of any of her colonies or dependencies, or being of the growth, produce, or manufacture, of Great Britain or Ireland, or of any of the colonies or dependencies of Great Britain, or being of the growth, produce, or manufacture, of any place or country in the actual possession of either France or Great Britain: *Provided*, That nothing herein contained shall be construed to affect the cargoes of ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared for any port beyond the Cape of Good Hope, prior to the twenty-second day of December, one thousand eight hundred and seven, or which had departed for such port by permission of the President, under the acts supplementary to the act laying an embargo on all ships and vessels in the ports and harbors of the United States.

SEC. 5. *And be it further enacted*, That whenever any article or articles, the importation of which is prohibited by this act, shall, after the twentieth of May, be imported into the United States, or the Territories thereof, contrary to the true intent and meaning of this act, or shall, after the said twentieth of May, be put on board of any ship or vessel, boat, raft, or carriage, with intention of importing the same into the United States, or the Territories thereof, all such articles, as well as all other articles on board the same ship or vessel, boat, raft, or carriage, belonging to the owner of such prohibited articles, shall be forfeited; and the owner thereof shall, moreover, forfeit and pay treble the value of such articles.

SEC. 6. *And be it further enacted*, That if any article or articles, the importation of which is prohibited by this act, shall, after the twentieth of May, be put on board of any ship, or vessel, boat, raft, or carriage, with intention to import the same into the United States, or the Territories thereof, contrary to the true intent and meaning of this act, and with the knowledge of the owner or master of such ship, or vessel, boat, raft, or carriage, such ship, or vessel, boat, raft, or carriage, shall be forfeited, and the owner and master thereof shall, moreover, each, forfeit and pay treble the value of such articles.

SEC. 7. *And be it further enacted*, That if any article or articles, the importation of which is prohibited by this act, and which shall, nevertheless, be on board of any ship, or vessel, boat, raft, or carriage, arriving after the said twentieth of May next, in the United States, or the Territories thereof, shall be omitted in the manifest, report, or entry, of the master, or the person having the charge or command of such ship, or vessel, boat, raft, or carriage, or shall be omitted in the entry of the goods owned by the owner or consigned to the consignee of such articles, or shall be imported or landed, or attempted to be imported or landed without a permit, the same penalties, fines, and forfeitures, shall be incurred, and may be recovered, as in the case of similar omission, or omissions, landing, importation, or attempt to land or import, in relation to articles liable to duties on their importation into the United States.

SEC. 8. *And be it further enacted*, That every collector, naval officer, surveyor, or other officer of the customs, shall have the like power and authority to seize goods, wares, and merchandise, imported contrary to the intent and meaning of this act, to keep the same in custody until it shall have been ascertained whether the same has been forfeited or not, and to enter any ship or vessel, dwelling-house, store, building, or other

place, for the purpose of searching for and seizing any such goods, wares, and merchandise, which he or they now have by law in relation to goods, wares, and merchandise, subject to duty; and, if any person or persons shall conceal or buy any goods, wares, or merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum double the amount or value of the goods, wares, and merchandise, so concealed or purchased.

Sec. 9. *And be it further enacted*, That the following additions shall be made to the oath or affirmation taken by the masters, or persons, having the charge or command of any ship, or vessel, arriving at any port of the United States, or the Territories thereof, after the twentieth of May, viz: "I further swear (or affirm) that there are not, to the best of my knowledge and belief, on board. [*insert the denomination and name of the vessel.*] any goods, wares, or merchandise, the importation of which into the United States, or the Territories thereof, is prohibited by law: And I do further swear (or affirm) that if I shall hereafter discover or know of any such goods, wares, or merchandise, on board the said vessel, or which shall have been imported in the same, I will immediately, and without delay, make due report thereof to the collector of the port of this district."

Sec. 10. *And be it further enacted*, That the following addition be made, after the twentieth of May, to the oath or affirmation taken by importers, consignees, or agents, at the time of entering goods imported into the United States, or the Territories thereof, viz:

"I also swear (or affirm) that there are not, to the best of my knowledge and belief, among the said goods, wares, and merchandise, imported or consigned as aforesaid, any goods, wares, or merchandise, the importation of which into the United States, or the Territories thereof, is prohibited by law; and I do further swear (or affirm) that if I shall hereafter discover or know of any such goods, wares, or merchandise, among the said goods, wares, and merchandise, imported or consigned as aforesaid, I will immediately and without delay report the same to the collector of this district."

Sec. 11. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing: *Provided*, That all penalties and forfeitures which shall have been previously incurred, by virtue of this or of any other act, the operation of which shall so cease and determine, shall be recovered and distributed, in like manner as if the same had continued in full force and virtue: and vessels bound thereafter to any foreign port or place, with which commercial intercourse shall, by virtue of this section, be again permitted, shall give bond to the United States with approved security in double the value of the vessel and cargo, that they shall not proceed to any foreign port, nor trade with any country other than those with which commercial intercourse shall have been or may be permitted by this act.

Sec. 12. *And be it further enacted*, That so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as forbids the departure of vessels owned by citizens of the United States, and the exportation of domestic and foreign merchandise to any foreign port or place, be, and the same is hereby, repealed, after the fifteenth day of March, one thousand eight hundred and nine, except so far as they relate to Great Britain or France, or their colonies or dependencies, or places in the actual possession of either: *Provided*, That all penalties and forfeitures which shall have been previously incurred by virtue of so much of the said acts as is repealed by this act, or which have been, or may hereafter be, incurred by virtue of the said acts, on account of any infraction of so much of the said acts as is not repealed by this act, shall be recovered and distributed in like manner as if the said acts had continued in full force and virtue.

Sec. 13. *And be it further enacted*, That during the continuance of so much of the act laying an embargo on ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as is not repealed by this act, no ship or vessel bound to a foreign port, with which commercial intercourse shall, by virtue of this act, be again permitted, shall be allowed to depart for such port, unless the owner or owners, consignee or factor of such ship or vessel shall, with the master, have given bond with one or more sureties to the United States, in a sum double the value of the vessel and cargo, if the vessel is wholly owned by a citizen or citizens of the United States; and in a sum four times the value, if the vessel is owned in part or in whole by any foreigner or foreigners, that the vessel shall not leave the port without a clearance, nor shall, when leaving the port, proceed to any port or place in Great Britain or France, or in the colonies or dependencies of either, or in the actual possession of either, nor be directly or indirectly engaged during the voyage in any trade with such port, nor shall put any article on board of any other vessel; nor unless every other requisite and provision of the second section of the act entitled "An act to enforce and make more effectual an act, entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto,'" shall have been complied with. And the party or parties to the abovementioned bond shall, within a reasonable time after the date of the same, to be expressed in said bond, produce to the collector of the district from which the vessel shall have been cleared, a certificate of the landing of the same, in the same manner as is provided by law for the landing of goods exported with the privilege of drawback; on failure whereof, the bond shall be put in suit; and in every such suit judgment shall be given against the defendant or defendants, unless proof shall be procured of such relanding, or of loss at sea.

Sec. 14. *And be it further enacted*, That so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as compels vessels owned by citizens of the United States, bound to another port of the said States, or vessels licensed for the coasting trade, or boats, either not masted or not decked, to give bond, and to load, under the inspection of a revenue officer, or renders them liable to detention, merely on account of the nature of their cargo, (such provisions excepted as relate to collection districts adjacent to the territories, colonies or provinces of a foreign nation, or to vessels belonging or bound to such districts) be, and the same is hereby, repealed, from and after the fifteenth day of March, one thousand eight hundred and nine: *Provided, however*, That all penalties and forfeitures which shall have been previously incurred by any of the said acts, or which may hereafter be incurred by virtue of the said acts, on account of any infraction of so much of the said acts as is not repealed by this act, shall be recovered and distributed in like manner as if the same had continued in full force and virtue.

Sec. 15. *And be it further enacted*, That during the continuance of so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as is not repealed by this act, no vessel owned by citizens of the United States, bound to another port of the said States, or licensed for the coasting trade, shall be allowed to depart from any port of the United States, or shall receive a clearance, nor shall it be lawful to put on board any such vessel any specie, or goods, wares, or merchandise, unless a permit shall have been previously obtained from the proper collector, or from a revenue officer, authorized by the collector to grant such permits; nor unless the owner, consignee, agent, or factor, shall, with the master, give bond, with one or more sureties, to the United States, in a sum double the value of the vessel and cargo, that the vessel shall not proceed to any foreign port or place, and that the cargo shall be relanded in some port of the United States: *Provided*, That it shall be lawful and sufficient in the case of any such vessel, whose employment has been uniformly confined to rivers, bays, and sounds, within the jurisdiction of the United States, to give bond, in an amount equal to one hundred and fifty dollars, for each ton of said vessel, with condition that such vessel shall not, during the time limited in the condition of the bond, proceed to any foreign port or place, or put any article on board of any other vessel, or be employed in any foreign trade.

Sec. 16. *And be it further enacted*, That if any ship or vessel shall, during the continuance of so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as is not repealed by this act, depart from any port of the United States without a clearance or permit, or having given bond in the manner provided by law, such ship or vessel, together with her cargo, shall be wholly forfeited; and the owner or owners, agent, freighter, or factors, master, or commander of such ship or vessel, shall, moreover, severally forfeit, and pay a sum equal to the value of the ship or vessel, and of the cargo put on board the same.

Sec. 17. *And be it further enacted*, That the act to prohibit the importation of certain goods, wares, and merchandise, passed the eighteenth of April, one thousand eight hundred and six, and the act supplementary thereto, be, and the same are hereby repealed, from and after the said twentieth day of May next: *Provided*, That all penalties and forfeitures which shall have been previously incurred by virtue of the said acts, shall be recovered and distributed in like manner, as if the said acts had continued in full force and virtue.

Sec. 18. *And be it further enacted*, That all penalties and forfeitures arising under, or incurred by virtue of this act, may be sued for, prosecuted and recovered, with costs of suit, by action of debt, in the name of the United States of America, or by indictment or information, in any court having competent jurisdiction to try the same; and shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine; and such penalties and forfeitures may be examined, mitigated, or remitted, in like manner, and under the like conditions, regulations, and restrictions, as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed the third day of March, one thousand eight hundred and ninety-seven, and made perpetual by an act passed the eleventh day of February, one thousand eight hundred.

Sec. 19. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer; and that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be, and the same are hereby, repealed, from and after the end of the next session of Congress.

Approved, March 1, 1809.

An Act making provision for the further accommodation of the household of the President of the United States.

Be it enacted, &c., That, after the third day of March next, the President of the United States

be, and he is hereby, authorized and empowered to cause to be sold such articles furnished by the United States, for the President's household, as may be decayed, out of repair, or unfit for use; and that the proceeds of such sale, and so much of a sum not exceeding fourteen thousand dollars in addition thereto, out of any money in the Treasury not otherwise appropriated, as the President of the United States may judge necessary, be, and hereby are, appropriated for the accommodation of the household of the President, to be laid out and expended for such articles of furniture as he shall direct.

Approved, March 2, 1809.

An Act to extend the time for making payment for the public lands of the United States.

Be it enacted, &c., That every person who has heretofore purchased any of the public lands of the United States, at any of the land offices established for the disposal of the said lands, whether such purchase was made at public or private sale, (sales by virtue of a pre-emption right only excepted,) and whose lands have not already been actually sold or reverted to the United States, for non-payment of part of the purchase money, and the time for making the last payment on account of such purchase, according to former laws, may have expired, or shall expire, on or before the first day of January next, shall be allowed a further term of two years for the payment of the residue of the principal due on account of such purchase; which further term of two years shall be calculated to commence from the expiration of one year from and after the day on which the last payment on account of such purchase should, according to former laws, have become due, and shall be allowed only on the following conditions; that is to say:—First, That all the arrears of interest, on the land purchased, to the end of one year from and after the day on which the last payment on account of such purchase should, according to former laws, have become due, shall have been paid at or before the end of such year. Second, That the residue of the sum, due on account of the principal of such purchase, shall be paid, with interest thereon, in two equal annual payments, viz: one half of the said residue, with the interest which may then be due thereon, within one year; and the other half of the said residue, with the interest which may then be due thereon, within two years after the expiration of one year from and after the day on which the last payment on account of such purchase should, according to former laws, have become due. And in case of failure in paying either the arrears of interest on each of the two instalments of principal, with the accruing interest, at the time and times above mentioned, the tract of land shall be forthwith advertised and offered for sale, in the manner and on the terms and conditions now prescribed for the sale of lands purchased from the United States, and not paid for within the limited time; and shall revert, in like manner, to the United States, if the sum due, with interest, be not at such sale bidden and paid.

Approved, March 2, 1809.

An Act further to amend the Judicial System of the United States.

Be it enacted, &c., That, in case of the disability of the district judge of either of the districts of the United States to hold a district court, and to perform the duties of his office, and satisfactory evidence thereof being shown to the justice of the supreme court, allotted to that circuit in which such district court ought by law to be holden; and on application of the district attorney or marshal of such district in writing to the said justice of the supreme court, said justice of the supreme court shall thereupon issue his order, in the nature of a certiorari, directed to the clerk of such district court, requiring him forthwith to certify into the next circuit court, to be holden in said district, all actions, suits, causes, pleas, or processes, civil or criminal, of what nature or kind soever, that may be depending in said district court and undetermined, with all the proceedings thereon, and all files and papers relating thereto; which said order shall be immediately published in one or more newspapers, printed in said district, and at least thirty days before the session of such circuit court, and shall be deemed a sufficient notification to all concerned. And the said circuit court shall thereupon have the same cognizance of all such actions, suits, causes, pleas, or processes, civil or criminal, of what nature or kind soever, and in the like manner as the district court of said district by law might have, or the circuit court, had the same been originally commenced therein; and shall proceed to hear and determine the same accordingly; and the said justice of the supreme court, during the continuance of such disability, shall moreover be invested with and exercise all, and singular, the powers and authority vested by law in the judge of the district court in said district. And all bonds and recognisances taken for or returnable to such district court shall be construed and taken to be to the circuit court, to be holden thereafter, in pursuance of this act, and shall have the same force and effect in such circuit court, as they could have had in the district court to which they were taken: *Provided*, That nothing in this act contained shall be so construed as to require of the judge of the supreme court within whose circuit such district may lie, to hold any special court, or court of admiralty, at any other time than the legal time for holding the circuit court of the United States in and for such districts.

Sec. 2. *And be it further enacted*, That the clerk of such district court shall, during the continuance of the disability of the district judge, continue to certify as aforesaid, all suits or actions of what nature or kind soever, which may thereafter be brought to such district court, and the same transmit to the circuit court next thereafter to be holden in the same district; and the said circuit court shall have cognizance of the

same in like manner as is hereinbefore provided in this act, and shall proceed to hear and determine the same: *Provided nevertheless*, That when the disability of the district judge shall cease or be removed, all suits or actions then pending and undetermined in the circuit court, in which by law the district courts have an exclusive original cognizance, shall be remanded, and the clerk of the said circuit court shall transmit the same, pursuant to the order of said court, with all matters and things relating thereto, to the district court next thereafter to be holden in said district, and the same proceedings shall be had therein, in said district court, as would have been had the same originated or been continued in the said district court.

Sec. 3. *And be it further enacted*, That in case of the district judge in any district being unable to discharge his duties, as aforesaid, the district clerk of such district, shall be authorized and empowered, by leave or order of the circuit judge of the circuit in which such district is included, to take, during such disability of the district judge, all examinations and depositions of witnesses, and make all necessary rules and orders, preparatory to the final hearing of all causes of admiralty and maritime jurisdiction.

Approved March 2, 1809.

An Act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments.

Be it enacted, &c., That all warrants drawn by the Secretary of the Treasury, or of War, or of the Navy, upon the Treasurer of the United States, shall specify the particular appropriation or appropriations to which the same should be charged: The moneys paid by virtue of such warrants shall, in conformity therewith, be charged to such appropriation or appropriations, in the books kept in the office of the Comptroller of the Treasury, in the case of warrants drawn by the Secretary of the Treasury, and in the books of the Accountants of the War or Navy Department, respectively, in the case of warrants drawn by the Secretary of War, or by the Secretary of the Navy; and the officers, agents, or other persons, who may be receivers of public moneys, shall render distinct accounts of the application of such moneys, according to the appropriation or appropriations under which the same shall have been drawn, and the Secretary of War and of the Navy shall, on the first day of January, in each and every year, severally report to Congress a distinct account of the expenditure and application of all such sums of money as may, prior to the thirtieth day of September preceding, have been by them respectively drawn from the Treasury in virtue of the appropriation law of the preceding year, and the sums appropriated by law for each branch of expenditure in the several departments shall be solely applied to the objects for which they are respectively appropriated, and to no other: *Provided, nevertheless*, That, during the recess of Congress, the President of the United States may, and he is hereby authorized, on the application of the Secretary of the proper department, and not otherwise, to direct, if in his opinion necessary for the public service, that a portion of the moneys appropriated for a particular branch of expenditure in that department, be applied to another branch of expenditure in the same department, in which case a special account of the moneys thus transferred, and of their application, shall be laid before Congress during the first week of their next ensuing session.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Comptroller of the Treasury, in every case where in his opinion further delays would be injurious to the United States, and he is hereby authorized, to direct the Auditor of the Treasury, and the Accountants of the War and Navy Departments, at any time, forthwith to audit and settle any particular account which the said officers may be respectively authorized to audit and settle, and to report such settlement for his revision and final decision. And the said Comptroller shall also lay an annual statement before Congress, during the first week of their session, of the accounts in the Treasury, War, or Navy Departments, which may have remained more than three years unsettled, or on which balances appear to have been due more than three years, prior to the thirtieth of September then last past, together with a statement of the causes which have prevented the settlement of the accounts or the recovery of the balances due to the United States.

Sec. 3. *And be it further enacted*, That, exclusively of the Purveyor of Public Supplies, Paymasters of the Army, Pursers of the Navy, Military Agents, and other officers already authorized by law, no other permanent agents shall be appointed, either for the purpose of making contracts or for the purchase of supplies, or for disbursement in any other manner, of moneys for the Military Establishment, or of the Navy of the United States, but such as shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President may, and he is hereby authorized, in the recess of the Senate, to appoint all or any of such agents, which appointments shall be submitted to the Senate at their next session, for their advice and consent, and the President of the United States is hereby authorized, until otherwise provided by law, to fix the number and compensations of such agents: *Provided*, That the compensation allowed to either shall not exceed one per centum on the public moneys disbursed by him, nor in any instance the compensation allowed by law to the Purveyor of Public Supplies.

Sec. 4. *And be it further enacted*, That every such Agent as may be appointed by virtue of the next preceding section, and every Purser of the Navy, shall give bond, with one or more sufficient sureties, in such sums as the President of the United States may direct, for the faithful discharge of the trust reposed in him; and the Paymasters of the Army, Military Agents, the Purveyor of Public Supplies, the Pursers of the Navy, and the Agents appointed by virtue of the preced-

ing section, shall, whenever practicable, keep the public moneys in their hands, in some incorporated bank, to be designated for the purpose by the President of the United States, and shall make monthly returns, in such form as may be prescribed by the Treasury Department, of the moneys received and expended during the preceding month, and of the unexpended balance in their hands.

Sec. 5. *And be it further enacted*, That all purchases and contracts for supplies or services which are or may, according to law, be made by or under the direction of either the Secretary of the Treasury, the Secretary of War, or the Secretary of the Navy, shall be made either by open purchase, or by previously advertising for proposals respecting the same: And an annual statement of all such contracts and purchases, and also of the expenditure of the moneys appropriated for the contingent expenses of the Military Establishment, for the contingent expenses of the Navy of the United States, and the discharge of miscellaneous claims not otherwise provided for, and paid at the Treasury, shall be laid before Congress at the beginning of each year, by the Secretary of the proper department.

Approved, March 3, 1809.

An Act making a further appropriation towards completing the two wings of the Capitol, at the City of Washington, and for other purposes.

Be it enacted, &c., That the following sums of money be, and the same are hereby, appropriated, to be applied under the direction of the President of the United States, that is to say:

For improvements and repairs of the House of Representatives, six thousand dollars:

For completing the work in the interior of the north wing, comprising the Senate Chamber, Court Room, &c., twenty thousand dollars.

For completing the staircase, and providing temporary and adequate accommodations for the Library, in the room now used for that purpose, and in the one in which the Senate now sit, five thousand dollars:

For improvements and repairs of the President's house and square, including a carriage house, twelve thousand dollars.

Sec. 2. *And be it further enacted*, That the several sums of money hereby appropriated shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 3, 1809.

An Act supplementary to the act, entitled "An act to amend the charter of Georgetown."

Be it enacted, &c., That the following shall, and are hereby declared to be the limits of Georgetown, in the District of Columbia, any law or regulation to the contrary notwithstanding, that is to say: beginning in the middle of College street, as laid down and designated in Fenwick's map of the said town, at or near to the bank of the river Potomac; thence, by a straight line drawn northernly through the middle of said street, to the middle of First street; thence by a line drawn through the middle of First street to a point directly opposite to the termination of the eastern line of the lots now enclosed as the property of the College; thence northernly by the eastern line of said enclosure as far as the same extends; thence in the same northernly direction to the middle of Fourth street; thence eastwardly by a line drawn along the middle of Fourth street to a point at the distance of one hundred and twenty feet westward from the west side of Fayette street; thence northernly by a line drawn parallel to Fayette street, at the said distance of one hundred and twenty feet westward from the west side thereof, until it intersects a boundary line of Beatty and Hawkins's addition to Georgetown; thence westwardly by said boundary line as far as it extends; thence by the courses and distances of the several other boundary lines of Beatty and Hawkins's addition aforesaid, that is to say: westwardly, northwardly, eastwardly, and southwardly, to a point opposite to the middle of Road street, and opposite or nearly opposite to the middle of Eighth street; thence eastwardly by a line drawn through the middle of Road street, as it now runs, and as far as it extends; thence eastwardly by a line drawn parallel to Back street, and continued in the same direction to the middle of Rock creek; thence by the middle of the same creek, and the middle of Potomac river, to a point directly opposite to the middle of College street, aforesaid: thence to the place of beginning.

Sec. 2. *And be it further enacted*, That the Corporation of Georgetown be, and they are hereby, authorized and directed to cause a complete and accurate survey to be made of the said town, agreeably to the courses and limits prescribed in the preceding section of this act, and to establish and fix, from time to time, permanent boundaries at such places as they may deem necessary and proper for perpetuating the boundaries of the said town, and after said survey shall have been so made, and approved by the Corporation, the same shall be admitted to record in the clerk's office for the county of Washington, in the District of Columbia.

Sec. 3. *And be it further enacted*, That all the rights, powers and privileges heretofore granted to the said Corporation by the General Assembly of Maryland, and by the act to which this is a supplement, and which are at this time claimed and exercised by them, shall be and remain in full force and effect, and may and shall be exercised and enjoyed by them within the bounds and limits set forth and described in the first section of this act.

Sec. 4. *And be it further enacted*, That the said corporation shall have power to lay out, open, extend, and regulate streets, lanes, and alleys, within the limits of the town, as before described, under the following regulations, that is to say: the mayor of the town shall summon twelve freeholders, inhabitants of the town, not directly interested in the premises, who, being first sworn to assess and value what damages would be sustained by any person or persons by reason of the opening or extending any street, lane, or alley, (taking all benefits and inconveniences into consideration,) shall proceed to assess what damages would be sustained by any person or persons whomsoever, by reason of such opening or extension of the street, and shall also declare to what amount in money each individual benefited thereby shall contribute and pay towards compensating the person or persons injured by reason of such opening and extension: and the names of the person or persons so benefited, and the sums which they shall respectively be obliged to pay, shall be returned under their hands and seals to the clerk of the corporation, to be filed and kept in his office; and the person or persons benefited by opening or extending any street, and assessed as aforesaid, shall respectively pay the sums of money so charged and assessed to them, with interest thereon at the rate of six per cent. per annum, from the time limited for the payment thereof, until paid; and the sums of money assessed and charged in manner aforesaid to each individual benefited in manner aforesaid, shall be a lien upon and bind all the property so benefited, to the full amount thereof: *Provided always*, That no street, lane, or alley, shall be laid out, opened, or extended, until the damages assessed to individuals in consequence thereof shall have been paid, or secured to be paid: *And provided, also*, That nothing in this act contained shall be so construed or understood as to authorize the Corporation of Georgetown to locate, lay out, or open any street, lane, alley, or other way, through any of the squares or lots situated in that part of Thomas Beall's second addition to Georgetown, which lies north of Back street, without the consent and permission of the owner or proprietor of such square or lot, first had and obtained in writing, which consent and permission shall be acknowledged in the presence of, and such acknowledgment certified by the mayor of the town aforesaid, or some justice of the peace for the county of Washington.

Sec. 5. *And be it further enacted*, That the Recorder of the Corporation shall be, and he is hereby declared to be, a member of the Board of Aldermen, to all intents and purposes whatsoever.

Approved, March 3, 1809.

An Act to authorize the making of a turnpike road from Mason's Causeway to Alexandria.

Be it enacted, &c., That John Mason, David Wiley, Henry Foxall, John Cox, and John W. Bronaugh, be, and they are hereby appointed and constituted a Board of Commissioners, a majority of whom to constitute a quorum, with full power to receive and enter in such book or books as they may deem proper, by themselves or by their agents, subscriptions for raising a capital stock of twenty thousand dollars, in shares of one hundred dollars each, for the purpose of opening, gravelling, and improving, a road from the west end of Mason's causeway to Alexandria, in the District of Columbia; the times, places, and manner of receiving and entering subscriptions, and the manner of authenticating powers of attorney, or other instruments of writing authorizing subscriptions to be made by any person or persons, in the name of any other person or persons, to be ascertained by said Board of Commissioners, and duly advertised in such gazettes or public prints as they may deem expedient: *Provided*, That the books for receiving and entering subscriptions shall be opened on or before the first day of May next, and that no subscription shall be received unless the sum of ten dollars be first paid into the hands of such agent or other person as said Commissioners may authorize to receive it.

Sec. 2. *And be it further enacted*, That when any number of persons shall have subscribed one hundred and fifty shares, or more, of the said stock, the said Commissioners, or a majority of them, may, and, when the whole number of shares aforesaid shall be subscribed, shall give notice, in some newspaper printed in the District of Columbia, of a time and place to be by them appointed for the subscribers to proceed to organize the said corporation, at which time and place the said subscribers, by a majority of votes, to be delivered by ballots in person, or by proxy duly authorized, shall elect one president and four directors, to conduct the business of said company for one year, and until other such officers shall be chosen in their place, and may make such rules, orders, and regulations, not inconsistent with the Constitution and laws of the United States, as shall be necessary for the well-being of the affairs of said company: *Provided, always*, That no stockholder shall, in person or by proxy, have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he or she may hold; and each stockholder, in person or by proxy, shall be entitled to one vote for every share by him or her held under said number; and all persons who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assignees, of such subscribers, shall become one body politic and corporate, in deed and in law, by the name and style of the President, Directors, and Company, of the Georgetown and Alexandria Turnpike Road, and by the said name shall have perpetual succession, and all the privileges incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same by new subscriptions, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking, and holding, to them, and their successors, and assigns, in fee-simple, or for any lesser estate, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary or useful to them in the prosecution of their works, and of suing and being sued, of having a common seal, the same breaking and altering at pleasure, and of doing all and every other matter and thing concerning the subject aforesaid, which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted*, That the said company shall meet on the first Monday in February, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the president and directors aforesaid; at which annual or special meetings they shall have full power and authority to do and perform any act by law allowed, and pertaining to the affairs of said company.

SEC. 4. *And be it further enacted*, That the president and directors shall procure printed certificates for all the shares of said stock, and shall deliver one such certificate, signed by the president, to each person for every share by him or her subscribed and held, which certificate shall be transferable at his or her pleasure, in person, or by attorney, in the presence of the president or treasurer, subject however to all payments due, or to grow due thereupon; and the assignee holding such certificate, having caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of said company, and for every certificate by him held, shall be entitled to one share in the capital stock and estate of said company; and if any stockholder, after thirty days' notice in a public paper printed in each of the towns of Alexandria and Georgetown, of the time and place appointed for the payment of any portion or dividend of the sum subscribed in said stock, shall neglect to pay the same for the space of thirty days after the time so appointed, the share or shares on which such delinquency has taken place shall be forfeited to the said company, and may be sold by them to any person, or persons, willing to purchase, for such price as can be obtained, and in case such share or shares should not, on a sale so to be made, produce a net sum equal to the portion or dividends then remaining to be paid thereon, such deficiency may be recovered of the person or persons, so failing to pay, by warrant from a justice of the peace, if the amount shall not exceed twenty dollars, and if the sum so due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, on ten days' notice, in any court of record in the county or district where the debtor may be found; and in all such warrants and motions the certificate of the clerk or recording officer of the said company shall be conclusive evidence of the defendant's being a member of the company, and *prima facie* evidence of the amount due on the share or shares held by such defendant.

SEC. 5. *And be it further enacted*, That the said president and directors shall meet at such times and places as shall be agreed upon for transacting their business; at which meetings any three members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to appoint a treasurer, and agree with and appoint all such surveyors, intendants, artists, or other agents, as they shall judge necessary to carry on the intended works, and to fix their salaries, wages, or compensation; to direct and order the times, manner, and proportions, when and in which the stockholders shall pay moneys due on their respective shares; to draw orders on the treasurer for all moneys due from the said company, and generally to do and transact all such other matters, acts, and things, as by the by-laws, rules, and regulations, of said company, shall be required or permitted.

SEC. 6. *And be it further enacted*, That the said president and directors shall cause to be surveyed, laid down, ascertained and fixed, the said turnpike road, from the west end of Mason's causeway, and passing near to the head of the tidewater of Four Mile Run, at a place called Adam's Mill, and thence to the limits of Alexandria, in such route or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most convenient ground, and the smallest expenditure of money; and it shall be lawful to and for the said president and directors, their surveyors and agents, to enter upon all and every the lands and enclosures in, through, and over which the said turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone, and gravel, and other materials in the vicinity, that will be useful in making the said road: *Provided*, That the said road shall not be so laid out as to intersect the road laid out and established by the Washington and Alexandria turnpike company, without the consent of the said company.

SEC. 7. *And be it further enacted*, That it shall and may be lawful to and for the president and directors, by and with their superintendents, artists and laborers, with their tools and instruments, with carts, wagons, and other carriages, and beasts of draught or burden, to enter upon the lands in, over, or near to which the route or tract of the said intended road shall pass, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done, by a reasonable agreement, if they can agree; but if they cannot agree, then by appraisement, to be made upon oath or affirmation, by three indifferent freeholders, or any two of them agreeing, to be mutually chosen, or if they cannot agree in a choice, or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by one of the judges of the circuit court of the District of Columbia; and, having tendered the appraised value so as aforesaid to be made, it shall be lawful to cut, dig, take, and carry away any logs, stone, gravel, sand, or earth, most conveniently situate for making or repairing said road; and it shall and may be lawful for the said president and directors, or a majority of them, to agree with the owners of any ground to be occupied by the road, and the necessary toll-houses, and gates, for the right thereof; and in

case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the district, on application to one of the judges of the said circuit court, the said judge shall issue a warrant, directed to the marshal of the district, to summon a jury of twenty-four inhabitants of the District of Columbia, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty, thereafter; and the marshal, upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided there be not less than twelve, shall administer an oath or affirmation to every juryman that shall appear, that he shall faithfully, justly, and impartially, value the lands and all damages the owner thereof shall sustain, by opening the road through such land, according to the best of his skill and judgment, and that the inquisition thereupon taken, shall be signed by the marshal and by the jurymen present, and returned by the marshal to the clerk of the county, to be by him recorded; and upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued; and their valuation shall be conclusive upon all persons, and shall be paid by the president and directors to the owner of the land or his or her legal representative, and on payment thereof, said land shall be taken and occupied for a public road and for the necessary toll-houses and gates, forever. The said president and directors shall cause the said road to be laid out, not exceeding eighty feet in width, twenty-four feet whereof in breadth, at least, shall be made an artificial road of stone, gravel, or other hard substance, of sufficient depth or thickness to secure a solid and firm road, with a surface as even as the materials will admit, and so nearly level as that it shall in no place rise or fall more than an angle of four degrees with a horizontal line; and the said road shall forever hereafter be maintained and kept in good and perfect repair; and wheresoever any bridge over any part of the said road shall be deemed necessary, the same shall be built of sound and suitable materials.

SEC. 8. *And be it further enacted*, That so soon as the president and directors shall have perfected the said road from the west end of Mason's causeway to Alexandria, and in the route aforesaid, they shall give public notice thereof in some newspaper printed in the District of Columbia, and it shall be lawful for them thereafter to erect and fix such and so many gates or turnpikes, not exceeding three, upon and across the said road, as shall be necessary and sufficient to collect the tolls hereinafter granted to the said company, and it shall be lawful for them to appoint such, and so many toll-gatherers as they shall deem necessary to collect and receive, of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person or persons, riding, leading, or driving any horses, mules, cattle, hogs, sheep, sulkey, chair, chaise, phæton, chariot, coach, cart, wagon, sleigh, sled, or any carriage of burden or pleasure, from passing through the said gates, until the said tolls shall be paid, that is to say: for the whole distance in length of said road, and so in proportion for any lesser distance, viz: for every score of sheep, eight cents; for every score of hogs, eight cents; for every score of cattle, sixteen cents; for every horse or mule with or without a rider, four cents; for every sulkey, chair, chaise, or carriage of pleasure, with two wheels and one horse, eight cents; for every coach, chariot, stage-wagon, coachee, phæton, or chaise, with four wheels and two horses, sixteen cents; for any carriage last mentioned with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses in proportion aforesaid; for every sled or sleigh used as a carriage of pleasure, six cents for each horse drawing the same; for every sled or sleigh used as a carriage of burden, four cents for each horse drawing the same; for every cart or wagon whose wheels do not exceed four inches in breadth, five cents for each horse drawing the same; for every cart or wagon whose wheels shall exceed in breadth four inches, and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, one and a half cents for every horse drawing the same; and that all such carriages as aforesaid, to be drawn by oxen in the whole or partly by oxen, or to be drawn by mules in whole or part, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse: *Provided*, That no turnpike gate shall be erected within one mile of the line of the town of Alexandria.

SEC. 9. *And be it further enacted*, That it shall be lawful for the said president and directors, by their by-laws, to make any rule or regulation respecting the burdens on carriages to be drawn over the said road, which shall be deemed reasonable and proper, and from time to time to alter the same; and the said president and directors shall cause mile stones to be placed on the side of said road, noting the distance from the north bounds of Alexandria, and at every gate or turnpike shall cause the distance from the north bounds of Alexandria, and the distance from the west end of Mason's causeway, to be marked in legible characters on some conspicuous part of said gate; and shall cause, also, to be affixed at such places a printed list of the tolls, which may be demanded of those using the said road; and for every day the same shall be neglected, they shall forfeit and pay one dollar, to be recovered by warrant, by any person who shall sue for the same: all wagoners and drivers of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by another car-

riage of slower draught going in the same direction, keep their horses and carriage on the right hand side of the said road, leaving the other side of the road clear and free for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay two dollars to any person obstructed in his passage, who shall sue for the same, to be recovered, with costs, before any justice of the peace, in the same manner as small debts are recoverable; and moreover, shall be liable to the party injured, by suit at common law, for any special damage done.

SEC. 10. *And be it further enacted*, That the president and directors of the said company shall keep, or cause to be kept, fair and just accounts of all moneys to be received by them from the said commissioners, and from the stockholders, or subscribers to the said undertaking, on account of their several subscriptions or shares, and of all moneys by them to be expended in the prosecution of their said work, and shall once, at least, in every year, submit such accounts to a general meeting of the stockholders until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same shall be fully liquidated, paid, and discharged; and if, upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said stockholders to be convened according to the provisions of this act, or their own by-laws and rules, to increase the number of shares to such extent as shall be necessary to accomplish the work, and to demand and receive the moneys subscribed for such shares, in like manner, and under the like penalties, as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

SEC. 11. *And be it further enacted*, That the said president and directors shall also keep, or cause to be kept, just and true accounts of all the moneys to be received by their several collectors of tolls at the turnpike gates on the said road, and shall make and declare a half yearly dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the holders of said stock, and shall publish the half-yearly dividend aforesaid in some newspaper printed in the District of Columbia, and at the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

SEC. 12. *And be it further enacted*, That it shall be the duty of the said corporation to keep the said road in good repair; and if, in neglect of their said duty, the said corporation shall at any time suffer the said road to be out of repair, so as to be unsafe or inconvenient for passengers, the said corporation shall be liable to be presented for such neglect before any court of competent jurisdiction, and upon conviction thereof, to pay to the United States a penalty not exceeding one hundred dollars, at the discretion of the court, and shall also be responsible for all damages which may be sustained by any person or persons in consequence of such want of repair, to be recovered in an action of trespass on the case in any court competent to try the same: *Provided always, and be it further enacted*, That whenever the net proceeds of tolls collected on said road shall amount to a sum sufficient to reimburse the capital, which shall be expended in the purchase of said land and making said road, and twelve per cent. interest per annum thereon, to be ascertained by the circuit court of the United States, in and for the District of Columbia, in the county of Alexandria, the same shall become a free road, and toll shall be no longer collected thereon; and said company shall annually make returns to said circuit court of the amount of tolls collected, and of their necessary expenses, so as to enable said circuit court to determine when said toll shall cease.

SEC. 13. *And be it further enacted*, That if any person or persons, riding in, or driving any carriage of any kind, or leading, riding or driving any horses, sheep, hogs, or any kind of cattle whatever, on said road, shall pass through any private gate, bars or fence, or over any private way or passage, or pass through any toll-gate under any pretended privilege or exemption, to which he or she, or they, may not be entitled, or do any act or thing with intent to lessen or evade the tolls for passing through the gates established under this act, such person or persons, for every such offence, shall forfeit to the said president and directors, not less than three, nor more than ten dollars, to be recovered before any justice of the peace, with costs, in the same manner that small debts are recoverable: *Provided*, That it shall not be lawful for the company to ask, demand, or receive from or for persons living on or adjacent to the said road, who may have occasion to pass by said road upon the ordinary business relating to their farms, so far as the limits of the same may extend on the road, who shall not have any other convenient road or way by which they may pass from one part to another part thereof, any toll for passing on or by the said turnpike.

Approved, March 3, 1809.

An Act authorizing an augmentation of the Marine Corps.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized to cause the Marine Corps, in the service of the United States, to be augmented, by the appointment and enlistment of not exceeding one major, two captains, two first lieutenants, one hundred and eighty-five corporals, and five hundred and ninety-four privates, who shall be respectively allowed the same pay, bounty, clothing, and rations, and shall be employed under the same rules and regulations to which the said Marine Corps are, or shall be, entitled and subject.

SEC. 2. *And be it further enacted*, That, from and after the passage of this act, all enlistments in the said corps shall be for the term of five years, unless sooner discharged, any law to the contrary notwithstanding.

Approved, March 3, 1809.

An Act supplemental to the act, entitled "An act for establishing trading-houses with the Indian tribes."

Be it enacted, &c., That a sum, not exceeding forty thousand dollars, in addition to the sum heretofore appropriated for the purpose of carrying on trade and intercourse with the Indian nations, in the manner prescribed by the act, entitled "An act for establishing trading-houses with the Indian tribes," be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the sum of eight hundred dollars be, and the same is hereby, appropriated out of any moneys in the Treasury of the United States not otherwise appropriated, for an additional clerk in the office of the Superintendent of Indian trade.

SEC. 3. *And be it further enacted*, That the proviso to the twelfth section of the act, entitled "An act for establishing trading-houses with the Indian tribes," be, and the same is hereby, repealed.

SEC. 4. *And be it further enacted*, That the act to which this is a supplement, and also this act, shall, from and after the twenty-first day of April next, commence and be continued in force for and during the term of three years, and no longer.

Approved, March 3, 1809.

An Act making appropriations for the support of the Military Establishment, and of the Navy of the United States, for the year one thousand eight hundred and nine.

Be it enacted, &c., That, for defraying the expense of the Military Establishment of the United States for the year one thousand eight hundred and nine, for the Indian department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For the pay of the Army of the United States, eight hundred and sixty-eight thousand two hundred and forty dollars.

For forage, sixty-four thousand six hundred and twenty-four dollars.

For subsistence, six hundred and forty-one thousand two hundred and twenty-eight dollars and thirty-five cents.

For clothing, two hundred and ninety-three thousand two hundred and sixty-four dollars.

For bounties and premiums, fifteen thousand dollars.

For the medical and hospital departments, forty-five thousand dollars.

For camp equipage, fuel, tools, and transportation, two hundred and seventy thousand dollars.

For ordnance, seventy-five thousand dollars.

For purchasing horses, saddles, and bridles, for the light dragoons, and for the light artillery, fifty-one thousand seven hundred and twenty dollars.

For forage for the horses for the regiment of light artillery, ten thousand eight hundred dollars.

For fortifications, arsenals, magazines, and armories, two hundred and nineteen thousand and thirty-four dollars and seventy-five cents.

For purchasing maps, plans, books, and instruments, two thousand five hundred dollars.

For contingencies, fifty thousand dollars.

For the salary of clerks employed in the military agents' offices, and in the office of inspector of the army, three thousand five hundred dollars.

For the Indian department, one hundred and twenty-five thousand six hundred dollars.

For the purpose of paying James Powell, late Collector of Savannah, the amount of moneys advanced by him to Solomon Ellis, contractor for supplying rations to the troops of the United States, in the State of Georgia, including a commission of two per centum to the collector, twenty-seven thousand six hundred and twenty-one dollars and eight cents.

For the purpose of paying Ferdinand Phinizy, late contractor for supplying the troops in Georgia, a balance due to him as admitted by the Comptroller of the Treasury, on the twenty-fourth of July, one thousand seven hundred and ninety-nine, one thousand three hundred and ninety-three dollars and thirty-nine cents.

SEC. 2. *And be it further enacted*, That, for defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and nine, the following sums, including therein the sum of four hundred thousand dollars already appropriated by an act, entitled "An act authorizing the employment of an additional naval force," the following sums be, and the same are hereby, respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, one million three hundred and twenty-three thousand and seventy-seven dollars.

For provisions, five hundred and sixty-seven thousand seven hundred and sixty-five dollars.

For medicines, instruments, and hospital stores, thirty-five thousand dollars.

For repairs of vessels, four hundred and forty-five thousand dollars.

For freight, store rent, commissions to agents, and other contingent expenses, one hundred and fifty thousand dollars.

For pay and subsistence of the Marine Corps, including provisions for those on shore, and forage for the staff, one hundred and thirty-five thousand six hundred and forty-seven dollars and seventy cents.

For clothing for the same, thirty-two thousand nine hundred and thirty-three dollars and eighty cents.

For military stores for the same, one thousand three hundred and fifty-four dollars.

For medicines, medical services, hospital stores, and all other expenses on account of the sick belonging to the Marine Corps, two thousand dollars.

For quartermaster's and barrack master's stores,

officer's travelling expenses, armorer's and carpenters' bills, fuel, premiums for enlisting, musical instruments, bounty to music, and other contingent expenses of the Marine Corps, fourteen thousand one hundred and twenty-five dollars.

For the expense of navy yards, comprising dock and other improvements, pay of superintendents, storekeepers, clerks, and laborers, sixty thousand dollars.

For ordnance and small arms, one hundred and fifty thousand dollars.

SEC. 3. *And be it further enacted*, That the several sums specifically appropriated by this act, shall be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 3, 1809.

An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times herein mentioned, that is to say:

Oxford Tash, at the rate of two dollars and fifty cents per month, to commence on the first day of June, one thousand eight hundred and seven.

Hezekiah Sawtell, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

Amos Spafford, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twenty-third day of October, one thousand eight hundred and eight.

Josiah Temple, at the rate of two dollars per month, to commence on the fifteenth day of April, one thousand eight hundred and eight.

Isaac Abbott, at the rate of eight dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and eight.

Thaddeus Vaugh, at the rate of five dollars per month, to commence on the thirty-first day of May, one thousand eight hundred and eight.

Joel Hinman, at the rate of five dollars per month, to commence on the eighth day of June, one thousand eight hundred and eight.

David Pendleton, at the rate of five dollars per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Eliphalet Sherwood, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Daniel Treadwell, at the rate of four dollars per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Obadiah Perkins, at the rate of eight dollars per months, to commence the eighteenth day of November, one thousand eight hundred and eight.

John Dabol, at the rate of sixty-two and one-half cents per month, to commence on the eighteenth day of November. one thousand eight hundred and eight.

Gideon Edwards, at the rate of five dollars per month, to commence on the seventeenth day of December, one thousand eight hundred and eight.

Elijah Sheldon, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of December, one thousand eight hundred and eight.

Nathaniel Church, at the rate of two dollars and fifty cents per month, to commence on the thirtieth day of December, one thousand eight hundred and eight.

Richard Mellen, at the rate of five dollars per month, to commence on the ninth day of November, one thousand eight hundred and eight.

Elisha Prior, at the rate of three dollars and seventy-five cents per month, to commence on the thirteenth day of December, one thousand eight hundred and eight.

John Cramer, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of April, one thousand eight hundred and eight.

James Philips, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of April, one thousand eight hundred and eight.

John Walsh, at the rate of two dollars and fifty cents per month, to commence on the eighth day of September, one thousand eight hundred and eight.

Samuel Lindsley, at the rate of three dollars and seventy-five cents per month, to commence on the thirty-first day of October, one thousand eight hundred and eight.

John Fergus, at the rate of two dollars per month, to commence on the twentieth day of October, one thousand eight hundred and eight.

Joseph Elliot, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-first day of April, one thousand eight hundred and eight.

James Correar, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of November, one thousand eight hundred and eight.

John Smith, at the rate of two dollars and fifty cents per month. to commence on the twenty-seventh day of January, one thousand eight hundred and eight.

Joseph White, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Edward Tuck, at the rate of three dollars per month, to commence on the second day of January, one thousand eight hundred and eight.

Evan Ragland, at the rate of three dollars per month, to commence on the seventh day of January, one thousand eight hundred and eight.

John Crute, at the rate of thirteen dollars per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

William Evans, at the rate of eight dollars per month, to commence on the twenty-first day of November, one thousand eight hundred and eight.

John Carmichael, at the rate of five dollars per month, to commence on the first day of December. one thousand eight hundred and eight.

Benjamin Vickery, at the rate of three dollars per month, to commence on the fourteenth day of June, one thousand eight hundred and eight.

Joshua Hawkins, at the rate of three dollars per month, to commence on the twenty-fifth day of March, one thousand eight hundred and eight.

Joseph McJunkin, at the rate of twelve dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and eight.

Samuel Otterson, at the rate of eight dollars per month, to commence on the sixth day of October, one thousand eight hundred and eight.

William Carr, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, one thousand eight hundred and eight.

Jonathan Tinsley, at the rate of five dollars per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

James Gallespie, at the rate of four dollars per month, to commence on the eighteenth day of June, one thousand eight hundred and eight.

Christian Smith, at the rate of five dollars per month, to commence on the fifth day of November, one thousand eight hundred and eight.

Bartholomew Berry, at the rate of five dollars per month, to commence on the seventh day of November, one thousand eight hundred and eight.

John Robert Shaw, at the rate of five dollars per month, to commence on the twelfth day of October, one thousand eight hundred and eight.

Samuel Burton, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of December, one thousand eight hundred and eight.

Nathaniel Hewitt, at the rate of three dollars and seventy-five cents per month, to commence on the fifth of January, one thousand eight hundred and nine.

Jacob Redenour, at the rate of five dollars per month, to commence on the tenth day of April, one thousand eight hundred and six.

William Keough, at the rate of five dollars per month, to commence on the twenty-third day of January, one thousand eight hundred and nine.

Isaiah Corben, at the rate of two dollars and fifty cents per month, to commence on the thirty-first day of October, one thousand eight hundred and eight.

Joseph Richardson, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of January, one thousand eight hundred and nine.

William Johnson, at the rate of two dollars and fifty cents per month, to commence on the eighteenth day of January, one thousand eight hundred and nine.

Henry Overly, at the rate of five dollars per month, to commence on the first day of December, one thousand eight hundred and eight.

Abraham Gamble, at the rate of five dollars per month, to commence on the eighteeth day of January, one thousand eight hundred and nine.

William McClanahan, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of October, one thousand eight hundred and eight.

William McLaland, at the rate of five dollars per month, to commence on the fourth day of February, one thousand eight hundred and nine.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times herein mentioned, that is to say:

William Curtis, five dollars per month, to commence on the twenty-first day of September, one thousand eight hundred and eight.

Samuel Potter, three dollars thirty-three and one third cents per month, to commence on the sixth day of September, one thousand eight hundred and eight.

Thomas Haines, five dollars per month, to commence on the seventeenth day of January, one thousand eight hundred and seven.

Daniel Bussell, five dollars per month, to commence on the third day of October, one thousand eight hundred and eight.

William Wood, three dollars thirty-three and one-third cents per month, to commence on the fourteenth day of September, one thousand eight hundred and eight.

Thomas Pratt, three dollars thirty-three and one-third cents per month, to commence on the twenty-fourth day of October, one thousand eight hundred and eight.

Ebenezer Tinkham, two dollars and fifty cents per month, to commence on the eighth day of November, one thousand eight hundred and eight.

Joseph Brown, five dollars per month, to commence on the third day of June, one thousand eight hundred and eight.

Benjamin Merrill, three dollars thirty-three and one-third cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

William Leach, five dollars per month, to commence on the second day of May, one thousand eight hundred and eight.

Constant Webb, three dollars per month, to commence on the thirtieth day of May, one thousand eight hundred and eight.

Jonathan Bowers, five dollars per month, to commence on the twenty-third day of July, one thousand eight hundred and eight.

Abner Andrews, five dollars per month, to commence on the first day of September, one thousand eight hundred and eight.

Josiah Merryman, five dollars per month, to commence on the seventeenth day of September, one thousand eight hundred and eight.

Samuel Burdwin, five dollars per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

Oliver Bostwick, ten dollars per month, to commence on the third day of October, one thousand eight hundred and eight.

Edward Bassett two dollars and fifty cents per month, to commence on the twenty-eighth day of April, one thousand eight hundred and eight.

Jeremiah Markham, three dollars and seventy-five cents per month, to commence on the third day of June, one thousand eight hundred and eight.

Samuel Andrus, three dollars and seventy-five cents per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

Elisha Clark, two dollars and fifty cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

Aaron Tuttle, three dollars thirty-three and one-third cents per month, to commence on the twenty-fifth day of October, one thousand eight hundred and eight.

Benjamin Sturges, four dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and eight.

Burr Gilbert, five dollars per month, to commence on the twenty-eighth day of July, one thousand eight hundred and eight.

Jehiel Judd, four dollars per month, to commence on the sixteenth day of April, one thousand eight hundred and eight.

Ashbel Hosmer, five dollars per month, to commence on the sixth day of October, one thousand eight hundred and eight.

Andrew McGuire, five dollars per month, to commence on the first day of August, one thousand eight hundred and eight.

John Lowry, three dollars thirty-three and one-third cents per month, to commence on the nineteenth day of April, one thousand eight hundred and eight.

James Blever, five dollars per month, to commence on the eighth day of April, one thousand eight hundred and eight.

Samuel B. White, five dollars per month, to commence on the eighth day of April, one thousand eight hundred and eight.

Judah Levy, five dollars per month, to commence on the twelfth day of April, one thousand eight hundred and eight.

Enoch Turner, five dollars per month, to commence on the fourteenth day of November, one thousand eight hundred and eight.

Edward Stanton, five dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and eight.

Elisha Lee, twenty dollars per month, to commence on the thirtieth day of November, one thousand eight hundred and eight.

William Starr, three dollars and seventy-five cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

John Morgan, three dollars thirty-three and one-third cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Andrew Gallup, three dollars thirty-three and one-third cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Joseph Woodmansey, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Simon Perkins, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Walter Burdick, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Park Avery, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Amos Avery, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Ebenezer Avery, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Benjamin Denslow, five dollars per month, to commence on the seventh day of December, one thousand eight hundred and eight.

Amos Skeele, three dollars thirty-three and one-third cents per month, to commence on the twenty-eighth day of November, one thousand eight hundred and eight.

William Burrows, five dollars per month, to commence on the twelfth day of December, one thousand eight hundred and eight.

Elisha Frizzle, five dollars per month, to commence on the first day of January, one thousand eight hundred and nine.

John McKinstrey, twenty dollars per month, to commence on the first day of January, one thousand eight hundred and nine.

Samuel Gibbs, thirteen dollars thirty-three and one-third cents per month, to commence on the eighth day of October, one thousand eight hundred and eight.

John Barbarick, five dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and eight.

James Morgan, two dollars and fifty cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Joseph Moxley, two dollars and fifty cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Daniel Bill, five dollars per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Christopher Latham, three dollars and seventy-five cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

SEC. 3. *And be it further enacted*, That the pensioners becoming such in virtue of this act shall be paid in the same manner as invalid pensioners are paid who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

Approved, March 3, 1809.

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